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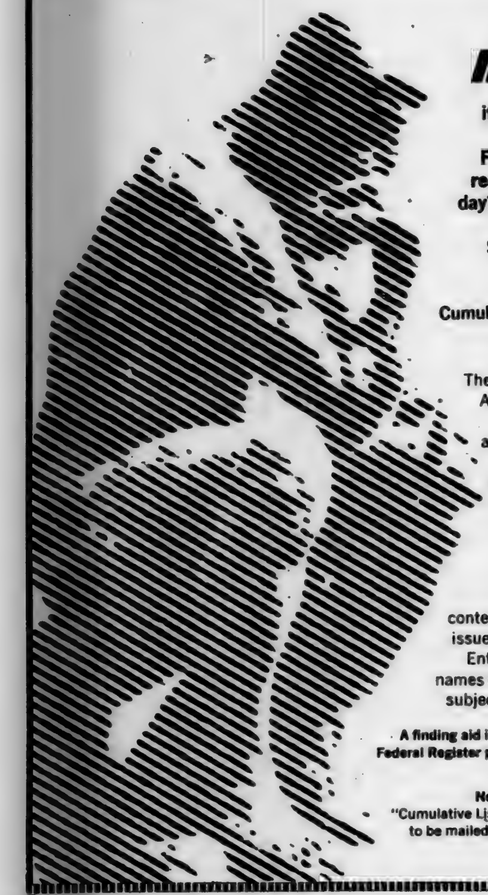

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This publication was prepared under the editorial direction of Rose Steinman, with Carol Blanchard and Loren Myers as Chief Editors. INQUIRIES, telephone 202–523–5227.

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(a) and (b) amended	*15675
505.10 Amended	38768
507 Redesignated from Part 128b and revised	38628
508 Redesignated from Part 90 and revised	38637
508.19 (a) revised	*4717
(a) amended	*15675
508.35 (l) introductory text amended	*15675
509.3 Redesignated from 122.1 and revised	38640
509.15 Redesignated from 3.93 and revised	38640
509.30 Redesignated from 122.10 and revised	38641
Revised	*14094
510 Technical correction	36650
510.6 (g) removed	*14091
510.302 (a) revised	35844
510.305 Added	36203
510.455 Added	32215

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510.600 (c)(1) and (2) amended	14187, 14188, 14367, 14732, 21186, 22266, 28264, 30326
(c)(2) revised	34743
(c) (1) and (2) amended	39022, 48100, 51009, 53002, 55175
(c) (1) and (2) amended	*3838
(c)(1) and (2) amended	*13549, 14095
511.1 (c)(1) and (4), (d)(2), and undesignated paragraph following (b)(5) revised	48268
(b)(5) and (10), (c)(1) and (4), and (d)(2) amended	*15675
514.1 (b)(14) amended	*15675
514.2 Introductory text amended	36203
514.8 (a)(1) amended	*15675
514.9 (d) amended	*15675
514.11 (f) introductory text revised	*3109
(e)(1), (3), (5), (6) and (7), and (g) amended	*15675
514.111 (a)(10) added	*10437
(a)(9) amended	*15675
514.201 Revised	*4717
Amended	*10980, 15675
514.202—514.206 Removed	*4717
514.210 Revised	48268
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514.220—514.222 Removed	*4717
514.230—514.232 Removed	*4717
514.235 Revised	*4717
520.222 (b), (c), and (d)(1) revised	*13018
520.260 (b)(2) revised	*8636
520.300a (c)(5) revised	*3838
520.300b (c)(5) revised	*3838
520.300c (c)(5) revised	*3838
520.316 Added	*13549
520.316a Added	*13549
520.316b Added	*13549
520.540b (b)(2) amended	55175
520.580 (c)(1) revised	14187, 28264, 29667
(d)(1) revised	32889
(c)(1) revised	39022, 51009
520.622b (c)(3)(i) and (ii) revised	28265
520.1010 Added	52446
520.1100 (c)(2) and (d)(2) removed	42948
520.1242c (a) and (d)(2) revised	48731
520.1468 Added	14188
520.1540 (c) revised	48100
520.1720a (b)(2) amended	55175
520.2043 (c)(5) revised; (c)(6) added	27722
520.2260b (d) added	24999
520.2301 Removed	*1462
520.2362 (c) amended	53477
520.2380b (e)(1) revised	47424
520.2482 Added	24884
520.2610 (b) revised	14188
522 Effective date corrected	33882
522.163 (c) revised	27316
522.540 Revised	28265
(c) added	31531
(c)(1) revised	41913
(a)(2) revised; (d) added	43896
522.562 Added	30326
522.640 (b) and (d) revised	52051
522.740 Heading, (a), (b), and (d)(2) and (3) revised	43400
522.900 Added	45547
522.1044 (c)(3) added	32889
522.1060 Redesignated as 522.1060a; new 522.1060 heading added	48732
522.1060a Redesignated from 522.1060	48732
522.1060b Added	48732
522.1222b (e)(1) revised	*3838
522.1372 Added	*5349
522.1468 Added	14188
522.1610 Added	27034
522.1620 (c) revised	32583
522.1680 (b) revised	24347
522.1720 (b)(1) amended	55175
522.1822 Added	27033
522.1890 Added	36018
522.2012 Added	26854
522.2063 (b) and (c)(1) revised	*13549
522.2662 (a) and (c)(1) revised	26854
(c)(2)(iii) added	24884
(c)(2)(i) revised; (c)(2)(ii) amended	28265
524.920 (c)(5) revised	16656
524.1044 Added	14189
524.1044a Added	14189
524.1044c Added	14188
524.2620 (a) and (b) redesignated as (a)(1) and (2) and republished; (b)(1) and (2) added	56307
540.103b Added	*5350
540.107a (c)(3)(i) revised	18652
540.107e (c)(4)(i)(b) revised	30326
540.207a (c)(4)(iv) added	14189
540.274e (a)(1)(ii) amended	52052
540.814 (c)(2)(ii) and (3)(ii) removed	*1462

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540.814a (c)(3)(v) amended	14189
(c) revised	*1462
540.874b Removed	38768
540.874c Removed	38768
540.874d Removed	52052
546.110c (c)(2) revised; (c)(5)(iii) and (iv) added	23948
546.180a (c)(5)(i)(c) revised	*10982
546.180c (c)(5)(i)(a) and (ii) removed	37103
548.314a (b)(2) amended	*3838
548.314b (c)(2) amended	*3838
555 Effective date corrected	33882
555.110a (c)(1)(i) and (ii) revised	32583
(c)(2)(ii) amended	55175
(a)(1) and (c)(1)(i) and (ii) revised	*14096
555.110c (c)(2) revised	31531
(c)(2) amended	55175
555.111 Added	49972
555.210 (a)(1) amended; (c)(2) revised	30590
(c)(2) amended	55175
555.310c (c)(2) amended	*3838
556.170 Revised	53003
556.347 Added	44382
558.15 (g)(1) and (2) tables amended	*13549
558.55 (e)(1) and (2) corrected	14367
(e)(2)(iii) table amended	16933
558.58 (e)(1) corrected	14367
(e) table corrected	16550
(e)(1)(i) table amended	16933
(e)(1)(ii) table amended	53002
558.78 (a) added; (e)(1)(i) and (ii) revised	14367
558.95 (e)(1)(ii), (iii), (iv), and (v) amended	16933
558.105 (f)(1)(x)(b) amended	53002
558.115 (e)(1) (i) and (ii) revised	*761
558.175 (e)(1)(ii)(b) and (v)(b) amended	53002
558.185 (b)(2) and (f)(1)(ii) amended	*1463
558.195 (g) revised	53003
(g)(1) table corrected	*2312
558.225 (a) and (e)(1)(ii) amended	52051
558.305 (f)(2)(ii) revised	*13550
558.311 Added	44382
(e) revised	49484
558.325 (b), (e), and (f)(1) introductory text revised	26855
(f)(2) redesignated as (f)(3) and introductory text revised; new (f)(2) added	26855
558.355 (b)(7) and (f)(3)(iii) revised	41081
(f)(1)(iii)(b) amended	53002
558.367 Added	36810
558.450 (e)(2) added	28514
(e)(1) table amended	47425
558.485 (a) revised	15323
(d)(2)(i) and (ii) revised	*762
558.515 (f)(2) added	28514
(f)(1)(vii)(b) amended	53002
558.575 (d), and (e)(1)(i)(b), (2)(iii), (3)(i)(a) and (b), and (3)(ii)(b) revised	*13550
558.625 (b)(47) added	14732
(b)(27) revised	16656
(b)(48) added	22267
(b)(49) added	21186
(b)(39) amended	48732
558.630 (b)(3) revised; (b)(6) added	30327
(b)(3) revised	34943
561.20 Existing text designated as (a); (b) through (d) added	28952
561.30 Revised	*15409
561.40 Revised	*12427
561.195 Text designated as (a); (b) added	15324
561.231 Revised	21187
561.233 Added	14732
561.234 Added	28790
561.235 Revised	21345
561.253 Added	26680
(a) and (b) redesignated as (a)(1) and (b)(1); (b)(1) amended; (a)(2) and (b)(2) added	40100
(a)(1) correctly designated	43896
(b)(1) amended	52052
561.280 (b) redesignated as (a); new (b), (c) and (d) added	31530
561.281 Revised	47231
Corrected	51009
561.305 Added	19211
561.320 Revised	19301
564 Redesignated from Part 10 and revised	38641
564.5 Revised	*4717
Amended	*15675
564.17 (l) added	*4717
(l) amended	*15675

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570 Redesignated from certain sections in Part 121 and revised	38644
570.13 Added	*14091
570.14 Added	*14091
570.15 (b) revised	*4717
(b) amended	*15675
570.35 (c)(1) introductory text revised	*4717
(c)(1) amended	*15675
570.38 (b)(1) revised	*4717
(b)(1) amended	*15675
571 Redesignated from certain sections in Part 121 and revised	38647
571.1 (h)(1)(ii), (iv), (v), (2), and (3) amended	*15675
571.6 Amended	*15676
571.110 Revised	*4717
Amended	*15676
571.115 Added	*10437
571.120 Removed	*4717
571.130 Revised	*4717
(a) amended	*15676
571.200—571.235 Removed	*4718
573 Redesignated from certain sections in Part 121 and revised	38652
573.1020 Corrected	48100
582 Redesignated from certain sections in Part 121 and revised	38657
582.6540 Redesignated as 582.6625	*14091
582.6625 Redesignated from 582.6540	*14091
582.6651 Redesignated as 582.6751	*14091
582.6751 Redesignated from 582.6651	*14091
600.15 (a) amended	*10983
601.4 Revised	*4718
(b) amended	*15676
601.5 Revised	*4718
(b) amended	*15676
601.6 (c) removed; remaining text redesignated as 601.12 and revised; new 601.6 added	*4718
601.7 Added	*4718
(a) and (b) amended	*15676
601.8—601.9 Added	*4718
601.12 Redesignated from 601.6	*4718
601.22 Revised	*4718
601.40—601.44 Removed	*4718
601.51 (e)(2), (4), (5), (6), (7), and (f) amended	*15676
610 Technical correction	15690
610.13 (b)(2) and (3) revised	41424
610.20 (a) table amended	18295
610.21 Table amended	18295
610.53 Amended	40101
Corrected	*14095
620.6 (a) revised	35480
620.13 (c)(2) amended	18295
620.30—620.36 (Subpart D) Added	18295
620.33 (b) and (c)(2) revised	46587
630.35 (a)(3) revised	43400
630.70 (b) revised	51010
630.73 Introductory text and (b)(2) revised; (a) removed	51010
630.74 (a) and (f) revised; (b) removed	51010
630.84 (c) revised	51011
640.4 (i) revised	*10983
640.7 Effective date postponed to 11-8-76	27034
(b) revised	35062
640.11 (a) removed; (b) and (c) redesignated as (a) and (b)	18292
640.16 (a) revised	18292
640.17 Amended	18292
640.24 (b) revised	*10983
640.25 (b)(1) revised	*10983
640.26 (g) and (h) revised	35062
640.51 (c)(7) revised	35062
640.69 (b) corrected	14367
640.70 (b) revised	27034
Effective date postponed to 11-8-76	27034
(a)(8) revised	35062
700.18 Added	26845
701.3 Effective date stayed	53477
(b) and (e) revised	*4718
(b) and (e) amended	*15676
701.100 (a) through (j) effective date 9-3-76	32584
720.5 (c)(4) amended	*15676
720.8 (a) and (b) amended	*15676
730.7 Amended	*15676
740.1 (b) amended	*15676
740.2 (b) amended	*15676
801.420 Added; eff. 8-15-77	*9294
801.421 Added; eff. 8-15-77	*9296
809.4 (a) amended	*15676
809.30 (a) revised	*4719
(a) amended	*15676
1000.50 (Subpart C) Added	30328
(a)(2) corrected	31812
1002.61 (a)(1) removed; (a)(2)—(a)(5) redesignated as (a)(1)—(a)(4) and revised; (c)(1) revised	27316

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1003.11 Undesignated paragraph following (a) added 48269
(a) amended *15676
1003.31 (d) added 48269
(d) amended *15676
1004.6 Amended 48269
Amended *15676
1020.30 (a) and (e) introductory texts, (a)(1), (b)(16), (21)(i), (ii), and (iii), (42), (43), and (c) revised; (b) (51), (52), and (53) added; eff. 4-26-77 and 2-25-78 ..... *10985
1020.31 (e)(1)(iii) revised; eff. 4-26-77 ..... *10986
(g)(2) revised; eff. 2-25-78 ..... *10986
1020.32 (a)(1), (b), and (d)(1)(ii) and (2)(ii) revised; eff. 4-26-77 and 2-25-78 ..... *10986
1210.3 (e), (f), and (g) amended *14091
1210.30—1210.33 (Subpart D) Heading revised 48269
1210.30 Revised 48269
Amended *15676
1210.31 Removed; new 1210.31 redesignated from 1210.63 48269
1210.32—1210.33 Removed 48269
1210.40-1210.44 (Subpart E) Removed 48269
1210.50-1210.59 (Subpart F) Removed 48269
1210.60-1210.62 (Subpart G) Removed 48269
1210.63 Redesignated as 1210.31 48269
1220.40 (a) revised; eff. 5-1-76 27317

Chapter II—Drug Enforcement Administration, Department of Justice

1301.55 (b) and (c) redesignated as (c) and (d); new (b) added 21448
1301.72 (b) revised 16460
(b) introductory text and (b)(4)(v) corrected 17382
1303.12 (f) added 28515
Technical correction 31812
1304.22 (a)(10) added 28515
1308 Technical correction 17382
1308.11 (b) and (d) amended 43401
(b) corrected *15679
(d) corrected *15680
1308.12 (b)(1) revised 26568
(b)(1) and (c) amended 43401
(b)(1) and (c) corrected *15680
1308.13 (c) amended 43401
1308.14 (b) amended 43402
(b)(19) added 55176
(e) added *8636
1308.22 Table revised 16552
Table amended 53477
1308.24 (i) table amended 14190, 21346, 28515, 52867
(i) table amended *6806
1308.32 (a) and (b) amended 16460
(b) corrected 17382
(b) amended *17300

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6.14 (a)(1) and (c) revised 29100
6a.10 Revised 30114
16 Added 13912
41.1 Amended *2501
41.6 (h) added 22560
42.1 Amended 54927
Amended *2501
42.12 (b) revised 54927
42.20—42.21 Amended 54927
42.23 (a) amended 54927
42.24 (a) and (b) amended 54927
42.25 (a) and (b) amended 54927
42.26 Amended 54927
42.34 (a) amended 54927
42.37 Removed 54928
42.50—42.52 Amended 54928
42.52 Amended 54928
42.55 Amended 54928
42.60 (a) revised 54928
42.61 (a) introductory text and (3)(i) amended; (a)(3)(iii) removed; (a)(3)(iv) redesignated as (a)(3)(iii) 54928
42.62 (b)(2)(ii) removed; (b)(2)(iii) redesignated as (b)(2)(ii); (c) revised 54928
42.63 (a) amended 54928
42.64 (a) amended 54928
42.65 Added 54928
42.91 (a)(14(ii)(d) revised 37574
(a)(14)(i) amended; (a)(14)(iii) added; (a)(24) revised 54928
42.124 (a)(2) and (3) amended 54929
42.125 (a) and (b) amended 54929
61.3 (c) revised 30114
61.5 (d)(1) revised 30114
64 Added 36203
91—93 (Subchapter J) Heading revised *6367
93 Added *6367
102 Technical correction 34743
102.21—102.27 (Subpart B) Added 31548
121.01 Amended *16617
121.03 Redesignated as 121.04; new 121.03 added *16617
121.04—121.21 Redesignated as 121.05 through 121.22; new 121.04 through 121.21 redesignated from 121.03 through 121.20 ..... *16617
121.22 Redesignated from 121.21 ..... *16617
123.10 (d) footnote 3 removed *16617

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124.10 (m)(2) footnote 1 removed	*16617
130 Added	40608

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201.65 (n) removed	48732
201.72 (b)(1) and (4) amended	48732
207 Removed	*16776
211 Revised	47919
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Chapter V—United States Information Agency

501.5 Revised	*16381
501.6 (c) revised	*16381
501.7 (c)(2) revised	*16381
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501.13 Revised	*16382
501.14 Added	*16384
503.6 (c)(1)(i) and (ii) revised	35480
505.15 Revised	41425

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602.41 (a) and (d) revised; (b) removed	53982
603 Added	19102
606.735–71 (a) revised	33550
606.735–72 (a) amended	33550

Chapter VII—Overseas Private Investment Corporation

708 Added	*13110

Chapter IX—Foreign Service Grievance Board

Chapter established	26919
901 Added	26919
902 Added	26920
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Chapter X—Inter-American Foundation

1003 Added	19211

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908	22831
1004	56838
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130 Revised	27962
140.604 (c) corrected	15690
140.703 (f) amended	45547
Amended	49484
140.704 (a) and (b) amended	49484
140.900—140.922 (Subpart I) Appendix A amended	48516
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160.101—160.105 (Subpart A) Revised	54169
160.201—160.204 (Subpart B) Redesignated as 160.301—160.307 (Subpart C); new 160.201—160.205 (Subpart B) added	54169
160.301—160.307 (Subpart C) Redesignated from 160.201—160.204 (Subpart B)	54169
200 Added	53982
230.301—230.313 (Subpart C) Added	28270
Appendix A form revised	46294
230.305 (c) and (d) revised	46293

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260 Revised	44034
260.401—260.411 (Subpart D) Revised	50646
420 Revised	31531
420.300—420.310 (Subpart C) Added	33441
450.100—450.122 (Subpart A) Appendix amended	18235
470 Effective date confirmed	26856
Heading revised; existing test redesignated as 470.101—470.117 (Subpart A) and Appendixes A to C	51396
470.307 Revised	51396
473 Removed	26856
490.107 (e) through (g) removed; (h) and (i) redesignated as (e) and (f)	*7137
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530 Added	55177
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625.3 (a)(11) footnote designation corrected; (c)(3) and (e) footnote designations added	*3642
625 Appendix A amended	*3642
630.304 (b) revised	33253
630.501—630.519 (Subpart E) Revised	22813
630.513 (d) corrected	24347
630.901—630.903 (Subpart I) Added	43139
633.207 (e) amended	36204
635.101—635.128 (Subpart A) Appendix A removed	36204
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635.401—635.413 (Subpart D) Added	36204
637.101—637.111 (Supart A) Revised	18072
650.601—650.613 (Subpart F) Added	18297
655.201—655.213 (Subpart B) Redesignated and revised as Part 920	52447
655.407 (c) amended	36206
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58.3 Amended 20522
58.5 (b)(1) removed; (b)(2) redesignated as (b)(3); new (b)(1) and (2) added *13206
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211.40 (a)(2) and (14)(ii) revised 53793
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211.74 (e) revised 53793
(g) added *3643
211.76 Added 53793
211.77 Added *3644
250.12 (d) revised 53016
251 Technical correction 27319

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56 ..... *5546, 7968, 12442, 13840
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TITLE 31—MONEY AND FINANCE: TREASURY

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1.2 (c)(1)(iii) revised *9382
1.6 (g)(1)(i) and (3)(i) revised; (g)(3)(ii) amended 51396
(g)(1)(i) and (3)(i) revised; (g)(3)(ii) amended *2314
13 Added 55180
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51.10—51.19 (Subpart B) Revised *2197
51.80—51.105 (Subpart G) Redesignated as 51.200—51.225 (Subpart G) *2422
51.100—51.107 (Subpart F) Revised *2422
51.200—51.225 (Subpart G) Redesignated from 51.80—51.105 (Subpart G) *2422
52 Added 44842
52.23 (c) time limitation 50369
101 Added *1472
103.11 Amended 27832
128.2 (a) and (c) revised *4122
128.3 Revised *4122
128.11 Revised *4122
128.11a Removed *4122
128.12 Revised *4122
128.13 Revised *4122
128.13a Removed *4122
128.14 Revised *4122
128.14a Removed *4122
128.15 Revised *4122
128.16 Revised *4122
128.17 Revised *4122
128.17a Removed *4122
128.19 Removed *4122
128.35 Revised 43720

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210.7 (e) revised *10
210.10 Redesignated as 210.11; new 210.10 added *10
210.11 Redesignated from 210.10 ..... *10
223.3 (a) amended *8637
223.7 Revised *8637
223.8 (a) amended *8637
223.9 Revised *8637
223.11 (b)(2)(i) revised; (b)(2)(ii) and (c)(1) amended *8637
223.15 Revised *8637
223.16 Amended *8637
223.17 Amended *8637
223.18 (a) revised *8638
223.20 Amended *8638
223.21 Amended *8638
223.22 (a) and (c) revised; introductory text amended *8638
240.2 Amended 43903
240.6 (c) removed 43903
309 Revised 44006
316.2 (e) revised 36342

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316.14 Table 1 revised; tables added 36343
332.14 Tables added 36354
349 Added 53335
350 Added 53337
350.6 (a)(2) revised 56195
350.14 (a) revised 56195
350.17 (f) revised 56195

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500.562 (b) removed *16620
500.563 Added *16620
500.564 Added *16621
515.546 (b) removed *16621
515.559 (a)(3) revised; (c) added *1472
(a)(2) removed *16621
515.560 Added *16621
515.561 Added *16621
520.205 (g) appendix amended 27963
520.205b (g) appendix amended 27963

Chapter VII—Federal Law Enforcement Training Center, Department of the Treasury

Chapter established 49808
700 Added 49808

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1 38187
5 54191
12 40139
51 47054
205 51847
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344 56208
350 47959
700 30135

TITLE 32—NATIONAL DEFENSE

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40 Revised *3647
40.5 Revised *7955
166.11 (d) revised 40466
242a Added *12853
243 Added *13018
251 Added 27963
251.9 Added *9169
(b) amended *12045
251.10 Added *9169
251.11 Added *9169
251.12 Added *9169
Table B–5 amended *12045

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256 Added *774
256.6 Added *13022
286.2 Removed; new 286.2 redesignated from 286.3 27074
286.3 Redesignated as new 286.2; new 286.3 redesignated from 286.4 27074
286.4—286.14 Redesignated from 286.6—286.16 27074
286.5 Removed; new 286.5 redesignated from 286.7 27074
286.6—286.16 Redesignated as 286.4—286.14 27074
296.2—296.7 Redesignated from 296.3—296.8 27074
296.2 Removed; new 296.2 redesignated from 296.3 27074
296.3—296.8 Redesignated as 296.2—296.7 27074
297 Revised 27074
350 Added *15909

Chapter V—Department of the Army

505.9 Amended 47046
Amended *16385
581.2 Revised 34253
Revised *13274
642 Added *16386

Chapter VI—Department of the Navy

701.100—701.118 Subpart F) Added 50662
701.120—701.124 (Subpart G Added 50672
701.123 (l) added *9382
701.124 (g) added *9382
705 Added 29101
706.2 Table amended *10316
707.1 (b) amended; (c) revised 29119
710 Revised 41083
711 Revised 27319
721 Revised 29809
722 Revised 34746
725 Technical corrections 32742
725.601 Amended 29814
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725.604 Revised 29814
731 Revised 31378
732 Revised 30636
737.1–101 Revised 55511
737.1–111–50 Revised 55511
737.1–201 (c)(8) revised 55511
737.1–363 Revised 55511
737.1–401–55 (c)(2) revised; (c)(4)(v), (e)(3)(i) and (iii) amended 55512
737.1–401–58 Added 55512

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737.1-403-51 (b)(1)(iv) amended; (b)(2)(viii)(A) revised; (b)(2)(xvii) added	55512
737.1-403-53 (b)(1) amended	55512
737.1-406-51 Added	55513
737.1-406-52 Added	55513
737.1-407 (j) added	55513
737.1-702-50 (b) amended	55513
737.1-950 Removed	55513
737.1-1004 (b)(1)(iii) and (iv) added	55513
737.1-1007 (b) amended	55513
737.1-2100-2 (a)(6) added	55513
737.3-201-50 (a) amended	55513
737.3-206-52 (d)(2) amended	55514
737.3-210-3 (e)(4) amended	55513
737.3-217-2 (d) added	55513
737.3-306-52 (b) amended	55513
737.3-306-53 (c) revised	55514
737.3-408 (b) revised	55514
737.3-410-2 Revised	55514
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737.3-805-1 Added	55514
737.3-805-2 Added	55514
737.3-807-53 Amended	55515
737.3-1000 Removed	55515
737.3-1000-1 Removed	55515
737.3-1004—737.3-1008 Removed	55515
737.3-1050 Removed	55515
737.3-1051 Removed	55515
737.3-1100 Removed	55515
737.3-1100-1 Removed	55515
737.3-1100-2 Removed	55515
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737.6-103-5 Amended	55515
737.6-203-1 Revised	55515
737.6-203-2 Added	55515
737.6-204 Removed	55515
737.6-204-3 Removed	55515
737.6-706 Added	55515
737.7-104-1 Added	55515
737.7-303 Added	55516
737.7-303-1 Added	55516
737.7-601 Added	55516
737.7-601-1 Added	55516
737.7-602 Heading and text amended	55516
737.7-607 Added	55516
737.7-607-1 Added	55516
737.7-802-5 Amended	55516
737.7-803 Added	55516
737.7-803-1 Added	55516
737.10-301-50 (b) amended	55516
737.10-351 Revised	55516
737.10-501-50 Amended	55516
737.10-552 (a), (b), and (e) amended	55516
737.10-700-1 (b) amended	55516
737.10-702 Amended	55516
737.16-812-51 (a)(2) amended	55516
737.17-208-1 (a)(1) and (2) revised	55516
737.17-208-3 Revised	55516
737.17-208-5 (b)(3) amended	55516
737.20-702-4 (c) added	55516
737.20-702-5 Revised	55517
737.20-702-7 Added	55519
737.20-706-50 Removed	55519
737.20-706-52 (a), (e), and (g) amended; (c)(2)(ii) revised	55519
737.20-802-8 Added	55519
737.21-102 Added	55519
737.21-102-1 Added	55519
737.21-102-2 Added	55520
737.21-102-3 Added	55520
737.21-102-4 Added	55520
737.21-103 Added	55520
737.21-103-1 Added	55520
737.21-501 Added	55521
737.22-102 Added	55523
737.24-205-7 Correctly designated; (a)(1) and (2) amended	55523
737.26-101 (b) amended	55523
737.26-102 (c) removed; (d) revised	55523
737.105-2 Amended	55511
737.108 (d) amended	55511
742.306 Revised	29119
746 Added	55712
754 Authority citation revised	*16622
754.1 Revised	*16622
754.2 (a) and (e) revised; (g) added	*16622
754.3 Revised	*16622
761 Authority citation revised	28957
761.3 (a)(1)(i) removed; (a)(1)(ii) amended; (c) revised	28957
761.4 Revised	28957
761.5 (i)(1) revised	28958
761.6 (b)(7) revised	28958
761.7 (d) amended	28958
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761.11 (a) amended	28958
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807.1 (c)(1) amended; (c)(2) removed; new (c)(2) and (3) added	47426
807.3 (b) revised	47427
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832.1—832.6 Existing text designated as Subpart A	34951
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842.6 (b) introductory text, (b)(2) and (3) revised	50421
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842.49 Added	50429
842.52 (b)(1) amended; (d) added	50430
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842.54 Revised	50430
842.61 (a)(2) amended; (b) and (c) revised; (d) added	50431
842.64 Revised	50432
842.65 (b) added	50432
842.66 (b) amended	50432
842.67 Revised	50432
842.68 Heading and (a)(1) and (2) revised; (a)(3) and (b) amended; (c) added	50433
(b) amended	50446
842.69 Revised	50433
842.72 (a) introductory text, (a)(2), (a)(2)(i), (b)(3) and (c) revised	50433
842.73 (b) amended	50433
842.74 (a) amended; (b) through (e) redesignated as (c) through (f); new (b) added; (d) revised	50434
842.76 (a)(5)(iv)(b) amended	50434
842.80—842.83 (Subpart G) Heading revised	50434
842.80 Revised	50434
842.81 Revised	50434
842.83 (b)(1)(ii) through (v)(2) and (3) revised; (c) added	50434
842.84 Added	50434
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842.101 Revised	50436
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842.104 (a) removed; (b) through (p) redesignated as (a) through (o); (h) amended; (p) and (q) added	50436
842.105 Removed; new 842.105 redesignated from 842.106; (a)(4) and (b) revised	50437
842.106 Redesignated as 842.105; new 842.106 redesignated from 842.107 and revised	50437
842.107 Redesignated as 842.106 and revised; new 842.107 redesignated from 842.108	50437
842.108 Redesignated as 842.107; new 842.108 redesignated from 842.109 and revised	50437
842.109 Redesignated as 842.108; new 842.109 redesignated from 842.110 and revised	50437
842.110 Redesignated as 842.109; new 842.110 redesignated from 842.111 and revised	50437
842.111 Redesignated as 842.110 and revised; new 842.111 added	50437
842.112 Added	50438
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842.141	(a) and (c)(1), (3) and (4) revised	50441
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842.161	Amended	50443
842.162	Revised	50443
842.163	(a)(1)(ii) revised	50443
842.164	Amended	50443
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842.170—842.181	(Subpart O) Added	50444
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865.3	(a) amended	*16623
865.5	Removed; new 865.5 redesignated from 865.6	*16623
865.6	Redesignated as 865.5; new 865.6 added	*16623
865.7	(c) revised; (d) added	*16624
865.8	(a) revised; (e)(3) amended	*16624
865.10	(a) amended	*16624
865.12	(a)(5)(i)(5) and (c) revised; (a)(5)(i)(6) through (9) added	*16624
865.13	Revised	*16624
865.14	(e) amended; (f) revised; (g) added	*16624
865.15	Removed; new 865.15 redesignated from 865.16	*16624
865.16	Redesignated as 865.15; new 865.16 redesignated from 865.17	*16624
865.17	Redesignated as 865.16; new 865.17 redesignated from 865.18	*16624
865.18	Redesignated as 865.17; new 865.18 redesignated from 865.19	*16624
865.19	Redesignated as 865.18	*16624
865.100—865.111	(Subpart B) Revised	53992
879	Added	49630
888e.8	(a)(2)(i) and (ii) amended	31532
888e.12	Revised	31532
888e.14	Heading revised	31533
888e.18	Amended	31533
888e.20	Heading revised; text amended	31533
888e.22	Revised	31533
888e.24	Revised	31533
888e.26	Amended	31534
888e.34	Revised	31534
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888e.40	Revised	31534
888e.42	(b) amended	31534
888e.44	Amended	31534
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888e.48	Amended	31534
889	Revised	34952
889.10	(a) and (b) revised	46855
889.13	Revised	46855
890	Revised	52672
901	Revised	47427
908	Revised	31205
959—960	(Subchapter P) Added	30009
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968	(Subchapter Q) Added	34962
1008	Added	34962
1008.3	(a)(11) amended	47431

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1482	Added	*12856

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1608.4	(c) revised; (i) added	44169
1608.5	(b) revised; (d) added	44169
1608.9	(b) revised	44170
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634	Schedule A revised	37332
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651.2	(j) revised; (r) added	40106
651.3	(a) revised	40106
651.6	Heading, (a) and (b) revised	40106
651.7	(b), (c), and (e) revised	40106
651.10	(a) revised	40106
651.12	(a) and (b) amended; (c) added	40106

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3.70–60	Removed	*6581
19.20	Removed	38770
25.127	Revised	39742
25.309	Revised	39742
25.415	(a)(3) revised	39742
25.703	(a) and (c) revised	39742
40.3	(d) amended	*11
40.4	(b) introductory text, (2) and (4), and (c) amended; (b)(1) and (3) revised	47235
40.10	Amended	47236
40.11	Revised	47236
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87	(Subchapter DD and Part) Added	*17111
92.09	Removed	*2681
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109	Authority citation amended	36019
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110	Authority citation amended	36019
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110.33	Added	39743
110.55a	Added	40467
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117.245 (i)(8) revised	30638
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127.348 Added (temporary)	29378, 29680
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159.7 (a), (b)(1), and (c)(1) amended	*11
159.12a Added	*11
164 Added	*5960
183.3 (k) added	*2681
183.25 (b)(2) introductory text revised; (b) (3) and (4) added	*2682
183.33 (b) (2) and (3) revised	*2681
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85 Appendix I amended; Appendixes IV and VI revised	*1150
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459 Added 29079
460 Comment time extended 30645
600.001–77—600.009–77 (Subpart A) Added 38685
600.002–77 (a)(8) revised; (a)(33) through (38) added 49759
600.003–77 Amended 49759
600.005–77 Added 49759
600.007–77 (e) added 49760
600.008–77 (h) added 49760
600.010–77 Added 49760
600.001–78—600.113–78 (Subpart B) Added 38688
600.002–78 Added 49759
600.201–77—600.207–77 (Subpart C) Added 38689
600.206–77 (b) and (c) added 49760
600.207–77 (a)(5), (c) and (d) added 49761
600.208–77 Added 49761
600.301–77—600.315–77 (Subpart D) Added 49761
600.401–77—600.407–77 (Subpart E) Added 49764
600.501–78—600.512–78 (Subpart F) Added 38690
600.601–77—600.613–77 (Subpart G) Added 49765
600 Appendixes I and II added 38694
Appendixes III and IV added 49766

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TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

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1–1.009–3 Added 43538
1–1.103–2 (a)(5) revised 43538
1–1.302–1 (b) revised 38166
1–1.323–3 (b)(4) added 53662

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1–1.701–1 (b)(1) amended 27723
(b)(1) and (2), (f), and (g)(3) revised 50687
1–1.701–4 Revised 31207
1–1.701–5 Revised 50688
1–1.701–11 Revised 50688
1–1.1005–1 Amended 43538
1–1.1005–2 Amended 43538
1–2.406–3 (a)(1) through (a)(4), (b), and (c) revised 27725
1–2.406–4 (b)(1) and (2) revised 27726
1–3.203 (a) and (b) revised 46295
1–3.1201 Revised 47237
1–3.1202 (c) added 47237
1–3.1203 (a)(1)(ii), (a)(3), and (g) revised 47237
1–3.1205 Heading revised 47238
1–3.1210 (a) revised; (c)(10) added 47238
1–3.1218 Heading added 47238
1–3.1219 Added 47238
1–3.1220 (b)(38) through (61) added 47238
1–3.1220–3 Amended 47239
1–3.1220–10 Added 47239
1–3.1220–11 Added 47243
1–3.1220–12 Added 47244
1–3.1220–14 Added 47246
1–4.100 (Subpart 1–4.1) Removed 43538
1–4.1100—1–4.1108–5 (Subpart 1–4.11) Added 43538
1–5.800 Revised 53662
1–5.801 (b) revised 53662
1–5.802 (b) and (k) revised 53662
1–5.804–2 Revised 53662
1–5.902 (f) revised 31207
1–5.903–1 (b) revised 31207
1–7.103–16 Temporary regulations 33267
1–7.103–30 Added 43546
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1–7.203–25 Added 52457
1–7.203–66 Added 52457
1–7.403–61 Added 52467
1–7.602–34 Temporary regulations 33267
1–7.603–19 Added 52457
1–7.703–25 Added 52457
1–12.1100—1–12.1102–5 (Subpart 1–12.11) Revised (temporary regulations) 33266
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(c) temporary regulations 33267
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1–16.401 (c) and (h) revised 27723
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1–16.601 (b) temporary regulations 33267
1–16.701 (c) revised 27723
1–16.804–3 (a)(2)(iv) added; (f) revised 36654
1–16.901–19B (Standard Form 19–B) Revised 27724
1–18.117 Added 47440
1–18.302 Revised 27725
1–19.108—1–19.108–1 Revised 52457
1–19.108–2 Added 52457

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3–3.301 (b) revised *2683
3–3.303–52 (a)(9) removed *2683
3–3.305–50 (a)(3) revised *2683
3–3.408 (d)(1) amended *2684
3–3.802–50 Revised 54930
3–4.1001—3–4.1005–6 (Subpart 3–4.10) Added 27835
3–4.5400 Revised *2684
3–4.6013 Amended 44170
3–4.6014 Amended 44170
3–16.804–2 Revised 52676
3–16.804–3 (f) revised 52676
3–16.856 Removed 52676
3–16.950–314 Added 42188
3–16.950–315 Amended 41693
3–16.950–315A Amended 41695
3–16.950–316 Amended 41697
3–16.5001 (h)(ii)(1)(B) and (2)(B) revised; (h)(iii)(C) amended *2684
3–16.5002–4 Revised 42200
3–50.4 (Subpart) Added *2684
3–50.603 (g) revised *2684
3–50.700—3–50.702 (Subpart 3–50.7) Added 52676

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4–1.350 Added 37104
4–1.350–1 Added 37105
4–1.350–2 Heading added 37105
4–1.453 (c)(3) removed 36493
4–1.2302–3—4–1.2302–50 (Subpart 4–1.23) Added *10682
4–4.5002 Revised *10682
4–4.5003 (b) and (c) revised *10683
4–4.5005 (b) revised *10683
4–4.5006 (a) (1) and (3) and (b) revised; (a)(2) amended *10683

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4–4.5007 Removed	*10683
4–4.5008 (a) and (b)(2) revised	*10683
4–4.5009 Removed	*10683
4–4.5010 Revised	*10683
4–4.5011 Revised	*10683
4–4.5012 Revised	*10683
4–4.5014 (b) revised	*10684
4–4.5015 Revised	*10684
4–4.5018 (a) revised	*10684
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4–4.5068 (e) amended	*10687
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4–4.5074 Removed	*10685
4–4.5075 (c) revised	*10685
4–4.5077 Revised	*10685
4–4.5080 (e) revised	*10686
4–4.5083 (b) revised	*10686
4–4.5084 Revised	*10686
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4–4.5089 (a) revised	*10686
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4–4.5401 Revised	*10687
4–4.5404 Revised	*10687
4–4.5407 Revised	*10687
4–4.5410 (b) revised	*10687
4–5.5301–2 (a) revised	*10687
4–6.151 Amended	*10688
4–7.101 Redesignated as 4–7.102 and revised	*10688
4–7.101–4 Redesignated as 4–7.102–4 and amended	*10688
4–7.101–12 Redesignated as 4–7.102–12	*10688
4–7.101–13 Redesignated as 4–7.102–13	*10688
4–7.102 Redesignated and revised from 4–7.101	*10688
4–7.102–4 Redesignated and amended from 4–7.101–4	*10688
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4–10.154 Amended	*10688
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4–10.351 Amended	*10688
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4–14.107a Amended	*10688
4–17.102 (a) amended	*10688

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5A–1.304 Revised	27037
5A–1.305–2 (b) revised	27037
5A–1.305–3 Revised	27037
5A–1.316–5 (a), (b), and (c) revised	27037
5A–1.352–2 (a) revised	27037
5A–1.706–50 (f) revised	*5054
5A–1.1310—5A–1.1310–51 (Subpart 5A–1.13) Added	*5054
5A–1.7301 Revised	27037
5A–2.201–70 (c) and (e) revised	27038
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5A–2.201–74 (e) removed	27038
5A–2.202–4 (k) added	*5055
5A–2.205—5A–2.205–3 Revised	27038
5A–2.207 Revised	27038
5A–2.402 (l) revised	*5055
5A–2.407–84 (a) introductory text, (b), and (f)(1) revised	*5055
5A–3.101 Removed	27038
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5A–3.102 Revised	27038
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5A–3.150 Added	27039
5A–3.202 Revised	27039
5A–3.203 Revised	27039
5A–3.210 Added	27039
5A–3.405–5—5A–3.408 (Subpart 5A–3.4) Added	27039

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5A–3.605 Revised	27039
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5A–3.606 Revised	27040
5A–3.606–4 Revised	27040
5A–3.606–50 Revised	27040
5A–3.651 Added	27040
5A–3.651–1 Added	27040
5A–3.651–2 Added	27040
5A–3.651–3 Added	27040
5A–3.1210 Added	27041
5A–3.7003 Revised	27041
5A–5.406—5A–5.408–50 (Subpart 5A–5.4) Added	*5055
5A–5.805—5A–5.805–51 (Subpart 5A–5.8) Revised	*5055
5A–5.805–50 Added	27041
5A–5.5000—5A–5.5007 (Subpart 5A–5.50) Revised	*5056
5A–5.6001 (Subpart 5A–5.60) Added	*5056
5A–6.104–50 (a) revised	27041
5A–7.102–4 (b) and (c) revised	*5057
5A–7.102–6 Revised	27041
5A–7.102–78 Revised	27041
5A–7.102–81 Added	27041
5A–7.103–52 Added	27041
5A–7.103–53 Added	27041
5A–7.103–54 Added	27042
5A–7.103–55 Added	27043
5A–7.103–56 Added	27043
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5A–7.103–57 Added	27043
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5A–7.103–95 Added	27046
5A–11.401–70 Revised	27046
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5A–14.105–1 Revised	27046
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5B–12.803–50 Revised	50447
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5B–16.402–1 Revised	50448
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7–1.305–3 Removed	*4841
7–1.306–1 Removed	*4841
7–1.318 Redesignated as 7–1.318–1 and revised	*4841
7–1.318–1 Redesignated from 7–1.318 and revised	*4841
7–1.323 Removed	*4841
7–1.323–2 Removed	*4841
7–1.604–1 Redesignated from 7–1.604–1(a)–1 through 7–1.604–1(b)–6 and revised	*4841
7–1.604–1(a)–1—7–1.604–1(b)–6 Redesignated as 7–1.604–1 and revised	*4841
7–3.200–50 Revised	*4841
7–3.204 Removed	*4841

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7-3.305 Removed	*4842
7-4.5100—7-4.5102 (Subpart 7-4.51) Removed	*4842
7-4.5200 (Subpart 7-4.52) Removed	*4842
7-4.5400 (Subpart 7-4.54) Removed	*4842
7-4.5603 Removed	*4842
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7-6.200 (Subpart 7-6.2) Removed	*4842
7-6.5101 Amended	*16778
7-6.5203 Amended	*4842
7-7.5001-44 Added	*4842
7-7.5002-3 Undesignated subheading amended; (i)(1)(ii) revised; (i) removed	*4842
7-7.5002-15 Undesignated subheading amended; (d) revised	*4842
7-7.5002-16 Added	*4842
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7-7.5003-5 Added	*4842
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7-7.5202-2 Amended	44396
7-7.5202-3 Added	*4842
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7-7.5302-3 Added	*4842
7-7.5401-35 Added	*4842
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8-7.150-4 (a) and (b) revised	48517
8-7.650-14 (a) and (b) amended	48517
8-7.650-16 (b) revised	48518
8-7.650-20 Revised	48518
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8-18.203-1 Revised	48519
8-75.101 (a) revised	51018
8-75.201-4 Revised	51019
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9-4.5203 Amended	*4125
9-4.5203-1 (b)(9) amended	*4125
9-4.5203-3 Introductory text and (a) amended	*4125
9-7.5006-10 (d)(17 revised; (d)(18) added; (e)(20) removed	*2963
9-7.5006-12 (d)(19) revised; (d)(20) added; (e)(18) removed	*2963
9-15.205-3—9-15.205-35 (Subpart 9-15.2) Added	*2963
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14-3.152 Added	54760
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14-30.501—14-30.505 (Subpart 14-30.5) Added	39749

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15-4.1000—15-4.1007-50 (Subpart 15-4.10) Added	50689

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1061 Part heading revised	44860
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1069 Part heading revised	44860
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35.30–20 (a) introductory text revised *5963
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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Table of Effective Dates and Time Periods—March 1977

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Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
March 1	March 16	March 31	April 15	May 2	May 31
March 2	March 17	April 1	April 18	May 2	May 31
March 3	March 18	April 4	April 18	May 2	June 1
March 4	March 21	April 4	April 18	May 3	June 2
March 7	March 22	April 6	April 21	May 6	June 6
March 8	March 23	April 7	April 22	May 9	June 6
March 9	March 24	April 8	April 25	May 9	June 7
March 10	March 25	April 11	April 25	May 9	June 8
March 11	March 28	April 11	April 25	May 10	June 9
March 14	March 29	April 13	April 28	May 13	June 13
March 15	March 30	April 14	April 29	May 16	June 13
March 16	March 31	April 15	May 2	May 16	June 14
March 17	April 1	April 18	May 2	May 16	June 15
March 18	April 4	April 18	May 2	May 17	June 16
March 21	April 5	April 20	May 5	May 20	June 20
March 22	April 6	April 21	May 6	May 23	June 20
March 23	April 7	April 22	May 9	May 23	June 21
March 24	April 8	April 25	May 9	May 23	June 22
March 25	April 11	April 25	May 9	May 24	June 23
March 28	April 12	April 27	May 12	May 27	June 27
March 29	April 13	April 28	May 13	May 31	June 27
March 30	April 14	April 29	May 16	May 31	June 28
March 31	April 15	May 2	May 16	May 31	June 29

AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
DIBA—Domestic and International Business Administration
EDA—Economic Development Administration
FPCA—National Fire Prevention and Control Administration
MA—Maritime Administration
MBE—Minority Business Enterprise Office
NBS—National Bureau of Standards
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIS—National Technical Information Service
PTO—Patent and Trademark Office

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DIA—Defense Intelligence Agency

DSA—Defense Supply Agency
Engineers—Engineers Corps
Navy—Navy Department

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HDO—Human Development Office
HRA—Health Resources Administration
HSA—Health Services Administration
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SRS—Social and Rehabilitation Service
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CA&RF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CP&D—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation

INTERIOR—INTERIOR DEPARTMENT

BPA—Bonneville Power Administration
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
MESA—Mining Enforcement and Safety Administration
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals
O & G—Oil and Gas Office
Reclamation—Reclamation Bureau

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

A&TBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ERDA—Energy Research and Development Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FHLBB—Federal Home Loan Bank Board
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FMPO—Federal Management Policy Office
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

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Title 3—The President

PROCLAMATION 4489

Red Cross Month, 1977

By the President of the United States of America

A Proclamation

For 96 years, the American Red Cross has symbolized the best in our society. Its hundreds of thousands of volunteers have generously given of themselves to provide a wide range of important, necessary services.

Many Americans think of the Red Cross in connection with disaster relief. It is right that they should. Last year the Red Cross responded more than 32,000 times—once every sixteen minutes, on the average—to disaster situations in our country, coping with the emergency needs of victims and doing those things that a good neighbor does in time of trouble.

But the Red Cross does much more. Through its network of blood centers and with the help of voluntary donors, the Red Cross meets over half the country's needs for blood—an essential resource for healing the sick and injured. The men and women of our armed services depend on the Red Cross for emergency contact with their loved ones, for counseling, and for financial assistance. And the Red Cross provides trusted, reliable programs to educate Americans in first aid, home nursing, and water safety.

Traditionally, March is Red Cross Month. During this period I hope all Americans will reflect on the selflessness that has led so many of our neighbors to serve the Red Cross—and their fellow Americans—with their time, their energy, and their love. We can follow their example by supporting our local Red Cross chapter.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America and Honorary Chairman of the American National Red Cross, do hereby designate March, 1977, as Red Cross Month. I urge all Americans to give generous support to the work of their local Red Cross chapters.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of February, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and first.

Jimmy Carter

[FR Doc.77-6221 Filed 2-25-77;4:04 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976 Issuances*

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1976. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

The rate for subscription service to all revised volumes issued for 1976 is $350 domestic, $75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1977):

Title	Price
7 Parts:	
750–899	$1.00
14 Parts:	
1200–end	2.20

CFR Unit (Rev. as of April 1, 1976):

17	6.00
18 Parts:	
1–149	4.65
150–end	4.10
19	5.65
20 Parts:	
1–399	2.45
400–end	7.50
21 Parts:	
1–9	2.60
10–199	5.20
200–299	5.10
300–499	5.95
500–599	3.75
600–1299	2.75
1300–end	1.90
22	4.20
23	4.55
24 Parts:	
0–499	6.65
500–end	6.90
25	5.25
26 Parts:	
1 (§§ 1.0–1—1.169)	5.95
1 (§§ 1.170–1.300)	5.90
1 (§§ 1.301–1.400)	3.30
1 (§§ 1.401 to 1.500)	5.55
1 (§§ 1.501–1.640)	4.05
1 (§§ 1.641–1.850)	4.45
1 (§§ 1.851–1.1200)	6.05
1 (§§ 1.1201 to end)	5.95
2–29	4.05
30–39	3.45
40–299	5.40
300–499	3.60
600–end	2.20
27	7.70

CFR Unit (Rev. as of July 1, 1976):

Title	Price
28	$3.10
29 Parts:	
0–499	7.30
1900–1919	7.55
1920–end	4.05
30	4.80
31	5.65
32 Parts:	
1–39 (V.I) (Rev. 11/1/75)	5.80
(V.II) (Rev. 11/1/75)	7.40
(V.III) (Rev. 11/1/75)	5.10
40–399	6.50
400–589	5.20
590–699	3.10
700–799	7.85
800–999	6.05
1000–1399	2.20
1400–1599	3.65
1600–end	1.95
32A	2.90
33 Parts:	
1–199	6.20
200–end	5.85
35	3.50
36	3.40
37	2.20
38	7.20
39	2.75
40 Parts:	
0–49	3.15
50–59	6.80
60–99	5.70
100–399	4.50
400–end	6.70
41 Chapters:	
1–2	5.70
3–6	5.90
7	1.85
8	1.80
9	4.35
10–17	4.15
18–100	3.55
101–end	6.80
CFR Index	2.20
CFR Unit (Rev. as of Oct. 1, 1976):	
42	5.95
43 Parts:	
1–999	3.10
1000–end	6.00
44 [Reserved]	
45 Parts:	
1–99	3.45
100–199	10.00
200–499	3.15
500–end	6.40
46 Parts:	
1–29	2.15
30–40	2.20
41–69	4.00
70–89	2.10
90–109	1.95
110–139	1.90
140–165	4.00
166–199	2.65
200–end	7.25
47 Parts:	
0–19	3.80
20–69	5.00
47 Parts:	
70–79	4.90
80–end	6.20
48 [Reserved]	

Title	Price
49 Parts:	
1–99	2.05
200–999	7.55
1000–1199	3.95
1200–1299	7.40
1300–end	3.60
50	4.20

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 713—EQUAL OPPORTUNITY

Administrative Processing of Class Complaints of Discrimination

AGENCY: Civil Service Commission.

ACTION: Final Regulation.

SUMMARY: Part 713 is amended by replacing the procedures for reviewing third party allegations, allowing for consolidation of complaints, and providing a new Subpart F concerning administrative processing of class complaints.

EFFECTIVE DATE: April 18, 1977. Agencies may provide for precomplaint counseling beginning April 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Director, Federal Equal Employment Opportunity, Civil Service Commission, 1900 E Street, N.W., Washington, D.C. 20415 (202–632–4420).

SUPPLEMENTARY INFORMATION: On February 24, 1976, a document was published in the FEDERAL REGISTER proposing to amend Civil Service Commission regulations to provide administrative processing of class complaints of discrimination. Interested persons were invited to participate by providing written data, views, and statements to the Director, Office of Federal Equal Employment Opportunity on or before April 30, 1976.

Comments received in response to the total proposal were generally supportive. The principal objections expressed on specific matters centered about the definitions, necessity for consent, limitation of the scope, and criteria for rejection. After consideration of the many differing views and suggestions, the Commission has further amended the original definitions to provide greater conformity with the Federal Rules of Civil Procedure concerning class actions. In like manner the definitions, scope, and criteria for rejection of class complaints have been changed to conform as closely as possible with Rule 23, Federal Rules of Civil Procedure. The role of the Complaints Examiner has been clarified based on comments received.

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In addition, some commenters perceived that the elimination of the third party procedure would effectively prevent outside organizations from bringing matters of concern to the attention of the agency. To the extent that third party allegations are in reality complaints of discrimination, the Commission believes the new class complaint procedures will serve as a better means to resolve such matters. To the extent that third party allegations deal with matters other than discrimination, e.g., the adequacy of an agency affirmative action plan, the Commission believes the discrimination complaint process is not the appropriate method for dealing with such matters.

Considerable comment was received concerning the necessity for consent of the parties in consolidation of individual complaints. The procedure has been revised to require written permission of the complainants before consolidation of two or more employees.

Accordingly, 5 CFR is amended by (1) revising §§ 713.204(d)(6) and 713.212 (b); (2) revising the subheading before § 713.251 and revising § 713.251 in its entirety; and (3) adding a new Subpart F, as follows:

The table of contents is amended as follows:

Subpart B—Equal Opportunity Without Regard to Race, Color, Religion, Sex, or National Origin

CONSOLIDATION OF COMPLAINTS

Sec.
713.251 Joint processing and consolidation of complaints.

* * * * *

Subpart F—Class Complaints of Discrimination

AGENCY REGULATIONS FOR PROCESSING CLASS COMPLAINTS OF DISCRIMINATION

713.601 Definitions.
713.602 Precomplaint processing.
713.603 Filing and presentation of a class complaint.
713.604 Acceptance, rejection, or cancellation.
713.605 Notification and opting out.
713.606 Avoidance of delay.
713.607 Freedom from restraint, interference, coercion, and reprisal.
713.608 Obtaining evidence concerning the complaint.
713.609 Opportunities for resolution of the complaint.
713.610 Hearing.
713.611 Report of findings and recommendations.
713.612 Agency decision.
713.613 Notification of class members of decision.
713.614 Corrective action.

APPEAL TO THE COMMISSION

713.631 Appeal to the Appeals Review Board.
713.632 Reopening and reconsideration by the Commissioners.

CIVIL ACTIONS

713.641 Statutory right.
713.642 Notice of right.
713.643 Effect on administrative processing.

AUTHORITY: 5 U.S.C. 1301, 3301, 3302, 7301; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; E.O. 11222, 3 CFR 1964–1965 Comp., p. 306; E.O. 11478, 3 CFR 1969 Comp., p. 133; 42 U.S.C. 2000e-16(b), unless otherwise noted.

Subpart B—Equal Opportunity Without Regard to Race, Color, Religion, Sex, or National Origin

* * * * *

§ 713.204 Implementation of agency program.

* * * * *

(d) Assign to the Director of Equal Employment Opportunity the functions of: * * *

(6) Providing for the acceptance and processing and/or rejection of class complaints in accordance with Subpart F of this part;

* * * * *

§ 713.212 Coverage.

* * * * *

(b) The agency shall provide in its regulations for the acceptance of class complaints in accordance with Subpart F.

* * * * *

CONSOLIDATION OF COMPLAINTS

§ 713.251 Joint processing and consolidation of complaints.

(a) Two or more complaints of discrimination filed by employees or applicants for employment with the agency consisting of substantially similar allegations of discrimination may, with the written permission of the complainants, be consolidated by the agency or Commission.

(b) Two or more individual complaints of discrimination from the same employee or applicant for employment may, at the discretion of the agency or the Commission, be joined for processing after notifying the individual that the complaints will be processed jointly.

Subpart F—Class Complaints of Discrimination

AGENCY REGULATIONS FOR PROCESSING CLASS COMPLAINTS OF DISCRIMINATION

§ 713.601 Definitions.

(a) A "class" is a group of agency employees, former agency employees, and/or applicants for employment with the agency, on whose behalf it is alleged that they have been, are being, or may be adversely affected, by an agency personnel management policy or practice which the agency has authority to rescind or modify, and which discriminates against the group on the basis of their common race, color, religion, sex, national origin, and/or age.

(b) A "class complaint" is a written complaint of discrimination filed on behalf of a class by the agent of the class alleging that:

(1) The class is so numerous that a consolidated complaint of the members of the class is impractical;

(2) There are questions of fact common to the class;

(3) The claims of the agent of the class are typical of the claims of the class;

(4) The agent of the class, or his/her representative, if any, will fairly and adequately protect the interests of the class.

(c) An "agent of the class" is a class member who acts for the class during the processing of the class complaint.

(d) "Age" is an inclusive term which means the ages of 40 through 64 years.

§ 713.602 Precomplaint processing.

(a) An employee or applicant who wishes to be an agent and who believes he/she has been discriminated against shall consult with an Equal Employment Opportunity Counselor within 90 calendar days of the matter giving rise to the allegation of individual discrimination or 90 calendar days of its effective date if a personnel action.

(b) The Counselor shall (1) advise the aggrieved person of the discrimination complaint procedures, of his/her right to representation throughout the precomplaint and complaint processes, and of the right to anonymity only during the precomplaint process; (2) make whatever inquiry is believed necessary; (3) make an attempt at informal resolution through discussion with appropriate officials; (4) counsel the aggrieved person concerning the issues involved; (5) inform the Equal Employment Opportunity Officer and other appropriate officials when corrective action is believed necessary; (6) keep a record of all counseling activities; and (7) summarize actions and advice in writing both to the Equal Employment Opportunity Officer and the aggrieved person concerning the issues in the personnel management policy or practice.

(c) The Counselor shall conduct a final interview and terminate counseling with the aggrieved person not later than 30 calendar days after the date on which the allegation of discrimination was called to the attention of the Counselor. During the final interview, the Counselor shall inform the aggrieved person in writing that counseling is terminated and that he/she has the right to file a class complaint of discrimination with appropriate officials of the agency.

(d) The Counselor shall not attempt in any way to restrain the aggrieved person from filing a complaint nor to encourage the person to file a complaint.

(e) The Counselor shall not reveal the identity of an aggrieved person during the period of consultation, except, when authorized to do so by the aggrieved person.

(f) The agency shall ensure that full cooperation is provided by all employees to Counselors in the performance of their duties under this section. Counselors shall have routine access to personnel records of the agency without unwarranted invasion of privacy.

(g) Corrective action taken as a result of counseling shall be consistent with law, Executive order, and Civil Service regulations, rules, and instructions.

§ 713.603 Filing and presentation of a class complaint.

(a) The complaint must be submitted in writing by the agent or his/her representative and be signed by the agent.

(b) The complaint shall set forth specifically and in detail: (1) A description

of the agency personnel management policy or practice giving rise to the complaint; and (2) A description of the resultant personnel action or matter adversely affecting the agent.

(c) The complaint must be filed not later than 15 calendar days after the agent's receipt of the notice of final interview with the Counselor.

(d) The officials with whom complaints may be filed are the head of the agency, a designee of the head of the agency, and the Director of Equal Employment Opportunity.

(e) A complaint shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by an official with whom complaints may be filed.

(f) At all stages, including counseling, in the preparation and presentation of a complaint, or claim, and appeal from a decision on a complaint, or claim, the agent or claimant shall have the right to be accompanied, represented, and advised by a representative of his/her own choosing, provided the choice of a representative does not involve a conflict of interest or conflict of position. The representative shall be designated in writing and the designation made a part of the class complaint file.

(g) If the agent is an employee in an active duty status, he/she shall have a reasonable amount of official time to prepare and present his/her complaint. Employees, including attorneys, who are representing employees of the same agency in discrimination complaint cases must be permitted to use a reasonable amount of official time to carry out that responsibility whenever it is not inconsistent with the faithful performance of their duties. Although there is no requirement that an agency permit its own employees to use official time for the purpose of representing employees of other agencies, an agency may do so at its discretion. If the use of official time is not granted in such cases, employees may be granted, at their request, annual leave, or leave without pay.

§ 713.604 Acceptance, Rejection or Cancellation.

(a) Within 10 calendar days of an agency's receipt of a complaint, the agency shall forward the complaint, along with a copy of the Counselor's report and any other information pertaining to timeliness or other relevant circumstances related to the complaint, to the Commission. The Commission shall assign the complaint to a Complaints Examiner who may be an employee of the Federal Employee Appeals Authority and who is not an employee of the agency in which the complaint arose.

(b) The Complaints Examiner may recommend that the agency reject the complaint, or a portion thereof, for any of the following reasons:

(1) It was not timely filed;

(2) It consists of an allegation identical to an allegation contained in a previous complaint filed on behalf of the same class which is pending in the agency or which has been resolved or decided by the agency;

(3) It is not within the purview of this subpart;

(4) The agent failed to consult a Counselor in a timely manner;

(5) It lacks specificity and detail;

(6) It was not submitted in writing or was not signed by the agent;

(7) It does not meet the following prerequisites:

(i) The class is so numerous that a consolidated complaint of the members of the class is impractical;

(ii) There are questions of fact common to the class;

(iii) The claims of the agent of the class are typical of the claims of the class;

(iv) The agent of the class, or his/her representative will fairly and adequately protect the interests of the class;

(c) If an allegation is not included in the Counselor's report, the Complaints Examiner shall afford the agent 15 calendar days to explain whether the matter was discussed and if not, why he/she did not discuss the allegation with the Counselor. If the explanation is not satisfactory, the Complaints Examiner may recommend that the agency reject the allegation. If the explanation is satisfactory, the Complaints Examiner may refer the allegation to the agency for further counseling of the agent.

(d) If an allegation lacks specificity and detail, the Complaints Examiner shall afford the agent 15 calendar days to provide specific and detailed information. The Complaints Examiner may recommend that the agency reject the complaint if the agent fails to provide such information within the specified time period. If the information provided contains new allegations outside the scope of the complaint, the Complaints Examiner must advise the agent how to proceed on an individual or class basis concerning these allegations.

(e) The Complaints Examiner may recommend that the agency extend the time limits for filing a complaint and for consulting with a Counselor when the agent, or his/her representative, shows that he/she was not notified of the prescribed time limits and was not otherwise aware of them or that he/she was prevented by circumstances beyond his/her control from acting within the time limit.

(f) When appropriate the Complaints Examiner may recommend that a class be divided into subclasses and that each subclass be treated as a class, and the provisions of this section then shall be construed and applied accordingly.

(g) The Complaints Examiner may recommend that the agency cancel a complaint after it has been accepted because of failure of the agent to prosecute the complaint. This action may be taken only after the Complaints Examiner has provided the agent a written request, including notice of proposed cancellation, that he/she provide certain information or otherwise proceed with the complaint, and the agent has failed to satisfy this request within 15 calendar days of his/her receipt of the request.

(h) An agent must be informed by the Complaints Examiner in a request under paragraphs (c) or (d) of this section that his/her complaint may be rejected if the information is not provided.

(i) The Complaints Examiner's recommendation to the agency on whether to accept, reject, or cancel a complaint shall be transmitted in writing to the agency, the agent, and the agent's representative. The Complaints Examiner's recommendation to accept, reject, or cancel shall become the agency decision unless the agency rejects or modifies the decision within 10 calendar days of its receipt. The agency shall notify the agent, the agent's representative, and the Complaints Examiner of its decision to accept, reject, or cancel a complaint. Notice of a decision to reject or cancel shall inform the agent of his/her right to proceed with his/her individual complaint of discrimination, and to appeal the final agency decision on the matter to the Appeals Review Board (ARB) and of his/her right to file a civil action.

§ 713.605 Notification and opting out.

(a) After acceptance of a class complaint, the agency, within 15 calendar days, shall use reasonable means, such as delivery, mailing, distribution, or posting, to notify all class members of the existence of the class complaint.

(b) A notice shall contain: (1) The name of the agency or organizational segment thereof, its location, and the date of acceptance of the complaint; (2) a description of the issues accepted as part of the class complaint; (3) an explanation that class members may remove themselves from the class by notifying the agency within 30 calendar days after issuance of the notice; and (4) an explanation of the binding nature of the final decision on or resolution of the complaint.

§ 713.606 Avoidance of delay.

The complaint shall be processed promptly after it has been accepted. To this end, the parties shall proceed with the complaint without undue delay so that the complaint is processed within 180 calendar days after it was filed.

§ 713.607 Freedom from restraint, interference, coercion, and reprisal.

(a) Agents, claimants, their representatives, witnesses, Directors of Equal Employment Opportunity, Equal Employment Opportunity Officers, Equal Employment Opportunity Investigators, Equal Employment Opportunity Counselors, and other agency officials having responsibility for the processing of discrimination complaints shall be free from restraint, interference, coercion, and reprisal at all stages in the presentation and processing of a complaint, including the counseling stage under § 713.602, or any time thereafter.

(b) A person identified in paragraph (a) of this section, if a Federal employee or applicant, may file a complaint of

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restraint, interference, coercion, or reprisal in connection with the presentation and processing of a complaint of discrimination. The complaint shall be filed and processed in accordance with provisions of Subpart B.

§ 713.608 Obtaining evidence concerning the complaint.

(a) *General.* (1) Upon the acceptance of a complaint, the agency head or his/her designee shall designate an agency representative. The agency representative shall not be an alleged discriminating official or any individual designated under § 713.204(c) of this part.

(2) In representing the agency, the agency representative shall consult with officials, if any, named or identified as responsible for the alleged discrimination, and other officials of the agency as necessary. In such consultation, the agency representative will be subject to the provisions of Civil Service regulations, rules, and instructions concerning privacy and access to individual personnel records and reports.

(b) *Development of evidence.* (1) The Complaints Examiner shall notify the agent, or his/her representative and the agency representative that a period of not more than 60 calendar days will be allowed both parties to prepare their cases. This time period may be extended by the Complaints Examiner upon the request of either party. Both parties are entitled to reasonable development of evidence on matters relevant to the issues raised in the complaint. Evidence may be developed through interrogatories, depositions, and requests for production of documents. It shall be grounds for objection to producing evidence that the information sought by either party is irrelevant, overburdensome, repetitious, or privileged.

(2) In the event that mutual cooperation fails, either party may request the Complaints Examiner to rule on a request to develop evidence. When the Complaints Examiner renders his/her report of findings and recommendations on the merits of the complaint, a party's failure to comply with the Complaints Examiner's ruling on an evidentiary request may be taken into account.

(3) During the time period for development of evidence, the Complaints Examiner may, in his/her discretion, direct that an investigation of facts relevant to the complaint, or any portion thereof, be conducted by an Investigator trained and/or certified by the Commission.

(4) Both parties shall furnish the Complaints Examiner all materials which they wish him/her to examine and such other material as he/she may request.

§ 713.609 Opportunities for resolution of the complaint.

(a) The Complaints Examiner shall furnish the agent or his/her representative and the representative of the agency a copy of all materials obtained concerning the complaint and provide opportunity for the agent to discuss materials with the agency representative and attempt resolution of the complaint.

(b) At any time after acceptance of a complaint, the complaint may be resolved by agreement of the agency and the agent to terms offered by either party.

(c) If resolution of the complaint is arrived at, the terms of the resolution shall be reduced to writing, and signed by the agent and the agency head or his/her designee. A resolution may include a finding on the issue of discrimination, and must include any corrective action agreed upon. Corrective action in the resolution must be consistent with law, Executive order, and Civil Service regulations, rules, and instructions. A copy of the resolution shall be provided the agent.

(d) Notice of the resolution shall be given to all class members in the same manner as notification of the acceptance of the class complaint and shall state the terms of corrective action, if any, to be granted by the agency. A resolution shall bind all members of the class.

(e) If the agency does not carry out, or rescinds, any action specified by the terms of the resolution for any reason not attributable to acts or conduct of the agent, his/her representative, or class members, the agency upon the agent's written request shall reinstate the complaint for further processing from the point processing ceased under the terms of the resolution. Failure of the agency to reinstate the complaint is grounds for appeal by the agent to the Appeals Review Board.

§ 713.610 Hearing.

On the expiration of the period allowed for preparation of the case, the Complaints Examiner shall set a date for a hearing. The hearing shall be conducted in accordance with § 772.307(c).

§ 713.611 Report of findings and recommendations.

(a) The Complaints Examiner shall transmit to the agency head or his/her designee: (1) The record of the hearing; (2) His/her findings and analysis with regard to the complaint; and (3) His/her report of findings and recommended decision on the complaint, including corrective action pertaining to systemic relief for the class and any individual corrective action, where appropriate, with regard to the personnel action or matter which gave rise to the complaint.

(b) The Complaints Examiner shall notify the agent of the date on which the report of findings and recommendations was forwarded to the agency head or his/her designee.

§ 713.612 Agency decision.

(a) Within 30 calendar days of receipt of the report of findings and recommendations issued under § 713.611, the agency head or his/her designee shall issue a decision to accept, reject, or modify the findings and recommendations of the Complaints Examiner.

(b) The decision of the agency shall be in writing and shall be transmitted to the agent or his/her representative, along with a copy of the record of the hearing and a copy of the findings and recommendations of the Complaints Examiner.

(c) When the agency's decision is to reject or modify the findings and recommendations of the Complaints Examiner the decision shall contain the specific reasons in detail for the agency's action.

(d) If the agency has not issued a decision within 30 calendar days of its receipt of the Complaints Examiner's report of findings and recommendations, the findings and recommendations shall become the final agency decision. The agency shall transmit the final agency decision and the record of the hearing to the agent or his/her representative within 5 calendar days of the expiration of the 30-day period.

(e) The agency shall inform the agent or his/her representative of the right to appeal the final agency decision to the Commission's Appeals Review Board and of his/her right to file a civil action in accordance with § 713.641 of the regulations, and of the time limits applicable thereto.

(f) A final agency decision on a class complaint shall be binding on all members of the class and the agency.

§ 713.613 Notification of class members of decision.

Class members shall be notified by the agency, through the same media employed to give notice of the existence of the class complaint, of the agency decision and corrective action, if any. The notice, where appropriate, shall include information concerning the rights of class members to seek individual relief, and of the procedures to be followed. Notice shall be given by the agency within 10 calendar days of the transmittal of its decision to the agent.

§ 713.614 Corrective action.

(a) When discrimination is found, an agency must eliminate or modify the personnel policy or practice out of which the complaint arose, and provide individual corrective action to the agent in accordance with § 713.271 of this part. Corrective action in all cases must be consistent with law, Executive order, and Civil Service regulations, rules and instructions.

(b) When discrimination is found and a class member believes that but for that discrimination he/she would have received employment or an employment benefit, the class member may file a written claim with the head of the agency or the Director of Equal Employment Opportunity of the agency within 30 calendar days of notification by the agency of the decision of the agency.

(c) The claim must include a specific, detailed showing that the claimant is a class member who was affected by a personnel action or matter resulting from the discriminatory policy or practice within not more than 135 calendar days preceding the filing of the class complaint.

(d) The agency shall attempt to resolve the claim for relief within 60 calendar days after the date the claim was

postmarked, or, in the absence of a postmark, within 60 calendar days after the date it was received by an official with whom claims may be filed. If the agency and claimant do not agree that the claimant is a member of the class or upon the relief to which the claimant is entitled, the agency shall refer the claim, with recommendations concerning it, to the Complaints Examiner.

(e) The Complaints Examiner shall notify the claimant of the right to a hearing on the claim and shall allow the parties to the claim an opportunity to submit evidence and representations concerning the claim. If a hearing is requested, it shall be conducted in accordance with § 772.307(c) of this chapter. If no hearing is requested, the Complaints Examiner, in his/her discretion, may hold a hearing to obtain necessary evidence concerning the claim.

(f) The Complaints Examiner shall issue a report of findings and recommendations on the claim which shall be treated the same as a report of findings and recommendations under §§ 713.611 and 713.612.

(g) If the Complaints Examiner determines that the claimant is not a member of the class or that the claim was not timely filed he/she shall recommend rejection of the claim and give notice of his/her action to the agency, the claimant, and his/her representative. Such notice shall include advice as to the complainant's right to appeal to the ARB or to file a civil action in accordance with the provisions of this part.

APPEAL TO THE COMMISSION

§ 713.631 Appeal to the Appeals Review Board.

(a) An agent may appeal to the ARB the decision of the head of the agency or his/her designee: (1) To reject or cancel his/her complaint, or a portion thereof; for reasons covered by § 713.604; (2) to refuse to reinstate the complaint for further processing in accordance with the provisions of § 713.609(e); and (3) on the merits of the complaint and/or corrective action.

(b) A claimant may appeal to the ARB from a decision of the head of the agency or his/her designee: (1) To cancel or reject a claim for individual relief in accordance with § 713.614(f) and (g); and (2) on the merits of his/her claim for individual relief.

(c) An appeal may be filed at any time after receipt of the agency's final decision, but not later than 15 calendar days after receipt of that decision except when the appellant shows that he/she or his/her representative was not notified of the prescribed time limit and was not otherwise aware of it, or that he/she or his/her representative was prevented by circumstances beyond his/her control from appealing within the prescribed time limit.

(d) An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the ARB. The Board's review will be made upon the existing record to determine if the agency decision is in accord with applicable law, Executive Order, or Civil Service rules, regulations, and instructions and is supported by substantial evidence.

§ 713.632 Reopening and reconsideration by the Commissioners.

The Commissioners may reopen and reconsider any previous decision of a Commission office on their own motion or at the request of either party in accordance with provisions of § 772.312(a)(1) of this chapter.

CIVIL ACTIONS

§ 713.641 Statutory right.

(a) An agent who has filed a complaint or a claimant who has filed a claim for relief based on race, color, religion, sex, and/or national origin discrimination is authorized to file a civil action in an appropriate U.S. district court:

(1) Within 30 calendar days of his/her receipt of notice of final action taken by his/her agency on a complaint or claim;

(2) After 180 calendar days from the date he/she filed a complaint or claim with his/her agency if there has been no decision on the complaint or claim;

(3) Within 30 calendar days of his/her receipt of the decision of the ARB on his/her appeal; or

(4) After 180 calendar days from the date he/she filed an appeal with the ARB, if there has been no ARB decision.

(b) An agent who has filed a complaint or a claimant who has filed for relief based on age discrimination, is authorized to file a civil action in an appropriate U.S. district court.

§ 713.642 Notice of right.

When the agent alleges that the agency discriminated against a class on the basis of race, color, religion, sex, national origin, and/or age, or a claimant files for relief, the agency or the Commission shall notify him/her of his/her right to file a civil action in any final action on a complaint, or claim, under §§ 713.604, 713.612, 713.614, or 713.631.

§ 713.643 Effect on administrative processing.

The filing of a civil action by an agent or claimant does not terminate agency processing of a complaint or claim or ARB processing of an appeal under this subpart.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-5998 Filed 2-28-77;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Annual Implementing Regulations

On December 21, 1976, there was published in the FEDERAL REGISTER (41 FR 55539) a notice of proposed regulations for the Summer Food Service Program for Children, established by section 13 of the National School Lunch Act, as amended by Pub. L. 94-105, enacted October 7, 1975. Annual regulations are required by subsection (f) of that section. Interested persons were given until January 14, 1977 to submit comments, suggestions, or objections regarding the proposed regulations. All communications received by January 21, however, were evaluated and considered in the formulation of final regulations.

One hundred and twenty-six communications were received. The comments, suggestions and objections made in such communications have been considered and the following changes from the proposed regulations have been made.

Many respondents objected to the deletion of the provision permitting the use of start-up funds. As indicated in the preamble to the proposed regulations, the Department removed this provision because of a lack of utilization during last summer. Most of the comments on this matter suggested that last year's experience with start-up funds was inadequate for purposes of making such a determination. The Department is sympathetic with this argument and is, therefore, once again providing for the use of these funds (§ 225.12(b)).

Many respondents also objected to several proposed requirements dealing with the payment of advance funds to sponsors by State agencies (§ 225.13). Specifically, a number of respondents suggested that the Department would be acting improperly in requiring that sponsors request each payment of advance funds. As suggested in the preamble to the proposed regulations, the Department feels that there is need for adequate controls over these funds. Automatic payments of advance funds fails to consider the mechanics of making such payments, as well as the advisability of doing so in a program that often is affected by changes in the number of participating children and sites and by other variables which are not always easily foreseen. These advance payment requests are envisioned more as an ongoing administrative tool rather than a simple request form. Similarly, objections were raised concerning the July 15 and August 15 advance fund payment dates. Under the existing regulations, State agencies are obliged to make advance payments to sponsors on the first days of June, July and August. Because of this requirement, State agencies must frequently make advance payments for July with little information with which to evaluate a sponsor's actual operations and compare it with that which has been projected. The State agency's responsibility to review large sponsors (10 or more sites) (§ 225.5(a)(2)) generally covers the first four weeks of Program operations. For the most part, this period covers the last week or weeks in June and the first few weeks in July. Program information generated by these mandatory State agency reviews and that supplied by sponsors cannot be evaluated and translated into appropriate

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adjustments in the amount of advance payments to individual sponsors by July 1. The Department feels that an additional 15 days will enable State agencies to more thoroughly perform appropriate administrative tasks.

Some respondents suggested that emphasis should be placed on thoroughly evaluating sponsors as part of the approval process and, assuming such a thorough evaluation, the automatic payment of advance funds on the first of the month should create few, if any, problems. The Department agrees that a thorough sponsor evaluation is an absolutely essential ingredient in the sponsor approval process. It presumes such activity as evidenced by the fact that the June 1 payment date remains the same. As previously suggested, however, this Program by its very nature requires close, ongoing scrutiny.

A number of respondents questioned the 65 percent maximum placed on the amount of advance funds payable to sponsors (§ 225.13(d)). Final regulations allow for advance payments to each sponsor equal to the greater of Program payments made to the sponsor in the same month last year or 65 percent of the amount the State agency estimates will be needed by the sponsor for each month in which advance funds are payable.

A sizeable number of respondents expressed concern over the 6 p.m. deadline for serving suppers (§ 225.10(a)). Many residential camps do not serve suppers until after six in an effort to fully utilize the daylight hours for recreational activities. Therefore, the regulations now provide for residential camps to be exempted from this requirement.

Several respondents expressed concern about the requirement that sponsors provide a year-round service to the community (§ 225.9(a)(3)). While for the most part they agreed that it was a good requirement, they felt that it might eliminate participation of residential camps and programs for the children of migrant workers which might find it difficult to meet such a requirement. Therefore, final regulations exempt these two groups from the requirement, recognizing their seasonal nature and that they are generally allied with organizations which do provide ongoing services to the community. In addition, final regulations address the concerns of several respondents when they allow participation by sponsors which do not provide a year-round service where eligible areas would not otherwise have a program available (§ 225.4(h)).

Several respondents objected to the requirement that a health certification for each site be submitted prior to approval. It was felt that health departments would not be able to do this work in the time allowed. Therefore, in lieu of that requirement, final regulations require that a copy of a letter submitted to the health department be provided to the State agency at the time of the application. Such a letter must include, at a minimum, a statement that the sponsor plans to provide a food service under the Program at specified times and at specified locations (§ 225.9(h)).

A number of respondents expressed concern that limiting sponsors to serving 50,000 children or operating 200 sites could in some instances be counterproductive. It was pointed out that there are several sponsors which have run successful programs of a larger size than the proposed maximums. Therefore, the final regulations retain these limitations but allow for approval in excess of these figures when, after a careful evaluation of all aspects of a sponsor's capabilities, a State agency determines that the sponsor can manage a program of a larger size (§ 225.4(e)).

A large number of respondents felt that the requirement that sponsors and food service management companies obtain performance bonds was unreasonable and would prohibit many small sponsors and food service management companies from participating. Final regulations contain no requirement for sponsor bonding but retain modified food service management company bonding requirements. Specifically, food service management companies wishing to submit a bid for food service under the Program must obtain a bid bond of 5 to 10 percent (the amount to be determined by the sponsor) (§ 225.11(e)) and a performance bond in an amount set by the State agencies but in no case less than 10 percent (§ 225.11(f)).

Several respondents raised the issue of the service of second meals to children, noting that the Department has in the past never issued any definitive policy in this regard. The Department views the Summer Food Service Program as a substitute for the National School Lunch and School Breakfast Programs which should provide continuity in the service of nutritious, well-balanced meals to needy children who are on school vacation. Accordingly, consistent with the policy in effect in those other programs, the Department sees the intent of the Summer Food Service Program to provide one meal per child at each meal service. In the past, the Department has paid reimbursement for the service of second meals where they have been limited in number and might otherwise be wasted. It seems reasonable to continue this practice, since the Summer Food Service Program is affected by many variables not found in the other child nutrition programs. Accordingly, subsection (f) has been added to § 225.12. However, as set forth in that subsection, when it becomes apparent that the service of excess meals is the rule, rather than the exception, sponsors should reduce the number of meals being prepared to more closely approximate the number of children being served. Repeated instances of uncontrolled meal preparation and service should be grounds for a determination by the State agency that reimbursement not be paid for excess meals.

A number of respondents expressed their concern that the regulations did not address the quality of food served under the Program. The point is well made that the Program will be less than successful if other than good quality food is served to children. Accordingly, final regulations (§ 225.5(q)) require State agencies to assist sponsors. It is contemplated that they will work through the standard sponsor/food service management contract and through technical assistance in order to develop specifications for food components of the meal patterns to ensure standards of quality for food.

The comments of several respondents indicated that clarification of various issues was appropriate. It was apparent that the provision to establish eligibility on an individual child basis rather than on an area basis (§ 225.9(f)) was interpreted by some as having universal application. The intent of extending this provision for eligibility beyond the residential camps to which it applied last year is to alleviate the problem encountered by sponsors which bring together needy children from a number of areas for participation in recreational or cultural activities. These sponsors have had difficulty establishing eligibility based on area served. All sponsors, other than the sponsors serving enrolled children referred to and residential camps, must establish eligibility on the basis of the area served by each of its sites.

A number of respondents requested clarification of the institutional priority system for approval of sponsors (§ 225.4(g)). Final regulations make it clearer that this provision is intended to be used only where more than one sponsor proposes to serve the same areas or the same children. In addition, the priority list in final regulations reflects the comments that on-site preparation should be given primary consideration, along with one-site operations.

Many commenters, addressing provisions such as requiring State agencies to establish minimum criteria for sponsor approval (§ 225.4(a)), requiring State agencies to establish application deadline dates (§ 225.5(g)) and allowing sponsors to appeal non-approval determinations (§ 225.4(b), § 225.5(u)), suggested that the Department should review all such decisions, policies, and procedures. The Department feels that the delegation of such responsibilities is consistent with the law which contemplates local administration of the Program. It is felt that the Program can be more effectively administered when a more intimate knowledge of local conditions exists. In turn, it is expected that greater local control will make a State agency more sensitive to Program goals as well as the needs of Program beneficiaries.

One respondent noted that there was no vehicle in proposed regulations, other than the information provided on the site information sheet, by which State agencies can accurately evaluate the capability of a site to handle the food service proposed. Program experience shows that this is an area to which additional administrative attention should be paid. Many administrative site reviews conducted during prior Program years have made it clear that information concerning sites provided by sponsors was often inaccurate or misleading. Such sites were frequently tied to excessive meal orders, wasted food, unsanitary conditions and limited the possibilities for supervisory control.

Recognizing the need for additional administrative control in this regard, and in recognition of the fact that the great majority of cases where this a problem are associated with urban sites, the final regulations (§ 225.5(h)) require a preapproval site visit by State agency personnel to non-school sites located in urban areas with a public school enrollment of more than 75,000. The visit is envisioned as a visual inspection of the site for the purpose of assessing its capacity and adequacy for the proposed food service.

In addition, the Department feels that the State agency administrative review responsibility covering sponsors which operates 10 or more sites (§ 225.5(a)(2)) is inadequate in the monitoring of large urban programs. Accordingly, an additional provision has been added to that paragraph that requires State agencies which will receive over $250,000 in State administrative funds to review all sites located in cities with more than 75,000 public school enrollees and operated by sponsors having 10 or more sites.

It is appropriate in this preamble to note that, based on several comments received, the Department is requiring State agencies to include a statement on the Program application form, on the site information sheet, on the request for advance funds and on the Claim for Reimbursement by which the individual signing those forms acknowledges an understanding of the fact that deliberate misrepresentation may be grounds for prosecution under applicable State and Federal laws (§ 225.5(t)).

Accordingly, this Part 225 is revised and reissued as follows:

Subpart D—Miscellaneous Provisions

225.15 Procurement provisions.
225.16 Prohibitions.
225.17 Other provisions.
225.18 Program information.

AUTHORITY: Sec. 13, Pub. L. 94-105, 89 Stat. 515 (42 U.S.C. 1761); secs. 7, 8, Pub. L. 91-248, 84 Stat. 211, 212 (42 U.S.C. 1759a, 1779)

Subpart A—General

§ 225.1 General purpose and scope.

This part announces the policies and prescribes the regulations under which the Secretary will carry out a Summer Food Service Program for Children to assist States through grants-in-aid and other means to initiate, maintain and expand nonprofit food service programs for children during the summer months and at other approved times. The food service to be provided under the Program is similar to that provided under the National School Lunch and School Breakfast Programs and is intended to serve as a substitute for those programs for children who are on school vacation, except that it is primarily directed toward children from needy areas. Participating sponsors should be established organizations, experienced in the administration of public service programs, committed to the welfare of the people and based in the area which they serve. They should be able to provide a food service in a suitable, controlled setting and, where possible, integrate the food service into a cultural or recreational program for children.

§ 225.2 Definitions.

(a) "Act" means the National School Lunch Act, as amended.

(b) "Administrative cost" means Program cost incurred by a sponsor related to planning, organizing, and managing a food service under the Program (excluding interest cost).

(c) "Area" means the geographic area from which a site draws its attendance.

(d) "Areas in which poor economic conditions exist" means areas in which at least 33⅓ percent of the children are eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program.

(e) "CND" means the Child Nutrition Division of the Food and Nutrition Service of the Department.

(f) "Children" means persons 18 years of age or under.

(g) "Cost of obtaining food" means cost related to obtaining agricultural commodities and other food for consumption by children. Such cost may include, in addition to the purchase price of agricultural commodities and other food, the cost of processing, distributing, transporting, storing, or handling any food purchased for, or donated to, the Program.

(h) "Continuous school calendar" means a situation in which all or part of the student body of a school or school district are on a vacation for periods of 15 continuous school days or more during the period October through April.

(i) "Department" means the U.S. Department of Agriculture.

(j) "Fiscal year" means the period beginning October 1 of any calendar year and ending September 30 of the following calendar year.

(k) "FNS" means the Food and Nutrition Service of the Department.

(l) "FNSRO" means the appropriate FNS Regional Office.

(m) "Food service management company" means a commercial enterprise which is or may be contracted with by a sponsor to manage, or to prepare, or to deliver, or to serve, or any combination thereof, unitized meals, with or without milk, for children.

(n) "Income accruing to the program" means all monies (other than Program payments) received by a sponsor for use in its food service program from Federal, State, intermediate, or local governments; from food sales to adults; and from any other source, including cash donations or grants.

(o) "Meals" means food which is served to children during their attendance at a food service site and which meets the nutritional requirements set out in this part.

(p) "Milk" means fluid types of flavored or unflavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands, if a sufficient supply of such types of fluid milk cannot be obtained, reconstituted or recombined milk may be used. All milk should contain vitamins A and D at the levels specified by the Food and Drug Administration and consistent with State and local standards for each milk.

(q) "Needy children" means children from families whose income is not above the Secretary's income poverty guideline.

(r) "Net program cost" means the cost of operating a food service under the Program, including (1) cost of obtaining food, (2) labor directly involved in the preparation and service of food, (3) cost of nonfood supplies, (4) rental and use allowances of equipment and space, and (5) administrative cost, but excluding the cost of the purchase of land, acquisition or construction of buildings, or alteration of existing buildings and excluding interest cost and the value of in-kind donations; less income accruing to the Program.

(s) "OA" means the Office of Audit of the Department.

(t) "OI" means the Office of Investigation of the Department.

(u) "Private nonprofit" means tax exempt under the Internal Revenue Code of 1954, as amended.

(v) "Program" means the Summer Food Service Program for Children authorized by section 13 of the Act.

(w) "Program funds" means financial assistance made available to State agencies for the purpose of making Program payments.

Subpart A—General

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(x) "Program payments" means financial assistance in the form of start-up or advance payments or reimbursement paid or payable to sponsors for net Program costs.

(y) "Secretary" means the Secretary of Agriculture.

(z) "Site" means a physical location at which a sponsor provides or will provide a food service for children and at which children consume meals in a supervised setting.

(aa) "Sponsor" means a nonresidential public or private nonprofit institution or a residential public or private nonprofit summer camp that conducts, during the months of May through September, a regularly scheduled program for children at site locations where organized recreational activity or food service are provided (referred to in the Act as "service institution").

(bb) "Start-up funds" means funds made available to a sponsor to enable it effectively to plan a food service under this part and to establish efficient management procedures therefor.

(cc) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(dd) "State agency" means the State educational agency or any other State agency that has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the Program.

§ 225.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the Program. Within FNS, CND shall be responsible for Program administration.

(b) Within the States, responsibility for the administration of the Program shall be in the State agency, except that FNSRO shall administer the Program in any State where the State agency is not permitted by law or is otherwise unable to disburse Federal funds paid to it under the Program to any sponsor in the State. FNSRO shall, in the States in which it administers the Program, assume all of the responsibilities of State agencies set forth in this part.

(c) Each State agency desiring to take part in the Program shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisions of this part. Such agreement shall cover the operation of the Program during the period specified therein and may be extended by consent of the parties.

Subpart B—State Agency Provisions

§ 225.4 Criteria for approval of sponsors and sites.

(a) The State agency shall establish criteria for approval of sponsors under the Program, and shall determine the eligibility of sponsors applying for participation in the Program. At a minimum, those criteria shall include the basic sponsor eligibility criteria outlined in § 225.9(a).

(b) The State agency shall not approve the application of any sponsor, identifiable through its corporate or other organization, or otherwise, as a sponsor which participated in the Program during any previous fiscal year and which was seriously deficient in its Program operations. Prior to issuance of a final decision regarding nonapproval under this paragraph, the State agency shall inform applicants of the opportunity for a review, as provided in § 225.5 (u) of this part. Deficiencies which are grounds for nonapproval include, but are not limited to, any of the following:

(1) Non-compliance with the applicable bid procedure and contract requirements as outlined in Program regulations;

(2) The submission of false information to the State agency;

(3) Failure of the sponsor to return to the State agency any start-up or advance funds which exceeded the amount earned by the sponsor for serving eligible meals, or failure to submit all Claims for Reimbursement in any prior year;

(4) Program violations at a significant proportion of the sponsor's food service sites which include, but are not limited to, the following:

(i) Non-compliance with the between-meal time requirements,

(ii) Failure to maintain adequate records,

(iii) Failure to adjust meal orders to conform to variations in the number of participating children,

(iv) The simultaneous service of more than one meal to each child,

(v) The claiming of Program reimbursement for meals served to adults,

(vi) Failure to serve meals which include required quantities of all meal components,

(vii) Repeated instances of off-site meal consumption,

(viii) Continued use of food service management companies with health code violations.

(c) The State agency shall develop, in accordance with the requirements of this part and such other guidance as may be furnished by the Department, a site information sheet, on which applicant sponsors shall provide, for each site at which a food service is proposed, information to demonstrate or describe:

(1) An organized and supervised system for serving meals to attending children;

(2) The types of meals to be served and the times of service;

(3) Arrangements, within acceptable standards prescribed by the State or local health authorities, for delivery and holding of meals until time of service, and if there are excess meals, arrangements for storing them until they are served;

(4) Arrangements for food service during periods of inclement weather;

(5) Access to a means of communication for making adjustments as needed in the number of meals delivered in accordance with the number of children attending daily at each site;

(6) The geographical area to be served by the site;

(7) The extent to which the site draws attendance from an area in which poor economic conditions exist or, if applicable under § 225.9(f), that at least one-third of the children enrolled in each session of operation are eligible for free or reduced price school meals.

(d) The State agency shall, when evaluating proposed sites, ensure that:

(1) The area served by the proposed site is one in which poor economic conditions exist; or, if applicable under § 225.9(f), that at least one-third of the children enrolled are eligible for free or reduced price meals.

(2) The number of meals, by type, proposed to be served to children at the site does not exceed the number of children residing in the area to be served or the number enrolled.

(3) The area which the site proposes to serve is not or will not be served in whole or in part by another site unless it can be demonstrated to the satisfaction of the State agency that each site will serve children not served by any other site in the area and that the total number of meals, by type, served to children at all sites will not exceed the number of children residing in the area.

(e) The State agency shall not approve any site with a proposed average daily attendance of more than 300 children until the State agency visits each such site to evaluate its capability of serving the number of children expected. No sponsor shall be approved to operate more than 200 sites and no sponsor shall be approved to serve an average daily attendance of more than 50,000 children unless it can demonstrate to the satisfaction of the State agency that it has the capability of managing a program of that size. The State agency shall not allow any sponsor to circumvent these limitations. Sponsors which document site eligibility on the basis of enrolled children shall be approved for the service of meals only to children enrolled.

(f) The State agency shall not approve the service of more than one meal per day at any food service site unless each type of meal is delivered separately within one hour of the beginning of the meal service or facilities capable of holding hot or cold meals within the temperatures required by State or local health regulations are available at the site.

(g) The State agency shall use the following order of priority in determining the sponsorship of sites which propose to serve the same area:

(1) Sponsors which operate only one site,

(2) Sponsors which prepare meals on-site,

(3) Public or nonprofit private schools with food service facilities,

(4) Public or nonprofit private sponsors which utilize local school food facilities for the preparation of meals,

(5) Other public or nonprofit private sponsors which have demonstrated ability for successful program operations based on prior Program participation and which provide an organized activity for children,

(6) Other sponsors which have demonstrated ability for successful Program operation.

(h) State agencies may approve the application of an otherwise eligible sponsor which does not provide a year-round service to the community which it proposes to serve under the Program, only when a failure to do so would deny the Program to an eligible area or eligible enrolled group.

§ 225.5 Responsibilities of State agencies.

(a) *Program assistance.* Each State agency shall provide Program assistance as follows:

(1) Each State agency shall provide consultative, technical, and managerial personnel to administer the Program and monitor performance and to measure progress towards achieving Program goals. Such personnel shall be available in sufficient time to properly plan and implement the Program.

(2) Program assistance shall include visits prior to the approval of the application, to all applicants which have not previously participated in the Program and to all applicants which will receive more than $50,000 in Program payments, and reviews, during the first 4 weeks of operation, of all approved sponsors which operate 10 or more sites, and of 15 percent of the sites of such sponsors, to ensure compliance with Program regulations and with the Department's nondiscrimination regulations (Part 15 of this title), issued under title VI of the Civil Rights Act of 1964. In addition, each State agency which expects to receive more than $250,000 in State administrative funds shall conduct reviews, during the first 4 weeks of operations, of all sponsors which operate 10 or more sites and all of the sites of such sponsors which are located in cities whose total elementary and secondary public school enrollment exceeds 75,000, to ensure compliance with Program regulations and with the Department's nondiscrimination regulations (Part 15 of this title), issued under title IV of the Civil Rights Act of 1964. In addition, all State agencies shall review 80 percent of the remaining sponsors and 10 percent of the food service sites of such remaining sponsors at least once during the period of the Program agreement.

(3) Documentation of Program assistance shall be maintained on file by the State agency.

(b) *Accounting procedures for sponsors.* Each State agency shall establish accounting practices under which sponsors shall report the information required in this part. The system shall be such as to permit determination of the operating balances available to sponsors.

(c) *Payment of claims.* A State agency may make full or partial reimbursement upon receipt of a Claim for Reimbursement from a sponsor, but shall first make any necessary adjustments in payments.

(d) *Sponsor/food service management company contract.* Each State agency shall develop a standard form of contract for use by sponsors and food service management companies as provided for in § 225.11, unless prohibited by State law.

(e) *Advance and start-up payment procedure.* Each State agency shall establish a procedure and inform sponsors of the procedure whereby they may apply for advance Program payments as provided for in § 225.13 and, where applicable, each State agency shall establish a procedure and inform sponsors of the procedure whereby they may apply for start-up funds provided for in § 225.12.

(f) *Use of school food service facilities.* State agencies shall make a positive effort to encourage the use of school food service facilities to the maximum extent feasible in the preparation, service and delivery of meals under the Program.

(g) *Application deadline date.* Each State agency shall establish a date by which all sponsors wishing to participate in the Program shall submit a written application: *Provided, however,* That State agencies may approve the application of an otherwise eligible sponsor submitted after the date established by the State agency, when the failure to do so would deny the Program to an eligible area or eligible enrolled group.

(h) *Meal service restriction.* A State agency shall immediately restrict to one meal service per day any site determined to be in violation of § 225.10(a) and all sites under a sponsor if more than 10 percent of the sponsor's sites are determined to be in violation of § 225.10(a).

(i) *Plentiful foods.* State agencies shall provide sponsors with information on foods available in plentiful supply, including those so designated by the Department.

(j) *Records and reports.* (1) Each State agency shall maintain current accounting records of its Program operations which will adequately identify funds authorizations, obligations, unobligated balances, assets, liabilities, outlays, income, and expenditures for operating costs. The records may be kept in their original form or on microfilm, and shall be retained for a period of three years after the date of submission of the final Financial Status Report, except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of any issues raised by the audit. (2) Each State agency shall report information on the use of Program funds and on Program operations to FNS on forms provided by FNS, as instructed by FNS.

(k) *Investigations.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to correct any irregularities. State agencies shall maintain on file evidence of such investigations and actions. The Department shall make investigations at the request of the State agency, or where the Department determines investigations are appropriate.

(l) *Commodity distribution information.* A list of sponsors which are to receive food commodities, with accompanying information on the average daily number of meals to be served by such sponsors, shall be prepared not later than June 1 of each year by the State agency. Such a list shall contain only the names of sponsors which will prepare the meals to be served at their sites and the names of sponsors which have entered into an agreement with a school or school district for the preparation of meals to be served under the Program. If the State agency is other than the agency of the State which handles the distribution of food commodities donated by the Department, this information shall be forwarded to the agency of the State which handles the distribution of donated commodities. The State agency shall be responsible for promptly revising the information to reflect additions or deletions of sponsors and for providing such adjustments in participation data as are determined necessary by the State agency. Availability of commodities for use by sponsors shall be summarized and announced by the State agency at an early date prior to the development of menu cycles.

(m) *Training.* The State agency shall provide training for the supervisory personnel of all sponsors, at locations convenient to the areas of operation, prior to the opening of the Program and shall assist sponsors in training site personnel.

(n) *Site visits prior to approval.* The State agency shall, prior to approval, visit each proposed non-school site located in cities whose total elementary and secondary public school enrollment exceeds 75,000 for the purpose of evaluating its suitability for the food service proposed.

(o) *Procurement provisions.* State agencies shall require sponsors to adhere to the procurement provisions set forth in § 225.15.

(p) *Management evaluations and audits.* (1) Each State agency shall ensure that the requirements of § 225.9 are met and shall provide sponsors whose total Claims for Reimbursement will exceed $50,000 with an audit guide to be used in the conduct of the audit required by § 225.9(i) and any other guidance necessary to enable them to comply with the requirements set out in § 225.9(i). The audit guide developed by the State agency shall, at a minimum, contain the standards set forth in the audit guide issued by the Department.

(2) Each State agency shall provide for audits of all sponsors not covered under § 225.9(i) to be made with reasonable frequency. The audits may be made by State agency internal auditors, State Auditors General, State Controllers, or other comparable State audit groups, or by certified public accountants.

(3) Each State agency shall coordinate its monitoring review findings under § 225.5(a)(2) and the audit reports provided for under § 225.9(i).

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(4) While OA shall rely to the fullest extent feasible upon State-sponsored audits, it shall, whenever it considers necessary, (i) make audits on a Statewide basis, (ii) perform on-site test audits, and (iii) review audit reports and related working papers of audits performed by or for State agencies.

(5) State agencies shall provide FNS and OA with full opportunity to conduct management evaluations (including visits to sponsors) and audits of all operations of the State agency under this part. Each State agency shall make available its records, including records of the receipt and expenditure of funds upon a reasonable request by FNS or OA. OA shall also have the right to make audits of the records and operations of any sponsor.

(6) Use of audit guides available from OA is encouraged. When these guides are utilized, OA will coordinate its audits with State-sponsored audits to form a network of intergovernmental audit systems.

(7) In making management evaluations or audits for any fiscal year, the State agency, FNS, or OA, may disregard any overpayment which does not exceed $35 or, in the case of State agency administered programs, does not exceed the amount established under State law, regulations or procedure as a minimum for which claims will be made for State losses generally. No overpayment shall be disregarded, however, where there are unpaid claims for the same fiscal year from which the overpayment can be deducted, or where there is substantial evidence of violation of criminal law or civil fraud statutes.

(q) *Food quality assistance.* Each State agency shall assist sponsors in the development of food specifications to ensure the purchase of quality food for use in the Program.

(r) *Food service management company monitoring and registration.* Each State agency shall have a responsibility to monitor food service management company facilities during the operation of the Program and may require that all food service management companies that wish to contract for food service with any sponsor in the State must register with the State agency.

(s) *Bid opening monitoring.* Each State agency shall have a representative present at the bid opening of all sponsors which expect to receive more than $100,000 in Program payments.

(t) *Sponsor certifications.* Each State agency shall require sponsors submitting a Program application, site information sheets, requests for advance fund payments and Claims for Reimbursement to certify that the information submitted on those forms is true and correct and that the sponsor is aware that deliberate misrepresentation may result in prosecution under applicable State and Federal statutes.

(u) *Sponsor review procedures.* Each State agency shall inform applicants of the procedure to be used to obtain a review by an official other than the one directly responsible for the original determination, of a denial by the State agency of an application for Program participation or a denial by the State agency of a sponsor's advance Program payment or Claim for Reimbursement. Pending the outcome of a review of a denial of an application for Program participation, the State agency shall proceed to approve other applicants without regard to the application under review, and the outcome of the review shall not affect the State agencys' responsibilities under § 225.4(d).

(v) *Advance payment estimates.* Each State agency shall, when determining the amount of advance Program payments payable to each sponsor under § 225.13(d), make a thorough analysis of the estimates submitted by such sponsor and other data available to the State agency and based on this analysis develop reasonable estimates upon which advance payments may be made.

(w) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional requirements which are not inconsistent with the provisions of this part.

§ 225.6 Payments to State agencies and use of Program funds.

(a) Not later than May 1, June 1 and July 1 of each fiscal year the Secretary shall make available to each State Agency by Letter of Credit an advance payment of Program funds for meals to be served under the Program in the following month in an amount no less than the total payment made to the State agency for meals served in the same calendar month of the preceding calendar year or 65 per centum of the amount estimated by the State agency on the basis of approved applications, to be needed to reimburse sponsors for meals to be served in the following month, whichever is the greater. For sponsors who operate under a continuous school calendar, the Secretary shall make advance payments of Program funds to State agencies in an amount of 65 per centum of the amount estimated to be needed by such sponsor within the State by Letter of Credit on the first day of the month prior to the month during which the food service will be conducted. The Secretary shall make available any remaining Program funds due no later than 60 days following receipt of valid claims from sponsors by the State agency. Any funds advanced to a State agency for which valid claims have not been established within 180 days shall be deducted from the next monthly advance payment to the State unless the State requests a hearing with the Secretary prior to the 180th day.

(b) Program funds shall be used by State agencies to make Program payments to sponsors in connection with meals served to children in accordance with the provisions of this part.

(c) Each State agency shall release to FNS any Program funds which it determines are unobligated as of September 30 of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in no event later than 30 days following demand by FNS, and shall be accomplished by an adjustment in the State agency's Letter of Credit.

(d) The State agency may, with the approval of FNS, use in carrying out special developmental projects an amount up to 1 percent of Program payments made in any fiscal year.

§ 225.7 Distribution and use of State administrative funds.

(a) For each fiscal year, the Secretary shall pay to each State agency for administrative expenses incurred in the Program, an amount equal to 2 percent of the total Program funds disbursed to the State: *Provided, however,* That no State shall receive less than $10,000 for any fiscal year unless the funds distributed to that State for that fiscal year total less than $50,000.

(b) State administrative funds paid to any State shall be used by State agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance to sponsors in their initiation, expansion, and conduct of any food service for which Program funds are made available. State agencies may also use administrative funds for administrative expenses set forth in their Program management and administration plan.

(c) Not later than October 1 of each fiscal year, the Secretary shall make available to each State agency by Letter of Credit an initial allocation of State administrative funds for use in the fiscal year beginning on that October 1 in an amount not to exceed one-third of 2 percent of the Program funds properly payable to such State agency under the Program in the fiscal year immediately preceding the fiscal year for which this initial allocation is being made, or one-third of $10,000, whichever is applicable. For States which did not receive any Program funds during the fiscal year immediately preceding the fiscal year for which the initial allocation is being made, the amount to be made available by October 1 of each fiscal year shall be determined by the Department.

(d) An additional amount of State administrative funds shall be made available upon the receipt and approval by FNS of the State's Program management and administration plan provided for in this part. The amount of such funds, plus the initial allocation, shall not exceed three-fourths of 2 percent of the Program funds estimated to be needed for Program payments, or three-fourths of $10,000, whichever is applicable. The balance of the State administrative funds needed by a State, not to exceed 2 percent of the Program funds paid or estimated to be payable to the State for the current fiscal year, or $10,000 whichever is applicable, shall be paid to the State not later than July 15 of each fiscal year.

(e) Each State agency shall report to FNS information on the use in the prior fiscal year of Program funds and State administrative funds, on a form provided by FNS, not later than November 30 of each fiscal year. FNS shall then make any payment or adjustments necessary prior to February 15 of each fiscal year.

§ 225.8 Program management and administration plan.

(a) Not later than February 15 of each fiscal year, each State agency shall submit to FNS for approval, a Program management and administration plan for that fiscal year. Approval of the plan by FNS shall be a prerequisite to the payment of Program funds, or to the donation by the Department of any commodities for use in the Program. The plan shall include as a minimum:

(1) How the State plans to use Program funds and funds from within the State to the maximum extent practicable to reach needy children.

(2) Estimated number of sponsors eligible to participate and estimated number of sites and average daily attendance.

(3) Estimated number of sponsors expected to participate and estimated number of sites and average daily attendance.

(4) Estimated number of sponsors which will receive $50,000 in Program payments and average daily attendance.

(5) Estimated amount of Program funds by month needed for Program payments.

(6) Estimated amount of State funds needed to operate the Program.

(7) Number of sponsor training sessions planned and number of reviews planned.

(8) The State agency budget by month on the use of Program and State administrative funds available under the Program including, but not limited to, staffing (part-time and full-time), salaries, travel, and per diem.

(9) The actions to be taken by the State agency to maximize the use of school food service facilities.

(10) The actions to be taken by the State to ensure that sites at which a Program food service is planned serve areas or children of economic need.

(11) The actions to be taken by the State to ensure compliance with the requirements of the Department's regulations respecting nondiscrimination (7 CFR Part 15).

(12) The State's plan for meeting its audit and monitoring responsibilities.

(13) Data on the number of sponsors who participated in the prior fiscal year and number of reviews and audits performed as well as a detailed breakdown of how State administrative funds made available to the State under the Program were spent.

(14) Quantitative description of present service to needy children and future plans, including sponsor priority criteria, for reaching needy children not being served.

(15) The State's plan for determining the amounts and timing of advance payments to sponsors.

(b) The State agency shall give the Governor, or his delegated agency, the opportunity to comment on the relationship of the plan to comprehensive and other State plans and programs and to those of affected areawide or local jurisdictions. A period of 45 days from the date of receipt of the plan shall be afforded to make such comments.

(c) Significant changes in any portion of a Program plan shall be submitted for approval to FNS in the form of an amendment to the plan.

Subpart C—Sponsor Provisions

§ 225.9 Requirements for participation.

(a) No sponsor shall be eligible to participate in the Program unless it:

(1) Demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites at which it proposes to conduct a food service;

(2) Has adequate supervisory and operational personnel for overall monitoring and management of each food service site including adequate personnel to visit all food service sites at least once in the first week of operation under the Program and to take promptly such actions as are necessary to correct deficiencies found at the time of the initial visit, and to review food service operations at every site at least once during the first four weeks of Program operations, and thereafter to maintain a reasonable level of site monitoring;

(3) Provides an ongoing year-round service to the community which it proposes to serve under the Program, unless it is a residential camp or a sponsor which provides a food service for the children of migrant workers or the only sponsor available to serve an eligible area or eligible enrolled group;

(4) Agrees to maintain and has the capability of maintaining children on site while meals are consumed;

(5) Certifies that all sites where it plans to conduct a food service have been visited and have the capability and the facilities for the meal service planned for the number of children anticipated to be served;

(6) Is a public or private nonprofit entity;

(7) Provides documentation that its activity or food service serves an area in which poor economic conditions exist or, if applicable under § 225.9(f), documentation on an individual child basis that at least one-third of the children enrolled in each session of its operation are eligible for free or reduced price school meals;

(8) Agrees to hold training sessions for its own personnel and site personnel with regard to Program duties and responsibilities, and to allow no site to operate until its personnel have attended such training sessions;

(9) Agrees to provide for an audit to be performed by an independent certified public accountant on its food service under any Program agreement for which it will receive over $50,000 in Program payments and to submit to the State agency a copy of the letter of engagement with an accounting firm or individual which is to conduct the audit.

(b) Sponsors shall, not later than the deadline date for applications established under § 225.5(g), make written application to the State agency for participation in the Program as sponsors.

(c) Each sponsor shall submit, as part of the application, a site information sheet, as developed by the State agency, for each site where a food service operation is proposed.

(d) Applications shall include information in sufficient detail to enable the State agency to determine whether the sponsor meets the criteria for participation in the Program established by the State agency in accordance with § 225.4(a) and the extent of Program payments needed. In addition, all applicants planning to operate 10 or more food service sites shall include a management plan for review and approval by the State agency. Such a plan shall include the sponsor's budget and staffing plan.

(e) Each sponsor applying for participation in the Program shall submit to the State agency, along with its application, a plan for and a synopsis of its invitation to bid for food service, if a bid is required under § 225.11, and a copy of its letter of engagement of a certified public accountant, if required under paragraph (i) of this section.

(f) Each sponsor shall submit, along with its site information sheet, documentation supporting the eligibility of each site as serving an area where poor economic conditions exist except that residential summer camps and nonresidential public or nonprofit private sponsors, which offer a regularly scheduled organized cultural or recreational activity to enrolled children for whom a daily attendance register is maintained, may instead submit with the site information sheet family-size income information which documents that at least one-third of all children enrolled in each session are eligible for free or reduced price school meals. Information on each session must be submitted at least 14 calendar days prior to the opening of the session or at such time as specified by the State agency.

(g) Sponsors selected for participation in the Program shall enter into written agreements with the State agency, or in those States in which FNSRO administers the Program, sponsors shall enter into written agreements with the Department. Such agreements shall provide that the sponsor shall:

(1) Operate a nonprofit food service for children on school vacation during the months of May through September or during the months of May through September and at some other time or times during the year for children on school vacation under a continuous school calendar system;

(2) Serve meals which meet the requirements and provisions set forth in § 225.10 during a period designated as

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the meal service period by the sponsor;

(3) Serve meals without cost to all children only at sites approved for participation in the Program;

(4) Make no discrimination against any child because of race, color or national origin and make a statement to this effect available to the local news media;

(5) Claim reimbursement only for the type or types of meals specified in the agreement served to children at approved sites during the approved meal service period;

(6) Submit Claims for Reimbursement in accordance with procedures established by the State agency;

(7) Maintain, in the storage, preparation and service of food, proper sanitation or health standards in conformance with all applicable State and local laws and regulations;

(8) Purchase, in as large quantities as may be efficiently utilized in the Program, foods designated as plentiful by the State agency or the Department;

(9) Accept and use, in as large quantities as may be efficiently utilized in the Program, such foods as may be offered as a donation by the Department;

(10) Have access to facilities necessary for storing, preparing and serving food;

(11) Maintain a financial management system as prescribed by the State agency;

(12) Maintain on file documentation of site visits;

(13) Upon request, make all accounts and records pertaining to the Program available to the State agency and to FNS for audit or administrative review, at a reasonable time and place. Such records shall be retained for a period of three years after the end of each fiscal year, except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of any issues raised by the audit.

(h) Sponsors selected for participation in the Program shall submit evidence to the State agency within 15 days of selection that they have advised the appropriate health department of their intention to provide a food service during a specific period at specific sites. Such evidence shall be in the form of a letter to the health department.

(i) Each sponsor whose total Program payments under any Program agreement are expected to exceed $50,000 shall have an audit conducted of its Program claims and the supporting documentation for those claims by an independent certified public accountant. The sponsor's final Claim for Reimbursement under the agreement shall not be eligible for reimbursement until the audit has been completed and the results have been reviewed by the State agency. In addition, all such audits shall be subject to review by the Department. The costs of the audit may be considered an administrative cost.

(j) In no case shall reimbursement be claimed under Parts 210, 215, 220, or 226 of this chapter, or any other Federally funded program for meals served under the Program.

(k) Each sponsor shall, to the maximum extent feasible, utilize existing school food service facilities or obtain meals from a school food service facility, and the applicable requirements of this part shall be embodied in a written agreement between the sponsor and the school.

(l) Sponsors shall operate their food service in accordance with the provisions of this part and any instructions and handbooks issued by FNS under this part or by the State agency which are not inconsistent with the provisions of this part.

§ 225.10 Food service requirements.

(a) Meals which may be served under the Program shall be limited to breakfast, lunch, supper and supplemental food served between such other meals, except that supplemental food shall not be approved if the sponsor also participates in the Special Milk Program (7 CFR Part 215). Three hours shall elapse between the beginning of one meal service or supplement and the beginning of another, except that four hours shall elapse between the service of a lunch and supper when no supplement is served between lunch and supper. The service of supper shall begin no later than 6:00 p.m. None of the preceding time restrictions of this paragraph shall apply to residential camps. The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals. No sponsor shall be approved for more than two supplements a day. Meals served outside of the period of approved meal service shall not be eligible for Program payments. Each sponsor shall serve the type or types of meals provided for in its agreement with the State agency.

(b) Except as otherwise provided in this section and any appendices to this part, each meal served in the Program shall contain, as a minimum, the indicated food components:

(1) A breakfast shall contain:

(i) One-half pint (1 cup) of milk as a beverage or on cereal or used in part for each purpose,

(ii) One-half cup serving of fruit or vegetable, or both, or full strength fruit or vegetable juice,

(iii) One slice of whole-grain or enriched bread; or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or three-fourths cup (volume) or one ounce (weight), whichever is less, of whole-grain or enriched or fortified cereal, or an equivalent quantity of any combination of these foods.

(2) Lunch or supper shall contain:

(i) One-half pint (1 cup) of milk as a beverage,

(ii) Two ounces (edible portion as served) of cooked lean meat, poultry or fish; or two ounces of cheese; or one egg; or one-half cup of cooked dry beans or peas; or four tablespoons of peanut butter; or an equivalent quantity of any combination of the above-listed foods. To be counted in meeting this requirement, these foods must be served as a main dish or in a main dish and one other menu item,

(iii) A three-fourths cup serving consisting of two or more vegetables or fruit, or both. Full-strength vegetable or fruit juice may be counted to meet not more than one-fourth cup of this requirement.

(iv) One slice of whole-grain or enriched bread, or an equivalent quantity of cornbread, biscuits, roll, muffins, etc., made of whole-grain or enriched meal or flour.

(3) Supplemental food shall include:

(i) One-half pint (1 cup) of milk or 8 fluid ounces of full-strength fruit or vegetable juice or 1 cup of fruit or vegetable, or an equivalent quantity of any combination of these foods,

(ii) One slice of whole-grain or enriched bread, or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or three-fourths cup (volume) or one ounce (weight), whichever is less, of whole-grain or enriched or fortified cereal, or an equivalent quantity of any combination of these foods.

(c) The quantities of food specified in subparagraphs (1) and (2) of paragraph (b) of this section are approximate amounts of food to serve 10 to 12 year-old boys and girls. Greater or lesser amounts of these foods may be served if participating children are older or younger and if the sponsor can demonstrate to the satisfaction of the State agency that it has the capability of controlling portion size so as to ensure that variations in portion size are in accordance with the age levels of the children served.

(d) If emergency conditions prevent a sponsor normally having a supply of milk from temporarily obtaining delivery thereof, the State agency may approve the service of breakfasts, lunches, suppers or supplemental food without milk during the emergency period.

(e) The inability of a sponsor to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases the State agency may approve the service of meals without milk: *Provided*, That an equivalent amount of canned, whole dry, or nonfat dry milk is used in the preparation of the components of all meals. In addition, the State agency may approve the use of nonfat dry milk by residential summer camps in meals served to children participating in camp sponsored activities which make the service of fluid milk impracticable. Such authorization should stipulate that nonfat dry milk be reconstituted at normal dilution and under sanitary conditions consistent with State and local health regulations.

(f) In American Samoa, Guam, Puerto Rico, the Virgin Islands, and the Trust Territory of the Pacific Islands, the following variations from the meal requirements are authorized: A serving of a starchy vegetable, such as ufi, tanniers, yams, plantains, sweet potatoes, or a serving of enriched rice or enriched or whole-grain cereal products such as macaroni, dumplings or noodles may be substituted for the bread requirement.

(g) Substitutions may be made by sponsors in paragraph (b) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such food. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods. Such statements shall be kept on file by the sponsor.

(h) FNS may approve variations in the food components of the meals on an experimental or a continuing basis for any sponsor where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(i) The State agency shall approve, upon request by a sponsor, the service of meals under the Program to children under 1 year of age. Sponsors approved for this type of meal service shall be required by the State agency to comply with the applicable meal patterns contained in the Child Care Food Program regulations (7 CFR Part 226).

§ 225.11 Food service management companies.

(a) Any sponsor may contract with a food service management company (or other commercial enterprise) for the preparation of unitized meals, with or without milk. Any sponsor may employ a food service management company to operate its entire food service: *Provided, however*, That a sponsor that so employs a food service management company shall remain responsible for seeing that the food service operation is in conformity with its agreement with the State agency. Any sponsor whose contract with a food service management company will exceed $10,000 in value shall use a competitive bid procedure in the selection of the food service management company. Any sponsor entering into a contract with a food service management company shall use the standard form of contract developed by its State agency, shall adhere to the procurement standards set forth in § 225.15 and shall follow applicable State or local laws governing bid procedures. In addition, sponsors shall, at a minimum, when advertising for bids adhere to the following requirements:

(1) The invitation to bid shall not specify a minimum price;

(2) The invitation to bid shall contain a cycle menu upon which the bids shall be based;

(3) The invitation to bid shall not specify special meal requirements to meet ethnic or religious needs unless such special requirements are to meet the needs of the children to be served;

(4) The invitation to bid shall not provide for loans or any other monetary benefit for term or condition to be made to sponsors by food service management companies;

(5) Non-food items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(6) A copy of the health certification required in this section shall be submitted by the food service management company with each bid;

(7) Sponsors shall submit to the State agency copies of all bids received and the reason for selecting the food service management company chosen;

(8) All bids totaling $100,000 or more shall be submitted to the State agency for approval before acceptance. All bids in an amount which exceeds the lowest bid by more than two (2) cents per meal shall be submitted to the State agency for approval before acceptance. State agencies shall respond to such requests for approval within 5 working days of receipt;

(b) The sponsor/food service management company contract shall expressly and without exception provide that:

(1) The sponsor shall provide the food service management company with a list of approved food service sites and shall update the list as needed;

(2) The food service management company shall maintain such records (supported by invoices, receipts or other evidence) as the sponsor will need to meet its responsibilities under this part, and shall report thereon to the sponsor promptly at the end of each month, at a minimum;

(3) The food service management company shall have State or local health certification for the facility in which it proposes to prepare meals for use in the Program and it shall ensure that all health and sanitation requirements are met at all times;

(4) The books and records of the food service management company pertaining to the sponsor's food service operation shall be available for a period of 3 years from the date of receipt of final payment under their contract with the sponsor for inspection and audit by representatives of the State agency, of the Department, and of the United States General Accounting Office at any reasonable time and place;

(5) Unitized meals shall be delivered in accordance with a delivery schedule prescribed in the contract;

(6) Increases and decreases in the number of meal orders may be made by the sponsor, as needed, within a period of prior notice mutually agreed upon;

(7) No payment shall be made for meals that do not meet nutritional requirements, are spoiled or unwholesome at time of delivery, or do not otherwise meet the requirements of the contract;

(8) All meals shall meet the requirements of § 225.10;

(9) Nonperformance shall subject the food service management company to specified sanctions.

(c) Each proposed additional provision to the standard form of contract shall be submitted to the State agency for approval.

(d) Copies of all contracts between sponsors and food service management companies along with a certification of independent price determination shall be submitted to the State agency prior to the beginning of Program operations.

(e) Each food service management company which submits a bid under the Program shall obtain a bid bond in an amount not less than five (5) per centum nor more than ten (10) per centum, as determined by the sponsor, of the value of the contract for which the bid is made. A copy of the bid bond shall accompany each bid.

(f) Each food service management company which enters into a food service contract with a sponsor under the Program shall obtain a performance bond in an amount equal to a specific percentage of the value of such contract. Such specific percentage shall be determined by the State agency, but in no case shall be less than ten (10) percent. Sponsors shall require the food service management company to furnish a copy of the bond within 10 days of the awarding of the contract.

(g) Failure by a sponsor to comply with the provisions of this section shall be sufficient grounds for the State agency to terminate participation by the sponsor in accordance with § 225.17(b).

§ 225.12 Program payments.

(a) Program payments shall be made to sponsors only after execution of and in accordance with the terms of the agreement with the State agency or the Department. No Program payments shall be made for meals served at a food service site before the sponsor has received written notification of approval for said food service site from the State agency.

(b) Sponsors which have executed an agreement may, at the discretion of the State agency, receive start-up funds not earlier than 2 months before beginning food service operations. For sponsors which received Federal funds under the Program during the preceding fiscal year, start-up funds shall not exceed 1 per centum of the amount received. For sponsors which did not receive Federal funds under the Program during the preceding fiscal year, start-up funds shall not exceed 1 per centum of the amount estimated by the State agency to be needed for Program operations during the current fiscal year. Start-up funds shall be deducted from subsequent payments made to the sponsor for allowable administrative costs.

(c) Program payments shall be made to any sponsor in whichever of the following amounts is the lesser: The net Program cost, or 92.50 cents for a lunch or supper, of which 6.75 cents may be used only for administrative cost; 51.25 cents for a breakfast, of which 3.50 cents may be used only for administrative cost; and 24.25 cents for supplemental food, of which 1.75 cents may be used only for administrative cost. In no event may Program payments include administrative cost in excess of 6.75 cents

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for a lunch or supper, 3.50 cents for a breakfast or 1.75 cents for supplemental food. The last Claim for Reimbursement at the end of the sponsor's food service operation may be paid at rates in excess of the aforementioned rates: *Provided however*, That the total Program payments paid to a sponsor do not exceed the lesser of (1) rates times total meals, by type, served to children during the Program operation, or (2) the net program cost.

(d) The Secretary shall prescribe, by March 1 of each fiscal year, an adjustment to the nearest one-fourth cent in the reimbursement rates set forth in paragraph (c) of this section, to reflect changes for the preceding year ending January 31, in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor.

(e) Sponsors who wish to claim only for the cost of obtaining food shall maintain accurate records to justify their food cost. In no instance shall Program payments for the cost of obtaining food exceed the per meal Program payment rates, minus the amount allowable for administrative costs.

(f) Sponsors shall plan for and prepare or order meals on the basis of participation trends, with the objective of providing only one meal per child at each meal service. Records of participation and of preparation or ordering of meals shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to precisely estimate the number of meals needed and to reduce the resultant waste, any excess meals that are prepared or ordered may be served to children and may be claimed for reimbursement unless the State agency determines that the sponsor has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service.

§ 225.13 Program payment procedures.

(a) To be reimbursed under this part, each sponsor shall submit to the State agency Claims for Reimbursement. Claims for Reimbursement shall be submitted monthly, at a minimum, but may be submitted more frequently, at the discretion of the State agency. Claims for Reimbursement shall be filed with the State agency by the 10th day following the period of operations covered by the Claim. Sponsors whose final period of operations is less than 10 days in duration shall submit a combined Claim covering the final period and the period immediately preceding the final period. Any Claim for Reimbursement not received by the State agency within 30 days after the close of the sponsor's food service operations may be disqualified from payment, except where the State agency determines that the Claim has been filed late because of circumstances beyond the control of the sponsor. Appropriate payments may be made if a valid Claim is subsequently submitted by a sponsor.

(b) Claims for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the required information for Program reports. In submitting a Claim for Reimbursement, in addition to the certification requirements set forth in § 225.5(t), each sponsor shall certify that records are available to support the Claim.

(c) No later than June 1, July 15, and August 15 of each fiscal year, or in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State agency shall forward advance Program payments to each sponsor based upon receipt of a request for an advance Program payment from the sponsor no later than 30 days prior to the date for each advance payment: *Provided however*, That (1) the State agency shall not release the second month's advance Program payment to any sponsor which has not certified that it has held training sessions for its own personnel and the site personnel with regard to Program duties and responsibilities; and (2) no advance Program payment shall be made for any month in which the sponsor will operate under the Program for less than 10 days. Requests by sponsors for advance Program payments received less than 30 days preceding the applicable payment date shall be paid by the State agency within 30 days of receipt.

(d) Each month's advance Program payment shall be in an amount no less than the total Program payment, excluding any payments which may be part of a demand for recovery under § 225.14(a) or § 225.14(d), for meals served by such sponsor in the same calendar month of the preceding calendar year or 65 per centum of the amount established by the State agency to be needed by the sponsor for meals to be served in the month for which the advance is made, whichever is greater: *Provided, however*, That the advance Program payment shall in no case exceed the total amount estimated by the State agency to be needed by the sponsor for meals to be served in the month for which the advance is made. If the State agency has reason to believe that a sponsor will not be able to submit a valid Claim for Reimbursement covering the period for which an advance payment has been made, the subsequent month's advance Program payment shall be withheld until such time as the State agency has received a valid claim. Program payments advanced to sponsors which are not subsequently deducted from a valid Claim for Reimbursement shall be repaid upon demand to the State agency. Sponsors may elect not to receive advance Program payments. Any interest earned on advance Program payments shall be returned to FNS.

§ 225.14 Claims against sponsors.

(a) State agencies shall disallow any portion of a Claim for Reimbursement and promptly recover any Program payment made to a sponsor that was not properly payable under this part. State agencies shall use their own procedures to disallow claims and recover overpayments already made. This shall include court actions, where appropriate. However, the State agency shall notify the sponsor of the reasons for any disallowances or demand, and allow the sponsor full opportunity to submit evidence. If, in the determination of CND, a State agency has acted in conformity with the provisions of this part and has made every reasonable effort to recover any overpayment, the State agency shall not be liable for failure to collect such overpayment.

(b) The State agency shall maintain all records pertaining to action taken under this section. Such records shall be retained for a period of three years after the date of the submission of a final Financial Status Report, except that, if audit findings have not been resolved, the records shall be retained beyond the three-year period as long as required for the resolution of any issues raised in the audit.

(c) The amounts recovered by the State agency from sponsors, may be utilized, first, to make Program payments to sponsors for the period for which the funds were initially available, and second, to repay any State funds expended in the payment of Claims for Reimbursement under the Program not otherwise repaid. Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of this part.

(d) When FNSRO administers the Program with respect to sponsors and disallows a Claim for Reimbursement or a portion of a claim, or makes a demand for refund of an alleged overpayment, it shall notify the sponsor of the reasons for such disallowance or demand, and the sponsor shall have full opportunity to submit evidence or to resubmit a claim for any amount disallowed or demanded.

Subpart D—Miscellaneous Provisions

§ 225.15 Procurement provisions.

(a) All sponsors shall adhere to the following standards when procuring goods and services with Program payments for use in the Program.

(1) The sponsor shall maintain a code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the awarding and administration of contracts using Program funds. No employee, officer or agent shall participate in the selection, award or administration of a contract in which Program funds are used, where, to his knowledge, he or his immediate family, partners, or organization in which he or his immediate family or partner has a financial interest or with whom he is negotiating or has any arrangement concerning prospective employment. The sponsor, its officers, employees and agents, shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. Such standards shall provide for disciplinary

actions to be applied by the sponsor for violations of such standards by the sponsor's officers, employees or agent.

(2) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The sponsor should be alert to organizational conflicts of interest or noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals should be excluded from competing for such procurements. Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the sponsor, price and other factors considered. Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for his bid/offer to be evaluated by the sponsor. Any and all bids may be rejected when it is in the sponsor's interest to do so.

(3) All sponsors shall establish procurement procedures that provide for, at a minimum, the following procedural requirements.

(i) Proposed procurement actions shall follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(ii) Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by bidders/offerors shall be clearly specified.

(iii) Positive efforts shall be made by the sponsor to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts utilizing Program funds.

(iv) The type of procuring instruments used, e.g., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, shall be determined by sponsors but must be appropriate for the particular procurement and for promoting the best interest of the program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(v) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

(vi) All proposed sole source contracts or where only one bid or proposal is received in which the aggregate expenditure is expected to exceed $5,000 shall be subject to prior approval at the discretion of the State agency.

(vii) Some form of price or cost analysis should be made in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similiar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

(viii) Procurement records and files for purchases in excess of $10,000 shall include the following:

(1) Basis for contractor selection;

(2) Justification for lack of competition when competitive bids or offers are not obtained;

(3) Basis for award cost or price.

(ix) A system for contract administration shall be maintained to ensure contractor conformance with terms, conditions and specifications of the contract, and to ensure adequate and timely followup of all purchases.

(4) The sponsor shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. These provisions shall also be applied to subcontracts.

(i) Contracts in excess of $10,000 shall contain contractual provisions or conditions that will allow for administrative, contractual or legal remedies in instances in which contractors violate or breach contract terms, and provide for such remedial actions as may be appropriate.

(ii) All contracts in excess of $10,000 shall contain suitable provisions for termination by the sponsor including the manner by which termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(iii) All contracts awarded by sponsors and their contractors having a value of more than $10,000, shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

(iv) Where applicable, all contracts awarded by sponsors in excess of $2,500 that involve the employment of mechanics or laborers, shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(v) Contracts or agreements, the principal purpose of which is to create, develop or improve products, processes or methods; or for exploration into fields that directly concern public health, safety or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to invention and materials generated under the contract or agreement are subject to the regulations issued by the Department and the sponsor. The contractor shall be advised as to the source of additional information regarding these matters.

(vi) All negotiated contracts (except those of $10,000 or less) awarded by sponsors shall include a provision to the effect that the sponsor, the Department, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(vii) Contracts for amounts in excess of $100,000 shall contain a provision that requires the contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended. Violations shall be reported to the Department and the Regional Office of the Environmental Protection Agency.

(5) For proposed contracts subject to a competitive bidding procedure sponsors shall also ensure that:

(i) All proposed contracts shall be publicly announced at least 14 days prior to the opening of bids;

(ii) The bids shall be publicly opened;

(iii) All bidders shall be notified at least five days prior to the opening of the bids of the time and place of the bid opening; and

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(iv) The State agency is notified at least 15 days prior to the opening of the bids of the time and place of the bid opening.

(6) These standards do not relieve the sponsor of the contractual responsibilities arising under its contracts. The sponsor is the responsible authority without recourse to the State agency regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into under the Program. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

(7) Failure by a sponsor to comply with the provisions of this section shall be sufficient grounds for the State agency to terminate participation by that sponsor in accordance with § 225.17 (b).

§ 225.16 Prohibitions.

(a) As provided by the Act, the value of assistance to children under the Program shall not be considered to be income or resources for any purposes under any Federal or State laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

(b) As provided by the Act, expenditure of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act.

§ 225.17 Other provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with Attachment K of Office of Management and Budget Circular A–110 (41 FR 32016, July 30, 1976), or Attachment L of Federal Management Circular 74–7 of September 13, 1974, as amended, whichever is applicable.

(b) *Termination for cause.* FNS may terminate a State agency's participation in the Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the Program. FNS shall promptly notify the State agency in writing of the termination and reasons for the termination, together with the effective date. A State agency, shall terminate a sponsor's participation in the Program by written notice whenever it is determined by FNS or the State agency that the sponsor has failed to comply with the conditions of the Program. When participation in a program has been terminated for cause, any funds paid to the State agency or a sponsor or any recoveries by FNS from the State agency or by the State agency from a sponsor shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* FNS and the State agency may terminate the State agency's participation in the Program in whole, or in part, when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of the noncancellable obligations, properly incurred by the State agency prior to termination. A State agency may terminate a sponsor's participation in accordance with this paragraph.

§ 225.18 Program information.

Sponsors desiring information concerning the Program should write to the appropriate Regional Office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 34 Third Avenue, Burlington, Massachusetts 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, Vahlsing Center, Robbinsville, New Jersey 08691.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, N.W., Atlanta, Georgia 30309.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, Illinois 60605.

(e) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 1823 Stout Street, Denver, Colorado 80202.

(f) In the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5–C–30, Dallas, Texas 75242.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, California 94108.

(Catalog of Federal Domestic Assistance Program No. 10.559 National Archives Reference Services.)

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: February 25, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77–6203 Filed 2–28–77;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 2; Docket No. AO–71–A72]

PART 1002—MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

Order Amending Order

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New York-New Jersey marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the New York-New Jersey marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1002.50a, the introductory text and paragraph (a) are revised to read as follows:

§ 1002.50a Class prices.

For pool milk received during each month from dairy farmers or cooperative associations of producers, each handler shall pay per hundredweight not less than the prices set forth in this section, subject to the differentials and adjustments in §§ 1002.51 and 1002.81. Any handler who purchases or receives milk during any month from a cooperative association of producers which is also a handler but which does not operate the plant or the unit receiving the milk from producers shall pay the cooperative association on or before the 19th day of the following month for such milk at not less than the class prices pursuant to this section, subject to the differentials and adjustments set forth in §§ 1002.51, 1002.81 and 1002.82(b) applicable at the location where the milk was received from producers. Any handler who purchases or receives milk during any month from a cooperative association of producers which is also a handler and which operates the plant or the unit receiving the milk from producers, shall pay the cooperative association on or before the 19th day of the following month for such milk at not less than the class prices pursuant to this section, subject to the differentials and adjustments set forth in §§ 1002.51, 1002.81, and 1002.82(b) applicable at the plant at which the milk was first received. Such payments to a cooperative association shall be deemed not to have been made until the payments have been received by the cooperative association.

(a) For Class I–A milk the price shall be the basic formula price for the second preceding month plus $2.40.

* * * * *

2. In § 1002.80, paragraphs (a), (b), (c), and (d) are redesignated as paragraphs (c), (d), (e), and (f), respectively, the introductory text of the section is designated as paragraph (a) and is revised, and a new paragraph (b) is added to read as follows:

§ 1002.80 Time and rate of payments.

(a) On or before the 25th day of each month, each handler shall make payment pursuant to paragraphs (b), (c), (d), (e), and (f) of this section to each producer for all pool milk delivered by such producer during the preceding month at not less than the uniform price, subject to the following adjustments:

(1) Appropriate differentials set forth in §§ 1002.81 and 1002.82;

(2) Proper deductions for the month that were authorized in writing by producers from whom the handler received milk; and

(3) For milk received in a bulk tank unit, there may be deducted, as proper and as authorized in writing by the producer, or by a cooperative association authorized to act on behalf of such producer, a tank truck service (transportation) charge of up to 10 cents per hundredweight, which in no event shall exceed in the case of Class II milk on which a transportation credit is applicable pursuant to § 1002.55 the actual transportation costs in excess of 10 cents and otherwise actual transportation costs, and in either circumstance only to the extent transportation was actually provided by the handler or at his expense. Any such deduction with respect to bulk tank milk must be made by the handler not later than the date on which the producer is required to be paid for the milk involved. If authorization for such deduction is canceled by the producer or by the cooperative by notifying the handler in writing, such cancellation shall be effective on the first day of the month following its receipt by the handler.

(b) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its producer-members to collect payment for their milk, each handler, on or before the date on which the payments are otherwise due individual producers, shall pay the cooperative association for milk received during the month from the producer-members of such association an amount equal to not less than the total amount otherwise due such producer-members as determined pursuant to paragraph (a) of this section.

* * * * *

3. Section 1002.85 is revised to read as follows:

§ 1002.85 Payments to the producer-settlement fund.

On or before the 21st day of each month, each handler shall make full payment to the market administrator of the debit balance, if any, of such handler shown on the last statement of account rendered pursuant to § 1002.84. Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator. If the date by which such payments must be received by the market administrator falls on a Saturday or Sunday or a national holiday, such payments shall not be due until the next day that the market administrator's office is open for public business.

4. Section 1002.86 is revised to read as follows:

§ 1002.86 Payments out of the producer-settlement fund.

(a) On or before the 22nd day of each month, the market administrator shall make payment to each handler of the credit balance, if any, of such handler shown on the last statement of account rendered pursuant to § 1002.84. If the date by which such payments are to be made falls on a Saturday or Sunday or a national holiday, such payments need not be made until the next day that the market administrator's office is open for public business. If payments to the producer-settlement fund under § 1002.85 were delayed because the due date fell on a Saturday or Sunday or a national holiday, payments under this paragraph may be delayed by the same number of days.

(b) If the balance in the producer-settlement fund is insufficient to make the full payment required under paragraph (a) of this section, the market administrator shall reduce uniformly the payments to each handler and shall complete such payments as soon as the necessary funds are available. No handler who, on the 25th day of the month, has not received such payments in full from the market administrator shall be deemed to be in violation of §§ 1002.80 through 1002.82 if he reduces his total payments to producers for milk delivered by such producers during the preceding month by not more than the amount of the reduction in payment from the producer-settlement fund.

5. Section 1002.90 is revised to read as follows:

§ 1002.90 Payment by handlers.

As his pro rata share of the expense of administration of this part, each handler shall, on or before the date specified for making payment to the producer-settlement fund pursuant to § 1002.85, pay to the market administrator a sum not exceeding 4 cents per hundredweight on the total quantity of pool milk received from dairy farmers at plants or from farms in a unit operated by such handler, directly or at the instance of a cooperative association of producers and on the quantity for which payment is made pursuant to § 1002.70(d)(2), the exact amount to be determined by the market administrator subject to review by the Secretary. This section shall not be deemed to duplicate any similar payment by any handler under an order issued by the Commissioner of Agriculture and Markets of the State of New York, or the Director of the Division of Dairy Industry of the New Jersey Department of Agriculture, with respect to the marketing area. Whenever verification by the market administrator discloses an error in the payment made by

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any handler, such error shall be adjusted not later than the date next following such disclosure on which payments are due pursuant to this section.

(Secs., 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Inflation Impact Statement. The United States Department of Agriculture has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Effective date: April 1, 1977.

Signed at Washington, D.C., on February 23, 1977.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.77–6053 Filed 2–28–77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined

This amendment quarantines portions of Charlotte County in Virginia because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Virginia before the reference to "Puerto Rico" and a new paragraph (a)(1) relating to the State of Virginia is added to read:

§ 82.3 Areas quarantined.

(a) • • •

(1) *Virginia.* (i) The premises of Yanik's Rainbow Aviary located on the north side of County Road 645 and east of the County Courthouse City limits in Charlotte County.

(ii) The premises of Yanik's Rainbow Aviary located at the Women's Center Building on the north side of State Road 40 W., Charlotte Court House, in Charlotte County.

(iii) The premises of Yanik's Rainbow Aviary located in the Twin Oaks Building, east of the intersection of State Roads 40 and 47, Charlotte Court House, in Charlotte County.

• • • • •

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date: The foregoing amendment shall become effective on February 24, 1977.

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of February 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

G. V. PEACOCK,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77–6114 Filed 2–28–77;8:45 am]

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 112—PACKAGING AND LABELING

Miscellaneous Amendments

• *Purpose:* To provide an alternate statement for certain labels, to provide restrictive language for certain labels, and to clarify requirements for rabies vaccine labels. •

On July 9, 1976, a notice of proposed amendments to Part 112 was published in the FEDERAL REGISTER at 41 FR 28311. Comments on this proposal were solicited and seven responses were received.

STATEMENT OF CONSIDERATIONS

Section 112.2(a)(10)(i) of the regulations (9 CFR 112.2(a)(10)(i) presently requires the statement, "No U.S. Standard of Potency", on labels of products for which a standard requirement for evaluating potency has not been developed. In the case of a product containing more than one fraction, if a standard requirement for potency has been established for one or more such fraction, the statement, "U.S. Standard of Potency for (name of fraction) Fraction(s) Only" is required. In addition to comments received on the proposed amendments, the statement, "No U.S. Standard of Potency for the (name of fraction) Fraction(s)," was submitted as a suggested alternative for the statement presently required. This suggestion has been accepted,

Objections to removal of the reference to the Center for Disease Control (CDC), U.S. Department of Health, Education, and Welfare publication pertaining to accidental human exposure to vaccine virus from § 112.7(d)(5) were also received, although the CDC publication does not contain information necessary to properly handle all cases of human exposure to live rabies vaccine viruses.

Subsequent to publication of the proposed amendments, CDC has transferred their responsibilities for the publication of a rabies vaccine compendium to the Association of State Public Health Veterinarians (ASPHV), P.O. Box 13528, Baltimore, MD 21203. This organization is in the process of developing a rabies vaccine compendium which should contain the information needed to handle human exposure cases to animal rabies vaccine viruses.

Final action on amendments to § 112.7(d)(5) is being withheld until suitable recommendations to appear on the labels are developed.

A suggested change in label policy to permit a claim on one label that a product is limited to veterinarians while the same product would be sold to anyone under another label was received in comments from a licensee. This procedure could create false and misleading labeling and the suggested change in policy has been rejected.

Proposed paragraph 112.2(d)(1) contains prescribed statements to be used on the product license and labels when the nature of the product is such that it should be "used by or under the direction of a veterinarian." Suggestion was received from one licensee that the wording be changed to "used by or on the order of a licensed veterinarian."

This suggestion was rejected on the basis that the term "licensed veterinarian" would be unnecessarily restrictive when unlicensed State, county, municipal, and retired veterinarians could satisfactorily administer a biological product. Desirable restriction of a product to "veterinary supervision" would not be fulfilled if the veterinarian "ordered" it to be used on a farm or ranch many miles away.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice of rulemaking, the suggestions received from the comments, and pursuant to the authority contained in the Virus - Serum - Toxin Act of March 4, 1913 (21 U.S.C. 151–158), the amendments of Part 112, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice are hereby adopted and are set forth herein subject to the following noted modifications:

An alternate statement regarding U.S. Standard of Potency has been added to § 112.2(a)(10)(i) to save label space and facilitate label preparation.

The proposed amendment to § 112.7(d)(5) has been withheld at this time.

1. Section 112.2 is amended by revising paragraph (a)(10)(i) and paragraph (d) to read:

§ 112.2 Final container label, carton label, and enclosure.

• • • • •

(a) • • •

(10) • • •

(i) In the case of a biological product for which a standard requirement for evaluating potency has not been established, a statement, "No U.S. Standard of Potency," shall so appear. In the case of a multiple fraction product for which a standard requirement for potency has been established for one or more fractions of such product, the statement, "U.S. Standard of Potency for (name fraction) Fraction(s) Only" or alternatively, "No U.S. Standard of Potency for the (name fraction) Fraction(s)" shall so appear;

• • • • •

(d) Carton labels and enclosures shall be subject to paragraphs (d)(1), (d)(2), and (d)(3) of this section.

(1) The statement, "Restricted to use by or under the direction of a veterinarian" or "Restricted to use by a veterinarian," shall be used on all carton labels and enclosures when such restriction is prescribed on the product license.

(2) If the licensee states on the carton labels and enclosures of a product that its sales are restricted to veterinarians, then the entire production of that particular product in the licensed establishment shall be so restricted by the licensee.

(3) The statement "For veterinary use only" or an equivalent statement may appear on the carton labels and enclosures for a product if such statement is being used to indicate that the product is recommend specifically for animals, and not for humans.

• • • • •

2. Section 112.7 is amended by revising the introductory portion of paragraph (c); by revising paragraphs (c)(1) and (c)(2); by adding paragraphs (c)(3) and (c)(4); by revising paragraph (d)(1); and by adding two new paragraphs, (d)(6) and (d)(7), to read:

§ 112.7 Special additional requirements.

• • • • •

(c) In the case of a biological product containing inactivated rabies virus, carton labels, enclosures, and all but very small final container labels shall include a warning against freezing and the recommendations provided in this paragraph.

(1) A recommendation that intramuscular injection be made at one site in the thigh.

(2) The minimum recommended dose and the minimum recommended number of such doses to be given for immunization as stated in the filed Outline of Production.

(3) Subsequent revaccination recommendations as determined from the results of the duration of immunity studies conducted as prescribed in § 113.129 (b) or (c) or both.

(4) The statement "In high risk areas, annual revaccination is recommended;" *Provided*, That such statement need not appear if the label already contains a recommendation for annual revaccination.

(d) • • •

(1) The statement "In high risk areas, annual revaccination is recommended;" *Provided*, That such statement need not appear if the label already contains a recommendation for annual revaccination.

• • • • • •

(6) The minimum recommended dose and the minimum recommended number of such doses to be given for immunization as stated in the filed Outline of Production.

(7) Subsequent revaccination recommendations as determined from the results of the duration of immunity studies conducted as prescribed in § 113.147 (b) or (c) or both.

• • • • • •

(21 U.S.C. 151 and 154; 37 FR 28477; 38 FR 19141)

Effective date: These amendments take effect March 31, 1977, except that label changes brought about by these amendments shall be made by all licensees at the next printing of labels to which these changes apply, but in all cases, not later than August 29, 1977.

Done at Washington, DC, this 23rd day of February, 1977.

The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77–6042 Filed 2–28–77;8:45 am]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

PART 312—OFFICIAL MARKS, DEVICES, AND CERTIFICATES

PART 322—EXPORTS

Export Inspection Marks and Certificates

• *Purpose:* The purpose of this document is to replace the paper export stamp (Form MP 412–10) with a rubber stamping device for affixing required export marks to domestic products for exportation. •

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that, pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), the Animal and Plant Health Inspection Service hereby amends Parts 312 and 322 of the Federal meat inspection regulations (9 CFR 312, 322) to eliminate serially numbered paper export stamps and substitute therefor an official rubber stamping device.

Statement of considerations. On March 19, 1976, there was published in the FEDERAL REGISTER (55 FR 11531–11532), a notice of proposed rulemaking to amend the Federal meat inspection regulations for the purpose set forth above. The regulations currently require a numbered official paper export stamp to be affixed to each outside container, except cloth wrappings, of any inspected and passed domestic product intended for export. The proposal would allow for the substitution of an official rubber stamping device for such paper export stamps.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. No objections have been received and the proposed regulations are hereby adopted without change as set forth below.

1. In § 312.8 paragraph (a) would be amended to read as follows:

§ 312.8 Official export inspection marks, devices, and certificates.

(a) The official export meat inspection mark required by Part 322 of this subchapter shall be in the following form as hereinafter specified: [1]

Any rubber stamp approved by the Administrator, in the manner provided for in Part 317 of this subchapter, and bearing the official mark prescribed in this paragraph shall be an official device for the purposes of the Act.

• • • • •

2. In § 322.1, paragraphs (c) and (d) would be deleted, and paragraphs (a) and (b) would be revised to read as follows:

§ 322.1 Manner of affixing stamps and marking products for export.

(a) The outside container (including cloth wrappings) of any inspected and passed product for export, except ship stores and small quantities exclusively for the personal use of the consignee and not for sale or distribution, shall be marked with an official export stamp, as shown in § 312.8 of this subchapter, bearing the number of the export certificate.

(b) Each tank car of inspected and passed lard or similar edible product, and each door of each railroad car or other closed means of conveyance, containing inspected and passed loose product shipped directly to a foreign country, shall be marked with an official export

[1] The number "529893" is given as an example only. The number of the official export certificate will be shown in lieu thereof.

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stamp, as shown in § 312.8 of this subchapter, bearing the number of the export certificate.

3. Section 322.2 would be amended by revising the section heading. This change would be reflected in the Table of Contents for Part 322. Also, paragraphs (b) and (h) would be amended. These revisions would read as follows:

§ 322.2 Export certificates; instructions concerning issuance.

* * * * *

(b) Official export certificates shall be issued with serial numbers and in triplicate form. Quadruplicate certificates may be issued for any exportation on request of the exporter. Each certificate shall show the names of the exporter and the consignee, the destination, the number and types of packages, the shipping marks, the kinds of products, and the weight of the products in accordance with § 317.2 of this subchapter.

* * * * *

(h) Upon request, official export certificates may be issued by inspectors for export consignments of product of official establishments not under their supervision, provided the consignments are first identified as having been "U.S. inspected and passed" and are found to be neither adulterated nor misbranded, and marked as required by § 322.1.

* * * * *

In order to allow time to diminish present inventories of the paper export stamps and to procure and distribute the new rubber stamping devices provided by these amendments, the amendments are being made effective May 31, 1977.

Done in Washington, D.C., on January 19, 1977.

HARRY C. MUSSMAN,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.77-5963 Filed 2-28-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 77-WA-1]

PART 73—SPECIAL USE AIRSPACE

Designation of Prohibited Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to designate a prohibited area at Plains, Ga. The U.S. Secret Service has requested that aircraft flight be prohibited in the vicinity of President Carter's residence for the security of the President.

Public interest in the President may attract numerous aircraft over the Presidential residence for sight-seeing and photographic purposes. In order to provide adequate safeguards for the protection of the President and persons or property on ground, it is necessary to designate certain airspace above the Presidential residence at Plains, Ga., as a prohibited area. Under the provisions of § 73.83 no person may operate an aircraft within that area without permission from the FAA as the using agency. Requests for such permission may be made through Air Traffic Control.

Since there is a requirement for the immediate adoption of this regulation, further notice and the public procedure are impracticable and good cause exists for making this regulation effective in less than 30 days.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended by adding a new § 73.88 effective March 1, 1977 as hereinafter set forth.

In § 73.88 (42 FR 705) the following is added:

P-77 PLAINS, GA.

Boundaries. That airspace within one mile each side of a line extending from latitude 32°02'00" N., longitude 84°23'28" W.; to latitude 32°01'03" N., longitude 84° 25'25" W., and within a one mile radius of each of the above coordinates.
Designated altitudes. Surface to 1500 feet MSL.
Time of designation. Continuous.
Using agency. Administrator, Federal Aviation Administration, Washington, D.C.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on February 18, 1977.

RAYMOND G. BELANGER,
Director, Air Traffic Service.

[FR Doc.77-6233 Filed 2-28-77;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-986, Amendment 26; Doc. 27106]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Payroll, Employment Statistics; Revision of Form 41 Schedule P-10

Effective: May 20, 1977.

Adopted: February 22, 1977.

In a Supplemental Notice of Proposed Rulemaking, dated March 25, 1976 (EDR-280B, March 31, 1977; 41 FR 13616), the Board proposed to amend Part 241 of its Economic Regulations (14 CFR Part 241) to revise Form 41 Schedule P-10 "Payroll" to provide the Board with various employment statistics which would be used by the Board's staff in performing various trend, productivity, and cost analyses.

Initially, EDR-280 was issued to require the submission of substantially more detailed work force data for use by the Board's staff in the execution of its regulatory functions. In addition, EDR-280 was also issued to correct certain inherent deficiencies in the present payroll data collection system. While the proposed rule would have succeeded in achieving these two goals, a substantial number of the comments we received regarding the proposal questioned whether the Board itself has an actual need for such extensive work force data, and expressed concern as to whether our regulatory need for the proposed additional data is commensurate with the burden which would be placed on the air carriers required to submit such data.

After reviewing the comments submitted in response to EDR-280, we performed a comprehensive, searching self-appraisal of the Board's regulatory need for expanded work force data. Our analysis disclosed that the regulatory benefits derived from the collection of such data do not outweigh the burden which would be imposed on the air carriers which would be required to file the proposed data. In light of these findings, the Board issued a Supplemental Notice of Proposed Rulemaking, EDR-280B, which would relieve the carriers from the burden of filing additional work force data; however, the Supplemental Notice would still correct the deficiencies inherent in the current payroll data collection system. At the same time, the Supplemental Notice proposed a reduction in the current level of reporting by eliminating the reporting of payroll compensation data and reducing the filing frequency for schedule P-10 from quarterly to annually.

The issuance of the Supplemental Notice was thus reflective of the Board's continual concern over the amount of reporting burden imposed on the air carriers. All proposed reporting requirements are reviewed from the standpoint of regulatory need, with burden being weighed against the resultant benefits. Through this process, we are striving to achieve a uniform system of reports which will provide the data required for the Board's regulatory decisionmaking processes at a minimum of burden to the industry. In seeking this goal, we are doing everything possible to assure that reports which no longer support a regulatory need are eliminated while those that are retained are kept to a minimum level of burden.

Comments in response to the Supplemental Notice were received from the Air Line Pilots Association, International (ALPA), Eastern Air Lines, Inc. (Eastern), Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), Transport Workers Union of America, AFL-CIO (TWU), and United Air Lines, Inc. (United).

A majority of the responses received supported the proposed rule, either completely or partially. Some comments question the relevance of certain portions of the data to be submitted under the proposed reporting requirements while two of the comments maintain that the proposed rule does not go far enough in obtaining meaningful employment data.

Upon full consideration of the relevant matter contained in the comments, we have decided to adopt the rule substantially as proposed. Therefore, except as modified herein, the tentative findings set forth in the Explanatory Statement

to the proposed rule are incorporated by reference and made final. The comments submitted and other matters are discussed below.

The Air Line Pilots Association, International, has expressed concern over the elimination of the financial information relative to payroll from the current schedule P-10. ALPA has recommended that, in the event of the proposed changes to schedule P-10 being finalized, the Board should require the air carriers to report the number of employees for each labor expense account on schedules P-5.1, P-5.2, P-6, P-7, and P-8. The data which would be submitted under ALPA's recommendation is very similar to that which will be required on the revised schedule P-10. The employment data reported on schedule P-10 will enable the Board and other interested parties to relate the number of employees reported for the various labor categories on schedule P-10 to the labor expense data reported on the various profit and loss schedules of CAB Form 41 which include the schedules listed in ALPA's comments.

One of the methods which the Transport Workers Union of America (TWU), AFL-CIO uses to evaluate employee productivity is to relate operating revenue to payroll expense by labor category. TWU has indicated that it is concerned that the elimination of the reporting of payroll costs on schedule P-10 will prevent the comparison of operating revenue to payroll expense by labor category; however, this should not present a problem for TWU since payroll expense data by labor category is currently being reported on other profit and loss schedules (e.g., schedules P-5.1, P-5.2, P-6, P-7, and P-8).

In addition, TWU has also commented that it feels that schedule P-10 should be filed on a quarterly instead of an annual basis. TWU maintains that quarterly data is necessary in order to make schedule P-10 data available in a timely manner for use in various productivity analyses; however, the purpose of collecting this data is primarily for use in the various annual expense analyses conducted by the Board's staff. This annual requirement by the Board for the P-10 data coupled with the fact that TWU was the only respondent who expressed concern over the proposed filing frequency for P-10 data leads us to believe that there is no need for such data other than on an annual basis.

In another comment, Eastern objected to the Board's proposal to amend schedule P-1(a) to require the monthly reporting of the aggregate number of employees for the system operations. While Eastern supports the revisions to schedule P-1(a), Eastern's main concern relents should also be used in reporting the total number of employees on schedule P-(a). Eastern's main concern revolves around the fact that reporting a weighted average number of full-time employees on schedule P-10 and a headcount total number of employees on schedule P-1(a) would tend to distort the reported schedule P-1(a) data for those carriers with a significant number of part-time personnel. The primary purpose for obtaining monthly employment statistics is for use in trend analysis related to industry employment levels. This headcount measure of total employment would maintain a consistency in comparisons with prior periods; moreover, computing a monthly headcount is a relatively simple calculation when compared to computing the total number of full-time equivalent employees on a monthly basis. While these factors, coupled with the fact that no other carriers objected to the collection of this data on schedule P-1(a), have caused us to adopt the reporting of a monthly headcount figure as proposed, Eastern's points regarding a possible distortionary impact on the reported data are well taken. Therefore, in order to provide the benefits of a monthly headcount total and avoid the distortions pointed out by Eastern, we are amending the reporting instructions for schedule P-1(a) to require that the monthly submission of the total number of employees be reported as total full-time and total part-time employees.

In a related matter, one comment expressed doubt as to the feasibility of using schedule P-1(a) for reporting the monthly employment statistics. The Uniform System of Accounts and Reports (USAR) provides that schedule P-1(a) need not be filed for the third month of any calendar quarter if schedule P-1.1 or P-1.2 for the quarter is received on the due date prescribed for schedule P-1(a). A review of the third quarter filings of the subject schedule reveals that nine route air carriers are currently taking advantage of this filing option. Since a significant number of carriers are not filing schedule P-1(a) during the third month of the calendar quarter, it would be needlessly burdensome to require such carriers to file schedule P-1(a) for the sole purpose of collecting the number of full-time and part-time employees. After reviewing the alternatives available for collecting the monthly employment statistics during the third month of each quarter, the Board has decided that the least burdensome method of collecting the required data is still through the use of schedule P-1(a); however, so that those carriers taking advantage of the third-month filing option may continue to do so, schedule P-1.1 or schedule P-1.2 can be used to submit the required total number of full-time and part-time employees for the system operations. Accordingly, we have modified the reporting instructions applicable to schedules P-1.1 and P-1.2 to require those carriers which do not file schedule P-1(a) for the third month of any calendar quarter to report the total number of full-time and total number of part-time employees by typing in the required statistics in the bottom margin of schedule P-1.1 or P-1.2 for any such month.

TWA objected in their comments to the proposed revision of schedule P-10. Essentially, the main thrust of TWA's objections relate to the Board's need for the revised schedule P-10 data and the degree of burden on the air carriers required to submit such data. Regarding the need for the proposed data, this data will be utilized by the Board and other interested parties in various expense analyses which would relate the total number of employees per labor category, as contained in schedule P-10, to the expenses shown on the other profit and loss schedules of CAB Form 41. Without the schedule P-10 data, the Board would have no breakdown as to the number of employees per labor category. In the area of burden, the labor categories for which the number of employees are to be reported are the same as those used in the current schedule P-10. Also, the allocation of employees to the various entities is to be made on a basis consistent with that used in the allocation of salaries for Form 41 financial reporting purposes. Thus, the allocation of employees shall follow the allocation of their salaries to the various entities. Based on these facts, we feel that the burden of reporting the revised schedule P-10 data should be minimal on the route carriers. It is interested to note that TWA was the only respondent who objected to the revision of schedule P-10 on the basis of burden; moreover, TWA is the only respondent who questioned the need for such data while other respondents to the proposed rule have indicated their need and support for such data.

In the process of finalizing the proposed rule, we have added to schedule P-10 a new labor category designated as "Other." This new category will be for employees other than those whose salaries are charged to the various salary accounts contained in the USAR. For example, "Other" would include those employees who work in transport-related operations and other activities for which a separate payroll account is not prescribed. The addition of this labor category will better enable the reporting carriers to categorize their employees for the purpose of schedule P-10 reporting.

In the past, we have observed certain inconsistencies in the reporting of payroll data during labor strikes. These inconsistencies have arisen in the quarterly reporting of the number of employees on schedule P-10. Since schedule P-10 will now become an annual report of the weighted average number of employees by labor category, these inconsistencies will become moot; however, the problem in the reporting of strike data will still exist for the monthly reporting on schedule P-1(a) of the aggregate number of employees for the system operations. Therefore, we are taking this opportunity to clarify this situation by providing that, in the case of strikes, the total number of employees shall reflect only those employees that worked or received pay for any part of the pay period(s) ending nearest the 15th day of the month.

This rule will become effective May 20, 1977. In order to provide for an or-

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derly transition in the filing of schedule P–10 and schedule P–1(a) data, the transition shall be accomplished as follows: (1) Old schedule P–10 should be submitted for the first calendar quarter of 1977; (2) revised schedule P–1(a) should be filed beginning with the report for April 1977; (3) schedule P–10 need not be filed for the second or third calendar quarters of 1977; and (4) the revised schedule P–10 shall be filed at the 1977 year end.

In consideration of the foregoing, the Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241) effective May 20, 1977, as follows:

List of schedules in CAB form 41 report

Schedule No.	Schedule title	Filing frequency
•	•	•
P–9.2	Distribution of Ground Servicing Expenses by Geographic Location—Group II and Group III Air Carriers.	Do.
P–10	Employment Statistics by Labor Category	Annually.
P–11(a)	Charges by Foreign Governments and Foreign Entities for En Route Facilities and Services.	Quarterly.
P–11(b)	Charges by Foreign Governments for Airport Facilities and Services	Do.
•	•	•

Due dates of schedules in CAB form 41 report

Due date:[1]	Schedule No.
Jan. 20	• • •.
Jan. 30	• • •.
Feb. 10[2]	A, B–3, B–4, B–5, B–7, B–7(b), B–8, B–10, B–12, B–13, B–14, P–1.1, P–1.2, P–2, P–2(a), P–3, P–3(a), P–4, P–5.1, P–5.2, P–5(a), P–6, P–7, P–8, P–9.1, P–9.2, P–11(a), P–11(b).
Feb. 20	• • •.
Mar. 1	• • •.
Mar. 20	• • •.
Mar. 30	A–2, B–1, B–2,[2] B–41, B–43, B–44, B–46, P–1(a), P–10, P–13, G–41, G–42, G–43, G–44, T–1, T–7.
Apr. 20	• • •.
Apr. 30	• • •.
May 10	A, B–3, B–4, B–5, B–7, B–7(b), B–8, B–10, B–12, B–13, B–14, P–1.1, P–1.2, P–2, P–2(a), P–3, P–3(a), P–4, P–5.1, P–5.2, P–5(a), P–6, P–7, P–8, P–9.1, P–9.2, P–11(a), P–11(b).
May 20	• • •.
May 30	• • •.
June 20	• • •.
June 30	• • •.
July 20	• • •.
July 30	• • •.
Aug. 10	A, A–1, B–3, B–4, B–5, B–7, B–7(b), B–8, B–10, B–12, B–13, B–14, P–1.1, P–1.2, P–2, P–2(a), P–3, P–3(a), P–4, P–5.1, P–5.2, P–5(a), P–6, P–7, P–8, P–9.1, P–9.2, P–11(a), P–11(b).
Aug. 20	• • •.
Aug. 30	• • •.
Sept. 20	• • •.
Sept. 30	• • •.
Oct. 20	• • •.
Oct. 30	• • •.
Nov. 10	A, B–3, B–4, B–5, B–7, B–7(b), B–8, B–10, B–12, B–13, B–14, P–1.1, P–1.2, P–2, P–2(a), P–3, P–3(a), P–4, P–5.1, P–5.2, P–5(a), P–6, P–7, P–8, P–9.1, P–9.2, P–11(a), P–11(b).
Nov. 20	• • •.
Nov. 30	• • •.
Dec. 20	• • •.
Dec. 30	• • •.

[1] Due dates • • •.
[2] B and P reporting dates are extended • • •.
• • •.

2. Amend Section 24—Profit and Loss Elements as follows: (A) By revising paragraph (b) of schedules P–1.1 and P–1.2; and (B) by changing the title and adding new paragraphs (d) and (e) to Schedule P–1(a), "Interim Income Statement,"; and (C) by deleting the title and instructions to Schedule P–10 "Payroll" and inserting a new title and instructions in its place, to read as follows:

1. Amend Section 22—General Reporting Instructions as follows: (A) By revising the title and filing frequency of scheduled P–10 in the list in paragraph (a), titled "List of Schedules in CAB Form 41 Report," the revised list in pertinent part to read as follows; and

(B) By revising the due dates of schedule P–10 in the list in paragraph (a), titled "Due dates of schedules in CAB Form 41 report," the revised list to read in pertinent part as follows:

Section 22—General Reporting Instructions

(a) • • •

Section 24—Profit and Loss Elements

SCHEDULE P–1.1—STATEMENT OF OPERATIONS—GROUP I AIR CARRIERS

SCHEDULE P–1.2—STATEMENT OF OPERATIONS—GROUP II AND GROUP III AIR CARRIERS

(a) • • •

(b) Separate statements of operation shall be filed for each separate operating entity of the air carrier and for the overall, or system, operations of the air carrier. Any air carrier which does not file a schedule P–1(a) in accordance with the filing option described in Section 22—General Reporting Instructions shall, for the third month of any calendar quarter during which the option is exercised, type in the bottom margin of the system statement of operations the total number of full-time and the total number of part-time employees to be labeled as such and calculated in accordance with paragraph (d) of the reporting instructions for schedule P–1(a).

• • • • •

SCHEDULE P–1(a)—INTERIM STATEMENT OF OPERATIONS

• • • • •

(d) Other Information, "Total number of full-time employees" and "Total number of part-time employees" shall reflect for the overall or system operations of the air carrier the total number of full-time and part-time employees, respectively, who worked or received pay for any part of the pay period(s) ending nearest the 15th day of the month. For the purpose of this Part, "part-time employees" shall include all employees hired to work less than customary or standard hours.

(e) In the event of a labor strike, the "number of employees" to be reported on this schedule shall be determined on an actual payroll basis. Actual payroll shall be determined in accordance with paragraph (d) of these reporting instructions.

SCHEDULE P–10—EMPLOYMENT STATISTICS BY LABOR CATEGORY

(a) This schedule shall be filed annually by all route air carriers.

(b) Separate sets of this schedule shall be filed for each operating entity of the air carrier. Employees will be allocated to the reporting entities on a basis consistent with that used in the allocation of salaries for Form 41 financial reporting purposes.

(c) Column 3, "Number of Employees," shall reflect, for each category in column 1, the weighted average number of full-time employees who received pay for any part of the calendar year. In determining the weighted average, all temporary or part-time employees shall be restated, based on their hours paid, as an equivalent number of full-time employees. The calculation shall be based on a standard full-time 2,080/hour year with overtime hours excluded from the computation.

(d) Labor category description—"Other" shall include all employees whose salary is not chargeable to one of the various salary accounts contained in this Uniform System of Accounts and Reports. For example, "other" would include those employees who work in transport-related operations and other activities for which a separate payroll account is not prescribed. The number of employees reported as "other" shall be calculated in accordance with paragraph (c) of these reporting instructions.

3. Amend CAB Form 41 as follows:

A. By amending Schedule P–1(a) "Interim Statement of Operations" to include data on "Employment Statistics," as shown in Exhibit A attached hereto and made a part hereof.[1]

B. By deleting the present Schedule P–10 "Payroll," and adding a new Schedule P–10 "Employment Statistics by Labor Category," as shown in Exhibit B attached hereto and made a part hereof.[1]

(Sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended, (72 Stat. 743, 766, as amended, 49 U.S.C. 1324(a) and 1377).)

By the Civil Aeronautics Board:

NOTE.—The Civil Aeronautics Board has decided to submit this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, 44 U.S.C. 3512. The effective date of this rule accordingly reflects inclusion of the 45-day period which that statute allows for such review. 44 U.S.C. 3512(c)(2).

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-5959 Filed 2-28-77;8:45 am]

[1] Exhibits A and B are filed as part of the original document.

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–13280; File No. S7–611]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Missing, Lost, Stolen and Counterfeit Securities Program and Reporting and Inquiry Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Rule Amendment.

SUMMARY: This release amends certain requirements of the Commission's lost and stolen securities program and delays the effective date of § 240.17f–1. The amendments and the delay in the effective date are intended to implement this program in a more efficient manner.

DATES: Effective date: July 1, 1977. Comments on or before May 1, 1977.

ADDRESSES: Written comments, submitted in triplicate, should be addressed to The Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Piliero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202–755–1390.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced certain technical amendments to 17 CFR § 240.17f–1 under Section 17(f) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94–29 (June 4, 1975)) concerning missing, lost, stolen or counterfeit securities and postponed the effective date of Section 140.17 f–1 at least until July 1, 1977.

BACKGROUND

On December 10, 1976, the Commission adopted Section 240.17f–1 establishing reporting and inquiry requirements with respect to missing, lost, stolen or counterfeit securities.[1] In that release, the Commission stated that it would consider modifications in the Section to implement the program in an efficient manner.

EXEMPTION OF CERTAIN SECURITIES FROM REPORTING AND INQUIRY

The Commission amended § 240.17f–1 to add thereto paragraph (e) providing that registered securities for which a Federal Reserve Bank or Branch is the appropriate instrumentality or counterfeits of such securities are not the subjects of required reporting and inquiry. Reports with respect to such securities should continue to be made to the transfer agent, and where a stolen security is involved reports are required to be made to the appropriate law enforcement agency.

Comments were received which urged this change since these securities appear to be adequately protected by present procedures and do not constitute a problem at this time. Such securities, if lost or stolen, should continue to be reported to the U.S. Treasury Department or the Federal Reserve Bank of New York, in accordance with outstanding Treasury instructions and current practices in the financial community.

The Commission also announced certain interpretive clarifications of this section. First, this section does not require bond coupons to be the subject of report or inquiry. Second, for purposes of the pilot program, transactions involving securities of less than $10,000 face value in the case of bonds and market value in the case of stocks will be exempt from inquiry. Finally, municipal securities as well as corporate securities not have CUSIP numbers are exempt from required reporting and inquiry during the pilot program.

ADOPTION OF FORM X–17F–1A

The Commission also adopted Form X–17F–1A which was proposed in Securities Exchange Act Release No. 12030 (January 10, 1976) with certain technical modifications. This form shall be used for all reports pursuant to paragraph (b)(6) of Section 240.17f–1.

SECTION 240.17f–1 EFFECTIVE DATE DELAY

The Commission has received several plans in response to its solicitation of implementation programs from persons desiring to act as the Commission's designee to receive reports and respond to inquiries for which the Commission is the appropriate instrumentality. The Commission expects to announce its designation shortly. In order to allow the Commission's designee sufficient time to establish a system which can implement § 240.17f–1 in an efficient and effective manner, the Commission has changed the effective date of this section and the pilot program from March 1, 1977 to July 1, 1977. However, if the Commission determines that the entity it designates to receive reports and inquiries for which the Commission is the appropriate instrumentality requires additional time to implement the system in an efficient manner, it may delay the start-up date further.

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

The amendments to § 240.17f–1 and the lost and stolen securities program are adopted pursuant to Sections 2, 17(f) and 23 of the Securities Exchange Act of 1934, as amended.

With respect to the delay in effectiveness of § 240.17f–1 and the adoption of paragraph (e) thereof, the Commission finds, in accordance with the Administrative Procedure Act [15 U.S.C. 553(b)(3)(B)], that since the modifications of the rule make the rule less restrictive or are technical in nature, notice and public procedure are unnecessary as a prerequisite to the adoption of the amendment and the delay in effectiveness of the section, and that the amendment should be adopted, effective immediately, in accordance with the Administrative Procedure Act [5 U.S.C. 553(d)(3)] in order to enhance the efficient implementation of the lost and stolen securities program.

The Commission further finds that the amendment and the delay in effectiveness of this section are not inconsistent with the public interest or the protection of investors.

REQUEST FOR COMMENTS

The Commission solicits comments from all interested persons on the amendment to § 240.17f–1, and the adoption of Form X–17F–1A. Written comments, submitted in triplicate, should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and must be received on or before May 1, 1977. Comments should refer to File No. S7–611 and will be available for public inspection at the Commission's Public Reference Room.

1. Part 240 is amended as follows:

Pursuant to Sections 2, 6, 10, 15, 17(f) and 23 of the Securities Exchange Act of 1934, the Securities and Exchange Commission amends § 240.17f–1 in Chapter II of Title 17 of the Code of Federal Regulations by adding paragraph (e) to read as follows:

[1] Securities Exchange Act Release No. 13053; 41 FR 54923 (December 16, 1976).

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§ 240.17f–1 Requirements for reporting and inquiry with respect to missing, lost, counterfeit or stolen securities.

* * * * *

(e) *Exemptions.* Registered securities of the United States Government, any agency or instrumentality of the United States Government, the International Bank for Reconstruction and Development, the Inter-American Development Bank, or the Asian Development Bank, and counterfeit securities of such entities are not subject to the provisions of this section relating to reporting and inquiry with the appropriate instrumentality.

* * * * *

2. Part 249 is amended as follows:

Pursuant to Section 17(f) of the Securities Exchange Act of 1934, the Securities and Exchange Commission adopts § 249.1200 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

Subpart M—Forms for Reporting and Inquiry With Respect to Missing, Lost, Stolen, or Counterfeit Securities

§ 249.1200 FormX–17F–1A Report for Missing, Lost, Stolen or Counterfeit Securities.

FORM X-17F-1A

MISSING/LOST/STOLEN/COUNTERFEIT SECURITIES REPORT

Date_____

File No._____

REPORTING INSTITUTION: NAME_____

ADDRESS_____

ATTENTION:_____

FINS/IDENTIFIER NUMBER_____

REPORT OF ☐ LOSS ☐ RECOVERY DATE OF LOSS/RECOVERY_____

TYPE OF SECURITY_____

NAME OF ISSUER_____

REGISTERED NAME_____

CUSIP NUMBER_____ INTEREST RATE_____ MATURITY DATE_____

CERTIFICATE NUMBER(S) DENOMINATION ISSUE DATE

☐ CRIMINALITY INDICATED

☐ COUNTERFEIT_____

If Counterfeit - Distinguishing Characteristics

REPORTS FILED WITH:

☐ DATA BANK ☐ ISSUER/TRANSFER AGENT ☐ LAW ENFORCEMENT

AUTHORIZED SIGNATURE DATE

INSTRUCTIONS TO FORM X–17F–1A

NOTE.—Section 240.17f–1 does not require reporting of coupons. Municipal or corporate securities not assigned CUSIP numbers are not required to be reported during the pilot program.

1. Reporting Institution—Enter reporting institution name, address and FINS or identifier number.

2. Check block to indicate whether report is for loss or recovery.

3. Date of Loss/Recovery—Enter date when loss was noticed or theft occurred or when security was found or recovered.

4. Enter type of security which most precisely describes the security.

5. Issuer—Clearly print, on lines provided, the complete name of issuing company, agency or organization as set out on the security even though the security may have been lost, stolen, or missing prior to being "issued" by appropriate authority.

6. Registered Name—Clearly print, on line provided, the full name of person the security is registered to (person, company, bank, brokerage house, etc.) exactly as it appears on the security. Enter the word "Bearer" when document is a "bearer" security.

7. CUSIP Number—Enter CUSIP number.

8. Interest Rate—If interest rate was indicated, enter this information.

9. Maturity Date—Enter maturity date, if applicable.

10. Serial Number—Fill in complete serial number including any letters which are part of the number.

11. Denomination—Fill in information as provided below:

(a) Enter in numerical form the amount of money represented by bonds, debentures, notes and other securities (excluding those in (b), (c) and (d), below), as indicated thereon. If amount was not indicated on the security, enter the word "Blank."

(b) Enter in numerical form the number of shares represented by stock certificates. (Do not enter par value of the stock.) If number of shares was not indicated on the stock certificate, enter the word "Blank."

(c) With respect to warrants and rights, enter in numerical form the number of new securities which the document entitles the owner to purchase.

12. Issue Date—Enter date of issue of security, if applicable.

13. Criminality Indicated—Check when a substantial belief of criminality is indicated in loss.

14. Counterfeit—Check when reporting counterfeit securities and indicate distinguishing characteristics, if any.

15. Reports Filed With—Check each entity with whom Form X–17F–1A was filed. If the Form was filed with the transfer agent, fill in the name and address of the transfer agent in the space provided.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 18, 1977.

[FR Doc.77–5836 Filed 2–28–77;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER T—OPERATION AND MAINTENANCE

PART 221—OPERATION AND MAINTENANCE CHARGES

Miscellaneous Indian Irrigation Projects, Nevada and Arizona

On page 3319 of the FEDERAL REGISTER of January 18, 1977, there was published a notice of proposal to modify § 221.105 of Title 25, Code of Federal Regulations, dealing with operation and maintenance assessments against lands to which water can be delivered under the Pyramid Lake Irrigation Project in Nevada, and the San Carlos Reservation Irrigation Project in Arizona.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions or objections were received, and the proposed revision is hereby adopted without change, as set forth below:

The revised section will read as follows:

§ 221.105 Charges.

Pursuant to the Acts of August 1, 1914, and March 7, 1928 (38 Stat. 583, 45 Stat. 210, 25 U.S.C. 385, 387), the annual basic charges against the lands to which water can be delivered under the respective irrigation systems of the projects listed in this section are hereby fixed in the following amounts for non-Indian owned lands, Indian owned lands leased to non-Indians, and Indian owned and operated lands, for the calendar year 1977 and for each succeeding calendar year thereafter until further notice:

Annual per acre assessment

Project	Non-Indian-owned land	Indian-owned land leased to non-Indians	Indian-owned and operated land
Duck Valley:			
Subjugated lands	$3.40	$3.40	$3.40
Native hay lands	3.40	3.40	1.00
Pyramid Lake	20.00	20.00	1.00
San Carlos			
Reservation	35.23	35.23	5.50
Warm Springs	2.00	2.00	0

CHARLES D. WORTHMAN,
Assistant Area Director.

[FR Doc.77–5911 Filed 2–28–77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 50—STATEMENTS OF POLICY

Antitrust Division Business Review Procedure

AGENCY: Department of Justice, Antitrust Division.

ACTION: Statement of Policy.

SUMMARY: This statement of policy amends the Antitrust Division's business review procedure, pursuant to which the Division will, in certain circumstances, review proposed business conduct and state its enforcement intentions. The amendments modify certain procedures followed by the Division in responding to business review requests.

EFFECTIVE DATE: March 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry L. Gastley, Office of Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530 (202–739–5361).

By virtue of the authority vested in me by Subpart H of Part O of Chapter I of Title 28, Code of Federal Regulations, § 50.6 of Part 50 of Chapter I of Title 28, Code of Federal Regulations is revised as follows:

1. A new paragraph 3 is added.

2. Paragraphs 3 and 4 are renumbered paragraphs 4 and 5 respectively.

3. Paragraph 5 is renumbered paragraph 6 and the last sentence is amended.

4. Paragraph 6 is renumbered paragraph 7(a) and the first sentence amended by deleting the phrase in parentheses "(except in the case of bank mergers or acquisitions)."

5. A new paragraph 7(b) is added.

6. Paragraph 7 is renumbered paragraph 8 and the last sentence is deleted.

7. Paragraph 8 is renumbered paragraph 9.

8. Paragraph 9 is renumbered paragraph 10. The new paragraph 10 will have five subparagraphs (a) through (e).

9. Paragraph 10 is renumbered paragraph 11 and the last sentence is amended by deleting the last four words "purposes of antitrust enforcement" and substituting the words "governmental purposes."

The revised 50.6 Antitrust Division Business Review Procedure is set forth as follows.

DONALD I. BAKER,
Assistant Attorney General, Antitrust Division.

§ 50.6 Antitrust Division business review procedure.

Although the Department of Justice is not authorized to give advisory opinions to private parties, for several decades the Antitrust Division has been willing in certain circumstances to review proposed business conduct and state its enforcement intentions. This originated with a "railroad release" procedure under which the Division would forego the initiation of criminal antitrust proceedings. The procedure was subsequently expanded to encompass a "merger clearance" procedure under which the Division would state its present enforcement intention with respect to a merger or acquisition; and the Department issued a written statement entitled "Business Review Procedure." That statement has been revised several times.

1. A request for a business review letter must be submitted in writing to the Assistant Attorney General, Antitrust Division, Department of Justice, Washington, D.C. 20530.

2. The Division will consider only requests with respect to proposed business conduct, which may involve either domestic or foreign commerce.

3. The Division may, in its discretion, refuse to consider a request.

4. A business review letter shall have no application to any party which does not join in the request therefor.

5. The requesting parties are under an affirmative obligation to make full and true disclosure with respect to the business conduct for which review is requested. Each request must be accompanied by all relevant data including background information, complete copies of all operative documents and detailed statements of all collateral or oral understandings, if any. All parties requesting the review letter must provide the Division with whatever additional information or documents the Division may thereafter request in order to review the matter. Such additional information, if furnished orally, shall be promptly confirmed in writing. In connection with any request for review, the Division will also conduct whatever independent investigation it believes is appropriate.

6. No oral clearance, release or other statement purporting to bind the enforcement discretion of the Division may be given. The requesting party may rely only upon a written business review letter signed by the Assistant Attorney General in charge of the Antitrust Division or his delegate.

7. (a) If the business conduct for which review is requested is subject to approval by a regulatory agency, a review request may be considered before agency approval has been obtained only where it appears that exceptional or unnecessary burdens might otherwise be imposed on the party or parties requesting review, or where the agency specifically requests that a party or parties request review. However, any business review letter issued in these as in any other circumstances will state only the Department's present enforcement intentions under the antitrust laws. It shall in no way be taken to indicate the Department's views on the legal or factual issues that may be raised before the regulatory agency, or in an appeal from the regulatory agency's decision. In particular the issuance of such a letter is not to be represented to mean that the Division believes that there are no anticompetitive consequences warranting agency consideration.

(b) The submission of a request for a business review, or its pendency, shall in no way alter any responsibility of any party to comply with the Premerger Notification provisions of the Antitrust Improvements Act of 1976, 15 U.S.C. § 18A, and the regulations promulgated thereunder, 16 C.F.R., Part 801.

8. After review of a request submitted hereunder the Division may: state its present enforcement intention with respect to the proposed business conduct; decline to pass on the request; or take such other position or action as it considers appropriate.

9. A business review letter states only the enforcement intention of the Division as of the date of the letter, and the Division remains completely free to bring whatever action or proceeding it subsequently comes to believe is required by the public interest. As to a stated present intention not to bring an action, however, the Division has never exercised its right to bring a criminal action where there has been full and true disclosure at the time of presenting the request.

10. (a) Simultaneously upon notifying the requesting party of any Division action described in paragraph 8, the business review request and the Division's letter in response shall be indexed and placed in a file available to the public upon request.

(b) On that date or within thirty days after the date upon which the Division takes any action as described in paragraph 8, the information supplied to support the business review request and any other information supplied by the requesting party in connection with the transaction that is the subject of the business review request, shall be indexed and placed in a file with the request and the Division's letter, available to the public upon request. This file shall remain open for one year, after which time it shall be closed and the documents either returned to the requesting party or otherwise disposed of, at the discretion of the Antitrust Division.

(c) Prior to the time the information described in subparagraphs (a) and (b) is indexed and made publicly available in accordance with the terms of those subparagraphs, the requesting party may ask the Division to delay making public some or all of such information. However the requesting party must: (1) specify precisely the documents or parts thereof that he asks not be made public; (2) state the minimum period of time during which nondisclosure is considered necessary; and (3) justify the request for nondisclosure, both as to content and time, by showing good cause therefor including a showing that disclosure would have a detrimental effect upon the requesting party's operations or relations with actual or potential customers, employees, suppliers (including suppliers of credit), stockholders or competitors. The Department of Justice, in its discretion, shall make the final deter-

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mination as to whether good cause for nondisclosure has been shown.

(d) Nothing contained in subparagraphs (a), (b) and (c) shall limit the Division's right, in its discretion, to issue a press release describing generally the identity of the requesting party or parties and the nature of action taken by the Division upon the request.

(e) This paragraph reflects a policy determination by the Department of Justice and is subject to any limitations on public disclosure arising from statutory restrictions, Executive Order, or the national interests.

11. Any requesting party may withdraw a request for review at any time. The Division remains free, however, to submit such comments to such requesting party as it deems appropriate. Failure to take any action after receipt of the documents or information, whether submitted pursuant to this procedure or otherwise, does not in any way limit or stop the Division from taking such action at such time thereafter as it deems appropriate. The Division reserves the right to retain documents submitted to it under this procedure or otherwise and to use them for all governmental purposes.

[FR Doc.77-6075 Filed 2-28-77;8:45 am]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 15—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT AND RELATED STATUTES

Procedures for Filing, Processing and Adjudication

AGENCY: Department of Labor.

ACTION: Correction.

SUMMARY: In Federal Register Document No. 77-6 dated December 22, 1976, and published on January 4, 1977, at 42 FR 769-773, there were inadvertently omitted from § 15.4(b) the addresses of the Associate Regional Solicitors in Alabama, Ohio, Michigan and Los Angeles, California, and the Regional Attorneys in Puerto Rico and Tennessee. The address of the Associate Regional Solicitor in Denver, Colorado, was also incorrect. In addition, § 15.6(b) is revised to indicate that the Deputy Solicitor also has exclusive authority to resolve claims involving the alleged negligence or wrongful act or omission of employees whose office of employment is the Department's national office in Washington, D.C.

EFFECTIVE DATE: These corrections are effective March 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Cornelius S. Donoghue, Jr. (202) 523-7647

Accordingly, 29 CFR Part 15 is amended as follows:

1. Section 15.4(b) is amended by designating the existing first paragraph as paragraph (b)(1) and by designating the second paragraph as paragraph (b)(2) and revising it to read as follows:

§ 15.4 Where to file.

* * * * *

(b) (1) * * *

(2) In all other cases, the claimant shall address his claim to the regional or branch office of the Office of the Solicitor having jurisdiction over the location of the office of employment. The addresses and areas of jurisdiction for each such regional and branch office are as follows:

Regional Solicitor, U.S. Department of Labor, John F. Kennedy Federal Building, Government Center—Room 1803, Boston, MA 02203.
(For claims arising in Maine, Massachusetts, New Hampshire, Vermont, Rhode Island, and Connecticut.)

Regional Solicitor, U.S. Department of Labor, 1515 Broadway, Room 3555, New York, NY 10036.
(For claims arising in New Jersey, and New York.)

Regional Attorney, U.S. Department of Labor, 212 U.S. Court House and Federal Office Building, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918.
(For claims arising in Puerto Rico and the Virgin Islands.)

Regional Solicitor, U.S. Department of Labor, 14480 Gateway Building, 3535 Market Street, Philadelphia, PA 19104.
(For claims arising in Delaware, Maryland, Pennsylvania, Virginia, and West Virginia.)

Regional Solicitor, U.S. Department of Labor, 1371 Peachtree Street, N.E., Room 339, Atlanta, GA 30309.
(For claims arising in Florida, Georgia, and South Carolina.)

Associate Regional Solicitor, U.S. Department of Labor, 1929 9th Avenue S., Birmingham, AL 35205.
(For claims arising in Alabama and Mississippi.)

Regional Attorney, U.S. Department of Labor, 280 U.S. Courthouse Building, 801 Broadway, Nashville, Tenn. 37203.
(For claims arising in Kentucky, North Carolina, and Tennessee.)

Regional Solicitor, U.S. Department of Labor, Federal Office Building, 230 South Dearborn Street, Eighth Floor, Chicago, IL 60604.
(For claims arising in Illinois, Indiana, Minnesota, and Wisconsin.)

Associate Regional Solicitor, U.S. Department of Labor, Federal Office Building, Cleveland, Ohio 44199.
(For claims arising in Ohio.)

Associate Regional Solicitor, U.S. Department of Labor, 234 State Street, Detroit, Mich. 48226.
(For claims arising in Michigan.)

Regional Solicitor, U.S. Department of Labor, 555 Griffin Square Building, Suite 707, Griffin & Young Streets, Dallas, TX 75202.
(For claims arising in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.)

Regional Solicitor, U.S. Department of Labor, 2106 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.
(For claims arising in Iowa, Kansas, Missouri, and Nebraska.)

Associate Regional Solicitor, U.S. Department of Labor, Federal Office Building, Room 16444, 1961 Stout Street, Denver, CO 80202.
(For claims arising in Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.)

Regional Solicitor, U.S. Department of Labor, P.O. Box 36017 Federal Building, 450 Golden Gate Avenue, San Francisco, CA 94102.
(For claims arising in Arizona (except Southern Arizona), California (except Southern California), Guam, Hawaii, and Nevada (except Southern Nevada).)

Associate Regional Solicitor, U.S. Department of Labor, Federal Building, Los Angeles, Calif. 90012.
(For claims arising in Southern Arizona, Southern California, and Southern Nevada.)

Associate Regional Solicitor, U.S. Department of Labor, 7009 Federal Office Building, 900 First Avenue, Seattle, WA 98101.
(For claims arising in Alaska, Idaho, Oregon, Washington.)

2. By revising § 15.6(b) to read as follows:

§ 15.6 Action on Claims.

* * * * *

(b) *Authority to consider, ascertain, adjust, determine, compromise and settle claims.* The Deputy Solicitor shall have the power to consider, ascertain, adjust, determine, compromise and settle claims pursuant to the Federal Tort Claims Act which involve the alleged negligence or wrongful act or omission of an employee whose office of employment is the Department's national office in Washington, D.C., or which exceed $2,500 in amount or which involve a new precedent or a new point of law, or a question of policy. Regional Solicitors, the Associate Regional Solicitors and Regional Attorneys listed in § 15.4(b) are authorized to consider, ascertain, adjust, determine, compromise and settle, claims arising in their respective jurisdictions pursuant to the Federal Tort Claims Act which do not exceed $2,500 in amount and which do not involve a new precedent or new point of law or a question of policy.

3. By revising § 15.17 to read as follows:

§ 15.17 Claims procedures.

The Deputy Solicitor, the Regional Solicitors, Associate Regional Solicitors, and Regional Attorneys listed in § 15.4 (b), are authorized to consider, ascertain, adjust, determine, compromise and settle claims filed under this Act in accordance with the limitations set forth in § 15.6(b). Unless otherwise provided, the general procedural rules for the processing and settling of administrative claims under the Federal Tort Claims Act, as set forth in Subpart A above, shall be followed.

4. By revising § 15.22 to read as follows:

§ 15.22 Claims procedures.

The Regional Solicitors, Associate Regional Solicitors, and Regional Attorneys listed in § 15.4(b) are authorized to consider, ascertain, adjust, determine, compromise and settle claims filed under this Act in accordance with the limitations set forth in § 15.6(b). Unless otherwise provided, the general procedural rules for the processing and settling of administrative claims under the Federal Tort Claims Act, as set forth in Subpart A above, shall be followed.

Signed at Washington, D.C., this 22nd day of February, 1977.

ALFRED G. ALBERT,
Acting Solicitor of Labor.

[FR Doc.77-6090 Filed 2-28-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7467]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Computation of International Boycott Factor

This document contains temporary income tax regulations concerning the computation of the international boycott factor.

Certain benefits of the foreign tax credit, deferral of earnings of foreign corporations, and DISC (Domestic International Sales Corporation) are denied if a person (or a member of a controlled group that includes that person) participates in or cooperates with an international boycott. The loss of tax benefits may be determined by multiplying the otherwise allowable tax benefits by the "international boycott factor".

The method of computing the international boycott factor is set forth in paragraph (c) of the regulations. The definitions of the terms used in the regulations are set forth in paragraph (b). A special rule for computing the international boycott factor of a person that is a member of two or more controlled groups is set forth in paragraph (d) of the regulations.

The regulations generally apply after November 3, 1976. However, in the case of binding contracts entered into before September 2, 1976, the regulations apply to such participation or cooperation after December 31, 1977. Transitional rules are set forth in paragraph (e) of the regulations.

The principal draftsperson of these regulations was John C. Holberton of the Office of International Tax Counsel. However, other personnel participated in developing the regulations, both on matters of substance and style. Mr. Holberton may be contacted at 202-566-8275 or at U.S. Treasury Department, Washington, D.C. 20220.

Adoption of amendments to the regulations. In order to prescribe temporary income tax regulations with respect to the computation of the international boycott factor under section 999(c)(1) of the Internal Revenue Code of 1954, as added by section 1064 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1643), the following temporary regulations are adopted:

§ 7.999-1 Computation of the international boycott factor.

(a) *In general.* Sections 908(a), 952(a)(3), and 995(b)(1)(F) provide that certain benefits of the foreign tax credit, deferral of earnings of foreign corporations, and DISC are denied if a person or a member of a controlled group (within the meaning of section 993(a)(3)) that includes that person participates in or cooperates with an international boycott (within the meaning of section 999(b)(3)). The loss of tax benefits may be determined by multiplying the otherwise allowable tax benefits by the "international boycott factor." Section 999(c)(1) provides that the international boycott factor is to be determined under regulations prescribed by the Secretary. The method of computing the international boycott factor is set forth in paragraph (c) of this section. A special rule for computing the international boycott factor of a person that is a member of two or more controlled groups is set forth in paragraph (d). Transitional rules for making adjustments to the international boycott factor for years affected by the effective dates are set forth in paragraph (e). The definitions of the terms used in this section are set forth in paragraph (b).

(b) *Definitions.* For purposes of this section:

(1) *Boycotting country.* In respect of a particular international boycott, the term "boycotting country" means any country described in section 999(a)(1)(A) or (B) that requires participation in or cooperation with that particular international boycott.

(2) *Participation in or cooperation with an international boycott.* For the definition of the term "participation in or cooperation with an international boycott", see section 999(b)(3) and Parts H through M of the Treasury Department's International Boycott Guidelines.

(3) *Operations in or related to a boycotting country.* For the definitions of the terms "operations", "operations in a boycotting country", "operations related to a boycotting country", and "operations with the government, a company, or a national of a boycotting country"; see Part B of the Treasury Department's International Boycott Guidelines.

(4) *Clearly demonstrating clearly separate and identifiable operations.* For the rules for "clearly demonstrating clearly separate and identifiable operations", see Part D of the Treasury Department's International Boycott Guidelines.

(5) *Purchase made from a country.* The terms "purchase made from a boycotting country" and "purchases made from any country other than the United States" mean, in respect of any particular country, the gross amount paid in connection with the purchase of, the use of, or the right to use:

(i) Tangible personal property (including money) from a stock of goods located in that country,

(ii) Intangible property (other than securities) in that country,

(iii) Securities by a dealer to a beneficial owner that is a resident of that country (but only if the dealer knows or has reason to know the country of residence of the beneficial owner),

(iv) Real property located in that country, or

(v) Services performed in, and the end product of services performed in, that country (other than payroll paid to a person that is an officer or employee of the payor).

(6) *Sales made to a country.* The terms "sales made to a boycotting country" and "sales made to any country other than the United States" mean, in respect of any particular country, the gross receipts from the sale, exchange, other disposition, or use of:

(i) Tangible personal property (including money) for direct use, consumption, or disposition in that country,

(ii) Services performed in that country,

(iii) The end product of services (wherever performed) for direct use, consumption, or disposition in that country,

(iv) Intangible property (other than securities) in that country,

(v) Securities by a dealer to a beneficial owner that is a resident of that country (but only if the dealer knows or has reason to know the country of residence of the beneficial owner), or

(vi) Real property located in that country.

To determine the country of direct use, consumption, or disposition of tangible personal property and the end product of services, see paragraph (b)(10) of this section.

(7) *Sales made from a country.* The terms "sales made from a boycotting country" and "sales made from any country other than the United States" mean, in respect of a particular country, the gross receipts from the sale, exchange, other disposition, or use of:

(i) Tangible personal property (including money) from a stock of goods located in that country,

(ii) Intangible property (other than securities) in that country, or

(iii) Services performed in, and the end product of services performed in, that country.

However, gross receipts from any such sale, exchange, other disposition, or use by a person that are included in the numerator of that person's international boycott factor by reason of paragraph (b)(6) of this section shall not again be included in the numerator by reason of this subparagraph.

(8) *Payroll paid or accrued for services performed in a country.* The terms "payroll paid or accrued for services performed in a boycotting country" and "payroll paid or accrued for services performed in any country other than the United States" mean, in respect of a particular country, the total amount paid or accrued as compensation to officers and employees, including wages, salaries, commissions, and bonuses, for services performed in that country.

(9) *Services performed partly within and partly without a country.* (i) *In general.* Except as provided in paragraph (b)(9)(ii) of this section, for purposes of allocating to a particular country:

(A) The gross amount paid in connection with the purchase or use of,

(B) The gross receipts from the sale, exchange, other disposition or use of, and

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(C) the payroll paid or accrued for services performed, or the end product of services performed, partly within and partly without that country, the amount paid, received, or accrued to be allocated to that country, unless the facts and circumstances of a particular case warrant a different amount, will be that amount that bears the same relation to the total amount paid, received, or accrued as the number of days of performance of the services within that country bears to the total number of days of performance of services for which the total amount is paid, received, or accrued.

(ii) *Transportation, telegraph, and cable services.* Transportation, telegraph, and cable services performed partly within one country and partly within another country are allocated between the two countries as follows:

(A) In the case of a purchase of such services performed from Country A to Country B, fifty percent of the gross amount paid is deemed to be a purchase made from Country A and the remaining fifty percent is deemed to be a purchase made from Country B.

(B) In the case of a sale of such services performed from Country A to Country B, fifty percent of the gross receipts is deemed to be a sale made from Country R and the remaining fifty percent is deemed to be a sale made to Country B.

(10) *Country of use, consumption, or disposition.* As a general rule, the country of use, consumption, or disposition of tangible personal property (including money) and the end product of services (wherever performed) is deemed to be the country of destination of the tangible personal property or the end product of the services. (Thus, if legal services are performed in one country and an opinion is given for use by a client in a second country, the end product of the legal services is used, consumed, or disposed of in the second country.) The occurrence in a country of a temporary interruption in the shipment of the tangible personal property or the delivery of the end product of services shall not constitute such country the country of destination. However, if at the time of the transaction the person providing the tangible personal property or the end product of services knew, or should have known from the facts and circumstances surrounding the transaction, that the tangible personal property or the end product of services probably would not be used, consumed, or disposed of in the country of destination, that person must determine the country of ultimate use, consumption or disposition of the tangible personal property or the end product of services. Notwithstanding the preceding provisions of this subparagraph, a person that sells, exchanges, otherwise disposes of, or makes available for use, tangible personal property to any person all of whose business except for an insubstantial part consists of selling from inventory to retail customers at retail outlets all within one country may assume at the time of such sale to such person that the tangible personal property will be used, consumed, or disposed of within such country.

(11) *Controlled group taxable year.* The term "controlled group taxable year" means the taxable year of the controlled group's common parent corporation. In the event that no common parent corporation exists, the members of the group shall elect the taxable year of one of the members of the controlled group to serve as the controlled group taxable year. The taxable year election is a binding election to be changed only with the approval of the Secretary or his delegate. The election is to be made in accordance with the procedures set forth in the instructions to Form 5713, the International Boycott Report.

(c) *Computation of international boycott factor.* (1) *In general.* The method of computing the international boycott factor of a person that is not a member of a controlled group is set forth in paragraph (c) (2) of this section. The method of computing the international boycott factor of a person that is a member of a controlled group is set forth in paragraph (c)(3) of this section. For purposes of paragraphs (c) (2) and (3), purchases and sales made by, and payroll paid or accrued by, a partnership are deemed to be made or paid or accrued by a partner in that proportion that the partner's distributive share bears to the purchases and sales made by, and the payroll paid or accrued by, the partnership. Also for purposes of paragraphs (c) (2) and (3), purchases and sales made by, and payroll paid or accrued by, a trust referred to in section 671 are deemed to be made both by the trust (for purposes of determining the trust's international boycott factor), and by a person treated under section 671 as the owner of the trust (but only in that proportion that the portion of the trust that such person is considered as owning under sections 671 through 679 bears to the purchases and sales made by, and the payroll paid and accrued by, the trust).

(2) *International boycott factor of a person that is not a member of a controlled group.* The international boycott factor to be applied by a person that is not a member of a controlled group (within the meaning of section 993(a)(3)) is a fraction.

(i) The numerator of the fraction is the sum of the—

(A) Purchases made from all boycotting countries associated in carrying out a particular international boycott,

(B) Sales made to or from all boycotting countries associated in carrying out a particular international boycott, and

(C) Payroll paid or accrued for services performed in all boycotting countries associated in carrying out a particular international boycott by that person during that person's taxable year, minus the amount of such purchases, sales, and payroll that is clearly demonstrated to be attributable to clearly separate and identifiable operations in connection with which there was no participation in or cooperation with that international boycott.

(ii) The denominator of the fraction is the sum of the—

(A) Purchases made from any country other than the United States,

(B) Sales made to or from any country other than the United States, and

(C) Payroll paid or accrued for services performed in any country other than the United States by that person during that person's taxable year.

(3) *International boycott factor of a person that is a member of a controlled group.* The international boycott factor to be applied by a person that is a member of a controlled group (within the meaning of section 993(a)(3)) shall be computed in the manner described in paragraph (c)(2) of this section, except that there shall be taken into account the purchases and sales made by, and the payroll paid or accrued by, each member of the controlled group during each member's own taxable year that ends with or within the controlled group taxable year that ends with or within that person's taxable year.

(d) *Computation of the international boycott factor of a person that is a member of two or more controlled groups.* The international boycott factor to be applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) by a person that is a member of two or more controlled groups shall be determined in the manner described in paragraph (c)(3), except that the purchases, sales, and payroll included in the numerator and denominator shall include the purchases, sales, and payroll of that person and of all other members of the two or more controlled groups of which that person is a member.

(e) *Transitional rules.* (1) *Pre-November 3, 1976 boycotting operations.* The international boycott factor to be applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) by a person that is not a member of a controlled group, for that person's taxable year that includes November 3, 1976, or a person that is a member of a controlled group, for the controlled group taxable year that includes November 3, 1976, shall be computed in the manner described in paragraphs (c)(2) and (c)(3), respectively, of this section. However, that the following adjustments shall be made:

(i) There shall be excluded from the numerators described in paragraphs (c)(2)(i) and (c)(3)(i) of this section purchases, sales, and payroll clearly demonstrated to be attributable to clearly separate and identifiable operations—

(A) That were completed on or before November 3, 1976, or

(B) In respect of which it is demonstrated that the agreements constituting participation in or cooperation with the international boycott were renounced, the renunciations were communicated on or before November 3, 1976, to the governments or persons with which the agreements have not been reaffirmed after November 3, 1976, and

(ii) The international boycott factor resulting after the numerator has been modified in accordance with paragraph (e)(1)(i) of this section shall be further modified by multiplying it by a fraction. The numerator of that fraction shall be the number of days in that person's taxable year (or, if applicable, in that person's controlled group taxable year) remaining after November 3, 1976, and the denominator shall be 366.

The principles of this subparagraph are illustrated in the following example:

Example. Corporation A, a calendar year taxpayer, is not a member of a controlled group. During the 1976 calendar year, Corporation A had three operations in a boycotting country under three separate contracts, each of which contained agreements constituting participation in or cooperation with an international boycott. Each contract was entered into on or after September 2, 1976. Operation (1) was completed on November 1, 1976. The sales made to a boycotting country in connection with Operation (1) amounted to $10. Operation (2) was not completed during the taxable year, but on November 1, 1976, Corporation A communicated a renunciation of the boycott agreement covering that operation to the government of the boycotting country. The sales made to a boycotting country in connection with Operation (2) amounted to $40. Operation (3) was not completed during the taxable year, nor was any renunciation of the boycott agreement made. The sales made to a boycotting country in connection with Operation (3) amounted to $25. Corporation A had no purchases made from, sales made from, or payroll paid or accrued for services performed in, a boycotting country. Corporation A had $500 of purchases made from, sales made from, sales made to, and payroll paid or accrued for services performed in, countries other than the United States. Company A's boycott factor for 1976, computed under paragraph (c)(2) of this section (before the application of this subparagraph) would be:

$$\frac{\$10+\$40+\$25}{\$500}=\frac{\$75}{\$500}$$

However, the $10 is eliminated from the numerator by reason of paragraph (e)(1)(i)(A) of this section, and the $40 is eliminated from the numerator by reason of paragraph (e)(1)(i)(B) of this section. Thus, before the application of paragraph (e)(1)(ii) of this section, Corporation A's international boycott factor is $25/$500. After the application of paragraph (e)(1)(ii), Corporation A's international boycott factor is:

$$\frac{\$25}{\$500}\times\frac{58}{366}$$

(2) *Pre-December 31, 1977 boycotting operations.* The international boycott factor to be applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) by a person that is not a member of a controlled group, for that person's taxable year that includes December 31, 1977, or by a person that is a member of a controlled group, for the controlled group taxable year that includes December 31, 1977, shall be computed in the manner described in paragraphs (c)(2) and (c)(3), respectively, of this section. However, the following adjustments shall be made:

(i) There shall be excluded from the numerators described in paragraphs (c)(2)(i) and (c)(3)(i) of this section purchases, sales, and payroll clearly demonstrated to be attributable to clearly separate and identifiable operations that were carried out in accordance with the terms of binding contracts entered into before September 2, 1976, and—

(A) That were completed on or before December 31, 1977, or

(B) In respect of which it is demonstrated that the agreements constituting participation in or cooperation with the international boycott were renounced, the renunciations were communicated on or before December 31, 1977, to the governments or persons with which the agreements were made, and the agreements were not reaffirmed after December 31, 1977, and

(ii) In the case of clearly separate and identifiable operations that are carried out in accordance with the terms of binding contracts entered into before September 2, 1976, but that do not meet the requirements of paragraph (e)(2)(i) of this section, the numerators described in paragraphs (c)(2)(i) and (c)(3)(i) of this section shall be adjusted by multiplying the purchases, sales, and payroll clearly demonstrated to be attributable to those operations by a fraction, the numerator of which is the number of days in such person's taxable year (or, if applicable, in such person's controlled group taxable year) remaining after December 31, 1977, and the denominator of which is 365.

The principles of this subparagraph are illustrated in the following example:

Example. Corporation A is not a member of a controlled group and reports on the basis of a July 1–June 30 fiscal year. During the 1977–1978 fiscal year, Corporation A had 2 operations carried out pursuant to the terms of separate contracts, each of which had a clause that constituted participation in or cooperation with an international boycott. Neither operation was completed during the fiscal year, nor were either of the boycotting clauses renounced. Operation (1) was carried out in accordance with the terms of a contract entered into on November 15, 1976. Operation (2) was carried out in accordance with the terms of a binding contract entered into before September 2, 1976. Corporation A had sales made to a boycotting country in connection with Operation (1) in the amount of $50, and in connection with Operation (2) in the amount of $100. Corporation A had sales made to countries other than the United States in the amount of $500. Corporation A had no purchases made from, sales made from, or payroll paid or accrued for services performed in, any country other than the United States. In the absence of this subparagraph, Corporation A's international boycott factor would be

$$\frac{\$50+\$100}{\$500}.$$

However, by reason of the application of this subparagraph, Corporation A's international boycott factor is reduced to

$$\frac{\$50+\$100\left(\frac{181}{365}\right)}{\$500}$$

(3) *Incomplete controlled group taxable year.* If, at the end of the taxable year of a person that is a member of a controlled group, the controlled group taxable year that includes November 3, 1976 has not ended, or the taxable year of one or more members of the controlled group that includes November 3, 1976 has not ended, then the international boycott factor to be applied under sections 908(a), 952(a)(3) and 995(b)(1)(F) by such person for the taxable year shall be computed in the manner described in paragraph (c)(3) of this section. However, the numerator and the denominator in that paragraph shall include only the purchases, sales, and payroll of those members of the controlled group whose taxable years ending after November 3, 1976 have ended as the end of the taxable year of such person.

(f) *Effective date.* This section applies to participation in or cooperation with an international boycott after November 3, 1976. In the case of operations which constitute participation in or cooperation with an international boycott and which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, this section applies to such participation or cooperation after December 31, 1977.

Because of the need for immediate guidance with respect to the provision contained in this Treasury Decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-6064 Filed 2-24-77;2:40 pm]

Title 32—National Defense

CHAPTER XII—DEFENSE LOGISTICS AGENCY

SUBCHAPTER B—MISCELLANEOUS

[DSA Reg. 5500.7]

PART 1281—HEARING RULES FOR SANCTION PROCEEDINGS, EXECUTIVE ORDER 11246

Revocation of Part

Part 1281 of Title 32 of the Code of Federal Regulations is revoked as this part is no longer needed by the Defense Logistics Agency.

Dated: February 15, 1977.

J. J. MCALEER, Jr.,
Colonel, USA,
Staff Director, Administration.

[FR Doc.77-6067 Filed 2-28-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 684-6]

PART 205—TRANSPORTATION EQUIPMENT NOISE EMISSION CONTROLS

Medium and Heavy Trucks

This notice amends 40 CFR Part 205 by striking 40 CFR § 205.54–1(c)(1)(iv) and 205.54(c)(2)(iv). The amendment, which

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will take effect May 31, 1977, is made in response to a petition for reconsideration submitted by the Jacobs Manufacturing Company.

In subpart B of 40 CFR Part 205 the Environmental Protection Agency (EPA) established noise emission standards for medium and heavy trucks. (See 41 FR 15538, April 13, 1976.) The test method which accompanies those standards was developed from a test method used by the truck manufacturing industry, SAE J366b, which included a requirement that all trucks equipped with engine brakes must be subjected to an extra passby test with the engine brake engaged. This requirement was incorporated in the federal noise emission standards, 40 CFR § 205.54–1(c)(1)(iv), 205.54–1(c)(2)(iv). On June 4, 1976, the Jacobs Manufacturing Company, manufacturer of engine brakes, petitioned the EPA to delete these provisions on the grounds that the additional test burden would likely induce truck manufacturers to stop offering engine brakes on their products, eliminating the safety and economic benefits attributable to engine brakes, and that there would be little environmental benefit because of the limited use and low noise levels of engine brakes. The petition included additional information which had not been considered during the development of the regulation.

Having studied the information and petition submitted by Jacobs Manufacturing Company, the Administrator has determined that it is appropriate to grant the petition and delete 40 CFR § 205.54–1(c)(1)(iv) and 205.54–1(c)(2)(iv). The evidence indicates that at the levels at which EPA has set the noise emission standards, 83 dBA (1978) and 80 dBA (1982), the noise contributed by engine brakes during deceleration is not high enough to be a contributing factor, and therefore the additional passby with the brake engaged adds nothing to the test. This being the case, there is no environmental benefit to offset any additional burden which the requirement may impose.

The Administrator finds no evidence to support the Jacobs Manufacturing Company's assertion that the incremental cost of the additional passby test will cause truck manufacturers to cease offering engine brakes on any of their models. The minimal amount by which this would add to the cost of testing makes such a result unlikely.

As stated on April 13, 1976 (41 FR 15543) the Administrator is considering lowering the standard for a future date beyond 1982. When this occurs, the noise from engine brakes may become a factor, and it will be necessary to consider whether the engine brake passby test should be instituted at that time. Accordingly, the Administrators' conclusions will be reviewed in full at that time based on all information then available.

Public Comment: This amendment will not take effect for ninety days (May 31, 1977). The Administrator has determined that the public should be given an opportunity to comment on the deletion of 40 CFR §§ 205.54–1(c)(1)(iv) and 205.54–1(c)(2)(iv). Accordingly, all interested parties are invited to submit comments on this amendment, including specifically the conclusions of the Administrator with respect to economic impacts of the requirement, its environment benefits, and the contribution of engine brakes to truck noise levels during testing according to EPA test procedures. Comments must be received by EPA no later than March 14, 1977. Unless information is received which merits the withdrawal of this amendment before its effective date, the amendment will take effect without further notice from EPA.

Comments should be submitted, with 5 copies when possible, to: Director, Standards and Regulations Division, Office of Noise Abatement and Control (AW–471), Attention: Docket No. ONAC 77–3, U.S. Environmental Protection Agency, Washington, D.C. 20460.

The Jacobs Manufacturing Company petition and all related information together with copies of all responses received in response to this notice will be available for public inspection at the EPA Public Information Center, Waterside Mall, 4th and M Streets, S.W., Washington, D.C.

(Sec. 6 and 13, Pub. L. 92–574, 86 Stat. 1234 et seq. (42 U.S.C. 4905, 4912).)

Dated February 23, 1977.

JOHN QUARLES,
Acting Administrator.

40 CFR Part 205 is revised, effective May 31, 1977, as follows:

§ 205.54–1 [Amended]

40 CFR § 205.54–1(c)(1)(iv) and 40 CFR § 205.54–1(c)(2)(iv) are revoked.

[FR Doc.77–5979 Filed 2–28–77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E–203]

PART 101–34—EMERGENCY PREPAREDNESS PLANNING

Civilian Emergency Preparedness Planning

This regulation sets forth changed policy and procedures for emergency preparedness planning by civil agencies for supply support during national defense emergencies.

1. The table of contents for Part 101–34 is amended as follows:

Sec.
101–34.102 Pre-positioned stocks.
101–34.103 FSS emergency coordination centers.

2. Sections 101–34.002 and 101–34.003 are revised as follows:

§ 101–34.002 Definitions.

As used in this part the following terms shall apply:

(a) *Civil readiness levels.* The Federal Preparedness Agency, GSA, has established civil readiness levels to ensure that Federal civil agencies will be properly and accurately notified of emergency situations. These levels, described below are independent of and have no direct relationship to the Defense Readiness Conditions (DEFCONS) of the Department of Defense.

(1) *Communications watch.* Announcement of this readiness level requires normal or near normal emergency preparedness by Federal civil agencies having nonmilitary defense responsibilities.

(2) *Initial alert.* When notified of this readiness level, Federal civil agencies shall establish continuous manning of primary emergency operation centers.

(3) *Advanced alert.* This readiness level indicates the President desires achievement of the highest degree of civil emergency readiness and will result in a general and public participation in emergency and civil preparedness actions.

(b) *Defense Readiness Conditions (DEFCONS).* DEFCONS are military announcements, progressing from 5 through 1, which indicate the degree of preparedness required by national emergency conditions short of attack warning. DEFCONS 5 and 4 require continuance of normal preparedness. DEFCONS 3, 2, and 1 represent stepped-up readiness actions from moderate to maximum preparation to ensure performance of emergency functions. In support of the Department of Defense during such emergency conditions, the Federal Supply Service (FSS) will respond to DEFCON changes.

§ 101–34.003 GSA Handbook, Emergency Supply Support Operations.

Detailed instructions and guidelines on implementing GSA emergency preparedness plans are provided in the GSA Handbook, Emergency Supply Support Operations, which is issued by the Commissioner, FSS. Since the handbook identifies actions to be taken to obtain supplies, equipment, and services from or through GSA in the postattack period, agencies should pre-position copies at their emergency operation centers.

Subpart 101–34.1—Preattack Defense Emergency Plans

1. Sections 101–34.101 and 101–34.102 are revised to read as follows:

§ 101–34.101 Requisitioning instructions.

(a) Normal FEDSTRIP/MILSTRIP requisitioning procedures shall be followed during the preattack period. GSA will issue appropriate instructions if emergency conditions result in material shortages or other developments which require changes in supply methods or procedures.

(b) Requisitions shall be processed for shipment in accordance with the assigned priority designator code unless otherwise directed by a higher authority.

(c) At the time of an attack upon the United States all agency requisitions in process shall be canceled. After assessment of damages, agencies shall submit new requisitions based on an evaluation of current requirements.

§ 101–34.102 Pre-positioned stocks.

The Federal Preparedness Agency, GSA, encourages agencies to pre-position stocks of essential supplies and equipment which will be needed for the first 15 to 30 days of operation at agency emergency operation centers. Such action will ensure availability of operating supplies in the event of a surprise attack. Agencies unable to pre-position those supplies prior to directive authority to activate the emergency operation centers shall prepare and hold requisitions which can be immediately released to the supply support activity.

2. Section 101–34.103 is retitled and revised to read as follows:

§ 101–34.103 FSS emergency coordination centers.

Upon declaration of defense emergency conditions (DEFCON 3, Initial alert, or higher), emergency coordination centers will be activated by the Federal Supply Service (GSA) at its Central Office and in each region to provide 24-hour continuous service to monitor high priority requirements. This service will include assistance for specialized procurements and expedited deliveries and determination of availability of critically needed items. At the time of activation, GSA will coordinate supply support actions with agency supply officials on record with GSA.

3. Sections 101–34.104 and 101–34.105 are revised to read as follows:

§ 101–34.104 Agency supply requirements.

To enable GSA to meet supply support demands under emergency defense conditions, agencies shall identify items for which increased requirements are anticipated. Items shall be listed by national stock number and shall show the normal annual and anticipated emergency requirements for each item. These lists shall be submitted to the General Services Administration (FP), Washington, D.C. 20406. Using this data GSA can, as appropriate and feasible, alert suppliers of the anticipated increases, arrange for increased quantities under existing contracts, provide for increased GSA inventories, or develop data on additional sources of supply.

§ 101–34.105 Agency supply liaison.

(a) GSA provides for 24-hour supply support service to process emergency or other urgent requirements which arise after normal duty hours. GSA regional offices publish in regional bulletins or notices the names and telephone numbers of persons to contact when 24-hour supply support service is needed. The GSA Supply Catalog also lists emergency telephone numbers for this purpose.

(b) GSA also provides field liaison service to military and civil agencies through the Customer Service Representative (CSR) program. CSR's are located in the GSA Central Office, regional offices, and Europe. The applicable CSR should be contacted if additional assistance is required concerning adequate supply support during national defense emergencies.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

Effective date: This regulation is effective on March 1, 1977.

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: February 15, 1977.

G. C. GARDNER,
Acting Administrator of General Services.

[FR Doc.77–6073 Filed 2–28–77;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 221—DOCUMENTATION, TRANSFER OR CHARTER OF VESSELS

PART 294—OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN CARRYING BULK RAW AND PROCESSED AGRICULTURAL COMMODITIES FROM THE UNITED STATES TO THE UNION OF SOVIET SOCIALIST REPUBLICS

Approval of Charters to Aliens; Individual Voyage Approvals

The purposes of these amendments to Parts 221 and 294 of the Maritime Administration Regulations are (1) to provide for approvals of specified charters to aliens, for carrying bulk raw and processed agricultural commodities from the United States to the Union of Soviet Socialist Republics, of bulk cargo vessels operating under long-term operating-differential subsidy agreements (pursuant to Part 252); and (2) to require approval by the Maritime Subsidy Board of individual voyages in such trade with the Union of Soviet Socialist Republics.

These amendments affect operators of subsidized vessels, and are adopted without notice of proposed rulemaking under the exemption provided in 5 U.S.C. 553 (a)(2) relating to public grants.

Part 221 of Title 46, Code of Federal Regulations, is hereby amended so that paragraph (a) § 221.7 shall read as follows:

§ 221.7 Approval of charters of certain vessels to aliens.

(a) The Department of Commerce, Maritime Administration, hereby approves under sections 9, 37 and 41 of the Shipping Act, 1916, as amended (46 U.S.C. 808, 835 and 839), the charter to a person not a citizen of the United States of any vessel (including space in such vessel) documented under the laws of the United States, or the last documentation of which was under the laws of the United States, or by a corporation organized under the laws of the United States or of any State, Territory, District or possession thereof. In general, as to each vessel, the approval shall extend for a period of not more than six (6) months, or for a voyage or voyages that will probably terminate before the expiration of six months. With respect to bulk cargo vessels engaged in carrying bulk raw and processed agricultural commodities from the United States to ports in the Union of Soviet Socialist Republics or to other permissible ports of discharge, pursuant to Part 294 of this chapter, that are operating under long-term operating - differential subsidy agreements (ODSA) subject to the requirements of Part 252 of this chapter, the approval shall extend to all charters subject to such ODSA, without requirement of filing an application and payment of the application fee provided for in section 221.14 of this part. Approval will not be granted to charters of the following nature:

(1) Demise or bareboat charters.

(2) For the carriage of cargoes of any kind to or from the Union of Soviet Socialist Republics (other than the carriage of bulk raw and processed agricultural commodities from the United States to the Union of Soviet Socialist Republics or to other permissible ports of discharge, as authorized in section 294.5 of this chapter), Czechoslovakia, Hungary, Bulgaria, Albania, North Korea, the Soviet Zone of Germany, Manchuria, Communist China, the Communist-controlled area of Viet Nam, Cuba, or Southern Rhodesia.

(3) For use in the fisheries.

Part 294 of Title 46, Code of Federal Regulations, is hereby amended as follows:

By amending paragraph (a) of § 294.5 to add a sentence at the beginning of the paragraph, immediately after the heading; and by adding a new § 294.5(c) to read as follows:

§ 294.5 Voyage approval procedures.

(a) *Requests.* Prior to each subsidized voyage, all operators, including bulk operators under long-term operating-differential subsidy agreements (ODSA) provided for in Part 252 of this chapter, shall be required to obtain approval of the Board. * * *

* * * * *

(c) *Charters to aliens.* Pursuant to § 221.7 of this chapter, United States-documented bulk cargo vessels which are operated under long-term ODSA provided for in Part 252 of this chapter, that are engaged in carrying bulk agricultural commodities to ports in the Union of Soviet Socialist Republics or to other permissible ports of discharge, have approval under sections 9, 37 and 41 of the Shipping Act, 1916, as amended (46 U.S.C. 808, 835 and 839), for specific charters to aliens for the carriage of grain to the Union of Soviet Socialist Republics or to other permissible ports of discharge. Any restrictions included in existing charter orders that prohibit the carriage of bulk agricultural commodities in such trade are waived.

Effective date: The amendment shall be effective as of November 9, 1976.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)), sec. 19(b) of

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the Merchant Marine Act, 1920 (46 U.S.C. 876(b)), as amended, Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840), as amended by P.L. 91-469 (84 Stat. 1036), Department of Commerce Organization Order 10-8 (38 FR 1970 July 23, 1973).)

NOTE.—These amendments to 46 CFR Part 221 and 46 CFR Part 294 have been reviewed pursuant to Executive Order 11821 and OMB Circular A107 and have been determined to have no major inflationary impact.

Dated: February 22, 1977.

By Order of the Maritime Subsidy Board/Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-6056 Filed 2-28-77;8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[FRA Economics Doc. 5, Notice 2]

PART 268—REGULATIONS GOVERNING PROPOSED TRANSACTIONS SUBMITTED TO SECRETARY OF TRANSPORTATION UNDER SECTION 5(3) OF THE INTERSTATE COMMERCE ACT

Establishment of Part; Correction

In FR Doc. 77-2366, appearing at page 4982 in the FEDERAL REGISTER of Wednesday, January 26, 1977, the following changes should be made:

1. On page 4982, 1st column, 2d paragraph, line 6, the phrase "(the "Act")" should be deleted.

2. On page 4983, 1st column, 2d paragraph, line 8, a comma should be inserted after "268.29".

3. On page 4983, 3d column, 1st paragraph, line 15, the word "the" should be inserted after the word "in".

4. On page 4984, 1st column, 1st line of the AUTHORITY paragraph should read:

AUTHORITY: Sec. 5(3)(f) Interstate Commerce.

5. On page 4984, 2d column, insert a new paragraph (1) to § 268.3 which reads: (1) "Supplemental submission" means data concerning the proposed transaction submitted by the applicant for evaluation and study by the Administrator, which goes beyond the data which is required to be submitted by this part.

6. On page 4985, 1st column, § 268.9(b), line 3, insert the phrase "after the original submission" following "istrator".

7. On page 4985, 2d column, insert a semicolon in place of the period: in § 268.17(a)(2), line 8 following the word "applicable"; in § 268.17(a)(5), line 15, following the word "number"; and in § 268.17(b)(2), line 6, following the word "points".

8. On page 4985, 3d column, in § 268.17(a)(7), line 5, insert the word "and" after the semicolon.

9. On page 4986, 1st column, the section title which reads "§ 268.22" should read "§ 268.21".

10. On page 4986, 3d column, § 268.23(h), line 3, the word "projects" should read "projections".

11. On page 4986, 3d column, § 268.25(b)(1), line 3, delete the word "and".

12. On page 4986, 3d column, § 268.25(b)(2), line 4, insert a semicolon following the word "anticipated".

13. On page 4987, 1st column, insert a semicolon in place of the period: in § 268.25(b)(3), line 7, following the word "action"; in § 268.27(b)(1), line 3, following the word "lines"; in § 268.27(b)(2), line 5, after the word "shippers"; and in § 268.27(b)(3), line 4, after the word "abandonment".

14. On page 4987, 1st column, § 268.25(b)(3), line 7, insert the word "and" after the newly inserted semicolon.

15. On page 4987, 2d column, insert a semicolon in place of the period: in § 268.27(b)(4), line 5, following the word "discontinuance"; in § 268.27(e)(1), line 3, after the word "shippers"; and in § 268.27(e)(2), line 6, after the word "program".

16. On page 4987, 2d column, insert the word "and" after the newly inserted semicolon in line 5 of § 268.27(b)(4) and also in line 6 of § 268.27(e)(2).

17. On page 4987, 3d column, § 268.29(e), line 3, delete the phrase "major installations facility" and insert "other major installations or facilities".

18. On page 4988, 2d column, § 268.35(e), line 7, the word "including" should read "inclusion".

19. On page 4988, 3d column, line 8 of § 268.35(f)(1), the word "associate" should read "associated".

Dated: February 24, 1977

BRUCE M. FLOHR,
Deputy Administrator,
Federal Railroad Administration.

[FR Doc.77-6077 Filed 2-28-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[SO No. 1260]

PART 1033—CAR SERVICE

Substitution of Refrigerator Cars for Boxcars

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of February 1977.

It appearing That an acute shortage of boxcars for transporting shipments of cotton exists on The Atchison, Topeka and Santa Fe Railway Company (ATSF) at stations on its lines in Texas and New Mexico; that the ATSF has an available supply of certain refrigerator cars that may be substituted for this traffic at the ratio of two refrigerator cars for each boxcar; that use of these refrigerator cars for the transportation of cotton is precluded by certain tariff provisions, thus curtailing shipments of cotton; and that there is need for the use of these refrigerator cars to supplement the supplies of plain boxcars for transporting shipments of cotton; that it is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That: § 1033.1260 is revised to read as follows:

§ 1033.1260 Substitution of refrigerator cars for boxcars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Substitution of cars.* The Atchison, Topeka and Santa Fe Railway Company (ATSF) may substitute two refrigerator cars as described in paragraph (a)(2) of this section herein for each boxcar ordered for shipments of cotton from any station on the ATSF in Texas or New Mexico and destined to any other station on the ATSF, subject to the conditions provided in paragraphs (a) (2) thru (6) of this section, inclusive of this order.

(2) *List of refrigerator cars to be applied:*

SFRC 1000-1899
SFRC 2300-2799
SFRC 50000-50199

(3) *Concurrence of shipper required.* The concurrence of the shipper must be obtained before two refrigerator cars are substituted for each boxcar ordered.

(4) *Exclusive ATSF movement required.* Shipments of cotton for which two refrigerator cars are substituted for one boxcar must originate and terminate at stations on the ATSF and must not be routed over any other carrier; except that shipments may originate or terminate in terminal switching service on connecting lines which do not participate in the line-haul.

(5) *Minimum weights.* The minimum weight per shipment of cotton for which two refrigerator cars have been substituted for one boxcar shall be that specified in the applicable tariff. Cars must be loaded to full visible capacity.

(6) *Endorsement of billing.* Bills of lading and waybills covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1260.

(b) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., February 25, 1977.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6115 Filed 2-28-77;8:45 am]

[Ex Parte No. MC 19 (Sub-No. 24)]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Practices of Motor Common Carriers of Household Goods; Collection of Freight Charges on Household Goods Shipments Lost or Destroyed; Extension of Effective Date

On Thursday, February 17, 1977, (42 FR 9668), the Interstate Commerce Commission published in the FEDERAL REGISTER a notice that its household goods transportation regulations (49 CFR 1056) had been modified by amending § 1056.6 and by adding a new § 1056.26 to Part 1056 of Title 49 of the Code of Federal Regulations.

The Interstate Commerce Commission received a request from Alan F. Wohlstetter, attorney for Household Goods Carriers' Bureau and American Movers Conference to extend the effective date of those regulations from March 1, 1977 to May 1, 1977.

The effective date of the regulations published by the Interstate Commerce Commission in Ex Parte No. MC 19 (Sub-No. 24), Practices of Motor Common Carriers of Household Goods (Collection of Freight Charges on Household Goods Shipments Lost or Destroyed), 126 M.C.C. 250 (1977), (as published at 42 FR 9668), has accordingly been extended from March 1, 1977 to May 1, 1977.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6116 Filed 2-28-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 620—CITATIONS

Interim Regulations

Effective March 1, 1977, the Fishery Conservation and Management Act (the Act), 16 U.S.C. 1801 (sometimes called the 200 mile limit fishing law), establishes the exclusive fishery management authority of the United States (1) over all fish (except certain species of tuna) within the Fishery Conservation Zone, the body of water adjoining the U.S. territorial sea and extending 200 miles from the coastline, and (2) over all anadromous species of fish (such as salmon) and Continental Shelf fishery resources (such as lobster and certain crabs) beyond the Fishery Conservation Zone.

The Coast Guard and the National Marine Fisheries Service are responsible for enforcement of the Act. The regulations in this new Part 620 establish procedures for carrying out one of the enforcement measures contemplated by the Act, namely, the issuance of citations. A citation is defined in § 620.2 below as notice of the documentation of a violation and a warning of more severe action as to a future offense. A citation would be issued to the owner or operator of a fishing vessel found to have operated in violation of the Act in some minor or technical respect which did not, in the judgment of the issuing officer, warrant one of the other law enforcement measures authorized by section 311 of the Act, such as seizure of the vessel or arrest of its master (§ 620.5). The required finding of violation and the decision whether to issue a citation or take other enforcement action would be made by the National Marine Fisheries Service or Coast Guard enforcement officer on the scene, as provided in § 620.5(b).

The fact that a citation had been issued would be noted on any fishing permit held by the vessel under the Act and § 620.6(a) authorizes an alternative method of permit notation by later service on the vessel's owner or agent. Section 620.6(b) requires the Director of the National Marine Fisheries Service to maintain a record of all citations issued.

Finally, § 620.7 provides that the Director of the National Marine Fisheries Service may review a citation upon timely application by the person cited setting forth circumstances which make a review appropriate. Although the Act does not make provision for such a review, it is believed the interests of justice will be served by providing an opportunity for the cited person to explain the circumstances of the violation soon after the citation is issued, since a record of citations will be maintained.

As stated above, the management authority of the Act is effective on March 1, 1977. Section 311 of the Act requires these jointly issued regulations to be in effect before citations may be issued. For these reasons, and because citation authority is considered by the Coast Guard and the National Marine Fisheries Service to be a necessary and important measure to properly enforce the Act, it is hereby for good cause found that the notice, public procedure, and delayed effectiveness provisions of 5 U.S.C. 553 are impracticable and contrary to the public interest. These regulations are, therefore, effective March 1, 1977, as Interim Regulations.

In the interest of public participation in the rulemaking process, comments on these regulations will be received until May 31, 1977, after which time amendments will be made as necessary to take proper account of comments received and enforcement experience gained during this period. Comments or questions may be directed to Stephen J. Powell, Assistant General Counsel, National Oceanic and Atmospheric Administration, Room 5814, Main Commerce Building, Washington, D.C. 20230, telephone (202) 377-3043; or to LCDR E. A. Blanton, Maritime Law Enforcement Branch, Coast Guard (G-000/74), Washington, D.C. 20590, telephone (202) 426-2020.

Dated: February 23, 1977.

WINFIELD H. MEIBOHM,
Associate Director, National
Marine Fisheries Service.

OWEN W. SILER,
Admiral, USCG,
Commandant, U.S. Coast Guard.

FEBRUARY 25, 1977.

Chapter VI of 50 CFR is amended by adding the following Part 620:

Sec.	
620.1	Purpose.
620.02	Definitions.
620.3-4	[Reserved]
620.5	Issuance of citations.
620.6	Record of citations.
620.7	Review of citations.

AUTHORITY: 16 U.S.C. 1861 and 1855.

§ 620.1 Purpose.

Regulations in this Part are published jointly by the National Marine Fisheries Service and the Coast Guard to provide uniform rules for the issuance of citations to fishing vessel owners or operators under section 311(c) of the Fishery Conservation and Management Act of 1976 (the Act), 16 U.S.C. 1801, 1861(c).

§ 620.2 Definitions.

Unless the context otherwise requires, terms in these regulations have the

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meanings prescribed in sections 3 and 311(e) of the Act. In addition, the following definitions apply:

(a) *Citation.* Written notice that a violation has been documented and a warning that a future offense may be dealt with more severely.

(b) *Director.* Director, National Marine Fisheries Service, or his designee.

§ 620.5 Issuance of citations.

(a) Any authorized enforcement officer who finds that a fishing vessel is operating or has been operated in violation of any provision of the Act may issue a citation to the owner or operator of the vessel.

(b) A citation is issued in the sole discretion of the authorized officer for minor or technical violations and substitutes for other law enforcement action the officer could take under the circumstances, such as seizure of the vessel and arrest of the master.

§ 620.6 Record of citations.

(a) If the offending vessel holds a permit under the Act, the issuance of a citation shall, as soon as practicable, be noted on the permit with the date of the citation and the reason for its issuance. If notation on the permit is impracticable, notice of issuance of the citation will promptly be served personnally or by registered or certified mail, return receipt requested, on the vessel's owner, operator, or designated agent for service of process, and such service shall be deemed notation on the permit.

(b) The Director shall cause a record of citation to be maintained.

§ 620.7 Review of citations.

(a) Upon application by the persons to whom a citation was issued, the Director may review any citation issued under these regulations if:

(1) The application is filed in writing within 60 days of the date of the citation at the address of the Regional Director, National Marine Fisheries Service, nearest to the place where the citation was issued (Seattle, Washington 98102; Terminal Island, California 90731; Juneau, Alaska 98109; Gloucester, Massachusetts 01930; or St. Petersburg, Florida 33702); and;

(2) The application sets forth circumstances which in the judgment of the Director make review appropriate in the interest of justice.

(b) Upon completion of his review, the Director will notify the applicant of his action, which shall be final and unappealable.

[FR Doc.77-6223 Filed 2-28-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR PART 1804]

[FmHA Instruction 424.5]

PLANNING AND PERFORMING SITE DEVELOPMENT WORK

Miscellaneous Amendments

Notice is hereby given that the Farmers Home Administration has under consideration the proposed amendment of §§ 1804.62, 1804.63, 1804.64, 1804.65, 1804.66, 1804.67, 1804.68, and 1804.72, of Subpart D, Part 1804, Chapter XVIII, Title 7, Code of Federal Regulations (38 FR 4500, as amended at 39 FR 28871). The proposed amendments and additions will change the definition of a new subdivision, clarify development requirements for new and existing subdivisions, and revise approval authorities.

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed amendment to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before March 31, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, during regular business hours (8:15 a.m.–4:45 p.m.).

As proposed, the various sections and paragraphs are amended as follows:

1. Section 1804.62 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 1804.62 Definitions.

As used in this subpart:

(a) The term "new subdivisions" means any division of undeveloped land or property in which two or more lots or building sites are created. This applies to any subdivision in which FmHA is not lending as of January 1, 1977, and includes original subdividing as well as resubdivision of property. This also applies to expansion of existing subdivisions.

(b) The term "existing unimproved subdivisions" means any series of contiguous recorded lots or building sites which do not have the streets developed and/or all or part of the public utilities installed. Existing unimproved subdivisions will be developed according to the standards for new subdivisions.

(c) The term, "acceptable existing subdivisions" means any series of contiguous lots or building sites which have been developed to comply with all local requirements and with the existing subdivision standards of this subpart. Any existing subdivision which has not received FmHA approval prior to January 1, 1977, must meet the requirements for a new subdivision if FmHA is to make any loans for the sites.

* * * * *

2. Section 1804.63 is amended by revising paragraph (c) to read as follows:

§ 1804.63 Purpose and general policy.

* * * * *

(c) If the Department of Housing and Urban Development and/or the Veterans Administration is reported to be insuring or guaranteeing mortgages in a subdivision, evidence of their acceptance of the subdivision should be obtained before FmHA review and approval is completed.

3. Section 1804.64 is amended by revising paragraph (a) to read as follows:

§ 1804.64 Planning development.

* * * * *

(a) *FmHA advice and assistance.* On subdivisions which will have two or more building sites in the foreseeable future, builder-developers shall be encouraged to seek the advice and assistance of the FmHA before significant expenditures are made. When a County Supervisor receives an inquiry about housing financing in a proposed, new or existing subdivision of two or more sites, he will:

* * * * *

4. Section 1804.65 is amended by adding new paragraph (a) and redesignating the present paragraphs (a) through (f) without change to paragraphs (b) through (g) as follows:

§ 1804.65 Locations.

(a) Shall be in compliance with Secretary's Memorandum No. 1827 concerning preservation of prime agricultural lands. Activities which would irrevocably commit prime lands to nonagricultural uses may be approved by the Administrator only when there are no suitable alternative sites and when the action is in response to overriding public need. Submittals to the Administrator shall fully document the lack of suitable alternative sites and the overriding public need.

* * * * *

5. Section 1804.66 is amended by revising the introductory text in paragraphs (a) and (b) to read as follows:

§ 1804.66 Water and waste disposal systems.

(a) For new subdivisions, existing unimproved subdivisions and expansion of existing subdivisions:

* * * * *

(b) For existing improved subdivisions:

* * * * *

6. Section 1804.67 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1804.67 Streets.

(a) New subdivisions, existing unimproved subdivisions and expansion of existing subdivisions.

* * * * *

(b) Existing improved subdivisions and scattered sites within the subdivision shall be approved according to the requirements in paragraph (a) (1), (2), (6) and (8) of this section.

* * * * *

7. Section 1804.68 is amended by revising the headings for paragraphs (a) and (b) to read as follows:

§ 1804.68 Grading and drainage.

(a) *New subdivisions, existing unimproved subdivisions and expansion of existing subdivisions.*

* * * * *

(b) *For existing improved subdivisions and scattered sites.*

* * * * *

8. Section 1804.72 is amended by revising various paragraphs to read as follows:

§ 1804.72 Subdivision reviews.

(a) * * *

(5) The County Supervisor shall forward the proposal package to the District Director for further review and shall include his comments and recommendations in the remarks section of Form FmHA 424–20 or attach separate sheets thereto.

(i) The District Director's review of the feasibility submission shall include a comprehensive study to assure compliance with all local, regional and State regulations, codes, ordinances, plans for future development and compliance with the requirements of this Subpart and its Exhibits. When the proposed subdivision involves 10 or more sites or involves a unique problem, the District Director shall forward the proposal package to the State Director for further review. The District Director shall include his recommendations. In making his review, the State Director shall utilize the services of the State Office Architect and Engineer. The State Director shall make recommendations in writing to the District Director so that he can inform the builder-developer of the results of the review of the feasibility submission.

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(b) • • •

(5) Forward the proposal package to the District Director for further review. The County Supervisor shall include his comments and recommendations.

(i) The District Director's review of the preliminary submission involving 10 or more building sites shall include a comprehensive study to assure compliance with all local, regional and State regulations, codes, ordinances, plans for future development and compliance with the requirements of this Subpart and its Exhibits. When the proposed subdivision involves 10 or more sites or involves a unique problem the District Director shall forward the proposal package to the State Director for further review. The District Director shall include his recommendations. In making his review, the State Director shall utilize the services of the State Office Architect and Engineer. The State Director shall make recommendations in writing to the District Director so that he can inform the builder-developer of the results of the review of the preliminary submission.

(c) • • •

(1) • • •

(iv) • • •

(A) One set of the subdivision proposal will remain in the County Supervisor's office.

• • • • • •

(2) The County Supervisor shall forward the submission proposal with his comments and recommendations to the District Director for final review.

(i) When the District Director receives a final subdivision proposal he shall review the proposal for compliance, considering all the recommendations made on the preliminary submission and with applicable local Regional and State plans and regulations and compliance with FmHA policy, regulations and technical standards.

(ii) When the proposal involves 10 or more building sites the District Director shall forward the proposal to the State Director along with his review and recommendations. When the State Director receives a final subdivision proposal, he shall again, with the assistance of the State Office Architect and Engineer, review the proposal for compliance, considering all the recommendations made on the preliminary submission and with the applicable local, regional and State plans and regulations and the compliance with the FmHA policy, regulations and technical standards.

(iii) The State Director shall recommend to the District Director the actions to be taken in the form of one of the notification letters described in paragraph (d) of this section. The recommendations shall include any minor changes that should be considered by the builder-developer for improvement of the design.

(iv) The State Director shall retain one copy of the proposed subdivision documents and return two copies with his recommendations to the District Director.

(3) The following chart outlines the review and acceptance authority of the District Director, State Director and the National Office with respect to a subdivision proposal:

Number of building sites	Subdivision proposal acceptance authority		
	District director	State office	National office
0 to 9	Yes; the district director may accept and process a subdivision proposal.	State office may advise district director when requested.	National office may advise when requested.
10 to 25	No; for 10 or more sites submit to State office with recommendations.	State office may approve	National office may advise when requested.
More than 25	No; for more than 25 sites submit to State office with recommendations.	Yes; unless other than standard hard-surfaced streets are proposed and/or individual water and/or waste disposal systems are proposed.	Yes; when other than standard hard-surfaced streets are proposed and/or individual water and/or waste disposal systems are proposed.

(d) • • •

(1) The District Director will notify the builder-developer in writing concerning the status of the proposal at the feasibility, preliminary, and final processing review stages. This notification will consist of either:

• • • • • •

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: February 18, 1977.

F. W. NAYLOR, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-6062 Filed 2-28-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

CONFORMING AMENDMENTS TO ENTITLEMENTS PROGRAM TO IMPLEMENT PURCHASE AUTHORITY FOR STRATEGIC PETROLEUM RESERVE

Proposed Rulemaking and Public Hearing; Extension of Time for Submission of Written Comments

On February 5, 1977, the Federal Energy Administration ("FEA") issued a notice of proposed rulemaking which set forth conforming amendments to the domestic crude oil allocation program (the "entitlements program") to implement the purchase authority for the Strategic Petroleum Reserve (42 FR 8382, February 10, 1977).

FEA has received several requests for an extension of the date by which written comments were required to be submitted in the February 5 notice. To accommodate these requests, FEA hereby gives notice that the closing date for submission of written comments is extended from February 25 to March 9, 1977. Data, views, or arguments with respect to the proposals set forth in the February 5 notice should be submitted by March 9 before 4:30 p.m., e.s.t., to Executive Communications, Room 3309, Federal Energy Administration, Box KF, Washington, D.C. 20461. Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Strategic Petroleum Reserve—Conforming Amendments to Domestic Crude Oil Allocation Program."

Dated: February 23, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-5978 Filed 2-24-77;8:49 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 108]

STATE AND LOCAL DEVELOPMENT COMPANIES

Loans

AGENCY: Small Business Administration.

ACTION: Proposed Rule.

SUMMARY: Removes reference to part 120.2(a), clarifying the use of personal assets in securing a section 502 loan, and adds the first mortgage lender as a participant for determination of availability of private sector lending.

DATES: Comments must be received on or before March 21, 1977.

ADDRESS: Comments should be addressed to: Small Business Administration, Office of Community Development, 1441 L Street, N.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

William B. Dean, Chief, Development Company Loan Division. (202-653-6842).

SUPPLEMENTARY INFORMATION: The economic growth of the community is the primary reason for the financial assistance to the LDC. The establishment, modernization, and expansion of a small business beneficiary have been determined to aid the economic growth of the community by providing employment opportunities, tax base, and similar general economic factors. The development company needs to assure itself that the beneficiary small business concern has invested or is investing an economically realistic amount of its business asset in the proposed project.

To clarify this relationship, revised § 108.502-1(f)(1) would delete reference to the small business concern and; revised § 108.502-1(f)(2) would add the provision that the refusal or acceptance of a lender to participate in a project either on a first mortgage basis, or on a guaranty, or immediate participation basis with the development company will be satisfactory evidence of the availability or non-availability of such financing.

The first mortgage plan is an arrangement for joint financing whereby the lender agrees to finance a portion of the project cost and takes a first lien position with other debt including the SBA loan subordinated thereto. The percentage portion of project cost acceptable is based on the generally accepted or normal lending practice for mortgage financing in the area in which the project is located.

Revised § 108.502-1(f)(3) would clarify the use of assets other than business assets to secure SBA loan.

The Small Business Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A 107.

Proposed Amendments: Accordingly, pursuant to authority contained in section 502 of the Small Business Investment Act of 1958 (SBI Act), 15 U.S.C. 696 as amended, notice is hereby given that the Small Business Administration proposes to amend § 108.502-1(f) Chapter I, Title 13 of the Code of Federal Regulations to read as follows:

§ 108.502-1 Section 502 loans.

• • • • • •

(f) *Other financing.* (1) A loan application will be accepted for processing if the development company shall show to the satisfaction of SBA that the desired financial assistance is not available on reasonable terms from other sources.

(2) It must be satisfactorily demonstrated that the desired financing is not available to the development company by means of sale of stock or debt securities, or both, of the development company; from funds agreed to be furnished by participating members of the development company; by means of a first mortgage participation; or by loans from a lending institution (or not less than two lending institutions where the population of the community exceeds 200,000) which has a sufficient lending limit to cover the loan applied for.

(3) Generally, the plant should constitute adequate collateral. However, SBA may require a pledge of additional assets where the use of such additional collateral is necessary for the loan to be so secured as to reasonably assure repayment.

• • • • • •

(Catalog of Federal Domestic Programs No. 59.012 State and Local Development Company Loans.)

Dated: February 16, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-6049 Filed 2-28-77;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 221]

[EDR-320, Docket No. 30539, Dated: February 23, 1977]

CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Proposed Amendments Concerning Overcharges

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to amend 14 CFR Part 221, the Board's tariff rules, in one of two ways: Either to bar an airline from charging a ticket buyer a higher fare on the basis of a proposed fare increase that has not yet gone into effect, or to make the airline take down the buyer's name, address, and flight so it can give back the extra money if the fare rise does not take place. The change is to solve the problem of people being charged too much for their tickets, with the airlines having no way of finding them to give the money back. The action was suggested by the City Attorney of Los Angeles.

DATES: Comments by April 15, 1977. Reply comments by May 2, 1977. Requests to be placed on the Service List by March 11, 1977. Proposed effective date: October 1, 1977.

ADDRESSES: Comments should be sent to Docket 30539, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, 202-673-5444.

SUPPLEMENTARY INFORMATION: The Board has recently become concerned about a sales practice that sometimes results in overcharges to scheduled service passengers. It happens in this way: A carrier applies to the Board for a fare increase and proposes that it become effective on a certain date. The carrier then sells tickets at the proposed increased fares for flights leaving on or after that date. If, however, for some reason the proposed fare increase does not become effective by the date the flight leaves, these passengers have paid too much. The carrier is required by law to refund the amount of the overcharge to the passengers.[1] In some cases, however, the carrier does not have enough information to find all the passengers, and general notices always fail to reach some portion of the public. Thus, some overcharges are not repaid.

The Board is considering two possible courses of action, which by this notice it proposes as alternatives.

The first is to prohibit the practice of collecting from passengers fare amounts that are higher than the tariff levels in effect, as of the time of sale, for the date of transportation.[2] Such a course would not be free of problems. Probably the most significant one is that if the proposed higher fare has become effective by the flight date, then the carrier would normally be required to collect the balance owed by the passenger. Such a practice might sometimes cause difficulties at flight time, although they could perhaps be helped by administrative steps by the airlines that among other things gave clear notice to passengers who might have to pay more. This course of action would, however, have the virtue of getting rid of the problem at its source, and of shifting the risk of a failure to make contact from passengers who cannot be expected to be familiar with tariff and ticketing matters, onto the airlines who are responsible for the changes.

[1] A carrier's failure to return the amounts overcharged is a clear violation of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) and of Part 221 of the Board's Economic Regulations (14 CFR Part 221). Section 403 of the Act (49 U.S.C. 1373) provides, in pertinent part:

(b) (1) No air carrier or foreign air carrier or any ticket agent shall charge or demand or collect or receive a greater or less or different compensation for air transportation, or for any service in connection therewith, than the rates, fares, and charges specified in then currently effective tariffs of such air carrier or foreign air carrier; and no air carrier or foreign air carrier or ticket agent shall, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, refund or remit any portion of the rates, fares, or charges so specified, or extend to any persons any privileges or facilities, with respect to matters required by the Board to be specified in such tariffs, except those specified therein.

A virtually identical provision is set forth in § 221.3(b) of the Board's Economic Regulations (14 CFR 221.3(b)).

[2] If adopted, this would reverse a practice specified by Resolution 001 of the International Air Transport Association (IATA), which provides that member carriers should charge fares set out in IATA resolutions even before they are approved by the governments involved. IATA Resolution 001, paragraph 11, states in part:

[A]fter commencement of the filing period (the time between the date a proposed fare agreement is submitted to the various governments involved and the proposed effective date of those fares) • • • Members may only undertake sales of transportation to be commenced on or after the intended effective date of such Resolutions at the fares or rates resulting from such Resolutions: *Provided,* That such sales shall be qualified, until all necessary Government approvals have been received, by the words "subject to Government approval."

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The other possible approach proposed in his notice is to let the present practice continue (that is, let carriers collect the higher fares reflected in proposed tariffs that are not yet effective), but to make sure that passengers who pay higher fares in such cases receive prompt refunds of money legally owed to them if the proposed fares do not become effective. Specifically, this second alternative would require carriers to (1) give clear notice of a possible right to a refund to persons who buy tickets at fares that are proposed to become effective on or before the date travel begins, (2) collect their names, addresses, and flight-identifying information, and (3) where an overcharge has occurred, mail refunds within 2 weeks after the beginning of the flights in question. Under this rule, the giving out of information and the collection of names and addresses would be done by giving the ticket buyer both the required "consumer information" and a form to be returned to the carrier with the needed personal information.

The advantages of this second approach would be that it would avoid administrative problems at departure time, while still providing a way that overcharged passengers would be properly identified so that the airlines could send a refund. One disadvantage is that it would still leave the passengers with the risk, albeit a reduced one, that refunds would not reach some of them. Another disadvantage might be that such a system would require an exchange of paper between the airline and its passengers each time that a fare increase is proposed (assuming, of course, that the airline chose to follow the practice of collecting the proposed increase at the time of sale).

Overcharges could also happen in situations where a carrier applies to the Board for a fare decrease to become effective on a certain date but continues to charge the currently effective (higher) fare for flights leaving after that date, and the proposed decrease becomes effective on the anticipated date. The second method proposed by this notice (collecting information when the ticket is sold) would apply just as well to that situation. The first method (barring airlines from charging on the basis of proposed fare changes) would not solve the problem unless carriers were permitted to, and did, collect proposed fares when they were less than the current tariff levels. For that reason, the first proposal is worded so as to disallow only the collection of fares that are higher than the tariffs currently in effect.

The Board asks that carriers filing comments in this proceeding submit data on how often this overcharge situation occurs, and also that they describe their current procedures for refunding overcharges. It is also requested that carriers, and other interested persons, comment on the question whether carriers should be required to keep records of the amounts of overcharges, the basis for the overcharges, the numbers of persons entitled to refunds, the names and addresses of persons to whom refunds have been given, and the amounts of the refunds. The Board is specifically interested in information about the cost of keeping such records and enforcement problems that might follow if they are not kept.

PROPOSED RULES

Accordingly, the Civil Aeronautics Board hereby proposes to amend Part 221 of its Economic Regulations (14 CFR Part 221) as set forth either in Alternative I or Alternative II:

ALTERNATIVE I

A new paragraph (d) would be added to § 221.3, to read as follows:

§ 221.3 Carrier's duty.

* * * * *

(d) *No advance collection of proposed increases.* A carrier or foreign air carrier shall not receive any payment for passenger transportation, or for any service in connection with it, that is higher than the applicable fare specified in the tariffs in effect at the time it receives the payment.

ALTERNATIVE II

A new § 221.174a would be added, to read as follows:

§ 221.174a Refunds due to overcharges.

(a) Each air carrier or foreign air carrier that sells a ticket for a scheduled passenger flight whose place of departure is in the United States, for a fare that because of proposed increases or decreases may be higher than the fare in effect on the date the flight leaves, shall give the ticket buyer a form by which the buyer can give the carrier his or her name, address, and identification of the flight. The form shall have at the top these words in at least 10-point boldfaced type: "You may be entitled to a refund. Please complete and return this form so that a refund can be sent if it is owed to you."

(b) The following information, to be kept by the buyer, shall be given out with the form:

(1) That the purpose of the form is to enable the airline to pay all legally required refunds;

(2) The circumstances under which a ticket buyer may be entitled to a refund;

(3) That within 2 weeks after the buyer's departure date the air carrier or foreign air carrier will send the ticket buyer a refund if one is owed; and

(4) That a buyer who has any questions about the matter should contact the air carrier or foreign air carrier (giving the appropriate address in the United States).

(c) With respect to each flight whose place of departure is in the United States and for which an air carrier or foreign air carrier has sold tickets for scheduled passenger air transportation for fares that because of fare decreases or proposed increases were higher than the fares in effect on the date the flight left, that air carrier or foreign air carrier shall:

(1) Within 2 weeks after the date of departure, mail or otherwise give an appropriate refund to each person who can be identified as a buyer of such a ticket and found by means of information in the carrier's possession; and

(2) Promptly give an appropriate refund to any other person who can verify, by cancelled check or other similar proof, that he or she bought such a ticket.

Interested persons may take part in this rule making by submitting 20 copies of written data, views, or arguments on the subjects discussed. All relevant material received by the dates shown at the beginning of this notice will be considered by the Board before taking final action on the proposed rules.

Those persons planning to file comments or reply comments who wish to be served with such comments filed by others, and are willing to serve their own comments on others, shall file with the Docket Section, at the address and by the date shown at the beginning of this notice, a request to be placed on the Service List. The Service List will be prepared by the Docket Section and sent to the persons named on it. Those persons are to serve each other with comments or reply comments at the time of filing, and are to include proof of service (Rule 8(e), 14 CFR 302.8(e)) with each filing.

Individual members of the general public who wish to express their interest as consumers by informally taking part in this proceeding may do so by submitting comments in letter form to the Docket Section, without having to file additional copies.

(Sec. 204, 403, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758 (49 U.S.C. 1324, 1373).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6066 Filed 2-28-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-13281; File No. S7-611]

LOST AND STOLEN SECURITIES PROGRAM

Requirements for Reporting and Inquiry

AGENCY: Securities and Exchange Commission.

ACTION: Proposed Amendments to Rule.

SUMMARY: These amendments would alter certain reporting and inquiry requirements for registered transfer agents with respect to missing, lost, stolen and counterfeit securities. They are intended to eliminate duplicative reporting and inquiry in the implementation of the Commission's lost and stolen securities program.

DATES: Comments on or before: May 1, 1977.

ADDRESSES: Written comments, submitted in triplicate, should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Piliero II, Associate Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549. (202-755-1390).

SUPPLEMENTARY INFORMATION:

The Securities and Exchange Commission today announced proposed amendments to 17 CFR § 240.17f-1 under Section 17(f) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)) concerning reporting and inquiry requirements for missing, lost, stolen or counterfeit securities with respect to registered transfer agents. The proposed amendments are designed to eliminate duplication in the operation of the lost and stolen securities program.

BACKGROUND

On December 10, 1976, the Commission adopted § 240.17f-1 establishing reporting and inquiry requirements with respect to missing, lost, stolen or counterfeit securities.[1] In that release, the Commission stated that it would consider proposals concerning methods by which duplicative reporting and inquiry by registered transfer agents may be eliminated

PROPOSED AMENDMENTS TO § 240.17f-1

Traditionally, transfer agents have had a pivotal role, through their stop transfer lists, in maintaining information regarding securities deemed to be missing, lost or stolen. Generally a transfer agent will not effect registration of a transfer unless it is satisfied from its own records and a review of its stops that the particular transfer is in all respects proper.

Despite the adoption of § 240.17f-1, the traditional practice by which persons suffering loss or theft of securities notify the transfer agent of such loss or theft should continue in order to protect such persons' interests in the particular security. However, in order to avoid duplicative reporting and inquiry, the Commission has proposed certain amendments to § 240.17f-1 so that the stop transfer lists of registered transfer agents will be substantially identical to the information in the possession of the appropriate instrumentalities.

This proposal would amend § 240.17f-1 paragraphs (b) (1) (i), (b) (2) and (b) (4) to require that, when a reporting institution other than a registered transfer agent files a report of loss or theft with the appropriate instrumentality, a copy of such report would also be required to be filed with the registered transfer agent for the particular security. The Commission feels that such a requirement would not impose any additional burden on reporting institutions since such institutions have traditionally informed transfer agents in cases of loss or theft.

The Commission also proposes to amend paragraph (c) of § 240.17f-1 to exempt from injury by registered transfer agents those securities presented to a transfer agent by a person other than a reporting institution where an acceptable signature guarantee is provided by a reporting institution. Presently, practices of institutions which provide signature guarantees include a determination that the institution "knows its customer" before guaranteeing the signature, thereby reducing the possibility of a forged signature.

The proposed amendment requiring reports of lost or stolen securities to be made with the transfer agent concerned, in conjunction with a registered transfer agent's obligation to check its stop files, will provide substantially similar safeguards against the improper use of lost or stolen securities as a requirement that the transfer agent inquire with the appropriate instrumentality.

TEXT OF PROPOSED AMENDMENTS

It is proposed to amend 17 CFR § 240.17f-1 (b) (1) (i), (b) (2), (b) (4), and (c) (1) (iv) as follows (new matter► between arrows◄):

§ 240.17f-1 Requirements for reporting and inquiry with respect to missing, lost, counterfeit or stolen securities.

* * * * *

(b) *Reporting requirements.* (1) *Stolen securities.* (i) Every reporting institution shall report to the appropriate instrumentality ►and to the registered transfer agent for the security◄ the discovery of the theft or loss of any security where there is substantial basis for believing that criminal activity was involved. Such reports shall be made within one business day of the discovery * * *

* * * * *

(2) *Missing or lost securities.* Every reporting institution shall report to the appropriate instrumentality ►and to the registered transfer agent for the security◄ the discovery of the loss of any security where criminal actions are not suspected when the security has been missing or lost for a period of two business days. Such report shall be made within one business day of the end of such period except that:

* * * * *

(4) *Recovery.* Every reporting institution shall report the recovery or finding of any security previously reported missing, lost or stolen pursuant to this rule to the appropriate instrumentality ►and to the registered transfer agent for the security◄ within one business day of such recovery or finding * * *

* * * * *

(c) * * *

(1) * * *

►(iv) In the case of a registered transfer agent, the security is received from a person other than a reporting institution and there is accompanying the security a signature guarantee made by a reporting institution.◄

* * * * *

REQUEST FOR COMMENTS

The Commission solicits comments from all interested persons regarding the proposed amendments. Written comments, submitted in triplicate, should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, must be received on or before May 1, 1977. Comments should refer to File No. S7-611 and will be available for public inspection at the Commission's Public Reference Room.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 18, 1977.

[FR Doc.77-5837 Filed 2-28-77;8:45 am]

[1] Securities Exchange Act Release No. 12983; 41 FR 54923 (December 16, 1976).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

COMPUTATION OF THE INTERNATIONAL BOYCOTT FACTOR

Loss of Tax Benefits

The regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments that are submitted in writing (preferably six copies) to the Assistant Secretary for Tax Policy, U.S. Treasury Department, Washington, D.C. 20220, by April 15, 1977. Comments will be subject to public inspection and copying. Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Assistant Secretary for Tax Policy by April 15, 1977. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

Certain benefits of the foreign tax credit, deferral of earnings of foreign corporations, and DISC (Domestic International Sales Corporation) are denied if a person (or a member of a controlled group that includes that person) participates in or cooperates with an international boycott. The loss of tax benefits may be determined by multiplying the otherwise allowable tax benefits by the "international boycott factor".

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The method of computing the international boycott factor is set forth in paragraph (c) of the regulations. The definitions of the terms used in the regulations are set forth in paragraph (b). A special rule for computing the international boycott factor of a person that is a member of two or more controlled groups is set forth in paragraph (d) of the regulations.

The regulations generally apply after November 3, 1976. However, in the case of binding contracts entered into before September 2, 1976, the regulations apply to such participation or cooperation after December 31, 1977. Transitional rules are set forth in paragraph (e) of the regulations.

The principal draftsperson of these regulations was John C. Holberton of the Office of International Tax Counsel. However, other personnel participated in developing the regulations, both on matters of substance and style. Mr. Holberton may be contacted at 202-566-8275 or at U.S. Treasury Department, Washington, D.C. 20220.

PROPOSED AMENDMENTS TO THE REGULATIONS

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 999(c)(1) of the Internal Revenue Code of 1954, as added by section 1064 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1643), such regulations are amended as follows:

§ 1.999-1 Computation of the International Boycott Factor.

(a) *In general.* Sections 908(a), 952(a)(3), and 995(b)(1)(F) provide that certain benefits of the foreign tax credit, deferral of earnings of foreign corporations, and DISC are denied if a person or a member of a controlled group (within the meaning of section 993(a)(3)) that includes that person participates in or cooperates with an international boycott (within the meaning of section 999(b)(3)). The loss of tax benefits may be determined by multiplying the otherwise allowable tax benefits by the "international boycott factor." Section 999(c)(1) provides that the international boycott factor is to be determined under regulations prescribed by the Secretary. The method of computing the international boycott factor is set forth in paragraph (c) of this section. A special rule for computing the international boycott factor of a person that is a member of two or more controlled groups is set forth in paragraph (d). Transitional rules for making adjustments to the international boycott factor for years affected by the effective dates are set forth in paragraph (e). The definitions of the terms used in this section are set forth in paragraph (b).

(b) *Definitions.* For purposes of this section:

(1) *Boycotting country.* In respect of a particular international boycott, the term "boycotting country" means any country described in section 999(a)(1)(A) or (B) that requires participation in or cooperation with that particular international boycott.

(2) *Participation in or cooperation with an international boycott.* For the definition of the term "participation in or cooperation with an international boycott", see section 999(b)(3) and Parts H through M of the Treasury Department's International Boycott Guidelines.

(3) *Operations in or related to a boycotting country.* For the definitions of the terms "operations", "operations in a boycotting country", "operations related to a boycotting country", and "operations with the government, a company, or a national of a boycotting country", see Part B of the Treasury Department's International Boycott Guidelines.

(4) *Clearly demonstrating clearly separate and identifiable operations.* For the rules for "clearly demonstrating clearly separate and identifiable operations", see Part D of the Treasury Department's International Boycott Guidelines.

(5) *Purchase made from a country.* The terms "purchase made from a boycotting country" and "purchases made from any country other than the United States" mean, in respect of any particular country, the gross amount paid in connection with the purchase of, the use of, or the right to use:

(i) Tangible personal property (including money) from a stock of goods located in that country,

(ii) Intangible property (other than securities) in that country,

(iii) Securities by a dealer to a beneficial owner that is a resident of that country (but only if the dealer knows or has reason to know the country of residence of the beneficial owner),

(iv) Real property located in that country, or

(v) Services performed in, and the end product of services performed in, that country (other than payroll paid to a person that is an officer or employee of the payor).

(6) *Sales made to a country.* The terms "sales made to a boycotting country" and "sales made to any country other than the United States" mean, in respect of any particular country, the gross receipts from the sale, exchange, other disposition, or use of:

(i) Tangible personal property (including money) for direct use, consumption, or disposition in that country,

(ii) Services performed in that country,

(iii) The end product of services (wherever performed) for direct use, consumption, or disposition in that country,

(iv) Intangible property (other than securities) in that country,

(v) Securities by a dealer to a beneficial owner that is a resident of that country (but only if the dealer knows or has reason to know the country of residence of the beneficial owner), or

(vi) Real property located in that country.

To determine the country of direct use, consumption, or disposition of tangible personal property and the end product of services, see paragraph (b)(10) of this section.

(7) *Sales made from a country.* The terms "sales made from a boycotting country" and "sales made from any country other than the United States" mean, in respect of a particular country, the gross receipts from the sale, exchange, other disposition, or use of:

(i) Tangible personal property (including money) from a stock of goods located in that country,

(ii) Intangible property (other than securities) in that country, or

(iii) Services performed in, and the end product of services performed in, that country.

However, gross receipts from any such sale, exchange, other disposition, or use by a person that are included in the numerator of that person's international boycott factor by reason of paragraph (b)(6) of this section shall not again be included in the numerator by reason of this subparagraph.

(8) *Payroll paid or accrued for services performed in a country.* The terms "payroll paid or accrued for services performed in a boycotting country" and "payroll paid or accrued for services performed in any country other than the United States" mean, in respect of a particular country, the total amount paid or accrued as compensation to officers and employees, including wages, salaries, commissions, and bonuses, for services performed in that country.

(9) *Services performed partly within and partly without a country.* (i) *In general.* Except as provided in paragraph (b)(9)(ii) of this section, for purposes of allocating to a particular country—

(A) The gross amount paid in connection with the purchase or use of,

(B) The gross receipts from the sale, exchange, other disposition or use of, and

(C) the payroll paid or accrued for services performed, or the end product of services performed, partly within and partly without that country, the amount paid, received, or accrued to be allocated to that country, unless the facts and circumstances of a particular case warrant a different amount, will be that amount that bears the same relation to the total amount paid, received, or accrued as the number of days of performance of the serives within that country bears to the total number of days of performance of services for which the total amount is paid, received, or accrued.

(ii) *Transportation, telegraph, and cable services.* Transportation, telegraph, and cable services performed partly within one country and partly within another country are allocated between the two countries as follows:

(A) In the case of a purchase of such services performed from Country A to Country B, fifty percent of the gross amount paid is deemed to be a purchase made from Country A and the remaining fifty percent is deemed to be a purchase made from Country B.

(B) In the case of a sale of such services performed from Country A to Country B, fifty percent of the gross receipts is deemed to be a sale made from Country A and the remaining fifty percent is deemed to be a sale made to Country B.

(10) *Country of use, consumption, or disposition.* As a general rule, the country of use, consumption, or disposition of a tangible personal property (including money) and the end product of services (wherever performed) is deemed to be the country of destination of the tangible personal property or the end product of the services. (Thus, if legal services are performed in one country and an opinion is given for use by a client in a second country, the end product of the legal services is used, consumed, or disposed of in the second country.) The occurrence in a country a temporary interruption in the shipment of the tangible personal property or the delivery of the end product of services shall not constitute such country the country of destination. However, if at the time of the transaction the person providing the tangible personal property or the end product of services knew, or should have known from the facts and circumstances surrounding the transaction, that the tangible personal property or the end product of services probably would not be used, consumed, or disposed of in the country of destination, that person must determine the country of ultimate use, consumption or disposition of the tangible personal property or the end product of services. Notwithstanding the preceding provisions of this subparagraph, a person that sells, exchanges, otherwise disposes of, or makes available for use, tangible personal property to any person all of whose business except for an insubstantial part consists of selling from inventory to retail customers at retail outlets all within one country may assume at the time of such sale to such person that the tangible personal property will be used, consumed, or disposed of within such country.

(11) *Controlled group taxable year.* The term "controlled group taxable year" means the taxable year of the controlled group's common parent corporation. In the event that no common parent corporation exists, the members of the group shall elect the taxable year of one of the members of the controlled group to serve as the controlled group taxable year. The taxable year election is a binding election to be changed only with the approval of the Secretary or his delegate. The election is to be made in accordance with the procedures set forth in the instructions to Form 5713, the International Boycott Report.

(c) *Computation of international boycott factor.* (1) *In general.* The method of computing the international boycott factor of a person that is not a member of a controlled group is set forth in paragraph (c)(2) of this section. The method of computing the international boycott factor of a person that is a member of a controlled group is set forth in paragraph (c)(3) of this section. For purposes of paragraphs (c)(2) and (3), purchases and sales made by, and payroll paid or accrued by, a partnership are deemed to be made or paid or accrued by a partner in that production that the partner's distributive share bears to the purchases and sales made by, and the payroll paid or accrued by, the partnership. Also for purposes of paragraphs (c)(2) and (3), purchases and sales made by, and payroll paid or accrued by, a trust referred to in section 671 are deemed to be made both by the trust (for purposes of determining the trust's international boycott factor), and by a person treated under section 671 as the owner of the trust (but only in that proportion that the portion of the trust that such person is considered as owning under sections 671 through 679 bears to the purchases and sales made by, and the payroll paid and accrued by, the trust).

(2) *International boycott factor of a person that is not a member of a controlled group.* The international boycott factor to be applied by a person that is not a member of a controlled group (within the meaning of section 993(a)(3)) is a fraction.

(i) The numerator of the fraction is the sum of the—

(A) Purchases made from all boycotting countries associated in carrying out a particular international boycott,

(B) Sales made to or from all boycotting countries associated in carrying out a particular international boycott, and

(C) Payroll paid or accrued for services performed in all boycotting countries associated in carrying out a particular international boycott

by that person during that person's taxable year, minus the amount of such purchases, sales, and payroll that is clearly demonstrated to be attributable to clearly separate and identifiable operations in connection with which there was no participation in or cooperation with that international boycott.

(ii) The denominator of the fraction is the sum of the—

(A) Purchases made from any country other than the United States,

(B) Sales made to or from any country other than the United States, and

(C) Payroll paid or accrued for services performed in any country other than the United States

by that person during that person's taxable year.

(3) *International boycott factor of a person that is a member of a controlled group.* The international boycott factor to be applied by a person that is a member of a controlled group (within the meaning of section 993(a)(3)) shall be computed in the manner described in paragraph (c)(2) of this section, except that there shall be taken into account the purchases and sales made by, and the payroll paid or accrued by, each member of the controlled group during each member's own taxable year that ends with or within the controlled group taxable year that ends with or within that person's taxable year.

(d) *Computation of the international boycott factor of a person that is a member of two or more controlled groups.* The international boycott factor to be applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) by a person that is a member of two or more controlled groups shall be determined in the manner described in paragraph (c)(3), except that the purchases, sales, and payroll included in the numerator and denominator shall include the purchases, sales, and payroll of that person and of all other members of the two or more controlled groups of which that person is a member.

(e) *Transitional rules.* (1) *Pre-November 3, 1976 boycotting operations.* The international boycott factor to be applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) by a person that is not a member of a controlled group, for that person's taxable year that includes November 3, 1976, or a person that is a member of a controlled group, for the controlled group taxable year that includes November 3, 1976, shall be computed in the manner described in paragraphs (c)(2) and (c)(3), respectively, of this section. However, that the following adjustments shall be made—

(i) There shall be excluded from the numerators described in paragraphs (c)(2)(i) and (c)(3)(i) of this section purchases, sales, and payroll clearly demonstrated to be attributable to clearly separate and identifiable operations—

(A) that were completed on or before November 3, 1976, or

(B) in respect of which it is demonstrated that the agreements constituting participation in or cooperation with the international boycott were renounced, the renunciations were communicated on or before November 3, 1976, to the governments or persons with which the agreements were made, and the agreements have not been reaffirmed after November 3, 1976, and

(ii) The international boycott factor resulting after the numerator has been modified in accordance with paragraph (e)(1)(i) of this section shall be further modified by multiplying it by a fraction. The numerator of that fraction shall be the number of days in that person's taxable year (or, if applicable, in that person's controlled group taxable year) remaining after November 3, 1976, and the denominator shall be 366.

The principles of this subparagraph are illustrated in the following example:

Example. Corporation A, a calendar year taxpayer, is not a member of a controlled group. During the 1976 calendar year, Corporation A had three operations in a boycotting country under three separate contracts, each of which contained agreements constituting participation in or cooperation with an international boycott. Each contract was entered into on or after September 2, 1976. Operation (1) was completed on November 1, 1976. The sales made to a boycotting country in connection with Operation (1) amounted to $10. Operation (2) was not completed during the taxable year, but on November 1, 1976, Corporation A communicated a renunciation of the boycott agreement covering that operation to the government of the boycott country. The sales made to a boycotting country in connection with Operation (2) amounted to $40. Operation (3) was not completed during the taxable year, nor was any renunciation of the boycott agreement made. The sales made to

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a boycotting country in connection with Operation (3) amounted to $25. Corporation A had no purchases made from, sales made from, or payroll paid or accrued for services performed in, a boycotting country. Corporation A had $500 of purchases made from, sales made from, sales made to, and payroll paid or accrued for services performed in, countries other than the United States. Company A's boycott factor for 1976, computed under paragraph (e)(2) of this section (before the application of this subparagraph) would be:

$$\frac{\$10+\$40+\$25}{\$500}=\frac{\$75}{\$500}$$

However, the $10 is eliminated from the numerator by reason of paragraph (e)(1)(i)(A) of this section, and the $40 is eliminated from the numerator by reason of paragraph (e)(1)(i)(B) of this section. Thus, before the application of paragraph (e)(1)(ii) of this section, Corporation A's international boycott factor is $25/$500. After the application of paragraph (e)(1)(ii), Corporation A's international boycott factor is:

$$\frac{\$25}{\$500}\times\frac{58}{366}$$

(2) *Pre-December 31, 1977 boycotting operations.* The international boycott factor to be applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) by a person that is not a member of a controlled group, for that person's taxable year that includes December 31, 1977, or by a person that is a member of a controlled group, for the controlled group taxable year that includes December 31, 1977, shall be computed in the manner described in paragraphs (c)(2) and (c)(3), respectively, of this section. However, the following adjustments shall be made—

(i) There shall be excluded from the numerators described in paragraphs (c)(2)(i) and (c)(3)(i) of this section purchases, sales, and payroll clearly demonstrated to be attributable to clearly separate and identifiable operations that were carried out in accordance with the terms of binding contracts entered into before September 2, 1976, and—

(A) That were completed on or before December 31, 1977, or

(B) In respect of which it is demonstrated that the agreements constituting participation in or cooperation with the international boycott were renounced, the renunciations were communicated on or before December 31, 1977, to the governments or persons with which the agreements were made, and the agreements were not reaffirmed after December 31, 1977, and

(ii) In the case of clearly separate and identifiable operations that are carried out in accordance with the terms of binding contracts entered into before September 2, 1976, but that do not meet the requirements of paragraph (e)(2)(i) of this section, the numerators described in paragraphs (c)(2)(i) and (c)(3)(i) of this section shall be adjusted by multiplying the purchases, sales, and payroll clearly demonstrated to be attributable to those operations by a fraction, the numerator of which is the number of days in such person's taxable year (or, if applicable, in such person's controlled group taxable year) remaining after December 31, 1977, and the denominator of which is 365.

The principles of this subparagraph are illustrated in the following example:

Example. Corporation A is not a member of a controlled group and reports on the basis of a July 1–June 30 fiscal year. During the 1977–1978 fiscal year, Corporation A had 2 operations carried out pursuant to the terms of separate contracts, each of which had a clause that constituted participation in or cooperation with an international boycott. Neither operation was completed during the fiscal year, nor were either of the boycotting clauses renounced. Operation (1) was carried out in accordance with the terms of a contract entered into on November 15, 1976. Operation (2) was carried out in accordance with the terms of a binding contract entered into before September 2, 1976. Corporation A had sales made to a boycotting country in connection with Operation (1) in the amount of $50, and in connection with Operation (2) in the amount of $100. Corporation A had sales made to countries other than the United States in the amount of $500. Corporation A had no purchases made from, sales made from, or payroll paid or accrued for services performed in, any country other than the United States. In the absence of this subparagraph, Corporation A's international boycott factor would be

$$\frac{\$50+\$100}{\$500}$$

However, by reason of the application of this subparagraph, Corporation A's international boycott factor is reduced to

$$\frac{\$50+\$100\left(\frac{181}{365}\right)}{\$500}$$

(3) *Incomplete controlled group taxable year.* If, at the end of the taxable year of a person that is a member of a controlled group, the controlled group taxable year that includes November 3, 1976 has not ended, or the taxable year of one or more members of the controlled group that includes November 3, 1976 has not ended, then the international boycott factor to be applied under sections 908(a), 952(a)(3) and 995(b)(1)(F) by such person for the taxable year shall be computed in the manner described in paragraph (c)(3) of this section. However, the numerator and the denominator in that paragraph shall include only the purchases, sales, and payroll of those members of the controlled group whose taxable years ending after November 3, 1976 have ended as the end of the taxable year of such person.

(f) *Effective date.* This section applies to participation in or cooperation with an international boycott after November 3, 1976. In the case of operations which constitute participation in or cooperation with an international boycott and which are carried out in accordance with the terms of a binding contract entered into before September 2, 1976, this section applies to such participation or cooperation after December 31, 1977.

[FR Doc.77-6065 Filed 2-24-77;2:40 pm]

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

[41 CFR Part 101–25]

OFFICE FURNITURE USE STANDARDS

Proposed Changes

Notice is hereby given that the General Services Administration (GSA) proposes to amend the regulations in Subpart 101–25.3 of the Federal Property Management Regulations (FPMR) which contain use standards for certain items of Government-owned personal property. It is proposed to change FPMR 101–25.3 to update and clarify the use standards for executive type wood office furniture and to reflect changes in the types of furniture available under the contemporary concept of office design.

Written comments concerning the proposed amendment may be submitted to the General Services Administration (F), Washington, DC 20406, on or before March 31, 1977.

In consonance with the foregoing, it is proposed to amend the FPMR as follows:

PART 101–25—GENERAL

The table of contents for Part 101–25 is amended to include the following revised entry:

Sec.
101–25.302–8 Contemporary steel office furniture.

Subpart 101–25.3—Use Standards

1. Section 101–25.302–1 is revised to read as follows:

§ 101–25.302–1 Executive type office furniture and furnishings.

(a) The use of executive type wood office furniture, whether new or rehabilitated, shall be limited to personnel in grade GS–15 and above (or the equivalent, including military rank) except when the agency head or designee of the agency head determines that the duties and responsibilities of certain positions warrant the use of this type of furniture by personnel of lower grade. Executive type wood office furniture consists of the unitized, traditional, and modern items of executive wood office furniture listed in the GSA Furniture Catalog and in Volume 3 of the GSA Supply Catalog. Furnishings matching executive type office furniture are subject to the same grade limitations as executive type office furniture except that carpeting may be supplied for use of other personnel when it is determined to be justified in accordance with the provisions of § 101–25.302–5.

(b) When it has been determined that personnel are entitled to executive type office furniture on the basis of the standards in (a), above, a separate determination by the agency head or designee of the agency head is not required for assigning similar or matching office furniture to secretaries whose duties are in direct support of these personnel.

(c) When executive type office furniture is to be assigned on the basis of (a) or (b), above, procurement of new furniture may be made only if the required furniture cannot be obtained:

(1) From agency-owned unassigned inventory, furniture "pools" or stocks, or

(2) By reassigning furniture that is being used by persons not entitled to it: *Provided*, That substantial costs will not be incurred for packing, packaging, shipping, rehabilitating, and other related services.

2. Section 101–25.302–8 is revised to read as follows:

§ 101–25.302–8 Contemporary steel office furniture.

The contemporary concept of office design emphasizes open planning through the use of free-standing screens in lieu of fixed partitions, a less formalized alignment of furniture, and increased attention to coordinated color schemes. The furniture associated with this concept is of steel construction, and the related curvilinear and other movable partitions are made of noncombustible materials meeting the requirements established for movable partitions in § 101–20.109–9. These features contribute to overall fire safety. Personnel at all grade levels are authorized to use the furniture associated with this concept.

(a) The furniture that is available in connection with this concept and stocked by GSA includes desks, chairs, tables, credenzas, and bookcases and is available in two colors: Black and parchment. The tops of the desks, tables, etc., are of walnut textured laminated plastic. The chairs are upholstered with matching or accenting color fabrics.

(b) The use of carpeting and draperies shall conform with the provisions of §§ 101–25.302–5 and 101–25.302–7.

(c) The procurement of filing cabinets shall conform with the provisions of §§ 101–25.302–2 and 101–26.308.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486 (c)).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: February 8, 1977.

WALLACE H. ROBINSON, Jr.,
Commissioner,
Federal Supply Service.

[FR Doc.77-6074 Filed 2-28-77;8:45 am]

FEDERAL MARITIME COMMISSION

[46 CFR Chapter IV]

[Docket No. 73–5]

SECTION 15 AGREEMENTS UNDER THE SHIPPING ACT, 1916

Order of Discontinuance of Proposed Rule Proceedings

This proceeding was instituted by notice of proposed rulemaking published February 23, 1973 (38 FR 4982). The proposed rules were designed to codify in one rule the various general provisions regarding section 15 agreements, and to set forth certain additional requirements including justification of agreements, time for filing of extensions of agreements, signatories of agreements and other provisions. Certain comments were received but upon request of interested persons the proceeding was postponed by the Commission to permit further consideration of the nature the proposed rules should take.

Since the postponement of this proceeding, time and events to a great extent have overtaken the original proposals. Recent Commission expressions and determinations regarding processing of section 15 agreements have negated the necessity or desirability of continuation of this proceeding in its present form. The more efficient procedure would be to fashion new proposed rules for further comment.

Accordingly, it is ordered that proceedings in this matter are hereby discontinued.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6128 Filed 2-28-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Parts 263, 274]

FISH FILLETS

Proposed United States Grade Standards

The National Marine Fisheries Service is considering miscellaneous amendments to Subparts B, C, D, and E of 50 CFR Part 263. The purposes of these amendments are: (1) To provide for the grading of fresh fillets as well as frozen fillets and (2) to add a new section to Subparts B, C, and E relating to product forms of presentation. Addition of such new sections in these Subparts will assure that all standards for grades of fish fillets will cover product forms currently being produced by the U.S. fishing industry.

Interested persons are invited to submit written comments in regard to these amendments to the regulations to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. The deadline for comments is April 15, 1977. Final amendments will be published as soon thereafter as practicable.

The amendments are proposed pursuant to 16 U.S.C. 742e; D.O.O.25–5A, subsection 3.01K(a); and D.O.O.25–5B, section 12.

In consideration of the foregoing, it is proposed to amend Subparts B, C, D, and E of 50 CFR Part 263 as set forth below:

Subpart B—U.S. Standards for Grades of Frozen Cod Fillets

1. In the title of this subpart and all other instances where the word "frozen" appears as a modifier of the words "fillet" or "fillets," delete the word "frozen."

2. Add a new section § 263.154 to read as follows:

§ 263.154 Product forms.

(a) Types:
(1) Fresh,
(2) Frozen, solid pack; glazed and unglazed,
(3) Frozen individually; glazed or unglazed.
(b) Styles:
(1) Skin on,
(2) Skinless.

Subpart C—U.S. Standards for Grades of Frozen Flounder and Sole Fillets

1. In the title of this subpart and all other instances where the word "frozen" appears as a modifier of the words "fillet" or "fillets," delete the word "frozen."

§ 274.2 [Deleted].

2. Delete § 274.2—*Styles of frozen flounder and sole fillets* and insert a new § 263.202 to read as follows:

§ 263.202 Product forms.

(a) Types:
(1) Fresh,
(2) Frozen solid packs; glazed or unglazed,
(3) Frozen individually; glazed or unglazed.
(b) Styles:
(1) Skin on,
(2) Skin on, white side only,
(3) Skinless.

Subpart D—U.S. Standards for Grades of Frozen Haddock Fillets

1. In the title of this subpart and all other instances where the word "frozen" appears as a modifier of the words "fillet" or "fillets," delete the word "frozen."

2. Add a new § 263.254 to read as follows:

§ 263.254 Product forms.

(a) Types:
(1) Fresh,
(2) Frozen, solid pack; glazed and unglazed,
(3) Frozen individually; glazed or unglazed.
(b) Styles:
(1) Skin on,
(2) Skinless.

Subpart E—U.S. Standards for Grades of Frozen Haddock Fillets

1. In the title of this subpart and all other instances where the word "frozen" appears as a modifier of the words "fillet" or "fillets," delete the word "frozen."

2. Add a new § 263.304 to read as follows:

§ 263.304 Product forms.

(a) Types:
(1) Fresh,
(2) Frozen, solid pack; glazed and unglazed,
(3) Frozen individually; glazed or unglazed.
(b) Styles:
(1) Skin on,
(2) Skinless.

Dated: February 22, 1977.

ROBERT M. WHITE,
Administrator.

[FR Doc.77-6066 Filed 2-28-77;8:45 am]

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 561]

[FAP5H5070/P4; FRL 693-8]

METHOPRENE

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency

AGENCY: Office of Pesticide Programs, EPA.

ACTION: Proposed rule.

SUMMARY: This notice proposes that 21 CFR 561.282 be amended to delete a 14-day preslaughter withdrawal period for the feed additive methoprene intended for beef cattle.

DATES: Comments must be received on or before March 31, 1977.

ADDRESSES: Federal Register Section, Technical Services Division (WH-566), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Charles Mitchell, Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs (202/426-9425).

SUPPLEMENTARY INFORMATION: On May 28, 1975, the Environmental Protection Agency (EPA) published a regulation (40 FR 23071) which provided for the safe use of the insect growth regulator methoprene (isopropyl (*E,E*)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate) in processed feed supplements for cattle (21 CFR 561.282). Subsequently, the regulation was amended on January 9, 1976 (41 FR 1589) to increase the use rate as a feed additive in the feed of cattle to 22.7-45.4 milligrams per 100 pounds of body weight per month and to require a 14-day withdrawal period for beef cattle prior to slaughter.

The regulation established for the safe use of the insect growth regulator in processed feed supplements for cattle was proposed by Zoecon Corp., 975 California Ave., Palo Alto CA 94304, in a pesticide petition (PAP 5H5070) filed with the EPA. Zoecon Corp. has requested that the restriction of a 14-day withdrawal period prior to slaughter be deleted. (A related document (PP 6F1801) proposing to amend 40 CFR 180.359 by increasing the established tolerances for residues of methoprene in the fat of cattle and in milk appears elsewhere in today's FEDERAL REGISTER.)

It has been determined based on an evaluation of these petitions as well as other relevant material that by eliminating the 14-day preslaughter interval, the proposed pesticide tolerances will be adequate to cover any residues in the fat of cattle and in milk from the proposed use. It is concluded that the regulation can be amended as requested.

Furthermore, the experimental permit, which allowed the use of methoprene as a feed additive for poultry expired June 13, 1976. Thus, paragraph (b) and its subdivisions in the regulation are no longer in effect and should be deleted. The regulation, as amended, will protect the public health; therefore, it is proposed that 21 CFR 561.282 be revised to read as set forth below:

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before March 31, 1977, that this proposal be referred to an advisory committee in accordance with Section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulations. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments should bear a notation indicating the petition/document control number "FAP 5H5070/P4." All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: February 23, 1977.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

(Section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348).)

It is proposed that 21 CFR 561.282 be revised to read as follows:

§ 561.282 Methoprene.

The feed additive methoprene (isopropyl (*E,E*)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate) may be safely used in accordance with the following prescribed conditions:

(a) It is used as a feed additive in the form of mineral and/or protein blocks or other feed supplements in the feed of cattle at the rate of 22.7 to 45.4 milligrams per 100 pounds of body weight per month.

(b) It is used to prevent the breeding of hornflies in manure of treated cattle.

(c) To ensure safe use of the additive, the label and labeling of the pesticide formulation containing this additive shall conform to the label and labeling registered by the U.S. Environmental Protection Agency.

[FR Doc.77-6270 Filed 2-28-77;9:38 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[PP6F1801/F47; FRL 693-7]

METHOPRENE

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Office of Pesticide Programs, EPA.

ACTION: Proposed rule.

SUMMARY: This notice proposes that 40 CFR 180.359 be amended by increasing the established tolerances for residues of the insecticide methoprene in the raw agricultural commodities fat of cattle from 0.1 to 0.3 part per million and in milk from 0.01 to 0.05 part per million.

DATES: Comments must be received on or before March 31, 1977.

ADDRESSES: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Charles Mitchell, Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs (202/426-9425).

SUPPLEMENTARY INFORMATION: On July 6, 1976, notice was given (41 FR 27776) that Zoecon Corp., 975 California Ave., Palo Alto CA 94304, had filed a petition (PP 6F1801) with the Environmental Protection Agency (EPA). This petition proposed that 40 CFR 180.359 be amended by increasing the established tolerances for residues of the insecticide methoprene (isopropyl (*E,E*)-11-methoxy-3, 7, 11-trimethyl-2, 4-dodecadienoate) in the raw agricultural commodities fat of cattle from 0.1 part per million (ppm) to 0.3 ppm and in milk from 0.01 ppm to 0.05 ppm.

The data submitted in the petition and other relevant material have been evaluated, and the pesticide is considered to be useful for the purpose for which the tolerances are sought. The increased tolerances established by amending 40 CFR 180.359 will be adequate to cover residues that would result in milk and in the fat of cattle. This minor increase in tolerances is still within the accepted margin of safety and is supportable by toxicological studies. The establishment of the original tolerances was based on subacute feeding, teratology, and reproduction studies. In support of this amendment, the petitioner submitted a lifetime feeding study in rats and an oncogenic evaluation in mice showing that methoprene has a low degree of toxicity and does not produce tumors in experimental animals. (A second long-term study on methoprene is still outstanding.) The margin of safety between the observed no-effect level in experimental animals and the maximum calculated exposure in man from the increased tolerances exceeds 20,000 fold.

Although the established tolerances are adequate to cover any residues in the meat and meat byproducts of cattle from the proposed use, any methoprene residues would settle preferentially in the fat. Because it is the currently accepted practice to establish tolerances only in terms of fat in those cases where a higher tolerance is needed in fat than in meat and meat byproducts, the present

tolerances of 0.1 ppm in meat and meat byproducts will be deleted.

It has been determined that the tolerances established by amending 40 CFR 180.359 will protect the public health. Therefore, pursuant to 40 CFR 180.32 it is proposed that: (1) 40 CFR 180.359 be amended by increasing the established tolerances for the residues of the pesticide methoprene in the fat of cattle from 0.1 ppm to 0.3 ppm and in milk from 0.01 ppm to 0.05 ppm and (2) the established tolerance of 0.1 ppm in meat and meat byproducts by deleted, as set forth below. (A related document proposing to amend the food additive regulation 21 CFR 561.282 by eliminating the 14-day preslaughter withdrawal period for beef cattle appears elsewhere in today's FEDERAL REGISTER.)

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before March 31, 1977, that this proposal be referred to an advisory committee in accordance with Section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments should bear the petition/document control number "PP6F1801/P47." All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: February 23, 1977.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(e)).)

It is proposed that 40 CFR 180, Subpart C, § 180.359 be amended by: (1) increasing the established tolerances for residues of the pesticide in the fat of cattle and in milk, (2) deleting the established tolerance in the meat and meat byproducts of cattle, and (3) editorially restructuring the section into an alphabetized columnar listing, to read as follows:

§ 180.359 Methoprene; tolerances for residues.

Tolerances are established for residues of the insect growth regulator methoprene (isopropyl (*E,E*)-11-methoxy-3,7,11-trimethyl-2,4-dodecadienoate) in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Cattle, fat	0.3
Milk	0.05

[FR Doc.77-6269 Filed 2-28-77;9:38 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation No. A440]

NEW YORK

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following New York Counties as a result of excessive rainfall April 1 to November 1, 1976, in Oneida County and March 1 through November 1, 1976, in Seneca County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the proyisions of 7 CFR 1832.3(b) including the recommendation of Governor Hugh L. Carey that such designation be made.

Applications for emergency loans must be received by this Department no later than April 8, 1977, for physical losses and November 5, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 22nd day of February, 1977.

F. W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–6050 Filed 2–28–77;8:45 am]

[Notice of Designation No. A390]

VIRGINIA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Virginia Counties as a result of drought during the crop year ending December 31, 1977:

Augusta Goochland

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.3(b).

Applications for emergency loans must be received by this Department no later than April 5, 1977, for physical losses and November 3, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 22nd day of February 1977.

F. W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–6051 Filed 2–28–77;8:45 am]

Soil Conservation Service

DELANEY CREEK WATERSHED PROJECT, IND.

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for seven small single purpose floodwater retarding structures in the Delaney Creek Watershed Project, Washington County, Indiana.

The environmental assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Cletus J. Gillman, State Conservationist, Soil Conservation Service, USDA, 5610 Crawfordsville Road, Suite 2200, Indianapolis, Indiana 46224, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protection, irrigation, water supply, recreation, and flood prevention. The planned works of improvement, as described in the negative declaration, include conservation land treatment supplemented by seven additional floodwater retarding structures.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 5610 Crawfordsville Road, Suite 2200, Indianapolis, Indiana 46224. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until March 16, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

Dated: February 17, 1977.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc.77–6063 Filed 2–28–77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 23080–2; 30361; Order 77–2–121]

AIR MIDWEST, INC.

Priority and Nonpriority Domestic Service Mail Rates—Phase 2

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of February 1977.

Air Midwest, Inc. (Air Midwest) was recently granted a certificate of public convenience and necessity in the Air Midwest Certification Proceeding (Docket 28262),[1] authorizing the carrier to engage in air transportation with respect to persons, property, and mail. On January 17, 1977, Air Midwest filed a petition requesting to be made a certificated carrier party in Docket 23080–2 and the establishment of the domestic service mail rates for Air Midwest's carriage of mail as a certificated air route carrier.[2] The carrier states that it believes such rates are fair and reasonable and is willing to be bound by the temporary and final determinations of the Board with respect to service mail rates set in Docket 23080–2.

Under Part 302 of the Board's Rules of Practice, a petition to establish service mail rates must specify the rate to be established and a detailed economic justification. Although Air Midwest's petition is not in strict compliance with these requirements, the relief requested is more in the nature of procedure than of substance and under these circumstances we have determined that no useful purpose would be served by holding the carrier to the strict letter of the rule. However, despite our acceptance of Air Midwest's petition, it is technically necessary to determine what the fair and reasonable rates of mail compensation to be paid to the carrier should be.

Therefore, we are herein instituting an investigation to determine the fair and reasonable service mail rates to be paid the carrier by the Postmaster General for the carriage of mail in its certificated services. This investigation shall be consolidated into the ongoing proceeding in Docket 23080–2.

Air Midwest is already a party to the Domestic Service Mail Rates Investigation as a Part 298 (commuter air carrier) and received mail compensation at the temporary domestic service mail rates established for the certificated route carriers[3] in Order 74–1–89 (as amended) and made applicable to Part 298 carriers by Order 74–7–91. However, this temporary rate is limited to Air Midwest's services performed as a commuter carrier and does not embrace its newly certificated system operations. Air Midwest states that it began transporting mail over one of its segments and is presently engaged in negotiations with the U.S. Postal Service (USPS) for mail service on various other segments of its certificated routes. As the Board has found the current temporary domestic service mail rates fair and reasonable for similar short haul service of the other certificated carriers, we see no reason why these same rates should not apply to Air Midwest's certificated operations. In these circumstances, and considering that the U.S.P.S. has no objection, the temporary mail rates for certificated air carriers under the terms of Order 74–1–89 (as amended by Order 76–12–60) shall be payable to Air Midwest over its entire certificated system effective on and after commencement of services pursuant to its certificate of public convenience and necessity, and shall be subject to retroactive adjustments in accordance with the level of final rates established by the Board in this docket.

Based on the foregoing, the Board tentatively finds and concludes that:

1. On and after the date of commencement of certificated air transportation by Air Midwest, Inc., the fair and reasonable temporary rates of compensation to be paid by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, to Air Midwest, Inc. for operations between points which it is presently or hereafter may be authorized to carry mail by its certificates of public convenience and necessity are the temporary rates established in Docket 23080–2.

2. The temporary service mail rates established herein shall be paid in their entirety by the Postmaster General and shall be subject to retroactive adjustment, commencing with the date of inauguration of services by Air Midwest, Inc. pursuant to its certificate of public convenience and necessity as may be required by the order establishing final service mail rates in Docket 23080–2.[4]

3. The investigation instituted herein (Docket 30361) is consolidated into Docket 23080–2.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR, Part 302,

It is ordered That: 1. The petition filed by Air Midwest, Inc. on January 17, 1977 for the establishment of domestic service mail rates is hereby granted;

2. All interested persons, and particularly Air Midwest and the Postmaster General, are directed to show cause why the Board should not adopt the foregoing findings and conclusions and fix, determine, and publish the temporary rates and charges specified herein pending the fixing of final rates and charges;

3. Further procedures herein shall be in accordance with the Rules of Practice, 14 CFR Part 302, and if there is any objection to the rates and charges or to the other findings and conclusions proposed herein, notice thereof shall be filed within 8 days, and, if notice is filed, written answer and supporting documents shall be filed within 15 days after the date of service of this order;

4. If notice of objection is not filed within 8 days, or if notice is filed and answer is not filed within 15 days after service of this order, or if an answer timely filed raises no material issue of fact, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of an order fixing temporary service mail rates, and the Board may enter an order incorporating the findings and conclusions proposed herein and fixing and determining the temporary rates and charges herein specified;

5. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable temporary rates and charges herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.207; and

6. This order shall be served upon the Postmaster General and Air Midwest, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–6067 Filed 2–28–77;8:45 am]

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[1] Orders 76–9–165, September 30, 1976, 76–11–135, November 29, 1976 and 76–12–59, December 10, 1976.

[2] Order 76–12–60, December 10, 1976, fixed the temporary domestic service mail rates currently in effect for certificated carriers.

[3] This does not affect any retroactive adjustments that the carrier may be entitled to as a Part 298 operator.

[Docket 26348]

INSTITUTIONAL CONTROL OF AIR CARRIERS INVESTIGATION

Assignment of Proceeding

Pursuant to Order 77–2–87, adopted February 18, 1977, this proceeding is hereby assigned to Administrative Law Judge Arthur S. Present. Future communications should be addressed to Judge Present.

Dated at Washington, D.C., February 23, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77–6084 Filed 2–28–77;8:45 am]

[Docket 30514]

POMAIR N.V. (BELGIUM), ET AL.

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., February 23, 1977.

HENRY M. SWITKAY,
Acting Chief,
Administrative Law Judge.

[FR Doc.77–6085 Filed 2–28–77;8:45 am]

[DOC. 22162]

SULLIVAN COUNTY CASE

Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on March 23, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., February 23, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77–6083 Filed 2–28–77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COLUMBIA UNIVERSITY, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the questions of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the

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United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before March 21, 1977. Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 77–00104. Applicant: Columbia University, 119th and Broadway, New York, New York 10027. Article: Pico-second Streak Camera, Model 675/II and Channel Plate Intensifier 50/40. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used in investigations of ultrafast relaxation processes in excited state molecules. The experiments to be conducted will include exciting molecoules of interest with a picosecond laser pulse and monitoring the time dependent changes in the molecules, due to energy relaxation processes and molecular motions, by measuring with the article the changes in molecular absorption and emission on the pico-second timé scale. The objectives of this research are to gain an understanding of the various decay processes by which molecules dissipate their energy as a function of the molecules' structure and interactions with surrounding molecules and applied fields. The article will also be used for educational purposes in the course Chemistry G9307x—Research for the Doctorate in which students carrying out undergraduate research, graduate students carrying out research for the Ph.D., and post-doctoral fellows carrying out research for advanced training will learn how to use the instrument in carrying out their research. Application received by Commissioner of Customs: January 21, 1977.

Docket Number: 77–00110. Applicant: College of Medicine and Dentistry of New Jersey—New Jersey Dental School, 100 Bergen Street, Newark, New Jersey 07111. Applicant: Electron Microscope, Model H–500–I. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for an investigation of the mineralization of dentin and the role played by odontoblasts in the process. In addition, the article will be used to instruct graduate dental students in electron microscopic applications to dental research. The instruction covers electron optics, image formation, electron-specimen interaction, specimen preparation, image interpretation and dental application. Application received by Commissioner of Customs. February 7, 1977.

Docket Number: 77–00120. Applicant: Thomas Jefferson University, 1025 Walnut Street, Philadelphia, Pa. 19107. Article: Electron Micoscope, Model EM 9S–2 including Spare Parts. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in research work related to cardiovascular, respiratory, muscle and metabolic experiments associated with basic phyiologic and pathophysiologic mechanisms of disease states. Thus, the heart and coronary vessels will be studied in normal, ischemic and infarcted states. Also, the heart and peripheral vasculature will be studied in a variety of types of circulatory shock, particularly in hemorrhagic and cardiogenic shock. Furthermore, the lung will be studied during normal hypoxic and other stress states including pulmonary edema. Also, a variety of smooth and skeletal muscles will be studied in the presence of a variety of metabolic substrates and hormones in order to investigate the mechanisms of action of these agents. Finally, splanchnic visceral organs (e.g., liver, pancreas) will be studied in normal and shock states to investigate lysosomal and mitochondrial ultrastructure. The major objectives of these investigations will be to determine early pathophysiologic changes in cardiovascular, respiratory and muscle tissues. An additional objective will be to determine the effects of drugs and hormones on normal tissue. A third objective is to identify the interrelationships between cellular organelles in acute cardiovascular disease processes. In addition, the article will be used in the course: "Introduction to Physiological Ultrastructure" a survey course for graduate students in physiology and will attempt to instruct the student in the basic techniques for preparation and viewing of samples by electron microscopy. Application received by Commissioner of Customs: February 7, 1977.

Docket Number: 77–00121. Applicant: Herbert H. Lehman College of CUNY, Department of Biological Sciences, Bedford Park Boulevard West, Bronx, N.Y. 10468. Article: Electron Microscope, Model HS–9 and accessories. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used for research on the following materials:

(1) DNA molecules—involving the attempted demonstration by electron microscopy that ferritin-labeled nucloside specific antibodies are capable of entering living cells,

(2) Viruses—a study to isolate new viruses which infect blue-green algae (phycoviruses),

(3) Blue-green algae—studies to determine the nature of the inclusions that have been observed in blue-green algal cells,

(4) Fungi—studies utilizing fungi which parasitize other fungi, and

(5) Cells of higher plants and animals—studies evaluating the effect of various plant hormones on the fine-structure of cells in abscission zones of high plants.

Work is also planned on crystal containing cells in the mouse cecal epithelium in an attempt to elucidate the nature of the crystalline material and the origin and function of this cell type. An investigation of cell differentiation utilizing the apical cell of liverworts is also to be carried out. In addition, the article will be used for teaching the following courses: Biology 433, Techniques in Electron Microscopy, Biology 634, Cytology and Biology U770.4 Cytology, and Biology U770.6 Laboratory in Cell Fine Structure. Application received by Commissioner of Customs: February 7, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77–6009 Filed 2–28–77;8:45 am]

ROCKFORD SCHOOL OF MEDICINE, UNIVERSITY OF ILLINOIS, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00009. Applicant: Rockford School of Medicine of the University of Illinois, 1601 Parkview Avenue, Rockford, Illinois 61101. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objectives of these investigations are to further basic knowledge on cell and tissue ultrastructure and to reveal at the ultrastructural level, the enzyme localization and distribution in cells and tissues developing under normal and pathological conditions. The article will also be used in training courses entitled Ultrastructure involving a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: October 12, 1976. Advice submitted by the Department of Health, Education, and Welfare on: January 21, 1977.

Docket Number: 77–00010. Applicant: University of Kansas Medical Center, College of Health Sciences & Hospital, Ralph L. Smith Mental Retardation Research Center, 39th and Rainbow, Kansas City, Kansas 66103. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigations that include ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on fungal systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in courses entitled Ultrastructure and Cytochemistry which involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: October 13, 1976. Advice Submitted by the Department of Health, Education, and Welfare on: January 21, 1977.

Docket Number: 77–00011. Applicant: The University of Texas Health Science Center at Houston, Medical School; Dept. of Pathology, P.O. Box 20708, Houston, TX 77025. Article: Ultra-microtome, Model LKB 8800A and accessories. Manufacturer: LKB-Produkter AB, Sweden. Intended use of article: The article is intended to be used for both thin and thick sectioning of a variety of tissues in the study of human pathology at the ultrastructural level to provide a back-up to the light microscopic findings on the patient and to aid in providing the basis for future diagnostic EM work. In addition, tissue from experimental animals such as dogs and mice will be studied. Application received by Commissioner of Customs: October 14, 1976. Advice Submitted by the Department of Health, Education, and Welfare on: January 21, 1977.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a range of cutting speeds from 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT–2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT–2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69–00665–33–46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such (other) factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned.

The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70–00077–33–46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments. For these reasons, we find that the Sorval Model MT–2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77–6010 Filed 2–28–77;8:45 am]

UNIVERSITY OF CINCINNATI

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00048. Applicant: University of Cincinnati, Dept. of Physics, Cincinnati, Ohio 45221. Article: Makrafoil Scanner (partially fabricated). Manufacturer: University of Melbourne, Australia. Intended use of article: The article is intended to be used for the investigation of angular distribution of neutrons produced in nuclear interactions.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for the investigation of angular distribution of neutrons produced in nuclear interactions. The National Bureau of Standards advises in its memorandum dated January 31, 1977 that (1) the capability described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77–6011 Filed 2–28–77;8:45 am]

SANDIA LABORATORIES

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00005. Applicant: Sandia Laboratories, Kirtland AFB, East Albuquerque, NM 87115. Article: Bucket Conveying System and accessories. Manufacturer: Gough Econ, Inc., United Kingdom. Intended use of article: The article is to be used as a principal component in a dried sewage sludge irradiator to be used for research purposes. Sewage sludge will be sterilized for fertilizer and animal refeeding studies with

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the objective of demonstrating on a pilot scale, the economical sterilization of dried sewage sludge using gamma irradiation. The conveying system will carry the sewage sludge into the close proximity of a large gamma ray source for sterilization of the sludge.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article allows for uniform absorption of gamma rays with little radiation loss. The National Bureau of Standards (NBS) advises in its memorandum dated January 31, 1977 that (1) the capability described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-6013 Filed 2-28-77;8:45 am]

UNIVERSITY OF CALIFORNIA—BERKELEY LABORATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00468. Applicant: University of California—Lawrence Berkeley Laboratory, East End of Hearst Avenue, Berkeley, California 94720. Article: Roman Spectrometer System, Model HG-2S1 (double monochromator) including accessories. Manufacturer: Jobin-Yvon Optical Systems, France. Intended use of article: The article is intended to be used in fundamental research in the following investigations:

(1) The detection, identification and structural characterization of novel compounds.

(2) Identification and structural information on a variety of substances, both in the solid-state and in solution.

(3) Utilization of Raman spectra in heterogeneous catalysis studies intended to yield bonding information on molecules absorbed onto surfaces.

(4) Measurements on metal cluster compounds in connection with the use of these materials as catalysts.

(5) Studies of coal chemistry.

(6) Measurements on chelate compounds of actinide elements for purposes of identification and structural characterization.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, as being manufactured in the United States. Reasons: The foreign article provides low level scattered light measurement on the order of 10^{-11} at 20 reciprocal centimeters. The National Bureau of Standards advises in its memorandum dated February 4, 1977 that (1) the specification described above is pertinent to the intended uses of the article and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-6012 Filed 2-28-77;8:45 am]

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, March 16, 1977, at 9:00 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (a) maintenance of the processor performance tables and further investigation of total systems performance; and (b) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of the status of the Array Processors Report.

(4) Discuss new work program for 1977.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Avisory Committee Act, as amended by section 5(c) of the Government In the Sunshine Act, Rub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The Complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittee thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: February 24, 1977.

RAUER H. MEYER,
Office of Export Administration, United State Department of Commerce.

[FR Doc.77-6132 Filed 2-28-77;8:45 am]

TECHNOLOGY TRANSFER SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, March 16, 1977, at 1:00 p.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee was initially established on April 10, 1974. On July 8, 1975, the Director, Office of Export Administration approved the reestablishment of this Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Technology Transfer Subcommittee was formed to examine the impact of transferring Automatic Data Processing technology to Communist destinations.

The Subcommittee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2). Presentation of papers or comments by the public.

(3) Report by Department of Defense and Energy Research and Development Administration on the status of their paper addressing:

(a) What software is being transferred to East Europe;

(b) Mechanisms used to transfer this software;

(c) Key software areas which should be considered for control; and

(d) Software areas which should not be controlled.

(4) Review of the draft report dated February 7, 1977 on the transfer of computer software technology.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: February 24, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, United States Department of Commerce.

[FR Doc.77-6131 Filed 2-28-77;8:45 am]

National Oceanic and Atmospheric Administration

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE ADVISORY PANEL

Meeting

Notice is hereby given of a meeting of the North Pacific Fishery Management Council, Scientific and Statistical Committee, and Advisory Panel.

The North Pacific Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (P.L. 94-265) has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the State of Alaska. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

The Scientific and Statistical Committee and Advisory Panel, established by Section 302(g) of the Act, provide assistance to the Council in the development and amendment of fishery management plans.

The Council meeting will be held Monday and Tuesday, March 21 and 22, 1977, in the Holiday Inn, 4th and C Streets, Anchorage, Alaska. The meeting will convene at 8:30 a.m. and adjourn at approximately 4:30 p.m. each day.

Proposed Agenda:

1. Public hearing on management plans.
2. Reports from Scientific and Statistical Committee and Advisory Panel.
3. Review of Council management plan development, operations and budgeting.
4. Review of foreign fishing permit applications, if any.
5. Other management business.

A public hearing will be held on the afternoon of the first day, March 21, at approximately 3:30 p.m., at the same location to hear testimony on fishery management plans under development by the Council, and other related Council functions.

The meetings of the Council's Scientific and Statistical Committee and Advisory Panel will be held concurrently with the Council meeting. The meetings will be open to the public, and there will be seating for approximately 100 public members available on a first come, first sreved basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about March 10, 1977:

Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99813.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Beginning at approximately

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3:30 p.m., Monday, March 21, interested members of the public may testify at the public hearing conducted by the Council on matters relating to fishery management plans and other Council business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Jim H. Branson at the above address. To receive due consideration and facilitate inclusion in the record of the meeting, typewritten statements which relate to the agenda should be received within 10 days after the close of the Council meeting. Other written statements may be submitted at any time before or after the meeting.

Dated: February 24, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-6126 Filed 2-28-77;8:45 am]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Statement of Organization, Practices, and Procedures

Pursuant to section 302(f)(6) of the Fishery Conservation and Management Act of 1976 (P.L. 94-265), each Regional Fishery Management Council is responsible for determining its organization and prescribing its practices and procedures for carrying out its functions under the Act in accordance with such uniform standards as are prescribed by the Secretary of Commerce. Further, each Council must publish and make available to the public a statement of its organization, practices, and procedures. As required by the Act, the North Pacific Fishery Management Council has prepared and is hereby publishing its Statement of Organization, Practices, and Procedures.

Dated February 24, 1977.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

The North Pacific Fishery Management Council, created by Section 302(a)(7) of the Fishery Conservation and Management Act of 1976 (the "Act"), hereby publishes a Statement of Organization, Practices, and Procedures, as required by Section 302(f)(6) of the Act. This Statement of Organization, Practices, and Procedures for carrying out the Council's functions under the Act, was adopted by the Council during its public meeting held on January 26-28, 1977 in Anchorage, Alaska. Copies may be obtained by writing the Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510.

The Council's permanent offices are in Suite 32, Post Office Mall Building, 333 W. 4th Avenue, Anchorage, Alaska. Telephone number: (907) 274-4563.

The Council's geographical area of authority includes the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The Council consists of the states of Alaska, Washington, and Oregon.

PURPOSE

1. The Council will prepare and submit to the Secretary of Commerce or his delegate a fishery management plan with respect to each fishery within its geographical area and, from time to time, such amendments to each plan as are necessary.

2. The Council will prepare comments on any application for foreign fishing transmitted to it under a governing international fishery agreement by the Secretary of State or his delegate under the terms of the Act.

3. The Council will prepare comments on any fishery management plan or amendments thereto prepared by the Secretary or his delegate which are transmitted to it under Section 304(c)(2) of the Act.

4. The Council will conduct public hearings at appropriate times and at appropriate locations in the Council's geographic area so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments thereto and with respect to the administration and implementation of the provisions of the Act.

5. The Council will review on a continuing basis, and revise as appropriate, the assessments and specifications contained in each fishery management plan for each fishery within its geographical area with regard to (a) the present and probable future condition of the fishery, (b) the maximum sustainable yield from the fishery, (c) the optimum yield from the fishery, (d) the capacity and the extent to which fishery vessels of the United States will harvest the optimum yield on an annual basis, (e) the portion of such optimum yield on an annual basis which will not be harvested by fishing vessels of the United States and can be made available for foreign fishing.

6. The Council will submit to the Secretary a report before February 1 of each year on the Council's activities during the immediate preceding year, and shall submit such other periodic and relevant reports as the Council or the Secretary deem appropriate.

7. The Council will conduct any other activities which are required by or provided for in the Act or which are necessary and appropriate to the foregoing functions.

8. The Council expects to participate in international negotiations concerning any fishery matters under the cognizance of the Council. The Council also expects to be consulted during preliminary discussions leading to U.S. positions on international fishery matters.

COUNCIL COMPOSITION

The North Pacific Council has eleven voting members, and four non-voting members. The voting members are as follows:

Five appointed by the Secretary from the State of Alaska.

Two appointed by the Secretary from the State of Washington.

The principal State officials with marine fishery management responsibility in the States of Oregon, Washington, and Alaska.

The Regional Director, Alaska Region, of the National Marine Fishery Service.

The non-voting members are:

The Director of the Pacific Marine Fisheries Commission.

The Director or his designee of the Alaska Area Office of the U.S. Fish and Wildlife Service.

The Commanding Officer of the Seventeenth Coast Guard District.

A properly designated official of the U.S. Department of State.

The following Council members may have designee to serve as Council members during the absence of the regular member.

1. The principal state officials with marine fishery management responsibility from Oregon, Washington and Alaska.

2. The Regional Director of the National Marine Fisheries Service for Alaska.

3. The Regional or Area Director of the United States Fish and Wildlife Service for Alaska.

4. The Commander of the Seventeenth Coast Guard District.

5. The Executive Director of the Pacific Marine Fisheries Commission.

6. The representative of the Department of State designated for such purpose.

OFFICERS AND TERMS OF OFFICE

A Chairman and a Vice-Chairman are elected from the voting members of the North Pacific Council; both officers serve for a period of one year and may succeed themselves.

STAFF

The permanent staff of the North Pacific Fishery Management Council shall consist of the following positions with duties as outlined:

1. *Executive Director*—The primary staff advisor to the North Pacific Council, must maintain full cognizance and a thorough understanding of all Council business and activities to assist the Council in planning, developing, implementing, and evaluating programs and courses of action for achieving prescribed objectives. Serves as the chief liaison officer for the Council in contacts with other governmental and private agencies. Assist in the development and coordination of internal policy as well as external policy, represents the Council to the public in matters assigned by the Council, and provides the Council with current information from public, industry, and government.

Develops, maintains and directs internal systems for personnel, management, fiscal control, budget analysis and preparation, property and space control procurements. Establishes, maintains and supervises professional and non-professional administrative staff required to accomplish the Council's responsibilities, provides for assistance and service in other areas in support of Council activities, including arranging Council meetings, developing agenda, preparing reports, and promulgating Council policies and decisions.

2. *Assistant Executive Director*—Under the direction of the Executive Director is primarily responsible for coordination of the working teams developing management plans for the North Pacific Council, including arranging necessary support and coordinating the activities of the Scientific and Statistical Committee, the Advisory Panel, and the working teams, usually consisting of the members of two or more agencies, in the orderly development of Council management plans.

In the absence of the Executive Director, is responsible for personnel management and fiscal control, budget analysis and property and space control for the Council, representing the Council to the public in routine inquiries, etc.

Works closely with the Executive Director and the Council in assisting in the development and coordination of internal policy and external policy.

3. *Administrative Officer*—Assists the Executive Director on matters of administrative management services, including procurement and contract administration, grant administration, budget and financial management, personnel management, property management, space utilization and office services.

4. *Secretary (Stenography) to the Executive Director*—Performs work connected with the programs and procedures supporting all facets of Council activity, including functions which require exercise of tact, discretion and judgement, serves as the personal assistant and secretary to the Executive Director.

5. *Administrative Clerk*—Provides miscellaneous clerical and administrative services for the Executive Director's office, including primary bookkeeping, under the supervision of the Administrative Officer, of Council funds including, but not limited to, daily entries of all expenditures, disbursements and receipts, and monthly and quarterly financial reports.

6. *Clerk-Receptionist*—Acts as receptionist for the permanent headquarters of the North Pacific Fishery Council and provides miscellaneous clerical and administrative services for the Executive Director's office as required.

7. And other staff as required and authorized by the Council.

EMPLOYMENT PRACTICES

1. *Staffing Management*—The Executive Director will ensure that all staffing needs and procedures are evaluated on a continuing basis and refined as necessary. This will include a periodic analysis of organizational requirements, identification of potential resources, and the efficient selections, placement, and management of these resources.

2. *Recruitment*—(a) Position identification will be achieved through a thorough and objective assessment of the required duties, without regard to any particular individual. Clear lines of responsibility and authority will be identified in any formal job description, and duplicative or overlapping duties will be avoided to the extent practicable. Position descriptions will be available to incumbents as well as candidates for vacancies.

(b) Recruitment actions will be effected through the most appropriate communications medium, to include locally distributed notices, newspapers, and telephone contacts. Efforts will be made to interest and identify a reasonable number of candidates for each staff vacancy which arises.

(c) Each candidate's experience, education and particular qualifying factors will be thoroughly examined, and personal interviews will be conducted whenever possible.

(d) Final selection for a position will be based solely on merit, fitness, competence, and qualifications. Employment actions shall be free from discrimination based on race, religion, creed, color, national origin, sex, age, or physical handicap, and equal consideration will be given to veterans and all minorities.

3. *Development*—Employees will be entitled to promotions and other pay raises solely on the basis of merit and performance, in amounts recommended by the Executive Director and approved by the Council. Career development, including formal training, will be supported by the Council when directly beneficial to both the employee and the Council itself.

4. *Services and Relationships*—(a) The Council will work with its employees to provide group medical insurance, life insurance, and retirement plans and will pay a reasonable proportion of the cost of such plans.

(b) Employees of the Council shall be granted paid leave for holidays, vacations, sickness, civic duties, etc. on the basis of the employee regulations currently in force for the State of Alaska. Temporary absences without pay may be approved by the Executive Director or his designate.

(c) Permanent employees desiring to terminate employment will be asked to give a minimum two-week advance notice.

5. *Conditions of Employment*—All staff employees of the Council serve at the pleasure of the Council. The Executive Director may be dismissed by the Council and other staff employees may be dismissed by the Executive Director acting for the Council.

6. *Records*—(a) Each employee will become party to a standard employment contract outlining general and specific conditions of employment.

(b) Records of all actions pertinent to an individual's employment will be maintained by the Administrative Officer of the Council staff. These records will be held under the strictest confidence, and will only be released to third parties when legal or regulatory basis for such action so allows.

7. *Standards of Conduct.*—The Council requires a standard of ethical conduct for its staffs, as follows:

(a) No staff employee of the Council shall use his or her official authority or influence derived from his or her position with the Council for the purpose of interfering with or affecting the result of an election to or a nomination for any national, state, county, or municipal elective office.

(b) No staff employee shall pay or offer or promise or solicit or receive from any person, firm or corporation, either as a political contribution or a personal emolument, any money or anything of value in consideration of either support or the use of influence in obtaining for any person any appointive office, place or employment under the Council.

(c) No staff employee of the Council shall have a direct or indirect financial interest that conflicts with a fair and impartial conduct of his or her Council duties.

(d) No staff employee of the Council shall use or allow the use for other than official purposes of information obtained through or in connection with his or her Council employment which has not been made available to the general public.

(e) No staff employee of the Council shall engage in criminal, infamous, dishonest, notoriously immoral, or disgraceful conduct prejudicial to the Council.

(f) No staff employee of the Council shall use Council property for other than official business. Such property shall be protected and preserved from improper or deleterious operation or use.

(g) Personnel files on Council employees shall be maintained in Council offices under the security and safeguard conditions required of files subject to the Privacy Act.

(h) No employee's children or spouse may obtain employment on the Council staff, except in genuine emergencies, and then only for a short period of time.

STANDING COMMITTEES OF COUNCIL MEMBERS

There are no standing committees of Council members on the North Pacific Fishery Management Council.

MEETINGS AND HEARINGS

The North Pacific Council shall meet in the State of Alaska at the call of the chairman or upon the request of the majority of its voting members. Meetings will normally be held on the fourth week of the month, beginning on Wednesday and adjourning on Friday.

Meetings will be held in various communities in Alaska and the locations and dates of meetings will be advertised well in advance in state-wide and local news media.

Agendas or orders of business for the Council will be published in the FEDERAL REGISTER. Draft agendas shall be furnished all Council, Committee and Panel members at least one week prior to regular meetings, and will be available to the general public for one week prior to a regular meeting at the Council headquarters in Anchorage.

PUBLIC HEARINGS

Public hearings will be held in communities in Alaska at the discretion of the Council. They will be advertised in advance in the FEDERAL REGISTER and local news media Agenda and subject matter will be available at the Council office in Anchorage at least one week prior to the hearings.

MINUTES

Accurate and detailed minutes will be taken of all Council meetings and will include audio tape recordings of Council meetings and summary transcripts of Committee and Panel meetings. Summaries of business conducted at Council meetings will be available to the public at Council headquarters in Anchorage and copies of summaries may be obtained at the Council offices for the cost of reproduction. Verbatim audio tape recordings will be available for inspection and study at the Council offices. Minutes of Council meetings and hearings will include

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copies of all written material received or sent by the Council, its Panels, or Committees during the course of or as a result of the meetings.

GENERAL RULES OF PROCEDURE

The Council will meet at the call of the Chairman of the Council or upon the request of a majority of the voting members. Advisory bodies will meet with the approval of the Chairman of the Council. Meetings will be conducted in a manner to permit the greatest possible participation by all members of the Council and the public. It will be the policy of the Council to set aside a specific period during each Council meeting to hear comments from the public on Council business.

Closed sessions of the Council will be held only when the Council is discussing personnel matters not properly conducted in public or discussing matters of a confidential nature requiring a formal security clearance.

Generally, parliamentary procedure will be used in the conduct of the meetings. Agreement among Council members can be reached by consensus and non-voting members are expected to take part in all discussions and indicate their opinions on all specific issues. Those matters pertaining to the approval or disapproval of a fishery management plan or amendment, including proposed regulations, or comments for the Secretary on foreign fishing applications, or Secretarial prepared management plans, require a vote.

AUTHORITY OF THE CHAIR

The Chairman of the North Pacific Management Council has authority to convene and adjourn meetings and public hearings and designate members of the Council, Scientific and Statistical Committee and Advisory Panel to attend meetings and public hearings. He will control meetings and hearings by recognizing speakers, establishing the order of business, and designating members of the Council and its Advisory bodies as members of committees and working groups. The Chairman certifices the minutes of the meeting as complete and accurate before they are available to general distribution.

ADVISORY BODIES

The North Pacific Fishery Management Council has established a Scientific and Statistical Committee comprised of ten members from the fields of biology, economics, statistics, and the social sciences, and an Advisory Panel of twenty-five members from the full spectrum of the fisheries field including fishermen and others, based on a diversity of interests from the standpoint of geography, associtaion with specific fisheries, etc.

FUNCTION

THE SCIENTIFIC AND STATISTICAL COMMITTEE

At the direction and with the approval of the Council designates the members and structure of management plan development teams, reviews management plans and other materail at the request of the Council and advises the Council on them, identifies areas for the Council where further data is needed to complete or improve management plans. Advises the Council on ways to proceed in areas relevant to the scientific and statistical matters or in areas in the bio-socio-economic fields, prepares specific statements for the Council in response to questions or requests from them.

ADVISORY PANEL

The Advisory Panel offers to the Council on a continuing basis advice on the assessments and specifications contained in each fishery management plan for each fishery within the Council's geographical area of concern. The Panel's major expertise concerns the capacity and the extent to which the fishing vessels of the United States will harvest the resources considered in fishery management plans, the effect of such fishery plans on local economies and social structures, and potential conflicts between user groups of a given fishery resource. Panel members may attend all public hearings on fishery management plans and amendments in which they have an interest. If possible, the Chairman or the Executive Director should be contacted prior to travel to attend a public hearing in order to coordinate attendance. The Council will reimburse Advisory Panel members for expenses incurred by attendance at such hearings to the normal limit for official travel. Panel members may attend Council meetings to advise the Council with particular reference to the socio-economic implications of management plans. The Panel will set up such subcommittees as the Chairman of the Panel and the Council deem necessary to carry out the Panel's duties. All members of such subcommittees will be appointed from the membership of the parent panel.

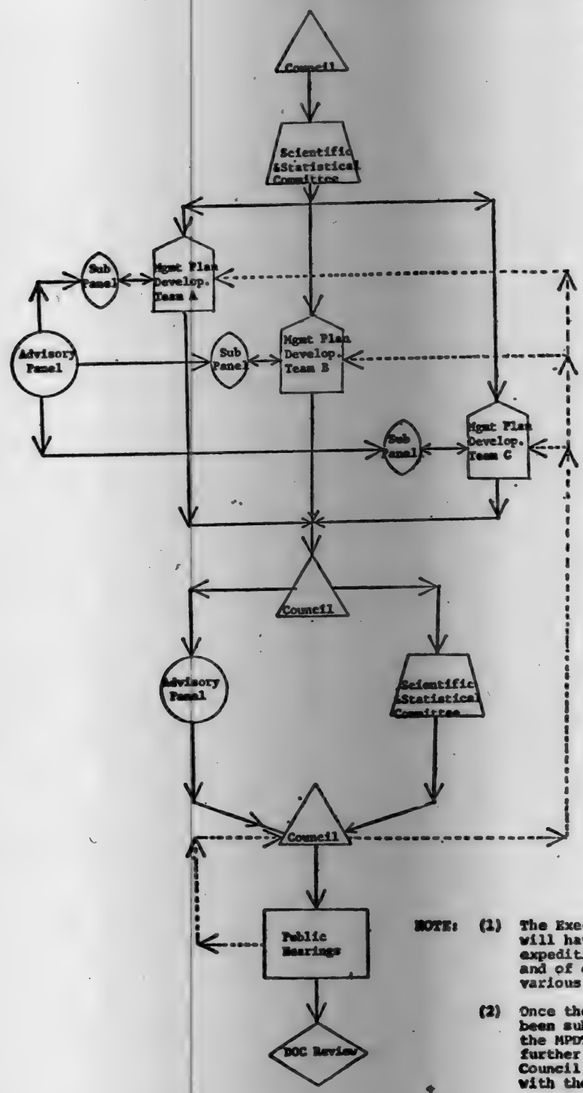
ORGANIZATION OF MANAGEMENT PLAN DEVELOPMENT TEAMS

Management plan teams will be organized for each fishery management unit identified by the Council. Team members will be selected from State and Federal conservation agencies, universities, and private institutions or individuals known to possess specific knowledge or expertise considered desirable in the preparation of management plans. The Scientific and Statistical Committee will submit to the Council a list of recommended members, participating agencies or institutions and suggest a lead agency to direct plan preparation. The Council will confirm the composition of the team and identify the lead agency. Following formation of the management team and guidance from the Council concerning the general objectives and scheduling of plan preparation, the team will organize the plan and its contents in accordance with a standard outline. Scientific inputs to the plan will be drawn from published reports and papers of participating State and Federal agencies, universities and any other relevant data source, including information derived from oral testimonies. It will be the responsibility of the team chairman to insure that the best available data is analyzed and used in drawing up draft plans.

Lead agencies (chairman) will be responsible for scheduling meetings, typing and reproducing preliminary drafts, coordinating the activities of the team and distributing tasks among its members. The draft plan, however, should as much as possible reflect a consensus view of the team members. During the development of the drafts, the team should seek assistance from other expertise to insure an adequate review of the scientific and technical content of the plan. The Scientific and Statistical Committee will propose a list of specialists the management team may contact for outside review or assistance and the team manager is also free to contact any other outside sources that may be helpful in plan preparation.

The team is responsible for comments from outside experts and making the final judgement on changes in the plan. The draft plan is submitted to the Council for review by its advisory bodies. Procedures for interaction between the management plan team, Council, and Council advisory groups during plan preparation and review will follow the flow diagram as shown below:

Flow Diagram for the Development of Management Plans/DEIS and revised MP/DEIS - North Pacific Fishery Management Council



Council designates management units and priorities.

SSC with Council approval designates Management Plan Development Team (MPDT) for each designated management unit.

Advisory Panel designates subpanels for each management unit. The responsibilities of each subpanel include:
(1) Interaction with MPDT
(2) Interaction with constituency

MPDT develops draft Management Plan for its unit and submits to Council.

Council broadly reviews for policy questions and then distributes to Council members, G & SC, and AP for first review.

Results of the review reported to the Council which then:
(1) Makes decision and promulgates for public hearing, and/or
(2) Returns to MPDT for next draft.

This process is repeated until the Council has an acceptable plan, at which point the Plan is released for public hearings, further review by the Council, and decision for final drafting and/or referral to the Department of Commerce.

NOTE: (1) The Executive Director and staff will have the responsibility of expediting the flow of information and of exercising control over the various documents.

(2) Once the draft management plan has been submitted to the Council, only the MPDT is involved in making further revisions directed by the Council, unless further consultation with the AP sub-panel is required.

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FINANCIAL MANAGEMENT SYSTEM

Procurement/Property Management System—Management of this system will be a direct responsibility of the Staff Administrative Officer.

1. *Contracts*—Negotiated and advertised contracts will be administered under the same principles of equality and integrity outlined under the section "Employment Practices," and will generally follow the specifications normally characteristics of contracts with public entities (e.g., public announcement, emphasis on competition, change orders, etc.).

2. *Purchases*—Commodities and services will be procured by means of a document-oriented system, with a receipt, check, or purchase order type document maintained on all transactions. Typical suspense systems will be maintained for any partial and undelivered procurements. Equipment and supplies available in the General Services Administration will usually be given primary consideration, except where cost-effectiveness and efficiency dictate otherwise. A petty cash fund for over-the-counter purchases will be maintained as necessary in the Council Staff office.

3. *Property*—An accountability system of all durable or capitalized personal property will be maintained by means of an inventory system.

4. *Real Property*—The leasing, renting and acquisition of real property and space will be effected in a manner consistent with customary practices related to contracts with public entities. Real property files will be maintained on all transactions, including litigation, connected therewith.

Fiscal Management System—The finance and budget control systems will be a direct responsibility of the Administrative Officer, who will maintain full cognizance of, and compliance with, all Department of Commerce requirements, pursuant to the Act, Treasury Department (IRS) regulations, as well as any applicable local requirements (state, municipal, etc.).

1. Financial control will be effected by means of a basic document-oriented accrual accounting system, which will include provisions for at least the following: direct labor (salary), indirect labor (employer contributions for FICA, life and health insurance, retirement, and unemployment taxes), travel expenses (transportation and subsistence), transportation of things, rent and utilities, taxes (non-employment), printing, communications, supplies, equipment, contracts, and any appropriate contra-accounts (depreciation, contract accruals, etc.).

2. A general ledger, supported by appropriate journals, will be maintained on all obligations and expenses, including appropriate accruals, and will be used to prepare periodic reports for review by the Executive Director, the Council, or Department of Commerce representatives. As a minimum, a complete financial status report should be completed on a monthly basis. The financial management system will be coordinated with the budget management system so that current and projected fund usage can be determined at any time.

3. A separate payroll register, indicating all applicable expenses and accruals, will be maintained on each member of the Council and the Council staff.

4. All financial records will be kept until audited or approved for disposal by the appropriate Department of Commerce representative.

5. Specific details related to implementing the above will, in general, correspond to the NMFS 1976 model accounting system for Regional Councils.

[FR Doc.77-6127 Filed 2-28-77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Meeting

Notice is hereby given of the initial meeting of the Scientific and Statistical Committee of the South Atlantic Fishery Management Council established by Section 302(g) of the Fishery Conservation and Management Act of 1976 (P.L. 94-265).

The Scientific and Statistical Committee will assist the Council in the development, collection, and evaluation of such statistical, biological, economic, social and other scientific information as is relative to the Council's development and amendment of any fishery management plan.

The South Atlantic Council, established under Section 302 of the Act, will have authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the east coast of Florida, Georgia, North Carolina, and South Carolina. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), the Scientific and Statistical Committee must be legally chartered before it may meet or take any action. At this time, the Scientific and Statistical Committee does not have an approved charter. This notice is being given with the condition that a charter for this body will be in effect by the meeting date. This body will only meet if its charter is in effect at the time scheduled for the meeting. In order to determine whether the charter will be in effect in time for the meeting to take place, any interested person should contact the Council official listed elsewhere in this notice.

The meeting will be held Tuesday, Wednesday, and Thursday, March 22, 23, and 24, 1977, in the Holiday Inn South, Charleston, South Carolina. The meeting will convene at 1:30 p.m. on the 22nd and adjourn at approximately 12:00 noon on the 24th. Daily sessions will normally start at 9:00 a.m. and adjourn at approximately 5:00 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

The Scientific and Statistical Committee will operate under the following agenda:

1. Consideration of internal organizational matters.

2. Review of fishery management plan issues.

3. Appropriate recommendations to the Council.

This meeting is open to the public and there will be seating for a limited number of public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact, on or about March 18, 1977:

Mr. Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, c/o National Marine Fisheries Service, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

At the discretion of the Committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of committee business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Ernest D. Premetz at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the meetings.

Dated: February 24, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-6125 Filed 2-28-77;8:45 am]

Office of the Secretary

[Dept. Organization Order 25-5B, Amdt. 4]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Organization Order

This order effective January 26, 1977 further amends the material appearing at 41 FR 795 of January 5, 1976, 41 FR 36061 of August 26, 1976 41 FR 43753 of October 4, 1976 and 41 FR 50318 of November 15, 1976.

Department Organization Order 25-5B, dated December 4, 1975, is hereby further amended as shown below. The purpose of this amendment is to retitle the Assistant Administrator for Coastal Zone Management as the Associate Administrator for Coastal Zone Management, and incorporate into his functional statement the new and revised functions authorized by the Coastal Zone Management Act Amendments of 1976.

1. Section 7. Assistant Administrator for Coastal Zone Management. Section 7. is revised to read as follows:

Section 7. Associate Administrator for Coastal Zone Management.

"The Associate Administrator for Coastal Zone Management shall maintain cognizance over and establish policy for NOAA's coastal zone management, Coastal Energy Impact, Marine and Estuary Sanctuaries, Beach Access, Coastal Zone Research and Technical Assistance, and other closely related programs. This shall not include NOAA's marine resources, marine environment management and protection, mapping, charting, or geodetic programs. As the primary program policy officer with authority and responsibility for implementing the programs authorized in the Coastal Zone Management Act of 1972, as amended, and the Marine Protection, Research and Sanctuaries Act of 1972, he shall:

Develop policies and guidelines on a continuing basis to assist state and local governments in the effective management and, where possible, restoration and enhancement of the land and water resources of the coastal zone of the nation.

Develop policies and guidelines on a continuing basis to assist state and local governments in planning for the consequences of and impacts on the Nation's coastal zones due to accelerated energy development activity.

Develop policies and guidelines and administer the marine sanctuaries program authorized under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431-1434), as well as for the Estuarine Sanctuaries and Beach Access programs (16 U.S.C. 1461).

Administer and monitor grants to states support of the development and administration of coastal zone management programs.

Administer and monitor an energy impact financial assistance program consisting of loans, bond guarantees, planning grants, environmental grants and formula grants, each subject to specified conditions, for the purpose of meeting needs of states and local governments resulting from new or expanded energy activity in or affecting the coastal zone.

Develop NOAA policy, promulgate regulations, and implement procedures necessary for Federal review and approval of state coastal zone management programs and the execution of Federal consistency provisions which then come into force.

Serve as focal point for Federal interagency coordination and Federal-State consultation efforts on all matters relating to the Nation's coastal zone management.

Serve as the Federal Government focal point regarding the operation of Federal programs affecting the Nation's coastal zones and the consistency of these programs with the policies contained in the Coastal Zone Management Act of 1972, as amended.

2. The organization chart, Exhibit 1, attached to this amendment,[1] supersedes the organization chart dated October 10, 1976.

Approved:

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-6018 Filed 2-28-77;8:45 am]

[1] Organization chart filed as part of the original document.

[Dept. Organization Order 20-1, Amdt. 1]

OFFICE OF ADMINISTRATIVE SERVICES AND PROCUREMENT

Department Organization Order

This order effective February 15, 1977, amends the material appearing at 41 FR 50319 of November 15, 1976.

Department Organization Order 20-1, dated November 1, 1976 is hereby amended as shown below. This amendment reflects the transfer, to the Office of Administrative Services and Procurement, of correspondence management responsibilities formerly resident in the Office of Organization and Management Systems.

Section 5. Organization. Subparagraph .01d is revised to read as follows:

d. The Records Management Division shall exercise staff responsibility for developing Departmentwide policies and procedures in the following areas of records management: (1) Forms management; (2) files management; (3) records equipment and supplies management; (4) records disposition management; and (5) correspondence management. The Division shall also provide files records disposition, and forms management services for the Office of the Secretary and, as approved by the Assistant Secretary for Administration, for designated operating units headquartered in the Main Commerce Building. For the five specific functions enumerated in this paragraph, the head of the Division shall serve as Records Management Officer for the Department and provide liaison services with the National Archives and Records Service.

GUY W. CHAMBERLAIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-6014 Filed 2-28-77;8:45 am]

Office of the Secretary

[Dept. Organization Order 20-7, Amdt. 1]

OFFICE OF ORGANIZATION AND MANAGEMENT SYSTEMS

Department Organization Order

This order effective February 15, 1977 amends the material appearing at 41 FR 50321 of November 15, 1976.

Department Organization Order 20-7, dated November 1, 1976 is hereby amended as shown below. This amendment: (1) reflects the transfer, to the Director, OOMS, of the Central Reference and Records Inspection Facility (paragraph 4.03) formerly resident in the Office of Administrative Services and Procurement (OAS&P); (2) relieves the Director, OOMS of correspondence management responsibilities which have been transferred to OAS&P, and changes the name of the Directives Management Branch (subparagraph 4.01b.); and (3) transfers the management of public-use and interagency reports from the Management Analysis Division, OOMS to the Information Management Division, OOMS.

Section 4. Organization. a. Subparagraph 4.01b. is revised to read as follows:

b. The Division's Directives Management Staff shall serve as the principal staff component of the Department on directives management; assuring compliance with Governmentwide directives from the Executive Office of the President, including the assignment of responsibility for response and/or implementation; and for managing the system for promulgating the Department's primary organization structure.

b. Paragraph 4.03 is revised to read as follows:

.03 The Information Management Division shall develop policies, procedures, standards, and relevant rules and orders to assure Department compliance with the provisions of the Freedom of Information Act as amended, the Privacy Act of 1974, the Federal Advisory Committee Act, the Government in the Sunshine Act, and the Federal Reports Act of 1942; monitor policy compliance by units of the Department; review the units' implementation of the rules and orders; function as the focal point in coordination with the Department's Office of the General Counsel in the administration of the referenced statutes; serve as the Department's focal point for public-use and interagency reports; operate the Department's Central Reference and Records Inspection Facility for the public inspection and copying of information and records under the Freedom of Information Act, as explained in DAO 205-14, supplement and support the functions of the Commerce Information Policy Issues Committee; and serve as the principal staff component of the Department on information management, public-use reports control, and committee management functions.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-6015 Filed 2-28-77;8:45 am]

[Dept. Organization Order 20-9, Amdt. 1]

OFFICE OF PUBLICATIONS

Department Organization Order

This order effective February 15, 1977 amends the material appearing at 41 FR 31415 of July 28, 1976.

Department Organization Order 20-9, dated June 29, 1976, is hereby amended as shown below. The purpose of this amendment is to increase organizational effectiveness and more clearly delineate functional responsibilities (Sections 3. and 5.).

1. Section 3. Functions Subparagraph .01e. is revised to read as follows:

e. Review for approval all requests of elements of the Department for the purchase or rental of printing (conventional or microform), binding, photographic, and related equipment, including copying machines.

2. Section 5. Organization a. Subparagraph .04 is revised to read as follows:

.04 The Design and Graphics Division shall, for all organizations of the Department: provide central art direction; prepare necessary design, illustration, photographic, art, and graphics services for all general audience publications, printed materials, and visual presentations; approve or either provide, requisition, or approve for procurement, all design, illustration, photographic, art, and graph-

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ic services; provide related technical support where necessary; and photographically record all newsworthy or historic subjects or occasions.

b. Subparagraph .05 is revised to read as follows:

.05 The *Printing Division* shall requisition and/or approve for procurement all printing and binding, and related services for all organizations of the Department; control and schedule all printing operations; operate the Department's central printing plant including its addressing and mailing services; manage a coordinated system of copying machine installations; and investigate and analyze new printing methods.

c. Subparagraph .07 is revised to read as follows:

.07 The Composition Division shall requisition and/or approve for procurement all composition and related services for all organizations of the Department; control and schedule all composition; provide planning and preplanning services; operate the Department's computerized composition system and peripheral equipment; and investigate and evaluate all new composition systems."

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.77-6017 Filed 2-28-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

FEBRUARY 17, 1977.

The meeting of the USAF Scientific Advisory Board ad hoc Committee on the EF-111A scheduled for March 1 and 2, 1977, as published in the FEDERAL REGISTER Tuesday, February 8, 1977, Volume 42, Number 26, has been cancelled. This meeting will not be rescheduled.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register, Liaison Officer, Directorate of Administration.

[FR Doc.77-6148 Filed 2-28-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 692-5]

SCIENCE ADVISORY BOARD; ECOLOGY ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Ecology Advisory Committee of the Science Advisory Board will be held March 17-18, 1977, beginning at 9:00 a.m., in the Administrator's Conference Room (Room 1101), Waterside Mall West Tower, 401 M Street, S.W., Washington, D.C.

This is the eleventh meeting of the Ecology Advisory Committee. The agenda includes a report on the Science Advisory Board activities, responses to the Committee's review of EPA's draft National Ecological Effects Research Program 1978-1982 and to the Committee's Advisory Statement, Ecosystem Research Can Save Money; discussions on the "Draft Sulfates Research Plan—Ecological Effects," the feasibility study of the possible containment or removal of kepone contaminants in the James River, the role of problem definition research in EPA, collection and maintenance of scientific specimens collected during preparation of Environmental Impact Statements; briefings on EPA's Integrated Pest Management Program; briefing on the Federal Committee on Ecology, Council of Environmental Quality; discussion of items for the Committee's future consideration; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain additional information should contact Dr. J. Frances Allen, Executive Secretary, Ecology Advisory Committee, (703) 557-7720.

Dated: February 22, 1977.

THOMAS D. BATH,
Staff Director, Science Advisory Board.

[FR Doc.77-5984 Filed 2-28-77;8:45 am]

[FRL 692-6; OPP-42044]

RHODE ISLAND

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171, the Honorable Philip W. Noel, Governor of the State of Rhode Island, submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis:

Notice is hereby given that it is presently the intention of the Regional Administrator, EPA, Region I, to grant approval of this plan on a contingency basis pending the adoption of new regulations needed to implement newly enacted legislation, which are included in draft form as Proposed Rules and Regulations, Appendix J of the Plan. All relevant comments urging approval or disapproval or concerning any specific aspects of the plan are solicited at this time. A summary of this plan follows. The entire plan, together with all attached appendices (except for sample examinations) may be examined during normal business hours at the following locations:

State of Rhode Island, Department of Natural Resources, Division of Agriculture, 83 Park Street, Providence, Rhode Island 02903.
Room 2113, JFK Federal Building, Government Center, Boston, Massachusetts 02203. (Pesticides Branch, EPA Region 1).
Room 401, East Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. (Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, (202) 755-4854).

SUMMARY OF RHODE ISLAND STATE PLAN

The Rhode Island Department of Natural Resources (RIDNR) has been designated the State Lead Agency for the administration of the Pesticide Applicator Certification program including enforcement activities, with the Division of Agriculture responsible for the implementation. Other responsibilities also include coordination of training and certification activities, licensing of pesticide dealers, issuance of special permits for use of pesticides further restricted by the State and the coordination of field, laboratory and office activities relating to pesticide regulation.

Two cooperating agencies designated in the plan are the Rhode Island Extension Service (RIES) of the University of Rhode Island and the Rhode Island Pesticide Advisory Board (RIPAB).

The RIES will be responsible for the organization and operation of the pesticide applicator training program offered prior to certification and for training offered in conjunction with maintenance of the State Plan. The RIPAB reviews policy, program plans, goals, proposed regulations and furnishes recommendations and advice to the Director, RIDNR. Legal authority for the regulation of pesticides and their use in Rhode Island is contained in the following legislation: Rhode Island Pesticide Control Act of 1976 (RIPCA), Chapter 23-41.1, Revised Statutes Annotated.

The plan indicates that the State Lead Agency and cooperating agencies have qualified personnel and funds necessary to carry out the proposed certification programs. The funding for support of the program in the amount of $41,000 was appropriated for the fiscal year through June 30, 1977. Additional funding is to be requested to more adequately carry out enforcement aspects of the program outlined.

Rhode Island estimates 400 commercial applicators and 700 private applicators will need to be certified to use restricted use pesticides. A certificate and a pocket-sized credential, the latter containing the applicant's photograph, will be issued to each certified applicator and indicate the class and category(s) and/or subcategory(s) of certification as appropriate and any additional restriction placed on the applicator. The pocket-sized credential will be used to identify a certified applicator to pesticide dealers and to authorize purchase of restricted use pesticides.

The Rhode Island Plan indicates the State will promulgate new rules and regulations necessary for implementation of RIPCA and to meet requirements of 40 CFR 171.

The Rhode Island Department of Natural Resources agrees to furnish the Administrator a detailed annual report by April 1 of each year and will provide other reports as requested in conformity with 40 CFR 171.7(d).

Rhode Island intends to adopt all ten categories of commercial applicators as listed in 40 CFR 171.3. Further, Rhode Island intends to utilize subcategories within two categories as designated below:

3. Ornamental and Turf Pest Control. (a) Shade Tree (Arborist); and (b) Custom Grounds.

7. Industrial, Institutional, Structural and Health Related Pest Control. (a) General Pest; (b) Termite and Structural Pest; (c) Fumigation; (d) Vertebrate; and (e) Mosquito and Biting Fly.

All applicants for certification as private or commercial applicators, including those currently holding a State pesticide applicator license, will be examined by written examination to determine competency. Private applicators will be given a four-part examination consisting of 80 questions that cover general standards, label information, State and Federal laws, and a knowledge of a specialized commodity area. An applicant must correctly answer 75 percent of the questions to become certified. Applicants for certification as commercial applicators will be given written examinations for general standards requirement containing 70 questions and also category or subcategory specific examination(s) containing 30 or more additional questions. In addition, performance testing may be required to supplement the demonstration of competency where a written examination may be an inadequate measure of competency for highly specialized applications. Applicants for certification as commercial applicators must answer 75 percent of the examination questions correctly to meet certification requirements.

Core level training conducted by RIES will be offered at designated locations prior to examination of applicants preparing to qualify as private or commercial class applicators. In addition to general pesticide use information, training will also be offered in commodity areas or category and subcategory specific areas to meet specific use area needs.

Rhode Island proposes to handle certification of private applicators unable to read on a case-by-case basis as provided in 40 CFR 171.5(b). A Lead Agency representative will examine the applicant orally to determine competency to meet standards of 40 CFR 171.5 and 171.6. Applicants determined to be competent as private applicators will be issued a certificate limiting the use of restricted use pesticides to those products, sites of application and use patterns for which competency was determined.

A copy or a representative sample of the private applicator and commercial applicator-general standards examination has been submitted with the plan for review. The specific standards examination for commercial applicators not submitted is in final stages of development and will be submitted to the Agency for review before the plan is approved.

To preserve the confidentiality of the examinations, the State of Rhode Island has requested they not be made available for public inspection. The Agency agrees with this request and has removed the examinations from public inspection copies of the plan.

Legislation provided that fees for issuance of applicator certification for both private and commercial class may not exceed $15.00, total.

The Rhode Island Plan does not contain specific provisions for a Government Agency Plan. It is expected, however, that federal employees applying restricted use pesticides in Rhode Island will meet the standards of competency required of other commercial applicators.

Rhode Island has no Indian Governing Body subject to the jurisdiction of the United States.

Rhode Island will consider reciprocity with other States and copies of such agreements will be furnished to EPA. At present, no recognized formal agreement on reciprocity with other States involving pesticide applicator certification is indicated in the plan.

Other regulatory authorities contained in the newly enacted legislation useful to implementation of the plan include further restriction or limitation on pesticide uses, requirement for licensing of dealers distributing restricted use pesticides, licensing of commercial applicators using only general use pesticides, monitoring, and inspection, and the regulation of storage and disposal.

Maintenance of the State Plan will be carried out in two general areas. RIDNR inspectors will conduct spot checks of applicators and field operations to determine compliance with certification and pesticide use requirements.

To assure maintenance of a high level of competency among certified commercial and private applicators, additional training, approved by RIDNR will be offered on a timely basis. After an applicator has been certified for five years, the requirements for recertification may be met by one of two options. Attendance and active participation in a Lead Agency approved training program specific to the applicant's class and categories of certification within a five-year period or successful passage of an examination is required for certification.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Rhode Island to the Chief, Pesticides Branch, Region I, Environmental Protection Agency, Room 2113, JFK Federal Building, Boston, Massachusetts 02203. The comments must be received on or before April 1, 1977, and should bear the identifying notation (OPP-42044). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 9:00 a.m. to 4:00 p.m., Monday through Friday.

Dated: February 2, 1977.

LESTER A. SUTTON,
Regional Administrator, Region I.

[FR Doc.77-5983 Filed 2-28-77;8:45 am]

[FRL 693-2; OPP-50277]

AMERICAN HOECHST CORP.

Issuance of an Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), an experimental use permit has been issued to the following applicant. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 8340-EUP-2. American Hoechst Corporation, Somerville, New Jersey 08876. This experimental use permit allows the use of 576 pounds of the herbicide methyl 2-[4-(2',4'-dichlorophenoxy) phenoxy) propanoate on soybeans to evaluate control of various annual grasses. A total of 671 acres is involved; the program is authorized only in the States of Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Mississippi, Ohio, and Wisconsin. The experimental use permit is effective from January 31, 1977, to January 31, 1978. A temporary tolerance has been established for combined residues of the active ingredient and its metabolite in or on soybeans (beans only).

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. This file will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: February 18, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-6136 Filed 2-28-77;8:45 am]

[FRL 693-6; PF64]

CIBA-GEIGY CORP.

Pesticide Programs; Filing of Pesticide Petition

Ciba-Geigy Corp., P.O. Box 11422, Greensboro NC 27409, has submitted a petition (PP 7F1913) to the Environmental Protection Agency which proposes establishment of a tolerance (40 CFR Part 180) for the pesticide metolachlor (2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)

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acetamide) and its metabolites determined as the derivatives (2-(2-ethyl-6-methylphenyl) amino) -1-propanol) and (4-(2-ethyl-6-methylphenyl) -2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on the raw agricultural commodity soybeans at 0.1 part per million. The proposed analytical method proposed in the petition for determining residues of the herbicide and its metabolites is a gas chromatographic procedure using a Coulson electrolytic conductivity detector for the first-mentioned derivative and a Dohrman microcoulometric detector for the second-mentioned derivative. Notice of this submission is given pursuant to the provisions of Section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 24, Registration Division (WH–567), Office of Pesticide Programs, at the above address, or by telephone at 202/755–2196. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: February 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77–6140 Filed 2–28–77;8:45 am]

[FRL 693–2; OPP–50276]

CIBA-GEIGY CORP.

Issuance of an Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), an experimental use permit has been issued to the following applicant. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 100–EUP–42. CIBA-GEIGY Corporation, Greensoboro, North Carolina 27409. This experimental use permit allows the use of 300 pounds of ethanedial dioxime on oranges as an abscission agent. A total of 300 acres is involved; the program is authorized only in the State of Florida. The experimental use permit is effective from January 28, 1977, to November 30, 1977. A temporary tolerance for residues of the active ingredient in or on oranges has been established.

Interested parties wishing to review the experimental use permit are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. This file will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: February 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77–6137 Filed 2–28–77;8:45 am]

[FRL 693–4; OPP–31009]

CIBA-GEIGY CORP.

Pesticide Programs; Receipt of Application To Register Pesticide Product Entailing Changed Use Pattern

Ciba-Geigy Corp., PO Box 11422, Greensboro, NC 27409, has submitted to the Environmental Protection Agency (EPA) an application to register the product DUAL 6E containing 66.7% of the active pesticidal ingredient 2-chloro-*N* - (2 - methoxy-1-methylethyl) acetamide. This application proposes a change in the pesticide's use pattern to include aerial application of the pesticide for weed control in corn grown for grain (excluding popcorn), and soybeans. The application also proposes that the product be classified for general use. PM 24.

Application was made by Ciba-Geigy Corp. pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 95 Stat. 751, 7 U.S.C. 136(a) et seq.) and the regulations thereunder (40 CFR Part 162). Notice of receipt of this application is given in accordance with the provisions of section 3(c)(4) of FIFRA (40 CFR 162.2(b)(6)) and does not indicate a decision by the Agency on the application.

Any Federal agency or other interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before March 31, 1977, and should bear a notation indicating the EPA File Symbol 100–583. Comments received within the specified time period will be considered before a final decision is made with respect to the application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Notice of approval or denial of this application to register DUAL 6E will be announced in the FEDERAL REGISTER. The label furnished by the applicant, as well as all written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: February 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77–6138 Filed 2–28–77;8:45 am]

[FRL 693–5; OPP–30128]

HERCULITE PROTECTIVE FABRICS CORP.

Pesticide Programs; Receipt of Application To Register Pesticide Product Containing New Active Ingredient

Herculite Protective Fabrics Corp., a subsidiary of Health-Chem Corp., 1107 Broadway, New York, NY 10010, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product Hercon Lure-n-Kill Flytape Fly Control Product (EPA File Symbol 8730–RE), containing 3.0 percent of the active ingredient 3-methoxy-4-hydroxy-benzaldehyde which has not been included in any previously registered pesticide products. The application received from Herculite Protective Fabrics Corp. proposes that the product be classified for general use as an insecticide for flytape for indoor use. PM17

Application was made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 7 U.S.C. 136 (a) et seq.), and the regulations thereunder (40 CFR 162). Notice of receipt of this application is made in accordance with the provisions of section 3(c)(4) of FIFRA (40 CFR 162.2(b)(6)) and does not indicate a decision by the Agency on the application.

Any Federal agency or other interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before March 31, 1977, and should bear a notation indicating the EPA File Symbol "8730–RE." Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to the designated Product Manager (PM), Registration Division (WH–567), Office of Pesticide Programs, at the above address or by telephone at 202/426–0425.

Notice of approval or denial of this application to register Hercon Lure-n-Kill Flytape Fly Control Product will be announced in the FEDERAL REGISTER. The label furnished by Herculite Protective Fabrics Corp., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:30 p.m. Monday through Friday.

Dated: February 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77–6139 Filed 2–28–77;8:45 am]

[FRL 693–3]

SCIENCE ADVISORY BOARD, ENVIRONMENTAL MEASUREMENTS ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Environmental Measurements Advisory Committee will be held beginning at 9:00 a.m. March 16, 1977, in room 1112A, Building 2, Crystal Mall, 1921 S. Jefferson Davis Highway, Arlington, Virginia.

This is the sixth meeting of the Committee. The agenda includes current activities of the Science Advisory Board; completion of action to transmit to the Agency requested advice regarding the Draft Sulfates Research Plan; review of a draft of the Committee's assessment of the quality of the measurement and monitoring activities by the Agency's Office of Research and Development; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend or obtain additional information should contact Dr. A. F. Forziati, Executive Secretary, Environmental Measurements Advisory Committee, (703) 557–7720 by close of business March 14, 1977.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

FEBRUARY 25, 1977.

[FR Doc.77–6133 Filed 2–28–77;8:45 am]

[FRL 693–1; OTS—022002A]

TOXIC SUBSTANCES

Meeting; Additional Information

A notice was published on page 9206 of the FEDERAL REGISTER of February 15, 1977, which announced open public public meetings in Washington, D.C., on Tuesday and Wednesday, March 22 and 23, 1977. These meetings will allow interested persons to comment on a discussion paper which is the basic foundation for the overall Agency strategy for implementing the various requirements of the Toxic Substances Control Act.

Additional information is now available regarding the location of the meetings. The morning meetings will be held in the Jefferson Auditorium, U.S. Department of Agriculture, South Agriculture Building, 14th and Independence Avenue SW. Locations of the afternoon concurrent workshop sessions will be announced at the first morning meeting on Tuesday. All other information contained in the notice published on February 15, 1977, remains unchanged.

Dated: February 22, 1977.

KENNETH L. JOHNSON,
Acting Assistant Administrator for Toxic Substances.

[FR Doc.77–6135 Filed 2–28–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77–124; Docket No. 21122, Transmittal No. 12627]

AMERICAN TELEPHONE & TELEGRAPH CO.

Revisions to Tariff F.C.C. No. 260

Adopted: February 17, 1977.

Released: February 23, 1977.

1. The Commission has for consideration the revisions to American Telephone and Telegraph Company's (AT&T) Tariff F.C.C. No. 260 filed on October 26, 1976 to become effective February 18, 1977.[1] These revisions purportedly were made pursuant to the Commission's Memorandum Opinion and Order (FCC 76–684) released July 30, 1976,[2] which required AT&T to eliminate general interconnection restrictions contained in its Tariff F.C.C. No. 260, specifically, those provisions which:

(a) Effectively restrict interconnection of AT&T private line services with communications systems provided by the customer or a participating carrier to premises where the non-carrier customer has a regular and continuing need to originate and terminate calls;

(b) Restrict connection of AT&T private line service to IRC computer switches to instances where the non-carrier customer requires the connection to communicate over one or more overseas channels connected to the IRC switch * * *

2. In addition to the required revisions, AT&T has proposed certain revisions which: (a) add new technical assistance charges, (b) eliminate a certain listing of participating carriers and group both domestic specialized carriers and International Record Carriers (IRCs) under the single notation "Other Common Carriers" (OCC) and (c) eliminate interruption allowances to IRCs' overseas customers on the portion of the Telephone Company-provided private line service when IRC-provided communications channels fail. For purposes of organization, the numerous parties[3] who have objected to all or part of these "additional revisions are divided into three groups: Specialized Common Carriers, IRCs and users.

CONTENTIONS OF THE PARTIES

SPECIALIZED COMMON CARRIERS

3. RCA Americom's Petition seeks rejection of the proposed revisions contained in Sections 4.1.10 and 4.1.11 of the tariff which impose additional charges for: Termination Compatibility Consultation Service, Review of Communication System Test Results, Special Participative Design Review, Technical Analysis and Testing, and Design Charge, because AT&T routinely provides similar services to its private line customers and customers of independent telephone companies at no charge. RCA thus alleges these revisions are unjust, unreasonable, discriminatory and are without economic justification in violation of Sections 201(b) and 202(a) of the Act. RCA suggests that the various technical, operating and engineering procedures adopted in the Settlement Agreement in Docket No. 20099, 52 FCC 2d 727 (1975), should be utilized in lieu of the services and charges contemplated in AT&T's proposed revisions, and finally, it suggests that the tariff is capable of an arbitrary application.

4. MCI requests the partial rejection of the AT&T revisions which will require that OCC connections to the telephone network be made through equipment which is presently furnished and maintained by the Telephone Company called a "service terminating arrangement." Such an arrangement is defined in the tariff as an interface which facilitates design, isolation and testing where private lines are connected with other communication systems including other telephone company private line service. MCI urges that this indicates AT&T is going to require connecting arrangements or protective devices and that this would be inconsistent with Commission decisions and the procedures agreed to in Docket 20099 (supra). The charges AT&T proposes for changes in service arrangements, MCI argues, may prove "extremely costly to the OCC, and to its customer." MCI believes that, generally, the language AT&T uses in its proposal "could be used as the basis for refusing cooperative efforts in the future," and is designed to place customers who elect to deal with specialized carriers at a disadvantage, essentially discouraging competition with these carriers.

5. AT&T essentially argues that the remedy of rejection is inappropriate in this case.[4] AT&T states that the addi-

[1] The original effective date of January 24, 1977 was deferred by AT&T.

[2] AT&T, et al. (Restrictions on Interconnection of Private Line Service), 60 FCC 2d 709.

[3] RCA American Communications, Inc. (RCA Americom); Shell Communications, Inc. (Shell); Computer and Business Equipment Manufacturers Assoc. (CBEMA); Aeronautical Radio, Inc. (ARINC); MCI Telecommunications Corp. (MCI); RCA Global Communications, Inc. (RCA Globcom); Western Union International, Inc. (WUI); and ITT World Communications, Inc. (ITT Worldcom).

[4] See In the Matter of United Video, Inc., 49 FCC 2d 898 (1974), and Associated Press v. FCC, 448 F. 2d 1095 (D.C. Cir. 1971). The three grounds upon which the Commission may reject are:

(1) Failure to publish an effective date meeting the requirements of Section 203 of the Communications Act;

(2) Lack of underlying authority to provide the service offered under the proposed tariff; or

(3) Prima facie unlawfulness, such as demonstrably in conflict with the Communications Act or a Commission rule, regulation or order.

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tional charges in the disputed revisions "represent proper and necessary charges for unique services that certain private line customers may select as an option when customer-provided or Other Common Carrier-provided communications systems are interconnected with Telephone Company provided private line service * * *." The three new charges referred to in paragraph 4.1.10 of the revisions are not applicable to all its customers, AT&T notes, because when the Telephone Company provides a private line service totally or jointly with an independent telephone company, it has end-to-end service responsibility. In that situation, one carrier remains responsible for the overall design of the entire system according to specification and design parameters provided by that carrier. Therefore, engineering, design and compatibility services are not needed by nor offered to its customers. However, in the case where no one carrier is responsible for the end-to-end design, engineering and testing of the service, AT&T argues, the customer may need technical assistance to deal with compatibility problems that could occur with the interconnection of two separately designed and engineered systems. Additionally, the services are optional and customers are not obligated to request or utilize them. AT&T urges that "the costs for these services would be additive to the engineering and related costs that occur in all private line service, and thus the charges do not constitute an attempt to impose a charge that is already built in as an element in the private line rate" and that the charges are reasonable, nondiscriminatory and proper for the carrier to recover. Further, the "Design Change Charge" contained in paragraph 4.1.11, AT&T states, is applicable to all private line customers when "that customer requests a change that results in a design change in the private line service furnished by the Telephone Company," and thus cannot be considered discriminatory.

6. The petitioners' contention that these tariff provisions are capable of being applied in an arbitrary and discriminatory manner, AT&T states, is not a proper basis for rejection and constitutes unsupported conjecture and supposition, since any tariff, regulation or statute can be applied arbitrarily. Further, suggesting that the proper method of resolving such problems lies in the Settlement Agreement (supra), AT&T urges, is an attempt to substitute the petitioners' judgment for that of AT&T. Finally, in response to MCI's allegations that the "service terminating arrangement" will require connecting arrangements or protective devices, AT&T submits that these arrangements are presently furnished and maintained by the Telephone Company as part of its private line service and are not new devices created to impede or impair interconnection. The other objections are devoid of merit, AT&T states, and are based on either speculation or conjecture which surely cannot be proper grounds for rejecting its proposed tariff provisions.

The Users

7. Shell's Petition essentially opposes the proposed revisions to paragraphs 2.6.3(A)(1)(E), 2.6.3(A)(7)(c) and 2.6.3(G)(C) which, it alleges, specify that customer-provided switching equipment must be used to connect customer-provided systems to Telephone Company private line services when those lines access common-user switching equipment shared with MTS subscribers. These mandatory provisions, Shell states, require "the unnecessary introduction of functionally useless equipment into the interconnected path." If AT&T refuses to provide the interconnection of a customer-provided communications system on this basis, Shell urges, it would be violative of Section 201 of the Act, constituting a refusal to provide communications service upon a reasonable request therefore. "Moreover, introduction of such unnecessary switching equipment would increase the cost and reduce the reliability of the inter-connected communications channels."

8. In its reply AT&T urges that the provisions are necessary to insure the telecommunications network against "seizures" of common control equipment caused by failures of interconnected systems. However, this requirement may create financial and operational impediments for some customers, AT&T recognizes, and other adequate seizure protection can be accomplished where the customer-provided system has the capability of recognizing failure and returning the service to an "idle (on-hook) state." AT&T stated it would apply for special permission to file subsequent tariff revisions to be effective contemporaneously with the instant revisions which should moot Shell's objections.

9. Finally, CBEMA and ARINC have also filed to reject AT&T's proposed revisions substantially on the same grounds the remaining IRC petitioners have objected. Because CBEMA and ARINC represent users of overseas alternate voice data (AVD) circuits provided by the IRCs, we will consider their arguments and comments with the IRC objections.

The IRCs

10. The remaining Petitioners (WUI, RCA Globcom, ITT) seek rejection and, in the alternative, suspension and investigation, of portions of the above-referenced revisions. The IRCs state that AT&T's revisions which discontinue the grant of an interruption allowance or billing credit to customers of overseas leased-channel service,[1] where the service interruption is due to a systems failure other than on lines provided to the customer by AT&T, essentially destroys the historic "integrity of service" concept of end-to-end overseas leased channel communications. These revisions are unreasonably discriminatory and thus constitute a violation of Sections 201 and 202 of the Act, they argue, and if implemented would constitute a discontinuance, reduction or impairment of service without AT&T having obtained the necessary Section 214 authority. Further, it is argued that the tariff revisions constitute a rate increase, within the meaning of the Act, and AT&T has failed to support such an increase in compliance with Section 61.38 of the Commission's Rules. Finally, the petitioners urge that the tariff revisions, while ostensibly in compliance with the Commission's Order, go far beyond the requirements of that Order, and, if not rejected by the Commission, should be suspended for the full statutory period during which time the Commission should initiate an appropriate proceeding addressing these questions of lawfulness.

Integrity of Service

11. This concept, the IRCs urge, recognized that an end-to-end overseas leased channel communications capability between U.S. customers and overseas offices will involve U.S. and international carriers, and if such carriers functioned independently of one another the utility of the service would be adversely affected. Historically, when a subscribing customer sought to obtain an overseas communication he did so without regard to the actual discrete facilities required from the different U.S. and foreign carriers. The customer relied upon the primary carrier (usually the IRC) as the one entity assuring that quality end-to-end service would be provided. As a consequence, this cooperative concept has developd among the IRCs and domestic carriers (including AT&T) to the effect that any interruption in service not caused by the customer himself or the equipment under his control will result in a credit allowance to the customer from the IRC and domestic carrier for that portion of the service furnished by each. With its proposed tariff revisions, AT&T has apparently decided it will no longer participate in this concept, except to the extent that the outage occurs on its facilities. Assuming other common carriers, such as the IRCs, follow suit by limiting interruption allowances to the extent of their involvement, the resulting fragmented service would destroy any assurances that the user will enjoy end-to-end service. Further, the IRCs urge, that if this fragmentation is allowed, the emphasis, on clearing the trouble when an outage occurs, will shift to attempting to assess

[1] These proposed revisions are to paragraph 2.4.8 of Tariff F.C.C. No. 260, which, AT&T states, is necessary:

To more clearly set forth the fact that an interruption allowance will not be granted on a Telephone Company—provided private line which is interrupted because of failure of a communication system furnished by an Other Common Carrier * * * [AT&T states] the regulations are not required since no interruption credit is applicable to Telephone Company private lines due to a failure of communications systems provided by others.

the responsibility for the cause of the trouble to the detriment of all concerned. This fingerpointing could then become so widespread that foreign administrations may become involved. The IRCs argue that by proposing these revisions AT&T not only reverses its own longstanding policies concerning integrity of service,[2] but also jeopardizes the comity between the U.S. and foreign administrations in discontinuing outage allowances on international private leased circuits.[3]

12. Additionally, it is alleged that the alteration of the interruption allowance when viewed from the user's expectation of end-to-end service, constitutes a discontinuance and impairment of service in violation of Section 214(a). The test for such discontinuance under this Section is not simply the quantity of the components of facilities provided or the locations served, they urge, but necessarily encompasses the service provided. Where the carrier's action results in a significant impairment of a segment of that service to the public, petitioners allege, it constitutes a discontinuance without proper Section 214 authority. Such a discontinuance, while maintaining this interruption allowance to overseas customers using end-to-end Telephone Company provided facilities, is in violation of Section 202(a) of the Act.[4] AT&T's tariff revisions not only would continue to grant the interruption allowance on its segment of an overseas circuit, but also on the segment provided by the connecting overseas administration, this they insist, singles out the U.S. IRCs and is patently an unjust discrimination. Further, the competitive edge gained by its Long Lines Department in supplying like communications to Hawaii, where AT&T competes with the IRCs for AVD customers, discriminates in favor of through service provided entirely by AT&T and its overseas correspondent, the Hawaiian Telephone Company.

13. The IRCs urge that AT&T's proposed termination of tariff provisions would effectively permit it to collect revenues which customers have previously been entitled to retain. This would amount to a "rate increase" to customers within the meaning of § 61.21 of the Commission's Rules. AT&T's failure to provide appropriate Section 61.38 economic support data in connection with this "rate increase," the IRCs note, would be grounds for rejection of the proposed tariff revision.

14. In its response to the many IRC contentions, AT&T first challenges that "* * * [n]o facts are alleged, or legal theories enunciated, which even arguably meet the criteria asserted by the Commission to be essential for rejection of a tariff * * *" United Video Inc. (supra). The revisions are reasonable, non-discriminatory, in all respects lawful and are in full compliance with the Commission's July 30 Order. Apart from the validity of the arguments discussed, as AT&T previously stated, "these claims are relevant, if at all, solely to issues surrounding the substantive lawfulness of the proposed revisions."

15. In its favor, AT&T argues that service undertakings are different when it provides the customers overall service using its overseas facilities from when the customer pieces out the end-to-end responsibility by a combination of interconnected services provided by different carriers. It stresses that unlawful discrimination exists where the carrier provides the same service to similarly situated customers at different rates or under different regulations. Since AT&T's overseas facilities are limited to voice-only services, its customers and those of the IRCs are not similarly situated, citing TAT-4 Decision, 37 FCC 2d 1151 (1964). AT&T states, the only markets in which it competes with the IRCs would be AVD leased channel service between the U.S. and Hawaii; the provision of certain "grandfathered" AVD circuits to the Department of Defense to other overseas points; and where RCA Globcom serves as both AT&T's correspondent for telephone service between the U.S. and Guam and an IRC for other purposes. AT&T operates a joint-through end-to-end service with the Hawaiian Telephone Company which no IRC does, and this is reflected in their tariffs. By its revisions, AT&T now provides interruption credit co-extensive with the scope of its undertaking, which in the case of the IRCs is the provision of the domestic link. Further, AT&T states that domestic links may be obtained from other domestic carriers, including affiliates of the IRCs. AT&T concludes that the IRCs have not shown that AT&T should continue a discrimination in favor of the IRCs in contravension of the Commission's July 30 Order to eliminate discrimination between the IRCs and the OCCs.

16. In further support of its elimination of the historic interruption allowance for overseas customers, AT&T urges that the Commission's July 30 Order created a situation in which overall communications systems can be pieced together without any one carrier being responsible for the total end-to-end service. The variety of OCC and customer-provided communications systems differ in technical design and equipment requirements. While "telephone company-provided private lines can be connected to such systems, the telephone company has no control over the transmission characteristics, operating parameters and quality and reliability of the overall service beyond that which it provides," and it cannot be required to provide a credit when a failure occurs in another facility. On the basis of that Order, AT&T states, it cannot justify continuing a special credit for customers who connect telephone company-provided private lines to IRC overseas channels where no such credit is given to competing domestic carriers. Historically, AT&T states, it has given a credit for interruption because the provision was desirable for many reasons, the class of carriers involved; the interest of the customers; uniformity in facility design; engineering and technical specification for connection with overseas channels, and customers of IRCs have been dependent on Telephone Company for the domestic portion of their services. There are also "design and testing procedures for international private lines established through regular and continuing consultations with the CCITT," and finally, for international comity.

Discussion

17. RCA Americom and MCI's objections center on the addition of technnical assistance and design change charges, specifically, paragraphs 4.1.10 and 4.1.11 of AT&T's tariff. They allege these revisions are unjust, unreasonable, discriminatory and are without economic justification in violation of Sections 201(b) and 202(a) of the Act.[5] They also allege the requirement that interconnection with the telephone network be made through a "service terminating arrangement" presently furnished by the Telephone Company would indicate AT&T is going to require protective devices or connecting arrangements inconsistent with the procedures agreed to in the Settlement Agreement (supra).

[2] AT&T has stated (memo of January 29, 1964):

It is essential that overall station-to-station service be handled by Long Lines Plant with the International Telegraph Carrier with every attention that would be given if the International facilities were provided by Long Lines.

[3] The most recently revised Recommendation D.1, as approved by the VIth Plenary Assembly of the International Telegraph and Telephone Consultative committee (C.C.I.T.T.) Oct. 1976 in pertinent part provides:

4. *Allowances for interruption.*

4.1 In the event of an interruption of a private leased circuit for which a customer or user is not responsible, an allowance shall normally be made to the customer if there has been an initial period of interruption * * *

4.5 In principle an allowance should be given for all components of the through circuit between the customers' operating terminals regardless of where the interruption occurs * * *

[4] Citing *Bell Telephone Company of Pennsylvania* v. *FCC*, 503 F. 2d 1350 (3d Cir. 1974), where the court stated at 1273–1274:

* * * As we read the order, the FCC has required AT&T to provide to the specialized carriers those elements of private line services which AT&T supplies to its affiliates and furnishes to customers through its Long Lines Department.

[5] In pertinent part these sections provide:

201(b) All charges, practices, classifications, and regulations for and in connection with * * * communications service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful.

202(a) It shall be unlawful for any carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communications service * * *

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16. The charges which AT&T seeks to implement are not dissimilar to the charges agreed to by the parties in the Settlement Agreement (supra). Under AT&T's Tariff 260, as revised, a customer may choose through service provided by AT&T and the carriers concurring in Tariff 260 or the customer may elect to connect his own or an OCC's service with the Tariff 260 services to satisfy his communications requirement. When a customer chooses the second option, each carrier provides the customer with a service independent of any connected service and thus is not responsible for technical problems associated with the other carrier's service. If the customer asks AT&T to diagnose and/or resolve actual and potential problems on a customer or OCC-provided communications system, AT&T may recover the reasonable costs which it incurs in rendering such service. Consequently, we find the charges proposed in paragraphs 4.1.10 and 4.1.11 of AT&T's Tariff 260 have not been shown to be unjust, unreasonable or unlawfully discriminatory within the meaning of Sections 201(b) and 202(a) of the Act. We are further persuaded that AT&T's proposed additional charges are substantially supported by the economic data submitted by AT&T to conform with § 61.38 of the Rules. In addition, AT&T has convincingly answered the questions and concerns expressed by these petitioners that "service terminating arrangements" be supplied and maintained by the telephone company. The remaining objection to the tariff changes raised by the parties, other than the IRCs, we find to be conjecture and not a proper basis for either the rejection or suspension of the proposed tariff revisions.[10] Shell's objection to AT&T's proposed requirement that switching equipment must be used to connect customer-provided systems to the telephone company private line services has been alleviated by the additional revisions AT&T proposes. The revisions provide customers with an alternative method of interconnecting customer-provided systems to common-user switching equipment located in a telephone company central office.[11]

19. As already noted, AT&T's proposed revisions to paragraph 2.4.8 delete the provision for interruption allowances on telephone company provided facilities to the customer for outages which occur on the other common carrier facilities providing overseas service. We are not persuaded that the elimination of this interruption allowance is a discontinuance or impairment of service within the meaning of Section 214(a) of the Rules, principally, because the service provided by AT&T will continue unimpaired to all customers. In addition, we are likewise unpersuaded that the elimination of a billing credit constitutes a "rate increase" within the meaning of Section 61.21 of the Rules that would require additional Section 61.38 economic support data.

20. The IRCs also complain that eliminating the outage credit would destroy the historic distinction between domestic communication services and overseas communication services, which in essence, guaranteed end-to-end credit responsibility when an outage occurred on any portion of an end-on-end overseas private line circuit. After having fully examined AT&T's justifications of its tariff changes, we are of the view that elimination of the interruption allowance on AT&T's portion of an AT&T/IRC international service raises substantial public interest questions.

21. Hinterland customers who request overseas communications, other than voice-only circuits, are required by law to use at least one domestic carrier, an international record carrier and a foreign correspondent to secure end-to-end private line service. Unlike the options available to the domestic customer who may elect either a joint-through service with one carrier having end-to-end responsibility, or a pieced-out service with any number of independent carriers, the overseas customer must use more than one common carrier to secure end-to-end international private line service. The private line customer, in electing to piece-out his communications requirements for reasons of cost or convenience, must balance the risks involved. One of the risks he runs is, that if an outage occurs on a customer-connected service, he may not receive credit from those carriers whose facilities are functioning properly.[12] Even the overseas customer who elects to piece-out portions of the domestic service to the gateway city run the risk of not receiving credit from the domestic carrier whose facilities are functioning properly. The question before us is whether it is in the public interest to require the hinterland customer, who by law must piece-out his overseas communications requirement, to run the risk of not receiving full credit for a service interruption caused by an IRC.

22. Although substantial questions exist regarding the adviseability of eliminating the interruption allowance provision in AT&T's Tariff 260, we are, nonetheless, unable to reject the proposed changes. We find the grounds on which such action may be taken are not present in this case. See United Video (supra). Specifically, the instant revisions meet the requirements of Section 203 of the Act; AT&T has the underlying Section 214 authority to provide the services offered here; and the revisions have not been shown to be so demonstrably in conflict with the Act, our Rules, Regulations or Orders as to be prima facie unlawful.[13]

23. In light of these findings, we will not reject AT&T's proposed tariff revisions. However, because substantial questions have been raised by the petitioners regarding the possible adverse impact that AT&T's elimination of the interruption allowance may have on the public interest, we shall suspend the AT&T revision for a full 5 months and set the matter for hearing to investigate the lawfulness of this proposed revision.

24. Accordingly, it is ordered, That the Petitions to Reject the revisions to AT&T's Tariff FCC No. 260 filed by RCA American Communications, Inc. on December 13, 1976; RCA Global Communications, Inc. and Western Union International, Inc., on December 20, 1976; MCI Telecommunications Corp., on January 3, 1977; and the Computer and Business Equipment Manufacturers Association on January 17, 1971 are denied;

25. It is further ordered, That the Request for Withdrawal of the Petition to Suspend filed by Shell Communications, Inc., on January 21, 1977 is garnted;

26. It is further ordered, That the Petitions to Suspend the revisions to AT&T's Tariff FCC No. 260 filed by RCA Global Communications, Inc. and Western Union International, Inc., on December 20, 1976; ITT World Communications Inc., on December 23, 1976; MCI Telecommunications Corp., on January 3, 1977 are granted in part as to the elimination of an interruption allowance to International Record Carrier customers;

27. It is further ordered, That pursuant to Sections 4(i), 4(j), 201, 202, 204, 205 and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff revision eliminating the interruption allowance to International Record Carrier customers filed by AT&T in Transmittal No. 12627;

28. It is further ordered, That the effectiveness of the revision to AT&T's Tariff FCC No. 260 filed under Transmittal No. 12627 which eliminates the interruption allowances to overseas IRC customers is suspended until July 19, 1977;

[10] The petitioners are assured that any complaints of specific discriminatory treatment will be fully investigated and appropriate action taken.

[11] AT&T filed the proposed revisions on January 14, 1977 under Transmittal No. 12665. Shell filed to withdraw its petition on January 25, 1977.

[12] If a customer could order a service from an independent telephone company, other than a joint through service, which he then connects to the service of another telephone company, the service of a specialized common carrier or the service of any other domestic carrier, that customer would not receive an interruption allowance for any service except the service that causes the interruption. We assume that under these circumstances the technical assistance charges enumerated in paragraph 4.1.10 of AT&T's proposed revisions would also apply when this customer seeks such assistance.

[13] In the recent case of *Delta Airlines, Inc. v. CAB* (D.C. Cir.) (75-1267) (June 22, 1976) citing *Municipal Light Board v. FPC*, 450 F. 2d 1341 (D.C. Cir. 1974) at 1346, the Court declared that for reasons other than proper form and order of filing the "preemptory form of response to filed tariffs * * * [rejection] may be used by an agency where the filing is so patently a nullity as a matter of substantive law, that administrative efficiency and justice are furthered by obviating any docket at the threshold rather than opening a futile docket."

29. It is further ordered, That without limiting of the scope of investigation, it shall include consideration of the following:

(1) Whether and to what extent such revision will subject any person or class of persons to an undue or unreasonable prejudice or disadvantage, or will give any undue or unreasonable preference or advantage to any person or class of persons, within the meaning of Section 202(a) of the Communications Act.

(2) Whether the elimination of the provision granting an interruption allowance to overseas customers is in the public interest.

30. It is further ordered, That the investigation shall be governed by the hearing procedures stated in Section 1 of the Commission's Rules and Regulations. The hearing schedule will be governed by subsequent order of the Chief, Administrative Law Judge.

31. It is further ordered, That a separated trial staff of the Common Carrier Bureau shall participate in the above captioned proceeding. The Chief, Hearing Division and his staff will be separated in accordance with the provisions of Section 1.1209 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-6058 Filed 2-28-77;8:45 am]

HART BROADCASTING CO., INC.

Standard Broadcast Application Ready and Available for Processing

Adopted: February 11, 1977.

Released: February 23, 1977.

Notice is hereby given, pursuant to Section 1.571(c) of the Commission's Rules, that on March 29, 1977, the following standard broadcast application will be considered as ready and available for processing:

BP-20598 New, Phoenixville, Pennsylvania, Hart Broadcasting Co., Inc., Req: 690 kHz, 0.5 kW, DA-Day.

Pursuant to Section 1.227(b)(1) and Section 1.591(b) of the Commission's Rules, an application, in order to be considered with this application or with any other application on file by the close of business March 28, 1977, which involves a conflict necessitating a hearing with this application, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on March 28, 1977.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-6057 Filed 2-28-77;8:45 am]

FEDERAL MARITIME COMMISSION

[No. 77-3]

ALASKA, ET AL.

Filing of Complaint

FEBRUARY 23, 1977.

Notice is hereby given that a complaint filed by the State of Alaska on behalf of Tlingit-Haida Purchasing Association and all others similarly situated against Pelican Cold Storage Inc., and Alaska Outports Transportation Association, Inc. (AOTA) was served February 23, 1977. The complaint alleges that respondents have violated sections 15 and 16 of the Shipping Act, 1916 by refusing to allow complainants to use Pelican's wharfage facilities on shipments made on vessels of AOTA.

Hearing on this matter shall commence on or before August 23, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6129 Filed 2-28-77;8:45 am]

NEW YORK SHIPPING ASSOCIATION, INC., AND TRANSAMERICAN TRAILER TRANSPORT, INC., ET AL.

Action

In the matter of Nos. 71-2, 71-8, 71-26, and 71-34, Transamerican Trailer Transport, Inc., Seatrain Lines, Inc., Daniels & Kennedy, Inc., Chandris America Lines, Inc., Greek Line, Inc., Home Line Agency, Inc., Incres Line v. The New York Shipping Association, Inc.

Notice is hereby given that, on February 23, 1977, the Federal Maritime Commission (Commission) issued an Order in the captioned proceedings, copies of which are available at the Commission's Office at 1100 L Street, N.W., Washington, D.C. 20573, in which the Commission reopened those proceedings to determine the total amount of credits properly granted by the New York Shipping Association, Inc. (NYSA) to compensate water carriers for overpayment of assessments on automobiles made by NYSA to fund longshoremen's benefits for the period October 1, 1969–September 30, 1971 and to recompute overassessments imposed on certain other carriers.

In that order, the Commission observed that NYSA has provided for such credits since February 11, 1975, and that NYSA alleges that it has already granted $635,588 in such credits, which amount constitutes over 86 percent of the total automobile credits for the above specified period which NYSA believes may be sought. As the Commission explained, carriers which have waited for two years and which may still request automobile adjustments for the October 1, 1969–September 30, 1971 period should not be allowed unduly to delay adjustments for those carriers which have diligently pursued their claims. Nor should NYSA be allowed to raise the spectre of possible automobile credits not yet (and possibly not to be) granted to delay adjustments which the Comission found due other carriers. Accordingly, the Commission directed in its February 23, 1977, order that NYSA consider applications for automobile credit adjustments for the aforementioned 1969–1971 period not yet considered only if such applications are received within 60 days of its service. Such applications need not be filed with the Commission or served upon the parties to the captioned proceedings.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6130 Filed 2-28-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP77-219]

COLORADO INTERSTATE GAS CO.

Application

FEBRUARY 22, 1977.

Take notice that on February 11, 1977, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP77-219 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of three 1,200-horsepower compressor units to its existing Sturgis Compressor Station in the Keyes Field area, Cimarron County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the Sturgis Compressor Station compresses all gas from the Keyes Field gathering system, which field has been and must continue to be a dependable source of peak day and annual gas for Applicant's transmission system. It is further stated that subsequent depletion of the reservoir has reduced wellhead pressures and the gathering system efficiency in the Keyes Field with an average wellhead pressure drop of 25 p.s.i. per year. Applicant states that the current compressor units were designed to operate at a suction pressure of 300 p.s.i.g. with a discharge pressure of 500 p.s.i.g., but because of declining wellhead pressure, these same units are currently operating at a suction pressure of 250 p.s.i.g. which is very near the horsepower limitations, rod-loading limitations, and compressor displacement capacity with the 500 p.s.i.g. discharge

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pressure required by the Keyes Helium Plant which receives gas directly from the Sturgis Compressor Station.

Applicant further states that several of the total 117 wells are capable of producing only at rates significantly below potential because of the current 250 p.s.i.g. field gathering system pressure; consequently, the Keyes Field is unable to deliver the designed peak day and annual volumes of 62,980 Mcf and 18,000,000 Mcf, respectively.

Applicant, therefore, proposes to install and operate three 1,200 horsepower compressor units and ancillary equipment at a total estimated cost of $1,751,940, which would permit maintenance of a gathering system pressure equal to 50 percent of the average wellhead shut-in pressure as required by the gas purchase contracts of Applicant. It is indicated that the cost of facilities would be financed from current funds on hand, funds from operations, short-term borrowings, or long-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

To take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-5099 Filed 2-28-77;8:45 am]

[Docket No. CP77-126]

COLUMBIA GAS TRANSMISSION CORP.

Petition to Amend

FEBRUARY 22, 1977.

Take notice that on February 16, 1977, Columbia Gas Transmission Corporation (Petitioner), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP77-126 a petition to amend the Commission's order of January 18, 1977 (57 FPC), as amended on February 1, 1977 (57 FPC), issued in the instant docket pursuant to Section 3 of the Natural Gas Act so as to authorize the importation of additional volumes of natural gas from Canada to the United States, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that pursuant to the Commission's order of January 18, 1977, it was authorized to import and purchase approximately 250,000 Mcf of gas per day for a sixty-day period from TransCanada Pipelines, Ltd. (TransCanada) commencing on January 19, 1977, at a cost of $1.94 per Mcf plus an additional charge to cover the compression and storage expenses incurred by TransCanada and/or its customers.

It is further stated that pursuant to the Commission's order of February 1, 1977, a portion of the gas supply authorized to be imported by Petitioner was allocated to Southern Natural Gas Company (Southern) in order to alleviate Southern's gas supply emergency with deliveries commencing February 2, 1977.

It is asserted that Petitioner's share of such gas is presently being delivered by TransCanada to Great Lakes Gas Transmission Company (Great Lakes) through existing authorized facilities at the International Boundary near Emerson, Manitoba; Great Lakes is transporting and delivering this gas to Michigan Wisconsin Pipe Line Company (Mich-Wisc) through existing facilities at Crystal Falls, Michigan; Mich-Wisc is redelivering part of the gas to Petitioner's affiliate, Columbia Gulf Transmission Company (Columbia Gulf), at various existing points of interconnection between Mich-Wisc and Columbia Gulf in Louisiana, both offshore and onshore; the remainder is being delivered by Mich-Wisc, transported through the systems of Natural Gas Pipeline Company of America, Texas Eastern Transmission Corporation, Texas Gas Transmission Corporation, Trunkline Gas Company and United Gas Pipe Line Company and redelivered to Columbia Gulf in Louisiana, all through existing facilities. It is further asserted that Columbia Gulf is delivering all of the gas under this arrangement to Petitioner's pipeline facilities in Kentucky. Petitioner states that as of February 13, 1977, approximately 10,900,000 Mcf had been imported and purchased from TransCanada, 7,046,431 Mcf of which has been received by Petitioner and 353,500 Mcf by Southern. Petitioner further states that the remainder of the 10,900,000 Mcf is either en route to Petitioner and Southern or temporarily in storage.

Petitioner proposes to amend its import authorization to include the importation and purchase of an additional 12,000,000 Mcf from TransCanada, which addition has been approved by the Canadian National Energy Board. Petitioner states that the additional gas would be imported, purchased and transported generally under the same terms and conditions applicable in the original agreement, but requests an increase in the average daily rate at which it may receive the gas from TransCanada from 187,500 Mcf, i.e., 250,000 Mcf per day less than 62,500 Mcf per day allocated to Southern to 300,000 Mcf. Petitioner also proposes to extend the term during which it is required to import and purchase its share of the TransCanada gas for an additional forty-five days, or until May 3, 1977.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Comission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6004 Filed 2-28-77;8:45 am]

[Docket No. CP77-126]

COLUMBIA GAS TRANSMISSION CORP.

Limited Term Authorization To Import Natural Gas

FEBRUARY 20, 1977.

On February 16, 1977, Columbia filed an emergency application pursuant to Section 3 of the Natural Gas Act, Part 153 of the Commission's Regulations and § 1.7(b) of the Commission's Rules of Practice and Procedure for an amendment to the Commission's orders issued in the above-styled proceeding on January 18, 1977, and February 1, 1977.

On January 18, 1977, Columbia Gas Transmission Corporation (Columbia) filed in Docket No. CP77-126 an application pursuant to Section 3 of the Natural Gas Act for authorization to import natural gas from Canada to the United States for a sixty-day term for use in its general system supply to meet the needs of its customers. By order issued on January 18, 1977, the Commission granted Columbia's request to import and purchase approximately 250,000 Mcf per day for a sixty-day period, or a total of 15 Bcf, from Trans-Canada Pipelines, Ltd. (Trans-Canada) commencing on or about January 19, 1977, at a cost of $1.94 per Mcf plus an additional charge to cover the compression and storage expenses incurred by Trans-Canada.

On February 1, 1977, after a formal hearing, the Commission issued an order in which it found that Southern Natural Gas Company (Southern) also was confronted with a gas supply emergency and directed that a portion of the gas that it had previously authorized Columbia to import and purchase from Trans-Canada be allocated and delivered to Southern on a prospective basis from and after February 2, 1977. Under the latter order Columbia was authorized to receive said gas at an average daily rate of 187,500 Mcf and Southern at an average daily rate of 62,500 Mcf.

In the instant emergency application requesting authorization to import additional gas from Trans-Canada, Columbia notes that as of February 13, 1977, approximately 10.9 Bcf of the initial 15 Bcf authorized has been imported and purchased from Trans-Canada. Columbia also asserts that it has recently culminated negotiations for the importation and purchase of an additional 12 Bcf from Trans-Canada. On February 15, 1977, the Canadian National Energy Board issued the necessary authorization permitting Trans-Canada to export this additional 12 Bcf to the United States.

Columbia contemplates that the subject additional 12 Bcf will be imported, purchased and transported generally under the same terms and conditions applicable to the original 15 Bcf. However, Columbia requests the Commission to increase the average daily rate at which Columbia may receive gas from Trans-Canada to 300,000 Mcf.

Under the Commission's February 1, 1977, order in the above-styled proceeding, Columbia is currently authorized to import 187,500 Mcf on an average daily basis, i.e., 250,000 Mcf per day less the 62,500 Mcf per day allocated to Southern. Columbia, with the additional volumes available from Trans-Canada, requests authorization to raise the import volumes authorized in the above-styled proceeding to 300,000 Mcf on an average daily basis and to further extend the limited importation period of sixty days by an additional 45 days.[1]

The months of November and December 1976 were 35 percent and 17 percent colder than normal. This trend has continued during the month of January.[2] On November 1, 1976, Columbia imposed a curtailment level of 210 Bcf which equates to a curtailment of 63 percent of Priority 2 of Columbia's 3-priority plan. Due to the cold winter weather, on January 1, 1977, this level was increased to 70 percent of Priority 2 for the remaining 3 winter months. Columbia furthermore indicates that it is experiencing a dramatic drawdown of storage volume which reduces the amount of gas that can be withdrawn from storage on any given day during the remainder of the winter. Columbia expects subsequent to February 1, 1977, for the remainder of the winter daily deficiencies of up to 1,100,000 Mcf of gas under the optimistic forecast of normal weather and a projected flowing gas supply based upon historical temperatures.

The Commission is cognizant of the unprecedented cold weather which has affected the eastern and southern portions of the country including Columbia's service region. On January 14, 1977, in the order issued in Docket No. CP77-116, Houston Pipeline Company, we noted that numerous natural gas pipelines are now facing, or shortly will face, natural gas supply shortfalls to meet high priority loads and that emergency measures are needed to cope with this situation (mimeo p. 2). The application by Columbia for a limited term authorization herein clearly demonstrates that additional gas is needed to assist Columbia in maintaining its ability to render natural gas service to its customers.

The Commission, however, as it did in the January 18, 1977, order in this proceeding again reaches no conclusion as to the need of Columbia to this additional gas relative to other pipelines. The Commission immediately subsequent to authorizing Columbia in that order to import 15 Bcf from Canada established accelerated procedures to determine whether other jurisdictional pipeline had an equivalent or greater relative need to the import gas than Columbia. As a result of these procedures the Commission was able to determine that an equitable allocation between two pipelines was in the public interest.

Viewed in the context of Columbia's needs alone, we shall grant authorization for the proposed importation to the extent possible. However, the public interest requires that the authorization here issued be conditioned to allow a subsequent evaluation of the relative needs of other jurisdictional pipelines.[3]

Therefore, concurrently herewith we are issuing a notice inviting those interstate natural gas pipelines who are experiencing emergency conditions on their systems and who wish to receive some or part of the additional importation authorized by this order[4] to so advise the Commission by February 24, 1977. This authorization will be granted under the broad powers conferred upon the Commission by Sections 3 and 16 of the Natural Gas Act. PUC of New York v. FPC, 327 F.2d 893, Niagara Mohawk Power Corporation v. FPC, 379 F.2d 153.

Columbia's request to amend its import authorization in the above-styled proceeding was duly noticed pursuant to order 164-A on February 17, 1977.

The Commission finds: (1) A natural gas supply emergency situation exists on the Columbia Gas Transmission Corporation system which has substantially diminished Columbia's ability to render natural gas service to its high priority customers.

(2) Approval of the proposed importation of additional short term Canadian gas by Columbia for the extended period noted above will materially assist in helping to alleviate curtailment of high priority customers and is consistent with the public interest.

(3) It is necessary and appropriate for the purposes of the Natural Gas Act and the Commission's Regulations thereunder to waive the Commission's Regulations as hereinafter provided.

The Commission orders: (A) Columbia Gas Transmission Corporation's authorization to import natural gas from Canada in the above-styled proceeding is amended by providing for the importation of an additional 12 Bcf of gas above the 15 Bcf of gas initially authorized by our order of January 18, 1977, (as amended by Commission order of February 1, 1977), upon the terms and conditions outlined below and as more fully described in the applications filed in Docket No. CP77-126 and the context of this order.

(B) Columbia's initial import authorization in the above-styled proceeding is further amended to enable that company to increase its presently authorized average daily rate of import gas from Trans-Canada to 300,000 Mcf as of the date of the issuance of this order.

(C) Columbia's initial import authorization in the above-styled proceeding is also amended to enable Columbia to import the volumes set forth in ordering paragraphs (A) and (B) for a term of 45 days from the issuance date of this order.

(D) The gas imported under the subject arrangement shall not be used to displace alternate fuel capability or cause other gas to displace alternate fuel capability.

[1] The initial sixty-day importation commenced on or about January 19, 1977, and should conclude by the terms of our initial order about March 19, 1977. By granting a 45 day extension the presently contemplated importation should terminate on or about May 3, 1977.

[2] The months of October and November were the coldest experienced on Columbia's system in 30 years, and December was the fifth coldest in 30 years.

[3] This would include whatever evaluation might be made by the Administrator of the Emergency Natural Gas Act of 1977 under Public Law 95-2 or by the Commission upon request of the Administrator. Section 4(e) of that Act contemplates data exchanges between this Commission and the Administrator to facilitate the discharge of the purposes of that Act and the Natural Gas Act.

[4] In accordance with our order of February 1, 1977, in "Columbia Gas Transmission Company" Docket No. CP77-126, we shall not entertain petitions for allocation of this gas filed by distributor company customers of an interstate pipeline.

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(E) Columbia shall file within 10 days after the initial importation of the additional gas herein its contract for the purchase of such gas with Trans-Canada and any other contracts which are designed to effectuate the transportation of the imported gas to its intended market.

(F) It could become necessary for Columbia to sell this imported gas, as directed by the Commission, to pipelines with a greater need to protect high priority users. This order is conditioned to allow a subsequent evaluation of the relative needs of Columbia and other natural gas pipelines to the subject gas.

(G) Pursuant to the provisions of § 1.7 of the Commission's Rules of Practice and Procedure, the following sections of the Commission's Regulations are hereby waived to facilitate issuance of this order: § 2.1 of the Commission's General Policy and Interpretations and § 153.4 of the Commission's Regulations under the Natural Gas Act.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6002 Filed 2-28-77;8:45 am]

[Docket No. ER77-197]

FLORIDA POWER CORP.

Initial Filing

FEBRUARY 18, 1977.

Take notice that Florida Power Corporation ("the Company") on February 11, 1977, tendered for filing as an initial rate schedule to FPC Electric Tariff Original Volume No. 2 covering generating support service to participants in the new Crystal River No. 3 nuclear generating plant.

The Company has sold 10% undivided interest in that plant to ten municipal utilities and one cooperative utility. The present filing covers various supplementary services provided by the Company to the Crystal River No. 3 participants. Those supplementary services are (1) operating reserve requirement service, (2) deficiency energy service, (3) firming capacity service, (4) transmission loss service, and (5) generation reliability for transmission service.

Copies of the filing were served upon the affected jurisdictional customers and the Florida Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before March 2, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-5997 Filed 2-28-77;8:45 am]

[Docket No. RI77-7]

GRUY MANAGEMENT SERVICE CO.

Special Relief; Hearing

FEBRUARY 22, 1977.

On November 5, 1976, Gruy Management Service Company (Gruy), Operator for V. A. Hughes, et al., filed a petition for special relief from the national flowing gas ceiling pursuant to § 2.76 of the Commission's Rules of Practice and Procedure. Specifically, Gruy requests permission to increase its present rate of 35.0 cents per Mcf to a proposed rate of 76.51 cents per Mcf for gas it is selling to Texas Gas Transmission Corporation (Texas Gas) from the Rosa Jones Well, Panola County, Texas. Texas Gas has agreed to raise their contract to a "price found by the Commission to be just and reasonable" under the provisions of Order No. 481, in order that deliveries of natural gas may continue.

Gruy's petition was noticed on November 18, 1976. Texas Gas filed a timely petition to intervene on November 24, 1976.

Gruy indicates that should the requested economic relief be granted, it will repair a compressor on the Rosa Jones Well and a compressor on the C. Williamson Well which will enable it to continue production from the Rosa Jones Well. Based on its own data, Gruy estimates that it could produce 76,500 Mcf of gas and 3,826 BBls of liquids from the field over a six year period.

Based on the same historical data, Staff estimates that 221,608 Mcf of gas, 1074 BBls of lease condensate and 4,600 BBls of plant liquids could be produced from this well over the next thirteen and one-half year period. After reviewing the economics of this proposal, Staff finds that the cost of this gas, using its own reserve estimate, with a 15 percent rate of return would be 52.08 cents per Mcf, rather than Gruy's proposed 76.51 cents per Mcf.

Gruy indicates that it presently pays 7.5 cents per Mcf in compression expenses to Champlin, a plant operator. Staff questions the necessity of the great expense of repairs to the Rosa Jones and C. Williamson lease compressors in comparison to the small amount of compression expenses paid to Champlin.

Further, Staff questions the cost allocation method used by Gruy to determine the compression costs borne by each well, and specifically, the method used to determine the cost and operating expenses of the Rosa Jones Well.

Upon consideration, the Commission has concluded that these matters could best be resolved in formal hearing.

The Commission finds: Good cause exists to set for formal hearing the above docketed proceeding.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, 15, and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Naural Gas Act (18 CFR, Chapter I), Docket No. RI77-7 is set for the purpose of hearing and disposition in a hearing room of the Federal Power Commission, 825 North Capitol Street NE, Washington, D.C. 20426.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

(C) Gruy shall file its direct testimony and evidence on or before March 16, 1977. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(D) Texas Gas is permitted to intervene in the above entitled proceeding, subject to the Rules and Regulations of the Commission: *provided, however,* that their participation shall be limited to matters affecting their asserted rights and interests specifically set forth in their petitions for leave to intervene; and *Provided, further,* That the admission of Texas Gas in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that they agree to accept the record as it now stands.

(E) The Presiding Administrative Law Judge shall preside at a pre-hearing conference to be held on April 5, 1977, at 10:00 a.m. EST, in a hearing room at the address noted in Ordering Paragraph (A).

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6003 Filed 2-28-77;8:45 am]

[Docket No. CP77-232]

NATIONAL FUEL GAS SUPPLY CORP.

Importation of Natural Gas

FEBRUARY 20, 1977.

On February 17, 1977, National Fuel Gas Supply Corporation (Supply) filed in Docket No. CP77-232 an application pursuant to Section 3 of the Natural Gas Act for authorization to import natural gas from Canada to the United States for a term of less than 60 days to augment its general system supply to meet the high priority needs of its customers, all as more fully set forth in the application.

Supply proposes to import from Canada up to approximately 600,000 Mcf of natural gas during the period, February 19, 1977, through March 31, 1977, to be purchased from TransCanada Pipelines, Ltd. (TransCanada), at a daily rate, up to 40,000 Mcf per day, as shall be mutually agreeable to TransCanada and Supply. Such gas will be made available to TransCanada by Gaz Metropolitain, Inc. (Gaz Metro), a distribution company customer of TransCanada, near Oakville, Ontario, at an existing point of interconnection between the facilities of TransCanada and Union Gas Company of Canada, Ltd. (Union Gas), which is storing gas for the account of Gaz Metro. Under the arrangement, TransCanada will repay such volumes to Gaz Metro commencing April 1, 1977, on a first-gas-through-the-meter basis. To the extent such gas has not been repaid on July 1, 1977, or a later effective date of an increase in TransCanada's purchased gas cost, Supply will be required to pay TransCanada an amount equal to the product of such difference multiplied by such increase, which, Supply estimates on the basis of recent history, may amount to $.25 per million Btu.

The imported gas is proposed to be delivered by TransCanada to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), for the account of Supply, at the existing point of interconnection between the facilities of TransCanada and Tennessee at the United States-Canadian border near Lewiston, New York. The application states that Tennessee has agreed to receive such volumes from TransCanada, for the account of Supply, at the import point and to transport and redeliver equivalent daily volumes to Supply at its Lewiston, Pekin and/or Clarence, New York, sales meter station delivery points to Supply through the use of existing facilities, on a best efforts basis, pursuant to Section 157.22 of the Commission's Regulations under the Natural Gas Act for a charge of $.30 per Mcf.

Supply proposes to pay TransCanada a base rate of up to $2.73 (Canadian) per million Btu. This rate is composed of the Canadian National Energy Board (NEB) border price of $1.94 per million Btu; $.06 per million Btu to reimburse TransCanada for its transmission costs from Oakville, Ontario, to its Niagara Connection with Tennessee at the import point; and an amount yet to be determined by the NEB, not to exceed $.73 per million Btu to reimburse Gas Metro for the cost of the Union Gas storage service and other operations necessary to accommodate the subject sale. No executed contract for this purchase was submitted with the application pursuant to § 153.4 of the Commission's Regulations nor is there any indication that the NEB has issued an export license for the sale; however, the application states that TransCanada expects a license to be issued promptly. In view of the emergency to be addressed, we will waive these requirements of § 153.4 of our Regulations; however, the authorization herein granted will be conditioned upon the filing of such purchase contract as required by § 153.8 of our Regulations as well as the issuance of an NEB export license.

In its applications, Supply asserts that prompt authorization of this limited term importation and purchase is urgently needed to assist in mitigating the unprecedented gas supply situation on its system. Supply summarizes its supply situation thus: The period since November, 1976 has been the coldest winter on record in its service territory. November and December 1976 and January 1977 have been 24.5 percent, 18.3 percent and 24.3 percent colder than normal, respectively. As a result of this extraordinarily cold weather and curtailments by its pipeline suppliers which, Supply asserts, increased from 73,243 Mcf per day on November 1, 1976, to 137,340 Mcf per day February 1, 1977, Supply's underground storages have experienced dramatic drawdowns to the extent that at February 4, 1977, Supply's top storage inventory, which, on November 1, 1976, was at historic design levels, registered approximately 16.6 million Mcf, a point not projected to be reached until March 21, 1977.

Supply asserts that in response to this emergency situation it is curtailing its resale customers at an average aggregate daily rate of 208,714 Mcf, which equates to 60.3 percent of its Priority 2 requirements and translates into service of only industrial and commercial plant protection requirements plus residential heating levels of 65° F. in daytime and 55° F. at night. Supply projects that curtailments of this order of magnitude through March 1977 (i.e., 67 percent of its March Priority 2 requirements) will be necessary in order to meet its resale customers' peak day residential heating and commercial and industrial plant protection requirements, assuming only 5 percent colder than normal weather during the balance of the heating season.

The Commission is cognizant of the unprecedented cold weather which has affected the eastern and southern portions of the country, including Supply's service region. On January 14, 1977, in the Order issued in Docket No. CP77-116, Houston Pipeline Company, we noted that numerous natural gas pipelines are now facing, or shortly will face, natural gas supply shortfalls to meet high priority loads and that emergency measures are needed to cope with this situation (mimeo p. 2). On February 8, 1977, in the declaratory order issued in Docket No. CP77-38, National Fuel Gas Supply Corporation, we noted that the substantially colder than normal winter weather prevailing east of the Rocky Mountains has resulted in extreme emergency conditions on many of the pipelines serving that area, and caused numerous pipelines to experience increased difficulties in procuring emergency supplies of gas to cope with the crisis confronting them (mimeo p. 2). The instant application by Supply clearly demonstrates that additional gas is needed to assist Supply in maintaining its ability to render adequate natural gas service to its customers, however, in reaching this conclusion the Commission makes no funding as to the need of supply for the gas relative to the needs of other pipelines.

Supply further requests assurance that it will be permitted to recover, through the operation of the purchased gas adjustment provision of its FPC Gas Tariff, the purchase price of the imported natural gas, as well as the transportation charge of $ .30 per Mcf to be paid to Tennessee for the transportation of this gas to Supply's system.

It appears that Supply's purchase of the subject gas is consistent with prudent operation under the circumstances disclosed in the application. As noted above, the extraordinarily cold winter has made it increasingly difficult for pipelines to procure emergency supplies of gas to cope with the crisis confronting them. In this connection, we have also considered Supply's need for the gas as shown in the application, the availability and price of other gas supplies, the amount of gas proposed to be purchased by Supply, and the relationship between the purchaser and the seller.

Insofar as Tennessee's transportation of the subject gas for the account of Supply is concerned, we find that such transportation constitutes the "operation of facilities * * * necessary to assure maintenance of adequate gas service where * * * serious curtailment of service exists * * *" (18 CFR 157.22(a); see also Order Granting Relief issued January 19, 1977 in Docket No. CP77-129, East Tennessee Natural Gas Company.) Supply is therefore entitled to recover Tennessee's transportation charge of $.30 per Mcf. While § 157.22 does not provide a specific mechanism for the recovery of these charges, they should be recovered in the same manner as the prices paid for emergency gas purchases through Supply's purchased gas adjustment clause. The amount so paid should be clearly indicated as charges for the transportation of emergency gas. Authorization for recovery of these charges will be conditioned upon execution of a transportation contract with Tennessee and the filing thereof with the Commission by Supply as required by § 153.8 of the Regulations under the Act.

On February 18, 1977, Supply's Application to import this gas was duly noticed pursuant to Order No. 164-A.

The Commission finds: (1) A natural gas supply emergency situation exists on the National Fuel Gas Supply Corporation system which has substantially diminished Supply's ability to render natural gas service to its high priority customers.

(2) Approval of the proposed importation of gas by Supply will materially assist in helping to alleviate curtailment

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of high priority customers and is consistent with the public interest.

(3) It is necessary and appropriate for the purposes of the Natural Gas Act and the Commission's Regulations thereunder to waive the Commission's Regulations as hereinafter provided.

The Commission orders: (A) National Fuel Gas Supply Corporation is hereby authorized to import up to approximately 600,000 Mcf of natural gas from Canada during the period February 19, 1977, through March 31, 1977, as hereinbefore described and as more fully described in the application, upon the terms and conditions of this order.

(B) Supply is authorized to recover, through the operation of the purchased gas adjustment clause of its FPC Gas Tariff, the actual purchase price of the subject gas and a transportation charge of $.330 per Mcf to be paid to Tennessee for transporting this gas to Supply's system. This authorization is conditioned upon execution of a transportation contract with Tennessee and the filing thereof by Supply with the Commission pursuant to § 153.8 of the Regulations under the Natural Gas Act.

(C) The import authorization herein granted is conditioned upon the appropriate authorizations being received from the National Energy Board of Canada for the exportation of the subject natural gas from Canada, and further subject to adjustment to reflect any action by the NEB covering the storage charge. However, such import authorization shall not reflect more than the 73 cent per MMBtu for the storage charge as proposed in the filing.

(D) The gas imported under the subject arrangement shall not be used to displace alternate fuel capability or cause other gas to displace alternate fuel capability.

(E) Supply shall file within ten days after the intial importation of gas herein its contract for the purchase of such gas with TransCanada.

(F) It could become necessary for Supply to sell this additional amount of natural gas authorized to be imported herein above, as directed by the Commission, to pipelines with a greater need to protect high priority users. This order is conditioned to allow a subsequent evaluation of the relative needs of Supply and other natural gas pipelines to the subject gas and appropriate action by the Commission relative thereto.

(G) Pursuant to the provisions of § 1.7 of the Commission's Rules of Practice and Procedure, the following sections of the Commission's Regulations are hereby waived to facilitate issuance of this order: § 2.1 of the Commission's General Policy and Interpretations and § 153.4 of the Commission's Regulations under the Natural Gas Act.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6001 Filed 2-28-77;8:45 am]

[Docket No. CP77-226]

NATURAL GAS PIPELINE CO. OF AMERICA AND UNITED GAS PIPE LINE CO.

Application

FEBRUARY 22, 1977.

Take notice that on February 16, 1977, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois, 60603, and United Gas Pipe Line Company (United), 700 Milam Street, Houston, Texas, 77001, hereinafter collectively referred to as "Applicants", filed in Docket No. CP77-226 a joint abbreviated application, pursuant to Section 7(c) of the Natural Gas Act, whereby Natural and United would exchange up to 65,000 Mcf per day of natural gas, all as more fully set forth in the abbreviated joint application, which is on file with the Commission and open to public inspection.

Natural has additional volumes of gas available for purchase from Shell Oil Company (Shell) in Block 331, Eugene Island Area, offshore Louisiana. Such volumes are in excess of Natural's entitlements in the pipeline jointly owned by Natural, Columbia Gulf Transmission Company and Tennessee Gas Pipeline Company (C-N-T Pipeline) through which Natural has been transporting the volumes of gas purchased from Shell in Block 331. Sea Robin Pipeline Company (Sea Robin) has an existing offshore pipeline system proximate to Block 331 located in Block 315, Eugene Island, and has agreed to transport the additional volumes for Natural as provided in the Transportation Agreement dated February 9, 1977, and redeliver such gas to United Gas Pipe Line Company at Sea Robin's terminus near Erath, Vermilion Parish, Louisiana. Natural will construct approximately 23,000 feet of 12-inch gathering pipeline to connect Block 331 to Sea Robin's existing subsea tap in Block 315 under its Gas Purchase Facilities Budget Authorization in Docket No. CP76-460.

Applicants have entered into an exchange agreement dated February 9, 1977, whereby United proposes to accept up to 65,000 Mcf per day of gas from Sea Robin at its terminus near Erath for Natural's account and by displacement redeliver thermally equivalent volumes to Natural at the outlet of the Texaco Henry Plant near Erath, Vermilion Parish, Louisiana. Applicants propose to utilize their existing common purchase point at the outlet of Mobil Cameron Meadows Plant, Cameron Parish, Louisiana, to balance exchange volumes when deliveries to Natural at the Erath delivery point are insufficient to match the volumes delivered to Sea Robin.

The exchange will be effectuated through existing facilities for a primary term of 7½ years from date of initial receipt and redelivery and thereafter subject to termination of either party by twelve (12) months notice to the other party.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 11, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6005 Filed 2-28-77;8:45 am]

[Docket No. ES77-14]

NORTHWESTERN PUBLIC SERVICE CO.

Application

FEBRUARY 18, 1977.

Take notice that on January 21, 1977, Northwestern Public Service Company (Applicant), filed an application, pursuant to Section 204 of the Federal Power Act, and the Regulations thereunder, for authorization to negotiate privately with the City of Salix, Iowa, for the financing of the Company's share of the pollution control facilities for Unit No. 4 of the George Neal Generating Station through the issuance by the City of the City's Pollution Control Revenue Bonds. The Company-City arrangement would commit the Applicant to complete the construction of the Company's share of the pollution control facilities, and commit the City to issue and sell to purchasers its Pollution Control Revenue Bonds in a principal amount necessary to pay the cost of such facilities.

Applicant is incorporated under the laws of the State of Delaware and is qualified to do business in the States of North Dakota, South Dakota, and Nebraska, with its principal business office at Huron, South Dakota. Applicant is engaged in generating, transmitting, distributing and selling electric energy in the east central portion of South Dakota where it furnishes electric service in 108 communities and in distributing and selling natural gas in three Nebraska communities and in 24 communities in South Dakota.

Any person desiring to be heard, or to make any protest with reference to the application, should on or before March 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-5996 Filed 2-28-77;8:45 am]

Project No. 2782

PAROWAN CITY, UTAH

Application for Minor License

FEBRUARY 22, 1977.

Public notice is herby given that an application was filed on November 15, 1976, under the Federal Power Act, 16 U.S.C. 791a-825r, by Parowan City, Utah (Correspondence to: Kendall D. Gurr, Mayor, Parowan City, Utah 84761; Dennis B. Horman, Senior Engineer, Intermountain Consumer Power Association, PO. Box BB, Sandy, Utah; and Dennis Lowder, City Recorder, Parowan City Offices, Parowan City, Utah 84761) for a minor license for its constructed Red Creek Canyon Diversion Works, Project No. 2782, located on Red Creek and South Fork of Red Creek in Iron County, near the City of Paragonah, Utah. The project is located on lands of the United States.

The Red Creek Canyon Diversion Works consist of: (1) a small concrete overflow-type diversion dam approximately 48 feet long, controlled by a radial gate; (2) a concrete intake structure with trash racks on the southwest end of the diversion dam; (3) a 16,098-foot long steel penstock (7,838 feet of 12 gauge, 18-inch diameter pipe; 1,408 feet of 10 gauge, 18-inch diameter pipe; 2,620 feet of 10 gauge, 16-inch diameter pipe; and 4,232 feet of 7 gauge, 16-inch diameter pipe); (4) an indoor-type powerhouse with a single generator rated at 500 kw; and (5) appurtenant facilities.

The South Fork Diversion Works consists of: (1) a small concrete overflow-type diversion dam approximately 29 feet long, controlled by a radial gate; (2) a concrete intake structure with trash racks on the west end of the diversion dam; and (3) a 4,263-foot long steel penstock of 12 gauge, 10-inch pipe which joins the penstock from the Red Creek Canyon Diversion Works approximately 8,228 feet from the powerhouse.

Parowan City is a municipality as defined by Section 3(7) of the Act, 16 U.S.C. 796(7), engaged in the generating purchasing, distributing and selling of electric power and energy to domestic, commercial and industrial customers in and around the city limits. Parowan City also supplies power and energy to the Town of Paragonah.

Parowan City has requested the shortened procedures pursuant to § 1.32(b) of the Commission's Rules and Regulations, 18 CFR 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should on or before April 25, 1977, file with the Federal Power Commission, 825 N. Capitol Street N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1975). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act, 16 U.S.C. 825g and 825h, and the Commission's Rules of Practice and Procedure, specifically § 1.32(b), as amended by Order No. 518, a hearing on this application may be held before the Commission without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6000 Filed 2-28-77;8:45 am]

FEDERAL RESERVE SYSTEM

AMERICAN BANCORP, INC.

Acquisition of Bank

American Bancorp, Inc., Lansing, Michigan, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Muskegon Bank and Trust Company, Muskegon, Michigan. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act 12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 17, 1977.

Board of Governors of the Federal Reserve System, February 23, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6019 Filed 2-28-77;8:45 am]

D. H. BALDWIN CO.

Order Denying Retention of Empire Savings, Building and Loan Association

D. H. Baldwin Company, Cincinnati, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2) (1976)), to retain all of the voting shares of Empire Savings, Building and Loan Association, Denver, Colorado ("Empire"), and its wholly-owned service corporation subsidiary, ESL Corporation, Denver, Colorado ("ESL"). In decisions involving two applications previously considered by the Board under section 4(c)(8) of the Act, the activity of operating a savings and loan association has been determined by the Board to be closely related to banking.

Notice of the application, affording opportunity for interested persons to submit comments and views has been duly published (41 FR 26276 (1976)). The time for filing comments and views has expired and the Board has considered the application and all comments received, including those of the Federal Home Loan Bank Board ("FHLBB") and the United States Department of Justice, in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)). In considering this application, the Board also took into account the record of a rulemaking proceeding initiated in 1973 concerning the general question whether the operation of a savings and loan association is so closely related to banking or managing or controlling banks as to be a proper incident thereto, as well as records in two adjudicatory proceedings concerning applications from bank holding companies to engage in the savings and loan business.[1]

[1] See the Board's Order of November 4, 1974, denying the application of American Fletcher Corporation, Indianapolis, Indiana, to acquire shares of Southwest Savings and Loan Association, Phoenix, Arizona. 39 FR 39912 (1974); 60 Federal Reserve Bulletin 868 (1974). In addition, refer to the Board's Order of April 10, 1975, denying the application of Memphis Trust Company, Memphis, Tennessee, to acquire Homeowners Savings and Loan Association, Inc., Collierville, Tennessee, a newly-formed savings and loan association. 40 FR 17199 (1975); 61 Federal Reserve Bulletin 327 (1975).

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Applicant, the fourth largest commercial banking organization in Colorado, controls 12 banks with aggregate deposits of $582.1 million,[2] representing approximately 7.7 per cent of the total deposits in commercial banks in that State. Applicant also controls several nonbanking subsidiaries engaged in underwriting life and casualty insurance, performing commercial mortgage and leasing activities, and manufacturing and marketing musical instruments.[3] Applicant also engages, through Empire, in savings and loan activities. Applicant acquired all of Empire's outstanding shares pursuant to an approval Order issued by the FHLBB on January 17, 1969.[4] Pursuant to section 4(a)(2), a company that became a bank holding company as a result of the 1970 Amendments to the Act, such as Applicant, is entitled to 10-year grandfather rights for an activity that it acquired after June 30, 1968, but on or before December 31, 1970. Therefore, Applicant is required to divest itself of Empire by December 31, 1980. The subject application has been filed pursuant to section 4(c)(8) to enable Applicant to retain Empire beyond December 31, 1980.

Empire is a state-chartered stock savings and loan association that conducts its business from a head office in Denver, Colorado, and 17 branch locations throughout that State. Pursuant to Colorado law and FHLBB regulations, Empire is empowered to make real estate loans, and certain installment and commercial loans; to accept savings accounts; and to issue certificates of deposits. Empire is also able to order payments to be made to third persons even though it cannot accept demand deposits. As a further extension of its activities, Empire operates a small insurance agency and owns 100 per cent of the capital stock of a service corporation subsidiary ("ESL")[5] that is involved in two joint ventures that engage in land development and in the construction and sale of residential units. ESL is also the general partner in a limited partnership that owns and operates an apartment complex.

As noted above, the Board has previously had an opportunity to consider both the nature and the structure of the savings and loan industry in connection with a rulemaking proceeding and in the context of two applications by bank holding companies to engage in the activity of operating a savings and loan association. The Board concluded in those proceedings that the savings and loan business is "closely related" to banking, within the meaning of section 4(c)(8) of the Act.[6] While the Board has determined this activity to be "closely related" to banking, it has not formally amended Regulation Y to add the savings and loan business to the list of activities permissible for bank holding companies because it has not yet made the judgment that this activity is in general a "proper incident" to banking. Whether the activity of operating a savings and loan association is a "proper incident" to banking, within the meaning of section 4(c)(8), requires a determination by the Board that the performance of the activity by a bank holding company can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. In applying this balancing test, the Board may consider not only the benefits and detriments specifically enumerated in the statute that may be involved in a particular case, but also the broader questions of economic and regulatory policy that may be raised by a proposal. In the present case, the Board is unable to make a determination favorable to Applicant on the "proper incident" test, either with regard to the particular facts presented in this case or on the broader issue as to the propriety of affiliations, through the means of a bank holding company, between banks and savings and loan associations generally.

The Board has previously indicated that it regards the standards under section 4(c)(8) of the Act for retention of a 10-year grandfathered activity to be the same as the standards for a proposed acquisition. Accordingly, in this case, the competitive effects of Applicant's retention of Empire must be examined and evaluated both as of the time of the original acquisition in 1969 and as of the present time. In view of the fact that banks and savings and loan associations are competitors in several product or service lines, the competitive analysis of the retention by a bank holding company of a savings and loan association is essentially similar to that regularly applied by the Board in passing upon applications from bank holding companies to acquire additional banks or nonbanking companies that are competitive with banks.

Applicant is the fourth largest banking organization in the Denver market[7] through its control of three banks (including Central Bank of Denver) with aggregate deposits of $376.6 million, representing approximately 8.9 per cent of the total deposits in the market's commercial banks. In addition, Applicant (excluding Empire) controls $188.9 million of the time and savings deposits in the market, representing approximately 4.5 per cent of the total time and savings deposits therein.

Empire, the fifth largest savings and loan association in Colorado, controls total savings deposits of $329.7 million, representing approximately 4.5 percent of the total savings deposits in the State. Empire's home office, as well as 11 of its branch offices, are located within the Denver market and all but three of those offices are situated within seven miles of one of Applicant's three banks in that market. Within the Denver market, Empire is the fifth largest of 17 savings and loan associations and controls total savings deposits of $236.6 million, representing approximately 5.7 percent of the market's total savings deposits.

In analyzing competition between a commercial bank and a savings and loan association, the Board believes it appropriate to focus on two relevant product markets: (i) Commercial bank and savings and loan association time and savings deposits; and (ii) originations of one-to-four family residential mortgage loans.

Applicant's acquisition of Empire in 1969 increased Applicant's share of total time and savings deposits in the Denver market held by commercial banks and savings and loan associations from approximately 4.3 percent to 9.2 percent ($84 million to $180 million) and increased Applicant's rank from eighth to second among all commercial banking organizations and savings and loan associations. As of December 31, 1975, Applicant (including Empire) controlled approximately 10.3 percent ($425.6 million) of the total time and savings deposits in both commercial banks and savings and loan associations in the Denver market, and it continued as the second largest of such organizations. It appears that the acquisition in 1969 by Applicant (then the fourth largest banking organization in the market) of Empire (then the fifth largest savings and loan association in the market) did eliminate existing competition for time and savings deposits in the market between those two organizations. In view of their relative sizes and market positions, it is clear that in 1969 Applicant and Empire were significant competitors in the Denver market for deposits and, therefore, the Board concludes, based upon all the facts of record, that the acquisition in 1969 of Empire by Applicant had an adverse effect upon existing competition for deposits in the relevant market.

With respect to mortgage lending activities, Applicant's acquisition of Empire in 1969 increased Applicant's share of one-to-four family residential mortgage loan originations in the Denver SMSA at the time from approximately 2 per cent to 3.8 per cent ($21.1 million). Even though Applicant's market share of one-to-four family residential mortgage loan originations in the Denver SMSA decreased to approximately 2.7 per cent ($40.2 million) in 1974, it appears that Applicant's acquisition in 1969 of Empire did eliminate existing competition for mortgage loan originations (particularly one-to-four family) in the Denver mortgage market. Accordingly, based upon the facts of record, the Board concludes that the original acquisition by Applicant had an adverse effect upon existing competition for residential mortgage loans in the relevant market.

The Board further concludes that there would be public benefits derived from disaffiliation of Baldwin and Empire. These benefits would be reflected in the reintroduction of Empire as an independent competitor in the two product lines discussed above, thus enhancing future competition in the relevant market.[8]

In commenting to the Board on the subject application the Department of Justice recommends denial of the application based upon both the adverse competitive effects that resulted from Empire's acquisition of Jefferson Savings & Loan in 1970 and the persistence, and possible worsening, of such adverse competitive effects since that acquisition. On the basis of all the facts of record, including the comments submitted by the Department of Justice, the Board concludes that the adverse competitive considerations relating to this application weigh against approval.

In support of its proposal, Applicant has stated that its affiliation with Empire has produced public benefits that generally would not have occurred without such affiliation: (1) the expansion of mortgage lending since 1969; (2) the expansion of Empire's facilities and services that have improved convenience to the public; and (3) the improved financial condition of Empire. At issue in this application is whether these claimed benefits to the public since the acquisition in 1969 of Empire outweigh the adverse effects upon competition resulting from such acquisition.

Turning to Applicant's first contention, the Board notes that from 1961 to 1968, prior to Empire's affiliation with Applicant, Empire's total mortgage loan portfolio increased approximately 81.3 percent ($73.2 million) and from 1969 to 1975, after affiliation, the portfolio increased approximately 188.3 percent ($132.7 million to $382.6 million). Furthermore, Empire's total mortgage originations increased approximately 233 percent ($34 million to $113.2 million) from year-end 1969 to December 31, 1975. While the Board recognizes that Applicant has expanded Empire's mortgage loans from 1969 to 1975, such expansion does not appear to be any better than average when compared to the growth of the saving and loan industry in the Denver SMSA.[9]

With respect to Applicant's second and third contentions, it appears that Applicant has opened nine de novo offices of Empire since 1969 and has expanded business hours to include Friday nights and Saturdays at most of its branch offices. In addition, Applicant has provided Empire access to a computer system that expedites customer transactions. Affiliation with Applicant appears to have improved Empire's capital position, as is evidenced by an increase in Empire's equity-capital-to-assets ratio above the average for all savings and loan associations in Colorado as of December 31, 1975. The Board notes that, on the one hand, from 1969 to 1975, Empire performed better than its savings and loan industry competitors in the relevant market with respect to deposit growth; became better capitalized than other Colorado savings and loan associations; and provided its customers new services and expanded facilities. On the other hand, in the light of the fact that savings and loan associations are primary funding sources for mortgage loans, the Board notes that Empire has not performed significantly better than the average savings and loan association with respect to mortgage originations. In addition, even Applicant concedes that some of the benefits claimed to have occurred as a result of affiliation with Empire would have occurred over time even absent affiliation with Applicant.

The Board is of the view that the public benefits claimed by Applicant may have resulted, in part, from Empire's affiliation with Applicant. However, the Board is unable to conclude that the benefits claimed by Applicant are unique to its ownership of Empire or that Empire could not have achieved such benefits on its own. Empire was the fourth largest savings and loan association in Colorado in 1969 (total deposits $122.2 million and total mortgage loans outstanding of $149.5 million) and was an effective and viable competitor at the time of its acquisition by Applicant. There is no indication that it would not have been able to continue to play an effective role in serving various areas in Colorado if it had not been acquired by Applicant. Therefore, in view of the foregoing, the Board concludes that public benefits considerations are not sufficient to outweigh the adverse effects upon competition that the Board has found in connection with the proposal.

Although Applicant's acquisition of Empire eliminated existing competition, there is no evidence in the record that its affiliation with Empire has resulted in any undue concentration of resources, conflicts of interests, unsound banking practices, or unfair competition. Nevertheless, the Board concludes that the adverse effects upon competition resulting from the acquisition are not outweighed by any benefits to the public that resulted from the acquisition or that can reasonably be expected to be produced by the continued affiliation of Applicant and Empire and, accordingly, the application should be denied.

While the Board believes that the present application should be denied on the basis of factors relating to this case alone, it recognizes that this would be the third case in which the Board has refused to permit a bank holding company to own a savings and loan association based upon factors unique to the individual application, and that such action might imply that the Board would approve an application presenting no adverse market or other factors in and of itself. For this reason, the Board believes it appropriate to address an alternative and broader ground for action on this application—namely, whether the savings and loan business should in general be considered a "proper incident" to banking within the meaning of section 4(c)(8).

Even if the Board were not to have determined that Applicant's retention of Empire could not be expected, on the facts of this case, to produce public benefits that outweigh possible adverse effects, the Board has concluded, on the basis of the broader issues raised by this application, that the savings and loan business, generally, albeit "closely related" to banking, should not be determined by the Board to be a "proper incident" to banking. While the Board recognizes that there may well be individual cases of affiliations between banks and savings and loan associations in which no adverse competitive considerations are presented, and in which compelling arguments may be made that, on the particular facts presented, public benefits may be realized in a particular market, the Board has nevertheless concluded, for the reasons set forth below, that the potential adverse effects of generally allowing affiliations of banks and savings and loan associations are presently sufficiently strong to outweigh such benefits as might result in individual cases. Accordingly, the Board believes that the judgment to permit such affilia-

[2] All banking data are as of December 31, 1975, unless otherwise indicated.

[3] Baldwin became a bank holding company with respect to its indirect ownership of more than 25 per cent of the voting shares of Central Bank and Trust Company, Denver, Colorado (name changed in May 1975, to Central Bank of Denver), as a result of the 1970 Amendments to the Bank Holding Company Act of 1956. Baldwin has been engaged in the manufacturing and selling of musical instruments for over 100 years and continues to engage in these activities pursuant to permanent grandfather rights under section 4(a)(2) of the Act. Baldwin's insurance underwriting activities must be divested by December 31, 1980.

[4] Subsequently, Baldwin acquired and merged Jefferson Savings and Loan Association, Arvada, Colorado, into Empire pursuant to another approval Order issued by the FHLBB on September 17, 1970 (amended November 17, 1970).

[5] ESL conducts its business from Empire's main office in Denver and although ESL is permitted to make certain types of loans that Empire cannot make, both State and Federal supervisory authorities regulate and periodically examine ESL.

[6] In neither of the two previous instances did the savings and loan association have a service corporation subsidiary engaged in other nonbanking activities.

[7] The Denver market includes all of Denver, Adams, Arapahoe, and Jefferson Counties and the Broomfield portion of Boulder County.

[8] Applicant, through a subsidiary bank, and Empire, through certain of its branches, also compete in the Greeley market for time and savings deposits and mortgage loans. Because of their existing common ownership, Applicant and Empire do not now compete with each other. However, the public benefits to be derived from the disaffiliation would also enhance future competition in the Greeley market.

[9] Part of the increase occurred as a result of the merger of Empire with Jefferson S&L (see footnote 4).

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tions on a broad scale should be left to the Congress."[9]

In determining the broad "proper incident" question the Board has considered, apart from the adverse competitive effects of this particular application, the more general effects that are likely to result from permitting bank holding companies to acquire savings and loan associations. One of the principal factors the Board has considered is the conflict between the regulatory framework within which banks and savings and loan associations operate.

Savings and loan associations are authorized under applicable State and Federal law and regulations to engage, either directly or through subsidiary service corporations, in a number of activities—such as real estate development, property management and the operation of insurance agencies dealing in homeowners, fire, theft, automobile, life, health, accident, and title insurance—that have heretofore been deemed impermissible by this Board for bank holding companies. Thus, if the Board were now to allow bank holding companies to enter the savings and loan business, it would be faced with a difficult issue in defining the permissible scope of that business as conducted by a bank holding company subsidiary. Indeed, this issue is presented in the instant case in view of Empire's activities, and those of its service corporation subsidiary, in such fields as insurance sales, land development and property management. On the one hand, if the Board were to permit a company such as Applicant to engage through a subsidiary S&L in real estate development, property management and insurance agency operations, it would be acting in conflict with earlier decisions[11] holding such activities to be impermissible for bank holding companies. Having done so, it would thereafter be difficult for the Board to deny such activities to bank holding companies that did not operate savings and loan associations. On the other hand, if it denied a bank-affiliated savings and loan association permission to engage in such activities or conditioned approval on termination of such activities—and it could well be that such a result would be required by section 4(c)(8)—savings and loan associations owned by bank holding companies might then not only be at a competitive disadvantage with respect to savings and loan associations not affiliated with banks, but they would also be limited in their ability to provide a full range of S&L services to the public. The Federal Home Loan Bank Board, which has opposed the acquisition of savings and loans by bank holding companies, has expressed the view in this case that if the Board were to impose such limitations as a predicate for allowing a bank holding company to acquire an S&L, the Board would be "in effect redefining the role of the savings and loan."

Administrative resolution of this conflict in regulation is made more difficult by the fact that while S&L holding companies operate under somewhat more permissible rules than bank holdings companies in certain regards, there are more stringent limitations in others. For example, section 408(c) of the National Housing Act, which deals with the permissible activities of savings and loan holding companies, imposes virtually no restrictions upon the non-S&L activities of holding companies that own only one savings and loan association. However, section 408(c)(2), which has as its model the pre-1970 provisions of the Bank Holding Company Act, which were inapplicable to one-bank holding companies, imposes strict limitations on the non-S&L activities of holding companies that own more than one savings and loan association. In general, only activities determined by the FHLBB to be "a proper incident to the operations of insured institutions and not detrimental to the interests of savings account holders therein" may be permitted. The FHLBB regulations implementing section 408(c)(2) and setting forth the permissible activities of "multiple" savings and loan holding companies, 12 CFR § 584.2-1, do not include the operation of a commercial bank or of certain other activities that this Board has found permissible for bank holding companies under section 4(c)(8). In fact, in the American Fletcher proceeding the FHLBB stated that it did not intend to hold that commercial banking was a proper incident to the operation of an insured savings and loan. Thus, if this Board were to conclude that the savings and loan business is a "proper incident" to banking, a clear regulatory conflict would exist. Any bank holding company that thereafter was permitted to acquire a savings and loan association would effectively be prohibited from acquiring any additional savings and loan association. Moreover, even if the FHLBB did permit a "multiple" savings and loan holding company to acquire a bank, it seems clear that the resulting bank-S&L holding company would be precluded, under FHLBB regulations implementing section 4(c)(2) of the National Housing Act, from engaging in many activities that this Board has found permissible for bank holding companies.

In the American Fletcher case, the Board noted that the mere existence of separate regulatory framework for banks and S&Ls does not necessarily imply that Congress intended to prohibit common ownership of the two types of institutions. In that case, however, the Board denied the application without reaching the broad issue raised here. In the present case, the scope of the activities carried on by Empire has required the Board to focus upon these conflicts between the regulatory structures. In effect, savings and loan regulators, acting pursuant to their legislative mandates, have decided that it is in the public interest for savings and loan associations to be able to provide certain services that are incidental to the savings and loan business. The Board, on the other hand, has decided under the standards of the Bank Holding Company Act that the public interest would be disserved by allowing bank holding companies to engage in the same activities. A conflict in regulation has arisen only because of the proposal to allow the creation of holding companies that would operate subject to both sets of regulators. This conflict cannot responsibly be reconciled unilaterally by this Board through the imposition of a regulatory restriction truncating the activities of bank-affiliated S&Ls to fit within the confines of the Bank Holding Company Act, for to do so could prevent full realization of the public benefits that might be expected from the operation of a savings and loan association. The conflict can be resolved only by Congress. Until it is resolved it must be viewed as a significant adverse factor that precludes the Board from finding, under the standards of the Bank Holding Company Act as presently in effect, that the operation of a savings and loan association is a "proper incident" to banking.

The Board also recognizes that disparities in the respective regulatory frameworks within which banks and S&Ls operate has encouraged an institutional rivalry between the two industries that offers certain public benefits. Savings and loans, having as their principal function the provision of funds for housing, have traditionally had limited access and liability powers. As S&Ls have strived to increase their competitive positions with respect to commercial banks they have sought broader asset and liability powers. The development of NOW accounts is an example.

If the Board were to permit bank holding companies generally to acquire savings and loan associations, such action could set in motion a train of events that might tend to erode such institutional rivalry, which would undoubtedly become less intense as banks and thrifts came under common control and the commonality of interest between the two industries grew.[12] The Board believes that a judgment having the potential for such long range effects should be made by Congress.

Congress has in fact been considering numerous proposals in recent years for expanding the powers of savings and loan associations, and the implications of such expansion provide an additional basis for the Board to conclude that it should not deem the savings and loan business to be a "proper incident" to banking under presently applicable standards. Although savings and loan associations are not currently considered to be "banks" within the definition of "bank" in section 2(c) of the Bank Holding Company Act—because they do not both take demand deposits and make commercial loans—there have been repeated efforts to expand their powers and to make them more nearly equivalent to those of banks.[13] As the Board stated in the American Fletcher decision at 60 Federal Reserve Bulletin 869 (1974):

> [T]here is a discernible trend toward lessening distinctions between banks and savings and loan associations. Geographic restrictions on mortgage lending by savings and loan associations have been liberalized. Recently, savings and loan associations were permitted by the Federal Home Loan Bank Board to participate in the Federal funds market, previously dominated by commercial banks. Savings and loan associations recently were authorized to offer large negotiable certificates of deposit. The role of savings and loan associations in the nation's payments mechanism is growing. The President's Commission on Financial Institutions and others have made proposals to expand the powers of savings and loan associations. The close relationship between banking and operation of savings and loan associations would become even closer should these proposals be implemented. Should this trend continue to the point where savings and loan associations both accept demand deposits and engage in the business of making commercial loans, savings and loan associations would actually become "banks" for purposes of the Act.

The Bank Holding Company Act imposes certain restrictions with respect to banks that are not applicable to nonbanks—most notably, a bank holding company cannot acquire a "bank" in a State other than that in which it does its principal banking business. As the Board noted in American Fletcher, this restriction would not currently apply to the acquisition of a savings and loan association because they are not now technically "banks" for purposes of the Act. However, if the Board were presently to permit bank holding companies to acquire savings and loan associations in other States—and the desire to avoid acquisitions threatening adverse competitive consequences in particular markets might well compel bank holding companies to look to other States for savings and loan association acquisitions—it could develop in time, if savings and loan association powers expanded, that savings and loan associations would satisfy the definition of "bank" and that the interstate banking prohibitions of the Act had been substantially undermined by earlier affiliations between commercial banks and savings and loan associations. While the import of this decision may be that the savings and loan business is so closely related to banking that it should not be viewed as a "proper incident" to banking, the Board has concluded that the decision should be left to Congress whether, in light of the policies underlying the Bank Holding Company Act, such "near-banks" should be treated as "banks" or "nonbanks"

For the foregoing reasons and other considerations reflected in the record, the Board has determined that the operation of a savings and loan association, although closely related to banking or managing or controlling banks, is not a proper incident to banking. Therefore, the subject application is hereby denied.

In reaching this decision, the Board wishes to emphasize that the conclusions reflected herein are expressed only within the boundaries of the Boards responsibilities under the Bank Holding Company Act as currently in effect, and are applicable only with respect to the present regulatory framework and the characteristics of banks and S&Ls as they presently operate within that framework. The Board does not intend to suggest that affiliations between banks and thrift institutions should not be permitted under any circumstances.

By order of the Board of Governors,[14] effective February 22, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-6021 Filed 2-28-77;8:45 am]

[9] The Board has permitted affiliations between banks and thrifts in one narrow circumstance. Specifically, it has allowed mutual thrift institutions in Rhode Island to hold interests in commercial banks. See Newport Savings and Loan Association, 58 Federal Reserve Bulletin 313 (1972), and Old Colony Co-operative Bank, 58 Federal Reserve Bulletin 417 (1972). These decisions were based upon the unique, historical situation in Rhode Island, however, where there was a pervasive pattern of ownership of banks by mutual thrift institutions, such that a thrift lacking such an affiliation was at a distinct competitive disadvantage. See also Profile Bankshares, Inc., 61 Federal Reserve Bulletin 901 (1975).

[11] The Board has already determined that real estate brokerage, real estate syndication, land development, and property management are activities not so closely realted to banking or managing or controlling banks as to be a proper incident thereto. See 12 CFR § 225.126 (1976).

[12] While at present only about 15 percent of the federally-insured savings and loan associations in the country are stock companies (representing about 22 percent of the assets of all such savings and loan associations), and thus potential candidates for acquisition, that percentage would be very likely to increase significantly if conversions of mutuals were to be generally authorized. In Public Law 93-495 Congress authorized a limited number of conversions of mutual savings and loan associations to the stock form. The FHLBB has received approximately 70 applications for conversions and has approved 24. The 17 associations that have already converted represent more than $2 billion in assets.

[13] The proposed "Financial Reform Act of 1976," H.R. 13077, 94th Cong., 2d Sess., would have authorized federally-chartered savings and loan associations to make loans for education; consumer loans; loans for "community conservation, development, or improvement"; loans to corporations whose activities "are reasonably related to the activities of [savings and loan] associations"; and loans to States and their subdivisions.

[14] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee, and Lilly.

FIRST SECURITY CORP.

Order Denying Request for Reconsideration

First Security Corporation, Salt Lake City, Utah ("FSC"), has requested that the Board reconsider and modify its Order of July 30, 1976 (the "July 30 Order"), denying any further extension of time for divestiture by FSC of its ownership of First Security Savings and Loan Association of Pocatello, Idaho ("FSS&L"), and ordering FSC to file a divestiture plan and to effect a divestiture of FSS&L. Among the grounds advanced in support of FSC's request are its contention that FSC's acquisition of FSS&L in 1970, without the prior approval of the Board, was not a "willful" violation of the Bank Holding Company Act ("Act"), and that FSC's continued holding of FSS&L subsequent to that acquisition was not contrary to the directives given to FSC by the Federal Reserve Bank of San Francisco ("Reserve Bank") and the Board in 1971 and 1972, respectively, to divest FSS&L.

The circumstances concerning FSC's ownership of FSS&L are set forth in the July 30 order, and nothing submitted by FSC in support of its request for reconsideration leads the Board to conclude that the operative facts are other than as stated in that Order. Specifically, the record establishes that on April 1, 1970, at a time when First Security Investment Corporation ("FSIC") had pending in escrow a sale of its controlling interest in FSS&L to U.I.P. Corporation, Milwaukee, Wisconsin ("UIP"), FSIC merged into FSC. The Board concluded in the July 30 Order that upon consummation of the FSIC-FSC merger FSC acquired control of FSS&L, within the meaning of section 2(a) of the Act, without the prior approval of the Board, and the material submitted with the request for reconsideration has not caused the Board to alter that conclusion. On September 30, 1970, the Federal Home Loan Bank Board denied UIP's application under section 408 of the National Housing Act for permission to acquire control of FSS&L, and the shares of FSS&L held in escrow were thereupon delivered to FSC. FSC was subsequently advised by the Federal Reserve Bank of San Francisco that its acquisition of FSS&L violated the Act and it was directed to take steps to effect a divestiture.

Over a period of several years following the initial instruction to FSC to divest FSS&L, the Reserve Bank, with the concurrence of Board staff, granted FSC a number of extensions of the time within which to effect the divestiture. The premise for the extensions was that the Board had under consideration the general question whether the operation of a savings and loan association should be deemed to be a permissible activity for a bank holding company, and that if this activity were to be permitted, the Board might entertain an application from FSC to retain the shares of FSS&L, which

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in 1976, after consultations with the Reserve Bank, FSC submitted an application to retain the shares of FSS&L, which was transmitted to the Board in May 1976. On July 30, 1976, before notice of the application had been published in the FEDERAL REGISTER, the Board considered FSC's request for a further extension of time to divest FSS&L. As of that date the Board had still not decided that the operation of a savings and loan association was a permissible activity for bank holding companies, and it determined in the July 30 Order not to grant any further extension of the time for divestiture of FSS&L by FSC. On August 23, 1976, FSC filed its request for reconsideration of the July 30 Order. On September 15, 1976, the Board extended the time for the filing of a divestiture plan until a date following action on the request for reconsideration, and on November 8, 1976, the Board extended the time for divestiture until such date as might be fixed in an order deciding the request for reconsideration.

In considering the application of D. H. Baldwin Company, Cincinnati, Ohio, for permission to retain control of Empire Savings, Building and Loan Association, Denver, Colorado, the Board has today decided, both as to the facts of that case and as a general matter, that the operation of a savings and loan association is not a proper incident to banking, within the meaning of section 4(c) (8) of the Act. In light of this decision the Board has determined that FSC's request for reconsideration should be denied as moot.

Accordingly, the dates fixed in the Board's Order of July 30, 1976, for the filing of a plan of divestiture and for the completion of divestiture by FSC are hereby extended as follows: FSC is directed to file a plan of divestiture for approval no later than May 22, 1977, and to accomplish divestiture no later than August 22, 1977. The length of these periods has been expanded beyond those fixed in the July 30 Order principally in consideration of FSC's contention that damage caused by the collapse of the Teton Dam in 1976 may have an impact upon the busines of FSS&L conducted from its Rexburg, Idaho office.

By order of the Board of Governors,[1] effective February 22, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-6022 Filed 3-28-77;8:45 am]

FEDERAL TRADE COMMISSION

[Docket 9086]

HALLCRAFT JEWELERS, INC., ET AL.

Consent Agreement With Analysis To Aid Public Comment

Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34, 40 FR 15236, April 4, 1975), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed wth and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited on or before May 2, 1977. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b) (14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14), 40 FR 15236, April 4, 1975). Comments should be directed to:

Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

[Docket No. 9086]

HALLCRAFT JEWELERS, INC.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Hallcraft Jewelers, Inc., a corporation, and Hallcraft Jewelers, Inc. of New Jersey, a corporation, and Crest Clothiers, Inc., a corporation, also trading and doing business as Crest Collection Agency, and Donald J. Bound, individually and as an officer of said corporations.

The agreement herein, by and between Hallcraft Jewelers, Inc., a corporation, Hallcraft Jewelers, Inc. of New Jersey, a corporation, Crest Clothiers, Inc., a corporation, also trading and doing business as Crest Collection Agency, by their duly authorized officer, and Donald J. Bound, individually and as an officer of said corporation, respondents in a proceeding initiated by the Federal Trade Commission, and their counsel and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedure.

1. Respondent Hallcraft Jewelers, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania. It dominates, and controls the acts and practices of its wholly-owned subsidiaries Hallcraft Jewelers, Inc. of New Jersey and Crest Clothiers, Inc., which are corporations organized and doing business under and by virtue of the laws of the State of New Jersey. Respondent Crest Clothiers, Inc. also trades and does business as Crest Collection Agency. All of the above-named corporate respondents have their principal offices and places of business at 7022 Bristol Pike, Levittown, Pennsylvania 19059.

Respondent Donald J. Bound is an officer of each of the corporate respondents named herein. He formulates, directs and controls the acts and practices of said corporate respondents, and his address is the same as that of said corporations.

2. Respondents have been served with the complaint issued by the Commission charging them with violations of Section 5 of the Federal Trade Commission Act, as amended, and of the Truth in Lending Act and the implementing regulation promulgated thereunder. Subsequently, during the prehearing procedure, the parties entered into further negotiations and filed a joint motion to withdraw the matter from adjudication pursuant to § 3.25(b) of the Commission's Rules.

3. Respondents admit all the jurisdictional facts set forth in the complaint the Commission has issued.

4. Respondents waive: (a) Any further procedural steps; (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclosed facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate. The Commission may at any time pending final acceptance of this order, require hearings on the relief requirements provided by this order.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the complaint the Commission has issued.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing the decision containing the agreed-to order to respondents' address as stated in this agreement shall constitute service. Respondents waive any rights they may have to any other manner of service. The complaint the Commission has issued may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary of contradict the terms of the order.

8. Respondents have read the complaint issued by the Commission and the order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered, That respondents Hallcraft Jewelers, Inc., a corporation, Hallcraft Jewelers, Inc. of New Jersey, a corporation, Crest Clothiers, Inc., a corporation, also trading and doing business as Crest Collection Agency, or under any other name or names, their successors and assigns, and their officers, and Donald J. Bound, individually and as an officer of said corporate respondents, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of jewelry and watches, or other products or services, and in connection with the collection of, or attempting to collect, or assisting in the collection of, or inducing, or attempting to induce the payment of accounts, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from, orally or in writing, directly or by implication:

1. Representing that respondents are either affiliated with or have any official relationship with either the United States Government or the United States Armed Forces.

2. Representing that respondents do not have to charge State sales tax with the sale of their merchandise due to any affiliation with or official relationship with either the United States Government or the United States Armed Forces or for any other reason that is inconsistent with official State sales tax regulations.

3. Representing that respondents can offer low prices for their merchandise due to any affiliation with or official relationship with either the United States Government or the United States Armed Forces, including Military Post Exchanges.

4. Representing that respondents are the exclusive jewelry dealers for military personnel, the United States Armed Forces or any branches therein.

5. Representing that respondents' merchandise is either inspected or approved by military personnel.

6. Representing that respondents register the diamonds they offer for sale with the United States Government.

7. Representing that purchasers who receive an "AAA credit rating" from respondents may then be able to purchase merchandise on credit from merchants other than respondents.

8. Representing that respondents either use or sell only the finest diamonds available.

9. Representing that examination of diamonds before mounting by respondents, under a 30-power diamond loupe, or any other power loupe will guarantee the brilliance, color, cut, clarity or any other aspect of diamond quality.

10. Representing that through the use of the word "military" in conjunction with a code of business ethics, respondents are affiliated with or have some official relationship with the United States Armed Forces.

11. Representing that respondents will make no misrepresentations to customers regarding their business or services.

12. Representing that respondents will conceal no material facts, either directly or indirectly, which could cause a customer to be misled as to quality of merchandise, nature of service or terms of sale.

13. Representing that respondents will avoid any practice which might place their business under investigation by the Armed Forces Disciplinary Control Board, realising this Board has the duty to place any establishment which it finds engaged in unfair, immoral or illegal practices, off limits to military personnel.

14. Contracting for any sale whether in the form of trade acceptance, conditional sales contract, promissory note, or otherwise which shall become binding on the purchaser prior to midnight of the third day, excluding Sundays and legal holidays, after the date of execution.

15. Failing to furnish the purchaser with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the purchaser or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of 10 points, a statement in substantially the following form:

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

16. Failing to furnish each purchaser, at the time he signs the sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned "Notice of Cancellation," which shall be attached to the contract or receipt and easily detachable, and which shall contain in 10 point bold face type the following information and statements in the same language, e.g., Spanish, as that used in the contract in substantially the following form:

NOTICE OF CANCELLATION

(Enter date of transaction)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale and any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must return or cause to be returned to the seller, in substantially as good condition as when received, any goods delivered to you or delivered to one designated by you, under this contract or sale at the seller's expense and in compliance with instructions of the seller regarding the return shipment of the goods.

If you fail to return or cause to be returned the goods delivered to you or the one designated by you within 20 days of the date of your notice of cancellation, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to [Name of Seller], at [Address of seller's local place of business], not later than midnight of _____
(Date)

I hereby cancel this transaction.

(Date)

(Buyer's Signature)

17. Failing, before furnishing copies of the "Notice of Cancellation" to the purchaser, to complete both copies by entering the name of the seller, the address of the seller's local place of business, the date of the transaction and the date, not earlier than the third business day following the date of the transaction, by which the purchaser may give notice of cancellation.

18. Including in any sales contract or receipt any confession of judgment or any waiver of any of the rights to which the buyer is entitled under this order including specifically his right to cancel the sale in accordance with the provisions of this order.

19. Failing to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

20. Misrepresenting, directly or indirectly, orally or in writing, the buyer's right to cancel.

21. Failing or refusing to honor any valid notice of cancellation by a buyer and within 10 business days after the receipt of such notice, to (i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the seller; (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest in the transaction.

22. Negotiating, transferring, selling, or assigning any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.

[1] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee and Zilly.

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23. Failing, within 10 business days of receipt of the buyer's notice of cancellation, to notify him whether the seller intends to repossess and if so, the manner in which this may be accomplished at the seller's expense, or whether the seller intends to abandon any shipped or delivered goods.

24. Representing the disciplinary action will be taken against debtors upon notification of their superior officers.

25. Representing that legal proceedings will or have been initiated against debtors unless and until such representation is true.

26. Representing that an account will be or has been referred to an attorney for initiation of legal proceedings or that an attorney will be or is actively involved in collecting or reviewing an account, unless, and until such representation is true.

27. Representing that any immediate action will be taken to collect a debt, such as notification of superior officers or turning over accounts to a collection agency, unless, and until such representation is true; or misrepresenting, in any manner, the imminency of any action that respondents may or will take.

28. Representing that respondents maintain a legal department or employ attorneys as part of their debt collection business.

29. Representing that respondent will require debtors to pay all attorneys fees or any other amount of attorneys fees generated, which is in excess of 15% of the balance due on a debt.

30. Representing that collection notices sent to debtors by respondents are sent by a collection agency independent of respondents; or misrepresenting, in any manner, respondents' status, activities, or actions.

31. Representing that respondents will notify the local credit bureaus of any persons other than the debtor's own local credit bureau, and in that instance, only when respondents actually take the represented action, at that stage of the collection process.

32. Representing that a credit investigation will be conducted in the debtor's local area or that a collection agent will call at his home, unless respondents actually cause the action to be taken, at that stage of the collection process.

33. Representing that respondents can validly disclaim liability for any action that they may take in the collection of a debt; or making any other such statements in dunning communications which are unfair because they appear legally conclusive or misleading.

34. Representing through depictions or manifestations of form, that any of respondents' dunning communications constitute legal process forms; or misrepresenting, in any manner, the source, authorization, or approval of any document.

It is further ordered, That respondents cease and desist from using the words "collection agency" or any other words of similar import or meaning in any corporate, firm, partnership or other business or trade name or title which indicates or suggests that respondents individually or collectively, are engaged in the business of collecting money debts for others.

It is further ordered, That respondents, in the course of collecting a debt, cease and desist from communicating, or threatening to communicate with the consumer's employer or any agent of the employer or any other person not liable for the debt other than the spouse or the attorney of the consumer, except as permitted by order of a court or solely to locate a consumer whose whereabouts are genuinely unknown to the creditor or to determine the nature and extent of a consumer's wages or property, provided that, in these latter two instances, there is no specific mention of the alleged indebtedness.

Provided however, nothing herein shall prohibit respondents from communicating with the recipient of purchased merchandise, but then only for the dual purpose of (1) actually attempting, and not merely threatening, to repossess the merchandise upon the terms and conditions provided by contract between the debtor and respondents and in the same communication, (2) offering said recipient the option of retaining the merchandise upon the recipient's promise to assume payment of the specified balance due on the debt; provided that in these instances, respondents do not fail to also mail copies of any such communication to the named purchaser involved and respondents do not fail to clearly and conspicuously disclose in each such repossession communication that:

Upon repossession, this account will be marked satisfactorily settled and an immediate credit for the money paid on the account will be forwarded to the attention of the purchaser along with a price catalogue from which said purchaser may be able to choose and receive other merchandise based upon the credit he receives.

It is further ordered, That respondents, upon actual repossession of the purchased merchandise upon the terms and conditions provided by contract between the debtor and respondents and this order, do not fail to mail to said debtor, a price catalogue from which he may be able to choose and receive other merchandise based upon the credit he receives.

It is further ordered, That respondents cease and desist from failing to furnish the purchaser with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which contains a clearly and conspicuously disclosed statement in substantially the following form:

In the course of collecting a debt, Hallcraft Jewelers, Inc. will not communicate or threaten to communicate with a consumer's employer or any agent of the employer or any other person not liable for the debt other than a consumer's spouse or attorney, except as permitted by order of a court, or solely to locate a consumer whose whereabouts are genuinely unknown to the creditor or to determine the nature and extent of a consumer's wages or property, provided that, in these latter two instances, there is no specific mention of the alleged indebtedness. Hallcraft Jewelers may however, communicate with the recipient of any purchased merchandise, but only for the purpose of repossession of their merchandise upon a consumer's default or offering the recipient, in the alternative, the option of retention of the merchandise and assumption of the payments due on the balance of the debt.

Provided, however, That nothing contained in Part I of this order shall relieve respondents of any additional obligations respecting contracts required by federal law or the law of the state in which the contract is made. When such obligations are inconsistent, respondents can apply to the Commission for relief from this provision with respect to contracts executed in the state in which such different obligations are required. The Commission, upon showing, shall make such modifications as may be warranted in the premises.

It is further ordered, That respondents Hallcraft Jewelers, Inc., Hallcraft Jewelers, Inc. of New Jersey, Crest Clothiers, Inc., also trading and doing business as Crest Collection Agency, or under any other name or names, corporations, their successors and assigns, and their officers, and Donald J. Bound, individually and as an officer of said corporations, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit, or any advertisement to aid, promote, or assist, directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Section 226) of the Truth in Lending Act, as amended, (P.L. 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to use the term "cash price" as defined in §226. 2(i) of Regulation Z, to describe the purchase price of the merchandise or service, as required by § 226.8(c)(1) of Regulation Z.

2. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by § 226.8(c)(2) of Regulation Z.

3. Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as required by § 226.8(c)(3) of Regulation Z.

4. Failing to use the term "amount financed" to describe the amount of credit extended, as required by § 226.8(c)(7) of Regulation Z.

5. Failing to use the term "deferred payment price" to describe the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, as required by § 226.8(c)(8)(ii) of Regulation Z.

6. Failing to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

7. Failing to properly disclose the amount, or method of computing the amount, of a delinquency charge payable in the event of late payments, as required by § 226.8(b)(4) of Regulation Z.

8. Failing to make all required disclosures together on either the note or other instrument evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature, or on one side of a separate statement which identifies the transaction, as required by § 226.8(a) of Regulation Z.

9. Failing, in any advertisement for an extension of consumer credit which is repayable in more than four installments without the imposition of a separately stated finance charge, to disclose clearly and conspicuously, "The cost of credit is included in the price quoted for the goods and services", as required by Section 146 of the Truth in Lending Act and § 226.10(f) of Regulation Z. Such disclosure shall appear:

(a) Immediately adjacent to the price, whenever the price is quoted, either as a monthly payment or a total payment amount; and

(b) Immediately above the space provided for the customer's signature on the merchandise order form.

10. Representing in any such advertisement, directly or by implication, that no downpayment is required, the amount of any installment payment, either in dollars or as a percentage, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are clearly and conspicuously stated, in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) of Regulation Z:

(i) The cash price;

(ii) The amount of the downpayment required or that no downpayment is required, as applicable;

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(iv) The amount of the finance charge expressed as an annual percentage rate; and

(v) The deferred payment price.

11. Failing, in any consumer credit transaction or advertising, to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z at the time and in the manner, form and amount required by §§ 226.6, 226.7, 226.8 and 226.10 of Regulation Z.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the offering for sale or sale of respondents' products or services or in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, or in the collection of accounts, and that respondents secure a signed statement acknowledging the receipt of the order from each such person.

It is further ordered, That respondents shall, within thirty (30) days after service of this order upon respondents, distribute a copy thereof by registered or certified mail to each military base commander within a twenty-five (25) mile radius of each of respondents' retail stores.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of five years from the effective date of this order, the individual respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the manufacture, advertising, offering for sale, sale and distribution of jewelry and watches or the extension of consumer credit or the collection of accounts resulting from the retail sale of products or services, or of his affiliation with a new business or employment in which his own duties and responsibilities involve the manufacture, advertising, offering for sale, sale and distribution of jewelry and watches or the extension of consumer credit or the collection of accounts resulting from the retail sale of products or services. Such notice shall include the respondents' new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising out of the order.

HALLCRAFT JEWELLERS, INC., ET AL.

[Docket No. 9086]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement containing a proposed consent order from Hallcraft Jewelers, Inc., et al.

The proposed consent order and complaint described in this analysis have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Hallcraft Jewelers, operating from stores adjacent to military bases, has been primarily engaged in the retail sale of expensive jewelry and watches to military personnel. Merchandise is usually purchased from respondents on credit and is intended as gifts for close friends or relatives. The merchandise is then mailed directly to such persons by respondents.

The Commission's complaint, issued on July 20, 1976, alleged that respondents violated the Federal Trade Commission Act and the Truth in Lending Act through the following acts and practices:

Misrepresenting in many ways that Hallcraft is affiliated with or has some official relationship with the U.S. Government or U.S. Armed Forces;

Misrepresenting the quality of jewelry offered for sale;

Misrepresenting Hallcraft's method of doing business;

Utilising high pressure sales techniques;

Misrepresenting in many ways the actions that Hallcraft may take or had taken and misrepresenting their effects, in the course of attempting to collect alleged delinquent accounts;

Utilizing various unfair methods of debt collection;

Failing to comply with various disclosure requirements of the Truth in Lending Act.

The proposed order is designed to aid prospective purchasers of respondents' merchandise by requiring respondents to cease and desist from making false and deceptive representations, by requiring respondents to furnish purchasers with the right to cancel transactions within three days after purchase, by requiring respondents to cease communicating with employers or other third parties concerning a purchaser's alleged indebtedness and making that fact known to purchasers, and finally, by requiring respondents to comply with all disclosure requirements of the Truth in Lending Act. Based on these requirements, purchasers will be given the opportunity to do business with respondents on a fair and equitable basis, without undue interference in their private and professional affairs. Purchasers will be able to make informed decisions about merchandise offered for sale and the method by which payment shall be required. They will be able to better understand credit obligations and costs.

The proposed order is also designed to prevent unfair methods of competition in the retail jewelry and watch industry by prohibiting respondents' practices which may have unfairly tended to lead prospective purchasers of jewelry and watches to believe that it would be more advantageous for them to purchase from respondents rather than respondents' competitors.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to con-

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stitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.77-6025 Filed 2-28-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposal

The following requests for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 23, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before March 21, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CIVIL AERONAUTICS BOARD

CAB requests an extension no change clearance of Form 443, Foreign Air Carrier Application for Authorization for Off-Route Charter. This form is used by foreign carriers in applying for off-route and wet-lease (the chartering of aircraft to another foreign air carrier or U.S. air carrier) authority pursuant to Parts 212 and 214 of the Board's Economic Regulations. CAB estimates respondents to be 15 foreign air carriers not covered by Order 76-10-119 and reporting burden to average 30 minutes per application.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-6062 Filed 2-28-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[EPMR Temp. Reg. D-58]

SECRETARY OF TRANSPORTATION

Delegation of Authority

1. *Purpose.* This regulation continues in effect the delegation of authority to the Secretary of Transportation to perform all functions in connection with the leasing of certain property at the University of Connecticut Extension Facility, Groton, Connecticut, for use by the United States Coast Guard as a Research and Development Laboratory.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation shall expire on May 31, 1982, or upon termination of the lease, whichever is earlier.

4. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, authority is hereby delegated to the Secretary of Transportation to perform all functions in connection with the leasing for continued occupancy of approximately 50,000 square feet of space in Building 23 and several smaller facilities located on the University of Connecticut Extension Facility, Groton, Connecticut, for a term of 5 years, with suitable termination rights on the part of the Government.

b. This delegation shall extend to leasing space under authority contained in section 210(h)(1) of the above-cited act (40 U.S.C. 490(h)(1)) for a period not to exceed 5 years with suitable termination rights on the part of the Government.

c. The Secretary of Transportation may redelegate this authority to any officer, official, or employee of the Department of Transportation.

d. This authority shall be exercised in accordance with the limitations and requirements of the above-cited act, section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), as amended, other applicable statutes and regulations, and the policies, procedures, and controls prescribed by the General Services Administration.

5. *Effect on other issuances.* FPMR Temporary Regulation D-33 is canceled.

Dated: February 15, 1977.

G. C. GARDNER,
Acting Administrator of General Services.

[FR Doc.77-6068 Filed 2-28-77;8:45 am]

[FPMR Temp. Reg. F-413]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a gas and electric rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Kentucky Public Utility Commission (Docket No. 6723) involving the petition filed by the Louisville Gas and Electric Company, requesting an increase in gas and electric rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: February 15, 1977.

G. C. GARDNER,
Acting Administrator of General Services.

[FR Doc.77-6070 Filed 2-28-77;8:45 am]

[FPMR Temp. Reg. F-414]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delgates authority to the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in an electrical rate increase proceeding before the Texas Public Utility Commission.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Texas Public Utility Commission (Docket No. 178) involving the petition of the Texas Power and Light Company, requesting an increase in electric rates. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: February 15, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-6071 Filed 2-28-77;8:45 am]

[FPMR Temp. Reg. F-415]

SECRETARY OF DEFENSE

Revocation of a Delegation of Authority

1. *Purpose.* This regulation revokes a certain delegation of authority granted to another agency to represent the consumer interests of the executive agencies of the Federal Government in communications proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires February 28, 1977.

4. *Revocation.* This revocation identifies that delegation which is no longer in force due to completion of the proceedings for which it was issued. Accordingly, the following FPMR temporary regulation is hereby revoked:

Number, date, and subject: F-311, November 21,1974. Delegation of authority to the Secretary of Defense—Regulatory Proceeding.

Dated: February 15, 1977.

G. C. GARDNER,
Acting Administrator of General Services.

[FR Doc.77-6072 Filed 2-28-77;8:45 am]

[FPMR Temp. Reg. D-59]

SECRETARY OF THE INTERIOR

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of the Interior to perform all functions in connection with the leasing of 6,854 square feet of space and the land incidental to its use, located on tribal land in Pawnee, Oklahoma, for use by the Bureau of Indian Affairs, Pawnee Agency Office.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation shall expire 10 years from the effective date of the lease covering the space to be leased or upon termination of the lease, whichever is earlier.

4. *Background.* This regulation reflects the delegation of authority that was granted by the Administrator of General Services to the Secretary of the Interior, by letter of June 25, 1976.

5. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, authority is hereby delegated to the Secretary of the Interior to perform all functions in connection with the leasing of approximately 6,854 square feet of space and the land incidental to its use, located on tribal land in Pawnee, Oklahoma, for use by the Bureau of Indian Affairs, Pawnee Agency Office.

b. This delegation shall extend to leasing space under authority contained in section 210(h)(1) of the above-cited act (40 U.S.C. 490(h)(1)) for a firm period not to exceed 10 years.

c. The Secretary of the Interior may redelegate this authority to any officer, official, or employee of the Department of the Interior.

d. This authority shall be exercised in accordance with the limitations and requirements of the above-cited act, section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), as amended, other applicable statutes and regulations, and the policies, procedures, and controls prescribed by the General Services Administration.

6. *Effect on other issuances.* This temporary regulation cancels the letter dated June 25, 1976, from the Administrator of General Services to the Secretary of the Interior, related to the above delegation.

Dated: February 15, 1977.

G. C. GARDNER,
Acting Administrator of General Services.

[FR Doc.77-6069 Filed 2-28-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the months of March and April; 1977:

SOCIAL PROBLEMS RESEARCH REVIEW COMMITTEE

March 16-18, 1977, 9:00 a.m.
Parlor A, Burlington Hotel, Vermont Avenue at Thomas Circle, N.W., Washington, D.C.
Open—March 16, 9:00-9:30 a.m.; Closed—Otherwise.
Contact Mrs. Vi Kemp, Parklawn Building, Room 10-104, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4943.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the field of social problems research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 to 9:30 a.m., March 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal Assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

MENTAL HEALTH SMALL GRANT COMMITTEE

March 23-26, 1:00 p.m.
Oak Room and Parlor A, The Burlington Hotel, 1120 Vermont Ave. N.W., Washington, D.C.
Open—March 23, 4:00-5:00 p.m.; Closed—Otherwise.
Contact Ms. Mary E. Enyart, Parklawn Bldg., Rm. 10C-14, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4337.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 4:00 to 5:00 p.m., on March 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

SOCIAL SCIENCES TRAINING REVIEW COMMITTEE

March 27-30, 9:00 a.m.
Conference Rooms J and L, Parklawn Bldg., 5600 Fishers Lane, Rockville, Maryland.
Open—March 27, 9:00-11:00 a.m.; Closed—Otherwise.
Contact Mrs. Miriam Stein, Parklawn, Bldg., Room 9C-09, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3858.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science training and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 to 11:00 a.m., March 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applica-

EXPERIMENTAL PSYCHOLOGY RESEARCH REVIEW COMMITTEE

March 16-19, 9:00 a.m.; Open March 16, 9:00-9:30 a.m.; Closed—Otherwise.
Circle Room, Dupont Plaza Hotel, Dupont Circle, N.W., Washington, D.C. Contact John Hammack, Room 10-95 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3936.

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tions for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c) (6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-43 (5 U.S.C. Appendix D).

BIOLOGICAL SCIENCES TRAINING REVIEW COMMITTEE

March 30-April 2, 9:00 a.m.; Open March 30, 9-10 a.m.; Closed—Otherwise. Conference Room F, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland. Contact Mrs. Helen Pohlens, Parklawn Building, Room 9C-09, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3886.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to biological sciences research training and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9-10 a.m., March 30, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix D).

PSYCHOLOGICAL SCIENCES FELLOWSHIP REVIEW COMMITTEE

April 7-9, 9:00 a.m.; Open—April 7, 9-11:00 a.m., Closed—Otherwise. Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland. Contact Mrs. Mary Cope, Parklawn Building, Room 9C-18, 5600 Fishers Lane, Rockville, Maryland 20857 301-433-3885.

March 2

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychological sciences fellowships and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9-11:00 a.m., April 7, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix D).

Substantive program information may be obtained from the contact persons listed above. The NIMH Information Officer who will furnish summaries of the meeting and rosters of the committee members if Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3600.

Dated: Feb. 25, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc.77-6143 Filed 2-28-77; 8:45 am]

Center for Disease Control

COAL MINE HEALTH

Approval of Roentgenographic Facilities

Notice is hereby given that the National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, invites all roentgenographic facilities which are presently not approved by NIOSH to apply for approval to provide X-ray examinations of underground coal miners in accordance with section 203(a) of the Federal Coal Mine Health and Safety Act (30 U.S.C. 843 (a)) and Part 37 of Title 42, Code of Federal Regulations. Section 37.42(b) requires that to be eligible to participate in the X-ray examination program, a facility shall demonstrate the ability to make high quality chest roentgenograms and that all roentgenograms shall be made in accordance with the specifications contained in section 37.41.

The Act provides for periodic roentgenographic examinations of underground coal miners at no charge to the miner. Underground coal miners were provided the opportunity for an initial roentgenogram from August 19, 1970, to December 30, 1971, and the opportunity for a second roentgenogram from July 27, 1973, to March 30, 1975. The next period of examinations is now being planned and a draft of proposed changes to the regulations was made available to the public on October 27, 1976 (41 FR 47091).

Any roentgenographic facility desiring approval to participate in the examination program should write to the Chief, Receiving Center Section, Appalachian Laboratory for Occupational Safety and Health, P.O. Box 4258, Morgantown, WV 26505 (Telephone (304) 599-7301) for a facility approval application (Form CDC/NIOSH(M)2.11) and information on how to apply for approval.

Dated: February 23, 1977.

JOHN F. FINKLER,
Director, National Institute for Occupational Safety and Health.

[FR Doc.77-6024 Filed 2-28-77; 8:45 am]

Food and Drug Administration

[Docket No. 77N-0048]

LAETRILE

Administrative Rule Making Hearing

Correction

In FR Doc. 77-5245, appearing at page 10066 in the issue of Friday, February 18, 1977, the Docket No. should read as set forth above.

NOTE.—This document is being reprinted without change from the issue of Thursday, February 24, 1977 (42 FR 10897).

[Docket No. 76N-0343; DESI 7750]

CERTAIN GLUCOCORTICOID DRUGS FOR ORAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

The Food and Drug Administration is reclassifying the less-than-effective indications for cetrain glucocorticoid drugs, offering an opportunity for a hearing on the reclassification, and announcing the conditions under which the drugs may be marketed for the indications for which they are regarded as effective. Persons who wish to request a hearing may do so on or before March 31, 1977.

In a notice (DESI 7750; Docket No. FDC-D-248 (now Docket No. 76N-0343)) published in the FEDERAL REGISTER of October 21, 1970 (35 FR 16425), the Food and Drug Administration announced its conclusions that all but two of the drug products described below are effective, probably effective, possibly effective, and lacking substantial evidence of effectiveness for their various labeled indications. The notice offered an opportunity for a hearing concerning the indications classified as lacking substantial evidence of effectiveness.

The exception to the preceding conclusions, Medrol Medules (NDA 12-362), was initially evaluated as no higher than possibly effective. However, in a notice published in the FEDERAL REGISTER of February 25, 1974 (39 FR 7192), it was reevaluated to the same effective and probably effective classifications as the other drug products and subject to the same marketing conditions. The February 25, 1974 notice also announced that the remaining indications for Medrol Medules initially classified as possibly effective were reclassified to lacking substantial evidence of effectiveness in that no data were submitted concerning them, and it offered an opportunity for a hearing concerning those indications.

No data were submitted in support of any of the less-than-effective indications announced in the October 21, 1970 notice and the followup notice of February 25, 1974. With the exception of the probably effective indication discussed in paragraph A of the notice below, they are therefore reclassified as lacking substantial evidence of effectiveness.

The notice that follows does not pertain to the indications stated in the October 21, 1970, and February 25, 1974 notices to lack substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in the labeling. Any such product labeled for those indications is subject to regulatory action.

1. NDA 7-750; Cortone Tablets containing cortisone acetate; Merck Sharpe & Dohme, Division of Merck & Co., Inc., West Point, PA 19486.

2. That part of NDA 8-126 pertaining to Cortisone Acetate Tablets; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

3. NDA 8-284; Cortisone Acetate Tablets; Panray Division of Ormont Drug & Chemical Co., Inc., P.O. Box 150, Englewood, NJ 07631.

4. NDA 8-506; Hydrocortone Tablets containing hydrocortisone acetate; Merck, Sharp & Dohme.

5. NDA 8-697; Cortef Tablets containing hydrocortisone; The Upjohn Co.

6. NDA 9-127; Cortril Tablets containing hydrocortisone; Pfizer Laboratories, Division of Charles Pfizer & Co., Inc., 235 E. 42nd St., New York, NY 10017.

7. NDA 9-164; Hydrocortisone Acetate Powder; Pfizer Laboratories.

8. NDA 9-244; Cortisone Acetate Tablets; USV Pharmaceuticals Corp., 1 Scarsdale Rd., Tuckahoe, NY 10707.

9. NDA 9-458; Cortisone Acetate Tablets; Richlyn Laboratories, 3725 Castor Ave., Philadelphia, PA 19124.

10. NDA 9-513; Cortisone Acetate Tablets; Rexall Drug Co., P.O. Box 7189, St. Louis, MO 63115.

11. NDA 9-658; Hydrocortisone Tablets; Cooper Laboratories, 300 Fairfield Rd., Wayne, NJ 07470; successor to Vitamix Pharmaceuticals, Inc.

12. NDA 9-659; Hydrocortisone Tablets; Panray.

13. NDA 9-766; Meticorten Tablets containing prednisone; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033.

14. NDA 9-788; Hydrocortisone Tablets; Evron Pharmaceutical Co., Inc., 7475 North Rogers Ave., Chicago, IL 60626.

15. NDA 9-900; Cortef Suspension containing hydrocortisone; The Upjohn Co.

16. NDA 9-931; Metrocortilone Tablets containing prednisolone; Schering Corp.

17. NDA 9-942; Deltra Tablets containing prednisone; Merck Sharp & Dohme.

18. NDA 9-986; Deltasone Tablets containing prednisone; The Upjohn Co.

19. NDA 9-987; Delta-Cortef Tablets containing prednisolone; The Upjohn Co.

20. NDA 9-996; Sterane Tablets containing perdnisolone; Pfizer Laboratories.

21. NDA 10-051; Hydeltra Tablets containing prednisolone; Merck, Sharp & Dohme.

22. NDA 10-662; Cortisone Acetate Tablets; Cooper Laboratories, successor to Vitamix Pharmaceuticals, Inc.

23. NDA 10-868; Paracortol Tablets containing prednisolone; Parke Davis & Co., P.O. Box 118, Detroit, MI 48232.

24. NDA 10-962; Paracort Tablets containing prednisone; Parke, Davis & Co.

25. NDA 11-153; Medrol Tablets containing methylprednisolone; The Upjohn Co.

26. NDA 11-161; Aristocort Tablets containing triamcinolone; Lederle Laboratories; Division of American Cyanamid Co., P.O. Box 500, Pearl River, NY 10965.

27. NDA 11-664; Decadron Tablets containing dexamethasone; Merck, Sharp & Dohme.

28. NDA 11-731; Deronil Tablets containing dexamethasone; Schering Corp.

29. NDA 11-895; Gammacorten Tablets containing dexamethasone; Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

30. NDA 11-960; Aristocort Syrup containing triamcinolone diacetate; Lederle Laboratories.

31. NDA 12-259; Alphadrol Tablets containing fluprednisolone; The Upjohn Co.

32. NDA 12-362; Medrol Medules containing methylprednisolone; The Upjohn Co.

33. NDA 12-376; Decadron Elixir containing dexamethasone; Merck, Sharp & Dohme.

34. NDA 12-657; Celestone Tablets containing betamethasone; Schering Corp.

35. NDA 12-674; Hexadrol Elixir containing dexamethasone; Organon, Inc., Division of Akzona, Inc., 375 Mt. Pleasant Ave., West Orange, NJ 07052.

36. NDA 12-675; Hexadrol Tablets containing dexamethasone; Organon, Inc.

37. DNA 12-772; Haldrone Tablets containing paramethasone acetate; Eli Lilly & Co., Box 618, Indianapolis, IN 46206.

The following drugs were not included in the October 21, 1970, or February 25, 1974 notices, but are affected by this notice:

1. NDA 8-282; Cortisone Acetate Tablets; Gold Leaf Pharmaceutical Co., Inc., 520 Dean St., Englewood, NJ 07631.

2. NDA 9-795; Hydrocortisone Tablets; USV Pharmaceutical Corp.

3. NDA 10-537; Tempogen Tablets containing prednisolone; Merck, Sharp & Dohme.

4. NDA 11-283; Kenacort Tablets containing triamcinolone; Squibb Pharmaceutical Co., Division of E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540.

5. NDA 13-287; Dexameth Tablets containing dexamethasone; Revlon, Inc., 767 Fifth Ave., New York, NY 10022.

6. NDA 14-215; Celestone Syrup containing betamethasone; Schering Corp.

7. NDA 16-764; Monocortin Tablets containing paramethasone acetate; Syntex Laboratories, Inc., Stanford Industrial Park, Palo Alto, CA 94304.

8. NDA 17-109; Prednisone Tablets; Philips Roxane Laboratories; Division of Philips Roxane, Inc., P.O. Box 1738, Columbus, OH 43216.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. Some of the indications appearing in the labeling conditions below did not appear in the previous notice. Having considered the information available concerning corticotropin and concerning the oral and parenteral glucocorticoids, the Director of the Bureau of Drugs concludes that, for the most part, when the dosage form and route of administration are appropriate, the same indications should be allowed for all. The notice of October 21, 1970, classified the following indication as probably effective: To tide the patient over a critical period in ulcerative colitis and regional enteritis. On the basis of the reconsideration discussed above, the drugs are now concluded to be effective for that indication. Except as stated above, the drugs now lack substantial evidence of effectiveness for the indications evaluated as probably and possibly effective in the October 21, 1970 notice and as probably effective in the February 25, 1974 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These steroid preparations are in tablet, capsule, suspension, powder, or syrup form suitable for oral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drugs. The Indications are as follows:

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1. *Endocrine disorders.* Primary or secondary adrenocortical insufficiency (hydrocortisone or cortisone is the first choice; synthetic analogs may be used in conjunction with mineralocorticoids where applicable; in infacy mineralocorticoid supplementation is of particular importance).

Congenital adrenal hyperplasia.
Nonsuppurative thyroiditis.
Hypercalcemia associated with cancer.

2. *Rheumatic disorders.* As adjunctive therapy for short-term administration (to tide the patient over an acute episode or exacerbation) in:

Psoriatic arthritis.

Rheumatoid arthritis, including juvenile rheumatoid arthritis (selected cases may require low-dose maintenance therapy).

Ankylosing spondylitis.
Acute and subacute bursitis.
Acute nonspecific tenosynovitis.
Acute gouty arthritis.
Post-traumatic osteoarthritis.
Synovitis of osteoarthritis.
Epicondylitis.

3. *Collagen diseases.* During an exacerbation or as maintenance therapy in selected cases of:

Systemic lupus erythematosus.
Acute rheumatic carditis.

4. *Dermatologic diseases:*

Pemphigus.
Bullous dermatitis herpetiformis.
Severe erythema multiforme (Stevens-Johnson syndrome).
Exfoliative dermatitis.
Mycosis fungoides.
Severe psoriasis.
Severe seborrheic dermatitis.

5. *Allergic states.* Control of severe or incapacitating allergic conditions intractable to adequate trials of conventional treatment:

Seasonal or perennial allergic rhinitis.
Serum sickness.
Bronchial asthma.
Contact dermatitis.
Atopic dermatitis.
Serum sickness.
Drug hypersensitivity reactions.

6. *Ophthalmic diseases.* Severe acute and chronic allergic and inflammatory processes involving the eye and its adnexa such as:

Allergic conjunctivitis.
Keratitis.
Allergic corneal marginal ulcers.
Herpes zoster ophthalmicus.
Iritis and iridocyclitis.
Chorioretinitis.
Anterior segment inflammation.
Diffuse posterior uveitis and choroiditis.
Optic neuritis.
Sympathetic ophthalmia.

7. *Respiratory diseases:*

Symptomatic sarcoidosis.
Loeffler's syndrome not manageable by other means.
Berylliosis.
Fulminating or disseminated pulmonary tuberculosis when used concurrently with appropriate antituberculous chemotherapy.
Aspiration pneumonitis.

8. *Hematologic disorders:*

Idiopathic thrombocytopenic purpura in adults.
Secondary thrombocytopenia in adults.
Acquired (autoimmune) hemolytic anemia.
Erythroblastopenia (RBC anemia).
Congenital (erythroid) hypoplastic anemia.

9. *Neoplastic diseases.* For palliative management of:

Leukemias and lymphomas in adults.
Acute leukemia of childhood.

10. *Edematous states.* To induce a diuresis or remission of proteinuria in the nephrotic syndrome, without uremia, of the idiopathic type or that due to lupus erythematosus.

11. *Gastrointestinal diseases.* To tide the patient over a critical period of the disease in:

Ulcerative colitis.
Regional enteritis.

12. *Miscellaneous:* Tuberculous meningitis with subarachnoid block or impending block when used concurrently with appropriate antituberculous chemotherapy.

Trichinosis with neurologic or myocardial involvement.

In addition to the above indications, the drug preparations containing dexamethasone are indicated for diagnostic testing of adrenocortical hyperfunction.

The drug preparations containing cortisone, hydrocortisone, prednisone, prednisolone, or methylprednisolone are indicated for systemic dermatomyositis (polymyositis).

3. *Marketing status of approved products.* Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that the holder of the application submits the following if he has not previously done so:

On or before May 2, 1977, (1) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

4. *Marketing status of all other products.* a. Approval of an abbreviated new drug application must be obtained prior to marketing such product. The application shall contain the information specified in 21 CFR 314.1(f) and shall include data of the kind required for this drug at the time of submission of the application to show that it is biologically available in the formulation proposed for marketing.

b. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a) (5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or, if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before March 31, 1977, a written notice of appearance and request for hearing, and (2) on or before May 2, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectivenes referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 7750, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Rm. 17B-34, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Documents Center (HFC-18), Rm. 4-62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: February 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-6040 Filed 2-28-77;8:45 am]

[Docket No. 76N-0406; DESI 7504]

CORTICOTROPIN FOR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 7504; Docket No. FDC-D-329 (now Docket No. 76N-0406)) published in the FEDERAL REGISTER of August 6, 1971 (36 FR 14509), the Food and Drug Administration announced its conclusions that the drug products described below are effective, probably effective, possibly effective, and lacking substantial evidence of effectiveness for their various labeled indications. The notice provided an opportunity for a hearing for the indications concluded at that time to lack substantial evidence of effectiveness. No data in support of any of the less-than-effective indications were submitted. All such indications are now reclassified to lacking substantial evidence of effectiveness. This notice offers an opportunity for a hearing concerning those indications and sets forth the conditions for marketing the drug products for the indications for which they are regarded as effective. Persons who wish to request a hearing may do so on or before March 31, 1977.

The notice that follows does not pertain to the indications stated in the August 6, 1971 notice to lack substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in the labeling. Any such product labeled for any of those indications is subject to regulatory action.

1. NDA 7-504; Acthar containing corticotropin; Armour Pharmaceutical Co., Division Armour & Co., Greyhound Tower, Phoenix, AZ 85077.

2. NDA 7-747; Corticotropin Solution; The Wilson Laboratories, 4221 South Western Blvd., Chicago, IL 60609.

3. NDA 7-727; ACTH Solution containing corticotropin; Merrell-National Laboratories, Division Richardson-Merrell, Inc., 110 E. Amity Rd., Cincinnati, OH 45215.

4. NDA 8-317; ACTH Steri-Vials containing corticotropin; Parke Davis & Co., GPO Box 118, Detroit, MI 48232.

5. NDA 8-362; ACTH Gel containing corticotropin; The Wilson Laboratories.

6. NDA 8-372; H. P. Acthar Gel containing corticotropin; Armour Pharmaceutical Co.

7. NDA 8-553; ACTH Gel containing corticotropin; Merrell-National Laboratories.

8. NDA 8-975; Purified Cortrophin Gel; Organon, Inc., Divison of Akzona, Inc., 375 Mt. Pleasant Ave., West Orange, NJ 07052.

9. NDA 9-694; Depo-ACTH containing corticotropin; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

10. NDA 9-854; Cortrophin-Zinc Suspension containing corticotropin zinc hydroxide; Organon, Inc.

11. NDA 10-565; Duracton containing corticotropin; Nordic Biochemicals, Inc., P.O. Box 224, Holliston, MA 01746.

The following seven drugs all containing corticotropin were not included in the August 6, 1971 notice but are affected by this notice:

1. NDA 8-676; Acorto Gel/Injection; Breon Laboratories, Inc., 90 Park Ave., New York, NY 10016.

2. NDA 8-743; El-Acorto Gel; Breon Laboratories, Inc.

3. NDA 9-346; Steri-Vial No. 97, ACTH, 25 units and Steri-Vial No. 98, ACTH, 40 units; Parke, Davis & Co.

4. NDA 10-831; Repository Corticotropin Injection; Organics, Inc., 1724 W. Greenleaf Ave., Chicago, IL 60626.

5. NDA 11-472; Corticotropin Repository Injection; Philip J. Lo Bue Co., New York, NY 10016.

6. NDA 12-089; Purified Corticotropin-Gel/Injection; Elkins-Sinn, Inc., 2 Easterbrook Ln., Cherry Hill, NJ 08002.

7. NDA 16-226; Repository Corticotropin Tubex Injection, Wyeth Laboratories, Inc., Division American Home Products, Corp., Box 8299, Philadelphia, PA 19101.

In a notice published in the FEDERAL REGISTER of October 27, 1971 (36 FR 20619), the approval of NDA 7-747 for Corticotropin Solution was withdrawn on the ground of failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). At the time that notice was published, no final conclusions concerning its probably and possibly effective indications had been reached. Those conclusions have now been reached, and the purpose of including Corticotropin Solution (NDA 7-747) in this notice is to inform all interested persons of such conclusions and offer them the opportunity to request a hear-

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ing concerning all issues relating to its legal status.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug products are effective for the indications listed in the labeling conditions below. Some of the indications appearing in the labeling conditions below did not appear in the previous notice. Having considered the information available concerning corticotropin and concerning the oral and parenteral glucocorticoids, the Director of the Bureau of Drugs concludes that, for the most part, when the dosage form and route of administration are appropriate, the same indications should be allowed for all.

The drugs now lack substantial evidence of effectiveness for the indications evaluated as probably and possibly effective in the August 8, 1971 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These preparations are in sterile aqueous solution, aqueous suspension, gel, or lyophilized powder form suitable for parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

(Name of drug) is indicated for diagnostic testing of adrenocortical function.

(Name of drug) has limited therapeutic value in those conditions responsive to corticosteroid therapy; in such case, corticosteroid therapy is considered to be the treatment of choice. (Name of drug) may be employed in the following disorders:

1. *Endocrine disorders:*

Nonsuppurative thyroiditis.
Hypercalcemia associated with cancer.

2. *Rheumatic disorders.* As adjunctive therapy for short-term administration (to tide the patient over an acute episode or exacerbation) in:

Psoriatic arthritis.
Rheumatoid arthritis, including juvenile rheumatoid arthritis (selected cases may require low-dose maintenance therapy).
Ankylosing spondylitis.
Acute and subacute bursitis.
Acute nonspecific tenosynovitis.
Acute gouty arthritis.
Post-traumatic arthritis.
Synovitis of osteoarthritis.
Epicondylitis.

3. *Collagen diseases.* During an exacerbation or as maintenance therapy in selected cases of:

Systemic lupus erythematosus.
Systemic dermatomyositis (polymyositis).
Acute rheumatic carditis.

4. *Dermatologic diseases:*

Pemphigus.
Bullous dermatitis herpetiformis.
Severe erythema multiforme (Stevens-Johnson syndrome).
Exfoliative dermatitis.
Severe psoriasis.
Severe seborrheic dermatitis.
Mycosis fungoides.

5. *Allergic states.* Control of severe or incapacitating allergic conditions intractable to adequate trials of conventional treatment:

Seasonal or perennial allergic rhinitis.
Bronchial asthma.
Contact dermatitis.
Atopic dermatitis.
Serum sickness.

6. *Ophthalmic diseases.* Severe acute and chronic allergic and inflammatory processes involving the eye and its adnexa such as:

Allergic conjunctivitis.
Keratitis.
Herpes zoster ophthalmicus.
Iritis and iridocyclitis.
Diffuse posterior uveitis and choroiditis.
Optic neuritis.
Sympathetic ophthalmia.
Chorioretinitis.
Anterior segment inflammation.
Allergic corneal marginal ulcers.

7. *Respiratory diseases:*

Symptomatic sarcoidosis.
Loeffler's syndrome not manageable by other means.
Berylliosis.
Fulminating or disseminated pulmonary tuberculosis when used concurrently with antituberculous chemotherapy.
Aspiration pneumonitis.

8. *Hematologic disorders:*

Acquired (autoimmune) hemolytic anemia.
Idiopathic thrombocytopenia purpura in adults (I.V. only; I.M. administration is contraindicated).
Secondary thrombocytopenia in adults.
Erythroblastopenia (RBC anemia).
Congenital (erythroid) hypoplastic anemia.

9. *Neoplastic diseases.* For palliative management of:

Leukemias and lymphomas in adults.
Acute leukemia of childhood.

10. *Edematous states.* To induce a diuresis or a remission of proteinuria in the nephrotic syndrome without uremia of type or that due to lupus erythematosus.

11. *Gastrointestinal diseases.* To tide the patient over a critical period of the disease in:

Ulcerative colitis.
Regional enteritis.

12. *Miscellaneous:*

Tuberculosis meningitis with subarachnoid block or impending block when used concurrent by with appropriate antituberculosis chemotherapy.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before May 2, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) for all products except those in controlled release form, a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)). For products in controlled release form, full updating information with respect to items 6, 7, and 8 of new drug application form FD–356H is requested.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. For controlled release forms, the application shall include full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H. Also, for controlled release forms, data from appropriate bioavailability studies will be required as part of the ANDA. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before March 31, 1977, a written notice of appearance and request for hearing, and (2) on or before May 2, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analysis, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 7504, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD–130), Rm. 14B–03, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Requests for the report of the National Academy of Sciences–National Research Council: Public Records and Document Center (HFC–18), Rm. 4–62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: February 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77–6039 Filed 2–28–77;8:45 am]

[Docket No. 76N–0328; DESI 7110]

CORTISONE, DEXAMETHASONE, HYDROCORTISONE, METHYLPREDNISOLONE, PREDNISOLONE, AND TRIAMCINOLONE FOR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 7110; Docket No. FDC–D–291 (now Docket No. 76N–0328)) published in the FEDERAL REGISTER of February 19, 1972 (37 FR 3775), the Food and Drug Administration (FDA) announced its conclusions that the antiinflammatory drug products described in section I below are effective or probably effective by the appropriate route of administration for certain indications and possibly effective or lacking substantial evidence of effectiveness for their other labeled indications. The notice also offered an opportunity for a hearing concerning the indications concluded at that time to lack substantial evidence of effectiveness. No data in support of any of the less-than-effective indications were submitted. This notice offers an opportunity for a hearing concerning those indications, and sets forth the conditions for marketing the drug products for the indications for which they are now regarded as effective. Persons who wish to request a hearing may do so on or before March 31, 1977.

All of the products named in the notice of February 19, 1972 and included in section I below are subjects of new drug applications that became effective prior to October 10, 1962. All are formulated and packaged for parenteral administration. Among the indications classified as probably effective in that notice was the indication for rectal use as an enema or drip in ulcerative colitis. None of the products are formulated and packaged especially for rectal administration. In that no data were submitted in support of rectal use of any of these

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parenteral products, that indication is one of the indications now being reclassified as lacking substantial evidence of effectiveness.

Three rectally administered corticosteroid products have been approved as both safe and effective since October 9, 1962. All of them are formulated and packaged especially for rectal administration. These products are named and discussed in section II below.

I. *Parenteral Corticosteroids Included in the Notice of February 19, 1972.*

The notice that follows does not pertain to the indications stated in the February 19, 1972 notice to lack substantial evidence of effectiveness. No person requested a hearing concerning them, and they are no longer allowable in the labeling. Any such product labeled for those indications is subject to regulatory action.

1. NDA 7–110; Cortone Acetate Saline Suspension containing cortisone acetate; Merck, Sharp & Dohme, Division of Merck & Co., Inc., West Point, PA 19486.

2. That part of NDA 8–126 pertaining to Cortisone Acetate Sterile Aqueous Suspension; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

3. NDA 8–228; Hydrocortone Acetate Saline Suspension containing hydrocortisone acetate; Merck, Sharp & Dohme.

4. NDA 9–164; Cortril Aqueous Suspension containing hydrocortisone acetate; Pfizer Laboratories, Division Pfizer, Inc., 235 E. 42d St., New York, NY 10017.

5. NDA 9–378; Cortef Acetate Sterile Injectable Suspension containing hydrocortisone acetate; The Upjohn Co.

6. NDA 9–379; Cortef Sterile Solution containing hydrocortisone; The Upjohn Co.

7. NDA 9–637; Hydrocortisone Acetate Aqueous Suspension; H. E. Maurry Biological Co., Inc., 6109 S. Western Ave., Los Angeles, CA 90047.

8. NDA 9–786; Hy-Cor Acetate Aqueous Suspension containing hydrocortisone acetate; Gold Leaf Pharmacal Co., Inc., 520 S. Dean St., Englewood, NJ 07631.

9. NDA 9–864; Cortef Sterile Aqueous Suspension containing hydrocortisone; The Upjohn Co.

10. NDA 9–866; Solu-Cortef Mix-O-Vial containing hydrocortisone sodium succinate; The Upjohn Co.

11. NDA 10–058; Hydrocortisone Acetate Suspension; Philadelphia Laboratories, Inc., Division Philadelphia Pharmaceutical & Cosmetic Co., 9815 Roosevelt Blvd., Philadelphia, PA 19114.

12. NDA 10–255; Meticortelone Aqueous Suspension containing prednisolone acetate; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033.

13. NDA 10–562; Hydeltra-T.B.A. Suspension containing prednisolone butylacetate; Merck, Sharp & Dohme.

14. NDA 10–603; Cortisone Acetate Aqueous Suspension; Cooper Laboratories, 300 Fairfield Rd., Wayne, NJ 07470; successor to Vitamix Pharmaceuticals, Inc.

15. NDA 11–061; Meticortelone Soluble containing prednisolone sodium succinate; Schering Corp.

16. NDA 11–158; Deltacortril Aqueous Suspension containing prednisolone acetate; Pfizer Laboratories.

17. NDA 11–446; Sterane Aqueous Suspension containing prednisolone acetate; Pfizer Laboratories.

18. NDA 11–583; Hydeltrasol Injection containing prednisolone sodium phosphate; Merck, Sharp & Dohme.

19. NDA 11–685; Aristocort Intralesional Suspension containing triamcinolone diacetate; Lederle Laboratories, Division of American Cynamid Co., P.O. Box 500, Pearl River, NY 10965.

20. NDA 11–757; That part of the NDA pertaining to Depo-Medrol Aqueous Suspension containing methylprednisolone acetate; The Upjohn Co.

21. NDA 11–856; Solu-Medrol Mix-O-Vial containing methylprednisolone sodium succinate; The Upjohn Co.

22. NDA 11–896; Prednisolone Acetate Suspension; Philadelphia Laboratories.

23. NDA 12–041; Kenalog Parenteral Aqueous Suspension containing triamcinolone acetonide; Squibb Pharmaceutical Co., Division of E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540.

24. NDA 12–052; Hydrocortone Phosphate Injection containing hydrcortisone sodium phosphate; Merck Sharp, & Dohme.

25. NDA 12–071; Decadron Phosphate Injection containing dexamethasone sodium phosphate; Merck Sharp & Dohme.

26. NDA 12–784; Cortiphate Injection containing hydrocortisone sodium phosphate; Travenol Laboratories, Inc., Morton Grove, IL 60053.

27. NDA 12–802; Aristocort Forte Suspension containing triamcinolone diacetate; Lederle Laboratories.

The following drugs were not included in the February 19, 1972 notice, but are affected by this notice:

1. NDA 8–856; Hydrocortone Concentrate Injection containing hydrocortisone; Merck Sharp & Dohme.

2. NDA 14–694; Hexadrol Phosphate Injection containing dexamethasone phosphate; Organon, Inc., Division of Akzona, Inc., 375 Mt. Pleasant Ave., West Orange, NJ 07052.

3. NDA 14–901; Kenalog-IM Injection containing triamicinolone acetonide; Squibb Pharmaceutical Co.

4. NDA 16–466; Aristospan Injction containing triamcinolone hexacetonide; Lederle Laboratories.

5. NDA 16–675; Decadron-LA Suspension/Injecton containing dexamethasone acetate; Merck, Sharp & Dohme.

6. NDA 17–561; Celestone Phosphate Injection containing betamethasone sodium phosphate; Schering Corp.

Approval of the following three new drug applications, which were listed in the February 19, 1972 notice, had already been withdrawn on the ground of failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (j)). At the time the notices of withdrawal were published, no conclusions concerning the products' indications had been reached. Conclusions have now been reached, and the purpose of including these new drug applications in this notice is to inform all interested persons of the conclusions and offer them the opportunity to request a hearing concerning all issues relating to the legal status of the products. In the listing that follows, the date and FEDERAL REGISTER citation identify the notice of withdrawal.

1. NDA 9–465; Hydrocortone-T.B.A. Suspension containing hydrocortisone butylacetate; Merck, Sharp & Dohme; October 27, 1971 (36 FR 206.19).

2. NDA 10–291; Cortril Soluble Parenteral containing hydrocortisone sodium succinate; Pfizer Laboratories; August 6, 1971 (36 FR 14477).

3. NDA 10–650; Hydrocortisone Acetate; Cooper Laboratories (sucessor to Vitamix Pharmaceuticals, Inc.); February 8, 1972 (37 FR 2852).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug labeling Compliance (HFD–310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications listed in the labeling conditions below. Some of the indications appearing in the labeling conditions below did not appear in the previous notice. Having considered the information available concerning corticotropin and concerning the oral and parenteral glucocorticoids, the Director of the Bureau of Drugs concludes that, for the most part, when the dosage form and route of administration are appropriate, the same indications should be allowed for all.

The drug products named above now lack substantial evidence of effectiveness for the indications evaluated as probably effective and possibly effective in the February 19, 1972 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These glucocorticoid preparations are in aqueous solution or suspension, or sterile powder form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

A. *Intravenous or intramuscular administration.* When oral therapy is not feasible and the strength, dosage form, and route of administration of the drug reasonably lend the preparation to the treatment of the condition, those products labeled for intravenous or intramuscular use are indicated as follows:

1. *Endocrine disorders:*

Primary or secondary adrenocortical insufficiency (hydrocortisone or cortisone is the drug of choice; synthetic analogs may be used in conjunction with mineralocorticoids where applicable; in infancy, mineralocorticoid supplementation is of particular importance).
Acute adrenocortical insufficiency (hydrocortisone or cortisone is the drug of choice; mineralocorticoid supplementation may be necessary, particularly when synthetic analogs are used).
Preoperatively and in the event of serious trauma or illness, in patients with known adrenal insufficiency or when adrenocortical reserve is doubtful.
Shock unresponsive to conventional therapy if adrenocortical insufficiency exists or is suspected.
Congenital adrenal hyperplasia.
Nonsuppurative thyroiditis.
Hypercalcemia associated with cancer.

2. *Rheumatic disorders.* As adjunctive therapy for short-term administration (to tide the patient over an acute episode or exacerbation) in:

Post-traumatic osteoarthritis.
Synovitis of osteoarthritis.
Rheumatoid arthritis, including juvenile rheumatoid arthritis (selected cases may require low-dose maintenance therapy).
Acute and subacute bursitis.
Epicondylitis.
Acute nonspecific tenosynovitis.
Acute gouty arthritis.
Psoriatic arthritis.
Ankylosing spondylitis.

3. *Collagen diseases.* During an exacerbation or as maintenance therapy in selected cases of:

Systemic lupus erythematosus.
Acute rheumatic carditis.

4. *Dermatologic diseases:*

Pemphigus.
Severe erythema multiforme (Stevens-Johnson syndrome).
Exfoliative dermatitis.
Bullous dermatitis herpetiformis.
Severe seborrheic dermatitis.
Severe psoriasis.
Mycosis fungoides.

5. *Allergic states.* Control of severe or incapacitating allergic conditions intractable to adequate trials of conventional treatment in:

Bronchial asthma.
Contact dermatitis.
Atopic dermatitis.
Serum sickness.
Seasonal or perennial allergic rhinitis.
Drug hypersensitivity reactions.
Urticarial transfusion reactions.
Acute noninfectious laryngeal edema (epinephrine is the drug of first choice).

6. *Ophthalmic diseases.* Severe acute and chronic allergic and inflammatory processes involving the eye, such as:

Herpes zoster ophthalmicus.
Iritis, iridocyclitis.
Chorioretinitis.
Diffuse posterior uveitis and choroiditis.
Optic neuritis.
Sympathetic ophthalmia.
Anterior segment inflammation.
Allergic conjunctivitis.
Allergic corneal marginal ulcers.

7. *Gastrointestinal diseases.* To tide the patient over a critical period of the disease in:

Ulcerative colitis (systemic therapy).
Regional enteritis (systemic therapy).

8. *Respiratory diseases:*

Symptomatic sarcoidosis.
Berylliosis.
Fulminating or disseminated pulmonary tuberculosis when used concurrently with appropriate antituberculous chemotherapy.
Loeffler's syndrome not manageable by other means.
Aspiration penumonitis.

9. *Hematologic disorders:*

Acquired (autoimmune) hemolytic anemia.
Idiopathic thrombocytopenic purpura in adults (I.V. only; I.M. administration is contraindicated).
Secondary thrombocytopenia in adults.
Erythroblastopenia (RBC anemia).
Congenital (erythroid) hypoplastic anemia.

10. *Neoplastic diseases.* For palliative management of:

Leukemias and lymphomas in adults.
Acute leukemia of childhood.

11. *Edematous states.* To induce diuresis or remission of proteinuria in the nephrotic syndrome, without uremia, of the idiopathic type or that due to lupus erythematosus.

12. *Miscellaneous:*

Tuberculous meningitis with subarachnoid block or impending block when used concurrently with appropriate antituberculous chemotherapy.
Trichinosis with neurologic or myocardial involvement.

In addition to the above indications, those preparations containing cortisone, hydrocortisone, prednisolone, or methylprednisolone are indicated for systemic dermatomyositis (polymyositis). Those containing dexamethasone are indicated for diagnostic testing of adrenocortical hyperfunction.

B. *Intra-articular or soft tissue administration.* When the strength and dosage form of the drug lend the preparation to the treatment of the condition, those products labeled for intra-articular or soft tissue administration are indicated as adjunctive therapy for short-term administration (to tide the patient over an acute episode or exacerbation) in:

Synovitis of osteoarthritis.
Rheumatoid arthritis.
Acute and subacute bursitis.
Acute gouty arthritis.
Epicondylitis.
Acute nonspecific tenosynovitis.
Post-traumatic osteoarthritis.

C. *Intralesional administration.* When the strength and dosage form of the drug lend the preparation to the treatment of the condition, those products labeled for intralesional administration are indicated for:

Keloids.
Localized hypertrophic, infiltrated, inflammatory lesions of: lichen planus, psoriatic plaques, granuloma annulare, and lichen simplex chronicus (neurodermatitis).
Discoid lupus erythematosus.
Necrobiosis lipodica diabeticorum.
Alopecia areata.
They also may be useful in cystic tumors of an aponeurosis or tendon (ganglia).

3. *Marketing status of approved products.* Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before —— 60 days after date of publication in the FEDERAL REGISTER, the holder of the application submits the following if he has not previously done so: (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

4. *Marketing status of all other products.* a. Approval of an abbreviated new drug application must be obtained prior to marketing such product. The application shall contain the information specified in 21 CFR 314.1(f) and, for a suspension form product, shall include data of the kind required for this drug at the time of submission of the application to show that it is biologically available in the formulation proposed for marketing.

b. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

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Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or, if indicated above, those part of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before March 31, 1977, a written notice of appearance and request for hearing, and (2) on or before May 2, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

II. *Corticosteroid Products Especially Formulated for Rectal Administration and Approved Subsequent to October 9, 1962.*

1. NDA 16-199; Cortenema, containing hydrocortisone; Rowell Laboratories, Inc., Lake of the Woods, Baudette, MN 56623.

2. NDA 11-757; That part of the NDA pertaining to Medrol Enpak, containing methylprednisolone acetate; The Upjohn Company, 7000 Portage Rd., Kalamazoo, MI 49001.

3. ANDA 85-023; Rectoid, containing hydrocortisone; Pharmacia Laboratories, 800 Centennial Ave., Piscataway, NJ 08854.

It is recognized that corticosteroids are effective in ulcerative colitis when administered systemically. The rationale for a topical product applied directly to the large bowel is that by exerting a topical effect it will be beneficial in ulcerative colitis but will produce less toxicity than would be produced by systemic treatment. Therefore, a rectally administered corticosteroid should not be absorbed to such an extent that all of its beneficial effects are accounted for by the systemic dose achieved.

On the basis of information now available to the Food and Drug Administration, the present status and further requirements concerning these three products are as follows:

A. *NDA 16-199 (Cortenema) (hydrocortisone).* The effectiveness of this product as a topical agent is supported by absorption studies, clinical studies, and the literature, indicating that the amount of hydrocortisone absorbed is not sufficient to account for the beneficial therapeutic effects seen. No further studies are required at this time. If new information becomes available on rectal absorption of hydrocortisone which indicates that substantially more hydrocortisone reaches the systemic circulation than previous studies indicate, additional studies of this product may be required.

B. *NDA 11-757 supplement (Medrol Enpak) (methylprednisolone acetate).* This product was approved on the basis of studies showing satisfactorily low absorption. However, new information concerning the rectal absorption of prednisolone acetate suggests that rectal absorption of methylprednisolone acetate is likely to be substantially greater than heretofore shown for Medrol Enpak. The Director of the Bureau of Drugs concludes that the NDA holder should conduct additional bioavailability studies on that product, comparing it with oral methylprednisolone acetate. Depending upon the results, new clinical trials may be required to demonstrate that the therapeutic effect of Medrol Enpak is substantially topical and not systemic.

It is required that the results of such studies be submitted as a supplement to the application to the Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Bureau of Drugs, address given below, on or before (insert date 180 days after date of publication in the FEDERAL REGISTER).

C. *ANDA 85-023 (Rectoid) (hydrocortisone).* This was approved as an abbreviated new drug application. Because of the now recognized potential for wide variability in the extent of absorption of rectally administered corticosteroids, the Director of the Bureau of Drugs concludes that the NDA holder should conduct bioavailability studies comparing the product with Cortenema, for which a satisfactorily low degree of rectal absorption has been shown. The Director further concludes that, because of the known potential for variable absorption of rectally administered corticosteroids, and the possible requirement for clinical studies to assure effectiveness, abbreviated NDA's are not appropriate for such products. Accordingly, this abbreviated new drug application is to be converted to a full new drug application. It is required that the results of the bioavailability studies be submitted as a supplement to the full new drug application to the Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Bureau of Drugs, address given below, on or before August 29, 1977.

The Bureau of Drugs will review the supplements received pursuant to the above requirements and inform the holders of the applications of its conclusions. If new information becomes available in the future concerning the rectal absorption of corticosteroids, e.g., if the state-of-the-art for measurement of rectal absorption improves, then additional studies by all NDA holders of these drug products will be required.

An approved full new drug application is a requirement for marketing of such products that are not now the subject of either an approved full new drug application or currently approved abbreviated new drug application. Full new drug application requirements are as follows:

(a) For a product in which the corticosteroid is identical to the corticosteroid contained in a marketed product for rectal administration that is provided for in an approved original full new drug application, data demonstrating bioequivalence to such approved product may be sufficient. If bioequivalence data are satisfactory, clinical studies will not ordinarily be required.

(b) For a product in which the corticosteroid does not have an identical counterpart in a marketed product for rectal administration that is provided for in an approved original full new drug application, bioavailability studies are required comparing the rectally administered product with a suitably formulated orally administered product of the same corticosteroid. Clinical studies are also required in order to demonstrate that the product is effective under the recommended conditions of dosage and administration. If the effectiveness of the rectally administered product clearly cannot be accounted for by the amount of corticosteroid absorbed, no further studies would be required. If this is not clear, additional studies would be required comparing rectal administration to oral administration of the same dose that is absorbed following rectal administration to establish that there is a true topical effect and that the full effectiveness of the product cannot be attributed to systemic absorption.

Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 7110, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Rm. 17B-34, Bureau of Drugs.

Original full new drug applications: Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Rm. 17B-34, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: February 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-6041 Filed 2-28-77;8:45 am]

[Docket No. 76N-0227; DESI 763]

LIDOCAINE HYDROCHLORIDE 2 PERCENT VISCOUS

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

In a notice (DESI 763; Docket No. FDC-D-272 (now Docket No. 76N-0227)) published in the FEDERAL REGISTER of April 10, 1971 (36 FR 6909), the Food and Drug Administration (FDA) announced its conclusions that the drug described below is effective for providing symptomatic relief of pain when applied to irritated or inflamed muccous membranes of the mouth and pharynx. The drug product was also certified as possibly effective for certain other indications. After a reevaluation of the reports received from the National Academy of Sciences-National Research Council, FDA has determined that one of the possibly effective indications, the indication for relief of pain and discomfort of post-tonsillectomy sore throat, is encompassed in the effective indication as worded in the April 10, 1971 notice. No person has submitted any data in support of the remaining possibly effective indications, and they are now reclassified as lacking substantial evidence of effectiveness. This notice offers an opportunity for a hearing concerning those indications and states the conditions for marketing such drugs for the indication classified as effective. Persons who wish to request a hearing may do so on or before March 31, 1977. Other products named in the April 10, 1971 notice are not affected by this notice:

NDA 9-470; Xylocaine Viscous containing lidocaine hydrochloride 2 percent; Astra Pharmaceutical Products, Inc., 7 Neponset St., Worcester, MA 01606.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indication listed in the labeling conditions below and lacks substantial evidence of effectiveness for all its other labeled indications not encompassed, as discussed above, in the effective indication.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Lidocaine hydrochloride 2 percent viscous is in solution form suitable for topical application.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows:

For the production of topical anes-

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thesia of irritated or inflamed mucous membranes of the mouth and pharynx.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before May 2, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1 (c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before March 31, 1977, a written notice of appearance and request for hearing, and (2) on or before May 2, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 763, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Surgical-Dental Drug Products (HFD–160), Rm. 18B–08, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD–530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Documents Center (HFC–18), Rm. 4–62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD–501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: February 17, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77–6038 Filed 2–28–77;8:45 am]

[Docket No. 76N–049; DESI 6813]

TRIHEXYPHENIDYL HYDROCHLORIDE IN CONTROLLED RELEASE DOSAGE FORM

Drug Efficacy Study Implementation; Followup Notice; Correction

In FR Doc. 77–3780, appearing at page 8005 in the FEDERAL REGISTER of Tuesday, February 8, 1977, in the first column on page 8006, under paragraph 3.b., beginning in line 16, the sentence that reads "Protocols for these studies are required to be submitted under an Investigational New Drug Application (IND)" should read "Protocols for these studies are required to be submitted under a Notice of Claimed Investigational Exemption for a New Drug (IND)." Also, in the second column of page 8006, in the second full paragraph, the lines that read "Original abbreviated new drug applications and bio-availability investigational new drug applications (identify as such):" should read "Original abbreviated new drug applications and notices of claimed investigational exemption for a new drug (identify as such):"

Dated: February 22, 1977.

CARL M. LEVENTHAL,
Acting Director, Bureau of Drugs.

[FR Doc.77–6037 Filed 2–28–77;8:45 am]

National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Meeting

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on March 17–18, 1977, at the National Institute of Education (NIE), 1200 19th Street N.W., Washington, D.C., in Room 823. The meeting will convene at 3 p.m., and adjourn at 6:30 p.m., March 17 and on March 18, convene at 8:30 a.m., and adjourn at 3:30 p.m.

The National Council on Educational Research is established under section 405(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute:

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute:

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

The meeting will be open to the public. The public's attention is especially invited to the agenda item below about consideration of a general policy for NIE on support of projects involving improvement of instructional programs. The Council is currently reviewing materials on this topic which were prepared by its Program Committee and the Director of the Institute after extensive consultation with members of the public, researchers, educators and representatives of professional organizations. Copies of these materials are available from the NCER Administrative Coordinator at the address below. The tentative agendas are as follows:

MARCH 17

3 p.m.	Convene.
3 to 3:05 p.m.	Approve minutes of January 6–7, 1977 meeting.
3:05 to 3:30 p.m.	Director's report.
3:30 to 4 p.m.	General business.
4 to 5 p.m.	Report of review and reports committee: 1976 annual report.
5 to 6:30 p.m.	Report of program committee: policy on instructional program improvement.

MARCH 18

8:30 a.m.	Convene.
8:30 to 10:30 a.m.	Consideration of policy on instructional program improvement.
10:30 a.m. to 12 m.	Executive committee report: policy framework, future agendas, fiscal year 1979 planning.
12 m to 1 p.m.	Lunch.
1 to 2:30 p.m.	Consideration and approval of 1976 annual report.
2:30 to 3:30 p.m.	General business.
3:30 p.m.	Adjourn.

Members of the public are invited to attend the sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the Chairman and Mrs. Ella L. Jones, Administrative Coordinator of the Council, at the address shown below.

In accordance with Council Policy (NCER Resolution No. 013074–8) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Administrative Coordinator. Resolutions are available shortly after the particular meeting at which adopted. Because minutes require approval by the Council at a subsequent meeting, they are usually available approximately four to six weeks after the date of the meeting to which they refer.

In order to verify the tentative agendas, or assure adequate seating arrangements, interested persons are requested to contact the Administrative Coordinator, National Council on Educational Research, National Institute of Education, Washington, D.C. 20208, Telephone: 202/254–7900.

JOHN E. CORBALLY,
Chairman.

[FR Doc.77–6234 Filed 2–28–77;8:45 am]

PRIVACY ACT OF 1974

Systems of Records and Notice of Proposed Routine Uses Therefor

Pursuant to the Privacy Act of 1974 (Pub. L. 93–579) as prescribed in 5 U.S.C. 552a(e)(4), the following notices of systems of records that the Department of Health, Education, and Welfare plans to establish are published as set forth below. New System reports were filed for these new systems with the Director, Office of Management and Budget, the Speaker of the House, the President of the Senate, and the Chairman of the Privacy Protection Study Commission on February 10, 1977. The new systems are as follows: SSA PP RSS 0177.00, entitled "Survey of Blind and Disabled Children Receiving Supplemental Security Income Benefits"; SSA PP RSR 0177.00, entitled "1977 Survey of Young Survivors"; CDC NIOSH 0147.00, entitled Mortality of Pesticide Formulators"; and CDC NIOSH 0148.00, entitled "Pulmonary Function Standards Study."

In addition to the new systems notices, there are seven modified systems. The modifications consist of new routine use disclosures and other additional information for the notices. The additional modified information contained within the body of the routine use disclosure sections of the notices as well as any other new/modified information in the body of other sections of the notices is indicated by italics.

Prior to the final adoption of the routine uses proposed for these new or modified system of records, consideration in accordance with the requirements of 5 U.S.C. 552a(e)(11) will be given to comments which are submitted in writing thirty days from the publication date of this notice. Comments should be addressed to the Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201. Comments received will be available for inspection in Room 526E, South Portal Building, at the above address.

Dated February 15, 1977.

THOMAS S. MCFEE,
Acting Assistant Secretary for Administration and Management.

SSA PP RSS 0177.00

System name:

Survey of Blind and Disabled Children Receiving Supplemental Security Income Benefits HEW SSA.

Security class:

None.

System location:

Division of Supplemental Security Studies (DSSS), Office of Research and Statistics, Social Security Administration, 1875 Connecticut Avenue, NW, Washington, D.C. 20009.

Urban Systems Research and Engineering, Inc., 1218 Massachusetts Avenue, Cambridge, Massachusetts 02138.

Categories of individuals covered by the system:

A sample of children receiving a benefit under the Supplemental Security Income program in May 1977.

Categories of records in the system:

Demographic, earnings history, disability status, Supplemental Security Income program data, and data on participation in other social programs (e.g., medicaid, social services, vocational rehabilitation services, etc.) on the disabled child as well as income information for the parents of the disabled child.

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Authority for maintenance of the system:

Section 702 of the Social Security Act (42 U.S.C. Section 902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the reqesut of that individual.

To organizations under contract with the Social Security Administration, information necessary to enable the contractor to comply with the conditions of the agreement to perform research and statistical functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The complete data tape with identifying information removed will be kept by DSSS and by the contractor. The contractor will retain the tape for three years after the completion of the study. The data tape will contain program and interview information. Hard copies of interview forms with identification removed will be retained by the contractor for three years after the completion of the study.

Retrievability:

Records are retrievable only during the field survey and the editing of the field survey, by name and social security number. Indentifiable information will be removed from the completed data tape once the information from the field survey is merged with program data. At that time, retrieval of data on specific individuals will no longer be possible.

Safeguards:

During field survey and editing, identification of tapes and documentation of tape data contents are restricted to DSSS staff and the contractor's project staff. Hard copy questionnaires can only be accessed from secure storage with permission of the project manager. All persons using tape data or having access to hard copy are notified of criminal sanctions for unauthorized disclosures of information about individuals. Similarly, contractor's staff operates under these sanctions during field survey.

Access to completed data tape is controlled by DSSS project manager.

Retention and disposal:

Completed tape with no identifiers is retained indefinitely by DSSS. Hard copy questionnaires are stripped of identifiers after the merge of program information and interview survey. All copies of the interview questionnaires will be destroyed by the contractor, using standard disposal procedures, no later than three years after the completion of the study.

Systems manager(s) and address:

Assistant Commissioner for Research and Statistics, Social Security Administration, Room 1121, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. 20009.

Notification procedure:

During field survey and editing: Provide System Manager with name of system, name and account number of disabled child and the child's age.

After data tape is complete: Retrieval not possible.

Records access procedures:

Same as notification procedure. Requestor should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, § 5b.5 (a)(2)), FEDERAL REGISTER October 8, 1975, page 47410.

Contesting record procedures:

Contact the official at the address specified under item 10 above and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7), FEDERAL REGISTER, October 8, 1975, page 47411.

Record source:

Direct interview questionnaire completed with individuals in the survey sample. Benefit and earnings history data on disabled children from supplemental security income records.

System exempted from certain provisions of the act:

None.

SSA PP RSR 0177.00

System name:

1977 Survey of Young Survivors.

Security class:

None.

System location:

Division of Retirement and Survivor Studies (DRSS), Office of Research and Statistics, Social Security Administration, 1875 Conn. Ave. NW., Washington, D.C. 20009.

Institute for Survey Research, Temple University, Philadelphia, Pa.

Categories of individuals covered by the system:

National sample of families with maternal or paternal orphans receiving monthly social security benefits as of December 1976.

Categories of records in the system:

Demographic, econcmic, work history, life and health insurance, and survivor adjustment data on the surviving spouse and children, plus data on worker and family before worker's death, plus social security administrative record data on benefits and earnings.

Authority for maintenance of the system:

Sections 702 and 1875 of the Social Security Act as amended (42 U.S.C., Sections 902, 1395 LL).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The completed data tape with identifying information removed is kept by DRSS and used in DRSS processing at SSA and HEW computer facilities. Contractor retains no data after field survey is completed. During field survey and editing phases, hard copy questionnaires are kept in secure storage and data tape with identifiers are stored separately and securely from the computer facility.

Retrievability:

Records are retrievable only during field survey, edit and administrative data operations stages, by name and social security number.

Identifying information will be removed from the completed data tape and retrieval of individual data will no longer be possible.

Safeguards:

During field survey and editing, identification of tapes and documentation of tape data contents are restricted to DRSS user staff. Hard copy questionnaires are kept in locked storage cabinets located in locked rooms and can only be accessed with the permission of the project manager. All persons using tape data or having access to hard copy are notified of criminal penalties for unauthorized disclosures of information about individuals. Similarly, the contractor's staff operates under the same sanctions and also keeps card copy data in secure storage areas. Contractor transmits all survey data to DRSS at end of field survey.

Access to completed data tape is controlled by DRSS project manager. Security measures have been incorporated in the software specifications of the system preventing accidental and intentional unauthorized disclosure.

Retention and disposal:

Completed tape with no identifiers is retained indefinitely. Hard copy questionnaires are stripped of identifiers and destroyed by secure methods at end of data editing operations.

System manager(s) and address:

Assistant Commissioner for Research and Statistics, Social Security Administration, Room 1121, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. 20009.

Notification procedure:

During field survey and editing: Provide System Manager with name of system, name and account number of deceased worker, and address of worker's

survivors as of December 1976 or first quarter of 1977.

After data tape is complete: retrieval not possible.

Record access procedures:

Same as notification procedures. Requestor should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, § 5b.5 (a)(2)) FEDERAL REGISTER October 8, 1975, page 47410.

Contesting record procedures:

Contact the official at the address specified under "Notification procedure" above and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, § 5b.7) FEDERAL REGISTER, October 8, 1975, page 47411.

Record source categories:

Direct interview questionnaire completed with individuals in the survey sample. Benefit and earnings history data on deceased worker and surviving widow from social security records.

Systems exempted from certain provisions of the act:

None.

CDC NIOSH 0147.00

System name:

Mortality of Pesticide Formulators—HEW/CDC/NIOSH.

Security classification:

None.

System location:

Division of Surveillance, Hasard Evaluations, and Field Studies, National Institute for Occupational Safety and Health, U.S. Post Office and Courthouse, 5th and Walnut, Cincinnati, Ohio 45202.

Categories of individuals covered by the system:

20,000 individuals who have been employed as pesticide formulators for a minimum of 12 months from 1940 to the present.

Categories of records in the system:

Occupational and medical histories, demographic data.

Authority for maintenance of the system:

Occupational Safety and Health Act, Section 20 (U.S.C. 669).

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

1. Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual (45 CFR Part 5B, Appendix B, Item 100).

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

3. Portions of records (usually name, date of birth, last known address, and social security number) may be disclosed to Federal, state, and local authorities, and to other sources capable of locating individuals, solely for the purpose of following individuals in the study and obtaining death certificates of those who have died.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual files, computer cards, computer tapes, computer listings.

Retrievability:

The purpose of this system is to determine the cause, and, therefore, lead toward future prevention of occupationally-related diseases. Name and case number are the identifiers used to retrieve records from this system.

Safeguards:

The records are maintained in locked cabinets with access limited to authorized personnel (system manager, principal investigator and his staff assigned to the project, project officer, contracting officer). For computerized records, safeguards are established in accordance with Departmental standards and National Bureau of Standards guidelines, e.g., security codes will be used limiting access to authorized personnel.

Retention and disposal:

Records are scheduled for destruction ten years following completion of the study. Disposal methods include erasing computer tapes and burning or shredding paper materials.

System manager(s) and address:

Director, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 9-32, Park Building, Rockville, Maryland 20857.

Notification procedure:

To determine if a file exists, write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, GA 30333, and provide the following information: (1) approximate date(s) and place of treatment or questionnaire administration; (2) name of study if known; (3) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion (these notification and access procedures are requirements of the Department regulations, 45 CFR, Part 5b.6, FEDERAL REGISTER, October 8, 1975, page 47411).

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

Contesting record procedures:

Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, GA 30333. Reasonably identify the record and specify the information to be contested in accordance with Department regulations, FEDERAL REGISTER, October 8, 1975, page 47411 (45 CFR Part 5b7).

Record source categories:

Information is obtained from pesticide formulating companies as well as individual employees and their relatives.

Systems exempted from certain provisions of the act:

None.

CDC NIOSH 0148.00

System name:

Pulmonary Function Standards Study—HEW/CDC/NIOSH.

Security classification:

None.

System location:

Appalachian Laboratory for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Categories of individuals covered by the system:

200 Non-exposed to any harmful or potentially harmful dust, gases or fumes, Blue Collar Workers in North Carolina.

Categories of records in the system:

Descriptive data, medical, smoking, and work histories, x-ray and pulmonary function data.

Authority for maintenance of the system:

Occupational Safety and Health Act, Section 20 (29 U.S.C. 669).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records may be released to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual (45 CFR Part 5B, Appendix B, Item 100). Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual files, computer tapes, computer listings.

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Retrievability:

The purpose of this system is to provide a comparison for other studies. Name, case number, and social security number (if provided voluntarily) are the indexes used to retireve records from this system.

Safeguards:

Locked building; locked rooms.
Security guard.
Locked computer room and computer tape cabinets.

Retention and disposal:

Records are kept for five years and either the personal identifiers are removed or the tapes are erased and manual files shredded or burned.

System manager(s) and address:

Director, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Room 3–32, Park Building, Rockville, Maryland 20857.

Notification procedure:

To determine if a file exists, write: Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, Georgia 30333, and provide the following information: (1) approximate date(s) and place of examination; (2) an individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its content at the representative's discretion (45 CFR, Part 5b.6, FEDERAL REGISTER, October 8, 1975, page 47411).

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

Contesting record procedures:

Write the Privacy Act Coordinator, Management Analysis Office, Center for Disease Control, Atlanta, GA 30333. Reasonably identify the record and specify the information to be contested in accordance with Department Regulations, FEDERAL REGISTER, October 8, 1975, page 47411 (45 CFR, Part 5b.7).

Record source categories:

Information is obtained directly from the individual participants in the study.

Systems exempted from certain provisions of the act:

None.

SSA PO DP 0275.03

System name:

Earnings Recording and Self-Employment Income System HEW SSA.

Security classification:

None.

System location:

Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Categories of individuals covered by the system:

Any person who has been issued a social security number and who may or may not have earnings under social security or self-employment income.

Categories of records in the system:

This contains records of all social security number holders, their name, date of birth, sex, race, a summary of their yearly earnings, quarters of coverage, special employment codes (i.e., self-employment, military, agriculture, and railroad, benefit status and employer identification.

Authority for maintenance of the system:

Section 205(a) of the Social Security Act and section 205(c) (2) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Employers or former employers, including State social security administrators for correcting and reconstructing State employee earnings records and for social security tax purposes; the Treasury Department a. for collection of social security taxes; b. *for verification of taxpayers' identification numbers; c. for administering or identifying violations of the Social Security Act, the Federal Insurance Contributions Act, the Self-Employment Contributions Act, and the Federal Unemployment Tax Act;* d. *for administering or investigating violations of any Federal income tax law;* e. *for investigating alleged theft, forgery, or unlawful negotiation of social security checks; and f. for Office of Tax Analysis studies of the effects of income taxes and taxes of earnings;* the Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment; the Department of Justice (Federal Bureau of Investigation and United States Attorneys) for investigating and prosecuting violations of the Social Security Act; the Department of Justice (Immigration and Naturalization Service) for the identification and location of aliens; *The Department of Justice (Federal Bureau of Investigation and the Department of Treasury (United States Secret Service) for national security matters and in connect with threats on the life of the President or other dignitaries;* State Departments of Public Welfare for quality control studies of grants-in-aid recipients; Energy *Research and* Development Administration for their study of the long-term effects of low-level radiation exposure; the Department of Labor for administering provisions of Title IV of the Federal Coal Mine Health and Safety Act and for studies of the effectiveness of training *programs* to combat poverty, a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. *The Department of State and the VA Regional Office Philippines for administering provisions of the Social Security Act in foreign countries through facilities and services of those agencies. The Veterans Administration for validation of the social security numbers of compensation/pensioners in order to provide the release of accurate pension/compensation data by the Veterans Administration for social security program purposes.*

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records in this system are maintained as paper forms, paper lists, punchcards, microfilm and magnetic tape files.

Retrievability:

Records in this system are indexed by social security number and name. This information is used for the following purposes: As a primary working record file of all social security number holders; as a quarterly earnings record detail file to provide full data in wage investigation cases; to provide information for determining amount of benefits; to record all incorrect or incomplete earnings items; to reinstate incorrectly or incompletely reported earnings items; to record the latest employer of a wage earner; for statistical studies; for identification of possible overpayments of benefits; for identification of individuals entitled to additional benefits; workers and self-employed indiivduals in the form of earnings statements or quarters of coverage statements; to provide information to Social and Rehabilitation Service/Health, Education and Welfare for locating deserting parents; *to provide information to Health, Education and Welfare Audit Agency for auditing benefit payments under social security programs; to provide information to National Institute of Occupational Safety and Health for epidemological research studies required by the Occupational Health and Safety Act of 1974; to provide information to Social and Rehabilitation Service (HEW) for administering Cuban refugee assistance payments.*

Safeguards:

All magnetic tapes are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges which are issued only to authorized personnel. All microfilm and paper files are accessible only by authorized personnel with a need to know. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contactual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal:

All paper forms and cards are retained until they are filmed or are entered on tape and the accuracy verified, then they are destroyed by shredding. All tapes and microfilm files are updated periodically. The out of date magnetic tapes are erased. The out of date microfilm is shredded.

System manager(s) and address:

Director, Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedure:

An3 individual may present a request for information as to whether this system contains records pertaining to himself by providing his social security number, name, signature, or other personal identification and referring to this system to Assistant Bureau Director, Systems, Bureau of Data Processing, 6401 Security Boulevard, Baltimore Maryland 21235.

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) FEDERAL REGISTER, October 8, 1975, page 47410.).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) FEDERAL REGISTER, October 8, 1975, page 47411)

Record source categories:

Social security number applicants, employers, self-employed individuals, Department of Justice (Immigration and Naturalization Service), Department of Treasury (Internal Revenue Service) master beneficiary record of Social Security Administration.

Systems exempted from certain provisions of the act:

None.

SSA PO SSI 0175.04

System name:

Supplemental Security Income Record HEW SSA.

Security class:

None.

System location:

Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235, District Offices, Branch Offices and BSSI Regional Offices, (See Appendixes D and F in the FEDERAL REGISTER, September 20, 1976, pages 41058 ff, and pages 41062 ff.)

Categories of individuals covered by the system:

This file contains a record for each aged, blind, or disabled individual who has applied for supplemental security income payments.

Categories of records in the system:

This file contains data regarding eligibility, citizenship, residence, eligibility for other benefits, alcoholism or drug addiction data (if applicable), income data, resources, payment amounts and living arrangements for all persons who have applied for SSI payments.

Authority for maintenance of the system:

Section 1631 of title XVI of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information from this file is used by the Treasury Department to prepare supplemental security income benefit checks, and by the States to establish the minimum income level for computation of State supplement. Minimum information necessary to identify SSI applicants and recipients to the following Federal and State agencies for their use in preparing information for verification of eligibility for benefits under sections 1631(e).: Bureau of Indian Affairs; Civil Service Commission; Department of Agriculture; Department of Labor; Immigration and Naturalization Service; Internal Revenue Service; Railroad Retirement Board; State Pension Funds; State Welfare Offices; State Workmen's Compensation; Department of Defense; United States Coast Guard; and, Veterans Administration. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual; *State Vocational Rehabilitation agency, or State crippled children's agency (or another agency providing services to disabled children) for the consideration of rehabilitation services per 42 U.S.C. 422 and 1382d; Contractors under contract to the Social Security Administration or under contract to another agency with funds provided by the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act; State audit agencies for auditing State supplementation payments and Medicaid eligibility consideration.*

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic Tape, microfiche.

Retrievability:

Magnetic tape and Microfiche indexed by social security number. Supplemental security income records begin in the social security district office where an individual files an application for supplemental security income payments. This application contains data which may be used to prove the identity of the applicant, determine his eligibility for SSI payments and in cases where eligibility is determined, to compute the amount of the payment. Information from the application in addition to data used internally to control and process SSI cases is used to create the Supplemental Security Income Record. The Supplemental Security Income Record is also used as a means of providing a historical record of all activity on a particular individual. In addition, statistical data is derived from the Supplemental Security Income Record for actuarial and management information purposes.

Safeguards:

All magnetic tapes are within an enclosure attended by security guards. Anyone entering or leaving that enclosure must have special badges which are only issued to authorized personnel. All authorized personnel having access to the magnetic tape records are subject to the penalties of the Privacy Act. The microfishe are stored in a locked rack, kept in a locked room, and only personnel having a need for the information have access.

Retention and disposal:

Original input transaction tapes received which contain initial claims and posteligibility actions are retained indefintely although these are processed as received and incorporated into processing tapes which are updated to the master supplemental security income tape file on a monthly basis. All magnetic tapes appropriate to SSI information furnished specified Federal, State, and local agencies for verification of eligibility for benefits and under section 1631(e) are retained, in accordance with the Privacy Act accounting requirements, for at least 5 years or the life of the record, whichever is longer.

System manager(s), and address:

Director, Bureau of Supplemental Security Income, 6401 Security Boulevard, Baltimore, Maryland 21235.

Social Security District Offices and Branch Offices (See Appendix F).

Notification procedure:

Social Security District Offices and Branch Offices (See Appendix F).

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate a responsible representative in writing who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR Sec. 5b6 FEDERAL REGISTER, October 3, 1975, page 47411)).

Record access procedures:

Same. Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

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Contesting record procedures:

Same. Contact the system manager at the address specified under Notification Procedure above; reasonably identify the record and specify the information to be contested, in accordance with Department Regulations, FEDERAL REGISTER, October 8, 1975, page 47411 (45 CFR Sec. 5b7).

Record source categories:

The information contained within the Supplemental Security Record is obtained for the most part from the applicant for SSI payments and is derived from the claims folder.

Systems exempted from certain provisions of the act:

None.

SSA HI 0175.04

System name:

Health Insurance Master Record—HEW SSA.

Security classification:

None.

System location:

Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Categories of individuals covered by the system:

Records are maintained on the following categories: Individuals age 65 or over who currently are, or have been, entitled to health insurance benefits under Title XVIII of the Social Security Act; individuals under age 65 who have been entitled for not less than 24 consecutive months to disability benefits under Title II of the Act or under the railroad retirement system; and the spouse or dependent children of a person fully insured under social security who has chronic renal disease.

Categories of records in the system:

The system contains information on enrollment, entitlement, Part A (Hospital) and B (Supplementary Medical) utilization, query and reply activity, health insurance bill and payment record processing, and Health Insurance Master Record maintenance.

Authority for maintenance of the system:

Section 1814 and 1833 of Title XVIII of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Routine disclosure may be made to:

a. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

b. State Welfare Departments for determination of eligibility for Medicaid, and for quality control studies and for determining eligibility of grants-in-aid recipients under Titles IV and XIX of the Social Security Act.

c. State audit agencies for auditing State Medicaid eligibility considerations.

d. Providers and suppliers of services directly or dealing through fiscal intermediaries or carriers for administration of title XVIII.

e. A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

f. And to contractors under contract to the Social Security Administration or under contract to another agency with funds provided by the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records maintained on microfilm, magnetic tape, *and disc.*

Retrievability:

System is indexed by health insurance claim number, and is used to carry out the tasks of enrollment, query/reply activity, and health insurance bill and payment record processing.

Safeguards:

Unauthorized personnel are denied access to the records area. Disclosure is limited to routine use. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administing SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal:

A working copy of the microfilm is destroyed after 10 years; a security copy is transferred to the Federal Records Center for an additional 5 years retention and destroyed after a total of 15 years. Magnetic tapes are updated daily; are subsequently erased and returned to blank stock 20 days after update. The disc is updated daily and obsolete information is erased.

System manager(s) and address:

Director, Bureau of Health Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedure:

Inquiries and requests for system records should be addressed to the most convenient social security office or to the Social Security Administration, Bureau of Health Insurance, Health Insurance Inquiries Branch, Baltimore, Maryland 21235. The individual should furnish his or her health insurance claim number and name as shown on social security records.

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) FEDERAL REGISTER, October 8, 1975, page 47410.).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, Section 5b7) FEDERAL REGISTER, October 8, 1075, page 47411.).

Record source categories:

The data contained in these records is furnished by the individual. There are cases, however, in which the identifying information is provided to the physician by the individual; the physician then adds the medical information and submits the bill to the carrier for payment. Updating information is also obtained from the Master Beneficiary Record.

Systems exempted from certain provisions of the act:

None.

SSA PO RSI 0275.04

System name:

Master Beneficiary Record HEW SSA.

Security classification:

None.

System location:

Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Categories of individuals covered by the system:

All social security beneficiaries currently entitled to receive retirement, survivors, disability, and special minimum social security benefits; records for beneficiaries whose entitlement has been terminated because of a termination event as defined in the Social Security Act; and denied and disallowed cases.

The master beneficiary data contains data applicable to all beneficiaries maintained on the record within a particular account and reflects the social security number under which benefits are awarded, the primary insurance amount (insured) or quarters of coverage required and earned (uninsured); provides information regarding benefit computation, insured status, use of railroad or military credits, and information for statistical and control purposes; contains the effective date of onset of disability for disability cases or date and proof of death for death cases; contains information pertinent to all beneficiaries receiving payment on the record and the name and address (including ZIP Code) of the payee, the servicing social security district office code and the amount of the monthly check payable;

reflects any special status of a payment being made; contains statistical and identifying information for each individual on the record such as the beneficiary subscript, beneficiary name, date of birth, date of entitlement, sex, race, and benefit payment status; contains information for those beneficiaries enrolled in the health or supplemental medical insurance provision of the Social Security Act; contains information relating to annual reports of earnings, representative payee data, and cross-reference data pertinent to any other account on which the beneficiary may be entitled to benefits; and a chronological sequence of payment history for each beneficiary. The records may be in the following form. Master Beneficiary Record Computer File; Online Data Base (Query and Response); Various Microform Files as follows: Master File—a master record in account number order, Alpha File—an alphebetic list of beneficiaries, Transaction File—monthly supplement (accretions, deletions, and changes) to the master file, in account number order, Offline Query and Response, Treasury Payment Tape Files and Related Transaction Files, Various One-Time Work Tape Files used in computer sorting of records and in subsystems processing of the master beneficiary records. After use they are returned to stock, Payment Reference Listing.

Authority for maintenance of the system:

Payment of benefits is directed by the following sections: Sections 202a–1, 223, 226, 228, and 1611 of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Routine uses for disclosure may be to:

a. Applicants or claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue social security claims and receive and account for benefit payments.

b. Third party contacts by the Social Security Administration (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his affairs or his eligibility for or entitlement to benefits under the social security programs when:

(1) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

(2) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under a social security program; the amount of a benefit payment; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement system activities.

c. Third party contacts by the Social Security Administration where necessary to establish or verify information provided by representative payees or payee applicants.

d. A person (or persons) on the rolls when a claim is filed by another individual which is adverse to the person on the rolls:

(1) An award of benefits to a new claimant precludes an award to a prior claimant; or

(2) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls; but only for information concerning the facts relevant to the interests of each party in a claim.

e. The Treasury Department for collecting social security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act (including social security number verification services) and for investigating alleged theft, forgery, or unlawful negotiation of social security checks.

f. The United States Postal Service for investigating alleged forgery or treft of social security checks.

g. The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

h. The Department of State and the Veterans' Administration Regional Office Philippines for administering provisions of the Social Security Act in foreign countries through facilities and services of those agencies.

i. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

j. The Veterans' Administration for the purpose of administering 38 U.S.C. 412 (special payments to certain survivors of uninsured persons who die after 1056 while on active duty, active duty for training, or inactive duty training, or who die after 1956 due to a service-connected disability incurred after September 15, 1940).

k. The Bureau of Census when it performs as a collecting agent or data processor for research and statistical purposes directly relating to the Social Security Act.

l. The Department of the Treasury, Office of Tax Analysis, for studying the effects of income taxes and taxes on earning.

m. The Civil Service Commission for the study of the relationship of civil service annuities to minimum social security benefits, and the effects on the trust fund.

n. State social security administrators for administration of agreements pursuant to section 218 (State and local).

o. State Welfare Departments for administering Sections 205(c)(2)(B)(i)(II) and 402(a)(25) of the Social Security Act requiring information about assigned social security numbers for Aid to Families with Dependent Children program purposes and for determining a recipient's eligibility under the AFDC and Medicaid programs.

p. Energy Resources Development Administration for their study of the long-term effects of low-level radiation exposure. (See also 45 CFR, Part 5b).

q. *A congressional office for the record of an individual in response to an inquiry from the congressional office made at the request of that individual.*

r. *Contractors under contract to the Social Security Administration or under contract to another agency with funds provided by the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.*

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic tape, magnetic disk, microfilm, and paper.

Retrievability:

Based on social security number on magnetic tape, microfilm readers and printers, listings, and online computer terminals. Master beneficiary record data are used by a broad range of social security employees for responding to inquiries, generating followups on beneficiary reporting events, computer exception processing, statistical studies, conversion of benefits, and to generate payment records for Treasury. Data are channelled from this system to State Welfare Department's, with consent of the individual, for Aid to Families with Dependent Children program purposes; and data are received from States regarding health insurance third party premium payment/buy-in information.

Safeguards:

Magnetic tape, disk and microfilm files are protected through standard security measures used for all of the Social Security Administration's computer records. Paper records are subject to the same safeguards as all other information in the Social Security Administration relating to claims and beneficiary records—limited access to social security offices, limited employees access to need to know; all employees receive instruction in Social Security Administration confidentiality rules in an initial orientation. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of

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Standards guidelines. Safeguards include a lock/unlock passwork system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal:

Magnetic tape records are used to update the disc files and then are retained up to 90 days; the majority of magnetic tape reels are erased and returned to stock after processing is completed, while the disc files are continuously updated and retained indefinitely. Microfilm is disposed of by shredding after periodic replacement of a complete file. Paper records are usually destroyed after use, by shredding, except where needed for documentation of the claims folder, in which case they are retained therein indefinitely (see notices for claims folders and post-adjudicative records of applicants and beneficiaries for social security benefits).

System manager(s) and address:

Director, Bureau of Retirement and Survivors Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedure:

Contact the most convenient social security office (see Appendix F). The social security claim number (social security number plus alphabetic symbols), and name and address must be furnished with proper identification. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) FEDERAL REGISTER, October 8, 1975, page 47411.).

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) FEDERAL REGISTER, October 8, 1975, page 47410.).

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) FEDERAL REGISTER, October 8, 1975, page 47411.)

Record source categories:

The information for the master beneficiary record comes primarily from the claims folder and/or is furnished by the beneficiary at the time of filing for benefits, via the application form and necessary proofs, and during the period of entitlement when notices of events such as changes of address, work, marriage, are given the Social Security Administration by the beneficiary; from States regarding health insurance buy-in cases.

Systems exempted from certain provisions of the act:

None.

SSA PO RSI 0175.05

System name:

Claims Folders and Post-Adjudicative Records of Applicants and Beneficiaries for Social Security Administration Benefits HEW SSA.

Security class:

None.

System location:

Retirement and Survivors Insurance Claims; Claims folders are maintained primarily in the Retirement and Survivors Insurance Program Service Centers and the Division of International Operations (see Appendix A). Disability Insurance Claims; Bureau of Disability Insurance (see Appendix B) or Division of International Operations (see Appendix A), Black Lung Claims; Bureau of Disability Insurance (see Appendix B). Supplemental Security Income Claims: Claims for benefits based on age—Retirement and Survivors Insurance Program centers (see Appendix A). Claims for Disability or Blind Benefits—Bureau of Disability Insurance (see Appendix B). In addition, claims folders are transferred to numerous other locations throughout the Social Security Administration, and infrequently may be temporarily transferred to other Federal agencies (Department of Justice, or Office of the General Counsel, Department of Health, Education, and Welfare). The disability claims folders are also transferred to State agencies for disability and vocational rehabilitation determinations (see Appendix B). The claims folders are generally set up in district or branch offices when claims for benefits are filed. They are retained there until all development has been completed, then are transferred to the appropriate reviewing office as set out above. Supplemental security income claims folders are held in district or branch offices pending establishment of a payment record, or until the appeal period, in a denied claim situation, has expired. The folders are then transferred to the reviewing office. For district or branch office information, see Appendix F. *Appendixes A, B, and F were last published in the "Federal Register" on September 20, 1976, volume 41, number 183, page 41048 ff.*

Categories of individuals covered by the system:

Claimants for retirement, survivors, disability, health insurance, or black lung benefits or supplemental security income payments.

Categories of records in the system:

The claims folder is established when a claim for benefits is filed. It contains applications for benefits, earnings record information established and maintained by the Social Security Administration, documents supporting factors of entitlement and continuing eligibility, payment documentation, and correspondence to and from claimants and/or representatives. It may also contain data collected as a result of inquiries or complaints; and evaluation and measurement study of effectiveness of claims policies. Separate files may be maintained of certain actions which are entered directly into the computer processes. These relate to report of changes of address, work status, and other post-adjudicative reports.

Authority for maintenance of the system:

Payment of benefits is directed by the following sections: Sections 202(a)–(l), 223, 226, 228, and 1611 of the Social Security Act and Section 411 of the Federal Coal Mine and Health Safety Act.

Routine uses of record maintained in the system, including categories of users and the purposes of such uses

Routine uses for disclosure may be to:

a. Third party contacts by the Social Security Administration (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his affairs or his eligibility for or entitlement to benefits under the social security program when:

(1) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

(2) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under a social security program; the amount of a benefit payment; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement system activities.

b. Third party contacts by the Social Security Administration where necessary to establish or verify information provided by representatives payees or payee applicants.

c. A person (or persons) on the rolls when a claim is filed by an individual which is adverse to the person on the rolls; that is:

(1) An award of benefits to a new claimant precludes an award to a prior claimant; or

(2) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls; only for information concerning the

facts relevant to the interests of each party in a claim.

d. Employers or former employers for correcting or reconstructing earnings records and for social security tax purposes only.

e. The Treasury Department for collecting social security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act (including social security number verification services), for investigating alleged theft, forgery, or unlawful negotiation of social security checks, and for purposes of garnishment to provide child support or alimony in accordance with a properly executed garnishment action in accordance with 47 U.S.C. 659.

f. The United States Postal Service for investigating alleged forgery or theft of social security checks.

g. The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

h. The Department of State and the Veterans' Administration Regional Office Phillippines for administering provisions of the Social Security Act in foreign countries through facilities and services of those agencies.

i. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Act relating to railroad employment.

j. The Veterans' Administration for the purpose of administering 38 U.S.C. 412 (special payments to certain survivors of uninsured persons who die after 1956 while on active duty, active duty for training, or inactive duty training, or who die after 1956 due to a service-connected disability incurred after September 15, 1940).

k. The Department of Labor for administering provisions of Title IV of the Federal Coal Mine Health and Safety Act.

l. The Bureau of Census when it performs as a collecting agent or data processor for research and statistical purposes directly relating to the Social Security Act.

m. The Department of the Treasury, Office of Tax Analysis, for studying the effects of income taxes and taxes on earnings.

n. The Civil Service Commission for study of the relationship of civil service annuities to minimum social security benefits, and the effects on the trust fund.

o. State social security administrators for administration of agreements pursuant to section 218 (State and local).

p. State welfare Departments for administering Sections 205(c)(2)(B)(i)(II) and 402(a)(25) of the Social Security Act requiring information about assigned social security numbers for Aid to Families with Dependent Children program purposes only.

q. State Welfare Department pursuant to agreements with the Social Security Administration for administration of State supplementation payments, for determinations of eligibility for Medicaid per section 1634, for enrollment of welfare recipients for medical insurance under Section 1843 of the Social Security Act, *for quality control studies and determining eligibility of grants-in-aid recipients under Titles IV and XIX of the Social Security Act*, and for conducting independent quality assurance reviews of supplemental security income recipient records, provided that the agreement for Federal administration of the supplementation provides for such an independent review.

r. State Vocational Rehabilitation *agency, or State crippled children's service agency (or another agency providing services to disabled children) for the consideration of rehabilitation services per 42 U.S.C. 422 and 1382 d.*

s. State audit agencies for auditing State supplementation payments and Medicaid eligibility considerations.

t. Professional Standards Review Organizations (PSRO) and State Licensing Boards for review of unethical practices or nonprofessional conduct as provided in section 1165.

u. Providers and suppliers of services directly or dealing through fiscal intermediaries or carriers for administration of provisions of title XVIII.

v. Private medical and vocational consultants for use in making preparation for, or evaluating the results of, consultative medical examinations or vocational assessments which they were engaged to perform by the Social Security Administration or a State agency acting in accord with sections 221 or 1633.

w. Energy *Research and* Development Administration for their study of the long-term effects of low-level radiation exposure.

x. Specified business and other community members and Federal, State, and local agencies for verification of eligibility for benefits under section 1631(e).

y. Institutions or facilities approved for treatment of drug addicts or alcoholics as a condition of the individual's eligibility for payment under section 1611e and as authorized by regulations issued by the Special Action Office for Drug Abuse Prevention.

z. Contractors under contract to the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.

aa. Applicants, claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue social security claims and receive and account for benefit payments.

bb. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

cc. State audit agencies for verifying proper expenditures of Federal funds by the State in support of the Disability Determination Service (DDS).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Claims folders are maintained in file cabinets by service area as set out in Location above.

Retrievability:

Filed in numerical sequence by social security number. The folders are used throughout the Social Security Administration for the purposes of determining, organizing, and maintaining documents for making normal determination as to eligibility to benefits, the amount of benefits, reviewing containing documents for making normal administrative review processes, and to ensure that proper adjustments are made based on events affecting entitlement. The folder may be referred to State Disability Determination Sections or Vocational Rehabilitation Agencies in disability cases. They may also be used for quality review, evaluation, and measurement studies, and other statistical and research purposes.

The claims folder costitutes the basic record for payments and determinations under the Social Security Act and the Federal Coal Mine Health and Safety Act (black lung). Data are used to produce and maintain the master beneficiary record system (see Systems Notice) which is the automated payment system for retirement, survivors, and disability benefits; the supplemental security income automated system for the aged, blind, and disabled payments; the black lung payment process for black lung claims; and the Health Insurance and Billing and Collection Master record system for Hospital and supplementary medical (medicare) insurance benefits.

This paper file is controlled by the Social Security Administration Claims Control System while the claim is pending development for adjudication in the district or branch office, and by the Case Control System once the folder has been transferred to the reviewing office (program centers, Division of International Operations, or the Bureau of Disability Insurance).

Safeguards:

Claims folders are protected through limited access to Social Security Administration records, limited employee access to need to know. All employees are instructed in Social Security Administration confidentiality rules as a part of their initial orientation training.

Retention and disposal:

The claims folder is maintained in the reviewing office until the social security number becomes inactive (no one is entitled to benefits). It is then transferred for storage to the Federal Archives and Records Center to await destruction based on predetermined destruction dates; 5-year retention-no record of surviving potential beneficiaries; 20-year

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retention-withdrawn claims, claims disallowed or lump-sum death payments only; and 55-year retention-potential future claimants indicated in the file. When a subsequent claim is filed on the social security number the claim is recalled from the Records Center. Similarly, the claims files may be recalled from the Records Center at any time by the Social Security Administration as necessary in the administration of the social security programs.

System manager(s) and address:

Director, Bureau of Retirement and Survivors Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Director, Bureau of Supplemental Security Income, 6401 Security Boulevard, Baltimore, Maryland 21235.

Director, Bureau of Disability Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Director, Bureau of Health Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedure:

Contact the most convenient social security office (see Appendix F for address and telephone information).

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notifications and access procedures are in accordance with Department Regulations (45 CFR 5b.6) FEDERAL REGISTER, October 8, 1975, page 47410.)

Record access procedures:

In order to find out if this system contains information about him, an individual may contact the most convenient social security office in person or in writing. The inquirer should provide his name, social security number, identify the type of claim he filed (retirement, survivors, disability, health insurance, black lung, special minimum payments, or supplemental security income) (if more than one claim was filed, each should be identified); whether he is or has been receiving benefits; whether payments are being received under his own social security number, and if not, the name and social security number under which received; if benefits have not been received, the approximate date and the place the claim was filed; and his return address or his telephone number.

Contesting record procedures:

If upon review of the record, the individual wishes to contest any part of it, he may do so at the same office where he accessed the record. Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Sec. 5b.7, FEDERAL REGISTER, October 8, 1975, page 47411).

Record source categories:

This information is obtained from the claimants, accumulated by the Social Security Administration from reports of employers or self-employed individuals, various local, State, and Federal agencies, claimant representatives and other sources to support factors of entitlement and continuing eligibilities.

Systems exempted from certain provisions of the Act:

None.

SSA PO RSI 0975.04

System name:

Program Integrity Case Files HEW SAA.

Security class:
None.

System location:

Bureau of Retirement and Survivors Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235, and its program centers (see Appendix A—FEDERAL REGISTER, Sept. 20, 1976 page 41048).

Bureau of Disability Insurance, Baltimore, Maryland 21231, its regional office locations (see Appendix B—FEDERAL REGISTER, Sept. 20, 1976, page 41048).

Bureau of Health Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235, or the Health Insurance Regional Office locations (see Appendix C—FEDERAL REGISTER, Sept. 20, 1976, page 41053).

Office of Management and Administration, Quality Assurance Field Staffs, 6401 Security Boulevard, Baltimore, Maryland, 21235 (see Appendix D-4—FEDERAL REGISTER, Sept. 20, 1976, page 41059), or the Supplemental Security Income Regional Office locations (see Appendix D—FEDERAL REGISTER, Sept. 20, 1976, page 41058).

Categories of individuals covered by the system:

Persons suspected of having violated the criminal provisions of the Social Security Act where substantial basis for criminal prosecution exists, and defendants in criminal prosecution cases.

Categories of records in the system:

Information maintained in each record includes the identity of the suspect, the nature of the alleged offense, documentation of the investigation into the alleged offense, and the disposition of the case by the Social Security Administration or the United States Attorney.

Authority for maintenance of the system:

Sections 206, 208, 221, 222, 1106, 1107, 1631(d)(3), 1632, 1633, 1816, 1842, 1872, 1974, 1976, 1877 of the Social Security Act, and sections 413 and 427 of the Federal Coal Mine Health and Safety Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Material in this system of records is routinely used by SSA staff to determine if a violation of the penal provisions of the Social Security Act or related provisions of the United States Code has been committed. If so, such material is used as the basis for referral of the case to the Department of Justice for consideration of prosecution, and is disclosed to that agency. The material is also used to determine the direction of investigation of potential fraud situations, which includes contact with third parties for the purpose of establishing or negating a violation. Some such information is disclosed to *officers or employees of State governments as well as the CHAMPUS program for use in conducting investigations of possible fraud or abuse against the title XIX or CHAMPUS programs, as well as* States Attorneys in connection with State programs involving the Social Security Administration. Cases involving fraudulent tax returns or forgery of social security checks are disclosed to the Treasury Department. (See also 45 CFR, Part 5B) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual system, records maintained in manila folders and stored in filing cabinets.

Retrievability:

Records are indexed and retrieved by social security number or by name of the subject of the investigation. The information in this record system pertains to suspected violations and fraud investigations. Cases may move through several levels of the Social Security Administration organization at the district, regional and/or central office locations during the course of documenting a suspected fraudulent situation.

Safeguards:

Records are maintained in locked filing cabinets and are accessed only by employees with a job-related need for the information.

Retention and disposal:

Records may be retained 3–6 years after final disposition of the case. At the end of the retention period, the records are destroyed by shredding. (Supplemental security income cases are scheduled for 6 year retention, all others 3 years; once experience has been gained with the former types of cases, it may be possible to reduce it to 3 years.)

System manager(s) and address:

Director, Office of Quality Assurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Director, Bureau of Disability Insurance, Baltimore, Maryland 21241.

Director, Bureau of Health Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Director, Bureau of Retirement and Survivors Insurance, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedure:

An individual can determine if this system contains a record pertaining to him by requesting such information in writing from the appropriate program service center for retirement and survivors cases (see Appendix A); Bureau of Disability Insurance for disability, black lung, or Supplemental Security Income disabled or blind cases; the appropriate Health Insurance Regional Offices for health insurance cases (see Appendix C); or the appropriate Quality Assurance Field Staff for supplemental security income cases (see Appendix D3). The request should include the individual's name and social security number, any social security number on which he has filed for or received benefits, the type of such claim, and current claim status. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6) FEDERAL REGISTER, October 8, 1975, page 47411.)

Record access procedures:

Per 5 United States Code 522a(k)(2), the records in this system are exempt from access by the individual named in the records. However, access to information which is a matter of public record or documents furnished by the individual will be permitted.

Contesting record procedures:

Same.

Record source categories:

The information contained in this record system is the result of criminal investigation and may be derived from such sources as the suspect, witnesses, or Social Security Administration employees with a knowledge of the case.

Systems exempted from certain provisions of the Act:

Exemption of this system to the access provisions is claimed under section k(2) of the Privacy Act inasmuch as these records are investigatory materials compiled for program (law) enforcement in anticipation of a criminal proceeding. (See page 47413 of FEDERAL REGISTER of 10–8–75, Vol. 40, No. 196, Part V.)

SSA PO DF 0175.04

System name:

Master files of Social Security Number Holders HEW SSA.

Security classification:

None.

System location:

Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Categories of individuals covered by the system:

All individuals who have obtained social security numbers.

Categories of records in the system:

This system contains all of the information received on original applications for social security numbers and any changes in the information on the applications that are submitted by the social security number holder. Cross-reference may be noted where multiple numbers have been issued to the same individual; and indication that benefit claim has been made under this social security number.

Authority for maintenance of the system:

Section 205(a) of the Social Security Act; Section 205(c)(2) of the Social Security Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. The State Unemployment Compensation Agencies to verify social security numbers in unemployment compensation claims cases.

2. Employers are notified of the social security number of an employee in order to complete their records for reporting FICA to the Social Security Administration pursuant to the Federal Insurance Contributions Act and Section 218 of the Social Security Act.

3. State welfare agencies are notified on written request, of the social security numbers of AFDC applicants or recipients.

4. The Department of Justice (Federal Bureau of Investigation and United States Attorneys) for investigating and prosecuting violations of the Social Security Act.

5. The Department of Justice (Immigration and Naturalization Service) for the identification and location of aliens.

6. The Department of Justice (Federal Bureau of Investigation and the Department of Treasury (United States Secret Service) for national security matters and in connection with threats on the life of the President or other dignitaries.

7. The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

8. Energy Research and Development Administration for their study of the long-term effects of low-level radiation exposure.

9. The Treasury Department for: a. collection of social security taxes; b. for verification of taxpayers' identification number; c. *for administering or identifying violations of the Social Security Act, the Federal Insurance Contributions Act, the Self-Employment Contributions Act, the Federal Unemployment Tax Act;* d. *for administering or investigating violations of any Federal income tax law;* and e. *for investigating alleged theft, forgery, or unlawful negotiation of social security checks.*

10. Contractors under contract to the SSA for the ongoing conversion of paper documents to machine readable form for entry into magnetic tape files.

11. A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

12. *The Department of State and the VA Regional Office, Philippines for administering provisions of the Social Security Act in foreign countries.*

13. *The Department of Labor for administering provisions of title IV of the Federal Coal Mine Health and Safety Act and for studies of the effectiveness of training programs to combat poverty.*

14. *The Veterans Administration for validation of the social security numbers of compensation/pensioners in order to provide the release of accurate pension/compensation data by the Veterans Administration to the Social Security Administration for social security program purposes.*

15. The Veterans Administration of information requested for purposes of determining eligibility for or amount of VA benefits, or verifying other information with respect thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records in this system are maintained as paper forms, paper lists, punchcards, magnetic tape, microfilm, and microfiche files.

Retrievability:

Records in this system are indexed both by social security number and by name. This information is used for the following purposes by the Social Security Administration: as basic control for retained earnings information; as a basic control and data source to prevent issuance of multiple social security numbers; as the means to correctly identify incorrectly reported names or social security numbers on earnings reports; for resolution of earnings discrepancy cases; for document history in processing claims; for statistical studies; by *Health, Education, and Welfare Audit Agency for auditing benefit payments under social security programs; by Social and Rehabilitation Service (HEW) for locating deserting parents; by National Institute of Occupational Safety and Health for epidemiological research studies required by the Occupational Health and Safety*

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Act of 1974; by Social and Rehabilitation Service (HEW) for administering Cuban refugee assistance payments.

Safeguards:

All magnetic tapes are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges issued only to authorized personnel. All microfilm, microfiche, and paper files are accessible only by authorized personnel who have a need to know. For computerized records, electronically transmitted between Central Office and field office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Departmental standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

Retention and disposal:

All paper forms are retained until they are filmed or are entered on tape and the accuracy verified, then they are destroyed by shredding. All tape, microfilm, microfiche files are updated periodically. The out-of-date magnetic tapes are erased. The out-of-date microfiche is shredded by the application of heat.

System manager(s) and address:

Director, Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Notification procedure:

An individual may present a request for information as to whether this system contains records pertaining to himself by providing his name and social security number, or if the social security number is not known, date of birth, place of birth, mother's maiden name and father's name, and evidence of identity to the Assistant Bureau Director, Systems, Bureau of Data Processing, 6401 Security Boulevard, Baltimore, Maryland 21235.

Record access procedures:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)) FEDERAL REGISTER, October 8, 1975, page 47410.)

Contesting record procedures:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7) FEDERAL REGISTER, October 8, 1975, page 47411.)

Record source categories:

Social security number applicants; or individual acting on their behalf. The social security number itself is assigned to the individual as a result of internal processes of this system.

Systems exempted from certain provisions of the act:

None.

[FR Doc.77-6062 Filed 2-24-77;2:29 pm]

DEPARTMENT OF THE INTERIOR

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 1, 1977, Part IX, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Presrevation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation 36 CFR Part 800.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

The following properties have been added to the National Register since February 1, 1977. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; and properties recorded by the Historic American Engineering Record are designated by HAER.

ALABAMA

Barbour County

Clayton vicinty, *Clayton, Henry D., House*, 1 mi. S of Clayton off AL 30, (12-8-76) NHL.

CALIFORNIA

Los Angeles County

San Marino, *Hubble, Edwin, House*, 1340 Woodstock Rd. (12-8-76) NHL.

Santa Barbara County

Santa Barbara, *El Paseo and Casa de la Guerra*, 808-816 State St., 813-819 Anscapa St., and 9-25 E. de la Guerra St. (2-2-77).

DELAWARE

New Castle County

Wilmington, *St. Mary of the Immaculate Conception Church*, 6th and Pine Sts. (12-12-76).

Sussex County

Lewes vicinity, *Delaware Breakwaters and Lewes Harbor*, E of Lewes at Cape Henlopen (12-12-76) HAER

DISTRICT OF COLUMBIA

Washington

Baker, Newton D., House, 3017 N St., NW (12-8-76) NHL.
Cary, Mary Ann Shadd, House, 1421 W St., NW (12-8-76) NHL.
Johnson, Hiram W., House, 122 Maryland Ave., NE (12-8-76) NHL.
Underwood, Oscar W., House, 2000 G St., NW (12-8-76) NHL.
Windsor Lodge (William E. Borah apartment), 2139-2141 Wyoming Ave., NW (12-8-76) NHL.

FLORIDA

Escambia County

Pensacola, *Pensacola Naval Air Station Historic District*, Pensacola Naval Air Station (12-8-76) NHL; HABS.

GEORGIA

Chatham County

Savannah, *Central of Georgia Depot and Trainshed*, W. Broad St. and Liberty (12-8-76) NHL; HAER.

ILLINOIS

Cook County

Chicago, *Abbott, Robert S., House*, 4742 Martin Luther King Dr. (12-8-76) NHL.
Evanston, *Dawes, Charles Gates, House*, 225 Greenwood St. (12-8-76) NHL.

Shelby County

Shelbyville, *Shelbyville Historic District*, roughly bounded by the railroad tracks, Will, N. 8th, and S. 6th Sts. (12-22-76).

LOUISIANA

Lafourche Parish

Thibodaux vicinity, *White, Edward Douglass, House*, 5 mi. N of Thibodaux on LA 1 (12-8-76) NHL.

MAINE

Oxford County

Gilead vicinity, *Peabody Tavern*, E of Gilead on U.S. 2 (12-13-76).

MASSACHUSETTS

Essex County

Nahant, *Lodge, Henry Cabot, House*, 5 Cliff St. (12-8-76) NHL.

Middlesex County

Cambridge, *Little, Arthur D., Inc. Building*, Memorial Dr. (12-8-76) NHL.

MISSOURI

Pike County

Bowling Green, *Clark, James Beauchamp, House*, 204 E. Champ Clark Dr. (12-8-76) NHL.

St. Louis (independent city)

Erlanger, Joseph, House, 5127 Waterman Blvd. (12-8-76) NHL.
Joplin, Scott, House, 2658-A Morgan St. (12-8-76) NHL.

MONTANA

Silver Bow County

Butte, *Wheeler, Burton D., House*, 1232 E. 2nd St. (12-8-76) NHL.

NEW JERSEY

Mercer County

Trenton vicinity, *Abbott Farm Archeological Site*, S of Trenton (12-8-76) NHL.

Monmouth County

Red Bank, *Fortune, T. Thomas, House*, 94 W. Bergen Pl. (12-8-76) NHL.

NEW YORK

Albany County

Albany, *Hall, James, Office*, Lincoln Park (12-8-76) NHL.

Delaware County

Delhi vicinity, *Frisbee, Judge Gideon, House*, NE of Delhi on NY 10 (12-12-76).

Franklin County

Malone, *Malone Freight Depot*, 99 Railroad St. (12-12-76).

Jefferson County

Stone Mills, *Stone Mills Union Church*, NY 180 near jct. with Carter St. (12-12-76).

New York County

New York, *Bayard-Condict Building*, 65-69 Bleecker St. (12-8-76) NHL; HABS.
New York, *Chrysler Building*, 405 Lexington Ave. (12-8-76) NHL.
New York, *LaGrange Terrace*, 428-434 Lafayette St. (12-12-76).
New York, *Metropolitan Savings Bank*, 9 E. 7th St. (12-12-76).
New York, *Mills, Florence, House*, 220 W. 135th St. (12-8-76) NHL.
New York, *Mooney, Edward, House*, 18 Bowery (12-12-76).
New York, *St. George's Episcopal Church*, 3rd Ave. and E. 16th St. (12-8-76) NHL.
New York, *St. Patrick's Cathedral*, bounded by 5th and Madison Aves., E. 50 and E. 51st Sts. (12-8-76) NHL.
New York, *Trinity Church and Graveyard*, Broadway and Wall St. (12-8-76) NHL.
New York, *YMCA Building (Claude McKay apartment)*, 180 W. 135th St. (12-8-76) NHL.

Queens County

Ridgewood, *Vander Ende—Onderdonk House*, 1820 Flushing Ave. (1-31-77).

Sullivan County

Jeffersonville vicinity, *Stone Arch Bridge*, S of Jeffersonville on NY 52 (12-12-76).

NORTH CAROLINA

Wake County

Raleigh, *Daniels, Josephus, House*, 1520 Caswell St. (12-8-76) NHL.

PENNSYLVANIA

Philadelphia County

Philadelphia, *Harper, Frances Ellen Watkins, House*, 10006 Bainbridge, St. (12-8-76) NHL.
Philadelphia, *Memorial Hall*, W. Fairmount Park (12-8-76) NHL.
Philadelphia, *Philadelphia City Hall*, Penn Sq., Broad and Market Sts. (12-8-76) NHL.
Philadelphia, *Philadelphia Savings Fund Society Building*, 12 S. 12th St. (12-8-76) NHL.

RHODE ISLAND

Providence County

Providence, *Aldrich, Nelson W., House*, 110 Benevolent St. (12-8-76) NHL.

SOUTH CAROLINA

Richland County

Columbia, *Chapelle Administration Building*, 1530 Harden St. (12-8-76) NHL.

TEXAS

Harris County

Houston vicinity, *U.S.S. Texas*, 22 mi. E of Houston on TX 134 at San Jacinto Battleground State Park (12-8-76) NHL.

Uvalde County

Uvalde, *Garner, John Nance, House*, 333 N. Park St. (12-8-76) NHL.

VIRGINIA

Loudoun County

Middleburg vicinity, *Mitchell, Gen. William, House*, 0.5 mi. S of Middleburg on VA 626 12-8-76) NHL.

Lynchburg (independent city)

Glass, Carter, House, 606 Clay St. (12-8-76) NHL.

OUTER CONTINENTAL SHELF

Galveston vicinity, *U.S.S. Hatteras*, S of Galveston (1-28-77).

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The following is a list of corrections to properties previously listed in the FEDERAL REGISTER.

ALABAMA

Montgomery County

Montgomery, *Montgomery Union Station and Trainshed*, Water St. (7.24.73) NHL (formerly listed as Union Railway Station).

INDIANA

St. Joseph County

Mishawaka, *Beiger House*, 317 Lincolnway E. (8-28-73) (typo).

Vigo County

Terre Haute, *Allen Chapel A.M.E. Church*, 224 Crawford St. (9-5-77) (name).

IOWA

Page County

Clarinda, *Hepburn, Co. William Peters, House*, 321 W. Lincoln St. (6-4-73) NHL.

MARYLAND

Baltimore (independent city)

Mount Royal Station and Trainshed, 1400 Cathedral St. (6-18-73) NHL.

MINNESOTA

Morrison County

Little Falls vicinity, *Lindbergh, Charles A., House and Park*, SW of Little Falls on SR 52 (11-20-70) NHL.

Ramsey County

St. Paul, *Kellogg, Frank Billings, House*, 633 Fairmount Ave. (11-6-74) NHL.

Yellow Medicine County

Granite Falls, *Volstead, Andrew J., House*, 163 9th Ave. (12-30-74) NHL.

MISSISSIPPI

Warren County

Vicksburg, *Pemberton's Headquarters (Wil-Ha-Cowan House)*, 1018 Crawford St. (7-23-70) NHL.

MISSOURI

St. Louis (independent city)

Missouri Botanical Garden, 2345 Tower Grove Ave. (11-19-71) NHL; HABS.

NEW YORK

Bronx County

New York, *Bartow-Pell Mansion and Carriage House*, Pelham Bay Park, Shore Rd. (12-30-74) NHL; HABS.

Kings County

Brooklyn, *Wyckoff-Bennett Homestead*, 1669 E. 22nd St. (12-24-74) NHL.

New York County

New York, *Dakota Apartments*, 1 W. 72nd St. (4-26-72) NHL; HABS.
New York, *Grand Central Terminal*, 71-105 E. 42nd St. (1-17-75) NHL.
New York, *U.S. Customhouse*, Bowling Green (1-31-72) NHL.

Richmond County

Staten Island, *Sailors' Snug Harbor National Register District*, Richmond Terrace (3-18-75) NHL; HABS.

Westchester County

Irvington, *Armour-Stiner House*, 45 W. Clinton Ave. (12-18-75) NHL; HABS.

OHIO

Franklin County

Columbus vicinity, *Davis, Samuel, House*, 4264 Dublin Rd. (2-15-74) (Add vic.).
Dublin vicinity, *Davis, Anson, House*, 4000 Hayden Run Rd. (7-7-75) (location formerly Amlin).

Lake County

Kirtland, *Kirtland Temple*, 9020 Chillicothe Rd. (6-4-69) NHL; HABS.

Mahoning County

Poland, *Kirtland, Jared P., House*, Audubon and Michigan Ave. (5-13-76) (moved).

OKLAHOMA

Kay County

Ponca City vicinty, *101 Ranch*, 12 mi. SW of Ponca City (4-11-73) NHL (add NHL).

PENNSYLVANIA

Bucks County

Easton to Bristol, *Delaware Division of the Pennsylvania Canal*, parallels W bank of Delaware River from Easton to Bristol (10-20-74) NHL.

Dauphin County

Harrisburg, *Harrisburg Station and Trainshed*, Aberdeen St. (6-11-75) NHL.

Philadelphia County

Philadelphia, *Athenaeum of Philadelphia*, 219 S. 6th St. (2-1-72) NHL; HABS.
Philadelphia, *Reading Terminal and Trainshed*, 116-1141 Market St. (6-30-72), NHL.

RHODE ISLAND

Kent County

Coventry vicinity, *Hopkins Mill*, SW of Coventry on RI 3 at Nooseneck River (1-11-74) HABS (formerly West Greenwich).

Newport County

Newport vicinity, *Fort Adams*, W of Newport at Ft. Adams Rd. and Harrison Ave. (7-26-70) NHL; HABS.

SOUTH CAROLINA

Florence County

Florence vicinity, *Rankin-Harwell House*, 6 mi. NE of Florence off SC 306 (10-9-74) (formerly listed as Harwell James House).

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Lexington County

Cayce vicinity, *Congaree Site*, 2 mi. S of Cayce on Congaree River (12–31–74) (formerly listed as Congaree Historic District).

TENNESSEE

Davidson County

Nashville, *Nashville Union Station and Trainshed*, 10th Ave. and Broadway (12–30–69) NHL; HABS.

Rhea County

Dayton, *Rhea County Courthouse*, Market St. between 2nd and 3rd Aves. (11–7–72) NHL.

TEXAS

Bexar County

San Antonio, *Hangar 9, Brooks Air Force Base*, Inner Circle Rd. (5–21–70) NHL (formerly listed as White Museum).

UTAH

Utah County

Provo, *Smoot, Reed O., House*, 163 E. 100 South (10–14–75) NHL.

VIRGINIA

Richmond (independent city)

Main Street Station and Trainshed, 1020 E. Main St. (10–18–70) NHL; HAER.

WASHINGTON

Jefferson County

Port Townsend, *Fort Worden*, Cherry and W Sts. (3–15–74) NHL.

* * * * * *

The following properties have been demolished and therefore removed from the National Register of Historic Places.

OHIO

Hamilton County

Cincinnati, *Sayler House*, 6901 Gracely, Dr.

Medina County

Brunswick, *Brunswick Town Hall and School*, 1380 Pearl Rd.

Portage County

Kent, *Brown–Kent Tannery*, Stow St.

WASHINGTON

King County

Seattle, *Broadway High School*, Broadway, Ave. and E. Pine St.

Pierce County

Tacoma, *Tacoma Light and Water Company Purifier Building*, 2208 S. A St.

Spokane County

Spokane, *Strahorn Pines*, 2216 1st Ave.

Walla Walla County

Walla Walla, *Schwarz, Adolph, Building*, 27–33 E. Main St.

* * * * * *

The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Green County

Gainesville vicinity, *Archeological Sites in Gainesville Project*, Tombigbee Waterway (also in Pickens and Sumter counties).

Jefferson County

Site 1Je36, Project I–459–4(4).

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

Maricopa County

Site U:1:30 (ASU).
Site U:1:31 (ASU).

Washington County

Sunflower vicinity, *Dr. Williams Home*, AL project RF–98(7).

ALASKA

Nome Division

Little Diomede Island, *Iyapana, John, House.*

Sitka Division

Crab Bay, *Crab Bay Petroglyph.*

ARIZONA

Apache County

Grand Canyon National Park, *Old Post Office.*

Coconino County

Gray Mountain Site, (AR–02–020–046).
House Rock Springs, Upper Houserock Valley.
Paria Plateau Archeological District.

Graham County

Foote Wash—No name Wash Archeological District.

Mohave County

Colorado City vicinity, *Short Creek Reservoir States NA 13,257 and NA 13,258.*

Maricopa County

Cave Creek Archeological District.
New River Dams Archeological District.
Site T:4:6.
Site U:1:30 (A.S.U.).
Site U:1:31 (A.S.U.).
Skunk Creek Archeological District.

Navajo County

Polacca vicinity, *Walpi Hopi Village*, adjacent to Polacca.

Pima County

Tucson, *Convento Site.*

Yavapai County

Copper Basin Archeological District, Prescott National Forest.

Yuma County

Eagle Tail Mountains Archeological Site.
Yuma, Southern Pacific Depot.

ARKANSAS

Archeological Sites, Black River Watershed.

Clay County

Site 3CY34, Little Black River Watershed.

Faulkner County

Site 3WH145, E fork of Cadron Creek Watershed (also in White county).
Sites 3VB49–3VB51, N fork Cadron Creek Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed.

Ouachita County

Camden, *Old Post Office*, Washington St.

CALIFORNIA

Archeological Sites, Buchanan Dam at Chowchilla River.

Alpine County

Woodsford vicinity, *Archeological Site 4–Alp–105.*

Amador County

Amador City, 35 mi. SE of Sacramento.

Benito County

Chalone Creek Archeological Sites, Pinnacles National Monument.

Calaveras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County).

Colusa County

Stoneyford vicinity, *Upper and Lower Letts Valley Historical District*, 12 mi. SW of Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Site Eld–58.
Giebenhahn House and Mountain Brewery Complex.

Fresno County

Gamlin Cabin, King's Canyon National Park.
Helms Pumped Storage Archeological Sites, Sierra National Forest.
Home Camp T.S. (6 archeological sites) in Sierra National Forest.
Muir Hut, King's Canyon National Park.

Glenn County

Willows vicinity, *White Hawk Top Site*, Twin Rocks Ridge Road Reconstruction Project.

Humbolt County

Eureka, Eureka Historic District.

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District.*
Lake Cahuilla, *Lot 1.*
Lake Cahuilla, *Lot 5.*

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.
The 20-Mule Team Borax Wagon Road (also in Kern and San Francisco counties).

Kern County

Site Ca-Ker-322.

Lassen County

Archeological Site HJ–1 and HJ–5.

Los Angeles County

Big Tuijunga Prehistoric Archeological Site, I 210 Project.
Los Angeles, *Fire Station No. 26*, 2475 W. Washington Blvd.
Simi Valley, *Archeological Site Ven–341.*
Van Norman Reservoir, Site CA–LAN 646, CA–LAN 643, Site CA–LAN 490, and a cluster made up of Sites CA–LAN, 475, 491, 492, and 493.

Madera County

Bass Lake Archeological Sites CA–MAD 176–185.
Lower China Crossing.
New Site.

Marin County

Point Reyes, P. E. Booth Company Pier, Point Reyes National Seashore.
Point Reyes, *Point Reyes Light Station.*

Modoc County

Alturas vicinity, *Rail Spring*, about 30 mi. N of Alturas in Modoc National Forest.
Tulelake vicinity, *Lava Bed National Monument Archeological District*, S of Tulelake (also in Siskiyou County).

Mono County

Archeological Site CA–MNO–684.

Monterey County

Big Sur, *Point Sur Light Station.*
Pacific Grove, *Point Pinos Light Station.*

Napa County

Archeological Sites 4–Nap–14, 4–Nap–261. Napa River Flood Control Project.

Plumas County

Mineral, *Hay Barn and Cook's Cabin, Drakesbad (Sifford Family) Guest House*, Lassen Volcanic National Park.
Mineral, *Summit Lake Ranger Station*, Lassen Volcanic National Park.

Riverside County

Twentynine Palms, *Cottonwood Oasis (Cottonwood Springs)*, Joshua Tree National Monument.
Twentynine Palms, *Lost Horse Mine*, Joshua Tree National Monument.

Sacramento County

Sacramento River Bank Protection Project, Site 1, Sacramento River.
Sacramento Weir
Sacramento, *Tower Bridge*, M St. over Sacramento River (also in Yolo County).

San Bernardino County

Squaw Spring Well Archeological District.
Steam Well Petroglyph Archeological District.
Trona Pinnacles Railroad Camp.
Twentynine Palms, *Keys, Bill, Ranch*, Joshua Tree National Monument.
Twentynine Palms, *Twentynine Palms Oasis*, Joshua Tree National Monument.

San Diego County

North Island, *Camp Howard, U.S. Marine Corps*, Naval Air Station.
North Island, *Rockwell Field*, Naval Air Station.
San Diego, *Marine Corps Recruit Depot*, Barnett Ave.

San Francisco County

San Francisco, *Twin Peaks Tunnel.*

San Luis Obispo County

New Cuyama vicinity, *Caliente Mountain Aircraft Lookout Tower*, 13 mi. NW of New Cuyama off Rte. 166.
San Luis Obispo, *San Luis Obispo Light Station.*

San Mateo County

Ano Nuevo vicinity, *Pigeon Point Light Station.*
Hillsborough, *Point Montara Light Station.*

Santa Barbara County

Santa Barbara, *Site SBa–1330*, Santa Monica Creek.

Santa Clara County

Sunnyvale, *Theuerkauf House*, Naval Air Station, Moffett Field.

Shasta County

Mineral, *Comfort Station*, Lassen Volcanic National Park.
Mineral, *Park Entrance Station and Residence*, Lassen Volcanic National Park.
Mineral, *Park Naturalist's Residence*, Lassen Volcanic National Park.
Mineral, *Warner Valley Ranger Station*, Lassen Volcanic National Park.
Redding vicinity, *Squaw Creek Archeological Site*, NE of Redding.
Whiskeytown, *Irrigation System (165 and 166)*, Whiskeytown National Recreation Area.

Sierra County

Archeological Site HJ–5 (Border Site 26WA–1676).
Properties in Bass Lake Sewer Project.

Siskiyou County

Thomas-Wright Battle Site, Lava Beds National Monument.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Petaluma, *Ferrell Home*, 500 E. Washington St.
Santa Rosa, *Santa Rosa Post Office.*

Tehama County

Los Molinos vicinity, *Ishi Site (Yahi Camp)*, E of Los Molinos in Deer Creek Canyon.

Tulare County

Atwell's Mill, Sequoia National Park.
Cattle Cabins, Sequoia National Park.
Quinn Ranger Station.
Tharp's Log.
Smithsonian Institution Shelters.
Squatter's Cabin.

Yuba County

Site 4–Yub–S27 (Marysville Riverfront Park Project), along the Feather River, City of Marysville.

COLORADO

Denver County

Denver, *Eisenhower Memorial Chapel*, Building No. 27, Reeves St., on Lowry AFB.

Douglas County

Keystone Railroad Bridge, Pike National Forest.

El Paso County

Colorado Springs, *Alamo Hotel*, corner of Tejon and Cucharras Sts.
Colorado Springs, *Old El Paso County Jail*, corner of Vermijo and Cascade Ave.

Larimer County

Estes Park, *Beaver Meadows Maintenance Area*, Rocky Mountain National Park utility area.
Sites 5–LR–257 and 5–LR–263, Boxelder Watershed Project.

Las Animas County

Trinidad vicinity, *Leone Bluffs (5LA1211).*
Trinidad vicinity, *Sopris Pueblo Site (5LA–1416).*

Moffat County

White Indian Contact Site.

Pueblo County

Pueblo, *Pueblo Federal Building (U.S. Post Office)*, 5th and Main Sts.

CONNECTICUT

Fairfield County

Bridgeport Harbor, *Bridgeport Canal Barges.*
Norwalk, *Washington Street—S. Main Street Area.*

Hartford County

Farmington, *Gridley-Parsons-Staples Homestead*, Rte. 4, Farmington Ave.
Hartford, *Houses on Charter Oak Place.*
Hartford, *Houses on Wethersfield Avenue*, between Morris and Wyllys Sts., particularly Nos. 97–81, 65.
Southington, *Lewis, Sally, House*, 500 N. Main St.

New London County

New London, *Buckingham Memorial Building*, 307 Main St.
New London, *Washington Street Historic District*, project 103–159.
New London, *Williams Memorial Institute Building*, 110 Broad St.

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Brick Sentry Tower and Wall, along M St. SW, between 4th and 6th Sts. SW.
Central Heating Plant, 18th and C Sts. SW.
1700 Block Q Street NW, 1700–1744, 1746, 1748 Que St. NW.; 1536, 1538, 1540, 1602, 1604, 1606, 1608, 17th St. NW.

FLORIDA

Broward County

Hillsboro Inlet, *Coast Guard Light Station.*

Collier County

Marco Island, *Archeological Sites on Marco Island.*

Monroe County

Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge)
Long Key Bridge
Old Bahia Honda Bridge

Pinellas County

Bay Pines, *VA Center*, Sections 2, 3, and 11 TWP 31–S, R–15E.

GEORGIA

Bibb County

Macon, *Vineville Avenue Area*, both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Chatham County

Archeological Site, end of Skidway Island.
Savannah, *516 Ott Street.*
Savannah, *908 Wheaton Street.*
Savannah, *914 Wheaton Street.*
Savannah, *920 Wheaton Street.*
Savannah, *928 Wheaton Street.*

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Savannah, *930 Wheaton Street.*
Skidaway Island, *Priest's Landing Mounds.*

Chatooga County

Archeological Sites in area of Structure 1–M, and Trion Dikes 1 and 2, headwaters of Chatooga Watershed (also in Walker County).

Clay County

Archeological Site WGC–73, downstream from Walter F. George Dam.

De Kalb County

Atlanta, *Atkins Park Subdivision,* St. Augustine, St. Charles, and St. Louis places.
Decatur, *Sycamore Street Area.*

Fulton County

Atlanta, *Downtown Atlanta Historic District,* beginning at jct. Atlanta St. and Central Ave.

Gordon County

Haynes, Cleo, House and Frame Structure, University of Georgia.
Moes—Kelly House, Sallacoa Creek area.

Gwinnett County

Duluth, *Hudgins, Scott, Home (Charles W. Summerour House),* McClure Rd.

Hall County

Odd Fellows Building (Chamblee).

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County

Archeological Sites Project F–117–I (7).
Augusta, *Blanche Mill.*
Augusta, *Enterprise Mill.*
Augusta, *Green Street.*

Stewart County

Rood Mounds, Walter F. George Dam and Reservoir.

Sumter County

Americus, *Aboriginal Chert Quarry,* Souther Field.

HAWAII

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail.*

Maui County

Hana vicinity, *Kipahulu Historic District,* SW of Hana on Rts. 31.

Oahu County

Moanalua Valley.

IDAHO

Ada County

Boise, *Alexanders,* 826 Main St.
Boise, *Falks Department Store,* 100 N. 8th St.
Boise, *Idaho Building,* 216 N. 8th St.
Boise, *Simplot Building (Boise City National Bank),* 806 Idaho St.
Boise, *Union Building,* 712½ Idaho St.

Clearwater County

Orofino vicinity, *Canoe Camp—Suite 18,* W of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County

Marsh and Ireton Ranch, Montour Flood project.
Town of Montour, Montour Flood project.

Idaho County

Kamiah vicinity, *East Kamiah—Suite 15,* SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trail, Pattee Creek Camp.*

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters,* Phinney Dr. and C St. in Nez Perce National Park.
Lapwai, *Spalding.*
Lewiston, *Fix Building,* 211–213 Main St.
Lewiston, *Lower Snake River Archeological District*
Lewiston, *Moxley Building,* 215 Main St.
Lewiston, *Scully Building,* 209 Main St.

ILLINOIS

Bureau County

I & M Canal (also in Henry, Rock Island, and Whiteside counties).

Carroll County

Savanna vicinity, *Spring Lake Cross Dike Island Archeological Site,* 2 mi. SE of Savanna.

Cook County

Chicago, *Ogden Building,* 180 W. Lake St.
Chicago, *Oliver Building,* 159 N. Dearborn St.
Chicago, *Springer Block (Bay, State, and Kranz Buildings),* 126–146 N. State St.
Chicago, *Unity Building,* 127 N. Dearborn St.

De Kalb County

De Kalb, *Haish Barbed Wire Factory,* corner of 6th and Lincoln Sts.

Lake County

Fort Sheridan, *Museum Bldg. 33,* Lyster Rd.
Fort Sheridan, *Water Tower,* Bldg. 40, Leonard Wood Ave.

Madison County

American Bottoms, 60 archeological sites in Madison, Monroe, and St. Clair counties.

Rock Island County

Archeological Site 11–R1–337, East Moline, Mississippi and Rock Rivers.

Scott County

Naples vicinity, *Naples-Castle Site,* SW of Naples.

Williamson County

Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA

Lawrence County

Mitchell, *Riley School.*

Marion County

Indianapolis, *Lockfield Gardens Public Housing Project,* 900 Indiana Ave.
Indianapolis vicinity, *Garfield Park Pagoda,* 2 mi S of Indianapolis in Garfield Park.

Monroe County

Bloomington, *Carnegie Library.*

Orange County

Cox Site, Lost River Watershed.
Half Moon Spring, Lost River Watershed.

St. Joseph County

Mishawaka, *100 NW Block,* properties fronting N. Main St. and W. Lincoln Way.

Spencer County

Evansville, *Pollard, Maier, House.*

Vanderburgh County

Evansville, *Riverside Neighborhood.*

Vermillion County

Houses in SR 63/32 Project, jct. of SR 32 and SR 63 and 1st rd. S. of Jct.

IOWA

Boone County

Saylorville Archeological District (also in Polk and Dallas counties).

Johnson County

Indian Lookout.

KANSAS

Douglas County

Lawrence, *Curtis Hall (Kiva Hall),* Haskell Institute.

Pottawatomie County

Coffey Archeological Site, 14 PO 1.

KENTUCKY

Jefferson County

Archeological Sites: Section 2, SW Jefferson County Local Protection Project.

Johnson County

Fishtrap United Methodist Church.

Lawrence County

Fort Ancient Archeological Site.

Lee County

Beattyville, Lee County Courthouse, Main St.

Trigg County

Golden Pond, *Center Furnace,* N of Golden Pond on Bugg Spring Rd.

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Spanish Town,* Baton Rouge.

Orleans Parish

New Orleans, *Casey, Kate, House,* 932–934 Howard.
New Orleans, *Central City District.*
New Orleans, *Cordes, John, House,* 3027–3029 Royal St., Square 170.
New Orleans, *Deyron, Dr. J. A., House,* 3037 Royal St., Square 170.
New Orleans, *Dunn, Andrew Jackson, House,* 928–930 Calliope St., Square 119.
New Orleans, *Dreyer, James, House,* 933–935 Gaienne St., Square 119.
New Orleans, *Gasquet, William, Houses,* 1128–1130 Constance St., Square 119.
New Orleans, *Hart, James S., House,* 615 Erato St., Square 71.
New Orleans, *I-Sea Storage and Transfer Company Building,* 2201 Clio St., Square 344.
New Orleans, *Jahucke Building,* 814 Howard Ave., Square 237.
New Orleans, *Lee Circle and Lee Monument,* St. Charles Ave. at Howard Ave.
New Orleans, *Maginnis Cotton Mills,* 1054 Constance St., Square 120.
New Orleans, *McDowall, Robert, House,* 1119–1121 Constance St., Square 130.
New Orleans, *McLaughlin, M. A., House,* 1124–1126 Constance St., Square 119.
New Orleans, *McLeod, Euphenia Napir, House.* 1523–1525 Calliope St., Square 183.
New Orleans, *Murray, Thomas, House,* 1131 S. Rampart St., Square 290.
New Orleans, *Old Firehouse,* 1045 Magazne St., Square 158.
New Orleans, *Peyton, William H., House,* 1135 S. Rampart St., Square 290.
New Orleans, *Roper, George W., House,* 1032 St. Charles Ave., Square 183.
New Orleans, *St. John the Baptist Church,* 1139 Dryades St., Square 277.
New Orleans, *Saulet, Marie Theresa, House,* 1218–1222 Annunciation St., Square 100.
New Orleans, *Schwegmann, G. A., House* 3044 Royal St., Square 142.
New Orleans, *Sincer, Louis, House,* 1061 Camp St., Square 183.

New Orleans, *Sport, C. J., House,* 3015 Royal St., Square 142.
New Orleans, *Talen, Aaldemar Appollonius, Studio-House,* 1029 Calliope St., Square 137.
New Orleans, *Temple Sinai,* 1032 Carondelet St., Square 215.
New Orleans, *Verret, Theodore, House,* 1216 Annunciation St., Square 109.
New Orleans, *Tourse, Nicholas, House,* 1100 Tchoupitoulas St., Square 71.
New Orleans, *Zangel, Frederick, House,* 1118 Constance St., Square 119.

St. Martins Parish

Site 16, Sm—45, Atchafalaya Basin Floodway.

Vernon Parish

Ft. Polk, *Site 16 VN 18.*

MARYLAND

Allegany County

Flintstone vicinity, *Martin Gordon Farm,* Breakneck Rd. (Rte. 1).
Flintstone vicinity, *Martins Mountain Farm,* Breakneck Rd. (Rte. 1).

Anne Arundel County

Claiborne, *Bloody Point Bar Light,* on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light,* on Chesapeake Bay.

Baltimore (independent city)

Baltimore Belt (Baltimore and Ohio) Railroad (Howard Street Tunnel and Power House).
Barre Circle Historic District, Lombard St., Fremont Ave., Scott St.
Mount Calvary Church Historic District, Biddle St., Madison Ave., N. Eutaw St.

Baltimore County

Fayette Street Methodist Episcopal Church, 745 West Fayette St.
Fort Howard, *Craighill Channel Upper Range Front Light,* on Chesapeake Bay.
Hollins-Lombard-Historic District, 800 blocks of Hollins and Lombard Sts., bet. Fremont and Callender; unit block of Parkin St.
New Owings Mills Railroad Station, W of Reisterstown Rd.
Old Owings Mills Railroad Station, Reisterstown Rd.
Old Western Police Station (Old Pine Street Station).
Ridgely's Delight Historic District.
Sparrows Point, *Craighill Channel Range Front Light,* on Chesapeake Bay.
St. Paul's Cemetery, Union Block, Fremont Ave.

Carroll County

Bridge No. 1–141 on Hughes Road.

Cecil County

Sassafras Elk Neck, *Turkey Point Light,* at Elk River and Chesapeake Bay.

Dorchester County

Hoppersville, *Hooper Island Light,* Chesapeake Bay-Middle Hooper Island.

St. Marys County

Piney Point, *Piney Point Light Station.*
St. Inigoes, *St. Inigoes Manor House,* Naval Electronic System Test and Evaluation Detachment.
St. Marys City, *Point No Point Light,* on Chesapeake Bay.

Talbot County

Tilghman Island, *Sharps Island Light,* on Chesapeake Bay.

MASSACHUSETTS

Barnstable County

North Eastham, *French Cable Hut,* jct. of Cable Rd. and Ocean View Dr.
Rider, Samuel, House, Gull Pond Rd. off Mid-Cape Hwy. 6.
Truro, *Highland Gold Course,* Cape Cod Light, area.
Truro, *Highland House,* Cape Cod Light (Highland Light) area.
Wellfleet vicinity, *Atwood—Higgins House,* Boundbrook Island.

Bristol County

New Bedford, *Fire Station No. 4,* 79 S. 6th St.

Hampden County

Holyoke, *Caledonia Building (Crafts Building),* 185–193 High St.
Holyoke, *Cleary Building (Stiles Building),* 190–196 High St.
Holyoke, *Steamer Company No. 3.*

Middlesex County

Wayland, *Old Town Bridge (Four Arch Bridge),* Rte. 217, 1.5 m. NW of Rte. 126 Jct.

Suffolk County

Northern Avenue Bridge, Fort Point Channel.

Worcester County

Leicester, *Shaw Site (Sites 4, 5, and 6),* Upper Quaboag River Watershed project.
North Brookfield, *Meadow Site No. 11,* Upper Quaboag River Watershed.
Worcester, *Oxford-Crown Streets District,* Chatham, Congress, Crown, Pleasant, Oxford Sts., and Oxford Pl.

MICHIGAN

Little Forks Archeological District.

MINNESOTA

St. Louis County

Duluth, *Morgan Park Historic District.*

Winona County

Winona, *Second Street Commercial Block.*

MISSISSIPPI

Lowndes County

Tibbee Creek Archeological Site, Columbus lock and dam project.

Tishomingo County

Tennessee—Tombigbee Waterway.

MISSOURI

Buchanan County

St. Joseph, *Hall Street Historic District,* bounded by 4th St. on W., Robidoux on S., 10th on E., and Michel, Corby, and Eidenbaugh on N.

Dent County

Lake Spring, *Hyer, John, House.*

Franklin County

Leslie, *Noser's Mill and adjacent Miller's House,* Rural Rte. 1.

Greene County

Springfield, *Landers Theater,* 311 East Walnut St.

Henry County

La Due, *Batchelett House,* near Harry S Truman Dam and Reservoir.
Little Black River Watershed (also in Ripley County).

Monroe County

Violette, Alexander House.

MONTANA

Big Horn County

Fort Smith *Big Horn Canal Headgate.*

Carbon County

Hardin *Pretty Creek Site (Hough Creek Site)* Big Horn Canyon National Recreation Area.

Custer County

"Old Fort" at Fort Keogh.

Fergus County

Lewis & Clark, Campsite, May 23, 1805.
Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, *Marysville Historic District.*

NEBRASKA

Cherry County

Valentine vicinity, *Fort Niobrara National Wildlife Refuge.*
Valentine vicinity, *Newman Brothers House.*

Knox County

Niobrara Historic Properties.

NEVADA

Clark County

Las Vegas vicinity, *Blacksmith Shop,* Desert National Wildlife Range.
Las Vegas vicinity, *Mesquite House,* Desert National Wildlife Range.

Elko County

Carlin vicinity, *Archeological Sites 26EK1669, 26EK1672.*

Nye County

Las Vegas vicinity, *Emigrant's Trail,* about 75 mi. NW of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, *Adobe in Ruddell Ranch Complex.*
Lovelock vicinity, *Lovelock Chinese Settlement Site.*

Storey County

Sparks vicinity, *Derby Diversion Dam,* on the Truckee River 19 mi. E of Sparks, along I 80 (also in Washoe County).

Washoe County

Site 26Wa2065.

NEW HAMPSHIRE

Hillsborough County

Amoskaag Millyard Complex.
Smyth Tower.

Rockingham County

Portsmouth, *Pulpit Rock Observation Station,* Portsmouth Harbor.

Strafford County

Odd Fellow's Hall (Morning Star Block).
O'Neill House (Cocheco Co. Housing).
Public Market (Morrill Block).
Trells House (Dover Manufacturing Co. Housing).
Veteran's Building (Central Fire House).
Western Auto Block (Merchants Row).

NEW JERSEY

Hudson County

S.S. Newton, midway between Ellis and Liberty Islands.

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Mercer County

Hamilton and West Windsor Townships, *Assunpink Historic District.*
Trenton, *Lamberton Interceptor.*
West Windsor Township Wastewater Facilities (Archeological Site 3313.14)—Extended.

Middlesex County

New Burnswick, *Delaware and Raritan Canal,* between Albany St. Bridge and Landing Lane Bridge.

Monmouth County

Fort Monmouth, *Hangar #1 Site,* Oceanport Ave.
Long Branch, *The Reservation,* 1-9 New Ocean Ave.

Ocean County

Joseph Holmes Mill (The Mill Site), SW corner of intersection of Mill and Parker Sts.

Sussex County

Old Mine Road Historic District (also in Warren County).

Warren County

Oxford Industrial District, Oxford Township.

NEW MEXICO

Chaves County

Cites LA11809—LA11822, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Placitas Arroyo, *Sites SCSPA 1—8.*

Guadalupe County

Los Esteros Lake Archeological Site.

Lee County

Laguna Plata Archeological District.

McKinley County

Zuni Pueblo Watershed, *Oak Wash Sites N.M.G.:13:19—N.M.G.:13:37.*

Otero County

Three Rivers Petroglyphs.

Rio Arriba County

Cerrito Recreation Site Archeological District.

NEW YORK

Albany County

Guilderland, *Nott Prehistoric Site.*
Tetilla Peak Site.

Bronx County

New York, *Bronx Post Office.*
New York, *North Brothers Island Light Station,* in center of East River.

Broome County

Mill Site at Site 7-A, Manticoke Creek project (also in Tioga County).
Vestal, *Vestal Nursery Site,* Vestal Project (also in Union County).

Chautauqua County

Dunkirk, *Properties in the city of Dunkirk.*
Loomis Archeological Site, South and Central Chautauqua Lake

Erie County

Willett Road Site.

Greene County

New York, *Hudson City Light Station,* in center of Hudson River.

Nassau County

Greenvale, *Toll Gate House,* Northern Blvd.
Long Island, *Seafood Park Archeological Site.*

New York County

New York, *Harlem Courthouse,* 170 E. 121st St.
New York, *New York Cancer Hospital (Towers Nursing Home),* 2 W. 106th St.

Onondaga County

Palmer Lane Midden (Baldwinsville/Seneca Knolls Sewage Treatment Plant).

Orange County

Port Jervis, *Church Street School,* 55 Church St.
Port Jervis, *Farnum, Samuel, House,* 21 Ulster Pl.

Oswego County

Gustin-Earle Factory Site, village of Mexico.
Musico Motors Building, W. First and W. Seneca Sts.

Otsego County

Swart-Wilcox House

Richmond County

New York, *Romer Shoal Light Station,* located in lower bay area of New York Harbor.
Staten Island, *U.S. Coast Guard Base, St. George.*

Saratoga County

Saratoga Springs, *Yaddo House and Gardens, District.*
Satatoga Springs, *Yaddo House and Gardens,* Saratoga Springs Historic District.
Schuylerville, *Archeological Site,* Schuylerville Water Pollution Control Facility.

Schoharie County

Breakabeen, *Breakabeen Historic District,* between village of North Blenheim and Breakabeen.

Staten Island

Tottenville, *Ward's Point,* Oakwood Beach Project.

Suffolk County

Janesport vicinity, *East End Site.*
Janesport vicinity, *Hallock's Pond Site*
New York, *Fire Island Light Station,* U.S. Coast Guard Station.
New York, *Little Gull Island Light Station,* off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station,* off Orient Point, Long Island.
New York, *Race Rock Light Station,* S. of Fishers Island, 10 mi. N. of Orient Point.
Northville Historic District, houses along Sound Ave.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station,* middle of Hudson River.
New York, *Rondout North Dike Light,* center of Hudson River at Jct. of Rondout Creek and Hudson River.
New York, *Saugerties Light Station,* Hudson River.
Wildmere and Cliffhouse Resort Hotels (Minnewaska Acquisition Project), towns of Gardiner and Rochester.

Washington County

Greenwich, *Palmer Mill (Old Mill),* Mill St.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station,* lower SW portion of Long Island Sound.
Yonkers, *Women's Institute Building.*
Yorktown, *Yorktown Railroad Station.*

NORTH CAROLINA

Alamance County

Burlington, *Clapp's Mill and Dam Site* (also in Guilford County).
Burlington, *Faust Mill* (also in Guilford County).
Burlington, *Low House* (also in Guilford County).
Burlington, *Southern Railway Passenger Depot,* NE corner Main and Webb Sts.

Brunswick County

Southport, *Fort Johnston,* Moore St.

Caswell County

Archeological Sites CS-12, County Line Creek Watershed Project (also in Rockingham County).
Womack's Mill, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Broad River Watershed Project (also in Rutherford County).

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks,* 23 Ramsey St.

Dare County

Buxton, *Cape Hatteras Light,* Cape Hatteras National Seashore.

Hyde County

Ocracoke, *Ocracoke Lighthouse.*

NORTH DAKOTA

Burleigh County

Bismarck, *Fort Lincoln Site.*

OHIO

Adams County

Wrightsville vicinity, *Grimes Site (33 AD 39),* Killen Electric Generating Station.
Wrightsville vicinity, *Killen Bridge Site, (33 AD 36), Killen Electric Generating Station.*

Astabula County

Astabula, *West Fifth Street Bridge,* over Astabula River.

Clermont County

Neville vicinity, *Maynard House,* 2 mi. E of Neville off U.S. 52.

Crawford County

Calvary Reformed Church, First United Methodist Church, Crestline Shunk Museum.

Darke County

DAR-S.R.-571-0.00.

Montgomery County

Columbia Bridge Works.
Lower Cratis Road Bridge.

Pickaway County

Williamsport vicinity, *The Shack (Daugherty, Harry, House),* 5.5 mi. NW of Williamsport.

Richland County

Mansfield, *Ritter, William, House,* 181 S. Main.

Seneca County

Tiffin, *Old U.S. Post Office,* 215 S. Washington St.

Summit County

United Way Building, Perkins St.

Tuscarawas County

Conotton Creek Bridge, CR 90 in Warren Township, over Conotton Creek.

Warren County

Corwin, *Shafer Mound, S of New Burlington Rd.*
Harveysburg, *E. L. Anderies Mound, S of New Burlington Rd. in Caesar Creek Lake Project.*

Wayne County

Wooster, *Thorne House,* 1576 Beall Ave.

OKLAHOMA

Atoka County

Estep Shelter, Lower Clear Boggy Watershed.
Graham Site, Lower Clear Boggy Watershed.

Comanche County

Fort Sill, *Blockhouse on Signal Mountain off Mackenzie Hill Rd.*
Fort Sill, *Camp Comanche Site,* E range on Cache Creek.
Fort Sill, *Chief's Knoll, Post Cemetery,* N of

Haskell County

Keota vicinity, *Otter Creek Archeological Site,* SW of Keota.

Kay County

Newkirk vicinity, *Bryson Archeological Site,* NE of Newkirk.

OREGON

Baker County

Baker vicinity, *Virtue Flat Mining District,* 10 mi. E of Baker off Hwy. 86.

Columbia County

Scappose vicinity, *Portland and Southwestern Railroad Tunnel,* 13 mi. NW of Scappose.

Coos County

Charleston, *Cape Arago Light Station.*

Curry County

Port Orford, *Cape Blanco Light Station.*

Douglas County

Winchester Bay, *Umpqua River Lighthouse.*

Gilliam County

Archeological Sites (Ghost Camp Reservoir).
Arlington vicinity, *Four Mile Canyon Area (Oregon Trail),* 10 mi. SE of Arlington.
Crum Gristmill, Ghost Camp Reservoir area.
Old Wagon Road, Ghost Camp Reservoir area.
Olex School, Ghost Camp Reservoir area.
Steel Truss Bridge, Ghost Camp Reservoir area.

Klamath County

Crater Lake National Park, *Crater Lake Lodge.*

Lane County

Roosevelt Beach, *Heceta Head Lighthouse.*
Roosevelt Beach, *Heceta Head Light Station.*

Lincoln County

Agate Beach, *Yaquina Head Lighthouse.*

Tillamook County

Tillamook, *Cape Meares Lighthouse.*

Wasco County

Memaloose Island, River Mile 177.5 in Columbia River.

Wheeler County

Antone, *Antone Mining Town,* Barite 1901-1906.

PENNSYLVANIA

Adams County

Gettysburg, *Barlow's Knoll,* adjacent to Gettysburg National Military Park.
Rebel's Fording Bridge, spans Conewago Creek.

Allegheny County

Brucetom, *Experimental Mine,* U.S. Bureau of Mines, off Cochran Mill Rd.
McJunkin Site, New Texas Rd.

Berks County

Mt. Pleasant, *Berger-Stout Log House,* near jct. of Church Rd. and Tulpehocken Creek.
Mt. Pleasant, *Conrad's Warehouse,* near jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *Heck-Stamm-Unger Farmstead,* Gruber Rd.
Mt. Pleasant, *Miller's House,* jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *O'Bolds-Billman Hotel and Store,* Gruber Rd. and Rte. 183.
Mt. Pleasant, *Pleasant Valley Roller Mill,* Gruber Rd.
Mt. Pleasant, *Reber's Residence and Barn,* on Tulpehocken Creek.
Mt. Pleasant, *Union Canal,* Blue Marsh Lake Project area.

Butler County

Butler, *Bonnie Brook Archeological Site.*

Chester County

Charlestown, *Nesspor House (Thomas Davis House),* State Rd.
Charlestown, *Pickering Creek Ice Dam,* State Rd.
Lock Aeric.
Nature Center of Charleston, State Rd. Charleston township.

Clinton County

Lockhaven, *Apsley House,* 302 E. Church St.
Lockhaven, *Harvey Judge, House,* 29 N. Jay St.
Lockhaven, *McCormick, Robert, House,* 234 E. Church St.
Lockhaven, *Mussina, Lyons, House,* 23 N. Jay St.

Delaware County

I 476 Historic Sites (39 Historic Sites), Mid-County Expwy. (also in Montgomery County).
Minshall House, Media Borough.

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, *Miners and Mechanics Bank Bldg.,* 13 N. Main St.

Lancaster County

Bainbridge Township, *Heideman Mansion.*

Lehigh County

Colesville vicinity, *Site 1: Farmhouse, barn, and outbuildings,* I-76.
Dorneyville, *King George Inn and two other stone houses,* Hamilton and Cedar Crest Blvds.

Lycoming County

Williamsport, *Fazon Co., Inc.,* Williamsport Beltway.

Northampton County

Lehigh Canal.
Site 3: Farmhouse, barn, and outbuildings, I-78.
Site 4: Farmhouse, barn, and outbuildings, I-78.

Philadelphia County

Philadelphia, *Bridge on "I" Street, over Tacony Creek.*
Philadelphia, *New Forest Theatre,* 1108-1114 Walnut St.
Philadelphia, *Poth, Frederick, House,* 216 N. 33rd St.
Philadelphia, *Tremont Mills,* Wigonocking St. and Adams Ave.
U.S. Naval Base, *Quarters "A" Commandant's Quarters.*

Washington County

Charleroi, *Ninth Street School.*
Cross Creek Village, Cross Creek watershed.
Somerset Township, *Wright No. 22 Covered Bridge.*

RHODE ISLAND

Providence County

Woonsocket, *Club Marquette Building (St. Anne's Gymnasium),* Cumberland St.

SOUTH CAROLINA

Beaufort County

Parris Island, *Marine Corps Recruit Depot.*

Charleston County

Charleston, *139 Ashley St.*
Charleston, *69 Barre St.*
Charleston, *69r Barre St.*
Charleston, *316 Calhoun St.*
Charleston, *316r Calhoun St.*
Charleston, *268 Calhoun St.*
Charleston, *274 Calhoun St.*
Charleston, *Old Rice Mill,* off Lockwood Dr.

SOUTH DAKOTA

Pennington County

Rapid City, *Rapid City Historic Commercial District,* portions of 612-632 Main St.

TENNESSEE

Davidson County

Nashville, *Ancient Indian Village and Burial Ground,* section 20S(b).

Trousdale County

Dixon Springs, *McGee House.*

TEXAS

Bexar County

Fort Sam Houston, *Eisenhower House,* Artillery Post Rd.

Concho County

Middle Colorado River Watershed, Prehistoric Archeology in the Southwest Laterals Subwatershed (also in McCulloch County).

Denton County

Hammons, George House, between Sangers and Pilot Point.

El Paso County

Castner Range Archeological Sites.

Galveston County

Galveston, *U.S. Customhouse,* bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, *Quanah Railroad Station,* Lots 2, 3, and 4 in Block 2.

Uvalde County

Leona River Watershed, Archeological Sites.

Webb County

Laredo, *Bertani, Paul Prevost House,* 604 Iturbide St.
Laredo, *De Leal, Viscaya, House,* 620 Zaragoza St.
Laredo, *Garza, Zoila De La, House,* 500 Iturbide St.
Laredo, *Leyendecker/Salinas House,* 702 Iturbide St.
Laredo, *Montemayor, Jose A., House (Carols Vela House),* 601 Zaragoza St.

UTAH

Emery County

Site ML-2145, Manti-LaSal National Forest.

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Salt Lake County

Salt Lake City, *Lollin Block*, 238–240 S. Main St.

VERMONT

Windham County

Rockingham, *Bellows Falls Armory*, 72 Westminster St., Bellows Falls.

Windsor County

Windsor, *Post Office Building*.

VIRGINIA

Accomack County

Captain's Cove Dev. Archeological Sites (Chincoteague Bay).

Allegheny County

Gathright Lake Project (Archeological sites), (also in Bath County).

Wythe County

Fort Criswell

WASHINGTON

Benton County

Richland vicinity, *Paris Archeological Site*, Hanford Works Reservation.
Richland vicinity, *Wooded Island Archeological District*, N of Richland.

Callam County

Cape Alava vicinity, *White Rock Village Archeological Site, S of Cape Alava.*
Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).
Segium, *New Dungeness Light Station*.

Grays Harbor County

West Port, *Grays Harbor Light Station*.

King County

Burton, *Point Robinson Light Station*.
Seattle, *Alki Point Light Station*.
Seattle, *Home of the Good Shepherd*.
Seattle, *West Point Light Station*.

Kitsap County

Hansville, *Point No Point Light Station*.

Pacific County

Ilwaco, *North Head Light Station*.

Pierce County

Fort Lewis Military Reservation, *Captain Wilkes, July 4, 1841, Celebration Site*.
Longmire, *Longmire Cabin*, Mount Rainier National Park.

San Juan County

San Juan Islands, *Patos Island Light Station*.

Skamania County

North Bonneville, *Site 44SA11*, Bonneville Dam Second Powerhouse Project.

Snohomish County

Mukilteo, *Mukilteo Light Station*.

WEST VIRGINIA

Barbour County

Covered Bridge across Rooting Creek, Elk Creek Watershed (also in Harrison County).

Cabell County

Huntington, Old Bank Building, 1208 3rd Ave.

Kanawha County

Charleston, *Kanawha County Courthouse*.
St. Albans, *Chilton House*, 439 B St.

Wood County

Parkersburg, *Wood County Courthouse*.
Parkersburg, *Wood County Jail*.

WISCONSIN

Ashland County

Ashland vicinity, *Madeline Island Site 7302*.

Fond du Lac County

Fond du Lac, Aetna Station No. 5, 193 N Main St.

LaCrosse County

LaCrosse, *LaCrosse Post Office*.

WYOMING

Albany County

Woods Landing vicinity, *Boswell Ranch*, WY 10.

Fremont County

Pilot Butte Powerplant, Wind River Basin.

Natrona County

Casper, *Cantonment Reno*.
Casper, *Castle Rock Archeological Site*.
Casper, *Dull Knife Battlefield*.
Casper, *Middle Fork Pictograph-Petroglyph Panels*.
Casper, *Portuguese Houses*.

Park County

Mammouth, *Chapel at Fort Yellowstone*, Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts*.

[FR Doc.77-5802 Filed 2-28-77;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 1, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by March 11, 1977.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

CALIFORNIA

Alameda County

Berkeley, *Berkeley Day Nursery*, 2031 6th St.

Humboldt County

Trinidad, *Tsuria*, off U.S. 101.

CONNECTICUT

Litchfield County

Winsted, *Rockwell, Solomon, House*, 226 Prospect St.

ILLINOIS

Cook County

Chicago, *First Congregational Church of Austin*, 5701 W. Midway Pl.
Chicago, *Gauler, John, Houses*, 5917 and 5921 N. Magnolia Ave.
Chicago, *Immaculata High School*, 600 W. Irving Park Rd.
Chicago, *Kent, Sydney, House*, 2944 S. Michigan Ave.
Chicago, *St. Ignatius College*, 1076 W. Roosevelt Rd.
Chicago, *St. Patrick's Roman Catholic Church*, 718 W. Adams St.
Maywood, *Cluever, Richard, House*, 641 1st Ave.

Gallatin County

New Haven vicinity, *Duffy Site*, S of New Haven.

Madison County

Mitchell, *Mitchell Archeological Site*, off I-270.

White County

Maunie vicinity, *Wilson Mounds and Village Site*, S of Maunie.

IOWA

Dubuque County

Dubuque, *Diamond Jo Boat Store and Office*, Jones and Water Sts.

Linn County

Cedar Rapids, *Highwater Rock*, Cedar River.

Marion County

Pella, *Van Loon, Dirk, House*, 1401 University Ave.

Scott County

Davenport, *Outing Club*, 2109 Brady St.

KENTUCKY

Warren County

Bowling Green, *Warren County Courthouse*, 429 E. 10th St.

MAINE

Androscoggin County

Lisbon Falls, *St. Cyril and St. Methodius Church*, Main and High Sts.

Cumberland County

Cape Elizabeth vicinity, *Richmond's Island Archeological Site*, W of Cape Elizabeth.
Portland, *Chestnut Street Methodist Church*, 11–19 Chestnut St.
Steep Falls vicinity, *Valley Lodge*, NW of Steep Falls off ME 113.

Hancock County

Ellsworth, *Old Hancock County Buildings*, Cross St.
Southwest Harbor vicinity, *Fernald Point Prehistoric Site*, N of Southwest Harbor.

Kennebec County

Oakland, *Memorial Hall*, Church St.
Oakland, *Pressey House*, 287 Summer St.
Vassalboro, *River Meeting House*, U.S. 201.

Knox County

Isle Au Haut vicinity, *Duck Harbor Prehistoric District*, S of Isle Au Haut.

Oxford County

Hebron, *Sturtevant Hall*, ME 119.

Sagadahoc County

Georgetown vicinity, *Stone Schoolhouse*, S of Georgetown on Bay Point Rd.

Waldo County

Belfast, *Hayford Block*, 47 Church St.

Washington County

Machias, *Machias Post Office and Customhouse*, Main and Center Sts.

York County

Kittery, *Gerrish Warehouse*, Pepperrell Cove.

MARYLAND

Prince Georges County

College Park vicinity, *College Park Airport*, E of College Park off Kenilworth Ave.

Washington County

Boonsboro, *Bowman House*, 323 N. Main St.

MISSISSIPPI

Adams County

Natchez, *Routhland*, 92 Winchester Rd.

Hinds County

Jackson, *Ayer Hall*, 1400 Lynch St.

Leflore County

Wakeland vicinity, *Sweethome Mound*, W of Wakeland.

Warren County

Vicksburg, *Bonham, Isaac, House*, 601 Klein St.

NEW JERSEY

Burlington County

Bordentown, *Point Breeze*, U.S. 206 and Park St.

NEW YORK

Rensselaer County

Troy, *Burden Iron Works Site*, Burden Ave.

OREGON

Morrow County

Boardman vicinity, *Oregon Trail, Wells Springs Segment*, S of Boardman.

TENNESSEE

Sumner County

Hendersonville vicinity, *Talley–Beals House*, N of Hendersonville off Saundersville Rd.

TEXAS

Aransas County

Port Aransas vicinity, *Aransas Pass Light Station*, N of Port Aransas on Harbor Island.

Williamson County

Georgetown, *Williamson County Courthouse Historical District*, Rock and 9th Sts., Main and 7th Sts. (includes both sides).

[FR Doc.77-5801 Filed 2-28-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

FEDERAL SUPPLEMENTARY BENEFITS; EMERGENCY UNEMPLOYMENT COMPENSATION

Availability in State of Maryland

This notice announces the beginning of the new Federal Supplemental Benefit Period in the State of Maryland effective February 20, 1977.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93–572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals will be up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State.

There is a Federal Supplemental Benefit "on" indicator in a State for a week if the United States Secretary of Labor determines with respect to the State that, (a) there is a State or National "on" indicator for the week, as determined for the purposes of payment of extended benefits under the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and (b) the employment security agency of the State has determined that the average rate of insured unemployment in the State for the period consisting of that week and the immediately preceding weeks equalled or exceeded 5.0 percent. The Federal Supplemental Benefit Period actually begins with the third week following the week for which there is an "on" indicator, and lasts for a minimum period of not less than 26 weeks.

Similarly, an "off" indicator ending a Federal Supplemental Benefit Period occurs in a week when the Secretary of Labor determines that the average rate of insured unemployment (as determined by the State employment security agency) for the period consisting of that week and the immediately preceding twelve weeks is less than 5.0 percent. The Federal Supplemental Benefit Period actually ends with the third week after the week in which there is an "off" indicator, but not earlier than the end of the twenty-sixth week of the period.

DETERMINATION OF "ON" INDICATOR

The Secretary of Labor has determined under section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and 20 CFR 615.13(a), (Title 20 of the Code of Federal Regulations, § 615.13(a)), that there is a National "on" indicator in effect which is applicable to every State, as announced in the notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 7722. The employment security agency of the State of Maryland has determined under the Act and 20 CFR 618.19(a)(2) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on February 5, 1977, and the immediately preceding twelve weeks equally or exceeded 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 619.19 (a), and as authorized by the Secretary of Labor's Order 4–75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "on" indicator in the State of Maryland for the week ending on February 5, 1977, and that a Federal Supplemental Benefit Period therefore commenced in that State with the week beginning on February 20, 1977.

INFORMATION FOR CLAIMANTS

There will be a 5-per centum period in effect in the new Federal Supplemental Benefit Period, commencing at the beginning of the new period. During the 5-per centum period an individual who is eligible for Federal Supplemental Benefits will be entitled to a maximum amount of up to 13 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

In the event that a 6-per centum period subsequently takes effect in the new Federal Supplemental Benefit Period, because the rate of insured unemployment in the State has risen to an average of 6.0 percent or more over a period of thirteen weeks, the maximum amount of Federal Supplemental Benefits payable to an eligible individual will increase. In that event, as the Act now provides, an eligible individual will be entitled to a maximum amount of Federal Supplemental Benefits of up to 26 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

The State employment security agency will furnish a written notice of potential entitlement to Federal Supplemental Benefits to each individual who is an "exhaustee" (as defined in the Act and 20 CFR 618.5) of regular and extended benefits payable under State and Federal unemployment compensation laws, and to each individual who has a previously established Federal Supplemental Benefit Account in which there is any balance as of the beginning of the new Federal Supplemental Benefit Period. The State employment security agency also will furnish a written notice to each individual for whom a Federal Supplemental Benefit Account has been established, of the beginning or ending of a 6-per centum period in the new Federal Supplemental Benefit Period, and its effect on the individual's entitlement to Federal Supplemental Benefits.

The Act now provides that the program will expire with the last week which ends before April 1, 1977, at which time the Federal Supplemental Benefit Period will terminate. If the program is extended, individuals who may be entitled to Federal Supplemental Benefits will be notified by the State employment security agency.

Persons who believe they may be entitled to Federal Supplemental Benefits in the State of Maryland, or who wish to inquire about their rights under this

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program, should contact the nearest State Employment Office of the Maryland Employment Security Commission in their locality.

Signed at Washington, D.C., on February 24, 1977.

WILLIAM B. HEWITT,
Acting Assistant Secretary for Employment and Training.

[FR Doc.77-6088 Filed 2-28-77;8:45 am]

Occupational Safety and Health Administration

[V-77-4]

MINNESOTA MINING & MANUFACTURING CO.

Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of application.* Notice is hereby given that Minnesota Mining & Manufacturing Co., Medical Products Division, Brookings Plant, Brookings, South Dakota 57006 has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.106(d)(5)(vi)(b) concerning the storage of flammable and combustible liquids in warehouses.

The address of the place of employment that will be affected by the application is as follows:

3M Company, Medical Products Division, P.O. Box 268, Brookings, South Dakota 57006.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1910.106(d)(5)(vi)(b) which sets limits on the height and number of gallons of the various classes of flammable and combustible liquids which may be stored in each pile.

The applicant uses various flammable and combustible liquids in the manufacture of medical products. These liquids include methyl ethyl ketone, acetone, methonal, isopropyl alcohol, hexane, heptane, and xylene. The liquids are stored in 55 gallon drums or portable tanks in warehouse areas and are transported to the mixing or compounding area by forklift truck as needed.

Section 1910.106(d)(5)(vi)(b) sets maximum limits on the number of gallons stored per pile and the height of each pile. In addition, it requires that no container be more than 12 feet from an aisle, that main aisles be at least 8 ft. wide and that side aisles be 4 ft. wide. There shall also be at least 4 ft. between piles.

The applicant proposes to stack the pallets containing the drums or tanks on racks of shelves rather than directly on top of each other as is done in the piles. The applicant contends that this would provide greater stability and would eliminate the danger of piled drums falling. In addition it would, according to the applicant, provide greater safety because the weight of each pallet of drums rests on the rack rather than on the drums below it. Each pallet of drums would be adjacent to an aisle rather than up to 12 feet from the aisle as permitted by the standard.

Using rack storage, as described, the applicant proposes to stack its drums and portable tanks of flammable and combustible liquids with the following height limitations rather than those required by the standard:

The total quantity of liquids within a building shall not be restricted but the arrangement of racked storage shall comply with the following table[1]:

[1] Aisles between racks shall be a minimum of four feet wide. Cross aisle requirements shall be in accordance with the Life Safety Code (NFPA 101-1976) for means of egress.

Class	Type rack	Storage level	Maximum storage height containers (feet)	Maximum storage height portable tanks (feet)
IA	Double or single	Ground	25	(1)
		Upper	15	(1)
IB and IC	do	Ground	25	15
		Upper	15	15
II	do	Ground	25	15
		Upper	15	15
III	Multidouble/single	Ground	40	15
		Upper	20	15
		Basement	20	15

[1] Not permitted.

The applicant states that there is usually only one man-hour per shift spent in the warehouse. There is usually only one employee involved, although there may occasionally be two or three employees in the warehouse at one time. Employee evacuation time in the event of a fire would be from five to 20 seconds. The applicant further states that signs are posted and employees are instructed in procedures to follow in the event of a spill or rupture of a drum. In the event of a fire, employees are instructed to evacuate immediately, sounding the alarm to call the trained plant emergency squad and the local fire department.

The applicant states that the warehouse is protected by an overhead sprinkler system fusible at 286° F and an in-rack system fusible at 165° F. The fire alarm system is a pre-action type and is actuated by either a rate of rise, pneumatic detector or manual actuation at an alarm box. Actuation of the detector or manual pull causes water to enter the sprinkler system, actuating a water flow alarm which sounds locally and at the guard's desk and is transmitted to the local fire department.

A copy of the application will be made available for inspection and copying upon request at the Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-3668, Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Room 15010, 1961 Stout Street, Denver, Colorado 80294.

U.S. Department of Labor, Occupational Safety and Health Administration, Court House Plaza Building, Room 406, 300 North Dakota Avenue, Sioux Falls, South Dakota 57102.

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views and arguments relating to the pertinent application no later than March 31, 1977. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than March 31, 1977, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

II. *Interim Order.* It appears from the application for a variance and interim order that, as required by section 6(d) of the Act, the storage of flammable and combustible liquids on racks as specified in the application will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1910.106(d)(5)(vi)(b). It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c), and in Secretary of Labor's Order 8-76 (41 FR 25059), that Minnesota Mining and Manufacturing Co., be, and it is hereby, authorized to store its flammable and combustible materials on racks to the height specified in the chart in the body of this notice in lieu of complying with the height restrictions in 29 CFR 1910.106(d)(5)(vi)(b) for flammable and combustible liquids stored in piles, under the following conditions:

(1) The number of employees and number of man-hours in the warehouse be kept to a minimum (approximately one man-hour per day);

(2) Employees shall immediately evacuate the warehouse in the event of a fire;

(3) The trained emergency squad shall be equipped with protective clothing and equipment proper to the type of fire fighting anticipated.

(4) Each pallet of drums shall be adjacent to an aisle;

(5) Aisles between racks shall be a minimum of four feet wide, and cross aisles shall be in accordance with the Life Safety Code (NFPA 101-1976) requirements for means of egress; and

(6) Storage shall be protected by an in-rack sprinkler system in compliance with NFPA No. 13-1974. The actuation of this system shall sound an alarm locally and at the local municipal fire department.

Minnesota Mining & Manufacturing Co., shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

Effective date: This interim order shall be effective as of March 1, 1977, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C., this 23d day of February 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-6089 Filed 2-28-77;8:45 am]

Office of the Secretary

[TA-W-1202]

ARDMORE FASHIONS INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1202: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 26, 1976 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing dresses at the Chester, Pennsylvania plant of Ardmore Fashions, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51135). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ardmore Fashions, Inc., its customers, the Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers decreased 37.5 percent in 1975 over 1974. Average weekly hours worked per week per worker decreased 3.2 percent in the first quarter of 1976 compared to the like period in 1975. All workers were terminated in March 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales decreased 20.2 percent in 1974 over 1973 and further decreased 24.8 percent in 1975 over 1974. All production ceased and the plant closed in March 1976.

INCREASED IMPORTS

Imports of women's and misses' dresses increased in every year since 1973 from 596,000 dozens to 645,000 dozens in 1975, an increase of 8.2 percent.

CONTRIBUTED IMPORTANTLY

Customers of Ardmore Fashions, Inc. stated that they have reduced purchases from the company and increased purchases of imported dresses.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increased imports of women's dresses have contributed importantly to the total or partial separations of workers at the Chester, Pennsylvania plant of Ardmore Fashions, Inc. In accordance with the provisions of the Act, I make the following certification:

All workers at the Chester, Pennsylvania plant of Ardmore Fashions, Inc. who became totally or partially separated from employment on or after October 8, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22nd day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6091 Filed 2-28-77;8:45 am]

[TA-W-1310]

AUTO HANDLING DIVISION, FREIGHT CONSOLIDATION SERVICES, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1310: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1976, in response to a worker petition received on that date which was filed on behalf of workers and former workers at the Auto Handling Division, Edison, New Jersey of Freight Consolidation Services, Incorporated. Chicago, Illinois who were engaged in providing transportation services to automobile assembly plants.

The Notice of Investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Freight Consolidation Services, Inc. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied a negative determination must be made.

The Auto Handling Division of Freight Consolidation Services does not produce an article within the meaning of section 222(3) of the Act and this Department has already determined that the

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performance of services are not covered by the adjustment assistance program. See Notice of Determination "Pan American World Airways, Incorporated" (TA–W–153, 40 FR 54639). The only question in this case is whether the Ford Motor Company, i.e., a firm which produces an article, namely automobiles, and for whom the service is provided, can be considered the "workers' firm". The Department has also previously determined that an independent firm for which such services are provided cannot be considered the "workers' firm." See Notice of Determination in "Nu-Car Driveaway, Incorporated" (TA–W–393, 41 FR 12749).

Freight Consolidation's Auto Handling Division in Edison, New Jersey provides the service of loading new automobiles assembled at the Ford Motor Company's Metuchen, New Jersey plant onto railcars for further transportation. Freight Consolidation competed for available business with other firms in the Edison-Metuchen, New Jersey area and it was free to do business with any firm requesting their services.

Neither Freight Consolidation Services, on one hand, nor Ford Motor Company on the other, is financially or otherwise involved in the business of the other. Freight Consolidation either owns or leases the facilities necessary to the operation of its business and owns or leases all its equipment.

The workers upon whose behalf this petition was filed were hired and are paid by Freight Consolidation Services. They are supervised by and subject to the control of Freight Consolidation personnel. All employment benefits which they enjoy are provided and maintained by Freight Consolidation.

Conclusion

After careful review of the issues and facts involved, I have determined that services of the kind provided by the Auto Handling Division, Edison, New Jersey of Freight Consolidation Services, Incorporated, Chicago, Illinois are not "articles" within the meaning of section 222(3) of the Trade Act of 1974, and that the Ford Motor Company cannot be considered the "workers' firm." The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C., this 23d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–6092 Filed 2–28–77;8:45 am]

[TA–W–1288]

BATA SHOE COMPANY INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1288: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 16, 1976 in response to a worker petition received on that date which was filed by the workers and former workers producing rubber/canvas footwear at the Salem, Indiana plant of Bata Shoe Company, Inc.

The Notice of the Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53082). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bata Shoe Company, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Significant Total or Partial Separations

Employment at the Salem, Indiana plant of the Bata Shoe Company declined 8 percent in 1976 compared to 1975 and declined in each quarter of 1976 compared to the same quarter in 1975.

Sales or Production, or Both, Have Decreased Absolutely

Production at the Salem, Indiana plant of the Bata Shoe Company declined 7 percent in 1975 compared to 1974 and declined 20 percent in 1976 compared to 1975.

Increased Imports

Imports of rubber/canvas footwear increased from 20.1 million pairs in 1972 to 23.6 million pairs in 1975. Imports increased from 19.6 million pairs in the first three quarters of 1975 to 23.0 million pairs in the first three quarters of 1976. During the same period, imports compared to domestic production increased from 18.3 percent in the first three quarters of 1975 to 25.4 percent in the first three quarters of 1976.

Contributed Importantly

Customers of the Salem, Indiana plant of Bata Shoe Company increased purchases of imports while decreasing purchases of rubber/canvas footwear from the Salem, Indiana plant of the Bata Shoe Company.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with rubber/canvas footwear produced by the Salem, Indiana plant of the Bata Shoe Company contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at the Salem, Indiana plant of the Bata Shoe Company, Inc. who became totally or partially separated from employment on or after April 2, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–6093 Filed 2–28–77;8:45 am]

[TA–W–1191]

BLEEKER STREET, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1191: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1976 in response to a worker petition received on October 19, 1976 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses at the Philadelphia, Pennsylvania plant of Bleeker Street, Inc., a division of Jonathan Logan, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on November 15, 1976 (41 FR 48804). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bleeker Street, Inc., its customers, the International Ladies' Garment Workers' Union, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met criteria (2) and (4) have not been met.

Bleeker Street, Inc., of Philadelphia is a manufacturer of women's dresses. In addition to its main production facility in Philadelphia, Bleeker Street utilizes the production facilities of two other Jonathan Logan divisions and of several independent contractors to produce dresses.

Company sales increased 15.0 percent in quantity in 1975 compared to 1974 and increased 7.9 percent in quantity in 1976 compared to 1975. Plant production at the Philadelphia facility increased 24.1 percent in quantity in 1975 compared to 1974 and increased 3.2 percent in quantity in 1976 compared to 1975. Customers reported that they did not switch purchases from Bleeker Street to imports.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that sales or production of women's dresses did not decrease in 1975 and 1976 as required for certification under section 222 of the Trade Act of 1974.

It is further concluded that imports of articles like or directly competitive with women's dresses made at Bleeker Street, Inc., Philadelphia, Pennsylvania did not contribute importantly to the total or partial separations of workers at such firm as required under the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–6094 Filed 2–28–77;8:45 am]

[TA–W–1200]

CARR LEATHER CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1200: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 20, 1976 in response to a worker petition received on that date which was filed by the workers and former workers producing tanned and finished cattlehides at the Lynn, Massachusetts plant of Carr Leather Company.

The notice of investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48805). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Carr Leather Company, its customers, the Tanners Council of America, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that although the first three criteria have been met, the fourth criterion has not been met.

Significant Total or Partial Separations

The average number of production workers increased 32 percent in 1974 compared to 1973, and increased 6 percent in 1975 compared to 1974. Employment in the nine month January–September period in 1976 declined 11 percent compared to the like period in 1975.

Sales or Production, or Both, Have Decreased Absolutely

Sales of tanned and finished cattlehides increased 94 percent in quantity and 98 percent in value in 1974 compared to 1973, and increased 22 percent in quantity and 23 percent in value in 1975 compared to 1974. Sales in the nine month period of January–September 1976 declined 17 percent in quantity and 6 percent in value compared to the like period in 1975.

Increased Imports

Imports of tanned and finished cattlehides increased absolutely and relative to domestic production in 1972 compared to 1971, and decreased absolutely and relatively each year thereafter through 1975. These imports decreased 38 percent in 1975 compared to 1974, then increased 203 percent in the first six months of 1976 compared to the like period in 1975. The ratio of imports to domestic production decreased from 17.6 percent in 1974 to 9.9 percent in 1975, then increased from 7.7 percent in the first six months of 1975 to 19.6 percent in the like period in 1976.

Contributed Importantly

Customers who were surveyed, representing approximately 50 percent to Carr Leather Company's total sales, stated that they have not switched purchases from Carr Leather Company to imports. Those customers who stated that their purchases from Carr Leather Company were decreasing attributed the declines to increased imports of end products (e.g. garments and shoes) or to the reduced demand for end products due to rising leather prices.

Imports of finished leather goods which incorporate portions of tanned and finished cattlehides are not like or directly competitive with tanned and finished cattlehides produced by Carr Leather Company.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that imports like or directly competitive with tanned and finished cattlehides produced by Carr Leather Company, Lynn, Massachusetts, did not contribute importantly to the total or partial separation of the workers of that plant.

Signed at Washington, D.C., this 22d day of February, 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–6095 Filed 2–28–77;8:45 am]

[TA–W–1428]

CHATTANOOGA COKE AND CHEMICAL COMPANY, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1428: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petiton received on December 15, 1976 which was filed by the United Steelworkers of America on behalf of workers producing coke at the Chattanooga, Tennessee plant of Chattanooga Coke and Chemical Company, Inc.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 873). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and

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officials of Chattanooga Coke and Chemical Company, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Chattanooga, Tennessee plant of Chattanooga Coke and Chemical Company, Inc. have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6096 Filed 2-28-77;8:45 am]

[TA-W-1232]

CHESTER PANTS CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1232: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 8, 1976, in response to a worker petition received on that date filed on behalf of the workers and former workers of Chester Pants Corporation, Brooklyn, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51629). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Chester Pants Corporation, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers fell 17 percent in 1975 compared to 1974 and declined 6 percent in the January through November period of 1976 compared to the like period of 1975.

In 1975 the firm altered the duties of employees and designated some workers to be exclusively engaged in cutting fabric and preparing the material for sewing. This measure reduced the firm's labor needs and increased productivity as operators were able to spend more time on the sewing machines.

SALES OR PRODUCTION, OF BOTH, HAVE DECREASED ABSOLUTELY

Production rose 29 percent in 1975 compared to 1974 and decreased 9 percent in the January through November period of 1976 compared to the like period of 1975.

INCREASED IMPORTS

Imports of men's and boys' tailored suits rose in every year since 1971, increased 27 percent in 1975 compared to 1974 and rose 7 percent in the January through September period of 1976 compared to the like period of 1975. The ratio of imports to domestic production increased from 12.3 percent in 1974 to 17.4 percent in 1975 and declined from 19.9 percent in the first half of 1975 to 17.3 percent in the like period of 1976.

CONTRIBUTED IMPORTANTLY

Customers indicate that sales have fallen in 1976 compared to 1975 because retailers and wholesalers are purchasing lower priced, imported men's suits and pants in large quantities. The decline in sales caused customers to reduce purchases from domestic contractors in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with articles produced by Chester Pants Corporation, Brooklyn, New York contributed importantly to the total or partial separation of the workers of that company. In accordance with the provisions of the Act, I make the following certification:

All workers of Chester Pants Corporation, Brooklyn, New York who became totally or partially separated from employment on or after January 5, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6097 Filed 2-28-77;8:45 am]

[TA-W-1196]

DAVJO MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1196: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1976 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing dresses at the Philadelphia, Pennsylvania plant of Davjo Manufacturing Company.

The Notice of Investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48805). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Davjo Manufacturing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Davjo Manufacturing Company started operations in Philadelphia, Pennsylvania in 1957. The company is a contractor producing misses' dresses for Bleeker Street, Incorporated of Philadelphia. Bleeker Street utilizes the production facilities of several contractors and since mid-1975 has been reducing the number of contractors they deal with in their operation. During the period in question, Bleeker Street sales increased 15.0 percent in quantity in 1975 compared to 1974 and increased 7.9 percent in quantity in 1976 compared to 1975. Production increased 24.1 percent in quantity in 1975 compared to 1974 and increased 3.2 percent in quantity in 1976 compared to 1975. Bleeker Street does not import the items produced by the contractors and a survey of their customers indicated that customers did not switch purchases from Bleeker Street to imports.

CONCLUSION

It is concluded that imports of articles like or directly competitive with misses' dresses produced at the Davjo Manufacturing Company in Philadelphia, Pennsylvania have not contributed importantly to the total or partial separations of workers at that plant as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6098 Filed 2-28-77;8:45 am]

[TA-W-1312]

HOMESTAKE COPPER CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 232 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1312: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on that date which was filed by workers and former workers producing copper concentrate at the Calumet, Michigan plant of the Homestake Copper Company, a subsidiary of the Homestake Mining Company, San Francisco, California.

The notice of investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54558). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Homestake Copper Company, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) four has not been met.

The Homestake Copper Company located in Calumet, Michigan is a mining company producing a 50 percent copper concentrate. A pilot plant for producing the copper concentrate was completed in June 1975 and production started shortly thereafter. Production ceased on October 28, 1976.

FINDINGS OF THE INVESTIGATION

The Department's investigation revealed that since production began in July 1975, Homestake Copper Company's only product, a 50 percent copper concentrate, was shipped to one customer in Canada. This off-shore customer through its wholly owned American subsidiary was a 40 percent partner in a joint venture with the Homestake Copper Company. Mining the copper concentrate became uneconomical because of the low copper prices, the high cost of mining and the low grade of the ore. Production ceased on October 28, 1976.

CONCLUSION

It is concluded that imports of articles like or directly competitive with the copper concentrate produced at the Homestake Copper Company, Calumet, Michigan did not contribute importantly to the total or partial separations of the workers of that firm.

Signed at Washington, D.C., this 17th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6099 Filed 2-28-77;8:45 am]

INTERNATIONAL SHOE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

[TA-W-1213]

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1213: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 31, 1976 in response to a worker petition received on that date which was filed by the Printing Specialties and Paper Products Union on behalf of workers and former workers producing shoe boxes at the St. Louis Box Department of the International Shoe Company, St. Louis, Missouri.

The notice of investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51140). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Shoe Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analyst, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the first criterion has not been met.

The St. Louis Box Department of the International Shoe Company produces shoe boxes as part of the integrated shoe production operation in which International is engaged.

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The evidence developed during the course of the investigation revealed that employment has not declined since October 8, 1975, the earliest possible date on which workers could be certified for eligibility. The number of workers has remained at a constant figure from July 1974 through September 1976. The average number of hours worked increased 8.0 percent in the first nine months of 1976 compared to the same period of 1975.

Employment of workers remained constant because shoe box assemblage is capital intensive. Therefore, a fixed number of workers is required to operate the equipment, regardless of productivity. The increase in the number of hours worked in the first nine months of 1976 compared to the same period of 1975 reflects the upswing in production during the same period of comparison.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of workers at the St. Louis, Missouri Box Department of the International Shoe Company have not become nor are threatened with becoming totally or partially separated as required under section 222(1) of the Act. Therefore workers of the St. Louis Box Department of the International Shoe Company are not eligible to apply for trade adjustment assistance under the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6100 Filed 2-28-77;8:45 am]

[TA-W-1368]

ITT GRINNELL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1368: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers producing pipe fittings, alloy elbows, tees, flanges and reducers at the Princeton, Kentucky plant of the ITT Grinnell Corp., New York, New York.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 884). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and the ITT Grinnell Corporation.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have deceased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a signficant number or proportion of the workers at the Princeton, Kentucky plant of the ITT Grinnel Corp. have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of February, 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6101 Filed 2-28-77;8:45 am]

[TA-W-1192]

JAY EL DRESS CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1192: investigation regarding eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1976 in response to a worker petition received on that date which was filed by workers and former workers producing women's dresses at the Philadelphia, Pennsylvania plant of the Jay El Dress Company.

The Notice of Investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48811). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Jay El Dress Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales of production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been made.

The Jay-El Dress Company cuts components for women's dresses produced at the Philadelphia, Pennsylvania plant of Bleeker St., Inc. Jay-El is a contractor for only this manufacturer and its production is integrated with it. Bleeker Street utilizes the production facilities of several contractors and since mid-1975 has been reducing the number of contractors it deals with in its operations. During the period in question, Bleeker Street sales increased 7.9 percent in quantity in 1976 compared to 1975. Production increased 24.1 percent in quantity in 1975 compared to 1974 and increased 3.2 percent in quantity in 1976 compared to 1975. Bleeker Street does not import the items produced by the contractors and a survey of their customers indicated that customers did not switch purchases from Bleeker Street to imports.

CONCLUSION

It is concluded that imports of articles like or directly competitive with women's dresses produced at the Jay-El Dress Company in Philadelphia, Pennsylvania have not contributed importantly to the total or partial separations of workers at that plant as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6102 Filed 2-28-77;8:45 am]

[TA-W-1467]

KOPPERS COMPANY, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1467: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on December 15, 1976 which was filed by the United Steelworkers of America on behalf of workers producing coke at the Erie, Pennsylvania plant of the Koppers Company, Inc., Pittsburgh, Pa.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1536). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and officials of Koppers Company, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 15, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Erie, Pennsylvania plant of the Koppers Company, Inc. have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6103 Filed 2-28-77;8:45 am]

[TA-W-1537]

LONE STAR STEEL CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1537: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 30, 1976 in response to a worker petition received on December 30, 1976 which was filed by the United Steelworkers of America on behalf of workers producing oil field pipes at the Lone Star, Texas plant of the Lone Star Steel Company.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3375). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and the Lone Star Steel Company.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from December 3, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Lone Star, Texas plant of the Lone Star Steel Company have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6104 Filed 2-28-77;8:45 am]

[TA-W-1410]

NATIONAL STEEL CORP., MIDWEST STEEL DIVISION

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1410: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 14, 1976 in response to a worker petition received on December 14, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel sheet products at National Steel Corporation's Midwest Steel Division in Portage, Indiana.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1976 (42 FR 891). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from officials of the United Steelworkers of America, the Midwest Steel Division of National Steel Corporation, the U.S. Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of The Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

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Without regard to whether any other criteria have been met, the investigation has revealed that criteria (1) and (2) have not been met.

National Steel Corporation's Midwest Steel Division in Portage, Indiana produces carbon steel sheet products consisting of tin plate, galvanized and cold rolled sheet products.

Sales of carbon steel sheet products decreased 8.2 percent in 1974 compared with 1973, decreased 27.7 percent in 1975 compared with 1974 and increased 32.1 percent in 1976 compared with 1975.

Production of carbon steel sheet products decreased 8.0 percent in 1974 compared with 1973, decreased 22.2 percent in 1975 compared with 1974 and increased 26.6 percent in 1976 compared with 1975.

Employment of production workers decreased 1.6 percent in 1974 compared with 1973, decreased 14.2 percent in 1975 compared with 1974 and increased 9.4 percent in 1976 compared with 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production at National Steel Corporation's Midwest Steel Division have not declined and that a significant number or proprotions of the workres have not become totally or partially separated as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6105 Filed 2-28-77;8:45 am]

[TA-W-1505]

SHENANGO, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1505: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 22, 1976 in response to a worker petition received on December 22, 1976 which was filed by the United Steelworkers of America on behalf of workers producing coke and pig iron at the Neville Island, Pa. plant of Shenango, Inc., Pittsburgh, Pa.

The notice of investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2383). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and Shenango, Inc.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Neville Island, Pennsylvania plant of Shenango, Inc. produces coke and pig iron.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from December 3, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Neville Island, Pennsylvania plant of Shenango, Inc., Pittsburgh, Pa. have not become totally or partially separated as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6106 Filed 2-28-77;8:45 am]

Office of the Secretary

[TA-W-1506]

SHENANGO, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1506: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 22, 1976 in response to a worker petition received on December 22, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing ingot molds and stools at the Sharpsville, Pennsylvania plant of Shenango, Incorporated, Pittsburgh, Pennsylvania.

The notice of the investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2383). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the United Steelworkers of America, Shenango, Incorporated, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) hase not been met.

There are no separately identifiable import statistics on ingot molds and stools in the Tariff Schedules of the United States Annotated (TSUSA). The evidence developed by the Department during the course of the investigation reveals that industry sources believe that imports of ingot molds and stools are negligible.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of ingot molds like or directly competitive with those produced at the Sharpsville, Pennsylvania plant of Shenango, Incorporated did not contribute importantly to separations, or threat thereof, or to decreased sales or production at such plant as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6107 Filed 2-28-77;8:45 am]

[TA-W-1206]

SPERRY UNIVAC

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1206: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

On July 14, 1976 the Department of Labor issued a Notice of Negative Determination regarding eligibility of workers of Sherry Univac, Utica, New York to apply for adjustment assistance. On October 26, 1976 the Office of Trade Adjustment Assistance received a request for reconsideration of that determination filed by workers and former workers producing electronic data processing equipment at the Utica, New York plant of Sperry Univac. An investigation was initiated on October 26, 1976.

The notice of investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51145). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sperry Univac, its customers, the U.S. Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criteria three and four have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPERATIONS

The average number of production workers at Sperry Univac's Utica, New York plant declined 19.1 percent in 1975 compared to 1974 and 52.6 percent in the first ten months of 1976 compared to the first ten months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Unit production increased 1.2 percent from 1974 to 1975 and decreased 64.8 percent for the first ten months of 1976 compared to the first ten months of 1975.

INCREASED IMPORTS

Sperry Univac is the sole source of equipment compatible with its electronic data processing systems. Company imports of electronic data processing equipment excluding power supplies decreased 44.1 percent from 1974 to 1975 and 68.3 percent for the fist ten months of 1976 compared to the first ten months of 1975.

CONTRIBUTED IMPORTANTLY

A survey of customers of Sperry Univac was conducted by the Office of Trade Adjustment Assistance. Customers indicated that they purchased or leased computer equipment from domestic sources only. None of the customers contacted reported the use of computer equipment manufactured aboard.

The investigation revealed that the decline in employment was attributable to reduced order input, product transfers to other domestic Univac manufacturing operations and technological changes that have increased the capital intensity of the industry. Furthermore, it was revealed that the corporate decision to close the Utica plant was unrelated to an aggregate import influence. Company officials sought to reduce corporate losses by closing the Utica plant because it was the oldest of Univac's facilities and no longer conducive to efficient manufacturing.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that imports of articles like or directly competitive with the electronic data processing equipment, excluding punch and die assemblies, produced at the Utica, New York plant of Sperry Univac have not contributed importantly to the separations and to the decrease in sales and production at the plant as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6108 Filed 2-28-77;8:45 am]

[TA-W-1320]

SUN WELD FITTING CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1320: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on November 30, 1976 which was filed by the United Steelworkers of America on behalf of the workers and former workers producing stainless steel valves at the Los Angeles plant of Sun Weld Fitting Company.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 54567) on December 14, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sun Weld Fitting Company, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities; either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of production workers at the Sun Weld Fitting Company plant increased 33.7 percent in 1975 compared to 1974. Average employment declined 28.2 percent in the first 11 months of 1976 compared to the first 11 months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Annual sales by Sun Weld Fitting Company increased 35.7 percent in value in 1975 compared to 1974. Sales declined 15.2 percent in value in the first 11 months of 1976 compared to the first 11 months of 1975.

Annual production at the Sun Weld Fitting Company plant increased 37.5 percent in value in 1975 compared to 1974. Production declined 8.1 percent in value in the first 11 months of 1976 compared to the first 11 months of 1975.

INCREASED IMPORTS

Imports of forged steel threaded and socket fittings and unions increased from 4.9 million pounds in 1971 to 19.3 million pounds in 1975. Imports decreased 18.5 percent in the first 9 months of 1976 compared to the first 9 months of 1975.

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from 13.5 million pounds to 11.0 million pounds.

The ratio of imports to domestic production of forged steel threaded and socket fittings and unions increased from 14.7 percent in 1971 to 32.3 percent in 1975. The import to U.S. production ratio increased 49 percent in the first 9 months of 1976 compared to the first 9 months of 1975, from 28.1 percent to 42.0 percent.

CONTRIBUTED IMPORTANTLY

The Office of Trade Adjustment Assistance conducted a survey of Sun Weld Fitting Company's customers. Most of the customers contacted indicated that the lower prices of imported fittings in 1976 had caused them to decrease their purchases from Sun Weld Fitting Company and switch to the imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with stainless steel pipe fittings produced at Sun Weld Fitting Company contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of stainless steel pipe fittings at the Los Angeles, California plant of Sun Weld Fitting Company who became totally or partially separated from employment on or after January 31, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6109 Filed 2-28-77;8:45 am]

[TA-W-1180]

TAVERLY, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1180: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1976 in response to a worker petition received on that date which was filed by workers and former workers producing men's sportcoats, suits, and leisure suits at Taverly Incorporated, NY, NY.

The notice of investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48818). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Taverly Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated:

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely:

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The evidence developed in the Department's investigation reveals that criterion (2) and criterion (4) have not been met:

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at Taverly Inc. declined 17 percent in 1975 from 1974 and declined 1 percent in the first three quarters of 1976 compared to the first three quarters of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at Taverly Incorporated increased 2 percent in 1975 compared to 1974 and increased 7 percent in the first three quarters of 1976 compared to the first three quarters of 1975. Sales by quantity were estimated to have increased to a larger degree than sales by value from January 1975 to September 1976 since during that period Taverly produced leisure suits and jackets. Leisure suits and jackets had a lower per unit cost than traditional suits and sportcoats produced by Taverly prior to January 1975 and after September 1976.

INCREASED IMPORTS

Imports of men's and boys' tailored coats and sportcoats increased from 2.9 million units in 1971 to 5.5 million units in 1975 and increased from 2.2 million units in the first half of 1975 to 3.3 million units in the first half of 1976. Imports as a percentage of production increased from 14.0 percent in 1971 to 30.9 percent in 1975 and increased from 23.8 percent in the first half of 1975 to 30.7 percent in the first half of 1976.

Imports of men's and boys' suits increased from 1.3 million units in 1971 to 3.1 million units in 1975 and increased from 1.7 million units in the first half of 1975 to 1.8 million units in the first half of 1976. Imports as a percentage of production increased from 6.2 percent in 1971 to 17.4 percent in 1975 and decreased from 19.9 percent in the first half of 1975 to 17.3 percent in the first half of 1976.

CONTRIBUTED IMPORTANTLY

Employment declines at Taverly in 1975 and 1976 were due to a switch from production of traditional suits and sportcoats to production of leisure wear which occurred in late 1974 and early 1975. Production of leisure suits and sportcoats was less labor intensive and Taverly was therefore able to reduce employment while increasing sales.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's sportcoats, suits, and leisure suits produced at Taverly Incorporated, New York, New York did not contribute importantly to the separations of the workers at that firm.

Signed at Washington, D.C., this 17th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6110 Filed 2-28-77;8:45 am]

[TA-W-1378]

WESTINGHOUSE ELECTRIC CORP.

Determination Concerning Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-WW-1378: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 7, 1976 in response to a worker petition received on that date which was filed by the International Brotherhood of Electrical Workers on behalf of workers and former workers producing television picture tubes at the Horseheads, New York plant of Westinghouse Electric Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 906). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Westinghouse Electric Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated:

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met for the Entertainment Tube Division. The investigation has further revealed that although the first and third criteria have been met for the Industrial and Government Tube Division, the second and fourth criteria have not been met for that Division.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Entertainment Tube Division fell 7 percent from 1974 to 1975 and 16 percent from 1975 to 1976. Average weekly hours worked by those workers fell 5 percent from 1974 to 1975 and rose 2 percent from 1975 to 1976.

The levels of salaried employment at the Entertainment Tube Division fell 22 percent from 1974 to 1975 and 6 percent from 1975 to 1976.

Layoffs in the Entertainment Tube Division began after last pay period in July 1976. They are not yet complete.

The average number of production workers at the Industrial and Government Tube Division rose 1 percent from 1974 to 1975 and fell 8 percent from 1975 to 1976. Average weekly hours worked by those workers held steady throughout the data years.

The level of salaried employment at the Industrial and Government Tube Division held steady from 1974 to 1975, then rose 2 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales from the Entertainment Tube Division fell 38 percent from 1974 to 1975, then increased eight percent from 1975 to 1976. Sales fell 17 percent in the first quarter of 1976 from the previous quarter, then rose 17 percent in the second quarter of 1976. Sales fell 7 percent and 10 percent in the third and fourth quarters of 1976 from the previous quarters.

Production at the Entertainment Tube Division decreased 27 percent from 1974 to 1975, then increased 10 percent from 1975 to 1976. Production in that Division rose 10 percent and 16 percent, respectively in the first and second quarters of 1976 from the previous quarters, then fell 16 percent and 19 percent, respectively in the third and fourth quarters of 1976 from the previous quarters. Production ceased in this division in December 1976.

Sales from the Industrial and Government Tube Division rose 6 percent from 1974 to 1975 and 10 percent from 1975 to 1976. Sales rose 3 percent, 6 percent, and 3 percent, respectively in the first, second, and third quarters of 1976 from the previous quarters, then decreased 3 percent in the final quarter of 1976 from the previous quarter. Sales rose in each quarter of 1976 from the same quarter of the previous year.

Production in the Industrial and Government Tube Division is for order only, so is identical to sales.

INCREASED IMPORTS

Imports of color television picture tubes fell in each year from 1971 to 1974. The value of color television picture tube imports increased from $2.5 million in 1974 to $6 million in 1975, and from $3.9 million in the first nine months of 1975 to $10.5 million in the same period of 1976. Imports increased from 0.44 and 0.49 percent of domestic production and consumption, respectively, in 1974 to 1.30 percent and 1.51 percent, respectively, in 1975, and from 1.12 percent and 1.29 percent in the first nine months of 1975 to 2.38 percent, and 2.38 percent respectively, in the same period of 1976.

Imports of military and industrial cathode ray tubes increased absolutely in each year from 1971 to 1974, then decreased from $3 million in 1974 to $2.4 million in 1975. Imports increased to $2.6 million in the first eleven months of 1976 compared to the $2.3 million in the same period of the previous year. Imports decreased from 9.3 percent and 10.8 percent of domestic production and consumption, respectively, in 1974 to 5.3 percent and 5.9 percent, respectively, in 1975. Imports increased from 5.6 percent and 6.2 percent of domestic production and consumption, respectively, during the first eleven months of 1975, to 6.2 percent and 7.0 percent, respectively, during the first eleven months of 1976.

Imports of gas and vapor electron tubes decreased from $190 thousand in 1973 to $170 thousand in 1974, then increased to $250 thousand in 1975. Imports increased from $210 thousand in the first 11 months of 1975 to $330 thousand in the same period of the following year. Imports increased from 0.7 percent and 0.9 percent of domestic production and consumption, respectively, in 1974 to 1.2 percent and 1.5 percent, respectively, in 1975 and from 1.1 percent and 1.4 percent of domestic production and consumption, respectively, in the first eleven months of 1975 to 1.8 percent and 2.4 percent, respectively, in the same period of 1976.

Imports of diode, triode, and tetrode electron tubes (types of power tubes) rose from $530 thousand in 1973 to $820 thousand in 1974, then fell in $570 thousand in 1975. Imports increased from $520 thousand in the first eleven months of 1975 to $1.41 million in the same period of 1976. Imports fell from 1.2 percent and 1.3 percent of domestic production and consumption, respectively, in 1974 to 0.8 percent and 0.8 percent of domestic production and consumption, respectively, in 1975. Imports increased to 2.1 percent and 2.3 percent of domestic production and consumption, respectively, in the first eleven months of 1976 from 0.8 percent of each in the same period of the previous year.

Imports of light sensing (image) tubes decreased from 1973 to 1974, then increased from $310 thousand in 1974 to $1.25 million in 1975. Imports increased from $770 thousand in the first eleven months of 1975 to $2.34 million in the same period of 1976. Imports increased from 0.6 percent relative to each domestic production and consumption in 1974 to 2.0 percent and 2.1 percent relative to domestic production consumption, respectively, in 1975. Imports increased from 1.4 percent relative to each domestic production and consumption in the first eleven months of 1975 to 4.0 percent relative to each in the same period of 1976.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation indicated that customers accounting for a significant percentage of sales from the Entertainment Tube Division have switched to purchases of imported color television picture tubes. Further import competition has forced price decreases for color television picture tubes, reducing the profitability of manufacturing domestically.

The Department's investigation has further revealed that customers of products produced in the Industrial and Government Tube Division of the Horseheads plant have not switched to imports. A large percentage of products manufactured in that Division are high technology products built to specification, and are not readily susceptible to competition by imported products. Layoffs in this Division in the face of generally increasing sales are due to increases in productivity.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with color television picture tubes produced in the Entertainment Tube Division at the Horseheads, New York plant of the Westinghouse Electric Corporation contributed importantly to the total or partial separation of the workers of the plant. I further conclude that increases of imports like or directly competitive with industrial and military electronic devices produced in the Industrial and Government Tube Division at the Horseheads, New York plant of the Westinghouse Electric Corporation did not contribute importantly to total or partial separation of workers at that plant.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production and distribution of color television picture tubes at the Horseheads, New York plant of Westinghouse Electric Corporation who became totally or partially separated from employment on or after

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July 25, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6111 Filed 2-28-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

VISUAL ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Visual Arts Advisory Panel (Photography Exhibition Aid, Surveys, Publications) to the National Council on the Arts will be held on March 15-16, 1977, from 9:30 a.m. to 6:00 p.m., in Room 1115, Columbia Plaza Building, 2401 E. Street, NW, Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b) (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

FEBRUARY 22, 1977.

[FR Doc.77-6060 Filed 2-28-77;8:45 am]

VISUAL ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Visual Arts Advisory Panel (Services to the Field) to the National Council on the Arts will be held on March 17-18, 1977, from 9:30 a.m. to 6:00 p.m., in Room 1115, Columbia Plaza Building, 2401 E. Street, NW, Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b) (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

FEBRUARY 22, 1977.

[FR Doc.77-6061 Filed 2-28-77;8:45 am]

NATIONAL LABOR RELATIONS BOARD

CHAIRMAN'S TASK FORCE ON THE NATIONAL LABOR RELATIONS BOARD

Meeting

Correction

In FR Doc.77-4981, appearing on page 9735 in the issue for Tuesday, February 17, 1977, the information telephone number in the last paragraph should read "(202) 254-8047".

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ECONOMICS

Meeting

In accordance with the Federal Advisory Committee Act, as amended, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Economics.
Date and time: March 18 and 19, 1977; 9 a.m. to 6 p.m. each day.
Place: Room 321, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of meeting: closed.
Contact person: Dr. James H. Blackmann, Program Director for Economics Division of Social Sciences, National Science Foundation Washington, D.C. 20550, telephone (202) 632-5968.
Purpose of panel: To provide advice and recommendations concerning support for research in Economics.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 16, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 23, 1977.

[FR Doc.77-5965 Filed 2-28-77;8:45 am]

WORKSHOP ON PALEOCLIMATOLOGY

Workshop

A workshop on Paleoclimatology will be held on Monday and Tuesday, March 21-22, 1977 in Room 338 at the National Science Foundation, 1800 G Street, NW., Washington, D.C.

The purpose of this workshop is to assess present research in the Paleoclimatology field and to define priorities for the NSF program.

While this ad hoc informal session is not considered to be a meeting of an "advisory committee" as that term is defined in Section 3 of the Federal Advisory Committee Act (P.L. 92-463), this workshop is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open for public attendance and observation.

For further information concerning this workshop, please contact Dr. Alan Hecht, Program Director, Climate Dynamics Research Section, Room 644, National Science Foundation, Washington, D.C., 20550, telephone 202-634-1547. Persons planning to attend the workshop should notify Mrs. Mary LaTorre, 634-1543.

The agenda for this workshop is as follows:

Mar. 21, Monday—Room 338

8:45 to 9 a.m.	Welcoming remarks, Dr. Alan Grobecker, Division Director Atomspheric Sciences Division.
9 to 9:30 a.m.	Overview of Climate Dynamics Research Program, Dr. Eugene Bierly, section head, Climate Dynamics Research Section.
9:30 to 10 a.m.	"Present Efforts in Paleoclimatology," Dr. Alan Hecht, program director, Climate Dynamics Program.
10 to 10:30 a.m.	"Geochemical Techniques in Paleoclimate Research," Dr. Samuel M. Savin, chairman, Department of Earth Sciences, Case Western Reserve University.
10:30 to 10:45 a.m.	Break.
10:45 to 11:45 a.m.	"Priorities and Problems in Ocean Research", Dr. John Imbrie, Doherty professor of oceanography, Department of Geological Sciences, Brown University.
11:15 to 11:45 a.m.	"The Terrestrial Paleoclimatic Record", Dr. Harold Fritts, professor of dendrochronology, Laboratory of Tree-Ring Research, University of Arizona.
11:45 a.m. to 1 p.m.	Break.
1:00 to 1:30 a.m.	"The Pollen Record and Paleoclimatic Reconstructions" Dr. John Kutzbach, director, Center for Climatic Research, Institute for Environmental Studies, University of Wisconsin.
1:30 to 2 p.m.	"Glacial Geology and Climate Modelling," Dr. Roger Barry, acting director, Institute of Arctic and Alpine Research (INSTAARR), University of Colorado.
2 to 2:30 p.m.	"Overview and Priorities," Dr. J. Murray Mitchell, senior scientist, Environmental Data Service (NOAA).
2:30 to 5 p.m.	Discussion.

Mar. 22, Tuesday—Room 338

9 a.m. to 3:30 p.m.	Discussion, outline of position paper and recommendations.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 23, 1977.

[FR Doc.77-5986 Filed 2-28-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR HISTORY AND PHILOSOPHY OF SCIENCE

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for History and Philosophy of Science.
Date and time: March 18 and 19, 1977; 9 a.m. to 5 p.m. each day.
Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Ronald J. Overmann, Program Director for History and Philosophy of Science, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4182.
Purpose of panel: To provide advice and recommendations concerning support for research in History and Philosophy of Science.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 16, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 24, 1977.

[FR Doc.77-6112 Filed 2-28-77;8:45 am]

SCIENCE FOR CITIZENS ADVISORY COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Science for Citizens Advisory Committee.
Date and time: March 18 and 19, 1977; 9 a.m. to 5 p.m. each day.
Place: Room 651, 5225 Wisconsin Avenue, NW, Washington, D.C. 20550.
Type of meeting: Part open; March 18—closed; March 19—open.
Contact person: Ms. Rachelle Hollander, Acting Associate Program Manager, Science for Citizens, Office of Science and Society, National Science Foundation, Washington, D.C. 20550, telephone (202) 282-7770.
Summary minutes (open portion): May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of advisory committee: To provide advice and recommendation concerning the development of the Science for Citizens program.
Agenda: March 18—closed: 1. Consideration of preliminary proposals for forums, conferences, and workshops; 2. Discussion of role of Advisory Committee in reviewing proposals; March 19—Open: New directions for Science for Citizens program.
Reasons for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 24, 1977.

[FR Doc.77-6113 Filed 2-28-77;8:45 am]

OFFICE OF THE FEDERAL REGISTER

EDUCATIONAL WORKSHOPS ON HOW TO USE THE FEDERAL REGISTER

Region X Workshops in Seattle, Washington

The Office of the Federal Register (OFR) will hold two separate workshops on "The FEDERAL REGISTER—What It Is and How To Use It" in Seattle, Washington, as part of the General Services Administration's Consumer Representation Plan.

Workshop dates: Wednesday, March 30, 9:30 a.m.; Thursday, March 31, 9:30 a.m.; (reservations required for each session).
Location: Room 2748, Federal Building, 915 Second Avenue, Seattle, Washington.

For reservations call Dorothy Clegg at 206-442-5556.

AGENDA

The content of each workshop session will be identical. Each workshop will last for approximately three hours and will cover the following areas:

1. A brief history of the FEDERAL REGISTER.
2. The difference between legislation and regulations.
3. The relationship of the FEDERAL REGISTER and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the OFR and a practical exercise using those finding aids.

The OFR does not interpret specific agency regulations and the workshops will not provide a forum for the discussion of substantitive questions. Rather, the workshops are designed as an introduction for the person who discovers that he or she must use FEDERAL REGISTER publications to keep track and to gain an understanding of Federal regulations.

FRED J. EMERY,
Director of the Federal Register.

[FR Doc.77-6141 Filed 2-28-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

RECOMMENDATION D-12 OF THE COMMISSION ON GOVERNMENT PROCUREMENT

Executive Branch Position

Notice is hereby given that the Office of Federal Procurement Policy, on behalf of the executive branch, has accepted Recommendation D-12 of the Commission on Government Procurement, which states:

D-12. Require that GSA establish ADPE procurement delegation policy that would promote (a) effective preplanning of requirements by agencies and (b) optimum use of manpower.

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Public Law 89-306 gives to the Administrator of General Services authority with respect to the acquisition of ADP equipment. In view of this statutory authority, the General Services Administration is hereby assigned lead agency responsibility for development and establishment of procurement delegation policy to achieve the aims of this Recommendation.

Dated at Washington, D.C. on February 17, 1977.

JAMES D. CURRIE,
Acting Administrator.

[FR Doc.77-6079 Filed 2-28-77;8:45 am]

PRIVACY ACT

Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period February 7, through February 18, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF THE TREASURY

System name: Early Implementation System.

Report date: February 4, 1977.

Point of contact: Mr. John P. Heard, Room 300, Department of the Treasury, 1331 G. Street NW., Washington, D.C. 20220.

DEPARTMENT OF THE INTERIOR

System name: Recordation of Mining Claims.

Report date: February 8, 1977.

Point of contact: Mr. Warren Dahlstrom, Interior Privacy Act Officer, Department of the Interior, Washington, D.C. 20240.

GENERAL SERVICES ADMINISTRATION

System name: Defunct Agency Records.

Report date: February 9, 1977.

Point of contact: Mr. Philip Schmidt, Director of Management Services, General Services Administration, 18th and F Street NW., Washington, D.C. 20405.

NATIONAL CREDIT UNION ADMINISTRATION

System names: (1) Breach of Trust Schedule, Nonfederal Credit Union/Share Insurance Applicants; (2) Adverse Reports of Official, Federal Credit Union Charter Applicants; (3) Investigative Reports of Violations of the Merit Promotion Program; (4) Employee Relations File; (5) Employee Injury File; (6) Retirement File; (7) Emergency Information (Employee) File; (8) Employee Training/Career Development Inventory; (9) Executive Management Development System; (10) Consumer Inquiry Records and Data.

Report date: February 10, 1977.

Point of contact: Mr. Robert Fenner, Office of General Counsel, National Credit Union Administration, Washington, D.C. 20456.

DEPARTMENT OF DEFENSE

System names: (1) Military Service Inventory Research Program; (2) Nonappropriated Fund Instrumentalities Financial System.

Report date: February 10, 1977.

Point of contact: Mr. William Cavaney, Defense Privacy Board, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

System names: (1) Survey of Blind and Disable Children Receiving Supplemental Security Income Benefits; (2) Survey of Young Survivors; (3) Mortality of Pesticide Formulators; (4) Pulmonary Function Standards Study.

Report date: February 10, 1977.

Point of contact: Mr. John Ottina, Department of Health, Education, and Welfare, Washington, D.C. 20201.

DEPARTMENT OF LABOR

System names: (1) Advisory Committee for Higher Education Equal Employment Opportunity Programs Members' Files; (2) ETA Evaluation or Research Contractors' Files; (3) Employment and Training Administration, Investigatory Files; (4) Employment and Training Administration, Equal Employment Opportunity Files; (5) Investigatory Files—Special Investigations Staff; (6) Budget Position Control System; (7) Travel Authorization and Voucher System; (8) File of Individual Career Plan Forms on Senior Executive Development Program Participants; (9) State Compliance Spot-Check Records; (10) OSHA Compliance Safety and Health Officers Training Records; (11) OSHA Private Sector Instructor Files for Construction and Voluntary Compliance Courses; (12) OSHA Course Files.

Report date: February 11, 1977.

Point of contact: Ms. Sophia P. Peters, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

DEPARTMENT OF THE INTERIOR

System name: Employee Experience, Skills, Performance and Career Development Records.

Report date: February 14, 1977.

Point of contact: Mr. Warren Dahlstrom, Privacy Act Officer, Department of the Interior, Washington, D.C. 20240.

DEPARTMENT OF DEFENSE

System name: Child Advocacy Program File.

Report Date: February 14, 1977.

Point of contact: Mr. William Cavaney, Defense Privacy Board, 1000 Independence Avenue SW., Washington, D.C. 20314.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-6078 Filed 2-28-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the office of management and budget on February 1, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information, the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Solar Energy Manpower, single time, organizations involved in solar related activities, Strasser, A., 395-5867.

ACTION

Volunteer Work and Paid Work Among Women, single time, women professionals and homemakers, Strasser, A., 395-5867.

Returned Volunteer Survey, single time, VISTA and Peace Corps former volunteers, Strasser, A., 395-5867.

DEPARTMENT OF COMMERCE

Economic Development Administration, Public Works Project Impact Questionnaire, ED-750Q, single time, public works grantees, C. Louis Kincannon, 395-3211.

DEPARTMENT OF THE INTERIOR

Geological Survey, Application for Permit and and Agreement for Outer Continental Shelf Exploration—Geological, Geophysical, single time, geophysical contracting oil and gas industry companies, Tracey Cole, 395-5870.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service Regulations—Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools, on occasion, State agencies, Will Sherman, 395-4730.

DEPARTMENT OF COMMERCE

Bureau of Census:

Annual Survey of Oil and Gas, MA 13K, MA 13-K-C, annually, operators and lessees of oil and gas field properties, Ellett, C. A., 395-5867.

1977 Census of Oakland, California (1980 Census Pretest), DF-1, DF-2, DF-3, SC-02, SC-703, single time, all households in Oakland, California, George Hall, 395-5140.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Social and Rehabilitation Service, Social Services Expenditures Under Title XX (SSA), SRS-OA 41.1, SRS-OA 41.1, SRS-OA 41.1, SRS-OA 41, quarterly, administrators of Title XX programs, Caywood, D. F., 395-3443.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration, Report of Theft of Controlled Substances, BND-106, on occasion, Registrant of Controlled Substances, Warren Topelius, 395-5872.

EXTENSIONS

ACTION

ACTION Preliminary Inquiry (pre-application program narrative), on occasion, potential sponsors of ACTION domestic programs, Lowry, R. L., Budget Review Division, 395-3772.

Sponsor/Grantee Quarterly Program Report, quarterly, sponsors of ACTION domestic programs, Lowry, R. L., Budget Review Division, 395-3772.

ACTION Program Narrative, on occasion, potential sponsors of ACTION domestic programs, Lowry, R. L., Budget Review Division, 395-3772.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Request for Credit Approval of Substitute Mortgagor, FHA-2210, on occasion, FHA approved lending institutions, Housing, Veterans and Labor Division, 395-3532.

DEPARTMENT OF TRANSPORTATION

Departmental and other:

Statement and Acknowledgement (labor clauses in subcontracts), 4220.9, on occasion, commercial business, Strasser, A., 395-5867.

Request for Establishment of Additional Wage Rates, 4220.10, on occasion, commercial business, Strasser, A., 395-5867.

Contractor's Request for Progress Payment, 4220.2, on occasion, commercial businesses, Warren Topelius, 395-5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-6192 Filed 2-28-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

NATIONAL SBIC ADVISORY COUNCIL

Meeting

The Small Business Administration National SBIC Advisory Council will hold a public meeting Monday, March 28, 1977, 10:00 a.m. until 5:00 p.m. at the Small Business Administration, 1441 L Street, N.W., Washington, D.C., 10th Floor Board Room, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information write or call Peter F. McNeish, SBA, at the above address. (202) 653-6584.

Dated: February 18, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-6048 Filed 2-28-77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket No. 301-12]

GEORGE F. FISHER, INC.

Complaint

On February 14, 1977, the Chairman of the Section 301 Committee received from Mr. Robert P. Fisher, President of George F. Fisher, Inc., a petition alleging that Japan is discriminating against United States commerce in thrown silk by effectively preventing the entry of such imports from the U.S. while permitting imports from Korea, the Peoples Republic of China, Brazil and Italy under agreements negotiated with those countries. Relief is requested under Section 301 of the Trade Act of 1974. (Pub. L. 93-613; 88 Stat. 1978). The text of the petition is as follows:

Re: *Complaint Pursuant to Section 301 of the Trade Act of 1974*

Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations, Room 725, 1800 G Street NW., Washington, D.C. 20506.

DEAR MR. CHAIRMAN: George F. Fisher, Inc., represented by its president Robert P. Fisher, is filing this complaint pursuant to Section 301 of the Trade Act of 1974.

George F. Fisher, Inc. has been engaged in the business of manufacturing thrown silk yarns for forty years. We purchase raw silk of foreign origin (in recent years from the People's Republic of China and Brazil) and ship it to non-owned silk throwing mills located in Pennsylvania. These independently owned mills process the raw silk into thrown silk by a number of operations including soaking, drying, winding, doubling, spinning, twist-setting, reeling and lacing. We sell this completed yarn (called thrown silk) to domestic weaving mills and, until mid-1976, to exporters who have sold it to Japan. These exporters have informed us that Japan has adopted administrative procedures that have effectively blocked them from completing shipments against outstanding contracts they have with Japan, as well as bringing to a complete halt any new orders. These exporters in turn have asked us to cancel their contracts with us since they have no way to get paid for this yarn from their customers in Japan.

We have been informed by our customers who export to Japan that Japanese foreign exchange banks were instructed by MITI not to open any new letters of credit for thrown silk yarns after February 26, 1976. These customers have also informed us that payments through open account cannot be honored by Japanese foreign exchange banks due to some administrative procedure issued by MITI. We have tried many times to get copies of these regulations and/or administrative procedures but so far we have been unsuccessful.

We are lodging this complaint under the following particular part of Section 301:

(a) Whenever the President determines that a foreign country or instrumentality—

(1) Maintains unjustifiable or unreasonable tariff or other import restrictions which impair the value of trade commitments made to the United States or which burden, restrict, or discriminate against United States commerce.

(2) Engages in discriminatory or other acts or policies which are unjustifiable or unreasonable and which burden or retrict United States commerce.

With respect to the complaint under Section 301(a)(1), it is our contention that Japan is in violation of its obligations under the General Agreement on Tariffs and Trade (GATT). The letter and spirit of GATT is embodied in Article XI, section 1:

No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any contracting party.

Japan is apparently in violation of its obligation under the International Monetary Fund (IMF). Japan accepted Article VIII status under IMF on April 1, 1964. The pertinent part of Article VIII, section 2a reads:

* * * no member shall, without the approval of the Fund, impose restrictions on the making of payments and transfers for current international transactions.

Since MITI is forbidding the Japanese foreign exchange banks from transacting current account transactions and the opening of letters of credit for thrown silk imports, MITI is failing to honor Japan's obligations under both the GATT and the IMF.

With respect to the complaint under Section 301(a)(2), it is our contention that Japan is discriminating against United States commerce in thrown silk because MITI has negotiated agreements under which Korea, the People's Republic of China, Brazil and Italy are able to continue to export thrown silk to Japan.

It is difficult to get precise figures as to the exact quantity of these former thrown silk shipments to Japan. The only figures we have been able to obtain from the United States Government relative to thrown silk exports lumps them together with about fifteen other categories of yarn and thread so as to render the figures meaningless so far as thrown silk is concerned.

We have been able to obtain from Japan figures put out by M.A.F. indicating the number of bales (132 lbs. each) released monthly by Japanese customs of thrown silk yarn. We are enclosing herewith these monthly figures broken down by country of origin for the year 1975 and for the first 11 months of 1976.

By examining these figures it is important to note that for the five months (October 1975-February 1976) before MITI imposed restrictions on the importation of thrown silk about 200-245 bales of United States thrown silk was released monthly by Japanese customs. From my knowledge of how much monthly we were shipping to Japan and from what I heard others were shipping, I feel that it would be safe to estimate that the United States was exporting to Japan approximately 225 bales of thrown silk monthly to Japan before Japan imposed restrictions to this trade.

It should also be noted that for the year 1975 imports of United States thrown silk into Japan were 1,514.7 bales or only 2.7% of their total imports of 54,920.1 bales of thrown silk.

According to statistics of the International Silk Association (U.S.A.), Inc., the total consumption of raw silk in the United States in the year 1975 was 4,349 bales. When you compare that figure with the quantity of United States thrown silk imported into Japan for 1975 of 1,515 bales (C.I.F. value estimated about $2,500,000 to $3,000,000), it is evident that this export business has been very crucial for United States mills, amounting to approximately 35% of United States production. During the last quarter of 1975 and the first 2 months of 1976, I feel certain that export business to Japan accounted for a full 50% of total United States production. During the last quarter of 1975 and the first 2 months of 1976, I feel certain that export business to Japan accounted for a full 50% of total United States thrown silk production. Since we have been prevented from producing any thrown silk for export to Japan since mid-1976, the outlook for those few silk commission throwing mills still in business to continue is indeed very bleak. One of these mills has liquidated and gone out of business within the past month, and there is talk that a second mill will do likewise in the very near future.

V4240 MAR R1 77 UMI

In addition to the above, sometime in April 1976, Japan increased from 6% to 7.5% the duty on imported thrown silk.

We are requesting that a public hearing be held as soon as possible on the above subject. We also request expeditious action under Section 301, subsection (a.). If immediate remedies are not forthcoming at once, additional silk throwing mills will surely be liquidated depriving hundreds of employees of their jobs.

We have not filed for relief under any other article of Trade Act of 1974 or any other Act.

Very truly yours,

GEORGE F. FISHER, INC.
ROBERT P. FISHER,
President.

1975

THROWN SILK IMPORTS INTO JAPAN (Bales of [illegible] lbs. each)

	Jan. 1975	Feb. 1975	Mar. 1975	Apr. 1975	May 1975	June 1975	July 1975	Aug. 1975
South Korea	819.0	1,371.0	1,888.8	3,068.8	4,375.8	5,095.7	5,183.0	6,280.0
China	1,679.5	653.0	343.0	278.9	278.8	547.8	335.7	555.0
Italy	-0-	-0-	20.0	104.5	242.8	188.3	375.5	458.0
Brazil	136.9	90.0	52.3	169.2	187.5	215.8	189.9	206.0
Hong Kong	-	-	85.5	217.8	114.7	81.8	101.9	238.0
United States	-	-	30.7	66.4	97.0	119.2	175.6	159.0
Switzerland	1.0	-0-	-0-	46.2	51.8	97.2	72.5	170.0
France	-	-	-	-	-	-	-	30.0
Singapore	-	-	-	-	-	-	-	-
North Vietnam	-0-	-	8.0	17.0	-0-	-0-	-0-	-0-
United Kingdom	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
Greece	-	-	-	-	-	-	-	-
Others	-	[illegible]	-	-	-	-	-	-
TOTAL	2,636.4	2,998.0	2,423.3	3,968.8	5,346.9	6,345.8	6,434.3	8,096.0

	Sept. 1975	Oct. 1975	Nov. 1975	Dec. 1975	TOTAL 1975
South Korea	6,060.8	1,015.8	1,147.6	1,814.7	38,220.9
China	239.2	476.0	341.1	587.4	6,327.2
Italy	439.8	352.4	289.0	577.6	3,047.3
Brazil	282.3	274.3	448.9	351.7	2,597.6
Hong Kong	118.2	209.9	333.5	491.2	2,007.4
United States	186.7	139.4	245.7	234.8	1,514.7
Switzerland	58.0	-0-	68.2	195.5	756.7
France	38.0	55.5	14.7	52.5	187.2
Singapore	-	-	-	161.0	161.0
North Vietnam	-0-	-0-	5.0	-0-	72.0
United Kingdom	5.6	5.6	5.1	5.0	21.1
Greece	-	3.5	-0-	3.5	7.0
Others	-	-	-	-	8
TOTAL	7,421.0	2,534.4	2,694.8	4,478.9	54,920.1

* Slight differences in figures due to rounding. In February production of smaller producing countries not differentiated.

Source: M.R.F.

1976

THROWN SILK IMPORTS INTO JAPAN (Bales of 132 lbs. each)

	Jan. 1976	Feb. 1976	March 1976	April 1976	May 1976	June 1976	July 1976
South Korea	4,119.6	779.2	2,023.3	1,902.8	2,443.8	833.9	1,496.1
China	973.5	472.2	136.8	816.8	351.2	545.8	864.3
Italy	592.3	468.8	101.2	7.9	-0-	372.3	281.0
Brazil	716.4	776.4	112.4	572.1	357.5	571.9	529.3
Hong Kong	1,050.0	2,308.4	104.2	124.0	11.4	532.0	861.2
United States	238.0	230.8	187.0	14.4	-0-	287.5	238.6
Switzerland	93.6	134.2	5.6	78.3	-0-	83.0	115.5
France	90.8	87.2	-0-	24.8	-0-	55.7	-0-
Singapore	166.6	224.0	-0-	-0-	-0-	308.4	87.9
North Vietnam	15.0	-0-	-0-	-0-	26.0	10.0	-0-
United Kingdom	8.5	-0-	-0-	5.0	-0-	15.7	-0-
Greece	-0-	3.5	-0-	-0-	-0-	-0-	-0-
North Korea	45.5	-0-	-0-	-0-	-0-	-0-	-0-
West Germany	13.4	41.5	-0-	23.2	-0-	32.8	-0-
Thailand	-0-	10.0	-0-	-0-	-0-	-0-	-0-
Taiwan	-0-	-0-	-0-	-0-	-0-	100.8	100.5
Macao	-0-	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	8,123.0	5,532.2	3,550.5	3,169.3	3,192.9	3,349.0	4,573.8

	Aug. 1976	Sept. 1976	Oct. 1976	Nov. 1976	TOTAL JAN./NOV., 1976
South Korea	1,624.0	2,413.7	4,048.2	3,287.0	25,371.6
China	274.8	1,019.8	409.0	569.0	6,033.6
Italy	279.0	177.8	54.0	85.7	2,429.6
Brazil	560.0	130.0	256.6	260.0	4,792.8
Hong Kong	573.1	852.0	280.3	588.7	7,321.9
United States	68.5	29.7	178.2	44.6	1,509.3
Switzerland	48.3	29.9	79.0	5.3	672.7
France	-0-	-0-	-0-	-0-	258.3
Singapore	87.2	139.4	87.5	-0-	1,100.4
North Vietnam	5.0	-0-	-0-	-0-	55.0
United Kingdom	23.2	-0-	-0-	-0-	52.4
Greece	-0-	-0-	-0-	-0-	3.5
North Korea	43.7	1.0	-0-	-0-	90.2
West Germany	38.0	-0-	-0-	-0-	140.9
Thailand	20.7	-0-	-0-	-0-	30.7
Taiwan	139.9	-0-	61.3	-0-	401.7
Macao	-0-	139.8	202.1	718.8	791.0
TOTAL	3,773.0	4,983.8	5,642.8	5,085.7	50,975.6

Source: M.F.A.

HEARINGS

I. The complainant has requested that hearings be held on this matter. Such hearings will be held at 10:00 A.M. on Tuesday, March 9, 1977, at the Office of the Special Representative for Trade Negotiations, 1800 G Street, N.W., Washington, D.C., Room 730.

II. Requests to present oral testimony and accompanying briefs must be received on or before March 22, 1977. Interested persons are advised to refer to the regulations promulgated by the Office of the Special Representative for Trade Negotiations covering procedures to be followed in all Section 301 proceedings (40 FR 39497—August 28, 1975).

A. *Submission of Briefs and Requests to Present Oral Testimony.* Requests for oral testimony and submission of written briefs should conform to the procedures set forth in 15 CFR Parts 2006.6 and 2006.7 (40 FR 39497—August 28, 1975).

B. *Rebuttal Briefs.* In order to assure parties the opportunity to contest information provided by other interested parties, rebuttal briefs may be filed on or before April 20, 1977.

C. *Attendance at Hearings.* The hearings will be open to the public.

MORTON POMERANZ,
Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations.

[FR Doc.77-6046 Filed 2-28-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7-33]

STUDY GROUP 2 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 2 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on March 23, 1977 at 9:30 a.m. in Room 521, Federal Office Building 10B, 7th and Independence Avenue SW., Washington, D.C.

Study Group 2 deals with matters relating to the communications for scientific satellites, space probes, spacecraft, exploration satellites (e.g., meteorological and geodetic, and to interference problems concerning the radioastronomy and radar astronomy services. The purpose of the meeting will be a review of work programs in preparation for the international meeting of Study Group 2, Geneva, September 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

GORDON L. HUFFCUTT,
Chairman, U.S. CCIR National Committee.

FEBRUARY 22, 1977.

[FR Doc.77-6076 Filed 2-28-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[TMK-2-R:E:R]

JEANIE CREATIONS, INC.

Application for Recordation of Trade Name

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name Jeanie Creations, Inc. used by Jeanie Creations, Inc., a corporation organized under the laws of the State of New York, located at 19 West 36th Street, New York, New York 14903.

The application states that the trade name is applied to ladies sportswear, manufactured in Guam, Manila, Hong Kong, India, Taiwan and Korea. The applicaion states further that no foreign person, business entity, parent, subsidiary or other foreign company is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than March 31, 1977.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

DONALD W. LEWIS,
Acting Assistant Commissioner, Regulations and Rulings.

FEBRUARY 22, 1977.

[FR Doc.77-5987 Filed 2-28-77;8:45 am]

[TMK-2-R:E:R]

LAURA ACCESSORIES, INC.

Application for Recordation of Trade Name

Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name Laura Accessories, Inc. used by Laura Accessories, Inc., a corporation organized under the laws of the State of New York, located at 19 West 36th Street, New York, New York 14903.

The application states that the trade name is applied to ladies sportswear, manufactured in Guam, Manila, Hong Kong, India, Taiwan and Korea. The application states further that no foreign person, business entity, parent, subsidiary or other foreign company is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than March 31, 1977.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

DONALD W. LEWIS,
Acting Assistant Commissioner, Regulations and Rulings.

FEBRUARY 22, 1977.

[FR Doc.77-5988 Filed 2-28-77;8:45 am]

[TMK-2-R:E:R]

JEANIE JEANS, INC.

Application for Recordation of Trade Name

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name Jeanie Jeans, Inc. used by Jeanie Jeans, Inc., a corporation organized under the laws of the State of New York, located at 19 West 36th Street, New York, New York 14903.

The application states that the trade name is applied to ladies sportswear, manufactured in Guam, Manila, Hong Kong, India, Taiwan and Korea. The application states further that no foreign person, business entity, parent, subsidiary or other foreign company is authorized to use the trade name to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Notice of the action taken on the application for recordation of the trade name will be published in the FEDERAL REGISTER.

DONALD W. LEWIS,
Acting Assistant Commissioner, Regulations and Rulings.

FEBRUARY 22, 1977.

[FR Doc.77-5989 Filed 2-28-77;8:45 am]

UNITED STATES INFORMATION AGENCY

U.S. ADVISORY COMMISSION ON INFORMATION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice

V4240 MAR 1977 UMI

is hereby given of an urgent meeting to be held on March 7, 1977. This meeting will be devoted exclusively to the editing and review of the Commission's next general report to Congress. The meeting will commence at 9 a.m. in the Commission's office in Room 1008 at 1750 Pennsylvania Avenue N.W., Washington, D.C., and terminate about 12:30 p.m.

MARGARET J. MILLER,
Federal Register Liaison Officer.

FEBRUARY 25, 1977.

[FR Doc.77-6181 Filed 2-28-77;8:45 am]

VETERANS ADMINISTRATION

MEDICAL RESEARCH SERVICE MERIT REVIEW BOARDS

Notice of Meetings

The Veterans Administration gives notice pursuant to Public Law 92-463 of meetings of the following Merit Review Boards.

Merit review board	Date	Time	Location
Respiration	Mar. 15, 1977	8 a.m. to 5 p.m.	Executive Room, Holiday Inn.[1]
Cardiovascular studies	Mar. 18, 1977	8:30 a.m. to 5 p.m.	Conference Room 246, Alton Ochsner Medical Foundation.[2]
Neurobiology	Mar. 21, 1977	2 p.m. to 11 p.m.	Room 221, Executive House.[3]
Do	Mar. 22, 1977	8:30 a.m. to 5 p.m.	Room A53, VACO.[4]
Nephrology	do	do	Tower Suite Level, Host International Motel.[5]
Oncology	Mar. 25, 1977	do	Room A53, VACO.
Infectious diseases	Apr. 1, 1977	do	Do.
Basic sciences	Apr. 7, 1977	7 p.m. to 11 p.m.	Private Dining Room No. 4, Conrad Hilton Hotel.[6]
Do	Apr. 8, 1977	8 a.m. to 5 p.m.	Do.
Behavioral sciences	Apr. 7, 1977	2 p.m. to 11 p.m.	Parlor 509, Capital Hilton Hotel.[7]
Do	Apr. 8, 1977	8:30 a.m. to 5 p.m.	Room A53, VACO.
Surgery	Apr. 14, 1977	8 a.m. to 5 p.m.	Room 2005, O'Hare Hilton Hotel.[8]
Do	Apr. 15, 1977	do	Do.
Hematology	do	8:30 a.m. to 5 p.m.	Room A53, VACO.
Immunology	Apr. 19, 1977	7 p.m. to 11 p.m.	Room 231, Executive House.
Do	Apr. 20, 1977	8:30 a.m. to 5 p.m.	Room A53, VACO.
Alcoholism and drug dependence (clinical pharmacology).	Apr. 21, 1977	do	Do.
Gastroenterology	Apr. 29, 1977	do	Do.
Endocrinology	May 2, 1977	do	Do.

[1] Holiday Inn, 3801 Mannheim Rd., Schiller Park, Ill. 60176.
[2] Alton Ochsner Medical Foundation, 1516 Jefferson Highway, New Orleans, La. 70121.
[3] Executive House, 1515 Rhode Island Ave. NW., Washington, D.C. 20005.
[4] Veterans' Administration Central Office, 810 Vermont Ave. NW., Washington, D.C. 20420.
[5] Host International Motel, 18700 Kennedy Blvd., Houston, Tex. 77205.
[6] Conrad Hilton Hotel, 720 South Michigan Ave., Chicago, Ill. 60605.
[7] Capital Hilton, 16th and K Sts. NW., Washington, D.C. 20036.
[8] O'Hare Hilton Hotel, at the O'Hare International Airport, Chicago, Ill. 60666.

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration hospitals and clinics.

The meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. In accordance with the provision set forth in section 552(b)(5), title 5, United States Code, all of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial, and renewal research projects.

The closed portion of the meetings involve: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents which are exempt from disclosure under the interagency memoranda exemption (exemption (5)) to section 552(b) of title 5, United States Code. The portion of the meeting which necessitates examination of these documents will be closed to prevent inadvertent disclosure of these exempt records.

Because of the limited seating capacity of the rooms, those who plan to attend should contact Jane S. Schultz, Ph. D., Chief, Program Development and Review Division, Medical Research Service, Veterans Administration, Washington, DC, (202) 389-5065 at least five days prior to each meeting. Minutes of the meeting and rosters of the members of the Boards may be obtained from this source.

Dated: February 23, 1977.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.77-6055 Filed 2-28-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 335]

ASSIGNMENT OF HEARINGS

FEBRUARY 24, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 13250 (Sub 135), J. H. Rose Truck Line, Inc.; MC 29886 (Sub 334), Dallas & Mavis Forwarding Co., Inc.; MC 65525 (Sub 22), White Brothers Trucking Co.; MC 66886 (Sub 50), Beiger Cartage Service, Inc.; MC 73165 (Sub 393), Eagle Motor Lines, Inc.; MC 83539 (Sub 442), C & H Transportation Co., Inc.; MC 106497 (Sub 134), Parkhill Truck Company; MC 106644 (Sub 223), Superior Trucking Company, Inc.; MC 111330 (Sub 87), Keen Transport, Inc.; MC 111545 (Sub 227), Home Transportation Company, Inc.; MC 113459 (Sub 107), H. J. Jeffries Truck Line, Inc.; MC 113495 (Sub 79), Gregory Heavy Haulers, Inc.; MC 113855 (Sub 360), International Transport, Inc.; MC 114211 (Sub 286), Warren Transport, Inc.; MC 117574 (Sub 278), Daily Express, Inc.; MC 119777 (Sub 331), Ligon Specialized Hauler, Inc., and MC 124947 (Sub 48), Machinery Transports, Inc., now assigned March 30, 1977 at Chicago, Illinois, will be held in Room 286, 219 South Dearborn Street, Everett McKinley Dirksen Building.

MC 115730 (Sub 18), The Mickow Corp., now assigned March 29, 1977, at Chicago, Illinois, will be held in Room 350, 230 South Dearborn Street.

MC-F-12931, Allied Van Lines, Inc. dba Allied Van Lines—Control—Blodgett Furniture Service, Inc., and F. D. 28253, Allied Van Lines, Inc., now assigned April 4, 1977, at Chicago, Illinois, will be held in Room 350, 230 South Dearborn Street.

MC 141127 (Sub 1), Retta Trucking Co., Inc., now assigned March 28, 1977, at New York, New York, will be held in Room D-2206, Federal Building, 26 Federal Plaza.

MC 103066 (Sub 44), Stone Trucking Company, now assigned March 29, 1977, at New York, New York, will be held in Room D-2206, Federal Building, 26 Federal Plaza.

MC 142047 (Sub 2), Cheynne Truck Leasing, Inc., now assigned March 31, 1977, at New York, New York, will be held in Room D-2206, Federal Building, 26 Federal Plaza.

MC 61592 (Sub 393), Jenkins Truck Line, Inc., now assigned March 9, 1977, at Chicago, Illinois, is canceled and the application is dismissed.

MC 19227 Sub 229, Leonard Bros. Trucking Co., Inc., now assigned March 17, 1977, at Dallas Texas, is cancelled, application dismissed.

MC 140829 (Sub 16), Cargo Contract Carrier Corp., now assigned March 23, 1977, at Washington, D.C., is canceled, application dismissed.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6121 Filed 2-28-77; 8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 109, Amdt. No. 5]

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY CONSOLIDATED RAIL CORP.

Exemption Under Provision of Mandatory Car Service Rules

Upon further consideration of Exemption No. 109 issued March 2, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 109 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire August 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6117 Filed 2-28-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 128]

ATCHISON, TOPEKA AND SANTA FE RAILROAD CO.

Exemption Under Provision of Mandatory Car Service Rules

To:

The Atchison, Topeka and Santa Fe Railroad Company.
Chicago and North Western Transportation Company.
Chicago, Milwaukee, St. Paul and Pacific Railroad Company.
Chicago, Rock Island and Pacific Railroad Company.
Illinois Central Gulf Railroad Company.
Louisville and Nashville Railroad Company.
Missouri-Illinois Railroad Company.
Missouri Pacific Railroad Company.
St. Louis Southwestern Railway Company.
Seaboard Coast Line Railroad Company.
Southern Railway Company.

It appearing, That the eleven railroads listed below have mutually agreed to the use of each other's empty plain cars having mechanical designations "XM", "FM"—less than 200,000 lbs., "GA", "GB", "BD", "GH", and "GS" and bearing reporting marks assigned to such carriers.

It further appearing, That these eleven railroads have mutually agreed to participate in an Expanded Clearinghouse Project in which each road will treat the cars of the other ten roads as systems, with the Car Service Division of the AAR acting as agent.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, empty plain cars described in the Official Railway Equipment Register I.C.C.-R.E.R. No. 402, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "XM", "FM"—less than 200,000 lbs., "GA", "GB", "GD", "GH", and "GS" and bearing the following reporting marks are exempt from the provisions of Car Service Rules 1 and 2, while on the lines of any of the above named railroads.

The Atchison, Topeka and Santa Fe Railroad Company
Reporting Marks: ATSF Effective August 22, 1976.
Chicago and North Western Transportation Company
Reporting Marks: CNW-CGW-CMO-FDDM-MSTL Effective October 17, 1976.
Chicago Milwaukee, St. Paul and Pacific Railroad Company
Reporting Marks: MILW Effective July 15, 1976.
Chicago, Rock Island and Pacific Railroad Company
Reporting Marks: RI-ROCK Effective September 12, 1976.
Illinois Central Gulf Railroad Company
Reporting Marks: ICG-GM&O-IC Effective August 22, 1976.
Louisville and Nashville Railroad Company
Reporting Marks: L&N-CIL-MON-NC Effective August 15, 1976.
Missouri-Illinois Railroad Company
Reporting Marks: MI Effective July 15, 1976.
Missouri Pacific Railroad Company
Reporting Marks: MP-C&EI-CEI-KO&G-T&P Effective July 15, 1976.
St. Louis Southwestern Railway Company
Reporting Marks: SSW Effective July 25, 1976.
Seaboard Coast Line Railroad Company
Reporting Marks: SCL-ACL-C&WC-SAL Effective August 15, 1976.
Southern Railway Company
Reporting Marks: SOU-AEC-CG-GF-NS-SA Effective July 15, 1976.

It is further ordered, That this order will become effective for specific ownerships on dates to be set by the Car Service Division as each road is phased into the Project starting July 15, 1976, the Car Service Division to issue appropriate notification to Project participants, and to advise the undersigned.

Effective 12:01 a.m., February 15, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 11, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6118 Filed 2-28-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 129]

ATCHISON, TOPEKA AND SANTA FE RAILROAD CO. ET AL

Exemption Under Provision of the Mandatory Car Service Rules

To all Railroads:

It appearing, That railroads named herein own numerous plain flat cars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain flat cars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 402, issued by W. J. Trezise, or successive issues theerof, as having mechanical designation "FM", and having less than 200,000 lbs. carrying capacity, and bearing reporting marks assigned to railroads named below, shall be exempted from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

The Atchison, Topeka and Santa Fe Railway Company
Reporting Marks: ATSF [1]

[1] Chicago & Eastern Illinois Railroad Company and The Texas and Pacific Railroad Company eliminated. Merged into Missouri Pacific Railroad Company October 15, 1976.
[2] Chicago, Milwaukee, St. Paul & Pacific Railroad Company deleted.

Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKTY-MKT-MKTT
Missouri Pacific Railroad Company
Reporting Marks: C&EI-CEI-MP-TP
Southern Pacific Transportation Company
Reporting Marks: SP
Southern Railway Company
Reporting Marks: AEC-CG-NS-SOU-TA&G [1]

Effective February 15, 1977, and continuing in effect until further order of the Commission.

Issued at Washington, D.C., February 9, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6123 Filed 2-28-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 63, Amdt. No. 6]

BESSEMER AND LAKE ERIE RAILROAD CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Provision of the Mandatory Car Service Rules

Upon further consideration of Exemption No. 63 issued February 12, 1974.

It is ordered, that, under authority vested in me by Car Service Rule 19, Exemption No. 63 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire May 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6124 Filed 2-28-77;8:45 am]

[Rule 19, Ex Parte No. 241, Exemption No. 93, Amdt. No. 10]

GRAND TRUNK WESTERN RAILROAD CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Provision of the Mandatory Car Service Rules

Upon further consideration of Exemption No. 93 issued January 15, 1975.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 93 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire May 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6119 Filed 2-28-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 24, 1977.

An application, as summarized below, has been filed requesting relief from

V4240 MAR 1 77 UMI

the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43325—*Joint Water-Rail Container Rates—Black Sea Shipping Company*. Filed by Black Sea Shipping Company (No. 5), for itself and interested rail carriers. Rates on general commodities, from and to railroad terminals at U.S. Pacific Coast ports, and ports in the Mediterranean.

Grounds for relief—Water competition.

Tariffs—Black Sea Shipping Company Eastbound tariff No. 2, I.C.C. No. 2, F.M.C. No. 10, and Westbound tariff No. 1, I.C.C. No. 1, F.M.C. No. 11.

Rates are published to become effective on March 25, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 77-6120 Filed 2-28-77;8:45 am]

[Notice No. 126]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 1, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212a(b) in connection with transfer application under Section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76884. By application filed February 10, 1977, MARCUS TRUCKING CO., INC., P.O. Box 72, Wilmington, Delaware, 19899, seeks temporary authority to lease the operating rights of CEPHAS BROS. TRANSPORT, INC., R.D. No. 1 Box 184B, Hockessin, Del., 19707, under section 210a(b). The transfer to MARCUS TRUCKING CO., INC. of the operating rights of CEPHAS BROS. TRANSPORT, INC. is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6122 Filed 2-28-77;8:45 am]

federal register

TUESDAY, MARCH 1, 1977

PART II

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

ANIMAL WELFARE

List of Registered Exhibitors

V42 40 MAR 1 77 UMI

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ANIMAL WELFARE

List of Registered Exhibitors

Pursuant to the provisions of the Animal Welfare Act (7 U.S.C. 2131 et seq.), and the regulations thereunder (9 CFR Part 2), notice is hereby given that the following exhibitors are registered under said Act:

ALASKA

Alaska Children's Zoo, Box 1730 S. Star Route, Anchorage 99507
Brown, Leon T., Jr., 30001 Mountain View Drive, Anchorage 99503
City of Fairbanks, POB 790, Fairbanks 99707

ARIZONA

Zauatta, Belmonte, 15520 North 38th Street, Phoenix 85032

ARKANSAS

Arkansas Communities, Inc., P.O. Box 1506, Hot Springs 71901
Hallie's, Ormond, H. C., P.O. Box 303, Clinton 72301

CALIFORNIA

County of Los Angeles, Department of Parks and Recreation, 155 West Washington Boulevard, Los Angeles 90015

COLORADO

City of Englewood, dba Belleview Park, Department of Parks and Recreation, 83400 South Elati, Englewood 80110
City of Pueblo Department of Parks and Recreation, City Park Pavilion, Pueblo 81005
Drake, Dean, Animal World, 333 6th, Penrose 81240
Engel, Henry J., Wray 80758
Ernest's Taxiderny, Route 3, Box 62, Monte Vista 81144
Island Grove Park Zoo, 14th Avenue and B Street, Greenley 80631
Krohn, John C., The Fort, SR Box 20AA, Morrison 80465
National Park Village, 4600 Fall River Road, Estes Park 80517
Poirier, Harold, Wagon Wheel Ranch, Box 2526, Delta 81416
Santa's Summer Home, Box 481, Easta Park, Longmont 80501
Santa's Work Shop, North Pole 80901

DELAWARE

Brandywine Zoo, 102 Middleboro Road, Wilmington 19804

FLORIDA

Anthony, Pat, P.O. Box 355, Riverview 33569
Bengtsson, Karl, Box 125, Route 3, Sarasota 33580
Blanchard, Charles D., 307 Coastal Highway, Vilano Beach, St. Augustine 32084
Cristiani, Oscar, 2810 South Jefferson, Sarasota 33579
Clyde-Beatty, Cole Brothers Circus, 1713 South Orange Avenue, Sarasota 33577
Cristiani, Oscar, 2810 South Jefferson, Sarasota 33579
Edwards, Thomas R., 3256 C Road, P.O. Box 336, Loxahatchee 33400
Fairyland Municipal Zoo, Lowry Park, North Boulevard and Sligh, Tampa 33604
Flipper's Sea School and Seaquarium, P.O. Box 2875, Marathon Shores 33052
Florida Sunken Garden, 1825 4th Street North, St. Petersburg 33704
Gossing, G. and G. Stevens, Singletary Road, Box 9, Myakka City 33551
Hardee County Pioneer Park, P.O. Box 136, Zolfo Springs 33890
Hoover, David C., 665 West 38th Street, Hialeah 33012
Joyce, Ethel, dba Wonderful World of Dogs, P.O. Box 302, Gibsonton 33534
King Bros. Circus, P.O. Box 1570, Winter Park 32789
Marine Attractions, Inc., 6500 Beach Plaza Road, P.O. Box 6086, St. Petersburg Beach 33736
Miller, Professor, 2364 Fruitville Road, Sarasota 33577
Morris, Mrs. Bernice, dba Morris Enterprise, Edgewater 32032
Museum of Sea and Indian, Star Route, Box 611, Destin 32441
Noell, Mr. and Mrs. Robert M., P.O. Box 396, Tarpon Springs 33589
Nowak, Edward, Jr., dba Swamparium, Route 5, Box 39, Cantonment 32533
Parks Department, City of St. Petersburg, 1450 16th Street North, St. Petersburg 33704
Ringling Bros., and Barnum and Bailey Combined Shows, Inc., P.O. Box 1528, Venice 33595
Santa Fe Community College, Teaching Zoo, 3000 Northwest 83rd Street, Gainesville 32602
Sarasota Jungle Gardens, 3701 Bayshore Road, Sarasota 33580
Seminole Indian Village and Craft Enterprises, 6073 Stirling Road, Hollywood 33020
Sipek, Steve, 15341 Northwest 32nd Avenue, Opa Locka 33054
Slom, Morris, Box 18623, Tampa 33609
Spyke's Groves, 7250 Griffin Road, Fort Lauderdale 33314
St. Augustine Alligator Farm, P.O. Box 166, St. Augustine 32084
Stebbing Royal European Circus, P.O. Box 249, Sarasota 33578
Szymonski, Kurt, 2022 Dodge Avenue, Sarasota 33580
Tallahassee Junior Museum, 3945 Museum Drive, Tallahassee 32304
Tiki Gardens, Inc., P.O. Box 8, 19601 Gulf Boulevard, Indian Shores 33535
Watson, Bill, Route 1, Box 117, Tampa 33612
Wild Kingdom, Inc., 233 East Robinson Street, Orlando 32801
Wildlife Trust of Broward County, 2070 Griffin Road, Fort Lauderdale 33302
Zerbini, Tarzan, Route 2, Box 8, Sarasota 33580

GEORGIA

Beverly, Olen L., P.O. Box 724, Moutrie 31768
City of Athens—Department of Parks and Recreation, Memorial Park, Athens 30601
Edwards, Lee, 3653 Dial Drive, Stone Mountain 30083
Georgia Cumberland Conference Association, P.O. Box 12,000, Calhoun 30701
Ketcham, Lewis E., Box 60A, Route 3, Woodstock 30188
Lunsford, Dick, Route 2, Douglas 31533
Mogyorus, Frank, Six Flags Over Georgia, P.O. Box 43187, Atlanta 30336
Okefenokee Association, Inc., Okefenokee 31501
Schleentz, Osborn R., Valdosta 31601
Six Flags Over Georgia, P.O. Box 43187, Atlanta 30336
Tandy, E. M., P.O. Box 1712, Valdosta 31601

IDAHO

Y-J Foods, Inc., Box 357, Coeur D'Alene 83814
Wild Wild West, Inc., Route 7, Caldwell 83605

ILLINOIS

Illinois Department of Conservation, 602 State Office Building, Springfield 62706
Stone, Lester R., Box 349, Route 1, East Moline 61244

INDIANA

Baird, Clifton and Kenny, Box 102, Salem 47167
Transcontinental Circus, 2228 N. Edmondson, Indianapolis 46952

IOWA

Blackhawk County Conservation Board, 2410 West Lonetree Road, Cedar Falls 50613
Board of Park Commissioners, 236 West Central Park Avenue, Davenport 52803
Buchanan Conservation Board, Hazelton 50641
Buffalo Ranch Museum, 310 Lovers Lane, Fayette 52142
City of Cedar Rapids, Park Department, City Hall, Cedar Rapids 52401
City of Fort Dodge, Park Department, 1450 Oleson Park Avenue, Mason City 50401
City of Mason City, Parks Department, 9 South Delaware Avenue, Mason City 50401
Hawkeye Zoological Society, Box 1482, Cedar Rapids 52406
Iowa State Conservation Commission, Boone 50036
Osborne Conservation Education Center, Elkader 52043
Polk County Conservation Board, Jester Park, Granger 50109

KANSAS

Bear House Truck Stop, Inc., Bunker Hill 67626
Central Riverside Park, Wichita 67202
City of St. Mary's, St. Mary's 66536
Dodge City, Wright Park Zoo, Dodge City 67801
Markley, J. E., Seneca 66538
Noel, Frank (Noel's Speciality Acts), R.R. 1, Box 113Q Mulvane 67110
Old Abilene Town Inn, Box 438, Abilene 67410
Ruro Mini Zoo, 1201 North Broadway, Leavenworth 66048

KENTUCKY

Blaine, Joseph M., 34 Arcadia, Lakeside Park 41017
Garvin, Charles, Beech Band Park, Bowling Green 42101
Issac W. Bernheim Foundation, Bernheim Forrest, Clermont 40110
Mammoth Onyx Cave, Box 527, Horse Cave 42749
Otter Creek Park, Vine Grove 40175
Shelton, James T., dba Funland Park, Box 372, Route 6, Corbin 40701

LOUISIANA

Alfred Bonnabel High School, 8800 Bruin Drive, Metairie 70003
Colacurcio, Bill, 522 Bourbon Street, New Orleans 70130
Playland Amusements, Inc., Pontchartrain Beach, New Orleans 70122
Snake Farm, P.O. Box 96, LaPlace 70068

MARYLAND

Baltimore Zoo, Druid Hill Park, Baltimore 21217
Brandywine Stables, Route 4, Box 69, Brandywine 20613
Columbia Association, 5829 Banneker Road, Columbia 21044
Dykes Brothers Attraction, Merritt Mill Road, Salisbury 21801
Enchanted Forest Enterprises, Inc., 10040 Baltimore National Pike, Ellicott City 21043
Hahn, Richard A., dba Catoctin Mountain Zoological Park, Thurmont 21788
Haviland, Hal, P.O. Box 1222, Landover 20785
Jackson, Harry Lee, dba Trader Lee's Village, Route 50, West Ocean City 21842
Marjac, Inc., Shawnee-Land, Olney 20832
Salisbury Zoological Garden, P.O. Box 791, Salisbury 21801
Starsun Park, Route 1, Box 234, Whaleyville 21872

MICHIGAN

Animal Kingdom Wildlife Refuge, 9320 South Division, Byron Center 49315
Becker's Zoo, East Cass City Road, Ubly 48475
Bertha Brock Park, Route 3, Box 295, Ionia 48846
Binder Park, City of Battle Creek, 7500 Division Drive, Battle Creek 49107
Bitely, Gerald, dba Birch Shores Resort, Route 1, McMillan 49853
Blahnik, Jr., H. J., Garage and Hatchery, Carney 49812
Cederberg, Ernest H., Deer Park, 2093 Coggins Road, Pinconning 48650
City of Kalamazoo, City Hall, 241 West South Street, Kalamazoo 49006
City of Mt. Pleasant, Nelson Park Zoo, 120 South University, Mt. Pleasant 48858
Claerhout, Emil and Madeline Schuster, Emil the Buffalo, 8887 Gratiot Road, Richmond 48062
Clinch Park Zoo, Grand View Parkway, Traverse City 49684
Clough, LeRoy and June, Evergreen Resort, Route 2, M-65, Hale 48736
Currie-Wildon Enterprises, P.O. Box 227, Midland 48640
Dickey, Darwin, L., Pine Ridge Amusement, 7784 Main Street, Birch Run 48415
Drayton Plains Nature Center, Inc., 2125 Denby Drive, Drayton Plains 48020
Edison Institute, Greenfield Village, Dearborn 48121
Elm Rest Service, 1507 South Lake Mitchell Drive, Cadillac 49601
Erickson, Mrs. Shirley, Route 2, Box 2334, Grayling 49738
Fenner, Carl G., Arboretum, 2020 East Mt. Hope, Lansing 48910
Finley, Merle, dba Longhorn Ranch, 7684 25 Mile Road, Washington 48094
Fiath, Julius, dba Deli's Supper Club, Escanaba 49837
Fountain, L. J. and P. A., 306 East John Street, Newberry 49868
Greenwood Acres, 2401 Hilton Road, Jackson 49201
Hafeman, Robert, Route 2, Box 75, Wallace 49893
Henes, John Park, 202 Henes Park Drive, Menominee 49848
Hines, Ivan, Route 2, 1781 Coldwater Road, Mt. Pleasant 48858
Holbrook, Stanley, Route 1, Germfask 49836
Huiko, Samuel P., 1108 Crystal Avenue, Crystal Falls 49920
Humane Society of Macomb County, 11350 22 Mile Road, Utica 48087
Industrial Mutual Association, 901 East Second, Flint 48503
Iron Mountain City Park, Westends of A and B Streets, Iron Mountain 49801
N.E. Isaacson of Michigan, Inc., Sugar Springs Inc., 5477 Sugar River Road, Gladwin 48624
Jensen, Mr. and Mrs. Robert, Route 1, Powers 49874
Johnny's Fish and Game Park, 5511 East 46½ Road, Cadillac 49601
Kalamazoo Nature Center, 7000 North Westnedge, Kalamazoo 49007
King Animaland Park, Inc., 62000 Gratiot Avenue, Richmond 48062
Loftis, Audrey Lee, 14140 Worden Road, Gregory 48137
May, Howard, 394 Cambria Road, Hillsdale 49242
Mayer, W. G., 7606 Hix Road, Westland 48185
Mercier, Francis R., dba Santa's Gift Shop, Box 75, Munising 49822
Moe, Arne G., dba The Red Barn, Route 1, Box 210, Munising 49862
Mott Farm Program G6140 Bray Road, Flint 48505
Nankin Mills Nature Center, 33175 Ann Arbor Trail, Westland 48185
Norm's Bald Mountain Riding Stable, 3085 South Laprec Road, Pontiac 48057
Ogemaw Game Refuge, Ten Lakes Sportsmen Club, 5626 West Rose City Road, West Branch 48661
Palmer, Mrs. Betty, dba Presque Isle Park, Marquette 49855
Parr's Park, Box 81, Prudensville 48651
Peebles, Gloria, 18810 Cardoni, Detroit 48203
Piesschner, Robert, Route 1, McMillan 49853
Potter Park Zoo, 1301 South Pennsylvania Avenue, Lansing 48933
Quas, Garry, dba Bambi Park, Box 215, Iron Mountain 49801
Rice, Elmer, 539 Golf Road, Lapeer 48446
Rouge Park Nature Center, 14250 West Outer Drive, Detroit 48239
Saginaw Children's Zoo, 1694 South Washington, Saginaw 48601
Schofield, Bruce and Laura, 2165 Bailey Lake Road RFD 3, Gladwin 48624
Scidmore Park, Three Rivers 49093
Smith, Curtis L., P.O. Box 204, Baldwin 49304
Spickerman, Harvey, Route 1, Rose Bush 48878
Steel, David and Shirley, DBA Animaland Camp Ground, Batterson Road, Frederick 49733
Stephens, Yvonne R., dba Yvonne and Her Friends, Box 37, Williamsburg 49690
Tesch, Harold, dba Lenawee Institute, 3046 Sutton Road, Adrion 49221
Waffle, Ernest J., 2416 Aldrich Road, Tekonsha 49092
Walts, Dirk B., 625 Linwood Beach Road, Linwood 48634
Wilder, Dale, Whoopee Bowl, 9580 Dixie Highway, Clarkston 48016

MINNESOTA

Ahrendt, Dwayne J., Jasper 56144
Alexandria Deer Park, Route 4, Alexandria 56308
Asander, Phyllis, dba Schmidt's Citrus, R.R. 1, Dalton 56324
Blue Mound Inn, Luverne 56156
Boelter, James F., Route 3, McGregor 55760
Brainerd Baxter Corporation, dba Paul Bunyan Amusement Center, Box 563, Brainerd 56401
Buffalo House, 2500 Guss Road, Duluth 55810
City of Mankato, Division of Parks and Forestry, 202 East Jackson Street, Mankato 56001
City Park Board, Ramsey Park Zoo, c/o Municipal Office Building, 207 East 4th Street, Redwood Falls 56283
Cook, Val S., Orr 55771
Cougarville Castle, Quamaba 55064
Deer Town, Inc., Highway 71 North, Park Rapids 56470
Duluth Zoo, 7210 Fremont Street, Duluth 55807
Eggleston, Ogden C., Walker 56484
Farm Supper Club, Inc., R.R. 4, Princeton 55371
Fort Detroit, P.O. Box 66, Detroit Lakes 56501
Gopher Campfire Club, c/o H. F. Quade, Sr., 122 North Main Street, Hutchinson 55350
Granfor, Julian, Perley 56574
Hansen, William T., dba Animal Acres Zoo, R.R. 3, Box 203, Wadena 56482
Himes, Robert L., dba Trapper Himes Wild Animal Farm, Ray 56669
HiWay Trading Post, Hackensack 56452
Ike's Chicken Shack, Browns Valley 56219
Jacobson, E. N., Nevis 56467
Jaegers, Sidney W., R.R. 1, Buffalo Lake 55314
Eleven, Lyle, 3500 6th Street North, Minneapolis 55412
Krachey, Donald W., dba Aqua Park Aquarium, 1008 East 1st Street, Park Rapids 56470
LaBarge, Mr. and Mrs. Lisle, Jr., Route 1, Box 65A, Chisholm 55719
Lewis, Walter D., Alexandria 56308
McGregor Dairy Queen, Inc., Box 66, McGregor 55760
Nelson, Irvin, Route 2, St. Peter 56082
Oberle, Donald, Comfrey 56019
Ohlgren, E. J., Clear Lake 55319
Oxbow Wildlife Exhibits, Byron 55920
Pine Grove Park Municipal Zoo, 727 3rd Street, NE., Little Falls 56345
Smuda's Wildlife Zoo, Little Falls 56345
Split Rock Trading Post, Box 122A, Two Harbors 55616
St. Paul's Como Zoo, St. Paul 55103
Village of LeCenter, 21 North Lexington, LeCenter 56057
Village of Wadena, Box 30, Wadena 56482
Virginia Park Commission, Olcott Park, Virginia 55792
Wall Brothers, Comfrey 56019

MISSISSIPPI

McWilliams, Mrs. Eugene C., Route 1, Box 108, Picayune 39466

MISSOURI

Gold Nuggets Junction, Osage Beach 65065
Jackson Co., Department of Parks and Recreation, Route 2, Box 408, Blue Springs 64015
Jones, J. W., dba Buena Vista's Exotic Animal Paradise, Route 1, Strafford 65757
Lone Elk Park, c/o St. Louis Co., Parks Department, 7900 Forsyth, St. Louis 63105
Max Allen's Zoological Gardens, U.S. 54 South, Eldon 65026
Ozark Deer Farm, Route 3, Eldon 65026
Silver Dollar City, Silver Dollar City 65616
Szass, Albert B., Route 1, Gerald 63037
World's of Fun, 4545 World's of Fun Avenue, Kansas City 64161

MONTANA

Brogan, Welch E., dba Cinnabar Game Farm, Gorwin Springs 59021
Montana Safari Park, Box 591, Ennis 59729
Red Lodge Zoo (Elmer Neff), Red Lodge 59068
Svelstad, Nels, Wise River 59762

NEBRASKA

Municipal Zoo and Chet Ager Nature Center, Lincoln 68502
Ryan, Kelly P., Blair 68088
Ta-Ha-Zouka Park, Route 2, Norfolk 68701

NEW MEXICO

Carlsbad Botanical Zoological Park of the SW, Box 1569, Carlsbad 88220
City of Alamogordo, 511 10th Street, Alamogordo 88310
City of Clovis, P.O. Box 760, Clovis 88101
Living Desert State Park, Box 1569, Carlsbad 88220
Spring River Park and Zoo, City Hall, Roswell 88201

NEW YORK

Alfred Comedy Dog Act, 1710 2nd Avenue No. 3, New York

NORTH CAROLINA

Carrado, Nick Jr., P.O. Box 804, Carthage 28327
Charlotte Nature Museum, Inc., 1658 Sterling Road, Charlotte 28209
Charlotte Nature Museum, Inc., 1658 Sterling Road, Charlotte 28209
City of Asheville Zoo, City Hall, Asheville 28807
County Park Zoo and Natural Science Center, 4301 Lawndale Drive, Greensboro 27408
Environmental Education, Recreation and Research Center, Route 1, Box 401, High Point 27260
Frontierland National Recreation Service, Cherokee 28719
Grandfather Mountain, Inc., Linville 28646
Great Smoky Mountains Natural History Association, Gatlinburg 37738
Kiddie Zoo, P.O. Box 1810, Wilmington 28401
McAdenville Aviary Gardens, McAdenville 28101

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North Carolina Museum of Life and Science, P.O. Box 8177, Durham 27704
Rimer Development Co. Inc., Route 2, Box 182, Kannapolis 28081
Woody, Woodrow W., Route 2, Box 303, Sylva 28779

OHIO

Beebe, Raymond, Route 3, Pataskalay 43062
Bob Evan's Farm, Inc., Box 154, Rio Grande 45674
Chovanic, David, and Lawrence Humbarger, 133 McKim Street, Bellevue 44811
Cleland's Deer Acres, Route 1, Bainbridge 45612
Cleveland Aquarium, 601 East 72nd Street, Cleveland 44103
Cleveland Museum of Natural History, Wade Oval, University Circle, Cleveland 44106
Conley, Carl E., 4689 Star Route 276, Batavia 45103
Cullison, Karl, 1949 Kim Drive, Akron 44312
Dayton Museum of Natural History, 2629 Ridge Avenue, Dayton 45414
Diamond "O" Ranch, Inc., Wila Animal Zoo, 1000 Warner Road, Southeast Canton 44707
Eckenrode, Harry N., 1596 Grandview Avenue, Apt. B, Columbus 43212
Elyria Department of Parks and Recreation, 1101 Prospect Street, Elyria 44035
Faflik, Clarence, Shoe Store, 26242 Great Northern, North Olmstead 44070
Fantasy Farm, Route 1, Middletown 45052
Khol, Rudy, 30770 Cannon Road, Solon 44140
Lake Erie Junior Nature and Science Center, 28728 Wolf Road, Cleveland 44140.
Lowe, Joseph T., 1192 East 40th Street, Cleveland 44114
Masino, Arnold G., 13305 Jayneview Avenue, Uniontown 44685
Nafziger, Dale L., Route 1, Box 18, Archbold 43502
Nelson Ledge Park, Route 2, Box 292, Garrettsville 44231
Sea World of Ohio, Inc., P.O. Box 237, Aurora 44202
Siedel Fun Farm, Inc., 21897 Westwood Drive, Strongsville 44136
Sink, Randon, 38 Jasper Street, Dayton 45409
Trailside Nature Center, P.O. Box 27, Cincinnati 45220
Twin Shoe Store, 8350 Maryland Avenue, St. Louis 63105
Vancel, William, 214 McKim Street, Bellevue 44811
Weidner, Thomas, Route 1, Baltimore 43105
Wohl Shoe Company, dba Faflik Shoe Store, 8350 Maryland Avenue, St. Louis 63105

OKLAHOMA

Frank Phillips Foundation, Inc., 402 Professional Building, Bartlesville 74003
Shearer, W. V., Route 1, Mooreland 73852

PUERTO RICO

Amador, Felix Jimenes, Rd. 482, Km 0.9, Bo. Cocos, Quebradillas 00742
Congregacion de Mita, Inc., 235 Duarte Street, Hato Rey 00917
Rosado, Francisco Vasquez, Santa Clara, Box 674, Jayuya 00664
Zoological Garden of Puerto Rico, P.O. Box 1085, Mayaguez 00708

SOUTH CAROLINA

Animal Forest, Charles Towne Landing, 1500 Old Town Road, Charleston 29407
Brookgreen Gardens, Murrells Inlet 29576
Cromer's P-Nuts, Inc., P.O. Box 163, Columbia 29201
Eagleson, G. S., 730 Flat Street, Allendale 29810
Greenville Zoo, Cleveland Park Drive, Greenville 29601
Marvin, Frank M., Hollywood 29449
Serpent City Jungle Land, Highway 17 North, Myrtle Beach 29577
Smith, William C., dba Smith's Truck Stop Winnsboro 29180
Wall, John A., 116 Chester Street, Spartanburg 29301
Wonderland Zoo and Gift Shop, Route 3 Box 102, Conway 29526

TENNESSEE

Buck Sorell Enterprises, Inc., P.O. Box 77, Whitehouse 37188
Cumberland Museum and Science Center, 800 Ridley Avenue, Nashville 37203
Mills, Bill, Route 1, Rockwood 37854
Olive Betty L. and Delma Ree, Miller, c/o Village of 1800, Highway 411 N., Etowah 37331
Rucker, Hines, Watertown 37184
Tenn-Alabama Gift Shop, Box 27, South Pittsburg 37380
Vick, Arthur W., Clinch Mountain Lookout, Route 1, Thorn Hill 37881

TEXAS

Allen, Dianne Wilson, dba Wilson's Seals and Monkeys, P.O. Box 971, Donna 78537
Baylor Chamber of Commerce, Box 225, Union Building, Baylor University, Waco 76706
Caverns of Sonora, P.O. Box 213, Sonora 76950
City of Andrews, Municipal Administration Building, Andrews 79714
City of Childress, City Hall, Childress 79201
City of Sinton, P.O. Box 1395, Sinton 78387
Connor, James H., 804 Anthony Street, Gainesville 76240
Duke, Ralph, R.R. 3, Box 167, Seagoville 75159
Fisher, Ralph, Box 180, Barker 77413
Ft. Worth Museum of Science and History, 1501 Montgomery Street, Forth Worth 76107
Gee Gee Engsser, Route 3, Box 179, Seagoville 75159
Gibbs, Bob, Route 4, Box 550, Mission 78572
Hall, Carmen A., Route 1, Box 762, Mesquite 75149
Hall, James K., Route 1, Box 762, Mesquite 75149
Harmon, Dr. Roger, 401 East Pinecrest Drive, Marshall 75670
Henry, Gary G., Box 3, Gainesville 76240
Henry, Glen M., Box 292, Gainesville 76240
Inner Space, Highway 355, Georgetown 78628
Lemke, Joe, 4005 Easta Ryan Street, Mesquite 75149
Lucia, Tom, Route 3, Box 154, Weatherford 76086
Pinson, Joanne and Dennie, Route 1, Gainesville 76240
Rice, Barbara, P.O. Box 264, Combine Road, Seagoville 75159
Richtman, David T., P.O. Box 3068, Galveston 77550
Rucker, Lawrence, c/o Don E. Johnson, 12824 Noel Road, Apt. 2052, Dallas 75230
Rucker, Ralph, Gen. Del., Gainsville 76240
Sapp, Michael I., 27150 O'Kent, San Antonio 76216
Smith, James A. H., 1960 Peavy Road, Dallas 75228
Steele, Bucky R., Box 179, Haymarket Road, Seagoville 75159
Stodghill's Ranch, Rt. 2, Quinlan 75474
University of Houston, Box 240, University Center, Houston 77004
William Lens, c/o Hubert Castle Circus, 1960 Peavy Road, Dallas 75228
Wonder World, P.O. Box 1360, San Marcos 78666

VIRGINIA

Bennett, W. M., Box 356, Christiansburg 24073
Childress, Frank B., Route 1, Box 214, New Market 22844
City of Hampton, dba Blue Bird Gap Farm, City Hall, Hampton 23360
City of Newport News, Department of Parks and Recreation, 2400 Washington Avenue, Newport News 23607
Coleman, G. A. Company, 916 Main Street, Lynchburg 24505
Hofheimer's, Inc., 325 Granby Street, Norfolk 23510
Junior Woman's Club of Lynchburg, Virginia, Inc., P.O. Box 3262, Rivermount Station, Lynchburg 24503
Martin, James R., 8725 Commodore Drive, Norfolk 23503
Peninsula Nature and Science Center, 524 J. Clyde Morris Boulevard, Newport News 23601
Staunton City Zoo, P.O. Box 58, Staunton 24401
Ocean View Amusement Park, North End of Granby Street, Norfolk 23503
Wishing Well Gift Shop, 9 miles North of Skyline Drive, White Post 22663

WASHINGTON

Berchtold, Eloise C., 7678 East Kemper Road, Cincinnati 45242
City of Centralia Park Department, City Hall, Centralia 98531
Everett Park and Recreation Department, Forest Park, Everett 98203
Inland Empire Zoological Society, Box 14258, Opportunity 99214

WEST VIRGINIA

Meadows, Ernest R., Route 4, Box 107, Grafton 26354
Rider, John W., Jr., Route 2, Box 14B, Rainelle 25962

WISCONSIN

Antonucci, A., Route 5, Box 9, Burlington 53105
Aqualand, Inc., Ephraim 54211
Arcadia Sportsman's Club, Arcadia 54612
Barthman, Virgil T., Route 1, Clear Lake 54005
Bay Beach Wildlife Sanctuary, 1660 East Shore Drive, Green Bay 54301
Behn, Wilbert, Route 1, Aniwa 54408
Belshaw, Robert D., Earl 54883
Bill's Landing Deer Farm, Route 3, Hayward 54843
Blackhawk Camp Ground, Box 686, Milton Junction 53564
Blackhawk Ridge, P.O. Box 92, Sauk City 53583
Bob's Chuck Wagon, Inc., Wisconsin Dells 53965
Bodin's Inc., Lakeshore Drive, Ashland 54806
Brown County Reforestation Camp, Route 4, Green Bay 54301
Circus World Museum, Baraboo 53913
City of Ashland, Park Department, Ashland 54806
City of Black River Falls, Box 220, Black River Falls 54615
City of Blair, Blair 54616
City of Fond du Lac, 76 East Second Street, Fond du Lac 54935
City of Stanley, Stanley 54768
Clark County Hospital and Home, Route 2, Box X, Owen 54460
Connor Forest Industries, Camp 5 Farm, Laona 54541
Cornford, M. J. and Allen H., Rural Route 1, Randolph 53956
Deer Park Athletic C Club, Deer Park 54007
Deisinger, Donald, Route 2, Antigo 54409
Duval, Everett, Route 3, New Auburn 54757
Edgerton Conservation Club, Box 13J, Route 1, Edgerton 53534
Fine R-K Ranch, Route 5, Hayward 54843
Forest County Deer Farm, Court House, Crandon 54533
Fowler, Donald C., Route 2, Tomah 54660
Fry's Wildlife Museum, Route 5, Tomahawk 54478
Gannon's Birchwood Resort, Rural Route 1, Lodi 53555

Ge-Ca-Wa Lodge Deer Farm, Box 117A, Iron River 54847
Grandpa's Farm, Inc., c/o Wesley B. White, Route 3, Rhinelander 54501
Gullickson, William, 1680 North Farwell Avenue, Milwaukee 53202
Henry Vilas Park Zoo, 500 South Randall Avenue, Madison 53913
Horner, Everett, Route 1, Box 36, Waterford 53105
Janesville Conservation Club, Box 129, Janesville 53545
Johnson, A. R., c/o Murry Hill, Route 5, Box 9, Burlington 53105
Jueds, Arnold, Route 1, Marion 54950
Kamps, Margaret, dba Buck and Doe Forest, Box 277, Eagle River 54521
Kleven, David, Route 1, Sarona 54870
Kling, Duane, Route 1, Box 169, Merrillan 54754
Lange, Ervine P., 1623 Saemann Avenue, Sheboygan 53081
Levinson, Vivian, Route 1, Hayward 54843
Lincoln Park Zoo, 736 Revere Drive, Manitowoc 54220
Link Brothers, Inc., Minong 54859
Little Mexico Deer Farm, Route 2, Siren 54872
Ludwig Brothers, Inc., S. 107 W16311 Loomis Road, Route 2, Hales Corners 53130
Main Store, Star Route, Webb Lake 54892
Mahloch, James, dba Cottonpatch Restaurant, 2003 Lake Drive, Shawano 54166
Menomonie Lions Club Game Park, Menomonie 54751
Miller, Jerry Lee, Route 1, T.J.M. Ranch, West Bend 53095
Miller, Louis W., dba The Outpost, Route 3, Tomahawk 54487
Milwaukee County Zoo, 10001 West Bluemound Road, Milwaukee 53226
Montag, Eigene H., Route 1, Chili 54420
Myrick Park, City of La Crosse, La Crosse 54601
Natter, Rollin, 3401 Milton Avenue, Janesville 53545
Nelson, John, Route 1, Wabena 54566
Nyguard, L. A., dba Kettles the Clown and his Animal Friends, Route 1, Box 175A, Wisconsin Dells 53965
Olson, Alvin R., Route 2, Oxford 53952
P-M, Inc., Eagle River 54521
Park and Recreation Commission, City of Wisconsin Rapids, 441 West Grand Avenue, Wisconsin Rapids 54494
Peck, Jim, dba Wildwood Wildlife Kingdom, Minocqua 54548
Pliska, Roman and Len, R.R. 1, Box 279-A, Custer 54423
Ponderosa, Inc., Waupaca 54981
Portage County Park Commission, County-City Building, Stevens Point 54481
Quill Inn, Route 2, Box 264, Lady Smith Highway S. 54848
Racine Zoological Park, 2131 North Main Street, Racine 53402
Radies, Mrs. R. A., Route 1, Big Falls 54950
Randall, Jane Vincent, c/o John Batdorf, Route 1, Box 73, Rhinelander 54501
Rauchnot, John M., J. R. Ranch, Inc., Route 1, Hudson 54016
Setchell, Vern, Chetek 54728
Shadel, Steward, 60 Water Street, Ganesville 53545
Shay, William, Route 3, New Richmond 54017
Simpson, Wayland and Martha, Route 4, Wampaca 54981
Smykal, Kevin, Route 1, Dunbar 54119
Sommers, Ray F., Route 1, Random Lake 53075
St. Camillus Novitiate, R.R. 2, Box 220, Baraboo 53913
St. Germaine Village Park, St. Germaine 54558
Stevenson, Stanford A., Route 1, Bayfield 54814
Storybook Gardens, Route 1, Box 135A, Wisconsin Dells 53965
Streblow, Raymond, 5703 Knapp Street, Oshkosh 54901
Sturgul, Francis G., Haselhurst 54581
Tollaksen, Russell, Route 1, Box 17, Wisconsin Dells 53965
Twin Bucks Game Farm, 3407 Plover Road, Plover 54467
Van Dyke, Richard H., Route 3, New London 54961
Village of Suring Park, Suring 54174
Vougers Village, Inc., Box 395, Danbury 54830
Walters, Ivan, White Lake 54491
Weber, Ellen, Star Route, Sayner 54560
Welch, Francis, Luger Route, Phillips 54555
Wendland, Fred, Park Falls 54552
West, Elwyn, Route 3, Waupaca 54981
White Birch Fisheries, Inc., Boulder Junction 54512
Whitley, Elaine K., Star Route, Manitowish Waters 54545
Wilderness Walk, Hayward 54843
Wille, Gerhart, R.R. 2, Box 293, Waupun 53963
Wisconsin Department of Natural Resources, Box 450, Madison 53701
Woodside Ranch Resort, Inc., Route 3, Maugton 53948

WYOMING

City of Cheyenne, Lyons Park, Cheyenne 82001
Hutmacher, Paul A., Route 2, Box 1357, Cheyenne 82001
Lakeside Resort, Shoshoni 82649
Wind River Ranch, Dubois 82513

(Sec. 6, 80 Stat. 351, as amended (7 U.S.C. 2136).)

Done at Washington, D.C. this 14th day of February 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

G. V. PEACOCK,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-5881 Filed 2-28-77;8:45 am]

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federal register

TUESDAY, MARCH 1, 1977

PART III

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

ANIMAL WELFARE

List of Registered Research Facilities

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ANIMAL WELFARE

List of Registered Research Facilities

Pursuant to the provisions of the Animal Welfare Act (7 U.S.C. 2131 et seq.), and the regulations thereunder (9 CFR Part 2), notice is hereby given that the following research facilities are registered under said Act:

ALABAMA

Auburn University, Auburn 36830
Southern Research Institute, 2000 Ninth Avenue, South, Birmingham 35205
Tuskegee Institute, Tuskegee Institute 36088
University of Alabama, P.O. Box 2846, University 35486
University of Alabama Medical Center, 1919 Seventh Avenue, South, Birmingham 35233
University of South Alabama, Mobile 36688

ALASKA

University of Alaska, College 99701

ARIZONA

Arizona State University, Tempe 85281
Armour-Dial Company, 15101 North Scottsdale Road, Scottsdale 85260
Northern Arizona University, Flagstaff 86001
St. Joseph's Hospital and Medical Center, 350 West Thomas Road, Phoenix 85013
University of Arizona, Tucson 85721

ARKANSAS

Animal Behavior Enterprises, Inc., Route 6, Box 368, Hot Springs 71901
University of Arkansas, Fayetteville 72701

CALIFORNIA

Adams Caviary, 3846 North Charlotte Avenue, San Gabriel 91776
Alchem Laboratories, Inc., 13478 Beach Avenue, Marina Del Rey 90291
Allergan Pharmaceuticals, 2525 Dupont Drive, Irvin 92664
Alpha Gamma Laboratories, 160 East Montacito Avenue, Sierre Madre 91024
Alza Corporation, 950 Page Mill Road, Palo Alto 94304
Applied Biological Sciences Laboratory, Inc., 6320 San Fernando Road, Glendale 91201
Attending Staff Association, Los Angeles County Harbor General Hospital, 1000 West Carson Street, Torrance 90509
Barlow Hospital, 2000 Stadium Way, Los Angeles 90026
Barnes-Hind Pharmacy, Inc., 895 Kifer Road, Sunnyvale 94086
Beckman Instruments, Inc., 2041 East Lambert Road, La Habra 90631
Bentley Laboratories, Inc., 17502 Armstrong Avenue, Irvine 92705
Bio-Science Laboratories, 7600 Tyrone Avenue, Van Nuys 91405
Bio-Technics Laboratories, Inc., 1133 Crenshaw Boulevard, Los Angeles 90019
Bureau of Public Health Laboratories, Los Angeles 90012
Calbiochem, P.O. Box 12087, San Diego 92112
California Institute of Technology, 805 North Lapham Street, El Segundo 90245
California State Colleges Office of the Chancellor, 5670 Wilshire Boulevard, Los Angeles 90036
Cedars-Sinai Medical Center, 4751 Fountain Avenue, Los Angeles 90029
Charles R. Drew Post-Graduate Medical School, 1621 East 120th Street, Los Angeles 90059
Children's Hospital Medical Center, Bruce Lyon Memorial Research Laboratory, 51st and Grove Streets, Oakland 94600
Children's Hospital of Los Angeles, 4650 Sunset Boulevard, Los Angeles 90027
Children's Hospital of San Francisco, Experimental Surgical Laboratory, P.O. Box 3805, San Francisco 94119
Chromalloy Pharmaceutical, Inc., 10100 Santa Monica Boulevard, Los Angeles 90067
City of Hope Medical Center, 1500 East Duarte Road, Durate 91010
CLMG, Inc., Los Angeles 90057
Claremont Men's College, 11th and Dartmouth Avenue, Claremont 91711
Compton Community College, 1111 East Artesia Boulevard, Compton 90221
Consumnes River College, 8401 Center Parkway, Sacramento 95823
County of San Diego, Office of County Veterinarian, 5555 Overland Avenue, Building 4, San Diego 92123
Cutter Laboratories, Inc., Fourth and Parker Streets, Berkeley 94710
Diagnostic Date, Inc., Mountain View 94043
Edwards Laboratories, Division of American Hospital Supply, 17221 Red Hill Avenue, Santa Ana 92705
Emery Cancer Research Fund, 615 S. Westlake Avenue, Los Angeles 90057
Endocrine Sciences, 18418 Oxnard Street, Terzana 91356
Estelle Doheny Eye Foundation, 272 South Lake Street, Los Angeles 90067
Foothill College, 12345 El Monte Road, Los Altos Hills 94022
Grossmont College, 8800 Grossmont College Drive, El Cajon 92020
Hagadon Corporation dba Ianus Laboratories, P.O. Box 20369, El Cajon 92021
Hancock Laboratories, Inc., 4633 East La Palma Avenue, Anaheim 92807
Hine Laboratories, Inc.,[1] 1099 Folsom Street, San Francisco 94103
Hoag Memorial Presbyterian Hospital, 301 Newport Boulevard, Newport Beach 92660
Hollywood Presbyterian Hospital, 1322 North Vermont Avenue, Los Angeles 90027
Huntington Institute of Applied Medical Research, 734 Fairmont Avenue, Pasadena 91105
ICN Nucleic Acid Research Institute, 2727 Campus Drive, Irvine 92664
Institute of Medical Sciences, 2200 Webster Street, Room 310, San Francisco 94115
Institute for Medical Research of Santa Clara County, 751 South Basom Avenue, San Jose 95126
Institute of Nutritional Studies, 9331 Venice Boulevard, Culver City 90230
International Medication Systems, Ltd., 1886 Santa Anita Avenue, South El Monte 91733
Inter Science Institute, 200 Cotner Avenue, Los Angeles 90025
Irvine Eye Institute, 19722 Jamboree Boulevard, Irvine 92715
Kaiser Foundation Hospitals, Ordway Building, Oakland 94666
Kearley, D.V.M., Edward O., 690 Quincy Road, Turlock 95380
La Verne College,[1] 1950 Third Street, La Verne 91750
Lee Pharmaceuticals, 1444 Santa Anita Avenue, South El Monte 91733
Linus Pauling Institute of Science and Medicine, 2700 Sand Hill Road, Menlo Park 94025
Loma Linda University, Loma Linda 92354
Los Angeles Pierce College, 6201 Winnetka Boulevard, Woodland Hills 96413
Loyola University, 7101 West 80th Street, Los Angeles 90045
McGaw Laboratories, 2525 McGaw Avenue Irvine 92664
Medi-Physics, Inc. 5855 Christie Avenue, Emeryville 94608
Memorial Hospital of Long Beach, 2801 Atlantic Avenue, Long Beach 90806
Mercy San Juan Hospital, 6501 Coyle Avenue, Carmichael 95608
Monitor Science Corporation, 1598 Monrovia Avenue, Newport Beach 92663
Mount St. Antonio College, 1100 North Grand Avenue, Walnut 91789
Mount Zion Hospital and Medical Center, 1600 Divisadero Street, San Francisco 94115
Murphy, Howard F., Carlsbad 92008
National Institute of Scientific Research, 12330 Santa Monica Boulevard, Los Angeles 90025
Nelson Research and Development, 19722 Jamboree Boulevard, Irvine 92664
Newport Pharmaceuticals International, Inc., 1590 Monrovia Boulevard, Newport Beach 92660
Nichols Institute For Endocrinology, 1300 South Beacon Street, San Pedro 90731
North American Aviation, Inc., Autonetics Div., 805 North Lapham Street, El Segundo 90245
Nutritlite Products, Inc., 19600 Sixth Street, Lakeview 92353
Occidental College, Los Angeles 90041
Olive View Hospital, 14445 Olive View Drive, Sylmar 91342
Orange County Medical Center, 101 Manchester Avenue, Orange 92668
Palo Alto Medical Research Foundation,[1] 860 Bryant Street, Palo Alto 94301
Pasadena City College, Pasadena 91106
Pasadena Foundation For Medical Research, 99 North El Molino Avenue, Pasadena 91101
Pharmaseal Laboratories, 4401 Foxdale Avenue, Irwindale 91706
Pomona College, Claremont 91711
Radioassay Systems Laboratories, Inc. 1511 East Del Amo Boulevard, Carson 90746
Rancho Los Amigos Hospital, Inc. 7413 Golondrinas Street, Downey 90242
Rancho Santiago Community College, Santa Ana 92706
RedKen Laboratories, Inc. 14721 Califa Street, Van Nuys 91401
Regents of the University of California, University Hall, Berkeley 94720
Salk Institute For Biological Studies, P.O. Box 1809, San Diego 92104
San Bernardino Valley College, San Bernardino 92403
San Diego Bio-Medical Research Institute, 3585 Fourth Avenue, San Diego 92104
San Diego Mesa College, 7250 Mesa College Drive, San Diego 92111
Sansum Clinic Research Foundation, 2219 Bath Street, Santa Barbara 93102
Santa Barbara City College,[1] 721 Cliff Drive, Santa Barbara 93109
Scripps Clinic and Research Foundation, 476 Prospect Street, La Jolla 92037
Shell Development Co., P.O. Box 4248, Modesto 95353
Sonoma State Hospital, Eldridge 95431
Smith-Kline Instruments, Inc., 485 Potrero Avenue, Sunnyvale 94086
St. John's Hospital and Health Center, 1328–22nd Street, Santa Monica 90404
St. Joseph's Hospital, 355 Buena Vista Avenue, East, San Francisco 94117
St. Joseph Hospital Research Foundation,[1] Buena Vista at Alameda, Burbank 91503
St. Jude Hospital and Rehabilitation Center, 101 East Valencia Mesa Drive, Fullerton 92631
St. Mary's Hospital and Medical Center, 2200 Hayes Street, San Francisco 94117
Southern California College of Optometry, 2001 Associated Road, Fullerton 92681
Southern California Perm. Medical Group, 9985 Sierra Avenue, Fontana 92335
Southwestern College, 900 Otay Lakes Road, Chula Vista 92010
Standard Oil Company of California, 576 Standard Avenue, Room 5201, Richmond 94802
Stanford Research Institute, 333 Ravenswood Avenue, Menlo Park 94025

Footnote at end of document.

Stanford University, School of Medicine, Stanford 94305
Star-Kist Foods, Inc., 920 Barracuda Street, Terminal Island 90731
State of California Dept. of Public Health, 2151 Berkeley Way, Berkeley 94704
Summers, John E., 4100 Hollister Avenue, Carmichael 95608
Sutter Community Hospitals of Sacramento, 52nd and F Streets, Sacramento 95816
Sylvan Corners Veterinary Hospital, 7548 Old Auburn Boulevard, Citrus Heights 95610
Syntex Research, 3401 Hillview Avenue, Palo Alto 94304
Syva Company, 2349 Charleston Road, Mountain View 94040
Tera Pharmaceuticals, Inc., 6920 Stanton Avenue, Buena Park 90621
University of San Diego, San Diego 92110
University of San Francisco, San Francisco 94117
University of Southern California, University Park, Los Angeles 90007
University of the Pacific, 751 Brookside Road, Stockton 95207
Valley Childrens Hospital and Guidance Clinic, 3151 North Millbrook, Fresno 93703
Victor Valley College, Victorville 92892
Vitaminerals, Inc., 1815 Flower Street, Glendale 91201
White Memorial Medical Center, 1720 Brooklyn Avenue, Los Angeles 90033
Whittier College, Whittier 90608
Yuba College, Linda and Beale Roads, Marysville 95901

COLORADO

Arapahoe Community College, 5900 South Santa Fe Drive, Littleton 80120
Bel Rae Institute, 9870 East Alameda Avenue, Denver 80231
Children's Asthma Research Institute and Hospital, 3401 West 19th Avenue, Denver 80204
Children's Hospital, 1056 East 19th Avenue, Denver 80218
Cobe Laboratories, Inc., 1201 Oak Street, Lakewood 80215
Colorado College, Colorado Springs 80903
Colorado Mountain College, Glenwood Springs 81601
Colorado Serum Co., 4950 York Street, Denver 80216
Colorado State University, Fort Collins 80521
Community College of Denver, Auraria Campus, 1201 Acoma, Denver 80204
Community College of Denver, Red Rocks Campus, 1209 Quail Street, Lakewood 80215
Community College of Denver, 1001 East 62nd Avenue, Denver 80204
Cooper U.S.A. Inc., 5030 York Street, Lakewood 80215
Department of Health and Hospitals, West 8th Avenue and Cherokee Street, Denver 80204
Elars Bio Research Laboratory, 225 Commerce Drive, Fort Collins 80521
Fort Lewis College, Durango 81301
Meridian Bio-Medical, Inc., 3278 South Wadsworth, Denver 80227
Micromedic Diagnostics, Inc., 1800 East Lincoln, P.O. Box 464, Fort Collins 80521
National Jewish Hospital,[1] 3800 East Colfax Avenue, Denver 80206
Otero Junior College, 18th and Colorado Avenue, La Junta 81050
Penrose Hospital, 2215 North Cascade Avenue, Colorado Springs 80903
Regis College, West 50th and Lowell Boulevard, Denver 80221
Saint Joseph Hospital, 1835 Franklin Street, Denver 80218
University of Colorado, Boulder 80302
University of Northern Colorado, Greeley 80631
Western State College of Colorado, Gunnison 81230

Footnote at end of document.

CONNECTICUT

Bio-Medical Research, Inc., 858 Oakwood Road, Orange 06477
Center For Laboratory Animal Care, Farmington 06032
Connecticut College, New Loundown 06320
Connecticut State Dept. of Health, P.O. Box 1869, Hartford 06101
Fairfield University, Fairfield 06430
Hamilton Standard,[1] Division of United Aircraft Corporation, Windsor Locks 06096
Hartford Hospital, 80 Seymour Street, Hartford 06115
Hospital of St. Raphael, 1450 Chapel Street, New Haven 06511
John B. Pierce Foundation of Connecticut, Inc., 290 Congress Avenue, New Haven 06519
New England Institute, Inc., 90 Grove Street, Ridgefield 06877
Quinnipiac College, 555 New Road, Hamden 06518
Ribicoff Research Center, Norwich Hospital, Box 508, Norwich 06360
St. Francis Hospital, 114 Woodland Street, Hartford 06105
St. Mary's Hospital, 56 Franklin Street, Waterbury 06702
University of Connecticut, Storrs 06268
University of Hartford, 200 Bloomfield Avenue, West Hartford 06117
Yale University, School of Medicine, 333 Cedar Street, New Haven 06510

DELAWARE

Alfred I. DuPont Institute, Rockland Road, Wilmington 19899
DuPont Experimental Station, Building 328, Room B-33, Wilmington 19898
E. I. DuPont De Nemours and Company, P.O. Box 30, Newark 19711
Hercules, Inc., Hercules Agricultural Chemicals Laboratory, Wilmington 19899
ICI America, Inc., Concord Pike and New Murphy Road, Wilmington 19899
Sterwin Laboratories, Inc.,[1] Dupont Highway, Millsboro 19966
University of Delaware, Newark 19711
Wilmington Medical Center, Inc.,[1] 14th and Washington Street, Wilmington 19899

DISTRICT OF COLUMBIA

American University, Massachusetts and Nebraska Avenues, NW., Washington 20016
Children's Hospital of the District of Columbia, 2125 13th Street, NW., Washington 20009
Georgetown University, Animal Care Facility, 3900 Reservoir Road, NW., Washington 20007
George Washington University, Washington 20006
Jackson Laboratories, Inc., 2612 28th Street, NE., P.O. Box 10238, Washington 20018.
National Canners Association, 1133 20th Street, NW., Washington 20036
Washington Hospital Center, George Hyman Memorial Research Building, 110 Irving Street, NW., Washington 20010

FLORIDA

Barry Laboratories, Inc., 461 Northeast 27th Street, Pompano Beach 33064
Bigger's Small Animal Hospital,[1] 2833 South 4th Street, Fort Pierce 33450
Cape Laboratories Corporation,[1] Box B1, Venice 33595
Cordis Corporation, P.O. Box 370428, Miami 33137
Dade Division American Hospital Supply Corporation, P.O. Box 520672, Miami 33152
Dawson Research Corporation, 114 West Grant Avenue, Orlando 32806
Eckerd College, St. Petersburg 33733
Entomological Research Center, P.O. 520, Vero Beach 32960
FHW Toxicology and Biology Laboratories, 160 Concord Drive, Casselbury 32707
Florida A & M University, Tallahassee 32307
Florida Institute of Technology, Box 1150, Country Club Road, Melbourne 32901
Florida Injured Wildlife Sanctuary, Inc., Box 260, Route 1, Melbourne 32935
Florida State University, Tallahassee 32306
Florida Technological University, P.O. Box 25000, Alafaya Trail, Orlando 32816
Howard Hughes Medical Institute, P.O. Box 520605, Biscayne Annex, Miami 33152
Jackson Veterinary Practice, Route 5, Box 9, St. Augustine 32084
Mannheimer Primatalogical Foundation, 20255 Southwest 360th Street, Homestead 33030
Merieux Institute, Inc., 15960 NW. 15th Avenue, Miami 33169
Miami Heart Institute, Adams Research Building, 4701 North Meridian Avenue, Miami Beach 33140
Mount Sinai Hospital, 4300 Alton Road, Miami Beach 33140
North American Biologicals, Inc., 16500 NW. 15 Avenue, Miami 33169
Papanicolaou Cancer Research Institute, 1155 Northwest 14th Street, P.O. Box 236188, Miami 33123
Rollins College, Winter Park 32789
St. Petersburg Junior College, P.O. Box 13489, St. Petersburg 33733
Sanders Medical Research Foundation, Inc., 33 SE. 3d Street, Boca Raton 33432
Sherwood Medical Industries, Inc., P.O. Box 2078, Deland 32720
State of Florida, 4000 West Buffalo Avenue, Tampa 33614
Sunland Hospital,[1] P.O. Box 3513, Orlando 32802
University of Florida, Office of the President, Gainesville 32601.
University of South Florida, 801 First Street South, St. Petersburg 33733
University of Miami, Coral Gables 33124

GEORGIA

Emory University, Atlanta 30322
Georgia College,[1] Milledgeville 31061
Georgia Institute of Technology, Atlanta 30332
Georgia State University, University Plaza, Atlanta 30303
Maag Enterprises, Inc., 1805 Tapawingo Drive, Gainesville 30501
Mercer University, System, Macon 31207
Palmer Chemical and Equipment Co., Inc., P.O. Box 867, Douglasville 30134
Piedmont Hospital,[1] Ferst Research Center, 1968 Peachtree Road, NW., Atlanta 30309
St. Joseph's Infirmary, 265 Ivy Street, NE., Atlanta 30303
University of Georgia System, Athens 30601

HAWAII

Hawaii Department of Agriculture, 1428 South King Street, Honolulu 96814
Kuakini Hospital and Home, 347 North Kuakini Street, Honolulu 96817
Kuakini Medical Research Institute, 347 North Kuakini Street, Honolulu 96817
Queen's Medical Center, P.O. Box 861, Honolulu 96808
Research Corporation of the University of Hawaii, 1110 University Avenue, Honolulu 96817
St. Francis Hospital Research Laboratories, 2260 Liilka Street, Honolulu 96817
University of Hawaii, Honolulu 96813

IDAHO

Idaho State University, Pocatello 83201
Long, Clinton D., 101 North Garden Street, Boise 83704
Northwest Nazarene College, Nampa 83651
University of Idaho, Moscow 83843

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ILLINOIS

Abbott Laboratories, 1400 Sheridan Road, North Chicago 60064
American Dental Association, 211 East Chicago Avenue, Chicago 60611
American Medical Association,[1] 535 North Dearborn Street, Chicago 60610
Armour Pharmaceutical Company, P.O. Box 511, Kankakee 60901
Amar-Stone Laboratories, Inc., 601 East Kensington Road, Mount Prospect 60056
Biolabs, Inc., 2910 MacArthur Boulevard, Northbrook 60062
Blackburn College, Carlinville 62626
Borden Incorporated, RR 1, Elgin 60120
Bradley University, Peoria 61606
Chicago Board of Health,[1] Chicago Civic Center, Chicago 60602
Chicago College of Osteopathy, 1122 East 53rd Street, Chicago 60615
Chicago Institute for Animal Research,[1] 4701 West Grand Avenue, Chicago 60639
Chicago Medical School, 710 South Wolcott Avenue, Chicago 60612
Children's Memorial Hospital, 2300 Children's Plaza, Chicago 60614
College of DuPage, 22 and Lambert Road, Glen Ellyn 60137
Cook County Graduate School of Medicine, 707 South Wood Street, Chicago 60612
Department of Mental Health, 160 North LaSalle Street, Chicago 60601
DePaul University, 1036 West Belden Avenue, Chicago 60614
Dyrkacz, Stanley dba Herpetology Research Laboratory, 5215 West Route 120, McHenry 60050
Edgewater Hospital, 5700 North Ashland, Chicago 60626
Elmhurst College, Elmhurst 60126
Eureka College, 300 East College, Eureka 61530
Evanston Hospital, 2650 Ridge Avenue, Evanston 60201
Galesburg State Research Hospital, Galesburg 61401
General Foods Corporation, c/o Gaines Research Kennels, R.R. 3, St. Anne 60964
George Williams College, 555 31st Street, Downers Grove 60515
John A. Hartford Foundation, Lutheran General Hospital, 1775 Dempster, Park Ridge 60068
Hekotoen Institute for Medical Research of the Cook County Hospital, 627 South Wood Street, Chicago 60612
IIT Research Institute, 10 West 35th Street, Chicago 60616
Illinois Benedictine College, Lisle 60532
Illinois Department of Public Health, 535 West Jefferson Street, Springfield 62706
Illinois Institute of Technology, 3300 South Federal Street, Chicago 60616
Illinois State University, Normal 61761
Illinois Wesleyan University, Bloomington 61701
Industrial Bio-Test Laboratories, Inc., 1810 Frontage Road, Northbrook 60062
International Scientific Industries, Inc., P.O. Box 9, Cary 60013
Interscience Research Institute,[1] P.O. Box 2580, Station A. Champaign 61824
Kendall Research Center, 411 Lake Zurich Road, Barrington 60010
Knox College, Galesburg 61401
Krafico Corporation, 801 Waukegan Road, Glenview 60025
La Rabida University of Chicago Institute, East 65th Street at Lake Michigan, Chicago 60649
Lake Forest College, Lake Forest 60045
Lifestream Laboratory, Inc.,[1] P.O. Box 524, Libertyville 60048
Loke-Erickson Laboratory, Inc., 112 North Tenth Avenue, Melrose Park 60160
Loyola University, Stritch School of Medicine, 1400 South First Avenue, Hines 60141

Footnote at end of document.

Medi-Physics, Inc., 9620 Bryn Mawr, Rosemont 60018
Memorial Hospital, 4501 North Park Drive, Belleville 62221
Mercy Hospital and Medical Center, Stevenson Expressway at King Drive, Chicago 60616
Michael Reese Hospital and Medical Center, 29 and Ellis, Chicago 60616
Mount Sinai Hospital Medical Center, California Avenue at 15th Street, Chicago 60608
Nelson M. Percy Medical Research Foundation, Augustana Hospital, 411 West Dickens, Chicago 60612
Northeastern Illinois University, Bryn Mawr at St. Louis, Chicago 60625
Northern Illinois University, De Kalb 60115
Northwestern University, Administration Building, Room 115, 619 Clark Street, Evanston 60201.
Peoria Municipal TB Sanitarium, P.O. Box 60, Peoria 61601
Presbyterian-St. Luke's Hospital, 1753 West Congress Parkway, Chicago 60612
Quaker Oats Company, 617 West Main Street, Barrington 60010
Quincy College, Quincy 62301
Rosner-Hixson Laboratories, 3570 North Avondale Avenue, Chicago 60618
Saint Francis Hospital, 530 NE. Glen Oak Avenue, Peoria 61603
Saint Francis Hospital, 355 Ridge Avenue, Evanston 60202
Saint James Hospital, 1423 Chicago Road, Chicago Heights 60411
Saint John's Hospital Research Laboratories, 1111 North Lincoln Street, Springfield 62707
Sangamon State University, Springfield 62703
Searle, G. D. and Company, Box 5110, Chicago 60680
Sherman Hospital, 934 Center Street, Elgin 60120
Sleepy Hollow Kennel and Cattery, Route 2, Box 73, Mundelein 60060
Southern Illinois University, Carbondale 62901
Southern Illinois University, Edwardsville 62025
Staley, A. E., Manufacturing Co., Inc., P.O. Box 151, Decatur 62525
Suburban Cook County TB Sanitarium District, 55th and County Line Road, Hinsdale 60521
Timberwood Game Research Center, Route 1, Kankakee 60901
Travenol Laboratories, Inc., 6301 Lincoln Avenue, Morton Grove 60053
University of Chicago, 950 East 59th Street, Chicago 60637
University of Chicago, 9700 South Cass Avenue, Argonne 60439
University of Illinois at Chicago Circle, 2833 University Hall, Chicago 60680
University of Illinois at the Medical Center, 833 South Wood Street, Chicago 60612
University of Illinois, Urbana 61801
Western Illinois University, Macomb 61455
West Laboratories, P.O. Box 666, St. Anne 60964
Wheaton College, Wheaton 60187
Wideman, Frederick E.,[1] 1520 7th Street, Suite 404, Moline 61265
Wilson and Company, Inc.,[1] 4200 South Marshfield Avenue, Chicago 60609
Wilson Laboratories, 4221 South Western Boulevard, Chicago 60609

INDIANA

American Monitor, Inc., 5425 West 84th Street, Indianapolis 46268
Ball State University, Muncie 47306
Botta, Jr., Dr. James A., P.O. Box 333, Mt. Vernon 47620
Butler University, 4600 Sunset, Indianapolis 46208
Central Soya Company, Inc., Decatur 46733
Earlham College,[1] Richmond 47374
Eli Lilly and Company, 740 South Alabama, Indianapolis 46206
Fort Wayne Surgical Associates, Inc., 3124 East State Boulevard, Fort Wayne 46805
Haley, George M., Inc.,[1] 220 Sherland Building, South Bend 46601
Indiana State University, Terre Haute 47809
Indiana University, Bloomington 47401
Mead Johnson & Company dba Mead Johnson Research Center, 2404 Pennsylvania Avenue, Evansville 47721
Methodist Hospital of Indiana, Inc.,[1] 1604 North Capitol Avenue, Indianapolis 46202
Michigan Road Animal Hospital, 7720 North Michigan Road, Indianapolis 46268
Miles Laboratories, Inc., Elkhart 46514
Purdue University, Lafayette 47907
Rose Polytechnic Institute, 5500 Wabash Avenue, Terre Haute 47803
St. Vincent Hospital, 2001 West 86th Street, Indianapolis 46268
University of Notre Dame, Notre Dame 46556
Valparaiso University, Valparaiso 46383
Wabash College, Crawfordsville 47933

IOWA

College of Osteopathic Medicine and Surgery, 3200 Grand Avenue, Des Moines 50312
Diamond Laboratories, Inc., P.O. Box 863, Des Moines 50304
Drake University, Des Moines 50311
Fort Dodge Laboratories, Inc., 800 Fifth Street Northwest, Fort Dodge 50501
Iowa Methodist Hospital, 1200 Pleasant Street, Des Moines 50308
Iowa State University, Ames 50010
Luther College, Decorah 52101
University of Iowa, Iowa City 52240

KANSAS

Bayvet Corp., P.O. Box 390, Shawnee Mission 66201
Douglas Pharmacal Industries, Inc., 8906 Rosehill Road, Lenexa 66215
Emporia Kansas State College, 12th and Commercial, Emporia 66801
Interx Research Corporation, 2201 West 21st Street, Lawrence 66044
Jensen-Salsbery Laboratories, 2000 South 11th Street, Kansas City 66103
Kansas State University, Manhattan 66502
Kruckenberg, S. M., 2851 Oregon Lane, Manhattan 66502
Marymount College, Salina 67401
Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 193D, Stilwell 66085
National Laboratories Corp., 12300 Santa Fe Drive, Lenexa 66215
Parsons State Hospital and Training Center, Parsons 67357
University of Kansas, Lawrence 66044
University of Kansas Medical Center and School of Medicine, Rainbow Boulevard, at 39th Street, Kansas City 66103
Wichita State University, 1845 Fairmont, Wichita 67208

KENTUCKY

Harlan Appalachian Regional Hospital, Harlan 40831
University of Louisville School of Medicine, 101 West Chestnut, Louisville 40202
University of Kentucky, Lexington 40506

LOUISIANA

Alton Ochsner Medical Foundation, 1520 Jefferson Highway, New Orleans 70121
Gulf South Research Institute, P.O. Box 1177, New Iberia 70560
Louisiana State University System, Baton Rouge 70803
Louisiana Tech University, Ruston 71270
Loyola School of Dentistry,[1] 6363 St. Charles Avenue, New Orleans 70118
Nicholls State University, Box 3031, University Station, Thibodaux 70301
Northeast Louisiana University, 4001 De Siard, Monroe 71201

Northwestern State University of Louisiana, Natchitoches 71457
Touro Research Institute, 1400 Foucher Street, New Orleans 70115
Tulane University, New Orleans 70118
University of New Orleans, New Orleans 70122
University of Southwestern Louisiana, USL Station, Lafayette 70501
Xavier University, New Orleans 70125

MAINE

Bates College, Lewiston 04240
The Jackson Laboratory, Bar Harbor 04609
Maine Medical Center, 22 Branhall Street, Portland 04102
Nasson College, Springvale 04083
President and Trustees of Bowdoin College, Brunswick 04011
University of Maine, Orono 04473
University of Maine, 246 Deering Avenue, Portland 04102
Westbrook College, 716 Stevens Avenue, Portland 04103

MARYLAND

American Red Cross, 9312 Old Georgetown Road, Bethesda 20014
American Type Culture Collection, 12301 Parklawn Drive, Rockville 20852
Biotech Research Laboratories, Inc., 12601 Twinbrook Parkway, Rockville 20852
Burton, Parson, and Company, Inc., 120 Westhampton Avenue, Seat Pleasant 20027
Coppin State College, Baltimore 21216
Flow Laboratories, Inc., 12601 Twinbrook Parkway, Rockville 20852
Enviro Control, Inc., 11300 Rockville Pike, Rockville 20852
Friends Medical Science Research Center, Inc., 52 Wade Avenue, Baltimore 21228
Gillette Company Research Institute, 1413 Research Boulevard, Rockville 20850
Harford Community College, 401 Thomas Run Road, Bel Air 21014
Hittman Associates, Inc.,[1] P.O. Box 810, Columbia 21043
Hynson, Westcott, and Dunning Inc., Charles and Chase Street, Baltimore 21201
Johns Hopkins University, 34th and Charles Street, Baltimore 21218
Litton Bionetics, Inc., 5516 Nicholson Lane, Kensington 20795
Maryland Psychiatric Research Center, P.O. Box 3235, Baltimore 21228
Mercy Hospital, Inc.,[1] 301 St. Paul Place, Baltimore 21201
Microbiological Associates, Inc., 4733 Bethesda Avenue, Bethesda 20014
Peninsula General Hospital,[1] South Division and West Locust Streets, Salisbury 21801
Pharmacopathics Research Laboratories, Inc., 1261 North Washington Boulevard, Laurel 20810
Sacred Heart Hospital,[1] 900 Seton Drive, Cumberland 21502
Saint Joseph Hospital, 7620 York Road, Baltimore 21204
Sinai Hospital of Baltimore, Inc., Belvedere and Greenspring Avenues, Baltimore 21215
Towson State College, Baltimore 21204
University of Maryland, College Park 20742

MASSACHUSETTS

Astra Pharmaceutical Products, Inc., 7½ Neponset Street, Worcester 01606
Avco Everett Research Foundation, 2385 Revere Beach Parkway, Everett 02149
Berkshire Community College,[1] Second Street, Pittsfield 01201
Beth Israel Hospital, 330 Brookline Avenue, Boston 02215
Bio-Research Institute, Inc., 9 Commercial Avenue, Cambridge 02141
Boston City Hospital, 818 Harrison Avenue, Boston 02118
Boston College, 140 Commonwealth Avenue, Chestnut Hill 02167

Footnote at end of document.

Boston State Hospital, 591 Morton Street, Boston 02124
Boston University, 705 Commonwealth Avenue, Boston 02215
Brandeis University, Waltham 02154
Cambridge Nuclear Radiopharmaceutical Corp., 575 Middlesex Turnpike, Billerica 01821
Children's Cancer Research Foundation, 35 Binney Street, Boston 02115
Children's Hospital Medical Center, 300 Longwood Avenue, Boston 02115
Clark University, 950 Main Street, Worcester 01610
Forsyth Dental Center, 140 The Fenway, Boston 02115
GTE Laboratories, Inc., 40 Sylvan Road, Waltham 02154
Harvard Medical School, 818 Harvision Avenue, Boston 02118
Harvard University, Cambridge 02139
Holyoke Community, 303 Homestead Avenue, Holyoke 01040
Joslin Diabetes Foundation, Inc., 170 Pilgrim Road, Boston 02215
Lahey Clinic Foundation, 605 Commonwealth Avenue, Boston 02215
Leicester Junior College, 1003 Main Street, Leicester 01524
Lemuel Shattuck Hospital, 170 Morton Street, Jamaica Plain 02130
Little, Arthur D., Inc., 25 Acorn Park, Cambridge 02140
Mason Research Institute, Inc., 21 Harvard Street, Worcester 01608
Massachusetts College of Pharmacy, 179 Longwood Avenue, Boston 02115
Massachusetts Department of Public Health, 375 South Street, Jamaica Plain 02130
Massachusetts Eye and Ear Infirmary, 243 Charles Street, Boston 02114
Massachusetts General Hospital, Boston 02114
Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge 02139
Medical Center of Western Massachusetts,[1] 759 Chestnut Street, Springfield 01107
Millipore Corporation, Ashby Road, Bedford 01730
Mount Holyoke College, South Hadley 01075
New England Deaconess Hospital, 185 Pilgrim Road, Boston 02215
New England Medical Center Hospitals, 171 Harrison Avenue, Boston 02111
Newton-Wellesley Hospital, 2014 Washington Street, Newton Lower Falls 02162
Northeastern University, 360 Huntington Avenue, Boston 02115
Peter Bent Brigham Hospital, 721 Huntington Avenue, Boston 02115
Pondville Hospital, Box 111, Walpole 02081
Retina Foundation,[1] 20 Staniford Street, Boston 02114
Robert B. Brigham Hospital, 125 Parker Hill Avenue, Boston 02109
St. Elizabeth's Hospital, 736 Cambridge Street, Brighton 02135
St. Margaret's Hospital For Women, 90 Cushing Avenue, Dorchester 02125
St. Vincent Hospital, 25 Winthrop Street, Worcester 01610
Sharp Associates, 767-B Concord Avenue, Cambridge 02138
Shriners Burns Institute, 50 Blossom Street, Boston 02114
Smith College, Northampton 01060
Stonehill College, North Easton 02356
Thermo Electron Corporation, 85 First Avenue, Waltham 02154
Trustees of Hampshire College, Amherst 01002
Tufts University, Medford 02155
University of Massachusetts, Amherst 01002
Westfield State College,[1] Westfield 01085
Whittaker, Inc., Waltham 02154
Williams College, Williamstown 01267
Worcester Foundation for Experimental Biology, 222 Maple Avenue, Shrewsbury 01545
Worcester Polytechnic Institute, Worcester 01609

MICHIGAN

Albion College, Albion 49224
Battle Creek Research, 3203 West Columbia, Battle Creek 49017
Blodget Memorial Hospital, 1840 Wealth, SE, Grand Rapids 49506
Butterworth Hospital, 100 Michigan, NE, Grand Rapids 49503
Central Michigan University, Mt. Pleasant 48858
Children's Hospital of Michigan, 3901 Beaubien, Detroit 48201
Delta College, University Center, E. Sta., Bay City 48710
Department of Public Health, Bureau of Laboratories,[1] 3500 North Logan, Lansing 48914
Detroit-Macomb Hospital Association, Detroit Memorial Hospital, 1420 St. Antoine Street, Detroit 48226
Dow Chemical Company, Midland 48640
Dow-Corning Corporation, South Saginaw Road, Midland 48640
Elyria Memorial Hospital, 620 East River Street, Elyria 44035
Ferris State College, Big Rapids 49307
Flint Osteopathic Hospital,[1] 3921 Beecher Road, Flint 48502
Foundation For Behavioral Research, Box 248, 600 Cherry Street, Augusta 49012
Fryfogle, W. D. Medical Research Laboratory,[1] Southfield 48075
General Motors Research Laboratories, 12 Mile and Mound Roads, Warren 40906
Grand Valley State College, College Landing, Allendale 49401
Henry Ford Hospital and Edsel B. Ford Institute for Medical Research, 2799 West Grand Boulevard, Detroit 48202
Hope College, Holland 49423
Hutzel Hospital, 432 East Hanock, Detroit 48201
Ingham Medical Hospital, 401 West Greenlawn, Lansing 48910
International Research and Development Corporation, 900 Main Street, Mattawan 49071
Kalamazoo State Hospital,[1] Kalamazoo 49001
Laboratory Research Enterprises, Inc., 6251 South 6th Street, Kalamazoo 49001
Lafayette Clinic, 951 East Lafayette, Detroit 48207
Lake Superior State College, Sault Ste. Marie 49783
Marquette General North Hospital, Marquette 49855
McLaren General Hospital, 401 South Ballenger Highway, Flint 48502
Michigan Cancer Foundation, 110 East Warren Avenue, Detroit 48201
Michigan Department of Public Health, Bureau of Laboratories,[1] 3500 North Logan, Lansing 48914
Michigan State University, East Lansing 48823
Michigan Technological University, Houghton 49931
Mott, C. S. Community College, 1401 East Court Street, Flint 48503
Mount Carmel Mercy Hospital, 6071 West Outer Drive, Detroit 48235
Northern Michigan University,[1] Marquette 49855
Oakland University, Rochester 48063
Parke, Davis and Company, G.P.O. Box 118, Detroit 48232
Pontiac Medical Science Laboratories, Inc., 140 Elizabeth Lake Road, Pontiac 48053
Providence Hospital, 16001 Nine Mile Road, Southfield 48075
Ramsey, John Residence, Bay City 48706

V 42 40 MAR 1 77 UMI

Riverside Osteopathic Hospital,[1] 150 Truax Street, Trenton 48183
Sinai Hospital of Detroit, 6767 West Outer Drive, Detroit 48235
Space Defense Corporation,[1] 1600 North Woodward, Birmingham 48011
Upjohn Company, 301 Henrietta Street, Kalamazoo 49001
University of Detroit, 4001 West McNichols Road, Detroit 48221
University of Michigan, Ann Arbor 48104
Wayne County General Hospital, Eloise 48132
Wayne State University, Detroit 48202
Western Michigan University, Kalamazoo 49001
William Beaumont Hospital, 3601 West 13 Mile Road, Royal Oak 48073

MINNESOTA

Applied Cardiopulmonary Research Foundation, 2545 Chicago Avenue, Suite 111, Minneapolis 55404
Austin Community College, 1600 8th Avenue, NW., Austin 55912
Bio-Medicus, Inc., 15307 Minnetonka Industrial Road, Minnetonka 55343
Cargill, Inc., Cargill Building, 110 South 7th Street, Minneapolis 55402
Kallestad Laboratories, Inc., 1000 Lake Hazeltime Drive, Chaska 55318
Life Sciences Foundation, Glenwood Hills Hospital, 4101 Golden Valley Road, Minneapolis 55422
Mankato State University, Mankato 56001
Mayo Foundation, 200 First Street, SW., Rochester 55901
Medtronic, Inc., 3055 Old Highway Eight, Minneapolis 55418
Minneapolis Medical Research Foundation, Inc., Hennepin County General Hospital, 619 South 5th Street, Minneapolis 55415
Minnesota Mining and Manufacturing Co., 2301 Hudson Road, St. Paul 55101
Mount Sinai Hospital, Jay Phillips Research Laboratory,[1] 737 22nd Street, Minneapolis 55404
North Star,[1] Division of Midwest Research, 3100 38th Avenue South, Minneapolis 55406
Northwestern Hospital, 810 East 27th Street, Minneapolis 55407
Saint John's University, Collegeville 56321
Saint Luke's Hospital, Duluth 55805
Saint Mary's Hospital, 2414 South 7th Street, Minneapolis 55406
Saint Paul-Ramsey Hospital, 640 Jackson Street, St. Paul 55101
Southwest Minnesota State College, Marshall 56258
University of Minnesota, Minneapolis 55455

MISSISSIPPI

Mississippi State University, Drawer G, State College 39762
University of Mississippi, Office of the Chancellor, University 38677

MISSOURI

Deaconess Hospital, 6150 Oakland Avenue, St. Louis 63139
Institute of Medical Education and Research, 1605 South 14th Street, St. Louis 63104
Jewish Hospital of St. Louis, 216 South Kingshighway Boulevard, St. Louis 63110
Kansas City College of Osteopathic Medicine, 2105 Independence Boulevard, Kansas City 64124
Kirksville College of Osteopathy and Surgery, Kirksville 63501
Laboratory For Experimental Biology, Inc., Creve Coeur 63141
Mallinckrodt Chemical Works, 2nd and Mallinckrodt Streets, St. Louis 63160
Maple Woods Community College, 2601 NE. Barry Road, Kansas City 64156
Marion Laboratories, Inc., 10236 Bunker Ridge Road, Kansas City 64137
Midwest Research Institute, 425 Volker Boulevard, Kansas City 64114

Footnote at end of document.

Missouri Analytical Laboratories, Inc., St. Louis 63105
Phillips Roxane, Inc., 2621 North Belt Highway, St. Joseph 64502
Ralston Purina Company, 835 South 8th Street, St. Louis 63199
Saint John's Mercy Hospital, 621 South New Ballas Road, St. Louis 63141
Saint Louis University, 1402 South Grand Avenue, St. Louis 63104
Saint Mary's Hospital, 101 Memorial Drive, Kansas City 64108
Scientific Associates, Inc., 6200 South Lindberg, St. Louis 63123
Sigma International, LTD., 3500 DeKalb Street, St. Louis 63118
Washington University, Lindell and Skinker Boulevards, St. Louis 63130
William Jewell College, Liberty 64068
Younger Laboratories, Inc., 123 Cliff Cave Road, St. Louis 62129

MONTANA

Montana State University, Bozeman 59715
University of Montana, Missoula 59801

NEBRASKA

Creighton University, 657 North 27th Street, Omaha 68131
Dellen, Inc., 8445 Lake Street, Omaha 68134
Harris Laboratories, Inc., 624 Peach Street, P.O. Box 427, Lincoln 68501
University of Nebraska, 3835 Holdrege, Lincoln 68503
Wren Veterinary Pathology Service, 5935 South 77, Ralston 68127

NEVADA

University of Nevada, Reno 89507

NEW HAMPSHIRE

Keene State College, Keene 03431
Notre Dame College, 2321 Elm Street, Manchester 03104
University of New Hampshire, Spaulding Building, Durham 03824
Trustees of Dartmouth College, P.O. Box 432, Hanover 03755

NEW JERSEY

Affiliated Medical Biological Research, Inc., P.O. Box 5700, Princeton 08540
Becton, Dickinson and Company, Rutherford 07070
Bio Dynamics, Inc., P.O. Box 43, East Millstone 08873
Biometric Testing, Inc., 375 Sylvan Avenue, Englewood Cliffs 07632
Bio-Safety Research Laboratory, Milk and Broad Streets, Branchville 07826
Bio-Toxicology Laboratories, Inc., P.O. Box 267, Creek and Cox Roads, Moorestown 08057
Bristol-Meyers Products, 225 Long Avenue, Hillside 07205
Campbell Soup Company, 375 Memorial Avenue, Camden 08101
Carter-Wallace, Inc., Half Acre Road, Cranbury 08512
CIBA Pharmaceutical Company, 556 Morris Avenue, Summit 07901
Clinical Sciences, Inc., 30 Troy Road, Whippany 07981
Colgate-Palmolive Company, 909 River Road, Piscataway 08854
College of Medicine and Dentistry of New Jersey, P.O. Box 101, Piscataway 08854
Consumer Product Testing Company, Inc., 1275 Bloomfield Avenue, Building No. 2-15B, Fairfield 07006
Cooper Laboratories, Inc., 110 East Hanover Avenue, Cedar Knolls 07927
Cyanamid Foundation For Agricultural Development, P.O. Box 400, Princeton 08540
Ethicon Research Foundation, U.S. Highway 22, Somerville 08876
Fairleigh Dickinson University, 1000 River Road, Teaneck 07666
Food & Drug Research Laboratory, Inc., 60 Evergreen Place, East Orange 07018
Hackensack Hospital, Hackensack 07601
Hazelton/Prime Laboratories, Inc., P.O. Box 646, Farmington 07727
Hoechst-Roussel Pharmaceutical, Inc., Route 202-206, North, Somerville 08876
Hoffman Laboratories, Inc., 17-50 River Road, Fairlawn 07410
Hoffman-LaRoche, Inc., 340 Kingsland Street, Nutley 07110
Institute For Medical Research, Copewood Street, Camden 08103
Johnson and Johnson Research Foundation, Route 1, New Brunswick 08903
Leberco Laboratories, 123 Hawthorne Street, Roselle Park 07204
Manziano, Dr. Clarence F., 609 West Side Avenue, Jersey City 07304
McGee Laboratories, Inc., 3651 Hill Road, Parsippany 07054
Medi-Physics, Inc., 900 Durham Avenue, South Plainfield 07080
Merck & Co., Inc., 126 East Lincoln Avenue, Rahway 07065
Monmouth Medical Center, 3rd and Pavilion Avenue, Long Branch 07740
Newark Beth Israel Hospital, 201 Lyons Avenue, Newark 07112
New Jersey College of Medicine and Dentistry, 24 Baldwin Avenue, Jersey City 07304
New Jersey Department of Health, Division of Laboratories, Box 1540, Trenton 08625
Organon, Inc., 375 Mt. Pleasant Avenue, West Orange 07052
Ortho Diagnostics, Inc., Route 202, Raritan 08869
Ortho Research Institute, U.S. Highway 202, Raritan 08869
Passaic General Hospital, 350 Boulevard, Passaic 07055
Path-O-Tex, Box 6, Wenonah 08090
Pfizer & Co., Chas., 199 Maywood Avenue, Maywood 07607
Pitman-Moore, Inc., P.O. Box 344, Washington Crossing 08560
Price Research Laboratory, Inc.,[1] 7300 North Crescent Boulevard, Pennsauken 08110
Princeton Laboratory Products Co., 1 Cherry Hill Road, Princeton, 08540
Redevan Laboratories, Inc., 100 Clark Street, Keyport 07735
Reed and Carnrick, 30 Boright Avenue, Kenilworth 07033
Rutgers, The State University of New Jersey, New Brunswick 08903
St. Barnabas Medical Center, Old Short Hills Road, Livingston 07039
St. Michael's Hospital,[1] 306 High Street, Newark 07102
Sandoz Pharmaceuticals, Hanover 07936
Schering Corporation, 60 Orange Street, Bloomfield 07003
Seton Hall University, South Orange 07079
Snell, Foster D., Inc., 800 Dowd Avenue, Elizabeth 07206
South Mountain Life Sciences, 1102 Industrial Parkway, Bricktown 08723
South Mountain Life Sciences Laboratories, Fischer Boulevard and Thistle Street, Toms River 08753
Squibb & Sons, Inc. E. R., 745 Fifth Avenue, New York 10022
Sylvana Company, Inc., 22 East Willow Street, Millburn 07041
Trustees of Princeton University, New South Building, Princeton 08540
University Laboratories, Inc., 810 North Second Avenue, Highland Park 08904
U.S. Testing Company, Inc., 1415 Park Avenue, Hoboken 07070
Vineland Laboratories, Inc., Vineland 08360
Warner-Lambert Research Institute, 170 Tabor Road, Morris Plains 07950
Wells Laboratories, Inc., 25-27 Lewis Avenue, Jersey City 07306

William Paterson College, 300 Pompton Road, Wayne 07470

NEW MEXICO

Los Alamos Scientific Laboratory, P.O. Box 1663, Los Alamos 87544
Lovelace Foundation For Medical Education and Research, 5200 Gibson Boulevard, S.E., Albuquerque 87108
New Mexico Institute of Mining and Technology, Socorro 87801
University of New Mexico, Albuquerque 87106

NEW YORK

Agway Research Laboratory, 777 Warren Road, Ithaca 14850
Albany College of Pharmacy, 106 New Scotland Avenue, Albany 12203
Albany Medical College, 47 New Scotland Avenue, Albany 12208
Alfred University, Alfred 14802
American Cyanamid Company, North Middletown Road, Pearl River, 10965
American Museum of Natural History, Central Avenue West at 79th Street, New York 10024
American Standards Testing Bureau, Inc., 40 Water Street, New York 10004
Animal Medical Center, 510 East 62nd Street, New York 10021
Arnot-Ogden Memorial Hospital, Roe Avenue, Elmira 14901
Associated Universities, Inc., Upton, Long Island 11973
Avon Products, Inc., 9 West 57th Street, New York 10019
Aversj Research Laboratories, Chazy 12921
Beth Israel Medical Center, 10 Nathan D. Perlman Place, New York 10003
Booth Memorial Hospital, Main Street at Booth Memorial Avenue, Flushing 11355
Bristol Laboratories, P.O. Box 657, Syracuse 13201
Bronx-Lebanon Hospital Center, 1276 Fulton Avenue, Bronx 10456
Brookdale Hospital Center, Brookdale Plaza, Brooklyn 11212
Brooklyn College of Pharmacy, 600 Lafayette Avenue, Brooklyn 11216
Brooklyn Hospital, 121 DeKalb Avenue, Brooklyn 11201
Buffalo General Hospital, 100 High Street, Buffalo 14203
Bureau of Laboratories, City of New York, 455 First Avenue, New York City 10016
Canisius College, 2001 Main Street, Buffalo 14208
Carter-Wallace, Inc., 2 Park Avenue, New York 10016
Cattaraugus County Laboratory, 302 Laurene Street, Olean 14760
Children's Hospital of Buffalo, 219 Bryant Street, Buffalo 14222
Cold Spring Harbor Laboratory, Cold Spring Harbor, New York 11724
Colgate University, Hamilton 13346
Commercial Solvents Corporation, 245 Park Avenue, New York 10017
Cornell University, Ithaca 14850
Cornell University Medical College, 1300 York Avenue, New York 10021
Corning Glass Works, Corning 14830
D'Youville College, 320 Porter Avenue, Buffalo 14201
Eastman Kodak Company, Kodak Park, Rochester 14650
Elmira College, College Avenue, Elmira 14901
Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City 11533
Erie Community College, North Main Street and Youngs Road, Buffalo 14221
Geigy Chemical Corporation, Ardsley 10502
General Foods Corporation, 250 North Street, White Plains 10625
Genesee Hospital, 224 Alexander Street, Rochester 14607
Great Atlantic and Pacific Tea Company, Inc., 420 Lexington Avenue, New York 10017

Footnote at end of document.

Health Research, Inc., 84 Holland Avenue, Albany 12208
Hobart & William Smith Colleges, Geneva 14456
Hofstra University, Hampstead 11550
Hudson Valley Community College, 80 Vandenburgh Avenue, Troy 12180
Institute for Muscle Disease, Inc., 515 East 71st Street, New York 10021
Jamestown Community College, 525 Falconer Street, Jamestown 14701
Jewish Hospital and Medical Center of Brooklyn, 555 Prospect Place, Brooklyn 11238
Kingsbrook Jewish Medical Center, 86 East 49th Street, Brooklyn 11203
Lenox Hill Hospital, 100 East 77th Street, New York 10021
Long Island College Hospital, 340 Henry Street, Brooklyn 11201
Long Island Jewish Medical Center, 270-05 76th Avenue, New Hyde Park 11040
Long Island University, University Center, Brookville 11548
Maimonides Medical Center, 4802 Tenth Avenue, Brooklyn 11219
Manhattan Eye, Ear & Throat Hospital, 210 East 64th Street, New York 10021
Mary Imogene Bassett Hospital, Atwell Road, Cooperstown 13326
Masonic Medical Research Laboratory, Bleecker Street, Utica 13501
Medical Foundation of Buffalo, 73 High Street, Buffalo 14203
Mercy Hospital Association, L.G.H. Laboratory, 1000 North Village Avenue, Rockville Center 11570
Methodist Hospital of Brooklyn, 506 Sixth Street, Brooklyn 11215
Meyer, E. J. Memorial Hospital, 462 Grider Street, Buffalo 14215
Millard Fillmore Hospital, 3 Gates Circle, Buffalo 14209
Misericordia Hospital, 600 East 233rd Street, Bronx 10466
Montefiore Hospital and Medical Center, 111 East 210 Street, Bronx 10467
Mount Sinai Hospital, 100 Street and Fifth Avenue, New York 10029
NAOC Testing and Research Laboratory, 80 Hanson Place, Brooklyn 11217
N.Y.C. Health & Hospitals Corporation, 125 Worth Street, New York 10013
Nassau County Medical Center, Hempstead Turnpike, East Meadow 11554
Nassau Hospital, First Street, Mineola 11501
New York Blood Center of the Community Blood Council, 310 East 67th Street, New York City 10017
New York Medical College, Fifth Avenue at 106th Street, New York 10029
New York State Health Department, Division of Laboratories and Research, New Scotland Avenue, Albany 12201
New York State Department of Mental Hygiene, 44 Holland Avenue, Albany 12208
New York University, Washington Square, New York 10003
North Shore Hospital,[1] Valley Road, Manhasett, Long Island 11030
Norwich Pharmacal Company, P.O. Box 191, Norwich 13815
Pfizer, Inc., 235 East 42nd Street, New York 10017
Polytechnic Institute of Brooklyn, 333 Jay Street, Brooklyn 11201
Population Council, 245 Park Avenue, New York 10017
Public Health Research Institute of the City of New York, Inc., 455 First Avenue, New York City 10016
Queens Hospital Center, 82-68 164th Street, Jamaica 11432
Rensselaer Polytechnic Institute, Troy 12181
Research Foundation of the City University of New York, 1411 Broadway 10018
Research Institute for Steriodmuscular Diseases,[1] 1919 Madison Avenue, New York City 10035
Revlon Research Center, Inc., 945 Zerega Avenue, Bronx 10473
Richardson-Merrell, Inc., 122 East 42nd Street, New York 10017
Rochester General Hospital, 1425 Portland Avenue, Rochester 14621
Rochester Institute of Technology, 1 Lomb Memorial Drive, Rochester 14623
Rockefeller University, York Avenue at 66th Street, New York City 10021
Roosevelt Hospital, 428 West 59th Street, New York 10019
St. Barnabas Hospital, 183rd Street and Third Street, Bronx 10457
St. Bonaventure University, St. Bonaventure 14778
St. Clare's Hospital,[1] 415 West 51st Street, New York 10019
St. John Fisher College, 3690 East Avenue, Rochester 14618
St. John's University, Grand Central and Utopia Parkway, Jamaica 11432
St. Joseph's Hospital, 301 Prospect Avenue Syracuse 13203
St. Lawrence University, Canton 13617
St. Luke's Hospital Center, Amsterdam Avenue at West 114th Street, New York 10025
St. Mary's Hospital, 89 Genesee Street, Rochester 14611
St. Vincent's Hospital and Medical Center of New York, 153 West 11th Street, New York 10011
Sisters of Charity Hospital, 2157 Main Street, Buffalo 14214
Skidmore College, Saratoga Springs 12866
Sloan-Kettering Institute for Cancer Research, 410 East 68th Street, New York 10021
South Shore Analytical & Research Laboratory, Inc., 148 Islip Avenue, Islip 11751
Standard Brands, Inc., 625 Madison Avenue New York 10022
State University of New York, Thurlow Terrace, Albany 12201
Syracuse University, 201 Marshall Street, Syracuse 13210
Sterling Drug, Inc., Columbia Turnpike, Rennsselaer 12144
Thompson, Boyce Institute for Plant Research, Inc., 1086 North Broadway, Yonkers 10701
Tissue Culture Association, Inc., P.O. Box 631, Lake Placid 12946
Trudeau Institute, Inc., Algonquin Avenue, Saranac Lake 12983
Trustees of Columbia University, Box 20, Lowe Memorial Library, New York 10027
University of Rochester, River Boulevard, Rochester 14627
USV Pharmaceutical Corp., 1 Scarsdale Road, Tuckahoe 10701
Waldemar Medical Research Foundation, Sunnyside Boulevard, Woodbury 11797
Westchester County Medical Center, Valhalla 10595
Westwood Pharmaceuticals, Inc., 468 Dewitt Street, Buffalo 14213
Wilson Memorial Hospital, Broome-D. Johnson City 13790
Wilson, Philip D. Research Foundation, 535 East 70 Street, New York 10021
Yeshiva University, 55 Fifth Avenue, New York 10003

NORTH CAROLINA

Appalachian State University, Boone 28608
Behavior Systems, Inc., 2008 Hillsboro Street, Raleigh 27607
Burroughs Wellcome Company, 3030 Cornwallis Road, Research Triangle Park 27709
Carnivore Evolutionary Research Institute, Route 3, Box 180, Pittsboro 27311
Duke University, Durham 27706
East Carolina University, Greenville 27834
Greer Laboratories, Inc., Box 800, Lenoir 28645
Lorillard Research Center, 420 English Street, Greensboro 27420

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North Carolina State University, Raleigh 27607
Research Triangle Institute, P.O Box 12194, Research Triangle Park 27709
University of North Carolina, Chapel Hill 27514
University of North Carolina at Charlotte, Charlotte 28205
University of North Carolina at Wilmington, 7205 Wrightsville Avenue, Wilmington 28401
Wake Forest University, Winston-Salem 27109

NORTH DAKOTA

Minot State College, Minot 58701
North Dakota State University, Fargo 58102
University of North Dakota, Grand Forks 58201

OHIO

Akron City Hospital, 525 East Market Street, Akron 44309
Akron General Medical Center, 400 Wabash Avenue, Akron 44307
Allergy Laboartories of Ohio, Inc., 623 East 11th Avenue, Columbus 43211
Baldwin-Wallace College, Berea 4407
Batelle Memorial Institute, 505 King Avenue, Columbus 43201
Ben Venue Laboratories, Inc., 270 Northfield Road, Bedford 44146
Bio/Toxicological Research Associates, 533 North Broadway Street, Spencerville 45887
Borden, Inc., 50 West Broad Street, Columbus 43215
Bowling Green State University, Bowling Green 43402
Capital University,[1] Columbus 43209
Case Western Reserve, University Circle, Cleveland 44106
Central State University, Wilberforce 45384
Children's Hospital of Akron, Buchtel Avenue at Bowery Street, Akron 44308
Children's Hospital Eland Avenue and Bethesda, Cincinnati 45229
Children's Hospital Research Foundation, 561 South 17th Street, Columbus 43205
Christ Hospital Institute of Medical Research, 2141 Auburn Avenue, Cincinnati 45219
Cincinnati Milacron, Inc., 4701 Marburg Avenue, Cincinnati 45209
Cleveland Clinic Foundation, 2020 East 93rd Street, Cleveland 44120
Cleveland State University, 1983 East 24th Street, Cleveland 44115
College of Wooster, Wooster 44691
Columbus Technical Institute, 550 East Spring Street, P.O. Box 1609, Columbus 43216
Cox Coronary Heart Institute, 3525 Southern Boulevard, Kettering, 45429
Creative Biology Laboratory, 3070 Cleveland-Massillon Road, Barberton 44203
Cuyahoga Community College, 700 Carnegie Avenue, Cleveland 44115
Denison University, Granville 43023
Elyria Memorial Hospital, 630 East River Street, Elyria 44035
Fairview General Hospital, 18101 Lorain Avenue, Cleveland 44111
Fels Research Institute, Yellow Springs 45387
Good Samaritan Hospital, 3217 Clifton Avenue, Cincinnati 45220
Good Samaritan Hospital of Dayton, Dayton 45420
Grady Investment Corporation, 9211 Winton Road, Cincinnati 45231
Highland View Hospital, 3901 Ireland Drive, Cleveland 44123
Hill Top Research, Inc., Miamiville 45147
Hiram College, P.O. Box 1888, Hiram 44234
Huron Road Hospital, 13951 Terrace Road, Cleveland 44112
Jewish Hospital, 3200 Burnet Avenue, Cincinnati 45229
John Carroll University, Cleveland 44118
Kent State University, Kent 44240

Footnote at end of document.

Kettering, Charles F. Research Laboratory, 150 E South College Street Yellow Springs 45387
Lakeland Community College, Mentor 44060
Marietta College,[1] Marietta 45750
Medical College of Ohio, P.O Box 6190, Toledo 43614
Merrell-National Laboratories, 110 East Amity Road, Cincinnati 45215
Miami University, Office of the President, Oxford 45056
Miami Valley Hospital, 1 Wyoming Street, Dayton 45409
Mogul Corporation, Chagrin Falls 44022
Mt. Sinai Hospital, University Circle, Cleveland 44106
Muskingum College, New Concord 43762
North American Science Associates, Inc. 2261 Tracy Road, Northwood 43605
Notre Dame College, South Euclid 44121
Oberlin College, Oberlin 44704
Ohio Dept. of Health, 1571 Perry Street, P.O Box 2568, Columbus 43216
Ohio Northern University, Ada 45810
Ohio State University, 190 North Oval Drive, Columbus 43210
Ohio University, Athens 45701
Ohio Wesleyan University, Delaware 43015
Otterbein College, Westerville 43081
Procter and Gamble Company, P.O Box 39175, Cincinnati 45239
Rhodia, Inc., Route 250, Ashland 44805
Riverside Methodist Hospital,[1] 3535 Olentangy River Road, Columbus 43214
Saint Elizabeth Hospital, 1044 Belmont Avenue, Youngstown 44512
Saint Joseph's Hospital,[1] West 20 Street and Broadway, Lorain 44052
Saint Luke's Hospital Association of Cleveland, 11311 Shaker Boulevard, Cleveland 44104
Saint Thomas Hospital of Akron, Ohio, 444 North Main Street, Akron 44310
Saint Vincent Charity Hospital, 2351 East 22nd Street, Cleveland 44115
Saint Vincent Hospital and Medical Center, 2213 Cherry Street, Toledo 43608
Shriner's Hospital for Crippled Children, Burns Institute, 202 Goodman Street, Cincinnati 45219
University of Akron, Akron 44304
University of Cincinnati, Clifton Avenue, Cincinnati 45221
University of Dayton, 300 College Park, Dayton 45469
University of Toledo, 2801 West Baucraft Street, Toledo 43606
Welcome Independent Laboratories, Inc., 3154 Exon Avenue, Cincinnati 45241
Wittenburg University, Springfield 45501
Wright State University, Col. Glenn Highway, Dayton 45431
Xavier University, Victor Parkway, Cincinnati 45207
Youngstown State University, 410 Wick Avenue, Youngstown 44503

OKLAHOMA

Baptist Memorial Hospital, 5800 Northwest Grand Boulevard, Oklahoma City 73112
Oklahoma City University, 2501 North Blackwelder, Oklahoma City 73106
Oklahoma Medical Research Foundation, 825 Northeast 13th Street, Oklahoma City 73104
Oklahoma State Department of Health, 3400 North Eastern, Oklahoma City 73105
Oklahoma State University, Stillwater 74074
Southwestern State College, Weatherford 73096
University of Oklahoma, 660 Parrington Oval, Norman 73069

OREGON

Good Samaritan Hospital and Medical Center, 1120 Northwest 20th, Portland 97209
Oregon Regional Primate Research Center, 505 Northwest 185th Avenue, Beaverton 97005
Oregon State University, Corvallis 97331
Pacific University, Forest Grove 97116
Portland State University, P.O. Box 751, Portland 97207
University of Oregon, Eugene 97403
University of Oregon Dental School, 611 Southwest Campus Drive, Portland 97201
University of Oregon Medical School, 3181 Southwest Sam Jackson Park Road, Portland 97201

PENNSYLVANIA

Albert Einstein Medical Center, York and Tabor Road, Philadelphia 19141
Allegheny General Hospital, 320 East North Avenue, Pittsburgh 15212
Allen Products Co., Inc., P.O. Box 2187, R.D 3, Allentown 18001
Bryn Mawr College, Bryn Mawr 19010
Bucknell University, Lewisburg 17837
Burron Medical Laboratories, Inc., 824 Twelfth Avenue, Bethlehem 18018
California State College, California 15419
Cannon Laboratories, P.O. Box 3627, Reading 19605
Carnegie-Mellon University, 4400 Fifth Avenue, Pittsburgh 15213
Centre Square Veterinary Clinic, 1030 DeKalb Pike, Centre Square 19422
Children's Hospital of Philadelphia, 1740 Bainbridge Street, Philadelphia 19146
College Misericordia, Dallas 18612
Contributors to the Pennsylvania Hospital, 8th and Spruce Streets, Philadelphia 19107
Coratomic, Inc., P.O. Box 434, Indiana 15701
Donald Guthrie Foundation for Medical Research,[1] 200 South Wilbur Avenue, Sayre 18840
Drexel Institute of Technology, 32nd and Chestnut Streets, Philadelphia 19104
Duquesne University of the Holy Ghost, Pittsburgh 15219
Eastern Pennsylvania Psychiatric Institution, Henry Avenue and Abbottsford Road, Philadelphia 19129
Federated Medical Resources, R.D. 2, Honey Brook 19344
Geisinger Medical Center, Danville 17821
General Electric Company, Valley Forge Space Center, King of Prussia 19406
Hahnemann Medical College and Hospital of Philadelphia, 230 North Borad Street, Philadelphia 19102
Hamot Medical Center, P.O. Box 339, Erie 161512
Indiana University of Pennsylvania, Indiana 15701
Institute For Cancer Research, 7701 Burholme Avenue, Philadelphia 19111
Jefferson Medical College of Philadelphia, 1025 Walnut Street, Philadelphia 19107
Lankenau Hospital, Lancaster and City Line Avenues, Philadelphia 19151
LaWall & Harrison Research Laboratories, Inc., 1921 Walnut Street, Philadelphia 19103
Lehigh University, Bethlehem 18015
Lincoln University, Lincoln University 19352
Lockhaven State College,[1] Lock Haven 17745
Lowrey, John C. DBA Dalmation Research Foundation, 720 Woodberry Road, York 17403
Lycoming College, Williamsport 17701
McNeil Laboratories, Inc., Camp Hill Road, Fort Washington 19034
M. B. Research Laboratories, Inc., P.O. Box 203, Spinnerstown 18968
Median School of Allied Health Careers, 12 8th Street, Pittsburgh 15222
Medical College of Pennsylvania, 3300 Henry Avenue, Philadelphia 19129
Mercy Catholic Medical Center, Landsdowne Avenue, Darby 19023
Mercy Hospital of Pittsburgh,[1] 1400 Locust Street, Pittsburgh 15219
Merrell-National Laboratories, Swiftwater 18370
Moravian College, Main and Elizabeth Avenue, Bethlehem 18018

N. L. Cappel Laboratories, Inc., Thud Ridge Farm, Cochranville 19330
Pennsylvania College of Podiatric Medicine, 8th at Race Street, Philadelphia 19107
Pennsylvania Department of Health, 2100 West Girard Avenue, Philadelphia 19130
Pennsylvania State University, 207 Old Main, University Park 16802
Pennwalt Corporation, 3 Penn Center, Philadelphia 19102
Penrose Research Laboratory, 34th Street and Girard Avenue, Philadelphia 19104
Pharmachem Corporation, 719 Stefko Boulevard, Bethlehem 18018
Pharmakon Laboratories, 1140 Quincy Avenue, Scranton 18510
Philadelphia College of Osteopathic Medicine, 48th and Spruce Streets, Philadelphia 19139
Philadelphia College of Pharmacy & Science, 43rd Street and Kingsessing Avenue, Philadelphia 19104
Philadelphia General Hospital, 34th Street and Civic Center Boulevard, Philadelphia 19104
Presbyterian University of Pennsylvania, 51 North 39th Street, Philadelphia 19104
Rachelwood Wildlife Research Preserve, R.D. 1, New Florence 15944
Rohm and Haas Company, Norristown & McKean Roads, Springhouse, 19477
Rorer, William H., Inc., 500 Virginia Drive, Fort Washington 19034
Sacred Heart Hospital, 4th and Chew Streets, Allentown 18102
Saint Vincent College, Latrobe 15650
Smith, Kline & French Laboratories, 1500 Spring Garden Street, Philadelphia 19101
Susquehanna University, Selinsgrove 17870
Temple University of the Commonwealth, Broad and Montgomery Streets, Philadelphia 19122
University Health Center of Pittsburgh, Terrace and Desoto Streets, Pittsburgh 15213
University of Pennsylvania, 101 College Hall, Philadelphia 19104
Western Pennsylvania Hospital, 4800 Friendship Avenue, Pittsburgh 15224
Westinghouse Electric Corporation, Beulah Road, Churchill Borough, Pittsburgh 15235
Whitmoyer Laboratories, Inc., 19 North Railroad Street, Myerstown 17067
Wills Eye Hospital Research Institute, 1805 Brandywine Street, Philadelphia 19130
Wistar Institute, 36th and Spruce Streets, Philadelphia 19104
Wyeth Laboratories, Inc., P.O. Box 8299, Philadelphia 19101

PUERTO RICO

Ex-Lax, Inc., Call Box 1020, Humacao 00661
Institute of Health Laboratories, P.O. Box 10427, Caparra Heights Station, San Juan 00922
Lilly Industries, Inc., P.O. Box 71325, San Juan 00936
University of Puerto Rico, Rio Piedras 00931

RHODE ISLAND

Brown University, 79 Waterman Street, Brown Station, Providence 02912
Curran, Alton J., M.D., 314 Angell Street, Providence 02906
Memorial Hospital, Prospect Street, Pawtucket 02860
Miriam Hospital, 164 Summit Avenue, Providence 02906
Rhode Island College, Providence 02908
Rhode Island Hospital, 593 Eddy Street, Providence 02903
Roger Williams College, Old Ferry Road, Bristol 02809
Roger Williams General Hospital, 825 Chalkston Avenue, Providence 02908
St. Josephs' Hospital, 200 High Service Avenue, North Providence 02904
University of Rhode Island, Kingston 02881

SOUTH CAROLINA

Clemson University, Clemson 29631
Medical College of South Carolina, 80 Barre Street, Charleston 29401
University of South Carolina, Columbia 29208

SOUTH DAKOTA

South Dakota State University, Brookings 57006
University of South Dakota, Vermillion 57069

TENNESSEE

Baptist Memorial Hospital, 899 Madison Avenue, Memphis 38103
Beecham Laboratories, 501 Fifth Street, Bristol 37620
Meharry Medical College, 1005–18th Avenue, Nashville 37208
Memphis State University, Memphis 38111
Oak Ridge Associated University, P.O. Box 117, Oak Ridge 37830
Peabody, George College for Teachers, Box 512, Nashville 37203
Plough, Inc., 3030 Jackson Avenue, Memphis 38112
St. Judge Children's Research Hospital, P.O. Box 318, Memphis 38101
University of Tennessee, Knoxville 37916
Vanderbilt University, Nashville 37203

TEXAS

Alcon Laboratories, Inc., P.O. Box 1959, Fort Worth 76101
Bandy Laboratories, P.O. Box 727, Temple 76501
Baylor College of Dentistry, 800 Hall Street, Dallas 75235
Baylor University, Waco 76703
Baylor University College of Medicine, 1200 Moursund Avenue, Houston 77025
Brownsville Animal Res. Center, 1610 Central Avenue, Brownsville 78520
Callier Hearing and Speech Center, 1966 Inwood Road, Dallas 75235
Carwile, D.V.M., Henry F., Drawer 821, Montgomery 77356
Cone, Robert O. Jr., 523 East Court Street, Seguin 78155
Dryden Real Estate DBA Arashiyama West Primate Ranch, P.O. Box 1968, Laredo 78040
Franklin Laboratories, P.O. Box 669, Amarillo 79105
Helena Laboratories, 1530 Lindbergh Drive, Beaumont 77704
Methodist Hospital of Dallas, P.O. Box 5999, Dallas 75222
Redden, Dr. David R., Box 5218, NT Station, Denton 76203
Rice University, P.O. Box 1892, Houston 77001
Saint Anthony's Hospital,[1] 735 North Polk Street, Amarillo 79102
Saint Joseph's Hospital, 1919 La Branch, Houston 77002
Saint Paul Hospital, 5909 Harry Hines, Dallas 75235
Scott and White Memorial Hospital, 2401 South 31st Street, Temple 76501
Southern Methodist University, Dallas 75222
Southwest Research Institute, 8500 Culebra Road, San Antonio 78206
Southwest Texas State University, San Marcos 78666
Stillmeadow, Inc., 3223 LaCosta Drive, Missouri City 77459
S. W. Foundation for Research and Education, P.O. Box 2296, 10000 West Commerce, San Antonio 78206
Technology, Inc., 8531 North New Braunfels Avenue, San Antonio 78217
Texas A&M University, College Station 77843
Texas Christian University, Fort Worth 76129
Texas Eastern University, 3900 University Boulevard, Tyler 75701
Texas Heart Institute, Houston 77002
Texas Research Institute of Mental Sciences, 1300 Moursund, Houston 77025
Texas State Technical Institute, Waco 76705
Texas Technical University, Lubbock 79409
Texas Woman's University, Box 23971, TWU Station, Denton 76204
Thuron Industries, Inc., 12200 Denton Drive, Dallas 75234
Trinity University, 715 Stadium Drive, San Antonio 78212
University of Houston, 3891 Cullen Boulevard, Houston 77004
University of Texas System, P.O. Box 7969, Austin 78712
Wadley Institutes of Molecular Medicine, 9000 Harry Hines, Dallas 75235

UTAH

Brigham Young University, Provo 84601
Intermountain Laboratories, P.O. Box 633, Salt Lake City 84110
Latter-day Saints Hospital, 325 8th Avenue, Salt Lake City 84103
Primary Children's Hospital, 320 Twelfth Avenue, Salt Lake City 84103
University of Utah, University Avenue at 2nd Street, Salt Lake City 84112
Utah State University, Logan 84321
Weber State College, 3750 Harrison Boulevard, Ogden 84403

VERMONT

Bennington College, Bennington 05201
Castleton State College, Castleton 05735
Lyndon State College, Lyndonville 05851
Middlebury College, Middlebury 05753
Putnam Memorial Hospital, Dewey Street, Bennington 05201
Saxton, George A., Jr., M.D., DBA Brattleboro Memorial Hospital, 9 Belmont Avenue, Brattleboro 05301
University of Vermont and State Agricultural College, Burlington 05401
Windham College, Putney 05346

VIRGINIA

Bionetics Research Laboratories, Inc., 101 West Jefferson Street, Falls Church 22046
Blue Ridge Community College, P.O. Box 80, Weyers Cave 24486
College of William and Mary, Williamsburg 23185
Cooke Engineering Company, 900 Slaters Lane, Alexandria 22314
Lynchburg College, Lynchburg 24504
Mason, George University, 4400 University Drive, Fairfax 22030
Medical College of Virginia, 12th and Broad Streets, Richmond 23219
Meloy Laboratories, 6631 Iron Place, Springfield 22151
Old Dominion University, P.O. Box 6173, Norfolk 23508
Research Institute of the Norfolk Area, 600 Gresham Drive, Norfolk 23507
Robins, A. H. Company, Inc., 1211 Sherwood Avenue, Richmond 23220
Shepard, Glenn H., M.D., Inc., 316 Main Street, Newport News 23601
University of Virginia, Charlottesville 22903
Virginia Polytechnic Institute, Blacksburg 24061
Washington and Lee University, Lexington 24450
Woodward Research Corp.,[1] 12310 Pinecrest Road, Herndon 22070

WASHINGTON

Bio Medical Research Laboratories, 1115 East Pike Street, Seattle 98122
Eastern Washington State College, Chency 99004

[1] Inactive Registrant—research facility has suspended research activities but may resume research at a future time.

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Fort Steilacoom Community College, Box 99186, Tacoma 98499
Hollister-Stier Laboratories, Box 3145, Terminal Annex, Spokane 99220
Pacific Northwest Laboratories, P.O. Box 999, Richland 99352
Pacific Northwest Research Foundation, 1102 Columbia Street, Seattle 98104
Providence Hospital Research Center, 528 18th Avenue, Seattle 98122
Puget Sound Blood Center, Terry at Madison, Seattle 98104
Saint Joseph Hospital, Tacoma 98405
Seattle-King County Health Department, 1303 Public Safety Building, Seattle 98104
Sweden Freezer Manufacturing Co., 3401 17th Avenue, West Seattle 98119
University of Washington, Seattle 98105
Virginia Mason Research Center, 1000 Seneca Street, Seattle 98101
Washington State University, Pullman 99163
Western Washington State College, Bellingham 98225
Weyerhaeuser Company, P.O. Box 420, Centralia 98531

WEST VIRGINIA

West Virginia University, Morgantown 26506

WISCONSIN

Adolf Gundersen Medical Foundation, 1836 1910 South Avenue, La Crosse 54601
Altech Laboratories, P.O. Box 4186, Madison 53711
Appleton Memorial Hospital Association, 1818 North Meade Street, Appleton 54911
Bellin Memorial Hospital, 744 South Webster Avenue, Green Bay 54301
Beloit College, Beloit 53511
Bjorksten Research Foundation, P.O. Box 775, Madison 53701
Central Wisconsin Colony and Training School, 317 Knutson Drive, Madison 53704
Columbia Hospital, 3321 North Maryland Avenue, Milwaukee 53211
Fromm Laboratories, Inc., Grafton 53024
Marshfield Clinic Foundation For Medical Research and Education, 630 South Central Avenue, Marshfield 54449
Marquette University, 615 North Eleventh Street, Milwaukee 53233
Medical College of Wisconsin, 561 North 15th Street, Milwaukee 53233
Milwaukee Children's Hospital, 1700 West Wisconsin Avenue, Milwaukee 53233
Mt. Sinai Hospital, 948 North 12th Street, Milwaukee 53233
Regents of the University of Wisconsin, 750 University Avenue, Madison 53706
St. Joseph's Hospital-Laboratory, 5000 West Chambers Street, Milwaukee 53210
St. Luke's Research Foundation, Inc., 2900 West Oklahoma Avenue, Milwaukee 53215
St. Norbert College, De Pere 54115
Vocational, Technical and Adult Education, 211 North Carroll Street, Madison 53706
WARF Institute, Inc., 506 North Walnut, P.O. Box 2599, Madison 53701
Wausau Hospitals, Inc., Maple Hill 54401
Wisconsin Department of Agriculture, 801 West Badger Road, Madison 53711

WYOMING

Casper College, 125 College Drive, Casper 82601
Eastern Wyoming College, Torrington 82240
Laramie County Community College, 1400 East College Drive, Cheyenne 82001
University of Wyoming, Laramie 82070

(Sec. 6, 80 Stat. 351, as amended (7 U.S.C. 2136).)

Done at Washington, D.C., this 22nd day of February, 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.77-6682 Filed 2-28-77;8:45 am]

federal register

TUESDAY, MARCH 1, 1977

PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

MEDICAL DEVICES

Good Manufacturing Practice Regulations for Manufacture, Packing, Storage and Installation

V 42 40 MAR 1 77 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 820]

[Docket No. 75N–0140]

MEDICAL DEVICES

Good Manufacturing Practice Regulations for Manufacture, Packing, Storage, and Installation

The Food and Drug Administration (FDA) is proposing good manufacturing practice (GMP) regulations for the manufacture, packing, storage, and installation of medical devices under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)). Comments are requested by June 29, 1977.

In addition, the Commissioner of Food and Drugs is proposing to make the final regulation effective 90 days after the date of publication of the final regulation.

On May 28, 1976, the Medical Device Amendments of 1976 (Pub. L. 94–295) were enacted into law, amending the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.). Section 520(f) of the act provides the agency with authority to prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of medical devices conform to current GMP requirements. These proposed regulations are designed to assure that devices will be safe and effective for their intended use and otherwise in compliance with the act.

Under section 520(f)(3) of the act, the Commissioner must establish an advisory committee for the purpose of advising and making recommendations to him with respect to these regulations. Under this provision, the Commissioner is authorized to request recommendations from this advisory committee on any petitions submitted requesting exemptions or variances from GMP requirements. The Device Good Manufacturing Practice Advisory Committee (GMP Advisory Committee) will review and comment on the proposed current good manufacturing practice rules prior to publication of the final regulation. A notice requesting nomination for members of this committee was published in the FEDERAL REGISTER of July 13, 1976 (41 FR 28817). A notice of establishment of the GMP Advisory Committee was published in the FEDERAL REGISTER of August 27, 1976 (41 FR 36233) giving the details of the charter of this advisory committee.

Since December 1973, FDA has been involved in the development of current GMP regulations for medical devices. A concerted effort has been made by FDA to involve individuals and associations representing industry, health professionals, and consumer organizations in the development of GMP regulations. The Food and Drug Administration has also attempted to stimulate representatives of the industry to develop a number of unique GMP regulations applicable to specific types of devices. This endeavor was aided by technical and compliance experts from FDA headquarters and field offices who had background and experience relative to the regulation of the industry. The Food and Drug Administration then consolidated various draft proposals into a single draft regulation (an umbrella GMP) applicable to the entire device industry.

A notice of availability of the draft regulations was published in the FEDERAL REGISTER of August 8, 1975 (40 FR 33482). Interested persons were provided 60 days in which to submit comments. While the responses to the notice of availability varied, it was apparent that the interest in this subject is intense. The Food and Drug Administration distributed more than 3,000 copies of the draft regulations, and additional copies were reprinted and distributed by trade associations and the trade press. In view of the interest generated by the draft regulations and after a review of the initial comments, it became evident that the scope of the usual open public process should be broadened to provide for direct exchange of information between FDA and those persons concerned with the potential impact of GMP regulations. Therefore, FDA published in the FEDERAL REGISTER of October 9, 1975 (40 FR 47530) a notice announcing four public meetings to be held across the country to give interested persons the opportunity to present data, technical information, and views concerning the draft current GMP regulations. These meetings, which were held in November 1975 in cooperation with the Dallas, San Francisco, Chicago, and Baltimore District Offices of FDA, consisted of a preliminary interpretation of the draft regulations by a panel of FDA officials, followed by an open question and answer session during which the panel entertained specific questions, comments, and suggestions from the attendees. Approximately 1,200 persons attended these four meetings, and all questions and comments were recorded and transcribed.

In addition, 130 written comments responding to the draft regulations have been received and reviewed by FDA. These comments were received from a broad cross section of small and large firms that manufacture devices ranging from the relatively simple to the extremely complex.

In addition to comments received directly from manufacturers, FDA received responses from various trade and professional associations including the American Dental Trade Association; American Surgical Trade Association; the Compressed Gas Association; Coalition of Independent Ophthalmic Professionals; Pharmaceutical Manufacturers Association; Health Industry Manufacturers Association; National Electrical Manufacturers Association; Optical Manufacturers Association; Optical Wholesalers Association; Orthopaedic Surgical Manufacturers Association; and the Scientific Apparatus Makers Association. Comments were also received from industry consultants, attorneys, and representatives of academic institutions. All comments received and the transcripts for each of the four public meetings are on display in the office of the Hearing Clerk, Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

The Commissioner has reviewed both the written comments received in response to the notice of availability of the draft regulations and the transcripts of each of the four public meetings. He finds that the majority of comments are general in nature, i.e., primarily concerned with such issues as the overall concept of umbrella GMP regulations and their intended scope; the costs versus benefits associated with their implementation; descriptions of the manufacturing practices currently being employed within the industry; and the repercussions anticipated subsequent to the promulgation of such regulations. Although specific objections and tenable alternatives to the various measures proposed in the draft regulations were not generally contained with these comments, the Commissioner believes that the comments provided valuable information.

The Commissioner recognizes that the medical device industry consists of manufacturers whose devices and manufacturing processes differ significantly. This diversity of manufacturing processes affects the development of comprehensive GMP regulations equally applicable to all. Therefore, the Commissioner believes that GMP regulations applicable to all manufacturers should not be so specific as to indicate to every type of device manufacturer what he must be doing and how such manufacturing practices must be undertaken. Rather, the proposed GMP regulations should contain general requirements applicable to all manufacturers and fewer specific procedures than were enunciated in the draft regulations. The proposed umbrella GMP regulations identify specific areas of concern with the intent that the manufacturer will supply the details which, in his judgment, are appropriate for his device. This will mean that each specific device manufacturer should develop for the manufacture of such device a detailed set of procedures which implement the GMP regulations in this proposal. Such procedures will be used by FDA to determine whether a manufacturer is complying with the intent of these regulations.

The Food and Drug Administration expects to publish subsequent GMP regulations applicable to specific types of devices, thereby supplementing the umbrella GMP regulations. These GMP regulations will be of two types: One will contain requirements that will apply only to generic devices or individual classes of devices (e.g., pacemakers, eyeglasses, etc.); the other will contain requirements that will apply to certain devices or cross-class characteristics or processes (e.g., sterile devices, plastics, electrical properties, etc.).

The Commissioner believes that umbrella GMP regulations should distinguish between devices that are used to

support, sustain, or prevent impairment of human life or health, or that could present an unreasonable risk of illness or injury in the event of failure (critical devices) and those which do not (noncritical devices). This distinction has been incorporated into the proposed regulations by means of a two-tier approach which denotes general requirements applicable to all devices (critical and noncritical) and specific requirements applicable to only those devices classified as critical. The entire regulations are applicable to critical devices. The sections designated critical devices are applicable only to critical devices. Because of this two-tier approach, it is necessary that the terms "critical" and "noncritical" be meaningful and well understood. Therefore, the Commissioner is particularly interested in the response to the definition for critical device in proposed § 820.3.

The subpart in the draft regulations concerned with sterility (Subpart L) is deleted from the proposed regulations. Sterility requirements are technical and must be separated from an umbrella GMP, which is general. Sterility requirements apply to cross-class processes and will be addressed in a subsequent GMP regulation to be proposed in the FEDERAL REGISTER at a later date. Those comments concerning sterility made in response to the draft regulations will be discussed at the time the GMP regulation for sterile devices is proposed.

A number of comments agreed with provisions of the draft regulations and are therefore not addressed in the preamble to this document. Based on the comments received on the draft regulations and agency review, several other changes are made. A discussion of these changes is provided as follows:

GENERAL PROVISIONS

1. Two comments regarding the paragraph on "Limitations" indicated that the draft GMP regulation was too stringently written to apply as an umbrella GMP to all devices as a minimum requirement. It was requested that requirements for those devices whose failure in normal use would present an unreasonable risk of injury to the patient or user should be covered in a separate part applicable to specific product and class GMP's.

The Commissioner recognizes the problem raised in the comment and accordingly has specified more rigorous requirements for critical devices than noncritical devices as discussed in the two-tier approach above.

2. Three comments regarding the paragraph on "Applicability" noted that the cost of assuring the compliance of foreign manufacturers would be prohibitive to such an extent that inspections would be minimal, if at all, giving the foreign manufacturer a decided advantage over the domestic medical device industry.

The Commissioner rejects these comments. The same degree of control will be exerted over imported medical devices as that for domestic medical devices. The device GMP regulations apply to any device imported or offered for import into the United States. Devices which are questionable with respect to safety and effectiveness will be detained upon importation unless FDA is able to make the inspectional observations necessary to assure their safety and effectiveness.

DEFINITIONS

1. One comment suggested deletion of the definition of "automated quality control" which was defined in the draft regulation as "any computer or apparatus that performs quality control functions independently or semi-independently of manual control, and performs a decisionmaking function." The comment suggested that the definition was unnecessary because of the separate treatment given quality control and automated quality control in the draft GMP regulations. Several other comments recommended deletion of that part of the definition which implied that decisionmaking functions are performed by automated quality control equipment. It was emphasized that men make decisions and that computers do not.

The Commissioner rejects the comments suggesting deletion of the definition of "automated quality control" because he finds that such a definition is necessary to give the fullest understanding of the term as it is used in the proposal. The Commissioner agrees with the comments pertaining to decisionmaking functions being performed by automated quality control equipment and has modified the proposed definition accordingly.

2. Several comments suggested changing the part of the draft regulation which defined "component." It was asserted that the phrase "or any article or material intended for use in conjunction with the finished product" was redundant. Two additional comments suggested that "component" be defined as "any article or material used in the manufacture of a device which will appear in the finished product or any article or material specified by the manufacturer for use in conjunction with the finished product."

The Commissioner agrees with the comments and has incorporated the substance of the comments in the proposed definition.

3. Two comments suggested deleting part of the paragraph that defined "control number" as "any distinctive numeric or alphanumeric character(s), from which the complete history of manufacture, control, packaging, sterilization, and distribution of the device(s) can be determined." It was asserted that the phrase "from which the complete history of manufacture, control, packaging, sterilization, and distribution of the device(s) can be determined" could be construed as specifying the required use of a control number. It was suggested instead that "control number" be covered in the operating provisions of the GMP regulations.

The Commissioner disagrees with the comments and has specified the mandatory use of control numbers for critical devices and critical components. The use of control numbers for noncritical devices is optional. The Commissioner rejects the comments suggesting the deletion of the definition of "control number" because he finds that such a definition is necessary to give the fullest understanding of the term as it is used in the proposal. Several additional comments suggested that the definition for "control number" should be "any distinctive code designation from which a product/component could be traced subsequent to its manufacturing and distribution cycle."

The Commissioner disagrees with the comments because he finds the specific terms used in the proposed definition such as components, control, packaging, sterilization, production run, lot, batch, date code, or serial number are necessary to give the fullest understanding of the term as it is used in the proposal.

4. Several comments were received on "critical component" which was defined as "a component which, if defective or improperly manufactured in any manner or otherwise unsuitable for use, can be expected to unreasonably affect the safety or effectiveness of a device, and is of such a nature that it is feasible to individually identify." A few comments considered the definition of critical component too restrictive. It was suggested that this concept be deleted from an umbrella GMP and placed instead in the specific product and class GMP's for those products which have significant patient or user hazard. Two other comments would define "critical component" as a component which has a potential for failure, the occurrence of which would create a hazard to the safety of the patient or user and as such, would not be disclosed by normal quality control procedures.

The Commissioner has restricted the use of the term critical component to critical devices and has proposed a new definition which combines the substance of the draft definition and the definitions suggested above.

5. Several comments suggested alternative definitions for "critical operation," which was defined as "any operation in the production of a device that, if incorrectly done, contains a high potential for failure of product requirements of safety and effectiveness." It was suggested that "critical operation" be defined as any operation in the production of a device that, if incorrectly done, contains a high potential for failure of product requirements for safety and effectiveness essential to the health and physical welfare of the patient or user.

The Commissioner has restricted use of the term "critical operation" to critical devices and has proposed a new definition, which combines the substance of the draft and the definition suggested above.

6. One comment was received on the paragraph that defined a "quality control unit" as "any organizational element of the manufacturer having the authority and responsibility in accordance with § 810.20 (proposed § 820.20), to approve or reject components, in-process materials, packaging materials, and final products." It was suggested that this definition should be revised to take into con-

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sideration two quality groups—quality control and quality assurance—as each is normally found in the corporate structure.

The Commissioner rejects the suggestion as the definition does not mandate the nomenclature of the organizational structure the manufacturer may wish to utilize. The Commissioner is concerned only that the organizational element of the manufacturer have the authority and responsibility in accordance with proposed § 820.20.

One additional comment asked how the draft definition of "quality control unit" will apply to custom manufacturers who may be building devices to customer specifications.

The Commissioner intends that custom manufacturers comply with the regulations. Custom manufacturers are directed to section 520(f) of the act, which authorizes persons subject to GMP requirements to petition the Secretary for an exemption on variance from one or more of the regulations.

7. Several comments suggested definitions for the following terms: "recondition," "repair," "complaint," "labeling," "labels," "sterility," "package," "manufacturer," and "manufacturing material."

The Commissioner has defined those terms necessary to clarify the regulations. These include definitions for the terms "manufacturer" and "manufacturing material." The term "complaint" is explained in proposed § 820.198. The terms "label" and "labeling" are defined in the act. The term "sterility" is deleted in favor of a specific GMP regulation for sterile devices to be published in the FEDERAL REGISTER at a later date. Other suggested terms do not require a definition since the meaning provided by a dictionary is sufficient. The Commissioner has proposed the following definitions that were not included in the draft regulations:

"Critical device" has been defined because of the importance of the term and its extensive use in the proposed regulations.

"Finished device" has been defined to distinguish between a device and a component.

"Manufacturer" has been defined to differentiate between a manufacturer and a distributor.

"Manufacturing material" has been defined to distinguish between manufacturing materials and a component.

"Noncritical device" has been defined to distinguish between critical and noncritical devices.

ORGANIZATION AND PERSONNEL

1. Several comments objected to the requirement in the draft regulations that the quality control unit and the production unit be organizationally and functionally independent of each other. It was suggested that this requirement ignored the practical realities existing within small manufacturing operations, in that production personnel at the plant level in small firms often serve as quality control inspectors and that to do otherwise in such firms would make production costs prohibitive. Several additional comments argued that GMP regulations should not dictate organizational structure but should, instead, require device manufacturers to document their organizational structure with clearly defined responsibilities and authority in regard to controls and product acceptance.

The Commissioner's intent is not to dictate organizational structure. He agrees that this regulation might cause problems within small manufacturing operations. It is felt that separation of the production and quality control functions is of the utmost importance, regardless of organizational size. The intent of the regulation is to clearly establish and delineate the authority and responsibilities of persons and organizations performing quality control operations. The proposed regulation now allows organizational flexibility while requiring responsibility and authority for implementation of a quality assurance program to be given to a quality control unit. Additionally, the Commissioner has deleted the draft regulation exempting small firms from certain requirements of the proposed regulations.

2. Several comments suggested deletion of the requirement that periodic quality control audits be made by a qualified individual to verify compliance with all aspects of the quality assurance program. It was interpreted that the regulation required and legislated a special audit of the quality assurance system which, by its nature, should be self-auditing on a continuous basis.

The Commissioner rejects the comments because he finds that systematic and periodic audits should verify compliance with all aspects of the quality assurance program and that these audits should be done by individuals not having responsibilities in the area audited.

3. A few comments suggested deletion of the draft regulations that required each employee to undergo orientation for each function that he or she performs, as well as deletion of the requirement that personnel performing aseptic techniques be trained by persons qualified in that field. It was felt that these two areas were covered without further delineation by the requirements for training in the introductory statement in this section.

The Commissioner agrees with the comments and has revised the proposal accordingly.

4. Several comments suggested deletion of that portion of the draft regulations regarding employees' personal health. It was suggested that this reference to individuals' personal health placed on the manufacturer the responsibility for the diagnosis and detection of illness in employees.

The Commissioner rejects these comments because it is important to exclude from the manufacturing process employees who exhibit diagnosed or apparent illness which may have an adverse effect on the product. The Commissioner has, however, deleted the reference to open lesions, as specific references to pathological conditions are not necessary because of the reference to "diagnosed or apparent illness" in the proposed regulation.

BUILDINGS

1. Several comments recommended deletion of the requirement that facilities be of suitable size, construction, and location to carry out adequately the manufacturing process. It was felt that these requirements are not directly related to product safety features. It was noted that many of the requirements must be fulfilled for compliance with occupational safety requirements. Additionally, a few comments argued that the size: construction, and location of a building, as used in the draft regulation, may or may not affect device manufacturing.

The Commissioner rejects these comments because it is felt that manufacturing conditions relative to building design and space may affect the safety and effectiveness of a device. This subpart has been retitled "Buildings" because "buildings" is the term used throughout the proposed regulation.

2. Several comments recommended rewording of the requirement in draft § 810.46 that environmental factors "be controlled to prevent contamination and provide proper conditions for the storage, manufacture, assembly, packaging and labeling operations for each product." It was suggested that the proposed regulation be stated as follows: "The environmental factors, to the extent that they adversely affect the safety and performance of the product, be controlled as follows (list of factors)." It was believed that this change would clarify the intent that only those environmental factors that could adversely affect the safety and performance of a device be subject to this regulation.

The Commissioner agrees and has incorporated the substance of the comment in the proposed regulation by inserting the words "when necessary." This is to ensure that the environmental factors listed are controlled only where they are a factor in product or process operation.

3. Several comments concerning environmental control suggested that explantions for each environmental factor were redundant. They offered the following rewording:

The environmental factors shall be controlled to minimize contamination and to provide adequate conditions for the storage, manufacture, assembly, packaging, and labeling operations for each product. Environmental factors to be given consideration, depending on the product or process involved, include: lighting, ventilation, temperature, humidity, air pressure, laminar air flow, screening and filtration and environmental testing.

The Commissioner agrees with the comments and has revised the substance of the proposed regulation accordingly.

4. A few comments objected to the requirement that adequate cleaning and sanitation meet product or process requirements. It was felt that the Occupational Safety and Health Act regulations extensively detail occupational safety and health requirements. It was suggested that deletion of this section would avoid the potential for conflicting regulations.

The Comissioner has determined that Occupational Safety and Health Act regulations do not include all of the cleaning and sanitation requirements stated in this GMP proposal. Although there are some areas of common interest, the Commissioner is not promulgating conflicting regulations. The scope of these regulations, as set forth in the "General Provisions" subpart of this document, necessitates requirements to assure the safety and effectiveness of devices. The Occupational Safety and Health Act regulations do not have this intent.

EQUIPMENT

1. Many comments suggested deletion of the draft regulation requirement that "There shall be for each piece of equipment a schedule of maintenance, adjustment, and cleaning that is appropriately related to the function of the equipment."

The Commissioner accepts the comments and has revised the proposed regulation to require scheduled maintenance, adjustment, and cleaning only where applicable.

Many comments suggested deletion of the draft regulation requirement that "For each piece of equipment subject to adjustment there shall be visibly posted in a prominent place on or about the equipment, a specification of the allowable tolerances within which the equipment performs its function." It was asserted that the maintenance of machine tolerances should not be imposed by legislation. It was argued that since the finished product is manufactured within stated tolerances, it is this tolerance that is important.

The Commissioner rejects the comments because it is necessary to monitor the quality of a device throughout the manufacturing process and not just at the point of finished device testing. The tolerance of a machine manufacturing a device is a quality point to be monitored on a schedule that is documented when performed. However, the Commissioner has modified this requirement so that the schedules are only required if applicable for the equipment.

2. Several comments recommended deletion of the requirement that the device should not be adversely affected by contact with equipment surfaces beyond established and documented limits.

It was noted that the introductory paragraph to the draft regulation stated that equipment should "be suitable" for its intended purpose and that this phrase defines the intent while allowing enough flexibility and interpretation for an umbrella GMP regulation.

The Commissioner accepts the comments and has deleted the specific surface design requirements in the proposed regulations.

3. Several comments objected to the requirement that quality control instruments and measuring equipment be appropriate for measuring the test parameter and conform to laboratory standards whose calibration is traceable to the prime standards at the National Bureau of Standards, U.S. Department of Commerce. It was pointed out that not all testing equipment has a calibration traceable to the National Bureau of Standards. It was recommended that the phrase, "where appropriate" be added at the end of the sentence.

The Commissioner agrees with the comments and has added the following alternatives to proposed § 820.62: "If prime standards do not exist for the parameter being measured, an independent reproducible standard shall be used. If none of the above exists, an in-house primary standard shall be developed and used."

4. Several comments objected to the specific language of the requirement for performing measurements, namely: "• • • the accuracy of the measurement equipment shall be added to the measured deviation from nominal and the sum shall not exceed the allowed tolerance for that parameter." It was contended that this regulation specified the accuracy these measurements must meet and that the added economic impact for these calculations would be prohibitive.

The Commissioner accepts the comments and has deleted this requirement from the proposal.

5. Several comments suggested deletion of the requirement that a determination be made of the validity of the design of, equipment used for, and/or programming used in an automated quality control process. It was asserted that this is a specialized area of limited applicability and, therefore, not appropriate in an umbrella GMP; the requirement is superfluous because it states the obvious; and that automated quality control equipment should meet the same requirements as other instrumentation and measuring equipment.

The Commissioner rejects the comments because automated quality processes are used for many devices covered under the umbrella GMP and therefore should be proper subject matter for this proposed GMP. The Commissioner agrees that this requirement states the obvious as does the entire regulation. However, the obvious to some is not the obvious to everyone, and the need for a regulation reiterating basics is apparent. The Commissioner believes that there are elements of automated quality control that are not present in manual systems and these additional elements should be regulated accordingly.

6. Many comments contended that required semiannual calibration for each piece of equipment was an unjustifiable and unreasonable economic burden. It was argued that such a requirement was inappropriate in an umbrella GMP regulation. Reference was made to military specification MIL-C-4566A which sets forth requirements for calibration systems without recommending a fixed maximum calibration level.

Several additional comments on calibration scheduling noted that these regulations cover a broad scope of device manufacturing equipment, including some equipment not requiring recalibration. It was proposed that the regulation be restated to require recalibration of each piece of equipment in accordance with an established schedule for that piece of equipment.

The Commissioner agrees with the comments and has modified the proposed regulation to require routine calibration of automatic, mechanical, or electronic measurement equipment.

CONTROL OF COMPONENTS, CONTAINERS, AND IN-PROCESS MATERIALS

1. Several comments concerning critical components contended that unless a more specific definition for critical components can be agreed upon, all references to "critical" components and "critical" operations should be deleted from the GMP regulations.

The Commissioner has redefined the terms "critical components" and "critical operations" in the proposal. The proposed regulations have been revised to restrict the use of these terms to sections of the regulations specifically dealing with critical devices.

2. Many comments suggested deletion of the requirements that personnel responsible for quality control of incoming components maintain a continual record of rejection percentages in an acceptance trend record. It was argued that such a requirement has no bearing on the performance of a product and is not appropriate to good manufacturing practices; it is a management tool not properly the subject of GMP's; it is costly recordkeeping that does not contribute to the assurance of safety or performance; it is a prerogative of the manufacturer and, as such, should not be legislated.

The Commissioner agrees with the comments as they apply to noncritical devices but believes such a record of supplier performance is essential for critical devices. Accordingly, the Commissioner has modified the regulation to make it applicable to critical devices only.

3. Several comments suggested deletion of the statement that the manufacturer is ultimately responsible for the quality and compatibility of all components made or supplied to him. Such a requirement could be interpreted to mean the manufacturer is solely responsible if a problem arises. It was noted that such is not the case under the act nor under the current product liability law. The comments indicated that such an interpretation would tend to limit legal remedies available to consumers and finished product manufacturers in a liability suit.

The Commissioner accepts the comments and has revised the proposal so that specific responsibility for component failure is not assigned.

4. Several comments addressed the requirement that a written agreement exist between the supplier and manufacturer providing for notification of changes made in components. The comments contended that it would be unreasonable, inefficient, costly, and impractical for the supplier to notify the manufacturer of changes made in each component of a noncritical nature.

The Commissioner agrees with the comments and has revised the proposal to apply to critical devices only.

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PRODUCTION AND PROCESS CONTROLS

1. Several comments objected to the requirement in the draft regulation that "a critical operation performed manually shall be performed by a responsible and competent individual, and shall be checked by a second responsible and competent individual." Deletion of this requirement was recommended because the draft regulations on "Personnel" state that all employees must have capabilities commensurate with their assigned functions. It was asserted further that the performance of a capable person need not be checked by a second person.

The Commissioner rejects the comments because he believes that thorough verification is necessary for critical device manufacture. However, the proposed regulations have been amended to require verification for any critical operation by designated individuals or equipment.

2. Several comments recommended deletion of the requirement that a formal approval procedure for any change contemplated in the manufacturing and assembly process of a product be included in the master product record. It was suggested that a reference to the change approval procedures be permitted instead of inclusion of the actual document in the master product record.

The Commissioner agrees with the comments and has incorporated the substance of the suggestion into the proposed § 820.181 on Master Device Records.

PACKAGING AND LABELING CONTROL

1. Many comments believed that the regulations on labeling control were patterned after controls needed for the drug industry. It was implied that they are far too stringent for most medical devices and the imposition of unnecessary steps and restrictions would serve no useful purpose and would only increase the cost of the product.

The Commissioner has revised the regulations for critical device labeling to include the following controls: labeling receipt, storage, access restriction, and excess printed labels. This reflects the Commissioner's concern that critical device labeling operations be strictly controlled to prevent labeling mixups. However, the Commissioner has agreed with the comments in regard to noncritical devices and has modified the requirements for labeling of these products.

2. A few comments recommended rewording the requirements that containers and packages be suitable for their intended use and that such containers and their components may not adversely affect the device. It was suggested that the proposed regulation require product containers or packages to adequately protect the product from reasonably expected external factors that could alter or damage the product.

The Commissioner rejects the comments as applied to critical devices because the suggestion is too general to implement the intent of the regulation. However, he accepts the comments as applied to noncritical devices.

HOLDING AND DISTRIBUTION

1. Several comments objected to the specific language of the draft regulation which required a stock rotation system whereby the oldest approved products were distributed first. It was contended that such a requirement ignores the purpose of expiration dating and assumes that such dating will be ignored by the intended user. Additionally, the comment stated that a customer who wanted an entire lot of a particular product would be prohibited from purchasing it if there were products still available from a previous lot.

The Commissioner agrees with the comments and has modified the proposed regulation to require stock rotation where appropriate.

2. Many comments recommended deletion of the requirement that adequate distribution records, including the names of the initial and all subsequent known consignees, be maintained and be readily available.

Deletion of the requirements concerning "all subsequent consignees" was suggested because of the following reasons: Only the initial consignee should be responsible for maintaining records for subsequent consignees; manufacturers are in no position to know the identity of subsequent consignees; when selling through dealers, it is impossible to know more than the initial consignee for a long-lived product; this could be interpreted to mean that any time a manufacturer learns where one of his products is subsequently consigned, he must rush to his distribution records and record the name of the subsequent consignee; this could cause havoc with good recordkeeping and would impose a burden on the manufacturer, and the varied nature of medical device distribution makes compliance with this requirement difficult.

The Commissioner agrees, in part, with the comments and has deleted the requirement concerning distribution recordkeeping for noncritical devices only. This reflects his concern that critical device distribution records be readily available in the event of recall or other actions.

PRODUCT EVALUATION

1. Many comments suggested deletion of the requirement that each control number unit of production be retained prior to final product inspection for a sufficient period of time to allow the final product inspection to validly reflect the state of the product upon reaching its point of use.

It was stated that, as written, this regulation is confusing and contradictory; it describes redundant requirements in the master product record and the product history record; product retention or holding is part of the manufacturing procedure; some products undergo changes for long periods or throughout their life; and such a measurement will not assure that the product reaches the end-user in satisfactory condition.

The Commissioner accepts the comments and has deleted the requirement from the proposed regulation. However, the proposed regulations now require devices to be tested under operating conditions.

2. A few comments recommended deletion of the requirement that each number control unit of production of a product be fully tested, before release for distribution, for conformance with all requirements and specifications of safety and effectiveness established for the product. These comments contended that the requirement would be very costly and unnecessary.

The Commissioner rejects the comments because it is believed that final product testing reduces the incidence of faulty components or products, thereby lessening the possibility of injury to the user.

3. Several comments objected to the requirement that, upon completion of final product inspection, the control number unit of production shall not be released for distribution until all records and test results are checked by a responsible authorized individual. It was argued that final product release should not be dependent upon a single individual, assuming that all records and documentation are present, complete, and correct. Instead, individuals should be responsible for verifying all such documentation approval by authorized personnel along the manufacturing process.

The Commissioner rejects the comments because he finds that this type of responsibility should be a single, conscious act and should not be shared at intermittent time intervals. The Commissioner has proposed finished device release for critical devices by a designated individual who is responsible for releasing the device.

RECORDS AND REPORTS

1. Several comments objected to the requirement that all obligatory records be marked and separated into confidential and nonconfidential portions to aid FDA in determining which information retained or acquired by the agency is releasable under the Freedom of Information Act. It was asserted that this section is not relevant to GMP's; confidentiality is adequately defined and treated under the Freedom of Information Act and under 21 CFR Part 4; in addition to excessive documentation, this requires prior segregation of records on a continual basis for potential FDA release to the public.

The Commissioner rejects the comments because he believes that this requirement is relevant to GMP's as it applies to manufacturers' GMP records. Additionally, this regulation does not require excessive documentation, but, instead, requires the marking of already existing records. These records may be marked continually, sporadically, or not at all; specifics are left to the manufacturers discretion.

2. Many comments recommended changing the requirement that mandated the retention of all required records per-

taining to a product for a period of 2 years or the intended or actual known life of the product, plus 1 year, whichever is longer. It was believed that a limiting time should be established, and it was felt that 2 years was an adequate period for an umbrella GMP applicable to all devices.

The Commissioner rejects the comments but has revised the proposal to allow the manufacturer to designate the criteria for determining the record retention period, which shall be at least 2 years.

3. Many comments objected to the requirement that copies of all promotional material be included in the master product record. It was contended that inclusion of any promotional material in labeling control regulations added extra and unwarranted work unrelated to labeling control.

The Commissioner rejects the comments. He believes that controls on promotional material should be retained because claims could appear in promotional material that could change labeling requirements.

Several comments recommended deletion of the references to labels and labeling from the master product record. It was believed that this requirement was redundant since these are requirements under product specifications. It was also suggested that labels and promotional materials should not be a part of the master product record because these items are subject to constant change.

The Commissioner rejects the comments because the regulation does not require a duplication of labels and labeling in two different sections of the master device record. Approval of labels and labeling by designated persons is required. The approved material should then be placed or referenced in the master device file. The Commissioner feels the constant change mentioned in the comments necessitates the existence of a master device record with approved labeling material. There must be a primary source document for production personnel to use a reference so that old or inaccurate labels are not used inadvertently.

4. Several comments objected to the requirements that a product history record be prepared. It was maintained that not all devices require the same degree of control and that the draft regulation required extensive record development and retention well beyond the value returned. It was suggested that the requirement would be more appropriate in a specialized product GMP regulation, not an umbrella regulation.

The Commissioner has revised the regulations on device history records mandating specific requirements for manufacture of critical devices while the requirements for noncritical devices have been generalized.

Many comments contended that maintenance of the product history record in one location was impractical and unnecessary.

The Commissioner accepts the comments and is not requiring the cited records to be in one location. However, critical device final inspection requires that such records for critical devices be present, complete, and correct prior to distribution.

5. Several comments objected to the requirement in the draft regulation that design documents must be verified. It was stated that such a requirement is impractical, unnecessary, and is not a GMP.

The Commissioner agrees with the comment and has deleted such a requirement from the proposed regulations.

6. Many comments recommended deletion of the requirement that there shall be a written quality control manual for each product with at least one copy of the manual in each production area. It was stated that this kind of information is usually kept in category files; industry does not now have such manuals and this requirement would be an economic burden; much of the information provided would be redundant; and quality control procedures should be made a part of the master product record.

The Commissioner rejects the comments because he finds that the degree of control required for critical devices justifies specific requirements such as those found in the quality control manual. Information located in the manual such as sampling plan, formal change approval, and inspection checks would be extraneous if located in the master device record because those operations involve only quality control personnel. Accordingly, the Commissioner has revised the proposed regulations making specific requirements for critical device manufacturers, but has generalized requirements for noncritical devices.

7. Several comments objected to the requirements concerning dual records, programming, data input, and access security relative to automatic data processing. It was felt that the regulations attempted to fix responsibility and define the steps required so closely so as to prevent the exercise of necessary authority. They further felt this to be a management tool and its use a management prerogative.

The Commissioner agrees that this regulation fixes responsibility and is a proper objective of a regulation. However, the regulation has been rewritten to give management more latitude in the implementation of the regulation. The regulations for automatic data processing have also been revised to make this a requirement applicable only to critical devices. The Commissioner believes the degree of control needed for critical devices justifies this requirement.

8. A few comments recommended that the draft regulation concerning complaint files be rewritten to require written procedures and maintenance of records of all user reports to the manufacturer pertaining to injury, death, or any hazard to safety. It was also felt that records of such safety complaints should be located at, but not limited to, a centralized location where the responsibility for investigation resides.

The Commissioner rejects the comments as inadequate for the protection of the consumer. In addition to concerns about injury, death, and hazard to safety, the Commissioner believes the complaint files should also include any expressions of dissatisfaction regarding the identity, quality, durability, reliability, effectiveness, or performance of a device.

The Commissioner also finds it necessary that manufacturers maintain complaint records at the device manufacturing site because it is sometimes necessary to interview employees and review records concerning manufacturing failures resulting in complaints.

A few comments felt that the requirement that complaint files include all complaints creates the additional burden and cost of maintaining excessive files. They believed that the bulkiness of the file would be a reflection of a company's success in the marketplace. This information would be available to the manufacturers' competitors through the Freedom of Information Act and would be of limited value for consumer protection.

The Commissioner rejects the comments because it is believed that the number of complaints a manufacturer receives is more directly proportional to product design and adequate quality assurance systems that the total number of customers. Trade secrets are protected through provisions of the Freedom of Information Act and consumer interests are best served through the monitoring of complaint files.

9. Many comments objected to the requirement that reworked products attain the same level of quality, safety, and effectiveness as newly manufactured products.

It was believed that this requirement would impose tremendous financial burdens upon the medical device industry, and, if implemented, would require that products returned for repair, independent of age, much be made to attain all of the characteristics of current production.

The Commissioner agrees with the comments and has deleted this requirement from the proposed regulations.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required.

The inflationary impact of the proposed good manufacturing practice regulations for medical devices was carefully considered in accordance with Executive Order No. 11821, OMB Circular A–107, and the guidelines issued by the Department of Health, Education, and Welfare. The Commissioner had determined that the agency lacks the data that are needed to perform a valid assessment at this time and consequently he is deferring judgment on whether or not these regulations are likely to cause a major inflationary impact.

The Commissioner asks that interested and informed parties submit data in a form which is adaptable to the analytic framework documented in the "Preliminary Inflation Impact Review of the Pro-

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posed Good Manufacturing Practices Regulations for Medical Devices," on file with the Hearing Clerk, Food and Drug Administration.

Economic data should address one or more of the following areas:

a. Medical device industry characteristics, such as annual revenues, employment, firm size distribution, etc.

b. Present levels of quality control costs (pre-manufacturing and production phases) and future levels anticipated as a result of these proposed regulations, as a percentage of annual sales.

c. Present levels of failure costs, for correcting defects before and after shipment and for fulfillment of guarantees, and future levels anticipated as a result of these proposed regulations.

d. Types of products manufactured and whether they are critical or noncritical devices.

e. Annual sales.

f. Numbers of employees (if any) that would be hired or released as a result of these proposed regulations.

g. Competitive advantage or disadvantage attributed to the proposal.

To the extent possible, respondents should cite the specific sections of the proposal, such as: Cleaning and sanitation, distribution records, device labeling, etc., and the special circumstances, if any, that account for any estimated economic impact. The Commissioner is particularly interested in learning whether the disparity between present and expected future costs is attributable to a company's belief that an existing quality control program is not in compliance with the proposed regulations or would be unlikely to be granted an exemption or variance.

The agency's subsequent analysis of the inflationary impact of the regulations will be based on data received and its availability for public examination and further comment will be announced in the FEDERAL REGISTER before any final regulations are promulgated.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 518, 519, 520(f), and 701(a) as amended, 52 Stat. 1049–1051 as amended, 1055, 90 Stat. 562–565, 567–569 (21 U.S.C. 351, 352, 360(h), 360(l), 360j(f) 371(a)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), it is proposed that Chapter I of Title 21 of the code of Federal Regulations be amended by adding new Part 820 to read as follows:

PART 820—GOOD MANUFACTURING PRACTICE FOR MEDICAL DEVICES; GENERAL

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820.191 Critical devices, quality control manual.
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820.198 Complaint files.

AUTHORITY: Sec. 501, 502, 518, 519, 520(f), 701(a), 52 Stat. 1049–1051 as amended, 1055, 90 Stat. 562–565, 567–569 (21 U.S.C. 351, 352, 360h, 360l, 360j(f), 371(a)).

Subpart A—General Provisions

§ 820.1 Scope.

The regulations set forth in this part describe current good manufacturing practice for methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of all devices for human use to assure that the device will be safe and effective and otherwise in compliance with the Federal Food, Drug, and Cosmetic Act. This Part 820 establishes basic requirements applicable to all devices for human use and additional requirements for critical devices. Every device manufacturer shall comply with the applicable provisions of this part and prepare and implement procedures complementing this regulation that are appropriate to the specific device manufactured.

(a) *Authority.* This Part 820 is established and promulgated under authority of sections 501, 502, 518, 519, 520(f), and 701(a) of the act (21 U.S.C. 351, 352, 360h, 360l, 360j(f), and 371(a)). The failure to comply with any regulation in this part in the manufacture, packaging, storage, or installation of a device renders the device adulterated under section 501(h) of the act. Such a device, as well as the person responsible for the failure to comply, is subject to regulatory action.

(b) *Limitations.* The current good manufacturing practice regulations in this part supplement regulations in other parts of this chapter except where explicitly stated otherwise. In the event it is impossible to comply with applicable regulations both in this part and in other parts of this chapter, the regulations specifically applicable to the device in question shall supersede any other regulation.

(c) *Applicability.* The provisions of this Part 820 shall be applicable to any device, as defined in the act, that is manufactured, imported or offered for import in any State or Territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 820.3 Definitions.

(a) "Act" means the Federal Food, Drug, and Cosmetic Act, as amended (secs. 201–902, 1040 et seq. as amended (21 U.S.C. 321–392)).

(b) "Automated quality control" means any system used in the quality control decisionmaking functions that uses a computer or other apparatus for performing quality control functions independent of, or semi-independent of, manual control.

(c) "Component" means any material, substance, piece, part, or assembly intended for use during the manufacturing of a device which will appear in the finished product.

(d) "Control number" means any combination of letters and numbers from which the complete history of components, manufacture, control, packaging, sterilization, and distribution of the device can be determined; the control number may be in the form of designations such as "production run," "lot," "batch," "data code," or "serial number."

(e) "Critical component" means an individually identifiable component, assembly, or subassembly of a critical device that has a potential to cause a device failure or affect the safety, performance, or effectiveness of a critical device.

(f) "Critical device" means a device intended to support or sustain life or intended for surgical implant into the body, whose failure could result in permanent injury to the user, or which has been declared a critical device by the Commissioner after consultation with the Device Good Manufacturing Practice Advisory Committee authorized under section 520(f) of the act.

(g) "Critical operation" means any operation in the manufacture of a critical device that has a potential to cause a device failure or adversely affect the safety, performance, or effectiveness of a critical device.

(h) "Finished device" means a device, or any accessory to a device, that is ready to be used for its intended purpose whether or not packaged or labeled for commercial distribution: for example, a hemodialysis unit, disposable hemodialysis tubing, blood filters, syringes, needles, or diagnostic reagents.

(i) "Manufacturer" means any person(s), including repackers and relabelers, who manufactures, fabricates, assembles, or processes a device in whole or in part. It does not include those to whom the device is subsequently delivered or sold solely for distribution of the device in commerce.

(j) "Manufacturing material" means any material intended for use during the manufacture of a device but which is not intended to appear in the finished product, e.g., cleaning, mold-release, and lubricating agents.

(k) "Noncritical device" means all devices other than those designated as critical devices.

(l) "Quality control unit" means any organizational element of the manufacturer having authority and responsibility in accordance with § 820.20.

Subpart B—Organization and Personnel

§ 820.20 Organization.

The organization of each device manufacturer shall include a quality control unit which shall consist of one or more persons with the responsibility and the authority to perform formally established and documented quality assurance programs. Such a unit shall have the freedom to identify, initiate, recommend, or provide solutions to quality assurance problems and to verify the implementation of such solutions. Any unit that checks, audits, or otherwise verifies correct performance of operations shall be independent of the unit performing that operation.

(a) *Responsibilities of the quality control unit.* The quality control unit shall have the responsibility and authority to approve or reject all components, manufacturing materials, in-process materials, packaging materials, labeling, and finished devices and to review production records. It shall also be responsible for performing inspection checks during the manufacture of a device as set forth in the quality control manual, and also be responsible for approving or rejecting devices manufactured, processed, packed, or held under contract by another company.

(b) *Audit.* Planned and periodic audits of the quality assurance system shall be implemented to verify compliance with the effectiveness of the quality assurance program. The audits shall be performed in accordance with written procedures by appropriately trained individuals not having direct responsibilities in the areas being audited. Audit results shall be documented and reviewed by management having responsibility in the area audited. Followup action, including reaudit of deficient areas, shall be taken when indicated.

§ 820.25 Personnel.

There shall be sufficient personnel having the educational background, training, and experience necessary to ensure that their functions are adequately performed.

(a) *Personnel training.* All personnel shall have a thorough understanding of the functions they perform, necessary training and experience, and adequate information concerning applicability of their functions to pertinent provisions of this part. Quality control personnel shall be made aware of defects and errors likely to be encountered in their individual control function through a documented training program.

(b) *Personnel health and cleanliness.* Personnel in contact with the device or its environment shall be clean, healthy, and suitably attired to the extent that these factors may affect the finished device. Any personnel who by medical examination or supervisory observation appears to have a condition which could adversely affect the device shall be excluded from affected operations until the condition is corrected. Personnel with such conditions shall be instructed to report them to supervisory personnel.

Subpart C—Buildings

§ 820.40 Buildings.

Buildings in which manufacturing, assembling, packaging, packing, holding, testing, and labeling operations are conducted shall be of suitable design and contain sufficient space to facilitate adequate cleaning, maintenance, and other necessary operations. The facilities shall provide adequate space to prevent mixups and to assure orderly handling of the following: Incoming components; rejected or obsolete components; in-process components; finished devices; labeling; reprocessed, reworked and repaired devices; equipment; molds, patterns, tools, records, drawings, blueprints; testing and laboratory operations; and quarantined products.

§ 820.46 Environmental control.

Environmental conditions shall be controlled when necessary to prevent contamination and to provide proper conditions for each of the operations performed in each building pursuant to § 820.40. Conditions to be considered for control are lighting, ventilation, temperature, humidity, air pressure, airborne and other contamination, screening, and filtration. Periodic verification of environmental controls shall be performed and documented.

§ 820.56 Cleaning and sanitation.

There shall be adequate cleaning and sanitation to meet process requirements, including the following:

(a) *Personnel sanitation.* Washing and toilet facilities shall be clean and adequate. Clean dressing rooms shall be provided when necessary.

(b) *Vermin, pest, and insect control.* Procedures to control vermin, pests, and insects and safeguards to prevent contamination of equipment, components, in-process components, or finished devices by rodenticides, insecticides, fungicides, fumigants, hazardous substances, and other cleaning and sanitizing substances shall be documented.

(c) *Personnel practices.* Eating, drinking, and smoking by personnel shall be limited to designated areas, where necessary.

(d) *Sewage and refuse disposal.* Sewage, trash, by-products, chemical effluents, and other refuse shall be disposed of in a safe and sanitary manner.

(e) *Written cleaning procedures and schedules.* Written cleaning procedures and schedules shall be made available to appropriate personnel. Any special area requirements or warnings shall be posted.

Subpart D—Equipment

§ 820.60 Equipment.

Equipment used in the manufacturing process shall be appropriately designed, constructed, placed, and installed to facilitate maintenance, adjustment, and cleaning. All manufacturing materials or other substances used with such equipment or which may come in contact with the device shall not adversely affect the device.

(a) *Maintenance schedule.* There shall be, if applicable, a schedule for maintaining, adjusting, and cleaning the equipment. Such schedules shall be visibly posted on or near each piece of equipment, or be readily available to personnel performing these functions. A written record of these activities shall be maintained.

(b) *Inspection.* Periodic documented inspections shall be made of all equipment to ensure adherence to such schedules and to make certain the equipment is in the proper state of cleanliness and operating tolerances.

(c) *Adjustment.* Any inherent limitations or allowable tolerances shall be visibly posted on or near equipment requiring periodic adjustment.

(d) *Manufacturing materials.* Manufacturing materials including cleaning agents, mold-release agents, lubricating, or other substances used on or in the manufacturing equipment or the device shall be subsequently removed from the device or limited to specified amount that does not adversely affect the safety or effectiveness of the device. The use and removal of such manufacturing materials shall be documented.

§ 820.61 Measurement equipment.

All measurement equipment used for production and quality control shall have the capability of measuring to a degree of accuracy suitable for the intended purpose and have the capability of providing valid results. Documented periodic inspections shall be made of such measurement equipment to assure that it is maintained to the necessary degree of accuracy.

(a) *Production measurement equipment.* Production jigs, fixtures, tooling masters, templates, patterns, and other such inspectional standards shall be standardized prior to initial use and at periodic intervals. Such standardization shall be documented.

(b) *Automated quality control.* The following factors are pertinent in the documentation of design validity for automated quality control equipment:

(1) *Design of function.* The manufacturer shall determine the validity of the automated test and whether the method

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will produce results directly applicable to the device being tested.

(3) *System compatibility.* All components of an instrument or equipment system used for quality control testing of a device shall be compatible with each other.

(3) *Programming.* When computers are used as part of an automated quality control system, the programs shall be verified by adequate and documented testing. Only designated personnel shall make program changes through a formal approval procedure.

§ 820.62 Critical devices, measurement equipment.

In addition to the requirements of § 820.61, the calibration of all measurement equipment used in the quality control program related to critical devices shall be traceable to the prime standards at the National Bureau of Standards, Department of Commerce. If prime standards do not exist for the parameter being measured, an independent reproducible standard shall be used. If none of the above exist, an in-house primary standard shall be developed and used.

§ 820.68 Equipment calibration.

Automatic, mechanical, or electronic measurement equipment used in the manufacturing of a device shall be routinely calibrated, inspected, or checked according to written procedures containing specific directions, schedules, limits for accuracy and precision, and provisions for remedial actions in the event accuracy and/or precision limits are not met. Written records of those calibration checks and inspections shall be maintained.

(a) *Calibrator.* Calibration shall be done only by persons having sufficient training, knowledge, and experience.

(b) *Calibration record.* The date of calibration, the individual performing it, and the calibration due date shall be indicated on each piece of equipment. A designated individual shall maintain a separate record showing calibration dates, methods, data, and by whom calibrated.

Subpart E—Control of Components, Containers, and In-Process Materials

§ 820.80 Components.

Components used in manufacturing a device shall be received, stored, and handled in a manner designed to prevent damage, mixup, contamination, or other adverse effect. Components shall be quarantined prior to acceptance or clearly identified as not yet accepted.

(a) *Acceptance of components.* There shall be a written procedure for acceptance of components. A designated individual shall maintain records of component acceptance and rejection. Upon receipt, each shipping container of components shall be visually examined for damage. When appropriate, components shall be inspected, sampled, and tested for conformance with specifications.

(b) *Storage and handling of components.* Components shall be stored in a manner designed to facilitate appropriate stock rotation procedures. Component control numbers or other identifications shall be easily viewable. All obsolete and rejected components shall be segregated from acceptable components and clearly identified. Records shall be maintained of all obsolete and rejected components.

§ 820.81 Critical devices, components.

In addition to the requirements of § 820.80, the following are required:

(a) *Acceptance of critical components.* All critical components shall be representatively sampled for testing and examination. The number of containers sampled and the amount to be taken from each container shall be based upon appropriate statistical criteria, the vast quality history of the supplier, and the quantity needed for analysis and reserve. All critical components shall be identified with control numbers upon receipt. The rejection percentages for all critical device components shall be maintained by a designated individual and identified by supplier name.

(b) *Component supplier agreement.* There shall be a written agreement between the critical component supplier and the device manufacturer whereby the supplier agrees to notify the manufacturer of any subsequent change in a component, component test, inspection or procedure. Where such an agreement exists, the manufacturer shall not accept such a change until he determines the impact of the change on the finished device.

Subpart F—Production and Process Controls

§ 820.100 Manufacturing specifications and processes.

Written manufacturing specifications and processing procedures shall be designed, implemented, and supervised to assure that the device manufactured is consistent with specified procedures and the requirements of this part.

(a) *Specification controls.* (1) Specification control measures shall be established to assure that the design basis for devices, components, and packaging is correctly translated into approved specifications.

(2) Specification changes, including changes made concerning devices already distributed shall be subject to control measures as great as or greater than those applied to the original design before the changes and shall be approved by designated individuals. All such approvals of specification changes shall be documented and shall state the date of approval and the date the change becomes effective.

(3) To assure conformance with specifications, written testing and sampling procedures shall described in-process controls to be used when appropriate. The procedure shall be contained in the quality control manual under § 820.190.

(b) *Processing controls.* (1) All operations in the processing of a device shall be controlled in a manner designed to assure that the device conforms to applicable specifications.

(2) There shall be a formal approval procedure for any change in the manufacturing process of a device. Such changes shall be made available to appropriate personnel.

(c) *Trend analysis.* When appropriate, there shall be an ongoing trend analysis of components and finished devices to indicate statistical control of a process.

§ 820.101 Critical devices, manufacturing specifications and processes.

In addition to the requirements of § 820.100, the following critical operation controls shall apply:

(a) *Critical operation performance.* Critical operations shall be performed by designated individuals or equipment and shall be suitably verified.

(b) *Record of critical operation.* The individual performing a critical operation shall record that operation in the device history record as required in § 820.185. Such record shall identify the date performed, operator identification, and when appropriate, the major equipment used. Any individual checking a critical operation shall indicate the date checked, name of the checker, and when appropriate, identification of checking equipment used. The information shall be recorded immediately upon the completion of the operation or the check or at suitable intervals compatible with the operational process.

(c) *Critical components.* There shall be a device history record which shall identify each critical component of the device and shall include the information required in § 820.185.

§ 820.115 Reprocessing of devices or components.

(a) All finished device units rejected during finished device inspection and later reprocessed are subject to another complete final inspection.

(b) Reprocessing procedures shall be so devised, implemented, and supervised to assure that subsequent finished devices meet the original, or subsequently modified and approved, specifications.

§ 820.116 Critical devices, reprocessing of devices or components.

In addition to the requirements of § 820.115, the following reprocessing controls shall apply:

(a) *Reprocessing procedures.* There shall be written procedures for any reprocessing associated with the production of a critical device or component. These procedures shall indicate the design, equipment, and special reprocessing factors, such as change in material due to constant reprocessing, to assure that the reprocessed device or component meets approved specifications. The procedures shall include any special quality control methods or tests. The reprocessing procedures shall be designed so that the reprocessed device or component meets the same or equal specifications as the original device or component. Adulteration because of material, structural and molecular change due to reprocessing, and other like considerations must be addressed in the procedures. Special care shall be taken to assure that the device or component to be reprocessed is clearly identified and separated from like devices or components not to be reprocessed. When there is a continual reprocessing of a component, such as waste from forms, dyes, etc., a determination of the effect of the reprocessing upon the component shall be made and documented. There shall be a formal approval procedure for instituting a new, or altering an approved, reprocessing procedure.

(b) *Reprocessing control.* Any reprocessed critical device or component shall conform to specifications of the original device or component. Written testing and sampling procedures to assure such conformity shall be contained in the quality control manual as required in § 820.191. Any prior quality control check shall be repeated on the reprocessed device or components if reprocessing could affect the specifications previously inspected. When it is necessary to reprocess a device or component rejected for other than a physically visible defect, appropriately quality control inspection shall be performed for all specifications.

(c) *Failure investigation.* The failure of a critical device or any of its components to meet specifications shall be thoroughly investigated. The investigation shall be conducted for distributed and undistributed devices and shall extend to other devices that may have been associated with the specific failure or discrepancy. A written record of the investigation shall be made including conclusions and followup.

Subpart G—Packaging and Labeling Control

§ 820.120 Device labeling.

There shall be adequate controls to maintain labeling integrity and to prevent labeling mixups.

(a) *Label integrity.* Labels shall be designed, printed, and applied so as to remain legible and attached to the device during the customary conditions of storage, distribution, and use.

(b) *Separation of operations.* Each labeling and packaging operation shall be separated physically or spatially in a manner designed to prevent mixups.

(c) *Area inspection.* Prior to the implementation of any labeling and packaging operation, there shall be an inspection of the area by a designated individual, other than the operator, to assure that devices and labeling materials from prior operations do not remain in the labeling or packaging area. Any such items found shall be destroyed, disposed of, or returned to storage prior to onset of a new or different labeling of packaging operation. A record of such inspection, including the date and person performing the inspection, shall be recorded in the device history record.

§ 820.121 Critical devices, device labeling.

In addition to the requirements of § 820.120, labeling materials issued for critical devices shall be examined for identity, including the presence of the correct expiration date, control number, storage instructions, handling instructions, and additional processing instructions, where applicable. The following are controls for critical device labels and labeling:

(a) *Labeling receipt.* Labels and other labeling shall not be released to inventory until a designated individual proofreads for accuracy a statistically selected sample against an approved final copy. The date and signature of the individual proofreading the labeling shall be recorded.

(b) *Storage.* Labels and labeling shall be stored and maintained in a manner which provides proper identification and prevents mixups.

(c) *Access restriction.* Access to labels and labeling shall be restricted to authorized personnel.

(d) *Excess printed labels.* All excess printed labels bearing control numbers shall be destroyed or appropriately altered at the conclusion of the packaging and labeling operation.

§ 820.130 Device packaging.

Package design, construction, and material shall be adequate to protect the device during customary conditions of processing, storage, handling, and shipment.

§ 820.131 Critical devices device packaging.

In addition to the requirements in § 820.130, for critical devices the following are required:

(a) *Device package design.* The device package shall be designed and constructed to protect the device from alteration or damage by expected external factors. When a form of external energy such as electromagnetic energy, heat, cold, or pressure could alter, damage, or otherwise adversely affect the device, the package shall be so designed and constructed to withstand the influx of such levels of energy as may be reasonably anticipated.

(b) *Storage and handling protection.* The device containers and packages shall be designed to withstand any reasonably anticipated factors to be encountered under normal and common storage and handling conditions of the device until ready for its intended use.

Subpart H—Holding and Distribution

§ 820.150 Distribution.

There shall be written procedures for finished device warehouse control and distribution to assure that only those devices authorized for release are distributed. Where appropriate, there shall be a system whereby the oldest approved devices are distributed first.

§ 820.151 Critical devices, distribution records.

In addition to the requirements of § 820.150, for critical devices adequate distribution records shall be maintained and made readily available. Such records shall include the name and address of the consignee, the name and quantity of devices, date shipped, and the control number used. These records shall be retained as required by § 820.180(b).

Subpart I—Product Evaluation

§ 820.160 Finished device inspection.

There shall be written procedures for finished device inspection to assure that specifications applicable to the finished device have been met. Prior to release for distribution, each production unit, lot, run, or control number shall be checked, including testing where necessary, for conformance with device specifications. A device shall be tested under those conditions in which it is expected to operate, e.g., temperature, humidity, pressure. Sampling plans used for testing and release of a device shall be statistically validated. Where appropriate, finished devices shall be held in quarantine until released.

§ 820.161 Critical devices, finished device inspection.

In addition to the requirements of § 820.160, a finished critical device shall not leave the control of the manufacturer for distribution until all acceptance records and test results are checked by a designated individual. Such individual shall assure that all records and documentation required for the device history record are present, complete, and correct, and shall authorize, by signature, the release of the finished device for distribution.

Subpart J—Records and Reports

§ 820.180 General requirements.

Except as specifically provided elsewhere, the following general provisions shall apply to all records required by this part. Required records include those listed in this subpart as well as records referred to in other subparts of Parts 820 through 829.

(a) *Confidentiality.* Those records deemed confidential by the manufacturer may be marked to aid the Food and Drug Administration in determining whether data and information may be disclosed under the public information regulation in Part 4 of this chapter.

(b) *Record retention period.* All required records pertaining to a device shall be retained for a period of time consistent with the design and expected life of the device, or other reasonably valid time period established by the manufacturer, but in no case less than 2 years from the date of release for commercial distribution by the manufacturer.

§ 820.181 Master device record.

The master device record, a compilation of records pertaining to the design and specifications of a device, shall be prepared, dated, and signed by a designated individual. The master device record shall include all specifications and procedures or appropriate references for each separate device entity. Any changes in the master device record shall be recorded with an authorizing signature. Any formal approval forms shall be a part of the master device record.

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§ 820.182 Critical devices, master device record.

In addition to the requirements of § 820.181, for critical devices the master device record shall include the following specific material or references to the location of such materials:

(a) *Device specification.* The complete device specification documentation, including drawings, composition, formulation, and component specifications.

(b) *Production process specifications.* The complete production process specifications, including equipment specifications, production methods, production procedures, and production environment specifications.

(c) *Quality control specifications.* The complete quality control specifications, including the quality control checks utilized and the quality control apparatus used.

(d) *Critical components and critical component suppliers.* Full information concerning critical components and critical component suppliers, including the complete specifications of all critical components, the sources from whom they may be obtained, and written copies of any agreements made with suppliers.

(e) *Control number.* The manufacturer shall designate a production unit, which is identifiable under a unique control number, for purposes of traceability. The production unit may be production run, lot, batch, date code, serial number, or other designation.

(f) *Label and labeling.* Complete labeling procedures for the individual device and copies of all labels, labeling, and any promotional material.

(g) *Packaging specifications.* The complete packaging specifications, including methods and processes.

§ 820.184 Device history record.

Sufficient records shall be maintained to demonstrate that the device conforms to specifications.

§ 820.185 Critical devices, device history record.

In addition to the requirements of § 820.184, for critical devices there shall be a device history record for each control number which shall include complete information relating to the production and control of each production unit. This record shall identify the specific label, labeling, and control number used on each production unit and shall be readily accessible and maintained by a designated individual. The device history record shall include or reference:

(a) *Operation documentation.* The documentation of each critical operation performed in the manufacturing of a device, including the date performed, major equipment used, and signatures of performing and checking individuals.

(b) *Component documentation.* Documentation of each critical component used in the manufacturing of a device. This shall include:

(1) *Control number.* The control number of the critical components used in the manufacturing of a device.

(2) *Acceptance record.* The acceptance record of the component with signature of accepting individual.

(3) *Movement to/from storage.* The date each component was accepted into the storage area, the date moved into the production area, and the signature of the accepting individual.

(c) *Inspection checks.* The inspection checks performed, the methods and equipment used, results, and the date and signature of the inspecting individual.

§ 820.190 Quality control manual.

There shall be a manual containing written procedures or references for quality control inspection, specification checks, tooling, and standards covering each device.

§ 820.191 Critical devices, quality control manual.

In addition to the requirements of § 820.190 and other provisions of this part, for critical devices the quality control manual shall record or reference:

(a) *Device and component specifications.* All device and component specifications to be checked by the quality control unit.

(b) *Inspection checks.* The validated methods and equipment to be used for inspection checks.

(c) *Formal change approval.* A formal approval procedure for any change in the quality control of a device.

(d) *Sampling plan.* A description of each sampling plan utilized.

§ 820.195 Critical devices, automated data processing.

When automatic data processing is utilized, adequate checks shall be designed to prevent inaccurate data output, input, and programming errors. A duplicate copy of computerized information relating to the requirements of this part shall be made and stored in a separate geographical location. Hard copy reports shall be provided if requested by Food and Drug Administration representatives.

§ 820.198 Complaint files.

(a) Written and oral complaints representing any dissatisfaction relative to the identity, quality, durability, reliability, effectiveness, or performance of a device shall be reviewed by the quality control unit. This unit shall determine whether or not an investigation is necessary. Any complaint involving the possible failure of a device to meet any of its specifications shall be investigated in accordance with § 820.116(c).

(b) A written record of each complaint and investigation shall be maintained in a file designated for device complaints. The written records shall include the name of the device, control number, name of complainant, nature of complaint and reply to complainant. All complaints pertaining to injury, death, or any hazard to safety shall be maintained in a separate portion of the complaint file and shall be immediately reviewed and evaluated by a designated individual.

(c) When an investigation is made, the record shall include the findings of the proceedings and followup. When no investigation is made, the record shall include the reason and the name of the person responsible for such determination.

Interested persons may on or before June 29, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday. Ordinarily, 60 days is provided for comment on a proposal, but the Commissioner may reduce or extend this time period for good cause. Because of the nature and extent of the regulations being proposed, the Commissioner has concluded that 120 days should be allowed for public comments. In the absence of extraordinary circumstances, no extension of time for comment will be granted.

The inflationary impact of the proposed good manufacturing practice regulations for medical devices was carefully considered in accordance with Executive Order No. 11821, OMB Circular A-107, and the guidelines issued by the Department of Health, Education, and Welfare. The Commissioner had determined that the agency lacks the data that are needed to perform a valid assessment at this time and consequently he is deferring judgment on whether or not these regulations are likely to cause a major inflationary impact.

Dated: February 23, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-6142 Filed 2-25-77;10:01 am]

federal register

TUESDAY, MARCH 1, 1977

PART V

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

TAKING AND IMPORTING OF MARINE MAMMALS

Commercial Fishing Operations

V42 40 MAR 1 77 UMI

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Taking of Marine Mammals Incidental to Commercial Fishing Operations

Final regulations are herein published to implement the final decision in the matter of the promulgation of such regulations authorizing the issuance of a permit to allow the taking of marine mammals incidental to yellowfin tuna purse seine fishing in the eastern tropical Pacific Ocean and governing the importation of yellowfin tuna. Proposed regulations on this matter were published on October 14, 1976, 41 FR 45015. The final decision is simultaneously published at page 12015 of this issue.

SUMMARY OF AMENDMENTS

1. *Section 216.24(c)(5)(vi)* has been added to require that a Category 2 certificate applicant document the status of the fine mesh webbing required on the vessel on which he intends to operate.

2. *Section 216.24(d)(2)(i)(A)* has been amended to add two subparagraphs. Subparagraph (*1*) has been added to prohibit the encircling of pure or mixed schools of coastal spotted dolphin, Costa Rican spinner, and eastern spinner dolphin stocks. Subparagraph (2) has been added to restrict encircling of pure schools to offshore spotted dolphin stock and common dolphin species only. The paragraph has been also amended to reflect the Director's method of assessing the separate stock mortalities in 1977.

3. *Section 216.24(d)(2)(ii)* has been amended to clarify the requirement that marine mammals incidentally taken in commercial fishing operations may not be retained.

4. *Section 216.24(d)(2)(iii)* has been amended to clarify where logs are to be sent.

5. *Section 216.24(d)(2)(iv)* has been amended for clarification.

6. *Section 216.24(d)(2)(iv)(A)* has been deleted and new subparagraphs (*1*) and (*2*) have been added to describe in detail the required installation of new fine mesh webbing on different classes of purse seiners.

7. *Section 216.24(d)(2q(iv)(E)(i)* has been renumbered as § 216.24(d)(2)(iv)(E).

8. *Section 216.24(d)(2)(iv)(E)(i)* has been renumbered as § 216.24(d)(2)(iv)(F) and its language amended to clarify placement of bunchlines.

9. *Section 216.24(d)(2)(iv)(E)(iii)* has been renumbered as § 216.24(d)(2)(iv)(G) and its language amended for clarification. Furthermore, a documentation requirement has been added for certificate holders on Class I vessels desiring to be granted a waiver of the two speedboat regulation.

10. *Section 216.24(d)(2)(iv)(E)(iv)* has been renumbered as § 216.24(d)(2)(iv)(H).

11. *Section 216.24(d)(2)(v)* has been renumbered as § 216.24(d)(2)(iv)(I) and the last two sentences have been transfered to the following new section.

12. *Section 216.24(d)(2)(iv)(J)* has been added to incorporate all the personnel requirements of porpoise rescue other than backdown, including adding a requirement for use of an inflatable rubber raft and facemask.

13. *Section 216.24(d)(2)(iv)(K)* has been added to require use of floodlights and searchlights in sets which continue after darkness.

14. *Section 216.24(d)(2)(vi)* has been renumbered as § 216.24(d)(2)(iv)(L) and has been amended to require an annual inspection of all purse seine vessels used by certificate holders, and to allow vessels unable to install the new fine mesh safety panel due to supply delays, to continue fishing until the webbing can be delivered.

15. *Section 216.24(d)(2)(vii)* has been renumbered as § 216.24(d)(2)(iv)(M) and has been amended to make suspension or revocation of a certificate a penalty for lack of proficiency in required release procedures, and recognizes the advisory capability of an established "Skipper's Panel" in determining proficiency of certificate holders.

16. *Section 216.24(d)(2)(viii)* has been deleted.

17. *Section 216.24(d)(2)(ix)* has been renumbered as § 216.24(d)(2)(iv)(N) and has been amended to add, as a requirement of the general permit application, documentation that the requested take is consistent with the purposes of the Act.

18. *Section 216.24(e)(2)(i)* has been amended to list all categories of fish, other than yellowfin tuna, which require documentation under these regulations.

19. *Section 216.24(e)(2)(ii)* has been added to list those categories under which yellowfin tuna is imported, and for which documentation under these regulations is required.

20. *Section 216.24(e)(3)* has been amended to reflect the use of a revised documentation form for importation of fish categories other than yellowfin tuna.

21. *Section 216.24(e)(3)(v)* has been deleted, as have subsections (A) and (B) thereunder. Statements under this section are no longer relevant.

22. *Section 216.24(e)(3)(vi)* has been renumbered as § 216.24(e)(3)(v).

23. *Section 216.24(e)(4)* has been added to establish the documentation requirements for yellowfin tuna products.

24. *Section 216.24(e)(5)(i)* has been added to prohibit unloading of yellowfin tuna from those countries whose vessels the Director has determined operate in the eastern tropical tuna purse seine fishery, unless documentation can be provided which allows him to determine that their fishing operations conform with our regulations and standards.

25. *Section 216.24(e)(5)(ii)* has been added to describe the procedures by which countries, listed by the Director pursuant to § 216.24(e)(5)(i), can apply for a finding of conformity with our regulations and standards.

26. *Section 216.24(e)(4)* has been renumbered as § 216.24(e)(6) and amended to reflect other renumbered sections.

27. *Section 216.24(e)(5)* has been renumbered as § 216.24(e)(7) and the 5 day redelivery deadline amended to be 30 days, in line with normal U.S. Customs procedures.

28. *Section 216.24(e)(6)* has been renumbered as § 216.24(e)(8) and amended to reflect other renumbered sections.

29. *Section 216.24(f)* has been amended to remove the requirement for a five day advance notice of departure for observer placement, and has added a requirement that accurate locations be supplied to the observer.

30. All Figures pertaining to § 216.24(d)(3) have been deleted. Sections 216.24(d)(2), 216.24(e) and 216.24(f) have been hereby published in their entirety to provide continuity and clarity in the regulations.

Dated: February 24, 1977.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

Section 216.24 is hereby amended by adding a new subparagraph (c)(5)(vi), and by amending paragraphs (d)(2), (e), (f) and (g) as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * * * *

(c) Certificates of Inclusion: * * *

(5) * * *

(vi) For 1977 only, all applicants for a Category 2 Certificate shall either, (A) provide a statement that small mesh webbing not exceeding 1¼" stretch mesh has been installed in the net of the vessel he intends to operate as required by (d)(2)(iv)(A) below; or (B) provide a statement that small mesh webbing not exceeding 1¼" stretch mesh is on order giving the expected delivery date. The Regional Director may require further documentation verifying an order for fine mesh webbing prior to issuing a certificate.

* * * * * * *

(d) * * *

(2) *Encircling gear; yellowfin tuna purse seining.* (i)(A) A certificate holder may take marine mammals so long as taking is an incidental occurrence in the course of normal commercial fishing operations, except that a certificate holder shall not encircle either (*1*) pure schools of coastal spotted dolphin (*Stenella attenuata*), and Costa Rican spinner or eastern spinner dolphin (*Stenella longirostris*) stocks or mixed schools including these stocks, or (2) pure schools of any species of dolphin except offshore spotted dolphin (*Stenella attenuata*) stocks and common dolphin (*Delphinus delphis*) stocks. The numbers of marine mammals that may be killed by U.S. vessels in the course of commercial fishing operations will be determined by the Director and limited in the general permit. The mortality of marine mammals permitted under the general permit for yellowfin tuna purse seining, will be monitored according to methodology which will be published in the FEDERAL REGISTER. The effective date when fishing on a stock or species will be prohibited, will be published in the FEDERAL REGISTER not less than 7 days prior to that date. The Director may change the maximum number of marine mammals that may be killed, as specified in the general permit, whenever new information becomes available which results in the reevaluation of the population or OSP level of any stock or species.

(B) Marine mammals taken incidental to commercial fishing operations shall be immediately returned to the environment where captured without further injury. Each certificate holder shall take every possible step to minimize the incidental mortality and serious injury of marine mammals in the course of commercial fishing operations, including refraining from using a sharp or pointed instrument on porpoise and refraining from causing or permitting a purse seine under his control to be set around marine mammals when conditions of wind, sea, visibility, or the number of marine mammals and/or fish concerned would, in his judgment, be likely to prevent the effective use of the backdown and other procedures required herein. Such steps to minimize mortality and serious injury shall include, where appropriate, causing a purse seine already set on marine mammals to be released, and/or opened to facilitate release of marine mammals where such a step will, in his judgment, be effective and conditions prevent the effective use of the procedures required hereunder. The Director may publish findings relating to conditions of wind, sea, visibility or numbers of marine mammals and fish concerned which prevent the effective use of equipment and procedures required hereunder and result in an unacceptably high rate of incidental mortality and serious injury of marine mammals and under which conditions it would not be permissible to cause a set to be made on marine mammals.

(ii) A certificate holder may take such steps as are necessary to protect his catch, gear, or person from depredation, damage, or threat of personal injury. However, all marine mammals taken in the course of commercial fishing operations shall be subject to the provisions of § 216.3 with respect to "incidental catch", and may not be retained except where a specific permit has been obtained authorizing the retention.

(iii) All certificate holders shall maintain daily logs, in such form as the Regional Director, Southwest Region, National Marine Fisheries Service may prescribe, of all sets in which marine mammals are taken. Such logs must include the location, time and date of set; weather and water conditions; estimated number and species of marine mammals upon which the set was made; estimated number and species of marine mammals caught; method used to remove marine mammals from the net; amount and kind of tuna caught; and an actual count of marine mammals killed and seriously injured, if any, on each set. Such logs shall be subject to inspection at the discretion of the Southwest Regional Director, or his designated personnel. In addition, certified copies of all such logs shall be mailed or delivered to the field office, Southwest Region, National Marine Fisheries Service, 1140 N. Harbor Drive, Room 7, San Diego, California 92101, within forty-eight hours after arrival in port.

(iv) A certificate will be valid only on a vessel equipped with a porpoise safety panel in its purse seine, and which uses other gear and procedures as described herein. Porpoise safety panels and all other gear used in the course of catching and landing yellowfin tuna, and for backdown and other marine mammal release procedures, shall be maintained in a functional and seaworthy condition. The requirements for the porpoise safety panel and other gear are as follows:

(A) (*1*) For purse seiners of 400 short tons carrying capacity or less, and for those greater than 400 tons carrying capacity built before 1961, the porpoise safety panel shall be a minimum of 100 fathoms in length (as measured before installation), except that the minimum length of the panel in nets deeper than 10 strips shall be determined at a ratio of 10 fathoms in lentgh for reach strip that the net is deep. It shall be installed beginning at the outboard end of the number three bow bunchline, and shall extend toward the stern of the net, protecting the perimeter of the backdown area. The porpoise safety panel shall consist of small mesh webbing not to exceed 1¼" stretch mesh, extending from the corkline downward to a minimum depth equivalent to one strip of 100 meshes of 4¼" stretch mesh webbing.

(2) For purse seiners greater than 400 short tons carrying capacity built after 1960, the porpoise safety panel shall be a minimum of 180 fathoms in length (as measured before installation). It shall begin in the second bow bunch at any point between the middle and the outboard end of the bunchline and shall extend toward the stern of the net protecting the perimeter of the backdown area. The porpoise safety panel shall consist of small mesh webbing not to exceed 1¼" stretch mesh, extending from the corkline downward to a minimum depth equivalent to two strips of 100 meshes of 4¼" stretch mesh webbing.

(B) Each end of the porpoise safety panel must be identified with an easily distinguishable marker.

(C) Throughout the length of the corkline in which the porpoise safety panel is located, hand hold openings are to be secured so that the insertion of a 1⅜" diameter cylindrical-shaped object meets resistance.

(D) Throughout the length of the corkline in which the porpoise safety panel is located, corkline hangings shall be inspected by the certificate holder following each trip. Hangings found to have loosened to the extent that a cylindrical object with a 1⅜" diameter will not meet resistance when inserted between the cork and corkline hangings, must be tightened so that a cylindrical object with a 1⅜" diameter cannot be inserted.

(E) Purse seine vessels engaged in fishing operations involving setting on marine mammals shall carry a minimum of two speedboats in operating condition. All speedboats carried aboard purse seine vessels and in operating condition shall be rigged with towing bridles and towlines. Vessels that do not carry at least two speedboats in operating condition and properly rigged, may not conduct fishing operations which involve setting on marine mammals.

(F) On every set involving marine mammals, a minimum of two bow bunches shall be pulled. Bunchlines, other than bow bunchlines, shall be arranged around the perimeter of the net with both ends of some bunchlines unattached to permit towing from either end or one bunchline rigged in normal fashion with an adjacent one reversed. The arrangement of bunchlines around the perimeter of the net must allow at least three towing points to be established near one-quarter, one-half and three-quarter net from the bow ortza (end of the net). The ends of all bunchlines which can be utilized as towing points shall be marked so as to be clearly visible to speedboat drivers.

(G) Except as provided herein, on every set involving marine mammals, a minimum of two manned speedboats shall be in the water until backdown commences. Speedboats shall be prepared to hook onto either the bunchline towing points established along the perimeter of the net or onto the corkline, in order to tow the net to prevent net collapse and a formation of pockets of loose webbings, such as stern bends, which might entrap marine mammals. Other speedboats that are in operating condition shall be prepared for immediate use to tow if needed. Vessels of 400 tons carrying capacity or less which have an observer duly authorized by the Secretary aboard, may have a minimum of one manned speedboat in the water from the time the set is commenced until backdown has commenced, provided that, prior to departure, the certificate holder has presented the Regional Director with a signed statement declaring that the presence of an observer will displace the crewman who would operate the second speedboat on porpoise sets.

(H) Actual towing on the net shall be performed when, in the opinion of the certificate holder, towing is necessary to prevent net collapse or the formation of pockets of loose webbing. If towing the net has been necessary, the speedboats may unhook their towlines when towing is no longer needed, or their respective bunchlines begin to go up toward the power block or backdown commences.

(I) Backdown shall be performed following a net set where marine mammals are captured in the course of utilizing a purse seine for catching and landing yel-

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lowfin tuna. Thereafter, other release procedures required in paragraphs (J) and (K) below shall be continued until all live animals have been released from the net. "Backdown procedure" means a series of maneuvers, which take place after the net is tied down following a set and pursing; and which keep the net open to the greatest degree to allow porpoise or other marine mammals to leave the pursed net over the net floats which are submerged as a result of the vessel moving astern:

(J) On a net set where marine mammals are captured, a minimum of two men shall be engaged in hand removal of marine mammals from the net, commencing with backdown and continuing through the sacking up operation. (*1*) A facemask and snorkel, in addition to an inflatable rubber raft suitable to be used as a porpoise observation-and-rescue platform, shall be carried on all tuna purse seine vessels operated by a certificate holder. The raft shall be launched inside the net near the time of tying down for the backdown maneuver and shall be employed by a crewman to assist the other rescuer(s) in disentangling and releasing live marine mammals from the net. The rescuer in the raft shall use the facemask and snorkel to determine whether all live marine mammals are out of the net making every effort to remove them before backdown is terminated. If live marine mammals remain in the net after backdown, the rescuer in the raft shall make every effort to herd the animals to areas where they can be easily released. Rescue efforts using the rubber raft shall be performed using due care for the safety of the rescuer. (*2*) The rescue procedures above, in conjunction with other rescue efforts, shall be continued until all live marine mammals are removed from the net prior to initiating brailing operations.

(K) All tuna purse seine vessels operated by a certificate holder shall be equipped with adequate floodlights suitable for use in darkness to attract fish toward the main vessel and a spotlight to intermittently illuminate the backdown channel and apex. If the backdown maneuver or other required release procedures proceed past one-half hour after sunset, lights shall be used as necessary, to insure that rescue procedures are properly performed and that all live marine mammals are removed from the net prior to initiating brailing operations.

(L) Purse seine nets and other gear and equipment utilized to catch and land fish under this section and to conduct a backdown and other procedures herein required, shall be maintained in a functional and seaworthy condition. Required vessel gear and equipment shall be subject to inspection and examination at least once annually by authorized NMFS personnel at a time and location determined by the Southwest Regional Director. Any vessel found to not be equipped with gear which is in conformity with these regulations and maintained in a functional and seaworthy condition, or whose master or managing owner has failed to notify the NMFS of delivery of fine mesh webbing as required below, shall be ineligible for use by a certificate holder for commercial fishing operations under this section. However for 1977 only, a certificate holder may operate a vessel not equipped with the fine mesh safety panel, as required in (A) above, provided that fine mesh webbing has been ordered and documented on his 1977 application for a certificate of inclusion, as specified in paragraph (c)(5)(vi), and that the webbing will be installed and inspected upon its receipt. Webbing delivered while the vessel is still at sea shall be installed and inspected prior to initiating a new fishing voyage. The master or managing owner shall notify the field office, Southwest Region, National Marine Fisheries Service, 1140 N. Harbor Drive, Room 7, San Diego, California 92101, telephone (714) 293–6540 upon delivery of the fine mesh webbing. In no event shall a vessel greater than 400 short tons carrying capacity, not equipped with a fine mesh safety panel, be used by a certificate holder on any fishing voyage begun after 0001 hours, May 1, 1977.

(M) All certificate holders shall maintain proficiency sufficient to perform the procedures required herein. Certificate holders must attend, and satisfactorily complete, a formal training session conducted under the auspices of the National Marine Fisheries Service. At the training session, a certificate holder shall be instructed concerning the provisions of the Marine Mammal Protection Act of 1972, the regulations promulgated pursuant to the Act, the requirements of his certificate of inclusion and the appropriate general permit, and the fishing gear and techniques which are required or will contribute to reducing serious injury and mortality of porpoises incidental to purse seining for yellowfin tuna. In addition, for continuation or renewal of a certificate, a certificate holder may be required to attend other formal training sessions when there are substantial changes in the Act, the regulations or the required fishing gear and techniques. The certificate of any certificate holder who is found to lack proficiency in the procedures required herein shall be suspended or revoked. Determination by the Director to revoke or suspend a certificate may be based on recommendations from a "Skipper's Panel".

(N) Applicants for a general permit under this category, in addition to requirements under paragraph (b)(2) of this section, must demonstrate in the application that the requested taking of species or stocks during commercial fishing operations is consistent with the purposes of the Act and the applicable regulations established under section 103 of the Act. Failure to comply with the provisions of this permit or these regulations, including but not limited to: failure to submit upon demand to vessel, gear, equipment, or proficiency inspection or examination by authorized National Marine Fisheries Service personnel; falsification of logs and reports required hereunder; or failure to satisfy the requirements of any provisions of these regulations, will subject certificate holders, vessel masters, or owners to revocation of the certificate and/or right to be included under a general permit, and further subject certificate holders, vessel masters, or owners to the penalties provided for under the Act.

* * * * *

(e) Importation: (1) It shall be illegal to import into the United States any fish, whether fresh, frozen or otherwise prepared, if such fish were caught in a manner prohibited by these regulations or in a manner that would not be allowed in circumstances where a person subject to the jurisdiction of the United States would be required to have a certificate of inclusion in a general permit hereunder, whether or not any marine mammals were in fact taken incidental to the catching of the fish, unless the Director makes a finding and publishes such finding in the FEDERAL REGISTER, that such fishing, although not in conformity with the specific requirements of these regulations, is accomplished in a manner which does not result in an incidental mortality and serious injury rate in excess of that which results from fishing operations under these regulations.

(2) The following fish and categories of fish, which the Director has determined are involved with commercial fishing operations which cause the death or injury of marine mammals, are subject to the prohibitions and documentation requirements of this section:

(i) Salmon, halibut, and pilchards from South Africa. The following U.S. Tariff Schedule Item Numbers identify these categories of salmon, halibut, and pilchard products which are imported into the United States and are to be covered by the documentation and certification regulations of §216.24(e)(3):

110.20–25	Halibut, fresh or chilled.
110.20–30	Halibut, frozen.
110.20–45	Salmon, fresh or chilled.
110.10–50	Salmon, frozen.
110.70–40	Halibut, other—except portion controlled steaks.
111.48–00	Salmon, salted.
111.88–00	Salmon, smoked or kippered.
112.18–00	Salmon, preserved, not in oil.
112.20–00	Canned sardines/pilchards (from S. Africa).
112.22–00	Canned sardines/pilchards (from S. Africa).

(ii) Yellowfin tuna. The following U.S. Tariff Schedule Item Numbers identify the categories of tuna and tuna products under which yellowfin tuna is imported into the United States, and are subject to the importation restrictions of paragraph (e)(4) of this section after May 31, 1977:

110.10–20	Tuna; yellowfin, whole fish.
110.10–25	Tuna; yellowfin, eviscerated, head on.
110.10–30	Tuna; yellowfin, eviscerated, head off.
110.10–37	Tuna; yellowfin, other.
112.30–40	Tuna; canned, other than white meat, no oil—except cans marked "Other than yellowfin tuna".
112.34–00	Tuna; canned, other, no oil—except cans marked "Other than yellowfin tuna".
112.90–00	Tuna; canned, other, in oil—except cans marked "Other than yellowfin tuna".

(3) Salmon, Halibut, and Pilchards from South Africa. All fish and and categories of fish listed in paragraph (e)(2)(i) of this section shall be denied entry into the United States unless accompanied by a separate Fisheries Certificate of Origin (Standard Form 369–1) from each country whose flag vessels caught fish involved in the importation. The Fisheries Certificate of Origin should include the following information:

(i) The country of origin; and

(ii) The identity and quantity of fish; and, either

(iii) After the Director has published the finding referred to in paragraph (e)(1) of this section, a statement from a responsible official of the country of origin that the fishing technology permitted by the country of origin with respect to the species of fish presented for importation into the United States does not result in a rate of serious injury or death to marine mammals in excess of that which results from U.S. commercial fishing operations as prescribed by these regulations. Country of origin for the purposes of this section shall mean the country under whose flag the fish catching vessels are documented and whose fish are a part of any cargo or shipment of fish to be imported into the U.S. regardless of any transshipments; or

(iv) A statement by a responsible official of the country of origin or the master of the vessel which caught the fish that such fish were not caught in a manner prohibited for U.S. fishermen by these regulations. The statement shall identify the species, quantity, and exporter of the fish to which the statement refers; or

(v) Any nation may certify to the Director either (A) that all of its vessels fishing under its flag are fishing in conformance with these regulations; or (B) a list of the vessels, by name and official number, fishing under such nation's flag which are fishing in conformance with these regulations; or (C) that all of the vessels fishing under such nation's flag, with the exception of any vessels specifically listed by name and official number, are fishing in conformance with these regulations. If methods (B) or (C) are used, the shipping documentation must also show the name and official number of the vessel which caught the fish presented for importation.

(4) Yellowfin tuna. Prior to June 1, 1977, all yellowfin tuna listed in paragraph (e)(2)(i) of the 40 FR 56904, December 5, 1975, will continue to be subject to the importation restrictions of paragraph (e)(3) in 39 FR 32124, September 5, 1974, as amended. After May 31, 1977, all shipments of fish and products listed in paragraph (e)(2)(ii) of this section, from any nation, may not be unloaded into the United States unless a finding has been made pursuant to paragraph (e)(5)(i) below, and further, shall be denied entry into the U.S. unless accompanied by the following documentation: (I) A separate Yellowfin Tuna Certificate of Origin (Standard Form 370–1) from each country whose flag vessels caught yellowfin tuna involved in the importation. The Yellowfin Tuna Certificate of Origin must include the following information: (A) Country of origin of the fishing vessel(s) involved; (B) Exporter (name and address); (C) Consignee (name and address); (D) Identity and quantity of the yellowfin tuna to be imported, listed by U.S. Tariff Schedule Number; (E) Name of vessel(s) which caught the yellowfin tuna; (F) Fishing method used (i.e., purse seine, longline, pole and line, etc.); (G) Other documentation as may be required by the Director, subsequent to granting a finding in section (e)(5); (H) Must be signed by either a responsible government official of the country whose flag vessel caught the fish or the vessel master, below the following certification statements:

I certify that the yellowfin tuna described in (D) above was caught by flag vessels of a country either, (1) not required to obtain a finding from the United States Department of Commerce (National Marine Fisheries Service) under 50 CFR 216.24(e)(5), and the fish was not caught in a manner prohibited for United States fishermen by the United States Marine Mammal Regulations 50 CFR 216.24(d)(2); or (2) which has been found by the United States Department of Commerce (National Marine Fisheries Service) to be in conformance with the United States Marine Mammal Regulations 50 CFR 216.24-(e)(5).

I certify that the above information is complete, true and correct to the best of my knowledge and belief. I understand that my making a false statement may subject me to the criminal penalties under the Marine Mammal Protection Act of 1972.

(I) Must also be signed by the exporter, under the following declaration:

The undersigned hereby declares that, based on the above statements, the yellowfin tuna herein offered for importation into the United States, was caught by flag vessels of (country), in conformance with the United States Marine Mammal Regulations 50 CFR 216.24.

(5) (i) After May 31, 1977, it shall be illegal to unload into the United States any tuna or tuna products in the classifications listed in paragraph (e)(2)(ii) of this section, from countries of origin (as documented under (e)(4) above) whose vessels operate in the yellowfin tuna purse seine fishery in the eastern tropical Pacific Ocean, as determined by the Director, National Marine Fisheries Service; unless the Director makes a finding in consultation with the U.S. Department of State, and publishes such finding in the FEDERAL REGISTER that fishing operations in the country of origin are conducted in conformance with U.S. regulations and standards as stated in paragraph (d)(2) of this section. The Director may make a finding that, although not in conformity with these regulations, such fishing is accomplished in a manner which does not result in an incidental mortality and serious injury in excess of that which results from U.S. fishing operations under these regulations. Upon such a finding unloading may be allowed. Country of origin for the purposes of this section (§ 216.24(e)) shall mean the country under whose flag the fish catching vessels are documented and whose fish are a part of any cargo or shipment of fish to be imported into the U.S. regardless of any transhipments.

(ii) Countries of origin desiring to obtain a finding which will allow the importation of products listed in paragraph (e)(2)(ii) of this section must submit, by appropriate government official, to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235: the following information: (A) A statement of the quantity and type (identified by tariff schedule numbers listed in paragraph (e)(2)(ii) of this section) of fish or fish products expected to be imported into the U.S. in the calendar year 1977; (B) A detailed description of the fishing technology and procedures utilized in tuna purse seine fishing to protect marine mammals so that a determination of conformance with 216.24(d)(2) of these regulations can be made, or the effectiveness of any other equivalent technology or procedures be assessed; (C) A statement of the number of marine mammals killed or seriously injured (by species) incidental to the yellowfin tuna purse seine operations on porpoise for the previous year, and the manner in which the information was obtained (logbooks, observers, interviews, or other procedures); (D) A statement of the number of marine mammals which will be allowed to be killed or seriously injured incidental to yellowfin tuna purse seine operations in 1977 and the impact of such mortality or serious injury on the existing populations of marine mammals by species; (E) A statement of the procedures to be required, including quotas and other controls, which will meet the U.S. requirements to limit the level of mortality, and procedures for prohibiting sets on marine mammals after the level of mortality allowed is reached; (F) Copies of laws and regulations which protect and conserve marine mammals involved in fishing operations; and (G) A list of vessels which may be involved in the taking of marine mammals incidental to yellowfin tuna purse seining, and a list of United States citizens working on these vessels. Should a finding be made, the Director intends to require a periodic update of the above list of U.S. citizens as a condition of the finding. The Director may require verification of statements made in connection with requests to allow importations. The Director will reconsider a finding upon a request from, and the submission of additional information from, the county of origin.

(6) *Fish refused entry.* If fish is denied entry under the provisions of § 216.24(e)(3) or § 216.24(e)(4), the District Director of Customs shall refuse to release the fish for entry into the United States and shall issue a notice of such refusal to the importer or consignee.

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(7) *Release under bond. Provided however,* That fish not accompanied or covered by the required documentation or certification when offered for entry may be entered into the United States if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of the required documentation or certification. The bond shall be in the amount required under 19 CFR 25.4(a). Within 90 days after such Customs entry, or such additional period as the District Director of Customs may allow for good cause shown, the importer or consignee shall deliver a copy of the required documentation or certification to the District Director of Customs, and an original of the required documentation or a copy of the certification to the Regional Director of the National Marine Fisheries Service, unless the District Director of Customs has received notification from the National Marine Fisheries Service that the fish is covered by a certification. If such documentation, certification, or notification is not delivered to the District Director of Customs for the port of entry of such fish within 90 days of the date of Customs entry or such additional period as may have been allowed by the District Director of Customs for good cause shown, the importer or consignee shall redeliver or cause to be redelivered to the District Director of Customs those fish which were released in accordance with this paragraph. In the event that any such fish is not redelivered within 30 days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of a bond given on Form 7551. When the transaction has been charged against a bond given on Form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been demanded under the preceding sentence under a bond given on Form 7551. Fish released for entry into the United States through use of the bonding procedure provided in this paragraph shall be subject to the civil and criminal penalties and the forfeiture provisions provided for under the Act if (i) the required documentation or certification is not delivered to the Regional Director of the National Marine Fisheries Service within 90 days of the date of Customs entry, or such additional period as may have been allowed by the District Director of Customs for good cause shown, or (ii) the required certification is not on file in the office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, within this 90 day period or such additional period as may have been allowed by the District Director of Customs for good cause shown. Fish refused entry into the United States shall also be subject to the civil and criminal penalties and the forfeiture provisions provided for under the Act.

(8) *Disposition of fish refused entry into the United States; redelivered fish.* Fish which is denied entry under § 216.24 (e) (3) or § 216.24(e) (4) or which is redelivered in accordance with § 216.24(e) (7) and which is not exported under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery shall be disposed of under Customs laws and regulations. *Provided however,* That any disposition shall not result in an introduction into the United States of fish in violation of the Marine Mammal Protection Act of 1972.

(f) (1) The master of any commercial fishing vessel engaged in fishing operations for which a general permit is required shall, upon the proper notification by the Director as described in this section, allow an observer duly authorized by the Secretary to accompany the vessel on any or all regular fishing trips for the purpose of conducting research and observing operations.

(2) Research and observation duties shall be carried out in such a manner as to minimize interference with commercial fishing operations. The navigator shall provide true vessel locations by latitude and longitude, accurate to the nearest minute, upon request by the observer. No owner, master, operator, or crew member of such vessel shall impair or in any way interfere with the research or observations being carried out.

(3) The Secretary shall provide for the payment of all reasonable costs directly related to the quartering and maintaining of such observers on board such vessels. The master or managing owner of each vessel who has been notified that he is required to carry an observer, via certified letter from the National Marine Fisheries Service, shall notify the field office, Southwest Region, National Marine Fisheries Service, San Diego, California, telephone (714) 293–6540 at least five days in advance of their fishing voyage to facilitate observer placement. No vessel whose master or managing owner has failed to comply with the provisions of this section may engage in fishing operations for which a general permit is required. Any person violating any of the provisions of this section shall be subject to the penalties provided in the Act.

(g) Penalties and rewards: Any person or vessel, subject to the jurisdiction of the United States shall be subject to the penalties provided for under the Act for the conduct of fishing operations in violation of these regulations. The Secretary shall recommend to the Secretary of the Treasury that an amount equal to one-half of the fine incurred but not to exceed $2,500 be paid to any person who furnishes information which leads to a conviction for a violation of these regulations. Any officer, employee, or designated agent of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

[FR Doc.77-6090 Filed 2-28-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

MARINE MAMMALS

Incidental Taking in the Course of Commercial Fishing Operations

On October 14, 1976, the National Marine Fisheries Service (NMFS) proposed regulations to govern the taking of marine mammals incidental to yellowfin tuna purse seining in 1977, and gave notice of a hearing thereon, 41 FR 45015–45019. The hearing was presided over by an Administrative Law Judge, the Honorable Frank W. Vanderheyden.

The Director, National Marine Fisheries Service, published in the FEDERAL REGISTER (42 FR 3886) that on January 18, 1977, he received a recommended decision from Judge Vanderheyden.

In accordance with the procedural regulations published at 41 FR 43550–43552 on October 1, 1976, the final decision and regulations governing the issuance of permits to allow the taking of marine mammals incidental to yellowfin tuna purse seine fishing in the eastern tropical Pacific Ocean and governing the importation of yellowfin tuna into the United States, are herein published.

The Final Supplemental Environmental Impact Statement (FSEIS) is being filed concurrently with the publication of these regulations. Consequently, these regulations will be final thirty days from the date the Final Supplemental Environmental Impact Statement is filed.

Applications for a permit will be entertained commencing with the date of publication. However, no permit will be issued until 30 days after the Final Supplemental Environmental Impact Statement is filed with the Council on Environmental Quality (CEQ). The date when the Final Supplemental Environmental Impact Statement (FSEIS) is filed will be announced in the FEDERAL REGISTER.

Dated: February 24, 1977.

ROBERT W. SCHONING,
National Marine Fisheries Service.

DECISION IN THE MATTER OF THE PROMULGATION OF REGULATIONS AUTHORIZING THE ISSUANCE OF PERMITS TO ALLOW THE TAKING OF MARINE MAMMALS INCIDENTAL TO YELLOWFIN TUNA PURSE SEINE FISHING IN THE EASTERN TROPICAL PACIFIC OCEAN AND TO GOVERN THE IMPORTATION OF YELLOWFIN TUNA—DOCKET MMPAH #2–1976

BACKGROUND

On October 14, 1976, proposed regulations were published (41 FR 45015) pursuant to Section 103 of the Marine Mammal Protection Act (Act) to govern the taking of marine mammals incidental to yellowfin tuna purse seining activities under permits issued pursuant to Section 104, and to govern the importation of yellowfin tuna pursuant to Sections 101(a) (2) and 102(c) (3). The proposed regulations were to replace regulations voided as contrary to the Act, 16 USC 1361, et seq. by the U.S. District Court for the District of Columbia (CA 74–1465, and CA 75–0227, filed May 11, 1976), and to amend import regulations.

The National Marine Fisheries Services determined that the proposed rules contained a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A–107 and an Inflationary Impact Statement has been prepared. This determination is being reviewed in light of the final decision.

A Supplemental Draft Environmental Impact Statement to the Final Impact Statement filed on November 18, 1975 was made available to Federal Agencies and the general public for comment on November 12, 1976 (41 FR 50048). Comments on the Supplemental Draft Environmental Impact Statement were received from the Department of Labor, State of California Department of Fish and Game, Department of State, Department of the Interior, and Environmental Protection Agency. A final Supplement EIS will be filed with the Council on Environmental Quality concurrent with the publication of final regulations in the FEDERAL REGISTER.

In accordance with the Act, the proposals were the subject of a hearing on the record, presided over by an Administrative Law Judge (ALJ). The hearing was conducted in Washington, D.C., November 15, 16, 17, 18, and 19, 1976; San Diego, California, November 22, 23, 24, 26; and in Washington, D.C., November 29, 30 and December 1, 2, 3, and 4, 1976. Oral closing arguments were heard on December 22, 1976 in Washington, D.C. The hearing was conducted pursuant to expedited procedural rules published at 41 FR 43550, October 1, 1976.

The following parties participated at the hearing:

National Marine Fisheries Service; Marine Mammal Commission; Environmental Defense Fund, Alex Jay, American Littoral Society, Animal Protection Institute, Animal Welfare Institute, Connecticut Cetacean Society, Defenders of Wildlife, Environmental Policy Center, Friends of the Earth, Committee for Humane Legislation, Friends of Animals, Inc., Fund for Animals, Humane Society of the U.S. International Fund for Animal Welfare USA, National Parks and Conservation Society, The National Audubon Society, The Sierra Club, The Wilderness Society; American Tunaboat Association, Tuna Research Foundation; Zapata Ocean Resources Corporation; Pacific Legal Foundation; Fishermen's Union of America, Pacific and Caribbean Area AFL–CIO, The United Cannery and Industrial Workers of the Pacific; Commonwealth of Puerto Rico; Canadian Embassy, Department of State; and Japan Trade Center in New York.

The hearing focused on the following issues:

1. Estimated existing levels of the species and population stocks of the marine mammals involved in purse seining for yellowfin tuna;

2. The expected impact of the proposed regulations on the optimum sustainable populations of the species or population stocks involved;

3. The percentage of the initial unexploited species or population stock size which results in the maximum net productivity of the involved species and population stocks;

4. The economic feasibility of implementing the proposed regulations;

5. The technological feasibility of implementing the proposed regulations;

6. The rate of kill and total kill of the involved marine mammals by foreign countries;

7. The impact of the regulations on importation of yellowfin tuna and yellowfin tuna products;

8. The impact of implementing the proposed regulations on the tuna stocks.

CONSULTATION

The Act requires that I consult with the Marine Mammal Commission in promulgating regulations. The Commission was consulted prior to publication of the proposal and the Commission was a party to the proceedings. In addition, the Commission has filed exceptions, reply exceptions, and a letter from the Chairman, Dr. Douglas Chapman, which it has asked to be considered as satisfying its consultation right. It is my conclusion, therefore, that the consultative requirements of the Act have been satisfied. Additionally, as required by the conditions of the delegation of authority for decision making to me, I have consulted with the Administrator of the National Oceanic and Atmospheric Administration and the Secretary of Commerce on this decision with specific emphasis on the critical issues of depletion and quotas.

ALJ'S RECOMMENDED DECISION

The Administrative Law Judge (ALJ) recommended to me on January 17, 1977, based on reliable and probative evidence in the record as a whole, that the proposed regulations for the year 1977 be adopted as the final regulations, as amended by his findings of fact and conclusions of law. On January 21, 1977 (42 FR 3886) I notified the public of receipt of the Judge's recommended decision. I hereby adopted and incorporate by reference the Judge's decision except insofar as it is inconsistent with what is hereinafter set forth. In each instance where I make a specific determination, I will make reference to the decision of the Administrative Law Judge. Where appropriate, I will summarize the positions taken by other parties. In those instances in which I support the decision of the Administrative Law Judge, and the justification supporting such a decision in the recommended decision is persuasive and convincing, I will adopt both the decision and the rationale. Where I concur in the Judge's decision but wish to modify or add to the Judge's rationale, I will make appropriate comments.

DETERMINATIONS

In making my decision, Section 103(a) of the Act and the opinion of the U.S. District Court of the District of Columbia require that my decision be supported by the evidence on the record. That evidence is to be the best scientific evidence avail-

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able. The public, including those government agencies with special expertise, was afforded an opportunity to participate and to introduce evidence at a formal hearing on the record. In view of this and after having reviewed the record, it is my conclusion that my decision is based on among other things the best scientific evidence available at this time and is supported by evidence on the record. I have determined that the proposal, procedures, and the decision satisfy the requirements of Section 1373 of the Act and the Court's opinion to make available to the public reasonable estimates of the existing population level of each species affected, the optimum sustainable population of each species, and the expected impact of the regulations on an optimum sustainable population for each species. As I understand the Act and the Court's opinion, I must be assured that the allowed taking will not be to the disadvantage of the marine mammals involved and is otherwise consistent with the purposes and policies of the Act, and I have so concluded.

Decision Criteria

In framing the detailed decision which follows, a number of complex interrelated legal and scientific, particularly biological and statistical, subjects are addressed. These include marine mammal population levels, optimum sustainable population levels, depletion of stocks, mortality limits, and quotas derived from these limits. Although each of these subjects is individually covered in my decision, some overview of the background and the interrelationship of the factors considered is important in understanding the decision.

Population levels of the various species and stocks of marine mammals affected by the yellowfin tuna purse seine fishery were developed by a workshop of prominent scientists and extensively reviewed in the administrative hearing While these population levels satisfy the criteria for population determination in the Act, it must be recognized that they are statistically determined mid-point levels. For stocks that have been little impacted by the fishery, these mid-point estimates are considered satisfactory. However, for decision purposes two other levels besides mid-point were determined. These have been termed the reasonably confident and virtually certain levels and represent levels of increasing confidence of 97.5 percent and 99.9 percent, respectively, that an individual species or stock is at or above the level indicated. Similar confidence levels, that is mid-point, reasonably confident, and virtually certain, have been applied to the net reproductive rate which provides a guide to whether individual stocks and species can sustain a measured level of mortality. The reproductive rate of a stock is important in determining historic population levels, the limit of take that can be allowed without disadvantage to the stock, and the optimum sustainable populaiion.

Population Levels

In the October 14, 1976 Federal Register notice of proposed regulations, as required by the Act (Section 103(d) (1)), I published a statement of the estimated existing levels of the species and population stocks. The Administrative Law Judge and all parties to the hearing who discussed species and stock size, except the American Tunaboat Association and Tuna Research Foundation and the unions, agreed with the accuracy of and underlying rationale for the stock size. The basic rationale comes from the "Report of the Workshop on Stock Assessment of Porpoises Involved in the Eastern Pacific Yellowfin Tuna Fishery" (Southwest Fisheries Center Administrative Report Number LJ-76-29). The population estimates in the record are updated to reflect information obtained since the workshop. A group of experts, including some with population dynamics expertise, was assembled by the National Marine Fisheries Service to conduct this workshop on porpoise stock assessment. The report contains estimates of existing population sizes, a determination of the levels of existing populations relative to optimum sustainable populations, and assessments of the impact of various levels of incidental kill upon the existing population levels.

This report, which is a part of the record, assembled for the first time since the Act was enacted scientific information sufficient to make the determinations required by the Act for stocks of concern. The hearing record also includes testimony from a number of the workshop participants strongly supporting the workshop analyses.

The most significant criticism in the record of the workshop's product was from the industry and the unions. These groups alleged underestimations of populations based on a number of factors. However, the workshop participants had already considered many of the factors raised. In my opinion these groups did not successfully counter the testimony of workshop participants who testified at the hearing or the findings of the workshop on population sizes. Therefore, I conclude, as did the Judge, that the requirement of Section 103(d) (1) has been met. The population estimates for the relevant species are based on the best scientific evidence available and are as follows:

Species or stock—Management units:	Estimated population level
Spotted dolphin (coastal)	[1]
Spotted dolphin (offshore)[2]	3,674,000
Spinner dolphin (Costa Rican)	[1]
Spinner dolphin (eastern)	1,292,000
Spinner dolphin (whitebelly)[3]	548,000
Common dolphin (northern)	400,000
Common dolphin (central)	230,000
Common dolphin (southern)[4]	800,000

[1] Unknown.
[2] Including the tentatively identified southwestern stock.
[3] Including the tentatively identified southwestern stock.
[4] Including the tentatively identified Equatorial-Oceanic stock.

Species or stock—Management units:	Estimated population level
Striped dolphin (northern)	18,000
Striped dolphin (north-equatorial)[5]	230,000
Bottlenosed dolphin	588,000
Rough-toothed dolphin	450
Fraser's dolphin	7,800
Risso's dolphin	7,500
Short-finned pilot whale	60,000
Melon-headed whale	[1]
Pygmy killer whale	[1]

[5] Including the tentatively identified south-equatorial stock.

Source: 41 FR 45016 (Oct. 14, 1976).

Optimum Sustainable Population

A major issue involved in the hearing was the expected impact of the regulations on the optimum sustainable populations (OSP) of the species or population stocks involved. It is my duty therefore to make a determination regarding optimum sustainable populations and to be assured that the regulations being promulgated will maintain populations at or above optimum sustainable levels.

I have published a definition of optimum sustainable population (41 FR 55536). That definition is repeated here to facilitate the understanding of my decision. "Optimum sustainable population is a population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem to the population level that results in maximum net productivity. Maximum net productivity is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and growth less losses due to natural mortality." The stock assessment workshop participants believed that the term maximum productivity should be interpreted as maximum net productivity. Maximum net productivity was interpreted and defined as being the lower limit of the range of OSP.

The workshop report cited a range of 50–70 percent as the lower bound of OSP; however, subsequent to the workshop some participants felt that a more definitive statement must be made and that 60 percent was a prudent approximation of a single value.

Testimony was presented which supported this range and both a 50 percent and 60 percent lower bound. The ALJ recommended that 50 percent be accepted. Some individuals and parties to the hearing, including the Marine Mammal Commission, recommended that the lower bound of OSP be set at 60 percent.

Based on these factors and following an in-dept review of the record and required consultation, I have decided not to adopt the ALJ's recommendation. It is my decision that the range of 50–70 percent best describes the lower bound of OSP that can be determined on the evidence available to date.

Depletion

A determination of depletion must in significant part be based on the optimum

carrying capacity and optimum sustainable population definitions, associated with depletion, in the Act.

Section 101(a)(3)(B) of the Marine Mammal Protection Act requires that, except for purposes of scientific research, no permit may be issued during the moratorium for the taking of any stock or species of marine mammals designated as depleted. Three tests are provided for determining depletion. One test is whether the number of individuals within a species or population stock is below the optimum carrying capacity for the species or stock within its environment. Optimum carrying capacity is a characteristic of the habitat. However, the definition of optimum carrying capacity refers to optimum sustainable populations which refers to the number of animals. Therefore, I have concluded as a matter of law that a species or stock is below the habitat's optimum carrying capacity when the number of individuals is below the optimum sustainable population, and consequently is depleted.

In my original proposal the eastern spinner dolphin was considered depleted. Although the hearing covered this question extensively, the subject of eastern spinner depletion was addressed principally in terms of the relation of its population to OSP. Thus the selection of a particular percentage as the lower bound of OSP was the key factor used by parties in recommending for or against depletion. However, there was agreement among all parties except the Committee for Humane Legislation and Friends of Animals that the stock of eastern spinner dolphins could withstand a take of about 6,500 because the population would still increase with virtual certainty.

The ALJ, having recommended that 50 percent be used as the lower bound of OSP, did not recommend that the eastern spinner dolphin be considered depleted. However, evidence presented during the hearing indicated that despite the eastern spinner dolphin population being at 54 percent of its initial stock size and within the 50–70 percent range, the probability of it being depleted was slightly greater than that of not being depleted.

Having reviewed the record, and in consideration of the probability of the eastern spinner dolphin being depleted and the recommendations of the Marine Mammal Commission, and after the required consultation with the Administrator of the National Oceanic and Atmospheric Administration and the Secretary of Commerce, I have decided not to adopt the Administrative Law Judge's recommendation and have determined that the eastern spinner dolphin population should be considered depleted at this time.

Limitations on Mortality

The major issue involved in the proposal and in the record is the number of marine mammals which could be incidentally killed in the course of commercial fishing, if permits were issued, and the resultant impact on optimum sustainable populations.

It was contended by the Committee for Humane Legislation that taking as defined in the Act includes all effects of fishing operations and is not limited to just mortality. However, as recognized by the Committee for Humane Legislation, the incidental take is addressed in the Act in terms of reduction of "mortality and serious injury." It is this context that is predominant in the final consideration. The provisions of the regulations are intended to reduce the total incidental mortality and serious injury. The regulations will allow incidental taking provided porpoise mortality does not exceed the quotas in the permit.

It was proposed by the National Marine Fisheries Service that individual limits on mortality be established under permit for 11 separate stocks or species with the sum of these limits totalling 29,920. The Marine Mammal Commission recommended 12 individual quotas totalling 50,158 plus an accidental mortality of 6,587 eastern spinner. The Environmental Defense Fund recommended 13 individual quotas totalling 53,120 including an accidental mortality of 6,500 eastern spinner. The Environmental Defense Fund and the Marine Mammal Commission recommendations concluded that, in the aggregate, a 1977 quota should be lower than the previous year's mortality in order to continue to reduce the mortality from year to year. The latest projected mortality on the record for 1976 is between 86,000 and 112,000. The Committee for Humane Legislation was opposed to any taking and did not make numerical recommendations other than zero. The American Tunaboat Association, Tuna Research Foundation, Fishermen's Union of America, Pacific Legal Foundation and Commonwealth of Puerto Rico recommended an aggregate quota of 96,100 with no individual species or stock limits.

The ALJ recommended a quota of 96,100, comprised of 13 separate stock quotas, concluding that separate quotas are required. I adopt the recommendation of the Judge that separate quotas are required. Ten of the quotas for "non-target" species are the same as NMFS proposed, based on the average take over the past five years, and were supported by all parties except the Committee for Humane Legislation. I have concluded that those ten quotas will not be to the disadvantage of those stocks and species and I have adopted the ALJ's recommendation of the taking of a total of 8,120 from those ten stocks. The ALJ's proposed quotas for these ten stocks and for the three major stocks involved in the fishing represent maximum biological limits of take for 1977. They are:

Species or stock—Management units:	Estimated population level
Spotted dolphin (off-shore)[1]	64,393
Spinner dolphin (eastern)	6,587
Spinner dolphin (whitebelly)[2]	17,000
Common dolphin (northern)	400
Common dolphin (central)	1,600
Common dolphin (southern)[3]	5,600
Striped dolphin (northern)	40
Striped dolphin (north-equatorial)[4]	400
Bottlenosed dolphin	60
Rough-toothed dolphin	5
Fraser's dolphin	5
Risso's dolphin	5
Short-finned pilot whale	5
Total	96,100

[1] Including the tentatively identified southwestern stock.
[2] Including the tentatively identified southwestern stock.
[3] Including the tentatively identified equatorial-oceanic stock.
[4] Including the tentatively identified south-equatorial stock.

Source: 41 FR 45016 (Oct. 14, 1976).

It must be recognized that three levels of confidence were associated with the individual population estimates, reproductive rates, and the resultant calculations of allowable mortality found in the ALJ's recommended maximum limits. These levels which were extensively discussed on the record are (1) virtually certain, (2) reasonably confident, and (3) mid-point. In considering the record it is clear that the three major stocks are in different states of abundance and hence mortality limits should be established accordingly, that is, based on appropriate application of confidence levels related to the status of the separate stocks. The status of these three stocks relative to their initial stock size are:

	Percent
Offshore spotted dolphin	64
Eastern spinner dolphin	54
Whitebelly spinner dolphin	76

Since I concluded in my decision that the eastern spinner dolphin is depleted, no incidental take of the eastern spinner dolphin can be permitted even though about 6,600 could be taken with a virtual certainty that the population will increase with that level of mortality. For the whitebelly spinner dolphin, I have determined that, since the population is above the range of the lower bound of OSP, that is above 50–70 percent, a take at the mid-point level of 7,840 can be permitted and such take would not be to the disadvantage of the population. For the off-shore spotted, I have concluded that the record justifies the take be limited to a number less than allowable at the reasonably confident level but that such take could be greater than the virtual certainty level initially proposed. For that reason, I have determined that a take of 43,090 off-shore spotted dolphins, which is midway between these levels, would not be to the disadvantage of that stock. Although the limits I have

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determined for the three major stocks differ from those recommended by the ALJ, I believe that the record, the finding of depletion for the eastern spinner porpoise, and the recommendations of the Marine Mammal Commission all support these limits.

In summary, I have accepted the ALJ's recommendations in part and, based on my review of the record and in consideration of the need to provide individual upper limits of allowable take for stocks and species that will not be to the disadvantage of them, have established the following upper limits of U.S. mortality for 1977.

Species or stock—Management units:	*Estimated population level*
Spotted dolphin (off-shore)[2]	43,000
Spinner dolphin (whitebelly)[3]	7,840
Common dolphin (northern)	400
Common dolphin (central)	1,600
Common dolphin (southern)[4]	5,600
Striped dolphin (northern)	40
Striped dolphin (north equatorial)[4]	400
Bottlenosed dolphin	60
Rough-toothed dolphin	5
Fraser's dolphin	5
Risso's dolphin	5
Short-finned pilot whale	5
Total	59,060

[2] Including the tentatively identified southwestern stock.
[3] Including the tentatively identified southwestern stock.
[4] Including the tentatively identified equatorial-oceanic stock.
[4] Including the tentatively identified southequatorial stock.

Source: 41 FR 45016 (Oct. 14, 1976)

Permits, if and when issued, will limit taking by killing in the eastern tropical Pacific Ocean to those stocks and species listed above.

The order of the District Court pointed out that Section 1374(d)(3) of the Act imposes a burden on the applicant for a general permit to demonstrate in the application that the requested taking will be consistent with the Act and the applicable regulations. Therefore, unless otherwise indicated by the Court of Appeals for the District of Columbia Circuit, the final determination on permit issuance will be made following public review of a permit application and my review of the application, public comments, and the regulations.

QUOTA

As indicated in my decision regarding limitations on mortality, appropriate safety factors (confidence levels) have been applied to determine the allowable U.S. mortality on an individual stock basis. I have also concluded that the existing populations of marine mammals involved are at the mid-point level of confidence. Further, I consider the limitations on mortality established herein adequately recognize the mandate of the Act to reduce the incidental mortality and serious injury of marine mammals, as well as insure that the take will not operate to the disadvantage of the stocks and species involved. Therefore, in establishing a quota for 1977, no further reduction in the take levels beyond those already determined by the limitations on mortality is required.

The proposed U.S. quotas were developed by subtracting the estimated foreign mortality from a proposed total mortality by all fleets. Industry contended that it would be appropriate to apportion the quota by the ratio of the percentage of tuna caught on porpoise by U.S. and foreign vessels. The Judge found that the division of quota issue would appear to be moot, based on his recommended quota levels. Because I must be assured that the total mortality of individual species and stocks will not be to their disadvantage, I have considered the estimated foreign mortality in setting U.S. quotas.

OBSERVERS

Section 216.24(f) of the proposed regulations provided that observers could accompany tuna purse seine vessels for the purpose of conducting research and observing operations.

The Judge concluded that there exists no legal requirement on the part of the vessels to continue to permit observers to remain on board after quotas have been reached. I have adopted this conclusion and intend to place observers on vessels operated by certificate holders only while quotas remain in effect.

The Judge further recommended that regulations be amended to provide that observers shall have the opportunity to evaluate whether or not the certificate holder is performing according to the regulations.

Although I agree with its thrust, I have not adopted this recommendation since observer data collection procedures and forms for 1977 already include a provision for evaluation of the use or non-use of required gear and procedures, and accordingly, I consider additional regulations on this unnecessary. Since observer field record forms and procedures have been revised in consultation with the Marine Mammal Commission and the public, the concern of some parties to the hearing that observers would not record such information has been satisfied.

SKIPPER PANEL

There is considerable information in the record regarding use of a panel of expert skippers to evaluate the performance of skippers with respect to porpoise mortality. The Judge recommended that such a panel be established. There was general agreement, supported by the testimony of expert fishermen and industry leaders, that poor performers should be identified and corrective steps taken to reduce excessive mortality caused by less proficient certificate holders.

I have concluded that the holder of a general permit under the regulations shall establish a skipper panel for the purpose of making recommendations to the National Marine Fisheries Service. The general permit issued will include a requirement that the permit holder formulate a panel and advise the National Marine Fisheries Service of the members and the organizational rules and procedures within 30 days of issuance of the permit. Upon formal recognition of the panel by the National Marine Fisheries Service, the panel will be expected to review the performance information from the observer logs and make recommendations to the National Marine Fisheries Service regarding each certificate holder's proficiency including, but not limited to, recommendations to suspend a certificate or for further training, as appropriate in each case. Recommendations of the skipper panel will be given great weight; however, final action will be the responsibility of the National Marine Fisheries Service.

SEVEN-DAY NOTICE

The Judge recommended that the National Marine Fisheries Service provide a 21-day notice in the FEDERAL REGISTER prior to the imposition of a prohibition of setting on porpoise. The industry supported a 30-day notice period. The Environmental Defense Fund advocated a 21-day notice period in order to minimize harm to the industry. The concern was that with only a 7-day notice as currently provided by the National Marine Fisheries Service, the fleet could be left with large operating expenditures paid in advance when an abrupt cessation of porpoise fishing was announced. This testimony was in the context of the 1976 season when an aggregate quota of 78,000 was reached in October and there was no advance notice that the quota was about to be reached. Fishermen contended that with a 7-day notice they did not receive adequate notice to plan or change their fishing strategy and it caused them economic harm.

However, receiving and analyzing observer data and publishing a FEDERAL REGISTER Notice requires a minimum of 15 days. With a 21-day notice period, the National Marine Fisheries Service would have to predict the closing of fishing on porpoise stocks at least 36 days before such a closing. Such a time frame will severely hamper the ability of the National Marine Fisheries Service to make reasonably accurate estimates of porpoise kill and to prohibit setting after a species or stock quota is reached. Because of the implementation of individual species/stocks limits in 1977 which will require precise monitoring and because the welfare of the porpoise is of prime concern, I have concluded that a 7-day notice in the FEDERAL REGISTER is appropriate.

I do realize the potential impact to the fleet of a 7-day notice period. To minimize this potential impact of the short notice period and to keep all interested parties advised of progress towards the limits imposed in a general permit, observers will submit radio reports semi-weekly and public notice of the estimated kill will be made available weekly, based on the prior week's radio reports and observer data from completed trips. This reporting procedure will also provide a better data base on which to base projections. Moreover, the methodology for computing the mortality has been revised in order to account for incomplete trip data which were previously excluded.

The proposed revised methodology will be published in the FEDERAL REGISTER for public comment.

Further, because the stocks of offshore spotted dolphin, whitebelly spinner dolphin, common dolphin (all stocks), and striped dolphin (all stocks) are the primary stocks and species involved, I have determined that setting on all stocks of porpoise during yellowfin tuna purse seining will be prohibited when quotas on the above species and stocks have been reached, notwithstanding the fact that the quotas on other species may not have been reached.

MIXED SCHOOLS SETS

In view of the depleted status of the eastern spinner and the establishment of individual stock and species quotas, additional prohibitions of sets on certain mixed and pure schools are required. Accordingly, I have determined that during yellowfin tuna purse seining, fishermen may not set on pure schools of eastern spinner, Costa Rican spinner, or coastal spotted dolphin or mixed schools which include these species, or pure schools of any other species except offshore spotted and common dolphin.

IMPORT PROVISIONS

The Judge discussed the import provisions of the proposed regulations extensively in his recommended decision and concluded, in sum, that with his suggested additions and changes, the import provisions are in agreement with the appropriate provisions of the Act and represent the most effective vehicle to obtain some control of porpoise mortality by foreign flag vessels. I have adopted his conclusions in my decision with certain exceptions.

I have adopted the Judge's recommendations regarding labeling of canned tuna as other than yellowfin, seeking a list of United States citizens crewing foreign seiners, and allowing a three-month grace period from the date of promulgation of final regulations before importation provisions become effective.

I have not adopted the Judge's recommendation to require a statement from nations requesting a finding concerning past enforcement actions under their laws and regulations. The intent of United States importation regulations is to establish a current set of requirements which the National Marine Fisheries Service will consider in determining other nations' compliance with our standards.

ECONOMIC AND TECHNOLOGICAL FEASIBILITY

I am required by the Act to consider the economic and technological feasibility of implementing the regulations.

Several witnesses testified and evidence was submitted regarding the technical feasibility of implementing the proposed gear modifications and fishing technique requirements.

Testimony from experienced and successful fishermen indicate that if the fishermen astutely practice the prescribed methods of reducing porpoise mortality, the rate of kill, and consequently the total mortality can be reduced.

Industry representatives testified that the proposal to limit mortality to 29,920 of 11 separate stocks and species with the attendant prohibition on encircling mixed schools containing spinner porpoise would be economically disastrous to the industry.

I am convinced by the record and the Administrative Law Judge's recommendations that my initial proposal was more stringent than necessary to protect the species and stocks involved and that a virtual certainty finding on all stocks is not required.

The Administrative Law Judge concluded that the interests of the marine mammals should come first. However, I am required to also consider the economic feasibility of implementing the regulations. There are many uncertain and variable factors which affect the economic feasibility. Whether conditions, availability of other species of fish, business costs, prices of fish and normal business decisions all have an effect on the economic feasibility. The economic analysis which is part of the record indicates that the imposition of a quota below 80,000 will adversely affect the profitability of purse seiners, at least in the short run. Notwithstanding the impact of the even lower level set by this decision, the primary consideration must be the protection of the animals.

GEAR REQUIREMENTS

Several witnesses testified and evidence was submitted regarding the technical feasibility of implementing the proposed gear modifications and fishing technique requirements. On many of the proposed requirements there was no controversy. Thus, I adopt the proposed gear and fishing technique requirements except as noted below. However, even where I adopt a portion of my original proposal, I will discuss the issues involved where one or more parties disagreed with the proposal.

The evidence makes clear that a large proportion of porpoise mortality is caused when porpoise become entangled in the purse seine nets. The record also makes clear that the proposal for a 1¼ inch mesh porpoise safety panel in the net can lead to a substantial reduction in porpoise kill. There was no disagreement over those facts and I adopt as did the Judge, this requirement with two minor exceptions. There was much testimony on the record concerning the amount of the 1¼ inch mesh required on Class I and Class II vessels. The evidence shows that the proposed net requirements may not be fully adaptable to these vessels. The National Marine Fisheries Service in its brief, proposed an amendment to the proposed regulations concerning the amount of fine mesh net. The Judge adopted this revised proposal because he agreed that these vessels would have problems in complying with the proposed regulations requiring 180 fathoms of 1¼ inch webbing. I adopt the Judge's recommendation.

There was general agreement that the entire fleet will not be able to obtain this fine mesh net in the early part of the year because of the inability of manufacturers to produce enough fine mesh net by the first of the year. The American Tunaboat Association, the Environmental Defense Fund, and the National Marine Fisheries Service submitted alternative proposals to allow fishing on porpoise without the fine mesh net under certain circumstances. I adopt the recommendation of the Judge that all boats must have ordered the fine mesh nets before they can fish on porpoise and that they have the webbing installed and inspected prior to departure on their next fishing voyage after delivery of the nets or 0001 hours, May 1, 1977, as the latest date for installation for vessels over 400 tons carrying capacity. In addition, I have concluded that vessel operators must document that they have ordered webbing if it has not been installed at the time they make application for a certificate of inclusion and to notify the National Marine Fisheries Service when the webbing has been delivered. I have added these requirements because they are consistent with the Judge's proposal and rationale and they help assure that these essential porpoise safety panels are installed as soon as possible.

The Judge recommended that regulations should require the use of speedboats and rescuers when backdown and release occur in darkness. Regulations already require their use on all sets and therefore this recommendation is already in effect and will remain so.

The Judge also recommended that all tuna boats be required to have floodlights and that such floodlights be used during the backdown procedures if sets occur in darkness. I adopt this proposal and the Judge's rationale. If backdown in darkness continues to cause higher mortality levels, NMFS will consider prohibiting sets which might not be completed prior to darkness.

One issue not addressed in the NMFS proposal was the use of a rubber raft and a facemask during backdown to aid in determining whether any live porpoise remain in the net and effecting their release. Use of such devices was proposed in the course of the hearing based on results of the *Elizabeth CJ* experimental gear/behavioral research. Such devices have not been subject to full field testing, but the American Tunaboat Association representatives raised no objection to the suggestion that these instruments be required. The Judge has adopted this suggestion and I adopt this recommendation and the rationale of the recommended decision with one exception. The Judge recommended use of a rubber raft with a glass bottom in lieu of a facemask. Such a device has not been adequately tested. Therefore, I have concluded that the use of a glass bottom raft or other means of underwater viewing is encouraged but will not be permitted in lieu of a facemask for this purpose.

The Judge recommended that all vessels have two speedboats regardless of

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vessel class or observer status. The Judge found, and there was no disagreement, that the use of speedboats during backdown is essential for porpoise rescue. The NMFS proposal permitted Class I vessels having an oberver to have only one speedboat in the water on porpoise sets because space limitations on these vessels preclude carrying an oberver and sufficient personnel to operate two speedboats and perform other essential tasks. However, the Judge found the evidence as not convincing to show that an observer displaces a speedboat operator on all Class I vessels. Thus, he recommended two speedboats be in the water on porpoise sets on all vessels unless a certificate holder can show with certainty that the above described crewman displacement will occur. I adopt this recommendation and the Judge's rationale.

In summation, I find that these gear and fishing technique requirements are not only technically feasible and supportable on the record, but also essential to reducing porpoise mortality.

FOREIGN KILL

The best available estimate of the rate of kill by foreign vessels is that contained in the workship report. The workshop decided to use an intermediate asssumption that the non-U.S. kill rate for 1973–1975 was the same as the 1972–73 U.S. average, or approximately two and one-half (2½) times the current U.S. rate.

The estimated foreign kill was published in the supplemental EIS. Since those estimated levels of kill totalling approximately 41,000 were not disputed, it is concluded that those are the best available estimates of foreign kill.

IMPACT ON TUNA STOCKS—INTER-AMERICAN TROPICAL TUNA COMMISSION

There is testimony in the record that the limits proposed by the National Marine Fisheries Service would have an adverse impact on the tuna stocks. Section 103(b)(4) of the Act requires that I consider the effect on the conservation, development, and utilization of fishery resources. Testimony and evidence indicated that if the proposed quotas were implemented, there would be an adverse effect on tuna stocks as a result of fishing effort being shifted to non-porpoise associated fish, primarily in inshore areas. In general, non-porpoise associated tuna are young yellowfin. A concentration of fishing effort on these young fish would be harmful in the long-term.

The Administrative Law Judge found that the proposed regulations would result in a decline in the supply of all tuna, particularly yellowfin. Inter-American Tropical Tuna Commission (IATTC) regulations limit the take of yellowfin inside the Commission Yellowfin Regulatory Area (CYRA) to 15% following closure of the yellowfin quota. Unless a substantial reduction in mortality occurs, yellowfin fishing outside the Commission Yellowfin Regulatory Area may be restricted by imposition of a prohibition on setting on off-shore spotted and whitebelly dolphin. When that occurs, fishing effort will be concentrated inside the Commission Yellowfin Regulatory Area. This concentrated effort will impact on the tuna stocks in inshore areas, however the impact is difficult to quantify.

MARINE MAMMAL LOGS

The proposed regulations direct certificate holders to maintain daily logs in a form prescribed by the NMFS of all sets in which marine mammals have been taken, together with other specified information including but not limited to, the actual count of marine mammals killed or seriously injured in any set. The Judge recommended that these logs be under oath in affidavit form because an affidavit will assure greater authenticity to such reports. I agree with the Judge that greater authenticity of the logs will result from affidavits. However, because many of the vessels return to foreign ports during the year, it would be impossible to obtain such affidavits within 48 hours after arrival of the vessels in port as is required by our regulations. Therefore, I have decided to require certified logs. A certification will be stamped upon the logs advising the signer that false statements may be subject to criminal penalties.

[FR Doc.77-5991 Filed 2-28-77;8:45 am]

federal register

TUESDAY, MARCH 1, 1977

PART VI

ENVIRONMENTAL PROTECTION AGENCY

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PHOSPHATE FERTILIZER PLANTS

Availability of Final Guideline Document

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 683-1]

PHOSPHATE FERTILIZER PLANTS

Final Guideline Document Availability

The purpose of this notice is to announce the availability of the final guideline document for the control of atmospheric fluoride emissions from existing phosphate fertilizer plants. This action triggers the development of state plans to control fluoride emissions from existing phosphate fertilizer facilities under section 111(d) of the Clean Air Act. The Act requires that "designated" pollutants controlled under standards of performance for new stationary sources (section 111(b)) also be controlled at existing facilities in the same source category. New source performance standards for five sources of fluoride emissions within the phosphate fertilizer industry were promulgated August 6, 1975 (40 FR 33152). Fluorides are considered a designated pollutant and therefore must also be controlled under section 111(d).

On November 17, 1975 (40 FR 53340), EPA promulgated a new subpart B to 40 CFR Part 60 establishing procedures and requirements for submittal of state plans for control of designated pollutants from designated facilities under section 111(d). A summary of subpart B and a discussion of the basic concepts underlying it appear in the preamble published in connection with its promulgation. In brief, subpart B provides that after a standard of performance applicable to emissions of a designated pollutant from new sources is promulgated, the Administrator will publish a draft guideline document containing information pertinent to the control of the same pollutant from designated (i.e., existing) facilities. He will also publish a notice of availability of the draft guideline document, and invite comments on its contents. After publication of a final guideline document for the pollutant in question, the States will have nine months to develop and submit plans for control of that pollutant from designated facilities. Within four months after the date for submission of plans, the Administrator will approve or disaprove each plan (or portion thereof). If a State plan (or portion thereof) is disapproved, the Administrator will promulgate a plan (or portion thereof) within six months after the date for plan submission. These and related provisions of subpart B are basically patterned after section 110 of the Act and 40 CFR Part 51 (concerning adoption and submittal of State implementation plans under section 110).

The notice of availability of the draft guideline document for existing phosphate fertilizer plants was published in the FEDERAL REGISTER on May 12, 1976 (41 FR 19585). Fourteen comment letters were received on the draft guideline document; nine from industry, three from State agencies, and two from other governmental agencies. Copies of the comment letters are available for public inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, S.W., Washington, D.C. 20460. A summary of the comments and EPA's responses may be obtained upon written request from the EPA Public Information Center (PM-215), 401 M Street, S.W., Washington, D.C. 20460. Copies of the final guideline document are available at the same address (specify "Final Guideline Document: Control of Fluoride Emissions from Existing Phosphate Fertilizer Plants.")

None of the comments warranted a change in the emission guidelines. However, several comments necessitated changes in the guideline document. The more significant issues raised by the commenters are discussed as follows:

1. *Welfare-Related Pollutant.* In announcing the availability of the draft guideline document, the Administrator also announced his determination that atmospheric fluoride emissions from the phosphate fertilizer industry are welfare related. This decision was primarily based upon the findings of the National Academy of Science (N.A.S.) report Fluorides. One commenter challenged this determination on the basis that the N.A.S. report's analysis of atmospheric fluoride threshold limits were obtained using specially controlled experimental conditions. EPA can find no fault in using accepted scientific methodology (controlled conditions) for analyzing these effects. The commenter gave no reason to suspect that equal concentrations of fluoride in the ambient air resulting from fertilizer facility emissions will not have the same effect on farm crops as was demonstrated during the tests summarized by N.A.S. Therefore, EPA finds no reason to alter its determination that atmospheric fluoride emissions cause or contribute to the endangerment of the public welfare.

2. *Emission Guidelines.* Four commenters stated that they consider the emission guidelines to be too strict. Their argument was that the costs associated with retrofitting control equipment capable of achieving the emission guidelines outweigh the benefits derived from such a control level.

The emission guidelines recomended in the document reflect the Administrator's judgment on the degree of control attainable with the best system of emission reduction (considering the cost of installing such system in existing facilities) that has been adequately demonstrated for existing phosphate fertilizer plants. EPA evaluated the costs of existing facilities to comply with the guideline and determined that the costs are reasonable. The commenters did not provide any data or information which would support changing this determination.

There were three comments questioning the reliability of spray-crossflow packed bed (SCPB) scrubbers as the principal control device for achieving the fluoride emission guidelines. Specifically, concern was raised over the possibility of plugging if gypsum pond water is used rather than fresh water. EPA realizes that any control device will require periodic maintenance, including the SCPB scrubber. Since the plants having SCPB scrubbers that underwent emission tests to obtain background data for the new source performance standards experienced no insurmountable problems with plugging when using recycled gypsum pond water, EPA is promulgating the guideline as proposed.

3. *Implementation of Guidelines by States.* Five of the commenters assumed that the emission guidelines were to be considered as Federal requirements and questioned the necessity of Federal standards where adequate State regulations currently are in effect. Since atomspheric fluorides are determined to have welfare-related rather than health-related effects, the procedures explained in 40 FR 53340 grant the States a degree of flexibility in establishing their control plans. States may balance the emission control benefits against other factors of public concern in developing emission standards or may choose to not revise existing State standards which currently provide adequate protection of public welfare. Compliance times must be included in the development of any plan, and its submission must meet the procedural requirements of subpart B. However, less stringent emission standards or longer compliance times for specific designated facilities may be provided in the plan on a case-by-case basis provided the State demonstrates that factors specific to any facility or groups of facilities justify the application of less stringent standards or final compliance times. Examples of typical factors that could upon close analysis provide such justification are:

(a) Unreasonable cost of control because of plant age, location or process design;

(b) Physical impossibility of installing control equipment, or

(c) Existing State standards that closely approximate the guidelines or have been shown to be adequate for controlling welfare related environmental effects.

Conversely, no action by EPA precludes a State from adopting more stringent emission standards or compliance times than those specified in subpart C or in the guideline document.

One commenter suggested a 24-month compliance time instead of the 17-month compliance time proposed. He specifically mentioned the two week time period allowed for startup of the control device as being too strict. EPA concurs with the commenter that two weeks is an insufficient interval from equipment installation to final compliance for any facility, and has lengthened this interval to six weeks. This makes the final guideline compliance time 18 months. The final guideline compliance time is representative of typical time periods for completion of each milestone, but EPA recognizes that atypical situations are more probable with retrofit projects. For

this reason the final guideline document states that the compliance time may exceed 18 months, when approved by the state, for plants having justifiable reasons for additional time.

4. *Control Costs.* The estimated costs associated with implementing the draft guideline were criticized as being too low by two commenters. EPA agrees that certain capital expense items were not computed at current prices and has thus recomputed the installed costs of control equipment. Also, in response to one commenter that the indirect costs of retrofitting an existing plant are higher than those in the draft guideline document, the indirect costs were recomputed at 50 percent of the direct cost values. The updated cost figures required changes in Tables 1–4, 1–5, and 7–1 in the final guideline document. However, impacts of the increased costs were not of sufficient magnitude to require any changes in the guideline emission levels.

5. *General.* In response to two comments noting inconsistencies within the document concerning the level of fluoride emissions from existing fertilizer facilities (Table 9–2), the guideline document estimates of fluoride emissions from typical facilities have been revised to show lower emission levels. Table 9–1 was also changed to show a slightly less total yearly emission level to the atmosphere from all phosphate fertilizer facilities nationwide. The revised figures were based on updated information on both the recent advances in fluoride emission controls by existing fertilizer facilities and more accurate estimates of fertilizer production levels. The increase in estimated yearly production levels also resulted in increasing the projected energy demands associated with retrofit controls that are shown in Table 9–10. These changes corrected the inconsistencies noted by the commenters in the draft guideline document, but did not effect the guideline emission levels.

Effective date: The nine-month period during which the States are to develop their control plans begins March 1, 1977.

(Secs. 111(d), 114, 301(a), Clean Air Act, as amended (42 U.S.C. 1857c-6(d), 1857c-9, 1857g(a).)

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949.

Dated: February 22, 1977.

JOHN QUARLES,
Acting Administrator.

[FR Doc.77-6134 Filed 2-28-77;8:45 am]

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federal register

TUESDAY, MARCH 1, 1977

PART VII

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

CIVIL PROCEDURES

Interim Regulations

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Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 621—CIVIL PROCEDURES

Interim Regulations

As of March 1, 1977, the Fishery Conservation and Management Act of 1976 (the Act), 16 U.S.C. 1801 (sometimes called the 200 mile limit fishing law), establishes the exclusive fishery management authority of the United States (1) over all fish (except certain species of tuna) within the Fishery Conservation Zone, the body of water adjoining the U.S. territorial sea and extending 200 miles from the coastline, and (2) over all anadromous species of fish (such as salmon) and Continental Shelf fishery resources (such as lobster and certain crabs) beyond the Fishery Conservation Zone.

As of March 1, no foreign vessel may fish within the Fishery Conservation Zone (or beyond the Zone for anadromous species or Continental Shelf resources of the United States) except in accordance with the terms of a permit issued by the United States under the Act. In addition, U.S. vessels fishing in the Zone (or beyond the Zone for anadromous or Continental Shelf resources) will as of March 1 be fishing in accordance with any fishery management plans which have been prepared by one of the eight Regional Fishery Management Councils created by the Act, after a Council's plan for a particular fishery is put into effect by regulations of the Secretary of Commerce published in the FEDERAL REGISTER. The Secretary of Commerce, acting through the Director of the National Marine Fisheries Service (NMFS), has published in the FEDERAL REGISTER of February 11, 1977 (42 FR 8813), regulations governing foreign fishing. Regulations for domestic fishing will be published in 50 CFR Chapter VI from time to time as the Secretary approves individual fishery management plans. As is detailed in § 621.1 and § 621.2 below, the Act subjects violators to three types of penalties: (1) Warning citations issued by authorized enforcement officers; (2) civil penalties (administrative fines) assessed against the violator by the Department of Commerce (up to $25,000 for each violation); and (3) criminal penalties imposed as to certain offenses by the federal courts, with maximum sentences of imprisonment for one year and a fine of $100,000 for each offense. In addition, a fishing vessel used in the commission of an offense and any illegally caught fish are subject to forfeiture to the United States. Further, a permit issued to a fishing vessel which is involved in a violation may be revoked, suspended, or modified under certain conditions.

The regulations in this new Part 621 of Title 50 establish the rules and procedures which will apply to those consequences of a violation which are the responsibility of the Department of Commerce, namely, the assessment of civil money penalties (Subparts B and C); sanctions against a fishing permit (Subpart D); and actions the Department of Commerce may take in some situations to lessen the effect of forfeiture of a fishing vessel or its catch of fish (Subpart E). The issuance of citations is addressed in joint regulations of the Department of Commerce and Coast Guard published in 50 CFR Part 620. (42 FR 11839.)

Subpart A serves as an introduction. It contains, in addition to an explanation of the actions which Part 621 governs (summarized above), a statement of enforcement policy, a definitions section, and certain document filing rules which apply to all the other Subparts. Special notice should be taken of the definition of "Director," a term which is used throughout these regulations and which includes the designee of the Director, National Marine Fisheries Service. The Service Director does not intend personally to make every decision required by these regulations, but will delegate to his five Regional Directors major responsibilities to act for him on a day to day basis. This will allow decisions to be made not only in a more timely manner, but also at the local level where the circumstances of a violation may more readily be placed in proper perspective.

Subparts B and C govern the assessment of civil money penalties against a violator by NMFS: Subpart B controls when the right to a hearing is waived; and Subpart C details the hearing and appeal procedures to be followed in the event action under Subpart B does not result in conclusion of the case. Upon completion of the investigation of a violation deemed appropriate for civil penalty action (as opposed) for example to referral to the U.S. Attorney for criminal prosecution), a Notice of Violation would be served on the violator (Respondent) to advise him of the circumstances on the alleged violation and the proposed penalty to be assessed against him (§ 621.21). Respondent would have 45 days to decide on a course of action: he could choose not to contest the charge by paying the proposed penalty or a compromise amount that might be offered in the violation notice; he could dispute the charge or argue that the proposed penalty is too harsh by sending a Petition for Relief under § 621.22; or he could do nothing. After the 45 day period, NMFS would take into account any relief petition filed, once again review the case in light of statutory factors such as the history of any prior offenses by Respondent and his ability to pay the fine (§ 621.23), and serve a Notice of Assessment of civil penalty on Respondent (§ 621.24). An additional time period is provided at this point for Respondent to react to the assessment notice, either by paying the assessed penalty or by requesting under § 621.25 that the matter be referred for hearing. If Respondent did neither, the assessment would become final under § 621.26 and be referred to the U.S. Attorney for collection by court order (§ 621.27).

The Hearing and Appeal Procedures of Subpart C are triggered by a hearing request. Hearings will be formal in nature, held before an Administrative Law Judge, appointed under § 621.31, who will have broad powers to conduct this "administrative trial" of the case (§ 621.33). Special rules are contained in § 621.32 to implement section 4 of the Government in the Sunshine Act, Pub. L. 94–409, 5 U.S.C. 557(d), with respect to contacts between NMFS employees who will be involved in deciding the case and interested persons outside NMFS.

After Respondent and the attorney representing NMFS had submitted their evidence at the hearing, made oral argument, and prepared legal briefs for consideration by the Administrative Law Judge (§ 621.34–.38), the Judge will render his written decision, finding whether Respondent committed the violation charged and what money penalty, if any, should be assessed (§ 621.39). Unless Respondent or the agency attorney appealed that decision, it would become final in 45 days (§ 621.41). An appeal from either side would be acted upon by NMFS under § 621.40, taking account of arguments made in the appeal, and the decision that resulted would be the last step in the administrative decision process. If Respondent desired, he could then bring the matter before a federal court for the judicial review provided in section 308(b) of the Act.

Subpart D, Permit Sanctions, describes the manner in which a permit issued under the Act to a fishing vessel may be revoked, suspended, or modified. Section 621.51 notes that the subpart applies to all types of foreign and domestic fishing vessel permits. Permit sanctions may be taken when a vessel is used to commit a violation of the Act or when a civil penalty or criminal fine relating to the vessel has not been paid (§ 621.52). The specific types of permit sanctions authorized are detailed in § 621.53. The succeeding sections set forth the procedure to be followed by NMFS if it proposes to take action against a permit, including giving notice of the sanction to the permit holder (§ 621.54), convening a fact-finding hearing if the permit holder has not had a previous opportunity to present his case at a hearing (for example, during a civil penalty assessment under Subpart B and C) (§ 621.55), and making a final decision after a hearing (§ 621.56).

The final Subpart, Remission of Forfeitures, details the circumstances under which NMFS may entertain a Petition for Relief from Forfeiture. The Subpart gives effect to those provisions of section 310(c) of the Act which make applicable to forfeitures under the Act certain provisions of the Customs laws, particularly 19 U.S.C. 1604–1618. Special attention is invited to the statement in § 621.61(b) that remission of a forfeiture (release of seized property upon compliance with specified conditions) is in the nature of executive clemency granted only when the purposes of the Act would be served. A Petition must be filed within 60 days of the seizure and contain a full showing of

the reasons believed to justify the requested relief (§ 621.62). NMFS would then conduct an investigation, which might include the appointment of an examiner to hold a fact-finding hearing (§ 621.63). If the NMFS decision grants the requested relief, it will set out conditions for the property release, which may include payment of a specified sum of money and the requirement that the property be exported from the United States (§ 621.64). If the conditions had not been satisfied 60 days after the decision (or satisfactory arrangements for later compliance made), the relief granted would expire and NMFS would refer the matter to the appropriate U.S. Attorney for judicial forfeiture of the property (§ 621.65). Section 621.66 permits NMFS to release in limited circumstances part or all of the seized property before final decision on a petition, usually upon payment of the property's value, which will be held for later action by NMFS or a court.

Effective date: As stated earlier, the management authority of the Act is effective beginning March 1, 1977. In order for NMFS to properly carry out its enforcement responsibilities, it is necessary that these regulations be effective at the earliest possible time. Important authorizations and procedures for meeting NMFS responsibilities under the Act, and significant due process safeguards, are contained in this Part 621, without which the interests of justice and other public interests served by the Act may be frustrated. For these reasons, it is hereby for good cause found that the advance notice, public procedures, and delayed effectiveness provisions of 5 U.S.C. 553 are impracticable and contrary to the public interest. These regulations are, therefore, effective March 1, 1977, as Interim Regulations applicable to civil procedures initiated as to any violation of the Act occurring on or after that date.

In the interest of public participation in the rulemaking process, comments on these regulations will be received until May 31, 1977, after which time amendments will be made as necessary to take proper account of comments received and experience gained during this period. Comments or questions may be directed to Stephen J. Powell, Assistant General Counsel, National Oceanic and Atmospheric Administration, Room 5814 Main Commerce Building, Washington, D.C. 20230, telephone (202) 377–3043.

Dated: February 28, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

Chapter VI of 50 CFR is amended by adding the following Part 621:

Subpart A—Introduction

Sec.
621.1 Purpose and scope.
621.2 Enforcement policy.
621.3 Filing and service of documents.
621.4 Definitions.
621.5–.20 [Reserved]

Subpart B—Assessment Procedure

621.21 Notice of violation.
621.22 Petition for relief from proposed assessment.
621.23 Decision by the Director.
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AUTHORITY: 16 U.S.C. 1801–1861.

Subpart A—Introduction

§ 621.1 Purpose and scope.

(a) Section 308 of the Act authorizes the Secretary to assess a civil penalty, in an amount not to exceed $25,000 for each violation, against any person found to have committed an act prohibited by section 307. Each day of a continuing violation is considered a separate offense. The Director has been delegated the authority to assess these administrative money penalties.

(b) Section 204(b)(12) of the Act details the circumstances under which the Director is to revoke, suspend, or modify certain foreign fishing vessel permits. Regulations implementing specific fishery management plans will contain provisions for permit sanctions in respect both to foreign and domestic fishing vessels.

(c) Section 310(c) of the Act makes provisions of the customs laws relating to, among other things, the remission or mitigation of forfeitures and the compromise of claims, applicable to forfeitures of fishing vessels and fish alleged to be authorized under the Act. The Department of Commerce is authorized to entertain petitions for administrative settlement of property seizures made under the Act which would otherwise proceed to judicial forfeiture.

(d) The regulations in this Part provide uniform rules and procedures for the assessment of civil penalties (Subparts B and C), permit sanctions (Subpart D), and the remission or mitigation of forfeitures (Subpart E).

§ 621.2 Enforcement policy.

(a) The Act provides four basic penalty categories for violations, in ascending order of severity as follows: (1) Issuance of a citation by the enforcing officer, usually at the scene of the offense (see 50 CFR 620); (2) assessment by the Director of a civil money penalty; (3) for certain violations, judicial forfeiture action against the vessel and its catch; and (4) criminal prosecution of the owner or operator for some offenses. It shall be the policy of the Agency to enforce vigorously and equitably the provisions of the Act by utilizing that form or combination of authorized penalties best suited in a particular case to this end.

(b) Processing of a case under one penalty form usually means that other penalties are inappropriate in that case. However, further investigation or later review may indicate the case to be either more or less serious than initially considered, or may otherwise reveal that the penalty first pursued is inadequate to serve the purposes of the Act. Under such circumstances, the Agency may pursue other penalty forms either in lieu of or in addition to the action originally taken.

(c) If a fishing vessel for which a permit has been issued under the Act is used in the commission of an offense prohibited by section 307 of the Act, the Agency may impose permit sanctions whether or not civil or criminal action has been undertaken against the vessel or its owner or operator. In some cases, the Act requires permit sanctions following the assessment of a civil penalty or the imposition of a criminal fine. In sum, the Act treats sanctions against the fishing vessel permit to be the carrying out of a purpose separate from that accomplished by civil and criminal penalties against the vessel or its owner or operator.

§ 621.3 Filing and service of documents.

(a) Whenever the regulations in this part require service of a document or other paper, such service may effectively be made on the agent for service of process or on the attorney for the person to be served. Refusal by the person to be served, or his agent or attorney, of service of a document or other paper shall be considered effective service of the document or other paper as of the date of such refusal.

(b) Whenever the regulations in this Part or in an order issued hereunder require a document or other paper to be filed within a certain period of time, such document will be considered filed as of the date of the postmark, if mailed, or (if not mailed) as of the date actually delivered to the office where filing is re-

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quired. Time periods shall begin to run on the day following the date of the document, paper, or event which begins the time period and, unless otherwise provided by law or these regulations, includes the last day of the period, unless such day is a Saturday, Sunday, or Federal holiday, in which event it includes the next following day which is not a Saturday, Sunday, or Federal holiday.

(c) If an oral or written application is made to the Director within 10 calendar days after the expiration of a time period established in this Part for the required filing of documents or other papers, the Director may permit a late filing if he finds reasonable grounds for an inability or failure to file within the time period. All such extensions shall be in writing. Except as provided in this paragraph or by order of an administrative law judge under Subpart C of this Part, no requests for an extension of time may be granted.

§ 621.4 Definitions.

Unless the context otherwise requires, terms in these regulations have the meanings prescribed in section 3 of the Act, and special reference is made to the following terms: "Fishery conservation zone," "fishery resource," "fishing vessel," and "Secretary." In addition, the following definitions apply:

(a) *Act.* Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 to 1882.

(b) *Director.* Director, National Marine Fisheries Service, or his designee.

§§ 621.5–621.20 [Reserved]

Subpart B—Assessment Procedure

§ 621.21 Notice of violation.

(a) A notice of violation shall be issued by the Director and served personally or by registered or certified mail, return receipt requested, upon the person believed to be subject to a civil penalty (the respondent). The notice of violation shall contain: (1) A concise statement of the facts believed to show a violation; (2) a specific reference to the provisions of the Act, regulation, permit, or governing international fishery agreement allegedly violated, and (3) the amount of penalty proposed to be assessed. The notice may also contain an initial proposal for compromise or settlement of the case. The notice shall advise the respondent of his right to file a petition for relief pursuant to § 621.22 of this part, or to await the Director's notice of assessment.

(b) The respondent shall have 45 calendar days from the date of the notice of violation in which to respond. During this time he may:

(1) Undertake informal discussions with the Director;

(2) Accept the proposed penalty, or the compromise, if any, offered in the notice;

(3) File a petition for relief; or

(4) Take no action, and await the Director's decision under § 621.23 of this part.

(c) Acceptance of the proposed penalty or the compromise shall be deemed to be a waiver of the notice of assessment required by § 621.24 of this part and of the opportunity described in § 621.25 of the part for a hearing. Any counter offer of settlement shall be deemed a rejection of the proposed offer of compromise.

§ 621.22 Petition for relief from proposed assessment.

The respondent may ask that no penalty be assessed or that the amount be reduced, and he may admit or contest the legal sufficiency of the charge and the Director's allegations of facts, by filing a petition for relief from the proposed assessment with the Director at the address specified in the notice within 45 calendar days of the date thereof. The petition shall be in writing and signed by the respondent, his attorney, or his designated agent for service of process. If the respondent is a corporation, the petition must be signed by an officer authorized to sign such documents. The petition must set forth in full the legal or other reasons for the relief requested and should, if addressed to the amount of penalty to be assessed, be responsive to the factors in § 621.23 of this part which will guide the Director in this respect.

§ 621.23 Decision by the Director.

Upon expiration of the period provided in § 621.22 of this part for the filing of a petition for relief, the Director shall proceed to make an assessment of a civil penalty, taking into account information available to him concerning the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the respondent, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require, including such showing as may have been made by the respondent pursuant to §§ 621.21 (informal discussions), 621.22 (petition for relief) of this part, or upon further request by the Director.

§ 621.24 Notice of assessment.

The Director shall serve notice on the respondent personally or by registered or certified mail, return receipt requested, of his decision pursuant to § 621.23 of this part. The notice of assessment shall set forth the facts and conclusions upon which the Director decided that the violations charged were committed by the respondent and that the penalty assessed is appropriate.

§ 621.25 Request for hearing.

Except where a right to request a hearing is deemed to have been waived by operation of § 621.21(c) (by acceptance of the proposed penalty or compromise) of this part, the respondent may, within 45 calendar days of the date of notice of assessment, file a dated written request for a hearing. The request should state the respondent's preference as to the place and date for a hearing and should either enclose a copy of the notices of violation and assessment or refer to the National Marine Fisheries Service file number. The request must be served upon the Director personally or by registered mail, return receipt requested, at the address specified in the notice of assessment.

§ 621.26 Final administrative decision.

(a) If no request for a hearing is filed as provided in § 621.25 of this part, the Director's assessment shall become effective and shall constitute the final administrative decision and order of the Secretary on the 45th calendar day from the date of the notice of assessment.

(b) If a request for hearing is timely filed in accordance with § 621.25 of this part, the date of the final administrative decision in the matter shall be as provided in Subpart C of this Part 621.

§ 621.27 Payment of final assessment.

(a) Respondent shall make full payment of the civil penalty assessed within 30 calendar days of the date upon which the assessment becomes effective as the final administrative decision and order of the Secretary under § 621.26, or § 621.41 of this part, or, if judicial review of the assessment is initiated under section 308(b) of the Act during such 30 day period, within 10 calendar days after the appropriate court has entered final judgment in favor of the Secretary (unless the court's order provides otherwise). Payment shall be made by mailing or delivering to the Director at the address specified in the notice of assessment a check or money order made payable in the amount of the assessment to the "Treasurer of the United States."

(b) Upon any failure to pay the civil penalty assessed, the Director, through the General Counsel of the National Oceanic and Atmospheric Administration ("NOAA") or his designee, may request the Attorney General of the United States to recover the amount assessed in any appropriate district court of the United States, or the Director may take action under § 621.28 of this part.

§ 621.28 Compromise of civil penalty.

(a) In his sole discretion the Director may compromise, modify, remit, or mitigate, with or without conditions, any civil penalty which has been imposed under this Part 621, or which is subject to such imposition.

(b) The compromise authority of the Director under this section shall be in addition to any similar power provided in the Act or in these regulations, and may be exercised either upon the initiative of the Director or in response to a request of the alleged violator or other interested person.

(c) If the Director takes action under this section prior to the issuance of a notice of violation pursuant to § 621.21 of this part or after a final assessment becomes payable pursuant to § 621.26 or § 621.41 of this part he shall prepare a document indicating the action taken and citing this section and section 308 (d) of the Act as his authority. Once a case has been assigned for hearing under § 621.31 of this part, the Director will, except in unusual circumstances, defer any compromise action under this section until the judge has rendered his written decision in the matter. Neither the existence of the compromise authority of the Director under this section nor the Director's exercise thereof at any time shall be considered to change the date upon which an assessment becomes effective, under other regulations in this Part 621, as the final administrative decision and order of the Secretary.

(d) If compromise action is requested or otherwise becomes appropriate for the Director's consideration during the pendency of a petition for relief from forfeiture, filed under Subpart E of this part, the Director may consolidate in a manner consistent with the provisions of Subpart E his consideration of the two matters.

Subpart C—Hearing and Appeal Procedures

§ 621.31 Commencement of hearing procedures.

(a) Following receipt of a writen request for hearing filed in a timely manner in accordance with § 621.25 of Subpart B of this part, the Director will commence proceedings under this Subpart V by the assignment of an administrative law judge to the case. Written notice of the assignment shall promptly be given to the respondent, together with the name and address of the attorney who will represent the Director in the proceedings (the agency representative), and thereafter all pleadings and other documents shall be filed directly with the administrative law judge and a copy served on the opposing party (respondent or agency representative).

(b) The Director shall file with the administrative law judge, and furnish to the respondent and agency representative, a copy of the notices of violation and assessment, any response of the respondent thereto, other correspondence exchanged by the respondent and the Director, and other pertinent documents and materials.

§ 621.32 Ex parte communications.

(a) For purposes of this section, "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports.

(b) Upon assignment of the case to an administrative law judge and until an assessment or other action in the matter becomes effective under these regulations as the final administrative decision of the Secretary, neither the judge nor any of the following agency employees shall make or knowingly cause to be made to any interested person outside the Department of Commerce an ex parte communication relevant to the merits of the proceeding:

Director, Deputy Director, Associate Director, Assistant Director for Fisheries Management, Enforcement Division Chief, and all Regional Directors, National Marine Fisheries Service.

(c) Upon notice of the assignment of the case to an administrative law judge and until an assessment or other action in the matter becomes effective under these regulations as the final administrative decision of the Secretary, no interested person outside the Department of Commerce shall make or knowingly cause to be made to the judge or to an agency employee listed in paragraph (a) of this section an ex parte communication relevant to the merits of the proceeding.

(d) An agency employee or judge who makes or receives a prohibited communication shall cause to be placed in the hearing record the communication and any response thereto and the judge, or Director, as appropriate, may take action in this respect consistent with these regulations, the Act, and 5 U.S.C. sections 556(d) and 557(d).

(e) This section shall not apply to communications to or from the agency representative; however, the agency representative may not participate or advise in the initial decision of the judge or the agency review thereof except as witness or counsel in the proceeding in accordance with the regulations in this part. This section shall be interpreted so as not to diminish the compromise authority of the Director under § 621.28 of this part. In addition to the foregoing requirements of this section, the judge shall not consult any person or party on the substance of the matter in issue unless on notice and opportunity for all parties to participate.

(Sec. 4, Pub. L. 94-409, 5 U.S.C. 557(d).)

§ 621.33 Duties and powers of judge.

(a) The administrative law judge shall have all powers and responsibilities necessary to preside over the parties and the proceeding, to hold pre-hearing conferences, to conduct the hearing, and to make the initial decision, in accordance with these regulations and 5 U.S.C. sections 554 and 557, including the authority and duty to:

(1) Rule on a request to participate as a party in the proceedings by allowing, denying, or limiting such participation, provided, however, that the respondent and the agency representative shall be parties; and provided further that the judge shall prior to ruling ascertain the views of the other parties and base his ruling on whether the request is from a person who could be directly and adversely affected by the final decision and who may contribute materially to the disposition of the proceedings;

(2) Ascertain, both prior to scheduling a hearing and at other times he considers appropriate, from the record at hand or upon further inquiry to the parties, whether a reasonable basis exists for settlement of the matter of simplification of the issues by consent; and hold conferences or otherwise require the parties to consider settlement or to simplify the issues;

(3) Schedule the time and place of the pre-hearing conference or hearing, continue the hearing from day to day, adjourn the hearing to a later date or a different place, and reopen the hearing at any time before issuance of his initial decision, all in his discretion, having due regard for the convenience and necessity of the parties;

(4) Regulate the course of the hearing and the conduct of the participants, including the power to establish rules for media coverage of the proceedings, to close the hearing in the interests of justice, and to strike testimony of a witness refusing to answer a question ruled to be proper;

(5) Administer oaths and affirmations;

(6) Rule on discovery requests and whenever the ends of justice would thereby be served, take or cause depositions or interrogatories to be taken;

(7) Receive, exclude, limit, and otherwise rule on offers of proof and evidence, provided that formal rules of evidence shall not apply to the proceeding; irrelevant, immaterial, unreliable, nonprobative, or unduly repetitious or cumulative evidence shall be excluded; and hearsay evidence shall not be inadmissible as such;

(8) Rule on motions, procedural requests, and similar matters;

(9) Examine and cross-examine witnesses and introduce into the record on his own initiative documentary or other evidence;

(10) Rule on requests for appearance of witnesses or production of documents and take appropriate action short of subpoena upon a failure of a party to effect the appearance or production of a witness or document ruled relevent and necessary to the proceeding;

(11) Require a party or witness at any time during the proceeding to state his position concerning any issue or his theory in support of such position;

(12) Take official notice of any matter not appearing in evidence which is among the traditional matters of judicial notice; or of technical, or scientific facts within the general or specialized knowledge of the Department of Commerce as an expert body; or of a nonprivileged document required by law or regulation to be filed with or prepared or published by a duly constituted Government body; or of any public document reasonably available to the public; provided, that the parties shall be advised of the matter so noticed and given reasonable opportunity to show the contrary; and

(13) Prepare and submit the initial decision and certify the record in accordance with § 621.39 of this part.

(b) The judge shall enter no order which purports in and of itself to effectuate the forfeiture of any property seized or otherwise detained in connection with the proceedings, except that:

(1) He may take account in an order of dismissal or similar decree under § 621.36 of this part that voluntary forfeiture of such property forms a part of a settlement agreement between respondent and the agency representative; or

(2) He may recommend to the Director at the time the initial decision is submitted under § 621.39 of this part that the Director either pursue or not pursue forfeiture or that the Director respond affirmatively to a petition for relief from forfeiture submitted under Subpart E of this part.

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(c) The judge shall enter no order which purports in and of itself to revoke, suspend, or modify any permit issued under the Act to a vessel used in the commission of a violation which is a subject of the proceeding, except that:

(1) He may receive for the record, on his own initiative or at the request of a party, evidence otherwise admissible which is relevant to the question of what vessel was invoked in the commission of the violations with which respondent has been charged and to the question of what revocation, suspension, or modification of the permit (or, if the permit was issued under section 204(b) of the Act, what modification of all permits issued to the nation under whose flag such vessel operates) the Director might appropriately order pursuant to Subpart D of this part; and

(2) He may recommend to the Director at the time the initial decision is submitted under § 621.39 of this part that the Director pursue or not pursue certain permit sanctions under Subpart D of this part.

§ 621.34 Participation by parties.

(a) The respondent and agency representative and, to the extent permitted by the judge, any other party, may appear in person, by counsel, or by other representative, and may examine and cross-examine witnesses to the extent required for a full and true disclosure of the facts, present documentary or other evidence in support of his case or defense, and conduct oral argument at the close of testimony, provided, however, that this section shall not be interpreted to diminish the powers and duties of the judge provided in § 621.33 of this part.

(b) Failure of the respondent, agency representative, or other party to appear at the hearing shall be deemed a waiver of the right to a hearing and consent to the making of a decision on the record of the hearing.

§ 621.35 Record.

(a) The Director shall provide the services of an official reporter to transcribe verbatim the testimony taken and arguments made in the hearing. Copies of the official transcript may be obtained from the reporter upon payment of the applicable rates fixed by the contract with the reporter.

(b) The official transcript, exhibits, briefs, requests, and other documents and papers filed or officially noticed in the proceeding shall constitute the exclusive record for decision.

§ 621.36 Settlements.

An agreement by respondent and the agency representative to settle the matter, if filed before an assessment or other action in the case becomes effective under these regulations as the final administrative decision of the Secretary, shall terminate the proceedings and vacate any initial or administrative appellate decision which has been issued. However, if settlement is reached before the judge has submitted his initial decision and certified the record under § 621.39 of this part, the judge may require submission to him of a copy of the agreement solely to assure himself that his consideration of the case is completed and to order the matter dismissed on the basis of the agreement.

§ 621.37 Interlocutory appeals.

(a) At the request of a party or on his own motion, the judge may certify to the Director for review a ruling which does not finally dispose of the proceeding if the judge determines that such ruling involves a controlling question of law and that an immediate appeal therefrom may materially advance the ultimate disposition of the matter before him.

(b) Upon certification to him by the judge of an interlocutory ruling for review, the Director shall expeditiously decide the matter, taking into account any briefs in this respect filed by the parties within 10 calendar days of certification. The Director's order on a interlocutory appeal shall not be considered the final administrative decision of the Secretary except by operation of other provisions in this part.

(c) No interlocutory appeal shall lie as to any ruling not certified to the Director by the judge. Objections to noncertified rulings shall be a part of the record and shall be subject to review at the same time and in the same manner as the Director's review of the initial decision of the judge upon any appeal therefrom under § 621.40 of this part.

§ 621.38 Proposed findings and conclusions.

Unless a different schedule is established by the judge in his discretion, the parties may file proposed findings of fact and conclusion of law, together with supporting briefs, within 30 calendar days after the judge closes the hearing. Reply briefs may be submitted within 15 calendar days after receipt of the proposed findings are conclusions to which they respond, unless the judge sets a different schedule.

§ 621.39 Initial decision.

(a) After expiration of the period provided in § 621.38 of this part for filing reply briefs, the judge shall render a written initial decision upon the record in the case, setting forth therein:

(1) Findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law, or discretion presented on the record. In determining the amount of a penalty assessment, the judge shall not be bound by the amount proposed or assessed in the notice of violation, notice of assessment, or elsewhere, but shall decide the matter de novo, stating his reasons in view of the applicable factors which must be considered, as set forth in section 308(a) of the Act and § 621.23 of this part;

(2) Reasons for the rejection of findings and conclusions proposed by the parties;

(3) A statement of facts officially noticed and relied upon in the decision, if the parties have not previously been advised of such notice; and

(4) Such other matters as he considers appropriate, including his recommendations, if any, regarding forfeiture action and permit sanctions, as described in paragraphs (b) and (c) of § 621.33 of this part.

(b) The judge shall submit the initial decision to the Director, serve copies on the parties, and transmit to the Director the record of the proceeding together with his certification to the effect that, to the best of his knowledge and belief, the record is a complete and accurate compilation of all evidence and other documents in the proceeding, except in such particulars as are specified.

§ 621.40 Appeals.

(a) Any party may appeal the initial decision of the judge by filing a notice of appeal with the Director, at the address specified in the notice of assessment, within 45 calendar days of the date of the initial decision. The notice of appeal shall concisely state such exceptions as the appellant takes to the initial decision and shall contain citations to the record or other authority relied upon. The appellant shall serve a copy of the notice of appeal on the other parties.

(b) The Director shall decide the appeal upon the record already made or he may issue orders specifying the filing of supplemental briefs, remanding the matter for the receipt of further evidence by an administrative law judge, or otherwise assisting in his determination of the matter.

(c) The decision of the Director shall be in writing and shall state the reasons for his acceptance or rejection of exceptions taken by the appellant. To the extent the Director's decision is silent as to a material issue of fact, law, or discretion presented on the record, the decision shall be deemed to adopt the findings and conclusions thereon, and the reasons or basis therefor, contained in the initial decision.

§ 621.41 Final decision.

(a) Unless a notice of appeal is timely filed in accordance with § 621.40, the initial decision of the judge shall become effective and shall constitute the final administrative decision and order of the Secretary on the 45th calendar day from the date it is rendered.

(b) If a notice of appeal is timely filed as provided in § 621.40 of this part, the Director's decision thereon shall become effective and shall constitute the final administrative decision and order of the Secretary on the date thereof, or as otherwise specified by the Director in the decision.

Subpart D—Permit Sanctions

§ 621.51 Application of subpart.

The provisions of this subpart shall govern the revocation, suspension, and modification of any permit issued under the Act for a fishing vessel, including:

(a) Permits issued for foreign fishing vessels pursuant to section 204(b) of the Act in respect to a governing international fishery agreement;

(b) Registration permits issued for foreign fishing vessels pursuant to section 204(c) of the Act with respect to an existing international fishery agreement, except to the extent that such agreement is inconsistent with the provisions of this subpart; and

(c) Permits issued for fishing vessels of the United States in accordance with section 303(b)(1) of the Act and regulations issued by the Secretary under section 305 of the Act implementing a fishery management plan, except to the extent such regulations are inconsistent with the provisions of this subpart.

§ 621.52 Basis for sanctions.

(a) The Director may take action under this subpart with respect to a permit issued under the Act for a fishing vessel if:

(1) The fishing vessel for which the permit was issued has been used in the commission of an offense prohibited by section 307 of the Act; or

(2) A civil penalty pertaining to a fishing vessel for which the permit was issued has been assessed under Subparts B or C of this Part 621 but full payment of the penalty has not been made in accordance with § 621.27 of this part; or

(3) A criminal fine pertaining to a fishing vessel for which the permit was issued has been imposed under section 309 of the Act but full payment of the fine has not been made in accordance with the Court's decree.

(b) If the provisions of subparagraphs (a)(2) or (a)(3) of this section are met and the fishing vessel involved is a foreign fishing vessel the permit for which was issued under section 204(b) of the Act in respect to a governing international fishery agreement, the Director shall take action under this subpart with respect to such permit.

(c) Any permit which is suspended solely on the basis described in subparagraph (a)(2) of this section shall be reinstated by affirmative order of the Director promptly upon his receipt, in the manner prescribed by § 621.27 of this part, of full payment of the civil penalty assessed, together with interest thereon at the annual rate of 6 per cent computed from the date payment first became overdue under § 621.27 of this part.

§ 621.53 Nature of sanctions.

In his discretion and subject to the requirements of this subpart, the Director may take any of the following actions or combinations thereof with respect to a permit issued under the Act:

(a) Revoke the permit and, if appropriate, prohibit the issuance of a permit in future years to the fishing vessel involved, or impose additional requirements for such future issuance;

(b) Suspend the permit, either for a specified period of time or until certain stated requirements are met, or both;

(c) Modify the permit, as by imposing additional conditions and restrictions thereon and, if the permit was issued for a foreign fishing vessel operating under a governing international fishery agreement, by imposing additional conditions and restrictions on the application of the foreign nation involved which was approved under section 204 of the Act, and on any of the permits issued under such application.

§ 621.54 Notice of permit sanction.

(a) The Director shall prepare a notice of permit sanction setting forth the sanction to be imposed and the basis therefor. If an opportunity for hearing is provided by § 621.55 of this Part, the notice will advise that the permit holder has 30 calendar days from receipt of the notice in which to request or waive a hearing. The notice shall further state the effective date of the sanction, which shall not be earlier than 30 calendar days after the date of the notice unless the Director takes action under paragraph (c) of this section. If a hearing opportunity is provided and a hearing is requested in a timely manner, the sanction shall become effective pursuant to § 621.56 of this Part, unless the Director provides otherwise pursuant to his authority under paragraph (c) of this section.

(b) The notice of permit sanction shall be served personally or by registered or certified mail, return receipt requested, on the owner or operator of the fishing vessel for which the permit was issued. However, if the vessel is a foreign fishing vessel, service shall be made on the agent for service of process for such owner or operator, except that if no agent for service of process has been appointed, or if the identity or location of such agent is unknown to the Director, service may be made on the consular or other officials of the foreign nation involved through, and as considered appropriate by, the U.S. Department of State.

(c) The Director may make the permit sanction effective immediately or otherwise earlier than 30 days after the date of the notice of permit sanction if he finds, and summarizes such finding and the basis therefor in the notice, that substantial harm to a fishery resource of the United States may result from a later effective date. If an opportunity for hearing in respect to a permit sanction made effective under this paragraph is provided by § 621.55 of this Part, the Director shall expedite the hearing process.

§ 621.55 Opportunity for hearing.

(a) The owner or operator of the fishing vessel for which the permit was issued, or his designated agent for service of process, shall have 30 calendar days from receipt of the notice of permit sanction to request a hearing. The Director, shall not, however, be required to hold a hearing if such owner or operator had, with respect to the violation which forms the basis for the permit sanction, the previous opportunity to participate as a party in a judicial hearing on a criminal charge brought under section 309 of the Act or in an administrative hearing on a civil penalty action initiated under section 308 of the Act and Subparts B and C of this Part, whether or not he so participated in such a hearing, and whether or not such a hearing was held.

(b) If no hearing opportunity is required by paragraph (a) of this section, the Director may nonetheless order a hearing if he determines that there are material issues of fact or equity to be further explored.

§ 621.56 Hearing and decision.

(a) If a timely request for the hearing provided by § 621.55(a) of this Part is received or the Director orders a hearing under § 621.55(b) of this Part, the Director shall appoint a hearing examiner to conduct a fact-finding inquiry into the matter.

(b) If the Director has initiated sanctions under § 621.53(c) of this part as to more than one permit and has received hearing requests properly made under § 621.55 of this Part from the owners or operators of two or more of the affected fishing vessels, he may order the hearings to be consolidated into a single proceeding.

(c) The hearing examiner shall hold an informal hearing in the matter and expeditiously thereafter furnish the Director a report with recommendations.

(d) Upon receipt of the report and recommendations of the hearing examiner, the Director shall as soon as practicable decide the matter and serve notice of his decision on the permit holder in the manner provided by § 621.54(b). The decision of the Director shall be final and unappealable.

§§ 621.57—621.60 [Reserved]

Subpart E—Remission of Forfeitures

§ 621.61 Application of subpart.

(a) Authorized enforcement officers are empowered by section 311 of the Act to seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) which reasonably appears to have been used in violation of the Act, of any permit or regulation issued pursuant to the Act, or of any applicable international fishery agreement. Enforcement agents may also seize illegally taken or retained fish, as well as other evidence related to a violation. Section 310 provides for the judicial forfeiture of such vessels and fish. This subpart establishes procedures for filing with the Director a petition for relief from forfeitures incurred or alleged to be authorized under section 310 of the Act.

(b) For purposes of this Part, the "remission or mitigation of a forfeiture" or "relief from forfeiture" means action by the Director, following coordination as necessary with other federal agencies and the courts, to release from the custody of the United States property seized and subject to forfeiture under the Act, or part of such property, upon compliance with any terms and conditions set by the Director, such as payment of a stated amount in settlement of the forfeiture aspects of a violation. Although the Director may properly combine his consideration of a petition for relief from forfeiture with other consequences of a violation of the Act, his action in remission or mitigation of a forfeiture shall

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not be considered dispositive of a criminal charge which may be filed under section 309 of the Act, or a civil penalty which may be assessed under Subparts B and C of this Part, or a permit sanction which may be imposed under Subpart D, unless the action expressly so states. Remission or mitigation of a forfeiture is in the nature of executive clemency granted in the sole discretion of the Director only when consistent with the purposes of the Act and the provisions of this subpart.

§ 621.62 Petition for relief from forfeiture.

(a) Any person having an interest in a fishing vessel, fish, or other property seized and subject to forfeiture under the Act may file a petition for relief from such forfeiture. The petition shall be addressed to the Director and filed within 60 days of the seizure by mailing or delivering the petition to the Regional Director, National Marine Fisheries Service, nearest to the place where such property is held:

Seattle, Washington 98109
Terminal Island, California 90731
Juneau, Alaska 99801
Gloucester, Massachusetts 01930
St. Petersburg, Florida 33702

(b) The petition need not be in any particular form, but shall set forth the following:

(1) A description of the property seized;

(2) The date and place of the seizure;

(3) The interest of petitioner in the property, supported as appropriate by bills of sale, contracts, mortgages, or other satisfactory evidence;

(4) The facts and circumstances relied upon by petitioner to justify the remission or mitigation;

(5) Any request for release under § 621.66 of all or part of the seized property pending final decision on the petition, together with any offer of payment petitioner makes in return for such release, and the facts and circumstances relied upon by petitioner in the request; and

(6) The signature of petitioner, his attorney, or other authorized agent. A false statement in a petition will subject petitioner to prosecution under 18 U.S.C. 1001.

§ 621.63 Investigation.

The Director shall promptly cause an investigation to be made of the facts and circumstances shown by the petition and the seizure, and he may in this respect appoint an examiner to find the facts, by informal hearing on sworn testimony or otherwise, and to prepare a report with recommendations.

§ 621.64 Decision on petition.

(a) After the investigation authorized by § 621.63, the Director shall decide the matter and notify petitioner. The Director may remit or mitigate the forfeiture, on such terms and conditions as under the Act and the circumstances he deems reasonable and just, if he finds:

(1) That the forfeiture to which the property is subject was incurred without willful negligence and without any intention on the part of petitioner to violate the Act; or

(2) That other circumstances exist which justify remission or mitigation of the forfeiture.

(b) Unless he determines no valid purpose would thereby be served, the Director will condition a decision to remit or mitigate a forfeiture upon the submission by petitioner of an agreement, in a form satisfactory to the Director, to hold the United States and its officers or agents harmless from any claim based on loss of or damage to the seized property. If petitioner is not the beneficial owner of the property, the Director may require petitioner to submit such an agreement executed by the beneficial owner. The Director may also require that the property be promptly exported from the United States.

§ 621.65 Compliance with decision.

A decision by the Director to remit or mitigate the forfeiture upon stated conditions, as upon payment of a specified amount, shall be effective for 60 days after the date of the decision. If petitioner has not within such period complied with the stated conditions, in the manner prescribed by the decision, or made arrangements satisfactory to the Director for later compliance, the matter will promptly be referred to the Attorney General of the United States to effect judicial forfeiture in full of the seized property to the United States under section 310 of the Act.

§ 621.66 Release of seized property pending decision.

(a) Upon request in the petition for relief from forfeiture, and taking account of any interim report or recommendation of an examiner appointed under § 621.63, the Director may order the release, pending final decision on the petition, of all or part of the seized property upon payment by petitioner of the full value of the property to be released or such lesser amount as the Director in his sole discretion deems sufficient to protect the interests served by the Act.

(b) If the Director grants the request, he will cause the amount paid by petitioner to be deposited in a suspense account maintained for the purpose. The amount so deposited shall for all purposes be considered to represent the property seized and subject to forfeiture under the Act and payment of the amount by petitioner constitutes a waiver of any claim of defective seizure, custody and control, commingling of proceeds, or related defenses. The Director will cause records to be kept of amounts deposited in the suspense account and will retain such deposits pending his further order or a court order issued under sections 310 or 311 of the Act.

(c) The provisions of paragraph (b) of § 621.64 of this Part will apply to a release of property made under this section.

[FR Doc.77-6287 Filed 2-28-77;10:18 am]

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federal register

WEDNESDAY, MARCH 2, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for April and May are now being accepted for the free weekly workshops on how to use the FEDERAL REGISTER. These sessions begin at 9:00 a.m. and end at approximately 11:30 a.m. and are held in Room 9409, 1100 L Street NW., Washington, D.C.

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4. Elements of a typical FEDERAL REGISTER document.
5. Introduction to the finding aids.

RESERVATIONS REQUIRED: DEAN L. SMITH, 202–523–5282

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Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE STANDARDS, INSPECTIONS, MARKETING PRACTICES, DEPARTMENT OF AGRICULTURE

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Fees for Certain Federal Inspection Services and Miscellaneous Amendments

Statement of consideration. The Agricultural Marketing Act of 1946 provides for the inspection and certification as to class, quality, quantity, and condition of agricultural products shipped or received in interstate commerce under such rules and regulations as the Secretary of Agriculture may prescribe and for the collection of the fees equal as nearly as may be the cost of inspection services rendered under its provisions. The Part 68—Subpart A Regulations, § 68.42a is revised to adjust the hourly rate for services charged by the hour from $14.60 to $16.00, effective April 10, 1977, and makes corresponding changes in fees for the inspection for quality of dry beans, dry peas, split peas, lentils, hay, straw, and hops. The fees for these quality inspections are based on an average unit of time for each service, and the increase corresponds to the increased hourly costs.

This amendment also adjusts the fees charged for various laboratory testing services, and adds to the fee schedule, laboratory tests presently performed but not now included in the schedule.

The increases in fees implemented by this amendment are necessary due to the increased cost of contract and cooperator services, travel, Federal salaries and increases in the cost of laboratory supplies, a factor not previously considered in evaluation of laboratory costs.

Other miscellaneous amendments include revision to §§ 68.2, 68.5, 68.43–68.46 and 68.49, to shift the delegation of authority of the Secretary from the Administrator of the Agricultural Marketing Service to the Administrator of the Federal Grain Inspection Service and the authority of the Director of the Grain Division to the Director of the Inspection Division of the Federal Grain Inspection Service. This transfer of responsibilities became effective November 20, 1976, with the establishment of a new Agency in the Department of Agriculture called the Federal Grain Inspection Service.

Pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624) the provisions of 7 CFR 68.2, 68.5, 68.42a, 68.43–68.46 and 68.49 are hereby amended as follows:

1. Section 68.2 *"Terms defined."* is revised by amending (e), (f) and (u) to read as follows:

§ 68.2 Terms defined.

* * * * *

(e) *Administrator.* The Administrator of the Federal Grain Inspection Service (FGIS) of the Department, or any other officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) *Division.* The Inspection Division of the Federal Grain Inspection Service of the Department.

* * * * *

(u) *Federal inspection service.* The inspection service performed under the regulations by an authorized employee of the Department or a licensed sampler. (Inspection certificates are issued by the Inspection Division and all fees and charges are collected by the Federal Grain Inspection Service for Federal inspection service.)

* * * * *

2. Section 68.5 is revised to read as follows:

§ 68.5 Regulations not applicable for certain purposes.

The regulations do not apply to the inspection of grain in the United States under the United States Grain Standards Act, as amended, (7 U.S.C. 71 et seq.) or to the testing and inspection of seed under the Federal Seed Act (7 U.S.C. 1551 et seq.)

3. Section 68.42a is revised to read as follows:

§ 68.42a Fees for certain Federal inspection services.

The following fees apply to the Federal inspection services specified below:

Service:	Fee
Appeal inspection:	
(a) Basis original or file sample	[1]
(b) Basis new sample	[2]
Bean, lentil, and pea inspection:	
(a) Lot inspection—	
(1) Field run (quality and dockage analysis) per lot	$10.35
(2) Other than field run (grade, class, and quality) per lot (In addition to the fee for analysis or grading in (1) and (2) above, a fee for sampling, checkweighing, and check loading, if any, will be assessed at the prescribed rate.)	7.70
(b) Sample inspection—	
(1) Field run (quality and dockage analysis) per lot	10.35
(2) Other than field run (grade, class, and quality) per sample	7.70
Check loading, per man-hour	[3] 16.00
Checkweighing, per man-hour	[3] 16.00
Condition examination, per man-hour	16.00
Contract service: The Director may enter into contracts with applicants to perform continuous inspection services or other types of services in accordance with the regulations in this part and requirements that may be prescribed in the contract. Charges for the inspection services provided in the contract shall reimburse the inspection division for the full cost of rendering such inspection services including administrative overhead expenses.	
Demonstration gradings—per request	[4] 245.00
Extra copies of certificates—per copy	1.40
Grade factor analysis (as defined in any official U.S. Standards) per factor	5.20
Hay and straw inspection:	
(a) Lot inspection, sampling and grading, per man-hour	16.00
(b) Sample inspection—	
(1) Grade only, per sample	10.35
(2) Factor analyses, per man-hour	16.00
Hop inspection:	
(a) Lot inspection: seed, leaf, and stem content—per lot (In addition to the fee for analysis, a charge for sampling, if any, will be assessed at the prescribed rate.)	12.00
(b) Sample inspection: seed, leaf, and stem content—per sample	12.00
Laboratory report	1.40

[1] The applicable grading or laboratory testing fee. Minimum fee, if any $16.00.
[2] Applicable sampling fee, if any, plus applicable grading or laboratory testing fee.
[3] Only one fee will be assessed for these services whether performed singly or concurrently (but see minimum fee requirement).
[4] Plus all travel costs associated with the performance of the demonstration grading service.

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Laboratory testing: (a) In addition to the charges, if any, for sampling or other requested service, a fee will be assessed for each laboratory test as follows:	Fee
(1) Acidity—Greek	4.00
(2) Acid value—oil	4.00
(3) Aflatoxin (Minicolumn method)	12.00
(4) Appearance, flavor, and odor oils	2.00
(5) Arachidic acid	6.00
(6) Ash	4.80
(7) Bacteria count	5.00
(8) Baking test—bread	12.00
(9) Baking test—cookies	15.00
(10) Baumé	4.00
(11) Bostwick (cooked)	8.00
(12) Bostwick (uncooked)	4.00
(13) Calcium (AOAC)	5.00
(14) Calcium enrichment	5.00
(15) Calcium carbonate	5.00
(16) Carotenoid color	6.00
(17) Checked and broken macaroni units	4.00
(18) Clarity of oil involving heating	4.00
(19) Cold test—oil	4.00
(20) Coliform	12.00
(21) Color—bleached	6.00
(22) Color—Gardner	2.00
(23) Color—Lovibond	2.00
(24) Color—oil and shortening	2.00
(25) Congealpoint	9.60
(26) Consistency (cooked)	8.00
(27) Consistency (uncooked)	4.00
(28) Cooking test	4.00
(29) Crude fat	4.00
(30) Crude fiber	6.40
(31) Density	4.00
(32) Dextrose equivalent	11.40
(33) Diastatic activity of flour	12.00
(34) Enrichment—quick test	2.00
(35) Falling number	4.00
(36) Farinograph characteristics	15.00
(37) Fat—acid hydrolysis	8.00
(38) Fat—crude	4.00
(39) Fat—extraction	4.00
(40) Fat acidity	6.00
(41) Fat stability—AOM	8.00
(42) Fiber, crude	6.40
(43) Filth—heavy	9.90
(44) Filth—light	12.00
(45) Flash point—open and closed cup	6.00
(46) Flavor, odor, and appearance of oils	2.00
(47) Foam test	12.00
(48) Foots—heated and or chilled	4.00
(49) Foreign material—processed grain products	6.00
(50) Free fatty acids	4.00
(51) Grade and class of unprocessed grain	6.75
(52) Heating test—oil and shortening	4.00
(53) Hydrogen ion concentration—ph	6.00
(53) Hydrogen ion concentration—pH	6.00
(54) Insoluble bromides	4.00
(55) Insoluble impurities—oil and shortening	4.00
(56) Iodine number or value	6.00
(57) Iron Enrichment	8.00
(58) Keeping time—oil and shortening	8.00
(50) Kjeldahl protein	3.20
(60) Linolenic acid	6.00
(61) Lipid Phosphorous	29.80
(62) Loaf volume	12.00
(63) Loss on heating (oil)	4.00
(64) Lysine from fortification	14.70
(65) Lysine from hydrolysis of protein	5.60
(66) Macaroni—checked and broken units	4.00
(67) Maltose value—flour	12.00
(68) Marine oil in vegetable oil—qualitative	4.00
(69) Melting point—Wiley	8.00
(70) Moisture—distillation	6.00
(71) Moisture—oven	2.80
(72) Moisture and volatile matter—oil and shortening	4.00
(73) Neutral oil loss	12.00
(74) Nitrogen solubility index	10.00
(75) Odor, appearance, and flavor of oil	2.00
(76) Oil content—oilseed	6.00
(77) pH—Hydrogen ion concentration	6.00
(78) Performance, test—prepared bakery mix	13.80
(70) Peroxide value	4.00
(80) Peroxide value after 8 hours AOM	8.00
(81) Phosphorous	8.00
(82) Popping value—popcorn	12.00
(83) Potassium bromate—qualitative	2.00

Laboratory testing—Continued	Fee
(84) Potassium bromate—quantitative	6.00
(85) Protein dispersibility index	10.00
(86) Protein, Kjeldahl	3.20
(87) Reducing sugars	12.00
(88) Refractive index	6.00
(89) Riboflavin	8.00
(90) Rope spore count	20.00
(91) Salmonella	33.50
(92) Salt content	6.00
(63) Saponification number	6.00
(94) Sedimentation	10.00
(95) Sieve test	2.80
(96) Smoke point	6.00
(97) Softening point	8.00
(98) Solid fat index	10.00
(99) Specific baking volume—cake mix	13.85
(100) Specific gravity—oils	8.00
(101) Spread factor—cookies	15.00
(102) Starch damage, flour	9.50
(103) Staphococcus aureas	15.55
(104) Sucrose	12.00
(105) Test weight per bushel—other than grain	1.65
(106) Unsaponifiable matter	8.00
(107) Urease activity	6.00
(108) Viscosity	8.00
(109) Water soluble protein	10.00
(110) Xanthydrol test for rodent urine	8.00
(If a requested test is to be reported on a specified moisture basis, a fee for moisture test will also be assessed.)	
Lentil inspection: (see Bean inspection).	
Minimum fee for services covered by the hourly rate—a minimum fee for 2 hours per man, per service request, will be assessed at the applicable hour rate.	
New inspection—fees based on service requested.	
Pea inspection: (see Bean inspection).	
Sampling per man-hour	16.00
Special inspection service, per man-hour	16.00
Split pea inspection: (see Bean inspection).	
Standby time per man-hour	16.00
Straw inspection: (see Hay inspection).	

4. Section 68.43 is revised to read as follows:

§ 68.43 Fees; general provisions.

(a) Fees for Federal inspection services as shown in §§ 68.42a, 68.42b, and 68.42c shall be calculated in accordance with the following principles:

(1) All fees shown shall include (i) the cost of travel and transportation to perform the service requested, and (ii) the original and four copies of a certificate.

(2) Hourly rates shall begin when the Inspection Division representative arrives at the point of service and end when he departs from the point of service, computed to the nearest quarter hour (less meal time if any).

(3) Standby time shall be computed whenever the Inspection Division representative (i) has been requested by an applicant to perform a service at a specified time and location, (ii) is on duty and is ready and willing to perform the service requested, and (iii) is unable to perform the service requested because of a delay by the applicant for any reason. Standby time shall be computed to the nearest quarter hour.

(4) The Inspection Division representative may be a salaried employee of the Department of Agriculture or a person licensed by the Federal Grain Inspection Service to perform the services requested.

(b) Fees for Federal inspection services not specified in § 68.42a and 68.42c will be fixed by the Administrator and published in such form as he may deem appropriate.

(c) Fees for Federal-cooperator inspection services shall be reasonable and as nearly as may be equal to the cost of the service for which such fees are assessed and shall be in accordance with the terms and provisions of the cooperative agreement.

(d) Information concerning the fees for any particular Federal inspection service and for inspection service pursuant to a cooperative agreement may be obtained from the Director or, in the case of inspection services under a cooperative agreement, from the cooperator.

5. Section 68.44 is revised to read as follows:

§ 68.44 Fees for appeal inspection.

Fees for appeal inspection shall be in accordance with §§ 68.42a, 68.42c, and 68.43: *Provided*, That if it is found that there was a material error in the inspection from which an appeal is taken, no fee shall be assessed.

6. Section 68.45 is revised to read as follows:

§ 68.45 Fees when an application for inspection or appeal inspection is withdrawn or any inspection service is refused.

In the event an application for inspection or appeal inspection is withdrawn or any inspection service (including original inspection or appeal inspection), is refused pursuant to the applicable provisions of the regulations, the interested party who made the application for the inspection service shall pay only such expenses as were incurred in connection with the service prior to the withdrawal or refusal.

7. Section 68.46 is revised to read as follows:

§ 68.46 Manner of payment of fees.

Fees for service under the regulations shall be paid by the interested party making application for such inspections in accordance with the provisions of paragraphs (a) and (b) of this section; and, if required by the inspector or supervising inspector, such fees shall be paid in advance.

(a) *Fees for Federal inspection service.* Fees for Federal inspections or appeal inspections shall be paid by the applicant by check, draft, or money order payable to the Federal Grain Inspection Service and remitted promptly upon receipt of a bill for these services.

(b) *Fees for Federal-cooperator inspection service.* Fees for inspection services pursuant to a cooperative agreement shall be paid by the applicant in accordance with the terms of such agreement.

8. Section 68.49 is revised to read as follows:

§ 68.49 Publications.

Publications under the acts and the regulations in this part may be made in the FEDERAL REGISTER, the Service and Regulatory Announcements of the Federal Grain Inspection Service, and such other media as the Administrator may approve for the purpose.

The need for increases in fees for services and the amount of the increase are based on facts within the knowledge of the Federal Grain Inspection Service. These changes are being announced in advance of the implementation date. This is to provide the users of the inspection service ample time to incorporate the increase in fees into their handling costs. Therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public rulemaking procedures on the amendments are impractical and unnecessary.

These amendments shall become effective April 10, 1977.

Done at Washington, D.C., on February 24, 1977.

DONALD E. WILKINSON,
Interim Administrator.

[FR Doc.77-6218 Filed 3-1-77;8:45 am]

CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

PART 622—WATERSHED PROJECTS

Water Resources, Water Resources Program, Policy and Requirements

The Watershed Protection and Flood Prevention Program is being modified to permit the state conservationist to acknowledge receipt of an application. Since this change only affects internal agency procedure and does not affect consideration of federal assistance, the rulemaking procedures do not apply. The effective date is March 2, 1977.

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Dated: February 18, 1977.

R. M. DAVIS,
Administrator,
Soil Conservation Service.

Section 622.22 is revised in its entirety.

§ 622.22 State agency approval.

The governor or state agency will approve or disapprove the application. If disapproved, no further action is required of SCS. If approved or not disapproved within 45 days, the application shall be sent to the state conservationist. After the state conservationist has received a determination that the application is legally valid, he will notify the sponsor of receipt of the application.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008 and Flood Control Act—Public Law 78-534, 58 Stat. 906.)

[FR Doc.77-6202 Filed 3-1-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 80, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period February 20-26, 1977. The quantity that may be shipped is increased due to improved market conditions for California-Arizona lemons. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of lemons available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lemon Regulation 80 (42 FR 9998). The marketing picture now indicates that there is a greater demand for lemons than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of lemons to fill the current market demand thereby making a greater quantity of lemons available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* Paragraph (b)(1) of § 910.380 (Lemon Regulation 80 (42 FR 9998)) is hereby amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period February 20, 1977 through February 26, 1977, is hereby fixed at 220,000 cartons."

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).)

Dated: February 24, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-6176 Filed 3-1-77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980-A]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart A—General

MISCELLANEOUS AMENDMENTS

The general provisions for the Guaranteed Loan Programs contained in Subpart A of Part 1980, Title 7, Code of Federal Regulations, Chapter XVIII (41 FR 47462) are amended to include all Guaranteed Loan Programs established under Part 1980. This change centralizes provisions common to all Guaranteed Loan Programs, creating uniformity in the programs and making no substantive changes to the regulations. Since the amendments are merely procedural in nature and do not impose any additional burden on the applicants and lenders, notice and public procedure thereon, are unnecessary.

Subpart A of Part 1980 is amended by revising various sections as follows:

1. In § 1980.1, the introductory paragraph is revised to read as follows:

§ 1980.1 Purpose.

This Subpart A contains the general regulations and prescribed forms which are applicable to the Farmers Home Administration (FmHA) guaranteed loan programs authorized in Part 1980. Additional regulations for these programs are found in the various subparts of Part 1980. These additional regulations apply to lenders, holders, borrowers, and other parties involved in making, guaranteeing, insuring (if applicable), holding, servicing, or liquidating such loans.

* * * * * *

2. In § 1980.6, paragraph (a) is revised to read as follows:

§ 1980.6 Definitions and abbreviations.

(a) *General definitions.* The following general definitions are applicable to the terms used in this part. Additional definitions may be found in the Subparts relating to the particular type of loan involved.

* * * * * *

3. In § 1980.20, the first sentence of the introductory paragraph is revised to read as follows:

§ 1980.20 Loan guarantee limits.

The maximum loss covered by Form FmHA 449-34, Loan Note Guarantee, will not exceed ninety percent of the principal advanced and accrued interest on the indebtedness represented by the borrower's guaranteed loan promissory note or assumed under an assumption agreement and principal and accrued interest indebtedness on secured protective advances approved by FmHA. * * *

* * * * * *

4. Appendix A, Form FmHA 449-34, "Loan Note Guarantee," is amended in the second narrative paragraph by adding the phrase, "the Emergency Livestock Credit Act of 1974, as amended (7 U.S.C. prec. 1961 Note)," (beginning on line 7 and continuing on line 8) between the parenthetical phrase (7 U.S.C. 1921 et. seq.) and "or" as follows:

(7 U.S.C. 1921 et. seq.), the Emergency Livestock Credit Act of 1974, as amended (7 U.S.C. prec. 1961 Note), or Title V of the * * *

* * * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357; 88 Stat. 392, delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

Effective date: These amendments are effective on March 2, 1977.

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 10, 1977.

J. R. HANSON,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-6172 Filed 3-1-77;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 5, Amdt. 8]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Nonprivate Funds as Part of Licensee's Private Capital

AGENCY: Small Business Administration.

ACTION: Final Rule.

SUMMARY: This regulation deals with the extent to which nonprivate funds (e.g. grants made under Title VII of the Community Services Act of 1974, as amended) may be included as part of a licensee's Private Capital (§ 107.101(d)(2)). SBA's regulation has heretofore permitted nonprivate funds, subject to the conditions set forth in § 107.101(d)(2)(i), to be used in capitalizing only a section 301(d) licensee, i.e., a small business investment company organized solely for the purpose of assisting small concerns owned by socially or economically disadvantage persons. The present regulation relaxes this restriction by allowing nonprivate funds to be similarly included as part of a regular licensee's Private Capital. This liberalization more accurately implements the statutory authorization contained in section 742(a) of the Community Services Act of 1974 (as amended by the Community Services Act Technical Amendments of 1976, Pub. L. 94-341, July 6, 1976, 90 Stat. 803, 42 U.S.C. 2985(a)), which provides that:

Funds granted under this title which are invested * * * in a small business investment company, local development company, limited small business investment company, or small business investment company licensee under section 301(d) of the Small Business Investment Act of 1958 shall be included as "private paid-in capital and paid-in surplus" * * * for purposes of sections 302, 303 and 502, respectively, of the Small Business Investment Act of 1958.

The statute does not distinguish between a regular licensee and a section 301(d) licensee as to Federal grant funds being used to capitalize an SBIC. Accordingly, the new regulation conforms to and more completely implements Congressional intention than has heretofore been allowed under § 107.101(d)(2)(i).

EFFECTIVE DATES: The new regulation will become effective on March 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. McNeish, Deputy Associate Administrator, for Investment, (202) 653-6584.

SUPPLEMENTARY INFORMATION: In view of the fact that the new regulation implements a statutory mandate and relaxes existing regulatory provisions, it is considered exempt from the public-comment rulemaking procedures and postponed effective date provisions of the Administrative Procedure Act. SBA has determined that it would serve no useful purpose to subject the new regulation to such procedures and, in addition, that it would be in furtherance of the public interest if applied to the SBIC program immediately March 2, 1977.

Accordingly, pursuant to the authority contained in section 308 of the Small Business Investment Act of 1958, 15 U.S.C. 661, et. seq., § 107.101(d)(2)(i) is amended to read as follows:

§ 107.101 Operational requirements.

* * * * * *

(d) *Minimum capital.* * * *

(2) *Nonprivate funds for licensees.* (i) A licensee may include nonprivate funds (e.g. funds granted under Title VII of the Community Services Act of 1974, as amended) in its Private Capital for purposes of sections 302(a), 303(c) and 306 of the Act: *Provided, however,* That the minimum capital of $150,000 specified by section 302(a)(1) of the Act may not include nonprivate funds and that for Leverage purposes nonprivate funds will be included in Private Capital only to the extent that private funds totalling at least ten percent of the nonprivate funds are also included. The limitation of the foregoing proviso shall not apply to nonprivate funds received by or irrevocably committed to a licensee before July 5, 1973.

* * * * * *

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies.)

Dated: February 18, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-6171 Filed 3-1-77;8:45 am]

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 306—BUSINESS DEVELOPMENT PROGRAM

Miscellaneous Amendments

Pursuant to the authority vested in it by section 701 of the Public Works and Economic Development Act of 1965, as amended (hereinafter referred to as the Act), the Economic Development Administration (EDA) hereby amends 13 CFR Part 306 for the purpose of revising the Business Development Program regulations to reflect changes made to the Act by Pub. L. 94-487.

Section 107(c) of Pub. L. 94-487 amended section 202(a) of the Act by adding to it a new paragraph (2). This addition authorized a new form of business development assistance: interest subsidies for fixed asset loans guaranteed by EDA. The Assistant Secretary is now authorized to pay an amount sufficient to reduce, by up to four percentage points, the interest paid by borrowers of fixed asset loans which are guaranteed by EDA. The following amendments to EDA's regulations are made to implement this new authority.

Section 306.1(a) is amended to include interest subsidies in the list of types of assistance available under the Business Development Program.

Section 306.2 is amended by adding a new paragraph (d) which defines the eligible applicant for an interest subsidy. An application for this form of assistance must be made by the borrower of the loan which is being subsidized. Also, the application for the interest subsidy must be made concurrently with the application for the guarantee of the fixed asset loan which will be subsidized.

Section 306.3 is amended by revising paragraph (a) to list interest subsidies among the forms of fixed asset assistance and by adding a new paragraph (g) which describes the nature of interest subsidy assistance.

As outlined in paragraph (g), there is a two-fold limitation on the maximum amount of an interest subsidy. First, the subsidy may not reduce the borrower's interest rate by more than four percentage points. Second, the subsidy may not reduce the borrower's interest rate below the greater of the rates charged by EDA on direct fixed asset business development loans and direct fixed asset public works loans.

Paragraph (g)(1) establishes the factors which will be used to evaluate applications for interest subsidies. They are: the financial need of the borrower; the economic impact of EDA's total participation in the applicant's project; and, the cost of the subsidy in relation to the number of jobs it will affect.

Paragraph (g)(2) requires that loans which are to receive subsidies be made at fixed, not floating, rates of interest. This will insure that the minimum and maximum subsidy limitations are observed.

Paragraph (g)(3) states that subsidy payments are to be made on an at least annual basis. At the discretion of the Assistant Secretary, these payments may be made more frequently.

Paragraph (g)(4) announces EDA's policy of refusing applications for subsidies of one percent or less. The payment of a subsidy of this amount would neither provide real benefits to the recipient nor justify the administrative costs associated with it.

Section 306.8 is amended by adding a new paragraph (g) which imposes an additional requirement on applicants for interest subsidies. In order to receive an interest subsidy, an applicant must demonstrate that no reasonable rate of interest was available to it in the private lending market.

Section 306.10 is amended by adding a new paragraph (d) which limits the term for which an interest subsidy will be made to five years.

Section 306.13 is amended by adding a new paragraph (f) which repeats the maximum and minimum limitations on the amount of an interest subsidy.

In that the matters contained herein relate to the EDA grant and loan program, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of the proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. However, in accordance

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with the spirit of public policy set forth in 5 U.S.C. 553, interested persons may submit written comments or suggestions regarding these amendments to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230, on or before April 1, 1977. Until such time as further changes are made, these amendments shall remain in effect thus permitting the public business to proceed more expeditiously.

Consideration has been given as to whether the matters set forth in these regulations constitute a major proposal with an inflationary impact within the meaning of OMB Circular No. A–101 and the interpretative guidelines issued by the Department of Commerce. It has been determined that these regulations do not constitute action requiring an Economic Impact Statement.

In consideration of the foregoing, 13 CFR Part 306 is hereby amended as follows:

1. Section 306.1(a) is amended by adding to it a new subparagraph (6) to read as follows:

§ 306.1 Purpose.

(a) • • •

(6) Interest subsidies for fixed asset loans guaranteed under this part.

• • • • •

2. Section 306.2 is amended by adding to it a new paragraph (d) to read as follows:

§ 306.2 Eligible applicants.

• • • • •

(d) Applications for interest subsidies for fixed asset loans guaranteed by EDA shall be made by the borrower of the loan.

(1) An application for an interest subsidy shall be made concurrently with the application for the guaranty of the fixed asset loan which it will subsidize.

3. Section 306.3 is amended, by revising paragraph (a) and by adding a new paragraph (g), to read as follows:

§ 306.3 Types of financial assistance.

• • • • •

(a) Provide fixed assets for eligible applicants by either making direct loans or by guaranteeing loans and by providing interest subsidies for such guaranteed loans or by guaranteeing leases to enable the applicant to purchase, develop or lease commercial or industrial land and/or facilities.

• • • • •

(g) Interest subsidies for fixed asset loans guaranteed by EDA may be made in an amount sufficient to reduce by up to four percentage points the interest paid by the borrower on the guaranteed loan; however, no subsidy may reduce the effective interest rate to the borrower below the interest rate charged by EDA for direct fixed asset business development loans or the interest rate charged by EDA for direct fixed asset public works loans, whichever is greater.

(1) An application for an interest subsidy will be approved only if the accompanying application for the guarantee of the fixed asset loan is approved. In addition, approval of an application for an interest subsidy will be based on an evaluation of the following factors:

(i) The financial need of the borrower for the interest subsidy;

(ii) The cost of the interest subsidy in relation to the number of jobs it will affect; and

(iii) The extent of the economic impact of EDA's participation as determined by the total EDA exposure on the guaranteed loan.

(2) In order to establish the amount of the subsidy, a subsidized loan must be made at a fixed rate of interest for the period of time during which the subsidy is to be paid.

(3) Interest subsidy payments shall be made annually, or on a more frequent basis as the Assistant Secretary determines.

(4) Applications for interest subsidies of one (1) percent or less will not ordinarily be accepted for processing by EDA.

4. Section 306.8 is amended by adding to it a new paragraph (g) to read as follows:

§ 306.8 Financing.

• • • • •

(g) In the case of interest subsidies for fixed asset loans guaranteed by EDA, the applicant must show that no reasonable interest rate is available to it in the private lending market.

5. Section 306.10 is amended, by adding to it a new paragraph (d) and by redesignating the existing paragraph (d) as paragraph (e), to read as follows:

§ 306.10 Term.

• • • • •

(d) The duration for which an interest subsidy will be paid will generally be not more than five (5) years.

• • • • •

6. Section 306.13 is amended by adding to it a new paragraph (f) to read as follows:

§ 306.13 Amount of assistance.

• • • • •

(f) No interest subsidy for a fixed asset loan guaranteed by EDA shall:

(1) reduce the interest rate paid by the borrower by more than four percentage points; and

(2) result in lowering the interest rate paid by the borrower below the greater of the rates described at sections 306.25 and 306.11; and

(3) be made for an amount of one (1) percent or less.

(Pub. L. 94–487, 90 Stat. 2331 (42 U.S.C. 3121 et seq.); sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10–4, 40 FR 56702.)

Effective date: This amendment becomes effective March 2, 1977.

NOTE.—The Economic Development Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: February 22, 1977.

JOHN W. EDEN,
Assistant Secretary for Economic Development.

[FR Doc.77–6146 Filed 3–1–77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C–2666]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Mayday Company, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10–1 Availability of merchandise and/or facilities; 13.10–5 Knowingly by advertising agent; § 13.15 Business status, advantages or connections; 13.15–30 Connections or arrangements with others; 13.15–35 Contracts and obligations. 13.15–150 Endorsement; 13.15–225 Personnel or staff; 13.15–250 Qualifications and abilities; 13.15–265 Service; § 13.42 Connection of others with goods; § 13.50 Dealer or seller assistance; § 13.55 Demand, business or other opportunities; § 13.60 Earnings and profits; § 13.85 Government approval, action, connection or standards; 13.85–5 Accreditation of correspondence courses, etc.; 13.85–35 Government endorsement; § 13.110 Endorsements, approval and testimonials; § 13.115 Jobs and employment service; § 13.143 Opportunities; § 13.155 Prices; 13.155–95 Terms and conditions; § 13.160 Promotional sales plans; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.250 Success, use or standing; § 13.260 Terms and conditions. Subpart—Claiming or using endorsements or testimonials falsely or misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly; 13.330–90 United States Government; 13.330–91 Universities. Subpart—Contracting for sale in any form binding on buyer prior to end of specified time period: § 13.527 Contracting for sale in any form binding on buyer prior to end of specified time period. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records; 13.533–50 Refunds, rebates and/or credits; 13.533–60 Release of general, specific, or contractual constrictions, requirements, or restraints. Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 Furnishing means and instrumentalities of misrepresentation or deception. Subpart — Misrepresenting oneself and goods—Business status, advantages or connections: § 13.365 Authorities and personages connected with; § 13.1395 Connections and arrangements with others; § 13.1430 Government endorsement, sanction or sponsorship; § 13.1500 Official connections; § 13.1520 Personnel or staff; § 13.1535 Qualifications; § 13.1553 Services.—Goods: § 13.1572 Availability of advertised merchandise and/or facilities; § 13.1610 Demand for or business opportunities; § 13.1615 Earnings and profits; § 13.1632 Government endorsement or recommendation; § 13.1665 Endorsements; § 13.1670 Jobs and employment; § 13.1697 Opportunities in product or service; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1755 Success, use, or standing; § 13.1760 Terms and conditions.—Prices: § 13.1817 Reductions for prospect referrals; § 13.1823 Terms and conditions. Subpart — Neglecting, unfairly or deceptively, to make material disclosure: § 13.1892 Sales contract, right - to - cancel provision; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905–50 Sales contract. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1935 Earnings and profits; § 13.2015 Opportunities in product or service; § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

In the matter of Mayday Company Inc., a corporation; and G. Ward Keller, individually and as an officer of said corporation; and Richard M. Jackson, an individual; and Ricks-Ehrig, Inc., a corporation

Consent order requiring a Seattle, Wash., correspondence school, and its advertising agency, among other things to cease misrepresenting the salary ranges and employment opportunities available to its graduates; misrepresenting endorsements or recommendation of government agencies; misrepresenting the purpose, benefit or significance of placement tests given by respondents; and failing to disclose pertinent terms and conditions regarding sales contracts. Further, respondents are to provide disclosures as to cancellation procedures and rights to refunds, and to provide a ten-day cooling off period during which prospective students may cancel their contracts with full refunds.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:[1]

ORDER

I

It is ordered, That respondents Mayday Company, Inc. and Ricks-Ehrig, Inc., corporations, their successors and assigns, and their officers, and G. Ward Keller, individually and as an officer of Mayday, and Richard M. Jackson, an individual, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, franchisee, licensee or other device, in connection with the advertising, offering for sale, sale or distribution of any course of study, training or instruction purporting to prepare or qualify individuals for employment or training in any occupation, trade or in work requiring mechanical, technical, business, trade, artistic, supervisory, clerical or other skills, or purporting to enable a person to improve his or her skills in any of these categories, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Representing, orally, in writing, visually, or in any other manner, directly or by implication:

1. The general conditions or employment demand in any employment market now or at any time in the future.

2. The amount of salary or earnings generally available to persons employed in any occupation.

3. The specific employment opportunities available on demand for persons who purchase such course or courses of study; *Provided*, That respondents may disclose the information contained in Paragraph II(G)(1)–(3) of this order if all three disclosures appear together.

4. The specific amount of salary or earnings available to persons who purchase such course or courses of study; *Provided*, That respondents may disclose the information contained in Paragraph II(G)(1)–(3) of this order if all three disclosures appear together.

5. The training provided by such course or courses is a prerequisite to obtaining employment in the vocation or fields covered by such courses.

6. Placement assistance will be provided to persons who complete its course, unless respondents can establish that they provide, at all times and in all locations in which the representation is made, placement assistance which is effective in finding employment for their graduates, and unless such representation is accompanied by the information specified in Paragraph II(G)(2) of this order; or misrepresenting, in any manner, the nature or effectiveness of any placement assistance provided by respondents.

7. Home study materials will be supplemented with field assignments, classroom workshops or training facilities near the student's home, unless respondents can establish that such is the fact at all times and in all locations in which the representation is made.

8. Said courses are approved, recommended or endorsed by any government or agency thereof; *Provided, however*, That if eligible veterans may receive financial assistance from the United States Veteran's Administration to pay for such courses, respondents may state this fact.

9. Students accepted under any governmentally assisted or insured student loan program are excused for any period from making payments, unless respondents clearly and conspicuously disclose, in immediate conjunction therewith, the full terms regarding time limitations applicable to such payments.

10. The endorsement of such course or courses by any person, organization or association has been given without compensation when such is not the fact; or failing to disclose the fact of compensation unless the endorser is an expert, or the endorser is known to a significant portion of the viewing public, or the compensation or promise of compensation was given subsequent to the giving of the endorsement.

11. Such course or courses are endorsed by any person, organization or association without disclosing that such person, organization or association either in whole or in part owns or is owned by, or is employed by the advertiser, unless such is not the fact.

B. Making any representations of any kind whatsoever in connection with the advertising, promoting, offering for sale, sale or distribution of any course of study, training or instruction in the fields of investigation or security or any other subject, trade or vocation in or affecting commerce, for which respondents have no reasonable basis prior to the making or dissemination thereof.

II

It is further ordered, That the Mayday respondents and their successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division, franchisee, licensee or other device, in connection with the advertising, offering for sale, sale or distribution of any course of study, training or instruction purporting to prepare or qualify individuals for employment or training in any occupation, trade, or in work requiring mechanical, technical, business, trade, artistic, supervisory, clerical or other skills or purporting to enable a person to improve his skills in any of these categories in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Representing orally, in writing, or in any other manner, directly or by implication that:

1. Any entrance examination or aptitude test or quiz determines whether a person is capable of completing said course or courses of instruction or is qualified for employment or will achieve employment in the vocation or fields covered by such courses; or misrepresenting in any manner the meaning, purpose, benefit, significance or use of any examination or test or its results.

2. Acceptance for enrollment in said course or courses bears any significance whatsoever to physical, educational, character or other qualifications necessary to obtain any position in the vocation or field covered by such courses.

3. Each of respondents' graduates is provided membership in any professional organization, or that successful completion of said course or courses is a requirement for membership in any professional organization; or misrepresenting in any manner the meaning, purpose, benefit, or significance of membership in the International Police Congress or any other professional organization.

4. Graduates of said course or courses will receive college credit for their course work; or misrepresenting in any man-

[1] Copies of the Complaint, Decision and Order, and Appendices filed with the original document.

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ner the meaning, purpose, benefit, or significance of credit from any course work approval entity.

5. A referral fee or other compensation will be paid to students who refer to respondents prospective students who ultimately enroll in said course or courses, unless respondents can establish that such fee or other compensation is in fact paid to each student entitled thereto within ten (10) days of qualification therefor.

B. Providing students with answers to test questions before the test is taken, or assisting students in the completion of lessons in any other manner which does not genuinely aid the student in understanding the lesson; or representing that tutoring is provided when it is not.

C. Compensating any employee on the basis of the number of lessons completed by students.

D. Failing to disclose, in any instance in which a student applies for veteran education benefits or any other governmental assistance, for the purpose of paying for said course, training or instruction, and also executes a retail installment contract for the amount of the course, that the payee or its assignee may hold the student liable for the amount of the retail installment contract in the event veteran education benefits or other governmental assistance is delayed or denied.

E. Using military personnel on active duty to solicit or sell to military personnel junior in rank or grade, at any time, on or off duty, in or out of uniform, any product or service.

F. Furnishing or otherwise placing in the hands of others the means and instrumentalities by and through which the public may be misled or deceived in a manner prohibited by this order, or by acts and practices prohibited by this order.

G. Failing to disclose in writing, clearly and conspicuously, prior to the signing of any contract, to any prospective enrollee of any course of instruction, the following information in the format prescribed in Appendix A and for a base period determined as described in Appendix B:

1. The number and percentage of enrollees who have failed to complete their course of instruction, such percentage to be computed separately for each course of instruction offered by respondents;

2. The number and percentage of enrollees and of graduates who obtained employment within three months of leaving a school in a position for which respondents' course of instruction prepared them; such rate or percentage to be computed separately for each course of instruction offered by respondents;

3. The salary range of respondents' graduates who obtained employment within three months of leaving a school in a position for which respondents' course of instruction prepared them, the percentage ratio of such graduates to the total number of enrollees, and the percentage ratio of such graduates to the total number of graduates;

4. A list of firms or employers which are currently hiring graduates of said courses in substantial numbers and in the positions for which such graduates have been trained, and the number of such graduates hired, as to the same graduates used to compute the placement percentage in (2) above.

Provided, however, This Paragraph shall be inapplicable to any course newly introduced by respondents, until such time as the new course has been in operation for the base period established pursuant to Appendix B as prescribed in this Paragraph. However, during such period the following statement, and no other, shall be made in lieu of the Appendix A Disclosure Form required by this Paragraph:

DISCLOSURE NOTICE

This school (or course, as the case may be) has not been in operation long enough to indicate what, if any, actual employment or salary may result upon graduation from this school (course).

H. 1. Contracting for the sale of any course of instruction in the form of a sales contract or any other agreement which does not contain, in immediate proximity to the space reserved in the contract for the signature of the prospective enrollee, the following statement in 10-point or larger boldface type:

You, the prospective enrollee, may cancel this transaction and receive a full refund at any time prior to midnight of the tenth business day after the day of this transaction. If you withdraw after 10 days, you are entitled to a partial refund. See attached cancellation and withdrawal forms for explanations of these rights.

2. Failing to furnish each prospective enrollee, at the time he or she signs the sales contract or otherwise agrees to enroll in a course of instruction offered by respondents, complete cancellation and withdrawal forms in duplicate which shall be attached to the contract or agreement and easily detachable therefrom, and which shall contain in ten (10) point or larger boldface type the following information and statements:

NOTICE OF CANCELLATION DURING TEN-DAY COOLING OFF PERIOD

(Enter date of transaction)

You may cancel this transaction, without any penalty or obligation, within ten (10) business days from the above date.

If you cancel, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten (10) business days following receipt by the seller of your cancellation notice, and

Any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within twenty (20) days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for payment for said goods.

To cancel this transaction and obtain a full refund, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram, to (name of seller (must be filled in)), at (address of seller's place of business (must be filled in)) not later than midnight of (date (must be filled in)).

I hereby cancel this transaction.

(Date) (Buyer's signature)

NOTICE OF WITHDRAWAL AFTER EXPIRATION OF TEN-DAY COOLING OFF PERIOD

(Enter date of transaction)

After the ten-day cooling off period expires you are still free to withdraw from this course at any time. You will have to pay only for lessons submitted to the school plus a registration fee of five percent (5%) of the total contract price, not to exceed twenty-five dollars ($25).

The amount you will have to pay for the lessons submitted will be determined by dividing the number of lessons submitted up to the time of your withdrawal by the total number of lessons contained in the course. If, prior to withdrawal, you have paid more than this amount plus the registration fee, the excess will be refunded to you within ten (10) business days.

To withdraw from this course after the ten-day cooling off period expires, mail or deliver a signed and dated copy of this withdrawal notice or any other written notice, or send a telegram, to (name of seller (must be filled in)), at (address of seller's place of business (must be filled in)). You may also withdraw by failing to submit a lesson for ninety (90) days.

I hereby withdraw from this course.

(Date) (Buyer's signature)

3. Failing to orally inform each prospective enrollee, at the time he or she signs a contract or agreement for the sale of any course of instruction, of his or her right to cancel or withdraw.

4. Misrepresenting in any manner the prospective enrollee's right to cancel or withdraw.

5. Initiating contacts with such contracting persons prior to expiration of the ten-day cooling off period described herein.

6. Failing or refusing to take the following actions within ten (10) business days after the receipt of any valid notice of cancellation by a prospective enrollee during the ten-day cooling off period:

a. Refund all payments under the contract or sale;

b. Return any goods or property traded-in, in substantially as good condition as when received by respondent;

c. Cancel and return any negotiable instrument executed by the prospective enrollee in connection with the contract or sale.

7. Failing or refusing to take the following actions within ten (10) business days after (1) receipt of an enrollee's notice of withdrawal, or (2) expiration of a 90-day period during which a student fails to submit a lesson:

a. Refund a pro rata portion of the total contract price, plus a registration fee of five percent (5%) of the total contract price but not exceed twenty-five dollars ($25). For purposes of this provision:

(i) Withdrawal shall mean the date of mailing or delivering to the school a signed and dated copy of the "Notice of Withdrawal," a student's written letter or telegram of withdrawal, or a lapse of ninety (90) days since the student's submission of a lesson.

(ii) The pro rata portion shall be determined by dividing the number of correspondence lessons submitted by the student prior to withdrawal, by the total number of lessons contained in the course, and multiplying the total contract price by the result.

b. Cancel that portion of the student's indebtedness which exceeds the amount due respondents under the refund formula of this provision.

It is further ordered, That the Mayday respondents, their successors and assigns:

A. Deliver, by registered mail, a copy of this order to each of their present and future franchisees, licensees, employees, salesmen, agents, solicitors, independent contractors, advertising agencies, and other persons who promote, offer for sale, sell or distribute any course of instruction covered by this order.

B. Provide each person so described in paragraph A above with a form returnable to respondents clearly stating his or her intention to agree with respondents to conform his or her business practices to the requirements of this order; retain said statement during the period said person is so engaged; and make said statement available to the Commission's staff for inspection and copying upon request.

C. Inform each person so described in paragraph A above that respondents will not use or engage and will terminate the use or engagement of any such person unless such person agrees to and does file notice with respondents that he or she agrees to conform his or her business practices to the provisions contained in this order.

D. Shall not use or engage or continue the use or engagement to promote, offer for sale, sell or distribute any course of instruction whatsoever, of any such party as described in paragraph A above who will not agree to so file the notice set forth in paragraph B above with the respondents and agree to conform his or her business practices to the provisions of the order.

E. Inform the persons described in paragraph A above that respondents are obligated by this order to discontinue dealing with or to terminate the use or engagement of persons who continue on their own the acts or practices prohibited by this order.

F. Institute a program of continuing surveillance adequate to reveal whether the business practices of each person described in paragraph A above conform to the requirements of this order.

G. Discontinue dealing with or terminate the use or engagement of any person described in paragraph A above, as revealed by the aforesaid program of surveillance or otherwise, who continues on his or her own any act or practice prohibited by this order.

IV

It is further ordered, That respondent Ricks-Ehrig, its successors and assigns, promptly deliver a copy of this order to each of its operating divisions and to each employee now or hereafter engaged in the preparation, creation or placing of advertising for Mayday or any other client engaged in a similar business activity; and that said respondent secure from each such person a signed statement acknowledging receipt of said order.

V

It is further ordered, That all parties respondent hereto shall maintain complete business records, which may be inspected by Commission staff members upon reasonable notice, to fully disclose the manner and form of their compliance with this order, including but not limited to the following records to be maintained by the Mayday respondents:

A. Records which disclose the facts upon which any job availability or placement claims, or other representations of the type described in Paragraph II(G) of this order are based; and

B. Records from which the validity of any job availability or placement percentages or other representations of the type described in Paragraph II(G) of this order can be determined.

VI

Provided, however, That: A. This order shall not apply to the operation of not-for-profit resident primary or secondary schools or institutions of higher education which offer for resident students at least a two-year program of accredited college level studies generally acceptable for credit toward a bachelor's degree.

B. Subparagraphs E, F, G and H of Paragraph II and Paragraph III of this order shall not apply to the advertising, offering for sale, sale or distribution of a course of study or instruction to a business or a governmental entity for use by their existing employees: *Provided,* Such course is offered free of charge to said employees and respondents are not compensated for such course on the basis of the number of employees to whom such course is offered.

VII

It is further ordered, That the corporate respondents notify the Commission at least thirty (30) days prior to any proposed change in a corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

VIII.

It is further ordered. That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and/or their affiliation with a new business or employment. Such notice shall include the respondents' current business address and a statement as to the nature of the business or employment in which they are engaged, as well as a description of their duties and responsibilities.

IX

It is further ordered. That respondents shall, within sixty days after service upon them of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

Commissioner Dole not participating.

The Decision and Order was issued by the Commission November 12, 1976.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.77-6154 Filed 3-1-77;8:45 am]

[Docket C-2860]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Hudson Pharmaceutical Corp.

Subpart—Disseminating advertisements, etc.: § 13.1043 Disseminating advertisements, etc.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

In the Matter of Hudson Pharmaceutical Corp., a Corporation.

Consent order requiring a Borough of West Caldwell, N.J., manufacturer and distributor of children's vitamin supplements, among other things, to cease inducing the dissemination of or disseminating any advertisements relating to vitamin supplements or preparations designed primarily for use by children where such advertisements are directed to children.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

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[1] Copies of the Complaint and Decision and Order filed with the original document.

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ORDER

I

It is ordered, That Hudson Pharmaceutical Corporation and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, packaging, offering for sale, sale or distribution in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, of any vitamin supplement or vitamin preparation designed primarily for use by children, do forthwith cease and desist from directly or indirectly disseminating, or causing the dissemination of, any advertisement for a vitamin supplement or vitamin preparation designed primarily for use by children where such advertisement is directed to children.

II

For purposes of this Order, the term "children" shall mean persons under twelve (12) years of age.

III

For purposes of this Order, the term "advertisement directed to children" shall be limited to:

A. Any advertisement, irrespective of the age composition of its actual audience, whose dominant appeal is to a child audience, instead of an adult audience, broadcast over any television network or television station, or appearing in any print media;

B. Any advertisement appearing on any television program, broadcast over any television network or television station, more than fifty percent (50%) of the audience of which is composed of children; or in any spot announcement during any program break in, or during the program break immediately preceding or following, any television program more than fifty percent (50%) of the audience of which is composed of children.

For the purposes of this Order the determination of whether a television program had an audience more than 50% of which is composed of children, and thus falls within the provisions of this subpart of this Order, shall be based on information as to the audience composition of television programs by age group contained in the reports of major audience rating services;

C. Any advertisement broadcast over any television network or television station from 6 a.m. to 9:05 p.m. local time where the advertisement utilizes a hero figure, including but not limited to "Spider-Man," which has a special appeal for children, and which directly or indirectly endorses, demonstrates, uses, or appears in conjunction with the product. A depiction of the product's container or package on which a hero figure appears is not considered use of a hero figure for purposes of this Order so long as the depiction of the container or package is limited to less than one-third of the size of the screen;

D. Any advertisement appearing in a comic book where the printed matter is directed primarily to children;

E. Any advertisement appearing in print media where 50% or more of the trim area of the advertisement or of a page of the advertisement consists of the depiction of a hero figure which has a special appeal for children, including but not limited to "Spider-Man";

F. Any advertisement where the advertisement states it is addressed to children; or

G. Any advertisement sent through the mail addressed to children, or whose addresses include the names of children, or whose content is not sealed within an envelope.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this Order to each of its operating divisions.

It is further ordered, That respondent corporation notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

It is further ordered, That the respondent herein shall within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they complied with this Order.

The Decision and Order was issued by the Commission January 13, 1977.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.77-6204 Filed 3-1-77;8:45 am]

Title 26—Internal Revenue

[T.D. 7468]

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[Regulations on Procedure and Administration]

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

Minimum Exemption From Levy for Wages, Salary, and Other Income

PREAMBLE

This document contains temporary regulations on procedure and administration (26 CFR Part 404) under section 6334(d) of the Internal Revenue Code of 1954 as added by the Tax Reform Act of 1976 (Pub. L. 94-455), in order to provide rules relating to minimum exemption from levy for wages, salary, or other income. These temporary regulations apply to levies made after February 28, 1977 (Pub. L. 94-528 postponed an original effective date of January 1, 1977), and are to remain in force until superseded by permanent regulations.

Under section 6331 of the Internal Revenue Code of 1954, if an individual liable for any tax neglects or refuses to pay such tax within 10 days after notice and demand, the tax may be collected by levy upon property or rights to property belonging to such individual, including amounts payable to or received by him as wages, salary, or other income.

Under sections 6331(d)(3) and 6334(a)(9), which were added by the Tax Reform Act of 1976, a levy upon wages or salary is continuous from the date the levy is first made until the liability giving rise to the levy is satisfied or becomes unenforceable by reason of lapse of time, but during such time certain amounts payable to or received by an individual as wages or salary for personal services, or as income from other sources, are exempt.

These temporary regulations provide rules under section 6334(d) by which amounts so exempt from levy are to be determined.

The principal draftsperson of this regulation was Richard Johnson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style. Mr. Johnson may be contacted at 202-566-3603 or by mail at 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

ADOPTION OF REGULATIONS

In order to prescribe temporary regulations relating to minimum exemption from levy for wages, salary, and other income pursuant to section 6334(d) of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1976 (Public Law 94-455), the following regulations are hereby adopted:

§ 404.6334(d)-1 Minimum exemption from levy for wages, salary, or other income.

(a) *In general.* Under section 6331(a), if an individual liable for any tax neglects or refuses to pay such tax within 10 days after notice and demand, the tax may be collected by levy upon property or rights to property belonging to such individual, including amounts payable to or received by him as wages, salary, or other income. Under section 6331(d)(3), a levy upon wages or salary is continuous from the date the levy is first made until the liability giving rise to the levy is satisfied or becomes unenforceable by reason of lapse of time. Under section 6334(a)(9), however, certain amounts payable to or received by an individual as wages or salary for personal services, or as income from other sources, are exempt from levy. Under section 6334(d), amounts so exempt are determined by taking into account (1) the individual's payroll period, i.e., the basis (whether weekly, biweekly, semimonthly, monthly or otherwise) on which the individual is paid or receives wages, salary, or other income, and (2) the number of certain other persons dependent upon the individual for their support during each such payroll period. Paragraph (b) of this section prescribes rules for determining an individual's payroll period. Paragraph (c) of this section contains rules relating to the minimum amount of wages, salary, or other income which is exempt from levy for each such payroll period, and the additional amount which is exempt for each person who is claimed as a dependent of the individual pursuant to paragraph (d) of this section.

(b) *Determination of payroll period.* For purposes of determining the amount of wages, salary, or other income exempt from levy pursuant to section 6334(a)(9) and this section—

(1) *Regularly used calendar periods.* In the case of a levy on wages, etc. paid on the basis of an established calendar period regularly used by the employer for payroll purposes (e.g., weekly, biweekly, semimonthly, or monthly), that period shall be used as the individual's payroll period.

(2) *Remuneration paid on an irregular basis.* In the case of a levy on wages, etc. not paid on the basis of an established calendar period regularly used by an employer for payroll purposes, the first day of the individual's payroll period shall be that day following the day upon which the wages, salary, or other income become payable to or are received by the individual, and the last day of the payroll period shall be that day upon which such wages, salary, or other income next become payable to or are received by him.

(c) *Determination of exempt amount.* For each payroll period determined pursuant to paragraph (b) of this section, amounts exempt from levy pursuant to section 6334(a)(9) and this section are as follows:

(1) If such payroll period is weekly: $50, plus $15 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(2) If such payroll period is biweekly: $100, plus $30 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(3) If such payroll period is semimonthly: $108.33, plus $32.50 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(4) If such payroll period is monthly: $216.67, plus $65 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(5) If such payroll period is not weekly, biweekly, semimonthly or monthly: a proportionate amount based upon the sum of an annual exemption of $2,600 plus $780 for each person who is claimed as a dependent pursuant to paragraph (d) of this section.

(d) *Dependent exemption.* (1) *Dependent defined.* For purposes of this section, a person is a dependent of an individual for any payroll period of such individual, if—

(i) Over half of such person's support for such payroll period was received from the individual, and

(ii) Such person is the spouse of the individual, or bears a relationship to the individual specified in section 152(a)(1) through (9) (relating to definition of dependent), and

(iii) Such person is not a minor child of the individual with respect to whom amounts are exempt from levy under section 6334(a)(8) (relating to exemption from levy for judgments for support of minor children) at any time during such payroll period.

For purposes of subdivision (ii) of this subparagraph, "payroll period" shall be substituted for "taxable year" each place it appears in section 152(a)(9).

(2) *Claim for dependent exemption.* No amount prescribed by paragraph (c) of this section as being exempt from levy for each person who is claimed as a dependent pursuant to this paragraph shall be so exempt unless there is delivered to the employer or other person upon whom notice of levy is served a written statement, signed by the individual seeking such exemption and containing a declaration that it is made under the penalties of perjury, which identifies, by name and by relationship to such individual, each person for whom a dependent exemption is claimed.

(e) *Cross references.*

(1) For the requirement for notice of intent to levy on salary or wages, see section 6331(d)(1).

(2) For the continuing effect of a levy on salary or wages, see section 6331(d)(3).

(3) For other property exempt from levy, see section 6334 and § 301.6334-1.

(f) Effective date: The regulations prescribed by this section shall apply with respect to levies on wages, salary, and other income made after February 28, 1977.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Secs. 6334(d) and 7805, Internal Revenue Code of 1954 (90 Stat. 1709 and 68A Stat. 917; 26 U.S.C. 6334 and 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: February 23, 1977.

HENRY C. STOCKELL, Jr.,
Acting General Counsel.

[FR Doc.77-6267 Filed 2-25-77;5:10 pm]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

Pursuant to the rulemaking authority vested in the United States Parole Commission by 18 U.S.C. 4203(a)(1), the Commission published on December 2, 1976, at 41 FR 52889, a notice proposing certain changes in its regulations at 28 CFR, Chapter I, Part 2. Following the period announced for the submission of comment by interested persons, the Commission voted to adopt the following changes:

(A) REVISION OF THE SALIENT FACTOR SCORE

(1) *Summary of the changes.* The salient factor score is an actuarial device used by the Commission as an aid in the assessment of the probability of an applicant's favorable parole outcome. Hearing examiners and Parole Commissioners may use their clinical judgment to override this actuarial aid where the circumstances warrant, provided that they articulate their reasons for doing so in writing.

Presently, the Parole Commission uses a nine item device with a possible total score of from 0–11 points. The revised device adopted by the Commission contains seven items (although two items contain multiple elements). This device also scores from 0–11 points. To obtain the revised device, two items were dropped from the present salient factor score. These are "living arrangements" (an item which, although showing good predictive power on research samples, has proven difficult to score reliably in operational usage and is subject to attempted falsification by the prisoner) and "education", the weakest of the nine predictive items, and an item which appears to overlap substantially with other items.

Substituted for these items are revisions of the items "prior convictions" and "age at first commitment". These items are both strong predictors and are more reliably scored. Also, two additional empirical predictors were added. These are: (1) The negative indicant "probation violator this term" and (2) the negative indicant "present offense involved check(s)." (The latter refers to offenses such as passing or possession of stolen checks, check forgery, and writing bad checks).

The net result is a revised device containing seven items (nine elements) and scoring from 0–11 points. Discussions with commissioners, research staff, and hearing examiners, show consensus that the revised device will permit greater reliability in field scoring. Research tests of the present and revised devices

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(tested on samples of past releases, N= approximately 3800) show equivalent research validity (predictive power). However, the increased field scoring reliability possible with the revised device carries a potential for greater field validity. Moreover, greater filed reliability translates directly into greater equity in actual decision-making (treating similar cases consistently).

An additional consideration involves the preception of fairness. The two items in the present salient factor score most likely to be criticized as discriminatory are what might be termed "social status" items, viz., "living arrangements" and "education". The revised device, while maintaining predictive power and increasing equity, may also be perceived as fairer, both by prisoners and the public, in that it focuses on events in the prisoner's past over which the prisoner may be perceived as having had greater opportunity for control.

The salient factor score changes will be effective on April 1, 1977, and will apply only to prisoners receiving their initial hearings after that date. Salient factor scores computed under the former § 2.20 will not be altered by this change.

(2) *Public comment.* Letters relating specifically to the salient factor score changes were received from nine sources: One probation officer, two legal assistance organizations, five prisoners, and the Dean of the State University of New Jersey School of Criminal Justice. Specific criticisms and comments contained in these letters are discussed below.

(a) *Omission of two items G and I.* A number of comments received from the public urged the Commission to retain in the salient factor score both of the omitted items, and pointed out sound reasons why the factors of education and living arrangements may be valid subjects of inquiry in parole decision-making. However, the Commission has never intended the salient factor score to include every item which may be of importance to the parole decision; the salient factor score includes only selected items of general validity which can be reliably scored, and leaves to the informed judgment of the decision-maker those factors which the Commission feels are better weighed in the individual context.

(b) *Prior record.* One comment from a prisoner correctly noted that the greater emphasis on prior record resulting from the changes would increase the chances that a first offender would obtain a high salient factor score. However, other comments criticized the change in emphasis on three grounds (which could be applicable to both the old as well as the new scoring device). These grounds were that (a) the device does not distinguish between felonies and misdemeanors; (b) the device considers juvenile convictions obtained through lesser degrees of procedural rights; and (c) the device accounts for crimes committed early in life without crediting any lengthy period of time during which the prisoner was crime-free.

In regard to the first comment, no evidence was offered to support the assertion that only prior felony convictions should be considered as predictive of parole outcome. It should be noted that the Commission's mandate is to protect the public from the recurrence of criminal behavior, and that parole may be revoked for commission of a new crime, regardless of whether such crime is a misdemeanor or felony. The information available to the Commission simply does not point to the supposition that felony convictions alone (which in many cases do not represent all of the serious previous offenses committed) would be a more valid predictor.

With regard to the use of prior juvenile convictions, the Commission's empirical research studies, as well as other studies, show that juvenile convictions or adjudications are a significant predictor of future criminal behavior. The comment which suggested that the lack of procedural protections involved in juvenile adjudications makes the score less reliable did not adduce any information tending to bear out that hypothesis. In addition, it should be noted that the Commission does not, as one comment assumed, count juvenile commitments incurred for reasons other than conduct tantamount to the commission of a crime.

Finally, with regard to the case of a prisoner who has remained crime-free for a considerable period, the Commission agrees that its decisions should account for this factor when it exists and is meaningful (i.e. where the prisoner was clearly leading a law-abiding life rather than simply evading the law). The matter is under study at present with a view towards establishing specific criteria as to the necessary length of the period. However, this factor is presently accepted as a valid reason for departure from the guidelines range.

(c) *The addition of offenses involving checks.* Some public comment questioned whether there was a statistical basis for inclusion of the element involving check offenses. The Commission's statistical information indicates that cases in which the offense behavior involved check(s) are poorer than average parole risks, and other empirical studies have obtained similar findings. See, for example, "The Validity of Two Parole Prediction Scales—An Eight Year Follow Up Study," Gottfredson and Ballard, Institute for the Study of Crime and Delinquency, 1965.

Another comment (from the Jerome N. Frank Legal Services Organization of Yale Law School) criticized the addition of check offenses on the grounds that there would not be "an increase in deterrent effect commensurable with the proposed increases in sentence length." This comment misconceives the purpose of increased incarceration for poorer parole risks. Title 18 U.S.C. 4206(a)(2) requires the Commission to impose a just measure of incapacitation on potential recidivists independently of its accounting for the severity of the offense (i.e. deterrent effect). This section accomplishes the sole purpose of protecting the public welfare by preventing (for a certain time) the return of the offender to society; there is no claim that the period of incapacitation will increase the general deterrent effect of the sentence.

Similarly, a comment received from one prisoner asserted that application of the salient factor score generally produces a form of repeated and unfair "punishment" for past offenses. While prisoners may not always be able to distinguish between the deterrent and incapacitative purposes of a sentence, the incapacitative function serves, in the Commission's view, the overriding interest of the public welfare on this question.

(d) *Overall validity of the device.* Finally, the Commission received a letter from the Dean of the School of Justice of the State University of New Jersey, Don Gottfredson, agreeing with the Commission that the device meets the objections raised with former Items I and G with no loss in predictive validity.

(B) SENTENCES FOR CIVIL CONTEMPT

The Commission adopts without change its proposed revision of § 2.10(b), which interrupts the running of a sentence when a civil contempt sentence is imposed under 18 U.S.C. 401 or 28 U.S.C. 1826. This rule clarifies the computation of parole eligibility in accordance with Bureau of Prisons Policy Statement No. 7300.92A (August 20, 1976), which states that any federal criminal sentence being served when the civil contempt sentence is ordered is suspended for the duration of the contempt sentence. This rule covers the normal case where the court imposing the sentence has not given any indication as to what effect the contempt sentence is to have. The policy is dictated by the consideration that a sentence of contempt would otherwise have little or no effect on prisoners already serving criminal sentences. The Commission believes, contrary to the one public comment received on this revision, that this rule carries out the intent of those courts imposing such sentences, and that the Commission possesses statutory authority to clarify by regulation any matter affecting parole eligibility.

(C) YOUTH ACT ABSCONDERS

The Commission also adopts with change its proposed rule at § 2.10(c), by which absconders from parole supervision under the Youth Corrections Act will not be given credit for time spent in absconder status. This change will result in like treatment for persons in absconder as well as in escape status, and equates absconding with escape. Only one comment was received specifically referring to this change, in which a U.S. Probation Officer agreed that a Youth Act parolee should not escape apprehension for parole violations solely because he eludes law enforcement officers beyond the expiration date of his sentence. A six month delay in the effective date of this revision is ordered below.

(D) CLARIFICATION BY CROSS-REFERENCE

The Commission has determined to clarify the wording of § 2.21(b)(2), by adding a cross-reference to §§ 2.47 (b) and (c), and 2.52 (c) and (d). This will indicate the distinction between calculation of time in custody for reparole guideline purposes and calculation of the maximum possible violator term.

(E) CONCLUSION

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter 1, Part 2, is amended as set forth below, effective April 1, 1977, with the exception of the revised 28 CFR 2.10(c), which will be effective August 1, 1977.

1. In § 2.10 paragraph (b) is amended and paragraph (c) is added, to read as follows:

§ 2.10 Date service of sentence commences.

* * * * *

(b) * * *

(2) The guidelines for parole consideration specified at 28 CFR 2.20 for the poor parole risk category shall then be applied. The original sentence type (i.e. adult, youth), shall determine the applicable guidelines for the parole violator term. Time served on a new state or federal sentence shall be counted as time in custody. This does not affect the computation of the total violator term as provided by §§ 2.47(b) and (c) and 2.52 (c) and (d).

* * * * *

§ 2.52 [Amended]

4. Paragraph (d)(1) of § 2.52 is amended to refer to § 2.10 (b) and (c).

(28 CFR Chapter 1, Part 0, Subpart I, (18 U.S.C. 3655, 4164, 4201-4218, 4254-5, and 5005-5041).)

Dated: February 25, 1977.

CURTIS C. CRAWFORD,
Acting Chairman,
U.S. Parole Commission.

[FR Doc.77-6161 Filed 3-1-77;8:45 am]

Item		
A	Total score	□
	(No prior convictions adult or juvenile) =3 One prior conviction =2 Two or three prior convictions =1 Four or more prior convictions =0	
B		□
	No prior incarcerations (adult or juvenile) =2 One or two prior incarcerations =1 Three or more prior incarcerations =0	
C		□
	Age at first commitment (adult or juvenile) (26 or older) =2 (18 to 25) =1 (17 or younger) =0	
D		□
	Commitment offense did not involve auto theft or check(s) =1 Otherwise =0	
E		□
	Never had parole revoked or been committed for a new offense while on parole, and not a probation violator this time =1 Otherwise =0	
F		□
	No history of heroin or opiate dependence =1 Otherwise =0	
G		□
	Verified employment (or full-time school attendance) for a total of at least 6 months during the last 2 years in the community =1 Otherwise =0	
	Total score	□

§ 2.20 [Amended]

2. In § 2.20 the salient factor score appearing at the end of the table is changed as set forth below:

§ 2.21 [Amended]

3. Paragraph (b)(2) of § 2.21 is revised as set forth below:

* * * * *

(b) * * *

(2) The imposition of a sentence of imprisonment for civil contempt shall interrupt the running of any sentence of imprisonment being served at the time the sentence of civil contempt is imposed, and the sentence or sentences so interrupted shall not commence to run again until the sentence of civil contempt is lifted.

(c) Service of the sentence of a committed youth offender or a person committed under the Narcotic Addict Rehabilitation Act commences to run from the date of conviction and is interrupted only when such prisoner or parolee (1) is on bail pending appeal; (2) is in escape status; (3) has absconded from his or her district of supervision; or (4) comes within the provisions of paragraph (b) of this section.

[Order No. 693-77]

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Delegation of Authority

AGENCY: Department of Justice, Office of the Attorney General.

ACTION: Final rule.

SUMMARY: This amendment delegates to the Deputy Attorney General the authority to refuse disclosure of information or production of material of the Department in response to a subpoena or other demands of a court or other authority. Until now, this authority has been retained by the Attorney General.

EFFECTIVE DATE: March 30, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Harmon, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530 (202-739-2041).

By virtue of the authority vested in me by 5 U.S.C. 301, 28 U.S.C. 503, 28 U.S.C. 504, 509, and 28 U.S.C. 510, § 16.24 of Chapter I of Title 28, Code of Federal Regulations is amended as follows.

1. Paragraph (b) is amended by substituting the words "Deputy Attorney General" in both places where the words "Attorney General" now appear.

2. This Order shall take effect on March 30, 1977.

Dated: February 22, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-6155 Filed 3-1-77;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER M—MISCELLANEOUS

PART 251—DOD AMMUNITION AND EXPLOSIVES SAFETY STANDARDS

Quantity-Distance Standards: Correction

In FR Doc. 77-4679 appearing at page 9169 in the FEDERAL REGISTER of February 15, 1977, make the following changes:

In § 251.9(b), 4th line, change "apepar" to "appear."

In Table B-5 on page 9172, change incorrect heading of 9th column "2.60" to "2.10."

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

FEBRUARY 25, 1977.

[FR Doc.77-6175 Filed 3-1-77;8:45 am]

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Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE)

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

CFR Correction

In § 205.50(a) appearing on page 21 of Title 45 (Parts 200–499) of the Code of Federal Regulations revised as of October 1, 1976 a sentence was transposed and some text was inadvertently omitted. For the convenience of the user the correct § 205.50(a) is set forth below:

§ 205.50 Safeguarding information for the financial assistance and social services programs.

(a) *State plan requirements.* A State plan under title IV–A of the Social Security Act, except as provided in paragraph (e) of this section, must provide that:

(1) Pursuant to State statute which imposes legal sanctions:

(i) The use or disclosure of information concerning applicants and recipients will be limited to purposes directly connected with:

(A) The administration of the plan of the State approved under title IV–A, the plan or program of the State under title IV–B, IV–C, or IV–D, or under title I, X, XIV, XVI (AABD), XIX, or XX or the supplemental security income program established by title XVI (SSI). Such purposes include establishing eligibility, determining amount of assistance, and providing services for applicants and recipients.

(B) Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plans or programs; and

(C) The administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need. Under the requirements of this paragraph (a)(1)(i), disclosure to any committee or legislative body (Federal, State, or local) of any information that identifies by name and address any such applicant or recipient shall be prohibited; and certification of receipt of AFDC to an employer for purposes of claiming tax credit under Pub. L. 94–12, the Tax Reduction Act of 1975, (see § 235.40 of this chapter) shall be considered to be for a purpose directly connected with the administration of the plan.

(ii) The State agency has authority to implement and enforce the provisions for safeguarding information about applicants and recipients;

(iii) Publication of lists or names of applicants and recipients will be prohibited.

(2) The agency will have clearly defined criteria which govern the types of information that are safeguarded and the conditions under which such information may be released or used. Under this requirement:

(i) Types of information to be safeguarded include but are not limited to:

(A) The names and addresses of applicants and recipients and amounts of assistance provided (unless excepted under paragraph (e) of this section);

(B) Information related to the social and economic conditions or circumstances of a particular individual;

(C) Agency evaluation of information about a particular individual;

(D) Medical data, including diagnosis and past history of disease or disability, concerning a particular individual.

(ii) The release or use of information concerning individuals applying for or receiving financial assistance or services is restricted to persons or agency representatives who are subject to standards of confidentiality which are comparable to those of the agency administering the financial assistance or services programs.

(iii) The family or individual is informed whenever possible of a request for information from an outside source, and permission is obtained to meet the request. In an emergency situation when the individual's consent for the release of information cannot be obtained, he will be notified immediately thereafter.

(iv) In the event of the issuance of a subpoena for the case record or for any agency representative to testify concerning an applicant or recipient, the court's attention is called, through proper channels to the statutory provisions and the policies or rules and regulations against disclosure of information.

(v) The same policies are applied to requests for information from a governmental authority, the courts, or a law enforcement official as from any other outside source.

(3) The agency will publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use, and will make such provisions available to applicants and recipients and to other persons and agencies to whom information is disclosed.

(4) All materials sent or distributed to applicants, recipients, or medical vendors, including material enclosed in envelopes containing checks, will be limited to those which are directly related to the administration of the program and will not have political implications. Under this requirement:

(i) Specifically excluded from mailing or distribution are materials such as "holiday" greetings, general public announcements, voting information, alien registration notices;

(ii) Not prohibited from such mailing or distribution are materials in the immediate interest of the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food, and consumer protection information;

(iii) Only the names of persons directly connected with the administration of the program are contained in material sent or distributed to applicants, recipients, and vendors, and such persons are identified only in their official capacity with the State or local agency

* * * * *

CHAPTER VII—COMMISSION ON CIVIL RIGHTS

PART 706—MATERIALS AVAILABLE PURSUANT TO 5 U.S.C. 552a

Privacy Act of 1974 Amendments

Notice of proposed amendments to Title 45 of the Code of Federal Regulations, Part 706—Materials available pursuant to 5 U.S.C. 552a were published in the FEDERAL REGISTER on January 13, 1977, 41 FR 2708. These amendments will facilitate efforts by individuals to gain access to information about themselves; provide a more comprehensive procedure whereby additions or corrections are made to an individual's records at his or her request and will establish a procedure for the accounting of the disclosures of records.

A comment on the last sentence of the proposed revision of § 706.7 was received which suggested a possible ambiguity therein. This comment has been considered and the clarifying suggestion accepted. With this exception, the regulations are adopted as previously proposed, to read as follows:

Section 706.3 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 706.3 Procedures for requests pertaining to individual records in a system of records.

* * * * *

(b) In addition to meeting the requirements set forth in § 706.4 (c) or (d), any person who requests information under these regulations shall provide a reasonably specific description of the information sought so that it may be located without undue search or inquiry. If possible, that description should include the nature of the records sought, the approximate dates covered by the record, and, if known by the requester, the system in which the record is thought to be included. Requested information that is not identified by a reasonably specific description is not an identifiable record, and the request for that information cannot be treated as a formal request.

(c) If the description is insufficient, the agency will notify the requester and, to the extent possible, indicate the additional information required. Every reasonable effort shall be made to assist a requester in the identification and location of the record or records sought.

Section 706.4 is amended by revising paragraph (d) to read as follows:

§ 706.4 Times, places, and requirements for identification of individuals making requests and identification of records requested.

* * * * *

(d) An individual seeking access to records by mail shall establish his or her identity by a signature, address, date of birth, and one other identification, such as a copy of a driver's license, passport, identification card or badge, credit card or other document. The words "Privacy Act Request" should be placed in capital letters on the face of the envelope in order to facilitate requests by mail.

* * * * *

Section 706.7 is amended by adding the following sentences to the end of the paragraph:

§ 706.7 Agency review of request for correction or amendment of the record.

* * * In the event of correction or amendment, an individual shall be provided with one copy of each record or portion thereof corrected or amended pursuant to his or her request without charge as evidence of the correction or amendment. The Commission shall also provide to all prior recipients of such a record, the corrected or amended information to the extent that it is relevant to the information previously furnished to a recipient pursuant to the Privacy Act.

Section 706.8 is amended by adding the following sentence to the end of paragraph (d)(3):

§ 706.8 Appeal of an initial adverse agency determination.

* * * * *

(d) * * *

(3) * * * These statements shall also be provided to all prior recipients of the record to the extent that it is relevant to the information previously furnished to a recipient pursuant to the Privacy Act.

§ 706.95 Accounting of the disclosures of records.

(a) All disclosures of records covered by this Part 706, except for the exemptions listed in § 706.95(b), shall be accounted for by keeping a written record of the particular record disclosed, the name and address of the person or agency to whom or to which disclosed, and the date, nature and purpose of the disclosure.

(b) No accounting is required for disclosures of records to those officials and employees of the Commission who have a need for the record in the performance of their duties, or if disclosure would be required under the Freedom of Information Act, 5 U.S.C. § 552.

(c) The accounting shall be maintained for 5 years or until the record is destroyed or transferred to the National Archives and Record Service for storage, in which event, the accounting pertaining to those records, unless maintained separately, shall be transferred with the records themselves.

(d) The accounting of disclosures may be recorded in any system the Commission determines is sufficient for this purpose, however, the Commission must be able to construct from its system a listing of all disclosures. The system of accounting of disclosures is not a system of records under the definition in § 706.2 (e) and no accounting need be maintained for disclosure of the accounting of disclosures.

(e) Upon request of an individual to whom a record pertains, the accounting of the disclosures of that record shall be made available to the requester, provided that he/she has complied with § 706.3(a) and with § 706.4 (c) or (d).

ARTHUR S. FLEMMING,
Chairman.

FEBRUARY 17, 1977.

[FR Doc.77-6179 Filed 3-1-77;8:45 am]

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

PART 1061—CHARACTER AND SCOPE OF SPECIFIC COMMUNITY ACTION PROGRAMS

Subpart—Community Food and Nutrition Program (CSA Instruction 6132–2)

On November 8, 1976, there was published in the FEDERAL REGISTER (41 FR 49179) a notice of a proposed rule outlining the program purposes, conditions and funding policies governing the Community Food and Nutrition Program authorized under subsection 222(a)(5) of the Economic Opportunity Act of 1964, as amended.

From 1967 to 1975 under subsection 222(a)(5) of the Economic Opportunity Act of 1964, as amended, the Office of Economic Opportunity, predecessor agency to the Community Services Administration funded grantees to conduct Emergency Food and Medical Services projects. During this period the agency issued funding guidelines, program memoranda and field guidance that served as the programmatic framework for this program.

The Community Services Act of 1974, enacted into law on July 6, 1976 amended subsection 222(a)(5) by renaming the Emergency Food and Medical Services Program the Community Food and Nutrition Program (CFNP) and eliminating the provision of medical services.

A. As a result of comments received, the following changes in the proposed rule are made in addition to language changes for clarification:

1. Additional wording is added to the section on Policy to reinforce CSA's commitment to advocating on behalf of the poor in nutrition matters.

2. Additional wording is added to the section on Policy to explain that CFNP funds are not to be used as a continuing financial commitment for projects eligible for other funds.

3. Additional wording is added to the policy section to ensure that eligibility criteria are applied if continued assistance is needed.

4. A new paragraph is added to the Eligible Activities to include consumer education, advocacy, and legal assistance.

5. Reference to the ability to use CFNP funds to meet a matching requirement with certain other Federal Funds consistent with CSA policy, which was inadvertently omitted in the proposed rule, is added to the Funding section.

B. Certain other recommendations have been carefully considered but have not been accepted. The following suggestions were not adopted for the reasons assigned:

1. The recommendation that legal services programs be added to eligible grantees or applicants is rejected because such programs are clearly eligible for funding as non-profit organizations.

2. Except for changes noted, the Application Process section is left unchanged. CSA will continue to fund CFNP projects consistent with the requirements of section 601(c) of the Economic Opportunity Act of 1964, as amended, which states:

* * * The functions of the Director * * * shall not be delegated to any other officer not directly responsible, both with respect to program operation and administration, to the Director, * * * the policy making functions, including the final approval of grants and contracts, of the Director, shall not be delegated to any regional office or official.

C. CSA itself is eliminating the requirements of the Needs Assessment and Program Report from the Application Process section for consistency with the reporting requirements contained in OMB Circular A–110.

Accordingly, with these changes and additions, the Proposed Rule, renumbered to correct a technical error, is adopted as set forth below.

Effective date: March 2, 1977.

ROBERT C. CHASE,
Acting Director.

45 CFR Chapter X is amended by adding the following subpart:

Subpart—Community Food and Nutrition Program (CSA Instruction 6132–2)

Sec.

1061.50–1 Applicability.
1061.50–2 Definitions.
1061.50–3 Background.
1061.50–4 Purpose.
1061.50–5 Introduction.
1061.50–6 Policy.
1061.50–7 Eligible grantees or applicants.
1061.50–8 Eligible participants.
1061.50–9 Priority categories of beneficiaries.
1061.50–10 Eligible activities.
1061.50–11 Funding.
1061.50–12 Application process.
1061.50–13 Reporting requirements.
1061.50–14 Additional requirements.

AUTHORITY: Sec. 602, 78 Stat. 530; (42 U.S.C. 2942).

Subpart—Community Food and Nutrition Program (CSA Instruction 6132–2)

§ 1061.50–1 Applicability.

This subpart is applicable to grantees funded under Section 222(a)(5) of the Community Services Act of 1974, as amended, if the assistance is administered by the Community Services Administration.

§ 1061.50–2 Definitions.

(a) *Program.* The provision of federal funds and administrative direction to accomplish a prescribed set of objectives through the conduct of specific activities. Example: CSA's Community Food and Nutrition Program.

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(b) *Project.* The implementation level of a program where resources are used to produce an end product that directly contributes to the objectives of the program. Example: The community garden project of the CAA in Philadelphia, Pennsylvania.

§ 1061.50–3 Background.

(a) From 1967 to 1975 the Office of Economic Opportunity funded grantees to conduct Emergency Food and Medical Services Projects. During this period the agency issued funding guidelines, program memoranda and field guidances that served as the programmatic framework for this program.

(b) The technical amendments to the Community Services Act of 1974, enacted into law on July 6, 1976, amended subsection 222(a)(5) by renaming the Emergency Food and Medical Services Program the Community Food and Nutrition Program (CFNP) and eliminating the provision of medical services.

§ 1061.50–4 Purpose.

This subpart sets forth Community Services Administration (CSA) policy for the Community Food and Nutrition Program (CFNP). It discusses the purposes of the program, funding policies, activities eligible for funding, offices to which applications will be submitted, and required application documents.

§ 1061.50–4 Introduction.

(a) Section 201(a) of the Community Services Act of 1974 describes the purpose of Title II of the Act, under which CFNP grants are authorized. It states:

Its specific purposes are to promote, as methods of achieving a better focusing of resources on the goal of individual and family self-sufficiency—

(1) The strengthening of community capabilities for planning and coordinating Federal, State and other assistance related to the elimination of poverty, so that this assistance, through the efforts of local officials, organizations, and interested and affected citizens, can be made more responsive to local needs and conditions;

(2) The better organization of a range of services related to the needs of the poor, so that those services may be made more effective and efficient in helping families and individuals to overcome particular problems in a way that takes account of, and supports their progress in overcoming related problems;

(3) The greater use, subject to adequate evaluation, of new types of services and innovative approaches in attacking causes of poverty, so as to develop increasingly effective methods of employing available resources;

(4) The development and implementation of all programs and projects designed to serve the poor or low-income areas with the maximum feasible participation of residents of the areas and members of the groups served, so as to best stimulate and take full advantage of capabilities for self advancement and assure that those programs and projects are otherwise meaningful to and widely utilized by their intended beneficiaries; and

(5) The broadening of the resource base of programs directed to the elimination of poverty, so as to secure, in addition to the services and assistance of public officials, private religious, charitable, and neighborhood organizations and individual citizens, a more active role for business, labor, and professional groups able to provide employment opportunities or otherwise influence the quantity and quality of services of concern to the poor.

(b) In addition Section 222(a)(5) authorizes:

A program to be known as Community Food and Nutrition designed to provide, on an emergency basis, directly or by delegation of authority pursuant to the provisions of Title VI of this Act, financial assistance for the provision of such supplies and services, nutritional foodstuffs, and related services as may be necessary to counteract conditions of starvation or malnutrition among the poor. Such assistance may be provided by way of supplement to such other assistance as may be extended under the provisions of other Federal programs, and may be used to extend and broaden such programs to serve economically disadvantaged individuals and families are not now provided • • •

§ 1061.50–6 Policy.

(a) The Community Food and Nutrition Program is intended to reduce the incidence of hunger and malnutrition among the poor and to improve their nutritional status. Its programmatic activities are designed to monitor and improve the operations of existing feeding programs; develop self-help and/or alternative food production and distribution methods; and provide direct feeding support. CSA's focus is on assisting in linking the most needy poor with opportunities provided by food and nutrition programs, not to create duplicative or competing services. CSA believes that the best method to achieve this end is to facilitate and advocate for necessary changes which will improve or will achieve fuller utilization of existing food and nutrition programs.

(b) Funds may be used in a variety of ways, depending upon the needs and resources of local communities. Plans and priorities are set locally consistent with policies established by CSA. Funds are not to be used as a continuing financial commitment for food and nutrition projects eligible for Federal or other funds which have been authorized for that purpose. Funds may be used for planning and establishing community nutrition projects only if it is understood that the costs are available as seed money or for start up costs.

(c) Eligibility shall not be governed by any rules or regulations used by local governments for eligibility for food assistance programs. Due to the emergency nature of this program, individuals or families are eligible to participate upon the self-declaration of need without the delay of a "means" test or income investigation. Self-declaration makes possible immediate assistance for those suffering from hunger and in danger of malnutrition. CFNP Supervisors and outreach workers are given authority to judge whether a person meets the above conditions. If continued assistance is need evaluation of income and personal resources will be undertaken.

§ 1061.50–7 Eligible grantees or applicants.

Community Action Agencies, migrant and seasonal farmworker organizations, Indian organizations, tribal governments, and other public and/or private non-profit organizations and agencies that meet CSA eligibility criteria may apply.

§ 1061.50–8 Eligible participants.

Individuals and families whose income falls within CSA poverty guidelines as defined in the current CSA Instruction and those persons who are eligible or potentially eligible for participation in a Federally funded food assistance program are eligible to participate in Community Food and Nutrition Projects.

§ 1061.50–9 Priority categories of beneficiaries.

Certain categories of beneficiaries have been designated as specially needy for purposes of Community Food and Nutrition Projects, and projects designed to serve them will be given priority. These categories are:

(a) *Indians, migrants and seasonal farmworkers.* Special emphasis within this group will be placed on the funding of organizations and tribal governments which can directly impact the migrant or Indian population, and which involve migrant and seasonal farmworkers or Indians in the governance of the projects.

(b) *Elderly poor.* The elderly poor often have unmet needs. The CFNP is not to be viewed as a permanent answer to the many nutritional deficiencies that exist. CFNP projects for the elderly poor will be funded only when CFNP funds are limited to providing minimum support costs and/or initiating feeding projects where there is a reasonable expectation that funds from other sources will assume responsibility or will maintain the service on a permanent basis.

(c) *Infants, pregnant and lactating women.* The nutritional problems of infants, pregnant and lactating women are of concern in communities experiencing high infant mortality rates. In such cases the CFNP can be utilized to mobilize non-Federal as well as Federal resources to attack the problem.

§ 1061.50–10 Eligible activities.

All expenditures of program funds must be aimed directly at increasing the availability of food to eligible participants or otherwise remedying poor nutrition among them. To that end the following categories of projects are eligible for funding:

(a) *Monitoring and analyzing Federal programs.* Efforts to monitor or analyze particular aspects of existing Federal Food and Nutrition Programs, and development of methods to improve participation in and accessibility to these programs.

(b) *Self-help projects.* Projects designed to foster self-sufficiency through the mobilization of financial and community resources, as well as inclusion of the poverty community in their development and implementation. Examples include buying clubs, community gardens, food raising co-ops, community canneries, farmer-to-consumer sales, feeder pig projects, and greenhouse food production.

(c) *Activities supplementary to existing projects.* Projects which extend, supplement, broaden, or improve other feeding projects but are not duplicative. Examples are transportation to feeding sites, distribution of Federal or private surplus commodities, helping establish and operate a school breakfast project or a congregate feeding site for the elderly to demonstrate a need.

(d) *Crisis relief.* Provision of funds to purchase food stamps, provision of food vouchers, or provision of food-stuffs on a temporary or crisis basis.

(e) *Consumer education, advocacy and legal assistance.* Dissemination of food and nutrition information, conducting education programs relating to feeding and nutrition programs and the representation of the interests of the poor in public proceedings involving nutrition policy.

(f) *Program support.* Conduct of training and technical assistance and research and demonstration projects. R&D projects in the area of food and nutrition shall directly contribute to the accomplishment of the ends of the Community Food and Nutrition Program.

§ 1061.50–11 Funding.

(a) *Non-Federal share.* The non-Federal share requirement is waived for CFNP projects (see CSA Instruction 6802–3). However, grantees are expected to mobilize local and state resources throughout the life of the project.

(b) *Federal share.* Funds granted under section 222(a)(5) may be used to match USDA funds to support food stamp outreach projects, as well as Title XX funds.

§ 1061.50–12 Application process.

(a) *Where to submit applications.* Applications for grants under section 222(a)(5) will be submitted to the appropriate CSA Administering Office. (Administering Office address list is attached.) Applications for Research and Demonstration grants will be submitted to CSA Headquarters, 1200 19th Street NW., Washington, D.C. 20506; Attention: CFNP.

(b) *Required forms.* Research and Demonstration proposals should be submitted in accordance with OEO Instruction 7570–1. All other applications should meet the following requirements.

(1) OEO Form 419, Summary of Work Programs and Budget (See OEO Instruction 6710–1, CH 6) (NOTE.—Goals and activities must be consistent with the Standards of Effectiveness for section 222(a)(5) projects and the General Standards for Title II Programs outlined in CSA Instruction 7850–1a and the Form 419 must reflect these standards).

(2) OEO Form 394, Checkpoint Procedure for coordination (NOTE.—This is optional and may be required by funding official or by the grantee to checkpoint with other organizations in the community if the grantee so wishes). (See CSA Instruction 6710–3a).

(3) OEO Form 25, Program Account Budget (See OEO Instruction 6710–1).

(4) OEO Form 25a, Program Account Budget (See OEO Instruction 6710–1).

(5) SF 424 (Complete Sections I and II), Federal Assistance (See CSA Instruction 6710–3a).

(6) OEO Form 301, Summary of Grant Application. For new grantees only.

(7) CAP Form 5, Application for CAP-Community Information (See OEO Instruction 6710–1). For uncapped areas.

(8) CAP Form 84, Participant/Characteristics Plan (See OEO Instruction 6710–1). Required for uncapped areas.

(9) CAP Form 11, Assurance of Compliance with Civil Rights Act. (For new grantees only).

(10) Narrative proposal: The narrative project description must include the following:

(i) Identification of the present levels of service and/or potential levels for:

Participation in the Food Stamp program.

Local school participation in the Free School Lunch Program and the Free School Breakfast Programs.

Participation in Federal feeding programs such as school breakfast, summer feeding, etc.

(ii) Identification of local conditions or problems that effect or relate to deficient or inadequate food and nutrition services/resources being available to the low-income population, including the elderly.

(iii) Justification of program priorities selected among the needs indentified in subdivision (i) or (ii) of this subparagraph.

(iv) Brief summary description of the Work Program strategy designed to address the problem(s).

(v) Description of previous efforts and experience with the problem(s) to be addressed.

§ 1061.50–13 Reporting requirements.

Program Progress Reports (PPR) required by OEO Instruction 7031–1, Grantee Program Progress Review, are a requirement for each CFNP grant. Each PPR shall include a breakout of expenditures in Section 8, "Eligible Activities" (above) and for each activity shall list the population group served from among the following: General Population, Infants, and Children, Elderly, Migrants, Indians (Reservation/off reservation). The PPR shall indicate the number of people transported, etc. Crisis relief through vouchers or cash payment and costs of food purchased for direct feeding or distribution shall be reported separately on the PPR in a clear and distinct manner that identifies amounts received and frequency of assistance per recipient, while not identifying individuals.

§ 1061.50–14 Additional requirements.

Evaluation. Selected grantees may be evaluated by Regional or Headquarters office personnel as part of a nationwide sample.

ATTACHMENT No. 1

ADMINISTERING OFFICE LIST

CSA REGIONAL OFFICE—REGION I

Director, Ivan Ashley, John E. Kennedy Federal Building, Boston, Massachusetts 02203.

CSA REGIONAL OFFICE—REGION II

Director, William A. White, 26 Federal Plaza, 32nd Floor, New York, New York 10007.

CSA REGIONAL OFFICE—REGION III

Director, W. Astor Kirk, Gateway Building, 3535 Market Street, Philadelphia, Pennsylvania 19104.

CSA REGIONAL OFFICE—REGION IV

Director, William "Sonny" Walker, 730 Peachtree Street, N.E., Atlanta, Georgia 30308.

CSA REGIONAL OFFICE—REGION V

Director, Glenwood, A. Johnson, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606.

CSA REGIONAL OFFICE—REGION VI

Director, Ben T. Haney, 1200 Main Street, Dallas, Texas 75202.

CSA REGIONAL OFFICE—REGION VII

Director, Wayne C. Thomas, 911 Walnut Street, Kansas City, Missouri 64106.

CSA REGIONAL OFFICE—REGION VIII

Director, David E. Vanderburgh, Federal Office Building, 1961 Stout Street, Denver, Colorado 80202.

CSA REGIONAL OFFICE—REGION IX

Director, Eugene Gonzales, Box 36008, 450 Golden Gate Avenue, San Francisco, California 94102.

CSA REGIONAL OFFICE—REGION X

Director, John C. Finley, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

[FR Doc.77–6193 Filed 3–1–77; 8:45 am]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

[General Order 22; Docket No. 76–65]

PART 503—PUBLIC INFORMATION

Pursuant to provisions of the "Government in the Sunshine Act" (Pub. L. 94–409; 5 U.S.C. §552b, September 13, 1976) the Commission published in the FEDERAL REGISTER (41 F.R. 55207, December 17, 1976) its proposed regulations implementing that Act. Interested parties were encouraged to submit comments on these proposed regulations. Four such comments were received.[1]

Of the four parties submitting comments, two objected to the failure of the Act and of the proposed regulations to provide as one ground upon which an interested person may seek closure of a meeting, the likelihood that the meeting will disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential. This Commission can readily understand this objection but is powerless to provide by regulation a procedure not authorized by the statute. The Commission, therefore, is compelled to disregard this objection.

Additionally, one party objected that the proposed regulations provide no opportunity for an interested party to request the Commission to withhold information from public disclosure while the Commission itself may do so. Again, we are powerless to extend the authority of

[1] The parties filing comments were: (1) the law firm of Graham and James; (2) Outboard Marine Corporation; (3) law firm of Casey, Lane & Mittendorff; and (4) the Honorable Jack Brooks, M.C., Chairman, House Committee on Government Operations.

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the Act. The Act does not provide for the action of an interested party, as sought by the commenting party. Therefore, we may not so provide by regulation.

The third commenting party addressed our proposed regulations in more detail. This party objected to our description in our statement of policy (§ 503.70) of these regulations as setting forth "procedural requirements" designed to provide the public with information while maintaining "capabilities" of the Commission in carrying out its responsibilities. The party recommends deletion of the term "procedural." We think such a change to be unnecessary. We therefore, have not adopted this proposal. This party also urges that "capabilities" is not synonymous with the term "ability" as used in the Declaration of Policy of the Act. We can see no substantive difference between the two words in a statement of policy which would merit modification.

This party recommends changing the definition of "agency" from "Federal Maritime Commission" (§ 503.71) to "Federal Maritime Commission or a quorum thereof or any subdivision thereof authorized to act on behalf of said Commission." This change it is urged would make the definition consistent with § 522b(a)(1) of the Act. We disagree. A quorum of the FMC is not the same as the FMC nor is a quorum of the FMC an "agency * * * headed by a collegial body, * * *" as defined in § 552(a)(1) of the Act. Additionally, we specifically omitted reference to a subdivision of the Commission authorized to act on behalf of the Commission because there is no such entity. Reference to a non-existent entity, we feel, would be confusing and, therefore, unwise.

This party also seeks to have the definition of "information pertaining to a meeting" expanded to included meeting minutes and other information referred to in 5 U.S.C. 552b(f)(1)–(2). We think this evidences a misunderstanding of "information pertaining to a meeting" as used in the Act. The Act describes such information as being capable of exemption from the requirements of subsections (d) and (e) of the Act. Those subsections simply do not apply to the information referred to in 552b(f)(1)–(2). Therefore, in our opinion, "information pertaining to a meeting" refers to that amenable to the provisions of subsections (d) and (e) only.

Additionally the party finds fault in our use in the definition of "meeting" of the words "the deliberations of at least three of the members. * * *". This party urges us to adopt the word "majority" instead. This we may not do. The Reorganization Plan 7 of 1961 (75 Stat. 840, April 12, 1961) requires in all cases the affirmative vote of not less than three members of the Commission to conduct its business irrespective of the number actually in office. Hence, our use of the word "three" rather than a "majority."

This party also objects to our specific removal in the regulations from the definition of meeting of those items of business determined seriatim by members on notation. This is explicitly permitted as discussed in the legislative history of the Act (see Conference Report to accompany S. 5 at p. 11).

This party then suggests two further non-substantive word changes which are of no merit. However, the party does note an omission in our proposed regulations which clearly merits remedy. Section 503.77 of the proposed regulations was meant to provide in the second sentence of paragraph (a) that if, in the opinion of the General Counsel, a meeting or a portion thereof could properly be closed under the Act his certification of such opinion must contain certain information. Unfortunately, as proposed, the regulation provided: "If, in the opinion of the General Counsel, a portion or portions of a meeting * * * is proper * * *." As can be seen, we omitted the phrase "the closing of." Therefore, we amend this provision to read: "If, in the opinion of the General Counsel the closing of a portion * * *" etc.

The fourth interested party filing comments was the Honorable Jack Brooks, M.C. in his capacity as Chairman of the House Committee on Government Operations on behalf of that Committee. Mr. Brooks had three suggestions of offer.

Mr. Brooks first suggests that §§ 503.73 and 503.74 be amended to make clear that there are two separate steps in any determination to close a meeting to public observation. It is noted that the Commission must decide: first, whether or not the meeting fits within one of the exemptions of the Act so as to permit the meeting to be closed; and second, notwithstanding the applicability of an exemption, whether or not the public interest requires that the meeting remain open. It is suggested by Mr. Brooks that the proposed regulations:

> * * * seem to suggest that the Commission need consider the public interest only if it chooses to, whereas the Act contemplates that the public interest issue will be considered in each instance where the Commission determines that a discussion comes within a specific exemption.

We agree with Mr. Brooks' view of the requirements of the Act.

Therefore, we have adopted appropriate modifications to our proposed regulations. We have amended § 503.74 by: (1) adding the following language at the end of paragraph (d) of that section:

> * * * That vote shall determine whether or not any portion or portions of a meeting or portion or portions of a series of meetings may be closed to public observation for any of the reasons provided in section 503.73 of this Subpart, and whether or not the public interest requires that the portion or portions of the meeting or meetings remain open, notwithstanding the applicability of any of the reasons provided in section 503.73 permitting the closing of any portion of any meeting to public observation.

(2) By amending paragraph (e) to read:

> (e) In the case of a vote on a request under this section to close to public observation a portion or portions of a meeting, no such portion or portions of any meeting may be closed unless, *by a vote on the issues described in paragraph (d) of this section*, a majority of the entire membership of the agency shall vote to close such portion or portions of a meeting by recorded vote. [New material italicized.]

(3) By amending paragraph (f) to read:

> (f) In the case of a vote on a request under this section to close to public observation a portion or portions of a series of meetings as defined in section 503.71 of this Subpart, no such portion or portions of a series of meetings may be closed unless, *by a vote on the issues described in paragraph (d) of this section*, a majority of the entire membership of the agency shall vote to close such portion or portions of a series of meetings. A determination to close to public observation a portion or portions of a series of meetings may be accomplished by a single vote *on each of the issues described in paragraph (d) of this section*, provided that the vote of each member of the agency shall be recorded and the vote shall be cast by each member and not by proxy vote. [New material italicized.]

Further, we have amended § 503.75 by:

(1) Amending paragraph (g) thereof by adding the following language at the end thereof:

> * * * That vote shall determine whether or not any portion or portions of a meeting or portion or portions of a series of meetings may be closed to public observation for any of the reasons provided in paragraph (a) of this section, and whether or not the public interest requires that the portion or portions of the meeting or meetings remain open, notwithstanding the applicability of any of the reasons provided in paragraph (a) of this section permitting the closing of any portion of any meeting to public observation.

(2) Amending paragraph (h) to read as follows:

> (h) In the case of the vote on a request under this section to close to public observation a portion of a meeting, no such portion of a meeting may be closed unless, *by a vote on the issues described in paragraph (g) of this section*, a majority of the entire membership of the agency shall vote to close such portion or portions of a meeting by recorded vote. [New material italicized.]

Mr. Brooks' second suggestion regards alleged inadequacy of our proposed procedures for accomplishing public announcement of forthcoming FMC meetings. Mr. Brooks notes that our proposed regulations (§§ 503.82 and 503.83) make provision only for public notice, generally, followed by publication in the FEDERAL REGISTER. These provisions are alleged to "fall considerably short of the notice envisaged under the Act, which should include publication in publications whose readers may have an interest in the Commission's operations * * *" and the use of mailing lists. We understand the motivation of the Act and the necessity for the widest practicable notification of Commission meetings. Therefore, our regulations were framed in general terms to permit this agency the widest possible latitude to inform the public of its meetings by the most effective means. The Commission fully intends to publish the announcement of forthcoming meetings by appropriate methods in addition to publication in the FEDERAL REGISTER. For example, among other possible means of dissemination, notices of pending meetings will

be provided in the Commission's public reference room. It has been our experience that trade publications do promptly publish all the information made available by this Commission which is of general interest to their subscribers.

We have not further specified means of dissemination of information because we are of the opinion that the notification policy of the Act will be served more effectively by allowing us flexibility in this area. We wish to stress that we have every intent to fully implement the Act's notification policy by dissemination to the widest possible audience.

Finally, Mr. Brooks objects to the provisions of the proposed regulations regarding certification by the agency's General Counsel as not explicitly providing that such certification will precede the vote of whether or not to close a meeting. Section 503.74(d) and 503.75 (g) implicitly provided for this by stating that the vote of the agency to close a meeting may be taken only "upon consideration of the certified opinion of the General Counsel of the agency provided the members under § 503.77 of the subpart. * * *" Nonetheless, in the interest of absolute clarity we have amended the first sentence of paragraph (a) of § 503.77 to read:

> (a) Upon any request that the agency close a portion or portions of any meeting or any portion or portions of any series of meetings under the provisions of §§ 503.74 and 503.75 of this subpart, the General Counsel of the agency shall certify in writing to the agency *prior to an agency vote on that request*, whether or not in his or her opinion the closing of any such portion or portions of a meeting or portion or portions of a series of meetings is proper under the provisions of this Subpart and the terms of the Government in the Sunshine Act (5 U.S.C. 552b). [New material italicized.]

In addition to the comments of the four interested parties, the Commission has reviewed these proposed regulations sua sponte. Our review has unveiled three difficulties which we now take the opportunity to remedy. Mr. Brook's suggestion regarding the public interest issue in any determination to close a meeting caused us to review our provisions regarding withholding from public disclosure information pertaining to a meeting. In our opinion, the introductory language of the Act providing "Except in a case where the agency finds that the public interest requires otherwise * * *" applies to determinations of whether or not to withhold from public disclosure information pertaining to a meeting as well as to determinations to close a meeting.

We have, therefore, amended § 503.80 to conform to that view. As amended, § 503.80 now requires that the Commission base any determination to withhold information from disclosure on resolution of both whether or not an exception is applicable and whether or not, notwithstanding the applicability of an exception, the public interest requires disclosure. In our opinion, this amendment conforms more precisely to the statutory scheme.

Therefore, we have amended § 503.80 by: (1) adding a sentence at the end of paragraph (c) reading as follows:

> * * * That vote shall determine whether or not information pertaining to a meeting may be withheld from public disclosure for any of the reasons provided in section 503.79 of this Subpart, and whether or not the public interest requires that the information be disclosed notwithstanding the applicability of any of the reasons provided in section 503.79 of this Subpart permitting the withholding from public disclosure of the information pertaining to a meeting.

(2) Amending paragraph (d) to read:

> In the case of a vote on a request under this section to withhold from public disclosure information pertaining to a portion or portions of a meeting, no such information shall be withheld from public disclosure unless, *by a vote on the issues described in paragraph (c) of this section*, a majority of the entire membership of the agency shall vote to withhold such information by a recorded vote [new material italicized]; and

(3) Amending paragraph (e) to read:

> In the case of a vote on a request under this section to withhold information pertaining to a portion or portions of a series of meetings, no such information shall be withheld unless, *by a vote on the issues described in paragraph (c) of this section*, a majority of the entire membership of the agency shall vote to withhold such information. A determination to withhold information pertaining to a portion or portions of a series of meetings from public disclosure may be accomplished by a single vote *on the issues described in paragraph (c) of this section*, provided that the vote of each member of the agency shall be recorded and the vote shall be cast by each member and not by proxy vote. [New material italicized.]

Under the provisions of § 503.75 as proposed, at the request of an interested party that a meeting or portion be closed, any agency member, the Managing Director or the General Counsel would request agency action on that proposal. (§ 503.75(d).) Upon review of the provisions of the Act, we conclude that in such circumstances, only a member of the agency may seek agency action on such a request. Therefore, we have deleted from § 503.75(d) the language: "* * * the Managing Director, or the General Counsel of the agency. * * *"

Additionally, our review of proposed §§ 503.86 and 503.87 has revealed wording which might have been confusing if not clarified. Section 503.86(a) originally referred to "* * * all records required to be maintained by the agency under the provisions of § 503.85 of the subpart. * * *" That reference was overbroad. It would have included items to which public access was not contemplated under the Act. To remedy this overbreadth we have amended that sentence to read: "All transcripts, electronic recordings or minutes required to be maintained by the agency under the provisions of § 503.85 (a)(3) and (b) of this subpart. * * *" Hence, for internal consistency we necessarily amended § 503.87 (a) to conform to the language of § 503.86 regarding "transcripts, electronic recordings" and "minutes" rather than "records" generally. This revision comports with the wording of the Act which refers only to these specific items. (5 U.S.C. 552b(f)(2).)

All amendments made herein have made these regulations conform precisely to the Government in the Sunshine Act with respect to the activities of the Federal Maritime Commission.

Therefore, it is ordered, that pursuant to the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b, September 13, 1976), Part 503 of Title 46 CFR, is hereby amended by adding a new Subpart H as set forth below:

Subpart H—Public Observation of Federal Maritime Commission Meetings and Public Access to Information Pertaining to Commission Meetings

Sec.

503.70 Policy.
503.71 Definitions.
503.72 General rule—meetings.
503.73 Exceptions—meetings.
503.74 Procedures for closing a portion or portions of a meeting or a portion or portions of a series of meetings on agency initiated requests.
503.75 Procedures for closing a portion of a meeting on request initiated by an interested person.
503.76 Effect of vote to close a portion or portions of a meeting or series of meetings.
503.77 Responsibilities of general counsel of the agency upon a request to close any portion of any meeting.
503.78 General rule—information pertaining to meetings.
503.79 Exceptions—information pertaining to meetings.
503.80 Procedures for withholding information pertaining to a meeting.
503.81 Effect of vote to withhold information pertaining to meetings.
503.82 Public announcement of agency meetings.
503.83 Public announcement of changes in meetings.
503.84 [Reserved]
503.85 Agency recordkeeping requirements.
503.86 Public access to records.
503.87 Effect of provisions of this subpart on any other subpart.

AUTHORITY: Sec. 553 of the Administrative Procedure Act (5 U.S.C. 553) and section 552b(g), Government in the Sunshine Act (5 U.S.C. 552b).

Subpart H—Public Observation of Federal Maritime Commission Meetings and Public Access to Information Pertaining to Commission Meetings

§ 503.70 Policy.

It is the policy of the Federal Maritime Commission, under the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b, September 13, 1976) to entitle the public to the fullest practicable information regarding the decisional processes of the Commission. The provisions of this Subpart set forth the procedural requirements designed to provide the public with such information while continuing to protect the rights of individuals and to maintain the capabilities of the Commission in carrying out its responsibilities under the shipping statutes administered by this Commission.

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§ 503.71 Definitions.

The following definitions apply for purposes of this subpart:

"Agency" means the Federal Maritime Commission;

"Information pertaining to a meeting" means, but is not limited to, the following: the record of any agency vote taken under the provisions of this Subpart, and the record of the vote of each member; a full written explanation of any agency action to close any portion of any meeting under this Subpart; lists of persons expected to attend any meeting of the agency and their affiliation; public announcement by the agency under this Subpart of the time, place, and subject matter of any meeting or portion of any meeting; announcement of whether any meeting or portion of any meeting shall be open to public observation or closed; any announcement of any change regarding any meeting or portion of any meeting; and the name and telephone number of the Secretary of the agency who shall be designated by the agency to respond to requests for information concerning any meeting or portion of any meeting;

"Meeting" means the deliberations of at least three of the members of the agency which determine or result in the joint conduct or disposition of official agency business, but does not include: (a) individual member's consideration of official agency business circulated to the members in writing for disposition on notation; (b) deliberations by the agency in determining whether or not to close a portion or portions of a meeting or series of meetings as provided in §§ 503.74 and 503.75 of this subpart; (c) deliberations by the agency in determining whether or not to withhold from disclosure information pertaining to a portion or portions of a meeting or series of meetings as provided in § 503.80 of this subpart; or (d) deliberations pertaining to any change in any meeting or to changes in the public announcement of such a meeting as provided in § 503.83 of this subpart;

"Member" means each individual Commissioner of the agency;

"Person" means any individual, partnership, corporation, association, or public or private organization, other than an agency as defined in 5 U.S.C. 551(1);

"Public observation" means attendance at any meeting but does not include participation, or attempted participation, in such meeting in any manner;

"Series of meetings" means more than one meeting involving the same particular matters and scheduled to be held no more than thirty (30) days after the initial meeting in such series.

§ 503.72 General rule—meetings.

(a) Except as otherwise provided in §§ 503.73, 503.74, 503.75 and 503.76 of this subpart, every portion of every meeting and every portion of a series of meetings of the agency shall be open to public observation.

(b) The opening of a portion or portions of a meeting or a portion or portions of a series of meetings to public observation shall not be construed to include any participation by the public in any manner in the meeting. Such an attempted participation or participation shall be cause for removal of any person so engaged at the discretion of the presiding member of the agency.

§ 503.73 Exceptions—meetings.

Except in a case where the agency finds that the public interest requires otherwise, the provisions of § 503.72(a) shall not apply to any portion or portions of an agency meeting or portion or portions of a series of meetings where the agency determines under the provisions of § 503.74 or 503.75 of this subpart that such portion or portions of such meeting or series of meetings is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (2) in fact properly classified pursuant to such Executive order;

(b) Relate solely to the internal personnel rules and practices of an agency;

(c) Disclose matters specifically exempted from disclosure by any statute other than 5 U.S.C. 552 (FOIA), provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, unless the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 503.74 Procedures for closing a portion or portions of a meeting or a portion or portions of a series of meetings on agency initiated requests.

(a) Any member of the agency, the Managing Director, or the General Counsel of the agency may request that any portion or portions of a meeting or any portion or portions of a series of meetings be closed to public observation for any of the reasons provided in § 503.73 of this subpart by submitting such request in writing to the Secretary of the agency not later than two weeks prior to the commencement of the meeting or the commencement of the first meeting in a series of meetings.

(b) Upon receipt by him of any request made under paragraph (a) of this section, the Secretary of the agency shall schedule a time at which the members of the agency shall vote upon the request which vote shall take place not later than eight (8) days prior to the scheduled meeting of the agency.

(c) At the time the Secretary schedules a time for an agency vote as described in paragraph (b) of this section, he shall forward the request to the General Counsel of the agency who shall act upon such request as provided in § 503.77 of this subpart.

(d) At the time scheduled by the Secretary as provided in paragraph (b) of this section, the members of the agency, upon consideration of the request submitted under paragraph (a) of this section and consideration of the certified opinion of the General Counsel of the agency provided the members under § 503.77 of this subpart, shall vote upon that request. That vote shall determine whether or not any portion or portions of a meeting or portion or portions of a series of meetings may be closed to public observation for any of the reasons provided in § 503.73 of this subpart, and whether or not the public interest requires that the portion or portions of the meeting or meetings remain open, notwithstanding the applicability of any of the reasons provided in § 503.73 permitting the closing of any portion of any meeting to public observation.

(e) In the case of a vote on a request under this section to close to public observation a portion or portions of a meeting, no such portion or portions of any meeting may be closed unless, by a vote

on the issues described in paragraph (d) of this section, a majority of the entire membership of the agency shall vote to close such portion or portions of a meeting by recorded vote.

(f) In the case of a vote on a request under this section to close to public observation a portion or portions of a series of meetings as defined in § 503.71 of this subpart, no such portion or portions of a series of meetings may be closed unless, by a vote on the issues described in paragraph (d) of this section, a majority of the entire membership of the agency shall vote to close such portion or portions of a series of meetings. A determination to close to public observation a portion or portions of a series of meetings may be accomplished by a single vote on each of the issues described in paragraph (d) of this section, provided that the vote of each member of the agency shall be recorded and the vote shall be cast by each member and not by proxy vote.

§ 503.75 Procedures for closing a portion of a meeting on request initiated by an interested person.

(a) Any person as defined in § 503.71 of this subpart whose interests may be directly affected by a portion of a meeting of the agency may request that the agency close that portion of a meeting for the reason that matters in deliberation at that portion of the meeting are such that public disclosure of that portion of a meeting is likely to:

(1) Involve accusing any person of a crime, or formally censuring any person;

(2) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy; or

(3) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel.

(b) Any person described in paragraph (a) of this section who submits a request that a portion of a meeting be closed shall submit an original and 15 copies of that request to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, and shall state with particularity that portion of a meeting sought by him to be closed and the reasons therefor as described in paragraph (a) of this section.

(c) Upon receipt by him of any request made under paragraphs (a) and (b) of this section, the Secretary of the agency shall:

(1) Furnish a copy of the request to each member of the agency;

(2) Furnish a copy of the request to the General Counsel of the agency; and

(3) Furnish a copy of the request to the Managing Director of the agency.

(d) Upon receipt of a copy of a request made under paragraphs (a) and (b) of this section, any member of the agency may request agency action upon the request to close a portion of a meeting by notifying the Secretary of the agency of that request for agency action.

(e) Upon receipt by him of a request for agency action under paragraph (d) of this section, the Secretary of the agency shall schedule a time for an agency vote upon the request of the person whose interests may be directly affected by a portion of a meeting, which vote shall take place prior to the scheduled meeting of the agency.

(f) At the time the Secretary receives a request for agency action and schedules a time for an agency vote as described in paragraph (e) of this section, he shall forward the request of the person whose interests may be directly affected by a portion of a meeting to the General Counsel of the agency who shall act upon such request as provided in § 503.77 of this subpart.

(g) At the time scheduled by the Secretary as provided in paragraph (e) of this section, the members of the agency, upon consideration of the request of the person whose interests may be directly affected by a portion of a meeting submitted under paragraphs (a) and (b) of this section, and consideration of the certified opinion of the General Counsel of the agency provided the members under § 503.77 of this subpart, shall vote upon that request. That vote shall determine whether or not any portion or portions of a meeting or portion or portions of a series of meetings may be closed to public observation for any of the reasons provided in paragraph (a) of this section, and whether or not the public interest requires that the portion or portions of the meeting or meetings remain open, notwithstanding the applicability of any of the reasons provided in paragraph (a) of this section permitting the closing of any portion of any meeting to public observation.

(h) In the case of a vote on a request under this section to close to public observation a portion of a meeting, so such portion of a meeting may be closed unless, by a vote on the issues described in paragraph (g) of this section, a majority of the entire membership of the agency shall vote to close such portion of a meeting by a recorded vote.

§ 503.76 Effect of vote to close a portion or portions of a meeting or series of meetings.

(a) Where the agency votes as provided in §§ 503.74 or 503.75, to close to public observation a portion or portions of a meeting or a portion or portions of a series of meetings, the portion or portions of a meeting or the portion or portions of a series of meetings shall be closed.

(b) Except as otherwise provided in §§ 503.80, 503.81 and 503.82 of this subpart, not later than the day following the day on which a vote is taken under §§ 503.74 or 503.75, by which it is determined to close a portion or portions of a meeting or a portion or portions of a series of meetings to public observation, the Secretary shall make available at his offices: (1) a written copy of the recorded vote reflecting the vote of each member of the agency; (2) a full written explanation of the agency action closing that portion or those portions to public observation; and (3) a list of the names and affiliations of all persons expected to attend the portion or portions of the meeting or the portion or portions of a series of meetings.

(c) Except as otherwise provided in §§ 503.80, 503.81 and 503.82 of this subpart, not later than the day following the day on which a vote is taken under §§ 503.74 or 503.75 by which it is determined that the portion or portions of a meeting or the portion or portions of a series of meetings shall remain open to public observation, the Secretary shall make available at his offices a written copy of the recorded vote reflecting the vote of each member of the agency.

§ 503.77 Responsibilities of general counsel of the agency upon a request to close any portion of any meeting.

(a) Upon any request that the agency close a portion or portions of any meeting or any portion or portions of any series of meetings under the provisions of §§ 503.74 and 503.75 of this subpart, the General Counsel of the agency shall certify in writing to the agency, prior to an agency vote on that request, whether or not in his or her opinion the closing of any such portion or portions of a meeting or portion or portions of a series of meetings is proper under the provisions of this subpart and the terms of the Government in the Sunshine Act (5 U.S.C. 552b). If, in the opinion of the General Counsel, the closing of a portion or portions of a meeting or portion or portions of a series of meetings is proper under the provisions of this subpart and the terms of the Government in the Sunshine Act (5 U.S.C. 552b), his or her certification of that opinion shall cite each applicable particular exemptive provision of that Act and provision of this subpart.

(b) A copy of the certification of the General Counsel as described in paragraph (a) of this section together with a statement of the presiding officer of the portion or portions of any meeting or the portion or portions of a series of meetings setting forth the time and place of the relevant meeting or meetings, and the persons present, shall be maintained by the Secretary of the agency in his offices for public inspection.

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§ 503.78 General rule—information pertaining to meetings.

As defined in § 503.71 of this subpart, all information pertaining to a portion or portions of a meeting or portion or portions of a series of meetings of the agency shall be disclosed to the public unless excepted from such disclosure under §§ 503.79, 503.80 and 503.81 of this subpart.

§ 503.79 Exceptions—information pertaining to meetings.

Except in a case where the agency finds that the public interest requires otherwise, information pertaining to a portion or portions of a meeting or portion or portions of a series of meetings need not be disclosed by the agency if the agency determines, under the provisions of §§ 503.80 and 503.81 of this subpart that disclosure of that information is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (2) in fact properly classified pursuant to such Executive order;

(b) Relate solely to the internal personnel rules and practices of an agency;

(c) Disclose matters specifically exempted from disclosure by any statute other than 5 U.S.C. 552 (FOIA), provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential suorce, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, unless the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the agency's issuance of a subpena, of the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 503.80 Procedures for withholding information pertaining to a meeting.

(a) Any member of the agency, the Managing Director, or the General Counsel of the agency may request that information pertaining to a portion or portions of a meeting or to a portion or portions of a series of meetings be withheld from public disclosure for any of the reasons set forth in § 503.79 of this subpart by submitting such request in writing to the Secretary of the agency not later than two (2) weeks prior to the commencement of the meeting or the commencement of the first meeting in a series of meetings.

(b) Upon receipt by him of any request made under paragraph (a) of this section, the Secretary of the agency shall schedule a time at which the members of the agency shall vote upon the request which vote shall take place not later than eight (8) days prior to the scheduled meeting of the agency.

(c) At the time scheduled by the Secretary in paragraph (b) of this section, the Members of the agency, upon consideration of the request submitted under paragraph (a) of this section shall vote upon that reqeust. That vote shall determine whether or not information pertaining to a meeting may be withheld from public disclosure for any of the reasons provided in § 503.79 of this subpart, and whether or not the public interest requires that the information be disclosed notwithstanding the applicability of the reasons provided in § 503.79 of this subpart permitting the withholding from public disclosure of the information pertaining to a meeting.

(d) In the case of a vote on a request under this section to withold from public disclosure information pertaining to a portion or portions of a meeting, no such information shall be withheld from public disclosure unless, by a vote on the issues described in paragraph (c) of this section, a majority of the entire membership of the agency shall vote to withhold such information by recorded vote.

(e) In the case of a vote on a request under this section to withhold information pertaining to a portion or portions of a series of meetings, no such information shall be withheld unless, by a vote on the issues described in paragraph (c) of this section, a majority of the entire membership of the agency shall vote to withhold such information. A determination to withhold information pertaining to a portion or portions of a series of meetings from public disclosure may be accomplished by a single vote on the issues described in paragraph (c) of this section, provided that the vote of each member of the agency shall be recorded and the vote shall be cast by each member and not by proxy vote.

§ 503.81 Effect of vote to withhold information pertaining to meetings.

(a) Where the agency votes as provided in § 503.80 of this subpart to withhold from public disclosure information pertaining to a portion or portions of a meeting or portion or portions of a series of meetings, such information shall be excepted from the requirements of §§ 503.78, 503.82 and 503.83 of this subpart.

(b) Where the agency votes as provided in § 503.80 of this subpart to permit public disclosure of information pertaining to a portion or portions of a meeting or portion or portions of a series of meetings, such information shall be disclosed to the public as required by §§ 503.78, 503.82 and 503.83 of this subpart.

(c) Not later than the day following the day on which a vote is taken under § 503.80 of this subpart, by which the information pertaining to a meeting is determined to be disclosed, the Secretary shall make available to the public at his offices a written copy of such vote reflecting the vote of each member of the agency on the question.

§ 503.82 Public announcement of agency meetings.

(a) Except as provided in §§ 503.80 and 503.81 of this subpart regarding a determination to withhold from public disclosure any information pertaining to a portion or portions of a meeting or portion or portions of a series of meetings, or as otherwise provided in paragraph (c) of this section, the Secretary of the agency shall make public announcement of each meeting of the agency.

(b) Public announcement of each meeting of the agency shall be accomplished not later than one week prior to commencement of a meeting or the commencement of the first meeting in a series of meetings, except as otherwise provided in this section, and shall disclose:

(1) the time of the meeting;

(2) the place of the meeting;

(3) the subject matter of each portion of each meeting or series of meeting;

(4) whether any portion or portions of a meeting or portion or portions of any series of meetings shall be open or closed to public observation; and

(5) the name and telephone number of the Secretary of the agency who shall respond to requests for information about a meeting.

(c) The announcement described in paragraphs (a) and (b) of this section may be accomplished less than one week prior to the commencement of any meeting or series of meetings provided the agency determines by recorded vote that the agency business requires that any such meeting or series of meetings be held at an earlier date. In the event of such a determination by the agency, public announcement as described in (b) of this section shall be accomplished at the earliest practicable time.

(d) Immediately following any public announcement accomplished under the provisions of this section, the Secretary of the agency shall sumbit a notice for publication in the FEDERAL REGISTER disclosing:

(1) the time of the meeting;

(2) the place of the meeting;

(3) the subject matter of each portion of each meeting or series of meetings;

(4) whether any portion or portions of any series of meetings is open or closed to public observation; and

(5) the name and telephone number of the Secretary of the agency who shall respond to requests for information about any meeting.

§ 503.83 Public announcement of changes in meetings.

(a) Except as provided in §§ 503.80 and 503.81, under the provisions of paragraphs (b) and (c) of this section, the time or place of a meeting or series of meetings may be changed by the agency following accomplishment of the announcement and notice required by § 503.82 provided, the Secretary of the agency shall publicly announce such change at the earliest practicable time.

(b) The subject matter of a portion or portions of a meeting or a portion or portions of a series of meetings, the time and place of such meeting, and the determination that the portion or portions of a meeting or portion or portions of a series of meetings shall be open or closed to public observation may be changed following accomplishment of the announcement required by § 503.82, provided:

(1) The agency, by recorded vote of the majority of the entire membership of the agency, determines that agency business so requires and that no earlier announcement of the change was possible; and

(2) The secretary of the agency publicly announces, at the earliest practicable time, the change made and the vote of each member upon such change.

(c) Immediately following any public announcement of any change accomplished under the provisions of this section, the Secretary of the agency shall submit a notice for publication in the FEDERAL REGISTER disclosing:

(1) The time of the meeting;

(2) The place of the meeting;

(3) The subject matter of each portion of each meeting or series of meetings;

(4) Whether any portion or portions of any meeting or any portion or portions of any series of meetings is open or closed to public observation;

(5) Any change in (1), (2), (3), or (4) of this paragraph; and

(6) The name and telephone number of the Secretary of the agency who shall respond to requests for information about any meeting.

§ 503.84 [Reserved]

§ 503.85 Agency recordkeeping requirements.

(a) In the case of any portion or portions of a meeting or portion or portions of a series of meetings determined by the agency to be closed to public observation under the provisions of this Subpart, the following records shall be maintained by the Secretary of the agency:

(1) The certification of the General Counsel of the agency required by § 503.77 of this subpart;

(2) A statement from the presiding officer of the portion or portions of the meeting or portion or portions of a series of meetings setting forth the time and place of the portion or portions of the meeting or portion or portions of the series of meetings, the persons present at those times; and

(3) Except as provided in paragraph (b) of this section, a complete transcript or electronic recording fully recording the proceedings at each portion of each meeting closed to public observation.

(b) In case the agency determines to close to public observation any portion or portions of any meeting or portion or portions of any series of meetings because public observation of such portion or portions of any meeting is likely to specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration; or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing, the agency may maintain a set of minutes in lieu of the transcript or recording described in paragraph (a)(3) of this section. Such minutes shall contain:

(1) A full and clear description of all matters discussed in the closed portion of any meeting;

(2) A full and accurate summary of any action taken on any matter discussed in the closed portion of any meeting and the reasons therefor;

(3) A description of each of the views expressed on any matter upon which action was taken as described in subparagraph (2) of this paragraph;

(4) The record of any rollcall vote which shall show the vote of each member on the question; and

(5) An identification of all documents considered in connection with any action taken on a matter described in subparagraph (1) of this paragraph.

(c) All records maintained by the agency as described in this section shall be held by the agency for a period of not less than two (2) years following any meeting or not less than one (1) year following the conclusion of any agency proceeding with respect to which that meeting or portion of a meeting was held.

§ 503.86 Public access to records.

(a) All transcripts, electronic recordings or minutes required to be maintained by the agency under the provisions of § 503.85(a)(3) and (b) of this subpart promptly shall be made available to the public by the Secretary of the agency, except for any item of discussion or testimony of any witnesses which the agency determines to contain information which may be withheld from public disclosure because its disclosure is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of an agency;

(3) Disclosure matters specifically exempted from disclosure by any statute other than 5 U.S.C. 552 (FOIA), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, unless the agency has already disclosed to the pub-

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lic the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(b) Requests for access to the records described in this section shall be made in accordance with procedures described in subpart D of this part.

(c) Records disclosed to the public under this section shall be furnished at the expense of the party requesting such access at the actual cost of duplication or transcription.

§ 503.87 Effect of provisions of this subpart on any other subpart.

(a) Nothing in this subpart shall limit or expand the ability of any person to seek access to agency records under subpart D of this part except that the exceptions of § 503.86 shall govern requests to copy or inspect any portion of any transcript, electronic recordings or minutes required to be kept under this subpart.

(b) Nothing in this subpart shall permit the withholding from any individual to whom a record pertains any record required by this subpart to be maintained by the agency which record is otherwise available to such an individual under the provisions of subpart G of this part.

Effective date: These regulations shall be effective as of March 12, 1977.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6245 Filed 3-1-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20774; FCC 76-617]

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

Standard Plugs and Jacks; Meeting on Petition for Reconsideration

In a Report and Order in Docket No. 20774, 41 FR 28694, July 12, 1976, the FCC adopted standard plugs and jacks for the connection of registered telephone terminal equipment (other than key telephone and PBX systems) to the nationwide telephone network. Included in that Order were certain plug/jack configurations for data equipment.

The Order was based, in part, on the consensus opinions of the affected public, developed at informal meetings conducted at the FCC. Subsequently, the American Telephone and Telegraph Co. filed a petition for reconsideration seeking changes to the specified plug/jack configurations for data equipment which were, in part, opposed by representatives of the data industry.

In an attempt to reach a rapid resolution in the public interest, and to retain the concept that these rules, so far as is feasible, reflect a consensus of the affected public's views, we are convening an additional meeting at the FCC's Washington, D.C. offices:

March 8, 1977, 9:30 a.m. at 1919 M St., N.W., Room 650.

to allow the affected public an opportunity to resolve its differences.

An agenda will be established at the meeting. Suggested issues for discussion are:

1. The relative merits of achieving multiple data connections through the use of a 50-position "ribbon" jack mechanical configuration, as opposed to achieving multiple data connections using a multiple array of modular data jacks, with an adapter between the modular data jacks and a single "ribbon" connector where multiple connection using the "ribbon" connector is desired.

2. The need for a "ribbon" connector alternative to the modular data jacks and plugs for single-line connection of data equipment, in view of the present and projected availability of modular plugs and jacks.

All parties attending this meeting are urged to send personnel prepared to address relevant matters. If there are any questions with respect to this notice, they should be directed to Ms. Christine Jackson, 202-632-9342.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-6196 Filed 3-1-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 10 to Service Order No. 1131; Service Date Feb. 25, 1977]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Company Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of February 1977.

Upon further consideration of Service Order No. 1131 (38 FR 9232, 17845, 33399; 39 FR 8327, 19218, 41853; 40 FR 8823, 40518; 41 FR 8480 and 36820), and good cause appearing therefor:

It is ordered, that:

Service Order No. 1131 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1131 Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

* * * * *

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., August 31, 1977, unless otherwise modified, changed or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., February 28, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, that a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple and Thomas J. Byrne.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6232 Filed 3-1-77;8:45 am]

[Amdt. No. 1 to Eighth Revised Service Order No. 1234, Service Date Feb. 25, 1977]

PART 1033—CAR SERVICE

Distribution of Freight Cars

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of February 1977.

Upon further consideration of Eighth Revised Service Order No. 1234 (42 FR 5350), and good cause appearing therefor:

It is ordered, that:

Eighth Revised Service Order No. 1234 be, and it is hereby, amended by substituting the following paragraph (k) for paragraph (k) thereof:

§ 1033.1234 Distribution of Freight Cars.

* * * * *

(k) Expiration date: The provisions of this order shall expire at 11:59 p.m., March 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., February 28, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission Railroad Service Board, members Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6231 Filed 3-1-77;8:45 am]

[Amdt. No. 2 to Corrected Service Order No. 1230, Service Date Feb. 25, 1977]

PART 1033—CAR SERVICE

Illinois Central Gulf Railroad Company Authorized To Operate Over Tracks of Waterloo Railroad Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of February 1977.

Upon further consideration of Corrected Service Order No. 1230 (41 FR 8347 and 36209), and good cause appearing therefor:

It is ordered, that:

Corrected Service Order No. 1230 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

§ 1033.1230 The Illinois Central Gulf Railroad Company authorized to Operate over tracks of the Waterloo Railroad Co.

* * * * *

(g) Expiration date: The provisions of this order shall expire at 11:59 p.m., April 30, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., February 28, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6230 Filed 3-1-77;8:45 am]

[Amdt. No. 1 to Revised Service Order No. 1245, Service Date Feb. 25, 1977]

PART 1033—CAR SERVICE

Missouri Pacific Railroad Co. Authorized To Operate Over Tracks of Burlington Northern Inc.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of February 1977.

Upon further consideration of Revised Service Order No. 1245 (41 FR 52695) and good cause appearing therefor:

It is ordered, that:

Revised Service Order No. 1245 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1245 Missouri Pacific Railroad Company authorized to operate over tracks of Burlington Northern Inc.

(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., August 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., February 28, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6229 Filed 3-1-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Correction

In FR Doc. 77-3796 appearing in the FEDERAL REGISTER issue of February 11, 1977, and beginning at page 8813, make the following correction:

1. Page 8816, § 611.3(f) fourth line, the section "611.15" should read "611.7".

2. Page 8817, § 611.9(a) fifth line, the word "require" should read "requirement".

3. Page 8817, § 611.10(a) second line, subparagraph "(o)" should read "(n)".

4. Page 8819, § 611.20(b) the quantity for Alaska pollock "1,175,000" should read "1,099,000".

5. Page 8827, § 611.52(e)(2) fifth line should be deleted and the words "would in effect, make it possible to fish" should be inserted.

6. Pages 8827, § 611.52(j)(2), 8830, § 611.53(j)(2), 8833, § 611.54(j)(2), first line, the word "in" following the word "Fishing" should read "is".

7. Page 8837, § 611.70(b) catch quota for Pacific hake "143,200" should read "123,200".

8. Page 8837, § 611.70(b)(2)(ii) first line, the word "Seward" should read "Seaward".

9. Page 8837, § 611.70(c) twelfth line the month "March" should read "June".

10. Page 8837, § 611.70(d)(92)(iii) fifth line, delete the coordinates "38°37'37.00" N. lat., 117°49'31.00" W. long."

11. Page 8837, § 611.70(f)(2) twelfth line the words "and Vancouver (including that portion off Canada" should be deleted.

12. Page 8839, § 611.80(a) ninth line, the word "goal" should read "gold".

13. Page 8839, § 611.80(f)(4) second line, the words "Part 3.0 above" should read "paragraph (c)".

14. Page 8841, the section number "611.96" should read "611.91".

15. Page 8843, § 611.92(d)(2) first line, the word "traveling" should read "trawling".

16. Page 8843, § 611.92(d)(3)(iii) second line, the number "56°30" should read "56°00'".

17. Pages 8822, § 611.50(j)(2); 8825, § 611.51(j)(2); 8827, § 611.52(j)(2); 8831, § 611.53(j)(2); 8833, § 611.54(j)(2), the broadcast time for Portsmouth (NMN) reads "1350 G.M.T.", should read "1905 G.M.T.".

18. Page 8819, § 611.20 paragraph (d) should be deleted.

19. Page 8818, § 611.11(a) seventh line following the word "gear" should read "; the owner or operator of any fishing vessel shall be responsible for the reimbursements of United States citizens for any loss of, or damage to, United States fishing vessels, fishing gear, or catch which is caused by such foreign fishing vessel.

Dated: February 25, 1977.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.77-6265 Filed 3-1-77;8:45 am]

V42 41 MAR R2 77 UMI

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

FROZEN PEAS

United States Grade Standards; Second Proposed Revision

A notice of proposed rulemaking to revise the United States Standards for Grades of Frozen Peas was published in the FEDERAL REGISTER of July 30, 1976 (41 FR 31843). Interested persons were given until September 30, 1976 to submit written data, views, and comments regarding the proposal. Due to the substance of the comments which were received in response to the first notice of proposed rulemaking, the Department is issuing a second notice of proposed rulemaking.

These standards are issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624), which provides for the issuance of official U.S. grants to designate different levels of quality for the voluntary use by producers, buyers, and consumers. Official grading services are also provided under this Act upon request of the applicant and upon payment of a fee to cover the cost of such services.

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

All persons who desire to submit written data, views, or arguments for consideration in connection with the second proposal should file same in duplicate not later than September 30, 1977 with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made pursuant to this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Statement of consideration leading to the second proposal. Comments were received from fourteen persons representing ten different frozen pea processors, two buyers of frozen peas, one association and the Defense Personnel Support Center.

Three individuals opposed the proposal in its entirety. The principal reason indicated was that the proposal was unduly complicated since it was based on statistical principles using the attributes approach.

On comment was directed solely to a computation error in the transposition of inches to centimeters for sizes of frozen peas.

The rest of the comments raised objection only to the proposed double brine requirements in Grade A and B. The basis for the objections were:

1. The maturity separator equipment is not sufficiently efficient to justify requirements for 13 percent and 15 percent brine in Grade A and 15 percent and 16 percent brine in Brade B; and

2. The extra time required to make determinations in two brines instead of one brine in Grades A and B would be too costly.

Several comments suggested a need for additional time for the industry and other interested persons to become more familiar with the proposed attributes approach. One comment suggested the double brine procedure be included as an optional procedure to be used only upon request. Comments from two persons objected to the inclusion of the Alcohol Insoluble Solids procedure.

Information received by the Department indicates that the brine flotation equipment for separation of maturities of peas used by the frozen pea industry is the same as that used by pea canning industry. Double brine requirements for the Grade A and Grade B classifications have been a part of the U.S. Standards for Grades of Canned Peas since 1941 and there has been no indication of any problem in meeting the requirements.

The Alcohol Insoluble Solids procedure is a requirement of the Federal Food and Drug Standard of Quality for Frozen Peas. USDA quality standards must comply with the FDA standards at the minimum or Grade C level.

After careful consideration of all the comments received the Department is offering a second proposal which will:

1. Give more time for users of the frozen peas standard to become familiar with the attributes approach, as suggested;

2. Delete the double brine procedure as a requirement of the standard. This procedure is, however, proposed as an optional procedure to be used only upon request;

3. Delete the allowance for deviants for the prerequisite quality factors included in the first proposal;

4. Include a compliance procedure for unofficially submitted samples;

5. Make certain editorial changes which do not affect the quality requirements; and

6. Adjust certain AQL's slightly to provide for better compatibility between stationary lot inspection and on-line inspection.

The proposed revision is as follows:

Subpart—United States Standards for Grades of Frozen Peas

52.3511 Product description.
52.3512 Definition of terms.
52.3513 Sample unit sizes.
52.3514 Size designations and compliance.
52.3515 Grades.
52.3516 Factors of quality and grade compliance.
52.3517 Sample sizes.
52.3518 Methods of analysis.
52.3519 Lot acceptance.
52.3520 Optional maturity tests.
52.3521 Compliance procedure for unofficially submitted samples.

AUTHORITY: Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended 1090; (7 U.S.C. 1622, 1624).

Subpart—United States Standards for Grades of Frozen Peas

§ 52.3511 Product description.

"Frozen Peas" is the product represented as defined in the Standards of Identity for Frozen Peas (21 CFR 50.2) issued pursuant to the Federal Food, Drug, and Cosmetic Act.

§ 52.3512 Definitions of terms.

(a) *Absolute limit (AL).* Limit for maximum number of defects permitted in a sample unit.

(b) *Acceptable quality level (AQL).* A nominal value expressed in percent defective or defects per hundred units, whichever is applicable, specified for a given class of defects such that the sampling plan will result in acceptance of 95 percent of submitted inspection lots containing that percentage of defective items or defects per hundred units.

(c) *Acceptance limit* (denoted by the symbol "L"). As used in the cumulative sum (CUSUM) sampling plans, the maximum allowable accumulation of defects exceeding the sample unit tolerance (T) in any sample unit or any consecutive number of sample units.

(d) *Blond peas.* Peas that are white, cream, or yellow in color.

(e) *Broken peas (pea fragments).* Portions of peas, separated or individual cotyledons, crushed, partial, or broken cotyledons, and loose skins, but excluding entire intact peas with skins detached. Each of the following is considered as one defect in determining the number of broken peas:

(1) *A whole pea* from which a portion has become separated;

(2) *Two detached cotyledons. Any* two separated cotyledons;

(3) *Pieces of cotyledon* aggregating the equivalent of one average size cotyledon;

(4) *A whole detached skin* or portions of detached skin agregating the equivalent of one average size whole skin.

(f) *Color*—(1) *Good color.* As a mass the peas are a good bright green color that is typical of the variety. Peas that vary markedly from such typical color are considered a defect (see *TABLE IV*).

(2) *Reasonably good color.* As a mass the peas are a reasonably bright green color typical of the variety which may be slightly dull. Peas that vary markedly from such typical color are considered a defect (see TABLE IV).

(3) *Fairly good color.* As a mass the peas are a dull green color typical of the variety, but not off color.

(g) *Cumulative sum sampling plan (denoted by the term "CUSCM").* An on-line sampling plan which accumulates the number of defects in a sample that exceed a specified sample unit tolerance. A portion of production is acceptable (meets grade requirements) if the cumulative sum of defects does not exceed the specified acceptance limit.

(h) *Damaged.*—(1) *Blemished.* Peas that are slightly stained, spotted, or otherwise discolored to the extent that the appearance or eating quality is materially affected.

(2) *Seriously blemished.* Peas that are hard, shrivelled, spotted, discolored, or otherwise blemished to the extent that the appearance or eating quality is seriously affected.

(i) *Extraneous vegetable material.*—(1) *Flat material.* Succulent harmless vegetable material common to the pea plant such as leaves and pea pods.

(2) *Spherical material.* Spherical harmless vegetable material other than the peas.

(3) *Cylindrical material.* Cylindrical harmless vegetable material, such as stems or pieces of vine common to the pea plant.

(j) *Flavor.*—(1) *Good flavor.* A good characteristic flavor for the maturity.

(2) *Fairly good flavor.* The peas may be lacking flavor, the flavor may be bland, salty, hay-like or straw-like only to the extent that it is no more than slightly noticeable.

(k) *Sample.* The number of sample units to be used for inspection of a lot.

(l) *Sample unit.* The amount of product specified to be used for inspection. It may be:

(1) The entire contents of a container;

(2) A portion of the contents of a container;

(3) A combination of the contents of two or more containers; or

(4) A portion of unpacked product.

(m) *Sample unit tolerance (denoted by the symbol "T").* As used in the cumulative sum (CUSUM) sampling plans, the allowable number of defects in any sample unit.

(n) *Unit.* An individual pea.

§ 52.3513 Sample unit sizes.

(a) *Size designation.* 100 peas.

(b) *Maturity.* 100 peas, 50 peas, or 25 peas.

(c) *Alcohol Insoluble Solids (AIS).* The remainder of the sample unit used for evaluation of other quality factors.

(d) *Other quality factors.* 283 grams (10 ounces) of peas.

§ 52.3514 Size designations and compliance.

(a) *General.* Size of frozen peas is not incorporated in the grades of the finished product since size, as such, is not a factor of quality for the purpose of these grades. If size graded and offered for a given size, the size designations and specifications applicable thereto shall be as specified in Table I. The specifications indicate the dimension of the smallest round hole through which the peas will pass without force.

TABLE I

Size designation	Specifications	
	Inch	Millimeters
Extra small	Up to 0.295	7.5
Very small	Up to 0.32	8.2
Small	Up to 0.34	8.7
Medium	Up to 0.40	10.2
Large	Over 0.40	10.2

(b) *Size defects.* For the purpose of determining compliance with requirements for size designations, defects are as classified in Table II.

TABLE II

Defect	Classification	
	Minor	Major
Next size larger than designated size	×	
Larger than next larger designated size		×

TABLE III.—*Size designation compliance lot inspection*

Absolute limit (AL)	22	10

Number of sample units	Number of peas	Total [1]	Major
3	300	69	18
6	600	132	32
13	1,300	273	64
21	2,100	432	99
29	2,900	590	133
38	3,800	766	172
48	4,800	962	214
60	6,000	1,196	265
Acceptable quality level (AQL)		19.0	4.0

[1] Total equal minor plus major.

TABLE IIIa.—*Cusum sampling plan on-line inspection*

	Total [1]		Major	
	T	L	T	L
	21	9	5	3
AQL	19.0		4.0	

[1] Total equal minor plus major.

§ 52.3515 Grades.

(a) "U.S. Grade A" is the quality of frozen peas that:

(1) Meets the following prerequisites in which the peas;

(i) Are of similar varietal characteristics;

(ii) Have a good flavor;

(iii) Have a good color as a mass; and

(2) Is within the limits for defects classified in Table IV and specified for grade A in Tables V and VI Alternate 1 and 2) in the case of lot inspection or in Tables Va and VIa (or VIa Alternate 1 and 2) in the case of on-line inspection.

(b) "U.S. Grade B" is the quality of frozen peas that:

(1) Meets the following prerequisites in which the peas;

(i) Are of similar varietal characteristics;

(ii) Have a good flavor;

(iii) May have a reasonably good color as a mass; and

(2) Is within the limits for defects classified in Table IV as specified for grade B in Tables V and VI, (or VI Alternate 1 or 2) in the case of lot inspection or in Tables Va and VIa (or VI Alternate 1 or 2) in the case of on-line inspection.

(c) "U.S. Grade C" is the quality of frozen peas that:

(1) Meets the following prerequisites in which the peas;

(i) May be of dissimilar varietal characteristics;

(ii) May have a fairly good flavor;

(iii) May have a fairly good color as a mass;

(2) Is within the limits for defects as classified in Table IV and specified for grade C in Tables V and VI (or VI Alternate 1 or 2) in the case of lot inspection or in Tables Va and VIa (or VIa Alternate 1 or 2) in the case of on-line inspection; and

(3) The alcohol insoluble solids, determined as specified in § 52.3518(b), does not exceed 19 percent for sweet green wrinkled varieties and 23 percent for smooth skin varieties.

(d) "Substandard" is the quality of frozen peas that fail to meet requirements for "U.S. Grade C."

§ 52.3516 Factors of quality and grade compliance.

(a) The grade of a lot of frozen peas is based on compliance with the prerequisites specified in § 52.3515 and the limits specified for the following quality factors:

(1) Color;

(2) Damaged;

(3) Broken;

(4) Extraneous vegetable material; and

(5) Maturity.

(b) Defects are classified as minor, major, severe or critical in Table IV. Each "X" marks one defect.

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TABLE IV.—*Classification of defects*

Quality factor	Defect	Classification			
		Minor	Major	Severe	Critical
Color [1]	Peas that vary markedly:				
	In grade A only		X		
	In grade B only	X			
Damaged [1]	Blond			X	
	Blemished		X		
	Seriously blemished			X	
Broken [1]	Pea fragments	X			
Extraneous vegetable material [1]	Flat material (each ¼ in²) (0.65 cm²)			X	
	Spherical material (each piece)				X
	Cylindrical material (each ⅛ l/in) (3 mm)			X	
Maturity [2]	Grade A, sinkers in: 13 pct brine	X			
	Grade B, sinkers in: 15 pct brine	X			
	Grade C, sinkers in: 16 pct brine	X			

[1] Use sampling plans in table V.
[2] Use sampling plans in table VI, (or VI alternate 1 or 2) or VIa (or VIa alternate 1 or 2) as applicable. When the optional maturity test is requested use table VIII (or VIII alternate 1 or 2) or VIIIa (VIIIa alternate 1 or 2) as a applicable.

TABLE V.—*Grade compliance, lot inspection, color, damaged, broken, and extraneous vegetable material*

Number of sample units	Weight of product		Grade A				Grade B				Grade C			
	Grams	Ounces	Total [1]	Major	Severe	Critical	Total [1]	Major	Severe	Critical	Total [1]	Major	Severe	Critical
Absolute limit (AL)			71	35	12	4	126	39	23	5	188	82	35	8
3	340	20	273	76	23	5	223	67	47	8	328	100	76	13
6	1,698	60	338	144	41	8	626	167	87	13	639	288	144	24
13	3,679	130	703	300	92	14	1,355	348	180	25	1,356	619	300	46
21	5,948	210	1,119	476	128	21	2,133	551	284	38	2,170	1,008	476	71
29	8,207	290	1,535	650	173	28	2,930	754	386	51	2,981	1,794	650	96
38	10,754	380	2,001	844	222	35	3,834	981	501	65	3,892	2,359	844	126
48	12,564	480	2,517	1,060	278	43	4,817	1,232	628	81	4,902	2,944	1,060	153
60	16,980	600	3,136	1,318	344	53	6,007	1,533	780	99	6,112	3,608	1,318	190
Acceptable quality level (AQL)			7.25	3.0	0.75	0.10	14.0	5.50	1.75	0.25	14.25	8.50	3.0	0.40

[1] Total equal minor plus major plus severe plus critical.

TABLE Va.—*Cusum sampling plan on-line inspection*

	Grade A								Grade B								Grade C							
	Total [1]		Major		Severe		Critical		Total [1]		Major		Severe		Critical		Total [1]		Major		Severe		Critical	
	T	L	T	L	T	L	T	L	T	L	T	L	T	L	T	L	T	L	T	L	T	L	T	L
	54	14	23	9	6	4	1	1	102	19	28	10	14	7	2	2	104	19	33	15	23	9	3	3
AQL	7.25		2.0		0.75		0.10		14.0		5.50		1.75		0.25		14.25		8.50		3.0		0.40	

[1] Total equal minor plus major plus severe plus critical.

TABLE VI.—*Grade compliance, maturity lot inspection*

[Sampling unit size equal 100 peas]

Number of sample units	Number of peas	Grade A Minor	Grade B Minor	Grade C Minor
Absolute limit (AL)		17	20	24
3	300	34	40	51
6	600	63	75	96
13	1,300	128	155	197
21	2,100	200	244	311
29	2,900	272	332	424
38	3,900	353	430	550
48	4,800	441	539	690
60	6,000	547	669	857
Acceptable quality level (AQL)		8.50	10.50	13.50

TABLE VIa.—*Cusum sampling plan on-line inspection*

	Grade A Minor		Grade B Minor		Grade C Minor	
	T	L	T	L	T	L
	10	5	12	6	15	7
AQL	8.50		10.50		13.50	

TABLE VI.—(*Alternate 1*) *grade compliance, maturity lot inspection*

[Sample unit size equals 50 peas]

Number of sample units	Number of peas	Grade A Minor	Grade B Minor	Grade C Minor
Absolute limit (AL)		11	12	15
3	150	49	22	[illegible]
6	300	34	40	51
13	650	67	81	103
21	1,050	105	127	161
29	1,450	142	171	219
38	1,900	182	221	[illegible]
48	2,400	[illegible]	277	354
60	3,000	281	343	438
Acceptable quality level (AQL)		8.50	10.50	13.50

TABLE VIa.—(*Alternate 1*) *Cusum sampling plan on-line inspection*

	Grade A Minor		Grade B Minor		Grade C Minor	
	T	L	T	L	T	L
	5	3	6	4	8	4
AQL	8.50		10.50		13.50	

TABLE VI.—(*Alternate 2*) *grade compliance, maturity lot inspection*

[Sample unit size equals 25 peas]

Number of sample units	Number of peas	Grade A Minor	Grade B Minor	Grade C Minor
Absolute limit (AL)		7	8	9
3	75	11	12	15
6	150	18	22	28
13	325	36	43	55
21	525	56	67	85
29	725	78	90	114
38	950	85	115	147
48	1,200	110	143	183
60	1,500	146	177	226
Acceptable quality level (AQL)		8.50	10.50	13.50

TABLE VIa.—(*Alternate 2*) *Cusum sampling plan on-line inspection*

	Grade A Minor		Grade B Minor		Grade C Minor	
	T	L	T	L	T	L
	3	3	3	3	4	3
AQL	8.50		10.50		13.50	

§ 52.3517 Sample sizes.

The sample sizes to determine compliance with requirements for size and for prerequisite quality factors specified in § 52.3515 and other quality factors shall be as specified in the sampling plans in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products" (§ 52.1–§ 52.83).

§ 52.3518 Methods of analysis.

(a) *Maturity test.*—(1) *Explanation.* The maturity test utilizes salt solutions of various specific gravities to separate the peas according to maturity. The brine solutions are based on the percentage by weight of pure salt (NaCl) in solution at 20 degrees C. In making the test the brine solutions are standardized to the proper specific gravity equivalent to the specified percent of salt solutions at 20 degrees C by using a salometer spindle accurately calibrated at 20 degrees C. A 250 ml glass beaker or similar receptacle is filled with the brine solution to a depth of approximately 5 cm. The brine solution and sample unit must be at the same temperature and should closely approximate 20 degrees C.

(2) *Procedure.* After carefully removing the skins from the peas, place the peas into the solution in increments of 25 peas. Pieces of peas and loose skins should not be used in making the brine flotation test. If cotyledons divide, use both cotyledons in the test and consider the two separated cotyledons as one pea; and, if an odd cotyledon sinks, consider it as one pea. Only peas that sink to the bottom of the receptacle within 10 seconds after immersion are counted as "peas that sink."

(b) *Alcohol insoluble solids.* (1) Extracting solutions:

(i) One hundred parts of ethanol denatured with five parts of methanol volume to volume (formula 3A denatured alcohol); or

(ii) A mixture of 95 parts of formula denatured alcohol and five parts of isopropanol v/v.

(2) Eighty percent alcohol (8 liters of extracting solutions (1) (i) or (1) (ii) diluted to 9.5 liters with water).

(3) Drying dish—a flat-bottom dish with a tight fitting cover.

(4) Drying oven—a properly ventilated oven thermostatically controlled at 100±2 degrees C.

(5) *Procedure.* Transfer peas to U.S. No. 8 sieve, using an 8 inch (20 cm) diameter size for containers of less than three pounds net weight and 12 inch (30.5 cm) diameter size for larger quantities. Without shifting peas, incline sieve to aid drainage, drain for two minutes. With cloth wipe surplus water from lower screen surface. Weigh 250 g of peas into high-speed blender, add 250 g of water and blend to smooth paste. For less than 250 g sample, use entire sample with equal weight of water. Weigh 20 g±10 mg of the paste into 250 ml distillation flask, add 120 ml of extracting solutions specified in paragraph (b) (1) (i) or (1) (ii) of this section, and reflux 30 minutes on steam or water bath or hotplate. Fit into a buchner funnel a filter paper of appropriate size (previously prepared by drying in flat-bottom dish for two hours in drying oven, covering, cooling in desiccator and weighing). Apply vacuum to buchner funnel and transfer contents of beaker as to avoid running over edge of paper. Aspirate to dryness and wash material on filter with 80 percent alcohol until washings are clear and colorless. Transfer paper and alcohol-insoluble solids to drying dish used to prepare paper, dry uncovered for 12 hours in drying oven, cover, cool in desiccator and weigh at once. From this weight deduct weight of dish, cover, and paper. Calculate percent by weight of alcohol-insoluble solids.

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§ 52.3519 Lot acceptance.

(a) *Acceptance for size designation.*—(1) *Lot inspection.* A lot of frozen peas is considered as meeting requirements for size designation if the acceptance numbers and the AL values in Table III for the applicable defect classification are not exceeded.

(2) *On-line inspection.* A production or any portion of production is considered as meeting requirements for size designation if the "L" values in Table IIIa are not exceeded.

(b) *Acceptance for quality.*—(1) *Lot inspection.* A lot of frozen peas is considered as meeting the requirements for quality if:

(i) The requirements for the prerequisites specified for the applicable grade in § 52.3515 are met; and

(ii) The acceptance numbers and the AL values for the applicable grades for the various defect classifications specified in Tables V and VI (or VI Alternate 1 or Alternate 2) are not exceeded.

(2) *On-line inspection.* A production or any portion of production is considered as meeting requirements for quality if:

(i) The requirements for the prerequisites specified for the applicable grade in § 52.3515 are met; and

(ii) The "L" values in Tables Va and VIa (or VIa Alternate 1 or Alternate 2) are not exceeded.

§ 52.3520 Optional maturity tests.

(a) *General.* The optional maturity tests specified in Tables VIII, VIIIa, or VIII (Alternates 1 or 2) or VIIIa (alternates 1 or 2) are not requirements of these standards. They may be performed upon request in connection with the grade determination for maturity in lieu of the brine flotation tests required by these standards.

(b) *Acceptance for quality.* A lot of frozen peas will be considered acceptable for quality if the product meets requirements as specified in § 52.3519(b) except Table VIII (or VIII Alternate 1 or Alternate 2) or VIIIa (or VIIIa Alternate 1 or 2) apply in lieu of Tables VI (or VI Alternate 1 or Alternate 2) and VIa (or VIa Alternate 1 or Alternate 2).

(c) *Maturity defects.* For the purpose of determining compliance with requirements of the optional brine flotation test, defects are as classified in Table VII.

TABLE VII

Quality factor	Defect	Classification Minor	Major
Maturity	Grade A, sinkers in:		
	13 pct brine	×	
	15 pct brine		×
	Grade B, sinkers in:		
	15 pct brine	×	
	16 pct brine		×
	Grade C, sinkers in: 16 pct brine	×	

TABLE VIII.—*Grade compliance, maturity (optional) lot inspection*

[Sample size unit equals 100 peas]

		Grade A		Grade B		Grade C
Absolute limit (AL)		17	8	32	8	24
Number of sample units	Number of peas	Minor	Major	Minor	Major	Minor
2	200	24	12	40	12	31
6	600	62	21	78	21	95
13	1,300	128	42	155	42	197
21	2,100	200	64	244	64	311
29	2,900	272	86	333	86	421
38	3,800	352	111	430	111	550
48	4,800	441	126	539	126	690
60	6,000	547	170	656	170	857
Acceptable Quality level (AQL)		5.50	2.50	10.50	2.50	13.50

TABLE VIIIa.—*Cusum sampling plan (optional) on-line inspection*

	Grade A				Grade B				Grade C
	Minor		Major		Minor		Major		Minor
	T	L	T	L	T	L		L	T L
	16	5	3	3	13	6	3	3	15 7
AQL	5.50		2.50		10.50		2.50		13.50

TABLE VIII.—*(Alternate 1) grade compliance, maturity (optional) lot inspection*

[Sample unit size equals 50 peas]

		Grade A		Grade B		Grade C
Absolute limit (AL)		11	5	23	5	15
Number of sample units	Number of peas	Minor	Major	Minor	Major	Minor
2	100	16	7	24	7	28
6	300	34	13	46	13	51
13	650	67	23	87	23	103
21	1,050	105	36	137	36	161
29	1,450	143	48	191	48	219
38	1,900	183	61	244	61	283
48	2,400	228	73	297	72	334
60	3,000	281	89	363	89	438
Acceptable quality level (AQL)		5.50	2.50	10.50	2.50	13.50

TABLE VIIIa.—*(Alternate 1) Cusum sampling plan (optional) on-line inspection*

	Grade A				Grade B				Grade C
	Minor		Major		Minor		Major		Minor
	T	L	T	L	T	L	T	L	T L
	5	3	2	1	6	4	2	1	8 4
AQL	5.50		2.50		10.50		2.50		13.50

TABLE VIII.—*(Alternate 2) grade compliance, maturity (optional) lot inspection*

[Sample unit size equal 25 peas]

		Grade A		Grade B		Grade C
Absolute limit (AL)		7	3	3	3	9
Number of sample units	Number of peas	Minor	Major	Minor	Major	Minor
3	75	11	4	12	4	15
6	150	19	7	22	7	28
13	325	35	13	43	13	55
21	525	56	19	67	19	85
29	725	74	25	90	25	114
38	950	96	32	115	32	147
48	1,200	119	39	142	39	183
60	1,500	146	47	177	47	228
Acceptable quality level (AQL)		5.50	2.50	10.50	2.50	13.50

TABLE VIIIa.—*(Alternate 2) Cusum sampling plan (optional) on-line inspection*

	Grade A				Grade B				Grade C	
	Minor		Major		Minor		Major		Minor	
	T	L	T	L	T	L	T	L	T	L
	3	3	1	1	3	3	1	1	4	3
AQL	5.50		2.50		10.50		2.50		13.50	

§ 52.3521 Compliance for unofficial samples.

(a) *General.* Compliance for unofficial sample units submitted for quality evaluation will be treated individually and each sample unit must comply with the allowance values for size designation in paragraph (b) and for grade in paragraph (c) and (d) of this section. The sample unit size shall be as specified in § 52.3513 and in paragraph (d) of this section.

(b) *Compliance for size designation.*

TABLE IX.—*Size designation compliance*

	Number of peas	Total [1]	Major
Each sample unit	100	21	5

[1] Total equals minor plus major.

(c) Compliance for color, damaged, broken, and extraneous vegetable material.

TABLE X.—*Grade compliance*

	Weight of product (ounces)	Grade A				Grade B				Grade C			
		Total [1]	Major	Severe	Critical	Total [1]	Major	Severe	Critical	Total [1]	Major	Severe	Critical
Each sample unit	10	54	23	6	1	102	28	14	2	104	63	28	3

[1] Total equals minor plus major plus severe plus critical.

(d) Compliance for maturity.

TABLE XI.—*Grade compliance*

	Number of peas	Grade A Minor	Grade B Minor	Grade C Minor
Each sample unit	100	10	12	15

Table XII.—Optional maturity grade compliance

	Number of peas	Grade A		Grade B		Grade C
		Minor	Major	Minor	Major	Minor
Each sample unit	100	10	3	12	6	15

Dated: February 24, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.77-6054 Filed 3-1-77;8:45 am]

[7 CFR Part 932]

[Docket No. AO-352-A3]

OLIVES GROWN IN CALIFORNIA

Hearing on Proposed Amendment of Marketing Agreement, as Amended, and Order, as Amended

Notice is hereby given of a public hearing to be held April 5, 1977, in the Assembly Room (Room 1036), First Floor, State of California Building, 2550 Mariposa Street, Fresno, California, beginning at 9:00 a.m., local time, with respect to proposed amendment of the marketing agreement, as amended, and Order No. 932, as amended, regulating the handling of olives grown in California.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendment, hereinafter set forth, and any appropriate modifications thereof, of the marketing agreement, as amended, and the order, as amended.

The proposed amendment, set forth below, has not received the approval of the Secretary of Agriculture.

PROPOSED BY THE OLIVE ADMINISTRATIVE COMMITTEE

PROPOSAL NO. 1

Revise § 932.12 to read as follows:

§ 932.12 Size.

Size means the classification of olives as to length, diameter, weight or volume established pursuant to the provisions of this part.

PROPOSAL NO. 2

Revise § 932.18 to read as follows:

§ 932.18 Committee.

"Committee" means the California Olive Committee established pursuant to § 932.25.

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PROPOSAL NO. 3

Revise § 932.23a to read as follows:

§ 932.23a Limited use.

"Limited use" means the use of processed olives in the production of packaged olives of the halved, segmented, sliced, chopped, or minced styles, as defined in the then current U.S. Standards for Grades of Canned Ripe Olives (§§ 52.3751–52.3766 of this title), including modifications of the requirements for such styles pursuant to this part, and such additional styles (and the requirements applicable thereto) as may be specified pursuant to § 932.52(a)(17).

PROPOSAL NO. 4

Revise § 932.25 to read as follows:

§ 932.25 Establishment and membership.

A California Olive Committee consisting of 16 members, with an alternate for each such member who shall have the same qualifications as the member for whom he is an alternate, is hereby established to administer the terms and provisions of this part. Eight of the members and their alternates shall be producers or officers or employees of producers, and eight of the members and their alternates shall be handlers or directors, officers, or employees of handlers. The eight members of the commitee who are producers or officers or employees of producers are referred to in this subpart as "producer members" of the committee; and the eight members of the committee who are handlers or directors, officers, or employees of handlers are referred to in this subpart as "handler members" of the committee. In addition to the members stated above there may be a "public member" who shall not be a producer or handler nor an officer or employee or director of any producer or handler. District representation of the producer members shall be two from District 1, four from District 2, and two from District 3. Allocation of the handler members shall be four members to represent cooperative marketing organizations, herein referred to as "cooperative handlers," and four members to represent handlers who are not cooperative marketing organizations, herein referred to as "independent handlers": *Provided*, That whenever during the crop year in which nominations are made and in the preceding crop year, the cooperative handlers or the independent handlers handled as first handler 65 percent or more of the total quantity of olives so handled by all handlers, allocation shall be five members to represent the group which so handled 65 percent or more of such olives and three members to represent the group which handled 35 percent or less. The "public member" or "alternate public member" shall be selected from any place within the area. The committee may, with the approval of the Secretary provide such other allocation of producer or handler membership, or both, as may be necessary to assure equitable representation.

PROPOSAL NO. 5

Revise § 932.28 to read as follows:

§ 932.28 Eligibility.

Each producer member of the committee shall, at the time of his selection and during his term of office, be a producer in the district for which selected and, except for producers who are members of cooperative handlers, shall not be engaged in the handling of olives either in a proprietary capacity, or as a director, officer, or employee. Each handler member of the committee shall, at the time of his selection and during his term of office, be a handler in the group he represents or a director, officer, or employee of such handler. Each public member and alternate public member of the committee shall at the time of selection and during the term of office not be engaged in the production of any agricultural product nor be engaged with the buying, grading or processing of any agricultural product nor shall such public member or alternate public member be a director or officer or employee of any firm in the production or processing of any agricultural product.

PROPOSAL NO. 6

Revise § 932.29(a)(2) and add a new paragraph (c) to this section, to read as follows:

§ 932.29 Nominations.

(a) * * *

(2) Only producers, including duly authorized officers or employees of producers, who are present shall participate in the nomination of producer members and alternate members. Each producer in attendance shall be entitled to cast only one vote, regardless of the number of business units he may represent, for each nominee to be selected in the district in which he produces olives. No producer shall participate in the selection of nominees in more than one district. If a producer produces olives in more than one district, he shall select the district in which he will so participate and notify the committee of his choice.

* * * * *

(c) *Public member.* (1) Nominations for public member and alternate public member of the committee shall be made at a meeting called by the committee. The names of the nominees shall be submitted to the Secretary prior to April 16 of the year in which nominations are made. The committee shall prescribe such procedure for the selection and voting for each candidate as shall be fair to all persons concerned.

PROPOSAL NO. 7

Revise § 932.30 to read as follows:

§ 932.30 Alternates.

An alternate for a member of the committee shall act in the place and stead of such member (a) during his absence, and (b) in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has qualified. Except as otherwise specifically provided in this subpart, the provisions of this part applicable to members also apply to alternate members. The committee or the chairman of the committee may request one or more alternates to attend any or all meetings notwithstanding the expected or actual attendance of the respective member.

PROPOSAL NO. 8

Revise § 932.36 to read as follows:

§ 932.36 Procedure.

Decisions of the committee shall be by majority vote of the members present and voting and a quorum must be present: *Provided*, That decisions requiring a recommendation to the Secretary on matters pertaining to grade or size regulations shall require at least five affirmative votes from producer members and five affirmative votes from handler members. A quorum shall consist of at least 10 members of whom at least 5 shall be producer members and at least 5 shall be handler members. Except in case of an emergency, a minimum of 5 days advance notice shall be given with respect to any meeting of the committee. In case of an emergency, to be determined within the discretion of the chairman of the committee, as much advance notice of a meeting as is practicable in the circumstances shall be given. The committee may vote by mail or telegram upon due notice to all members, but any proposition to be so voted upon first shall be explained accurately, fully, and identically by mail or telegram to all members. When voted on by such method, at least 14 affirmative votes, 7 of which shall be producer votes and 7 of which shall be handler votes, shall be required for adoption.

PROPOSAL NO. 9

Revise § 932.37 to read as follows:

§ 932.37 Compensation and expenses.

The members of the committee and alternates when acting as members or at the request of the committee or its chairman shall serve without compensation, but shall be reimbursed for necessary expenses, as approved by the committee, incurred by them in the performance of their duties under this part.

PROPOSAL NO. 10

Revise § 932.39 by adding a new paragraph (c) to read as follows:

§ 932.39 Assessments.

* * * * * *

(c) If a handler does not pay his assessment within the time prescribed by the committee, the unpaid assessment may be subject to an interest charge at rates prescribed by the committee, with the aproval of the Secretary.

PROPOSAL NO. 11

Revise § 932.45(e) to read as follows:

§ 932.45 Production research, and marketing research and development projects.

* * * * * *

(e) The committee shall as soon as practicable prepare and mail current research and marketing reports to the Secretary and make a copy available for examination by producers, handlers, or other interested persons at the committee office.

PROPOSED BY LINDSAY OLIVE GROWERS, LINDSAY, CALIFORNIA

PROPOSAL NO. 12

Revise § 932.21 to read as follows:

§ 932.21 District.

"District" means any of the following geographic areas of the State of California:

(a) "District 1" shall include all counties not included in District 2.

(b) "District 2" shall include the counties of Mono, Mariposa, Merced, San Benilo, Monterey, Madera, Fresno, Tulare, and all counties to the south thereof.

PROPOSAL NO. 13

Revise § 932.25 to read as follows:

§ 932.25 Establishment and membership.

An Olive Administrative Committee consisting of 16 members, with an alternate for each such member who shall have the same qualifications as the member for whom is is an alternate, is hereby established to administer the terms and provisions of this part. Eight of the members and their alternates shall be producers or officers or employees of producers, and eight of the members and their alternates shall be handlers or directors, officers, or employees of handlers. The eight members of the committee who are producers or officers or employees of producers are referred to in this subpart as "producer members" of the committee; and the eight members of the committee who are handlers or directors, officers, or employees of handlers are referred to in this subpart as "handler members" of the committee. District representation of producer members shall be three from District 1 and five from District 2. Allocation of the handler members shall be four members to represent cooperative marketing organizations, herein referred to as "cooperative handlers," and four members to represent handlers who are not cooperative marketing organizations, herein referred to as "independent handlers": *Provided*, That whenever during the crop year in which nominations are made and in the preceding crop year, the cooperative handlers or the independent handlers handled as first handler 65 percent or more of the total quantity of olives so handled by all handlers, allocation shall be five members to represent the group which so handled 65 percent or more of such olives and three members to represent the group which handled 35 percent or less. The committee may, with the approval of the Secretary, provide such other allocation of producer or handler membership, or both, as may be necessary to assure equitable representation.

PROPOSAL NO. 14

Revised § 932.51 to provide that the minimum standards contained in that section relative to size designations for natural condition olives for processing into canned ripe olives must at all times be the size designations contained in the then current U.S. Standards for Grades of Canned Ripe Olives.

PROPOSAL NO. 15

Revise § 932.52 to provide that no handler shall use processed olives in the production of canned ripe olives, other than those of the tree-ripened type, unless they have first been inspected and grade at least U.S. Grade C, as such grade is defined in the then current U.S. Standards for Grades of Canned Ripe Olives; and canned whole and pitted ripe olives, other than those of the tree-ripened type, must also conform to the applicable size designations set forth in said U.S. Standards.

PROPOSED BY OBERTI OLIVE COMPANY, MADERA, CALIFORNIA

PROPOSAL NO. 16

Revise § 932.25 to read as follows:

§ 932.25 Establishment and membership.

An Olive Administrative Committee consisting of 16 members, with an alternate for each such member who shall have the same qualifications as the member for whom he is an alternate, is hereby established to administer the terms and provisions of this part. Eight of the members and their alternates shall be producers or officers or employees of producers, and eight of the members and their alternates shall be handlers or directors, officers, or employees of handlers. The eight members of the committee who are producers or officers or employees of producers are referred to in this subpart as "producer members" of the committee; and the eight members of the handlers are referred to in this subpart as "handler members" of the committee. District representation of the producer members shall be two from District 1, four from District 2, and two from District 3: *Provided*, That producer representation shall be so allocated that not more than two nominees for member and two nominees for alternate member positions on the committee may market their olives with the same handler. Further provided that any producer who markets his olives to more than one handler shall select the handler to which his nomination shall be charged and notify the committee of his choice. Allocation of the handler member shall be four members to represent cooperative marketing organizations, herein referred to as "cooperative handlers," and four members to represent handlers who are not cooperative marketing organizations, herein referred to as "independent handlers": *Provided*, That whenever during the crop year in which nominations are made and in the preceding crop year, the cooperative handlers or the independent handlers handle as first handler, 65 percent or more of the total quantity of olives so handled by all handlers, allocation shall be five members to represent the group which so handled 65 percent or more of such olives and three members to represent the group which handled 35 percent or less. The committee may, with the approval of the Secretary, provide such other allocation of producer or handler membership, or both, as may be necessary to assure equitable representation.

PROPOSAL NO. 17

Revise paragraph (a) of § 932.29 to read as follows:

§ 932.29 Nominations.

(a) *Producer members.* (1) Nominations for producer members of the committee and their respective alternates shall be made by submitting the name of the nominee and the signatures of ten supporting producers from within the district on a nomination form supplied by the committee and mailed to the committee not later than February 15 (of the year in which nominations are held). Upon receipt of all nominees from each district the committee shall submit by mail ballot a list of all nominees for balloting. Such mail ballots shall be returned to the committee not later than March 15 of the year in which nominations are made. Upon receipt and tabulation of the mail ballots for each district, those having the largest number of votes shall be the nominees for member position and those with the next largest number of votes shall be the alternate member nominees. The names of nominees shall be submitted to the Secretary prior to April 16 of the year in which nominations are made. The committee shall prescribe such procedure for the conduct of such nominations and for voting on the candidates as shall be fair to all persons concerned.

(2) Only producers, including duly authorized officers or employees of producers shall participate in nomination of producer members and alternate members. Each producer shall be entitled to cast only one vote for each nominee to be selected in the district in which he produces olives. No producer shall participate in the selection of nominees in more than one district. If a producer produces olives in more than one district, he shall select the district in which he will so participate and notify the committee of his choice.

* * * * * *

PROPOSED BY THE FRUIT AND VEGETABLE DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 18

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any

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amendment thereto that may result from the hearing.

Copies of this notice of hearing and the order may be procured from the Fresno Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, 1130 "O" Street, Room 3114, Fresno, California 93721, or from the Hearing Clerk, Room 112A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on February 25, 1977.

WILLIAM T. MANLEY,
Deputy Administrator, Program Operations.

[FR Doc.77-6219 Filed 3-1-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

REFINER PRICE REGULATIONS—ALLOCATION OF INCREASED COSTS TO GASOLINE PRICES

Postponement of Hearing

The Federal Energy Administration ("FEA") thereby gives notice that the public hearing previously scheduled to be held March 9, 1977 with respect to the Notice of Proposed Rulemaking entitled "Refiner Price Regulations—Allocation of Increased Costs to Gasoline Prices" (42 FR 9675, February 17, 1977) has been postponed until March 24, 1977. The period for the receipt of comments by the FEA has also been extended to March 21, 1977.

The FEA determined that the proposed regulation amendments constituted a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107 and an Inflation Impact Statement was prepared. However, the final version of the proposed amendments differed in certain respects from the draft proposal upon which the Inflation Impact Statement was based. These differences have necessitated a reevaluation of some aspects of the Inflation Impact Statement, so that the final version of the proposed amendments can be adequately assessed. Accordingly, a revised Inflation Impact Statement will be prepared and available to the public no later than March 11, 1977.

In order to provide interested parties with a reasonable period of time to consider the Inflation Impact Statement and to provide FEA with informed comment thereon, the comment period, public hearing, and deadline for requests to speak in this proceeding are extended as follows. All comments received by March 21, 1977, before 4:30 p.m., e.s.t., will be considered by the Federal Energy Administration before final action is taken on the proposed regulations. The public hearing in this proceeding will be held at 9:30 a.m., on March 24, 1977, and will be continued, if necessary, on March 25, 1977. A request to make an oral presentation at the public hearing must be received before 4:30 p.m., on March 10, 1977, and any person making such a request must include a phone number where he may be contacted through March 23, 1977. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., March 11, 1977, and must submit 100 copies of his statement to Regulations Management, FEA, Room 2105, 2000 M St., N.W., Washington, D.C. 20461, before 4:30 p.m., March 23, 1977. Any interested person may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, FEA, before 4:30 p.m., March 21, 1977.

The rulemaking procedure set forth in the Notice of Proposed Rulemaking and Public Hearing entitled "Refiner Price Regulations—Allocation of Increased Costs to Gasoline Prices" (42 FR 9675, February 17, 1977) will govern the conduct of this proceeding.

Issued in Washington, D.C., February 28, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-6335 Filed 2-28-77;12:12 pm]

CIVIL AERONAUTICS BOARD

[14 CFR Part 378a]

[SPDR-56, Docket No. 29926; Dated: February 24, 1977]

ONE-STOP-INCLUSIVE TOUR CHARTERS

Modification of Substitution or Advance Booking Requirements

Notice is hereby given that the Civil Aeronautics Board is proposing to amend Part 378a, One-stop-inclusive Tour Charters, of Title 14, Code of Federal Regulations, to allow some substitutions for canceling charter participants after the advance-booking deadline. It is also inviting comments on the possible elimination of the advance-booking requirement for such charters.

This rulemaking proceeding was initiated by petitions for rulemaking by Charter Travel Corporation (Docket 29866) and Nationwide Leisure Corporation (Docket 29926). The proceeding on the Charter Travel petition is hereby consolidated with that on the Nationwide Leisure petition in Docket 29926. The principal features of the proposed amendments are described in the attached Explanatory Statement. The amendments are proposed under the authority of sections 101, 204, 402, 407, 416 and 1102 of the Federal Aviation Act of 1958, as amended; 72 Stat. 737, 743, 754, 757, 766, 771, 797; 49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386, 1502.

Interested persons may participate in the proposed rulemaking through submission of 20 copies of written data, views, or arguments addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All comments received on or before April 18, 1977, and reply comments received on or before May 2, 1977, will be considered by the Board before taking further action. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt.

Those persons planning to file comments or responsive comments who wish to be served with such comments filed by others, and are willing to undertake to serve their comments on others, shall file with the Docket section at the above address by March 12, 1977, a request to be placed on the Service List in Docket 29926. The Service List will be prepared by the Docket Section and sent to the persons named on it. Those persons are to serve each other with comments or responsive comments at the time of filing.

A list of all persons filing comments will be prepared by the Docket Section and sent to the persons named on it. In addition to those on the Service List who filed comments, persons filing responsive comments should also serve any person whose comments is dealt with in their responsive comments.

Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through submission of comments in letter form to the Docket Section at the above address, without the necessity of filing additional copies.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary

EXPLANATORY STATEMENT

The One-stop-inclusive Tour Charter (OTC) rule[1] requires that participants purchase their tours at least 15 days before departure for North American OTC's and at least 30 days before departure for all others. The tour operator must file a passenger list on or before the end of the advance purchase period, and no new participants may sign up for an OTC after the advance purchase period has ended.

By petition dated October 1, 1976, Docket 29866, Charter Travel Corporation (CTC) requested that the Board amend the OTC rule to permit tour operators to find substitutes for passengers who cancel their participation after the end of the advance purchase period. CTC's petition would limit the number of substitutes, who could be solicited until the date of departure, to 15 percent of the seats contracted for.

Nationwide Leisure Corporation (Nationwide) filed a similar rulemaking petition in Docket 29926, requesting that OTC operators be allowed to find a limited number of substitutes or sell a limited number of additional seats (fill-ups) after the advance purchase period ends. Nationwide's petition would limit the number of permissible substitutions or fill-ups to 15 percent of the seats contracted for on North American OTC's and 20 percent of the seats contracted for on all others.

[1] 14 CFR Part 378a; SPR-85, adopted August 7, 1975, 40 FR 34089.

Answers supporting one or both of these petitions were filed by the Office of the Consumer Advocate (OCA), National Air Carrier Association (NACA), ASTI Tours, Unitours, Duncan Travel, and David Travels. A joint answer opposing Nationwide's petition was filed by American Airlines, Braniff Airways, Eastern Air Lines, Pan American World Airways, Trans World Airlines, and Western Air Lines (trunklines).

Petitioners, and several of the supporting answers, stated that the existing rule forbidding substitutions or fill-ups has forced OTC operators to raise their prices and to charge participants substantial penalties for late cancellations. Nationwide estimated that the cancellation rate for participants in OTC's has been 35 percent, which it claimed was unacceptably high. Petitioners and the supporting answers argued that the Board is not legally required to limit participation in OTC's exclusively to persons whose names appear on passenger lists filed in advance. They pointed out that the Board imposed no equally stringent prohibition in its more recently adopted Advance Booking Charter (ABC) rule[2] despite the fact that the latter rule is generally less restrictive than the OTC rule, chiefly in that the ABC, unlike the OTC, need not include a tour package.

Several of the answers supporting the petitions suggested that, instead of merely liberalizing the OTC rule so as to allow substitutions or fill-ups, the Board should eliminate the advance purchase requirement from the OTC rule. They noted that there has never been such a requirement in the Board's other major charter rule based on a tour package, the Inclusive-Tour Charter (ITC).[3] NACA, for example, in urging the elimination from the OTC rule of the advance-purchase requirement, stated that it is the "root of the problem," that it "seriously impairs the marketability of OTCs while failing to serve any valid regulatory purpose," and induces "continued customer adherence to the affinity charter mode."

In their opposing answer, the trunklines argued that the allowance of any sales after the end of the advance purchase period would radically alter the Board's OTC experiment, threaten serious diversion from scheduled service, and eliminate mandatory distinctions between charter and scheduled services.

The Board is of the opinion that substantial justifications have been provided by the petitioners and the supporting answers for considering liberalization of this aspect of the OTC rule. It is true that as recently as August 1975, at the time it issued the OTC rule, the Board viewed the present set of restrictions as a "5-year experiment," and rejected the many suggestions it received in the comments to avoid advance-booking requirements or at least to allow substitutions in OTC's, on the grounds that it wished to evaluate the "overall impact of OTC operations" under a more restrictive rule. However, developments since that time have altered the assumptions under which the rule was issued, and according to the petitions and several of the answers have threatened to interfere with the marketing of OTC's to the extent that the anticipated evaluation would be of little value.

The combination of the advance purchase requirement and the forbidding of substitutions for canceling passengers has evidently developed, to an extent that was not foreseen when the rule was issued, as a major hindrance in marketing OTC's. Furthermore, although the Board anticipated when the OTC rule was issued that tour operators would have to charge high cancellation fees because of the rule against substitutions (SPR-85, 40 FR 34089, August 14, 1975, footnotes 14 and 22), the actual retention by OTC operators of substantial cancellation fees has led to considerable public protest, particularly in hardship cases where participants are compelled to cancel. OCA noted that it had received numerous complaints from passengers who canceled for what they considered to be imperative reasons and who were required to pay cancellation fees, while Duncan Travel and ASTI Tours reported that such participants have been winning small-claims court cases to recover the fees. Thus the combination of legal and public pressures that tend to prevent tour operators from retaining substantial cancellation fees and a rule that forbids them to mitigate their losses by finding substitutes for canceling participants creates an unanticipated risk of financial loss to the operators.

Another intervening event that has changed the factual premises of the OTC rule is the issuance of the Advance Booking Charter (ABC) rule, which allows 15-percent substitution from the general public.[4] Since, taken together, the set of restrictions prescribed for ABC's is clearly more liberal than that for OTC's, most significantly in that the ABC rule requires no package of ground accommodations and no minimum price, there appears to be merit in petitioners' argument that it is incongruous to have the OTC rule totally forbid substitutions when 15 percent substitutions are allowed in ABC's.

The Board does not find merit in the arguments by some of the trunklines concerning the economic effects of possible diversion from scheduled service that might result from further liberalization of the charter rules. The question, in our mind, is not whether diversion takes place, but whether as a result scheduled service on particular routes is reduced to the point that it no longer serves the convenience of the public that wishes to use it. No evidence of such a reduction of service or of other serious economic consequences has been presented to date. As the Board noted in issuing OTC rule:

> "[W]e know of no evidence to support the contention that a redistribution of traffic in individual markets as between charter and scheduled service will result in increases in unit-cost levels (presumably on an available seat-mile basis) leading to corresponding fare increases • • •. [B]ecause air transportation is not characterized by significant economies of scale, the fact that OTC's may mean a lower level of scheduled operations for any carrier or carriers than would obtain absent OTC's does not, in the long run, point to higher levels of unit cost or reduced return on investment." (footnote omitted.) 40 FR 34089, 34091, August 14, 1975.

In light of the foregoing, the Board finds it appropriate to grant the petitions to amend the OTC rule to permit substitutions to be made at least as freely as they may be for "non-European" ABC's. It is therefore proposed that the OTC rule be modified to allow the operator to make substitutions from the general public of up to 15 percent of the number of seats contracted for.

There may also be substantial justification for the position advanced in some of the answers, that the Board should consider going beyond the petitioners' specific requests and completely eliminate the advance purchase requirement from the OTC rule. As long as the rule includes a mandatory package of ground accommodations and a minimum price requirement, the distinction of this type of charter from regularly scheduled service appears more closely analogous to the ITC rule than to the ABC rule. Since as noted above the ITC rule has never included an advance purchase requirement, a possible method of eliminating the substitution problem from OTC's would be to permit them to be sold to participants at any time before flight departure, in the same manner as ITC's.

Commenters in this proceeding are therefore specifically invited to focus on the issue of whether the advance purchase requirement of the OTC rule should be eliminated. It should be borne in mind that, absent an OTC advance purchase requirement, the only major differences between ITC's and OTC's would be that the former requires an itinerary of at least three stops, and has a different minimum pricing formula (110 percent of the lowest scheduled fare vs. 15 dollars per night for ground accommodations). Consequently, commenters should also address the question whether, and in what manner, the remaining differences between OTC's and ITC's might be eliminated so that both could be consolidated into one simple rule. Such a development would be a major step toward achieving the previously announced intention of ultimately having only "two basic charter types, one for air transportation only and one

[2] 14 CFR Part 371; SPR-110, adopted September 1, 1976, 41 FR 37763.

[3] 14 CFR Part 378, SPR-14, adopted March 11, 1966, 31 FR 4779.

[4] For the reason there discussed (SPR-110, 41 FR 37763, at 37766), it was also decided that for "European" ABC's there should be allowed only 10-per cent substitution from the general public, together with another 10-per cent from a prefiled "standby" list.

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for an inclusive tour constructed on charter air transportation."[*]

Finally, it should be noted that by a recent notice the Board has proposed to allow certain ABC charter operators to charge canceling participants a substitution fee of up to 25 dollars (SPDR–54, 42 F.R. 5367, January 28, 1977). If substitution is allowed on OTC's, as hereby proposed, such fees should also be permitted for OTC operators. The amendments proposed in SPDR–54 for ABC's are therefore also hereby proposed for OTC's.

Accordingly, the Board proposes to amend 14 CFR Part 378a, One-stop-inclusive Tour Charters, as follows:

1. The Table of Contents would be amended to reflect the addition of a new § 378a.14, as follows:

PART 378a—ONE-STOP-INCLUSIVE TOUR CHARTERS

Sec.

* * * * *

§ 378a.14 Substitution for tour participants named on filed list.

* * * * *

2. § 378.a.10(f) would be amended to read:

§ 378a.10 One-stop-inclusive tour charter general requirements.

* * * * *

(f) Passengers transported on the charter flight shall consist solely of persons whose names are set forth in a passenger list duly filed with the Board in accordance with § 378a.25(b), or persons substituted therefor in accordance with § 378a.14, or persons authorized to occupy unused charter space in accordance with § 378a.13.

* * * * *

3. A new § 378a.14 would be added to read:

§ 378a.14 Substitution for tour participants named on filed list.

Substitutes may be arranged for tour participants at any time preceding departure, only in accordance with the following:

(a) The tour participant for whom a new participant is substituted shall receive a full refund of all monies paid to the tour operator with respect to the charter, except that the tour operator may reserve the right to retain an administrative fee of not more than 25 dollars for effecting the substitution.

(b) The total number of substitutes shall not exceed 15 percent of the number of seats contracted for.

4. Paragraph (b) of § 378a.41 would be revised to read:

§ 378a.41 Direct air carrier to identify enplanements.

* * * * *

(b) The direct air carrier shall, at the time of enplanement, enter, on its copy of the passenger list, the documentary source of the identification required by paragraph (a) of this section, including the number appearing on the documents, together with the name of any enplaning passenger whose name does not already appear on the passenger list. The total number of names on the passenger list, thus revised, shall not be greater than the number of names originally appearing on that list. The number of newly entered names shall not exceed 15 percent of the number of seats contracted for.

[FR Doc.77-6216 Filed 3-1-77;8:45 am]

[*] SPDR–42 (at p. 7); 41 F.R. 7417, February 18, 1976.

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

[30 CFR Part 57]

NEW AND REVISED HEALTH AND SAFETY STANDARDS

Proposed Rulemaking Corrections

In FR Doc. 77–2462 appearing at page 5546 in the FEDERAL REGISTER of Friday, January 28, 1977, make the following changes:

1. On page 5557 the sentence immediately below the heading "§ 57.4 [Amended]", in column 2, is corrected to read: Q. Section 57.4 "Fire prevention and control" is proposed to be amended as follows:

2. On page 5563 delete the designation "MNMSAC", in column 1, for proposed mandatory standard 57.19–67.

3. On page 5564 the last sentence of proposed mandatory standard 57.20–3, in column 1, is corrected to read: (c) Every floor, working place, and passageway shall be kept free from protruding nails, splinters, holes or loose boards, as practicable.

Dated: February 25, 1977.

WILLIAM D. BETTENBERG,
Assistant Secretary of the Interior.

FR Doc.77–6174 Filed 3–1–77;8:45 am

POSTAL SERVICE

[39 CFR Part 111]

SECOND-CLASS BULK MAILINGS

Definition of Advertisements; Marking of Paid Reading Matter

AGENCY: U.S. Posal Service.

ACTION: Proposed Rule.

SUMMARY: The proposed rule would, among other things, revise 125.52 of the Postal Service Manual to simplify and more precisely define the term "advertising." It would also incorporate administrative rulings of the Postal Service to the effect that, if an advertising rate is paid for the publication of reading matter or other material in a second-class publication, such material is deemed to be "advertising." Under proposed 125.52 articles published in scientific journals would not be considered "advertising" for rate purposes, even though the author paid a fee for the publication based upon the number of printed pages. Such articles would, however, continue to fit the definition of "advertisement" in 132.7, which requires disclosure that valuable consideration has been paid or promised for the publication of editorial or other reading matter. In this connection, 132.7, which deals with the marking of paid reading matter with the word "advertisement," would be amended by limiting the required marking to one page of a piece of reading matter, regardless of the total number of pages.

DATE: Comments must be received on or before March 31, 1977.

ADDRESS: Written comments should be directed to the General Counsel, United States Postal Service, 475 L'Enfant Plaza West, SW, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Arthur Cahn. 202–245–4604.

SUPPLEMENTAL INFORMATION: Under the provisions of 39 CFR 111.3 the Postal Service is proposing to revise 125.52 and 132.73 of the Postal Service Manual, chapter I of which has been incorporated by reference in the FEDERAL REGISTER, see 39 CFR 111.1. Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b)(c)) regarding proposed rulemaking, 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of the Postal Service Manual:

PART 125—SECOND-CLASS BULK MAILINGS

1. In 125.5 of the Postal Service Manual revise .52 to read as follows:

125.5 Statement and Copy Filed With Mailings.

* * * * *

.52 Definition of advertising. The term "advertising" includes all material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something for the purpose of getting people to buy it, sell it, seek it, or support it. Moreover, if an advertising rate is charged for the publication of reading matter or other material, such material shall be deemed to be "advertising." Articles, items, and notices in the form of reading matter inserted in accordance with a custom or understanding that a "reader" is to be given the advertiser or his products in the publication in which a display advertisement appears are deemed to be "advertising." If a newspaper or periodical promotes its own services or issues, or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be "advertising."

PART 132—SECOND CLASS

2. In 132.7 of the Postal Service Manual revise .73 to read as follows:

132.7 Marketing of Paid Reading Matter.

* * * * *

.73 Each paid editorial or other reading matter which occupies all or any part of one page, or which occupies more than one page, must be marked plainly

advertisement either on the one page or on the first page.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401(2).)

LOUIS A. COX
General Counsel.

[FR Doc.77–6169 Filed 3–1–77;8:45 am]

[39 CFR Part 111]

MAILABILITY; SECOND CLASS; CONTROLLED CIRCULATION; THIRD CLASS

Procedures for the Appeal of Mailability and Eligibility Rulings

AGENCY: U.S. Postal Service.

ACTION: Proposed Rule.

SUMMARY: The proposed rule would, among other things, revise certain regulations in the Postal Service Manual to simplify the filing of applications for second-class mail privileges and would clarify and prescribe the appeal procedures for rulings on mailability of mailable matter.

DATE: Comments must re received on or before March 31, 1977.

ADDRESS: Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Arthur Cahn. 202–245–4604.

SUPPLEMENTAL INFORMATION: Under the provisions of 39 C.F.R. 111.3, the Postal Service proposes to change parts 123, 132, 133, 134, 135 and 146 of the Postal Service Manual to clarify and prescribe the ruling authorities and appeal procedures for adverse rulings on mailability of matter, and on the eligibility of mailable matter for second-class, controlled circulation, and special third-class postage rates.

The revision of these regulations was initiated by the Postal Service following the decision of the Court in *The National Rifle Association of America* v. *USPS*, 407 F. Supp. 88 (D.D.C. 1976). This decision concluded that the appeal officer, because of his involvement in the initial decision, "approached the subsequent proceeding with a well-defined predisposition," which the Court found was unfair to the Plaintiff. The proposed regulation changes are intended to correct this problem by providing procedures for the appeal of all mailability and classification rulings to an impartial appeal authority who did not take part in the initial decision.

In view of the changes relative to nonprofit organizations made by section 1307 (a) and (d) of the Tax Reform Act of 1976, Pub. L. 94–455, U.S. Code Cong. & Admin. News, Pamphlet No. 9, October 15, 1976, and the comments of the Court in the *NRA* case regarding the Postal Service's action organization regulations, the Postal Service also proposes to delete its regulations concerning action organisations in 134.53 (a)–(c) of the Postal Service Manual.

In addition, the Postal Service proposes to amend section 132.3 of the Postal Service Manual to allow publishers to simultaneously file applications for all additional second-class mail privileges with their application for a second-class original entry permit. This change is designed to simplify and improve the second-class application process.

Accordingly, the following sections of the Postal Service Manual would be amended:

1. Section 123.31 would be amended to make explicit that a postmaster in the first instance will give advice to a mailer on questions of mailability.

2. Section 123.33 would be amended to recommend that postmasters should consult postal services centers for guidance on mailability questions, and to refer to appellate procedures.

3. Section 123.37 would be amended to remove the reference to the Judicial Officer as the sole presiding officer for purposes of appeal from an unfavorable mailability decision, and to make certain editorial changes.

4. Section 132 .31, .33 and .34 would be amended and redesignated to allow a publisher to file applications for all additional second-class privileges at the same time that he files his application for a second-class original entry permit. Section 132.35 would be redesignated 132.33.

5. Section 132.36 would be redesignated .34 and amended to revise the procedures for granting and denying of applications, and new .35 and .36 would be added to specify the procedures for revocation or suspension of second-class privileges, additional entries, special rates, reentry, and exceptional dispatch. Section 132.8 would be deleted.

6. Section 133.22 would be amended to lodge in a subordinate official the initial decision on an application for a permit to mail as a controlled circulation publication; .23 would be redesignated .24; new .23 would be added providing an appeal procedure in the event an application under .22 is denied, and new .25 would be added providing for revocation of controlled circulation privileges and appellate procedures.

7. Sections 134.2 and 135.2 would be amended by adding new .23 and .27 respectively referring to 146.141 for contested classifications.

8. Section 134.53 would be amended to delete provisions dealing with action organizations.

9. Section 134.542 would be amended dealing with requests for documentation supporting an application on Form 3624 and the possible sanction for failure to supply such information, and section 134.543 would be amended to specify the official who would issue the final decision on an appeal from a denial of such an application.

10. Section 134.56 would be amended to create new subdivisions .561 and .562 dealing with proper channels of appeal from revocation decisions.

11. Section 146.141 would be amended in a minor, editorial respect; .142 would be redesignated .143; and new .142 would be added providing an avenue of appeal for certain decisions for which there is no specified appeal procedure.

Accordingly, although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking, 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of the Postal Service Manual:

PART 123—NONMAILABLE MATTER—WRITTEN, PRINTED AND GRAPHIC MATTER

1. In 123.3 revise the first sentence of .31; and revise .33 and .37 to read as follows:

123.3 *Advice to Mailers—Mailability Decisions.*

.31 *General Advice.* When a mailer seeks advice from the postmaster as to whether particular matter may be mailed, or where the postmaster otherwise learns that matter of questionable mailability is to be mailed, it is the postmaster's responsibility to call to the mailer's attention the relevant provisions of Part 123 and 124 and any relevant guidelines issued by the Postal Service.

* * * * *

.33 *Mailability decision authorized.* Postmasters may decide whether articles and substances (Part 124) are nonmailable and shall, where appropriate, refuse to accept for mailing such matter determined to be nonmailable. Where necessary, it is recommended that the postmaster consult the postal services center for guidance in determining mailability. If the mailer desires review of the postmaster's decision, the postmaster shall refer a sample of the item offered for mailing or a complete statement of the facts, whichever may be appropriate, to the Director, Office of Mail Classification, Rates and Classification Department. Further appeal may be made in accordance with 123.37.

* * * * *

.37 *Administrative Appeals.* A mailer may appeal any unfavorable mailability decision under Part 123 or Part 124 by filing a written Notice of Appeal with the Docket Clerk U.S. Postal Service, Washington, D.C. 20260, together with a copy or description of the determination or ruling in question. Such appeals shall be governed by 39 CFR Part 953, Rules of Practice in Proceedings Relative to Mailability.

PART 132—SECOND CLASS

2. In 132.3 delete the heading of .31 and insert the following in lieu thereof; add new .311 heading, and new .312, .313, .314, and .315 as follows; delete .33 and .34; redesignate .35 as .33; redesignate .36 as .34 and revise to read as follows; add new .35 and .36 as follows:

132.3 *Applications for second-class privileges.*

.31 The following applications should be filed by the publisher at the post office where the publication maintains its

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known office of publication. (See 132.222.)

.311 *Original entry applications for publications and news agents.*

* * * * *

.312 *Additional entry application.* A publisher may apply for permission to mail at additional entry post offices. A written request for an additional entry must be filed by the publisher at the post office where the publication has original second-class entry. A form is not provided for an additional entry application. The request may accompany the application for original entry. See 132.33 for fees required. The request must include the following information:

(a) Name of publication.

(b) Frequency of issue.

(c) Name of place where publication is printed.

(d) Name of the additional entry post office.

(e) Approximate number and weight of copies to be mailed at the additional entry post office.

(f) Specific geographical area to be served from the additional entry office. (The geographical area served by the additional entry office must include the entire local delivery area of the additional entry office).

An additional entry will be authorized at a post office located in the same county in which the office of original entry is located only when the publication is entirely or partly produced or prepared for mailing at the additional entry office (see 132.315 for available exceptional dispatch privileges). An additional entry will be authorized only at a post office served by transportation facilities which will enable the mailings to be effectively and economically handled in the postal transportation patterns.

.313 *Application for special rates.* A publisher may apply for permission to mail at special rates. A written request for special rates must be filed by the publisher at the post office where the publication has original second-class entry. The request may be filed jointly with the application for original entry or filed separately at the post office of original entry after a publication has been granted second-class mailing privileges.

(a) *Special rate.* Non-profit organizations and associations listed in 132.122 may apply to the postmaster for the special second-class rates. They must submit evidence to establish their nonprofit status and to show that they come within one of the categories stated.

(b) *Classroom rate.* Publishers of religious, educational, or scientific publications designed for use in school classrooms or in religious instruction classes may apply to the postmaster for the classroom rate listed in 132.123. They must submit evidence showing that their publications are of this character and for the uses stated.

(c) *Science of agriculture rate.* Publishers of publications designed to promote the science of agriculture may apply to the postmaster for the special rate of zones 1 and 2 advertising rate listed in 132.124. They must submit evidence that their publications are of the character and for the use stated and that more than 70 percent of the copies distributed by any means for any purpose during any twelve-month period are to subscribers residing in rural areas.

.314 *Application for reentry.* When the name or frequency of issuance of a publication is changed, an application for reentry must be filed on Form 3510 at the post office of original entry, accompanied by two copies of the publication showing the new name or frequency. When the location of the known office of publication is changed, an application for reentry must be filed on Form 3510 at the new office, accompanied by two copies of the publication showing the name of the new office as the known office of publication. Copies of second-class publications will be accepted for mailing at the second-class postage rates during the time applications for their reentry are pending. Copies of Form 3510 may be obtained from local postmasters. An application for reentry is not required when only the ownership is changed unless the change disqualifies the publication for an entry which was authorized under 132.23.

.315 *Application for exceptional dispatch.* An application to deliver copies of a second-class publication at the publisher's expense and risk from the post office of original entry or an additional entry post office to other post offices or elsewhere may be filed by the publisher at the office of original or additional entry where the postage is paid on the copies which will be transported. Applications for exceptional dispatch may be filed jointly with applications for original entry, reentry, or special rates. A form is not provided for applications for exceptional dispatch. The postmasters at the office of original or additional second-class entry will approve or disapprove applications on the basis of whether the exceptional dispatch will improve service. They will notify other post offices concerned and the sectional center manager of approved arrangements and include a list showing how the sacks or outside bundles are to be labeled and the approximate number of copies. Only after notification by the postmaster at the entry office where the postage is paid shall copies be accepted at another office directly from the publisher. At least once each 6 months the accepting postmaster shall verify the number of copies received directly from the publisher. Any significant increase noted at the time of verification or at any other time shall be reported to the entry office where the postage is paid. Denial of an application for exceptional dispatch may be appealed to the Director, Office of Mail Classification, who will issue the final agency ruling.

* * * * *

.34 *Granting or denial of application.* The Director, Office of Mail Classification, Rates and Classification Department, Headquarters, rules on all applications for second-class mail privileges, special rates, additional entry, and reentry.

.341 *Granting of application.* If the Director grants the application, he notifies the postmaster at the office where the application for original entry was filed, who shall notify the applicant. Before taking action, on an application, the Director may call on the publisher for additional information or evidence to support or clarify the application. Failure of the publisher to furnish the information requested may be cause for denial of the application as incomplete or, on its face, not fulfilling the requirements.

.342 *Denial of application for original entry.* If the Director denies the application, he will notify the publisher specifying the reasons for the denial. A denial of second-class mail entry is effective 15 days from receipt of the notice by the publisher unless an appeal is filed with the Docket Clerk, U.S. Postal Service, Washington, D.C. 20260, in accordance with the provisions of 39 CFR § 954, Rules of Practice in Proceedings Relative to the Denial, Suspension, or Revocation of Second Class Mail Privileges. A copy of the Rules will be included with any notice of denial of an application.

.343 *Denial of applications for additional entries, special rates, and reentry.* If the Director denies an application for additional entry, special rates, or reentry made in accordance with sections 132.312–.314, he will notify the publisher specifying the reasons for the denial. The denial becomes effective 15 days from receipt of the notice by the publisher unless the publisher files an appeal with the Assistant Postmaster General, Rates and Classification Department, who will issue the final agency decision.

.35 *Revocation or suspension of second-class privileges.*

.351 The Postmaster General may revoke the entry of a publication as second-class mail whenever he finds, after a hearing, that the publication is no longer entitled to be entered as second-class mail.

.352 The Director, Office of Mail Classification, makes determinations concerning the suspension or revocation of a second-class entry subject to appeal and hearing requested by the publisher. He may call on a publisher from time to time to submit information bearing on the publisher's right to retain a second-class entry for his publication. When the Director determines that a publication is no longer entitled to its second-class entry, he issues a ruling of suspension or revocation to the publisher at the last known address of the office of publication stating the reasons for his action. The ruling becomes effective 15 days from receipt of the notice by the publisher unless an appeal is filed with the Docket Clerk, U.S. Postal Service, in accordance with the provisions of 39 CFR Part 954, Rules of Practice in Proceedings Relative to the Denial, Suspension, or Revocation of Second Class Mail Privileges. A copy of the Rules will be included with any notice of revocation or suspension.

.36 *Revocation for additional entries, special rates, reentry, and exceptional dispatch.* The Director shall revoke authorizations for additional entry, special rates, reentry and exceptional dispatch whenever he finds that a publication or organization is no longer entitled to such authorization. Whenever the Director revokes any such authorization, he shall notify the publisher or organization specifying the reasons for the revocation. The revocation is effective 15 days from receipt of the notice by the publisher or organization unless an appeal is filed with the Assistant Postmaster General, Rates and Classification Department, who will issue the final agency decision.

132.8 [Deleted]

3. Delete 132.8.

PART 133—CONTROLLED CIRCULATION PUBLICATIONS

4. Revise the last sentence of 133.22 to read as follows: "The postmaster will submit the application and one copy of the publication to the Office of Mail Classification, Rates and Classification Department, Washington, D.C. 20260. Notice of authorization or denial will be furnished by the General Manager, Domestic Mail Classification Division."

5. Redesignate 133.23 as 133.24; add new 133.23 and 133.25 reading as follows:

133.23 *Appeal of denial.* If the application is denied and the mailer wishes to appeal, he may submit an appeal in writing within 15 days of receipt of the notice of denial to the postmaster who will forward the appeal to the Director, Office of Mail Classification for a final ruling.

* * * * *

133.25 *Revocation of controlled circulation privileges.*

.251 If a publication is discontinued, or fails to meet the requirements described in Part 133, the postmaster should report all the facts, including the publisher's current mailing address, to the General Manager, Domestic Mail Classification Division, so that a determination may be made as to whether action should be taken to revoke the controlled circulation mail privileges.

.252 If it is determined that a publication authorized to be mailed at the controlled circulation rates is no longer qualified, the General Manager, Domestic Mail Classification Division shall notify the publisher and the postmaster at the office of entry. Controlled circulation privileges will be revoked 15 days from receipt of the notice by the publisher unless an appeal is filed with the postmaster who will forward it to the Director, Office of Mail Classification for a final agency ruling.

PART 134—THIRD CLASS

6. Add new 134.23 reading as follows:

134.23 *Contested classification.* See 146.141.

7. Revise 134.53 to read as follows:

134.53 *Examples of organizations or associations that may not qualify.* The following and similar organizations do not come within the prescribed categories even though they may be organized on a nonprofit basis: Automobile clubs; business leagues; chambers of commerce; citizens' and civic improvement associations; individuals; mutual insurance associations; political organizations; service clubs such as Civitan, Kiwanis, Lions, Optimist, and Rotary; social and hobby clubs; associations of rural electric cooperatives; and trade associations. In general, state, county, or municipal governments are not eligible for the special rates. However, a separate and distinct state, county, or municipal governmental organization that meets the criteria for any one of the specific categories in 134.522 is eligible, notwithstanding its governmental status. For example, school districts and public libraries may be eligible under 134.522b. Nevertheless, governmental organizations will generally not be eligible under 134.522d (philanthropic) since their income is generally not derived primarily from voluntary contributions or donations.

8. Amend 134.542 by adding the following sentence at the end thereof: "Before taking action on an application or appeal, additional information or evidence may be requested to support or clarify the application. Failure of an organization to furnish the information is sufficient reason to deny an application or revoke existing authorization.

9. Revise the last sentence of 134.543 to read as follows: "The papers will be returned to the postmaster at the postal services center with the final decision on the appeal by the General Manager, Domestic Mail Classification Division."

10. Revise 134.56 to read as follows:

134.56 *Revocation.*

.561 The approval may be revoked if the authorization was given to an organization or association which was not qualified or which becomes unqualified. The postmaster will notify the organization of the pending cancellation of the authorization and of the reasons for the cancellation. The organization will be allowed 15 days within which to file a written statement appealing the pending cancellation. If no appeal is filed, the postmaster will revoke the authorization. If an appeal is filed, a decision on the continuance of the authorization will be made by the General Manager, Domestic Mail Classification Division. Notice of the decision will be given to the organization through the postmaster.

.562 A review of any organization authorized to mail at the special third-class rates may be initiated or undertaken at any time by the General Manager, Domestic Mail Classification Division. If the General Manager, after a review, determines that an organization is no longer qualified, he will notify the organization, through the postmaster, of the proposed revocation of the authorization and the reasons for the revocation. The revocation becomes effective 15 days from receipt of the notice unless the organization files a written appeal, with the Director, Office of Mail Classification, who will issue the final agency decision.

PART 135—FOURTH CLASS

11. Add new 135.27 reading as follows:

135.27 *Contested Classification.* See 146.141.

PART 146—PREPAYMENT AND POSTAGE DUE

12. Revise the last sentence of 146.141 to read as follows: * * * The postmaster will forward the appeal to the General Manager, Domestic Mail Classification Division, U.S. Postal Service, Washington, D.C. 20260, who will issue the final agency decision.

13. Redesignate 146.142 as 146.143 and add new 146.142 reading as follows:

146.142 Any mail classification decision made initially by the General Manager, Domestic Mail Classification Division, or General Manager, Special Services Division, or General Manager, International Mail Division, for which there is no specified appeal procedures may be appealed within 15 days to the Director, Office of Mail Classification, who will issue the final agency decision. If, however, the Director participated in any such decision, the appeal will be decided by the Assistant Postmaster General, Rates and Classification Department.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposals are adopted.

(39 U.S.C. 401(2).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-6170 Filed 3-1-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3800]

HARDROCK MINING SURFACE RECLAMATION

Proposed Rulemaking; Public Meetings

Notice is hereby given that three meetings on proposed regulations relating to surface management of public land under U.S. Mining Laws will be held in Nevada as follows:

Date	City	Place
Mar. 18, 1977	Elko	Stockmen's Motor Hotel.
Mar. 24, 1977	Reno	Holiday Inn (California Room), 1000 East 6th St.
Mar. 22, 1977	Las Vegas	Marina Hotel, 3805 Las Vegas Blvd., south.

Each meeting will be from 1 p.m.–5 p.m. and 6 p.m.–8 p.m.

The purpose of the meetings is to allow the public to comment on the proposed surface reclamation regulations and their possible impact before final regulations are promulgated. The proposals have been printed in the FEDERAL REGISTER (Vol. 41, No. 235, Dec. 6, 1976) (41 FR 53428–53433).

Any interested person may attend, give an oral statement or file written comments. Oral statements may not exceed 10 minutes and must be germane to the regulations under consideration. Written comments may be filed before

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or after the meetings or may be sent directly to the Director (210), Bureau of Land Management, Washington, D.C. 20240. Deadline for comments is April 5, 1977.

Additional information concerning these meetings may be obtained from Carl A. Gidlund, Chief, Public Affairs, Bureau of Land Management, Nevada State Office, Room 3008, Federal Building, 300 Booth Street, Reno, Nevada 89509, telephone (702) 784-5311.

Dated: February 22, 1977.

E. I. ROWLAND,
State Director, Nevada.

[FR Doc.77-6178 Filed 3-1-77;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 2, 3, 33, 34, 35, 101, 104, 125, 131, 141, 154, 201, 260]

[Docket No. RM77-11]

EDITORIAL CHANGES

Proposed Corrections, Minor Revisions, and Clarifications

FEBRUARY 22, 1977.

Pursuant to 5 U.S.C. 553, Sections 3, 4, 15, 16, 301, 304, 308 and 309 of the Federal Power Act (41 Stat. 1063–1066, 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 858–859; 82 Stat. 617; 16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, and Sections 8, 10 and 16 of the Natural Gas Act (52 Stat. 825–826, 830; 15 U.S.C. 717g, 717l, 717o), the Commission gives notice is proposed to amend:

A. General Rules Under the Federal Power Act, Part 1, Subchapter A, Chapter I, title 18, CFR.

B. Organization; Operation; Information and Requests; Miscellaneous Charges; Ethical Standards, Part III of the General Rules, Subchapter A, Chapter I, Title 18, CFR.

C. Regulations Under the Federal Power Act, Subchapter B, Chapter I, Title 18, CFR.

D. Uniform System of Accounts for Class A and Class B Public Utilities and Licensees, prescribed by Subchapter C, Part 101, Chapter I, Title 18, CFR.

E. Uniform System of Accounts for Class C and Class D Public Utilities and Licensees, prescribed by Subchapter C, Part 104, Chapter I, Title 18, CFR.

F. Preservation of Records of Public Utilities and Licensees, Part 125, Chapter I, Title 18, CFR.

G. Statements and Reports, prescribed by Subchapter D, Chapter I, Title 18, CFR.

H. Regulations Under the Natural Gas Act, Subchapter E, Chapter I, Title 18, CFR.

I. Uniform System of Accounts for Class A and Class B Natural Gas Companies, prescribed by Subchapter F, Part 201, Chapter I, Title 18, CFR.

J. Uniform System of Accounts for Class C and Class D Natural Gas Companies, prescribed by Subchapter F, Part 204, Chapter I, Title 18, CFR.

K. Statements and Reports, prescribed by Subchapter G, Chapter I, Title 18, CFR.

The Commission proposed in this rulemaking to correct and eliminate various errors, oversights, misprints, deletions, etc., that have occurred over a period of time in the promulgation of the Commission's Regulations embodied in Title 18 of the Code of Federal Regulations. In addition, revisions are being proposed for certain sections of the Regulations governing tariff filings to provide for recognition of deferred income tax effects of research and development expenditures.

In addition, certain minor revisions and editorial changes are being proposed for clarification purposes.

The Commission wishes to solicit from respondents any oversights, misprints, deletions or other errors that may have been experienced from use of Commission regulations in addition to those already included herein.

Any interested person may submit to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, to be received no later than March 8, 1977, data, views, comments or suggestions in writing concerning all or part of the amendments proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals of the Commission should indicate the name, title, mailing address and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed revisions. The staff, in its discretion, may grant or deny written requests for conference prior or subsequent to the filing of formal submittals.

The proposed amendments to the Commission's General Rules, Regulations and Uniform Systems of Accounts under the Federal Power Act would be issued under authority granted the Federal Power Commission by the Federal Power Act, particularly Sections 3, 4, 15, 16, 301, 304, 308 and 309 (41 Stat. 1063–1066, 1068, 1072, 1075; 49 Stat. 838, 839, 840, 841, 854–856, 858–859; 82 Stat. 617; 16 U.S.C. 796, 797, 803, 808, 809, 816, 825, 825b, 825c, 825g, 825h, 8261).

The proposed amendments to the Commission's General Rules, Regulations and Uniform Systems of Accounts under the Natural Gas Act would be issued under the authority granted the Federal Power Commission by the Natural Gas Act, particularly Sections 8, 10 and 16 (52 Stat. 825–826, 830; 15 U.S.C. 717g, 717l, 717o).

PART 2—GENERAL POLICY AND INTERPRETATION

(A) The following are proposed amendments to Part 2—General Policy and Interpretations, of Subchapter A—General Rules, Chapter I, Title 18 of the Code of Federal Regulations:

(1) In § 2.9, amend paragraph (b) by deleting "825 N. Capitol St. NE.," from the last sentence. As amended, this portion of § 2.9 will read:

§ 2.9 Conditions in preliminary permits and licenses—list of and citations to "P–" and "L–" Forms.

* * * * *

(b) * * * Forms currently in use, including those which have not yet appeared in the FPC reports, may be obtained from the Office of Public Information, Federal Power Commission, Washington, D.C. 20426.

* * * * *

(2) In § 2.12, amend the last sentence of the text by revising the title of Account No. 282, "Accumulated Deferred Income Taxes—Liberalized Depreciation," to read as follows:

§ 2.12 Calculation of taxes for property of public utilities and licensees constructed or acquired after January 1, 1970.

* * * As to balances in Account 282 of the Uniform Systems of Accounts, "Accumulated deferred income taxes—Other property," it will remain the Commission's policy to deduct such balances from rate base in rate proceedings.

(3) In § 2.13, amend the last sentence of paragraph (b) by deleting "441 G Street NW., Washington, DC 20426." As amended, this portion of § 2.13 will read:

§ 2.13 Design and construction.

* * * * *

(b) * * * The guidelines may be obtained from the Office of Public Information, Federal Power Commission, Washington, D.C. 20426.

* * * * *

(4) In § 2.60, amend paragraph (c) by deleting "205" referenced parenthetically. As amended, paragraph (c) will read:

§ 2.60 Facilities and activities during an emergency—accounting treatment of defense-related expenditures.

* * * * *

(c) When a person, not otherwise subject to the jurisdiction of the Commission, files and application for a certificate of public convenience and necessity authorizing the construction of facilities to be used solely for operation in a national emergency for the delivery of gas to, or receipt of gas from, a person subject to the Commission's jurisdiction, the Commission will consider a request by such applicant for waiver of the requirement

to keep and maintain its accounts in accordance with the Uniform System of Accounts for Natural Gas Companies (Parts 201 and 204 of this chapter) or to file the annual reports to the Commission required by §§ 260.1 and 260.2 of this chapter.

(5) In § 2.67, amend the last sentence of text by revising the title of Account No. 282, "Accumulated Deferred Income Taxes — Liberalized Depreciation," to read as follows:

§ 2.67 Calculation of taxes for property of pipeline companies constructed or acquired after January 1, 1970.

* * * As to balances in Account No. 282 of the Uniform Systems of Accounts, "Accumulated deferred income taxes—Other property," it will remain the Commission's policy to deduct such balances from the rate base of natural gas pipeline companies in rate proceedings.

(6) In § 2.67a, amend paragraphs (a) (1) (i), (a) (1) (ii) and (2) by revising the numerical reference, "Account 411.3" to read, "Account Nos. 411.4 and/or 411.5." In addition, delete the parenthesized sentence at the end of paragraph (a) (1) (i). As amended, these portions of § 2.67a will read:

§ 2.67a Policy with respect to the natural gas shortage as it relates to the Revenue Act of 1971.

(a) * * *

(1) (i) When the "General Rule" is applicable to a utility, other than a natural gas pipeline company, the amount of the investment credit allowed shall be debited to Accounts 411.4, Investment Tax Credit Adjustments, Utility Operations, and/or 411.5, Investment Tax Credit Adjustments, Nonutility Operations, and credited to Account 255, Accumulated • Deferred Investment Tax Credits. The amount in Account 255 shall be amortized to Account 420, Investment Tax Credits, ratably over the book service life of the related property.

(ii) Since the Commission has determined that there is a natural domestic supply of gas insufficient at this time to meet the present and future requirements, natural gas pipeline companies, at their option, may account for the investment credit by either debiting Accounts 411.4, Investment Tax Credit Adjustments, Utility Operations, and/or 411.5, Investment Tax Credit Adjustment, Nonutility Operations, and crediting Account 420, or by debiting Accounts 411.4 and/or 411.5, and crediting Account 255 with amortization from Account 255 to Account 420 over a period of time as selected by the Company.

(2) Under the "Special Rule for Ratable Flow-Through," the utility shall, when this option applies, debit Accounts 411.4 and/or 411.5 and credit Account 255. The amounts in Account 255 shall be amortized to Accounts 411.4 and/or 411.5 over the book service life of the related property.

* * * * *

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS; MISCELLANEOUS CHARGES; ETHICAL STANDARDS

(B) The following is a proposed amendment to Part 3—Organization; Operation; Information and Requests; Miscellaneous Charges; Ethical Standards, of Subchapter A—General Rules, Chapter I, Title 18 of the Code of Federal Regulations:

§ 3.6 [Amended]

In § 3.6 *Offices of the Commission; information and submittals:*

(1) Amend the first sentence of paragraph (a) by deleting "are in the General Accounting Office Building, 441 G Street NW., Washington, D.C."

(2) Amend paragraph (b) (1) by deleting "at 346 Broadway" and by changing "10013" to read "10007."

(3) Amend paragraph (b) (2) by deleting "at Peachtree—Seventh Building, 50 Seventh Street, N.E.," and by changing "30323" to read "30308."

(4) Amend paragraph (b) (3) by deleting "in the United States Custom House, 610 South Canal Street," and by changing "60607" to read "60604."

PART 33—APPLICATION FOR SALE, LEASE OR OTHER DISPOSITION, MERGER OR CONSOLIDATION OF FACILITIES, OR FOR PURCHASE OR ACQUISITION OF SECURITIES OF A PUBLIC UTILITY

(C) The following are proposed amendments to Part 33—Application for Sale, Lease or other Disposition, Merger or Consolidation of Facilities, or for Purchase or Acquisition of Securities of a Public Utility, of Subchapter B—Regulations Under The Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations:

§ 33.2 [Amended]

(1) Amend paragraph (l) of § 33.2 by revising "(in conformity with § 131.41 of this chapter)" to read "(in the form prescribed by the Commission's Uniform System of Accounts for Public Utilities and Licensees)."

(2) Section 33.3 is amended by revising Exhibits G, and I and by changing the word "surplus" to read "Retained Earnings" in Exhibit J. As amended, § 33.3 will read:

§ 33.3 Required exhibits.

* * * * *

Exhibit G.—Balance sheets and supporting plant schedules for the most recent 12 month period only, on an actual basis and separately on a pro forma basis in the form prescribed for statements A and B of the FPC Annual Report Form No. 1, prescribed by § 141.1 of this Chapter.

* * * * *

Exhibit I.—Income statement for the most recent 12 month period only, on an actual and separately on a pro forma basis in the form prescribed for Statement C of the FPC Annual Report Form No. 1 prescribed by § 141.1 of this Chapter.

* * * * *

Exhibit J.—An analysis of retained earnings * * *.

* * * * *

PART 34—APPLICATION FOR AUTHORIZATION OF THE ISSUANCE OF SECURITIES OR THE ASSUMPTION OF LIABILITIES

(D) The following are proposed amendments to Part 34—Application for authorization of the issuance of securities or the assumption of liabilities, of Subchapter B, Regulations under the Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations:

(1) In § 34.3, revised Exhibits H and L and amend Exhibit M by changing "surplus" to "retained eranings." As amended, these exhibits will read:

§ 34.3 Required exhibits.

* * * * *

Exhibit H.—Balance sheets and supporting plant schedules for the most recent 12 month period only, on an actual basis and separately on a pro forma basis in the form prescribed for statements A and B of the FPC Annual Report Form No. 1, prescribed by § 141.1 of this Chapter.

* * * * *

Exhibit L.—Income statement for the most recent 12 month period only, on an actual and separately on a pro forma basis in the form prescribed for Statement C of the FPC Annual Report Form No. 1, prescribed by § 141.1 of this Chapter.

Exhibit M.—An analysis of retained earnings * * *

* * * * *

PART 35—FILING OF RATE SCHEDULES

(E) The following are, proposed amendments to Part 35—Filing of Rate Schedules, of Subchapter B—Regulations Under the Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations:

(1) Amend paragraph (b) (4) (iii) of § 35.13 by revising title of *Statement C—Earned Surplus Statement* to read *Statement C—Retained Earnings Statement* and revise the first sentence by revising the words, "Earned surplus" to read "Retained earnings."

(2) Amend paragraph (b) (4) (iii) of § 35.13 by adding *Statement E1* immediately following *Statement E—Accumulated. Depreciation.* Commission Order No. 483, Docket No. R-462, dated April 30, 1973, added the original Statement E1, however, it was inadvertently left out of the Code of Federal Regulations. Also, included therein is a provision for recognition of deferred income tax effects, in accordance with the Order under Docket No. RP73-102, dated June 26, 1974.

As amended § 35.13(b) (4) (iii) reads as follows:

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§ 35.13 Filing of changes in rate schedules.

* * * * * *

(b) * * *
(4) * * *
(iii) * * *

Statement C.—Retained earnings statement. Retained earnings statement * * *
Statement E.—Accumulated depreciation. * * *
Statement E1.—Research and development. A statement disclosing all expenditures in Account 188, Research and Development Expenditures, showing each venture separately as of the beginning and the end of the test period, immediately followed and increased or reduced, as apporpriate, by the applicable accumulated deferred income taxes. This statement shall also include all related amortization for the same period.

* * * * * *

(3) Amend paragraph (b)(4) of § 35.22 by deleting the first three words "products containing benzpheta-" of the first sentence and substituting "R & D expenditures in Account".

(4) Amend § 35.22 by adding a new paragraph (c) following paragraph (b) thereof.

§ 35.22 Research and development clauses.

* * * * * *

(c) In determining the balance of Account 188, Research and Development Expenditures, for purposes of this section, the balances in Account 188 shall be increased or reduced, as appropriate, by the applicable accumulated deferred income taxes.

* * * * * *

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR CLASS A AND CLASS B PUBLIC UTILITIES AND LICENSEES

(F) The following are proposed amendments to Part 101—Uniform system of accounts prescribed for class A and class B public utilities and licensees, of Subchapter C—Accounts, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations:

(1) Revise the title to Part 101 to read:

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT (CLASS A AND CLASS B)

(2) In the preface section of Part 101, under the clarification *Applicability of system of accounts.* delete the last two sentences of the second paragraph, which make reference to §§ 102.01–1 and 104.1 and amend the first sentence of the fourth paragraph, by revising the reference to § 103.01–1" to read "§ 103."

(3) In the preface section of Part 101, delete all of the tables entitled *comparison of the uniform system of accounts prescribed for Public Utilities and Licensees effective Jan. 1, 1937, with the revised system of accounts effective Jan. 1, 1961.*

(4) In the title of Part 101 which immediately precedes the Definition section, amend the title to read as follows:

UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT (CLASS A AND CLASS B)

(5) In the Definitions sections, amend definition number 5.A, "Associated Companies," to read "Associated (Affiliated) Companies".

(6) In the General Instructions section amend paragraph B of General Instruction 1, *Classification of Utilities* by revising the second sentence. As amended paragraph B will read:

General Instructions

1. *Classification of Utilities.*

* * * * * *

B. This system of accounts applies to Class A and Class B utilities. The system of accounts, applicable to Class C and Class D utilities is issued separately.

* * * * * *

(6) In the Electric Plant Instructions section:

(a) Amend Instruction 7, *Land and Land Right*, paragraph "H" by revising the title of Account No. 111, "Accumulated Provision for Amortization of Electric Plant in Service," referenced parenthetically.

(b) Amend Instruction 10, "Additions and Retirements of Electric Plant", paragraph (C)(3), by changing the word "appropirate" to read "appropriate" and the words "he" and "teh" to read "the."

As amended, this portion of the Electric Plant Instructions will read:

Electric Plant Instructions

1. *Land and Land Rights.*

* * * * * *

H. * * * (See account 111, Accumulated Provision for Amortization of Electric Utility Plant, and account 404, Amortization of Limited-Term Electric Plant.)

* * * * * *

10. *Additions and Retirements of Electric Plant.*

* * * * * *

C. * * * account appropriate for the item; except that if the replacement * * * charged to the appropriate electric plant account.

* * * * * *

(7) Amend the title of the chart of accounts for the "Balance Sheet Accounts," and amend the titles of "Account 203, Preferred stock liability for conversion" and "Account 210, Gain or resale on cancellation of reacquired capital stock" to read "Account 203, Common stock liability for conversion" and "Account 210, Gain o nreasle or cancellation of reacquired capital stock."

Balance Sheet Chart of Accounts

* * * * * *

LIABILITIES AND OTHER CREDITS

B. PROPRIETARY CAPITAL

203 Common stock liability for conversion.
210 Gain or resale or cancellation of reacquired capital stock.

* * * * * *

(8) In the text of the Balance Sheet Accounts:

(a) Amend the first sentence of Account 120.5, "Accumulated Provision for Amortization of Nuclear Fuel Assemblies," by adding the word "Expense" to the title of "Account 518, Nuclear Fuels."

(b) Amend the title of "Account 157, Nuclear Materials held for sale" to read "Account 157, Nuclear materials held for sale."

As amended, this portion of the Balance Sheet Accounts will read:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

* * * * * *

120.5 Accumulated provision for amortization of nuclear fuel assemblies.

A. This account shall be credited and account 518, Nuclear Fuel Expense, * * *

* * * * * *

157 Nuclear materials held for sale.

* * * * * *

(9) Amend the title of the chart of accounts for the "Electric Plant Accounts," to read as follows:

Electric Plant Chart of Accounts

* * * * * *

(10) Amend the title of the chart of accounts for the "Income Accounts," to read as follows:

Income Chart of Accounts

* * * * * *

(11) Amend the title of the chart of accounts for the "Retained Earnings Accounts," to read as follows:

Retained Earnings Chart of Accounts

* * * * * *

(12) Amend the title of the chart of accounts for the "Operating Revenue Accounts," to read as follows:

Operating Revenue Chart of Accounts

* * * * * *

(13) Amend the title of the chart of accounts for the "Operation and Maintenance Expense Accounts," to read as follows:

Operation and Maintenance Expense Chart of Accounts

* * * * * *

PART 104—UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES (CLASS C AND CLASS D)

(G) The following are proposed amendments to Part 104—Uniform System of Accounts for Public Utilities and Licensees (Class C and Class D), of Subchapter C—Accounts, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations:

(1) Revise the title to Part 104 to read as follows:

PART 104—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT (CLASS C AND CLASS D)

2) In the preface section all of the of the tables entitled *"Comparison of the*

uniform system of accounts prescribed for Public Utilities and Licensees effective Jan. 1, 1938, with the revised system of accounts effective Jan. 1, 1961."

(3) In the title of Part 104 which immediately precedes the Definitions section, amend the title to read as follows:

UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT (CLASS C AND CLASS D)

(4) In the Electric Plant Instructions section:

(a) Amend Electric Plant Instruction 9, "Additions and Retirements of Electric Plant," paragraph F, by revising the title of Account 110, "Accumulated Provision for Depreciation and Amortization of Electric Plant," to read "Accumulated Provision for Depreciation and Amortization of Electric Utility Plant."

As amended, this portion of the Electric Plant Instructions will read:

Electric Plant Instructions

* * * * * *

9. *Additions and Retirements of Electric Plant.*

* * * * * *

F. The book cost less net salvage of electric plant retired shall be charged in its entirety to account 110, Accumulated Provision for Depreciation and Amortization of Electric Utility Plant. Any amounts which, by approval or order of the Commission, are charged to account 182, Extraordinary Property Losses, shall be credited to account 110, Accumulated Provision for Depreciation and Amortization of Electric Utility Plant.

* * * * * *

(5) Amend the title of the chart of accounts for the "Balance Sheet Accounts," to read as follows:

Balance Sheet Chart of Accounts

* * * * * *

(6) Amend the title of the chart of accounts for the "Electric Plant Accounts," to read as follows:

Electric Plant Chart of Accounts

* * * * * *

(7) Amend the title of the chart of accounts for the "Income Accounts," to read as follows:

Income Chart of Accounts

* * * * * *

(8) Amend the title of the chart of acounts for the "Retained Earnings Accounts," to read as follows:

Retained Earnings Chart of Accounts

* * * * * *

(9) Amend the title of the chart of accounts for the "Operating Revenue Accounts," to read as follows:

Operating Revenue Chart of Accounts

* * * * * *

(10) Amend the title of the chart of accounts for the "Operation and Maintenance Expense Accounts," and amend the title of section 6, "Administration and General Expenses," of the chart of accounts, to read "Administrative and General Expenses," to read as follows:

Operation and Maintenance Expense Chart of Accounts

* * * * * *

6. Administrative and General Expenses.

* * * * * *

PART 125—PRESERVATION OF RECORDS OF PUBLIC UTILITIES AND LICENSEES

(H) The following are proposed amendments to Part 125—Preservation of Records of Public Utilities and Licensees, of Subchapter C—Accounts, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations:

(1) Amend § 125.2, "General instructions," paragraph (g)(1) by amending subparagraph (iii), "Be stored in such a manner as to certification, when damaged," to read "Be regenerated, including proper certification, when damaged."

As amended, paragraph (g)(1)(iii) will read:

§ 125.2 General instructions.

* * * * * *

(g) *Media.* (1) * * *

* * * * * *

(iii) Be regenerated, including proper certification, when damaged. * * *

* * * * * *

PART 131—FORMS

(I) The following are proposed amendments to Part 131—Forms, of Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations:

Delete entire § 131.40, Balance sheet, § 131.41, Classification of utility plant and reserves applicable to utility plant, and § 131.42, Comparative income statement.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

(J) The following are proposed amendments to Part 141—Statements and Reports (Schedules), of Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations:

§ 141.1 [Amended]

(1) Amend paragraph (d) of § 141.1 by:

(a) Relocating "Nuclear Fuel Materials (accounts 120.1 through 120.5 and 157)" scheduled following "Attestation" to a location immediately following the schedule "Statement of Changes in Financial Position—Statement E."

(b) Immediately following "Miscellaneous Deferred Debits," deleting the schedule "Deferred Regulatory Commission Expenses."

(c) Revising the title of schedule "Rents Charged," to read "Lease Rentals Charged."

PART 154—RATE SCHEDULES AND TARIFFS

(K) The following are proposed amendments to Part 154—Rate Schedules and Tariffs, of Subchapter E—Regulations Under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations:

(1) Under § 154.38(d)(4) in the first sentence of Footnote No. 1, amend the date "October 7, 1969," to read "October 8, 1969."

(2) Amend § 154.38 by deleting subparagraph (c) following paragraph (d)(4)(iv)(b).

(3) Amend § 154.38 by adding new paragraph (iii) following paragraph (d)(5)(ii)(g).

§ 154.38 Composite of rate schedule.

* * * * * *

(d) * * *

(4) * * * its cost of purchase gas.[1] * * *

* * * * * *

(5) * * *

* * * * * *

(iii) In determining the balance of Account 188, Research and Development Expenditures, for purposes of this section, the balances of this account shall be incerased or reduced, as appropriate, by the applicable accumulated deferred income taxes.

* * * * * *

(4) Amend § 154.63 paragraph (f) by adding a new Schedule E–4, renumbering present Schedule E–4 as E–5, and by revising the title of Account 108 referred to in the fourth sentence of Statement H(2) and by revising Schedule N–11.

As amended and revised, those sections will read:

§ 154.63 Changes in a tariff, executed service agreement or part thereof.[2]

* * * * * *

(f) *Description of statements.* * * *

* * * * * *

Schedule E–4. Setting forth monthly balances included in Account 188, Research and Development Expenditures, separately for each project therein immediately followed and increased or reduced, as appropriate, by the applicable accumulated deferred income taxes. This schedule shall also include all related amortization for the same periods.

* * * * * *

Statement H(2)—* * * The amounts of depreciable plant shall be shown by the functions specified in Paragraph C of Account 108, Accumulated Provision for Depreciation of Gas Utility Plant of the Commission's Uniform System of Accounts for Natural Gas Companies, and, if available, for each detailed plant account (300 Series) together with the rates used in computing such expenses. * * *

* * * * * *

Schedule N–11. A complete description of amounts, by venture, recorded in Account

[1] For the purposes of this subsection, purchased gas cost represents the cost of wellhead purchases, field line purchases, plant outlet purchases, transmission line purchases, and from pipeline production that qualifies for and is being afforded area or nationwide rate treatment. * * *

[2] The provisions of this section shall not be applicable to filings made pursuant to §§ 154.61 through 154.66, unless such filing results in a change in rate, charge, classification or service.

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188. Research and Development Expenditures, as of the beginning and end of the test period, increased or reduced, as appropriate, by the applicable accumulated deferred income taxes. This schedule shall also include all related amortization for the same period.

* * * * *

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

(L) The following are proposed amendments to Part 201—Uniform System of Accounts For Natural Gas Companies, of Subchapter F—Accounts, Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations:

(1) Amend the title of Part 201 to read as follows:

PART 201—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT (CLASS A AND CLASS B)

* * * * *

(2) In the preface section delete all of the tables entitled "Comparison of the uniform system of accounts prescribed for natural gas companies effective Jan. 1, 1940, with the revised system of accounts effective Jan. 1, 1961."

(3) In the title of Part 201 which immediately precedes the Definitions section, amend the title to read as follows:

UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT (CLASS A AND CLASS B)

* * * * *

(4) In the General Instructions section:

(a) Amend General Instruction 1, paragraph B "Classification of Utilities," by revising the second sentence.

(b) Amend General Instructino 16, "Signtificance of Commission Opinion Nos. 568 and 568A on accounting," by changing "Gas Plant in Service" to "Gas Utility Plant" in paragraph B. As amended, this portion will read:

General Instructions

1. *Classification of Utilities.*

* * * * *

B. This system of accounts applies to Class A and Class B utilities. The system of accounts applicable to Class C and Class D utilities is issued separately.

* * * * *

16. *Significance of Commission Opinion Nos. 568 and 568A on accounting.* * * *

B. * * * among others:

108 Accumulated Provision for Depreciation of Gas Utility Plant.

* * * * *

(3) In the Gas Plant Instructions section:

(a) Amend Gas Plant Instruction No. 3, "Components of construction cost," first sentence of note to subparagraph (17) by revising "Electric Plant in Service" to read "Gas Utility Plant,"

As amended, this portion of the Gas Plant Instructions will read:

Gas Plant Instructions

* * * * *

3. *Components of construction cost.*

* * * * *

(17) * * *

NOTE.— * * * as "Gas Utility Plant" and * * *

* * * * *

(4) Amend the title of the Chart of Accounts for the "Balance Sheet Accounts," to read as follows:

Balance Sheet Chart of Accounts

* * * * *

Accounts 103, 105, 105.1, 106, 107, 111, 186 and 255 [Amended]

(5) In the text of Balance Sheet Accounts:

(a) Amend the text of Account 103, "Experimental Gas Plant Unclassified," last sentence of paragraph B, by deleting the word "an".

(b) Amend the text of Account 105, "Gas Plant Held for Future Use," paragraphs A and B and Note B by revising the date "on or before October 6, 1969" to read "on or before October 7, 1969."

(c) Amend the text of Account 105.1, "Production Properties Held for Future Use," paragraph A and B, by revising the date "on or after October 7, 1969." To read "on or after October 8, 1969."

(d) Amend the text of Account 106, "Completed Construction Not Classified—Gas" by revising the word "has" to read "have".

(e) Amend Note A to text of Account 107, "Construction Work in Progress—Gas," by changing "instruction 16." to "instruction 15."

(f) Amend item (5) in the second sentence in paragraph C of Account 111, "Accumulated Provision for Amortization and Depletion of Gas Utility Plant," by revising the word "local" to read "other."

(g) Amend paragraph A of Account 186, "Miscellaneous Deferred Debits," by revising "instruction 16A," to read "instruction 15A."

(h) Amend first sentence of paragraph B of Account 255, "Accumulated Deferred Investment Tax Credits" by revising "electric utility property" to read "gas utility plant."

(6) Amend the title of the chart of accounts for the "Gas Plant Accounts," to read as follows:

Gas Plant Chart of Accounts

* * * * *

(7) Amend the text of the next to the last sentence of the special instructions applicable to *B.1 Natural Gas Production and Gathering Plant* accounts, by changing Account 403, Depreciation and Depletion Expense to read Account 404.1, Amortization and Depletion of Producing Natural Gas Land and Land Rights. As amended, this instruction will read:

Gas Plant Chart of Accounts

* * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 Natural Gas Production and Gathering Plant

Special Instruction—Costs Related to Leases Acquired After October 7, 1969. * * * by debiting Account 404.1, Amortization and Depletion of Producing Natural Gas Land and Land Rights. * * *

* * * * *

Account 380 [Amended]

(8) Delete the Note following item 12 of Account 380, "Services."

* * * * *

(9) Amend the title of the chart of accounts for the "Income Accounts," to read as follows:

Income Chart of Accounts

* * * * *

(10) Amend the title of the chart of accounts for the "Retained Earnings Accounts," to read as follows:

Retained Earnings Chart of Accounts

* * * * *

(11) Amend the title of the chart of accounts for the "Operating Revenue Accounts," to read as follows:

Operating Revenue Chart of Accounts

* * * * *

(12) Amend the title of the chart of accounts for the "Operating and Maintenance Expense Accounts," to read as follows:

Operation and Maintenance Expense Chart of Accounts

* * * * *

PART 204—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES (CLASS C AND CLASS D)

(M) The following are proposed amendments to Part 204—Uniform System of Accounts for Natural Gas Companies (Class C and Class D), of Subchapter F—Accounts, Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations:

(1) Amend the title of Part 204 and amend the preface section by deleting all of the tables entitled "Comparison of the uniform system of accounts prescribed for natural gas companies, effective Jan. 1, 1940, with the revised system of accounts effective Jan. 1, 1961." As amended, the title will read:

PART 204—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT (CLASS C AND CLASS D)

(2) In the title of Part 204 which immediately precedes the Definitions section, amend the parenthetical reference, "(Class C)," to read as follows:

UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT (CLASS C AND CLASS D)

(3) Amend the parenthetical material in paragraph H of Gas Plant Instruction 6, *Land and Land Rights.*

(4) Amend the title of Gas Plant Instruction 9, *Additions and Requirements of Gas Plant,* and paragraph F by revising the title of Account 110, "Accumulated Provision for Depreciation, Depletion and Amortization of Gas Plant," to read "Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant."

As amended these portions of the General Plant Instruction will read:

Gas Plant Instructions

* * * * *

6. *Land and Land Rights.*

* * * * *

H. * * * (See account 403, Depreciation and Depletion Expense, and account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant, * * *

* * * * *

9. *Additions and Retirements of Gas Plant.*

* * * * *

F. The book cost less net salvage of gas plant retired shall be charged in its entirety to account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant. Any amounts which, by approval or order of Commission, are charged to account 182, Extraordinary Property Losses, shall be credited to account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant.

* * * * *

(5) Amend the title of the chart of accounts for the "Balance Sheet Accounts," to read as follows:

Balance Sheet Chart of Accounts

* * * * *

(6) Amend the title of the chart of accounts for the "Gas Plant Accounts," to read as follows:

Gas Plant Chart of Accounts

* * * * *

(7) Delete Note to Account 380, "Services."

(8) Amend the title of the chart of accounts for the "Income Accounts," to read as follows:

Income Chart of Accounts

* * * * *

(9) Amend the title of the chart of accounts for the "Retained Earnings Accounts," to read as follows:

Retained Earnings Chart of Accounts

* * * * *

(10) Amend the title of the chart of accounts for the "Operating Revenue Accounts," to read as follows:

Operating Revenue Chart of Accounts

* * * * *

(11) Amend the title of the chart of accounts for the "Operation and Maintenance Expense Accounts," to read as follows:

Operation and Maintenance Expense Chart of Accounts

* * * * *

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

(N) The following are proposed amendments to Part 260—Statements and reports (schedules), of Subchapter G—Approved Forms, Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations:

§ 2.60.1 [Amended]

(1) Amend paragraph C of § 260.1, by:

(a) Revising the title of schedule "Statement of Earned Surplus for the Year—Statement D" to read "Statement of Retained Earnings for the Year—Statement D."

(b) Revising title of schedule "Gas Stored Underground" to read "Gas Stored."

(c) Revising title of schedule "Prepaid Gas Purchases Under Purchase Agreements" to read "Gas Prepayments Under Purchase Agreements," and relocating schedule to immediately follow "Extraordinary Property Losses."

(d) Relocating "Advances for Gas Prior to Initial Deliveries or Commission Certification (Accounts 124, 166, and 167)." to immediately follow "Gas Prepayments Under Purchase Agreements,"

(e) Deleting schedule "Deferred Regulatory Commission Expenses."

(f) Revising title of schedule "Accrued and Prepaid Taxes," to read "Taxes Accrued, Prepaid and Charged During Year".

(g) Adding schedule titled "Gain or Loss on Disposition of Property," immediately following "Accumulated Deferred Investment Tax Credits."

(h) Adding schedule titled "Extraordinary Items," immediately following "Expenditures for Certain Civic, Political and Related Activities."

(i) Deleting schedule titled "Taxes Charged During Year."

(j) Adding schedule inadvertently left out, titled "Production Property Held for Future Use," immediately following "Gas Plant Held for Future Use."

(k) Revising title of schedule "Main Line Industrial Sales of Natural Gas," to read "Field and Main Line Industrial Sales of Natural Gas."

(l) Revising title of schedule "Underground Gas Storage," to read "Gas Storage."

(2) Amend § 260.2, paragraph (c), by adding schedules, "Investment Tax Credits—Generated and Utilized" and "Accumulated Deferred Investment Tax Credits,"

As amended, this portion will read:

§ 260.2 Form No. 2–A; Annual report for natural gas companies (Class C and Class D).

* * * * *

(c) This annual report contains the following schedules:

* * * * *

General Information Concerning Plant and Operations. Investment Tax Credits—Generated and Utilized. Accumulated Deferred Investment Tax Credits.

* * * * *

(O) The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6007 Filed 2-28-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket No. 29998]

EASTERN AIR LINES, INC., COMPLAINT OF VICTORIA ROBERTSON

Assignment of Enforcement Proceeding

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., February 24, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6209 Filed 3-1-77;8:45 am]

[Docket No. 29224]

PAN AMERICAN WORLD AIRWAYS, INC., COMPLAINT OF MR. EDWARD M. BARKLEY

Assignment of Enforcement Proceeding

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., February 24, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6210 Filed 3-1-77;8:45 am]

[Docket No. 29225]

PAN AMERICAN WORLD AIRWAYS, INC., COMPLAINT OF MRS. EDWARD M. BARKLEY

Assignment of Enforcement Proceeding

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., February 24, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6211 Filed 3-1-77;8:45 am]

[Docket No. 29245]

PAN AMERICAN WORLD AIRWAYS, INC., COMPLAINT OF JULIA JO BARKLEY

Assignment of Enforcement Proceeding

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., February 24, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6212 Filed 3-1-77;8:45 am]

[Docket No. 29339]

PAN AMERICAN WORLD AIRWAYS, INC., COMPLAINT OF MS. JANE L. GNUTTI

Assignment of Enforcement Proceeding

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., February 24, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6214 Filed 3-1-77;8:45 am]

[Docket No. 29546]

PAN AMERICAN WORLD AIRWAYS, INC., COMPLAINT OF MR. JOHN WALTER HUCKABEE, III

Assignment of Enforcement Proceeding

This proceeding is hereby assigned to Administrative Law Judge Burton S. Kolko. Future communications should be addressed to Judge Kolko.

Dated at Washington, D.C., February 24, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6213 Filed 3-1-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Semiconductor Technical Advisory Committee will be held on Tuesday, March 22, 1977, at 9:30 a.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration, approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor products, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has seven parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Review of membership status and suggestions for new members.
(4) Selection of new committee chairman.
(5) Discussion of foreign availability for digital integrated circuits.
(6) New business.

EXECUTIVE SESSION

(7) Discussion of matters properly classified under Executive Order 11652 dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (1), the Acting Assistant Secretary of Commerce for Admiinstration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409 that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The Complete Notice of Determination to close portions of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof is hereby published.

Dated: February 24, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

Office of the Assistant Secretary for Administration

SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

Determination

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

Determination

In response to written requests of representatives of a substantial segment of the semiconductor industry, the Semiconductor Technical Advisory Committee was established by the Secretary of Commerce pursuant to section 5(c)(1) of the Export Administration Act of 1969, 50 U.S.C. App. 2404(c)(1) (Supp. V, 1975), to advise the Department of Commerce with respect to questions involving technical matters, worldwide availability, and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductors, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee, which currently has ten members representing industry and six members representing government agencies, will terminate no later than August 29, 1978, unless extended by the Secretary of Commerce or his designee. All members of the Committee have the appropriate security clearances.

The Committee's activities are conducted pursuant to 50 U.S.C. App. 2404(c)(1), Pub. L. 94-362, 50 U.S.C. App. 5(b), Executive Order No. 11940, 15 CFR § 390.1, the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), and Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act provides, among other things, that the meetings of advisory committees are to be open to the public, and to public participation, unless the head of the agency (or his delegate) to which the committee reports determines in writing that all, or some portion, of the agenda of the meeting of the Committee is concerned with matters listed in Section 552(b) of Title 5 of the United States Code. Section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, effective March 12, 1977, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the Advisory Committee reports, determines that such portion of such meeting may be closed to the public in accordance with 5 U.S.C. 552b(c).

Section 552(b)(1) of Title 5, United States Code, provides that information may be withheld from the public if it concerns matters specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy, and is in fact properly classified pursuant to such Executive Order.

5 U.S.C. 552b(c)(1) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

Notices of Determination authorizing the closing of meetings, or portions thereof, of the Semiconductor Technical Advisory Committee and its formal subcommittees, dealing with security classified matters, were approved on March 6, 1973 for the meeting of March 26, 1973; on June 18, 1973 for the meeting of June 29, 1973; on August 21, 1973, covering a series of meetings from August 21, 1973 to December 31, 1973; on December 26, 1973, for a series of meetings for the period January 1, 1974 through April 30, 1974; on May 16, 1974, covering a series of meetings from May 1, 1974 to January 3, 1975; on December 16, 1974, covering a series of meetings from January 4, 1975 to January 3, 1976; and on November 25, 1975, covering a series of meetings from January 4, 1976 to January 3, 1977.

In order to provide advice to the Department under the terms of its charter, the Committee and formal subcommittees thereof will continue to hold a series of meetings dealing with the matters set forth in the first paragraph of this Determination. These meetings will include discussions of the COCOM control list as it relates to the commodities and technical data under its purview, and with the foreign availability of these commodities and technical data. In addition, the Committee and its formal subcommittees will be preparing recommendations for the Department's consideration relating to the U.S. Government's negotiating position on COCOM-related matters. Much of the information relating to the COCOM control list, as well as proposed changes, is now or will be security classified for national defense or foreign policy reasons, pursuant to Executive Order No. 11652, 3 CFR 339 (1974). In order for the Committee and its formal subcommittees to provide required advice to the U.S. Government, it will be necessary to provide the Committee and its formal subcommittees with such classified material. Therefore, the portions of the series of meetings of the Committee and of subcommittees thereof that will involve discussions of matters specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order, must be closed to the public. The remaining portions of the series of meetings will be open to the public.

Accordingly, I hereby determine, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that those portions of the series of meetings of the Committee and of any subcommittees thereof, dealing with the aforementioned classified materials shall be exempt, for the period from the date of the signing of this determination, to August 29, 1978, from the provisions of Section 10 (a)(1) and (a)(3), relating to open meetings and public participation therein, because the Committee and subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552(b)(1) and 5 U.S.C. 552b(c)(1). The remaining portions of the meetings will be open to the public.

Dated: January 27, 1977.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

ALFRED MEISNER,
Acting General Counsel.

[FR Doc.77-6207 Filed 3-1-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Addition

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 77, of the proposed addition of the following commodity to Procurement List 1977, November 18, 1976 (41 FR 50975).

Class 6515

Case Ear Plug, 6515-00-299-8287.

If the Committee approves the proposed addition, all entities of the Government will be required to procure the above commodity from workshops for the blind or other severely handicapped.

Comments and views regarding the proposed addition may be filed with the Committee on or before April 4, 1977. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER (9-2-77).

By the Commitee.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-6167 Filed 3-1-77;8:45 am]

COMMISSION ON FEDERAL PAPERWORK

PUBLIC HEARINGS

Notice is hereby given of two public hearings of the Commission on Federal Paperwork to be held in California. The hearings will be held on March 17 and 18, 1977, in Room 4203, State Capitol, Sacramento.

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The first hearing will commence at 10:00 a.m., and continue until 4:00 p.m., with a recess from 12:00 a.m. to 2:00 p.m. The second hearing will commence at 9:00 a.m. and end at 1:00 p.m. At the first hearing, the Commission will receive comments about the impact of Federal paperwork upon State and local governments, large business, and small business. During the second hearing, the Commission will receive comments about the impact of Federal paperwork on public works, health, and the concept of a single application to verify eligibility for income security programs.

Testimony presented at these hearings will be used by the Commission on Federal Paperwork in making recommendations to the Congress and the President on changes which would ease the burden of Federal paperwork.

Persons wishing further information about the hearings should contact the Commission on Federal Paperwork, located at 1111 20th Street, N.W., Room 2000, Washington, D.C. 20582, telephone 202–653–5400.

FRANK HORTON,
Chairman.

[FR Doc.77–6277 Filed 3–1–77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[CP–76–16]

CROSS-CONNECTION CONTROL FOR HOSE-TYPE OR HOSE-CONNECTED CONSUMER PRODUCTS

Denial of Petition

The purpose of this notice is to announce the decision of the Consumer Product Safety Commission to deny a petition requesting the Commission to develop a consumer product safety rule with respect to hose-type or hose-connected consumer products which transmit water as their purpose or function, and which might cause illness or disease because of backflow through cross-connections.

Section 10 of the Consumer Product Safety Act (Pub. L. 92–573, 86 Stat. 1217; 15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish in the FEDERAL REGISTER its reasons for denial.

On July 9, 1976, the Commission received a petition from S. G. Wood, then of Roanoke, Virginia, requesting the commencement of a proceeding for the issuance of a consumer product safety rule which would require precautionary labeling for "consumer products that depend on water for their purpose or function," and which might cause illness or disease because of backflow through cross-connections. In a later communication, Mr. Wood stated that the risks of injury raised by the petition exist primarily with regard to hoses or certain consumer products connected to hoses. For purposes of this petition, a cross-connection is defined as any connection or structural arrangement between a public or consumer's potable water system through which backflow can occur. Backflow is defined as the flow of any foreign liquids, gases, or substances into the distributing pipe lines of a potable supply of water.

Mr. Wood has subdivided hose-type and hose-connected consumer products addressed in the petition into the three following classes:

1. Threaded fit hose products, such as garden hoses, which are designed to be screwed onto a threaded faucet;

2. Friction-fit hose products, such as some hand-held shower attachments, which are pushed onto a faucet and easily removed, and;

3. Tubing which is cut to specific sizes as needed.

The petitioner contends that a labeling requirement is necessary to address unreasonable risks of injury which he states can occur when a cross-connection exists between drinking water supplies and contaminated waters resulting from backflow associated with the use of the three specified classes of consumer products. The petitioner has suggested that people become ill from diseases or toxic substances introduced into their water supplies by backflow and treat themselves or seek medical attention without knowing the source of the illness. The specific labeling requested in the petition is as follows:

> This product should only be used in conjunction with a backflow prevention device and should under no circumstances be connected to an unprotected water source.

In assessing the question of unreasonable risk of injury or injury potential, the Commission weighs the degree, nature, and frequency of injury or potential injury associated with the consumer product against the potential effect of the rule on the cost, utility, and availability of the product. The Commission also considers the relative priority of the risk of injury associated with the product and the Commission's resources available for rulemaking activities with respect to that risk of injury. (Procedures for Petitioning for Rulemaking under section 10 of the CPSA, 16 CFR 1110.11(b).) The CPSC policy on establishing priorities for Commission action, 16 CFR 1009.8, sets forth the criteria upon which Commission priorities are based.

After careful consideration of the petition, information furnished by the petitioner, and data and information collected by the Commission staff, the Commission has denied the petition, in accordance with the criteria discussed above, for the reasons detailed in the following paragraphs.

While it is possible to postulate many scenarios for backflow through cross-connections that could lead to serious consequenes, available statistics show that their actual occurrence is low. For example, according to EPA records, during the period 1946–1970, there were some 335 instances of water borne disease; however, of these, only 22 appeared to have been caused by backflow through cross-connections. It is not known how many of these 22 instances in 24 years actually involved backflow through cross-connections using hose-type devices (the subject of this petition). The Commission believes that available data do not support an assertion that cross-connections involving hoses, as they are actually used by consumers pose an unreasonable risk of injury. Apparently the low likelihood of the necessary cirumstances to get backflow as well as existing practices (such as the model code requirement that outdoor hosecocks and others to which hoses may be expected to be connected should have backflow prevention devices), are keeping the number of serious backflow incidents very low.

The Commission is also of the opinion that the labeling requirement suggested by the petitioner would not substantially reduce the number of these incidents. It would appear that the lack of permanence of labels, consumer habits concerning the use of hoses and the general lack of understanding of backflow in cross-connections would tend to minimize the effectiveness of labeling as a remedy.

Therefore, pursuant to section 10(d) of the Consumer Product Safety Act (Pub. L. 92–573, 86 Stat. 1217, 15 U.S.C. 2059 (d)), notice is hereby given of the Commission's denial of the above-described petition.

Dated: February 25, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77–6220 Filed 3–1–77;8:45 am]

MEETING

This notice announces a meeting at which the staff of the Consumer Product Safety Commission will brief the Commission on certain matters of agency business. In accordance with requirements of the Government in the Sunshine Act and the Commission's Proposed and Interim Rules for Meetings (16 CFR Part 1012), this notice sets forth the agenda of that meeting, the subject matter, and notes whether all or part of the meeting is closed.

Staff briefings of the Commission are not intended as a forum for decision-making by the Commission—this is done at formal Commission Meetings. Briefings are scheduled on an as-needed basis for a variety of purposes; to provide the Commission with a status report on an agency activity, to review issues on which the staff is seeking Commission direction for proceeding on a matter, and/or to provide an overview discussion on a matter pending Commission action. Depending on needs that may arise, therefore, the announced agenda for staff briefings is subject to change. For additional information on possible changes or on specific items, interested persons can contact Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th St., N.W., Washington, D.C., 20207, telephone (202) 634–7700.

Dated: February 18, 1977.

SADYE E. DUNN,
Secretary.

Commission Briefing Meeting, March 9, 1977, 3rd Floor Hearing Room, 1111 18th Street, N.W., Washington, D.C.

AGENDA

All three matters will be discussed in open session unless otherwise noted.

9:30 A.M. CONVENE MEETING

1. *Briefing on Bureau of Information and Education (BIE) activities.* In this briefing, the staff will report on three information and education programs: (1) the 1976 Holiday Safety Program; (2) the Poison Prevention Program, which will focus on National Poison Prevention Week, March 20–26, 1977; and (3) the Outdoor Power Equipment Evaluation Project currently underway. The staff will also present a brief discussion of other programs planned for the year.

2. *Briefing on Generic Regulations for Toys and Other Children's Articles.* In December, 1976, the Commission gave guidance to the staff on completing work on generic regulations for toys and other children's articles under the Federal Hazardous Substances Act (FHSA). The regulations would deal with sharp points, sharp edges and small parts of these articles. The staff will brief the Commission on issues which have risen as a result of this guidance, and will discuss the staff proposal that the Commission consider issuing "technical guidelines" enforced by individual banning of hazardous articles, rather than self-executing banning regulations under the FHSA.

3. *Briefing on Consolidation of CPSC's Acts into an Amended Consumer Product Safety Act.* In this briefing, the Office of the General Counsel will brief the Commission on what it sees as major implications of consolidating into a single, amended Consumer Product Safety Act portions of the acts transferred to the administration of CPSC: the Federal Hazardous Substances Act (FHSA), the Poison Prevention Packaging Act (PPPA) and the Refrigerator Safety Act (RSA).

Adjournment.

[FR Doc.77–6337 Filed 3–1–77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

SCIENTIFIC ADVISORY BOARD

Meeting

FEBRUARY 16, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Cruise Missile Technology will hold a meeting on March 22, 1977 from 8:30 a.m. to 4:30 p.m. at Offutt AFB, Nebraska.

The Committee will receive classified briefings on the Stategic Air Command concept of operations vis-a-vis cruise missiles.

The meeting concerns matters listed in section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meeting will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77–6147 Filed 3–1–77;8:45 am]

ENERGY POLICY AND PLANNING OFFICE

NATIONAL ENERGY POLICY

Invitation for Public Comment

The Energy Policy and Planning Office seeks the comments and recommendations of the public about appropriate goals and actions for inclusion in a comprehensive national energy plan, scheduled for release on April 20, 1977. This invitation requests assistance from the public in the formulation of a comprehensive, workable, and equitable program to meet short- and long-term energy needs of the United States.

The Nation's current experiences with natural gas supplies in a severe winter and the oil embargo of 1973 have provided sharp and unpleasant evidence of the country's heavy dependence on certain nonrenewable energy resources. However, the Nation still lacks a coherent and balanced set of energy goals, programs, and actions. Having built an economy and a way of life based on cheap and abundant energy resources, the Nation has yet to adjust to the real and growing cost of energy and the depletion of many low-price resources. Inadequate information on and understanding of the problems, conflicts among competing and legitimate goals, pricing and regulatory practices that no longer make sense and institutions that have been poorly structured or have failed to respond have contributed to the current problems. Whatever these shortcomings have been however, the United States now needs to set itself firmly on a course that:

Places appropriate priority on conservation as a key element in energy policy;

Minimizes the harmful impact of possible supply disruptions and adverse weather conditions;

Takes account of the relative availability and provides for the proper use of our nonrenewable resources—coal, gas, and oil;

Assesses realistically the technical and economic potential of new energy technology together with its availability and safety;

Provides for proper protection of the environment;

Makes sure that the burdens of any national energy policy are shared fairly by all citizens; and

Initiates firm measures toward energy utilization that makes social and economic sense with due regard for timing needed to prevent serious dislocations and consequences.

Toward this end, all interested individuals, groups, and organizations are invited to submit their views and recommendations on appropriate goals, and the actions necessary to achieve those goals, and to resolve important policy issues. While the following is neither a complete list of issues nor is intended in any way to limit the scope of responses, comments are particularly solicited on:

Conservation. The United States per capita energy consumption and growth rate exceeds that of many other industrialized nations. Opportunities for significant conservation or improvements in the energy efficiency of homes and offices, in industry, and in transportation have been identified such as better insulation, better industrial practices, and more fuel efficient cars and trucks. How should these and other possibilities for improvements be pursued vigorously?

Voluntary means?

Financial incentives (benefits or taxes)?

Mandatory standards or other direct government action?

Imported energy. How should the United States seek to reduce vulnerability to supply disruption?

Should a substantial reserve stockpile be built and, if so, how large?

Should the country count on voluntary measures during a crisis?

Other measures?

Supply development. What emphasis should be given to the development and use of coal, oil, gas, nuclear power, hydroelectric, synthetic fuels, solar power, geothermal, and other energy sources?

Which one or group of resources should be given highest priority?

Which of these resources can be developed with minimum environmental damage?

What should be the Federal role in research and development?

How deeply should the Federal Government become involved in financing supply development?

Environment. What new approaches or improved processes, if any, should be used to ensure proper consideration of air, water, and land use impacts to achieve appropriate reclamation in surface mining? Should any sacrifices be made in environmental quality in order to develop new energy resources?

Federal regulation. What is the appropriate Federal role and approach in the regulation of oil, natural gas, leasing of public lands and the outer continental shelf, nuclear power plants, electric utilities and fuel allocation?

What new approaches should be taken or stimulated?

For each area, should policy move toward greater controls over prices and other matters or toward greater reliance on market forces?

What kinds and types of regulatory protections should be adopted to protect consumers?

Intergovernmental relationships. What is the appropriate division of responsibilities and roles among Federal, state, and local governments in all dimensions of the development and implementation of energy policies?

Citizen participation. How can the public, and various organizations and interested groups best participate in the continuing evolution and implementation of energy policies?

Hardships. How can the economic hardships of a severe weather or an unanticipated sharp rise in energy prices best be alleviated?

Interested persons are invited to submit written comments and recommendations, together with any supporting data and analyses, to Post Office Box 2709, Washington, D.C. 20013. Submissions should be identified on the outside of the envelope in which they are transmitted with the designation "National

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Energy Policy Recommendations." No material submitted in response to this notice can be returned. All submissions must be received on or before March 21, 1977, if they are to be considered in formulating a proposed national energy policy.

Any information or data considered by the person furnishing it to be confidential must be so identified and be submitted in writing, one copy only. The Federal Government reserves the right to determine the confidential status of the information or data and treat it according to its determination.

JAMES R. SCHLESINGER,
Assistant to the President.

[FR Doc.77-6471 Filed 3-1-77;10:19 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 694-1]

MANAGEMENT ADVISORY GROUP TO THE MUNICIPAL CONSTRUCTION DIVISION

Postponement of Meeting

Pursuant to Pub. L. 92-463, notice of postponement for the Management Advisory Group Meeting to the Municipal Construction Division on March 10-11, 1977, published in the FEDERAL REGISTER on February 10, 1977, is rescheduled for March 31 and April 1, 1977 at 9:00 a.m. On March 31 the meeting will be held at Crystal Mall No. 2, Room 112, Conference Room A, 1901 Jefferson Davis Highway, Arlington, Virginia. On April 1 the meeting will be held at Waterside Mall, Room 3906-3908, 401 M Street, S.W., Washington, D.C.

The purpose of the meeting is to develop the advice and comment of the Management Advisory Group on proposed amendments to the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500), especially the recommendations of the National Commission on Water Quality. Other matters of urgency will also be on the agenda.

The meeting will be open to the public. Any member of the public wishing to attend should contact the Executive Secretary, Mr. Harold Cahill, Director, Municipal Construction Division, EPA, Washington, D.C. 20460. The telephone number is area code 202-426-8986.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

FEBRUARY 25, 1977.

[FR Doc.77-6273 Filed 3-1-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

FUEL OIL MARKETING ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Fuel Oil Marketing Advisory Committee will meet Monday, March 28, 1977 at 9 a.m. at the Drake Hotel, 140 East Walton Place, Chicago, Illinois.

The Committee was established to provide the Administrator, FEA, with expert and technical advice concerning the trade of selling fuel oil.

The agenda for the meeting is as follows:

1. Old Business: Discussion of Requests and Commitments from the Prior Committee Meeting.
2. Trigger Mechanism Effectiveness.
3. Auditing Procedures for Auditors.
4. Projected Supply Situation for Summer and Next Winter.
5. Entitlements Program.
6. New Business.
7. Remarks From the Floor (10 minute rule).

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform the Director, Advisory Committee Management, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., February 25, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-6488 Filed 2-25-77;2:21 pm]

FEDERAL MARITIME COMMISSION

[Agreement 10259]

AMERICAN WEST AFRICAN FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126, or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 14, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

John K. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

Notice of the filing of Agreement No. 10259 was published in the FEDERAL REGISTER of August 10, 1976, (Vol. 41, No. 155, Page 33586).

Agreement No. 10259 was refiled, in part, on February 4, 1977, for the purpose of (1) amending Article 10 to provide that any adjustments in allocated berth positions may be changed only by two-thirds majority vote, rather than majority vote, of the parties; (2) revising Article 12 to provide that Agreement No. 10259 shall continue in effect for fourteen (14) months, instead of ninety days, and thereafter for additional ninety day periods upon the affirmative vote of two-thirds of the parties; (3) adding a new Article 14 to provide that any member line of the American West African Freight Conference may become a party to Agreement No. 10259 within a period of time not to exceed twelve (12) months following the date of its written application for membership, and by paying $5,000.00 as a contribution to the costs of the administration of said agreement and (4) adding Nopal West African Line and Mid-Ocean Lines, Inc. as parties to Agreement No. 10259.

By order of the Federal Maritime Commission.

Dated: February 25, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6243 Filed 3-1-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CS73-36, etc.]

JAMES D. MULLINS AND ROBERT L. PRICHARD, d/b/a MULLINS AND PRICHARD, ET AL.

Applications for "Small Producer" Certificates[1]

FEBRUARY 22, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certicfiate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificate is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS73-36	Jan. 19, 1977 [1] Feb. 2, 1977 [1]	James D. Mullins and Robert L. Prichard, d.b.a. Mullins & Prichard, 416 Oil and Gas Bldg., New Orleans, La.
CS74-292	Jan. 31, 1977 [2]	E. R. Duke, 1400 Wilco Bldg., Midland, Tex. 79701.
CS77-87	Nov. 19, 1976 [4]	Cordillera Corp., 232 East 3rd Ave., Denver, Colo. 80209.
CS77-315	Feb. 1, 1977	Dolpha Anderson, R.F.D. No. 1, Fleming, Ohio 45792.
CS77-316	Feb. 3, 1977	Amelia R. Josey, 2614 Northwest 62d St., Oklahoma City, Okla. 73112.
CS77-317	Feb. 2, 1977	McCormick 1974 Oil and Gas Program, 1100 Milam Bldg., suite 2690, Houston, Tex. 77002.
CS77-318	....do....	McCormick 1975 Oil and Gas Program.
CS77-319	....do....	Do.
CS77-320	Feb. 4, 1977	D. A. and Vaughn E. Null, Hundred, W. Va. 26575.
CS77-321	Feb. 7, 1977	Viking Resources Corp., 2900 DuBois Tower, Cincinnati, Ohio 45202.
CS77-322	....do....	R. K. O'Connell, P.O. Box 2003, Casper, Wyo. 82602.
CS77-323	....do....	Ernest D. Cox, Route 1, Box 149, Ramona, Okla. 74061.
CS77-324	....do....	Hawthorn Oil Co., P.O. Box 2693, Casper, Wyo. 82602.
CS77-325	Feb. 9, 1977	Jean C. Lindsey, P.O. Box 2766, Laurel, Miss. 39440.
CS77-326	....do....	Margaret A. Chisholm, P.O. Box 2766, Laurel, Miss. 39440.
CS77-327	....do....	Cynthia C. Staint-Amand, P.O. Box 2766, Laurel, Miss. 39440.
CS77-328	....do....	Mary Sunners Walton, 1500 Beck Bldg., Shreveport, La. 71101.
CS77-329	....do....	John W. Grant and Myrtle I. Grant, 1502 North Chambers Terr., Claremore, Okla. 74017.
CS77-330	....do....	Gene Price, independent executrix of estate of Guy Wetzel, deceased, 1 Brownwood Pl., Longview, Tex. 75601.
CS77-331	....do....	J. E. Price, 1 Brownwood Pl., Longview, Tex. 75601.
CS77-332	Feb. 10, 1977	Wheatland Oil & Gas, Inc., 14th floor, 125 North Market, Wichita, Kans. 67208.
CS77-333	....do....	James P. Linn, 410 Fidelity Plaza, Oklahoma City, Okla. 73102.
CS77-334	....do....	J. D. Helms, Box 1294, Oklahoma City, Okla. 73101.
CS77-335	Feb. 14, 1977	Bayne Oil Co., 808 Lincoln Tower Bldg., 1860 Lincoln St., Denver, Colo. 80303.
CS77-336	Feb. 11, 1977	Jefferson-Williams Energy Corp., 924 Park Central II, 7540 LBJ Freeway, Dallas, Tex. 75251.
CS77-337	....do....	David D. Read, Jr., 803 Bank of the Southwest Bldg., Amarillo, Tex. 79109.
CS77-338	....do....	John Evans, 6306 Elder Grove, Dallas, Tex. 75232.
CS77-339	Feb. 14, 1977	Rockingham Exploration Co., 103 South Elmer Ave., Sayre, Pa. 18840.
CS77-340	....do....	Z Bar Cattle Co. (formerly David - Noland - Merril Grain Co.,), suite 1220, 127 West 10th St., Kansas City, Mo. 64105.

[1] Applicant filed to request succession in interest. Applicant acquired title to a one-well field in Shell Island Pass Field, St. Mary Parish, La. which was previously covered under a large producer certificate issued to Chevron Oil Co. (The California Co.) in Docket No. C169-152.

[2] Applicant requests a waiver of section 157.40(c) of FPC regulations in order that subject acrege covered in Docket No. C169-152 may be covered under Mullins & Prichard's small producer certificate in Docket No. CS73-36.

[3] Applicant is filing to request that gas sales by Dugo Enterprises, a partnership comprised of E. R. Duke and Alton C. Goodrich, which recently took over operations of a small property in Reagan County, Tex., be covered by its small producer certificate in Docket No. CS74-292.

[4] Cordillera has recently entered into a contract with Western Transmission Corp. to sell gas produced from a well acquired from a large producer. Applicant requests a waiver of section 157.40(c) of the Commission's regulations. Applicant also states that it is willing to accept a condition which would limit the rate received for gas sold from such well to the Commission's large producer ceiling rate which may be applicable.

[FR Doc. 77-6006 Filed 3-1-77;8:45 am]

[Docket No. E77-21]

COLUMBIA GAS TRANSMISSION CORP.

Emergency Natural Gas Act of 1977; Supplemental Emergency Order

On February 15, 1977, Columbia Gas Transmission Corporation (Columbia), on behalf of itself and UGI Corporation (UGI), filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 100,000 Mcfd of natural gas from Pacific Gas and Electric Company (PG&E) with 75 percent of the volumes accruing to Columbia and 25 percent to UGI. On February 18, 1977, I approved the proposed transaction on the condition that PG&E agree to amend its contract with Columbia and UGI to state the carrying charges on the delivered gas volumes in monetary terms rather than additional gas volumes to be redelivered to PG&E. By letter filed February 23, 1977, Columbia stated that:

(i) PG&E has agreed to a carrying charge of 1.8 cents per Mcf of gas delivered;

(ii) El Paso Natural Gas Company (El Paso) will charge 1.0 cent per Mcf for gas delivered by El Paso for Columbia's account and for any volumes returned to PG&E through El Paso; and

(iii) El Paso will deliver gas to Oasis Pipeline Company (Oasis) on an Mcf, not a Btu, basis.

Columbia requests that I find the above charges to be fair and equitable.

In "Southern Natural Gas Company", Docket No. E77-5 (February 20, 1977), I found PG&E's proposed carrying charge of 1.8 cents per Mcf delivered and El Paso's charge of 1.0 cent per Mcf for each Mcf delivered and for each Mcf redelivered through its system to PG&E to be fair and equitable. I find such charges to be fair and equitable in this proceeding and Columbia may pay these charges.

The February 18, 1977 order in this proceeding is hereby amended to state that El Paso will deliver gas to Oasis for the account of Columbia and UGI on an Mcf basis. To the extent not inconsistent with the provisions of this order, the provisions of the February 18, 1977 order remain in full force and effect.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia, UGI, PG&E, El Paso, Oasis, Bronco Pipeline Company, Tenngasco, Inc., Tennessee, and Columbia Gulf. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 24, 1977.

[FR Doc.77-6159 Filed 3-1-77;8:45 am]

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[Docket No. E77-1]

TRANSCONTINENTAL GAS PIPE LINE CORP. ET AL.

Emergency Natural Gas Act of 1977; Supplemental Emergency Order

On February 17, 1977, Transcontinental Gas Pipe Line Corporation (Transco), as agent for certain of its customers, filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for supplemental authorization to purchase up to an additional 80,000 Mcfd from six distributor customers of Northwest Pipeline Corporation (Northwest).[1] Transco states that the prices for the increased volumes will be the same as the prices for the volumes currently being purchased by Transco.[2]

Transco has previously certified that these prices satisfy the requirements of Paragraph (3) of Order No. 2. Accordingly, I find the prices for all volumes to be fair and equitable as provided by Order No. 2.

Because LoVaca's facilities utilized in the initial transaction do not have sufficient capacity to transport the increased volumes, further transportation arrangements have been agreed upon for the additional volumes. Northwest will deliver about 60,000 Mcf per day to El Paso, which in turn will deliver the gas available to Delhi Gas Pipeline Corporation's (Delhi) Pecos Gas Gathering System at the Waha Field, Texas. Delhi will deliver equivalent quantities to LoVaca's 36-inch West Texas Pipeline for delivery of an equivalent volume to Delhi's Blessing-Victoria System. Delhi will deliver equivalent volumes to United Gas Pipe Line Company (United) in Victoria County, Texas, for redeljvery to Transco at an existing interconnection in Victoria County, Texas. The remaining volumes of up to 20,000 Mcf per day will be transported from Northwest's system to Transco's system through the interstate facilities of Colorado Interstate Gas Company (CIG) and Natural. Northwest will deliver such volumes to CIG, which will deliver equivalent quantities to Natural at an existing interconnection in Texas County, Oklahoma. Natural, in turn, will deliver to Transco at the Mobil Cameron Meadows Plant.

Transco has agreed to pay the transportation charges set forth below for volumes transported: (i) Under the original authorization through LoVaca: LoVaca—18 cents per Mcf plus 2 percent of the volumes transported; (ii) under the original authorization by El Paso and Natural: El Paso—1.0 cent per Mcf; Natural—15.0 cents per Mcf plus 9 percent of the volumes transported; (iii) transported by LoVaca and Delhi; El Paso—1.0 cent per Mcf; LoVaca—20 cents per Mcf plus 2 percent of the volumes transported; Delhi—12 cents per Mcf; (iv) by CIG and Natural: CIG—17.35 cents per Mcf; Natural—16.5 cents per Mcf plus 3 percent of the volumes transported.

Pursuant to section 6(c)(1) of the Act (91 Stat. 4, 8), I hereby authorize and order (i) El Paso, Northwest, Natural CIG, LoVaca, Delhi, and United to transport gas for Transco on the terms and at the charges set forth above and (ii) Transco to pay the agreed upon charges. Because the parties have agreed on the transportation charges to be paid, I find no reason to fix other charges at this time. If the transportation networks proposed herein and authorized become inadequate at any time during this transportation, the parties are hereby authorized to make alternative arrangements and notify the Administrator of such changes within seventy-two hours of the commencement of deliveries under new arrangements.

LoVaca and Delhi have agreed to transport a portion of this additional gas and advised that the deliveries can be accomplished through existing intrastate pipeline facilities. Thus, I find no reason to require the construction and operation of facilities as permitted under section 6(c)(1) of the Act. LoVaca and Delhi have agreed to transport up to 60,000 Mcf per day for Transco subject to available line capacity on a best efforts basis. Upon the commencement of deliveries, LoVaca and Delhi shall advise the Administrator of their available line capacities.

In the course of such transportation by LoVaca and Delhi from point of origin to destination, there may be a commingling of interstate natural gas with LoVaca's or Delhi's normal system gas supplies or with volumes of gas owned by third parties. This order shall be considered as applying to all such commingled gas, and, under the provisions of Pub. L. 95-2, the producers, transporters and other suppliers of such gas, which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as a common carrier under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Public Law 95-2 since LoVaca and Delhi are transporting gas for Transco pursuant to section 6(a) of that Act. LoVaca, Delhi and any third person whose gas in commingled with Transco's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, LoVaca and Delhi are not classified as Natural Gas Companies within the meaning of the Natural Gas Act. Section 6(b)(1)(A) of Pub. L. 95-2 (91 Stat. 4, 8) provides that the provisions of the Natural Gas Act shall not apply to any sale of natural gas to an interstate pipeline or a local distribution company made pursuant to Section 6(a) or to any transportation of such gas by an intrastate pipeline in connection with such sale. Section 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, LoVaca and Delhi will not become subject to any provision of the Natural Gas Act as a result of this sale and transportation and LoVaca and Delhi shall not be subject to regulation as common carriers under State law because of their transportation of these gas volumes.

Transco states that it is attempting to secure such supplies which may be available from Northwest's distributor-customers for the full term of the Emergency Natural Gas Act of 1977, i.e., through July 31, 1977, and to obtain transportation for such supplies. Transco further states that Delhi has agreed to transport for the full term on a best efforts basis subject to available capacity, and LoVaca has agreed to transport for sixty days and on a best efforts basis thereafter, subject to termination on one week's notice. Accordingly, Transco requests that any order issued be effective for the full term in order to avoid the necessity for additional authorizations in the event that Transco finalizes the purchase arrangements for that length of time. I find this request to be reasonable and so order.

Transco shall submit weekly reports as required by Order No. 4. In addition, Transco's purchase of these volumes is conditioned on Transco's submission of a sworn statement that neither Transco nor any of its pipeline and distribution company customers are serving any of the uses defined in 18 CFR §§ 2.78 (a)(1)(iv)-(ix), as required by Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served on Transco, Northwest, El Paso, LoVaca, Delhi, United, CIG and Natural. This order shall also be published in the FEDERAL REGISTER.

This order and the authorization herein granted are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 24, 1977.

[FR Doc. 77-6160 Filed 3-1-77;8:45 am]

[1] Transco's filing indicates that, at the present time, about 145,000 Mcf per day is flowing through LoVaca Gas Gathering Company (LoVaca) pursuant to the February 3, 1977 order herein; an additional 10,000 Mcf per day is being transported to Transco through a wholly interstate pipeline network involving Northwest, El Paso Natural Gas Company (El Paso) and Natural Gas Pipeline Company of America (Natural). These volumes are delivered to Transco by Natural at an existing interconnection at Mobil Oil Corporation's Cameron Meadows Plant, Cameron Paris, Louisiana. For such transportation, El Paso is charging 1.0 cent per Mcf and Natural is charging 15.0 cents per Mcf plus 9 percent of the volumes transported for fuel.

[2] Transco originally commenced purchases from three distributor customers of Northwest at a price of $2.76 per MMBtu. Subsequently, Southwest Gas Corporation (Southwest) was added as a party-seller. Southwest is selling at a price of $2.41 per MMBtu. Transco states that Northwest has advised that two additional distributor-customers, California Pacific Utilities Company and Intermountain Gas Company, will be added to the arrangement and that their respective sales will be made at $2.76 per MMBtu. These prices are inclusive of a 1.0 cent per MMBtu charged by Northwest.

[Docket No. RP72-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Extension of Time

FEBRUARY 23, 1977.

On February 14, 1977, Transcontinental Gas Pipe Line Corporation (Transco) filed a motion requesting an extension of time for complying with Ordering Paragraph (B) of Opinion No. 778-A, issued December 8, 1976, in the above-designated proceeding.

Upon consideration, notice is hereby given that an extension of time is granted to and including March 1, 1977, within which Transco shall comply with Ordering Paragraph (B).

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6162 Filed 3-1-77;8:45 am]

[Project No. 459]

UNION ELECTRIC CO.

Issuance of Annual License(s)

FEBRUARY 23, 1977.

On February 20, 1973, the Union Electric Company, Licensee for the Osage Project No. 459, located on the Osage River, in Benton, Camden, Miller and Morgan Counties, Missouri, filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 459 was issued effective February 25, 1926, for a period ending February 24, 1976. Since expiration of the original license, the project has been maintained and operated under an annual license which will expire February 24, 1977. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the Union Electric Company.

Take notice that an annual license is issued to the Union Electric Company for the period February 25, 1977, to February 24, 1978, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Osage Project No. 459 subject to the terms and conditions of the original license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before February 24, 1978, a new annual license will be issued each year thereafter, effective February 25 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Comsion.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6163 Filed 3-1-77;8:45 am]

[Docket No. ER77-61]

INTERSTATE POWER CO.

Filing of Superseding Rate Schedule

FEBRUARY 24, 1977.

Take notice that Interstate Power Company, on November 15, 1976, tendered for filing proposed changes in its Federal Power Commission electric service rate schedule No. 106. The proposed change expands the scope of service available to the city of Bellevue, Iowa by providing firm power service to that City.

The City of Bellevue requested firm power service from Interstate to supplement the capacity of Bellevue's municipal utility system. Interstate is able to provide the firm power from its system and consequently a contract including such service was executed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6272 Filed 3-1-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

TUMOR VIRAL IMMUNOLOGY WORKSHOP

Amended Notice of Meeting

Notice is hereby given of a change in the meeting place of the Tumor Viral Immunology Workshop which was published in the FEDERAL REGISTER on January 25, 1977 (42 FR 4542).

This workshop was to have convened March 8 and 9, 1977, from 9 a.m. to 5 p.m. each day at the King and Prince Hotel, St. Simon Island, Georgia, but has been changed to the Twin Bridges Marriott Hotel, U.S. 1 and I-95, Arlington, Virginia. Only the location has been changed. The dates and times remain the same.

The main purpose of the workshop is to review the current knowledge and present state of research regarding oncornaviral antigens and immune responses to these antigens. Particular emphasis will be placed on establishing the nomenclature for these antigens. This is not an advisory committee meeting. The workshop will be open to the public but attendance will be limited to available space.

For additional information contact Dr. Wilna Woods, National Cancer Institute, Landow Building, Room C306, 7910 Woodmont Avenue, Bethesda, Maryland 20014, (301) 496-6085.

Dated: February 24, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6202 Filed 3-1-77;8:45 am]

NATIONAL LARGE BOWEL CANCER PROJECT WORKING CADRE

Amended Notice of Meeting

Notice is hereby given of a change in the meeting March 4-5, 1977 of the National Large Bowel Cancer Project Working Cadre, National Cancer Institute, which was published in the FEDERAL REGISTER on February 11, 1977, (42 FR 8718).

This Working Cadre was to have convened at 7:30 p.m. on March 4, 1977, but has been changed to 3 p.m., March 4, 1977, at the Anderson Mayfair Hotel, 1600 Holcombe Boulevard, Houston, Texas.

The meeting will be open to the public from 3 p.m. to 3:30 p.m.

Dated: February 24, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6303 Filed 3-1-77;8:45 am]

Office of Education

EMERGENCY SCHOOL AID ACT

Interpretation Regarding Desegregation Plans; Correction

On January 21, 1977, at 42 FR 3900, a notice entitled "Interpretation Regarding Desegregation Plans" was published. Typographical errors in that notice are hereby corrected as set forth below.

Approved: February 22, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

FR Doc. 77-1871 (42 FR 3900, Jan. 21, 1977) is reprinted as follows:

The purpose of this notice is to clarify for local educational agencies ("LEA's") seeking financial assistance under the Emergency School Aid Act ("ESAA"; Title VII of Pub. L. 92-318, as amended (20 U.S.C. 1601-1619)) the characteristics of plans for "desegregation" as that term is used in section 706(a)(1)(A) of the statute.

BACKGROUND

Section 706(a)(1)(A) authorizes financial assistance to a local educational agency which is implementing a plan—

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(i) Which has been undertaken pursuant to a final order issued by a court of the United States or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the *desegregation of minority group segregated children or faculty* in the elementary and secondary schools of such agency * * *; or

(ii) Which has been approved by the Secretary (of HEW) as adequate under title VI of the Civil Rights Act of 1964 for the *desegregation of minority group segregated children or faculty* in such schools * * * (*Italics* supplied.)

Program regulations adopted under the ESAA define "desegregation," at 45 CFR 185.02, as follows:

(k) The term "desegregation" means the assignment of children or faculty to public schools and within such schools without regard to their membership in a minority group, but "desegregation" does not mean the assignment of such persons to or within public schools in order to overcome racial imbalance.

Information sought by local educational agencies indicates that there remains some uncertainty as to whether particular plans are "desegregation" plans within the meaning of these statutory and regulatory provisions. Questions have arisen as to the applicability of these provisions in the case of LEA's implementing plans to improve the quality of educational services to minority group children where no finding of illegal conduct respecting those children has been made, or plans undertaken in response to a finding of illegal conduct (particularly violations of title VI of the Civil Rights Act of 1964) other than the illegal separation of minority group children or faculty from their nonminority group counterparts. Therefore, the Commissioner has determined that publication of an interpretation of section 706(a)(1)(A) will aid LEA's in assessing their eligibility for ESAA assistance, and will help to ensure the uniform administration of programs under the ESAA throughout the country.

INTERPRETATION

1. It is the Commissioner's interpretation that a plan for the "desegregation of minority group segregated children or faculty" under section 706(a)(1)(A), unlike other qualifying plans described in section 706(a), must arise out of a legal obligation to remedy illegal conduct. This reading of the statute is in accord with the distinction, in the above-quoted regulatory definition of "desegregation," between assignments without regard to minority group membership ("desegregation") and assignments to overcome racial imbalance (not "desegregation"). It is, furthermore, consistent with the legislative history of the statute. The House Report on the bill which became the ESAA (H.R. 2266, 92nd Cong.) states as follows regarding categories of eligibility:

The first category of eligibility includes those districts implementing plans to desegregate or integrate *under mandate* from Federal or State courts or from the Department of Health, Education, and Welfare (under authority of title VI of the Civil Rights Act of 1964). (H.R. Rep. No. 92-576, 92nd Cong., 1st Sess. 12 (1971); *italics* supplied.)

The report on the Senate counterpart to the same bill (S. 1557, 92nd Cong.) also makes that point in the following language:

In ascertaining the eligibility of any local educational agency on the basis of its implementation of a plan in compliance with the categories provided in [clauses (i) and (ii) of section 706(a)(1)(A)], the end requirement of the plan and *the origin of the requirement must be considered*. (Sen. Rep. No. 92-61, 92nd Cong., 1st Sess. 35 (1971); *italics* supplied.)

For these reasons, the Commissioner will consider as a "desegregation" plan under section 706(a)(1)(A) (i) or (ii) only a plan which is premised on a finding of illegal conduct, and which consists of the steps required by the pertinent court, agency, or official to remedy that illegal conduct. In particular, a plan under clause (ii) of that section, relating to title VI of the Civil Rights Act of 1964, will be deemed to include only steps approved as adequate to remedy a violation of that statute. Where an LEA has not violated title VI, it must look to other provisions of section 706(a) as a basis for its eligibility for ESAA assistance.

(20 U.S.C. 1605(a)(1)(A))

2. In addition, the Commissioner interprets the phrase "desegregation of minority group segregatel children or faculty" in section 706(a)(1)(A) to refer to the reassignment of children or faculty in order to overcome the illegal separation of minority group children or faculty from their nonminority group counterparts in a local educational agency's schools. Under this interpretation the terms "desegregation" and "segregated" in the quoted phrase are given the meanings they are understood to have in ordinary usage, and meanings which are in accord with the regulatory definition of "desegregation" set out at 45 CFR 185.02(k). This interpretation is also consistent with expressions of the Congressional purpose in enacting the statute. The House report on H.R. 2266 states as follows:

The rationale for the reported bill is best expressed in the President's words: "This Act deals specifically with problems which arise from racial *separation*, whether deliberate or not, and whether past or present."

(H.R. Rep. No. 92-576, 92d Cong., 1st Sess. 3 (1971); *emphasis* supplied.)

(Undeliberate *separation* is treated in this bill, and in the statute as enacted, in provisions lealing with plans affecting "minority group isolation".)

The Senate report on S. 1557 indicates that a similar need was addressed by that bill:

Whether or not it is deliberate, racial, ethnic, and socio-ecohomic *separation* in our schools and school systems have serious and often irreparable adverse effects on the education of all children, be they from deprived or from advantaged backgrounds. (Sen. Rep. No. 92-61, 92d Cong., 1st Sess. 6 (1971); *italics* supplied.)

In the light of this legislative history, as well as the language of the statute, the Commissioner will consider as a "desegregation" plan under section 706(a)(1)(A) (i) or (ii) only those plans, or parts of plans, which provide for the reassignment of illegally separated children or faculty to or within the schools of a local educational agency.

(20 U.S.C. 1605(a)(1)(A))

EFFECTIVE DATE

Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this document has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER, and becomes effective on the forty-fifth day following transmission, subject to the provisions in section 431(d) concerning Congressional action and adjournment.

Dated: January 17, 1977.

EDWARD AGUIRRE,
United States Commissioner of Education.

Approved:

VIRGINIA Y. TROTTER,
Assistant Secretary for Education.

[FR Doc.77-6336 Filed 3-1-77;8:45 am]

Assistant Secretary for Education

EDUCATION STATISTICS

Comments on Collection of Information and Data Acquisition Activity

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before April 1, 1977, and should be addressed to Administrator, National Center for Education Statistics, Attn.: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: February 24, 1977.

DAVID ORR,
Acting Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA COLLECTION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Development of Reporting System and Case Studies of Non-Instructional Services in Title I, ESEA.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Office of Planning, Budgeting and Evaluation.

3. AGENCY FORM NUMBER

OE513-1, OE513-2, OE513-3, OE513-4, OE 513-5.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"The Commissioner shall provide * * * models for evaluations of all programs * * * which shall * * * outline techniques * * * for producing data which are comparable on a statewide and nationwide basis. * * * The Secretary shall transmit (to specified committees of the Congress) an annual evaluation report which evaluates the effectiveness of applicable programs * * * such report shall (among other things) * * * set forth the goals and specific objectives * * * of such program * * * contain information of the progress * * * toward the achievement of such goals * * * describe the * * * benefits * * * and identify which sectors of the public receive the benefits * * *"
(Pub. L. 93-380, Sec. 151 (d), (f); Part B, Subpart 2, Sec. 417(a) of the General Education Provisions Act as amended; 20 U.S.C. 1226c.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

One purpose of the project is to explore the feasibility of extending the Financial and Performance Report Forms for Title I, ESEA (OE Forms 380-1 and 380-2) to include a finer delineation of the non-instructional services being provided. If such an extension proves feasible, changes in the Financial and Performance Reports will be proposed. A second purpose of the project is to conduct exploratory case studies of non-instructional services in 25 Title I communities. The results of the studies will be used in revising the proposed reporting forms and will be summarized in the Annual Evaluation Report to Congress (20 U.S.C. 1226c).

7. DATA ACQUISITION PLAN

(a) Method of collection: Personal interview and mail.
(b) Time of collection: Spring 1977.
(c) Frequency: Single time.

8. RESPONDENTS

(a) Type: Principals.
(b) Number: 100.
(c) Estimated average man-hours per respondent: 0.75.
(a) Type: Title I Non-Instructional Service Providers.
(b) Number: 200.
(c) Estimated average man-hours per respondent: 1.00.
(d) Type: Administrators of Non-Instructional Services.
(e) Number: 50.
(f) Estimated average man-hours per respondent: 0.75.
(g) Type: Title I Directors.
(h) Number: 25.
(i) Estimated average man-hours per respondent: 4.00.

9. INFORMATION TO BE COLLECTED

Respondent type: Principals. Types of non-instructional services provided within school. How non-instructional services are chosen.

Respondent type: Title I Non-Instructional Service Providers. Types of non-instructional services provided. How services are coordinated with community agencies and within school.

Respondent type: Administrators of Non-Instructional Services. Types of non-instructional services provided by regular school program. How services are coordinated with community agencies. How non-instructional services are chosen.

Respondent type: Title I Directors. Objectives and purposes of non-instructional services. Types of non-instructional staff employed. Types of services offered in a typical week. How services are coordinated within school.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Incentive Grant Application for Fiscal Year 1978 under Part B of the Education of the Handicapped Act as amended by Pub. L. 94-142.

2. AGENCY, BUREAU/OFFICE

U.S. Office of Education/Bureau of Education for the Handicapped.

3. AGENCY FORM NUMBER

OE 9055-1.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Section 619 of Pub. L. 94-142 states:

"(a) The Commissioner shall make a grant to any State which—

"(1) Has met the eligibility requirements of (the Act);

"(2) Has a State plan approved under (the Act); and

"(3) Provides special education and related services to handicapped children aged three to five, inclusive, who are counted for the purposes of (the Act).

"(b) Each State which—

"(1) Has met the eligibility requirements of (the Act),

"(2) Has a State plan approved under (the Act), and

"(3) Desires to receive a grant under this section, shall make an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require.

"(c) The Commissioner shall pay to each State having an application approved under subsection (b) of this section the amount to which the State is entitled under this section, which amount shall be used for the purpose of providing the services specified in clause (3) of subsection (a) of this section." * * *

(Pub. L. 94-142; 20 U.S.C. 1419.)

The proposed regulation state further:

Section 121m.5. An application must include the following materials:

(a) A description of the State's goals and objectives for meeting the educational needs of handicapped children ages three through five. These goals and objectives must be consistent with the State's full educational opportunity goal under § 121.23 of this chapter.

(b) A description of the objectives to be supported by the grant in sufficient detail to determine what will be achieved with the grant.

(c) A description of the activities to be supported by the grant in sufficient detail to determine how the grant will be used.

(d) A description of the impact the proposed activities will have on handicapped children ages three through five. This description must include evidence that the proposed activities are of sufficient size, scope, and quality to warrant the amount of the expenditure. The application must indicate the number of children who will be benefitted indirectly. If children are to be benefitted indirectly, there must be a rationale that demonstrates the benefit.

(e) The number of local educational agencies or intermediate education units, and the number and names of other agencies which will provide contractual services under the grant, the activities they will carry out, and the reasons for selecting these agencies.

(f) The dollar amounts that will be spent for each major activity described.

(g) A description of the procedures the State will use to evaluate the extent to which the activities met the objectives described under paragraph (b) of this section.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

The Incentive Grant Application will be used to determine whether a State Education Agency is eligible to receive an incentive grant award under Pub. L. 94-142 for the education of handicapped children ages three through five who are counted for the purposes of EHA-B funding. The information collected in the application will be used to measure and evaluate the impact of the program authorized and the effectiveness of State efforts to assure the free appropriate public education of all handicapped children.

7. DATA ACQUISITION PLAN

(a) Method of Collection: By Mail.
(b) Time of Collection: Spring.
(c) Frequency: Annually.

8. RESPONDENTS

(a) Type: State and "Territorial" Education Agency.
(b) Number: 57 (Universe).
(c) Estimated Average Man Hours per Respondent: 6 (six).

9. INFORMATION TO BE COLLECTED

The standard non-construction application found in the "Federal Management Circular 74-7" (formerly Office of Management and Budget Circular No. A-102) and the standard face page (SF 424) will be used. The program narrative for the standard application will highlight the points under "4. Legislative Authority" above.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

National Needs Assessment of Media and Materials for the Handicapped.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Education for the Handicapped.

3. AGENCY FORM NUMBER

OE 9059-1 through OE 9059-10.

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4. LEGISLATIVE HISTORY FOR THIS ACTIVITY

"Sec. 651.(a) The purposes of this part are to promote * * * (2) the educational advancement of handicapped persons by (A) Carrying on research in the use of educational media for the handicapped, (B) producing and distributing educational media for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of the handicapped, and (C) training persons in the use of educational media for the instruction of the handicapped".

(Pub. L. 91–230, 20 U.S.C. 1451.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The purpose of the National Needs Assessment of Educational Media and Materials for the Handicapped is to document the media and materials needs of handicapped children and training needs of related personnel as identified by special education teachers and supervisors. This project will provide special education teachers and supervisors an opportunity to express specific instructional media and materials needs, based upon their actual classroom experiences in educating handicapped children. The information will provide education agencies, at several levels, with a basis for affecting Federal State initiatives to provide planning assistance, fiscal resources, and/or direct services to the special education classroom teachers. More specifically the information will provide a basis for Federal and State determination of program priorities and directions related to: instructional material development, media and material information, instructional material distribution and media and material training.

7. DATA ACQUISITION PLAN

(a) Method of collection: Mail.
(b) Time of collection: Spring, 1977.
(c) Frequency: Single time.

8. RESPONDENTS

(a) Type: Teacher, Elementary/Secondary.
(b) Number: The universe in 35 participating states (estimated $n=87{,}000$).
(c) Estimated average man-hours per respondent: ⅔.
(d) Type: Special Education Supervisors.
(e) Number: The universe in 35 participating states (estimated $n=12{,}000$).
(f) Estimated average man-hours per respondent: ⅔.

9. INFORMATION TO BE COLLECTED

Teachers, Elementary/Secondary:

(a) Characteristics and number of students being served: Chronological age, functional level, type of handicap.

(b) Characteristics of existing and needed media and materials: Curriculum area, physical properties, useability with different groups, amount of teacher time required.

(c) Areas of needed training related to media and materials: Selection, design and adaptation, evaluation, operation.

(d) Access to and availability of media and materials: Sources from which they are obtained, method of delivery, timeliness of delivery.

(e) Available and needed sources of information related to media and materials: Catalog, information retrieval systems.

(f) Available and needed types of information related to materials and media: Available materials, new materials, training packages, research and evaluation.

(g) Demographic information: Highest level of formal education, professional experience, primary role, where employed, size of community, type of facility.

Special Education Supervisors:

(a) Characteristics and number of students being served: Chronological age, functional level, type of handicap.

(b) Characteristics of existing and needed media and materials; curriculum area, physical properties, useability with different groups, amount of teacher time required.

(c) Areas of needed training related to media and materials: Selection, design and adaptation, evaluation operation.

(d) Access to and availability of media and materials: Sources from which they are obtained, method of delivery, timeliness of delivery.

(e) Available and needed sources of information related to media and materials: Catalog, information retrieval systems.

(f) Available and needed types of information related to media and materials: Available materials, new materials, training packages, research and evaluation.

(g) Demongraphic information: Highest level of formal education, professional experience, primary role, where employed, size of community, type of facility.

[FR Doc.77-6180 Filed 3-1-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant. Arkansas State University, Division of Biological Science, State University, Arkansas 72467, V. Rick McDaniel.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one): ☐ IMPORT OR EXPORT LICENSE [XX] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Salvage of occasional specimens of gray and Indiana bats when brought in to this office dead for identification. Specimens to be available permanently for scientific and educational purposes.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
V. Rick McDaniel
Division of Biological Science
Arkansas State University
State University, Ark. 72467
501-972-3082/ home 501-935-0096

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

[X] MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT 5ft. 9"	WEIGHT 175lbs
DATE OF BIRTH 29 Oct. 1945	COLOR HAIR Brown	COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED 501-972-3082	SOCIAL SECURITY NUMBER 456 72 7455	

OCCUPATION: Professor of Zoology, Curator Mammals

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Arkansas State University
State University, Ark. 72467

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Bats are frequently brought in by the public for identification. They would come from northern Arkansas, but would not be collected, merely salvaged with pertinent data when possible.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES [XX] NO (If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [XX] YES ☐ NO (If yes, list jurisdictions and type of documents)
Sci. Collecting Permits Nos. 476 & 418, and verbal approval by Andrew Hulsey, Dir. Ark Game & Fish

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE: Current

11. DURATION NEEDED: Indefinate for salvage only

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED:
17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (in ink): V. Rick McDaniel
DATE: 3 Jan. 1977

3-200 (6/74) GPO 898-042

ATTACHMENTS: PERMIT APPLICATION, V. RICK MCDANIEL

No. 17.22

(1) A salvage only permit is requested for possession of preserved (skin and skeleton, skeleton only, skull only, or alcoholic) specimens of the grey bat, *Myotis grisescens*, and the Indiana bat, *Myotis sodalis*. No specimens would actually be collected under the permit. However, specimens of both species are at times brought into my office by the public for identification. Under the provisions of the permit, dead specimens could be permanently preserved for future scientists, and would immediately provide data on existing populations. Any live specimens would be immediately returned to the site of capture. Numbers of specimens possessed would be quite low as few per year are brought in.

(2) At the time of application, no specimens under protection are in possession.

(3) Not applicable.

(4) Not applicable.

(5) All specimens would be permanently catalogued and housed in the Collection of Recent Mammals (Applicant is Curators), Division of Biologcial Science, Arkansas State University, State University, Arkansas 72467. 501–972–3082.

(6) Not applicable.

(7) Not applicable.

(8) i. The applicant, in addition to teaching duties including courses in Mammalogy and Vertebrate Natural History, is Curator of Mammals for the Collection at ASU. This collection now numbers in excess of 3000 curated specimens and has received visitations by several scientists in the course of their research. In addition, the Collection recently underwent an on-site inspection by the Committee on Systematic Collections of the American Society of Mammalogists. These facts support the contention, that dead specimens could be made available permanently to the scientific community under the provisions of the permit. Currently any dead specimen brought in is refused (resulting in destruction) since no permit for possession is on hand.

ii. A permit is requested only for salvage and possession of dead specimens brought into this office. No actual collection is at any time intended under this permit. Specimens would be preserved in the most appropriate and complete form possible with respect to the state of decay of the specimen.

iii. The preservation rather than loss and destruction of dead specimens of these two endangered bats is the primary objective of this application. The Indiana bat is rare in Arkansas and potential specimens could greatly improve our understanding of the distribution and status of this bat. The grey bat is presently common in north central Arkansas, however, specific data on distribution, location of maternity colonies, migratory routes, etc. is extremely limited. Data would be aquired concerning the status of both of these bats in Arkansas.

iv. In the extremely unlikely event that ASU should decide in the future that support for the Collection of Recent Mammals should be curtailed, provisions have been made for the transfer of the entire collection and associated records to some other suitabe institution (including the obtainment of necessary permits from the U.S. Fish and Wildlife Service) to ensure perpetuity of this important scientific resource.

ENDANGERED SPECIES PERMIT

Receipt of Application

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–594–07; please refer to this number when submitting comments. All relevant comments received on or before April 1, 1977, will be considered.

Dated: February 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-6182 Filed 3-1-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant. Chincoteague National Wildlife Refuge, P.O. Box 62, Chincoteague, Virginia 23336, J. C. Appel, Refuge Manager.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one): ☐ IMPORT OR EXPORT LICENSE [X] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Permit to live trap, ear tag and/or ear tatoo Delmarva Fox Squirrels (Sciuvus niger cinereus). Up to 4 individuals will be held temporarily in a large cage to observe them for peltage change characteristics, all other individuals will be released immediately at trap site. Permit is also requested to radio tag selected individuals.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Chincoteague National Wildlife Refuge
P.O. Box 62
Chincoteague, VA 23336

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☐ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT	WEIGHT
DATE OF BIRTH	COLOR HAIR	COLOR EYES
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER	

OCCUPATION

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
National Wildlife Refuge
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. J. C. Appel, Refuge Mgr.
804-336-6122 or 5600
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Chincoteague National Wildlife Refuge
Assateague Island, Virginia

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES ☐ NO (If yes, list license or permit numbers)
6312

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [X] YES ☐ NO (If yes, list jurisdictions and type of documents)
A copy of a State of Virginia permit is attached.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $ N/A

10. DESIRED EFFECTIVE DATE: Jan. 1, 1977

11. DURATION NEEDED: December 31, 1977

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED:
Endangered Species - Scientific Research.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (in ink): J.C. Appel
DATE: 8/27/76

V42-41 MAR 2 77 UMI

The Delmarva Fox Squirrel (*Sciurus niger cinereus*) was first transplanted onto Chincoteague in 1968 and has since become well established. To our knowledge this is the only Delmarva Fox Squirrel transplant outside of the state of Maryland that has become established.

The study activities listed on the permit application will yield valuable information for future transplants.

ENDANGERED SPECIES HANDLING PERMIT APPLICATION ATTACHMENT

(1) Delmarva Fox Squirrels (*Sciurus niger cinereus*). This permit is requested to live trap, ear tag and/or ear tattoo as many squirrels as possible on Chincoteague Refuge. Up to four individuals will be held temporarily in a large cage to observe and study them for peltage change characteristics. One possibly, two squirrels will have radio transmitters attached to them and then released, all other individuals will be released immediately at the site of capture.

(2) These animals will be taken from the wild population found on the refuge.

(3) Since this population was developed from a nucleus of individuals trapped and transported from Eastern Neck and Blackwater Refuges the refuge has considerable knowledge on the trapping and handling of these squirrels.

These animals wil be captured in nesting boxes and by using live traps. To eliminate losses due to shock while handling, the anesthetic, methoxyflourane, will be used. When traps are used they will be set only during daylight hours and they will be checked hourly.

(4) It is not anticipated that any animals previously removed from the wild will be used, however, occasionally law enforcement personnel seize individuals that are being held captive illegally. These individuals would be adapted to living in captivity and would fit into our plans.

(5) These animals will be held in an enclosure located on Chincoteague National Wildlife Refuge.

The Refuge contains 9,500 acres on an island located on the Virginia coast.

Chincoteague National Wildlife Refuge P.O. Box 62 Chincoteague, VA 23336

(6) I. The squirrels will be held in a cage located behind the refuge office where it can be observed daily while conducting routine activities. It will be constructed of 1"x2" galvanized welded wire. This will be placed over a pipe frame: The dimensions will be 10 feet wide by 20 feet long by 7 feet high. A galvanized welded wire floor will be placed in the cage to keep the squirrels from digging out and predators from digging in. Necessary containers will be provided to keep fresh water and food for the squirrels. A large tree stump of suitable height for the squirrels to exercise on will be placed in each corner. A nest box will be placed on each of these stumps to provide protection from the elements.

II. Refuge personnel have limited experience in the care and handling of squirrels while they were catching and transporting them from Blackwater and Eastern Neck and no problems are anticipated.

III. These individuals will be closely observed and all information will be recorded and appropriate reports written up. These reports will be made available to anybody having need for such information.

IV. It is not anticipated that any of these individuals will be transported or housed in temporary cages.

V. For five years preceding the date of this application a detailed description of any mortalities involving this covered species will be provided.

(7) Refuge personnel will handle all activities concerning this species, therefore no contracts or agreements will be made to cover this activity.

(8) I. Individuals will be live trapped, ear tagged and/or ear tattooed. Up to 4 young individuals will be held in a large cage to observe for peltage change characteristics. Two individuals will have radio transmitters attached to determine range. All other individuals will be released at capture site.

II. All squirrels will be captured utilizing nest boxes or by using live traps. The anesthetic, methoxyflourane, will be used to minimize the shock of being handled. Traps will be set only during daylight hours and will be run daily.

When squirrels are held in the observation cage refuge personnel will be permanently assigned to check the cage daily to make sure that they always have fresh water and food.

To reduce the time it will take for the squirrels to become accustomed to being near people, only young squirrels taken near the office will be used.

III. Thirty-two Delmarva Fox Squirrels were first transplanted onto Chincoteague Refuge in 1968. This population has expanded to approximately 80 individuals covering a range of 900 acres. By moving across a quarter of a mile of open dike the squirrels will be able to occupy another area of 500 acres. By marking and observing squirrels, information on the age and sex will be obtained on the first squirrels to move into this new area. The size and types of habitat used by a squirrel as home range can be determined. Data on the type of habitat squirrels occupy first when they are moving into a new location will be obtained.

On Chincoteague Refuge work has been done on the censusing of Delmarva Fox Squirrels by using peltage characteristics. A study to see if the peltage of an individual changes from season to season and as the individual gets older will yield data on the effectiveness of this type of survey. The best way to gather this peltage information is by holding squirrels in a pen over a 4 to 5 year period of time.

IV. Upon completion of the peltage study these individuals will be released back into the wild either on the refuge or a new release site.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-374-07; please refer to this number when submitting comments. All relevant comments received on or before April 1, 1977, will be considered.

Dated: February 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-6183 Filed 3-1-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Richard C. Crews, ADTC/DLV, Eglin Air Force Base, Florida.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1670

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED. Applicant is a federal Civil Service employee(US Air Force), whose responsibility it is to generate supporting environmental data for documenting potential environmental effects of research, development, and testing of Air Force conventional munitions at Eglin Air Force Base, Florida.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Richard C. Crews
ADTC/DLV
Eglin Air Force Base, Florida 32542
882-3468/3431

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

	HEIGHT	WEIGHT
☒ MR. ☐ MRS. ☐ MISS ☐ MS.	67"	135
DATE OF BIRTH	COLOR HAIR	COLOR EYES
29 Nov 46	Brown	Green
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER	
882-3468	266-80-9186	
OCCUPATION		
Aquatic Biologist		

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
None

5. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Eglin Air Force Base Reservation, Florida

6. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
N/A

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdiction and type of document)
Scientific Collectors Permit #101
State of Florida

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED in AMOUNT OF
N/A

10. DESIRED EFFECTIVE DATE
1 March 1977

11. DURATION NEEDED
One year with renewal rights

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.22 (See Atch)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Richard C. Crews
DATE 16 Dec 76

3-200
05/70

ITEM NO. 12—50 CFR 17.22

The Air Force Armament Laboratory (AFATL) is engaged in research, development, test and evaluation of conventional munitions. Testing of these munitions is conducted on various ranges located on the Eglin AFB reservation, Florida. Prior to initiation of each test, an environmental assessment is conducted and documented to determine the impact of the proposed action.

An essential component of any assessment is a description of the test site. To meet the Council of Environmental Quality (CEQ) guidelines and Air Force regulation requirements (AFR 19-2) work is being done by AFATL to establish site characteristics data for the various Eglin AFB test ranges. In view of the large number of streams that originate on and flow through the ranges, a very important aspect of any site description is establishment of an aquatic baseline. Of additional importance is the fact that several of the streams to be surveyed on Eglin serve as the habitat of an endangered species, the Okaloosa darter (*Etheostoma okaloosae* Fowler). For these reasons this survey is being conducted to generate aquatic baseline data for use in evaluating the impact of proposed actions on the environment. The survey is to be conducted annually during the summer months and the species diversity indices calculated. These

V 42 41 MAR 2 77 UMI

data will be compared annually with data from the previous year in an effort to monitor change in the species diversity of each stream. It is the intention of this organization, if granted a permit, to collect all aquatic specimens except the Okaloosa darter. All Okaloosa darter specimens will be examined in the field using a small mesh seine and released unharmed. Special attention will be given to those streams designated as Okaloosa darter habitat to minimize habitat disruption. In addition, all information gathered pertaining to the Okaloosa darter will be provided to the Okaloosa darter recovery team and Mr. Edward Crittenden, U.S. Fish and Wildlife Service, who is currently monitoring Okaloosa darter streams.

The survey will be conducted by myself and one other professional biologist, Ms Sandra Lefstad. During the past year I have worked with Mr. Crittenden on his effort to monitor the Okaloosa darter and am qualified to identify Okaloosa darter specimens in the field. Additionally, I have worked with several universities conducting baseline surveys.

Information gathered through this effort will be meaningful to the Okaloosa darter recovery team and will be a valuable service by the United States Air Force to the US Fish and Wildlife Service.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-561-07; please refer to this number when submitting comments. All relevant comments received on or before April 1, 1977, will be considered.

Dated: February 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-6184 Filed 3-1-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Metroparks Zoological Park, Brookside Park, Cleveland, Ohio 44109, Dr. Leonard J. Gross, Zoo Director.

METROPARKS ZOOLOGICAL PARK,
BROOKSIDE PARK,
CLEVELAND, OHIO, *January 25, 1977.*

DIRECTOR,
U.S. Department of Interior, Fish and Wildlife Service, Wildlife Permit Office, ADM 7-02M, Washington, D.C. 20240

DEAR DIRECTOR: Below is listed additional information which you requested in order to process our Endangered Species permit for 2.2 Hawaiian Geese (*Branta sandvicensis*).

(8.) The Metroparks Zoo feels a deep responsibility for protecting and propagating all Endangered Species. We feel that our expertise and facilities for waterfowl propagation are such that we could increase the growing captive population of Hawaiian Geese. We also feel that breeding loans are of great importance to further specie propagation when few specimens are available. There is, however, a surplus of Hawaiian Geese large enough to sell or give to responsible individuals or institutions for self propagation. This, therefore, also removes the long term responsibility of loaner and places it with the buyer. The fact also remains that a person or institution becomes very aware and protective of something that has cost them part of their already small budget.

(i) Cleveland Metroparks Zoo seeks this permit to purchase for propagation 2.2 Hawaiian Geese (*Branta sandvicensis*).

(ii) and (iii) The acquisition of these geese has been secured through a breeding loan with the option to purchase if permit is granted. Planned propagation will be as follows: because the Hawaiian Goose starts laying eggs in Cleveland's winter months, indoor facilities have been provided, see (6i). Incubation of the eggs would take place in one of the following ways: artificially by a forced-air incubator or by bantam hen (chicken) or domestic goose or by the Hawaiian goose which laid the eggs. Upon hatching the goslings will be placed in a brooder or in the case of bantam- or goose-hatched eggs, the family group will be placed in a protected area to prevent loss by predation.

(iv) Upon maturing of surplus offspring, we would trade or sell with other approved institutions to secure "new blood" to enhance our percentage of fertility. Surplus would also be made available for restocking purposes at approved locations.

Yours truly,

DONALD J. KUENZER,
Curator.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one): ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To purchase 2 male and 2 female Hawaiian Geese (Branta sandvicensis) captive hatched for public display and propagation.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Metroparks Zoological Park
Brookside Park
Cleveland, Ohio 44109
(216) 661-6500

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: ☐ MR. ☐ MRS. ☐ MISS ☐ MS. HEIGHT WEIGHT DATE OF BIRTH COLOR HAIR COLOR EYES PHONE NUMBER WHERE EMPLOYED SOCIAL SECURITY NUMBER OCCUPATION ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Public display and propagation of many types of wildlife.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Dr. Leonard J. Goss, Zoo Director, (216) 661-6500
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
NA

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Metroparks Zoological Park
Brookside Park
Cleveland, Ohio 44109

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO (If yes, list license or permit numbers)
3-SC-163

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO (If yes, list jurisdictions and type of documents)
NA

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE 1/1/77

11. DURATION NEEDED Annual - renewable

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) [signature] DATE 12/10/76

3-200
8/74

METROPARKS ZOO,
BROOKSIDE PARK,
CLEVELAND, OHIO, *December 13 1976.*

SPECIAL AGENT-IN-CHARGE,
U.S. Fish and Wildlife Service, P.O. Box 45, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

DEAR SIR: Enclosed is one application (Form 3-200) and attachments for a permit to purchase four (4) Hawaiian Geese (*Branta sandvicensis*) which are classed as Endangered Species. Information listed below is in accordance with rules and regulations found in the FEDERAL REGISTER, Vol. 40, No. 188—Friday, September 26, 1975, Section 17.22.

(1) Description, number, sex, age, activity sought:

(a) Hawaiian Goose (NeNe) *Branta sandvicensis*.

(b) and (c) Two male and two female.

(d) Hatched 1976.

(e) Permit to purchase for display and propagation.

(2) Status of wildlife at time of application: (a) The geese involved in this application were captive hatched in Oyster Bay, New York by Mr. Winston Guest.

(3) N.A.

(4) Same as (2).

(5) Description and address of institution displaying wildlife: (a) The Cleveland Metroparks Zoological Park (formerly Cleveland Zoological Park). Mailing address: Cleveland Metroparks Zoo, Brookside Park, Cleveland, Ohio 44109. The Metroparks Zoo is owned and operated by the Cleveland Metropolitan Park District, a separate political subdivision of the State of Ohio.

(6) Live wildlife permit. (a) Yes.

(i) Description of facilities: (a) The geese will be displayed in an outside moated exhibit approximately 76 feet long by 71 feet wide. The gunite moat surrounding this exhibit is five (5) feet wide by six (6) feet high. The ground area has established grass covering and three oak trees were planted for shade. There is also a gunite pool approximately 45 feet in diameter with a continuous flow of potable city water. In the summer months this pool is drained, cleaned, and disinfected bi-weekly. Winter cleaning is regulated by water condition and weather. Three hollow gunite rocks have been provided for outside shelter. Free access to an inside shelter is also available. This area consists of 112 square feet. It is located in a concrete block building with poured concrete floor and asphalt shingle roof. The floor has a covering of wood chips and hay. Two side walls are made of two (2) inch rough-cut planks, the other two (2) of eight inch concrete block with doors at either end. This building is also equipped with potable city water and electricity. Diagram enclosed.

(ii) Technical expertise for propagation: (a) This year (1976) the Metroparks Zoo has hatched over one hundred ducks, geese and swans. Of this number, two were *Branta canadensis hutchinsii* and four *Branta c. canadensis*. Our veterinarian Dr. Wallace Wendt has been with the Zoo since 1945. His avocation is waterfowl, which he has been successfully propagating for over ten years. The curator Donald J. Kuenzer has been with the Zoo for 14 years and has worked directly with waterfowl for the last two years. Donald Ehlinger, Head Keeper of Birds, including waterfowl, has been with the Zoo since May 1, 1957 and before that a former game protector for the State of Ohio.

(iii) Statement of cooperation: (a) The Metroparks Zoo will cooperate in any breeding program which will enhance the propagation of any specie, providing we have the expertise and facilities to do so. The Metroparks Zoo at present does contribute to several studbooks and will continue to do so in the future.

(iv) Shipping details: (a) N.A. The geese at present are on loan to the Metroparks Zoo with the option to purchase if a permit is granted.

(v) Preceding five year's death in genus Branta:

Barnacle Goose (*Branta leucopsis*), received sometime before 1-1-59. Died 9-15-74. Autopsy: not posted, carcass partially eaten by fly larva.

Red-breasted Goose (*Branta ruficollis*), leg band No. 16-36. Received sometime before 1-1-59. Died 7-28-72. Autopsy: stress, cranial hemorrhage, cystic ovaries.

Canada Goose (*Branta canadensis*), wing band No. 368. Received 9-22-65. Disappeared 6-4-72.[1]

Canada Goose (*Branta canadensis*), wing band No. 370. Received 9-22-65. Died 7-8-71. Autopsy: No positive diagnosis (N.P.D.).

Richardson Goose (*Branta c. hutchinsii*), wing band No. 612. Received 5-6-68. Killed 12-30-73. Autopsy: N.P.D. Killed by predator.[1]

Red-breasted Goose (*Branta ruficollis*), wing band No. 813. Received 6-3-70. Died 9-2-75. Autopsy: C.N.S. circulatory, old bird.

Canada Goose (*Branta canadensis*), hatched 5-15-70. Died 5-17-71. Autopsy: N.P.D.

Canada Goose (*Branta canadensis*), received 1-22-71. Donation. Destroyed 5-17-71. Injury not noted on file card.

Canada Goose (*Branta canadensis*), hatched 5-26-71. Killed by camel 5-27-71. Autopsy: N.P.D.

8 Canada Geese (*Branta canadensis*), hatched 5-26-71. Disappeared 6-15-71.[1]

Yours truly,

DONALD J. KUENZER,
Curator,
Metroparks Zoological Park.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-563-07; please refer to this number when submitting comments. All relevant comments received on or before April 1, 1977, will be considered.

Dated: February 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-6185 Filed 3-1-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to

[1] If a bird is taken by a predator, a live trap is moved into the area the following day. If possible, the Birds are locked in until predator is captured. Live traps are set in heavily concentrated waterfowl areas most of the year.

V 42 41 MAR 2 77 UMI

have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant. Museum of Vertebrate Zoology, University of California, Berkeley, California 94720. Kristine Tollestrup.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1670

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To collect Blunt-nosed Leopard Lizards on lands that are being developed for studies on reproduction and protein evolution.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Kristine Tollestrup
Museum of Vertebrate Zoology
University of California
Berkeley, California 94720
(415) 642-3567

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☒ MS. | HEIGHT 5'6" | WEIGHT 120
DATE OF BIRTH: January 3, 1951 | COLOR HAIR: brown | COLOR EYES: hazel
PHONE NUMBER WHERE EMPLOYED: (415) 642-3567 | SOCIAL SECURITY NUMBER: 571-78-6714
OCCUPATION: Student - zoologist
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
Museum of Vertebrate Zoology
University of California
Berkeley, California

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
MVZ is involved in the study of systematics and the life history of vertebrate species. It houses a large collection and is both a research and teaching organization.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Dr. David B. Wake, Director (415) 642-3567
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Selected areas in the southern San Joaquin Valley, California

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Calif. Dept. of Fish and Game Memorandum of Understanding

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE: March 1977
11. DURATION NEEDED: October 1977

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22 - attachments A, B

CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.
SIGNATURE (In ink): Kristine Tollestrup | DATE: Dec 5, 1976

3-200 (6/76)

FEDERAL PERMIT APPLICATION: ATTACHMENT A—INFORMATION RELATING TO SECTION 17.22

(a) (1) Request authorization to take 64 (32 of each sex) adult specimens of the blunt-nosed leopard lizard (*Crotaphytus silus*).

(2) Subject specimens will be taken from the wild.

(3) Information on reproductive parameters such as clutch size, age at maturity, and reproductive potential cannot be determined by using only a marked population. Samples must be collected throughout the breeding season.

(4) Not applicable.

(5) Museum of Vertebrate Zoology, 2593 Life Sciences Building, University of California, Berkeley, California 94720. (415) 642-3567.

(6) Not applicable.

(7) Not applicable.

(8) Since 1973, I have been studying the ecology of the blunt-nosed leopard lizard, *Crotaphytus silus*, in the San Joaquin Valley, California. A population has been marked on the Pixley National Wildlife Refuge and has been monitored for the past four years (Attachment B). Information gathered includes data on sex ratio, mortality and birth rates, structure of the population, growth rates, behavioral patterns, territory size, and foraging patterns. In addition, I need to determine reproductive parameters including clutch size, age at maturity, and reproductive potential. Gathering this data necessitates sacrificing animals. I plan to collect specimens from areas which are scheduled to be cultivated. Collecting specimen from these areas would constitute a valuable scientific use of animals which would otherwise be lost. Four adult specimens (two of each sex) will be collected at 2-week intervals throughout the breeding season (March-October). Information gathered from this study will be important in developing recovery and management plans for this species. All specimen collected will be deposited in the herpetological collection at the Museum of Vertebrate Zoology and will thus be available for use by other researchers.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's Office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-597-07; please refer to this number when submitting comments. All relevant comments received on or before April 1, 1977, will be considered.

Dated: February 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-6186 Filed 3-1-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant. Patuxent Wildlife Research Center, U.S. Fish and Wildlife Service, Laurel, Maryland 20811, Lucille F. Stickel, Director.

DEPARTMENT THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1670

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Continuation of brown pelican (endangered species) population studies formerly conducted by the Denver Wildlife Research Center under permit number PRT 8-187-C. Activities include population surveys, assessment of reproductive success, banding of young birds, and salvage of dead birds and non-viable eggs.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Patuxent Wildlife Research Center
U. S. Fish and Wildlife Service
Laurel, Maryland 20811

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Wildlife research to enhance the status of endangered and threatened species; also to determine the effects of environmental pollutants on wildlife and their habitat.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Lucille F. Stickel, Director, 301-776-4880
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Gulf Coast of Texas and the Pacific Coast of California

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
PRT 8-85-C, PRT 8-169-C, PRT 2-913-EA, PRT 8-86-B-C, PRT 2-197

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Endangered Species Permits issued by the states of California and Texas, copies attached.

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE: April 1, 1977
11. DURATION NEEDED: December 31, 1979

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22

CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.
SIGNATURE (In ink): Lucille F. Stickel | DATE: 2/1/77

3-200 (6/76) GPO 895-042

PATUXENT WILDLIFE RESEARCH CENTER—ENDANGERED SPECIES PERMIT APPLICATION

ATTACHMENT

17.22(a)

(1) Common and scientific names of the species sought to be covered: Brown pelican (*Pelecanus occidentalis*). Number, age and sex: cannot be determined. Activities sought to be authorized include the following:

(a) Visit breeding colonies and assess productivity of brown pelicans on Anacapa and Santa Cruz Islands, California; Carroll and Pelican Islands, Texas; and other colonies that may be occupied between February and August each year.

(b) Collect non-viable eggs and dead young in numbers as present at colonies for environmental contaminant residue analysis.

(c) Band young birds (produced in the colonies) with U.S. Fish and Wildlife Service bands and mark young with standard colored plastic marking tags or streamers.

(d) Retrieve carcasses of brown pelicans in numbers as found dead on the Pacific and Gulf Coasts in order to analyze them for residues of environmental contaminants.

(e) Transport or ship eggs, carcasses, and body tissues from their points of collection to the Patuxent Wildlife Research Center or other laboratories.

(f) Hold eggshells, skins, skulls and body parts at those locations (including the Pacific Coast and Gulf Coast Field Stations)

(2) The wildlife sought to be covered is in the wild. There will be no collection of brown pelican specimens other than salvage of dead birds or non-viable eggs for chemical analysis.

(3) See (2), above.

(4) Not applicable.

(5) No live birds or viable eggs will be taken. Samples that are salvaged for study will be maintained at the Patuxent Wildlife Research Center, Laurel, Maryland, at the Pacific Coast or Gulf Coast Field Stations, or sent to contract laboratories for chemical analysis.

(6) See (2), above.

(7) The activities sought to be authorized will not be carried out under contract or agreement with other persons. However copies of authorizations by the states of California and Texas are attached.

(8) This permit is necessary to continue certain activities in our investigations of the relationships between environmental contaminants, food availability, and the population status of the brown pelican on the Pacific and Gulf Coasts of North America. These studies have been underway since 1969. There has been some improvement in reproductive success in California in recent years, but overall productivity there, as in Texas, remains too low to maintain the populations of the species. Our biologists are highly qualified to study the effects of environmental contaminants on wildlife and their habitat and are experienced in studying brown pelicans. Laboratories at the Center are well equipped with facilities and staff to perform residue analyses.

Activities will be carried out as follows:

(a) Early in the breeding season, California colonies will be observed from a boat offshore at a distance that is sufficient to minimize disturbance to the birds. After the young are 8–10 weeks old, biologists will enter the colonies to band young birds, assess productivity, and salvage dead birds and unhatched (addled) eggs. There will be no handling of birds except for banding. Available food samples, regurgitated by the young, will be saved for study, but no efforts will be made to intentionally cause the birds to regurgi-

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tate. Other activities have been described under (1), above.

(b) Texas colonies will be visited approximately once every two weeks from April through August to count birds and assess reproductive success. To minimize the risk of nest desertion, biologists will not enter the colonies until incubation is well underway. This method of study has previously proven successful in these colonies. Eggs in the nests will be counted during the early visits; later, the reproductive success will be determined by counting the number of young produced. Unhatched (addled) eggs and dead birds will be salvaged for analysis. Available food samples, regurgitated by the young, will be saved for study, but no efforts will be made to intentionally cause the birds to regurgitate. Other activities have been described under (1), above.

Some pelican tissues and egg contents will be destroyed during the analyses. Others, as well as skins, skulls, and eggshells will be maintained in our collections for future study.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-627-07, B; please refer to this number when submitting comments. All relevant comments received on or before April 1, 1977, will be considered.

Dated: February 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-6187 Filed 3-1-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant. Patuxent Wildlife Research Center, U.S. Fish and Wildlife Service, Laurel, Maryland 20811. Lucille F. Stickel, Director.

OMB NO. 42-R1679

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Monitoring population trends, reproductive success, and residues of pollutants in eggs and tissues of brown pelicans (endangered species) in the southeastern United States, including collection of eggs for chemical analysis.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Patuxent Wildlife Research Center
U. S. Fish and Wildlife Service
Laurel, Maryland 20811

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Wildlife research to enhance the status of endangered and threatened species; also to determine the effects of environmental pollutants on wildlife and their habitat.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Lucille F. Stickel, Director, 301-776-4880
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Florida and South Carolina

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
PRT 8-75-C, PRT 8-169-C; PRT 2-913-BA, PRT 8-86-B-C, PRT 2-197

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
All necessary state and refuge permits will be obtained prior to commencing collections.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE
April 1, 1977

11. DURATION NEEDED
December 31, 1981

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (in ink) Lucille F. Stickel
DATE 2/14/77

GPO 895-042

PATUXENT WILDLIFE RESEARCH CENTER—ENDANGERED SPECIES PERMIT APPLICATION

ATTACHMENT

17.22(a)

(1) Common and scientific name of species sought to be covered: Brown pelican (*Pelicanus occidentalis*). Number, age, and sex of such species, and the activity sought to be authorized:

(a) Collection of up to 50 viable and 50 addled eggs (as well as salvage dead pelicans) in South Carolina for chemical analysis each year for five years, beginning in 1977.

(b) Collection of up to 50 viable and 100 addled eggs (total) from 10 colonies in Florida in 1979.

(2) The wildlife sought to be covered is in the wild. There will be no collection of brown pelicans other than salvage of dead birds and collection of eggs as described under (1), above.

(3) See (2), above.

(4) Not applicable.

(5) No live birds will be taken. Samples that are collected for study will be maintained at the Patuxent Wildlife Research Center, Laurel, Maryland, or sent to contract laboratories for chemical analysis.

(6) See (2), above.

(7) The activities sought to be authorized will not be carried out under contract or agreement with other persons. Whenever appropriate, our biologists will be accompanied by National Wildlife Refuge, National Audubon Society, or state game agency personnel.

(8) Populations of brown pelicans at the Cape Romain National Wildlife Refuge in South Carolina were studied in detail from 1971 through 1975. The work was a joint project with the Cape Romain Refuge through the Atlanta Office. The primary objectives of the study were (1) To assess the populations, behavior and reproductive status of the brown pelican and associated bird species at the Cape Romain Refuge and nearby areas in South Carolina, and to gather as much data as possible on the brown pelican colonies in North Carolina and Louisiana; (2) To inventory and assess the kinds and degrees of organochlorines pollutant contamination in estuarine birds, their eggs and their food; and (3) To integrate these findings into an evaluative appraisal of the pollution ecology of the Cape Romain Refuge and surrounding areas.

The intensive study of pelicans in South Carolina was terminated in 1975, as planned. However, because of the findings in that study, we wish to continue monitoring the pelican population for another five years. The objectives of the proposed study will be to monitor population trends, reproductive success, residues of pollutants in eggs and tissues, and adverse effects induced by pollutants or other factors.

Our studies of brown pelicans in Florida began in 1969. The work in 1979 represents the third collection of eggs in Florida colonies.

Studies on the relationship between organochlorine compounds, particularly DDT, and pelicans have been instrumental in the evaluation of the detrimental effects of toxic chemicals on wild birds. The almost total reproductive failure of the pelican colonies in Southern California was attributed to the detrimental effects of DDT and its metabolites. This problem generated public awareness of the effects of these chemicals upon avian reproduction and damage to the environment in general. Data gained from field studies of pelicans in relation to environmental pollutants contributed to the case against DDT. Since the ban on DDT, declines in DDT metabolities have been monitored in pelican eggs. Continuing studies will help pinpoint other chemicals that are potentially harmful to pelicans and other species as well. Data gained from these studies will have long-range beneficial effects on pelican populations.

Collection of eggs from the colonies will have a negligible effect on the status of the brown pelican in the Southeast. Whenever feasible, eggs will be taken from those nests that are more likely to be lost to flooding or other natural hazards.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-633-07; please refer to this number when submitting comments. All relevant comments received on or before April 1, 1977, will be considered.

Dated: February 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-6188 Filed 3-1-77;8:45 am]

MARINE MAMMAL PERMIT

Receipt of Request for Amendment

A permit authorizing capture, hold, attach radio telemetry equipment anesthetize, color mark and make scientific studies on Sea otters was issued on August 29, 1975, to the University of California, Santa Cruz, California (Mr. Daniel Paul Costa).

A notice containing the application for the permit was published in the FEDERAL REGISTER on June 27, 1975, (40 FR 27272-73-74), soliciting public comments for a period of 30 days.

A notice of the issuance of the permit was published on September 24, 1975 (40 FR 43935).

Under date of October 11, 1976, Mr. Daniel Paul Costa has submitted a request for an amendment to the permit. Published herewith are copies of the request which will be considered as an amendment to this permit. This request is being considered pursuant to § 13.23, Title 50 Code of Federal Regulations (see 39 FR 1162).

UNIVERSITY OF CALIFORNIA,
SANTA CRUZ.
Santa Cruz, Calif., January 6, 1977.

FEDERAL WILDLIFE PERMIT OFFICE,
U.S. Fish and Wildlife Service,
Washington, D.C., 20240.

DEAR PEOPLE: In response to your letter of December 22 requesting more information concerning my amendment request to Permit PRT 9-22-C. The blood will be taken from the femoral vein complex under the supervision of Dr. Thomas Williams, D.V.M. We have used this technique on 7 animals to date without apparent ill effect. No more than 15cc of blood will be sampled from an animal at any one time. This volume represents approximately 0.6% of the total blood volume of a 25 kg animal and should have no ill effect.

The 10 animals requested for blood samples only, will not be held in captivity. They will be captured, blood sampled and immediately released. The 15 animals captured for free ranging metabolic studies will be held in captivity for no longer than 10 days. I had assumed in the amendment request that all of the provisions as set out in the original permit would apply to the additional 25 animals requested. If there is any more information that you may need please call or write.

Respectfully yours,

DANIEL COSTA.
Research Assistant.

UNIVERSITY OF CALIFORNIA,
SANTA CRUZ.
Santa Cruz, Calif., October 11, 1976.

U.S. DEPARTMENT OF THE INTERIOR.
Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 19183, Washington, D.C. 20036.

DEAR PEOPLE: I would like to request an amendment to my U.S. Fish and Wildlife permit No. PRT 22-C as follows:

1. Increase the total number of animals allotted to 34 (25 additional animals) with 5 permitted deaths.

2. Allow capture of California sea otters with a trammel net device.

Reasons for the amendment request:

To date five sea otters have been captured and worked on under the auspices of this permit; three of these animals gave minimal information due to the death of one and the inability to recapture the other two. However, the work carried out to date has been very productive. As a result of the permitted research, a paper has been given at the American Society of Mammalogists 56th annual meeting (copy enclosed) detailing the water balance and energetics of four captive sea otters. Inroads have been made into methods of attachment of radio telemetry transmitters (flipper attachment). Preliminary data has been obtained on the safety and dosage of Ketamine Hydrochloride as an anesthetic for sea otter, and baseline blood chemistry parameters have been collected on all animals captured. Four of the five animals captured to date have been resighted on many occasions and appear to be in excellent condition without any apparent ill effects from the permitted research.

The five animals remaining on the permit will be worked on within two months, thereby using up the allotted 10 animals. All of these will be studied under captive conditions to measure their assimilation efficiancy and water balance. Fifteen of the new animals requested would be used to measure the field energy metabolism of sea otters as outlined in the original permit request. The necessity for this number of animals is that there is no assurance that any particular sea otter can be recaptured. The radioisotope tagging of 15 otters will assure that a significant number can be recaptured for the metabolic measurement. The remaining 10 animals will be used to collect baseline blood parameters such as the complete blood count, differential blood count, and 19 blood enzyme and metabolite levels. This data will then be published and can be used as a basis to diagnose ill or injured sea otters.

The trammel net capturing device is being requested due to the inability of the diver-held capture device to recapture free swimming or "spooky" otters. The trammel net would be deployed from a fast, small boat while encircling a sleeping or swimming otter. Once the net surrounds the otter it will be pursed at the bottom or just pulled

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in, dependent on what is necessary to insure capture of the otter. Divers will be on hand to aid in the recovery of the otter and to insure that the otter is immediately removed or untangled from the net to prevent drowning.

All work carried out under this permit has been and will continue to be under the supervision of Dr. Thomas Williams, D.V.M. who has been on contract with the California Department of Fish and Game to treat ill or injured sea otters. Dr. Williams is one of the most knowledgeable veterinarians with sea otters.

Sincerely,

DANIEL COSTA,
Coastal Marine Studies.

In keeping with the spirit of the Marine Mammal Protection Act of 1972 this notice is being published to allow public comment on the request for an amendment. Interested persons may comment on this amendment by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO) U.S. Fish and Wildlife Service, Washington, D.C. 20240.

This application has been assigned File Number PRT 9-22; please refer to this number when submitting comments. All relevant comments received on or before April 1, 1977, will be considered.

Dated: February 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-6189 Filed 3-1-77;8:45 am]

MARINE MAMMAL APPLICATION

Receipt of Request for Amendment

An application and supporting documents for a Federal Fish and Wildlife permit requesting permission to collect Sea otters from the State of California and display them at the Vancouver Public Aquarium, Vancouver, B.C., was received on June 24, 1976.

A notice containing the application for the permit was published in the FEDERAL REGISTER on July 16, 1976 (41 FR 29449-50), soliciting public comments for a period of 30 days.

Under date of January 17, 1977, the Vancouver Public Aquarium submitted a request for significant changes in the conditions of this application. Published herewith is a copy of the terms of the application, and the request for these changes which will be considered as an amendment to this application. This request is being considered pursuant to § 13.23, Title 50 Code of Federal Regulations (see 39 FR 1162).

VANCOUVER PUBLIC AQUARIUM,
Vancouver, B.C., Canada, January 17, 1977.

Re: Your file PRT-2-263-11

Mr. DONALD G. DONAHOO,
Chief, Permit Branch, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240

DEAR MR. DONAHOO: In regard to your letter of December 1, 1976, the Vancouver Public Aquarium wishes to continue in its efforts to obtain a permit from your department to obtain 5 sea otters, *Enhydra lutris*.

Therefore, I request an amendment to the present application No. INT-40 (see attached). As per your enclosed copy of a letter from John R. Twiss, Executive Director, to Mr. Lynn A. Greenwalt, facilities for quarantining the animals have been built beside the aquarium's research pool. The quarantine facility is private, quiet, and allows for the animals to be observed without being disturbed. Water supply is an open system to provide a constant supply of new seawater. Good skimming has been provided for in addition to individual haul out and access doors for each animal. The facility is designed such that it may be adapted for individual enclosures or any combination of group enclosures. Quarantined animals will have visual contact with each other if separated, should this be deemed necessary.

As regards inspection officers, Dr. A. C. MacNeill, D.V.M. of the Canada Department of Agriculture Health of Animals Branch, Animal Pathology Laboratory, has agreed to inspect the facilities prior to the acquisition of the animals, review transport and maintenance procedures for the sea otters and according to your department's requirements, perform periodic inspection of the facilities and animals covered by the permit and report to your department as to the health and condition of the animals.

Sincerely,

K. G. HEWLETT,
Curator.

AMENDMENT TO ITEM OF THE DEPARTMENT OF THE INTERIOR, U.S. FISH AND WILDLIFE SERVICE, FEDERAL FISH AND WILDLIFE, LICENSE/PERMIT APPLICATIONS NO. INT-40

6. Location where proposed activity is to be conducted: Alaska, Prince William Sound. Exact location to be specified by Alaska Department of Fish and Game.

AMENDMENT TO ITEM 12 OF ABOVE, AS PER 50 CFR 13.12(b)

1. Dates requested for permit validity: March 1977 to August 1977.

Manner of capture: With the help of Alaska Fish and Game (Asel Johnson) in Prince William Sound, to be held in floating pens prior to transfer to Cordova for flight to Seattle.

* * * * *

3. Manner of transportation. Surface truck and air carrier Cordova to Seattle via Alaska Airlines (1st Class section is special cargo area, temperature may be regulated) flying time: 4 hours, Seattle to Vancouver via truck (truck will be equipped for ventilation and cooling) travel time: 2 hours. Clean sea water and ice will be provided in Seattle prior to road trip to Vancouver. Cages will be those currently used by Alaska Fish and Game: open mesh type: 36" x 24" x 24".

In keeping with the spirit of the Marine Mammal Protection Act of 1972 this notice is being published to allow public comment on the request for an amendment. Interested persons may comment on this amendment by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO) U.S. Fish and Wildlife Service, Washington, D.C. 20240.

This application has been assigned File Number PRT 2-263; please refer to this number when submitting comments. All relevant comments received on or before April 1, 1977 will be considered.

Dated: February 25, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-6190 Filed 3-1-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-108]

LITTLE BILL COAL COMPANY, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Little Bill Coal Company, Inc., Kimper, Kentucky 41539, has filed a petition to modify the application of 30 CFR 75.1710, canopies or cabs; electrical face equipment, to its No. 3 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine has the following equipment: three S & S scoops; one 16 RB Joy cutting machine; and one Galis 300 roof bolter.

2. The height of the coal at this mine averages 38 inches. Due to the coal height and the rolling bottom, Petitioner feels that it would be extremely hazardous to operate this equipment with canopies. The canopies would create a safety hazard to the equipment operators due to the cramped position and obstruction of vision of the operators. Petitioner feels that the canopies would not be in the best interest of safety and would in fact contribute to accidents, not only to the operators but to other employees in the mine.

3. A copy of this petition will be posted at the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition for furnish comments on or before April 1, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia, 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 17, 1977.

[FR Doc.77-6150 Filed 3-1-77;8:45 am]

[Docket No. M 77-109]

TRIPLE M & K COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Triple M & K Coal Company, Box 14, Elkhorn City, Kentucky 41522, has filed a petition to modify the application of 30 CFR 75.1710, canopies or cabs; electrical face equipment, to its No. 30 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that the installation of canopies on its equipment is creating a hazard to the equipment operators.

2. Petitioner's haulage equipment consists of two Messer battery tractors, model 102. Other face equipment is one Epling loader, model XP-1466, and one Paul's roof bolter, model mark 4.

3. The mine is in the 3½ Elkhorn seam and ranges from 34 to 38 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from hitting against the roof and possibly destroying roof support. This allows only a 4-inch vertical clearance in the operating compartment thus limiting the vision of the equipment operator and creating a hazard to him as well as to the other employees in the mine.

4. Petitioner feels that since the equipment operator's vision is limited and because of the position required in order to be seated in the decks, the installation of canopies could be a contributing factor in any accidents which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 1, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 17, 1977.

[FR Doc.77-6151 Filed 3-1-77;8:45 am]

[Docket No. M77-107]

WOLFGANG BROS. COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Wolfgang Bros. Coal Co., 339 Martin St., Tower City, Pennsylvania 17980, has filed a petition to modify the application of 30 CFR 75.301 air quality, quantity, and velocity, to its Diamond Slope Mine, located in Schuylkill County, Pennsylvania.

The substance of Petitioner's statement is as follows:

1. Petitioner requests that 30 CFR 75.301 be modified for its mine to require, in part, that the minimum quantity of air reaching each working face shall be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries shall be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of a pillar line shall be 5,000 cubic feet a minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

2. This petition requesting modification of 30 CFR 75.301 is submited for the following reasons:

a. The air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine.

b. An ignition, explosion and mine fire history are nonexistent for the mine.

c. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

d. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

e. Extremely high velocities in small cross sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

f. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mine.

g. Difficulty in keeping miners on the job and securing additional mine help is due primarily to the condition cited.

3. Petitioner states that this modification will in no way provide less than the same measure of protection afforded the miners as would be provided by 30 CFR 75.301.

4. A copy of this petition will be posted at the mine by Petitioner.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 1, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBOTT,
Acting Director,
Office of Hearings and Appeals.

FEBRUARY 17, 1977.

[FR Doc.77-6152 Filed 3-1-77;8:45 am]

Bureau of Land Management

FOREST MANAGEMENT, OREGON AND WASHINGTON

Redelegation of Authority

Pursuant to the authority contained in section 1.1(a) of Bureau Order No. 701 as amended, the following redelegations of authority are authorized and approved.

(1) The duly designated representative of the authorized officer is authorized to sell timber in accordance with the additional sale provision of timber sale contracts. Such authority is limited to sales of not more than 50,000 board feet for each additional timber sale.

(2) District Managers in Oregon and Washington are authorized to redelegate to designated qualified employees the authority to dispose of timber and other vegetative materials where the value of such materials does not exceed $500.

MURL W. STORMS.
State Director.

Approved: February 18, 1977.

GEORGE L. TURCOTT.
Associate Director.

[FR Doc.77-6149 Filed 3-1-77;8:45 am]

Office of the Secretary

[Secretary's Order 2999]

AERIAL HUNTING OF WOLVES IN ALASKA

Closure of BLM-Administered Public Lands

This Notice is issued in accordance with the provisions of 5 U.S.C. 552(a)(1). The Secretary of the Interior has issued Order No. 2999 dated February 17, 1977, closing BLM-administered public lands to aerial hunting of wolves by the State of Alaska. The Order is published in its entirety below.

Further information regarding the Order may be obtained from Ms. Ann Vance, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-4444.

Dated: February 18, 1977.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

[Order No. 2999]

CLOSURE OF BLM-ADMINISTERED PUBLIC LANDS TO AERIAL HUNTING OF WOLVES BY THE STATE OF ALASKA

Pursuant to the Order of the United States District Court for the District of Columbia, issued February 14, 1977, by Judge Gasch in the case entitled "Defenders of Wildlife, et al., v. Cecil D. Andrus, et al.," Civil No. 77-0212, it is ordered that all the public lands of the United States under the jurisdiction of the Bureau of Land Management in the State of Alaska within the boundaries of State of Alaska Game Management Units numbered 23, 24 and 26 are hereby closed to the aerial hunting of wolves by any and all persons acting as agents or permittees of the State of Alaska. This Order shall remain in effect until further notice.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc.77-6153 Filed 3-1-77;8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. TA-203-2]

CERTAIN ALLOY TOOL STEEL

Report to the President

FEBRUARY 14, 1977.

In accordance with section 203(1) of the Trade Act of 1974 (88 Stat. 1978), the United States International Trade Commission herein reports the results of an investigation conducted under section 203(1)(2) of that act with respect to to certain alloy tool steel.

The investigation to which this report relates was undertaken for the purpose of advising the President as to the probable economic effect on the domestic industry concerned if the relief provided by Presidential Proclamation No. 4445 of June 11, 1976, as modified by Proclamation No. 4477 of November 16, 1976, was terminated in part by excluding from the quantitative restrictions imposed thereunder the alloy tool steel covered by item 923.25 of the Appendix to the Tariff Schedules of the United States (TSUS).

The investigation was instituted on January 12, 1977, following receipt on December 7, 1976, of a request from the Special Representative for Trade Negotiations.

Notice of the investigation and hearing was duly given by publishing the original notice in the FEDERAL REGISTER of January 19, 1977 (42 FR 3715).

A public hearing in connection with the investigation was held on January 31, 1977, in the Commission's Hearing Room in Washintgon, D.C. All interested parties were afforded an opportunity to be present, to produce evidence, and to be heard.

The information contained in this report was obtained from fieldwork and from the Commission's files, other Government agencies, and evidence presented at the hearing and in briefs filed by interested parties.

In view of the limited nature of the Special Trade Representative's request, it was not believed necessary to obtain and examine customs entry documents (as was suggested in the Special Trade Representative's letter) in order to gather the import information required to enable the Commission to make its determination in this investigation.

Issued: February 25, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-6276 Filed 3-1-77;8:45 am]

[Investigation No. 337-TA-29]

CERTAIN WELDED STAINLESS STEEL PIPE AND TUBE

Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with Inevstigation No. 337-TA-29, Certain Welded Stainless Steel Pipe and Tube, at 10:00 a.m. on Monday, March 7, 1977, in Room 331 of the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on February 22, 1977 (42 FR 10348). The purposes of this preliminary conference are to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Pre-hearing Conference and Hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this notice upon all parties, and upon such counsel as represented the parties in proceedings before the Commission prior to the formal institution of this investigation, and shall publish this notice in the FEDERAL REGISTER.

Issued: February 25, 1977.

MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-6275 Filed 3-1-77;8:45 am]

GOVERNMENT IN THE SUNSHINE

Additional Agenda Item and Closing of Portion of Meeting

In deliberations held February 24, 1977, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 in conformity with 19 CFR 201.37, voted to add the following item to its agenda for the meeting of February 24, 1977:

5. Sugar (Inv. TA-201-16)—discussion of U.S. Court of Appeal decision of February 23, 1977, in *FTC v. Texaco*, including possible reconsideration of the Commission's vote not to appeal Judge Pratt's decision.

Commissioners Leonard, Moore, Bedell, and Ablondi determined by recorded vote that Commission business requires the change in subject matter by addition of the agenda item, and affirmed that no earlier announcement of the addition to the agenda was possible, and directed the issuance of this notice at the earliest practicable time. Commissioners Minchew and Parker abstained.

Additionally, pursuant to the specific exemptions of 5 U.S.C. 552b(c)(6), on the authority of 19 U.S.C. 1335, and in conformity with 19 CFR 201.36(b)(6), Commissioners Parker, Moore, Bedell, and Ablondi voted to hold the portion of February 24, 1977, meeting with respect to a decision with a candidate for the position of PIO, to be part of reorganization (Agenda item No. 4) in closed session. Commissioners Minchew and Leonard voted against closing this portion to the public.

A majority of the entire membership of the Commission felt that this portion of the meeting should be closed to the public since the information discussed in such portion would be likely to disclose information of a personal nature which could constitute a clearly unwarranted invasion of personal privacy.

Those persons expected to be present at this closed portion, and their corresponding affiliations, are listed as follows:

Daniel Minchew, Chairman.
Joseph O. Parker, Vice Chairman.
Will E. Leonard, Commissioner.
George M. Moore, Commissioner.
Catherine Bedell, Commissioner.
Italo H. Ablondi, Commissioner.
Kenneth R. Mason, Secretary.
E. Bernice Morris, Staff Assistant.
Bruce N. Hatton, Assistant to Commissioner Leonard.
Claude L. Gingrich, Assistant to Commissioner Parker.
Sterling G. Slappey, Candidate for the position of Public Information Officer, United States International Trade Commission.

The General Counsel to the Commission certified that it is his opinion that the Commission's action in closing this portion of its meeting of February 24, 1977, was properly taken by a vote of 5 U.S.C. 552(d)(1) and in conformity with 19 CFR 201.36(d). The discussion to be held in closed session is within the specific exemptions of 5 U.S.C. 552 b(c)(6) and 19 CFR 201.36(b)(6).

Issued: February 24, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

RUSSELL N. SHEWMAKER,
General Counsel.

[FR Doc.77-6274 Filed 3-1-77;8:45 am]

LEGAL SERVICES CORPORATION

INLAND COUNTIES LEGAL SERVICES, RIVERSIDE, CALIF.

Grants and Contracts

FEBRUARY 25, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Inland Counties Legal Services, Riverside, California to serve San Bernardino County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

San Francisco Regional Office, 690 Market Street, San Francisco, California 94104.

THOMAS EHRLICH,
President.

[FR Doc.77-6191 Filed 3-1-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR LAW AND SOCIAL SCIENCE

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Law and Social Science.
Date and time: March 18 and 19, 1977; 9 a.m. to 5 p.m. each day.
Place: Seminar Room A, University of Chicago Law School, 111 East 60th Street, Chicago, Illinois.
Type of meeting: Closed.
Contact person: Dr. H. Lawrence Ross, Program Director, Law and Social Sciences, Room 314, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5816.
Purpose of panel: To provide advice and recommendations concerning support for research in Law and Social Sciences.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 25, 1977.

[FR Doc.77-6145 Filed 3-1-77;8:45 am]

SPECIAL ADVISORY COMMITTEE ON THE SACRAMENTO PEAK OBSERVATORY

Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Special Advisory Committee on the Sacramento Peak Observatory.
Date: March 14-15, 1977.
Time: 9:00 a.m. each morning.
Place: Lunar Science Institute, NSA Road One, Houston, Texas.
Type of meeting: Open.
Contact person: Mr. R. R. La Count, Head, Astronomy Centers Section, Division of Astronomical Sciences, National Science Foundation, Washington, D.C. 20550 telephone (202) 632-5712.
Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of advisory committee: To review the present activity of the Sacramento Peak Observatory (SPO) and the contribution of the SPO to solar physics; also to advise on the future role of the SPO in the overall NSF program of support of solar research, including consideration of the desirable characteristics of the contractor-operator needed to manage the SPO for the NSF.
Reason for late notice: Meeting originally planned for later date. However, this was the only time these conference facilities were available.

Agenda: Will include the following discussions and presentations:

MARCH 14, 1977

9 a.m. to 12 m.	Review of draft report.
1 to 3 p.m.	Review of operations of 3 consortia.
3 to 4 p.m.	Tour of Lunar Science Institute.
4 to 5 p.m.	Discussion on the relative advantages of universities and consortia as contractors for SPO.

MARCH 15, 1977

9 to 10 a.m.	Recommendations on the optimum type of SPO contractor.
10 a.m. to 12 m.	Discussion on the strengths of the potential contractors and the characteristics of an ideal contractor.
1 to 2 p.m.	Open discussion.
2 to 5 p.m.	Final review of completed draft report.

M. REBECCA WINKLER,
Committee Management Officer.

FEBRUARY 24, 1977.

[FR Doc.77-6144 Filed 3-1-77;8:45 am]

ADVISORY COMMITTEE FOR MINORITY PROGRAMS IN SCIENCE EDUCATION

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Minority Programs in Science Education.
Date and time: March 21-22, 1977; 9:00 a.m. each day.
Place: Room 651, 5225 Wisconsin Avenue, N.W., Washington, D.C.
Type of Meeting: Open.
Contact person: Ms. Fran Watts, Staff Assistant, Science Education Directorate, National Science Foundation, Room W-600, Washington, D.C. 20550, Telephone (202) 282-7530.
Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, National Science Foundation, Room 212, Washington, D.C. 20550.
Purpose of advisory committee: To assist in the evaluation and assessment of activities within the Minority Centers for Graduate Education Program and other ethnic minority-focused Foundation programs.
Agenda: *March 21:* Orientation and Organizational Session, Highlights of Minority-Focused Programs within the National Science Foundation, Discussion of the Minority Institutions Science Improvement Program; *March 22:* Continuation of Discussion of Minority-Focused Programs within the National Science Foundation, Discussion and Planning Session.

Dated: February 25, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-6341 Filed 3-1-77;8:45 am]

ADVISORY PANEL FOR SOCIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Sociology.
Date and time: March 24-25, 1977; 9:00 a.m. to 5:00 p.m.
Place: Room 517, National Science Foundation, 1800 G Street, Washington, D.C.
Type of meeting: Closed.
Contact person: Mr. Garry Wallace, Program Director for Sociology, Room 312, National Science Foundation, Washington, D.C., telephone (202) 632-4204.
Purpose: To provide advice and recommendations concerning support research in sociology.
Agenda: to review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee-Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: February 25, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-6242 Filed 3-1-77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

INTERGOVERNMENTAL SCIENCE, ENGINEERING, AND TECHNOLOGY ADVISORY PANEL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel, Processes Task Force.
Date: March 24, 1977.
Time: 9:00 a.m.-3:00 p.m.
Place: New Executive Office Building, 726 Jackson Place, NW., Room 3104, Washington, D.C.
Type of meeting: Open
Contact person: Mr. Louis H. Blair, Office of Science and Technology Policy, Executive Office of the President; telephone (202) 395-4596. Anyone who plans to attend should contact Mr. Blair by March 21, 1977.

Purpose of the Panel. The Intergovernmental Science, Engineering, and Technology Advisory Panel was established on November 4, 1976. The Panel is to identify State, regional and local government problems which research and technology may assist in resolving or ameliorating and to help develop policies to transfer research and development findings. The Processes Task Force

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was formed on December 7, 1976. It is responsible for identifying steps that the Federal government might take to increase the utilization of intergovernmental research findings in State and local governments and to increase the applications of science and technology products and processes in governments.

Minutes of the meeting: Executive minutes of the meeting will be available from Mr. Blair.

TENTATIVE AGENDA

Discussion of Draft Report: Compendium of Problems and Approaches for Improving Intergovernmental Research Utilization.

Preparation of a report on Task Force Findings and Recommendations to be presented to the Full Panel Meeting, March 24, 1977.

Discussions of Future Task Force Activities.

WILLIAM J. MONTGOMERY,
Executive Officer, Office of Science and Technology Policy.

FEBRUARY 24, 1977.

[FR Doc.77-6164 Filed 3-1-77;8:45 am]

INTERGOVERNMENTAL SCIENCE, ENGINEERING, AND TECHNOLOGY ADVISORY PANEL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel. Priority Problem Identification Task Force.
Date: March 24, 1977.
Time: 9:30 a.m.-3:30 p.m.
Place: New Executive Office Building, 726 Jackson Place, N.W., Room 2008, Washington, D.C.
Type of meeting: Open.
Contact person: Mr. Louis H. Blair, Office of Science and Technology Policy, Executive Office of the President; telephone (202) 395-4596. Anyone who plans to attend should contact Mr. Blair by March 21, 1977.

Purpose of the Panel. The Intergovernmental Science, Enginering, and Technology Advisory Panel was established on November 4, 1976. The Panel is to identify State, regional and local government problems which research and technology may assist in resolving or ameliorating and to help develop policies to transfer research and development findings. The purposes of the Problem Identification Task Force are to identify high priority areas for more Federally supported research attention and to recommend processes for systematic identification of high priority problems of State and local governments that require R&D.

Minutes of the meeting: Executive minutes of the meeting will be available from Mr. Blair.

TENTATIVE AGENDA

Discussion of Task Force Actions to Strengthen Federal Capacity Building Efforts.

Preparation of Presentation for the Full Panel Meeting on March 25, 1977.

Discussions of Future Task Force Activities.

WILLIAM J. MONTGOMERY,
Executive Officer, Office of Science and Technology Policy.

FEBRUARY 24, 1977.

[FR Doc.77-6165 Filed 3-1-77;8:45 am]

INTERGOVERNMENTAL SCIENCE, ENGINEERING, AND TECHNOLOGY ADVISORY PANEL

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel.
Date: March 25, 1977.
Time: 9:00 a.m.-3:30 p.m.
Place: New Executive Office Building, 726 Jackson Place, NW., Room 2008, Washington, D.C.
Type of meeting: Open.
Contact person: Mr. Louis H. Blair, Office of Science and Technology Policy, Executive Office of the President; telephone (202) 395-4596. Anyone who plans to attend should contact Mr. Blair by March 21, 1977.

Purpose of the Panel. The Intergovernmental Science, Engineering, and Technology Advisory Panel was established on November 4, 1976. The Panel is to identify State, regional and local government problems which research and technology may assist in resolving or ameliorating and to help develop policies to transfer research and development findings.

Minutes of the meeting: Executive minutes of the meeting will be available from Mr. Blair.

TENTATIVE AGENDA

Discussion of Organization Plans for the Panel.
Report of the Steering Committee.
Report of the Processes Task Force.
Report of the Problem Priorities Identification Task Force.
Discussions of Future Panel Activities.

WILLIAM J. MONTGOMERY,
Executive Officer, Office of Science and Technology Policy.

FEBRUARY 24, 1977.

[FR Doc.77-6166 Filed 3-1-77;8:45 am]

POSTAL RATE COMMISSION

[Docket No. RM77-5]

RULES OF PRACTICE AND PROCEDURE

Petition for Rulemaking and Request for Comments on Commission's Proposal To Treat It as a Request for a Rule 22 Waiver

FEBRUARY 24, 1977.

On February 18, 1977, the United States Postal Service (Postal Service or Service) filed a "Petition to Initiate Rulemaking" for the purpose of amending section 54(f)(2)[1] of the Commission's rules of practice (39 CFR 3001.54(f)(2)) which defines the test period in rate proceedings. The Postal Service requests that the test year be defined so that it is not limited to a fiscal year.

In support of its proposal the Service states that as originally proposed, in Docket No. RM73-1, rule 54(f)(2) did not contain a fiscal year limitation. However, the Postal Service had objected on the basis that the cost and budget systems inherited from the old Post Office Department were not sufficiently advanced to permit non-fiscal year cost estimations. It is also stated that, with the integration of the Revenue and Cost Analysis System and the budget process, expense prediction can now feasibly be based on a non-fiscal year period.

The Service further observes that the present test year definition is overly restrictive since it limits the Service's options in choosing a test period. Rule 54(f)(2) requires that the fiscal year chosen as the test year begin not more than twelve months subsequent to the filing date of the formal request. Thus, if the Service wishes to file a case toward the close of the fiscal year, the rules require that the next fiscal year be the test period, rather than the year after next. This, according to the Service, will result in a large segment of the test year becoming historical as hearings continue—a situation not reconcilable with the statutory necessity that total postal costs be "estimated" for rate purposes. The Service contends that with more flexibility in choosing the test period, there is greater assurance that the test year will be prospective in relation to the filing date.

DISCUSSION

The situation outlined by the Postal Service was recognized by the Commission in its Opinion and Recommended Decision, Docket No. R76-1, Appendix B. In that appendix, entitled "Test Year Concepts", the Commission expressed concern that the test year period truly reflect future costs and we discussed the fact that this goal had not been achieved in R76-1. We discussed various methods for assuring test year prospectiveness and we stated that our rate filing rules were not inflexible, but guidelines for the Service to follow. Finally, we invited interested parties to file petitions for rulemaking to explore various test year proposals which might require a change in the rules.[2]

While we believe that the Service has made a prima facie case for some type of relief we believe that a rulemaking proceeding under 5 U.S.C. 553 is not appropriate at this time. A rulemaking proceeding requires sufficient opportunity for parties to comment on the proposal as well as an opportunity to offer alternatives. The Service alleges that time is of the essence here since its preparation for a rate filing must go forward. Even if we expedited the proceeding, substantial time could be required before any rule change could be effectuated. Consequently, under the circumstances, it would be more appropriate to treat the Service's petition as a request for an immediate waiver of our rules.[3] It appears that the Postal Service's filing meets the minimum requirements for granting such a waiver since it sets out adequate reasons why the rule should be modified, does not impede, and might promote, our statutory obligations. See *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192, 205 (1956); *Rio Grande Family Radio Fellowship, Inc.* v. *FCC*, 406 F. 2d 664, 666 (D.C. Cir. 1968). Such a waiver would also be sufficient to deal with the Postal Service's immediate problem as described in its pleading.

Furthermore, if we grant the waiver, such treatment will afford the Commission and the parties an opportunity to gain experience with a "floating" test year.[4] We anticipate that in the next rate case we would learn whether deviations from a fiscal year test period will create data problems. For example, what will the effect be on time series analyses where all the data is not exactly comparable? At some future time, perhaps during the next rate case, we intend to start a new rulemaking proceeding, when we will have an opportunity to explore in depth this and other proposals to change the test year. In the meantime, however, we request that parties confine their comments to the specific proposal before us and our intention to treat it as a request for a one-time waiver of rule 54(f)(2).

The Commission also notes that the revision of temporary rate authority[5] has cast the test year problem in a new light. Under the old law (former 39 U.S.C. 3641) the Service was permitted to implement new rates 100 days after a rate filing. The fact that the test year might actually commence shortly after a rate filing was not a threat to the Service's revenue position since the Service did not have to await the outcome of the rate proceeding before implementing new rates. Under the new law this is changed. The Service must now await action by the Board of Governors after a 10-month hearing and recommended decision or, if the Commission has not met the 10-month statutory deadline for completing rate cases (Pub. L. 94-421, section 5(c)) temporary rates may be implemented.[6] With the increased potential for rate lag, and its resulting negative impact on the Service's financial integrity, some action by the Commission appears necessary at this juncture.

We are also mindful of the potential inherent in the Service's proposal for reducing litigation. As we previously noted, if the test year is not sufficiently prospective, [t]he Postal Service will not be able to break even and we will find ourselves in a situation of litigating one rate case after another, with costs forever outpacing revenue. (Opinion and Recommended Decision, Docket R76-1, Appendix B, page 1.)

If the Service's proposal,[7] or any other test year proposal, results in increased rate stability, we believe the public will be benefited. Litigation is both expensive and time consuming. The Commission feels obliged to seriously consider any proposal which might decrease that burden.

In order to expedite this matter, we are setting an abbreviated briefing schedule. Comments will be due on March 14, 1977, with reply comments due on March 21, 1977. We are also directing that this notice and the Postal Service's petition (which is attached hereto) be mailed to all parties on the Commission's Docket No. R76-1 service list. This notice will also be placed in the FEDERAL REGISTER.

By the Commission.

DAVID F. HARRIS,
Secretary.

POSTAL SERVICE PETITION TO INITIATE RULEMAKING PROCEEDING

With this filing, the Postal Service asks the Postal Rate Commission to initiate a rulemaking proceeding, for the purpose of amending Commission rule of practice 54(f)(2).[8] Rule 54(f)(2) is the provision of the rules which defines the test period in rate proceedings. The Postal Service requests that the test year be defined so that it is not limited to comprising a fiscal year. This change is needed to allow the fundamental estimate of the postal revenue requirement to be more consistent with the Postal Reorganization Act's definition of total estimated costs, stated in 39 U.S.C. §3631.

BACKGROUND

Rule 54(f)(2) now reads in part as follows:

Estimated accrued costs referred to in subdivision (ii) of this paragraph shall be for a fiscal year beginning not more than 12 months subsequent to the filing date of the formal request.

This section has within it two key limitations. First, the test period cannot be overly "future." Its initial or starting date cannot be more than 12 months ahead of the filing date of a proceeding. Second, the test period must be a fiscal (or government) year. It cannot be a "regular" 12-month period.

It is the latter restriction we believe should be changed. As originally proposed, rule 54(f)(2) did not contain a fiscal year limitation. Indeed, the Commission staff suggested the rule without a fiscal constraint. The Postal Service objected, on the basis that its cost and budget system (which had been constructed under the Post Office Department) were not sufficiently advanced to permit non-fiscal year cost estimation.

The previous objection no longer holds. With the integration of the Revenue and Cost Analysis system and the budget process, more flexibility—and accuracy—in cost estimation has been gained. Specifically, expense prediction can now feasibly be based on a non-fiscal year period.[9]

PROPOSAL

The Postal Service suggests that the part of rule 54(f)(2) quoted above be modified to read in the following manner:

Estimated accrued costs referred to in subdivision (ii) of this subparagraph shall be for a year beginning not more than 12 months subsequent to the filing date of the formal request.

In order to make certain other portions of the rules mesh with the above modification, we suggest that conforming changes be made in associated rule sections. Thus, the adjective "fiscal" should be deleted from sections 54(h), 54(j)(1), 54(j)(2), 54(j)(5)(iv), and 54(j)(5)(v). This will insure consistency of reference within the rules as a whole.

RATIONALE

The present test year definition is overly restrictive. This can be seen with a simple hypothetical example. Assume that the current fiscal year is A, the succeeding fiscal year is B, and the following fiscal year is C. If the Postal Service wishes to make a rate filing toward the close of year A, it now (i.e., under the phrasing of the present rules) must use fiscal year B as the test period. By definition, fiscal year C cannot be used: it is too "future," in that it begins or will begin more than 12 months subsequent to the intended filing date. But, the forced choice of year B is a poor one. Even if litigation of the proceeding takes only 10 months, a large segment of the test year will become past as hearings continue. When permanent rates are put in place, almost all of the test year will be historical. This development simply cannot be reconciled with the statutory necessity that total postal costs be "estimated" for rate purposes.[10] Under section 3621, rates should be set on total expenses which are estimated to occur when rates are to be effective. The Commission recognized this precept in Docket No. R76-1 in stating that "[i]t is a well recognized principle of contemporary ratemaking that the test year should cover a time span representative of the period in which the rates will be in effect." Docket No. R76-1 Opinion and Recommended Decision, Appendix B ("Test Year Concepts") at 1, citing *American Public Power Ass'n* v. *FPC*, 522 F. 2d 142 (D.C. Cir. 1975).

The use of historical costs is therefore not only wholly at variance with the thrust of the statute, but is conducive to rate instability. That is, if inflationary factors continue to affect Postal Service operations, the use of stale costs in the rate base will produce rates which are almost automatically deficient or non-compensatory. The result is lengthy and expensive rate litigation without the period of rate level stability which regulation should yield if it works efficiently.

It should be noted that the proposed language change does not lengthen the test period. However, it does make the test year more prospective—and appropriately so—in relation to the date of the filing of a request under 39 U.S.C. 3622.

The Court of Appeals for the District of Columbia Circuit recently issued an order

[1] If adopted conforming changes would also be made in rules 54(h), 54(j)(1), 54(j)(2), 54(j)(5)(iv), and 54(j)(5)(v).

[2] The proposal now before us was noted as one possible variation of our present rules. See Appendix B, page 8, footnote 2.

[3] See 39 CFR 3001.22.

[4] Since the Service collects cost data quarterly, we assume the Service would file on the basis of four consolidated quarters and not any random 12-month period.

[5] See Pub. L. 94-421 (Sept. 24, 1976).

[6] 39 U.S.C. 3624(c)(1), 3641(a), as amended (Sept. 24, 1976).

[7] It should be noted that the Service's proposal is still circumscribed by the 12-month limitation, i.e., the test year must begin within 12 months after the date of filing. See 39 CFR 3001.54(f)(2).

[8] And making conforming changes in other sections of the rules of practice linked to rule 54(f)(2).

[9] Other necessary calculations, involving volume and revenue forecasting, can also be made on this basis.

[10] Estimated costs should of course include necessary amounts for recoupment of past losses and debt service.

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in *National Association of Greeting Card Publishers* v. *United States Postal Service* [11] which spoke of the possible "immediate institution" of new rate proceedings. Since new or "restarted" rate proceedings are a possibility, we urge the Commission to give expedited consideration to review of rule 54 (*l*)(2). Prompt action will allow preparation to proceed with certainty and will ultimately shorten future litigation.

For these reasons, we request the Commission to initiate and timely complete a rulemaking proceeding directed to change in rule 54(*l*)(2) and related rule modification, as outlined here.

Respectfully submitted,
UNITED STATES POSTAL SERVICE,
DONALD J. ENGLEMAN,
Attorney.

FEBRUARY 18, 1977.

[FR Doc.77-6197 Filed 3-1-77;8:45 am]

POSTAL RATE COMMISSION

VISIT TO POSTAL FACILITIES

Reviewing Available Data for Demand Studies

FEBRUARY 24, 1977.

Notice is hereby given that employees of the Postal Rate Commission will be visiting the Rate Economics Division, U.S. Postal Service Headquarters, L'Enfant Plaza, on March 4, 1977, for the general purpose of reviewing available data for demand studies.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

A report of the visit will be on file in the Commission's Docket room.

By direction of the Commission.

DAVID F. HARRIS,
Secretary.

[FR Doc.77-6200 Filed 3-1-77;8:45 am]

[Docket No. RM77-5]

RULES OF PRACTICE AND PROCEDURE

Designating the Officer of the Commission To Represent the Interests of the General Public

FEBRUARY 24, 1977.

Notice is hereby given that, pursuant to § 3603 of the Postal Reorganization Act, the Commission designates Norman D. Schwartz, Assistant General Counsel, Litigation Division, as the officer of the Commission who shall represent the interests of the general public in the above-entitled proceeding. The title of this officer during the course of the proceeding will be "Officer of the Commission" (OOC).

In accordance with the principles enunciated in § 3 of the Commission's rules of practice (39 CFR 3001.8), the Officer of the Commission will be prohibited from participating or advising the Commission in its deliberations concerning this matter.

By the Commission.

DAVID F. HARRIS,
Secretary.

[FR Doc.77-6198 Filed 3-1-77;8:45 am]

[11] Docket Nos. 76-1611, 76-1612, 76-1646, 76-1653, 76-1667, 76-1670, and 76-1704.

RAILROAD RETIREMENT BOARD

RETIREMENT SUPPLEMENTAL ANNUITY PROGRAM

Determination of Quarterly Rate of Excise Tax

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. § 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning April 1, 1977, shall be at the rate of twelve and one-half cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning April 1, 1977, 13.5 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 86.5 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

By authority of the Board.

Dated: February 22, 1977.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.77-6205 Filed 3-1-77; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 19896; 70-5972]

OHIO EDISON CO. AND PENNSYLVANIA POWER CO.

Proposed Issue and Sale of Pollution Control Notes; Request for Exception From Competitive Bidding

FEBRUARY 22, 1977.

Notice is hereby given that Ohio Edison Company ("Ohio Edison"), 76 South Main Street, Akron, Ohio 44308, an electric utility company and a registered holding company, and its electric utility subsidiary, Pennsylvania Power Company ("Pennsylvania"), 1 East Washington Street, New Castle, Pennsylvania 16103, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7 and 12(d) and Rules 44(b)(3) and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Ohio Edison, Pennsylvania, The Cleveland Electric Illuminating Company, Duquesne Light Company and The Toledo Edison Company (collectively referred to as the "CAPCO companies") are joining in the construction of three coal-fired generating units, Bruce Mansfield Plant Units Nos. 1, 2 and 3 ("units") to be located on the Ohio River near Shippingport, Pennsylvania, which will be owned by them as tenants in common, except that The Toledo Edison Company will not share in the ownership of Unit No. 1. Under present allocations, Ohio Edison will own 60% of Unit No. 1, 39.3% of Unit No. 2 and 35.6% of Unit No. 3 and Pennsylvania will own 4.2% of Unit No. 1, 6.8% of Unit No. 2 and 6.28% of Unit No. 3.

Under the Pennsylvania Industrial and Commercial Development Law, the Beaver County Industrial Development Authority ("Authority") is authorized to enter into agreements providing for the construction and financing by it of industrial development projects and the sale thereof to industrial occupants. The CAPCO companies have entered into such an agreement (the "agreement") with the Authority with respect to the construction and financing of pollution control and waste disposal equipment and facilities for the units ("facilities").

Under the agreement the CAPCO companies will transfer to the Authority their respective interests in the facilities, subject to the liens of their respective first mortgage indentures, and will be reimbursed for their cost of acquiring and constructing the property so transferred. During the course of construction of the facilities, title thereto will be in the Authority. Upon the completion of each such portion, title to that portion will vest in the CAPCO companies.

In order to finance the project, the Authority has heretofore issued and sold four series of its Pollution Control Revenue Bonds with respect to Ohio Edison and Pennsylvania. It is now expected that a fifth and sixth series of bonds (the "Series E Bonds" and the "Series F Bonds", respectively, and collectively, the "Bonds") will be issued by the authority. The Series E Bonds are expected to be issued in amounts of $26,500,000 and $3,500,000 regarding Ohio Edison and Pennsylvania, respectively. The Series E Bonds are to be issued separately with respect to each company and the issuance of either company's Series E Bonds is not dependent on the issuance of the other company's Series E Bonds. The proceeds of each Company's Series E Bonds will be used to finance that Company's share of the additional costs in connection with the construction of the pollution control facilities at The Bruce Mansfield Plant. The Series F Bonds will be issued at a presently undetermined time in the future and therefore the authority to issue the concomitant pollution control notes will be requested at that time by a further filing in this proceeding.

The Series E Bonds will be issued pursuant to indentures supplemental to separate trust indentures between the Authority and The Cleveland Trust Company, as Trustee ("Trustee") dated as of June 1, 1973. The Series E Bonds will be sold at such time, in such amounts, at such interest rates and for such prices as Ohio Edison and Pennsylvania, respectively, may approve. Although the Authority will be the issuer of the Series E Bonds, as required to exempt the interest thereon from federal income taxation, the credit of the Authority will not be pledged to the payment on the Series E Bonds.

Concurrently with the issuance and delivery by the Authority of the Series E Bonds, Ohio Edison and Pennsylvania respectively will each execute and deliver its pollution control note ("note") payable directly to the Trustees. The installments of principal due and payable on such notes will correspond in date and amount to the stated maturities and mandatory sinking fund payments, if any, on the Series E Bonds. Interest on such notes will be at the rates and will be payable at the times corresponding to the rates of interest and times of payment on the bonds. The notes provide, among other things, that the amounts due thereunder must be paid whether or not the facilities are completed or perform satisfactorily and whether or not they are damaged or destroyed. The notes will be secured by a second lien on each company's interest in the facility.

The Series E Bonds, are to be sold directly, by the Authority, to a commercial bank, the Morgan Guaranty Trust Company of New York (the "Bank"), and are presently expected to have a maturity of twenty-four months. However, pursuant to the Supplemental Indentures, if the Authority and the Bank agree, such maturity could be extended up to an additional sixty months. No such agreement would be effective without the consent of the Company to which the affected Series E Bonds relate but both Ohio Edison and Pennsylvania would propose to give their consent to such an extension of maturity if at the time, such extension was in their judgment desirable. Interest on the Series E Bonds will be at the rate of four and three-quarters per centum (4¾%) per annum. However, if interest on the Series E Bonds is, or becomes, taxable for Federal income tax purposes or if agreements pursuant to which the Bank is purchasing the Series E Bonds, or the Series E Bonds themselves, are found to be unconstitutional, invalid or unenforceable, the interest rate will be retroactively adjusted to equal 130% of the Bank's prime rate in effect from time to time, plus any interest or penalties that may be due to the Internal Revenue Service from the Bank because of having treated the interest on the Series E Bonds as tax exempt.

In conjunction with the issuance of the Series E Bonds with respect to each of them, Ohio Edison and Pennsylvania, in addition to issuing their respective secured pollution control notes as outlined above, will each also execute and deliver a Guaranty and Purchase Agreement to the Bank. The major purpose of this document will be to afford the means by which the Bank will be placed in the position it would have found itself in had it made direct loans to Ohio Edison and Pennsylvania in the amount of the Series E Bonds, in the event that the interest on the Series E Bonds is not tax exempt.

The proceeds of the Series E Bonds with respect to Ohio Edison and Pennsylvania will be placed in separate escrow accounts for use in connection with the acquisition, construction and financing of the particular Company's interest in the pollution control facilities at the Bruce Mansfield Plant. Ohio Edison and Pennsylvania intend to account for the transactions related to the issuance of their respective pollution control notes as described herein in conformity with the Uniform System of Accounts.

The fees and expenses to be incurred by Ohio Edison and Pennsylvania in connection with the transaction will be supplied by amendment.

Ohio Edison and Pennsylvania claim an exception from the competitive bidding requirements of Rule 50 for the issuance and sale of the pollution control notes pursuant to Rule 50(a)(2).

It is stated that the Public Utilities Commission of Ohio and the Pennsylvania Public Utility Commission have jurisdiction over certain aspects of the proposed transaction and that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 16, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6278 Filed 3-1-77;8:45 am]

[Release No. 13287; SR-PSE-76-35]

PACIFIC STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

FEBRUARY 22, 1977.

On November 16, 1976, the Pacific Stock Exchange, Inc. ("PSE"), 618 South Spring Street, Los Angeles, California 90014, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change The proposed rule change would amend PSE rules regulating the registration of Floor Representatives, and would require that PSE Floor Representatives be members or nominee members of the Exchange. The rule change proposal is related to another PSE filing submitted pursuant to Rule 19b-4 (File No. SR-PSE-77-1).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13009, (November 26, 1976)) and by publication in the FEDERAL REGISTER (41 FR 53150 (December 3, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of sections 6 and 11 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6281 Filed 3-1-77;8:45 am]

[Release No. 13288; SR-PSE-77-1]

PACIFIC STOCK EXCHANGE, INC.

Order Approving Proposed Constitutional Change

FEBRUARY 22, 1977.

On January 10, 1977, the Pacific Stock Exchange, Inc. ("PSE"), 618 South Spring, Street, Los Angeles, California 90014, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed constitutional change. The proposed constitu-

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tional change would amend Article VIII, Section 2(b) of the PSE Constitution to permit the establishment, under PSE rules, of a requirement that PSE Floor Representatives be members or nominee members of the Exchange. On January 20, 1977, the PSE membership voted to approve the proposed constitutional change. The proposed constitutional change is related to another PSE filing submitted pursuant to Rule 19b–4 (File No. SR–PSE–76–35).

Notice of the proposed constitutional change together with the terms of substance of the proposed constitutional change was given by publication of a Commission Release (Securities Exchange Act Release No. 13206, (January 26, 1977)) and by publication in the FEDERAL REGISTER (42 FR 6660 (February 3, 1977)).

The Commission finds that the proposed constitutional change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Sections 6 and 11 and the rules and regulations thereunder.

Further, the Commission finds good cause for approving the proposed constitutional change prior to the thirtieth day after the date of publication of notice of filing thereof. The constitutional changes proposed by SR–PSE–77–1 are necessary only to permit the approval of rule changes proposed previously by a related filing SR–PSE–76–35. The periods for public comment on both filings have expired, with no comments having been received by the Commission, and in light of this, further delay in the implementation of SR–PSE–76–35 appears unnecessary.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed constitutional change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–6282 Filed 3–1–77;8:45 am]

[Release No. 13290; (SR–PHLX–76–20)]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

FEBRUARY 23, 1977.

On December 22, 1976, the Philadelphia Stock Exchange, Incorporated, 17th Street and Stock Exchange Place, Philadelphia, Pennsylvania 19103 ("PHLX") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b–4 thereunder, copies of a proposed rule change to rescind PHLX Rules 1042 ("Member Trading Reports" of trades of five or more contracts during a session for the member's account) and 1050 ("Reports of Open Exercise Positions".

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13158, January 13, 1977) and by publication in the FEDERAL REGISTER (42 FR 3915, January 21, 1977).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–6283 Filed 3–1–77;8:45 am]

[Files Nos. 2–33471 (22–5566), 2–55597 (22–8757)]

STANDARD OIL CO.

Application and Opportunity for Hearing

FEBRUARY 22, 1977.

Notice is hereby given that the Standard Oil Company (an Ohio corporation) (the "Company") has filed an application clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the trusteeships of Manufacturers Hanover Trust Company under six indentures, four heretofore qualified under the Act and two which were not qualified under the Act because of the exemption contained in Section 304(a)(4) of the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers Hanover Trust Company from acting as trustee under any of such indentures.

Section 310(b) of the Act provides, inter alia, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the Section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this Section provides, with certain exceptions, that a trustee is deemed to have an conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeship under the indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

The Company alleges that:

1. The Company has issued and outstanding $100,000,000 in aggregate principal amount of its 7.60 percent Debentures Due 1999 (the "Debentures") under an Indenture, dated as of July 1, 1969 (the "1969 Indenture"), between the Company and Chemical Bank, Trustee. The Company Indenture was filed as Exhibit 2(a) to Registration Statement No. 2–33471 of the Company under the Securities Act of 1933 and has been qualified under the Trust Indenture Act of 1939. On December 2, 1975, Manufacturers Hanover Trust Company succeeded Chemical Bank as Trustee under the 1969 Indenture. The Company has also issued and outstanding (a) $200,000,000 in aggregate principal amount of its 7.10 percent Notes Due October 1, 1977; (b) $50,000,000 in aggregate principal amount of its 7.60 percent Notes Due April 1, 1979; and (c) $75,000,000 in aggregate principal amount of its 8 percent Notes Due April 1, 1981 (collectively the "Notes") under, respectively, three Indentures, each dated as of April 1, 1976 (collectively the "1976 Indentures"), between the Company and Manufacturers Hanover Trust Company, Trustee. The 1976 Indentures were filed as Exhibits 2(a), 2(b) and 2(c) to Registration Statement No. 2–55597 of the Company under the Securities Act of 1933 and have been qualified under the Trust Indenture Act of 1939. The Debentures and the Notes are hereinafter sometimes referred to collectively as the "Company Securities" and the 1969 Indenture and the 1976 Indentures are hereinafter sometimes referred to collectively as the "Company Indentures".

2. The Delaware County Industrial Development Authority, a public instrumentality of the Commonwealth of Pennsylvania (the "Authority"), has issued and outstanding $34,800,000 aggregate principal amount of its Environmental Improvement Revenue Bonds, Series A (BP Oil Project) (the "Bonds") under a Trust Indenture, dated as of April 1, 1973 (the "Authority Indenture"), between the Authority and Manufacturers Hanover Trust Company, Trustee. In a Guaranty Agreement, also dated as of April 1, 1973, between the Company and Manufacturers Hanover Trust Company, Trustee, the Company unconditionally guaranteed the holders of the Bonds the full and prompt payment of the principal of, any premium on, and the interest on, each Bond when and as the same shall have become due. Copies of the Authority Indenture and the Guaranty Agreement are annexed hereto. The Authority also has issued and outstanding $10,000,000 aggregate principal amount of its Environmental Improvement Revenue Bonds, Series (Sohio Petroleum Company Project) (the "Bonds"), under a supplemental Trust Indenture, dated as of December 15, 1976 (the "Supplemental Authority Indenture") between the Authority and Manufacturers Hanover Trust Company, Trustee. In a Guaranty Agreement, also dated as of December 15, 1976, between the Company and Manufacturers Hanover Trust Company, Trustee, the Company unconditionally guaranteed the holders of the Bonds the full and prompt payment of the principal of, any premium, and the interest on, each Bond when and as the same shall become due. Copies of the Supplemental Authority Indenture and the Guaranty Agreement are annexed hereto. Inasmuch as the 1973 and 1976 Bonds were issued by a public instrumentality of the Commonwealth of Pennsylvania, the Bonds were not registered under the Securities Act of 1933 and the Authority Indenture was not qualified under the Trust Indenture Act of 1939.

3. As required by Section 310(b) of the Trust Indenture Act of 1939, the 1969 Indenture, in Section 7.08, provides in applicable part as follows:

(a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 7.08, it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 7.10.

(b) In the event that the Trustee shall fail to comply with the provisions of subsection (a) of this Section 7.08, the Trustee shall, within ten days after the expiration of such ninety-day period, transmit notice of such failure to all holders of Debentures, as the names and addresses of such holders appear upon the registry books of the Company.

(c) For the purposes of this Section 7.08 the Trustee shall be deemed to have a conflicting interest if:

(1) The Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company, are outstanding, unless such other indenture is a collateral trust indenture under which the only collateral consists of Debentures issued under this Indenture, provided that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest or participation in other securities of the Company are outstanding if (1) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to Subsection (b) of Section 305 of Subsection (c) of Section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture and such other indenture or indentures, or (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that the trusteeship under this Indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures.

Section 6.08 of each of the 1976 Indentures is substantially the same as Section 7.08 of the 1969 Indenture, except that each of the 1976 Indentures explicitly exclude from the operation of paragraph (c)(1) thereof the other two 1976 Indentures and the 1969 Indenture.

4. Manufacturers Hanover Trust Company has ascertained that it has a conflict of interest within the meaning of Section 7.08 of the 1969 Indenture and Section 6.08 of the 1976 Indentures because the Authority Indenture is not qualified under the Trust Indenture Act of 1939 and is not the subject of any other proceeding of the Securities and Exchange Commission.

5. The Company's guaranty of the Bonds under the Guaranty Agreement and the Company Securities issued pursuant to the Company Indentures are both wholly unsecured and of equal rank. Accordingly, in the opinion of the Company the trusteeship of Manufacturers Hanover Company under the Authority Indenture and its trusteeships under the Company Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest all for the protection of investors that Manufacturers Hanover Trust Company be disqualified from acting as trustee under both the Authority Indenture and the Company Indentures and resign its trusteeship under the Authority Indenture or its trusteeships under the Company Indentures.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with the matter referred to herein.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than March 25, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–6279 Filed 3–1–77;8:45 am]

[File No. 24LA–0011]

VARICON CORP.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

FEBRUARY 1, 1977.

I

Varicon Corporation ("Varicon" or "issuer"), 5131 B Santa Fe Street, San Diego, Cal. 92109, is a Delaware corporation located at 5131 B Sante Fe Street, San Diego, California, 92109. It was organized on October 2, 1975. Its purpose is the development and exploitation of a variable geometry combustion engine.

On March 19, 1975, Varicon filed a notification pursuant to Regulation A in connection with the proposed public offering of 100,000 shares of its $.01 par value common stock at $5.00 per share. The offering was to be conducted on a "best efforts" basis, by DMR Securities, Inc. No commencement date for the offering has been established.

II

The Commission, on the basis of information reported to it by its staff, has reasonable cause to believe:

A. The Regulation A exemption is not available to the issuer because an Order of Permanent Injunction in connection with the purchase or sale of securities was issued by the United States District Court for the Central District of California on April 3, 1970, against James C. Monroe, a promoter of the issuer, who continues to be active in its affairs.

B. The notification and offering circular contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading in the following respects:

1. The failure to disclose in Item 3 of the notification and in the offering circular that Monroe is a promoter of the issuer;

2. The failure to disclose in Item 6 of the notification and in the offering circular that Monroe is subject to an order, judgment or decree of the type specified in Rule 252(d)(2);

3. The failure to disclose in Item 2 of the notification and in the offering circular that Monroe is an affiliate of the issuer;

4. The failure to accurately disclose the nature of Monroe's relationship with the issuer;

5. The failure to make adequate disclosure concerning the suspension of trading of the securities of TRI and of the lack of availability of current financial information with respect to TRI; and

6. The failure to accurately disclose the plan of distribution of the Varicon securities to the public.

C. By misrepresenting certain material facts and omitting to state other material facts, Varicon failed to comply with the terms and conditions of the Regulation A exemption.

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D. The offering, if made, would be made in violation of Section 17 of the Securities Act of 1933, as amended.

III

It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of Varicon Corporation under Regulation A be temporarily suspended:

It is ordered, pursuant to Rule 261 of the General Rules and Regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and hereby is, temporarily suspended.

It is further ordered, pursuant to Rule 7 of the Commission's Rules of Practice, that the issuer file an answer to the allegations contained in the order within thirty days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within thirty days after the entry of this order; that within twenty days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for the said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6260 Filed 3-1-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 06/10-0068]

ADMIRAL INVESTMENT COMPANY, INC.

Approval of the Transfer of Control of a Small Business Investment Company

On January 21, 1977, a notice was published in the FEDERAL REGISTER (42 FR 3943) stating that Admiral Investment Company, Inc., 2200 West Loop South, Suite 210, Houston, Texas 77027, had filed an application with the Small Business Administration (SBA), pursuant to Section 107.701 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.701 (1976)), for the transfer of control of this company to MMC Investors Services, Inc.

Interested parties were given to the close of business February 7, 1977, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other data, SBA approved this application for transfer of control effective February 10, 1977.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: Feb. 24, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 77-6240 Filed 3-1-77; 8:45 am]

[Declaration of Disaster Loan Area No. 1297]

DELAWARE

Declaration of Disaster Loan Area

The State of Delaware constitutes a disaster area because of physical damage caused by ice and snow conditions on the Delaware River, Delaware Bay and the Atlantic Coast beginning about January 1, 1977 through February 9, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage as a result of the ice and snow conditions until the close of business on April 25, 1977, and for economic injury until the close of business on November 23, 1977, at:

Small Business Administration, Branch Office, Federal Building, Room 5207, 844 King Street, Lockbox 16, Wilmington, Delaware 19801.

or other locally announced locations.

Dated: February 23, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-6237 Filed 3-1-77;8:45 am]

[License No. 06/06-0187]

GROCERS SMALL BUSINESS INVESTMENT CORP.

Issuance of License To Operate as a Small Business Investment Company

On November 10, 1976, a notice was published in the FEDERAL REGISTER (41 FR 49687) stating that Grocers Small Business Investment Corporation, Suite 101, 3131 East Holcombe Boulevard, Houston, Texas 77021, had filed an application with the Small Business Administration (SBA), pursuant to § 107.102 of the rules and regulations governing small business investment companies (13 CFR 107.102 (1976)) for a license to operate as a small business investment company (SBIC).

Interested parties were given to the close of business November 26, 1976, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other information, SBA has issued License No. 06/06-0187 to Grocers Small Business Investment Corporation pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: February 24, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-6239 Filed 3-1-77;8:45 am]

[Declaration of Disaster Loan Area No. 1291, Amdt. 1]

NEW JERSEY

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 9737) is amended in accordance with the President's declaration of February 10, 1977, to include Burlington, Camden, Gloucester and Middlesex Counties within the State of New Jersey. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named counties, and adjacent counties within the State of New Jersey. All other conditions remain the same.

Dated: February 16,1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-6235 Filed 3-1-77;8:45 am]

[Declaration of Disaster Loan Area No. 1296]

NEW YORK

Declaration of Disaster Loan Area

Bronx, Kings, Nassau, New York, Queens, Richmond, Suffolk and adjacent counties in the State of New York constitute a disaster area because of damage resulting from ice conditions on the Atlantic Ocean, bays, sounds, rivers and tributaries, beginning about December 1, 1976 through January 31, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage caused by the ice, until the close of business on April 26, 1977, and for economic injury until the close of business on November 23, 1977, at:

Small Business Administration, District Office, 26 Federal Plaza, Room 3100, New York, New York 10007.

or other locally announced locations.

Dated: February 23, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-6236 Filed 3-1-77;8:45 am]

PRIVACY ACT OF 1974

Proposed New Systems of Records

In 40 FR 42132, 41 FR 7601, and 41 FR 41647, the Small Business Administration published notices of systems of records in compliance with The Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)).

Notice is hereby given that the SBA has submitted four proposed new systems of records pursuant to the provisions of the Office of Management and Budget (OMB) Circular No. A-108, Transmittal Memorandum No. 1, which provides supplemental guidance to Federal Agencies regarding the preparation and submission of reports of their intention to establish or alter systems of records as required by the Privacy Act of 1974.

Any person interested in commenting on the following proposed additional systems may do so by submitting comments in writing to Administrator, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416. Comments must be submitted on or before April 1, 1977.

Dated: February 16, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

SBA425

System name:

Federal Personnel Career Administration Program Files—SBA425.

System location:

Central Office.

Categories of individuals covered by the system:

SBA employees.

Categories of records in the system:

Civil Service Commission Standard 171 forms and SBA mobility forms.

Authority for maintenance of the system:

5 U.S.C. 301, 44 U.S.C. 3101, 15 U.S.C. 634(b)(6).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To provide Program Evaluation Staff with information to help place qualified individuals in appropriate vacancies, and to determine what areas in Personnel need to be stressed in the individual's orientation.

Storage:

Information is maintained in notebooks in locked steel cabinets.

Retrievability:

Records are coded according to grade.

Safeguards:

Information released to authorized personnel on a need to know basis.

Records are maintained until employee leaves the Agency, then destroyed.

Systems Manager(s) and address:

Director of Personnel, Central Office: See Appendix A for address.

Notification procedure:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the manager listed above.

Record access procedures:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

Record source categories:

Forms submitted directly by employees.

SBA430

System name:

Executive Inventory Record—SBA430.

System location:

Central Office.

Categories of individuals covered by the system:

SBA employees at GS-15 to GS-18.

Categories of records in the system:

Executive Inventory Record (Application of Employment).

Authority for maintenance of the system:

5 U.S.C. 301, 44 U.S.C. 3101, 15 U.S.C. 634(b)(6).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To provide a system for maintaining records of SF-161's submitted to the Civil Service Commission when considering candidates for supergrade vacancies from Executive Inventory Register. To be used by Employment Division and by Civil Service Commission.

Storage:

Information is stored in steel file cabinet.

Retrievability:

Records are listed alphabetically as Executive Inventory Records.

Safeguards:

Information released to authorized personnel only.

Retention and Disposal:

Records are maintained until employee leaves the Agency.

System Manager(s) and address:

Chief, Employment Division, Central Office. See Appendix A for address.

Notification procedure:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the manager listed above.

Record access procedures:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

Record source categories:

Applicants.

SBA435

System name:

Executive Development Records—SBA435.

System location:

8115 Fenton Street, Silver Spring, Maryland, 20910.

Categories of individuals covered by the system:

Applicants and participants in The Executive Development Program.

Categories of records in the system:

SBA forms 1036 and 1038, SBA 171, SBA 1075A, miscellaneous forms evaluating assignments, and certificates of training completed.

Authority for maintenance of the system:

5 U.S.C. 301, 44 U.S.C. 3101, 15 U.S.C. 634(b)(6).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To provide records, back-up information and all pertinent information on participants in SBA Executive Development Program in one place for reference purposes. To be used by members of training staff, members of The Executive Manpower Resources Board, and their supervisors.

Storage:

Information is maintained in file folders in locked steel cabinet.

Retrievability:

Records are filed alphabetically.

Safeguards:

Files are locked when not in use, and are released to authorized personnel only.

Retention and disposal:

In accordance with SOP-00-41.

System manager(s) and address:

Chief, Training Division, 8115 Fenton Street, Silver Spring, Maryland 20910.

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Notification procedure:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the manager listed above.

Record access procedures:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

Record source categories:

Primarily from employee completion of Forms 1036 and their supervisors' completion of Form 1037.

SBA440

System name:

Documentation of Supervisor Training—SBA440.

System location:

8115 Fenton Street, Silver Spring, Maryland, 20910.

Categories of individuals covered by the system:

Persons occupying first-level supervisory positions in the Agency.

Categories of records in the system:

SBA Form 1138.

Authority for maintenance of the system:

5 U.S.C. 301, 44 U.S.C. 3101, 15 U.S.C. 634(b)(6).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To determine who must receive training and to plan and schedule such training in order to meet Agency Supervisory training needs. To be used by employee, supervisor, and Office of Personnel.

Storage:

Information is maintained in file folders in steel file cabinet.

Retrievability:

Filed alphabetically by employee name.

Safeguards:

Information released only to authorized personnel on need to know basis.

Retention and disposal:

In accordance with SOP–00–41.

System manager(s) and address:

Chief, Training Division, 8115 Fenton Street, Silver Spring, Maryland 20910.

Notification procedure:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the manager listed above.

Record access procedures:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

Contesting record procedures:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

Record source categories:

Primarily from employee completion of Form 1138, and review of their Official Personnel Folder.

[FR Doc.77–6047 Filed 3–1–77;8:45 am]

[License No. 01/01–0287]

S.B.I.C. OF VERMONT, INC.

Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1976)), under the name of S.B.I.C. of Vermont, Inc., (Applicant) for a license to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant was incorporated under the laws of the State of Vermont on January 5, 1977, and it will commence operations with a capitalization of $1,055,000.

One hundred percent (100%) of the Applicant's $1.00 par value capital shares to be initially issued and outstanding have been subscribed for by thirteen (13) banking and savings institutions located and doing business within the State of Vermont.

The proposed officers, directors and holders of ten percent (10%) or more of the capital stock of the Applicant are:

Name and proposed title or relationship to applicant:

Robert B. Manning, President, General Manager and Treasurer, North Road, Castleton, Vermont 05735.

Andrew R. Field, Secretary and Counsel, Spring Hollow Lane, Montpelier, Vermont 05602.

Sheldon M. Dimick,[1] Chairman of the Board, Brook Street, Randolph, Vermont 05060.

John Hunter, Jr.,[2] Director, 71 Western Avenue, Brattleboro, Vermont 05301.

Stephen G. Moore,[3] Director, Charlotte, Vermont 05445.

Paul N. Wormwood,[4] Director, 20 Hillside Road, Rutland, Vermont 05701.

Fred W. Yeadon, Jr.,[5] Director, Orchard Avenue, Brattleboro, Vermont 05301.

Chittenden Trust Co., Shareholder, 2 Burlington Square, Burlington, Vermont 05401.

First Vermont Bank and Trust Company, Shareholder, 215 Main Street, Brattleboro, Vermont 05301.

Vermont National Bank, Shareholder, 100 Main Street, Brattleboro, Vermont 05301.

The Applicant's office will be located at 121 West Street, Rutland, Vermont 05701, and it will conduct operations principally in the State of Vermont and will serve small to medium size firms in that area.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may, within 15 days after the date of publication of this Notice, submit written comments on the Applicant to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Rutland, Vermont.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: February 24, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77–6238 Filed 3–1–77;8:45 am]

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[1] President of Randolph National Bank, which bank will be a shareholder.

[2] President of Vermont National Bank, which bank will be a shareholder.

[3] Vice President of Merchants Bank, which bank will be a shareholder.

[4] President of Proctor Trust Company, which company will be a shareholder.

[5] President of First Vermont Bank and Trust Company, which bank will be a shareholder.

DEPARTMENT OF STATE

[Public Notice CM–7/32]

ADVISORY COMMITTEE ON TRANSNATIONAL ENTERPRISES

Meeting

The Department of State Advisory Committee on transnational Enterprises will hold its seventh meeting on Thursday, March 17 at 9:30 a.m. in Room 1107 of the Department of State, 2201 C Street, NW., Washington, D.C. The meeting will be open to the public.

The purpose of the meeting will be to discuss the ongoing work in international fora in regard to questionable payments, and codes of conduct relating to transfer of technology and transnational enterprises.

Requests for further information on the meeting should be directed to Stephen Bond, Department of State, 2201 C Street, NW., Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–0349.

Members of the public wishing to attend the meeting must contact Mr. Bond's office in order to arrange entrance to the State Department building.

The Chairman will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: February 18, 1977.

STEPHEN R. BOND,
Executive Secretary.

[FR Doc.77–6156 Filed 3–1–77;7:45 am]

STUDY GROUP 4 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 4 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on March 22, 1977, at 10:00 a.m. in the First Floor Auditorium of the ConSat Building, 950 L'Enfant Plaza SW., Washington, D.C.

Study Group 4 deals with matters relating to systems of radiocommunications for the fixed service using satellites. The purpose of the meeting will be a review of all proposed contributions to the international meeting of Study Group 4 in October 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: February 23, 1977.

GORDON L. RUFFCUTT,
Chairman,
U.S. CCIR National Committee.

[FR Doc.77–6206 Filed 3–1–77;8:45 am]

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Amended Notice of Meeting

In Volume 42 F.R. 8254, February 9, 1977, A.I.D. announced a meeting of the Board for International Food and Agricultural Development to be held in Room 5951, State Department Building on March 14, 1977 from 9:00 a.m. to 5:00 p.m. The purpose of this notice is to indicate that the place of the meeting has been changed to Room 250 in the National Academy of Sciences building, 2101 Constitution Avenue NW., Washington, D.C.

Dated: February 25, 1977.

ERVEN J. LONG,
Federal Officer, Board for International Food and Agricultural Development.

[FR Doc.77–6264 Filed 3–1–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition No. HS–77–2]

MASSENA TERMINAL RAILROAD CO.

Petition for Exemption From the Hours of Service Act

The Massena Terminal Railroad Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64 a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61–64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–77–2, Room 5101, 400 7th Street SW., Washington, D.C. 20590. Communications received before April 5, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 7th Street SW., Washington, D.C. 20590.

Issued in Washington, D.C. on February 23, 1977.

DONALD W. BENNETT,
Chairman,
Railroad Safety Board.

[FR Doc.77–6168 Filed 3–1–77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular, Public Debt Series No. 6–77]

TREASURY NOTES SERIES H–1981

Interest Rate

FEBRUARY 24, 1977.

The Secretary of the Treasury announced on February 23, 1977, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 6–77, dated February 16, 1977 (42 FR 10382, Feb. 22, 1977), will be 6⅞ percent per annum. Accordingly, the notes are hereby redesignated 6⅞ percent Treasury Notes of Series H–1981. Interest on the notes will be payable at the rate of 6⅞ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77–6157 Filed 3–1–77;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on Wednesday, March 30, 1977 at 10:00 a.m. E.S.T., the White River Junction Station Committee on Educational Allowances shall at Room 124, Administration Building, Veterans Administration Center, White River Junction, VT conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Harold Johnson Electric, Inc., Bennington, VT should be discontinued, as provided in 38 C.F.R. 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: February 23, 1977.

W. A. YASINSKI,
Director, VA Center,
White River Junction, Vt.

[FR Doc.77–6201 Filed 3–1–77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 336]

ASSIGNMENT OF HEARINGS

FEBRUARY 25, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 142497 (Sub-No. 1), Atlanta Charter Bus Service, Inc. now being assigned April 18, 1977 (1 week) at Norfolk, Virginia in a hearing room to be later designated.

MC 127198 (Sub-No. 2), C. F. Hearn, d.b.a. C. F. Hearn Trucking Co. now being assigned April 18, 1977 (1 week) at Raleigh, North Carolina in a hearing room to be later designated.

MC–F–12822. Overnite Transportation Co.—Purchase—O'man Transportation Co., Inc., and MC 109533 (Sub-75); Overnite Transportation Co. now assigned February 28, 1977 at Nashville, Tennessee is cancelled and reassigned for March 15, 1977 (9 days) at Louisville, Kentucky and will be held at Stouffers Louisville Inn, 120 West Broadway.

MC 2229 (Sub-192), Red Ball Motor Freight, Inc., now being assigned April 12, 1977 (9 days) at Atlanta, Georgia, in a hearing room to be later designated.

MC 134922 (Sub-200), B. J. McAdams, Inc., now assigned March 31, 1977 at Washington, D.C., is canceled.

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AB 83 (Sub-No. 2), Maine Central Railroad Company Abandonment Between Livermore Falls, and Farmington in Androscoggin and Franklin Counties, Maine, now assigned March 23, 1977 at Farmington, Maine, has been postponed to March 30, 1977 (3 days) at Farmington, Maine, in a hearing room to be later designated.

MC 110636 (Sub-51), McCormich Dray Line, Inc. now being assigned April 14, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 73165 (Sub-392), Eagle Motor Lines, Inc. now being assigned April 12, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 134661 (Sub-4), Vulcraft Carrier Corporation now being assigned April 12, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC-C-8917, Dignan Trucking, Inc., ET AL V. Southern Maryland Transportation Co., now being assigned PHC on March 3, 1977, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 80430 (Sub-158), GATEWAY TRANSPORTATION CO., INC. now being assigned May 16, 1977 (1 week) at Tupelo, Mississippi in a hearing room to be later designated. Also this proceeding will be heard the 23rd day of May 1977 (1 week) at Atlanta, Georgia in another hearing room to be later designated.

MC 65626 (Sub-32), Fredonia Express, Inc. and MC 78667 (Sub-45), Lott Motor Lines, Inc., now being assigned March 17, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6227 Filed 3-1-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

FEBRUARY 25, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission by March 14, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protest, if any, must refer to such letter-notices by number.

No. MC 21170 (Sub-No. E184) (partial correction), filed February 3, 1975, published in the FEDERAL REGISTER issue of May 2, 1975, and republished, as corrected, this issue. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushi (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, restricted to such commodities as are dealt in by wholesale, retail, or chain grocery stores, (A) (2) between points in Illinois on and north of a line beginning at Lake Michigan and extending along Interstate Highway 55 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Illinois Highway 2, thence along Illinois Highway 2 to junction Illinois Highway 92, thence along Illinois Highway 92 to the Illinois-Iowa State line, on the one hand, and, on the other, points in Missouri on, north and west of a line beginning at the Iowa-Missouri State line and extending along Missouri Highway 5 to junction Missouri Highway 139, thence along Missouri Highway 139 to junction unnumbered highway near Sumner, thence south along unnumbered highway to junction Missouri Highway 11 at Mendow, thence south along unnumbered highway to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Missouri Highway 41, thence along Missouri Highway 41 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateways of Vinton, Iowa and points within 15 miles of Vinton and Sac City, Storm Lake, La Porte City, Garrison, and Shellsburg, Iowa.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of the letter-notice remains as previously published.

No. MC 107107 (Sub-No. E11) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of June 16, 1975, and republished, as corrected, this issue. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery, and related advertising materials*, from Hackettstown, N.J., to points in Louisiana, those in Georgia on and south of a line beginning at Valona, Ga., and extending along Georgia Highway 99 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Alabama-Georgia State line, and those in Mississippi and Alabama on and south of U.S. Highway 80. The purpose of this filing is to eliminate the gateway of Jacksonville, Fla.

NOTE.—The purpose of this correction is to add the word "to" in order to correct the destination territory.

No. MC 107107 (Sub-No. E22) (Partial Correction), filed April 6, 1975, published in the FEDERAL REGISTER issue of June 16, 1975, republished, as corrected, this issue. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (2) *frozen seafood*, from Norfolk, Va., to points in Louisiana and Texas, those in Georgia on and south of a line beginning at the Atlantic Ocean and extending along U.S. Highway 84 to junction U.S. Highway 82, thence along U.S. Highway 82 to the Georgia-Alabama State line, and those in Alabama on and south of U.S. Highway 80 (Florida).* The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letter-notice remains as previously published.

No. MC 107107 (Sub-No. E29) (Correction), filed April 6, 1975, published in the FEDERAL REGISTER issue of June 13, 1975, and republished, as corrected, this issue. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, as defined by the Commission, frfom Kansas City, Kans.-Mo., to those points in Alabama on and south of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 84 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Alabama Highway 10, thence along Alabama Highway 10 to the Alabama-Mississippi State line and those in Georgia on and south of U.S. Highway 280, restricted to the transportation of commodities requiring temperature control in transit when moving to Savannah, Ga. The purpose of this filing is to eliminate the gateways of Florida and Jacksonville, Fla.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 107107 (Sub-No. E30) (Correction), filed April 6, 1975, published in the FEDERAL REGISTER issue of June 13, 1975, and republished, as corrected, this issue. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, as defined by the Commission, from Wichita, Kans., to those points in Alabama on and south of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 8 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Alabama-Mississippi State line, and those in Georgia on and south of U.S. Highway 280, restricted to commodities requiring temperature control in transit when moving to Savannah, Ga. The purpose of this filing is to eliminate the

gateways of Florida and Jacksonville, Fla.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 107107 (Sub-No. E37) (Correction), filed April 16, 1975, published in the FEDERAL REGISTER issue of September 4, 1975, and October 16, 1975, and republished, as corrected, this issue. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (3) *Meats, meat products, and meat by-products, and dairy products*, as defined by the Commission, and frozen foods, from New York, N.Y., and points within 15 miles thereof, to those points in Georgia on and south of U.S. Highway 280 (except Savannah), and those in Alabama on and south of U.S. Highway 80 (Florida)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

NOTE.—The purpose of this correction is to state the correct commodity description in Part (3) above. The remainder of this letter is to remain as previously published.

No. MC 112070 (Sub-No. E91), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routs, transporting: *Household goods*, as defined by the Commission, between Nowata, Craig, Ottawa, Rogers and Delaware Counties, Okla., on the one hand, and, on the other, points in San Juan and Rio Arraba Counties, N. Mex. The purpose of this filing is to eliminate the gateway of Denver, Colo., and points within 10 miles thereof, and Northeastern Colorado (between points in that part of Colorado on, east and north of a line beginning at the Colorado-Wyoming State line and extending along U.S. Highway 87 to Wellington, Colo., thence along Colorado Highway 1 (formerly U.S. Highway 87) to junction U.S. Highway 287, thence along U.S. Highway 287 (formerly U.S. Highway 87) to Denver, Colo., thence along U.S. Highway 36 to the Colorado-Kansas State line.)

No. MC 112070 (Sub-No. E92), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Connecticut, on the one hand, and, on the other, points in Utah and New Mexico. The purpose of this filing is to eliminate the gateway of points in Illinois, Missouri and Denver, Colo., and points within 10 miles thereof.

No. MC 114868 (Sub-No. E45), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson Street, Arlington, Va. 22201. Applicant's representative: H. E. Newlon, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Maryland within 125 miles of Washington, D.C., on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of Washington, D.C. (2) (a) between points in Maryland (except Allegany and Garrett counties), on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of Washington, D.C. (2) (b) between points in Maryland, on the one hand, and, on the other, points in Kentucky on and west of a line beginning at the Tennessee-Kentucky State line and extending along Interstate Highway 75 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Kentucky Highway 53, thence along Kentucky Highway 53 to the Kentucky-Indiana State line. The purpose of this filing is to eliminate the gateway of points in Kentucky within 125 miles of Nashville.

No. MC 117574 (Sub-No. E49), filed June 6, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dredges, component parts of dredges, and dredging equipment*, which is also *industrial machinery and attachments, accessories and parts of such industrial machinery*, (a) between points in Berks, Carbon, Lehigh, Monroe, Northampton, and Schuylkill counties, Pa., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin and Wyoming, and in points in the following described states: points in Maryland on and south and west of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 15 to the Maryland-Virginia State line; points in North Carolina on and south and west of a line beginning at the Virginia-North Carolina State line and extending along Interstate Highway 95 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Atlantic Ocean; points in Pennsylvania on and south and west of a line beginning at the Lake Erie and extending along U.S. Highway 19 to junction U.S. Highway 30.

Thence along U.S. Highway 30 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-Maryland State line; points in Virginia on and south and west of a line beginning at the Maryland-Virginia State line and extending along U.S. Highway 15 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction Interstate Highway 95, thence along Interstate Highway 95 to the Virginia-North Carolina State line; (b) between points in Albemarle, Alleghany, Amherst, Botetourt, Buckingham, Charlotte, Clarke, Craig, Cumberland, Fairfax, Fauquier, Flavanna, Frederick, Grayson, Halifax, Loudoun, Lunenberg, Mecklinburg, Nelson, Pittsylvania, Prince Edward, Prince William, Smyth, Stafford, and Wythe, Counties, Va., on the one hand, and, on the other, points in California, Colorado, Connecticut, Idaho, Maine, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New York, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wyoming, and in points in the following described states; points in Arizona on and north and west of a line beginning at the Arizona-Mexico boundary line and extending along U.S. Highway 80 to the Arizona-New Mexico State line; points in Iowa on and north and west of a line beginning at the Nebraska-Iowa State line and extending along U.S. Highway 30 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 24, thence along Iowa Highway 24 to junction U.S. Highway 52, thence along U.S. Highway 52 to the Iowa-Minnesota State line; points in Kansas on and north and west of a line beginning at the Oklahoma-Kansas State line and extending along U.S. Highway 56 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Kansas-Nebraska State line; points in Michigan on and north of a line beginning at the Wisconsin-Michigan State line and extending along U.S. Highway 2 between Escanaba and Iron Mountain to Lake Michigan, to points on and north of a line beginning at Lake Michigan and extending along U.S. Highway 10 to Lake Erie; points in Nebraska on and north and west of a line beginning at the Kansas-Nebraska State line along U.S. Highway 77 to junction with Nebraska Highway 91 to the Nebraska-Iowa State line; points in New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 46 to junction New Jersey Highway 31.

Thence along New Jersey Highway 31 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Interstate Highway 287, thence along Interstate Highway 287 to the Atlantic Ocean; points in New Mexico on and north and west of a line beginning at the Arizona-New Mexico State line and extending along U.S. Highway 80 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 56, thence along U.S. Highway 56 to the New Mexico-Oklahoma State line;

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points in Ohio beginning at Lake Erie and extending along U.S. Highway 20 to the Ohio-Pennsylvania State line except the Counties of Ashtabule and Lake; points in Oklahoma on and north of a line beginning at the New Mexico-Oklahoma State line and extending along U.S. Highway 56 to the Oklahoma-Kansas State line; points in Pennsylvania on and east and north of a line beginning at Lake Erie and extending along Interstate Highway 79 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line; points in Wisconsin on and north and west of a line beginning at the Iowa-Wisconsin State line and extending along U.S. Highway 53 to junction Wisconsin Highway 95, thence along Wisconsin Highway 95 to junction with Wisconsin Highway 73, thence along Wisconsin Highway 73 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Wisconsin Highway 97, thence along Wisconsin Highway 97 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to junction Wisconsin Highway 52, thence along Wisconsin Highway 52 to junction U.S. Highway 8, thence along U.S. Highway 8 to the Wisconsin-Michigan State line. The purpose of this filing is to eliminate the gateway of Carlisle, Pa.

No. MC 123407 (Sub-No. E311), filed December 2, 1976. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irrgeular routes, transporting: *Lumber* used as a building material, from Cloquet, Minn., to points in Pennsylvania, restricted to the transportation of traffic originating at the facilities of Northwest Paper Company, at Cloquet, Minn. The purpose of this filing is to eliminate the gateway of Warren, Ill.

No. MC 123407 (Sub-No. E313), filed December 2, 1976. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irrgeular routes, transporting: *Lumber* used as a building material, from Cloquet, Minn., to points in Butler, Stoddard, Cape Girardeau, Scott, New Madrid, Dunklin, Pemiscot, and Mississippi Counties, Mo., restricted to the transportation of traffic originating at the facilities of Northwest Paper Company at Cloquet, Minn. The purpose of this filing is to eliminate the gateway of L'Anse, Mich.

No. MC 123407 (Sub-No. E314), filed December 2, 1976. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irrgeular routes, transporting: *Lumber* used as a building material (except commodities in bulk), from Cloquet, Minn., to points in and east of Kenton, Pendleton, Harrison, Scott, Fayette, Jessamine, Garrard, Lincoln, Pulaski, and McCreary Counties, Ky., points in and east of Pickett, Fentress, Cumberland, Bledsoe, and Hamilton Counties, Tenn., points in and east of Jackson, De Kalb, Etowah, Calhoun, Talladega, Coosa, Elmore, Montgomery, Butler, and Covington Counties, Ala., restricted to the transportation of traffic originating at the facilities of Northwest Paper Company at Cloquet, Minn. The purpose of this filing is to eliminate the gateway of Port Clinton, Ohio.

No. MC 123407 (Sub-No. E315), filed December 2, 1976. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irrgeular routes, transporting: *Lumber*, from Cloquet, Minn., to points in Maine, Kentucky, Tennessee, South Carolina, Georgia, New Jersey, Pennsylvania, West Virginia, Rhode Island, New York, Florida, Alabama, Massachusetts, Connecticut, New Hampshire, Vermont, Delaware, Maryland, Virginia, North Carolina, and the District of Columbia, restricted to the transportation of traffic originating at the facilities of Northwest Paper Company at Cloquet, Minn., The purpose of this filing is to eliminate the gateway of Dollar Bay, Mich.

No. MC 123407 (Sub-No. E316), filed December 2, 1976. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* (except commodities in bulk), from Cloquet, Minn., to points in Florida and points in and south of Sumter, Marengo, Dallas, Lowndes, Montgomery, Bullock, and Barbour Counties, Ala., restricted to the transportation of traffic originating at the facilities of Northwest Paper Company at Cloquet, Minn. The purpose of this filing is to eliminate the gateways of the plantsite of certain-Teed Products, Corp., at East St. Louis, Ill. and the plantsites of Georgia-Pacific Corporation at Taylorsville, Miss.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6226 Filed 3-1-77;8:45 am]

[Notice No. 28]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 24, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" dooket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 5446 (Sub-No. 486TA) filed February 14, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Perry and Des Moines, Iowa, to Philadelphia, Pa.; Edison, N.J.; Baltimore, Md.; Landover, Md.; Jamaica, Long Island, N.Y.; Jersey City, N.J.; Elizabeth, N.J.; Williamsport, Pa., and Goodlettsville, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oscar Mayer & Co., Inc., 910 Mayer Ave., Madison, Wis. 53704. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg. and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 67210 (Sub-No. 9TA), filed February 14, 1977. Applicant: GLENNON TRANSPORTS, INC., 1000 N. 14th St., St. Louis, Mo. 63106. Applicant's representative: Allen W. Rohlfing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the

Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Evansville, Ind., and Cave In Rock, Ill., over Indiana Highway 62 to Illinois-Indiana State Line, thence over Illinois Highway 141 to junction Illinois Highway 1, thence over Illinois Highway 1 and the off-route point of Ridgeway, Ill.; between junction Illinois Highway 1 and Illinois Highway 13, and Harrisburg, Ill., over Illinois Highway 13; between Harrisburg, Ill., and Rosiclare, Ill., over Illinois Highway 34; between Harrisburg, Ill., and Vienna, Ill., over Illinois Highway 145 to junction U.S. Highway 45, thence over U.S. Highway 45; between junction Illinois Highway 1 and Illinois Highway 146 and Vienna, Ill., over Illinois Highway 146; between junction Illinois Highway 1 and Illinois Highway 13 and Shawneetown, Ill., over Illinois Highway 13; between junction Illinois Highway 1 and Illinois Highway 141 and Norris City, Ill., over Illinois Highway 1; between junction of Illinois Highway 13 and Illinois Highway 142 and Eldorado, Ill., over Illinois Highway 142, serving all intermediate points along the above routes in Illinois. Applicant intends to interline at Evansville, Ind., for 180 days. Supporting shippers: There are approximately 19 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: J. P. Werthmann, District Supervisor, 210 N. 12th St., Room 1465, St. Louis, Mo. 63201.

No. MC 106674 (Sub-No. 222TA), filed February 14, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnston (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Propane, liquid*, in bulk, from Conway, McPherson, Little River and Hutchinson, Kans.; Princeton, Ind.; Mentor, Middletown, Ashatabula and Painesville, Ohio; Port Huron and St. Clair, Mich., and Hattiesburg, Miss., to points in Kentucky, Ohio, Indiana, Illinois, Tennessee, Pennsylvania; and Birmingham, Ala.; Ft. Atkinson, Wis.; Milwaukee, Wis.; Weirton, W. Va., and New Brunswick, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 9 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 111401 (Sub-No. 477TA), filed February 14, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling tower, water and boiler treating compounds* (not petroleum-based) in bulk, in tank vehicles, from Odessa, Tex., to points in New Mexico, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dearborn Chemicals (U.S.), 300 Genesee St., Lake Zurich, Ill. 60047. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 114004 (Sub-No. 165TA), filed February 15, 1977. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Winston Chandler, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except travel trailers and recreational vehicles), *and buildings*, in sections (except pre-fabricated buildings), in initial movements in truck-away service, from points in Corona, Marysville, and Riverside, Calif.; and points in their commercial zones, to points in Alaska, Arizona, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Oklahoma, Texas, Utah, Washington and Wyoming, for 180 days. Supporting shipper: Lancer Homes, Inc., 1101 Dove St., Newport Beach, Calif. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 114004 (Sub-No. 166TA), filed February 15, 1977. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Winston Chandler, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except travel trailers or recreational vehicles), *and buildings*, in sections (except pre-fabricated buildings), in initial movements, in truck-away service, from Marysville and Corona, Calif.; Auburndale, Fla.; Henderson, N.C.; Caldwell, Ohio; Bend, Oreg.; Phoenix, Ariz.; Booneville, Mo.; and Ruston, La.; to points in the United States, including Alaska, but excluding Hawaii, for 180 days. Supporting shipper: Fuqua Homes, Inc., 7100 S. Cooper, Arlington, Tex. 76015. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 114004 (Sub-No. 167TA), filed February 15, 1977. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Winston Chandler, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except travel trailers and recreational vehicles), *and buildings*, in sections (except pre-fabricated buildings), in initial movements, in truck-away service, from points in Decatur, Ala.; Casa Grande, Ariz.; Woodland and Hemet, Calif.; Ocala and Sarasota, Fla.; Goshen, Elkhart and Howe, Ind.; Arkansas City and Halstead, Kans.; Boosier City, La.; New Ulm, Minn.; Kinderhook, N.Y.; Mocksville, N.C.; McMinnville, Oreg.; Ephrata and Leola, Pa.; Lancaster, Wis.; and now presently under construction, Mt. Angel, Oreg., and Schaefferstown, Pa.; and points in their commercial zones, to points in the United States, including Alaska, but excluding Hawaii, for 180 days. Supporting shipper: Skyline Corporation, 2520 By-Pass Road, Elkhart, Ind. 46514. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 114897 (Sub-No. 124TA), filed February 14, 1977. Applicant: WHITFIELD TANK LINES, INC., 821 E. Pasadena St., P.O. Box 7676, Phoenix, Ariz. 85001. Applicant's representative: J. D. Rose (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Phelps Dodge Smelter, located in Hidalgo County, N. Mex., to Salida, Monte Vista and Denver, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Van Waters & Rogers, 4300 Holly St., Denver, Colo. 80216. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 116763 (Sub-No. 363TA), filed February 14, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, Ohio 43580. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured animal and poultry feeds, and ingredients therefor* (except commodities in bulk), from Tupelo, Miss., and Red Bay, Ala., to points in Wisconsin, for 180 days. Supporting shipper: Sunshine Feed Mills, Inc., P.O. Box S, Red Bay, Ala. 35582. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 11819 (Sub-No. 1TA), filed February 14, 1977. Applicant: GLEN A. LEA, North Tryon, Prince Edward Island, Canada COB1AO. Applicant's representative: Glen A. Lea (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juices and fruit juices*, in mixed

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loads with *bananas and fresh fruits and vegetables*, from Boston, Mass., to the port of entry on the International Boundary line between the United States and Canada, at or near Houlton, Maine, for 180 days. Supporting shipper: Atlantic Wholesalers, 4 Charlotte St., Sackville, New Brunswick. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl St., Portland, Maine 04111.

No. MC 118292 (Sub-No. 36TA), filed February 14, 1977. Applicant: BALLENTINE PRODUCE, INC., New Hwys 64 and 71, P.O. Box 312, Alma, Ark. 72921. Applicant's representative: Barry Roberts, 888 17th St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Little Rock, Ark., to points in Texas, Oklahoma, Nebraska, Iowa, Missouri, Kansas, Colorado, Arizona, New Mexico, Oregon, California, Washington, Kentucky, Maryland, Virginia, Illinois, Indiana, Wisconsin, Michigan and the District of Columbia, for 180 days. Supporting shipper: Good Old Days Food, Inc., P.O. Box 9918, Little Rock, Ark. 72209. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 125433 (Sub-No. 95 TA), filed February 11, 1977. Applicant: F–B TRUCK LINE COMPANY, 1945 S. Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Michael J. Norton, P.O. Box 2135, Suite 404, Boston Bldg., Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite and shipping facilities of Armco Steel Corporation, at or near Kansas City, Mo., to points in Arizona, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Armco Steel Corporation, 7000 Roberts St., Kansas City, Mo. 64125. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 125433 (Sub-No. 96TA), filed February 11, 1977. Applicant: F–B TRUCK LINE COMPANY, 1945 S. Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Michael J. Norton, P.O. Box 2135, Suite 404, Boston Bldg., Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bar joists; trusses; painted galvanized, or uncoated decking and siding; and accessories; and iron and steel articles* as described in Appendix V to the *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Norfolk, Nebr., and its commercial zone, to points in Colorado, Wyoming, Montana, Washington, Utah, Idaho, California, Oregon, Arizona and Nevada, restricted to movements originating at the plantsite of Vulcraft, a Division of Nucor Corporation, for 180 days. Supporting shipper: Vulcraft, Division of Nucor Corporation, P.O. Box 59, Norfolk, Nebr. 68701. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 133099 (Sub-No. 4TA3, filed February 16, 1977. Applicant: THE GLASGOW & DAVIS CO., P.O. Box 1717, Salisbury, Md. 21801. Applicant's representative: William T. Davis, S. Division St. Ext., Salisbury, Md. 21801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Detroit, Mich., and a radius of 50 miles thereof, to points in Maryland, Delaware, Virginia and the District of Columbia, for 180 days. Supporting shipper: Carey Distributors, Inc., 707 Brown St., Salisbury, Md. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Ave., N.W., Room 1413, Washington, D.C. 20423.

No. MC 134467 (Sub-No. 16TA), filed February 14, 1977. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, Ark. 72764. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite and storage facilities of Monfort Packing Company, at or near Greeley, Colo., to points in Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, Ohio, Michigan, and the District of Columbia, restricted to transportation of shipments originating at the named origins and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Monfort Packing Company, Box G, Greeley, Colo. 80613. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock Ark. 72201.

No. MC 134484 (Sub-No. 10TA), filed February 14, 1977. Applicant: EDWARD BROS., INC., P.O. Box 1684, Idaho Falls, Idaho 83401. Applicant's representative: Dennis M. Olsen, 485 "E" St., Idaho Falls, Idaho 83401. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: *Fresh meat and meat packinghouse products* (except commodities in bulk), from Toppenish, Wash., to Los Angeles, Vernon, Stockton, San Jose, Oakland, San Francisco, Yuba City, Santa Cruz and Santa Fe Springs, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Flavorland Industries, Inc., P.O. Box 16345, Denver, Colo. 80226. Send protests to: Barney L. Hardin, District Supervisor, 550 W. Fort St., P.O. Box 07, Boise, Idaho 83724.

No. MC 134518 (Sub-No. 5TA), filed February 14, 1977. Applicant: CHEESE HAULING, INC., P.O. Box 12, R.R. No. 4, Mandan, N. Dak. 58554. Applicant's representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baler or binder twine*, from Milwaukee, Wis., to points in Minnesota, Nebraska, North Dakota and South Dakota, for 180 days. Supporting shipper: Dubuque Twine Co., Jones and Terminal Streets, Dubuque, Iowa 52001. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 134734 (Sub-No. 33TA), filed February 14, 1977. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, Nebr. 68137. Applicant's representative: Joseph Winter, 33 N. LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prune and grapefruit products, and barbeque sauce*, from the plantsite and facilities of Ocean Spray Cranberries, Inc., at Kenosha, Wis., to points in Alabama, Arkansas, Colorado, Georgia, Kansas, Louisiana, Mississippi, Nebraska, Oklahoma, Tennessee, Texas, and points in Missouri on and west of U.S. Highway 65, under a continuing contract with Ocean Spray Cranberries, Inc., for 180 days. Supporting shipper: Neal J. Ingenito, Traffic Manager, Ocean Spray Cranberries, Inc., Hanson, Mass. 02341. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 140596 (Sub-No. 1TA), filed February 11, 1977. Applicant: NEWPORT AIR FREIGHT, INC., Airport Road, Newport, Vt. 05855. Applicant's representative: S. Arnold Smith, Craftsbury, Vt. 05826. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electronic connectors and allied components* required in generation, transmission and distribution of electricity for consumer and industrial consumption, all on a priority basis with prior or subsequent movement by air, under a continuing contract with Burndy Corportation of St. Johnsbury, Vt., between the facilities of Burndy Corporation, at or near St. Johnsbury, Vt., on the one hand, and, on the other, Logan International Airport, at or near East Boston, Mass., for 180 days. Supporting shipper: Burndy Corporation, St. Johnsbury, Vt. 05819. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. 548, 87 State St., Montpelier, Vt. 05602.

No. MC 142647 (Sub-No. 1TA), filed February 8, 1977. Applicant: STAN ANDERSON AND W. T. TULLOS, III, doing business as, A & T TRANSPORTATION COMPANY, Pace, Miss. 38764. Applicant's representative: Arthur McIntosh, 120 N. Pearman Ave., Cleveland, Miss. 38732. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum slab products*, used in the production of aluminum coil and sheet, (a) from Frederick, Md. to New Johnsonville, Tenn.; Omal, Ohio; Lancaster, Pa.; Burlington and Winston-Salem, N.C.; Milford, Va.; Westbury, N.Y.; Parlin, N.J.; Lawrence and Taunton, Mass.; and Baltimore, Md.; (b) from Baltimore, Md., to Lancaster, Pa.; Shelbyville, Ky.; New Johnsonville, Tenn.; Omal, Ohio; Magnolia, Ark.; and Rockwell, Tex.; and (c) from New Johnsonville, Tenn., to Shelbyville, Ky.; Lancaster, Pa.; Magnolia, Ark.; and Rockwell, Tex.; and (2) *Aluminum scrap*, (a) from Bryan, Tex., to Magnolia Ark., and Rockwell, Tex.; (b) from Sherman, Tex., to Magnolia, Ark., and Rockwell, Tex.; (c) from McComb and Magnolia, Miss., to Magnolia, Ark., and Rockwell, Tex.; (d) from Lumber Bridge, N.C., to Lancaster, Pa.; Baltimore, Md.; Magnolia, Ark.; and Rockwell, Tex., and (e) from Alexandria, Minn., to Magnolia, Ark., and Rockwell, Tex., under a continuing contract with Howmet Aluminum Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Howmet Aluminum Corporation, 475 Steamboat Road, Greenwich, Conn. 06830. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 E. Amite Bldg., Jackson, Miss. 30201.

No. MC 142777 (Sub-No. 1TA), filed February 14, 1977. Applicant: ROAD AMERICA FREIGHT SYSTEMS, INC., P.O. Box 3756, Ontario, Calif. 91761. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, 611 Church St., Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned fruits and vegetables*, from Eugene, Oreg., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, Ohio, Oklahoma, Texas and Utah; and (2) *Paints, paint compounds, wood fillers, adhesives, caulking and glazing compounds, solvents and related compounds and painting materials and supplies*, from Dayton and Tipp City, Ohio, to points in California, Oregon and Washington, for 180 days. Supporting shippers: (1) Agripac, Inc., P.O. Box 5346, Salem, Oreg. 97304. (2) DAP, Inc., P.O. Box 277, Dayton, Ohio 45401. Send protests to: Mary A. Francy, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

No. MC 142897TA, filed February 11, 1977. Applicant: KENNEDY FREIGHT LINES, INC., P.O. Box 332, Lapel, Ind. 46051. Applicant's representative: Paul F. Beery, 8 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mufflers, tailpipes, shock absorbers and shipping containers*, between Toledo, Ohio, Pinola, Ind., and Grandhaven, Mich., on the one hand, and, on the other, points in Kentucky, West Virginia, Virginia, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Indiana and Illinois, under a continuing contract with Questor, Inc., for 180 days. Supporting shipper: Questor, Inc., 1801 Spielbusch Ave., Toledo, Ohio 43601. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 142906TA, filed February 11, 1977. Applicant: SUNWARD TRUCKING INCORPORATED, 808 S. 14th, Worland, Wyo. 82401. Applicant's representative: Calvin A. Calton, 226 Hedden-Empire Bldg., 208 N. 29th St., Billings, Mont. 59101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Unassembled steel buildings and components parts thereof and unassembled steel sheeting, pre-cut lumber and components* for pole barns; and (2) *Galvanized steel coils and flats, including colored flats and black flat steel and galvanized and colored corrugated sheets and other associated steel products and components* for steel buildings and for pole barns, and rot-resistant treated dimensional lumber and other associated lumber and components for pole barns; (1) from Jamestown, N. Dak., to points in the continental United States (except Alaska and Hawaii); and (2) from points in the continental United States (except Alaska and Hawaii), to Jamestown, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Marvel Brute Steel Building, Inc., 900 15th Ave., S.E., Jamestown, N. Dak. 58401. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105 Federal Bldg., Courthouse, 111 S. Wolcott St. Casper, Wyo. 82601.

No. MC 142907TA, filed February 14, 1977. Applicant: BRUCE H. DAY AND ANN D. DAY, Co-Partners, 602 W. Hemlock St., Coos Bay, Oreg. 97420. Applicant's representative: J. B. Bedingfield, P.O. Box 29, 243 W. Commercial Ave., Coos Bay, Oreg. 97420. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bonded liquors, bonded tobacco*, and general ship's stores, in the operation of a ship chandlering business, from the Port of Coos Bay, Coos Bay, Oreg., to the Port of Newport on Yaquina Bay, Oreg., and the Port of Eureka on Humboldt Bay, Del Notre County, Calif., under a continuing contract with Day Ship Supply, Inc., for 180 days. Supporting shipper: Day Ship Supply, Inc., 602 Hemlock St., Coos Bay, Oreg. 97420. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, Oreg. 97204.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc 77-6224 Filed 3-1-77;8:45 am]

[Notice No. 29]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 25, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1846 (Sub-No. 10TA), filed February 8, 1977. Applicant: W. D. KIBLER TRUCKING COMPANY, 60 S. State St., Indianapolis, Ind. 46201. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, between Columbus, Ohio, on the one hand, and, on the other, points in Indiana, points in Kentucky within the Cincinnati, Ohio Commercial Zone and Louisville, Ky., and

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points in Illinois, in the County of Iroquois, Ford, Vermilion, Champaign, Edgar, Douglas, Cumberland, Clark and Coles, under a continuing contract with The Great Atlantic & Pacific Tea Company, Inc., for 180 days. Supporting shipper: The Great Atlantic & Pacific Tea Company, Inc., Two Paragon Drive, Montvale, N.J. 07645. Send protests to: William S. Ennis, Interstate Commerce Commission, Federal Bldg., and U.S. Courthouse, 46 E. Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 11592 (Sub-No. 17TA), filed February 17, 1977. Applicant: BEST REFRIGERATED EXPRESS, INC., 4050 Dahlman Ave., Omaha, Nebr. 68107. Applicant's representative: F. E. Myers (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible animal feed ingredients* (except in bulk, in tank vehicles), from the plantsite and storage facilities utilized by Jet Meat By-Products, Inc., at or near Omaha, Nebr., to Allentown and Bloomsburg, Pa., and Zanesville, Ohio, and from the plantsite and storage facilities utilized by Richland Foods, Inc., at or near Estherville, Iowa, to Allentown and Camp Hill, Pa.; Kansas City, Mo.; and Zanesville, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Mary LaFleur, Jet Meat By-Products, Inc., P.O. Box 7182, 4801 S. 38th St., Omaha, Nebr. 68107. Mary LaFleur, Richland Foods, Inc., P.O. Box 104, 20 N. 4th St., Estherville, Iowa 51334. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 51004 (Sub-No. 6TA), filed February 9, 1977. Applicant: PAUL H. LISKEY, Kearneysville, W. Va. 25430. Applicant's representative: Daniel B. Johnson, 1123 Munsey Bldg., 1329 E St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and fertilizer ingredients*; (1) from Baltimore, Md., to points in Maryland; Berkeley, Morgan, Jefferson, Hardy and Hampshire Counties, W. Va.; Frederick, Clarke, Loudoun, Warren, Fauquier, Shenandoah, Page, Rockingham and Augusta Counties, Va.; and Adams, York and Franklin Counties, Pa.; and the District of Columbia; (2) from Mt. Jackson, Va., to Frederick, Washington, Howard, Montgomery and Carroll Counties, Md.; Berkeley, Hardy, Jefferson, Morgan and Hampshire Counties, W. Va.; Adams, York and Franklin Counties, Pa.; and the District of Columbia; and (3) from Ranson, W. Va., to points in Maryland; Adams, York and Franklin Counties, Pa.; Frederick, Loudoun, Shenandoah, Page, Fauquier, Warren, Rockingham, Augusta and Clarke Counties, Va.; and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Miller Chemical & Fertilizer Corporation, 300 N. Preston St., Ranson, W. Va. 25438. Send protests to: Interstate Commerce Commission, 12th and Constitution Ave., N.W., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 114004 (Sub-No. 168TA), filed February 17, 1977. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Binton Highway, Little Rock, Ark. 72209. Applicant's representative: Winston Chandler, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except travel trailers), *and buildings*, in sections, mounted on wheeled undercarriages (except prefabricated buildings), from points in Colton, Woodland, and Santa Fe Springs, Calif.; Leesburg, Fla.; Rome, Ga.; Bourbon, Ind.; Ottawa, Kans.; Worthington, Minn.; Brookhaven, Miss.; Clarion, Pa.; McMinnville, Oreg.; and Texarkana, Tex., to points in the United States, including Alaska, but excluding Hawaii, for 180 days. Supporting shipper: Bendix Home Systems, Inc., 61 Perimeter Park, Atlanta, Ga. 30341. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 118159 (Sub-No. 197TA), filed February 17, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366-Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Des Moines, Iowa, to points in Arizona, California, Oregon, Utah and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Meredith Corporation, P.O. Box 1394 Des Moines, Iowa 50305. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 119789 (Sub-No. 324TA), filed February 17, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal food*, from Los Angeles, Calif., to points in Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kal Kan Foods, Inc., 3386 E. 44th St., Vernon, Calif. 90058. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 126276 (Sub-No. 172TA), filed February 18, 1977. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 N. LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt containers and metal container ends*, from Danville, Ill., to Franklin, Ky.; Jeffersonville, Ind.; and Memphis, Tenn., under a continuing contract with The Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Continental Group, Inc., James R. Jandora, Analyst-Traffic and Distribution, 150 W. Wacker Drive, Chicago, Ill. 60606. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 127812 (Sub-No. 24TA), filed February 18, 1977. Applicant: TYSON TRUCK LINES, INC., 185 5th Ave., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motorvehicle, over irregular routes, transporting: *Articles*, dealt in by wholesale and retail grocery chain houses (except commodities in bulk), from points in the Minneapolis-St. Paul, Minn., Commercial Zone, to points in Minnesota and points in Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, LaCrosse, Oneida, Pepin, Pierce, Polk, Price, Sawyer, Rusk, St. Croix, Trempealeau, Washburn and Vilas Counties, Wis. Applicant intends to interline at Minneapolis-St. Paul and points in Minneapolis-St. Paul Commercial Zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 21 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 133119 (Sub-No. 112TA), filed February 15, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. SWANSON, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and packinghouses products* (except hides and commodities in bulk), from Fargo, N. Dak., and its commercial zone, to points in Alabama, Louisiana, Mississippi, Tennessee, Georgia, Florida, South Carolina and North Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Richard Loose, Corporate Traffic Manager, Flavorland Industries, Inc., P.O. Box 16345, Denver, Colo. 80216. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 135170 (Sub-No. 17TA), filed February 16, 1977. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representative: James C. Hardman, 33 N. LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Milltown, N.J., to Frederick, Md., under a continuing contract with the Clorox Company, for 180 days. Supporting shipper: G. William Junginger, Reg. Traffic Mgr., the Clorox Company, 1221 Broadway, Oakland, Calif. 94612. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Bldg., Baltimore, Md. 21201.

No. MC 136079 (Sub-No. 8TA), filed February 17, 1977. Applicant: COIN DEVICES CORP., 1130 Chestnut St., Elizabeth, N.J. 07201. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coins, currency, checks and food stamps*, between Easton, Pa., on the one hand, and, on the other, Fidelity Union Bank, Newark, N.J., under a continuing contract with Village Super Market, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Village Super Market, Inc., 733 Mountain Ave., Springfield, N.J. 07081. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 139132 (Sub-No. 7TA), filed February 16, 1977. Applicant: HOE H. TIDWELL, doing business as, NORTHEAST TRUCK BROKERS, P.O. Box 826, Pharr, Tex. 78577. Applicant's representative: Thomas R. Kingsley, 1819 H St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe fittings, including threaded pipe* (except those commodities the transportation of which by reason of size or weight require the use of special equipment); (1) from Blossburg, Tioga County, Pa., to points in Louisiana and Texas; and (2) from Waynesboro, Franklin County, Pa., to points in Illinois and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: J. P. Ward Foundries, Inc., 333 S. Williams Road, Blossburg, Pa. 16912. Waynesboro Pipe Products Co., Hamilton and Madison Avenues, Waynesboro, Pa. 17268. Send protests to: Richard H. Dawkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room B–400 Federal Bldg., 727 E. Durango Blvd., San Antonio, Tex. 78206.

No. MC 140266 (Sub-No. 6TA), filed February 17, 1977. Applicant: BAKER TRUCK SERVICE, 2906 29th St., North, P.O. Box 535, Lewiston, Idaho 83501. Applicant's representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irrigular routes, transporting: *Particleboard*, from the plantsite of Boise Cascade, at or near La Grande, Oreg., on the one hand, to Tacoma, Wash., on the other, for 180 days. Supporting shipper: Pickering Industries, 1930 E. D St., Tacoma, Wash. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, Wash. 98174.

No. MC 140389 (Sub-No. 12TA), filed February 18, 1977. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Highway 77, Gadsden, Ala. 35902. Applicant's representative: Larry Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and warehouse facilities of Montfort Packing Company, at or near Greeley, Colo., to points in Alabama, Florida, Georgia, North Carolina, South Carolina and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Montfort of Colorado, P.O. Box G. Greeley, Colo. 80631. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 141914 (Sub-No. 6TA), filed February 17, 1977. Applicant: FRANKS & SON, INC., P.O. Box 108A, Big Cabin, Okla. 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Bldg., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products* such as plastic eating utensils and ice cream spoons; *wood products* such as clothespins and toothpicks; *sporting goods* such as sleds and croquet sets, from the plantside at Wilton and Strong, Maine, to points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Forster Manufacturing Co., Inc., Wilton, Maine 04294. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 142118 (Sub-No. 3TA), filed February 18, 1977. Applicant: VALLEY TRUCKING, INC., R.R. No. 2, Box 55, Fargo, N. Dak. 58102. Applicant's representative: Edward A. O'Donnell, 1004 29th St., Sioux City, Iowa 51104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Fargo and West Fargo, N. Dak., to Duluth, Minn., under a continuing contract with Flavorland Industries, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Flavorland Industries, P.O. Box 16345, 5590 High St., Denver, Colo. 80216. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

WATER CARRIER APPLICATION

No. W–1288 (Sub-No. 1TA). By order entered February 23, 1977, the Motor Carrier Board granted Reynolds Metals Company, Richmond, Va., 60 day temporary authority to engage in the business of transportation by *water vessel*, in interstate commerce, in the transportation of *boiling water reactor core structure shrouds*, for the account of Bingham-Willamette Co., from Portland, Oreg., to New Orleans, La., via the Panama Canal. John H. Caldwell, Attorney-at-Law, 900 17th Street, N.W., Washington, D.C. 20006, applicant's representative. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–6225 Filed 3–1–77;8:45 am]

SURETY BONDS AND POLICIES OF INSURANCE

North American Van Lines, Inc.

At a Session of the Interstate Commerce Commission, the Insurance Board, held at its office in Washington, D.C., on the 23rd day of February 1977; Service date February 25, 1977.

In the matter of North American Van Lines, Inc. (MC–107012) to self-insure (with respect to automobile bodily injury and property damage liability and cargo liability) under the provisions of section 215, Interstate Commerce Act, and the rules and regulations prescribed thereunder governing the filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities and agreements by motor carriers and brokers.

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It appearing, that on September 21, 1956, the Commission, Division 1, approved the application for authority to self-insure for North American Van Lines, Inc., subject, among other things, to the maintenance of excess insurance in excess of $50,000 per occurrence;

It further appearign, that North American Van Lines, Inc., has requested that it be permitted to increase its self-insured retention from $50,000 per occurrence to $250,000 per occurrence;

And it further appearing, that this request has been considered and has been found to be reasonable;

It is ordered, that North American Van Lines, Inc., is hereby authorized to increase its self-insured retention from $50,000 per occurrence to $250,000 per occurrence effective April 1, 1977, provided that reasonable and adequate excess insurance be maintained.

By the Commission, Insurance Board Members Burns, Teeple and Schloer.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6228 Filed 3-1-77;8:45 am]

federal register

WEDNESDAY, MARCH 2, 1977

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

ASBESTOS

Hazardous Air Pollutants Proposed National Emission Standards

V42 41 MAR 2 77 UMI

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 61]

[FRL 684-3]

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Proposed Amendments to Asbestos Standard

Notice is hereby given that under the authority of section 112 of the Clean Air Act, as amended, the Administrator is proposing to amend the national emission standard for asbestos.

SUMMARY OF PROPOSED AMENDMENTS

The proposed amendments would extend coverage of the demolition and renovation provisions (40 CFR 61.22(d)) to all materials which are friable and contain more than one percent asbestos by weight. The current provisions apply only to insulation and fireproofing materials. The proposed amendments similarly would extend the coverage of the asbestos spraying provisions (40 CFR 61.22(e)) by prohibiting all materials sprayed on buildings, structures, structural members, pipes and conduits which contain more than one percent asbestos by weight. The proposed amendments specify that materials sprayed on structural members are covered.

DISCUSSION

On April 6, 1973, under Section 112 of the Clean Air Act, as amended, the Administrator promulgated the national emission standard for asbestos. Amendments to this standard were promulgated on May 3, 1974 (39 FR 15396) and on October 14, 1975 (40 FR 48292). One of the provisions of the standard limits asbestos emissions from the spraying of materials to insulate or fireproof buildings, structures, pipes and conduits. The standard prohibits the use of such materials which contain more than one percent asbestos on a dry weight basis. At the time the standard was promulgated, EPA did not know of uses other than fireproofing and insulation for asbestos-containing spray-on materials that were major sources of asbestos emissions during application or later removal through renovation or demolition. Recently it has come to EPA's attention that certain types of decorative spray-on materials which contain from 29 to 64 percent asbestos by weight have been sprayed on ceilings in residential buildings and may be applied in the same manner in the future. These materials are sometimes friable and therefore would be a major source of asbestos emissions during renovation and demolition operations. The use of such spray-on materials is considered a major source of asbestos emissions because: (1) There are asbestos emissions resulting from over-spray during the spray-on application of such materials which could be emitted to the atmosphere directly and cause exposure to the general public; (2) this over-spray material could contaminate the building ventilation air and therefore pose a health hazard to persons who breathe it; (3) the spray-on materials may deteriorate with time and thereby contaminate the ventilation air when they fall off points of application; and (4) if the materials become friable after application, they would cause asbestos emissions to the atmosphere when the building or structure is renovated or demolished.

For these reasons EPA is proposing to prohibit the spraying of all materials which contain asbestos in excess of one percent by weight on buildings, structures, structural members, pipes, and conduits. This prohibition includes spray-on application of paints, decorative sprays, and weatherproofing.

An amendment is also being proposed which would extend the coverage of the demolition and renovation provisions to include the proper removal of all friable materials which contain in excess of one percent asbestos prior to renovation or demolition of buildings, structures, facilities, or installations. Currently, the standard applies only to the removal of fireproofing or insulation which is friable and contains greater than one percent asbestos. Proper removal of such materials is considered necessary to reduce asbestos emission during renovation and demolition operations to a minimum.

EPA feels that it is urgent that the persons or firms who still apply or manufacture asbestos-containing spray-on materials be advised as early as possible of EPA's intent to regulate such application and of the potential hazard associated with the use of such products. In order to fully investigate all aspects and possible impacts of the proposed amendments, EPA is requesting that all interested persons submit factual information related to the proposed requirements during the comment period. Factual information is specifically requested on the following areas of interest:

1. Information about spray-on materials which contain greater than one percent asbestos by weight; asbestos substitutes for use in spray-on materials; the availability of spray-on materials which contain less than one percent asbestos; and technical and economic impacts which could result from implementing the proposed amendments.

2. Information concerning the magnitude of potential emissions of asbestos during spray application of asbestos-containing materials; methods of reducing emissions of asbestos during application; and the friability of spray-on materials after they have been applied.

3. Information on the renovation or demolition of buildings, structures, facilities, or installations which contain friable asbestos materials (containing greater than one percent asbestos); and methods of removal and wetting of the friable asbestos materials.

It is expected that the requested information will allow EPA to assess the economic effects and technical aspects of the proposed requirements. The final amendments will reflect the conclusions drawn from evaluation of all available factual information. EPA will limit the scope of coverage of the final amendments if the data obtained during the comment period justify such a change.

The proposed amendments are as follows:

1. The definitions of the terms "renovation," "removing," and "stripping" would be changed by deleting the phrases "to insulate or fireproof" and "for insulation or fireproofing." This would broaden the applicability of the terms to cover all friable asbestos materials.

2. The paragraphs under the demolition and renovation provisions would be changed by deleting the phrases "insulated or fireproofed," "insulate or fireproof," "insulation and fireproofing," "insulation or fireproofing," and the word "insulate." This would broaden the applicability of the provisions to cover all friable asbestos materials.

3. The spraying provision would be changed by deleting the phrase "to insulate or fireproof." This would broaden the applicability of the spraying regulation to cover the spraying of all asbestos-containing materials.

PUBLIC PARTICIPATION

Interested persons may participate in this rulemaking by submitting written comments (in triplicate) to the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin. The Administrator will welcome comments on all aspects of the proposed amendments. All relevant comments received on or before May 2, 1977, will be considered. Comments received will be available for public inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460.

OTHER ACTION

Elsewhere in this issue of the FEDERAL REGISTER, EPA is issuing a final rulemaking action which clarifies that the renovation and demolition provisions of the asbestos standard apply to materials which contain greater than one percent asbestos, are friable, and were used for fireproofing or insulation on non-load-supporting structural members, such as some ceilings and walls, as well as on load-supporting structural members. This amendment consists of adding a definition for the term "structural member."

(Sec. 112, Clean Air Act as added by sec. 4(a) of Pub. L. 91-604, 84 Stat. 1685 (42 U.S.C. 1857c-7); sec. 114, Clean Air Act, as added by sec. 4(a) of Pub. L. 91-604, 84 Stat. 1687, and amended by Pub. L. 93-319, sec. 6(a)(4), 88 Stat. 259 (42 U.S.C. 1857c-9); sec. 301(a), Clean Air Act, as amended by sec. 15(c)(2) of Pub. L. 91-604, 84 Stat. 1713 (42 U.S.C. 1857g(a)).)

Dated: February 23, 1977.

JOHN QUARLES,
Acting Administrator.

It is proposed to amend Part 61 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart B—National Emission Standard for Asbestos

1. Section 61.21 is amended by revising paragraphs (m), (q) and (r) to read as follows:

§ 61.21 Definitions.

* * * * *

(m) "Renovation" means the removing or stripping of friable asbestos materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member. Operations in which load-supporting structural members are wrecked or taken out are excluded.

* * * * *

(q) "Removing" means taking out friable asbestos materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member from any building, structure, facility, or installation.

(r) "Stripping" means taking off friable asbestos materials from any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member.

* * * * *

2. Section 61.22 is amended by revising paragraphs (d), (d)(1)(i), (d)(1)(ii), (d)(2)(iii), (d)(4)(i), (d)(4)(ii), (d)(4)(iii), (d)(4)(iv), (e), and (e)(2) to read as follows:

§ 61.22 Emission standard.

* * * * *

(d) *Demolition and renovation.* The requirements of this paragraph shall apply to any owner or operator of a demolition or renovation operation who intends to demolish any institutional, commercial, or industrial building (including apartment buildings having more than four dwelling units), structure, facility, installation, or portion thereof which contains any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member that is covered or coated with friable asbestos materials, except as provided in paragraph (d)(1) of this section; or who intends to renovate any institutional, commercial, or industrial building, structure, facility, installation, or portion thereof where more than 80 meters (ca. 260 feet) of pipe covered or coated with friable asbestos materials are stripped or removed, or more than 15 square meters ca. 160 square feet) of friable asbestos materials used to cover or coat any duct, boiler, tank, reactor, turbine, furnace, or structural member are stripped or removed.

(1) (A) The owner or operator of a demolition operation is exempted from the requirements of this paragraph: *Provided,* (a) The amount of friable asbestos materials in the building or portion thereof to be demolished is less than 80 meters (ca. 260 feet) used on pipes, and less than 15 square meters (ca. 160 square feet) used on any duct, boiler, tank, reactor, turbine, furnace, or structural member, and (B) the notification requirements of paragraph (d)(1)(ii) are met.

(ii) Written notification shall be postmarked or delivered to the Administrator at least 20 days prior to commencement of demolition and shall include the information required by paragraph (d)(2) of this section, with the exception of the information required by paragraphs (d)(2)(iii), (vi), (vii), (viii), and (ix) of this section, and shall state the measured or estimated amount of friable asbestos materials which is present. Techniques of estimation shall be explained.

(2) * * *

(iii) Description of the building, structure, facility, or installation to be demolished or renovated, including the size, age, and prior use of the structure, and the approximate amount of friable asbestos materials used.

* * * * *

(4) * * *

(i) Friable asbestos materials, used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member, shall be removed from any building, structure, facility or installation subject to this paragraph. Such removal shall occur before wrecking or dismantling of any portion of such building, structure, facility, or installation that would break up the friable asbestos materials and before wrecking or dismantling of any other portion of such building, structure, facility, or installation, that would preclude access to such materials for subsequent removal. Removal of friable asbestos materials used on any pipe, duct, or structural member which are encased in concrete or other similar structural material is not required prior to demolition, but such materials shall be adequately wetted whenever exposed during demolition.

(ii) Friable asbestos materials used on pipes, ducts, boilers, tanks, reactors, turbines, furnaces, or structural members shall be adequately wetted during stripping, except as provided in paragraphs (d)(4)(iv), (d)(4)(vi), or (d)(vii) of this section.

(iii) Pipes, ducts, boilers, tankers, reactors, turbines, furnaces, or structural members that are covered or coated with friable asbestos materials may be taken out of any building, structure, facility, or installation subject to this paragraph as units or in sections provided the friable asbestos materials exposed during cutting or disjointing are adequately wetted during the cutting or disjointing operation. Such units shall not be dropped or thrown to the ground, but shall be carefully lowered to ground level.

(iv) The stripping of friable asbestos materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member that has been removed as a unit or in sections as provided in paragraph (d)(4)(iii) of this section shall be performed in accordance with paragraph (d)(4)(ii) of this section. Rather than comply with the wetting requirement, a local exhaust ventilation and collection system may be used to prevent emissions to the outside air. Such local exhaust ventilation ssytems shall be designed and operated to capture the asbestos particulate matter produced by the stripping of friable asbestos materials. There shall be no visible emissions to the outside air from such local exhaust ventilation and collection systems except as provided in paragraph (f) of this section.

* * * * *

(e) *Spraying.* There shall be no visible emissions to the outside air from the spray-on application of materials containing more than 1 percent asbestos, on a dry weight basis, used on equipment and machinery, except as provided in paragraph (f) of this section. Materials sprayed on buildings, structures, structural members, pipes, and conduits shall contain less than 1 percent asbestos on a dry weight basis.

* * * * *

(2) Any owner or operator who intends to spray asbestos materials which contain more than 1 percent asbestos on a dry weight basis on equipment and machinery shall report such intention to the Administrator at least 20 days prior to the commencement of the spraying operation. Such report shall include the following information: * * *

* * * * *

[FR Doc.77-5980 Filed 3-1-77;8:45 am]

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WEDNESDAY, MARCH 2, 1977

PART III

ENVIRONMENTAL PROTECTION AGENCY

■

ASBESTOS

Hazardous Air Pollutants National Emission Standards

V42 #41 MAR 2 77 UMI

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 684-4]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Amendment to Asbestos Standard

● *Purpose.* The purpose of this amendment is to clarify that the demolition and renovation provisions of the asbestos standard apply when friable asbestos materials used for insulation and fireproofing are removed from non-load-supporting structural members, such as non-supporting walls and ceilings, as well as from load-supporting structural members.

Under section 112 of the Clean Air Act, as amended, 42 U.S.C. 1857c-7, (the "Act"), the Administrator of the Environmental Protection Agency promulgated the national emission standard for the hazardous air pollutant asbestos on April 6, 1973 (38 FR 8820). Amendments to this standard were promulgated on May 3, 1974 (39 FR 15396) and on October 14, 1975 (40 FR 48292). The standard does not include a definition for the term "structural member", and questions have arisen concerning what constitutes a structural member. The definition of "structural member" is therefore being added to 40 CFR 61.21 to clarify that the standard applies to both load-supporting and non-load-supporting structural members. The latter category includes such items as ceilings and non-load-supporting walls.

The preamble to the proposed amendments (39 FR 38064, October 25, 1974) that were promulgated on October 14, 1975, clearly stated that EPA intended to cover non-load-supporting structural members. No contrary intent was expressed at the time of final promulgation. The amendment promulgated below clarifies EPA's intent and should answer future questions on the applicability of the standard.

The Administrator finds that a pre-promulgation public comment period on this amendment would be "impracticable, unnecessary, or contrary to the public interest" within the meaning of 5 U.S.C. 553(b)(B) because the rulemaking clarifies and interprets an existing regulation, does not alter the intended content of that regulation, and enables EPA to enforce the existing standard in a consistent and proper manner. Also, the Administrator finds that this rulemaking should be effective upon promulgation without a 30-day deferral within the meaning of 5 U.S.C. 553(d), because of the immediate effectiveness required by section 112(b)(1)(C) of the Act and the interpretive nature of this rulemaking.

Other questions have been raised recently about the applicability of the asbestos standard to decorative coatings. The words of the current standard do not apply to such coatings. EPA is proposing amendments to the asbestos standard elsewhere in this issue of the FEDERAL REGISTER to regulate such coatings.

(Sec. 112, Clean Air Act as aded by sec. 4(a) of Pub. L. 91-604, 84 Stat. 1685 (42 U.S.C. 1857c-7); sec. 114, Clean Air Act, as added by sec. 4(a) of Pub. L. 91-604, 84 Stat. 1687, and amended by Pub. L. 93-319, sec. 6(a)(4), 88 Stat. 259 (42 U.S.C. 1857c-9); sec. 301(a), Clean Air Act, as amended by sec. 15(c)(2) of Pub. L. 91-604, 84 Stat. 1713 (42 U.S.C. 1857g(a)).)

Dated: February 23, 1977.

JOHN QUARLES,
Acting Administrator.

In Part 61 of Chapter I, Title 40 of the Code of Federal Regulations, § 61.21 is amended by adding paragraph (x) as follows:

Subpart B—National Emission Standard for Asbestos

§ 61.21 Definitions.

* * * * *

(x) "Structural member" means any load-supporting member, such as beams and load-supporting walls; or any non-load-supporting member, such as ceilings and non-load-supporting walls.

[FR Doc.77-5981 Filed 3-1-77;8:45 am]

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WEDNESDAY, MARCH 2, 1977

PART IV

ENVIRONMENTAL PROTECTION AGENCY

■

BASIC OXYGEN PROCESS FURNACES

Standards of Performance For New Stationary Sources

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRD 684-5]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Iron and Steel Plants: Basic Oxygen Process Furnaces

Notice is hereby given that under sections 111, 114, and 301 of the Clean Air Act, as amended, the Administrator is proposing amendments to the standards of performance for basic oxygen process furnaces (BOPF).

SUMMARY OF PROPOSED AMENDMENTS

The proposed amendments to the standards of performance for BOPF facilities would limit the opacity of emissions from the control device, require monitoring of operations of the control device, and clarify the term "startup" as it applies to BOPF facilities. Compliance with the proposed opacity limits would be determined by conducting observations in accordance with Reference Method 9. The continuous monitoring of operations is specific to venturi scrubber emission control equipment because all presently planned facilities will be controlled by venturi scrubbers. The proposed monitoring provisions require continuous monitoring of the pressure loss across the throat of the scrubber and the water supply pressure to the scrubber. As the provisions of 40 CFR 60.11(c) apply to BOPF facilities, "startup" means the setting into operation of a BOPF which has been out of production for a continuous time period of eight hours or the setting into operation of a relined BOPF.

BACKGROUND

On June 11, 1973 (38 FR 15406), the Administrator proposed as Subpart N to 40 CFR Part 60, standards of performance for new basic oxygen process furnaces (BOPFs). The proposed standards limited particulate matter emissions to no more than 50 mg/dscm (0.022 gr/dscf) and to less than 10 percent opacity except for two minutes in any one hour. Commenters on the proposed standards pointed out the inappropriateness of the two minutes per hour exemption for the cyclic steel production process and the unachievability of the level of the proposed opacity standard. Evaluation of the comments on the proposed standard led EPA to conclude that further study was required for development of adequate provisions. On March 8, 1974 (39 FR 9308), the Administrator promulgated the standard of performance limiting emissions from new BOPFs to less than 50 mg/dscm; however, the opacity standard and the attendant continuous monitoring requirement were not promulgated at that time. The opacity standard was reserved pending study of (1) the reasons for the observed variations in the opacity of emissions from well-controlled facilities and (2) the effect that exempting periods of startup, shutdown, and malfunction from applicability of opacity standards would have on the level of the opacity standard and the need for a time exemption.

On November 12, 1974 (39 FR 39872), EPA revised Reference Method 9 and the general provisions applicable to opacity standards of performance. Reference Method 9, the method for determining compliance with opacity standards, was revised to require that opacity observations be recorded at 15-second intervals with a minimum of 24 observations (six minutes), to obtain sufficient observations to ensure acceptable accuracy. The use of sets of opacity observations (or six-minute average opacity values) precludes a single high reading from being considered a violation. In addition, § 60.11(e) was added to the general provisions to provide a means for an owner or operator to petition EPA to obtain a higher opacity standard for any facility that demonstrates compliance with the mass standard concurrent with failure to achieve the opacity standard. Section 60.11(e) allows opacity standards to be established at levels which reflect the maximum expected effects of the normal range of operating variables and stack diameters at well-controlled new facilities.

In light of the Method 9 revisions and the questions on the appropriate emission limitation and format for the opacity standard, additional opacity data were obtained and the bases and rationale for an opacity standard for BOPFs were thoroughly reevaluated. The reevaluation included consideration of the effects on opacity of process variations, of variations in performance characteristics of control devices, and of definition of startup periods for BOPFs. The proposed opacity standards are established at levels which are achievable by well-maintained and properly operated control equipment capable of reducing emissions to the level of the concentration standard, 50 mg/dscm (0.22 gr/dscf). Copies of the report on the data bases and rationale for the proposed opacity standard may be obtained upon written request from the EPA Public Information Center (PM-215), Environmental Protection Agency, Washington, D.C. 20460 (specify: Background Information for an Opacity Standard of Performance for Basic Oxygen Process Furnaces in Iron and Steel Plants).

ENVIRONMENTAL AND INFLATIONARY IMPACT

Opacity standards are set at levels which ensure proper operation and maintenance of the control system, but which do not require use of a more efficient system. The opacity standards and the continuous monitoring requirements proposed herein do not impose any additional significant requirements or costs over those required to comply with the concentration standard. Therefore, this proposal is not considered a major action under the Inflationary Impact Statement (IIS) program and no IIS is required. The environmental impacts of the standards of performance for BOPFs also are incurred in complying with the concentration standard. During the development of the concentration standard, the intermedia effects of the standard were assessed and determined to be negligible. No additional intermedia effects would be incurred in complying with opacity standards for BOPFs. Therefore, a formal environmental impact statement has not been prepared. The environmental impact of the proposed opacity standards is beneficial as the standards would ensure compliance of new BOPFs with the concentration standard throughout their operational life.

DATA BASE FOR A STANDARD

The standard of performance limits emissions from all new basic oxygen process furnaces to less than 50 mg/dscm (0.22 gr/dscm). Emissions from basic oxygen process furnaces can be controlled to this level by use of a well-designed and operated high energy venturi scrubber or an electrostatic precipitator. In the development of an opacity standard for BOPFs, opacity observations were conducted at six facilities according to the procedures of Method 9 (39 FR 39872). Because of a known difference between the particle size distributions, and hence light scattering properties, of emissions from bottom blown BOPFs and top blown BOPFs, the opacity of emissions from both type furnaces were investigated in the background study on a standard.

The facilities observed in the study were representative of several control levels based on available particulate matter emission data and an engineering judgment of the current condition of the control system. The condition of the control system was assessed on the basis of review of operating parameters, design parameters, and maintenance condition of the control system. From the observation of six facilities, it was noted that higher emissions occurred at the beginning of the steel production cycle for both types of control systems. The higher opacity emissions are attributable to the greater evolution rate of particulate matter and the lower gas temperature at the start of the oxygen blow as well as a lag in the response of the control device. For scrubber-controlled top or botton blown BOPFs the six minute average opacity levels observed at the start of oxygen blow were less than 20 percent, and the six minute average opacity levels during the remainder of the cycle were less than 10 percent opacity. Electrostatic precipitator controlled facilities exhibited opacity levels less than 30 percent during the start of oxygen blow and levels less than 16 percent during the remainder of the cycle. The difference between the opacity levels observed for the two types of control systems primarily reflects differences in diameter of discharge stacks rather than significant differences in the performance.

RATIONALE FOR THE PROPOSED STANDARD

Section 111 of the Act requires EPA to set emission standards which reflect "the degree of emission limitation achievable through application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Administrator determines has been adequately demonstrated." The standards of performance require an owner or operator to conduct a performance test after the initial startup of an affected facility to ensure that the control system was properly designed and installed. Section 111(e) of the Act requires that new sources continue to be in compliance with the standards throughout their operational life. Opacity standards are established in conjunction with mass or concentration standards as a means of ensuring that control equipment is adequately maintained and properly operated at all times between performance tests.

In EPA's judgment, the opacity levels associated with well-designed and operated facilities differed by type of control system due to design features. Therefore, selection of the emission limitation for the standard required consideration of whether the level would ensure proper operation and maintenance of all facilities. In the development of the proposed standard EPA considered several alternative regulatory approaches. The alternatives considered included opacity levels based on data from electrostatic precipitator-controlled facilities, separate opacity limitations for electrostatic precipitator-controlled and scrubber-controlled facilities, and an opacity level based on data from scrubber-controlled facilities. An opacity standard based on performance of electrostatic precipitator-controlled systems was not selected because the standard would not require proper operation and maintenance of venturi scrubber-controlled facilities. In addition, the steel industry currently has no plans for the construction of any new electrostatic precipitator-controlled BOPF facilities, thus this standard would not accomplish its intended purpose. Setting separate opacity standards for the two control systems was also rejected because only one of the control systems is expected to be used. Thus the proposed opacity standard is based on the performance of scrubber-controlled facilities. Should any affected BOPF be controlled with an electrostatic precipitator and comply with the particulate limit of 50 mg/dscm but not the opacity limits, a separate opacity limit would be established for that facility under 40 CFR 60.11(e). The provisions of 40 CFR 60.11(d) allow owners or operators of sources which exceed the opacity standard while concurrently achieving the concentration standard to request establishment of a specific opacity standard for that facility.

The proposed standard would limit peak opacity which occurs at the beginning of the cycle and the opacity over the remainder of the cycle. The opacity limit for the beginning of the cycle is necessary because of the increased particulate loading and gas density at the startup of the operation. Emissions during the period of startup of the production cycle are not excluded from the opacity standard as a "startup" under the provisions of 40 CFR 60.11(c) because emissions during this period are subject to the concentration standard and are controllable.

The proposed standard would limit emissions during the beginning of the production cycle to less than 20 percent opacity and emissions over the remainder of the cycle to less than 10 percent opacity. To simplify enforcement, the opacity standard would allow the period of higher opacity emissions to occur once per steel production cycle. Restriction of the higher opacity emission period to the beginning of the production cycle would require the observer to synchronize observations with shop operations. In addition, the proposed standard could be enforced more readily at facilities with several furnaces ducted to a single, common control system.

Standards of performance for new sources established under section 111 of the Clean Air Act reflect emission limits achievable with the best adequately demonstrated systems of emission reduction considering the cost of such systems. State implementation plans (SIP's) approved or promulgated under section 110 of the Act, on the other hand, must provide for the attainment and maintenance of national ambient air quality standards (NAAQS) designed to protect public health and welfare. For that purpose SIP's must in some cases require greater emission reductions than those required by standards of performance for new sources. In addition, States are free under section 116 of the Act to establish more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110. Thus, new and existing sources may in some cases be subject to limitations more stringent than EPA's standards of performance under section 111.

PUBLIC PARTICIPATION

In accordance with section 117(f) of the Act, publication of these proposed amendments to 40 CFR Part 60 was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. Interested persons may participate in this rulemaking by submitting written comments (in triplicate) to the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, Attention: Mr. Don R. Goodwin. Comments on all aspects of the proposed amendments to the regulation are welcome, including economic and technological issues. All comments received not later than May 2, 1977, will be considered. Comments received will be available for public inspection at the EPA Public Information Reference Unit (EPA Library), Room 2922, 401 M. Street, SW., Washington, D.C. 20460.

(Sec. 111, 114, 301(a), Clean Air Act, as amended, Pub. L. 91-604, 84 Stat. 1678 (42 U.S.C. 1857c-6, 1857c-9, 1857g(a)).)

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949.

Dated: February 23, 1977.

JOHN QUARLES,
Acting Administrator.

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. The table of sections is amended by revising Subpart N as follows:

Subpart N—Standards of Performance for Iron and Steel Plants

* * * * *

Sec.
60.143 Monitoring of operations.

* * * * *

2. Section 60.3 is amended by adding a new abbreviation as follows:

§ 60.3 Abbreviations.

* * * * *

Pa—pascal.

* * * * *

Subpart N—Standards of Performance for Iron and Steel Plants

3. Section 60.142 is amended by adding paragraph (a)(2) and (b) as follows:

§ 60.142 Standard for particulate matter.

(a) * * *

* * * * *

(2) Exit from a control device and exhibit 10 percent opacity or greater, except that an opacity of greater than 10 percent but less than 20 percent may occur once per steel production cycle.

(b) For purposes of this subpart, "startup" means the setting into operation of a BOPF which has been out of production for a minimum continuous time period of eight hours or the setting into operation of a relined BOPF

4. A new § 60.143 is added as follows:

§ 60.143 Monitoring of operations.

(a) The owner or operator of an affected facility shall maintain daily records of the time and duration of each steel production cycle.

(b) The owner or operator of any affected facility that uses venturi scrubber emission control equipment shall install, calibrate, maintain, and continuously operate the following monitoring devices:

(1) A monitoring device for the continuous measurement of the pressure loss through the venturi construction of the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within ±250 Pa (±1 inch water).

(2) A monitoring device for the continuous measurement of the water supply pressure to the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within ±5 percent of the design water supply pressure. The pressure sensor or tap must be located close to the water discharge point. The Administrator may be consulted for approval of alternative locations for the pressure sensor or tap.

(c) All monitoring devices required under paragraph (b) of this section are

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to be recalibrated annually, and at other times as the Administrator may require, in accordance with the procedures under § 60.13(b)(3).

(d) Any owner or operator subject to requirements under paragraph (b) of this section shall report for each calendar quarter all measurement results that are more than 10 percent below the average levels maintained during the most recent performance test conducted under § 60.8 which the affected facility demonstrated compliance with the standard under § 60.142(a)(1). The accuracy of the respective measurements, not to exceed the values specified in paragraphs (b)(1) and (b)(2) of this section, may be taken into consideration when determining the measurement results that must be reported.

(Secs. 111, 114, 301(a), Clean Air Act, as amended, Pub. L. 91-604, 84 Stat. 1678 (42 U.S.C. 1857c-5, 1857c-9, 1857g(a)).)

[FR Doc.77-5982 Filed 3-1-77;8:45 am]

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WEDNESDAY, MARCH 2, 1977

PART V

FEDERAL ENERGY ADMINISTRATION

■

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice For December 1976

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FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for December 1976

In accordance with the provisions of 10 CFR 211.67 relating to FEA's domestic crude oil allocation program the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for December 1976 submitted to FEA by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico, application of the entitlement adjustment for residual fuel oil production for sale in the East Coast market provided in § 211.67(d)(4), and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for December 1976 is calculated to be .263350.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of December 1976, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .183245 of a barrel of deemed old oil.

The issuance of entitlements for the month of December 1976 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of December 1976 at $7.97, which is the exact differential as reported for the month of December between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of December 1976 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of December 1976 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of December 1976 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through November 1976 pursuant to 10 CFR 211.67(j)(1).

Pursuant to § 211.67(j)(2), the December 1976 installments of the amounts representing corrections for reporting errors for months prior to September 1975 are shown in a separate column in the listing and these installments will continue to be shown in entitlement notices through the notice for February 1977. As set forth in the revised special correction notice issued on September 21, 1976, the total dollar amounts of the special corrections have been divided into eight substantially equal installments for reflection in each firm's entitlement position for each of the months July 1976 through February 1977, based on the particular month's entitlement price.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column additional entitlements issued to refiners pursuant to relief granted by FEA's Office of Exceptions and Appeals. Also set forth in this column are the adjustments for relief granted by the Office of Exceptions and Appeals for 1975, which adjustments are being reflected in monthly installments commencing with the September 1976 entitlement notice. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see "Beacon Oil Company, et al.," 4 FEA par. 87,024 (November 5, 1976).

Pursuant to "Beacon Oil Company et al.," Delta Refining Company (Delta) was required to satisfy an entitlement obligation of $4,559,585.32, pro-rated over a twelve-month period in installments of approximately $379,965.44 each. The first installment was reflected on the September 1976 entitlement notice; however, the required payment of additional installments for October and November 1976 was temporarily stayed by the United States District Court in "Delta Refining Co. v. FEA et al.," Civ. Action No. 76-2267 (D.D.C., filed December 10, 1976). On February 22, 1977 the Court issued a final decision on the merits which upheld FEA's authority to conduct the year-end review but also afforded Delta partial relief, thereby affecting the amount of the current adjustments for Delta's 1975 exception relief. The precise amount of relief to which Delta may ultimately be entitled has been remanded to FEA for further consideration consistent with the Court's decision. FEA has modified, on a provisional basis pending further agency review consistent with court order, Delta's 1975 exception relief adjustment, which reduces the total entitlement obligation of Delta in this regard by $1.8 million. The revised total purchase requirement is $2,759,585.32, in twelve installments of approximately $229,965.44 each. Amounts attributable to the adjustment for Delta's 1975 exception relief in the listing in the Appendix reflect a credit for a provisional reduction in the September 1976 entitlement obligation and provisionally revised prorated amounts for the months of October, November and December 1976. Any additional adjustments required by the agency pursuant to court order will be reflected in future entitlements notices.

For purposes of the adjustments to refiners' crude run volumes under § 211.67(d)(4), total production of residual fuel oil for sale in the East Coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 12,906,053 barrels for December 1976. For that month, imports of residual fuel oil eligible for entitlement issuances totaled 44,988,044 barrels.

The total number of entitlements required to be purchased and sold under this notice is 23,775,007.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for December 1976 must be made by February 28, 1977.

On or prior to March 10, 1977, each firm which is required to purchase or sell entitlements for the month of December 1976 shall file with FEA the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of December. FEA has mailed the monthly transaction report forms for the month of December to reporting firms. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by February 28, 1977 contact FEA at 202-254-6296 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to February 28, 1977, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before April 1, 1977.

Issued in Washington, D.C. on February 23, 1977.

ERIC J. FYGI,
Acting General Counsel.

APPENDIX
ENTITLEMENTS FOR DOMESTIC CRUDE OIL PAGE 17

REPORTING FIRM / SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT PUSITION EXCEPTIONS AND APPEALS	10 MONTH PRODUCT CLEAN-UP	********** REQUIRED TO BUY	REQUIRED TO SELL
A-JOHNSON	0	154,544	790	0	0	154,544
AGWAY	0	774	797	0	0	774
ALLIED	24,053	151,097	0	-23	0	0
AMER-PETROFINA	1,819,010	1,608,341	0	-66	0	107,044
AMERADA-HESS	1,736,768	4,342,034	0	60,742	211,269	0
AMOCO	11,699,337	17,440,496	0	-29,480	0	2,605,246
APCO	485,824	470,752	0	-16,626	4,058,847	0
APEX	0	9	0	-1,344	15,072	0
ARCO	6,016,535	5,990,553	4,743*	-139,939	25,982	0
ARIZONA	64,953	58,187	17,742	342	6,766	0
ASAMERA	79,759	149,694	0	260	0	119,935
ASHLAND	1,368,356	2,825,820	0	-23,169	0	1,457,264
ASIATIC	0	275,487	0	-2,847	194	275,487
ATLANTIC-CEMENT	0	194	0	194	0	194
AUGSBURY	0	4	0	-4	4	0
BASIN	719	69,748	0	0	0	89,029
BAYOU	43,293	50,828	0	57	0	7,535
BEACON	224,442	176,846	6,505	-5,131	47,596	0
BELCHER	0	184,565	0	-469	0	184,565
BI-PETRO	8,570	21,306	0	0	0	12,730
BLUE-RIDGE	0	9,153	0	9,457	0	9,153
C&M	0	146,704	0	-12	0	148,704
CALUMET	183,756	143,786	0	-209	39,970	0
CANAL	68,916	62,319	0	-1,331	6,597	0
CARIBOU	85,555	115,834	4,456	102	0	28,279
CASILE	0	44,132	0	-260	0	44,132
CENTRAL	0	19,609	0	-186	0	19,609
CHAMPLIN	1,864,488	1,624,811	0	12,582	59,277	0
CHANIEM	821,902	526,298	28,309	12,156	293,604	0
CIRILLO	0	29,287	0	-1,014	0	29,287
CITGO	3,199,371	2,094,662	0	-4,132	1,104,709	0
CLAIBORNE	32,060	48,501	0	17,429	0	16,481
CLARK	297,867	963,812	0	-2,368	0	666,145
COASTAL	324,142	1,400,255	0	26,333	0	1,071,113

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REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
COLONIAL	0	101,391	0	101,764	-373	0	101,391
CON-ED	0	-2,164	0	0	-2,164	2,164	0
CON-REF	0	-11,740	-11,795**	0	55	11,740	0
CONOCO	3,502,819	3,029,367	0	57,903	8,443	473,432	0
CONSUMERS-POWER	0	-442	0	0	-442	442	0
CORCO	0	1,115,992	0	120,721	-3,822	0	1,115,992
CRA-FARMLAND	406,167	609,615	0	0	-2,366	0	203,448
CROSS	55,924	151,348	0	0	2,906	0	95,424
CROWN	339,637	720,392	0	0	-2,101	0	380,755
CRYSTAL-OIL	267,467	175,401	0	0	-12,177	92,086	0
CRYSTAL-REF	774	57,704	0	0	-531	0	56,930
DEEPWATER	0	15,232	0	15,321	-89	0	15,232
DELTA	475,106	295,013	-67,741****	0	794	180,093	0
DEMENNO	-7,979**	87,647	0	0	0	0	95,626
DETROIT-ED	0	728	0	0	728	0	728
DIAMOND	682,974	499,341	0	0	4,058	183,633	0
DILLMAN	8,006	4,359	2,632	0	0	3,647	0
DORCHESTER	8,070	16,495	0	0	-56	0	8,425
DOW	64,908	193,425	0	0	133	0	128,517
E-SEABOARD	0	91,001	0	91,970	-969	0	91,001
ECU	128,751	112,470	0	0	0	16,281	0
EDDY	36,590	145,804	0	0	67	0	109,214
EDGINGTON-OIL	0	-10,241	-10,763	0	522	10,241	0
EDGINGTON-UXN	0	-5	0	0	-5	5	0
ELM	0	-319	0	0	-319	319	0
ENERGY-COOP	0	410,950	0	0	0	0	410,950
ENTERPRISE	0	-38	0	0	-38	38	0
EVANGELINE	18,566	37,872	0	0	50	0	19,306
EXXON	12,412,350	11,291,582	0	764,000	-3,971	1,120,768	0
EZ-SERVE	91,226	106,801	0	0	0	0	15,575
F-FLETCHER	0	1	0	0	1	0	1
FAMARISS	219,924	325,767	0	0	-41	0	105,843
FARMERS-UN	205,032	405,121	0	0	-222	0	200,089
FLETCHER	75,152	159,733	-9,757	0	13,195	0	84,581

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
FLINT	11,311	8,417	0	0	-8	2,894	0
FLORIDA-POWER	0	665	0	0	665	0	665
GARY	37,357	97,646	0	0	-71	0	60,289
GEN-PORTLAND	0	-16	0	0	-16	16	0
GETTY	395,055	735,127	0	0	-4,260	0	340,072
GIANT	35,309	174,655	0	0	-182	0	139,546
GIBBS	0	-367	0	0	-367	367	0
GIBSON	136	532	0	0	0	0	396
GLACIER-PARK	117,237	60,960	0	0	0	56,277	0
GLADIEUX	56,983	165,555	0	0	250	0	108,572
GLENROCK	22,649	61,237	0	0	0	0	38,388
GOLDEN-EAGLE	0	247,168	0	0	-2,568	0	247,168
GOLDEN-EAGLE-NY	0	11,659	0	9,522	2,137	0	11,659
GOLDKING	47,457	116,826	0	0	0	0	69,369
GOOD-HOPE	245,867	351,865	-569	0	-436	0	105,998
GREAT-NORTHERN	0	-125	0	0	-125	125	0
GUAM	0	345,501	0	0	-2,211	0	345,501
GULF	9,171,434	7,182,232	0	57,946	-12,215	1,989,202	0
GULF-STS	36,926	138,297	0	0	72	0	101,371
HIRI	0	427,718	0	0	1,994	0	427,718
HOWARD	0	118,609	0	120,048	-1,439	0	118,609
HOWELL	549,889	373,880	0	0	1,137	176,009	0
HUNT	273,386	355,797	0	0	-496	0	82,411
HUSKY	718,637	719,077	319,824	0	440	0	440
INDEPENDENT-REF	125,601	144,215	0	0	0	0	18,614
INDIANA-FARM	42,754	239,293	0	0	-459	0	196,539
INTL-PAPER	0	73	0	0	73	0	73
IRVING	0	23,623	0	23,685	-62	0	23,623
J&W	220,198	218,899	88,084	0	-1,299	1,299	0
K-H-WHITE	0	-35	0	0	-35	35	0
KENTUCKY	2,459	6,632	0	0	-29	0	4,173
KERN	449,214	449,214	237,662	0	0	0	0
KERN-MCGEE	1,278,198	1,403,374	0	0	27,207	0	125,176
KOCH	297,066	773,323	0	0	-2,148	0	476,257

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
LA-WATER	0	7,225	0	0	7,225	0	7,225
LAGLORIA	464,452	202,423	0	0	-72,597	262,029	0
LAKESIDE	11,095	92,769	0	0	-237	0	81,674
LAKETON	162,366	156,068	33,482	0	-6,298	6,298	0
LITTLE-AMER	1,151,839	1,053,643	466,249	0	522	98,196	0
LOUISIANA-LAND	163,532	334,728	0	0	0	0	171,196
MACMILLAN	37,043	173,944	0	0	-3,458	0	136,901
MARATHON	2,722,046	3,796,461	0	0	-5,588	0	1,074,365
MARION	160,596	220,781	0	0	-785	0	60,185
MID-AMER	20,830	157,793	0	0	-319	0	136,963
MID-TEX	524	82,744	0	0	173	0	82,420
MIDLAND	31,535	217,757	-11,061	0	-115	0	186,222
MOBIL	8,199,827	5,768,451	0	61,736	-197,721	2,431,376	0
MOHAWK	409,361	404,816	113,888	0	839	4,545	0
MONSANTO	293,091	345,449	0	0	-622	0	52,358
MORRISON	19,905	152,235	0	0	2	0	132,330
MOUNTAINEER	5,519	5,560	0	0	5	0	41
MURPHY	733,429	808,983	0	0	208	0	75,554
N-AMER-PETRO	47,861	130,762	0	0	-2,089	0	82,901
NARRAGANSETT	0	-115	0	0	-115	115	0
NATL-COOP	357,648	511,823	0	0	366	0	154,175
NAVAJO	396,471	422,586	117,345*	0	-1,802	0	26,115
NEW-ENGINGTON	552,920	416,816	155,613	0	0	136,104	0
NEW-ENGL-PETRO	0	391,147	0	394,791	-3,644	0	391,147
NEW-ENGL-POWER	0	-72	0	0	-72	72	0
NEWHALL	141,249	136,757	-6,575	0	94	4,492	0
NEWMAN	0	-64	0	0	-64	64	0
NORCO	0	61	0	0	61	0	61
NORTHEAST-PETRO	0	25,990	0	26,891	-901	0	25,990
NORTHLAND	50,748	90,731	0	0	-50	0	39,983
NORTHVILLE	0	52,000	0	52,770	-770	0	52,000
OIL-SHALE	2,049,908	1,361,839	0	0	-2,515	688,069	0
OKC	184,497	273,437	0	0	1,976	0	88,940
ORANGE&ROCKLAND	0	64	0	0	64	0	64

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
OXNARD	33,920	103,170	0	0	0	0	69,250
PASCO	0	-43,324	-47,969	0	4,645	43,324	0
PATCHOGUE	0	35,958	0	56,248	-290	0	35,958
PENNZOIL	428,798	435,032	0	0	-446	0	6,234
PEPCO	0	-953	0	0	-953	953	0
PETRO-HEAT-CT	0	26,409	0	26,984	-575	0	26,409
PETRO-HEAT-PA	0	17,663	0	17,987	-324	0	17,663
PG&E	0	-468	0	0	-468	468	0
PHILLIPS	2,428,226	2,395,224	0	0	99,528	33,002	0
PHILLIPS-PR	0	170,807	0	170,807	0	0	170,807
PIONEER	2,998	139,462	0	0	-5	0	136,466
PITTSTON	0	174,299	0	175,398	-1,099	0	174,299
PLACID	225,018	374,629	0	0	-1,285	0	149,611
PLATEAU	186,571	165,767	0	0	-476	20,804	0
POWERINE	313,133	400,196	0	0	270	0	87,063
PRIDE	114,333	257,515	0	0	-331	0	143,182
PRINCETON	0	58,853	0	0	0	0	58,853
PRULEASE	0	-865	0	0	-865	865	0
QUAKER-ST	32,655	252,094	0	0	-1,802	0	219,439
REMINGTON	0	-89	0	0	-89	89	0
RICHARDS	0	217	0	0	0	0	217
RIGU	0	-47	0	0	-47	47	0
ROAD-OIL	0	39,568	0	0	-7	0	39,568
ROCK-ISLAND	469,990	382,239	-27,625	0	538	87,751	0
ROYAL	0	-137	0	0	-137	137	0
SABER-TEX	14,258	149,960	0	0	-7,549	0	135,702
SABRE-CAL	54,272	54,151	15,806	0	-121	121	0
SAGE-CREEK	2,493	4,912	0	0	-7	0	2,419
SAN-JUAQUIN	168,653	207,295	50,222	0	-1,514	0	38,642
SEARS	0	-31	0	0	-31	31	0
SEMINOLE	0	139,289	0	0	-2,957	0	139,289
SHELL	11,721,256	8,440,261	0	18,752	339,736	3,280,995	0
SIGMOR	20,000	136,061	0	0	1,784	0	115,461
SKELLY	1,157,699	669,318	0	0	787	488,381	0

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
SO-HAMPTON	-16,270**	214,482	0	0	960	0	230,752
SOCAL	8,093,693	8,615,884	0	25,186	-5,711	0	521,991
SOCALEDISON	0	-86	0	0	-86	86	0
SOHIO	1,382,740	3,565,821	0	0	19,519	0	2,183,081
SOMERSET	28,631	58,606	0	0	-305	0	29,975
SOUND	185,884	146,290	0	0	-150	39,594	0
SOUTHLAND	361,318	512,489	88,571	0	197	68,829	0
SOUTHWESTERN	39,426	95,174	0	0	0	0	55,748
SPRAGUE	0	57,853	0	57,853	0	0	57,853
STEUART	0	83,293	0	84,172	-879	0	83,293
SUNLAND	507,295	513,471	350,985	0	6,176	0	6,176
SUNOCO	5,633,707	4,196,372	0	0	-73,432	1,437,335	0
SWANN	0	60,046	0	60,508	-462	0	60,046
TARRICONE	0	-119	0	0	-119	119	0
TAUBER	0	-82	0	0	-82	82	0
TENNECO	894,345	712,139	0	15,447	-50,700	182,206	0
TESORO	1,219,737	740,308	0	0	3,410	479,429	0
TEXACO	11,980,429	9,191,237	0	344,625	40,008	2,789,192	0
TEXAS-AMERICAN	29,359	127,062	0	0	0	0	97,703
TEXAS-ASPH	37,915	147,472	7,004*	0	-7,004	0	109,557***
TEXAS-CITY	505,474	597,400	0	0	-28,630	0	91,926
THAGARD	245,804	241,170	170,672	0	-5	4,634	0
THE-REFINERY	0	-2,586	0	0	-2,586	2,586	0
THRIFTWAY	25,825	136,099	0	0	-106	0	110,274
THUNDERBIRD	104,054	158,447	0	0	-290	0	54,393
TONKAWA	39,772	78,074	0	0	-190	0	38,302
TOTAL-LEONARD	173,548	421,638	0	0	-1,875	0	248,090
TRANS-OCEAN	0	134,028	0	0	0	0	134,028
UCC-CARIBE	0	114,510	0	114,510	0	0	114,510
UNION-OIL	4,911,276	3,915,350	0	25,630	78,327	995,926	0
UNION-PETRO	0	9,799	0	9,799	0	0	9,799
UNION-TEXAS	0	224	0	0	224	0	224
UNTD-IND	16,190	47,287	0	0	53	0	31,097
UNTD-REF	167,715	388,953	0	0	-14,316	0	221,238

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
US-OIL	19,905	171,781	0	0	-479	0	151,876
USA-PETROCHEM	-5,021**	190,244	0	0	0	0	195,265
VEN-FUEL	0	-88	0	0	-88	88	0
VICKERS	321,688	556,429	0	0	663	0	234,741
VULCAN	74,169	228,152	0	0	-122	0	153,983
WALLER	0	7,752	0	7,900	-148	0	7,752
WARRIOR	49,919	38,750	12,904	0	-4,999	11,169	0
WEBBER	0	175	0	0	175	0	175
WELLEN	0	-114	0	0	-114	114	0
WEST-COAST	41,836	37,408	-1,235	0	-2,478	4,428	0
WESTERN	50,107	119,231	0	0	6,981	0	69,124
WHALECO	0	-37	0	0	-37	37	0
WICKETT	0	-5	0	0	-5	5	0
WINSTON	50,625	201,313	0	0	-10	0	150,688
WIREBACK	0	624	0	0	32	0	624
WITCO	63,011	190,266	0	0	-243	0	127,255
WYATT	0	57,670	0	58,368	-698	0	57,670
YETTER	0	1,751	0	0	-7	0	1,751
YOUNG	90,087	90,082	20,388	0	-5	5	0
TOTAL	136,669,075	136,669,075	2,119,645	3,960,311	0	23,775,007	23,775,007

* Also includes entitlements issued to correct an error in this firm's special correction amount.

** Reflects a correction to a prior month's report.

*** This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

**** Reflects adjustments for 1975 exceptions relief as provisionally modified by FEA pending agency review consistent with court order. For discussion, see text supra.

[FR Doc.77-6016 Filed 2-24-77;10:53 am]

Advance Orders are now being Accepted for delivery in about 6 weeks

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(Revised as of January 1, 1977)

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federal register

THURSDAY, MARCH 3, 1977

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reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—WAREHOUSE REGULATIONS

PART 102—GRAIN WAREHOUSES

Recognition of Federal Grain Inspection Service Inspectors and Weighers and Certificates Issued

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Agricultural Marketing Service (AMS), pursuant to the authority conferred by section 28 of the U.S. Warehouse Act, as amended, (7 U.S.C. 241 et. seq., hereinafter the "Act") is amending warehouse regulations appearing in Part 102 of Subchapter E of Chapter I in Title 7 of the Code of Federal Regulations to recognize the inspection and weighing services conducted by personnel of the Federal Grain Inspection Service (FGIS) and the official certificates issued by that Service.

Regulations under the U.S. Warehouse Act for grain warehouses require, with certain exceptions, that grain received into and delivered out of a licensed warehouse be inspected, graded and weighed by an inspector and/or weigher licensed under that Act. The regulations currently recognize the authority for inspections under the U.S. Grain Standards Act (7 U.S.C. 71 et. seq.) and the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et. seq.) by providing that persons licensed as inspectors under those two Acts will be licensed under the U.S. Warehouse Act without further show of evidence that they can correctly grade grain in accordance with official or approved standards and without a showing of evidence as to adequacy of inspection facilities.

The U.S. Warehouse Act regulations have never recognized any other authority for weights of grain at licensed warehouses since no other federal act contained authority over weighing at grain warehouses. However, the U.S. Grain Standards Act of 1976, Pub. L. 94-582, which became effective November 20, 1976, contains authority for the regulation of weights as well as for grades of grain at certain grain warehouses, some of which are licensed under the U.S. Warehouse Act. At certain of those facilities coming under the jurisdiction of the amended Grain Standards Act, the FGIS, which administers that Act will use authorized federal personnel to either perform the official weighing or provide direct supervision over weighing activities. Personnel of FGIS will also perform initial or original inspections at certain facilities, which inspections had heretofore been done by persons licensed for that purpose.

While authorized personnel of FGIS will be classified as weighers under the amended Grain Standards Act, as stated above, they may not actually perform the weighing functions, such as operating scales. However, their authority and supervision of such activities will preclude establishment of weights without their authority.

The AMS recognizes the authority of the amended Grain Standards Act over both inspection and weighing when performed or supervised by Federal employees and has determined that such services and the certificates issued thereunder offer adequate protection to depositors of grain and, therefore, meet the requirements, intent, and purposes of the U.S. Warehouse Act in those respects. In view of such recognition, AMS does not deem it necessary to issue licenses under the U.S. Warehouse Act to FGIS authorized inspectors and weighers.

It is anticipated that FGIS will also license inspectors and/or weighers at warehouses not served directly by Federal personnel and such persons will, in turn, continue to be licensed under the U.S. Warehouse Act under terms provided in the regulations. Licenses may also be issued under any condition or situation where it is deemed necessary for purposes of the U.S. Warehouse Act. These actions, in most cases will make it unnecessary to license warehouse personnel at warehouses under direct supervision by FGIS but will not preclude licensing such personnel when considered necessary or desirable.

The amendments now being made to the regulations will not, in any way, relieve any inspector, weigher, sampler, or any other person whether or not licensed under the Warehouse Act, from the provisions of section 30 of the U.S. Warehouse Act which specifies criminal penalties for certain violations of the Act.

Said regulations, therefore, are amended to read:

1. Section 102.2 is amended by revising paragraphs (q) and (r).

§ 102.2 Terms defined.

* * * * *

(q) *Inspector.* (1) A person licensed under the provisions of section 11 of the United States Warehouse Act (7 U.S.C. 241 et seq.), or (2) a federal employee authorized under section 8 of the United States Grain Standards Act, as amended, (7 U.S.C. 71 et seq.) or the provisions of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), to inspect, grade and/or certificate the grade of grain stored or to be stored in a warehouse licensed under the U.S. Warehouse Act (the terms "persons duly licensed to inspect" or "licensed inspector" shall be defined accordingly).

(r) *Weigher.* (1) A person licensed under section 11 of the United States Warehouse Act, (7 U.S.C. 241 et seq.), or (2) a federal employee authorized under section 8 of the United States Grain Standards Act, as amended, (7 U.S.C. 71 et seq.) to weigh and/or certificate the weight of grain stored or to be stored in a warehouse licensed under the U.S. Warehouse Act (the terms "duly licensed to weigh" and "licensed weigher" shall be defined accordingly).

* * * * *

2. Section 102.65 is amended by revising paragraph (b) to read:

§ 102.65 Inspection certificate: form.

* * * * *

(b) In lieu of an inspection certificate in the form prescribed in paragraph (a) of this section an official inspection certificate issued pursuant to the provisions of the United States Grain Standards Act, as amended, (7 U.S.C. 71 et seq.) or the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) on grain which is stored or to be stored in a warehouse licensed under the U.S. Warehouse Act will be acceptable for purposes of the Act and the regulations in this part.

* * * * *

3. The introductory text of § 102.67 is designated as paragraph (a), and the existing paragraphs (a) through (i) are renumbered as subparagraphs (1) through (9) and a new paragraph (b) is added to read as follows:

§ 102.67 Weight certificate.

(a) Each weight certificate issued under the act by a weigher shall be in a form approved for the purpose by the Service, and shall embody the following information within its written or printed terms:

(1) The caption "United States Warehouse Act, Grain Weight Certificate,"

(2) Whether it is an original, a duplicate, or other copy, and that it is not negotiable,

(3) The name and location of the warehouse in which the grain is or is to be stored,

(4) Whether the grain is weighed into or out of the warehouse.

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(5) The date of the certificate,

(6) The consecutive number of the certificate,

(7) The net weight, including dockage, if any, of the grain except as provided in § 102.27(b),

((8) A statement that the certificate is issued by a weigher licensed under the United States Warehouse Act and the regulations thereunder, and

(9) The signature of the weigher.

In addition, the weight certificate may include any other matter not inconsistent with the act or the regulations in this part provided the approval of the Service is first secured.

(b) In lieu of a weight certificate in the form prescribed in paragraph (a) an official weight certificate issued pursuant to the provisions of the United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.) on grain which is stored or to be stored in a warehouse licensed under the U.S. Warehouse Act will be acceptable for purposes of the act and the regulations in this part.

* * * * *

4. Section 102.75 is revised to read:

§ 102.75 Unlicensed inspectors and weighers.

No person shall in any way represent himself to be an inspector or weigher for purposes of the U.S. Warehouse Act unless he holds an unsuspended and unrevoked license or authorization in accordance with the provisions of paragraphs (q) and (r) of § 102.2.

It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure and postpone the effective date of these amendments until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in view of the fact that FGIS is presently providing official inspection and weighing services at several locations and expects to be providing such services at a number of other locations in the immediate future. Any delay in implementation of these changes will result in unnecessary duplication of effort in inspection, weighing and the certification of inspection results and weights. Furthermore, these changes do not add additional restrictions to warehouses licensed under the United States Warehouse Act or impose any additional requirements upon users of warehouse services.

This amendment shall become effective March 3, 1977.

Done at Washington, D.C., February 25, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-6334 Filed 3-2-77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 403]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period March 4–10, 1977. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.703 Navel Orange Regulation 403.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges has improved compared to a week ago. Prices f.o.b. averaged $3.72 a carton on a reported sales volume of 1,054 carlots last week, compared with $3.76 per carton on sales of 1,137 carlots a week earlier. Track and rolling supplies at 584 cars were down 113 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 1, 1977.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period March 4, 1977, through March 10, 1977, are hereby fixed as follows:

(i) District 1: 1,053,000 cartons;

(ii) District 2: 247,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 2, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-6617 Filed 3-2-77;11:50 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER H—GENERAL

[FmHA Instruction 440.11]

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Grant-in-Aid Information; Revision

Subpart J of Part 1901 of Chapter XVIII, Title 7, Code of Federal Regulations (41 FR 38157) is revised. This revision clarifies procedures for compliance with Treasury Circular 1082 which requires notification of Grant-in-Aid actions by Federal Agencies to certain State Agencies.

This revision is not published for Proposed Rulemaking because its effect is to provide for FmHA compliance with Treasury Circular 1082 issued by the Department of Treasury.

Accordingly, Subpart J of Part 1901 as revised, reads as follows:

Subpart J—Grant-in-Aid Information

Sec.
1901.451 Purpose.
1901.452 Policy.
1901.453 Authorities and responsibilities.
1901.454 [Reserved]
1901.455 Preparation of Standard Form 424.
1901.456 Function of the SCIRA.
1901.457–1901.500 [Reserved]

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.

Subpart J—Grant-in-Aid Information

§ 1901.451 Purpose.

This subpart outlines the procedures that the Farmers Home Administration (FmHA) must follow to comply with section 201 of the Inter-Governmental Cooperation Act of 1968 as set forth in the Department of Treasury Circular Number 1082. (This section requires that Federal Agencies administering grant-in-aid programs to State Governments or their political subdivisions must supply to the Governor and the legislature of any State, on the request of either the Governor or the legislature, information on the amounts and purposes of all grants under the program in that State.)

§ 1901.452 Policy.

FmHA will provide the required information to the State Central Information Reception Agency (SCIRA) (an Agency designated by the Governor of a State, in consultation with the legislature, to serve as the central reception point in a State for Federal grant-in-aid information), about loans and grants made under the programs subject to clearinghouse procedures in compliance with OMB Circular A–95. These programs are listed in § 1901.352(a).

§ 1901.453 Authorities and responsibilities.

The State Director, for the loans and grants indicated in § 1901.452, will notify SCIRA using section III of Standard Form 424, "Federal Assistance," within 7 days after approval of an initial or subsequent loan or grant or after a change in the amount or purpose of a loan or grant. One copy of SF 424 will be sent to SCIRA and clearinghouse. However, additional copies may be supplied on request.

§ 1901.454 [Reserved]

§ 1901.455 Preparation of Standard Form 424.

This form will be obtained from the Finance Office, St. Louis, Missouri. Standard Form 424 will be completed in accordance with the instructions on the form and grants or loans indicated in § 1901.452. The date of the application (on Form AD–624, "Application for Federal Assistance (For Construction Programs)," for Water and Waste Disposal and Industrial Development grants, and on Form 625, "Application for Federal Assistance (Short Form)," for Technical Assistance grants will be used as the "application received" date in Item 25 of Standard Form 424. A copy of SF 424 will be sent to SCIRA and the clearinghouse. When they are the same only one copy will be sent. A copy will be retained in the State Office. The copies retained in the State Office will be reviewed in October and April and any significant changes will be reported by an amended SF 424 to SCIRA and the clearinghouse in the same manner as above.

§ 1901.456 Function of the SCIRA.

In each State, this Agency will: (a) Distribute information about FmHA loans and grants available to the State and its political subdivisions provided by the State Director to the Governor, State legislature, and other agencies of the State that the Governor may designate.

(b) Make the information available to regional and metropolitan agencies and to local Governments of the State.

§§ 1901.457–1901.500 [Reserved]

Effective date: March 3, 1977.

Dated: February 18, 1977.

F. W. NAYLOR, JR.,
Acting Administrator, Farmers Home Administration.

[FR Doc.77-6465 Filed 3-2-77;8:45 am]

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980-E]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart E—Business and Industrial Loan Programs

REVISION

On October 29, 1976, in the FEDERAL REGISTER (41 FR 47462) there was established under Chapter XVIII, Title 7, Code of Federal Regulations, Subchapter N, "Other Loan Programs, Part 1980, Guaranteed Loan Programs," a new Subpart A—General. This Subpart contains materials and forms that are common to the Guaranteed Loan Programs—Subparts B through E, of which Subpart E, "Business and Industrial Loan Program," was published at 40 FR 57643 and amended at 41 FR 11807, 41 FR 20386, 41 FR 39005, and 41 FR 43390.

As revised, Subpart E will contain only specific provisions pertaining to the Business and Industrial Loan Program. Provisions common to other Guaranteed Programs are transferred to Subpart A. Additional administrative provisions have been added to Subpart E to more effectively administer the Business and Industrial Loan program and are identified below. Since this revision does not materially change the originally published regulation, as amended, and the administrative provisions are merely procedural in nature, affecting only internal administration of the program, and both the loan applicants and lenders are not additionally burdened, notice and public procedure thereon, are unnecessary. However, any comments pertaining to this revision may be submitted to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before April 4, 1977. Until such time as further changes are made on the basis of comments received, or otherwise, this revision shall remain in effect. The specific changes are as follows:

1. All common material and Forms FmHA 449–34, "Loan Note Guarantee;" 449–35, "Lender's Agreement;" and 449–36, "Assignment Guarantee Agreement," have been deleted and transferred to 1980–A.

2. Section 1980.423 has been revised to add a provision to allow loans made by the Bank for Cooperatives, Federal Land Banks and Production Credit Associations at interest rates based on their administrative and borrowing costs, to be eligible for guarantees.

3. Section 1980.441 has been revised to add a new Administrative Section which deals with new business ventures involved in unproven products, services, or markets.

4. Section 1980.454, Administrative Sections A and B have been revised to correct a cross-reference and to change the term "pre-closing audit" to "pre-guarantee audit."

5. Section 1980.461 has been revised to cross-reference issuance of Lender's Agreements, loan note guarantees and assignment guarantee agreement to appropriate section in Subpart A.

6. Section 1980.469, Administrative Section B2 has been revised to clarify procedures on receiving financial statements and Section E has been revised to authorize the State Director to handle certain provisions of loan servicing.

7. Appendix A has been revised to delete the "Memorandum of Understanding between Small Business Administration and Farmers Home Administra-

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tion." Form 449–1, "Application for Loan and Guarantee" has been added as Appendix A.

AUTHORITY: 7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Accordingly, Subpart E of Part 1980 as revised is set forth below.

Sec.

1980.401 Introduction.
1980.402 Definitions.
1980.403 Citizenship of applicants.
1980.404 [Reserved].
1980.405 Rural area determinations.
1980.406–1980.410 [Reserved].
1980.411 Loan purposes.
1980.412 Ineligible loan purposes.
1980.413 Transactions which will not be guaranteed.
1980.414–1980.418 [Reserved].
1980.419 Eligible lenders.
1980.420–1980.422 [Reserved].
1980.423 Interest rates.
1980.424 Terms of loan repayment.
1980.425 Availability of credit from other sources.
1980.426–1980.431 [Reserved].
1980.432 Environmental impact assessments and statements.
1980.433 Flood or mudslide hazard area precautions.
1980.434 Equal opportunity and nondiscrimination requirements.
1980.435–1980.440 [Reserved].
1980.441 Applicant equity requirements.
1980.442 Feasibility studies.
1980.443 Collateral, personal and corporate guarantees, and other requirements.
1980.444 Appraisal of property serving as collateral.
1980.445–1980.450 [Reserved].
1980.451 Filing and processing applications.
1980.452 FmHA evaluation of application.
1980.453 Review of requirements.
1980.454 Conditions precedent to issuance of loan note guarantee.
1980.455–1980.460 [Reserved]
1980.461 Issuance of lender's agreement, loan note guarantee and assignment guarantee agreement.
1980.462–1980.468 [Reserved]
1980.469 Loan servicing.
1980.470 Defaults by borrower.
1980.471 Liquidation.
1980.472 Protective advances.
1980.473 Additional loans or advances.
1980.474–1980.475 [Reserved]
1980.476 Transfer and assumptions.
1980.477–1980.480 [Reserved]
1980.481 Insured loans.
1980.482–1980.487 [Reserved]
1980.488 Guaranteed industrial development bond issues.
1980.489–1980.494 [Reserved]
1980.495 FmHA Forms.
1980.496–1980.500 [Reserved]
Appendix A—Form FmHA 449–1, "Application for Loan and Guarantee."

AUTHORITY: 7 U.S.C. 1989; Order of Secretary of Agriculture, 7 CFR 2.23; Order of Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70.

NOTE.—This Subpart supplements the provisions of Subpart A of the regulations with respect to loans guaranteed by the Farmers Home Administration (FmHA).

§ 1980.401 Introduction.

(a) This subpart supplemented by Subpart A of this Part, contains regulations for Business and Industrial (B&I) loans guaranteed or insured by the Farmers Home Administration (FmHA), and applies to lenders, holders, borrowers, and other parties involved in making, guaranteeing, insuring, holding, servicing, or liquidating such loans.

(b) The purpose of the B&I program is to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities, including pollution abatement and control. This purpose is achieved through bolstering the existing private credit structure through guarantee of quality loans which will provide lasting community benefits. It is not intended that the guarantee authority be used for marginal or substandard loans or to "bail out" lenders having such loans.

(c) The B&I loan program, like other FmHA programs, is administered by the Administrator through a State Director, serving each State through a District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for processing and servicing activities; although this Subpart refers in various places to the duties and responsibilities of other FmHA employees.

(d) Throughout this regulation there appear Administrative provisions for the State Director, District Director, and County Supervisor. These provisions establish the internal duties, responsibilities and procedures to carry out the requirements of the program. These provisions are identified as "Administrative" and follow appropriate sections of this Subpart.

§ 1980.402 Definitions.

The following general definitions are applicable to the terms used in this subpart. Additional definitions may be found in Subpart A, § 1980.6.

(a) *Applicant (for loan).* An applicant may be a cooperative, corporation, partnership, trust, or other legal entity organized and operated on a profit or nonprofit basis; an Indian Tribe on a Federal or State reservation, or other Federally recognized tribal group; a municipality, county, or other political subdivision of a State; or an individual. Such applicant must be engaged in or proposing to engage in improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas, including pollution abatement and control.

(b) *Community facilities.* For the purpose of this Subpart, community facilities are those facilities designed to aid in the development of private business and industry in rural areas. Such facilities include, but are not limited to, acquisition and site preparation of land for industrial sites (but not for improvements erected thereon), access streets and road serving the site, parking areas, extension or improvement of community transportation system serving the site, and utility extensions all incidental to site preparation. Projects eligible for assistance under Subpart A of Part 1823 of this Chapter (FmHA Instructions 442.1) are not eligible for assistance under this Subpart.

(c) *Development cost.* These costs include, but are not limited to, those for acquisition, planning, construction, repair, or enlargement of the proposed facility; purchase or buildings, machinery, equipment, land easements, rights-of-way; payment of start-up operating costs, and interest during the period before the first principal payment becomes due, including interest on interim financing.

(d) *Letter of conditions.* Letter issued by FmHA to a borrower setting forth the conditions under which FmHA will make a direct (insured) loan from the Rural Development Insurance Fund.

(e) *Public body.* A municipality, political subdivision, public authority, district, or similar organization.

(f) *Rural area.* Includes all territory of a State, the Commonwealth of Puerto Rico, or the Virgin Islands that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing area with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

(g) *State.* Any of the fifty States, Puerto Rico, or the Virgin Islands.

(h) *Working capital.* The excess of current assets over current liabilities. It identifies the relatively liquid portion of total enterprise capital which constitutes a margin or buffer for meeting obligations within the ordinary operating cycle of the business.

§ 1980.403 Citizenship of applicants.

Loans to individuals will be made or guaranteed only to those who are citizens of the United States or reside in the United States after being legally admitted for permanent residence. At least 51 percent of the outstanding interest in any corporation or organization-type applicant must be owned by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

§ 1980.404 [Reserved]

§ 1980.405 Rural area determinations.

FmHA will determine if any area is rural for purposes of the Guarantee or Insured loan program. The following will be used by FmHA in making area eligibility determinations when it is not clear from the geographical location of the applicant:

(a) Urbanized area immediately adjacent to a city having a population of 50,000 or more: an urbanized area immediately adjacent to a city having a population of 50,000 or more is an area, constituting for general social and economic purposes a single community having a boundary contiguous with that of the city. Such community may be incorporated or unincorporated and will extend from the contiguous boundary(ies) to the recognizable open country less densely settled areas, or natural boundaries such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities or public parks will be disregarded. Outer boundaries of an incorporated community will extend at least to its legal boundaries. Cities which may have a contiguous border with another city but are located across a river from such city and recognized as a separate community and are not otherwise considered a part of an urbanized or urbanizing area as defined in this section are not in a nonrural area.

(b) Urbanizing area: An urbanizing area is one defined as a community which is not now or within the foreseeable future not likely to be clearly separate from and independent of a city of 50,000 or more population and its immediately adjacent urbanized areas. A community will be considered as "separate from" when it is separated from the city and its immediately adjacent urbanized area by open country, less densely settled areas, or natural barriers such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities or public parks will be disregarded. A community will be considered as "independent of" when its social and economic structure (e.g., government; educational, health, and recreational facilities; business, industry, tax base, and employment opportunities) is not primarily dependent on the city and its immediately adjacent urbanized area.

(c) The State Director will proceed as follows in rural area determinations: When the FmHA State Director determines an area to be urbanizing, he must then determine the population density per square mile. If the area appears to be eligible, the State Director will request the National Office to provide him with the correct density figure. All such density determinations will be made on the basis of minor civil divisions or census county divisions as used by the Bureau of the Census. In making the density calculations, there will be excluded large nonresidential tracts devoted to urban land uses such as railroad yards, airports, industrial sites, parks, golf courses, and cemeteries or land set aside for such purposes.

§§ 1980.406–1980.410 [Reserved]

§ 1980.411 Loan purposes.

Loans to borrowers with facilities located in both urban and rural areas will be limited to the amount necessary to finance the facility located in the eligible rural area.

(a) *Private entrepreneurs.* Loans may be for improving, developing, or financing business, industry, and employment and improving the economic and environmental climate, including pollution and abatement control, of rural areas, and may include but not be limited to:

(1) Business and industrial acquisitions, construction, conversion, enlargement, repair, modernization, or development cost.

(2) Purchasing and development of land, easements, rights-of-way, buildings, facilities, leases, or materials.

(3) Purchasing of equipment, leasehold improvements, machinery or supplies.

(4) Pollution control and abatement including those in connection with farming and ranching operations.

(5) Transportation services incidental to industrial development.

(6) Start-up costs and working capital.

(7) The financing of housing development sites located in open country or cities, towns or villages with populations not in excess of those eligible for FmHA Rural Housing Loans, provided the community demonstrates a need for additional housing to prevent a loss of jobs in the area, or to house families moving to the area as a result of new employment opportunities.

(8) Loans for processing or marketing facilities, hatcheries, commercial nurseries and integrated poultry operations. This does not include loans for agricultural production; however, applicants who are in the business of processing, marketing, or packaging as well as agricultural production, may be eligible for loan assistance for that portion of the business other than agricultural production, provided the agricultural production aspect is separate from the rest of the business; i.e., the production aspects are handled through separate legal business entities or through maintenance of the accounting system in such manner as to clearly identify the use of and future accounting of the loan proceeds and operation of the business.

(9) Commercial custom feedlot operations. As used herein, commercial custom feedlot operations mean those lots primarily feeding, on a custom basis, livestock which belongs to other than the feedlot owner-operator. This would not preclude assistance to those borrowers whose principals or members are farmers and ranchers whose individually owned livestock may be custom fed at the lot: provided, such principals' or members' personal financial conditions are not likely to adversely affect the financial success of the custom operation. In those cases where feedlot operators buy and feed for themselves, records and accounts of such operations shall be maintained in such manner that they may be identified separately from the custom feeding operation, and loan agreements and security instruments will specify that any losses incurred in the owner-operator operation will not be chargeable to the custom feeding operations.

(10) Interest (including interest on interim financing) during the period before the first principal payment becomes due or the facility becomes income producing, whichever occurs first.

(11) Feasibility studies.

(12) Refinancing debts in connection with sound projects when it is determined by FmHA that it is necessary to help stabilize the economic base of the rural area and increase or maintain employment.

(13) Reasonable costs, including legal fees, incurred for services rendered by accountants, appraisers, architects, engineers, consultants, and other parties for services in connection with preparation of the loan applications, making the loan, developing the project, and verification of proper project completion. FmHA will determine what is reasonable.

(14) Lender's fees and charges including those for preparation and assembly of applications provided they do not exceed those customarily charged all borrowers in similar circumstances in the ordinary course of business and for the FmHA guarantee fee.

(15) Acquisition of membership and/or stocks, bonds or debentures necessary to obtain a loan from Production Credit Associations, Banks for Cooperatives, Small Business Investment Companies, and other lenders; provided such acquisition is required of all their borrowers. However, a Lender which requires membership fees in such organization or the purchase of securities issued by such organization will not use such proceeds to acquire, lease or improve property which does not benefit its members.

(b) *Public bodies.* See §§ 1980.481 and 1980.488.

§ 1980.412 Ineligible loan purposes.

Loans may not be made or guaranteed if the funds are used: (a) To pay off a creditor in excess of the value of the collateral.

(b) For distribution or payment to the owner, partners, shareholders, or beneficiaries of the applicant or members of their families when such persons will retain any portion of their equity in the business.

(c) For any project that is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by the operation of the applicant. This limitation will not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such expansion is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(d) For any project which is calculated to or is likely to result in an increase in the production of goods, materials or commodities, or the availability of services or facilities in the area when there is not sufficient demand for such goods, materials, commodities, services or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon

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existing competitive enterprises in the area.

(e) For agricultural production.

(f) For the transfer of ownership of a business unless the loan will keep the business from closing, or prevent the loss of employment opportunities in the area, or provide expanded job opportunities.

§ 1980.413 Transactions which will not be guaranteed.

The following transactions will not be guaranteed by FmHA: (a) The guarantee of lease payments.

(b) The guarantee of loans made by other Federal agencies. This does not preclude the guaranteeing of loans by the Bank for Cooperatives, Federal Land Bank, or Production Credit Association.

§§ 1980.414–1980.418 [Reserved]

§ 1980.419 Eligible lenders. [See Subpart A, § 1980.13.]

ADMINISTRATIVE

Par. (a) *of Subpart A, § 1980.13* requires National Office approval for any variations. *Par.* (b)(2), (h) *of Subpart A, § 1980.13,* State Director submits information to National Office with his recommendations.

§§ 1980.420–1980.422 [Reserved]

§ 1980.423 Interest rates.

(a) *Guaranteed loans.* Rates will be negotiated between the lender and the borrower. They may be fixed or variable as long as they are legal.

(1) A variable interest rate must be a rate that is tied to a base rate published periodically in a financial publication specifically agreed to by the lender and borrower. It must rise and fall with the selected base rate and changes can be made no more often than quarterly. There will be no floor or ceiling on variable interest rates.

(2) Under a Memorandum of Understanding between FmHA and the Farm Credit Administration dated September 25, 1974 the interest rate on loans made by the Bank for Cooperatives, Federal Land Banks and Production Credit Associations may be a variable rate based on their administrative and borrowing costs.

(3) Any change in the interest rate between the date of issuance of the Form FmHA 449–14 and before the issuance of the Loan Note Guarantee must be approved by the State Director. Approval of such change will be shown on an amendment to Form FmHA 449–14.

(4) It is permissible to have one interest rate on the guaranteed portion of the loan and another interest rate on the unguaranteed portion of the loan, provided the Lender and borrower agree and:

(i) The rate on the unguaranteed portion does not exceed that currently being charged on loans of similar size and purpose for borrowers under similar circumstances.

(ii) The rate on the guaranteed portion of the loan will not exceed the rate on the unguaranteed portion.

(5) When multi-rates are used the Lender will provide FmHA with the overall effective interest rate for the entire loan.

(b) *Insured loans.* (1) Loans for other than those in paragraph (b)(2) of this section will bear interest at a rate prescribed by FmHA, and will be announced periodically. The interest rate for insured loans will be the rate in effect at the time the loan is approved or at the time the loan is closed, whichever rate is lower.

(2) Loans to public bodies, nonprofit associations, and Indian Tribes used to finance community facilities will bear interest at the rate of five percent (5%) per annum.

§ 1980.424 Terms of loan repayment.

(a) Principal and interest on the loan will be due and payable as provided in the promissory note. The Lender will structure repayments as established in the loan agreement between the Lender and borrower. Ordinarily, such installments will be scheduled for payment as agreed upon by the Lender and applicant but on terms that reasonably assure repayment of the loan. However, the first installment to include a repayment of principal may be scheduled for payment after the project is operable and has begun to generate income, but such installment will be due and payable within three years from the date of the promissory note and at least annually thereafter. Interest will be due at least annually from the date of the note. Ordinarily, monthly payments will be expected, except for seasonal-type businesses.

(b) The maximum time allowable for final maturity for an FmHA guaranteed B&I loan will be limited to thirty (30) years for land, buildings, and permanent fixtures; the usable life of the machinery and equipment purchased with loan funds, but not to exceed fifteen (15) years; and seven (7) years for the working capital portion of the loan. The term for a loan that is being refinanced may be based on the collateral the Lender will take to secure the loan.

(c) The maximum time allowable for final maturity of an FmHA insured loan for community facilities will not exceed 40 years.

§ 1980.425 Availability of credit from other sources.

(a) Inability to obtain credit elsewhere is not a requirement for guaranteed assistance under this subpart.

(b) To be eligible for an insured loan under this subpart, the applicant must be unable to obtain the required credit from private or cooperative sources at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near the applicant's location(s) for loans for similar purposes and period of time. The applicant's inability to obtain such credit elsewhere will be determined in accordance with Part 1823 of this Chapter (FmHA Instruction 442.1).

§§ 1980.426–1980.431 [Reserved]

§ 1980.432 Environmental impact assessments and statements. [See Subpart A, § 1980.40.]

ADMINISTRATIVE

State director will review Form FmHA 449–10, "Applicants Environmental Impact Evaluation," submitted by the applicant and a Form FmHA 440–46, "Environmental Impact Assessment," prepared by the County Supervisor or State Director Designee. The State Director will indicate his decision in the Form FmHA 440–46. If the State Director determines that an EIS is required, he will notify the applicant and lender in writing.

§ 1980.433 Flood or mudslide hazard area precautions. [See Subpart A, § 1980.42.]

ADMINISTRATIVE

The State Director is responsible for determining if a project is located in a special flood or mudslide hazard area. Refer to Subpart B of Part 1806 of this Chapter [FmHA Instruction 426.2].

§ 1980.434 Equal opportunity and nondiscrimination requirements. [See Subpart A, § 1980.41.]

ADMINISTRATIVE

The State Director will assure that equal opportunity and nondiscrimination requirements are met. If there is indication of noncompliance with these requirements, such facts will be reported by the borrower, Lender or County Supervisor in writing to the State Director for remedial action.

Should the State Director need assistance in handling any compliants of noncompliance, he will request assistance from the National Office.

§§ 1980.435–1980.440 [Reserved]

§ 1980.441 Applicant equity requirements.

The applicant will be required to contribute sufficient tangible assets on both guaranteed and insured loans to provide reasonable assurance of a successful project. Normally, a minimum of 10 percent equity will be required on the applicant's balance sheet, at the time of loan closing for insured loans and at the time when the Loan Note Guarantee is issued for guaranteed loans. However, FmHA may require more equity depending on all other credit factors present in the particular project. Ordinarily, more than the minimum amount of equity will be required for new business ventures.

ADMINISTRATIVE

The State Director will be selective in approving loan applicants for new business ventures involved in unproven products, services, or markets. Should such businesses be considered by the State Director, feasibility studies as outlined in § 1980.442, and additional equity will usually be required.

§ 1980.442 Feasibility studies.

FmHA may require an applicant to provide a feasibility study prepared by an independent recognized consultant. The cost of such study will be borne by the applicant and may be paid from funds included in the loan. On loans of one million dollars or more, feasibility studies by recognized independent consultants will ordinarily be required. FmHA may waive this requirement when the financial history of the business, the current financial condition and guarantees or other collateral is more than adequate to indicate the feasibility of the enterprise. The feasibility study outlined will be approved by FmHA. FmHA personnel may not recommend consultants but may provide the applicant with a list of consultants who have performed satisfactorily on previous projects. An acceptable feasibility study should include but not be limited to:

(a) *Economic feasibility.* Information related to the project site, availability of trained or trainable labor, utilities, rail, air and road service to the site, and the overall economic impact of the project.

(b) *Market feasibility.* Information on the sales organization and management, nature and extent of market and market area, marketing plans for sale of projected output, extent of competition and commitments from customers or brokers.

(c) *Technical feasibility.* An engineering evaluation of the site, type of construction, adequacy of the plant machinery and equipment, operating and maintenance program to produce the projected quantity, and quality of goods, facility layout, and overall business operations.

(d) *Financial feasibility.* An opinion on the reliability of the financial projections and the ability of the business to achieve the projected income and cash flow. An assessment of the cost accounting system, the availability of short term credit for seasonal business and the adequacy of raw material and supplies.

(e) *Management feasibility.* Evidence that continuity and adequacy of management has been evaluated and documented as being satisfactory.

§ 1980.443 Collateral, personal and corporate guarantees, and other requirements.

(a) *Collateral.* (1) The Lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(2) Collateral must be of such a nature that repayment of the loan is reasonably assured when considered with the integrity and ability of project management, soundness of the project, and applicant's prospective earnings. Collateral may include, but is not limited to the following: land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interest, revenues, patents, and copyrights.

(3) All collateral must secure the entire loan. The Lender will not take separate collateral to secure only that portion of the loan or loss not covered by the guarantee. The Lender will not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compensating balances as used in the ordinary course of business may be used.

(b) *Personal and corporate guarantees.* (1) Personal guarantees from major stockholders or owners having a major interest in a corporation and all partners of partnerships usually will be required. Guarantees of parent, subsidiaries, or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide adequate security.

(2) The requirement for personal guarantees or corporate guarantees may be waived by FmHA if the proposed guarantors cannot provide such guarantee due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past three years, guarantees will be obtained as determined by FmHA.

(3) If a review of all credit factors indicates the need for additional security, FmHA may require additional personal and corporate guarantees. FmHA also may require that such guarantees be secured. Any collateral as referred to in paragraph (a)(2) of this section may be used to secure the guarantees.

(4) *Guarantors of applicants will:* (i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors and disclose community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at a time of filing), certified by an officer of the corporation.

(iii) Provide written evidence to FmHA of their inability to provide a guarantee because of existing contractual arrangements or legal restrictions.

(c) *Other requirements.* (1) The Lender will ascertain that no claims or liens or laborers, material men, contractors, subcontractors, suppliers of machinery and equipment or other parties are against the collateral of the borrower, and that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(2) Hazard insurance with a standard mortgage clause naming the Lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the collateral.

(3) Ordinarily, life insurance, which may be decreasing term insurance, is required for the principals and key employees of the borrower and will be assigned or pledged to the lender. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

(4) Workmen's compensation insurance is required in accordance with State law.

§ 1980.444 Appraisal of property serving as collateral.

(a) Property that will serve as collateral for loans will be appraised by a qualified appraiser. The appraiser will give his opinion regarding the current market value of the collateral.

(b) The Lender will be responsible for determining that appraisers (other than FmHA appraisers) have the necessary qualifications and experience to make the appraisals. If the Lender has any questions in this regard, it will consult with FmHA before having an appraisal made.

(c) The Lender will determine that the fees or charges of appraisers are reasonable.

(d) If the loan request is for $100,000 or less, an FmHA appraiser may make the appraisal.

(e) Appraisals will be made on forms approved by the Lender, except when appraisals are made by an FmHA appraiser who may use regular FmHA forms.

§§ 1980.445–1980.450 [Reserved].

§ 1980.451 Filing and processing applications.

(a) *Applicants' and lenders' contact.* Applicants and Lenders desiring FmHA assistance as provided in this subpart may file preapplications or applications with the County Supervisor servicing the area in which the project is to be located. The FmHA County Supervisor will promptly arrange an early meeting with the applicant and Lender representatives to discuss assembly, preparation and processing of preapplications and applications.

(b) *Applications from cooperatives.* Applicants eligible for loans from the Bank for Cooperatives will be encouraged to obtain guaranteed loans from that source since the Bank for Cooperatives is experienced in making and servicing such loans and can provide substantial counsel to the applicant. Applications must be submitted to the Bank for Cooperatives as a test for credit elsewhere when an insured loan is being considered.

(c) *Applicants eligible for Small Business Administration (SBA) assistance.* All applicants for loan guarantees eligible for SBA assistance will be advised by FmHA at the time of receipt of the preapplication of the availability of such assistance and will be encouraged to apply to that agency. Appendix A to this subpart includes a copy of the current memorandum of understanding between SBA and FmHA.

(d) *Loan priorities.* Applications and preapplications received by FmHA will be considered in the order received. Priority will be given to projects located in areas and cities having a population of less than twenty-five thousand.

(1) FmHA will cooperate fully with appropriate State agencies in guaran-

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teeing and insuring loans in a manner which will assure maximum support of the State's strategies for development of its rural areas.

(2) When applications on hand otherwise have equal priority the applications from a veteran will have preference. A veteran is a person who has been discharged or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard under conditions other than dishonorable and who served on active duty in such forces:

(i) During the period April 6, 1917, through March 31, 1921;

(ii) During the period of December 7, 1941 through December 31, 1946;

(iii) During the period of June 27, 1950, through January 31, 1955; or

(iv) For a period of more than 180 days, any part of which occurred after January 31, 1955; but on or before May 17, 1975.

Discharges under conditions other than dishonorable include "clemency discharges."

(3) In assigning priorities to applications and in selecting projects for funding, FmHA will consider State development strategies, and clearinghouse (A–95 Agency) comments and recommendations. Funds (Insurance or guarantee authority) allocated for use as prescribed in this regulation are to be considered for use by Indian tribes within the State regardless of whether State development plans include Indian reservations within the State's boundaries. It is essential that Indians residing on such reservations have equal opportunity to participate in any benefits of these programs. Priorities will be assigned by the FmHA State Director in accordance with the following:

(i) Those projects which will save existing jobs.

(ii) Those projects which will enlarge, extend, or otherwise improve existing business and industries.

(iii) Those which will create the highest number of permanent employment opportunities.

(iv) Those projects which will contribute to the overall economic stability of the rural areas but generate little or no permanent employment opportunities beyond the entrepreneur himself.

(e) *Filing preapplications and applications.* Applicants or Lenders may file preapplications and applications described in paragraph (f) of this section if they desire an expression of FmHA interest prior to assembling the complete application and request for Loan Note Guarantee or they may present the complete application, in one package, including the material required in paragraphs (f), (i), (j), and (k) of this section.

(f) *Preapplications.* Applicants may file preapplications with the County Office including:

(1) A letter prepared by the applicant and the Lender which shall include:

(i) Applicant's name, address, contact person, and telephone number.

(ii) Amount of loan request.

(iii) Name of the proposed lender, address, contact person, and telephone number.

(iv) Brief description of the project, products, and services provided.

(v) Type and number of employment opportunities and unemployment rate where the project will be located.

(vi) Amount of applicant's equity and guarantees offered.

(vii) Anticipated loan maturity and interest rates.

(viii) Availability of raw materials and supplies.

(2) Form FmHA 449–22, "Certification of Non-Relocation and Market and Capacity Information Report."

(3) Form FmHA 449–4, "Statement of Personal History," for a proprietor (owner), each partner, officer, director, key employee, and stockholders holding 20 percent or more interest in the applicant except for those corporations listed on a major stock exchange and for those so listed if required by FmHA. Forms FmHA 449–4 are not required to be submitted for elected officials and appointed officials in connection with loan applications from public bodies. Failure to report full, complete and accurate information on the Statement of Personal History may result in FmHA's not making or guaranteeing the loan.

(4) A record of any pending or final regulatory or legal (civil or criminal) action against the applicant, guarantors, principal stockholders, officers, and directors.

(5) A current balance sheet and latest profit and loss statement, and financial statements of existing businesses for the last 3 years.

(6) A detailed projection of gross revenue, net earnings, and cash flow statements for 3 years including assumptions upon which such forecasts are based.

(7) Sales projections indicating the percent of the national and local market the business expects to obtain.

(8) Comments of substate and state A–95 agencies except that loans for small or local enterprises with no significant economic or environmental impact are exempt from A–95 review regulations.

However, a notice of approval for information purposes will be sent to the A–95 agency. If such comments are not immediately available, they may be forwarded to the County Office after submission of the preapplication. Applicants requesting Federal assistance are required to notify the A–95 clearinghouse in the jurisdiction where the project is to be located. Normally, the preapplication material excluding financial information is submitted for A–95 review.

(g) *Preliminary determination by FmHA.* If preapplication information indicates the project will not meet FmHA's minimum credit standards for a sound loan, is ineligible, does not have sufficient priority, or that funds or guarantee authority are not available for the project, FmHA will so inform the applicant. The applicant will be notified in writing with all reasons for the decision indicated. If it appears that the project is eligible, has sufficient priority, is economically feasible and loan guarantee authority is available, FmHA will inform the Lender and applicant in writing and request that they complete the application.

(h) *Department of Labor certifications.* FmHA will submit Form FmHA 449–22 to the Department of Labor for the necessary certification that the proposal will not be in conflict with § 1980.412 (c) and (d).

(i) *Applications will consist of:* (1) Form FmHA 449–1, "Application for Loan and Guarantee."

(2) Form FmHA 449–2, "Statement of Collateral."

(3) Form FmHA 449–10, "Applicant's Environmental Impact Evaluation."

(4) Architectural or engineering plans, if applicable.

(5) Cost estimates and forecasts of contingency funds to cover inflation or project changes.

(6) Appraisal reports.

(7) For existing businesses, a pro forma balance sheet at start-up and for at least three additional projected years, indicating the necessary start-up capital, operating capital and short-term credit based on financial statements for the last three years, or more (if available); and projected cash flow and earnings statements for at least three years supported by a list of assumptions showing the basis for the projections. If debt refinancing is requested, a debt schedule is to be prepared (correlated to the latest balance sheets) reflecting the debts to be refinanced including the name of the creditor, the original loan amount and loan balance, date of loan, interest rate, maturity date, monthly or annual payments, payment status, and collateral that secured such loans.

(8) For new businesses, a pro forma balance sheet at start-up and for the next three years, projected cash flow (monthly first year, quarterly for two additional years) and projected earnings statements for three years supported by a list of assumptions showing the basis for the projections.

(9) Any credit reports obtained by the lender or FmHA.

(10) Form FmHA 400–1, if construction costing more than $10,000 is involved.

(11) Copies of building permits, if applicable, and any necessary certifications and recommendations of appropriate regulatory or other agency having jurisdiction over the project including any pollution control agency.

(12) Personal and corporate financial statements of those guarantors named in § 1980.443.

(13) Proposed loan agreement. (See paragraph VIII of Form FmHA 449–35). Proposed loan agreements between the borrower and Lender will be required. Ordinarily, such agreements include but are not limited to the following:

(i) Requirements for accounting and record keeping.

(ii) Periodic financial reporting.

(iii) An annual audited financial statement from the borrower prepared by an independent certified public accountant or by an independent licensed public accountant, who is certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on dividend payments.

(vi) Limitation on purchase or sale of equipment and/or fixed assets.

(vii) Limitation on compensation of officers and/or owners.

(viii) Minimum working capital requirements.

(ix) Minimum debt to net worth ratio.

(x) Restrictions concerning consolidation, mergers or other circumstances.

(xi) Limitations on selling the business without concurrence of the lender and FmHA.

(xii) Repayment and amortization of the loan.

(xiii) List of collateral for the loan.

(xiv) List of persons and/or corporations guaranteeing the loan.

(14) A complete feasibility study when required. (See § 1980.442.)

(15) Any additional information required by FmHA.

(16) For companies listed on major stock exchanges and/or subject to the Securities and Exchange Commission regulations, a copy of Form 10–K, "Annual Report Pursuant to Section 13 or 15 D of the Act of 1934."

(17) Documented evidence that the project is located within or without special flood or mudslide hazard areas.

(18) Notices of compliance with the Privacy Act of 1974.

(i) If the applicant is acting in a personal capacity and not as an entrepreneur for such entities as proprietorships, partnerships, or corporations, and FmHA solicits personal information for him, the individual will be provided Form FmHA 410–9, "Statement Required by the Privacy Act."

(ii) If FmHA desires to obtain information concerning an individual from any source, FmHA will provide such source with Form FmHA 410–10, "Privacy Act Statement to References."

(j) *Use of forms.* FmHA numbered forms will be used where shown in both preapplications and applications. Otherwise, Lenders should use their forms, real estate mortgages, security instruments and other agreements, provided such forms do not contain any provisions that are in conflict or are inconsistent with provisions of this Subpart.

(k) *Certificate of Need.* If the loan request is for health care facilities (e.g., hospitals or nursing homes), a "Certificate of Need" will be obtained by the applicant from the appropriate regulatory or other agency having jurisdiction over the project. If a significant part of the project's income will be from third party payors, e.g., medicare or medicaid, the project will be designed and operated in a manner necessary to meet the requirements of the third-party payors.

ADMINISTRATIVE

A. *The County Supervisor and District Director:* 1. Determines if material and information submitted is complete.

2. Prepares and submits to State Director their comments and recommendations. Such comments will include but are not limited to the following: Community attitude toward project; a summary of comments regarding the proposal by the lender, county leaders, and other interested parties; whether the project is likely to result in the need for additional community facilities such as schools, water, sewer, and health care services, and if so, the community's plan for providing such facilities; availability of any required additional labor force and training plans for such force, if needed; an economic forecast of the effect on the community should the project fail, if financed.

3. The County Supervisor will furnish all individuals acting in a personal capacity at the time of filing a preapplication or application, two copies of Form FmHA 410–9. The individual will sign both copies, retaining one and providing FmHA with the other copy which becomes a part of the loan file.

4. The County Supervisor will provide any source from whom FmHA obtains information concerning an individual with two copies of Form FmHA 410–10. The source will sign both copies, retain one and providing FmHA with the other copy which becomes a part of the loan file.

B. *The State Director:* 1. Will provide the County Supervisor with assistance as may be necessary to assure that the applicants and lenders are currently and correctly advised throughout preapplication and application processing.

2. Will prepare and submit Form FmHA 440–48, "Association or Organization Activity Report" in accordance with FmHA Instruction 440.9. However, the Standard Industrial Classification (SIC) manual will be used in coding of projects rather than the "Loan Purpose Codes" section of the instructions.

3. Will forward immediately to the National Office on all projects:

(a) Form FmHA 449–22, (7 copies). If applicable, attach Form FmHA 449–33, Small Loan Certification," for loans of $100,000 or less where loan proceeds are expected to result in employment of not more than five additional workers at full capacity.

(b) For insured loans where the applicant leases facilities to another, submit Form FmHA 449–22 for such applicant. The lessor(s) will also be required to provide Form FmHA 449–22. Subsequent loan requests require resubmission of Form FmHA 449–22.

(c) Form FmHA 449–4 (4 copies).

NOTE.—As soon as practicable send the Forms FmHA 449–22 and 449–4 so that the Department of Labor and Character Evaluation processing may be completed without delay.

4. On all applications over one million dollars (including previously approved loans where additional subsequent loan brings the total over one million dollars), the State Director will submit a separate narrative report prepared in strict compliance with the following format:

Name and Address of Applicant:
Amount of Loan:
State:
County:

1. Background information. Include general description of business, type of applicant, products, availability of raw material and required supplies, length of time applicant has been in this business, any particular problems being encountered, and other such information.

2. Your appraisal of the gross and net effect of the FmHA loan on levels of employment in the local community. Include information on the labor force, number of unemployed, percent of the population unemployed, and what the loan may do to improve the employment picture. This information may be obtained from the local employment service office. Describe the need for training labor for proposed industry, if any, and applicant and county plans for providing such training. If a technical training school is available, identify it. Indicate the number of jobs to be created and/or saved.

3. Fund (obligation authority) situation in state (current fiscal year):

(a) Allocation		$
(b) Projects approved to date	No.	
(c) Active loan applications currently in process (including this application)	No.	
(d) Those in (c) you expect to fund this fiscal year	No.	
(e) Estimated need for additional allocation (if any) for this fiscal year		

4. The record of any legal or regulatory actions taken by or against the applicant for the loan (including the principal officers of the proposed enterprise) and known to you, and any civil or criminal suits which are pending. Report any suits listed in any credit reports, financial statements, and disclosed to you by the applicant or any other source.

5. The total debt and the debt to net worth ratio of the applicant.

6. Detailed projections of profit and cash flow together with a list of assumptions showing the basis for the projections. (Provided in an attachment to this report.)

7. The general economic outlook for the type of business or industry, both nationally and in the prospective location. Indicate what percentage increase in sales can be expected nationally and in the applicant's market area, if any, and explain the rationale for this opinion. A good source of information—U.S. Department of Commerce publication, "U.S. Outlook—With Projections".

8. The impact of proposed project on local environment, transportation, and other local facilities and services. Indicate whether the present water, sewer, electric, and energy service facilities will be able to handle the needs of the business being financed, plus the increased need placed on the city school system and other public facilities due to the influx of employees.

9. Indicate if FmHA has previously guaranteed a loan to the proposed lender, and if so, comment on how it was serviced.

10. Any other considerations you feel are important.

Prepared by:

(Signature)

(Name typed)

(Title)

Attach to the above report:

For existing businesses.—Minimum three years and current audited financial statements or balance sheets, profit and loss statements, and the requirements for new businesses.

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For new businesses.—Projections for 3 years of gross revenues and net earnings, a cash flow statement with proper assumptions, and a pro-forma balance sheet at start-up.

5. Par. (g). State Director informs applicant of any decision. (Copy sent to County Supervisor.)

6. Par. (i). State Director submits a transmittal letter with recommendations on loan applications requiring National Office review. Included are:

(a) Loan File.

(b) Form FmHA 449–29, "Project Summary," including State Director's spread sheets, financial history, and projections (use attachments to Project Summary if necessary).

(c) Proposed Form FmHA 449–14.

(d) Copy of FmHA State Loan Review Board Minutes.

(e) Notification of required financial and other reports, their frequency, due dates, and fiscal year end.

7. Par. (i) 9. Credit reports.

(a) The National Office has contracted with Dun and Bradstreet, Inc. (the contractor, D&B) for a complete credit reference and monitoring system for use by FmHA National and State Offices. The system will provide an independent source of credit information for analyzing applications and provides a continuous monitoring of all loans.

(b) The State Director will appoint a member of his staff to act as a State Coordinator for the services. Such coordinator will be provided with instructional material necessary to use this service. The contractor will assign a D&B account executive from the nearest D&B office for assistance to the FmHA State Office Coordinator, answer inquiries, assure proper service, deliver the National Reference Books, and deliver inquiry request forms to the State Office Coordinator.

(c) The Credit Reference and Monitoring System Service consist of:

(1) *Credit Reference Service.*—One set of Dun & Bradstreet National Reference Books will be delivered to each State Office. These reference books provide an easy-to-use credit information source.

(2) *Business Information Report Service.*—When the State Director has determined that a preapplication or application will be considered for further processing, he will instruct the State Office Coordinator to order a credit report on an existing business.

The contractor will provide each State Office with a supply of pre-numbered (separate number for each State)- Dun & Bradstreet, Inc. Subscriber Inquiry forms JTC 25592 for use in ordering the credit report. The form will contain a complete and correct business name and address. Insert in the "Remarks" section a list of the names of principal(s). The inquiry form is mailed to the designated D&B office for processing. The credit report will be sent by D&B directly to the State Office Coordinator.

For urgent inquiries a telephone request to the local D&B office may be used. (Telephone number will be provided by the account executive.)

If loan dockets are sent to the National Office for review, they will contain a copy of the D&B credit report.

NOTE.—The National Office may also initiate requests for these reports and will notify the State Office.

(3) *Key Account Report Service.*—This is a special comprehensive report on businesses and principals providing an indepth investigation and detailed information. All Key Account Reports will be ordered by the National Office. If a State Director feels a Key Account Report is needed to assist in his review of an application, he may request such report from the National Office, by telephoning or submitting a memo with reasons for the request. In most new business proposals this service will be a valuable tool in the evaluation of the loan and should be requested.

(4) *Change Notification Service.*—This is a continuous monitoring service whereby D&B in Washington, D.C. will coordinate with the National Office for providing certain data relating to then existing Business and Industry Loans.

(i) Each State Coordinator will provide the National Office with an initial listing of all existing business names and addresses where Loan Note Guarantees or letter of conditions has been issued and thereafter, on a monthly basis, a listing of additional names or deletions.

(ii) The National Office will forward the combined listings to D&B, who thereafter will provide a continuous monitoring of these businesses. D&B will report any significant changes that may have developed which affect the business. Such changes will be reported on a D&B change notice Form 9 W2–11 and sent by D&B to the National Office. The National Office will review the change notice and send a copy to the State Office Coordinator who may request a D&B updated credit report or take any appropriate follow-up action required. (This system is to be used as a supplement for FmHA's monitoring functions.)

8. Applications will be organized in a loan file in accordance with FmHA Instruction 151.1, Exhibit B. An 8-position folder will be utilized. The State Director may supplement the Position Guides to include specific legal requirements within their State. If the applicant prepares a complete application package, it may accompany the loan file provided the file is organized in a binder, indexed, tabbed, and feasibility studies are kept separate.

9. On loan applications within the State Director's loan approval authority, the State Director will submit to the National Office items 6 (b) through (e) above, copy of Borrower and Lender Loan Agreement, and comments as per Administrative A 2 above.

§ 1980.452 FmHA evaluation of application.

FmHA will evaluate the application. FmHA will make a determination whether the borrower is eligible, the proposed loan is for an eligible purpose, and that there is reasonable assurance of repayment ability, sufficient collateral, and sufficient equity. If FmHA determines it is unable to guarantee the loan, the Lender will be informed in writing. Such notification will include the reasons for denial of the guarantee. If FmHA is able to guarantee the loan, it will provide the Lender and the applicant with Form FmHA 449–14, listing all requirements for such guarantees. The Conditional Commitment for guarantee may not be issued on any loan until the State Director has been notified by the National Office that the Statement of Personal History(s) has been cleared. FmHA State Directors are authorized to execute Form FmHA 449–14.

ADMINISTRATIVE

State Director evaluates the application and considers:

A. Rural Area determinations. (See § 1980.-405).

B. Community Impact of the proposal which includes:

1. Number of businesses and industries in the town or city.

2. Employment impact upon the community.

3. Availability of skilled and unskilled labor and permanency of employment opportunities.

4. Vocational and educational facilities to provide skilled labor, if applicable.

5. Policies of applicant regarding unemployment, lay-offs, wage scales, etc.

C. If debt refinancing is requested, consider in accordance with § 1980.411(a)(12) and:

1. A complete review will be made to determine whether it is essential to restructure the company's debts on a schedule that will allow the business to operate successfully rather than merely converting an unsound loan to a guaranteed basis.

(a) Obtain a borrower's complete debt schedule. Schedule should agree with applicant's latest balance sheet.

(b) Determine from Lender if the applicant's present loan(s) is on the Lender's regulatory examiners report and if so determine the loan classification.

(c) Analyze Lender's liability ledger on the borrower, individual customer credit file, installment Loan Ledger Card or Computer printouts, and other credit reports.

D. Applications will be analysed by a FmHA State Loan Review Board prior to execution of Form FmHA 449–14.

1. Generally, the review board consists of State Director as Chairman, Business and Industrial Loan Chief (Specialist), and either the Community Programs Chief, Rural Housing Chief, or Farmer Programs Chief, as appropriate.

2. The State Director may wish to contact non-FmHA sources for expertise, such as bankers or other lenders, industrial development specialists from state commissions, academicians, certified public accountants, tax attorneys, successful business and professional lenders, management consultants, and officials from other Federal agencies. Outside resource consultants may be reimbursed for only their travel costs (transportation and subsistence). (See FmHA Instruction 160.1.)

3. The Rural Housing Loan Chief will be a member of the FmHA State loan review board if a site development loan (see § 1980.-411(a)(7)) is being considered. The Community Programs Chief will be a member if a loan for facilities of the type financed under the provisions of Subpart A of Part 1823 of this chapter (FmHA Instruction 442.1) is being considered. The Farmer Program Chief will be a member of the board if a project, the success of which is dependent on the production of agricultural products, is being considered. If the proposed project covers more than one program area, all the chiefs for those programs involved will be members of the Board. If the approval of an application for a B&I loan may result in benefiting or hindering other FmHA programs the review board will determine whether the making of such loan or guarantee is likely to result in embarrassment for FmHA as a result of a possible conflict of interest whereby other parties may accuse the agency of giving loan preference to housing borrowers (in the case a site development) or producers (in the case of agricultural processing plant) or other FmHA programs.

4. The County Supervisor and District Director will attend the review board meeting to the extent practical taking into consideration other work requirements and travel.

All review board meetings will be fully documented and signed by those FmHA employees serving on the board. A copy of such documentation will be retained in the loan file.

5. The State Director will obligate funds or authority for the project by preparing Form FmHA 440–1, "Request for Obligation of Funds," in an original and three copies. The State Director will sign the original and one copy and conform two copies. The original and one conformed copy will be forwarded to the Finance Office and the other copies held pending notification from the Finance Office that guarantee or insurance authority is available. The Finance Office will reserve funds or authority for the project and notify the State Director of such reservation by forwarding the original and one copy of Form FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request." Unless the State Director notifies the Finance Office to cancel the reservation or to complete obligation at an earlier date, the Finance Office will complete the obligation on the 15th working day following the date of Form FmHA 440–57. The State Director will time his report to the National Office as required by FmHA Instruction 2015–C in order that notification required by that instruction will be accomplished and the applicant (for an insured loan) or the lender (for a guaranteed loan) is informed of a loan approval not later than the date of obligation. Notice of approval to the applicant or Lender will be accomplished by providing the applicant or Lender with the signed copy of Form FmHA 440–1 and a copy of Form FmHA 449–14, unless the National Office has given prior written authorization to forward Form FmHA 440–1 to the applicant or Lender in advance of issuance of Form FmHA 449–14. The State Director will record the actual date of applicant or lender notification on the remaining copy of Form FmHA 440–1 and make such copy a permanent part of the County Office loan file.

6. State Director, through the County Supervisor, notifies the Lender and applicant if he will not issue the Form FmHA 449–14.

§ 1980.453 Review of requirements.

(a) Immediately after reviewing the conditions and requirements in Form FmHA 449–14, and the options listed on the back of the form, the Lender and applicant should complete and sign the "Acceptance or Rejection of Conditions," and return a copy to the FmHA State Director. If certain conditions cannot be met, the Lender and borrower may propose alternate conditions to FmHA.

(b) If the Lender indicates in the "Acceptance or Rejection of Conditions" that it desires to obtain a Loan Note Guarantee and subsequently decides at any time after receiving a conditional commitment that it no longer wants a Loan Note Guarantee, the lender will immediately advise the FmHA State Director.

ADMINISTRATIVE

The State Director will negotiate with the lender and applicant any changes made to the initially issued or proposed Form FmHA 449–14, "Conditional Commitment for Guarantee." A copy of Form FmHA 449–14 and any amendments thereto will be included when the loan file is submitted to the National Office for review. When the National Office recommends modifications or additions to Form FmHA 449–14, the State Director will further negotiate these recommendations with the Lender and applicant. If as a result of these further negotiations the Lender, applicant or State Director presents alternate conditions which would modify recommendations of the National Office, the State Director will submit them by memorandum to the National Office for consideration with a copy of the revised Form FmHA 449–14 and any amendments thereto.

§ 1980.454 Conditions precedent to issuance of the loan note guarantee.

In addition to the requirements of Subpart A, § 1980.60 the following provisions are required:

(a) *Preclosing conference.* When a date for loan closing has been scheduled, the Lender will contact FmHA for a preclosing review of all conditions and requirements.

(b) *Loan closing.* When loan closing plans are established, Lender will notify the FmHA County Supervisor so that an FmHA representative may attend the loan closing.

ADMINISTRATIVE

A. *The State Director reviews:*

1. The loan agreement between the borrower and Lender which provides for the frequency of submission of financial statements to the County Supervisor. Monthly financial statements should be required on new business enterprises or those needing close monitoring. However, the annual audit report will always be required.

2. Plans for inspection made on construction projects. These should be coordinated with the Lender and borrower. (See Appendix B of FmHA Instruction 442.1). Form FmHA 424–12 may be used by the County Supervisor who will make the majority of the inspections. However, the District Directors, Engineers, or B&I Chief may also make inspections as designed by the State Director. Copies are to be furnished the County Supervisor. Any other special servicing requirements should be added to the Lender's Loan Agreement.

3. Cost overruns, if any, and how they will be met.

4. Basic credit requirements of all loans.

B. State Director will designate representative(s) to attend preclosing conference or loan closing. However, in all cases the District Director will conduct a pre-guarantee audit before issuance of the Loan Note Guarantee to assure that all requirements of the application, Conditional Commitment for Guarantee, and Loan Agreement have been met and will provide such verification in the loan file.

§§ 1980.455–1980.460 [Reserved]

§ 1980.461 Issuance of lender's agreement, loan note guarantee, and assignment guarantee agreement. [See Subpart A, § 1980.61.]

ADMINISTRATIVE

A. *Par. (a) of Subpart A, § 1980.61.* The original Form FmHA 449–35 will be kept in the County Office, a copy may be retained in the State Office.

B. *Par. (b)(1) of Subpart A, § 1980.61.* Copy(s) of the Loan Note Guarantee(s) will be kept in the County Office. Additional copy(s) may be retained in the State Office. Copies of all issued Loan Note Guarantees will be kept in the loan file.

C. *Par. (b)(2) of Subpart A, § 1980.61.* The State Director will approve all substitutions of Loan Note Guarantees for Contracts of Guarantee.

D. It is imperative that the original loan covered by a Contract of Guarantee is current.

E. *The Registered Holder will transmit to the County Supervisor:*

1. Request for substitution together with the original Contract of Guarantee.

2. Copies of notes with Lender's identification numbers. (All requirements of the Lender's Agreement will be complied with before any new notes are used.)

3. Certification that the loan is current and in good standing.

4. Certification of outstanding principal amount of the loan.

5. Executed Lender's Agreement. (FmHA provides form to Lender).

6. Executed Form FmHA 449–19, "Guarantee Fee Report," (Indicate at top of form, "one time substituted fee") (See § 1980.21 of Subpart A for calculation of fee due).

7. Payment for appropriate guarantee fee.

F. *County Supervisor will:*

1. Review all the requirements of paragraph E of this section.

2. If the request is appropriate and complete, forward the request to the State Director.

G. *State Director will:*

1. Verify the submitted request and if in order, send the guarantee fee and guarantee fee report to Finance Office with a notation of the date the new Loan Note Guarantee will be issued. (NOTE.—The substitution of a Loan Note Guarantee for the Contract of Guarantee is not to be considered as a new loan for record keeping purposes).

2. Complete the Loan Note Guarantee (appropriate number for attachment to each note), date and sign the instrument. The following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of Contract of Guarantee dated _____." The State Director will transfer from the Contract of Guarantee all information pertaining to the loan to the Loan Note Guarantee.

3. Execute Lender's Agreement.

4. Cancel the original Contract of Guarantee.

5. Transmit to the County Supervisor the Loan Note Guarantee, Lender's Agreement and cancelled Contract of Guarantee.

6. State Director may retain for his file, copies of the Loan Note Guarantee, Lender's Agreement and Guarantee Fee Report.

H. *County Supervisor:*

Will then transmit to the Lender the original Loan Note Guarantee, and a copy of executed Lender's Agreement and retain in loan file copies of Loan Note Guarantee with attached original canceled Contract of Guarantee copy of Guarantee Fee Report and the original Lender's Agreement.

All applicable provisions of regulations 1980–A and 1980–E will apply to the loan when the Loan Note Guarantee is signed.

I. *Alternate Procedure:*

If the Registered Holder does not want to deliver his original Contract of Guarantee with his request for substitution, the County Supervisor will accept a copy of the Contract of Guarantee and proceed as above. However, the Loan Note Guarantee will be delivered only upon receipt of the original Contract of Guarantee. The County Supervisor will forward the original Contract of Guarantee to the State Director for cancellation. State Director will return the canceled Contract of Guarantee to the County Supervisor for retention in the loan file.

J. *Par. (b)(3) of Subpart A, § 1980.61.* For reporting purposes where multinotes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

K. *Par. (b)(4) of Subpart A, § 1980.61.* The State Director will notify the Finance Office of the transaction.

L. *Par. (c) of Subpart A, § 1980.61.* A copy of Form FmHA 449–36 will be kept in the loan file.

M. *Par. (d) of Subpart A, § 1980.61.* State Director signs all Forms FmHA 449–13.

N. *Par. (f) of Subpart A, § 1980.61.* The County Supervisor will:

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1. Review Form FmHA 449–19 for completeness.
2. Forward the guarantee fee and original Form FmHA 449–19 to Finance Office.
3. Forward a copy of Form FmHA 449–19, Form FmHA 449–34, Form FmHA 449–35 and Form FmHA 449–36, if applicable, to the State Director.
4. Originals or copies, as appropriate, will be retained in the FmHA loan file.
5. See that the State Director is notified of any discrepancies.

§§ 1980.462–1980.468 [Reserved]

§ 1980.469 Loan servicing.

The Lender is responsible for loan servicing. See paragraph X of Form FmHA 449–35.

ADMINISTRATIVE

A. While the Lender has the primary responsibility for loan servicing and protecting the collateral, the State Director is responsible for seeing that required serving is properly accomplished. Loan servicing is a preventive rather than a curative action. Prompt follow up on delinquent payments and early recognition and solution of problems are keys to resolving many delinquent loan cases.

B. *The State Director will assure that:*

1. A time table for FmHA field visit inspections is established before the Loan Note Guarantee is issued. Field visits to new business borrowers should be made on a monthly basis for the first few months until the business is established. Visits to non-seasoned (current and less than three years old) loan borrowers should be made at least quarterly; seasoned loans (current and more than three years old) at least annually; and special attention loan borrowers as frequently as the need calls for.

2. A review or adequate analysis on all financial statements and field reports is made. A complete update of any "spread sheet" analysis of the borrower's financial condition is made, any appropriate servicing action necessary is taken, and the loan file is properly documented. A memorandum of analysis and a copy of the updated "spread sheet" will be forwarded to the National Office, Attention: Business and Industrial Loan Division only for the following loans:

(a) All loans within the first year of loan closing.

(b) Loans over one year old as determined by the State Director or a National Office assigned loan reviewer who is participating in a field review. In event of a disagreement between the State Director or assigned loan reviewer as to which loans should be included, the assigned loan reviewer's decision will take precedence.

(c) All problem and delinquent loans.

(d) Loans that the State Director would like reviewed by the National Office.

3. A proper followup with the District Director and County Supervisor is made if reports and financial statements are not being transmitted on time or if there are servicing actions needed.

4 Meetings are arranged between the Lender, borrower and FmHA to resolve any problems of late payment, etc.

C. *For projects in amounts not in excess of his loan approval authority, the State Director is authorized to approve:*

1. Alterations in the loan agreement with the borrower which will not prejudice the Governments interest.

2. Any replacement of collateral for the loan.

3. All lien coverage and lien priorities on the collateral established by the lender before issuance of the Loan Note Guarantee.

D. *Within his loan approval authority, the State Director is authorizing to concur in:*

1. Any deferment and reamortization of the loan in concurrence with Holder(s).

2. Use of proceeds from disposition of collateral meeting the provisions of paragraph X of the Lender's Agreement.

E. *The State Director:*

1. As authorized within his loan approval authority to concur in Lender's authorized servicing actions necessary to service the loan(s). The Lender is responsible for notifying the borrower and FmHA of any violations in the Lender's Loan Agreement and to take the appropriate corrective action. The State Director is not authorized to waive any provisions or requirements which would result in a violation of FmHA regulations. If any servicing problems are noted, their disposition is to be documented in the loan file.

2. May consult with the National Office on any servicing problems and if they cannot be handled at the State level, the file will be forwarded to the National Office with proposed recommendations.

F. *County Supervisor:*

1. Assists in loan monitoring at the direction of the State Director.

2. Will make periodic field inspections (with the Lender, if possible) to borrower's place of business in accordance with a preestablished schedule. He will complete the field visit report and transmit it with any recommendations through the District Director to the State Director.

3. Will submit to Finance Office semiannually a Lender's statement reflecting the unpaid principal balances on the loan in order to meet U.S. Treasury reporting requirements. This procedure will remain in effect until reporting system is converted to automatic processing system.

4. Will obtain from the Lender the necessary financial statements, and will check the statements and any other reports for proper certification and signatures. When the County Supervisor has been notified by the Lender of borrower's failure to fulfill any conditions of the Loan Agreement, the County Supervisor will immediately contact the State Director, to determine the action to be taken. He will then forward the financial reports and any recommendations through the District Director to the State Director indicating the date reports were received in the County Office.

5. Will notify in writing the District Director and State Director upon receipt of notice from the Lender when any guaranteed or insured B&I loan is delinquent more than 30 days or when the loan otherwise appears to be developing into a problem case. See paragraph XI of Form FmHA 449–35.

6. Is responsible for establishing an office management system for guaranteed and insured loans in accordance with FmHA Instruction 405.1 to insure timely followup on all required financial statements, audit reports, and any special requirements as set forth in the Loan Agreement with the borrowers.

G. *District Director:*

1. Will assure that the County Supervisor obtains from the Lender the necessary financial statements and reports and transmit the statements with his recommendations to the State Director.

2. Will accompany the County Supervisor on initial field visits to the borrower's place of business and at least annually thereafter. Such visits should be coordinated with the Lender.

3. Will provide guidance and assistance to the County Supervisor if a loan develops into a problem case.

4. Will review all Field Visit Reports and makes recommendations or comments and transmits to the State Director.

§ 1980.470 Defaults by borrower. [See Subpart A, § 1980.63.]

ADMINISTRATIVE

A. In case of default, the Lender will arrange with the County Supervisor or District Director a meeting with the borrower to resolve the problem. A memorandum of the meeting, individuals who attend, a summary of the problem and proposed solutions will be forwarded to the State Director with a copy retained in the loan file. If the State Director receives a notice of default on a loan, he will immediately notify the National Office in writing of the details and will subsequently report the problem loan to the National Office on the monthly status report. The State Director will notify the lender and borrower through the County Supervisor of any decision reached by FmHA.

B. *Purchase of Guarantee Portions by FmHA: See Lender's Agreement and Assignment Guarantee Agreement.*

1. The County Supervisor monitoring the loan will coordinate and process any requests for FmHA to purchase in all instances where the Holder(s) are located in close proximity to the local Lender. If several Holders are located outside the area, the State Director will handle the transaction and notify the County Supervisor.

2. The County Supervisor will review the material submitted, verify the amounts due the Holder(s) and transmit the request by memorandum to the State Director. Copies of evidence of ownership will be included. Any original evidence of ownership will be retained in the County Office. A proposed payment date will be established in order to calculate the interest due the Holder(s).

3. The State Director will verify the amounts payable to the Holder(s) and assure that all necessary material has been obtained. The State Director will request a check to pay the Holder(s) on the appropriate data entry form.

4. Any evidences of ownership retained in the County Office will be considered in any future report of loss calculations. A record of any purchase will be maintained in the loan file.

§ 1980.471 Liquidation. [See Subpart A, § 1980.64.]

ADMINISTRATIVE

A. State Director determines which FmHA personnel will attend meetings with the Lender.

B. *Paragraph XII B.* FmHA will exercise the option to liquidate only when there is reason to believe the Lender's liquidation plan likely not result in maximum recovery. State Directors are authorized to approve Lender liquidation plans to exercise the FmHA option to liquidate when outstanding guarantee is not in excess of his loan approval authority. All other proposals for liquidation will be submitted to the National Office.

C. *Paragraph XII D.* State Directors are responsible for review and acceptance of accounting reports as submitted by Lenders and for submission of such reports to lenders when FmHA is conducting liquidation.

D. *Paragraph XII E 2.* County Supervisors are authorized to accept Report of Loss determinations on Form FmHA 449–30 in those cases where loss will not exceed $50,000; District Directors for loss not to exceed $100,000; and State Directors for all others. The State Director will submit to the Finance Office for payment of any losses on the Form FmHA 449–30. The Finance Office forwards loss payment checks to the State Director for delivery to Lender.

E. *Paragraph XII E 3.* Final loss payments will be made within the 60 days required but

only after an audit to assure all collateral for the loan has been properly accounted for. State Directors are responsible to see that such audits are accomplished in time to be reviewed and accepted or otherwise resolved within the 60-day period. County Supervisors may conduct such audits when the loss does not exceed $50,000; District Directors $100,000; and State Directors for amounts not to exceed their loan approval authority. All audits involving losses in excess of the amounts equal to the State Director's loan approval authority will be submitted to the National Office for review. If the State Director wishes National Office assistance in the conduct of any audit, he may so request.

§ 1980.472 Protective advances. [See Subpart A, 1980.65.]

ADMINISTRATIVE

A. It is not intended that protective advances be made in lieu of addition loans. The State Director is authorized to approve all protective advances; he will consider the following when approving such advances:

1. The total amount of outstanding advances, the amount of those for which approval is requested, the outstanding loan balance, whether the account is current and, if not, the extent of the delinquencies.

2. The borrower's ability to pay the remaining loan balance and any future advances in accordance with the existing repayment schedule.

§ 1980.473 Additional loans or advances. [See Subpart A, 1980.66.]

ADMINISTRATIVE

The State Director may approve additional loans or advances provided that he determines there will be no adverse changes in the borrower's financial situation and that such loan or advance is not likely to adversely affect the collateral or the guaranteed loan.

§§ 1980.474–1980.475 [Reserved]

§ 1980.476 Transfer and assumptions.

(a) All transfers and assumptions will be approved in writing by FmHA. Such transfers and assumptions will be to an eligible applicant.

(b) Transfer and assumptions will be considered without regard to § 1980.451 (d).

(c) The applicant will submit to FmHA Form FmHA 449–4 for the required character evaluation prior to the execution of the Assumption Agreement.

(d) Available transfer and assumption options to eligible applicants include the following:

(1) The total indebtedness may be transferred to another borrower on the same terms.

(2) The total indebtedness may be transferred to another borrower on different terms not to exceed those terms for which an initial loan can be made.

(3) A part of the total indebtedness may be transferred to another borrower on the same terms.

(4) A part of the total indebtedness may be transferred to another borrower on different terms.

(e) In any transfer and assumption case, the transferor, including any guarantor(s) may be released from liability by the Lender with FmHA written concurrence only when the value of the collateral being transferred is at least equal to the amount of the loan or part of the loan being assumed. If the transfer is for less than the entire debt:

(1) FmHA must determine that the transferor has no reasonable debt-paying ability considering his assets and income at the time of transfer.

(2) The FmHA County Committee must certify that the transferor has cooperated in good faith, used due diligence to maintain the collateral against loss, and has otherwise fulfilled all of the regulations of this Subpart to the best of his ability.

(f) Any proceeds received from the sale of secured property before a transfer and assumption will be credited on the transferor's guaranteed loan debt in inverse order of maturity before the transfer and assumption transaction is closed.

(g) When the transferee makes any cash downpayment in connection with the transfer and assumption:

(1) The Lender will employ an independent appraiser, subject to concurrence of both the transferor and transferee, to make an appraisal to determine the fair market value of all the collateral securing the loan. Such appraisal report fee and any other costs related thereto will be paid by the transferor and the transferee as they mutually agree.

(2) The market value of the secured property being acquired by the transferee, plus any additional security the transferee proposes to give to secure the debt, will be adequate to secure the balance of the total guarantee loan owed, plus any prior liens. If any cash downpayment is made, it may be paid directly to the transferor as payment for his equity in the project provided:

(i) The Lender recommends and FmHA approves the cash downpayment be released to the transferor. The Lender and FmHA may require that an amount be retained for an established period of time in escrow as a reserve account as security for use against any future default on the loan. Any interest accruing on such an escrow account may be paid periodically to the transferor.

(ii) Any payments that are to be made by the transferee to the transferor in respect to the downpayment do not suspend the transferee's obligation to continue to meet the guaranteed loan payments as they come due under the terms of the assumption.

(iii) The transferor will agree not to take any actions against the transferee in connection with such transfer in the future without first obtaining the approval of FmHA and the Lender.

(iv) The Lender determines that there is repayment ability for the guaranteed debt assumed and any other indebtedness of the transferee.

(h) The Lender will make, in all cases, a complete credit analysis to determine viability of the project, subject to FmHA review and approval, including any requirements for deposits in an escrow account as security to meet its determined equity requirements for the project.

(i) The Lender will issue a statement to FmHA that the transaction can be properly transferred and the conveyance instruments will be filed, registered, or recorded, as appropriate, and legally permissible.

(j) FmHA will not guarantee any additional loans to provide equity funds for a transfer and assumption.

(k) The assumption will be made on the Lender's form of assumption agreement.

(l) The assumption agreement will contain the FmHA case number of the transferor and transferee.

(m) Loan terms cannot be changed by the Assumption Agreement unless previously approved in writing by FmHA, with the concurrence of any Holder(s) and currence of the transferor (including guarantors) if they have not been released from personal liability. Any new loan terms cannot exceed those authorized in this subpart. The Lender's request will be supported by:

(1) An explanation of the reasons for the proposed change in the loan terms.

(2) Certification that the lien position securing the guaranteed loan be maintained or improved, proper hazard insurance will be continued in effect, and all applicable Truth in Lending requirements will be met.

(n) In the case of a transfer and assumption, it is the Lender's responsibility to see that all such transfer and assumptions will be noted on all originals of the Loan Note Guarantee(s). The Lender will provide FmHA a copy of the transfer and assumption agreement. Notice must be given by the Lender to FmHA before any borrower or guarantor is released from liability.

(o) The Holder(s), if any, need not be consulted on a transfer and assumption case unless there is a change in loan terms.

ADMINISTRATIVE

A. The State Director may approve all transfer and assumption provisions if the guaranteed loan debt balance is within his individual loan approval authority including:

1. Concurrence in writing with the decision concerning release of the transferor and guarantors from liability.

2. Any changes in loan terms.

NOTE.—The assumption will be reviewed as if it were a new loan. The Loan Note Guarantee(s) will be endorsed in the space provided on the form(s).

B. A copy of the Assumption Agreement will be retained in the County Office file. The State Director will notify Finance Office of all approved Transfer and Assumption Cases in order that finance records may be adjusted accordingly.

C. The District Director and County Supervisor will submit recommendations to the State Director.

D. If the guaranteed loan debt balance is in excess of the State Director's loan approval authority, the State Director will forward the file, together with his recommendations and those of the District Director and County Supervisor, to the National Office for approval.

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§§ 1980.477–1980.480 [Reserved]

§ 1980.481 Insured loans.

Applications from private parties for whom FmHA and such applicants agree that a guaranteed Lender is not available, and from public bodies shall be processed as insured loans in accordance with the applicable provisions of this Subpart and Subpart A of Part 1823 of this Chapter (FmHA Instruction 442.1), including the credit elsewhere requirement, except as provided in § 1980.488 which provides for the guarantee of taxable bond issues of public bodies. Loans to public bodies will be used only to finance:

(a) Community facilities as defined in § 1980.402(b) and

(b) Constructing and equipping industrial plants for lease to private businesses (not including loans for operating such businesses) when the requested loan is not available under Subpart A of Part 1823 of this Chapter (FmHA Instruction 442.1).

ADMINISTRATIVE

A. All insured loans require National Office concurrence prior to approval.

B. Applications from private parties for insured loans will not be encouraged.

C. Loan closings on insured loans will be in accordance with Instruction of the Regional Attorney and applicable provisions of Subpart A of Part 1823 of this Chapter (FmHA Instruction 442.1).

§§ 1980.482–1980.487 [Reserved]

§ 1980.488 Guaranteed industrial development bond issues.

(a) Loans to public bodies will be guaranteed only in connection with the issuance of any class or series of industrial development bonds (as defined in section 103(c)(2) of the Internal Revenue Code of 1954, as amended (IRC)), the interest on which is includable in gross income under IRC. No part of the loan guaranteed by FmHA may extend to any class or series of industrial development bonds the interest on which is excludable from gross income under section 103(a)(1) of such Code. Before the execution of any Loan Note Guarantee, lender will furnish FmHA evidence regarding interest on bonds being taxable for Federal income tax purposes. Such evidence may be in the form of an unqualified opinion of a recognized bond counsel or a ruling from the Internal Revenue Service.

(b) Loans to public bodies may be guaranteed for the purpose of acquiring, constructing and equipping industrial plants for lease to private businesses (not including loans for operating such businesses).

(c) If FmHA and the applicant agree that a guaranteed Lender is not available, the application will be considered for an insured loan under the provisions of § 1980.481.

ADMINISTRATIVE

A. Guaranteed loans to public bodies may be used only for constructing and equipping the industrial plants for lease to private business and does not provide for funds for debt refinancing, working capital, and other fees or services. The lessee will have to provide necessary working capital and have sufficient financial strength to provide for a sound project.

B. The Lender will notify the State Director of the taxability of the proposed bond issues.

§§ 1980.489–1980.494 [Reserved]

§ 1980.495 FmHA Forms.

Form FmHA 449–1 "Application for Loan and Guarantee" is incorporated herein and made a part hereof.

§§ 1980.496–1980.500 [Reserved]

GENERAL ADMINISTRATIVE

A. *Office of the General Counsel (OGC).* In performing the FmHA functions with respect to B&I loans, the advice and assistance of OGC may be sought and followed on any legal matter. However, in loanmaking, it is the responsibility of the Lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the Lender's resolution of these matters, it should consult with OGC.

B. *Delegation of Authority.* The State Director may delegate to his staff those administrative duties and responsibilities stipulated in the Administrative sections of this subpart.

Attachments: Appendix A—Form FmHA 449–1, "Application for Loan and Guarantee".

Effective date: This regulation shall become effective on March 3, 1977.

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an impact statement under Executive Order 11821 and OMB Circular A–107.

Dated: February 10, 1977.

J. R. HANSON,
Acting Administrator,
Farmers Home Administration.

FmHA Instruction 1980-E Appendix A

Form FmHA 449-1 (Rev. 8-4-76)

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION

FORM APPROVED OMB NO. 40-R3668

APPLICATION FOR LOAN AND GUARANTEE

FmHA Case Number

General Information: "The application for Loan and Guarantee" is to provide information needed for the analysis and loan determination process.

Part A – is to be completed by the loan applicant. The original and two copies with attachments will be submitted to the proposed lenders.

Part B – is to be completed by the lender. Upon completion, the original and one copy and attachments of Part A and B will be filed with the local FmHA Office.

Specific references are made in this application to sections of the Business and Industrial Loan Instruction. For complete guidance, see FmHA Instruction 1980- A and E and related FmHA Forms.

PART A

Instructions to Applicant: Complete items one through twenty. Submit original and two copies of this application and all supporting documents to the lender. If additional space is required, provide for by an attachment. Additional information may be obtained by the local FmHA County Supervisor.

1. NAME: (Show official name without abbreviations unless the abbreviation is a part of the official name. For proprietor or partnership, show name(s) followed by d/b/a and trade name used, if any and attach a copy of the partnership agreement).

Street | City | County

State | ZIP Code | Telephone Number | Amount of Loan Requested $

Project Location: City | Population (Last Census) | County | State

Franchise ☐Yes ☐No If Yes, Submit Copy

2. TYPE OF BUSINESS: | Applicant's Tax Indentification Number | SIC Number

3. THIS PROJECT IS:
☐ A new business venture ☐ Other (Explain)
☐ A new branch of facility ☐ An expansion of an existing facility
☐ Refinancing debts ☐ Transfer of Ownership
Date Enterprise Established:

4. VETERAN - For individual or partner indicate if veteran ☐Yes ☐No
If yes, indicate service from to Branch

5. CITIZENSHIP - For individuals or partner. Are you a U.S. Citizen or reside in the U.S. after being legally admitted for permanent residence? ☐Yes ☐No
For a corporation: Is 51 percent of ownership by U.S. Citizens or those legally admitted for permanent residence? ☐Yes ☐No

6. HISTORY OF BUSINESS - Provide a brief description and history of the business (attach additional sheets if necessary).

7. COMMUNITY BENEFITS - Comment on the benefits the community will receive if the loan is made; (i.e. taxes, jobs and any other benefits).

DEVELOPMENT PRINTING OFFICE: 744-041 FmHA 449-1 (Rev. 8-4-76)

(2) List all other concerns that are in an affiliated, by stock ownership, management contro or otherwise, with the applicant. The applicant has no subsidiary or affiliate, a statement to this effect should be made. Signed and dated balance sheet, operating statements and reconcilement of net worth must be submitted for all subsidiaries, parent organizations, and affiliates in the same manner as required of applicant.

12. PURCHASE AND SALES RELATIONS WITH OTHERS - Does borrower buy from, sell to or use the services of, any concern in which an officer, director, major stockholder, or partner, or proprietor of the borrower has a substantial interest? ☐Yes ☐No If "yes" give names of such officers, directors, stockholders, and partners, names of such concerns and explain the nature of the transaction(s).

13. RECEIVERSHIP - BANKRUPTCY - Has applicant or any officer or, partner or director of the applicant, affiliate or any other person with whom such person has been associated ever been in receivership or adjudicated bankrupt? ☐Yes ☐No If "yes" give names and details.

14. DISCLOSURE OF SPECIAL INFORMATION REGARDING PRINCIPALS - (a) List below the names of any FmHA employees who are related by blood, marriage, or adoption, or who have any present or have had any past, direct or indirect, financial interest in or association with, the proposed borrower, or any of its partners, officers, directors or principal stockholders including such interest in other enterprises; (b) When the proprietor, or any partner, officer, director, or their spouse, is an employee of the U.S. Government including members of the armed forces, detailed information shall be submitted with the application. Check box(s) if (a) or (b) is not applicable. ☐ (a) ☐ (b).

NAMES AND ADDRESS (INCLUDE ZIP CODE)	Details of Relationship or Interest

8. PREVIOUS FEDERAL FINANCING - List assistance received, requested, or any pending applications. (Include direct, participation, insured, or guarantee loans and grants (cost any Federal Agency?).

9. LITIGATIONS - List details of any pending or final disciplinary or legal (civil or criminal) action against the applicant, promoters, partners, principal stockholders and directors.

10. NAMES OF ATTORNEYS, ACCOUNTANTS, AND OTHER PARTIES - List the names of all attorneys, accountants, appraisers, agents, and all other parties, (whether individuals, partnerships, associations) engaged by or on behalf of the applicant (whether on a salary, retainer or contingent fee basis) who have rendered any service of any nature whatever to applicant, in connection with the preparation or presentation of this application to a lender. List all fees or other charges or compensations paid or to be paid for any purpose in connection with this application or disbursement of the loan whether in money or other property of any kind whatsoever, by or for the account of the applicant, together with a description of such services rendered or to be rendered.

Name and Address (include ZIP Code)	Description of Service Rendered or to be Rendered	Total Compensation Agreed to be Paid	Compensation Already Paid

*State specific dollar amounts or hourly rates. "Unknown," "Undetermined," or other imprecise terms are not sufficient.

11. SUBSIDIARIES AND AFFILIATES - (1) List the name and addresses of all concerns that are subsidiaries, parent organizations, or affiliates of the applicant, including concerns in which the applicant holds a controlling(but not necessarily a majority) interest.

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15. MANAGEMENT - Enter names of (a) all owners, partners, key officers, directors or stockholders and their annual compensation, including salaries, fees, withdrawals, etc., (b) hired manager, and (c) all other stockholders having 20 percent or more interest in the proposed borrower. Elected officials and managers on applications for loans from public bodies are excluded. Personal guarantees from major stockholders or owners having a major interest in a corporation, and all partners of partnerships usually will be required. If guarantor cannot provide such guarantee due to existing contractual or legal restrictions, explain in an attachment. Final determinations will be made by the FmHA. Attach in the case of personal guarantee, current financial statements not over 60 days old at time of filing and for any corporate guarantee, current financial statements not over 90 days old at time of filing and certified by an officer of the corporation. (Form FmHA 449-5 may be used).

(a) Name	(b) Position	(c) Annual Compensation	(d) % Owner-Ship	(e) Outside Net Worth	(f) Personal Guarantee Offered (Yes or No)	(g) Life Insurance Carried For Benefit of Applicant

16. REGULATORY AGENCIES - List all regulatory agencies (National, State, or Local) which affect this business or project and explain if there are any pending matters with such regulatory agencies.

17. INSTRUCTION TO APPLICANT - Attach to this application the following supporting documents. Reference for 1980-A include sections 1980.1 thru 1980.100 and reference for 1980-E include sections 1980.401 thru 1980.500:

(a) Comments of A-95 review process, if not already submitted. (See FmHA Instruction 1980.451 (f) (8)).
(b) Forms FmHA 449-4, "Statements of Personal History," if not already submitted.(See FmHA Instruction 1980.451 (f) (3)).
(c) Form 449-22, "Certification of Non-Relocation and Market and Capacity Information Report," if not already submitted. (See FmHA Instruction 1980.451 (f) (2)).
(d) Financial data for new or existing businesses as required in accordance with FmHA Instruction 1980.451 (i) (7) and (8).
(e) Aging of accounts receivable and payable. (Use 30, 60, 90 days with individual account explanation of items over 90 days old). (See FmHA Instruction 1980.451 (i) (16)).
(f) For companies listed on major stock exchanges and subject to the Securities and Exchange Commission regulations, a copy of the latest SEC 10K report. (See FmHA Instruction 1980.442 (i) (17)).
(g) Provide supporting documentation for your projections, including economic factors, markets, management, etc. For loans in excess of $1 million see FmHA Instruction 1980.442.
(h) If construction is involved, (See FmHA Instruction 1980.451 (i) (11)). Final plans and specifications must be submitted to the lender for approval prior to the commencement of construction. Architectural or engineering plans, if applicable, need be attach. (See 1980.451 (i) (4)).
(i) If construction is involved, provide applicable equal opportunity and nondiscrimination forms. (See FmHA Instruction 1980.41).
(j) Form FmHA 449-10, "Applicants Environmental Impact Evaluation." (See FmHA Instruction 1980.40 and 1980.451 (i) (3)).
(k) Evidence whether the project is located in a flood or mudslide hazard area. (See FmHA Instruction 1980.43 and 1980.451 (i) (18)).
(l) Provide a written statement of effect project would have on Historic Places, if any. (See FmHA Instruction 1980.44 and 1980.451 (i) (15)).
(m) If application is for health facility, attach a "Certificate of Need," from appro . . . regulatory agency having jurisdiction over the project. (See FmHA Instruction 1980.451 (k)).

(n) If loan is in excess of $100,000, provide certification and notices as required for the Clean Air Act and Water Pollution Control Act. (See FmHA Instruction 1980.435).
(o) Document utilities availability with letter of commitment from utilities, energy, water, sewer, fire and police protection.
(p) For all persons listed under MANAGEMENT, item 15, provide a brief description of education, technical training, employment and business experience (resumes may be used).
(q) Provide a detailed debt schedule correlated to the latest balance sheet reflecting the name of the creditors, loan purpose, original loan amount and loan balance, date of loan, interest rate, maturity date, monthly or annual payments, payment status and collateral that secures such loans.

18. POLICY AND REGULATIONS CONCERNING REPRESENTATIVES AND THEIR FEES:

(a) An applicant for a loan may obtain the assistance of any attorney, engineer, appraiser, or other representative to aid it in the preparation of its application, however, such representation is not mandatory. In the event a loan is approved, the services of an attorney may be necessary to assist in the preparation of closing documents, title examination, etc. Fees or other compensation which FmHA considers reasonable for services performed by such representatives on behalf of the applicant may be paid from loan proceeds.
(b) There are no "authorized representatives" of FmHA, other than our regular salaried employees. Payment of any fee or gratuity to FmHA employees is illegal and will subject the parties to such a transaction to prosecution.
(c) FmHA will not approve placement or finder's fees for the use or attempted use of influence in obtaining or trying to obtain a loan.
(d) Fees which will be approved will be limited to reasonable sums for services actually rendered in connection with the application or the closing, based upon the time and effort required, and the nature and extent of the services rendered by such representative.
(e) It is the responsibility of the applicant to set forth in Section 10 of this application the names of all persons or firms engaged by or on behalf of the applicant. Applicants are also required to advise FmHA in writing of the names and fees of any representatives engaged by the applicant subsequent to the filing of the application. Failure to so notify FmHA constitutes "misrepresentation" and will void FmHA's guarantee if lender had knowledge of this omission.
(f) Any applicant having any question concerning the payment of fees, or the reasonableness of fees, should communicate with FmHA before the application is filed for a loan guarantee.

19. AGREEMENT OF NONEMPLOYMENT OF FmHA PERSONNEL. In consideration of FmHA guaranteeing any part of the loan applied for in this application, the applicant hereby agrees with FmHA that applicant will not, for a period of two years after date of guarantee of any part of the loan, employ or tender any office or employment to, or retain for professional services, any person who, on the date of such disbursement, or within one year prior to said date, (a) shall have served as an officer, attorney, agent, or employee of FmHA and (b) as such, shall have occupied a position or engaged in activities which FmHA shall have determined, or may determine, involved discretion with respect to the granting of assistance under the Consolidated Farm and Rural Development Act and other Acts administered by FmHA from time to time.

20. CERTIFICATION - The applicant hereby certifies that:

(a) The Applicant has read FmHA Policy and Regulations concerning representatives and their fees (18 above) and has not paid or incurred any obligation to pay, directly or indirectly, any fee or other compensation for obtaining the loan hereby applied for, other than for services and expenses authorized pursuant to paragraph 18 above.
(b) The applicant has not paid or incurred any obligation to pay to any Government employee or special Government employee any fee, gratuity or anything of value for obtaining the assistance hereby applied for. If such fee, gratuity, etc. has been solicited by any such employee, the applicant agrees to report such information to the Office of Inspector General, USDA, Washington, D. C. 20250.
(c) Information contained above and in exhibits attached hereto are true and complete to the best knowledge and belief of the applicant and are submitted for the purpose of requesting FmHA to guarantee a loan by a lender to the applicant. Whether or not the loan herein applied for is approved, applicant agrees to pay or reimburse the lender for the cost of any surveys, title or mortgage examinations, appraisals, etc., performed by nonlender personnel with consent of the applicant.
(d) The applicant hereby covenants, promises, agrees and gives herein the ASSURANCE that in connection with any loan to applicant which FmHA may guarantee as a result of this application, it will COMPLY with the requirements of Executive Order 11245 regarding Equal Credit Opportunity applicant further agrees that in the event it fails to comply with said applicable provision, FmHA may cancel, terminate, accelerate repayment of or suspend in whole or in part the financial assistance provided or to be provided by FmHA, and that FmHA or the United States Government may take any other action that may be deemed necessary or appropriate of this ASSURANCE OF COMPLIANCE. These requirements prohibit discrimination on the grounds of race, religion, color, sex, marital status or national origin recipients of Federal financial assistance, including but not limited to employment practices, and require the submission of appropriate reports and access to books and records. These requirements are applicable to all transferees and successors in interest.

Notice: In accordance with 5 U.S.C. 552a, the Privacy Act of 1974, any individual should be provided a copy of Form FmHA 410-9, "Statement Required by the Privacy Act," at the time this application is completed.

WARNING: Section 1001 of Title 18, United States Code provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fradulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

Misrepresentation of material facts may also be the basis for denial of credit by the Farmers Home Administration.

*Applicant Name:

CORPORATE SEAL

By ____

Title ____

Attest: ____ Date Signed: ____ , 19 ____

(Title) (Title)

Applicants' Contact Person

* (Individual, general partner, trade name, or corporation name).

____ name

____ address

____ telephone

PART B

INSTRUCTIONS: Lender completes item 21 through 33 and submit the original and one copy of this application and all supporting documents to FmHA.

21. REQUEST FOR GUARANTEE: (For use only by lender)

LENDER TAX IDENTIFICATION: NO. ____

We propose to make and service a loan to the applicant named on page 1 of this Application. We request an FmHA loan Guarantee subject to the provisions of the applicable FmHA instructions.

22. TERMS AND CONDITIONS OF LOANS: Percent of Guarantee Requested ____ %

(1) Type	Amount	Terms (yrs)	Interest*	Monthly Payments
Real Estate	$ ____	____ yrs.	____ %	$ ____
Machinery and Equipment	$ ____	____ yrs.	____ %	$ ____
Working Capital	$ ____	____ yrs.	____ %	$ ____
Other ____	$ ____	____ yrs.	____ %	$ ____
TOTAL	$ ____			$ ____

* If the variable rate, follow by a "v" and identify base rate used and what interest differential is added to base rate. If multi-rates are used provide overall effective interest rate for the entire loan: ____ %.

23. SOURCE AND USE OF FUNDS:

Building and Improvements	$ ____	Machinery and Equipment	$ ____
Land and Rights	____	Contingencies	____
Fees (list below)	____	Debt Refinancing	____
Legal and Engineering Fees	____	Working Capital	____
Interim Interest	____	Other (Specify) ____	____
		TOTAL	$ ____

24. COLLATERAL AND LIEN POSITION: (Describe collateral, show whether now owned or to be acquired). (Use Form FmHA 449-2 with appropriate appraisal reports).

25. PLANNED DISBURSEMENTS: Record plans for distributing the loan and requirements for compensating balances, if any.

26. PERSONAL AND/OR CORPORATE GUARANTEES RECOMMENDED:

27. INSURANCE: (List requirements for Life, Hazard, Federal Flood, and Liability).

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29. LOAN AGREEMENT: Attach proposed lender and borrower loan agreement (See FmHA Instruction 1980.451 (i) (13)).

30. LENDER'S EXPERIENCE WITH FmHA:
(a) Have you made any loans guaranteed by FmHA? ☐Yes ☐No
If yes, check program area: ☐Farmer Programs ☐Rural Housing ☐Business and Industry.
(b) If applicant has or had a loan(s) with you, has such loan(s) appeared in regulatory examination report?
☐Yes ☐No If yes, explain.

31. Verify and Comment on Applicant's Debt Schedule:

32. PLANS FOR CONSTITUTING THE LOAN:(See FmHA Instruction 1980.462).
(a) Will retain entire loan ☐Yes ☐No
(b) Will utilize secondary market for guaranteed portion (Indicated by check).
Assignment ____ Participation ____ Multi-note ____
(c) Participation of unguaranteed portion ☐Yes ☐No

33. OPINION: In our opinion, the loan appears feasible and all FmHA requirements in FmHA Instruction 1980-A and B will be met.

WARNING: Section 1001 of Title 18, United States Code provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

Misrepresentation of material facts may also be the basis for FmHA not issuing a Loan Note Guarantee.

LENDER:

Name and Address of Lender (Include ZIP)

Contact Person

Telephone Number

Date , 19

By
Authorized Officer

TITLE

26. COMMENTS OF LENDER: (Attach additional sheets, if necessary).
(a) Evaluate applicants management, past record, repayment ability and other financial analysis.

(b) State whether any officer, director, stockholder, or employee of the lender has a financial interest in borrower or vice versa—if so, give details:

(c) Is applicant indebted to lender? ☐Yes ☐No. If yes, provide history of debt repayment and other details:

(d) List all fees charged for the loan, including those for preparation of application, servicing, etc.. Indicate whether the guarantee fee will be passed on to borrower.

(e) Provide loan servicing plans, including field inspections, frequency of obtaining financial statements and their analysis, use of correspondents or other outside servicing, location of office servicing the loan, and complying with servicing responsibilities of Lender's Agreement, Form FmHA 440-32.

[FR Doc.77-6178 Filed 3-2-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

[Ruling 1977—4]

INTERAFFILIATE TRANSACTIONS

Timing of Landed Cost

Facts. Firm X purchases foreign crude oil from its affiliate. The crude oil is loaded in May 1974 at the country of origin and is delivered in the U.S. in June 1974. Firm X takes title and custody of the oil and accrues the cost of the crude oil for accounting and tax purposes at the time of loading. This is the firm's customary procedure which it has consistently and historically applied.

Issues. When may Firm X incur the cost of such crude oil for purposes of § 212.83 (now § 212.82)?

Ruling. Firm X is permitted to incur the applicable cost as part of its "landed cost" when the cost is recognized pursuant to the firm's customary accounting procedures generally accepted and consistently and historically applied, in this case, May 1974.

In October 1974, FEA adopted specific regulations governing the time when such costs may be incurred. In particular § 212.84(h) provides:

(h) *Timing.* The landed cost shall be considered to be incurred when that cost is recognized as having been incurred by application of the refiner's customary accounting procedures generally accepted and consistently and historically applied * * *

In adopting § 212.84, FEA stated that:

To the extent that the standards in these regulations are applied to months earlier than October 1974, they are not intended to alter or to expand in any way the authority which FEA presently has under its existing regulations. Rather the proposed *regulations are interpretative in nature*, setting out with more precision the methods for measurement of actual landed costs, which is required in any application of § 212.83(e).[1]

FEA will compute representative arms-length prices for the period from October 1973 through September 1974 and use such prices as standards for disallowing costs pursuant to § 212.83(e) as it has always read. Because § 212.83 provided only general guidance, however, and because of great price uncertainty during much of this period, FEA may allow somewhat greater leeway in determining appropriate transfer prices for this period than is provided for in the new regulation and FEA may permit some form of offset. In addition, the form of remedy may differ from that for the prospective months. [emph. supp.] 39 FR 38365

Thus, in inter-affiliate transactions preceding adoption of § 212.84, disallowances regarding the landed costs of crude oil have been generally measured in accordance with § 212.84. Accordingly, FEA will not initiate disallowances or other enforcement procedures for the period prior to October 1974 where costs have been incurred on the basis set out in § 212.84(h). If a different rule were applied, e.g., if the time of landing or loading were specified for all refiners, firms would be required to make a further accounting adjustment to take account of the difference in treatment before and after October 1974. The net result of any such adjustment would be to allow refiners to recover the same total cost whether or not refiners were permitted to use their customary accounting practices for the period prior to October 1974.

The use of customary accounting procedures in this connection also accords with FEA's previous experience in adopting § 212.84(h). When that regulation was issued, FEA stated that:

FEA [had] originally proposed that landed costs to a U.S. affiliate would not be considered to be incurred for calculating increased costs before the crude oil was physically landed in the United States. This did not conform with most companies' customary accounting practices, which accrue the cost of acquisition upon the passage of title, which usually occurs at the time of loading in a foreign port. The final rule considers landed costs to be incurred when they are recognized by the firm's customary accounting procedures generally accepted and consistently and historically applied. Adoption of this rule avoids imposing on the companies an additional burden of establishing and maintaining new procedures and records in order to comply with the regulation. It should therefore facilitate the rapid provision to FEA of transaction information. Because records for FEA should conform with the companies' normal accounting practice, auditing should also be easier. 39 FR 38365

It should be emphasized that this ruling is premised on the fact that Firm X's customary accounting procedures for the period prior to October 1974 have been consistently and historically applied by the firm. Moreover, such accounting practices must be considered generally accepted either for purposes of reports to stockholders or for accrual of the expense in determining United States income tax liability.

Issued in Washington, D.C., February 25, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-6420 Filed 2-28-77;3:18 p.m.]

[1] Section 212.83(e) (now § 212.83(b)) provides that: Whenever a firm uses a landed cost which is computed by use of its customary accounting procedures, the FEA may allocate such costs between the affiliated entities if it determines that such allocation is necessary to reflect the actual costs of these entities or the FEA may disallow costs which it determines to be in excess of the proper measurement of costs.

Title 12—Banks and Banking

CHAPTER VI—FARM CREDIT ADMINISTRATION

PART 604—MEETINGS OF THE FEDERAL FARM CREDIT BOARD

Government in the Sunshine Act

The Farm Credit Administration, by its Federal Farm Credit Board, took final action effective March 7, 1977, on additions to its regulations to implement the provisions of the Government in the Sunshine Act. (5 U.S.C. 552b) These regulations (1) define terms used therein, (2) request notification from the public of intention to attend an open meeting, (3) clarify that this addition applies only to meetings of the Federal Board, (4) declare that, unless otherwise specified, every meeting of the Federal Board shall be open to the public, (5) state the basis for closing a meeting to the public, (6) provide for the announcement of meetings, (7) state how a meeting shall be closed, (8) require the keeping of records of closed meetings, (9) state to whom requests for information shall be addressed.

By a notice published in the FEDERAL REGISTER on January 3, 1977, interested persons were afforded the opportunity to file written comments or suggestions on the proposed regulations to implement the Government in the Sunshine Act. Two letters containing substantially the same comments were received. As a result of these comments, changes were made (1) in §§ 604.315 and 604.320 to clarify that a meeting or portion of a meeting will be closed only if the Federal Board determines that it will involve the discussion of matters which are within an exemptive provision and that the public interest is not served by the discussion of such matters in an open meeting, and (2) in § 604.325 to clarify that the Farm Credit Administration will post a notice on its public notice board in its offices of the time, place, and subject matter of a meeting or portion of a meeting except to the extent that information is exempt from disclosure. The substance of other comments in the two letters either is covered by provisions of the regulations or is not required by the Act. As changed, the proposed regulations were adopted by the Federal Farm Credit Board.

Chapter VI of Title 12 of the Code of Federal Regulations is amended by adding a new Part 604—Meetings of the Federal Farm Credit Board to Subchapter A—Administrative Provisions, as follows:

Sec.
604.300 Definitions.
604.305 Notice of public observation.
604.310 Scope of application.
604.315 Open meetings.
604.320 Exemptive provisions.
604.325 Announcement of meetings.
604.330 Closure of meetings.
604.335 Record of closed meetings or closed portion of a meeting.
604.340 Requests for information.

AUTHORITY: 5 U.S.C. 552b.

§ 604.300 Definitions.

(a) For purposes of the part:

(1) The term "agency" means any agency, as defined in 5 U.S.C. 552b(e) which includes the Farm Credit Administration, headed by a collegial body composed of two or more individual members, a majority of whom are appointed by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency;

(2) The term "Board" means the Federal Farm Credit Board, which is a collegial body that functions as a unit composed of thirteen individual members,

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twelve appointed by the President with the advice and consent of the Senate, and one appointed by the Secretary of Agriculture;

(3) The term "member" means any one of the thirteen members of the Board;

(4) The term "meeting" means the deliberations of at least seven (quorum) members of the Board where such deliberations determine or result in joint conduct or disposition of official Farm Credit Administration business.

(5) The terms "exempt meeting" and "exempt portion of a meeting" mean, respectively, a meeting or that part of a meeting designated as provided in § 604.330 as closed to the public by reason of one or more of the exemptive provisions listed in § 604.320.

(6) The term "open" meeting means a meeting or portion of a meeting which is not an exempt meeting or an exempt portion of a meeting;

(7) The term "public observation" means the right of any member of the public to attend and observe, but not participate or interfere in any way in an open meeting of the Board, within the limits of reasonable and comfortable accommodations made available for such purpose by the Farm Credit Administration.

§ 604.305 Notice of public observation.

(a) A member of the public is not required to give advance notice to the Farm Credit Administration of an intention to exercise the right of public observation of an open meeting of the Board. However, in order to permit the Farm Credit Administration to determine the amount of space and number of seats which must be made available to accommodate individuals who desire to exercise the right of public observation, such individuals are requested to give notice to the Farm Credit Administration at least two business days before the start of the open meeting of the intention to exercise such right.

(b) Notice of intention to exercise the right of public observation may be given in writing, in person, or by telephone to the official designated in § 604.340.

(c) Individuals who have not given advance notice of intention to exercise the right of public observation will not be permitted to attend and observe the open meeting of the Board if the available space and seating are necessary to accommodate individuals who gave advance notice of such intention to the Farm Credit Administration.

§ 604.310 Scope of application.

The provisions of this Part 604 apply to meetings of the Board, and do not apply to conferences or other gatherings of employees of the Farm Credit Administration who meet or join with others, except at meetings of the Board, to deliberate official agency business.

§ 604.315 Open meetings.

(a) Every meeting and portion of a meeting of the Board shall be open to public observation unless the Board determines that such meeting or portion of a meeting will involve the discussion of matters which are within one or more of the exemptive provisions listed in § 604.320, and that the public interest is not served by the discussion of such matters in an open meeting.

§ 604.320 Exemptive provisions.

(a) Except in a case where the Board determines that the public interest requires otherwise, a meeting or portion of a meeting may be closed to public observation where the Board determines that the meeting or portion of the meeting is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Farm Credit Administration;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Farm Credit Administration;

(9) Disclose information the premature disclosure of which would (i) significantly endanger the stability of any Farm Credit bank or association supervised by the Farm Credit Administration; or (ii) be likely to significantly frustrate implementation of a proposed action of the Farm Credit Administration: *Provided*, Said Administration has not already disclosed to the public the content or nature of its proposed action, or is not required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern participation by the Farm Credit Administration in a civil action or proceeding or otherwise involving a determination on the record after an opportunity for a hearing.

§ 604.325 Announcement of meetings.

(a) The Board meets beginning at 8:30 a.m. in the offices of the Farm Credit Administration, 490 L'Enfant Plaza, Washington, D.C. on the first Monday of February, April, June, August, October and December, except that if any such Monday is a holiday, the meeting begins at the same hour and place on the first full business day thereafter.

(b) At any duly called meeting held previous to any meeting scheduled as provided in paragraph (a) of this section, the Board may fix a different time and place for a subsequent meeting.

(c) At the earliest practicable time, which is estimated to be not later than eight days before the beginning of a meeting of the Board, the Farm Credit Administration shall make available for public inspection by posting notice on its public notice board in its offices, or pursuant to telephonic or written requests, the time, place, and subject matter of the meeting except to the extent that such information is exempt from disclosure under the provisions of § 604.320.

§ 604.330 Closure of meetings.

(a) The majority of the meetings of the Board are exempt meetings, or a portion or portions of a majority of the meetings of the Board are exempt portions of such meetings, by reason of § 604.320(a) (4), (8), (9) (i), or (10). An exempt meeting or an exempt portion of a meeting shall be closed to the public when at least seven members of the Board vote by a recorded vote of the Board at the beginning of the exempt meeting or exempt portion of a meeting to close such meeting or such exempt portion, and the General Counsel, Farm Credit Administration, publicly certifies that, in his or her opinion, the meeting or portion of a meeting may be closed to the public stating each relevant exemptive provision listed in § 604.320.

(b) A copy of the vote of the Board to close a meeting or an exempt portion thereof reflecting the vote of each member on the question, and a copy of the certification of General Counsel, shall be made available for public inspection in the offices of the Farm Credit Administration, or pursuant to telephonic or written requests.

(c) A copy of the certification of General Counsel, together with a statement from the presiding officer of the meeting setting forth the time and place of an exempt meeting or an exempt portion of a meeting which was closed and the persons present shall be retained by the Farm Credit Administration for a period of at least two years after the date of such closed meeting or closed portion of a meeting.

§ 604.335 Record of closed meetings or closed portion of a meeting.

(a) The Farm Credit Administration shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each closed meeting or closed portion of a meeting, except that in the case of a meeting or portion of a meeting closed to the public pursuant to § 604.320(a) (4), (8), (9) (i), or (10), the Farm Credit Administration shall maintain either such transcript, recording, or a set of minutes.

(b) Any minutes so maintained shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any action shall be identified in the minutes.

(c) The Farm Credit Administration shall promptly make available to the public, in its offices, the transcript, electronic recording, or minutes, of the discussion of any item on the agenda of a closed meeting, or closed portion of a meeting, except for such item or items of discussion which the Farm Credit Administration determines to contain information which may be withheld under § 604.320. Copies of such transcript or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(d) The Farm Credit Administration shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each closed meeting or closed portion of a meeting for a period of two years after the date of such closed meeting or closed portion of a meeting.

(e) All actions required or permitted by this section to be undertaken by the Farm Credit Administration shall be by or under the authority of the Deputy Governor, Office of Administration.

§ 604.340 Requests for information.

Requests to the Farm Credit Administration for information about the time, place, and subject matter of a meeting, whether it or any portion thereof is closed to the public, and any requests for copies of the transcript or minutes, or of a transcript of an electronic recording of a closed meeting, or closed portion of a meeting, to the extent not exempt from disclosure by the provisions of § 604.320, shall be addressed to the Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20578.

C. K. CARDWELL,
Acting Governor,
Farm Credit Administration.

[FR Doc.77-6397 Filed 3-2-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-CE-32-AD; Amdt. 39-2843]

PART 39—AIRWORTHINESS DIRECTIVES

Beech 99 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive (AD) applicable to Beech 99 series airplanes was published in the FEDERAL REGISTER on November 18, 1976 (41 FR 50839, 50840). The proposal would supersede AD 75-27-10, Amendment 39-2484 (41 FR 1054), and would require, with respect to the aforementioned aircraft, repetitive inspections of the wing front spar lower cap, associated components and wing remaining structure for the detection of cracks and if cracks are discovered the accomplishment of appropriate corrective action. It would also afford relief to owners/operators in the form of extended inspection intervals and spar cap life limits when STC SA1178CE (wing straps) is installed. Finally, the proposal would require repetitive inspections of the STC installation.

Interested persons have been afforded the opportunity to participate in the making of the amendment. Three letters commenting on the proposal were received.

All three commentators pointed out an inconsistency in the date of Aerocon California, Inc. Engineering Order E.O. B-9975-2, which is referred to in Paragraphs V.A.1. and VI of the proposal. The correct date of the Order is November 14, 1975, and Paragraph VI in the Final Rule will be changed accordingly.

Two of the commentators stated that Paragraph V. D. of the proposal was extremely broad and ambiguous. The FAA agrees and Paragraph IV. A. in the Final Rule will be revised to clearly reflect that aircraft modified in accord with STC SA1178CE are exempt from front spar lower cap and associated component replacement requirements. Because of this change, Paragraph V. D. is no longer necessary and is being deleted.

The third commentator was the aircraft manufacturer who offered a number of additional comments and suggestions. The manufacturer objected to the extended scope of the proposal and to the inclusion therein of any reference to STC SA1178CE. In response to that comment, the FAA states that STC SA1178CE, which was approved after the issuance of AD 75-27-10, makes wing straps available for these aircraft and when installed extends the front spar lower cap life indefinitely. As a result of service experience, analysis of the problem and the advent of STC SA1178CE, the agency determined that the additional measures set forth in the proposal are necessary and consistent to assure the continued safe operation of Beech 99 series airplanes. In addition, the inclusion of instructions relating to STC SA1178CE in this proposal rather than in a separate rule making action is advantageous to those owners/operators who have modified some of their aircraft with the wing straps.

The manufacturer also objected to the short time interval allowed between front spar lower cap replacement and the first repetitive inspection of other wing structure because it feels that a very thorough wing structure inspection will be accomplished at the time of front spar lower cap replacement. In view of the fact that failure of certain components other than the lower spar cap could result in unsafe conditions and because crack growth rate data for these components has not been established, the agency does not believe that an increase in the proposed time interval is justifiable at this time.

The manufacturer asserts that the extent of the inspections required when STC SA1178CE is installed may be inadequate. The FAA disagrees. The elimination of/or the extension of the time intervals for the inspection of certain structural components of the wing in this AD is warranted by the reduction in operating stress of these components when STC SA1178CE is installed.

Paragraph X of the proposal requires a special inspection prior to the issuance of a ferry permit. The manufacturer proposed the addition of another special inspection in this paragraph. After further review the FAA has determined that safety in air commerce and the public interest will best be served by not limiting Paragraph X to special inspections of one or two critical areas of the wing. Therefore, Paragraph X is being revised accordingly in the Final Rule.

The manufacturer's other comments pertained to minor items of clarification. Where appropriate the Final Rule will include those suggested changes.

After further analysis of the proposal, the agency concludes that Table 3 set forth therein should be revised to more clearly define the inspection intervals for wing remaining structure. In addition, use of the words "wing remaining structure" more aptly describes wing structure referred to as "wing secondary structure" in the proposal. These two revisions will be included in the Final Rule.

Since those changes in the Final Rule that differ from the proposal are clarifying in nature, further notice and public procedure hereon are impracticable and unnecessary.

V 42 42 MAR 3 77 UMI

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), Section 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to all 99 (Serial Numbers U-1 and up) series airplanes with 3,000 or more hours' time in service.

Compliance: Required as indicated in accordance with the compliance tables set forth in this AD or as otherwise specified herein, unless already accomplished.

To detect any cracking of the wing front spar lower cap, other wing panel front spar carry-through structural components, wing remaining structure or STC SA1178CE wing straps, accomplish the following:

I. Front spar lower cap inspection requirements:

TABLE 1

COMPLIANCE TIMES

Lower Spar Cap Total Time in Service	Inspection Times	
	Initial Inspection in Accordance With This AD	Interval for Repetitive Inspections
0 --- 2999	None	None
3000 → 7500	Within 100 hours' time in service after accumulation of 3000 hours' time in service or within 600 hours' time in service after last comparable inspection in accordance with AD 75-27-10	Each 500 hours (X-ray included)
7501 → Up to 10,000 hours or to spar cap life limit time extension	Within 600 hours' time in service after last comparable inspection in accordance with AD 75-27-10	Each 300 hours except X-ray at 600 hour intervals

A. Inspect, at time intervals noted in Table 1 above, the structural components set forth in Part I of Beechcraft Service Instructions 0388-018, Rev. V, or later approved revisions, and summarized below, using these visual, dye penetrant, eddy current and X-ray methods of inspection set forth in Part I of said service instructions:

1. The right and left lower forward inboard and outboard wing attachment fittings;

2. The lower forward wing fitting-to-spar attachment area and the edges of the forward and aft flanges on the lower forward spar cap in the center section, outboard of each main gear wheel well;

3. The lower forward spar cap in each main gear wheel well;

4. The lower surface of the lower forward spar cap in the nacelle inboard of each main gear wheel well;

5. The four $\frac{3}{16}$-inch brazier head rivets on the lower side of the spar cap in the nacelle inboard of each main gear wheel well;

6. The lower surface of the lower forward spar cap between each nacelle and the fuselage; and

7. The four Jo-bolt holes in the forward flange of the lower forward spar cap inboard of each nacelle in the area of the wing root rib.

II. Wing carry-through components inspection requirements:

TABLE 3

COMPLIANCE TIMES

Aircraft Total Time In Service	Inspection Times	
	Initial Inspection In Accordance With This AD	Interval for Repetitive Inspections
0--- 9,999	None	None
10,000---17,500	Within 600 hours' time in service after the effective date of this AD or at attainment of life limit of original spar cap. These times apply regardless of whether STC SA1178CE is or is not installed.	Each 500 hours
17,501 and on	Within 400 hours' time in service after the effective date of this AD, or at attainment of life limit of original spar cap. These times apply regardless of whether STC SA1178CE is or is not installed.	Each 300 hours thereafter for aircraft that did not have life limit extensions granted. Each 500 hours for the first 7500 hours beyond the extended life of the spar and then at 300 hour intervals thereafter for aircraft that had life limit extensions granted.

TABLE 2

COMPLIANCE TIMES

Aircraft Total Time in Service	Inspection Times	
	Initial Inspection in Accordance With This AD	Interval for Repetive Inspections
0 → 2999	None	None
3000 → 7500	Within 100 hours' time in service after the accumulation of 3000 hours' time in service or within 600 hours' time in service after the last comparable inspection in accordance with AD 75-27-10	Each 500 hours
7501 → and on	Within 600 hours' time in service after the last comparable inspection in accordance with AD 75-27-10	Each 300 hours thereafter

A. Inspect, at time intervals noted in Table 2 above, using visual methods, the structural components set forth in Paragraph c. of Part I of Beechcraft Service Instructions 0388-018, Rev. V, or later approved revisions, and summarized below:

1. The fuselage center line skin in the area between the forward and aft center section spars, and

2. The two fuselage formers aft of the forward center section spar.

III. Wing remaining structure inspection requirements:

V 42 2 MAR 3 77 UMI

A. Inspect, at time intervals noted in Table 3 above, using visual and dye penetrant methods of inspection, the structural components set forth in Part III of Beechcraft Services Instructions 0388–018, Rev. V, or later approved revisions and summarized below:

1. Lower fuselage skin at attachment to the forward spar;
2. Lower skin of each nacelle;
3. Center section skin under the top fairing and around the upper attach flange in each nacelle;
4. Upper flange of keel assembly doubler at the outboard side of each wheel well where the keel attaches to the main spar;
5. Dimpled skin attach holes on the forward side of the main spar at four Jo-bolts, left and right, and at all rivets between the fuselage and each nacelle;
6. Top skin attachment to the aft spar;
7. Lower aft spar cap and skin;
8. Lower strap on front spar at left and right wing stations 68.5;
9. Three stringers nearest the fuselage centerline between spars;
10. Frames and angle clips of the center wing/fuselage at fuselage stations 188, 197, and 207;
11. Four upper forward and eight aft wing-to-center section fittings;
12. Outer wing upper and lower forward spar cap and hinge; and
13. Aft spar and ribs near inboard flaps.

IV. Wing front spar lower cap replacement requirements:

A. On all airplanes, except those having front spar lower cap straps installed in accordance with STC SA1178CE, (1) upon accumulation of 10,000 hours' front spar lower cap time in service or (2) 10,000 hours' time in service after replacing the front spar lower cap and associated components in accordance with Paragraph VI and (3) at 10,000 hours' time in service intervals thereafter, or at the attainment of service life extensions granted prior to January 7, 1976, replace the structural components set forth in Part II of Beechcraft Service Instructions 0388–018, Rev. V, or later approved revisions and summarized below:

1. Lower cap of the front spar, with attachment fitting, in each outer wing panel, and
2. Lower cap of the front spar, with left and right attachment fittings, in the center section.

V. Wing inspection requirements for airplanes having front spar lower cap straps installed per STC SA1178CE:

A. (Front spar lower cap and STC straps): Within 1,000 hours' time in service after installation of above noted STC straps (if front spar lower cap had 1,000 or more hours' time in service at time of strap installation) and thereafter at intervals not to exceed 1,000 hours' time in service or within 2,000 hours' time in service after installation of above noted STC straps (if front spar lower caps had 999 or less hours' time in service at time of strap installation) and thereafter at intervals not to exceed 2,000 hours' time in service:

1. Remove and inspect STC SA1178CE straps in accordance with Aerocon California, Inc. Engineering Order No. E. O. B–9975–2, dated November 14, 1975, or later approved revisions, and
2. Inspect wing front spar lower cap and associated components in accordance with Paragraph I and Items 5 and 8 of Paragraph III of this AD.

B. (Wing carry-through components): Inspect wing carry-through components at the time intervals specified in and per the requirements of Paragraph II of this AD.

C. (Wing remaining structure): Inspect wing remaining structure at the time interval specified and per the requirements of Paragraph III of this AD except that compliance is not required with respect to Items 5, 8 and that portion of Item 12 which refers to the lower spar cap and hinge as specified in said Paragraph III.

VI. If a crack or loose fastener is found during any inspection required by this AD, prior to further flight, accomplish the repair or replacement specified by the applicable portion of Beechcraft Service Instruction 0388–018, Rev. V, or later approved revisions or in accordance with Aerocon California, Inc. Engineering Order No. E.O. B–9975–2 dated November 14, 1975, or later approved revisions.

VII. Aircraft maintenance record entries must be made and notification in writing sent to Chief, Engineering and Manufacturing Branch, FAA, Central Region, stating the location and length of any cracks found during inspections required by this AD and also the total time in service of the component at the time the crack was discovered. Reports may be submitted by letter or through M or D or MRR procedures. (Reporting approved by the Office of Management and Budget under OMB No. 04–R–0174.)

VIII. Within two (2) days after each X-ray inspection, send the radiographs by most rapid means for review and comment to Beech Aircraft Corporation, Wichita, Kansas 67201.

IX. The eddy current inspections required by this AD must be performed by personnel who have received training and are qualified in the operation of eddy current equipment and this equipment must be calibrated using a specimen obtained from the manufacturer which simulates cracking of the spar cap. The replacement of critical parts such as the spar caps and wing attach fittings required by this AD must be performed by personnel or facilities properly equipped and certificated to perform such repairs.

X. Aircraft may be flown in accordance with FAR 21.197 to a base where this AD can be accomplished.

XI. The inspection intervals set forth in Tables 1, 2 and 3 and elsewhere in this AD may be adjusted up as much as 25 hours where required to fit users maintenance cycles if authorized by local FAA Flight Standards Inspectors.

XII. Life limit time extensions, for wing front spar lower cap and associated fittings (also called components) granted in writing prior to January 7, 1976, apply only to those components that were in the aircraft when the time extension was granted and do not apply to new components installed after the extended life limits are attained.

XIII. Equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This AD supersedes AD 75–27–10 (Amendment 39–2484).

This amendment becomes effective April 7, 1977.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Kansas City, Missouri, on February 16, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77–5862 Filed 3–2–77;8:45 am]

[Docket No. 77–WE–5–AD; Amdt. 39–2845]

PART 39—AIRWORTHINESS DIRECTIVES

Hughes Model 369D Helicopters

There has been a report of binding of the tail rotor control system on a Model 369D helicopter which did not have protective boots P/N 369D21806 and P/N 369D21807 installed. The binding was caused by sand collecting on the tail rotor output shaft and this could result in degradation of the tail rotor control and/or surface damage to the tail rotor output shaft P/N 369D25430. The manufacturer has issued a Service Information Letter to the operators of the affected aircraft, to urge a one time inspection to determine the cleanliness of the system and preflight inspections and cleaning as necessary. However, as the condition is likely to exist or develop in those 369D helicopters which do not incorporate the protective boots, the Federal Aviation Administration has determined that, in addition to the maintenance procedures urged by the manufacturer, an airworthiness directive is necessary to require installation of the protective boots within the shortest practicable period.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are imoracticable and good cause exists for making this amendment effective in less than 30 days.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act 1958 (49 U.S.C. 1354(a), 1421 and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive.

HUGHES HELICOPTERS. Applies to Hughes Model 369D helicopters Serial No. 0003 through 0049, certificated in all categories, that were manufactured without protective boots on the tail rotor output shaft.

Compliance required as indicated unless already accomplished.

To prevent binding of the tail rotor control system and damage to the tail rotor output shaft, accomplish the following:

(a) Within 30 calendar days from the effective date of this AD, disassemble the tail rotor control assembly, install Hughes P/N 369D21806 rotating boot and Hughes P/N 369D21807 stationary boot, and reassemble in accordance with Hughes Handbook of Maintenance Instruction.

(b) Equivalent replacement parts may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) Special flight permits may be issued in accordance with 21.197 and 21.199 to operate helicopters to a base for the accomplishment of the installation required by this AD.

This amendment becomes effective March 7, 1977.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, California on February 18, 1977.

WILLIAM R. KRIEGER,
Acting Director,
FAA Western Region.

[FR Doc.77–6330 Filed 3–2–77;8:45 am]

[Docket No. 13502; Amdt. 39–2847]

PART 39—AIRWORTHINESS DIRECTIVES

Israel Aircraft Industries Jet Commander Model 1121 and West Wind Model 1123 Airplanes

Amendment 39–1779 (39 FR 3669), AD 74–03–03, requires repetitive inspection of the main landing gear upper bodies of Israel Aircraft Industries Jet Commander Model 1121 and West Wind Model 1123 airplanes for cracks, rough surfaces, and tool marks, and repair, rework, or replacement of those parts, as required. After issuing Amendment 39–1779, the FAA determined that the installation of certain new parts of improved design would eliminate the need for further corrective action and that these parts were being incorporated on the fleet. Therefore, the AD is being amended to exclude airplanes incorporating such new parts from the requirements of this AD, and to provide that those airplanes on which the main landing gear upper bodies are replaced with the new parts of improved design are excluded from further compliance with this AD.

Since this amendment provides an alternative means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89) § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–1779 (39 FR 3669), AD 74–03–03, is amended as follows:

(1) By amending the applicability statement to read as follows:

ISRAEL AIRCRAFT INDUSTRIES, LTD. Applies to Jet Commander Model 1121 and West Wind Model 1123 (S/Ns 3 and subsequent) airplanes, except those incorporating main landing gear upper bodies P/N's 5253505–501 and –502.

(2) By adding a new paragraph (f) to read as follows:

(f) The inspection, repair, replacement and rework requirements contained in paragraphs (a) through (e) of this AD may be discontinued when the main landing gear upper bodies P/N's ES 12845–1 and –4 are replaced with main landing gear upper bodies P/N's 5253505–501 and –502.

This amendment becomes effective March 17, 1977.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C. on February 22, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77–6323 Filed 3–2–77;8:45 am]

[Airspace Docket No. 76–NE–33]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone; Correction

In FR Doc. 77–4210 appearing at page 8364 in the FEDERAL REGISTER of Thursday, February 10, 1977 (41 FR 8364), the Federal Aviation Administration published a description for an altered Lebanon, New Hampshire, control zone using, in two places, magnetic compass bearings rather than true bearings. This correction changes the magnetic bearings to true bearings as follows:

1. Delete from the description of the Lebanon, New Hampshire, control zone the words:

"• • • the Hanover NDB 246° and 066° bearings • • •"

2. Insert in lieu thereof the words:

"• • • the Hanover NDB 231° and 051° bearings • • •"

Issued in Burlington, Massachusetts, on February 16, 1977.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.77–6331 Filed 3–2–77;8:45 am]

[Airspace Docket No. 76–CE–12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

The Federal Aviation Administration published a Notice of Proposed Rule Making in the FEDERAL REGISTER on November 22, 1976 (41 FR 51422, 51423), which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Gordon, Nebraska.

Interested persons were given thirty (30) days to submit written comments, objections and views concerning the proposed amendment. Two comments were received. The Air Transport Association stated it had no objection to the proposed designation. The Department of the Air Force objected to the transition area since a portion of it overlapped one of its Olive Branch training routes. The Air Force recommended that either the radius of the transition area be decreased or the instrument approach procedure to the Gordon, Nebraska, Municipal Airport be controlled so that there would be no disruption to the training route. Subsequent to the receipt of the Air Force's comment, the FAA revised the aforementioned instrument approach procedure which will allow approaches to be conducted without conflicting with the Air Force training route traffic. In addition, the agency notes that the coordinates identifying the Gordon, Nebraska, NDB are incorrect as the same appear in the proposal. As a consequence, the correct coordinates will be reflected in the Final Rule.

Since the change in the Final Rule that differs from that in the proposal is minor in nature, further notice and procedure hereon are impracticable and unnecessary.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Accordingly, the proposed amendment as so proposed is hereby adopted as set forth below, subject to the following change:

The Gordon NDB coordinates recited in the Gordon, Nebraska, transition area designation as "(latitude 42°48'03" N, longitude 102°10'45" W)" are changed to read "(latitude 42°48'04" N, longitude 102°10'44" W)".

This amendment becomes effective 0901 G.m.t., April 21, 1977.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Kansas City, Missouri, on February 18, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

In § 71.181 (41 FR 441), the following transition area is added:

GORDON, NEBRASKA

That airspace extending upward from 700 feet along the surface within a 7 mile radius of the Gordon, Nebraska, Municipal Airport (latitude 42°48'15" N, Longitude 102°11'45" W); within 3 miles each side of the 032° bearing from Gordon NDB (latitude 42°48'04" N, longitude 102°10'44" W) extending from the 7 mile radius to 8.5 miles northeast of the airport.

[FR Doc.77–6321 Filed 3–2–77;8:45 am]

[Airspace Docket No. 76–SO–66]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airways

On December 13, 1976, a Notice of Proposed Rulemaking (NPRM) was pub-

V 4242 MAR 3 77 UMI

lished in the FEDERAL REGISTER (41 FR 54187) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would realign V–3 and V–35 north and east of Key West, Fla.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. Only one comment was received. The Air Force expressed concern about the possible detrimental effect that the en route traffic on V–35 would have on the terminal traffic at Homestead Air Force Base, Fla. The normal air traffic control procedures for the separation of IFR traffic will be applied in the area on a first-come first-served basis.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t. June 16, 1977, as hereinafter set forth.

Section 71.123 (42 FR 307, 7121, 41 FR 49805, 53318) is amended as follows:

In V–3 "INT Key West 086°" is deleted and "INT Key West 083°" is substituted therefor. Also "R–2921 and R–2922 is excluded." is deleted and "R–2916, R–2921 and R–2922 is excluded." is substituted therefor.

In V–35 all before "St. Petersburg, Fla.," is deleted and "From Key West, Fla., via INT Key West 083° and Biscayne Bay, Fla., 204° radials; Biscayne Bay; INT Biscayne Bay 288° and Fort Myers, Fla., 137° radials; Fort Myers, including a west alternate from Biscayne Bay via INT Biscayne Bay 262° and Fort Myers 137° radials to the INT of Biscayne Bay 288° and Fort Myers 137° radials;" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on February 22, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77–6322 Filed 3–2–77;8:45 am]

[Airspace Docket No. 77–WA–1]

PART 73—SPECIAL USE AIRSPACE

Designation of Prohibited Area

NOTE: The following document was originally published in the Federal Register of March 1, 1977 (42 FR 11826). In order to fulfill Day-of-the-Week publication requirements, it is being reprinted below without change.

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to designate a prohibited area at Plains, Ga. The U.S. Secret Service has requested that aircraft flight be prohibited in the vicinity of President Carter's residence for the security of the President.

Public interest in the President may attract numerous aircraft over the Presidential residence for sight-seeing and photographic purposes. In order to provide adequate safeguards for the protection of the President and persons or property on ground, it is necessary to designate certain airspace above the Presidential residence at Plains, Ga., as a prohibited area. Under the provisions of § 73.83 no person may operate an aircraft within that area without permission from the FAA as the using agency. Requests for such permission may be made through Air Traffic Control.

Since there is a requirement for the immediate adoption of this regulation, further notice and the public procedure are impracticable and good cause exists for making this regulation effective in less than 30 days.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended by adding a new § 73.88 effective March 1, 1977 as hereinafter set forth.

In § 73.88 (42 FR 705) the following is added:

P–77 PLAINS, GA.

Boundaries. That airspace within one mile each side of a line extending from latitude 32°02'00" N., longitude 84°23'28" W.; to latitude 32°01'03" N., longitude 84° 25'25" W., and within a one mile radius of each of the above coordinates.
Designated altitudes. Surface to 1500 feet MSL.
Time of designation. Continuous.
Using agency. Administrator, Federal Aviation Administration, Washington, D.C.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on February 18, 1977.

RAYMOND G. BELANGER,
Director, Air Traffic Service.

[FR Doc.77–6233 Filed 3–28–77;8:45 am]

[Docket No. 16560; Amdt. No. 1062]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS–230, 800 Independence Avenue, S.W., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR–VOR/DME SIAPs, *effective April 21, 1977.*

Newport, AR—Newport Municipal, VOR/DME–A, Original
Carlsbad, CA—Palomar Airport, VOR–A, Amdt. 3
Carlsbad, CA—Palomar Airport, VOR/DME–B, Amdt. 1
Sacramento, CA—Sacramento Executive Arpt., VOR/DME Rwy 20, Amdt. 5
Delta, UT—Delta Municipal Arpt., VOR Rwy 34, Amdt. 1
Seattle, WA—Seattle-Tacoma Int'l Arpt., VOR Rwy 16L/R, Amdt. 7
Seattle, WA—Seattle-Tacoma Int'l Arpt., VOR Rwy 34L/R, Amdt. 5
LaCrosse, WI—LaCrosse Muni Arpt., VOR Rwy 13, Amdt. 16
LaCrosse, WI—LaCrosse Muni Arpt., VOR Rwy 36, Amdt. 18

• • • *effective April 14, 1977.*

Wilmington, DE—Greater Wilmington Arpt., VOR Rwy 32, Amdt. 1
Orlando, FL—Orlando International Arpt., VOR/DME Rwy 36R, Amdt. 6
Newton, IA—Newton Muni Arpt., VOR Rwy 13, Amdt. 3
Newton, IA—Newton Muni Arpt., VOR Rwy 31, Amdt. 3
Ocean City, MD—Ocean City Arpt., VOR–A, Amdt. 4
Bemidji, MN—Bemidji Muni Arpt., VOR/DME Rwy 31 (TAC), Amdt. 6
Kirksville, MO—Clarence Cannon Memorial Arpt., VOR–A, Amdt. 10
Kirksville, MO—Clarence Cannon Memorial Arpt., VOR/DME–B(TAC), Amdt. 2
Albion, NJ—Albion Arpt., VOR–A, Original
Albion, NJ—Albion Arpt., VOR Rwy 4, Amdt. 1, cancelled
Millville, NJ—Millville Municipal Arpt., VOR Rwy 19, Amdt. 1
Middlefield, OH—Geauga County Arpt., VOR–A, Amdt. 2
Newark, OH—Newark-Heath Arpt., VOR–A, Amdt. 6
Rhinelander, WI—Rhinelander-Oneida County Arpt., VOR Rwy 5, Amdt. 5
Rhinelander, WI—Rhinelander-Oneida County Arpt., VOR Rwy 15, Amdt. 8
Rhinelander, WI—Rhinelander-Oneida County Arpt., VOR/DME Rwy 23, Amdt. 3

• • • *effective March 17, 1977.*

Mankato, MN—Mankato Muni Arpt., VOR Rwy 15, Amdt. 3
Mankato, MN—Mankato Muni Arpt., VOR Rwy 33, Amdt. 3
Park Rapids, MN—Park Rapids Muni Arpt., VOR Rwy 13, Amdt. 1
Park Rapids, MN—Park Rapids Muni Arpt., VOR Rwy 31, Amdt. 6

2. Section 97.25 is amended by originating, amending, or canceling the following SDF–LOC–LDA SIAPs, *effective April 21, 1977.*

Carlsbad, CA—Palomar Arpt., LOC Rwy 24, Amdt. 2
New Orleans, LA—New Orleans International (Moisant Field), LOC (BC) Rwy 28, Amdt. 8
LaCrosse, WI—LaCrosse Muni Arpt., LOC (BC) Rwy 36, Amdt. 4

• • • *effective April 14, 1977.*

Rockland, ME—Knox County Regional Arpt., LOC Rwy 3, Amdt. 3

• • • *effective March 10, 1977.*

Denver, CO—Arapahoe County Arpt., LOC–Rwy 34R, Original
Sterling Rockfalls, IL—Whiteside County-Joseph H. Bittorf Field, LOC(BC) Rwy 7, Original

• • • *effective February 17, 1977.*

Long Beach, CA—Long Beach (Daugherty Field) LOC(BC) Rwy 12, Amdt. 3, cancelled

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, *effective April 21, 1977.*

Newport, AR—Newport Municipal Arpt., NDB Rwy 36, Amdt. 2
Carlsbad, CA—Palomar Arpt., NDB Rwy 24, Amdt. 1
Seattle, WA—Seattle-Tacoma Int'l Arpt., NBD Rwy 34R, Amdt. 4
Seattle, WA—Seattle-Tacoma Int'l Arpt. NDB Rwy 16L/R, Amdt. 2
LaCrosse, WI—LaCrosse Muni Arpt., NDB Rwy 18, Amdt. 5

• • • *effective April 14, 1977.*

Dayton, OH—Dayton General (South) Arpt., NDB Rwy 9, Amdt. 2
Rockland, ME—Knox County Regional Arpt., NDB Rwy 3, Amdt. 2
Meridian, MS—Key Field, NDB Rwy 1, Amdt. 15
Millville, NJ—Millville Municipal Arpt., NDB Rwy 14, Amdt. 4
Columbia–Mt. Pleasant, TN—Maury County Arpt., NDB Rwy 5, Amdt. 3
Columbia–Mt. Pleasant, TN—Maury County Arpt., NDB Rwy 23, Amdt. 5

• • • *effective April 7, 1977.*

Bowman, ND—Bowman Municipal Arpt., NDB Rwy 11, Original
Bowman, ND—Bowman Municipal Arpt., NDB Rwy 29, Original

• • • *effective March 10, 1977.*

Denver, CO—Arapahoe County Arpt., NDB Rwy 10, Amdt. 2, cancelled
Denver, CO—Arapahoe County Arpt., NDB Rwy 34R, Original
Sterling Rockfalls, IL—Whiteside County-Joseph H. Bittorf Field, NDB Rwy 7, Original

4. Section 97.29 is amended by originating, amending, or cancelling the following ILS SIAPs, *effective April 21, 1977.*

Seattle, WA—Seattle-Tacoma Int'l Arpt., ILS Rwy 34R, Amdt. 8
Yakima, WA—Yakima Air Terminal, ILS Rwy 27, Amdt. 22
LaCrosse, WI—LaCrosse Muni Arpt., ILS Rwy 18, Amdt. 4

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on February 25, 1977.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969, (35 FR 5610).

[FR Doc.77–6329 Filed 3–2–77;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMICS REGULATIONS

[Docket No. 27769; Reg. ER–979]

PART 221a—FARE SUMMARIES

Issuance of a New Part

Correction

In FR Doc. 76–37713 appearing at page 55865 in the issue of Thursday, December 23, 1976, the following changes should be made on page 55868:

1. In the first column, in the fourth line of the third paragraph, the date now reading "June 1, 1976" should read "June 1, 1977".

2. Immediately under the "Authority Citation", in the first column, the section number designated "§ 211a.1" should read "§ 221a.1", and in the middle column, in the next to the last line of this section, immediately after "iations", insert the following: "in the cost of each available fare as well as the variations".

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1201—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

Revision

This revision of Part 1201 of the National Aeronautics and Space Administration Regulations is to fulfill the current publication requirement relative to the information described in 5 U.S.C. 552(a)(1)(A). It includes editorial changes in addition to the following:

Subpart 2 is changed to reflect the present names and organizational relations of NASA's field installations.

Subpart 3 is changed to show the current availability of texts of decisions of the three described boards, as well as to outline an added function of the Inventions and Contributions Board, and to bring statutory references up to date.

Subpart 4 is changed to show the current availability of information. It also adds information on the availability of NASA-generated technology and knowledge through regional Industrial Applications Centers.

Subpart 1—Introduction

Sec.
1201.100 Creation and Authority.
1201.101 Purpose.
1201.102 Functions.
1201.103 Administration.

Subpart 2—Organization

1201.200 General.

Subpart 3—Boards and Committees

1201.300 Boards and Committees.

Subpart 4—General Information

1201.400 NASA Procurement Program.
1201.401 Public Availability of NASA Technical Documents.
1201.402 NASA Industrial Applications Centers.

AUTHORITY: The provisions of this Part 1201 issued pursuant to 5 U.S.C. 552, as amended.

SOURCE: The provisions of this Part 1201 appear at 37 F.R. 24340, Nov. 16, 1972, unless otherwise noted.

Subpart 1—Introduction

§ 1201.100 Creation and Authority.

The National Aeronautics and Space Administration was established by the National Aeronautics and Space Act of 1958 (72 Stat. 426, 42 U.S.C. 2451 et seq.), as amended (hereafter called the "Act").

§ 1201.101 Purpose.

It is the purpose of the National Aeronautics and Space Administration under the act to carry out the declared policy of the United States that aeronautical and space activities sponsored by the United States shall be the responsibility of, shall be directed by, and shall be under the control of a civilian agency, except to the extent that aeronautical and space activities are determined by the President to be peculiar to or primarily associated with the development of weapons systems, military operations, or the defense of the United States, which activities shall be the responsibility of the Department of Defense.

§ 1201.102 Functions.

In order to carry out the purposes of the Act, NASA is authorized to conduct research into the problems of flight within and outside the earth's atmosphere; to develop, construct, test, and operate aeronautical and space vehicles for research purposes; and to perform such other activities as may be required for the exploration of space. The term "aeronautical and space vehicles" means aircraft, missiles, satellites, and other space vehicles, together with related equipment, devices, components, and parts.

§ 1201.103 Administration.

(a) NASA is headed by an Administrator, who is appointed from civilian life by the President by and with the consent of the Senate. The Administrator is responsible, under the supervision and direction of the President, for exercising

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all powers and discharging all duties of NASA and has authority and control over all personnel and activities of the agency.

(b) The Deputy Administrator of NASA is also appointed by the President from civilian life by and with the consent of the Senate. The Deputy Administrator serves on a day-to-day basis as the agency's general manager, under delegations of authority and responsibility from the Administrator, and, in his absence, the Deputy Administrator serves as Acting Administrator.

Subpart 2—Organization

§ 1201.200 General.

Responsibility for overall planning, coordination, and control of NASA programs is vested in NASA Headquarters, located in Washington, D.C. Directors of NASA field installations and other component installations are responsible for execution of NASA's programs, largely through contracts with research, development, and manufacturing enterprises. Certain types of research and development activities are conducted at NASA field installations and other component installations by Government-employed scientists, engineers, and technicians. NASA's basic organization consists of the headquarters, ten field installations, the Jet Propulsion Laboratory (a Government-owned, contractor-operated facility), and several component installations which report to heads of field installations. The NASA field installations are as follows:

(1) Ames Research Center, Moffett Field, Calif. 94035.
(2) Hugh L. Dryden Flight Research Center, Edwards, Calif. 93523.
(3) Goddard Space Flight Center, Greenbelt, Md. 20771.
(4) John F. Kennedy Space Center, Kennedy Space Center, Fla. 32899.
(5) Langley Research Center, Langley Station, Hampton, Va. 23365.
(6) Lewis Research Center, Cleveland, Ohio 44135.
(7) Lyndon B. Johnson Space Center, Houston, Tex. 77058.
(8) George C. Marshall Space Flight Center, Huntsville, Ala. 35812.
(9) Wallops Flight Center, Wallops Island, Va. 23337.
(10) National Space Technology Laboratories, Bay St. Louis, Miss. 39520.

For more detailed description of the organization and functions of the headquarters and field installations, see the "U.S. Government Organization Manual."

Subpart 3—Boards and Committees

§ 1201.300 Boards and Committees.

Various boards and committees have been established as part of the permanent organization structure of NASA. These include:

(a) *Board of Contract Appeals.* (1) The function of the Board is to adjudicate appeals arising from final decisions by NASA contracting officers pursuant to the Disputes Clause of NASA contracts.

(2) The charter of the Board is set forth in Subpart 1 of Part 1209 of this chapter. The Board's rules of procedure are set forth in 14 CFR Part 1241.

(3) The texts of decisions of the Board are published by Commerce Clearing House, Inc., in Board of Contract Appeals Decisions, and are hereby incorporated by reference. All decisions and orders are available for inspection and for purchase from the Recorder of the Board at NASA Headquarters, Washington, D.C. Decisions and orders issued after July 4, 1967, are available for inspection and for purchase at NASA Information Centers. An Index/Digest of Decisions is issued periodically with supplements published as appropriate. These are available for inspection or purchase at the NASA Information Centers (see Subpart 4 of Part 1206 of this Chapter) and from the Recorder of the NASA Board of Contract Appeals.

(b) *Contract Adjustment Board.* (1) The function of the Board is to consider and dispose of requests by NASA contractors for extraordinary contractual adjustments pursuant to Public Law 85–804 (50 U.S.C. 1431–35) and Executive Order 10789 dated November 14, 1958 (23 F.R. 8397).

(2) The charter of the Board is set forth at Subpart 3 of Part 1209 of this chapter. The Board's rules of procedure are set forth at 41 CFR, Chapter 18, Part 18–17.

(3) Indexes of and texts of decisions of the Board are available for inspection and for purchase from the Chairman of the Board, National Aeronautics and Space Administration, Washington, D.C. 20546, and from the NASA Information Centers.

(c) *Inventions and Contributions Board.* (1) The function of the Board is to consider and recommend to the Administrator the action to be taken with respect to: (i) Petitions for waiver of rights to any invention or class of inventions made during the performance of NASA contracts, (ii) applications for licenses under NASA-owned patents and patent applications, and (iii) applications for award for scientific and technical contributions determined to have significant value in the conduct of aeronautical and space activities, pursuant to the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457 (f) and (g), 2458), and the Government Employees Incentive Awards Act (5 U.S.C. 2121–23), respectively.

(2) The charter of the Board is set forth at Subpart 4 of Part 1209 of this chapter. The Board's rules of procedure are set forth at 14 CFR Parts 1240 and 1245.

(3) The texts of key decisions and an index of all decisions of the Board on requests for waiver are published in Petitions for Patent Waiver (NASA Handbook, NHB 5500.1A) and are hereby incorporated by reference. These are available for inspection and for purchase at NASA Information Centers.

Subpart 4—General Information

§ 1201.400 NASA Procurement Program.

(a) The Office of Procurement, headed by the Assistant Administrator for Procurement, serves as a central point of control and contact for NASA procurements. Although the procurements may be made by the field installations, selected contracts and contracts of special types are required to be approved by the Assistant Administrator for Procurement prior to their execution. The Office of Procurement is also responsible for formulation of NASA procurement policies and provides overall assistance and guidance to NASA field installations to achieve uniformity in NASA procurement processes.

(b) The NASA procurement program is carried out principally at the NASA field installations listed in the "U.S. Government Manual" and in Subpart 2 of this Part, above. The Headquarters Contracts Division is responsible for contracts with foreign governments and foreign commercial organizations, and the procurement of materials and services required by headquarters offices except for minor office supplies and services procured locally.

(c) All procurements are made in accordance with the NASA Procurement Regulation (41 CFR Ch. 18). With minor exceptions, every proposed procurement in excess of $10,000 is publicized promptly in The Commerce Business Daily. Copies of this publication are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, on an annual subscription basis.

§ 1201.401 Public Availability of NASA Technical Documents.

NASA distributes its technical documents and bibliographic tools to 11 special regional libraries located in the organizations listed below. Each library is prepared to furnish the public such services as reference assistance, interlibrary loans, photocopy service, and assistance in obtaining copies of NASA documents for retention.

California: University of California Library, Berkeley.
Colorado: University of Colorado Libraries, Boulder.
District of Columbia: Library of Congress.
Georgia: Georgia Institute of Technology, Atlanta.
Illinois: The John Crerar Library, Chicago.
Massachusetts: Massachusetts Institute of Technology, Cambridge.
Missouri: Linda Hall Library, Kansas City.
New York: Columbia University, New York.
Oklahoma: Bizzell Library, University of Oklahoma, Norman.
Pennsylvania: Carnegie Library of Pittsburgh.
Washington: University of Washington Library, Seattle.

NASA provides the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161, with one copy of each NASA or NASA-sponsored document for public use. These documents are reproduced and sold at prices established by NTIS.

§ 1201.402 NASA Industrial Applications Centers.

As part of its Technology Utilization Program—a program designed to transfer new aerospace knowledge and innovative technology to nonaerospace sectors of the economy—NASA operates a network of Industrial Applications Centers. These centers serve U.S. industrial clients on a fee-paying basis by providing access to literally millions of scientific and technical documents published by NASA and by other research and development organizations. Using computers, the NASA Industrial Applications Centers conduct retrospective and current awareness searches of available literature in accordance with client interests and assist in interpretation and adaptation of retrieved information to specified needs. Such services may be obtained by contacting one of the following:

(a) Aerospace Research Applications Center (ARAC), Indianapolis Center for Advanced Research, 1201 East 38th Street, Indianapolis, IN 46205.
(b) Florida Technology Applications Center, State University System, Tallahassee, FL 32304.
(c) Kentucky Technology Applications Center, University of Kentucky, Lexington, KY 40506.
(d) Knowledge Availability Systems Center (KASC), University of Pittsburgh, Pittsburgh, PA 15260.
(e) New England Research Applications Center (NERAC), Mansfield Professional Park, Storrs, CT 06268.
(f) North Carolina Science and Technology Research Center (NC/STRC), P.O. Box 12235, Research Triangle Park, NC 27709.
(g) Technology Applications Center (TAC), University of New Mexico, Albuquerque, NM 87131.
(h) Technology Use Studies Center (TUSC), Southeastern Oklahoma State University, Durant, OK 74701.
(i) Western Research Applications Center (WESRAC), University of Southern California, University Park, Los Angeles, CA 90007.

Effective date: March 3, 1977.

JAMES C. FLETCHER,
Administrator.

[FR Doc.77-6354 Filed 3-2-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER B—GUIDES AND TRADE PRACTICE RULES

Rescission of Obsolete Parts

The Federal Trade Commission published a notice January 16, 1976 in the FEDERAL REGISTER (41 FR 2398) inviting comment on proposed rescission of trade practice rules for 50 named industries. A news release to the same effect was issued the same day. Copies of the notice and news release were mailed to persons and organizations thought to be interested in the proposal.

Written statements requesting retention or modification or agreeing to rescission of trade practice rules for 23 industries are subjects of separate reports.

This notice concerns 27 industries about whose trade practice rules no comment has been received. The Commission hereby rescinds the following 16 CFR trade practice rules for those 27 industries:

Part 21—Corset, Brassiere, and Allied Products Industry, promulgated December 1, 1956.
Part 30—Plastics Housewares Industry, promulgated June 22, 1956.
Part 32—Melamine Dinnerware Industry, promulgated June 22, 1956.
Part 39—Steel Bobby Pin and Steel Hair Pin Manufacturing Industry, promulgated June 25, 1957.
Part 43—Outlet and Switch Box Manufacturing Industry, promulgated December 10, 1958.
Part 48—Tire and Tube Repair Material Industry, promulgated December 17, 1959.
Part 50—Cut and Wire Tack Industry, promulgated July 25, 1956.
Part 51—Fluorocarbons Industry, promulgated January 11, 1961.
Part 58—Golf, Baseball and Athletic Goods Industry, promulgated October 29, 1931.
Part 71—Braided Rug Industry, promulgated June 23, 1964.
Part 88—Saw and Blade Service Industry, promulgated December 27, 1946.
Part 92—Woodworking Machinery Industry, promulgated June 24, 1960.
Part 101—Uniform Industry, promulgated May 18, 1940.
Part 136—Paint and Varnish Brush Industry, promulgated June 17, 1958.
Part 144—Sardine Industry, promulgated March 5, 1940.
Part 145—Umbrella Industry, promulgated June 9, 1950.
Part 161—Razor and Razor Blade Industry, promulgated June 20, 1945.
Part 169—Masonry Waterproofing Industry, promulgated August 31, 1946.
Part 181—Handkerchief Industry, promulgated February 18, 1949.
Part 185—Peat Industry, promulgated January 13, 1950.
Part 196—Parking Meter Industry, promulgated November 21, 1950.
Part 198—Milk Bottle Cap and Closure Industry, promulgated March 27, 1951.
Part 199—Canvas Cover Industry, promulgated April 18, 1951.
Part 202—Sun Glass Industry, promulgated April 17, 1950.
Part 217—Cedar Chest Manufacturing Industry, promulgated September 17, 1953.
Part 222—Chemical Soil Conditioner Industry, promulgated October 15, 1954.
Part 227—Wholesale Plumbing and Heating Industry, promulgated April 14, 1958.

The Commission is of the opinion that rescission of trade practice rules and industry guides does not relieve anyone of duties to comply with laws the Commission administers.

(Secs. 5, 6, 18(a)(1)(A), amended FTC Act, 38 Stat. 719, 721, 88 Stat. 2193 (15 U.S.C. 45, 46, 57a); 16 CFR 1.5, 1.6, 17.1.)

Effective: March 3, 1977.

By the Commission.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-6309 Filed 3-2-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13295]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Recordkeeping and Preservation Requirements

On January 4, 1977, there was published in the FEDERAL REGISTER (42 FR 17a–3 and 240.17a–4. No unfavorable setting forth proposed amendments of §§ 240.17a–3 and 240.17a–4 in order to establish recordkeeping requirements for municipal securities brokers and municipal securities dealers while eliminating for such entities the need to comply with more than one set of recordkeeping rules. Interested persons were given the opportunity to submit, not later than January 31, 1977, written comments regarding the proposed amendments of §§ 240.17a–3 and 240.17a–4. No unfavorable comments have been received.[1]

STATUTORY BASIS AND COMPETITIVE CONSIDERATIONS

Pursuant to the Securities Exchange Act of 1934, and particularly Sections 17(a)(1) and 23(a) thereof, 15 U.S.C. §§ 78q(a)(1), 78w(a), the Commission amends §§ 240.17a–3 and 240.17a–4 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below. The Commission finds that any burden imposed upon competition by these amendments is necessary and appropriate in the furtherance of the purposes of the Act, and particularly to implement the Commission's authority under section 17(a)(1) thereof, 15 U.S.C. § 78q(a)(1), to require brokers and dealers to maintain and preserve appropriate records.

The text of the amendments to §§ 240.17a–3 and 240.17a–4 follows:

1. A new § 240.17a–3(e) is added as follows:

§ 240.17a–3 Records to be made by certain exchange members, brokers and dealers.

* * * * *

(e) For purposes of transactions in municipal securities by municipal securities brokers and municipal securities dealers, compliance with Rule G–8 of the Municipal Securities Rulemaking Board will be deemed to be in compliance with this section.

[1] For a more complete description of the background leading to the adoption of these amendments, see Securities Exchange Act Release No. 13100 (December 23, 1976), 42 FR 917 (Jan. 4, 1977) (order giving notice of withdrawal of proceedings with respect to Board's proposed rules); Securities Exchange Act Release No. 12933 (Oct. 28, 1976), 41 FR 48428 (Nov. 3, 1976) (order instituting proceedings with respect to the Board's proposed rules); Securities Exchange Act Release No. 12363 (April 23, 1976), 41 FR 18175 (April 30, 1976) (publication of Board's proposed rules).

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2. A new § 240.17a-4(b) is added as follows:

§ 240.17a-4 Records to be preserved by certain exchange members, brokers and dealers.

* * * * *

(h) For purposes of transactions in municipal securities by municipal securities brokers and municipal securities dealers, compliance with Rule G-9 of the Municipal Securities Rulemaking Board will be deemed to be in compliance with this section.

Effective Date: The effective date of the aforementioned amendments is April 1, 1977 since the Commission's interpretations with respect to the application of §§ 240.17a-3, 240.17a-4 and 240.17a-11 to brokers and dealers effecting transactions solely in municipal securities will expire on that same date.[2]

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 24, 1977.

[FR Doc.77-6365 Filed 3-2-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER H—REGULATIONS UNDER THE EMERGENCY NATURAL GAS ACT OF 1977

PART 295—EMERGENCY REGULATIONS

Order No. 2-A

Order No. 2 determined that a price of or equal to $2.25 per MMBtu "inclusive of all state and local taxes and other adjustments" would be fair and equitable under Section 6 of Pub. L. 95-2 (91 Stat. 4 (1977)).

With respect to a wellhead sale of natural gas, $2.25 per MMBtu is the maximum consideration that may be received by the seller if the natural gas is delivered at the wellhead without prior notification to or authorization by the Administrator. The price is inclusive of any form of payment to the seller or to any affiliate of the seller for any services however denominated that are necessary to deliver the gas at the wellhead. The seller or any affiliate of the seller may not receive in the transaction any additional charges above for commissions, brokerage fees, finders fees or similarly described charges.

Paragraph (3) of Order No. 2 permits a "distribution company" to recover "replacement cost plus applicable transportation and storage costs, if any." An intrastate pipeline that is making sales pursuant to Section 6 of Pub. L. 95-2 is not distinguishable under the law from the "distribution company". The first line of Paragraph (3) of Order No. 2 is hereby amended by inserting following the words "distribution company," the words "or intrastate pipeline".

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 25, 1977.

[FR Doc.77-6271 Filed 3-2-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 207—NAVIGATION REGULATIONS

St. Marys Falls Canal and Locks, Mich.

On December 28, 1976 there was published in the FEDERAL REGISTER (Vol. 41, No. 250, page 56339) a notice of proposed rulemaking to amend 33 CFR 207.440 which regulates the use, administration and navigation of the St. Marys Falls Canal and Lock, Michigan. The proposed amendment will affect only paragraph (v) to give the District Engineer the authority to allow passage of vessels not exceeding 767 feet in length to navigate the MacArthur Lock when the Poe Lock is out of service for a period exceeding 24 hours. Interested parties were given the opportunity to submit comments or objections on or before January 27, 1977.

No comments have been received and, accordingly, the proposed amendment is hereby established without change and is set forth below effective on March 1, 1977.

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: February 9, 1977.

Approved:

CHARLES R. FORD,
Acting Assistant Secretary of the Army (Civil Works).

§ 207.440 St. Marys Falls Canal and Locks, Michigan; use, administration, and navigation.

* * * * * *

(v) The maximum overall dimensions of vessels that will be permitted to transit MacArthur Lock are 730 feet in length and 75 feet in width, except as provided in paragraph (v)(1) of this section. Further, any vessel of greater length than 600 feet must be equipped with deck winches adequate to safely control the vessel in the lock under all conditions including that of power failure.

(1) Whenever the Poe Lock is out of service for a period exceeding 24 hours the District Engineer may allow vessels greater than 730 feet in length, but not exceeding 767 feet in length to navigate the MacArthur Lock. Masters of vessels exceeding 730 feet in length shall be required to adhere to special handling procedures as prescribed by the District Engineer.

* * * * * *

[FR Doc.77-6308 Filed 3-2-77;8:45 am]

Title 36—Parks, Forests and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 231—GRAZING

Grazing Fees

On November 30, 1976, a document was published in the FEDERAL REGISTER, Vol. 41, No. 231, page 52485, proposing to revise the rule on establishment of grazing fees for National Forests in the eleven contiguous western States, National Forests in South Dakota and Nebraska, and National Grasslands. The proposed revision provided for the continuance of 1976 fees through the 1977 fee year.

All comments with respect to the proposed revision were given due consideration. No changes have been made in the proposal. Comments which were considered, but were not accepted, primarily recommended higher grazing fees and continuation of fee increases for 1977. The proposal was not modified since the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579) specifically prohibits increases in 1977 fees on the National Forests in the eleven contiguous western States. Extension of the prohibition on increases of fees to include National Grasslands and National Forests in South Dakota and Nebraska did not receive negative comment. This action provides equity among grazing permittees. Many of these lands are adjacent to or intermingled with National Forest areas and public lands which are covered by the Act, and some permittees graze livestock on lands in each of these classifications.

The proposed regulation is hereby adopted without change and is set forth below.

Effective date: The amendment of this part is effective March 1, 1977.

BOB BERGLAND,
Secretary.

FEBRUARY 28, 1977.

Paragraph (a)(4), § 231.5 of Chapter II of Title 36 is amended to read as follows:

§ 231.5 Fees, payments, and refunds or credits.

(a) Fees. * * *

(4) Adjustment between the 1966 average fair market value (base rate) of $1.23 and fees paid in 1966 will be made in annual insallments and will be completed by 1980. Average installments of 7.2 cents were added in 1969, 1971, 1973, and 1974; an installment of 9.0 cents was added in 1976. In addition, increases or decreases in the base rate because of changes in fair market value as determined by the index of private land grazing lease rates will be made each year. Fair market value between 1966 and 1976 increased by 71 cents to $1.94 per animal unit month for the 1976 fee year. Where competitive bidding is used to establish a fee structure representing fair market value, the fee established shall remain unchanged during the period specified in the bid. For 1977, fees on the National Grasslands and Land Utilization Projects, and on the National Forests in the eleven contiguous western States and in South Dakota and Nebraska, will be limited to their 1976 levels.

* * * * * *

(Sec. 501, 65 Stat. 290 (31 U.S.C. 483a); Pub. L. 94-579.)

[FR Doc.77-6446 Filed 3-2-77;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 73-272]

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OFFICERS AND REGISTRATION FOR STAFF OFFICERS

Change in Effective Date

On October 18, 1976, there were published in the FEDERAL REGISTER (41 FR 45841) amendments to the regulations for merchant marine officers licensing which provided for the acceptance of a First Aid Certificate other than one issued by the United States Public Health Service.

License applicants have been experiencing difficulty in locating facilities which offer the cardiopulmonary resuscitation training courses which are required for qualification for an original license.

In consideration of the foregoing, the effective date for these amendments is changed from November 19, 1976, to June 30, 1977.

Dated: February 23, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.77-6387 Filed 3-2-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-146]

PART 1—PRACTICE AND PROCEDURE

PART 61—TARIFFS

Filing of Tariffs, Petitions for Suspensions and Replies in Light of Government in Sunshine Act

Adopted: February 24, 1977.

Released: February 28, 1977.

Report and Order. In the matter of amendment of §§ 1.4, 1.773, 61.58, 61.60, 61.61, 61.62, 61.63, 61.64 and 61.66 of the Commission's rules and regulations.

1. In this report and order the Commission amends certain of its procedural rules concerning the filing of tariffs, petitions for suspension and replies in light of the Government in the Sunshine Act, Pub. L. 94-409, 90 Stat. 1241 (1976), which becomes effective on March 12, 1977.[1] This legislation is designed to give "the public * * * the fullest practicable information regarding the decision-making processes of the Federal Government * * * while protecting the rights of individuals and the ability of the Government to carry out its responsibilities." 90 Stat. 1241 (1976). Specifically, the Act states that subject to certain exceptions "every portion of every meeting of an agency shall be open to public observation." 90 Stat. 1241 (1976). Usually the Commission must also give the public 7 days notice of the time, place and subject matter of meetings. 90 Stat. 1243 (1976). The Government in the Sunshine Act contains requirements which will have an indirect impact upon our internal processes. Additional decision making and processing are required to determine whether each matter scheduled for consideration is to be the subject of an open or closed meeting, to issue the appropriate notice and, where it is determined that a meeting is to be closed, to issue a written explanation of the decision to close. This processing must take place sufficiently in advance of the date on which a matter is to be considered by the Commission to allow for the required week of public notice concerning the time, place and subject of the meeting. The requirement of notice also compounds pre-existing problems arising from unduly short periods of time in which to dispose of petitions for suspension of tariff filings. In order to assure adequate time for consideration of such matters and in light of the requirements of the Government in the Sunshine Act, we have determined that changes should be made in the times for filing tariffs, petitions for suspension and replies. This is particularly important in the case of petitions for suspension of tariff filings since such matters must be disposed of before the tariff filing becomes effective.

2. The Commission's present rules concerning the period of public notice for tariff filings, petitions for suspension, and replies to such petitions[2] do not allow sufficient time for decision making particularly when the requirements of the new statute are taken into account. For example, § 61.58 of the Commission's rules presently requires 60 days public notice for tariff filings involving changes in rate structure or new service offerings. 41 FR 54767 (1976). Petitions for suspension of such tariff changes are presently due 35 days before the effective date of the tariff filing. Section 1.773(b), 41 FR 54766 (1976). Replies to such petitions are to be filed within 6 days after service of the petition for suspension. Section 1.773(c), 41 FR 54766 (1976). The application of §§ 1.4 (f) and (g) of the Commission's rules, 41 FR 54766 (1976), will usually add several days to this filing period.[3] In the future, this schedule will not allow sufficient time for Commission consideration of such matters. Thus, it appears that the Commission must amend its rules so as to extend the periods of public notice for most tariff filings and shorten the time for filing petitions for suspension as well as replies to such petitions in order to assure adequate time for consideration of such matters.[4]

3. The following is a summary of the rule changes adopted in this Report and Order. In the future, tariff filings involving a new service offering or a change in rate structure are to be filed on 90 days notice. At present, such tariff filings are required to provide for 60 days public notice. Tariff filings involving a rate increase will continue to be filed on 90 days notice. The period of public notice for tariff filings which are not specifically assigned a different period of public notice is increased from 30 to 70 days. The 15 day period of public notice is retained for tariff filings involving a change in the name of a carrier, a change in V&H coordinates, corrections, a change in the list of connecting, concurring or other participating carriers, text changes and the imposition of termination charges. The period of public notice for tariff filings involving charges and regulations for the institution of wire service in the first instance, service on new lines, service via new radio stations, service via new points by radio, individual installations of ticker service, and changes in message telegraph and money order service point listings are being increased to 15 days. Such tariff filings can presently be made on 1 days public notice pursuant to §§ 61.60, 61.61, 61.62, 61.63, 61.64 and 61.66 of the Commission's rules.[5] If no pleadings are received against a tariff filing by the date for filing petitions for suspension, the carrier may apply for

[1] This legislation was approved on September 13, 1976. With one exception, not pertinent to this discussion, it is scheduled to become effective 180 days after the date of its enactment. 90 Stat. 1248 (1976). The Commission is separately adopting rules which directly implement the requirements of the new statute.

[2] Section 61.58, 41 FR 54767 (1976) (public notice of tariff filings); § 1.773(b), 41 FR 54766 (1976) (petitions for suspension); § 1.773(c), 41 FR 54766 (1976) (replies).

[3] When the filing period for a pleading is relatively short, § 1.4 (f) and (g) of the Commission's rules, 41 FR 54766 (1976), provide for additional time in certain circumstances.

[4] Section 0.291 of the Commission's rules does allow the Chief, Common Carrier Bureau to issue orders requiring a carrier to defer the effective date of a tariff filing made on less than 90 days public notice so as to provide for a maximum total of 90 days notice. 41 FR 54766 (1976). However, we believe that the initial period of public notice should, in most cases, permit disposition of petitions for suspension without deferral of the effective date of the tariff filing. A 15 day period of public notice will be applied in certain cases, however. This is being done because it is unlikely that petitions for suspension of such tariff revisions will be filed.

[5] 47 CFR 61.60, 61.61, 61.62, 61.63, 61.64 and 61.66 (1976). Although we expect that suspension of such tariff filings will rarely be sought, this change will allow the filing of such petitions before the tariff filing becomes effective.

[6] Securities Exchange Act Release No. 13108 (December 23, 1976), 42 FR 759 (January 4, 1977).

V4242 MAR 3 77 UMI

Special Permission to refile the relevant tariff pages to become effective before the full period of public notice initially provided for has elapsed.

4. The periods for filing petitions for suspension and replies are also being modified. In the future, petitions for suspension of tariff filings made on less than 30 days notice are to be filed no more than 7 days after the date of the tariff filing. At present, such petitions for suspension have to be filed 8 days prior to the effective date of the tariff filing.[6] In the future, petitions for suspension of tariff filings made on 30 or more, but less than 90 days notice are to be filed no more than 15 days after the date of the tariff filing. Presently, petitions for suspension of tariff filings made on 30 or more, but less than 60 days notice, are to be filed at least 15 days before the effective date of the tariff revision. Petitions for suspension of tariff filings made on 60 or more, but less than 90 days notice, are presently due at least 35 days before the effective date of the filing. In the future, petitions for suspension of tariff filings made on 90 or more days notice shall be filed no more than 25 days after the date of the tariff filing. Such petitions for suspension must presently be filed at least 45 days before the effective date of the tariff revision. The time for filing replies to petitions for suspension is also being reduced in most instances. In addition, § 1.4 (f) and (g), 41 FR 54766 (1976), are being amended insofar as they relate to the filing of replies so as to reduce the additional time available for filing.

5. These changes in the Commission's procedural rules will place additional burdens upon the carriers and those seeking suspension of tariff filings. However, we believe that they are necessary to ensure adequate time for decision making and compliance with the requirements of the Government in the Sunshine Act and resulting changes in the schedules for internal processing.

6. *Accordingly, it is ordered*, That effective March 4, 1977, Parts 1 and 61 of the Commission's rules are amended as provided below.[7]

[6] This change will not affect the time for filing petitions for suspension of tariffs providing for 15 days public notice since filing 8 days before the effective date of such a tariff revision will be the same as filing 7 days after the tariff revision is filed.

[7] This action is taken pursuant to the Commission's authority under sections 4(i), 4(j) and 203(a) of the Communications Act, 47 U.S.C. 154(i), 154(j) and 203(a) (1970), and section 203(b) of the Communications Act as amended by Pub. L. 94-376, 47 U.S.C. 203(b) (1970), as amended 90 Stat. 1080 (1976). Section 4(i) of the Act states:

(i) The Commission may perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.

47 U.S.C. 154(i) (1970).

Section 4(j) provides in relevant part:

(j) The Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice * * *.

47 U.S.C. 154(j) (1970).

Section 203(a) states:

(a) Every common carrier, except connecting carriers, shall within such reasonable time as the Commission shall designate, file with the Commission and print and keep open for public inspection schedules showing all charges for itself and its connecting carriers for interstate and foreign wire or radio communication between the different points on its own system, and between points on its own system and points on the system of its connecting carriers or points on the system of any other carrier subject to this Act when a through route has been established, whether such charges are joint or separate, and showing the classifications, practices, and regulations affecting such charges. Such schedules shall contain such other information, and be printed in such form, and be posted and kept open for public inspection in such places, as the Commission may by regulation require, and each such schedule shall give notice of its effective date; and such common carrier shall furnish such schedules to each of its connecting carriers, and such connecting carriers shall keep such schedules open for inspection in such public places as the Commission may require.

47 U.S.C. 203(a) (1970).

Section 203(b) of the Communications Act as amended by Pub. L. 94-376 states:

(b)(1) No change shall be made in the charges, classifications, regulations, or practices which have been so filed and published except after ninety days notice to the Commission and to the public, which shall be published in such form and contain such information as the Commission may be regulations prescribe.

(2) The Commission may, in its discretion and for good cause shown, modify any requirement made by or under the authority of this section either in particular instances or by general order applicable to special circumstances or conditions except that the Commission may not require the notice period specified in paragraph (1) to be more than ninety days.

(Secs. 4, 203, 48 Stat., as amended, 1066, 1070 (47 U.S.C. 154, 203).)

FEDERAL COMMUNICATIONS COMMISSION,[8]
VINCENT J. MULLINS,
Secretary.

Part 1, Subpart A, is amended as follows:

1. In § 1.4, paragraphs (f) and (g) are amended to read as follows:

§ 1.4 Computation of time.

* * * * *

(f) If the filing period is less than 7 days, intermediate holidays shall be excluded in determining the filing date. This paragraph shall not apply in the case of replies to petitions for suspension filed pursuant to § 1.773(c). If the date for filing such a reply falls on a holiday the reply shall be filed on the next business day.

(g) Where service of a document is required by statute or by the provisions of this chapter, where the document is in fact served by mail (see § 1.47(f)), and where the filing period for a response thereto is 10 days or less, an additional 3 days, excluding holidays will be allowed for filing the response. This paragraph shall not apply to documents which are filed pursuant to the provisions of § 1.89, § 1.20(d), § 1.315(b), § 1.316, or § 1.773(c). In the case of replies to petitions for suspension filed under § 1.773 (c) (2) and (3) 3 additional days shall be allowed for filing in the circumstances set forth above, however, that time shall include holidays. If the date for filing such a reply falls on a holiday, the reply shall be filed on the next business day.

* * * * *

Part 1, Subpart E, is amended as follows:

1. In § 1.773, paragraphs (b) and (c) are amended to read as follows:

§ 1.773 Petitions for suspension of tariff schedules.

* * * * *

(b) *When filed.* All petitions for suspension shall be filed with the Commission and served upon the publishing carrier and the Chief, Common Carrier Bureau, and the Chief of the appropriate Division of that Bureau in accordance with the schedule set forth in this paragraph. In case of emergency and within the time limits provided herein, a telegraphic request for suspension may be sent to the Commission setting forth succintly the substance of the matters required by paragraph (a) of this section. A copy of the any such telegraphic request shall be sent simultaneously to the publishing carrier and the Chief, Common Carrier Bureau, and the Chief of the appropriate Division of that Bureau and forthwith confirmed by petition filed and served in accordance with this section. (Section 1.4 does not apply to this § 1.773(b).)

(1) Petitions for suspension of tariff filings made on less than 30 days notice shall be filed and served no more than 7 days after the date of the tariff filing.

(2) Petitions for suspension of tariff filings made on 30 or more, but less than 90 days notice shall be filed and served no more than 15 days after the date of the tariff filing.

(3) Petitions for suspension of tariff filings made on 90 or more days notice shall be filed and served no more than 25 days after the date of the tariff filing.

(c) *Reply.* A publishing carrier may reply to a petition for suspension, but any such reply shall be filed with the Commission and served simultaneously upon petitioner and the Chief, Common Carrier Bureau in accordance with the following schedule.

(1) Replies to petitions for suspension of tariff filings made on less than 30 days notice shall be filed and served within 4 days after service of the petition for suspension. Sections 1.4 (f) and (g) shall not apply to the filing of such replies.

(2) Replies to petitions for suspension of tariff filings made on 30 or more, but less than 90 days notice shall be filed and served within 5 days after service of the petition for suspension. Except as specified, §§ 1.4 (f) and (g) shall not apply to the filing of such replies.

(3) Replies to petitions for suspension of tariff filings made on 90 or more days notice shall be filed and served within 8 days after service of the petition for suspension. Except as specified, §§ 1.4 (f) and (g) shall not apply to the filing of such replies.

Part 61 is amended as follows:

1. In § 61.58 paragraphs (b), (c), (d) and (e) are amended to read as follows:

§ 61.58 Notice requirements.

* * * * *

(b) Tariff filings involving a change in rate structure, a new service offering, or a rate increase shall give at least 90 days notice to the public and to the Commission.

(c) All tariff filings not specifically assigned a different period of public notice in this part shall give at least 70 days notice to the public and to the Commission.

(d) The Chief, Common Carrier Bureau may issue orders requiring the deferral of the effective date of any tariff filing made on less than 90 days notice so as to provide for a maximum total of 90 days notice to the public and to the Commission regardless of whether petitions opposing the tariff filing have been filed.

(e) If no petitions for suspension or rejection of a tariff filing are received by the date for filing petitions for suspension, the filing carrier may apply for Special Permission to refile the relevant tariff pages to become effective before the full period of public notice initially provided for has elapsed.

2. Section 61.60 is amended to read as follows:

§ 61.60 Tariffs filed in first instance by wire carriers.

Carriers which have not previously established any charges or regulations may establish charges and regulations for wire service in the first instance upon not less than 15 days notice to the Commission and the public.

3. Section 61.61 is amended to read as follows:

§ 61.61 Charges and regulations for service on new lines.

Charges and regulations applicable at, from, to, or via points on new lines for which the Commission has issued a certificate of public convenience and necessity may be established on not less than 15 days notice: *Provided*, That no charges or regulations so applicable have previously been filed and that every schedule containing such charges and regulations shall bear a notation showing the date and number of the certificate.

4. Section 61.62 is amended to read as follows:

§ 61.62 Charges and regulations for service via new radio stations.

(a) Charges and regulations applicable at, from, to, or via new radiotelephone or radiotelegraph stations for which the Commission has issued a construction permit may be established on not less than 15 days notice: *Provided*, That no charges or regulations so applicable have previously been filed and that every schedule containing such charges and regulations shall bear a notation showing the date of the notification to the Commission when the public service tests will begin, if public service is to be rendered prior to issuance of a license, or a notation showing the date and number of the license, if public service is not to be rendered until after issuance of a license.

(b) Charges and regulations applicable at, from, to, or via new radiotelephone or radiotelegraph stations for which the Commission does not require a construction permit but for which the Commission has issued a license may be established on not less than 15 days notice: *Provided*, That no charges or regulations so applicable have previously been filed and that every schedule containing such charges and regulations shall bear a notation showing the date and number of the license.

5. Section 61.63 is amended to read as follows:

§ 61.63 Charges and regulations for service via new points by radio.

Charges and regulations applicable at, from, to, or via new points of communication by radiotelephone or radiotelegraph stations, for which new points the Commission has issued a license or modification of license, may be established on not less than 15 days notice: *Provided*, That no charges or regulations so applicable have previously been filed and that schedules containing such charges and regulations shall bear a notation showing the date and number of the license or modification of license: *And provided further*, That this section shall not apply to new points of communication which are not named either generally or specifically in the license or modification of license.

6. Section 61.64 is amended to read as follows:

§ 61.64 Charges and regulations for ticker service.

Charges and regulations for individual installations of market and stock quotation and baseball ticker service may be established on not less than 15 days notice to the Commission and to the public, when there are no charges and regulations in effect for such service at the points where installations are to be made.

7. Section 61.66 is amended to read as follows:

§ 61.66 Changes in message telegraph and money order service point listings.

(a) When a message telegraph service point or money order service point listing that is already on file and in effect specifies by dates (1) that communication service is available to or from a service point during sporting events, military maneuvers, shipping or resort seasons, or (2) that an office or agent of a carrier is located at such service point for the receipt or delivery of communications during the aforementioned periods, changes in the dates may be published and filed on not less than 15 days notice.

(b) A message telegraph service point listing that is already on file and in effect may be changed on not less than 15 days notice to show (1) that such point is changed from a point at which there is neither an office nor an agent of a telegraph company for the receipt or delivery of telegrams to a point at which there is such an office or agent, or (2) that such point is changed from a point at which there is an agent of a telegraph company to receive or deliver messages to a point at which there is a telegraph company office: *Provided*, That the basic schedules of charges and regulations applicable to such message telegraph service are already on file and in effect.

(c) A money order service point listing that is already on file and in effect may be changed on not less than 15 days notice to show (1) that such point is changed from a point at which there are no local facilities for handling money orders to a point at which money orders are paid or accepted, (2) that such point is changed from a point at which money orders are paid only, to a point at which money orders are paid and accepted, or (3) that such point is changed from a point at which money orders are paid and accepted by an agent of the telegraph company to a point at which money orders are paid and accepted by a telegraph company office: *Provided*, That the basic schedules of charges and regulations applicable to such money order service are already on file and in effect.

(d) A message telegraph service point or money order service point listing may be changed on not less than 15 days notice to reflect a discontinuance, reduction or impairment of service to accordance with a certificate or authorization granted by the Commission: *Provided*, That the total charges to the customer for service are not increased and that every schedule containing such changes shall bear a notation showing the date and number of the certificate or authorization.

[FR Doc. 77-6392 Filed 3-2-77; 8:45 am]

[8] Commissioner Quello absent.

V 42 42 MAR 3 77 UMI

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1–127]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Commandant of the Coast Guard; Authority Regarding Fishery Conservation and Management Act

The purpose of this amendment is to delegate to the Commandant of the Coast Guard the authority vested in the Secretary by Fishery Conservation and Management Act of 1976 (Pub. L. 94–265).

Since this amendment relates to Departmental management, procedures and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, § 1.46 of Part 1 of Title 49, Code of Federal Regulations, is amended by adding at the end thereof a new paragraph (v) to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

The Commandant of the Coast Guard is delegated authority to

* * * * *

(v) Carry out the functions vested in the Secretary by the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265 16 U.S.C. 1801 et seq.), except that the authority to approve seizure of a vessel may not be redelegated and shall be exercised in each instance only after consultation with the Department of State.

Effective date: This amendment is effective February 25, 1977.

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e).)

Issued in Washington, D.C., on Feb. 25, 1977.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc.77–6285 Filed 3–2–77; 8:45 am]

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. RSOR–5, Notice No. 4]

PART 220—RADIO STANDARDS AND PROCEDURES

Final Rule; Correction

In FR Doc. 77–2584 appearing at page 5065 in the FEDERAL REGISTER of Thursday, January 27, 1977, subparagraph (b)(4) of § 220.61 appearing on page 5071 is corrected by adding the words, "the time", to the second sentence, immediately following the word, "complete", and immediately before the words, "and the initials", to read as follows:

(4) After the train order has been received and copied, it shall be immediately repeated in its entirety. After verifying the accuracy of the repeated train order, the dispatcher shall then state "complete", the time, and the initials of the employee designated by the railroad. Employees copying train orders must then acknowledge by repeating "complete" and the time.

Issued in Washington, D.C. on February 25, 1977.

BRUCE M. FLOHR,
Deputy Administrator.

[FR Doc.77–6333 Filed 3–2–77; 8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73–8; Notice 04]

PART 572—ANTHROPOMORPHIC TEST DUMMY

Dummy Calibration Test Procedures and Dummy Design Specifications

Correction

In FR Doc. 77–3513, appearing at page 7148 in the issue for Monday, February 7, 1977, make the following changes:

1. In the third column, the last line should read "tremes, "stack up" to cause the need . . .".

2. On page 7149 in the first line of the first full paragraph, "Moterenverken", should be spelled "Motorenverken".

3. In the second column of page 7152, in § 572.7(b), delete the fifth line entirely.

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Foreign Fishery Allocations

On February 11, 1977, the National Marine Fisheries Service published in the FEDERAL REGISTER (42 FR 8813) foreign fishing regulations under the Fishery Conservation and Management Act of 1976. As part of these regulations, 50 CFR 611.20, listed the total allowable level of foreign fishing for certain fisheries.

The Fishery Conservation and Management Act provides that the Secretary of State, in cooperation with the Secretary of Commerce, shall determine the allocation among foreign nations of the surpluses listed in § 611.20. On February 17, 1977, the Department of State informed the National Marine Fisheries Service of the 1977 allocation of each fishery for each foreign nation. These allocations are based on calendar year 1977. Thus, foreign catches taken during January and February 1977 will be subtracted from the allocations listed in this amendment, and only the remaining balance will be available for foreign fishing between March 1, 1977 and December 31, 1977. Similarly, the remaining balance will be used by the United States in calculating the "poundage fees" assessed for foreign fishing for the period March 1–December 31, 1977.

The allocations set forth in this amendment involve a foreign affairs function of the United States, and are exempt from the rulemaking procedures of the Administrative Procedure Act. Formal notice of proposed rulemaking is therefore not required. This amendment to 50 CFR 611.20 will be effective on March 1, 1977.

Signed at Washington, D.C., on February 25, 1977.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

Therefore, paragraph (c) of § 611.20, is amended by adding a new (c)(1) to provide fishery allocations for certain foreign nations which have signed governing international fishery agreements with the United States, subject to the entry into force of the governing international fishery agreements. New paragraph (c)(1), revised paragraph (d), and new paragraphs (e), (f) and (g) are set forth below:

§ 611.20 Allowable level.

* * * * * *

(c) * * *

(1) The allocations (tonnage and vessel days) among foreign nations are presented in the following tables:

TABLE 1.—*Atlantic Coast Allocation*

Country	Fishery	1977 allocation (metric tons)
Bulgaria	Silver hake	[1] 1,570
	Atlantic mackerel	4,000
	Atlantic herring	100
	Short-finned squid	400
	Other finfish	2,000
Romania	Atlantic mackerel	[1] 1,100
	Atlantic herring	100
	Other finfish	200
Poland	Atlantic mackerel	20,200
	Atlantic herring	5,100
	Long-finned squid	850
	Short-finned squid	4,910
	Other finfish	6,200
Japan	Long-finned squid	7,820
	Short-finned squid	3,440
	Butterfish	3,300
	Other finfish	7,000
Spain	Long-finned squid	4,390
	Short-finned squid	4,910
	Butterfish	1,500
	Other finfish	3,600
Soviet Union	Red hake	[2] 4,980
	Silver hake	72,150
	Atlantic mackerel	22,800
	Atlantic herring	3,400
	Long-finned squid	1,000
	Short-finned squid	7,370
	Other finfish	31,100
German Democratic Republic.	Atlantic mackerel	12,400
	Atlantic herring	4,825
	Other finfish	2,000
European Economic Community:		
Federal Republic of Germany.	Atlantic mackerel	1,100
	Atlantic herring	4,725
	Long-finned squid	500
	Other finfish	200
France	Atlantic herring	1,000
	Other finfish	200
Italy	Atlantic mackerel	300
	Long-finned squid	1,640
	Short-finned squid	980
	Butterfish	400
	Other finfish	900

TABLE 2.—*Pacific Coast Allocation*

Country	Fishery	Area	1977 allocation (metric tons)
Japan	Pollock	Bering Sea/Aleutians	767,300
	do	Gulf of Alaska	44,100
	Sablefish	Aleutians	[1] 2,000
	do	Bering Sea	[1] 3,900
	do	Gulf of Alaska, Southeast area	3,750
	do	Gulf of Alaska, other	10,150
	Pacific Cod	Bering Sea/Aleutians	38,100
	do	Gulf of Alaska	1,600
	Yellowfin sole	Bering Sea/Aleutians	62,100
	Other Flounders	do	61,500
	Flounders (except halibut)	Gulf of Alaska	18,700
	Herring	Bering Sea/Aleutians	5,800
	Pacific Ocean Perch	Aleutians	6,500
	do	Bering Sea	2,800
	do	Gulf of Alaska	19,800
	Other Rockfishes	do	2,700
	Squid	Bering Sea/Aleutians	10,000
	Other Groundfish	Aleutians	23,100
	do	Bering Sea	44,400
	do	Gulf of Alaska	4,200
	Seamount Groundfish	Western Pacific	[2] 1,000
	Snow (Tanner) Crab	Bering Sea/Aleutians	12,500
	Snails	do	2,700
U.S.S.R.	Pollock	do	112,700
	do	Gulf of Alaska	63,100
	Sablefish	Aleutians	[1] 200
	do	Bering Sea	[1] 600
	Pacific Cod	Bering Sea/Aleutians	17,200
	do	Gulf of Alaska	800
	Yellowfin sole	Bering Sea/Aleutians	60,800
	Other Flounders	do	60,400
	Flounders (except halibut)	Gulf of Alaska	1,800
	Herring	Bering Sea/Aleutians	12,600
	Pacific Ocean Perch	Aleutians	5,100
	do	Bering Sea	3,500
	do	Gulf of Alaska	5,700
	Other Rockfishes	do	1,200
	Other Groundfish	do	11,800
	do	Aleutians	9,900
	do	Bering Sea	17,400
ROK	Pollock	Northwest Pacific	[4] 105,200
	Hake	Gulf of Alaska	21,000
	Atka Mackerel	Western Pacific	[5] 1,000
	Seamount Groundfish	Northeast Pacific	2,000
	Jack Mackerel	Bering Sea/Aleutians	40,000
	Pollock	Gulf of Alaska	20,930
	do	Aleutians	[1] 200
	Sablefish	Bering Sea	[1] 400
	do	Gulf of Alaska, Southeast area	0
	Sablefish	Gulf of Alaska, other	1,600
	do	Gulf of Alaska	500
	Pacific Ocean Perch	do	100
	Other Rockfishes	do	100
	Other Groundfish	do	500
	do	Aleutians	1,600
	do	Bering Sea	5,000
Taiwan	Pollock	Bering Sea/Aleutians	0
	Sablefish	Aleutians	[3] 900
	do	Bering Sea	200
	Other Groundfish	Aleutians	6,000
	do	Bering Sea	100
	Pollock	Gulf of Alaska	1,000
	Other Groundfish	do	100
	Atka Mackerel	do	[6] 15,000
	Pacific Cod	do	2,000
Poland	Hake	Northeast Pacific	
	Jack Mackerel	do	

[1] Includes incidental catch of trawl fishery.
[2] Incidental catch only.
[3] 1,000 metric tons or 25 vessel days, whichever occurs first.
[4] 105,200 metric tons or 7,514 vessel days, whichever occurs first.
[5] 1,000 metric tons or 25 vessel days, whichever occurs first.
[6] 15,000 metric tons or 301 vessel days, whichever occurs first.

(d) The above allocations are based on calendar year 1977. Thus, foreign catches taken during January and February 1977 will be subtracted from the allocations listed in the above tables, and only the remaining balance will be available for foreign fishing between March 1, 1977 and December 31, 1977. Similarly, the remaining balance will be used by the United States in calculating the "poundage fees" assessed for foreign fishing for the period March 1–December 31, 1977.

(e) An allocation in terms of vessel days has been provided by the National Marine Fisheries Service for the Pacific seamount groundfish fishery and the Northeast Pacific hake fishery, in addition to a tonnage allocation.

(f) The foreign nation shall take the necessary measures to ensure that fishing vessels of that nation shall not in any year exceed such nation's allocation for any fishery.

(g) Failure by the Director to notify the competent authority of the foreign nation in accordance with paragraph (c) of this section shall not excuse the foreign nation from complying with the requirements of paragraph (e) of this section.

[FR Doc.77–6266 Filed 3–2–77; 8:45 am]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, MEAT AND POULTRY INSPECTION, DEPARTMENT OF AGRICULTURE

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES, AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Designation of the State of Ohio

AGENCY: Department of Agriculture, Animal and Plant Health Inspection Service, Meat and Poultry Inspection.

ACTION: Final Rule.

SUMMARY: The Secretary of Agriculture hereby designates the State of Ohio as required under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act. The Governor of Ohio has advised this Department that the State of Ohio is no longer in a position to continue administering the State meat and poultry inspection programs after March 31, 1977.

EFFECTIVE DATE: March 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. J. K. Payne, Federal-State Relations Officer, Field Operations, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202–447–6313).

SUPPLEMENTARY INFORMATION. The Governor of the State of Ohio has advised this Department that the State of Ohio is no longer in a position to continue administering the State meat inspection program after March 31, 1977, and has requested the Department to assume the responsibility for carrying out the provisions of titles I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning meat products and other articles and animals subject to the Federal Meat Inspection Act, and persons, firms, and corporations engaged therein.

Also, the Governor of the State of Ohio has advised this Department that the State of Ohio is no longer in a position to continue administering the State poultry inspection program after March 31, 1977, and has requested the Department to assume the responsibility for carrying out the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act with respect to establishments within the State at which poultry

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are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning products and other articles and animals subject to the Poultry Products Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of Ohio had developed and activated requirements at least equal to the requirements under titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. However, such titles and sections contemplate continuous, ongoing programs, and in view of the termination date now applicable to the Ohio programs, it is hereby determined that Ohio is not effectively enforcing requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act.

On April 3, 1977, the provisions of titles I and IV of the Federal Meat Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Federal Meat Inspection Act, and any establishment in the State of Ohio which conducts any slaughtering or preparation of carcasses or parts or products thereof of cattle, sheep, swine, goats, horses, mules, or other equines, must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 23(a) or 301(c) of the Federal Meat Inspection Act.

Also, on April 3, 1977, the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Poultry Products Inspection Act, and any establishment in the State of Ohio which conducts any slaughtering or processing of poultry or poultry products must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 15 or 5(c)(2) of the Poultry Products Inspection Act.

Therefore, the operator of each such establishment who desires to continue any such operations after March 31, 1977, should immediately communicate with the Regional Director for Meat and Poultry Inspection, as listed below, for information concerning the requirements and exemptions under the Acts and application for inspection and survey of the establishment:

Dr. L. H. Burkert, Director, North Central, Meat and Poultry Inspection Program, U.S. Courthouse Building, East First and Walnut Streets, Des Moines, Iowa 50309 (Telephone: 515–284–4042).

Accordingly, the table in § 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is amended as follows:

1. In the "State" column, "Ohio" is added immediately below "North Dakota."

2. In the "Effective date of application of Federal provisions" column, "April 3, 1977" is added on the line with "Ohio."

(Secs. 21 and 301(c), 34 Stat. 1260, as amended; 21 U.S.C. 621, 661(c); 37 F.R. 28464, 28477.)

Further, the table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended as follows:

1. In the "State" column, "Ohio" is added immediately below "North Dakota."

2. In the "Effective date of application of Federal provisions" column, "April 3, 1977" is added on the line with "Ohio."

(Secs. 5(c) and 14, 71 Stat. 441, as amended, 21 U.S.C. 454(c), 463; 37 F.R. 28464, 28477.)

These amendments of the Federal meat inspection regulations and the poultry products inspection regulations are necessary to reflect the determination of the Secretary of Agriculture under section 301(c) of the Federal Meat Inspection Act and section 5(c) of the Poultry Products Inspection Act. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Done at Washington, D.C., on March 2, 1977.

DONALD L. HOUSTON,
Acting Administrator, Animal and Plant Helath Inspection Service.

[FR Doc.77–6588 Filed 3–2–77;9:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 1479]

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Change of Annual Accounting Period for Foreign Corporations

On March 23, 1976, a notice of proposed rule making with respect to amendment of the Income Tax Regulations (26 CFR Part 1) under section 442 of the Internal Revenue Code of 1954, relating to the procedure a foreign corporation must follow in order to change its annual accounting period was published in the FEDERAL REGISTER (14 CFR 12017). A public hearing was held on June 29, 1976. The amendments to the regulations will require that a controlled foreign corporation (as defined in section 957) and a foreign corporation that meets the stock ownership requirements of a foreign personal holding company (as defined in section 552) must obtain the prior approval of the Commissioner before they are allowed to change their annual accounting period.

The principal draftsperson of this regulation was Mr. Robert A. Katcher of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style. Mr. Katcher may be contacted at 202–566–3828 or at 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T.

Adoption of amendments to the regulations. After full and careful consideration of all relevant matters presented by interested persons regarding the rules proposed, the amendments of the Income Tax Regulations (26 CFR Part 1) are hereby adopted as set forth below.

Section 1.442–1 is amended by adding a new paragraph (b)(3), revising the first sentence of paragraph (c)(1), revising paragraph (c)(2)(iv) and by adding a new paragraph (c)(5) to read as follows.

§ 1.442–1 Change of annual accounting period.

* * * * *

(b) Prior approval of the Commissioner. * * *

(3) *Certain foreign corporations.* Application for approval to change such taxable year of either a controlled foreign corporation (as defined in section 957 or a foreign corporation that meets the stock ownership requirements of a foreign personal holding company (as defined in section 552) shall be made by filing an application in accordance with paragraph (b)(1) of this section. The application shall be made by one or more of such controlled foreign corporation's United States shareholders (as defined in section 951(b)), by one or more individuals who comprise a foreign corporation's "United States group" (as defined in section 552(a)(2)), or by the respective corporations. In general, a change of such a taxable year will be approved if the annual accounting period of such controlled foreign corporation or foreign corporation meeting the stock ownership requirements of a foreign personal holding company is changed to conform to the requirements of foreign law or because bona fide foreign business reasons make such a change necessary or desirable and the other applicable provisions of paragraph (b)(1) of this section are satisfied.

(c) *Special rule for certain corporations.* (1) A corporation (other than a corporation to which subparagraphs (4) and (5) of this paragraph applies) may change its annual accounting period without the prior approval of the Commissioner if all the conditions in subparagraph (2) of this paragraph are met, and if the corporation files a statement with the district director with whom the returns of the corporation are filed at or before the time (including extension) for filing the return for the short period required by such change. * * *

(2) * * *

(iv) If a corporation had a special status either for the short period or for the taxable year immediately preceding such short period, it must have the same special status for both the short period and such taxable year (for the purpose of this subdivision, special status includes only: a personal holding company, a corporation that is an exempt organization, a foreign corporation not engaged in a trade or business within the United States, a Western Hemisphere trade corporation, and a China Trade Act corporation); and

* * * * *

(5) A controlled foreign corporation (as defined in section 957) or a foreign corporation that meets the stock ownership requirements of a foreign personal holding company (as defined in section 552) may change its taxable year only if it secures the prior approval of the Commissioner in accordance with paragraph (b)(1) and (3) of this section. A controlled foreign corporation or a foreign corporation that meets the stock ownership requirements of a foreign personal holding company that is not subject to United States income tax shall be treated for the purposes of this section as a taxpayer within the meaning of section 7701(a)(14).

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: February 14, 1977.

HENRY C. STOCKELL, Jr.,
Acting General Counsel.

[FR Doc.77–6443 Filed 2–28–77;3:42 pm]

[T.D. 7472]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Rules for Source of Income of Certain Dividends From a DISC or Former DISC

On September 16, 1976, notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) under section 861(a)(2)(D) of the Internal Revenue Code of 1954 to conform the regulations to changes made by section 503 of the Revenue Act of 1971 (85 Stat. 550) was published in the FEDERAL REGISTER (41 FR 39761). Section 503 of the Act, which amends section 861(a)(2) by adding a new subparagraph (D) to provide in effect that certain dividends from a DISC or former DISC are treated as gross income from sources within the United States except to the extent attributable to qualified export receipts, is effective generally for taxable years ending after December 31, 1971.

The Treasury decision does not reflect changes made by sections 1063, 1065, and 1101 of the Tax Reform Act of 1976 (Pub. L. 94–455), which added, in general for taxable years beginning after December 31, 1975, section 995(b)(1)(D), (E), (F)(ii), and (F)(iii) to the Internal Revenue Code of 1954 to provide additional deemed distributions made by a DISC taxable as dividends. It is contemplated that a notice of proposed rule making to provide rules for source of income of these dividends from a DISC will be forthcoming.

DRAFTING INFORMATION

The principal draftsperson of this regulation was Anthony Bonanno of the Legislation and Regulations Division of the Office of Chief Councel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style. Mr. Bonanno may be contacted at 202–566–3829 or at 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner.

Approved: February 18, 1977.

HENRY C. STOCKELL, Jr.,
Acting General Counsel.

In order to conform the Income Tax Regulations (26 CFR Part 1) to the amendments made to the Internal Revenue Code of 1954 by section 503 of the Revenue Act of 1971 (85 Stat. 550), § 1.861–3 is amended by revising paragraph (a)(1), by adding a sentence to the end of paragraph (a)(2), by adding a new paragraph (a)(5), and by revising the first sentence of paragraph (d). These revised and added provisions read as follows:

§ 1.861–3 Dividends.

(a) *General.*—(1) *Dividends included in gross income.* Gross income from sources within the United States includes a dividend described in subparagraph (2), (3), (4), or (5) of this paragraph. For purposes of subparagraphs (2), (3), and (4) of this paragraph, the term "dividend" shall have the same meaning as set forth in section 316 and the regulations thereunder. See subparagraph (5) of this paragraph for special rules with respect to certain dividends from a DISC or former DISC.

(2) *Dividend from a domestic corporation.* * * * See subparagraph (5) of this paragraph for the treatment of certain dividends from a DISC or former DISC.

* * * * *

(5) *Certain dividends from a DISC or former DISC.*—(i) *General rule.* A dividend described in this subparagraph is a dividend from a corporation that is a DISC or former DISC (as defined in section 992(a)) other than a dividend that—

(*a*) Is deemed paid by a DISC under section 995(b)(1)(D) and § 1.995–2(a)(4) (relating to a deemed distribution of a certain amount of taxable income in qualified years) to the extent provided in subdivision (iii) of this subparagraph or

(*b*) Reduces under § 1.996–3(b)(3) accumulated DISC income (as defined in subdivision (ii)(*b*) of this subparagraph) to the extent provided in subdivision (iv) of this subparagraph.

Thus, a dividend deemed paid under section 995(b)(1)(A), (B), or (C) (relating to certain deemed distributions in qualified years) will be treated in full as gross income from sources within the United States. To the extent that a dividend from a DISC or former DISC is paid out of other earnings and profits (as defined in § 1.996–3(d)), subparagraph (2) of this paragraph shall apply. To the extent that a dividend from a DISC or former DISC is paid out of previously taxed income (as defined in § 1.996–3(c)), see section 996(a)(3) (relating to the exclusion from gross income of amounts distributed out of previously taxed income). In determining the source of income of certain dividends from a DISC or former DISC, the source of income from any transaction which gives rise to gross receipts (as defined in § 1.993–6), in the hands of the DISC or former DISC, is immaterial.

(ii) *Definitions.* For purposes of this subparagraph, the term—

(*a*) "Dividend from" means any amount actually distributed which is a dividend within the meaning of section 316 (including distributions to meet qualification requirements under section 992(c)) and any amount treated as a distribution taxable as a dividend pursuant to section 995(b) (relating to deemed distributions in qualified years or upon disqualification) or included in gross income as a dividend pursuant to section 995(c) (relating to gain on certain dispositions of stock in a DISC or former DISC), and

(*b*) "Accumulated DISC income" means the amount of accumulated DISC income as of the close of the taxable year immediately preceding the taxable year in which the dividend was made increased by the amount of DISC income for the taxable year in which the dividend was made (as determined under § 1.996–3(b)(2)).

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For purposes of subdivisions (i) (b) and (iv) of this subparagraph, if by reason of section 995(c), gain is included in the shareholder's gross income as a dividend, accumulated DISC income shall be treated as if it were reduced under § 1.996–3(b)(3).

(iii) *Determination of source of income for deemed distributions under section 995(b)(1)(D).* (a) If for its taxable year a DISC has no taxable income from any transaction which gives rise to gross receipts (as defined in § 1.993–6) which are not qualified export receipts (as defined in § 1.993–1) other than a transaction giving rise to gain described in section 995(b)(1)(B) or (C), then for such year the entire amount treated under section 995(b)(1)(D) as a deemed distribution taxable as a dividend will be treated as gross income from sources without the United States.

(b) If for its taxable year a DISC has taxable income described in (a) of this subdivision, then for such year the portion of the amount treated under section 995(b)(1)(D) as a deemed distribution taxable as a dividend that will be treated as income from sources within the United States is equal to 50 percent of such taxable income. The remainder of such dividend will be treated as gross income from sources without the United States.

(iv) *Determination of source of income for dividends that reduce accumulated DISC income.* (a) If no portion of the accumulated DISC income of a DISC or former DISC is attributable to taxable income described in subdivision (iii)(a) of this subparagraph from any transaction during a year for which it is (or is treated as) a DISC, then the entire amount of any dividend that reduces under § 1.996–3(b)(3) accumulated DISC income will be treated as income from sources without the United States.

(b) If any portion of the accumulated DISC income of a DISC or former DISC is attributable to taxable income described in subdivision (iii)(a) of this subparagraph from any transaction during a year for which it is (or is treated as) a DISC, then the portion of any dividend during its taxable year that reduces under § 1.996–3(b)(3) accumulated DISC income that will be treated as income from sources within the United States shall be equal to the amount of such dividend multiplied by a fraction (determined as of the close of such year) the numerator of which is the amount of accumulated DISC income attributable to such taxable income, and the denominator of which is the total amount of accumulated DISC income. The remainder of such dividend will be treated as gross income from sources without the United States.

(v) *Special rules.* For purposes of subdivisions (iii) and (iv) of this subparagraph—

(a) Taxable income shall be determined under § 1.992–3(b)(2)(i) (relating to the computation of deficiency distribution), and

(b) The portion of any deemed distribution taxable as a dividend under section 995(b)(1)(D) or amount under § 1.996–3(b)(3) (i) through (iv) that is treated as gross income from sources within the United States during the taxable year shall be considered to reduce the amount of taxable income described in subdivision (iii)(a) of this subparagraph as of the close of such year.

(vi) *Illustrations.* This subparagraph may be illustrated by the following examples:

Example (1). (a) Y is a corporation which uses the calendar year as its taxable year and which elects to be treated as a DISC beginning with 1972. X is its sole shareholder. In 1973, Y has $18,000 of taxable income from qualified export receipts (none of which are interest and gains described in section 995(b)(1)(A), (E), and (C) and $1,000 of taxable income giving rise to gross receipts which are not qualified export receipts. Under these facts, X is deemed to have received a distribution under section 995(b)(1)(D) of $9,500, i.e., $19,000×½. X is treated under subdivision (iii)(b) of this subparagraph as having $500, i.e., $1,000×50 percent, from sources within the United States and $9,000 from sources without the United States.

(b) For 1972, assume that Y had no taxable income described in subdivision (iii)(a) of this subparagraph. Pursuant to subdivision (v)(b) of this subparagraph, at the beginning of 1974, $500 of Y's accumulated DISC income is attributable to taxable income from transactions which gave rise to gross receipts which are not qualified export receipts (as described in subdivision (iii)(a) of this subparagraph), i.e., $1,000—$500.

Example (2). The facts are the same as in example (1) except that in 1973, in addition to the taxable income described in such example, Y has $450 of taxable income from gross interest from producer's loans described in section 995(b)(1)(A). Under these facts, the deemed distribution of $450 under section 995(b)(1)(A) is treated in full under subdivision (i) of this subparagraph as gross income from sources within the United States. The deemed distribution under section 995(b)(1)(D) of $9,500 will be treated in the same manner as in example (1).

Example (3). (a) The facts are the same as in example (1) except that in 1973, in addition to the distributions described in such example, Y makes a deemed distribution taxable as a dividend of $100 under section 995(b)(1)(E) (relating to foreign investment attributable to producer's loans) and actual distributions of all of its previously taxed income and of $2,000 taxable as a dividend which reduces accumulated DISC income (as defined in subdivision (ii)(b) of this subparagraph). Under § 1.996–3(b)(3), accumulated DISC income is first reduced by the deemed distribution of $100 and then by the actual distribution taxable as a dividend of $2,000. As indicated in example (1), for 1972 Y had no taxable income described in subdivision (iii)(a) of this subparagraph. Assume that Y had accumulated DISC income of $12,000 at the end of 1973, $500 of which under example (1) is attributable to taxable income described in subdivision (iii)(a) of this subparagraph.

(b) The distribution from previously taxed income is excluded from gross income pursuant to section 996(a)(3).

(c) Of the deemed distribution of $100, X is treated under subdivision (iv)(b) as having $4.17, i.e., $100×500/12,000, from sources within the United States and $95.83, i.e., $100—$4.17, from sources without the United States.

(d) Of the actual distribution taxable as a dividend of $2,000, X is treated under subdivision (iv)(b) as having $83.33, i.e., $2,000×500/12,000, from sources within the United States and $1,916.67, i.e., $2,000—$83.33, from sources without the United States.

(e) The sum of the amounts deemed and actually distributed as dividends for 1973 that are treated as gross income from sources within the United States is as follows:

	Total dividend	Amount of dividend from sources within the United States
Deemed distribution under sec. 995(b)(1)(D)	$9,500	$500.00
Deemed distribution under sec. 995(b)(1)(E)	100	4.17
Actual distribution that reduces accumulated DISC income	2,000	83.33
Totals	11,000	587.50

Thus, pursuant to subdivision (v)(b) of this subparagraph, at the beginning of 1974 Y has $412.50, i.e., $1,000—$587.50, of taxable income described in subdivision (iii)(a) of this subparagraph.

(f) The result would be the same if Y made an actual distribution taxable as a dividend of $1,500 on March 30, 1973, and another distribution of $500 on December 31, 1973.

* * * * * * *

(d) *Effective date.* This section applies with respect to dividends received or accrued after December 31, 1966, except that paragraph (a)(5) of this section applies to certain dividends from a DISC or former DISC in taxable years ending after December 31, 1971. * * *

[FR Doc.77–6444 Filed 3–1–77;4:53 pm]

[T.D. 7469]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Computation of Policyholders' Share of Investment Yield on Consolidated Tax Returns of Life Insurance Companies and Inadvertent Distributions From the Policyholders Surplus Account

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) in order to conform such regulations to the provisions of the Act of January 12, 1971 (Public Law 91–688, 84 Stat. 2072), which added section 818(g) to the Internal Revenue Code of 1954, and the Act of June 30, 1976 (Public Law 94–331, 90 Stat. 781) which added section 815(d)(6).

Section 818(g) provides that life insurance companies filing consolidated tax returns must compute the amount of their investment yield which is taxable to them as if they were filing separate returns and thus they cannot eliminate intercorporate dividends. This provision follows the decision of the Court of Appeals for the Fourth Circuit in *Jefferson Standard Life Insurance Co.* v. *United States*, 408 F. 2d 842 (4th Cir. 1969), and applies to taxable years beginning after December 31, 1957.

Section 815(d)(6) provides that inadvertent distributions from the policyholders surplus account made during the last month of a taxable year are not to be included in the income of a life Insurance Company. That section only applies however, if the amounts so distributed are returned to the company no later than the time prescribed by law (including extensions thereof), for filing the company's return for the taxable year in which the distribution was made.

In order to conform the Income Tax Regulations (26 CFR Part 1) to sections 818(g) and 815(d)(6) of the Code (as added by the Act of January 12, 1971; Public Law 91–688, 84 Stat. 2072, and by the Act of June 30, 1976; Public Law 94–331, 90 Stat. 781), relating to the taxation of life insurance companies, the following regulations are adopted.

The principal draftsperson of this regulation was David Jacobson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style. Mr. Jacobson may be contacted at 202–566–3923 or by mail at 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Attention: CC:LR:T.

Par. 1. Section 1.815 is amended by adding a new section 815(d)(6) and revising the historical note. The added and revised provisions are to read as follows:

§ 1.815 Statutory provisions; life insurance companies; distributions to shareholders.

SEC. 815. *Distributions to shareholders.*

* * * * * * *

(d) *Special rules.*— * * *

(6) *Restoration of amounts distributed out of policyholders surplus account.*—Notwithstanding any other provision of this subchapter, no amount shall be subtracted from a taxpayer's policyholders surplus account with respect to a distribution made during the last month of the taxable year which, without regard to this paragraph, would be treated in whole or in part as a distribution of the policyholders surplus account, to the extent that amounts so distributed are returned to the taxpayer no later than the time prescribed by law (including extension thereof) for filing the taxpayer's return for the taxable year in which the distribution was made. For purposes of this paragraph, amounts returned to a taxpayer with respect to a distribution shall be first applied to the return of amounts which, without regard to this paragraph, would have been treated as distributed out of the policyholders surplus account. This paragraph shall not apply if, at the time such distribution was made, the taxpayer intended to avail itself of the provision of this paragraph by having its shareholders return all or a part of such distribution. Nothing in this paragraph shall affect the tax treatment of the receipt of the distribution by any shareholder, and the basis to a shareholder of his stock in the taxpayer shall not be increased by reason of amounts returned under this paragraph to the extent that a dividends received deduction or exclusion was allowable in respect of the distribution of such amount under any provision of this title.

* * * * * * *

(Sec. 815 as added by sec. 2, Life Insurance Company Income Tax Act of 1959 (73 Stat. 129); amended by sec. 3, Act of October 10, 1962 (Pub. L. 87–790, 76 Stat. 808); sec. 3(b), Act of October 23, 1962 (Pub. L. 87–858, 76 Stat. 1136); secs. 2, 3, and 4, Act of September 2, 1964 (Pub. L. 88–571, 78 Stat. 867); sec. 4, Act of December 27, 1967 ,Pub. L. 90–225, 81 Stat. 733); sec. 907(b), Tax Reform Act, 1969 (83 Stat. 715); sec. 1, Act of June 30, 1976 (Pub. L. 94–331, 90 Stat. 781).)

Paragraph 2. Section 1.818 is amended by adding a new paragraph (g) and by revising the historical note. The added and revised provisions read as follows:

§ 1.818 Statutory provisions; life insurance companies; accounting provisions.

SEC. 818. *Accounting provisions.*

* * * * * * *

(g) *Computation on consolidated returns of policyholders' share of investment yield.* For purposes of this part, in case of a life insurance company filing or required to file a consolidated return under section 1501 for a taxable year, the computations of the policyholders' share of investment yield under subparts B and C (including all determinations and computations incident thereto) shall be made as if such company were not filing a consolidated return.

(Sec. 818 as added by sec. 2, Life Insurance Company Tax Act 1955 (70 Stat. 46); amended by sec. 3, Life Insurance Company Income Tax Act 1959 (73 Stat. 1338; sec. 1, Act of January 12, 1971 (Pub. L. 91–688, 84 Stat. 2072).)

§ 1.818–1 [Amended]

Par. 3. Section 1.818–1 is amended by deleting "1.818–7" and inserting in lieu thereof "1.818–8".

Par. 4. A new § 1.818–8 is added immediately following § 1.818–7. This new section reads as follows:

§ 1.818–8 Special rules relating to consolidated returns and certain capital losses.

Section 818(g) provides that, in the case of a life insurance company filing or required to file a consolidated return under section 1501 for a taxable year, the computations of the policyholders' share of investment yield under subparts B and C, part I, subchapter L, chapter 1 of the Code (including all determinations and computations incident thereto) shall be made as if such company were not filing a consolidated return. Thus, for example, if X and Y are life insurance companies which are entitled to file a consolidated return for 1975 and X has paid dividends to Y during such taxable year, Y must include such dividends in the computation of gross investment income under section 804(b). For other rules relating to the filing of consolidated returns, see sections 1501 through 1504 and the regulations thereunder.

Because this Treasury decision in essence only codifies statutory material, it is found unnecessary to issue this Treasury decision with notice and public procedure thereunder under 5 U.S.C. 553(b) or subject to the effective date of limitations of 5 U.S.C. 553(d).

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: February 18, 1977.

HENRY C. STOCKELL, JR.,
Acting General Counsel.

[FR Doc.77–6642 Filed 2–28–77;3:42 pm]

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7471]

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

Temporary Regulations Relating to Disclosures of Return Information to Certain Officers and Employees of the Department of Commerce and Federal Trade Commission for Statistical Purposes and Related Activities

This document contains temporary regulations on procedure and administration (26 CFR Part 404) under section 6103(j)(1), (2), and (4) of the Internal Revenue Code of 1954, as added by section 1202 of the TAX Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1678), in order to provide rules governing disclosures of return information (as defined by section 6103(b)(2)) to certain officers and employees of the Department of Commerce and Federal Trade Commission for statistical purposes and related activities authorized by section 6103(j)(1) and (2) of the Code.

The temporary regulations describe in detail the particular return information which the Internal Revenue Service will disclose to officers and employees of the Bureau of the Census and the Bureau of Economic Analysis and the Division of Financial Statistics of the Bureau of Economics of the Federal Trade Commission for use in statistical programs and related activities authorized by law. The temporary regulations also prescribe the procedures to be followed with respect to requested disclosures of return information and the limited extent to which such return information can be redisclosed and provide that the confidentiality of return information disclosed as provided by the regulations must be protected to the satisfaction of the Service.

These temporary regulations are effective on January 1, 1977.

The principal draftsperson of this regulation was David E. Dickinson of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style. Mr. Dickinson may be contacted at 202–566–3363 or by mail at 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Adoption of amendment to the regulations. In order to prescribe temporary regulations on procedure and administration relating to disclosures of return

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information to certain officers and employees of the Department of Commerce and Federal Trade Commission for statistical purposes and related activities authorized by section 6103(j) (1) and (2) of the Internal Revenue Code of 1954, as added by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1678), and to prescribe temporary regulations under section 6103(j)(4) restricting redisclosure of such return information by such officers and employees, the following temporary regulations are hereby adopted and added to Part 404 of Title 26 of the Code of Federal Regulations.

§ 404.6103(j)(1)–1 Disclosures of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

(a) *General rule.* Pursuant to the provisions of section 6103(j)(1) of the Internal Revenue Code of 1954 and subject to the requirements of paragraph (d) of this section, officers or employees of the Internal Revenue Service will disclose return information (as defined by section 6103(b)(2)) to officers and employees of the Department of Commerce to the extent, and for such purposes as may be, provided by paragraphs (b) and (c) of this section.

(b) *Disclosure of return information to officers and employees of the Bureau of the Census.* (1) Officers or employees of the Internal Revenue Service will disclose to officers and employees of the Bureau of the Census for purposes of conducting and preparing, as authorized by law, intercensal estimates of population and per capita income for all geographic areas included in the general revenue sharing program the following return information reflected on the 1975 return of an individual taxpayer with respect to the tax imposed by chapter 1 and contained in the individual master files of the Service—

(i) Taxpayer identity information (as defined in section 6103(b)(6), other than the name of the taxpayer), validity code with respect to the taxpayer identifying number (as described in section 6109), and taxpayer identifying number of spouse, if reported,

(ii) District office and service center codes,

(iii) Marital status,

(iv) Numbers and classifications of reported exemptions,

(v) Adjusted gross income,

(vi) Wage and salary income,

(vii) Dividend income,

(viii) Interest income,

(ix) Gross rent and royalty income,

(x) Entity code,

(xi) Revenue sharing code and answer to the revenue sharing question,

(xii) Code indicators for Form 1040, Schedules C, D, E, F, and SE, and

(xiii) Julian date relative to filing.

(2) Officers or employees of the Internal Revenue Service will disclose to officers and employees of the Bureau of the Census for purposes of conducting, as authorized by law, economic statistics programs and conducting and preparing economic censuses the taxpayer name directory derived from, and the following return information reflected on the return of a taxpayer and contained in, the business master files of the Service—

(i) Entity records consisting of taxpayer identity information (as defined in section 6103(b)(6)), the principal industrial activity code, and monthly corrections of, and additions to, such entity records;

(ii) From a quarterly employment tax return—

(A) Taxpayer identifying number (as described in section 6109),

(B) Total compensation paid,

(C) Taxable wages for purposes of chapter 21,

(D) Taxable tip income reported,

(E) Master file tax account number,

(F) Taxable period covered by such return,

(G) Employment code,

(H) Final return indicator,

(I) Document locator number, and

(J) Record code;

(iii) From an annual employment tax return filed by an employer with respect to agricultural employees—

(A) Taxpayer identifying number,

(B) Total taxable cash wages paid for purposes of chapter 21,

(C) Master file tax account number,

(D) Taxable period covered by such return,

(E) Final return indicator,

(F) Document locator number, and

(G) Record code.

(3) Officers or employees of the Internal Revenue Service will disclose to officers and employees of the Bureau of the Census for purposes of conducting and preparing, as authorized by law, economic censuses and censuses of agriculture the following business related return information reflected on the return of a taxpayer and contained in the master files of the Service—

(i) From Form 1040, Schedule C, taxpayer identity information (as defined in section 6103(b)(6)), the principal industrial activity code, and reported gross receipts less returns and allowances;

(ii) From Form 1120F, Section II, and Forms 1065, 1120, 1120S, 990C, and 990T, the taxpayer identifying number (as described in section 6109), the principal industrial activity code, and reported gross receipts less returns and allowances.

(iii) From Form 1040, Schedule F, taxpayer identity information and reported gross profits (cash basis) or gross sales (accrual basis);

(iv) From Form 1040, Schedule C, and Forms 1065, 1120, and 1120S, answers to the business activity questions;

(v) From Form 1040, Schedule C, business address and answer to the question relating to Form 941; and

(vi) From Form 990PF, the taxpayer identifying number, the principal industrial activity code, and reported total receipts.

(4) Officers or employees of the Internal Revenue Service will disclose to officers and employees of the Bureau of the Census for purposes of conducting and preparing, as authorized by law, economic censuses return information relating to a taxpayer and contained in the exempt organization master files of the Service which consists of taxpayer identity information (as defined in section 6103(b)(6)), activity codes, and filing requirement code, and monthly corrections of, and additions to, such return information.

(c) *Disclosure of return information to officers and employees of the Bureau of Economic Analysis.* Officers or employees of the Internal Revenue Service will disclose to officers and employees of the Bureau of Economic Analysis for purposes of conducting and preparing, as authorized by law, statistical analyses return information consisting of Statistics of Income transcript-edit sheets containing return information reflected on returns of designated classes or categories of corporations with respect to the tax imposed by chapter 1 and microfilmed records of return information reflected on such returns where needed for further use in connection with such conduct or preparation.

(d) *Procedures and restrictions.* Disclosure of return information by officers or employees of the Internal Revenue Service as provided by paragraphs (b) and (c) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Secretary of Commerce describing the particular return information to be disclosed and the taxable period or date to which such return information relates and designating by name and title the officers and employees of the Bureau of the Census or the Bureau of Economic Analysis to whom such disclosure is authorized. No such officer or employee to whom return information is disclosed pursuant to the provisions of paragraph (b) or (c) shall disclose such return information to any person, other than the taxpayer to whom such return information relates or other officers or employees of such bureau whose duties or responsibilities require such disclosure for a purpose described in paragraph (b) or (c), except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. If the Service determines that the Bureau of the Census or the Bureau of Economic Analysis, or any officer or employee thereof, has failed to, or does not, satisfy the requirements of section 6103(p)(4) or regulations or published procedures thereunder, the Service may take such actions as are deemed necessary to ensure that such requirements are or will be satisfied, including suspension of disclosures of return information otherwise authorized by section 6103(j)(1) and paragraph (b) or (c) of this section, until the Service determines that such requirements have been or will be satisfied.

§ 404.6103(j)(2)–1 Disclosures of return information to officers and employees of the Federal Trade Commission for certain statistical purposes and related activities.

(a) *General rule.* Pursuant to the provisions of section 6103(j)(2) of the Internal Revenue Code of 1954 and subject to the requirements of paragraph (b) of this section, officers or employees of the Internal Revenue Service will disclose to officers and employees of the Division of Financial Statistics of the Bureau of Economics of the Federal Trade Commission for purposes of developing and preparing, as authorized by law, the Quarterly Financial Report the following return information (as defined by section 6103(b)(2)) reflected on the return of a corporation with respect to the tax imposed by chapter 1 and contained in the business master files of the Service:

(i) Taxpayer identity information (as defined in section 6103(b)(6)),

(ii) Consolidated return and final return indicators,

(iii) Principal industrial activity code,

(iv) Partial year indicator,

(v) Annual accounting period,

(vi) Gross receipts less returns and allowances,

(vi) Net income or loss, and

(vii) Total assets.

(b) *Procedures and restrictions.* Disclosure of return information by officers or employees of the Internal Revenue Service as provided by paragraph (a) of this section will be made only upon written request to the Commissioner of Internal Revenue by the Chairman of the Federal Trade Commission describing the particular return information to be disclosed and the taxable period or date to which such return information relates and designating by name and title the officers and employees of the Division of Financial Statistics of the Bureau of Economics to whom such disclosure is authorized. No such officer or employee to whom return information is disclosed pursuant to the provisions of paragraph (a) shall disclose such return information to any person, other than the taxpayer to whom such return information relates or other officers or employees of such division whose duties or responsibilities require such disclosure for a purpose described in paragraph (a), except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. If the Service determines that the division, or any officer or employee thereof, has failed to, or does not, satisfy the requirements of section 6103(p)(4) or regulations or published procedures thereunder, the Service may take such actions as are deemed necessary to ensure that such requirements are or will be satisfied, including suspension of disclosures of return information otherwise authorized by section 6103(j)(2) and paragraph (a) of this section until the Service determines that such requirements have been or will be satisfied.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (c) of that section.

(Sec. 6103(j) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1678, 68A Stat. 917; 26 U.S.C. 6103(j), 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: February 18, 1977.

HENRY C. STOCKELL, JR.,
Acting General Counsel.

[FR Doc.77-6445 Filed 2-28-77;9:42 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1011]

[Docket No. A0-251-A20]

MILK IN THE TENNESSEE VALLEY MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held at the Holiday Inn Downtown, U.S. Highway 441 (Chapman Highway) at Blount Avenue, Knoxville, Tennessee, beginning at 9:30 a.m., on March 24, 1977, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Tennessee Valley marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY DAIRYMEN, INC.

Proposal No. 1. Add the following sections to the order:

§ 1011.90 Base milk.

"Base milk" means milk received at pool plants from a producer during any of the months of March through June which is not in excess of such producer's daily average base computed pursuant to § 1011.92, multiplied by the number of days in such month.

§ 1011.91 Excess milk.

"Excess milk" means milk received at pool plants from a producer during any of the months of March through June which is in excess of the base milk of such producer for such month, and shall include all milk received during such months from a producer for whom no daily average base can be computed pursuant to § 1011.92.

§ 1011.92 Computation of daily average base for each producer.

Subject to the rules set forth in § 1011.93, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of September through December immediately preceding, by the number of days' production represented by such deliveries: *Provided*, That the divisor shall be the actual days of production, or 100, whichever is greater. *Provided further*, That any producer who, during the preceding months of September through December, delivered his milk to a nonpool plant which became a pool plant after the beginning of such period shall be assigned a base in the same manner as if he had been a producer during such period, calculated from his deliveries during such September through December period to such plant.

§ 1011.93 Base rules.

The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base calculated pursuant to § 1011.92 to each person for whose account producer milk was delivered to pool plants during the months of September through December;

(b) A base which is assigned pursuant to the proviso of § 1011.92 shall be nontransferable. Base which is otherwise assigned shall be transferred in increments of not less than 300 pounds, or total available to transfer, whichever is less, effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs. In the case of a transfer of a full and entire base the transfer shall be effective on the date of transfer; provided a transfer form, properly signed, is received in the market administrator's office on or before the third day after the transfer: *Provided*, That if a base is held jointly, base shall be transferable only upon the receipt of such application signed by all joint holders or their heirs;

(c) Any producer who transfers base during any February through May period cannot receive a transfer of base during the remainder of that February through May period. Any producer who receives base by transfer during any February through May period cannot transfer a portion of his base during the remainder of that February through May period; the producer can, however, transfer his entire base subject to other provisions herein;

(d) A base which has been established by two or more persons operating a dairy farm as a partnership may be divided between the partners on any basis agreed to in writing by the partners; provided written notification of the agreed division of base signed by each partner is received by the market administrator prior to the first day of the month on which such division is to be effective; and

(e) A Hardship Committee composed of five (5) producers shall be appointed by the market administrator. Such committee shall meet once each year during the first 15 days of March and review all hardship evidence or hear each person, who so desires, present evidence to prove, that during the preceding months of September through December in which base was earned, that he suffered loss of production due to natural disaster, official quarantine for disease or pesticide residue, or condemnation of milk from PCB residue. A producer's daily average base may be increased to a maximum of 80 percent of the producer's daily average production in the first full month's production in the current March through June period. Each hardship case must be submitted in writing on a form available in the market administrator's office on or before March 1 of each year. All hardship adjustments must be approved by the market administrator.

§ 1011.94 Announcement of established bases.

On or before February 1 of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the daily average base established by such producer, and shall notify a cooperative association of which such producer is a member of such daily average base if the cooperative association so requests.

Proposal No. 2. Revise § 1011.32 to read as follows:

§ 1011.32 Other reports.

(a) Each handler who receives milk from producers shall report to the market administrator on or before the 6th day after the end of each of the months of March through June, the aggregate quantity of base milk received during the month at each of his pool plants, and on or before the 20th day after the end of each of the months of March through June the pounds of base milk received during the month from each producer.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1011.30 and 1011.31, each handler shall report such other information as the market administrator deems necessary to verify or establish each handler's obligation under the order.

Proposal No. 3. Revise § 1011.61 to read as follows:

§ 1011.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) For each month the market administrator shall compute the weighted average price and for each of the months of July through February, the uniform price per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(1) Combine into one total the values computed pursuant to § 1011.60 for all handlers who filed the reports prescribed in § 1011.30 for the month and who made the payments pursuant to § 1011.71 for the preceding month;

(2) Add one-half the unobligated balance in the producer-settlement fund;

(3) Add an amount equal to the total value of the location adjustments computed pursuant to § 1011.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1011.60(f); and

(5) Subtract not less than 4 cents, nor more than 5 cents per hundredweight. The results shall be the "weighted average price" and shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in each of the months of July through February.

(b) For each of the months of March through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content f.o.b. market, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk assigned to Class III milk in the pool plants of such handlers by the Class III price;

(ii) Multiply the remaining hundredweight quantity of excess milk which does not exceed the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II price;

(iii) Multiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(3) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figures shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

Proposal No. 4. Revise § 1011.62 to read as follows:

§ 1011.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the applicable uniform prices pursuant to § 1011.61 for such month.

Proposal No. 5. Revise § 1011.71(a)(2)(i) by replacing the word "price" with the word "prices".

Proposal No. 6. Revise § 1011.71(a)(2)(ii) by changing the words "uniform price" to "weighted average price".

Proposal No. 7. Revise subparagraph (a)(1) of § 1011.73 by replacing the words "uniform price" with the words "weighted average price".

Proposal No. 8. Within the introductory text of subparagraph (a)(2) of § 1011.73 replace the words "uniform price" with the words "appropriate uniform price(s)", and replace the words "of milk" with the words "of milk or base milk and excess milk".

Proposal No. 9. Revise subparagraph (c)(1) of § 1011.73 by changing the words "uniform price" to the words "weighted average price".

Proposal No. 10. Revise subparagraph (c)(2) of § 1011.73 by replacing the words "uniform price" with the words "appropriate uniform price(s)".

Proposal No. 11. Revise subparagraphs (d)(3) through (d)(6) of § 1011.73 by renumbering such subparagraphs to (d)(4) through (d)(7) and adding a new subparagraph (d)(3) to read as follows:

(3) For the months of March through June the total pounds of base milk received;

Proposal No. 12. Revise § 1011.74 by changing the words "uniform price" to the words "uniform prices".

Proposal No. 13. Revise paragraph (a) of § 1011.75 by changing the word "price" to the word "prices".

Proposal No. 14. Revise paragraph (b) of § 1011.75 by changing the words "uniform price" to the words "weighted average price" wherever they appear in the paragraph.

Proposal No. 15. Revise subparagraph (a)(4) of § 1011.76 by changing the words "uniform price" to the words "weighted average price" wherever they appear in the subparagraph.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

Proposal No. 16. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator J. E. Bobo, 218 Kingston-Forest Building, 4711 Old Kingston Pike, S.W., Knoxville, Tennessee 37919 or from the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on: February 28, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.77-6447 Filed 3-2-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 35]

HUMAN USES OF BYPRODUCT MATERIAL

Specific Licenses to Individual Physicians and Institutions

Following its organization under the Energy Reorganization Act of 1974 (Pub. L. 93-438), the Nuclear Regulatory Commission (NRC) has stated its intention of reviewing those of its regulations and procedures pertaining to the licensing and regulation of nuclear facilities and materials that were originally promulgated by the Atomic Energy Commission, with a view to considering what changes should be made.

Summary. The Nuclear Regulatory Commission has under consideration an amendment to its regulations in 10 CFR Part 35, "Human Uses of Byproduct Material." The amendment would require a medical institution to be licensed for byproduct material used in the institution, rather than the individual physician using the byproduct material. This would be accomplished by limiting the granting of individual physician licenses under § 35.12 to a physician or group of physicians in private practice in an office outside the institution. (In order not to impede the delivery of nuclear medicine services at small medical institutions or clinics, an exception would be made for private practice in an institution or clinic to allow a physician(s) to

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bring byproduct material into a hospital (1) to administer radiopharmaceuticals to a patient for therapeutic or diagnostic purposes, (2) to perform diagnostic studies on patients to whom a radiopharmaceutical has been administered or (3) perform in vitro diagnostic studies. The physician(s) would be required to remove from the premises, when he (they) depart(s), all byproduct materials except those remaining in the patient. As provided in § 30.34(c), the licensee shall confine his possession and use to the locations and purposes authorized in the license.)

Institutions and Individual Practice. "The Manual on Radition Protection in Hospitals and General Practice," published by the World Health Organization (1974) in cooperation with the International Labor Organization and the International Atomic Energy Agency, offers the following guidance:

> Responsibility for radiation protection affects all members of the administrative system, from the employing authority to the individual carrying out a radiological procedure. The authority in charge of any establishment is ultimately responsible for the protection of all staff, patients, and members of the public who may come within range of any radiation from its equipment.

In context, this statement is used to encourage management to designate a person in each department concerned with ionizing radiations to take care of day-to-day protection measures; however, the admonition for management responsibility and involvement in radiation safety is regarded here as the goal for medical use and other radiation safety programs.

With this goal in mind, the Commission is proposing a rule change that would, in effect, require a medical institution, now operating a nuclear medicine program under an individual physician license, to be licensed as an institution under § 35.11 at the time of expiration of the individual physician license obtained under § 35.12. In order for a physician to continue to practice nuclear medicine in a medical institution he would have to be named on the institution's license by the time his individual physician license expires. At the expiration of the individual physican license, the Commission would not renew authorization for practice within a medical institution. Medical institutions which already hold an institution license would be encouraged to add the names of individual physicians to their institution license immediately, rather than wait until the physician's individual license expires. The proposed rule change, in effect, provides that institutional licenses and individual physician licenses are mutually exclusive.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 35 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by April 18, 1977. Copies of comments may be examined in the NRC Public Document Room at 1717 H Street, NW., Washington, D.C.

§ 35.12 is revised to read as follows:

§ 35.12 Specific licenses to individual physicians for human use of byproduct material.

(a) An application by an individual physician or group of physicians for a specific license for human use of byproduct material will be approved if:

(1) The applicant satisfies the general requirements specified in § 30.33 of this chapter;

(2) The application is for use in the applicant's practice in an office(s) outside a medical institution;

(3) The applicant has access to a hospital possessing adequate facilities to hospitalize and monitor the applicant's radioactive patients whenever it is advisable; and

(4) The applicant has extensive experience in the proposed use, the handling and administration of radioisotopes, and where applicable, the clinical management of radioactive patients. (The physician(s) shall furnish suitable evidence of such experience with the application. A statement from the medical isotope committee in the institution where the applicant acquired experience, indicating its amount and nature, may be submitted as evidence of such experience.)

(b) The Commission will not approve an application by an individual physician or group of physicians for a specific license to receive, possess or use byproduct material on the premises of a medical institution unless:

(1) The use of byproduct material is limited to:

(i) The administration of radiopharmaceuticals for diagnostic or therapeutic purposes;

(ii) The performance of diagnostic studies on patients to whom a radiopharmaceutical has been administered; or

(iii) The performance of in vitro diagnostic studies;

(2) The physician brings the byproduct material with him and removes the byproduct material when he departs. (The institution cannot receive, possess or store byproduct material other than the amount of material remaining in the patient.); and

(3) The medical institution does not hold a byproduct material license under § 35.11.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841))

Dated at Washington, D.C. this 24th day of February, 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-6374 Filed 3-2-77;8:45 am]

[10 CFR Part 51]

ENVIRONMENTAL REPORTS BY CERTAIN APPLICANTS

Licensing

Notice is hereby given that the Nuclear Regulatory Commission is considering the amendment of its regulations in 10 CFR Part 51. The proposed amendments are of a minor nature or are procedural and clarifying changes.

Section 51.40 of the Commission's regulation "Licensing and Regulatory Policy and Procedures for Environmental Protection," 10 CFR Part 51, requires applicants for materials licenses issued pursuant to 10 CFR Parts 30, 40, or 70, which are covered by 10 CFR 51.5(a), to submit to the Commission 150 copies of an environmental report which discusses the matters described in 10 CFR 51.20.

The proposed amendment of 10 CFR 51.40 set forth below would reduce the number of copies of environmental reports applicable to Parts 30, 40, and 70 licenses from 150 to 100 copies.

The amendment of 10 CFR 51.40 also would require that 15 copies of the environmental reports applicable to Parts 30, 40, and 70 licenses be submitted to the NRC and that an additional 85 copies of the environmental report be retained by the applicant for distribution to Federal, State and local officials in accordance with written instructions issued by the Director of Nuclear Material Safety and Safeguards.

Direct distribution by the applicant of the additional copies of the environmental report would materially expedite the distribution of such copies by eliminating duplicate handling of them by the applicant and the NRC staff. This procedure also would alleviate problems of the NRC staff with regard to the receipt, storage, assembly, and remailing of large volumes of environmental reports.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the National Environmental Act of 1969, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 51 is contemplated. All interested persons who wish to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 Attention: Docketing and Service Branch, by May 2, 1977. Copies of the comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. In section 51.40 of 10 CFR Part 51, paragraph (a) is amended by deleting "Except as provided in paragraph (b) of this section" and substituting therefor "Except as provided in paragraphs (b) and (c) of this section", and by adding a new paragraph (c) to read as follows:

§ 51.40 Environmental reports.

* * * * *

(c) Applicants for licenses, amendments to licenses, and renewals thereof, issued pursuant to Parts 30, 40, and/or 70 of this chapter, covered by paragraphs (a)(4), (a)(5), (a)(6), (b)(4), (b)(5), and (b)(8) of § 51.5 shall submit to the Director of Nuclear Material Safety and Safeguards 15 copies of an environmental report which discusses the matters described in § 51.20. The applicant shall retain an additional 85 copies of the environmental report for distribution to Federal, State, and local officials in accordance with written instructions issued by the Director of Nuclear Material Safety and Safeguards.

(Secs. 53, 62, 81, 1611, Pub. L. 83-703, as amended; 68 Stat. 930, 932, 935, 948 (42 U.S.C. 2073, 2092, 2111, 2201(i)); sec. 201, Pub. L. 93-438, as amended, 88 Stat. 1242, 89 Stat. 413 (42 U.S.C. 5841); Sec. 102, Pub. L. 91-190, 83 Stat. 853).

Dated at Bethesda, Maryland this 10th day of February 1977.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc.77-6375 Filed 3-2-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

REEVALUATION OF CRUDE OIL BUY/SELL PROGRAM

Public Hearing and Opportunity for Public Comment

The Federal Energy Administration ("FEA") hereby gives notice that it will hold a public hearing and receive written comments with respect to the adequacy of and continuing necessity for the Mandatory Crude Oil Allocation Program (the "buy/sell program"), 10 CFR 211.65. As part of its continuing review of the operation of the mandatory allocation regulations for the petroleum industry, FEA is considering whether to eliminate the buy/sell program or, in the alternative, modify the program to facilitate its administration and to reflect current conditions in the petroleum industry. Elimination or modification of the program is under consideration because the current supplies of crude oil for small and independent refiners appear to be adequate, taking into account allocations under the crude oil supplier/purchaser freeze (10 CFR 211.63) and the general availability of imported crude oil in the world markets.

I. BACKGROUND

The first crude oil allocation program was promulgated in January 1974, and provided for sales and purchases of crude oil among refiners so that each refiner would have access to available supplies of crude oil at the national average supply-to-capacity ratio for all refiners. Refiners with supply-to-capacity ratios greater than the national average were required to sell their crude oil supplies that were in excess of the national average supply-to-capacity ratio. Refiners with less than the national average supply levels were entitled to purchase sufficient crude oil from sellers to increase their supply level to the national average supply-to-capacity ratio.

The current program, which became effective in June 1974, provides allocations only to small and independent refiners (refiner-buyers) to ensure equitable access to crude oil for this class. Each refiner-buyer is eligible to purchase during each allocation quarter an amount of crude oil equal to one quarter of its crude oil runs to stills in the year 1972 less the volume of crude oil runs to stills for the period February through April 1974, with certain adjustments. Provision is also made for allocation of crude oil with respect to new or expanded refinery capacity as defined in 10 CFR 211.62. The fifteen major refiners, or refiner-sellers, are required to offer crude oil for sale to the refiner-buyers. The sales obligations are based upon each refiner-seller's percentage share of the total refining capacity of all refiner-sellers as of January 1, 1973. Crude oil allocated to refiner-buyers is priced at the weighted average cost of imported crude oil for the particular refiner-seller plus a handling fee and transportation and quality adjustments.

FEA commenced its reevaluation of the buy/sell program primarily because more normal supply conditions have returned to the petroleum industry since the program was originally promulgated immediately following the end of the Arab embargo. FEA believes it is significant that refiner-buyers are currently exercising only approximately 30 percent of their purchase opportunities under the program. This indicates generally that small and independent refiners have access to the greater portion of their crude supplies either under the domestic crude oil supplier/purchaser rule or in the domestic and world markets. Therefore, it is important to determine whether, in light of this relatively low level of participation, the allocation of crude oil through the buy/sell program is still necessary to fulfill FEA's continuing statutory mandate to protect the viability of the small and independent sector of the petroleum industry.

Another factor prompting a reevaluation of the buy/sell program is that FEA believes that in many cases refiner-buyers are using the program only to the extent that they can obtain a price advantage, rather than for supply purposes.

FEA also believes that the administrative complexities of the current program may be creating market distortions, and the program may be unduly burdensome for participants. Under the current program, FEA publishes a buy/sell notice on the fifteenth day before each allocation quarter. The notice contains a list specifying the quantity of crude oil each refiner-buyer is eligible to purchase, the total allocation obligation for all refiner-sellers, the fixed percentage share for each refiner-seller and the quantity that each refiner-seller will be obligated to sell to refiner-buyers. Participants in the program have fifteen days in which to negotiate sales of allocated crude oil. FEA may direct specific sales of crude oil upon request from a refiner-buyer which has been unable to negotiate a contract to purchase crude oil within fifteen days of the publication of the buy/sell list. These procedures require FEA to prepare new buy/sell lists every three months, and to make complex adjustments to calculate the correct purchase opportunities of refiner-buyers, taking into account the diminishing volumes of Canadian crude oil, Federal royalty oil, changes in processing agreements and future refining capacity allocations. In addition, the necessity for FEA to arrange for directed sales further complicates administration of the program. FEA is inviting comments as to whether these procedures are necessary, and indeed whether or not they may constitute an unnecessary interference with market mechanisms, in the current supply situation.

Finally, the lack of continuity inherent in the current program also creates difficulties. Refiner-sellers are required to maintain in reserve a certain volume of crude oil for possible sale under the program and do not know until the start of each allocation period what volume of allocated crude oil sales will in fact be required. This is disadvantageous for refiner-sellers particularly in light of the lead time required to arrange deliveries of imported crude oil. Moreover, refiner-buyers which participate in the program must in many cases renegotiate their supply relationships every three months, which injects uncertainty into the planning process for both buyers and sellers.

II. ALTERNATIVE PROPOSALS FOR COMMENT

As a result of these considerations, FEA has decided to hold a public hearing and receive written comments with respect to possible elimination or modification of the buy/sell program. FEA specifically invites persons participating in this proceeding to address three alternative proposals.

1. Under the first alternative proposal, the buy/sell program would be discontinued. This alternative assumes adequate supplies of domestic crude oil are being provided to small and independent refiners through the supplier/purchaser rule and their other crude oil requirements can be satisfied in the domestic or world markets. It also recognizes that dependence on allocated crude oil under normal supply conditions may distort the structure of the petroleum industry.

2. Under the second alternative, the buy/sell program would be discontinued, and 10 CFR 211.63 would be modified to

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enable FEA to assign supplier/purchaser relationships for those refiner-buyers which could demonstrate their inability to obtain crude oil supplies because of lack of access to foreign crude oil. FEA specifically invites comments on the appropriate level for allocations and on the criteria for eligibility for these assigned supplier/purchaser relationships and for determining which refiners or producers would be required to sell what quantities of crude oil.

3. Under FEA's third alternative proposal, the buy/sell program would be revised to provide for the establishment of semi-permanent relationships between buyers and sellers of crude oil, reviewed at six-month intervals, with eligibility to purchase under the program based on lack of access to imported crude oil. This alternative assumes that large independent refiners, small refiners located on the coast or on major pipelines routes, and petrochemical plants have access to imported crude oil and would therefore be ineligible for the program. A refiner that was not eligible under these criteria could apply for exception relief if it could demonstrate that a serious hardship would result from its exclusion from the program. Allocations under this alternative would be made to specific refineries. With respect to this alternative, FEA invites specific comments on appropriate criteria for participation in the program and for determination of the purchase opportunities for eligible refiners. Purchase opportunities could, for example, take into account past levels of crude runs to stills, refinery capacity or previous participation in the program. FEA also invites comments on an appropriate method to determine sellers' sales obligations.

FEA also invites general comments as to possible revisions to the program other than the alternatives outlined above.

III. Written Comment and Public Hearing Procedures

Written comments regarding the subject matter of this notice will be accepted and considered if filed by March 21, 1977. Comments should be submitted to Executive Communications, Room 3309, Federal Energy Administration, Box KR, the Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation, "Reevaluation of the Crude Oil Buy/Sell Program." Fifteen copies should be submitted.

A public hearing on the subject matter of this notice will be held beginning at 9:30 a.m., e.s.t., on March 21, 1977, in Room 2105, 2000 M Street, NW., Washington, D.C., to receive comments from interested persons.

Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class of persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.s.t., March 7, 1977. Such a request may be hand-delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be reached through March 21, 1977. Each person selected to be heard will be notified by FEA before 5:30 p.m., e.s.t., March 9, 1977, and must submit 100 copies of his or her statement to the Office of Regulations Management, FEA, 2000 M Street, NW., Washington, D.C., before 4:30 p.m., e.s.t., on March 18, 1977.

FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only those conducting the hearing and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., e.s.t., March 17, 1977. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in accordance with the procedures stated in 10 CFR 205.9(f). FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

The transcript of the public hearing will be available for public review at the FEA Freedom of Information Library, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Eric J. Fygi,
Acting General Counsel.

February 28, 1977.

[FR Doc.77-6419 Filed 2-28-77;3:10 pm]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 329]

[26373]

INTEREST ON DEPOSITS

Notice of Proposed Amendments Pertaining to Certain "Noninsured Banks" in Massachusetts

Section 18(g) of the Federal Deposit Insurance Act, 12 U.S.C. 1828(g) ("Section 18(g)"), provides the Federal Deposit Insurance Corporation ("FDIC") with the authority to regulate the rates of interest or dividends paid on time and savings deposits by FDIC insured State-chartered banks that are not members of the Federal Reserve System ("insured nonmember banks") and by non-FDIC insured banks in certain states ("noninsured banks"). The Commonwealth of Massachusetts is a State in which noninsured banks are subject to interest and dividend rate regulation by the FDIC. Pursuant to the authorization of section 18(g), the Board of Directors of the FDIC has promulgated regulations which establish the rates of interest which may be paid by all insured nonmember banks, regardless of location, and by noninsured banks (including noninsured mutual savings banks) in Massachusetts. (12 CFR Part 329)

One form of noninsured bank operating in Massachusetts is the "banking company," which is authorized by chapter 172A of the Annotated Laws of Massachusetts. Mass. Ann. Laws, ch. 172A. Banking companies operate on a limited scale. The bulk of their loans are consumer loans. They are prohibited from making commercial loans and are subject to strict limitations on real estate loans. Banking companies are permitted to accept and pay interest on deposits. The existing banking companies operating in Massachusetts are few in number, small in size, and generally located in low to moderate income neighborhoods.

Banking companies are more akin to mutual savings banks than to commercial banks and because of the similarity they are viewed as competitors of mutual savings banks. Part 329 of the Corporation's regulations is currently worded so that banking companies are treated as commercial banks and, therefore, they are limited to the payment of a lower maximum rate of interest on time and savings deposits. To eliminate this unfair competitive disadvantage and to permit banking companies to effectively compete with mutual savings banks, the Board of Directors of the FDIC proposes to adopt the following amendments to Part 329. The amendments would group Massachusetts banking companies with mutual savings banks and guaranty savings banks in New Hampshire for purposes of Part 329. This will afford such banking companies the same .25 percent rate differential advantage over commercial banks as that afforded mutual savings banks.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Each person submitting a comment should include his name and address, and give reasons for any recommendations. All comments received before April 4, 1977, will be considered before final action is taken on the proposal. The proposal may be changed in the light of the comments received.

The proposed amendments to 12 CFR Part 329 are as follows:

1. In § 329.0 the third sentence is revised to read as follows:

§ 329.0 **Scope.**

* * * **Except for §§ 329.7, 329.8, and 329.10, the provisions of this Part 329 do not apply to: (1) mutual savings banks; (2) guaranty savings banks operating in the State of New Hampshire, so long as the guaranty savings banks operate substantially under and pursuant to the laws of the State of New Hampshire pertaining to mutual savings banks and do not engage in commercial banking; or (3) corporations operating in the Commonwealth of Massachusetts as banking companies pursuant to the provisions of Chapter 172A of the Annotated Laws of Massachusetts.**

2. In § 329.7 paragraph (a) is revised to read as follows:

§ 329.7 **Maximum rates of interest or dividends payable on deposits by insured nonmember mutual savings banks.**

(a) *Definition.* **For the purposes of this section, the term "mutual savings bank" includes: (1) any mutual savings bank, (2) any guaranty savings bank which operates in the State of New Hampshire substantially under and pursuant to the laws of that State pertaining to mutual savings banks so long as the guaranty savings bank does not engage in commercial banking, and (3) any corporation operating in the Commonwealth of Massachusetts as a banking company pursuant to the provisions of Chapter 172A of the Annotated Laws of Massachusetts.**

By Order of the Board of Directors, February 25, 1977.

Federal Deposit Insurance Corporation,
Alan R. Miller,
Executive Secretary.

[FR Doc.77-6370 Filed 3-2-77;8:45 am]

FARM CREDIT ADMINISTRATION

[12 CFR Parts 614, 619]

LOAN POLICIES AND OPERATIONS

Proposed Rulemaking

Notice is hereby given that the Farm Credit Administration, by its Federal Farm Credit Board, has under consideration proposed amendments of its regulations as set forth below in tentative form. These amendments would: (1) specify the types of loss sharing agreements which may be entered into by Farm Credit banks and associations; (2) specify the type of guaranty agreement which may be entered into by Farm Credit banks and associations; (3) specify the factors which are relevant to a determination of single versus separate credit exposures; and (4) redefine loss sharing agreements.

Prior to final adoption of such amendments, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (10 copies) no later than April 1, 1977, to C. K. Cardwell, Acting Governor, Farm Credit Administration, Washington, DC 20578. Copies of all communications received will be available for examination by interested persons in the Office of Director, Information Division, Office of Administration, Farm Credit Administration.

Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising §§ 614.4340, 614.4345, 614.4354(e), and 619.9200. These amendments are as follows:

PART 614—LOAN POLICIES AND OPERATIONS

§ 614.4340 **General.**

With approval of the boards of directors of the respective banks, Farm Credit banks and associations may enter into agreements to share losses as provided in paragraphs (a) and (b) of this section. The loss sharing agreements shall cover, but not be limited to, definition of terms, terms and conditions for activation, determination of assesment formulas, limitation on assessments, reimbursements, administration, arbitration, and provisions for amendment and termination. All loss sharing agreements shall be subject to Farm Credit Administration approval.

(a) Loss sharing agreements to protect against the impairment of capital stock and participation certificates may, unless otherwise authorized by the Farm Credit Administration, be entered into by:

(1) The 12 Federal land banks;

(2) The 12 Federal intermediate credit banks;

(3) The 12 district banks for cooperatives; and

(4) The 37 Farm Credit banks.

(b) Loss sharing agreements other than those provided for in paragraph (a) of this section may be entered into:

(1) By a Federal land bank with Federal land bank associations in its district for sharing the gain or losses on loans or on security held therefor or acquired in liquidation thereof;

(2) With the approval of the supervising bank, by a Federal land bank association with other like associations in its district for sharing losses on loans endorsed by each association that is a party to such agreement;

(3) By a Federal intermediate credit bank with production credit associations in its district, and with other Federal intermediate credit banks;

(4) With the approval of the supervising bank, by a production credit association with other like associations in its district.

§ 614.4345 **Guaranty agreements.**

With approval of the Farm Credit Administration, guaranty agreements under which a percentage of the risk associated with specific loans is assumed may be entered into (a) by those parties authorized to enter into loss sharing agreements in § 614.4340(b), and (b) by banks for cooperatives.

§ 614.4345 **Banks for cooperatives.**

* * * * * *

(e) The term "one borrower" is generally defined as a cooperative organization and, if any, its affiliated organizations which are controlled by a common directorate or management, or wherein such primary organization owns in excess of 50 percent of the net worth or voting stock of an affiliated organization: *Provided, however,* That any such affiliated organization shall be defined as a separate borrower under certain conditions, subject to prior approval by the Farm Credit Administration. Such definition shall be based primarily on the conclusion that the affiliated organization would be viable in the event of the demise of the other organization. Particular consideration should be given to, but not limited to, the following items:

(1) Composition and independence of directorate and management.

(2) Independence and control of operations and funds flow.

(3) Strength and diversity of other equity holders.

(4) Ability to generate and to retain earnings and cash flow.

(5) Diversity of product or service.

PART 619—DEFINITIONS

§ 619.9200 **Loss sharing agreements.**

A contractual arrangement under which the parties agree to share losses associated with loans or otherwise, as may be provided for in the agreement.

(Secs. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621.)

C. K. Cardwell,
Acting Governor,
Farm Credit Administration.

[FR Doc.77-6398 Filed 3-2-77;8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 16561]

ISRAEL AIRCRAFT INDUSTRIES MODEL 1123 AIRPLANES

Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to certain Israel Aircraft Industries (IAI) Model 1123 airplanes. There have been reports of failures of the hydraulic pressure line between the hydraulic pump and the firewall as the result of fatigue stresses caused by the unsatisfactory bend radius of the hydraulic line. Rupture of the hydraulic pressure line coud jeopardize safe operation by introducing a fire hazard and by possibly depriving the airplane of essential hydraulic services. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require replacement of the hydraulic line with a new type having a larger bend radius.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, attion: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before April 18, 1977, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in the notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

ISRAEL AIRCRAFT INDUSTRIES (IAI). Applies to Model 1123 airplanes, S/N's 107, 151, 152, 153, 155 through 180, and 182 through 186, except those modified in accordance with IAI Service Bulletin No. WW-7A.

Compliance is required within the next 150 hours time in service after the effective date of this AD.

To prevent possible rupture of the hydraulic pressure line between the hydraulic pump and the firewall, accomplish the following:

(a) Remove and discard hose P/N 6723087-43 attached between the hydraulic pump pressure port and the AN837-6 elbow installed on pylon.

(b) For airplanes S/N's 175 through 180 and 182 through 186, remove and discard brackets P/N's 5723548-3 and -5.

(c) Remove the AN837-6 elbow from pylon, and reinstall with washer P/N 5723548-7 on engine side of firewall.

(d) Install hose P/N 6723087-57 between hydraulic pump pressure port and AN837-6 elbow, with 45-degree fitting of hose attached to elbow on pylon. (NOTE: Position the elbow on pylon to allow hose to be as straight as possible. Bend radius of hose may not be less than 50 inches).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on February 24, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-6326 Filed 3-2-77; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SO-3]

FEDERAL AIRWAY SEGMENT

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an east alternate to V-97 airway between Miami, Fla., and LaBelle, Fla.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before April 4, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this notice of proposed rulemaking should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591. The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

The proposed amendment would designate an east alternate to V-97 between Miami and LaBelle via the INT of Miami 343°T(343°M) and LaBelle 120°T(121°M) radials.

This alternate route would help to improve the flow of traffic arriving at Ft. Lauderdale, Fla., and satellite airports.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on February 23, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-6327 Filed 3-2-77; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SO-2]

ALTERATION OF FEDERAL AIRWAY

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would realign Victor 35W between Sugarloaf Mountain, N.C., and Holston Mountain, Tenn.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communciations received on or before April 4, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this notice of proposed rulemaking should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591. The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

The proposed amendment would realign V-35W from over Sugarloaf Mountain, N.C., VORTAC via INT Sugarloaf Mountain 329°T (33°M) and Holston Mountain, Tenn., 203°T (205°M) radials; Holston Mountain.

The proposed realignment would reduce the existing V-35W mileage between Sugarloaf Mountain and Holston Mountain.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on February 23, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-6325 Filed 3-2-77; 8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 77-WE-1]

JET ROUTE

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would realign J-50 in the vicinity of Los Angeles, Calif.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before April 4, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this notice of proposed rulemaking should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591. The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

The proposed amendment would realign J-50 from Bakersfield, Calif., VORTAC direct Ontario, Calif., VORTAC in lieu of the current Los Angeles, Calif., VORTAC direct Ontario VORTAC segment.

The proposed realignment would be used for those flights overflying the Los Angeles area between the Phoenix/Tucson and the San Francisco Bay areas. Currently this traffic is placed on radar vectors or cleared direct Ontario-Bakersfield. The proposed realignment would provide for precise pilot navigation. With the realignment of J-50 there would still remain several designated jet routes between Los Angeles and Ontario.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on February 23, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-6326 Filed 3-2-77; 8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 292]

[EDR-319; Docket 29176; Dated: February 22, 1977]

ALASKAN AIR CARRIERS

Classification and Exemption; Correction

In FR Doc. 77-5788, appearing at page 11016, in the issue for February 25, 1977, in the third column, page 11017, the second full paragraph should read as follows:

"As to merits of Wien's petition, we have tentatively concluded that amendment which it proposes does indeed conform to the Board's intention underlying Part 292, insofar as that regulation reflects a policy favoring protection of certificated routes in Alaska against excessive incursions by regular or frequent off-route charter operations of other carriers."

On page 11018, in the eighth line of the first full paragraph in the first column, the words "long-standing" should be changed to read "certain".

By the Civil Aeronautics Board.

Dated: February 25, 1977.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6433 Filed 3-2-77; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-13293; File No. S7-678]

REGULATIONS OF TRANSFER AGENTS

Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The rules being proposed, when adopted, are intended: (1) To assure that registered transfer agents perform their functions in a prompt and accurate manner; (2) to provide early warning of inadequate transfer agent performance; (3) to provide a mechanism to limit expansion of transfer agent activities when transfer agents are unable to meet the performance time standards; (4) to assure prompt response to inquiries concerning the status of items presented for transfer; and (5) to require the maintenance and preservation of certain records necessary to monitor compliance with the proposed rules.

DATES: Comments must be received on or before: April 13, 1977.

ADDRESSES: Written comments, submitted in triplicate, should be addressed to The Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and refer to File No. S7-678.

FOR FURTHER INFORMATION CONTACT:

Harry F. Day, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549. (202-472-4515 or 202-755-8834).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Securities and Exchange Commission ("Commission") has under consideration a proposal to amend Title 17, Chapter II, Part 240 of the Code of Federal Regulations to add §§ 240.17Ad-1, 240.17Ad-2, 240.17Ad-3, 240.17Ad-4, 240.17Ad-5, 240.17Ad-6 and 240.17Ad-7 (hereinafter "revised rules") under the Securities Exchange Act of 1934 ("Act"), in particular sections 2, 17, 17A and 23(a) of that Act, 15 U.S.C. 78b, 78q, 78q-1 and 78w(a). In accordance with Section 17A(d)(3)(A)(i) of the Act, 15 U.S.C. 78q-1(d)(3)(A)(i), the Commission consulted and requested the views of the Federal bank regulatory agencies at least fifteen days prior to announcing the revised rules.

I. INTRODUCTION

A. BACKGROUND

On May 12, 1976, the Commission published in Securities Exchange Act Release No. 12440 (41 FR 22595, June 4, 1976) notice of proposed rules (hereinafter "draft rules") prescribing performance standards for registered transfer agents. The proposed standards would have: (1) Established time limits within which registered transfer agents must perform specified functions, such as cancel certificates presented for transfer and issue and make new certificates available to the presentor or respond to inquiries; (2) required registered transfer agents to notify regulatory authorities when a specified percentage of the agents' work was not being accomplished within the required time periods: (3) prohibited registered transfer agents from expanding their transfer agent business during the time they were unable to satisfy the performance time standards; and (4) required that certain records be kept which regulatory authorities could examine to determine whether registered transfer agents were complying with the rules.

The rules proposed herein represent for the most part a revision of the draft

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rules.[1] The Commission received approximately 150 letters of comment on the draft rules, and those comments have been carefully considered in drafting the revised rules.

The comments, generally speaking, were directed toward provisions of the draft rules other than the basic requirement that at least 90 percent of all routine items be turned around within three business days. It appears, therefore, that this standard is a reasonable one, and those registered transfer agents not presently performing within this standard are urged to use the time between the publication of these revised rules and their adoption to assure that they will be in compliance.

B. THE PURPOSE OF THE REVISED RULES

The revised rules are intended to protect investors and persons facilitating transactions by and behalf of investors and to contribute to the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities by: (1) Assuring that the transfer agent community performs its functions in a prompt, accurate and more predictable manner; (2) providing an early warning system to alert the transfer agent regulatory agencies[2] that a transfer agent is not meeting the performance standards, thereby enabling those agencies to take timely preventive and remedial measures to protect the public interest and investors; (3) precluding a transfer agent from expanding its transfer agent activities when it has been unable to comply with performance standards and, in the event of continued substantial performance failures, requiring such transfer agent to alert issuers of securities serviced by it of its performance failures; (4) assuring prompt response to inquiries concerning the status of items presented for transfer and to certain other inquiries, in order to promote more prompt identification of lost securities and to assist broker-dealers undergoing examination and seeking to comply with quiries, in order to promote more prompt identification of lost securities and to assist broker-dealers undergoing examination and seeking to comply with requirements relating to control of customer securities; and (5) prescribing recordkeeping and record retention requirements to permit regulatory authorities to monitor transfer agent compliance with the revised rules.

C. EFFECT ON RULES OF SELF-REGULATORY ORGANIZATIONS

Commentors have asked whether the Commission's turnaround rules would supercede similar rules imposed by self-regulatory organizations which require, among other things, that transfer agents acting for certain listed issues effect turnaround within 48 hours.[3] The Commission's turnaround rules do not replace these self-regulatory organization rules.

II. DISCUSSION OF THE REVISED TURNAROUND RULES IN LIGHT OF COMMENTS RECEIVED

A. THE MAJOR PROPOSED REVISIONS

Draft § 240.17Ad–1 prescribed turnaround performance in terms of hours, requiring transfer agents to turn around at least 90 percent of all routine transfer items within 72 hours. Commentors stated that measuring turnaround time in units of days would be administratively easier, would accomplish the desired result and would be more compatible with current industry practice. The revised rule adopts "three days" in lieu of "72 hours," provides for a noon-to-noon cutoff and specifies when an item is considered received. As a result, the need to log the exact hour and to compute the difference in hours between receipt and dispatch of every item has been eliminated.

Draft § 240.17Ad–2(a) required a transfer agent to file a written notice when turnaround performance fell below 95 percent in any calendar week. Commentors maintained that a 95 percent reporting standard, together with the 90 percent performance standard, would complicate recordkeeping and performance monitoring by transfer agents. Some commentors also argued that a 95 percent reporting standard was too stringent in light of the variety of circumstances beyond a transfer agent's control which can affect its ability to effect transfers. Revised § 240.17Ad–2 establishes with respect to routine items a single standard of 90 percent for turnaround or processing performance and requires reporting for performance that falls below 90 percent.

With regard to the weekly reporting required by draft § 240.17Ad–2, commentors asserted that this requirement would result in the possibility of too frequent reporting. Commentors stated that the monitoring period should encompass a longer time frame to enable the peaks and valleys of volume to be averaged. In order to avoid this problem but still permit regulatory agencies to identify transfer agents who are not complying with the revised rules before operational difficulties jeopardize the public interest or the interests of investors, the revised rule provides for computation and reporting on a monthly basis.

Draft § 240.17Ad–2(b) required transfer agents to monitor and to report when turnaround performance fell below 90 percent on an issue-by-issue basis. This requirement was in addition to the similar provisions of paragraph (a) of that rule, which applied on an aggregated basis to all issues handled by the transfer agent. Commentors advised that a requirement to monitor turnaround performance and to meet minimum turnaround times on an issue-by-issue basis would not only impose an undue administrative burden but also would unfairly penalize the transfer agent for failing to meet the prescribed turnaround times in a single issue when it was performing more than adequately for all issues taken together. While the revised rules do not prescribe turnaround monitoring or performance on an issue-by-issue basis, the Commission expects that transfer agents will not differentiate among issues serviced, extending turnaround for a particular issue beyond three days while turning around other issues within three days.

The turnaround rules as initially proposed would have required three-day turnaround of "routine transfer items." Commentors raised a number of questions about the circumstances in which an item would be considered routine as opposed to non-routine. It was urged that "routine" items be defined so that all "legal" and "mail" items could be considered as non-routine. This suggestion has not been adopted. A revised definition of "routine" items (See infra) is proposed herein.

Draft § 240.17Ad–1(b) required, among other things, a transfer agent to send, within forty-eight hours of receipt of a non-routine item, an advice to the presentor specifying any additional matter needed to effect transfer. Draft § 240.17Ad–4(f) required associated recordkeeping to demonstrate compliance with the rule. The revised rules do not contain these requirements. Moreover, non-routine items are not required to be treated within a specific time frame. Instead, revised § 240.17Ad–2(d) requires transfer agents to give "diligent and continuous" attention to non-routine items and to effect turnaround as soon as possible. Complementing this requirement, revised § 240.17Ad–6(a)(2)(iii) requires maintenance of a record showing the age of non-routine items not transferred at the end of the month.

B. SECTION-BY-SECTION DISCUSSION OF THE REVISED RULES

Revised § 240.17Ad–1—Definitions.— Revised § 240.17Ad–1 has been devoted to defining salient terms used in the revised rules. Familiarity with these definitions is essential for understanding the rules.

The basic unit for which turnaround times and other requirements are prescribed is an "item." Commentors suggested that the term be defined to describe individual transfer instructions rather than a bulk transmittal of more than one issue of securities from a single presentor. Revised § 240.17Ad–1 defines "item" to mean the certificates of a single issue of securities presented under one ticket, or, if there is no ticket (as is often the case with mail items from individuals), the certificates of a single issue of securities presented by one presentor. The definition also extends to items presented under a transfer agent custodian arrangement. Finally, the definition provides that, for an outside registrar, each certificate to be countersigned is an item.

The term "transfer" is defined as accomplished when all acts necessary to cancel the certificates presented and to issue new certificates, "including the performance of the registrar function," are completed and the item is made available to the presentor. The second part of the definition of "transfer" refers to the manner in which a transfer may be accomplished under a transfer agent custodian program.

"Turnaround" of an item is accomplished, in the case of a transfer agent which acts in the dual capacity of transfer agent and registrar with respect to that item, when the item is transferred; and for other transfer agents, when the item is made available to the outside registrar.

A number of commentors expressed concern that a transfer agent's turnaround time might include the time during which an item is being processed by an outside registrar. Since the revised rule provides that the turnaround of an item is accomplished when it is made available to an outside registrar, the time required by the outside registrar to perform the registrar function would not be charged to the transfer agent to which the certificate initially was presented for transfer. Revised § 240.17Ad–2(f) requires transfer agents to have appropriate procedures to assure, and in fact to assure, that items received from an outside registrar are promptly made available to the presentor.

Draft § 240.17Ad-1(b) required that a transfer agent, within 48 hours of receipt of a non-routine item, notify the presentor of all reasons why turnaround properly could not be effected, specifying all additional matter needed. Commentors indicated that it might not be possible within this time frame to evaluate and identify the additional matter needed before turnaround could be effected properly and to prepare lengthy and technical advices. These commentors recommended both increasing the amount of time allowed for sending out advices and treating documented telephone calls as written advices in those instances where additional information can be obtained by a telephone call. After consideration of these comments, the Commission has determined not to require transfer agents to notify presentors within a minimum time frame of the additional matter required to effect transfer.

Draft § 240.17Ad-1(b): *Further provided*, That if the presentor makes no response to the advice, the items must be returned within 60 days. A number of commentors indicated that the determination of when to return items should be left to the discretion of the transfer agent or to the demand of the presentor, but should not be subject to any rule. This view has been adopted; the revised rules do not provide requirements with respect to the return of items presented.

Consideration was given to establishing a minimum time period within which items received from an outside registrar must be made available to the presentor. In the absence of any indication that this matter has been a source of delay, the Commission, as noted earlier, proposes in revised § 240.17Ad–2(f) to require that a transfer agent make such items available "promptly" to the presentor.

For the purpose of measuring the performance of an outside registrar, the term "turnaround" does not apply; instead, the term "process" is used. An outside registrar is considered to have processed an item when all acts necessary to perform the registrar function are completed and the item is made available to the presenting transfer agent, or when the presenting transfer agent is advised why the registrar function for the item is delayed or may not be completed.

The time period for turnaround or processing of an item does not begin until the item is received by the registered transfer agent. In revised § 240.17Ad–1(g) the Commission adopts the suggestion of some commentors and provides that "receipt" occurs upon arrival of an item at the premises at which the transfer agent performs transfer agent functions.

Thus, items received at a "drop," "window" or mail room at the premises at which the transfer agent performs transfer agent functions shall be deemed to have been received. On the other hand, items received at a "drop" or "window" maintained at a significant distance from the premises where the transfer agent performs its transfer agent functions usually would not be considered received for the purposes of revised § 240.17Ad–2 upon arrival at such "drop" or "window," but would be considered received upon delivery at the premises where the transfer agent performs transfer agent functions. Additionally, items presented for transfer but rejected at a "drop" or "window" are not deemed to be received.

Revised § 240.17Ad–2(e) also requires a transfer agent that receives items at a location other than the premises at which it performs transfer agent functions to have appropriate procedures to assure that the items are forwarded "promptly" to the premises at which receipt will be deemed to occur.

Revised § 240.17Ad–1(h) provides, among other things, that items received at or before noon on a business day shall be deemed to have been received at noon on that day, and that items received after noon a a business day, on a weekend or on a holiday shall be considered as received at noon on the next business day.[4]

The quantitative performance standards of the revised rules apply to items that are considered "routine," as defined by revised § 240.17Ad–1(i). It should be noted that distinctions between "routine" and "non-routine" do not depend on whether an item is received through the mail.

The first provision in paragraph (i) does not apply to a transfer agent that has exhausted the supply of certificates which it customarily retains in inventory; that provision refers to an arrangement under which the transfer agent does not maintain any working supply of unissued certificates but requisitions them as needed from another source, such as the issuer. Under the revised rule, legal items are not necessarily "non-routine." For example, if a legal item requires no more than a review of the supporting documentation listed in paragraph (i)(4) (that is, "assignments, endorsements or stock powers, certified corporate resolutions, * * *"), the item would be considered routine. If that review, however, raised the need to obtain additional documentation, opinion of counsel or other matter listed in paragraph (i)(3), the item would be considered "non-routine."

Revised § 240.17Ad–2 — Turnaround, processing and forwarding of items.— Paragraph (a) of revised § 240.17Ad–2 sets forth the basic requirement that transfer agents, with regard to at least 90 percent of routine items received during any month, must perform their functions ("turnaround" such items) within three business days of the items' receipt.

Paragraph (b), which pertains to an outside registrar, requires that at least 90 percent of all items received during any month at or before noon on any business day be processed by the close of business that day and that at least 90 percent of all items received after noon on any business day be processed

[1] See Securities Exchange Act Release No. 34–12440 (May 12, 1976); 9 SEC Docket 627 (May 25, 1976); 41 FR 22595 (June 4, 1976). Comments were requested by July 2, 1976, and that deadline was extended to July 19, 1976 in Securities Exchange Act Release No. 34–12594 (July 2, 1976); 9 SEC Docket 1029 (July 21, 1976); 41 FR 28798 (July 13, 1976).

[2] These agencies are the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Securities and Exchange Commission. Section 3(a)(34)(B) of the Act, 15 U.S.C. 78c(a)(34)(B).

[3] The rules usually mentioned in this connection are the New York Stock Exchange's Rule 496 and the American Stock Exchange's Rule 891. See 2 NYSE Guide (CCH) ¶ 2496 and 2 Am. Stock Ex. Guide (CCH) ¶ 9691.

[4] For example, this provision, together with the three-day turnaround requirement in revised § 240.17Ad–2(a), operates as follows: An item received at 11:00 a.m. on a Monday that is not a holiday would be considered as received at noon on that day and, assuming none of the intervening days are holidays, would have to be turned around by noon on Thursday. Assuming either one of the intervening days or Thursday is a holiday, the item would have to be turned around by noon of the following business day (Friday). An item received on a Friday afternoon, or received on a weekend, would be considered as received at noon on Monday and, assuming the intervening weekdays are business days, would have to be turned around by noon of the following Thursday. An item received on a Tuesday that is a holiday would be considered as received at noon on Wednesday (*Provided*, That Wednesday is not a holiday) and, assuming the intervening weekdays are business days, would have to be turned around by noon on Monday. Again, if the day for receipt or accomplishment of turnaround is not a business day, then the time of receipt or the deadline for turnaround would be noon of the next business day.

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by noon of the next business day. Certain items are excluded from the term "items received" in paragraph (b) in order to remove items which may present special difficulties from the processing time requirement.

In view of the length of time—usually a few hours—within which an outside registrar customarily processes items, the requirement in paragraph (b) may provide more time for processing items than is necessary. Consideration was given to prescribing this time standard in terms of hours; however, it appears that the resulting recordkeeping necessary to monitor performance could be burdensome. Comment is invited on whether outside registrars should be required to complete processing within a specific number of hours and, if so, how many hours should be allotted and what records are necessary to permit monitoring by regulatory authorities.

Paragraph (c) prescribes a notice requirement for transfer agents which, during any month, fail to comply with the performance standards of paragraphs (a) or (b).[5] The information required in such notice is intended to inform the regulatory authorities of the extent to which the reporting transfer agent has failed to meet the turnaround requirements and to alert those authorities to the need for monitoring the transfer agent's performance and to the possible need for supplementing the disabilities imposed by § 240.17Ad–3 with remedial action.[6]

The written notice under draft § 240.17 Ad–2 was required to be filed with regulatory authorities within six business days after the end of a week. Commentors suggested that the six days allotted were not sufficient to calculate performance and to file the notice. Paragraph (c) of revised § 240.17Ad–2 retains the six business day period with two important differences: The reporting period is a month instead of a week, and the transfer agent must within six business days "send" instead of "file" the notice. As a result, in addition to the possible need for less frequent reporting, the notice only need be placed in the mail within six business days rather than be required to reach the regulatory authorities by the sixth business day.

Revised § 240.17Ad–2(d) provides that the 10 percent of routine items not required to be turned around or processed within the time periods established by revised § 240.17Ad–2(a) and 2(b) must be turned around or processed "promptly." Paragraph (d) also requires that all non-routine items shall receive diligent and continuous attention and shall be turned around as soon as possible.

Revised § 240.17Ad–3—Disability. This revised rule sets forth the consequences which automatically result from a transfer agent's failure to meet the prescribed performance standards on a continuing basis. Paragraph (a) applies disabilities to transfer agents who fail for three consecutive months to meet the 90 percent turnaround and processing standards of paragraphs (a) and (b) respectively of revised § 240.17Ad–2 (and who therefore are required to file monthly notices under paragraph (c) of that section). The disabilities attach on the fifth business day following the end of the third consecutive month in which a notice was required by revised § 240.17 Ad–2(c) and remain in effect for six consecutive months thereafter.

During the six month disability period, a transfer agent may not begin to perform a transfer agent activity for issues for which it does not perform, or is not under agreement to perform,[7] transfer agent activities before the fifth business day (the "disability date"). Similarly, after the disability date, a transfer agent may not begin to perform for issues for which it performs a transfer agent activity any new transfer agent activity which the transfer agent does not perform, or is not under agreement to perform, prior to the disability date.[8]

Once the disabilities attach, whether because of failure to comply with paragraphs (a) or (b) or both, they remain effective until the transfer agent's performance has met the standards of both paragraphs (a) and (b) of revised § 240.17Ad–2 for six consecutive months, i.e., turnaround and processing of 90 percent or more of accountable transfer agent and registrar items within the prescribed periods of time. The Commission believes that a transfer agent that is unable to satisfy or exceed minimum performance standards for established accounts should not be permitted to service additional accounts or begin performing additional activities for established accounts until it can demonstrate over a period of six months that its performance satisfies or exceeds the minimum standard.

Paragraph (b) describes disabilities which attach to a transfer agent that is unable for two consecutive months to process at least 75 percent of the accountable items under revised § 240.17Ad–2(a) and (b). Paragraph (b) applies the disabilities of paragraph (a), discussed above, and also requires the transfer agent to notify the chief executive officer of each issuer of each issue serviced by the transfer agent (including the chief executive officer of an issuer that acts as its own transfer agent) that performance has failed below the 75 percent standard. Transfer agents are allowed 20 business days before notice must be made to issuers; the additional 15 business days beyond the day a disability attaches may be used by the transfer agent to apply to its appropriate regulatory agency for relief upon the grounds that the failure to perform was caused, in significant part, by circumstances beyond the transfer agent's control.[9]

The disabilities imposed by paragraphs (a) and (b) may operate cumulatively so that, for example, a transfer agent that performs at the 80 percent level for two months, and then at the 70 percent level for the next two months, would become subject to the disability imposed by paragraph (a) at the end of the third month and would become subject to the additional requirement of paragraph (b) (notices to issuers) at the end of the fourth month.

With regard to both the timeliness of performance requirements and the disability provisions of the draft rules, several commentors suggested that a force majeur clause be added to prevent the attachment of a disability when a transfer agent fails to meet the performance standards because of circumstances beyond its control. Examples of such circumstances include strikes, power failures, acts of God and other occurrences which ordinarily cannot be foreseen.

The revised rules do not contain a force majeur provision because the subjective application of it by each transfer agent would make enforcement of the rules too uncertain. The Commission believes, however, that the disabilities proposed in the revised rules generally should not attach to transfer agents when failure to meet the minimum standards is a result of circumstances beyond their control. Accordingly, when the transfer agents believe that a failure to meet minimum performance standards results in significant part from such circumstances, application may be made to the appropriate regulatory authority for relief from a disability that otherwise would attach under revised § 240.17Ad–3. Because a disability attaches only after turnaround or processing performance fails to meet the required standards for two or three months, it is reasonable to anticipate that in most cases a transfer agent that experiences a force majeur will have time to realize the impact and to make timely application for relief and that the regulatory agency will be able, when appropriate, to act swiftly to stay the attachment of a disability.[10]

Revised § 240.17Ad–4—Applicability of §§ 240.17Ad–2, 240.17Ad–3 and 240.17Ad–6(a)(1)–(7). A number of commentors acting as service agents for open-end investment companies urged that the proposed turnaround rules not be applicable to such companies. Those commentors noted that the activities performed by transfer agents for open-end investment companies involve for the most part the redemption of fund shares which is governed by section 22(e) of the Investment Company Act of 1940, 15 U.S.C. 80a–22(e), and that the steps involved therein are significantly different from those required to transfer the ownership of stocks and bonds on an issuer's records. The Commission believes that it would be desirable to study further the need for, and the nature of, minimum performance standards for the transfer of securities effected by open-end investment companies registered under Section 8 of the Investment Company Act of 1940, 15 U.S.C. 80a–8. The Commission expressly invites comments on whether such standards are necessary or desirable and, if so, what form they should take. Accordingly, paragraph (a) provides that §§ 240.17A–2, 240.17Ad–3 and 240.17Ad–6(a)(1) through (a)(7) do not apply to the issuance, redemption or transfer of securities issued by open-end investment companies registered under section 8 of the Investment Company Act of 1940.[11]

Several commentors asked whether transfers of limited partnership interests are subject to the turnaround rules. From the information provided in Forms TA–1, 17 CFR 249b.100, the low volume of transfers of such interests suggests that they may appropriately be exempted from revised §§ 240.17Ad–2, 240.17Ad–3, 240.17Ad–6(a)(1) through (a)(7) certain turnaround and processing requirements, disability provisions and certain of the recordkeeping requirements). Accordingly, paragraph (a) also provides certain exemptions for transfers of interests in limited partnerships. Comment is invited on the question whether the exemption as envisioned in revised section 17Ad–4(a) is appropriate in light of the purposes of the revised rules.

Approximately 2,400 transfer agents have registered with either the Commission or one of the bank regulatory authorities. Information on Forms TA–1 received at the time of registration indicates that the amount of transfer activity conducted by registered transfer agents varies widely. In view of the fact that the activity of many transfer agents is relatively minor and involves issues which are not traded actively, a number of commentors suggested that it is not necessary or appropriate to require these transfer agents to comply with the proposed minimum performance standards and certain recordkeeping provisions. Paragraph (b) of revised § 240.17Ad–4, therefore, exempts for §§ 240.17Ad–2 (a), (b) (c) and (g), 240.17Ad–3 and 240.17Ad–6 (a)(2) through (a)(7) any registered transfer agent that receives within any six consecutive months fewer than 500 items for transfer: *Provided*, The transfer agent files within ten business days of the close of the sixth such month the notice described in that paragraph.

Paragraph (c) sets forth the conditions under which a transfer agent loses its exemption under paragraph (b). The last sentence of paragraph (c) requires that a transfer agent, which previously was exempt and thereafter has a volume of activity that removes the exemption, remain subject to the performance standards for six consecutive months before again qualifying for an exemption. This provision is intended to relieve both a transfer agent and the regulatory authority from the administrative burden that would be imposed when a transfer agent's volume of activity hovers around the exemption breakpoint.

Revised § 240.17Ad–5—Written inquiries. This rule sets forth the conditions under which transfer agents are required to respond to written inquiries made with respect to their performance of certain transfer agent functions. The four paragraphs of the section are intended to cover four separate circumstances in which various persons make written inquiry about the transfer agent's performance of the transfer function. The information which the inquirer must present to trigger the application of the paragraphs is the type of information that in practice is given to a transfer agent and is found sufficient to enable the agent to identify the account involved and the item presented.

Paragraph (a) is written for "any person" who asks in writing about the "status of * * * [his] items presented for transfer." A transfer agent is required to respond, orally or in writing, within five business days after receiving the inquiry. For example, a written inquiry received on a Monday which is a business day must, assuming the intervening weekdays are business days, be responded to by close of business the following Monday. To allow for circumstances in which the transfer agent has received the item and is able to effect transfer, paragraph (a) provides that a response is not required: *Provided*, The item being inquired about is transferred within five business days after receipt of the written inquiry.

Paragraph (b) is written to complement existing § 240.15c3–3(c)(3), 17 CFR 240.15c3–3(c)(3). Paragraph (b) applies when a broker-dealer requests in writing that a registered transfer agent either confirm the agent's possession of a security previously presented for transfer by the broker-dealer or revalidate a window ticket for the security. The transfer agent is required to respond in writing within five business days, giving the required information. Again, no written response is required if the transfer agent makes a new certificate available to the presentor within five business days following receipt of the inquiry.

Paragraph (c), although applicable by its terms to "any person," has particular meaning for a broker-dealer performing or undergoing a securities positions examination. Accordingly, this paragraph speaks of a written request that a transfer agent "confirm possession of a certificate as of a given date." In view of the specificity of the request, the transfer agent is allowed ten business days to confirm or deny possession of the security on the given date. Moreover, the alternative of making available the certificate in question is not given because, in most cases, the paragraph applies to confirmation activities by auditors of broker-dealers and relates to a certificate already transferred.

Reference to a fee in paragraphs (c) and (d) was made in recognition of the current practice of charging a fee for supplying the specific historical data described in those paragraphs and to confirm that their operation is not intended to affect established practices. Neither paragraph affirmatively requires the charging of a fee nor conditions the response to a request made thereunder on the time any such fee is paid, although a transfer agent may require assurance that payment will be received.

The applicability of revised § 240.17 Ad–5 is predicated upon the transfer agent's receipt of sufficient information to readily identify the subject of the inquiry. Accordingly, the operation of paragraphs (a) through (c) depend, among other things, upon the inquirer's supplying the transfer agent with certain information.

Revised § 240.17Ad–5 limits the types of inquiries which trigger an application of that rule. The Commission expressly invites comments on whether such provisions should be extended to other kinds of inquiries.

Revised § 240.17Ad–6—Recordkeeping. The previously proposed recordkeeping

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[5] Revised § 240.17Ad–3, discussed infra, prescribes certain disabilities that attach to transfer agents which, because of failure to meet the performance standards, are required to file notices repeatedly.

[6] Repeated failure to perform at the level prescribed by § 240.17Ad–2 (a) and (b) requires filing notices with the regulatory authorities and, if continued, attachment of disabilities designed to limit the expansion of the transfer agent's business until the agent can demonstrate an ability to meet the standards. During this time, the regulatory authority can monitor the transfer agent's performance to determine whether to initiate, under sections 17A(c)(3)(A), 17A(d) and 21(d) of the Act, 15 U.S.C. 78q–1(c)(3)(A), 78q–1(d) and 78 u(d), administrative or civil action which may lead to the imposition of a remedial sanction upon, or the enjoining of, the transfer agent. Of course, an intentional failure to comply with the requirements of any of the revised sections may constitute a criminal violation of the federal securities laws (section 32(a) of the Act, 15 U.S.C. 78ff(a)).

[7] Unlike draft § 240.17Ad–2, the disability imposed by revised § 240.17Ad–3 does not preclude a transfer agent who has agreed to act in a new capacity prior to the attachment of a disability from carrying out the terms of the agreement.

[8] Thus, a transfer agent who, prior to the attachment of a disability, is under agreement to act as a dividend disbursing agent for an issue (even though the dividend disbursing activity does not begin until after the disability attaches) would be permitted by paragraphs (a)(1) and (a)(2) to act as dividend disbursing agent for that issue. In contract, if the agreement to perform a new activity for an issue, such as disbursing dividents were not signed until the fifth business day after the end of the month, i.e., after the disability attached, the transfer agent would be prohibited from initiating that, or any other, new activity for that issue.

[9] Section 17A(c)(1) of the Act, 15 U.S.C. 78q–1(c)(1), in relevant part, empowers the appropriate regulatory agency to exempt under certain circumstances transfer agents registered with it from any rule or regulation imposed pursuant to section 17A of the Act.

[10] Some commentors suggested that special provision be made for failures caused by high volume resulting from dividend dates. The Commission believes that, by imposing disabilities only on the basis of performance during consecutive months, the revised rule would permit volume increases associated with record dates to be accommodated in the regular course of a transfer agent's business.

[11] The revised rules do apply to registered transfer grants performing transfer agent functions for securities issued by closed-end investment companies.

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and retention requirements received widespread comment, with most commentors stating that the proposed rules would be unduly burdensome. These comments have been carefully considered.

The recordkeeping and retention requirements are intended to permit the regulatory authorities to examine registered transfer agents on an historical basis for compliance with applicable rules. The recordkeeping rules are flexible with respect to the form in which most records must be kept and have been drawn to minimize to the greatest possible extent records that transfer agents are required to keep in addition to those that currently are maintained.

Persons who comment on the proposed recordkeeping and retention rules are requested to divide their comments and suggestions between the provisions which relate to records that currently are not being maintained and the provisions which relate to records that currently are being maintained.

Paragraph (a)(1) requires that "a receipt, ticket, schedule, log or other record" be kept showing the business day (that is, the year, month and day as determined under revised § 240.17Ad–1(h)) on which each routine and non-routine item is received from a presentor or outside registrar and is made available to such persons. For example, many transfer agents preserve the tickets accompanying items, and such tickets, if stamped with the required information, would comply with this rule. A transfer agent that uses a batch method for handling transfer items would use an "other record" referred to in the paragraph by recording the required information with reference to a batch of items.

Paragraphs (a)(2)(ii) and (a)(2)(iii) require a transfer agent to maintain, as of the last business day of each month, a record of aged items showing on a daily basis the number of routine items that have been in-house beyond three business days (that is, the number of routine items in-house for four business days, five business days and so on). Non-routine items, on the other hand, may be "batched" on the basis of five business day intervals (that is, the number of non-routine items in-house for one to five business days, six to ten business days, eleven to fifteen business days and so on).

Paragraph (a)(3) requires a record of the calculations made in connection with performance monitoring under revised § 240.17Ad–2. This provision does not require any specific form of calculations; nevertheless, transfer agents seeking to comply with the 90 percent performance standards of revised § 240.17Ad–2 necessarily will perform monthly calculations to determine compliance therewith. For example, a transfer agent, at the end of the third business day following the preceding month, would know the total number of routine items received during the preceding month and the total number of such routine items that were turned around within three business days during such preceding month. Dividing the total number of routine items received into the total number of such items turned around within three business days would give the percentage of routine items turned around within the time limits prescribed by revised § 240.17 Ad–2.

Subparagraph (7)(i) requires an outside registrar to keep, with respect to his registrar activities, information similar to that required of transfer agents in subparagraph (1). The remaining portions of paragraphs (a) and (b) are self-explanatory and are believed to cover the kinds of information that transfer agents normally would preserve even in the absence of these rules.

Revised § 240.17Ad–7.—*Record retention.* Paragraphs (a) through (c) specify the length of time that records, required under revised § 240.17Ad–6, must be kept. The periods of time specified are believed to be no longer than the retention periods transfer agents presently observe, or are required to observe, under generally recognized record retention schedules. Transfer agents, nevertheless, may preserve such records for longer periods of time; the retention periods specified in revised § 240.17Ad–7 are not intended to replace longer retention periods that might be required under or in connection with other Federal rules (such as for tax purposes) or state law.

Paragraph (e) permits records to be maintained upon microfilm under specified conditions, and records required to be kept may be placed upon microfilm at any time.

Paragraph (f) is intended to assure that records in the possession of service agents who act under contract with transfer agents are available for examination by regulatory authorities.[12]

The question was asked whether the phrase "easily accessible place" would permit records to be kept in "low-storage-cost" record centers from which the records could be retrieved within twenty-four hours. The purpose of requiring that records be kept in an "easily accessible place" is to insure that regulatory authorities may examine them as necessary or appropriate in discharging regulatory responsibilities. Inasmuch as the "easily accessible place" requirement applies only to the first year of the record retention period for all record (except those relating to fingerprinting being maintained under § 240.17f–2, 17 CFR 240.17f–2), it is expected that records subject to that requirement will be made available either immediately or on the same day as the request to examine them is made.

The revised rules being proposed to be added to Title 17, Chapter II, Part 240 of the Code of Federal Regulations follow:

[12] Paragraph (f) permits registered transfer agents who currently return all cancelled certificates and other records to the issuer to continue to do so: *Provided*, The issuer agrees to make the certificates and records available for examination by, and to furnish copies upon request to, the transfer agent regulatory agencies.

§ 240.17Ad–1 Definitions.

As used in this section and §§ 240.17 Ad–2, 240.17Ad–3, 240.17Ad–4, 240.17Ad–5, 240.17Ad–6 and 240.17Ad–7:

(a) The term "item" means a certificate presented for transfer, or certificates of the same issue of securities covered by one ticket (or, if there is no ticket, presented by one presentor) presented for transfer, or an instruction to a transfer agent which holds securities registered in the name of the presentor to transfer or to make available all or a portion of those securities. In the case of an outside registrar each certificate to be countersigned is an item.

(b) The term "outside registrar" with respect to a transfer item means a transfer agent which performs only the registrar function for the certificate or certificates presented for transfer and includes the persons performing similar functions with respect to debt issues.

(c) An item is "made available" when:

(1) In the case of an item for which the services of an outside registrar are not required, the transfer agent dispatches or mails the item to, or the item is awaiting pick-up by, the presentor or a person designated by the presentor, or

(2) In the case of an item for which the services of an outside registrar are required, the transfer agent dispatches or mails the item to, or the item is awaiting pick-up by, the outside registrar, or

(3) In the case of an item for which the services of an outside registrar are required, the outside registrar dispatches or mails the item to, or the item is awaiting pick-up by, the presenting transfer agent.

(d) The "transfer" of an item is accomplished when all acts necessary to cancel the certificate or certificates presented for transfer and to issue a new certificate or certificates in accordance with the presentor's instructions, including the performance of the registrar function, are completed and the item is made available to the presentor, or when a transfer agent which holds securities registered in the name of the presentor completes all acts necessary to issue a new certificate or certificates representing all or a portion of those securities and makes the new certificate or certificates available to the presentor or a person designated by the presentor or completes registration of transfer of all or a portion of those securties in accordance with the presentor's instructions.

(e) The "turnaround" of an item is comoleted when transfer is accomplished or when all acts necessary to cancel the certificate or certificates presented for transfer and to issue a new certificate or certificates in accordance with the presentor's instructions, except for performance of the registrar function, are completed and the item is made available to an outside registrar.

(f) The term "process" means the accomplishing by an outside registrar of all acts necessary to perform the registrar function and to make available to the presenting transfer agent the completed certificate or certificates or to advise the presenting transfer agent, orally or in writing, why performance of the registrar function is delayed or may not be completed.

(g) The "receipt" of an item occurs when the item arrives at the premises at which the transfer agent performs transfer agent functions, as defined in section 3(a)(25) of the Act.

(h) A "business day" is any day during which the transfer agent is normally open for business and excludes Saturdays, Sundays and legal holidays or other holidays normally observed by the transfer agent. Items received at or before noon on any business day shall be deemed to have been received at noon on that day, and items received after noon on any business day, or on a Saturday, Sunday, legal holiday or other holiday normally observed by the transfer agent, shall be deemed to have been received at noon on the next business day.

(i) An item is "routine" if it does not (1) require requisitioning certificates of an issue for which the transfer agent, under the terms of its agency, does not maintain a supply of certificates; (2) include a certificate as to which the transfer agent has notice of a stop order, adverse claim or any other restriction on transfer; (3) require any additional certificates, documentation, instructions, assignments, guarantees, endorsements, explanations or opinions of counsel before transfer may be effected; (4) require review of supporting documentation other than assignments, endorsements or stock powers, certified corporate resolutions, signature or other common and ordinary guarantees or appropriate tax or tax waivers; (5) involve a transfer in connection with a reorganization, tender offer, exchange, redemption or liquidation; (6) include a warrant, right or convertible security received on or within two business days before the last day for exercise or conversion; or (7) include a security of an issue whose outstanding amount was increased by twenty-five percent or more within the previous fifteen business days in a public offering of securities registered pursuant to the Securities Act of 1933.

§ 240.17Ad–2 Turnaround, processing and forwarding of items.

(a) Every registered transfer agent (except when acting as an outside registrar) shall turnaround within three business days of receipt at least 90 percent of all routine items presented for transfer on the business days of any month.

(b) Every registered transfer agent acting as an outside registrar shall process at least 90 percent of all items received on the business days of any month (1) by the close of business in the case of items received at or before noon on any such business day, and (2) by noon of the next business day, in the case of items received after noon on any such business day. For the purposes of paragraph (b) and paragraph (c)(2) of this section, "items received" shall not include any item enumerated in § 240.17Ad–1(i) (5), (6) and (7) or any item which is not accompanied by a debit or cancelled certificate.

(c) Any registered transfer agent which fails to comply with paragraphs (a) or (b) of this section with respect to any month, shall, within 6 business days following the end of such month, send to the Commission and the transfer agent's appropriate regulatory agency, if it is not the Commission, a written notice in accordance with paragraph (g) of this section. Such notice shall state:

(1) In the case of items presented for transfer, the number of routine items and the number of non-routine items received during the month, the number of routine items which the registered transfer agent failed to turnaround in accordance with the requirements of paragraph (a) of this section, the percentage that such routine items represent of all routine items received during the month, the reasons for such failure and the steps which have been taken, are being taken or will be taken to prevent a future failure; and

(2) In the case of items received for performance of the registrar function, the number of items received during the month, the number of items which the registered transfer agent failed to process in accordance with the requirements of paragraph (b) of this section, the percentage that such items represent of all items received during the month, the reasons for such failure and the steps which have been taken, are being taken or will be taken to prevent a future failure.

(d) All routine items not turned around within three business days of receipt and all items not processed within the periods prescribed by paragraph (b) of this section shall be turned around or processed promptly, and all non-routine items shall receive diligent and continuous attention and shall be turned around as soon as possible.

(e) A registered transfer agent which receives items at locations other than the premises at which it performs transfer agent functions shall have appropriate procedures to assure, and shall assure, that items are forwarded to such premises promptly.

(f) A registered transfer agent which receives processed items from an outside registrar shall have appropriate procedures to assure, and shall assure, that such items are made available to the presentor promptly.

(g) Any notice required by this section or § 17Ad–4 or § 17Ad–7(f) shall be filed as follows:

(1) Any notice required to be filed with the Commission shall be filed in triplicate with the principal office of the Commission in Washington, D.C. 20549 and, in the case of a registered transfer agent for which the Commission is the appropriate regulatory agency, an additional copy shall be filed with the Regional Office of the Commission for the region in which the registered transfer agent has its principal office for transfer agent activities.

(2) Any notice required to be filed with the Comptroller of the Currency shall be filed with the Office of the Comptroller of the Currency, Administrator of National Banks, Washington, D.C. 20219.

(3) Any notice required to be filed with the Board of Governors of the Federal Reserve System shall be filed with the Board of Governors of the Federal Reserve System, Washington, D.C. 20251 and with the Federal Reserve Bank of the District in which the registered transfer agent's principal banking operations are conducted.

(4) Any notice required to be filed with the Federal Deposit Insurance Corporation shall be filed with the Federal Deposit Insurance Corporation, Washington, D.C. 20429.

§ 240.17Ad–3 Disability.

(a) Any registered transfer agent which is required to file notices pursuant to § 240.17Ad–2(c) with respect to three consecutive months shall not, from the fifth business day following the end of the third such month until the end of the next following period of six successive months during which no such notices have been required:

(1) Initiate the performance of any transfer agent activity for an issue for which the transfer agent does not perform, or is not under agreement to perform, transfer agent functions prior to such fifth business day; and

(2) With respect to an issue for which transfer agent functions are being performed on such fifth business day, initiate for that issue the performance of an additional transfer agent activity which the transfer agent does not perform, or is not under agreement to perform, prior to such fifth business day.

(b) Any registered transfer agent which for two consecutive months fails to turnaround at least 75 percent of all routine items in accordance with the requirements of § 240.17Ad–2(a) or to process at least 75 percent of all items in accordance with the requirements of § 240.17Ad–2(b) shall be subject to the limitations made applicable by paragraph (a) of this section to any registered transfer agent which files notices pursuant to § 240.17Ad–2(c) with respect to three consecutive months; and further shall, within twenty business days of the close of the second such month, send to the chief executive officer of each issuer of each issue serviced by such registered transfer agent a copy of the written notice filed pursuant to § 240.17Ad–2(c) with respect to the second such month.

§ 240.17Ad–4 Applicability of §§ 240.17Ad–2, 240.17Ad–3 and 240.17Ad–6.

(a) Sections 240.17Ad–2, 240.17Ad–3 and 240.17Ad–6 (a)(1) through (a)(7) shall not apply to interests in limited partnerships or to securities issued by open-end investment companies registered under section 8 of the Investment Company Act of 1940.

(b) Except as provided in paragraph (c) of this section, §§ 240.17Ad–2 (a),

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(b), (c) and (g), 240.17Ad–3 and 240.17Ad–6 (a)(2) through (a)(7) shall not apply to any registered transfer agent which during any six consecutive months shall have received fewer than 500 items for transfer or processing and which, within ten business days following the close of the sixth such consecutive month, shall have filed with the Commission, and with the appropriate regulatory agency, if it is not the Commission, a notice certifying to that effect (hereinafter an "exempt transfer agent").

(c) Within five business days following the close of each month, every exempt transfer agent shall calculate the number of items which it received during the preceding six months. Whenever any exempt transfer agent receives 500 or more items for transfer during any six consecutive months, it shall, within ten business days after the end of such month, file with the Commission and with the appropriate regulatory agency, if it is not the Commission, a notice to that effect. Thereafter, beginning with the first month following the month in which such notice is required to be filed, the registered transfer agent shall no longer be exempt under paragraph (b) of this section from the requirements of §§ 240.17Ad–2 (a), (b), (c) and (g), 240.17Ad–3 and 240.17Ad–6 (a)(2) through (a)(7). Any registered transfer agent which has ceased to be an exempt transfer agent shall not qualify again as an exempt transfer agent until it has conducted its transfer agent operations pursuant to §§ 240.17Ad–2 (a), (b), (c) and (g), 240.17Ad–3 and 240.17Ad–6 (a)(2) through (a)(7) for six consecutive months following the month in which it filed the notice required by this paragraph.

§ 240.17Ad–5 Written inquiries.

(a) When any person makes a written inquiry to a registered transfer agent concerning the status of an item presented for transfer by such person or anyone acting on its behalf, which inquiry identifies the issue, the number of shares (or principal amount of debt securities or number of units if relating to any other kind of security) presented, the approximate date of presentment and either the number of the certificate presented or the name in which it is registered, the registered transfer agent shall, within five business days of receipt of the inquiry, respond, stating whether the item has been received; if received, whether it has been transferred; if received and not transferred, the reason for the delay and what additional matter, if any, is necessary before transfer may be effected; and, if received and transferred, the date and manner in which the completed item was made available, the addressee and address to to which it was made available and the number of any new certificate which was registered and the name in which it was registered. If a new certificate is made available to the presentor within five business days following receipts of an inquiry pertaining to that certificate, no further response to the inquiry shall be required pursuant to this paragraph.

(b) When any broker-dealer requests in writing that a registered transfer agent acknowledge the transfer instructions and the possession of a security presented for transfer by such broker-dealer or revalidate a window ticket with respect to such security, which inquiry identifies the issue, the number of shares (or principal amount of debt securities or number of units if relating to any other kind of security), the approximate date of presentment, the number of the certificate presented, and the name in which it is registered, every registered transfer agent shall, within five business days, in writing, confirm or deny possession of the security, and, if the registered transfer agent has possession, (1) acknowledge the transfer instructions and possession or (2) revalidate the window ticket. If a new certificate is made available to the presentor within five business days following receipt of an inquiry pertaining to that certificate, no further response to the inquiry shall be required pursuant to this paragraph.

(c) When any person requests in writing that a transfer agent confirm possession of a certificate as of a given date, which inquiry identifies the issue, the number of shares (or principal amount of debt securities or number of units if relating to any other kind of security), the approximate date of presentment, the number of the certificate presented, the name in which the certificate presented was registered and the name in which the new certificate is to be registered, every registered transfer agent shall, upon assurance of payment of a reasonable fee, if required by such transfer agent, within ten business days make available a written response to such person confirming or denying possession of such security as of such given date.

(d) When any person requests in writing a transcript of such person's account with respect to a particular issue, either as the account appears currently or as it appeared on a specific date not more than six months prior to the date the registered transfer agent receives the request, every registered transfer agent shall, upon assurance of payment of a reasonable fee, if required by such transfer agent, make the requested transcript available to such person within twenty business days following receipt of the request.

§ 240.17Ad–6 Recordkeeping.

(a) Every registered transfer agent shall make and keep current the following:

(1) A receipt, ticket, schedule, log or other record showing the business day each routine item and each non-routine item is (i) received from the presentor and, if applicable, from the outside registrar and (ii) made available to the presentor and, if applicable, to the outside registrar;

(2) A log, tally, journal, schedule or other record showing:

(i) For each month—

(A) The number of routine items received,

(B) The number of routine items turned around,

(C) The number of non-routine items received, and

(D) The number of non-routine items turned around;

(ii) The number of routine items in such registered transfer agent's possession for more than three business days as of the last business day of each month, aged in increments of one business day;

(iii) The number of non-routine items in such registered transfer agent's possession as of the last business day of each month, aged in increments of five business days;

(3) A record of calculations demonstrating the registered transfer agent's monitoring of its performance under § 240.17Ad–2(a) and (b);

(4) A copy of any written notice filed pursuant to § 240.17Ad–2;

(5) Any written inquiry or request received concerning an item, whether the inquiry or request is subject to the requirements of § 240.17Ad–5, showing the date received; a copy of any written response to an inquiry or request, showing the date dispatched to or mailed to the presentor; if no response to an inquiry or request was made, the date the certificate involved was made available to the presentor; or, in the case of an inquiry or request under § 240.17Ad–5(a) responded to by telephone, a telephone log or memorandum showing the date and substance of any telephone response to the inquiry;

(6) A log, journal, schedule or other record showing the number of inquiries subject to § 240.17Ad–5 received during each month and the length of time taken to respond thereto;

(7) If such registered transfer agent acts as an outside registrar:

(i) A receipt, ticket, schedule, log or other record showing the date and time (A.M. or P.M.):

(A) Each item is—

(*1*) Received from the presenting transfer agent, and

(*2*) Made available to the presenting transfer agent;

(B) Each written or oral notice of refusal to perform the registrar function is made available to the presenting transfer agent (and the substance of the notice); and

(ii) A log, tally, journal, schedule or other record showing for each month:

(A) The number of items received; and

(B) The number of items processed in accordance with the requirements of § 240.17Ad–2(b);

(8) Any document, resolution, contract, appointment or other writing, and any supporting document, concerning the appointment and the termination of such appointment of such registered transfer agent to act in any capacity for any issue on behalf of the issuer, on behalf of itself as the issuer or on behalf of any person who was engaged by the issuer to act on behalf of the issuer;

(9) Any record of an active (i.e., unreleased) stop order, notice of adverse claim or any other restriction on transfer; and

(10) A copy of any transfer journal and registrar journal prepared by such registered transfer agent.

(b) Every registered transfer agent which, under the terms of its agency, maintains security holder records for an issue shall, with respect to such issue, make and keep current the following:

(1) Any document, corporate resolution, opinion of counsel, statement or other writing concerning the total number of shares or principal amount of debt securities or total number of units if relating to any other kind of security of any class issued pursuant to corporate action and any increase or decrease therein;

(2) Each share, warrant, right, bond, indenture, requisition, evidence of indebtedness or other certificate of ownership received and all accompanying documentation, except legal papers supporting transfer which are returned to the presentor; and

(3) Any document, opinion of counsel, contract, statement, agreement or other writing concerning a reorganization, tender offer, exchange, redemption, liquidation, stock dividend, conversion or the original issuance and sale of securities registered pursuant to the Securities Act of 1933.

§ 240.17Ad–7 Record retention.

(a) Every registered transfer agent required by § 240.17Ad–6 (a)(1) through (a)(7) or (b)(3) to make and keep current certain records shall preserve such records for a period of not less than two years, the first year in an easily accessible place.

(b) Every registered transfer agent required by § 240.17Ad–6(a)(8) to make and keep current certain records shall preserve such records until one year after the termination of the transfer agency: *Provided*, Such records shall be kept in an easily accessible place prior to such termination.

(c) Every registered transfer agent required by § 240.17Ad–6 (a)(9), (a)(10), (b)(1) or (b)(2) to make and keep current certain records shall preserve such records permanently, the first year in an easily accessible place.

(d) Every registered transfer agent shall preserve in an easily accessible place:

(1) All records required under § 240.17f–2(d) until at least three years after the termination of employment of those persons required by § 240.17f–2 to be fingerprinted, and

(2) All records required pursuant to § 240.17f–2(e) for three years.

(e) The records required to be maintained pursuant to § 240.17Ad–6 may be produced or reproduced on microfilm and be preserved in that form for the time required by this § 240.17Ad–7. If such microfilm substitution for hard copy is made by a registered transfer agent, he shall: (1) At all times have available for examination by the Commission and the appropriate regulatory agency for such transfer agent, facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements; (2) arrange the records and index and file the films in such a manner as to permit the immediate location of any particular record; (3) be ready at all times to provide, and immediately provide, any facsimile enlargement which the Commission and the appropriate regulatory agency by its examiners or other representatives may request; and (4) for the period for which the microfilmed records are required to be maintained, store separately from the original microfilm records a copy of the microfilm records.

(f) If the records required to be maintained and preserved by a registered transfer agent pursuant to the requirements of §§ 240.17Ad–6 and 240.17Ad–7 are maintained and preserved on behalf of the registered transfer agent by an outside service bureau, other recordkeeping service or the issuer, the registered transfer agent shall obtain, from such outside service bureau, other recordkeeping service or the issuer, an agreement, in writing, to the effect that:

(1) Such records are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission and the appropriate regulatory agency for such registered transfer agent, if it is not the Commission; and

(2) The outside service bureau, recordkeeping service, or issuer will furnish to the Commission and the appropriate regulatory agency, upon demand, at either the principal office or at any regional office, complete, correct and current hard copies of any and all such records.

All interested persons are invited to submit their views upon revised §§ 240.17Ad–1, 240.17Ad–2, 240.17Ad–3, 240.17Ad–4, 240.17Ad–5, 240.17Ad–6 and 240.17Ad–7 in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, no later than April 12, 1977. Reference should be made to File No. S7–678. All comments received will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 24, 1977.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1975

Proposed Repeal of Section 963 of Subpart F

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by April 18, 1977. Pursuant to 26 CFR 601.601 (b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by April 18, 1977. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C 7805).

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1), the proposed amendment to such regulations made by paragraph 2 of a notice of proposed rule making published in the FEDERAL REGISTER (41 FR 24359) on June 16, 1976 (relating to the foreign tax credit for domestic corporate shareholders of a foreign corporation, and to the proposed amendment to such regulations made by paragraph 4 of a notice of proposed rule making published in the FEDERAL REGISTER (41 FR 33290) on August 9, 1976 (relating to foreign base company shipping income), to conform subtitle A of the Internal Revenue Code of 1954 to the repeal of section 963 (relating to the receipt of minimum distributions by domestic corporations) by section 602 (a)(1) of the Tax Reduction Act of 1975 (89 Stat. 58).

The repeal of section 963 is effectuated by providing a new section in the regulations, § 1.963–0, which also contains transitional rules for 1976, the first year in which the repeal is effective, a provision which requires deficiency distributions to be made for appropriate tax-

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able years subsequent to the effective date of the repeal of section 963, and a provision which stipulates that any special adjustments to be made under the special rules of section 963 and the regulations thereunder (such as the special adjustments required under § 1.963–4), for a taxable year subsequent to the taxable year in which an election to receive a minimum distribution under section 963 was made, shall be made notwithstanding the repeal of section 963.

Three cross-references to section 963 or the regulations thereunder (those contained in §§ 1.954–1, 1.1248–3 and 1.1248–4) utilize the referred-to segment in a substantive manner which is unrelated to the minimum distribution concept. Since these provisions will survive the repeal of section 963, they have been amended in order to restate the same rules but without any reference to section 963.

A second group of cross-references to section 963 or the regulations thereunder has prospective effect despite the repeal of section 963. In each of these cases, the cross-reference encompasses an event taking place in a year in which section 963 was still in effect which will continue to have tax consequences for taxable years subsequent to the effective date of the repeal of section 963. In order to assure the retention of these references in the regulations, the parenthetical "(as in effect prior to the Tax Reduction Act of 1975)" was added to the following provisions:

§ 1.952–1(c)(2)(ii).
§ 1.959–3(b)(3).
§ 1.960–1(c)(1)(v).
§ 1.964–1(b)(2) (flush material).
§ 1.964–1(c)(2).
§ 1.964–1(c)(6)(iv) and (flush material).
§ 1.964–2(c)(1) (flush material).

A third group of cross-references has no application for years subsequent to the repeal of section 963. Due to the effective date method of repeal utilized in § 1.963–0, no amendment of the following sections was required:

§ 1.78–1(a).
§ 1.78–1(f).
§ 1.864–5(d).
§ 1.951–1(a)(2)(i).
§ 1.952–1(c)(2)(iii).
§ 1.960–2(a).
§ 1.964–1(b)(3) (Example 2).
§ 1.964–1(c)(5).
§ 1.964–3(b)(1).
§ 1.964–3(c)(2).
§ 1.964–4(c).

The last three cross-references were previously amended by a notice of proposed rule making published in the FEDERAL REGISTER (41 FR 24357), on June 16, 1976 (relating to the foreign tax credit for United States corporate shareholders in foreign corporations):

§ 1.902–3(a)(7).
§ 1.902–3(c)(5)(i).
§ 1.902–3(c)(5)(ii).

Additionally, all references to § 1.954–1 (b)(3) and (4) reflect the redesignation of such subparagraphs by the notice of proposed rule making published in the FEDERAL REGISTER (41 FR 33290) on August 9, 1976 (relating to foreign base company shipping income).

The principal draftsperson of this regulation was Mr. Karl P. Fryzel of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style. Mr. Fryzel may be contacted at 202–566–3294 or by mail at 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

PROPOSED AMENDMENTS TO THE REGULATIONS

In order to conform the Income Tax Regulations (26 CFR Part 1) to the repeal of section 963 of the Internal Revenue Code of 1954 by section 602(a)(1) of the Tax Reduction Act of 1975, such regulations are amended as follows, effective for taxable years of foreign corporations beginning after December 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of the Internal Revenue Code of 1954) within which or with which such taxable years of such foreign corporations end:

Paragraph 1. Section 1.902–1(g)(3) of the notice of proposed rule making published in the FEDERAL REGISTER (41 FR 24357) on June 16, 1976, relating to the foreign tax credit for United States corporate shareholders in foreign corporations, is amended by adding the following sentence immediately after the second sentence:

§ 1.902–1 Credit for domestic corporate shareholder of a foreign corporation (before amendment by Revenue Act of 1962).

* * * * * *

(g) * * * However, in the case of a foreign corporation with respect to which there applies under § 1.963–1(c)(1) an election by a corporate United States shareholder to exclude from its gross income for the taxable year the subpart F income of a controlled foreign corporation for the last taxable year of such foreign corporation beginning before January 1, 1976, the controlling United States shareholders shall make the choice referred to in paragraph (g)(1) of this section (including the elections permitted by § 1.964–1 (b) and (c)) for all taxable years beginning after December 31, 1975, no later than 30 days from the time that these regulations are adopted as a Treasury decision.

§ 1.952–1 [Amended]

Par. 2. Section 1.952–1(c)(2)(ii) is amended by inserting "(as in effect prior to the Tax Reduction Act of 1975)" immediately after the words "or paragraph (d)(2)(ii) of § 1.963–2".

Par. 3. Paragraph (b) of § 1.954–1, as amended by paragraph 4 of the appendix to the notice of proposed rule making published on August 9, 1976 (41 FR 33290), is further amended as follows:

1. A new example (3) is added to paragraph (b)(3)(vii).
2. Paragraph (b)(4)(ii) is amended.
3. Example (3) of paragraph (b)(4)(vii) is amended.

These revised and added provisions read as follows:

§ 1.954–1 Foreign base company income; taxable years beginning after December 31, 1975.

* * * * * *

(b) Exclusions from foreign base company income. * * *

(3) Income of controlled foreign corporation not availed of to substantially reduce income or similar taxes. * * *

(vii) *Illustrations.* * * *

Example (3). (i) Controlled foreign corporation Y, which owns and operates a fleet of foreign flag tankers, is incorporated under the laws of foreign country L. L imposes an effective rate of tax of 10 percent on the income (after allocable deductions other than income or similar taxes) from shipping operations. The sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption) prescribed by section 11 for all relevant taxable years is 48 percent. It is assumed that had Y been incorporated in the United States and owned and operated a fleet of United States flag tankers, it could have avoided payment of any taxes on its income from shipping operations because of its ability to reduce taxable income by means of deposits of amounts equal to such income into a capital construction fund under part 3 of this chapter. It is further assumed that had Y been incorporated in the United States and owned and operated a fleet of foreign flag tankers, it would have paid income taxes to the United States on its income from shipping operations at the rate prescribed by section 11.

(ii) Since the effective rate of tax on income from such shipping operations paid to country L (10 percent) does not equal or exceed 90 percent of the 48 percent rate prescribed by section 11 (43.2 percent), such income cannot be excluded from foreign base company income under paragraph (b)(3)(i) of this section by reason of the application of paragraph (b)(3)(ii) (a) of this section and paragraph (b)(4)(ii) of this section.

(iii) Also, the fact that Y could have avoided paying any taxes in the United States on its shipping income will not establish to the satisfaction of the district director that the incorporation of Y in foreign country L did not have as a significant purpose a substantial reduction of income or similar taxes, since such avoidance of United States tax would have been possible only upon the occurrence of additional events other than incorporation in the United States (i.e., the use of United States flag tankers and the depositing of amounts into the capital construction fund), which events did not actually occur.

(4) No substantial reduction of income or similar taxes * * *

(ii) *Foreign personal holding company income and foreign base company shipping income.* For purposes of paragraph (b)(3)(ii)(a) of this section, there will be considered to have been no substantial reduction of income, war profits, excess profits, or similar taxes with respect to an item of foreign personal holding company income described in § 1.954–2 or an item of foreign base company shipping income described in § 1.954–6 if the effective rate of such taxes (after allocable deductions other than such taxes) paid by a controlled foreign corporation to a foreign country for the taxable year in respect of such item of income equals or exceeds 90 percent of a percentage which equals the sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption) prescribed by section 11 for the taxable year of the United States shareholder within which or with which ends such taxable year of such controlled foreign corporation.

* * * * * *

(vii) *Illustrations* * * *

Example (3). Controlled foreign corporation A, incorporated under the laws of foreign country X, is a wholly owned subsidiary of domestic corporation M. Both corporations use the calendar year as the taxable year. In 1976, A Corporation derived interest and rent not excluded under section 954(c)(3) or (4). With respect to the item of interest, A Corporation paid an income tax to country X in an amount effectively equal to 44 percent of such item (after allocable deductions other than income or similar taxes) and, with respect to the item of rent, paid an income tax to country Y in an amount effectively equal to 40 percent of such item (after allocable deductions other than income or similar taxes). No other income or similar tax was paid by A Corporation with respect to such items. In 1976, the sum of the normal tax rate and the surtax rate (determined without regard to the surtax exemption) prescribed by section 11 for the taxable year of M Corporation is 48 percent. Therefore, with respect to the item of interest, there will be considered to have been no substantial reduction of income or similar taxes (44 percent being more than 90 percent of 48 percent), and such interest is not included in foreign base company income of A Corporation. With respect to the item of rent, however, there will be considered to have been a substantial reduction of income or similar taxes (40 percent being less than 90 percent of 48 percent), and the exclusion from foreign base company income provided by section 954(b)(4) will not apply to such item unless it is established in accordance with subparagraph (b)(3)(i) of this paragraph that both the creation or organization of A Corporation under the laws of foreign country X and the effecting through A Corporation of the transaction which gave rise to such rental income did not have as a significant purpose a substantial reduction of such taxes.

* * * * * *

§ 1.959–3 [Amended]

Par. 4. Paragraph (b)(3) of § 1.959–3 is amended by adding "(as in effect prior to the Tax Reduction Act of 1975)" immediately after the words "paragraph (e) of § 1.963–3".

§ 1.960–1 [Amended]

Par. 5. Paragraph (c)(1)(v) of § 1.960–1 is amended by adding "(as in effect prior to the Tax Reduction Act of 1975)" immediately after the words "paragraph (e) of § 1.963–3."

Par. 6. The following new section is added immediately after § 1.963:

§ 1.963–0 Repeal of section 963; effective dates.

(a) Repeal of section 963. Except as provided in paragraphs (b) and (c) of this section, the provisions of section 963 and §§ 1.963–1 through 1.963–7 are repealed for taxable years of foreign corporations beginning after December 31, 1975, and for taxable years of United States shareholders (within the meaning of section 951(b)) within which or with which such taxable years of such foreign corporations end.

(b) Transitional rules for chain or group election—(1) *In general.* If a United States shareholder (within the meaning of section 951(b)) makes either a chain election pursuant to § 1.963–1(e) or a group election pursuant to § 1.963–1(f) for a taxable year of such shareholder beginning after December 31, 1975, then a foreign corporation shall be includible in such election only if—

(i) It has a taxable year beginning before January 1, 1976, which ends within such taxable year of the United States shareholder, and

(ii) It is either—

(A) A controlled foreign corporation or

(B) A foreign corporation by reason of ownership of stock in which such shareholder indirectly owns (within the meaning of section 958(a)(2)) stock in a controlled foreign corporation to which this subparagraph applies.

(2) *Series rule.* If any foreign corporation in a series of foreign corporations is excluded by subparagraph (1) of this paragraph from a chain or group election of a United States shareholder for its taxable year, then any foreign corporation in which the United States shareholder owns stock indirectly by reason of ownership of stock in such excluded corporation shall also be excluded from such election to the extent of such indirect ownership regardless of when its taxable year begins.

(3) *Illustration.* The application of this paragraph may be illustrated by the following example:

Example. (a) M is a domestic corporation, A, B, D, and E are controlled foreign corporations, and C is a foreign corporation other than a controlled foreign corporation. All five foreign corporations each have only one class of stock outstanding. M owns directly all of the stock of A, which in turn owns directly all of the stock of B, which in turn owns directly 60 percent of the stock of D, which in turn owns directly all of the stock of E. M also owns directly 40 percent of the stock of C, which in turns owns directly the remaining 40 percent of the stock of D. M is a United States shareholder with respect to no other foreign corporation. M and E each use the calendar year as the taxable year. A, C, D, and E each use a fiscal year ending on November 30 as the taxable year. For calendar year 1976, M may make either a first-tier election with respect to A, a chain election with respect to C and D (to the extent of M's indirect 16-percent stock interest in D by reason of its direct ownership of 40 percent of the stock of C) or a group election with respect to A, C, D (to the extent of such 16-percent stock interest) and E (to the extent of M's indirect 16-percent stock interest in E).

(b) M's indirect 100 percent stock interest in B will be excluded from any chain or group election made by M for calendar year 1976 since B is a controlled foreign corporation which does not have a taxable year beginning before January 1, 1976, which ends within the taxable year of M beginning after December 31, 1976, for which M has made either a chain or group election.

(c) M's indirect 60 percent stock interest through A and B in D and E will be excluded from any chain or group election made by M for calendar year 1976 since such 60 percent interests are indirectly owned by M by reason of its indirect ownership of stock in B, which is a foreign corporation which does not have a taxable year beginning before January 1, 1976, which ends within the taxable year of M beginning after December 31, 1975, for which M has made either a chain or group election.

(d) If C used the calendar year as its taxable year and was therefore excluded from a chain election made with respect to it and D, then D would also be excluded from such an election, since D would then be a foreign corporation in which M owns stock indirectly by reason of ownership of stock in C, which is excluded from such election.

(c) Deficiency distributions. The rules relating to deficiency distributions under section 963(e)(2) and § 1.963–6 shall continue to apply to a taxable year beginning after the effective date of the repeal of section 963 in which it is determined that a deficiency distribution must be made for an earlier taxable year for which a United States shareholder made an election to secure the exclusion under section 963 but failed to receive a minimum distribution.

(d) Special adjustments pursuant to section 963 to be taken into account for taxable years subsequent to the repeal of section 963. If, by reason of an election by a United States shareholder of a controlled foreign corporation under section 963 with respect to a taxable year, any adjustments are required to be made pursuant to the special rules contained in such section and the regulations thereunder, then such adjustments shall be taken into account for subsequent taxable years notwithstanding the repeal of such section. Examples of such special adjustments include, but are not limited to, those to be made pursuant to § 1.963–4 (relating to the minimum overall tax burden test) to the earnings and profits of a controlled foreign corporation, the foreign income taxes paid by a controlled foreign corporation, the foreign tax credit that may be claimed by a United States shareholder of a controlled foreign corporation pursuant to either section 902 or section 960, and the ordering of actual distributions made out of the earnings and profits of a controlled foreign corporation.

§ 1.964–1 [Amended]

Par. 7. Section 1.964–1 is amended by adding "(as in effect prior to the Tax Reduction Act of 1975)" in the following places:

1. Immediately after the words "under section 963(c)(2)(B) or (3)(B)" in the second sentence following paragraph (b)(2)(ii).

2. Immediately after the words "under section 963(c)(2)(B) or (3)(B)" in paragraph (c)(2).

3. Immediately after the words "under section 963" in paragraph (c)(6)(iv) and immediately after the words "under section 963(c)(2)(B) or (3)(B)" in the

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second sentence following paragraph (c)(6)(iv).

§ 1.961–2 [Amended]

Par. 8. The third sentence following paragraph (c)(1)(ii) of § 1.964–2 is amended by inserting "(as in effect prior to the Tax Reduction Act of 1975)" immediately after the words "(within the meaning of § 1.963–6)".

§ 1.1248–3 [Amended]

Par. 9. Section 1.1248–3 is revised as follows:

1. Example (1) of paragraph (c)(3) is amended by deleting "80 percent" from the last sentence thereof and inserting in lieu thereof "30 percent".

2. Paragraph (c)(4) is amended by deleting the words "(d)(2)(i) (d) and (e) of § 1.963–2" and inserting in lieu thereof the words "(e) (2) and (3) of § 1.951–1".

3. Paragraph (d)(6) is amended by deleting the words "(d)(2)(i) (d) and (e) of § 1.963–2" and inserting in lieu thereof the words "(e)(2) and (3) of § 1.951–1".

§ 1.1248–4 [Amended]

Par. 10. Paragraph (e)(3) of § 1.1248–4 is amended by deleting the words "(d)(2)(i) (d) and (e) of § 1.963–2" and inserting in lieu thereof the words "(e) (2) and (3) of § 1.951–1".

[FR Doc.77–6441 Filed 3–28–77;3:42 pm]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 76–46]

MACKEREL COVE, BAILEY ISLAND, MAINE

Proposed Special Anchorage Area

The Coast Guard is considering amending the anchorage regulations by establishing a Special Anchorage Area in Mackerel Cove, Bailey Island, Maine. The anchorage would be for the general use of the public. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments concerning the proposal to the Commander, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts, 02114. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD 76–46), and give reasons for any recommended change in the proposal. Copies of all written comments will be available for examination by interested persons at the Office of the Commander, First Coast Guard District.

The Commander, First Coast Guard District will forward all comments received before April 17, 1977, and his recommendation to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on the proposal. The proposed regulations may be changed in the light of comments received.

In view of the foregoing, it is proposed to amend Part 110 of Title 33 of the Code of Federal Regulations by adding a new paragraph (a–2) to § 110.5 to read as follows:

§ 110.5 Casco Bay, Maine.

* * * * *

(a–2) Mackerel Cove, Bailey Island, Harpswell. The water area of Mackerel Cove lying northeasterly of a line from a point on Abner Point at latitude 43°43'28" N., longitude 70°00'19" W., to a point on Bailey Island at latitude 43°43'18.2" N., longitude 70°00'12.2" W.

* * * * *

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(B)); 49 CFR 1.46(c)(2).)

The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: February 24, 1977.

O. W. SILER,
Admiral U.S. Coast Guard,
Commandant.

[FR Doc.77–6388 Filed 3–2–77;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 13]

FIDUCIARY ACTIVITIES

Competency Determinations; Due Process

It is proposed to revise the language of § 13.56 of Title 38, Code of Federal Regulations to reflect changes to § 3.353 of this title which provide for the extension of due process and competency rating authority and procedures to non-veteran adult beneficiary cases. It is further proposed to establish a time limitation for the withholding of funds which would be otherwise available to an incompetent adult beneficiary except that the beneficiary is determined by the Veterans Services Officer to be not capable of managing the entire amount of entitlement, and is being paid direct as a temporary payee with the Veterans Officer's supervision.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before April 4, 1977, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm, Monday through Friday (except holidays), during the mentioned 30–day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is also given that it is proposed to make this change effective the date of final approval.

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Approved: February 25, 1977.

R. L. ROUDEBUSH,
Administrator.

In § 13.56, paragraphs (a) and (b) are revised to read as follows:

§ 13.56 Direct payment.

(a) *Veterans.* Veterans Administration benefits payable to a veteran rated incompetent may be paid directly to the veteran in such amounts as the Veterans Services Officer determines the veteran is able to manage with continuing supervision by the Veterans Services Officer, provided a fiduciary is not otherwise required. Any amount as determined by the Veterans Services Officer paid directly to a veteran rated incompetent which is less than the full amount of entitlement shall be paid for a limited period generally not to exceed 4 months, at the end of which period full entitlement will be restored and any funds withheld as a result of this section will be released to the veteran, if not otherwise payable to a fiduciary.

(b) *Other adults.* Veterans Administration benefits payable to an adult beneficiary who has been rated or judicially declared incompetent may be paid directly to the beneficiary in such amounts as the Veterans Services Officer determines the beneficiary is able to manage with continuing supervision by the Veterans Services Officer, provided a fiduciary is not otherwise required. Any amount as determined by the Veterans Services Officer paid directly to an adult beneficiary who has been rated or judicially declared incompetent which is less than the full amount of entitlement shall be paid for a limited period generally not to exceed 4 months at the end of which period full entitlement will be restored and any funds withheld as a result of this section will be released to the beneficiary, if not otherwise payable to a fiduciary.

* * * * *

[FR Doc.77–6341 Filed 3–2–77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 21116; FCC 77–116]

AMATEUR RADIO SERVICE

Prohibiting Marketing of External Radio Frequency Amplifiers Capable of Operation on Any Frequency From 24 to 35 MHz

Adopted: February 10, 1977.

Released: February 28, 1977.

In the matter of amendment of Part 2 of the Commission's rules to prohibit the marketing of external radio frequency amplifiers capable of operation on any frequency from 24 to 35 MHz.

1. Notice of proposed rulemaking is hereby given in the above-captioned matter. The Commission has become aware in recent months that a number of equipment manufacturers have marketed equipment ostensibly for use in the Amateur Radio Service where its use would be legal, but in fact, such equipment was intended to be attached to transmitters in the Citizens Band (CB) Radio Service in violation of the Commission's rules. Most noteworthy among such equipment is the so-called "linear" amplifier which increases the operating power of a CB station above that permitted, thereby greatly increasing the potential for interference to CB receivers, TV receivers, and other electronic equipment. The wide-spread use of this device has contributed significantly to the problems of the CB service, and therefore, such use must ultimately increase the Commission's level of regulation.

2. Our first attempt to deal with the problem of external "linear" amplifiers resulted in the regulations adopted in the Report and Order in Docket No. 20118, 40 FR 1243, 50 FCC 2d 310, which placed a limited ban against the marketing of external radio frequency amplifiers. In this Order, the Commission added a new § 2.815 to its marketing rules in Subpart I of Part 2. This section prohibits the marketing of external radio frequency amplifiers capable of being used with a transmitter operating on any frequency or frequencies between 24 MHz and 35 MHz with certain exceptions.

3. To illustrate the manner in which the new rules were circumvented, almost immediately after the Report and Order was released, there appeared on the market a device commonly called a "broadband linear". These devices may be considered to meet the strict letter of our rules, inasmuch as they claim to provide for operation on the frequency bands specified under our exemption. However, these devices have an even greater potential for interference due to the higher level of spurious emissions.

4. The advertisements for external radio frequency amplifiers generally carry a specific disclaimer to the effect that "Use of this equipment is not permitted in the Citizens Band (CB) Radio Service in the United States." However, the suppliers of such equipment consistently place their advertisements in publications which cater to the CB operator and seldom, if ever, advertise in publications that cater to amateur operators who could use such power amplifiers legally. Thus, some equipment suppliers see fit to comply only with the strict letter of the law, and at the same time disregard the spirit of the law, encouraging subversion of the Commission's regulations and efforts at improving the quality of the Citizens Band for all licensees. This is our next step in increasing the level of regulation applicable to the marketing of external RF power amplifiers.

5. The Commission's requirements for limited output power in the Citizens Band Radio Service were designed to minimize the potential for interference among licensees and, thereby, make it a more useful service for all users. By using increased power, the user may obtain a limited benefit insofar as his particular operation is concerned, but such benefit is achieved at the expense of the other CB operators and the television viewers, as our records of television interference due to overpower CB operation will attest. In order to obtain the maximum benefit from CB operation as a short-range service, the principle of reusability of the channels must be maintained. This cannot be accomplished with the wide-spread use of external amplifiers. When such amplifiers are employed, the service area of the transmitted signal increases, precluding a higher percentage of additional stations from using that frequency. In the case of an amplifier with a high spurious signal output, this will cause interference to TV receivers in addition to the effect upon the CB users.

6. We are convinced that the large majority of equipment manufacturers and licensees are interested in what is best for the CB Radio Service and conscientiously obey not only the letter but the spirit of our rules and regulations. For these people, we do not wish to add yet more rules which may be a burden to them and could be easily disobeyed by those so inclined. However, in all fairness to those manufacturers and users who earnestly endeavor to comply with our regulations, a situation such as this cannot be ignored.

7. Therefore, we are herein proposing to prohibit the marketing of all external radio frequency power amplifiers capable of operation in the frequency range of 24.00 MHz to 35.00 MHz. This action is intended to completely eliminate this equipment from the "legal" market, regardless of the service under which it would be operated. However, as there are certain legitimate laboratory and testing uses for amplifiers in this frequency range, the Commission would entertain requests for waivers for clearly defined legitimate users and manufacturers of external RF amplifiers designed for medical or industrial use. Comments are requested in this area as to how the Commission should define these legitimate users and what steps should be taken to accomplish this goal without opening another "loop-hole" in our rules which would allow for the continued manufacture of amplifiers designed for CB operation.

8. The 24 MHz and 35 MHz limits were chosen so that practical circuitry could be used to achieve adequate suppression of radio frequency energy appearing on the CB frequencies. In addition, we believe the frequency range proposed would create a minimum effect upon the licensees in other services. Except for those services discussed above and the 10-meter amateur band, the other services which have a need for an amplifier are far enough removed from this frequency range that such a prohibition should have no effect upon their operation. While we regret the limitations this may place on the amateur operator, the Commission believes that this prohibition would achieve this goal. The marketing rules of Subpart I of Part 2 would be amended, as shown below, so as to prohibit the marketing of all such devices. There could then be no legal use for such devices, and thus, no subterfuge under which they could be marketed. We believe that the complete prohibition of the marketing of external radio frequency power amplifiers is an effective means to prevent their use. Comments are solicited as to any further regulations which may be necessary to achieve this goal.

9. Comments are also solicited concerning the practicality of such a prohibition and possible techniques which could be used to produce such an amplifier. Such comments should also address the problems associated with preventing the few unscrupulous manufacturers from including such features as accessible wiring which can be cut to provide for operation on the prohibited frequencies, controls both external and internal which could provide for operation on these frequencies, or any other concepts which could be used to circumvent this prohibition.

10. The Commission strongly regrets the inconvenience this proposal may place on the amateur operator. In order to lessen the impact of this proposal upon the amateur operator who wishes to use the 10-meter band, we are proposing that a licensed amateur operator may construct one unit of a particular model amplifier for use at his own station. This amplifier may also be sold to another licensed amateur operator. At this time, the construction of these amplifiers will be restricted to those operators with a General or higher class license. This is being done in consideration of the high degree of technical competence and experience which must be demonstrated to obtain such a license. In addition, it is felt that an amateur operator with this degree of technical ability would be less inclined to construct these amplifiers for non-amateur purposes. However, we will rely strongly on the comments received on this proposal to determine if the license class restriction should be lowered, as we assume that all amateur operators will respect the intent of this regulation.

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11. In light of the prohibitory ramifications of this proceeding, we request that a careful study of this matter be made and that the pros and cons be thoroughly discussed and evaluated. The comments should deal specifically with the issues raised herein. Respondents are urged to be as complete and as detailed as possible in their comments and replies.

12. Authority for the adoption of the amendments proposed herein and for the request for comments is contained in sections 4(i), 302, 303(e), and 303(f) of the Communications Act of 1934, as amended.

13. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before May 25, 1977, and reply comments on or before June 6, 1977. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account specific information before it, in addition to the comments invited by this notice.

14. In accordance with the provisions of § 1.419 of the rules, an original and 5 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. In an effort to obtain the widest possible response in this proceeding, informal comments (without extra copies) will be accepted. These informal comments should specifically reference this proceeding. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room located at its headquarters at 1919 M Street, NW, Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

Section 2.815 of Part 2 is amended by deleting the present text of paragraph (c) and inserting the word (Reserved) and by revising paragraphs (b) and (d) to read as follows:

§ 2.815 External radio frequency power amplifiers.

* * * * *

(b) After (effective date), no person shall sell or lease, or offer for sale or lease (including advertising for sale of lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier capable of operation on any frequency or frequencies between 24.00 MHz and 35.00 MHz.

(c) (Reserved)

(d) The proscription in paragraph (b) of this Section shall not apply to the marketing to another licensed amateur radio operator of any single-band or multi-band external radio frequency power amplifier fabricated in not more than one unit of the same model by any General or higher class licensed amateur radio operator provided this amplifier is for the amateur operator's personal use at his licensed amateur radio station.

[1] Chairman Wiley concurring and issuing a Statement and Commissioner Lee absent.

CONCURRING STATEMENT OF CHAIRMAN RICHARD E. WILEY IN RE DOCKET 21116 AND DOCKET 21117

While I concur in the Commission's proposals to ban use of linear amplifiers in the 11 meter citizens radio band and to require type acceptance of amateur equipment, I must admit to doing so with some reservations. The prohibitions on the illegal use of linears by CB operators would also prevent their lawful and legitimate utilization by amateurs in the 10 meter frequencies. Similarly, while the requirement for type acceptance may be desirable relative to the effective regulation of CB radio, it has both advantages and disadvantages for the amateur service. My concern is that, in attempting to deal with the rapidly proliferating and sometimes troublesome CB service, we may appear to be penalizing the amateur community which, in my judgment, is one of the most "professional" and self-regulated services within the Commission's jurisdiction.

Although I have voted with the majority to put these items out for comment, I wish to make it clear that I approach both of them with an open and questioning mind. It may be that the comments we receive will suggest other and better alternatives to the Commission's proposals. If so, however, I am hopeful that such suggestions will pragmatically recognize the tremendous task facing the FCC in regulating CB radio which, in the space of only 2 years, has grown from 50,000 license applications a month to over one million applications in January 1977 alone.

I look forward to a healthy and vigorous discussion on the proceedings which the Commission has opened today. Whatever their ultimate outcome, however, I wish to take this opportunity to express my respect and admiration for the amateur community. I hope and trust that my colleagues will give these dockets, and the comments filed by the amateur community (as well as others), careful attention prior to reaching any final conclusion.

[FR Doc.77-6394 Filed 3-2-77;8:45 am]

[47 CFR Parts 2 and 97]

[Docket No. 21117; FCC 77-117]

AMATEUR RADIO SERVICE

Requirement of Type Acceptance of Equipment Marketed for Use

Adopted: February 10, 1977.
Released: February 28, 1977.

In the matter of amendment of Parts 2 and 97 of the Commission's Rules to require type acceptance of equipment marketed for use in the Amateur Radio Service, Docket No. 21117.

1. Notice of proposed rulemaking in the above captioned matter is hereby given. In our regulation of radio frequency devices capable of causing harmful interference, we have brought almost all of the equipment used in the licensed services under our equipment authorization program. A notable exception to this is equipment used in the Amateur Radio Service (ARS). This proposal is intended to bring amateur radio equipment into this program.

2. Traditionally, much of the equipment used at amateur stations has been constructed by the amateurs themselves. For those amateurs who chose not to construct equipment, numerous makes and models of transmitters, receivers, amplifiers, and accessories have been available from commercial equipment manufacturers. As electronic technology becomes increasingly sophisticated, fewer and fewer amateurs are building their own. The vast majority of amateurs now utilize commercially produced equipment, although the individual amateur operator often modifies this equipment to alter or improve its capabilities. This trend has resulted in a proliferation of equipment makes and models, and among them are now several types not only operable on amateur frequencies, but also, with no or only minor modifications, capable of operation on the 27 MHz CB frequencies. This quasi-CB equipment, as well as all other amateur equipment, does not now fall under the Commission's regulations on type acceptance and marketing, and we believe that the time has now come to amend our rules accordingly.

3. We are further moved toward type acceptance of amateur equipment because of the apparent inability in the amateur community, as a whole, to take responsibility for evaluation of their station transmitter output characteristics. Specifically, in a notice of proposed rule making in Docket 20777, released April 22, 1976 (41 FR 17789), the Commission proposed to replace the present emission table in Part 97 with a table of maximum permissible bandwidths. In comments to this proposal, this concept was rejected by individual amateurs and the American Radio Relay League. The League said that such a requirement was "obviously impractical". Also generally rejected was the Commission's proposal in Docket 20282 which would have changed the method of measuring amateur transmitter power. It was proposed that output power, rather than input power, be measured, and the comments we received indicated that the majority of amateurs would not, or could not, take on this responsibility. Clearly, if the primary responsibility for equipment emission characteristics is to rest with the equipment manufacturers, rather than with individual amateurs, then the Commission has an obligation to require type acceptance in this area, as it does for other services.

4. We visualize the type acceptance requirement as a method to bring to our attention the quasi-CB equipment of the type mentioned above. At that time, we can determine the suitability of permitting the marketing of the equipment. Under our type acceptance requirements, before a grant is made, we must determine not only that the equipment meets the applicable technical standards, but also that a grant of type acceptance would be in the public interest. Conditions which we would look for in deciding if a type acceptance grant should be made include, but are not limited to: Any accessable wiring which, when cut, would allow operation on a frequency where use of the equipment is not permitted; the providing of circuit boards or similar circuitry to facilitate the addition of components, the purpose of which would be to change the equipment's operating characteristics in a manner not permitted under our rules; or, any internal or external adjustments or controls which are provided to facilitate operation in a manner not permitted under our rules. Therefore, if a device met the technical requirements of the ARS (Part 97) but was presumably intended for illegal use in another service, type acceptance could be denied and the manufacturer would be denied the right to market that device. The manufacturer of devices intended for legitimate use would not be affected by this proposal. Comment is requested concerning specific details which should be placed in our rules concerning the conditions under which type acceptance could be denied.

5. Although the rules will continue to place the responsibility for meeting high technical standards upon the individual amateur, and we will continue to encourage experimentation and testing of equipment, we believe that those marketing amateur equipment mush share in the responsibility to provide equipment capable of meeting these standards. Moreover, type acceptance of commercially marketed equipment does offer certain benefits to the amateur community. In addition to closing the amateur "loop-hole" that allows illegal CB "linears" to be openly advertised and sold, these requirements will also assist in preventing the marketing of inferior equipment to amateurs. The amateur band will be protected from "store bought" equipment that does not at least meet minimum technical standards.[1] This should result in fewer occurrences of interference to television receivers, other home electronic equipment, and other radio services including the amateur service itself.

[1] Recently, a case of commercially marketed amateur radio equipment operating in the 2-meter band caused harmful interference to a radio-navigation system used by aircraft. It was found that the equipment was generating spurious emissions which were disrupting operations of the navigation system. Elimination of this source of interference required investigation by the Commission, in addition to assistance from the amateur operators. The operators involved cooperated by ceasing operation until the equipment problem was corrected. It is anticipated that such situations will be minimized by requiring the equipment suppliers to demonstrate to the Commission the capability of their equipment to comply with the appropriate technical standards before they are permitted to market it to the amateur community.

6. In order that we not impede the innovative process and permit equipment manufacturers to supply the amateur licensees with state-of-the-art equipment, we believe that the technical standards for type acceptance should address only matters which will affect operations outside of the amateur frequency bands. Therefore, we propose to limit our technical standards requirements to spurious emissions and radiations. In the notice of proposed rulemaking in Docket 20777 (41 FR 17789), released April 22, 1976, specific authorized bandwidths are proposed, together with limitations for emissions appearing on frequencies removed from the center of the authorized bandwidth by an amount equal to more than 250 percent of the authorized bandwidth. Such emissions would be attenuated at least 40 decibels below the mean power of the emission, as specified by ITU regulations. While this may be adequate for equipment used by the individual amateur, we propose to require a 43+10 log (mean power in watts) decibel suppression for type acceptance purposes, inasmuch as such equipment will be available in large quantities and thus, in the aggregate, will have a greater potential for interference. This degree of attenuation was chosen to correspond to the requirements for the land mobile and broadcast services.

7. Traditionally, the amateur operators have been in the forefront in developing techniques for solving interference problems, both through the use of external filtering and through actual modification of the transmitting equipment. This, in addition to the lesser degree of proliferation of equipment as compared to transmitters in the Citizens Band Radio Service, is our reason for not requiring the attenuation level of these transmitters to be as great as for the CB band. However, it may be necessary in a future rule making proceeding to readdress this matter if frequent problems from interference occur. Of immediate concern is operation in the 10-meter band. A notice of inquiry and proposed rule making in Docket 21000 released November 30, 1976, addressed the matter of requiring 100 decibels of attenuation for spurious and harmonic emissions generated from transmitters in the Citizens Band Radio Service. Any actions taken in Docket 21000 may be reflected in our actions in this proceeding. Therefore, the attenuation level of spurious and harmonic emissions for transmitters operating in the 10-meter band may be made equivalent to any attenuation levels which may be adopted in Docket 21000.

8. We wish to stress that although we propose to require the use of type accepted equipment at stations in the ARS, we have made specific exemptions for equipment constructed or modified by individual amateurs for use at a licensed station in the ARS. While manufacturers would be prohibited from marketing equipment prior to the receipt of a grant of type acceptance, the individual amateur would be permitted to construct his own equipment or to modify his equipment, whether home built or commercially procured: *Provided*, The modified equipment was for use at a licensed amateur station. In addition, the amateur would be permitted to sell his home built or modified equipment to another amateur. However, the amateur operator who decides to build or modify equipment in quantity for sale to other amateurs will be considered a manufacturer and will be subject to the type acceptance requirement. We feel that this will place the minimum burden upon the individual amateur radio licensee and will still encourage the experimentation and testing of equipment which, in the past, has been a major characteristic of the amateur community.

9. With respect to the matter of kits supplied to the amateur operator, the supplier of the kit will be required to obtain a grant of type acceptance as a prerequisite for legal marketing of the kit. We would require that the supplier of these components and instructions assemble three units according to the construction details and using the components normally supplied. Measurements would then be made on the completed units and submitted with the application for type acceptance. We wish to emphasize that our consideration for an authorization of this form of equipment is strictly limited, in this proceeding, to equipment to be used in the Amateur Radio Service. Since the amateur radio operator is considered technically competent, and the amateur normally possesses considerable expertise in ensuring that the equipment is in accordance with the applicable technical requirements, we believe our proposal to be sound. However, due to the unique character of the Amateur Radio Service, extension of this concept to other licensed services cannot be justified in this proceeding. Our actions here should not be construed as addressing the issues raised by the Heath Company in their outstanding petitions for rule making (RM-1093 and RM-1164) which are being addressed in another rulemaking proceeding.

10. The proposed rules shown below are intended to address the marketing problems we have been encountering, while, at the same time, place a minimum burden upon the individual amateur operator. Keeping the above in mind, specific comments upon this proposal should be made. The comments should address the specific rules which are proposed below and should fully discuss the impact of this proposal on the Amateur Radio Service. We also request comments upon the feasibility and economic considerations associated with type acceptance of the ARS equipment. Further, the Commission is concerned with the impact that a type acceptance program may have on newly developing

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amateur industries. We therefore are also requesting comments as to any exemptions from these requirements which should be applied to these new companies.

11. This proposal deals specifically with transmitters and external amplifiers manufactured and marketed for operation in the ARS. Receivers in the Citizens Band Radio Service and receivers that tune between 30 and 890 MHz, which includes some amateur receivers, such as 2-meter gear, presently require certification from the Commission pursuant to Subpart C of Part 15 of the FCC Rules.[2] Special provisions for individually constructed receivers that now require certification will be the subject of a soon to be initiated, separate rulemaking proceeding and are not being considered at this time.

12. The proposed amendments of the rules as set forth below are issued pursuant to the authority contained in sections 4(i), 302, 303(e), and 303(f) of the Communications Act of 1934, as amended. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before May 25, 1977, and reply comments on or before June 6, 1977. All relevant and timely comments will be considered. The Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

13. In accordance with the provisions of § 1.419 of the Rules, an original and 5 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. In an effort to obtain the widest possible response in this proceeding, informal comments (without extra copies) will be accepted, but these should make specific reference to this proceeding. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room located at its headquarters at 1919 M Street, NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,[3]
VINCENT J. MULLINS,
Secretary.

Part 2 is amended as follows:

1. Section 2.983 is amended by adding a new paragraph (f) to read as follows:

§ 2.983 Application for type acceptance.

* * * * *

(f) The application for type acceptance of a transmitter or external radio frequency power amplifier under Part 97 of this chapter need not be accompanied by the data required by paragraph (e) of this section. In lieu thereof, measurements shall be submitted to show compliance with the technical specifications in Subpart H of Part 97 of this chapter.

2. Section 2.1001 is amended by revising the text of paragraph (e) and adding a new paragraph (f) to read as follows:

§ 2.1001 Changes in type accepted equipment.

* * * * *

(e) Users shall not modify their own equipment except as provided by paragraphs (b) and (f) of this section.

(f) Equipment type accepted for use in the Amateur Radio Service pursuant to the requirements of Part 97 of this chapter may be modified without regard to the conditions specified in paragraph (b) of this section: *Provided,* The following conditions are met:

(1) Any person performing such modifications on equipment used under Part 97 of this chapter must possess a valid amateur radio operator license of the class required for use of the equipment being modified.

(2) Modifications made pursuant to this paragraph are limited to equipment used at individual amateur radio stations.

(3) Modifications specified or performed by equipment manufacturers or suppliers must be in accordance with the requirements set forth in paragraph (b) of this section.

(4) Modifications specified or performed by licensees in the Amateur Radio Service on equipment other than that at specific licensed amateur radio stations must be in accordance with the requirements set forth in paragraph (b) of this section.

(5) The station licensee shall be responsible for insuring that modified equipment used at his station will comply with the applicable technical standards in Part 97 of this chapter.

Part 97 is amended as follows:

1. Subpart H is amended by deleting the word [Reserved] and by adding the following:

Subpart H—Type Acceptance of Equipment Used at Stations in the Amateur Radio Service

Sec.
97.401 Acceptability of transmitters and external radio frequency power amplifiers for use in the Amateur Radio Service.
97.403 Procedure for type acceptance of equipment.
97.405 Measurement data, technical standards requirements and additional information for type acceptance.

AUTHORITY: Secs. 4(i), 302, 303(e), and 303(f), Communications Act of 1934, as amended.

Subpart H—Type Acceptance of Equipment Used at Stations in the Amateur Radio Service

§ 97.401 Acceptability of transmitters and external radio frequency power amplifiers for use in the Amateur Radio Service.

(a) Periodically, the Commission publishes a list of equipment entitled "Radio Equipment List, Equipment Acceptable for Licensing". Copies of this list are available for public reference at the Commission's offices in Washington, D.C., and at each of its field offices. This list includes type accepted and type approved equipment and, until such time as it may be removing by Commission action, other equipment which appeared in this list on May 16, 1955.

(b) Each transmitter or external radio frequency power amplifier marketed as specified in § 2.803 of this chapter or utilized by a station authorized for operation under this part shall be of a type which has been type accepted by the Commission for use in the Amateur Radio Service. All an exception to these requirements, type acceptance is not required for the following:

(1) A transmitter or external radio frequency power amplifier constructed by an individual amateur radio operator for use at his licensed station: *Provided,* No more than one unit of a particular model is constructed or modified: *And further provided,* Such equipment was not constructed pursuant to the provisions of paragraph (e) of this section.

(2) A transmitter or external radio frequency power amplifier purchased or obtained prior to (effective date of the rules): *Provided,* Such equipment is for use at a licensed amateur radio station.

(3) A transmitter or external radio frequency power amplifier purchased or obtained after (effective date of the rules) from another licensed amateur radio operator who constructed or modified the equipment: *Provided,* Such equipment was not constructed pursuant to the provisions of paragraph (e) of this section and that such equipment is for use at a licensed amateur radio station.

(c) A transmitter or external radio frequency power amplifier marketed for use in an amateur radio station prior to (effective date of the rules) must meet the applicable technical standards in this part, pursuant to § 2.805 of this chapter.

(d) A transmitter or external radio frequency power amplifier marketed after (effective date of the rules) must comply with the requirements of paragraph (b) of this section.

(e) After (effective date of the rules), persons supplying electronic components which, when assembled in accordance with provided instructions, result in equipment intended for use in the Amateur Radio Service shall comply with paragraph (b) of this section in accordance with the procedure specified in paragraph (c) of § 97.403.

§ 97.403 Procedure for type acceptance of equipment.

(a) Any manufacturer or supplier of a transmitter or external radio frequency power amplifier built for use in this service may request type acceptance for such transmitter or amplifier with the type acceptance requirements of this part, following the type acceptance procedure set forth in Subpart J of Part 2 of this chapter.

(b) Additional rules with respect to type acceptance are set forth in Subpart J of Part 2 of this chapter. These rules include information with respect to withdrawal of type acceptance, modification of type accepted equipment, and limitations on the findings upon which type acceptance is based.

(c) Any supplier of equipment described in paragraph (e) of § 97.401 may request type acceptance for such equipment by following the procedure set forth in Subpart J of Part 2 of this chapter. In addition, the applicant for type acceptance shall comply with the requirements of §97.405 and with the following additional requirements:

(1) Assembly of three units of a specific type shall be made in exact accordance with the instructions being supplied with the product being marketed.

(2) The measurement data required for type acceptance shall be obtained for each of the three units and submitted with the type acceptance application.

(3) A copy of the exact instructions which will be provided for assembly of the equipment shall be provided.

(4) The indentification label required by §§ 2.925 and 2.1003 of Part 2 of this chapter shall be permanently affixed to the assembled unit and shall be of sufficient size so as to be easily seen. The following information shall be shown on the label:

(Name of Grantee of Type Acceptance)
FCC Data: (The number assigned to the equipment by the Grantor)
This transmitter can be expected to comply with Part 97 of the FCC Regulations when assembled and aligned in strict accordance with manual instructions using components supplied with the kit or an exact equivalent thereof.

(Title and signature of responsible representative of Grantee)
Statement of Compliance
I state that I have constructed this equipment in accordance with instructions and using the parts furnished by the supplier of this kit.

(Signature) (Date)
(To be signed by the person responsible for proper assembly of kit)

(5) If requested, an unassembled unit shall be provided for assembly and test by the Commission. Shipping charges to and from the Commission's laboratory shall be borne by the applicant for type acceptance.

§ 97.405 Measurement data, technical standards requirements and additional information for type acceptance.

(a) In addition to the technical standards set forth in Subpart C of this part, equipment subject to the type acceptance requirements of § 97.401 shall comply with the provisions of this section.

(b) The mean power of spurious and harmonic emissions from transmitters authorized under this part shall be attenuated below the mean power output of the transmitter by an amount at least 43+10 log (mean power in watts) decibels on any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth.

NOTE.—Pending a decision as to what the authorized bandwidths shall be, all emissions outside of the amateur band being used shall be attenuated by the amount shown above.

(1) The magniture of spurious or harmonic emission which are attenuated by more than 20 decibels below the permissible value need not be reported.

(2) In the measurements specified in paragraph (b) of this section, the spectrum should be investigated from the lowest radio frequency generated in the equipment up to at least the 10th harmonic of the highest carrier frequency or the highest frequency practicable in the present state of the art of measuring techniques, whichever is lower.

(c) When performing the tests specified in paragraph (b) of this section, the center of the authorized bandwidth shall be within the operating frequency band by an amount equal to 50 percent of the authorized bandwidth. In addition, said tests shall be made on at least one frequency in each of the bands within which the transmitter is capable of operating.

(d) The Commission may consider data which have been measured in accordance with established standards and measurement procedures as published by engineering societies and associations such as the Electronic Industries Association, the Institute of Electrical and Electronic Engineers, Inc. and the American National Standards Institute. Specific reference should be made to the standard(s) used. If a published standard is not used, the applicant shall submit a detailed description of the measurement procedure actually used. In either case, he shall submit a listing of the test equipment used.

(e) Type acceptance of external radio frequency power amplifiers may be subject to such limitations deemed necessary to prevent their use in services where such use is not permitted.

CONCURRING STATEMENT OF CHAIRMAN RICHARD E. WILEY IN RE DOCKET 21116 AND DOCKET 21117

While I concur in the Commission's proposals to ban use of linear amplifiers in the 11 meter citizens radio band and to require type acceptance of amateur equipment, I must admit to doing so with some reservations. The prohibitions on the illegal use of linears by CB operators would also prevent theitr lawful and legitimate utilization by amateurs in the 10 meter frequencies. Similarly, while the requirement for type acceptance may be desirable relative to the effective regulation of CB radio, it has both advantages and disadvantages for the amateur service. My concern is that, in attempting to deal with the rapidly proliferating and sometimes troublesome CB service, we may appear to be penalizing the amateur community which, in my judgment, is one of the most "professional" and self-regulated services within the Commission's jurisdiction.

Although I have voted with the majority to put these items out for comment, I wish to make it clear that I approach both of them with an open and questioning mind. It may be that the comments we receive will suggest other and better alternatives to the Commission's proposals. If so, however, I am hopeful that such suggestions will pragmatically recognize the tremendous task facing the FCC in regulating CB radio which, in the space of only 2 years, has grown from 50,000 license applications a month to over one million applications in January 1977 alone.

I look forward to a healthy and vigorous discussion on the proceedings which the Commission has opened today. Whatever their ultimate outcome, however, I wish to take this opportunity to express my respect and admiration for the amateur community. I hope and trust that my colleagues will give these dockets, and the comments filed by the amateur community (as well as others), careful attention prior to reaching any final conclusion.

[FR Doc.77-6393 Filed 3-2-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 71-18, Notice 9; Docket No. 25, Notice 23]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS; UNIFORM TIRE QUALITY GRADING

Temperature for Tire Testing

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes amendments of the temperature conditions for certain test requirements of the Uniform Tire Quality Grading Standards regulation and the Federal motor vehicle safety standard for nonpassenger-car tires. The amendments would bring those conditions into line with the corresponding temperature conditions of the passenger-car tire safety standard.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 18, 1977.

PROPOSED EFFECTIVE DATE: Date of Publication of final rule.

FOR FURTHER INFORMATION CONTACT:

Arturo Casanova III, Tire Division, Office of Crash Avoidance, Motor Vehicle Programs, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202 426-1715).

SUPPLEMENTARY INFORMATION: Ambient temperature conditions for tire endurance testing and high speed testing are found in two Federal motor vehicle safety standards: No. 109, *New Pneumatic Tires*—Passenger Cars 49 CFR 571.109), and No. 119, *New pneumatic tires for vehicles other than passenger cars* (49 CFR 571.119). Ambient temperature test conditions are also set out in 49 CFR § 575.104, *Uniform Tire Quality Grading Standards* (UTQGS) for temperature resistance grading of passenger-car tires.

[2] These requirements are subject to change in a proposal in Docket No. 20746. This is a NPRM adopted March 16, 1976, released March 29, 1976, 41 FR 13378, 58 FCC 2d 5, page 839, which proposes to bring receivers that operate in the range 30 to 90 MHz under our receiver certification program.

[3] Chairman Wiley concurring and issuing a statement.

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The ambient temperatures are currently specified as follows:

Standard No. 109: "100±5° F."
Standard No. 119: "any temperature • • • up to 100° F."
UTQGS: "at 105° F."

Goodyear Tire and Rubber Company petitioned for amendments that would specify the same conditions in all three regulations. Such uniformity would enable tire manufacturers to avoid some duplication of testing in the quality grading of passenger-car tires and the certification of the same tires' conformity to Standard No. 109. Similarly, it would permit more efficient use of high speed wheel-test facilities in certifying passenger-car and non-passenger-car tires to their respective safety standards. Goodyear requested that the conditions in Standard No. 119 and UTQGS be amended to agree with the "100±5°" condition in Standard No. 109, because the 100-degree "target" temperature in the latter would correspond to the long established temperature used by the tire industry, while the 5-degree tolerance would recognize the difficulties in maintaining a constant temperature in the wheel test environment.

The NHTSA finds merit in Goodyear's suggestion, and has tentatively concluded that uniform ambient temperature conditions for these tests would be in the public interest. Because the experience upon which all three regulations are based derives from tests conducted with the 100-degree target temperature and 5-degree tolerance, there would be no appreciable reduction in safety benefits by the amendment to Standard No. 119. Further, no inequities would be introduced into the A-B-C temperature grading scheme of UTQGS, because the change in conditions is small and that regulation has not yet become effective. Accordingly, this notice proposes the amendments requested by Goodyear. With a view to consistency in the statement of this test temperature condition with test conditions contained in other safety standards, the agency is considering an alternative expression of the test temperature as "any temperature up to 95° F." This alternative expression of the test temperature is substantively identical to that proposed by Goodyear.

Because they would relieve restrictions and create no additional burden, the amendments would be effective immediately on publication of the final rule in the FEDERAL REGISTER.

In consideration of the forgoing, it is proposed that the following amendments be made in Parts 571 and 575 of Title 49, Code of Federal Regulations:

1. Paragraphs S7.1.2 and S7.4(c) of 49 CFR § 571.119 would be amended to read:

§ 571.119 New pneumatic tires for vehicles other than passenger cars.

• • • • • •

S7.1.2 The tire must be capable of meeting the requirements of S7.2 and S7.4 when conditioned to 100±5° F. for three hours before the test is conducted, and with an ambient temperature maintained at 100±5° F. during all phases of testing. The tire must be capable of meeting the requirements of S7.3 when conditioned at any ambient temperature up to 70° F. for three hours before the test is conducted.

• • • • • •

S7.4 *High Speed Performance* • • •

(c) Remove the load, allow the tire to cool to 100±5° F., and then adjust the pressure to that marked on the tire for single tire use.

• • • • • •

2. In 49 CFR § 575.104, paragraphs (g)(2), (g)(5), and (g)(8) would be amended to read:

§ 575.104 Uniform Tire Quality Grading Standards.

• • • • • •

(g) • • •

(2) Condition the tire-rim assembly to 100±5° F. for at least 3 hours.

• • • • • •

(5) During the test, including the pressure measurements specified in paragraphs (g)(1) and (g)(3) of this section, maintain the temperature of the ambient air, as measured 12 inches from the edge of the rim flange at any point on the circumference on either side of the tire at 100±5° F. Locate the temperature sensor so that its readings are not affected by heat radiation, drafts, variations in the temperature of the surrounding air, or guards or other devices.

• • • • • •

(8) Remove the load, allow the tire to cool to 100±5° F. or for about two hours, whichever occurs last, and readjust the inflation pressure to two pounds per square inch less than the tire's maximum permissible inflation pressure.

• • • • • •

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

(Secs. 103, 112, 119, 201, 203, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on February 23, 1977.

ROBERT L. CARTER,
Associate Administrator
Motor Vehicle Programs.

[FR Doc.77-6043 Filed 3-2-77;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[49 CFR Parts 821 and 825]

EX PARTE COMMUNICATIONS

Government in the Sunshine Act

To implement Section 4 of the Government in the Sunshine Act (Act), Pub. L. 94-409, the National Transportation Safety Board (Board) hereby gives notice that it proposes to amend Chapter VIII, Title 49, Code of Federal Regulations, by adding to Part 821 a new Subpart J entitled "Ex Parte Communications," and by adding to Part 825 a new § 825.40 entitled "Ex parte Communications."

The Act amends 5 U.S.C. 557 and 5 U.S.C. 556(d) by prohibiting ex parte communications with respect to formal agency adjudications and by permitting an agency to consider a violation as grounds for ruling against a person on the merits. This proposal would amend the rules governing air safety and marine adjudications (Parts 821 and 825, respectively) to incorporate the provisions of the Act. The proposed amendments are, with one exception, identical: Air safety enforcement hearings are held before Board administrative law judges, whereas in marine proceedings, hearings are conducted by law judges of the United States Coast Guard. Therefore, the proposed amendment to Part 825 contains no reference to law judges or other employees presiding at the hearing.

Interested persons are invited to submit written comments concerning the proposed regulations to the General Counsel, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594, on or before March 30, 1977.

Accordingly, the Board proposes to amend Parts 821 and 825 of Chapter VIII, Title 49, CFR and to adopt the Tables of Contents to conform thereto, as follows:

1. In the Table of Contents in Part 821, by adding a heading for new Subpart J, and by adding headings for new §§ 821.60, 821.61, 821.62, and 821.63, as follows:

PART 821—RULES OF PRACTICE IN AIR SAFETY PROCEEDINGS

Subpart J—Ex Parte Communications

Sec.
821.60 Definitions.
821.61 Prohibited ex parte communications.
821.62 Procedures for handling ex parte communications.
821.63 Requirement to show cause and imposition of sanction.

AUTHORITY: Sec. 4, Government in the Sunshine Act, Pub. L. 94-409, amending 5 U.S.C. 556(d) and 5 U.S.C. 557; Title VI, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1421 et seq.; Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).

2. By adding a new Subpart J to Part 821 to read as follows:

Subpart J—Ex Parte Communications

§ 821.60 Definitions.

As used in this subpart:

"Board decisional employee" means a Board Member, administrative law judge, or other employee who is or who may reasonably be expected to be involved in the decisional process of the proceeding;

"Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this Part.

§ 821.61 Prohibited ex parte communications.

(a) The prohibitions of this section shall apply from the time a proceeding is noticed for hearing, unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply at the time of the acquisition of such knowledge.

(b) Except to the extent required for the disposition of ex parte matters as authorized by law.

(1) No interested person outside the Board shall make or knowingly cause to be made to any Board employee an ex parte communication relevant to the merits of the proceeding;

(2) No Board employee shall make or knowingly cause to be made to any interested person outside the Board an ex parte communication relevant to the merits of the proceeding.

Ex parte communications regarding solely matters of Board procedure or practice are not prohibited by this section.

§ 821.62 Procedures for handling ex parte communications.

A Board employee who receives or who makes or knowingly causes to be made a communication prohibited by § 821.61 shall place on the public record of the proceeding:

(a) All such written communications;

(b) Memoranda stating the substance of all such oral communications; and

(c) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraphs (a) and (b) of this section.

§ 821.63 Requirement to show cause and imposition of sanction.

(a) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of § 821.61, the Board, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his or her claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(b) The Board may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the Board, consider a violation of this subpart sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur.

3. In the Table of Contents in Part 825 by adding a heading for new § 825.40 as follows:

PART 825—RULES OF PROCEDURE FOR MERCHANT MARINE APPEALS FROM DECISIONS OF THE COMMANDANT, U.S. COAST GUARD

Sec.
825.40 Ex parte communications.

4. By adding new § 825.40 to Part 825 to read as follows:

§ 825.40 Ex parte communications.

(a) As used in this section:

"Board decisional employee" means a Board Member or employee who is or who may reasonably be expected to be involved in the decisional process of the proceeding;

"Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this Part.

(b) The prohibition of paragraph (c) of this section shall apply from the time a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibition shall apply at the time of the acquisition of such knowledge.

(c) Except to the extent required for the disposition of ex parte matters as authorized by law:

(1) No interested person outside the Board shall make or knowingly cause to be made to any Board employee an ex parte communication relevant to the merits of the proceeding;

(2) No Board employee shall make or knowingly cause to be made to any interested person outside the Board an ex parte communication relevant to the merits of the proceeding.

Ex parte communications regarding solely matters of Board procedure or practice are not prohibited by this paragraph.

(d) A Board employee who receives or who makes or knowingly causes to be made a communication prohibited by paragraph (c) shall place on the public record of the proceeding:

(1) All such written communications;

(2) Memoranda stating the substance of all such oral communication; and

(3) All written responses, and memoranda stating the substance of all oral responses, to materials described in paragraphs (1) and (2).

(e) Upon receipt of a communication knowingly made or caused to be made in violation of paragraph (c) of this section, the Board may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his or her interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(f) The Board may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the Board, consider a violation of this section sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur.

(Sec. 4 of the Government in the Sunshine Act, Pub. L. 94-409, amending 5 U.S.C. 556 (d) and 5 U.S.C. 557; Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).)

Signed at Washington, D.C., this 25th day of February 1977.

KAY BAILEY,
Vice Chairman.

[FR Doc.77-6466 Filed 3-2-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

LAND MANAGEMENT PLAN—WARM SPRINGS-MEDICINE TREE PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for a Land Management Plan—Warm Springs-Medicine Tree Planning Unit, Forest Service Report USDA–FS–R1(03)–FES–Adm–77–1.

The environmental statement concerns the proposed implementation of a Land Management Plan for the Warm Springs-Medicine Tree Planning Unit, Sula Ranger District, Bitterroot National Forest, Ravalli County, Montana. About 48,985 acres of National Forest land are affected. The planning unit is divided into 6 subunits of similar resource potential and limitations to management. Significant values, management direction, and specific statements to guide land management have been developed for each subunit.

This final environmental statement was submitted to CEQ on February 25, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59801.
USDA, Forest Service, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840.
USDA, Forest Service, Sula Ranger Station, Sula, MT 59871.

A limited number of single copies are available upon request to:

Robert S. Morgan, Forest Supervisor, Bitterroot National Forest, 316 North Third Street, Hamilton, MT 59840.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Dated: February 25, 1976.

ROBERT S. MORGAN,
Forest Supervisor,
Bitterroot National Forest.

[FR Doc.77-6402 Filed 3-2-77;8:45 am]

MULTIPLE USE PLAN, PLACID-BLANCHARD PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Multiple Use Plan Placid-Blanchard Planning Unit, USDA–FS–R1(16)DES–Adm–77–7.

The environmental statement concerns a proposed action to implement a revised Multiple Use Plan for the Placid-Blanchard Planning Unit, located on the Seeley Lake Ranger District, Lolo National Forest in Missoula County, Montana. The action affects 28,820 acres of National Forest Land. The plan recommends that 25,210 acres be managed in various combinations for recreation, esthetics, fisheries, wildlife, watershed, timber and range. An area of 3,610 acres which will remain unroaded will be managed for recreation, esthetics, wildlife, and watershed.

The primary environmental effects involve the modification of natural conditions on 7,970 acres that are presently essentially roadless. The major changes will be in the vegetative patterns and tree species resulting from management of the vegetative resources; the availability of products, employment, and services provided; and in the natural condition of vegetation, soil, water, and wildlife.

This draft environmental statement was transmitted to CEQ on February 22, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., S.W., Washington, D.C. 20250.
USDA, Forest Service, Northern Region, Federal Building, 940 N. Pattee, Missoula, MT 59801.
USDA, Forest Service, Lolo National Forest, Building 24, Fort Missoula, Missoula, MT 59801.
USDA, Forest Service, Seeley Lake Ranger District, Seeley Lake, Montana 59868.
University of Montana, University Library, Documents Division, Missoula, MT 59801.
University of Montana, Forestry School Library, Room 411, Science Complex, Missoula, MT 59801.
Missoula City—County Library, Washington & East Main, Missoula, MT 59801.

A limited number of single copies are available upon request to Orville L. Daniels, Forest Supervisor, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from the State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Orville L. Daniels, Lolo National Forest, Building 24, Fort Missoula, Missoula, Montana 59801.

Comments must be received by April 22, 1977, in order to be considered in the preparation of the final environmental statement.

Dated: February 22, 1977.

FRANK E. SALOMONSEN,
ORVILLE L. DANIELS,
Acting Forest Supervisor.

[FR Doc.77-6400 Filed 3-2-77;8:45 am]

SANTA ROSA PANNING UNIT

Availability of Final Environmental Statment

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Santa Rosa Planning Unit, Humboldt National Forest, Nevada. The Forest Service report number is USDA–FS–FES (Adm) R4–76–18.

The environmental statement identifies and evaluates the probable effects of the land management plan for the Santa Rosa Planning Unit on the Humboldt National Forest, Nevada. The purpose of the plan is to allocate the land to resource uses and values in a pattern similar to the past. However, changes in management are proposed. Primary purpose of the change is to improve the stewardship of the land and improve resource production. The rangeland will be further developed for livestock and wildlife by constructing water developments and fences and by some vegetative manipulation.

This final environmental statement was transmitted to CEQ on February 24, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave., SW., Washington, D.C. 20250.
Regional Planning & Budget Office, USDA, Forest Service, Federal Building, Room 4130, 324–25th Street, Ogden, Utah 84401.
Forest Supervisor, Humboldt National Forest, 976 Mountain City Highway, Elko, Nevada 89801.
District Forest Ranger, Santa Rosa Ranger District, 1231 Highway 40 East, Winnemucca, Nevada 89445.

A limited number of single copies are available upon request to Forest Supervisor John A. Hafterson, Humboldt National Forest, 976 Mountain City Highway, Elko, Nevada 89801.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Dated: February 24, 1977.

P. M. REES,
Director, Regional Planning and Budget.

[FR Doc.77-6401 Filed 3-2-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-2-110; Docket 29123, Agreement C.A.B. 26425, R-1 through R-11].

INTERNATIONAL AIR TRANSPORT ASSOCIATION

U.S.-Mexico Passenger Fares

Agreement adopted by Traffic Conference 1 of the International Air Transport Association relating to U.S.-Mexico passenger fares.

Issued under delegated authority Feb. 23, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement, establishing U.S.-Mexico fares from May 1, 1977 through April 30, 1978, was adopted at a conference held in Mexico City from January 5–12, 1977.

As set forth in the attached table, it is proposed that U.S.-Mexico fares be increased in varying amounts ranging up to 15 percent. First-class fares would be established at 135 percent of the proposed normal economy fares, with a maximum increase of 12 percent. Normal economy fares would be increased by six percent. Most promotional fares would be increased by the same dollar amount as that proposed in round-trip economy fares. The minimum/maximum-stay provisions of the excursion fare would be reduced from the present 7/30-day limit to 5/21 days and a weekend surcharge, which is currently applicable between a number of points, would be extended to additional points. Increases in the minimum-tour price are proposed for both the individual and group inclusive-tour fares. Finally, a number of routing exceptions applicable to the fare-construction rule are proposed primarily involving routes between Houston and points in Mexico.

The purpose of this order is to establish procedural dates for the submission of carrier justification in support of the agreement and of comments from interested persons. The carriers' justification for the agreement should assign costs attributable to scheduled passenger service under both the "space method," Nonpriority Mail Rates case, Docket 18381 (Orders 70-4-9 and 70-4-10, April 2, 1970) and the "revenue-offset method," adopted April 2, 1971 in Phase 7 of the Domestic Passenger-Fare Investigation, Docket 21866-7 (Orders 71-4-59 and 71-4-60).[1] The data should be set out in a tabular format as suggested in Order 75-7-88, July 17, 1975, starting with historical data as reported to the Board in Form 41 reports by functional account for total Western Hemisphere[2] services for the year ended December 31, 1976. This should be adjusted to show the exclusion of those market areas not covered by the agreement,[2] as well as scheduled all-cargo and charter services in the U.S.-Mexico market. The remainder, pertaining to U.S.-Mexico scheduled combination services, should be adjusted to show the present economic status of scheduled passenger services in the market area covered by the agreement. Similarly, using the above two methods for the treatment of cargo, the carriers are expected to submit forecast results under the agreement for the year ending April 30, 1978, both including and excluding the increased fares for which approval is sought.

In addition, the carriers will be required to submit detailed traffic data showing revenue passenger-miles and revenue by specific fare category, as well as capacity and load-factor information both for the historical period and for the forecast period, including and excluding the proposed fare increases.

Accordingly, it is ordered that:

1. All United States air carrier members of the International Air Transport Association providing service within the area concerned by the agreement shall file prior to March 8, 1977 full documentation and economic justification for the fares and related conditions embodied in the subject agreement;

2. Western Air Lines, Inc. shall file prior to March 8, 1977, data similar to that of the IATA carriers;

3. Comments and objections from interested persons and parties shall be submitted prior to March 8, 1977;

4. Replies to submissions received in response to ordering paragraphs 1, 2, and 3 above shall be submitted no later than March 23, 1977; and

5. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the subject agreement shall not be filed in advance of Board action on the subject agreement.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[1] In furnishing the data requested, each carrier is expected to attach complete explanatory data describing the methods used in allocating the various cost items.

[2] U.S.-Caribbean and U.S.-South/Central America long-haul areas.

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Present Versus Proposed Round-Trip Fares.—*United States to Mexico* [1]

	Chicago to Mexico City			Dallas to Mexico City			Los Angeles to Mexico City			Miami to Mexico City			New York to Mexico City		
	Present	Proposed	Percent increase	Present	Proposed	Percent increase	Present	Proposed	Percent increase	Present	Proposed	Percent increase	Present	Proposed	Percent increase
First class	[illegible]	$412	12	$236	$264	12	$302	$332	10	$278	$312	12	$452	$498	10
Economy	[illegible]	205	8	184	196	7	232	246	6	232	246	6	252	330	8
Excursion:															
Midweek	225	242	8	158	170	8	189	[3] 200	6	NA	NA		320	345	8
Weekend	248	264	7	158	180	14	199	[3] 211	6	NA	NA		330	355	8
5 to 21-day individual inclusive tour:															
Midweek	208	228	9	150	162	8	148	157	6	NA	[2] 190		259	280	8
Weekend	229	248	8	186	199	7	166	176	6	NA	[2] 200		270	290	7
Affinity group:															
Midweek	180	152	−9	NA	NA		144	142	−1	NA	NA		219	190	−13
Weekend	160	167	4	NA	NA		144	165	15	NA	NA		219	209	−5
Advance booking group and group inclusive tour:															
Midweek	145	163	12	97	108	12	134	142	6	109	124	14	[4] 190	199	5
Weekend	160	167	11	103	115	12	154	163	6	127	127	0	[4] 200	209	5

[1] Fares may vary depending on routing.
[2] No minimum-stay requirement.
[3] Minimum tour price is $15 per day in contrast to other points where the price is $90 for the minimum stay (5 days) plus $10 per day thereafter.
[4] No advance booking group available under present fares.

[FR Doc.77-6215 Filed 3-2-77;8:45 am]

[Order 76-12-98; Docket 27573; Agreement C.A.B. 26095; R-1 through R-12; Agreement C.A.B. 26176; Agreement C.A.B. 26191]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to North Atlantic Cargo Rates

Correction

In FR Doc. 76-37599 appearing at page 55917 in the issue of Thursday, December 23, 1976, the following changes should be made:

(1) On page 55917, in the second table, the figures for the entry for "Freighter" for "Pan American" now reading "2.6", should read "2.68" and "TWA" now reading "(26.22)" should read "(26.2)".

(2) On page 55919, in the third column, in the first complete paragraph:

(a) Delete the "s" from the word "weightbreak" in the fourth line and in this same line, immediately after the word "weightbreak", insert the following: "SCR's. The Board has long supported the introduction of higher weightbreaks".

(b) The word "reject" in the thirteenth line, should read "reflect".

[Docket No. 30523]

AERONAVES DE MEXICO, S.A.

Assignment of Enforcement Proceeding

This proceeding is hereby assigned to Administrative Law Judge Frank M. Whiting. Future communications should be addressed to Judge Whiting.

Dated at Washington, D.C., February 25, 1977.

Henry M. Switkay,
Acting Chief Administrative Law Judge.

[FR Doc.77-6424 Filed 3-2-77;8:45 am]

[Docket No. 30527; Order 77-2-136]

IBERIA, LINEAS AEREAS DE ESPANA, S.A.

Proposed North Atlantic Passenger Fares; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 18th day of February, 1977.

By tariff revisions filed February 2, 1977, Iberia, Lineas Aerea de Espana, S.A. (Iberia) proposes new transatlantic passenger fares for implementation on April 1, 1977 between the United States and Spain. Iberia's proposed package is similar in many respects to the agreement adopted by the members of the International Air Transport Association (IATA) for other U.S.-Europe markets.[1] However, since Iberia was unable to accept the total IATA package, its proposal differs in significant aspects from that agreement. While normal first- and economy-class fares, and certain promotional fares (the 14/21 and 22/45 day excursion fares, and the youth fares) would be increased in varying amounts along the lines of the IATA agreement, Iberia's treatment of other promotional fares is substantially different. The advance-purchase excursion fare (APEX) and the group inclusive-tour fares (GIT) would be held at *status quo* or increased only marginally; the affinity-group fare would be eliminated; and new "Bulk Travel Group Contract Fares" (BTGC) are proposed at a level five percent above Iberia's charter price. (See Appendix B).[1a]

In its justification in support of its fares package, Iberia contends that the U.S.-Spain market is significantly different in major respects from other North Atlantic markets, and that the level and structure of fares to Spain must therefore be designed with this in mind; that it has suffered increasing losses under the current fare structure and has already cut its costs to the extent possible;[2] that a reduction in service below one daily frequency in its prime market (New York-Madrid) would result in significantly greater traffic loss than could be balanced by cost reductions; and that the only feasible alternative is to implement a more suitable fare structure that will enable Iberia to compete in the total U.S.-Spain market, which is allegedly now dominated by charters. Iberia alleges that U.S.-Spain traffic is overwhelmingly discretionary vacation travel which is very sensitive to price, and for this reason has used charter services extensively;[3] and that the U.S.-Spain fare structure must be designed to permit Iberia to compete for this traffic if it is to continue scheduled services, already cut as much as possible, since no government subsidies are available to it.

To this end, Iberia proposes to maintain the GIT fares at *status quo*, contending that the U.S.-Spain market requires a "low price group fare designed to attract small group movements"[4] and to eliminate the affinity group fare which it alleges is not an effective means of competing, and is difficult to enforce in any event. The BTGC fares are designed to be sold through intermediaries, which have been held by the Board to be indirect air carriers, who would contract for at least 40 seats (U.S.-originating) or 20 seats (Spain-originating), with full payment required 30 days prior to departure. Three seasons would apply: winter (November-March); should (April 1-June 19 and September 15-October 31); and peak (June 20-September 14). The fares would be based on Iberia's charter rate per-mile in effect 30 days prior to the contract plus five percent, and would be applied via the mileage flown. The group would be required to travel together in both directions, and sales would be limited to one-third of Iberia's economy-class capacity per week. After the contract is signed, the group organizer's sales to the public would be governed by the applicable charter regulations.[5]

Iberia contends that the BTGC fare will enable it to compete in the total market and utilize presently unused capacity. On the other hand, it alleges that, since use of the fare will be limited to one third of the economy-class capacity of Iberia's limited scheduled service, as well as the fact that the price will be five percent above charters, there will be no significant diversion from Iberia's charter competitors.[6]

Complaints requesting suspension pending investigation of Iberia's proposal have been filed by Trans World Airlines, Inc. (TWA) and by the National Air Carrier Association (NACA).

TWA alleges that the proposed group-40 BTGC fare are clearly uneconomic and have not been justified. Although Iberia claims that its special package is required by the unique nature of the U.S.-Spain market, the IATA agreement Iberia declined to join would in fact have recognized special conditions in the U.S.-Spain market by liberalizing APEX-fare conditions and maintaining *status quo* APEX levels to/from Spain. TWA contends that Iberia is now seeking a special advantage for Spain which would, inevitably, be short-lived in the highly competitive North Atlantic market, since the BTGC fares would soon spread to other countries.

NACA alleges that, not only would Iberia follow the general IATA pattern of unreasonably high normal economy fares to cross-subsidize below-cost discount fares, it would aggravate this situation by leaving several discount fares unchanged and adding even lower group-40 BTGC fares at near-charter levels; that the BTGC is actually a part-charter fare which the Board should not permit to become effective, for the same reasons which prompted the Board to disapprove similar proposals by Pan American on the North Atlantic and by Eastern and Pan American domestically prior to completion of pending formal proceedings.[7] NACA also contends that the BTGC fares would be unlawful and violative of numerous Board Regulations since it would involve commingling scheduled and charter traffic on the same flights and would provide for unauthorized indirect air carriage by the "contractor."

The complainant argues further that the yields under the proposed BTGC fares, ranging from 3.2 to 4.1 cents per revenue passenger-mile (RPM), would be far below the average cost of North Atlantic economy-class scheduled service of 7.48 cents per RPM, and would even fall below the average cost per available seat-mile (ASM) of 4.26 cents;[8] and that such a low level combined with the BTGC fare's loose conditions would result in massive diversion of existing higher-rated scheduled passengers as well as passengers now moving on full-fledged charters. Finally, the diversionary effect upon U.S. supplemental carriers would, allegedly, be enormous since tour operators who are the supplementals' main customers would have a great incentive to switch to the BTGC fare with it marketing advantages, such as smaller groups, less risk, and greater value of service.[9]

Upon full consideration of the proposed fares, the complaints, and all other relevant matters, the Board has determined to suspend the proposed normal economy fares, the APEX fares, the 14/21 and 7/8-day GIT fares, and the BTGC fares.

The Board has refused to permit previous proposals similar to Iberia's BTGC to become effective without a most complete examination in the context of formal proceedings.[10] We would add that any fares in scheduled service proposed at such low levels as the BTGC would invite suspension. The yields from the fares, 3.23 to 4.26 cents per-mile, are so far below the costs of scheduled service as to appear *prima facie* uneconomic. IATA's most recent Cost Committee Report, reflecting data submitted by 21 North Atlantic operators, shows average costs on the North Atlantic of 4.44 cents per ASM and 8.02 cents per RPM (at a 55-percent load factor) for the year ending March 1977. Thus, the BTGC fares would produce a yield below the per-seat cost even were every seat filled and, at any reasonable range of load factors in scheduled service, would be even less economic. Considering the liberal conditions for travel at the fare (no minimum or maximum stay; minimal advance purchase; free stopovers within Spain), there would seem little doubt but that substantial diversion would occur from Iberia's current tourist traffic already moving on other, more restrictive promotional fares at much higher levels.[11] The only economy-class passengers who would find it difficult to take advantage of the new BTGC fares would be the normal-fare passenger whose travel is, in Iberia's words, "non-discretionary" and who would thus be forced to carry an even greater burden of cross-subsidy than at present.

As indicated, Iberia proposes to increase normal economy fares while holding the APEX and GIT fares virtually at *status quo*. The Board, in its policy statements and orders, has urged the carriers to reduce the spread between low promotional fares and normal fares, and has recently disapproved increases in normal economy fares due to the carriers' lack of progress in that direction, as well as out of a concern that present normal economy fares appear to be above cost.[12] Iberia's proposal contravenes this objective. While the carrier alleges that the U.S.-Spain market requires a "low price group fare designed to attract small group movements," it does not explain why such traffic could not bear the increases adopted for other markets, which range from approximately three to eight percent. Nor has the carrier shown why passengers in groups of five could not as easily travel on individual fares. Finally, Iberia has provided no reason whatever for holding the APEX at present levels.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), 403, 404, 801, and 1002(j) thereof,

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[1] This agreement was described in detail in procedural Order 77-1-11, January 4, 1977.

[1a] Appendices A & B filed as part of the original document.

[2] Iberia states that it has reduced its frequencies by 40 percent in one year, and now offers direct round-trip service only from New York to Madrid (daily B-747) and from Miami to Madrid via San Juan (twice weekly DC-10); and that it has reduced the number of its employees in the United States.

[3] Iberia states that in 1973, 1974, and 1975, charter traffic was 46, 44, and 35 percent of total U.S.-Spain traffic, respectively, a greater share than in only other European market; and that non-discretionary, business travel represents only some 18 percent of Iberia's total traffic, a smaller proportion than in other major European markets.

[4] Iberia would, however, accept IATA's proposal to reduce the minimum group size from 10 to five.

[5] Parts 212, 371, 372, 372a, 378 or 378a of the Board's Regulations. Iberia has filed, simultaneously with its tariff, an application for waiver of these regulations to the extent necessary to permit an organizer to contract for only part of the aircraft with the remaining seats to be sold at regular scheduled fares. Additionally, Iberia has filed a Petition for Rulemaking to amend the various regulations to accomplish this objective.

[6] Iberia also alleges that in the United Kingdom-Spain market, BTGC fares offered on scheduled service have permitted Iberia to obtain an adequate yield and profitable service; despite the fact that 90 percent of the traffic on these routes moves on charters.

[7] See Orders 76-9-128, September 14, 1976 and 75-10-132, October 31, 1975.

[8] IATA Cost Committee Report, forecast for 1977/1978 at a 57-percent load factor. Iberia's 1976 load factor was approximately 50 percent.

[9] NACA further claims that such diversion would not be seriously limited by the capacity control of 33 percent of economy-class seats which Iberia intends to impose, since TWA would be forced to match the fare and it would undoubtedly spread to other countries.

[10] See Order 76-9-128, September 14, 1976; Order 76-12-18, December 3, 1976; and Order 77-1-87, January 7, 1977. As stated in the latter order, CBIT-type proposals in foreign air transportation present significant foreign policy and economic issues distinguishable from the issues in the domestic CBIT rulemaking in Docket 28404. Proposals such as Iberia's BTGC fall logically within the scope of the "part-charters" phase of the *North Atlantic Fares Investigation* (Docket 27918) instituted by Order 76-12-18.

[11] Neither are we unmindful of the potential for serious diversion of U.S.-Spain charter traffic. Even were the BTGC's not matched by other carriers in the Spanish or other U.S.-Europe markets, the 33-percent allocation of economy-class capacity represents about a third of U.S./Spain charter passengers in 1975, as indicated by data published by the Immigration and Naturalization Service.

[12] See Orders 77-1-80, January 11, 1977; 76-7-36, June 29, 1976; 76-6-180, June 18, 1976; and 76-4-175, April 30, 1976.

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It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions set forth in Appendix A [1][2a] hereof, and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to take appropriate action to prevent the use of such provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the tariff provisions specified in Appendix A hereof are suspended and their use deferred from March 4, 1977, to and including March 4, 1978, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President [2b] and shall become effective on March 4, 1977;

4. The investigation ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated;

5. Except to the extent granted herein the complaint of the National Air Carrier Association in Docket 30445 and the complaint of Trans World Airlines, Inc., in Docket 30446, are dismissed;

6. The petition of Iberia, Lineas Aereas de Espana, S.A. in Docket 30431 be and hereby is denied; and

7. Copies of this order be filed in the aforesaid tariff and be served upon Iberia, Lineas Aereas de Espana, S.A., the National Air Carrier Association, and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS F. KAYLOR,
Secretary.

[FR Doc.77-6427 Filed 3-2-77;8:45 am]

[Docket No. 30555; Order 77-2-133]

TEXAS INTERNATIONAL AIRLINES, INC.

Proposed Peanut Fares; Order of Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of February, 1977.

By tariff revisions [1] marked to become effective February 1, 1977, Texas International Airlines, Inc. (TXI) proposed an off-peak fare labeled the "Peanuts" fare in five selected markets: Albuquerque-Los Angeles, Denver-Salt Lake City, Houston-New Orleans, Dallas-Austin, and Dallas-Midland. The fares are proposed at a 50-percent discount from regular standard-class fare and would be available only on flights operating during specified "off-peak" times. The fares would be blacked out for selected days during the Thanksgiving and Christmas holiday periods.

In support of its proposal, TXI argues that it is "proposing a low off-peak pricing experiment which will provide a useful tool to determine the impact of a revolutionary fare concept upon demand for air transportation." The carrier asserts that this "experiment" can be properly conducted within the framework of the Domestic Passenger-Fare Investigation (DPFI), and alleges in view of the Midway applications and the expressed interest on the part of various public officials for tests of low fares, that its proposed tariff should be approved. The carrier claims to have selected low load-factor flights which it is financially better off to operate than to cancel but which offer an unused capacity that at present goes wasted, and that these flights would provide a good test for steeply discounted fares. The carrier argues that it can carry the additional traffic with minimal incremental costs of handling the newly generated traffic as the investment and capacity costs are already being incurred. The substantial generation the carrier projects is assumed to come from surface travel with attendant savings in fuel associated with ground travel. The carrier argues that it will achieve a generation/diversion ratio of 84/16 percent, significantly greater than the alleged break-even ratio of 51 percent, and estimates a $1,588,000 added profit for the five markets for the one-year experiment. Based upon its traffic projection the flights would operate at an annual load factor of 74 percent. TXI further claims that no other carrier would be harmed by its proposal because of the limited number of markets and the restriction of the proposal to off-peak times.

Braniff Airways, Inc. (Braniff), Continental Air Lines, Inc. (Continental), Delta Air Lines, Inc. (Delta), Frontier Airlines, Inc. (Frontier), National Airlines, Inc. (National), Trans World Airlines, Inc. (TWA), and United Air Lines, Inc. (United) have filed complaints against the proposed fares alleging, inter alia, that they will bear the risks of the experiment since TXI has only nominal participation in the markets it has selected and that, on the whole, their load factors are good on the flights which fall within the time frame selected by TXI and they cannot accommodate substantial new traffic without adding flights, the cost of which would not be covered by the so-called off-peak discount fares. The complainants allege that TXI's generation/diversion estimate is unsupported and, among other things, fails to consider self-diversion of passengers traveling outside the time frame during which the fares are proposed to apply. It is also alleged that TXI erroneously assumes that the fare will not be available to connecting passengers when in fact there is nothing to prevent passengers from using the proposed far to/from Los Angeles, for example, and connecting to another flight to their ultimate destination once they find out that such a combination of fares undercuts the published through fare. The Beaumont Chamber of Commerce has complained against the proposed fare in the Houston-New Orleans market alleging that the failure to offer the same or lower fare in the Beaumont-New Orleans market is unjust and unreasonable and gives Houston an undue and unreasonable perference and advantage over Beaumont, subjecting the area and its citizens to unjust discrimination.

In answer to the complaints,[3] TXI argues that despite allegations to the contrary, it does have a vital interest in the markets where it proposes its new fare, and that it will bear a substantial risk of the proposal. It asserts that the markets were chosen because they are high density, and will provide a test to determine the effect of low fares in a competitive environment. In any event, the carrier contends that even if the maximum diversion potential is assumed, the impact would be extremely limited since the proposed fares will apply to only one TXI round trip in each market. TXI also claims that its 84-percent generation estimate is well within the claimed experience of Southwest Airlines in Texas. Finally, TXI alleges that dominant carriers have the least incentive to change status quo, and that if price competition is to occur it must receive its impetus from a carrier which is not dominant, but which seeks to improve its position.

Upon consideration of the proposal, the complaints, TXI's answer thereto, and all other relevant matters, the Board concludes that the proposal may be unjust, unreasonable, unjustly discriminatory, unduly prejudicial, unduly preferential, or otherwise unlawful, and should be investigated. However, the Board further concludes that the proposal should not be suspended pending investigation.

We have considerable reservations about TXI's "Peanuts" fare proposal. While nominally called a "discount" fare, TXI's proposal is neither fish or fowl; it varies from the discount fares we have heretofore approved in that it is totally unrestricted except for a limited blackout period around Thanksgiving and Christmas; it is not a true "off-peak" fare because many of the affected flights are operated during prime times; and it is certainly not a cost-based regular fare since it is priced well below fully-allocated costs.

We are concerned about the adequacy of TXI's economic justification in light of the many novel characteristics of these fares. First, TXI assumes that 65 percent of the seats not now occupied by through passengers on the affected flights will be filled by "Peanuts" fare passengers. This estimate is, in turn, based upon what we consider to be the dubious estimate of the carrier as to reasonably attainable overall load factors. Second, the carrier assumes that diversion will be limited only to local passengers in the markets who utilize the affected flights. Again, however, it is difficult to fully accept the carrier's estimate since, in our view, the 50-percent discount will have a more widespread attraction in the affected markets and may likely divert passengers traveling at other times of the day from both the services of TXI and other carriers. To the extent that the affected flights are not scheduled at true off-peak times, as is the case in most of the markets, diversion from other flights may be increased.

An additional concern we have with TXI's proposal is the assumption that seats now occupied by through passengers will not be available to "Peanuts" passengers. In certain of the affected markets TXI's off-line connecting traffic is almost double the local traffic, and the carrier also carries considerable on-line through and on-line connecting traffic in these markets. Thus, the proposal may have a significant impact on the availability of capacity for through passengers; however, the immediate significance of this impact may be tempered somewhat by the limitation of the "Peanuts" fares to specified flights which are now operating at relatively low load factors.

For all of the above reasons, and in the light of the discount-fare policies enunciated in Phase 5 of the DPFI to which we have heretofore adhered, we believe that TXI's "Peanuts" proposal should bear the careful scrutiny of an investigation. We have balanced our reservations as expressed above against the potentially useful data which implementation of these fares would provide, and have decided not to suspend the proposal pending investigation. We would like to see what benefits this proposal will produce based upon actual experience in the market place. Because of the experimental value of the proposal, we will allow the fares to become effective so as to enable us to develop a factual basis to determine the impact of this novel low-fare proposal on the traveling public, the scheduled air transport system, and federal subsidy requirements.

Since one of the basic justifications for the proposal is its value as an experiment, we will require that the carriers submit detailed reports in order to assess its impact. At a minimum, carriers offering the fare will be required to submit traffic information monthly, as set forth in Appendix B, and a quarterly traffic and financial report as set forth in Appendix C.[4] Each report will consist of two parts, a report for the 1977 period and another for the corresponding period in 1976. Also, we intend that a prehearing conference be held in the immediate future to promptly lay the groundwork for the investigation, including determination of such additional reports as may be required. The hearing can be delayed until later in the year when experienced data related to the "Peanuts" fare become available.

Finally, the Beaumont Chamber of Commerce has filed a complaint requesting suspension and investigation of the proposed "Peanuts" fare in the Houston-New Orleans market in the absence of a similar fare between Beaumont and New Orleans, alleging that the proposed fare is unjust and unreasonable and that it would give Houston an undue unreasonable preference and advantage over Beaumont. As with other experimental fares involving specific markets, (such as the "No Frills" fare) these fares are limited in application by the proponent carrier. Failure to extend a special fare to a particular market does not, per se, result in an unjust discrimination.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That: 1. An investigation be instituted to determine whether the fares and provisions described in Appendix A attached hereto, and rules, regulations, and practices affecting such fares and provisions, including subsequent reissues or revisions thereof, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Except to the extent granted herein, the complaints in Dockets 30264, 30265, 30266, 30268, 30270, 30340, 30351, and 30360 are hereby dismissed;

3. The proceeding ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order be filed in the aforesaid tariffs and be served upon Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Frontier Airlines, Inc., National Airlines, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., the United States Department of Justice, and the Beaumont Chamber of Commerce which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6428 Filed 3-2-77;8:45 am]

[Docket No. 30383; Order 77-2-117]

UNITED STATES-UNITED KINGDOM CARGO RATES

Request To Engage in Discussions; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of February 1977.

On January 21, 1977, Trans World Airlines, Inc. (TWA) filed a petition requesting that the Board authorize representatives of TWA, Seaboard World Airlines, Inc., Pan American World Airways, Inc. (Pan American), and British Airways to hold discussions with each other and their governments about British Airways' proposed cargo contract and specific commodity rates which, although approved by the British government, have been suspended by the Board.[1] TWA contends that the divergent government actions have created much confusion, presenting strong possibilities for misapplication and illegal use of the above rates. To forestall such misuse, TWA believes that a meeting of the affected carriers and governments is in order. If meetings are held, TWA believes they will enable the carriers to develop a rate structure acceptable to all, and, as an example of its willingness to compromise, it is prepared to discuss a new "Advance Purchase" rating proposal. In view of British Airways' continuing introduction of rates proposals and the consequent need for response by the Board and other carriers, TWA requests expeditious granting of the Board's authorization.

Both Pan American and British Airways have filed answers in which they state their support of TWA's request and their willingness to participate. In addition to the above and any other cargo rate matters that might result in better service to shippers, British Airways proposes that any authority granted be broadened to include National Airlines, Inc. as a party, and Miami-London passenger fares as an issue.

Upon consideration of the request and the answers thereto, we have concluded to authorize discussions, to be held in the United States, among all interested carrier parties. We are persuaded that the differences of opinion as to the appropriate cargo rates in the U.S.-U.K. market are sufficient that the carriers serving this market should be given an opportunity to attempt a resolution acceptable to all. The currently effective IATA North Atlantic cargo agreement does not apply between the United States and the United Kingdom, and the contract rate proposed by the British carrier has been opposed by U.S. carriers and suspended by the Board with the concurrence of the President. The Board has received reports of increasing tariff violations and diversion of carrier customers in the marketplace. It is patent that, if the reduced-level contract rates are in fact being made available to cus-

[1] See Orders 76-12-163, December 17, 1976, and 77-1-6, December 23, 1976.

[1][2a] Filed as part of the original.

[2b] This order was submitted to the President on February 18, 1977.

[1] Airline Tariff Publishing Company, Agent, Tariff C.A.B. Nos. 142 and 259. Tariff C.A.B. No. 259 filed as part of the original, Appendix A.

[3] The United States Department of Justice has filed an answer supporting the proposal alleging that it is an innovative, positive proposal which will benefit the consuming public by making available cheaper air transportation and by stimulating the market place through the introduction of price competition.

[4] Appendix C filed as part of the original document.

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tomers abroad, U.S. carriers will suffer a severe loss of customers, the effect of which would last throughout the one-year contract period involved in the special British rate.

While the Board has generally disapproved inter-carrier discussions involving domestic rates, it has long recognized that such discussions are a practical necessity in the case of international rate matters. In the absence of such discussions, all rate disputes would have to be resolved by intergovernmental negotiation, which is a cumbersome, unsatisfactory, and ineffective mechanism. For this reason, the carriers have long been authorized to engage in rate conferences under the IATA traffic machinery, and such discussions have always been regarded as consistent with the concepts of the Local Cartage Agreement Case, 15 CAB 850 (1952). In this instance, however, the IATA machinery has not produced agreement as to the U.S.-U.K. cargo rates. In view of the foregoing, and in the interest of avoiding an escalation of the current conflict which could well lead to a governmental confrontation, we believe that approval of these discussions outside IATA is warranted.[2]

However, we see no need to include the issue of Miami-London passenger fares which are the subject of a new IATA agreement not yet considered by all governments. Accordingly, we will limit the scope of our authorization to U.S.-U.K. cargo rate matters.

Lastly, it should be noted that neither British Airways' proposal, the contract rate, or the specific commodity rates, is on file or pending before the Board at this time. We would further point out that our approval of discussions does not presage approval of any carrier agreement that may result, and, in this connection, carriers are cautioned that our action here does not indicate any change in our views as set forth in Orders 76-12-162 and 77-1-6. Nor does our action insulate the carriers from any appropriate legal action for past, present, or future violations of the Act. In this connection, the Board has directed the Bureau of Enforcement to investigate this matter promptly, and to take such action as the facts warrant.

Accordingly, It is ordered, that:

1. Pan American World Airways, Inc., Trans World Airlines, Inc., and British Airways may engage in discussions, among themselves and with any other interested carriers for a period expiring March 31, 1977, in an effort to satisfactorily resolve the problems relating to contract cargo rates and other matters pertaining to cargo rates available for sale between the United States and the United Kingdom;

2. The authority granted herein will expire March 31, 1977;

3. This order be served upon all U.S.- and foreign-flag carriers holding certificate or permit authority to provide scheduled cargo service between the United States and the United Kingdom;

4. The U.S. carrier participants shall notify the Civil Aeronautics Board in writing, sufficiently in advance of the proposed meetings, to insure the presence of a U.S. Government observer at said meetings;

5. The carriers keep complete and accurate minutes of such discussions and that a true copy of such minutes and all documentation be filed with the Board's Docket Section not later than two weeks after close of each meeting; and

6. Any agreement or agreements reached as a result of such discussions be filed with the Board in accordance with section 412 of the Federal Aviation Act of 1958 and approved by the Board prior to being incorporated in a tariff filing or otherwise placed in effect.

This order will be published in the FEDERAL REGISTER.[1]

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

Minetti and West, members, concurring:

With considerable reluctance, we concur in authorizing the discussions involved here. There are serious dangers to a competitive air transportation system involved in allowing carriers to get together to discuss rates, and we are particularly reluctant to permit such discussions outside the structure of IATA, whose traffic conference procedures embody certain essential safeguards which have been built up over the years. Moreover, we note that the Board has already spoken in Orders 76-12-162 and 77-1-6 on the British Airways tariff proposals which appear to be at the heart of the current difficulties. To the extent that they may stem from carriers failing to comply with the Board's orders of suspension, or transporting cargo in foreign air transportation at rates different from those set forth in their valid and unsuspended tariffs on file with the Board, these difficulties are a matter for prompt investigation and action by our Bureau of Enforcement, not for intercarrier discussions.

Nevertheless, there remains a problem of developing a U.S.-U.K. cargo rate structure for the future which will command general acceptance. It appears that the IATA mechanism has broken down in this instance, and moreover one of the carriers principally concerned (Seaboard World) is not a member of IATA. It also appears that appropriately monitored intercarrier discussions may possibly contribute to a more satisfactory resolution of the future rate-structure issues. We therefore concur, albeit reluctantly, in authorizing such discussions.

G. JOSEPH MINETTI.
LEE R. WEST.

[FR Doc.77-6425 Filed 3-2-77;8:45 am]

[Docket Nos. 30361 and 23080-2; Order 77-2-121]

AIR MIDWEST, INC.

Priority and Nonpriority Domestic Service Mail Rates—Phase 2; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 24th day of February 1977.

Air Midwest, Inc. (Air Midwest) was recently granted a certificate of public convenience and necessity in the Air Midwest Certification Proceeding (Docket 28262),[1] authorizing the carrier to engage in air transportation with respect to persons, property, and mail. On January 17, 1977, Air Midwest filed a petition requesting to be made a certificated carrier party in Docket 23080-2 and the establishment of the domestic service mail rates for Air Midwest's carriage of mail as a certificated air route carrier.[2] The carrier states that it believes such rates are fair and reasonable and is willing to be bound by the temporary and final determinations of the Board with respect to service mail rates set in Docket 23080-2.

Under Part 302 of the Board's Rules of Practice, a petition to establish service mail rates must specify the rate to be established and a detailed economic justification. Although Air Midwest's petition is not in strict compliance with these requirements, the relief requested is more in the nature of procedure than of substance and under these circumstances we have determined that no useful purpose would be served by holding the carrier to the strict letter of the rule. However, despite our acceptance of Air Midwest's petition, it is technically necessary to determine what the fair and reasonable rates of mail compensation to be paid to the carrier should be. Therefore, we are herein instituting an investigation to determine the fair and reasonable service mail rates to be paid the carrier by the Postmaster General for the carriage of mail in its certificated services. This investigation shall be consolidated into the ongoing proceeding in Docket 23080-2.

Air Midwest is already a party to the Domestic Service Mail Rates Investigation as a Part 298 (commuter air carrier) and received mail compensation at the temporary domestic service mail rates established for the certificated route carriers in Order 74-1-89 (as amended) and made applicable to Part 298 carriers by Order 74-7-91. However, this temporary rate is limited to Air Midwest's services performed as a commuter carrier and does not embrace its newly certificated system operations. Air Midwest states that it began transporting mail over one of its segments and is presently engaged in negotiations with the U.S. Postal Service (USPS) for mail service on various other segments of its certificated routes. As the Board has found the current temporary domestic service mail rates fair and reasonable for similar short haul service of the other certificated carriers, we see no reason why these same rates should not apply to Air Midwest's certificated operations. In these circumstances, and considering that the U.S.P.S. has no objection, the temporary mail rates for certificated air carriers under the terms of Order 74-1-89 (as amended by Order 76-12-60) shall be payable to Air Midwest over its entire certificated system effective on and after commencement of services pursuant to its certificate of public convenience and necessity, and shall be subject to retroactive adjustments in accordance with the level of final rates established by the Board in this docket.

Based on the foregoing, the Board tentatively finds and concludes that:

1. On and after the date of commencement of certificated air transportation by Air Midwest, Inc., the fair and reasonable temporary rates of compensation to be paid by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, to Air Midwest, Inc. for operations between points which it is presently or hereafter may be authorized to carry mail by its certificates of public convenience and necessity are the temporary rates established in Docket 23080-2.

2. The temporary service mail rates established herein shall be paid in their entirety by the Postmaster General and shall be subject to retroactive adjustment, commencing with the date of inauguration of services by Air Midwest, Inc. pursuant to its certificate of public convenience and necessity as may be required by the order establishing final service mail rates in Docket 23080-2.[3]

3. The investigation instituted herein (Docket 30361) is consolidated into Docket 23080-2.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR, Part 302,

It is ordered, That:

1. The petition filed by Air Midwest, Inc. on January 17, 1977, for the establishment of domestic service mail rates is hereby granted;

2. All interested persons, and particularly Air Midwest and the Postmaster General, are directed to show cause why the Board should not adopt the foregoing findings and conclusions and fix, determine, and publish the temporary rates and charges specified herein pending the fixing of final rates and charges;

3. Further procedures herein shall be in accordance with the Rules of Practice, 14 CFR Part 302, and if there is any objection to the rates and charges or to the other findings and conclusions proposed herein, notice thereof shall be filed within 8 days, and, if notice is filed, written answer and supporting documents shall be filed within 15 days after the date of service of this order;

4. If notice of objection is not filed within 8 days, or if notice is filed and answer is not filed within 15 days after service of this order, or if an answer timely filed raises no material issue of fact, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of an order fixing temporary service mail rates, and the Board may enter an order incorporating the findings and conclusions proposed herein and fixing and determining the temporary rates and charges herein specified;

5. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable temporary rates and charges herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.207; and

6. This order shall be served upon the Postmaster General and Air Midwest, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc 77-6430 Filed 3-2-77;8:45 am]

[Docket 28958]

CONTINENTAL AIR LINES, INC. AND CONTINENTAL AIRCRAFT SERVICES, INC.

Proposed Approval

In the matter of application of Continental Air Lines, Inc., and Continental Aircraft Services, Inc., for approval of a control relationship pursuant to section 408 of the Federal Aviation Act of 1958, as amended, Docket 28958.

Notice is hereby given, pursuant to statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, the Civil Aeronautics Board intends to issue the attached order. Interested persons are hereby afforded until March 11, 1977, within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., February 28, 1977.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6433 Filed 3-2-77;8:45 am]

ORDER OF APPROVAL

By joint application Continental Air Lines, Inc. (Continental) and Continental Aircraft Services, Inc. (CASI) request that the Board approve the control of CASI by Continental without a hearing, pursuant to the third proviso of section 408(b) of the Federal Aviation Act of 1958, as amended (the Act).

Continental is a certificated route air carrier. CASI is a wholly owned subsidiary of Continental formed to act as an agent for First National City Bank (Citibank) in disposing of various aircraft owned by Citibank and other financial institutions. CASI has entered into an Aircraft Remarketing Agreement (Remarketing Agreement) with Citibank whereby CASI will, in connection with the disposition of aircraft:

Furnish or contract for technical advice as to the condition and market value of the aircraft, storage facilities, maintenance and modification advice, spares, facilities for repairing, overhauling or modifying such aircraft, qualified personnel to seek out and negotiate with potential purchasers or lessees of such aircraft, crews for demonstration, for ferrying flights or other purposes, flight training facilities for use by prospective buyers or lessees of the aircraft, worldwide communication facilities and other skills and facilities useful in the disposition of such aircraft.

Citibank[1] will also be appointed the owner's agent to act on behalf of the owners in accordance with Citibank's Remarketing Agreement with CASI. CASI in turn will receive from Citibank an Adherence Agreement which serves as authorization to CASI for disposition of the aircraft.

In support of its application, Continental submits that the establishment of CASI is in the public interest; that CASI will be meeting the needs of the airline industry by disposing of used aircraft to smaller air carriers who cannot afford new aircraft, thereby freeing the capital of the major carriers for investment in new, more economical aircraft; and that CASI will not divert the attention of management from the airlines.[1] According to the terms of the Remarketing Agreement, CASI will be funded by a yearly retainer from Citibank which will be recouped by receipt of a percentage of a Service Fee received by CASI from the sale or lease of aircraft. This method of funding is intended to require a minimal outlay of funds by Continental. Continental contends that CASI will provide it with diversification in a related field with minimal financial burden on Continental's performance as an airline. Further, Continental contends that the formation of CASI will not create a monopoly or restrain competition. The applicants state that CASI was one of twenty-five competitors considered by

[1] At this juncture, since the problem is strictly a commercial one, we believe it is best dealt with by the carriers themselves when considering a compromise rather than by their respective governments.

[1] Minetti and West, members, filed the attached concurrence.

[1] Orders 76-9-165, September 30, 1976, 76-11-135, November 29, 1976 and 76-12-59, December 10, 1976.

[2] Order 76-12-60, December 10, 1976, fixed the temporary domestic service mail rates currently in effect for certificated carriers. Therefore, we are herein instituting an investigation to determine the fair and reasonable service mail rates to be paid the carrier by the Postmaster General for the carriage of mail in its certificated services. This investigation shall be consolidated into the ongoing proceeding in Docket 23080-2.

[3] This does not affect any retroactive adjustments that the carrier may be entitled to as a Part 298 operator.

[1] CASI will be managed by Mr. S. Robert Wyszenbeck who has been directing Continental's own aircraft disposal program. None of the remaining 10 employees of CASI are involved in the operations of the carrier.

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Citibank for the remarketing of the aircraft; and that all major aircraft manufacturers, every major airline, and from 12 to 40 independent brokers and companies are at any one time in the business of selling used aircraft.

Continental pledges to provide any necessary support to CASI and generally to insure that it is maintained and controlled to fully perform its obligations for the term of the Remarketing Agreement.

As to any interlocking relationships that will result from the control of CASI by Continental, the applicants submit that such relationships would, if requested 408 approval is granted, fall within the exemption from and approval under section 409 of the Act provided by Part 287 of the Board's Economic Regulations.

No comments or requests for a hearing have been received.

Upon consideration of the foregoing and all relevant facts, the Board concludes that CASI is a person engaged in a phase of aeronautics within the meaning of section 408 of the Act by virtue of its proposed activities of leasing and selling of used aircraft and related equipment; and that the organization and establishment of CASI by Continental constitutes the acquisition of control by an air carrier of a person engaged in a phase of aeronautics within the meaning of section 408 of the Act.

In The Flying Tiger Corporation and Tiger Leasing Corporation, Order 71-6-106, June 21, 1971, the Board held that diversification into aircraft leasing by an air carrier is justifiable as long as it does not "impair the financial strength and management of the carrier."[2] With the commitment of just one corporate officer and the minimal outlay of funds, Continental has made sufficient showing that the staffing and funding of CASI will not result in such impairment. Furthermore, based on the number of competitors in the sale and lease of used aircraft it seems doubtful that this control relationship will tend to restrain competition or create a monopoly.

On the basis of all of the facts of record, the Board finds that this control relationship will not affect the control of an air carrier directly engaged in air transportation nor will it result in creating a monopoly or monopolies and thereby restrain competition. Further, the Board finds that this control relationship will not be inconsistent with the public interest or fail to fulfill the conditions of section 408 of the Act. No person disclosing a substantial interest in this proceeding is presently requesting a hearing.

To the extent that interlocking relationships resulting from control of CASI by Continental may be subject to section 409 of the Act, they appear to fall within the exemption from and approval under section 409 of the Act afforded by Part 287 of the Board's Economic Regulations.[3]

Based on the evidence presented herein, the Board concludes that it should approve, without a hearing under the third proviso of section 408(b) of the Act, the control of CASI by Continental.[4]

Accordingly, it is ordered, That the control of Continental Aircraft Services, Inc., by Continental Air Lines, Inc., be and it hereby is approved pursuant to section 408(b) of the Act.

Jurisdiction in this proceeding be and it hereby is retained for the purpose of amending or revoking the approval granted herein with or without hearing, as the public interest may require.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6432 Filed 3-2-77;8:45 am]

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[2] Also see Flying Tiger Corporation, *et al.*, Order 71-9-112, September 20, 1971; and Capital International Airways, Inc., *et al.*, Order E-25854, October 10, 1967.

[3] Under the terms of the Covenants of Parent, Continental pledges to insure that a majority of the CASI Board of Directors are also officers of Continental.

[4] Notice of intent to dispose of the application without hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General, not later than the day following such publication, both in accordance with the requirements of section 408(b) of the Act.

[Docket No. 29160; Order 77-3-128]

INVESTIGATION OF LOCAL SERVICE CLASS SUBSIDY RATE

Class Rate VIII; Amendment One to Order 76-12-159

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of February, 1977.

On December 30, 1976, the Board adopted Order 76-12-159, which established Class Rate VIII as the fair and reasonable final subsidy rate for the local service carriers (Locals) on and after July 1, 1976.[1] Sections IV.C. and VII.B. of the Rate Formula set forth in Order 76-12-159 provide for the concurrent review of ineligible and eligible services on a six-month moving basis for annual periods ending in March and September of each year.

The carriers have submitted the data required for the review of both eligible and ineligible services for the year ended September 30, 1976, in the form and detail specified in Sections IV.C.7 and VII.B.10. Such data have been reviewed in detail and adjustments have been made in accordance with established subsidy ratemaking principles.

Adjusted operating results, adjusted investment, calculations of ineligible and charter profits to be shared and net formula provision changes are contained in the attached appendices.

Three of the Locals—Frontier, Ozark, and Texas International—achieved excess profits on their ineligible services. All three carriers showed improvement in the level of their ineligible profit offset; Frontier's offset increased by nearly fifty percent from the base period, while both Ozark and Texas International had sizable ineligible offsets during the review period, whereas they had none during the base period. However, none of the Locals realized a charter profit offset during this review period, althougth two carriers—Hughes Airwest and Texas International—achieved such an offset during the base period.

Four carriers showed an improvement in their eligible need during the review period in relation to the base period. These carriers—Frontier, Ozark, Piedmont, and Texas International—had improvements ranging from approximately two percent for Frontier to slightly less than thirty-one percent for Texas International. Conversely, three carriers registered a deficiency for the review period in comparison with the base period, with the deficiencies ranging from just under one percent for Southern to approximately five percent for North Central. For this review period, Frontier was the median carrier in terms of the change in the net formula provision. Therefore, the net formula provision for each of the Locals will be reduced by the percentage of Frontier's improvement, 1.68%.

The level of the computed subsidy for this review period is $68.8 million, a reduction of $4.9 million from the rate established in the base period of Class Rate VIII by Orders 76-11-12 and 76-12-159. This reduction in the subsidy level is primarily the result of much larger profit offsets from ineligible operations, with the 1.68% median reduction in each carrier's net formula provision also a factor.

Based on the attached adjusted operating results and adjusted investment for the year ended September 30, 1976, we find and conclude that the fair and reasonable annual subsidy due and payable to the seven carriers in Class Rate VIII, on and after January 1, 1977, is $68.8 million. In addition, it is necessary to provide that the subsidy due and payable to each carrier on and after January 1, 1977, shall be computed on the basis of the daily subsidy rate set forth for each carrier in amended Appendix K attached to this order.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302,

It is ordered, That:[2] (1) Effective on and after January 1, 1977, attached Appendices A, B, C, E, K, and L[3] supersede the corresponding appendices attached to Order 76-11-12, dated November 4, 1976, and affirmed by Order 76-12-159, dated December 30, 1976;

(2) The subsidy due and payable to each carrier on and after January 1, 1977,[4] shall be computed on the basis of the daily subsidy rate set forth for each carrier in amended Appendix K attached to this order;

3. This order shall become effective on the seventh day after service hereof, unless prior to that date exceptions, together with supporting reasons, shall have been filed with the Board by any party to this proceeding. If exceptions and supporting reasons are filed by any party within the prescribed time, the effective date of this order shall be stayed, only for the party or parties filing exceptions, pending further action by the Board; and

4. This order will be served upon all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

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[1] In Order 76-11-12, issued November 4, 1976, the Board determined an adjusted subsidy level for each carrier, and proposed a formula for equitable distribution of the subsidy payments among the seven local service carriers in Class Rate VIII. Except as modified therein, Order 76-12-159 reaffirmed and made final all of the findings and conclusions set forth in Order 76-11-12.

[2] This order is not intended to disturb the service mail rates established pursuant to other orders of the Board.

[3] Filed as part of the original.

[4] The profit offset from ineligible and/or charter services and the change in the net formula provision as determined herein are effective from January 1, 1977 through June 30, 1977.

Local Service Class Subsidy Rate
Computation of Excess Ineligible* Profit, Excess Charter Profit
And Six-Month Subsidy Rate Effective January 1, 1977
$(000)

	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
System								
Adjusted Operating Profit or (Loss) 1/ - Appendix B	9,785	(1,772)	(1,434)	5,283	[illegible]	589	(1,533)	11,899
Return - Appendix C	9,687	6,751	12,164	[illegible]	9,790	6,371	[illegible]	57,039
Taxes - Federal - Appendix C	7,165	2,962	[illegible]	4,721	4,118	3,477	-	29,262
Taxes - State - Appendix C	404	[illegible]	241	[illegible]	77	286	13	1,744
System (Need)	(7,471)	(11,828)	(30,658)	(8,624)	(13,004)	(9,543)	(5,015)	(76,145)
Ineligible*								
Adjusted Operating Profit or (Loss) 1/ - Appendix B	22,403	5,593	7,975	12,899	7,962	3,968	3,774	64,566
Return - Appendix C	6,925	5,082	8,553	6,690	7,386	4,821	2,661	42,118
Taxes - Federal - Appendix C	5,121	2,227	4,792	3,642	3,283	2,681	-	21,746
Taxes - State - Appendix C	[illegible]	[illegible]	[illegible]	293	61	221	11	1,302
Adjusted Operating Profit 1/ in Excess of Full Return and Taxes	[illegible]	(1,974)	(5,539)	2,274	(2,760)	(3,763)	1,102	(609)
Charter								
Adjusted Operating Profit or (Loss) 1/ - Appendix B	(3)	256	(752)	(399)	38	60	4	(695)
Return - Appendix C	2	[illegible]	512	371	172	399	[illegible]	1,814
Taxes - Federal - Appendix C	2	123	345	202	77	131	-	920
Taxes - State - Appendix C	-	14	18	16	2	19	-	61
Adjusted Operating Profit 1/ in Excess of Full Return and Taxes	(6)	[illegible]	(1,559)	[illegible]	[illegible]	[illegible]	(66)	(3,490)

Appendix A
Amended
Page 1 of 2
(First Review)

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Local Service Class Subsidy Rate
Computation of Excess Ineligible* Profit, Excess Charter Profit
And Six-Month Subsidy Rate Effective January 1, 1977
$(000)

	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Eligible								
Adjusted Operating Profit or (Loss) 1/ - Appendix B	(12,616)	(7,621)	(8,657)	(7,317)	(7,019)	(3,431)	(5,311)	(51,972)
Return - Appendix C	2,760	1,401	3,099	1,745	2,232	1,151	718	13,106
Taxes - Federal - Appendix C	2,042	612	1,742	877	758	565	-	6,596
Taxes - State - Appendix C	115	71	62	71	14	46	2	381
Adjusted Eligible Need	17,533	9,705	13,560	10,010	10,023	5,193	6,031	72,055
Base Year Adjusted Net Formula Provision	16,201	8,894	11,288	9,843	10,373	4,748	8,541	69,888
Adjusted Eligible Need Less Federal Tax - YE 9/30/76 2/ 5/	15,929	9,069	11,908	8,812	9,153	4,786	5,904	65,561
Improvement/Deficiency	272	(175)	(620)	1,031	1,220	(38)	2,637	4,327
% Change in Adjusted Eligible Need Less Federal Tax 2/ 3/	1.68	(1.97)	(5.49)	10.47	11.76	(0.80)	30.87	6.19
Recognized Improvement/Deficiency Based on Median % Change 2/	272	149	190	165	174	80	143	1,173
Subsidy Calculation								
Base Year Adjusted Net Formula Provision After Federal Tax	18,232	9,509	13,026	10,695	11,236	5,204	8,541	76,443
Plus or Minus Recognized Improvement/ Deficiency Based on Median % Change 2/	(272)	(149)	(190)	(165)	(174)	(80)	(143)	(1,173)
Less 50% of Ineligible* Profits	(5,034)	-	-	(1,137)	-	-	(551)	(6,722)
Less 50% of Charter Profits	-	-	-	-	-	-	-	-
Computed Six-Month Subsidy Rate 4/	12,926	9,360	12,836	9,393	11,062	5,124	7,847	68,548

1/ Reported Operating Profit or (Loss) after subsidy ratemaking adjustments. For detailed adjustments, see Appendix B.
2/ Applies to six-month reviews only.
3/ As compared to base year adjusted net formula provision after the elimination of ad hoc adjustments relating to suspensions or deletions effective on or before the last day of the applicable review period.
4/ The rate for Hughes Airwest is $9,589,000 while this carrier continues to serve Crescent City.
5/ (Adjusted Eligible Need - Federal Taxes) times Net Formula Provision % of Subsidy Need from Appendix J, page 2 of 2.

* Consists of hub-to-hub operations and certificate ineligible operations.

Appendix A Amended Page 2 of 2 (First Rates)

Local Service Class Subsidy Rate
Computation of System Operating Profit or (Loss)
Year Ended September 30, 1976 1/
$(000)

System Operations	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Reported Operating Profit or (Loss) 2/	5,855	(3,012)	(1,671)	4,112	(998)	(344)	(3,864)	78
Adjustments:								
Conformance with Form 41 Reports 3/	(1)	-	-	-	-	-	197	196
Mutual Aid Payments 4/	1,212	893	874	658	1,357	-	678	5,472
Excess Salary Expense 5/	469	172	217	94	243	119	167	1,421
Excess Legal Fees 6/	305	234	206	125	64	140	399	1,473
Developmental and Pre-Operating Amort. 7/	-	-	-	-	-	-	-	-
Non-Operating Income Offset 8/	1,285	461	354	594	333	570	759	4,356
Net Strike Revenues 9/	(278)	(140)	(452)	(55)	-	-	(8)	(913)
Other Misc. Ratemaking Adjustments 10/	188	216	205	162	143	127	138	1,200
Depreciation Adjustment 11/	681	(616)	(1,187)	(674)	19	(29)	-	(1,806)
Commuter Support Payments 12/	-	-	-	-	-	6	-	6
Economic Savings Adjustment 13/	68	20	-	267	-	-	61	416
Adjusted Operating Profit or (Loss)	9,785	(1,772)	(1,454)	5,283	961	589	(1,533)	11,899

Appendix B Revised Page 1 of 6 (First Rates)

LOCAL SERVICE CLASS SUBSIDY RATE COMPUTATION OF OPERATING PROFIT OR (LOSS), YEAR ENDED SEPTEMBER 30, 1976

EXPLANATORY NOTES

[1] Based on special reports to the Board reflecting the results of operations for the year ended September 30, 1976.

[2] Each carrier submitted financial and traffic data allocated to eligible operations, ineligible operations, charter operations, and system operations.

[3] Adjustment has been made to the reported results to reconcile differences between that data and Form 41 data. An adjustment has also been made to the reported data for each type of service after verification of the prescribed allocation procedures.

[4] Six of the seven local service carriers belong to the mutual aid pact. During the reporting period, $5,472,000 of mutual aid payments were made by this group to struck carriers. The amounts were allocated to ineligible and eligible services based on the ratio of each service's revenue (less other revenue) plus each service's expense compared to the total of system revenue (less other revenue) plus system expense, exclusive of charter.

[5] To eliminate officers' salaries in excess of $50,000 for the chief executive officer and $35,000 for all others on an annual basis. Amounts were based on data for the year ended December 31, 1975. The allocation to eligible, ineligible, or charter services is based on the ratio that each carrier's eligible, ineligible, or charter operating cash costs (excluding general and administrative expenses) bear to the system operating cash costs (excluding general and administrative expenses).

[6] Legal expenses charged to account 6840, Legal Fees and Expenses, in excess of the $70,000 maximum limit, have been eliminated. The amounts were allocated to eligible, ineligible, or charter services based on the ratio as discussed in Footnote 5 above.

[7] To reflect the difference between the recognized amortization of developmental and pre-operating expenses in eligible, ineligible, and charter services and the amounts reported by the carriers in their special reports to the Board. Some of these expenses are directly assignable to the various types of service, while others, not directly assignable, are allocated on an applicable unit rate basis. Aircraft pre-operating costs are allocated on the basis of revenue hours by aircraft type. Amortization of expenses related to reservation systems is allocated on the basis of passenger enplanements, excluding charter. All other allocable expenses are allocated on an appropriate operating statistic as closely related as possible to the type of expense involved.

[8] Unapplied cash discounts, interest income, dividend income, miscellaneous credits, and income from subsidiaries and non-transport ventures in excess of a 12.35 percent return plus applicable taxes have been offset against the break-even need for all carriers. The allocation to eligible, ineligible, or charter services was made on the basis as set forth in Footnote 4 above, but including charter.

[9] This adjustment excludes the net reporting revenues underlying the computations for the "windfall" payments under the Mutual Aid Agreement which are determined to be atypical to the carriers' financial base for determining the prospective needs of the carriers. The allocation to eligible or ineligible services was made on the basis as set forth in Footnote 4 above.

[10] These items include, but are not limited to, contributions, financing expenses, liquor, and entertainment. The total industry disallowance was allocated to each carrier based on the industry expense. The eligible, ineligible, or charter allocation is based on the ratio each carrier's eligible, ineligible, or charter operating expense bears to its system expense. The industry disallowances are based on the same level as in Class Rate VII. The same disallowances will be used pending an audit that is now in progress. As soon as the results of the present audit are available, the updated data will be used to compute the miscellaneous disallowances.

[11] This adjustment eliminates any differences between reported and regulatory depreciation expense for each aircraft type. The amount of depreciation expense reported which is above or below the regulatory amount for each aircraft type is allocated to each type of service in the same proportion as the aircraft types were utilized in each of the services (by revenue aircraft hour). The equity base is adjusted to reflect the change in operating expense.

[12] This adjustment eliminates payments to a replacement carrier serving Natchez, Mississippi. The allocation was made on the basis as set forth in Footnote 4 above.

[13] The economic savings adjustment reflects the changes in the need in a specific service resulting from a suspension or deletion of a point by a carrier.

Local Service Class Subsidy Rate
Computation of Eligible Operating Profit or (Loss)
Year Ended September 30, 1976 1/
$(000)

Eligible Operations	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Reported Operating Profit or (Loss) 2/	(13,824)	(7,434)	(8,762)	(8,025)	(7,548)	(3,444)	(6,004)	(55,785)
Adjustments:								
Conformance with Form 41 Reports 3/	-	4	(85)	157	-	(3)	15	86
Mutual Aid Payments 4/	462	203	872	253	524	-	199	1,553
Excess Salary Expense 5/	176	68	71	24	73	33	32	481
Excess Legal Fees 6/	115	57	67	32	29	29	121	450
Developmental and Pre-Operating Amort. 7/	-	10	(1)	13	2	8	7	44
Non-Operating Income Offset 8/	426	104	307	134	92	150	219	1,236
Net Strike Revenues 9/	(92)	(32)	(134)	(13)	-	-	(2)	(273)
Other Misc. Ratemaking Adjustments 10/	71	32	67	42	48	35	45	359
Depreciation Adjustment 11/	41	(45)	(259)	(101)	(35)	(7)	-	(505)
Commuter Support Payments 12/	-	-	-	4	-	2	-	2
Economic Savings Adjustment 13/	68	20	-	267	-	-	61	416
Adjusted Operating Profit or (Loss)	(12,616)	(7,621)	(8,657)	(7,317)	(7,019)	(3,431)	(5,311)	(51,972)

Note: The footnotes in this table are identical to those shown in Appendix B, Pages 2 and 3.

Appendix B Revised Page 6 of 6 (First Rates)

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Local Service Class Subsidy Rate
Computation of Ineligible* Operating Profit or (Loss)
Year Ended September 30, 1976 1/
$(000)

Ineligible Operations*	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Reported Operating Profit or (Loss) 2/	15,561	4,676	8,002	12,420	8,523	3,543	2,308	56,987
Adjustments:								
Conformance with Form 41 Reports 3/	(1)	(10)	(99)	(155)	-	-	52	(213)
Mutual Aid Payments 4/	810	690	602	505	833	-	479	3,919
Excess Salary Expense 5/	293	128	140	67	167	78	72	945
Excess Legal Fees 6/	150	174	123	89	44	51	266	587
Developmental and Pre-Operating Amort. 7/	-	(3)	(3)	(13)	(7)	(30)	(4)	(64)
Non-Operating Income Offset 8/	859	251	257	442	237	580	350	3,026
Net Strike Revenues 9/	(186)	(106)	(294)	(42)	-	-	(6)	(640)
Other Misc. Ratemaking Adjustments 10/	218	161	133	115	122	83	91	812
Depreciation Adjustment 11/	639	(466)	(871)	(537)	55	(230)	-	(1,197)
Commuter Support Payments 12/	-	-	-	-	-	4	-	4
Economic Savings Adjustment 13/	-	-	-	-	-	-	-	-
Adjusted Operating Profit or (Loss)	17,403	5,383	7,575	13,890	9,963	3,969	3,774	64,566

Note: The Footnotes in this Table are identical to those shown in Appendix B, Pages 2 and 3.

* Consists of hub-to-hub operations and certificate ineligible operations.

Appendix B
Revised
Page 3 of 6
(Class Rates)

Local Service Class Subsidy Rate
Computation of Charter Operating Profit or (Loss)
Year Ended September 30, 1976 1/
$(000)

Charter Operations	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Reported Operating Profit or (Loss) 2/	(2)	248	(911)	(291)	27	(27)	(168)	(1,124)
Adjustments:								
Conformance with Form 41 Reports 3/	-	6	184	(9)	-	8	136	323
Mutual Aid Payments 4/	-	-	-	-	-	-	-	-
Excess Salary Expense 5/	-	-	-	-	-	-	-	25
Excess Legal Fees 6/	-	-	-	-	-	-	-	36
Developmental and Pre-Operating Amort. 7/	-	-	-	-	-	-	-	20
Non-Operating Income Offset 8/	-	-	-	-	-	-	-	100
Net Strike Revenues 9/	-	-	-	-	-	-	-	-
Other Misc. Ratemaking Adjustments 10/	-	-	-	-	-	-	-	70
Depreciation Adjustment 11/	-	-	(57)	-	-	-	-	(104)
Commuter Support Payments 12/	-	-	-	-	-	-	-	-
Economic Savings Adjustment 13/	-	-	-	-	-	-	-	-
Adjusted Operating Profit or (Loss)	(2)	254	(784)	(300)	27	(19)	(32)	(695)

Note: The Footnotes in this Table are identical to those shown in Appendix B, Pages 2 and 3.

Appendix B
Revised
Page 4 of 6
(Class Rates)

Local Service Class Subsidy Rate
Computation of System Investment, Return and Tax Provision
Year Ended September 30, 1976
$(000)

System Services	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Investment as Allocated 1/								
Adjusted Average Investment								
Debt	30,386	17,930	49,878	49,886	64,420	31,186	26,326	270,012
Equity	48,057	36,388	47,390	22,238	18,708	12,914	3,903	189,598
Total 2/	78,443	54,318	97,268	72,124	83,128	44,100	30,229	459,610
Developmental and Pre-Operating Adjustment 3/	-	346	1,224	659	121	740	26	3,116
Adjusted Average Investment								
Debt	30,386	18,044	50,505	50,342	64,514	31,709	26,348	271,848
Equity	48,057	36,620	47,987	22,441	18,735	13,131	3,907	190,878
Total	78,443	54,664	98,492	72,783	83,249	44,840	30,255	462,726
Return on Adjusted Investment								
Return on Adjusted Investment	9,687	6,751	12,164	8,806	9,790	5,411	3,469	56,078
Added Risk Return for Leased Aircraft Adjustment 4/	-	-	-	-	-	960	-	960
Adjusted Return	9,687	6,751	12,164	8,806	9,790	6,371	3,469	57,038
Tax Provision								
Federal Taxes 5/	7,165	2,962	6,819	4,721	4,118	3,477	-	29,262
State Taxes 6/	404	343	241	380	77	286	13	1,744
Total Tax Provision	7,569	3,305	7,060	5,101	4,195	3,763	13	31,006

Appendix C
Revised
Page 1 of 6
(Class Rates)

LOCAL SERVICE CLASS SUBSIDY RATE COMPUTATION OF INVESTMENT, RETURN AND TAX PROVISION, YEAR ENDED SEPTEMBER 30, 1976

EXPLANATORY NOTES

[1] Adjusted system average (5 quarter weighted) investment (excluding developmental and pre-operating investment) for each carrier is allocated to individual aircraft types on the ratio of each carrier's net flight equipment, adjusted for regulatory depreciation, and to eligible, ineligible, and charter operations based on the ratio that the revenue aircraft hours flown in eligible, ineligible, or charter services bear to the total system aircraft hours. The eligible, ineligible, and charter investment is then allocated to debt and equity on the same ratio as the system adjusted average investment.

[2] The adjustments to investment are as follows:

(a) Current portion of long-term debt. Increases debt portion of investment.

(b) Unamortized discount and expense on debt. Decreases debt portion of investment.

(c) Unamortized capital stock expense. Decreases equity portion of investment.

(d) Investments in subsidiary companies. Excluded from investment on a pro rata basis. (See (1) below.)

(e) Advances to nontransport divisions. Same as (d).

(f) Special funds—other. Same as (d).

(g) Nonoperating property and equipment—net. Same as (d).

(h) Developmental and pre-operating cost. Same as (d).

(i) Property acquisition adjustment. Same as (d).

(j) Other intangibles. Same as (d).

(k) Depreciation Adjustment. Any depreciation adjustment to operating expense will be applied as a direct adjustment to the equity portion of investment using a cumulative five-quarter weighted average.

(l) All pro rata allocations are based on the percentage relationship that debt and equity bear to the total investment after the direct adjustments have been made.

[3] Developmental and pre-operating investment is recognized on an actual basis, adjusted for subsidy purposes, apportioned to eligible, ineligible, and charter services, and allocated to debt and equity as in footnote 1 above.

[4] To reflect recognition of added risks for levels of leased equipment significantly in excess of the industry average; allocated to charter, ineligible and eligible services based on the percentage of revenue aircraft hours flown in each type of service for each of those aircraft types that are leased.

[5] Represents the amount of system federal taxes applicable to eligible, ineligible, and charter services. To compute federal taxes for each service: subtract interest expense from the computed return; multiply the subtotal by the federal tax rate (0.48); eliminate surtax which is allocable on same basis as federal tax derived at 0.48 rate; and then divide by the complement of the federal tax rate (0.52) to arrive at the applicable federal tax.

[6] Represents the amount of system state taxes submitted by the carrier. Allocation to eligible, ineligible, and charter services is made on the basis of the ratio of each service's federal tax to system federal tax.

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Local Service Class Subsidy Rate
Computation of Eligible Investment, Return and Tax Provision
Year Ended September 30, 1976
$(000)

Eligible Services	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Investment as Allocated 1/								
Adjusted Average Investment								
Debt	8,657	3,738	12,666	10,744	17,071	6,477	6,945	66,298
Equity	13,692	7,586	12,034	4,790	4,958	2,682	1,030	46,772
Total 2/	22,349	11,324	24,700	15,534	22,029	9,159	7,975	113,070
Developmental and Pre-Operating Adjustment 3/	-	18	392	73	27	135	-	645
Adjusted Average Investment								
Debt	8,657	3,744	12,867	10,795	17,092	6,572	6,945	66,672
Equity	13,692	7,598	12,226	4,812	4,964	2,722	1,030	47,044
Total	22,349	11,342	25,093	15,607	22,056	9,294	7,975	113,716
Return on Adjusted Investment								
Differentiated Return								
Debt @ 7.25%	628	271	933	783	1,239	477	504	4,835
Equity @ 20%	2,738	1,520	2,445	962	993	544	206	9,408
Total	3,366	1,791	3,378	1,745	2,232	1,021	710	14,243
Percent Return on Adjusted Investment	15.06	15.79	13.46	11.18	10.12	10.98	8.90	12.53
Allowable Return - Minimum of 9% and Maximum of 12.35%	2,760	1,401	3,099	1,745	2,232	1,021	718	12,976
Added Risk Return for Leased Aircraft Adjustment 4/	-	-	-	-	-	130	-	130
Adjusted Return	2,760	1,401	3,099	1,745	2,232	1,151	718	13,106
Tax Provision								
Federal Taxes 5/	2,042	612	1,742	877	758	565	-	6,596
State Taxes 6/	115	71	62	71	14	46	2	381
Total Tax Provision	2,157	683	1,804	948	772	611	2	6,977

NOTE: The footnotes in this table are identical to those shown in Appendix C, pages 2 and 3.

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(First Review)

Local Service Class Subsidy Rate
Computation of Ineligible* Investment, Return and Tax Provision
Year Ended September 30, 1976
$(000)

Ineligible Services*	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Investment as Allocated 1/								
Adjusted Average Investment								
Debt	21,723	13,511	35,106	37,075	46,271	22,931	18,742	195,359
Equity	34,357	27,420	33,355	16,528	13,438	9,496	2,779	137,373
Total 2/	56,080	40,931	68,461	53,603	59,709	32,427	21,521	332,732
Developmental and Pre-Operating Adjustment 3/	-	223	796	566	82	591	26	2,294
Adjusted Average Investment								
Debt	21,723	13,584	35,514	37,467	46,343	23,349	18,765	196,745
Equity	34,357	27,570	33,743	16,702	13,458	9,669	2,782	138,281
Total	56,080	41,154	69,257	54,169	59,801	33,018	21,547	335,026
Return on Adjusted Investment								
Return @ 12.35%	6,925	5,082	8,553	6,690	7,386	4,078	2,661	41,375
Added Risk Return for Leased Aircraft Adjustment 4/	-	-	-	-	-	743	-	743
Adjusted Return	6,925	5,082	8,553	6,690	7,386	4,821	2,661	42,118
Tax Provision								
Federal Taxes 5/	5,121	2,227	4,792	3,642	3,283	2,681	-	21,746
State Taxes 6/	289	258	169	293	61	221	11	1,302
Total Tax Provision	5,410	2,485	4,961	3,935	3,344	2,902	11	23,048

NOTE: The footnotes in this table are identical to those shown in Appendix C, pages 2 and 3.

* Consists of hub-to-hub operations and certificate ineligible operations.

Appendix C
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(First Review)

Local Service Class Subsidy Rate
Computation of Charter Investment, Return and Tax Provision
Year Ended September 30, 1976
$(000)

Charter Services	Frontier	Hughes Airwest	North Central	Ozark	Piedmont	Southern	Texas International	Industry Total
Investment as Allocated 1/								
Adjusted Average Investment								
Debt	6	681	2,106	2,067	1,077	1,778	638	8,353
Equity	9	1,382	2,001	921	313	736	94	5,456
Total 2/	15	2,063	4,107	2,988	1,390	2,514	732	13,809
Developmental and Pre-Operating Adjustment 3/	-	106	35	20	2	14	-	177
Adjusted Average Investment								
Debt	6	716	2,124	2,081	1,079	1,788	638	8,432
Equity	9	1,453	2,018	927	313	740	94	5,554
Total	15	2,169	4,142	3,008	1,392	2,528	732	13,986
Return on Adjusted Investment								
Return @ 12.35%	2	268	512	371	172	312	90	1,727
Added Risk Return for Leased Aircraft Adjustment 4/	-	-	-	-	-	87	-	87
Adjusted Return	2	268	512	371	172	399	90	1,814
Tax Provision								
Federal Taxes 5/	2	123	285	202	77	231	-	920
State Taxes 6/	-	14	10	16	2	19	-	61
Total Tax Provision	2	137	295	218	79	250	-	981

NOTE: The footnotes in this table are identical to those shown in Appendix C, pages 2 and 3.

Appendix C
Amended
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(First Review)

LOCAL SERVICE CLASS SUBSIDY RATE

HYPOTHETICAL APPLICATION OF CLASS RATE VIII—BY CARRIER[1] FOR AN ANNUAL PERIOD—BASED ON YEAR ENDED MARCH 31, 1976

[1] For subsidy-eligible non-hub operations per rate formula provisions.

[2] Appendix E, page 6 of 6, of Order 76-11-12.

[3] Appendix E, page 4 of 6, of Order 76-11-12.

[4] Appendix E, page 5 of 6, of Order 76-11-12.

[5] Appendix E, page 3 of 6, of Order 76-11-12.

[6] Appendix A, page 2 of 2, the median percentage change in adjusted eligible need less Federal tax.

[7] The adjustment for Hughes Airwest is for operations conducted at Crescent City, California. The formula makes no provision for these operations on the assumption that service at this point will be suspended shortly after the effective date of this subsidy rate. This upward adjustment is necessary to provide subsidy payments for operations at Crescent City, and will remain in effect until operations there have been suspended.

Local Service Class Subsidy Rate
Daily Rates by Carrier 1/
Effective January 1, 1977
Class Rate VIII
Rate per Day $'s

Carrier	Eligible Operations: Base Year Adjusted Net Formula Provision Section II, 2/3/	Eligible Operations: Adjusted Net Formula Provision Sections II, VII 2/ 3/ 4/	Eligible Operations: Federal Taxes Section III 3/	Ineligible* Profit Offset Section IV 3/5/	Charter Profit Offset Section IV 3/5/	Total Subsidy Offset 4/
Frontier	44,366.30	43,640.61	5,564.38	13,791.78	-	13,791.78
Hughes Airwest	24,367.12 6/	23,957.75 7/	1,604.93	-	-	-
North Central	30,926.03	30,406.47	4,761.64	-	-	-
Ozark	26,967.12	26,514.07	2,334.25	3,115.07	-	3,115.07
Piedmont	28,419.18	27,941.74	2,364.38	-	-	-
Southern	13,008.22	12,789.68	1,249.32	-	-	-
Texas International	23,400.00	23,006.88	-	1,509.59	-	1,509.59

1/Pursuant to Sections II, III, IV, and VII of the class rate formula.
2/The maximum cumulative subsidy payable under Section II shall be the product of the applicable daily rate times the number of days in the period to date.
3/The number of days shall be determined in accordance with the third and fourth provisos of Section II B 2, of the class rate formula.
4/This daily rate is the base year adjusted net formula provision in column 1 adjusted by the median percentage change computed pursuant to Section VII.
5/For ineligible services, the rates are effective from January 1, 1977 through June 30, 1977.
6/This amount shall be increased by $638.33 per day until Hughes Airwest suspends service at Crescent City.
7/This amount shall be increased by $627.61 per day until Hughes Airwest suspends service at Crescent City.

* Consists of hub-to-hub operations and certificate ineligible operations.

Appendix E
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(First Review)

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Local Service Class Subsidy Rate
Determination of Profit Offset and Federal Tax Allowance Under Ch VIII
Ineligible [6] and Charter Services
$(000)

Carrier	Adjusted Operating Profit (Loss) 1/	Return and State Tax 2/	Interest Expense 3/	Maximum Federal Tax Provision 4/	Excess Earnings Before Federal Tax	Excess Earnings After Federal Tax	Ineligible[6] Profit Offset
Ineligible[6] Services							
Frontier	22,403	7,214	1,356	5,121(A)	15,189	10,068	5,034
Hughes Airwest	5,593	3,140	2,649	2,227(A)	253	(1,974)	-
North Central	7,975	8,722	3,341	4,792(A)	(747)	(5,539)	-
Ozark	12,899	4,961	2,722	3,643(A)	5,916	2,274	1,137
Piedmont	7,962	7,447	3,806	3,283(A)	313	(2,768)	-
Southern	3,960	5,042	1,853	2,681(A)	(1,082)	(3,763)	-
Texas International	3,774	3,672	1,321	1,029(B)	1,102	1,102	551
Charter Services							Charter Profit Offset
Frontier	(2)	2	-	2(A)	(4)	(6)	
Hughes Airwest	256	282	133	123(A)	(26)	(149)	
North Central	(752)	322	201	295(A)	(1,274)	(1,559)	
Ozark	(299)	387	152	202(A)	(686)	(888)	
Piedmont	38	174	89	77(A)	(136)	(213)	
Southern	69	418	147	231(A)	(258)	(589)	
Texas International	4	90	52	35(B)	(84)	(84)	

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1/Reported Operating profit or (loss) after subsidy ratemaking adjustments. For detailed adjustments, see Appendix B.
2/Appendix C.
3/As reported by carrier on Form 41 Reports for the year ended September 30, 1976 and allocated to Ineligible[6] and charter operations.
4/Indicates maximum Federal Taxes to be provided for Ineligible[6] and charter services under the rate when a carrier has excess profits subject to offset after taxes. Amounts enffixed by (A) represent carriers in a current tax status and (B) represent carriers with current tax loss carryforward credits.
6 Consists of hub-to-hub operations and certificate ineligible operations.

[FR Doc.77-6428 Filed 3-3-77;8:45 am]

[Docket No. 25218, etc. Order 77-2-129]

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

Order To Show Cause and Denying Petition

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of February, 1977.

In the matter of applications of Pan American World Airways, Inc. for amendment of its certificate of public convenience and necessity for Route 136 to name Dallas/Fort Worth, Texas, as an additional coterminal point (Docket 25218); Braniff Airways, Inc. for amendment of its certificate of public convenience and necessity for Route 153 to name Dallas/Fort Worth, Texas, as an additional coterminal point (Docket 29074); Braniff Airways, Inc. for amendment of its certificate of public convenience and necessity for Route 153 to change condition (7) (Docket 26966); Pan American World Airways, Inc. pursuant to section 401(g) of the Federal Aviation Act of 1958, as amended, for suspension of authority of Braniff Airways, Inc., to serve Rio de Janeiro and Sao Paulo, Brazil (Docket 29717).

Braniff Airways has on file two applications to amend its certificate for Route 153. Docket 20974 is an application by Braniff to add Dallas/Fort Worth, Texas, as a coterminal point on segment 1 of Route 153, and Docket 26966 is an application for modification of condition (7) of Route 153 to allow Braniff a choice of intermediate points rather than restricting it to Lima, Peru, on its U.S.-Brazil service.[1] On August 9, 1976, Braniff filed a petition requesting the Board to issue an order to show cause why its certificate for Route 153 should not be amended as requested in its two applications and concurrently filed a motion to consolidate its applications in Docket 29074 and 26966 for the purpose of granting relief by an order to show cause.

In support of its request to add Dallas/Fort Worth as a coterminal point on Route 153, Braniff states, inter alia, that: it now provides single-plane service between Dallas/Fort Worth and Panama City and on-line connections at Miami between Dallas/Fort Worth and South America; even though the individual Dallas/Fort Worth-South American markets are of modest size, Braniff's identity and route support at Dallas/Fort Worth will make it possible to develop further those markets; no other carrier would be significantly harmed; [2] and addition of Dallas/Fort Worth (Braniff's home base and major domestic point) as a coterminal on Route 153 would be consistent with the Board's recent proposed grant of additional domestic coterminals to Trans World Airlines on its transatlantic routes.[3]

The Dallas/Fort Worth Parties [4] filed an answer in support of Braniff's petition to add Dallas/Fort Worth as a coterminal on Route 153. Answers in opposition to Braniff's Dallas/Fort Worth petition were filed by the City of Houston, Texas, and the Houston Chamber of Commerce (Houston) and Pan American World Airways. Houston urges denial of Braniff's request on the grounds that (1) Braniff seeks authority to overfly Houston on its South American services and to concentrate such service through the Dallas/Fort Worth gateway; (2) Braniff has over the long term failed to meet

[1] Braniff is authorized, to serve Rio de Janeiro and Sao Paulo, Brazil, as intermediate points on its Route 153 between points in the U.S. (New York, Washington, Miami, New Orleans, Houston, Los Angeles, and San Francisco) and points in Central and South America. Condition (7) of Route 153 requires that all flights serving Rio de Janeiro or Sao Paulo also serve Lima, Peru. By Order 76-6-184, June 29, 1976, the Board granted Braniff an exemption to operate 5 round-trip flights per week between the U.S. and Brazil via a point in Colombia, Ecuador, or Bolivia in lieu of Lima. This exemption authority expires June 29, 1977.

[2] Braniff has proposed to operate two weekly flights between Dallas/Fort Worth and South America in the forecast year 1978 in the *Seattle/Portland-Japan Service Investigation*, Docket 28655, and estimates diversion from Pan American of 893,000 on a projected participation basis.

[3] See Board's decision in the *Transatlantic Route Proceeding*, Docket 25908, Order 77-1-98, p. 50.

[4] The Cities of Dallas and Fort Worth, Texas, the Chambers of Commerce of Dallas and Fort Worth, and the North Texas Commission.

its certificate responsibilities at Houston; and (3) Braniff should be required to provide Houston with adequate South American service pursuant to its existing certificate responsibilities before being granted new and improved Dallas/Fort Worth-South American authority.

In opposing Braniff's petition, Pan American states that the request raises complex and controversial issues which make the utilization of show-cause procedures inappropriate; that both Braniff and Pan American have applications on file with the Board seeking the addition of Dallas/Fort Worth as a coterminal point on their routes between the United States and Central/South America; that the overlapping markets are incapable of supporting two U.S.-flag carriers; and that Braniff's real objective is to resolve a fatal flaw in its case in the *Seattle/Portland-Japan Service Investigation*, wherein Braniff proposed service between Dallas/Fort Worth and South America which it has no authority to operate.

In support of its request for amendment of condition (7) so as to substitute another intermediate point in lieu of Lima on its U.S.-Brazil service, Braniff states, inter alia, that: it does not seek better access to Brazil than that authorized in its certificate, namely, service via an intermediate point; the strength of Lima as a traffic generating point gives Braniff every incentive to continue to operate U.S.-Brazil services via Lima to the extent possible; but for the exemption granted by the Board (see n. 1, supra), Braniff would be unable to serve the U.S.-Brazil market in the manner it believes necessary because the Government of Peru has regularly acted to limit Braniff's access to Lima; and continuing this situation unduly burdens the regulatory process, harms both Braniff and the passengers it serves, and advances no legitimate objective of U.S. air transportation policy.

Pan American filed an answer in opposition to Braniff's request for modification of condition (7) stating that any change in condition (7) would be a fundamental change in the U.S.-Brazil route structure, would cause massive diversion from Pan American,[5] and would permit Braniff to unleash a capacity war in the U.S.-Brazil market; that complex and controversial issues are raised by the request making utilization of show-cause procedures inappropriate; and that service via any of the intermediate points available to Braniff would be considerably less circuitous than service via Lima and, therefore, more likely to divert traffic from Pan American's U.S.-Brazil service.

On August 30, 1976, Pan American petitioned the Board to suspend Braniff's operations to Brazil pursuant to section 401(g) of the Act for a period of five years (Docket 29717).

In support of its petition, Pan American states, inter alia, that: recently there have been severe traffic declines in the U.S.-Brazil market which have resulted from the Brazilian Government's regulation requiring a $1,200 bond for all travel to the United States by Brazilian citizens; continuation of Braniff's service is duplicative and wasteful; suspension of Braniff's services would encourage Braniff to develop the Midwest-South American markets it was certificated to serve and alleviate difficulties the United States and Braniff are experiencing with Peru; and grant of its petition would benefit Pan American's financial position without seriously affecting Braniff, since Braniff's operations to Brazil are small and account for a very minor portion of Braniff's revenues.

Braniff filed an answer to Pan American's petition for suspension, requesting that the Board dismiss the petition and initiate a proceeding to effect a transfer of Pan American's Latin American Division to Braniff. In support of its position, Braniff asserts that the Board had previously stated in a denial of a similar petition by Pan American with respect to Braniff's South American authority that the Board would only consider suspending a carrier's authority when the clearest reasons exist for such an action, and that the reasons cited by Pan American—declining traffic affecting extrasection operations and foreign competition—do not satisfy this criterion; that Braniff's limited traffic and operations are not the cause of Pan American's problems and suspension of its authority would not have the beneficial effect on Pan American which the petitioner expects; that Pan American's Latin American operations are wasteful, sustaining huge losses, and could be more efficiently operated by Braniff; and that for this reason the Board should initiate proceedings aimed at transferring Pan American's Latin American Division to Braniff.

Pan American moved for leave to file an otherwise unauthorized document in reply to Braniff's answer.[6] Pan American asserts that Braniff's request is a frivolous retaliation to Pan American's conscientious petition and that the data presented by Braniff to support its position regarding the comparative operating expenses of Pan American and Braniff are misleading. For these reasons, Pan American requests that the Board dismiss or deny Braniff's request regarding Pan American's Latin American Division.

In addition, on August 31, 1976, Pan American filed a motion to consolidate its petition in Docket 29717 to suspend all of Braniff's authority to Brazil with Braniff's application in Docket 26966 for amendment of its certificate for Route 153 to substitute another intermediate point in lieu of Lima, Peru, on Braniff's United States-Brazil service. Pan American's motion also sought to consolidate Pan American's certificate amendment application in Docket 25218 to add Dallas/Fort Worth to its Route 136 with Braniff's application in Docket 29074 to add Dallas/Fort Worth to Braniff's Route 153. Braniff filed an answer in opposition to Pan American's motions to consolidate.

Upon consideration of the pleadings and all the relevant facts, we have decided to issue an order to show cause why (1) Braniff's certificate for Route 153 should not be amended to add Dallas/Fort Worth as a coterminal on segment 1 and to permit Braniff to provide one-stop United States-Brazil service via any intermediate point south of Panama including Lima, and (2) Pan American's certificate for Route 136 should not be amended to add Dallas/Fort Worth as a coterminal on segment 1(B)(3)(c)(ii). Moreover, we have decided to deny Pan American's petition for suspension of Braniff's authority at Rio de Janeiro and Sao Paulo and Braniff's request for the Board to direct Pan American to enter into negotiations for the transfer of Pan American's Latin American Division to Braniff. Since we have decided for administrative purposes, to handle all four cases in the same order, we will grant Pan American's and Braniff's motions for consolidation.

We tentatively find and conclude that the public convenience and necessity require the amendment of Braniff's and Pan American's certificates so as to add the new coterminal point Dallas/Fort Worth.[7] The facts and circumstances which we have tentatively found to support our proposed ultimate conclusion appear below.

We tentatively find that Dallas/Fort Worth should be designated as a coterminal point for Central/South American service. At the present time, Pan American has no access to Dallas/Fort Worth on its Central/South American route; while Braniff must serve another United States point as a gateway to its Central/South American route on flights from Dallas/Fort Worth. In light of the fact that both carriers presently have stations and identities at Dallas/Fort Worth, addition of that point as a new coterminal will add scheduling flexibility and opportunities to develop the South American markets, adding service incrementally as traffic develops. Dallas/Fort Worth will be served as part of the route system of both carriers and not in isolation, so than its independent traffic characteristics do not alone determine its potential for supporting nonstop services or other necessary single-plane operations. Service would be provided by integrating traffic flows in several markets on the same flight, making use of intermediate traffic support. In the final

[5] Pan American maintains that grant would give Braniff improved authority in ten markets directly competitive with Pan American—Panama-Rio de Janerio/Sao Paulo, Miami-Rio de Janerio/Sao Paulo, New York-Rio de Janerio/Sao Paulo, Los Angeles-Rio de Janerio/Soa Paulo, and San Francisco-Rio de Janerio/Sao Paulo.

[6] We will grant the motion.

[7] We also tentatively find that Braniff and Pan American are fit, willing, and able properly to perform the air transportation authorized by the certificates proposed to be issued herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

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analysis, the local traffic generated at Dallas/Fort Worth and its surrounding area represents only a fraction of the South American traffic that can be expected to feed into Dallas/Fort Worth if an appropriate level of direct service is maintained. The impressive development of the Miami gateway after the introduction of direct London service in 1969 lends strong historical support to such a proposal.[8]

Our tentative decision herein would in no way lessen Braniff's certificate obligations with respect to Houston. Service to Houston is mandatory in Braniff's certificate, and only a suspension or deletion of Braniff's authority to serve Houston can relieve that carrier of its certificate responsibilities at that city. Consequently, grant of coterminal status to Dallas/Fort Worth would not relieve Braniff of its certificate obligations at Houston. To the extent that Houston believes that Braniff's services are not satisfactory, there are other, more appropriate forums available to the city to bring this matter to the Board's attention. In any event, we will not deprive Dallas/Fort Worth of an opportunity to be considered for improved authority simply on the basis of contentions that Houston is not receiving an amount of service it considers itself entitled to.

In addition, we tentatively find and conclude that the public convenience and necessity require the amendment of Braniff's certificate so as to modify condition (7) to permit Braniff to provide one-stop United States-Brazil service via any intermediate point south of Panama.[9] The facts and circumstances which we have tentatively found to support our proposed ultimate conclusion appear below.

Braniff's certificate condition regarding service to Brazil was not imposed to limit either capacity or frequency. Indeed, for the first twenty years of operations, Braniff held unrestricted authority at Rio de Janeiro via Havana.[10] It was not until 1966 that the condition was imposed requiring Lima to be served on all Braniff flights between the United States and Brazil. The condition was approved as part of an agreement between Braniff and Pan American for the acquisition by Braniff of Pan American-Grace Airways. The purpose of condition (7) was to protect Pan American over its United States-Brazil nonstop routes. Lima was chosen as a required intermediate point mainly because of its traffic-generating potential. At that time the Board found that the public interest would not be harmed by the limitation since Braniff had always operated its Brazil services via Lima and therefore the action by the Board would be a formalization of a practice Braniff had followed for years. In the *Panagra Acquisition Case*, 45 CAB 495 (1966), Pan American agreed to and supported an initial schedule plan whereby Braniff would operate five round trips weekly between the eastern United States and Brazil. There was no indication that condition (7) would result in any frequency limitations. Had there been such an indication, the Board would not have so readily accepted the proposed restriction.

Against this background, we tentatively decide to authorize Braniff to provide one-stop United States-Brazil service via any intermediate point south of Panama on Route 153 including Lima. The Peruvian Government's limitation on Braniff's Lima operations is tantamount to a certificate restriction on frequency of Brazilian service. For almost thirty years Braniff has had no restrictions on the number of flights it may operate to Brazil. However, factors outside the control of the U.S.-flag carrier have eliminated Lima as a possible intermediate on more than two weekly flights. Braniff is thus deprived of the support of Lima traffic for its Latin American operations and is unable to provide that effective competition to the Pan American system which was a major purpose in authorizing Braniff to operate in Latin America. The long-term objectives of the route, in our opinion, should not be sacrificed because of temporary inability to operate the service in its entirety. Consequently, we find that Braniff should be authorized by show-cause procedures to provide one-stop United States-Brazil service via Lima or an intermediate point south of Panama. By allowing Braniff to substitute only a point south of Panama, Braniff's one-stop restriction in the United States-Brazil market will be retained and there will be no meaningful change in the competitive relationship between Pan American and Braniff in the United States-Brazil market. Moreover, Braniff's commercial incentive would be to operate all permissible flights into Lima since that point generates substantially more traffic than other possible intermediate points in South America, but the carrier is unable to do so by reason of the restrictions imposed by the Government of Peru.

Further, we have carefully considered the possible impact of the recently enacted Brazilian decree which requires its citizens to post a $1,200 bond before leaving the country. We do not doubt that the decree has in fact depressed traffic in the United States-Brazil market. In contrast to the Peruvian situation, the Brazilian travel decree has absolutely no effect on the operational authority of any air carrier. It is a government policy which has clearly reduced air traffic but whose impact is felt by all carriers serving Brazil. Sharp downturns in demand are not unknown to the airline industry. In such situations, the remedy is in the carrier's own hands, i.e., a reduction of capacity. That, in fact, is currently the solution being pursued by both carriers. Braniff states that it has reduced its services to two round trips per week via Lima, and Pan American indicates that most of its extra sections have been canceled. The Board is confident of both carriers' ability to adjust capacity downward in light of substantially decreased demand. We believe that it is in the public interest to give both carriers equal flexibility to increase capacities if market conditions so warrant in the future.

In view of the foregoing, we have decided to deny the petition of Pan American for suspension of Braniff's services at Rio de Janeiro and Sao Paulo. Furthermore, we will deny the request of Braniff for the Board to direct Pan American to enter into negotiations for the transfer of Pan American's Latin American Division to Braniff.

When the Board considered similar petitions for suspension of Braniff's Latin American certificate in 1948 it stated its view that ". . . proceedings for suspension or amendment of such certificate so as to withdraw substantially the rights conferred thereby should be undertaken only when the clearest reasons exist for such proceedings."[11] We continue to hold to this conclusion and find that Pan American has not presented evidence warranting institution of any such proceeding with respect to Braniff's Latin American authority. In this regard, we note that Pan American has itself indicated that Braniff's operations to Brazil are limited in terms of both flights and traffic and we believe that the logical conclusion to be drawn is that suspension of Braniff's operating authority would only minimally better Pan American's position. In short, Pan American has presented no facts that would warrant the extreme action it requests.

With respect to Braniff's request for Board action to initiate the transfer of Pan American's Latin American Division to Braniff, we find that such a request cannot be granted on the basis of the evidence presented, and must be denied.

In view of our tentative findings and conclusions herein, we will require Pan American and Braniff to file the information set forth in Part 312 within 30 days of the date of adoption of this order. This will enable us to decide what, if any, environmental effects will result from grant of the authority proposed herein. Moreover, we will expect Braniff and Pan American to file with the Board, within 30 days after the adoption of this order, an estimate, with supporting data, of the annual gross transport revenue increase for the first full year of operations to result from the award of Dallas/Fort Worth and other authority proposed herein. This data is necessary for the purpose of computing a license fee pursuant to § 389.25(a)(2) of the Board's regulations.

Interested persons will be given 30 days following the date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail what he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, *it is ordered*, that:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending the certificates of public convenience and necessity of Pan American World Airways, Inc., for Route 136 segment 1(B)(3)(c)(ii) and Braniff Airways, Inc., for Route 153 segment 1 so as to add Dallas/Fort Worth, Texas, as a coterminal point;

2. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending the certificate of public convenience and necessity of Braniff Airways, Inc., for Route 153 so as to modify condition (7) to read as follows:

7. Flights serving Rio de Janeiro or Sao Paulo, Brazil, shall also serve an intermediate point south of Panama;

3. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 30 days after the date of this order, file with the Board and serve upon all persons listed in paragraph 12 below, a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; and answers to such objections may be filed 10 days thereafter;[12]

4. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

5. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

6. The motion to withhold from disclosure and the petition for an order to show cause filed by Braniff Airways, Inc., in Dockets 26966 and 29074, be and they hereby are granted;

7. The petition of Pan American World Airways, Inc., in Docket 29717, for suspension of service by Braniff Airways, Inc., to Rio de Janeiro and Sao Paulo, Brazil, be and it hereby is denied;

8. The request of Braniff Airways, Inc., in Docket 29717, for initiation of proceedings to transfer the Latin American Division of Pan American World Airways, Inc., to Braniff Airways, Inc., be and it hereby is denied;

9. The motion of Pan American World Airways, Inc., in Docket 29717, for leave to file an otherwise unauthorized document be and it hereby is granted;

10. The motion of Braniff Airways, Inc., for consolidation of Dockets 26966 and 29074, and the motion of Pan American World Airways, Inc., for consolidation of Docket 29074 with Docket 25218 and of Docket 26966 with Docket 29717, be and they hereby are granted;

11. Pan American World Airways, Inc., and Braniff Airways, Inc., shall file an environmental evaluation pursuant to section 312.12 of the Board's Procedural Regulations within 30 days of this order; and

12. A copy of this order shall be served upon all air carriers certificated to serve Dallas/Fort Worth; Airlift International; all parties to the Seattle/Portland-Japan Service Investigation; the Governor of Texas; the Texas Aeronautics Commission; Mayor, City of Houston; and the Houston Chamber of Commerce.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6429 Filed 3-2-77;8:45 am]

[Docket No. 25709; Order 77-2-135]

PHILIPPINE AIR LINES, INC.

Order Disapproving Schedules

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of February, 1977.

Philippine Air Lines, Inc. (PAL) holds a foreign air carrier permit issued pursuant to Order E-17953, effective January 22, 1962, authorizing the foreign air transportation of persons, property, and mail between the Philippines and San Francisco, California, via Honolulu, Hawaii. There is no Air Transport Services Agreement between the Government of the United States and the Government of the Philippines, inasmuch as notice of termination of the Agreement by the Government of the Philippines was given in March 1959. Following termination of the bilateral, services were continued by the respective carriers pursuant to the principles of comity and reciprocity. However, in August 1974 an Interim Arrangement was entered into between the Government of the United States and the Government of the Philippines providing for frequencies of combination services and certain additional provisions as to all-cargo services.

The Government of the Philippines has issued various licenses to Northwest Airlines, Inc., Pan American World Airways, Inc., and The Flying Tiger Line Inc., authorizing scheduled air services between points in the United States and Manila via specific intermediate points. These authorizations specify the number of frequencies which may be operated. Such frequencies are restricted to the levels of service provided for under the August 1974 Interim Arrangement.

In addition to the specified level of combination frequencies (for Philippine Air Lines, daily DC-10 combination services), the interim arrangement provides an option for PAL to apply to the CAB to operate three weekly all-cargo services with DC-8 series aircraft. It also requires that the Republic of the Philippines "give sympathetic consideration to applications from United States airlines for all-cargo services on authorized routes."

Notwithstanding this provision, and despite objections of the United States Government in December 1974 and March of 1975, and at the consultations held in Manila in October 1976, the Government of the Philippines has failed to act on several requests filed by U.S. carriers to substitute equipment on all-cargo services, to continue the operation of certain all-cargo services which were in operation pursuant to an authorization which had been granted by the Philippine Government prior to the negotiation of the August 1974 Interim Arrangement, and to reinstitute schedules which previously had been terminated by the Philippine Government. Specifically, in November 1974 the Philippine Government denied an application of Pan American World Airways to renew its authority to conduct certain all-cargo flights subject to a restriction on the amount of commercial traffic carried. Objections were made by the United States Government in Notes of December 1974 and March 1975, noting the mutual understanding of the two governments at the August 1974 negotiations, which resulted in the Interim Arrangement, that existing all-cargo rights enjoyed by United States carriers would not be altered. The Philippine Government, nevertheless, refused to renew Pan American's authority with the effect that Pan American's previously existing rights to conduct this service were terminated as of November 15, 1974. A subsequent application of Pan American in May 1975 seeking to reinstate all-cargo service was not acted upon by the Philippine Govern-

[8] Neither Braniff nor Pan American proposes immediate additional service in the Dallas/Fort Worth-South American markets.

[9] In support of its application, Braniff included in Appendix C thereto information from the Board's International Origin-Destination Survey of Airline Passenger Traffic, general public disclosure of which is prohibited by section 298.100 of the Board's Regulations. Braniff filed a motion to withhold Appendix C from public disclosure. The motion is unopposed. We will grant the motion. In our judgment, a disclosure of the information would adversely affect both Braniff and Pan American and the interest of the United States and is not required in the interest of the public.

[10] Additional Service to Latin America, 6 CAB 857 (1946); Braniff Airways, Inc., Exemption, 14 CAB 827 (1951); Panagra Acquisition Case, 45 CAB 495 (1966); United States-Caribbean-South America Route Investigation, Order 68-11-122 (November 27, 1968).

[11] See Petitions of Pan American-Grace Airways, Inc., et al., 9 CAB 825 (1948).

[12] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections, and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

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ment, in that it was "deferred for further study." Thus, Pan American has been denied since November 15, 1974, the right to continue its all-cargo service in operation at the time of the August 1974 Interim Arrangement, despite the intent of the 1974 Interim Arrangement that all existing operations of U.S. carriers would be permitted to continue unimpaired, and specifically, that "sympathetic consideration" would be given to other all-cargo applications of U.S. carriers.

Similarly, the Government of the Philippines has refused to permit Flying Tiger to substitute B–747 flight equipment in the operation of its three weekly DC–8 all-cargo frequencies at Manila, despite formal and informal assurances to the Government of the Philippines that the substitution of equipment would not result in an increase in the amount of cargo traffic carried to and from the Philippines over that which could have been accommodated on the then-utilized DC–8 aircraft. An application was filed by Flying Tiger in January 1975 seeking such substitution of B–747 aircraft, and, following a hearing, was "deferred for further study." A further more extensive application was filed in July 1976 and received the same treatment. At consultations held with the Philippines in Manila in October 1976, the United States Government made further representations with respect to the failure of the Philippine Government to grant both the Pan American and Flying Tiger applications in accordance with the provisions of the 1974 Interim Arrangement. Nevertheless, despite a further subsequent application filed by Flying Tiger in October 1976, formally proposing to limit cargo carried to and from the Philippines on its proposed B–747 service to that which could be accommodated on its DC–8 aircraft, and despite the absence of any economic effect whatsoever on the Philippines from this proposed equipment substitution, the Philippine Government to date has taken no action on the application.

The Board by Order 73–7–138, issued pursuant to Part 213 of its Regulations, directed that PAL file with the Civil Aeronautics Board existing schedules of service between the Philippines and the United States and proposed schedules at least 30 days prior to the inauguration of such schedules. PAL, by letter application dated January 25, 1977, seeks Board approval to inaugurate three weekly all-cargo frequencies between the Philippines and the United States, pursuant to the option provided for in the 1974 Interim Arrangement. The new service is proposed for March 1 effectiveness.

In view of the repeated and long-standing instances of denial, inaction, and deferral, as detailed above, it is clear that the Government of the Philippines has failed to give "sympathetic consideration" to U.S. carriers' all-cargo applications in accordance with the terms of the August 1974 Interim Arrangement. By such inaction, as well as the denial to Pan American of the right to continue all-cargo services which were being conducted at the time of the negotiation of the August 1974 Interim Arrangement, the Philippine Government has breached the provisions of the 1974 Interim Arrangement insofar as it relates to all-cargo service. By such violations, the Government of the Philippines has, over the objections of the United States Government, impaired the operating rights of U.S. carriers provided for in the Interim Arrangement, and denied U.S. air carriers a fair and equal opportunity to exercise such operating rights. Accordingly, the Board finds that inauguration of PAL's proposed all-cargo service, at a time when the Government of the Philippines continues to withhold approval of schedules proposed by United States carriers, may adversely affect the public interest, and that such proposed schedules should be disapproved. Should the pending all-cargo applications of the U.S. carriers be favorably acted upon subsequent to the issuance of this order, we would, of course, reconsider this action.

Accordingly, it is ordered, That: 1. The schedules filed by PAL dated January 25, 1977, be, and they hereby are disapproved, and shall not be inaugurated, insofar as they provide for three weekly all-cargo frequencies with DC–8 aircraft between the Philippines and the United States;

2. This order shall be submitted to the President[1] and shall become effective on February 27, 1977;

3. This order shall remain in effect until further order of the Board; and

4. This order shall be served on Philippine Air Lines, Inc., and the Ambassador of the Philippines in Washington, D.C.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–6431 Filed 3–2–77;8:45 am]

COMMISSION ON CIVIL RIGHTS

ARIZONA ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the Commission on Civil Rights, that a press conference of the Arizona Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and end at 10:30 am. on March 17, 1977, at the Northern Arizona University, Flagstaff, Arizona 86001, and will reconvene at 1:30 pm. and end at 2:30 pm. the same date but the press conferenge will reconvene on the 8th Floor Conference Room, Arizona Capitol Towers, 1800 W. 18th Ave., Phoenix, Arizona 85007.

Persons wishing to attend this open press conference should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this press conference is to release Justice in Flagstaff report.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., February 28, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77–6355 Filed 3–2–77;8:45 am]

MASSACHUSETTS ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 12:00 noon and end at 2:00 pm. on March 22, 1977, at the Jewish Labor Committee, 27 School Street, Boston, Massachusetts.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to receive reports from subcommittees on Affirmative Action and state and local human rights agencies.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 28, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77–6356 Filed 3–3–77;8:45 am]

MICHIGAN ADVISORY COMMITTEE

Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and end at 5:00 p.m. on March 25, 1977, at the Oakland Center Faculty and Meadowbrook Room, Oakland University, Rochester, Michigan 48063.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to review progress on public works bill revisions; consider possible further action on Native American rights and other old and new business.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., February 28, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77–6357 Filed 3–2–77;8:45 am]

[1] This order was submitted to the President on February 17, 1977.

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

UNIVERSITY OF CALIFORNIA—LAWRENCE LIVERMORE LABORATORY ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments of apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Section 301.8 of the Regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90 days period * * *. If the applicant fails, within the period applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of § 301.11.

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20 day period, or fails to resubmit a new application within the 90 day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denial without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

> * * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket Number: 76–00429. Applicant: University of California—Lawrence Livermore Laboratory, P.O. Box 808, Livermore, California 94550. Article: Electron Microscope, Model EM 201C. Date of denial without prejudice to resubmission: October 13, 1976.

Docket Number: 76–00455. Applicant: Oklahoma State University, Department of Geology, 151 Physical Science II Building, Stillwater, OK 74074. Article: Broadband Scintillation Counter, Model BGS–1S. Date of denial without prejudice to resubmission: October 18, 1976.

Docket Number: 76–00551. Applicant: Geophysical Institute, Univ. of Alaska, Fairbanks, Alaska 99701. Article: (1 each) Windmill Generator, Model WVG 50G. Date of denial without prejudice to resubmission: October 28, 1976.

Docket Number: 77–00001. Applicant: World Plan Executive Council—U.S., MIU Press, Box 186, Livingston Manor, New York 12758. Article: Videotape Cassette Player. Date of denial without prejudice to resubmission: October 28, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77–6304 Filed 3–3–77;8:45 am]

Economic Development Administration

COATERIE, INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Coaterie, Inc., 512 Seventh Avenue, New York, New York 10018, a producer of women's apparel, was accepted for filing on February 23, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of March 14, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77–6350 Filed 3–2–77;8:45 am]

MINNESOTA WOOLEN CO.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Minnesota Woolen Company, 131 West First Street, Duluth, Minnesota 55802, a producer of apparel, was accepted for filing on February 22, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of March 14, 1977.

JACK W. OSBURN, Jr.
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77–6351 Filed 3–2–77;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 7]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending February 12, 1977

ACTIONS OF THE BOARD

Statement by Governor Philip C. Jackson, Jr., before the Consumer Affairs Subcommittee of the House Committee on Banking, Finance and Urban Affairs on the current status of consumer credit laws.

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Regulation Y, notice of proposed rulemaking relating to presumption of continued control of transferred assets and activities; the Board requested comment on its proposal by March 15, 1977.

Implementation of the amendment to the Freedom of Information Act required by the Government in the Sunshine Act.

Request for financial information concerning bank holding companies and their subsidiaries; response sent to Chairman Proxmire, Senate Committee on Banking, Housing and Urban Affairs.

"Wildcard" time deposits, response to request for permission to renew outstanding wildcard time deposits for an additional period of from one to six years.

City National Corporation, Beverly Hills, California, extension of time to March 14, 1978, within which to effect divestiture of shares of Zenith National Insurance Company.[1]

National Central Financial Corporation, Lancaster, Pennsylvania, extension of time to March 8, 1977, within which to consummate acquisition of the mortgage portfolio of Land Mortgages, Inc., Dayton, Ohio.[1]

Central Bank of Montgomery, Montgomery, Alabama, to make an investment in bank premises.[1]

English State Bank, English, Indiana, to make an additional investment in bank premises.[1]

Peoples State Bank of Bloomer, Bloomer, Wisconsin, to make an investment in bank premises.[1]

Capital City State Bank, Wes Moines, Iowa, extension of time to May 6, 1977, within which to establish a branch at 1237 Grand Avenue, West Des Moines, Iowa.[1]

Deregistration pursuant to Regulation G for Browning-Ferris Industries, Inc., Houston, Texas.[1]

Morgan Guaranty International Finance Corporation, New York, New York, extension of time within which to acquire and hold, directly or indirectly, additional shares of Icon Limited, Lagos, Nigeria.[1]

Independent Bankers Trust Company, San Rafael, California, extension of time to April 24, 1977, within which to accomplish admission to membership in Federal Reserve System.[1]

First National Bank of Lapeer, Lapeer, Michigan, proopsed merger with Lapeer Bank, N.A., Lapeer, Michigan, report to the Comptroller of the currency on competitive factors.[1]

Mid Michigan Bank, Gladwin, Michigan, proposed merger with State Bank of Harrison and Gladwin, Gladwin, Michigan, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Peninsula National Bank, Burlingame, California, proposed acquisition by Central Bank, National Association, Oakland, California, report to the Comptroller of the Currency on competitive factors.[1]

State Bank of Manville, Manville, New Jersey, proposed merger with Somerset Trust Company, Bridgewater Township, New Jersey, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

The Community Bank and Trust Company, Verona, Virginia. Branch to be established at 1157 West Main St., Waynesboro.[3]

Liberty State Savings Bank, Liberty Center, Ohio. Branch to be established at 122 West Washington, Napoleon, Henry County.[3]

Footnotes at end of document.

Central Trust Company of Canal Winchester, Canal Winchester, Ohio. Branch to be established at 8 South High Street, Canal Winchester, Franklin County.[3]

International Investments and Other Actions Pursuant to Sections 25 and 25 (a) of the Federal Reserve Act and Sections 4(c) (9) and 4(c) (13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Chase Manhattan Bank N.A.: re—Investment—Amend Application of 03–26–76 re: Shares of Corretora De Seguros Lar Brasileiro, S.A., Brazil.

To Form a Bank Holding Company Pursuant to Section 3(a) (1) of the Bank Holding Company Act of 1956.

APPROVED

Peoples Bancshares of Schuyler County, Inc., Lancaster, Missouri, for approval to acquire 90.6 per cent of the voting shares of Bank of Lancaster, Lancaster, Missouri.

Quivira Banc Shares, Inc., Hutchinson, Kansas, for approval to acquire 80 per cent or more of the voting shares of The First National Bank of Sterling, Sterling, Kansas.

DENIED

The Berlin City Bank, Berlin, New Hampshire, for approval to retain 50.3 per cent of the voting shares of The White Mountain Trust Company, Gorham, New Hampshire.

Inland Beloit Corporation, Milwaukee, Wisconsin, for approval to acquire 100 per cent of the voting shares of Financial Network Corporation, Beloit, Wisconsin, and Community Holding Corporation, Beloit, Wisconsin, and indirectly acquire 95.4 per cent of the voting shares of The Beloit State Bank, Beloit, Wisconsin, and 75.3 per cent of the voting shares of Community Bank of Beloit, Beloit, Wisconsin.

To Expand a Bank Holding Company Pursuant to Section 3(a) (3) of the Bank Holding Company Act of 1956.

First National Boston Corporation, Boston, Massachusetts, for approval to acquire 100 per cent of the voting shares of the successor by merger to The First National Bank of Yarmouth, Yarmouth, Massachusetts.

The Royal Trust Company, Montreal, Quebec, Canada and Royal Trust Bank Corp., Miami, Florida, for approval to acquire 51 per cent or more of the voting shares of First Bank of Pembroke Pines, Pembroke Pines, Florida.

Westland Banks, Inc., Lakewood, Colorado, for approval to acquire 100 per cent of the voting shares less directors' qualifying shares) of Westland Bank of Lakewood, Lakewood, Colorado, a proposed new bank.

Westland Banks, Inc., Lakewood, Colorado, for approval to acquire 100 per cent of the voting shares less directors' qualifying shares) of Westland National Bank South, Longmont, Colorado, a proposed new bank.

DENIED

Inland Heritage Corporation, Wauwatosa, Wisconsin, for approval of successor by merger to Community Holding Corporation, Beloit, Wisconsin, and indirectly acquire Community Bank of Beloit, Beloit, Wisconsin, and indirectly acquired The Beloit State Bank, Beloit, Wisconsin.

Inland Heritage Corporation, Wauwatosa, Wisconsin, for approval of successor by merger to Financial Network Corporation, Beloit, Wisconsin, and indirectly acquire The Beloit State Bank, Beloit, Wisconsin.

The Jacobus Company, Milwaukee, Wisconsin, for approval of successor by merger to Community Holding Corporation, Beloit, Wisconsin, and indirectly acquire Community Bank of Beloit, Beloit, Wisconsin.

The Jacobus Company, Milwaukee, Wisconsin, for approval of successor by merger to Financial Network Corporation, Beloit, Wisconsin, and indirectly acquired The Beloit State Bank, Beloit, Wisconsin.

To Expand a Bank Holding Company Pursuant to Section 4(c) (8) of the Bank Holding Company Act of 1956.

DELAYED

Citicorp, New York, New York, notification of intent to relocate de novo activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; and acting as broker for the sale of credit related life/accident and health insurance and consumer credit related property and casualty insurance; if this proposal is effected, Nationwide Financial Corporation of Nevada will offer to sell insurance as follows: Group credit life/accident and health insurance to cover the outstanding balances of loans to borrowers in the event of their death, or, to make the contractual monthly payments on the loans in the event of the borrowers' disability; individual physical damage insurance on personal property subject to security agreements including liability only when such insurance is sold as part of an insured package on such property; further, in regard to the sale of credit related insurance, Nationwide Financial Corporation of Nevada will not act as a general insurance agency) from 390 N. Virginia Street, Reno, Nevada to 1151 North Rock Boulevard, Sparks, Nevada, through its subsidiary, Nationwide Financial Services Corporation and its subsidiary, Nationwide Financial Corporation of Nevada (2/11/77).[3]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in de novo activities (acting as agent in the sale of insurance protecting collateral held against the extensions of credit) at 135 Caldwell Street, Rock Hill, South Carolina, through a subsidiary, Landmark Finance Corporation of South Carolina (2/7/77).[3]

REACTIVATED

Citicorp, New York, New York, notification of intent to engage in de novo activities (purchasing and servicing for its own account consumer installment sales finance contracts; and will act as broker for the sale of consumer credit related life/accident and health insurance on purchased consumer installment sales finance contracts, said insurance will only be offered when such transactions are the equivalent of direct extensions of consumer credit by the subsidiary; if the proposal is effected, the subsidiary will offer to sell insurance as follows: group credit life/accident and health insurance to cover the outstanding balances on consumer installment sales finance contracts to obligators, singly or jointly, with their spouses or co-signers in the case of life coverage in the event of death, or, make the contractual monthly payments on consumer installment sales finance transactions in the event of the obligators' disability to the extent permissible under applicable State insurance laws

and regulations; further, in regard to the sale of credit related insurance, the subsidiary will not act as a general insurance agency) at 3000 Lynch Extension, Jackson, Mississippi, through its subsidiary, Nationwide Financial Corporation (2/9/77).[3]

Northern States Bancorporation, Inc., Detroit, Michigan, notification of intent to relocate de novo activities (mortgage banking activities by originating residential, commercial and industrial mortgage loans for its own account but principally for sale to others, servicing such loans for others, and acting as an investment or a financial adviser to the extent of serving as the advisory company for a mortgage or real estate investment trust) from 717 S. Grand Traverse Street, Flint, Michigan to G 3306 W. Corunna Road, Flint, Michigan, through its subsidiary, Kelly Mortgage and Investment Company (2/9/77).[3]

PERMITTED

Citicorp, New York, New York, notification of intent to engage in de novo activities (purchasing and servicing for its own account consumer installment sales finance contracts; and will act as broker for the sale of consumer credit related life/accident and health insurance on purchased consumer installment sales finance contracts, said insurance will only be offered when such transactions are the equivalent of direct extensions of consumer credit by the subsidiary; if the proposal is effected, the subsidiary will offer to sell insurance as follows: Group credit life/accident and health insurance to cover the outstanding balances on consumer installment sales finance contracts to obligators, singly or jointly, with their spouses or co-signers in the case of life coverage in the event of death, or, to make the contractual monthly payments on consumer installment sales finance transactions in the event of the obligators' disability to the extent permissible under applicable State insurance laws and regulations; further, in regard to the sale of credit related insurance, the subsidiary will not act as a general insurance agency) at 3000 Lynch Extension, Jackson, Mississippi, through its subsidiary, Nationwide Financial Corporation (2/9/77).[3]

Citicorp, New York, New York, notification of intent to relocate de novo activities (the purchasing and servicing for its own account consumer installment sales finance contracts; and will act as broker for the sale of consumer credit related life/accident and health insurance and consumer credit related property and casualty insurance on purchased consumer installment sales finance contracts, said insurance will only be offered when such transactions are the equivalent of direct extensions of consumer credit by the subsidiary; if this proposal is effected, the subsidiary will offer to sell insurance as follows: Group credit life/accident and health insurance to cover the outstanding balances on consumer installment sales finance contracts to obligators, singly or jointly, with their spouses or co-signers in the case of life coverage in the event of death, or, to make the contractual monthly payments on consumer installment sales finance transactions in the event of the obligators' disability to the extent permissible under applicable State insurance laws and regulations; individual casualty insurance on personal property subject to security agreements) from 11950 Airline Drive, Houston, Texas to 12400 I–45 at Greens Road, Houston, Texas, through its subsidiary, Nationwide Financial Corporation (2/10/77).[3]

See footnotes at end of document.

Fidelity Union Bancorporation, Newark, New Jersey, notification of intent to engage in de novo activities (the business of making loans in the present maximum amount of $5,000.00 or less under the provisions of the Pennsylvania Consumer Discount Company Act; and making available to customers, credit life insurance and disability insurance covering the unpaid balance of loans outstanding) at Valmont Shopping Center, Route 93, West Hazelton, Luzerne County, Pennsylvania, through its subsidiary, Suburban Finance Company and its subsidiary, Sentry Consumer Discount Company (2/11/77).[3]

Pittsburgh National Corporation, Pittsburgh, Pennsylvania, notification of intent to engae in de novo activities (mortgage banking including the making, acquiring, and servicing for its own account or the account or the account of others, loans and other extensions of credit) at Suite 256, Park Elm Office Center, 1451 Elm Hill Pike, Nashville, Tennessee, through its wholly-owned subsidiary, The Kissell Company, Springfield, Ohio (2/8/77).[3]

Financial Services Corporation of the Midwest, Rock Island, Illinois, notification of intent to engage in de novo activities (making or acquiring, for its own account secured and unsecured installment loans and other extensions of credit primarily to individuals and selling participations in but not acting as underwriter, agent, or broker with respect thereto group credit life and credit health and accident insurance coverage directly related to such loans and other extensions of credit) at 821 15th Avenue, East Moline, Illinois, through its subsidiary, F.S.C. Money Shops, Inc. (2/12/77).[3]

To Expand a Bank Holding Company Pursuant to Section 4(c) (12) of the Bank Holding Company Act of 1956.

PERMITTED

Heights Finance Corporation, Peoria, Illinois, notification of intent to acquire all of the outstanding shares of capital stock of Mid America Credit, Inc., a consumer finance corporation with offices in Canton, Havana, Beardstown and Macombe, all in Illinois (2/6/77).[3]

Applications Received

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

The Community Bank, Petersburg, Virginia. Branch to be established at 2618 South Crater Road, Petersburg.

American Bank of Lake Wales, Lake Wales, Florida. Branch to be established at Babson Park, Polk County, Florida, on East side of U.S. Highway 27A at S.E. Corner of Libby Road Intersection.

Genesee Merchants Bank & Trust Company, Flint, Michigan. Branch to be established between 14176 and 14250 Fenton Road, Fenton Township.

Union Bank & Trust Company, Montgomery, Alabama. Branch to be established at 5510 Atlanta Highway, Montgomery.

Seabrook Bank and Trust Company, Seabrook, New Hampshire. Branch to be established on route 1–A, Seabrook Beach.

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act.

Manufacturers Hanover Trust Company: re—Branch—Manila, Philippines.

First National Bank of Maryland: re—Branch—London, England.

To form a Bank Holding Company Pursuant to Section 3(a) (1) of the Bank Holding Company Act of 1956.

Financial Diversified Investment Corporation, Topeka, Kansas, for approval to acquire 99 per cent of the voting shares of The First National Bank of Wetmore, Wetmore, Kansas.

The Horison Financial Corporation, Burdett, Kansas, for approval to acquire 80.4 per cent of the voting shares of The Burdett State Bank, Burdett, Kansas.

To Expand a Bank Holding Company Pursuant to Section 3(a) (3) of the Bank Holding Company Act of 1956.

CleveTrust Corporation, Cleveland, Ohio, for approval to acquire 100 per cent of the voting shares of Columbus Trust Company, Columbus, Ohio, a proposed new bank.

American Bankcorp, Inc., Lansing, Michigan, for approval to acquire 80 per cent or more of the voting shares of The Muskegon Bank & Trust Company, Muskegon, Michigan.

To Expand a Bank Holding Company Pursuant to Section 4(c) (8) of the Bank Holding Company Act of 1956.

First Bancorp of N.H., Inc., Manchester, New Hampshire, notification of intent to engage in *de novo* activities (real estate lending activities including: Originating, selling, and servicing both residential and commercial mortgages; originating and servicing construction loans; providing placement services for long term real estate financing; and as an incident to the real estate lending and placement activities, providing advice and appraisal services for self and others) at 1000 Elm Street, 20th Floor, Manchester, New Hampshire, through a subsidiary, FirstBank Mortgage Corp. (2/9/77).[3]

Chemical New York Corporation, New York, New York, notification of intent to relocate *de novo* activities (leasing real and personal property and equipment on a non-operating, full payout basis and acting as agent, broker, and adviser with respect to such leases; financing real and personal property and equipment such as would be done by commercial finance company; and servicing such extensions of credit) from 1111 West Mockingbird Lane, Suite 910, Dallas, Texas, to 2775 Villa Creek Drive, Dallas, Texas, through its subsidiary, ChemLease, Inc. (2/8/77).[3]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in de novo activities (making installment loans to individuals for personal, family, or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family, or household goods or services; acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit; and acting as agent in the sale of insurance protecting collateral held against the extensions of credit) at 135 Caldwell Street, Rock Hill, South Carolina, through a subsidiary, Landmark Finance Corporation of South Carolina (2/7/77).[3]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in de novo activities (make secondary mortgage loans secured in whole or in part by mortgage, deed of trust, security agreement, or other lien on real estate situated in the State of

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South Carolina which property is subject to the lien of one or more prior encumbrances or other leasehold interests; and acting as agent in the sale of credit life insurance in connection with its extensions of credit) at 3710 Landmark Drive, Columbia, South Carolina, through its subsidiary, Union Home Loan Corporation (2/8/77).[2]

Alabama Bancorporation, Birmingham, Alabama, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including issuing letters of credit and accepting drafts such as would be made by a factoring company, a commercial finance company, a consumer finance company, or a mortgage company; servicing loans and other extensions of credit for any person; and leasing personal property and equipment or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property; additionally, as an incident to its lending activities and if requested by its customers, such subsidiary will make provision with an insurance carrier for credit life/accident and health insurance that is directly related to loans to such customers) at 3125 Montgomery Highway, Homewood, Alabama and 1700 Sunset Boulevard, West Columbia, South Carolina, through a subsidiary, Alabane Financial Corporation (2/8/77).[3]

Sun Banks of Florida, Inc., Orlando, Florida, notification of intent to engage in de novo activities (the business of acting as agent or broker for the sale of credit life/accident and health insurance directly related to extensions of credit by the bank holding company and/or its banking and nonbanking subsidiaries) at 15 West Church Street, Orlando, Florida, through a subsidiary, Sunbank Agency, Inc. (2/7/77).[3]

Michigan National Corporation, Bloomfield Hills, Michigan, notification of intent to engage in de novo activities (leasing personal property and equipment or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease; leasing real property or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction will be to compensate the lessor for not less than the lessor's full investment in the property over the term of the lease; financing personal property and equipment by making or acquiring, for its own account or for the account of others, loans and other extensions of credit including accepting drafts such as would be made by a finance company) at 38200 W. Ten Mile Road, Farmington Hills, Michigan and 77 Monroe Street, N.W., Grand Rapids, Michigan, through its subsidiary, MNC Leasing Co. (2/11/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for their own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance and credit related property insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation) at 5198 South Broadway, Englewood, Colorado, through its indirect subsidiary, FinanceAmerica Corporation (a Colorado Corporation) (2/2/77).[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; servicing loans and other extensions of credit for other persons; acting as an insurance agent or broker with respect to the following types of insurance that are directly related to the extensions of credit by Wells Fargo & Company or its subsidiaries; credit life and credit accident and health insurance and mortgage redemption life insurance and group mortgages disability insurance) in First National Bank Building, One East First Street, Suite 900, Reno, Nevada, through its subsidiaries, Wells Fargo Mortgage Company and WFMC Corporation (1/31/77).[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; leasing personal or real property or acting as agent, broker, or adviser in leasing such property where the lease is to serve as the functional equivalent of an extension of credit to the lessee of the property and where at the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease, from rentals; estimated tax benefits, investment tax credit, net economic gain from tax deferral from accelerated depreciation, and other tax benefits with a substantially similar effect and the estimated residual value of the property at the expiration of the initial term of the lease which in no case shall exceed 30 per cent of the acquisition cost of the property to the lessor) at 1206 Van Ness Avenue, Fresno, California, through its subsidiaries, Wells Fargo Leasing Corporation, Wells Fargo Transport Leasing Corporation, and Wells Fargo Equipment Leasing Corporation (2/4/77).[3]

For Certification Pursuant to the Bank Holding Company Tax Act of 1976.

Evans Insurance Agency, Billings, Oklahoma, to divest shares of First State Bank of Billings, Billings, Oklahoma. (Legal Division Docket TCB 76-133).

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REPORTS RECEIVED

Ownership Statement Filed Pursuant to Section 13(d) of the Securities Exchange Act.

Bank of the Commonwealth, Detroit, Michigan. (Filed by the First Arabian Corporation).

Metropolitan Bank, Tampa, Florida. (Filed by the Summit Organization, Inc.—Amendment #1).

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PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, February 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6349 Filed 3-2-77;8:45 am]

BANKS OF IOWA, INC.

Order Approving Acquisition of Bank

Banks of Iowa, Inc., Cedar Rapids, Iowa, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)), to acquire 80 percent or more of the voting shares of First Trust & Savings Bank, Davenport, Iowa ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Federal Reserve Bank of Chicago has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant (deposits $625.8 million[1]) has seven bank subsidiaries plus two nonbank subsidiaries and is the second largest bank holding company in Iowa, controlling approximately 5.3 percent of the commercial bank deposits in the State. Upon acquisition of Bank, Applicant's share of total State deposits would increase by 0.3 percent, and its rank in Iowa would not change. The proposed acquisition would not increase significantly the concentration of banking resources in Iowa.

Bank (deposits of $42.0 million) holds 3.6 percent of the total commercial bank deposits in the relevant banking market[2] and is the eighth largest of 32 banks operating therein. Applicant's two closest banking subsidiaries are located in Dubuque, Iowa, approximately 65 miles north of Davenport. In view of the distances between Bank and Applicant's banking subsidiaries, the restrictions in Iowa's branching laws that prohibit Applicant's banking subsidiaries from branching into the Davenport, Iowa/Rock Island, Illinois, market, and other facts of record, no significant competition exists or is likely to develop in the future between Bank and Applicant's banking subsidiaries. Although Applicant has the financial capability to

[1] All banking and deposit data as of December 31, 1975.

[2] The relevant banking market is the Davenport, Iowa/Rock Island, Illinois, market which is approximated by the Davenport, Iowa/Rock Island, Illinois, RMA plus the remainder of Scott County, Iowa, and Durant, Iowa, located in the southeastern corner of Cedar County.

enter the market de novo, it does not appear that this acquisition will eliminate any significant amount of potential competition. Accordingly, based on the above and other facts of record, this Reserve Bank has determined that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are considered to be generally satisfactory and consistent with approval of this application. Affiliation with Applicant will enable Bank to use Applicant's financial and managerial resources to strengthen and expand the services provided by Bank, including improved trust services, data processing services, credit card services, and extended banking hours. Accordingly, this Reserve Bank regards considerations relating to the convenience and needs of the community to be served as lending some weight toward approval of the application. It is the judgment of this Reserve Bank that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record as summarized above, the Federal Reserve Bank of Chicago approves the application provided the transaction shall not be consummated (a) Before the thirtieth calendar day following the effective date of this Order, or (b) Later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective February 18, 1977.

ROBERT P. MAYO,
President.

[FR Doc.77-6343 Filed 3-2-77;8:45 am]

BANKSTOCK ONE, INC.

Order Denying Formation of Bank Holding Company

Bankstock One, Inc., Ozark, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 per cent or more of the voting shares of Bank of Ozark, Ozark, Arkansas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a nonoperating corporation organized under the laws of Arkansas for the purpose of becoming a bank holding company through the acquisition of Bank. Upon acquisition of Bank, Applicant would hold less than 1 percent of the total deposits in commercial banks in the State.[1] Bank (deposits of approximately $20.1 million) is the larger of two commercial banks in the relevant banking market[2] and holds 63.8 per cent of total deposits in commercial banks in the market. Inasmuch as this proposal represents essentially a reorganization of existing ownership interests, the acquisition of Bank by Applicant would not have any significant adverse effect upon either existing or potential competition within the relevant banking market.

The Board has indicated on previous occasions that it believes that a holding company should constitute a source of financial and managerial strength to its subsidiary bank(s) and that the Board will closely examine the condition of an applicant in each case with this consideration in mind. As part of the subject proposal, Applicant would assume a substantial portion of the debt incurred by Applicant's principal in acquiring his shares of Bank. Applicant proposes to service this debt over a 12-year period, through dividends to be declared by Bank and tax benefits to be derived from filing consolidated tax returns. In the Board's view, Applicant's financial projections over the debt-retirement period appear to be unduly optimistic and it does not appear that Applicant will possess the financial flexibility necessary to meet its annual debt service requirements while maintaining adequate capital at Bank. If Bank's growth continues at or near its historical rate,[2] total capital funds of Bank as related to its total assets would become insufficient because Applicant's substantial debt servicing requirements would not permit Bank to increase its capital by earnings retention in amounts sufficient to keep pace with Bank's asset growth. The Board is of the view that it would not be in the public interest to approve the formation of a bank holding company with an initial debt structure that could result in the weakening of Bank's overall financial condition. Accordingly, the Board concludes that the considerations relating to Applicant's and Bank's financial resources and future prospects weigh against approval of the application. Moreover, in light of Bank's recent operating history, the Board concludes that financial and managerial resources of Applicant and Bank lend little weight toward approval of the instant application.

As stated previously, consummation of this proposal would merely result in a restructuring of Bank's present ownership. No significant changes in Bank's operations or in the services to be offered to Bank's customers are contemplated. Consequently, considerations relating to the convenience and needs of the community to be served are consistent with, but lend no weight toward, approval.

On the basis of all of the circumstances concerning this application, the Board concludes that the financial considerations involved in this proposal present adverse circumstances bearing upon the financial resources and future prospects of both Applicant and Bank. Such adverse factors are not outweighed by any procompetitive effects or by benefits that would result in serving the convenience and needs of the community. Accordingly; it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[3] effective February 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6344 Filed 3-2-77;8:45 am]

CITIZENS AND SOUTHERN NATIONAL BANK AND CITIZENS AND SOUTHERN HOLDING CO.

Order Amending Time Requirement for Divestiture by Applicant of Macon, Georgia, and Atlanta, Georgia, Offices of Citizens and Southern Finance Company

By Order of April 22, 1974,[1] the Board approved an application of Citizens and Southern National Bank and Citizens and Southern Holding Company, both of Atlanta, Georgia ("Applicants"), to acquire shares of Ison Finance Corporation, Atlanta, Georgia ("Ison"), pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4 (a)(1) and (9)(ii) of the Board's Regulation Y (12 CFR 225.4 (a)(1) and (9)(ii)). The Board's Order was conditioned upon Applicants' divestiture of two offices of Ison in Atlanta and Macon, Georgia, now branch offices of Citizens and Southern Finance Company. The condition derived from a voluntary undertaking made by Applicants prior to the issuance of the April 22, 1974, order to sell those offices as soon as practicable, but in any event within two years after the date of consummation and provided that "the operating offices of (Ison) that are located in Atlanta and Macon will be sold as going concerns and holding substantially the same quality and type of assets as those offices respectively held on January 2, 1974, and in an amount lot less than the amount of such assets held by those offices respectively on that date." Applicants' acquisition of shares of Ison occurred May 17, 1974, and thus, sale of the two offices was to occur by May 17, 1976.

By letter of April 22, 1976, Applicants requested an extension of time until May 16, 1977, in which to satisfy the divestiture condition. However, by letter dated June 25, 1976, Applicants requested modification of the Board's order of April 22, 1974,[2] asserting that, due to the depressed state of the consumer finance industry in the State of Georgia and the

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undesirable location of the two offices in question, they would be unable to sell either of the offices or the receivables attributable to those offices without a substantial financial loss. Thus, Applicants propose modification of the Board's order of April 22, 1974, to allow for the establishment, at a given point in time, of two separate ledgers at each of the two branch offices in question, one recording "old business", and the other "new business". "old business" to be liquidated under guidelines furnished by Applicants and periodically reviewed by the Board. Applicants believe that the proposal would allow them to comply with the Board's Order of April 22, 1974, by allowing them to enter the consumer finance markets served by the Atlanta and Macon offices de novo and not through the acquisition of a going concern.

The Board has carefully considered Applicant's request for modification of its Order of April 22, 1974. Based upon all facts of record, the Board believes that a modification of that order pursuant to Applicants' proposal would not be consistent with the spirit or intent of that Order, which stated that:

> In order to eliminate any possible adverse effect upon competition in markets presently served, both by operating offices of Applicant and of Company (Ison), Applicants have now modified the proposal by undertaking to sell Company's operating offices located in Atlanta and Macon as soon as is practicable after consummation of the proposed acquisition, but in no event, later than two years after the date of such consummation.

It was the Board's intent to preserve the Atlanta and Macon offices as competitive alternatives in the Atlanta and Macon consumer finance markets independent of Applicants. Applicants' proposal runs counter to that intent by allowing Applicants to retain both offices permanently.

Accordingly, Applicants' request for a modification of the Board's Order of April 22, 1974, in the manner proposed by Applicants is denied. However, the Board remains mindful of the difficulty Applicants have encountered in divesting the two offices and the possible losses to be incurred. The Board therefore extends the time for Applicants to effect a final divestiture of the two consumer finance offices until no later than August 24, 1977.

If, by August 24, 1977, no divestiture has been accomplished, Applicants shall, on August 25, 1977, irrevocably transfer shares representing the two offices to a third party trustee, whose independence of Applicants shall previously have been demonstrated by Applicants to the satisfaction of the Federal Reserve Bank of Atlanta. Such trustee shall be designated in a trust agreement that imposes on such trustee the duty of divesting the trusteed shares to any person or persons independent of Applicants that will purchase the offices as going concerns as provided in the Board's order of April 22, 1974. The trust agreement shall provide that such shares will be divested by the trustee by February 25, 1978, or such later date as may be necessary to secure any requisite regulatory approvals and shall occur by such date without regard to the amount or terms of consideration therefor. The terms of such trust agreement are to be presented to the Board's General Counsel no later than May 24, 1977, and shall not become effective without his prior approval. Accordingly, the Board's order of April 22, 1974, is hereby so amended for the reasons summarized above.

By order of the Board of Governors,[1] effective February 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6345 Filed 3-2-77;8:45 am]

COMMERCIAL NATIONAL CORP.

Order Approving Acquisition of Commercial National Management Consulting Company

Commercial National Corporation, Peoria, Illinois, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2) (1976)), to acquire Commercial National Management Consulting Company, Peoria, Illinois ("Company"), a proposed new company that would engage in the activity of providing management consulting advice on an explicit fee and noncontinuing basis to nonaffiliated banks. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(12)(1976)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (41 FR 55940 (1976)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant controls one banking subsidiary, Commercial National Bank of Peoria, Peoria, Illinois ("Bank"), which is the 17th largest bank in Illinois and holds deposits of $238 million, representing approximately four-tenths of 1 percent of the total deposits in commercial banks in that State.[1] In addition, Applicant engages through its sole nonbanking subsidiary in underwriting, as reinsurer, credit life, accident and health insurance in connection with extensions of credit by Bank.

Company proposes to provide management consulting advice on an explicit fee and noncontinuing basis to nonaffiliated banks. This advice will be offered with respect to activities including, but not limited to, the following: auditing, marketing, mergers and acquisitions, site planning, financial planning, computer applications, capital adequacy, security measures and procedures, and personal evaluation and compensation. In addition, Company will make recommendations and suggestions, including alternative policies or courses of action, where appropriate, concerning the policies and actions of its client banks.

It appears that no adverse effects upon competition would result from Company providing management consulting advice as proposed. Bank offers similar advice and services through its correspondent banking division;[2] such advice and services are limited in scope and are not offered on an explicit fee basis. No actual or potential competition would be eliminated upon approval of this application. Moreover, Applicant's *de novo* entry into this industry should have a procompetitive effect by increasing the number of firms offering this specialized financial and consulting advice. Furthermore, Applicant's making this advice available on an explicit fee basis, rather than as a correspondent banking service, will enable client banks to more accurately analyze the cost of such service and to more efficiently allocate their funds.

There is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects upon the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8), that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago, pursuant to authority hereby delegated.

By order of the Board of Governors,[3] effective February 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6346 Filed 3-2-77;8:45 am]

FIRST NATIONAL HOLDING CORP.

Acquisition of Bank

First National Holding Corp., Atlanta, Georgia, by amendment of its application for the Board's approval to acquire approximately 39 percent of the voting shares of The First National Bank of Dalton, Dalton, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire approximately 78 percent of the voting shares of that bank. Notice of the original application was published October 18, 1976. 41 FR 46650. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application, as amended, may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the amended application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 18, 1977.

Board of Governors of the Federal Reserve System, February 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6347 Filed 3-2-77;8:45 am]

PATAGONIA CORP.

Determination Regarding "Grandfather" Privileges Under Bank Holding Company Act

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather" privileges) with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments of the Bank Holding Company Act, became subject to the Bank Holding Company Act ("Act"). Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in those nonbanking activities that such a company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purpose of the Act, the Board determines that such action is necessary to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. With respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970, the Board is required to make such a determination within a two-year period.

By petition, dated June 28, 1972, Patagonia Corporation ("Patagonia"), Tucson, Arizona, requested a determination by the Board, pursuant to section 2(d)(3) of the Act (12 U.S.C. 1841(d)(3)), that on or before June 30, 1968, Patagonia had the power to exercise a controlling influence over Pima Savings and Loan Association ("Pima"), Tucson, Arizona, and, therefore, that Pima was an indefinitely grandfathered "subsidiary" of Patagonia pursuant to section 4(a)(2) of the Act (12 U.S.C. 1843(a)(2)). By Order dated June 29, 1973 (38 FR 18411), the Board determined the grandfather privileges of Patagonia, finding that it was entitled to retain indefinitely on the basis of 4(a)(2) of the Act only the 20.005 per cent of the outstanding voting stock of Pima that it acquired before June 30, 1968 and that it was required to divest itself of, or obtain the Board's approval to retain by December 31, 1980, the almost 80 per cent interest in Pima that it acquired after June 30, 1968. By letter of July 6, 1973, the Board informed Patagonia that its request for a controlling influence determination had ben denied on the ground that any such determination could not grant Patagonia grandfather privileges. However, the Board went on to state that, after examining the material Patagonia had submitted with its request, it was of the opinion that Patagonia did not have the power to exercise a controlling influence over the management or affairs of Pima on June 30, 1968.

Upon judicial review, the United States Court of Appeals for the Ninth Circuit vacated those portions of the Board's Order dealing with grandfather rights to the 80 per cent interest in Pima acquired after June 30, 1968; and, in a decision rendered May 19, 1975, the Court remanded the matter to the Board with instructions to hold a formal hearing on the issue of whether Patagonia did, in fact, have the power to exercise a controlling influence over Pima Savings and Loan Association on or before June 30, 1968.[1] The required formal hearing was held in Tuscon, Arizona, from September 30, 1975 through October 3, 1975, before Philip J. LaMacchia, former Administrative Law Judge, now retired, in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR Part 263). A substantial record on the issue was developed through extensive testimony by witnesses on behalf of Patagonia, through cross examination of witnesses by Board counsel, and through numerous exhibits submitted by both parties to the proceeding.

In a Recommended Decision dated March 31, 1976, the Administrative Law Judge concluded on the basis of the evidence of record that Patagonia did not have the power directly or indirectly to exercise a controlling influence with respect to the management or policies of Pima on or before June 30, 1968, and, therefore, Pima was not a subsidiary of Patagonia within the meaning of section 2(d)(3) of the Act (12 U.S.C. 1841(d)(3)). Therefore, Patagonia was not engaged within the meaning of section 4(a)(2) of the Act, in the savings and loan business on June 30, 1968, directly or through a subsidiary.

With respect to Patagonia's claim that Pima was its subsidiary on June 30, 1968 by reason of Patagonia's power to exercise a controlling influence over the management or policies of Pima, the Board, having considered the entire record of the hearing, including the transcript, exhibits, and briefs filed in connection with the hearing, and the Recommended Decision filed by the Administrative Law Judge, together with Patagonia's exceptions and Board counsel's response thereto, has determined that the Administrative Law Judge's findings of fact, conclusions and recommendations are substantially correct in all respects material to the Board's decision herein, and, as modified and supplemented herein, are supported by the evidence of record and should be, and are, adopted as the findings and conclusions of the Board.

BACKGROUND: Pima Savings and Loan Association was organized in 1953 by Messrs. Irving Hall, Elmer Present, Frank O'Rielly, B. G. Beck, and B. G. Thompson, who composed its first board of directors.[2] At that time, Mr. Hall owned 50.5 per cent of Pima's outstanding shares.[3] In 1956, at Mr. Hall's request, Mr. John Sakrison joined Pima as its president, chief executive officer, and a member of the board of directors.[4] In November 1956, Mr. Hall agreed to allow Mr. Sakrison to purchase up to 50 per cent of the shares that he held, and further agreed that Mr. Sakrison could vote all of Mr. Hall's stock in Pima so long as Mr. Sakrison remained in the employ of Pima.[5] Mr. Hall and Mr. Sakrison agreed in 1957 that neither could sell or otherwise dispose of his stock in Pima without the written consent of the other. These agreements also bound Mrs. Hall in the event of Mr. Hall's death.[6] As a result of these agreements, in 1957 and 1958 Mr. Sakrison purchased slightly in excess of 25 per cent of Pima's voting stock.[7]

In 1958 Mr. Kenneth Herman joined Pima at Mr. Sakrison's request as vice president and became a member of Pima's board of directors.[8] Mr. and Mrs. Hall sold Mr. Herman some of their Pima shares; however, Mr. Sakrison retained the right to vote those shares and to veto their sale.[9] Further, in the event Mr. Hall and Mr. Sakrison sold their interests in Pima, Mr. Herman was obligated to sell his stock to their purchaser.[10] Mr. Hall died in 1959 and Mrs. Hall inherited his shares.[11]

As a result of other transactions, by 1967 Mr. Sakrison's control was reduced to approximately 40+ percent of Pima's guarantee stock.[12] However, Mr. Sakrison also held the voting proxies of Pima's borrowers and depositors which, when combined with his own guarantee stock and the stock he voted pursuant to the agreements, gave him control of substantially in excess of 50 percent of Pima's voting power.[13]

In June of 1967, Mrs. Hall determined to sell her stock directly and indirectly to Patagonia Corporation.[14] At the time of the sale Mr. Sakrison, as required by the agreement, gave his consent and the agreements with Mrs. Hall and Mr. Herman were terminated.[15] At the same time Patagonia purchased a few additional

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shares from another party, with the result that Patagonia controlled slightly in excess of 20 percent of Pima's guarantee stock."

As a result of these transactions, Mr. Sakrison lost control of a majority of Pima's voting stock for the first time in his association with it." However, less than two weeks after Patagonia's purchase of Mrs. Hall's stock, Mr. Sakrison and the other Pima directors and substantial stockholders consolidated approximately 56 percent of Pima's outstanding guarantee stock in a voting trust." By virtue of this trust, Mr. Sakrison retained control since the voting trustees were Mr. Sakrison and his two-long-time friends and business associates Mr. Present and Mr. O'Rielly." Under the terms of the trust, the trustees had to unanimously agree before the stock held in the voting trust could be sold." In addition, they agreed not to sell until a prospective purchaser guaranteed to purchase all of the stock in the trust at a price and terms decided on by the trustees."

In July 1967, Mr. Williams and Mr. Money were elected to Pima's board of directors as Patagonia's representatives." Mr. Williams was the largest shareholder and a founder of Patagonia and Mr. Money the third-largest shareholder and also a founder of Patagonia." In February 1968, Mr. Raymond Rich was elected to Pima's board of directors. Mr. Rich was also one of the founders of Patagonia and was a major driving force behind it." As a result of these occurences, Patagonia was represented by three of the 15 Pima directors." This situation obtained through October 1968, when, at a meeting between Mr. Rich and Mr. Sakrison, an agreement on the sale of Pima was reached." In June of 1969 Patagonia purchased control of Pima.

Patagonia claims that, notwithstanding the fact that it did not acquire 25 percent or more of the voting shares of Pima until June 1969, Pima was a subsidiary on June 30, 1968 by virtue of the fact that Patagonia had the power to exercise a controlling influence over its management or policies. Patagonia raises various arguments concernnig the existence of this power. Among other arguments, it contends that, because of its slightly more than 20 percent interest, Patagonia had the potential for exercising a restraint on various types of corporate action or a sale by stockholders and therefore exercised a controlling influence. Further, Patagonia argues it had a controlling influence by virtue of the desire of Mr. Sakrison and his associates to sell Patagonia and by virtue of Mr. Sakrison's desire that his associates continue in employment in the event Patagonia was the purchaser. Additionally, Patagonia argues that the judgment and experience of its representatives on the board of directors gave them a controlling influence in the formulation of Pima's actions and long-range policies.

"Statutory Framework for the Board's Decision": The relevant part of 4(a)(2) of the Bank Holding Company Act provides:

> That a company covered in 1970 may also engage in those activities in which directly or through a subsidiary (1) it was lawfully engaged on June 30, 1968 (or on a date subsequent to June 30, 1968 in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition) * * *.

Therefore, the question for the Board is whether Patagonia can be considered to have been engaged through Pima in the savings and loan business on June 30, 1968. To have been so engaged, Pima must qualify as a subsidiary as of that date. Subsidiary is defined by section 2(d)(3) of the Act as meaning with respect to a specified bank holding company:

> * * * any company with respect to the management or policies of which such bank holding company has the power, directly or indirectly, to exercise a controlling influence, as determined by the Board after notice and opportunity for hearing.

There are no judicial decisions interpreting the concept of controlling influence in the Bank Holding Company Act. However, this concept appears in both section 2(a)(9) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(9)) and in § 2(a)(8) of the Public Utility Holding Company Act (15 U.S.C. 79b(a)(8)). With respect to those acts there have been a number of judicial and administrative interpretations defining the scope of the term." Among others, the following statements have been made about the power to exercise a controlling influence:

> The existence of "controlling influence" is a factual determination to be ascertained in the Commission's expert judgment by the weighing of circumstantial evidence and the drawing of reasonable inferences therefrom. The principal factors in determining this from the special circumstances of each case for the statutory exemption are the size and extent of the companies involved, the extent of the intercompany relationships, the ownership and distribution of securities, and the parent company's part in the organization and development of the subsidiary company together with the past relationships * * *. (Footnotes omitted.) "American Gas and Electric Co. v. S.E.C.", 134 F.2d 633, 642 (D.C. Cir. 1943)

Considered in the light of the legislative history and the over-all purposes of the statute, it is clear that the statutory concept of control embraces within it those pressures and influences, at times admittedly delicate, by which an investment company can exercise a dominating persuasiveness in the affairs of the portfolio company. And this "does not necessarily mean that those exercising a controlling influence must be able to carry their point. A controlling influence may be effective without accomplishing its purpose fully." Nor is it necessary that there be an actual exercise of the "controlling influence." It is sufficient if the power exists in a latent form. In determining the existence of this latent power, consideration may of course be given to events which have not occurred but may occur and which would result in the invocation of the latent power. (Footnotes omitted.) The Chicago Corporation, 28 S.E.C. 463, 468 (1948)

An analysis of the administrative and judicial cases in this area convinces the Board that there is, and can be, no standard definition of the term "power to exercise a controlling influence" which might be applied by the Board. Rather, as the Securities and Exchange Commission has noted:

> Control determinations involve issues of fact which cannot be resolved by the use of a mathematical formula. Each requires a careful appraisal of the whole effect of the various relations and other circumstances present in the particular case, some of which may point to one inference while others to an opposite one. Investors Mutual, CCH Fed. Sec. Law Rep. ¶ 77, 346 at ¶ 82,685

The Board believes that in determining the nature of the facts to look for in order to decide whether a controlling influence exists, great weight should be given to the purposes of the statute in which the term appears and the context within the statute in which it appears. This point has previously been recognized by both the SEC and the courts. The context and purposes of the term "power to exercise a controlling influence" are somewhat different in the Bank Holding Company Act than in the Public Utility Holding Company Act or the Investment Company Act.

First, there are structural differences in the statutes. For instance, the latter two statutes create a presumption of control by virtue of a certain level of stock ownership. Thus, the proceedings in which the above statements about controlling influence were made were ones in which a company was attempting to establish that it did not exercise a controlling influence despite the presumption to the contrary. As the court stated in "Koppers United Co. v. S.E.C.":

> The theory of the Act is that ownership of more than ten per cent of a corporation's stock is sufficient to show control or a controlling influence, unless in a particular case other facts rebut that inference. [138 F.2d. 577, 580 (1943)]

Secondly, the latter two statutes have different purposes. As an example, the Public Utility Holding Company Act requires that the determination as to whether the management or policies of a company are subject to a controlling influence be guided by the purpose of the inquiry. That is, is a company's influence such "as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the applicant be subject to the obligations, duties, and liabilities imposed in this chapter"?

There are clearly different standards to be employed in making a judgment as to whether the influence of a company in another company's operations is significant enough that investors or consumers should be entitled to appropriate information and other protections than in determining whether a company may be considered to have been so involved with another company that it might be considered to have been engaged in that company's business."

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The purpose of the inquiry under section 4(a) of the Bank Holding Company Act is to determine in this case whether Patagonia can be considered to have been engaged in the savings and loan business through Pima, a subsidiary, on the June 30, 1958 date. The definition of subsidiary in section 2(d)(3) speaks in terms of the "power to exercise" a controlling influence. This section, however, was added by Congress to conform to section 2(a)(2)(C) of the Act," which provides that a company has control over another company if it "exercises" a controlling influence. The original amendment was offered by Congressman Ashley, and from statements by him and Congressman Patman it was clear that they intended to reach situations of actual control." This difference is of very little importance however, and may be primarily semantic. Congress intended to allow bank holding companies which were engaged in a particular business on the grandfather date to continue to engage in that business since the primary purpose of the legislation was to prevent future abuses rather than to remedy existing ones. The Board believes that the test is, therefore, whether a company may be considered to have been so influential in the affairs of a particular company as to be considered to have been engaged in that business on June 30, 1968.

Obviously, there may be no evidence which bears directly on happenings on that date. In the Board's view, the proper approach to the question is to examine relatively contemporaneous evidence both before and after the June 30 date to determine whether it is likely that a power to exercise a controlling influence existed on that date such that a company should be considered to have been engaged in the business of another company. In this regard, the Board, while adopting the hearing officer's findings of fact and conclusions of law to the extent not inconsistent herewith, has, among other things, considered the following: whether there are facts in the record which demonstrate an actual exercise of a controlling influence; or whether the record discloses that the structure of the situation was such that the power to exercise a controlling influence is likely to have existed even though actual evidence of its exercise may not have been obvious; or, finally, whether there are sufficient events in the record from which one can infer that a controlling influence must have been exercised. The Board now turns to a discussion of whether the facts of record lead one to the conclusion that Patagonia was engaged, through Pima, in the savings and loan business.

ANALYSIS OF WHETHER THE POWER TO EXERCISE A CONTROLLING INFLUENCE EXISTED ON JUNE 30, 1968

1. *Are there events evidencing an actual exercise of a controlling influence over the management or policies of Pima?* Patagonia, through the testimony of its witnesses at the hearing, cited various examples which it claimed showed its actual exercise of a controlling influence over the management or policies of Pima.

Mr. Kenneth H. Herman, formerly Executive Vice President of Pima, subsequently President, and a member of the Board of Directors of Pima, cited two examples of Patagonia's influence over the management or policies of Pima through Mr. Raymond A. Rich, who was a member of the Board of Directors of Pima in 1968 and subsequently the Chairman of the Board of Patagonia. Mr. Herman cited Mr. Rich's influence in changing Pima's longstanding policy against leveraging (using borrowed funds to expand Pima's lending capability)." However, the record shows, and the Administrative Law Judge found, that Pima's policy on leveraging did not change until 1969, after Mr. Sakrison had sold his share and Patagonia had acquired majority control of Pima's voting stock." The second example Mr. Herman cited was Mr. Rich's success in getting the Board of Pima to defer making a decision on whether to make a loan to a certain publicly held corporation. Based on information subsequently supplied by Mr. Rich, the loan was denied. However, the record supports the finding that both the deferral decision and the loan denial occurred after June 30,1968."

Patagonia also cited its influence through Mr. William C. Money, third largest stockholder of Patagonia, and a director of Pima. Mr. Herman credited Mr. Money with persuading Pima to move back more heavily into the VA and FHA mortgage market in 1968, aiding in the discussion of whether or not Pima should make a large commitment in the mobile home industry, assisting in dissuading Pima from entering the consumer lending business and establishing a salary committee." The Administrative Law Judge found, and Mr. Sakrison testified, that the movement by Pima back into the FHA and VA market did not occur until after Patagonia purchased majority control of Pima in 1969." Although the discussion of whether or not Pima should make a large commitment in the mobile home industry occurred during 1967–1968 according to Mr. Herman, the record shows and the Administrative Law Judge noted in his Recommended Decision, that both Arizona chartered and Federally chartered savings and loan associations were not authorized to make mobile home loans until July 1969."

Mr. Herman also noted Mr. Money's influence in dissuading Pima from entering the consumer lending business in 1968, "when the vehicle was provided to savings and loans, by regulations * * *." The record shows that Pima did not in fact enter into the consumer lending business in 1968. Mr. Herman described the consumer lending business as "making loans, like a property improvement loan, a trailer loan, non-first real estate mortgage lending." However, it appears that there was no change in the regulations prohibiting or permitting savings and loans to make consumer loans during 1967 or 1968." Thus, Pima's refraining from making consumer loans of the type Mr. Herman described appears to have been the result of its abiding by the regulations restricting the types of loans savings and loans could make and not the result of Patagonia's exercising a controlling influence through Mr. Money to restrain Pima from entering the consumer lending business.

Finally, Mr. Herman pointed to Mr. Money's suggestion that Pima's Board establish a salary committee as an example of the controlling influence Patagonia exercised over the management and policies of Pima. At Pima's Board of Directors' meeting of January 9, 1968, Mr. Sakrison appointed a salary committee (Mr. Sakrison appointed all members of all committees) that included Mr. Money." The minutes of the Board meeting do not indicate that the salary committee was formed at the suggestion of Mr. Money but, in any event, the formation of the committee was well received and supported by the entire Board. The salary committee did not have final authority over salaries; it merely made recommendations to Pima's Board, which retained ultimate authority in this area."

The Board finds that the record simply does not contain direct evidence that Patagonia actually exercised a controlling influence over Pima. Rather, the record supports a finding that, up until Patagonia acquired a majority of the shares of Pima in 1969, Mr. Sakrison controlled a majority of the voting stock of Pima either through direct ownership or indirectly through a voting trust." The record clearly indicates that Mr. Sakrison, as President of Pima, was in complete control of the management and policies of Pima. The few specific examples of influence by the three Patagonia directors on Pima's 15-member Board that Patagonia claimed represented the exercise of a controlling influence either occurred after June 30, 1968 or were not supported by the record. Mr. Sakrison himself could name no incident and no policy in which he differed with Patagonia's directors other than his policy against leveraging, which he refused to change until after he had sold his stock to Patagonia in 1969."

2. *Does an inference of either the power to exercise or the exercise of a controlling influence arise from the structure of the situation prior to or on June 30, 1968?* Patagonia's basic contentions in this regard are that the power generated by its ownership of slightly more than 20 percent of the stock as well as its announced intention to buy a substantial additional block of stock in the future for cash gave it a controlling influence over the management or policies of Pima. They argue that this is due in part to Mr. Sakrison's desire to have his associates retained by Patagonia. Patagonia further claims that the qualitative aspects of Patagonia's representative directors on the Pima board gave it a controlling influence.

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The Board finds that, as of June 1967, Mr. Sakrison held 20.7 per cent of Pima's stock, Mrs. Hall (the widow of Pima's founder, Irving Hall) together with Dr. Elmer Yeoman (her advisor) owned 20.6 per cent of Pima's stock, and Elmer Present together with his family owned 15.3 per cent of Pima's stock. Neither Mr. Sakrison nor Mrs. Hall could sell their stock without the other's consent.[4] On June 29, 1967, Mr. Sakrison and Mrs. Hall terminated the agreement which restricted the sale of their Pima stock and Mrs. Hall disposed of all but 3,500 of her shares of Pima to Patagonia and Mr. David R. Williams, Jr. (a founder of Patagonia) for a combination of Patagonia stock and cash.[5]

On July 11, 1967, Mr. Sakrison and the other directors and substantial stockholders of Pima consolidated approximately 56 per cent of Pima's outstanding stock in a Voting Trust controlled by Messrs. Sakrison, Present and Frank C. O'Reilly (a founder of Pima and owner of 7 per cent of its stocks).[6] The terms of the trust provided that the trustees had to unanimously agree to sell the stock held in trust and, only if the purchaser agreed to buy all the stock at a price agreed to unanimously by the Trustees, could the stock be sold at all.[7] At all times relevant to the issue of whether Patagonia had the power to exercise a controlling influence over the management or policies of Pima, the structure of the situation remained unchanged with respect to the quantitative ownership of the outstanding stock of Pima; Patagonia controlled 20.005 per cent and Mr. Sakrison controlled in excess of 56 per cent. In addition, Mr. Sakrison had the power of proxy over the votes of the people entitled to vote at the annual meeting by reason of their deposits or outstanding loans with Pima.[8]

In terms of common directors, two Patagonia directors, Messrs. Williams and Money, were appointed to the Board of Directors of Pima in July 1967. Mr. Sakrison controlled the appointment of directors to Pima's Board and initially offered Patagonia three seats on the 15-man Board; however, on the advice of counsel, Mr. Rich waited until February 1968 to be elected to the Board since he was filling a vacancy caused by the death of a director rather than replacing a director who had sold his shares, as were Messrs. Williams and Money. The minutes of the relevant Board meetings show that after joining Pima's Board, Mr. Money attended 11 out of 12 of the meetings; Mr. Williams attended 3 out of 12 of the meetings; and Mr. Rich, who joined the Board in February 1968, attended 1 out of 5 of the meetings held prior to June 30, 1968.[9]

The record shows that there was no historical or traditional relationship between Pima and Patagonia from which a power to exercise a controlling influence could be inferred. Messrs. Williams and Rich first became aware of the possibility of acquiring Pima in February 1967, during the period when they were still forming Patagonia.[10] Through Mr. Ben Storek, a Tucson broker and business advisor to Mrs. Hall, the principals of the still-to-be-formed Patagonia were brought into contact with the principals of Pima (Mrs. Hall, Mr. Sakrison, and Mr. Present) in February 1967.[11] Although Mrs. Hall finally decided to exchange her shares of Pima for a combination of cash and Patagonia stock in June 1967, Messrs. Sakrison, Present and O'Reilly were adamant in their refusal to sell their shares for anything but cash.[12] Thus, the record shows that the relationship between Patagonia's and Pima's principals was not historically or traditionally close, but rather an arms-length relationship among businessmen from the very start. Furthermore, that relationship commenced in February 1967, only 16 months prior to June 30, 1968.

The record shows that there was no formal written contractual agreement between the principals of Pima and Patagonia. Messrs. Rich and Sakrison testified that there was an understanding between them that before Sakrison sold Pima to anyone else he would provide Patagonia with an opportunity to meet the price.[13] However, a letter from Mr. Storek to Mrs. Hall dated June 12, 1967 indicates that, at that time, Sakrison would not grant a right of first refusal to Patagonia.[14] In any case, whether there was an informal contractual right of first refusal or not, Mr. Sakrison's testimony shows that he was not influenced in his management of Pima by the prospect of a future sale to Patagonia.[15]

There may well be situations in which a 20 per cent shareholder may have the power to exercise a controlling influence over a corporation because of his ability to veto extraordinary corporate actions. These factors are relied on in some of the case law under other statutes. However, those cases did not involve situations where there were other shareholders who had absolute control.[16] Such a finding of influence cannot be made here where absolute control rested in the voting trust controlled by Mr. Sakrison. In fact, Sakrison testified, and contemporaneous evidence supports the conclusion, that the purpose of the voting trust was to keep Patagonia from gaining control.[17]

Likewise, the argument that Patagonia's representative Directors had qualitative aspects because of their wide business experience that led to a controlling influence does not appear to have merit. Mr. Sakrison could not name any actions that were taken by Pima at the request of Patagonia directors.[18] Nor could he recall any instances, prior to January 1969, in which he sought the counsel and advice of Messrs. Rich or Williams, although he felt he had but was not certain.[19] Furthermore, the minutes of the Board meetings held by Pima during this period do not indicate any events or actions that might give rise to an inference that Patagonia had the power to exercise a controlling influence over the management or policies of Pima.[20] (See also Mr. Sakrison's testimony on this matter in the next section, which is equivocal on the question whether Patagonia's directors' views had greater weight.)

With respect to the question whether influence existed because of Sakrison's desire that his associates be retained, the hearing officer rejected this contention, stating, "There is no evidence that the career aspirations of Pima's management influenced any action which could be said to favor Patagonia. In the absence of any evidence to the contrary, the unflattering notion implicit in the point to be made here is rejected."[21] The Board agrees that the record is devoid of any evidence indicating that the power to exercise a controlling influence arose from these considerations. In fact, in a related aspect, Mr. Sakrison testified that the prospect of an impending sale to Patagonia did not influence his conduct.[22]

(3) Can a controlling influence be inferred from the events? The Board believes that the record does not contain any events from which one can infer that the existence or exercise of a controlling influence on June 30, 1968 is more likely than not. Indeed, the events surrounding Patagonia's initial investment in Pima and the events surrounding Patagonia's acquisition of the majority of Pima's stock in 1969, weigh against an inference of a controlling influence over the management or policies of Pima.

The record shows that at the time Mrs. Hall sold her stock to Patagonia, Mr. Sakrison took steps to assure his continued complete control over Pima by forming a voting trust with the directors and large shareholders of Pima.[23] By its terms, the Voting Trust would not have been effective unless joined in by the holders of in excess of 50 per cent of Pima's stock.[24] Mr. Sakrison testified that the Voting Trust served several purposes, not the least of which was preventing Patagonia from gaining control of Pima.[25] Other testimony and written documentation in the record supports this version.[26] The formation of the Voting Trust was an tvent eviddencing Patagonia's lack of control of Pima.

The record provides no evidence of any events that occurred during 1967 or 1968 that would give rise to an inference that Patagonia had the power to exercise a controlling influence over the management or policies of Pima. As has already been noted, no significant changes occurred in the way Pima conducted its business during this period. Mr. Sakrison could not name any specific examples of changes or actions that were taken by Pima at the request of the Patagonia directors.[27] Nor could he recall any instance, prior to January 1969, in which he sought the counsel and advice of Messrs. Rich or Williams, although he felt he had but was not certain.[28] Furthermore, Mr. Sakrison could not recall that Messrs. Rich or Williams set any of Pima's policies before January 1969.[29] Finally, Mr. Sakrison testified that there was no instance in which a strong conviction he held concerning a practice of Pima was opposed or changed during this period.[30] The minutes of the board meetings of Pima which were held during this period do not indicate any events or actions that might give rise to an inference that Patagonia had the power to exercise a controlling influence over the management or policies of Pima.[31]

Furthermore, the events surrounding Patagonia's acquisition of the shares of Pima controlled by the Sakrison group give rise to an inference that Patagonia had no power to exercise a controlling influence over the management (Mr. Sakrison) or policies of Pima. Mr. Sakrison, still seeking to sell his shares and those of the other shareholders who had joined the Voting Trust for cash, approached a savings and loan broker in the summer of 1968 to assist him in finding a cash purchaser. Mr. Sakrison did not inform Patagonia of his intentions and specifically instructed the broker not to contact Patagonia as a potential purchaser.[32] It was not until October 1968, after Mr. Sakrison had already turned down two potential purchasers and was considering a third, that Patagonia learned of Mr. Sakrison's efforts to sell the stock he controlled.[33] The Administrative Law Judge summarized the events leading to Patagonia's purchase of the remaining shares of Pima as follows: [34]

> Prior to leaving for Florida, Mr. Sakrison advised Mr. Rich of his scheduled meetings with the two prospective purchasers. Within an hour and a half Mr. Rich arrived at Mr. Sakrison's office to discuss a purchase of Pima. (Sakrison, Tr. 200). An Agreement of Sale was reached in less than an hour. (Sakrison, Tr. 200; Rich, Tr. 54). There was no negotiation with respect to the price per share, which had been previously set by the Voting Trustees at $9.50 per share, nor with respect to their demand for cash. (Sakrison, Tr. 200; Rich, Tr. 54–55, 120).

The $9.50 price per share was $2 per share higher than the amount Patagonia had paid for Mrs. Hall's stock 16 months earlier, and $3.58 over the book value per share as of December 31, 1968.[35] Following execution of an Agreement of Sale on October 28, 1968, it became apparent that the closing date of January 16, 1969 could not be met because of the need for approval of the Federal Home Loan Bank Board.[36] On January 9, 1969, a Modification Agreement was negotiated between Patagonia and Mr. Sakrison postponing the closing date and providing that if the transaction was not consummated by June 2, 1969, all parties would be released from any liability or obligation arising from the original Agreement of Sale of October 28, 1968.[37] Patagonia also consented to the payment of a cash dividend of 9.5¢ per share on all of the issued and outstanding stock of Pima, including the recently declared and paid stock dividend of 20 per cent.[38] This dividend was originally to have been paid solely to Patagonia.[39] Patagonia also agreed to pay an additional 10¢ per share for the Pima stock "to equitably compensate" the sellers "for the unforeseen delay".[40]

On January 14, 1969, the Voting Trustees (including Mr. Sakrison) gave Patagonia a written assurance that they, as Directors, and Mr. Sakrison, as President, would continue to operate Pima in accordance with the policies evolved and established over the years and, secondly, that they would "neither initiate, recommend nor vote for any action which would cause Pima to waive any rights of substantial value, nor * * * initiate, recommend or vote for any action which would cause Pima to enter into any material transactions other than in the ordinary course of business."[41] The need for such written assurances contradicts any inference that Patagonia had the power to exercise a controlling influence over the management or policies of Pima.

Finally, in its application to the FSLIC for prior approval to acquire control of Pima filed on February 5, 1969, Patagonia did not claim Pima already was its subsidiary within the meaning of 12 U.S.C. 1730a(a)(2).[42] On June 11, 1969, Mr. Sakrison reported to the FHLBB pursuant to 12 U.S.C.(J)(1) that a change of control of Pima had occurred. 12 U.S.C. 1730(J)(1) requires the president or chief executive of any insured institution to report to the FSLIC "whenever a change occurs in the outstanding voting stock of any insured institution which will result in control or a change in the control of such institution." Control is defined as "the power to directly or indirectly direct or cause the direction of the management or policies of the insured institution." 12 U.S.C. 1730(J)(1) was enacted October 16, 1966, and was in effect during the time Patagonia claims to have had the power to exercise a controlling influence over the management or policies of Pima.[43]

The record thus shows that at the time Patagonia acquired its 20+ per cent interest in Pima from Mrs. Hall, Mr. Sakrison acted to ensure his continued absolute control of Pima by forming a voting trust that enabled him to control 56 per cent of the outstanding voting stock of Pima. During the period when Patagonia held 20+ per cent of Pima's stock, no significant events occurred that represented a change in the manner in which Pima conducted its business. The relevant minutes of the Board of Directors' meetings of Pima disclose no instances, and Mr. Sakrison could recall no specific instances, from which a power to exercise a controlling influence over the management or policies of Pima can be inferred. Finally, the events surrounding Patagonia's acquisition in 1969 of the shares of Pima controlled by Mr. Sakrison suggest that Patagonia had so little control over the situation that Mr. Sakrison was able to dictate not only the time of the sale, but also the premium price and the terms of sale, and it was necessary for Patagonia to get written assurances from the controlling stockholders and directors that they would not engage in or undertake any action that would materially affect the value of Pima's stock.

Furthermore, the testimony of the witnesses and the contemporaneous documents in the record do not provide a basis for inferring a power to exercise a controlling influence. The most important testimony in the record is that of Mr. Sakrison, whom all agree *was* the management of Pima and the person who established the policies of Pima that took it from an institution with $5.3 million of assets in 1956 to an institution with $83.8 million of assets in 1969.[44]

Mr. Sakrison stated that he did not express any hostility to the Patagonia people when they made their initial 20 percent investment.[45] Yet in a letter dated May 7, 1968, to Pima's Federal Home Loan Bank Board Supervisory Agent, Mr. Sakrison explained the reason for the formation of the Voting Trust: "This agreement was entered into strictly to preclude a holding company from gaining control of Pima Savings and Loan Association."[46] Mr. Sakrison also testified that the Voting Trust prevented Patagonia from:

> Gaining control by going around to individual stockholders and getting their stock, buying their stock and leaving me out. could have been accomplished. I would have been sitting there with my stock and they would have had the majority of the stock.[47]

On the question of influence over the management or policies of Pima, Mr. Sakrison testified that the Patagonia Directors were a valuable addition to Pima's board because they were businessmen who readily understood what the problems were.[48] However, he also testified that none of the three Patagonia directors added to the Pima Board had any savings and loan experience and that Pima had done quite well without them.[49] Pressed to explain his statement in an earlier affidavit that the addition of the Patagonia directors increased the functional capability of Pima's board. Mr. Sakrison stated that Messrs. Rich and Williams kept abreast of the money market, but could not provide any other specific examples.[50] Mr. Sakrison initially avoided answering the question whether he gave the Patagonia directors' views more weight than the views of other substantial stockholders of Pima.[51] He could not recollect whether Messrs. Rich and Williams set any policies before January 1969.[52] Mr. Sakrison couldn't be sure whether he ever affirmatively sought the counsel or advice of either Mr. Rich or Mr. Williams.[53] Mr. Sakrison testified that by June 30, 1968, "* * * it was all fixed in my mind that no doubt Patagonia would become the purchaser."[54] Furthermore, that knowledge did influence his conduct toward Messrs. Rich, Williams, and Money and Patagonia in the management of the affairs of Pima Savings and Loan, "* * * but I had a great respect for their ability and didn't want to just put it on that basis."[55]

Footnotes at end of document.

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At one point late in his testimony, Mr. Sakrison indicated that the Patagonia directors had an extraordinary influence beyond that of other directors because of their prestige and status, and that he had wooed them to a certain extent because he viewed Patagonia as the likely purchaser of his Pima stock. [46] When asked how this desire to sell affected Pima as an institution, Mr. Sakrison stated that "* * * we would certainly consult with the directors, Mr. Rich, Mr. Williams, and Mr. Money, prior to going ahead with the procedures and policies, as to their viewpoint on it." [47] Mr. Sakrison could not recall whether the Patagonia directors had asked him to consult with them, but did testify that "possibly I consulted with them more as to policy than I did with the other directors." [48] Mr. Sakrison could not provide an example of a strong conviction he had about a practice of Pima that was ever "battled" by any member of Pima's Board. [49] Finally, near the end of his testimony, Mr. Sakrison answered the following questions asked by the Administrative Law Judge. [50]

Judge LaMacchia. Did you feel at any time prior to June 30, 1968, subordinate to Rich and Williams in connection with your administration of the affairs of Pima?

Mr. Sakrison. No, I wouldn't say that I did. I did, though, value their opinion.

Judge LaMacchia. Did the prospect of sale to Patagonia, following the sale of the Hall block, per se, influence your judgment as president of Pima?

Mr. Sakrison. No, I don't believe it did.

Although other witnesses, including Messrs. Rich, Williams, Money, and Herman testified, their statements are inconclusive. In any event, if Mr. Sakrison, who was the management of Pima, could not provide an example of Patagonia's power to exercise a controlling influence over him and his policies, the statements of the other witnesses do not carry much weight.

Summary and conclusion. As previously noted, determining whether or not the power to exercise a controlling influence existed on a particular date requires a careful appraisal of the whole effect of the various relationships and other circumstances presented in a particular case. The controlling influence provisions were added to the Bank Holding Company Act in 1970 at the Board's request. Shortly thereafter, the Board gave extensive consideration to the types of facts which could be considered to bear on the issue of control.

On July 9, 1971, the Board published for comment a proposed regulation establishing certain presumptions of control when certain factual circumstances were present (36 FR 12915). After consideration of very extensive public comment, the Board adopted a final regulation, effective September 21, 1971, which is found in § 225.2 of Regulation Y (12 CFR 225.2). On September 17, 1971 the Board instructed the Reserve Banks that:

See footnotes at end of article.

The Board regards the circumstances described in the rebuttable presumptions as constituting sufficient legal bases (unless evidence rebutting the presumptions is offered) upon which to make determinations of control and impose the sanctions of the Act upon the companies involved. There are a number of other circumstances that, standing alone, might not support valid presumptions of control but nevertheless are indicia of control and may call for further investigation to uncover facts that may support a determination of control.

Among the facts set forth by the Board as calling for a further investigation were:

A company owning five per cent or more of a bank or bank holding company has been instrumental in: hiring or firing a person or persons; establishing policies or places for branches; establishing hours of business; deciding on rates, terms or acceptance of loans or deposits; following uniform advertising practices or using a common telephone system; or in any other respects directing the activities of management or establishing the policies of a bank or company.

While these factors were aimed primarily at a consideration of whether control existed over a bank, they are equally applicable to the exercise of controlling influence over other organizations. An examination of the facts found by the hearing officer and the Board in this case indicates that none of the presumptions of controlling influence apply to the relationship between Patagonia and Pima. Nor do facts similar to those cited by the Board as calling for a further investigation exist. As previously noted, it does not appear that the record establishes instances of actual control, or events or structural situations from which a controlling influence might readily be inferred.

Patagonia places great weight in establishing a controlling influence on the fact that it was viewed by Mr. Sakrison and the others as a probable purchaser of Pima for cash. We might note at this point that Congress may well have considered whether the prospect of a sale to a third party would necessarily give that party, through the seller, a controlling influence over the company sold. Congress adopted a provision allowing companies covered in 1970 to continue to engage in activities of a subsidiary acquired after the grandfather date pursuant to binding written contracts entered into before that date. It was stated:

This latter provision was adopted in order to prevent inequities from arising with regard to a company which may have, in good faith, entered into a binding written contract to acquire a new subsidiary * * * and which otherwise would have been required under the provisions of this legislation to divest such subsidiary, even though it was legally committed to make the acquisition before the "grandfather" date adopted by the committee."

Here, Patagonia did not even have the influence over Pima's affairs that would arise from a binding written contract to purchase, yet Congress apparently felt that the influence arising from a binding written contract to purchase would not be sufficient to provide grandfather rights without special statutory language. Furthermore, as noted above, the evidence of record does not provide substantial evidence that sale considerations provided Patagonia with substantial influence over Pima's affairs.

Throughout this proceeding, Patagonia has repeatedly argued that the Board and Board counsel have misconstrued the definition of the power to exercise a controlling influence. In this regard, Patagonia has placed great weight upon the "Chicago Corporation" case and other cases which speak in terms of a latent power being sufficient to establish a controlling influence.

While there should be a difference in the definitions of the term because of the differing purposes of the statutes and the fact that the Investment Company Act and the Public Utility Company Act start from the position of a presumption of control, any such difference would not affect the Board's determination in this case. Those cases, particularly those such as the "Chicago Corporation" case referred to above, which speak in terms of a latent power to exercise a controlling influence as being sufficient, have been carefully examined. In those cases there was either no other party clearly in control or there was evidence of an actual exercise of control on certain occasions. This is to be expected, since it is difficult to determine, absent a presumption, that a power exists without demonstrating its exercise. For instance, in the "Chicago Corporation" case, while speaking in terms of a latent power, the Securities and Exchange Commission pointed out that majority control in a third party had not been clearly established. It went on to say, however, that even assuming a united group, "Chicago has, in actuality been able to exercise a material and dominant influence in the corporation." [51] An analysis of these cases shows that in all of them there were facts from which an inference of controlling influence could be drown which were stronger than the facts established by the record in this case.

The context of this case is one in which actual majority control was cemented in a voting trust for the very purpose of preventing a third party from gaining control. Under such circumstances, the evidence of the power to exercise a controlling influence must be clear to establish its existence and overcome the contrary inference. However, even viewing the evidence as a whole, with respect to the question whether Patagonia can be considered to have been engaged in the savings and loan business through Pima on June 30, 1968 in a light most favorable to Patagonia Corporation, the Board believes that the most that can be stated is that the record provides support for inconsistent inferences. Patagonia had the burden in this proceeding of providing substantial evidence upon which a Board finding of a controlling influence could be based. [52] Patagonia has failed to carry that burden. As stated by the Court of Appeals:

The most that could be said in petitioner's favor would be that two equally probable, but inconsistent inferences could be drawn from the entire evidence. In such circumstances a finding against the party upon whom rests the necessity of sustaining one of these inferences is clearly correct. "Koppers United Co. v. S.E.C.," 138 F. 2d 577, 581 (1943).

On the basis of the record in this matter, the Board concludes that:

(1) Patagonia Corporation ("Patagonia"), Tucson, Arizona, a registered one-bank holding company and a "company covered in 1970" did not, directly or indirectly, exercise, or have the power to exercise, a controlling influence over Pima Savings and Loan Association ("Pima"), Tucson, Arizona, on June 30, 1968; and therefore,

(2) Pima was not a "subsidiary" of Patagonia on June 30, 1968, as that term is defined in the Bank Holding Company Act (12 U.S.C. 1841(d)); and consequently,

(3) Patagonia was not engaged, either directly or through a subsidiary, in the activities of a savings and loan association on June 30, 1968 and is not entitled to indefinite grandfather privileges with respect to the additional shares of Pima Savings and Loan Association that it acquired after June 30, 1968.

Patagonia has also requested, pursuant to § 263.14 of the Board's Rules of Practice for Formal Hearings, that it be granted an opportunity for oral argument before the Board. That section provides that at the request of any party the Board "in its discretion may order the matter to be set down for oral argument before the Board or one or more members thereof." The matter has been exhaustively argued and briefed before the hearing officer. Additionally, Patagonia has had an opportunity to submit exceptions to the hearing officer's decision and the Board has taken these exceptions into account. In view of the numerous opportunities Patagonia has had to state and argue its position in this case, the Board believes that oral argument in this matter is not necessary or appropriate.

By order of the Board of Governors, [53] effective February 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

FOOTNOTES

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[3] 4(c) (8) and 4(c) (12) notification processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

[4] As of September 30, 1976.

[5] The relevant banking market is approximated by Franklin County, Arkansas. Market data is as of December 31, 1975.

[6] Applicant has projected that Bank's assets will grow at an annual rate of 8 percent. However, Bank has experienced average annual asset growth of 20.7 percent over the past five years. Even if, as Applicant has suggested, Bank's asset growth over the past five years has been the result of nonrecurring circumstances, Applicant's asset growth projections appear unrealistic. In 1976, Bank assets grew at an annual rate of approximately 16 percent. Over the past five years, the average annual growth rate of all Arkansas banks has been approximately 15 percent.

[7] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee and Lilly.

[8] 60 Federal Reserve Bulletin 379 (1974).

[9] The Board has construed Applicants' June 25, 1976, letter as superseding Applicants' April 22, 1976, request for an extension of time.

[10] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee and Lilly.

[11] All banking data are as of June 30, 1975, unless otherwise indicated.

[12] Company will be operated independently of Bank's correspondent division.

[13] Voting for this action: Chairman Burns and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Governor Gardner.

Citations are abbreviated as follows:

A. Citations to the hearing transcript indicate the name of the witness and the appropriate transcript pages, e.g. Sakrison, Tr. 306.

B. Citations to Exhibits introduced at the hearing by the Board and by Patagonia are "BX" and "PX," respectively.

C. Citations to the Recommended Decision, Findings of Fact are cited "RD, FF" and the appropriate numbered paragraph, e.g. "RD, FF 19."

CITATIONS

[1] The Ninth Circuit Court of Appeals in its decision remanding the case to the Board for further proceedings specifically reserved for the Board's consideration the meaning of the phrase "controlling influence."

[2] PX 1, p. 23; BX 2A, pp. R41, R43, R48; BX 2B, p. R252.

[3] BX 12.

[4] BX 2A, p. 41; Sakrison, Tr. 173–174, 212; Rich, Tr. 42.

[5] Sakrison, Tr. 212; BX 12.

[6] BX 12, 13.

[7] BX 12, 13, 14.

[8] BX 2A, p. R54; Herman, Tr. 371–372.

[9] BX 16; BX 35; Herman, Tr. 398; Sakrison, Tr. 391.

[10] BX 35, Sakrison, Tr. 398.

[11] BX 2A, p. R42.

[12] Sakrison, Tr. 213.

[13] Sakrison, Tr. 224–225.

[14] RD FF 66–71.

[15] RD FF 72; BX 10.

[16] BX 39; PX 1, p. 41; Williams, Tr. 136.

[17] Sakrison, Tr. 247.

[18] BX 28D; BX 53, p. 19.1a.

[19] RD FF 80; Sakrison, Tr. 190; BX 53, p. 191; BX 28D.

[20] BX 28D.

[21] BX 28D.

[22] BX 73A, pp. 1023–1024.

[23] RD FF 4 and 5.

[24] RD FF 3; Rich Tr. 28.

[25] BX 2B, p. 252.

[26] RD FF 114, 140–146.

[27] "Investors Mutual, Inc., et al." CCH Fed. Sec. Law Rep. ¶ 77,343 (1966); "The Chicago Corporation" 38 SEC 463 (1948); "M.A. Hanna Company" 10 SEC 581 (1941); "Bessemer Securities Company" 13 SEC 281 (1943); "American Gas & Electric Co. v. S.E.C." 134 F.2d 633; "Detroit Edison Co. v. S.E.C." 119 F.2d 730.

[28] As more fully set forth in the summary and conclusion, any such difference in tests would not affect the result reached by the Board in this case.

[29] Senate Report 91–1084, p. 24.

[30] 115 Cong. Rec. 33141, 91st Cong. (1st Sess.).

[31] BX 2A, p. R57; RD FF 155(a).

[32] Sakrison, Tr. 208, 217, 308.

[33] RD FF 155(b); BX 73B, pp. 114, 1151. It appears that Mr. Rich's suggestion was accepted by Pima's Board of Directors because of its individual merit, not because of the exercise of a controlling influence over the management or policies of Pima.

[34] RD FF 157, Herman Tr. 382–384; BX 2A, pp. R57–R58.

[35] RD FF 158; Sakrison Tr. 219, 311.

[36] RD Attachments A and B, FF 166, 167.

[37] Herman, Tr. 383, 389.

[38] Herman, Tr. 383.

[39] RD FF 169–171.

[40] BX 73 B p. 1073.

[41] BX 73 B p. 1089–1091. As with Mr. Rich's suggestions concerning the deferral of action on a loan, the record supports a finding that the salary committee was formed because of the merit of the suggestion, not because of the exercise of a controlling influence.

[42] Sakrison, Tr. 180–181, 223–226, 228, 275, 284, 306; Rich. Tr. 42, 66, 73, 89, 93; Herman, Tr. 385–386, 393.

[43] Sakrison, Tr. 306, 307.

[44] Storek, Tr. 456; Sakrison, Tr. 188; BX 12, 13, 14.

[45] BX 36, 39; PX 1, p. R1; Williams, Tr. 136.

[46] Sakrison, Tr. 190; BX 53, p. 19.1; BX 28D'

[47] BX 28D.

[48] Sakrison, Tr. 224–225, 282. Voting power in an Arizona stock S&L is shared by all members of the association, consisting of (a) each person with a savings account having one vote for each $100 in the account, (b) each person with an outstanding loan having one vote, and (c) each stockholder having one vote for each share owned.

[49] BX 73A, 73B, 73C.

[50] Storek, Tr. 443–444; Williams, Tr. 152.

[51] BX 2A pp. R44, R69.

[52] HD FF 59.

[53] Sakrison, Tr. 198, 256–257; Rich, Tr. 47 62–63.

[54] BX 41.

[55] Judge LA MACCHIA. Did the prospect of sale to Patagonia following the sale of the Hall block, per se, influence your judgment as president of Pima?

Mr. SAKRISON. No, I don't believe it did (Sakrison, Tr. 309.)

[56] "The Chicago Corporation; M. A. Hanna; American Gas & Electric; Detroit Edison Co." (footnote 27 supra).

[57] "Gaining control by going around to individual stockholders and getting their stock, buying their stock and leaving me out, could have been accomplished. I would have been sitting with my stock and they would have had the majority of the stock." (Sakrison, Tr. 302.)

[58] Sakrison, Tr. 276.

[59] Sakrison, Tr. 227.

[60] The Board rejects Patagonia's qualitative argument. A director's duty is, after all, to make meritorious suggestions. To establish a controlling influence, something more must be shown than the limited number of instances in this record in which suggestions with merit were accepted. As the Recommended Decision finds at page 79, the record supports the conclusion that the information and advice given depended on merit to persuade. If accepted by Pima's Board they were accepted because they were good ideas, not because of the source of the suggestion.

[60a] RD, Discussion p. 79.

[61] Sakrison, Tr. 309.

[62] BX 28C, BX 28D.

[63] BX 28D.

[64] Sakrison, Tr. 302.

[65] BX 28C, BX 28D.

[66] Sakrison, Tr. 276, 306, 307.

[67] Sakrison, Tr. 276, 277.

[68] Sakrison, Tr. 276, 277.

[69] Sakrison, Tr. 307, 308.

[70] BX 73A, 73B, 73C.

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[89] Sakrison, Tr. 196, 292.
[90] Rich, Tr. 125; Sakrison, Tr. 196–197.
[91] RD FF 106.
[92] BX 70.
[93] BX 8, p. 3; Rich, Tr. 56.
[94] PX 5.
[95] PX 5.
[96] PX 5.
[97] BX 55 p. 7, 8.
[98] BX 33.
[99] BX 55.
[100] BX 28P; RD FF 129.
[101] Herman, Tr. 385–386, 393; Rich, Tr. 42, 66, 73, 89, 93; Sakrison, Tr. 180, 275, 306; PX 3.
[102] Sakrison, Tr. 208, 209.
[103] BX 28C.
[104] Sakrison, Tr. 302.
[105] Sakrison, Tr. 193.
[106] Sakrison, Tr. 344, 345.
[107] Sakrison, Tr. 274.
[108] Sakrison, Tr. 274.
[109] Sakrison, Tr. 276.
[110] Sakrison, Tr. 277.
[111] Sakrison, Tr. 298.
[112] Sakrison, Tr. 298.
[113] Sakrison, Tr. 299.
[114] Sakrison, Tr. 306.
[115] Sakrison, Tr. 306.
[116] Sakrison, Tr. 307.
[117] Sakrison, Tr. 309.
[118] Senate Report 91–1084, p. 4.
[119] The Chicago Corporation, 28 S.E.C. 463, 468.
[120] This is in accord with section 556(d) of the Administrative Procedure Act, which provides that in formal hearings the proponent of an order has the burden of proof.
[121] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Jackson, Partee, and Lilly.

[FR Doc.77-6348 Filed 3-2-77;8:45 am]

COMMUNITY SERVICES ADMINISTRATION

RESEARCH AND DEMONSTRATION PROGRAM

Invitation for Proposals for Rural Home Repair Action Program for the Poor

The Community Services Administration is hereby announcing the allocation of $2,250,000 of FY 1977 Research and Demonstration funds under Title II, Section 232 of the Economic Opportunity Act of 1964 as amended for a nationwide Rural Home Repair Action Program for the Poor. The Program will be conducted by selected non-profit organizations within each of the regions of the Nation over the next three year period.

The purpose of the new Rural Home Repair Action Program for the Poor is to demonstrate new approaches which can be replicated by rural community organizations across the nation in future years. The programs will be subject to intensive evaluation in the effort to validate these new approaches to the problems of rural low-income housing.

The applicants will be selected on a competitive basis against the following criteria:

1. Corporate Purpose and Structure: Priority will be accorded applicants that are private, non-profit corporations, organized under CSA regultions with a minimum of ⅓ low-income board representation. These corporations shall have demonstrated capability in the area of low-income housing and in providing meaningful low-income involvement in the management of the program.

2. Geographic Range and Coverage: Priority will be accorded to at least one, and no more than three, applicants per Region. For the purposes of the program, "rural" shall be defined as including all areas with a population of 20,000 or less, or in exceptional cases, where a community otherwise exhibits rural characteristics.

3. Project Scope and Magnitude: Priority will be accorded applicants proposing a total Rural Home Repair Program effort of at least $80,000 to $200,000 per annum. Consideration will be given to existing housing programs as an addition to their on-going activities, or to newly created housing programs where no such capability now exists.

4. Mobilization of Resources: Priority will be accorded applicants on the basis of the nature and extent of Federal and non-Federal resources mobilized in support of the Rural Home Repair Program. Commitments from HUD, FmHA, DOL, EDA, SBA, HEW and State Agencies and energy conservation programs will be reviewed by the Community Services Administration in the selection process.

5. Participant Income and Eligibility Guidelines: Program funds will be available for homeowners whose incomes fall within the poverty thresholds as indicated in CSA Instruction 6004–1a, CSA Income Poverty Guidelines.[1] Priority will be accorded those programs proposing to serve the lowest income homeowners, and demonstrating an outreach capability to enlist them in the program. Applicants will submit proposed procedures for serving the lower 50 percent of the CSA poverty guideline families in the areas served.

6. Eligible Program Activities: Priority will be accorded comprehensive programs demonstrating the most effective cost-benefits to the participating homeowners. Suggested services the programs should consider providing to low-income homeowners include:

A. Outreach to low-income homeowners, and verification of income and homeownership status of program participants.

B. Development of Home Repair specifications for (a) removal of major structural deficiencies, (b) provision of basic sanitary facilities, (c) provision of adequate heat and insulation and lighting, (d) provision of additional space, where required, and (e) addition of special requirements for disabled and handicapped persons.

C. Packaging of home repair loan and grant documents for (a) transmittal to other Federal, state or private funding agencies, (b) for grant/loan payment to the participating homeowners, or (c) for bidding and/or contracting with public or private repair firms.

D. Implementation of home repair construction activities, including (a) crew recruitment, training, supervision support, (b) materials purchasing, inventory and quality control, and (c) follow-up job inspection, certification, (homes must meet minimum FmHA standards) and homeowner counselling and referral.

Applicants will be required to limit CSA share of home repair grants/loans to $3,500 per homeowner. Applicants will submit proposed procedures for administering home repair grant and loan programs.

7. Application Procedures:

A. Date and Duration: Applications will be submitted to the appropriate Regional Offices of the Community Services Administration no later than April 4, 1977. Applications should propose a program of three years duration, however, grants shall be awarded for a 12-month operating period. Subsequent funding shall be dependent on (a) the availability of funds appropriated for rural housing purposes and (b) the grantees' performance as determined by CSA's evaluation and assessment of the projects accomplishment.

B. Content: Applications will include the following submissions: (a) Narrative statements of the Rural Home Repair Problem and the proposed new approach to a problem of poverty to be tested by the program.

(b) CAP Form 11—Assurance of Compliance with Civil Rights Act.

(c) OEO Form 393—Certificate of Applicant's Attorney

(d) SF–424, Federal Assistance (Complete Sections I and II.[2]

(e) Description of management capability of applicant organization with organizational charts and senior staff resumés/board structure as appropriate.

(f) CSA Form 419, Summary of Work Programs and Budget.

(g) CSA Form 325, Budget Summary and CSA Form 325a, Budget Support sheet, to include: (i) Administrative costs, (any excess over 15 percent of total program costs must be justified), (ii) Grants-in-aid or home repair costs, (iii) equipment and supplies costs, (iv) consulting or other fees and costs, and (v) other costs.

C. Support Documents: Applications will show the availability of the following: (a) Formal commitments of cooperation, or of financial set-asides from Federal, state or local or private agencies such as FmHA, HUD, DOL, HEW, EDA, SBA and/or their State or local counterparts and (b) self-evaluation plan per OEO Instruction 7031–1.

Organizations interested in applying for the Rural Home Repair Action Program for the Poor should submit applications to the appropriate CSA Regional Office and contact them for additional information:

REGION I

E–400 John F. Kennedy Federal Building, Boston, Massachusetts 02203. Phone: (617) 223–4080.

[1] NOTE.—For this program it is Not 125 percent of these guidelines.

[2] NOTE.—Clearinghouse review not required.

REGION II

26 Federal Plaza, 32nd Floor, New York, New York 10007. Phone: (212) 264–1900.

REGION III

Gateway Building, 3535 Market Street, Philadelphia, Pennsylvania 19104. Phone: (215) 597–6001.

REGION IV

730 Peachtree Street NE., Atlanta, Georgia 30308. Phone: (404) 285–3172.

REGION V

300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606. Phone: (312) 353–5562.

REGION VI

1200 Main Street, Dallas, Texas 75202. Phone: (214) 749–1301.

REGION VII

911 Walnut Street, Kansas City, Missouri 64106. Phone: (816) 758–3761.

REGION VIII

1961 Stout Street, Federal Building, Denver, Colorado 80202. Phone: (303) 327–4767.

REGION IX

450 Golden Gate Avenue, Box 36003, San Francisco, California 94102. Phone: (415) 556–5400.

REGION X

1321 Second Avenue, Seattle, Washington 98101. Phone: (206) 399–4910.

ROBERT C. CHASE,
Acting Director.

[FR Doc.77-6434 Filed 3-2-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 76–10]

CRAFTMASTER PRODUCTS, INC., A CORPORATION, AND JOHN L. STAVINOHA, INDIVIDUALLY AND AS AN OFFICER OF THE CORPORATION

Prehearing Conference

On December 7, 1976, the Commission issued a Notice of Enforcement with attached supporting exhibits charging respondents in the above entitled proceeding with having violated the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), the Standard of the Flammability of Mattresses (FF 4–72), (16 CFR, Part 1632, Subparts A and B) and the implementing regulations thereunder (16 CFR 1632.31) and the Federal Trade Commission Act (15 U.S.C. 41 et seq.). More particularly, respondents were charged with failing to conduct required flammability tests on mattresses manufactured since December 23, 1973, and failing to maintain all the records pertaining to the manufacture, flammability testing and sale of such mattresses. By way of sanction, it is proposed that Respondents be ordered to cease and desist from said violations in the future and, in addition, to notify all customers who have purchased or received mattresses since December 23, 1973 that such mattresses do not comply with the Mattress Standard and implementing regulations, and that all such customers may return their mattresses for complete refund or replacement at respondents' option, plus an allowance for reasonable transportation costs.

On January 19, 1976, respondents filed an answer denying all charges in the Notice of Enforcement.

Issue having been joined, a prehearing conference by conference telephone will be held at 11:00 A.M., (EST) (10:00 A.M., CST) on March 23, 1977. The appropriate telephone numbers are: Administrative Law Judge Paul N. Pfeiffer, 202–634–7171; Stuart Haynsworth, Esquire, Counsel for Respondents, 713–224–3355; Mana Jennings, Esquire, Enforcement Counsel, 202–492–6626.

The conference will include a discussion of the following subjects:

(1) The scope of the issues to be heard and the positions of the parties thereon.

(2) Whether, and to what extent, the parties may enter into a stipulation of facts.

(3) The need for discovery, by interrogatories, depositions, requests for admissions of fact, if any.

(4) The possibility of entering into a consent agreement and order disposing of the issues in the proceeding without the necessity of a hearing.

(5) The scheduling of future procedural steps including the establishment of a date, time, and place for hearing.

Any person desiring to participate in the forthcoming hearing should file a petition for leave to intervene in accordance with Part 1025.33 of the Commission's Interim Rules of Practice for Adjudicative Proceedings.

Dated: February 28, 1977.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc.77-6340 Filed 3-2-77;8:45 am]

[CPSC Docket No. 76–8]

McENTIRE BROTHERS, INC. AND DON E. McENTIRE

Prehearing Conference

On December 8, 1976, the Commission issued a Notice of Enforcement with attached supporting exhibits charging respondents in the above entitled proceeding with having violated the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), the Standard of the Flammability of Mattresses (FF 4–72), (16 CFR, Part 1632, Subparts A and B) and the implementing regulations thereunder (16 CFR 1632.31) and the Fedral Trade Commission Act (15 U.S.C. 41 et seq.). More particularly, respondents were charged with failing to conduct required flammability tests on mattresses manufactured since December 23, 1973, and failing to maintain all the records pertaining to the manufacture, flammability testing and sale of such mattresses. By way of sanction, it is proposed that Respondents be ordered to cease and desist from said violations in the future and, in addition, to notify all customers who have purchased or received mattresses since December 23, 1973 that such mattresses do not comply with the Mattress Standard and implementing regulations, and that all such customers may return their mattresses for complete refund or replacement at respondents' option, plus an allowance for reasonable transportation costs.

On December 24, 1976, respondents filed an answer denying all charges in the Notice of Enforcement and further denying that the Notice was in proper form and contained evidence establishing a prima facie case. On January 17, 1977, respondents filed a motion for a more definite statement of charges and a further motion to dismiss the Notice of Enforcement for failure to set a hearing date. On February 23, 1977, the motion for a more definite statement of charges was granted and the motion to dismiss was denied.

Issue having been joined, a prehearing conference by conference telephone will be held at 11:00 a.m., e.s.t., 10:00 a.m., C.s.t., on March 21, 1977. The appropriate telephone numbers are: Administrative Law Judge Paul N. Pfeiffer, 202–634–7749; Louis F. Eisenbarth, Esquire, Counsel for Respondents, 913–357–6311; Charles Wagner, Gwen Crockett, Enforcement Counsel, 202–492–6626.

The conference will include a discussion of the following subjects:

(1) The scope of the issues to be heard and the positions of the parties thereon.

(2) Whether, and to what extent, the parties may enter into a stipulation of facts.

(3) The need for discovery, by interrogatories, depositions, requests for admissions of fact, if any.

(4) The possibility of entering into a consent agreement and order disposing of the issues in the proceeding without the necessity of a hearing.

(5) The scheduling of future procedural steps including the establishment of a date, time, and place for hearing.

Any person desiring to participate in the forthcoming hearing should file a petition for leave to intervene in accordance with § 1025.33 of the Commission's interim rules of practice for Adjudicative Proceedings.

Dated: February 28, 1977.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc.77-6306 Filed 3-2-77;8:45 am]

MEETING

This notice announces a meeting of the Consumer Product Safety Commission under requirements of the Government in the Sunshine Act. As specified in the Commission's Proposed and Interim Rules for Meetings [16 CFR Part 1012], this notice sets forth the agenda of that meeting, including date, time and place of the meeting, the subject matter, and whether all or part of the meeting is open or closed.

For additional information on the meeting, interested persons can contact Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street, N.W., Wash-

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ington, D.C. 20207, telephone 202–634–7700.

Dated: February 28, 1977.

SADYE E. DUNN,
Secretary.

MEETING

Commission Meeting, March 10, 1977, 3rd Floor Hearing Room, 1111 18th Street, N.W., Washington, D.C.

All matters will be conducted in open session unless otherwise noted.

AGENDA

9:30 A.M. CONVENE MEETING

1. *Non-adjudicative rules of procedure under the Flammable Fabrics Act.* The Commission will consider a draft regulation which would establish rules of procedure for investigations, inspections and inquiries pursuant to the Flammable Fabrics Act. The Commission proposed a version of these Rules in July, 1976.

2. *Certification standards for architectural glazing.* In January, 1977, the Commission promulgated mandatory safety standards for architectural glazing materials (16 CFR Part 1201), which becomes effective July 6, 1977. At that time, the Commission stated that regulations for certifying compliance with the safety standard would also become effective July 6. The Commission will consider three alternatives for establishing certification standards: 1) to reply on the language of section 14 of the Consumer Product Safety Act, which requires manufacturers to issue a certificate based on a reasonable testing program: 2) to set limits for the testing programs which manufacturers must establish: and 3) to establish a detailed testing program which manufacturers must follow.

Break for lunch.

2:00 P.M. RECONVENE MEETING—CLOSED TO THE PUBLIC

3. *Timeliness cases under section 15 of the Consumer Product Safety Act.* (Closed). Section 15 of the Consumer Product Safety Act requires manufacturers (and others) to report immediately to the Commission any product which might pose a substantial product hazard because it does not meet an applicable safety standard or contains a defect which might pose a substantial hazard. The Commission will consider possible civil penalty action against two manufacturers which the staff believes did not make timely reports on possibly hazardous products.

Adjournment.

[FR Doc. 77-6336 Filed 3-2-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meetings

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by Pub. L. 94–409, notice is hereby given that closed meetings of two separate Panels of the DIA Scientific Advisory Committee will be held on the same day as follows:

Wednesday, April 6, 1977—Pomponio Plaza, Rosslyn, Va.

Both meetings, one commencing at 0830 hours and the other at 0845 hours are devoted to the discussion of classified information as defined in section 552(b)(1), Title 5 of the U.S. Code and therefore will be closed to the public. One Panel will receive briefings and participate in discussions relative to the Defense Intelligence Agency's assessments of foreign military equipment, operations, and capabilities. The other Panel will work on a study of specialized intelligence data requirements and data distribution procedures.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

FEBRUARY 25, 1977.

[FR Doc.77-6307 Filed 3-2-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

LIQUID METAL FAST BREEDER REACTOR (LMFBR) STEERING COMMITTEE

Meetings

MARCH 2, 1977.

The LMFBR Steering Committee will hold its first meeting on March 3, 1977, from 9:30 a.m. to approximately 2:00 p.m., at ERDA Headquarters, 20 Massachusetts Avenue, Washington, D.C., Room 8222. The meeting will be open to the public. The purpose of this meeting is to discuss the organization of the committee and scope of the study to be undertaken. Background and study material also will be distributed and discussed with the members.

A second meeting of the advisory committee will be on March 9, 1977, from 9:30 a.m. to approximately 5:00 p.m. at the Hyatt Regency Hotel, 400 N.J. Avenue, N.W., Washington, D.C., Room Columbia A. The purpose of this meeting will be to discuss the status of the study, issues identified, and to further discuss the scope and conduct of the study. This meeting also will be open to the public.

The Chairman is empowered to conduct the meetings in a manner that in his judgment will facilitate the orderly conduct of business. With respect to public participation in agenda items scheduled above, the following requirements shall apply:

(a) Questions at the meeting may be propounded only by members of the steering committee and ERDA officials assigned to participate with the committee in its deliberations.

(b) Seating to the public will be made available on a first-come, first-served basis.

(c) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meetings will be permitted both before and after the meetings and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(d) Copies of minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, upon payment of all charges required by law.

Due to the exigencies of public business necessitating earliest possible establishment and operation of this committee, I have determined that the normal 15-day notice period for these meetings is not feasible.

Practical considerations may dictate alterations in the above agenda.

ROBERT W. FRI,
Acting Administrator.

[FR Doc.77-6619 Filed 3-2-77;12:15 pm]

LMFBR STEERING COMMITTEE

Determination To Establish

MARCH 2, 1977.

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), I hereby certify that the establishment of a Liquid Metal Fast Breeder Reactor (LMFBR) Steering Committee as hereinafter identified, is in the public interest in connection with the performance of duties imposed upon the Energy Research and Development Administration by the Energy Reorganization Act of 1974 and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A–63 (Revised).

Name of Advisory Committee: LMFBR Steering Committee.

Purpose: The committee will assess and advise the Assistant Administrator for Nuclear Energy on matters pertaining to the following:

a. The role of LMFBRs in the Nation's energy future.

b. The makeup and direction of the overall LMFBR program.

Effective date of establishment and duration: The advisory committee is established effective immediately. The advisory committee's termination date will be February 1, 1978.

Membership: The membership of the advisory committee shall be balanced fairly in terms of the points of view represented and the functions to be performed by the advisory committee. Approximately 15 members from the fields of science, academia, utilities, and other sectors of the general public will serve on the committee. There will be no discrimination based on race, color, creed, national origin, religion, or sex.

Operation: The LMFBR Steering Committee will operate in accordance with the provisions of the Federal Advisory Commitee Act (Pub. L. 92–463), ERDA policy and procedures (10 CFR Part 707), OMB Circular A–63 (Revised), and other directives and instructions issued in accordance with the implementation of the Act. The LMFBR Steering Committee will meet approximately five times during the year. An agenda for each meeting will be developed. The Assistant Administrator for Nuclear Energy will provide on a continuous basis all information on nuclear energy programs, issues, and policies reasonably required by the committee to perform its functions. Staff support will be provided to the committee by the Assistant Administrator for Nuclear Energy.

ROBERT W. FRI,
Acting Administrator.

[FR Doc.77-6618 Filed 3-2-77;12:15 pm]

ENVIRONMENTAL PROTECTION AGENCY

[OPP 42016B; FRL–7]

MICHIGAN

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Correction

In FR Doc. 77–4643, appearing at page 9203 in the issue for Tuesday, February 15, 1977, the headings should appear as set forth above.

[FRL 604–4; OPP–180112]

OREGON DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Benomyl To Control Foot Rot of Winter Wheat

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), notice is given that the Environmental Protection Agency (EPA) has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use benomyl for the control of foot rot in eight counties in eastern Oregon. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St., S.W., Room E–315, Washington, D.C. 20460.

According to the Applicant, approximately 200,000 acres of winter wheat in eastern Oregon are seriously affected by foot rot disease caused by the fungal pathogen *Cercosporella herpotrichoides*. The counties involved are Baker, Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco. The Applicant stated that *Cercosporella* foot rot infects much of the wheat in eastern Oregon when wheat is seeded early and the winters are mild; the environmental conditions during the fall and winter of 1976–1977 appear to be highly favorable for the development of this disease. In 1976, the Oregon Department of Agriculture applied for and was granted similar specific exemption for the use of benomyl to control Cercosporella foot rot of wheat in six counties in eastern Oregon.

No registered pesticide or alternative methods of control are available to suppress this pathogen. Resistant varieties of wheat are not available for the area involved, and later seeding, which reduces losses, is not economically practical.

The Applicant proposed to use Benlate (benomyl) fungicide (Methyl 1-(butylcarbamoyl) - 2-benzimidazolecarbamate), EPA Reg. No. 352–354. The rates of application will be one (1) pound Benlate (0.5 pound active ingredient benomyl) in 5–10 gallons of water per acre and one (1) pound Benlate in 20–30 gallons of water per acre by air and ground, respectively. One application will be made between the first of February and April 30, 1977. Applications will be made either by growers on their own property or by State-licensed commercial applicators. The Applicant stated that qualified Oregon University extension agents will recommend application rates and procedures; however, the dosage rate will not exceed 0.5 pound active ingredient benomyl.

The Fish and Wildlife Service, U.S. Department of the Interior, has advised EPA that no serious adverse effects on fish and wildlife resources are anticipated from the application as described. Without the application of benomyl, the average wheat yield loss estimated from Cercosporella foot rot is ten (10) percent valued at $6,000,000.

Formal tolerances for benomyl residues on wheat grain and green forage have not been established. However, the EPA has determined that the application of this fungicide to winter wheat at these application rates will result in residue levels of less than 0.2 ppm (parts per million), which do not constitute a hazard to the public health. Based on evaluation of existing data, EPA has determined that a residue level on wheat straw not exceeding 15 ppm would be adequate to protect the public health. Green forage will not be used as a feed item. Meat, milk, poultry, and egg tolerances are already established for residues of benomyl resulting from the feed use of various raw agricultural commodities and processed feed commodities. It has been concluded that secondary benomyl residues transferring to meat, milk, poultry, or eggs as a result of feed use of the treated wheat grain and straw would be adequately covered by the existing tolerances.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of Cercosporella foot rot disease has occurred; (b) there is no pesticide presently registered and available for use to control this pest in eastern Oregon; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic, environmental or health problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until April 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Benlate (benomyl), EPA Reg. No. 352–354, will be used;

2. Wheat acreage to be treated is limited to the eight counties listed at the beginning of this notice;

3. One (1) pound of Benlate (0.5 pound active ingredient benomyl) per acre will be applied by ground (in 20–30 gallons of water) or air (in 5–10 gallons of water);

4. A single application will be made;

5. Applications will be made either by growers on their own property or by State-licensed commercial applicators;

6. Application rates and procedures will be recommended by qualified Oregon State University extension agents. The dosage rate will not exceed 0.5 pound active ingredient benomyl;

7. If benomyl is applied by aircraft, all precautions will be taken to avoid or minimize drift;

8. A residue level not to exceed 0.2 ppm in or on harvested wheat grain and 15 ppm in or on wheat straw has been determined to be adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

9. Green forage will not be used as a feed item; and

10. A final report will be submitted listing the counties and acreage for all applications, benefits realized from this use of benomyl, and any losses due to phytotoxicity.

Dated: February 24, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-6467 Filed 3-2-77;8:45 am]

[FRL 604–5; OPP–180113]

WASHINGTON DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Benomyl To Control Foot Rot of Winter Wheat

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), notice is given that the Environmental Protection Agency (EPA) has granted a specific exemption to the Washington Department of Agriculture (hereafter referred to as the "Applicant") to use benomyl for the control of foot rot on 250,000 acres of wheat in eastern Washington. This exemption was granted in accordance with, and is sub-

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ject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH–567). Office of Pesticide Programs, EPA, 401 M St., S.W., Room E–315, Washington, D.C. 20460.

According to the Applicant, approximately 250,000 acres of winter wheat in eastern Washington are seriously affected by foot rot disease caused by the fungal pathogen *Cercosporella herpotrichoides*. All counties east of the crest of the Cascade Mountains are involved. The Applicant stated that Cercosporella foot rot infects much of the wheat in eastern Washington; favorable climate conditions could cause the pathogen to reach epiphytotic proportions in some areas. The environmental conditions during the fall and winter of 1976–1977 appear to be highly favorable for the development of this disease. In 1976, the Washington Department of Agriculture applied for and was granted a similar specific exemption for the use of benomyl to control cercosporella foot rot of wheat in six counties in eastern Washington.

No registered pesticide or alternative methods of control are available to suppress this pathogen. Resistant varieties of wheat are not available for the area involved, and later seeding, which reduces losses, is not economically practical.

The Applicant proposed to use Benlate (benomyl) fungicide (Methyl 1-(butylcarbamoyl) - 2 - benzimidazolecarbamate), EPA Reg. No. 352–354. The rates of application will be one (1) pound Benlate (0.5 pound active ingredient benomyl) in 5–10 gallons of water per acre and one (1) pound Benlate in 20–30 gallons of water per acre by air and ground, respectively. One application will be made between the first of February and April 30, 1977. Applications will be made either by State-licensed commercial applicators or by growers on their own property, following a determination by Washington State University extension agents that the disease is present in their area; however, the dosage rate will not exceed 0.5 pound active ingredient benomyl.

The Fish and Wildlife Service, U.S. Department of the Interior, has advised EPA that no serious adverse effects on fish and wildlife resources are anticipated from the application as described. Without the application of benomyl, the average wheat yield loss estimated from Cercosporella foot rot is fifteen (15) percent valued at $5,437,500. Potential losses due to this disease may even reach thirty (30) percent, valued at over 10,500,000, the Applicant stated.

Formal tolerances for benomyl residues on wheat grain and green forage have not been established. However, the EPA has determined that the application of this fungicide to winter wheat at these application rates will result in residue levels of less than 0.2 ppm (parts per million), which do not constitute a hazard to the public health. Based on evaluation of existing data, EPA has determined that a residue level on wheat straw not exceeding 15 ppm would be adequate to protect the public health. Green forage will not be used as a feed item. Meat, milk, poultry, and egg tolerances are already established for residues of benomyl resulting from the feed use of various raw agricultural commodities and processed feed commodities. It has been concluded that secondary benomyl residues transferring to meat, milk, poultry, or eggs as a result of feed use of the treated wheat grain and straw would be adequately covered by the existing tolerances.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of Cercosporella foot rot disease has occurred; (b) there is no pesticide presently registered and available for use to control this pest in eastern Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic, environmental or health problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed in insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until April 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Benlate (benomyl), EPA Reg. No. 352–354, will be used;

2. Wheat acreage to be treated is limited to the counties east of the Cascade Mountains;

3. One (1) pound of Benlate (0.5 pound active ingredient benomyl) per acre will be applied by ground (in 20–30 gallons of water) or air (in 5–10 gallons of water);

4. A single application will be made;

5. Applications will be made either by State-licensed commercial applicators or by growers on their own property, following a determination by Washington State University extension agents that the disease is present in their area;

6. The dosage rate will not exceed 0.5 pound active ingredient benomyl;

7. If benomyl is applied by aircraft, all precautions will be taken to avoid or minimize drift;

8. A residue level of benomyl not to exceed 0.2 ppm in or on harvested wheat grain and 15 ppm in or on wheat straw has been determined to be adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

9. Green forage will not be used as a feed item; and

10. A final report will be submitted listing the counties and acreage for all applications, benefits realized from this use of benomyl, and any losses due to phytotoxicity.

Dated: February 24, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77–6468 Filed 3–2–77;8:45 am]

FEDERAL MARITIME COMMISSION

[General Order 29]

MILITARY SEALIFT PROCUREMENT SYSTEM

RFP–1200, First Cycle Uniform Capacity Utilization Factor

General Order 29, § 549.5(b)(1), states that "at least 30 days prior to the bidding date for any RFP Cycle * * * the Commission will establish a uniform capacity utilization factor for each MSC trade route. Carriers will determine cargo unit cost on the basis of such factor or of the actual number of cargo units carried, whichever is greater." The RFP–1200, First Cycle bids will be effective from July 1, 1977, through December 31, 1977.

The UCUFs for RFP–1200, First Cycle were computed from cargo statistics obtained from the carriers involved in the Military Sealift Procurement System. The data for each MSC route index[1] was based on voyages terminating between January 1, 1976, and December 31, 1976.

Separate utilization factors were computed for containerized and breakbulk cargo and have been rounded to the nearest five (5) percent. Container data was reported in 20-foot equivalent units (1,280 cu. ft.). Breakbulk utilization was requested in stowed measurement tons.

Where only one RFP carrier had an active U.S. flag service on a particular trade route, the Commission believes that it is improper to issue a UCUF on that trade route as it would specifically reveal significant operating data to possible competitors. For these routes, the notation "Use actual utilization" will replace a UCUF number. These were also a number of trade routes where no RFP carriers offered active U.S. flag service and where no RFP cargo was carried. These trade routes are indicated as such in the Appendixes.

Because data for twelve months were available, UCUFs for each of the five (5) subzones within Breakbulk Route Indexes 01–A, 08–A; and 14–A have been computed for the first time. This change became necessary as bids were initially accepted for each subzone instead of Zone A in total for RFP–1100, First Cycle (July 1 to December 31, 1976).

Also, for RFP–1100, First Cycle, initial bids were accepted for Container Route Indexes 07–A and 13–A, and Container and Breakbulk Route Index 33. Since statistics for only six months are available for these Route Indexes, no UCUF has been computed. However, these Route Indexes are listed in the current UCUF report with the notation "Use actual utilization." Once statistics for twelve months are available, factors will be computed for these additional RFP Route Indexes.

Zone B, Vietnam, on Container and Breakbulk Route Indexes 01, 08, and 14 has been eliminated from the MSC Rate Guides and, accordingly, this zone is not included in the current UCUF listing.

Notice is hereby given that pursuant to 46 CFR 549.5(b)(1), the Commission has adopted for RFP–1200, First Cycle the UCUFs contained in Appendixes A and B of this notice.

By the Commission, February 18, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[1] Exclusive of interport routes (e.g., Hawaii to Japan).

APPENDIX A—*Uniform capacity utilization factors RFP–1200, first cycle by MSC route index and zone container carriers*

Trade route Index	Trade route Zone	Geographical description	UCUF percentage
01	A1	U.S. West Coast to Kwajalein.	(1)
01	A2	U.S. West Coast to Korea.	80
01	A3	U.S. West Coast to Okinawa.	80
01	A4	U.S. West Coast to Hong Kong and Taiwan.	85
01	A5	U.S. West Coast to Philippines.	80
01	C	U.S. West Coast to Thailand.	80
01	D	U.S. West Coast to Pacific Straits and Indonesia.	80
01	E	U.S. West Coast to Japan.	85
04		U.S. East Coast to United Kingdom and Eire.	80
05		U.S. East Coast to Continental Europe	75
06	A	U.S. East Coast to Western Mediterranean.	80
06	B	U.S. East Coast to Eastern Mediterranean.	80
07	A	U.S. East Coast to Aqaba, Red Sea, Arabian Gulf Range.	(1)
08	A1	U.S. East Coast to Kwajalein	(1)
08	A2	U.S. East Coast to Korea.	80
08	A3	U.S. East Coast to Okinawa.	80
08	A4	U.S. East Coast to Hong Kong and Taiwan.	80
08	A5	U.S. East Coast to Philippines.	80
08	C	U.S. East Coast to Thailand.	80
08	D	U.S. East Coast to Pacific Straits and Indonesia.	80
08	E	U.S. East Coast to Japan.	80
10	A	U.S. Gulf Coast to United Kingdom and Eire.	85
11	A	U.S. Gulf Coast to Continental Europe.	85
12	A	U.S. Gulf Coast to Western Mediterranean.	80
12	B	U.S. Gulf Coast to Eastern Mediterranean.	80
13	A	U.S. Gulf Coast to Aqaba, Red Sea, Arabian Gulf Range.	(1)
14	A1	U.S. Gulf Coast to Kwajalein.	(1)
14	A2	U.S. Gulf Coast to Korea.	80
14	A3	U.S. Gulf Coast to Okinawa.	80
14	A4	U.S. Gulf Coast to Hong Kong and Taiwan.	80
14	A5	U.S. Gulf Coast to Philippines.	80
14	C	U.S. Gulf Coast to Thailand.	80
14	D	U.S. Gulf Coast to Pacific Straits and Indonesia.	80
14	E	U.S. Gulf Coast to Japan.	80
20	----------	U.S. West Coast to Continental Europe.	85
21	----------	U.S. West Coast to United Kingdom and Eire.	85
25	A	U.S. West Coast to Western Mediterranean.	(1)
25	B	U.S. West Coast to Eastern Mediterranean.	(1)
33	A	U.S. West Coast to Canal Zone.	85
33	----------	U.S. East Coast to Azore Islands.	(1)
37	----------	U.S. East Coast to Dominican Republic.	(1)
39	A	U.S. East Coast to Balboa, Canal Zone.	85
39	B	U.S. East Coast to Cristobal, Canal Zone.	(1)
45	----------	U.S. Gulf Coast to Dominican Republic.	(1)
45	A	U.S. Gulf Coast to Balboa, Canal Zone.	80

[1] Use actual utilization.
[2] No active RFP service.

APPENDIX B—*Uniform capacity utilization factors RFP–1200, first cycle by MSC route index and zone breakbulk carriers*

Trade route Index	Trade route Zone	Geographical description	UCUF percentage
01	A1	U.S. West Coast to Kwajalein.	(1)
01	A2	U.S. West Coast to Korea.	65
01	A3	U.S. West Coast to Okinawa.	70
01	A4	U.S. West Coast to Hong Kong and Taiwan.	65
01	A5	U.S. West Coast to Philippines.	80
01	C	U.S. West Coast to Thailand.	(1)
01	D	U.S. West Coast to Pacific Straits and Indonesia.	(1)
01	E	U.S. West Coast to Japan.	65
04	----------	U.S. East Coast to United Kingdom and Eire.	(1)
05	----------	U.S. East Coast to Continental Europe.	(1)
06	A	U.S. East Coast to Western Mediterranean.	55
06	B	U.S. East Coast to Eastern Mediterranean.	55
07	A	U.S. East Coast to Aqaba, Red Sea, Arabian Gulf Range.	55
07	B	U.S. East Coast to Pakistan, India, Burma Range.	65
08	A1	U.S. East Coast to Kwajalein.	(1)
08	A2	U.S. East Coast to Korea.	75
08	A3	U.S. East Coast to Okinawa.	(1)
08	A4	U.S. East Coast to Hong Kong and Taiwan.	(1)
08	A5	U.S. East Coast to Philippines.	(1)
08	C	U.S. East Coast to Thailand.	(1)
08	D	U.S. East Coast to Pacific Straits and Indonesia.	(1)
08	E	U.S. East Coast to Japan.	(1)
10	A	U.S. Gulf Coast to United Kingdom and Eire.	(1)
11	A	U.S. Gulf Coast to Continental Europe.	(1)
12	A	U.S. Gulf Coast to Western Mediterranean.	(1)
12	B	U.S. Gulf Coast to Eastern Mediterranean.	(1)
13	A	U.S. Gulf Coast to Aqaba, Red Sea, Arabian Gulf Range.	(1)
13	B	U.S. Great Lakes to Pakistan, India, Burma Range.	(1)
14	A1	U.S. Gulf Coast to Kwajalein.	(1)
14	A2	U.S. Gulf Coast to Korea.	(1)
14	A3	U.S. Gulf Coast to Okinawa.	(1)
14	A4	U.S. Gulf Coast to Hong Kong and Taiwan.	(1)
14	A5	U.S. Gulf Coast to Philippines.	(1)
14	C	U.S. Gulf Coast to Thailand.	(1)
14	D	U.S. Gulf Coast to Pacific Straits and Indonesia.	(1)
14	E	U.S. Gulf Coast to Japan.	(1)
20	A	U.S. West Coast to Balboa, Canal Zone.	(1)
20	----------	U.S. East Coast to Azore Islands.	(1)
37	----------	U.S. East Coast to Dominican Republic.	(1)
39	A	U.S. East Coast to Balboa, Canal Zone.	(1)
39	B	U.S. East Coast to Cristobal, Canal Zone.	(1)
45	----------	U.S. Gulf Coast to Dominican Republic.	(1)
45	A	U.S. Gulf Coast to Balboa, Canal Zone.	(1)
45	B	U.S. Gulf Coast to Cristobal, Canal Zone.	(1)
46	A	U.S. Great Lakes to Western Mediterranean.	(1)
46	B	U.S. Great Lake to Eastern Mediterranean.	(1)
47	A	U.S. West Coast to Aqaba, Red Sea, Arabian Gulf Range.	(1)
47	B	U.S. West Coast to Pakistan, India, Burma Range.	(1)

[1] Use actual utilization.
[2] No active RFP service.

[FR Doc.77–6244 Filed 3–2–77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP77–222]

ARKANSAS LOUISIANA GAS CO.

Application

FEBRUARY 23, 1977.

Take notice that on February 14, 1977, Arkansas Louisiana Gas Company (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No.

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CP77-222 an application pursuant to Section 7(c) of the Natural Gas Act as implemented by § 157.7(d) of the Regulations thereunder (18 CFR 157.7(d)) for a certificate of public convenience and necessity authorizing the construction over a three-year period commencing from the date of this order, and operation of certain natural gas facilities for the testing and development of underground storage reservoirs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment Applicant's ability to engage in a continuing program of testing and developing reservoirs for the underground storage of natural gas for the benefit of Applicant's system operations and service to its customers.

Applicant proposes to investigate the more promising structures through the acquisition of surface and subsurface rights that may be necessary or convenient for testing operations, drill structure test holes and wells and run pump tests to determine relevant reservoir characteristics.

Applicant further proposes to make gas injections and withdrawals in additional underground storage reservoirs as they are located in order to test and develop only those reservoirs anticipated to respond favorably to development as usable storage facilities. Applicant states that in this regard it would drill injection and withdrawal wells and construct and operate compressor, pipeline and appurtenant facilities as may be required to effectuate the proposed injections and withdrawals of gas to test properly and develop such potential storage reservoirs.

Applicant states that the total volume of natural gas to be injected into the prospective storage fields would not exceed 10,000,000 Mcf, with no more than 2,000,000 Mcf being injected into any single field and with injections being made only during off-peak periods. Total expenditures for the proposed three-year project would not exceed $3,000,000 and would not exceed $1,000,000 in any one year. Applicant proposes to finance these costs from cash on hand and from cash generated from normal internal sources and from short-term bank loans and other short-term borrowings utilized in the normal operation of the total business.

Applicant states that upon successful completion of the testing and development of any underground storage reservoir, Applicant would file an application for authorization to utilize said storage reservoir as an integral part of its transmission system.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6288 Filed 3-2-77;8:45 am]

[Docket No. CP77-235]

COLORADO INTERSTATE GAS CO.

Application

● FEBRUARY 24, 1977.

Take notice that on February 17, 1977, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP77-235 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 2,000 Mcf of natural gas for a primary term of two years with Natural Gas Pipeline Company of America (NGPL), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that NGPL controls a newly developed gas supply located in Beaver County, Oklahoma, which is relatively distant from its pipeline system but proximate to a 4-inch gathering line on Applicant's Mocane-Laverne Field gathering system. Pursuant to a gas exchange agreement dated December 21, 1976, NGPL would deliver volumes of gas from a supply (the Jessie S. Adams F-6 Well) it controls in Sec. 10, T.6N, R.24ECM, Beaver County, Oklahoma, to a mutually agreeable point on Applicant's proximate 4-inch field gathering line, it is stated. Applicant proposes to redelivery equivalent volumes of gas to NGPL from its Forgan Sales Meter Station located in Sec. 29, T.5N., R.23ECM, Beaver County, Oklahoma.

Applicant states that it would install a line tap and side valve on its 4-inch gathering line at an estimated cost of $2,200, which cost would be reimbursed by NGPL. It is further stated that NGPL would install, operate and maintain the required measurement facilities and connecting pipeline required to deliver gas to Applicant.

It is asserted that the gas exchange agreement provides for a straight gas-for-gas exchange with no monetary compensation, and Applicant's participation would be on a best-efforts basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearings therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commissions' Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6297 Filed 3-2-77;8:45 am]

[Docket No. CI77-244]

CLARK OIL PRODUCING CO., ET AL

Application for Optional Procedure Certification

FEBRUARY 24, 1977.

Take notice that on January 28, 1977, Clark Oil Producing Company, Aminoil, Inc., H. W. Bass & Sons, Inc., and Home Petroleum Corporation (Applicants) filed an application for a certificate of

public convenience and necessity pursuant to § 2.75 of the Commission's General Policy and Interpretations, for natural gas from the north one-third of Block 595, West Cameron Area, offshore Louisiana, to Columbia Gas Transmission Corporation, at a rate of $3.7501 per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6299 Filed 3-2-77;8:45 am]

[Docket No. RI76-65]

DEVON CORP., ET AL.

Certification of Proposed Settlement Agreement

FEBRUARY 24, 1977.

Take notice that on January 25, 1977, Presiding Administrative Law Judge Isaac D. Benkin certified to the Commission for its consideration a Settlement Proposal along with the hearing record in the above-entitled proceeding. The certification results from a motion filed by Devon Corporation (Operator), et al. (Devon), on January 24, 1977, and granted by the Presiding Administrative Law Judge.

On November 18, 1975, Devon filed in Docket No. RI76-65 a petition for special relief from the applicable nationwide or area ceiling rate for sales of natural gas from 50 wells located in West Virginia. Devon filed an amendment to its petition for special relief on February 23, 1976. By its petition, as amended, Devon requested authorization to collect a rate of $1.08 per Mcf plus annual escalations of one cent per Mcf.

Pursuant to the Commission's order of August 17, 1976, a prehearing conference was held on September 30, 1976. A second conference was held on January 4, 1977. After the parties were unable to arrive at a settlement, a hearing was held on January 5-6, 1977. On January 24, 1977, Devon filed the instant settlement proposal.

The settlement proposal reduces from 50 to 47 the number of wells for which special relief is sought. Under the proposal, Devon would be authorized to collect an initial rate of 71 cents per Mcf for production from all the wells, effective as of the date of Commission approval of the settlement proposal, plus annual escalations of one cent per Mcf commencing on November 1, 1977.

All comments on the proposed settlement agreement shall be filed on or before March 15, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6298 Filed 3-2-77;8:45 am]

[Doc. Nos. CP77-216; CP77-217 and CP77-218]

DISTRIGAS OF MASSACHUSETTS CORP. AND DISTRIGAS CORP.

Applications and Consolidation

FEBRUARY 24, 1977.

Take notice that on February 11, 1977, Distrigas of Massachusetts Corporation (DOMAC), 125 High Street, Boston, Massachusetts 02110, filed an application in Docket No. CP77-216 and Distrigas Incorporated (Distrigas), 125 High Street, Boston, Massachusetts 02110, filed applications in Docket Nos. CP77-217 and CP77-218 requesting appropriate Commission authorizations for a proposal where Distrigas would purchase natural gas from production in Algeria, import it into the United States and sell it to DOMAC which in turn would sell the imported volumes to its gas distribution customers. In Docket No. CP77-218, Distrigas requests authorization pursuant to Section 3 of the Natural Gas Act to import each year up to 1,995,000 cubic meters of liquefied natural gas (LNG) (equivalent to about 45.6 trillion Btu's) for 20 years from Algeria; in Docket No. CP77-217, Distrigas seeks a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act to sell the subject imported LNG to DOMAC; and, in Docket No. CP77-218 DOMAC seeks a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act authorizing DOMAC (1) to construct and operate facilities for the transportation and storage of natural gas (2) to sell the subject gas volumes to 10 of it resale customers, and (3) to provide storage service on behalf of 2 customers, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

In the application filed in Docket No. CP77-218, it is stated that Distrigas and SONATRACH, the national oil company of Algeria, have entered into a sales and purchase contract (Long Term Contract), dated April 13, 1976, whereunder Distrigas would purchase up to 45.6 trillion Btu's of natural gas per year (equivalent to approximately 1,995,000 cubic meters of LNG) for 20 years from the date of first delivery. First delivery is defined as being the first of at least 13 deliveries in a 12-month period totaling at least 1,400,000 cubic meters of LNG. It is stated that the natural gas would be produced from wells in Algeria, liquefied by SONATRACH at its plant in Skikda, Algeria, and shipped by SONATRACH by cryogenic tankers to the point of delivery, DOMAC's existing terminal at Everett, Massachusetts. The price of gas under the Long Term Contract would be the higher of the minimum price (defined to be the base price of $1.30 U.S. dollars per million Btu's subject to adjustment to reflect the value of the U.S. dollar in relation to certain European currencies) and the invoicing price (defined to be the base price of $1.30 per million Btu's subject to adjustment to reflect the price of No. 2 and No. 6 fuel oil). The base cost of transportation is $1.89 cents per million Btu's which price is also subject to similar adjustments. Distrigas states that the combined price of the gas and transportation to Everett, Massachusetts, would have been $2.102 per million Btu's if calculated as of December 31, 1976, in accordance with the terms of the Long Term Contract.

Distrigas indicates that the volumes proposed to be imported in the application in Docket No. CP77-218 incorporate volumes authorized by the Commission in Opinion No. 613 and order, issued March 9, 1972, in Docket No. CP70-196 (47 FPC 752), and volumes proposed to be imported by Distrigas in its pending application filed July 8, 1975, in Docket No. CP76-9. In Opinion No. 613, it is stated, Distrigas was authorized to import up to 15.4 trillion Btu's of LNG per year from Algeria and in its application in Docket No. 76-9, Distrigas proposed to import an additional 21 trillion Btu's per year. The gas supply in both instances was to be purchased by Distrigas from Alocean Ltd. (Alocean), a Bermudian corporation, under three gas purchase and sales contracts: two "Descartes" contracts dated December 3, 1969, and September 10, 1970, underlying the authorized importation and an "Interim" contract, dated October 4, 1975, which underlies the application in Docket No. CP76-9. The Long Term Contract, it is indicated, represents an assumption by SONATRACH of Alocean's obligations under the three previous agreements and a replacement of those contracts. Therefore, Distrigas states, upon Commission approval in the instant dockets, the Descartes contract volumes would be included in the Long Term Contract and the Descartes contracts would be cancelled. It is further stated that the Interim contract would expire by its own terms on December 31, 1977, and that the volumes of natural gas which would have been purchased under the Interim contract have been included in the Long Term Contract volumes.

It is indicated that delivery under the Long Term Contract would be made by cryogenic tankers with a design capacity of 125,000 cubic meters of LNG. Distrigas, it is indicated, has agreed to receive and pay for 1,900,000 cubic meters of LNG per year, plus or minus five percent at SONATRACH's option, corresponding to 17 full cargo ships per year. It is indicated further that Distrigas expects deliveries of 12 cargo ships in 1978, 14 in 1979 and deliveries of the total contract quantity in 1980 when 15 cargoes are expected.

In its application in Docket No. CP77-217, Distrigas seeks authorization to sell for resale all of the LNG it would import

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under the Long Term Contract. It is stated that the sale would be made pursuant to an LNG requirements agreement between Distrigas and DOMAC, a Distrigas affiliate, dated October 11, 1973, as amended on February 4, 1977. Distrigas states that the subject LNG would be sold to DOMAC immediately upon Distrigas' receipt of title from SONATRACH. Transfer of title occurs upon delivery to the Everett, Massachusetts, LNG facility. It is further stated that Distrigas would charge DOMAC the total price paid SONATRACH under the Long Term Contract plus an additional 5 cents per million Btu's for a portion of the gas which would be covered by an insurance agreement between the insurer, Cabot Corporation, and Distrigas. It is estimated that 63 percent of the LNG sold to DOMAC would be subject to the insurance charge. It is indicated that the insurance is proposed to cover liabilities of DOMAC and Distrigas potentially resulting from the fact that Distrigas is under a contractual obligation to pay for all contracted volumes tendered during the 20-year term of the Long Term Contract whether taken or not whereas certain of DOMAC's customers have elected to purchase the subject LNG under DOMAC's Rate Schedule GS–1A whereunder they retain a right to reduce their respective volumes unilaterally should deliveries from DOMAC be interrupted for any period of time. Therefore, it is indicated, the proposed insurance would protect Distrigas and DOMAC from the contingency that a serious curtailment of LNG imports would be followed by a resumption of deliveries combined with an inability to market the total contract quantity to DOMAC's GS–1A customers.

DOMAC in its Docket No. CP77–216 application requests authorization to (1) construct and operate additional facilities at its Everett, Massachusetts, LNG facility and (2) sell natural gas to and store natural gas for certain of its distribution customers. DOMAC states that the proposed facilities are required to handle efficaciously the imported LNG volumes and would include additions and modifications to docking and unloading facilities and metering, vaporization and vapor-handling equipment. It is said that the total cost of the facilities, estimated to be $11,000,000 would be financed from cash on hand and funds generated from operations.

DOMAC proposes to sell natural gas to 10 of its customers and to store LNG for two in the following quantities:

Customer (Sales):	*Annual sales terminalling and delivery quantity (trillion Btu's)*
Bay State Gas Company	2.610
Boston Gas Company	13.746
The Brooklyn Union Gas Company	13.630
The Connecticut Gas Company	1.460
Fall River Gas Company	0.435
Haverhill Gas Company	0.290
New Jersey Natural Gas Company	0.290
Providence Gas Company	2.610
South Jersey Gas Company	1.740
Valley Gas Company	0.348
Total	37.149

Customer (Storage):	*Monthly storage service quantity (trillion Btu's)*
Boston Gas Company	0.643
Valley Gas Company	0.031
Total	0.674

It is indicated that the sales proposed would be rendered in accordance with DOMAC's Rate Schedules GS–1A, GS–1B and TS–1; that sales of boil-off gas would be made to Boston Gas Company alone under DOMAC's Rate Schedule BO–1 (the sale quantity listed above includes these boil-off volumes); and, storage service would be rendered under Rate Schedule SS–1. Deliveries to three of DOMAC's customers would be made in liquid form by cryogenic truck, to one customer by delivery of vaporous gas and to six customers by a combination of delivery methods. All vapor transportation would be made first through the facilities of Boston Gas Company and then through other pipeline systems, including, if necessary, one or more of the following systems: Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Algonquin Gas Transmission Company, Texas Eastern Transmission Corporation and Transcontinental Gas Pipe Line Corporation. It is indicated that the storage and sales levels proposed in Docket No. CP77–216 represent the disposition of all volumes of LNG imported by Distrigas and sold to DOMAC including volumes imported by Distrigas under authorization granted in Opinion No. 613. Current interstate sales by DOMAC are made pursuant to temporary authorization in Docket No. CP73–135 and current sales within the state of Massachusetts are made pending final resolution of the question of Commission jurisdiction over such sales in Docket No. CP70–196, presently on remand to the Commission from the United States Court of Appeals, District of Columbia Circuit.

DOMAC and Distrigas state that the project proposed in their respective filings would materially help to relieve acute domestic supply shortages; that DOMAC's customers, distribution companies serving Middle Atlantic and Northeastern areas of the United States, are experiencing continuing and deepening curtailments of natural gas; and, consequently, that the sales proposed are in the public interest.

Since the applications in Docket Nos. CP77–216, CP77–217 and CP77–218 may involve common questions of law or fact the proceedings on all the applications are consolidated for hearing.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 3, 7, and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on these applications if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates and authorization to import natural gas are required by the public convenience and necessity and are not inconsistent with the public interest. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–6286 Filed 3–2–77;8:45 am]

[Docket No. CP73–76]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Petition To Amend

FEBRUARY 23, 1977.

Take notice that on February 10, 1977, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP73–76 a petition to amend the Commission's order of December 13, 1972, in Docket No. CP73–29, et al., (48 FPC 1356), pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to exchange natural gas on a best efforts basis during the summer months in accordance with an amendment to an exchange agreement among Petitioner, Northern Natural Gas Company (Northern) and Great Lakes Gas Transmission Company (Great Lakes), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Petitioner is authorized, by the Commission's order issued December 13, 1972, in Docket No. CP73–29, et al. (48 FPC 1356), to exchange natural gas pursuant to a gas exchange agreement, dated July 15, 1972, among Petitioner, Northern and Great Lakes. The terms of the exchange agreement, it is stated, require that Great Lakes deliver a minimum of 25,000 Mcf of natural gas per day to Northern at existing points of interconnection with Northern at Carlton and Grand Rapids, Minnesota, and that Northern redeliver equivalent volumes, as directed by Great Lakes or Petitioner, to Great Lakes at point of interconnection at Wakefield, Michigan, or to Petitioner, for the account of Great Lakes, at a point of interconnection at Janesville, Wisconsin.

Petitioner proposes that it be authorized to exchange natural gas pursuant to an amendment, dated February 27, 1976, to the July 15, 1972, exchange agreement. Pursuant to the amendment, it is stated, gas would be exchanged on a best efforts basis during the summer months, April through October, rather than in a minimum quantity of 25,000 Mcf per day as is currently authorized. Petitioner states that the obligation to exchange a minimum quantity of 25,000 Mcf per day during the winter period, November through March of each year, would not be affected by the proposal. It is said that the proposal would require no new facilities; that no charge would be made by any party to the exchange; and, further, that the proposal would provide greater operational flexibility to the parties during the summer period.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–6292 Filed 3–2–77;8:45 am]

[Docket No. ER77–170]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Filing of Rate Agreement

FEBRUARY 24, 1977.

Take notice that the Public Service Company of Oklahoma (Public Service) on January 28, 1977, tendered for filing its request for a change in the rates of the Markham Ferry Coordinating Agreement identified as Rate Schedule FPC 162, for calendar year 1977. The agreement coordinates the operations through the interchange and sale of electric power and energy between Public Service and the Grand River Dam Authority of Oklahoma (Authority)

The filing contends that the agreement provides for annual review of the energy rates charged by the parties to reflect changes in production costs. The filing revises the energy charge rates to reflect those costs as of December 31, 1976.

Public Service requested that the Commission waive its rules on notice requirement in order that the proposed rate schedule can become effective on January 1, 1977.

According to Public Service, the Oklahoma Cooperation Commission and the Authority have been served a copy of the filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on March 7, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–6290 Filed 3–2–77;8:45 am]

[Docket No. CP76–104 [PGA77–2)]

PACIFIC INTERSTATE TRANSMISSION CO.

Proposed Changes in FPC Gas Tariff Pursuant to Purchased Gas Cost Adjustment Provision

FEBRUARY 24, 1977.

Take notice that Pacific Interstate Transmission Company ("Pacific Interstate") on February 15, 1977 tendered for filing as part of its FPC Gas Tariff, Original Volume No. 2, the following sheets:

Fourth Revised Sheet No. 4
Third Revised Sheet No. 5

The proposed effective date of both of these tendered tariff sheets and the rates reflected thereon is April 1, 1977.

Pacific Interstate states that the tariff sheets listed above are issued pursuant to the Purchased Gas Cost Adjustment (PGCA) Provision as set forth in Section 16 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 2. Pacific Interstate states that the change in its rates reflects a Cost of Gas Adjustment, so that Pacific Interstate's rates may reflect its current cost of purchased gas, and a change in its Surcharge Adjustment, so that the December 31, 1976 balance in Pacific Interstate's Unrecovered Purchased Gas Cost Account unrelated to amounts reflecting Opinion No. 770–A producer increases during the period July 27, 1976–November 30, 1976 may be amortized over a six-month period beginning April 1, 1977.

Pacific Interstate states that the Gas Cost Adjustment is based on an annualized gas cost increase of $358,451 and that the Surcharge Adjustment is designed to amortize the December 31, 1976 balance in its Unrecovered Purchased Gas Cost Account of ($9,985), which is exclusive of amounts reflecting Opinion No. 770–A producer increases during the July 27–November 30, 1976 period.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–6294 Filed 3–2–77;8:45 am]

[Docket No. CP76–222]

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC.

Application

FEBRUARY 24, 1977.

Take notice that on February 15, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed pursuant to Section 7(c) of the Natural Gas Act an application in Docket No. CP76–222 to amend the prior Order of the Commission issued April 20, 1976, in said docket.

Tennessee states that by the Commission's April 20, 1976 Order, Tennessee was authorized to transport up to 25,000 Mcfd of natural gas for Texas Gas Transmission Corporation (Texas Gas) from various points in the Louisiana Offshore Area through the Project 349 pipeline (jointly owned by Tennessee, Texas Gas and Texas Eastern Transmission Corporation) located in the Eugene Island Offshore Area and through the Blue Water Project (BWP) (jointly owned by Tennessee and Columbia Gulf Transmission Company) for delivery onshore for Texas Gas' account at an interconnection between the systems of Tennessee and Transcontinental Gas Pipe Line Corporation (Transco) located near Crowley, Acadia Parish, Louisiana (Crowley delivery point). Such service was to be rendered for a two year period from January 1, 1976 to January 1, 1978.

Tennessee states that Texas Gas now has additional gas supplies available for transportation and, accordingly, Tennessee requests that the presently authorized transportation volume of 25,000 Mcfd be increased to a maximum of 65,000 Mcfd and that Tennessee be authorized to transport such increased volume for Texas Gas until January 1, 1980.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 17, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a peti-

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tion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6280 Filed 3-2-77;8:45 am]

[Docket No. RP74-53 (PGA77-3)]

TRANSWESTERN PIPELINE CO.

Proposed Changes in FPC Gas Tariff

FEBRUARY 24, 1977.

Take notice that Transwestern Pipeline Company (Transwestern) on February 15, 1977, tendered for filing as part of its FPC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Sixth Revised Sheet No. 5
Sixth Revised Sheet No. 6

These sheets are issued pursuant to Transwestern's Purchased Gas Cost Adjustment provision as set forth in Section 19 of the General Terms and Conditions of its FPC Gas Tariff, Second Revised Volume No. 1. This net reduction in Transwestern's rates reflects a Cost of Gas Adjustment to track increased purchased gas costs and a decreased Surcharge Adjustment to clear the balance of the Gas Cost Adjustment Account.

The proposed effective date of the above tariff sheets is April 1, 1977.

Copies of the filing were served upon the company's jurisdictional customers and the interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6293 Filed 3-2-77;8:45 am]

[Docket No. CP77-251]

TRANSWESTERN PIPELINE CO.

Application for Temporary Certificate

(FEBRUARY 24, 1977.)

Take notice that on February 22, 1977, Transwestern Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP77-251 an application[1] pursuant to Section 7(c) of the Natural Gas Act for a temporary certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Lukens Steel Company (Lukens), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 4,000 Dth of gas per day on an interruptible basis for the account of Lukens from the point of receipt at the tailgate of the Bas Haley Plant in Winkler County, Texas, to the point of delivery to Natural Gas Pipeline Company of America (Natural) at the tailgate of the Bluitt Plant located in Roosevelt County, New Mexico. It is stated that Natural would deliver such gas to Columbia Gulf Transmission Company (Columbia Gulf) which would transport and deliver it to Columbia Gas Transmission Corporation (Columbia Gas) for redelivery to Columbia Gas of Pennsylvania, Inc.

Applicant proposes to make a transportation charge of 19.86 cents for each Dth delivered to it and would retain 4.0 percent of the total volume delivered into its system for company-use and unaccounted-for gas.

Applant states that it has been advised that such gas is to be used by Lukens in Lukens' Coatesville, Pennsylvania, steel plant for high priority uses presently being curtailed by its supplier.

It is stated in a related application filed by Columbia Gas and Columbia Gulf in Docket No. CP77-247 that such gas would be purchased by Lukens from Sun Gas Company, a Division of Sun Oil Company, from the Haley Field, Winkler County, Texas, for $2.00 per million Btu's for a term of two years.

[1] The instant application is a telegraphic request. Applicant indicates that it will file a formal application for a permanent certificate under Section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79).

Any person desiring to be heard or to make any protest with reference to said application should on or before March 9, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6295 Filed 3-2-77;8:45 am]

[Docket No. CP77-234]

UNITED GAS PIPE LINE CO.

Application

FEBRUARY 24, 1977.

Take notice that on February 17, 1977, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP77-234 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 500 Mcf of natural gas per day for the Town of Elizabeth, Louisiana (Elizabeth), and the construction and operation of facilities to effectuate such transportation, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant and Elizabeth have entered into a gas transportation agreement dated December 29, 1976, whereby Applicant would transport, for ultimate redelivery to Elizabeth, natural gas from the outlet side of Shell Oil Company's Gibson Field Meter Station located in Sec. 74, T.16S., R.15E., Terrebonne Parish, Louisiana, to the outlet side of a metering and regulating station to be constructed by Applicant at a point on Applicant's 6-inch Iowa-Marksville Line in Allen Parish, Louisiana.

Applicant asserts that Elizabeth has purchased a supply of gas in the Gibson Field, Terrebonne Parish, Louisiana, and proposes to deliver or cause to be delivered to Applicant up to 500 Mcf per day for transport in Applicant's system. Applicant proposes to redeliver to Elizabeth no less than 98.5 percent of such gas, the 1.5 percent reduction being an agreed upon allowance for gas consumed in the operation of Applicant's pipeline system during the normal course of transportation. It is stated that Elizabeth would pay an amount based on a rate equal to Applicant's average jurisdictional transmission cost of service in effect in Applicant's Southern Rate Zone, which amount is presently 18.18 cents per Mcf, for such transportation service.

Applicant proposes to construct and operate a 2-inch metering and regulating facility on its 6-inch Iowa Marksville Line at an estimated cost of $11,600 in order to implement the transportation service.

It is stated that the agreement between Applicant and Elizabeth is for a term of one year, to continue thereafter on a year-to-year basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6298 Filed 3-2-77;8:45 am]

[Docket No. CP77-228]

UNITED GAS PIPELINE CO. AND ARKANSAS LOUISIANA GAS CO.

Application

FEBRUARY 24, 1977.

Take notice that on February 16, 1977, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, and Arkansas Louisiana Gas Company (Arkla), P.O. Box 1734, Shreveport, Louisiana 71151, filed in Docket No. CP77-228 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 50 Mcf of gas per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United states that it purchases gas produced from the Continental Can Company No. 1-T Well in Bear Creek Field located in Bienville Parish, Louisiana, and that the pressure on this well has gradually declined to a point where the well no longer has sufficient pressure to enable gas produced from it to enter the system of United. It is stated that as an alternative to the installation of costly compression required to continue this purchase, United proposes to deliver or cause to be delivered such volumes as may be available to it from the above mentioned well, up to 50 Mcf per day, into the nearby line of Arkla which is operated at a pressure which would permit the entry of United's gas.

United and Arkla, therefore, propose to exchange up to 50 Mcf of gas per day, United delivering to Arkla at a point on Arkla's line in Sec. 8, T. 16 N., R. 5 W., Bienville Parish, Louisiana, and Arkla redelivering to United at the Bistineau Storage Field in Bienville Parish, Louisiana. It is stated that the exchange would be on an Mcf for Mcf basis and would continue as long as United has gas available to deliver to Arkla from the Continental Can Company No. 1-T Well. It is further stated that no new or additional facilities would be required to effectuate the proposed exchange.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6291 Filed 3-2-77;8:45 am]

[Docket Nos. ER76-799 and ER76-800]

APPALACHIAN POWER CO.

Order Denying Application for Rehearing

FEBRUARY 25, 1977.

On July 21, 1976, Appalachian Power Company, (APCO) tendered for filing a Supplement to its FPC Rate Schedule No. 24 applicable to service to Carolina Power and Light Company (CP&L). On August 9, 1976 CP&L filed a petition to Intervene and Protest, Motion to Reject and Dismiss and in the Alternative Motion to Stay. By Order issued August 19, 1976, the Commission accepted for filing and suspended the proposed rate schedule provisions tendered by APCO and deferred action on CP&L's pleading until responses to it could be received. A response was filed by APCO on September 3, 1976. On November 8, 1976, the Commission issued an order which concluded that the contract between APCO and CP&L did not permit the effectuation of a rate change upon unilateral filing by APCO under Section 205 of the Federal Power Act, but contemplated a rate change only upon final Commission determination after a section 206 hearing. By its November 8, 1976 order, the Commission reversed its August 19, 1976 order to the extent that the latter order allowed APCO's proposed rate increase to become effective, subject to refund. Refunds of all amounts collected were ordered and a Section 206 hearing instituted.

On December 7, 1976, APCO filed application for rehearing and Stay of the November 8, 1976 order. By order issued January 6, 1977, the Commission granted rehearing and stay for the purpose of further consideration only. For the reasons discussed below, the Commission shall by this order deny the application for rehearing.

The contract language that is the subject of dispute between APCO and CP&L reads as follows: [1]

> The 1975 Agreement as hereinabove modified is made subject to the jurisdiction of any governmental authority or authorities having jurisdiction in the premises, and any party may at any time or from time to time, unilaterally take any action before or with such authorities with respect to any term, or conditions of this Agreement that it deems desirable and in such event the terms and conditions under which service shall be rendered hereunder shall be the terms and conditions authorized by such authority.

In finding that the above language authorized a change in rates following a hearing under Section 206, the Commission relied upon the wording: "• • • and

[1] Section 5, Modification No. 3, dated as of March 1, 1972, to the February 7, 1967 Interconnection Agreement between APCO and CP&L.

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in such event the terms and conditions under which service shall be rendered hereunder shall be the terms and conditions authorized by such authority." This language clearly appears to contemplate a Section 206 procedure.[2]

APCO in its argument for rehearing concentrates on the language in the above clause which states: "* * * any party may at any time or from time to time, unilaterally take any action before or with such authorities with respect to any term, or conditions of this agreement that it deems desirable * * *" It is true that this language, taken alone, would indicate that the parties intended a Section 205 unilateral filing. Since in our November 8 order we did not directly address the apparent ambiguity in the quoted clause, we shall do so herein.

APCO claims that the "unilateral" language was included to change Section 12 of the Agreement.[3] APCO suggest without so stating that the language of section 12 above shows that the parties formerly had a contract which contemplated change after Commission action under Section 206 of the Federal Power Act and that the purpose of the "unilateral" language in Section 5 of Modification 3 was to change the agreement to one governed by Section 205. The Commission cannot agree with this interpretation. Article 12 does not attempt to set out the mechanism for effecting anticipated changes in the Interconnection Agreement terms, but merely provides for termination of the entire agreement in the event of extraordinary regulatory modification of the contract having unforseen adverse effects on either party.

Our review of the 1957 Interconnection Agreement reveals that—prior to section 5 of Modification 3—it appears to be a fixed rate contract in that the contract specifies a designated rate to be charged for a fixed period of time without language indicating when or how that rate can be changed.

When a Mobile-Sierra contract provision has been changed and the altered provision is arguably ambiguous, as is section 5 herein, the courts have held that a comparison of the rights and liabilities of the parties before and after the agreed-upon change may be enlightening in construing the intent of the parties. *Sam Rayburn Dam Electric Cooperative* v. *FPC.*, 515 F. 2nd 998, 1003–4.

Viewed in this light, the language of section 5 providing for unilateral action before regulatory authorities does have a purpose consistent with an intention to establish Section 206 procedures for rate changes. Previously, under the fixed rate contract, no unilateral action was contractually permissible; after section 5, any party could institute a proceeding under a Section 206 by unilaterally taking "any action before or with such authorities with respect to any term or conditions of the Agreement that it deems desirabe" without assuming the heavy Sierra burden.

In looking at the "authorized by such authority" wording, on the other hand, we find no answer which would show such language to be equally consistent with an intent to establish a Section 205 proceeding.[4]

In considering the changes in the positions of the parties, we find that while APCO might have demanded some procedure for permitting change of Interconnection Agreement terms, CP&L had no apparent reason to change from a fixed-rate contract to a section 205 procedure. The absence of any evidence of adequate consideration to CP&L for total surrender of its fixed-rate contract rights reinforces the obvious grammatical interpretation of Section 5, i.e., that the "authorized" provision was intended to qualify and limit the "unilateral action" provision preceeding it and to establish a 206 rather than a 205 procedure for effecting rate changes. (cf. Sam Rayburn Dam, supra, at 1004–5.)

For the reasons set out above, the application for rehearing of our order of November 8, 1976 is denied.

The Commission finds: Good cause exists to deny APCO's application for rehearing.

The Commission orders: (A) APCO's application for rehearing is hereby denied.

(B) The Secretary shall cause prompt publication of this order to made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6414 Filed 3-2-77;8:45 am]

[Docket No. RP72-122 (PGA 77-2)]

COLORADO INTERSTATE GAS CO.

Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

FEBRUARY 24, 1977.

Take notice that Colorado Interstate Gas Company (CIG) on February 15, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. The proposed changes would decrease the commodity rate under each of CIG's jurisdictional rate schedules by 1.31 cents per Mcf.

The filing was made (1) to allow CIG to reflect in its rates pursuant to Section 21 of CIG's FPC Gas Tariff, Second Revised Volume No. 1, a rate reduction made by one of its pipeline suppliers, Northwest Pipeline Corporation, and (2) to eliminate the liquid refund credit presently included in CIG's rates pursuant to Article VI of the Stipulation and Agreement of Settlement in Docket No. RP74–77 as approved by the Commission on September 5, 1975. The refund reflected that portion of the jurisdictional liquid revenues received for the period January 1, 1975 through September 30, 1975, that were in excess of the jurisdictional estimated liquid credit reflected in the settlement cost of service in Docket No. RP74–77.

CIG respectfully requested that the instand filing be made effective on April 1, 1977.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6417 Filed 3-2-77;8:45 am]

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[2] APCO's argument that the word "authorized" is somehow different from words such as "ordered", "approved", or "prescribed", which have figured in past decisions holding that a contract contemplated a 206 rather than a 205 procedure, is without merit. It is not the use of a particular word on which Mobile-Sierra determinations turn but on the way words are used to express the intention of the parties to a contract. Similarly, there is no merit to APCO's argument that the use of the word "Authorized" in Section 5 by itself indicates that the parties meant merely the "authorization" of a suspension and effective date of a filing under Section 205. Such suspension and effective date are "authorized" by means of a Commission order, so APCO's argument would apply equally had the words "ordered", "approved" or "prescribed" been used. The Commission's decision must be based on more than semantics.

[3] Article 12, Regulatory Authorities, Section 12.01. This Agreement is made subject to the jurisdiction of any governmental authority or authorities having jurisdiction in the premises. If any such authority takes final action which has the effect of modifying any of the terms and conditions of this Agreement and such modifications would have a substantial adverse effect on either party, i.e., would impose a substantial economic burden on either party not contemplated by the terms and conditions of this Agreement, the party so affected by such action shall have the option to terminate this Agreement by giving at least three years' prior written notice to the other party.

[4] The Commission is unpersuaded by APCO's suggestion that the "authorized" langauge was simply meant to show the parties' understanding that any rate ever collected under Sections 205 or 206 must in some manner be "authorized" by the Commission. In light of the history of Mobile-Sierra determinations as cited by APCO, we do not believe that language which so strongly suggests a 206-type procedure would be used, in a qualifying phrase in a contract provision, merely to indicate the obvious.

[Docket No. RP77-37]

EAST TENNESSEE NATURAL GAS CO.

Filing of Proposed Tariff Changes

FEBRUARY 24, 1977.

Take notice that on February 11, 1977, East Tennessee Natural Gas Company (East Tennessee) tendered for filing First Revised Sheet Nos. 74C and 74D of Sixth Revised Volume No. 1 of its FPC Gas Tariff proposed to become effective March 15, 1977.

East Tennessee states that the sole purpose of filing the proposed revised tariff sheets is to amend paragraph 24.8 of Section 24 of the General Terms and Conditions of its FPC Gas Tariff to enable East Tennessee to recoup curtailment credits on a current basis rather than for a past determination period. East Tennessee further states that no changes in its rates and charges are proposed in this filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 7, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6412 Filed 3-2-77;8:45 am]

[Docket No. E77-30]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95–2

On February 25, 1977, Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc. and Columbia Gas of West Virginia, Inc. (Columbia Distribution), filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 30,000 Mcfd of natural gas from Pacific Lighting Service Company (Pacific Lighting).

Columbia Distribution will pay Pacific Lighting 37.5 cents per MMBtu for general storage charges and will make repayment in thermally equivalent volumes of gas. I find these provisions to be fair and equitable in accordance with Order No. 2 and hereby authorize the proposed purchase.

The gas will be made available by Pacific Lighting to El Paso Natural Gas Company (El Paso). El Paso will deliver equivalent volumes to Oasis Pipe Line Company (Oasis) in Pecos County, Texas. Oasis will transport and deliver equivalent Btu's to Bronco Pipeline Company and Tenngasco, Inc. (Bronco-Tenngasco) near Katy, Waller County, Texas, and Bronco-Tenngasco will transport and deliver equivalent Btu's at a mutually agreeable point to Tennessee Gas Pipeline Company (Tennessee). Tennessee will transport the gas and deliver equivalent volumes in Mcf to Columbia Gulf Transmission Company (Columbia Gulf) in Southern Louisiana. Columbia Distribution advises that the existing interconnection between Tennessee and Columbia Gulf may be fully utilized to transport other emergency supplies and that an additional interconnection may be installed between Tennessee and Columbia Gulf.[1] Until that interconnection is operational, all or a portion of these volumes may be transported by Tennessee and delivered to Columbia Gas Transmission Corporation (Columbia Gas) at existing interconnections in Ohio and Pennsylvania for the account of Columbia Distribution.[2]

Columbia Gas has agreed to act as agent for Columbia Distribution and to pay the following transportation charges: Oasis—13 cents per Mcf transported and 4 percent of the Btu's transported for fuel; Bronco-Tenngasco—2 cents per Mcf transported; Tennessee—7.8 cents per Mcf plus 1.3 percent of the volumes transported for fuel. Columbia Distribution will pay Columbia Gulf and/or Columbia Gas in accordance with tariffs filed with the Federal Power Commission (FPC). In the event Tennessee delivers to Columbia Gas in Ohio, Columbia Gas will pay Tennessee's system-wide average transportation and fuel charges.

Pursuant to Section 6(c)(1) of the Act (91 Stat. 4, 8), I hereby authorize and order (i) El Paso, Oasis, Bronco-Tenngasco, Tennessee, Columbia Gulf, and Columbia Gas to transport up to 30,000 Mcfd of gas for Columbia Distribution on the terms and at the charges set forth, and (ii) Columbia Gas pay the agreed upon transportation charges.

In the course of such transportation by Oasis and Bronco-Tenngasco from point or origin to destination, there may be a commingling of interstate natural gas with Oasis' or Bronco-Tenngasco's normal system gas supplies or with volumes of gas owned by third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of Pub. L. 95–2, the producers, of such gas which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Public Law 95–2 since Oasis and Bronco-Tenngasco are transporting gas for Columbia Distribution pursuant to Section 6(a) of that Act. Oasis, Bronco-Tenngasco and any third person whose gas is commingled with Columbia Distribution's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Oasis and Bronco-Tenngasco are not classified as Natural Gas Companies within the meaning of the Natural Gas Act. Section 6(c)(2) of Pub. L. 95–2 provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the transportation of this gas will not subject Oasis and Bronco-Tenngasco to the provisions of the Natural Gas Act. See also § 6(b)(1)(A), 91 Stat. at 6.

Columbia Distribution shall submit weekly reports as required by Order No. 4 and shall certify that the proposed purchase complies with Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia Distribution, Pacific Lighting, El Paso, Oasis, Bronco-Tenngasco, Tennessee, Columbia Gulf, and Columbia Gas. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77-6406 Filed 3-2-77;8:45 am]

[Docket No. E77-34]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95–2

On February 25, 1977, Transcontinental Gas Pipe Line Corporation (Transco), as agent for certain of its customers, filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 50,000 Mcfd of natural gas from Good Hope Refineries, Inc. (Good Hope).[1] For the reasons set forth Below. I hereby authorize and approve the proposed sale and any transportation required to deliver the proposed volumes to Transco.

Transco will purchase the gas at a price of $2.25 per MMBtu, inclusive of all

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[1] Columbia Gulf is an affiliate of Columbia Distribution.

[2] This transportation will be accomplished through facilities authorized in Docket No. E77-31.

[1] Average daily volumes are estimated to be 40,000 Mcfd.

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adjustments, on a best efforts basis for the remaining term of the Act, i.e., through July 31, 1977. I find that the proposed price complies with Order No. 2 and therefore authorize the proposed purchase.

The subject volumes will be transported by Southern Gas Transmission Corporation (Southern Gas) and Southern Pipeline Corporation (Southern Pipeline), which are intrastate pipelines, at no charge to Transco. Southern Gas will deliver the gas to Transco at a point in Duval County, Texas, where its 20-inch pipeline crosses Transco's Conoco Driscoll lateral. Transco will install a 4-inch connecting line, a tap, and a meter to receive the gas. Transco will be able to receive only 15,000 Mcfd through this connection due to capacity limitations in its Conoco Driscoll lateral and advises that supplement authorizations may be requested to permit delivery of the remaining volumes.

Transco advises and I find that contractual provisions between Southern Gas and Southern Pipeline and their producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supplies with gas moving in interstate commerce. The transportation and delivery of gas for which Transco seeks approval may result in some commingling of interstate natural gas with Southern Gas' and Southern Pipeline's normal intrastate pipeline system gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of P.L. 95–2, the suppliers of such gas, which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Public Law 95–2 since Southern Gas and Southern Pipeline are transporting gas for Transco pursuant to Section 6(a) of that Act. Southern Gas and Southern Pipeline and any third person whose gas is commingled with Transco's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Southern Gas and Southern Pipeline are not classified as natural gas companies within the meaning of the Natural Gas Act. Section 6(c)(2) of P.L. 95–2 provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the transportation of this gas will not subject Southern Gas and Southern Pipeline to the provisions of the Natural Gas Act. See also § 6(b)(1)(A), 91 Stat. 8.

Therefore, I authorize Good Hope to sell gas to Transco pursuant to the pricing provisions set forth above, and authorize and order Southern Gas and Southern Pipeline to transport and deliver gas to Transco on the above-stated terms and conditions.

Transco shall submit weekly reports as required by Order No. 4 and shall certify that the proposed purchase complies with Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Transco, Southern Gas, and Southern Pipeline. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 26, 1977.

[FR Doc.77–6407 Filed 3–2–77;8:45 am]

[Docket No. E77–28]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95–2

On February 24, 1977, United Gas Pipe Line Company (United) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 150,000 Mcfd of natural gas from United Texas Transmission Company (United Texas). For the reasons set forth below, I hereby authorize and approve the proposed sale and any transportation required to deliver the proposed volumes to United.

United Texas proposes to sell up to 150,000 Mcfd to United with the exact quantity delivered daily dependent on the requirements of United Texas' customers and the availability of gas from its suppliers. United Texas proposes to sell the subject volumes at a price equal to (i) the price United Texas pays its major supplier for gas during the billing month plus (ii) United Texas' cost of service to its city gate customers which is approximately 15.78 cents per Mcf.[1] United states that United Texas' cost of gas from its major supplier, and United Texas' own city gate rates are subject to regulation by and approval of the Railroad Commission of Texas. The price to United represents United Texas' cost of replacement gas supplies plus operating costs.

United states that the price paid to United Texas may exceed $2.25 per MMBtu during the effective term of the agreement and requests authorization to make such purchase. Order No. 2, as amended by Order No. 2–A, provides in Paragraph (3) that an intrastate pipeline company may receive for an emergency sale "without prior notification to or authorization of the Administrator" a price "equal to or less than its overall replacement cost plus applicable transportation and storage costs, if any." Based upon United's filing, I find that United Texas' proposed rate is based on its cost of replacement gas plus applicable transportation costs and that such price is fair and equitable in accordance with Order No. 2, as amended by Order No. 2–A.[2]

United states that deliveries will be made by United Texas at existing interconnections in Texas: Edna, Jackson County, Needville, Ft. Bend County, Goodrich, Polk County, and other agreed upon points; and that no facilities need be constructed. Therefore, no reason exists to require the construction and operation of facilities as permitted under Section 6(c)(1) of Pub. L. 95–2.

United Texas advises and I find that contractual provisions between the company and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of its intrastate pipeline system gas supply with gas moving in interstate commerce. The transportation and delivery of gas for which United seeks approval may result in some commingling of interstate natural gas with United Texas' normal intrastate pipeline system gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of P.L. 95–2, the producers, of such gas which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Public Law 95–2 since United Texas is transporting gas for United pursuant to Section 6(a) of that Act. United Texas and any third person whose gas is commingled with United's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, United Texas is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(c)(2) of P.L. 95–2 provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the transportation of this gas will not subject United Texas to the provisions of the Natural Gas Act. See also section 6(b)(1)(A), 91 Stat. 8.

Therefore, I authorize United Texas to sell gas to United pursuant to the pricing provisions set forth above, and authorise and order United Texas to transport and deliver gas to United on the above-stated terms and conditions.

United shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon United and United Texas. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under P.L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 26, 1977.

[FR Doc.77–6408 Filed 3–2–77;8:45 am]

[Docket No. E77–20]

EMERGENCY NATURAL GAS ACT OF 1977

Supplemental Emergency Order Pursuant to Section 6 of Pub. L. 95–2

On February 21, 1977, an Administrator's Order was issued in this proceeding authorizing the purchase of gas by Eastern Shore Natural Gas Company from Clajon Gas Company. Eastern Shore has advised, by its counsel's letter of February 26, 1977, that Transcontinental Gas Pipe Line Corporation has refused to provide delivery of the subject gas absent an order authorizing such service by Transco. Accordingly, it is hereby ordered, pursuant to Section 6 of Public Law 95–2, that Transco is authorized to deliver gas purchased by Eastern Shore from Clajon pursuant to the Administrative Order of February 21, 1977 in this proceeding.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Eastern Shore, Clajon, United and Transco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 26, 1977.

[FR Doc.77–6409 Filed 3–2–77;8:45 am]

EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77–38]

Emergency Order Pursuant to Section 6 of Pub. L. 95–2

On February 25, 1977, Columbia Gas Transmission Corporation (Columbia) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 30,000 Mcfd of natural gas from Monterey Pipeline Company (Monterey).[1]

Columbia will purchase the gas at a price of $2.25 per MMBtu, inclusive of all adjustments. Accordingly, I find the proposed price to be fair and equitable within the meaning of Order No. 2 and authorize the proposed purchase.

Monterey will deliver this gas to Columbia Gulf Transmission Company (Columbia Gulf) at the tailgate of Exxon Company, U.S.A.'s gas processing plant near Garden City, St. Mary Parish, Louisiana. Columbia Gulf will deliver the gas to Columbia at existing interconnections.

Columbia states that to the best of its "knowledge and belief" that its purchase complies with Order No. 6. I find that Columbia has complied with Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia, Monterey and Columbia Gulf. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 26, 1977.

[FR Doc.77–6410 Filed 3–2–77;8:45 am]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95–2

On February 25, 1977, Texas Gas Transmission Corporation (Texas Gas) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to transport natural gas, which it purchases as agent for certain of its customers[1] pursuant to § 6(a) of the Act.

Texas Gas, as agent, has executed a contract with Enserch Exploration Inc. (Enserch) to purchase natural gas produced from the Oaks Field, Claiborne Parish, Louisiana. Initial deliveries are estimated to be 2,000 Mcfd, with additional volumes to be made available. The total price to be paid by Texas Gas, as agent, is $2.25 per MMBtu. Thus, the proposed price is fair and equitable in accordance with Order No. 2.

Texas Gas wil receive the subject gas in the Oaks Field and transport such gas in its existing facilities. Texas Gas' proposed transportation rates are based upon the cost data supporting the settlement rates in Texas Gas' most recent Federal Power Commission rate case in Docket No. RP76–17 and the retention of a percent of the transported volumes for compressor fuel and company use and loss. I find such rates to be fair and equitable.

Based upon the foregoing, Texas Gas is authorized to purchase gas, as agent, from Enserch and transport such gas for certain of its customers. This authorization is conditioned on (i) Texas Gas' submission of the names of the customers for which it is acting as agent, (ii) those customers agreeing to submit reports as required by Order No. 4, and (iii) such customers certifying that they are entitled to purchase gas under the provisions of Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and Enserch. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 26, 1977.

[FR Doc.77–6411 Filed 3–1–77;8:45 am]

[Docket No. RP76–64 (PGA77–1)]

MOUNTAIN FUEL SUPPLY CO.

Tariff Sheet Filing Effective April 1, 1977

FEBRUARY 24, 1977.

Take notice that on February 15, 1977, Mountain Fuel Supply Company, pursuant to Section 154.62 of the Commission's Regulations under the Natural Gas Act, filed Third Revised Sheet No. 3–A to its FPC Gas Tariff Original Volume No. 1. Mountain Fuel states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment provision authorized by the Commission's order issued February 27, 1976 in Docket No. No. RP76–64. More specifically the tariff sheet reflects a net rate increase over that currently being collected of 25.8¢/MCF (X–4) and 16.9¢/MCF (X–5) and are to be effective April 1, 1977.

Any person desiring to be heard and to make any protest with reference to said filing should on or before March 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 of 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding.

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[1] Columbia is currently purchasing these volumes pursuant to section 157.29 of the rules and regulations of the Federal Power Commission (18 CFR 157.29). The term of this purchase ends at 7:00 A.M., Monday, February 28, 1977.

[1] These customers are local distribution companies interstate pipelines as defined in sections 2 (1), (5) of the Act (91 Stat. 4).

[1] United states that if deliveries had been made in January 1977 the price paid to United Texas would have been $2.1898 per Mcf.

[2] The contract between United and United Texas was executed February 14, 1977, and is therefore not subject to Order No. 6 (February 22, 1977).

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Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Mountain Fuel Supply Company's tariff filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6418 Filed 3-2-77;8:45 am]

[Docket No. RP76-96]

NATURAL GAS PIPELINE CO. OF AMERICA

Order Approving Settlement Agreement

FEBRUARY 25, 1977.

On September 22, 1976, Natural Gas Pipeline Company of America (Natural) filed a proposed Settlement Agreement. For the reasons stated herein, the Commission shall approve the Settlement Agreement.

On July 14, 1976, Natural tendered for filing revised tariff sheets in the captioned docket to reflect an $18 million rate reduction in compliance with Opinion No. 762.[1] The proposed revised tariff sheets reflected a rate base in which Natural had included two new advance payments as of September 1, 1975. One advance payment amounted to $1,000,000 and was made to Mesa Petroleum Company (Mesa) pursuant to an agreement dated December 19, 1973. The second advance payment, made to Mobil Oil Corporation (Mobil) under an agreement dated April 25, 1975, amounted to $13,600,000.

In an order issued on August 13, 1976, the Commission determined that the two new advance payments had not been shown to be just and reasonable. Accordingly, the Commission found that the proposed rate increase associated with the advances should be accepted for filing as of September 1, 1975, and collected subject to refund. The Commission approved the remaining adjustments reflected in the July 14, 1976, filing as being in compliance with the provisions of Opinion No. 762.

On September 22, 1976, Natural filed a proposed Settlement Agreement resolving all issues regarding the two new advance payments. The Agreement provides that the $1 million advance to Mesa be accorded rate base treatment and be subject to the refund condition set forth in Article VIII of the Stipulation and Agreement approved by the Commission in Opinion No. 762, except that interest shall be paid at a rate of 9% per annum on any refund attributable to the advance. Article VIII provides that, "Natural shall refund to its jurisdictional customers the carrying charges attributable to any amount of 465 advances (on an agreement-by-agreement basis) which are not actually spent by the recipient-producers on exploration, development and production."

The agreement further provides that $8,045,000 out of the proposed $13,600,000 advanced to Mobil be allowed in rate base. This represents the amount actually spent by Mobil on developing the acreage as of August 31, 1975, which date was immediately prior to inclusion of the advance in rates. Natural will refund to its jurisdictional customers the carrying charges collected during the 3-month period covered by the Settlement on the difference between the total advance of $13,600,000 and the $8,045,000 provided in the Agreement. The amount to be refunded is $206,980 or .02¢ per Mcf.

The term of the proposed Agreement is September 1, 1975, through November 30, 1975. A condition precedent to the effectiveness of the Agreement is that the Commission shall have granted waiver of its Rules and Regulations to the extent necessary to effectuate the provisions of the Agreement.

Public notice of the filing of the Settlement Agreement was issued on September 30, 1976, with comments to be submitted on or before October 29, 1976. No comments have been received.

Upon review of the proposed Settlement Agreement and the record in this proceeding, the Commission finds that the Agreement represents a reasonable resolution of the issues covered by the Agreement. Accordingly, the proposed Settlement Agreement shall be approved and adopted.

The Commission orders: (A) The proposed Settlement Agreement filed by Natural on September 22, 1976, is incorporated herein by reference and is hereby approved and adopted to be effective for the period of September 1, 1975, through November 30, 1975

(B) Waiver of the Commission's Rules and Regulations is hereby granted to the extent necessary to effectuate the provisions of the proposed Settlement Agreement.

(C) With respect to the Mesa advance payment, Natural shall file appropriate calculations and make appropriate refunds as prescribed by the Settlement Agreement approved by the Commission in Opinion No. 762, except that interest on any amounts refunded shall be calculated at the rate of 9% per annum.

(D) Within thirty (30) days of the issuance of this order, Natural shall file revised tariff sheets to be effective September 1, 1975, through November 30, 1975, which shall reduce rates by the amount of the refund credit to be made in accordance with Paragraph (E) of this order.

(E) Natural shall make a refund relating to the Mobil advance by crediting customers' bills as prescribed in the proposed Settlement Agreement.

(F) Natural shall file a refund report within thirty (30) days of the making of the refund credit ordered in Paragraph (E) of this order.

(G) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff or any party or person affected by this order in any proceeding now pending or hereafter instituted by or against Natural or any person or party.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6413 Filed 3-2-77;8:45 am]

[Docket No. RP72-154; PGA77-3]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Purchased Gas Cost Adjustment

FEBRUARY 24, 1977.

Take notice that Northwest Pipeline Corporation, on February 15, 1977, tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FPC Gas Tariff, Original Volume No. 1. Such change in rates is for the purpose of (1) reflecting changes in Northwest's cost of purchased gas which will become effective on or before April 1, 1977, applied to volumes purchased for the twelve (12) month period ending December 31, 1976 and its change in unrecovered purchased gas costs since Northwest's prior semi-annual PGAC filing dated August 13, 1976 and (2) elimination of the special surcharge credit adjustment given storage gas purchasers under Rate Schedule SGS-1 for the period October 2, 1976 through March 31, 1977.

The change in rates, for which notice is given herein, aggregates a decrease of 1.425¢ per therm in all rate schedules affected by and subject to the PGAC. The annualized change in Northwest's purchased gas cost aggregates a decrease of $23,331,386. Northwest proposes to adjust its surcharge to include (1) the negative balance of $4,652,130 in its FPC Account No. 191, as of December 31, 1976 and (2) the unrecovered jurisdictional portion of $227,371 as of December 31, 1976 applicable to Northwest's Rate Schedule X-29 Deferred Exchange. Northwest has also included in the instant filing producer refunds received through February 10, 1977 which resulted from Opinion Nos. 749 and 749-C by crediting such amounts to FPC Account No. 191 as proposed in its purchaser refund plan filed with the Commission on February 4, 1977. The proposed change in rates would decrease Northwest's revenues from jurisdictional sales and service by $27,331,076.

Northwest is concurrently filing notices of changes in rates applicable to Article 13.4, Change in Rates to Reflect Curtailment Credits ("Demand Charge Credits"), contained in its Original Volume No. 1 Tariff. In accordance with the Commission's order issued March 29, 1974 at Docket No. RP74-72, the rate adjustment under the Demand Charge Credit Adjustment provisions becomes effective on Northwest's PGAC adjustment date after 45 days' notice. Accordingly, both rate adjustments are reflected on the tendered Fifteenth Revised Sheet No. 10, which is proposed to become effective on April 1, 1977.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6415 Filed 3-2-77;8:45 am]

[Docket No. RP74-72; DCA77-1]

NORTHWEST PIPELINE CORP.

Change in Rates Pursuant to Demand Charge Credit Adjustment

FEBRUARY 24, 1977.

Take notice that Northwest Pipeline Corporation, on February 15, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1 to compensate Northwest for demand charge credits given to certain of its customers as a result of Northwest being unable to deliver its firm contract obligations because of a gas supply deficiency on its system. As of December 31, 1976, Northwest has a debit balance of $962,177 in FPC Account No. 142, representing its unrecovered Demand Charge Credits.

The notice of change in rates is being filed pursuant to the Commission's order issued March 29, 1974 at Docket No. RP74-72 and Article 13.4 of Northwest's FPC Gas Tariff, Original Volume No. 1. The change in rates will result in a net decrease of .139¢ per therm for Rate Schedules ODL-1, DS-1 and PL-1.

Northwest is concurrently filing notice of change in rates applicable to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its Original Volume No. 1 Tariff. Both rate adjustments are reflected on the tendered Fifteenth Revised Sheet No. 10, which is proposed to become effective on April 1, 1977.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6416 Filed 3-2-77;8:45 am]

[Docket No. E77-31]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order

On February 25, 1977, Colorado Interstate Gas Company (CIG) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase approximately 3,000 Mcfd from Chandler & Associates, Inc. (Chandler), produced from the Airport Area, Sweetwater County, Wyoming. CIG requests that the subject gas be determined to have been contracted for on February 17, 1977, and therefore not precluded by Order No. 6 (February 22, 1977), or, in the alternative, that the provisions of Order No. 6 be waived to permit the proposed purchase. For the reasons set forth below, I find that the proposed purchase is not precluded by Order No. 6 and therefore authorize the proposed purchase subject to the condition that such volumes be delivered to any interstate pipeline and local distribution company which would be entitled to an emergency delivery of gas from an interstate pipeline pursuant to section 4(a) (91 Stat. 4, 5).

On February 17, 1977, CIG and Chandler entered into a firm oral contract for the purchase and sale of gas produced from the Champlin No. 4-11 well. This agreement provides that CIG will purchase the gas at a price of $2.25 per MMBtu through July 31, 1977, thereafter CIG will purchase the remaining volumes at the applicable national rate for new gas. CIG states that the sale pursuant to the provisions of § 6 of the Act was explicitly made a part of the consideration for the long-term dedication and that approval of the agreement will add approximately 1.5 Bcf to CIG's reserves. CIG further states that Chandler has an outstanding offer from an intrastate purchaser to buy the subject gas at 25 cents per Mcf above the applicable national rate established by the Federal Power Commission (FPC). CIG was, on execution of the contract, and is making deliveries for those uses specified in FPC Priorities 4 through 9 (18 CFR 2.78(a)(1)(iv)-(ix). In addition, prior to February 22, 1977, CIG constructed approximately 1500 feet of pipeline with the necessary metering and dehydration facilities to connect this gas supply to its pipeline system at a cost of $20,000. Finally, CIG advises that the parties are unwilling to commence deliveries without prior authorization from the Administrator.

Order No. 6 prohibits any interstate pipeline and local distribution company from purchasing gas pursuant to § 6 of the Act if that company is delivering gas to uses specified in Categories 4 through 9. Order No. 6 did not preclude the purchase of gas by such a company if the gas sought to be purchased was firmly contracted for prior to the effective date of that order. The information supplied by CIG indicates that, prior to February 22, 1977, CIG and Chandler had entered into a firm oral contract for the purchase of such gas and that CIG had installed the facilities necessary to receive the subject gas into its pipeline system. These circumstances indicate that CIG had contracted for the purchase of the Chandler gas prior to February 22, 1977. Thus, Order No. 6 does not preclude the purchase of this gas by CIG.

I find that CIG should be authorized to purchase the Chandler gas subject to the conditions that within seventy-two hours of the date of this order, (i) CIG and Chandler submit to the Administrator and the FPC a binding contract for the sale of gas by Chandler to CIG subsequent to July 31, 1977, at a price not to exceed the FPC's applicable national rate and (ii) CIG submit an agreement to deliver volumes equivalent to those received from Chandler to any interstate pipeline or local distribution company, which would be entitled to an emergency delivery of gas pursuant to § 4(a) of the Act which requests delivery of such volumes. CIG shall purchase the subject gas at a price not to exceed $2.25 per MMBtu. Subject to satisfaction of the above conditions, CIG is authorized to purchase the subject gas from Chandler and such purchase is not precluded by Order No. 6.

CIG shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon CIG and Chandler. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

Dated: February 28, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77-6448 Filed 3-2-77;8:45 am]

[Docket No. E77-29]

EASTERN SHORE NATURAL GAS CO., ET AL.

Emergency Order Pursuant to Emergency Natural Gas Act of 1977

On February 24, 1977, Eastern Shore Natural Gas Company (Eastern Shore) filed, pursuant to Section 6 of the Emer-

[1] Natural Gas Pipe Line Company of America, Docket No. RP74-96, Op. No. 762, issued May 21, 1976.

V42 42 MAR 3 77 UMI

gency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), a request for an order authorizing an emergency purchase of approximately 1700 Mcf per day of natural gas at $2.25 per Mcf inclusive of severance taxes from Jack O. McCall and Midland National Bank, Midland, Texas, Trustee (McCall). This contract is effective for a period of thirty-one days following the commencement of deliveries but in no event later than July 31, 1977.

Eastern Shore advises that McCall will deliver these gas supplies to Mississippi River Transmission Company (Mississippi) which will deliver the gas to Natural Gas Pipeline Company of America (Natural). Natural will deliver the gas to Transcontinental Gas Pipe Line Corporation (Transco) for delivery to Eastern Shore.

Mississippi will charge 5 cents per Mcf for transportation of the gas from near the wellhead to a point of interconnection with Natural. Natural will charge 15 percent of the gas transported through its facilities to Transco. Transco will charge its standard rate for transporting the natural gas to Eastern Shore.

I have determined that the fee of 15 percent of the volumes transported proposed to Natural for its transportation service may not be fair and equitable. Natural shall therefore submit information which supports its proposed transportation charge of 15 percent of the volumes transported or such percentage which represents the volumes consumed as compressor fuel to render the proposed transportation.

Mississippi, Natural, and Transco have agreed to transport this gas and advised that the deliveries can be accomplished through existing intrastate pipeline facilities. Thus, there is no reason to require the construction and operation of facilities as permitted under section 6 (c) (1) of the Act.

Therefore, I authorize Eastern Shore to purchase emergency natural gas from McCall at a price not to exceed $2.25 per MMBtu inclusive of all adjustments. I authorize and order Mississippi, Natural, and Transco to transport gas for Eastern Shore on the above specified terms and conditions.

Eastern Shore shall submit weekly reports as required by Order No. 4, and shall certify that the proposed purchase qualifies pursuant to the terms of Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Eastern Shore, McCall, Mississippi, Natural and Transco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 28, 1977.

[FR Doc.77–6508 Filed 3–2–77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on February 24, 1977 (FEA, FTC) and February 25, 1977 (EEOC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed EEOC, FEA and FTC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before March 21, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

EEOC requests an extension no change clearance of the EEO–6, Higher Education Staff Information Report, Form 221. The filing of this report is required of all institutions of higher education with 15 or more employees which are subject to Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972. Frequency of reporting is every other year and EEOC estimates that the average reporting burden is 5 hours per response.

FEDERAL ENERGY ADMINISTRATION

FEA requests clearance of a new single-time form FEA–U534–S–0, Airline Personnel Questionnaire. This voluntary questionnaire conducted under the authority contained in Section 381(b)(1)(A) of the Energy Policy and Conservation Act (P.L. 94–163), will assist in gathering information for an on-going FEA contract examining "Fuel Efficient Activities of Aircraft and Air Carriers." The purpose of this study is to determine the nature and extent of the fuel conservation measures currently being implemented by a representative number of airlines within each of four air carrier categories. These categories include U.S. trunk carriers, local service carriers, charter airlines, and all-cargo carriers. This questionnaire will supplement information obtained from other sources concerning the extent to which an air carrier's official fuel conservation policies actually are being implemented by its line employees. Those line employees whose job responsibilities directly involve fuel conservation efforts include flight crew members, flight managers, flight maintenance personnel and dispatchers. In addition, the results of the questionnaire will expand existing knowledge of the procedures of each air carrier category which contribute to or detract from effective fuel conservation programs. The universe from which respondents to form FEA–U534–S–0 will be selected consists of all the line personnel who are directly involved in implementing fuel conservation measures and procedures in each of the 31 U.S. certificated air carriers. The scope of the survey will include 22 air carriers which are considered representative of each of the four air carrier categories and which have agreed to participate in this study. A sample of 10 line personnel at each airline, for a total of 220 respondents will receive the FEA–U534–S–0 questionnaire. FEA estimates burden for completing form FEA–U534–S–0 to average one hour per respondent.

FEDERAL TRADE COMMISSION

FTC's Bureau of Competition pursuant to Sections 6, 9 and 10 of the Federal Trade Commission Act, requests clearance of a new, voluntary, single-time letter of inquiry which will be sent to each health maintenance organization in the country. The purpose of the letter of inquiry is to assist FTC in its investigation into the nature of competition in the health care industry. The letter inquires about possible anticompetitive restraints hampering the development of expansion of health maintenance organizations. FTC estimates potential respondents to be 200 and reporting burden to average 7 hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77–6367 Filed 3–2–77;8:45 am]

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 18, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

The Federal Energy Administration requested emergency clearance of form FEA–P328–M–O, Foreign Crude Oil Cost Report. This is a modification of an existing quarterly report (FEA–P328–Q–O) to a monthly report. The report collects detailed information on crude oil acquisition costs for the foreign trading affiliates of United States' companies. There are 15 to 20 potential respondents. Reports are authorized under the Federal Energy Administration Act of 1974 (P.L. 93–275) and the Energy Policy and Conservation Act of 1975 (P.L. 94–163).

An emergency clearance was required because of the extraordinary circumstances of the OPEC price increases. In view of the recent two-tiered price increases by the Organization of Petroleum Exporting Countries and the uncertainty of how these costs will change, the Standing Group on Oil Markets of the International Energy Agency has made a special, temporary request for monthly rather than quarterly crude cost submissions by the member governments. These submissions are requested as soon as it is possible to collect the data. It is anticipated that monthly data will be required for three to six months beginning with January 1977 data. After that time, the reporting will revert to a quarterly basis. Because of the economic significance of these costs changes, it is imperative that the United States be able to start providing monthly data to the International Energy Agency as soon as possible and have the capability of closely monitoring these data for national policy purposes. It must be noted that the failure to monitor these data and ensuring that the lower costs of the Saudi Arabian and United Arab Emirate crude oils are passed on to the consumer can only further damage the American consumer and the American economy with a further spiral in energy costs.

GAO granted clearance of the reporting frequency on February 25, 1977, under number B–181254 (RO371). This clearance will expire on June 30, 1977.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77–6368 Filed 3–2–77;8:45 am]

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 18, 1977. See 44 U.S.C. 3513 (c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

The Federal Energy Administration requested emergency clearance of the proposed form FEA–P329–M–0, Distillate Import Monitoring Report.

On Friday, February 11, 1977, FEA adopted Special Rule No. 8 for Subpart C of 10 CFR 211 which provides for the extension of entitlement benefits to imports of No. 1 and No. 2 heating oil during the months of February and March 1977. This action was prompted by the extremely high level of demand for heating oil in the North Central and Northeast regions of the United States caused by the continually unusually severe weather.

The mandatory monthly form FEA–P329–M–O has been designed to be filed by any importers of heating oil for the months designated for the Distillate Entitlements Program and January which will establish a base period. Due to the timeliness required to monitor the entitlements program during the crisis situation that has developed this heating season, the FEA needs information as soon as possible in order to take any remedial action necessary if a company is shown as not passing through the entitlements benefits. Therefore, if emergency clearance processing was denied, and the normal 45-day process was implemented, FEA would receive the needed information too late to take any remedial action.

The form FEA–P329–M–O will be mailed out to approximately 300 firms, most of which are large sellers of heating oil. The FEA estimates that approximately 40 of these firms will be actual importers of the heating oil and therefore will be required to file the form. The FEA estimates a monthly burden of 30 hours per report. Upon approval by GAO the form will be mailed out to the 300 companies mentioned above and will be required to be filed by importers of heating oil for the months of January and February 1977 by March 10, 1977, and for the month of March 1977 by April 10, 1977.

GAO granted clearance on February 23, 1977, under number B–181254 (RO439). This clearance will expire April 30, 1977.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77–6369 Filed 3–2–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

WORKSHOP ON SAFER HOSTS AND PLASMID VECTORS

Rescheduled Meeting

Notice is hereby given of an amendment to the Workshop on Safer Hosts and Plasmid Vectors Sponsored by the Recombinant DNA Molecule Program Advisory Committee at the National Institutes of Health, Bethesda, Maryland 20014, published in the FEDERAL REGISTER February 25, 1977 (42 FR 11051). This meeting was scheduled to be held in Building 31C, Conference Room 7. The date and location of this meeting has been changed to March 21, 1977, Building 31C, Conference Room 9. The entire meeting will be open to the public from 9:00 a.m. to adjournment. Attendance by the public will be limited to space available.

Dated: February 25, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77–6315 Filed 3–2–77;8:45 am]

INFECTIOUS DISEASE COMMITTEE

Amended Notice of Meeting

Notice is hereby given of changes in the times of the "closed" and "open" portions of the meeting of the Infectious Diseases Committee, National Institute of Allergy and Infectious Diseases, which was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6414).

This meeting will be open to the public on March 17 from 8:30 a.m. until recess, and on March 18 from 8:30 a.m. until 11:00 a.m., and will be closed to the public on March 18 from 11:00 a.m. until adjournment.

(Catalog of Federal Domestic Assistance Program No. 13.856, National Institutes of Health.)

Dated: February 24, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77–6316 Filed 3–2–77;8:45 am]

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, on April 14, 1977, in the Federal Office Building, South Auditorium (4th Floor, use 2nd Ave. entrance), 915 2nd Ave., Seattle, Washington 98174.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. subject to space available. The purpose of the meeting is to hear testimony from interested members of the public. Persons who wish to appear shall file a written statement or detailed summary of remarks with the Commission before 5:00 p.m. on April 7, 1977. The time allotted to each participant will be determined by the Commission based upon the number of individuals who request an opportunity to make presentations.

Requests to appear should be sent to:

Commission for the Control of Huntington's Disease and Its Consequences, National Institutes of Health, Building 31, Room 8A11, Bethesda, MD 20014.

Dr. Nancy S. Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, NIH, Building 31, Room 8A11, Bethesda, MD 20014 (301) 496–9275, will provide substantive program information.

Mrs. Ruth Dudley, Chief, Office of Scientific and Health Reports, NINCDS, Building 31, Room 8A02, Bethesda, MD 20014 (301) 496–5751, will provide summaries of the meeting and rosters of Commission members.

(Catalog of Federal Domestic Assistance Program No. 13,852, National Institutes of Health.)

Dated: February 24, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77–6317 Filed 3–2–77;8:45 am]

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NATIONAL CANCER INSTITUTE ADVISORY COMMITTEES

Open Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 900 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of committee: President's Cancer Panel.
Dates: April 15, 1977; 9:30 a.m.-adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To hear reports of the President's Cancer Panel and the Director, National Cancer Program, NCI.
Executive secretary: Dr. Richard A. Tjalma; address: Building 31A, Room 11A46, National Institutes of Health; phone: 301/496-5854.

Name of committee: Chemical Selection Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: April 18, 1977; 9:00 a.m.-adjournment.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To consider chemicals for bioassay.
Executive secretary: Dr. James M. Sontag; address: Building 31, Room 3A16, National Institutes of Health; phone: 301/496-5108.

Name of committee: Cancer Control Intervention Programs B Review Committee.
Dates: April 18-19, 1977; 8:30 a.m.-adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: Merit review of ongoing projects in cancer control intervention programs.
Executive secretary: Dr. Dorothy Brodie; address: Blair Building, Room 7A07, National Institutes of Health; phone: 301/427-7945.

Name of committee: Experimental Design Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: April 19, 1977; 9:00 a.m.-adjournment.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To consider experimental designs for carcinogenicity studies.
Executive secretary: Dr. James M. Sontag; address: Building 31, Room 3A16, National Institutes of Health; phone: 301/496-5108.

Dated: February 24, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6318 Filed 3-2-77;8:45 am]

PERIODONTAL DISEASES ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Periodontal Diseases Advisory Committee, National Institute of Dental Research, National Institutes of Health, Bethesda, MD, on April 25-26, 1977, in Building 31-C, Conference Room 7.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on April 25, and from 9:00 a.m. to adjournment on April 26, for discussions of ongoing and future research programs related to periodontal disease, to plan for the development of clinical research programs and to discuss the feasibility of establishing socio-behavioral research related to periodontal disease. Attendance by the public will be limited to space available.

Dr. Paul F. Parakkal, Executive Secretary of the Periodontal Diseases Advisory Committee, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 519, Bethesda, MD 20014 (phone number 301-496-7784), will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.302, National Institutes of Health.)

Dated: February 24, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6319 Filed 3-2-77;8:45 am]

WORKSHOP ON GRADUATE EDUCATION IN ORAL ONCOLOGY

Meeting

Notice is hereby given of the workshop on Graduate Education in Oral Oncology sponsored by the National Institutes of Health, National Cancer Institute, Division of Cancer Research Resources and Centers and the National Institute of Dental Research, Extramural Programs, June 13 and 14, 1977, at the Holiday Inn—Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20014, in the Maryland Room.

This meeting will be open to the public on June 13 and 14 at 8:30 a.m. until adjournment, to discuss graduate education in oral oncology, particularly the roles of the dental specialists in oncology, education of dental specialists in oncology, the roles and functions of the oral oncologist and the needs and resources for education in oncology for dental specialists and oral oncologists. Atendance by the public will be limited to space available.

Dr. Margaret H. Edwards, Chief, Clinical Manpower Branch, Division of Cancer Research Resources and Center, National Cancer Institute, Westwood Building, Room 10A18, Bethesda, Maryland 20014 (301-496-7761), will provide additional information.

Dated: February 24, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6320 Filed 3-2-77;8:45 am]

Office of the Assistant Secretary for Health

PREPARING FOR IMMUNIZATION AGAINST INFLUENZA

Meeting

The Secretary, DHEW announces his intent to hold a public meeting to discuss issues relevant to preparing for immunization against influenza during the winter of 1977-78. Policy questions concerning the nature, supply and administration of the vaccine(s) and the relative responsibilities of the federal, state, and local governments, volunteer health organizations, and federal advisory councils and committees in these decisions will be examined. Using all available epidemiologic evidence and best scientific judgment, concensus will be sought on appropriate virus strain(s) to be used in preparation of vaccines for the coming year. Options for additional federal actions in these matters will be under review. An expert panel with competence to address these issues has been convened by the Secretary.

The meeting will be open to the public, limited only by the space available.

Date and time: March 11, 1977, 8:00 a.m.
Place: Conference Room 800, South Portal Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Additional information can be obtained from:

Mr. John Blamphin, Director, Office of Public Affairs, Room 731G-2, South Portal Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, (202) 245-6867.

CHARLES U. LOWE,
Special Assistant for Child Health Affairs.

FEBRUARY 25, 1977.

[FR Doc.77-6332 Filed 3-2-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 36390]

MONTANA

Proposed Withdrawal and Reservation of Lands

FEBRUARY 25, 1977.

The Department of Agriculture on behalf of the Soil Conservation Service on February 9, 1977, filed application, Serial No. M 36390, for withdrawal of the national resource lands described below from settlement, sale, location, or entry under all the general land laws.

The Soil Conservation Service desires the withdrawal in connection with the Boulder River Watershed Project.

On or before April 8, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, by April 8, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the FEDERAL REGISTER (March 3, 1977), the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, the lands will remain segregated for the term of the withdrawal which shall not exceed 20 years.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

T. 5 N., R. 4 W.,
Sec. 8, SE¼NE¼SW¼NW¼, E½SE¼SW¼NW¼, S½N½SE¼NW¼, S½SE¼NW¼, E½NE¼SW¼, W½NW¼SW¼SW¼, S½S½SW¼, NE¼SE¼SW¼, S½NW¼SE¼, and NW diagonal ½ of SW¼SE¼; and
Sec. 13, S½SW¼SW¼.
T. 5 N., R. 3 W.,
Sec. 32, NW¼NE¼, S½NE¼, and NW¼.
T. 4 N., R. 2 W.,
Sec. 6, Lots 3, 4, 5, 6, and 7, and SE¼NW¼; and
Sec. 18, SE¼SW¼.

The areas described aggregate 679.89 acres in Jefferson County, Montana.

All communications in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior, Montana State Office, P.O. Box 30157, Billings, Montana 59107.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-6403 Filed 3-2-77;8:45 am]

[NM 29683]

NEW MEXICO

Application

FEBRUARY 22, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Roger C. Hanks has applied for a 6-inch salt water disposal pipeline and plant site right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 25 E.,
Sec. 5, lot 4, SW¼NE¼, SE¼NW¼, and SE¼SE¼;
Sec. 9, N½NW¼.

The pipeline and plant site will be used in connection with salt water disposal operations and will occupy 9.08 acres of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-6404 Filed 3-2-77;8:45 am]

[OR 10887]

OREGON

Opportunity for Public Hearing and Republication of Proposed Withdrawal and Reservation of Lands

FEBRUARY 23, 1977.

The Department of Agriculture on behalf of the Forest Service, on May 17, 1973, filed application, Serial No. OR 10887, for the withdrawal of 540 acres of national forest lands from location and entry under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights. The Department of Agriculture has requested that the withdrawal be granted for permanent duration.

The Forest Service desires these lands for use as a public recreation area.

A notice of proposed withdrawal and reservation of lands was published on November 8, 1973 in the FEDERAL REGISTER (38 FR 30894).

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, by March 31, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

All previous comments submitted in connection with the withdrawal proposal have been included in the case file record and will be considered in making a final determination on the proposal.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

WILLAMETTE MERIDIAN

ROGUE RIVER NATIONAL FOREST

Squaw Lakes Recreation Area

T. 40 S., R. 3 W.,
sec. 35, SE¼SW¼ and SE¼;
T. 41 S., R. 3 W.,
sec. 1, W½SW¼NW¼;
sec. 2, NE¼, E½NW¼, N½SE¼.

The areas described aggregate 540 acres in Jackson County, Oregon.

All communications in connection with this withdrawal should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

CHAMP C. VAUGHAN, Jr.,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-6421 Filed 3-2-77;8:45 am]

[OR 16124]

OREGON

Proposed Withdrawal and Reservation of Lands

The Department of Agriculture on behalf of the Forest Service, on June 28,

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1976, filed application, Serial No. OR 16124, for the withdrawal of approximately 3,275 acres of national forest lands from location and entry under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights. The Department of Agriculture has requested that the withdrawal be granted for a permanent duration.

The Forest Service desires these lands for the purpose of protecting and preserving the anadromous fish habitat of the streams on the lands to be withdrawn and for preserving the value of the lands for public recreational purposes.

On or before April 4, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, by March 28, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

WILLIAMETTE MERIDIAN

UMPQUA NATIONAL FOREST

Steamboat Creek Tributaries Streamside Zone

A strip of land 330 feet wide on each side of the centerline of Cedar Creek, South Fork and North Fork Cedar Creeks; Little Rock Creek, Fugowee Creek, Tributary B and Tributary B–1; through the following subdivisions:

T. 24 S., R. 1 E.,
Sec. 2, lots 3 and 4, S½NW¼, SW¼, and S½SE¼;
Sec. 3, lots 3 and 4, S½N½, NE¼SW¼, and N½SE¼;
Sec. 11, N½NE¼;
Sec. 12, NW¼NE¼, S½NE¼, W½, and N½SE¼;
Sec. 22, SE¼;
Sec. 23, SW¼SW¼;
Sec. 25, SW¼NE¼, S½NW¼, N½S½, and S½SE¼;
Sec. 26, N½ and S½SE¼;
Sec. 27, NE¼NE¼;
Sec. 35, N½NE¼; and
Sec. 36, N½N½ and S½NE¼.

A strip of land 330 feet wide on each side of the centerline of Canton Creek; Steelhead Creek, North Fork and South Fork Steelhead Creek; Deep Creek; and Singe Creek; through the following subdivisions:

T. 25 S., R. 1 E.,
Sec. 11, S½NW¼, N½SW¼, SE¼SW¼, and W½SE¼;
Sec. 14, W½E½, E½W½, and W½SW¼;
Sec. 15, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 23, W½E½ and E½W½;
Sec. 25, NW¼NE¼, S½NE¼, NW¼SW¼, and NE¼SE¼;
Sec. 26, N½NW¼NE¼, S½SE¼NE¼, N½NE¼NW¼, and NE¼SE¼;
Sec. 31, lots 1, 2, 3, 4, and E½SW¼.

A strip of land 300 feet wide on each side of the centerline of Canton Creek through the following subdivisions:

T. 25½ S., R. 1 E.,
Sec. 32, lots 3 and 4.

A strip of land 330 feet wide on each side of the centerline of Horseheaven Creek, Tributary B and Windy Creek, through the following subdivisions:

T. 23 S., R. 2 E.,
Sec. 29, E½;
Sec. 32, NE¼, SE¼NW¼, E½SW¼, and W½SE¼.

A strip of land 330 feet wide on each side of the centerline of Cedar Creek; Buster Creek; Longs Creek; Little Rock Creek; City Creek; and Horseheaven Creek, through the following subdivisions:

T. 24 S., R. 2 E.,
Sec. 4, W½SW¼, and SE¼SW¼;
Sec. 5, lots 1 and 2, S½NE¼, E½SW¼, and SE¼;
Sec. 7, lots 3 and 4, and SE¼;
Sec. 8, NW¼NE¼, E½NW¼, NE¼SW¼, and W½SW¼;
Sec. 9, N½NW¼;
Sec. 13, E½NE¼;
Sec. 20, W½SW¼NW¼, NW¼SW¼, E½SW¼SE¼, and SE¼SE¼;
Sec. 21, S½SW¼, and W½SE¼;
Sec. 31, lots 1 and 2, S½NE¼, and NE¼SE¼;
Sec. 32, S½NW¼, N½SW¼, and NW¼SE¼.

A strip of land 330 feet wide on each side of the centerline of Singe Creek; Reynolds Creek; Johnson Creek; and Big Bend Creek through the following subdivisions:

T. 25 S., R. 2 E.,
Sec. 3, lots 1, 2, 5, 6, 7 and 8, S½NW¼, and NW¼SW¼;
Sec. 4, S½NE¼, SW¼, N½SE¼, and SW¼SE¼;
Sec. 5, S½SE¼;
Sec. 7, W½NE¼ and SE¼NE¼;
Sec. 8, N½NE¼, E½NE¼NW¼, and S½SW¼;
Sec. 16, S½NW¼ and N½SW¼;
Sec. 17, NE¼ and N½NW¼;
Sec. 30, lots 2 and 3 and NW¼SE¼.

The areas described aggregate approximately 2840 acres, of which 1045 acres are in Douglas County and 1795 acres are in Lane County, Oregon.

Steamboat Creek Roadside and Streamside Zones (Combined Area)

A strip of land 200 feet wide north and west of the centerline of Steamboat Creek Road No. 232, a strip of land 330 feet wide on the south and east of the centerline of Steamboat Creek, and the area in between the two strips, through the following subdivisions:

T. 25 S., R. 1 E.,
Sec. 24, NW¼SE¼;
Sec. 25, NW¼NE¼ and SE¼NW¼;
Sec. 26, S½SE¼NE¼ and S½S½NW¼;
Sec. 27, S½SW¼SW¼ and S½SE¼;
Sec. 28, SW¼SE¼SW¼ and NE¼SE¼;
Sec. 32, SW¼SW¼;
Sec. 33, SW¼NE¼ and S½N½SW¼.
T. 25½ S., R. 1 E.,
Sec. 32, lots 2 and 3 and S½SW¼, excepting strip withdrawn in North Umpqua Road Zone by PLO–2750 dated 8/13/62.

A strip of land 200 feet wide north and west or south and west of the centerline of Steamboat Creek Road No. 232, a strip of land 330 feet wide north and east or south and east of the centerline of Steamboat Creek and East Fork Steamboat Creek, and the area in between the two strips, through the following subdivisions:
T. 24 S., R. 2 E.,
Sec. 2, SW¼SW¼;
Sec. 3, N½SW¼ and S½S½;
Sec. 4, S½SE¼;
Sec. 8, SE¼SE¼;
Sec. 9, N½NE¼, NW¼, and NW¼SW¼;
Sec. 10, NW¼NW¼;
Sec. 17, NW¼NE¼ and E½SE¼SW¼;
Sec. 20, E½E½NW¼, NW¼SE¼, and E½SW¼SE¼;
Sec. 29, E½W½E½;
Sec. 32, NE¼NE¼ and NE¼NW¼;
Sec. 33, NW¼SW¼ and S½SW¼.

A strip of land 200 feet wide north and west or south and east of the centerline of Steamboat Creek Road No. 232, a strip of land 300 feet wide on the south and east or north and west of the centerline of Steamboat Creek, and the area in between the two strips, through the following subdivisions:

T. 25 S., R. 2 E.,
Sec. 4, lots 3, 4 and 5;
Sec. 5, lot 1, W½ lot 8, N½SW¼NE¼, SE¼NW¼, SW¼SW¼, and NE¼SE¼;
Sec. 7, SE¼NE¼;
Sec. 19, S½ lot 2, lot 3, NE¼NE¼, and SW¼NE¼.

The areas described aggregate approximately 435 acres of which 110 acres are in Douglas County and 325 acres are in Lane County, Oregon.

All communications in connection with this withdrawal should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-6310 Filed 3-2-77;8:45 am]

U–36493
UTAH
Application

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Crest Oil Company, Incorporated has applied for a 3-inch welded joint natural gas pipeline right-of-way across the following lands.

SALT LAKE MERIDIAN, UTAH

T. 21 S., R. 23 E.
Sec. 1.

The pipeline will convey gas from Crest Oil No. 2–8 to existing gas gathering piplines. The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions. Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

Dated: February 24, 1977.

PAUL L. HOWARD,
State Director.

[FR Doc.77-6405 Filed 3-2-77;8:45 am]

National Park Service

[Order No. 3]

ADMINISTRATIVE OFFICER AND GENERAL SUPPLY ASSISTANT, OZARK NATIONAL SCENIC RIVERWAYS

Delegation of Authority Regarding Purchasing Authority

SECTION 1. *Administrative Officer.* The Administrative Officer may issue purchase orders and enter into contracts not in excess of $25,000 for supplies or equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2. *General Supply Assistant.* The General Supply Assistant may issue purchase orders not in excess of $2,000 for supplies, materials, equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 3. *Revocation.* This order supersedes Order No. 2, Ozark National Scenic Riverways, dated June 23, 1972, and published at 30 FR 14822, July 25, 1972.

(National Park Service Order No. 77 (38 FR 7478) as amended; Midwest Region Order No. 5 (37 FR 6324) as amended.)

Dated: February 17, 1977.

ARTHUR L. SULLIVAN,
Superintendent, Ozark National Scenic Riverways.

[FR Doc.77-6437 Filed 3-3-77;8:45 am]

[Order No. 3]

ADMINISTRATIVE OFFICER, ET AL., ARCHES AND CANYONLANDS NATIONAL PARKS, NATURAL BRIDGES NATIONAL MONUMENT, UTAH

Delegation of Authority

SEC. 1. *Administrative Officer.* The Administrative Officer may execute and approve contracts and/or purchase orders not in excess of $25,000 for construction, supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

SEC. 2. *General Supply Assistant.* The General Supply Assistant may execute and approve purchase orders not in excess of $1,000 for equipment, supplies and services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

SEC. 3. *Revocation.* This order supersedes Order No. 2, dated May 17, 1972, and published in the FR on June 20, 1972 (37 FR 12732).

(National Park Service Order No. 77 (38 FR 7478) as amended; Rocky Mountain Region Order No. 1 (39 FR 12869) as amended.)

Dated: September 16, 1976.

PETER L. PARRY,
Superintendent, Arches and Canyonlands National Parks, Natural Bridges National Monument.

[FR Doc.77-6438 Filed 3-2-77;8:45 am]

[Order No. 1, Amdt. 3]

SUPERINTENDENTS, ET AL., MID-ATLANTIC REGION

Delegation of Authority

Order No. 1, approved January 6, 1974, and published in the FEDERAL REGISTER of January 29, 1974 (39 FR 3694), and Amendment No. 1, approved November 4, 1974, and published in FEDERAL REGISTER of February 13, 1975 (40 FR 6694), and Amendment No. 2, approved June 9, 1975 and published in FEDERAL REGISTER of July 18, 1975 (40 FR 30295) set forth in Section 1 certain authority to officers and employees. This amendment changes paragraph (h) to read as follows:

SECTION 1. *Superintendents.* • • •

Authority to execute, approve, and administer contracts and to issue purchase orders for equipment, supplies and services, including construction, as follows:

1. Superintendents of Allegheny Portage Railroad National Historic Cite, Appomattox Court House National Historical Park, Booker T. Washington National Monument, Fort Necessity National Battlefield, George Washington Birthplace National Monument, Hopewell Village National Historic Site, Fort McHenry National Monument and Historic Shrine, Petersburg National Battlefield, and Richmond National Battlefield Park—in excess of $50,000.

2. Superintendents of Assateague Island National Seashore, Delaware Water Gap National Recreation Area, Fredericksburg and Spotsylvania County Battlefields, Gettysburg National Military Park, and Valley Forge National Historic Site—in excess of $200,000.

3. Superintendents of Independence National Historical Park, Colonial National Historical Park, and Shenandoah National Park—in excess of $500,000.

The limitations in this paragraph (h) apply only to open market or non-mandatory sources of supply.

CHESTER L. BROOKS,
Regional Director, Mid-Atlantic Region.

[FR Doc.77-6439 Filed 3-2-77;8:45 am]

[Order No. 1, Amdt. 4]

SUPERINTENDENTS, ET AL., MID-ATLANTIC REGION

Delegation of Authority

Order No. 1, approved January 6, 1974, and published in FEDERAL REGISTER of January 29, 1974 (39 FR 3694), set forth in Section 2 certain authority to Associate Regional Director, Administration. This amendment changes paragraph (a) of section 2 to read as follows:

SEC. 2. *Delegation.*

(a) The Associate Regional Director, Administration, is authorized to exercise all the procurement and contracting authority now or hereafter vested in the Regional Director, Mid-Atlantic Region, except authority to contract for acquisition of land and related property, and options and offers to sell related thereto. The Associate Regional Director, Administration, is also authorized to approve the use of government-owned or leased motor vehicles between domicile and place of employment. This authority may not be redelegated.

BENJAMIN J. ZERBEY,
Acting Regional Director, Mid-Atlantic Region.

[FR Doc.77-6440 Filed 3-2-77;8:45 am]

Bureau of Reclamation

ESQUATZEL COULEE WASTEWAY, COLUMBIA BASIN PROJECT, WASHINGTON

Public Hearing on Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Esquatzel Coulee Wasteway, Columbia Basin Project, Washington, INT DES 77–8, filed with the Council on Environmental Quality on February 23, 1977.

The draft environmental statement describes the nature and extent of the environmental impact of the proposed project. Principal features in the Esquat-

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zel Coulee Wasteway would be the enlargement of approximately three miles of temporary channel and the extension of the already constructed reach of the Coulee, an additional nine-tenths of a mile downstream. Approximately one mile of unstabilized banks in the natural reaches of the wasteway would be stabilized. A little over 4,000 acres of land will be acquired for inclusion in recreation, fish, and wildlife management units.

Public hearing sessions will be held in Mesa, Washington, at the Mesa Elementary School on Wednesday, April 6, at 8:00 p.m., and in Pasco, Washington, at the Red Lion Inn on Thursday, April 7, at 8:00 p.m. These hearing sessions are provided to receive views and comments from interested organizations and individuals relating to the environmental impacts of the proposed action. Oral statements at the hearing will be limited to a 10-minute period for each individual. Speakers will be encouraged not to trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comments after all persons desiring to comment have been heard. The speaking order at the hearing will be determined by the order in which the letter requests are received by Reclamation. Requests for scheduled presentation will be accepted up until 5:00 p.m. on April 5, 1977. Requests to make oral statements will also be accepted during each session of the hearing, and persons making those requests will be permitted to speak for 10 minutes on a first-come-first-served basis after each person who submitted a letter request has been permitted to make an initial presentation.

Organizations or individuals desiring to present their statements at the hearing should write to the Regional Director, Attention Code 160, Pacific Northwest Region, Bureau of Reclamation, Department of the Interior, Box 043, 550 West Fort Street, Boise, Idaho 83724, or telephone (208) 384-1208 and announce their intention to participate.

Written comments from those unable to attend and from those wishing to supplement their oral presentation at the hearing should be received at the address above by April 12, 1977.

Dated: February 28, 1977.

DONALD D. ANDERSON,
Acting Commissioner.

[FR Doc.77-6399 Filed 3-2-77;8:45 am]

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

ADVISORY COMMITTEE ON JOINT BOARD ACTUARIAL EXAMINATIONS

Meeting

Notice is hereby given that the Advisory Committee on Joint Board Actuarial Examinations will meet in the Ambassador West Hotel, Georges II and III, 1300 North State Parkway, Chicago, Illinois on March 21, 1977 at 9:15 a.m.

The purposes of the meeting are: 1) To discuss topics and questions which may be recommended for inclusion in the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, Sections 1242(a)(1)(B) and (C), and 2) To review other actuarial examinations in order to make recommendations regarding such examinations' adequacy to demonstrate the education and training in actuarial mathematics and methodology required for enrollment by Title 29 U.S. Code, Section 1242(a)(1).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that the portion of the meeting dealing with the first of the above-listed purposes concerns matters falling within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such portion be closed to public participation.

The portion of the meeting dealing with the second of the above-listed purposes will commence at approximately 9:15 a.m. and will be open to the public as space is available. Time permitting, after discussion of agenda subjects by Committee Members, interested persons may make statements germane to these subjects. Persons wishing to make oral statements should advise the Committee Management Officer in writing prior to the meeting to aid in scheduling the time available and should submit the written text, or, at a minimum, an outline of comments they propose to make orally. Such comments will be restricted to ten minutes in length. Any interested persons may file a written statement for consideration by the Committee by sending it to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220.

LESLIE S. SHAPIRO,
Advisory Committee, Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc.77-6339 Filed 3-2-77;8:45 am]

LEGAL SERVICES CORPORATION

WESTERN KENTUCKY LEGAL SERVICES, INC. AND NORTHWEST ARKANSAS LEGAL SERVICES, INC.

Notice of Grants and Contracts

FEBRUARY 25, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the imitation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby initiated, of such grant, contract, or project . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

1. Western Kentucky Legal Services, Inc., Bowling Green, Kentucky to serve the counties of Warren, Allen, Barren, Butler, Edmonson, Logan and Simpson.

2. Northwest Arkansas Legal Services, Inc., Fayetteville, Arkansas to serve the Counties of Benton, Boone, Carroll, Madison, Newton and Washington.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Atlanta Regional Office, 615 Peachtree Street, St., N.E., Room 503, Atlanta, Georgia 30308.

THOMAS EHRLICH,
President.

[FR Doc.77-6311 Filed 3-2-77;8:45 am]

LEGAL AID SOCIETY OF LINCOLN

Notice of Grants and Contracts

FEBRUARY 25, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project. . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid Society of Lincoln, Nebraska to serve the counties of Gage, Saunders, Seward, Otoe, Butler, Saline and Johnson.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604.

THOMAS EHRLICH,
President.

[FR Doc.77-6312 Filed 3-2-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-13)]

APPLICATIONS STEERING COMMITTEE, EARTH DYNAMICS ADVISORY SUBCOMMITTEE

Meeting

The Applications Steering Committee, Earth Dynamics Advisory Subcommittee will meet on March 23 and 24, 1977, at the Goddard Space Flight Center, Greenbelt, Maryland, in Building 26, Room 200. Members of the public will be admitted to the meeting beginning at 8:30 a.m. each day on a first-come, first-served basis, up to the seating capacity of the room.

The Applications Steering Committee, Earth Dynamics Advisory Subcommittee will assist NASA in the definition and conduct of Earth Dynamics flight programs as well as other Earth Dynamics related activities associated with the Earth and Ocean Dynamics Applications Program (EODAP). Mr. James P. Murphy can be contacted for further information at 202-755-6038, NASA Headquarters, Washington, D.C. 20546.

The following is the agenda and schedule for the March 23-24, 1977, meeting.

MARCH 23, 1977

9 a.m.	Discussion of amendments to the minutes of the last meeting. Adoption of the minutes.
9:15 a.m.	Remarks of the Chairman relating to organizational matters.
9:30 a.m.	Review of discipline program objectives. Review of Earth Dynamics Research and Technology Objectives and Plans.
10 a.m.	Geodetic Systems Development.
11 a.m.	Topographic Mapping Technique Development.
1 p.m.	Modeling and Forecasting of Crustal Hazards.
2 p.m.	Modeling of Crustal Inhomogenities for Resource Assessment.
3 p.m.	Solid Earth Dynamics Modeling.
4 p.m.	Gravity Field and Geoid Model Development.
5 p.m.	Adjourn.

MARCH 24, 1977

Continuation of Research and Technology Objectives and Plans

9 a.m.	Advanced Sensor Development for Earth Dynamics.
10 a.m.	Advanced Earth Dynamics Missions.
11 a.m.	Discussion of Research and Technology Objectives and Plans.
1 p.m.	Panel Assignments.
2 p.m.	Plans for Summer Conference and Program Update.
3 p.m.	Adjourn.

JOHN M. COULTER,
Acting Assistant Administrator for DoD and Interagency Affairs.

FEBRUARY 25, 1977.

[FR Doc.77-6352 Filed 3-2-77;8:45 am]

[Notice (77-14)]

APPLICATIONS STEERING COMMITTEE, ATMOSPHERIC CLOUD PHYSICS LABORATORY ADVISORY SUBCOMMITTEE

Meeting

The Applications Steering Committee, Atmospheric Cloud Physics Laboratory Advisory Subcommittee will meet on March 22 and 23, 1977, at the Marshall Space Flight Center, Marshall Space Flight Center, Alabama 35812, in Room 409, Bldg. 4200. Members of the public will be admitted to the meeting beginning at 9 a.m. on a first-come, first-served basis, up to the seating capacity of the room which is 40.

The Applications Steering Committee, Atmospheric Cloud Physics Laboratory Advisory Subcommittee will assist NASA in the definition and planning of scientific experiments to be conducted on the planned ACPL missions and serve in an advisory capacity concerning these experiments and the application of their results. Mr. Robert E. Smith can be contacted for further information at (205) 453-3183, Marshall Space Flight Center, Ala. 35812.

The following is the agenda and schedule for the March 22-23, 1977, meeting:

MARCH 22

9 a.m.	Welcome, introduction of members.
9:15 a.m.	Project status and schedule.
10:30 a.m.	Preliminary design concepts.
1 p.m.	Functional capabilities.
3:15 p.m.	Spacelab payload integration.
4:30 p.m.	Adjourn.

MARCH 23

9 a.m.	Status report on announcement of opportunity.
9:30 a.m.	Phased development schedule.
10:30 a.m.	Tour. Spacelab integration ACPL mock-up, expansion chamber test.
12 m.	Adjourn.

JOHN M. COULTER,
Acting Assistant Administrator for Department of Defense and Interagency Affairs.

FEBRUARY 25, 1977.

[FR Doc.77-6353 Filed 3-2-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR-51, issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One—Unit No. 1 (the facility) located in Pope County, Arkansas. The amendment is effective as of its date of issuance.

This amendment deleted Technical Specification surveillance requirements for Boric Acid Mix Tank level and temperature channels.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further detail with respect to this action, see (1) the application for amendment dated October 6, 1976, (2) Amendment No. 19 to Facility Operating License No. DPR-51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Arkansas Polytechnic College, Russellville, Arkansas 72801. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of February, 1977.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-6029 Filed 3-2-77;8:45 am]

[Docket Nos. 50-3, 50-247, 50-286]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. (INDIAN POINT, UNITS 1, 2 AND 3)

Hearing

Notice is hereby given that, in accordance with the Appeal Board's order of February 10, 1977, the evidentiary hearing relating to the seismic monitoring requirement will commence at 9:30 a.m., Tuesday, March 15, 1977 in the NRC Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland, and continue in session each weekday until concluded.

Dated: February 22, 1977.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-6030 Filed 3-2-77;8:45 am]

[Docket No. 50-423]

NORTHEAST NUCLEAR ENERGY COMPANY, ET AL.[1]

[1] The following are the holders of Construction Permit No. CPPR-113: Ashburnham Municipal Light Plant, Boylston Municipal Lighting Plant, Central Vermont Public Service Corporation, Chicopee Municipal Lighting Plant, City of Burlington, Vermont, City of Holyoke, Massachusetts Gas and Electric De-

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partment, the Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Green Mountain Power Corporation, The Hartford Electric Light Company, Marblehead Municipal Light Department, Massachusetts Municipal Wholesale Electric Company, Middleton Municipal Light Department, Montaup Electric Company, New England Power Company, North Attleborough Electric Department, Northeast Nuclear Energy Company, Paxton Municipal Light Department, Peabody Municipal Light Plant, Public Service Company of New Hampshire, Shrewsbury Light Plant, Templeton Municipal Lighting Plant, Town of South Hadley Electric Light Department, The United Illuminating Company, Vermont Electric Cooperative, Inc., Vermont Electric Power Company, Inc., Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, Western Massachusetts Electric Company, Westfield Gas and Electric Light Department.

Issuance of Amendment to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to Construction Permit No. CPPR-113 issued to the Northeast Nuclear Energy Company, et al. The amendment reflects a change in ownership of Millstone Nuclear Power Station, Unit No. 3 (the facility), located in New London County, Connecticut. The amendment is effective as of its date of issuance.

The amendment provides for the addition of Massachusetts Municipal Wholesale Electric Company and Vermont Electric Cooperative, Inc. as applicants for all licenses previously requested and the transfer to Municipal Wholesale Electric Company and Vermont Electric Cooperative, Inc. the proposed 1.603% and 10% ownership interest, respectively, by the lead participants in the project, The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendment.

For further details with respect to this action, see (1) the application for amendment contained in a letter, dated October 14, 1976, and amended letters, dated December 15, 1976 and January 18, 1977, respectively, (2) Amendment No. 4 to Construction Permit No. CPPR-113, and (3) the Commission's related Safety Evaluation contained in the Commission's letter to Northeast Nuclear Energy Company. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland this 23rd day of February 1977.

For the nuclear regulatory commission.

ALEXANDER W. DROMERICK,
Acting Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 77-6031 Filed 3-2-77;8:45 am]

[Docket Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC COMPANY, ET AL. (PEACH BOTTOM ATOMIC POWER STATION, UNITS 2 AND 3)

Establishment of Atomic Safety and Licensing Board

By a designation made March 2, 1976, the Licensing Board named below was appointed to conduct the proceedings on remand made necessary by *York Committee for a Safe Environment* v. *NRC*, 527 F. 2d 812 (D. C. Cir. 1975). The facility involved in that decision is the Peach Bottom Atomic Power Station, Unit 2, and the matter remanded involves one aspect of the facility's compliance with Appendix I of 10 CFR Part 50. The Initial Decision authorizing issuance of the operating license for the Peach Bottom Atomic Power Station, Unit 3, is presently undergoing review by the Appeal Board.

On or about August 25, 1976, the Environmental Coalition on Nuclear Power ("ECNP") submitted a "Petition for Intervention" directed to both Peach Bottom Units 2 and 3.

The Licensing Board designated in the Panel Chairman's Memorandum of March 2, 1976 is hereby authorized to rule upon the August 25, 1976 ECNP petition to intervene in both cases (Peach Bottom Atomic Power Station, Units 2 and 3, Docket Nos. 50-277 and 50-278), and to conduct any proceedings which might result from the attempted interventions.

The members of the Licensing Board are as follows:

Edward Luton, Esq., Chairman.
Dr. Kenneth A. McCollom, Member.
Dr. Ernest O. Salo, Member.

Their addresses are as follows:

Edward Luton, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. Kenneth A. McCollom, College of Engineering, Oklahoma State University, Stillwater, Oklahoma 74074.

Dr. Ernest O. Salo, Professor, Fisheries Research Institute, WH-10, College of Fisheries, University of Washington, Seattle, Washington 98195.

Dated at Bethesda, Maryland this 18th day of February 1977.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.77-6032 Filed 3-2-77;8:45 am]

[Docket Nos. 50-514, 50-515]

PORTLAND GENERAL ELECTRIC COMPANY, ET AL. (PEBBLE SPRINGS NUCLEAR PLANT, UNITS 1 AND 2)

Order Changing Location of Hearing

On December 20, 1976, an Order Convening Hearing was issued in this proceeding and published in the FEDERAL REGISTER (41 FR 56893, December 30, 1976), setting an evidentiary hearing at 9:00 a.m. on Tuesday, March 1, 1977 in Room 514 of the New Federal Building, 915 Second Avenue, Seattle, Washington 98174.

Due to the limitation of space arrangements, the evidentiary hearing must resume at a different location and the hearing will now convene at Conference Room H at the Seattle Center in Seattle.

Wherefore, it is ordered, that the evidentiary hearing scheduled to convene at 9:00 a.m. on Tuesday, March 1, 1977, shall convene at the same scheduled time in Conference Room H, at the Seattle Center, 305 Harrison Streeet, Seattle, Washington 98109.

Dated at Bethesda, Maryland this 23rd day of February 1977.

For the Atomic Safety and Licensing Board.

ROBERT M. LAZO,
Acting Chairman.

[FR Doc.77-6033 Filed 3-2-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licences.

Regulatory Guide 1.107, Revision 1, "Qualifications for Cement Grouting for prestressing Tendons in Containment Structures," describes quality standards acceptable to the NRC staff for the use of portland cement grout as the corrosion inhibitor for prestressing tendons in prestressed concrete containment structures. In specific areas, this guide endorses portions of existing national standards. This guide was revised following consideration of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 22nd day of February 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-6036 Filed 3-2-77;8:45 am]

TRANSPORTATION OF RADIONUCLIDES IN URBAN ENVIRONS

Intent To Prepare a Generic EIS

The Nuclear Regulatory Commission (NRC) has commenced preparation of a generic environmental impact statement on the transportation of radionuclides in urban environs. This environmental impact statement on the transportation of radioactive material near, in, and through a large densely populated area is being prepared in connection with a re-evaluation of present regulations as indicated in the advance notice of rulemaking proceedings published June 2, 1975 (40 FR 23768) and pursuant to the National Environmental Policy Act of 1969 (83 Stat. 852).

Pursuant to the stated intention to review those regulations in place when NRC was formed in January 1975, the rulemaking proceeding was initiated with a view to the possible amendment of regulations in 10 CFR Parts 71 and 73 regarding transportation of radioactive material, including packaging. The considerations published previously apply to this environmental impact statement; however, this statement will focus on the special features of urban areas, and various transport modes will be given emphasis in accord with their environmental significance in an urban setting.

The generic environmental impact statement will consider such unique facets of the urban setting as:

(1) High population densities;
(2) Shielding effects of buildings under normal and accident conditions;
(3) The effect of local meteorology on accident consequences;
(4) The convergence of transportation routes in cities; and
(5) Diurnal variations in population.

Emphasis will be placed on radiological health effects, but all environmental impacts, both radiological and nonradiological, will be assessed. The NRC staff has selected Sandia Laboratories, Albuquerque, New Mexico, to perform an environmental assessment, upon which the generic environmental impact statement will be largely based.

To help its environmental analysis, Sandia Laboratories has formed an Ad Hoc Task Group to provide a forum for the exchange of ideas and information between experts. The broadly based membership of the AHTG includes persons associated with government (local, state and federal), industry, academia, and environmental activist groups. Meetings of the AHTG are open to the public. The first meeting was held in New York City on September 20, 1976; the second meeting was held in Arlington, Va. on November 16-17, 1976. As a result of the AHTG meetings the project scope has been expanded to treat social impact and quality assurance practices in further depth. A third meeting is planned for March 29-30, 1977 in Baltimore, Md. Minutes of these meetings will be placed in the USNRC Public Document Room (1717 H Street, N.W., Washington, DC.) as they become available. Interested persons are encouraged to attend these public meetings. Further information about the Sandia Laboratories assessment, the AHTG, or future meetings may be obtained from A. R. DuCharme, Division 5413, Sandia Laboratories, Albuquerque, New Mexico 87115, telephone (505) 264-5571.

After the environmental impact assessment has been reviewed by the NRC staff, a draft generic environmental impact statement will be prepared. Upon preparation of the draft environmental statement, the NRC will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft generic environmental impact statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments on Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the NRC staff will prepare a final generic environmental impact statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland this 18th day of February 1977.

(5 U.S.C. 552(a).)

For the Nuclear Regulatory Commission.

KENNETH R. CHAPMAN,
Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc.77-6034 Filed 3-2-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFE-GUARDS SUBCOMMITTEE ON ENRICHMENT PLANTS

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on Enrichment Plants will hold a meeting on March 18, 1977 at the Marriott O'Hare Motel, 8535 W. Higgins Road, Chicago, IL. The purpose of this meeting is to review proposed General Design Criteria for the licensing of isotope separation facilities.

The agenda for subject meeting shall be as follows:

FRIDAY, MARCH 18, 1977

9:00-9:15 a.m.—(Open) The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions, based upon their independent review of safety reports, regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

9:15 a.m. until the conclusion of business—(Open) The Subcommittee will hear presentations by representatives of the NRC Staff, and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving classified information.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect classified information (5 U.S.C. 552b(c)(1)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the be-

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ginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than March 11, 1977 to Mr. R. L. Wright, Jr., ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on March 17, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1919, Attn: Mr. R. L. Wright, Jr.) between 8:15 a.m. and 5:00 p.m., est.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. R. L. Wright, Jr., of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after March 25 and June 20, respectively, at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555. Copies may be obtained upon payment of appropriate charges.

Dated: February 28, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-6376 Filed 3-2-77;8:45 am]

[Docket No. 40-3453]

ATLAS MINERALS MOAB URANIUM MILL

Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, Atlas Minerals has filed an environmental report and four supplements in support of their application for renewal of Source Material License SUA-917 for the Moab Uranium Mill located in Grand County near Moab, Utah. The reports, which discuss environmental considerations related to the operation of the facility, are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. Copies of the report are also being made available at the Utah State Clearinghouse, Utah State Planning Coordinator, Office of the Governor, State Capitol Building, Salt Lake City 84114 and at the Southeastern Utah Association of Governments, P.O. Box 686, 109 S. Carbon Avenue, Price, Utah 84501.

After the environmental report and supplements have been analyzed by the staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Silver Spring, Maryland, this 23rd day of February, 1977.

For the Nuclear Regulatory Commission.

L. C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc.77-6378 Filed 3-2-77;8:45 am]

[Docket No. 70-36]

COMBUSTION ENGINEERING, INC. HEMATITE FACILITY

Negative Declaration

The Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Material License SNM-33 held by Combustion Engineering, Inc., to authorize continued production of low enriched uranium fuel powder and its pelletizing at the Hematite facility located in Jefferson County, Missouri.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the proposed action. On the basis of that appraisal, it is concluded that an environmental impact statement for the proposed action is not warranted because there will be no significant environmental impact attributable to the proposed action. The environmental impact appraisal (NR-FM-012) is available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Fuel Cycle and Material Safety.

Dated at Silver Spring, Maryland, this 25th day of February 1977.

For the Nuclear Regulatory Commission.

JOHN B. MARTIN,
Assistant Director for Fuel Cycle Safety and Licensing, Division of Fuel Cycle and Material Safety.

[FR Doc.77-6377 Filed 3-2-77;8:45 am]

[Docket Nos. STN 50-491, STN 50-492, and STN 50-493]

DUKE POWER CO. (CHEROKEE NUCLEAR STATION, UNIT NOS. 1, 2, AND 3)

Issuance of Revision to Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Duke Power Company to conduct certain site activities in connection with the Cherokee Nuclear Station, Unit Nos. 1, 2, and 3, prior to a decision regarding the issuance of construction permits. Notice of the Limited Work Authorization was published in the FEDERAL REGISTER on June 10, 1976 (41 FR 23489). The staff has now authorized the following additional activities which are within the scope of 10 CFR 50.10(e):

Additional excavation for facility structures which are not subject to the provisions of Appendix B to 10 CFR Part 50.

Any activities undertaken pursuant to this amended authorization are entirely at the risk of the Duke Power Company and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto.

A Partial Initial Decision on matters relating to the National Environmental Policy Act and site suitability was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on May 31, 1976. A copy of: (1) the Partial Initial Decision; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report, and amendments thereto; (4) the staff's Final Environmental Statement dated October 1975; (5) the Commission's letter of authorization, dated May 28, 1976 as amended January 19, 1977, and (6) the Commission's further letter of authorization dated February 23, 1977, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and the Cherokee County Library, 300 East Rutledge Avenue, Gaffney, South Carolina.

Dated at Rockville, Maryland this 23rd day of February 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, JR.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc.77-6379 Filed 3-2-77;8:45 am]

[Docket No. 50-335]

FLORIDA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission the Commission) has issued Amendment No. 13 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised Technical Specifications for operation of the St. Lucie Plant Unit No. 1 (the facility) located in St. Lucie County, Florida. The amendment is effective as of its date of issuance.

The amendment (1) terminated the Commission's June 17, 1976 "Order for Modification of License" which had placed an interim power restriction on peak linear heat generation rate of 12.7 kW/ft and interim restrictions related to reactor coolant flow rate, (2) authorized 100% power operation, (3) revised the peak linear heat generation rate limit in Technical Specifications to 14.8 kW/ft, and (4) reinstituted Technical Specification limits based on a reactor coolant flow rate of 370,000 gpm.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated July 9, 1976, and January 5, 1977, and supplemental information dated December 21, 1976, and February 1, 1977, (2) Amendment No. 13 to License No. DPR-67, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of February 1977.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-6380 Filed 3-2-77;8:45 am]

[Docket No. 50-315]

INDIANA & MICHIGAN ELECTRIC CO. AND INDIANA & MICHIGAN POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. DPR-58, issued to Indiana & Michigan Electric Company and Indiana & Michigan Power Company (the licensees), which revised the license and Technical Specifications for operation of the Donald C. Cook Nuclear Plant Unit No. 1 (the facility) located in Berrien County, Michigan. The amendment is effective as of its date of issuance.

The amendment revised the facility license and its appended Technical Specifications to authorize continued full power operation with (1) 65 Exxon Nuclear Company (ENC) 15×15 reload fuel assemblies, (2) operating limits based on an ENC ECCS evaluation model that conforms with the requirements of § 50.46 of 10 CFR Part 50, (3) modifications to certain electrically operated ECCS related valves, (4) revised surveillance requirements for ice condenser portion of the containment systems, and (5) corrections to the Technical Specification requirements for containment air recirculation fan response time, containment penetration and valve leakage rates, the audit responsibilities of the offsite review committee, and safety related hydraulic snubbers.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with items (1) and (2) above was published in the FEDERAL REGISTER on September 7, 1976 (41 FR 37679). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action on items (1) and (2) above. Prior public notice of items (3), (4) and (5) above was not required since these items do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated July 20 and December 7, 1976, and February 4 and 9, 1977, and supplements dated July 19, October 1, November 5, 17, 23 and 30, and December 7, 9, and 13, 1976, and February 8 and 9, 1977, (2) Amendment No. 18 to License No. DPR-58, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of February 1977.

For the nuclear regulatory commission.

RICHARD D. SILVER,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-6381 Filed 3-2-77;8:45 am]

[Docket No. 50-320]

METROPOLITAN EDISON CO., ET AL. (THREE MILE ISLAND NUCLEAR STATION, UNIT NO. 2)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has as assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this proceeding:

Alan S. Rosenthal, Chairman. Dr. W. Reed Johnson. Jerome E. Sharfman.

Dated: February 25, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-6382 Filed 3-2-77;8:45 am]

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NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. DCA–77–AR–021]

RAILROAD ACCIDENT—CHICAGO, ILLINOIS

Accident Investigation Hearing

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9:00 a.m. (local time) March 16, 1977, in the Boulevard Room of the Sheraton Chicago Hotel, Chicago, Illinois.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving the rear end collision of two Chicago Transit Authority trains, which occurred February 4, 1977, at Wabash Avenue and Lake Street, Chicago, Illinois.

Dated: February 24, 1977.

ELMER GARNER,
Hearing Officer.

[FR Doc.77-6436 Filed 3-2-77;8:45 am]

[N–AR 77–9]

ACCIDENT REPORT; RESPONSES TO SAFETY RECOMMENDATIONS

Availability and Receipt

Aircraft Accident Report.—The National Transportation Safety Board has made public a report of its investigation into the crash of an Overseas National Airways Douglas DC–10–30 at John F. Kennedy International Airport, Jamaica, New York, November 12, 1975. The report, No. NTS–AAR–76–19, was released February 26.

The wide-bodied jetliner was destroyed by fire on takeoff when the captain was forced to steer it onto a taxiway to avoid overrunning Runway 13 Right. All 139 persons aboard, airline employees on a transatlantic ferry flight, made a successful emergency evacuation. There were 32 evacuation injuries, two of them serious.

The Safety Board determined that the probable cause of the accident was the disintegration and subsequent fire in the No. 3 engine when it ingested a large number of sea gulls. Following the disintegration of the engine, the aircraft failed to decelerate effectively because (1) The No. 3 hydraulic system was inoperative, causing the loss of the No. 2 brake system and braking torque to be reduced 50 percent, (2) The No. 3 engine thrust reversers were inoperative, (3) At least three tires disintegrated, (4) The No. 3 system spoiler panels on each wing could not deploy, and (5) The runway surface was wet.

Also, the Board found, other factors contributing to the accident were (1) The bird-control program at JFK Airport did not effectively control the bird hazard on the airport, and (2) The FAA and the General Electric Company failed to consider the effects of rotor imbalance on the abradable epoxy shroud material when the engine was tested for certification.

During its investigation, the Safety Board issued 15 safety recommendations to the Federal Aviation Administration, most of these recommendations seeking to improve bird control measures at Kennedy and other similar bird-prone airports, and to solve the General Electric engine overpressurization problem and strengthen FAA engine certification requirements. These 15 recommendations are reproduced in report No. NTSB–AAR–76–19: A–76–59 through A–76–64, issued April 1, 1976 (41 FR 14954, April 8, 1976); A–76–8 through A–76–14 and A–76–15 and A–76–16, issued March 8, 1976 (41 FR 11366, March 18, 1976). Also reproduced in the report are recommendations A–75–22 through A–75–24 issued to FAA on March 25, 1975, as a result of an earlier special investigation concerning the CF6 engine.

Letters in Response to Safety Recommendations.—Received last week were letters from the following addressees of earlier Board recommendations:

Federal Aviation Administration. Letter of February 11 is in answer to the Safety Board's December 29 request for reconsideration of recommendations A–76–20 through A–76–22, A–76–25, and A–76–27 and A–76–28. These recommendations were issued last April 29 in connection with the Board's special study, "Chemically Generated Supplemental Oxygen Systems in DC–10 and L–1011 Aircraft," after investigation of several rapid decompression mishaps involving DC–10 and L–1011 aircraft disclosed problems with chemically generated passenger supplemental oxygen systems. (See 42 FR 3907, January 21, 1977.)

Concerning recommendation A–76–20, which asked that FAA require, after a certain date, that passenger emergency supplemental oxygen systems have readily discernible means to indicate that oxygen is flowing, FAA emphasizes its previous comment that "The current reservoir bag will give a good flow indication as the cabin altitude is increased to the higher levels where the need for supplemental oxygen is greatest." This comment was made in FAA's response of last August 2 (41 FR 30590, August 19, 1976). FAA will evaluate the basis for the United Kingdom/Australian requirement for flow indicating devices. FAA indicates its awareness of some instances where passengers did not use masks because they thought no oxygen was flowing, but FAA says that these instances occurred at relatively low cabin altitudes during noncritical cabin decompressions. FAA states that at cabin altitudes where passenger supplemental oxygen starts to become essential during short-term decompressions, the flow rate would noticeably expand the reservoir bag within seconds. "These events," FAA concludes, "combined with our actions concerning improved passenger briefing and safety cards, provide adequate indication of oxygen flow to the passenger masks."

FAA plans to publish an advisory circular to provide guidance and standardization as to the information air carriers should provide passengers on the use and characteristics of emergency equipment. This action will include consideration of what constitutes an adequate briefing. FAA states that the advisory circular will provide the principal inspectors with guidelines for standardization of passenger briefing card information. Estimated date of publication is March 31, 1977.

Re A–76–21, FAA is working with the Society of Automotive Engineers Aerospace Council to revise TSO–C64 concerning the provision of adjustable tabs on passenger masks. Such tabs would be included on masks manufactured in accordance with the revised TSO standards.

In connection with A–76–22, which asked FAA to issue an airworthiness directive requiring installation of adjustment tabs on in-service and in-stock passengers' supplemental oxygen mask headbands, FAA states that it does not propose to retrofit the presently installed passenger masks with masks equipped with adjustable tabs. In FAA's judgment, there is not "sufficient justification to require such a retrofit of the entire air carrier fleet, irrespective of cost." As new masks are installed in accord with revised TSO standards, masks with adjustable tabs will be installed in place of the present tabs, according to FAA.

FAA notes, with reference to A–76–25, that the advisory circular, referred to above in comments re A–76–20, will include instructions on (1) Chemical supplemental oxygen systems, and (2) The information that should be included on passenger briefing cards.

Regarding A–76–27, FAA is initiating a study of human factors principles and system design concepts relating to passenger supplemental oxygen systems. The study will be made at FAA's Civil Aeromedical Institute in Oklahoma City, and will draw on all currently available data, including SAE data, according to FAA.

In answer to A–76–28, which recommended development of standards for type certification demonstration tests of passenger supplemental oxygen systems, FAA reiterates its previous comment concerning the provisions of FAR 25.1301(d) and concerning special conditions for novel and unusual design features: FAA sees no need for additional demonstration, since this is covered at the time of aircraft certification under 25.1301(d). FAA comments, "The DC–10 passenger masks are in the seat backs; mask door opening tests were done to establish the reliability of this design feature. Extensive tests were done on the reliability of the DC–10 solid state oxygen generators. The FAA witnessed several of these tests. Passenger procedures for utilization of masks in the DC–10 are essentially the same as the procedures used in earlier airplanes such as the DC–8 and Boeing 707."

U.S. Coast Guard. Letter of February 15 updates response to recommendations M–70–3 and M–70–13 which were issued as a result of investigation into the collision of the SS *African Star* and the MV *Midwest Cities* on March 16, 1968, and the collision between the SS *Union Faith* and the *Warren J. Doucet* on April 6, 1969, respectively.

Recommendation M–70–3 asked that the Coast Guard, Army Corps of Engineers, and Coast and Geodetic Survey consider including in the Coast Pilot or other appropriate navigational guides, information for the inland waterways on the "points and bends" custom and its effect on 33 U.S.C. 203 (Rule I) and 33 U.S.C. 210 (Article 25), the narrow channel rules, and other navigational information useful in navigating these waters; and the need for clarification of these rules in the proposed "United States Nautical Rules" (H.R. 214).

Coast Guard states that the United States ratified the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) on November 23, 1976, and that these COLREGS will enter into force for U.S. vessels on the high seas on July 15, 1977. Coast Guard is revising its rules to conform as closely as possible with the 72 COLREGS, and will begin formal rulemaking procedures when necessary legislation to accomplish this revision is passed. Coast Guard states that it is intended that this revision and unification of local rules will codify the "points and bends" custom on the Western Rivers, and that upon codification, publication of this custom in various navigation guides will then be appropriate. Coast Guard promises further response to M–70–3 prior to January 1, 1978.

Concerning recommendations M–70–13, which asked for amendment of the law and regulations to specify minimum performance standards for whistles on all vessels provided with them in accord with applicable Rules of the Road similar to standards proposed by the International Association of Lighthouse Authorities, Coast Guard states that work has commenced to develop sound-signalling equipment standards for vessels on U.S. waters that will conform as closely as possible to the requirements of the 72 COLREGS. Further response will be forthcoming prior to January 1 next.

Coast Guard letter of February 10 updates response to recommendation M–72–20 which was issued as a result of investigation into the structural failure and sinking of the SS *Texaco Oklahoma* on March 27, 1971. The recommendation asked the Coast Guard to require all ship owners of this class tankship to install a hull stress monitor capable of indicating hull bending stresses at the most critical region of the ship. The recommendation also sought means for making short term predictions of the probable maximum bending moments to enable the master to make evasive ship maneuvers or to allow the crew sufficient warning to vacate the two lower levels of the forward deckhouse.

In response, the Coast Guard states that the EDO Corporation has a stress monitor installation which will be tested this winter aboard the SS *Lash Italia*, and that the Coast Guard will view operation of the system on a routine transatlantic voyage. Coast Guard notes that EDO has altered its initial philosophy of providing an absolute measure of stress warning to one of providing an aid to the master in making decisions re safety of the vessel and her personnel. Coast Guard states, "This approach is much more compatible with the Coast Guard view that the ultimate responsibility for the safety of the ship must rest with the master and that careful consideration must be given to any device which would desensitize him to his responsibility." Further response to this recommendation will be made prior to October 1, 1977.

The accident report and the safety recommendations are available to the general public; single copies may be obtained without charge. Copies of the letters responding to recommendations may be obtained at a cost of $4.00 for service and 10 cents per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93–633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

Dated: February 28, 1977.

MARGARET L. FISHER,
Federal Register Liaison Officer.

[FR Doc.77-6435 Filed 3-2-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information for the public received by the Office of Management and Budget on February 23, 1977, (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529).

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

Survey of Phosphorus-laden Sludge Management, single-time, city or regional waste water treatment plants, Charles E. Ellett, 395–5867.

REVISIONS

DEPARTMENT OF AGRICULTURE

Agricultural Research Service, 1977–78 nationwide survey of household food consumption and food intake of individuals, single-time, households in 50 States and Puerto Rico, Sunderhauf, M. B., 395–6140.

DEPARTMENT OF COMMERCE

Bureau of the Census, May 1977—Multiple job-holding, premium pay, usual hours worked, usual hourly and weekly earnings, and job search of the employed supplemental surveys, CPS–1, annually specified persons in 53,000 HH in May 1977 CPS, Arnold Strasser, 395–5867.

REVISIONS

DEPARTMENT OF LABOR

Bureau of Labor Statistics, retail prices, initiation and collection of food, commodity and services prices, BLS–3400, A, B, C, 3401, 3084A, monthly, retail establishments, Arnold Strasser, 395–5867.

EXTENSIONS

U.S. CIVIL SERVICE COMMISSION

Review of Operations, Merit System Agency: Review of Personnel Operations, Grant Aided Agency (Forms), CSC–1129, annually, State and local government agencies, David P. Caywood, 395–3443.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Supplier's Agreement, CCC–308, on occasion, vendors of storage and drying equipment, Marsha Traynham, 395–4529.

Rural Electrification Administration, Personal Experience Record of Applicants for Position as Manager—REA Electric Cooperatives, REA–328, on occasion, Marsha Traynham, 395–4529.

Agricultural Stabilization and Conservation Service, Loan Application and Approval, CCC–185, on occasion, producers of agricultural commodities, Marsha Tranyham, 395–4529.

EXTENSIONS

DEPARTMENT OF COMMERCE

Domestic and International Business Administration, Distribution License-related Reporting Requirements, EAR 373.3(D) 373.3(I), on occasion, commercial exporters and distributors, Warren Topelius, 395–5972.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Short Term Grazing Use Application and Authorization, 4120–5, on occasion, livestock ranches, Warren Topelius, 395–5872.

PHILLIP D. LARSEN,
Budget and Maangement Officer.

[FR Doc.77-6531 Filed 3-2-77; 8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management

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and Budget on February 24, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Evaluation of the Outpatient Dental Program, single time, eligible veterans and "fee paid" dentists, Reese, B. F., 395-3211.

DEPARTMENT OF COMMERCE

Bureau of Census:

Nonhousehold Sources Census Record Search and Telephone Follow-Up Verification Record, DH-801, single time, residents of HH's within the Oakland, Calif. city limits, Maria Gonzales, 395-6132.

Professional Service Firm or Organization Interview Record; Professional Service Association Member Report, B-510(X) B-511 (X), single time, firms and professions, Richard Eisinger, 395-6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Program Memorandum—Application, LSCA, Titles I and II, OE-4563, annually, government agencies, Warren Topelius, 395-5872.

Food and Drug Administration, Quick Response Surveys, annually, households in national probability sample, Richard Eisinger, 395-6140.

Center for Disease Control, Morbidity and Mortality Patterns Among Shale Oil Workers, single time, former shale oil workers, Eliott, C. A., 395-5867.

Health Services Administration, In-hospital Review Cost Identification Survey and Interview, guide, on occasion, hospitals in 10 PSRO areas, Richard Eisinger, 395-6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration, Survey of Problems Associated With Participation of Small Flood Prone Communities in the National Flood Insurance Program, single time, flood prone communities under 10,000 population, Housing, Veterans and Labor Division, Larry Haber, 395-3532.

DEPARTMENT OF STATE

National Commission on the Observance of International Women's Year, State Meeting Participant Questionnaire, single time, participants registering at State Meetings, Caywood, D. F., 395-3443.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Statewide Recreational Survey of California Residents Regarding Use of the California Desert, single time, random sample of approximately 1,200 California citizens, Maria Gonzales, 395-6132.

EXTENSIONS

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

"European Vision of America" Exhibition Audience Survey—Project Evaluation, single time, individuals attending museum exhibition, Lowry, R. L., 395-3772.

DEPARTMENT OF DEFENSE

Department of the Army (excluding Defense Civil Preparedness Agency), Prequalification Statement for Prime Construction Contractor, ENG3627, on occasion, construction contractors, Warren Topelius, 395-5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-6532 Filed 3-2-77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

GENERALIZED SYSTEM OF PREFERENCES

Explanation of Changes

Executive Order No. 11974, of February 25, 1977, made a number of changes in the product coverage of the Generalized System of Preferences (GSP). Under the GSP, eligible articles from designated beneficiary developing countries may enter the United States free of import duties. The GSP is provided for in Title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

The changes made by Executive Order No. 11974 were of five types:

A. The "competitive-need" provisions in section 504(c) of the Trade Act of 1974 require that duty-free treatment be withdrawn from eligible articles of particular beneficiary countries that, during 1976, exported such articles to the United States in quantities exceeding either (a) $29.9 million in value or (b) 50 percent of total U.S. imports of the articles. The law requires that these withdrawals be in effect not later than March 1. Executive Order makes such competitive-need withdrawals on the basis of 1976 data. The articles and countries affected by these withdrawls are listed in Part I of the annex to this notice.

B. The competitive-need provisions permit duty-free GSP benefits to be provided for eligible articles from beneficiary countries that exceeded the competitive-need limits for such articles in 1975 (and thus did not receive GSP benefits in 1976), but which fell below those limits in 1976. Thus the Executive order designates for GSP benefits many articles from particular beneficiary countries that are newly eligible for such benefits on the basis of 1976 data. These articles and countries are listed in Part II of the annex to this notice.

C. The law permits the designation of additional articles as eligible for GSP benefits, after certain procedural steps, including public hearings and advice from the U.S. International Trade Commission, have been completed. Nineteen such additional articles were designated for GSP benefits by the Executive order. These articles, together with the ones described in D below, are listed in Part III of the annex to this notice.

D. Executive Order No. 11960, of January 19, 1977, designated 26 articles as eligible for GSP benefits, effective March 1, 1977. Because E.O. 11960 was issued before final trade data for 1976 was available, its application of the competitive-need limits, to exclude certain of the 26 articles from duty-free treatment when imported from particular beneficiary countries, was based on 1975 data. The 1976 data that now is available requires different competitive-need exclusions, for the 26 articles designated by E.O. 11960, than those imposed by that order. Accordingly, to avoid conflict because E.O. 11960 and E.O. 11974 both take effect March 1, E.O. 11974 revokes E.O. 11960 and redesignates the 26 articles, subject to competitive-need exclusions based on 1976 data. These 26 redesignations together with the 19 new designations described in C above, and the countries affected by competitive-need exclusions for these 45 articles, are listed in Part III of the annex to this notice.

5. The Executive order subdivides former category 791.75 of the Tariff Schedules of the United States, which previously encompassed leather wearing apparel, to create the following two new categories: (a) 791.74, apparel articles composed both of leather and of textile materials, in which the textile materials comprise the chief weight of the articles; and (b) 791.76, other leather apparel articles. The order withdraws the designation for GSP benefits of new category 791.74, and continues the designation for the articles contained in category 791.76. This is done in order to correct a technical problem. This action is listed separately in Part IV of the annex to this notice.

WILLIAM B. KELLY,
Chairman, Trade Policy Staff Committee.

TSUS item No.	Brief description 1/	Country
222.34	Woven material of raffia for blends, etc.	Phil. Rep.
222.62	Articles, n.e.s. of raffia	Phil. Rep.
240.10	Spanish cedar plywood	Panama
240.12	Parana pine plywood	Rep. of Korea
256.80	Articles of cellulose wadding, n.s.p.f.	Mexico
274.00	Bocial and gift cards, without wording	Mexico
304.04	Abaca fibers, processed but not spun	Phil. Rep.
304.48	Sisal and henequen fibers, processed	Brazil
305.30	Jute yarns and rovings, plied, under 720 yds/lb.	Rep. of China
306.52	Alpaca hair, etc., greasy or washed	Peru
308.30	Silk yarn, wholly continuous fiber; organzine, etc.	Rep. of Korea
316.50	Cordage of silk	Phil. Rep.
353.04	Wabs, wadding, etc. of veg. fibers, except cotton	Mexico
360.82	Floor coverings, over 50% pile or tuft, veg. fib., except cotton	Hong Kong
370.17	Lace handkerchiefs of veg. fibers, except cotton	Portugal
407.08	2-Naphthol or beta-naphthol	Dom. Rep.
407.12	Salicylic acid and its salts	Romania
408.40	Phenethyl alcohol	Mexico
417.90	Beryllium oxide or carbonate	Malaysia
418.78	Copper compounds n.s.p.f.	Chile
418.80	Gold compounds	Mexico
420.82	Sodium bromide	Israel
425.00	Acrylonitrile	Rep. of China
425.86	Oxalic acid	Brazil
426.46	Organic lithium salts	Mexico
460.35	Geraniol, containing n/o 10% alcohol	Rep. of China
461.05	Bath salts, not perfumed	Israel
473.46	Leaded zinc oxide n/o 23% lead, dry	Mexico
473.48	Leaded zinc oxide n/o 23% lead, with oil or water	Mexico
473.58	Suboxide of lead (leady litharge)	Mexico
473.62	Basic silicate or sublimed white lead	Mexico
473.66	Vermilion reds	Mexico
490.44	Fatty salts, derived from linseed oil, n.s.p.f.	Rep. of China
493.82	Tall oil	Hong Kong
		Mexico

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

PART I

The following articles became ineligible for duty-free treatment when imported from the named beneficiary countries, by virtue of the provisions of Section 504(c) of the Trade Act of 1974

TSUS item No.	Brief description 1/	Country
106.60	Frog meat, fresh, chilled or frozen	India
107.20	Beef sausages in airtight containers	Argentina
107.40	Corned beef in airtight containers	Argentina Brazil
107.70	Meat and edible offal, n.e.s. n/o 30%/lb.	Haiti
111.92	Fish n.e.s. smoked or kippered, not canned	Phil. Rep.
121.55	Buffalo leather	India
130.35	Corn or maize, except certified seed	Brazil
139.30	Cabbage, fresh, chilled or frozen	Mexico
139.51	Cauliflower, fresh, chilled or frozen, entered 10/16-6/4	Mexico
137.71	Brussels sprouts	Mexico
140.10	Red kidney beans entered 5/1-8/31	Chile
140.20	Dried split chickpeas or garbanzos	Kenya
140.21	Dried chickpeas or garbanzos, not split	Mexico
140.25	Dried black-eye cowpeas	Peru
140.35	Dried lentils	Turkey
141.77	Vegetables in brine, etc. n.s.p.f. except artichokes	Mexico Turkey
146.22	Apricots, dried	Rep. of China
147.36	Citrus fruits n.s.p.f. prepared or preserved	Phil. Rep.
147.80	Guavas, fresh, dried, pickled or in brine	Chile
149.50	Fruits, n.e.s., fresh	Brazil
152.54	Guava paste and pulp	Guatemala
155.20	Sugars, sirups and molasses, principally crystalline	Ivory Coast
156.35	Cocoa butter	Dom. Rep.
156.45	Cocoa, sweetened	Rep. of China
161.15	Cassia, cassia buds, cassia vera, ground	Syria
161.53	Marjoram, manufactured	Mexico
161.69	Origanum, except crude	Rep. of China
184.65	Animal feed meat, prepared or preserved	Mexico
186.40	Hair for mattresses or padding	Honduras
200.91	Softwood dowel rods and pins, plain	Costa Rica
203.20	Compressed wood tool handles	Rep. of China
206.47	Wood forks and spoons, except mahogany	Rep. of China
206.98	Other wood household utensils and parts except mahogany	Rep. of China

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

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TSUS item No.	Brief description 1/	Country
494.40	Wood tar oil and wood tar	Cayman
511.51	Articles of concrete floor and wall tiles	Syria
513.84	Granite and articles of granite, n.s.p.f., decorated	Rep. of China
516.11	Untrimmed phlogopite	India
520.51	Precious stones and articles of such stones	Brazil
533.26	Fine-grained earthen tableware $7-$12/set	Romania
540.21	Enamels and colors of glass, etc., ground	Mexico
544.11	Glass strips n/o 6 inches wide	Rep. of China
545.31	Glass inners for vacuum flasks	Rep. of China
603.45	Materials chief value of tungsten	Bolivia
603.50	Materials cont. over 10% copper, lead, zinc	Botswana
605.66	Rolled precious metals, semimanufactured, n.e.s.	Singapore
610.71	Malleable cast-iron pipe fittings, alloyed	Rep. of Korea
612.02	Unwrought cement copper and copper precipitates	Mexico
612.06	Unwrought copper, n.e.s.	Peru Yugoslavia Zambia
612.70	Nickel silver wire not plated or coated	Chile
612.72	Wire of copper, n.e.s., not coated or plated	Chile
620.08	Nickel plates and sheets, clad, not cut	Mexico
622.20	Tin wire, not coated or plated	Malaysia
622.35	Tin powder and flakes	Hong Kong
624.50	Lead pipes, tubes, etc., not alloyed	Rep. of China
626.42	Zinc powders and flakes, n.e.s.	Costa Rica
628.05	Beryllium, unwrought, and waste and scrap	Mexico
628.10	Beryllium, wrought	Mexico
628.40	Hafnium, wrought	Singapore
640.10	Metal pressure containers of stainless steel	Mexico
642.06	Wire strand of nickel, not fitted or covered	Hong Kong
646.04	Copper thumb tacks	Rep. of China
649.39	Abrasive wheels mounted on a framework	Israel
649.71	Pen knives, etc. with folding blades, n/o 40¢/dz.	Rep. of China
650.79	Razors, except safety, n/o $3/dz.	India
650.83	Hair clippers and parts n/o $1.75/dz.	Hong Kong
651.03	Needle books and cases $1.25 or over per dz.	Hong Kong
651.49	Brass hand tools, n.e.s.	Rep. of Korea
652.50	Steel wool	Israel
653.02	Fence posts of iron or steel, not alloyed	Rep. of Korea
653.03	Fence posts of iron or steel, alloyed	Mexico
656.20	Articles of base metal coated with platinum	Hong Kong
657.90	Magnesium articles n.s.p.f. not coated with prec. metal	Mexico
674.56	Accessories, n.e.s. for machine tools	Mexico
676.52	Office machine parts, n.e.s.	Hong Kong
678.50	Machines, n.s.p.f., and parts	Rep. of China
685.24	Solid state radio receivers, n.e.s.	Rep. of Korea
685.25	Radio-telegraphic equipment and parts, n.e.s.	Rep. of China
696.35	Pneumatic craft	Rep. of China
700.54	Zoris	Hong Kong
702.08	Headwear, knit, not of cotton	Hong Kong
704.34	Gloves and glove linings other than of veg. fiber or wool	Phil. Rep.
713.07	Electricity supply meters $10-$15 each	Israel
713.15	Parts of meters	Mexico
724.35	Wire recordings, n.s.p.f.	Hong Kong
730.29	Rifles valued $25-$50 each	Brazil
731.10	Fish baskets or creels	Rep. of China
734.87	Lawn-tennis rackets, strung	Rep. of China
735.11	Sponge rubber balls, n.s.p.f.	Rep. of China
737.80	Toys, n.s.p.f. with a spring mechanism	Hong Kong
740.10	Jewelry of precious metals and stones, etc.	Hong Kong
750.65	Paint brushes, except artists' brushes	Rep. of Korea
755.30	Alcohol, gas, etc. mantles, chemically treated	Malta
771.05	Cellulose acetate waste and scrap for remanufacture	Rep. of China
771.45	Acrylic resin plastic profile shapes, n.s.p.f.	Rep. of China
790.60	Vacuum containers, over 1 n/o 2 pints	Rep. of China
791.17	Fur articles n.s.p.f. of fox skins	Argentina
791.20	Patent leather for footwear	Brazil
791.76	Leather wearing apparel n.s.p.f., except reptile	Rep. of China
791.80	Reptile leather articles, n.s.p.f.	Rep. of China
792.22	Articles of gut, n.s.p.f.	India

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

PART II

The following articles imported from the named beneficiary developing countries became eligible for duty-free treatment. The articles had been ineligible for duty free treatment when imported from these countries by virtue of the provisions of section 504(c) of the Trade Act of 1974

TSUS item No.	Brief description 1/	Country
110.45	Fresh fish n/o 15 lbs. each	Argentina
121.54	Sheep skins	India
135.94	Cucumbers entered 7/1 to 8/31 inclusive	Mexico
136.50	Lentils, fresh	Lebanon
145.24	Pignolia nuts	Mexico
146.66	Dried berries	Portugal
147.80	Guavas, fresh	Mexico
147.92	Mangoes, preserved	India
149.50	Fresh fruits, n.e.s.	Dom. Rep.
152.58	Mango paste and pulp	India
161.83	Capsicum, cayenne or red pepper, unground	Mexico
162.11	Thyme	India
166.30	Vegetable juices	Israel
168.23	Pisco and singani n/o 1 gal., over $9 gal.	Peru
175.51	Sunflower seed	Romania
176.49	Sesame oil unfit for food	Rep. of China
186.40	Hair for mattresses or padding	Rep. of China
202.60	Hardwood flooring	Thailand
203.20	Compressed wood, tool handles	Singapore
206.45	Mahogany forks and spoons	Phil. Rep.
206.95	Mahogany household utensils and parts	Haiti
222.32	Woven material of chip for blinds, etc.	Rep. of China
222.42	Baskets and bags of rattan or palm leaf	Hong Kong
240.10	Spanish cedar plywood	Rep. of Korea
240.12	Parana pine plywood	Brazil
240.40	Wood veneer panels, face finished	Phil. Rep.
251.30	Test or container boards	Mexico
304.48	Sisal and henequen fibers processed	Rep. of China
305.50	Chenille yarns of veg. fibers except cotton	Portugal
306.53	Alpaca hair, scoured	Peru
308.80	Chenille yarns of silk	Thailand
347.28	Wicking of vegetable fibers	Hong Kong
364.18	Tapestries of vegetable fibers	Rep. of China
416.10	Boric acid	Turkey
419.60	Molybdenum compounds	Chile
420.24	Potassium nitrate	Israel
420.78	Sodium borate	Argentina
420.84	Sodium carbonate, calcined	Romania
421.06	Sodium hydrosulfite	Colombia
425.74	Citric acid	Brazil
426.78	Potassium citrate	Israel
437.51	Gluconic acid	Brazil
455.16	Edible gelatin under 40¢/lb.	Mexico
455.30	Vegetable glue under 40¢/lb.	Mexico
460.70	Safrol, containing n/o 10% alcohol	Rep. of China
465.65	Coconut, palm-kernel and palm oils	Brazil
470.57	Mangrove, oak, quebracho, etc.	Argentina
472.44	Siennas, washed, not ground	India
473.36	Natural siennas, ground	Cyprus
473.38	Natural umbers, ground	Cyprus
511.41	Concrete tiles	Mexico
512.31	Gypsum cement n/o $40 ton	Mexico
514.34	Chalk articles, n.s.p.f.	Portugal
515.51	Stone suitable for monuments, etc.	Mexico
520.51	Precious stones and articles, n.e.s.	Hong Kong
522.71	Meerschaum, crude	Somalia
523.61	Pumice articles, n.e.s.	Mexico
534.74	Earthenware, fine grained n/o $1.50 dz.	Rep. of China
545.37	Glass inners for vacuum flasks	Hong Kong
547.51	Glass ampoules	Mexico
603.45	Materials, chief value tungsten	Rep. of Korea
610.56	Cast-iron pipes and tubes	India
612.02	Unwrought cement copper and precipitates	Peru
612.03	Unwrought black copper, blister, anode copper	Peru
612.41	Cupro-nickel sheets, plates and strips, not shaped, n.e.s.	Mexico
612.45	Plates and strips copper alloy	Mexico
613.15	Copper, nickel-silver pipe fittings	Mexico
620.26	Wrought nickel angles, shapes and sections	Israel
624.34	Lead bars, rods, angles, etc. n/o 13-1/3¢/lb.	Mexico
628.40	Hafnium, wrought	Barbados
644.08	Aluminum foil, not backed	Colombia
646.88	Cabinet locks of base metal, not cylinder	Hong Kong
648.57	Hoes and rakes and parts, n.e.s.	Rep. of China
651.01	Needle books and cases under $1.25 per dz.	Hong Kong
653.70	Platinum-plated household articles	Hong Kong

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

PART III

The following articles were newly designated as eligible articles and will receive duty-free treatment when imported into the United States if they are the product of a beneficiary developing country, except that products of certain beneficiary developing countries which are named will not receive duty-free treatment by virtue of the provisions of section 504(c) of the Trade Act of 1974.

TSUS item No.	Brief description 1/	Country
100.73	Live horses n/o $150 each	
105.30	Birds, n.s.p.f., fresh, chilled, etc.	
105.60	Bird meat, n.e.s., fresh	
111.10	Dried cod, cusk, haddock, hake and pollock	
111.60	Fish, n.s.p.f., salted and pickled, in containers n/o 5 lbs.	India
121.55	Calf and kip lining leather	
121.55	Buffalo leather	
125.01	Tulip bulbs	
125.10	Lily bulbs	
125.15	Narcissus bulbs	
125.20	Crocus corms	
125.50	Fruit trees, fruit plant cuttings, seedlings	
126.71	Pepper seeds	
131.80	Milled grain unfit for human consumption n.s.p.f.	
135.41	Carrots under 4 inches	Mexico
135.60	Fresh celery entered April 15 to July 31	
136.10	Endive, fresh, chilled or frozen	
136.40	Horseradish, fresh, chilled or frozen	
136.50	Lentils, fresh chilled or frozen	
136.92	Pearl onions n/o 10/16 inch	Mexico
137.71	Fresh Brussels sprouts	Kenya
140.20	Dried split chickpeas or garbanzos	Mexico
140.21	Dried chickpeas or garbanzos not split	Peru
140.25	Dried black-eye cowpeas	Turkey
140.35	Dried lentils	
140.38	Dried lupines	
141.77	Vegetables in brine, etc., n.s.p.f. except artichokes	Mexico
146.73	Black currant, loganberries, gooseberries, etc. prepared or preserved	
152.05	Fruit flours except banana and plantain	
166.20	Ginger ale, ginger beer	

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

TSUS item No.	Brief description 1/	Country
660.80	Spring-operated and weight-operated motors	Hong Kong
668.32	Print rollers with raised patterns of brass	Nicaragua
676.20	Calculating machines for multiplying and dividing	Mexico
702.08	Headwear, knit, not cotton	Rep. of Korea
702.14	Headwear, not knit of cotton, flax	Hong Kong
702.35	Headwear, palm leaf or pandan	Mexico
704.34	Gloves and glove linings not veg. fiber or wool	Rep. of China
708.41	Lorgnettes	Hong Kong
709.21	Dental hypodermic needles	Pakistan
710.30	Automatic pilots and parts thereof	Mexico
710.68	Folding rules and parts thereof, of wood	Rep. of China
713.05	Meters, valued not over $10 each	Israel
713.07	Meters, electricity, over $10 not over $15	Yugoslavia
722.14	Photographic cameras, other than fixed focus n/o $10	Hong Kong
730.77	Shotgun rifle combination parts, n.e.s.	Yugoslavia
734.60	Croquet equipment and parts thereof	Rep. of China
737.50	Toy animals having a spring mechanism	Hong Kong
740.70	Chains of precious metal for jewelry	Yugoslavia
741.30	Beads, bugles and spangles, etc.	Phil. Rep.
748.25	Cut natural flowers, dried, etc.	Brazil
750.05	Combs, not over $4.50 per gross	Hong Kong
751.15	Umbrella handles of wood, n/o $2.50 doz.	Hong Kong
774.20	Articles of shellac or copal, n.s.p.f.	India
790.07	Clothespins, except spring type, of plastic	Hong Kong
791.20	Patent leather for footwear	Colombia
791.35	Leather welting	Mexico
791.70	Wearing apparel n.s.p.f., of reptile leather	Rep. of Korea

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

TSUS item No.	Brief description 1/	Country
176.49	Sesame oil, unfit for use as food	
177.12	Anchovy oil	
177.16	Shark oil	
177.22	Herring oil	
177.24	Menhaden oil	
177.26	Other fish oils n.s.p.f., except liver oils	
177.40	Marine-animal oils, n.e.s.	
193.10	Tonka beans	
389.61	Artificial flowers of man-made fibers	
403.58	Ethoxyquin	
403.79	Maleic anhydride	
605.27	Platinum- or silver-plated gold	
642.09	Wire strand of copper	
792.70	Articles of natural sponge n.s.p.f.	
799.00	Any articles, not provided for elsewhere	

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

PART IV

The designation as an eligible article for the GSP was terminated for the following articles

TSUS item No.	Brief description 1/
791.74	Wearing apparel of leather and textile materials for which the aggregate weight of textile materials exceeds the weight of an individual non-textile material contained therein.

1/ For a complete and accurate description of products in this list, see the article description for the corresponding item in the Tariff Schedules of the United States (Annotated).

[FR Doc.77-6422 Filed 3-2-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 19902; 70-5954]

CEDAR COAL CO.

Proposed Bank Borrowing by Subsidiary Coal Company

Notice is hereby given that Cedar Coal Company ("Cedar"), 1220 Charleston National Plaza, Charleston, West Virginia 25301, a coal company subsidiary of Appalachian Power Company ("Appalachian"), an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6 and 7 of the Act as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Cedar is engaged in the mining, delivery and sale of coal to Appalachian. Cedar does not own coal properties, but Cedar holds leases on approximately 24,931 acres of land in West Virginia estimated to contain 76 million tons of recoverable coal. Cedar's current mining capacity is stated to be 2 million tons of coal per year.

It is planned to expand the mining capacity of Cedar to approximately 4 million tons per year by 1979 at a cost of approximately $50,000,000. The bulk of Cedar's coal production is expected to be used by the John E. Amos plant (owned jointly by Appalachian and its affiliate, Ohio Power Company). Expansion plans for Cedar include the development of a 1,000 ton per hour coal preparation plant, coal handling facilities and railroad loadout, all presently under construction (the "White Oak preparation plant"). The cost of the White Oak preparation plant is currently estimated to be approximately $16,000,000.

It is proposed that Cedar raise the funds required to assist in financing the White Oak preparation plant through short-term bank borrowings. Cedar proposes to enter into a Credit Agreement ("agreement") with Irving Trust Company ("Irving Trust") (pursuant to which Cedar may borrow an aggregate principal amount not to exceed $18,000,000 outstanding at any one time. The borrowings are to be evidenced by a note ("note") issued by Cedar to Irving Trust bearing interest at a rate no greater than the prime rate in effect at Irving Trust from time to time. Compensating balances are required in the amount of 10 percent of the amount of the bank line made available by Irving Trust, together with additional compensating balances in the amount of 10 percent of the amount of any borrowings. Assuming the full $18,000,000 were borrowed and a prime rate of 6¼ percent, the effective cost of borrowings under the agreement would be approximately 7.8 percent.

Borrowings on the note will be due and payable in installments, with 50 percent of the outstanding balance of any borrowings being payable on November 30, 1977, and the remainder being payable on December 30, 1977. The note will be prepayable by Cedar at any time without premium or penalty. In the event a certain coal supply agreement between Cedar and Appalachian shall cease to be fully enforceable by Cedar in accordance with its terms, or in the event a regulatory body initiates proceedings directed at the termination of that coal supply agreement, Cedar must prepay the note in full within 90 days.

Borrowings pursuant to the agreement are to be made in contemplation of a sale-leaseback transaction involving the White Oak preparation plant (said transaction to be the subject of a further application to this Commission). It is proposed to retire the borrowings from Irving Trust under the agreement with the proceeds of the sale and leaseback transaction. If the sale-leaseback transaction does not occur the borrowings might be repaid with the proceeds of cash capital contributions contemplated to be made by Appalachian.

It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with the proposed transaction are estimated at $3,000, including legal fees not to exceed $1,000.

Notice is further given that any interested person may, not later than March 22, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he

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desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed, or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6361 Filed 3-2-77;8:45 am]

[Release No. 34-13289; File No. S7-661]

MEANS OF IMPROVING DISCLOSURE BY CERTAIN FOREIGN PRIVATE ISSUERS

Extension of Comment Period

The Securities and Exchange Commission today announced extension of the period of comment on its solicitation of public views (Release No. 34-13056, December 10, 1976 (41 FR 55012)) concerning means of improving the disclosure presently required by Forms 20 (17 CFR 249.220) and 20-K (17 CFR 249.320).

The period for submitting comments on these tentative proposals was due to expire February 28, 1977. However, the Commission has received requests for additional time within which to prepare and submit such comments. Accordingly, the comment period has been extended to March 31, 1977.

Written comments should be submitted, in triplicate, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All such communications should refer to File S7-661 and will be placed in the public files of the Commission.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 23, 1977.

[FR Doc.77-6360 Filed 3-2-77;8:45 am]

[Release No. 13294; File No. SR-MSTC-76-16]

MIDWEST SECURITIES TRUST CO.

Order Approving Rule Change Submitted by the Midwest Securities Trust Company To Modify Auditing Procedures Applicable to Itself

FEBRUARY 24, 1977.

On December 20, 1976, the Midwest Securities Trust Company, 120 South LaSalle Street, Chicago, Illinois 60603, ("MSTC") submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed change to MSTC Rule 17, Section 2, which would modify auditing procedures applicable to itself.

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 2734, January 13, 1977) and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-13138, January 5, 1977. By letter dated February 18, 1977, MSTC made a representation and change in the language of its proposed rule change.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-MSTC-76-16 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6362 Filed 3-2-77;8:45 am]

[Release No. 13296; SR-MSRB-76-4]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

FEBRUARY 24, 1977.

On December 23, 1976, the Municipal Securities Rulemaking Board, Suite 507, 1150 Connecticut Avenue, N.W., Washington, D.C. 20006 (the "Board") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change filed by the Board contained amended versions of the Board's proposed Rules G-8 through G-10 relating to recordkeeping and preservation requirements. These proposed rules were originally filed with the Commission on April 8, 1976 and published in Securities Exchange Act Release No. 12362 (April 23, 1976) (41 FR 18175 (April 30, 1976)).

Notice of the proposed rule change filed by the Board on December 23, 1976, together with the terms of substance of the proposed rule change, was given by publication of a Commission release (Securities Exchange Act Release No. 13107 (December 23, 1976)) and by publication in the Federal Register (42 FR 913 (January 4, 1977)).

The Commission finds that the proposed rule change set forth in Release No. 13107 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Board, and in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act that the proposed rule change filed with the Commission on December 23, 1976, be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6363 Filed 3-2-77;8:45 am]

NATIONAL MARKET ADVISORY BOARD

Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 10(a), that the National Market Advisory Board will conduct open meetings on March 14 and 15, April 18 and 19, and May 16 and 17, 1977, in Room 776, 500 North Capitol Street, Washington, D.C. Initial notice of the March and April meetings was published in the FEDERAL REGISTER on January 27, 1977.

The summarized agenda for the April and May meetings will be published in the FEDERAL REGISTER at a later date. The summarized agenda for the March meeting is as follows:

1. Report of the National Market Association and discussion thereof.
2. Discussion of the Board's report to the Securities and Exchange Commission regarding restrictions on off-board transactions in listed securities by exchange members.
3. Discussion of such other matters as may properly be brought before the Board.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 24, 1977.

[FR Doc.77-6364 Filed 3-2-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/35]

STUDY GROUP 5 OF U.S. NATIONAL COMMITTEE FOR INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 5 of the U.S. National Committee of the International Radio Consultative Committee (CCIR) will meet on March 24, 1977, at 9:30 a.m., in the Aspen Room Office of Telecommunications, Department of Commerce, 1325 G Street, NW., Washington, D.C.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the Earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting will be a review of all proposed U.S. contributions to the international meeting of Study Group 5 in September 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: February 24, 1977.

GORDON L. HUFFCUTT,
Chairman,
CCIR National Committee.

[FR Doc.77-6313 Filed 3-2-77;8:45 am]

Agency for International Development

DIRECTOR, OFFICE OF CAPITAL DEVELOPMENT AND DEPUTY DIRECTOR, OFFICE OF CAPITAL DEVELOPMENT, BUREAU FOR NEAR EAST

Redelegation of Authority No. 162-5

Correction

In FR. Doc. 76-37675, appearing in the issue of Thursday, December 23, 1976 on page 55959, the redelegation of authority number in the last line of the heading, should read as set forth above.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-033]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee's Subcommittee on Liquefied Gas Vessels to be held on 30 and 31 March 1977, beginning at 8:30 a.m., Room 8334 Nassif Building, 400 7th Street, SW., Washington, D.C. 20590. The agenda for this meeting is as follows:

1. To discuss the meeting of the Bulk Chemicals Subcommittee of the Inter-Governmental Maritime Organization—January 1977, in particular the proposed amendments to the IMCO Gas Carrier Code developed at that meeting.
2. To discuss possible resolutions of public comments on the Coast Guard's Notice of Proposed Rulemaking on Liquefied Gas Vessels (CGD 74-289).

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Capt. C. E. Mathieu, Commandant (G-MHM/83) U.S. Coast Guard, Washington, D.C. 20590, (202) 426-2306. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on February 24, 1977.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.77-6389 Filed 3-2-77;8:45 am]

[CGD 77-034]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee to be held on March 29, 1977, beginning at 9:30 a.m. in Room 2230, Nassif Building, 400 7th Street SW., Washington, D.C. 20590

The agenda for this meeting is as follows:

1. Call to Order
2. Opening Remarks
3. Subcommittee Status Reports
4. Coast Guard Actions and Plans
5. Committee Comments and Recommendations
6. Any Other Business Brought Before the Committee
7. Adjournment

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Capt. C. E. Mathieu, Commandant (G-MHM/83) U.S. Coast Guard, Washington, D.C. 20590, (202) 426-2306. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on February 24, 1977.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.77-6390 Filed 3-2-77;8:45 am]

[CGD 77-035]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee's Subcommittee on Chemical Vessels to be held March 28, 1977, 8:30 a.m., Room 8334 Nassif Bldg., 400 7th St. SW., Washington, D.C. 20590. The agenda for this meeting is as follows:

1. To continue revisions to the rules for shipping bulk chemicals by barge, 46 CFR part 151.
2. To discuss the meeting of the Bulk Chemicals Subcommittee of the Inter-Governmental Maritime Organization in January 1977.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Capt. C. E. Mathieu, Commandant (G-MHM/83) U.S. Coast Guard, Washington, D.C. 20590, (202) 426-2306. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on February 24, 1977.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.77-6391 Filed 3-2-77;8:45 am]

Federal Aviation Administration

GENERAL AVIATION DISTRICT OFFICE AT OPA LOCKA, FLORIDA

Establishment

Notice is hereby given that on or about March 1, 1977, the General Aviation District Office at Opa Locka, Florida, will be redesignated as the Flight Standards District Office No. 63. Services relative to the programs with which the public is concerned, formerly provided, will continue to be rendered by the Flight Standards District Office at Opa Locka without interruption. Communications should addressed as follows:

Chief, Flight Standards District Office, Federal Aviation Administration, Building 121, Opa Locka Airport, Opa Locka, Florida 33054.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in East Point, Georgia on February 1, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.77-6324 Filed 3-2-77;8:45 am]

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National Highway Traffic Safety Administration

[Docket No. IP77-3; Notice 1]

BATAVUS USA, INC.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

Batavus USA, Inc. of Atlanta, Georgia, has petitioned to be exempted from the notification and remedy requirements of the National Traffice and Motor Vehicle Safety Act (15 U.S.C. 1381 et. seq.) for an apparent noncompliance with 49 CFR 571.123 Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays*, on the basis that it is inconsequential as it relates to motor vehicle safety.

Petitioner is an importer of motor-driven cycles (mopeds). Table 1 of Standard No. 123 requires that the manual fuel shut off control on such vehicles have the following operating positions: "off"—control forward; "on"—control downward; "reserve" (if provided)—control upward. The Batavus control, however, has the following noncomplying positions—"on", upward instead of downward; "reserve", backward instead of upward. The noncompliance exists on approximately 6,000 vehicles manufactured before July 1976. Petitioner argues that the noncompliance is inconsequential because the improper positions "are clearly marked on all mopeds in such a way that a moped user cannot be mistaken." Vehicles manufactured since July 1976 are said to be in compliance with Standard No. 123.

Interested persons are invited to submit written data, views and arguments on the petition of Batavus USA, Inc. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: April 18, 1977.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on February 23, 1977.

ROBERT L. CARTER,
Associate Administrator
Motor Vehicle Programs.

[FR Doc.77-6045 Filed 3-2-77; 8:45 am]

DISCLOSURE OF MAJOR RULEMAKING ACTIONS

Announcement of Annual Publication of Anticipated Rulemaking Actions

The purpose of this notice is to announce that the National Highway Traffic Safety Administration will publish annually in the FEDERAL REGISTER a list and brief description of all significant rulemaking actions anticipated within the 5-year period beginning 1 year after the date of publication.

The decision to publish this information is based upon a determination by the agency that full disclosure of the areas in which it plans to concentrate its rulemaking efforts will permit constructive comment at a time when program plans can be realistically modified. The agency views its mission as serving the interests of the public in the areas of automotive safety, fuel economy, and consumer savings. Publication of its plans to develop new or additional requirements in a particular area will encourage direct and effective public participation from the beginning of the rulemaking process.

The list will be published in the FEDERAL REGISTER each October, and address the 5-year period that begins 1 year following the date of publication. Major rulemaking actions expected to be taken under the authority of the National Traffic and Motor Vehicle Safety Act (Pub. L. 89-563) and Titles I, IV, and V of the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513) will be listed with a brief description, the anticipated date of publication of the action, and the name and address of a person within the agency who may be contacted for further information. The first list will be published in October of 1977.

Issued on February 24, 1977.

JOHN W. SNOW,
Administrator.

[FR Doc.77-6044 Filed 3-2-77; 8:45 am]

National Highway Traffic Safety Administration

[Docket No. IP77-4; Notice 1]

C. H. WATERMAN INDUSTRIES

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

C. H. Waterman Industries of Athol, Massachusetts, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.208 Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection*, on the basis that it is inconsequential as it relates to motor vehicle safety.

Paragraph S4.1.2.3.1 of Standard No. 208 requires passenger cars to be equipped with lap and shoulder belt systems conforming to Motor Vehicle Safety Standard No. 209, *Seat Belt Assemblies*. Paragraph S4.3 of Standard No. 209 requires such assemblies to incorporate automatic-locking retractors (subparagraph (i)) and emergency-locking retractors (subparagraph (j)). Petitioner is an importer of motor vehicles which it converts to electric propulsion. Seven passenger cars that it brought into the United States in August 1975 lack the emergency, and automatic-locking retractor required of occupant restraint systems. The company argues that the noncompliance is inconsequential because the vehicles' restraint systems comply with all requirements in effect before January 1972, and because the NHTSA has provided it a temporary exemption from the retractor requirements of Standard No. 208, expiring May 1, 1977 (Docket No. EX75-4; Notice 4, 41 FR 53384).

This notice of receipt of a petition for temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition of C. H. Waterman Industries, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20509. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. If the petition is granted, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date. April 18, 1977.

(Sec. 102, Pub L. 93-492, 98 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on February 25, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-6371 Filed 3-2-77; 8:45 am]

[Docket No. 75-13; Notice 2]

CATALYTIC CONVERTERS

Closure of Docket

The Administrator of the National Highway Traffic Safety Administration (NHTSA) has concluded, based on all currently available information, that the rate and nature of catalytic converter incidents do not present an unreasonable risk of death or injury to the public. Docket No. 75-13, which had been established as a central repository of all converter related safety material, will therefore be closed, effective as of the publication of this notice, and no rulemaking will take place with respect to this subject without further notice.

The Office of Defects Investigation (ODI), NHTSA, will continue to monitor reports of catalytic converter safety problems and the docket will be reopened if the public interest demands it. The docket and its comments, including investigative reports of ODI recently filed, remain available for inspection in the NHTSA Docket Room, Room 5108, 400 Seventh Street, S.W., Washington, D.C.

Issued on February 24, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-6372 Filed 3-2-77; 8:45 am]

[Docket No. IP76-11; Notice 2]

PREVOST CAR, INC.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

This notice grants the petition by Prevost Car, Inc. of Ste. Claire, Quebec, Canada, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381, et. seq.) for an apparent noncompliance with 49 CFR 571.217 Motor Vehicle Safety Standard No. 217, Bus Window Retention and Release. Prevost petitioned on the basis that the noncompliance was inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on December 2, 1976, (41 FR 52933) and an opportunity afforded for comment.

Paragraph S5.2.1 of Standard No. 217 requires in part that the emergency roof exit on a bus with a GVWR of more than 10,000 pounds provide "an opening large enough to admit unobstructed passage, keeping a major axis horizontal at all times, of an ellipsoid generated by rotating about its minor axis an ellipse having a major axis of 20 inches and a minor axis of 13 inches." The ellipsoid simulates the cross section of the human body. This requirement must be met when the bus is overturned on either side. The rectangle formed by the Prevost opening on 60 Prestige models, and 24 Champion units, manufactured between September 1973 and October 1976, should have had its long sides (24 inches) parallel to the sides of the bus but instead the short sides (17 inches) are parallel to it. This means that the ellipsoid (20 inches) falls by a margin of 1½ inches on each side to pass through the emergency roof exit.

Petitioner's argument that the noncompliance is inconsequential as it relates to motor vehicle safety is that although the width of this opening is 3 inches too narrow, there is a compensation in that the height of the opening is 11 inches greater than is required. Petitioner submitted photographs showing four different male subjects of various sizes existing through both the noncompliant opening and one that meets the minimum requirements of Standard No. 217. It argued that their pictures demonstrated that it is "easier, safer, and faster to escape" through the Prevost opening.

No comments were received on the petition.

The agency has reviewed and found persuasive the arguments and supporting photographs submitted by Prevost. Using sheets of plywood to simulate the roof Prevost cut complying and noncomplying openings to approximate the position of the openings relative to the ground when a bus is overturned. These photographs demonstrate that the Standard No. 217 opening is best utilized by crawling out head or feet first. Prevost's noncomplying opening appears to afford the same means of crawling exit with no apparent increase in difficulty as well as an additional means of exiting upright, by passing one leg through the opening followed by the torso and the other leg. The ability to exit standing appears to be due to the vertical dimension of the opening being 11 inches greater than the standard's minimum requirement.

Accordingly petitioner has met its burden of persuasion and it has been determined that the noncompliance is inconsequential as it relates to motor vehicle safety. The petition by Prevost Car, Inc. is hereby granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on February 24, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-6373 Filed 3-2-77; 8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

PRESSURE SENSITIVE PLASTIC TAPE FROM WEST GERMANY

Antidumping; Withholding of Appraisement Notice

Information was received on August 5, 1976, that pressure sensitive plastic tape from West Germany was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of August 30, 1976 (41 FR 36521). The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Subsequent to the initiation of the investigation it has been concluded that it is inappropriate to include within the scope of the investigation merchandise other than pressure sensitive plastic tape exceeding one and three-eighths inches in width and not exceeding four mils in thickness. Accordingly, insofar as the scope of this notice is concerned, merchandise other than pressure sensitive plastic tape exceeding one and three-eighths inches in width and not exceeding four mils in thickness is not included.

TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of the information developed in the United States Customs Service investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price or the exporter's sales price of pressure sensitive plastic tape from West Germany is less, or is likely to be less, than the fair value, and thereby the foreign market value of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

(a) *Scope of the Investigation.* It appears that all imports of the subject merchandise from West Germany were manufactured by Brass and Co. GMBH, Frankfurt, West Germany (Brass), Nopi GMBH, Flensburg, West Germany (Nopi), and Beiersdorf A.G., Hamburg, West Germany (Beiersdorf). Therefore, investigation was limited to these three manufacturers.

(b) *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between purchase price and the home market price of such or similar merchandise on sales by Brass. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162) was used as all export sales by Brass were made to a non-related customer in the United States. On sales by Nopi and Beiersdorf, the proper basis of comparison appears to be between exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), and home market price, as sales in the United States are made by importers who are related to the exporters of the merchandise. Home market price, as defined in section 153.3, Customs Regulations (19 CFR 153.3), was used since such or similar merchandise is sold in the home market in sufficient quantities to provide a basis of compari-

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son for fair value purposes. Some sales in the home market, as alleged, were at less than the cost to produce. However, after disregarding those sales made over an extended period of time and in substantial quantities and at prices which do not permit recovery of all costs in a reasonable period of time, there remained sufficient home market sales with which to determine fair value.

(c) *Purchase Price.* For the purposes of this tentative determination of sales at less than fair value, adjustments have been made on the following bases. In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales of pressure sensitive plastic tape from West Germany during the period of May 1 through August 31, 1976, for sales by Brass.

In the import transactions, all of the merchandise was purchased or agreed to be purchased, prior to the time of exportation, by the persons by whom or for whose account it was imported within the meaning of section 203 of the Act. The purchase price has been calculated on the basis of the c. and f. price to U.S. customers. A deduction was made for the inland and ocean transportation costs included in the prices.

(d) *Exporter's Sales Price.* Pricing information was obtained concerning sales in the United States during the period February 1 through August 31, 1976, for Beiersdorf and April 1 through August 31, 1976, for Nopi. The exporter's sales price represents sales to United States wholesalers. Deductions have been made for ocean freight and insurance, brokerage charges, inland freight, United States import duties, commissions, cash discounts, and for expenses incurred in selling the merchandise in the United States. In addition, costs of manufacturing opreations performed in the United States were deducted when incurred.

(e) *Home Market Price.* For the purposes of this tentative determination of sales at less than fair value, adjustments have been made on the following bases. The home market price has been calculated on the basis of the delivered price in the home market to wholesalers. Adjustments have been made for the differences in amount of tape sold per individual roll in the two markets.

In the case of Brass, adjustments were made for freight, commissions, cash discounts, and cutting and credit cost differentials in the two markets.

In the case of Nopi, adjustments have been made for inland freight and insurance, cash discounts, bonus payments to purchasers, and commissions. An adjustment has also been made for selling expenses incurred in the home market, but not exceeding the amounts incurred in the United States, as provided by § 153.10(b) Customs Regulations (19 CFR 153.10(b)).

In the case of Beiersdorf, adjustments have been made for cash discounts, bonus payments, and selling expenses. However, in accordance with § 153.10(b), the adjustment for selling expenses incurred in the home market was made in an amount not in excess of those expenses incurred in the United States market. As inland freight in both markets is stated to be the same, no adjustment is necessary.

(f) *Result of Fair Value Comparsion.* Using the above criteria, preliminary analysis suggests that purchase price and/or exporter's sales price probably will be lower than the home market price of such or similar merchandise. Comparisons were made on approximately 85 percent of the subject merchandise exported to the United States by the three West German manufacturers during the investigative period. Margins were tentatively found ranging from 3 to 7 percent for sales made by Brass on nearly 100 percent of sales compared, from 1 to 12 percent for sales made by Nopi on 29 percent of sales compared, and from 1 to 28 percent for sales made by Beiersdorf on 80 percent of sales compared. Weighted average margins across each firm's entire sales were approximately 12 percent for Brass, 2 percent for Nopi and 15 percent for Beiersdorf.

According, Customs officers are being directed to withhold appraisement of pressure sensitive plastic tape measuring over one and three-eighths inches in width and not over four mils in thickness from West Germany, in accordance with § 153.48 Customs Regulations (19 CFR 153.48).

In accordance with § 153.40 Customs Regulations (19 CFR 153.40), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office not more than 10 calendar days from the publication of this notice. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received in his office not more than 30 calendar days from the publication of this notice.

This notice, which is published pursuant to section 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective on March 3, 1977. It shall cease to be effective at the expiration of 6-months from the date of publication unless previously revoked.

JOHN H. HARPER,
Assistant Secretary of the Treasury.

FEBRUARY 25, 1977.

[FR Doc.77-6396 Filed 3-2-77;8:45 am]

Office of the Secretary

SALE OF UNITED STATES SAVINGS BONDS

Discontinuance of Series E Bond Sales at Post Offices

Notice is given that the sale of United States Savings Bonds, Series E, at United States Post Offices is discontinued. The termination affects only a small number of investors since most post offices have already stopped selling Series E bonds. Investors who buy savings bonds at post offices may make purchases at commercial banks, thrift institutions or other entities qualified under 31 CFR Part 317 as issuing agents for Series E savings bonds. Mail purchases may be made from any Federal Reserve Bank or Branch or the Bureau of the Public Debt, Washington, D.C. 20226. Inquiry may be directed to Mr. Gerald D. Manypenny, Bureau of the Public Debt, Washington, D.C. 20226 (202–376–0249).

Effective date: This notice becomes effective on March 26, 1977.

Dated: February 25, 1977.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-6314 Filed 3-2-77;8:45 am]

VETERANS ADMINISTRATION

GERIATRIC RESEARCH, EDUCATION AND CLINICAL CENTERS ADVISORY COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92–463 that a meeting of the Geriatric Research, Education and Clinical Centers Advisory Committee, authorized by 38 USC 4101, will be held in Conference Room 119, Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC on March 24 and 25, 1977. The meeting will be for the purpose of reviewing and evaluating the Geriatric Research, Education and Clinical Center proposals and advising the Veterans Administration on selection, development and implementation. The Committee advises the Veterans Administration through the Assistant Chief Medical Director for Extended Care.

The meeting will be open to the public up to the seating capacity of the room from 8 a.m. to 4:30 p.m. on March 24, and from 8 a.m. to 1 p.m. on March 25. To assure adequate accommodations, those who plan to attend should contact Dr. Richard Filer, Assistant Departmental Committee Manager, Veterans Administration Central Office, Washington, DC (202–389–3854) prior to March 19, 1977.

Dated: February 25, 1977.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.77-6342 Filed 3-2-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte 241; Rule 19, Exemption No. 127, Amdt. No. 3]

ALL RAILROADS

Exemption Under Mandatory Car Service Rules

Upon further consideration of Exemption No. 127 issued June 29, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 127 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby, amended to *expire May 31, 1977.*

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6453 Filed 3-2-77;8:45 am]

[S.O. No. 1283; Order No. 6, Amdt. No. 1]

BALTIMORE AND OHIO RAILROAD CO.

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 6 (The Baltimore and Ohio Railroad Company), and good cause appearing therefor:

It is ordered, That: I.C.C. Order No. 6 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., August 31, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., February 28, 1976, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6451 Filed 3-2-77;8:45 am]

[Notice No. 337]

ASSIGNMENT OF HEARINGS

FEBRUARY 28, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 142405, Nevada Bulk Corp., now assigned April 13, 1977 at Los Angeles, California, has been canceled and reassigned April 13, 1977 (3 days) at Las Vegas, Nevada, in a hearing room to be later designated.

MC 141641 (Sub No. 3), Wilson Certified Express, Inc. now being assigned April 11, 1977 (2 days) at Boston, Massachusetts in a hearing room to be later designated.

MC–C 9393, Fleming's Express, Inc.—Investigation and Revocation of Certificates now being assigned April 20, 1977 (1 day) at Boston, Massachusetts in a hearing room to be later designated.

MC 136669 (Sub No. 10), Processed Beef Express, Inc. now being assigned April 19, 1977 (1 day) at Boston, Massachusetts in a hearing room to be later designated.

MC–C 8685, J. Frances McCarthy, dba Mac Transport Lines—Revocation of Permit now being assigned April 18, 1977 (1 day) at Boston, Massachusetts in a hearing room to be later designated.

MC 142260, Oberg's Garage, Inc. now being assigned April 13, 1977 (3 days) at Hartford, Connecticut in a hearing room to be later designated.

MC 136316 (Sub-No. 13), Olen Burrage Trucking, Inc., now assigned April 20, 1977, at New Orleans, La. is canceled and reassigned for April 20, 1977, at Jackson, Miss. (3 days); Location of hearing room will be later designated.

MC 125433 (Sub-No. 85), F–B Truck Line Company, application dismissed. MC 57697 (Sub–6), Lester Smith Trucking, Inc. and MC 140341 (Sub–8), Dalka Transport, Inc., now being assigned March 14, 1977 (2 weeks) at Seattle, Washington, in the Shore Room Edgewater Inn, 2411 Alaska Way.

MC 128224 (Sub-No. 2), George F. Johnson, now assigned March 15, 1977, at Washington, D.C. is postponed indefinitely.

MC 124821 Sub No. 22, William Gilchrist and MC 115388 Sub 113, Lester C. Newton Trucking Co. now being assigned March 17, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6457 Filed 3-3-77;8:45 am]

[Ex Parte No. 241; Rule 19; 25th Rev. Exemption No. 90]

BALTIMORE AND OHIO RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 402, issued by W. J Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1, 2(a), and 2(b).

The Baltimore and Ohio Railroad Company
Reporting Marks: BO
Cadis Railroad Company
Reporting Marks: CAD
The Chesapeake and Ohio Railway Company
Reporting Marks: CO–PM
The Clarendon and Pittaford Railroad Company
Reporting Marks: CLP
Green Mountain Railroad Corporation
Reporting Marks: GMRC
Greenville and Northern Railway Company
Reporting Marks: GRN
Lake Erie, Franklin & Clarion Railroad Company
Reporting Marks: LEF
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
. . . . .
Ogdensburg Bridge and Port Authority
Reporting Marks: NSL
Pearl River Valley Railroad Company
Reporting Marks: PRV
The Pittsburgh and Lake Erie Railroad Company
Reporting Marks: P&LE
Providence And Worcester Company
Reporting Marks: PW
Raritan River Rail Road Company
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Johnsbury & Lamoille County Railroad
Reporting Marks: SJL
Sierra Railroad Company
Reporting Marks: SERA
Tidewater Southern Railway Company
Reporting Marks: TS
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Vermont Railway, Inc.
Reporting Marks: VTR
WCTU Railway Company
Reporting Marks: WCTR
Western Maryland Railway Company
Reporting Marks: WM
Yreka Western Railroad Company
Reporting Marks: YW

Effective February 28, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

NOTE.—New Jersey, Indiana & Illinois Railroad Company, Norfolk and Western Railway Company, and Missouri-Kansas-Texas Railroad Company deleted.

[FR Doc.77-6452 Filed 3-2-77; 8:45 am]

[Ex Parte No. 241; Rule 19, 6th Rev. Exemption No. 129]

BALTIMORE AND OHIO RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions,

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there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is order, that, pursuant to the authority vested in me by Car Service Rule 19, plan boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 402 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

* * * * *

The Baltimore and Ohio Railroad Company
Reporting Marks: BO.
The Chesapeake and Ohio Railway Company
Reporting Marks: CO–PM.
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP.

* * * * *

Detroit and Mackinac Railway Company
Reporting Marks: D&M–DM.
Elgin, Joliet and Eastern Railway Company
Reporting Marks: EJE.
Illinois Terminal Railroad Company
Reporting Marks: ITC.
Louisville and Nashville Railroad Company
Reporting Marks: CIL–LAN–MON–NC.
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC.
Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT.
Missouri Pacific Railroad Company
Reporting Marks: CEI–MI–MP–TP.
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR.
Southern Railway Company
Reporting Marks: CG–NS–SA–SOU.
Western Maryland Railway Company
Reporting Marks: WM.

NOTE.—Bessemer and Lake Erie Railroad Company and The Denver and Rio Grande Western Railroad Company deleted.

Effective 12:01 a.m., February 28, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 17, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77–6464 Filed 3–2–77;8:45 am]

[Ex Parte No. 241; Rule 19; Exemption No. 122, Amdt. No. 4]

BALTIMORE AND OHIO RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

To: The Baltimore and Ohio Railroad Company, The Chesapeake and Ohio Railway Company, Consolidated Rail Corporation, Western Maryland Railway Company.

Upon further consideration of Exemption No. 122 issued April 2, 1976.

It is ordered, that, under the authority vested in me by Car Service Rule 19, Exemption No. 122 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire May 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77–6462 Filed 3–2–77;8:45 am]

[Ex Parte No. 241; Rule 19; Exemption No. 132]

BOXCARS IN CALIFORNIA AND ARIZONA

Exemption Under Mandatory Car Service Rules

It appearing, that there are substantial movements of lumber and other commodities moving in plain, forty-foot, wide-door boxcars or in plain fifty-foot boxcars, originating at points in northern California and southern Oregon; that railroads serving southern California and Arizona frequently develop surpluses of these cars; that loadings in the directions of the car owners are often not available on the lines having such cars available in surplus quantities; that return of these surplus cars to owners results in excessive empty car miles and loss of effective car utilization; that the carriers serving northern California and southern Oregon have regular needs for such cars for eastbound loading; and that such loadings will relocate such cars in areas on or close to car owners' lines with a minimum of empty car mileage, thereby increasing car utilization.

It is ordered, that, pursuant to the authority vested in me by Car Service Rule 19, except as otherwise provided herein, railroads serving the States of California and Arizona may interchange empty plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 402, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft 6-in. or less and equipped with doors 9 feet or wider, or with inside length in excess of 44-ft. 6-in. regardless of door width without regard to the provisions of Car Service Rule 2(c), 2(d), or 2(e).

It is further ordered, That the final carrier receiving such cars empty from another carrier in the States of California or Arizona, under authority of this exemption, shall be subject to the requirements of Car Service Rules 1 or 2 in its subsequent movements of such cars.

It is further ordered, That the billing on all such empty cars requiring movement over an intermediate carrier shall clearly show the name of the carrier to which such cars are being sent for loading; and that all waybills authorizing the movements of such empty cars shall carry a reference to this exemption.

Exception.—This exemption shall not apply to empty cars subject to Car Service Rule 1; to empty cars subject to an applicable service order of this Commission requiring specific handling of designated cars; to cars subject to car relocation directives issued by the Car Service Division of the Association of American Railroads; nor to cars of Canadian or Mexican ownership.

Effective March 1, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., February 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77–6463 Filed 3–2–77;8:45 am]

[Ex Parte No. 241; Rule 19, Rev. Exemption No. 108]

CONSOLIDATED RAIL CORP., ET AL.

Exemption Under Mandatory Car Service Rules

To: Consolidated Rail Corporation, Missouri-Illinois Railroad Company, Missouri Pacific Railroad Company.

It appearing, That the Consolidated Rail Corporation (CR), Missouri-Illinois Railroad Company (MI), Missouri Pacific Railroad Company (MP), have each agreed to the unrestricted use by the other of its plain gondola cars less than 61-ft. in length; and that such mutual use of gondola cars will increase car utilization by reductions in switching and movements of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 402, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "GA", "GB", "GD", "GH", "GS", and "GW", which are less than 61-ft. 0 in. long, and which bear the reporting marks listed herein, may be used by the CR, MI, and MP, without regard to the requirements of Car Service Rules 1 and 2.

Reporting marks				
(1)	CR	MI	MP	(1)
	CNJ	MI	C&EI	TP
	CR		CEI	
	DL&W		KOG	
	EL		MP	
	ERIE			
	LV			
	NH			
	NYC			
	PC			
	PRR			
	RDG			

[1] Chicago & Eastern Illinois RR and Texas & Pacific Railway Co. eliminated. Merged into Missouri Pacific RR Co.

Effective: February 28, 1977.

Expires August 31, 1977.

Issued at Washington, D.C., February 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77–6449 Filed 3–2–77;8:45 am]

[Ex Parte No. 241; Rule 19; Exemption No. 94; Amdt. No. 10]

DETROIT, TOLEDO AND IRONTON RAILROAD CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Mandatory Car Service Rules

Upon further consideration of Exemption No. 94 issued February 5, 1975.

It is ordered, that under the authority vested in me by Car Service Rule 19, Exemption No. 94 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire August 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 23, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77–6450 Filed 3–2–77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 28, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before March 18, 1977.

FSA No. 43326—*Alcohol and Related Articles from Points in Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B–660), for interested rail carriers.

Rates on alcohol and related articles, in tank-car loads, as described in the application, from Eldon and Highlands, Texas, to points in Alabama, Illinois, Iowa, Kentucky, North Carolina, Ohio and Tennessee.

Grounds for relief—Market competition.

Tariff—Supplement 27 to Southwestern Freight Bureau, Agent, tariff 210–M, I.C.C. No. 5245.

Rates are published to become effective on March 29, 1977.

FSA No. 43328—*Vinylidene Butadiene Emulsion from Points in Louisiana and Texas.* Filed by Southwestern Freight Bureau, Agent (No. B–663), for interested rail carriers.

Rates on vinylidene butadiene emulsion, in tank-car loads, as described in the application, from points in Louisiana and Texas, to Sarnia, Ontario, Canada, also Bay City and Midland, Michigan.

Grounds for relief—Market competition.

Tariff—Supplement 31 to Southwestern Freight Bureau, Agent, tariff 12–J, I.C.C. No. 5219.

Rates are published to become effective on April 1, 1977.

AGGREGATE-OF-INTERMEDIATES

FSA No. 43327—*Ethylene Glycol from Points in Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B–661), for interested rail carriers.

Rates on ethylene glycol, in tank-car loads, as described in the application, from Eldon and Highlands, Texas, to Clinton, Iowa.

Grounds for relief—Maintenance of depressed rates published to meet market competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 27 to Southwestern Freight Bureau, Agent, tariff 210–M, I.C.C. No. 5245.

Rates are published to become effective on March 29, 1977.

By the Commission

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–6455 Filed 3–2–77;8:45 am]

[S.O. No. 1252; Order No. 24, Amdt. No. 1]

GREEN BAY AND WESTERN RAILROAD CO. AND ANN ARBOR RAILROAD

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 24 (Green Bay and Western Railroad Company and the Ann Arbor Railroad), and good cause appearing therefor:

It is ordered, that:

I.C.C. Order No. 24 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1977, unless otherwise modified, changed or suspended.

It is further ordered, that this amendment shall become effective at 11:59 p.m., February 18, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 18, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77–6461 Filed 3–2–77;8:45 am]

[Notice No. 127]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarded transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before April 4, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC–FC–76847, filed November 29, 1976. Transferee: WILLIAMS TRUCK SERVICE, INC., 1812 K Avenue, Sioux Falls, South Dakota 57104. Transferor: Ray Williams and Arlene Williams, a partnership, doing business as Williams Truck Service, 1812 K Avenue, Sioux Falls, South Dakota 57104. Applicant's representative: Lyle A. Clemetson, 1812 K Avenue, Sioux Falls, South Dakota 57104. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits No. MC 111720, MC 111720 (Sub-No. 1), MC 111720 (Sub-No. 3), MC 111720 (Sub-No. 5), MC 111720 (Sub-No. 7), MC 111720 (Sub-No. 8), MC 111720 (Sub-No. 10), and MC 111720 (Sub-No. 11), issued December 20, 1950, May 26, 1953, November 18, 1960, October 30, 1964, March 25, 1969, March 12, 1970, May 14, 1974, and April 12, 1974, respectively, as follows: Specified commodities from, to, or between specified points and counties in the states of Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, and the

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District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76934, filed January 18, 1977. Transferee: ROLAND R. BOLTZ, Morrill, Kansas 66515. Transferor: Jacob W. Brunner, 1106 Pottawatomie, Hiawatha, Kansas 66434. Applicant's representative: Clyde N. Christey, attorney at law, 514 Capitol Federal Building, 700 Kansas Avenue, Topeka, Kansas 66603. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 10495, issued December 17, 1976, as follows: Livestock, farm machinery and parts, and other specified commodities over specified regular routes between Hiawatha, Kans. and St. Joseph, Mo. serving all intermediate and off-route points within 10 miles of Hiawatha and from St. Joseph, Mo. to Fairview, Kans.; livestock and farm products over a specified regular route from Fairview, Kans. to St. Joseph, Mo.; and livestock, agricultural commodities, and other specified commodities over irregular routes from and between specified points in Kansas to specified points in Missouri. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76935, filed January 31, 1977. Transferee: SCHMIDGALL TRANSFER, INC, R.R. No. 2, Box 356, Morton, Illinois 61550. Transferor: Elmer C. Schmidgall and Benjamin G. Schmidgall, a partnership, doing business as Schmidgall Transfer, P.O. Box 249, Tremont, Illinois 61568. Applicant's representative: Frederick C. Schmidgall, R.R. No. 2, Box 356, Morton, Illinois 61550. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 111274, MC 111274 (Sub-No. 1), MC 111274 (Sub-No. 3), MC 111274 (Sub-No. 6), MC 111274 (Sub-No. 7), MC 111274 (Sub-No. 9), and MC 111274 (Sub-No. 13) issued March 17, 1952, July 15, 1952, November 26, 1975, May 11, 1976, September 24, 1976, September 17, 1976, and January 18, 1977 respectively, as follows: Fencing and fencing materials, farm equipment, and farm machinery from Morton, Ill. to points in Illinois, Indiana, the Lower Peninsula of Michigan, Missouri, Ohio, Wisconsin, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, Kansas, Kentucky, and Tennessee; fencing and pole buildings and appurtenant materials from Winfield, Kans. to points in Illinois, Indiana, Ohio, Wisconsin, Iowa, Missouri, Kentucky, and Michigan and from Menton, Ohio to points in Illinois, Indiana, Wisconsin, Iowa, Missouri, Kentucky, Michigan, and Kansas; and Salvaged and distressed building materials between Anamosa, Iowa, on the one hand, and, on the other, points in Minnesota, Missouri, Illinois, Kansas, Nebraska, South Dakota, and Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76936, filed January 24, 1977. Transferee: DELUXE MOTOR FREIGHT, INC., 3145 17th Street S.W., Canton, Ohio 44706. Transferor: Canton Storage, Inc., 3145 17th Street S.W., Canton, Ohio 44706. Applicant's representative: A. Charles Tell, attorney at law, 100 East Broad Street, Columbus, Ohio 43215. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 121143 (Sub–No. 1), issued July 8, 1965, as follows: Property from and to Canton, Ohio with specified exceptions. Transfereee is presently authorized to operate as a common carrier under Certificate of Registration No. MC 99843 (Sub–No. 1). Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76943, filed January 24, 1977. Transferee: J. E. WISEMAN, INC., 4020 Pinemont St., Houston, Tx. 77018. Transferor: J. E. Wiseman, (J. G. Wiseman, Executor), 4020 Pinemont St., Houston, Tx. 77018. Applicants' representative: Austin L. Hatcher, 1102 Perry Brooks Bldg., Austin, Tex. 78701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 121422 (Sub–No. 1), issued July 2, 1964, authorizing the transportation of the following commodities between all points in Texas: Oilfield equipment and pipe, when moving as oilfield equipment. Pipe when it is to be used in the construction and maintenance of pipe lines of any and every other character or use other than oilfield equipment; except the carrier is prohibited from transporting pipe when not moving as oilfield equipment when such pipe is less than four (4") inches in diameter and is also less than twenty-eight (28') feet in length. Trenching machines, tractors, drag lines, back fillers, caterpillars, road building machinery, batch bins, ditching machinery, bull dozers, heavy mixers finishing machinery, power hoists, cranes, heavy machinery, pile driving rigs, paving machines and equipment, graders, construction equipment, boilers, scrapers, irrigation and drainage machinery, road maintainers, electric motors, pumps, transformers, circuit breakers, turbines, bridge construction equipment, shovels, planes, lathes, air compressors, rotaries, prefabricated houses, bulk station storage tanks, heavy tanks, pump machinery, erection machinery and equipment, refinery machinery and equipment, boats and prefabricated steel girders, threshing machines, sawmill machinery, telephone and telegraph poles, creosote and other pilings, heavy furnaces or ovens, pipe (including iron, steel, concrete, composition or corrugated), punches, presses, iron or steel girders, beams, columns, posts, channels and trusses, generators and dynamos, iron or steel castings, sheets, and plates, industrial hammers, industrial machinery, including laundry, ice making, air conditioning, baker, bottling, gin, crushing, dredging, mill, brewery, textile, water plant and wire covering, twisting or laving, derricks, hoists, steam or internal combustion engines, rollers, power shovels, safes, vaults, bank doors, and gasoline, fuel oil, and other storage tanks, when said commodities are not moving as oilfield equipment, as follows: The holder of this authority may transport the above named commodities together with its attachments and its detached parts thereof between incorporated cities, towns and villages only when the commodity to be transported weighs 4,000 pounds or more in a single piece or when such commodity, because of physical characteristics other than weight, requires the use of "special devices, facilities or equipment" for the safe and proper loading or unloading thereof. The term "special devices facilities or equipment" is construed to mean only those operated by motive or mechanical power. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76949, filed January 26, 1977. Transferee: WINDSOR AUTOMOTIVE AND TIRE, INC., 595 Windsor Avenue, Windsor, Connecticut 06095. Transferor: G. I. Whitehead and Son, Inc., 207 New Britian Avenue, Hartford, Connetcicut 06106. Applicant's representative: Charles Ungewitter, president, Windsor Automotive and Tire, Inc., 595 Windsor Avenue. Windsor, Connecticut 06095. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 117398 (Sub-No. 1), issued April 14, 1959, as follows: Disabled, repossessed, and wrecked motor vehicles in truckaway and driveaway service between points in Connecticut, on the one hand, and, on the other, points in Maine, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont; and between points in the Town of East Hartford, Conn., and those in that part of Connecticut west of the Connecticut River, on the one hand, and, on the other, points in Massachusetts and Rhode Island. Transferee presently holds no authority from this Commission. Application has been filed for temporary autohrity under Section 210a(b).

No. MC–FC–76964, filed February 4, 1977. Transferee: CORNHUSKER CARRIER, INC., Rural Rt. 2 Box 126, Grand Island, Neb. 68801. Transferor: Siouxland Express, Inc., P.O. Box 353, Lemars, Iowa 51031. Applicants' representative: Gailyn L. Larsen, attorney at law, 521 So. 14th St., P.O. Box 81849, Lincoln, Neb. 68501. Authority sought for purchase by transferee of a protion of the operating rights of transferor, as set forth in Certificate No. MC 129413 (Sub-No. 11), issued April 7, 1976, as follows: *Soybean meal, soybean mill run* and *soybean hulls*, dry in bags and in bulk, from the facilities of Farmland Industries, Inc., located at or near Sergeant Bluff, Iowa, to points in Illinois, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76967, filed February 7, 1977. Transferee: HARTWIG–WAUSAU TRANSPORTATION, INC., 3526 Sherman Street, Wausau, Wisconsin 54401. Transferor: Hartwig Realty, Inc., 3526 Sherman Street, Wausau, Wisconsin, 54401. Applicants' representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wisconsin 53705. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 141404, issued January 28, 1977, as follows: Fabricated metal products and related parts and accessories thereto, From the plant site of the Hartwig Manufacturing Corporation at or near Wausau, Wis., to points in Illinois, Indiana, and Michigan; and Iron, steel, or aluminum articles used in the manufacture of fabricated metal products, from points in Illinois, Indiana, and Michigan to the plant site of the Hartwig Manufacturing Corporation at or near Wausau, Wis. Restriction: The operations are limited to a transportation service to be performed, under a continuing contract, or contracts, with the Hartwig Manufacturing Corporation, Wausau, Wis. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76972, filed February 8, 1977. Transferee: CURTIS E. MORGAN, doing business as BROWN FEED STORES, Box 645, 132 S. Wabash, Howard, Kansas 67349. Transferor: Day Wilkinson, Box 7, Elk Falls, Kansas 67345. Applicant's representative: Clyde N. Christey, attorney at law, 514 Capitol Federal Bldg., Topeka, Kansas 66603. Authority sought for purchase by transferee of the operatng rights of transferor, as set forth in Certificate No. MC 37210 issued June 26, 1941, as follows: Livestock from Elk Falls, Kans., and points within 15 miles of Elk Falls, to Kansas City, Mo.; and feed, hardware, and agricultural machinery from Kansas City, Mo., to Elk Falls, Kans., and points within 15 miles of Elk Falls. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76977, filed February 14, 1977. Transferee: DIRECT VAN LINES, INC., 6121 Lincolnia Road, Alexandria, Va. 22311. Transferor: Watson Bros. Van Lines, Inc., 1700 South Amphlett Boulevard, San Mateo, Calif. 94402. Applicants' representative: Martin R. Martino, attorney at law, 207 C St., S.E., Washington, D.C. 20003. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 139547, issued December 23, 1974, authorizing the transportation of household goods as defined by the Commision, between points in Nebraska, on the one hand, and, on the other, points in Illinois, Iowa, Kansas, Missouri, and South Dakota; and between Omaha, Nebr., and points in Nebraska within 100 miles of Omaha, on the one hand, and, on the other, points in Wisconsin, Minnesota, and Colorado. Through operations may be conducted through the gateway points in Omaha, Nebr., or points in Nebraska within 100 miles of Omaha. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC–FC–76978, filed February 14, 1977. Transferee: VESPER TRUCKING CO., INC., 119 East North St., Staunton, Ill. 62088. Transferor: John F. Vesper, doing business as Vesper Trucking Company, 119 East North St., Staunton, Ill. 62088. Applicants' representative: Robert T. Lawley, attorney at law, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought for purchase by transferee of the operating rights set forth in Certificate of Registration No. MC 121401 (Sub-No. 1), issued January 7, 1964, as follows: Meat and groceries within a fifty mile radius of 321 North Laurel St., Staunton, Ill. and such property to or from any point outside of such authorized area of operation for a shipper or shippers within such area. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6459 Filed 3-2-77;8:45 am]

[Ex Parte No. MC–64; General Temporary Order No. 10, Section 210a(a)]

MOTOR CARRIER SERVICE

General Temporary Order

At a General Session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D.C., on February 25, 1977.

The Interstate Commerce Commission, having under consideration the urgent need for motor carrier service due to immediately prior severe winter weather conditions, the national transportation policy, the public interest, and, among others, Sections 202(a), 204(a)(6), and 210a(a) of the Interstate Commerce Act, and

It appearing, That by Order dated January 21, 1977, the Commission, Division 1, made a determination that due to freezing temperatures, certain carriers were unable to transport passengers and property tendered to them; and that an emergency existed in sections of the United States requiring immediate action on the part of the Commission to make provision for adequate transportation services;

It further appearing, That pursuant to Section 210a(a) of the Interstate Commerce Act (49 U.S.C. 310a(a)), the Commission in its Order dated January 21, 1977, issued General Temporary Order No. 10, and ordered that all persons who shall apply to any regional operations director, assistant regional operations director, district supervisor, or their designees, of the Commission's Bureau of Operations are granted temporary authority to transport passengers or property by motor vehicle for a period of not more than 30 days to the extent and scope that such regional operations director, assistant regional operations director, district supervisor, or their designees, shall certify that due to the existing transportation emergency, there is an immediate and urgent need for the service applied for, and there is no available carrier service capable of meeting such need;

It further appearing, That the emergency condition has diminished considerably except for the transportation of liquefied petroleum gas and middle distillate fuels;

And it further appearing, There exists a need to permit 15-day extensions of prior temporary authority grants for the transportation of liquefied petroleum gas and middle distillate fuels;

It is ordered, That General Temporary Order No. 10, entered on January 21, 1977, is modified to make provision only for the adequate transportation of liquefied petroleum gas and middle distillate fuels, and provision for the transportation of other commodities and passengers is hereby vacated and set aside;

It is further ordered, That all persons who have obtained temporary authority under General Temporary Order No. 10 for the transportation of liquefied petroleum gas and middle distillate fuels are granted an extension of such temporary authority grant for not more than 15 days, upon certifying to the said regional operations director, assistant regional operations director, district supervisor, or their designees, that the same conditions still exist which warranted the initial granting of the temporary authority.

It is further ordered, That the extension grant of such temporary authority be, and it is hereby, conditioned upon satisfying the said regional operations director, assistant regional operations director, district supervisor, or their designees, of full compliance by the grantee with all applicable statutory and Commission requirements concerning tariff and schedule publications, evidence of security for the protection of the public, and designation of agents for service of process, and further conditioned upon such tariff and schedule publications quoting rates, fares, and charges no lower than those of existing rail, water, or motor carriers in the territory in which the operations are to be authorized;

It is further ordered, That any extension of temporary authority granted pursuant to this Order shall expire as of the first midnight after the issuance of an order by this Commission revoking General Temporary Order No. 10 except as to passengers and property, the transportation of which was begun prior to that time;

It is further ordered, That this order shall become effective on February 28, 1977.

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And it is further ordered, That notice of this order shall be given to motor carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Division 1, Commissioners Murphy, Gresham and MacFarland.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6460 Filed 3-2-77;8:45 am]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 30]

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 51146 (Sub-No. 487TA), filed February 15, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Perry and Des Moines, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oscar Mayer & Company, Inc., 910 Mayer Ave., Madison, Wis. 53704. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., & Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 53965 (Sub-No. 128TA), filed February 15, 1977. Applicant: GRAVES TRUCK LINE, INC., 2130 S. Ohio, P.O. Box 1387, Salina, Kans. 67401. Applicant's representative: Robert A. Miller, 2505 City National Bank Tower, Oklahoma City, Okla. 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* from Oklahoma City, Okla., via U.S. Highway 62 to H. E. Bailey Turnpike via U.S. Highway 281 or 277, Lawton, Okla., serving the off-route point of Fort Sill and return to tack with present authority at Oklahoma City, Okla., for 180 days. Supporting shippers: There are approximately 28 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Bldg., Topeka, Kans. 66603.

No. MC 61396 (Sub-No. 324TA), filed February 18, 1977. Applicant: HERMAN BROS. INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flue dust, kiln dust and mineral filler*, in bulk, in tank vehicles, from Louisville, Nebr., to points in Kansas, Minnesota, Missouri, South Dakota, Colorado, Iowa and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Harry L. Ryan, Traffic Manager, Ash Grove Cement Company, 1000 Ten Main Center, Kansas City, Mo. 64105. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 61396 (Sub-No. 325TA), filed February 18, 1977. Applicant: HERMAN BROS. INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, in tank vehicles, from Omaha, Nebr., to points in Kansas, Minnesota, Missouri, South Dakota, Colorado, Iowa and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: L. E. Leber, Manager, Nebraska Ash Company, P.O. Box 80268, Lincoln, Nebr. 68501. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 92068 (Sub-No. 18TA), filed February 18, 1977. Applicant: MUTUAL TRANSPORTATION INCORPORATED, President and Fleet Streets, Baltimore, Md. 21202. Applicant's representative: Walter T. Evans, 7401 Wisconsin Ave., Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by department and chain stores, from the facilities of Mutual Transportation, Inc., at Baltimore, Md., to the store and facilities of the K Mart Store of S. S. Kresge Company, at Lexington Park, Md., for 180 days. Supporting shipper: Charles Rowe, General Traffic Manager, S. S. Kresge Company, 3100 W. Big Beaver Road, Troy, Mich. 48084. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 95876 (Sub-No. 198TA), filed February 15, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave., North, P.O. Box 1377, St. Cloud, Minn. 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Marble chips*, from the facilities of North Country Aggregates, Inc., at or Gouverneur, N.Y., to points in Indiana, Michigan, Ohio, Pennsylvania and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: No. Country Aggregates, Inc., P.O. Box 96, Gouverneur, N.Y. 13642. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 112617 (Sub-No. 354TA), filed December 10, 1976. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain neutral* spirits, alcohol or alcoholic liquors, in bond, in bulk, in tank trailers, from Peoria and Delavan, Ill., to Bardstown, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D. J. Anderson, General Traffic Manager, Hiram Walker & Sons, Inc., Foot of Edmund St., Peoria, Ill. 61601. Send protests to: Elbert Brown, Jr., District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 112750 (Sub-No. 339TA), filed February 18, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents and written instruments* (except currency and negotiable securities), as are used in the business of banks and banking institutions, from Berlin, N.H., to Boston, Mass., under a continuing contract with The Berlin City Bank; and North Country Bank, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) The Berlin City Bank, 9 Main St., Berlin, N.H. 03570. (2) North Country Bank, Box 6, Berlin, N.H. 03570. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 114632 (Sub-No. 100TA), filed February 16, 1977. Applicant: APPLE LINES, INC., 212 S.W. Second St., P.O. Box 287, Madison, S. Dak. 57042. Applicant's representative: Robert T. Meisner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and bone chews*, from the plantsites and facilities of Sanna Division of Beatrice Foods Co., at Menomonie, Wesper, Cameron, Wisconsin Rapids and Eau Claire, Wis., to points in Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, Connecticut, New York, Pennsylvania, New Jersey, Maryland, Virginia and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sanna Division of Beatrice Foods Co., 2801 W. Beltline Hwy., P.O. Box 8046, Madison, Wis. 53708. Send protest to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 114969 (Sub-No. 59TA), filed February 16, 1977. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, P.O. Box 232, Milford, Ohio 45150. Applicant's representative: James M. Roudebush (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, in tank vehicles, from the International Boundary at or near Pt. Huron, Mich., to points in Indiana, Michigan and Ohio, for 180 days. Supporting shippers: California Liquid Gas Corporation, P.O. Box 28397, 8401 Gerber Road, Sacramento, Calif. 95828. Columbia Hydrocarbon Corporation, P.O. Box 575, South Shore, Ky. 41175. Dome Petroleum Limited, P.O. Box 200, Calgary, Alberta T2P 2H8. Y. M. Inc., P.O. Box 2011, Wapakoneta, Ohio 45895. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 114969 (Sub-No. 60TA), filed February 15, 1977. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, P.O. Box 232, Milford, Ohio 45150. Applicant's representative: James M. Roudebush (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry mixed fertilizer*, in bulk, or in bags, from Peru and Butler, Ind., to points in Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kaiser Agricultural Chemicals, Division of Kaiser Aluminum & Chemical Corp., P.O. Box 246, Savannah, Ga. 31402. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 116763 (Sub-No. 366TA), filed February 16, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, containers, woodpulp articles, dishes, plates, and trays*, from the facilities of Huntsman Container Corporation, at or near Memphis, Tenn., to Miami, Fla.; Atlanta, Ga.; Chicago, Ill.; New Orleans, La.; Independence, Joplin, Kansas City, St. Louis, Mo.; Oklahoma City, Okla.; Arlington, Dallas, Gonzales, Houston and Savoy, Tex.; points in Arkansas and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Huntsman Container Corporation, a Wholly owned subsidiary of Keyes Fibre Company, Waterville, Maine 04901. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514-B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 117820 (Sub-No. 11TA), filed February 18, 1977. Applicant: AURELIA TRUCKING CO., 2136 Pine Grove Ave., Port Huron, Mich. 48060. Applicant's representative: Robert D. Schuler, 100 W. Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, in vehicles equipped with mechanical refrigeration, from the plantsite of C. F. Burger Creamery Co., in Detroit, Mich., to points in Wisconsin and Minnesota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C. F. Burger Creamery Co., Vice President, General Manager, Edmund J. Gruber, 8230 E. Forest St., Detroit, Mich. 48214. Send protests to: James A. Augustyn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

No. MC 118159 (Sub-No. 198TA), filed February 18, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366-Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood doors, unfinished, prefinished, and plastic covered*, from Rohnert Park, Calif., to points in Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Michigan, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Alabama, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Florida Georgia and Delaware, for 180 days. Supporting shipper: Cal-Wood Door, P.O. Box 1656, Santa Rosa, Calif. 95402. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N. W. Third St., Oklahoma City, Okla. 73102.

No. MC 119726 (Sub-No. 83TA), filed February 16, 1977. Applicant: N.A.B. TRUCKING CO., INC., 3220 Bluff Road, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles; containers; woodpulp articles, dishes, plates and trays*, from the facilities of Huntsman Container Corporation, at or near Memphis, Tenn., to Miami, Fla.; Atlanta, Ga.; Chicago, Ill.; New Orleans, La.; Independence, Joplin, Kansas City, and St. Louis, Mo.; Oklahoma City, Okla.; Arlington, Dallas, Gonzales, Houston and Savoy, Tex.; points in Arkansas and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Keyes Fibre Company, Waterville, Maine 04901. Send protests to: William Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg., and U.S. Courthouse, 46 E. Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 119789 (Sub-No. 325TA), filed February 16, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as de-

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scribed in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from St. Joseph, Mo., to points in New York, New Jersey, Maine, Maryland, Massachusetts, Connecticut, Virginia and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Armour Food Company, 111 W Clarendon, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 123233 (Sub-No. 65TA), filed February 18, 1977. Applicant: PROVOST CARTAGE INC., 7887 Grenache St., Ville d'Anjou, Quebec, Canada H1J 1C4. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dimethylamine*, in bulk, in tank vehicles; and (2) *Tetrahydrofurane*, in bulk, in tank vehicles; (1) from Grasselli, N.J., to the Ports of Entry on the International Boundary Line between the United States and Canada located in New York; and (2) from Grasselli, N.J., and Niagara Falls, N.Y., to the Ports of Entry on the International Boundary Line between the United States and Canada located in New York, restricted in (1) and (2) to the transportation of traffic having an immediate subsequent movement in foreign commerce in through single line service destined to points in Ontairo, Canada, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Courtaulds (Canada) Limited, 1150 Montreal Road, Cornwall, Ontario, Canada. Send protest to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State St., Montpelier, Vt. 05602.

No. MC 123233 (Sub-No. 66TA), filed February 18, 1977. Applicant: PROVOST CARTAGE INC., 7887 Grenache St., Ville d'Anjou, Quebec, Canada H1J 1C4. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *High fructose corn syrup*, in bulk, in tank vehicles, from Clinton, Iowa and Detroit, Mich., to the Ports of Entry on the International Boundary Line between the United States and Canada located in Michigan and New York, restricted to the transportation of traffic having an ammediate subsequent movement in foreign commerce in through local single line service, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clinton Corn Processing, Inc., Subsidiary of Standard Brands, Inc., P.O. Box 340, Clinton, Iowa 52732. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State St., Montpelier, Vt. 05602.

No. MC 124939 (Sub-No. 10TA), filed February 17, 1977. Applicant: FOOD HAUL, INC., 1215 W. Mound St., Rear, P.O. Box 23394, Columbus, Ohio 43223. Applicant's representative: J. A. Kundtz, National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business, between points in Ohio, Indiana, Tennessee, Kentucky, West Virginia and that part of Pennsylvania on and west of U.S. Highway 15 and between points in the above-specified territory, on the one hand, and, on the other, Chicago, Ill.; Baltimore and Landover, Md.; Detroit, Mich., and Charlotte, N.C., under a continuing contract with The Great Atlantic & Pacific Tea Company, Inc., for 180 days. Supporting shipper: The Great Atlantic & Pacific Tea Company, Inc., Two Paragon Drive, Montvale, N.J. 07645. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., and United States Courthourse, 85 Marconi Blvd., Columbus, Ohio 43215.

No. MC 133233 (Sub-No. 50TA), filed February 17, 1977. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, 805 32nd Ave., P.O. Box 831, Council Bluffs, Iowa 51501. Applicant's representative: Donald L. Stern, 530 Univac Bldg., Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry macaroni products*, from the facilities of Skinner Macaroni Company, at Omaha, Nebr., to points in Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia and West Virginia, under a continuing contract with Skinner Macaroni Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: George Boand, Traffic Manager, Skinner Macaroni Company, 6858 "F" St., Omaha, Nebr. 68117. Send protests to: Carroll Aussell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 134150 (Sub-No. 11TA), filed February 17, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, Tenn. 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heating and air conditioning equipment, and ranges, refrigerators, dish washers, disposals, range hoods, and materials, equipment and supplies* used in the manufacture, production and distribution of the commodities above, from Cleveland, Tenn., to the facilities of Gaffers & Sattler, Inc., located at or near Los Angeles and City of Industry, Calif. Restriction: Restricted to a transportation service to be performed under a continuing contract with Gaffers & Sattler, Inc., further restricted to traffic originating at the named origin point and destined to the facilities of Gaffers & Sattler, Inc., at or near Los Angeles and City of Industry, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gaffers & Sattler, Inc., 4851 S. Alameda St., Los Angeles, Calif. 90056. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37219.

No. MC 134755 (Sub-No. 91TA), filed February 17, 1977. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner St., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Ft. Morgan, Colo., to points in Maryland, Pennsylvania, New York, Massachusetts, New Jersey, Connecticut, Rhode Island, Maine, New Hampshire and Vermont, for 180 days. Supporting shipper: Morgan Colorado Beef Company, P.O. Box 487, Ft. Morgan, Colo. 80701. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Office Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 138627 (Sub-No. 17TA), filed February 18, 1977. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Route 4, Fort Dodge, Iowa 50501. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap railroad cars;* (1) from Joliet, Ill., to St. Louis County, Mo.; Douglas County, Nebr.; and Webster and Pottawattamie Counties, Iowa; and (2) from Pottawattamie County, Iowa, to Nez Perce County, Idaho; and points in Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Northland Sales & Engineering Co., 7815 Douglas Ave., P.O. Box 3695, Des Moines, Iowa 50322. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 139618 (Sub-No. 1TA), filed February 18, 1977. Applicant: ASBURY WRIGHT, doing business as WRIGHT TRUCKING COMPANY, Box 67, Pinehurst, Ga. 31070. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St., N.W., Atlanta, Ga. 30309. Atuhority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery, equipment, implements, tractors and parts therefor*, from Auburn, Nebr.; Colorado Springs, Colo.; Davenport, Iowa; Memphis, Tenn.; Moline, Ill.; Rock Island, Ill.; and Waterloo, Iowa, to points in Crisp and Dooly Counties, Ga.; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Fox International, U.S. 19 South, Americus, Ga. International Tractor Co., Pinehurst, Ga. Cordele Implement Company, 412 N. 7th St., Cordele, Ga. 31051. Lewis Truck & Tractor Co., P.O. Box 4, Valley Drive, Perry, Ga. McCranie Tractor, 341 By-Pass, Hawkinsville, Ga. 31036. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 139999 (Sub-No. 21TA), filed February 18, 1977. Applicant: RED-FEATHER FAST FREIGHT, INC., 2606 N. 11th St., Omaha, Nebr. 68110. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the plantsite and facilities of Great Plains Beef Packers Co., at Omaha, Nebr., to points in its commercial zone, to points in Illinois, Indiana, Ohio, Michigan, Pennsylvania, New York, New Jersey and Massachusetts, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Larry Buckminster, Transportation Manager, Great Plains Beef Packers Co., 2700 23rd Ave., Council Bluffs, Iowa 51501. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 142555 (Sub-No. 1TA), filed February 16, 1977. Applicant: EMERSON DELIVERY, INC., 200 32nd St., Drive, S.E., Cedar Rapids, Iowa 52406. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, foodstuffs, feed and feed ingredients, fertilizer, chemicals, and petroleum products), from Cedar Rapids, Iowa, to points in the United States (except Alaska and Hawaii). Restriction: The above authority is restricted to the transportation of emergency shipments, not to exceed 15,000 pounds from one consignor on any one day, and is restricted to shipments moving only in straight trucks, van trucks, pickup trucks or automobiles, and further restricted to traffic originating at Cedar Rapids, Iowa, and points in its Commercial Zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: FMC Corp, Crane & Excavating Div., 1201 6th St., N.W.; Stamats Publishing Company, 427 6th Ave., S.E.; and Fisher Printers, Inc., 2121 N. Towne Lane, N.E., Cedar Rapids, Iowa 52406. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 142923TA, filed February 18, 1977. Applicant: FLASH EXPRESS CO., INC., 30 Park Ave., P.O. Box 281, Englishtown, N.J. 07726. Applicant's representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Waste water treatment and pumping equipment units, and materials and supplies* used in connection and installation therewith (except in bulk), from points in New Jersey, to points in the United States east of the Mississippi River, and St. Louis, Mo.; *and Materials and supplies* used in the manufacturing of waste water treatment and pumping equipment units (except in bulk), from points in the United States east of the Mississippi River, and St. Louis, Mo., to points in New Jersey, under a continuing contract with Remsco Associates, Englishtown, N.J., for 180 days. Supporting shipper: Remsco Associates, 30 Park Ave., Englishtown, N.J. 07726. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 E. State St., Room 204, Trenton, N.J. 08608.

No. MC 142924TA, filed February 17, 1977. Applicant: KENNETH D. STEWART, doing business as STEWART'S CONTRACT SERVICE, Box 161, Kanona, N.Y. 14856. Applicant's representative: Roy D. Pinsky, 345 S. Warren St., Syracuse, N.Y. 13202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New tires and tire tubes*, from Memphis, Tenn., to the following points in New York, Alexandria Bay, Auburn, Bainbridge, Bath, Binghamton, Buffalo, Canton, Cazenovia, Constantia, Chittenango, Clayton, Cortland, Corning, Dansville, East Aurora, East Otto, Elmira, Fulton, Geneva, Gouverneur, Hamden, Heuvelton, Hornell, Horseheads, Ithaca, Kanona, Lockport, Losbon, Margaretville, Massena, Mt. Morris, Niagara Falls, Norwich, Ogdensburg, Oneida, Oneonta, Owego, Penn Yan, Potsdam, Richfield Springs, Shawnee, Sidney, Syracuse, Tonawanda, Tupper Lake, Unadilla, Waterloo, Watertown, Waverly and Wayland; from Memphis, Tenn., to the following points in Pennsylvania: Berwick, Bradford, Canton, Danville, Erie, Lewisburg, Middleburg, Mifflinburg, Mt. Carmel, New Bethlehem, Northumberland, Shamokin, Shamokin Dam, Sunbury, Tonawanda, Troy, Waverly and Warren, under a continuing contract with Mohawk Rubber Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kenneth M. Miller, General Manager, Mohawk Rubber Company, 123 Second Ave., Akron, Ohio 44309. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 S. Clinton St., Room 1259, Syracuse, N.Y. 13202.

No. MC 142925TA, filed February 16, 1977. Applicant: A.C.B. TRUCKING, INC., P.O. Box 1683, 2344 Sagamore N., Lafayette, Ind. 47902. Applicant's representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, Wis. 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines* and chemicals, in vehicles equipped with mechanical refrigeration, from Dayton, Ohio and Elkhart, Ind., to points in Arizona, California, Nevada, New Mexico, Oregon, Utah, Washington, and for stopping off for partial unloading in Denver, Colo., and the Denver commercial zone, under a continuing contract with Miles Laboratories, Inc., for 180 days. Supporting shipper: Miles Laboratories, Inc., 1127 Myrtle St., Elkhart, Ind. 46514. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 142927TA, filed February 17, 1977. Applicant: DAVID C. LINDSEY, doing business as APOLLO TRUCKING, 11805 Arlis Way, Grand Terrace, Calif. 92324. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, paper, and pulpboard articles* moving in ocean containers, for subsequent movement by water, from Riverside, Calif., to points in the Los Angeles Harbor Commercial Zone, as defined by the Commission, under a continuing contract with Lily Division of Owens-Illinois, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lily Division of Owens-Illinois, Inc., 800 Iowa Ave., Riverside, Calif. 92507. Send protests to: Mary Alice Francy, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

PASSENGER APPLICATION

No. MC 142926TA, filed February 22, 1977. Applicant: STEPHEN R. PATTI, doing business as ROYAL BLUE COACHES, 321 Warren St., Phillipsburg, N.J. 08865. Applicant's representative:

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Thomas J. Kelly, Jr., 93 S. Main St., Phillipsburg, N.J. 08865. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers*, from Alpha, Warren County, N.J., thru S. Main St., and N. Main St., Phillipsburg, N.J., to joint toll bridge, to Centre Square in Easton, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 29 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6454 Filed 3-2-77;8:45 am]

[Notice No. 128]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 3, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212a(b) in connection with transfer application under Section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76991. By application filed February 23, 1977, ARTHUR E. PAMIN, JR. and STEVEN V. BIDLAKE, a partnership, d.b.a. MOLITOR TRUCKING, 6450 Highway 10 West, Missoula, MT 59801, seeks temporary authority to transfer the operating rights of M. S. MOLITOR, an individual, d.b.a. MOLITOR TRUCKING, P.O. Box 259, Boulder, MT 59632. The transfer to ARTHUR E. PAMIN, JR. and STEVEN V. BIDLAKE, a partnership, d.b.a. MOLITOR TRUCKING of the operating rights of M. S. MOLITOR, an individual, d.b.a. MOLITOR TRUCKING, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6458 Filed 3-2-77;8:45 am]

[S.O. No. 1252; Order No. 7, Amdt. No. 1]

WATERLOO RAILROAD CO.

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 7 (Waterloo Railroad Company), and good cause appearing therefor:

It is ordered, that:

I.C.C. Order No. 7 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., April 30, 1977, unless otherwise modified, changed, or suspended.

It is further ordered, that this amendment shall become effective at 11:59 p.m., February 28, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 22, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6456 Filed 3-2-77;8:45 am]

[Vol. No. 6]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

FEBRUARY 25, 1977.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before April 4, 1977. Such protest shall comply with special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner in no representative is named.

No. MC 22593 (Sub-No. 2) (Notice of filing of petition to modify commodity description), filed February 9, 1977. Petitioner: RICO TRANSPORTATION CO., INC., 125 Hillside Avenue, South River, N.J. 08882. Petitioners' Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Petitioner holds a motor *common carrier* Certificate in No. MC 22593 (Sub-No. 2) issued September 16, 1974, authorizing transportation over irregular routes, of *clay products and refractory products*, between points in Middlesex County, N.J., on the one hand, and, on the other, points in Connecticut, New York, New Jersey, and Pennsylvania within 150 miles of South River, N.J.; *undeliverable or refused clay products and refractory products*, upon original movement from points in Middlesex County, N.J., between points in Connecticut, New York, New Jersey, and Pennsylvania within 150 miles of South River, N.J.; and *brick, building blocks, and refractory products*, from Sayreville, N.J., to points in Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia which are located within 250 miles of Sayreville, N.J.; the separately stated grants of operating authority shall not be joined or tacked directly or indirectly one to another for the purpose of performing any through transportation service.

By the instant petition, petitioner seeks to modify the above authority by deleting "clay products" from the commodity descriptions and substituting in lieu thereof *"culvert pipes and tanks"*.

No. MC 61592 (notice of filing of petition for modification of commodity description), filed February 7, 1977. Petitioner: JENKINS TRUCK LINE, INC., R.R. 3, Box 697, Jeffersonville, Ind. 47130. Petitioner's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Petitioner holds a motor *common carrier* Certificate in No. MC 61592, issued January 10, 1975, authorizing transportation, as pertinent, over irregular routes, of *machinery and parts*, between Moline, Ill., and points within 10 miles of Moline, on the one hand, and, on the other, St. Louis, Mo., Omaha, Nebr., points in Iowa, points in that part of Wisconsin on and south of a line beginning at the Wisconsin-Minnesota State line, and extending along U.S. Highway 10 to junction unnumbered highway near Nelsonville, Wis., thence along unnumbered highway via Nelsonville to junction U.S. Highway 10, thence along U.S. Highway 10 to junction unnumbered highway near Weyauwega, Wis., thence along unnumbered highway via Weyauwega to junction U.S. Highway 10, and thence along U.S. Highway 10 to the shore of Lake Michigan at Manitowoc, Wis., and points in Illinois on and north of a line beginning at the Illinois-Missouri State line, and extending along U.S. Highway 40 via Collinsville, Ill., to junction Alternate U.S. Highway 40, thence along Alternate U.S. Highway 40 via Greenville, Smithboro, Mulberry Grove, Hagerstown, and Vandalia, Ill., to junction U.S. Highway 40, thence along U.S. Highway 40 to junction unnumbered highway near Casey, Ill., thence along unnumbered highway via Casey and Martinsville, Ill., to junction U.S. Highway 40, thence along U.S. Highway 40 to junction unnumbered highway near Marshall, Ill., thence along unnumbered highway via Marshall to junction U.S. Highway 40, and thence along U.S. Highway 40 to the Illinois-Indiana State Line.

By the instant petition, petitioner seeks to modify the above commodity description to read: "(A) *Machinery and parts;* (B) *commodities*, the transportation of which because of size or weight, requires the use of special equipment, and of related machinery parts and related contractors' materials and supplies, when their transportation is incidental to the transportation by applicant of

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

commodities which by reason of size or weight require special equipment; and (C) *self-propelled articles*, each weighing 15,000 pounds or more, related to machinery, tools, parts, materials and supplies when the transportation is incidental to the transportation of self-propelled articles each weighing 15,000 pounds or more, restricted against the transportation of agricultural implements and parts, pumps and pump parts and castings, and pressure and water softener tanks and tractors weighing less than 15,000 pounds."

No. MC 63258 (Notice of filing of petition for reinstatement of authority), filed December 1, 1976. Petitioner: ALEXANDER CARLUCCI, 1895 West 7th Street, Piscataway, N.J. 08854. Petitioner's representative: Alex Carlucci, Jr., (Same address as petitioner). Petitioner formerly held motor *contract carrier* authority in No. MC 63258, issued August 18, 1943, and revoked in No. MC-C-2376 by Order dated October 20, 1958, and effective December 4, 1958. The revoked authority authorized operation in interstate or foreign commerce, under special and individual contracts or agreements, with persons (as defined in section 203 (a) of the Interstate Commerce Act) who operate wholesale grocery houses, the business of which is the sale of food, for the transportation of *groceries and such commodities*, as are dealt in by wholesale and retail grocery houses, over irregular routes, between points in Bergen, Hudson, Essex, Passaic, Union, Middlesex, Morris, and Somerset Counties, N.J., on the one hand, and, on the other, New York, N.Y., and points in Westchester, Nassau, and Suffolk Counties, N.Y.

By the instant petition, filed by petitioner's Successor-In-Interest, petitioner seeks to have the above revoked authority reinstated. Petitioner states that notice was never received concerning the revocation proceedings.

No. MC 87928 (Sub-No. 46) (notice of filing of petition to remove restriction), filed February 3, 1977. Petitioner: AUTOMOBILE TRANSPORT, INC., 36555 Michigan Avenue, P.O. Box 805, Wayne, Mich. 48186. Petitioner's representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Petitioner holds a motor *common carrier* Certificate in No. MC 87928 (Sub-No. 46), issued February 25, 1976, authorizing transportation over irregular routes, of *motor homes*, in secondary movements, in truckaway service, when moving in mixed loads with automobiles and trucks (otherwise authorized), (1) between points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Vermont, Virginia, and the District of Columbia; (2) between points in Illinois, Indiana, Kentucky, Michigan, Ohio, Virginia, West Virginia, North Carolina, South Carolina, Tennessee, and that part of Pennsylvania on and west of U.S. Highway 219; (3) between points in Delaware and Rhode Island; (4) between points in Delaware and Rhode Island, on the one hand, and, on the other, points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pensylvania, Vermont, Virginia, and the District of Columbia; (5) between points in North Carolina, South Carolina, and Tennessee, on the one hand, and, on the other, points in Maryland, New Jersey, New York, Connecticut, Massachusetts, Vermont, points in that part of Pennsylvania east of U.S. Highway 219, and the District of Columbia; (6) between points in Michigan, Illinois, Indiana, and Ohio, on the one hand, and, on the other, points in Vermont, Massachusetts, Connecticut, New York, New Jersey, and points in that part of Pennsylvania east of U.S. Highway 219;

(7) between points in Maryland and the District of Columbia, on the one hand, and, on the other, points in Ohio, Indiana, Illinois, and Michigan; (8) between points in Kentucky, on the one hand, and, on the other, points in Maryland, New Jersey, New York, Connecticut, Massachusetts, Vermont, and the District of Columbia, and that part of Pennsylvania east of U.S. Highway 219; (9) between points in West Virginia, on the one hand, and, on the other, points in Vermont, Massachusetts, Connecticut, New York, New Jersey, that part of Pennsylvania east of U.S. Highway 219, and that part of Maryland in and east of Frederick County, Md., and the District of Columbia; (1) between points in Garrett, Allegany and Washington Counties, Md., on the one hand, and, on the other, points in that part of West Virginia, in, west, and south of Pendleton, Randolph, Barbour, Taylor, and Monongahela Counties, W. Va.; (11) between points in Delaware and Rhode Island, on the one hand, and, on the other, points in Michigan, Illinois, Indiana, Kentucky, Ohio, West Virginia, Tennessee, South Carolina and North Carolina; and (12) from places of manufacture and assembly in Wayne County, Mich., and Warren Township, Macomb County, Mich., to points in Tennessee, South Carolina and North Carolina.

By the instant petition, petitioner seeks to delete the restriction, "when moving in mixed loads with automobiles and trucks (otherwise authorized)," from the above authority.

No. MC 109515 (Sub-No. 7) (Notice of Filing of Petition to Renew Explosives Authority), filed February 4, 1977. Petitioner: OZELLA HARRINGTON, Box 604, Benson, Ariz. 85602. Petitioner's representative: William J. Lippman, 1819 H Street, N.W., Washington, D.C. 20006. Petitioner previously held a motor *contract carrier* Permit in No. MC 109515 (Sub-No. 7) which expired January 17, 1976, which authorized the transportation over irregular routes, of *classes A and B explosives, nitro carbo nitrate, and blasting supplies and accessories*, from Curtiss, Ariz., to the site of the Ozark Lead Company's mines located approximately 20 miles northwest of Ellington, Mo., under a continuing contract, or contracts, with Apache Powder Company, located at Curtiss, Ariz. By the instant petition, petitioner seeks to renew the above explosives authority for another five year term.

No. MC 125550 and (Sub-Nos. 1, 2, 3, 4, 5, 6, and 7 (Notice of Filing of Petition to Modify Permits), filed December 28, 1976. Petitioner: THE HELLER COMPANY, a corporation, 2nd and Glenwood Avenue, P.O. Box 4406, Philadelpia, Pa. 19140. Petitioner's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Petitioner holds motor *contract carrier* Permits in No. MC 125550 and (Sub-Nos. 1, 2, 3, 4, 5, 6, and 7) issued June 19, 1964, June 22, 1965, June 2, 1976, July 1, 1968, March 13, 1969, July 24, 1969, July 24, 1969, and October 17, 1969, respectively, authorizing transportation (1) in MC 125550, over irregular routes, of *electrical fixtures and component parts thereof and metal housewares, metal utility buildings, and metal housewares products* manufactured by Stanley Electric Manufacturing Company and sold by Stanley Electric Manufacturing Company, and under the trade names of William Heller Company, Inc., and the Warwick Company, Inc., from Altoona, Pa., to Atlanta, Ga., Kansas City, Mo., Detroit Mich., Dallas, Tex., and Denver, Colo.; and *materials* used in the manufacture of the above specified commodities, from the above-specified destination points, to Altoona, Pa., under a continuing contract, or contracts, with Stanley Electric Manufacturing Company, at Altoona, Pa.; (2) in No. MC 125550 (Sub-No. 1) over irregular routes, of *electrical fixtures and component parts thereof, metal housewares and houseware products, and metal utility buildings*, from Altoona, Pa., to Boston, Mass., Camden, N.J., Chicago, Ill., Indianapolis, Ind., Rochester, N.Y., points in California, and the District of Columbia; and *materials* used in the manufacture of the above-specified commodities, from Boston, Mass., Camden, N.J., Chicago, Ill., Columbia, S.C., Danville, Ill., Mendenhall, Miss., and points in California, to Altoona, Pa., restricted against the transportation of commodities which because of their size or weight require the use of special equipment and commodities in bulk, between Altoona, Pa., and Boston, Mass., under a continuing contract, or contracts, with Stanley Electric Manufacturing Company, at Altoona, Pa.;

(3) In No. MC 125550 (Sub-No. 2) irregular routes, of *electrical fixtures, metal housewares and houseware products, and metal utility buildings*, knocked down, from Altoona, Pa., to Minneapolis and St. Paul, Minn., Milwaukee, Wis., St. Louis, Mo., Omaha, Nebr., Phoenix, Ariz., Des Moines, Iowa, Oklahoma City, Okla., and points in Florida and Texas; and *materials* used in the manufacture of the above-specified commodities, from the above-described destination points, to Altoona, Pa., restricted against the transportation of such commodities in bulk, under a continuing contract, or contracts, with Stanley Electric Manufacturing Company, at Altoona, Pa.; (4) in NO. MC 125550 (Sub-No. 3) over irregular routes, of *electrical fixtures, metal housewares, metal houseware*

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products, and metal utility buildings, knocked down, from the plantsite of Stanley Electric Manufacturing Company located at Altoona, Pa., to Hartford, Conn., Syracuse, N.Y., Youngstown, Cincinnati, and Cleveland, Ohio, Memphis, Tenn., and points in Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, and Nevada; and *materials* (except commodities in bulk), used in the manufacture of the above-specified commodities, from the above-specified destination points to the plantsite of Stanley Electric Manufacturing Company located at Altoona, Pa., under a continuing contract, or contracts, with Stanley Electric Manufacturing Company;

(5) In No. MC 125550 (Sub-No. 4) over irregular routes, *of electrical fixtures, metal housewares and houseware products, and metal utility buildings*, knocked down, from the plantsite of Stanley Electric Manufacturing Company located at Altoona, Pa., to points in Alabama, Georgia, Mississippi, North Carolina, South Carolina and Tennessee; and *materials* used in the manufacture of the above-specified commodities, from points in the above-named destination states, to the above-named plantsite, under a continuing contract, or contracts, with Stanley Electric Manufacturing Company located at Altoona, Pa.; (6) in No. MC 125550 (Sub-No. 5) over irregular routes, *of electrical fixtures, metal housewares and houseware products, and metal utility buildings*, knocked down, from Altoona, Pa., to points in Ohio (except Cincinnati, Cleveland, and Youngstown), Indiana (except Indianapolis), Illinois (except Chicago), and Michigan (except Detroit); and *materials* used in the manufacture of the above-described commodities, from points in Ohio (except Cincinnati, Cleveland, and Youngstown), Indiana, Illinois (except Chicago and Danville), and Michigan (except Detroit), to Altoona, Pa., under a continuing contract, or contracts, with Stanley Electric Manufacturing Company located at Altoona, Pa.; (7) in No. MC 125550 (Sub-No. 6) over irregular routes, of *electrical fixtures, metal housewares, and houseware products and metal utility buildings*, knocked down, from Altoona, Pa., to points in Virginia, West Virginia, Kentucky, and Maryland; and *materials* used in the manufacture of the above-described commodities, from points in Virginia, West Virginia, Kentucky and Maryland, to Altoona, Pa., restricted against performing any transportation to or from Amcelle, Cumberland and Ellerslie, Md., under a continuing contract, or contracts, with Stanley Electric Manufacturing Company, at Altoona, Pa.; and

(8) In No. MC 125550 (Sub-No. 7) over irregular routes, of *electrical fixtures, metal housewares and housewares products, and metal utility buildings*, knocked down, from the plantsite of Stanley Electric Manufacturing Company located at Altoona, Pa., to points in New Jersey, Delaware, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine; and *materials* used in the manufacture of the above-specified commodities, from the destination points specified above, to the plantsite of Stanley Electric Manufacturing Company located at Altoona, Pa., under a continuing contract, or contracts, with Stanley Electric Manufacturing Company located at Altoona, Pa. By the instant petition, petitioner seeks (a) to reflect, with respect to all the above Permits, "Lighting By Stanley, Inc." as the contracting shipper, in lieu of "Stanley Electric Manufacturing Company; (b) to delete, with respect to the lead Permit and (Sub-Nos. 1, 2, 5, and 6), Altoona, Pa., from the territorial description, and substitute in lieu thereof," Saddle Brook, N.J.; and (c) to delete, with respect to (Sub-Nos. 3, 4, and 7), Stanley Electric Manufacturing Company located at Altoona, Pa., from the territorial description, and substitute in lieu thereof, "Lighting By Stanley, Inc., located at Saddle Brook, N.J."

No. MC 141358 (Notice of filing of petition to modify Commodity Description), filed December 2, 1976. Petitioner: S & M CORP., 14 Middletown Avenue, North Haven, Conn. 06473. Petitioner's representative: Arthur Liberstein, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Petitioner holds a motor *contract carrier* Permit in No. MC 141358, issued February 14, 1977, authorizing transportation over irregular routes, of *such commodities* as are dealt in by retail department stores (except foodstuffs), between points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, and New Jersey, under a continuing contract, or contracts, with Glitex, Inc., of North Haven, Conn. By the instant petition, petitioner seeks to include "candy" in the above commodity description, but retain the above exception against foodstuffs other than candy.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application. Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing. Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2202 (Sub-No. 528), filed January 14, 1977. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of E. T. Barwick Industries, located at or near Lafayette and Hedges, Ga., as off-route points, in connection with applicant's present authority.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Atlanta, Ga. or Washington, D.C.

No. MC 2228 (Sub-No. 67), filed January 17, 1977. Applicant: MERCHANTS FAST MOTOR LINES, INC., Highway 80 East, P.O. Drawer 591, Abilene, Tex. 79604. Applicant's representative: Mike Cotten, P.O. Box 1148, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Bay City, Tex. and the junction of Farm Road 521 and Texas Highway 35, serving the plantsite of South Texas Project Houston Lighting and Power Company, and all intermediate points: From Bay City over Texas highway 60 to its junction with Farm Road 521, thence over Farm Road to its junction with Texas Highway 35, and return over the same route; and (2) Between Bay City, Tex., and junction Farm Road 2668 and Farm Road 521, serving the plantsite of South Texas Project Houston Lighting and Power Company: From Bay City over Texas Highway 60 to its junction with Farm Road 2668, thence over Farm Road 2668 to its junction with Farm Road 521, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Houston or Dallas, Tex.

No. MC 4405 (Sub-No. 545), filed January 14, 1977. Applicant: DEALERS TRANSIT, INC., 522 South Boston Ave., Enterprise Bldg., Tulsa, Okla. 74103. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles*, between Hazelwood, Mo., Tamaqua, Pa., Cucamonga, Calif., and Livia, Ky., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 19157 (Sub-No. 34), filed January 17, 1977. Applicant: McCORMACK'S HIGHWAY TRANSPORTATION, INC., R.D. 3, Box 4, Campbell Road, Schenectady, N.Y. 12306. Applicant's representative: Clem Tomlins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cameras, and commodities* used in the production, distribution, operation and sale of cameras (except commodities in bulk and those which because of size or weight require the use of special equipment), between Bettsville, Ohio, Clarksburg, W. Va., and Brockway, Pa., on the one hand, and, on the other, Penfield Center, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Albany, N.Y. or Knoxville, Tenn.

No. MC 19157 (Sub-No. 35), filed January 18, 1977. Applicant: McCORMACK'S HIGHWAY TRANSPORTATION, INC., Route 3, Box 4, Campbell Road, Schenectady, N.Y. 12306. Applicant's representative: Clem Tomlins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber and rubber products and materials and supplies* used in manufacture of rubber and rubber products (except commodities in bulk and those which because of size or weight require the use of special equipment), (1) between Mountain View, Ala., on the one hand, and, on the other, points in Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Virginia and West Virginia; and (2) between Hardin, Ohio, on the one hand, and, on the other, points in Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Albany, N.Y. or Memphis, Tenn.

No. MC 35334 (Sub-No. 79), filed December 23, 1976. Applicant: COPPER-JARRETT, INC., 23 South Essex Ave., Orange, N.J. 07051. Aplicant's representative: Irving Klein, 371 Seventh Avenue, (Southgate Tower), New York, N.Y. 10001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between points in Bell City, Cuba, Fairbanks, Harvy, Lynnville, Pilotoak and Tri City, Ky., on the one hand, and, on the other, Dukedom and Memphis, Tenn.

NOTE:—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Louisville, Ky.

No. MC 44639 (Sub-No. 91), filed January 14, 1977. Applicant: L & M EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, N.J. 07071. Applicant's representative: Robert B. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk), between Dublin, Independence and Rural Retreat, Va., on the one hand, and, on the other Lyndhurst, N.J. and New York, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Newark, N.J.

No. MC 44783 (Sub-No. 7), filed January 12, 1977. Applicant: THE MAHONING EXPRESS COMPANY, a Corporation, Union Street, P.O. Box 563, Mineral Ridge, Ohio 44440. Applicant's representative: John P. McMahon, 100 E. Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal stampings*, between the plantsite of Bliss Manufacturing Company, located at Youngstown, Ohio, on the one hand, and on the other, the plantsite of Houdaille Corporation, Huntington Division, Huntington, W. Va.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 51146 (Sub-No. 485), filed January 13, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, and returned empty malt beverage containers*, between South Volney, N.Y., on the one hand, and, on the other, points in Illinois, Indiana, Kentucky and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 59856 (Sub-No. 72), filed January 21, 1977. Applicant: SALT CREEK FREIGHTWAYS, a Corporation, 3333 West Yellowstone, Casper, Wyo. 82601. Applicant's representative: John R. Davidson, Room 805, Midland Bank Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring the use of special equipment), between Missoula, Mont. and Spokane, Wash., serving the off-route points of Spokane Industrial Park, located at or near Spokane, Wash., and the intermediate points of Mullan, Wallace, Kellogg and Coeur d'Alene, Idaho, on westbound shipments only, serving no intermediate points on eastbound shipments: From Missoula over Interstate Highway 90 (also U.S. Highway 10) to Spokane and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Missoula, Mont., or Spokane, Wash.

No. MC 83835 (Sub-No. 136), filed January 18, 1977. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof; and (2) *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operations, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in

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Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with other similar applications at Houston, Tex., Tulsa, Okla., San Francisco, Calif. or St. Louis, Mo.

No. MC 103926 (Sub-No. 53), filed January 13, 1977. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a Corporation, P.O. Box 947, Mableton, Ga. 30059. Applicant's representative: K. Edward Wolcott, Suite 1600, First Federal Bldg., Atlanta, Ga. 30303. Authority sought to opreate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prestressed and precast concrete products*, from Columbus, Ga., to points in Alabama and Florida.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Columbus or Atlanta, Ga.

No. MC 106398 (Sub-No. 768), filed January 17, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and plywood paneling*, finished and unfinished, and *accessories*, used in the installation thereof, from the plantsite and warehouse facilities of Ply Gem Manufacturing, at Gloucester, N.J., to points in Alabama, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, South Dakota, Tennessee, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 106398 (Sub-No. 769), filed January 17, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, cable, conduit, wire, and strip steel, and attachments therefor*, from Glendale (Marshall County), W. Va., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Charleston, W. Va.

No. MC 106644 (Sub-No. 233), filed January 17, 1977. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road, N.W., Atlanta, Ga. 30318. Applicant's representative: Hubert Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motorized step van delivery vehicles* each weighing less than 15,000 pounds transported on flatbed, lowboy or drop deck trailers, between points in the United States (except Alaska and Hawaii), restricted to a transportation service to be performed for Frito-Lay, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Austin, Tex., or Washington, D.C.

No. MC 107107 (Sub-No. 453) (Correction), filed December 23, 1976, published in the FR issue of February 10, 1977, and republished as corrected this issue. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Avenue, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same address as applicant).

NOTE.—The purpose of this partial republication is to correct part (A)(10), as previously published, to read as follows: (A)(10) Between Fort Myers, Fla. and Fort Lauderdale, Fla: From Fort Myers, over Florida Highway 84 to Fort Lauderdale, and return over same route, serving the intermediate and off-route points in Florida east and south of a line formed by the eastern boundaries of Columbia, Gilchrist and Levy Counties, Fla., in (1) through (10) above, service at Tallahassee is restricted to traffic having a prior or subsequent movement in interchange or interline service. The rest of the publication remains the same.

HEARING: April 4–8, 1977, at 9:30 a.m. local time, at the Gold Key Inn, 7100 S. Orange Blossom Trail, Orlando Fla. Second session: Commencing April 11, 1977, at the Miami District Office of the Florida Public Service Commission, Suite 121, Koger Executive Center, 8400 N.W. 52nd St., Miami, Fla.

No. MC 107107 (Sub-No. 454), filed January 17, 1977. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Avenue, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from points in Florida, to Dallas and Fort Worth, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Orlando, Fla.

No. MC 107496 (Sub-No. 1059), filed January 4, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in bulk, (a) from the Chevron pipeline terminal, located at or near Pocatello, Idaho, to points in Wyoming; and (b) from points in Mead, Perkins, Ziebach, Dewey, Corson, and Haakon Counties, S. Dak., to points in Morton, Oliver, Burleigh and Starke Counties, N. Dak.; and (2) *LPG*, in bulk, from Memphis, Tenn., to points in Alabama, Arkansas, Mississippi, Missouri, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo., or Chicago, Ill.

No. MC 107615 (Sub-No. 8), filed January 18, 1977. Applicant: UNTCO, INC., 850 East Luzerne Street, Philadelphia, Pa. 19124. Applicant's representative: Richard A. Mehley, 1000 Sixteenth Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, products and materials, and supplies* used in the manufacture and production thereof, between Strasburg, Va., on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, and Pennsylvania, and points in Nassau, Rockland, Suffolk, and Westchester Counties, N.Y.; and New York, N.Y. Commercial Zone, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107678 (Sub-No. 62), filed January 10, 1977. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: J. Marshall Forsyth, 14942 Talcott, Houston, Tex. 77015. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Garfield County, Utah, to points in Arizona, Arkansas, New Mexico, Oklahoma and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Phoenix, Ariz.

No. MC 108207 (Sub-No. 454), filed January 14, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Neoprene insulated wire*, from Los Angeles, Calif., to points in Arizona, Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, South Dakota, Texas, Wisconsin, and Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Los Angeles, Calif. or Dallas, Tex.

No. MC 108676 (Sub-No. 99), filed January 14, 1977. Applicant: A.J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, Tenn. 37917. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock crusher equipment*, from the plantsite of Hewitt-Robins, Inc., located in Rich-

land County, S.C. to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Atlanta, Ga. or Columbia, S.C.

No. MC 109533 (Sub-No. 84) (Partial correction), filed December 30, 1976, published in the FR issue of February 10, 1977, and republished, in part, as corrected this issue. Applicant: OVERNITE TRANSPORTATION COMPANY, a Corporation, 1000 Semmes Avenue, Richmond, Va. 23224. Applicant's representative: E. T. Liipfert, 1660 L Street, N.W., Suite 1100, Washington, D.C. 20036. The purpose of this partial republication is to correct items (15) and (16) by the inclusion of a requested route which was omitted in the previous publication. The correct request reads as follows: (15) Between Covington, Va., and junction U.S. Highway 60 and Interstate Highway 64 at Port Amherst, W. Va., serving all intermediate points: From Covington over U.S. Highway 60 to its junction with Interstate 64 at Port Amherst, W. Va., and return over the same route; (16) Serving all points in West Virginia (except those on the above routes) as off-route points; and (17) Serving all points in Pennsylvania on and south of U.S. Highway 22 between the West Virginia-Pennsylvania state line and Pittsburgh, Pa., and on and west of U.S. Highway 19 between Pittsburgh, Pa., and the West Virginia state line, as off-route points.

NOTE.—The rest of the publication remains the same. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Charleston or Huntington, W. Va. or Washington, D.C.

No. MC 110525 (Sub-No. 1179), filed January 17, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from ports of entry on the International Boundary line between the United States and Canada, located in Michigan on the Detroit and St. Clair Rivers, to points in Indiana, Michigan and Ohio, restricted to traffic originating at the Courtright, Ontario, Canada plantsite of Beker Industries Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn.

No. MC 110817 (Sub-No. 22), filed January 18, 1977. Applicant: E. L. FARMER & COMPANY, a Corporation, P.O. Box 3512, Odessa, Tex. 79760. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof; and (2) *earth drilling machinery and equipment, and machinery, equipment, materials supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operations, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston, Tex., Tulsa, Okla., San Francisco, Calif. or St. Louis, Mo.

No. MC 111545 (Sub-No. 232), filed January 10, 1977. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road, S.E., Marietta, Ga. 30067. Applicant's representative: Robert E. Born, P.O. Box 6426, Station A, Marietta, Ga. 30065. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, aluminum products, and supplies, materials and equipment*, used in the manufacture of aluminum and aluminum products (except in bulk), between the plantsites of Alumax, Inc., located at Decatur, Ala.; Casa Grande, Ariz.; Long Beach, Riverside, Visalia, Perris Valley and Woodland, Calif.; Loveland, Colo.; Ocala and Plant City, Fla.; Peachtree City and Jonesboro, Ga.; Twin Falls, Idaho; Chicago and Morris, Ill.; Lebanon, Bristol and Franklin, Ind.; McPherson, Kans.; Frederick, Md.; Montevideo, Minn.; St. Louis, Mo.; Hernando, Miss.; Reidsville, N.C.; Cleveland, Ohio; Tulsa and Checotah, Okla.; Stayton, Oreg.; Bloomsburg, Pa.; Mansfield, Tex.; Harrisonburg, Va.; Spokane and Ferndale, Wash.; and Marchfield, Wisc., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 112750 (Sub-No. 36), filed January 21, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except currency and negotiable securities), used in the operation of banks and banking institutions, from Chicago, Ill., to points in Elkhart, Lake, La Porte, Marshall, Porter, St. Joseph, and Starke Counties, Ind. under contract with Federal Reserve Bank of Chicago

NOTE.—Applicant holds common carrier authority in MC 111729 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113388 (Sub-No. 114), filed January 17, 1977. Applicant: LESTER C. NEWTON TRUCKING CO., a Corporation, P.O. Box 618, Seaford, Del. 19973. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, N.W., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods;* and (2) *commodities* the transportation of which is exempt under the provisions of Section 203(b)(6), of the Interstate Commerce Act when moving in the same vehicle and at the same time with frozen foods, from Syracuse, N.Y., to points in Delaware, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113651 (Sub-No. 204), filed December 13, 1976. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, Ind. 47303. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (a) from Spencer and Hartley, Iowa, to points in Connecticut, Delaware, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island and Vermont; (b) from Schuyler, Nebr., to points in Alabama, Florida, Georgia, Indiana, Kentucky, Michigan, Mississippi, North Carolina, Ohio, South Carolina, Tennessee and West Virginia; and (c) from Ft. Dodge, Iowa, to points in Indiana, Kentucky, Michigan, and those points in Ohio on and north of U.S. Highway 224; and (2) *meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Section C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Fort Dodge, Iowa, to points in Maine, Massachusetts, New Hampshire, New Hampshire, New York, those points in Ohio south of U.S. Highway 224, and

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points in Pennsylvania, Virginia, Vermont and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113651 (Sub-No. 206), filed January 7, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, Ind. 47303. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickles, pickled tomatoes, sauerkraut and relishes* all requiring movement in mechanically refrigerated vehicles (except commodities in bulk in tank vehicles), from the plant site of Claussen Pickle Co., a wholly-owned subsidiary of Oscar Meyer & Co., Inc., located at or near Woodstock, Ill., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the above named origin and destined to the states named.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 114194 (Sub-No. 192), filed January 17, 1977. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. 62201. Applicant's representative: Ernest A. Brooks II, 13031-02 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol*, in bulk, from the plant and storage facilities of Archer Daniels Midland Company, at Decatur, Ill., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Chicago or Springfield, Ill.

No. MC 114632 (Sub-No. 95), filed January 17, 1977. Applicant: APPLE LINES, INC., 212 S.W. Second St., Madison, S. Dak. 57042. Applicant's representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and frozen potato products*, from Minneapolis, Minn., to points in Missouri and Nebraska.

NOTE.—Applicant holds contract carrier authority in MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Omaha, Nebr.

No. MC 114896 (Sub-No. 45), filed January 13, 1977. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Credit cards and magnetic tape*, between Garrison, Md., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with Malco Plastics, Inc.

NOTE.—Applicant holds common carrier authority in No. MC 140345 (Sub-No. 1), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 115311 (Sub-No. 208), filed January 13, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising matter*, from Pabst (Houston County), Ga., to Newark, N.J.; points in Arkansas, Kentucky, Louisiana, Virginia, and those points in Tennessee west of Interstate Highway 65.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 117119 (Sub-No. 610), filed January 13, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Greenville and Grand Rapids, Mich. and Massillon, Ohio, to points in Colorado, Idaho, Oregon, Utah and Washington.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Washington, D.C.

No. MC 117119 (Sub-No. 611), filed January 13, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Ontario, Oreg. and points in Idaho, to points in California, restricted to the transportation of traffic originating at plantsites and storage facilities of Ore-Ida Foods, Inc., located at the above named points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Washington, D.C.

No. MC 117940 (Sub-No. 209), filed January 12, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Alan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and microwave ovens and such commodities* as are used in the manufacture of electric ranges and microwave ovens, including *materials, supplies, and accessories* related thereto, between the plantsite and storage facilities utilized by Litton Microwave Cooking Products, located at Sioux Falls, S. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to traffic originating at or destined to the above named facilities located at Sioux Falls, S. Dak.

NOTE.—Applicant holds contract carrier authority in No. MC 114789 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 118159 (Sub-No. 194), filed January 13, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Boxes, pulpboard* (except corrugated), from Cleveland, Tenn., to points in Georgia, Kansas, Kentucky, Louisiana, Maryland, North Carolina, Texas and Virginia; and (2) *materials, supplies and equipment* used in the manufacture and distribution of pulpboard boxes (except corrugated), from points in Georgia, Kentucky, North Carolina and Virginia, to Cleveland, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 119991 (Sub-No. 14), filed January 13, 1977. Applicant: YOUNG TRANSPORT, INC., 1601 Woodlawn, P.O. Box 3, Logansport, Ind. 46947. Applicant's representative: Michael V. Gooch, 777 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingredients*, in bags, and (2) *commodities* the transportation of which is otherwise exempt from economic regulation pursuant to section 203(b)(6) of the Interstate Commerce Act, in mixed loads with feed and feed ingredients, in bags, from the plantsite and storage facilities of Milk Specialties Company, a Division of Cudahy Foods Co., located at or near Dundee, Ill., to points in Indiana, Ohio, Michigan and Pennsylvania.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 124078 (Sub-No. 712), filed January 6, 1977. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite clay, processed clay, and foundry sand additives*, in bulk, in tank vehicles, from Aberdeen, Miss., to points in Colorado, Kansas, Minnesota, Nebraska, Oklahoma and Texas; (2) *bentonite clay, processed clay, and foundry sand additives*, in bulk, in tank vehicles, from the plantsite of American Colloid Company, located at Sandy Ridge, Ala., to St. Louis and Kansas City, Mo., and Wheeling, W. Va., and points in Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Vermont and Wisconsin; (3) *calcined petroleum coke, coke breeze, graphite ore, and carbon scrap, or any combination thereof*, in bulk, in tank vehicles, from Greenup, Ky., to those points in the United States in and east of Iowa, Kansas, Minnesota, Missouri, Oklahoma and Texas; and (4) *foundry sand, foundry sand additives, calcined petroleum coke, coke breeze, graphite ore, carbon scrap, bentonite clay, and processed clay*, in bulk, in tank vehicles, from the plantsites of American Colloid Company, located at Albion, Mich., and Columbus, Ohio, to those points in the United States in and east of Colorado, Iowa, Minnesota, Nebraska, Oklahoma and Texas (except Illinois, Indiana, Michigan, Ohio and Wisconsin).

NOTE.—Applicant holds contract carrier authority in MC 112832 Sub. 68, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124774 (Sub-No. 99), filed January 13, 1977. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckinham Drive, P.O. Box 7344, Omaha, Nebr. 68107. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Games, toys, hobby and craft articles, gym sets, wading pools and children's vehicles*, from points in Arkansas, Illinois, Kentucky, Minnesota, Mississippi, Missouri and Tennessee, to the facilities of Mutual Distributing Co., located at Omaha, Nebr.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Omaha, Nebr.

No. MC 125433 (Sub-No. 93), filed January 18, 1977. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Michael J. Norton, P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from Escalante, Utah, to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Nebraska, Ohio, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City, Utah or Denver, Colo.

No. MC 126118 (Sub-No. 28), filed January 13, 1977. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers (except in bulk), from Monroe, Wis., and Chicago, Ill., to points in Arkansas, Georgia, Maryland, Missouri, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas and Virginia.

NOTE.—Applicant holds contract carrier authority in MC 126378 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Lincoln, Nebr.

No. MC 127042 (Sub-No. 186), filed January 18, 1977. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and facilities utilized by Morgan Colorado Beef Co., located at Ft. Morgan, Colo., to points in California, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 127042 (Sub-No. 187), filed January 18, 1977. Applicant: HAGEN, INC., 3232 Highway 75 North, P.O. Box 98, Leeds Station, Sioux City, Iowa 51108. Applicant's representative: Robert G. Tessar (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and facilities utilized by Flavorland Industries, Inc. located at Denver, Colo., to points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, restricted to traffic originating at the above named points and destined to the above named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 127346 (Sub-No. 7), filed January 18, 1977. Applicant: HALL'S FAST MOTOR FREIGHT, INC. P.O. Box 183, 330 Oak Tree Avenue, South Plainfield, N.J. 07080. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automotive parts;* and (2) *materials, equipment, and supplies* used in the manufacture or sale of the commodities specified in (1) above (except commodities in bulk), between the facilities of Hall's Warehouse Corp., located at South Plainfield, N.J., on the one hand, and, on the other, Baltimore, Md., and points within its commercial zone.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 128868 (Sub-No. 4), filed January 17, 1977. Applicant: TEXAS CONSTRUCTION SERVICE COMPANY OF AUSTIN, a corporation, 15000 F.M. Road 1825, Round Rock, Tex. 78664. Applicant's representative: W. S. Levens (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, from Texas to Arkansas, Colorado, Florida and Mississippi.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Austin, San Antonio or Dallas, Tex.

No. MC 129328 (Sub-No. 7), filed January 13, 1977. Applicant: PALTEX TRANSPORT CO., a corporation, P.O. Box 296, Palestine, Tex. 75801. Applicant's representative: Kenneth R. Hoffman, 1100 Milam Bldg., Suite 3300, Houston, Tex. 77002. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glassware* (except cut glassware), *and closures therefor*, from the facilities of Glass Containers Corporation, located at or near Dallas and Houston, Tex., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, Oklahoma, South Carolina, and Tennessee; and (2) *materials, equipment and supplies*, used in the manufacture, sale, or distribution of the commodities in (1) above, (a) from points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, Oklahoma, South Carolina, and Tennessee, to the facilities of Glass Containers Corporation, located at or near Dallas, Houston, and Palestine, Tex.; and (b) from the plantsite of Hunt-Wesson Foods, Inc., located at Memphis, Tenn., and points in Arkansas, Louisiana (except New Orleans and Opelousas, and points within their Commercial Zone as defined by the Commission), and points in Oklahoma and Texas, to the facilities of Glass Containers Corporation, located at or near Jackson, Miss., restricted in (1) and (2) above, against the transportation of commodities in bulk, and to a transportation service to be performed under a continuing contract, or contracts, with Glass Containers Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas or Houston, Tex.

No. MC 129808 (Sub-No. 25), filed January 17, 1977. Applicant: GRAND ISLAND CONTRACT CARRIER, INC., P.O. Box 2078, Grand Island, Nebr. 68801. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr.

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68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Processed logs and wooden beams*, from Claremore, Okla., and Licking, Mo., to points in Colorado, Iowa, Kansas and Nebraska, under continuing contract or contracts with Chisum Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 133095 (Sub-No. 137), filed January 13, 1977. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, soap, capsules, toilet preparations, animal dip solutions and disinfectant*, in containers, in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Parke, Davis & Co. located at Allen Park, Mich., to the plantsite and warehouse facilities utilized by Parke, Davis & Co. located at or near Atlanta, Ga., Los Angeles, Calif., Dallas, Tex., and Seattle, Wash.

NOTE.—Applicant holds contract carrier authority in No. MC 136033 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Detroit, Mich.

No. MC 133119 (Sub-No. 11) filed January 10, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 So. 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), (1) from points in Colorado, Kansas, Michigan, Missouri, North Dakota, Ohio, Oklahoma, Tennessee, Texas and Wisconsin, to the ports of entry on the International Boundary line between the United States and Canada located at or near Sweetgrass, Mont. and Portal, N. Dak., restricted to the transportation of traffic moving in foreign commerce to points in the Provinces of Saskatchewan and Alberta, Canada; and (2) from the ports of entry on the International Boundary line between the United States and Canada located at or near Sweetgrass, Mont. and Portal, N. Dak., to points in Alabama, Arizona, Arkansas, California, Colorado, Idaho, Louisiana, Michigan, Mississippi, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah and Washington, restricted to the transportation of traffic moving in foreign commerce from points in the Provinces of Saskatchewan and Alberta, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr. or Minneapolis, Minn.

No. MC 133591 (Sub.-No. 29), filed January 14, 1977. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 309, Mount Vernon, Mo. 65712. Applicant's representative: Harry Ross, 58 South Main Street, Winchester, Ky. 40391. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mattress parts and furniture parts;* and (2) *materials, equipment, supplies and machinery* used in the manufacture of mattress parts and/or furniture parts, from Carthage, Mo., to points in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah and Washington.

NOTE.—Applicant holds contract carrier authority in No. MC 134494 and subs there under, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark. or Kansas City, Mo.

No. MC 133689 (Sub-No. 101), filed January 5, 1977. Applicant: OVERLAND EXPRESS, Inc., 719 First St., S.W., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, washing and scouring compounds, sodium bicarbonate, sodium carbonate, borax, health and beauty aids, and sal soda*, (1) from Syracuse, N.Y., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; and (2) from Cincinnati, Ohio, to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wisconsin, restricted in (1) and (2) above to traffic originating at the plantsite and storage facilities of Church & Dwight Company, Inc., located at the above named origins.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134286 (Sub-No. 16) (Amendment), filed December 13, 1976, published in the FEDERAL REGISTER issue of February 3, 1977, republished as amended this issue. Applicant: ILLINI EXPRESS, INC., Box 1564, Sioux City, Iowa 51102. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, food products, food ingredients, animal foods, animal food ingredients, and meat by-products* (except in bulk), (1) from the warehouses of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Verginia, West Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the warehouse of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa., and destined to the named destination states; and (2) from points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, to the warehouses of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa., restricted to the movement of traffic originating in the named origin states and destined to the warehouses of Beatrice Foods Co., located at Scranton, Pa., and at or near Allentown, Pa.

NOTE.—This proceeding is assigned for hearing on the 17th day of March 1977, at 9:30 a.m. Local Time, at the Offices of the Interstate Commerce Commission, Washington, D.C. If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 134599 (Sub-No. 154), filed January 13, 1977. Applicant: INTER-STATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic rubber, rubber products, and materials, supplies and equipment*, used in the manufacture thereof (except commodities in bulk, and those which because of size or weight require special handling or equipment), from the plantsite and facilities of Uniroyal, Inc., located at Cheswold, Del., to points in Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, and Wisconsin, under continuing contract or contracts, with Uniroyal, Inc.

NOTE.—Applicant holds common carrier authority in MC 139906 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Lincoln, Nebr. or Salt Lake City, Utah.

No. MC 134599 (Sub-No. 155), filed January 13, 1977. Applicant: INTER-STATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products, chemicals, plastic powder, flakes and granules*, and *equipment, materials and supplies* used in the manufacture thereof (except commodities in bulk and those which because of size or weight require special handling or equipment), between Painesville, Ohio, on the one hand, and, on the other, points in California, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Michigan, Missouri, Mississippi, Nebraska, New Jersey, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Virginia and Wisconsin, under continuing contract or contracts, with Uniroyal, Inc.

NOTE.—Applicant holds common carrier authority in No. MC 139906 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Lincoln, Nebr. or Salt Lake City, Utah.

No. MC 134806 (Sub-No. 45), filed January 14, 1977. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Brattleboro, Vt. 05301. Applicant's representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tanned leather*, from points in Los Angeles County, Calif., to Chicago and Rockford, Ill., Huntington, W. Va., and points in Maine, Massachusetts, New Hampshire, New York, Pennsylvania and Wisconsin; and (2) *oils and greases, finishing compounds*, and *supplies* for tanning leather (except commodities in bulk), from Exeter, N.H., Newark, N.J., Brattleboro, Vt., and points in Massachusetts, to points in Los Angeles County, Calif., under a continuing contract, or contracts, with West Coast Tanners Production Club.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles County, Calif.

No. MC 134922 (Sub-No. 225), filed January 13, 1977. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk), between Mills Shoals and Springerton, Ill., on the one hand, and, on the other, points in the United States in and west of Arkansas, Illinois, Louisiana, Missouri and Wisconsin, restricted to traffic having a prior or subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark. or St. Louis, Mo.

No. MC 134922 (Sub-No. 226), filed January 18, 1977. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is sold and used by wholesale, retail and discount stores and *chemicals* in vehicles equipped with mechanical refrigeration (except foodstuffs, alcoholic beverages, commodities in bulk and those which because of size or weight require the use of special equipment), (1) between Muskegon and Greenville, Mich., Brockway, Pa., Corning, N.Y., Cumberland, Md., and Jackson, Miss., on the one hand, and, on the other, points in Arizona, California, Idaho, Nevada, Oregon, Utah and Washington; and (2) from Memphis, Tenn., to points in Nevada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif. or Little Rock, Ark.

No. MC 135082 (Sub-No. 4), filed January 21, 1977. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road N.E., Albuquerque, N. Mex. 87125. Applicant's representative: D. F. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, from Albuquerque, N. Mex., to points in Arizona and Colorado.

NOTE.—Applicant holds contract carrier authority in MC 115524 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex.

No. MC 135170 (Sub-No. 16), filed January 18, 1977. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representative: James C. Hardman, 33 N. LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures, and materials, equipment and supplies* used in the manufacture, sale and distribution of containers and container closures (except commodities in bulk and those which because of size or weight require the use of special equipment), from Baltimore, Md., to points in Virginia, under a continuing contract, or contracts, with National Can Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135874 (Sub-No. 70), filed January 13, 1977. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street So., South St. Paul, Minn. 55075. Applicant's representative: Paul Nelson (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* and *potato products* (except frozen, in bulk), (1) from the facilities of Midwest Food Corporation located at or near Clark, S. Dak., to Sioux Falls, S. Dak.; and (2) from the facilities of Midwest Foods Corporation located at or near Sioux Falls, S. Dak., to points in Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Maine, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, Vermont, Wisconsin, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 136343 (Sub-No. 98), filed January 12, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products and woodpulp* from the facilities of Westvaco Corporation located at Biggs, Cumberland and Luke, Md., and Piedmont, W. Va., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont; and (2) *equipment, materials and supplies*, used in the manufacture and sale of paper, paper products and woodpulp (except commodities in bulk), from the above named destination states, to the facilities of Westvaco Corporation located at Biggs, Cumberland and Luke, Md., and Piedmont, W. Va., restricted in (1) and (2) above to the transportation of shipments originating at the specified origins and destined to the designated destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y. or Washington, D.C.

No. MC 136774 (Sub-No. 8), filed January 17, 1977. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, Wis. 53586. Applicant's representative: Anthony E. Young, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Spencer and Hartley, Iowa, to points in Illinois and Wisconsin, restricted to the transportation of shipments originating at the plantsites or facilities utilized by Spencer Foods, Inc., and destined to points in the States named above.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 136989 (Sub-No. 16), filed January 10, 1977. Applicant: R. F. Box Inc., 500 Kinley N.E., Albuquerque, N. Mex. 87104. Applicant's representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Albuquerque, N. Mex. 87102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, pharmaceuticals and samples*, from the plantsites of McNeil Laboratories, Inc., located at or near Fort Washington, Pa., to points in California, under a continuing contract, or contracts, with McNeil Laboratories, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Albuquerque, N. Mex.

No. MC 136144 (Sub-No. 17), filed January 10, 1977. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, Wis. 53213. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer compounds, ice melting compounds, ver-*

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miculite products (except commodities in bulk), from Union Grove and Kenosha, Wis., to points in Illinois.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Milwaukee, Wis. or Chicago, Ill.

No. MC 139091 (Sub.-No. 18), filed January 13, 1977. Applicant: LOGAN MOTOR LINES, INC., 2829 Mays Street, Amarillo, Tex 79109. Applicant's representative: Clayton J. Logan, P.O. Box 30038, Amarillo, Tex. 79120. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities of Swift Fresh Meats Co. located at or near Glenwood, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, under a continuing contract, or contracts, with Swift Fresh Meats Co., Division of Swift & Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Omaha, Nebr.

No. MC 139193 (Sub-No. 54), filed January 7, 1977. Applicant: ROBERTS & OAKE, INC., P.O. Box 1356, 527 East 52nd Street North, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billig, 2033 K Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and microwave ovens and such commodities* as are used in the manufacture of electric ranges and microwave ovens, and *materials, supplies, and accessories* related thereto, between the plantsite and storage facilities utilized by Litton Microwave Cooking Products located at Sioux Falls, S. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to traffic originating at or destined to the above named facilities located at Sioux Falls, S. Dak., and under a continuing contract or contracts with Litton Microwave Cooking Products.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Chicago, Ill.

No. MC 139482 (Sub-No. 12), filed January 13, 1977. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, New Ulm, Minn. 56073. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies* used in the manufacture, assembly, equipping, outfitting, furnishing and repairing of mobile homes, modular homes or recreational vehicles (except commodities in bulk, in tank vehicles), (1) between points in the United States (except Alaska and Hawaii); and (2) between the facilities of Distribution Center, Inc. and New Ulm Terminal Warehouse Company, located at or near New Ulm, Minn.; Spencer and Praire du Chien, Wis.; Elkhart, Ind.; Loveland, Colo.; and Waco, Tex., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted in (1) above to the transportation of traffic destined to the facilities used by (a) manufacturers, assemblers, equippers, outfitters, furnishers and repairers of mobile homes, modular homes, or recreational vehicles; or (b) suppliers of manufacturers, assemblers, equippers, outfitters, furnishers or repairers of mobile or modular homes, or recreational vehicles; restricted in (2) above to the transportation of traffic originating at or destined to the named facilities.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill. or St. Paul, Minn.

No. MC 139495 (Sub-No. 191), filed January 18, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street, N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Swimming pools*, from West Helena, Ark., to points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma and Texas.

NOTE.—Applicant holds contract carrier authority in No. MC 133106 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139783 (Sub-No. 2), filed January 14, 1977. Applicant: GEORGE McFARLAND, SR., 218 North, P.O. Box 21, Austin, Minn. 55912. Austin, Minn. 55912. Applicant's representative: James Malecki, 1 South State Street, New Ulm, Minn. 56073. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee and La Cross, Wis., to Austin, Minn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Austin or Minneapolis, Minn.

No. MC 139973 (Sub-No. 15), filed January 17, 1977. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street, P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel wire rope*, from Houston, Tex., to Denver, Colo.; Melrose Park, and Peoria, Ill., and St. Louis, Mo.

NOTE.—Applicant holds contract carrier authority in MC 138375 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 140271 (Sub-No. 5) filed January 17, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Eugene, Oreg., to points in Kansas, Louisiana, Missouri, Oklahoma, and Texas.

NOTE.—Applicant holds contract carrier authority in MC 119988 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 140487 (Sub-No. 1), filed January 6, 1977. Applicant: YELLOWSTONE TRUCKING, INC., North 9 Post Street, Room 425 Peyton Bldg., Spokane, Wash. 99210. Applicant's representative: William J. Monheim, 15942 Whittier Blvd., P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from the plantsites of the Pack River Company, located at or near Bonners Ferry, Coeur d'Alene and Dover, Idaho; Plains, Polson and Thompson Falls, Mont.; and Ardenvoir, Cashmere, Peshastin and Spokane, Wash., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, South Dakota and Wisconsin; and (2) *materials, equipment and supplies*, used in the production, sales, and distribution of lumber, from Chicago, Ill.; Clackamas, Oreg.; and Tracy, Calif., to the origins named in (1) above, under a continuing contract or contracts with Pack River Tree Farm Products, a division of The Pack River Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Spokane, Wash., or Washington, D.C.

No. MC 140755 (Sub-No. 46), filed January 13, 1977. Applicant: BRAY TRANSPORTS, INC., 1401 N. Little Street, P.O. Box 270, Cushing, Okla. 74023. Applicant's representative: William W. Frick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia and nitrogen fertilizer solutions*, from the plantsites of Oklahoma Nitrogen Company and Bison Chemical Company located at or near Woodward, Okla., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Kansas City or St. Louis, Mo.

No. MC 140986 (Sub-No. 3), filed January 12, 1977. Applicant: GREAT NORTHERN TRUCK LINES, INC., Bank Street, Netcong, N.J. 07857. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials,*

and supplies used in the construction of tennis courts (except in bulk), from the facilities of Robert Lee Co., Inc., located at Charlottesville, Va., to points in Connecticut, Delaware, Kentucky, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, and Vermont, under a continuing contract or contracts with Robert Lee Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Newark, N.J., or Richmond, Va.

No. MC 141402 (Sub-No. 5), filed December 29, 1976. Applicant: LINCOLN FREIGHT LINES, INC., State Highway Route 32, P.O. Box 332, Lapel, Ind. 46051. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper bags*, (a) from the facilities of Samson-Midamerica, Inc., at Indianapolis, Ind., to points in Delaware, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Virginia, West Virginia, and the District of Columbia; and (b) from the facilities of Samson Paper Bag Company, at Huntington, N.Y., to Indianapolis, Ind.; and (2) *materials, equipment and supplies*, used in the manufacture and distribution of paper bags (except commodities in bulk and commodities which because of size or weight require special handling or special equipment), from points in Delaware, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Virginia, West Virginia, and the District of Columbia, to the facilities of Samson-Midamerica, Inc., at Indianapolis, Ind., under contract or continuing contracts with Samson-Midamerica, Inc., at Indianapolis, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 141410 (Sub-No. 2), filed January 17, 1977. Applicant: BLACK ANGUS, INC., P.O. Box 8780, Jackson, Miss. 39204. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass fiber, glass yarn, fiberglass cloth and fabric*, and *waste fiber*, from Aiken and Anderson, S.C., Jackson and Nashville, Tenn., New Castle and Wilmington, Del., Huntington and Pittsburgh, Pa., to Salt Lake City, Utah, Denver, Colo., Wallace, Idaho, Andover, Bellingham, Seattle and Spokane, Wash., Bend, Culver City and Portland, Oreg., under a continuing contract or contracts with Fiberchem, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash.

No. MC 141519 (Sub-No. 5), filed January 10, 1977. Applicant: TEJAS LINES, INC., Route 2, Box 174A, Canyon, Tex. 79015. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, nitrogen fertilizer solutions and urea liquor*, from the plantsites of Oklahoma Nitrogen and Bison Chemical, located at or near Woodward, Okla., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City, Okla.

No. MC 141810 (Sub-No. 3), filed January 3, 1977. Applicant: PORTER & KELLN TRANSPORT LTD., 241 Schoolhouse Road, Coquitlam, British Columbia, Canada. Applicant's representative: Robert G. Gleason, Evergreen Bldg., Suite 217, 15 So. Grady Way, Renton, Wash. 98055. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated paper*, from Bellevue, Wash., and its commercial zone, to ports of entry on the International Boundary line between the United States and Canda, located at or near Blaine, Wash.; (2) *building materials and lumber*, (a) from ports of entry on the International Boundary line between the United States and Canada, located at or near Blaine, Wash., to points in Washington and Oregon west of the Cascade Mountain Range; and (b) from points in Washington and Oregon lying west of the Cascade Mountain Range to ports of entry on the International Boundary line between the United States and Canada, located at or near Blaine, Lynden, Sumas and Oroville, Wash., and Eastport, Idaho, under a continuing contract, or contracts, with Cascade Imperial Mills Ltd.; (1) above is restricted to traffic originating at or destined to Surrey, British Columbia, Canada; (2)(a) above is restricted to traffic originating at or near Vancouver, British Columbia, Canada; and (2)(b) above is restricted to traffic destined to Edmonton and Calgary, Alberta, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Seattle, Wash. or Vancouver, British Columbia, Canada.

No. MC 142024 (Sub-No. 2), filed January 14, 1977. Applicant: J. M. HUTTO, P.O. Box 1104, Holly Hill, S.C. 29059. Applicant's representative: G. Thomas Cooper, Jr., 1111 Broad Street, Camden, S.C. 29020. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cut cloth and manufactured apparel goods*, between Health Springs, Camden and Olanta, S.C., on the one hand, and, on the other, Miami, Fla., under a continuing contract, or contracts, with Skyline Manufacturing Co.; Skyline, Ltd.; and Avondale Manufacturing Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Columbia, S.C.

No. MC 142506 (Sub-No. 1), filed January 17, 1977. Applicant: McKEOWN FEED & SUPPLY COMPANY, INC., 113 Columbia Street, P.O. Box 373, Chester, S.C. 29706. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, in dump vehicles and Killebrew-type vehicles, (1) from Chester, S.C., and points in its commercial zone, to points in North Carolina; and (2) from Goldsboro, N.C., and points in Iredell County, N.C., to points in South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Charlotte or Wilmington, N.C.

No. MC 142596 (Sub-No. 1), filed January 18, 1977. Applicant: DELIVERY SERVICE & TRANSFER CO. INC., 962 South 700 West, Salt Lake City, Utah 84104. Applicant's representative: Keith E. Sohm, Suite No. 81 Trolley Square, Salt Lake City, Utah 84102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household products and dry packaged foods*, between Salt Lake City, Utah, on the one hand, and, on the other, points in Davis, Morgan, Salt Lake, Utah, and Weber Counties, Utah, under a continuing contract, or contracts, with Jewel Companies, Inc.

NOTE.—Applicant holds common carrier authority in No. MC 14479; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Salt Lake City, Utah or Denver, Colo.

No. MC 142623 (Sub-No. 2), filed January 10, 1977. Applicant: ROBERT L. MACON, 1501 Edgebrook Drive, Garner, N.C. 27529. Applicant's representative: Robert L. Macon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural clay products*, from points in North Carolina and South Carolina, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vigrinia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Raleigh or Charlotte, N.C.

No. MC 142646 (Sub-No. 2), filed January 18, 1977. Applicant: ROBERT S. RYAN, doing business as RYAN TRUCKING, Route 4, Box 208A, Eau Claire, Wis. 54701. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Inedible rendering products*, including meat scraps, bones and hides, from Eau Claire, Wis., to points in Illinois, Iowa and Minnesota, under a continuing contract, or contracts, with Eau Claire Rendering Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis or St. Paul, Minn.

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No. MC 142713 (Amendment), filed November 26, 1976, published in the FEDERAL REGISTER issue of February 3, 1977, and republished, as amended, this issue. Applicant: PETER GOLDING, doing business as SEVEN BROTHERS TRUCKING CO., 1055 Highland Avenue, Needham, Mass. 02194. Applicant's representative: Jeremy A. Stahlin, 294 Washington Street, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fluorescent and incandescent lamps and lighting fixtures, batteries, electric dry cell* (except spent) *rectifiers, storage and display racks, pallets, boxes, advertising matter and packing materials*, between Newton, Mass., on the one hand, and on the other, points in Connecticut, Massachusetts, Rhode Island, those points in that part of New Hampshire south of New Hampshire Highway 9, and east of the New Hampshire-Vermont State line to Concord, N.H. thence over U.S. Highway 202, located at or near Hillsboro, N.H. to its junction with Maine Highway 25, located at or near Gorham, Maine, thence over Maine Highway 25 to Portland, Maine, under a continuing contract, or contracts with General Electric Company, Lamp Business Division.

NOTE.—The purpose of this republication is to add "incandescent lamps" to applicant's commodity description. If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass., Providence, R.I., or Hartford, Conn.

No. MC 142808, filed January 4, 1977. Applicant: SOUTH BAY TRUCK LINE, INC., 1040 Hermosa Avenue, Hermosa Beach, Calif. 90254. Applicant's representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between McMinnville, Oreg., on the one hand, and, on the, other, points in that part of the United States on and west of a line beginning with the mouth of the Mississippi River at the Gulf of Mexico and continuing north along the Mississippi River to the southern boundary of Itasca County, Minn., thence along the southern boundary of Itasca County to the eastern boundary line of Itasca County, thence northward along the eastern boundary line of Itasca County to the eastern boundary line of Koochiching County, Minn., and thence northward along the eastern boundary line of Koochiching County to ports of entry on the International Boundary line between the United States and Canada, under a continuing contract, or contracts with Cascade Steel Rolling Mills, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 142843, filed January 10, 1977. Applicant: HOLMAN TRANSPORTATION, INC., P.O. Box 31, Dodge City, Kans. 67801. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, nitrogen fertilizer solutions and urea liquor*, from the plantsites of Oklahoma Nitrogen Corporation, and Bison Chemical Company, at or near Woodward, Okla.; to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, South Dakota and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 142869, filed January 13, 1977. Applicant: DENVER WHOLESALE FLORIST CO., a Corporation, 4800 Dahlia Street, Denver, Colo. 80216. Applicant's representative: Gerald T. Boyle, 2801 East Colfax Avenue, Denver, Colo. 80206. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet*, in rolls or in packages, from Dalton, Ga., to Denver, Colo., under a continuing contract, or contracts, with Col Con Columbine Consolidators, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Denver, Colo.

No. MC 142878, filed January 14, 1977. Applicant: HERBERT ROARK, doing business as KID'S EXPRESS CO., 8081 Forest Road, Cincinnati, Ohio 45230. Applicant's representative: Boyd B. Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between the plant site and warehouse facilities of E. K. Morris Co., Inc. located in Cincinnati, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, Tennessee, Virginia and West Virginia, restricted to the transportation of shipments originating at or destined to the plant site and warehouse facilities of E. K. Morris Co., Inc. located in Cincinnati, Ohio, under a continuing contract or contracts with E. K. Morris Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio.

No. MC 142879, filed January 3, 1977. Applicant: HEELY-BROWN TRUCKING CO., a Corporation, 1345 Mayson Turner Rd., N.W., Atlanta, Ga. 30314. Applicant's representative: Guy H. Postell, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is sold, used, or dealt in by building supply houses, between points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Ohio, South Carolina, Tennessee and Texas, under a continuing contract, or contracts, with Heely-Brown Company, at Atlanta, Ga.; and (2) *pallets*, from the plantsite of Atlanta Southern Corporation, located at or near Loganville, Ga., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Ohio, South Carolina, Tennessee and Texas, under a continuing contract, or contracts, with Atlanta Southern Corporation, at Covington, Ga.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga.

No. MC 142880, filed January 7, 1977. Applicant: VICTOR ISMAEL MARQUEZ, 140 S.E. Eighth Avenue, Hialeah, Fla. 33010. Applicant's representative: Carlos Lidsky, 2121 Ponce de Leon Blvd., Suite 710, Coral Gables, Fla. 33134. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Miami, Tampa, and Orlando, Fla., and Atlanta, Ga., to Secaucus, N.J., under a continuing contract, or contracts, with Goya Foods, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Miami, Fla.

PASSENGER APPLICATIONS

No. MC 108811 (Sub-No. 7), filed January 3, 1977. Applicant: THOMAS MOTOR TOURS, INC., 5047 Solomon's Island Road, Lothian, Md. 20820. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage*, in special operations, in round trip sightseeing and pleasure tours, beginning and ending at points in Prince Georges and Montgomery Counties, Md., and the District of Columbia, and extending to points in the United States, including Alaska, but excluding Hawaii; and (2) *passengers and their baggage*, in round trip charter operations, beginning and ending at points in Prince Georges and Montgomery Counties, Md., and the District of Columbia, and extending to points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112108 (Sub-No. 4), filed January 19, 1977. Applicant: LEPRECHAUN LINES, INC., Route 32, P.O. Box 2628, Newburgh, N.Y. 12550. Applicant's representative: J. G. Dail, Jr., P.O. Box 567, McLean, Va. 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, beginning and ending at points in Columbia, Dutchess, Orange, and Ulster Counties, N.Y., and extending to the site of New Jersey Sports and Exposition Authority, located at East Rutherford, N.J., and to Atlantic City, N.J.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Poughkeepsie, N.Y.

No. MC 142531 (Sub-No. 1), filed January 17, 1977. Applicant: CLAUSEN TRANSPORTATION CORPORATION, 25 Surrey Lane, Valley Stream, N.Y. 11581. Applicant's representative: Sidney J. Leshin, 575 Madison Avenue, New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in special and round trip operations, Between Huntington, Oyster Bay and Hempstead, N.Y., on the one hand, and, on the other, the Meadowlands Sporting Complex, located in East Rutherford, N.J. and Bridgeport, Conn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 142788, filed January 5, 1977. Applicant: FARRUGGIO'S LIMOUSINE SERVICE, A DIVISION OF FARRUGGIO'S BRISTOL AND PHILADELPHIA AUTO EXPRESS, INC., 1419 Radcliffe Street, Bristol, Pa. 19007. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special and charter operations, in nonscheduled, door-to-door service, between points in Bucks County, Pa., on the one hand, and on the other, points in Ocean City, N.J. and in Atlantic County, N.J., restricted to the transportation of not more than eleven passengers in one vehicle, not including the driver, and not including children under ten years of age who do not occupy a seat or seats.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Philadelphia, Pa. or Washington, D.C.

BROKER APPLICATION

No. MC 130432, filed December 27, 1976. Applicant: RICHARD PRICE AND SUSAN E. PRICE, doing business as PRICE'S TOURS, 761 North 36th Street, Paducah, Ky. 42001. Applicant's representative: H. S. Melton, Jr., P.O. Box 1407, Paducah, Ky. 42001. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Paducah, Ky., to sell or offer to sell the transportation of *passengers and their baggage*, on regulated, conducted tours, beginning and ending at Paducah, Ky., and extending to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Paducah, Ky. or Memphis, Tenn.

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB-1 (Sub-No. 33)]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN WATERTOWN AND STRATFORD, IN CODINGTON, CLARK, DAY, SPINK, AND BROWN COUNTIES, SOUTH DAKOTA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on September 9, 1976, and the decision and order of the Commission, Division 3, acting as an Appellate Division, served January 14, 1977, which affirmed and adopted the report and order of the Commission, Review Board Number 5, entered on September 9, 1976, a finding, which is administratively final, was made stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of its line of railroad between milepost 234.9 near Watertown, Codington County, and milepost 306.3 near Stratford, Brown County, a distance of 71.4 miles in Codington, Clark, Day, Spink and Brown Counties, South Dakota. A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-9 (Sub-No. 8)]

MISSOURI PACIFIC RAILROAD COMPANY ABANDONMENT BETWEEN OLIVIER AND SORRELL AND AT GARDEN CITY, IN IBERIA AND ST. MARY PARISHES, LOUISIANA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on December 22, 1976, a finding, which is administratively final, was made by the Administrative Law Judge stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Missouri Pacific Railroad Company of the line of railroad between milepost 56.6 at Loisel and milepost 63.86 at Sorrell and between milepost 82.84 and milepost 83.04 at Garden City in Iberia and St. Mary Parishes, Louisiana. A certificate of abandonment will be issued to the Missouri Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; an

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line.

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Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-7 (Sub-No. 8)]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY ABANDONMENT BETWEEN ST. CLAIR JUNCTION AND ST. CLAIR, IN FREEBORN, WASECA AND BLUE EARTH COUNTIES, MINN.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on December 22, 1976, a finding, which is administratively final, was made by the Commission, Division 3, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of that portion of its branch line between Pemberton and St. Clair, Minnesota, a distance of 6.56 miles, all in Blue Earth County, Minnesota. A certificate of abandonment will be issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-9 (Sub-No. 6)]

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY ABANDONMENT-BETWEEN TYRONZA JUNCTION AND LEPANTO, IN POINSETT COUNTY, ARKANSAS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on December 21, 1976, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the St. Louis-San Francisco Railway Company of a portion of its line extending from milepost C-449.6 near Tyronza Junction in a northwesterly direction to Lepanto milepost SA-458.8, a distance of 9.2 miles in Poinsett County, Arkansas. A certificate of abandonment will be issued to the St. Louis-San Francisco Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-43 (Sub-No. 3)]

ILLINOIS CENTRAL GULF RAILROAD COMPANY ABANDONMENT DYERSBURG BRANCH BETWEEN ROBERTS AND DYERSBURG, IN MADISON, CROCKETT, AND DYER COUNTIES, TENNESSEE

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on December 17, 1976, a finding, which is administratively final, was made by the Commission, Division 3, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of that portion of the line of railroad beginning at milepost 10.62 immediately southeast of Roberts, Madison County, Tennessee, and extending in a northwesterly direction to milepost 47.5 approximately 1 mile southeast of Dyersburg, Dyer County, Tennessee, a distance of 36.88 miles, all in Madison, Crockett and Dyer Counties, Tennessee. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line; or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-43 (Sub-No. 15)]

ILLINOIS CENTRAL GULF RAILROAD COMPANY ABANDONMENT IN HICKMAN AND CARLISLE COUNTIES, KENTUCKY

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on December 20, 1976, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of the line of railroad beginning at milepost 470 near Columbus, Kentucky, and extending in a northerly direction to Winford junction, Kentucky, at milepost 485, a distance of 15 miles, in Hickman and Carlisle Counties, Kentucky. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

NOTICE

William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company, Debtor, 139 West Van Buren Street, Chicago, Illinois 60605, represented by Mr. Henry E. Szachowicz, Jr., Attorney, Chicago, Rock Island and Pacific Railroad Company, 139 West Van Buren Street, Chicago, Illinois 60605, hereby gives notice that on the 7th day of February, 1977, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 5(2) of the Interstate Commerce Act for an order approving and authorizing the acquisition of trackage rights over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a distance of approximately 38.46 miles between Emmetsburg and Webb, Iowa, which application is assigned Finance Docket No. 28394.

The proposed transaction will allow the applicant to provide rail service to the Chicago, Rock Island and Pacific Railroad Company's Gowrie-Sibley line, just south of Webb, Iowa, by the most economical expeditious route available. Furthermore, this application will replace I.C.C. Service Order No. 1131, which has been extended until February 28, 1977.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 45 days after date of first publication in the FEDERAL REGISTER; that such comments shall be served upon (a) Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, S.W., Washington, D.C. 20590, (b) Mr. Edward H. Levi, Attorney General, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530, and certificate of all such service is given to the Interstate Commerce Commission; and that all other applications, which are inconsistent, in whole or in part, with such applications, and all petitions for inclusion in the transaction, shall be filed with the Commission and furnished to the Docket Clerk, Secretary of Transportation, within 90 days after the publication of notice of the application in the FEDERAL REGISTER.

WILLIAM M. GIBBINS, TRUSTEE OF THE PROPERTY OF CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, DEBTOR

NOTICE

Norfolk and Western Railway Company, 8 North Jefferson Street, Roanoke, Virginia 24042, represented by John S. Shannon, Vice President, Law, Norfolk and Western Railway Company, 8 North Jefferson Street, Roanoke, Virginia 24042, hereby give notice that on the 26th day of January, 1977, it filed with the Inter-

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state Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for an order approving and authorizing the acquisition by applicant of relocated trackage rights over approximately 27.18 miles of the tracks of the Burlington Northern Inc. (BN) in Marion County, Missouri, and Adams County, Illinois, which application is assigned Finance Docket No. 28387.

The proposed transaction covered by this application is the acquisition by Applicant of relocated trackage rights over the tracks of Burlington Northern, Inc. between Hannibal, Missouri, Mile Post 120.23, and West Quincy, Missouri, Mile Post 137.07, between West Quincy, Missouri, Mile Post 263.62, and Quincy, Illinois, Mile Post 261.60, and between Quincy, Illinois, Mile Post 261.26, and Marblehead, Illinois, Mile Post 269.58, a total distance of approximately 27.18 miles in Marion County, Missouri, and Adams County, Illinois.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Pursuant to the provision of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 45 days after date of first publication in the FEDERAL REGISTER; that such comments shall be served upon (a) Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, S.W., Washington, D.C. 20590, (b) Mr. Edward H. Levi, Attorney General, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530, and certificate of all such service is given to the Interstate Commerce Commission; and that all other applications, which are inconsistent, in whole or in part, with such applications, and all petitions for inclusion in the transaction, shall be filed with the Commission and furnished to the Docket Clerk, Secretary of Transportation, within 90 days after the publication of notice of the application in the FEDERAL REGISTER.

NORFOLK AND WESTERN RAILWAY COMPANY

MC–F–13027. Authority sought for purchase by KENDALL A. BAILEY & MILTON A. BAILEY, PARTNERS, d.b.a. PARKER K. BAILEY & SONS, Houlton Road (U.S. Rt. 1), Presque Isle, Maine. 04769 of a portion of the operating rights of BARROWS TRANSFER & STORAGE COMPANY, INC., P.O. Box 560, Waterville, Maine. 04901, of control of such rights through the purchase. Applicant's attorney: Milton A. Bailey, P.O. Box 308, Presque Isle, Maine 04769. Operating rights sought to be transferred: *New furniture*, crated, as a common carrier over irregular routes from the plant sites of Moosehead Manufacturing Company at Dover-Foxcroft and Monson, Maine, to points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia. Application has not been filed for temporary authority under section 210a(b). Subject authority sold by IRS to LUCIEN BISSON, INC. on June 28, 1976. Transfer to BISSON by ICC has never been made nor has application for transfer been made. Bisson has contracted in the instant proceeding to sell the Barrows' authority to d.b.a. PARKER K. BAILEY & SONS, however, Bisson has never applied to the Commission for authority to acquire the operating rights of Barrows.

No. MC–F–13123. Authority sought for purchase by SYSTEM 99, 8201 Edgewater Drive, Oakland, CA 94621, of a portion of the operating rights of NORTHWESTERN TRANSFER COMPANY, 215 S.E. Morrison, Portland, OR 97214, and for acquisition by M. D. GILARDY, L. A. DORÉ, JR., and E. R. PRESTON, all of 8201 Edgewater Dr., Oakland, CA 94621, of control of such rights through purchase. Applicant's attorneys: Jerry R. Woods, 200 Market Building, Portland, OR 97201, and Melvin P. Pihl, 215 S.E. Morrison, Portland, OR 97214. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over regular routes between Portland, Oregon, and Vancouver, Washington, serving no intermediate points: from Portland over U.S. Highway 99 to Vancouver and return over the same route. *General commodities*, with exceptions as a *common carrier* over irregular routes between points within three miles of Portland, Oregon, including Portland. Vendee is authorized to operate as a *common carrier* in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13126. Authority sought for purchase by BLUFF CITY TRANSPORTATION, INC., 2877 Farrisview Road, Memphis, TN 38118, of a portion of the operating rights of CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, City of Industry, CA 91749, and for acquisition by WALLACE A. KNERR, and KNERR TRAILER SERVICE, INC., P.O. Box 18391, Memphis, TN 38118, of control of such rights through the purchase. Applicants' attorneys: Bradford E. Kistler, P.O. Box 82028, Lincoln, NB 68501 and Richard A. Peterson, P.O. Box 81849, Lincoln NB 68501. Operating rights sought to be transferred: *Vinyl plastic*, as a contract carrier over irregular routes from Corinth, Miss., to points in the United States (except Alaska and Hawaii); and *Materials and supplies* (except commodities in bulk), used in the manufacture of vinyl plastic, and returned shipments of vinyl plastic, from points in the United States (except Alaska and Hawaii), to Corinth, Miss., with restrictions; (1) *plastic film, sheeting, bags and trays and materials, supplies and equipment* used in the manufacture and distribution of such commodities, between the plant site and warehouse facilities utilized by W. R. Grace & Co. (Cryovac Division) at or near Duncan and Simpsonville, S.C., on the one hand, and, on the other, Cedar Rapids, Iowa, (2) *plastic film, sheeting, bags and trays*, from the plant sites and warehouse facilities utilized by W. R. Grace & Co. (Cryovac Division) at or near Cedar Rapids, Iowa, and Duncan and Simpsonville, S.C., to points in the United States west of a line beginning at the mouth of the Mississippi River, and extending along the west bank of the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the United States-Canada Boundary line (except Alaska and Hawaii), (3) *materials, supplies* and equipment used in the manufacture and distribution of the commodities described in (2) above, and returned shipments of plastic film, sheetings, bags and trays, from points in the United States west of a line beginning at the mouth of the Mississippi River, and extending along the west bank of the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the United States-Canada Boundary line (except Alaska and Hawaii), to Cedar Rapids, Iowa, and Duncan and Simpsonville, S.C.;

(4) *food processing and packaging machinery and equipment*, and *component parts and accessories* therefor, from the plant site and warehouse facilities utilized by W. R. Grace & Co. (Cryovac Division), at or near Woburn, Mass., to points in the United States (except Alaska, Hawaii, Georgia, Massachusetts, North Carolina and South Carolina), (5) *materials, equipment and supplies* used in the manufacture and distribution of the commodities described in (4) above, and *returned* shipments of food processing and packaging machinery and equipment and component parts and accessories therefor, from points in the United States (except Alaska, Hawaii, Georgia, Massachusetts, North Carolina and South Carolina), to Woburn, Mass., with restrictions; *plastic products*, from Camarillo, Calif., to points in the United States (except Alaska, California, and Hawaii); and *vinyl plastic*, from Clifton, N.J., to points in the United States (except Alaska, Hawaii, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, and the District of Columbia); and from Los Angeles, Calif., to points in the United States (except Alaska, California, and Hawaii); and *returned shipments and materials, equipment and supplies* utilized in the manufacture, sale and distribution of plastic products and vinyl plastic, from the destination points named herein above, to Camarillo, Calif., Clifton, N.J., and Los Angeles, Calif., with restrictions; (1) *bone cloth* and *aluminum clips*, from Woburn, Holyoke, and Boston, Mass., to points in the United States (except Alaska and Hawaii); and (2) *packaging supplies* and *plastic articles*, from Reading, Pa., and Michigan City, Ind., to points in the United States (except Alaska and Hawaii); and (3) *vinyl plastic* and *plastic articles*, from New York City, N.Y., to points in the United States (except Alaska and Hawaii); and (4) *aluminum clips*, from Los Angeles, Calif., to points in the United States (except Alaska and Hawaii); and (5) returned shipments and materials, equipment and supplies used in the manufacture, sale, and distribution of the commodities named in (1), (2), (3), and (4) above, from points in the United States, except Alaska and Hawaii, to Woburn, Holyoke, and Boston, Mass., Reading, Pa., Michigan City, Ind., New York City, N.Y., and Los Angeles, Calif., with restrictions; plastic articles, from Duncan, S.C., and Simpsonville, S.C., to points in the United States west of the Mississippi River and the western boundaries of Itasca and Koochiching, Counties, Minn., (except Alaska and Hawaii); *plastic articles, bone guard cloth and aluminum clips*, from Cedar Rapids, Iowa, to points in the United States (except Alaska and Hawaii); *bone guard cloth* and *aluminum clips*, from Camarillo, Calif., to points in the United States (except Alaska and Hawaii); *returned shipments* of the commodities described herein above and *materials and equipment, and supplies* utilized in the manufacture, sale and distribution of plastic products, bone guard cloth and aluminum clips, from the above-described destination points, to Duncan, S.C., and Simpsonville, S.C., Cedar Rapids, Iowa, and Camarillo, Calif., with restrictions. Vendee is authorized to operate as a *contract carrier* in all the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC–F–13129. Authority sought for control by KAW TRANSPORT COMPANY, P.O. Box 8625, Sugar Creek, MO 64054, of ROYAL TRANSPORTS, INC., 642 Adams, Kansas City, KS 66105, and for acquisition by DR. STERLING B. SUDDARTH, 6501 Engelwood Road, Raytown, MO, DONALD L. SUDDARTH, 8 West 115 Street, Kansas City, MO, MARJORIE S. MIMS, 6214 Valley Road, Kansas City, MO, and ROBERT L. HOLWICK, 6204 N. Bales, Kansas City, MO, of control of ROYAL TRANSPORT, INC., through the acquisition by DR. STERLING B. SUDDARTH, DONALD L. SUDDARTH, MARJORIE S. MIMS, and ROBERT L. HOLWICK. Applicants' attorneys: John E. Jandera, 641 Harrison Street, Topeka, KS 66603, Robert Hawkins, Jefferson City, MO, and Patrick E. Quinn, 605 S. 14th, P.O. Box 82028, Lincoln, NB 68501. Operating rights sought to be controlled: *Gasoline, diesel fuel, aviation fuel, fuel oil, asphalt*, and *asphalt products*, in bulk, in tank vehicles, as a *common carrier* over irregular routes between points in Kansas, on the one hand, and on the other, points in Missouri; ROYAL TRANSPORTS, INC., of Kansas also has pending an application for a contract carrier permit in MC–136956 and is operating under temporary authority as a contract carrier. ROYAL TRANSPORTS, INC., the Kansas Corporation, owns all of the outstanding capital stock of ROYAL TRANSPORTS, INC. of Nebraska, a Nebraska corporation. ROYAL TRANSPORTS, INC., of Nebraska holds authority as follows: *Petroleum products*, in bulk, as a *common carrier* over regular routes, from Arkansas City, Kans., to points in Nebraska as follows, serving the intermediate points of Augusta, Wichita, and McPherson, Kans., restricted to pickup only, and Grafton, Sutton, Hastings, Kearney, Lexington, North Platte, Hershey, Sutherland, Paxton, Sidney, Potter, Kimball, Gibson, Shelton, Lawrence, Benkelman, Red Cloud, Stratton, Culbertson, McCook, Cambridge, Holdrege, Broken Bow, and Oshkosh, Nebr., restricted to delivery only, and the off-route points of Eldorado, Kans., to be served from junction U.S. Highway 81 and Kansas Highway 196 over Kansas Highway 196 restricted to pickup only; Gurley and Dalton, Nebr., to be served from Sidney, Nebr., from junction Nebraska Highway 19 and Nebraska Highway 385 (formerly portion Nebraska Highway 19), over Nebraska Highway 385, Waunets and Palisade, Nebr., to be served from Culbertson, Nebr., over U.S. Highway 6, and Hayes Center, Nebr., to be served from junction U.S. Highway 6 and unnumbered highway (formerly portion Nebraska Highway 17), over unnumbered highway, restricted to delivery only; from Argentine, Kans., to Bushnell, Anselmo, and Fremont, Nebr., as follows:

Serving the intermediate points of Fairfield, Sutton, Grafton, Hastings, Kearney, Lexington, North Platte, Hershey, Sutherland, Paxton, Sidney, Kimball, Grand Island, and Broken Bow, Nebr., restricted to delivery only; and the off-route points of Gurley and Dalton to be served from Sidney, Nebr., from junction Highway 19 and Nebraska Highway 385 (formerly portion Nebraska Highway 19), over Nebraska Highway 385, and Lawrence, Nebr., restricted to delivery only; *liquid petroleum products*, from Kansas points to points in Nebraska and Iowa, as follows, serving the intermediate points of Harlan, Iowa, restricted to delivery only, and Maryville, Mo., restricted to delivery of traffic moving from Eldorado, Kans., only; from Portsmouth, Iowa, to junction Iowa Highway 44 (formerly Iowa Highway 39) and U.S. Highway 30, serving no intermediate points; *petroleum products*, in bulk, as a *common carrier* over irregular routes from refining and distributing points in Kansas to Auburn, Nebr.; *liquid petroleum products*, in bulk, in tank trucks, from Sugar Creek, Mo., to Anselmo, Ansley, Aranshoe, Ashland, Benkelman, Broken Bow, Cambridge, Culbertson, Dalton, Exeter, Fairbury, Fairfield, Fremont, Friend, Geneva, Gibbon, Grafton, Gretna, Grand Island, Haigler, Hastings, Hebron, Holdrege, Kearney, Kimball, Lawrence, Lexington, Lincoln, Lodgepole, McCook, Milford, North Platte, Ogallala, Omaha, Oshkosh, Palisade, Paxton, Red Cloud, Scribner, Sidney, Stratton, Sutherland, Sutton, Valley, Wahoo, Wallace, and Wauneta, Nebr., from Coffeyville, Kans., to Jolley and Lohrville, Iowa, from Coffeyville, Eldorado, McPherson, Arkansas City, Neodesha, and Augusta, Kans., to Malvern, Council Bluffs, Logan, Sioux City, Red Oak, Wesley, Titonka, Corning, Carroll, Bagley, Wall Lake, Manning, Rippey, Dunlap, Mapleton, and Havelock, Iowa, from Eldorado, McPherson, Arkansas City, Neodesha, and Augusta, Kans., to Jolley, Iowa; *liquid petroleum products*, in bulk, from refining and distributing points in Kansas to Cambridge, Broadwater, Omaha, Scribner, Fairbury, Arapahoe, Chester, Grafton, Geneva, Hastings, Kearney, Lexington, Paxton, Oshkosh, Ansley, Ogallala, Sutton, Exeter, Friend, Milford, Lincoln, Ashland, Gretna, Wahoo, Fremont, Hebron, Deshler, Irvington, Valley, and Morse Bluff, Nebr.; Catalogs, from McCook, Nebr., to Rexford; Menlo, Gem, Colby, Lovant, Brewster, Edson, Goodland, Rulcton, Kanorado, St. Francis, Wheeler, Bird City, McDonald, Beardsley, Blakeman, Atwood, Ludell, Herndon, Traer, and Cedar Bluffs, Kans.; *salt*, from Hutchinson and Kanapolis, Kans., to McCook, Orleans, Cambridge, Indianola, and Benkelman, Nebr.; *fruits and vegetables*, from points in Colorado to McCook, Nebr.; Household goods, between McCook, Nebr., and points in Nebraska within 25 miles of McCook, on the one hand, and, on the other, points in Kansas and Colorado. Vendee is authorized to operate as a *common carrier* in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New

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York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13132. Authority sought for control by BILL HODGES TRUCK COMPANY, INC., 4050 West Interstate Hwy. 40, Oklahoma City, OK 73128, of J. D. HODGES TRUCKING, INC., P.O. Box 842, Woodward Oklahoma 73801, and for acquisition by HAROLD L. HODGES, 4050 Interstate Hwy. 40, Oklahoma City, OK 73128, of control of J. D. HODGES TRUCKING, INC., through the acquisition by HAROLD L. HODGES. Applicants' attorneys: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102, and Robert G. Grove, Suite 300, 324 North Robinson Street, Oklahoma City, OK 73102. Operating rights sought to be controlled: machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, dismantling of pipelines, including the stringing and picking up thereof, as a common carrier over irregular routes between points in Kansas, on the one hand, and, on the other, points in Colorado; machinery, equipment, materials, and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of way, between points in Kansas, on the one hand, and, on the other, points in Colorado. Vendee is authorized to operate as a common carrier in Texas, Oklahome, Kansas, and Colorado. Application has been filed for temporary authority under section 210a(b).

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

Motor Carriers of Property

No. MC 59957 (Deviation No. 16), MOTOR FREIGHT EXPRESS, INC., P.O. Box 1029, York, Pa. 17405, filed February 18, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Port Matilda, Pa., over U.S. Highway 322 to Philipsburg, Pa., and (2) From Bald Eagle, Pa., over Pennsylvania Highway 350 to Philipsburg, Pa., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Port Matilda and Bald Eagle, Pa., over U.S. Highway 220 to Altoona, Pa., thence over Pennsylvania Highway 764 to Duncanville, Pa., thence over U.S. Highway 219 via Carrolltown, St. Benedict, Spangler, and Barnesboro, Pa., to Grampian, Pa., thence over Pennsylvania Highway 879 to Clearfield, Pa., thence over U.S. Highway 322 to Philipsburg, Pa., and return over the same route.

No. MC 52953 (Deviation No. 23), ET&WNC TRANSPORTATION COMPANY, 132 Legion St., Johnson City, Tenn. 37601, filed February 16, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Texarkana, Ark., over U.S. Highway 82 to junction Arkansas Highway 98, thence over Arkansas Highway 98 to junction U.S. Highway 79, thence over U.S. Highway 79 to Camden, Ark., thence over Arkansas Highway 4 to Monticello, Ark., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Monticello, Ark., over Arkansas Highway 81 to junction U.S. Highway 65, thence over U.S. Highway 65 to Pine Bluff, Ark., thence over U.S. Highway 270 to junction Interstate Highway 30, thence over Interstate Highway 30 to Texarkana, Ark., and return over the same route.

No. MC 52953 (Deviation No. 22), ET&WNC TRANSPORTATION COMPANY, 132 Legion St., Johnson City, Tenn. 37601, filed February 16, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Bristol, Tenn., over U.S. Highway 421 to Mountain City, Tenn., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Bristol, Tenn., over U.S. Highway 19 to junction U.S. Highway 19E, thence over U.S. Highway 19E to junction U.S. Highway 321, thence over U.S. Highway 321 to junction Tennessee Highway 67, thence over Tennessee Highway 67 to Mountain City, Tenn., and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes there in, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Oklahoma Docket No. MC 39435 (Amended), filed February 7, 1977. Applicant: AMBASSADOR COACH LINES, INC., 212 A Street NW., Miami, Okla. 74354. Applicant's representative: I. E. Chenoweth, 1300 Mid-Continent Bldg., Tulsa, Okla. 74103. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of (1) *Passengers, baggage and express*, between Tulsa and Oklahoma City, Okla. over U.S. Highway 66, serving all intermediate points; and (2) for charter service over irregular routes, from, to and between Tulsa and Oklahoma City, Okla. over U.S. Highway 66, serving all intermediate points, on the one hand, and, on the other, from and to all points and places in the United States. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place scheduled for April 4th and April 6th, 1977, at 9 a.m., 2nd Floor, Jim Thorpe Office Bldg., Oklahoma City, Okla. Requests for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105 and should not be directed to the Interstate Commerce Commission.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6222 Filed 3-2-77;8:45 am]

federal register

THURSDAY, MARCH 3, 1977

PART II

SECURITIES AND EXCHANGE COMMISSION

BENEFICIAL OWNERSHIP DISCLOSURE REQUIREMENTS

Adoption, Proposed Amendments, and Withdrawal

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Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5808; 34-13291]

ADOPTION OF BENEFICIAL OWNERSHIP DISCLOSURE REQUIREMENTS

The Securities and Exchange Commission today announced the amendment of existing rules and Schedule 13D (17 CFR 240.13d–101) and the adoption of new rules and a Form 13D–5 (17 CFR 240.13d–102) relating to disclosure by certain beneficial owners of securities pursuant to Section 13(d) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). At the same time, the Commission amended certain of its forms and schedules under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.) and under the Exchange Act to require issuers to disclose information regarding certain beneficial owners of their securities. These actions, which will not become effective until August 31, 1977, were primarily based on the "Proposals Relating to Disclosure of Beneficial Owners and Holders of Record of Voting Securities" published by the Commission on August 25, 1975 in Exchange Act Release No. 11616 (40 FR 42212). It should be particularly noted that portions of the proposed rulemaking (including the proposal which would have required each issuer to disclose information regarding its thirty largest holders of record and each of their respective ten largest voting blocks of securities) have been formally withdrawn and will not be adopted. See FR Doc. 77–6359 appearing at page 12355 of this issue, Exchange Act Release No. 34–13292. As discussed below, the Commission has also concurrently published for comment proposed amendments to certain of the rules adopted today. See FR Doc. 77–6359 appearing at page 12355 of this issue, Exchange Act Release No. 34–13292). It should also be noted that the Commission has deferred amending Form U5S (17 CFR 259.5s) under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) as it relates to disclosure of information about beneficial owners of more than five percent of a class of securities required to be reported on that form.

All of the rules and forms adopted or amended herein will become effective on August 31, 1977, except that any person who so chooses may rely upon them as of the date of their publication in the FEDERAL REGISTER.

I. SUMMARY OF NEW AND AMENDED RULES AND FORMS ADOPTED

Generally, Section 13(d) of the Exchange Act requires a report by any person (or group of persons) who, as a result of an acquisition, becomes the beneficial owner of more than five percent of certain classes of equity securities of certain issuers. In order to provide more objective standards for the application of this general requirement, the Commission has adopted rules defining, for certain purposes, the terms "beneficial owner," "acquisition," and "group."

For the purposes of section 13(d), the Commission has adopted a definition of the term "beneficial owner" which primarily focuses on who possesses voting power or investment power over securities, including a person who has the right to acquire certain securities within sixty days (Rule 13d–3, 17 CFR 240.13d–3). The rule specifically excludes from the definition of beneficial owner stock exchange members with respect to customer's securities which may be voted by the exchange members on certain routine matters and certain lenders with respect to pledged securities. Also, Rule 13d–4 (17 CFR 240.13d–4) permits any person filing a statement under Section 13(d) to disclaim beneficial ownership in the securities covered in such statement. However, disclosure requirements in the amended schedules under Section 13(d) call for information concerning other persons who, although not "beneficial owners" of securities held by a reporting person, nonetheless are known to have an economic interest in more than five percent of that class of securities.

Another rule (Rule 13d–6, 17 CFR 240.13d–6) defines certain transactions (such as gifts and inheritances) as acquisitions for purposes of section 13(d) even though such transactions do not involve a purchase, and deems the formation of certain groups of persons for the purpose of acquiring, holding or disposing of securities to be an acquisition which may trigger the reporting requirements of section 13(d), even though the group has not made any purchase or other acquisition subsequent to its formation.

In addition, the Commission has exercised its exemptive powers under sections 13(d) (5) and (6) of the Exchange Act for the first time on a general basis. A new rule (Rule 13d–5, 17 CFR 240.13d–5) and a related short form (Form 13D–5) will permit certain institutional investors (such as broker-dealers, investment companies and banks), and certain employee benefit plans, who acquire more than five percent of a class of securities in the ordinary course of their business and without the intent or effect of changing or influencing control, and who meet certain other requirements, to file an abbreviated acquisition notice on a quarterly basis in lieu of filing the current form, Schedule 13D (17 CFR 240.13d–101), which otherwise is required to be filed within ten days after certain acquisitions. Another rule (Rule 13d–7, (17 CFR 240.13d–7)) provides an exemption from reporting for certain underwriters engaging in a registered, firm commitment underwriting.

The Commission has amended Schedule 13D, the long form acquisition statement, in order to make the information therein more meaningful to investors and, to the extent feasible, the reporting of that information less burdensome to beneficial owners. Schedule 13D, as amended, requires disclosure of the citizenship of the beneficial owner; the general nature of any non-purchase acquisitions; and certain pledges of securities by the beneficial owner. Certain other disclosure requirements of Schedule 13D, which were "temporarily" adopted in 1968, have been amended as follows: The requirement that the beneficial owner and certain related persons disclose their ten year employment histories and any criminal convictions during the past ten years has been reduced to five years; the requirement that a reporting corporation disclose information regarding all of its officers has been limited to information regarding its executive officers; and the requirement that a reporting limited partnership disclose information regarding its general and limited partners has been reduced to information with respect to general partners only.

Finally, certain "housekeeping" interpretations regarding required signatures and incorporation of information by reference to exhibits have been codified in the schedule, as amended.[1]

The Commission also has determined to integrate information concerning beneficial ownership of the securities of publicly owned corporations into the Commission's continuous disclosure system under the federal securities laws as previously was proposed. Accordingly, additional disclosure by issuers regarding the beneficial owners of more than five percent of a class of their securities will now be required in registration statements on Forms S–1 (17 CFR 239.11) and S–11 (17 CFR 239.18) under the Securities Act, and in registration statements on Form 10 (17 CFR 249.210), annual reports on Form 10–K (17 CFR 249.310) and in proxy, information and other statements prepared pursuant to Schedules 14A (17 CFR 240.14a–101), 14B (17 CFR 240.14a–102) and 14C (17 CFR 240.14c–101) under the Exchange Act. The information to be required in the specified forms will, in large part, be based on disclosures made by beneficial owners pursuant to section 13(d) of the Exchange Act; issuers may rely upon such statements unless they have knowledge of other information.

It must be emphasized that the definition of "beneficial owner" and the related rules have been adopted primarily for the purposes of section 13(d) of the Exchange Act. While substantially similar concepts will apply with respect to various registration and reporting forms, the new rules are not intended to affect interpretations of the provisions of section 16 of the Exchange Act, or the rules and regulations thereunder, since the purposes of section 16 are different from those of section 13(d). Accordingly, beneficial ownership for the purposes of section 16 would continue to be defined and interpreted by the Commission and construed by the federal courts in light of the purposes of that section.

[1] It should be noted that Schedule 13D also is presently required to be filed in connection with the making of certain tender offers subject to the provisions of Section 14(d) of the Exchange Act. On August 2, 1976, the Commission proposed for comment certain rules and related schedules under Sections 14(d) and 14(e) of the Exchange Act with respect to tender offers. If adopted, these proposals would, among other things, provide for a specific Tender Offer Statement (proposed Schedule 14D–1) (17 CFR 240.14d–100) to be used instead of Schedule 13D. Exchange Act Release No. 12676 (August 6, 1976) (41 FR 33004).

II. BACKGROUND

In 1968, the Congress adopted the so-called Williams Act Amendments which added sections 13(d), 13(e), 14(d), 14(e) and 14(f) to the Exchange Act.[2]

During the period in which the Williams Act has been in effect, there have been apparently varying judicial interpretations of the Williams Act and a number of interpretative questions raised regarding the Commission's rules thereunder, which were adopted as emergency rules pursuant to the Administrative Procedure Act, but without the benefit of written comments from interested persons. In addition, there has been growing Congressional and public interest in the adequacy of ownership data in general and of foreign ownership data in particular. Most importantly, there have been certain questions raised as to whether the Commission's schedules, rules and regulations in this area provided adequate disclosure and other protections to investors in connection with significant acquisitions and takeovers. Accordingly, in the fall of 1974, the Commission ordered a Public Fact-Finding Investigation in the Matter of Beneficial Ownership, Takeovers and Acquisitions by Foreign and Domestic Persons (hereinafter "Beneficial Ownership Hearings") [3] to re-examine this entire area.

Based primarily on the testimony, exhibits and written comments contained in the record of the Beneficial Ownership Hearings and on its own experience, the Commission published on August 25, 1975, its "Proposals Relating to Disclosure of Beneficial Owners and Holders of Record of Voting Securities" (hereinafter, "1975 Ownership Proposals").[4] As set forth therein, the 1975 Ownership Proposals if adopted would, among other things, have:

Defined "beneficial owner" to include any person who has or shares the power to direct the voting or disposition of the securities, or who has or shares the power to direct the receipt of dividends or proceeds from the sale of the securities;

Required more disclosure in Schedule 13D regarding the nature of beneficial ownership, other beneficial owners of the securities covered therein, and the record holders involved;

Deemed certain persons, including members of a group, who become beneficial owners of securities through non-purchase transactions to have "acquired" such securities;

Provided a short form acquisition notice to be used by certain persons, particularly certain institutional investors, who acquire securities in the ordinary course of their business and not for the purpose or with the effect of changing control;

Required certain public companies to disclose in various registration, reporting and proxy forms: beneficial owners of more than five percent of a class of voting securities, including their names, nationalities, and the nature of their ownership; the aggregate beneficial ownership by management of securities of the issuer or any of its parents or subsidiaries; and certain pledge agreements;

Required public companies to disclose in various registration, reporting and proxy soliciting forms their and their parents' thirty largest record holders, subject to a de minimus exception, of each class of voting securities as well as such persons' voting authority, and if such persons had no voting authority, the owners of the ten largest blocks held of record by each such record holder.

In response to these proposals the Commission received over 225 letters of comment from interested persons.[5]

Based upon these letters of comment and based on its own experience, the Commission has determined to adopt some of the 1975 Ownership Proposals as published for comment and some in modified form, as already summarized and as set forth more fully below in the "Synopsis" and the text of the rules themselves, and not to adopt one proposal at all and portions of other proposals, as discussed more fully below in "Proposals Not Adopted."

III. SYNOPSIS OF ADOPTED AND AMENDED RULES AND FORMS

This brief synopsis is included in order to assist all interested persons in their understanding of, and compliance with, the provisions of section 13(d) of the Exchange Act and the rules adopted herein. The synopsis is, however, brief and the attention of all interested persons is directed to the actual text of the rules and forms themselves for a more complete understanding.

A. PROVISIONS RELATING TO OBLIGATIONS OF BENEFICIAL OWNERS

(1) *Rule 13d–1: Filing of Schedule 13D.* Rule 13d–1 has been re-adopted in its entirety as Rule 13d–1(a). Under the new Rule 13d–3(a), there may be multiple beneficial owners of the same securities when two or more persons share voting power or investment power over such securities or when such powers reside in different persons. Also, Rule 13d–3(d)(1) provides that with respect to certain options relating to outstanding securities both the holder of the option and the person who presently owns the underlying securities would be deemed to be beneficial owners. Accordingly, a new Rule 13d–1(b) has been adopted to permit one acquisition statement to be filed when there is more than one beneficial owner of the same securities.

Rule 13d–1(b) is permissive, however, so that each beneficial owner of the same securities may file a separate acquisition statement. This is important because each beneficial owner in a multiple beneficial ownership situation must comply with all of the rules set forth herein and the provisions of new Rule 13d–1(b) do not relieve such person from this responsibility. When two or more persons do report jointly pursuant to Rule 13d–1(b), each such person is responsible for the timely filing of the statement and any amendment, and for the completeness and accuracy of such statement or amendment. The joint statement so filed must contain all requisite information about each person and should include, as an exhibit, their agreement in writing that the statement is filed on behalf of each. If an institutional investor who meets the standards of Rule 13d–5 and an individual investor who does not are beneficial owners of the same securities and are required to file under section 13(d), they may not both utilize Form 13D–5 since the individual investor does not meet the requirements for the use of that form. They may file a joint Schedule 13D or the individual may file Schedule 13D and the institutional investor Form 13D–5.

A new subsection to Rule 13d–(a) provides that any person may rely upon the information set forth in that issuer's most recent quarterly or annual report and any current report subsequent thereto under the Exchange Act for determining, for the purposes of section 13(d), the amount of outstanding shares of a class of equity securities, so long as he does not know or have reason to

[2] An examination of the legislative history reveals that the amendments were primarily enacted for the twofold purpose of (i) providing adequate disclosure and other protections to stockholders in connection with takeover attempts, such as tender offers, and corporate repurchases, and (ii) providing adequate disclosure to stockholders in connection with any substantial acquisition of securities within a relatively short period of time. S. Rep. No. 550, 90th Cong. 1st Sess. 7 (1967); H.R. Rep. No. 1711, 90th Cong. 2d Sess. 8 (1968); and Hearings on S. 510 Before the Subcomm. on Securities of the Senate Comm. on Banking and Currency, 90th Cong., 1st Sess. (1967). In 1970 Congress amended certain of these provisions by lowering the reporting threshold for acquisitions and tender offers from ten percent to five percent and by granting the Commission additional rulemaking authority. Hearings on S. 3431 Before the Subcomm. on Securities of the Senate Comm. on Banking and Currency, 91st Cong., 2d Sess. (1970). In order to implement immediately those provisions of the 1968 and 1970 Williams Act Amendments which were not self-executing upon their effectiveness, the Commission adopted temporary rules and regulations. Exchange Act Release No. 8370 (July 30, 1968) (33 FR 11015) as amended by Release No. 8392 (August 30, 1968) (33 FR 13036), as further amended by Release No. 9066 (January 18, 1971) (36 FR 970).

[3] Exchange Act Release Nos. 11003 (September 9, 1974) (39 FR 33055) and 11066 (November 5, 1974) (39 FR 41223).

[4] Exchange Act Release No. 11616 (August 25, 1975) (40 FR 42212). See SEC Docket S7–580.

[5] SEC Docket S7–580, available for inspection and copying at SEC Public Reference Section, Room 6101, 1100 L Street, N.W., Washington, D.C.

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believe that such information is inaccurate.[6]

(2) *Rule 13d–2: Filing of Amendments.* Rule 13d–2, which requires the prompt filing of an amendment to Schedule 13D to reflect any material change, has been re-adopted without change.

(3) *Rule 13d–3: Determination of Beneficial Ownership.* For the purposes of section 13(d), new Rule 13d–3(a) provides that a beneficial owner of a security includes any person who directly or indirectly has or shares voting power and/or investment power of such security. Voting power includes "the power to vote, or to direct the voting of, such security" and investment power includes "the power to dispose, or to direct the disposition, of such security." An analysis of all relevant facts and circumstances in a particular situation is essential in order to identify each person possessing the requisite voting power or investment power. For example, for the purposes of the rule, the mere possession of the legal right to vote securities under applicable state or other law (i.e., a management proxy committee) may not be determinative of who is a beneficial owner of such securities inasmuch as another person or persons may have the power whether legal, economic, or otherwise, to direct such voting. Furthermore, paragraph (b) of new Rule 13d–3 points out that the rule cannot be circumvented by an arrangement to divest a person of beneficial ownership or to prevent the vesting of beneficial ownership as part of a plan or scheme to evade the reporting requirements of section 13(d).

New Rule 13d–3(c) provides that all securities beneficially owned by a person are to be aggregated in determining how many securities such person owns, regardless of the nature of the beneficial ownership. Thus, a person who serves as trustee of several trusts which hold securities of the same issuer would have to aggregate the number held in each trust with respect to which such trustee has either voting power or investment power, or both.

In addition to being a beneficial owner by possession of voting power or investment power, a person is also deemed to be a beneficial owner of a security pursuant to new Rule 13d–3(d)(1) if such person has the right to acquire beneficial ownership of such security at any time within sixty days through the exercise of an option, warrant or right, conversion of a convertible security, or pursuant to the power to revoke a trust or similar arrangement.[7]

New Rule 13d–3(d)(2) excludes from the definition of beneficial owner any person whose only interest in the securities is record ownership and membership on a national securities exchange that has rules which permit a member to vote such securities without instruction, on certain routine matters.[8] Rule 13d–3(d)(3) excludes from the definition of beneficial owner any person whose only interest in the securities is that of a pledgee in the ordinary course of his business pursuant to a bona fide pledge agreement. However, if there has been a default under such an agreement, the rule provides that the pledgee may be deemed the beneficial owner during such time as the event of default shall remain uncured for more than thirty days, or at any time before a default is cured if the power acquired by the pledgee because of the default enables him to change or influence issuer control.

(4) *Rule 13d–4: Disclaimer of Beneficial Ownership.* New Rule 13d–4 permits any person to expressly declare in such person's Schedule 13D or Form 13D–5 that the filing of such a statement shall not be construed as an admission that the person is the beneficial owner of the securities covered by such statement.

(5) *Rule 13d–5 and Form 13D–5: Short Form Acquisition Statements.* New Rule 13d–5, defining beneficial owner, and new Rule 13d–6, defining acquisition, may have a significant impact on the reporting obligations of certain institutional investors and professionals in the securities business. Since such persons often acquire securities in the ordinary course of their business and not with a view toward changing or effecting a change in the control of an issuer, it is not necessary or appropriate for the purposes of section 13(d) in such instances to have such a person file a complete Schedule 13D within ten days after any acquisition which results in such person being the beneficial owner of more than five percent of a class. In recognition of this situation, Congress specifically provided in section 13(d)(5) that the Commission could permit the filing of a short form acquisition notice in lieu of the more detailed Schedule 13D which is primarily aimed at obtaining information about potential changes in control of an issuer.

Accordingly, the Commission has adopted a new Rule 13d–5 and a related new Form 13D–5 which will permit certain persons to utilize an abbreviated acquisition notice. The use of this short form at this time is expressly limited to certain brokers, dealers, banks, investment companies, investment advisers, and employee benefit plans.[9] In every situation such a person must be acquiring and holding securities in the ordinary course of business, and not with the purpose or with the effect of changing or influencing the control of the issuer, or in connection with or as a participant in any transaction having such purpose or effect.

In those situations where the institutional investor knows that another person has an economic interest in the securities reported on and this interest relates to more than five percent of the class of securities, Form 13D–5 calls for the same information regarding such other person as does Item 6 of Schedule 13D. Item 6 now requires, among other things, information regarding any relationship with any other person with respect to the securities reported on and requires the identities of the parties involved in the transaction and the details of the relationship.

A condition to use of the short form requires the reporting person to have promptly notified any discretionary account owner, on whose behalf it holds securities which amount to more than five percent of the class, of any acquisition or transaction which might subject such person to the reporting requirements of section 13(d). It is contemplated that such account owner would be notified of information known to the reporting person which would reasonably inform such account owner of his ownership and a possible obligation to report on Schedule 13D. The Commission believes this provision is necessary since such person may be the beneficial owner of securities held in the account, pursuant to Rule 13d–3(d)(1), if such person has the power to revoke the account at any time.

Instead of filing within ten days of the triggering acquisition, the short form may be filed within ten days after the end of the calendar quarter (March 31; June 30; September 30; December 31) in which the triggering acquisition was made. Thereafter such person would be required to file an amended form on a quarterly basis to reflect all increases and decreases of beneficial ownership

[6] Section 13(d)(4) of the Exchange Act deems certain treasury and other shares not to be outstanding and Rule 13d–3(d)(1) deems certain unissued securities to be outstanding for calculating the ownership by certain persons.

[7] Proposed amendments to this rule, announced today, would, if adopted, delete the sixty-day time limit so that a person would be deemed to be the beneficial owner of securities which such person has the right to acquire at any time, pursuant to the exercise of an option, warrant, right, or convertible security or power to revoke a trust or similar arrangement. In addition, a person would be deemed to be the beneficial owner of securities such person has the right to acquire, within a specified time period, pursuant to the automatic termination of a trust or similar arrangement. Exchange Act Release No. 34–13292 in Proposed Rules in this issue at page .

[8] See, e.g. Rule 451, Rules of the New York Stock Exchange and Rule 577, Rules of the American Stock Exchange.

[9] The Commission has today proposed certain revisions of Rule 13d–5(a) concerning the availability of the short form particularly for foreign persons. (See Note 7). As adopted, the new rule limits the use of the short form essentially to domestic persons. A proposed amendment to the rule would, if adopted, allow use of the short form by similar non-domestic institutions which agree to make available to the Commission information which would be required if such person were filing a Schedule 13D with respect to the transaction. Another proposed revision would, if adopted, cause the short form to be unavailable if any of the securities being reported on were purchased at the direction of another person. This amendment is intended to clarify the condition that the persons using the short form acquired the reported securities in the ordinary course of their business and not with a view toward changing or effecting a change in control of the issuer of securities.

during the quarter, or to disclose that such person's ownership has dropped to five percent or less of a class of equity securities. If no changes in beneficial ownership of the securities occur during the quarter, an amended Form 13D–5 need not be filed.

A group of institutional investors, each of whom alone meets one of the standards of Rule 13d–5(a)(2), upon agreeing to act together for the purpose of acquiring securities in a private placement, may utilize the short form to report the acquisition as well as to report, if true, the dissolution of the group. Whether a group is dissolved is, of course, dependent on the relevant facts and circumstances of each case, such as the nature of registration rights with respect to its recently acquired restricted securities which the group may have.

Form 13D–5 requires disclosure of the reporting person's identity, business address, type of business, the amount and respective percent of securities beneficially owned, and the number of accounts or other entities for whom securities are owned. The new rule specifies that eight copies of the new Form 13D–5 should be filed with the Commission; one copy should be forwarded to the issuer; and one copy should be sent to the principal national securities exchange, if any, on which the security is traded.

The adoption of the short form is in the nature of an experiment. The Commission will closely monitor its use to determine whether the form carries out the legislative purpose of section 13(d).[10]

As originally proposed, the short form would have been available to insurance companies, as defined in section 3(a)(19) of the Exchange Act. However, the Commission has determined that the considerations which would make use of a short form appropriate for broker-dealers, banks, investment companies, investment advisers and employee benefit plans do not apply equally to insurance companies. The rationale for precluding insurance companies from using the short form is based, in part, upon the lack of any uniform legal requirement restricting such companies in the amount of securities they may acquire in a given issuer, and on the fact that the transactions by which an insurance company or its affiliates may become the beneficial owners of securities, even taking into account the aggregation and attribution aspects of the new rules, generally involve volitional investment decisions of a character different from those generally made by the other entities entitled to use Form 13D–5. Moreover, even though certain aspects of the operations of insurance companies are subject to regulation under state law, the Commission does not believe such regulation to be an adequate substitute for the protection to investors provided by disclosure under section 13(d).

(6) *Rule 13d–6: Acquisition of Securities.* New Rule 13d–6(a) deems certain persons who become beneficial owners of securities to have "acquired" them for the purposes of section 13(d)(1) of the Exchange Act. Donees, executors, trustees and legatees who become beneficial owners of securities will be deemed to have "acquired" such securities, even though such persons had not so intended and had taken no action to become beneficial owners.[11] However, executors and administrators of the estate of a decedent will be presumed not to have acquired beneficial ownership until they are qualified under local law to perform their duties.

New Rule 13d–6(b) deems the group formed by two or more persons who agree to act together for the purpose of acquiring, holding or disposing of securities to have "acquired," for the purpose of section 13(d)(1), beneficial ownership, as of the date of their agreement, of all securities beneficially owned by any member of such group.[12] A group has the option of either filing a joint acquisition statement or each member of the group may file an individual acquisition statement reporting both his ownership and the group's collective ownership.

(7) *Rule 13d–7: Exemption of Certain Acquisitions.* New Rule 13d–7(a) exempts an acquisition by an underwriter of securities as part of a good faith firm commitment underwriting where it is anticipated that such person will, as part of a distribution registered under the Securities Act, be immediately reselling such securities since such a transaction is not the type of acquisition that section 13(d)(1) was intended to cover. By analogy to the forty-day period specified in section 4(3) of the Securities Act, the rule subjects such underwriter to section 13(d)(1) if beneficial ownership of the securities is retained for more than forty days. New Rule 13d–7(b) exempts certain acquisitions pursuant to preemptive rights previously exempted by old Rule 13d–4.

(8) *Schedule 13D: Acquisition (and Tender Offer) Statement.* The Commission has amended Schedule 13D, its current, long form acquisition statement, in order to make the disclosure therein more meaningful to investors and, to the extent feasible, less burdensome to beneficial owners. The amendments will require disclosure of the citizenship of the beneficial owner, the general nature of any non-purchase acquisitions; certain pledges of securities by the beneficial owner; and interests of other persons in the securities being reported on. Certain other disclosure requirements of Schedule 13D, which were adopted on an emergency basis in 1968, have been amended. For example, the requirements in Item 2 that the beneficial owner and certain related persons disclose their ten year employment history and any criminal convictions during the past ten years has been reduced to five years.[13] The instructions to Schedule 13D have been amended as follows; a corporation need only disclose information regarding its directors and executive officers[14] rather than directors and all officers; a limited partnership need only disclose information regarding its general partners rather than all partners; and in multiple tier corporate structures no information need be given with respect to any officers or directors of mid-tier corporations unless they are also controlling persons. Finally, a new cover page has been adopted and certain "housekeeping" interpretations regarding required signatures and incorporation of information by reference to exhibits have been codified in the Schedule.

[10] At such time as rules are adopted under Section 13(f) of the Exchange Act for the reporting of information by certain institutional investment managers, the Commission will take whatever action is appropriate in order to avoid any unnecessary duplication. Section 13(f) generally provides for the filing of reports, not less often than quarterly, by institutional investment managers which use jurisdictional means in the course of their business and which exercise investment discretion with respect to accounts holding securities of a class described in section 13(d)(1) having an aggregate fair market value over $100 million or such lesser amount (but in no case less than $10 million) as the Commission, by rule, may prescribe.

[11] Compare *Sisak* v. *Wings & Wheels Express, Inc.*, (1970–1971 Decisions) CCH Fed. Sec. L. Rep. para. 92,991 (S.D.N.Y. 1970) and *Ozark Air Lines, Inc.* v. *Cox*, 326 F. Supp. 1113 (E.D. Mo. 1971).

[12] See *GAF Corp.* v. *Milstein*, 453 F. 2d 709 (2d Cir. 1971), cert. denied 406 U.S. 910 (1972).

B. PROVISIONS RELATING TO REPORTING OBLIGATIONS OF REGISTRANTS: ADOPTION OF SO-CALLED PROPOSED ITEM X

An integral part of the 1975 Ownership Proposals was Proposed Item X which would have required public companies to disclose in various registration, reporting and proxy forms certain information as to each beneficial owner of more than five percent of a class of the company's voting securities, including name, address, nationality, and nature of ownership. The Item as proposed also would have required disclosure about aggregate beneficial ownership by management of securities of the issuer and its parents and subsidiaries and certain pledge agreements.

In order to further integrate the continuous disclosure system under the federal securities laws, the Commission has determined to require the substance

[13] The Commission's staff is presently reexamining all of the registration, reporting and proxy soliciting forms to determine the feasibility of adopting uniform requirements for five year backgrounds on certain individuals in all such forms. For example, a similar item in the proposed Tender Offer Statement (Note 1, supra) is based on a five-year period and the Commission's proposed amendments concerning disclosure about management background in issuer proxy statements, annual reports and registration statements would, if adopted, reduce the time period for such disclosure from ten years to five years (Exchange Act Release No. 12946, (November 9, 1976) (41 FR 49408)).

[14] The term "executive officer" has been defined in Instruction C to mean "the president, secretary, treasurer, any vice-president in charge of a principal business function (such as sales, administration or finance), and any other person who performs similar policy making functions for the corporation."

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of proposed Item X in Forms S–1 and S–11 under the Securities Act and Forms 10 and 10–K and Schedules 14A, 14B and 14C under the Exchange Act. This action will have the effect of making more readily available to investors certain of the information required under the amendments to the rules under the Williams Act discussed above.

It should be noted that Item X has been modified not only to conform it to the revised definition of beneficial ownership but also to adapt the item to each particular form. For example, in most of the revised forms, the first paragraph of the new item requires a table setting forth the name and address and information as to security ownership of any person (including any group) known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's voting securities. However, Item 18 of Form S–11 will continue to require ownership information as to any class of the registrant's equity securities because of the special purposes of that form.[28] In addition, although the item as proposed would have requested a breakdown as to various ownership interests of each person listed, the new item only requires disclosure of the number of shares beneficially owned and the percent of class represented by such shares and an appropriate indication of any shares subject to options, warrants, rights, etc., exercisable at any time within sixty days (Rule 13d–3(d)(1)).

The second paragraph of the new item requires a table showing the aggregate amount and percentage beneficially owned by all directors and officers of the registrant (other than directors' qualifying shares) of each class of voting securities of the registrant and its parents, in the case of Item 5 of Schedule 14A, and of each class of equity securities of the registrant or its parents or subsidiaries in the case of Item 19 of Form S–1, Item 18 of Form S–11, Item 5 of Form 10, and Item 11 of Form 10–K. This paragraph also requires that shares deemed to be beneficially owned pursuant to Rule 13d–3(d)(1) be appropriately indicated.

Instruction 1 specifies that percentages are to be calculated on the basis of outstanding securities but that securities deemed outstanding pursuant to Rule 13d–3(d)(1) may also be considered if appropriate clarification is included. Other instructions provide that the definition of beneficial ownership set forth in Rule 13d–3 also applies for purposes of this item and that any overlapping beneficial ownership should be appropriately disclosed, if known, in order to avoid confusion.

The instructions also provide that the registrant is deemed to know information with respect to its securities as set forth in any acquisition statements filed with the Commission pursuant to section 13(d) and can rely on such statements unless it knows or has reason to believe that the information is not complete or accurate or that an acquisition statement should have been filed but was not.

[28] Form S–11 is for the registration of securities of certain real estate companies.

In connection with the implementation of Item X into Schedules 14A and 14C, issuers should be aware that this addition will also effect a change in the disclosure required by other items in the proxy statement schedule such as Items 7 (f) and (g) regarding transactions with management and others.

IV. Selected Illustrations

The following illustrations are intended to supplement the explanation and analysis set forth elsewhere in the release, and to demonstrate the manner in which the rules would be interpreted. It should be assumed in each of the following illustrations that the rules adopted in this release are in effect and that the securities of the subject company ("Z Corporation") are registered pursuant to Section 12 of the Exchange Act. These illustrations reflect the views of the Commission and its staff as of this date notwithstanding any previous interpretations expressed to the contrary by the staff orally or in writing.

Example 1. Rule 13d–3(a), indirect ownership; Rule 13d–3(d)(1)(i), option to acquire. X, an individual, beneficially owns sixty-eight percent of Y Corporation. Y Corporation purchases four percent of a class of securities of Z Corporation and also an option, exercisable within thirty days of the date of purchase, to purchase an additional two percent of the outstanding shares of the same class of Z corporation.

Question. Does X have a filing obligation and, if so, how may it be satisfied?

Interpretative Response. Yes, X has an obligation to file under Rule 13d–1 since under Rule 13d–3 he is the indirect beneficial owner of the Z shares held by Y Corporation due to his power to direct their voting or disposiiton. It should be noted that the operation of Rule 13d–3(d)(1)(i) puts X above the five percent threshold inasmuch as the shares subject to the option will be aggregated with those purchased. X's reporting obligation may be satisfied with a filing by X disclosing his indirect ownership and the intermediaries involved; alternatively, since Y Corporation also would be subject to a separate filing requirement with respect to the same securities, X may file jointly with Y disclosing the control position and other information required with respect to X pursuant to Instruction C to Schedule 13D.

Example 2. Rule 13d–3, indirect ownership by corporation; Rule 13d–5, use of short form; Instruction C, Schedule 13D. Y Corporation, a wholly-owned subsidiary of X Corporation, acquires six percent of a class of securities of Z Corporation. X is a widely-held company with no single shareholder owning in excess of one percent of X's shares and its directors beneficially own only directors' qualifying shares.

Question. Who has the obligation to report beneficial ownership of the Z shares, and how may this obligation be satisfied?

Interpretative Response. Both X and Y would be viewed as beneficial owners of the Z shares due to their power to direct the voting or disposition. X's obligation to report such ownership may be satisfied with a filing by either X or Y. If Y Corporation files on behalf of X and Y, the control position and the other information required with respect to X must be disclosed pursuant to Instruction C to Schedule 13D. If X Corporation files on behalf of X and Y, it must disclose that it is indirectly the beneficial owner of the Z shares as a result of its control over Y Corporation, which actually holds the shares. However, if all the conditions of Rule 13d–5 are satisfied, including paragraph (a)(2)(vi), X may satisfy its filing obligation by filing that form.

Example 3. Rule 13d–3(d)(3), pledge of securities. X Corporation beneficially owns six percent of a class of securities of Z Corporation. In order to obtain financing from Y, a national bank, X pledges its Z shares as collateral. X's treasurer is on vacation and X inadvertently fails to make the current installment payment until twenty days after it is due, an event of default under the terms of the loan agreement.

Question. Will Y be considered the beneficial owner of the Z shares during the period of time X was in default?

Interpretative Response. No. Rule 13d–3(d)(3) would operate to prevent Y from being deemed the beneficial owner of the shares because the event of default was cured within thirty days, and in the absence of facts to indicate otherwise, it would not appear that before the default was cured, Y was able to change or influence the control of Z.

Example 4. Rule 13d–3(a), related beneficial owners. X and his son Y each beneficially own three percent of the same class of securities of Z Corporation. Y is twenty-six years old, and lives overseas with his family; X lives in the United States. Several years ago X and Y had a parting of the ways over a family matter and no longer communicate with each other.

Question. Will X and Y each be viewed as the beneficial owner of the other's shares and be required to file under Rule 13d–1?

Interpretative Response. In the absence of other facts which would indicate the presence of power to direct the voting or disposition of the other's securities, neither X nor Y would be deemed to beneficially own the other's shares of Z Corporation. Accordingly, since neither has acquired in excess of five percent of a class of Z's outstanding shares, no obligation to file exists.

Example 5. Rule 13d–3(a), voting trust; Rule 13d–5(a), use of short form. X acquires fifty-two percent of a class of securities of Z Corporation and simultaneously establishes a ten year voting trust in order to alleviate certain fears of incumbent management. The voting trust agreement names Y as trustee with power to vote on all ordinary corporate matters.

Question 5–A. In view of the fact that X has given up the power to vote on all ordinary corporate matters for a substantial period of time, does he have a filing obligation under Rule 13d–1?

Interpretative Response. X's retention of the power to direct the disposition of

the Z shares is sufficient to constitute beneficial ownership within the meaning of Rule 13d–3(a). Therefore, as a beneficial owner of more than five percent of a class of Z's securities, X has an obligation to file under Rule 13d–1.

Question 5–B. Does Y also have a filing obligation with respect to the Z securities, and, if so, how may this obligation be satisfied?

Interpretative Response. Since Y has the power to vote the Z shares on all ordinary corporate matters it too is a beneficial owner under Rule 13d–3(a) of more than five percent of the Z shares and would therefore have a filing obligation under Rule 13d–3(a). Y may satisfy this obligation either by an individual filing on Schedule 13D or by a joint filing under Rule 13d–1(b) with X on Schedule 13D.

Example 6. Rule 13d–3(a), co-trustee ownership; Rule 13d–3(c), aggregation; Rule 13d–5, use of short form. X, a trust department of a national bank, acquires three percent of a class of securities of Z Corporation, as co-trustee for the benefit of A who does not have investment power over the securities. The terms of the trust agreement vest investment power with respect to the Z shares in X and voting power in X and Y, an individual who is not a person specified in Rule 13d–5(a)(2). Prior to the trust's creation, X had voting power and/or investment power under other unrelated trusts with respect to four percent of the subject class of shares of Z Corporation. The individual co-trustees, Y, also beneficially owned four percent of such stock prior to the trust's creation.

Question. What are the respective filing obligations of X, Y and A and what is the appropriate form for complying with any such obligation?

Interpretative Response. Both X and Y have a filing obligation under Rule 13d–1 since, under Rule 13d–3(a) and Rule 13d–3(c), they are each beneficial owners of more than five percent of a class of securities. X may report its acquisition on Form 13D–5 since presumably it satisfies Rule 13d–5(a). Y, the individual co-trustee, however, must report on Schedule 13D as a result of his acquisition. Y is precluded from using Form 13D–5 because he is not among the classes of persons specified in Rule 13d–5(a)(2). It should be noted that the unavailability of the short form to Y does not deprive X of its use as long as X and Y do not act as a group. A does not have a filing obligation because he is not a beneficial owner under Rule 13d–3(a) due to his lack of voting or investment power over the Z shares.

Example 7. Rule 13d–3(a), bank ownership; Rule 13d–5, use of short form; Rule 13d–1(b), joint filing; Item 6, Schedule 13D. X, a foreign bank, through three of its nominees acquires in excess of five percent of a class of securities of Z Corporation on behalf of Y. Y simultaneously with the acquisition on his behalf gives a bona fide irrevocable proxy to the bank.

Question. Who has the obligation to file and how may this obligation be satisfied?

Interpretative Response. Because X has the power to vote, it is a beneficial owner of the Z shares and therefore has the obligation to file. Furthermore, if Y has retained the power to direct the disposition of the Z shares, Y is also a beneficial owner of the shares and also has an obligation to file. X must use Schedule 13D rather than Form 13D–5 to report its beneficial ownership because it is not a bank defined in Section 3(a)(6) of the Act. X and Y may file jointly provided the requirements of Rule 13d–1(b), are satisfied. It should be noted that the bank's relationship with Y would be disclosed under Item 6 of Schedule 13D.

Example 8. Rule 13d–3(b), scheme to evade. In order to acquire a substantial position in the voting securities of Z Corporation prior to the election of directors which will take place in the near future, X causes ten institutions to each acquire three percent of the outstanding shares of Z Corporation. None of the institutions are aware of the purchases by the other institutions or of X's control objective. As an attempted means of avoiding disclosure of his beneficial ownership of the Z shares until a short time before the election, X, simultaneously with the purchase of the Z shares, gives an irrevocable proxy to A, which proxy will lapse according to its terms.

Question. What are the respective filing obligations of X and A, and how may they be satisfied?

Interpretative Response. A is a beneficial owner of the Z shares subject to the proxy due to his power to vote them and therefore he must report such ownership pursuant to Rule 13d–1, as well as information about X under Item 6 of Schedule 13D. In addition, as indicated in Rule 13d–3(b), X is also deemed a beneficial owner of the same Z shares for the period of the proxy as well as thereafter, and therefore must file a Schedule 13D.

Example 9. Rule 13d–6(a), acquisition. The estate of decedent X contains six percent of a class of securities of Z Corporation. Y, the executor named in X's will, is a trust department of a national bank. Y will not be qualified under local law to perform its duties until a court order is issued appointing it executor.

Question. Does Y have a filing obligation prior to the time the order is issued appointing it executor?

Interpretative Response. In the absence of other facts which would indicate the presence of power in Y to direct the voting or disposition of the Z shares in X's estate immediately, Y will be presumed not to have acquired the beneficial ownership of such shares until such time as it is qualified under local law to perform its duties (See Rule 13d–6(a)). Since a court order is necessary to so qualify Y, it will be presumed not to have acquired the beneficial ownership necessary to create a filing obligation prior to the issuance of such an order. This result involves a presumption which could be rebutted by additional facts (e.g., that Y or another person in fact voted such shares prior to Y's appointment).

Example 10. Rule 13d–5(b), changes reported on short form. X, a person specified in Rule 13d–5(a)(2), acquires six percent of a class of securities of Z Corporation in a single transaction. At the end of the quarter in which such acquisition was made, X files Form 13D–5. In the first month of the succeeding quarter X acquires an additional three percent of the same class of Z shares. In the second month of that same succeeding quarter X sells three percent of the same class of Z shares. X makes no further acquisitions or dispositions during the remainder of that quarter.

Question. Is X required to amend its initial Form 13D–5 at the end of the succeeding quarter?

Interpretative Response. Yes. Rule 13d–5(b), regarding the reporting in changes of beneficial ownership, requires the filing of an amendment to Form 13d–5 to reflect all acquisitions and dispositions of beneficial ownership of securities of the same class previously reported. Consequently, X would file an amended form to show his acquisitions and dispositions during the quarter, regardless of the fact that there has been no net change in his holdings. If X had disposed of five percent of his holdings under the facts presented, a similar result would obtain since Rule 13d–5(b) requires an amendment to Form 13D–5 even when aggreagte beneficial ownership drops below the five percent standard.

Example 11. Rule 13d–5(a)(3) short form notification prerequisite; Rule 13d–3(c), aggregation; Item 6, Form 13D–5, information on other persons; Rule 13d–3(d)(1)(iii), power to revoke. X, an individual, owns securities of various classes of stock of various companies. The largest concentration of shares that X owns are shares amounting to three percent of a class of securities of Z Corporation. Because X feels that his various holdings are too diverse to handle personally, X places all his shares into a discretionary account with Y, a broker-dealer registered under Section 15 of the Act. Y already holds two percent of the class in various other discretionary accounts. Thereafter, through ordinary business transactions, Y acquires additional shares of the Z securities so that Y holds a total of eight percent of the class of Z securities in various discretionary accounts, including five and two tenths percent on behalf of X's account.

Question. What are X's and Y's obligations under Rule 13d–1 with respect to the Z securities?

Interpretative Response. Ordinarily, Y would have investment power and/or voting power over the Z securities held in its various discretionary accounts and therefore would be a beneficial owner of such securities. Pursuant to Rule 13d–3(c), Y would aggregate all shares which it is considered beneficially to own and would be obligated to report its ownership of eight percent of the class under Section 13(d). Since Y is a person specified in Rule 13d–5(a)(2), Y would be eligible to report its ownership on the short form, provided that the other conditions of Rule 13d–5 are met. One condition of that rule requires that Y shall have notified X at the time of any transaction on

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behalf of X's account which would be reportable by X under Section 13(d). In this case, Y should have notified X at the time of the acquisition which caused the Z securities in X's account to exceed five percent that X might have a filing obligation pursuant to Rule 13d–1. In addition, information about X would be provided in Y's report on Form 13D–5 pursuant to Item 6 of the form.

Since X ordinarily would have the power to terminate the discretionary account at any time, X would also be a beneficial owner of the shares held in the account pursuant to Rule 13d–3(d) (1) (iii). X would have a reporting obligation under Rule 13d–1 when his beneficial ownership of the class of securities of Z exceeded five percent, including securities held for his account by Y, as well as any other securities in which X has a beneficial interest. The type of information Y should furnish to X is information of which Y reasonably may have knowledge which would alert X of his current obligation to file an initial or amended Schedule 13D and which would provide the data necessary for the preparation of such filing.

V. Proposals Not Adopted

As previously indicated, the Commission received more than 225 letters of comment from interested persons in response to the 1975 Ownership Proposals. Based on these letters and its own experience, the Commission adopted certain of the proposals as published; adopted certain of the proposals in modified form; and withdrew one proposal entirely. See FR Doc. 77–6359 appearing at page 12355 of this issue. The Commission's most significant modification was with respect to proposed Rule 13d–3, Determination of Beneficial Ownership. As published for comment, the definition would have included any person who has or shares the power to direct the voting or disposition of the securities, or who has or shares the power to direct the receipt of dividends or proceeds from the sale of securities. The Commission has adopted the standard of voting power and/or investment power for the determination of beneficial ownership.

Although the definition of beneficial ownership adopted by the Commission does not expressly encompass those proposals relative to economic interests—such as the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of securities—Items 6 of Schedule 13D and Form 13D–5, as adopted, will require certain disclosure of persons having an economic interest in more than five percent of the class.

The Commission also determined to modify proposed Rule 13d–3(a)(1) by eliminating that portion of the proposal which would have deemed a person to be the beneficial owner of all securities beneficially owned by persons related by blood, marriage or adoption to such person and who have the same home as such person. The Commission determined that such a standard was totally inapposite to the voting/investment power approach discussed above. As a result of this determination, proposed Rule 13d–1(b) and proposed Instruction C to Schedule 13D have been similarly modified.

One of the more controversial aspects of the 1975 Ownership Proposals was the so-called Item XA which would have required each corporation and its parent to disclose its thirty largest holders of record and, to the extent known, each of their respective ten largest voting blocks. On the basis of the public commentary, the Commission has formally withdrawn the proposal. See FR Doc. 77–6359 appearing at page 12355 of this issue, Exchange Act Release No. 34–13292. In this connection, the Commission has not adopted those portions of proposed Schedule 13D and proposed Form 13D–5 which related to record holders and nominees; and has deleted the present requirement that issuers disclose ten percent record holders in certain registration, reporting and proxy soliciting forms. As previously noted, so called Item X has been adopted requiring disclosure of certain beneficial owners.

Based on the letters of comment, the Commission is requiring a beneficial owner to disclose his "citizenship" in Schedule 13D rather than the "country of which such person is a national," as proposed, since commentators felt this latter term was too imprecise. The Commission is not requiring disclosure of citizenship in its new Form 13D–5 since the vast majority of qualifying institutions are domestic and since institutional citizenship is largely meaningless. The Commission also deleted such a requirement from Item X as incorporated into various forms since the information would already be publicly available.

The other changes between the 1975 Ownership Proposals and the rules adopted herein are either self-explanatory or are so minor as not to merit specific discussion.

VI. Possible Future Related Commission Action

Because of special regulatory considerations, the Commission has determined to defer action regarding what additional ownership disclosure requirements, if any, are necessary or appropriate for adoption in Annual Report Form U5S under the Public Utility Holding Company Act of 1935.

Similarly, the Commission has deferred all action on Forms 12 (17 CFR 249.212) and 12–K (17 CFR 249.312) inasmuch as these forms are being re-evaluated in light of recent statutory amendments.[14] In addition, no action has been taken on Form 1–A (17 CFR 239.90) at this time since the entire Regulation A (17 CFR 230.251 to 230.262) is being re-examined.

As noted above[15], the Commission has proposed for comment various rules and related schedules with respect to tender offers, which are based in part on the record of the Beneficial Ownership Hearings. The Commission is currently reviewing the more than 100 letters of comment received concerning those proposals. In addition, the Commission will shortly propose a revised fee schedule for filings pursuant to sections 13(d)(1), 13(d)(5), 14(d)(1) and 14(d)(4) of the Exchange Act.

Also based in part on the record of the Beneficial Ownership Hearings, the Commission, on August 25, 1975, published proposed Rule 14b–1 (17 CFR 240.14b–1) under the Exchange Act, relating to issuer communications with beneficial owners of issuer securities.[16] The Comission had postponed action on proposed Rule 14b–1 pending completion of the "Street Name Study" mandated by the Securities Act Amendments of 1975[17] however, since that Study was published on December 3, 1976,[18] the Commission is now considering proposed Rule 14b–1 in light of the conclusions of the study.

At a future date, the Commission anticipates the publication of proposed rules which will implement section 13(f). That section generally requires the filing of reports, not less often than quarterly, by institutional investment managers which use jurisdictional means in the course of their business and which exercise investment discretion with respect to accounts holding securities of a class described in section 13(d)(1) having an aggregate fair market value over $100,000,000 or such lesser amount (but in no case less than $10,000,000) as the Commission, by rule, may prescribe.

One of the specific inquiries of the Beneficial Ownership Hearings was:

> Whether the Commission should adopt special rules or procedures relating to persons subject to jurisdictions whose laws permit or require bank secrecy procedures and/or bearer shares (i.e., equity securities recorded on the issuer's books in the name of "Bearer")?[19]

Also, in the Street Name Study sent to Congress, the Commission recommended that the Exchange Act be amended to clarify "that the Commission has available to it specific ancillary remedies in instances in which it is unable to obtain information in furtherance of its investigations" and that "Congress should consider broadening section 15(b)(6) (of the Exchange Act) to grant to the Commission authority to proceed administratively against foreign financial institutions for violations of the Act."[20] As of this time, the Commission has not put forth specific proposals on these matters.

[14] Railroad Revitalization and Regulatory Reform Act, Pub. L. No. 94–210 (February 5, 1976). On September 3, 1976, the Commission published for comment proposals which, if adopted, would revoke Form 12–K and therefore require registrants who currently report on that form to file reports in full compliance with annual report Form 10–K (17 CFR 249.310) and quarterly report Form 10–Q (17 CFR 249.308a). Exchange Act Release No. 12769 (September 14, 1976) (41 FR 39048).

[15] See Note 1, supra.

[16] Exchange Act Release No. 11617 (September 9, 1975) (40 FR 42219).

[17] Securities Exchange Act of 1934, Section 12(m).

[18] Final Report of the Securities and Exchange Commission on the Practice of Recording Securities in the Records of the Issuer in Other Than the Name of the Beneficial Owner of Such Securities (December 3, 1976) (hereinafter "Street Name Study").

[19] Exchange Act Release No. 11003 (September 9, 1974) (39 FR 33355).

[20] Street Name Study, supra Note 20, at 76.

VII. Certain Findings

As required by section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the rules adopted herein would have on competition. The Commission has found that neither the preparation and disclosure of ownership information by beneficial owners pursuant to the Exchange Act nor the preparation and disclosure of ownership information by issuers pursuant to the Securities Act and the Exchange Act will significantly burden competition. In any event, the Commission has determined that any possible resulting competitive burden will be far outweighed by, and is necessary and appropriate to achieve, the benefits of this information to investors.

In publishing the 1975 Ownership Proposals the Commission pointed out that it was "mindful of the costs to registrants and others of its proposals" and specifically invited comments on the costs of the proposals. The Commission finds that the costs of the rules adopted herein are not unreasonable and are far outweighed by the benefits which will accrue to investors.

VIII. Operation of Rules Adopted, Effective Date

All of the new rules and forms and amendments will become effective on August 31, 1977, except that any person who so chooses may rely upon them as of the date of their publication in the Federal Register. No person is relieved from complying with such person's present statutory obligations under section 13(d) pending the effective date of these rules, forms and amendments.

IX. Authority

The Commission hereby adopts Rules 13d–1, 13d–2, 13d–3, 13d–4, 13d–5, 13d–6 and 13d–7, Form 13D–5 and Schedule 13D on a permanent basis pursuant to the authority set forth in sections 3(b), 13(d)(1), 13(d)(2), 13(d)(5), 13(d)(6), 14(d)(1) and 23 of the Exchange Act; amends Forms 10 and 10–K, and Schedules 14A, 14B, and 14C pursuant to the authority set forth in sections 12, 13, 14, 15(d) and 23 of the Exchange Act; and amends Forms S–1 and S–11 pursuant to the authority set forth in sections 7, 10 and 19(a) of the Securities Act. The Commission finds that any changes in the adopted and amended rules and forms from those published in the 1975 Ownership Proposals have already been generally subject to comment during the Beneficial Ownership Hearings and are either technical in nature or are less burdensome than previous requirements, so that, other than as described above, further notice and other rulemaking prbcedure pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

The full text of the adopted and amended rules and forms follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

I. Item 19 of Form S–1 is amended to read as follows:

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

* * * * *

Item 19. Security Ownership of Certain Beneficial Owners and Management.

(a) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Securities Exchange Act of 1934 who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's voting securities. Show in Column (3) the total number of shares beneficially owned and in Column (4) the percent of class so owned. Of the number of shares shown in Column (3), indicate, by footnote or otherwise, the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership, as specified in Rule 13d–3(d)(1) under the Exchange Act (17 CFR 240.13d–3(d)(1)).

(1) Title of class	(2) Name and address of beneficial owner	(3) Amount beneficially owned	(4) Percent of class

(b) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned by all directors and officers of the registrant as a group, without naming them. Show in Column (2) the total number of shares beneficially owned and in Column (3) the percent of class so owned. Of the number of shares shown in Column (2), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership as specified in Rule 13d–3(d)(1) under the Exchange Act.

(1) Title of class	(2) Amount beneficially owned	(3) Percent of class

(c) Describe any arrangements, known to the registrant, including any pledge by any person of securities of the registrant or any of its parents, the operation of which may at a subsequent date result in a change in control of the registrant.

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the registrant or its subsidiaries; however, such calculations may be made on the basis of outstanding securities plus securities deemed outstanding pursuant to Rule 13d–3(d)(1) under the Exchange Act provided appropriate disclosure is made as to the method of calculating.

2. For the purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d–3 (17 CFR 240.13d–3) under the Exchange Act.

3. The registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to Section 13(d) of the Exchange Act. A registrant may rely upon information set forth in such statements unless the registrant knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. For purposes of furnishing information pursuant to paragraph (a), the registrant may indicate the source and date of such information.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

6. Paragraph (c) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the registrant.

7. If the equity securities are being registered in connection with, or pursuant to, a plan of acquisition, reorganization, readjustment or succession, indicate as far as practicable the status to exist upon consummation of the plan on the basis of present holdings and commitments.

8. If any of the securities being registered are to be offered for the account of security holders, name each such security holder and state the amount of securities owned by him, the amount to be offered for his account, and the amount to be owned after the offering.

9. If, to the knowledge of the registrant or any principal underwriter of the securities being registered, more than five percent of any class of voting securities of the registrant are held or are to be held subject to any voting trust or similar arrangement, state the title of such securities, the amount held or to be held and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.

* * * * *

Item 18 of Form S–11 is amended to read as follows:

§ 239.18 Form S–11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

* * * * *

Item 18. Security Ownership of Certain Beneficial Owners and Management. (a) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in Section 13(d)(3) of the Securities Exchange Act of 1934) who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's equity securities. Show in Column (3) the total number of shares beneficially owned and in Column (4) the percent of class so owned. Of the number of shares shown in Column (3), indicate, by footnote or otherwise, the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership as specified in Rule 13d–3(d)(1) under the Exchange Act (17 CFR 240.13d–3(d)(1)).

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(1) Title of class	(2) Name and address of beneficial owner	(3) Amount beneficially owned	(4) Percent of class

(b) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned by all officers and directors of the registrant and their associates, as a group, without naming them. Show in Column (2) the total number of shares beneficially owned and in Column (3) the percent of class so owned. Of the number of shares shown in Column (2), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership, as specified in Rule 13d–3(d)(1) under the Exchange Act.

(1) Title of class	(2) Amount beneficially owned	(3) Percent of class

(c) Describe any arrangements, known to the registrant, including any pledge by any person of securities of the registrant or any of its parents, the operation of which may at a subsequent date result in a change in control of the registrant.

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the registrant or its subsidiaries; however, such calculations may be made on the basis of outstanding securities plus securities deemed outstanding pursuant to Rule 13d–3(d)(1) under the Exchange Act provided appropriate disclosure is made as to the method of calculating.

2. For the purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d–3 under the Exchange Act (17 CFR 240.13d–3).

3. The registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to Section 13(d) of the Exchange Act. A registrant may rely upon information set forth in such statements unless the registrant knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. For purposes of furnishing information pursuant to paragraph (a), the registrant may indicate the source and date of such information.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

6. Paragraph (c) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the registrant.

7. If securities are being registered in connection with, or pursuant to, a plan of acquisition, reorganization, readjustment or succession, indicate as far as practicable the status to exist upon consummation of the plan on the basis of present holdings and commitments.

8. If any of the securities being registered are to be offered for the account of security holders, name each such security holder and state the amount of securities owned by him, the amount to be offered for his account, and the percentage of securities of the class (computed in accordance with instruction 1) to be owned after the offering if all of the securities offered for his account are sold.

9. If, to the knowledge of the registrant or any principal underwriter of the securities being registered, more than five percent of any class of voting securities of the registrant are held or to be held subject to any voting trust or other similar agreement, state the title of such securities, the amount held or to be held and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.

* * * * *

(Secs. 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; 15 U.S.C. 77g, 77j, 77s(a).)

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

II. 17 CFR Part 240 is amended by revising Regulation 13D to read as follows:

REGULATION 13D

§ 240.13d–1 Filing of Schedule 13D (§ 240.13d–101).

(a) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to Section 12 of the Act, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in Section 12(g)(2)(G) of the Act, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, is directly or indirectly the beneficial owner of more than five percent of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing the information required by Schedule 13D (§ 240.13d–101). Eight copies of the statement, including all exhibits, shall be filed with the Commission. At the time of filing the statement, the person making the filing shall pay to the Commission a fee of $100, no part of which shall be refunded. For the purposes of section 13(d), any person, in determining the amount of outstanding shares of a class of equity securities, may rely upon information set forth in the issuer's most recent quarterly or annual report, and any current report subsequent thereto, filed with the Commission pursuant to this Act, unless he knows or has reason to believe that the information contained therein is inaccurate.

(b) Whenever two or more persons are required to file a statement pursuant to section 13(d) with respect to the same securities, only one acquisition statement need be filed, *Provided*, That:

(1) Each person on whose behalf the acquisition statement is filed is responsible for the timely filing of such statement and any amendments thereto, and for the completeness and accuracy of the information contained therein; and

(2) Such acquisition statement shall identify all such persons, shall contain the required information with regard to each such person, shall indicate that such statement is filed on behalf of all such persons, and shall include, as an exhibit, their agreement in writing that such a statement is filed on behalf of each of them.

§ 240.13d–2 Filing of amendments.

If any material change occurs in the facts set forth in the statement required by § 240.13d–1 (Rule 13d–1), the person or persons who were required to file such statement shall promptly file or cause to be filed with the Commission and send or cause to be sent to the issuer and to each exchange on which the security is traded an amendment disclosing such change. Eight copies of each such amendment shall be filed with the Commission. No additional filing fee shall be required for any such amendment.

§ 240.13d–3 Determination of beneficial owner.

(a) For the purposes of section 13(d) of the Act a beneficial owner of a security includes any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(1) *Voting power* which includes the power to vote, or to direct the voting of, such security; and/or,

(2) *Investment power* which includes the power to dispose, or to direct the disposition, of such security.

(b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of section 13(d) of the Act shall be deemed for purposes of such section to be the beneficial owner of such security.

(c) All securities of the same class beneficially owned by a person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such person.

(d) Notwithstanding the provisions of other paragraphs of this rule:

(1) A person shall be deemed to be the beneficial owner of a security, subject to the provisions of paragraph (b) of this section, if that person has the right to acquire beneficial ownership of such security, as defined in Rule 13d–3(a) (§ 240.13d–3(a)) at any time within sixty days including but not limited to any right to acquire: (i) Through the exercise of any option, warrant or right; (ii) Through the conversion of a security or (iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement. Any securities not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by such person, but shall not be deemed to be outstanding for the purpose of computing the percentage of the class by any other person.

(2) A member of a national securities exchange shall not be deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because such member is the record holder of such securities and, pursuant to the rules of such exchange, may direct the vote of such securities, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted, but is otherwise precluded by the rules of such exchange from voting without instruction.

(3) A person who in the ordinary course of business is a pledgee of securities pursuant to a bona fide pledge agreement shall not be deemed to be the beneficial owner of such pledged securities merely because there has been a default under such an agreement, except during such time as the event of default shall remain uncured for more than thirty days or at any time before a default is cured if the power acquired by the pledgee pursuant to the default enables him to change or influence control of the issuer.

§ 240.13d–4 Disclaimer of beneficial ownership.

Any person may expressly declare in any statement filed that the filing of such statement shall not be construed as an admission that such person is, for the purposes of section 13(d), the beneficial owner of any securities covered by the statement.

§ 240.13d–5 Short form acquisition notice.

(a) A person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class described in section 13(d)(1) of the Act, is directly or indirectly the beneficial owner of more than five percent of such class may, in lieu of filing a Schedule 13D (§ 240.13d–101) statement required by section 13(d)(1) of the Act, file with the Commission, within ten days after the end of the calendar quarter in which such person became obligated to report under section 13(d)(1), with a non-refundable fee of $100, eight copies, including all exhibits, of a short form notice on Form 13D–5 (§ 240.13d–102) and send one copy each of such form, by registered or certified mail, to the issuer of the security at its principal executive office and to the principal national securities exchange where the security is traded, provided that:

(1) Such person has acquired such securities in the ordinary course of his business and not with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to Rule 13d–3(b) (§ 240.13d–3(b)); and

(2) Such person is:

(i) A broker or dealer registered under section 15 of the Act; or

(ii) A bank as defined in section 3(a)(6) of the Act; or

(iii) An investment company registered under section 8 of the Investment Company Act of 1940; or

(iv) An investment adviser registered under section 203 of the Investment Advisers Act of 1940; or

(v) An employee benefit plan, pension fund or an endowment fund; or

(vi) A parent holding company, provided that: (A) The Form is being used to report the indirect acquisition of the beneficial ownership of securities acquired by a subsidiary and (B) Such subsidiary is a person specified in Rule 13d–5(a)(2) (§ 240.13d–5(a)(2)); or

(vii) A group, provided that: (A) All the members are persons specified in Rule 13d–5(a)(2) (§ 240.13d–5(a)(2)) and (B) The securities were acquired in a transaction exempt pursuant to section 4(2) of the Securities Act of 1933; and

(3) Such person has promptly notified any other person (or group as defined in section 13(d)(3)) on whose behalf it holds, on a discretionary basis, securities exceeding five percent of the class, of any acquisition or transaction on behalf of such other person which might be reportable by that person under section 13(d). This subsection only requires notification to the beneficial owner(s) of information as to which the filing person reasonably might be expected to know, which would notify the account owner of a possible obligation he may have to file a notice under section 13(d) of the Act or an amendment thereto.

(b) Notwithstanding Rule 13d–2 (§ 240.13d–2), and provided that such person continues to meet the requirements set forth in Rule 13d–5(a) (§ 240.13d–5(a)), any person who has filed a short form acquisition notice on Form 13D–5 (§ 240.13d–102) shall amend such form within ten days after the end of each calendar quarter to reflect, as of the end of the quarter,

(1) All increases of the beneficial ownership of securities of the same class during the quarter, and

(2) All decreases of the beneficial ownership of securities of the same class during the quarter, including any decrease in the percentage of the class beneficially owned to five percent or less.

Eight copies of such amendment, including all exhibits, shall be filed with the Commission and one each sent, by registered or certified mail, to the issuer of the security at its principal executive office and to the principal national securities exchange where the security is traded. No additional filing fee is required for any such amendment. Once an amendment has been filed reflecting beneficial ownership of five percent or less of the class of securities, no additional filings are required unless the person thereafter becomes the beneficial owner of more than five percent of the class.

(c) Notwithstanding paragraphs (a) and (b) of this section, if any person who has filed a short form acquisition notice on Form 13D–5 (§ 240.13d–102) would not be presently eligible to use such Form to report an additional acquisition, such person shall immediately become subject to Rule 13d–1 (§ 240.13d–1) and shall file an acquisition statement thereunder on Schedule 13D in the event such person is a beneficial owner at that time of more than five percent of the class of equity securities.

§ 240.13d–6 Acquisition of securities.

(a) A person who becomes a beneficial owner of securities pursuant to § 240.13d–3 shall be deemed to have acquired such securities for purposes of section 13(d)(1), whether such acquisition was through purchase or otherwise.

(1) The executors or administrators of the estate of a decedent generally will be presumed not to have acquired beneficial ownership of the securities in the decedent's estate until such time as such executors or administrators are qualified under local law to perform their duties.

(b) When two or more persons agree, orally or in writing, to act together for the purpose of acquiring, holding or disposing of securities of an issuer, the group formed thereby shall be deemed to have acquired, as of the date of such agreement, beneficial ownership of all securities of that issuer beneficially owned by any such persons, for purposes of section 13(d)(1).

(1) The group's filing obligation may be satisfied either by a single joint filing or by each of the group's members making an individual filing. If the group's members elect to make their own filings, each such filing should identify all members of the group but the information provided need only reflect the extent of their individual knowledge.

§ 240.13d–7 Exemption of certain acquisitions.

(a) An acquisition of equity securities of a class described in section 13(d)(1) by a person engaged in business as an underwriter of securities, through his participation in good faith in a firm commitment underwriting registered under the Securities Act, shall be deemed not to be an acquisition for purposes of section 13(d), provided that any such securities which are beneficially owned by such person for more than forty days shall be deemed to have been acquired for purposes of section 13(d) at the end of such forty day period.

(b) Acquisitions of securities of an issuer by a person who prior to such acquisition was the beneficial owner of more than five percent of the outstanding securities of the same class as those acquired shall be exempt from section 13(d) of the Act, provided that:

(1) The acquisition is made pursuant to preemptive subscription rights in an offering made to all holders of securities of the class to which the preemptive subscription rights pertain;

(2) Such person does not, through the exercise of such preemptive subscription rights, acquire more than his pro rata share of the securities; and

(3) The acquisition is duly reported, if required, pursuant to section 16(a) of

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the Act and the rules and regulations thereunder.

§ 240.13d–101 Schedule 13D Information to be included in statements filed pursuant to § 240.13d–1 and § 240.14d–1.

SECURITIES AND EXCHANGE COMMISSION,
WASHINGTON, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934
(Amendment No. ____)

(Name of persons(s) filing statement)

(Name of issuer)

(Title of class of securities)

(CUSIP Number)

(Name, address and telephone number of person authorized to receive notices and communication)

(Date of event which requires filing of this statement)

NOTE.—Eight copies of this statement, including all exhibits, should be filed with the Commission.

Instructions. A. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer incomplete, unclear or confusing. Matter incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required.

C. If the statement is filed by a partnership, limited partnership, syndicate, or other group, the information called for by Items 2–6, inclusive, shall be given with respect to (i) Each partner of such partnership or each general partner of such limited partnership, (ii) Each member of such syndicate or group and (iii) Each person controlling such partner or member. If a person referred to in (i), (ii) or (iii) is a corporation or if the statement is filed by a corporation the information called for by the above mentioned items shall be given with respect to (a) Each executive officer and director of such corporation, (b) Each person controlling such corporation and (c) Each executive officer and director of any corporation ultimately in control of such corporation. Executive officer shall mean the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration or finance), and any other person who performs similar policy making functions for the corporation.

Item 1. Security and Issuer. State the title of the class of equity securities to which this statement relates and the name and address of the issuer of such securities.

Item 2. Identity and Background. State the following with respect to all persons by whom or on whose behalf the acquisition has been or is to be effected:

(a) Name;

(b) Residence or business address;

(c) Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on;

(d) Material occupations, positions, offices or employments during the last five years, giving the starting and ending dates of each and the name, principal business and location of any business corporation or other organization in which such occupation, position, office or employment was carried on;

Instruction. If a person has held various positions with the same organization, each and every such position need not be specifically disclosed. Likewise, if a person holds comparable positions with multiple related organizations, each and every such position need not be specifically disclosed.

(e) Whether or not, during the last five years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, any penalty imposed, or other disposition of the case; and

Instruction. A negative answer to this sub-item need not be furnished to security holders.

(f) Citizenship.

Item 3. Source and Amount of Funds or Other Consideration. State the source and amount of funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading the securities, a description of the transaction and the names of the parties thereto. If the securities were acquired otherwise than by purchase, describe the method of acquisition.

Item 4. Purpose of Transaction. State the purpose or purposes of the purchase or proposed purchase of securities of the issuer. If the purpose or one of the purposes of the purchase or proposed purchase is to acquire control of the business of the issuer, describe any plans or proposals which the purchasers may have to liquidate the issuer, to sell its assets or to merge it with any other person(s), or to make any other major change in its business or corporate structure, including, if the issuer is a registered closed-end investment company, any plans or proposals to make any changes in its investment policy for which a vote would be required by section 13 of the Investment Company Act of 1940.

Item 5. Interest in Securities of the Issuer. (a) State the aggregate number and percentage of the class represented by such shares beneficially owned (identifying those shares which there is a right to acquire) by each person named in Item 2 and by each associate and majority-owned subsidiary of such person, and identify and state the address of any such associate or subsidiary.

(b) For each person named in response to paragraph (a), indicate the nature of such person's beneficial ownership (i.e. voting power or investment power or both);

(c) Describe any transactions in the class of securities reported on that were effected during the past sixty days or since the most recent filing on Schedule 13D(§ 240.13d–101), whichever is less, by the persons named in response to paragraph (a) and by any executive officers, directors or affiliates of any subsidiary of such person;

(d) If any other person is known to have an economic interest in the securities reported on, including but not limited to the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, such securities, a statement to that effect should be included in response to this item and, if such interest relates to more than five percent of the class, such person should be identified. A listing of the shareholders of an investment company registered under the Investment Company Act of 1940 or the beneficiaries of an employee benefit plan, pension fund or endowment fund is not required;

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer. Furnish any information as to any contracts, arrangements, understandings or relationships (legal or otherwise) with any person with respect to any securities of the issuer, including but not limited to transfer or voting of any of the securities, finder's fees, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss, or guaranties of profits, division of profits or loss, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, understandings or relationships have been entered into and giving the details thereof. Include such information for any of the securities that are pledged or otherwise subject to a contingency the occurrence of which would give another person voting power or investment power over such securities except that disclosure of standard default and similar provisions contained in loan agreements need not be included.

Item 7. Persons Retained, Employed or to be Compensated. Where the Schedule 13D (§ 240.13d–101) relates to a tender offer, or request or invitation for tenders, identify all persons and classes of persons employed, retained or to be compensated by the person filing this Schedule 13D, or by any person on his behalf, to make solicitations or recommendations to security holders and describe briefly the terms of such employment, retainer or arrangement for compensation.

Item 8. Material to be Filed as Exhibits. Copies of all requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders, additional material soliciting or requesting such tender offers, solicitations or recommendations to the holders of the security to accept or reject a tender offer or request or invitation for tenders shall be filed as an exhibit.

Signature. I certify that to the best of my knowledge and belief the information set forth in this statement is true, complete and correct.

Date Signature

Name/Title

The statement shall be signed by each person on behalf of whom the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative, evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

§ 240.13d–102 Form 13D–5 Short Form Acquisition Notice pursuant to § 240.13d–5 under the Securities Exchange Act of 1934.

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 13D–5, SHORT FORM ACQUISITION NOTICE

Pursuant to Rule 13d–5 under the Securities Exchange Act of 1934.

(Amendment No.)

1(a) *Name of Person Filing:* ____
1(b) *Business Address of Principal Office:* ____
2(a) *Name of Issuer:* ____
2(b) *Title of Class of Securities:* ____
2(c) *CUSIP Number:* ____

3. *Check whether the person filing is a:*
(a) ☐ Broker or Dealer registered under Section 15 of the Act.
(b) ☐ Bank as defined in section 3(a)(6) of the Act.
(c) ☐ Investment Company registered under section 8 of the Investment Company Act.
(d) ☐ Investment Adviser registered under section 203 of the Investment Advisers Act of 1940.
(e) ☐ Employee Benefit Plan, Pension Fund or Endowment Fund (see § 240.13d–5(a)(2)(v)).
(f) ☐ Parent Holding Company, in accordance with § 240.13d–5(a)(2)(vi) (Note: See Item 7).
(g) ☐ Group, in accordance with § 240.13d–5(a)(2)(vii) (Note: See Item 8).

4. *Ownership.* (a) During the period covered by this statement and during which the filing person(s) was the beneficial owner of more than five percent of the class, state the aggregate number of such securities as to which there was an increase or decrease in beneficial ownership:
Increases: ____ Decreases: ____
(b) As of the date of this notice, if the percent of the class owned is five percent or more, provide the following information:
(1) Amount Beneficially Owned: ____
(2) Percent of Class: ____
(3) Number of Accounts or Other Entities for Whom Securities are Owned: ____

5. *Ownership of Five Percent or Less of Class.* State the date or dates on which the filing person commenced and/or ceased to be the beneficial owner of more than five percent of the class of securities.

6 *Ownership of More than Five Percent on Behalf of Another Person.* If another person is known to have an economic interest in the securities reported on, including but not limited to the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, such securities and this interest relates to more than five percent of the class of securities, attach an exhibit containing the information required by Item 6 of Schedule 13D with respect to that person. This item does not require a listing of the shareholders of an investment company registered under the Investment Company Act of 1940 or the beneficiaries of an employee benefit plan, pension fund or endowment fund.

7. Identification and Classification of the Subsidiary Which Acquired the Security Being Reported on by the Parent Holding Company. If a parent holding company has filed this Form, so indicate under Item 3(g) and attach an exhibit stating the identity and the Item 3 classification of the relevant subsidiary.

8. *Identification and Classification of Members of the Group.* If a group has filed this Form, so indicate under Item 3(h) and attach an exhibit stating the identity and the Item 3 classification of each member of the group.

9. *Notice of Dissolution of Group.* Notice of dissolution of a group may be furnished on an exhibit stating the date of the dissolution and that all further filings with respect to transactions in the security reported on will be filed, if required, by members of the group, in their individual capacity.

Signatures. I certify that, to the best of my knowledge and belief, the securities referred to above were acquired in the ordinary course of business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer of such securities and were not acquired in connection with or as a participant in any transaction having such purpose or effect.

Date of Notice Reporting Person

Signature and Title

NOTE.—Eight copies of this statement, including all exhibits, should be filed with the Commission.

(Secs. 3(b), 13(d)(1), 13(d)(2), 13(d)(5), 13(d)(6), 14(d)(1), 23; 48 Stat. 882, 894, 895, 901; sec. 203(a), 49 Stat. 704, sec. 8, 49 Stat. 1379; sec. 10, 78 Stat. 88a; secs. 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 84 Stat. 1497; secs. 3, 18, 89 Stat. 97, 155; 15 U.S.C. 78c(b), 78m(d)(1), 78m(d)(2), 78m(d)(5), 78m(d)(6), 78n(d)(1), 78w.)

PART 249—FARMS, SECURITIES EXCHANGE ACT OF 1934

III. Item 5 of Form 10 is amended to read as follows:

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

* * * * *

Item 5. *Security Ownership of Certain Beneficial Owners and Management.* (a) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Act) who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's voting securities. Show in Column (3) the total number of shares beneficially owned and in Column (4) the percent of class so owned. Of the number of shares shown in Column (3), indicate, by footnote or otherwise, the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership as specified in Rule 13d–3(d)(1) under the Act (17 CFR 240.13d–3(d)(1)).

(1)	(2)	(3)	(4)
Title of class	Name and address of beneficial owner	Amount beneficially owned	Percent of class

(b) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned by all directors and officers of the registrant as a group, without naming them. Show in Column (2) the total number of shares beneficially owned and in Column (3) the percent of class so owned. Of the number of shares shown in Column (2), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership, as specified in Rule 13d–3(d)(1) under the Act.

(1)	(2)	(3)
Title of class	Amount beneficially owned	Percent of class

(c) Describe any arrangements, known to the registrant, including any pledge by any person of securities of the registrant or any of its parents, the operation of which may at a subsequent date result in a change in control of the registrant.

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the registrant or its subsidiaries; however, such calculations may be made on the basis of outstanding securities plus securities deemed outstanding pursuant to Rule 13d–3(d)(1) under the Act provided appropriate disclosure is made as to the method of calculating.

2. For the purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d–3 under the Act (17 CFR 240.13d–3).

3. For purposes of furnishing information pursuant to paragraph (a), the registrant may indicate the source and date of such information. When applicable, the registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to Section 13(d) of the Exchange Act. A registrant may rely upon information set forth in such statements unless the registrant knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

5. Paragraph (c) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the registrant.

* * * * *

Item 14 of Form 10–K is amended to read as follows:

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Item 14. Security Ownership of Certain Beneficial Owners and Management. (a) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Act) who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's voting securities. Show in Column (3) the total number of shares beneficially owned and in Column (4) the percent of class so owned. Of the number of shares shown in Column (3), indicate, by footnote or otherwise, the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership as specified in Rule 13d–3(d)(1) under the Act (17 CFR 240.14d–3(d)(1)).

(1)	(2)	(3)	(4)
Title of class	Name and address of beneficial owner	Amount beneficially owned	Percent of class

(b) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned by all directors and officers of the registrant as a group, without naming them. Show in Column (2) the total number of shares beneficially owned and in Column (3) the percent of class so owned. Of the number of shares shown in Column (2),

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indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownship as specified in Rule 13d–3(d)(1) under the Act.

(1)	(2)	(3)
Title of class	Amount beneficially owned	Percent of class

(c) Describe any arrangements, known to the registrant, including any pledge by any person of securities of the registrant or any of its parents, the operation of which may at a subsequent date result in a change in control of the registrant.

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the registrant or its subsidiaries; however, Such calculations may be made on the basis of outstanding securities plus securities deemed outstanding pursuant to Rule 13d–3(d)(1) under the Act provided appropriate disclosure is made as to the method of calculating.

2. For the purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d–3 under the Act (17 CFR 240.13d–3).

3. The registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to Section 13(d) of the Act. A registrant may reply upon information set forth in such statements unless the registrant knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. For purposes of furnishing information pursuant to paragraph (a), the registrant may indicate the source and date of such information.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

6. Paragraph (c) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the registrant.

Items 5 and 6 of Schedule 14A are amended to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 5. Voting Securities and Ownership Thereof By Certain Beneficial Owners and Management.

(a) * * *

(b) * * *

(c) * * *

(d) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Act) who is known to the persons on whose behalf the solicitation is made to be the beneficial owner of more than five percent of any class of the issuer's voting securities. Show in Column (3) the total number of shares beneficially owned and in Column (4) the percent of class so owned. Of the number of shares shown in Column (3), indicate, by footnote or otherwise, the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership as specified in Rule 13d–3(d)(1) under the Act (§ 240.13d–3(d)(1)).

(1)	(2)	(3)	(4)
Title of class	Name and address of beneficial owner	Amount beneficially owned	Percent of class

(e) Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of voting securities of the issuer or of its parent, other than directors' qualifying shares, beneficially owned by all directors and officers of the issuer as a group, without naming them. Show in Column (2) the total number of shares beneficially owned and in Column (3) the percent of class so owned. Of the number of shares shown in Column (2), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership as specified in Rule 13d–3(d)(1) (§ 240.13d–3(d)(1)) under the Act.

(1)	(2)	(3)
Title of class	Amount beneficially owned	Percent of class

(f) If, to the knowledge of the persons on whose behalf the solicitation is made, a change in control of the issuer has occurred since the beginning of its last fiscal year, state the name of the person or persons who acquired such control, the date and a description of the transaction or transactions in which control was acquired and the percentage of voting securities of the issuer now owned by such person or persons.

(g) Describe any arrangements known to the persons on whose behalf the solicitation is made, including any pledge by any person of securities of the issuer or any of its parents, the operation of which may at a subsequent date result in a change in control of the issuer.

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the issuer or its subsidiaries; however, such calculations may be made on the basis of outstanding securities plus securities deemed outstanding pursuant to Rule 13d–3(d)(1) (§ 240.13d–3(d)(1)) under the Act provided appropriate disclosure is made as to the method of calculating.

2. For the purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d–3 under the Act (§ 240.13d–3).

3. Persons on whose behalf the solicitation is made shall be deemed to know the contents of any statements filed with the Commission pursuant to section 13(d) of the Act. Such persons may rely upon information set forth in such statements unless they know or have reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. For purposes of furnishing information pursuant to paragraph (d), the source and date of such information may be indicated.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

6. Paragraph (g) does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the issuer.

Item 6. Nominees and Directors.

(a) * * *

(5) * * *

Instruction. For purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d–3 under the Act (§ 240.13d–3).

* * * * *

Item 3 of Schedule 14B is amended to read as follows:

§ 240.14a–102 Schedule 14B. Information to be included in statements filed by or on behalf of a participant (other than an issuer pursuant to § 240.14a–11(c) (Rule 14a–11(c)).

* * * * *

Item three. Interests in securities of the issuer.

* * * * *

(g) * * *

Instruction. For purposes of this item, beneficial ownership shall be determined in accordance with Rule 13d–3 under the Act (§ 240.13d–3).

* * * * *

(Secs. 12, 13, 14, 15(d), 23, 48 Stat. 892, 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 3, 4, 5, 6, 10, 76 Stat. 565–568, 569, 570–574, 580a; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 28(c), 84 Stat. 1435, 1479; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 78l, 78m, 78n, 78o(d), 78w.)

By the Commission.

Dated: February 24, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–6358 Filed 3–2–77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Rel. No. 34–13292; File No. S7–677]

BENEFICIAL OWNERSHIP DISCLOSURE REQUIREMENTS

Additional Proposed Amendments and Withdrawal of Proposal

The Securities and Exchange Commission today announced proposed amendments to new Rules 13d–3 (17 CFR 240.13d–3) and 13d–5 (17 CFR 240.13d–5) and new Schedule 13D (17 CFR 240.13d–101) relating to disclosure of beneficial ownership of securities of public companies. The Commission has also withdrawn proposed Item XA requiring disclosure of an issuer's thirty largest security holders of record and the ten largest voting blocks of its securities. This item was proposed for comment in Exchange Act Release No. 11616 (August 25, 1975) (40 FR 42212). These announcements were made at the same time that the Commission announced adoption of extensive amendments to existing rules and Schedule 13D and new rules and a short form acquisition notice, under Section 13(d) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). See FR Doc. 77–6358 appearing at page 12342 of this issue, Exchange Act Release No. 34–13291 (February 24, 1977). The additional amendments are being proposed at this time because the Commission believes that their adoption would be in the public interest, but that they cover areas which have not been specifically subject to public comment in the prior proposals.[1]

PROPOSED AMENDMENTS TO RULE 13d–3

As adopted, Rule 13d–3 provides standards for determining beneficial ownership for the purposes of section 13(d) which are based on voting power and investment power. Pursuant to Rule 13d–3(d)(1) a person is deemed to be the beneficial owner of securities which that person has the right to acquire within 60 days pursuant to the exercise of an option, warrant or right; the conversion of a convertible security; or the power to revoke a trust, discretionary account, or similar arrangement. One proposed amendment to Rule 13d–3(1) would, if adopted, eliminate the present 60 day time period so that a person would be deemed the beneficial owner of securities which such person has the right to acquire at any time through the exercise of a option, warrant, right or power to revoke.

Another proposed amendment to Rule 13d–3(d)(1) would provide that a person would be deemed the beneficial owner of securities such person has the right to acquire, within a specified period of time, through the automatic termination of a trust, discretionary account or similar arrangement. For example, a beneficiary of a trust who, pursuant to the trust agreement, is to acquire beneficial ownership of all securities held in the trust upon reaching the age of 21 would be deemed to be the beneficial owner of the securities within a specified time before his or her 21st birthday. If the securities to be acquired exceed 5% of the class, such beneficial owner would have a filing obligation under Section 13(d) at the start of the time period although this requirement could be satisfied by a filing by the trustee.

The Commission is considering whether a specified time period of one to two years, or a longer period such as five years, would be appropriate for purposes of this proposed amendment to Rule 13d–3(d)(1). The Commission is aware, however, of the need to balance the interests of issuers and their security holders in learning about beneficial owners of large blocks of issuer stock against the burdens placed on beneficial owners required to report. Therefore, the Commission specifically invites comment on what would be the appropriate lead time for reporting securities to be acquired upon the automatic termination of one of the enumerated arrangements.

The Commission is of the view that these proposed amendments are consistent with the purposes of the Williams Act in that they would, if adopted, result in issuers, their security holders and the Commission receiving necessary information about persons with significant beneficial interests in large blocks of an issuer's stock.

PROPOSED AMENDMENTS TO RULE 13d–5

As adopted today, new Rule 13d–5 provides that certain persons may file a short form acquisition notice (Form 13D–5) (17 CFR 240.13d–102) instead of the longer Schedule 13D to report their ownership of securities. The group of persons eligible to use the short form includes certain brokers, dealers, banks, investment companies, investment advisers, employee benefit plans, and parents and groups of these persons, which, for the most part, are domestic entities. The Commission is of the view that certain other entities which are similar in nature, but which are not domestic entitites, perhaps should be eligible to use the short form. Therefore, it is proposing an amendment to Rule 13d–5 which, if adopted, would provide that similar types of persons, although not domestic entities, may use the short form provided that such persons agree to make available to the Commission in the United States the same information they would be required to furnish in responding to the disclosure requirements of Schedule 13D.

Another proposed amendment to Rule 13d–5 would, if adopted, cause the short form to be unavailable if any of the securities being reported on were purchased at the direction of another person. The amendment is intended to assure further that such securities were acquired in the ordinary course of business and not with the purpose or effect of changing or influencing the control of the issuer.

The final proposed amendment to Rule 13d–5 is designed to limit the use of the short form and is proposed as an aid to the Commission's enforcement program of the federal securities laws. The amendment would create a presumption that the acquisition of 10 percent or more of a class of an issuer's equity securities by the reporting person would not be deemed to have been acquired in the ordinary course of business. The presumption would preclude use of the short form when an acquisition causes the reporting person to exceed the 10 percent amount and require the reporting person immediately to file on the long form. Schedule 13D, pursuant to Rule 13d–5(c).

PROPOSED AMENDMENT OF ITEM 2. SCHEDULE 13D

The Commission is proposing to amend Item 2 of Schedule 13D to require the disclosure of a reporting person's involvement in civil proceedings concerning securities violations at both the federal and state level during the preceding five year period. This requirement would parallel the item contained in the proposed tender offer schedule.[2] It is believed that the information would be helpful to the Commission's enforcement program and be in the public interest.

PROPOSED AMENDMENT OF ITEM 4: SCHEDULE 13D

At present, Item 4 of Schedule 13D requires disclosure of the purpose(s) of the purchase or proposed purchase being reported on and, if one of the purposes is to acquire control of the issuer, Item 4 also requires disclosure about any plans of the reporting person to liquidate the issuer, to sell its assets, to merge it with any other person or to make any other change in the issuer's business or corporate structure. As proposed herein, Item 4 would be amended to conform to a similar item included in the Commission's proposed Tender Offer Statement, Schedule 14D–1. Thus, the amended item would, if adopted, require reporting persons to describe any such plans, whether or not one of the purposes of the purchase or proposed purchase is to acquire control of the issuer. In addition, the item would also be expanded to require disclosure about types of plans of the purchaser not specifically required now, including plans relating to: any extraordinary corporate transaction involving the issuer or its subsidiaries; any change in the issuer's board of directors or management; any material change in the issuer's present capitalization or dividend policy; the delisting of a class of the issuer's securities from a national securities exchange; or a class of the issuer's equity securities becoming eligible for termination of registration pursuant to Section 12(g) of the Act.

[1] The earlier proposed amendments under Section 13(d) adopted today, as well as Item XA, appeared in Securities Exchange Act Release No. 11616 (August 25, 1975) (40 FR 42213).

[2] Item 5 of Proposed Schedule 14D–1 (§ 240.14d–101); Exchange Act Release No 34–12676 (August 6, 1976) (41 FR 33004).

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PROPOSED AMENDMENT OF ITEM 8, SCHEDULE 13D

As presently structured, Item 8 of Schedule 13D is designed to require exhibits only insofar as a tender offer is involved. The staff of the Commission has noted that supporting documents for responses to Schedule 13D items outside of the tender offer situation are sometimes necessary. Consequently, the Commission proposes to amend the exhibit item to Schedule 13D to require the filing as exhibits any supporting documentation for responses to Items 3, 4 and 6 of the schedule. The proposed item will also carry over the existing requirement of Rule 13d–1(b)(2) to file as an exhibit the written agreement of two or more persons required to file an acquisition statement covering the same securities pursuant to which they agree to file only one statement.

While not for purposes of public commentary, the Commission is also using this opportunity to indicate that Items 7 and 8 of Schedule 13D which are presently designed to elicit information concerning tender offers will be revised or eliminated from the schedule at such time as a separate tender offer schedule is adopted.

PROPOSED AMENDMENTS

Attention: The text of the following proposed amendments uses ►◄ arrows to indicate additions and [ ] brackets to indicate deletions.

§ 240.13d–3 is proposed to be amended to read as follows:

§ 240.13d–3 Determination of beneficial owner.

* * * * *

(d) Notwithstanding the provisions of the other paragraphs of this rule:

(1) A person shall be deemed to be the beneficial owner of a security, subject to the provisions of paragraph (b) of this rule, if that person has the right to acquire beneficial ownership of such security, as defined in Rule 13d–3(a) at any time [within 60 days] including but not limited to any right to acquire: (i) Through the exercise of any option, warrant or right; (ii) Through the conversion of a security; or [or] (iii) Pursuant to the power to revoke a trust, discretionary account, or similar arangement; ►or (iv) Pursuant to the automatic termination of a trust, discretionary account or similar arrangement within (1–5) years.◄ Any securities not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed outstanding for the purpose of computing the percentage of outstanding securities of the class owned by such person, but shall not be deemed to be outstanding for the purpose of computing the percentage of the class by any other person.

* * * * *

Section 240.13d–5 is proposed to be amended to read as follows:

§ 240.13d–5 Short form acquisition notice.

(a) * * *

(1) Such person ►has not purchased such securities at the direction of another person and◄ has acquired such securities in the ordinary course of his business and not with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with or as a participant in any transaction having such purpose of effect including any transaction subject to Rule 13d–3(b). ►It is presumed that any acquisition of 10 percent or more of a class of an issuer's securities shall not satisfy the conditions of this paragraph (a)(1).◄

* * * * *

►(4) However, any person who could meet the requirements of this rule except for the fact that such person is not organized under the laws of the United States or any State thereof may file a short form acquisition notice if the filing includes an undertaking that such person will make available to the Commission, upon request, in the United States such information as would be required concerning the reported transactions by Schedule 13D.◄

* * * * *

Items 2, 4, 7 and 8 of § 240.13d–101 are proposed to be amended to read as follows:

§ 240.13d–101 Schedule 13D—Information to be included in statements[s] filed pursuant to § 240.13d–1 ►,◄ [and § 240.14d–1.]

* * * * *

Item 2. Identity and Background.

* * * * *

(e) Whether or not, during the last five years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, any penalty imposed, or other disposition of the case; [and]

Instruction: A negative answer to this subitem need not be furnished to security holders.

►(f) Whether or not, during the last five years, such person was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting activities subject to, federal or state securities laws or finding liability with respect to such laws; and, if so, identify and describe such proceedings and summarize the terms of such judgment, decree or final order; and◄

[(f)] ►(g)◄ Citizenship.

* * * * *

Item 4. Purpose of transaction.

State the purpose or purposes of the purchase or proposed purchases of securities of the issuer. [If the purpose or one of the purposes of the purchase or proposed purchase is to acquire control of the business of the issuer,] Describe any plans or proposals which the purchasers may have [to liquidate the issuer, to sell its assets or to merge it with any other person(s), or to make any other major change in its business or corporate structure, including, if the issuer is a registered closed-end investment company, any plans or proposals to make any changes in its investment policy for which a vote would be required by section 13 of the Investment Company Act of 1940.] ►which relate to or would result in an extraordinary corporate transaction involving the issuer or its subsidiaries, including but not limited to:

(a) A merger or liquidation;

(b) A sale or transfer of a material amount of assets of the issuer or any of its subsidiaries;

(c) Any change in the present board of directors or management of the issuer, including any plans or proposals to change the number or term of directors or to fill any existing vacancies on the board;

(d) Any material change in the present capitalization or dividend policy of the issuer;

(e) Any other material change in the issuer's business or corporate structure, including, if the issuer is a registered closed-end company, any plans or proposals to make any changes in its investment policy for which a vote is required by section 13 of the Investment Company Act of 1940;

(f) The delisting of a class of securities of the issuer from a national securities exchange; or

(g) A class of equity securities of the issuer becoming eligible for termination of registration pursuant to section 12(g)(4) of the Act.◄

* * * * *

[*Item 7. Persons Retained, Employed or to be Compensated.* Where the Schedule 13D (§ 240.13d–101) relates to a tender offer, or request or invitation for tenders, identify all persons and classes of persons employed, retained or to be compensated by the person filing this Schedule 13D, or by any person on his behalf, to make solicitations or recommendations to security holders and describe briefly the terms of such employment, retainer or arrangement for compensation.]

Item [8.] ►7.◄ *Material to be Filed as Exhibits.* [Copies of all requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders, additional material soliciting or requesting such tender offers, solicitations or recommendations to the holders of the security to accept or reject a tender offer or request or invitation for tenders shall be filed as an exhibit.]

►Copies of written agreements relating to the filing of joint acquisition statements as required by Rule 13d–1(b)(2) (§ 240.13d–1(b)(2)) and copies of all written agreements, contracts, arrangements, understandings, plans or proposals relating to (1) the borrowing of funds to finance the acquisition as disclosed in Item 3, (2) the acquisition of issuer control, liquidation, sale of assets, merger, or change in business or corporate structure or any other matter as disclosed in Item 4, and (3) the transfer or voting of the securities, finders fees, joint ventures, options, puts, calls, guarantees of loans, guarantees against loss or of profits, or the giving or withholding of proxies as disclosed in Item 6 shall be filed as exhibits.◄

* * * * *

(Secs. 3(b), 13(d), 14(d), 23(a), 48 Stat. 883, 894, 895, 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; secs. 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 84 Stat. 1407; secs. 2, 12, 89 Stat. 97, 155; 15 U.S.C. 78c(b), 78m(d), 78n(d), 78w(a).)

OPERATION OF PROPOSALS

The Commission is mindful of the cost to reporting persons of its proposals and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to reporting persons of the adoption of the proposals published herein.

Pursuant to section 23(a)(2) of the Exchange Act, the Commission has considered the impact that these proposals would have on competition and is not aware, at this time, of any burden that such rules, if adopted, would impose on competition not necessary or appropriate in furtherance of the purposes of that Act. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

The Commission hereby proposes for comment proposed amendments to Rules 13d–3 and 13d–5 and Items 2, 4 and 8 of Schedule 13D pursuant to Sections 3(b), 13(d), 14(d), and 23(a) of the Exchange Act.

All interested persons are invited to submit their written views and comments on the foregoing proposals in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before April 15, 1977. Such communications should refer to file S7–677 and will be available for public inspection.

WITHDRAWAL OF PROPOSED ITEM

On August 25, 1975, the Commission proposed Item XA which would have required disclosure in proxy statements and certain other reporting forms and registration statements of the identification and holdings of each of the thirty largest record holders of each class of an issuer's voting securities.[1] The proposed item also sought information about persons with the power to direct the voting of the ten largest blocks of stock held of record. This proposal was based on the Interagency Steering Committee's "Model Corporate Disclosure Regulations." The Commission has determined, on the basis of public commentary, to withdraw the proposal because the information to be elicited would not provide material information to investors; that the proposed disclosures would be unnecessarily burdensome, and in some instances, might involve an unwarranted invasion of privacy. The Commission also takes note of the strongly asserted views that the required lists would be neither legally nor logistically feasible. Moreover, it was repeatedly indicated that the information would not appear to serve any distinct, necessary disclosure purpose under the federal securities laws, and could be utilized in takeover attempts to give the offeror an advantage not presently available and not intended by Congress to be made available through the enactment of the Williams Act.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER (40 FR 42212) on August 25, 1975 and circulated as Securities Exchange Act Release No. 11616 entitled "Item XA" is hereby withdrawn.

By the Commission.

Dated: February 24, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–6059 Filed 3–3–77;8:45 am]

[1] See note 1 supra.

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federal register

THURSDAY, MARCH 3, 1977

PART III

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

NOISE STANDARDS AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Noise Level Limits and Acoustical Change Requirements For Subsonic Transport Category Large Airplanes and For Subsonic Turbojet Powered Airplanes

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Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15131; Amdt. 36-7]

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Noise Level Limits and Acoustical Change Requirements for Subsonic Transport Category Large Airplanes and for Subsonic Turbojet Powered Airplanes

The purpose of this amendment to Part 36 of the Federal Aviation Regulations (14 CFR Part 36) is to provide for three stages of aircraft noise levels with specified limits, to prescribe definitions for classifying airplanes under each stage, to require applicants for new type certificates applied for on or after November 5, 1975, to comply with "Stage 3" noise limits which are more restrictive than those in current Appendix C (herein redesignated as "Stage 2"), and to prescribe the acoustical change requirements for airplanes in each noise level stage under Part 36. This amendment applies to subsonic transport category large airplanes and to subsonic turbojet powered airplanes. The primary basis for this amendment is § 611 of the Federal Aviation Act of 1958 (49 U.S.C. 1431), as amended by the Noise Control Act of 1972 (Pub. L. 92-574).

This amendment is based on Notice No. 75-37, published in the FEDERAL REGISTER on November 5, 1975 (40 FR 51476), as supplemented by Notice No. 75-37B (41 FR 5641; February 9, 1976). The period for submitting comments to the regulatory docket regarding the matters contained in Notice Nos. 75-37 and 75-37B closed March 8, 1976. Accordingly, interested persons have been afforded an opportunity to participate in this rule making. All comments submitted have been considered in the issuance of this amendment.

While this amendment is expected to produce significant reductions in the noise created by new aircraft designs, substantial local action will be necessary to complement the noise reduction actions of the Federal Government. The only successful attack that can be launched on the overall problem of aircraft noise is one that involves the cooperative participation of all levels of government, as well as airport operators, manufacturers, and airport neighbors. The responsibilities of these parties are stated in detail in the comprehensive "Aviation Noise Abatement Policy," issued jointly by the Secretary of Transportation and the Administrator on November 18, 1976. That document is available for examination in the FAA Rules Docket.

In addition to The Policy Statement, the FAA has issued a final environmental impact statement (EIS), dated December 7, 1976, concerning this amendment. This document (herein called "The EIS") has been placed in the public rules docket for this amendment. It contains detailed analyses concerning the need for this amendment and its estimated costs and benefits. The EIS also contains a discussions of the alternatives to taking this action and the data used in the environmental and inflationary impact analysis supporting this regulatory action.

I. REGULATORY HISTORY

1. Part 36 of the Federal Aviation Regulations "Noise Standards: Aircraft Type Certification" (34 FR 18355; November 18, 1969), which became effective December 1, 1969, originally prescribed noise measurement, noise evaluation, and noise level requirements for the issuance of type certificates, and changes to those certificates, for subsonic transport category airplanes, and for subsonic turbojet engine-powered airplanes, regardless of category. That regulation initiated the noise abatement regulatory program of the FAA under the statutory authority of Pub. L. 90-411 (July 21, 1968) which added § 611 to the Federal Aviation Act of 1958.

2. On November 5, 1975, the FAA published Notice No. 75-37, a notice of proposed rulemaking (NPRM) entitled "Proposed Noise Reduction Stages and Acoustical Change Requirements for Subsonic Transport Category Large Airplanes and Subsonic Turbojet Powered Airplanes" (40 FR 51476). That NPRM proposed to establish three levels (or stages) of aircraft noise with specified limits and to prescribe definitions for identifying those airplanes classified under each stage. (Those standards include the noise levels created by the airplane during original noise type certification tests.) Notice No. 75-37 also proposed to require applicants for new type certificates applied for on or after November 5, 1975, to comply with noise limits more restrictive than those in current Appendix C; it also proposed to increase the severity of the acoustical change requirements for airplanes that comply with current Appendix C of Part 36.

3. Notice No. 75-37A, a notice of extension of the comment period for Notice No. 75-37, was published on December 24, 1975 (40 FR 59447) in response to a petition for an extension to permit additional time for reviewing the proposal and preparing comments to the docket. The extended period also permitted submission of comments regarding the expansion of the proposed rule in accordance with the following supplemental notice of proposed rulemaking (Notice No. 75-37B).

4. On February 9, 1976, the FAA published a supplemental notice of proposed rulemaking (Notice No. 75-37B; 41 FR 5641), proposing that those provisions in Notice No. 75-37 which would apply to the type certification and acoustical change approval of airplanes with two engines also be applied to single-engine turbojet powered airplanes and single-engine transport category airplanes (regardless of engine type).

5. On July 25, 1975 (40 FR 31255), the Council on Environmental Quality published in the FEDERAL REGISTER a notice of availability for public review and comment regarding a draft environmental impact statement prepared by the FAA regarding the rule proposed in Notice No. 75-37.

6. On October 1, 1976, pursuant to § 611(c)(1) of the Federal Aviation Act of 1958 (the Act), as amended by the Noise Control Act of 1972 (Public Law 92-574), the U.S. Environmental Protection Agency (EPA) submitted to the FAA its recommended regulation to amend FAR Part 36 to supplement and complement the proposals in Notice No. 75-37 by providing additional stages for noise reduction in 1980 and 1985. The EPA proposed to adopt the acoustical change provisions proposed by the FAA in Notice No. 75-37. Revised noise test procedures and conditions, as well as applying Part 36 noise standards to all propeller-driven large airplanes were also recommended by the the EPA proposed rule. That EPA recommended regulation, which is contained in Notice No. 76-22 (41 FR 47352; October 28, 1976; and 41 FR 53807; December 9, 1976), is discussed in greater detail below. The period for submitting written comments to the Rules Docket on the proposal contained in Notice No. 76-22 closes on February 28, 1977.

7. Another supplemental notice of proposed rule making (SNPRM) regarding FAR Part 36 noise levels, Notice No. 75-37C, was also published in the FEDERAL REGISTER on October 28, 1976 (41 FR 47375). That SNPRM proposed certain alternative noise reduction stages and acoustical change requirements to those previously proposed by the FAA. As discussed in that notice, those proposals, including specified changes in the noise measuring points and test procedure, were based on draft modifications to ICAO Annex 16 subsequently adopted by the Interantional Civil Aviation Organization (ICAO) and currently under consideration for ratification by the United States and other member States. Comments regarding the alternative proposals in Notice No. 75-37C may be submitted to the docket until February 28, 1977.

8. Pursuant to Section 611(b)(1) of the Act, the FAA has consulted with the Secretary of Transportation and the EPA prior to adoption of this amendment. Also, submission of this amendment to the EPA for review and comments prior to its adoption is in accordance with § 309 of the Clean Air Act, as amended (42 U.S.C. 1857 h-7), and the guidelines of the Council on Environmental Quality contained in 40 CFR 1500.9(b).

9. As previously indicated, a final environmental impact statement (EIS), reflecting this amendment and the comments received on the draft EIS was issued on December 7, 1976, in conjunction with this regulatory action in accordance with the National Environmental Policy Act of 1969 and implementing guidelines of the Council on Environmental Quality.

II. RELATIONSHIP TO PRIOR RULE MAKING

This amendment is an important part of the FAA's overall aircraft noise control and abatement program. The adoption of FAR Part 36 in 1969 prohibited

the further escalation of aircraft noise levels of subsonic civil turbojet and transport category airplanes and required new airplane types to be markedly quieter than the generation of turbojets that were developed in the late 1950's and early 1960's. Since the adoption of Part 36, the FAA has issued a number of notices proposing amendments to its provisions and, subsequent to notice and public procedure, has adopted those amendments which have been found to conform to the statutory authority and responsibility conferred upon the FAA by the Congress. Those amendments have increased the protection of the public health and welfare by providing the control and abatement of aircraft noise and sonic boom under § 611 of the Federal Aviation Act of 1958, as amended. Further amendments and proposed amendments are currently under consideration by the FAA for future issuance.

In considering amendments under the authority of § 611 of the Act, factors which the FAA must consider include the following:

1. Available data relating to aircraft noise, including the results of research, development, testing, and related evaluation activities.

2. The views and positions of other Federal, State, and interstate agencies.

3. Whether the proposed regulations are consistent with the highest degree of safety in air commerce and air transportation in the public interest.

4. Whether proposed regulations are: (a) Economically reasonable; (b) Technologically practicable; and (c) Appropriate for the particular types of aircraft, aircraft engines, appliance, or certificates to which they would apply.

5. The extent to which the proposed regulations contribute to providing protection to the public health and welfare by carrying out the purpose of § 611 of the Act.

The overall environmental impacts of the proposed regulations (including environmental factors other than noise) must be assessed in accordance with the National Environmental Policy Act of 1969, and implementing Federal guidelines and directives.

Further, in exercising the authority under the Act, § 1102 requires the Administrator to do so "* * * consistently with any obligations assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and any foreign country. * * *"

Thus, in furtherance of its aircraft noise policy and its responsibility to issue appropriate rules for the control and abatement of aircraft noise and sonic boom, the FAA has adopted amendments to the Federal Aviation Regulations (FARs). A summary of those regulatory actions is presented in the preamble to FAR Amendment 91-136 (41 FR 56046; December 23, 1976). FAR Amendment 91-136 prescribes significant noise operating limits for certain U.S. registered civil subsonic turbojet powered airplanes (weighing more than 75,000 pounds) with standard airworthiness certificates, if those airplanes are not engaged in foreign air commerce. That amendment requires affected aircraft to comply with Part 36 noise levels according to a specified schedule before 1985. As stated in the preamble, that amendment "* * * is intended to encourage the introduction of the newest generation of airplanes, as soon as practicable" and provides a compliance schedule to maximize the incentive to replace rather than retrofit older aircraft. This amendment prescribes the noise level standards for that "newest generation of airplanes."

III. RELATIONSHIP TO RECOMMENDED REGULATION SUBMITTED TO THE FAA BY THE EPA (NOTICE NO. 76-22).

As previously stated, on October 1, 1976, the EPA submitted to the FAA its recommended regulation regarding noise level limits and acoustical change requirements for turbojet powered airplanes and propeller-driven large airplanes, pursuant to § 611(c)(1) of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (Pub. L. 92-574). Section 611(c)(1) of the Federal Aviation Act of 1958 provides that EPA shall submit to the FAA proposed regulations to provide such control and abatement of aircraft noise and sonic boom as EPA determines is necessary to protect the public health and welfare. That section also provides that the FAA "shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of its submission to the FAA, publish the proposed regulations in a notice of proposed rule making." Accordingly, pursuant to that provision of law, the FAA published Notice No. 76-22 entitled (as corrected) "Proposed Regulations Submitted to the FAA by the Environmental Protection Agency: Noise Levels for Turbojet Engine Powered Airplanes and for Large Propeller-Driven Airplanes" (41 FR 47358, October 28, 1976; and 41 FR 53807, December 9, 1976). A second correction submitted by the EPA (41 FR 53807; December 9, 1976) republished proposed § C36.5(a) to include the proposed text of paragraph (a)(2) which had been omitted in the original EPA submission to the FAA. Pursuant to a notice also published on October 28, 1976 (41 FR 47378), the FAA held a public hearing in Washington, D.C., on December 14, 1976, regarding the proposals contained in Notice No. 76-22. The period for submitting written comments to the regulatory docket for the EPA recommended regulation will close on February 28, 1977.

The FAA has conducted a comparative review of the EPA proposal and the draft provisions of this amendment to determine whether issuance of this amendment at this time would in any manner commit the FAA to a course of action that would conflict with an objective consideration of the EPA proposals under the procedures prescribed in § 611(c) of the Act, or would in other ways impair its ability to discharge its responsibilities under the Noise Control Act of 1972. That review focused on those areas in which the EPA proposals may differ from this amendment with respect to the resulting protection afforded to the public health and welfare from the noise of airplanes to which each would apply. The review also concerned the EPA's analysis and views regarding the specific proposals contained in Notice Nos. 75-37 and 75-37B. The EPA analysis and views are set forth in Notice No. 76-22. The EPA recommends adoption of its proposed rules (Notice No. 76-22) to supplement and complement the respective FAA proposals in certain regulatory areas which it believes are necessary to protect the public health and welfare.

In summary, the review indicates that the EPA proposal would affect the provisions FAR Part 36 in several respects, including (1) amending the applicability provisions in § 36.1 to substitute the words "large propeller-driven airplanes" for the term "subsonic transport category large airplanes"; (2) amending § C36.1 to authorize expressly an "approved equivalent procedure" in showing compliance under Appendix C; (3) amending the sideline noise measuring point provisions (§ C36.3); (4) amending § C36.5 noise level provisions and adding two additional noise reduction stages for airplanes for which application is made for new type certificates (i) on or after January 1, 1980, and (ii) on or after January 1, 1985; (5) amending the takeoff noise test conditions (§C36.7); (6) prescribing a new alternate takeoff test procedure (§ C36.8); and (7) amending the approach noise test conditions (§ C36.9).

Based on its review, the FAA concludes that there is no provision of the EPA proposals submitted on October 1, 1976, or November 29, 1976, that could not be adopted later, as a supplement to this amendment, if adoption is appropriate under the procedure and standards of § 611 of the Act. Furthermore, the FAA, by issuing this amendment at this time, has in no way limited its ability or intent to respond fully to the respective EPA proposals in a manner contemplated by § 611(c) of the Federal Aviation Act of 1958, as amended.

In addition to preserving FAA's ability to take any action that may be shown to be proper under the § 611(c) process, this amendment reflects FAA's awareness of the need for timely action to protect the public from the noise of the affected airplanes. This amendment, thus, establishes immediate criteria for the manufacturers of those airplanes, consistent with the direction in § 611(b) that the public be protected from aircraft noise.

The FAA has consulted with the EPA regarding this amendment. The FAA notes that this amendment may be supplemented by further amendments on the basis of comments received in response to the EPA proposals (issued as FAA Notice No. 76-22) and that it will proceed to consider issuance of an amendment regarding acoustical change requirements for Stage 2 airplanes and reduced takeoff and sideline noise level

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limits for Stage 3 airplanes based on proposals contained in Notice No. 75–37 or Notice No. 75–37C. Considering the public need for timely action and the fact that final action on all of the provisions of the corresponding EPA proposals that are shown to be appropriate can be fully and objectively taken under § 611(c) of the Act, the FAA believes that it would be contrary to the public interest, and to the intent of § 611, to delay this immediately available regulatory action until the regulatory process prescribed in the Act is completed anew with respect to the recent EPA proposals.

IV. Background: The Need for This Amendment

Under the Federal Aviation Act of 1958, as amended by Public Law 90–411 and the Noise Control Act of 1972 (Pub. L. 92–574), the Federal Aviation Administration (FAA) is responsible for aircraft noise regulation and is directed to afford present and future relief and protection to the public health and welfare by control and abatement of noise, consistent with the requirement that the FAA consider whether noise abatement regulations are consistent with the highest degree of safety in air commerce in the public interest and are economically reasonable, technologically practicable, and appropriate to the type of aircraft. As previously stated, the FAA adopted Part 36 of the Federal Aviation Regulations (FARs) in 1969, pursuant to § 611 of the Act. Part 36 specifies noise limitations, based on gross weight, measured at three specified points under the takeoff flight path, on the sideline from the extended centerline of the runway, and under the approach flight path. The noise level at each of these points is measured as an effective perceived noise level (EPNL), in units of EPNdB; the EPNL of an event is calculated by a procedure that accounts for loudness, the presence of discrete tones, and the duration of the noise.

Part 36 halted the escalation of aircraft noise at its source. The relatively low noise levels achieved by the current generation of widebody jets with high bypass ratio engines—the Boeing 747, Lockheed L–1011, and McDonnell-Douglas DC–10—serve to demonstrate the effectiveness of the regulation. FAR Amendment 36–2 extended the requirements of Part 36 to most newly manufactured transport category and turbojet aircraft (produced after December 31, 1973), regardless of the date of application for type certificate. This "new production rule" applies to aircraft with maximum gross weights of more than 75,000 pounds; however, aircraft powered by the JT3D engine, and weighing 75,000 pounds or less, were brought under the rule on January 1, 1975. It was adopted after research had shown that technology allows these earlier aircraft to achieve the noise levels of Part 36.

Recently, the FAA issued an amendment to the Federal Aviation Regulations (FAR Amendment 91–136; 41 FR 56046; December 23, 1976), to achieve further relief and protection to the public from aircraft noise by requiring certain previously excepted turbojet powered airplanes to meet current Federal noise standards or to be retired in accordance with a phased time schedule ending January 1, 1985.

Even with those significant Federal actions, aircraft noise is currently a significant annoyance for six to seven million persons in the United States. The problem is particularly serious at some of the major airports. As air travel increases, noise may become a significant problem for residents living near many other airports across the nation.

The aircraft noise issue became increasingly important in the early 1960s as airlines introduced jet aircraft to their fleets. The rapidly increasing number of commercial jet operations in the latter part of the decade further increased the importance of this problem. Because of its adverse effect on people, noise was soon recognized as a major constraint on the further development of commercial aviation. The engine manufacturers and the Federal Government both engaged in extensive research into quieting jet engines. In 1968, Congress gave the FAA the responsibility to regulate aircraft design and equipment for noise reduction purposes, and the FAA then embarked upon a long-term program of controlling aircraft noise at its source.

Of the six to seven million persons subject to significant aircraft noise, approximately 600,000 reside in areas that are severely impacted. Severe noise impacts include disturbances of the normal activities of airport neighbors—their conversation, sleep, and relaxation—and degrades the quality of life. Based on an analysis of citizen and Congressional complaints, the imposition of airport use restrictions, litigation, and the number of persons affected, the FAA has identified many airports where noise is an issue. The affected airports are identified in the Policy Statement.

As a result of the impact of aircraft noise on airport neighbors, serious pressures have developed that could threaten the continued growth of a healthy air transportation system. These pressures include restrictions on airport usage such as curfews, restrictions on the use of certain aircraft, opposition to airport development, and serious liability exposure for existing airports. For example, over the past five years, airport proprietors have paid out over twenty-five million dollars in legal judgments and settlements in noise related suits and have spent over three million dollars in legal fees and other legal defense costs. This is in addition to the monies being spent by airport proprietors in acquiring land adjacent to their airports and soundproofing affected buildings such as schools, residences, and public buildings.

The critical conclusion coming out of the many years of FAA review of this problem is that, both from the standpoint of the quality of life in airport environments and from the standpoint of the preservation of a strong airport/air transportation system, Federal action is required to provide effective aircraft noise reduction at its source. The normal incentives of the private marketplace are not expected to achieve this. In that regard, the issuance of FAR Amendment 91–136 provided an incentive for the introduction of the newest, quieter and more efficient airplane types, as soon as practicable. The FAA encourages the replacement of retired aircraft with airplanes which comply with the noise standards adopted in this amendment.

The FAA has consistently stated that reduced Part 36 noise levels would be adopted when it is determined that improved noise reduction techniques are available and that it is economically reasonable to require their application. As stated in the preamble to the original FAR Part 36 (1969), as technology makes further reasonable noise reductions possible, the FAA will act to ensure that the lowest reasonable noise levels are achieved. The FAA is firmly committed to lowering the prescribed noise limits consistent with the constraints of § 611 of the Act.

This amendment to FAR Part 36 is based on the twofold premise—that technology making reasonable noise reductions possible is now available and that to "ensure that the lowest reasonable noise levels are achieved" in all aircraft requires that the new standard differentiate among aircraft according to the number of engines. Both these assertions are supported by the experience gained with aircraft certificated under the current standard. Thus, this amendment is needed to ensure that currently achieved noise reduction is preserved and that future aircraft types more fully utilize the noise suppression technology which has been and will be developed.

This amendment to FAR Part 36 standards is necessary to establish an "equal technology standard" that requires the application to all aircraft of the best available economically reasonable noise suppression technology. At the present time application of this level of suppression for the larger turbojet aircraft is essentially defined by the high bypass ratio engine with sound absorbent linings incorporated in the nacelle and engine ducts. While this technology has been utilized primarily in large, widebody jets, powered by engines rated at from 40,000 to 50,000 pounds thrust, the FAA believes that it should be effective in reducing noise in other aircraft. Indeed, smaller engines with higher bypass ratio design have been developed. Two manufacturers are developing engines in the so called ten-ton class (20,000 to 30,000 pounds thrust); these may be suitable for advanced aircraft comparable in size to the present narrowbodied commercial transport. At least one other high bypass ratio engine has been developed in the 6,000 pound-thrust class which could be used in smaller aircraft down to about 30,000 pounds maximum weight. These projects indicate that the application of high bypass technology to smaller aircraft is

economically reasonable; thus, the FAA believes that other aircraft types can achieve noise reductions comparable to the widebodies.

At the lower end of the thrust spectrum, engines of less than 5,000 pounds thrust employ a lower bypass ratio dictated by engine size limitations; thus, the noise standards adopted in this amendment for small turbojet aircraft are based on the performance of medium bypass ratio engines which are both economically and technologically appropriate for aircraft powered by engines in this thrust class. Those aircraft are mostly business jets with maximum weights of less than 25,000 pounds. These new turbofan engines with bypass ratios of approximately 3:1 (compared with 5:1 or 6:1 for the typical large high bypass ratio engine) have been demonstrated to generate much less noise than their predecessors, which were mostly pure turbojets.

The EIS contains data showing the Part 36 noise levels generated by aircraft that currently employ advanced noise suppression technology (i.e., high bypass ratio engines and sound absorbent linings or, in the case of relatively light, business jet type airplanes, medium bypass ratio engines). The equal technology standard adopted by this amendment requires that new aircraft designs employ noise suppression techniques at least as effective as those demonstrated by these aircraft. Approach data taken from FAA certification experience show that with the higher bypass engines, widebody aircraft and business jets at entry into service were able to achieve noise levels below current Part 36 standards. Accordingly, this amendment adopts approach levels that are 3 to 4 EPNdB below current limits. The sideline noise data show the greatest differences between present standards and actual certificated levels for both the widebody jets and the business jets. Because these results clearly show that levels substantially below Part 36 are being achieved at entry into service, this amendment adopts significant reductions in allowable sideline levels from 5 to 8 EPNdB with the size of that reduction varying according to number of engines and weight. Takeoff noise level reductions between 1 to 9 EPNdB below current limits are adopted by this amendment.

Since all the widebody aircraft represent essentially the same level of noise suppression technology and the limits are designed to account for noise increase with weight, the current Part 36 levels do not represent an equal technology standard. That deficiency can be illustrated by considering the number of engines on the aircraft (the A–300B has two engines, the DC–10 and L–1011 three, and the B–747 four). The number of engines affects preceived noise level through aircraft performance. Generally, two engine aircraft tend to pass over the 3.5 nautical-mile takeoff noise measurement point at higher altitudes than four engine type of the same weight and, thus, appear to be quieter. Aircraft with fewer engines tend to reach the measurement point at greater altitudes for several reasons. Airworthiness regulations require that aircraft maintain a certain gradient with one engine inoperative; a two engine design must maintain its required gradient with only 50% of its total installed thrust available, while a four engine type has 75% power available; therefore, the two engine aircraft at full power generally will be able to achieve a steeper climb than one with four engines. In addition, two engine aircraft tend to have shorter takeoff rolls than other types, since they are designed to serve smaller airports. Thus, the number of engines is a significant factor in determining the altitude that aircraft can be expected to achieve at the 3.5 nautical-mile measuring point. Since each aircraft of the same weight, regardless of the number of engines, would create essentially equivalent noise levels at the source, the difference in sound levels observed on the ground largely results from differences in altitude.

For aircraft powered by high bypass ratio engines, it appears that current technology is capable of achieving takeoff noise levels several EPNdB below Part 36 levels for four engine aircraft, levels somewhat farther below Part 36 levels for three engine types, and still lower levels for two engine types. This amendment lowers the FAR Part 36 noise levels, depending on weight, from approximately 1 to 6 EPNdB for four engine aircraft, 3 to 8 EPNdB for three engine types, and 3 to 9 EPNdB for two engine types. It also reduces the rate of the takeoff noise limit increase from 5 to 4 EPNdB per doubling of weight. This rate reflects a practical compromise between the theoretical prediction that a doubling of thrust should lead to a 3 EPNdB increase in noise and the experience gained with certifications to date. Accordingly, the rate of allowable sideline noise increase for airplanes having 3 or fewer engines is increased from 2 to 2.56 EPNdB per doubling of weight.

The certification experience with takeoff noise levels for the business jets show that they fall well below the Part 36 standard of 93 EPNdB. (The standard is constant at this level for all weights less than 75,000 pounds.) This amendment retains the concept of a constant limit in the lower weight range, but reduces the takeoff noise limit for airplanes with 3 and more engines by 3 EPNdB to 90 EPNdB and by 4 EPNdB to 89 EPNdB for airplanes with fewer than 3 engines. Since all the business jet aircraft certificated to date have 2 engines, further reductions due to the effect of the number of engines was not established for those airplanes with 3 or more engines under Notice Nos. 75–37 and 75–37B. Accordingly, and as proposed, the level for light weight three and four engine types is established at 90 EPNdB at this time. Further, consideration is being given to that matter under Notice No. 75–37C.

V. Comments on the Proposed Rule

As previously stated, interested persons have been afforded the opportunity to participate in this rulemaking by submitting comments to regulatory docket for Notice Nos. 75–37 and 75–37B. Those written comments have been reviewed and considered in the issuance of this amendment.

More than 25 comments were received from a range of interests, including individual private citizens; civic and environmental groups; state and local governmental authorities, a foreign governmental body; airport operators and operating authorities; aircraft operators; foreign and domestic aircraft and aircraft engine manufacturers; and aviation trade/industry associations. The FAA also recognizes the public concern for aircraft noise problems expressed in other recent FAA regulatory actions and has considered those views to the extent that they are relevant to the issues involved in this amendment. A more detailed discussion of that concern appears in the preamble to FAR Amendment 91–136 (41 FR 56046) and in the Policy Statement.

The issues focused on by commenters include: the options or alternatives to the proposed rule that may be available; the impacts of the proposed acoustical change requirements, the impacts of the noise level limits (including costs versus benefits, economic reasonableness, technological practicability, compliance dates, the need for tradeoffs and thrust cutbacks, and the appropriateness to particular aircraft types); interaction with international standards; and other miscellaneous issues. These comments are discussed as follows:

A. Alternatives to the Proposed Rule

Commenters to this and previous rulemaking dockets have expressed their support for the goal of aircraft noise reduction or, more generally, the need for appropriate action to abate the impact of noise annoyance in the airport environment. In responding to the issues involved in the proposals contained in these notices, many commenters recognized the broader issues of aircraft noise control going beyond source noise reduction and discussed the various methods which may be used to achieve noise relief and reduce noise impact on the community. Many Commenters recognized, however, that most of those alternatives are beyond the scope of the Notice No. 75–37. One of those alternatives is specific flight procedures. Other alternatives cited included matters beyond direct FAA control, such as land-use controls.

The FAA agrees with those commenters who recognize that this rulemaking action will not resolve the entire aircraft noise matter. It will not silence all complaints of annoyance or injury because of aircraft noise. The FAA also agrees with those commenters, who believe that this amendment is a necessary step toward achieving beneficial reductions at the noise source and will contribute to making aircraft and airports more compatible with the communities they affect. As several commenters have noted, a comprehensive national program combining the various noise control and abatement techniques is needed to

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achieve the necessary protection to the public health and welfare. A discussion of these other noise reduction techniques is contained in the Policy Statement.

The FAA does not agree with those who believe that the use of specific noise abatement operating/flight procedures (or combination of procedures) would, by itself, provide the necessary noise control and abatement. Further, some persons mistakenly believed that using an operational procedure during the flight of a noncomplying aircraft can serve as a substitute for compliance with noise type certification and acoustical change standards. While some procedures help to minimize the generation or the propagation of noise from the aircraft in flight, their benefits to the public health and welfare are most significant when combined with other effective techniques, such as source noise control. Operational procedures are not a substitute for, but complement to control and abatement of noise generation at its source.

Unless future reductions in aircraft noise emissions at the source completely satisfy the need for protection of the public health and welfare, supplemental action by aircraft and airport operators and state and local governmental entities will continue to be needed. However, the FAA believes that the fact that non-Federal action is necessary is not a justification for delaying strong Federal action to bring about that part of the overall solution that is within Federal control.

Some persons have pointed to local airport measures as alternative means of achieving noise control. Since many of these matters are within the authority and control of the local community, the FAA cannot ensure that they will be acted upon. The FAA agrees with those who stress the important role of aggressive local action, including planned airport development, zoning and related land-use controls, and the use of sound suppression materials in certain buildings in achieving the desired reduction of aircraft noise impact on local communities. However, the FAA does not agree with the suggestion that the noise impacted communities or any single segment of the air transportation system should bear the full burden of reducing aircraft noise around airports. As previously stated, the combined effort of the various elements of a comprehensive noise program is, and is expected to continue to be, necessary to achieve the required protection to the public health and welfare. This amendment is a significant Federal contribution to that comprehensive program.

B. IMPACT ON THE PUBLIC

The disruptive effect of aircraft noise on the quality of life, and on the air transportation system and is discussed in detail in the Policy Statement. Private citizens; citizens groups; Federal, State, and local authorities; and in particular, airport operators and proprietors have stressed the need for present, as well as future, aircraft noise reduction requirements. The noise of transport category large airplanes and turbojet-powered airplanes has been cited as a principal target for such reductions by many commenters to rulemaking dockets. The FAA agrees that technology must be applied in the further reduction of noise of those aircraft. This amendment accomplishes that result consistent with the considerations listed in § 611(d) of the Act.

The public concern regarding the perceived impacts of aircraft noise has been duly noted and comments on aircraft noise abatement proposals were found to be useful and informative. Those comments have assisted the FAA in determining, after due consideration of all comments, that the economic impacts imposed by this amendment are reasonable and appropriate in relation to the benefits to be achieved.

C. ACOUSTICAL CHANGE REQUIREMENTS

As stated in the preamble to Notice No. 75–37, in proposing to establish reduced noise level standards, the FAA considered the fact that a new airplane design is generally "grown" over its lifetime, either by increasing its capacity, its range, or both. While each results in an increased public transportation capacity, it usually also involves an increase in aircraft weight, reduced climb performance, eventually the need for increased thrust, and thus, the potential of increased noise levels. Planning and allowance for that aircraft growth are basic factors in the economic viability of aircraft design programs. But unfortunately, that growth may also evolve into increased perceived noise levels of single event and community noise exposure. The proposed reduced noise level standards, therefore, included requirements governing acoustical changes for subsequent generations of new types of aircraft when the change in type design may result in noise increases.

Notice No. 75–37 proposed, and this amendment adopts, specific requirements for acoustical changes for each of the three designated airplane stages. Within the scope of Notice No. 75–37, this amendment prohibits the escalation of noise levels above those that the FAA has determined are consistent with the purposes and requirements of § 611 of the Act in providing protection to the public health and welfare. For Stage 1 airplanes (all airplanes that are noiser than current Appendix C noise limits, including those of older type designs still in the fleet), the FAA proposed to apply the current requirements in § 36.7(a)(2) by not permitting noise levels after a change in type design to be increased above those created before the change in type design. Under the proposed rule, Stage 2 airplanes (those airplanes that have been shown to comply with current Appendix C) for which application is made before November 5, 1975, would be permitted to continue to increase noise level emissions up to the current Part 36 noise limits. After that date, the proposed rule would only allow noise level increases proportionately with increased maximum weight of the airplane in accordance with the ratio of noise limit to maximum weight reflected in the current Part 36 noise limits, which are designated as "Stage 2" noise limits in this amendment. The tradeoff provisions could not be used to increase an exceedance of a Stage 1 noise level but could be used, within specified limits, with respect to Stage 2 noise levels. Tests conducted before the change in type design would be required at the quietest airworthiness approved configuration available for the highest takeoff weight. In addition, under the proposal, for airplanes for which application is made after May 5, 1976, power or thrust cut backs would not be allowed in showing compliance. Stage 3 airplanes (those that create noise levels at or below the proposed reduced or "Stage 3 noise level" limits) for which the application for acoustical change approval was made before November 5, 1975, would be permitted to increase noise levels after a change in type design up to the Part 36 (proposed "Stage 2") noise limits and thereby become a Stage 2 airplane after the change under the rule. Under the text of the proposed rule, if the application was made on or after May 5, 1976 (six months after the application was made on or after May 5, 1976 (six months after publication of the NPRM), the airplane must remain a Stage 3 airplane and, accordingly, any noise increase would be restricted to those levels at or below the reduced or "Stage 3" noise limits. Both the tradeoff provisions and power or thrust cutbacks could be used to show compliance under the proposal, regardless of the date of application.

Most commenters addressed the acoustical change proposals and focused their strongest criticisms on those aspects of the proposed rule as it applies to Stage 2 airplanes. Those commenters stated that the acoustic change provisions would impose severe and unreasonable restrictions and economic impacts on virtually all future growth versions of turbojet powered airplanes currently in production. Many commenters also objected to the proposal because the smaller aircraft (those below the respective noise floors at weights varying according to the number of engines) would not be permitted any increase at all in noise emission levels regardless of weight increase. The aviation community (including non-manufacturing interests) uniformly viewed such restrictions on already planned for growth of current production Stage 2 airplanes as not being economically reasonable or practicable. Many commenters noted that the early growth versions of the yet quieter Stage 3 airplanes (those for which application is made before May 5, 1976) were not similarly restricted to Stage 3 noise levels but could increase noise levels, even without corresponding weight increases, all the way up to the current limits of Part 36. Those commenters frequently stated that such unequal treatment is inherently unwise, unfair, and unreasonable and would seriously affect the competitive structure of the market place among the affected aircraft. According to those commenters, the effect would be contrary to the interests of the air

transportation industry and a healthy air transportation system and would not be consistent with the purposes or requirements of section 611 of the Act.

Several comments generally took exception to the basic concept of the proposed acoustical change requirements as being an unsupportable departure from the current provisions. Many of these commenters felt the restriction upon growth of the aircraft "family" should not be based upon the entry into service, or "parent" aircraft within a specified noise levels stage, since it would eliminate the incentive to apply the most effective sound suppression technology on the earlier versions in order not to establish unnecessary restrictions on later growth. Many stated that the concept behind the proposal is basically faulty and misconceived and would encumber the industry with excessive details, increased costs, and limit necessary flexibility within the industry programs without contributing substantially to community noise reduction. Some commenters felt that the proposed provisions are ambiguous and susceptible of more restrictive interpretations than those explanations highlighted in the preamble to Notice No. 75–37.

Strong opposition was also expressed to the limitations on power or thrust cutback and tradeoff provisions, as applied to acoustical changes of certain Stage 2 airplanes after May 5, 1976. Many commenters stated that retesting of the parent aircraft to obtain the necessary "before change" data, which would be necessary in many cases where the airplane was previously certificated under different requirements, would not be realistic or economically reasonable.

Several comments were received which stated that use of power or thrust cutbacks, as well as the tradeoff provisions under § C36.5(b), which are currently permitted in showing compliance, should be permitted for all Stage 2 and Stage 3 airplane noise tests. One commenter contended that, in order to achieve the 90 percent confidence level required for the validity of test results under Appendix A, tradeoffs are needed during the tests both before and after change in type design. Similarly, other commenters stated the tradeoffs and thrust cutbacks are needed to accommodate design/flight performance differentials that are inherent in airplane design programs. Several commenters presented their views, and supporting data, for the continuing need for power or thrust cutbacks to achieve the proposed noise levels reductions.

Some commenters recommended using the same noise test procedure and conditions for all subsequent versions of the aircraft, regardless of intervening amendatory action. Other practical and technical questions were raised by commenters who opposed adoption of the acoustical change proposal. It was suggested that the proposals should be reconsidered since they involve complex and far-reaching implications which have not been shown to be realistic in application and which may not be completely understood or appreciated at this time.

After careful review of the proposed acoustical change requirements for all three airplane stages and of the seriousness of the certain impacts identified in the comments and the supporting data submitted to the docket, the FAA has determined that, at this time, it should not adopt the major portion of those Stage 2 airplane acoustical change requirements as proposed in Notice No. 75–37. Further review and consideration of the overall Stage 2 airplane acoustical change requirements issue is necessary to ensure that those requirements that are adopted are consistent with the purposes and requirements of the Noise Control Act of 1972. However, this decision to continue its consideration of the Stage 2 acoustical change proposal does not prejudge any future FAA regulatory action. Neither does it preclude later adoption of amendments based upon those proposals announced in Notice No. 75–37 or other NPRMs recently issued by the FAA. In that regard, and as previously stated, two other notices of proposed rule making (Notice Nos. 75–37C and 76–22), which include acoustical change requirements proposals, have been issued. In accordance with the FAA's commitment to seek substantial uniformity in aircraft noise standards on an international basis through ICAO, the FAA proposed in Notice No. 75–37C certain alternative acoustical change provisions based upon the international standards recommended by ICAO. Also, Notice No. 76–22 contains the recommended regulations submitted to the FAA by the EPA. The regulatory dockets for both of those NPRMs are still open to receive public comments. After the close of those comment periods, the FAA will consider further amendments based on the proposals contained in, and the comments received on, Notice Nos. 75–37, 75–37B, 75–37C, and 76–22.

Accordingly, this amendment revises § 36.7 to reflect the classification of the respective airplane and noise level stages and to prescribe the appropriate acoustical change requirements. Also, the current provisions of paragraph (b) regarding acoustical changes for propeller-driven small airplanes are redesignated under § 36.9, without substantive change.

Comments with respect to the Stage 3 airplane acoustical change rule were generally more favorable. A major concern expressed was that the regulatory concept of further acoustical change restrictions, like those proposed for Stage 2 airplanes, would eventually also be proposed for Stage 3 airplanes. Commenters stated that the impacts of such additional limitations on noise increases for growth versions of airplanes in production would thwart the manufacturers' ability to receive the planned for economic return on the basic aircraft design investment. Thus, the commenters expect the same impacts on Stage 3 airplanes as those they expressed with regard to proposed acoustical change rule for Stage 2 airplanes. While the FAA appreciates that concern, Notice 75–37 proposed only to limit acoustical change noise levels for Stage 3 airplanes applied for on or after May 5, 1976, to the proposed Stage 3 noise limits. Thus, those comments addressed possible rules which are beyond the scope of this rule-making action.

Several commenters suggested that all Stage 3 airplanes be permitted noise increases up to the current Part 36 noise limits (i.e., Stage 2 noise limits). The FAA does not accept that suggestion since it would have the effect of eventually negating the noise reductions for Stage 3 airplanes adopted in this amendment. The required noise reduction would be meaningful only for new airplane type designs at their entry into service. The environmental benefits achieved by applying the existing noise reduction technology would be forfeited if the acoustical change rule authorized virtually unrestricted noise increases for growth versions of Stage 3 airplanes. Such a rule would not provide the needed noise control and would not be consistent with the requirements of the Noise Control Act of 1972. The Stage 3 noise limits adopted in this amendment reflect consideration of the need for growth of those airplanes and, if properly accounted for in design planning, include the appropriate margins of noise increase for growth of Stage 3 airplanes during a reasonable life for their type design.

This amendment adopts, in modified form, the proposed requirements for Stage 1 airplanes, without substantive change. These requirements are essentially the current acoustical change rule for airplanes that cannot achieve the current Part 36 noise limits. The definition of Stage 1 airplanes has been clarified to include those airplanes that have not been shown to comply with Part 36 noise limits, as well as those that have actually been shown to exceed those limits. For Stage 2 airplanes, this amendment retains, in modified form, the current requirements for those airplanes that can achieve the current Part 36 noise limits.

This amendment adopts, in modified form, the proposed requirements for Stage 3 airplanes. The provisions of § 36.7(e)(1) clarify the expressed intent of the proposal to apply the Stage 2 acoustical change requirements to those airplanes defined as Stage 3 airplanes where compliance to Stage 3 noise levels is not required prior to the change in type design. Thus, those airplanes may either become Stage 2 airplanes or remain Stage 3 airplanes after a change in type design and show compliance accordingly. As adopted, the rule also clarifies the compliance date of requirements for Stage 3 airplanes. As adopted, the rule applies to applications made on or after May 5, 1976. The FAA has analyzed the details of comments and supplementing data submitted to the docket regarding the Stage 3 acoustical proposals, particularly with respect to the application of available technology and the Stage 3 noise level limits adopted in this amendment. The FAA concluded that, first, a firm noise limit applicable to the new type design airplanes is needed and that the noise limits adopted

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in this amendment as applied to acoustical changes are economically reasonable and technologically practicable, and second, because this amendment encompasses both new type certificates and acoustical change approvals, compliance at or below the prescribed noise limit should be applicable to Stage 3 airplanes in accordance with the NPRM in both instances. The FAA also concluded that to permit acoustical changes to Stage 3 airplanes for which application for type certification is made after May 5, 1976, to continue to increase above the prescribed Stage 3 levels would not be consistent with its responsibilities under section 611 of the Act to provide the current and future relief from aircraft noise. After considering all the issues discussed by commenters, those in the Policy Statement, and those discussed in the EIS regarding those options that might be selected in prescribing an acoustical change rule, the FAA has determined that this amendment is economically reasonable, technologically practicable, and appropriate to the particular aircraft types and certificates to which it applies. However, as previously stated, additional amendments to the Stage 2 acoustical change rule are being considered for future adoption, as proposed in Notices Nos. 75–37C and 76–22.

D. NOISE LEVEL REQUIREMENTS

As previously discussed with respect to the need for this amendment and in the NPRM, in the Policy Statement and in the EIS, the FAA proposed to ensure that the lowest airplane noise levels are achieved consistent with the constraints of section 611 of the Act. Thus, this amendment adopts noise limits which ensure that currently achieved noise reduction is preserved and that future aircraft types more fully utilize the noise suppression technology which has been, and will be, developed. The noise standards adopted in this amendment specify an "equal technology standard" that requires the application of the best available economically reasonable noise suppression technology to all airplanes under new type certificates.

Many commenters addressed the reduced, or "Stage 3," noise level limits proposed for airplanes for which application for type certification is made on or after November 5, 1975. Some commenters believe the noise limits should be lower, others contend that they were too low or that compliance should be delayed until compliance with the requirements would be economically reasonable or technologically practicable. Several commenters expressed their dissatisfaction with the proposed continuation of the minimum "noise floor" concept for airplanes below certain maximum weights. Opposition to that concept was stated for contrary reasons. One view favors further reduction of the permissible noise levels by applying the rate of noise reduction per halving of maximum weights to all aircraft regardless of weight, because the leveling off points for takeoff, sideline, and approach noise limits that create a "noise floor" are set at levels that are too high without any apparent reason. The other view contends that those airplanes under the noise floor are subject to more stringent limitations on acoustical changes than those having the higher maximum weights. Another commenter suggested that the proposed "noise floor" fails to require the most effective application of available noise reduction technology and, thus, results in an unjustified impact on many smaller airports served by those airplanes. Many commenters have objected to the failure to have proposed, and adopted, more stringent noise level requirements before now, stating that further reductions have been needed and were technologically possible for several years.

Based on its analysis of the respective noise level limits for airplanes in the lower weight range, the FAA concludes that the limits adopted by this amendment adequately take into account a full consideration of the various factors raised by those comments. The noise floor concept results from the physical limits of an aerodynamic (airframe) noise floor, as well as from the need to provide rules of appropriate stringency for all aircraft types, regardless of weight. Certification experience has shown that the equal technology standard objective of this amendment requires recognition of basic distinctions in the manner in which the available noise suppression technology may be applied to the wide range of airplane weights and designs. As indicated in the NPRM, the smaller airplanes have not, as yet, experienced their growth or technological potentials and have specific limitations on application of the higher by-pass ratio engines and sound absorbent materials. However, the noise limits prescribed represent the levels consistent with the best available economically reasonable noise suppression technology that may be adopted under the levels proposed in Notice No. 75–37. In that regard, the FAA notes that certain differences in the respective noise levels are proposed in Notice No. 75–37C; those further reductions are being considered for adoption as refinements of the levels adopted in this amendment, in accordance with the considerations of section 611 of the Act.

Some commenters stated their belief that the current Part 36 levels, as a whole, are adequate and that no further reduction is necessary since current levels achieve a sound compromise between health, safety, economic, and technological considerations. Other commenters stated their concern that greater control and abatement should be adopted, particularly for airplanes powered by 3 or 4 turbojet engines. On the other hand, several commenters contend that the certification experience relied upon in proposing the reduced noise limits is not a sufficient basis from which to judge the economic reasonableness or technological practicability of the proposals.

As stated in the preamble to Notice No. 75–37, the certification experience under Part 36 indicates that the development of noise reduction technology has progressed to the point that significant noise reductions below the current Appendix C can be achieved consistent with considerations of safety, economic reasonableness, and technological practicability for civil subsonic turbojet powered airplanes and subsonic transport category large airplanes. The FAA, therefore, proposed to adopt Stage 3 noise limits which it believed were the lowest limits consistent with considerations of economic reasonableness and technologically practicability. The FAA recognized that the proposals cover a large range of airplane weights and designs and, therefore, suitable criteria for distinguishing among those airplanes were built into the Stage 3 noise limit proposals to reflect the refinements to significant noise emission characteristics. Comments were received in the docket on several of those factors.

Several commenters stated that using the number of engines powering an airplane to differentiate it from among other airplanes oversimplifies the true characteristics of the noise emission potential and is not appropriate. Some felt that such a distinction for sideline noise makes the rule unnecessarily complex. Several commenters cited the ICAO recommended noise reduction standard which employs the number of engines as a factor only with respect to takeoff noise measurements and, thus, would use the same sideline and approach noise level values regardless of the number of engines. Comments and supporting data submitted to the FAA regarding the number of engines generally focused attention upon the takeoff and sideline noise level differences proposed for airplanes with three engines compared with those having more than three engines. Several commenters pointed to the proposed 3 EPNdB difference in sideline noise limits for airplanes weighing more than 90,000 pounds as permitting an airplane to create higher noise levels simply because it has more engines. It was felt that such a difference would create an anti-competitive effect among those airplanes and would unreasonably favor those having more than three engines.

After carefully reviewing the economic and technological aspects of the proposed rule in light of comments and supporting data submitted to the docket, as well as other available economic and technological data, the FAA agrees that a modification of the proposed noise levels is appropriate. Thus, the noise levels adopted in this amendment reflect a refinement of the various factors which distinguish the different classes of aircraft. This is accomplished in a manner consistent with the scope of Notice Nos. 75–37 and 75–37B and with the considerations of section 611 of the Act. The FAA does not agree, however, that the number of engines powering an airplane is not an appropriate factor in prescribing appropriate takeoff and sideline noise limits. For the reasons stated in the NPRM and as analyzed in the EIS, the FAA has concluded that among the various quantifiable factors which have been identified, the number of engines, when taken with maximum airplane weight, provides a useful and reasonable basis for distinguishing among the wide range of airplane types and prescribing appropriate standards for takeoff and sideline noise levels in accordance with the considerations under section 611 of the Act. The FAA does not agree with those commenters who suggested that power or thrust criteria should be included as a separate factor in showing compliance with the noise standards. While power or thrust is a consideration which must be taken into account in developing noise standards and in designing airplanes that comply with established noise standards, the FAA has determined that the effect of various power or thrust values and their relationship to airplane weight has been fully considered and properly accounted for in the criteria being adopted for noise tests conducted under the procedures and conditions prescribed in Part 36.

Some commenters suggested that certain other aspects of the proposed reduced noise levels should not be adopted or should be modified in certain respects. It was suggested that the EPNdB rate of increase per doubling of weight for takeoff noise should not be reduced from the current 5 to 4 EPNdB for Stage 3 airplanes. It was stated that 5 EPNdB is needed to provide an adequate incentive to apply advanced noise suppression technology for these airplanes. Substitution in the noise level formula of a rate of noise increase (in EPNdB's) based on power or thrust for the current rate based on airplane weight was also suggested. The rates of permissible noise level increase, including takeoff levels, and the use of increased weight as the basis for permissible noise level increases have been extensively analyzed and reviewed by the FAA and the ICAO Committee on Aircraft Noise (CAN). The certification experiences under Part 36 and Annex 16 and the data generated in conducting certification and acoustical change noise tests indicate that the current state of the art of noise reduction is reasonably and adequately reflected in the relationship of noise level to aircraft maximum weight adopted in Part 36 in 1969, and later in Annex 16 by ICAO. As stated in the NPRM, the proposed rate of noise increase permitted with a doubling of aircraft weight reflects an empirical compromise between the prescribed rate and the basic acoustical principle that an increase of 3 EPNdB results from a doubling of thrust. It serves to retain a limit on the potential escalation of noise while retaining a reasonable growth potential for airplanes at those weights as demonstrated during the certification experience. This amendment adopts the proposed rate of takeoff noise increase (4 EPNdB) and retains maximum weight as the factor against which the respective noise increases are permitted. Also, by so doing, the takeoff noise levels more accurately reflect the consideration of the number of engines and the impact of the airworthiness climb gradient requirements of FAR § 25.121 on the thrust to weight ratio of the airplanes. In that regard, as part of the sideline noise provisions, this amendment also adopts a 2.56 EPNdB rate of increase in the sideline noise levels for airplanes in the three-engine and the fewer-than three-engine classifications. This relaxation of the proposed rate of 2 EPNdB is necessary to adjust adequately the respective changes to the proposed sideline noise level requirements for those classifications of airplanes. As adopted those noise limits are consistent with the maximum proposed noise level reductions which are economically reasonable and technologically practicable at this time.

Opposing views were also received regarding the proposed increase from 600,000 pounds to 850,000 pounds as the airplane weight level at which the highest permissible noise levels, or noise ceiling, would occur under the proposed Stage 3 noise limits. In light of the higher maximum weights of several wide-bodied aircraft designs, one commenter suggested there is ample justification for extending the proposed noise level and weight limits up to at least the 1,200,000 pound point. Another commenter objected to the proposed extension even up to the 850,000 pound point. Both comments have merit to the extent that they recognized that the proposed noise reductions should establish a line representing the various points where the respective takeoff, sideline, and approach noise levels and corresponding maximum weights achieve the maximum noise reduction consistent with the equal application of technology objective of this rulemaking action. Review of all the economic and technological data submitted, indicates, as analyzed in the EIS, that minor modifications to the respective noise levels proposals should be adopted in order to achieve the greatest benefit to the public from aircraft noise reductions that are within the scope of Notice No. 75–37 and consistent with the purposes and requirements of section 611 of the Act. This amendment achieves that result.

Comments were received which suggested that the rule, if adopted, should be restated to indicate clearly that the Stage 3 provisions apply only to future aircraft not already certificated. As previously discussed, the proposed rule does not apply to type certification or acoustical change approvals which have already been completed. The prescribed compliance date for both type certification and acoustical change approvals is governed by the date the application is made. In that regard, many commenters objected to what they viewed as enforcing the proposed amendment "retroactively" to applications filed before the issuance of the final rule, or before thirty days after publication of the amendment. As described in Notice No. 75–37, "while certain of the proposals specified herein would apply to applications that are made on and after the date of this NPRM (but before the effective date of the final rule), none of these proposals would affect approvals (of applications) that are actually issued prior to the effective date of the final rule." That form of applicability date has been proposed and adopted before in amendments to Part 36 when the FAA was concerned with the timing of the effective date of proposed rules because of the significant and enduring impact upon the noise abatement benefits the rules are intended to achieve. Thus, the FAA proposed to apply these proposals to applications made on or after a specified date related to the date of publication of the NPRM. By adopting that part of the proposals, the FAA avoids the possibility of a significant number of applications being submitted in anticipation of the effective date of the final rule but for which FAA approval could not be given before the rule becomes effective (or for years after the rule becomes effective, since applications for certain type certificates do not expire for five years after they are filed). In effect, the NPRM announced the FAA's intention to apply the amended rules, when they became effective, to approvals even though the application was received during the period between the publication date of the NPRM and the effective date of the amended rule. The FAA has concluded, that in those cases, the applicable rules should be those in effect on the date of approval, not the date of application for type certification or acoustical change.

An important criterion used in setting the proposed levels discussed in the notice was the FAA's recognition that aircraft and aircraft engine manufacturers must work within a certain tolerance band in moving from design stage to final product. The tolerance, or design parameter, reflects uncertainties in design and manufacture, and various unknown factors, including variations in noise measurements at the time of noise certification testing. For a new airplane, a tolerance of at least 3 EPNdB is frequently necessary. The tolerance also varies widely for different design changes. As noted by several commenters, there is the risk that a new type design or design change, possibly costing many millions of dollars, might fail to meet the prescribed noise standard. Therefore, the noise levels to which the airplane is designed must be sufficiently below the noise level limit that the entire tolerance band is below the noise standard. At the time the FAA issued its proposals, it stated that it believed that the proposed noise levels would allow sufficient tolerance for manufacturers to develop realistic designs using the best available noise reduction technology with reasonable assurance that the final product would satisfy the noise standard. (Two other major considerations in establishing the FAA proposed limits, the application of the most advanced noise suppression technology achieved by presetnt day airplanes, and accounting for the basic factor of growth versions of an airplane in its economic viability, have already been discussed.)

Several comments were received from commenters who felt that an anticipated

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proposed rule changes to Appendices A and B of Part 36, regarding the procedures and conditions for conducting noise tests and evaluating noise test data, might have a significant impact on their comments regarding the proposed noise levels and acoustical change requirements in Notice No. 75–37 because such things as basic design parameters may be affected. Some of those commenters stated that they were concerned that amendments to the noise test procedures and conditions would significantly increase the stringency of the instant proposal. On October 28, 1976, the FAA did propose substantial changes to Appendices A and B (Notice No. 76–21; 41 FR 47342); however, as indicated in that NPRM, the anticipated impact of the proposals does not involve any significant increase or decrease in the resulting noise levels but would contribute substantially to improving the consistency and repeatability of noise test data under the proposed requirements.

The FAA recognizes the interaction between noise test methodology and the noise level measurements which result. While no significant change is expected from the proposed amendments to Appendices A and B, the FAA will consider the potential of those impacts in reviewing the proposals and comments to the docket before taking any action regarding Notice No. 76–21.

Notice No. 75–37 proposed that the sideline noise measuring point should be the same for all Stage 3 airplanes, regardless of the number of engines. The distance of 0.25 nautical miles from the runway centerline was proposed. Under the current rule, that distance is applied to airplanes powered by two or three turbojet engines and to all non-turbojet transport category large airplanes. Currently, airplanes powered by four turbojet engines are measured at a distance of 0.35 nautical miles. Several commenters agreed with the proposal but several others recommended either that the current rule should also be applied to Stage 3 airplanes or that the 0.35 nautical mile distance should be used for all Stage 3 airplanes. Some commenters stated that the proposed Stage 3 sideline noise levels could not be achieved by four engine, and perhaps some three engine, airplanes. The FAA has reviewed the proposed rule in light of the comments received and concludes that it should be adopted without change. A distinction in sideline noise levels between three and four engine airplanes is indicated in the certification experience and other data. The FAA believes, however, that demonstrated differences are adequately reflected in the respective noise limits presented for those airplanes. A 0.35 nautical mile distance for a four engine airplane would result in a significantly less stringent noise standard at the higher weight range than that required for a three engine airplane with the same maximum weights under the noise limits adopted in this amendment. As discussed in the EIS, the objective of requiring equal application of the best available noise suppression technology is thus achieved in this amendment without prescribing different noise measuring point distances for three and four engine airplanes.

One commenter also suggested that the altitude at which a thrust cutback is permitted for airplanes having three or fewer engines should be reduced from 1,000 feet to 700 feet for comparability with four engine airplanes. A major reason stated for that change was that certain airplanes do not achieve the higher altitude during noise tests before reaching the 3.5 nautical mile takeoff noise measuring point and, thus, are required to show compliance without thrust cutbacks where an airplane having four engines would be permitted to use a thrust cutback. Since the notice did not propose to amend section C36.7(b), which contains the provisions involved, the suggested amendment is beyond the scope of Notice 75–37. However, the FAA does not believe that such an amendment is necessary because the respective noise level limits for Stage 3 airplanes adopted in this amendment adequately reflect the various factors which differentiate the noise emission potential and noise test requirements of the various affected airplanes.

Before adopting this amendment, each component factor of aircraft noise emission was considered in relationship to the applicability and stringency of the noise standard, as well as the consistency of the standard with the purpose and requirements of the Noise Control Act of 1972. Accordingly, the FAA proposed in Notice No. 75–373B, and this amendment adopts, the supplemental proposal to Notice No. 75–37 regarding application of the proposals to single-engine turbojet powered airplanes in all categories, and all single engine airplanes in the transport category, regardless of engine type.

Many of the comments received concerned the economic impacts of the proposed rules on aircraft manufacturers, and aircraft owners and operators. The commenters' concentrated primarily on the cost impacts of the proposed acoustical change rule for Stage 2 airplanes, the reduced (i.e., Stage 3) noise level limits, and the Stage 3 airplane acoustical change rule. The FAA has fully reviewed these factors and concludes that the regulation adopted in this amendment adequately and properly accounts for the cost impacts involved. Economically reasonable noise reduction technology is available for the affected airplanes. The compliance/applicability dates of the provisions of this amendment were selected to provide application of currently available noise reduction technology at the earliest date that is economically reasonable and consistent with the significant and enduring impacts upon the noise abatement benefits the rules are intended to achieve. Deferring those environmental benefits would not be in the public interest or consistent with the FAA's responsibility under the Noise Control Act of 1972 to provide current and future relief from aircraft noise through appropriate noise control and abatement regulations.

The major concerns for the cost impact of the proposed rules addressed by most commenters were with respect to the Stage 2 acoustical change proposal. They focused upon the costs involved in applying the proposed further limitations on the growth versions of aircraft already certificated under Part 36 and in-production aircraft. Many commenters stated in effect that, since the economic viability of an airplane design program depends in significant measure on the ability to modify the basic design at various times during the life of the aircraft, the substantial change proposed would not permit realization of planned-for growth. According to commenters, those restrictions would be economically unreasonable and would have far reaching economic implications to the aviation industry and the national and international air transportation systems. As previously stated, the FAA believes that the reasoning and views of these comments appear to have merit and the FAA has decided that it should not adopt the major portions of the proposed Stage 2 acoustic change rule at this time. The cost information and data for this decision are discussed in the EIS.

Accordingly, the cost impacts resulting from this amendment are those associated with its effect upon the Stage 3 aircraft for which type certification or acoustical change approvals are applied for on or after the applicable dates. As noted by commenters and discussed in the EIS, identified costs of the rule include those in the following three general categories: (1) Investment costs for the development of a new technology airplane which will comply with the new noise levels; (2) changes in the direct operating costs for the new technology airplanes, including costs due to changes in weight, fuel consumption, and performance as a result of design parameters required to meet the reduced noise levels; and (3) lost productivity arising from decreased payload or range capabilities due to design parameters. The FAA has reviewed the nonproprietary cost information and data available to it. In addition, manufacturers of aircraft and aircraft engines were requested to provide the necessary additional data which would be used to consider the economic reasonableness of the proposed rule. The FAA has considered that information and data which was submitted.

The economic bases for a manufacturer's decision of whether the economic/technological factors support the development of a new type of aircraft are treated with the utmost proprietary caution. However, the FAA believes that sufficient data are available to it to determine that the noise limits adopted by this amendment will not eliminate or adversely affect the development or introduction into service of those aircraft which would otherwise be produced. A detailed discussion of the bases for this conclusion is presented in the EIS.

The FAA agrees with those commenters who reasoned that certain aspects of the proposed noise levels would be so

stringent as to make them economically unreasonable and not technologically achievable at this time. The FAA believes, further, that the recent review of aircraft noise levels by ICAO supports this view. While some commenters recommended that the noise limits should be either significantly higher or lower in certain weight and number of engine combinations, the FAA concludes that the noise levels adopted in this amendment reflect the necessary modification of the proposed standard and, within the scope of Notice No. 75–37, are consistent with the purpose and the requirements under section 611 of the Act. The detailed analysis supporting this amendment is contained in the EIS prepared in connection with this action.

As previously indicated, the applicability date for Stage 3 noise levels is based on the date of the application for type certification or acoustical change approval. Several commenters stated that the text of the acoustical change proposal in Notice No. 75–37 was not clear since it would permit Stage 2 or 3 noise levels after a change in type design of a Stage 3 airplane for applications made before November 5, 1975, but for applications made on and after May 5, 1976, Stage 3 noise levels would be required. Several commenters noted the differences in the text of the proposed rule and the preamble discussion. The FAA agrees that the rules should be clarified and simplified by applying the more stringent Stage 3 requirements to applications for acoustical change approvals on and after May 5, 1976, for those airplanes for which Stage 3 noise levels were required for issuance of their type certificates. Accordingly, this amendment adopts the proposal with those clarifications. Since May 5, 1976, was the earliest date proposed on which all applications for acoustical change approvals would be subject to Stage 3 noise levels, this amendment adopts that date.

E. INTERACTION WITH ICAO

Most commenters objected to the FAA's proposed rule because they believed it departed from the work then being carried on by many nations, including the United States, through the International Civil Aviation Organization. Those commenters expressed their concern with unilateral action by the FAA with respect to noise standards for future airplane types which would have significant and far reaching implications for civil aviation on an international scale. Many comments cited the principle that the interests of the orderly growth of international aviation make it necessary for all States to adopt regulations which are in harmony with ICAO standards, rather than those which might result in a proliferation of conflicting standards. Comparisons were frequently made between the proposals in Notice No. 75–37 and the international noise certification standards proposed by the ICAO Committee on Aircraft Noise at the CAN–IV meeting in 1975. Some commenters expressed their disappointment that the FAA would choose not to await the outcome of the ICAO process before proposing noise reduction amendments. Many commenters indicated that they could support adoption of the proposed rule if it were modified to achieve parity with the ICAO recommended standards. Conformity with eventual international noise standards was of primary concern to those commenters.

As stated in Notice No. 75–37 and the Policy Statement, the United States, as a matter of international air transportation policy, encourages agreement on international environmental issues through the ICAO forum. This policy is intended to promote equal treatment for foreign and domestic aircraft manufacturers and operators through international standards and preclude unwarranted economic advantages or disadvantages among competitors which could be created in a world air transportation environment characterized by diverse national noise requirements. In proposing these amendments to Part 36, the FAA stated its belief that, if adopted, the amendments would result in significant improvement in noise levels of newly type certificated airplanes. Further, the FAA stated that the public health and welfare requires that progress be realized by those airplanes that will be using U.S. airports for decades to come. The FAA also believed that the proposals, if adopted on an international basis, would provide a major contribution to the limitation of aircraft noise nuisance at airports throughout the world. The FAA announced its intention to support adoption of the proposed rule by ICAO to achieve the recognized need for conformity. The FAA believed its responsibilities for the development of civil aviation and those under the Noise Control Act of 1972, require that it initiate regulatory proceedings leading to amendment of U.S. airplane noise level limits.

As previously indicated, based on the ICAO recommended airplane noise reduction changes to Annex 16, the FAA proposed alternative noise level and acoustical change requirements in Notice No. 75–37C. Since that notice was published, the recommendations of Working Group D of CAN were adopted at the fifth meeting of the ICAO Committee on Aircraft Noise. Thus, those standards are currently awaiting ratification by ICAO member States. The FAA believes that adoption of the noise standards in this amendment will accomplish most of the objectives of the ICAO standards. Further, supplementary amendments, which would provide additional conformity with the ICAO standards, will be considered for adoption on the basis of Notice No. 75–37C after the close of the comment period for that notice on February 28, 1977.

F. MISCELLANEOUS COMMENTS

A number of comments contained views regarding other aspects of the proposals. Many of those comments involved subjects or issues which are beyond the scope of Notice Nos. 75–37 or 75–37B. To the extent that those comments provided information which is relevant to this regulatory action, those comments have been considered it adopting this amendment.

One commenter suggested that the FAA should extend its proposed rule to achieve noise reductions in military aircraft. The authority of the FAA to prescribe noise regulations under § 611 of the Act is expressly confined to regulations applicable to civil aircraft and, thus, does not extend to public, including military, aircraft.

Another commenter recommended increasing test reference altitude for the approach noise measuring point, because certain tones, which attenuate at greater distances, are included in the noise level measurement. The 370-foot reference altitude prescribed for approach noise profiles was adopted in Appendix A of Part 36 because it represents a standard approach altitude at the approach measuring point 1 nautical mile from the runway threshold above a 3 degree slide slope. Thus, it is an appropriate test reference to which measured test data may be corrected. Similar comments regarding other aspects of noise test procedure and conditions were also received. Since those comments involve noise test methodology beyond the scope of Notice No. 75–37, they will be considered with respect to the issues involved in Notice No. 76–21 concerning proposed amendments for Appendix A.

Several comments suggested that separate rules should be adopted for turbojet powered airplanes weighing less than 90,000 pounds and another for transport category large airplanes. The rationale presented was that the noise emission characteristics and noise reduction technologies for those airplanes is distinguishable and should be treated separately from the larger turbojet powered, airplanes. Comments also stated that since there has been no recent Part 36 certification experience with propeller-driven large transport category airplanes, the available economic and technological data does not exist to support the proposed noise level reduction rule with regard to those airplanes. The FAA agrees that for some regulatory purposes those classes of aircraft could receive separate treatment. However, the FAA does not agree that the rationale offered in the comments compels separate rules or regulatory action for those classes of aircraft. As previously stated, this amendment reflects a full and careful consideration of the noise emission factors that may tend to distinguish the various airplanes affected by it.

Thus, the noise level standards adopted in this amendment apply to transport category propeller-driven large airplanes, as well as to subsonic turbojet powered airplanes, regardless of category. Although the FAA anticipates that most, if not all, of the aircraft that are certificated under the standards adopted in this amendment will be turbojet (including turbofan) powered, the FAA has concluded that the reductions are also appropriate to the affected propeller-

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driven large airplanes. Since the late 1940's the government has conducted its own studies, and funded other independent studies, regarding methodology for controlling propeller and engine noise. The FAA believes that the application of that technology would be as appropriate and as cost effective as that required for the turbojet powered airplanes.

Accordingly, this amendment adopts noise standards for those airplanes that are consistent with the purposes and requirements of the Noise Control Act of 1972. There appears no necessity to adopt two or three separate rules when the appropriate distinctions among those airplanes are accounted for. Similarly, the FAA concludes that the available technology allows manufacturers to design and produce airplanes for specific flight purposes and that the new aircraft design selections should include consideration of currently available technology in the design and construction of engine types and sound attenuation devices for those aircraft. Thus, new type designs must preserve already achieved environmentally beneficial aircraft noise reductions. The means of achieving the required noise reduction is, and should be, left to the designers and manufacturers of airplanes. Accordingly, the FAA concludes that based upon its review of the best available noise reduction technology and the cost impacts of requiring its application on all new type designs, this amendment, including the extent to which it applies to turbojet powered airplanes weighing under 75,000 pounds and to transport category airplanes regardless of the type of engine, is consistent with the purposes and requirements of section 611 of the Act.

VI. Effective Date

Since further rulemaking action is contemplated in the near future regarding certain aspects of the amendments being adopted, the FAA has considered whether this amendment should be promulgated before the regulatory procedures on Notice Nos. 75–37C and 76–22 have been completed. As previously indicated, the FAA has concluded that the benefits that can be achieved under this amendment should not be deferred until that later date. The FAA believes that since this amendment prescribes new standards for new type designs and acoustical changes, its early publication should provide aircraft manufacturers and operators a better opportunity to consider these standards in their design and acoustical change planning. However, the FAA recognizes that while such planning is necessary, its regulatory action must be consistent with its responsibilities under section 611 of the Act. Accordingly, the additional proposed rules under consideration involve amendments which, if adopted, may alter, in certain areas, the stringency of those proposed in Notice Nos. 75–37 and 75–37B and now being issued. Those areas include acoustical change requirements for Stage 2 airplanes, reduced takeoff and sideline noise levels limits for certain Stage 3 airplanes, certain noise measuring point distances under § C36.3, and certain takeoff test conditions under § C36.7, as proposed in Notice No. 75–37C, and the recommended amendments, previously discussed, as proposed by the EPA in Notice No. 76–22, as corrected.

The FAA has concluded that it should—(1) announce, as early as possible, the minimum standards for noise reduction that it has already determined should be adopted (based on Notice Nos. 75–37 and 75–37B), (2) provide itself the opportunity to modify, where appropriate, those type certification and acoustical change requirements that are being adopted, (3) avoid the complexity of different requirements for a short period of time due only to staggered effective dates of the amendments, and (4) provide the aviation community the opportunity to accommodate those subsequent amendments into its plans for new type designs or type design changes. To accomplish those objectives, the effective date of this amendment should be delayed until any supplementary amendments have been issued. Since the FAA expects to complete the regulatory process by October 1977, the effective date for this amendment is stated as October 1, 1977.

VII. Regulatory Evaluation

Under the regulatory reform policies of the Secretary of Transportation and the Administrator, comprehensive evaluation of the impacts of this amendment has been completed. In addition to the regulatory impacts previously discussed, the details of that analysis are shown in the Policy Statement and the EIS, particularly chapters 2 and 4. These analyses considered not only the noise reduction benefit, but also the achievement of other significant national objectives, including energy conservation through improved fuel efficiency, improved engine performance for the aircraft mission, improved engine emission levels, and advantages to the consumer of the more advanced aircraft design and lower operating costs despite the effects of modifications to achieve noise reduction.

Based on forecasted aviation growth, the airport noise problem is expected to increase in the future despite the introduction of quieter aircraft. For example, between 1975 and 1990, annual air carrier operations have been forecast to increase from 10 million to 16 million, creating additional noise exposure events that, without Federal action such as this amendment and FAR Amendment 91–136, could more than offset the reduction of noise resulting from an introduction of quieter airplanes. The recent economic trends have brought into question certain aspects of that long established assumption regarding such a substantial growth in airline traffic. Regardless of the recently adopted requirement to retrofit or retire certain turbojet airplanes by 1985 that have not previously been shown to comply with original Part 36 noise standards, it is unclear the extent to which new aircraft types will be introduced in response to the requirements of FAR Amendment 91–136. However, as stated above, it is hoped that this amendment will create strong incentives for the development of a new generation of airplanes markedly quieter than the noise limits in current Part 36. However, the short term noise reduction will remain small in terms of actual community annoyance as long as the aircraft fleets do not include a significant number of Stage 3 airplanes.

As discussed in Section 4.2 of the EIS, the FAA has compared the noise level limits adopted in this amendment with the measured noise levels for aircraft certificated under current Part 36. That comparison revealed that many aircraft using the best currently available technology already meet the Stage 3 levels. The available technology permits manufacturers to trade off noise and emission requirements against weight, fuel, and other direct operating cost factors with minimal net cost differentials. Thus, the effect of this amendment is to preserve already achieved environmental benefits for existing airplane types and provide the standards and incentives for the introduction of newer and quieter types.

The projected cost impact of a new technology aircraft designed to meet Stage 3 noise limits as compared to the same aircraft designed to meet Stage 2 noise limits is estimated to represent an approximate increase of 0.1 percent in direct operating costs and a 0.4 percent reduction on return of investment. On a per airplane basis those costs would amount to approximately $330,000 for the largest aircraft and proportionately less for lighter, smaller aircraft. The FAA estimates the aggregate cost during the first seven years under this amendment would be less than $63 million. The actual projected costs and offsetting economic benefits analysed in the EIS demonstrate the economic impacts of this amendment. Those impacts have been evaluated in accordance with OMB Circular A–107 and DOT Order 2050.4. It was determined that this amendment would not significantly increase costs to the private sector, to consumers, or to Federal, State, or local governments. Accordingly, the FAA has concluded that the cumulative impact of this amendment is not inflationary in nature.

Authority: Secs. 313(a), 601, 603, and 611 of the Federal Aviation Act of 1958 (49 U.S.C 1354(a), 1421, 1423, and 1431); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and Executive Order 11514, March 5, 1970.

In consideration of the foregoing, Part 36 of the Federal Aviation Regulations (14 CFR Part 36) is amended effective October 1, 1977, as follows:

§ 36.1 [Amended]

1. Section 36.1 is amended as follows:

a. By amending paragraph (c) after the words "the airplane complies with" by substituting the words "the applicable provisions of § 36.7 or § 36.9 of this part" for the words "§ 36.7 of this Part."

b. By amending the section heading and adding a new paragraph (f) to read as follows:

§ 36.1 Applicability and definitions.

• • • • •

(f) For the purpose of showing compliance with this part for transport category large airplanes and turbojet powered airplanes regardless of category, the following terms have the following meanings:

(1) A "Stage 1 noise level" means a takeoff, sideline, or approach noise level greater than the Stage 2 noise limits prescribed in § C36.5(a)(2) of Appendix C of this part.

(2) A "Stage 1 airplane" means an airplane that has not been shown under this part to comply with the takeoff, sideline, and approach noise levels required for Stage 2 or Stage 3 airplanes.

(3) A "Stage 2 noise level" means a noise level at or below the Stage 2 noise limits prescribed in § C36.5(a)(2) of Appendix C of this part but higher than the Stage 3 noise limits prescribed in § C36.5(a)(3) of Appendix C of this part.

(4) A "Stage 2 airplane" means an airplane that has been shown under this part to comply with Stage 2 noise levels prescribed in § C36.5 of Appendix C of this part (including use of the applicable tradeoff provisions) and that does not comply with the requirements for a Stage 3 airplane.

(5) A "Stage 3 noise level" means a noise level at or below the Stage 3 noise limits prescribed in § C36.5(a)(3) of Appendix C of this part.

(6) A "Stage 3 airplane" means an airplane that has been shown under this part to comply with Stage 3 noise levels prescribed in § C36.5 of Appendix C of this part (including use of the applicable tradeoff provisions).

2. Section 36.7 is revised to read as follows:

§ 36.7 Acoustical change: Subsonic transport category large airplanes and subsonic turbojet powered airplanes.

(a) *Applicability.* This section applies to all subsonic transport category large airplanes and subsonic turbojet powered airplanes for which an acoustical change approval is applied for under § 21.93(b) of this chapter.

(b) *General requirements.* Except as otherwise specifically provided, for each airplane covered by this section, the acoustical change approval requirements are as follows:

(1) In showing compliance, noise levels must be measured and evaluated in accordance with the applicable procedures and conditions prescribed in Appendices A and B of this part.

(2) Compliance with the noise limits prescribed in § C36.5 of Appendix C must be shown in accordance with the applicable provisions of §§ C36.7 and C36.9 of Appendix C of this part.

(c) *Stage 1 airplanes.* For each Stage 1 airplane prior to the change in type design, in addition to the provisions of paragraph (b) of this section, the following apply:

(1) If an airplane is a Stage 1 airplane prior to the change in type design, it may not, after the change in type design, exceed the noise levels created prior to the change in type design. The tradeoff provisions of § C36.5(b) of Appendix C of this part may not be used to increase the Stage 1 noise levels.

(2) In addition, for an airplane for which application is made after September 17, 1971—

(i) There may be no reduction in power or thrust below the highest airworthiness approved power or thrust, during the tests conducted before and after the change in type design; and

(ii) During the takeoff and sideline noise tests conducted before the change in type design, the quietest airworthiness approved configuration available for the highest approved takeoff weight must be used.

(d) *Stage 2 airplanes.* If an airplane is a Stage 2 airplane prior to the change in type design, in addition to the provisions of paragraph (b) of this section, the following apply:

(1) *Applications before November 5, 1975.* For an airplane for which an application for acoustical change approval is made before November 5, 1975, the airplane may not be a Stage 1 airplane after the change in type design.

(2) *Applications on or after November 5, 1975.* For an airplane for which an application for acoustical change approval is made on or after November 5, 1975—

(i) The airplane may not be a Stage 1 airplane after the change in type design; and

(ii) During the takeoff and sideline noise tests conducted before the change in type design, the quietest airworthiness approved configuration available for the highest approved takeoff weight must be used.

(e) *Stage 3 airplanes.* If an airplane is a Stage 3 airplane prior to the change in type design, in addition to the provisions of paragraph (b) of this section, the following apply:

(1) *Applications before May 5, 1976.* For an airplane for which an application for acoustical change approval is made before May 5, 1976, the airplane may not be a Stage 1 airplane after the change in the type design.

(2) *Applications on or after May 5, 1976.* For an airplane for which an application for acoustical change approval is made on or after May 5, 1976, the following apply:

(i) If compliance with Stage 3 noise levels is not required before the change in type design, the airplane must—

(A) Be a Stage 2 airplane after the change in type design and compliance must be shown under the provisions of paragraph (d)(2) of this section; or

(B) Remain a Stage 3 airplane after the change in type design and compliance must be shown under the provisions of paragraph (e)(2)(ii) of this section.

(ii) If compliance with Stage 3 noise levels is required before the change in type design, the airplane must be a Stage 3 airplane after the change in type design.

3. The provisions of paragraph (b) of § 36.7 are redesignated as a new § 36.9 entitled "§ 36.9 *Acoustical change: Propeller-driven small airplanes.*" and paragraphs (b)(1), (b)(2), and (b)(3) are redesignated as paragraphs (a), (b), and (c) respectively.

4. Paragraphs (b) and (c) of § 36.201 are revised to read as follows:

§ 36.201 Noise limits.

• • • • •

(b) *Airplanes with high bypass ratio engines.* For airplanes that have turbojet engines with bypass ratios of 2 or more, the noise limit requirements are as follows:

(1) *Applications before January 1, 1967.* If application is made before January 1, 1967, it must be shown that the noise levels of the airplane are no greater than the Stage 2 noise limits prescribed in § C36.5(a)(2) of Appendix C of this part, or are reduced to the lowest levels that are economically reasonable, technologically practicable, and appropriate to the particular type design.

(2) *Applications on or after January 1, 1967, and before November 5, 1975.* If application is made on or after January 1, 1967, and before November 5, 1975, it must be shown that the noise levels of the airplane are no greater than the Stage 2 noise limits prescribed in § C36.5(a)(2) of Appendix C of this part.

(3) *Applications on or after November 5, 1975.* If application is made on or after November 5, 1975, it must be shown that the noise levels of the airplanes are no greater than the Stage 3 noise limits prescribed in § C36.5(a)(3) of Appendix C of this part.

(c) *Airplanes with low bypass ratio engines.* For airplanes that have turbojet engines with bypass ratios of less than 2 (including no bypass ratio), the noise limit requirements are as follows:

(1) *Applications before December 1, 1969.* If application is made before December 1, 1969, it must be shown that the lowest noise levels, reasonably obtainable through the use of procedures and information developed for the flight crew under § 36.1501, are determined.

(2) *Applications on or after December 1, 1969, and before November 5, 1975.* If application is made on or after December 1, 1969, and before November 5, 1975, it must be shown that the noise levels of the airplane are no greater than the Stage 2 noise limits prescribed in § C36.5(a)(2) of Appendix C of this part.

(3) *Applications after November 5, 1975.* If application is made on or after November 5, 1975, it must be shown that the noise levels of the airplane are no greater than the Stage 3 noise limits prescribed in § C36.5(a)(3) of Appendix C of this part.

• • • • •

5. Appendix C of Part 36 is amended as follows:

(a) Paragraph (c) of § C36.3 is revised to read as follows:

Sec. C36.3 *Noise measuring points.*

• • • • •

(c) For the sideline, at the point, on a line parallel to and 0.25 nautical miles from the extended centerline of the runway, where the noise level after liftoff is greatest, except that, for an airplane powered by more

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than three turbojet engines this distance must be 0.35 nautical miles for the purpose of showing compliance with Stage 1 or Stage 2 noise limits (as applicable).

(b) Paragraphs (a) and (b) § C36.5 are revised to read as follows:

Sec. C36.5 *Noise levels.*

(a) *Limits.* Except as provided in paragraphs (b) and (c) of this section, it must be shown by flight test that the noise levels of the airplane, at the measuring points described in § C36.3, do not exceed the following (with appropriate interpolation between weights):

(1) Stage 1 noise limits for acoustical changes for airplanes regardless of the number of engines are those noise levels prescribed under § 36.7(c) of this part.

(2) Stage 2 noise limits for airplanes regardless of the number of engines are as follows:

(i) *For takeoff.*—106 EPNdB for maximum weights of 600,000 pounds or more, reduced by 5 EPNdB per halving of the 600,000 pounds maximum weight down to 93 EPNdB for maximum weights of 75,000 pounds and less.

(ii) *For sideline and approach.*—108 EPNdB for maximum weights of 600,000 pounds or more, reduced by 2 EPNdB per halving of the 600,000 pounds maximum weight down to 102 EPNdB for maximum weights of 75,000 pounds and less.

(3) Stage 3 noise limits are as follows:

(i) *For airplanes with more than 3 engines*—

(A) *For takeoff.*—106 EPNdB for maximum weights of 850,000 pounds or more, reduced by 4 EPNdB per halving of the 850,000 pounds maximum weight down to 90 EPNdB for maximum weights of 53,125 pounds or less;

(B) *For sideline.*—103 EPNdB for maximum weights of 850,000 pounds or more, reduced by 2 EPNdB per halving of the 850,000 pounds maximum weight down to 96 EPNdB for maximum weights of 75,130 pounds and less; and

(C) *For approach.*—105 EPNdB for maximum weights of 850,000 pounds or more, reduced by 2 EPNdB per halving of the 850,000 pounds weight down to 98 EPNdB for maximum weights of 75,130 pounds and less.

(ii) *For airplanes with 3 engines*—

(A) *For takeoff.*—104 EPNdB for maximum weights of 850,000 pounds or more, reduced by 4 EPNdB per halving of the 850,000 pounds maximum weight down to 90 EPNdB for maximum weights of 75,130 pounds and less;

(B) *For sideline.*—103 EPNdB for maximum weights of 882,000 pounds or more, reduced by 2.56 EPNdB per halving of the 882,000 pounds maximum weight down to 96 EPNdB for maximum weights of 132,538 pounds and less; and

(C) *For approach.*—105 EPNdB for maximum weights of 850,000 pounds or more, reduced by 2 EPNdB per halving of the 850,000 pounds weight down to 98 EPNdB for maximum weights of 75,130 pounds and less.

(iii) *For airplanes with fewer than 3 engines*—

(A) *For takeoff.*—101 EPNdB for maximum weights of 850,000 pounds or more, reduced by 4 EPNdB per halving of the 850,000 pounds maximum weight down to 90 EPNdB for maximum weights of 106,250 pounds and less;

(B) *For sideline.*—108 EPNdB for maximum weights of 882,000 pounds or more, reduced by 2.56 EPNdB per halving of the 882,000 pounds maximum weight down to 94 EPNdB for maximum weights of 77,120 pounds and less; and

(C) *For approach.*—105 EPNdB for maximum weights of 850,000 pounds or more, reduced by 2 EPNdB per halving of the 850,000 pounds weight down to 98 EPNdB for maximum weights of 75,130 pounds and less.

(b) *Tradeoffs.* Except to the extent limited under § 36.7(c)(1) of this part, the noise level limits prescribed in paragraph (a) of this section may be exceeded at one or two of the measuring points specified in § C36.3 of this appendix, if—

* * * * *

c. Paragraph (a) of § C36.7 is amended to read as follows:

Sec. C36.7 *Takeoff test conditions.*

(a) This section applies to all takeoff noise tests conducted under this appendix in showing compliance with this part.

* * * * *

NOTE.—The Federal Aviation Administration has determined that this document does not require preparation of an inflationary impact statement under Executive Order 11821 and OMB Circular A-107.

Issued in Washington, D.C., on February 25, 1977.

JOHN L. MCLUCAS,
Administrator.

[FR Doc.77-6206 Filed 3-2-77;8:45 am]

federal register

THURSDAY, MARCH 3, 1977

PART IV

COMMODITY FUTURES TRADING COMMISSION

■

CONTRACT MARKETS AND FUTURES COMMISSION MERCHANTS

Reporting Requirements

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Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS AND FOREIGN BROKERS

Reporting Requirements

The Commodity Futures Trading Commission ("Commission") has adopted modifications to Parts 1 and 17 of its regulations under the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 1 et seq. These modifications change the recently adopted amendments to §§ 1.42(b) and 17.03, which were to the effect that the data processing media and/or computer printouts submitted by contract markets and futures commission merchants, respectively, be certified as complete and accurate.[1] As modified today, these sections delete the certification requirement but retain the requirement that the information so submitted be complete and accurate. In addition, § 1.42(b) has been amended to make clear the Commission's intent that only the nature of the information to be provided by contract markets by data processing media or computer printouts need be approved in advance by the Commission, not the information provided. Finally, as previously amended, § 17.03 provided that "an officer" was one of the persons who could certify information submitted by a futures commission merchant. As revised, the section specifies the chief executive officer as the person who is to submit the printout on behalf of a futures commission merchant which is a corporation. The Commission is revising this provision to make clear that the chief executive officer should be responsible for reviewing the material before it is submitted to the Commission.

At the time of its announcement of the previous amendments to these sections, the Commission noted that there had been some objection to the certification requirements as originally proposed. It was contended that information could not be certified as complete and accurate, but only as authentic, i.e., accurate only to the extent of the accuracy of the source records. The Commission adopted the proposals in a form which permitted certification to be made to the best knowledge and belief of the certifying person after making a reasonable inquiry. The Commission has received further comment from one contract market that requiring a reasonable inquiry to be made could delay submission of data to the Commission, since verification of source records could take up to several days. Because the Commission believes it particularly important that it obtain market information as promptly as possible as part of its market surveillance program, it has reconsidered the certification issue and has determined to modify these sections to delete the requirement for certification. However, the Commission wishes to emphasize that it expects the information submitted to be complete and accurate as required by these sections. Of course, the Commission realizes that there may be instances where information submitted may be inaccurate because of inadvertent errors. Nevertheless, the Commission expects affected persons to employ procedures designed to keep such errors to a minimum and to correct all incorrect information by prompt submission to the Commission.

In consideration of the foregoing, the Commission hereby amends Parts 1 and 17 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

1. Section 1.42(b) is revised to read as follows:

§ 1.42 Delivery notice; filing of copy.

* * * * *

(b) Any contract market may provide the required delivery notice information on compatible data processing punched cards, magnetic tapes, magnetic discs, computer printouts, or other means: *Provided*, That the format and coding structure and the nature of the information contained thereon have been approved in writing by the Commission. A complete and accurate computer listing of any information supplied via data processing media must also be provided by an officer of the contract market at the time information via data processing media is supplied.

2. Section 17.03 is revised to read as follows:

§ 17.03 Use of data processing media.

Any futures commission merchant may provide the required series '01 information on compatible data processing punched cards, magnetic tapes, magnetic discs, or updated Commission-supplied computer printouts: *Provided*, That the format and coding structure used thereon have been approved in writing by the Commission. Information provided by means of data processing media must also be accompanied by a complete and accurate printout of the information, which shall be submitted by the futures commission merchant if a sole proprietorship, by a general partner of a futures commission merchant which is a partnership, by the chief executive officer of a futures commission merchant which is a corporation, or by a person designated by the futures commission merchant for such purpose provided such designee has been identified as such in writing to the Commission.

Secs. 4g(1), 4i, 5(b), 8a(5), Commodity Exchange Act, 7 U.S.C. 6g(1), 6i, 7(b), 12a (5) (Supp. V, 1975).)

The foregoing modifications are adopted effective immediately. The Commission finds that the foregoing action relieves a burden heretofore imposed and therefore that the notice and other public procedures called for by 5 U.S.C. 553 are not required.

Issued at Washington, D.C., on February 25, 1977.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-6305 Filed 3-2-77;8:45 am]

[1] Those amendments became effective on November 26, 1976. See 41 FR 4811 (November 2, 1976).

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THURSDAY, MARCH 3, 1977

PART V

FEDERAL ELECTION COMMISSION

■

ADVISORY OPINION REQUESTS

V42 #42 MAR 3 77 UMI

FEDERAL ELECTION COMMISSION

[Notice 1977–11, AOR 1977–6 through AOR 1977–8]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's Proposed Regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Requests 1977–6, 1977–7, and 1977–8 have been made public at the Commission. Copies of AOR 1977–6 were made available on February 22, 1977, and copies of AOR 1977–7 and 1977–8 were made available on February 23, 1977. These copies of the advisory opinion requests were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street, N.W., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Pub. L. citations.

A descriptive listing of each of the requests recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977–6: This request presents several questions regarding the duty of the corporate sponsor of a political committee, receiving contributions by payroll or stock dividend deductions from executives or administrative employees or stockholders of the corporation, to provide payroll withholding for a political committee of a labor organization having members employed by the corporation.—Requested by Anthony L. Hodges, Counsel for the Conoco Employees' Good Government Fund, Houston, Texas.

AOR 1977–7: Would donations under the plan of a holder of Federal office to solicit monetary gifts to defray his "personal financial burdens" be subject to the contribution limits and other provisions of the Federal Election Campaign Act of 1971, as amended.—Requested by Representative George Hansen, U.S. House of Representatives, Washington, D.C. 20515.

AOR 1977–8: May the principal campaign committee of a Senate candidate receive a pro-rata share of the proceeds from a joint fundraiser held with the principal campaign committee of a House candidate without regard to the limits of 2 U.S.C. 441a and would the Senate campaign committee be required to itemize contributions to the joint fundraiser.—Requested by W. Gary Blackburn on behalf of the Sasser for Senate Committee, Nashville, Tennessee.

Dated: February 24, 1977.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

[FR Doc.77–6423 Filed 3–2–77;8:45 am]

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THURSDAY, MARCH 3, 1977

PART VI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Areas Eligible for Sale of Insurance; Suspensions

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Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2693]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

The purpose of this notice is to list communities wherein the sale of flood insurance as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) will be suspended because of noncompliance with the program regulations (24 CFR Part 1909 et seq.).

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is purchased. Accordingly, for communities listed under this Part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement. Accordingly, the communities are suspended on the effective date in the list below:

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.6 List of Eligible Communities.

(24 CFR § 1914.6)

State	County	Location	Effective date of authorization of sale of flood Insurance for area		Hazard area Identified	Community Number
Florida.	Duval.	Jacksonville Beach, City of.	November 19, 1971. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	6-7-74 & 2-6-76	120078A
Georgia.	Fulton.	East Point, City of.	January 28, 1972. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	6-28-74 & 1-23-76	130087A

(24 CFR § 1914.6)

State	County	Location	Effective date of authorization of sale of flood Insurance for area		Hazard area Identified	Community Number
New Jersey.	Middlesex.	Dunellen, Borough of.	December 22, 1972. April 1, 1977. April 1, 1977.	Emerg. Reg. Susp.	8-31-73	340259A
Do.	Mercer.	Hightstown, Borough of.	June 9, 1972. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	1-9-74	340247B
Do.	Essex.	Livingston, Township of.	November 5, 1971. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	6-1-73	340185
Do.	Ocean.	Lakewood, Township of.	August 4, 1972. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	1-16-74	340378
Do.	Bergen.	New Milford, Borough of.	February 25, 1972. April 1, 1977. April 1, 1977.	Emerg. Reg. Susp.		340054
Do.	Do.	Ridgefield, Borough of.	January 14, 1972. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	6-15-73	340065A
North Carolina.	Carteret.	Cape Carteret, Town of.	December 12, 1973. April 1, 1977. April 1, 1977.	Emerg. Reg. Susp.	5-24-74 & 2-21-75	370046A
Do.	Do.	Emerald Isle, Town of.	June 29, 1973. April 1, 1977. April 1, 1977.	Emerg. Reg. Susp.	6-7-74 & 7-2-76	370047A
Wisconsin.	Waupaca & Outagamie.	New London, City of.	March 10, 1972. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	11-9-73	550308
Do.	Sheboygan.	Sheboygan, City of.	April 23, 1971. March 15, 1977. April 1, 1977.	Emerg. Reg. Susp.	6-7-74	550430A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 26, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: February 9, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-6177 Filed 3-2-77;8:45 am]

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THURSDAY, MARCH 3, 1977

PART VII

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

PRELIMINARY FISHERY MANAGEMENT PLANS

Determination, Preparation, Issuance and Implementation

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

PRELIMINARY FISHERY MANAGEMENT PLANS

Determination, Preparation, Issuance, and Implementation

Notice is hereby given that the notice of determination, preparation, issuance, implementation of Preliminary Fishery Management Plans which appeared at 42 FR 6873 on 4th day of February, 1977, is supplemented as follows:

1. In addition to the foreign nations listed on page 6874 from whom applications for permits to fish have been received, applications have since been received from the Government of Japan.

2. In addition to the Preliminary Fishery Management Plans listed on page 6874, the Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration has recently approved a FMP for the Shrimp Fishery of the Eastern Bering Sea and Gulf of Alaska.

A Final Environmental Impact Statement (FEIS) concerning this plan has been filed with the Council on Environmental Quality; the Notice of Availability for the FEIS was published on January 28, 1977 at 42 FR 5392.

The Preliminary Management Plan for the Shrimp Fishery of the Eastern Bering Sea and Gulf of Alaska follows below.

Signed this 25th day of February 1977 at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

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1.0 Introduction

The shrimp fishery in Alaska began in southeastern Alaska near Petersburg in 1915. The fishery principally harvested pink shrimp, Pandalus borealis, which were cooked, hand peeled, and frozen for special markets. The fishery gradually expanded, and harvests of 0.8 to 1.4 million pounds (360-640 metric tons) continued until the mid-1950's. In 1957 the mechanical peeling machine was introduced in Wrangell, Alaska. And in 1958 a fishery supported by the mechanical peelers began in Lower Cook Inlet and Kodiak where large stocks of shrimp had been located. The fishery grew rapidly from 7.9 million pounds (3,500 metric tons) in 1958 to 15.1 million pounds (6,900 metric tons) in 1963. Growth slowed when shore plants and the fishing fleet were badly damaged by the 1964 earthquake but then grew rapidly to 120 million pounds (54,000 metric tons) in 1973.

Two separate foreign fisheries have occurred on Alaskan shrimp

stocks. The Japanese conducted a fishery northwest of the Pribilof Islands from 1961 to 1968 which took a total of 95,000 metric tons. By 1968 the stock had been driven to commercial extinction. A Soviet fishery has occurred in waters of the Gulf of Alaska off Cape Mitrofania near the Shumagin Islands and east of Kodiak Island on the north and west sides of Portlock Bank. This fishery grew from 4,000 metric tons in 1964 to 11,400 metric tons in 1967, after which it declined to about 2,000 metric tons. The decline is attributed to enforcement of the U.S. 3-12 mile contiguous fishery zone within which a significant portion of the earlier Soviet catch occurred.

2.0 [illegible] Description of the Fishery

A. Areas and Stocks Involved

The pandalid shrimp stocks of the northeastern Pacific Ocean and Bering Sea are composed of three major species. The pink shrimp, Pandalus borealis, comprises 80 to 90 percent of the catches. Second in importance is the humpy shrimp, Pandalus goniurus, which makes up a substantial element of the catch in shallower and colder waters. Next is the sidestripe shrimp, Pandalopsis dispar, a larger shrimp highly prized by shrimp trawlers. It is found in deeper continental shelf and slope regions. Four other species occur in trawl catches but make up a small proportion of the catch. In order of importance they are the coonstripe shrimp, Pandalus hypsinotus; the spot prawn, Pandalus platyceros; the ocean pink shrimp, Pandalus jordani; and

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Pandalus montagui tridens.

The life history of Pandalus borealis has been studied in the northeastern Pacific Ocean and Bering Sea, and since this species probably represents the general life history pattern of other pandalids it will be briefly discussed. The free swimming larvae are released in mid-spring and spend 2 to 3 months feeding on planktonic organisms. By the end of the summer the young shrimp have taken on a semi-benthic existence, spending part of their time feeding in the water column and the remainder on the bottom. The juvenile shrimp develop into males and become sexually active at 2 years. During the third or fourth year the males undergo a sexual transformation and function as females for the remainder of their lives. The result of such a life history is that several age groups must be involved in the breeding population; and this must be considered in management. Spawning takes place in the early fall. Apparently multiple copulations occur and spermataphores, containing the sperm, are attached to the females. The eggs are fertilized as they are extruded from the female and are attached to specialized setae on the abdominal appendages. The eggs are carried for 7 to 8 months before hatching takes place in the spring (Ivanov, 1964; Barr, 1970; Fox, 1972).

B. History of Exploitation

(1) Domestic Shrimp Fishery

Pandalid shrimp have provided a valuable commercial fishery in

the northeastern Pacific Ocean since the late 1800's. In California, Oregon, and Washington the bulk of commercial shrimp landings consists of ocean pink shrimp, Pandalus jordani. In Alaska the pink shrimp, Pandalus borealis, is the major species of commercial importance.

Alaska landings of shrimp increased from 7.9 million pounds (3,500 metric tons) in 1958 to 120.0 million pounds (54,400 metric tons) in 1973 (Table 1).

The pandalid shrimp industry of Alaska began in 1915 with the development of a small inshore fishery near Petersburg (Figure 1). Catches in this region gradually increased until 1956 when a peak production of 3.1 million pounds (1,406 metric tons) occurred. In 1957 the mechanical shrimp peeling machine was introduced in Wrangell. In 1958 these machines were introduced in central Alaska and have provided the technological basis for the further expansion of the Alaskan shrimp fishery. In Lower Cook Inlet and near Kodiak Island, catches rapidly increased until catch quotas were implemented by the Alaska Department of Fish and Game in 1972. Since that time catches have remained near 55 million pounds (25,000 metric tons) for these areas. A shrimp fishery started along the Alaska Peninsula in the late 1960's, but landings did not increase substantially until catches in the Kodiak area were limited by quota. Catches from the Alaska Peninsula area have increased from 5.6 million pounds (2,500 metric tons) in 1968 to 47.9 million pounds (21,700 metric tons) in 1974. The fishery has continued to expand to Unalaska Island where catches

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Table 1. — Alaska shrimp landings and value to fishermen, 1958-74.

Year	Pounds	U.S. dollars
1958	7,862,366	$ 277,901
1959	13,052,321	505,537
1960	7,426,207	297,499
1961	15,980,500	639,220
1962	16,943,120	731,370
1963	15,126,950	605,080
1964	7,726,750	309,090
1965	16,818,941	756,860
1966	28,192,621	1,287,593
1967	41,812,552	1,700,535
1968	42,023,084	2,299,923
1969	47,850,560	1,908,981
1970	74,256,326	2,979,598
1971	94,891,304	3,909,045
1972	83,830,064	4,493,238
1973	119,963,729	9,341,099
1974	108,274,792	11,044,285

Source: ADF&G Statistical Leaflets

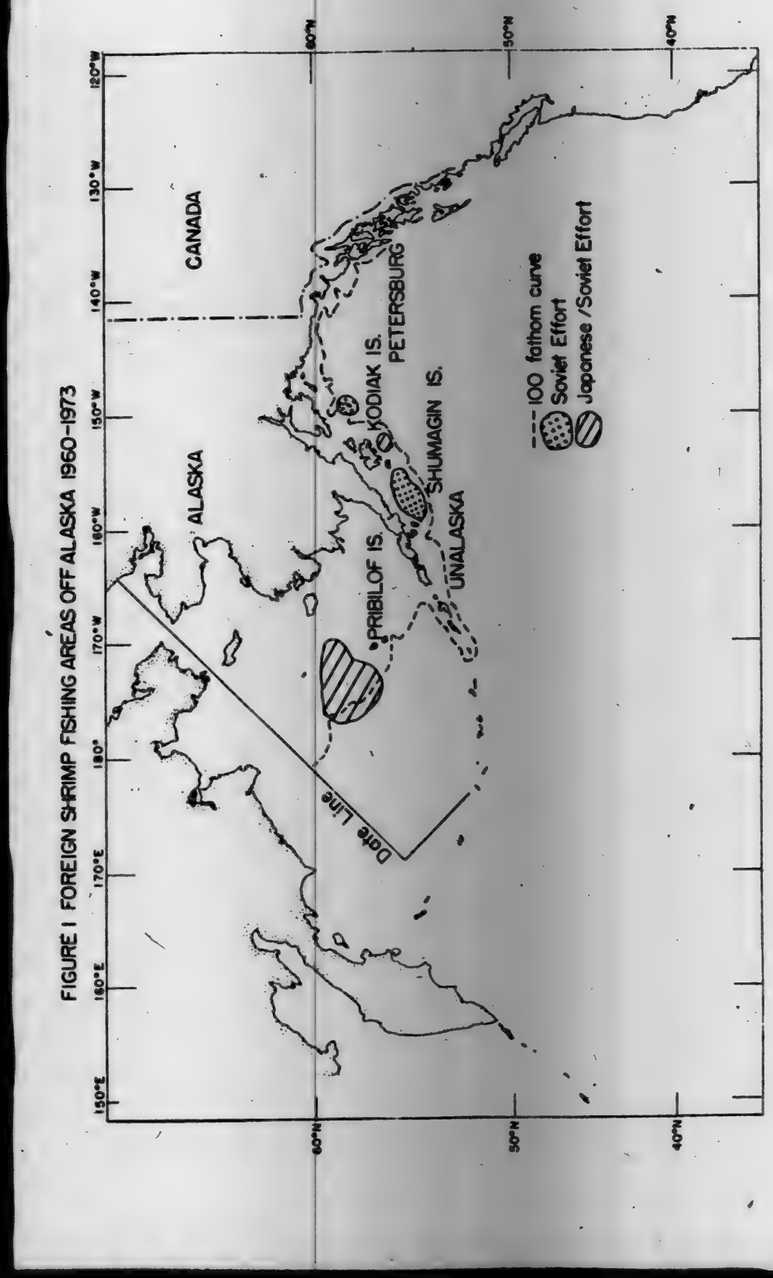

FIGURE I FOREIGN SHRIMP FISHING AREAS OFF ALASKA 1960-1973

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have increased to 2,600 metric tons in 1974.

During the early years of the fishery most of the boats in the Alaskan shrimp fleet consisted of "western combination" vessels in the 40 to 85 foot (12 to 26 meters) class. These trawlers were rigged to fish with a single otter trawl. As the fishery grew new West Coast crab-shrimp vessels have entered the fishery. In 1975, Gulf of Mexico style doublerigged (capable of fishing two shrimp trawls simultaneously) shrimp boats also entered the fishery. These newer boats are large modern steel vessels with hold capacities up to a quarter million pounds (113 metric tons).

Conservative estimates of harvest capability of the Gulf of Alaska shrimp fleet can be made using hold capacity. /Using an average of 100,000 pounds (45.4 metric tons) of hold capacity per vessel, 26 trips per year, and the present fleet size of 76 vessels, fleet capacity is at least 90,000 metric tons./7

Gear has evolved to increase efficiency of the shrimping fleet. Shrimp trawlers fish heavily constructed shrimp trawls with recent trends toward larger overall size in both footrope length and height of net openings. With the widespread use of sophisticated depth meters, fishermen are abandoning the broad open gullies in favor of fishing the more productive contour edges. Night fishing has become profitable but still is considerably less so than daylight fishing. Fishing techniques and gear modifications vary among fishermen.

Advances in processing technology have been the primary reason for the expansion of this fishery. During the earlier years catches

were often boiled on the fishing boat itself or delivered to the cannery for cooking. The meats were then handpicked to yield a high quality product with excellent texture and flavor.

In 1957 automatic peeling machines were introduced which provided a more economical method of processing the small shrimp. Although the first machines were introduced in Wrangell in the historic southeastern Alaska shrimp fishery, their application in Kodiak, Seward, and Seldovia in the late 1950's provided the basis for the rapid expansion to the Kodiak-area stocks. The number of peelers in this area grew slowly until the late-1960's, after which it rapidly increased to 66 in 1976.

West of Kodiak Island in 1968 a single processor in the Shumagin Islands operated with three vessels and five peelers. By the 1975 fishing season, 54 peelers were in use in the south Alaska Peninsula area, and the processing capability now rivals that of Kodiak.

Using the number of peelers, we can compute a conservative estimate of current processing capability. In Kodiak, along the Alaska Peninsula, and in Unalaska there is a total of 126 peelers. Again, using a processing figure of 500 pounds per hour per peeler, a 16-hour day, and a 120-day processing year, processing capacity is about 120 million pounds (54,000 metric tons). In 1973 the U.S. processing industry demonstrated it could both process and find markets for this volume of shrimp.

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(c) Foreign Shrimp Fishery

The first foreign shrimp fishery off Alaska was that of Japan which began in 1961 in the central Bering Sea and employed 16 trawlers and one factoryship. Japanese effort peaked in 1963 when 38 trawlers and three factoryships caught 27,127 metric tons of shrimp. After 1963, Japanese effort and catch decreased rapidly; and since 1968, shrimp catches have been produced only incidentally to other trawl operations in the eastern Bering Sea (Chitwood, 1969)1/.

The U.S.S.R. also began fishing shrimp in 1963 near the Pribilof Islands when six factory trawlers operated for 1 month. In 1964 the Soviet effort shifted to the Gulf of Alaska and peaked at 18 freezer trawlers in 1963. The fishery was carried out principally east of the Shumagin Island group and northeast of Kodiak (Figure 1).

Japanese shrimp fishing efforts have been primarily in the eastern Bering Sea during the period 1961 through 1968 (Table 2). In addition, modest effort was expended in the Gulf of Alaska during the period 1966 through 1968 (Table 3). In 1961 the Japanese shrimp catch in the Bering Sea totaled 14,117 metric tons (Table 2), most of which came from stocks northwest of the Pribilof Islands. The catch increased rapidly to 27,127 metric tons in 1963 and then declined to 451 metric tons in 1968. No directed fishery by Japan on the Pribilof stocks occurred in 1969-75.

The Soviets have concentrated their shrimping effort in the central and western Gulf of Alaska. Soviet catches began in 1964 and

Table 2. — Japanese catches (metric tons) of shrimp from the eastern Bering Sea, 1961-68.

Year	Catch
1961	14,117
1962	18,387
1963	27,127
1964	20,527
1965	8,839
1966	2,984
1967	3,302
1968 1/	451

Source: INPFC Statistical Yearbook - 1972

1/ No directed fishery has occurred since 1968 although small catches are made incidentally to other trawl fisheries.

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Table 3. — Total catches (metric tons) of shrimp from the Gulf of Alaska, 1958-73.

Date	Soviet[1]	Japan[2]	U.S.A.[3]
1958			3,566
1959			5,920
1960			3,368
1961			7,249
1962			7,685
1963		654	6,861
1964	4,032	2,370	3,504
1965	6,985	84	7,629
1966	10,478	474	12,788
1967	11,385	254	18,966
1968	2,858	1,317	19,061
1969	5,307		21,704
1970	4,218		33,682
1971	4,717		43,042
1972	2,313		38,025
1973	2,000		54,415

1/ From U.S.-U.S.S.R. data exchanges.

2/ From INPFC Statistical Yearbook - 1971.

3/ From ADF&G Statistical Leaflets.

reached their peak in 1967 when 11,385 metric tons (25.1 million pounds) were landed (Table 3). Since the United States began enforcement of its fishery jurisdiction to 12 nautical miles in 1968, catches have declined to about 2,000 metric tons (4.4 million pounds) per year.

C. Vessels and Gear Types

The Japanese fishery in the eastern Bering Sea was a mothership fishery. The trawlers delivered their catches to the factoryship in baskets where the shrimp were peeled with automatic peeling machines and frozen or canned (Chitwood, 1969).

The development of the Mayak-class freezer trawler was responsible for the expansion of the Soviet distant water shrimping operations. On these vessels the catches are sorted, frozen in the round on the vessel, and delivered to Soviet ports for final processing. In 1966 the trawl fleet was joined by a Zakharov-class factoryship equipped with U.S.-built Laitram shrimp peelers. Complete processing was accomplished on the fishing ground.

D. Impact on Domestic Fishery

(1) Competition for Stocks

Competition for offshore shrimp stocks in the Gulf of Alaska will likely intensify if foreign fishermen are allowed to continue fishing for shrimp. For example, the domestic fleet expanded its operation offshore following the establishment of quotas and

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seasonal closures in the Kodiak area. The area now used by U.S. fishermen extends offshore from Marmot Bay to areas near where Soviet shrimp fleets have operated in recent years. With the imposition of harvest limits for inshore fisheries along the Alaska Peninsula, the domestic fleet will probably explore shrimp stocks farther offshore, particularly those in Shumagin Gulley and the Lighthouse Rocks area. Again these areas have been used by Soviet shrimp fleets.

Domestic harvest of the central Bering Sea shrimp stocks does not appear likely at the present time because of the depleted conditions of that resource.

[redacted](2) Gear Conflicts

The foreign shrimp fishery in the Gulf of Alaska occurs in areas where U.S. fishermen seek snow (Tanner) crab (Chionoecetes sp). Gear conflicts between foreign shrimp fishermen and domestic snow crab fishermen have not developed even though the domestic snow crab fishery is conducted during the same time period (winter) and in the same general areas as the foreign shrimp fishery.

[redacted](3) Non-Target Species Mortality

Small quantities of fish have been reported in the Japanese shrimp catches from the Bering Sea. During 2 years of high catches (1963-64), the incidental Pacific ocean perch (Sebastes alutus) catch was 3-4 percent of the total shrimp catch. Similar incidence rates for other species were: yellow fin sole (Limanda aspera) — 1.8 percent; Pacific herring (Clupea harengus pallasi) — 3.6 percent; and walleye (Alaska) pollock (Theragra chalcogramma) — 1.9 percent. Recent

information from the U.S. foreign fishery observer program suggests that the incidence of Pacific halibut (Hippoglossus stenolepsis) in Japanese shrimp trawls is considerably higher than the incidence in fish trawls.

[redacted](4) Economic Interactions

In 1975 the National Shrimp Congress filed a petition with the U.S. International Trade Commission for import relief under provisions of the Trade Act of 1974. An investigation was started by the Commission and the result is summarized in the following excerpt of their report (U.S. International Trade Commission, 1976).

"Thus, the Commission determines that shrimp, fresh, chilled, frozen, prepared, or preserved (including pastes and sauces), ... is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry catching and landing shrimp."

E. [redacted] Regulatory History

The Bering Sea shrimp fishery has been unrestricted.

The Gulf of Alaska shrimp fishery, on the other hand, has received a measure of protection from foreign fishing by imposition of the 3-12 mile contiguous fishery zone which forced the Soviet shrimp fleet from productive inshore grounds. Violations listed in Table 4 suggest that "poaching" of inshore stocks may have occurred on an intermittent basis off Cape Mitrofania and in the Lighthouse Rocks areas.

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Table 4. — Foreign shrimp fishery violations 1966-76.

1967

March 2 — Soviet freezer trawler

Territorial waters violation — fishing shrimp 0.5 miles off Mitrofania Island, western Gulf of Alaska, position 55-50N 158-56W. Master fined $5,000.

March 22 — Soviet freezer trawler

Contiguous fishery zone violation — fishing shrimp 5.5 miles off Seal Cape, western Gulf of Alaska, in position 56-02N 158-14W. Master fined $10,000.

1971

February 10 -- Soviet freezer trawler

Contiguous fishery zone violation — fishing shrimp 9.8 miles off Lighthouse Rocks, western Gulf of Alaska, in position 55-44N 157-42W. Master fined $20,000. Settlement of $30,000 reached in civil suit against the vessel.

1974

February 5 — Soviet freezer trawler

Continguous fishery zone violation — fishing shrimp 9.5 miles off Lighthouse Rocks, western Gulf of Alaska, in position 55-50.5N 157-40.5W. Master fined $25,000. Settlement of $225,000 reached in civil suit against the vessel.

The domestic fishery in the Gulf of Alaska has been regulated by a complicated set of time, area, and harvest level regulations established by the Alaska Board of Fisheries and administered by the Alaska Department of Fish and Game (ADF&G). This system has evolved over a period of years through public participation in Alaska's regulatory process.

F. Cooperative Research and Statistical Exchange

The Soviet research vessel Krill and the NOAA fishery research vessel Oregon conducted a cooperative shrimp resource assessment survey along the Continental Shelf in the Gulf of Alaska from Portlock Bank to Unimak Pass in 1971. Statistical exchanges have continued and provide minimal information on Soviet catches by broadly defined areas.

Information on catch and effort for the Japanese shrimp fishing off Alaska has been obtained from the Japanese government through the International North Pacific Fisheries Commission.

3.0 Status of Stocks

A. Distribution of Exploited Stocks

(1) Bering Sea

Information on pandalid shrimp distribution in the Bering Sea is available from Soviet exploratory fishing operations and from incidental catches of shrimp during United States demersal crab and fish surveys. The major commercial species, P. borealis, is found along the shelf and slope near the 150-meter isobath. There appears

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to be a distinct banding of P. goniurus in shallower water well back from the shelf edge. These distributional patterns reflect the temperature requirements of the individual species. P. borealis evidently requires warmer temperatures and as a result is found near the shelf edge where there is an intrusion of warmer oceanic water. P. goniurus, on the other hand, can tolerate sustained low temperatures and is found in shallower shelf waters where residual winter cooling has a greater effect on the water temperature (Figure 2) (Ivanov, 1964; Anderson and Hartsock, 1975). Pandalopsis dispar is found in the Bering Sea at greater depth than the other species of pandalids.

(2) Gulf of Alaska

The distribution of shrimp stocks in the Gulf of Alaska is well known from State and Federal resource assessment efforts and intensive commercial exploitation. The stock structure is extremely complicated and the biological mechanism that results in local concentrations is not understood. But empirical evidence from commercial harvest has demonstrated the local nature of many subpopulations and provided bases for their individual management.

Both Soviet and United States research vessels have conducted extensive and systematic surveys to locate offshore stocks and to delimit the offshore extent of nearshore stocks of shrimp. In general these studies confirm the experience of the commercial fisheries and have not identified any major new stocks.

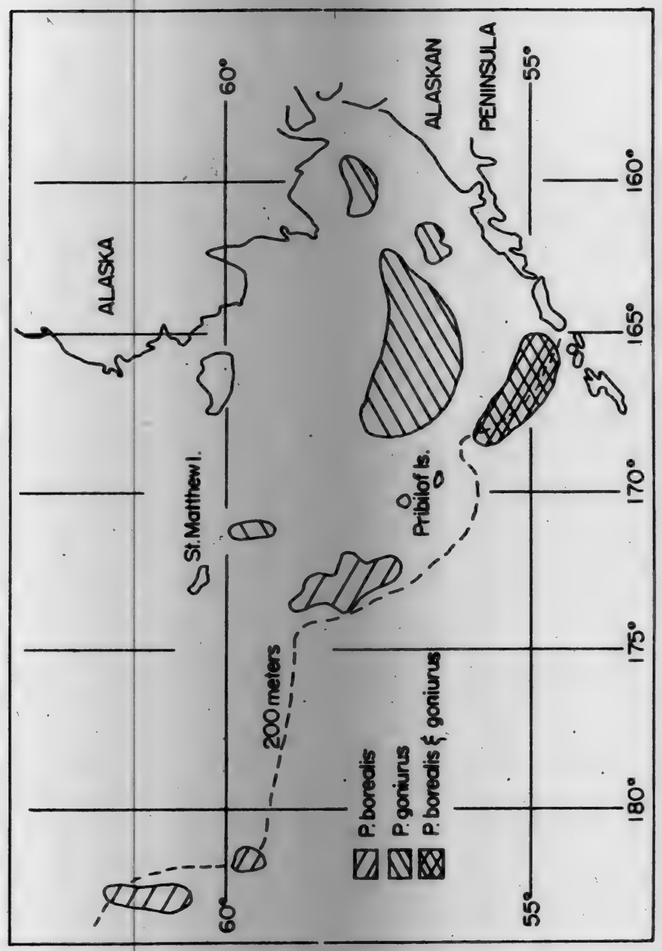

Figure 2: Distribution of pandalids in the eastern Bering Sea, August-November 1975

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B. Abundance of Exploited Stocks

(1) Bering Sea

The abundance of the central Bering Sea pandalid shrimp resources must have been high during the early sixties when over 80,000 metric tons of shrimp were harvested in 4 years. Since then catches have fallen off sharply and only incidental catches have been made since 1968. In 1972 a Soviet shrimp survey was conducted to reassess the abundance of shrimp in the area northwest of the Pribilof Islands. That survey yielded an abundance estimate of only a little over 26 metric tons of shrimp in the area of 15 square miles where high densities previously occurred (Ivanov, 1974). This index of abundance is very low and indicates that the central Bering Sea pandalid shrimp stock continues to remain depressed.

(2) Gulf of Alaska

In the offshore regions of the Gulf of Alaska abundance indexes are at a relatively low level. Both NMFS and ADF&G surveys during 1975 and 1976 have shown an almost uniform decline of pandalid shrimp stocks along the Alaska Peninsula and offshore of Kodiak Island. Compared to 1974 these results indicate that the resource, on the average, has declined at least two-thirds (ADF&G, NMFS Cruise Reports, 1975 & 1976). Because a long series of data for this region is not available, the significance of the abundance comparisons and trends cannot be rigorously evaluated. The cause for this dramatic decline in apparent abundance, therefore, is not known.

C.+D. Current Status of Stocks and Maximum Sustainable Yield (MSY)

(1) Bering Sea

Based on information from Ivanov (1974) and the fact that there has been no intensive shrimp fishery in this area for several years, we must assume the stocks are currently at low levels of abundance. Information is inadequate to estimate MSY.

(2) Gulf of Alaska

Stocks throughout this region, especially in the offshore areas, have recently, and apparently dramatically, declined in abundance. Whether this is a temporary anomaly or the beginning of a long-term deterioration in stock condition is not yet known. Because of this dynamic situation, equilibrium yield cannot be estimated.

A MSY of 50,350 metric tons, which includes domestic inshore fishery areas, can be projected from the midpoint harvest levels established by ADF&G. These harvest level values have been established by analyses based on catch and CPUE trends from the commercial fishery and from independent biomass estimates derived from ADF&G and NMFS resource assessment cruises. This estimate compares with an independent NMFS calculation of 52,164 metric tons using virgin biomass estimates and the best estimate of mortality available (Gulland, 1971).

B_o = virgin biomass - 149,040 m.t. (based on NMFS and ADF&G data).

M = annual mortality approximately 0.7 for P. borealis (based on NMFS data on growth for P. borealis).

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MSY = 0.5 B_oM

MSY = 0.5 (149,040) 0.7 = 52,164 metric tons

4.0 Total Allowable Catches (TAC) and Foreign Allocation

A. Bering Sea

No shrimp fishing should be allowed until it has been demonstrated that stocks have recovered. At that time it is anticipated that the U.S. shrimp fleet will have the capacity to harvest any TAC.

B. Gulf of Alaska

The TAC for this entire region should not exceed 50,000 metric tons[2/], all of this is within the capacity of the domestic fishery to harvest, and there is a dependable domestic market which can utilize the total TAC.

5.0 Conservation and Management Measures Applicable to the Foreign Fishery

A. Bering Sea

No foreign fishery for shrimp will be allowed.

B. Gulf of Alaska

No foreign fishery for shrimp will be allowed.

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7.0 FOOTNOTES

1/ NMFS surveillance and law enforcement personnel have observed three Japanese vessels fishing for shrimp northwest of the Pribilof Islands in July and August of 1976. One of these vessels was boarded and its captain reported that catch rates were in excess of 10 metric tons per day.

2/ The TAC for 1977 may have to be set substantially below the 50,000 metric tons MSY estimate if indications in 1976 of declining abundance are confirmed by further data (page 21).

[FR Doc. 77-6284 Filed 3-2-77; 8:45 am]

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federal register

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FRIDAY, MARCH 4, 1977

highlights

PRINCIPAL EXECUTIVE BRANCH OFFICIALS OF THE ADMINISTRATION OF JIMMY CARTER (appointed January 20–March 1, 1977)
OFR publishes special supplement to the U.S. Government Manual 12551

PART I:

PACIFIC TUNA FISHERIES
Commerce/NOAA proposes miscellaneous amendments; comments by 3–15–77 12443

MEAT FOOD PRODUCTS, PARTS AND CARCASSES
USDA/APHIS proposes to establish minimum required darkness for denaturing by charcoal or other black dyes; comments by 6–2–77 12435

POULTRY INSPECTION
USDA/APHIS amends rules on suspension or other withdrawal of inspection service; effective 3–4–77 12416

DIAGNOSTIC X-RAY SYSTEMS
HEW/FDA provides for image receptor supports; comments by 4–4–77 12441

COLOR ADDITIVES
HEW/FDA confirms effective dates for orders on the following:
D&C Brown No. 1, 12–27–76 12426
D&C Green No. 8, 12–20–76 12426
Exetrnal D&C Violet No. 2, 12–27–76 12424
D&C Yellow No. 11, 12–20–76 12424
Iron oxides, 1–3–77 12425
HEW/FDA stays effective date of an order concerning D&C Red No. 34; effective 3–4–77 12424

CYCLAMATES
HEW/FDA announces prehearing conference date of 4–20–77 12516

SMALL BUSINESS SIZE STANDARDS
SBA requests information on offshore marine services; comments by 4–1–77 12435

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reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

DOT/FHWA—Relocation assistance procedures for persons displaced by programs designed to benefit the public..... 48682; 11–4–76

HUD—Housing mortgage insurance for the elderly..... 766; 1–4–77

Interior/BIA—Financial assistance and social service programs for eligible Indians and Alaska Naitves..... 6568; 2–2–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

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NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 82]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period March 6–12, 1977. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.382 Lemon Regulation 82.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues good this week. Average f.o.b. price was $5.00 per carton the week ended February 26, 1977, compared to $4.90 per carton the previous week. Track and rolling supplies at 140 cars were the same as last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 1, 1977.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period March 6, 1977, through March 12, 1977, is hereby fixed at 220,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 3, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-6745 Filed 3-3-77;11:50 am]

[Amdt. 1]

PART 959—ONIONS GROWN IN SOUTH TEXAS

Handling Regulation

This amendment relieves container requirements for onions packed for export shipments and clarifies the safeguard requirements when such shipments are exempted from the Sunday packaging or loading prohibition.

Findings. (a) Pursuant to Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959), regulating the handling of onions grown in designated counties of South Texas, it is hereby found that the amendment to the handling regulation, hereinafter set forth, will tend to effectuate the declared policy of the act. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The amendment is based upon recommendations and information submitted by the South Texas Onion Committee, established pursuant to said marketing agreement and order, and upon other available information.

During the course of the marketing season, export shipments to Europe and other areas often provide an important outlet for onions grown in the production area. The committee has recommended that container restrictions for export orders be eliminated so that handlers are better able to provide the kind of packaging requested by importers in various countries.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, or to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) this amendment must become effective on March 7, 1977, if producers are to derive maximum benefit therefrom, (2) compliance with this amendment will not require any special preparation on the part of handlers, (3) information regarding the proposed amendment has been made available to producers and handlers in the production area and (4) this amendment relieves restrictions on the handling of onions grown in the production area.

Section 959.317 (42 FR 4395) is amended by revising paragraphs (c)(3), (f)(4) and amending paragraph (f)(5) as follows:

§ 959.317 Handling regulation.

* * * * *

(c) * * *

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(3) These container requirements shall not be applicable to onions sold to Federal agencies or for export.

* * * * *

(f) * * *

(4) *Export shipments.* (i) Upon approval of the committee, the prohibition against packaging or loading onions on any Sunday may be modified or suspended to permit the handling of onions for export provided such handling complies with the procedures and safeguards specified by the committee.

(ii) A handler desiring to make such export shipments shall first notify the committee. Following approval, if the handler grades, packages and ships onions for export on any Sunday, such handler shall on the first workday following such shipment, cease all grading, packaging and shipping operations for the same length of time as the handler so operated on Sunday. Upon completion of such shipments, the handler shall report thereon as prescribed by the committee.

(iii) Export shipments shall also be exempt from all container requirements of this section.

(5) *Onions failing to meet requirements.* Onions failing to meet the grade, size and container requirements of this section and not exempt under paragraphs (e) or (f)(4) of this section may be handled only pursuant to § 959.126.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: March 1, 1977, to become effective March 7, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-6616 Filed 3-3-77;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

Immigrant Status for Citizens of Cambodia, Vietnam, and Laos

Reference is made to the Notice of Proposed Rule Making published in the FEDERAL REGISTER of November 11, 1976 (41 FR 49827) pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383), in which it was proposed to amend 8 CFR 245.4 by adding a new paragraph (b) pertaining to eligibility for seventh-preference immigrant status for citizens of Cambodia, Vietnam and Laos.

The proposed new paragraph provides that citizens of Cambodia, Vietnam and Laos paroled into the United States as refugees will be ineligible for classification as seventh-preference immigrants under the proviso to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) until they have been continuously physically present in the United States for a period of at least two years subsequent to such parole; and that citizens of those countries who entered the United States as nonimmigrants prior to the fall of those countries to the communists and were subsequently permitted to remain in this country indefinitely as refugees will be ineligible for classification as seventh-preference immigrants under the proviso to section 203(a)(7) of the Act until they have been continuously physically present in the United States for two years after the dates their respective countries capitulated and became communist-dominated.

In response to the Notice, five representations were received, and they have all been carefully considered.

Three representations opposed the proposed rule on the grounds that the language of section 203(a)(7) of the Act did not require that an alien seeking adjustment of status as a seventh-preference immigrant had to be physically present in the United States for two years after the fall of his country to the Communists and that the proposed regulation was contrary to the statute. Section 203(a)(7) of the Act provides that 10,200 aliens who are refugees from communism, certain areas of the Middle East, or a natural calamity may be permitted to enter the United States as conditional entrants each year. The section further provides that in lieu of conditional entries 5,100 of these numbers may be used to adjust the status of refugees who have been continuously physically present in the United States for two years prior to application for adjustment of status. The statute is silent as to whether such continuous physical presence must occur after an alien refugee fled from communism or whether such presence must occur immediately preceding the date of application for adjustment of status. Thus the issue concerning exactly when the two year physical presence in the United States must take place is not clearly specified, and under the circumstances, the matter becomes one of statutory interpretation.

While the general rule regarding statutory interpretation is that a statute must be given a strict literal interpretation, a justifiable basis for departing from that general rule exists where such literal interpretation would lead to an absurd, unjust, or unreasonable result. The Service believes that to be the case in this instance. More than 15,000 natives of Vietnam, Cambodia and Laos entered the United States as nonimmigrants prior to the capitulation of those countries to the communists. Most of these aliens have now been here for more than two years. It would be unjust to accord them eligibility for seventh preference immigrant classification before such status may be granted to those refugees of Cambodia, Vietnam and Laos who actually physically fled from the invading communist forces. There are only 5,100 seventh preference immigrant visa numbers available annually for the adjustment of status of refugees who are natives of the Eastern Hemisphere. The use of such numbers by nonimmigrants who entered the United States from Indochina prior to the fall of their countries to the communists would likely exhaust the available numbers and thereby preclude the adjustment of status of an equal number of paroled refugees who had actually fled the communist forces but who were not eligible to apply for seventh preference classification because they have not been physically present in the United States for two years.

Another letter in opposition to the proposed rule contended that the adoption of the proposed amendment would deprive of benefits alien military personnel who were brought here by the United States Government from Cambodia and Vietnam six months prior to the capitulation of their countries to the communists. In response to this objection we wish to point out that adoption of the proposed regulation will do no more than provide such alien military personnel the same benefits which will be accorded all other Indochinese refugees.

Finally, one representation in support of the regulation suggested that the numerical limitations set forth in the Immigration and Nationality Act not be imposed against Indochinese refugees who apply for adjustment of status to that of permanent residents in a fashion similar to that of the "Cuban Program". It will not be possible to adopt this suggestion because such a procedure is precluded by the statute.

In the light of the foregoing, the proposed rule, as set forth below, is hereby prescribed. Section 245.4 of Chapter I, Title 8 of the Code of Federal Regulations is hereby amended by designating the existing paragraph thereof as paragraph (a), and by adding a new paragraph (b) to read as follows:

§ 245.4 Adjustment of status of aliens within the proviso to section 203(a)(7) of the Act.

(a) * * *

(b) Citizens of Cambodia, Vietnam, and Laos who have been paroled into the United States as refugees are ineligible for classification as seventh preference immigrants under the proviso to section 203(a)(7) of the Act until they have been continuously physically present in the United States for a period of at least two years subsequent to such parole. Citizens of Cambodia, Vietnam, and Laos who entered the United States as nonimmigrants and were subsequently granted permission to remain in the United States indefinitely as refugees are ineligible for classification as seventh preference immigrants under the proviso to section 203(a)(7) until they have been continuously physically present in the United States for two years after their respective countries capitulated and became Communist-dominated. For the purpose of computing that period of two years, citizens of Cambodia, Vietnam, and Laos may count only the time accumulating after April 17, 1975, April 30, 1975, and December 4, 1975, respectively; the dates when such countries capitulated and became Communist-dominated.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103.)

The basis and purpose of the rule prescribed in this order is to provide that in the case of citizens of Cambodia, Vietnam and Laos who entered this country as nonimmigrants prior to the dates their respective countries capitulated and became communist dominated, computation of the two year residence requirement necessary to qualify for adjustment of status as a seventh-preference immigrant under the proviso to section 203(a)(7) of the Immigration and Nationality Act does not begin until the dates their respective countries capitulated and became communist dominated.

It is necessary that a distinction be made between citizens of Cambodia, Vietnam and Laos who entered this country as nonimmigrants prior to the dates their respective countries capitulated and became communist dominated, and citizens of those countries who actually fled from communist forces, because the Congress did not intend the proviso to apply to nonimmigrant aliens who left a noncommunist country prior to the time it became communist dominated. Also, a failure to distinguish between the two groups would create a situation in which those individuals who came from those countries as nonimmigrants would be eligible to adjust their status as seventh-preference immigrants under the proviso before those who actually fled the communist forces.

Effective date: The amendment contained in this order shall become effective on April 4, 1977.

Dated: March 1, 1977.

L. F. CHAPMAN, JR.,
Commissioner, Immigration and Naturalization.

[FR Doc.77-6547 Filed 3-3-77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Noncertified Areas in § 78.22 because it has been determined that they no longer come within the definition of a Modified Certified Brucellosis Area in § 78.1(m):

Morgan County in Missouri.

The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they again come within the definition of a Certified Brucellosis-Free Area in § 78.1(l):

Clay and Montgomery Counties in Iowa.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m):

Yell County in Arkansas; Teton County in Idaho; and Jefferson County in Iowa.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l):

Ada County in Idaho; Brown and Hardin Counties in Illinois; Cherokee County in Iowa; and Guaynabo Municipality in Puerto Rico.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.* Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties within States.* *Alabama.* Dale, Etowah, Geneva, Henry, Lee.

Arkansas. Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Clay, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Grant, Greene, Jackson, Johnson, Lafayette, Madison, Marion, Monroe, Montgomery, Newton, Ouachita, Perry, Pike, Polk, Prairie, Searcy, Sharp, Stone, Union, Woodruff.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay, Brevard, Calhoun, Dade, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Pasco, Santa Rosa, Seminole, Sumter, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, Dawson, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Henry, Jeff Davis, Johnson, Jones, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Schley, Screven, Stephens, Taylor, Telfair, Toombs, Treutlen, Twiggs, Upson, Ware, Washington, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Caribou, Clearwater, Custer, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Valley, Washington, Yellowstone National Park.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, Massac, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Dallas, Davis, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Johnson, Keoukuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Scott, Shelby, Tama, Taylor, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Comanche, Doniphan, Ford, Gove, Graham, Greeley, Haskell, Hodgeman, Johnson, Lane, Logan, Marshall, Pawnee, Phillips, Riley, Scott, Sheridan, Thomas, Trego, Wallace, Washington.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmondson, Floyd, Harlan, Jackson, Johnson, Kenton, Knott, Knox,

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Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dallas, Douglas, Dunklin, Franklin, Gasconade, Hickory, Iron, Jackson, Laclede, Lewis, Miller, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

New Mexico. Bernalillo, Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Cheatham, Claiborne, Davidson, Decatur, Dickson, Fentress, Grainger, Greene, Grundy, Hancock, Hardin, Jefferson, Johnson, Knox, Lake, Meigs, Morgan, Polk, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Warren, White.

Texas. Brewster, Childress, Comal, Crane, Ector, Gray, Hansford, Hartley, Hemphill, Irion, Jeff Davis, Kerr, Kimble, Lipscomb, Llano, Loving, Mason, Newton, Pecos, Reagan, Roberts, Sterling, Terrell, Val Verde, Ward, Winkler.

Utah. Beaver, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arrpyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Camuy, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Gurabo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayagues, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.* Alaska, Louisiana, Nebraska, Oklahoma.

(b) *Specific Counties within States. Alabama.* Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Escambia, Fayette, Franklin, Greene, Hale, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Chicot, Clark, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Dasha, Faulkner, Franklin, Hempstead, Hot Spring, Howard, Independence, Izard, Jefferson, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Nevada, Phillips, Poinsett, Pope, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Yell.

Colorado. Mesa, Yuma.

Florida. Alachua, Bradford, Broward, Charlotte, Citrus, Clay, Collier, Columbia, De Soto, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Okeechobee, Osceola, Palm Beach, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Lamar, Lee Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickins, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tuttnall, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bingham, Bonneville, Butte, Cassia, Clark, Elmore, Franklin, Fremont, Gem, Gooding, Jefferson, Lincoln, Madison, Minidoka, Teton, Twin Falls.

Illinois. Pope, Williamson.

Iowa. Allamakee, Appanoose, Cerro Gordo, Crawford, Decatur, Delaware, Guthrie, Harrison, Jasper, Jefferson, Jones, Monroe, Ringgold, Sac, Sioux, Story, Union, Wayne.

Kansas. Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Cowley, Crawford, Decatur, Dickinson, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Franklin, Geary, Grant, Gray, Greenwood, Hamilton, Harper, Harvey, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Leavenworth, Lincoln, Linn, Lyon, Marion, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Rooks, Rush, Russell, Saline, Sedgwick, Seward, Shawnee, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Wabaunsee, Wichita, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Daviess, De Kalb, Dent, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Jasper, Jefferson,

Johnson, Knox, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Mississippi, Monroe, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

New Mexico. Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, DeKalb, Dyer, Fayette, Franklin, Gibson, Giles, Hamblen, Hamilton, Hardeman, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lewis, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Perry, Pickett, Putnam, Rhea, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Van Buren, Washington, Wayne, Weakley, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Presidio, Rains, Randall, Real, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Stonewall, Sutton, Swicher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Yoakum, Young, Zapata, Zavala.

Utah. Box Elder, Cache.

Wyoming. Lincoln.

Puerto Rico, Arecibo, Carolina, Hatillo, Las Piedras, Naguabo.

§ 78.22 Noncertified areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

(b) *Specific Counties within States. Missouri.* Morgan.

Puerto Rico. Vieques.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

Effective date: The foregoing amendments shall become effective March 4, 1977.

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of February 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

PIERRE A. CHALOUX,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77–6502 Filed 3–3–77; 8:45 am]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, MEAT AND POULTRY INSPECTION, DEPARTMENT OF AGRICULTURE

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES, AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Designation of the State of Ohio

AGENCY: Department of Agriculture, Animal and Plant Health Inspection Service, Meat and Poultry Inspection.

ACTION: Final Rule.

SUMMARY: The Secretary of Agriculture hereby designates the State of Ohio as required under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act. The Governor of Ohio has advised this Department that the State of Ohio is no longer in a position to continue administering the State meat and poultry inspection programs after March 31, 1977.

EFFECTIVE DATE: March 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. J. K. Payne, Federal-State Relations Officer, Field Operations, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202–447–6313).

SUPPLEMENTARY INFORMATION. The Governor of the State of Ohio has advised this Department that the State of Ohio is no longer in a position to continue administering the State meat inspection program after March 31, 1977, and has requested the Department to assume the responsibility for carrying out the provisions of titles I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning meat products and other articles and animals subject to the Federal Meat Inspection Act, and persons, firms, and corporations engaged therein.

Also, the Governor of the State of Ohio has advised this Department that the State of Ohio is no longer in a position to continue administering the State poultry inspection program after March 31, 1977, and has requested the Department to assume the responsibility for carrying out the provisions of sections 1–4, 6–

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10, and 12–22 of the Poultry Products Inspection Act with respect to establishments within the State at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning products and other articles and animals subject to the Poultry Products Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of Ohio had developed and activated requirements at least equal to the requirements under titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. However, such titles and sections contemplate continuous, ongoing programs, and in view of the termination date now applicable to the Ohio programs, it is hereby determined that Ohio is not effectively enforcing requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act.

On April 3, 1977, the provisions of titles I and IV of the Federal Meat Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Federal Meat Inspection Act, and any establishment in the State of Ohio which conducts any slaughtering or preparation of carcasses or parts or products thereof of cattle, sheep, swine, goats, horses, mules, or other equines, must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 23(a) or 301(c) of the Federal Meat Inspection Act.

Also, on April 3, 1977, the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Poultry Products Inspection Act, and any establishment in the State of Ohio which conducts any slaughtering or processing of poultry or poultry products must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 15 or 5(c)(2) of the Poultry Products Inspection Act.

Therefore, the operator of each such establishment who desires to continue any such operations after March 31, 1977, should immediately communicate with the Regional Director for Meat and Poultry Inspection, as listed below, for information concerning the requirements and exemptions under the Acts and application for inspection and survey of the establishment:

Dr. L. H. Burkert, Director, North Central, Meat and Poultry Inspection Program, U.S. Courthouse Building, East First and Walnut Streets, Des Moines, Iowa 50309 (Telephone: 515–284–4042).

Accordingly, the table in § 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is amended as follows:

1. In the "State" column, "Ohio" is added immediately below "North Dakota."

2. In the "Effective date of application of Federal provisions" column, "April 3, 1977" is added on the line with "Ohio."

(Secs. 21 and 301(c), 34 Stat. 1260, as amended; 21 U.S.C. 621, 661(c); 37 F.R. 28464, 28477.)

Further, the table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended as follows:

1. In the "State" column, "Ohio" is added immediately below "North Dakota."

2. In the "Effective date of application of Federal provisions" column, "April 3, 1977" is added on the line with "Ohio."

(Secs. 5(c) and 14, 71 Stat. 441, as amended, 21 U.S.C. 454(c), 463; 37 F.R. 28464, 28477.)

These amendments of the Federal meat inspection regulations and the poultry products inspection regulations are necessary to reflect the determination of the Secretary of Agriculture under section 301(c) of the Federal Meat Inspection Act and section 5(c) of the Poultry Products Inspection Act. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Done at Washington, D.C., on March 2, 1977.

DONALD L. HOUSTON,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.77–6588 Filed 3–2–77;9:45 am]

SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Suspension or Other Withdrawal of Inspection Service

• *Purpose:* To change the rules on Suspension or Other Withdrawal of Inspection Service to conform with the Department's Uniform Rules of Practice and the Supplemental Rules of Practice Under the Poultry Products Inspection Act. •

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the authority in the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), the Animal and Plant Health Inspection Service is amending § 381.29 of the poultry products inspection regulations (9 CFR Part 381), to conform with the Department's Uniform Rules of Practice and the Supplemental Rules of Practice governing proceedings under the Poultry Products Inspection Act.

Statement of Consideration. The Department of Agriculture has promulgated Uniform Rules of Practice governing many formal adjudicatory, administrative proceedings including those under the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) as Subpart H of Part I, Subtitle A of Title 7 of the Code of Federal Regulations on January 4, 1977, in Vol. 42, No. 2 of the FEDERAL REGISTER (42 FR 743–749). These rules became effective on February 1, 1977. All Rules of Practice now in existence which are in conflict with the Uniform Rules were superseded. The Administrators of the agencies administering the programs involved are required to publish documents revoking any rules or regulations superseded by the new Rules of Practice. They must also promulgate additional supplemental rules relating to particular circumstances arising in connection with the proceedings under the statutes and regulations administered by them. Supplemental Rules of Practice governing programs administered by APHIS are published in a separate document in this volume of the FEDERAL REGISTER.

Section 381.29 of the regulations under the Poultry Products Inspection Act (9 CFR 381.29) must be amended to conform with the new rules.

Therefore, § 381.29 of the poultry product inspection regulations (9 CFR 381.29) is hereby revised to read as follows:

§ 381.29 Suspension or other withdrawal of inspection service.

(a) Inspection service may be withdrawn in accordance with section 18 of the Act and the applicable rules of practice.

(b) During a period of withdrawal, no processing of poultry or poultry products subject to the inspection requirements of the Act shall be carried on in the official establishment. However, any product which was inspected and passed prior to the withdrawal may be shipped from the official establishment, provided its identity was maintained, and it has not become adulterated or misbranded.

(c) Inspection may be suspended, revoked, or terminated as provided in subsection 21(b) of the Federal Water Pollution Control Act, as amended.

(d) The assignment of inspectors may be temporarily suspended, in whole or in part, by the Administrator, to the extent he determines necessary to avoid impairment of the effective conduct of the inspection service when the operator of any official establishment or any subsidiary therein, or any officer, employee, or agent of any such operator or any subsidiary therein, acting within the scope of his office, employment, or agency, threatens to forcibly assault or forcibly assaults, intimidates, or interferes with any inspection service employee in or on account of the performance of his official duties under the Act, unless promptly upon the incident being brought by an authorized supervisor of the Inspection Service employee to the attention of the operator of the establishment the operator (1) Satisfactorily justifies the incident, (2) Takes effective steps to prevent a recurrence, or (3) Provides acceptable assurance that there will not be any recurrences. The suspension shall remain in effect until one of such actions is taken by the operator: *Provided*, That upon request of the operator he shall be afforded an opportunity for an expedited hearing to show cause why the suspension should be terminated.

This amendment is required so that the poultry products inspection regulations will conform with the Department's Uniform Rules of Practice and the Supplemental Rules of Practice published under the Poultry Products Inspection Act. Therefore, public participation in this rulemaking proceeding is unnecessary, and under the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service has determined this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

The foregoing amendment shall become effective March 4, 1977.

Done at Washington, D.C., on February 24, 1977.

HARRY C. MUSSMAN,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.77–6217 Filed 3–3–77;8:45 am]

Title 12—Banks and Banking

CHAPTER IV—EXPORT-IMPORT BANK OF THE UNITED STATES

PART 407—REGULATIONS GOVERNING PUBLIC OBSERVATION OF EXIMBANK MEETINGS

Implementation of Government in the Sunshine Act

AGENCY: Export-Import Bank of the United States (Eximbank).

ACTION: Final Regulations.

SUMMARY: These regulations implement sections (b) through (f) of the Government in the Sunshine Act, 5 U.S.C. 552b(b) through (f) and they are made pursuant to section (g) of the Government in the Sunshine Act, 5 U.S.C. 552b(g). They were first published in the FEDERAL REGISTER on January 28, 1977. Written comments were invited from interested persons and were to be received no later than February 28, 1977.

EFFECTIVE DATE: March 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Warren W. Glick, General Counsel, Export-Import Bank of the United States, 811 Vermont Avenue, NW., Washington, D.C. 20571 (202–382–1402).

SUPPLEMENTARY INFORMATION: The final regulations are the same as the proposed regulations with several exceptions:

1. Section 407.2(b) is revised to read as follows: "Inasmuch as opening any regularly scheduled meeting, or any portion thereof, to public observation will be likely to result in the disclosure of the kind of information set forth in subparagraphs (4), (8), (9)(i) or (10), or any combination thereof, of § 407.2(a), the Board of Directors expects to close all regularly scheduled meetings to the public." This change in wording makes clear that the actual vote to close a regularly scheduled meeting will be made pursuant to § 407.3(b).

2. The phrase "prior to such meeting" is inserted following the phrase "• • • the General Counsel of Eximbank will be asked to certify" in Section 407.5 to make clear that the General Counsel will be asked to make such a certification before a meeting is actually held.

3. Subsection (b) of Section 407.6 is deleted and Section 407.7 is amended to read as follows: "Nothing in this part expands or limits the present rights of any person under Part 404, except that the exemptions contained in Section 407.2 above shall govern in the case of any request made pursuant to Part 404 to copy or inspect the transcripts, recordings or minutes described in Section 407.6 above." These changes will insure that the procedures set forth in the Freedom of Information Act will govern any request for the transcripts, electronic recordings or minutes made of any meeting, while the decision to withhold or disclose them will be made on the basis of the exemptions set forth in the Government in the Sunshine Act.

4. The second sentence of Section 407.6 has been revised to read as follows: "The entire transcript, electronic recording or set of minutes of a meeting will be made promptly available to the public for inspection and copying in the Office of the Secretary." This change was made to conform the language of the regulations to that of the statute and thereby avoid any inference that the scope of the former was intended to be different from that of the latter. It also permits the more explicit time periods of the Freedom of Information Act to govern requests for transcripts, recordings and minutes in conformity with the changes noted in paragraph 3 above.

5. Section 407.6 has been further revised to require a request to inspect or have copies made of transcripts, recordings or minutes to be made in writing directly to the General Counsel. This change will reduce the amount of time needed to process such requests, since the General Counsel will be making the decision on whether or not to release such materials.

Eximbank was also asked to make explicit provisions for closing a meeting in two stages. That is, Eximbank was requested to determine whether a meeting comes within a particular exemption, and then to determine whether the public interest nevertheless requires that the meeting be open. Based upon a careful reading of the statute and the legislative history, however, Eximbank has concluded that such a procedure is not warranted, inasmuch as a prior public interest determination will be implicit in any decision by the Board of Directors to make use of the exemptions likely to be applicable to Eximbank activities.

Finally, Eximbank received a comment suggesting that it could not make use of exemption 9(A) of the Government in the Sunshine Act. While Eximbank is not "an agency which regulates currencies, securities, commodities or financial institutions," it may receive information from such an agency, the premature disclosure of which would be likely to have the effect described in the exemption. Accordingly, Eximbank has retained Section 407.2(a)(9)(i).

WARREN W. GLICK,
General Counsel.

Sec.
407.1 Purpose, scope and definitions.
407.2 Closing meetings.
407.3 Procedures applicable to regularly scheduled meetings.
407.4 Procedures applicable to other meetings.
407.5 Certification by General Counsel.
407.6 Transcripts, recordings and minutes of closed meetings.
407.7 Relationship to Freedom of Information Act.

AUTHORITY: Sec. (g) Government in the Sunshine Act, 5 U.S.C. 552b(g); secs. (b) through (f), 5 U.S.C. 552b.

§ 407.1 Purpose, scope and definitions.

(a) Consistent with the principles that (1) the public is entitled to the fullest practicable information regarding the decision-making processes of the Federal Government and (2) the rights of individuals and the ability of the Export-Import Bank of the United States to carry out its statutory responsibilities should be protected, this Part is promulgated pursuant to the directive of section (g) of the Government in the Sunshine Act, 5 U.S.C. 552b(g), and specifically implements sections (b) through (f) of said Act, 5 U.S.C. 552b (b) through (f).

(b) The term "meeting" means any meeting of the Board of Directors of Eximbank at which a quorum is present or any meeting of the Executive Committee of the Board of Directors where deliberations of the Board of Directors or the Executive Committee determine or result in the joint conduct or disposition of official Eximbank business.

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(c) The term "regularly scheduled meeting" means meetings of the Board of Directors or the Executive Committee which are held at 10:00 a.m. on Tuesday and Thursday of each week.

(d) The term "General Counsel" means the General Counsel and his or her designees.

§ 407.2 Closing meetings.

(a) Except where Eximbank finds that the public interest requires otherwise, a meeting, or any portion thereof, may be closed to the public, where the Board of Directors or the Executive Committee determines that such meetings, or any portion thereof, or information pertaining to such meeting, or any portion thereof, is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of Eximbank or any other agency;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of Title 5 of the United States Code), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would—

(i) In the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or

(ii) In the case of Eximbank or any other agency, be likely to significantly frustrate implementation of a proposed agency action;

except that subparagraph (ii) shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern Eximbank's issuance of a subpoena, or Eximbank's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration.

(b) Inasmuch as opening any regularly scheduled meeting, or any portion thereof, to public observation will be likely to result in the disclosure of the kind of information set forth in subparagraphs (4), (8), (9) (i) or (10), or any combination thereof, of § 407.2(a), the Board of Directors expects to close all regularly scheduled meetings to the public.

(c) Any other meeting of Eximbank, or any portion thereof, will be open to public observation except where the Board of Directors determines that such meeting, or any portion thereof, is likely to disclose information of the kind set forth in any subparagraph of § 407.2(a). In the event that the Board of Directors closes such meeting, or any portion thereof, by virtue of subparagraphs (4), (8), (9) (A) or (10) of § 407.2(a), or any combination thereof, the procedures set forth in § 407.3 below will apply, and in the event that the Board of Directors closes such meeting, or any portion thereof, by virtue of any of the remaining subparagraphs of § 407.2(a), or any combination thereof, the procedures set forth in § 407.4 will apply.

§ 407.3 Procedures applicable to regularly scheduled meetings.

(a) *Announcements.* Regularly scheduled meetings of the Board of Directors or the Executive Committee will be held at 10:00 a.m. every Tuesday and Thursday in the Board Room (Room 1141) of the Bank's headquarters. In the event that a regularly scheduled meeting is rescheduled, public announcement of the time, date and place for such meeting will be made at the earliest practicable time in the form of a notice posted in the Office of the Secretary. An agenda setting forth the subject matter of each regularly scheduled meeting will be made available in the Office of the Secretary (Room 1012, telephone number (202) 382–2289) at the earliest practicable time, *Provided*, That individual items may be added to or deleted from any agenda at any time. Inquiries from the public regarding any regularly scheduled meeting shall be directed to the Office of the Secretary.

(b) *Voting.* At the beginning of each regularly scheduled meeting, the Board of Directors or the Executive Committee will vote by recorded vote on whether to close such meeting. No proxy votes will be permitted. A record of such vote indicating the vote of each Director will be posted in the Office of the Secretary immediately following the conclusion of such meeting.

§ 407.4 Procedures applicable to other meetings.

(a) *Amendments.* (1) For every meeting which is to be open to public observation or which is to be closed pursuant to any subparagraph of § 407.2(a) other than subparagraphs (4), (8), (9) (i) or (10), or any combination thereof, public announcement will be made at least one week before the meeting of the time, place, and the agenda setting forth the subject matter of such meeting, and whether the meeting, or any portion thereof, is to be open or closed to the public.

(2) Inquiries from the public regarding any such meeting shall be directed to the Office of the Secretary.

(3) The one-week period for the announcement required by paragraph (a) (1) of this section may be reduced if the Board of Directors or the Executive Committee determines by a recorded vote that Eximbank business requires such meeting to be called at an earlier date. Public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, will be made at the earliest practicable time.

(4) The time or place of a meeting may be changed following the announcement required by paragraph (a) (1) of this section only if public announcement is made of such change at the earliest practicable time.

(5) The subject matter of a meeting or the determination of the Board of Directors or the Executive Committee to open or close a meeting, or any portion thereof, to the public, may be changed following the announcement required by paragraph (a) of this section only if:

(i) A majority of the entire voting membership of the Board of Directors or the Executive Committee determines by a recorded vote that Eximbank business so requires and that no earlier announcement of the change was possible; and

(ii) The Board of Directors or the Executive Committee announces such change and the vote of each Director upon such change at the earliest practicable time.

(6) Individual items may be added to or deleted from any agenda at any time.

(7) The announcements required pursuant to this subsection shall be made in the form of a notice posted in the Office of the Secretary. In addition, immediately following each announcement required by this subsection, notice of (i)

the time, place and subject matter of a meeting which is to be open to public observation or which is to be closed pursuant to any subsection of § 407.2(a) other than subparagraphs (4), (8), (9) (i) or (10), or any combination thereof, (ii) the decision to open or close such meeting, or any portion thereof, or (iii) any change in any announcement previously made shall be submitted for publication in the FEDERAL REGISTER.

(8) The information required by this subsection shall be disclosed except to the extent that it is exempt from disclosure under any subsection of § 407.2 (a).

(b) *Voting.* (1) Action to close a meeting, or any portion thereof, pursuant to any subsection of § 407.2(a), other than subparagraphs (4), (8), (9) (i), or (10), or any combination thereof, shall be taken only when a majority of the entire voting membership of the Board of Directors or the Executive Committee votes to take such action.

(2) A separate vote of the Board of Directors or the Executive Committee shall be taken with respect to each meeting, or any portion thereof, which is proposed to be closed to the public pursuant to any subsection of § 407.2(a) other than subparagraphs (4), (8), (9) (i) or (10), or any combination thereof, or with respect to any information which is proposed to be withheld under any subsection of § 407.2(a), other than subparagraphs (4), (8), (9) (i) or (10), or any combination thereof.

(3) A single vote of the Board of Directors or the Executive Committee may be taken with respect to a series of meetings, or any portion thereof, which are proposed to be closed to the public pursuant to any subparagraph of § 407.2(a), other than subparagraphs (4), (8), (9) (i) or (10), or combination thereof, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in such series.

(4) Whenever any person whose interests may be directly affected by any portion of a meeting which is to be open to public observation submits a request in writing to the Office of the Secretary that the Board of Directors or the Executive Committee close such portion to the public under subparagraphs (5), (6) or (7) of § 407.2(a), the Board of Directors or the Executive Committee, shall vote by recorded vote on whether to close such portion.

(5) No proxy vote will be permitted for any vote required under this subsection.

(6) A record of each vote indicating the vote of each Director pursuant to paragraphs (b) (1), (b) (2), (b) (3) or (b) (4) of this section will be posted in the Office of the Secretary within one day after it has been taken, *Provided*, That if a meeting or portion thereof is to be closed, such record shall be accompanied by (i) a full written explanation of the reasons for closing such meeting or portion thereof and (ii) a list of all persons expected to attend such meeting or portion thereof and their affiliation.

§ 407.5 Certification by General Counsel.

For every meeting closed pursuant to any subparagraph of § 407.2(a), the General Counsel of Eximbank will be asked to certify prior to such meeting that in his or her opinion such meeting may properly be closed to the public, and to state which of the exemptions set forth in § 407.2(a) he or she has relied upon. A copy of such certification will be posted in the Office of the Secretary. The original certification together with a statement from the presiding officer of such meeting setting forth the time, date and place of such meeting and the persons present will be retained by Eximbank as part of the transcript, recording or minutes of such meeting described below.

§ 407.6 Transcripts, recordings and minutes of closed meetings.

Eximbank will maintain a complete transcript or electronic recording of the proceedings of every meeting or portion thereof closed to the public, *Provided, however*, That if any meeting or portion thereof is closed pursuant to subparagraphs (8), (9(i), or (10) of § 407.2(a), Eximbank may maintain a set of detailed minutes for such meetings in lieu of a transcript or electronic recording. The entire transcript, electronic recording or set of minutes of a meeting will be made promptly available to the public for inspection and copying in the Office of the Secretary. Copies of such transcript or minutes, as well as copies of the transcription of such recording disclosing the identity of each speaker, will be furnished to any person at the actual cost of duplication or transcription. However, Eximbank will not make available for inspection or copying the transcript, electronic recording or minutes of the discussions of any item on the agenda of such meeting which contains information of the kind described in § 407.2(a). Requests to inspect or to have copies made of any transcript, electronic recording or set of minutes of any meeting or item(s) on the agenda thereof should be made in writing to the General Counsel and if possible, identify the time, date and place of such meeting and briefly describe the item(s) being sought. Eximbank will maintain a complete verbatim copy of the transcript, a complete electronic recording or a complete copy of the minutes of each meeting, or portion thereof, closed to the public for two years after such meeting or one year from the date of final action of the Board of Directors or the Executive Committee on all items on the agenda of such meeting, whichever occurs later.

§ 407.7 Relationship to Freedom of Information Act.

Nothing in this part expands or limits the present rights of any person under Part 404, except that the exemptions contained in § 407.2 shall govern in the case of any request made pursuant to Part 404 to copy or inspect the transcripts, recordings or minutes described in § 407.6.

[FR Doc.77-6514 Filed 3-3-77;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 306—BUSINESS DEVELOPMENT PROGRAM

PART 315—ADJUSTMENT ASSISTANCE FOR FIRMS AND COMMUNITIES

Fees on Guaranteed Loans

Pursuant to the authority vested in it by section 701 of the Public Works and Economic Development Act of 1965, as amended (PWEDA), and section 262 of the Trade Act of 1974, the Economic Development Administration (EDA) hereby amends 13 CFR Part 306 and 13 CFR Part 315 for the purpose of revising its regulations which affect business development assistance and adjustment assistance for firms and communities. These regulations are being revised to reflect a change in policy with respect to the administration of the guaranteed loan program.

Section 306.11(d) is deleted and § 315.61 is amended by substituting "may" for "shall" in the first line of the section. These changes reflect a decision by EDA to eliminate the requirement of fees on loans guaranteed by EDA. Although this fee is charged to the lender, EDA has found in administering the program that this fee is often passed on to the borrower through the rate of interest he must pay on the loan. Since this fee may impose an additional burden on the borrower, EDA is deleting § 306.11(d) and is amending § 315.61 of the regulations to make the imposition of such a fee discretionary. Since § 306.11(d) was based on policy considerations, it is hereby deleted in accord with the change in policy. Since § 315.61 is based on specific discretionary authority provided by section 255(g) of the Trade Act of 1974, § 315.61 is amended to conform to the discretionary wording of the statute. By making these changes, EDA can assure that the borrower obtains the maximum amount of assistance available under the provisions of the Trade Act and PWEDA.

In that the material contained herein relates to the EDA grant and loan program, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of the proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. However, in accordance with the spirit of public policy set forth in 5 U.S.C. 553, interested persons may submit written comments or suggestions regarding these amendments to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230, on or before April 4, 1977. Until such time as further changes are made, these amendments shall remain in effect thus

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permitting the public business to proceed more expeditiously.

Consideration has been given as to whether the material set forth in these regulations constitutes a major proposal with an inflationary impact within the meaning of OMB Circular No. A–107 and the interpretative guidelines issued by the Department of Commerce. It has been determined that these regulations do not constitute action requiring an economic impact statement.

In consideration of the foregoing, 13 CFR Chapter III is hereby amended as follows.:

§ 306.11 [Amended]

1. Section 306.11(d) is deleted.

2. Section 315.61 is amended by striking "shall" and inserting in lieu thereof "may". As amended, § 315.61 reads as follows:

§ 315.61 Fees.

The Assistant Secretary may charge a fee to a lender which makes a loan guaranteed under this subpart in such amount as is necessary to cover the cost of administration of such guarantee.

(Sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211); sec. 262, Pub. L. 94–618 (January 3, 1975) 19 U.S.C. 2352, 88 Stat. 2034; Department of Commerce Organization Order 10–4, 40 FR 56702 as amended at 40 FR 58878.)

Effective date: This amendment becomes effective on March 4, 1977.

(The Economic Development Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular No. A–107.)

Dated: February 25, 1977.

J. W. EDEN,
Assistant Secretary for Economic Development.

[FR Doc.77–6516 Filed 3–3–77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–987, Docket 29776, Amdt. 32]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Reexamination of Board's Policies Concerning Deliberate Overbooking and Oversales

Adopted by the Civil Aeronautics Board at this office in Washington, D.C., February 28, 1977.

By notice of proposed rulemaking EDR–303,[1] the Civil Aeronautics Board proposed to amend Part 221 of its Economic Regulations (14 CFR Part 221) to require air carriers having tariff provisions giving constructive notice of the practice of deliberate overbooking to give additional notice of that practice through the display of signs and the distribution of ticket notices. The proposed rule was issued contemporaneously with the Board's suspension of certain carriers' tariff rules giving notice of overbooking,[2] and was designed to enable passengers whose rights might be affected by the existence of a carrier's tariff rule to receive actual notice of that carrier's overbooking practices. We emphasized in EDR–303 that the rule is intended to be applicable only on an interim basis until the Board has completed rulemaking proceedings in Docket 29139, which is a complete reexamination of the Board's policies relating to deliberate overbooking and oversales.

Pursuant to the Notice, comments were filed by Air Transport Association of America (ATA), jointly for 18 carriers,[3] American Airlines, Inc., American Society of Travel Agents, Inc. (ASTA), Aviation Consumer Action Project (ACAP), Indianapolis Airport Authority, International Air Transport Association (IATA), for 14 member carriers,[4] Lufthansa German Airlines and Philippine Air Lines, jointly, Northwest Airlines, Inc., the Board's Office of Consumer Advocate (OCA), Office of Consumer Affairs of the Department of Health, Education, and Welfare, Honorable Kenneth Robinson, Trans World Airlines, Inc., Travel and Transport, Inc., Richard Leonard, Esq. and 218 other individual members of the public. The commenters varied widely in their views of the proposed rule, and several changes were recommended.

Upon consideration, the Board has decided to adopt the proposed rule with certain modifications discussed below. The tentative findings and conclusions set forth in EDR–303 are incorporated and made final, except as modified, and all requests contained in the comments are denied unless specifically granted herein.

In general, nearly all carriers argued that, while they should be permitted freely to utilize tariff rules to protect themselves against common law liability for fraudulent misrepresentation, by giving constructive notice of their overbooking practice, they do not object to the basic concept of also giving some sort of actual notice, on an interim basis, but in a more relaxed manner than proposed in EDR–303. On the other hand, ACAP, ASTA, OCA, and many individual commenters urged the Board to impose even more stringent requirements of actual notice than EDR–303 proposed, on the ground that tariff notice is insufficient to warn passengers either that overbooking is practiced or that some persons may be denied boarding.

Upon consideration of the comments, the Board adheres to the view expressed in EDR–303 that, while we find nothing unlawful in a carrier's attempt to insulate itself against a common law action of fraudulent misrepresentation by filing a tariff rule, such carrier and its agents should be required to provide the passenger with actual notice of its overbooking practices. Although, as the carriers point out, a passenger may be legally presumed to have knowledge of a carrier's tariffs, it is clearly unrealistic to expect passengers to have actual knowledge of the contents of tariffs. We thus consider it unreasonable to allow a carrier to avail itself of a technical legal device in order to defeat a passenger's common law cause of action, unless that carrier has made some attempt to provide the passenger with actual notice of its overbooking practices.

The proposed rule would therefore have required every such carrier and its agents to give actual notice, both by conspicuously displayed signs at ticket counters and by notices printed on a separate piece of paper included with the passenger's ticket.

The commenters expressed broad differences of opinion as to the particulars of the proposed forms of nontariff notice. Several commenters favored the proposed display of signs as an effective form of actual notice, while others objected on the ground that counter signs would generally go unnoticed and would only add to the clutter of ticket offices and airports. ATA argued that ticket notice is the best form of nontariff notice since it is less cumbersome and readily available for the passenger's reference. OCA and ACAP, on the other hand, urged the Board to go beyond the proposed rule and require carriers' agents to give oral notice of overbooking in the course of telephone reservations. ACAP further suggested that carriers be required to also include such notice in all their printed advertisements and that the prescribed text of the notice should be significantly revised.

Upon full consideration of the issues herein, in light of the comments, the Board believes that, consistent with the limited scope and interim nature of this proceeding, the most appropriate forms of nontariff notice are signs and ticket notices, substantially as proposed in EDR–303. We believe that ticket notice alone, as ATA advocates, is inadequate to alert many passengers to the practice of overbooking. With respect to oral notice, the comments have not persuaded us to alter our tentative view, as explained in EDR–303, that any benefits accruing to the passenger from a verbal notice given in the course of telephone reservations would be outweighed by the confusion and delay which would very likely result. We also reject ACAP's suggestion of requiring additional overbooking notices in printed advertisements.

In short, we have determined to adhere to the position stated in our proposed rule, that the notice procedures prescribed herein should be "substantially the same as those which our existing rules require as appropriate means for apprising passengers of certain basic limitations on a carrier's obligation, such as monetary limits on a carrier's liability."[5] (EDR–303, p. 1.)

However, consistent with that approach, upon consideration of the comments, we have modified the rule in regard to its applicability and the text of the notice. The most significant of these modifications is that we have determined that a common form of notice, without reference to any particular carrier, should be included with tickets issued by, and displayed at the U.S. ticket offices of all carriers and their agents.

The proposed rule would have required the display of separate signs and ticket notices for each carrier that had filed a tariff notice of its overbooking practices, but would have excluded any carrier that had not filed such a tariff (even if that carrier did engage in deliberate overbooking) from the requirement of giving actual notice of its own overbooking procedures. Upon further reflection, and in light of the comments, we have decided to delete the name of the carrier from the notice and to require that the notice be given by all carriers, not merely by those that file overbooking tariffs. We are inclined to agree with the comments of ASTA, ATA, and IATA, among others, that the requirement of identifying the carrier on the notice would have been somewhat impracticable to implement, in that each carrier (insofar as it acts as agent for numerous other carriers) and travel agency would have had to display a multitude of signs. The final rule avoids this problem by requiring each ticket agent to post only a single sign, which refers to "airline flights" in general, rather than to the flights of a particular carrier.[6] In this regard, the rule is patterned after our existing rules governing public notice of monetary limits of liability, which generally require only the display of a standard sign not specifying the name of a particular carrier.[7]

Moreover, if we were to require only certain carriers (those that had filed tariff notices) to be identified on the signs and ticket notices as engaging in overbooking, the public might very well be misled into believing that other carriers do not overbook. Since virtually all carriers do engage in overbooking, we believe that a form of notice which more accurately discloses that fact will better serve the traveling public. Indeed, we think it significant that even those seven ATA members and fourteen IATA members who have not filed overbooking tariffs joined in supporting a common form of notice to be displayed by all carriers. The net effect of the common form of notice on these carriers is to alleviate the burden which would have been placed on them by the proposed rule, since they will now be required to issue and post only one common form of notice. Under the proposed rule a carrier who had not filed tariff notice of overbooking would nevertheless have been required to display numerous signs—and to issue separate ticket notices—with respect to each carrier having such tariff for whom it acted as agent.

We will also modify the text of the standard form of notice, in response to suggestions contained in the comments, in a number of respects that are intended to increase its clarity and accuracy. These changes include replacing the phrase "there will not be space" with "a seat will not be available"; replacing the phrase "may receive a compensatory payment" with "may be entitled to a compensatory payment"; and eliminating the phrases "if (name of carrier) cannot arrange alternate transportation" and "(a) written statement".

In response to a suggestion of ATA, we have also changed the text of the notice to reflect the fact that copies of carriers' denied boarding compensation statements are required to be kept available only at airports, and not at carriers' or agents' ticket offices.

We have amended the text of paragraph (b) to make it clear that this rule is intended to apply only to tickets sold in the United States. This should eliminate potential problems, raised by IATA in its comments, of placing carriers in the position of being subjected to conflicting directives by the governmental authorities of more than one country.[8] We have also changed the text of paragraph (b) so as to give carriers the option of printing the ticket notice on the stock, the ticket envelopes, or on separate pieces of paper. One of these three methods of giving notice may be more efficient than the others for different carriers, and we do not believe that the efficacy of any one of these three options is so clearly superior to the others, at least for this interim basis, that its exclusive use should be mandatory.

We are adopting proposed paragraph (c) to make it clear that all carriers, U.S.-flag and foreign, are responsible for their agents' compliance with these rules. Some carriers objected to any requirement that they be responsible for their agents' compliance with these rules. However, paragraph (c) is simply adapted from the explicit assertion of this kind of duty to ensure an agent's compliance, as set forth in 14 CFR 221.176(d), and we see no reason to anticipate that it will create any untoward problems here.

ACAP's comment also expressed concern that applications under paragraph (d), for distinctive wording of notices, might be granted without opportunity for public participation. We do not anticipate that any changes in the notice text will be permitted, under the provision, except in circumstances where the need for such relief is so clearly demonstrated (as in the case of a carrier which does not engage in deliberate overbooking, and wishes to advise the public of that fact), or the requested change is so clearly innocuous, that there is no need to establish an elaborate set of procedures for public participation in the disposition of these applications. Here again, a similar procedure has been available under our existing notice rules (14 CFR 221.176(e)), and we are not aware of any difficulties in its administration that warrant establishing formal procedures in this instance.

We have determined not to adopt a number of other suggested language changes, and will briefly state the reasons for these decisions below:

1. ACAP has suggested that we add a statement to the notice, to the effect that the carrier's overbooking practices are under investigation by the Board. We will not do so since, while the statement is true, it is somewhat beside the point in describing the carriers' present practices.

2. ACAP also asks that we adopt a rule to the effect that carriers cannot rely on their overbooking tariff in an action at law unless they have complied with our notice rules. That would clearly be outside the scope of this narrow proceeding, even if it were within our jurisdiction to so infringe upon procedural and substantive issues involved in actions at law.

3. ATA has suggested that we change the title of the notice to "Overbooking Disclosure Notice," eliminating the word "Deliberate," arguing that the denied boarding compensation rules apply whether or not a bumping incident is caused by deliberate overbooking. We will not incorporate this suggestion in this interim rule, since the basic intent of the notice is to apprise consumers of carriers' deliberate overbooking practices, and the reference to the denied boarding rules is merely supplementary to that basic intent.

4. ACAP has also asked that we eliminate the word "slight" from the text of the notice. We have chosen not to do

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[1] Dated September 14, 1976, 41 FR 40500.

[2] Order 76–9–72, September 14, 1976. The tariff rules were filed in response to the Supreme Court's holding in *Nader* v. *Allegheny Airlines*, 426 U.S. 290, 96 S. Ct. 1978 (1976) that an action against an airline for fraudulent misrepresentation, based on the failure to give notice of overbooking practices, may be cognizable in a court of law and, further, that punitive damages may be recoverable. The Court noted that the presence of notice in a carrier's tariff might provide a defense to such an action.

[3] The carriers joining in ATA's comments were Alaska Airlines, Allegheny Airlines, Braniff Airways, Continental Airlines, Delta Air Lines, Eastern Air Lines, Frontier Airlines, Hawaiian Airlines, Hughes Airwest, National Airlines, North Central Airlines, Ozark Air Lines, Pan American World Airways, Piedmont Airlines, Southern Airways, United Air Lines, Western Air Lines, and Wien Air Alaska.

[4] The member carriers joining in IATA's comments were Aerolineas Argentinas, Air India, Alitalia, Iberia, KLM Royal Dutch Airlines, Lufthansa, Mexicana, Philippine Air Lines, Qantas Airways, Scandinavian Airlines System, South African Airways, Transportes Aeros Portugueses, VARIG, and Yugoslav Airlines.

[5] E.g., 14 CFR 221.174–176.

[6] The same will be true for ticket notices, i.e., the ticket agent will be required to distribute only a single notice with each ticket, even if the ticket involves interline connections on different carriers.

[7] See 14 CFR 221.175, 221.176 (a) and (b).

[8] Of course, any carrier that does not engage in overbooking practices on its own flights anywhere on its system is free to so advise the public through a display of separate signs or in some other manner, and such a carrier could also apply for permission to deviate from the form of required notice pursuant to the provisions of paragraph (d) of our rule.

[9] By deciding to avoid such problems in this interim rule we do not prejudge how the problem may be resolved in Docket 29139.

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so, since, in the limited context of this proceeding, we are not persuaded that we should insist that the notice be worded in a manner that might needlessly alarm members of the traveling public.

Finally, we are aware that, as previously explained, this final rule varies from our proposed rule in that it now applies to all carriers subject to Part 221 of our Economic Regulations (14 CFR Part 221), whether or not they have filed tariffs describing their overbooking practices. We do not believe that this variation in the applicability of the rule is significant enough to warrant republication of the rule for further public comment, particularly since the carriers that have not filed such tariff rules would have been subject to our rule as proposed in any event, in their capacity as interline agents. Additionally, both ATA and IATA, acting for many of these same carriers, have themselves suggested this change. In order to ensure that our action in this respect is not taken without opportunity for comment, however, we will permit petitions for reconsideration from any interested person, directed to this issue, to be filed within ten days of the service of this final rule.

In consideration of the foregoing, the Board hereby amends Part 221 of its Economic Regulations (14 CFR Part 221) effective April 3, 1977, as follows:

1. Amend the Table of Contents by adding § 221.177 to the sections listed under Subpart N, as follows:

Subpart N—Posting Tariff Publications for Public Inspection

Sec.

* * * * *

221.177 Notice of deliberate overbooking.

2. Amend § 221.4 to read in pertinent part as follows:

§ 221.4 Definitions.

* * * * *

"Class rate" means * * *

"Deliberate overbooking" means the practice of knowingly confirming reserved space for a greater number of passengers than can be carried in the specific class of service on the flight and date for which confirmation is given.

"Fare" means * * *

* * * * *

Subpart N—Posting Tariff Publications for Public Inspection

3. Amend Subpart N of Part 221 by adding a new § 221.177 to read as follows:

§ 221.177 Notice of deliberate overbooking.

(a) Each air carrier and foreign air carrier subject to this part shall cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in the charge of a person employed exclusively by it or by it jointly with another person, or by any agent employed by such air carrier or foreign air carrier to sell tickets to passengers, a sign, located so as to be clearly visible and clearly readable to the traveling public, which shall have printed thereon the following statement in bold-face type at least one-fourth of an inch high:

DISCLOSURE NOTICE—DELIBERATE OVERBOOKING

Airline flights may be overbooked, and there is a slight chance that a seat will not be available on a flight for which a person has a confirmed reservation. A person denied boarding on a flight may be entitled to a compensatory payment. The rules for denied boarding compensation are available at all airport ticket counters.

(b) Each air carrier and foreign air carrier subject to this part shall include with each ticket sold in the United States the notice set forth in paragraph (a) of this section, printed in at least 12-point type in ink contrasting with the stock. The notice may be printed on a separate piece of paper, on the ticket stock, or on the ticket envelope.

(c) It shall be the responsibility of each carrier to ensure that travel agents authorized to sell air transportation for such carrier comply with the notice provisions of paragraphs (a) and (b) of this section.

(d) Any air carrier or foreign air carrier subject to the provisions of this section that wishes to use a disclosure notice of its own wording, but containing the substance of the language prescribed in paragraph (a) of this section, may substitute a notice of its own wording upon approval by the Board. Applications for such approval shall be filed with the Board (Attention: Director, Bureau of Economics).

(Secs. 204, 403, 404, 411, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, 760, 769 (49 U.S.C. 1324, 1373, 1374, 1381).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6583 Filed 3-3-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 34-13156A, 35-19853A, IC-9604A, AS-206A]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Adoption of Amendments of Certain Forms and Related Rules; Correction

In FR Doc. 77-2225 appearing at page 4424 in the FEDERAL REGISTER of January 25, 1977 (Release Nos. 34-13156, 35-19853, IC-9604, AS-206, January 13, 1977), the following corrections should be made:

I. On page 4430, column 1, the penultimate sentence of paragraph (a) to Item 2 of the Form 8-K should be changed by adding the word "case" immediately following the words "in which" and immediately before the words "the identity of such bank" so that the sentence reads as follows:

If the transaction being reported is an acquisition, identify the source(s) of the funds used unless all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by Section 3(a)(6) of the Act in which case the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to Section 13(d)(1)(B) of the Act.

II. On page 4430, column 3, the last sentence of paragraph (d) of Item 4 of the Form 8-K should be changed so that the paragraph refers to General Instruction E rather than to General Instruction F.

III. On page 4431, column 2, the General Instructions to the Form 10-Q should be changed by transferring the caption and paragraph in General Instruction E to new General Instruction F and substituting therefor the following as General Instruction E:

E. Notice of Intention to File a Registration Statement on Form S-7 or Form S-16. If, at the time of filing its quarterly report on Form 10-Q, registrant intends to file, in the near future, a registration statement on either Form S-7 or Form S-16 under the Securities Act of 1933, registrant is requested to advise the staff of such intention in the transmittal letter accompanying the report on Form 10-Q (with a copy under separate cover to the Branch Chief in the Division of Corporation Finance who regularly reviews registrant's filings), and to indicate a contemplated filing date for the registration statement. Such prefiling notice is intended to assist the Commission's staff in its processing of registration statements and is optional on the part of the registrant. Providing such pre-filing notice to the staff is not a condition to the use of Form S-7 and Form S-16.

General Instruction F now discusses the signature and filing of the report.

IV. On page 4433, column 2, the following should be added as General Instruction I of the General Instructions to the Form 10-K:

I. Notice of Intention to File a Registration Statement on Form S-7 or Form S-16. If, at the time of filing its annual report on Form 10-K, the registrant intends to file, in the near future, a registration statement on either Form S-7 or Form S-16 under the Securities Act of 1933, the registrant is requested to advise the staff of such intention in the transmittal letter accompanying the report on Form 10-K (with a copy under separate cover to the Branch Chief in the Division of Corporation Finance who regularly reviews registrant's filings), and to indicate a contemplated filing date for the registration statement. Such pre-filing notice is intended to assist the Commission's staff in its processing of registration statements and is optional on the part of the registrant. Providing such pre-filing notice to the staff is not a condition to the use of Form S-7 or Form S-16.

V. On page 4434, column 1, Instruction 1 of Item 6(c) to the Form 10-K should be changed so that the instruction refers to "paragraph (c)" rather than "paragraph (b)."

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 28, 1977.

[FR Doc.77-6559 Filed 3-3-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

PART 295—EMERGENCY REGULATIONS

Order No. 4-A

Subparagraph (c) of Paragraph No. (2) of Order No. 4 is amended by substituting for "Mcf" in the first line the term "MMBtu".

Paragraph No. (2) of Order No. 4 is hereby amended by redesignating subparagraph (g) as subparagraph (h) and inserting a new subparagraph (g) as follows:

* * * * *

(g) The amount and method of determination of any broker's fees, commissions, or finder's fees paid in relation to the transaction;

* * * * *

RICHARD L. DUNHAM,
Administrator.

MARCH 1, 1977.

[FR Doc.77-6655 Filed 3-3-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 76N-0414]

PART 2—ADMINISTRATIVE PRACTICES AND PROCEDURES

Subpart D—Public Hearing Before a Public Advisory Committee; Clarification of Device Committee Names

The Food and Drug Administration (FDA) issued final procedures for holding a public hearing before a public advisory committee, published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52148).

Section 2.340 (21 CFR 2.340) lists all FDA standing advisory committees, including statements of function and the date the committee was established where appropriate. The panel names for medical device panels listed under § 2.340 (d) are not consistent with the names under which the panels were chartered. Therefore, the Commissioner has decided that it is reasonable to revise § 2.340(d) to change the names of the medical device panels listed to coincide with the original panel charters where appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))), and under authority delegated to the Commissioner (21 CFR 5.1), Part 2 is amended by revising § 2.340(d)(1) (i) through (xix) to read as follows:

§ 2.340 List of standing advisory committees.

* * * * *

(d) *Bureau of Medical Devices and Diagnostic Products.* (1) Advisory review panels for medical devices, and dates established.

(i) *Anesthesiology Device Classification Panel.* Established August 9, 1976.

(ii) *Cardiovascular Device Classification Panel.* Established August 9, 1976.

(iii) *Clinical Chemistry Device Classification Panel.* Established August 10, 1976.

(iv) *Clinical Toxicology Device Classification Panel.* Established August 10, 1976.

(v) *Dental Device Classification Panel.* Established August 9, 1976.

(vi) *Ear, Nose, and Throat Device Classification Panel.* Established August 9, 1976.

(vii) *Gastroenterological and Urological Device Classification Panel.* Established August 9, 1976.

(viii) *General and Plastic Surgery Device Classification Panel.* Established August 9, 1976.

(ix) *General Hospital and Personal Use Device Classification Panel.* Established August 9, 1976.

(x) *Hematology Device Classification Panel.* Established August 10, 1976.

(xi) *Immunology Device Classification Panel.* Established August 10, 1976.

(xii) *Microbiology Device Classification Panel.* Established August 10, 1976.

(xiii) *Neurological Device Classification Panel.* Established August 9, 1976.

(xiv) *Obstetrical and Gynecological Device Classification Panel.* Established August 9, 1976.

(xv) *Ophthalmic Device Classification Panel.* Established August 9, 1976.

(xvi) *Orthopedic Device Classification Panel.* Established August 9, 1976.

(xvii) *Pathology Device Classification Panel.* Established August 10, 1976.

(xviii) *Physical Medicine Device Classification Panel.* Established August 9, 1976.

(xix) *Radiological Device Classification Panel.* Established August 9, 1976.

* * * * *

Since this amendment merely sets forth the advisory committee names as they were formally chartered, notice and public procedure and delayed effective date are unnecessary for its promulgation.

Effective date. This amendment shall be effective March 4, 1977.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: March 1, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6711 Filed 3-3-77;8:45 am]

[Docket No. 76C-0434]

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

D&C Yellow No. 11; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration confirms the effective date of December 20, 1976 of an order concerning the use of D&C Yellow No. 11 in externally applied drugs and cosmetics.

DATE: Effective date confirmed: December 20, 1976.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods, (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204. (202-472-5740).

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 19, 1976 (41 FR 51008) that added §§ 8.4182 and 8.7262 (21 CFR 8.4182 and 8.7262) to provide for safe use of D&C Yellow No. 11 in externally applied drugs and cosmetics and amended § 8.501 (21 CFR 8.501) by deleting D&C Yellow No. 11 for the provisionally listed colors in paragraph (b). The order also amended Part 9 by revoking § 9.134 (21 CFR 9.134).

An objection was filed in response to the order. (No person requested a formal evidentiary hearing.) A letter was received from a copetitioner for the color additive, objecting to the specifications of D&C Yellow No. 11 that restricted the level of lead to 10 parts per million (ppm). The copetitioners requested that the specification for lead for D&C Yellow No. 11 be restricted to 20 ppm to be consistent with levels imposed on other D&C colors and noncertified colors intended for use in externally applied drugs or cosmetics.

After evaluating the objection and reviewing the matter, the Commissioner notes that the level of 10 ppm appeared in the listing regulation for D&C Yellow No. 11 by error and should have been 20 ppm as stated in the copetitioner's letter. Accordingly, the Commissioner concludes that the regulation should be corrected as stated in the objection. Published elsewhere in this issue of the FEDERAL REGISTER is a document changing the limitation for lead to 20 parts per million.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that there being no other objections or any requests for hearing in response to the order of November 19, 1976, the amendments promulgated thereby became effective on December 20, 1976.

Dated: February 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6486 Filed 3-3-77;8:45 am]

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[Docket No. 76C-0433]

PART 8—COLOR ADDITIVES
PART 9—COLOR CERTIFICATION

Ext. D&C Violet No. 2; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration confirms the effective date of December 27, 1976, of an order concerning the use of Ext. D&C Violet No. 2 in externally applied cosmetics.

DATE: Effective date confirmed: December 27, 1976.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods, (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204. (202-472-5740).

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 23, 1976 (41 FR 51594) that amended Part 8 by adding § 8.7223 (21 CFR 8.7223) to provide for safe use of Ext. D&C Violet No. 2 in externally applied cosmetics and amended Part 9 by revoking § 9.411 (21 CFR 9.411). It also amended § 8.501 (21 CFR 8.501) by deleting Ext. D&C Violet No. 2 from the provisionally listed colors in paragraph (c).

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the order of November 23, 1976. Accordingly, the amendments promulgated thereby became effective on December 27, 1976.

Dated: February 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6488 Filed 3-3-77;8:45 am]

[Docket No. 76C-0434]

PART 8—COLOR ADDITIVES
PART 9—COLOR CERTIFICATION

Listing of D&C Yellow No. 11 for Use in Externally Applied Drugs and Cosmetics; Correction

In FR Doc. 76-33996 appearing at page 51008 in the FEDERAL REGISTER of Friday, November 19, 1976, the following change is made:

On page 51008, the specifications of D&C Yellow No. 11 in paragraph (b) of § 8.4182 D&C Yellow No. 11 is corrected by revising the limitation for "Lead (as Pb)" to read as follows: "Lead (as Pb), not more than 20 parts per million."

Dated: February 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6487 Filed 3-3-77;8:45 am]

[Docket No. 76C-0425]

PART 8—COLOR ADDITIVES
PART 9—COLOR CERTIFICATION

Listing of D&C Red No. 34 for Use in Externally Applied Drugs and Cosmetics; Stay of Effectiveness

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) stays the effectiveness of an order published in the FEDERAL REGISTER of November 23, 1976 (41 FR 51592) concerning the use of D&C Red No. 34 in externally applied drugs and provides for its continued use under provisional listing.

EFFECTIVE DATE: March 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Division of Food and Color Additives (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204. (202-472-5740).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 23, 1976 (41 FR 51592), the Commissioner of Food and Drugs issued an order listing D&C Red No. 34 for use in externally applied drugs and cosmetics under new §§ 8.4128 and 8.7195 (21 CFR 8.4128 and 8.7195). The order also deleted the color from provisional listing in § 8.501(b) and revised the specifications prescribed in § 9.179 for D&C Red No. 34 to reference the new § 8.4128.

A comment was filed in response to the proposal, published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41860), concerning the extension of the closing date for the provisionally listed color additives. The comment objected to the listing of azo dyes of which D&C Red No. 34 is one. Citing a reference from "Occupational and Environmental Cancers of the Urinary System," the comment stated that according to Dr. Hueper, there is reason to believe that azo dyes contain various carcinogenic amines, including β-naphthylamine.

The Commissioner discussed this possibility in the preamble to the regulation, published in the FEDERAL REGISTER of February 4, 1977 (42 FR 6992), finalizing the September 23, 1976 proposal:

The Commissioner concurs with the comment's statement that β-naphthylamine is considered to be a carcinogen. Two colors, Ext. D&C Yellow No. 9 and Ext. D&C Yellow No. 10, which were synthesized from β-naphthylamine, were prohibited by FDA from use in drugs and cosmetics because of a finding that they might contain β-naphthylamine. Accordingly, the Commissioner views with concern the possibility that any color additive for food, drug, or cosmetic use might contain the impurity.

β-Naphthylamine is an intermediate that is used in the production of diazotized compounds for industrial use. These compounds are not, however, used in the production of colors intended for use in food, drugs, or cosmetics. β-Naphthylamine is not expected to be present in color additives, therefore, except as a contaminant. * * *

However, upon further review of the data on each of the azo dyes, the Commissioner concludes that there are five colors that could possibly contain low levels of β-naphthylamine as impurities—D&C Red No. 10, D&C Red No. 11, D&C Red No. 12, D&C Red No. 13, and D&C Red No. 34. These colors are synthesized from 2-amino-1-naphthalenesulfonic acid, which may contain β-naphthylamine.

To resolve the questions raised by this comment, the Commissioner has requested that the petitioners promptly provide to FDA data about the possible contamination of 2-amino-1-naphthalenesulfonic acid and each of the five colors with β-naphthylamine.

Furthermore, in view of the concern that β-naphthylamine may be present in the color additives, FDA has initiated immediate action to investigate the possibility. It will promptly conduct analyses of samples of each of the five colors and 2-amino-1-naphthalenesulfonic acid using very sensitive methods. The Commissioner is continuing the provisional listing for D&C Red No. 10, D&C Red No. 11, D&C Red No. 12, and D&C Red No. 13 because the short period of time required to resolve this question will not present a hazard to the public health. If data become available, either from investigation by FDA or from the petitioners, that indicate that β-naphthylamine may be present in any of the color additives, the Commissioner will take immediate action to protect the public health.

As concerns the listing of D&C Red No. 34, the Commissioner concludes that it would be inappropriate, pending resolution of the questions concerning β-naphthylamine, to confirm the effectiveness of the order "permanently" listing D&C No. 34 for use in externally applied drugs and cosmetics.

Although the comment concerning β-naphthylamine was directed at the proposal concerning extension of the closing date for the provisional list, the Commissioner concludes that it also constitutes a valid objection to the listing order for D&C Red No. 34. This is appropriate in view of the criticism of azo dyes, the timeliness of the objection, and because the comment raises genuine questions of fact. The filing of this objection automatically served to stay the effectiveness of the order of November 23, 1976 because the objection challenges its primary finding, i.e., that there are safe conditions of use for D&C Red No. 34.

An order was published in the FEDERAL REGISTER of February 4, 1977, (42 FR 6992), extending the closing dates for the provisionally listed color additives. The stay of effectiveness of the order listing D&C Red No. 34 results in its being retained on the provisional list under § 8.501 (21 CFR 8.501). The Commissioner is extending the closing date for provisional listing of D&C Red No. 34 until July 1, 1977, unless action is taken to terminate the provisional listing before then. The identity and specifications that were to be established in the new § 8.4128 have been incorporated into § 9.179 to provide specifications for the certification of the color. The Commissioner advises that the question concerning β-naphthylamine will be resolved by July 1, 1977 and concludes that the provisional listing of D&C Red No. 34 for this short period will not present a hazard to the public health. The Commissioner will take immediate action to protect the public health if the data indicate that D&C Red No. 34 might contain β-naphthylamine.

In accordance with 5 U.S.C. 553(d)(1) and (d)(3), the amendments set forth below are effective on March 4, 1977 to permit the uninterrupted use of the affected color additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701(e), 706 (b), (c), and (d), 70 Stat. 919 as amended, 74 Stat. 399-403 (21 U.S.C. 371(e), 376 (b), (c), (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that the effective date of December 27, 1977 for the order amending Part 8 by adding new §§ 8.4128 and 8.7195 listing D&C Red No. 34 for use in externally applied drugs and cosmetics and by deleting D&C Red No. 34 from the list in § 8.501 and amending Part 9 by revising § 9.179 is stayed by the filing of timely and valid objections. Further, Parts 8 and 9 of Chapter I of Title 21 of the Code of Federal Regulations are amended as follows:

§ 8.501 [Amended]

1. Part 8 is amended in paragraph (b) of § 8.501 *Provisional lists of color additives*, by inserting alphabetically an entry for D&C Red No. 34 with a closing date of "July 1, 1977" and restriction of "External use only."

2. Part 9 is amended by revising § 9.179 to read as follows:

§ 9.179 D&C Red No. 34.

Calcium salt of 3-hydroxy-4-[(1-sulfo-2-naphthalenyl) azo] - 2-naphthalenecarboxylic acid.

Sum of volatile matter (at 135° C) and chlorides and sulfates (calculated as sodium salts), not more than 15 percent.

2 - Amino-1-naphthalenesulfonic acid, calcium salt, not more than 0.2 percent.

3-Hydroxy-2-naphthoic acid, not more than 0.4 percent.

Subsidiary colors, not more than 4 percent.

Total color not less than 85 percent.

Effective date: This regulation is effective March 4, 1977.

(Secs. 701(e), 706, 70 Stat. 919 as amended, 74 Stat. 399-403 (21 U.S.C. 371(e), 376 (b), (c), and (d)); Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note).)

Dated: February 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6485 Filed 3-3-77;8:45 am]

[Docket No. 76C-0468]

PART 8—COLOR ADDITIVES

Iron Oxides; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration confirms the effective date of January 3, 1977, of an order concerning use of iron oxides in cosmetics generally, including those intended for use in the area of the eye.

DATE: Effective date confirmed: January 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202) 472-5740.

SUPPLEMENTAL INFORMATION: An order was published in the FEDERAL REGISTER of November 30, 1976 (41 FR 52445) that added § 8.8009 (21 CFR 8.8009) to provide for safe use of iron oxides in cosmetics, generally, including those intended for use in the area of the eye. The order also amended § 8.501 (21 CFR 8.501) by deleting iron oxides from the provisionally listed colors in paragraph (g).

Two objections were filed in response to the order. (No person requested a formal evidentiary hearing). The objections received and the Commissioner's final action upon the objections are discussed below.

1. Both letters objected to the limitations placed on the level of lead in iron oxides and stated that it should be 20 parts per million (ppm) instead of 10 ppm. The objections stated that, historically, industry guidelines have allowed lead to be present at 20 ppm and that this level is consistent with existing regulations for other colors.

The Commissioner concludes that no basis has been presented for changing the limitation on the level of lead to 20 ppm. He would agree that 20 ppm would be an appropriate limit on the level of lead if the product were to be used only in externally applied cosmetics. The objectors, apparently, do not realize that the order permits the use of the color additive in cosmetics that may be ingested. The petition was amended, as cited in the filing notice, published in the FEDERAL REGISTER of March 5, 1976 (41 FR 9584), to request listing of the color additive for use in all ingested cosmetics. Accordingly, the order of November 30, 1976, in response to this petition, as amended, listed the color additive for use in cosmetics generally, which includes those cosmetics that might be subject to ingestion, and incorporated the limit for lead of 10 ppm that was proposed by the petitioner. The Commissioner points out that the limit of 10 ppm for lead in cosmetics that may be ingested is consistent with the limit prescribed for synthetic iron oxides under § 8.6001 (21 CFR 8.6001) for use in ingested or topically applied drugs.

2. One of the letters objected to the identity of the order under § 8.8009(a), which states that the color "is free from admixture with other substances." The objector stated that this phrase should be deleted since the color is normally supplied as a mixture with talc (5 to 75 percent) or other ingredients that are regulated by FDA as cosmetic ingredients.

The Commissioner disagrees with this objection, noting that the objector has apparently misunderstood the purpose of § 8.8009(a). This paragraph was used to describe specifically the identity of the particular color that is the subject of the regulation, i.e., iron oxides. It was not intended to identify those particular substances that might be used as diluents along with the color additive to prepare color additive mixtures, as would be suggested by the objector. Proposed regulations are being prepared concerning the use of diluents in color additive mixtures for cosmetic use and will include a request for public comment on the use of various diluents in color additive mixtures for coloring cosmetics.

The Commissioner concludes that neither of the objections presents sufficient cause for revising or staying the effective date of the provisions of the order listing iron oxides.

(Sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d)) and under authority delegated to the Commissioner (21 CFR 5.1).)

There being no other objections or any request for a hearing in response to the order of November 30, 1976, the amendments promulgated thereby became effective on January 3, 1977.

Dated: February 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6484 Filed 3-3-77;8:45 am]

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[Docket No. 76C-0441]

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

D&C Brown No. 1; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is confirming the effective date of December 27, 1976 of an order concerning the use of D&C Brown No. 1 in externally applied cosmetics.

DATE: Effective date confirmed: December 27, 1976.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202) 472-5740.

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 23, 1976 (41 FR 51593) that amended Part 8 by adding § 8.7061 (21 CFR 8.7061) to provide for safe use of D&C Brown No. 1 in externally applied cosmetics and amended Part 9 by revoking § 9.230 (21 CFR 9.230). It also amended § 8.501 (21 CFR 8.501) by deleting D&C Brown No. 1 from the provisionally listed colors in paragraph (b).

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d)) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the order of November 23, 1976. Accordingly, the amendments promulgated thereby became effective on December 27, 1976.

Dated: February 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6492 Filed 3-3-77;8:45 am]

[Docket No. 76C-0427]

PART 8—COLOR ADDITIVES

PART 9—COLOR CERTIFICATION

D&C Green No. 8; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration confirms the effective date of December 20, 1976 of an order concerning the use of D&C Green No. 8 in externally applied drugs and cosmetics.

DATE: Effective date confirmed: December 20, 1976.

FOR FURTHER INFORMATION CONTACT:

Gerad McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202) 472-5740.

SUPPLEMENTARY INFORMATION: An order was published in the FEDERAL REGISTER of November 19, 1976 (41 FR 51006) that added §§ 8.4072 and 8.7102 (21 CFR 8.4072 and 8.7102) to provide for the safe use of D&C Green No. 8 in externally applied drugs and cosmetics and amended § 8.501 (21 CFR 8.501) by deleting D&C Green No. 8 from the provisionally listed colors in paragraph (b). The order also amended Part 9 by revoking § 9.106 (21 CFR 9.106).

Two objections were filed in response to the order. (No person requested a formal evidentiary hearing.) The objections received and the Commissioner's final actions upon the objections are discussed below.

1. Two letters were received objecting to the identity and specifications for D&C Green No. 8 in the order of November 19, 1976. The objectors stated that the proposal was in error in that § 8.4072 (a) and (b) were not descriptive or applicable for identity and specifications for D&C Green No. 8. One of the objectors requested a correction document for these items; the other objector recommended republication of a corrected proposal and extension of the comment period for the corrected proposal.

After evaluation, the Commissioner concurred that the cited identity and specifications were wrong. Accordingly, a correction was published in the FEDERAL REGISTER of December 21, 1976 (41 FR 55509) to provide the proper identity and specifications for D&C Green No. 8. The Commissioner regarded the request for republication of the proposal and additional time for comment as an invalid objection—a letter, dated December 17, 1976, from the primary manufacturer stated that the corrected regulation, with an exception, appeared to be adequate.

2. An objection received in response to the correction document requested amendment of the specifications under § 8.4072(b) to include the phrase "subsidiary colors other than those named, not more than 2.0 percent." An additional objection was raised by this letter, to the effect that no extension to the original December 20, 1976 effective date was included in the correction document to allow an additional comment period.

The Commissioner disagrees that it is necessary to include the phrase concerning subsidiary colors as a specification in the regulation. The specifications as stated in the correction are currently used for certification of batches of D&C Green No. 8, and certified batches of the color meet the specifications as corrected.

Further, the Commissioner is unaware of any data demonstrating the presence of subsidiary colors other than those identified within the specifications, and accordingly he cannot reasonably incorporate the recommended change. Therefore, the Commissioner concludes that the specifications for the color as stated in the correction are the appropriate specifications.

If the need for the requested addition to the specifications—"subsidiary colors other than those named, not more than 2.0 percent"—can be demonstrated, then a petition should be submitted containing data identifying the subsidiary colors and providing appropriate chemical and toxicological data.

The Commissioner concludes that further formal extension of the December 20, 1976 effective date to receive comments is not warranted. The Commissioner notes that although objectors have had adequate time—since the December 21, 1976 correction until publication of this order—to submit any additional comments, none have been submitted. The letter of December 17, 1976 supports the confirmation of effective date because it states that the corrected specifications appear to be in order. In view of the above information and because batches of D&C Green No. 8 presently submitted for certification comply with the stated specifications, the Commissioner concludes that there is no further need to extend the comment period.

(Sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d)) and under authority delegated to the Commissioner (21 CFR 5.1).)

There being no other objections or any requests for hearing in response to the order of November 19, 1976, the amendments promulgated thereby became effective on December 20, 1976.

Dated: February 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner, for Compliance.

[FR Doc.77-6493 Filed 3-3-77;8:45 am]

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 75N-0056]

PART 210—CURRENT GOOD MANUFACTURING PRACTICES IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF DRUGS: GENERAL

PART 225—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

Medicated Feeds: Current Good Manufacturing Practice; Correction

In FR Doc. 76-34796 appearing on page 52612 in the FEDERAL REGISTER of Tuesday, November 30, 1976 (41 FR 52612), the Food and Drug Administration issued revised regulations regarding current good manufacturing practice in the production of medicated feeds. The last sentence of item 3 in the preamble stated that § 225.10(b)(2) was being deleted. The section as published inadvertently deleted § 225.10(b)(3)—paragraph (b)(3) was to have been redesignated as paragraph (b)(2). Therefore, § 225.10 is corrected by revising paragraph (b)(2) to read as follows:

§ 225.10 Personnel.

* * * * * *

(b)(1) * * *

(2) The manufacturer shall provide an on-going program of evaluation and supervision of employees in the manufacture of medicated feeds.

Dated: March 1, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6710 Filed 3-3-77;8:45 am]

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

[FRL 694-6; OPP-260025]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Aluminum Phosphide; Correction

On October 11, 1974 (39 FR 36582), § 121.281 *Aluminum phosphide* was amended to permit direct contact of the subject pesticide with animal feed and to increase the tolerance from 0.01 to 0.1 part per million (ppm). The subsequent recodification of Chapter I of Title 21 changing § 121.281 to § 561.40 failed to incorporate the October 11, 1974, amendment. The amended text and the section in its entirety are set forth below:

Dated: February 24, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

§ 561.40 Aluminum phosphide.

The food additive aluminum phosphide may be safely used in accordance with the following prescribed conditions:

(a) It is used to generate phosphine in the fumigation of animal feeds.

(b) To assure safe use of the additive, it is used in compliance with label and labeling conforming to that registered with the U.S. Environmental Protection Agency. Labeling shall bear a warning to aerate the finished feed for 48 hours before use.

(c) Residues of phosphine in or on animal feeds do not exceed 0.1 part per million.

[FR Doc.77-6469 Filed 3-3-77;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION DEPARTMENT OF LABOR

PART 1951—GRANTS FOR IMPLEMENTING APPROVED STATE PLANS

Miscellaneous Changes

On April 6, 1976, notice of a proposed rulemaking amending this Chapter by adding a new Part 1956 was published in the FEDERAL REGISTER (41 FR 14542). The new Part 1956, adopted elsewhere herein (42 FR 12429), provides criteria and procedures for the approval, amendment, evaluation, and withdrawal of approval of State plans for the development and enforcement of State standards applicable to employment and places of employment of State and local government employees in States without private employee plans, in accordance with section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act). As set out in the preamble to the adoption of this proposal (42 FR 12429), the new Part 1956 adopted the criteria and procedures required by section 18 of the Act for State regulation of the occupational safety and health conditions of private employees to the regulation of public employment. Upon meeting the requirements for approval under Part 1956, a plan covering only public employees is eligible for approval under section 18(c) of the Act and, upon approval, receipt of Federal financial assistance under section 23(g) of the Act. Therefore, in view of the adoption of Part 1956, Part 1951 of this Chapter is hereby amended, effective March 4, 1977, to specify that State plans approved under Part 1956 will be eligible to receive the financial support accorded State plans approved under section 18 of the Act as follows:

§ 1951.1 [Amended]

1. Section 1951.1(b) is amended by changing the words "Part 1902 of this chapter" to read "Parts 1902 and 1956 of this chapter."

§ 1951.2 [Amended]

2. Section 1951.2(b) is amended by changing the words "Part 1902 of this chapter" to read "Parts 1902 and 1956 of this chapter."

(Secs. 8(g)(2), 23(g); 29 U.S.C. 657(g)(2), 672(g).)

Signed at Washington, D.C. this 24th day of February 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-6537 Filed 3-1-77;3:27 pm]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Vermont: Certification of Completion of Developmental Steps

1. *Background.* Subpart D of Part 1902 of Title 29, Code of Federal Regulations (40 FR 54780) sets out procedures under which the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) will make a determination under section 18(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) whether, on the basis of actual operations under a State plan, the criteria in section 18(c) of the Act are being applied under the plan. Such a determination may not be made until at least three years after commencement of operations under the plan and, in the case of a developmental plan, until the State has satisfactorily completed all developmental steps and the Assistant Secretary has had at least one additional year to evaluate the plan on the basis of actual operations. Upon making a determination under section 18(e) that the requirements of section 18(c) are being applied, Federal enforcement of standards and Federal standards (except with regard to on-going cases) cease to apply in the State with respect to any occupational safety and health issue covered under the determination.

Section 1902.34 of Subpart D provides that the evaluation of a State's fully operational program, preparatory to an 18(e) determination, shall commence upon publication in the FEDERAL REGISTER of a certification that all developmental steps have been completed. Such certification must list the developmental steps, including approved amendments thereto, and the dates their approvals were published in the FEDERAL REGISTER; approved substantive changes in the State plan, and the dates they were published in the FEDERAL REGISTER; documentation that the State merit system has been approved and found acceptable; and a description of the occupational safety and health issues covered by the certification. If the Assistant Secretary finds that the State has completed all the developmental steps specified in the plan, he shall give notice of same by publishing the certification in the FEDERAL REGISTER and amend the appropriate Subpart of Part 1952 of this Chapter to reflect this finding.

On October 16, 1973, notice was published in the FEDERAL REGISTER (38 FR 28658) of the approval (signed October 1, 1973) of the Vermont plan and of the adoption of Subpart U of Part 1952 containing the decision and describing the plan. During the three-year period, ending September 30, 1976, following commencement of State operations, Louis Lavin, Commissioner, Vermont Department of Labor and Industry, submitted documentation attesting to the completion of each State developmental commitment for review and approval as provided in 29 CFR Part 1953. Following Departmental review, opportunity for public comment, and subsequent modification of the State's submissions, as deemed appropriate, the Assistant Secretary has approved the completion of all individual Vermont developmental steps.

2. *Notice of certification of completion of developmental steps.* In accordance with the provisions of 29 CFR 1902.34, notice is given that the Vermont plan is hereby certified, effective February 24, 1977, as having completed all the developmental steps specified in the plan as approved October 11, 1973, on or before September 30, 1976 (see Subpart U of 29 CFR Part 1952) as follows:

(a) All developmental steps specified in the plan and amendments thereto have been completed:

(1) The amendments to the Vermont occupational safety and health legislation (Vermont Bill S. 196) included, among other things, the authority for the designee to seek a court order to compel an individual to testify, a provision for mandatory employee participation during inspections, a provision for anonymous employee complaints, the right for employees to be informed of imminent danger situations and general protections under the Vermont Act, penalty revisions, amendment of the judicial review procedures, and provisions for

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employee discrimination complaints. These amendments were approved as the completion of a developmental step by the Assistant Secretary on December 16, 1974 (39 FR 44201, December 23, 1974);

(2) The Vermont Field Operations Manual (compliance manual) covers such topics as the duties and responsibilities of the designee, compliance officer procedures, complaint handling procedures, citation and penalty processing, occupational health, and voluntary compliance. The State Field Operations Manual was approved as a developmental step by the Assistant Secretary on February 25, 1977 (42 FR 10988, February 25, 1977);

(3) The rules governing the operation of the Vermont Occupational Safety and Health Review Board were adopted (under Section 230 of the Vermont Act) effective January 1974, and were approved by the Assistant Secretary as a developmental step on December 16, 1974 (39 FR 44201, December 23, 1974). Actual implementation of these regulations in the operations of the Review Board were acknowledged by the Assistant Secretary in the FEDERAL REGISTER of January 11, 1977 (42 FR 2313);

(4) Vermont's implementation of its Public Employee Program under specific rules of procedure was approved as a developmental step by the Assistant Secretary on February 25, 1977 (42 FR 1098, February 25, 1977). This program consists of two parts: the State Agency Program, implemented by the State by July 1, 1974, and the Public Agency (Municipal and Local Government) Enforcement Program, implemented by November 12, 1973;

(5) The Vermont Voluntary Compliance Program including, among other things, a training program for employers and employees, was developed and implemented by the State by February 1974, and was approved as a developmental step by the Assistant Secretary on February 25, 1977 (42 FR 10988 February 25, 1977);

(6) The Vermont Standards Advisory Committee was established and began operations in January 1974, and was approved as a developmental step by the Assistant Secretary on January 4, 1977 (42 FR 2313, January 11, 1977);

(7) Vermont occupational safety and health standards identical to Federal standards were promulgated prior to, and approved with the State plan (38 FR 28658, October 16, 1973). All Federal standards promulgated subsequent to the date of plan approval have been in turn promulgated by the State, approved by the Regional Administrator for Occupational Safety and Health on January 22, 1976 (41 FR 11635, March 1976) and on July 8, 1976 (41 FR 39113, September 14, 1976);

(8) Vermont Rules and Regulations comparable to the Federal regulations 29 CFR Parts 1903 (Inspections, Citations, and Proposed Penalties), 1904 (Recordkeeping and Reporting Occupational Injuries and Illnesses), and 1905 (Variances, Limitations, Tolerances, and Exemptions) were approved with the plan on October 1, 1973 (38 FR 28658, October 16, 1973);

(9) Vermont has developed a State poster to inform both public and private sector employees of their obligations and protections under the Vermont Act, including, among other things, their right to request anonymous workplace inspections, their right to participate in inspections, their protection against discharge or discrimination for exercising their rights under the Federal or State laws, and their right to file complaints with the Occupational Safety and Health Administration concerning the administration of the State program. A prototype of the State poster was approved by the Assistant Secretary on October 13, 1976 (41 FR 46066, October 19, 1976) and the existing State poster, as amended by an attachment informing the public of its right to complain about State program administration was approved on February 15, 1977 (42 FR 9168, February 15, 1977);

(10) Vermont's Affirmative Action Plan was approved with the State plan on October 1, 1973 (38 FR 28658, October 16, 1973);

(11) Vermont's manual Management Information System was approved with the State plan on October 1, 1973 (38 FR 28658, October 16, 1973);

(12) Vermont's regulations for Recordkeeping and Reporting of Occupational Injuries and Illnesses were implemented in both the public and the private sectors on November 12, 1973, and were acknowledged as a completed developmental step by the Assistant Secretary on January 4, 1977 (42 FR 2313, January 11, 1977);

(13) The Vermont program for the enforcement of the State's occupational safety and health standards was implemented on November 12, 1973, and acknowledged as a completed developmental step by the Assistant Secretary on January 4, 1977 (42 FR 2313, January 11, 1977);

(14) Written procedures for coordination between Vermont's Division of Occupational Safety and Division of Occupational Health were formulated in June 1975, revised in September 1975, and acknowledged as a completed developmental step by the Assistant Secretary on January 4, 1977 (42 FR 2313, January 11, 1977).

(b) The personnel operations of the Vermont Department of Labor and Industry and the servicing merit system agency have been found to be in substantial conformity with the "Standards for a Merit System of Personnel Administration" (45 CFR Part 70) by the U.S. Civil Service Commission by letter dated August 10, 1976.

(c) This certification covers all occupational safety and health issues covered under the Federal program except for the longshoring and maritime standards found in 29 CFR Parts 1915, 1916, 1917, and 1918 (longshoring, ship repairing, shipbuilding, shipbreaking) as they relate to employment under the exclusive jurisdiction of the Federal government on the navigable waters of the United States including dry docks, graving docks, and marine railways. In addition, the State program covers State and local government employees.

3. *Location of the plan and its supplements for inspection and copying.* A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Directorate of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1804, John F. Kennedy Building, Boston, Massachusetts 02203; Department of Labor and Industry, State Office Building, Montpelier, Vermont 05602.

4. *Effect of certification.* The operation of the Vermont occupational safety and health program will be monitored and evaluated for a period of not less than one year after publication of this certification, to determine whether the State program in operation is at least as effective as operations under the Federal program in order to make a determination under section 18(e) of the Act that Federal enforcement authority and standards should cease to apply in issues covered under the plan.

In accordance with 29 CFR 1902.35 Federal enforcement authority under sections 5(a)(2), 8, 9, 10, 13 and 17 of the Act (29 U.S.C. 654(a)(2), 657, 658, 659, 662, and 666), and Federal standards authority under section 6 of the Act (29 U.S.C. 655) will not be relinquished during this evaluation period. However, under the terms of the operational agreement entered into with Vermont on February 19, 1975 (40 FR 20627, May 12, 1975, the exercise of this authority by the U.S. Department of Labor will continue to be limited to, among other things: complaints filed with the U.S. Department of Labor about violations of the discrimination provisions of section 11(c) of the Act; enforcement of new Federal standards, such as emergency temporary standards, promulgated under section 6 of the Act where necessary to protect employees until such time as the State shall have promulgated equivalent standards; enforcement of Federal standards in the maritime and longshoring issues of 29 CFR Parts 1915, 1916, 1917 and 1918 as they relate to employment under the exclusive jurisdiction of the Federal government on the navigable waters of the United States, including dry docks, graving docks, and marine railways; and investigations and inspections for the purpose of the evaluation of the Vermont plan under section 18 (e) and (f) of the Act.

In accordance with this certification, 29 CFR 1952.274 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding a paragraph (l) as follows:

§ 1952.274 Completion of developmental steps and certification.

* * * * *

(l) In accordance with 29 CFR 1902.34, the Vermont occupational safety and health plan was certified, effective as of the date of publication on March 4, 1977, as having completed all developmental steps specified in the plan (as approved on October 1, 1973) on or before September 30, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C. this 24th day of February 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-6544 Filed 3-3-77;8:45 am]

PART 1956—STATE PLANS FOR THE DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS APPLICABLE TO STATE AND LOCAL GOVERNMENT EMPLOYEES IN STATES WITHOUT APPROVED PRIVATE EMPLOYEE PLANS

Approval, Evaluation, Amendment, and Withdrawal of Approval of State Plans Covering Public Employees Only

1. *Background.* On April 6, 1976, the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) issued a notice of a proposed rulemaking (41 FR 14542) to amend Chapter XVII of Title 29 of the Code of Federal Regulations by adding a new Part 1956 providing criteria and procedures for the approval, amendment, evaluation, and withdrawal of approval of State plans for the development and enforcement of State standards applicable to employment and places of employment of State and local government employees in States without approved private employee plans, in accordance with section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act). Provision for such public employee only plans under section 18 of the Act, was discussed by the National Advisory Committee on Occupational Safety and Health at its meetings of February 26, 1976, which recommended publication of proposed regulations to provide such coverage.

In making the proposal it was pointed out that under section 18(a) of the Act, States, due to the absence of Federal regulation of the occupational safety and health conditions of State and local government employers, are not precluded from providing their own occupational safety and health coverage for public employees where no State plan covering private employees has been approved under section 18. Where such an approved plan exists, a required element of the plan is establishment and maintenance of an effective and comprehensive occupational safety and health program applicable to all public agencies of the State and its political subdivisions, which is "as effective as the standards contained in an approved plan." (Sec. 18(c)(6)). Section 18(c) requires the designated agency to be "responsible for administering the plan throughout the State." In this respect Section 18 differs from Section 19 of the Act, where responsibility for the Federal employee program is placed in agency heads. In addition, the Assistant Secretary must continue to evaluate the actual operations of State programs, including public employee programs and proceed to withdraw approval and concomitant funding should there be failure to comply substantially with any provision of the plan, or any assurances contained therein. It is to the designated agency that he must look to respond with necessary legal authority and qualified personnel to evaluate any findings.

In addition, section 18(c)(6) requires that the public employee components of a State plan covering private employers be "as effective as" the standards (for private employment) contained in the plan. Guidelines for determining this required effectiveness for 18(c)(6) public employee programs are set out in 29 CFR 1952.11. The guidelines allow flexibility in meeting the effectiveness requirement, but require retention in the designated agency of responsibility and authority to ensure the effectiveness of public employee programs. Political subdivisions of a State may have responsibility for, and be encouraged to undertake, self-inspection programs to ensure compliance with occupational safety and health standards without waiting for external enforcement. Such self-inspection programs, however, are supplementary, and not substitutive, to the responsibility and authority of the designated agency to adopt standards and compel compliance with them. Although this responsibility and authority may be delegated, such delegation is subject to the requirements placed by section 18(c) on the designated agency, including the requirement for qualified personnel. Generally, such requirements operate against other than functional delegations to Statewide agencies with specific occupational safety and health responsibilities or expertise.

As also pointed out in the notice of the proposal, a State plan covering public employees without coverage of private employees, must satisfy all the criteria of section 18(c), as does a State plan covering private employees with a public employee component. As one of the criteria is that of section 18(c)(6), that section must also be met, which means that the public employee program must cover all public employees to the extent the State may legislatively do so. The legislative history of the phrase "to the extent permitted by its law" in section 18(c)(6) is to the effect that it was adopted specifically to recognize that in some cases States do not have legislative authority to regulate occupational safety and health conditions in certain political subdivisions. Thus, where a State wishes to receive Federal financing for occupational safety and health coverage of its public employees, it must provide a plan addressing all the criteria of section 18(c), including the coverage requirements of section 18(c)(6).

In framing the proposal to adapt the criteria and procedures applicable to private employee plans, to coverage of public employees, it was recognized that consideration should be given to State public agency relationships in providing effective enforcement. For instance, the fining of one agency by another, where commercial interests are not involved, may not always be as effective as with regard to private employers. Another factor bearing on adaptation of the criteria and procedures, is the lack of the operation of Federal preemption, whereby Federal regulation applies in the absence of approved State regulation, on coverage of State and local government employees. The lack of such Federal protection both precludes the operation of a concurrent jurisdiction under section 18(e) of the Act and makes necessary the encouragement through Federal funding conditions of effective coverage by the States.

2. *Public comments.* Contemporaneously with its submission for public comment, the proposal was submitted to the Advisory Commission on Intergovernmental Relations. Comments were received from the Public Employee Department, American Federation of Labor-Congress of Industrial Organizations (PED); AFL-CIO Standing Committee on Occupational Safety and Health (AFL-CIO); the American Federation of State, County, and Municipal Employees (AFSCME); International Association of Firefighters; Keith Brooks, Inc.; L. H. McCormack, Employee Relations Specialist; the New York Department of Labor; the Georgia State Clearinghouse; the Pennsylvania Department of Environmental Resources; the District of Columbia Industrial Safety Division; the New Jersey State Safety Council; and the U.S. Civil Service Commission. There were no objections to the purpose of the proposal to provide Federal support and criteria for State plans covering public employees only. Union spokesmen objected to any delegation of authority to generate and enforce standards to different governmental agencies (Public Employee Dept., AFL-CIO; AFL-CIO; NAFF); alternatives to monetary sanctions (PED), (AFL-CIO); the 3-year period to complete development (AFL-CIO), (AFSME); and pointed out the need to specify alternatives for monetary sanctions (AFL-CIO). The District of Columbia also urged the requirement of monetary penalties and specification of types of sanctions that would be acceptable. The Georgia representative also urged that a single unit be responsible for development and enforcement of standards. Both New York and Pennsylvania urged that the State public employee program not be required to be as effective as the Federal program in the private sector, but as the Federal program for Federal employees. New Jersey, New York, and the AFL-CIO, PED urged permitting coverage of local public employees even if no coverage of State employees is provided. The U.S. Civil Service Commission pointed out that the requirements for merit staffing of all persons in local government agencies engaged in the administration of the plan under proposed 29 CFR 1956.10(g) could not be assured, and recommended that such require-

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ment be limited to State agencies, with the understanding that a very small number of employees would be engaged in administration of the program in a State or local agency other than the designated agency.

3. *Discussion.* (a). *Coverage and developmental period.*—Recommendations on these two subjects are considered together because they are interdependent. As pointed out in 1. above, the plans must meet the requirements of section 18(c), including those of 18(c)(6) requiring coverage of all public employees where the State is legislatively empowered to do so. At the same time, it is recognized that a reasonable time frame should be allowed to accomplish this in stages. Thus, where a State could not implement protection to State employees upon approval, but could for certain local government employees, it appears that it should have the same time frame available under State plans generally (three years) in achieving such complete coverage. The 3-year developmental period, therefore, is retained. It is pointed out, however, that under current 18(c) plan approval policy, States have been required to have enabling legislative or executive authority under which the development of the plan will be carried out substantially in place as a condition of developmental plan approval. This policy appears particularly appropriate to ensure adequate protections to State and local government employees under Federal grant conditions, since no Federal protections are available to these employees and it is adopted.

b. *Delegation to administer and enforce the "at least as effective as" standard.*—Under section 18(c)(6), the standard for public employee plans is that they be at least as effective as the standards applicable to private employment in the State. In addition, under section 18(c)(1), the designated agency or agencies must be responsible for administering the plan throughout the State. This responsibility is not placed in heads of independent agencies, as provided by Congress with respect to the Federal employee program under section 19 of the Act. In addition, the designated agency must have the legal authority and qualified personnel necessary for the enforcement of the standards and comply with the Assistant Secretary's reporting requirements. Therefore, any delegation to administer and enforce a public employee program would be controlled by the requirements for the designated agency under sections 18(c) (1), (4), and (8), as well as the necessity for adequate authority in that agency to insure the commitments of the State under the plan will be fulfilled. In connection with the comments of the U.S. Civil Service Commission, delegations by the designated agency for administration and enforcement of the program must ensure that the authority receiving the delegation, itself, has qualified personnel, and operates under the legal authority and obligations of the designated agency. Generally such requirements operate against other than functional delegation to State-wide agencies with specific occupational safety and health responsibilities or expertise.

c. *Enforcement mechanisms.*—As pointed out above, assessment of monetary penalties although presently operating in several States with approved private employee plans, may not in all cases be the most effective means of achieving compliance by public employers with occupational safety and health requirements. The State may demonstrate that, in lieu of enforcement through monetary penalties, increased emphasis on other enforcement tools and rights may be as effective in achieving compliance in public employment. Such other tools and rights could include additional judicial and administrative remedies available to the designee (e.g. injunction and red tag authority), and employee rights generally not available in a penalty enforcement scheme, such as right to contest citations as well as abatements. A systematic program for voluntary compliance involving public agency programs for self-inspection, employee complaint resolution, training, and consultation could be an added factor in overall compliance effectiveness.

d. *Changes to proposal.*—1. It was pointed out (AFL–CIO) (PED) that the possibility existed under the proposal where a State with an approved private employee plan would choose to eliminate such coverage and continue with a plan covering public employees only and that important employee protections would be diminished by the possibility of extending a developmental period under the new arrangement. This could also happen where a State would assume private employee coverage after an approved public employee plan. In such circumstances, the developmental period of the earlier plan should be controlling over the public employee component. Section 1956.2 has been amended to make this clear. However, a State may, for good cause, demonstrate that an additional period of time is required to make adjustments on account of the transaction.

2. As discussed above, delegations by the designated agency of authority to administer and enforce a public employee plan cannot diminish the primary authority and commitments of the designated agency to administer the plan throughout the State. Any such delegations, whether by contract, regulation, or statute are under and subject to this authority and commitments. Generally, such requirements operate against other than functional delegations to State wide agencies with specific occupational safety and health responsibilities or expertise. Section 1956.10(b)(3) of the proposal has been amended to specify conditions for these delegations.

3. Section 1956.11(c)(2)(x) has been amended to indicate alternatives to enforcement through monetary penalties.

4. Section 1956.10(g) has been amended to reflect the concerns of the U.S. Civil Service Commission that because Federal evaluation of local government merit systems is not available, delegation of enforcement and standards authority will not be made to such agencies. The section has also been amended to incorporate staff adequacy guidelines and the results of evaluation as a component of the standard for adequately trained and qualified personnel, as is required under the Federal program for private employees. Other aspects of a public employee program which are not primarily direct enforcement but a means of enhancing compliance, such as self-inspection, in-house complaint resolution are viewed as additions to a public employee plan which may go beyond the Federally funded requirements on the designated agency.

5. The provisions of § 1956.10(c)(2) of the proposal requiring that each plan list the State and local government agencies covered by the State's legislative authority and all Federal standards applicable to hazards in each such public agency has been deleted as unduly onerous in the preparation and submission of a plan. As pointed out, all public employees in a State must be covered by the plan developmentally or otherwise, unless the State is not constitutionally able to do so. Where variations in the application of State standards comparable to the Federal standards promulgated under section 6 of the Act are proposed, the State must show the reason for the variation; e.g., no public employees engaged in agriculture.

6. Section 1956.11(a)(2) has been amended by deleting the phrase "to the extent practicable". As discussed, it is recognized that variations from a private employee plan called for by the nature of public employment may be considered, but any such variations must be evaluated under the requirements of section 18(c) of the Act.

7. Section 1956.11(c)(2)(iv) has been amended by deleting the phrase "substantially similar to". The phrase was included in recognition of the fact that Federal employment discrimination provisions are not applicable to State and local government employees. This is the case with or without the deleted phrase.

8. Section 1956.22 has been amended to eliminate the reference to Phase II monitoring. When a public employee plan has completed its development, it will be monitored continuously under section 18(f) of the Act.

Accordingly, Title 29 of Chapter XVII of the CFR is hereby amended effective March 4, 1977 as follows:

Subpart A—General

Sec.
1956.1 Purpose and scope.
1956.2 General policies.

Subpart B—Criteria

1956.10 Specific criteria.
1956.11 Indices.

Subpart C—Approval, Changes, Evaluation and Withdrawal of Approval Procedures

1956.20 Procedures for submission, approval and rejection.
1956.21 Procedures for submitting changes.
1956.22 Procedures for evaluation and monitoring.
1956.23 Procedures for certification of completion of development and determination on application of criteria.
1956.24 Procedures for withdrawal of approval.

Subpart D—General Provisions and Conditions [Reserved]

Subpart E—Decisions of Approval [Reserved]

AUTHORITY: Secs. 8(g)(2), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g) 667).

Subpart A—General

§ 1956.1 Purpose and scope.

(a) This Part sets forth procedures and requirements for approval, continued evaluation, and operation of State plans submitted under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for the development and enforcement of State standards applicable to State and local government employees in States without approved private employee plans. Although section 2(b) of the Act sets forth the policy of assuring every working man and woman safe and healthful working conditions, State and local government agencies are excluded from the definition of "employer" in section 3(5). Only under section 18 of the Act are such public employees ensured protection under the provisions of an approved State plan. Where no such plan is in effect with regard to private employees, State and local government employees have not heretofore been assured any protections under the Act. Section 18(b), however, permits States to submit plans with respect to any occupational safety and health issue with respect to which a Federal standard has been promulgated under section 6 of the Act. Under § 1902.2(c) of this Chapter, an issue is defined as "any * * * industrial, occupational, or hazard grouping that is found to be administratively practicable and * * * not in conflict with the purposes of the Act." Since Federal standards are in effect with regard to hazards found in public employment, a State plan covering this occupational category meets the definition of section 18 and the regulations. It is the purpose of this Part to assure the availability of the protections of the Act to public employees, where no State plan covering private employees is in effect, by adapting the requirements and procedures applicable to State plans covering private employees to the situation where State coverage under section 18(b) is proposed for public employees only.

(b) In adopting these requirements and procedures, consideration should be given to differences between public and private employment. For instance, a system of monetary penalties applicable to violations of public employers may not in all cases be necessarily the most appropriate method of achieving compliance. Further, the impact of the lack of Federal enforcement authority application to public employers requires certain adjustments of private employer plan procedures in adapting them to plans covering only public employees in a State.

§ 1956.2 General policies.

(a) *Policy.* The Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) will approve a State plan which provides an occupational safety and health program for the protection of State and local government employees (hereinafter State and local government employees are referred to as public employees) that in his judgment meets or will meet the criteria set forth in § 1956.10. Included among these criteria is the requirement that the State plan for public employees (hereinafter such a plan will be referred to as the plan) provides for the development and enforcement of standards relating to hazards in employment covered by the plan which are or will be at least as effective in providing safe and healthful employment and places of employment for public employees as standards promulgated and enforced under section 6 of the Act. In determining whether a plan satisfies the requirement of effectiveness, the Assistant Secretary will measure the plan against the indices of effectiveness set forth in § 1956.11.

(b) *Developmental plan.* (1) A State plan for an occupational safety and health program for public employees may be approved although, upon submission, it does not fully meet the criteria set forth in § 1956.10, if it includes satisfactory assurances by the State that it will take the necessary steps to bring the program into conformity with these criteria within the 3-year period immediately following the commencement of the plan's operation. In such a case, the plan shall include the specific actions the State proposes to take, and a time schedule for their accomplishment which is not to exceed 3 years, at the end of which the plan will meet the criteria in § 1956.10. A developmental plan shall include the dates within which intermediate and final action will be accomplished. Although administrative actions, such as stages for application of standards and enforcement, related staffing, development of regulations may be developmental, to be considered for approval, a State plan for public employees must contain at time of plan approval basic State legislative and/or executive authority under which these actions will be taken. If necessary program changes require further implementing executive action by the Governor or supplementary legislative action by the State, a copy of the appropriate order, or the bill or a draft of legislation that will be or has been proposed for enactment shall be submitted, accompanied by:

(i) A statement of the Governor's support of the legislation or order and (ii) a statement of legal opinion that the proposed legislation or executive action will meet the requirements of the Act and this Part in a manner consistent with the State's constitution and laws.

(2) On the basis of the State's submission, the Assistant Secretary will approve the plan if he finds that there is a reasonable expectation that the plan for public employees will meet the criteria in § 1956.10 within the indicated 3 year period. In such a case, the Assistant Secretary shall not make a determination that a State is fully applying the criteria in § 1956.10 until the State has completed all the developmental steps specified in the plan which are designed to make it at least as effective as the Federal program for the private sector, and the Assistant Secretary has had at least 1 year to evaluate the plan on the basis of actual operations following the completion of all developmental steps. If at the end of 3 years from the date of commencement of the plan's operation, the State is found by the Assistant Secretary, after affording the State notice and an opportunity for a hearing, not to have substantially completed the developmental steps of the plan, he shall withdraw the approval of the plan.

(3) Where a State plan approved under Part 1902 of this chapter is discontinued, except for its public employee component, or becomes approved after approval of a plan under this Part, the developmental period applicable to the public employee component of the earlier plan will be controlling with regard to any such public employee coverage. For good cause, a State may demonstrate that an additional period of time is required to make adjustments on account of the transfer from one type of plan to another.

(c) *Scope of a State plan for public employees.* (1) A State plan for public employees must provide for the coverage of both State and local government employees to the full extent permitted by the State laws and constitution. The qualification "to the extent permitted by its law" means only that where a State may not constitutionally regulate occupational safety and health conditions in certain political subdivisions, the plan may exclude such political subdivision employees from coverage.

(2) The State shall not exclude any occupational, industrial, or hazard grouping from coverage under its plan unless the Assistant Secretary finds that the State has shown there is no necessity for such coverage.

Subpart B—Criteria

§ 1956.10 Specific criteria.

(a) *General.* A State plan for public employees must meet the specific criteria set forth in this section.

(b) *Designation of State agency.* (1) The plan shall designate a State agency or agencies which will be responsible for administering the plan throughout the State.

(2) The plan shall also describe the authority and responsibilities vested in such agency or agencies. The plan shall contain assurances that any other responsibilities of the designated agency shall not detract significantly from the resources and priorities assigned to the administration of the plan.

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(3) A State agency or agencies must be designated with overall responsibility for administering the plan throughout the State. Subject to this overall responsibility, enforcement of standards may be delegated to an appropriate agency having occupational safety and health responsibilities or expertise throughout the State. Included in this overall responsibility are the requirements that the designated agency have, or assure the provision of necessary qualified personnel, legal authority necessary for the enforcement of the standards and make reports as required by the Assistant Secretary.

(c) *Standards.* The State plan for public employees shall include, or provide for the development or adoption of, standards which are or will be at least as effective as those promulgated under section 6 of the Act. The plan shall also contain assurances that the State will continue to develop or adopt such standards. Indices of the effectiveness of standards and procedures for the development or adoption of standards against which the Assistant Secretary will measure the plan in determining whether it is approvable are set forth in § 1956.11 (b).

(d) *Enforcement.* (1) The State plan for public employees shall provide a program for the enforcement of the State standards which is, or will be, at least as effective in assuring safe and healthful employment and places of employment as the standards promulgated by section 6 of the Act; and provide assurances that the State's enforcement program for public employees will continue to be at least as effective in this regard as the Federal program in the private sector. Indices of the effectiveness of a State's enforcement plan against which the Assistant Secretary will measure the plan in determining whether it is approvable are set forth in § 1956.11(c).

(2) The plan shall require State and local government agencies to comply with all applicable State occupational safety and health standards included in the plan and all applicable rules issued thereunder, and employees to comply with all standards, rules, and orders applicable to their

(e) *Right of entry and inspection.* The plan shall contain adequate assurances that inspectors will have a right to enter covered workplaces which is at least as effective as that provided in section 8 of the Act for the purpose of inspection or monitoring. Where such entry is refused, the State agency or agencies shall have the authority through appropriate legal process to compel such entry.

(f) *Prohibition against advance notice.* The State plan shall contain a prohibition against advance notice of inspections. Any exceptions must be expressly authorized by the head of the designated agency or agencies or his representative and such exceptions may be no broader than those authorized under the Act and the rules published in Part 1903 of this chapter relating to advance notice.

(g) *Personnel.* The plan shall provide assurances that the designated agency or agencies and all government agencies to which authority has been delegated, have, or will have, a sufficient number of adequately trained and qualified personnel necessary for the enforcement of standards. For this purpose, qualified personnel means persons employed on a merit basis, including all persons engaged in the development of standards and the administration of the plan. Subject to the results of evaluations, conformity with the Standards for a Merit System of Personnel Administration, 45 CFR Part 70, issued by the Secretary of Labor, including any amendments thereto, and any standards prescribed by the U.S. Civil Service Commission, pursuant to section 208 of the Intergovernmental Personnel Act of 1970, modifying or superseding such standards, and guidelines on "at least as effective as" staffing derived from the Federal private employee program will be deemed to meet this requirement.

(h) *Resources.* The plan shall contain satisfactory assurances through the use of budget, organizational description, and any other appropriate means, that the State will devote adequate funds to the administration and enforcement of the public employee program. The Assistant Secretary will make periodic evaluations of the adequacy of the resources the State has devoted to the plan.

(i) *Employer records and reports.* The plan shall provide assurances that public employers covered by the plan will maintain records and make reports on occupational injuries and illnesses in a manner similar to that required of private employers under the Act.

(j) *State agency reports to the Assistant Secretary.* The plan shall provide assurances that the designated agency or agencies shall make such reasonable reports to the Assistant Secretary in such form and containing such information as he may from time to time require. The agency or agencies shall establish specific goals consistent with the goals of the Act, including measures of performance, output, and results which will determine the efficiency and effectiveness of the State program for public employees, and shall make periodic reports to the Assistant Secretary on the extent to which the State, in implementation of its plan, has attained these goals. Reports will also include data and information on the implementation of the specific inspection and voluntary compliance activities included within the plan. Further, these reports shall contain such statistical information pertaining to work-related deaths, injuries and illnesses in employments and places of employment covered by the plan as the Assistant Secretary may from time to time require.

§ 1956.11 Indices of effectiveness.

(a) *General.* In order to satisfy the requirements of effectiveness under §§ 1956.10 (c)(1) and (d)(1), the State plan for public employees shall:

(1) Establish the same standards, procedures, criteria, and rules as have been established by the Assistant Secretary under the Act; or

(2) Establish alternative standards, procedures, criteria, and rules which will be measured against each of the indices of effectiveness in paragraphs (b) and (c) of this section to determine whether the alternatives are at least as effective as the Federal program for private employees, where applicable, with respect to the subject of each index. For each index the State must demonstrate by the presentation of factual or other appropriate information that its plan for public employees will, to the extent practicable, be at least as effective as the Federal program for private employees.

(b) *Standards.* (1) The indices for measurement of a State plan for public employees with regard to standards follow in paragraph (b)(2) of this section. The Assistant Secretary will determine whether the State plan for public employees satisfies the requirements of effectiveness with regard to each index as provided in paragraph (a) of this section.

(2) The Assistant Secretary will determine whether the State plan for public employees:

(i) Provides for State standards which are or will be at least as effective as the standards promulgated under section 6 of the Act. In the case of any State standards dealing with toxic materials or harmful physical agents, they should adequately assure, to the extent feasible, that no employee will suffer material impairment of health or functional capacity, even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life, by such means as, in the development and promulgation of standards, obtaining the best available evidence through research, demonstration, experiments, and experience under this and any other safety and health laws.

(ii) Provides an adaquate method to assure that its standards will continue to be at least as effective as Federal standards, including Federal standards which become effective subsequent to any approval of the plan.

(iii) Provides a procedure for the development and promulgation of standards which allows for the consideration of pertinent factual information and affords interested persons, including employees, employers and the public, an opportunity to particaipte in such processes, by such means as establishing procedures for consideration of expert technical knowledge, and providing interested persons, including employers, employees, recognized standards-producing organizations, and the public, an opportunity to submit information requesting the development or promulgation of new standards or the modification or revocation of existing standards and to participate in any hearings. This index may also be satisfied by such means as the adoption of Federal standards, in which case the procedures at the Federal level before adoption of a standard under section 6 may be considered to meet the conditions of this index.

(iv) Provides authority for the granting of variances from State standards upon application of a public employer or

employers which correspond to variances authorized under the Act; and for consideration of the views of interested parties, by such means as giving affected employees notice of each application and an opportunity to request and participate in hearings or other appropriate proceedings relating to applications for variances.

(v) Provides for prompt and effective standards setting actions for the protection of employees against new and unforeseen hazards, by such means as the authority to promulgate emergency temporary standards. Such authority is particularly appropriate for those situations where public employees are exposed to unique hazards for which existing standards do not provide adequate protection.

(vi) Provides that State standards contain appropriate provision for the furnishing to employees of information regarding hazards in the workplace, including information about suitable precautions, relevant symptoms, and emergency treatment in case of exposure; by such means as labelling, posting, and, where appropriate, results of medical examinations, being furnished only to appropriate State officials and, if the employee so requests, to his physician.

(vii) Provides that State standards, where appropriate, contain specific provision for the protection of employees from exposure to hazards, by such means as containing appropriate provision for the use of suitable protective equipment and for control or technological procedures with respect to such hazards, including monitoring or measuring such exposure.

(c) *Enforcement.* (1) The indices for measurement of a State plan for public employees with regard to enforcement follow in paragraph (c)(2) of this section. The Assistant Secretary will determine whether the plan satisfies the requirements of effectiveness with regard to each index as provided in paragraph (a) of this section.

(2) The Assistant Secretary will determine whether the State plan for public employees:

(i) Provides for inspection of covered workplaces in the State by the designated agency or agencies or any other agency which is duly delegated authority, including inspections in response to complaints where there are reasonable grounds to believe a hazard exists, in order to assure, so far as possible, safe and healthful working conditions for covered employees by such means as providing for inspections under conditions such as those provided in section 8 of the Act.

(ii) Provides an opportunity for employees and their representatives, before, during, and after inspections, to bring possible violations to the attention of the State or local agency with enforcement responsibility in order to aid inspections, by such means as affording a representative of the employer, and a representative authorized by employees, an opportunity to accompany the inspector during the physical inspection of the workplace, or where there is no authorized representative, provide for consultation by the inspector with a reasonable number of employees.

(iii) Provides for notification of employees, or their representatives, when the State decides not to take compliance action as a result of violations alleged by such employees or their representatives, and further provides for informal review of such decisions, by such means as written notification of decisions not to take compliance action and the reasons therefor, and procedures for informal review of such decisions and written statements of the disposition of such review.

(iv) Provides that public employees be informed of their protections and obligations under the Act, including the provisions of applicable standards, by such means as the posting of notices or other appropriate sources of information.

(v) Provides necessary and appropriate protection to an employee against discharge or discrimination in terms and conditions of employment because he has filed a complaint, testified, or otherwise acted to exercise rights under the State program for public employees for himself or others, by such means as providing for appropriate sanctions against the State or local agency for such actions, and by providing for the withholding, upon request, of the names of complainants from the employer.

(vi) Provides that public employees have access to information on their exposure to toxic materials or harmful physical agents and receive prompt information when they have been or are being exposed to such materials or agents in concentrations or at levels in excess of those prescribed by the applicable safety and health standards, by such means as the observation by employees of the monitoring or measuring of such materials or agents, employee access to the records of such monitoring or measuring, prompt notification by a public employer to any employee who has been or is being exposed to such agents or materials in excess of the applicable standards, and information to such employee of corrective action being taken.

(vii) Provides procedures for the prompt restraint or elimination of any conditions or practices in covered places of employment which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided for in the plan, by such means as immediately informing employees and employers of such hazards, taking steps to obtain immediate abatement of the hazard by the employer, and, where appropriate, authority to initiate necessary legal proceedings to require such abatement.

(viii) Provides that the designated agency (or agencies) and any agency to which it has duly delegated authority, will have the necessary legal authority for the enforcement of standards by such means as provisions for appropriate compulsory process to obtain necessary evidence or testimony in connection with inspection and enforcement proceedings.

(ix) Provides for prompt notice to public employers and employees when an alleged violation of standards has occurred, including the proposed abatement requirements, by such means as the issuance of a written citation to the public employer and posting of the citation at or near the site of the violation; further provides for advising the public employer of any proposed sanctions, wherever appropriate, by such means as a notice to the employer by certified mail within a reasonable time of any proposed sanctions.

(x) Provides effective sanctions against public employers who violate State standards and orders, or applicable public agency standards, such as those prescribed in the Act. In lieu of monetary penalties a complex of enforcement tools and rights, such as various forms of equitable remedies available to the designee including administrative orders; availability of employee rights such as right to contest citations, and provisions for strengthened employee participation in enforcement may be demonstrated to be as effective as monetary penalties in achieving compliance in public employment. In evaluating the effectiveness of an alternate system for compelling compliance, elements of the enforcement educational program such as a system of agency self inspection procedures, and in-house training programs, and employee complaint procedures may be taken into consideration.

(xi) Provides for an employer to have the right of review of violations alleged by the State or any agency to which it has duly delegated authority, abatement periods and proposed penalties, where appropriate, for employees or their representatives to challenge the reasonableness of the period of time fixed in the citation for the abatement of the hazard, and for employees or their representatives to have an opportunity to participate in review proceedings, by such means as providing for administrative review, with an opportunity for a full hearing on the issues.

(xii) Provides that the State will undertake programs to encourage voluntary compliance by public employers and employees by such means as conducting training and consultation with such employers and employees, and encouraging agency self-inspection programs.

(d) *Additional indices.* Upon his own motion, or after consideration of data, views, and arguments received in any proceedings held under Subpart C of this Part, the Assistant Secretary may prescribe additional indices for any State plan for public employees which shall be in furtherance of the purpose of this section.

Subpart C—Approval, Change, Evaluation and Withdrawal of Approval Procedures

§ 1956.20 Procedures for submission, approval and rejection.

The procedures contained in Subpart C of Part 1902 of this Chapter shall be applicable to submission, approval, and rejection of State plans submitted under

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this Part, except that the information required in § 1902.20(b)(1)(iii) would not be included in decisions of approval.

§ 1956.21 Procedures for submitting changes.

The procedures contained in Part 1953 of this Chapter shall be applicable to submission and consideration of developmental, Federal program, evaluation, and State-initiated change supplements to plans approved under this Part.

§ 1956.22 Procedure for evaluation and monitoring.

The procedures contained in Part 1954 of this Chapter shall be applicable to evaluation and monitoring of State plans approved under this Part, except that the decision to relinquish Federal enforcement authority under section 18(e) of the Act is not relevant to Phase II and III monitoring under § 1954.2 and the guidelines for exercise of Federal discretionary enforcement authority provided in § 1954.3 are not applicable to plans approved under this Part. The factors listed in § 1902.37(b) of this Chapter, except those specified in § 1902.37(b) (11) and (12), which would be adapted to the State compliance program, provide the basis for monitoring.

§ 1956.23 Procedures for certification of completion of development and determination on application of criteria.

The procedures contained in §§ 1902-33 and 1902.34 of this Chapter shall be applicable to certification of completion of developmental steps under plans approved in accordance with this Part. Such certification shall initiate intensive monitoring of actual operations of the developed plan, which shall continue for at least a year after certification, at which time a determination shall be made under the procedures and criteria of §§ 1902.38, 1902.39, 1902.40 and 1902.41, that on the basis of actual operations, the criteria set forth in §§ 1956.10 and 1956.11 of this Part are being applied under the plan. The factors listed in § 1902.37(b) of this Chapter, except those specified in § 1902.37(b) (11) and (12) which would be adapted to the State's compliance program provide the basis for making the determination of operational effectiveness.

§ 1956.24 Procedures for withdrawal of approval.

The procedures and standards contained in Part 1955 of this Chapter shall be applicable to the withdrawal of approval of plans approved under this Part 1956, except that (because these plans, as do public employee programs approved and financed in connection with a State plan covering private employees, must cover all employees of State and local agencies in a State whenever a State is constitutionally able to do so, at least developmentally), no industrial or occupational issues may be considered a separable portion of a plan under § 1955.2(a)(10); and, as Federal standards and enforcement do not apply to State and local government employers, withdrawal of approval of a plan approved under this Part 1956 could not bring about application of the provisions of the Federal Act to such employers as set out in § 1955.4 of this Chapter.

Subpart D—General Provisions and Conditions [Reserved]

Subpart E—Divisions of Approval [Reserved]

Signed at Washington, D.C. this 24th day of February, 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-6538 Filed 3-1-77;3:28 pm]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-01]

PART 258—REGULATIONS GOVERNING SECTION 505 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Procedures for Computing the Internal Rate of Return on Projects; Correction

In FR Doc. 77-2342 appearing at page 4652 in the FEDERAL REGISTER of Tuesday, January 25, 1977, the phrase "Subpart C of Part" in the second sentence of paragraph (a)(4)(v) of § 258.7 is corrected to read "subpart C of part".

Dated February 28, 1977.

BRUCE M. FLOHR,
Deputy Administrator,
Federal Railroad Administration.

[FR Doc. 77-6512 Filed 3-3-77;8:45 am]

[Docket No. 76-02]

PART 260—REGULATIONS GOVERNING SECTION 511 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Procedures for Computing the Internal Rate of Return on Projects; Correction

In FR Doc. 77-2363 appearing at page 4652 in the FEDERAL REGISTER of Tuesday, January 25, 1977, the following changes should be made:

1. Section 260.35 appearing on pages 4653 and 4654 is corrected as follows:

(a) In line 17 of paragraph (a)(2) the phrase "(not requiring major investment)" is changed to read "(requiring little or no investment)";

(b) In line 4 of paragraph (a)(3) the word "affect" is changed to read "affects";

(c) In line 13 of paragraph (a)(4) the word "should" is changed to read "must";

(d) In line 1 of paragraph (b)(1)(ii) the word "a" is deleted; and

(e) In line 16 of paragraph (b)(2)(i) the word "inflow" is changed to read "flow".

2. In line 14 of the section titled "Characteristic Actions" under "Use of Assets" of Appendix A to subpart C appearing on page 4655 the word "tract" is corrected to read "track".

3. The following sections under "Labor Requirements" of Appendix A to subpart C appearing on page 4655 are corrected:

(a) In line 5 of "Characteristic Actions" the word "and" is deleted;

(b) In line 4 of "Monetary Value" the comma immediately following the word "overtime" is deleted;

(c) In line 6 of "Monetary Value" the word "affects" is changed to read "affect";

(d) In line 3 of the second paragraph of "Monetary Value" the comma immediately following the word "done" is deleted; and

(e) In line 7 of the fourth paragraph of "Monetary Value" the word "should" is changed to read "can".

4. The following sections under "Locomotive Requirements" of Appendix A to subpart C appearing on page 4656 are corrected:

(a) In line 8 of "Physical Units" the word "it" is changed to read "applicant";

(b) In line 1 of the third paragraph of "Monetary Value" the word "Calculating" is changed to read "Calculate"; and

(c) In line 6 of the fourth paragraph of "Monetary Value" the symbols "r" and "n" are changed to read "r" and "n", respectively.

5. In line 4 of the section titled "Special Features" under "Salvage Value" of Appendix A to subpart C appearing on page 4657 the phrase "well maintained" is corrected to read "well-maintained".

6. In Form V of Appendix B to subpart C appearing on page 4659 the heading in the upper right hand corner which reads,

Date _____
Sheet No. _____ of _____

is changed to read,

Applicant _____
Project _____
Date _____
Sheet No. _____ of _____

Dated: February 28, 1977.

BRUCE M. FLOHR,
Deputy Administrator,
Federal Railroad Administration.

[FR Doc.77-6513 Filed 3-3-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 325]

DENATURING STANDARD

Notice of Proposed Rulemaking

• *Purpose.* The purpose of this document is to propose to establish a minimum required darkness for carcasses, parts thereof, or meat food products (other than rendered animal fats) denatured by charcoal or other black dyes. •

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that the Animal and Plant Health Inspection Service is considering amending Part 325 of the Federal meat inspection regulations (9 CFA 325), pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), for the purpose set forth above.

Statement of considerations. It appears that carcasses, parts thereof, or meat or meat food products (other than rendered animal fats) darkened by charcoal or other black dyes would be deterred for use as human food if they contain at least that degree of darkness depicted by diagram 1 of the Meat Denaturing Guide (MP Form 91). Copies of MP Form 91 may be obtained, without charge, by writing to the Administrative Operations Branch, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 123 East Grant Street, Minneapolis, Minnesota 55403.

Accordingly, it is proposed to amend § 325.13(a) of the Federal meat inspection regulations (9 CFR 325.13(a)) by adding a new subparagraph (7) to read as follows:

§ 325.13 Denaturing procedures.

(a) • • •

(7) Carcasses, parts thereof, or meat or meat food products (other than rendered animal fats) darkened by charcoal or other black dyes shall be deemed to be denatured pursuant to this section only if they contain at least that degree of darkness depicted by diagram 1 of the Meat Denaturing Guide (MP Form 91).[1]

[1] Copies of MP Form 91 may be obtained, without charge, by writing to the Administrative Operations Branch, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 123 East Grant Street, Minneapolis, Minnesota 55403. Diagrams 2 and 3 of the Meat Denaturing Guide are for comparison purposes only. The Meat Denaturing Guide has been approved for incorporation by reference by the Director, Office of the Federal Register, and is on file at the Federal Register library.

Any person wishing to submit written data, views, or arguments concerning the proposed amendment may do so by filing them, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, or if the material is deemed to be confidential, with the Inspection Standards and Regulations Staff, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, by June 2, 1977.

Persons desiring opportunity for oral presentation of views should address such requests to the Staff identified in the preceding paragraph, so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business, unless the person makes the submission to the Staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register, December 17, 1976.

Done at Washington, D.C., on February 28, 1977.

F. J. MULHERN,
Administrator, Animal and
Plant Health Inspection Service.

[FR Doc.77-6501 Filed 3-3-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Request for Information on Offshore Marine Services

AGENCY: Small Business Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: Concerns rendering "offshore marine services" generally support the oil and construction industry at sea with freight and passenger transportation, rig towing, anchor handling, and other logistical services. These activities embody the characteristics of both transportation and the provision of services. The present financial assistance size standards (definitions of small business) for these two activities are, respectively, gross receipts for a concern's most recently completed fiscal year not exceeding $1.5 million and $2 million (see 13 CFR 121.3-10 (d) and (f), Revision 13, Amendment 5, 40 FR 32824, as corrected at 40 FR 36310).

It has been suggested that a specific definition of small business for the purpose of receiving Small Business Administration financial assistance should be established for concerns primarily engaged in rendering offshore marine services.

In order to acquire information to determine the exact nature of this activity and an appropriate small business size standard, the Small Business Administration solicits the views of interested parties. Specifically, the SBA is concerned with finding out the size of concerns that are primarily engaged in the performance of offshore marine services, whether such activities are more accurately characterized as transportation, as services, or in a new category altogether, and whether either of the current size standards is appropriate.

DATE: Comments must be received on or before May 1, 1977.

ADDRESSES: Send comments to William L. Pellington, Director, Size Standards Division, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Harvey D. Bronstein, (202) 653-6373.

Dated: February 25, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-6474 Filed 3-3-77;8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-9633—File No. S7-675]

REGISTERED MANAGEMENT COMPANIES

Proposed Regulations Regarding Use of Depository Systems

Correction

In FR Doc. 77-4417, appearing at page 8666 in the issue for Friday, February 17, 1977, make the following changes:

1. On page 8670, in the second column, the third line of the second paragraph should read "direct use of a depository, that when the company is a direct participant in the depository, the . . ."

2. In § 270.17f-4(b)(4)(vi), on page 8672, the fourth line should read "counting, system, the internal accounting control, and procedures for . . .".

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 2]

[Docket No. 76N-0478]

ADMINISTRATIVE PRACTICES AND PROCEDURES

Publicity Policy

The Food and Drug Administration (FDA) is proposing regulations describing the current policies and procedures governing the issuance of publicity by the agency. These proposed regulations were developed as a part of an FDA program to codify all of its administrative and regulatory procedures; they also respond to the recommendations of the Administrative Conference of the United States (hereafter, the Administrative Conference) concerning adverse publicity (1 CFR 305.73-1). Interested persons have until May 3, 1977 to file comments on the proposal.

The Department of Health, Education, and Welfare (HEW) issued adverse publicity regulations under 45 CFR Part 17 in the FEDERAL REGISTER of January 2, 1976 (41 FR 2) that provide for the issuance of additional clarifying regulations by principal operating components of HEW. The regulations proposed in this document are consistent with the recommendations of the Administrative Conference and regulations established by HEW, but they are broader in scope, applying to all publicity rather than solely to adverse publicity.

The Commissioner believes that the proposed regulations will provide the needed safeguards for the public, the agency, and the manufacturers of regulated products while allowing the agency to issue publicity to inform the public of agency actions and to serve other purposes.

Publicity is an increasingly important means of making the decisionmaking processes of FDA open to public review. Every citizen is affected by how FDA carries out its responsibilities to ensure the safety and nondeceptive labeling of the nation's supply of foods, drugs, devices, and cosmetics. The Food and Drug Administration has adopted the basic philosophy that "the public's business must be and will be conducted in public." In implementing this philosophy, FDA has adopted regulations under Part 4 (21 CFR Part 4) that make the large majority of agency records available under the Freedom of Information Act, and has established regulations under Subpart A of Part 2 (21 CFR Part 2), in the FEDERAL REGISTER of January 25, 1977 (42 FR 4680) that are designed to ensure that agency decisionmaking processes are open. It is not enough, however, that agency activities be passively open to public scrutiny. The Food and Drug Administration believes it has an affirmative obligation to see that the public knows about and understands the agency's actions and has an opportunity to participate in decisions affecting the public health and the honest marketing of products. Issuing publicity is important to FDA fulfillment of this commitment.

Publicity is also of increasing importance as a means of consumer education. Well-informed and well-educated consumers can better protect themselves against deceptions or hazards and can participate better in public policy decisions. The Food and Drug Administration seeks publicity for several purposes, among which are:

1. To warn against the use of marketed products that may be hazardous.

2. To warn against gross economic deception.

3. To encourage public comment on proposed regulations or actions and other public participation in FDA activities.

4. To report to the public on adjudicated court proceedings.

5. To present to the public FDA's views on matters of public interest.

6. To report on studies or investigations that may form the basis for an FDA regulatory action.

Despite these positive objectives of publicity, there are occasions when publicity can have a negative or adverse effect. For example, an excess of negative information could make the public indifferent or insensitive to important warnings about a potentially dangerous product. Adverse publicity may prejudice a defendant's right to a fair trial in a criminal prosecution, or might improperly influence civil litigation. Under certain circumstances, the issuance of publicity could create a greater hazard than that posed by a particular violation by causing a panic-type reaction. Adverse publicity can cause economic harm to both individuals and firms. For example, one type of publicity often considered to be adverse by manufacturers of regulated products is that which accompanies a product recall. Publicity resulting from recalls is more fully considered in the proposed regulations relating to recalls published in the FEDERAL REGISTER of June 30, 1976 (41 FR 26924).

The Administrative Conference has expressed concern over the use of adverse publicity by regulatory agencies. The Administrative Conference's Recommendation 73-1 was published in the FEDERAL REGISTER of June 27, 1973 (38 FR 16839). The general recommendation reads as follows:

> Each agency should state in its published rules the procedures and policies to be followed in publicizing agency action or policy, and internal operating practices should assure compliance. In the adoption of such procedures and policies, each agency should balance the need for adequately serving the public interest and the need for adequately protecting persons affected by adverse agency publicity * * *

This general statement was followed by a series of specific recommendations, discussed in more detail below.

DEFINITION

The proposed regulations are intended to cover all efforts by FDA to provide information to the mass media or trade publications with the expectation that they will disseminate the information to the public.

One dictionary defines publicity as "the state of being brought to public notice by announcements (aside from advertisements), by mention in the press, on the radio or television * * *." Another dictionary defines publicity as "the measures, process or business of securing public notice." For purposes of these regulations, such definitions are overly general. A more suitable definition has been prepared and appears in proposed § 2.703(o) (21 CFR 2.703(o)), which defines publicity as being limited to press releases, press conferences, and mass media interviews. A media interview refers to a dialogue between a mass media representative and an FDA spokesman in which the agency's position on one or more issues is presented or explained in some detail. A response by an agency spokesman to media requests for information that does not require discussion or opinions is not considered an interview and is not considered publicity for purposes of this proposed regulation.

There has been some confusion in the past about an FDA internal document known as a "Talk Paper." This document discusses the response that may be given by FDA personnel to public inquiries on specific matters. It is designed to promote uniform responses to possible questions.

A "Talk Paper" is only used to respond orally to unsolicited questions. It is not distributed to the media or any other person except in response to a Freedom of Information Act request. To ensure that there is no confusion between press releases and "Talk Papers," FDA has adpoted different formats for the two and labeled the "Talk Papers" prominently as "For Internal Distribution Only." Thus, "Talk Papers" are not considered publicity subject to this proposal.

The release of agency records under the Freedom of Information Act, providing materials to Congress in response to specific requests, or responding to an unsolicited request for information are not considered publicity because no intent to achieve public notice is involved in these actions.

The Food and Drug Administration recognizes a clear distinction between publicity that involves the mass media and materials issued to inform and/or educate the public. Considerable information about FDA and its activities is contained in publications or audio-visual materials produced by the agency. These include brochures, pamphlets, journals, films, posters, technical data, and similar items. Among the regularly issued publications are the FDA Consumer (the agency's official monthly magazine) that contains the "Notices of Judgment" (a report to the public on adjudicated court cases), the FDA Drug Bulletin (distributed to physicians and other health professionals whenever FDA considers it necessary to bring information to their attention), the BRH Bulletin (provided to professionals and members of the public interested in radiological health), the New Drug Approval List (a weekly listing of new drug applications approved by the agency), and the FDA Enforcement Report (a weekly compilation of legal actions taken by FDA and of recalls initiated by, or reported to, the agency).

The Food and Drug Administration does not issue any of these publications or provide any of this information for the purpose of seeking publicity in the news media. For purposes of this regulation, these publications are not considered to be publicity. Similarly, public appearances by FDA employees at public meetings are not considered to be publicity. The Commissioner or a representative often is called to testify before congressional committees, and such appearances customarily are covered by the news media. These appearances and any subsequent release, by the committee or its staff, of materials provided to support such testimony are not publicity within the scope of these regulations.

Notwithstanding these exclusions from publicity subject to these regulations, the Commissioner recognizes that the obligation to the principles of truthfulness and accuracy and to the retraction of erroneous information applies to all public statements and publications of the agency.

FDA POLICY ON PUBLICITY

The Commissioner agrees with the recommendation by the Administrative Conference that all adverse publicity should be factual in content and accurate in description. He has established numerous systems for assuring that such information issued by FDA meets these criteria. An extensive program of communicating current decisions and policies to all employees of the agency provides facts on current issues to all persons being interviewed by members of the mass media. This is done to assure that all such statements are factual and accurate and placed in proper context.

To assure accuracy, all proposed press releases are cleared initially with the program experts most familiar with the subject. Releases ordinarily are personally approved by the Assistant Commissioner for Public Affairs and the Commissioner. There are times when FDA will confine issuance of a press release to a certain geographic area. Such a release would be issued by the FDA field office responsible for that area. The responsibility for authorizing all FDA press releases, however, whether by a field office or a headquarters office, remains in the Office of Public Affairs. It also is responsible for complying with any relevant clearance procedures required by the Assistant Secretary for Public Affairs of HEW.

The Administrative Conference also recommended that disparaging terminology should be avoided in the issuance of adverse publicity. The Commissioner believes there is no way that such terminology can be entirely avoided when the purpose of the publicity is to warn of a threat to the public health or to report to the public about an action taken by FDA against a firm or product. The agency agrees that personally disparaging or gratuitously critical remarks, not required in reporting the facts of a situation, should be and will be avoided.

Issuance of information that may be adverse to an individual, firm, or product is justifiable when it is needed to fulfill the agency's primary mission. Adverse publicity also may be an unavoidable consequence of information issued for an appropriate agency purpose. In issuing press releases relating to actions of a general nature (such as rule making), specific persons, firms, or products will be named only if the Commissioner determines it is necessary to explain fully the background or consequences of the action being discussed. It is essential to recognize, however, that the nature and amount of such publicity that eventually reaches the public, based on information supplied by FDA, is often beyond the control of the agency. The media may give greater publicity to a particular story than FDA thinks necessary. On other occasions, media coverage of a problem or action may, in FDA's judgment, be insufficient.

Publicity about regulated products or agency actions may appear in mass media or elsewhere wthout any direct input by FDA. Such publicity may result from the mass media reporting about the agency. The Food and Drug Administration releases considerable information pursuant to requests under the Freedom of Information Act (5 U.S.C. 552) and the agency's implementing regulations, and any such information may result in unintended publicity. The agency cannot control the use by others of properly available information. All persons subject to regulatory proceedings involving the agency should recognize that publicity may result from any such proceedings, even when not issued by FDA.

The Food and Drug Administration will continue to seek publicity, when appropriate, even if there is the possibility that the information may be ignored, misinterpreted, oversimplified, overstated, or misunderstood by the media or by the public. Failure to promote the wide public use of valuable information would violate the public trust inherent in the agency's responsibilities.

In deciding whether and when to seek publicity, FDA takes into account both its regulatory obligations and the individual circumstances of the situation. The primary mission of FDA is the protection of the consuming public, and whatever publicity-seeking measures are appropriate and necessary to achieve this objective in individual cases will be taken.

AUTHORITY FOR ISSUING PUBLICITY

The authority of the Commissioner to issue publicity comes from several sources, some explicitly based in statutory provisions and some implicit. The Commissioner is explicitly authorized to issue publicity under section 705 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 375). This section requires the publication of reports about court decisions rendered under the act, an obligation FDA carries out by the publication of "Notices of Judgments" in the FDA Consumer. The section also expressly authorizes publicity about imminent dangers to health and gross deceptions. The Food and Drug Administration's exercise of this authority has been upheld, and in one case has been termed "commendable" (*United States* v. *Diapulse Manufacturing Co.*, 262 F. Supp. 728 (D. Conn. 1967); *Hoxsey* v. *Folsom*, 155 F. Supp. 376 (D.D.C. 1957)). In section 705 of the act, Congress also recognizes that FDA may issue publicity concerning its investigations. In the *Diapulse* case, the court interpreted this section as authorizing factual statements about pending litigation and the description of pending litigation in periodic reports summarizing enforcement actions. The Commissioner also has been delegated the authority in § 5.1 (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), conveyed by sections 301 and 310 of the Public Health Service Act (42 U.S.C. 241, 242o), to publicize information on research activities and matters related to the public health insofar as they pertain to foods, drugs, devices, and cosmetics.

The Supreme Court has recognized that Federal agencies have implicit authority to issue public statements respecting agency policy on matters of wide public interest (*Barr* v. *Matteo*, 360 U.S. 564 (1959)). The lower Federal Courts have also recognized that FDA has implicit authority to issue publicity. They have upheld the issuance of warnings to consumers about products and press releases about actions taken in an administrative proceeding on the basis of FDA's implicit authority to disseminate information to the public, as well as on the basis of the explicit authority conveyed by section 705 of the act (*Ajay Nutrition Foods* v. *FDA*, 378 F. Supp. 210 (D.N.J. 1974), *aff'd without opinion*, 513 F. 2d 625 (3d Cir. 1975); *Hoxsey Cancer Clinic* v. *Folsom, Supra.*; *cf. FTC* v. *Cinderella Career and Finishing Schools*, 404 F. 2d 1308 (D.C. Cir. 1968)).

The issuance of publicity aids FDA in providing notice to interested persons

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and to the public of proceedings in which they may participate; see, for example, section 701(e) of the act (21 U.S.C. 371 (e)) and 5 U.S.C. 553. The Administrative Conference has endorsed the use of publicity to provide notice and encourage public participation in agency proceedings; see Recommendation 73–1, Adverse Agency Publicity (1 CFR 305.73–1) and Recommendation 71–6 (1 CFR 305.71–6).

Accordingly, the Commissioner believes that he has the authority to issue publicity whenever, in the sound exercise of discretion, he finds that the publicity is necessary to carry out FDA's obligations under the acts to protect the public.

Litigation, Administrative Hearings, and Investigations

Agency publicity relating to court actions, certain administrative hearings, and related law enforcement investigations would be subject to special limitations. These limitations would limit publicity that may interfere with a party's right to a fair judicial trial or administrative hearing. The issuance of publicity that is potentially prejudicial to a defendant's right to a fair trial in a criminal prosecution may lead to a dismissal of the complaint or necessitate special measures to impanel a jury unaffected by the publicity (*United States v. Abbott Laboratories, Inc.*, 505 F. 2d 565 (4th Cir., 1974)).

Accordingly, FDA—on behalf of the public—has an interest in assuring that no information is issued that may endanger its ability to pursue a warranted prosecution or other appropriate enforcement action. It also has an interest in guarding against injury from unwarranted publicity about agency charges of law violations prior to the completion of administrative proceedings to resolve disputes related to the validity of the charges.

The Commissioner is not proposing to bar release of all information about court proceedings, hearings, and supporting investigations. While a total prohibition would effectively forestall any possibility of unwarranted or prejudicial publicity, it would not be in the public interest. Publicity serves various purposes, as explained before in this document, and the need to issue publicity to promote these purposes may arise in connection with a matter that is the subject of a court proceeding, hearing, or investigation. For example, the agency may need to issue publicity to effect a public warning or to provide notice to affected persons.

The proposed regulations seek to achieve a fair balance between the competing interests by ensuring that the agency will give careful attention to the need to avoid publicity that may be prejudicial or cause needless injury before it issues publicity about certain proceedings or supporting investigations. These limitations are in addition to, and supplement, the general criteria proposed for all publicity and are intended to assure that the information is accurate and fairly reflects the context of the events or circumstances described.

The proposed provisions relating to publicity about litigation, administrative hearings, and related investigations would not in any way restrict the issuance of warnings to protect the public health or to avoid substantial economic harm, even if there is a possibility the publicity might prejudice a pending or future criminal trial or other proceeding. The Commissioner believes that his obligations to protect the public are paramount. If publicity were in fact prejudicial, it might be possible to cure its effects by impaneling a jury unaffected by the publicity or by other measures; but the Commissioner believes that, if need be, he must risk dismissal of a prosecution because of the impact of publicity, rather than fail to issue a warning that he believes is needed to protect the public. In an analogous circumstance, the Justice Department has recognized the overriding importance of the need to protect the public, since an exception is provided in the Justice Department guidelines (28 CFR 50.2) for publicity issued to aid apprehension of a fugitive from justice.

The proposed regulations relating to publicity about criminal trials and civil litigation closely parallel the Justice Department guidelines (28 CFR 50.2). In the case of criminal actions, the guidelines limit the issuance of publicity that reasonably may be expected to influence the outcome of a pending or future criminal trial. With respect to civil actions, the guidelines restrict release of certain information not in the public record that may interfere with a fair trial. Provisions that are clearly inappropriate to FDA matters have been omitted, e.g., prohibitions on release of information on the use of fingerprints, polygraph tests, and similar tests and the provisions on release of information about the circumstances of an arrest. The Food and Drug Administration proceedings are unlikely to involve such tests, and rarely commence with an arrest.

Publicity about law enforcement investigations that are likely to lead to litigation is covered by § 2.744(c) of the proposed regulations. Generally, FDA will not issue information about an investigation that may result in court enforcement action while the investigation is under way. Furthermore, the agency's public information regulations under § 4.64 (21 CFR 4.64) provide for the withholding of any records in an open investigatory file that are requested under the Freedom of Information Act, unless the Commissioner determines that there is a compelling public interest in their disclosure. These proposed regulations will apply the same standard to the issuance of publicity about such investigations; i.e., information will not be issued unless the Commissioner determines that a compelling public interest so requires, and if issued, will be subject to the same standards that apply to the case of judicial proceedings. Proposed § 2.744(c) does not, however, apply to publicity issued in relation to a recall, which is covered by the agency's proposed regulations on recalls published in the Federal Register of June 30, 1976 (41 FR 26924).

Proposed § 2.744(d) contains a separate provision governing publicity that may affect a future or pending proceeding, even though it does not specifically relate to the proceeding or the supporting investigation. An example will illustrate the special concerns presented by this type of publicity. If a substantial portion of the food supply were to be accidentally contaminated with a potentially deleterious substance, FDA might initiate a law enforcement investigation and enforcement proceeding. In addition, the agency might have to issue publicity to alleviate public concerns, which could affect the law enforcement proceeding even though the proceeding was not mentioned. The obligations of the agency are not confined to law enforcement. The agency has continuing responsibility to the public to protect consumers from potential hazards or deception presented by products that may be widely distributed and to inform the public about matters of general concern relating to regulated products. Publicity may help the agency in meeting these responsibilities. The special limitations in proposed § 2.744 do not apply to publicity related to, but not specifically concerning, an investigation, so long as it is not intended to affect a hearing or trial, and so long as the official issuing the publicity takes all feasible measures to minimize any possible interference with any pending or expected proceeding. If such publicity would reduce the risk of interfering with the proceeding or hearing, it should specifically state that it is directed at a general problem and that any related proceeding or investigation presents distinct issues.

The proposed criteria applicable to publicity about certain administrative hearings and related investigations are based on HEW regulations under 45 CFR Part 17, and also reflect the Administrative Conference recommendations on adverse agency publicity under 1 CFR 305.73–1. The HEW regulations and the Administrative Conference recommendations provide that publicity about regulatory investigations and pending agency trial-type hearings should be issued only in limited circumstances in accordance with specified criteria. Both HEW and the Administrative Conference have criteria governing the issuance of publicity needed for warnings of risks to the public health or safety, or of substantial economic harm, and for the provision of notice to interested persons. In addition, the Administrative Conference recommended criteria providing for issuance of agency publicity to the extent necessary to foster agency efficiency, public understanding, or the accuracy of news coverage if information about the agency action is available to the public regardless of its own publicity measures and is likely to result in media coverage.

The HEW regulations, following the Administrative Conference's recommendations, urge that measures be taken to prevent unwarranted publicity about "trial type" administrative proceedings. Formal evidentiary public hearings are clearly of this type. Regulatory hearings conducted pursuant to Subpart F of Part 2 of the FDA procedural regulations are intended to be informal adjudications, but they involve individualized determinations concerning the application of law or regulations to specific fact situations. The Commissioner believes, therefore, that the same limitations should apply to both types of regulatory hearings.

The proposed regulation is broader in another respect than the comparable provision in the Administrative Conference recommendations and the HEW regulations concerning publicity about regulatory investigations and trial-type proceedings. The proposal applies to publicity about specifically identified products as well as specifically identified persons and firms. The Commissioner believes that publicity about products may cause injury to the person or firm making the product and, accordingly, proposes to adopt the same policy with respect to all such publicity.

The special limitation in proposed § 2.744(e) do not apply to rule making or to investigations in support of a rule making proceeding, even though a formal evidentiary hearing is statutorily available if objections to the rule were filed, e.g., objections to food additive regulations under section 409 of the act (21 U.S.C. 348). The proposal applies only to "law enforcement" investigations, a term that does not include an investigation leading to a rule making proceeding. Rules apply generally and affect a wide number of persons. It would be inappropriate to place strict limits on the agency's ability to issue public statements on such matters. Any publicity that is not subject to the special limitations in proposed § 2.744 will continue to be subject to the general limitations in the proposal that are designed to assure that all publicity issued by the agency is accurate, serves an appropriate purpose, and fairly reflects the context of the action being taken.

The HEW regulations state that publicity about investigations and trial-type proceedings should be issued "only in limited circumstances," in accordance with specified criteria. The Commissioner interprets this provision to mean that restraint should be exercised in determining the purposes for which such publicity may be issued and that these purposes be limited to the extent possible consistent with the public interest. The HEW regulations state that operating components of HEW may adopt publicity regulations adapted to their particular concerns. The Secretary of Health, Education, and Welfare stated, however, in the Federal Register of January 2, 1976 (41 FR 2) that it was HEW policy to avoid publicity that might adversely affect persons or organizations "where a reasonable and equally effective alternative is available." The Commissioner proposes to adopt this general standard to govern the issuance of publicity about regulatory investigations and administrative hearings.

The Administrative Conference recommended that public warnings be withheld "* * *" where public harm can be avoided by immediate discontinuance of an offending practice * * *." Proposed § 2.744 provides that warnings are to be issued when necessary. The Commissioner points out that there are very few situations where the mere discontinuance of an action by a firm is sufficient to avoid public "harm." The agency's concern is often with products already in market channels, or in people's homes. A more acceptable basis for modifying or withholding a public warning in FDA's area of responsibility would be the discontinuance of a violative practice, combined with an effective recall of violative products from the marketplace.

The Commissioner has adopted the criteria recommended by the Administrative Conference to govern the issuance of publicity in anticipation of media coverage. The HEW regulations do not specifically establish criteria permitting publicity for this purpose, but the Commissioner believes it is useful to do so because of the direct impact of FDA responsibilities upon consumers and business activities. On a number of occasions, FDA has issued publicity to prevent rumors and confusion. The Commissioner believes that the Administrative Conference recommendation identifies suitable criteria to govern this publicity and recognizes that agency publicity for this purpose is in the public interest.

The Commissioner has also provided for the issuance of publicity if necessary to achieve a compelling public interest when no other reasonable and equally effective alternative exists to issuing publicity. These circumstances are unlikely to arise, but if they were, the Commissioner believes he should not be foreclosed from issuing publicity.

Advance Notice

The Administrative Conference recommended that agencies should provide advance notice of adverse agency publicity when "practicable and consistent with the nature of the proceeding." The HEW regulations provide for such notice, but provide no additional definitions. For purposes of clarification, the Commissioner is establishing guidelines for FDA's issuance of advance notice relating to adverse publicity.

The proposed regulations under § 2.703 (p) also define what is actually meant by "advance notice." The release of the actual text of a press release to the affected firm or individual, without making the text available upon request to all persons, would be inconsistent with the principle of equal access to public information followed by the Commissioner in administering the Freedom of Information Act under 21 CFR 4.21. To make the actual text available to the firm or individual and the mass media simultaneously would defeat the practical difficulties in making the exact text available in advance. The proposed regulations attempt to solve this dilemma by providing notice to a firm or individual that publicity on a given subject is to issue without providing the exact text. Because of the varying degrees of public hazard that may exist in different situations, specific time frames for advance notice are not proposed.

Advance notice of FDA's plans to seek publicity that may be adverse is appropriate when needed to enable affected persons to make a timely response of their own to the press. Advance notice of publicity usually will not be given to selected persons or firms regarding the agency's initiation of proposed rule making. Since rule making proposals affect classes of products, advance notice and opportunity to comment are routinely provided to all affected persons prior to final action. Advance notice of the initiation by FDA of enforcement action in the courts is not appropriate since it would require a prior notification about the underlying action. Disclosure of those plans in some instances might lead to the removal of products about to be seized or to the destruction or loss of evidence relating to an imminent injunction.

A media interview may lead to adverse publicity that was not planned by the agency. In such instances, it is impractical to provide advance notice. Advance notice will be provided only in those few personal appearance circumstances where the Commissioner determines that the prepared text meets the requirement of § 2.745 of these proposed regulations.

The Commissioner points out that, frequently, affected persons are aware of the nature of an impending FDA action. Accordingly, they have little need of advance notice to prepare a reply. Even when advance notice is not necessary to enable a person to prepare a response under this section, the agency will, upon request, make available a copy of its statement to those affected by it at the time of issuance so that they will know, in fact, that a statement has been issued, and so that they can deal with press inquiries in light of the exact text of FDA's release.

Retraction and Correction

The fifth and final specific recommendation by the Administrative Conference calls for a retraction or correction of adverse agency publicity where it is shown to be erroneous or misleading, and when a person named in the publicity requests a retraction or correction. The Food and Drug Administration concurs in this recommendation, and both the HEW regulations and the proposed regulations provide for such corrections or retractions.

In the event that materially erroneous or materially misleading information, which is seriously adverse to a person or firm, is issued by FDA (including recall notices), the Commissioner will promptly issue a retraction or a correction.

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The agency's procedural regulations in § 2.7 (21 CFR 2.7), provide a mechanism by which a person (or corporation) may petition for a change in agency actions or policies, including a retraction or a correction of erroneous or misleading adverse publicity. The agency will expedite the handling of such petitions since the time required by such a procedure may vitiate any corrective value from the resulting retraction or correction.

In cases where information issued by FDA has been misinterpreted by other persons or presented by the media in such a way as to be misleading to the public, the agency will consider the issuance of clarifying information. Although the agency is not responsible for publicity generated by an outside source that is adverse to a firm or product, the Commissioner may seek corrective publicity at his own discretion, or at the request of the adversely affected party, if the agency has information available that would indicate that such publicity was grossly misleading to the public and that it would be in the public interest.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 705, 52 Stat. 1055–1056 as amended, 1057–1058 (21 U.S.C. 371, 375) and the Public Health Service Act (secs. 301, 310, 58 Stat. 691, 695, as amended, 84 Stat. 1308, (42 U.S.C. 241, 242)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), it is proposed that Part 2 be amended in Subpart N, as proposed and published in the FEDERAL REGISTER of April 7, 1976 (41 FR 14769), as follows:

1. In § 2.703 by adding new paragraphs (o) and (p) to read as follows:

§ 2.703 Definitions.

* * * * *

(o) "Publicity," for the purpose of this regulation, means any notice, statement, or release issued to the mass media by the Food and Drug Administration for the purpose of inviting public attention to an action, event, or circumstance. Press releases, press conferences, and interviews with media representatives are used to issue publicity.

(p) "Advance notice," as used in this part, means notification to an individual or firm that publicity is to be issued on a stated matter. The actual text of the publicity need not be provided in advance.

2. By adding new §§ 2.741 through 2.746 to read as follows:

§ 2.741 Scope and policy.

(a) This section and §§ 2.742 through 2.746 describe the practices and procedures applied by the Food and Drug Administration in all of its activities that are intended to result in publicity. The regulations in Subpart N define publicity, describe how the Food and Drug Administration publicizes certain mandated reports, explain when and how the agency provides advance notices of publicity, describe the corrective actions to be taken if errors occur, and explain the limitations to be exercised in issuing publicity about court actions, administrative hearings, and law enforcement investigations.

(b) Publicity may be issued when, in the judgment of the Commissioner of Food and Drugs, it is necessary or appropriate to carry out his responsibilities under the laws administered by him. Any publicity issued by the agency shall be accurate and relevant to the purpose for which it is released and shall reflect the context fairly. Disparaging terminology, not essential to the purpose of the publicity, shall be avoided. The manner in which such publicity is issued will be commensurate with the purpose it is to achieve, the urgency and importance of the need to publicize, and the public interest in the matter. Publicity may be distributed on a limited geographical basis or to a limited audience if this is adequate, in the judgment of the Commissioner, to achieve the purpose for which it is issued.

(c) Nothing in these regulations shall prevent the Commissioner from issuing publicity to warn the public of a significant risk to the public health, a gross economic deception, or for any other compelling reason in the public interest even though such publicity may prejudice a legal proceeding.

§ 2.742 Publicity; limits on applicability.

(a) Publicity, as defined in § 2.703(o), does not include the following:

(1) The release of records pursuant to the Freedom of Information Act (5 U.S.C. 552) and the public information regulations in Part 4 of this chapter.

(2) Administrative action by the Food and Drug Administration or any issuance of measures legally necessary to effect an action.

(3) Responses to congressional requests for information.

(4) Placing papers on public file with the Hearing Clerk.

(b) Public statements relating to recalls issued pursuant to the recall regulations under §§ 2.715 through 2.724 are not subject to this subpart, except that the retraction and correction procedures in § 2.746 shall apply to such statements.

§ 2.743 Statutory provisions relating to publicity.

(a) Section 705(a) of the Federal Food, Drug, and Cosmetic Act requires the Commissioner to publish reports summarizing all judgments, decrees, and court orders that have been rendered under the act. This requirement is met by the publication of the "Notices of Judgment" in the FDA official publication, "FDA Consumer".

(b) Section 705(b) of the Federal Food, Drug, and Cosmetic Act provides authority for reporting "imminent danger to health, or gross deception" and for "collecting, reporting, and illustrating the results of the investigations of the Department. Similar authority is contained in sections 301 and 310 of the Public Health Service Act. These sections authorise the Commissioner to provide the public with information that comes to its attention that will assist the public in self protection.

§ 2.744 Publicity concerning litigation, administrative hearings, and law enforcement investigations.

(a) *Criminal trials.* (1) The Food and Drug Administration shall not issue publicity for the purpose of influencing the outcome of a criminal trial, nor shall it issue publicity that may reasonably be expected to influence the outcome of a pending or future criminal trial.

(2) (i) Publicity containing the following information may be released subject to specific limitations imposed by law or court rule or order:

(A) The defendant's name, age, residence, employment, marital status, and similar background information.

(B) The substance or text of the charge, such as a complaint, indictment, or information.

(C) The length or scope of an investigation.

(ii) Disclosures should include only incontrovertible, factual matters, and should not include subjective observations. In addition, where background information or information relating to the circumstances of an arrest or investigation would be highly prejudicial or where the release thereof would serve no law enforcement function, such information should not be made public.

(3) The Food and Drug Administration shall not disseminate any information concerning a defendant's prior criminal record.

(4) Because of the particular danger of prejudice resulting from statements in the period approaching and during trial, such statements ought to be strenuously avoided during that period. Any such statement or release shall be made only on the infrequent occasion when circumstances absolutely demand a disclosure of information and shall include only information that is clearly not prejudicial.

(5) The release of certain types of information generally tends to create dangers of prejudice without serving a significant law enforcement function. Therefore, the Food and Drug Administration should refrain from making available the following:

(i) Observations about a defendant's character.

(ii) Statements, admissions, confessions, or alibis attributable to a defendant, or the refusal or failure of the accused to make a statement.

(iii) Statements concerning the identity, testimony, or credibility of prospective witnesses.

(iv) Statements concerning evidence or arguments in the case, whether or not it is anticipated that such evidence or argument will be used at the trial.

(v) Any opinion as to the accused's guilt, or the possibility of a plea of guilty to the offense charged, or the possibility of a plea to a lesser offense.

(b) *Civil litigation.* The Food and Drug Administration shall not during the investigation or litigation of a civil court action issue publicity that contains information, other than a quotation or reference to public records, if there is a reasonable likelihood that such information will interfere with a fair trial, and which relates to:

(1) Evidence regarding the occurrence or transaction involved.

(2) The character, credibility, or criminal records of a party, witness, or prospective witness.

(3) An opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.

(4) Any other matter reasonably likely to interfere with a fair trial of the action.

(c) *Investigation leading to litigation.* (1) The Food and Drug Administration will not ordinarily issue publicity specifically about a law enforcement investigation that it expects may lead to a criminal trial or civil action before the case is filed in court. Such publicity, however, may be issued if the Commissioner determines that there is a compelling public interest purpose in doing so.

(2) Any publicity specifically concerning an open law enforcement investigation that may lead to litigation shall comply with the standards in paragraph (a) or (b) of this section governing publicity about the type of proceeding to which the investigation is expected to lead.

(d) *Publicity indirectly related to litigation.* Other publicity not specifically and directly concerning court litigation or an investigation leading to litigation may bear on the general circumstances giving rise to the action, or be otherwise indirectly related to it. Such publicity may be issued so long as it is not intended to affect pending or future litigation. In such publicity, the Food and Drug Administration will avoid any unnecessary statements that might prejudice a fair trial or judicial hearing.

(e) *Administrative hearings and related investigations.* Publicity specifically concerning a pending formal evidentiary hearing pursuant to Subpart B of this part or a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of this part, or concerning any law enforcement investigation that the agency expects will lead to the initiation of such a proceeding, may be issued in accordance with the following criteria when no other reasonable and equally effective alternative to the issuance of publicity exists:

(1) Where the publicity is necessary to notify the public of a significant risk that the public health or safety may be impaired, or substantial economic harm may occur unless the public is notified immediately, or

(2) Where the publicity is required to bring notice of pending agency adjudication to persons likely to desire to participate therein or likely to be affected by that or a related adjudication, or

(3) When the publicity is necessary to foster public understanding or accuracy with respect to publicity conerning the agency action that is likely to result regardless of agency publicity measures, or

(4) When the Commissioner determines that the publicity is necessary to achieve a compelling public interest objective.

(f) *Disclosure of context.* If any publicity about a proceeding, hearing, or investigation to which this section applies is based on allegations subject to subsequent adjudication, this fact shall be clearly stated.

(g) *Limitations of applicability.* Nothing in this section is intended to prevent the Commissioner from issuing publicity that he determines to be necessary to warn the public about a significant risk to the public health or a risk of substantial economic harm.

§ 2.745 Advance notice.

(a) Any respondent in an agency proceeding whom the Commissioner believes may be adversely affected shall, if practicable and consistent with the nature of the proceeding, be given advance notice, as defined in § 2.703(p), that the agency plans to release publicity about the proceeding.

(b) Advance notice need not be provided if a respondent is already aware that the agency is considering the action which is the subject of the publicity, and that publicity may be issued.

(c) Advance notice of publicity to be issued in conjunction with proposed rule making or with the initiation of court proceedings by the Food and Drug Administration will not ordinarily be given.

(d) Advance notice of the release of publicity that may be adverse to a specific product or firm named in the release shall be given to each adversely affected party, except where such publicity involves a product class or large segments of industry, and individual notification would be impractical or impossible.

§ 2.746 Retractions or corrections.

(a) When the Commissioner finds that the agency has issued materially erroneous or misleading information, the Commissioner will issue a retraction or correction, unless this would be likely to cause greater harm to additional persons.

(b) A request for retraction or correction may be made in the form of a citizen petition in the manner provided in § 2.7.

(c) If the timing of the correction is critical, the request can be made via a telegram or written request addressed to the Assistant Commissioner for Public Affairs, stating that timely action is important. The request shall otherwise be in the form required for a citizen petition and will be treated as such a petition.

(d) A retraction or correction issued by the agency pursuant to this section will be issued in a manner likely to reach those persons who received the original information to the extent this is reasonably feasible.

(e) If a petition for retraction or correction is denied by the Commissioner, the petitioner will be provided with written notice of the refusal, which will include the reason for denial.

Interested persons may, on or before May 3, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: February 18, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-6482 Filed 3-3-77;8:45 am]

[21 CFR Parts 606, 640]

[Docket No. 75N-0316]

WHOLE BLOOD AND COMPONENTS OF WHOLE BLOOD INTENDED FOR TRANSFUSION

Donor Classification Labeling Requirements

Correction

In FR Doc. 77–5534 appearing at page 11018 in the issue of Friday, February 25, 1977, in the third column on page 11018, first complete paragraph the date now reading, "June 27, 1977" in the last line should be corrected to read, "120 days after the date of publication of a final regulation in the FEDERAL REGISTER".

On page 11022, third column, the paragraph following § 640.51(c)(1) should be corrected to read as follows:

"To provide adequate time for the printing and required approval of labels, the Commissioner intends to make the proposed labeling requirements effective 120 days after the date of publication of the final order in the FEDERAL REGISTER."

[21 CFR Part 1020]

[Docket No. 75N-0331]

DIAGNOSTIC X-RAY SYSTEMS AND THEIR MAJOR COMPONENTS

Image Receptor Supports

The Food and Drug Administration is proposing to amend the regulations on diagnostic x-ray systems by providing for image receptor support devices. The proposal clarifies a previous proposal on field limitation and alignment, x-ray beam

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transmission, and exposure reproducibility, which was published in the FEDERAL REGISTER of February 23, 1976 (41 FR 7957). Comments are due by April 4, 1977.

Pursuant to the authority of the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90–602, 42 U.S.C. 263b et seq.), the Commission of Food and Drugs proposed to amend § 1020.31 (21 CFR 1020.31) regarding requirements for field limitation and alignment, x-ray beam transmission, and exposure reproducibility. Sixteen letters were received on this notice of proposed rulemaking. Several of the letters noted problems with the wording of the proposal that could lead to misinterpretations. Particular confusion was expressed about the meaning and intent of field limitation and alignment and x-ray beam transmission for mammographic x-ray systems. Consequently, a public meeting with manufacturers and interested persons to consider the reasonableness and technical and clinical feasibility of the proposal was announced in the FEDERAL REGISTER of July 19, 1976 (41 FR 29739).

As a result of the comment letters and the public meeting, several changes in the proposed amendments are being considered for inclusion in the final rule. Among the changes are two that relate to the proposal for a limit on the x-ray beam transmitted through the image receptor support device for x-ray systems designed only for mammography. It was noted in several comment letters and at the public meeting that the term "image receptor support" was not defined and hence might be subject to misinterpretation. To avoid confusion, the Commissioner is proposing to define this component and, so that performance requirements for the image receptor support may be adequately enforced, is proposing to add it to the list of components to which the diagnostic x-ray equipment performance standard is applicable (21 CFR 1020.30(a)). This is a further amendment to § 1020.30(a), which was totally revised by publication in the FEDERAL REGISTER of February 25, 1977 (42 FR 10983). He also notes that addition of a component to this list means that the component must be certified by the manufacturer as meeting all those requirements of the performance standard relating to that component. In this case, the only requirements besides those required of all certified components would be the x-ray beam transmission limit and a permanent marking indicating the maximum image receptor size for which the image receptor support is designed.

The Commissioner notes that the previously proposed transmission limit for the primary x-ray beam was meant to be imposed upon diagnostic x-ray systems designed only for mammography. For such systems, the image receptor support could be any table or holder for the image receptor provided with the system or a combination of these that intercepts the primary beam after it passes through the image receptor.

Because the proposed changes below derive from previous public comments and a public meeting, the Commissioner has determined that a comment period of 30 days is sufficient for proper review.

The environmental and inflationary effects of the February 23, 1976 proposal were considered before publication, and the Commissioner concluded that such effects were not significant. This proposal in no way alters that conclusion. Copies of the FDA environmental and inflation impact assessments and other pertinent background data on which the Commissioner relies in proposing this regulation are on file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), it is proposed that Part 1020 be amended in § 1020.30 by adding new paragraphs (a)(1)(v) and (b)(54) to read as follows:

§ 1020.30 Diagnostic x-ray systems and their major components.

(a) * * *

(1) * * *

(v) Image receptor support devices for mammographic x-ray systems manufactured after March 4, 1978.

* * * * * * *

(b) * * *

(54) "Image receptor support" means, for mammographic systems, that part of the system designed to support the image receptor in a horizontal plane during a mammographic examination.

* * * * * * *

Interested persons may, on or before April 4, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: February 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–6489 Filed 3–3–77;8:45 am]

[21 CFR Part 808]

[Docket No. 76F–0344]

MEDICAL DEVICES

Proposed Action on State of California Application for Exemption From Preemption of Requirements

Correction

In FR Doc. 77–4655 appearing at page 9186 in the issue for Tuesday, February 15, 1977, a line should be inserted between the 24th and 25th lines of the last paragraph of the second column, which reads, "otherwise, one would have to assume that".

DEPARTMENT OF LABOR

Assistant Secretary for Labor-Management Relations, Office of Labor-Management Relations Services

[29 CFR Part 215]

PROPOSED GUIDELINES, SECTIONS 3(e)(4) AND 13(c), URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

Extension of Comment Period on Proposed Guidelines

On January 18, 1977, a notice of proposed guidelines was published in the FEDERAL REGISTER (42 FR 3319), to amend 29 CFR Chapter 2, by adding a new part 215. The guidelines were to provide information concerning the Department of Labor's administrative procedures in processing applications for assistance under the Urban Mass Transportation Act, and certification by the Secretary of Labor of acceptable employee protective arrangements. The Notice invited interested persons to submit written comments regarding the proposed amendments on or before March 4, 1977.

On the basis of a request for additional time, I hereby extend the period for public comment by 30 days until April 3, 1977. Accordingly, any interested person may submit comments concerning the proposed guidelines before April 3, 1977 to the Assistant Secretary for Labor-Management Relations, United States Department of Labor, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed this 1st day of March, 1977.

JACK A. WARSHAW,
Acting Assistant Secretary for Labor-Management Relations.

[FR Doc.77–6597 Filed 3–3–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

[30 CFR Parts 55, 56, 57]

NEW AND REVISED HEALTH AND SAFETY STANDARDS

Notice of Proposed Rulemaking

Correction

In FR Doc. 77–2462, appearing at page 5546, in the issue for Friday, January 28, 1977, make the following corrections:

1. On page 5546, in the third line of the fourth paragraph in the third column, insert the number "259" between the numbers "258" and "291".

2. On page 5547 in the third column, in the second line of the paragraph numbered 14, change the number "55.3–57" to read "55.3–56".

3. On page 5548, in the third column, in the first line of the sixth paragraph, change the number "55.12–18", to read "55.12–28".

4. On page 5549, in the eighteenth paragraph of the first column, change "MNMAC", appearing in the first line to read, ""MNMSAC".

5. Also on page 5549, in the second column, add the word "strength." to the end of the fourth line of 55.19–16 (a).

6. On page 5553, in the first column, in 56.12–69, in the eighth line, change the word "conducted" to read "connected".

7. On page 5554, change the number "56.19–35" appearing in the second line of the first paragraph, to read "56.19–36".

8. On page 5555, in the second column, under 56.19–135, the portion of the fourth line beginning with the letter "N.", and all of the fifth line should be set out in a separate paragraph as amendatory language.

9. On page 5557, in the first column, in the paragraph numbered 204, change the number "57.3–3", to read "57.3–53".

10. Also on page 5557, in the first column, change the first line of 57.3–55 which presently reads "57.3–53 *Mandatory*. MNMSAC.—Rock-bolt", to read "57.3–55 *Mandatory*. MNMSAC.—In in-".

11. On page 5559, change the word "quality", appearing in the seventh line of 57.4–92 (d)(4), to read "quantity".

12. On page 5563, in the first column, change the word "declaration", appearing in the fifth line of 57.19–62 to read "deceleration".

13. Also on page 5563, in the second column, change the first line of 57.19–91, which presently reads, "57.19–93 *Mandatory*. MNMSAC—A man-", to read "57.19–91 *Mandatory*. *MNMSAC*—Hoistmen shall not".

DEPARTMENT OF DEFENSE

Corps of Engineers

[33 CFR Part 207]

OKEECHOBEE WATERWAY, FLA.

Proposed Navigation Regulation

Notice is hereby given that pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) the regulations set forth below in tentative form are proposed by the Secretary of the Army (acting through the Chief of Engineers) to govern the use, administration and navigation of a lock on the Okeechobee Waterway at Port Mayaca, Florida. This proposal would establish a schedule of operation for the Port Mayaca Lock 33 CFR 207.170e.

The Port Mayaca Lock and Spillway is currently under construction and is scheduled for completion the end of February, 1977. This proposed schedule is similar to the operating schedules for the other four locks on the Okeechobee Waterway.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions or objections which are submitted in writing to the Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attention DAEN–CWO–N on or before 31 March 1977.

§ 207.170e Okeechobee Waterway, navigation lock on east side of Lake Okeechobee at Port Mayaca, Florida; use, administration and navigation.

(a) The lock shall be operated from 6:00 a.m. to 10:00 p.m. daily. During these hours the lock shall be opened upon demand for the passage of vessels.

(b) The District Engineer, U.S. Army Engineer District, Jacksonville, Florida, shall place signs at each side of the lock indicating the nature of the regulations in this section.

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

(40 Stat. 266; 33 U.S.C. 1.)

Dated: February 14, 1977.

MARVIN W. REES,
Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc.77–6533 Filed 3–3–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 258]

[Docket No. 76–01]

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976, AS AMENDED

Proposed Standards for Evaluation and Other Miscellaneous Amendments; Correction

In FR Doc. 77–2341, appearing at page 4660 in the FEDERAL REGISTER of Tuesday, January 25, 1977, the following changes should be made:

1. On page 4661, 3d column, 1st full paragraph, line 14, the word "its" should be inserted in lieu of the word "his".

2. On page 4661, 3d column, 2nd full paragraph, line 2, the phrase ", as amended" should be inserted after the word "Act".

3. On page 4663, the last full paragraph in column 1 should be deleted.

4. On page 4663, 3d column, paragraph numer 6 should read:

"6. Section 258.7(a)(8) is revised to read:

§ 258.7 Form and content of application.

(a) * * *

(8) Detailed assessment of the impact of the project on the environment, in the general format and including the information set forth in the appendix to this part."

5. On page 4664, 3d column, a semicolon should be inserted in lieu of the period at the end of subparagraph (1) of § 258.21(a).

6. On page 4665, 3d column, § 258.25 (a), last line, the number "505(b)(2)(B)" should be inserted in lieu of "505(b)(2)(b)".

7. On page 4667, 3d column, line 5 should read: "April 4, 1971.)"

Dated: February 28, 1977.

BRUCE M. FLOHR,
Deputy Administrator, Federal Railroad Administration.

[FR Doc.77–6470 Filed 3–3–77;8:45 am]

[49 CFR Part 258]

[Docket No. 76–01]

RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976, AS AMENDED

Proposed Standards for Evaluation and Other Miscellaneous Amendments

Correction

In FR Doc. 77–2341 appearing at page 4660 of the issue for Tuesday, January 25, 1977, make the following changes:

1. In the headings, the title of the Act should include the words "as amended", as set forth above.

2. The last line of § 258.7(a)(10)(ii), third column, page 4663, now reading "base identified in (a)(i) of this section" should read "base identified in subparagraph (i) of this paragraph.".

3. The quoted portion of § 258.9(c), first column, page 4664, should end with a colon instead of a period.

4. In the second line of amendatory paragraph 12, middle column, page 4664, "258–17" should read "258.17".

5. In the heading above the table of contents for Subpart B, middle column, page 4664 "Evaluation" should read "Evaluations".

6. In the authority citation immediately below the table of contents for Subpart B, middle column, page 4664, "(Pub. L. 94–210, as amended).)" should read "(Pub. L. 94–210, as amended.)".

7. Paragraph (D)(1) of Part II of the Appendix, third column, page 4667, should end with a period instead of a colon.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 280]

PACIFIC TUNA FISHERIES

Miscellaneous Amendments

The Resolution adopted by the Inter-American Tropical Tuna Commission for 1977 recommended to continue in 1977 the experimental fishing program in effect since 1969. The Commission's resolution for 1977, as in 1976, allows vessels

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of less than 400 short tons carrying capacity to fish for yellowfin tuna within the regulatory area during the closed season under such restrictions as may be made necessary to limit the catch of yellowfin tuna by such vessels to 6000 short tons during 1977. An additional 700 tons of yellowfin tuna which was thought to be available from the unused portion of the overall country 15 percent incidental catch has traditionally been allotted by the National Marine Fisheries Service to these vessels.

An examination of the allotment status of the vessels under 400 short tons carrying capacity reveals: (1), During the period 1971 to 1976 the average unused portion of the overall country incidental catch has not been the 700 short tons allotted but has averaged 400 tons; (2), during 1975 and 1976 neither the small seiners nor the bait and jig boats fully utilized their allotments; and (3), during 1976 three of the small seiners were lost to the fishery totalling approximately 700 tons of carrying capacity. Consideration of these three factors indicates that the overall allotment should be 6400 tons rather than 6700 short tons and that the 300 short ton reduction should come from the seiners under 400 short tons carrying capacity with no change made in the allotment to the bait boats and jig boats. This change would maintain apportionment of the allotment between the two categories on approximately the same allotment per registered ton carrying capacity ratio as in 1975 and 1976. Taking additional note of the fact that for the past two years, the allotments have not been fully utilized, the National Marine Fisheries Service will entertain suggestions from the industry or other interested persons for alternate methods of taking the special allocations. In the absence of any proposed workable alternatives, the incidental catch rates will remain the same as in 1976. The proposed allotments and the 1976 incidental catch rates are:

(a) Bait and jig boats: Allocation 2,800 short tons; catch rate—50 percent of vessels registered carrying capacity; and

(b) Purse seiners of 400 short tons carrying capacity or less: Allocation—3,600 short tons; catch rate—for vessels under 300 short tons carrying capacity, 60 percent by round weight of total catch; for vessels 301–400 short tons carrying capacity, 40 percent by round weight of total catch.

In addition to a review of special allocations the following amendments to the regulations are proposed:

SECTION 280.7 "Closed Season Restrictions Applicable to Fishing Vessels" has become cumbersome because of its length and complexity. Therefore, we propose to incorporate three new sections in lieu of the existing § 280.7 and to amend § 280.6 by including parts of § 280.7 and retitling it. The new sections are as follows:

Sec.
280.6 Provisions for fishing inside and outside CYRA on open season trips.
280.7 Provisions for fishing inside CYRA on closed season trips.
280.8 Provisions for fishing outside CYRA on closed season trips.
280.9 Reports required prior to unloading from closed season trips.

The new sections would consist of the former § 280.6 and § 280.7 as follows:

280.6: 280.6 (a), (b), 280.7 (a), (k).
280.7: 280.7 (b), (c), (j), (k).
280.8: 280.7 (d), (d)(1), (e), (e)(1), (e)(2), (f), (k), (l).
280.9: 280.7 (g), (h), (i), (k).

As part of this reorganization, we propose to renumber the former § 280.8 through § 280.14 and reserve 3 numbers for any future changes.

This proposed change does not make any substantive changes in the regulations. It is for clarity and convenience. Accordingly, we have not attempted to discuss each modification in detail.

During the past year, an increasing number of U.S. vessels have been unloading in foreign ports. Some of these vessels are failing to provide, in a direct and timely manner, the proper notification and the required reports. We therefore propose to add three new sections, § 280.9 (b) and (e), and § 280.17(a)(3) to the regulations. Subsection 280.9(b) would strengthen our ability to properly document foreign unloadings. Section 280.9(e) would indicate the penalties provided in the Act for failure to follow the required procedures and file the required reports. Section 280.17(a)(3) would clarify the requirement to report all unloadings whether domestic or foreign. The proposed changes are as follows:

§ 280.9(b): "Any fishing vessel wishing to unload its catch at more than one location shall notify the Regional Director 48 hours prior to the commencement of each unloading, giving the date of the unloading and the estimated tonnage by species to be unloaded at each location."

§ 280.9(e): "Any person failing to follow the procedures or to make the reports required by this subsection may be subject to the criminal penalties provided for in the Act in addition to other restrictions which may apply."

§ 280.17(a)(3): "The requirements of this section shall apply to the sale or delivery of a catch of tuna regardless of whether the transaction occurs in a U.S. or a foreign port."

Should the present reporting procedures fail to prevent any instances of landings of closed season yellowfin tuna from the CYRA in excess of 15 percent by U.S. vessels in foreign ports the NMFS is prepared to adopt more stringent regulatory measures.

During the past years the NMFS has performed tuna vessel well inspections in the United States, Costa Rica and the Canal Zone. Experience gained during this period indicates a need to clarify and strengthen the current policy. We, therefore, propose the following:

§ 280.10(b)(1): "The National Marine Fisheries Service will provide two inspections per month in foreign ports from June 1 through December 1 in the Canal Zone and Puntarenas, Costa Rica. These inspections will be provided upon advanced notification on the first and second and the fifteenth and sixteenth day of each month, respectively, at no cost to the requestor. Inspection service may be provided in foreign ports at other times at the expense of the requesting vessel. Such additional inspections will be provided subject to advance notification, availability of personnel, immigration clearances and approval of the Regional Director. Well inspections will be provided at U.S. ports as they are needed subject to proper notification."

The term Greenwich Mean Time (G.M.T.) has been changed to Coordinated Universal Time (C.U.T.). We, therefore, propose to amend the former § 280.6(b) and § 280.8(a) to reflect this change.

We propose, as technical and conforming changes, that the dates in the former §§ 280.6(b), 280.7(a), 280.1(g), and 280.7(d) be amended to reflect the appropriate years ("1976" to be changed to "1977" and "1975" to "1976").

The NMFS Suspense Account Number has been changed from 14X6875(17) to 13X6875(17). We proposed to amend § 280.16(c) accordingly.

Before final adoption of amendments, consideration will be given to data, views, or arguments pertaining thereto which are submitted to the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, on or before March 15, 1977.

Interested persons will also be afforded an opportunity to comment orally on the proposed amendments at a public hearing to be held in the United Portuguese Club, 2818 Addison Street, San Diego, California, beginning at 9:30 a.m., March 10, 1977. Any person who intends to testify at the hearing is requested to furnish in writing, prior to the hearing, his name and the name of the organization he represents, if any, to the Regional Director.

The proposed amendments are issued under the authority contained in subsection (c) of section 6 of the Tuna Conventions Act of 1950, as amended, 16 U.S.C. 955(c), and Reorganization Plan No. 4 of 1970, effective October 3, 1970, 35 FR 15627.

Issued at Washington, D.C., and dated February 28, 1977.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

In consideration of the foregoing, Part 280 is revised to read as follows:

Sec.
280.1 Definitions.
280.2 Basis and purpose.
280.3 Catch limits.
280.4 Open season.
280.5 Closed season.
280.6 Provisions for fishing inside and outside CYRA open season trips.
280.7 Provisions for fishing inside CYRA on closed season trips.
280.8 Provisions for fishing outside CYRA on closed season trips.
280.9 Reports required prior to unloading from closed season trips.
280.10 Provisions for well inspections during closed season.
280.11 [Reserved].
280.12 [Reserved].
280.13 [Reserved].
280.14 Emergency action by Service director.
280.15 Restrictions applicable to cargo vessels.
280.16 Restrictions applicable to purchasers.
280.17 Recordkeeping and written reports.
280.18 Persons and vessels exempted.
280.19 National Oceanic and Atmospheric Administration Employee designated as enforcement agents.
280.20 State Officers designated as enforcement agents.

AUTHORITY: 64 Stat. 777, as amended (16 U.S.C. 951), as modified by Reorganization Plan No. 4, effective Oct. 3, 1970 (35 FR 15627).

§ 280.1 Definitions.

For the purposes of this part, the following terms shall be understood to mean:

(a) *United States.* All areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone.

(b) *Convention.* The Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, D.C., May 31, 1949, by the United States of America and the Republic of Costa Rica (1 U.S.T. 230).

(c) *Commission.* The Inter-American Tropical Tuna Commission established pursuant to the Convention.

(d) *Director of investigations.* The Director of Investigations, Inter-American Tropical Tuna Commission, La Jolla, California.

(e) *Service director.* The Director of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

(f) *Regional director.* The Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California, telephone number, area code, 213, 548–2575.

(g) *Regulatory area.* All waters of the eastern Pacific Ocean bounded by the mainland of the Americas and the following lines: Beginning at a point on the mainland where the parallel of 40° north latitude intersects the coast; thence due west to the meridian of 125° west longitude; thence due south to the parallel of 20° north latitude; thence due east to the meridian of 120° west longitude; thence due south to the parallel of 5° north latitude; thence due east to the meridian of 110° west longitude; thence due south to the parallel of 10° south latitude; thence due east to the meridian of 90° west longitude; thence due south to the parallel of 30° south latitude; thence due east to a point on the mainland where the parallel of 30° south latitude intersects the coast. For 1976 only, exclude from the regulatory area on an experimental basis the two areas defined as follows: (1) The area encompassed by a line drawn commencing at 110° W. longitude and 5° N. latitude extending east along 5° N. latitude to 95° W. longitude; thence south along 95° W. longitude to 3° S. latitude; thence east along 3° S. latitude to 90° W. longitude; thence south along 90° W. longitude to 10° S. latitude; thence west along 10° S. latitude to 110° W. longitude; thence north along 110° W. longitude to 5° N. latitude and (2) the area encompassed by a line drawn commencing at 115° W. longitude and 5° N. latitude extending west along 5° N. latitude to 120° W. longitude; thence north along 120° W. longitude to 20° N. latitude; thence east along 20° N. latitude to 115° W. longitude; thence south along 115° W. longitude to 5° N. latitude.

(h) *Yellowfin tuna.* No other fishes except the species *Thunnus* ALBACARES.

(i) *Mingled species.* (1) Any species of billfish or shark; and (2) No other species of the family Scombridae except; Skipjack (*Genus Euthynnus*), bigeye (*Thunnus obesus*), bluefin (*Thunnus thynnus*), albacore (*Thunnus alalaunga*), or bonito (*Sarda chiliensis*).

(j) *Fishing vessel.* All watercraft subject to the jurisdiction of the United States which are used for catching or processing fish, except purse seine skiffs.

(k) *Fishing voyage.* The period between the date a fishing vessel departs from any port to carry out fishing operations and the date such vessel unloads any of its catch or the date such vessel returns to any port for the express purpose of receiving an inspection by a designated agent of the National Marine Fisheries Service.

(l) *Cargo vessel.* All watercraft which are used for transporting fish or fish products, except fishing vessels.

(m) *Person.* Individual, association, corporation, or partnership subject to the jurisdiction of the United States.

(n) *Open season.* The time during which yellowfin tuna may lawfully be captured without limitation by any fishing vessel operating within the regulatory area.

(o) *Closed season.* The time during which yellowfin tuna may not be captured in the regulatory area, except in limited quantities as an incident to fishing for species with which yellowfin may be mingled.

(p) *Port facility in the Americas.* All port facilities in North, South and Central America, including all the Caribbean ports, but excluding ports in Argentina, Brazil and Uruguay.

§ 280.2 Basis and purpose.

(a) At a special meeting held at Long Beach, Calif., on September 14, 1961, the Commission recommended to the Governments of Costa Rica, Ecuador, Panama, and the United States of America, parties to the Convention, that they take joint action to limit the annual catch of yellowfin tuna from the eastern Pacific Ocean by fishermen of all nations during the calendar year 1962. This recommendation was made pursuant to paragraph 5 of Article II of the Convention on the basis of scientific investigations conducted by the Commission over a period of time dating from 1951. The most recent years of this period were marked by a substantial increase in fishing effort directed toward the yellowfin tuna stocks, resulting in a rate of exploitation of these stock greater than that at which the maximum sustainable yield may be obtained. The Commission's recommendation for joint action by the parties to regulate the yellowfin tuna fishery has as its objective the restoration of these stocks to a level of abundance which will permit maximum sustainable catch and the maintenance of the stocks in that condition in the future.

(b) At each annual meeting held since 1962, the Commission affirmed its conclusions regarding the need for regulating the yellowfin tuna fishery in the eastern Pacific Ocean and at each meeting recommended to the parties to the Convention that they take joint action to:

(1) Establish a prescribed tonnage limit on the total catch of yellowfin tuna by the fishermen of all nations during each calendar year from an area of the eastern Pacific Ocean defined by the Commission;

(2) Establish open and closed seasons for yellowfin tuna under prescribed conditions;

(3) Permit the landing of an incidental catch by weight of yellowfin tuna when landed with one or more of the following fishes usually caught mingled with yellowfin tuna, that are taken on a fishing trip begun after the close of the yellowfin tuna fishing season: Skipjack tuna, bigeye tuna, bluefin tuna, albacore tuna, bonito, the billfishes, and the sharks; and

(4) Obtain from governments not parties to the Convention, but having vessels which operate in the fishery, cooperation in effecting the recommended conservation measures.

(c) The regulations in this part are designed to implement the Commission's recommendations for the conservation of yellowfin tuna so far as they affect vessels and persons subject to the jurisdiction of the United States.

§ 280.3 Catch limits.

The annual limitation on the quantity of yellowfin tuna permitted to be taken from the regulatory area by the fishing vessels of all nations participating in the fishery will be fixed and determined on the basis of recommendations made by the Commission pursuant to paragraph 5 of Article II of the Convention. Upon approval by the Secretary of State and the Secretary of Commerce of the recommended catch limit, announcement of the catch limit thus established shall be made by the Service Director through publication of a suitable notice in the FEDERAL REGISTER. The Service Director, in like manner, shall announce any revision or modification of an approved annual catch limit which may subsequently enter into force.

§ 280.4 Open season.

The open season for yellowfin tuna fishing shall begin annually at 0001 hours on the first day of January and terminate at 0001 hours on a date to be announced as provided in § 280.5. Time in hours shall refer to local time in the area affected.

§ 280.5 Closed season.

Pursuant to authority granted by the Commission, the Director of Investigations will determine the date on which he deemed the yellowfin fishing season should close and will promptly notify

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the Service Director of such date. The Service Director shall then announce the season closure date thus established by publication of a notice in the FEDERAL REGISTER. The closure date so announced shall be final except that if it shall at any time become evident to the Director of Investigations that the closure date initially determined had been affected by changed circumstances, he may substitute another date which shall be announced by the Service Director in like manner as provided for the date originally determined.

§ 280.6 Provisions for fishing inside and outside CYRA on open season trips.

(a) During the open yellowfin tuna season, every fishing vessel operating within the regulatory area shall transmit once each calendar week a message between 0900 and 2400 hours local California time. The message shall be transmitted directly to the Director of Investigations through the shore representative of the fishing vessel and shall state: the name of the reporting vessel and the tonnage by species of fish aboard. The above reporting procedure shall go into effect on a date to be announced by the Service Director through publication of a notice in the FEDERAL REGISTER.

(b) During the open yellowfin tuna season, every fishing vessel operating in the Pacific Ocean, but outside the regulatory area, shall transmit daily a message between 1600 Coordinated Universal Time (C.U.T.) and 1800 C.U.T. This requirement will also apply, for 1977 only, to every fishing vessel operating in the area described in the second sentence of paragraph (g) of § 280.1. The message shall be transmitted directly to Coast Guard Radio San Francisco (NMC) on frequency 16,565.0, 12,421.0, or 8,281.2 KHz and shall state: "This message is being transmitted in compliance with the U.S. eastern tropical Pacific yellowfin tuna regulations and confirms that the vessel (name of reporting vessel) is fishing in the Pacific Ocean, but outside the regulatory area as of this date (give date)".

(c) Any fishing vessel which has departed port to engage in tuna fishing, prior to the date of closure of the yellowfin season, may continue to capture yellowfin tuna within the regulatory area without restriction until the fishing voyage has been completed.

(1) In addition, for 1977, only, any fishing vessel which is in port at the closure and has either (i) completed a voyage in the regulatory area during the 1977 open season or (ii) completed a voyage in the regulatory area during 1975 will be allowed one additional unrestricted fishing voyage provided that departure is made within 30 days thereafter: *Provided, however,* That if the Director of Investigations, as a result of emergency measures adopted at a special meeting of the Commission, notifies the Contracting Government to the Convention that further unrestricted fishing for yellowfin tuna shall cease, or that other measures must be taken to protect the stocks, every fishing vessel at sea, having yellowfin tuna aboard in excess of the incidental catch limitations provided in § 280.7(a), shall return directly without delay to its home port, port of departure, or such other port as may be designated by the Regional Director to unload or to receive an inspection by a designated agent of the National Marine Fisheries Service. This requirement shall take effect upon publication of notice in the FEDERAL REGISTER by the Service Director, or on a date to be specified in such notice. Any vessel failing to comply with the above requirements shall be restricted to the incidental catch limitations of § 280.7(a) for its entire fishing voyage; vessels in port on the effective date of such notice will not be allowed an additional unrestricted fishing voyage, but shall be subject to the incidental catch limitations of § 280.7(a). Other, less restrictive measures may be specified, in the manner provided above, as necessary to implement the notification from the Director of Investigations.

(2) A vessel which is determined by the Regional Director to be in the Atlantic ocean or the Caribbean sea or west of 150° W. longitude in the Pacific ocean at the closure shall, for the purpose of paragraph (a)(1) of this section only, be considered to be "in port": *Provided, however,* That a vessel located west of 150° W. longitude in the Pacific ocean shall, in order to be so considered, observe the following procedure:

(i) Prior to the closure, notify the Regional Director of the vessel's intent to engage in the one additional unrestricted fishing voyage in the regulatory area permitted by paragraph (a)(1) of this section; and

(ii) Report as required by paragraph (a) of this section (open season) or § 280.7(d) (closed season), as appropriate; and

(iii) If transit of the regulatory area is required to reach the port from which the vessel will depart for such additional unrestricted fishing voyage, enter the regulatory area north of 25° N. latitude and proceed directly without delay to port.

(3) For the purpose of the above, departure refers to the date a vessel leaves port prepared to carry out fishing operations. A stopover at a single intermediate port, not exceeding 48 hours, may, however, be made to meet deficiencies in outfitting, supplying, fueling, provisioning or manning needs for a fishing voyage. Remaining in excess of 48 hours shall constitute a new fishing voyage corresponding to the delayed departure date.

(4) Any vessel which, solely by reason of seizure or other enforcement activity of a foregin government against such vessel, is unable to reach the port of its choice prior to the closure of the yellowfin fishing season shall be allowed, subject to written approval by, and under conditions set by, the Regional Director, to proceed to another port for the purpose of unloading and still qualify for the one additional unrestricted fishing voyage, subject to the restrictions of paragraphs (c) (1) and (2) of this section except for the in-port requirement.

(d) All reports required in this section, except messages transmitted directly to Coast Guard Radio San Francisco, shall be telephoned to area code 714, telephone number, 233–5511. Such reports, which must be delivered within the time limits specified, may be made by prepaid commercial radio message or relayed through the shore representative of the reporting vessel.

§ 280.7 Provisions for fishing inside CYRA on closed season trips.

Except as otherwise provided in § 280.6 (c) and this section, after notice has been published in the FEDERAL REGISTER announcing closure of the yellowfin season, it shall be unlawful for any person or fishing vessel to land yellowfin tuna captured from within the regulatory area in any port or place until the season reopens on the following January 1.

(a) Any fishing vessel which departs port on a fishing voyage after closure of the yellowfin season, except as provided in § 280.6(c), may land yellowfin tuna captured from within the regulatory area in limited quantities as provided in paragraphs (a) (1) to (3) of this section as an incident to fishing for species with which yellowfin may be mingled. The Service Director may, however, through publication of a notice in the FEDERAL REGISTER adjust the incidental catch limitations to assure that the special allotments designated for vessels of 400 short tons carrying capacity or less are not underutilized and the 15 percent overall incidental catch for the entire tuna fleet is not exceeded. Any quantity of yellow fin tuna landed in excess of the limitations provided in (a) (1) to (a) (3) of this section shall be subject to seizure and forfeiture pursuant to the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951–961).

(1) Purse seiners over 400 short tons carrying capacity may land in any port or place yellowfin tuna captured from within the regulatory area as an incident to fishing for species with which yellowfin may be mingled, but in no event shall any such vessel be permitted to land yellowfin tuna in excess of 15 percent by round weight of its total catch.

(2) Purse seiners of 400 short tons carrying capacity or less may land in any U.S. port yellowfin tuna captured from within the regulatory area as an incident to fishing for species with which yellowfin may be mingled, but in no event shall any vessel of 301–400 short tons carrying capacity be permitted to land yellowfin tuna in excess of 40 percent by round weight of its total catch: *Provided however,* That any vessel of 301–400 short tons carrying capacity which is on a fishing voyage longer than 70 days may land 20 percent yellowfin tuna by round weight of its established short ton carrying capacity. Nor shall any purse seiner of 300 short tons carrying capacity or less be permitted to land yellowfin tuna in excess of 60 percent by round weight of its total catch: *Provided however,* That any such vessel that is at sea longer than 50 days may land 25 percent yellowfin tuna by round weight of its established short ton carrying capacity. That local wet fish seiners may accumulate the 60 percent allowance by weight for the separate period from the date of closure of the yellowfin fishing season until the end of that month, and for each separate period consisting of one calendar month thereafter provided such vessels have not landed any yellowfin tuna during the open season and make deliveries only on a daily basis. When the catch of yellowfin tuna by purse seiners of 400 short tons carrying capacity or less reaches 3900 short tons, the amount of yellowfin tuna which any such vessel may lawfully land will revert to 15 percent by round weight of its total catch. After a date to be announced through publication of a notice in the FEDERAL REGISTER by the Service Director, any vessel departing on a fishing voyage shall be subject to this revision limitation of 15 percent.

(3) Bait and jig boats may land in any U.S. port fellowfin tuna captured from within the regulatory area, but in no event shall any such vessel be permitted to land yellowfin tuna in excess of 50 percent by round weight of its short ton carrying capacity once established in accordance with paragraph (a) (4) of this section. When the catch of yellowfin tuna by bait and jig boats collectively reaches 2800 short tons, the amount of yellowfin tuna which any such vessel may lawfully land will revert to 15 percent by round weight of its total catch. During the period of the closed season that bait and jig boats are fishing for their allotments, all such boats must notify the Regional Director when they depart port on a fishing voyage. After a date to be announced through publication of a notice in the FEDERAL REGISTER by the Service Director, any vessel departing on a fishing voyage shall be subject to this reversion limitation of 15 percent.

(4) The short ton capacity of vessels will be determined from tables prepared by the Commission which relate carrying capacity to registered tonnages and from official unloading records available to the National Marine Fisheries Service.

(i) Managing Owners of purse seine vessels of 400 short tons carrying capacity or less will be notified by registered mail that their vessels are in this category and is subject to the provisions of paragraph (a) (2) of this section.

(ii) Except as provided below for bait and jig boats, managing owners not receiving notification by registered mail can assume that their vessel is over 400 short tons carrying capacity and is subject to the provisions of (a) (1) of this section.

(iii) To qualify for the bait and jig boat yellowfin allocation, managing owners of such vessels shall supply the Regional Director documentation concerning the gross and net tonnage of their vessels together with records of prior unloadings. This information will be used by the Regional Director to establish the short ton carrying capacity of each vessel. Failure to comply shall result in each such vessel being limited to 15 percent yellowfin tuna by round weight of its total catch. This 15 percent limitation shall remain in effect until the aforesaid documentation is furnished by the vessel's managing owner.

(5) The tonnage limitations specified in (a) (2) and (3) of this section may be adjusted upward or downward. Any such adjustment will be based upon the estimated use of the incidental catch allowances, and shall be apportioned as determined by the Service Director. Announcement of such adjustment shall be made by publication of a notice in the FEDERAL REGISTER by the Service Director.

(b) Any fishing vessel operating within the regulatory area which began its fishing voyage during the closed season and is restricted to the catch limitations as provided in paragraph (a) of this section shall be subject to such limitation regardless of its arrival date in port. In addition, any vessel so restricted which discharges some but not all of its catch, shall be subject to the same restrictions upon completion of its next fishing voyage.

(c) All fishing vessels that are permanently based in a foreign country, which elect to participate in the allocation provisions for vessels of 400 tons carrying capacity or less, shall (1) unload in a U.S. port after each voyage begun during the closed season, or (2) transship all fish taken on such voyages to a U.S. port in accordance with paragraph (1) of this section. Any vessel failing to follow the procedures of this paragraph shall be limited to an incidental rate of yellowfin tuna not to exceed 15 percent by round weight of its total catch.

NOTE.—The amount of yellowfin tuna that may be legally landed by a vessel subject to a specified percent incidental catch rate of yellowfin tuna based upon the round weight of the total catch is determined by the following formula:

$$\text{Quantity of legal yellowfin tuna} = \frac{(\text{Quantity of mingled species}) \times (\text{Specified incidental catch rate in percent})}{(100 \text{ percent}) - (\text{Specified incidental catch rate in percent})}$$

For Example, if the incidental catch rate of yellowfin tuna is 15 percent, then:

$$\text{Quantity of legal yellowfin tuna} = \frac{(\text{Quantity of mingled species}) \times (15)}{85}$$

(d) All reports required in this section, shall be telephoned to area code 714, telephone number, 233–5511. Such reports, which must be delivered within the time limits specified, may be made by prepaid commercial radio message or relayed through the shore representative of the reporting vessel.

§ 280.8 Provisions for fishing outside CYRA on closed season trips.

(a) Any fishing vessel electing to fish exclusively in the Pacific Ocean, but outside the regulatory area, shall report to the Regional Director, within 48 hours before leaving port, giving name of the reporting vessel and the port of departure; within 24 hours before leaving the regulatory area, giving the latitude of departure and the approximate time of departure; and within 24 hours before returning to the regulatory area, giving the latitude of reentry, the approximate time of reentry, and the tonnage by species aboard. For 1977 only, the area described in the second sentence of paragraph (g), § 280.1, is considered to be outside the regulatory area.

(1) In addition, every fishing vessel operating in the Pacific Ocean, but outside the regulatory area, shall transmit daily a message between 1600 coordinated universal time (c.u.t.) and 1800 c.u.t. This message shall be transmitted directly to Coast Guard Radio San Francisco (NMC) on frequency 16.565.0, 12.421.0, or 8.281.2 KHz and shall state: "This message is being transmitted in compliance with the U.S. eastern tropical Pacific yellowfin tuna regulations, and confirms that the vessel (name of reporting vessel) is fishing in the Pacific Ocean but outside the regulatory area as of this date (give date)". Any vessel failing to receive acknowledgement from Coast Guard San Francisco, must transmit the same message on the following day. Should the vessel fail to receive acknowledgement within three consecutive days, the vessel's radio equipment shall be considered inoperative and the vessel shall return directly to port without delay to unload or to receive an inspection by a designated agent of the National Marine Fisheries Service.

(b) Any fishing vessel electing to fish exclusively in the Pacific Ocean, but outside the regulatory area, shall proceed without delay to waters outside the regulatory area and upon reentering the regulatory area shall proceed directly to port without delay.

(1) If a vessel must, however, make an emergency port call, it shall proceed directly to port without delay and shall notify the Regional Director, not less than 48 hours prior to arrival, giving the name of the port to be entered. If the vessel elects to resume fishing outside the regulatory area, it must follow the procedures required in paragraph (a) of this section and shall proceed without delay directly to waters outside the regulatory area.

(c) Any fishing vessel which on the same voyage operates within and outside this paragraph shall be restricted to the incidental catch limitations as set forth in § 280.7(a) of this section, unless such vessel is made available for inspection as provided in § 280.9.

(d) All reports required in this section, except messages transmitted directly to Coast Guard Radio San Francisco, shall be telephoned to area code 714, telephone number, 233–5511. Such reports, which must be delivered within the time limits specified, may be made by prepaid commercial radio message or relayed through the shore representative of the reporting vessel.

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(e) Any vessel sighted inside the regulatory area while reporting its position as outside the regulatory area shall return to port for inspection or to a U.S. port for unloading within ten days after receipt by the owner of the vessel or his agent of a certified letter from the Regional Director advising him of such sighting.

(f) Any vessel failing to file the reports and to follow the procedures of this paragraph, shall be restricted to the incidental catch limitations set forth in paragraph (b) of § 280.7, for its entire fishing voyage.

§ 280.9 Restrictions applicable to cargo vessels.

(a) All fishing vessels shall notify the Regional Director not less than 48 hours prior to any sale or delivery in a foreign country, of fish caught in the Pacific Ocean from within or outside the regulatory area. Such reports shall include the tonnage by species unloaded and whether such fish were caught in or out of the regulatory area.

(b) Any fishing vessel wishing to unload its catch at more than one location shall notify the Regional Director 48 hours prior to the commencement of each unloading, giving the date of the unloading and the estimated tonnage by species to be unloaded at each location.

(c) All fishing vessels shall notify the Regional Director not less than 48 hours prior to transferring fish caught in the Pacific Ocean from within or outside the regulatory area to another vessel for the purpose of transshipment. Such reports shall include the date and place of unloading, name and destination of the oncarrying vessel, tonnage by species of fish transferred and whether the transferred fish were caught in or outside the regulatory area.

(d) All fishing vessels, except vessels proceeding directly to Puerto Rico or to any other U.S. port for unloading, shall notify the Regional Director not less than 48 hours prior to leaving the regulatory area via the Panama Canal. In addition, all fishing vessels, except vessels without fish aboard, shall notify the Regional Director not less than 48 hours prior to entering the regulatory area via the Panama Canal. Each report shall include the name of the reporting vessel, the tonnage by species of fish aboard and whether the fish were caught in or outside the regulatory area in Pacific waters or from Atlantic waters. Any vessel failing to file the reports and to follow the procedures of this paragraph, shall be restricted to the incidental catch limitations set forth in § 280.7(a) for its entire fishing voyage, regardless of its arrival date in port.

(e) Any person failing to follow the procedures or to make the reports required by this section may be subject to the criminal penalties provided for in the Act in addition to other restrictions which may apply.

(f) All reports required in paragraphs (c) to (d) of this section, shall be telephoned to area code 714, telephone number, 233-5511. Such reports, which must be delivered within the time limits specified, may be made by prepaid commercial radio message or relayed through the shore representative of the reporting vessel.

§ 280.10 Provisions for well inspection during closed season.

(a) Any fishing vessel having incidentally caught yellowfin tuna aboard may, began fishing on January 1 for yellowfin tuna without restriction, provided such vessels are made available for inspection during the period December 27 through December 31. A request for the designation of an inspection port shall be made to the Regional Director on or before December 23. Upon notification by the Regional Director of the availability of an inspection port, each vessel shall proceed to such port for inspection by a designated agent of the National Marine Fisheries Service. Official seals will be affixed to wells containing incidentally caught yellowfin tuna and the same will be noted in the vessel's log. Fish in the wells at the time of inspection shall be subject to the incidental catch limitations as set forth in paragraph (b) of this section, regardless of the date of unloading. In addition, the Regional Director shall be notified not less than 48 hours in advance of the date and place of any unloadings from inspected vessels. Upon arrival at point of sale or delivery, the official seals will be removed by a designated agent of the National Marine Fisheries Service. Inspected vessels shall not be allowed to leave port to resume fishing activity until 0001 hours, January 1.

(1) Any fishing vessel electing to change fishing areas, without having that portion of its catch taken outside the regulatory area restricted to such incidental catch limitations, shall request inspection services from the Regional Director. Vessels within the regulatory area shall report not less than 48 hours prior to electing to leave the area, stating their intention and requesting the designation of an inspection port. Vessels outside the area shall report within 24 hours before returning to the regulatory area, stating their intention, requesting the designation of an inspection port, and giving the latitude of reentry, the approximate time of reentry and the tonnage by species of fish aboard. Upon notification by the Regional Director of the availability of an inspection port, each vessel shall proceed directly without delay to such port for inspection by a designated agent of the National Marine Fisheries Service. Official seals will be affixed to wells containing fish captured within or outside the regulatory area as appropriate, and the same will be noted in the vessel's log. In addition, the Regional Director shall be notified not less than 48 hours in advance of the date and place of unloadings from inspected vessels. Upon arrival at point of sale or delivery, the official seals will be removed by a designated agent of the National Marine Fisheries Service.

(1) The National Marine Fisheries Service will provide two inspections per month in foreign ports from June 1 through December 1 in the Canal Zone and Puntarenas, Costa Rica. These inspections will be provided upon advanced notification on the first and second and the fifteenth and sixteenth day of each month, respectively, at no cost to the requestor. Inspection service may be provided in foreign ports at other times at the expense of the requesting vessel. Such additional inspections will be provided subject to advance notification, availability of personnel, immigration clearances and approval of the Regional Director. Well inspections will be provided at U.S. ports as they are needed subject to proper notification.

(2) Any vessel failing to file the reports and to follow the procedures of this paragraph shall be restricted to the incidental catch limitation set forth in § 280.7(a) for its entire fishing voyage.

§ 280.11 [Reserved]

§ 280.12 [Reserved]

§ 280.13 [Reserved]

§ 280.14 Emergency action by Service Director.

If during the closed yellowfin season, the Service Director finds that the provisions relating to the fishing outside the regulatory area are inadequate to insure that the recommendations of the Commission are met, he shall announce such findings through publication of a notice in the FEDERAL REGISTER and immediately thereafter:

(a) Every fishing vessel at sea, having yellowfin tuna aboard in excess of the incidental catch limitations as provided in § 280.7(b) which is claimed to have been captured outside the regulatory area, but in the Pacific Ocean, shall return directly without delay to its home port or port of departure to unload or to receive an inspection by a designated agent of the National Marine Fisheries Service. Any vessel failing to comply with the above requirements, shall be restricted to the incidental catch limitations set forth in § 280.7(b) for its entire fishing voyage.

(b) Any fishing vessel which has operated in the regulatory area at any time during the calendar year and which departs on any fishing voyage within the Pacific Ocean after the notice described in this section is published in the FEDERAL REGISTER, shall be restricted to the incidental catch limitations as provided in § 280.7(b).

§ 280.15 Restrictions applicable to cargo vessels.

(a) Any fishing vessel shall be deemed to have completed a fishing voyage whenever any part of its catch is transferred to a cargo vessel in conformity with the requirements of this section.

(b) In keeping with the provisions of 46 U.S.C. 251, no foreign-flag vessel, whether documented as cargo vessel or otherwise, is permitted to land in port of the United States any fish or fish products taken on board such vessel on the high seas.

(c) The transfer of fish from a fishing vessel to a cargo vessel while in a foreign country or in waters over which each country has recognized jurisdiction is subject to the applicable laws and regulations of such foreign country.

(d) During the closed yellowfin tuna season, no fishing vessel shall transfer on the high seas any part of its catch to a cargo vessel documented under the laws of the United States and no such cargo vessel shall receive, possess, or bring to any place in the United States, fish taken on board on the high seas from a fishing vessel unless the cargo vessel shall hold a permit issued in conformity with paragraph (e) of this section.

(e) Upon written application made to him, the Regional Director may issue a permit authorizing a cargo vessel documented under the laws of the United States to receive, possess, transport to the United States, fish transferred from fishing vessels on the high seas during the closed yellowfin tuna season. Such permit may authorize the possession and transportation of yellowfin tuna by a cargo vessel without regard to the quantities of fish received, but it shall contain restrictions as the Regional Director shall determine to be necessary to achieve compliance with the regulations in this part and the objectives of the yellowfin tuna conservation program.

(f) Any cargo vessel seeking permission to enter into the United States a cargo of round tuna (that is, tuna that has not been gilled, gutted, or beheaded) any part of which was received ex-vessel through a port facility in the Americas shall provide to the nearest Customs Office as a prerequisite to obtaining such permission from Customs the following information with respect to the part of such cargo received ex-vessel through a port facility in the Americas:

(1) Name, official number, and flag of each fishing vessel (including, for purposes of this paragraph, any foreign flag fishing vessel) from which was received any tuna that is aboard the cargo vessel at the time the aforesaid permission to enter is sought;

(2) Date and location of such receipt of tuna; and

(3) Certification from the master of each such fishing vessel setting forth, as to tuna received by the cargo vessel:

(i) Tonnage by species of tuna caught inside the regulatory area;

(ii) Tonnage by species of tuna caught in waters west of the regulatory area to the meridian of 150° west longitude;

(iii) Tonnage by species of tuna caught in other waters; and

(iv) As to each caetgory, the dates of the fishing voyages on which the tuna were caught.

(g) Any cargo of round tuna for which permission to enter into the United States is sought by a cargo vessel shall be accompanied by a bill of lading indicating whether the tuna was received ex-vessel through a port facility (and, if so, from what vessels and what ports) or by other named means, such as from freezer or other storage facilities, and such bill of lading shall be provided to Customs at the time permission to enter is sought.

(h) Any cargo vessel failing to provide the documentation required by paragraphs (f) and (g) of this section shall be denied permission to enter into the United States undocumented lots of round tuna. If tuna is denied entry under the provisions of these regulations, the District Director of Customs shall refuse to release the tuna for entry into the United States and shall issue a notice of such refusal to the importer or consignee: Provided, however, that the tuna not accompanied or covered by the required documentation or certification when offered for entry may be entered into the United States if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of the required documentation or certification. The bond shall be in the amount required under 19 C.F.R. 113.14. Within 90 days after such Customs entry, or such additional period as the District Director of Customs may allow for good cause shown, the importer or consignee shall deliver a copy of the required documentation and certification to the District Director of Customs, and the original of the required documentation and certification to the Regional Director of the National Marine Fisheries Service. If such documentation and certification is not delivered to the District Director of Customs for the port of entry of such fish within 90 days of the date of Customs entry or such additional period as may have been allowed by the Distirct Director of Customs for good cause shown, the importer or consignee shall redeliver or cause to be redelivered to the District Director of Customs those fish which were released in accordance with this paragraph. In the event that any such tuna is not redelivered within five days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of a bond given on Form 7551. When the transaction has been charged against a bond given on Form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been demanded under the preceding sentence under a bond given on Form 7551. Tuna refused entry or released for entry into the United States through the use of bonding procedure provided in this paragraph may be subject to the forfeiture provisions of the Tuna Conventions Act of 1950 as is any other tuna imported into the United States in violation of the Act. Tuna which is denied entry or which is redelivered in accordance with the above and which is not exported under Customs supervision within 90 days from the date of notice or refusal of admission or date of redelivery shall be disposed of under Customs laws and regulations.

(i) Any person who knowingly enters or permits the entering of round tuna from a cargo vessel in violation of paragraph (f) or (g) of this section, or who knowingly provides false information with respect to the requirements of paragraph (f) or (g) of this section, shall, as well as the cargo of tuna, be subject to the penalties provided in the Tuna Conventions Act of 1950 (16 U.S.C. 951-961).

§ 280.16 Restrictions applicable to purchasers.

(a) Except as provided in paragraphs (b) and (d) of this section, it shall be unlawful for any person knowingly to receive, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any yellowfin tuna taken or retained by a fishing vessel in violation of the regulations in this part.

(b) In view of the perishable nature of yellowfin tuna when not processed otherwise than by chilling or freezing, and persons authorized to enforce the regulations in this part may cause to be sold, and any person may purchase, for not less than its reasonable market value such quantities of perishable yellowfin tuna as may be seized and forfeited pursuant to the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951-956).

(c) The proceeds of any sale made pursuant to paragraph (b) of this section after deducting the reasonable costs of the sale, if any, shall be remitted by the purchaser to the Regional Director for deposit and retention in the Suspense Account of the National Marine Fisheries Service (Account No. 14X6875(17)) pending judgment of the court or other disposition of the case.

(d) If a duly constituted official acting under authority and in behalf of a State of the United States, of the Commonwealth of Puerto Rico, or of American Samoa seized any yellowfin tuna under the applicable laws or regulations of such government, such yellowfin tuna may be forfeited and sold or otherwise disposed of pursuant to such laws or regulations. Any yellowfin tuna so seized by an official of State, the Commonwealth of Puerto Rico or American Samoa shall not be seized by an officer or employee of the Federal Government unless it is voluntarily turned over to him to be processed against under applicable Federal laws or regulations.

§ 280.17 Recordkeeping and written reports.

(a) The master or other person in charge of a tuna vessel or such person as may be authorized in writing to serve as the agent of either of such persons shall throughout the open and closed yellowfin tuna fishing seasons:

(1) Keep an accurate log of all operations conducted from the vessel entering therein for each day the date, noon position (stated in latitude and longitude or in relation to known physical features), and the tonnage of fish aboard by species. The record and bridge log maintained at the request of the Commission shall be sufficient to comply with this paragraph provided the items of information specified herein are fully and accurately entered in such log.

(2) Furnish on form obtainable from the Regional Director, following the sale or delivery of a catch of fish made by such vessel, a report, certified to be correct as to facts within the knowledge of

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the reporting individual giving the name and official number of the fishing vessel, the dates of beginning and ending of the fishing voyage, the port of departure, and a listing separately by species of the round weight quantities (pounds or short tons) of fish sold or delivered. At the option of the vessel master or other person in charge, a copy of the fish ticket, weighout slip, settlement sheet, or similar record issued by the fish dealer or his agent may, however, be used for reporting purposes in lieu of the form obtainable from the Regional Director, if such alternate record is similarly certified and contains all items of information required by this paragraph. In addition, any vessel landing its catch in California and reporting by means of a copy of the California fish ticket, the California Fish and Game boat number may be indicated in lieu of the vessel's official number. Such sale and delivery reports shall be delivered or mailed to the Regional Director within 72 hours after weighout has been completed.

(3) The requirements of this section shall apply to the sale or delivery of a catch of tuna regardless of whether the transaction occurs in a U.S. or a foreign port.

(b) Any person authorized to carry out enforcement activities under the regulations in this part and any person authorized by the Commission shall have power, without warrant or other process to inspect, at any reasonable time, log books, catch reports, statistical records, or other reports as required by the regulations in this part to be made, kept or furnished.

§ 280.18 Persons and vessels exempted.

Nothing contained in § 280.2 to § 280.11 shall apply to:

(a) Any person or vessel authorized by the Commission, the Service Director, or any State of the United States to engage in fishing for research purposes.

(b) Any person or vessel engaged in sport fishing for personal use.

§ 280.19 National Oceanic and Atmospheric Administration Employees designated as enforcement agents.

Any employee of the National Oceanic and Atmospheric Administration duly appointed and authorized to enforce Federal laws and regulations administered by the National Oceanic and Atmospheric Administration is authorized and empowered to carry out enforcement activities under the Tuna Conventions Act of 1950, as amended (16 U.S.C. 951–961).

§ 280.20 State Officers designated as enforcement agents.

Any officer or employee of a State of the United States, of the Commonwealth of Puerto Rico or of American Samoa who has been duly designated by the Service Director or his delegate with the consent of the Government concerned is authorized to function as a Federal law enforcement agent and to carry out enforcement activities under the Tuna Convention Act of 1950, as amended (16 U.S.C. 951–961).

[FR Doc.77-6478 Filed 3-3-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

HOUSTON/NEW ORLEANS—YUCATAN ROUTE PROCEEDING

[Docket No. 29789]

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on March 28, 1977, at 9:30 a.m. (local time) in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., February 28, 1977.

ARTHUR S. PRESENT,
Administrative Law Judge.

[FR Doc.77-6582 Filed 3-3-77;8:45 am]

[Docket No. 28004]

PACIFIC OVERSEAS FARES INVESTIGATION

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on March 30, 1977, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue N.W., Washington, D.C.

Dated at Washington, D.C., February 28, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-6581 Filed 3-3-77;8:45 am]

[Docket 29123, Agreement C.A.B. 26203, Order 77-2-140]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Passenger Fares Agreement; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of February, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). Adopted at the 1976 Miami Composite Passenger Traffic Conference held during September/October, the agreement has been assigned the above C.A.B. agreement number.

The agreement would permit each member carrier to set forth on its tickets and baggage checks a disclosure notice of its own choosing to passengers concerning the status of reservations due to any overbooking practices on the carrier's own services. We will approve the agreement. IATA indicates that most, if not all, of its active members engage in planned overbooking procedures, and we believe that the notice to consumers of this practice is in the public interest. We would note, however, that we are concurrently herewith issuing a new rule,[1] ER-987, adopted February 28, 1977, which amends Part 221 of the Board's Economic Regulations so as to require all air carriers, foreign air carriers, and their agents selling tickets for air transportation in the United States to give actual notice to ticket purchasers of prevailing overbooking practices by means of ticket counter signs and printed ticket notices employing prescribed language.

To the extent that the instant agreement is inconsistent with ER-987 or any other rule then, of course, the Board's rules are controlling.

The Board, acting pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), and 412 thereof, does not find Agreement C.A.B. 26203 to be adverse to the public interest and in violation of the Act.

Accordingly, It is ordered, That: Agreement C.A.B. 26203 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6584 Filed 3-3-77;8:45 am]

[1] The rule is being issued in Docket 29776, which proceeding is separate from the rulemaking proceeding entitled Reexamination of the Board's Policies Concerning Deliberate Overbooking and Oversales, Docket 29139 initiated by EDR-296 dated April 13, 1976. In the latter proceeding the Board is examining all the policy issues raised by the practice of overbooking, including its acceptability and any substantive restraints that should be applied to it.

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-6384 Filed 3-3-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority to Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Special Assistant to the Secretary for Civil Rights and Deputy Director, Office for Civil Rights, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-6385 Filed 3-3-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Bureau Director, Bureau of Sport Fisheries and Wildlife.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-6386 Filed 3-3-77;8:45 am]

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EXPORT-IMPORT BANK OF THE UNITED STATES

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Export-Import Bank of the United States to fill by noncareer executive assignment in the excepted service the position of Assistant to the President and Chairman for Transition Planning, Office of the President and Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-6383 Filed 3-3-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NATIONAL INDUSTRIAL ENERGY COUNCIL

Meeting, Postponement

On Monday, February 14, 1977, a notice appeared in the FEDERAL REGISTER (42 FR 30 9049), announcing a meeting of the National Industrial Energy Council for Tuesday, March 8, 1977, from 1:30 pm to 3:30 pm in Conference Room 4830, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

This meeting of the National Industrial Energy Council has been postponed and will be rescheduled at a later date with appropriate notice in the FEDERAL REGISTER.

R. DENNIS O'CONNELL,
Executive Director, National Industrial Energy Council.

FEBRUARY 28, 1977.

[FR Doc.77-6475 Filed 3-3-77;8:45 am]

Maritime Administration

[Docket No. S-547]

AMERICAN EXPORT LINES, INC.

Notice of Application

Notice is hereby given that American Export Lines, Inc., a New York Corporation, has filed an application dated February 10, 1977, as amended February 17, 1977, with the Maritime Subsidy Board pursuant to Title VI (46 U.S.C. 1171–1183) of the Merchant Marine Act, 1936, as amended (the Act), for a long-term operating differential subsidy contract for the operation of a U.S.-flag freight service described as follows:

A maximum of 25 sailings annually, with six existing C3 type vessels, between U.S. Atlantic ports (Maine-Atlantic Coast of Florida to, but not including, Key West) and, via the Suez Canal, ports in the Gulf of Suez, Red Sea, Gulf of Aden, West Pakistan, India, Bangladesh, Burma and Sri-Lanka, plus service to a port or ports in the Mediterranean Sea east of 29 degrees longitude, a port or ports in the Mediterranean Sea west of 29 degrees longitude (provided that calls may not be made at United States Atlantic ports south of Virginia to discharge Mediterranean cargo before the discharge of inbound cargo at United States North Atlantic ports, or to load Mediterranean cargo after departure outbound from United States North Atlantic ports, and further provided that on outbound voyages, calls to discharge U.S. commercial cargo at a port or ports in the foreign area of Trade Route 10 west of 29 degrees longitude may be made only with the prior approval of the United States), a port or ports in the U.S. Gulf and a port or ports in the Persian Gulf and Gulf of Oman.

If awarded, the Operating-Differential Subsidy Contract which is the subject of this application would become effective upon the expiration of American Export Lines, Inc.'s, present Contract No. FMB–87 on December 31, 1979, and would succeed that portion of FMB–87 which concerns American Export Lines service on Trade Route 18.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099–B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm or corporation having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit such views and comments in writing, in triplicate, to the Secretary, Maritime Subsidy Board, by the close of business on March 17, 1977. The Marine Subsidy Board will consider such views and comments, and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidy (ODS).)

Dated: February 28, 1977.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-6515 Filed 3-3-77;8:45 am]

National Bureau of Standards

CHANNEL LEVEL POWER CONTROL INTERFACE

Proposed Federal Information Processing Standard

Under the provisions of Pub. L. 89–306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal Automatic Data Processing (ADP) Standards. A proposed standard for Channel Level Power Control Interface is being recommended for use whenever Federal agencies are acquiring ADP Systems and components under the provisions of the proposed Federal Information Processing Standard I/O Channel Interface (proposed FIPS PUB ____). The technical specifications contained in this proposed standard were developed under the auspices of the American National Standards Institute, Technical Subcommittee X3T9, and have been published in ANSI document number X3T9/666, Rev. 2, entitled "Draft Proposed American National Standard Specifications for Power Control Interface".

Prior to the submission of this proposal to the Secretary of Commerce for approval, it is essential to assure that proper consideration is given to the needs and views of manufacturers, the public, and state and local governments. The purpose of this notice is to solicit such views.

This proposed Federal Information Processing Standard contains two basic sections: (1) an announcement section which provides information concerning the applicability ad implementation of the standard, and (2) a specification section which defines the technical parameters of the standard. Only the announcement section is provided in this notice.

Interested parties may obtain copies of the specification section from and submit their comments to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Comments to be considered must be submitted on or before May 31, 1977.

Dated: February 28, 1977.

ERNEST AMBLER,
Acting Director.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION ____

(Date)

ANNOUNCING THE STANDARD FOR CHANNEL LEVEL POWER CONTROL INTERFACE

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Channel Level Power Control Interface (FIPS PUB ____).

Category of Standard. Hardware Standard, Interface.

Explanation. This standard is one of a family of standards that refines the functional, electrical, and mechanical interface specifications of a Power Control Interface for attaching computer peripheral devices through their control units to the input/output channel of an ADP system. When employed with the Federal Information Processing Standard I/O Channel Interface (FIPS PUB ____), this standard will enable a greater degree of interchangeability of components at the I/O channel interface level. In order to achieve full plug to plug interchangeability, additional standards (such as operational specifications) are needed; these specifications are presently being developed and will be considered for future adoption as Federal Information Processing Standards.

This series of standards is intended to facilitate the economic procurement and effective utilization of Federal ADP systems by enabling these systems to be configured with components:

(1) Procured from independent competitive sources.

(2) Drawn from the Federal inventory.

When acquiring ADP systems and components under the provisions of Federal Information Processing Standard I/O Channel Interface (FIPS PUB ____), Federal agencies shall reference this standard for specifying the Channel Level Power Control Interface.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. (1) American National Standards Institute document X3T9/666, Rev. 2, Draft Proposed American National Standard Specifications for Power Control Interface.

(2) Federal Information Processing Standard I/O Channel Interface (FIPS PUB ____).

Applicability. This Standard is applicable to all automatic data processing systems acquired for the Federal Government whenever the provisions of the Federal Information Processing Standard I/O Channel Interface (FIPS PUB ____) are cited.

Specifications. This standard incoporates by reference the technical specifications described in ANSI document X3T9/666, Rev. 2, affixed.

Implementation. The provisions of this standard are effective January 1, 1978. All applicable equipment ordered on or after this date must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this publication.

Exceptions. Exceptions to the provisions of this FIPS PUB are made in the following cases:

a. For equipment installed or on order prior to the effective date of this standard.

b. Where procurement actions are in the solicitation phase (i.e., Requests for Proposals or Invitations for Bids have been issued) and the alteration of the procurement would be detrimental to the acquisition process.

c. Where provisions of the Federal Information Processing Standard I/O Channel Interface (FIPS PUB ____) have been waived in accordance with the waiver procedure described in that publication.

Waivers. Heads of agencies are permitted to waive the requirements stated in this publication provided a comparative analysis shows that the advantages inherent in the use of Federal Standards Channel Level Power Control Interface are clearly offset by an even greater advantage obtainable through the use of an alternative standard or specification. Consideration of any alternative should be made consistent with the Government's overall objectives for the economic acquisition and efficient utilization of ADP systems employed by the Federal Government.

Proposed waivers to Federal Standard Channel Level Power Control Interface shall be coordinated in advance with the National Bureau of Standards. Letters should be addressed to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. They should describe the nature of the waiver and set forth the reasons therefor. The supporting information should include:

a. Relevant documentation considered by the head of the agency in authorizing the waiver.

b. Detailed technical specifications of the components for which the deviation is sought.

c. Possible recommendations for action by NBS concerning the improvement or future development of Computer Peripheral Interface standards, relative to the waiver.

Sixty days should be allowed for review and response by the National Bureau of Standards. However, the final decision for granting the waiver is the responsibility of the agency head.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Services, U. S. Department of Commerce, Springfield, Virginia 22161. When ordering, refer to Federal Information Processing Standards Publication ____ (NBS–FIPS–PUB– ____), title, and Accession Number. When microfiche is desired, this should be specified. Payment may be made by check, money order, or deposit account.

[FR Doc.77-6580 Filed 3-3-77;8:45 am]

AQUARIUM OF NIAGARA FALLS, INC.

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a Permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407); and the Regulations Govening the Taking and Importing of Marine Mammals (50 CFR Part 216).

Aquarium of Niagara Falls, Inc., 701 Whirlpool Street, Niagara Falls, New York 14301, to take two (2) California sea lions (*Zalophus californianus*) for public display.

The requested animals will be captured by a professional collector on or near Santa Cruz or San Miguel Islands off Santa Barbara, California, with a hoop net on land or with a modified gill net in the water.

The animals will be acclimated at the collector's facility then shipped to the Niagara Falls facility by commercial aircraft and truck.

At the facility, the animals will be displayed in a trapezoidal shaped pool. The front and back wall are 13 feet, 8 inches, and 18 feet in height, with the length 11 feet and the depth 4 feet. The facility provides holding pools and haul-out areas for the animals.

The facility is a profit making organization open daily to the public, with an estimated 200,000 annual visitors.

The staff has over 12 years experience working with display animals.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written views or data, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before April 4, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 23, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-6522 Filed 3-3-77;8:45 am]

MARINE ATTRACTIONS, INC.

Modification of Permit

Notice is hereby given that, pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Public Display Permit issued to Marine Attractions, Inc., P.O. Box 6086, St. Petersburg Beach, Florida 33736, on March 3, 1975, is modified in the following manner:

The period of validity, during which the authorized marine mammals and specimen materials may be taken, is extended from December 31, 1976, to December 31, 1978.

The Modification is effective on March 4, 1977.

The Permit, as modified, and documentation pertaining to the modification is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Dated: February 9, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-6519 Filed 3-3-77;8:45 am]

MYSTIC MARINELIFE AQUARIUM

Issuance of Permit To Take Marine Mammals

On October 6, 1976, notice was published in the FEDERAL REGISTER (41 FR 44062), that an application had been filed with the National Marine Fisheries Serv-

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ice by Mystic Marinelife Aquarium, Mystic, Connecticut, 06355, for a Permit to take five (5) California sea lions (*Zalophus californianus*), three (3) Northern elephant seals (*Mirounga angustirostris*), and two (2) gray seals (*Halichoerus grypus*), for the purpose of public display.

Notice is hereby given that on February 25, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking to Mystic Marinelife Aquarium subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731

Dated: February 25, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77–6517 Filed 3–3–77;8:45 am]

SEALAND OF CAPE COD, INC.

Issuance of Permit To Take Marine Mammals

On September 20, 1976, notice was published in the FEDERAL REGISTER (41 FR 40529), that an application had been filed with the National Marine Fisheries Service by Sealand of Cape Cod, Inc., Route 6A, Brewster, Massachusetts 02631, for a Permit to take Three (3) harbor seals (*Phoca vitulina*) and two (2) bottlenose dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that on February 18, 1977, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking to Sealand of Cape Cod, Inc., subject to certain conditions set forth therein. The Permit is available for review by interested persons in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702; and
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: February 18, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77–6518 Filed 3–3–77;8:45 am]

SEA WORLD, INC.

Receipt of Application for Scientific Research and Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a Permit to take and import marine mammals for scientific research and public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407); and the Regulations Governing the Taking and importing of Marine Mammals.

Sea World, Incorporated, 1720 South Shores Road, San Diego, California 92109, to take, over a 5-year period from various areas around the world, up to 10 false killer whales (*Pseudorca crassidens*).

The marine mammals to be collected would be utilized as follows:

Opportunistic field research will be conducted on the ten (10) animals taken. Of the animals collected, up to four (4) will be immediately released or held up to 90 days; up to six (6) will be maintained for twelve months or more and of these six, two (2) will be released. The remaining four (4) animals will be maintained indefinitely.

All animals that will be maintained will be for the purpose of public display and opportunistic research.

Areas of opportunistic research may include, but will not necessarily be limited to:

1. Tissue sampling;
2. Age/growth determination studies;
3. Breeding research studies;
4. The use of experimental husbandry practices, in order to lengthen longevity, continue states of health, and establish successful reproduction in captive marine mammals;
5. A cryogenic marking investigation.

The animals will be taken by means of a breakaway hoop net, from various areas around the world, with primary emphasis on the Florida coast, Florida Keys, Bahamas, as well as the waters of the Pacific coast, particularly California, Hawaii, and Japan. The animals will be transported to the San Diego, California, Cleveland, Ohio; and/or Orlando, Florida, facilities, by means of trucks, or charter or commercial airplane.

The requested animals would be maintained at any of the following Sea World facilities in any of the holding and display tanks indicated below:

Sea World of Ohio:

(a) Whale/Dolphin Performing Tank—227,000 gallons, 40 feet wide, 75 feet long, 18 feet deep;

(b) Holding Tank—62,000 gallons, 35 feet in diameter, 4 feet deep.

Sea World of Florida:

(a) Whale/Dolphin Performance Pool—534,000 gallons, 105 feet 10 inches long, 45 feet wide, 24 feet deep.

(b) Whale Holding Tank—93,000 gallons, 35 feet in diameter, 12 feet deep.

Sea World of San Diego:

(a) Holding Tanks (6)—from 6,700 to 190,000 gallons each; from 15 feet in diameter, 5 feet deep to 60 feet in diameter, 13 feet deep.

(b) Underwater Theater Tank—165,000 gallons, 44 feet in diameter, 13 feet deep;

(c) Performance Pool—620,000 gallons, 125 feet by 50 feet by 25 feet deep.

The requested animals are desired to provide sufficient flexibility in the Sea World marine mammal inventory to permit alternation of display programs, and variations in the nature of the displays. Since the opening of the first park in 1964, Sea World has hosted 25 million visitors. In addition, over 500,000 school children have participated in Sea World's educational programs.

The Applicant states that in the event an animal dies during the collection, maintenance, or research of any kind, a complete autopsy will be conducted. Results of such studies will be forwarded to the Director, National Marine Fisheries Service, and any useful remains will be forwarded to the Smithsonian Institution, Dr. James Mead, Curator, or other suitable bona fide research personnel and/or institutions.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930;
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702;
Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109; and
Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Written data or views, or requests for a public hearing on this application, should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before April 4, 1977. The holding of such a hearing is at the discretion of the Director. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 25, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77–6521 Filed 3–3–77;8:45 am]

STEINHART AQUARIUM

Notice of Modification of Permit

Notice is hereby given that, pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the public display Permit issued to Steinhart Aquarium, Golden Gate Park, San Francisco, California 94118, on May 12, 1975, is modified in the following manner:

The period of validity, during which the authorized marine mammals and specimen materials may be taken, is extended from December 31, 1976, to December 31, 1978.

This modification is effective on March 4, 1977.

The Permit, as modified, and documentation pertaining to the modification is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and
Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: February 7, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77–6520 Filed 3–3–77;8:45 am]

TULSA ZOOLOGICAL PARK

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regula-Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Tulsa Zoological Park, Parks and Recreation Department, 5701 E. 36th Street North, Tulsa, Oklahoma 74115, to take one (1) California sea lion (*Zalophus californianus*) for public display.

The requested animal will be taken by a professional collector, off the Channel Islands, Santa Barbara, California. The animal will be shipped to the Tulsa facility by Commercial plane and truck.

At the Facility, the animal will be displayed with other sea lions in a pool 110 feet long by 50 feet wide, with a maximum depth of 12 feet. The perimeter of the pool serves as a haul-out area; in addition there are two islands located within the pool. One of the two islands provides a winter shelter area.

The sea lion is desired to provide recreational and educational benefits to the 250,000 visitors that visit the facility annually. The facility is a non-profit organization. The facility has three experienced zoo keepers and a curator that will provide for the care and maintenance of the animal.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammal involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3330 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Written views or data, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before April 4, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 23, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77–6524 Filed 3–3–77;8:45 am]

ZOOLOGICAL SOCIETY OF SAN DIEGO

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a Permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Zoological Society of San Diego, P.O. Box 551, San Diego, California 92112, to maintain two (2) Pacific harbor seals (*Phoca vitulina richardii*) for public display.

The facility acquired the animals from the Alaska Department of Fish and Game, who had rescued the beached and stranded animals and transported them to the San Diego facility. Under an agreement with the Alaska Department of Fish and Game, the facility was to maintain the animals until such time they were suitable for release. The animals are now in good health and condition and are being maintained at the facility in a 7,000 gallon pool.

The Applicant states that since the animals have acclimated to captivity, it would be in the best interest and well-being of the animal to remain in captivity.

The facility requests to maintain the animals in order to provide recreational and educational benefits to the 3.25 million annual visitors to the facility. The facility is a non-profit corporation with a full-time staff who have had many years of experience in maintaining marine mammals.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and
Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service; Department of Commerce, Washington, D.C. 20235, on or before April 4, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 25, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77–6523 Filed 3–3–77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Deletions

Notice of proposed deletions from Procurement List 1977, November 18, 1976 (41 FR 50975) was published in the FED-

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ERAL REGISTER on January 7, 1977 (42 FR 1501).

After consideration of all the relevant data presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Government under Public Law 92–28, 85 Stat. 77. Accordingly, they are hereby deleted from the Procurement List.

Class 7210

Bedspring:
7210–00–559–5085.
7210–00–559–6025.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.77–6535 Filed 3–3–77;8:45 am]

PROCUREMENT LIST 1977
Proposed Addition

Notice is hereby given pursuant to Section 2(a)(2) of Public Law 92–28; 85 Stat. 77, of the proposed addition of the following commodity to Procurement List 1977, November 18, 1976 (41 FR 50975).

Class 8115

Box Wood, Household Goods: 8115–00–537–6681.

If the Committee approves the proposed addition, all entities of the Government will be required to procure the above commodity from workshops for the blind or other severely handicapped.

Comments and views regarding the proposed addition may be filed with the Committee on or before April 7, 1977. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.77–6536 Filed 3–3–77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 76–11]

A. BRANDT COMPANY, INC., AND PAUL BRANDT
Prehearing Conference

On December 22, 1976, the Commission issued a Notice of Enforcement with attached supporting exhibits charging respondents in the above entitled proceeding with having violated the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), the Standard of the Flammability of Mattresses (FF 4–72), (16 CFR Part 1632, Subparts A and B) and the implementing regulations thereunder (16 CFR 1632.31) and the Federal Trade Commission Act (15 U.S.C. 41 et seq.). More particularly, respondents were charged with failing to conduct required flammability tests on mattresses manufactured since December 23, 1973, and failing to maintain all the records pertaining to the manufacture, flammability testing and sale of such mattresses. By way of sanction, it is proposed that respondents be ordered to cease and desist from said violations in the future and, in addition, to notify all customers who have purchased or received mattresses since December 23, 1973 that such mattresses do not comply with the Mattress Standard and implementing regulations, and that all such customers may return their mattresses for complete refund or replacement at respondents' option, plus an allowance for reasonable transportation costs.

On January 19, 1976, respondents filed an answer denying all charges in the Notice of Enforcement and denying any personal liability on the part of the individual respondent, Paul Brandt.

Issue having been joined, a prehearing conference by conference telephone will be held at 11:00 a.m., (e.s.t.) (10:00 a.m., c.s.t.) on March 22, 1977. The appropriate telephone numbers are: Administrative Law Judge Paul N. Pfeiffer—(202) 634–7171; DeForrest Tiffany, Esquire, Counsel for Respondents—(817) 926–5141; James Wood, Esquire, Enforcement Counsel—(202) 492–6626.

The conference will include a discussion of the following subjects:

(1) The scope of the issues to be heard and the postions of the parties thereon.

(2) Whether, and to what extent, the parties may enter into a stipulation of facts.

(3) The need for discovery, by interrogatories, depositions, requests for admissions of fact, if any.

(4) The possibility of entering into a consent agreement and order disposing of the issues in the proceeding without the necessity of a hearing.

(5) The scheduling of future procedural steps including the establishment of a date, time, and place for hearing.

Any person desiring to participate in the forthcoming hearing should file a petition for leave to intervene in accordance with § 1025.33 of the Commission's Interim rules of practice for Adjudicative Proceedings.

Dated: February 28, 1977.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc.77–6481 Filed 3–3–77;8:45 am]

[CPSC Docket No. 76–9]

NATIONAL MATTRESS CO. AND E. N. THEISS
Prehearing Conference

On December 7, 1976, the Commission issued a Notice of Enforcement with attached supporting exhibits charging respondents in the above entitled proceeding with having violated the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), the Standard of the Flammability of Mattresses (FF 4–72), (16 CFR Part 1632, Subparts A and B) and the implementing regulations thereunder (16 CFR 1632.31) and the Federal Trade Commission Act (15 U.S.C. 41 et seq.). More particularly, respondents were charged with failing to conduct required flammability tests on mattresses manufactured since December 23, 1973, and failing to maintain all the records pertaining to the manufacture, flammability testing and sale of such mattresses. By way of sanction, it is proposed that Respondents be ordered to cease and desist from said violations in the future and, in addition, to notify all customers who have purchased or received mattresses since December 23, 1973 that such mattresses do not comply with the Mattress Standard and implementing regulations, and that all such customers may return their mattresses for complete refund or replacement at respondents' option, plus an allowance for reasonable transportation costs.

On January 19, 1976, respondents filed an answer denying all charges in the Notice of Enforcement, and denying that the Commission has the legal power to order recall of any mattresses.

Issue having been joined, a prehearing conference by conference telephone will be held at 1:00 p.m., (e.s.t.) (10:00 a.m., p.s.t.) on March 24, 1977. The appropriate telephone numbers are: Administrative Law Judge Paul N. Pfeiffer, (202) 634–7171; Paul Sorensen, Esquire, Counsel for Respondents, (702) 385–1125; Claire Marcus, Esquire, Enforcement Counsel, (202) 492–6626.

The conference will include a discussion of the following subjects:

(1) The scope of the issues to be heard and the positions of the parties thereon.

(2) Whether, and to what extent, the parties may enter into a stipulation of facts.

(3) The need for discovery, by interrogatories, depositions, requests for admissions of fact, if any.

(4) The possibility of entering into a consent agreement and order disposing of the issues in the proceeding without the necessity of a hearing.

(5) The scheduling of future procedural steps including the establishment of a date, time, and place for hearing.

Any person desiring to participate in the forthcoming hearing should file a petition for leave to intervene in accordance with § 1025.33 of the Commission's Interim rules of practice for Adjudicative Proceedings.

Dated: February 28, 1977.

PAUL N. PFEIFFER,
Administrative Law Judge.

[FR Doc.77–6480 Filed 3–3–77;8:45 am]

[HP–77–8]

PETITION ON "TRIS" TREATED SLEEPWEAR
Meeting

This notice announces a meeting between the Consumer Product Safety Commission and representatives of the Environmental Defense Fund (EDF) Tuesday, March 8, 1977 at 10:00 a.m., in the 3rd floor hearing room, 1111 18th St. NW., Washington, D.C. EDF requested the meeting to discuss its petition for the Commission to take regulatory action on the flame-retardant chemical Tris (2,3-dibromopropyl) phospate, used on children's sleepwear.

Under requirements of the Government in the Sunshine Act and the Commission's Rules on Meetings (16 CFR Part 1012), the meeting is open to the public. For additional information on the meeting, interested persons can contact Sheldon D. Butts, Assistant Secretary, Office of the Secretary, 1111 18th Street NW., Washington, D.C. 20207, telephone (202) 634–7700.

Dated: February 28, 1977.

SADYE E. DUNN,
Secretary.

[FR Doc.77–6479 Filed 3–3–77;8:45 am]

REVISED AGENDA FOR BRIEFING MEETING

This notice announces a Commission decision to revise the agenda for its March 2, 1977 briefing meeting and add a briefing on the flame-retardant "Tris" presented by Dr. Marvin Schneiderman of the National Cancer Institute. The briefing, which is open to the public, is scheduled for 3:30 p.m. in the 3rd floor hearing room, 1111–18th St. NW., Washington, D.C. The original notice of the meeting was published in the FEDERAL REGISTER on February 25, 1977 (42 FR 11033).

As provided in its regulations implementing the Government in the Sunshine Act (16 CFR 1012), the Commission has, by majority vote, on March 1, 1977 determined that Agency business requires this agenda change, and that no earlier announcement of the change was possible. The Commission has previously scheduled and announced a meeting with representatives of the Environmental Defense Fund (EDF) to discuss EDF's petitions on "Tris." This meeting, also open to the public, is scheduled for March 8, 1977, at 10:00 a.m., in the 3rd floor hearing room, 1111–18th St. NW., Washington, D.C.

For additional information on these meetings, interested persons can contact Sheldon D. Butts, Assistant Secretary, Suite 300, 1111–18th Street NW., Washington, D.C. 20207, telephone (202) 634–7700.

Dated: March 2, 1977.

SADYE E. DUNN,
Secretary.

[FR Doc.77–6636 Filed 3–3–77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS AVAILABILITY

Environmental impact statements received by the Council on Environmental Quality from February 21 through February 25, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (April 18, 1977). The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURAL

Contact: Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359–A, Washington, D.C. 20250, 202–447–3965.

FOREST SERVICE

Draft

Upper Rock Creek Unit Plan, Deerlodge National Forest, Granite County, Mont., February 23: The proposed action is the implementation of a revised Multiple Use Plan for the Upper Rock Creek Planning Unit of the Philipsburg Ranger District, Deerlodge National Forest. This action divides the 215,666 acre unit into sixteen management areas and provides general and specific guidance for the management of each. Also included is a change in management direction for 2,650 acres of land in the Moose Creek Planning Unit of the Sula Ranger District, Bitterroot National Forest. Alteration of 21,810 acres of inventoried roadless area and a reduced annual harvest of timber will result. (ELR Order No. 70250.)

Placid-Blanchard Unit Plan, Lolo National Forest, Missoula County, Mont., February 23: Proposed is the implementation of a revised Multiple Use Plan for the Placid-Blanchard Planning Unit, Seeley Lake Ranger District, in Lolo National Forest. The plan recommends that 25,210 acres be managed in various combinations for recreation, aesthetics, fisheries, wildlife, watershed, timber, and range. Another 3,610 acres, 150 of the essentially roadless area, and a near natural area of 3,460 acres, will be managed with only minimum development for back-country recreation, aesthetics, fisheries, wildlife, and watershed. Natural conditions will be modified on 7,970 acres. (ELR Order No. 70262.)

Ochoco National Forest, Timber Management Plan, Oregon, February 23: The proposed action is a revision of the 10-year Timber Management Plan for the Ochoco National Forest. The preferred alternative states a potential allowable harvest level for the next decade that is attainable under the most intensive management that would be technologically feasible over the next 10 years. A potential yield of 147.5 million board feet per year is established. Road construction needed for timber harvest will permanently remove land from production. (ELR Order No. 70246.)

Final

Beartrap-Dutchler Planning Unit, Salmon National Forest, Lemhi County, Idaho, February 23: Proposed is the implementation of a land use plan for the Beartrap-Dutchler Planning Unit which contains approximately 169,000 acres in Lemhi County, Idaho. Adverse impacts include the alteration of wildlife habitat and the subsequent loss of species that are affected by habitat loss. Soil erosion also will occur in areas of timber harvest until revegetation and regeneration of timberstands is accomplished. Comments made by: EPA, DOI, DOC, HUD, AHP, USDA, State and local agencies, concerned groups and persons. (ELR Order No. 70245.)

RURAL ELECTRIFICATION ADMINISTRATION

Draft

Plant Schere, Units 1, 2, 3, and 4, Several Counties in Georgia, February 23: Proposed is the use of guaranteed loan funds to finance a 30 percent ownership in Plant Schere and an undetermined interest in the four 500 kV transmission lines from the plant, located 60 miles south of Atlanta, Georgia. The transmission lines include two lines 5.54 miles long, looping the existing Klondike-Bonaire line; a line 54 miles long, to O'Hara Substation; and a line 44 miles long to the existing Bonaire Substation. The transmission lines from the 3,240 MW coal-fired generating plant will traverse Clayton, Fayette, Spalding, Pike, Lamar, Monroe, Bibb, Crawford, Peach, and Houston Counties. Oxides of nitrogen and sulfur will be released. (ELR Order No. 70259.)

Chalk Point-Lexington Park, 230 kV Trans Line, Prince Georges, St. Mary's, and Calvert Counties, Maryland, February 23: Proposed is the granting by REA of a loan application to Southern Maryland Electric Cooperative, Inc. to finance 20 miles out of a total of approximately 38.6 miles of double-circuit 230 kV transmission line from Chalk Point, Prince Georges County, to Lexington Park, St. Mary's County, via Calvert County. Plans also call for three new switching substations at Chalk Point, Holland Cliff, and Calvert Cliffs. The proposed project will cross 1.1 miles of Maryland National Capital Park and Planning Commission land in Prince Georges County. (ELR Order No. 70261.)

DEPARTMENT OF DEFENSE

AIR FORCE

Contact: Dr. Billy Welch, Room 4D 873, The Pentagon, Washington, D.C. 20330, 202–697–9297.

Final

Craig AFB and Webb AFB, Closure, Alabama and Texas, February 22: This statement proposes two major actions: to close Craig AFB, Selma, Alabama and Webb AFB, Big Spring, Texas. The Flying Training Wing at each base would be inactivated and the pilot training mission would be redistributed among the five remaining Undergraduate Pilot Training bases (Williams AFB, AZ, Laughlin AFB, TX, Vance AFB, OK, Reese AFB, TX, and Columbus AFB, MS) during FY 1977. Concurrent with the termination of the flying training mission, a caretaker force of approximately 320 military and civilian positions would be established at Craig and Webb AFBs. Severe socio-economic impacts will result. Comments made by: HUD, EPA, COE, DOT, VA, HEW, State and local agencies, concerned groups and citizens. (ELR Order No. 70239.)

Kincheloe Air Force Base, Closure, Michigan, February 22: The U.S. Air Force has proposed the following candidate action designed to reduce excess capability and result in substantial resource savings. The action is to inactivate the 449th Bombardment Wing and its supporting organizations, close Kincheloe AFB, MI by the end of FY 1977, and declare the base excess to Air Force requirements. The 16 B–52H aircraft assigned to Kincheloe AFB would be relocated and transferred to the Air Reserve Forces. As a result of base closure, the natural environment is expected to improve. Comments made by: HEW, COE, HUD, DOT, DOI, EPA, State and local agencies, concerned citizens. (ELR Order No. 70240.)

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ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attention: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202–693–6795.

Draft

Santa Ana R. Main Stem (2), Orange, Riverside, and San Bernardino Counties, Calif., February 23: The proposed improvement project concerns the Santa Ana River Main Stem, California, including Santiago Creek and Oak Street Drain. The plan calls for: (a) construction of a new reservoir upstream from Prado Dam; (b) flood plain management, Mentone Dam—Prado Dam; (c) improvement of Oak Street Drain in Corona; (d) modification of Prado Dam and expansion of Prado Reservoir; (e) improvement of the Santa Ana River flood control channel and the lower Santiago Creek channel; and (f) acquisition and preservation of a 92-acre salt marsh area. As many as 154 homes will be displaced. (Washington, D.C. Office.) (ELR Order No. 70247.)

Bel Marin Keys IV-Ignacio Industrial Park 3, Marin County, Calif., February 23: This statement concerns the granting of a regulatory permit to Jack West and Soiland and Associates for the Bel Marin Keys Unit IV-Ignacio Industrial Park Unit 3. The proposed project calls for the excavation and filling of an approximate 99-acre area for proposed lagoon, adjacent lots and streets, and the construction of individual boat docking facilities for each of the single-family detached residences as part of the development of Bel Marin Keys Unit IV. Excavation and filling will also take place on an approximate 40-acre area for development of an industrial/commercial complex as part of the development of Ignacio Industrial Park Unit 3. (San Francisco District.) (ELR Order No. 70251.)

Crooked River Lock and Weir O&M, Alanson, Emmet County, Mich., February 22: The proposed action includes operations and structural maintenance of the Federal lock and weir on the Crooked River of the Inland Route at Alanson, Michigan. Structural maintenance and operations are required to insure the continuance of vessel passage along the Inland Route. Long-term impacts attributable to the Federal structures would be the increased development in the watershed area brought about by the sustained desirability of the project area for water recreation. Water quality would be temporarily affected during the infrequent structural repairs to the revetments, dike, weir and lock chamber pilings. (Detroit District.) (ELR Order No. 70237.)

Okanosan River Urban Levee Project, Okanosan County, Wash., February 23: The proposed action is the improvement of an existing levee system in Okanosan County, Washington. Plans call for a total of 14,100 feet of levee, including 550 feet of flood wall, to be constructed on both banks of the Okanosan River at Omak. The project provides protection from floods having a one percent chance of occurring in any one year. Adverse effects include increased turbidity and total vegetation loss on 19.7 acres. (Seattle District.) (ELB Order No. 70257.)

Final

Pascagoula River, Maintenance, Mississippi, February 22: The proposed action consists of the maintenance of 74 miles of Pascagoula River channel. Project measures will include the removal of obstructions by snagging, and dredging the mouth of the project. Most of the snagging is required in the upper half of the river and the snags will be deposited along the banks. Wildlife habitat will be disrupted by the snagging operations. Comments made by: EPA, DOI, DOC, USDA, DOT, State and local agencies, concerned citizens. (ELR Order No. 70238.)

NAVY

Draft

Naval Petroleum Reserve No. 4, Alaska, February 25: Proposed is the continuation of exploratory drilling for petroleum at 19 additional sites within Naval Petroleum Reserve No. 4 in northern Alaska. The purpose of the project is to explore, inventory, and evaluate the petroleum potential of NPR–4. Exploration activity will result in the removal, due to borrow, of as much as 350 acres of sand dune, gravel bar, or gravel beach habitat; and the covering, in the form of drill pads, airstrips, and access roads, of as much as 255 acres of tundra habitat with this borrow material. (ELR Order No. 70267.)

FEDERAL ENERGY ADMINISTRATION

Contact: Dr. Robert Stern, Director, Office of Environmental Impact, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202–566–9760.

Draft

Coal Conversion Program (2), February 23: This statement proposes FEA's issuance of orders to fossil fuel-fired facilities prohibiting them from burning natural gas or petroleum products as their primary energy source and requiring facilities in the early stages of planning to be built with the capability of burning coal. The following impacts are generally associated with coal burning and vary in degree from site to site: 1) an increase in emissions of air pollutants, 2) increases in solid waste generation, 3) potential increases in land requirements, 4) increases in water pollution, and 5) increases in coal mining, processing, and transport. (ELR Order No. 70260.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street SW., Washington, D.C. 20410, 202–755–6308.

Draft

Rancho San Diego Development, San Diego County, Calif., February 23: Proposed is the development of Rancho San Diego, located in San Diego, California. The 1049-acre project consists of 3,368 dwelling units, with an ultimate population of about 10,000. Plans include allotment of space for a small amount of commercial development, some open space area, and a lake. Adverse impacts include loss of plant and animal life, increases in air and noise pollution, and increased pressure on existing facilities in the area. (ELR Order No. 70249.)

Old Mill Park Subdivision, Marion County, Ind., February 25: The proposed action consists of an application for mortgage insurance under section 203(b) of the National Housing Act for the Old Mill Park Subdivision, Indianapolis, Indiana. The total development will include single family detached dwellings with 565 lots on 226 acres and no multi-family or commercial lots. Construction of the development will result in increases in air and noise pollution and loss of farm land (ELR Order No. 70266.)

Shepard Park West, St. Paul, Ramsey County, Minn., February 23: This statement proposes the approval of mortgage insurance interest reduction and rent subsidy for Shepard Park West in St. Paul, Minnesota. The project will provide 168 apartment units for elderly persons in an eleven story building. Long-term adverse effects include: Increases in noise, air pollution, and vehicular traffic, reduction of scenic views from the bluff above W. 7th St., and incompatibility of scale with remaining residential structures by the planned multi-story structures. (ELR Order No. 70248.)

Verdemar Housing Complex, Humacao, Puerto Rico, February 25: Proposed is the construction of the Verdemar housing project in Humacao, Puerto Rico. The residential complex will occupy 96 cuerdas (93.2 acres) of land and will consist of 761 dwelling units. Plans also call for the construction of playlots, parks, lakes, and a cultural center. Adverse impacts include degradation of air and some damage to the biological community. (ELR Order No. 70265.)

Atascocita Forest Subdivision, Harris County, Tex., February 25: Proposed is the development of the 632-acre Atascocita Forest Subdivision in Harris County, Texas. The project includes 3,570 living units, both single- and multi-family. The development will provide a wide range of living accommodations for 11,773 people. The transition of the site from a natural to an urban area will result in loss of vegetation, elimination of a number of species, and the rechannelization of William's Gully. (ELR Order No. 70264.)

Section 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD).

Draft

Coalinga Sewer Line Extension, Fresno County, Calif., February 22: Proposed is the extension of an existing sewer line from Maple Street north to Phelps Avenue (including an inverted siphon under Los Gatos Creek) in Fresno County, California. This extension will make approximately 160 acres of land available for development, including: limited industrial, service and commercial, recreational, light density residential, and park land uses. Present plans call for the property to be annexed to the City of Coalinga prior to construction of any facilities. Adverse effects include the loss of agricultural land and the displacement of some wildlife. (ELD Order No. 70236.)

Helena, Mont., Eastside No. 2 Sanitary Sewer, February 25: The proposed action is the installation of 7,300 feet of sanitary sewer main in Helena, Montana. The sewer main, which varies in diameter from 12 to 24 inches, is an extension of an existing main, and will tie into a major outfall main 24 inches in diameter. Sewerage collected by the proposed facility flows to a sewage plant and is discharged, after secondary treatment, into Lake Helena. (ELR Order No. 70269.)

Memphis, Tenn., New Chicago Area, February 24: Proposed are a number of improvements to the New Chicago area in Memphis, Tennessee. Plans include improvements to streets, curbs, gutters, and structures. The 2689-acre project area is in north Memphis, bounded by Wolf River on the north, Chelsea Avenue on the south, North Cypress Creek on the east, and an industrial complex on the west. No adverse effects are anticipated. (ELD Order No. 70263.)

Final

Jackson County, Ark., Breckenridge-Union Water System, February 23: Proposed is the construction of the Breckenridge-Union Water System to provide potable water facilities for So. Jackson County, Arkansas. Plans call for the construction of a new well and water treatment plant, 2 75,000-gallon elevated storage tanks, and water distribution lines parallel to and across Hwys. 14, 17, 23 and 224. The communities of Erwin, Auvergne, Shoffner, Weldon, Island, and Tupelo will be served by the system. Adverse effects include soil movement, loss of crop land, and changes in characteristic landscape. Comments made by: EPA, DOI, state and local agencies, concerned citizens. (ELR Order No. 70255.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202–343–3891.

BUREAU OF RECLAMATION

Draft

Squaizel Coulee Wasteway, Franklin County, Wash., February 23: The proposed project would enlarge 3.2 miles of constructed temporary channel of the Esquatzel Coulee Wasteway in Franklin, Washington. The constructed reach would be extended .9 mile downstream and 1.5 miles of constructed channel upstream from the reach would be abandoned. Five thousand linear feet of unstable banks in the natural reaches of the wasteway would be sloped and stabilized. Adverse impacts include reduction of vegetation at borrow sites; displacement of 85 acres of agricultural land and 10 acres of undisturbed land; and acquisition of 300 acres of farm land and 1,500–2,000 acres of rangeland. (ELR Order No. 70256.)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contact: Mr. Nathaniel Cohen, Director, Office of Policy Analysis, National Aeronautics and Space Administration, 400 Maryland Avenue, Washington, D.C. 20546.

Supplement

Langley Research Center, NTF (S–2), York County, Va., February 25: This statement supplements a final EIS filed with CEQ in August, 1971. Proposed is the construction at Langley Research Center, Virginia, of the National Transonic Facility (NTF) for testing a broad spectrum of commercial and military aircraft and space vehicles up to full-scale Reynolds numbers. The facility will incorporate a cryogenic approach to achieve high Reynolds numbers by using the evaporation of liquid nitrogen to obtain a low temperature test medium. Adverse effects include discharge of cold gaseous nitrogen and increase in noise due to the nitrogen vent system and tunnel drive fan. (ELR Order No. 70268.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Benard Rersche, Director of Division of Reactor Licensing, P–722, NRC, Washington, D.C. 20555, 301–492–7373.

Final

Montague Nuclear Power Station, Units 1 and 2, Franklin County, Mass., February 23: The proposed action is the issuance of construction permits to the Northeast Nuclear Energy Company for the construction of the Montague Nuclear Power Station, Units 1 and 2, located on the Connecticut River in the Town of Montague. The plant will employ two boiling-water reactors to produce up to 3,579 megawatts thermal each and 1,150 MWe each. A design power level of 3,759 MWt and 1,220 MWe for each unit is anticipated. Construction will require the disturbance of 200 acres of the 1,900-acre site. Cooling water will be drawn from and discharged to the Connecticut River. Approximately 118 miles of transmission lines will be constructed. Comments made by: USDA, COE, DOC, HEW, HUD, DOI, DOT, EPA, FPC, and State and local agencies, concerned citizens. (ELR Order No. 70254.)

Phipps Bend Nuclear Plant, Units 1 and 2, Hawkins County, Tenn., February 23: Proposed is the issuance of construction permits to the Tennessee Valley Authority for the construction of the Phipps Bend Nuclear Plant Units 1 and 2. The plant will employ two boiling water reactors to produce up to 3,579 megawatts thermal (MWt) from each unit. Steam turbine generators will use this heat to provide 1,233 MWe of electrical power capacity. The exhaust steam will be cooled by natural-draft cooling towers. Adverse effects include disturbance of 406 acres. Comments made by: USDA, HUD, HEW, DOT, TVA, DOI, EPA, ERDA, FPC, and State and local agencies, concerned citizens. (ELR Order No. 70242.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202–426–4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Canton Rd. Relocation, I–75 to Marietta, Cobb County, Ga., February 23: Proposed is the construction of a four lane facility to connect S.R. 5, I–75, and U.S. 41 with north Marietta at Church and Cherokee Streets, Cobb County, Georgia. The project commences on Church and Cherokee Streets and traverses northeasterly 1.5 miles, terminating at the I–75 interchange. Construction of the facility will result in the generation of higher levels of noise and air pollution. (Region 4.) (ELR Order No. 70253.)

U.S. 421 Improve, Purdue University—U.S. 20, LaPorte County, Ind., February 23: This project, designated Federal-Aid Primary Route F–0830, calls for the improvement of a section of U.S. 421 from the Purdue University North Central Campus to U.S. 20 in LaPorte County. Four alternatives are currently being considered for the approximately 6.6 mile improvement in an effort to provide increased access to the University and to recreational and industrial sections in this rapidly growing area. Right-of-way requirements would displace some residences and businesses and sever some agricultural land. (Region 5.) (ELR Order No. 70241.)

Bailey Ave., Peter-Neatum Streets, Hinds County, Miss., February 23: The proposed construction project is located within the city limits of Jackson, Mississippi. The project is approximately 1,878 feet in length and extends in a northerly direction from Peter to Neatum Streets. Construction is to take place on existing right-of-way where feasible; however, approximately 2.2 acres of right-of-way will be required. The completed project will provide a basic four-lane facility meeting criteria for an arterial. (Region 4.) (ELR Order No. 70252.)

I–279, U.S. 19 Interchange—I–79 Interchange, Allegheny County, Pa., February 23: The proposed action is the construction of Legislative Route 1021, Interstate 279, from its interchange with Perry Highway (U.S. 19) in northern Pittsburgh; north through Ross Township, Ohio Township and Franklin Park Borough; to its interchange with Interstate 79 in the area known as Five Points. The roadway section is 7.9 miles long; six lanes wide for its southern 5.2 miles, and four lanes wide for the remaining 2.7 miles. Homes and businesses will be relocated and an additional 666–729 acres of land will be committed to transportation purposes. (Region 3.) (ELR Order No. 70243.)

I.R. 1013, Lackawanna Valley and Carbondale, Lackawanna County, Pa., February 23: The proposed project is a four-lane, divided, limited access facility 17 miles long, located in Lackawanna County. The Lackawanna Valley Expressway is 12 miles in length, beginning in Scranton and terminating in Mayfield Borough with a connection to the Carbondale Bypass. The Carbondale Bypass is 5 miles in length, beginning in Mayfield Borough and terminating in North Carbondale on U.S. Route 6. Both projects would be on new right-of-way. Adverse effects include displacement of individuals and construction disruption. (Region 3.) (ELR Order No. 70244.)

Final

Piilani Highway, Maui, Maui County, Hawaii, February 23: The project involves the construction of the Piilani Highway which will be located in the Kihei-Makena area on the Island of Maui, Maui County. The 12.6 mile long highway will have two lanes with a basic 100 feet right-of-way. The terminal points will be at the vicinity of Mokulele Highway-Kihei Road intersection and the Makena Road-Kula Road intersection. One residence will be displaced and the general alignment will pass mainly through agricultural grazing land. (Region 9.) Comments made by: COE, DOD, DOT, HUD, USDA, HEW, EPA, DOI, State agencies, and concerned citizens. (ELR Order No. 70256.)

DAVID W. TUNDERMANN,
Acting General Counsel.

[FR Doc.77–6476 Filed 3–3–77;8:45 am]

INTERAGENCY COMMITTEE ON PRIORITY CHEMICALS TESTING

Meeting

This notice is intended to advise all interested persons of the schedule for the meetings of the Interagency Committee on Priority Chemicals Testing established under Section 4(e) of the Toxic Substances Control Act for the purpose of making recommendations to the Administrator of the Environmental Protection Agency regarding priorities for issuance of requirements for testing of chemical substances and mixtures.

In accordance with the schedule established at the Committee's February 24 meeting, a meeting will be held Thursday, March 10, 1977, at 9:00 a.m. in Room 5104, New Executive Office Building, 726 Jackson Place, Washington, D.C.

All interested persons are invited to attend.

Dated: March 2, 1977.

WARREN R. MUIR,
Interim Chairman.

[FR Doc.77–6603 Filed 3–3–77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

PRIVACY ACT OF 1974

New Systems of Records

The Department of the Air Force systems of records notices as prescribed by the Privacy Act of 1974 have been published in the FEDERAL REGISTER as follows:

FR Doc. 75–21075 (40 FR 35403) August 18, 1975.

FR Doc. 75–22752 (40 FR 39677) August 26, 1975.

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FR Doc. 75-22754 (40 FR 30711) August 28, 1975.
FR Doc. 75-36296 (41 FR 2954) January 20, 1976.
FR Doc. 76-21185 (41 FR 30979) July 26, 1976.

Notice is hereby given that the Department of the Air Force has submitted two proposed new systems of records on January 26, 1977 pursuant to the provisions of Office of Management and Budget (OMB) Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975 and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)). This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

The Department of the Air Force invites public comment to be considered on all parts of the following proposed new records systems. Interested persons are invited to submit written data, views and arguments to the system manager identified in the particular record system notice on or before April 4, 1977. The systems will be effective as proposed without further notice, unless comments are received which result in a contrary determination.

F03504 OYUEBLC

System name:

Air Traffic Control (ATC) Personnel Reporting.

System location:

Headquarters, Air Force Communications Service (AFCS), DCS/P, Richards-Gebaur AFB MO 64030. AFCS Sub-commands.

Categories of individuals covered by the system:

Air Force active duty officer and enlisted personnel in the Air Traffic Control career field.

Categories of records in the system:

Contains name, social security account number (SSAN), unit number, grade, Air Force specialty code (AFSC), available status, status date, date assigned, facility assigned, duty assignment within facility, current facility rating/position certification held, previous facility ratings held, and Terminal Instrument Procedures (TERPS) qualifications.

Authority for maintenance of the system:

10 U.S.C. 8012.

Routine use of records maintained in the system, including categories of users and the purposes of such uses:

To effect close managerial control over assignment and utilization of personnel in the Air Traffic Control career field. To provide a real time personnel reporting system to insure continuity of operations. To provide a common data base for use in daily coordination between command and sub-command levels on manning related problems, thereby precluding the need for separate real time air traffic control manning reports at each sub-command. To provide a data base for establishing and analyzing manning trends in the Air Traffic Control officer and enlisted career fields. To provide a consolidated listing of statistical data, not available in a single reference. Used by Major Air Command and Sub-command (AFCS areas and independent groups.) Provides users with the capability for daily tracking of personnel resources. Provides users with real time information on a unit's usable (facility rated/position certified) controller strength by facility. Allows users to more accurately project usable controller strength for a facility by use of estimated facility rating/position certification and upgrade time. Provides information to users which cannot be extracted from other files to include: facility assigned, duty assignment, facility rating/position certification in training for, estimated completion date for facility rating/position certification training, Air Traffic Control school graduation date, estimated upgrade date, current facility rating/position certifications held, previous facility ratings held and Terminal Instrument Procedures (TERPS) qualifications. Allows users to more accurately verify manning assistance requests, emergency manning level and air traffic control service curtailment reports, manning waiver requests and special projects as required by Deputy Chief Staff Air Traffic Services. Allows users to establish and analyze trends in the Air Traffic Control officer and enlisted manning posture; e.g., average experience levels, time on station, and number of personnel in training by command, sub-command or unit as required.

Policies and practices for storing, retrieving, accessing retaining, and disposing of records in the system:

Storage:

Maintained on computer magnetic tapes, disks, and computer paper printouts.

Retrievability:

Social security account number (SSAN), or other identification number or system identifier.

Safeguards:

Records are accessed by persons responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets, rooms, or buildings.

Retention and disposal:

Retained in office files until superseded, obsolete, no longer needed for reference, then destroyed by tearing into pieces, shredding, pulping, macerating, burning, or erasing in the case of magnetic media.

System manager(s) and address:

Deputy Chief Staff, Air Traffic Services, Headquarters, Air Force Communications Service and intermediate level.

Air Traffic Control Operations Division at group and squadron level.

Chief, Personnel Data Systems Division, Headquarters, Air Force Communications Service, Richards-Gebaur AFB MO 64030.

Notification procedure:

Request from individuals should be addressed to the system manager. Specific information required from requesting individuals to determine whether or not the system contains a record about them are Air Force Speciality Code (AFSC), social security account number (SSAN), uit number. Offices which the requester may visit to obtain information on whether or not the system contains records pertaining to him or her—Air Traffic Services, Air Traffic Control Operations Division, Personnel Data Systems Division, Hq Air Force Communications Service.

Record access procedures:

Individual can obtain assistance in gaining access from the Manager Systems.

Contesting record procedures:

The Air Force's rules for access to records and contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from individuals and automated systems interface.

Systems exempted from certain provisions of the act:

None.

21401 OJ SSFK

System name:

Kindergarten Student File.

System location:

3380 Air Base Group/SSFK, Keesler AFB MS 39534.

Categories of individuals covered by the system:

Children enrolled in kindergarten and their parents.

Categories of records in the system:

Registration forms, enrollment contract, parent authorizations for testing/field trips/forwarding of school records, child/family background questionnaire, test results, and student progress reports.

Authority for maintenance of the system:

10 U.S.C. 8012; 5 U.S.C. 301; and EO 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used by kindergarten personnel to understand and determine special needs of children, to locate parents in case of emergency, to make progress reports to parents, to establish contractual obligations between kindergarten and parents, and to set up car pool listings. Any records in the system may be disclosed as a routine use to other components of the Department of Defense if necessary and relevant for the performance of a lawful function. The records may also be forwarded to any other school at the written request of the parents.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records maintained in file folders and locked in desks or rooms.

Retrievability:

Filed by student name.

Safeguards:

Records are accessed by the kindergarten principal and kindergarten counselor.

Retention and disposal:

Retained in office files for one year after child leaves program or until parent requests transfer of records to another school, whichever comes first. In the event the records are not transferred to another school, they are destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

Systems manager and address:

Kindergarten Principal, 3380 ABGp/SSFK, Keesler AFB MS 39534.

Notification procedure:

Requests from individuals should be addressed to the systems manager. The full name of the student will be required to determine if the system contains a record about him or her. The requester may visit the kindergarten to obtain information on whether the system contains records pertaining to an individual. As proof of identity the requester must present either a current military identification card or driver's license.

Record access procedures:

Individuals can obtain assistance in gaining access from the systems manager.

Record source categories:

Information obtained from parents; test results; student evaluations by kindergarten personnel.

Systems exempted from certain provisions of the act:

None.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MARCH 1, 1977.

[FR Doc.77-6500 Filed 3-3-77;8:45 am]

FEDERAL MARITIME COMMISSION

AMERICAN WEST AFRICAN FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

John K. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

Agreement No. 7680-35, entered into by the member lines of the American West African Freight Conference, amends Article 8a of the conference agreement by increasing the admission fee for membership into the Conference from $7,500.00 to $25,000.00.

Dated: March 1, 1977.

By Order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6562 Filed 3-3-77;8:45 am]

CHICAGO REGIONAL PORT DISTRICT NORTH PIER TERMINAL CO. AND CERES, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 14, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Maxim M. Cohen, General Manager, Chicago Regional Port District, Butler Drive, Lake Calumet Harbor, Chicago, Illinois 60633.

Agreement No. T-3400-1, among the Chicago Regional Port District (Port), North Pier Terminal Company (NPTC) and Ceres, Inc., (Ceres), is an assignment of the basic agreement between the Port and NPTC providing for the Port's two-year lease to NPTC of certain premises, including Transit Shed No. 1, at the west end of the Lower Anchorage Basin on Lake Calumet, Chicago, Illinois, to be used for the purpose of operating a ship, barge, railroad and truck terminal, and warehouse, and for the handling of goods and merchandise in connection therewith. Agreement No. T-3400-1 provides for the assignment to Ceres of NPTC's right, title and interest under Agreement No. T-3400.

By Order of the Federal Maritime Commission.

Dated: February 28, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6560 Filed 3-3-77; 8:45 am]

CITY OF OAKLAND AND SEA-LAND SERVICE, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to

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section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

J. Kerwin Rooney, Port Attorney, Port of Oakland, P.O. Box 2064, 66 Jack London Square, Oakland, California 94604.

Agreement No. T-1768-7, between the City of Oakland (City) and Sea-Land Service, Inc., (Sea-Land) modifies the parties' basic agreement which provides for the preferential assignment of certain marine terminal facilities to Sea-Land. The purpose of the modification is to provide for maintenance and repair of the premises and the cranes.

By Order of the Federal Maritime Commission.

Dated: March 1, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6561 Filed 3-3-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-89]

CENTRAL ILLINOIS PUBLIC SERVICE CO.

Order Granting in Part and Denying in Part Application for Rehearing

FEBRUARY 25, 1977.

On January 27, 1977, Central Illinois Public Service Company (CIPS) filed an application for rehearing of the Commission's order issued December 30, 1976, in this docket.

On December 1, 1976, CIPS filed proposed increases in three separate rates:

1. Rate W-1, for electric service to cooperatives;

2. Rate W-2, for electric service to municipalities; and

3. Rate W-3, for electric service to wholesale customers purchasing partial requirements to supplement self-generation.

On December 28, 1976, the Village of Rantoul, Illinois (Rantoul) filed a motion to reject, protest and petition to intervene. Rantoul maintained that CIPS failed to provide proper notice and service of its proposed rate increase. As a result, Rantoul requested that CIPS' filing be rejected, or in the alternative, suspended for five months.

Our December 30, 1976 order in this proceeding suspended CIPS' proposed rates for one day and set the matter for hearing.

CIPS posits that its proposed increases are modest, no customers complained of the increases in Rates W-1 and W-2,[1] and that the Commission's decision to suspend the rates was activated by Rantoul's filing. CIPS maintains that adequate notice was given to Rantoul and that its motion to reject and protest is without merit. It requests that the Commission cancel the hearing in this docket, find all tendered rate schedules just and reasonable, and terminate this proceeding.

Eleven cooperatives are currently being served under Rate W-1 contained in CIPS FPC Electric Tariff Original Volume No. 1. Five municipal customers are presently served under CIPS FPC Electric Tariff Original Volume No. 2 (Rate W-2) and three under individual contracts. CIPS renders partial requirements service to two customers under FPC Electric Tariff Original Volume No. 3 (Rate W-3). Revised Rates W-1, W-2 and W-3 were proposed to become effective on January 1, 1977; and to the municipalities with contracts, upon expiration of the respective contracts.

CIP's filing indicates that all of the cooperative customers agreed to the charges proposed in revised Rate Schedule W-1. No protest or petition to intervene was filed with respect to proposed Rates W-1 and W-2. Commission review indicates that proposed Rates W-1 and W-2 would not result in excess revenues. We shall therefore grant rehearing in part and terminate the suspension with respect to proposed Rates W-1 and W-2, allowing these rates to become effective without condition. Rates W-1 and W-2 are hereby eliminated as issues in the forthcoming hearing in this docket. CIP's application, to the extent that it requests terminating the proceeding with respect to proposed Rate W-3 is hereby denied.

On January 28, 1977, Rantoul filed a petition for rehearing. It alleges that it was not given adequate and proper notice of CIPS proposed rates and has been denied basic due process. Rantoul states that CIPS only supplied it with a comparison of billings under the old and proposed wholesale rate, a copy of the proposed schedule of rates for W-3 service, and an indication that the total increase to the wholesale class was $441,190; CIPS did not serve Rantoul with all the material it had submitted to the Commission.

Rantoul subsequently requested that CIPS provide it with a complete copy of the filing. The material was received by Rantoul on December 22, 1976. Rantoul maintains that because of other pending FPC matters and the Christmas holiday period, the filing was not examined until December 27, 1976, the day before the expiration of the comment period. Rantoul requests that CIPS' filing of December 1, 1976, be rejected.

CIPS states that it complied with all provisions of the Federal Power Act and the Commission's Regulations, gave Rantoul actual notice of the filing as early as November 23, 1976, and supplied it with all of the information it was entitled to at the time of filing. CIPS further states that additional information was supplied to Rantoul immediately upon its request.

Rantoul points to Section 35.8(a) of our Regulations to support its contention that it was not afforded adequate notice. Section 35.8(a) requires the public utility to file a notice suitable for publication in the FEDERAL REGISTER. The regulation provides the basic form for the notice. The model notice in § 35.8(a) states in relevant part:

> Copies of the filing were served upon the public utilities' jurisdictional customers, (other parties the public utility served, inter alia, state public service commissions, other government agencies, etc.).

CIPS included with its filing a notice contining the following language:

> Copies of the filing were served upon the Company's jurisdictional customers.

It appears that CIPS complied with Section 35.8(a). Of course, the question of whether or not CIPS actually served complete copies of its filing on Rantoul remains.

CIPS maintains that Rantoul received complete notice of the proposed change in rates. In its answer to Rantoul's petition to intervene it states in part:

> Rantoul was provided with a comparison of billings to it under both the current and proposed rates, and a copy of the proposed rate itself and a notice of the filing. Actual notice of the filing was given as early as November 23, 1976. Nothing in the Commission's regulations requires that other material called for in Section 35.13 in its entirety be served upon all customers. Nevertheless, CIPS did furnish this material to counsel for Rantoul on the very day following Rantoul's belated request for that material.[2]

The above passage indicates that a complete filing was not sent to Rantoul initially but only after a specific request was made. Rantoul did not receive the complete filing until December 22, 1976, six days before the expiration of the comment period. Prior to that time it was notified that CIPS was filing for a rate increase, presented with a comparison of billings under the old and proposed wholesale rate, a copy of the pro-

[1] Only Rantoul objected to the W-3 schedule.

[2] Answer of Central Illinois Docket No. ER77-89 filed on December 30, 1976.

posed schedule of rates for W-3 service, and an indication that the total increase to the wholesale class was $441,190. In addition, as of December 1, 1976, the date of the filing, complete copies of CIPS' submittal have been on file at the Commission for public inspection. Based on the foregoing considerations, Rantoul was afforded adequate notice and was provided with a reasonable opportunity to respond to CIPS's filing.

CIPS' filing should not be rejected. It substantially complies with the Commission's regulations governing filing of rate schedules. The Commission, after consideration of all relevant factors, has determined that a one day suspension is appropriate in this case. Length of a suspension period is a matter committed to agency discretion. *Municipal Light Boards* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971).

The Commission finds:

(1) Good cause exists to deny in part and grant in part CIP's application for rehearing. Our order of December 30, 1976 should be modified to terminate the suspension of Rates W-1 and W-2.

(2) Rantoul's application for rehearing presents no legal arguments or facts which would warrant any change or modification of the Commission's order of December 30, 1976, in this docket.

The Commission orders:

(A) CIPS's application for rehearing is denied in part and granted in part as more fully set forth above. Our order of December 30, 1976 is hereby modified to terminate the suspension of Rates W-1 and W-2.

(B) Rantoul's application for rehearing is hereby denied.

(C) CIPS is no longer required to file the report on billing determinants and revenues pursuant to Section 35.19a of the Commission's Regulations for Rate Schedules W-1 and W-2. However CIPS shall continue such reporting for Rate W-3.

(D) The Secretary shall cause prompt publication of this order be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6506 Filed 3-3-77;8:45 am]

[Docket No. CP77-147]

FT. PIERCE UTILITY AUTHORITY, ET AL.

Notice of Petition and Complaint

FEBRUARY 28, 1977.

Ft. Pierce Utility Authority of the City of Ft. Pierce, Gainesville Alachua County Regional Electric Water and Sewer Utilities, Sebring Utilities Commission, City of Homestead, City of Kissimmee, City of Lakeland, City of Starke, City of Tallahassee, Complainants v. Florida Gas Transmission Company, Florida Power & Light Company, Florida Power Corporation, Amoco Production Company, Austral Oil Company, Inc., Defendants.

Take notice that on January 18, 1977, Ft. Pierce Utility Authority of the City of Ft. Pierce, 311 North Indian River Drive, Ft. Pierce, Florida 33450, Gainesville Alachua County Regional Electric Water and Sewer Utilities, P.O. Box 490, Gainesville, Florida 32601, Sebring Utilities Commission, South Commerce Avenue, Sebring, Florida 33870, and the Cities of Homestead, 790 North Homestead Boulevard, Homestead, Florida 33030, Kissimmee, P.O. Box 590, Kissimmee, Florida 32741, Lakeland, 1000 East Parker Street, Lakeland, Florida 33801, Starke, City Hall, Starke, Florida 32091, and Tallahassee, Route 4, Box 450, Tallahassee, Florida 32301 (Florida Cities) filed in Docket No. CP77-147 a petition pursuant to Sections 1.6 and 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.6 and 1.7) that on a temporary and permanent basis (1) the Commission order a curtailment of the transportation gas on the Florida Gas Transmission Company (FGT) system to help meet certain grants of extraordinary relief and (2) the Commission order, as a condition of continued transportation, that the T-3 contract volumes be curtailed proportionately with the volumes to which the direct preferred interruptible customers would be otherwise entitled, all as more fully set forth in the petition and complaint which is on file with the Commission and open to public inspection.

Florida Cities assert the following are statements of facts supporting their request:

1. Each of Florida Cities generates electricity for the benefit of its taxpayers and rate payers. Florida Cities range in approximate size from Starke, with a population of 5,210 and installed capacity of 10.79 mw, to Tallahassee, with a population of 86,404 and installed capacity of 277.77 mw. In 1975, Florida Cities' combined generating capacity was 987.97 mw. Each of the Florida Cities purchases natural gas from FGT under a direct preferred interruptible contract, and Ft. Pierce and Starke also purchase gas for resale distribution under firm wholesale for resale contracts with FGT.

2. FGT, a Delaware corporation operating an interstate pipeline from Texas to southern Florida, is a wholly owned subsidiary of Florida Gas Company, a Florida holding company.

3. Florida Power and Light Company (FP&L) and Florida Power Corporation (Florida Power) are two large Florida electric public utilities that purchase gas directly from natural gas producers at the wellhead, with the gas being delivered to FGT for transportation by FGT and redelivery to the power companies in Florida.

4. There are three transportation contracts between FGT and the power companies. The first arrangement, T-1, was entered into in 1957 by FGT's predecessor company and Florida Power. Florida Power buys natural gas from Sun Oil Company and Pure Oil Company at the wellhead. This gas purchase contract calls for a daily contract quantity of 50,000 Mcf over a term of 20 years; it expires in 1979. The gas delivered pursuant to this contract is commingled in FGT's pipeline and transported interstate for delivery to Florida Power.

The T-2 contract was entered into by FGT and FP&L. FP&L purchases gas directly from Sun Oil Company. Under the contract deliveries to FP&L average 100,000 Mcf per day on terms and conditions similar to those in the T-1 contract.

The T-3 contract was entered into by FGT and FP&L in 1965 and provides for the interstate transportation of gas by Pan American Petroleum Corporation (now Amoco Production Company (Amoco)) and Austral Oil Company (Austral). This contract specifies deliveries of the thermal equivalent of 200,000 million Btu's per day over a 20-year term, expiring in 1987.

None of the gas transported pursuant to these three contracts has been curtailed.

FGT transports approximately 350,000 Mcf of gas per day under these contracts with the capacity of the FGT pipeline being approximately 725,000 Mcf per day. During 1976, total deliveries averaged about 625,000 Mcf per day, with gas transported pursuant to these transportation contracts accounting for well over half of FGT's total deliveries.

5. FGT has a final gas curtailment plan resulting from a system-wide settlement approved by the Commission in Florida Gas Transmission Co. et al, Docket No. RP66-4, et al. (50 FPC 239). The transportation gas is not subject to curtailment.

6. The FGT curtailment plan gives the highest sales priority to resale firm service, i.e., service to small residential and commercial users. A few direct firm customers and beneficiaries of extraordinary relief orders have priority over interruptible gas uses. Gas purchased for resale interruptible customers has priority over gas purchased directly from the pipeline by interruptible customers. Lower priority categories of interruptible gas use are presently being completely curtailed.

FLORIDA CITIES STATE THEIR POSITION AS FOLLOWS

Florida Cities purchase most of their gas under direct preferred interruptible contracts with FGT and the latter's failure to deliver gas in the quantities contracted for has seriously and adversely affected Florida Cities.

Florida Cities have been denied access to nuclear power and because of their small size, they have been unable to build independently nuclear plants, and, until recently, neither FP&L nor Florida Power has been willing to participate in a joint nuclear project. While Florida Power has entered into a participation agreement whereby a number of cities and Seminole Electric Cooperative, Inc., own a small undivided share of Florida Power's Crystal River Unit No. 3, FP&L still adamantly refuses to grant participation rights in either its operating nuclear units or in units under construction or in the planning phase.

With an insignificant exception affecting two small unrelated cities in the northwestern part of the state, hydro-

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electric power is unavailable in Florida and Florida Cities do not have access to coal resources. While some of the cities may be able to construct and operate coal fired units in the future, conversion of existing units is impractical. Moreover, since most of the cities are located inland and since Florida has no coal resources of its own, the transportation of coal to these cities presents numerous problems. Thus, the alternatives to natural gas available to Florida Cities are, as a practical matter, limited to imported oil, which is expensive and of uncertain supply.

Testimony and exhibits presented in recent Commission proceedings involving Florida Cities and FGT show that, apart from other disadvantages resulting from FGT's failure to deliver gas, to the extent Florida Cities have not received gas they have had to purchase oil at approximately three times the price of gas. While recent gas price increases ordered by the Commission are likely to reduce the differential Florida Cities and their ratepayers are suffering and, without relief, would continue to suffer severe economic hardship as a result of FGT's curtailment of their gas supply.

FP&L, the state's largest electric utility, generates approximately 25 percent of its energy with natural gas, obtained pursuant to its T–2 and T–3 contracts with FGT. An additional 25 percent of its generation is nuclear-powered, with the result that FP&L is able to generate about half of its total energy at costs substantially lower than the costs incurred by Florida Cities, which must rely almost solely upon fuel oil.

As a result of the above factors, it has been contended by some that presently independent municipally owned and operated electric systems would be forced to sell their systems. Natural gas should not be allocated in such a way that only the ratepayers of small utilities are deprived of the economic and other benefits of gas-generated electricity, particularly where such deprivation may significantly contribute to the elimination of those systems as competitive entities.

Florida Cities do not believe there is legal or equitable justification sufficient for continuation of the present T–3 arrangement. Terms of the T–3 contract are, in may respects, similar to those contained in the "warranty" contract between Amoco and FGT which accounts for a major portion of the gas available to FGT for its own customers. At the very least, commercial legal principles require that available gas be apportioned among competing buyers with similar claims. It is demonstrable that FGT purportedly gave up gas rights under its warranty contract with Amoco in connection with the negotiation of the T–3 contract. These circumstances do not support FP&L's enjoyment of a continued and uncurtailed supply of natural gas at the expense of Florida Cities and other customers.

To the best of Florida Cities knowledge, similar specific problems are not posed by the T–1 and T–2 contracts. Unlike the case of the T–3 contract, Florida Cities have no evidence that FGT's entering into the T–1 and T–2 contracts had a direct and demonstrable effect upon the gas supply available to FGT to meet its contract obligations to its own customers. Thus, absent a general review of FGT's curtailment plan and because of the desirability of maintaining approved commercial arrangements, Florida Cities do not seek a general curtailment of T–1 and T–2 gas at this time. Should the Commission find the present curtailment plan to be discriminatory, however, the status of all the transportation gas, including gas being delivered pursuant to the T–1 and T–2 contracts, would have to be reviewed. Where a new curtailment plan ordered, Florida Cities believe that all T-gas would have to be proportionately curtailed.

Finally, to the extent applications for extraordinary relief have been granted, thereby upsetting expectations reasonably assumed under the existing curtailment plan, transportation gas users should help provide the gas thus allocated to customers found to have higher priorities.

Florida Cities Present the Following Arguments

Argument I

The transportation contracts should bear their fair share of curtailments ascribable to extraordinary relief orders. FGT's curtailment plan results from a settlement approved by the Commission. Agreements between a pipeline and its customers should be gievn great weight. It is wholly reasonable that parties be expected to honor agreements upon which not only are claims settled, but upon which reliances and expectations concerning future performances are created.

Where an order for extraordinary relief has the practical effect of modifying an established curtailment plan, the expections of all parties to the agreement are upset. Had customers been able to foresee such modifications in curtailment plans, they might, for instance, have entered into contracts for a class of service different from that they in fact chose or have sought different arrangements. Before severe curtailments, Florida Cities were gas-reliant to a far greater extent that the large investor-owned utilities with whom they compete. Within this context it is discriminatory and inequitable that extraordinary relief volumes should come from "purchase" gas customers and not at all from transportation customers.

The Commission has granted in whole or in part five applications for extraordinary relief filed by industrial customers on the FGT pipeline system, involving annual deliveries of the thermal equivalent of about 4 trillion Btu's. In each of these dockets, Florida Cities requested the Commission to consider whether the transportation gas should be insulated from the impact of special relief orders and whether relief ordered should be taken solely from FGT's direct and resale classes of customers.

In these extraordinary relief proceedings, Florida Cities have argued, inter alia, that undue discrimination results from allowing extraordinary relief gas to be allocated solely from the preferred interruptible class and to a lesser extent, from the resale interruptible class in all relevant functional aspects. In the course of the extraordinary relief proceedings, Florida Cities did not seek a change in FGT's curtailment plan, nor did they seek to enlarge their own rights as against FGT's other customers. However, after a reallocation of gas has been ordered to give applicants for extraordinary relief volumes of gas additional to those they are entitled to under their contracts and FGT's tariff and settlement agreements, the burden of that reallocation though not to be borne solely by the direct preferred interruptible and resale interruptible classes.

Under the status quo, gas transported for FP&L and Florida Power is not subject to curtailment. However, Florida Cities' rights under their contracts and settlements and under FGT's curtailment plan presume an equality of treatment with other direct preferred interruptible customers. These rights have been altered by the Commission's orders granting extraordinary relief. Florida Cities asserts that the United States Court of Appeals for the Fifth Circuit decision in *Ft. Pierce Utility Authority of the City of Ft. Pierce, et al.* v. *FPC*, 526 F. 2nd 993, 997 (1976), shows that the FPC has jurisdiction to include transportation gas in curtailment programs and that the Commission has jurisdiction to correct inequities that arise from forced transfers of gas to meet preferred needs.

Since the Commission has refused to consider the equities involved in insulating the transportation sales from the impact of orders granting extraordinary relief within the context of the extraordinary relief proceedings themselves, as Florida Cities consider appropriate, Florida Cities petition that the Commission institute separate proceedings, pursuant to Sections 1.6 and 1.7 of the Commission's Rules of Practice and Procedure as may be appropriate, wherein such equities may be considered.

Argument II

The Commission should make the T–3 gas subject to curtailment.—A. *Louisiana Power & Light establishes the authority of the Commission to curtail T-gas.* The Commission has jurisdiction to curtail the transportation gas in its entirety. *FPC* v. *Louisiana Power & Light Co.*, 406 U.S. 621 (1972). FGT transports such gas as part of a commingled gas stream. *California* v. *LoVaca Pipe Line Co.*, 379 U.S. 365 (1965).

Since the Commission's jurisdiction over curtailment stems not from its regulatory authority over "sales for regulatory authority over sales for resale," but from its control over transportation. *FPC* v. *Louisiana Power & Light Company, supra*, the Commission has the jurisdiction to make continued transportation of gas by FGT conditional upon its agreement to curtail (or upon FP&L's acceptance of such condition). Further,

while the transportation gas has been finally certificated such final certification cannot be controlling vis-a-vis the Commission's power to curtail. *FPC* v. *Louisiana Power & Light Co., supra*, Florida Cities also assert that the courts have held repeatedly, private contracts cannot defeat the Commission's jurisdiction to implement equitable curtailment plans.

Moreover, in *Florida Economic Advisory Council v. FPC*, 251 F. 2nd 643 (1957), certiorari denied, 356 U.S. 959 (1958), involving the original certification of the T–1 and T–2 contracts, the Commission and courts specifically left open the question of jurisdictional status of the contracts and in certificating the T–3 contract, the Commission held that contract to be nonjurisdictional as to rates. However, it made expressly clear that the jurisdiction over transportation remained. Since *Louisiana Power & Light Co., supra*, and *Ft. Pierce Utilities Authority, supra*, confirm the Commission's jurisdiction to regulate gas allocations through its "transportation" authority, there is no legal prohibition against curtailment of the T-gas. Since the gas is transported by FGT there is a right of curtailment as a condition of continued transportation.

The question is one, therefore, not of the authority of the Commission to curtail the transportation contracts, but of the equities of curtailment, it is stated.

B. *T–3 gas should be curtailed on the same basis as direct preferred interruptible gas.* Three individual factors warrant curtailment of the T–3 gas as part of the direct preferred interruptible class:

1. Use characteristics are exactly analogous.

2. The impact of not curtailing the transportation gas may be to jeopardize certain independent individual electric systems.

3. Unbeknownst to the Florida Cities and Commission, the T–3 contract was secured at the price of FGT's attempted sacrifice of obligations to its customers.

The similarities in use characteristic of FP&L and the direct preferred interruptible customers are noted and Florida Cities state that there is no equitable reason why FP&L's electric customers should be advantaged through its access to inexpensive and environmentally compatible fuel supply to the exclusion of Florida Cities' customers.

Unless FPL is willing to sell base load power based upon its costs of gas and nuclear generation separately, the failure of the Commission to curtail natural gas deliveries to FP&L must inevitably erode Florida Cities' competitive position. This problem is illustrated by the fact that FP&L is contemplating acquisitions of existing systems.

Faced with the historic refusals to deal by Florida Power and FP&L, Florida Cities attempted to protect themselves by entering into long-term contracts for natural gas supplies, it is asserted. In 1972, Florida Cities entered into a stipulation and consent decree before the District Court under which FGT stated specifically amounts of gas estimated to be available to Florida Cities. *City of Ft. Pierce, et al.* v. *Florida Gas Transmission Co.*, S.D. Fla., Miami Division, Case No. 74–1494–CIV–CA (August 31, 1972). As a part of the stipulation, FGT also obligated itself to use its "best efforts" to provide Florida Cities with the amounts and percentages of gas deliveries reflected in the stipulation. Florida Cities state that for the instant purposes, without discussing the causes of a failure of gas deliveries by FGT, no reason is presented why the expectations of FP&L alone should be met, especially since it is best able to fend for itself.

While the above factors are relevant to the question of curtailment of T-gas in its entirety, the circumstances surrounding the T–3 contract are such to warrant immediate corrective action, it is stated. Florida Cities assert that a major portion of FGT's gas supply available for its customers comes from 100,000 Mcf per day warranty contract between Amoco and Austral and FGT and if taken at maximum deliveries, this contract alone would provide about ⅓ of FGT's current gas deliveries exclusive of transportation gas. However, on information and belief, it is indicated that Amoco and Austral are now delivering less than 15,000 Mcf per day; therefore, it can be seen that a major reason for the shortfall of gas deliveries to Florida Cities results from the limited deliveries under this one contract. It is stated that for years FGT referred to this source of gas supply as a major basis for its secured position.

Florida Cities indicates that the essential background to the underdeliveries is as follows:

In 1967, Amoco and Austral entered into a separate warranty contract with FP&L to supply FP&L with 200,000 Mcf per day. This is the T–3 contract.

In Docket No. CP74–192, wherein FGT seeks authorization to abandon substantial existing pipeline transportation facilities due to a claimed lack of gas supply and sell those facilities to a wholly affiliated company for products transportation, it was uncovered that the reason purportedly justifying Amoco's underdeliveries to FGT was a secret agreement entered into between Amoco and FGT under which Amoco was allowed to limit gas deliveries to FGT, it is asserted, and according to FGT, said agreement was entered into to prevent Amoco and Austral from pulling out of the T–3 warranty contract, it is further asserted.

Florida Cities indicate that the matter is illustrated in a May 27, 1971, memorandum to files from H. L. Wilhite, with copies to Florida Gas Company's top management wherein it is stated (1) the agreement had been entered into to further a proposed pipeline expansion to serve FP&L with Amoco gas and (2) that the Company believed that despite the agreement it retained the legal right to request 100,000 Mcf per day.

It is indicated that in order to protect the gas deliveries to FP&L, FGT was purchasing gas that it did not need, apparently at the expense of later deliveries and that insofar as other gas customers, apart from FP&L are concerned, they are doubly damaged since they are receiving underdeliveries from the Amoco-Austral warranty contract and, at the same time, FGT's reserves sold to Transcontinental Gas Pipe Line Corporation (to allow for greater initial takes from Amoco-Austral) were depleted.

It is alleged that the underlying T–3 contract was a result of FGT's deliberate sacrificing of its rights to its customers for the benefit of FP&L and that under these circumstances, there is no reason or basis to continue the discriminatory deliveries to FP&L as against FGT's other customers. It is further alleged that even absent this history, under common law, if Amoco did not have enough gas to serve both its warranty obligations to FGT and to FP&L, it would have had to apportion between them.

Florida Cities states that while there are substantial reasons for curtailing the T–1 and T–2 gas, they do not now request such curtailments, unless the full curtailment plan is to be reviewed, but that the circumstances surrounding the T–3 contracts clearly warrant curtailment. However, since the totality of the circumstances surrounding the T–3 contracts were not present for the T–1 and T–2 contracts, Florida Cities do not now press the issue, it is said, and, further, it is said, that if the T–3 contract were curtailed, Florida Cities' and FP&L's reasonable commercial expectations would be fulfilled in some degree.

In conclusion Florida Cities state: In view of the compelling equitable circumstances surrounding the T–3 contract, the similar or lower end-use priorities of T–3 gas and direct preferred interruptible gas and the anti-competitive results from failure to curtail, Florida Cities seek immediate pro rata curtailment of the T–3 gas. If the Commission were to order a revamping of the FGT curtailment plan in the "Lehigh Portland Cement" case, Docket No. RP75–79, or otherwise, thereby limiting past reliances, then the T-gas in its entirety should be subject to curtailment. Since the extraordinary relief applications effectively change the FGT permanent curtailment plan, thereby upsetting existing expectations, and in view of the factors discussed in the instant petition, to the extent of such extraordinary relief orders, Florida Cities request immediate curtailment of T-gas.

Any person desiring to be heard or to make any protest with reference to said petition and complaint should on or before March 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc.77–6509 Filed 3–3–77;8:45 am]

V4243 MAR 4 77 UMI

[Docket Nos. E-9091, ER76-397, E-9521 and E-9522]

GEORGIA POWER CO.

Order Accepting Proposed Settlement Agreement Consolidating for Limited Purposes and Terminating Investigations

FEBRUARY 25, 1977.

This order approves a settlement agreement which terminates these dockets.

On October 31, 1974, Georgia Power Company (Georgia Power) tendered for filing in Docket No. E-9091 proposed increases in its rates for firm power service to the City of Dalton, Georgia (Dalton), Oglethorpe Electric Membership Corporation (Oglethorpe), and The Georgia Municipal Association, Inc. (Municipal). On November 26, 1974, Georgia Power submitted additional data to complete the filing requirements of the Commission's regulations. The proposed rates would have resulted in an increase in revenues of $42,981,351 based upon the calendar year of 1975. By order issued December 26, 1974, the Commission accepted for filing and suspended the proposed rate increase to become effective May 26, 1975, subject to refund.

On October 6, 1975, as supplemented on November 25, 1975, Georgia Power filed revised tariff sheets setting forth rates reflecting the elimination of construction work in progress from its rate base in compliance with the Commission's order of August 5, 1975. The Commission accepted the revised tariff sheets in an order of December 24, 1975.

On December 29, 1975, as supplemented on February 20, 1975, Georgia Power tendered in Docket No. ER76-397 a proposed fuel adjustment clause to comport with the Commission's Order No. 517. In addition, to compensate for an alleged revenue loss occasioned by the elimination of the lag in the proposed clause, Georgia Power included a fuel adjustment surcharge of $.00224 per kWh to be charged for a period of six months. By order issued March 19, 1976, the Commission accepted for filing and suspended the proposed changes in the fuel clause to become effective March 23, 1976, subject to refund, and consolidated Docket No. ER76-397 with Docket No. E-9091.

On June 30, 1975, Georgia Power tendered for filing in Docket Nos. E-9521 and E-9522 proposed new tariffs for partial requirements service (PR-1) and transmission service (TS-1) to Oglethorpe. By order issued September 11, 1975, the Commission accepted for filing the proposed PR-1 and TS-1 tariffs to become effective July 1, 1975, subject to refund and subject to stipulation that Georgia Power file substitute tariff sheets within thirty days of the issuance of the order. The July 1, 1975, effective date was requested because Oglethorpe began receiving output from its 30% ownership in the Hatch Nuclear Plant on July 1, 1975. As of July 1 1975, Oglethorpe ceased to receive service under Georgia Power's full requirements tariff rate in Docket No. E-9091. The Municipal Electric Authority of Georgia (MEAG) intervened in those two docketed proceedings.

By an order issued January 21, 1976, the Commission accepted for filing Georgia Power's revised tariff sheets which excluded construction work in progress from the rate base.

As a result of a settlement conference held on November 10, 1976, a proposed agreement concerning the above mentioned four dockets was reached. On November 30, 1976, Georgia Power submitted, "A Motion To Approve Settlement Agreement and Certify the Record to the Commission." It also filed a, "Motion to Consolidate for Limited Purpose and a Motion to Terminate Investigations."

Public notice of the proposed Settlement Agreement concerning all four dockets was issued on December 7, 1976, with comments, protests or petitions to intervene due on or before December 13, 1976. On December 10, 1976, the Staff filed comments indicating that the rates proposed in the Agreement were acceptable. No other responses were received pursuant to this notice.

Succinctly, the Settlement Agreement provides that: (1) upon receipt of FPC approval of the terms of this settlement, Georgia Power will request the U.S. Court of Appeals for the District of Columbia to dismiss with prejudice the petitions for review now before it of certain FPC orders in the following numbered court cases—75-1940, 75-2085, and 76-1365; (2) Georgia Power will retain all the revenues collected in Docket No. E-9091 under the WR-8 rate schedule as revised, which will reflect the exclusion of construction work in progress from rate base; (3) Georgia Power will refund to each municipality and to Dalton approximately 75% (all except the first $1 million) of the revenues collected from each pursuant to the surcharge, with simple interest at 9%; (4) Georgia Power will refund to Oglethorpe $5,310,000 (which includes simple interest at 9% per annum computed through November 8, 1976), plus simple interest at 9% per annum, on $4,997,678 for November 9, 1976, to the date of the refund; (5) Georgia Power will amend Sections 1.01, 1.03, 1.07, 2.02, and 2.03 of the standard format of the Integrated Transmission System Agreement included in the TS-1 transmission tariff. These amendments are in the nature of clarification and definition. No change in the TS-1 tariff revenues where made by this Agreement (Docket No. E-9522).

In consideration of the Settlement Agreement, the Municipal Electric Authority of Georgia filed a Withdrawal of of Interventions on November 30, 1976, withdrawing its Petition to Intervene in Docket Nos. E-9521 and E-9522, subject to the approval of the proposed Settlement Agreement. In addition, Ogelthorpe filed on November 30, 1976, a Dismissal of Complaint therein dismissing with prejudice its Complaint filed on July 16, 1975 in Docket No. E-9521, subject to the approval by the Commission of the Settlement Agreement and the carrying out of such Settlement Agreement by the Georgia Power Company. We will treat this filing by Oglethorpe as a motion for withdrawal of its Complaint in Docket No. E-9521. And finally, on December 1, 1976, the City af Dalton, Georgia filed a Conditional Motion of Dalton To Withdraw As Intervenor in Docket Nos. E-9521 and E-9522, respectively. Dalton states that in consideration of approval by this Commission of a final non-appealable order of the instant Settlement Agreement, it moves to withdraw in the above two dockets its intervention therein.

As mentioned earlier, Georgia Power filed with the Commission a Motion To Consolidate For Limited Purpose in which it requests the Commission to consolidate the above captioned four dockets for the limited purpose of approving the proposed Settlement Agreement discussed herein. In addition, Georgia Power filed a Motion to Approve Settlement Agreement. In the circumstances, we believe it is appropriate to favorably grant all of the above motions.

The Company also filed with this Commission a Motion To Terminate Investigations in which it requests that the Commission terminate its Section 206 investigations of the Company's PR-1 and TS-1 tariffs in Docket Nos. E-9521 and E-9522, respectively, in light of the proposed Settlement Agreement which encompasses these two dockets as well as Docket Nos. E-9091 and ER76-397. The Commission has determined that it is appropriate to grant the motion and terminate the investigations.

Upon review of the entire record in this consolidated proceeding, the Commission finds that the proposed Settlement Agreement represents a reasonable resolution of all the issues in this proceeding. Accordingly, the proposed Settlement Agreement shall be incorporated herein by reference and shall be approved and adopted.

The Commission orders: (A) The Settlement Agreement filed by the Georgia Power Company on November 30, 1976, is incorporated herein by reference and is approved and adopted.

(B) The respective motions filed by Georgia Power Company entitled Motion To Consolidate For Limited Purpose, Motion To Terminate Investigations, and Motion To Approve Settlement Agreement, all filed on November 30, 1976, are granted.

(C) The Withdrawal Of Interventions filed by the Municipal Electric Authority of Georgia in Docket Nos. E-9521 and E-9522, respectively, is hereby granted. The Dismissal Of Complaint filed by the Oglethorpe Electric Membership Corporation in Docket No. E-9521 is hereby granted. And finally, the Conditional Motion Of Dalton To Withdraw As Intervenor filed by the City of Dalton, Georgia in Docket Nos. E-9521 and E-9522, respectively, is hereby granted.

(D) In accordance with the terms of the Settlement Agreement, the Georgia Power Company shall refund within thirty days of the effective date of the order all amounts collected in excess of the settlement rates in Docket Nos. E-9091, ER76-397, and E-9521 with interest at 9% per annum.

(E) The Georgia Power Company shall file a compliance report within fifteen days after refunds have been made. Such report shall show monthly billing determinants and revenues under prior, present and settlement rates. The report shall also show the monthly settlement rate increase, the rate refund, and the monthly interest computation together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(F) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claim or contentions which may be made by the Commission, its Staff or any party or person affected by this order in any proceeding now pending or hereafter instituted by or against the Georgia Power Company or any person or party.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6507 Filed 3-3-77;8:45 am]

[Docket No. RP73-91; PGA77-2]

McCULLOCH INTERSTATE GAS CORP.

Purchased Gas Adjustment Clause

FEBRUARY 24, 1977.

Take Notice that on February 15, 1977, McCulloch Interstate Gas Corporation ("McCulloch Interstate") tendered for filing copies of Tenth Revised Sheet No. 32 to its FPC Gas Tariff Original Volume No. 1, as required under the Commission's Rules and Regulations under the Natural Gas Act.

McCulloch Interstate's Tenth Revised Sheet No. 32 provides for a Purchased Gas Adjustment rate increase of 21.51¢ per MMBtu, effective April 1, 1977. McCulloch Interstate's filing is made in order to: (1) recover the balance in McCulloch's Unrecovered Purchased Gas Cost Account as of December 31, 1975 and December 31, 1976 (2) to provide for a current Gas Cost Adjustment in order to permit McCulloch to recover the higher cost of gas purchases, and (3) to recover a carrying surcharge of nine percent (9%) permitted under Ordering Paragraph (D) of Opinion 770.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6508 Filed 3-3-77;8:45 am]

[Docket Nos. E-8586 and E-8587; Opinion No. 783-A]

PUBLIC SERVICE CO. OF INDIANA

Opinion and Order Granting Rehearing, In Part, and Modifying Opinion

FEBRUARY 25, 1977.

On November 10, 1976, the Commission issued Opinion No. 783[1] establishing just and reasonable rates governing Public Service Company of Indiana (PSCI) wholesale service to various customer classes. Applications for rehearing of Opinion No. 783 were filed on December 9, 1976, by PSCI[2] and on December 10, 1976, by PSCI's co-operative customers,[3] its non-generating municipal customers,[4] and by the City of Frankfort, Indiana.[5] Virtually every issue addressed in Opinion No. 783, and disposed of therein, is challenged on rehearing by one or another of the parties to this proceeding, principally upon the same grounds urged upon the Commission through exceptions to the initial decision of Presiding Administrative Law Judge Walter T. Southworth.[6] After due consideration, however, we have determined that Opinion No. 783 must be modified in certain important respects and that further amplification of the Commission's views on certain issues is necessary. Accordingly, we grant rehearing of Opinion No. 783, in part, and modify that Opinion to the extent found necessary and appropriate, as is discussed hereinafter.[7]

I. THE SECTION 206(a) INVESTIGATION

PSCI requests rehearing of the Commission's conclusion that the record in this case will not support the finding that the fixed-rate contracts which govern PSCI's service to the Cities of Crawfordsville, Logansport, Peru and Washington, Indiana, are "so low as to adversely affect the public interest." *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348, 355 (1956) PSCI erroneously suggests that Opinion No. 783 failed to make a finding as to whether "the existence of the fixed term contracts constitutes undue discrimination within the class of municipal customers with generation * * *." PSCI's App., pg. 18. As a matter of law, says PSCI, undue discrimination adversely affects the public interest (Id. at 20) and that the Commission erred in not finding that undue discrimination was traceable to the subject fixed-rate agreements. Id.

In Opinion No. 783 (at pg. 11) we reached "the conclusion that the extant fixed-rate contracts of the various 'Sierra' cities are not contrary to the public's interest because of a de facto discriminatory impact," and reversed the initial decision's finding to the contrary. In other words, the Commission held that the evidence of record would not permit the conclusion that any discriminatory potential resulting from a rate differential for service to the class of generating municipal customers was of a magnitude or quality necessary to find such difference to be unduly discriminatory within the meaning of the Sierra test. The Commission did not, therefore, fail to address the issue, as PSCI suggests.

PSCI's position is that Frankfort will suffer discrimination under present contractual arrangements, and that the Act will not permit such situation to exist unremedied.[8] We give little credence to PSCI's argument, which is basically an in loco parentis assertion of Frankfort's interest, not PSCI's. This is so especially because Frankfort itself is an active party to this proceeding. While the public's interest is not invariably identified with any one private interest, we think it more rational to be attentive to that party which, it is alleged by all, will be the victim of the purported discrimination. PSCI's interest in pursuing this discrimination claim on rehearing in transparent; the company seeks to be excused from its fixed-rate contractual obligations. On rehearing, however, Frankfort contests only the reasonableness[9] of the

[1] Public Service Company of Indiana, Opinion No. 783, —— F.P.C. —— (November 10, 1976). (Hereafter "Opinion No. 783" or "Opinion".)

[2] "Petition for Rehearing * * *," Docket No. E-8586, et al., December 9, 1976, hereafter cited as "PSCI App." Concurrently, PSCI filed a motion to stay Opinion No. 783.

[3] "Application for Rehearing", Docket No. E-8586, et al., December 10, 1976, hereafter "Coop. App.," filed on behalf of Wabash Valley Power Ass'n et al., which are collectively referred to as the Cooperatives.

[4] "Application of IMEA Cities for Rehearing of Opinion No. 783," Docket No. E-8586, et al., December 10, 1976, hereafter "IMEA App.," filed on behalf of the Indiana Municipal Elec. Ass'n and its non-generating municipal system members which are collectively referred to as IMEA.

[5] "Application for Rehearing of Commission Opinion and Order of November 10, 1976 * * *," Docket No. E-8586, et al., hereafter "Frankfort's App." This application is purportedly filed on behalf of the class of generating municipal customers, only one of which—Frankfort—remains affected by the outcome of this rate proceeding.

[6] "Initial Decision In Rate Proceeding," Public Service Co. of Indiana, Docket Nos. E-8586 and E-8587, March 10, 1976, hereafter "Initial decision."

[7] Rehearing for purpose of further consideration was granted by Commission order, dated January 7, 1977. Substantive rehearing on the merits is undertaken pursuant to such order.

[8] Assuming arguendo that this rate differential constitutes undue discrimination, PSCI does not even attempt to distinguish the remedy provided in Otter Tail Power Co., 2 F.P.C. 134, 140 (1940).

[9] Frankfort App., pp. 13–14.

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rate increase approved in Opinion No. 783 as applicable to that customer. See, Frankfort's App., pg. 14.

On the basis of the record, we do not find that Frankfort's essentially private interest in attracting industrial customers in competition with the "Sierra" municipals which are protected from resale rate increases by their contracts is sufficient reason to abrogate the fixed-rate protection as inimical to the public interest. The Act establishes a per se proscription against undue discrimination, but we are unable to find that the de facto rate differential which now exists by virtue of Frankfort's permissibly-increased rate is undue. Frankfort knowingly contracted to be governed by a "just and reasonable" rate. Moreover, there is no concrete evidence that Frankfort's alleged disability under such "just and reasonable" rate is undue or even significant; there is only speculation in this regard.

II. SECTION 205(b) DISCRIMINATION

The inquiry under section 206(a) of the Act, as interpreted by Sierra, is whether a contractually fixed rate is so low as to require alteration or reformation to a higher level in the interest of the public. Consequently, under section 206(a) in this proceeding we are not investigating whether the rate increase to Frankfort is too high to conform with the public interest. The latter inquiry, as Frankfort properly notes, is addressed within the confines of the general section 205 proceeding on the lawfulness of the increased rate level for service to Frankfort. Frankfort does suggest that any rate increase applicable to it would propound a competitive disadvantage and be, therefore, discriminatory under section 205(b), 16 U.S.C. 824d(b), but has failed to sustain its burden of proof on this allegation.[10]

The Section 205 proceeding is not governed by Sierra. The Commission held that the nature of the contract governing service is a relevant "factual" difference which may legitimize an apparently discriminatory rate differential within a particular class of service. See *Opinion* pg. 12; *St. Michaels Util. Com'n.* v. *FPC*, 377 F.2d 912, 915 (4th Cir. 1967). We therefore deny rehearing on the discrimination charge raised by Frankfort. See, Frankfort's App., pg. 14.

IMEA also has raised several issues of discriminatory treatment under section 205(b), specifically that the instant rate increase, as applied to IMEA, is unduly discriminatory vis a vis Hoosier and that the rate design change from KW to KVA billing is discriminatory.[11] On both subjects IMEA suggests that PSCI bears the impossible burden of proving the negative proposition that no such discrimination has been propounded. IMEA App., pp. 2, 5–6, 13. We affirm our findings that IMEA has failed to show the effect of these changes to be discriminatory and deny rehearing of these issues.

III. RATE OF RETURN

We preface our discussion of this issue by modifying certain arithmetical errors apparent on the face of Opinion No. 783. PSCI correctly points out that, upon the capitalization found appropriate in this proceeding, the company is entitled to an 8.51 percent overall rate of return on its jurisdictional rate base.[12] This allowance would permit enough revenues and a fair and reasonable level of earnings, sufficient to sustain PSCI's market reputation and to attract the external financing which the record shows is necessary to enable the company to adequately serve the public.

In light of the above modifications, we turn to a discussion of the substantive challenges to Opinion No. 783. PSCI suggests that an overall rate of return of 8.51 percent is inadequate and confiscatory. PSCI App, pp. 11–17. Cooperatives, IMEA and Frankfort each suggest, on the other hand, that the Commission erred in finding a 13.00 percent return on common equity supported by the instant record. We feel that the analysis and reasoning of Opinion No. 783 is sufficient and supported by the record. We therefore deny rehearing on this issue, but avail ourselves of the opportunity for further comment.

The "End Result": In *FPC* v. *Hope Natural Gas Co.* 320 U.S. 591, 602 (1944), the Supreme Court held that,

> ([w]*hen the Commission's order is challenged in the courts,* the question (before the court), is whether that order 'viewed in its entirety' meets the requirements of the Act. * * * Under the statutory standard of 'just and reasonable' it is the result reached not the method employed which is controlling. (emphasis supplied).

It is clear that Hope's "end result" test is a standard of judicial review of the Commission's rate orders, not, as PSCI here argues, a statutory restriction on the Commission's exercise of expert judgment. Indeed, Hope itself states that the Commission is not bound by the statute to the service of any particular formula in determining rates. Hope, supra, at 602. To the extent that PSCI in this case suggests that the "end result" test, as interpreted by that party, is the ultimate test or formula that must be met, it is in error. The Commission is certainly concerned with the result reached, a result which must be reasoned and supported in its particulars by substantial evidence of record. But the Commission's Opinion cannot be challenged on the grounds that, as a result, the rates found appropriate do not produce the alleged result which the company avers is necessary. Regulation is not a simplistic comparison between suggested end results, but a searching inquiry into the actual, legitimate cost of providing a public service.

In any event the "end result" test of Hope is intended for application to the Commission's rate order "in its entirety," not to any (and presumably every) element of such order such as the allowed rate of return. That is to say that the rates approved as "just and reasonable" must be sufficient, not that a particular return allowance be singularly sufficient to meet a predetermined revenue requirement. PSCI contends that it needs a total of $66,074,000 in return to pay its interest and dividends in the test period. PSCI App., pg. 13. As a matter of private business judgment, this is a perfectly legitimate goal. The Commission, however, cannot transform the goals of business management into a legitimate basis upon which to fix "just and reasonable" rates for the consumer. Not only would such practice eliminate all risk associated with the business, but it would completely jettison administrative regulation which is intended to protect the consumer from exploitation at the hands of public utilities. *FPC* v. *Natural Gas Pipeline Co.*, 315 U.S. 575, 590 (1941). We find no basis in law for the application of the so-called "end result" test as interpreted by PSC.

PSCI also suggests that Hope's comparable earnings test requires, at minimum, a formulation which produces enough revenues (in dollars) "not only for operating expenses but also for the capital of the business." PSCI App. pp. 11–12, citing, Hope, supra, at 603. It is obvious at once that the approved rates must produce adequate revenues to cover "operating expenses" as well as capital costs, but that the comparable earnings and capital attraction standards of Hope relate to the return on common equity to be allowed. The only real question presented on rehearing, then, is the reasonableness of this Commission's allowance of a 13.00% return on PSCI's common equity. Cooperatives, IMEA and Frankfort argue that such allowance is excessive and not supported by record evidence; PSCI argues, on the other hand, that the return (not the rate of return) allowed is confiscatory.

An allowance of 13.00 percent return on equity to PSCI in this case is fully supported by the record, as both adequate and not excessive. PSCI cites "(t)he unprecedented conditions currently faced by electric utilities in competing for investors' funds" as justification for a greater return on common equity. See, PSCI App., pg. 12. The current economic factors which govern both the need for, and the success of, PSCI's attempts to attract capital and prevent disinvestment by investors were fully appreciated in the Commission's initial judgment on this issue. Many factors converged in the ultimate conclusion as to the allowance on equity granted in this proceeding. Consideration was given Dr. Stoinitz's testimony based on earning/price (E/P) ratios and his discounted cash flow (DCF) approach, even though in the final analysis his recommendations were found unpersuasive in determining the current earning expectancies of investors because of his use of long term averages in the face of radically changed contemporary economic and financial conditions.[13]

Consideration was given PSCI's escalating need to attract external capital by virtue of its necessary construction program. This consideration, however, must be viewed in terms of PSCI's current reputation in the market and its financial stature. PSCI will not have difficulty per se in attracting capital, insofar as this record shows; IMEA and the other intervenors quite accurately characterize PSCI's position as enviable among utilities. There is no warrant on this record, therefore, in an inordinate concern with PSCI's present capital attractiveness. But the pressing need of this utility for additional funds must be considered. It would be short-sighted indeed to fail to recognize or appreciate this fact and reflect to some degree this circumstance in the return on equity which is allowed.[14] A critical consideration, therefore, is the amount of capital that PSCI must attract and the practical ramifications of this fact.

Opinion No. 783 found, in any event, that the range of reasonableness under contemporary circumstances is quite wide. Staff's so-called opportunity cost of capital evidence while inconsistent with the ultimate recommendation based thereon, shows that 13.00 percent return on common equity is within the range of earnings experienced by other enterprises of similar risk. Dr. Langum's testimony even more graphically demonstrates, and with a fuller appreciation of those economic factors influencing the prospective investor's perception of risk, that a 13 percent return is comparable and fully sufficient to attract the investor's dollar in competition with other similarly-risked companies in the amount required, while preventing disinvestment. We emphasize that the return on equity allowed in this case is, and must be, forward looking, oriented toward that return which is required now to enable the utility to successfully fulfill its public obligations, both now and in the immediate future. Long-term historical averages or returns which were competitive in the past (even the relatively recent past) are unreliable guages in and of themselves, if not tempered with consideration of the contemporary economic and financial climate as well as the particular needs of the applicant public utility.

On balance, and on the basis of the evidentiary record, we find that an allowable return to common equity of 13.00 percent is fully supported by the instant record and necessary to maintain the financial ability of PSCI to effectively pursue its public duties. The rate allowed represents a Commission judgment on the record and, in consideration of all relevant factors, is that figure (within a range of reasonable figures) best calculated to protect the investor's interest without being excessive to cover speculative — although possible — economic reverses.

One last point raised on rehearing merits consideration. Cooperatives suggest, economic conditions having changed since the close of the record in this proceeding, that "in Opinion No. 783, the Commission is living in 1974 and not in December of 1976." Coop. App., pg. 47. It appears that the cooperatives aver that the Commission should tread outside the record, and, by ignoring the clear weight of the evidence in this record, posit an allowed return on our independent assessment of the economic conditions as of the date of rehearing. However, as Cooperatives themselves are at pains to point out, these rates have become locked-in as of March 31, 1976. Cooperatives offer no persuasive reason that a 13.00 percent allowance to equity is not within the range reasonably required by PSCI during the period of their effectiveness. The economic and financial uncertainty reflected on the record prevailed throughout the effective period, as did PSCI's need to pursue a massive expansion of facilities in anticipation of a growing demand and market. Of course, the electric utility industry was not the only one affected during this period by "severe financial strain" or economic problems, but such industry (and PSCI within that industry) is one invested with a public interest and with which this Commission is charged by Congress to regulate in the public's interest. We see no possible relevance to the proper discharge of our regulatory duties of the charge that "everybody had the same problem."

PSCI also accuses the Commission of adopting a constitutionally confiscatory rate on equity because of "the substantially higher rate * * * allowed on its retail business." PSCI App. pg. 16. Thus, PSCI concludes that the rate order of the Commission is discriminatory because it requires the company's retail ratepayers to subsidize a portion of capital costs allegedly attributable to wholesale service. On the contrary, the Commission has allowed 13.00 percent on equity as that rate of return which is fair and reasonable; the Indiana Commission may disagree with this finding, as is its perogative, but earnings at this level (8.51 percent based on 13.00 percent on equity) is deemed by the Commission to be fully adequate on this record. If, as applied to 85 percent of its business, PSCI is allowed in excess of this rate of earnings, it is none of our concern and of no relevance whatsoever in this proceeding. The correctness of this Commission's judgment is not destroyed because, by happenstance, it differs from the conclusion of another independent agency.

IV. COST OF SERVICE ADJUSTMENT

Opinion No. 783 held that PSCI's use of its 1974 budget estimates in calculating its Period II cost of service "was a valid and accurate means to develop the desired Period II estimates." Opinion, pg. 17. Such estimating process was found reasonable on the basis of facts related to such process and was not undermined by various speculation as to inherent problems associated with budgeting as such. On rehearing IMEA and Frankfort chalenge this conclusion. We find, however, that intervenor's restatement of this objection are not persuasive, and we reaffirm our finding of reasonableness.

On the ancillary of whether to compel adjustments to PSCI's proffered Period II cost of service, the Commission concluded in Opinion No. 793 that the various intervenors had failed to show that PSCI's cost of service was excessive when viewed as a whole. Opinion, pg. 19. It was considered irrelevant that a particular account—such as PSCI's estimated purchased power expense estimate—might have been variant from the subsequently-discovered actual operating experience unless the impact of the differential proved to exist was so substantial as to render the entire cost of service "unreliable for purposes of ratemaking."

On rehearing, IMEA assign error in the Commission's failure to adjust PSCI's test period cost of service. IMEA App. pp. 3–5. IMEA states that the Commission failed (1) to evaluate PSCI's Period II estimates in terms of Period I actual data; (2) to address IMEA's argument that the estimated demand allocation figures "were unsupported". (IMEA App., pg. 4); (3) to conclude that a $15,113,000 purchased power cost estimate is not supported by the evidence; and (4) that a budgeting error of $1,051,000 in operating expense exclusive of fuel and purchased power is not supported by the evidence. The Cooperatives only request reconsideration of a proposed adjustment regarding the $15,113,000 purchased power estimate. Coop App., pp. 5–11. Frankfort also assigns error in the Commission's failure

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[10] We note that the antitrust policy of the United States is intended to protect competition, not competitors. See, *Brown Shoe Co.* v. *United States*, 370 U.S. 294, 320 (1962). To the extent that Frankfort's position rests on allegations of competitive disadvantage vis a vis the other "Sierra" cities, it has failed to establish that competition in general, rather than its private competitive position, is adversely affected by the instant rate increase.

[11] See, Opinion, pp. 5–6, 13–14. Compare, St. Michaels Util. Com'n., supra.

[12] In Opinion No. 783, one rate base adjustment—the disallowance of minimum bank balances—resulted in an appropriate rate base of $739,327,000. Opinion, pg. 59. This figure will require further adjustment in accordance with the mandate of this order on rehearing.

[13] IMEA suggests that "(t)he Commission ignores the main thrust of Dr. Stolnitz's testimony," said to be the essential need to adopt a long-run point of view. IMEA App., pg. 11. On the contrary, the Commission did not ignore this element of Dr. Stolnitz's testimony, but rejected it as an inappropriate element given contemporary circumstances.

[14] In discussing the comparable earnings approach, judge Harold Leventhal has stated that,

> There is an overall question of public faith underlying rate regulation. Any company which does not provide comparable returns for its existing investors will eventually lose its working capital and fail to attract more. On the other hand, there may be situations in which it is necessary to attract capital even though the rate required to do so may be high compared with the rate properly calculable on the comparable-earnings standard. The higher rate might be paid, for example if rates are being set for a utility *required to engage in unusually large expansion, or to negotiate large capital commitments substantially in advance of the period of the need for the service.* (Leventhal, *Vitality of the Comparable Earnings Standard for Regulation of Utilities in a growth economy*, 74 Yale L.J. 989, 1017 (1965) (emphasis supplied.)

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to adjust PSCI's purchased power estimate. Frankfort App. pp. 16–17.

Purchased Power Cost. The record shows that PSCI's purchased power commitment for 1974 (Period II) was fixed by contract (Tr. 514) and that PSCI did, in fact, purchase such power, resulting in this item of expense. See Oral Argument, Tr. 32. In other words, there is no permissible inference that PSCI's estimate was unfounded or arbitrary when the projected cost of service was developed by the company.

The intervenors do not challenge the fact that PSCI was contractually committed to purchase $15,113,000 of power. Rather these parties argue that off-system resales by PSCI to other utilities—the revenues from which are not reflected in the company's projected cost of service for the test year—actually have already recouped the entire estimated purchased power expense. It is suggested that the Commission, in recognition of this actual operating experience, eliminate PSCI's purchased power expense, since the net expense would materialize as approximately zero. It is undisputed that PSCI failed to estimate any offsetting revenues projected to be recoverable from anticipated off-system sales. One question presented, then, is whether PSCI unreasonably failed to anticipate any off-system resales during the test period in its filed cost of service. By comparing PSCI's Period I data with its Period II data, it is clear that the company is familiar with the impact upon its cost of service of substantial off-system resales. During Period I the company indicated a net credit of $7,632,000 in the purchased power account. The radical change from a net surplus capacity position in Period I to a substantial capacity deficit projected for Period II is, in the first place, the type of cost escalation which deserves particular attention by the Commission. The company has a particular responsibility to demonstrate on the record the causes of such escalation and, moreover, to substantiate the Period II figure in terms of its typicality not only for the test period but also for the projected effective term of the tendered rates.[16]

The purpose of the Commission's future test year regulations is to stabilize resale rates by predicating such rates on costs which are established closer in time to the effective period of the rates in question. Order No. 487, 50 F.P.C., 125 (1973), aff'd. *American Public Power Ass'n.* v. *FPC*, 522 F. 2d 142 (D.C. Cir. 1975). Estimated or projected costs are nonetheless costs which must be supported if expected to serve as a foundation for "just and reasonable" rates In Order No. 487 (at pg. 127) the Commission stated that "[I]f such estimates can be shown * * * to be excessive, too speculative or conjectural, their appropriateness will be questioned." The purchased power expense estimated by PSCI clearly was not "too speculative or conjectural", as it was fixed by contract. Moreover, there is no sound basis in this record to question the company's good faith in developing this questioned estimate. It could, perhaps, be argued that PSCI's pool commitments coupled with its projected system demand made the likelihood of short-term resales during 1974 is improbable when the estimate was developed. But our statutory duty to insure "just and reasonable" rates requires the Commission to go beyond a mere examination of the soundness of the applicant's estimates in hindsight. A separate issue—the reasonableness of the validly-propounded estimate—is presented. PSCI has the burden of not only supporting the methods used to derive its estimates but also to defend and substantiate such estimates as reasonable cost approximations. This, of course, does not imply that estimates, produced in good faith and in a sound manner, must be prescient. But the company must demonstrate that particular cost estimates are within a reasonable range, such that the overall cost of service proffered can assuredly be found to be a reflection of those costs which will actually be incurred in providing service to the public.

Estimates, even though reasonable in conception, cannot be considered pro tanto impregnable. During hearing, a reasonable opportunity to challenge the costs submitted by the company must be provided in order to insure through the regulatory process that the rates which are approved are reasonable. Thus, the issue is raised whether PSCI's purchased power cost is a legitimate cost to be borne, inter alia, by the company's jurisdictional customers. In Opinion No. 783 we stated the general rule that "Period II estimated cost figures must be challenged, if at all, on the basis that the filing utility's method of projecting Period II cost of service was so entirely deficient *in its anticipation of subsequent events* as to render the *entire estimation* * * * suspect as the appropriate basis for determining a 'just and reasonable' rate to be charged * * *" Opinion pp. 17–18 (emphasis supplied). Upon reconsideration, we find this articulated standard too exacting in that (1) inaccurate or inflated estimates in one particular account should not place the entire cost of service (Period II) in jeopardy, and (2) that particular adjustments to the initial estimate proffered in a particular account is reasonable in terms of preserving the concept of an estimated test period cost of service. Thus, the standard applied must be understood to mean that particular items of expense, if challenged as excessive, must be demonstrated to have been substantially in error because of subsequent events which were not reasonably foreseeable at the time such estimate(s) were developed. We impose the requirement of substantially because we feel that a certain degree of latitude is required in deference to the fact that unanticipated subsequent events normally cut both ways—*i.e.*, that the overstated estimates will almost certainly be balanced by other offsetting understatements by the company. And, of course, on the issue of the accuracy of particular estimates the party challenging the item bears the burden of coming forward with the evidence. Cf., Opinion, p. 15 n. 15.

As noted, PSCI's contractual purchased power commitment is not challenged by any party; rather, the company's failure to estimate any short-term resale of power is challenged as unreasonable, given unanticipated subsequent events. The record indicates that the company not only engaged in substantial resales outside its power pool and its own system, but that recovered revenues were significant. (Tr. 512) The evidence of this fact, elicited on record from the company's own cost of service witness, Mr. Vernon Rhenstrom, provides a reasonably sound evidentiary basis upon which to predicate a finding that, insofar as purchased power expense was reasonably anticipated as a legitimate cost, this "cost" or expense, upon reexamination (by the company itself) was not expected to materialize. We find on rehearing no sound basis upon which to allow recovery of the original projected purchased power cost—a cost shown to have been recovered already from other resale customers—from PSCI's jurisdictional customers.

Under cross-examination, PSCI's cost of service witness, Vernon Rhenstrom, provided figures reflecting the company's actual experience during 1974. He testified that for the first nine months of 1974 "total sales outside of the KIP pool would be $11,091,000." (Tr. 512) PSCI had not estimated any off-system short-term resales in their Period II cost of service. Mr. Rhenstrom further testified (Tr. 512) that at the end of the first nine months of the test period the net figure (which includes the contractual purchased power commitment estimated at $15,113,000 as it is offset by short-term resales, supra) would be "a sale of $1,729,000." On the basis of these figures reflecting actual experience for the first nine months of 1974, Mr. Rhenstrom projected that at the end of 1974 PSCI's net purchased power expense (or cost) would be zero. This testimony—which is an admission against interest and constitutes substantive evidence on the issue of this cost—was not explained further on redirect. Nor did the company make an effort to prove that, notwithstanding the favorable resale situation in 1974, it nevertheless reasonably projected substantial purchased power expenses ($15,113,000 or greater) in the next or subsequent years.[16] Therefore, the only reasonable inference on the basis of this evidentiary record as a whole is that, while the purchased power estimate may have been made in good faith and that at the time the Period II cost of service was prepared there was no reasonable expectancy that the company would have substantial off-system resales, the $15,113,000 estimate is excessive and unsupported on the record.[17] The upshot is that some remedial action is necessary.

On the record we have the testimony of a company witness which indicates that the actual expense for the test period is expected to be zero. This evidence is not an actual figure, merely the expert projection of a qualified witness; as such, it is cognizable as evidence of a reasonable, adjusted cost estimate. This testimony is supported by the figures (for the nine month period) provided by that witness. There is, therefore, substantial evidence in this record for the Commission to assign a purchased power expense of zero, thereby requiring a cost of service adjustment by the company of $15,113,000.

Under the Commission's regulations, the fact that a particular estimate is determined to be excessive does not require the substituted use of actual figures. On the contrary, the Commission is at liberty, on the basis of record evidence, to assign a more reasonable estimated cost with a view to assuring that the rates approved will be adequate not only for the test period but also for the subsequent period of their effectiveness. The actual cost data, if any, that appears on the record is, of course, relevant evidence which must be considered, but it is not necessarily dispositive. Other evidence may be considered and given appropriate weight, such as evidence that the abnormal conditions which resulted in the necessary adjustment would be short-lived and that an adjustment to approximate actual test period operations would be equally aberrant and destructive of future rate stability. Upon reconsideration, we find that a reasonable estimate for use in PSCI's Period II cost of service is zero ($0.00).

Other Proposed Adjustments: IMEA also seeks an adjustment in operating expense exclusive of fuel and purchased power costs of $1,051,000, because estimated expenses (for the nine-month period ending September 30, 1974) were assertedly greater than actual expenses. See, Tr. 1266–67. The record is clear, however, that the approximation of the company, when compared to actual figures for nine months of the test period, was on the whole fairly close; while "other operations" expense was below estimates, maintenance expense was above estimates with the ultimate result that projected operating and maintenance expense was within a reasonably accurate range. On this item IMEA has clearly failed to demonstrate that PSCI's budgeting process "was so entirely deficient in its anticipation of subsequent events" (Opinion, pg. 17) such as to require adjustment of the particular item which is challenged. The estimated increase in "other operations" expense between Periods I and II (Tr. 1266) appears reasonable on its face. Moreover, the fact that a particular item within this cost category does not precisely conform to the company's estimate, even if this were definitively shown to be the case, would be unpersuasive in the absence of a showing that the estimated cost of service as a whole would become substantially excessive. See, Opinion, 19; See also, pg. 13, supra.

IMEA also challenges the estimated demand allocation figures used by PSCI on the apparent theory that the coincident demand figures applicable to Hoosier were overstated. This challenge, however, is another example of an attempt to discredit estimates solely on the latter-day wisdom of actual experience. There does not appear on the record any showing which will support the inference that PSCI did, or should have, estimated the diversity represented by Hoosier in a different manner. Nor is it shown that the allocation of costs as between PSCI's customer classes on the basis of projected coincident demand is so substantially in error that the estimates themselves can be said to be either irrational or to have become irrational because of significant, unanticipated subsequent events. Cited as the single factor which undermines PSCI's demand projections for the test period is the difference in the rate of growth of customer classes actually experienced during the test period. IMEA App. pg. 5. Rehearing on the merits of this argument is denied.

V. Plant in Service

There is general dissatisfaction with the Commission's finding that PSCI's use of average of the beginning and ending plant balances was appropriate and capable of deriving a reasonable approximation of the company's continuous test period plant balance. The objective sought to be achieved by any adopted methodology concerning plant in service is the matching of the item of rate base investment with the revenues and the expenses incurred during the test period. Appalachian Power Co., 54 F.P.C. ____ (1975). Except in extraordinary circumstances, the Commission has required some averaging method as best calculated to achieve the desired matching.

PSCI's averaging technique differs from staff's proposed average of the thirteen-monthly balances, although both techniques do average net plant in service in contrast to the end of year balance which has infrequently been approved as reasonable. Where averaging is used, however, there is always a degree of impreciseness—that is, the degree of matching that is achieved is subject to question on some level. It is quite obviously correct, as the various intervenors point out, that an average of 13 monthly balances will be more precise than an average of beginning and ending plant account balances. The significance of this more precise degree of accuracy is said to rest in the fact that major plant investment added in the second half of the test period (Period II) has not been devoted to public use for sufficient duration to warrant assessing return equal to six-months on plant which was in service for a lesser period. Intervenors would presumably also insist on paying a return greater than the equivalent of six-months on plant placed in service in the first part of the test period.

The confluence of an estimated test period with the necessity to derive a reasonable approximation of composite plant in service persuaded us that the adoption by PSCI of the average of the beginning and ending (estimated) plant accounts would be reasonable in achieving the objective sought. This reasoning, of course, implies that PSCI's estimations of needed revenues and other expenses would be derived in a similar and complementary fashion. Underlying this analysis, however, was the presumption of good faith in the applicant public utility to select that averaging technique which would most accurately reflect composite plant in service during the test period—that is, to employ the more precise 13-monthly balance technique if disproportionately large investment is scheduled for service during the latter stages of the test period. Upon the record in this case, it seemed apparent (1) that the selected averaging technique was not disingeneously selected in spite of large scheduled additions in the latter half of the test period; (2) that planned in-service dates for major plant additions

[16] We note the obvious at this point. Purchased power expense is a unique account in a cost of service, for utilities operating within a pool typically find themselves alternating from a surplus capacity position to a deficit from year to year. PSCI has failed to demonstrate that its projected $15,113,000 expense for 1974 was expected to be typical, rather than an atypical expense due to the congruence between the test year and the planned pool sales. This defect is, however, not fatal, for the estimate tendered will stand (being supported by the contractual commitment) unless and until a party challenges it on the basis of its atypicality. But see, Tr. 511.

[16] See, Tr. 931–932; Oral Argument, Tr. 33–34. PSCI contends that its wholesale loads experienced an aggregate growth as projected, while its retail load had a decrease growth rate. Tr. 932. From this conclusory testimony, the company argues that the rate impact of an adjustment of projected net purchased power expense would be negligible if the demand allocation were also adjusted. There is, however, no evidence that the projected demand allocation as between wholesale and resale customers is substantially in error.

As previously mentioned, it is incumbent upon any party challenging a particular Period II projection—such as the demand allocation apparently challenged by PSCI—to come forward with substantive evidence to support a revised estimate. PSCI has simply not sustained this burden in regard to the alleged error in the projected demand allocation between its wholesale and retail business.

[17] In *Order No. 487*, 50 F.P.C. 125, 127 (1973), *aff'd American Pub. Power Ass'n., supra*, the Commission stated unequivocally that "we will not approve rates based on unsubstantiated cost estimations. The burden will be on (applicant) companies to establish the validity and accuracy for *each* of their cost estimates." (emphasis supplied). This, of course, implies that the company also bears the burden of substantiating its *failure* to estimate offsetting revenues, such as those historically derived from off-system resales.

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were not a firm, evidentiary basis upon which to jettison the selected methodology; and (3) that the inherent nature of a test period under the forward-looking Period II regulations provides for a certain latitude in the approximation deemed reasonable.[18] Upon reflection and reconsideration of the assumptions underpinning our disposition of this issue in Opinion No. 783, we grant rehearing of this issue and require the use of the 13 monthly balance technique proposed originally by Commission staff.[19]

The question is a close one, necessitating a careful evaluation not only of the record in this case but also an appreciation of the operation of the estimated test period concept. In other portions of Opinion No. 783, we expressed the concern that the "moving target" of actual as opposed to estimated costs should not be permitted to intercede and undermine the estimated test period concept, at least unless a convincing showing has been made that subsequent (actual) events were so unique as could not have been anticipated by the filing utility or so substantial that estimates might be considered beyond the realm of "cost" estimates and instead to have become an unsupportable guess. See, pp. 10–15, supra. By the reality which seems to govern construction in these times, estimates of plant in-service dates are produced through best efforts. Unforseeable delays will be common, but unless such delays are substantial, we would not be persuaded to adjust (as a single item or as a wholesale reworking) the utility's estimated composite rate base. It, however, becomes apparent that reliance must be placed on planned in-service dates as the gauge of the propriety of the averaged plant balance selected by PSCI, just as we must give credence to PSCI's planned purchased power commitments.[20] It is clear from the planned in-service dates tendered by PSCI under staff's data request that the company did, in fact, anticipate a substantial portion of its plant investment to be placed in service on November 1, 1974, well into the second half of the test period. Notwithstanding that this investment in transmission might cause little distortion in the proper matching of expenses with productive investment, we find that PSCI's selection of the beginning and ending balance of its test period plant accounts was reasonably forseeable by the company as distorting the return revenues on rate base at the time the company's cost of service was prepared. Consequently, PSCI is required to use the more precise 13 monthly balance averaging technique to "time weight" new plant, as they should have done in the first instance by virtue of the fact that the company itself anticipated uneven addition of new plant for the test period."

VI. AFUDC

Cooperative's take the initiative in challenging Opinion No. 783 as erroneous regarding the calculation of PSCI's AFUDC on construction work in progress.[21] AFUDC is an allowance capitalized during the construction period and to be included in rate base only when construction is completed and the new plant becomes "used or useful" in service to the public. The problem with the computation of this allowance is the ascertainment of the source of the funds which are dedicated to construction by the utility, and, only then, the derivation of the appropriate allowance (or carrying cost) on such funds for the interim construction period.

Source of funds: Cooperatives state that a precise identification of funds used on particular construction is necessary, whereas in Opinion No. 783 the Commission held that it is "virtually impossible to 'dollar trace' the monies actually invested in plant under construction." Opinion, pg. 35. Cooperative's witness Gates is said to have provided such tracing (see Tr. 1418–36 and Exhibit 30) and that it was error for the Commission to "resort to reasoned assumptions regarding * * * the source of the invested funds." Opinion, pg. 35. A review of witness Gates' presentation indicates conclusively that this evidence is not in the nature of "dollar tracing"; rather it is based upon a series of assumptions—albeit different from the assumptions made by the Commission in Opinion No. 783, but assumptions nevertheless. However, we view Mr. Gates' assumptions as arbitrary, for they bear little, if any, relationship to the actual payment of funds by public utilities to finance ongoing construction. On the other hand, the assumptions used by the Commission are reasoned and calculated to arrive at a reasonably accurate approximation of the type of funds used to finance construction by the particular[22] public utility.

Cooperatives further criticize Opinion No. 783 for referring to the Notice of Proposed Rulemaking, issued in Docket No. RM75–27 on May 20, 1975, which is concerned with the establishment of consistent practice regarding the derivation of the AFUDC of jurisdictional public utilities.[23] As was noted in our Opinion, this rulemaking had not become effective and, therefore, in this proceeding we place no controlling reliance on the elements set forth therein. Nevertheless, the proper computation of PSCI's AFUDC has been placed in issue in this proceeding, requiring the Commission to address the substantive issue. In our judgment—at least to the extent that we are herein required to locate the source of the funds upon which the allowance (carrying charges for such funds) is to be computed—the assumptions employed in Opinion No. 783 are fully justified, and supported both in logic and by the record. Thus, in the absence any convincing evidence which actually and literally traces the funds dedicated to PSCI's construction during the test period, and in recognition that external financing by public utilities cannot be traced according to any particular system, we reaffirm our conclusion on this issue.

Large construction budgets and the huge investment of funds in this utility operation, albeit with no inclusion in rate base or return available on such investment during the construction period, result in "serious problems of liquidity and weakened quality of earnings." Opinion, pg. 36, n. 21. Cooperatives do not dispute this fact; instead, they argue that this pressing problem can be somewhat mitigated by artificially depressing the allowed AFUDC and, as an alternative, reflecting the manufactured differential in an increased rate of return on presently useful investment. The theory seems to be that, since AFUDC is in essence bookkeeping income until particular CWIP is placed in service, that this "funny money" or "phantom income" creates a "false impression of the quality of the company's earnings," (Coop. App., pg. 34) and ultimately increases the cost of money to the utility because of its weakened quality of earnings.

Capitalization of construction in progress as well as the carrying charges for the funds used to finance construction, as a bookkeeping matter, produces earnings which are not in the form of revenues and, therefore, distorts somewhat the apparent liquidity of the company's current earnings. Therefore, when the sophisticated investor appreciates this fact, his perception of risk may increase and, consequently, the investor may demand a greater return for committing his capital to the enterprise. We agree with Cooperatives that the unprecedented scale of construction programs needed in anticipation of rapidly escalating demand may have these ramifications. We do not agree, however, that these facts warrant a disingenious disallowance of an adequate AFUDC by this Commission in order to reflect an entirely bogus quality of earnings for the company. This would be truly dishonest, as it would disguise investment (and AFUDC is treated as investment which is capitalized) in the illusory cloak of earnings, a disguise which could not easily be stripped away by even the most sophisticated investor. The inevitable result would be a depression in the real, cash revenues earned on net plant.

Under the cooperatives' thesis, the legitimate carrying costs of financing new plant—those required to be capitalised as AFUDC—would be forever lost to the utility through the exclusion of this investment from rate base, not to mention the loss in the way of future return upon this interim investment even after the plant itself is subsumed in rate base. The short-term (and illusory) impact upon the quality of the companys' earnings would, under the cooperatives' scenerio, be achieved at the expense of the long-term financial soundness of the firm, simply because the utility would be forced to absorb an increment of its construction financing costs actually invested, if it AFUDC is artificially depressed.

It is clear, then, that the Commission's sole function under the present regulatory framework is to find, as a matter of fact, the cost to the company of financing its plant under construction. We are not persuaded that the Commission should manufacture an artificial cost allowance on the basis of the cooperative's aberrant policy considerations, or that extant legal precedent requires other than a straight-forward factfinding process regarding PSCI's computation of its allowance.

Cost of Funds. We turn now to that element labeled "(t)he most cardinal mistake of all" by the Cooperatives, to wit: the assignment of 13.00% as the "reasonable rate" attributable to the equity portion of PSCI's proprietary funds used for construction. Cooperatives aver that this treatment permits PSCI "to earn a return" on a portion of its financing costs before the plant is productive, a clear violation of existing Commission practice. We, however, disagree with this analysis. Clearly the Commission considered 13.00% as the reasonable cost of the funds devoted to construction which are derived from the company's equity capital, a cost which is not in any manner comparable to a return on non-productive investment. Until plant is place in service the cost of financing that plant is accumulated as AFUDC and not currently reflected in the rates paid by consumers. AFUDC, then, is investment and is treated as such.

The sole aim of the instant exercise is to discover the cost (i.e. the amount of the investment) to be so accumulated and capitalized—a cost which logically must bear a relationship with the cost of equity capital. Assuming as we have, that a pro rata portion of the funds for construction is derived from equity capital in no way implies that revenues or earnings are being capitalized; rather, the carrying cost of the financing is the equivalent of the cost of equity capital, at least to the extent that a pro rata portion of such carrying costs can be attributed to equity funds. There is no earnings theory underlying this procedure, merely a process to ascertain attributable cost. This does not ignore, let alone overturn sub rosa, existing Commission precedent. Cooperative's objections as to the cost components of PSCI's AFUDC computation are, therefore, rejected. The evidence of record supporting 13.00% as the return required to attract equity capital fully indicates that 13.00%, from the company's perspective, is the legitimate cost of currently non-productive equity funds.

Net-of-Tax Treatment: Cooperatives, IMEA and Frankfort again object on rehearing to the allowance for normalization of the tax effect of the debt component of PSCI's AFUDC. The necessity for, and propriety of, PSCI's normalization of this tax effect was fully and adequately addressed in Opinion No. 783 and warrants no further discussion herein. Cf. Opinion, pp. 24–25. Rehearing on the issue of normalization is denied.

In addition, intervenors separately object to the use of the net-of-tax technique to effectuate the approved normalization, rather than the deferred tax accounting (Account No. 282) practice.

As we recently held, there are two methods available by which the normalization of the tax effect of AFUDC may be accomplished. Florida Power & Light Co., Opinion No. 784, ____ P.P.C. ____ (December 15, 1976), mimeo pp. 19–20. The technique actually employed by the public utility, subject to certain expres conditions, is essentially a matter of judgment, for either technique will accomplish the same result. It is at this point, however, that the cooperative's quality-of-earnings argument in our view becomes material. See, pg. 19, supra. A net-of-tax AFUDC will result in the capitalization of less carrying cost investment during the construction period. Thus, the bookkeeping earnings represented by capitalized AFUDC will be lessened by the immediate tax effect reduction, resulting in a somewhat better correlation of balance sheet earnings with cash flow. Moreover, once plant is placed in service, a smaller capitalized AFUDC is included in the company's rate base, resulting in a lesser return and depreciation expense than would be the case if Account 282 were employed. These salutary consequences both for the company, the customer and the prospective investor's perceptions support the use of the net-of-tax technique in this proceeding. Accordingly, we affirm our conclusions on this issue, and deny rehearing on the question.

VII. Transmission Allocation

PSCI seeks rehearing of the Commission's decision to compel the use of the rolled-in method with respect to the allocation of PSCI's transmission plant, stating that the use of this method results in confiscation of the company's property (PSCI App., pp. 2–6) and that the Commission's decision on this issue is not supported by the evidentiary record. Id., pp. 6–10. In Opinion No. 783, we found no sufficient evidentiary predicate to allow the specific allocation of transmission investment. PSCI characterizes its assignment of specific investment transmission as "no different from the development of a postage stamp rate for retail customers." PSCI App., pg. 7. In the same vein, PSCI attempts to distinguish its "specific or radial transmission lines" from its integrated system by comparison with a residential service drop. However, the attempt to literally analogize the allocation of transmission to the jurisdictional customers with the methods used in retail ratemaking regarding distribution facilities investment is not only inconsistent but also entirely inapposite.

On the one hand, PSCI suggests that a postage stamp rate for retail customers is used (a design which obviously does not account for specific assignment of costs) as apparent support for the specific assignment of transmission to particular classes of customers. The vaunted residential service drop serves the function of distribution and, quite properly, all such lines are considered "distribution" in developing the retail rate to be charged. On the other hand, the function of those increments of transmission sought to be specifically assigned in this proceeding is the transmission of bulk power to an integrated load center served by the utility. In the latter instance the function served by the facilities is clear, only the allocation as between wholesale customers is in question. Each wholesale class served by PSCI is integrated, regardless whether the particular load (or class of loads as a group) is served radially. See, *Municipal Light Boards, et cet. v. Boston Edison Co.*, Opinion No. 729, 53 F.P.C. ____ (1975). PSCI does not maintain that these specific radial lines serve a distribution function; the theory, rather, is that particular customers (aggregated into their respective classes) have differing (and greater) transmission investment responsibility and each of such customer groups should properly pay a proportionally higher rate for service.

PSCI alleges that the Commission assumed (or speculated) what PSCI might do in the way of looping those lines which are presently radial in order to improperly include radial facilities as part of PSCI's integrated transmission network. PSCI App., pg. 9. The error in this, it is said, rests in both ignoring the facts of record and looking beyond the test period (Period II) to justify allocation of that period's costs. Neither of these grounds are sound.

Classified according to function, radial lines which are used to transmit power to a load center of the utility are presently integral portions of the public utility's transmission network. The relevance of the dynamic character of an integrated transmission system (Detroit Edison Company, Opinion No. 748, 54 FPC ____, (December 30, 1975), *mimeo*, pg. 9) is only that radial lines are not necessarily permanently so classified. Basic equity demands that the company's investment dedicated to jurisdictional service to treated as recoverable from each wholesale customer through the rolled-in methodology.

[18] The investment placed in service in the latter half of the 1974 calendar year by PSCI was primarily transmission plant which has little associated expense, such as fuel or maintenance, that might be distorted by use of a less precise averaging technique. Thus, the primary concern would seem to be the revenues allowed in the way of return on such investment and a comparison of PSCI's Period I plant balance with that of Period II would tend to indicate that the increase in net plant in service was to be reasonably expected, especially given PSCI's huge and on going construction program. Thus, it did not appear that the result—the actual average balance achieved—was inflated or excessive.

[19] See Staff Br. on Exceptions, pp: 1–3.

[20] See, pg. 11, supra.

[21] The cost of service impact of this required adjustment is to reduce rate base by $5,795,000. See ID., pg. 10.

[22] Coop. App., pp. 28–37.

[23] Obviously, it would be irrational to assume a pro rata derivation of funds upon a basis other than the capitalization of the particular public utility under scrutiny. So too, it would be irrational to assume a particular level of short term borrowing which is completely unrelated to that experienced by the public utility during the test period.

[24] But see, Order No. 561 ____ F.P.C. ____ (1977), Docket No. RM75–27, February 2, 1977.

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PSCI argues that it has specifically assigned $445,000 of "distribution" to the wholesale class, asserting that such "distribution" facilities are only used to serve wholesale customers. The upshot of the rolled-in method, says PSCI, will be to either exclude this $445,000 entirely under the mandate of Opinion No. 783 or require the roll-in of all distribution facilities and allocation according to demand allocators. This argument is contrived, premised as it is on the absolute inviolability of PSCI's basically arbitrary classification of distribution according to voltage level. Those facilities which are legitimately classified as "distribution"—i.e., which serve a distribution rather than transmission function—are, of course, specifically assignable to the customer which such facility is employed to serve. Even Commission staff has specifically assign legitimately classified "distribution." However, the overriding fact is that the radial facilities sought to be assigned specifically by PSCI to wholesale customers are for the most part not "distribution" at all, when properly viewed according to function. The "distribution" facilities which serve a transmission function should be so classified, and rolled-in with other transmission facilities to be allocated on the basis of demand allocators. Adjustment on the basis of staff's presentation is reasonable and necessary. In no manner does the use of the rolled-in methodology for allocation among wholesale customers support a confusion of the distribution with the transmission function any more than arbitrary definition of transmission at an extremely high voltage level would. Rehearing on this issue is denied.

VIII. STAY

Opinion No. 783 required PSCI to file with the Commission within 60 days of the issuance of the Opinion "a revised cost of service any necessary amendments to its rate schedules. * * * in accordance with the findings and conclusions of [the] decision." Opinion, p. 60. After Commission review and approval of substitute tariff sheets, PSCI was ordered to tender refunds within 30 days together with interest at a rate of nine percent per annum. On December 9, 1976, along with its application for substantive rehearing, PSCI requested by motion that the Commission stay ordering paragraphs (B) and (C) of Opinion No. 783 for the reason that various alleged errors challenged on rehearing by PSCI should be corrected and that compliance with ordering paragraphs in advance of substantive reconsideration by the Commission would be prejudicial and, perhaps, unnecessary.[25] On December 28, 1976, intervenor IMEA answered PSCI's motion, opposing the requested stay and arguing that immediate refunds are required by the public interest. See "Answer of IMEA Cities to Motion for Stay of Order," Public Service Company of Indiana, Docket Nos. E-8586 and E-8587, December 28, 1976. By order of January 7, 1977, we granted rehearing for purpose of further consideration[26] and, additionally, granted the requested stay, stating that "it would be precipitous to require refunds in advance of substantive reconsideration."

Having addressed the arguments tendered by all parties on rehearing, we now dissolve the stay granted on January 7, 1977. PSCI shall, within 60 days of the issuance of this order on rehearing, file a revised cost of service and any necessary amendments to its wholesale tariffs in lieu of those tariffs and schedules at issue herein. Such revised cost of service and tariffs shall conform with the findings and conclusions set forth in Opinion No. 783, as such conclusions have been amended or modified by the instant decision. Thirty days subsequent to Commission approval of the proffered revised tariff sheets as conforming to the prescriptions of Opinion Nos. 783 and 783-A, PSCI shall refund to its customers all amounts, if any, collected in excess of those which would have been payable under the rates and charges approved as just and reasonable in Opinion No. 783, as modified on rehearing, together with interest computed at a rate of nine percent per annum for the period from March 14, 1974, in the case of Hoosier, or for the period from October 15, 1974, in the case of PSCI's other resale customers.

The Commission finds: The assignments of error and grounds for rehearing set forth in the various applications for rehearing of Opinion No. 783 present no facts or legal principles that would warrant any change in or modification of the Commission's Opinion No. 783, except to the extent specified in the body of this opinion and order.

The Commission orders: (A) The various petitions for rehearing on the merits filed by the parties to this proceeding are denied on the merits to the extent they are not explicitly granted in the body of the instant opinion and order.

(B) All arguments and/or assignments of error to Opinion No. 783 are denied on the merits to the extent that they are not addressed in the instant Opinion and Order, the discussion and conclusions reached in Opinion No. 783 being deemed adequate and fully sufficient by the Commission to dispose of the respective questions.

(C) The stay of Opinion No. 783, to the extent granted on January 7, 1977, by order of the Commission, is hereby vacated.

(D) Within 60 days of the date of issuance of this order, PSCI will file appropriate tariff sheets and a revised cost of service reflecting the mandate of the Commission in Opinion No. 783, as modified in Opinion No. 783-A.

(E) Within 30 days of the date of the Commission's approval of PSCI's substitute tariff sheets, PSCI shall refund to its customers any and all amounts collected in excess of those which would have been payable under the rates and charges approved as just and reasonable in Opinion No. 783, as modified by Opinion No. 783-A, together with interest computed at the rate of nine percent per annum for the period during which such rates and charges were effective for each customer.

(F) PSCI shall file a report with this Commission attesting to its compliance with the refund obligations imposed in ordering paragraph (E), supra.

(G) The Secretary of the Commission shall cause prompt publication of this Opinion and Order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

Commissioner Watt's statement, concurring in part and dissenting in part, filed as part of the original.

[FR Doc.77-6510 Filed 3-3-77;8:45 am]

[25] This motion was filed as Part II of PSCI's Application for Rehearing of Opinion No. 783.

[26] See n. 7, supra.

[Docket No. RP77-32]

SOUTH GEORGIA NATURAL GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase and Establishing Procedures

FEBRUARY 28, 1977.

On February 1, 1977, South Georgia Natural Gas Company (South Georgia) tendered for filing in the above docket proposed changes to its FPC Gas Tariff[1] which would increase its revenues for jurisdictional natural gas sales and services by $337,657 annually based on cost and sales volumes for the 12 months ended October 31, 1976, as adjusted for known and measurable changes through July 31, 1977. South Georgia requests the proposed increase be permitted to become effective on March 1, 1977. For the reasons stated below, the Commission shall accept the proposed rate increase for filing, suspend it for five months, and set the matter for hearing.

Public notice of South Georgia's filing was issued on February 9, 1977, providing for protests or petitions to intervene to be filed on or before February 23, 1977. South Georgia states the principal reasons for its proposed rate increase are increases in operating and maintenance expenses and taxes, a claimed rate of return of 10.98 percent, and a decline in sales volumes.

Based on a review of South Georgia's filing herein, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept South Georgia's proposed rate increase for filing, suspend its use for five months or until August 1, 1977, when it shall be permitted to become effective, subject to refund, and shall set the matter for hearing.

South Georgia requests waiver of the Commission's 30 day notice requirement so that its proposed increase can become effective on the same date as that proposed by its supplier, Southern Natural Gas Company, for its proposed rate increase in Docket No. RP77-31. South Georgia states that coincidental dates will avoid multiple filings by South Georgia and avoid confusion and inconvenience to South Georgia's customers. The Commission finds that good cause exists to grant the requested waiver.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates and charges proposed by South Georgia, and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed herein by South Georgia.

(B) Pending hearing and decision, South Georgia's proposed rate increase is accepted for filing and suspended for five months, or until August 1, 1977, when it shall be permitted to become effective, subject to refund, upon motion filed by South Georgia in accordance with the provisions of the Natural Gas Act.

(C) The Commission's notice requirements are waived for purposes of the order in paragraph (B) above.

(D) The Commission staff shall prepare and serve top sheets on all parties on or before June 3, 1977.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6504 Filed 3-3-77;8:45 am]

[Docket No. RP77-31]

SOUTHERN NATURAL GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase and Establishing Procedures

FEBRUARY 28, 1977.

On January 28, 1977, Southern Natural Gas Company (Southern Natural) tendered for filing in the above docket proposed changes to its FPC Gas Tariff[1] which would increase its revenues for jurisdictional natural gas sales and services by $37,971,061 annually based on costs and sales volumes for the 12 months ended October 31, 1976, as adjusted for known and measurable changes through July 31, 1977. Southern Natural requests the proposed increase be permitted to become effective on March 1, 1977. For the reasons stated below, the Commission shall accept the proposed rate increase for filing, suspend it for five months, and set the matter for hearing.

Public notice of Southern Natural's filing was issued on February 9, 1977, providing for protests or petition to intervene to be filed on or before February 22, 1977.

Southern Natural states the principal reasons for its proposed rate increase are increased capital expenditures for gas supply projects, increased costs of capital, increased costs of operation and maintenance, and a decline in the volume of gas supplies available for sale. Southern Natural claims a rate of return of 10.68 percent including a 14 percent allowance on common equity.

Based on a review of Southern Natural's filing herein, the Commission finds that the proposed higher rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Southern Natural's proposed rate increase for filing, suspend its use for five months or until August 1, 1977, when it shall be permitted to become effective, subject to refund, and shall set the matter for hearing.

Southern Natural has included in its claimed rate base approximately $35 million of uncompleted construction expenditures related primarily to the company's Muldon storage field. Southern Natural shall be required to file revised rates and supporting materials reflecting the elimination of costs associated with construction which remains incomplete as of the August 1, 1977, effective date of the rates in this docket.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates and charges proposed by Southern Natural, and that the same be accepted for filing and suspended as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed herein by Southern Natural.

(B) Pending hearing and decision, Southern Natural's proposed rate increase is accepted for filing and suspended for five months, or until August 1, 1977, when it shall be permitted to become effective, subject to refund, and shall set the matter for hearing.

(C) The Commission staff shall prepare and serve top sheets on all parties on or before June 3, 1977.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

(E) Southern Natural shall file revised tariff sheets on or before August 1, 1977, reflecting the elimination of costs included in the proposed rates associated with facilities which have not been completed and placed in service by August 1, 1977. Southern Natural shall also submit supplemental cost and revenue data reflecting the elimination of such costs from its cost of service.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6505 Filed 3-3-77;8:45 am]

[Docket No. E77-38]

COLUMBIA GAS TRANSMISSION CORP.

Emergency Natural Gas Act of 1977; Emergency Order

On February 28, 1977, Columbia Gas Transmission Corporation (Columbia) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 60,000 Mcfd of natural gas from Delhi Gas Pipe Line Corporation (Delhi) from the date of commencement of deliveries through July 31, 1977.[1]

Columbia will purchase the gas at a price of $2.25 per MMBtu, inclusive of all adjustments. Accordingly, I find the proposed price to be fair and equitable within the meaning of Order No. 2 and authorize the proposed purchase.

Delhi will deliver the gas to Northern Natural Gas Company (Northern) for the account of Columbia in Pecos County, Texas. Northern will deliver the gas to

[1] Twenty-Fourth Revised Sheet No. 3A, Fourth Revised Sheet No. 19A, and Second Revised Sheet No. 19C to Original Volume No. 1.

[1] Twenty-Fourth Revised Sheet No. 4A to Sixth Revised Volume No. 1, and Second Revised Sheet No. 242 to Original Volume No. 2.

[1] Columbia is currently purchasing 40,000 Mcfd from Delhi pursuant to § 157.29 of the Rules and Regulations of the Federal Power Commission (18 CFR 157.29). The term of this purchase ends at 8:00 a.m., Tuesday, March 1, 1977.

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Panhandle Eastern Pipe Line Company (Panhandle) at Mullenville, Kansas. Panhandle will deliver the gas to Columbia at Maumee, Ohio. The deliveries will be made through existing interconnections. Thus, there is no reason to require the construction and operation of facilities as permitted by Section 6(c)(1) of the Act (91 Stat. 4, 8).

Columbia has agreed to pay the following transportatioin charges: Northern—17.5 cents per Mcf plus 6 percent of the volumes delivered; Panhandle—23.25 cents per Mcf plus 11 percent of the volumes delivered.

Pursuant to Section 6(c)(1) of the Act, I hereby authorize and order (i) Delhi, Northern and Panhandle to transport up to 60,000 Mcfd of gas for Columbia on the terms and at the charges set forth, and (ii) Columbia pay the agreed upon transportation charges.

In the course of such transportation by Delhi from point of origin to destination, there may be a commingling of interstate natural gas with Delhi's normal system gas supplies or with volumes of gas owned by third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of Pub. L. 95-2, the suppliers of such gas, which is so commingled, may not terminated existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Public Law 95-2 since Delhi is transporting gas for Columbia pursuant to Section 6(a) of that Act. Delhi and any third person whose gas is commingled with Columbia's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Delhi is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipline in connection with such sale * * *" 91 Stat. at 8. In addition, section 6(c)(2) provides:

Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the sale, delivery and transportation of this gas will not subject Delhi to the provisions of the Natural Gas Act.

Columbia states that to the best of its "knowledge and belief" that its purchase complies with Order No. 6. I find that Columbia has complied with Order No. 6.

Columbia shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia, Delhi, Northern, and Panhandle. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

March 1, 1977.

[FR Doc.77-6597 Filed 3-3-77;8:45 am]

[Docket No. E77-39]

DELHI GAS PIPE LINE CORP.

Emergency Natural Gas Act of 1977; Emergency Order

On March 1, 1977, Delhi Gas Pipe Line Corporation (Delhi) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application to sell up to 61,000 Mcfd to Transcontinental Gas Pipe Line Corporation (Transco) on an "if, as and when available" basis subject to available pipeline capacity.

Delhi proposes to deliver approximately 1,000 Mcfd to Transco in Bee County, Texas, and approximately 60,000 Mcfd in Pecos County, Texas. The Bee County sale terminates July 31, 1977, and the Pecos County sale terminates April 30, 1977.

Transco will purchase the subject volumes at $2.25 per MMBtu inclusive of all adjustments. I find such price to be fair and equitable in accordance with Order No. 2.

The gas will be delivered to Transco as follows. In Bee County, Delhi will deliver to United Gas Pipe Line Company (United) which will deliver to Transco through an existing interconnection in Victoria County, Texas. In Pecos County, Delhi will deliver to Northern Natural Gas Company (Northern) which will deliver equivalent volumes to Natural Gas Pipe Line Company of America (Natural) in Mills County, Iowa. Natural will deliver equivalent volumes to Transco at either the Cameron Plant, Cameron Parish, Louisiana, or the La Gloria Plant, Jim Wells County, Texas. Delhi will install or cause to be installed all necessary taps, valves and metering facilities to make the subject deliveries. Therefore, there is no reason to require Transco to pay the cost of such facilities as permitted by § 6(c)(1) of the Act (91 Stat. 4, 8). Transco shall, however, submit to the Administrator information regarding the transportation charges to be paid to United, Northern, and Natural.

In the course of such transportation and delivery by Delhi from point of origin to destination, there may be a commingling of interestate natural gas with Delhi's normal system gas supplies or with volumes of gas owned by third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of Pub. L. 95-2, the suppliers of such gas, which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of section 9 of Pub. L. 95-2 since Delhi is transporting gas for Transco pursuant to section 6(a) of that Act. Delhi and any third person whose gas is commingled with Transco's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Delhi is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *" 91 Stat. at 8. In addition, section 6(c)(2) provides:

Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the sale, delivery and transportation of this gas will not subject Delhi to the provisions of the Natural Gas Act.

Therefore, I authorize Delhi to sell gas to Transco pursuant to the pricing provisions set forth above, and authorize United, Northern and Natural to transport this gas for Transco.

Transco shall submit weekly reports as required by Order No. 4 and shall certify, based upon information reasonably available to it at the time of the execution of the contract, that the proposed purchase complies with Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Delhi, Transco, United, Northern and Natural. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 1, 1977.

[FR Doc.77-6577 Filed 3-3-77;8:45 am]

[Docket No. E77-37]

TENNESSEE GAS PIPELINE CO.

Emergency Natural Gas Act of 1977; Emergency Order

On February 28, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 32,000 Mcfd of natural gas from Channel Industries Gas Company (Channel), an intrastate pipeline and an affiliate of Tennessee. Tennessee will purchase the subject gas at a price of $2.25 per MMBtu in accordance with Order No. 2. Channel will sell this gas on a day to day basis, as available, for the effective period of the Act, and make delivery to Tennessee at the tailgate of Mobil Oil Corporation's Seeligson Plan, Jim Wells County, Texas, and Tenneco Oil Company's Leabo Plant, Matagorda County, Texas.

The proposed price for this sale is in accordance with Order No. 2 and I find such price to be fair and equitable. Further, since Tennessee advises that deliveries will be made through existing facilities, no reason exists to require the construction and operation of facilities as permitted under section 6(c)(1) of Pub. L. 95-2 (91 Stat. 4, 8).

Tennessee advises and I find that contractual provisions between Channel and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of its intrastate pipeline system gas supplies with gas moving in interstate commerce. The transportation and delivery of gas for which Tennessee seeks approval may result in some commingling of interstate natural gas with Channel's normal intrastate pipeline system gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas. Under the provisions of § 9(b) Pub. L. 95-2 (91 Stat. at 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of section 9 of Pub. Law 95-2 since Channel is selling, delivering and transporting gas for Tennessee pursuant to section 6(a) of that Act. Channel and any third person whose gas is commingled with Tennessee's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Channel is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * * "91 Stat. at 8. In addition § 6(c)(2) provides:

Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the sale, delivery and transportation of this gas will not subject Channel to the provisions of the Natural Gas Act.

Therefore, I authorize Channel to sell gas to Tennessee pursuant to the pricing provisions set forth above, and authorize and order Channel to transport and deliver gas to Tennessee on the above-stated terms and conditions.

Tennessee advises that it is currently curtailing into Category 2 requirements and expects to continue such curtailment level in the near future. Order No. 6 provides in part that, subsequent to the date of the order, no interstate pipline may contract for gas pursuant to § 6 of the Act if, contemporaneously with the execution of such contract, the pipeline is serving directly or indirectly any uses classified in Priorities 4 through 9 as defined by the Federal Power Commission in 18 CFR 2.78(a)(1) (iv)-(ix). While Tennessee's filing demonstrates that Tennessee will not be serving directly in uses in Priorities 4 through 9, it does not demonstrate that Tennessee will not serve such uses indirectly through the local distribution companies or other interstate pipelines to which Tennessee sells gas. Therefore, Tennessee's authority to purchase gas from Channel is conditioned upon Tennessee's submission of a sworn statement that based upon information reasonably available to it at the time of execution of the contract, it was not serving any uses classified in Priorities 4 through 9 indirectly as well as directly.

Tennessee shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Tennessee and Channel. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 1, 1977.

[FR Doc.77-6578 Filed 3-3-77;8:45 am]

[Docket No. CP77-192]

NORTHERN NATURAL GAS CO.

Application

FEBRUARY 24, 1977.

Take notice that on February 7, 1977, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP77-192 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to continue to exchange natural gas with Cabot Corporation (Cabot) pursuant to a gas exchange agreement dated April 1, 1967, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to continue the exchange of natural gas with Cabot on a year-to-year basis. It is indicated that the exchange agreement requires that the party receiving gas endeavors in good faith to take all casinghead gas from designated oil wells and allowable production from designated gas well and that the party making deliveries to designated irrigation customers deliver all volumes required by the such customers. Applicant states that the volume of gas currently exchanged is approximately 3,500 Mcf per day. It is stated that delivery would be made at the following points in Texas:

Source of gas supply or name of irrigation customer to be supplied	Location of delivery point			
	Section	Block	Survey	County
Delivery points from Cabot to applicant				
Cabot's gathering system and Harlan No. 1 well.	14	M-5	WW&S	Hutchinson.
Cabot's gathering system	184	3	I&GN RR. Co	Gray.
Robbins No. 1 and Montgomery No. 1 Wells.	112	7	do	Carson.
Loyd Riggins No. 1 and Uter-Riggins No. 2 Wells.	109	7	do	Do.
Neighbors No. 1 Well	60	7	do	Do.
Bobbit No. 1, Rapstine No. 1 and Dauer No. 1 Wells.	65	7	do	Do.
Benedict No. 1 Well	24	7	do	Do.
Frashier No. 1-E Well	160	3	do	Gray.
Emil Urbanczyk	108	3	do	Do.
Jannet Robbins	120	7	do	Do.
C. W. Bobbit	245	B-2	H&GN RR. Co	Do.
Gary Does	131	3	I&GN RR. Co	Do.
Dean Burger	108	B-2	H&GN RR. Co	Do.
Marvin Keating	22	R	D. B. Hill	Do.
Alvin Dauer	150	B-2	H&GN RR. Co	Do.

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Delivery points from applicant to Cabot

Source of gas supply or name of irrigation customer to be supplied	Location of delivery point			
	Section	Block	Survey	County
Texaco-J.B. Bowers NCT-5 Well No. 1	119	B-2	H&G Ry. Co.	Gray.
Dorchester-Williams No. 1 Well	150	B-2	do.	Do.
Dorchester-Osborne No. 2 Well	109	3	T&ON RR. Co.	Do.
Applicant's equalizing measuring station at Skelly Oil Company's Schafer No. 1 Gasoline Plant.	88	4	do.	Carson.
Applicant's equalizing station at the Kerr-McGee Oil Industries, Inc. (Portland) Plant.	163	3	do.	Gray.
Celanese Corporation (customer)	133	3	do.	Do.
Celanese Corporation (customer)	156	3	do.	Do.
Applicant's 20-inch transmission line	92	4	do.	Carson.

It is said that there would be no monetary consideration between the parties, that the exchange would be on a gas-for-gas basis, and that no new facilities would be required to implement the exchange agreement. Applicant asserts that the exchange between the parties is mutually beneficial in that it has provided and would continue to provide a means for each party to connect remote sources of gas supply into its respective system while eliminating the need to construct duplicate facilities otherwise required.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6300 Filed 3-3-77;8:45 am]

[Docket No. E77-40]

CNG TRANSMISSION CO.

Emergency Order Pursuant to Emergency Natural Gas Act of 1977

On March 1, 1977, CNG Transmission Company (CNG) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 10,000 Mcfd from Onix Corporation (Onix) at a price of $2.02 per Mcf from the date of initial deliveries through the earlier of the date the President terminates the emergency declared under section 3 of the Act (91 Stat. 4, 4-5) or July 31, 1977.

Order No. 2 stated that prior approval of the Administrator was not required if the proposed wellhead price did not exceed $2.25 per MMBtu. CNG states that it will purchase the subject gas from Onix at a price of $2.02 per Mcf. Therefore, I will approve the proposed purchase subject to the condition that the price paid to Onix not exceed $2.25 per MMBtu.

CNG states that Onix will deliver the subject gas to Lone Star Gas Company (Lone Star) for delivery to Transcontinental Gas Pipe Line Corporation (Transco). Transco will deliver the gas to CNG. CNG has agreed to pay the transportation charges set forth below: Lone Star, 20.25 cents per Mcf; Transco, 22 cents per Mcf.

Pursuant to section 6(c)(1) of the Act (91 Stat. at 8), I hereby authorize and order (i) Lone Star and Transco to transport gas for CNG on the terms and at the charges set forth above and (ii) CNG to pay the agreed upon charges. Because the parties have agreed on the transportation charges to be paid, I find no reason to fix other charges at this time. If the transportation networks proposed herein and authorized become inadequate at any time during this transportation, the parties are hereby authorized to make alternative arrangements and notify the Administrator of such changes within seventy-two hours of the commencement of deliveries under new arrangements.

CNG adivses and I find that contractual provisions between Lone Star and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of its intrastate pipeline system gas supplies with gas moving in interstate commerce. The transportation and delivery of gas for which CNG seeks approval may result in some commingling of interstate natural gas with Lone Star's normal intrastate pipeline system gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas. Under the provisions of section 9(b) P. L. 95-2 (91 Stat. at 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Public Law 95-2 since Lone Star is selling, delivering and transporting gas for CNG pursuant to Section 6(a) of that Act. Lone Star and any third person whose gas is commingled with CNG's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Lone Star is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any transportation by an intrastate pipeline in connection with such sale *-* *" 91 Stat. at 8. In addition section 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, Lone Star will not become subject to any provision of the Natural Gas Act or to regulation as a common carrier under State law because of its transportation of these gas volumes.

Order No. 6 provides in part that, subsequent to the date of the order, no local distribution company may contract for gas pursuant to section 6 of the Act if, contemporaneously with the execution of such contract, that company is serving directly or indirectly any uses classified in Priorities 4 through 9 as defined by the Federal Power Commission in 18 CFR 2.78(a)(1)(iv)-(ix). CNG's filing does not demonstrate that CNG will not serve such uses directly or indirectly. Therefore, CNG's authority to purchase gas from Onix is conditioned upon CNG's submission of a sworn statement that based upon information reasonably available to it at the time of execution of the contract, it was not serving any uses classified in Priorities 4 through 9 directly or indirectly.

CNG shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon CNG, Onix, Lone Star and Transco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 2, 1977.

[FR Doc.77-6689 Filed 3-3-77;8:45 am]

[Docket No. E77-33]

UNITED GAS PIPE LINE CO.

Emergency Order Pursuant to Emergency Natural Gas Act of 1977

On February 25, 1977, United Gas Pipe Line Company (United) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application requesting a determination that United continues to have the right to purchase gas under section 6 of the Act as long as United would be curtailing into Priority 3 or higher if its curtailment were pursuant to Federal Power Commission (FPC) Order No. 467 and that, in any event, that United may purchase those supplies for which an agreement to purchase had been reached but no formal contract had been executed by February 22, 1977. For the reasons set forth below, I deny United's request subject to certain exceptions.

United states that it is not operating under a curtailment plan which incorporates the exact curtailment priorities specified by the FPC in 18 CFR 2.78(a)(1)(i)-(ix). United is curtailing pursuant to a plan imposed by the United States Court of Appeals for the Fifth Circuit. This plan is based upon priorities significantly different from those specified in 18 CFR 2.78(a)(1)(i)-(ix). United further states that if it were curtailing in accordance with the FPC priorities it would be curtailing into Priority 2.

Order No. 6 specifies that, subsequent to February 22, 1977, no interstate pipeline or local distribution company may execute a contract for the purchase of gas pursuant to § 6 of the Act if, contemporaneously with the execution of the contract, the purchaser was serving directly or indirectly any uses specified in Priorities 4 through 9 (18 CFR 2.78(a)(1)(iv)-(ix)). Order No. 6 is based upon a defined set of priorities and uses rather than upon the priorities specified in the curtailment plans of various pipelines and permits an interstate pipeline or local distribution company to make new emergency purchases only if that company is not serving directly or indirectly certain uses as defined in that set of priorities. This set of priorities was adopted to determine the qualification to execute new contracts for purchases pursuant to section 6(a) of the Act to provide that available emergency supplies are utilized for only the higher priority uses for the near term. Because each of the pipeline curtailment plans approved by the FPC is based upon different priorities it is not practicable to base the qualifying criteria upon those plans. Likewise, qualification may not be based upon what uses would be served if the pipeline's plan were based upon the specified priorities. Instead qualification to make such purchases must be based upon those uses actually being served to insure the implementation of the policy of Order No. 6.

Therefore if United is serving customers defined in Priorities 4 through 9, I cannot authorize United to make emergency purchases pursuant to section 6(a) of the Act unless and until, I find that Order No. 6 should be modified or rescinded.

United also states that with respect to a number of proposed purchases it had, prior to February 22, 1977, concluded negotiations and entered into an agreement for such purchase but not signed a formal written contract. United also advises that in a number of cases the seller had made expenditures to install facilities for the physical delivery of the gas volumes or obtain releases from intrastate contracts in order to make the emergency sales.

Order No. 6 does not prohibit the commencement of deliveries pursuant to formal written contracts executed prior to February 22, 1977, even if deliveries had not commenced prior to that date. United Gas Pipe Line Company, Docket No. E77-28 (February 26, 1977). In addition, where the proposed purchaser can demonstrate that pursuant to an oral agreement of sale either it or the seller made substantial expenditures to install facilities necessary to effectuate the emergency purchase prior to February 22, 1977, Order No. 6 does not automatically preclude the proposed purchase. Colorado Interstate Gas Company, Docket No. 77-31 (February 28, 1977). United also states that, in some cases pursuant to an oral agreement of sale, the proposed seller had secured the release of gas from intrastate commerce in order to make the emergency sale. I find that the purchase of such gas would not be precluded by Order No. 6 only if a formal written release had been executed prior to February 22, 1977, and such release specifically stated that the gas was being released for sale to interstate commerce. In any case where the type of detrimental reliance set forth above cannot be demonstrated, I conclude that the gas was not contracted for prior to February 22, 1977, and that the proposed purchase may be made only if the purchaser qualifies under Order No. 6.

Except as set forth above, United's request is denied. This order shall remain in effect unless and until Order No. 6 is modified or rescinded.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon United. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 2, 1977.

[FR Doc.77-6688 Filed 3-3-77;8:45 am]

[Docket No. E77-21]

COLUMBIA GAS TRANSMISSION CORP.

Emergency Natural Gas Act of 1977; Emergency Order

On February 15, 1977, Columbia Gas Transmission Corporation (Columbia), on behalf of itself and UGI Corporation (UGI), filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 100,000 Mcfd of natural gas from Pacific Gas and Electric Company (PG&E) with 75 percent of the volumes accruing to Columbia and 25 percent to UGI. The proposed sale is to continue until midnight March 10, 1977, or such later date agreed to by the parties during the period the Act is in effect. The total volumes to be delivered are 2.25 Bcf to Columbia and 0.75 Bcf to UGI.

The gas will be made available to PG&E at the Arizona-California border to El Paso Natural Gas Company (El Paso). El Paso will reduce deliveries to PG&E and deliver equivalent Btu's to Oasis Pipe Line Company (Oasis) in Pecos County, Texas. Oasis will transport and deliver equivalent Btu's to Bronco Pipeline Comany and Tenngasco, Inc. (Bronco-Tenngasco) near Katy, Waller County, Texas, and Bronco-Tenngasco will transport and deliver equivalent Btu's at a mutually agreeable point to Tennessee Gas Pipeline Company (Tennessee). Tennessee will transport the gas and deliver equivalent volumes in Mcf to Columbia Gulf Transmission Company, an affiliate of Columbia, at a point in Southern Louisiana. Columbia Gulf will transport the gas to Columbia and Columbia will deliver UGI's volumes at existing delivery points.

Columbia has agreed, for itself and UGI, to pay the following transportation charges: Oasis—13 cents per Mcf transported and 4 percent of the Btu's transported for fuel; Bronco-Tenngasco—2 cents per Mcf transported; Tennessee—7.6 cents per Mcf plus 1.3 percent of the volume transported for fuel. Columbia will also pay (i) El Paso approximately $144,000 to construct facilities to deliver the subject gas to Oasis, and (ii) Tennessee approximately $440,000 to construct facilities to receive such gas from Bronco-Tenngasco. In addition, UGI will pay applicable tariff and fuel charges to Columbia Gulf and Columbia.

Pursuant to section 6(c)(1) of the Act (91 Stat. 4, 8), I hereby authorize and order (i) El Paso, Oasis, Bronco-Tenngasco, Tennessee, Columbia Gulf, and Columbia to transport up to 100,000 Mcfd of gas for Columbia and UGI on the terms and at the charges set forth, (ii) El Paso and Tennessee to construct and operate facilities necessary to de-

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liver this gas to Columbia and UGI; and (iii) Columbia and UGI to pay the agreed upon transportation charges and reasonable actual costs of construction incurred by El Paso and Tennessee.

In the course of such transportation by Oasis and Bronco-Tenngasco from point of origin to destination, there may be a commingling of interstate natural gas with Oasis' or Bronco-Tenngasco's normal system gas supplies or with volumes of gas owned by third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of Pub. L. 95–2, the producers, of such gas which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as common carriers under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of section 9 of Pub. L. 95–2 since Oasis and Bronco-Tenngasco are transporting gas for Columbia and UGI pursuant to section 6(a) of that Act. Oasis, Bronco-Tenngasco and any third person whose gas is commingled with Transco's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Oasis and Bronco-Tenngasco are not classified as Natural Gas Companies within the meaning of the Natural Gas Act. Section 6(c)(2) of Pub. L. 95-2 provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the transportation of this gas will not subject Oasis and Bronco-Tenngasco to the provisions of the Natural Gas Act. See also 6(b)(1)(A), 91 Stat. at 8.

Columbia and UGI will repay PG&E by delivering volumes of gas equal to the Btu's delivered by PG&E during the emergency sale. In addition, Columbia and UGI shall reimburse PG&E 35 cents per Mcf for general storage and transportation charges, and an amount of repayment gas equal 1 percent per month of the volumes to be repaid to PG&E commencing April 1, 1977, and thereafter on the outstanding volume to be repaid on the first of each month until repayment is complete. With the exception of 1 percent per month carrying charge in gas volumes, I find the terms and conditions of the proposed purchase to be fair and equitable in accordance with Order No. 2. I find no reason to approve a carrying charge expressed in gas volumes. I will, however, approve reasonable carrying charges expressed in monetary terms. If PG&E agrees to make this sale with the carrying charge expressed in monetary amounts rather than gas volumes, Columbia shall so notify the Administrator within seventy-two hours of the commencement of deliveries.

Columbia and UGI shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia, UGI, PG&E, El Paso, Oasis, Bronco-Tenngasco, Tennessee, and Columbia Gulf. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 18, 1977.

[FR Doc.77–6656 Filed 3–3–77;8:45 am]

[Docket No. E77–19]

PHILLIPS PETROLEUM CO.

Emergency Natural Gas Act of 1977; Emergency Order

On February 16, 1977, Phillips Petroleum Company (Phillips) filed a telegram requesting authorization pursuant to section 6 of the Emergency Natural Gas Act of 1977, Pub. L. 95–2 (91 Stat. 4 (1977)), to make a sale of liquefied natural gas (LNG) from the Kenai LNG Plant, Kenai, Alaska, to Columbia Gas Transmission Corporation (Columbia). Phillips also requests confirmation that its sale of LNG to Columbia will not subject its LNG facilities to the jurisdiction of the Federal Power Commission (FPC) under the Natural Gas Act (15 U.S.C. 717, et seq.).

Phillips has agreed to sell its 70 percent share of 540,000 barrels of LNG to Columbia. The LNG price, F.O.B. Kenai LNG Plant, is $1.55 per MMBtu.

Columbia will transport the LNG from Kenai using the *Kenai Multina*. Columbia has secured from the Secretary of the Treasury the necessary waivers of the Jones Act (46 U.S.C. § 883) to permit the *Kenai Multina*, a ship of Liberian registry, to engage in United States coastal trade as defined in the Jones Act.

Paragraph (1) of Order No. 2 established for wellhead sales a price of $2.25 per MMBtu below which prior approval of the Administrator is not required. While the Kenai sale is not technically a wellhead sale, the sale is more similar to that type of sale than the other types of sales described in Order No. 2. Therefore, I will consider the proposed sale to be a wellhead sale. Given this treatment, I find the terms and conditions of the proposed sale are fair and equitable in accordance with Order No. 2.

I further find that Phillips' sale to Columbia will not itself subject Phillips' LNG facilities to the jurisdiction of the FPC or affect Phillips' status as an independent producer. In this regard, Section 6(b)(1 provides as follows (91 Stat 4, 8):

> The provisions of the Natural Gas Act shall not apply—
>
> (A) To any sale of natural gas to an interstate pipeline or local distribution company under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with any such sale; or
>
> (B) To any natural gas company (within the meaning of the Natural Gas Act) solely by reason of any such sale or transportation.

Thus, even though Phillip's sale to Columbia might otherwise subject such sale and/or Phillips to the jurisdiction of the FPC, Pub. L. 95–2 specifically prohibits the assertion of such jurisdiction.[1]

Section 6(b)(1)(A) provides that sales made pursuant to section 6(a) are not subject to the Natural Gas Act. Phillips' sale to Columbia is pursuant to section 6(a)(1): Phillips is a producer of natural gas, the gas is not produced from the Outer Continental Shelf, and the subject gas was not, prior to the execution of the Phillips–Columbia contract, certificated under the Natural Gas Act.

This order shall be served on Phillips, Columbia, and Marathon Oil Company. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 18, 1977.

[FR Doc.77–6657 Filed 3–3–77;9:58 am]

[Docket No. E77–4]

SOUTHERN NATURAL GAS CO.

Emergency Natural Gas Act of 1977; Supplemental Emergency Order

By telegram filed February 17, 1977, Southern Natural Gas Company (Southern) petitioned for clarification of the February 4 and 9, 1977 orders in this proceeding. Those orders provided that LoVaca Gathering Company (LoVaca) should transport gas for Southern from Knight Gas Processing Plant in Reeves County, Texas, to a mutually agreeable delivery point and that, if the parties were unable to agree, the compensation for such transportation would be fixed after a hearing. Southern states that LoVaca requests that those orders be clarified as follows:

(i) LoVaca may redeliver the subject gas to United Gas Pipe Line Company (United) at a point in Jackson County, Texas, for delivery to Southern through existing interconnections;

(ii) LoVaca may install a meter and valve to deliver such gas to United and recover from Southern its unrecovered expenses of such installation; and

(iii) LoVaca may deliver such gas on a best efforts basis for up to 60 days following commencement of deliveries at a charge of 25 cents per Mcf plus 2.7 percent of the delivered volumes for fuel.

The February 4 1977 order provided that LoVaca should receive gas at the Knight Plant, Reeves County, Texas, and transport such gas to a mutually agreeable redelivery point. Southern and LoVaca have determined that such point should be in Jackson County, Texas, where the gas will be delivered to United for Southern's account. Therefore, LoVaca is authorized and ordered to transport up to 45,000 Mcfd for Southern from the Knight Plant, Reeves County, Texas, to the agreed upon point in Jackson County Texas where such gas is to be delivered to United.

Second LoVaca requests authorization to install a meter and valve to deliver this gas to United and to recover from Southern the costs of such installation. Section 6(c)(1) of Pub. L. 95–2 (91 Stat. 4, 8) permits the Administrator to order any pipeline to construct facilities required to deliver gas purchased pursuant to section 6(a) (91 Stat. at 7–8) and to recover the cost of installing such facilities from the party receiving such natural gas. I authorize LoVaca to install and operate, at the agreed upon point in Jackson County, Texas, a meter and valve of sufficient size to permit the delivery of up to 45000 Mcfd of gas to United for Southern's account. LoVaca is also authorized to recover the costs of such installation from Southern.

Third, LoVaca proposes to charge Southern 25 cents per Mcf plus 2.7 percent of the transported volumes for fuel. I find that the parties have agreed upon transportation charges of 25 cents per Mcf plus 2.7 percent of the transported volumes for full charges. Accordingly, LoVaca is entitled to recover the agreed upon charges.

Southern requests that it be authorized to recover all charges as set forth above in its rates. Section 6(b)(2) of Pub. L. 95–2 (91 Stat. at 8) provides that the Federal Power Commission "shall not disallow, in whole or in part, recovery by any interstate pipeline, through the rates and charges made demanded, or received by such pipeline the amounts actually paid by it for natural gas purchased, transported, or other costs incurred pursuant to" section 6(a).

This order shall be served upon Southern, LoVaca, United Gas Pipe Line Company, Texas Utilities Fuel Company, and El Paso Electric oCmpany. The order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 18, 1977.

[FR Doc.77–6658 Filed 3–3–77;8:45 am]

[1] By letter dated February 17, 1977, the FPC advised Phillips that its sale to Columbia is not subject to the FPC's jurisdiction and that Phillips' status under the Natural Gas Act will not be affected by such sale.

VETERANS ADMINISTRATION

NEW YORK NATIONAL CEMETERY AT CALVERTON, NEW YORK (LONG ISLAND)

Availability of Draft Environmental Impact Statement

Notice is hereby given that a document entitled "Draft Environmental Impact Statement for the Proposed New York National Cemetery, Calverton, New York (Long Island)," dated January 1977, has been prepared as required by the National Environmental Policy Act of 1969.

The proposed National Cemetery is to be located on 900± acres near Calverton, New York (Long Island). This proposed development will provide burial space for approximately 500,000 gravesites and will have an administration building, a memorial center, a committal service center and a maintenance complex to provide for all associated cemetery functions.

This Draft Statement discusses the environmental impact of the proposed New York National Cemetery. The document is being placed for public examination in the Veterans Administration Office in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Jack Westall, Assistant Chief Medical Director for Administration (13), Room 600, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Single copies of the Draft Statement may be obtained on request to the above office.

Dated: February 28, 1977.

By direction of the Administrator.

A. J. SCHULTZ, Jr.,
Associate Deputy Administrator.

[FR Doc.77–6586 Filed 3–3–77;8:45 am]

FEDERAL TRADE COMMISSION

[File 752–8151, etc.]

DINERS' CLUB, INC., ET AL

Consent Agreements With Analysis To Aid Public Comment

Correction

In FR Doc. 77–5007, appearing at page 9715 in the issue for Thursday, February 17, 1977, make the following change:

1. On page 9720, in the middle column, 10th line of paragraph "C" should read "fund the entire amount requested, If owed, or furnish the customer with an individualized written ex- * * *".

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

ELECTRICAL SERVICE TO NORTHWEST ALLOYS MAGNESIUM PLANT, DRAFT ENVIRONMENTAL STATEMENT

Public Information Meeting

Notice of a public information meeting is hereby given by the Bonneville Power Administration (BPA) to solicit public comments on the Draft Environmental Statement on BPA Electrical Service to Northwest Alloys Magnesium Plant (INT DES 77–7). This draft statement was filed with the Council on Environmental Quality (CEQ) on February 15, 1977.

The Draft Environmental Statement on BPA Electrical Service to Northwest Alloys Magnesium Plant located in Addy, Washington, describes the environmental impact of the proposed delivery of power to Northwest Alloys, which would enable full and continued plant operations.

The purpose of this public information meeting is to present to the public a description of the proposal and impacts associated with it, and to solicit comments from the public with respect to the environmental impact of the proposal.

Copies of the draft environmental statement describing the proposal are available for inspection in the library of the Headquarters Office of BPA, 1002 NE. Holladay Street, Portland, Oregon 97232; the BPA Washington, D.C., Office in the Interior Building, Room 5600; and at the Spokane Area Office, Room 561, U.S. Court House, W. 920 Riverside Avenue, Spokane, Washington 99201.

A limited number of copies are also available and may be obtained by writing to the Environmental Office, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208 or to the Spokane Area Manager at the above address.

The meeting covering BPA Service to the Northwest Alloys Magnesium Plant will be held on Wednesday, April 6, 1977, at 7:00 p.m. in Library Room of the Colville City Hall, Washington. Those not able to attend the meeting may submit their comments in writing to the Environmental Office, Bonneville Power Administration, Portland, at the address above. All inquiries including any additional information on the meeting or the subject matter should also be directed to the Environmental Office. All written comments must be received by Friday, April 15, 1977. BPA will not be able to consider any written comments received after that date.

Dated: February 28, 1977.

WILLIAM H. CLAGETT,
Assistant Administrator.

[FR Doc.77–6499 Filed 3–3–77;8:45 am]

V42 43 MAR R 4 77 UMI

Bureau of Land Management

[OR 9061]

OREGON

Order Providing for Opening of Public Lands

Correction

In FR Doc. 77-3314, appearing on page 6645 in the issue for Thursday, February 3, 1977, the headings should read as set forth above and in the paragraph designated "2.," the second complete word in the sixth line should read "rocky".

[M-141]

SOUTH DAKOTA

Transfer of Submarginal Lands Pine Ridge Indian Reservation

Correction

In FR Doc. 77-3486, appearing at page 6914 in the issue for Friday, February 4, 1977, the entry in line 33 of the third column on page 6914 which now reads "Sec. 17 N; and SE¼;", should read "Sec. 17, N½ and SE¼".

[F-19155-55, F-19155-77, F-19155-78, F-19155-80, F-19155-81, F-19155-96]

ALASKA

Native Claims Selection

On December 18, 1975, Doyon, Limited filed regional selection applications F-19155-55, F-19155-77, F-19155-78, F-19155-80, F-19155-81 and F-19155-96 under the provisions of section 12(c) of the Alaska Native Claims Settlement Act for the surface and subsurface estates of certain lands located in the Kandik Basin.

The applications, as amended, are properly filed and meet the requirements of the act and of the regulations issued pursuant to it. The selected lands described below do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, aggregating approximately 130,991 acres, are considered proper for acquisition by Doyon, Limited, subject to valid existing rights, and are hereby approved for interim conveyance pursuant to section 14(c) of the act:

FAIRBANKS MERIDIAN, ALASKA (UNSURVEYED)

T. 11 N., R. 26 E.,
All.
T. 15 N., R. 27 E.,
All.
T. 15 N., R. 28 E.,
All.
T. 16 N., R. 27 E.,
All, excluding Native allotment application F-17132, Parcel B.
T. 16 N., R. 28 E.,
All, excluding Native allotment application F-17133, Parcel A.
T. 23 N., R. 26 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 36, inclusive.

The interim conveyance issued for the surface and subsurface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945;

2. A right-of-way thereon for the construction of railroads, telegraph and telephone lines, as prescribed and directed by the act of March 12, 1914, 38 Stat. 305, 43 U.S.C. 975(d);

3. Pursuant to section 17(d) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, the following public easements referenced by easement identification number (EIN) on the easement maps in case files F-21779-55, F-21779-77, F-21779-78, F-21779-80, F-21779-81 and F-21779-96 are reserved to the United States and subject to further regulation thereby.

The following easement pertains to T. 23 N., R. 28 E., Fairbanks Meridian (F-21779-96):

(a) (EIN 1 C5, D1, D9.) A one hundred (100) foot easement for a proposed road crossing the selected area in a northeast-southewesterly direction providing access to public lands. The use of the road is to be controlled by applicable State or Federal law or regulation.

The following easements pertain to Ts. 15 and 16 N., Rs. 27 and 28 E., Fairbanks Meridian (F-21779-77, F-21779-78, F-21779-80, F-21779-81):

(b) (EIN 10 C5, G.) A streambed access easement along the Grayling Fork of Black River. The easement is from the mean high water line on the right bank of the stream to the mean high water line on the left bank of the stream. This is for access to public lands.

(c) (EIN 10 C4, C5, G (10a, 10d, 10e).) The following are one (1) acre site easements for camping and vehicle use and are necessary for access to public lands and waters. The site easements will be located on the Grayling Fork of Black River:

10a. One (1) acre site easement on the right bank of the stream, at the junction of the stream and an oxbow, in section 8, T. 16 N., R. 27 E., Fairbanks Meridian.

10d. One (1) acre site easement on the right bank of the stream, at its junction with Bull Creek, in section 4, T. 16 N., R. 28 E., Fairbanks Meridian.

10e. One (1) acre site easement on the right bank of the stream, at the upstream arm of an oxbow, in section 15, T. 16 N., R. 28 E., Fairbanks Meridian.

(d) (EIN 11 C5, D1, D9.) A streambed access easement along the Bull and Dempsey Creeks. The easement is from the mean high water line on the right bank of the streams to the mean high water line on the left bank of the streams. This is for access to public lands.

(e) (EIN 11 C5, D1, D9 (11a, 11b, 11c, 11d, 11e).) The following are one (1) acre site easements for camping and vehicle use and are necessary for access to public lands and waters. The sites will be located along the streams and lakes of the Dempsey and Bull Creeks:

11a. One (1) acre site on the north shore of Vunvekottlui Lake, in section 29, T. 15 N., R. 28 E., Fairbanks Meridian.

11b. One (1) acre site on the north shore of an unnamed lake near its outlet into Dempsey Creek, in section 27, T. 15 N., R. 28 E., Fairbanks Meridian.

11c. One (1) acre site on the left bank of Bull Creek where a small creek empties into Bull Creek, in section 2, T. 15 N., R. 28 E., Fairbanks Meridian.

11d. One (1) acre site on the left bank of Bull Creek where a small creek empties into Bull Creek, in section 27, T. 16 N., R. 28 E., Fairbanks Meridian.

11e. One (1) acre site on the left bank of Bull Creek where a small creek empties into Bull Creek, in section 16, T. 16 N., R. 28 E., Fairbanks Meridian.

(f) (EIN 12 C5, D1, D9.) A fifty (50) foot wide easement for a proposed trail crossing the selected area in an east-west direction. This is for access to public lands. The use of the trail is to be controlled by applicable State or Federal law or regulation.

(g) (EIN 12a C5, D1, D9.) A one (1) acre site easement located in section 22, T. 16 N., R. 27 E., Fairbanks Meridian, where the proposed trail (12) adjoins a lake. The site is for camping and vehicle use and is necessary to facilitate access to public lands and waters.

The following easement pertains to T. 11 N., R. 26 E., Fairbanks Meridian (F-21779-55):

(h) (EIN 17 C5, D1, D9.) A one hundred (100) foot easement for a proposed road crossing the northwest corner of the selected area. This is for access to public lands. The use of the road is to be controlled by applicable State or Federal law or regulation.

The following easements pertain to all lands described previously:

(i) (EIN 31 C.) The general right of the United States to enter upon the lands for cadastral, geodetic, or other survey purposes, together with the right to do all things necessary in connection therewith.

(j) (EIN 32 C.) Easements for the transportation of energy, fuel and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel and natural resources including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining or terminating transportation systems. The specific location of these easements shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easement will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

The grant of lands by the interim conveyance shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands.

2. Valid existing rights therein, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act (72 Stat. 339, 341)), contract, permit, right-of-way, or easement and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges and benefits hereby granted to him.

3. The terms and conditions of the agreement of February 18, 1977, between Doyon, Limited and the Secretary of the Interior. A copy of the agreement will be attached and will become part of this conveyance document and be recorded therewith. A copy of the agreement is located in Bureau of Land Management files F-21779-55, F-21779-77, F-21779-78, F-21779-80, F-21779-81, and F-21779-96.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News Miner. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 and with a copy served upon the Bureau of Land Management and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving actual notice of this decision shall have 30 days from the receipt of actual notice to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign a receipt for actual notice, shall have until April 3, 1977, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived their rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT E. SORENSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-6498 Filed 3-3-77;8:45 am]

[NM 29861 and 29864]

NEW MEXICO

Notice of Applications

FEBRUARY 25, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 6-inch and one 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 26 E.,
Sec. 28, SE¼NW¼
T. 17 S., R. 30 E.,
Sec. 29, N½SW¼.

These pipelines will convey natural gas across 0.368 of a mile of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested person desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-6496 Filed 3-3-77;8:45 am]

[U-36319]

UTAH

Notice of Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Arlyne Lansdale has applied for a 2-inch welded natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 17 S., R. 25 E.,
Secs. 11 and 14.

The pipeline will convey gas from the Lansdale well 14-1, Grand County, Utah, to the existing gathering pipeline of Northwest Pipeline Corporation. The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL L. HOWARD,
State Director.

FEBRUARY 25, 1977.

[FR Doc.77-6497 Filed 3-3-77;8:45 am]

[ES 15502]

MINNESOTA AND WISCONSIN

Proposed Withdrawal and Reservation of Lands

MARCH 2, 1977.

On February 4, 1977, the National Park Service, Department of the Interior filed completed application, serial No. ES 15502, to withdraw all lands within the boundaries of the Lower St. Croix National Scenic Riverway which are presently under the jurisdiction of the Bureau of Land Management from settlement, sale, location or entry under all of the general land laws, including the mining and mineral leasing laws, subject to valid existing rights. The lands would remain within the lower St. Croix National Scenic Riverway and would be administered in accordance with applicable laws and regulations for National Park Lands.

This action is requested in accordance with the provisions of the Wild and Scenic Rivers Act (82 Stat. 906), as amended, and the Lower Saint Croix River Act of 1972 (86 Stat. 1174), as amended, for the purpose of administration and preservation of the Lower Saint Croix National Scenic Riverway.

On or before April 4, 1977 all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Section 2351(b).

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized office will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the FEDERAL REGISTER, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, it will be for an indefinite period, and the lands will remain segregated.

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The lands involved in the application are:

FOURTH PRINCIPAL MERIDIAN

T. 30 N., R. 19 W.

Section 6: Unsurveyed island in W½W½, Wisconsin.

T. 30 N., R. 20 W.

Section 1: Lots 7, 8 and 16 in Minnesota; Lots 17 and 18 in Wisconsin.
Section 11: Lots 5 and 8 in Minnesota; Lots 6 and 7 in Wisconsin.
Section 12: Lots 7, 9 and 10 in Minnesota; Lot 6 in Wisconsin.
Section 14: Lots 8 and 9 in Minnesota; Lot 10 in Wisconsin.

T. 31 N., R. 19 W.

Section 6: Unsurveyed island in E½SW¼, Minnesota.
Section 7: Unsurveyed island in W½, Minnesota.

T. 32 N., R. 19 W.

Section 5: Unsurveyed island NE¼NW¼, Minnesota, National Park Service Tract 05–101; Unsurveyed island NW¼NW¼, Minnesota, National Park Service Tract 05–102.
Section 7: Unsurveyed island SE¼, Wisconsin.
Section 31: Unsurveyed island NE¼NE¼, Minnesota.

T. 33 N., R. 19 W.

Section 27: Unsurveyed island NW¼, Minnesota, National Park Service Tract 04–101.

T. 34 N., R. 19 W.

Section 36: Unsurveyed island N½N½, Minnesota, National Park Service Tract 01–101. Unsurveyed island NW¼SW¼, Minnesota, National Park Service Tract 01–102.

The area aggregates approximately 85.73 acres.

All communications in connection with this withdrawal should be addressed to the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

LOWELL J. UDY
Director, Eastern States.

[FR Doc.77-6628 Filed 3-3-77; 8:45 am]

[M 141]

NORTH DAKOTA AND SOUTH DAKOTA

Transfer of Submarginal Lands, Standing Rock Indian Reservation

Correction

In FR Doc. 77-4309, appearing on page 8434 in the issue for Thursday, February 10, 1977, the next to the last line in the first column, reading "T. 122 N., R. 79 W." should be deleted.

[OR 12130]

OREGON

Order Providing for Opening of Public Lands

Correction

In FR Doc. 77-2488, appearing at page 4905, in the issue of Wednesday, January 26, 1977, in the third column on page 4905, under the centered heading

WILLAMETTE MERIDIAN

1. The first line of the first entry should be changed to read:

T. 30½; S., R. 34 E.,

2. The fifth line of the third entry should be changed to read:

Sec. 34, W½NW¼ and SW¼SW¼.

National Park Service

INDIANA DUNES NATIONAL LAKESHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 10:00 a.m., CST, on Friday, March 25, 1977, at the Indiana Dunes National Lakeshore Tremont/Furnessville Visitor Center, Intersection of State Park Road and U.S. Highway 12, Chesterton, Indiana.

The Commission was established by Public Law 89-761 to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. Harry W. Frey (Chairman).
Mrs. Anna R. Carlson.
Mr. John A. Hillenbrand II.
Mr. William L. Lieber.
Mr. Lawrence Miller.
Mr. John R. Schnurlein.
Mr. Norman E. Tufford.
Mr. George H. Williams (Secretarial Consultant).

Matters to be discussed at this meeting include:

1. The Commission's role regarding solid wastes produced by a coal-fired power plant in Porter County, Indiana, in accordance with Public Law 94-549, Section 6, Subsection (f).

2. Report on erosion status of Lake Michigan shoreline within Lakeshore.

3. Topics for subcommittee consideration.

4. Building demolition report.

5. Scope of study outline for Segments 11-A, 111-A, and 111-C in accordance with Public Law 94-549, Section 19.

6. Land Acquisition Report.

The meeting will be open to the public. It is expected that about 90 persons will be able to attend the session in addition to commission members. Interested persons may make written statements. Such requests should be made to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, Route 2, Box 139-A, Chesterton, Indiana 46304, telephone area code 219, 926-7561.

Minutes of the meeting will be available for public inspection three weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at the intersection of State Park Road and U.S. Highway 12, Chesterton, Indiana.

Dated: February 24, 1977.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.77-6548 Filed 3-3-77; 8:45 am]

Office of the Secretary

OUTER CONTINENTAL SHELF ADVISORY BOARD—SOUTH ATLANTIC

Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law No. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The South Atlantic Regional Board will meet during the period 10:00 a.m. to 3:00 p.m., March 22, 1977, in Room 605, Trinity Washington Building, 270 Washington Street, S.W., Atlanta, Georgia.

The meeting will cover the following principal subjects:

1. Consideration of resolutions concerning the transportation of OCS oil, lease stipulations, OCS operating orders and notices to lessees, and OCS policy.

2. Draft environmental impact statement for sale 43.

3. Regional oil spill contingency plans.

4. Response to Bureau of Land Management-Office of Coastal Zone Management final report on nearshore-onshore data needs.

This meeting is open to the public. Interested persons may make oral or written presentations to the Board. Such requests should be made by March 17 to the South Atlantic Board Chairman:

Lowell D. Evjen, Director of Planning, Office of Planning and Budget, 270 Washington Street, S.W.—Room 613, Atlanta, Georgia 30334, 404-656-3861.

Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Office of OCS Program Coordination, Room 4126, Department of the Interior, 18th and C Streets, N.W., Washington, D.C.

ALAN D. POWERS,
Director, Office of OCS Program Coordination.

MARCH 2, 1977.

[FR Doc.77-6594 Filed 3-3-77; 8:45 am]

Office of the Assistant Secretary Land and Water Resources

WATER PROJECTS

Notice of Public Hearings

Notice is hereby given that public hearings will be held for the purpose of receiving comments concerning eight Bureau of Reclamation water development projects deleted from the Fiscal Year 1978 Budget Request. In accordance with the President's directive, the Department will review and reevaluate the projects and make recommendations

on whether to continue each project, seek modification, or seek deauthorization by the Congress.

Public hearings offer opportunity for public involvement at an early stage in the Department's work and will provide information that will be useful in evaluatuating the water projects. Because of time constraints involved in the water projects review process, the Department has waived its policy of giving 30 days' notice in the FEDERAL REGISTER that a public hearing will take place.

The public hearings will be held at the Department of the Interior Auditorium, 19th and C Street NW., Washington, D.C. on March 21, 22, 24, and 25. Hearings will begin at 9:00 a.m. and continue until 5:00 p.m. on each of those days.

March 21—9:00 a.m.–12:00 noon, Central Arizona Project; 2:00 p.m.–5:00 p.m., Fruitland Mesa Project
March 22—9:00 p.m.–12:00 noon, Savery-Pot Hook Project; 2:00 p.m.–5:00 p.m., Dolores Project
March 24—9:00 a.m.–12:00 noon, Garrison Diversion Unit; 2:00 p.m.–5:00 p.m., Oahe Unit
March 25—9:00 a.m.–12:00 noon, Bonneville Unit (Central Utah Project); 2:00 p.m.–5:00 p.m., Auburn-Folsom South Unit

Individuals, representatives of organizations, and public officials who wish to make oral statements at one of the hearings should notify the Water Projects Review Office, Room 6616, Main Interior Building, U.S. Department of the Interior, Washington, D.C. 20240, no later than March 16. Individual testimony will be limited to ten minutes per person. Persons attending the hearings or those unable to be present may submit written comments to the Water Projects Review Office on or before April 1, 1977.

Dated: March 3, 1977.

CECIL D. ANDRUS,
Secretary.

[FR Doc.77-6740 Filed 3-3-77; 12:29 pm]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-25]

CERTAIN ABOVE-GROUND SWIMMING POOLS

Notice and Order Concerning Procedure

Notice is hereby given that: 1. The Commission will hold a hearing beginning at 10 a.m., e.s.t., April 1, 1977, in the Commission's Hearing Room, 701 E Street NW., Washington, D.C., for the purposes of (1) hearing oral argument on both the recommended determination of the presiding officer, concerning whether there is a violation of section 337 of the Tariff Act of 1930; and (2) receiving information and hearing oral argument, as provided for in § 210.14(a) of the Commission's Rules of Practice and Procedure (41 FR 17710), concerning relief, bonding, and the public interest factors set forth in section 337 (d) and (f) of the Tariff Act of 1930, as amended, which the Commission is to consider in the event it determines that there is a violation of section 337 and determines that there should be relief.

Parties and agencies wishing to make oral argument with respect to the recommended determination shall be limited to no more than 30 minutes per party; 10 minutes of which may be reserved by Complainant for rebuttal; parties wishing to make oral argument with respect to relief shall be limited to no more than 15 minutes per party.

For the purpose of the part of the hearing on relief, bonding, and the public interest factors, each party, interested person, and agency will be limited to no more than 30 minutes for making its presentation; each participant will be permitted an additional 5 minutes for closing arguments after all the presentations have been concluded.

For the duration of this proceeding, all respondents will jointly share the time limits allocable to one party for the same reason.

Requests for appearances at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington no later than noon, March 28, 1977. Requests should indicate the part of the hearing (i.e., with respect to the recommended determination; relief; or relief, bonding, and the public interest factors) in which the requesting person desires to participate.

2. Briefs concerning the recommended determination may be filed by any party or agency. Complainant's brief shall be filed not later than the close of business, Monday, March 14, 1977; respondents' briefs, briefs of the Commission investigative staff, and any other briefs (if any intervenors are later admitted) shall be filed not later than close of business, Monday, March 21, 1977; and complainant's reply brief shall be filed not later than Monday, March 28, 1977. Briefs shall be served on all parties of record on the date they are filed. The cover of complainant's brief shall be blue; respondents' briefs, red; the Commission investigative staff's briefs and intervenor's briefs (if any), green; and any reply briefs, gray. Concerned Government agencies may file briefs on any issue related to the recommended decision in the same style and at the same time as the Commission invesitgative staff.

3. Written comments and information are encouraged by any party, interested person, Government agency, or Government concerning relief, bonding, and the public interest factors set forth in section 337(d) and (f) of the Tariff Act of 1930, as amended (19 U.S.C. 1337), which the Commission is to consider in the event it determines that there should be relief. A proposed order granting relief, including a determination of bonding, if appropriate, shall be filed and served by complainant upon all parties at the same time as complainant's brief is filed; respondents and all other interested persons, Government agencies, and Governments shall file and serve upon all parties their comments and information or remedy, bonding, and the aforesaid public interest factors not later than the date set out above on which respondents' briefs are due; and complainant shall file and serve upon all parties their comments and information on these matters not later than the date on which their reply briefs are due.

The Commission's investigative staff shall file and serve upon all parties a formal report reflecting its investigation of public interest factors to be considered by the Commission with the staff's recommendations and conclusions not later than Monday, March 21, 1977.

Notice of the Commission's institution of the investigation was published in the FEDERAL REGISTER on 41 FR 17975, April 29, 1976. A notice of preliminary conference was published on 41 FR 26958, June 30, 1976.

By order of the Commission

Issued: March 1, 1977.

KENNETH R. MASON,
Secretary

[FR Doc.77-6564 Filed 3-3-77; 8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. UNION CARBIDE CORP.

Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a Proposed Consent Judgment and Competitive Impact Statement as set out below have been filed with the United States District Court for the Northern District of California in Civil No. C-76-854-SAW, *United States v. Union Carbide Corp.* Carbide has consented to the proposed judgment. The complaint in this action alleged that, in violation of the Sherman Act, Carbide had restrained the use and resale of technical carbaryl, the pure form of the pesticidal chemical carbaryl. The complaint also alleged that the second of Carbide's two patents relating to carbaryl was invalid on grounds of double patenting. The relief requested in the complaint concerning the patents has been effectively achieved through expiration of Carbide's first patent, and terminal disclaimer of its second patent. The judgment would substantially provide the rest of the relief requested in the complaint. It would: prohibit Carbide for 10 years from entering into any arrangement under which the resale or the utilization of Carbide's technical carbaryl or carbaryl products is restrained (except for agreements by which others would make carbaryl products for carbide to be sold under Carbide's labels); prohibit Carbide for 10 years from refusing to sell technical carbaryl to persons who refuse to enter into such restrictive agreements concerning technical carbaryl; eliminate for 10 years the restrictive effect of provisions in Carbide's present agreements for the sale of technical carbaryl; require Carbide for up to five years to sell

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technical carbaryl to pesticide formulators; and require Carbide for up to five years to assist pesticide formulators in obtaining Environmental Protection Agency label registrations for their carbaryl products made from Carbide's technical carbaryl. The Competitive Impact Statement describes the anticipated effects of the proposed judgment on competition, and evaluates the alternative relief proposals actually considered by the United States. Public comment is invited on or before April 25, 1977. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Richard H. Stern, Chief, Patent Section, Antitrust Division, Department of Justice, Room 910 McLachlen Building, Washington, D.C. 20530.

Dated: February 23, 1977.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Union Carbide Corporation*, Defendant.

Civil No. C-76-854 SAW.

Filed: February 23, 1977.

Entered: _____

Richard H. Stern, Patent Section, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, 202/376-8600

Anthony E. Desmond, Antitrust Division, U.S. Department of Justice, 450 Golden Gate Avenue, San Francisco, California 94102, 415/556-6300

STIPULATION

It is stipulated by and between the plaintiff, the United States of America, and the defendant, Union Carbide Corporation, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendant in this and any other proceeding.

Dated: February 23, 1977.

For the Plaintiff: Donald I. Baker, *Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, Richard H. Stern, Bernard H. Meyers, Kenneth M. Frankel, Robert S. Schwartz, Bruce T. Reese, *Attorneys, Antitrust Division, U.S. Department of Justice.*

For the Defendant: Kirkland, Ellis & Rowe, by James M. Johnstone, Thomas C. Arthur, Robert K. Huffman, Bethami Auerbach; Morrison & Foerster, by Robert D. Raven, James J. Garrett, E. Preston Moore, Jr., *Attorneys for Defendant, Union Carbide Corporation.*

Stipulation approved for filing.

Dated: February 23, 1977.

STANLEY A. WEIGEL,
United States District Judge.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Union Carbide Corporation*, Defendant.

Civil No. C-76-854 SAW.

Filed: February 23, 1977.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on April 28, 1976, and defendant having filed its answer on June 21, 1976, and plaintiff and the defendant by their respective attorneys having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or an admission by any party consenting hereto with respect to any such issue;

Now, therefore, before any testimony or evidence has been taken herein and without trial or adjudication of any issue of fact or law herein, and upon the consent of parties hereto;

It is hereby ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter hereof and the parties hereto. The Complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act (15 U.S.C. § 1, as amended).

II

As used in this Final Judgment:

(A) "Defendant" means the defendant Union Carbide Corporation, a New York corporation.

(B) "Person" means an individual, partnership, firm, corporation, association, or other business or legal entity.

(C) "Carbaryl" means 1-naphthyl methylcarbamate.

(D) "Technical Carbaryl" means 1-naphthyl methylcarbamate in a form approximately 99 percent pure.

(E) "Carbaryl Product" means technical carbaryl or any product containing as an active ingredient carbaryl.

(F) "EPA" means United States Environmental Protection Agency, and any predecessors or successors thereof.

(G) "Formulator" means any person (other than a manufacturer of 1-naphthyl methylcarbamate) that regularly engages in the business of manufacturing pesticidal products; possesses, leases, or contracts for the use of facilities that are reasonably useable for producing pesticidal products from technical carbaryl and are registered as pesticide-producing establishments by the EPA; and possesses an EPA registered label or labels for one or more pesticidal products containing carbaryl.

(H) "Customer Formulator" means any formulator in the United States that, during the period November 1, 1975, to October 31, 1976, received technical carbaryl from defendant pursuant to a "Formulator Agreement" with defendant under which such formulator processed such technical carbaryl into a pesticidal product or products to be sold under the formulator's label.

(I) "Converter" means any person who has entered into an agreement with defendant to process technical carbaryl for defendant's account into a pesticidal product or products bearing defendant's label.

(J) "Registration" includes "reregistration."

III

The provisions of this Final Judgment applicable to the defendant shall apply to and only to such defendant; each of its officers, directors, agents, employees, subsidiaries, successors, and assigns; and all persons in active concert or participation with any of them that have received actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment, the defendant and its officers, directors, employees and subsidiaries, when acting in such capacity, shall be deemed to be one person.

IV

(A) Defendant is enjoined and restrained from:

(1) Entering into or renewing the "Formulator Agreements" in effect between defendant and customer formulators prior to November 1, 1976;

(2) Entering into, adhering to, maintaining, or claiming any rights under any contract, combination, conspiracy, agreement, or understanding, including but not limited to, any formulation allowance or similar program, with any person in the United States, prohibiting, limiting, or restraining such person from:

(a) Reselling any carbaryl product purchased in the United States from defendant, or

(b) Making any other product from a carbaryl product purchased in the United States from defendant;

(3) Refusing to sell technical carbaryl to any person in the United States for the reason that such person will not enter into, adhere to, or maintain any contract, combination, conspiracy, agreement, or understanding not to do one or more of the following:

(a) Resell technical carbaryl purchased in the United States from defendant;

(b) Make any other product from technical carbaryl purchased in the United States from defendant;

(4) Refusing to permit persons making or selling products containing SEVIN brand carbaryl manufactured by defendant to state on the label or in advertising that such products contain SEVIN carbaryl.

(B) Nothing in this Article IV shall in any way apply to or affect any right that defendant may have unilaterally to: establish prices, terms, and conditions (not prohibited by Paragraph (A) of this Article IV) on which defendant will sell carbaryl products; enter into or renew defendant's present converter agreements or any lawful arrangements with any person for the manufacture for defendant's account of carbaryl products bearing defendant's labels; or enter into and enforce any lawful agreement with any person requiring such person to maintain the confidentiality of defendant's trade secrets, technical data, "know-how," or other proprietary information with respect to any carbaryl product.

V

Defendant is ordered to send (within 60 days of the date this Judgment becomes final) letters to its customer formulators advising them that defendant will not enforce the following provisions of its "Carbaryl Insecticide Technical Grade Sales Agreements" effective November 1, 1976:

(A) Article 7, except the portion reading: "BUYER shall be entitled to an allowance of 20¢ per pound for each pound of Product";

(B) Exhibit B.

VI

(A) Defendant is ordered, for as long as it sells technical carbaryl in the United States to any formulator, but in no event more than five years after the date upon

which this Judgment becomes final, to sell technical carbaryl on non-discriminatory terms to any formulator in the United States making a written request therefor for delivery in the United States in quantities sufficient to meet such formulator's bona fide stated requirements in the United States for the period between the date of such request and the following October 31 for formulation of carbaryl products. Nothing in this Paragraph VI(A) shall prohibit defendant from offering to sell or selling technical carbaryl to any person on terms defendant sets in good faith to meet the terms of a competitor.

(B) Defendant shall not be obligated under this Article VI to sell technical carbaryl to any person who does not meet reasonable credit requirements (except if such person pays cash), or to ship technical carbaryl to, or for production into pesticidal products in, any establishment that the EPA has not registered as a pesticide producing establishment.

(C) Defendant may take reasonable and non-discriminatory steps consistent with this Final Judgment to protect itself from any risk of product liability (or other similar legal liability) suits, or violation of federal or state regulations or statutes, arising from any sales of technical carbaryl, including those sales required by this Article VI.

(D) If, at the time of any requests under this Article VI, defendant's production capacity is insufficient to meet such requests, defendant shall make a reasonable allocation among its own needs and those of its United States customers purchasing technical carbaryl, including customers purchasing under this Article VI. In case of such allocation, the class of formulators (other than customer formulators) purchasing under this Article VI shall have allocated to it during the year ending October 31 not less than 25% of the amount of technical carbaryl allocated to customer formulators during such year; except that no such allocation shall require defendant to sell to the class of formulators (other than customer formulators) purchasing under this Article VI, in any year ending October 31, more than 25% of the amount of technical carbaryl it shipped to customer formulators during the preceding year ended October 31.

VII

(A) During the period in which defendant is obligated under Article VI to sell technical carbaryl, whenever any formulator, or any person who would become a formulator upon obtaining registration of a carbaryl product, makes application to the EPA for registration (under the Federal Insecticide, Fungicide, and Rodenticide Act) of any carbaryl product made from defendant's technical carbaryl and in writing requests defendant's assistance in securing such registration, defendant shall:

(1) Authorise the EPA to utilize, in support of such application, any data that defendant submits or has submitted to the EPA in connection with the registration of any carbaryl product; and

(2) Identify such data to such applicant in sufficient detail to enable such applicant to comply with EPA requirements for data identification in connection with applications for registration.

(B) During such period, defendant shall not require compensation for such assistance, or for the utilization in support of such application of any such data that defendant permits or has permitted any formulator (or any person who would become a formulator upon obtaining registration of a carbaryl product) to utilise without compensation. Defendant may require any such applicant to pay reasonable and nondiscriminatory compensation for permitting utilisation of other such data in support of such application.

(C) Nothing in this Article VII shall in any way apply to or affect any right that defendant may have: (1) to assert to the EPA that any data are not subject to disclosure under the Freedom of Information Act, or otherwise, and to contest any contrary determination in any judicial proceeding; or (2) to require compensation for the utilization of any such data in circumstances not within the scope of Paragraphs (A)–(B) of this Article VII.

VIII

Except as may be required by Paragraph (A)(4) of Article IV or Article VII, nothing in this Final Judgment shall require defendant to license any person to use any trademark belonging to defendant or to disclose any trade secrets, technical data, "know-how," or other proprietary information to any person; or prohibit defendant from enforcing any rights it may have under present or future United States patents or trademarks, under any federal or state statute or common law provision protecting defendant's trade secrets or trademarks, or any lawful such provision protecting defendant against unfair competition.

IX

(A) For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

(1) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant made to its principal office, be permitted:

(a) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant, who may have counsel present, relating to any of the matters contained in this Final Judgment; and

(b) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees, and agents of such defendant, who may have counsel present, regarding any such matters.

(2) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to the defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

(B) No information or documents obtained by the means provided in this Article IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings in which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by the defendant to plaintiff, said defendant represents and identifies in writing the material in any such information or documents which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to Claim of Protection under the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

X

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate in relations to the construction of any of the provisions thereof, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof.

XI

Except insofar as shorter terms are expressly provided, this Judgment shall terminate ten (10) years after the date on which it becomes final.

XII

Entry of this Judgment is in the public interest.

Dated: _____

United States District Judge.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Union Carbide Corporation*, Defendant.

Civil No. C-76-854 SAW.

Filed: February 23, 1977.

COMPETITIVE IMPACT STATEMENT

Richard H. Stern, Patent Section, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530. 202–376–8600.

Anthony E. Desmond, Antitrust Division, U.S. Department of Justice, 450 Golden Gate Avenue, San Francisco, California 94102. 415–556–6300.

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16 (b)), the United States of America hereby submits this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. NATURE OF THE PROCEEDING

The government filed this civil action on April 28, 1976, alleging that the defendant, Union Carbide Corp. ("Carbide"), violated § 1 of the Sherman Act by restraining the use and resale of the chemical carbaryl (the substantially pure form of which is known as "technical carbaryl" or "technical grade carbaryl"), a pesticidal compound Carbide produces. The complaint also alleges that the second of two patents Carbide had relating to carbaryl was invalid on grounds of double patenting.

The prayer for relief sought: (1) an injunction against Carbide's maintaining or entering into new agreements having the restrictive effects challenged in the complaint; (2) compulsory sales of technical carbaryl; and (3) an injunction against the enforcement of Carbide's second patent relating to carbaryl and a declaration that the patent was invalid and unenforceable.

The relief that the government requested concerning the patent has been effectively obtained. In response to a government summary judgment motion on the patent issues, Carbide terminally disclaimed its only remaining patent, effective September 8, 1976. The only remaining part of the request for relief concerning the now-defunct patent, therefore, was a declaration that it was invalid. In ruling on the summary judgment motion, the trial court denied the government's request for a declaration of patent invalidity, on grounds of mootness due to the terminal disclaimer.

The proposed consent judgment provides the rest of the relief requested in the prayer

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of the complaint—a prohibitory injunction and mandatory sales of technical carbaryl. It also establishes a means of by-passing, to a large degree, those regulatory complications at the Environmental Protection Agency ("EPA") that might slow or prevent technical carbaryl purchasers' attempts at rapid entry into the market place.

II. DESCRIPTION OF THE PRACTICES INVOLVED IN THE ALLEGED VIOLATION

Carbide is the only source of carbaryl for the United States. Since 1959, pursuant to "formulator agreements," Carbide has shipped some of its technical carbaryl to United States pesticide formulators for formulation into lower-strength carbaryl products. (Carbide also has had some of its technical carbaryl processed by other firms ("converters") into carbaryl products to be sold under Carbide's own labels.) Carbide did not allow the formulators to sell the technical carbaryl to others, and restricted the formulators to making only certain products directly from the technical carbaryl. Due to the resale restraint, third party pesticide manufacturers had to use pre-formulated carbaryl products to make their own line of carbaryl products. This limited the types of products they could make (since technical carbaryl is needed to make some relatively concentrated carbaryl products), and caused them to have to operate at higher materials costs (and resultant higher prices) than they would have if they had access to technical carbaryl.

Carbide defended the resale and use restraints on the theory that these agreements were actually "consignment" agreements, under which Carbide retained title to technical carbaryl until formulation was completed. Were this case to go to trial, the government would have argued that, under these formulator agreements, Carbide made de facto sales of technical carbaryl to the formulators, and illegally restrained the sale and use of the technical carbaryl by formulators.

After the complaint was filed, Carbide changed its formulator agreements, effective November 1, 1976, to provide explicitly for the sale of technical carbaryl to formulators. In November 1976, the government moved to amend the complaint to charge that the new formulator agreements also violate § 1 of the Sherman Act by illegally restraining the sale and use of technical carbaryl. This motion has not yet been heard.

The new formulator agreements provided for a 20-cents-per-pound "formulation allowance"—a rebate to be paid to the formulator only if he formulated the technical carbaryl into diluted carbaryl products. Were this case to go to trial, the government would have urged that the 20-cent formulation allowance continues and preserves the old illegal restraint on the resale of technical carbaryl, because the 20-cents-per-pound price differential (plus freight and profit), when passed on to prospective subvendees, makes the cost of the subvendees' carbaryl products high enough to prevent price competition between them and Carbide's formulators. Moreover, a monitoring provision in the new formulator agreements enabled Carbide to determine how much technical carbaryl a formulator has resold. Carbide could use this knowledge, the government would have contended, to cut the formulator off completely, or cut down his shipments so that he would have only enough technical carbaryl for his own use and have none for resale.

Under the terms of the trademark license agreement accompanying all the new formulator agreements, Carbide licensed the use of its heavily-advertised trademark for carbaryl ("SEVIN") for only those carbaryl products specified in the agreement. Monitoring provisions in the formulator agreement ensured Carbide's knowledge of what specific products the formulators were making from the technical carbaryl. Were this case to go to trial, the government would have contended that Carbide can thus continue illegally to restrain the use of technical carbaryl by selectively withholding the trademark license from some products.

III. EXPLANATION OF THE PROPOSED CONSENT DECREE AND ITS ANTICIPATED EFFECT ON COMPETITION

The United States and Carbide have stipulated that the proposed consent judgment, in the form negotiated by and between the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed judgment provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed judgment is conditioned upon a determination by the Court that the proposed judgment is in the public interest.

The proposed consent decree eliminates Carbide's challenged restrictions on formulators, and brings new competition into the market for carbaryl products. In order to do the latter, the decree provides for mandatory sales of technical carbaryl. Because federal statutes require registration of all pesticides sold in the United States, provisions are also included to simplify and expedite new pesticide registrations for purchasers of Carbide's technical carbaryl, so that they may quickly enter the market with their carbaryl products.

The major provisions of the judgment are discussed below.

Article IV would prohibit Carbide from entering into any arrangement (including the challenged agreements) under which the resale or the utilization of technical carbaryl or carbaryl products is in any way restrained (except for agreements by which others would make carbaryl products for Carbide to be sold under Carbide's labels). Carbide is also enjoined from refusing to sell technical carbaryl to persons who refuse to enter into such restrictive agreements.

Article V eliminates the restrictive effect of the formulation allowance rebate and the monitoring provisions of Carbide's new sales agreements. This is accomplished by forbidding Carbide to enforce the relevant provisions in the new contracts. The government took this approach, instead of ordering cancellation of the present contracts, to avoid making Carbide vulnerable to breach of contract claims by formulators who have already entered into these new agreements.

Article VI is the compulsory sales provision for technical carbaryl. The persons to whom Carbide must sell are all "formulators" (as defined in Article II); in effect, the only persons currently in the business of formulating pesticidal products who are excluded from this class of purchasers are competitive manufacturers of technical carbaryl. At present, there are no such persons in the United States. Persons purchasing technical carbaryl under this provision would be free to make carbaryl products for domestic or foreign consumption, or to resell the technical carbaryl domestically or in a foreign country.

Article VI also provides for an allocation of technical carbaryl to purchasers under Article VI who were not Carbide formulators in 1976, in the event that demand for carbaryl in the future exceeds Carbide's world production capacity. The allocation figure of 25% of the amount of technical carbaryl shipped to its former formulators in the contract year, is equivalent to about 3% of Carbide's total world production of technical carbaryl in 1976. This 3% seems ample to supply any new customers who might come into the market under Article VI. In light of proposed expansion at existing Carbide facilities, and Carbide's plans for additional manufacturing sites, there is little chance that such allocation would ever be necessary.

Article VI calls for mandatory technical carbaryl sales for five years or as long as Carbide sells technical carbaryl to any formulator. If Carbide chooses to go completely "in house" with its carbaryl products (and there is a possibility that Carbide may follow this industry-wide trend), it would be relieved from the mandatory sales requirements. If Carbide continues to sell technical carbaryl to any formulator, however, it must sell to all.

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Article VII establishes a means by which purchasers under the mandatory sales provision, and other users of Carbide's technical carbaryl (including subvendees), can more easily and expeditiously obtain EPA registrations for their new carbaryl products. All pesticides marketed in the United States must be registered with the EPA. It has long been the practice of EPA (and its predecessor, USDA) to require data, proving the efficacy of the proposed product and its lack of potential adverse impact upon man and the environment, in support of each application for registration. Carbide has carbaryl data on file with the EPA that applicants for new carbaryl product EPA registrations may incorporate by reference to support their applications. By doing so, they avoid much of the time delay and expense otherwise involved in obtaining registrations. Article VII requires Carbide to permit such referencing, and allows Carbide to charge only reasonable and non-discriminatory fees for utilizing data that it never allowed others to use without compensation. Because applicants do not need to see Carbide's data, only the EPA is given access to it. Article VII generally parallels the legislative scheme (see the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 135, 136), but, for the purposes of this case, is superior to it. It prevents Carbide from tying up such referencing by claiming that the data contains or constitutes trade secrets (which may not be referenced under the legislative scheme), and from charging new formulators for data for which Carbide did not charge its existing formulators.

Article XI limits the duration of the judgment to ten years. It is very probable that the pesticide market will be substantially different ten years from now. Increased concern about environmental effects is causing more and more concentration in the industry, largely because fewer of the private label firms can afford the costs of operating in an increasingly-regulated industry. As stated earlier, there are indications that Carbide may cease marketing technical carbaryl through other manufacturers and instead formulate all carbaryl products itself. Moreover, in ten years, adequate competition in the manufacture of technical carbaryl may well have developed.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages, and any other legal or equitable relief to which they would have been entitled, as if the proposed judgment were not entered. This judgment may not be used as prima facie evidence in private litigation,

however, pursuant to Section 5(a) of the Clayton Act, as amended 15 U.S.C. § 16(a).

V. ALTERNATIVES TO THE PROPOSED JUDGMENT CONSIDERED BY THE UNITED STATES

A full trial on the merits was considered as an alternative to settlement. Because the relief in the proposed judgment would be substantially equivalent to that sought in the complaint, because significant relief would become effective upon entry of the judgment, and because appeals following a trial could delay the obtaining of effective relief for several years, the alternative of a trial on the merits was rejected.

In addition to considering provisions substantially similar to those contained in the proposed judgment, proposals considered by the government and then rejected included the following:

(a) During negotiations broader product scope (*e.g.*, all agricultural chemicals, or all products) were discussed but later abandoned. Carbide's Agricultural Products Division President testified in a deposition that he might decide to use the challenged formulator agreements for other products, given appropriate circumstances. Nonetheless, the fact that the government challenged these agreements and Carbide's knowledge that it probably would challenge them again (if they were adopted) make it unlikely that Carbide would have cause to enter into similar restrictive contracts for the distribution of other products.

(b) The duration of compulsory sales was a substantial issue during negotiations. Five years was a compromise figure. Because of the relatively short start-up time required in the industry—a period shortened considerably by the EPA licensing provisions of Article VII—the government believes that the five-year period is adequate to attract and restore competition to the carbaryl pesticide market.

(c) Compulsory sales under Article VI are required only as long as Carbide continues to sell technical carbaryl to formulators in the United States. If Carbide should cease such sales, and process all of its technical carbaryl for the United States in in-house facilities, compulsory sales would not be required by Article VI. The government considered, but subsequently rejected, provisions requiring compulsory sales regardless of such circumstances. The government did not believe it appropriate in this case to prevent Carbide from moving toward full vertical integration.

(d) The government considered a provision requiring Carbide to make mandatory sales of technical carbaryl to all persons. Including persons other than pesticide formulators, however, was subsequently considered inappropriate in this case. Pesticide formulators are the ones who will make the technical carbaryl into useful formulations. Because pesticide formulators will be able to buy their technical carbaryl directly from Carbide, under the mandatory sales provision, there is no need to require Carbide to sell to brokers acting as middlemen between Carbide and formulators. Competing manufacturers of technical carbaryl were also excluded from the benefits of this decree, because there appeared to be no need to require Carbide to sell technical carbaryl to a competing manufacturer. EPA assistance under Article VII is also denied to such competing manufacturers. Because only Carbide's marketing restrictions on its own carbaryl were challenged, it is considered inappropriate to require Carbide to assist a competing manufacturer in obtaining EPA labeling for the competitor's carbaryl. (Such competitors already have the statutory right to reference some of Carbide's carbaryl data on file with the EPA.)

(e) During negotiations a question arose as to the necessity for a provision in Article VII enjoining Carbide from using for commercial purposes any trade secrets that might be revealed to it by applicants seeking Carbide's assistance under this article. Arguing against the inclusion of such a provision, Carbide's counsel has assured the government that: (1) few if any trade secrets would be divulged in the course of requesting assistance; (2) formulators are sophisticated enough to request trade secret agreements, if such are necessary; (3) Carbide's practice has been and will continue to be to enter into reasonable such trade secret agreements, when they are requested. Counsel also pointed out that Carbide might be in contempt of the judgment if it declined assistance to a formulator who refused to divulge (absent a trade secret agreement) trade secrets necessary to enable Carbide to assist him. Despite the fact that counsel declined to put his oral assurances into writing, on the basis of his reasoning and information the government has received from independent pesticide formulators, the government considered such a provision unnecessary.

(f) Originally the government considered a provision that would have prevented Carbide from requiring compensation for any carbaryl product data it files with the EPA. A compromise was reached, allowing Carbide to charge for the use of data for the use of which it did not, and will not in the future, charge other formulators. This compromise lets new formulators use, free of charge, all data that Carbide's existing and former formulators used in obtaining their registrations, and lets Carbide exercise its statutory right to collect compensation for some other classes of data.

(g) The government considered a provision requiring Carbide to grant formulators access to its confidential carbaryl product data on file with the EPA, as part of its assistance to such formulators. This provision was rejected as inappropriate, because several formulators told the government that they did not need to see the data, but merely needed to have the EPA look at it to support their applications.

(h) The government considered a provision requiring referencing of all of Carbide's carbaryl data submissions to other federal and state agencies. This was considered inappropriate in this case since the data filed with the EPA is the only significant regulatory requirement for selling carbaryl products in the United States. Once federal registration is obtained, state registrations are easily obtainable.

(i) The mandatory licensing of all Carbide's trade secrets concerning carbaryl products was also considered. The government subsequently deemed such relief inappropriate in this case, because Carbide has only a few proprietary carbaryl products that other pesticide formulators might not know how to prepare. In addition, the formulation now most sought by users is a liquid carbaryl formulation, which Carbide has not yet developed.

(j) The government also considered prohibiting Carbide from in any way refusing to deal with a person because he resells any of Carbide's carbaryl products, or makes any other product from any of Carbide's carbaryl products. Inclusion of this provision was subsequently considered inappropriate, and the part of the provision concerning refusal to deal was limited to refusals to sell technical carbaryl, because the practice with which the government was primarily concerned was that Carbide might perpetuate its restraints on technical carbaryl by refusals to sell technical carbaryl. The rest of the provision was limited to technical carbaryl, as well, as restraints on the resale and use only of technical carbaryl were alleged in the complaint. Such a limitation was considered completely adequate in view of the broad prohibitions of paragraph (A) (2) of Article IV.

(k) The definition of technical carbaryl was also an issue during negotiations. Technical carbaryl is defined in Article II as carbaryl of approximately 99% purity, which corresponds to Carbide's current specifications for technical carbaryl. Carbide assured the government that it would not tamper with the specifications or sell only lower concentrations of carbaryl, as a means of avoiding compliance with the judgment. On this basis the definition in the judgment was adopted.

VI. DETERMINATIVE DOCUMENTS

There are no materials or documents which the government considered determinative in formulating the proposed consent judgment. Therefore, none is being filed with this competitive impact statement.

VII. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED CONSENT JUDGMENT

The proposed consent judgment is subject to a stipulation between the United States and Carbide which provides that the United States may withdraw its consent to the proposed consent judgment at any time before the Court has found that entry of the judgment is in the public interest. The district court would retain jurisdiction of the case to permit any necessary construction or modification of the judgment, to enforce compliance and to punish any judgment violation.

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may, during the sixty-day period prior to the effective date of the proposed judgment, submit written comments to the United States Department of Justice, Bernard M. Hollander Chief, Judgments and Judgment Enforcement Section, Antitrust Division, Washington, D.C. 20530, which will file with the Court and publish in the Federal Register such comments and its response to them. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed judgment.

Dated: February 23, 1977.

RICHARD H. STERN,
BERNARD H. MEYERS,
KENNETH M. FRANKEL,
ROBERT S. SCHWARTZ,
BRUCE T. REESE,
Attorneys, Antitrust Division
Department of Justice

[FR Doc.77-6534 Filed 3-3-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

MINNESOTA

Availability of Federal Supplemental Benefits

This notice announces the beginning of a new Federal Supplemental Benefit Period in the State of Minnesota effective February 27, 1977.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Public Law 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State

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and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals will be up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State.

There is a Federal Supplemental Benefit "on" indicator in a State for a week if the United States Secretary of Labor determines with respect to the State that, (a) there is a State or National "on" indicator for the week, as determined for the purposes of payment of extended benefits under the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and (b) the employment security agency of the State has determined that the average rate of insured unemployment in the State for the period consisting of that week and the immediately preceding twelve weeks equalled or exceeded 5.0 percent. The Federal Supplemental Benefit Period actually begins with the third week following the week for which there is an "on" indicator, and lasts for a minimum period of not less than 26 weeks.

Similarly, an "off" indicator ending a Federal Supplemental Benefit Period occurs in a week when the Secretary of Labor determines that the average rate of insured unemployment (as determined by the State employment security agency) for the period consisting of that week and the immediately preceding twelve weeks is less than 5.0 percent. The Federal Supplemental Benefit Period actually ends with the third week after the week in which there is an "off" indicator, but not earlier than the end of the twenty-sixth week of the period.

DETERMINATION OF "ON" INDICATOR

The Secretary of Labor has determined under section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and 20 CFR 615.13(a), (Title 20 of the Code of Federal Regulations, section 615.13(a)), that there is a National "on" indicator in effect which is applicable to every State, as announced in the notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 7722. The employment security agency of the State of Minnesota has determined under the Act and 20 CFR 618.19(a)(2) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on February 12, 1977, and the immediately preceding twelve weeks equalled or exceeded 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19 (a), and as authorized by the Secretary of Labor's Order 4–75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "on" indicator in the State of Minnesota for the week ending on February 12, 1977, and that a Federal Supplemental Benefit Period therefore commenced in that State with the week beginning on February 27, 1977.

INFORMATION FOR CLAIMANTS

There will be a 5-per centum period in effect in the new Federal Supplemental Benefit Period, commencing at the beginning of the new period. During the 5-per centum period an individual who is eligible for Federal Supplemental Benefits will be entitled to a maximum amount of up to 13 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

In the event that a 6-per centum period subsequently takes effect in the new Federal Supplemental Benefit Period, because the rate of insured unemployment in the State has risen to an average of 6.0 percent or more over a period of thirteen weeks, the maximum amount of Federal Supplemental Benefits payable to an eligible individual will increase. In that event, as the Act now provides, an eligible individual will be entitled to a maximum amount of Federal Supplemental Benefits of up to 26 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

The State employment security agency will furnish a written notice of potential entitlement to Federal Supplemental Benefits to each individual who is an "exhaustee" (as defined in the Act and 20 CFR 618.5) of regular and extended benefits payable under State and Federal unemployment compensation laws, and to each individual who has a previously established Federal Supplemental Benefit Account in which there is any balance as of the beginning of the new Federal Supplemental Benefit Period. The State employment security agency also will furnish a written notice to each individual for whom a Federal Supplemental Benefit Account has been established, of the beginning or ending of a 6-per centum period in the new Federal Supplemental Benefit Period, and its effect on the individual's entitlement to Federal Supplemental Benefits.

The Act now provides that the program will expire with the last week which ends before April 1, 1977, at which time the Federal Supplemental Benefit Period will terminate. If the program is extended, individuals who may be entitled to Federal Supplemental Benefits will be notified by the State employment security agency.

Persons who believe they may be entitled to Federal Supplemental Benefits in the State of Minnesota, or who wish to inquire about their rights under this program, should contact the nearest Local Office of the Minnesota Department of Employment Services in their locality.

Signed at Washington, D.C., on March 1, 1977.

WILLIAM B. HEWITT,
Acting Assistant Secretary for Employment and Training.

[FR Doc.77-6539 Filed 3-3-77;8:45 am]

NORTH DAKOTA

Availability of Federal Supplemental Benefits

This notice announces the beginning of a new Federal Supplemental Benefit Period in the State of North Dakota effective February 27, 1977.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Public Law 93–572, enacted December 31, 1974) (the Act) created a temporary program of supplemental unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals will be up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State.

There is a Federal Supplemental Benefit "on" indicator in a State for a week if the United States Secretary of Labor determines with respect to the State that, (a) there is a State or National "on" indicator for the week, as determined for the purposes of payment of extended benefits under the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and (b) the employment security agency of the State has determined that the average rate of insured unemployment in the State for the period consisting of that week and the immediately preceding twelve weeks equalled or exceeded 5.0 percent. The Federal Supplemental Benefit Period actually begins with the third week following the week for which there is an "on" indicator, and lasts for a minimum period of not less than 26 weeks.

Similarly, an "off" indicator ending a Federal Supplemental Benefit Period occurs in a week when the Secretary of Labor determines that the average rate of insured unemployment (as determined by the State employment security agency) for the period consisting of that week and the immediately preceding twelve weeks is less than 5.0 percent. The Federal Supplemental Benefit Period actually ends with the third week after the week in which there is an "off" indicator, but not earlier than the end of the twenty-sixth week of the period.

DETERMINATION OF "ON" INDICATOR

The Secretary of Labor has determined under section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and 20 CFR 615.13(a), (Title 20 of the Code of Federal Regulations, section 615.13(a)), that there is a National "on" indicator in effect which is applicable to every State, as announced in the notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 7722. The employment security agency of the State of North Dakota has determined under the Act and 20 CFR 618.19(a)(2) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on February 12, 1977, and the immediately preceding twelve weeks equalled or exceeded 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19 (a), and as authorized by the Secretary of Labor's Order 4–75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "on" indicator in the State of North Dakota for the week ending on February 12, 1977, and that a Federal Supplemental Benefit Period therefore commenced in that State with the week beginning on February 27, 1977.

INFORMATION FOR CLAIMANTS

There will be a 5-per centum period in effect in the new Federal Supplemental Benefit Period, commencing at the beginning of the new period. During the 5-per centum period an individual who is eligible for Federal Supplemental Benefits will be entitled to a maximum amount of up to 13 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

In the event that a 6-per centum period subsequently takes effect in the new Federal Supplemental Benefit Period, because the rate of insured unemployment in the State has risen to an average of 6.0 percent or more over a period of thirteen weeks, the maximum amount of Federal Supplemental Benefits payable to an eligible individual will increase. In that event, as the Act now provides, an eligible individual will be entitled to a maximum amount of Federal Supplemental Benefits of up to 26 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

The State employment security agency will furnish a written notice of potential entitlement to Federal Supplemental Benefits to each individual who is an "exhaustee" (as defined in the Act and 20 CFR 618.5) of regular and extended benefits payable under State and Federal unemployment compensation laws, and to each individual who has a previously established Federal Supplemental Benefit Account in which there is any balance as of the beginning of the new Federal Supplemental Benefit Period. The State employment security agency also will furnish a written notice to each individual for whom a Federal Supplemental Benefit Account has been established, of the beginning or ending of a 6-per centum period in the new Federal Supplemental Benefit Period, and its effect on the individual's entitlement to Federal Supplemental Benefits.

The Act now provides that the program will expire with the last week which ends before April 1, 1977, at which time the Federal Supplemental Benefit Period will terminate. If the program is extended, individuals who may be entitled to Federal Supplemental Benefits will be notified by the State employment security agency.

Persons who believe they may be entitled to Federal Supplemental Benefits in the State of North Dakota, or who wish to inquire about their rights under this program, should contact the nearest Employment Office of the North Dakota Employment Security Bureau in their locality.

Signed at Washington, D.C., on March 1, 1977.

WILLIAM B. HEWITT,
Acting Assistant Secretary for Employment and Training.

[FR Doc.77-6540 Filed 3-3-77;8:45 am]

WISCONSIN

Availability of Federal Supplemental Benefits

This notice announces the beginning of a new Federal Supplemental Benefit Period in the State of Wisconsin effective February 27, 1977.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93–572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals will be up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State.

There is a Federal Supplemental Benefit "on" indicator in a State for a week if the United States Secretary of Labor determines with respect to the State that, (a) there is a State or National "on" indicator for the week, as determined for the purposes of payment of extended benefits under the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and (b) the employment security agency of the State has determined that the average rate of insured unemployment in the State for the period consisting of that week and the immediately preceding twelve weeks equalled or exceeded 5.0 percent. The Federal Supplemental Benefit Period actually begins with the third week following the week for which there is an "on" indicator, and lasts for a minimum period of not less than 26 weeks.

Similarly, an "off" indicator ending a Federal Supplemental Benefit Period occurs in a week when the Secretary of Labor determines that the average rate of insured unemployment (as determined by the State employment security agency) for the period consisting of that week and the immediately preceding twelve weeks is less than 5.0 percent. The Federal Supplemental Benefit Period actually ends with the third week after the week in which there is an "off" indicator, but not earlier than the end of the twenty-sixth week of the period.

DETERMINATION OF "ON" INDICATOR

The Secretary of Labor has determined under section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and 20 CFR 615.13(a) (Title 20 of the Code of Federal Regulations, section 615.13(a)), that there is a National "on" indicator in effect which is applicable to every State, as announced in the notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 7722. The employment security agency of the State of Wisconsin has determined under the Act and 20 CFR 618.19(a)(2) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on February 12, 1977, and the immediately preceding twelve weeks equalled or exceeded 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(a), and as authorized by the Secretary of Labor's Order 4–75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "on" indicator in the State of Wisconsin for the week ending on February 12, 1977, and that a Federal Supplemental Benefit Period therefore commenced in that State with the week beginning on February 27, 1977.

INFORMATION FOR CLAIMANTS

There will be a 5 per centum period in effect in the new Federal Supplemental

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Benefit Period, commencing at the beginning of the new period. During the 5 per centum period an individual who is eligible for Federal Supplemental Benefits will be entitled to a maximum amount of up to 13 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

In the event that a 6 per centum period subsequently takes effect in the new Federal Supplemental Benefit Period, because the rate of insured unemployment in the State has risen to an average of 6.0 percent or more over a period of thirteen weeks, the maximum amount of Federal Supplemental Benefits payable to an eligible individual will increase. In that event, as the Act now provides, an eligible individual will be entitled to a maximum amount of Federal Supplemental Benefits of up to 26 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

The State employment security agency will furnish a written notice of potential entitlement to Federal Supplemental Benefits to each individual who is an "exhaustee" (as defined in the Act and 20 CFR 618.5) of regular and extended benefits payable under State and Federal unemployment compensation laws, and to each individual who has a previously established Federal Supplemental Benefit Account in which there is any balance as of the beginning of the new Federal Supplemental Benefit Period. The State employment security agency also will furnish a written notice to each individual for whom a Federal Supplemental Benefit Account has been established, of the beginning or ending of a 6-per centum period in the new Federal Supplemental Benefit Period, and its effect on the individual's entitlement to Federal Supplemental Benefits.

The Act now provides that the program will expire with the last week which ends before April 1, 1977, at which time the Federal Supplemental Benefit Period will terminate. If the program is extended, individuals who may be entitled to Federal Supplemental Benefits will be notified by the State employment security agency.

Persons who believe they may be entitled to Federal Supplemental Benefits in the State of Wisconsin, or who wish to inquire about their rights under this program, should contact the nearest District Office of the Wisconsin Job Service in their locality.

Signed at Washington, D.C., on March 1, 1977.

WILLIAM B. HEWETT,
Acting Assistant Secretary for Employment and Training.

[FR Doc.77-6541 Filed 3-3-77;8:45 am]

MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS

Grant Awards

The Secretary of Labor announces the award of grants for Program Year 1977 funded under provisions of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, title III, section 303. The programs are administered by the Employment and Training Administration and provide manpower and other services for migrants and seasonal farmworkers.

Following is a list of grantees funded for Program Year 1977 and the total dollar amount of each grant award. These grants are for the Program Year January 1, 1977, through December 31, 1977. The dollar amount is comprised of Fiscal Year 1977 funds and funds carried over from Fiscal Year 1976. (The list does not include States or areas for which funding decisions have not been made. These are: Utah, Michigan, Montana, Oregon, South Carolina, and Wayne and Suffolk Counties of New York.) In addition, grants for South Dakota and Kentucky were extended utilizing unexpended Program Year 1976 funds.

ALABAMA

Alabama Migrant & Seasonal Farmworkers Council, Inc., 404 East South Boulevard, Montgomery, Alabama 36105—$716,499.

ARIZONA

Migrant Opportunity Programs, 6611 South Central Avenue, Phoenix, Arizona 85040—$1,555,570.

ARKANSAS

Arkansas Council for Farmworkers, Inc., 1200 Westpark Drive, Suite 400, P.O.B. 4241, Little Rock, Arkansas 72204—$1,583,900.

CALIFORNIA

Orange County Manpower Commission, 433 Civic Center Drive, West Santa Ana, California 92701—$286,700.
CET, 425 South Market Street, San Jose, California 95113—$883,200.
Proteus Adult Training, Inc., 1640 West Mineral King, Suite 204, Visalia, California 93277—$1,155,200.
County of Los Angeles, 2999 West Sixth Street, Los Angeles, California 90020—$81,000.
Greater California Education Project, 1044 Fulton Mall, 6th Floor, P.O.B. 11067, Fresno, California 93721—$3,648,500.
Inland Manpower Association, 336 North La-Cadena Drive, P.O.B. 350, Colton, California 92324—$477,541.
North Bay Human Development Corporation, 2462 Mendocino Avenue, Santa Rosa, California 95202—$1,192,100.
City of Stockton, City Hall—Farmworker Program, 425 El Dorado, Stockton, California 95202—$564,186.

CONNECTICUT

New England Farmworkers Council, Inc., 3502 Main Street, Springfield, Massachusetts 01107—$342,606.

COLORADO

Colorado Council on Migrant and Seasonal Agricultural Workers and Families, 695 Grant Street, Denver, Colorado 80203—$767,700.

DELAWARE

Delmarva Ecumenical Agency, Rural Ministries Coalition, Blue Hen Mall—2nd Floor, Dover, Delaware 19901—$149,772.

FLORIDA

Adult Migrant Program, Florida State Department of Education, 715 East Bird Street, Suite 309, Tampa, Florida 33604—$4,055,000.

GEORGIA

Employment Security Agency, Room 417, Georgia Department of Labor, 501 Pulliam Street, SW., Atlanta, Georgia 30312—$1,939,400.

HAWAII

Office of the Governor, Department of Labor and Industrial Relations, OMP, 720 Kapiolani Blvd., Room 302, Honolulu, Hawaii 96813—$565,346.

IDAHO

Idaho Migrant Council, 415 South 8th Street, Boise, Idaho 83706—$603,397.

ILLINOIS

Illinois Migrant Council, 202 South State Street, Suite 1500, Chicago, Illinois 60604—$1,123,151.

INDIANA

Indiana Office of Manpower Development, 150 West Market Street, 7th Floor, Indianapolis, Indiana 46204—$818,000.

IOWA

Migrant Action Program, 220 East State Street, P.O.B. 778, Mason City, Iowa 50401—$1,290,000.

OKLAHOMA

ORO Development Corporation, 1100 Classen Drive, P.O.B. 60126, Plaza Court Building, Suite 221, Oklahoma City, Oklahoma 73106—$525,600.

LOUISIANA

Manpower Education and Training, P.O.B. 781, Jennings, Louisiana 70546—$840,400.

MAINE

Penobscot County Manpower Administration, Symphony House, 166 Union Street, Bangor, Maine 04401—$255,600.

MARYLAND

Migrant and Seasonal Farmworkers, Inc., 3929 Western Boulevard, P.O.B. 33315, Raleigh, North Carolina 27606—$5,043,934.

MASSACHUSETTS

New England Farmworkers Council, Inc., 3502 Main Street, Springfield, Massachusetts 01107—$342,606.

MINNESOTA

Minnesota Migrant Council, P.O.B. 1231, St. Cloud, Minnesota 56301—$1,244,700.

MISSISSIPPI

Mississippi Delta Council for Farmworkers Opportunities, 1933 Fourth Street, Clarksdale, Mississippi 38614—$1,267,900.

MISSOURI

Rural Missouri, Inc., 418 Madison Street, P.O.B. 204, Jefferson City, Missouri 65101—$839,600.

NEBRASKA

State of Nebraska Department of Labor, P.O.B. 94600, 550 South 16th Street, 4th Floor, State House Station, Lincoln, Nebraska 68509—$935,600.

NEVADA

State of Nevada, Office of State Manpower Services, State Mail Room, Carson City, Nevada 89710—$148,763.

NEW JERSEY

Farmworkers Corporation of New Jersey, 36 West Landis Avenue, Vineland, New Jersey 08360—$604,800.

NEW MEXICO

Home Education Livelihood Program, 5000 Marble, NE., Albuquerque, New Mexico 87110—$502,100.

NEW YORK

Program Funding, Inc., Powers Bldg., Suite 730, Rochester, New York 14614—$905,600.

NORTH CAROLINA

Migrant & Seasonal Farmworkers, Inc., 3929 Western Boulevard, P.O.B. 33315, Raleigh, North Carolina 27606—$5,043,934.

NORTH DAKOTA

North Dakota Migrant Council, 20 South Fourth, Grand Forks, North Dakota 58201—$294,300.

OHIO

La Raza Unida de Ohio, 1007 Revere Drive, Bowling Green, Ohio 43402—$980,400.

OKLAHOMA

ORO Development Corporation, 1100 Classen Drive, P.O.B. 60126, Plaza Court Building, Suite 221, Oklahoma City, Oklahoma 73106—$525,600.

PENNSYLVANIA

Pennsylvania Council of Farmworkers, Inc., 1600 Lehigh Parkway, East (1-B), Allentown, Pennsylvania 18103—$1,119,400.

PUERTO RICO

Commonwealth of Puerto Rico, Department of Labor, 414 Barbosa Avenue, Hato Rey, San Juan, Puerto Rico 00917—$2,760,047.

RHODE ISLAND

New England Farmworkers Council, Inc., 3502 Main Street, Springfield, Massachusetts 01107—$342,606.

TENNESSEE

Tennessee Opportunity Program for Seasonal Farmworkers, Inc., 2803 Foster Avenue, Nashville, Tennessee 37211—$751,128.

TEXAS

Associated City-County Economic Development Corporation (Hidalgo Co.), 1304 South 25th Street, P.O. Box 1198, Edinburg, Texas 78539—$1,373,600.
Economic Opportunities Development Corporation of San Antonio and Bexar Counties, 410 South Main Street, P.O. Box 9326, San Antonio, Texas 78204—$525,151.
Manpower Education & Training, Inc., 105 East Houston Street, Cleveland, Texas 77327—$4,210,700.
Community Action Council of South Texas, 420 East Main, P.O. Drawer S, Rio Grande City, Texas 78582—$365,000.

VIRGINIA

Migrant & Seasonal Farmworkers, Inc., 3929 Western Boulevard, P.O. Box 33315, Raleigh, North Carolina 27606—$5,043,934.

VERMONT

Agency of Human Services, Comprehensive Employment and Training, 79 River Street, Montpelier, Vermont 05602—$298,450.

WASHINGTON

Northwest Rural Opportunities, 305 Euclid Street, Grandview, Washington 98930—$1,513,800.

WEST VIRGINIA

Governor's Manpower Office, 5790-A MacCorkle Avenue, S.E., Charleston, West Virginia 25305—$204,600.

WISCONSIN

United Migrant Opportunity Services, 809 West Greenfield Avenue, Milwaukee, Wisconsin 53204—$1,512,900.

Signed at Washington, D.C., this 4th day of February 1977.

PAUL A. MAYRAND,
Chief, Division of Farmworkers Programs.

[FR Doc.77-6542 Filed 3-3-77;8:45 am]

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH, SUBGROUP ON COMPLIANCE

Meeting

Notice is hereby given that the Subgroup on Compliance of the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on March 23, 1977.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act. The Committee has established the Subgroup on Compliance to assist in carrying out its responsibilities. The Subgroup meeting will be held in Room N-4437, Department of Labor Building, 3rd Street and Constitution Avenue, NW, Washington, D.C. 20210. The meeting will begin at 9 a.m. The public is invited to attend.

The Compliance Subgroup will continue its discussion of new concepts in compliance techniques and the system for processing employee discrimination complains under Section 11(c) of the Act.

For additional information contact:

Ken Hunt, Committee Management Office, Room N-3635, Department of Labor-OSHA, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210. Phone: (202) 523-8024.

Any written data or views concerning these agenda items or suggestions for future agenda items which are received by the Commitee Management Office before the scheduled meeting date, preferably with 20 copies, will be presented to the Subgroup and included in the official record of the meeting.

Anyone wishing to make an oral presentation should notify the Committee Management Office before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the Subgroup Chairman, depending on the extent to which time permits.

Official records of the meeting will be available for public inspection at the above address.

Signed at Washington, D.C., this 28th day of February 1977.

J. GOODELL,
Executive Secretary.

[FR Doc.77-6543 Filed 3-3-77;8:45 am]

Office of the Secretary

[TA-W-1,629]

ALLIED TEXTILE PRINTERS CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 27, 1977 the Department of Labor received a petition dated January 24, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Textile Printing Colorist Guild on behalf of the workers and former workers of Allied Textile Printers Corporation, Paterson, New Jersey (TA-W-1,629). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with textile printing for fabrics produced by Allied Textile Printers Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to being and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

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Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6246 Filed 3-3-77;8:45 am]

[TA-W-1,630]

BEACON TEX-PRINT LTD.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 27, 1977 the Department of Labor received a petition dated January 24, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Textile Printing Colorist Guild on behalf of the workers and former workers of Beacon Tex-Print Ltd., Beacon, New York (TA-W-1,6300). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with textile printing for fabrics produced by Beacon Tex-Print Ltd. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6247 Filed 3-3-77;8:45 am]

[TA-W-1,632]

BREWSTER FINISHING CO., INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 27, 1977 the Department of Labor received a petition dated January 24, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Textile Printing Colorist Guild on behalf of the workers and former workers of Brewster Finishing Company, Inc., Paterson, New Jersey (TA-W-1,632). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with textile printing for fabrics produced by Brewster Finishing Company, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6248 Filed 3-3-77;8:45 am]

[TA-W-1,633]

CONGRESS TEXTILE PRINTERS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 27, 1977 the Department of Labor received a petition dated January 24, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Textile Printing Colorist Guild on behalf of the workers and former workers of Congress Textile Printers, Inc., Hawthorne, New Jersey (TA-W-1,633). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with textile printing for fabrics produced by Congress Textile Printers, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, of Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6249 Filed 3-3-77;8:45 am]

[TA-W-1,640]

DIXON FORD SHOE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 7, 1977 the Department of Labor received a petition dated January 31, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Dixon Ford Shoe Company, Salinas, Puerto Rico (TA-W-1,640). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's work boots produced by Dixon Ford Shoe Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 9th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6250 Filed 3-3-77;8:45 am]

[TA-W-1,634]

GENERAL ELECTRIC CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 10, 1977 the Department of Labor received a petition dated January 5, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Union of Electrical, Radio, and Machine Workers on behalf of the workers and former workers of Semiconductor Products Department of General Electric Company, Syracuse, New York (TA-W-1,634). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with transistors, diodes, and OPTO electronics produced by General Electric Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm, or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 5th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6251 Filed 3-3-77;8:45 am]

[TA-W-1,638]

GENERAL ELECTRIC CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 21, 1977 the Department of Labor received a petition dated January 17, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Union of Electrical, Radio & Machine Workers on behalf of the workers and former workers of General Electric Company, Liverpool, New York (TA-W-1,638). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with special pick up tubes and light valve tubes produced by General Electric Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the

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Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 8th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6252 Filed 3-3-77;8:45 am]

[TA-W-1,635]

GREAT WESTERN SUGAR CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 31, 1977 the Department of Labor received a petition dated January 25, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Western Conference of Teamsters on behalf of the workers and former workers of Brighton, Colorado plant of Great Western Sugar Company, Denver, Colorado, a wholly-owned subsidiary of Great Western United Corporation, Denver, Colorado (TA-W-1635). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with beet sugar produced by Great Western Sugar Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6253 Filed 3-3-77;8:45 am]

[TA-W-1,636]

GREAT WESTERN SUGAR CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 31, 1977 the Department of Labor received a petition dated January 25, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Western Conference of Teamsters on behalf of the workers and former workers of Longmont, Colorado plant of Great Western Sugar Company, Denver, Colorado, a wholly-owned subsidiary of Great Western United Corporation, Denver, Colorado (TA-W-1,636). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with beet sugar produced by Great Western Sugar Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance

[FR Doc.77-6254 Filed 3-3-77;8:45 am]

[TA-W-1,637]

GREAT WESTERN SUGAR CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 31, 1977 the Department of Labor received a petition dated January 25, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Western Conference of Teamsters on behalf of the workers and former workers of Johnstown, Colorado plant of Great Western Sugar Company, Denver, Colorado, a wholly-owned subsidiary of Great Western United Corporation, Denver, Colorado (TA-W-1,637). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with molasses produced by Great Western Sugar Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the

Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6255 Filed 3-3-77;8:45 am]

[TA-W-1,641]

HARMONY CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 31, 1977 the Department of Labor received a petition dated January 25, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Piano & Musical Instrument Workers on behalf of the workers and former workers of The Harmony Company, Chicago, Illinois (TA-W-1,641). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with guitars, banjos & mandolins produced by The Harmony Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 9th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6256 Filed 3-3-77;8:45 am]

[TA-W-1,628]

HULL DYE & PRINT WORKS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 27, 1977 the Department of Labor received a petition dated January 24, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Textile Printing Colorist Guild on behalf of the workers and former workers of Hull Dye & Print Works, Inc., Derby, Connecticut (TA-W-1,628). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the dyeing and textile printing for fabrics produced by Hull Dye & Print Works, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number of proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6257 Filed 3-3-77;8:45 am]

[TA-W-1,624]

INTERNATIONAL SHOE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 25, 1977 the Department of Labor received a petition dated January 22, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Conway, Arkansas plant of International Shoe Company, St. Louis, Missouri, a division of Interco, Inc., St. Louis, Missouri (TA-W-1,624). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's dress and casual shoes produced by International Shoe Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

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Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6258 Filed 3-3-77;8:45 am]

PALM LAND FASHIONS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 17, 1977 the Department of Labor received a petition dated January 11, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing and Textile Workers Union on behalf of the workers and former workers of Palm Land Fashions, Inc., Miami, Florida, a wholly-owned subsidiary of Allied Artist Industries, Inc., New York, New York (TA-W-1,639). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's sport shirts produced by Palm Land Fashions, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 8th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6259 Filed 3-3-77;8:45 am]

[TA-W-1,625]

SOUTH BEND TOY MANUFACTURING, CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 31, 1977 the Department of Labor received a petition dated January 26, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Furniture Workers of America on behalf of the workers and former workers of South Bend Toy Manufacturing Company, South Bend, Indiana, a division of Milton Bradley Corp., Springfield, Massachusetts (TA-W-1,625). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with baby doll strollers produced by South Bend Toy Manufacturing Co. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number of proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6260 Filed 3-3-77;8:45 am]

[TA-W-1,631]

UNION TEXTILE PRINTERS

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 27, 1977 the Department of Labor received a petition dated January 24, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Textile Printing Colorist Guild on behalf of the workers and former workers of Union Textile Printers, Secaucus, New Jersey (TA-W-1,631). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with textile printing for fabrics produced by Union Textile Printers or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6261 Filed 3-3-77;8:45 am]

[TA-W-1,627]

VULCAN CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 31, 1977 the Department of Labor received a petition dated January 27, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Boot and Shoe Workers' Union on behalf of the workers and former workers of South Charleston, Ohio plant of Vulcan Corporation, Cincinnati, Ohio (TA-W-1,627). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with wood heels and wedges for shoes produced by Vulcan Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 77-6262 Filed 3-3-77;8:45 am]

[TA-W-1,623]

ZURN INDUSTRIES, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 31, 1977 the Department of Labor received a petition dated January 5, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Zurn Industries, Inc., Cast Metals Division, Erie, Pennsylvania (TA-W-1,623). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with cast metal valves, fittings and pumps produced by Zurn Industries, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6263 Filed 3-3-77;8:45 am]

[TA-W-1245]

FASTENER SALES CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1245: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 8, 1976 in response to a worker petition received on that date which was filed by Mr. Eugene Dobish, owner of Fastener Sales Company, Chicago, Illinois, on his own behalf as a producer of parts for counter top fasteners at Fastener Sales Company, Chicago, Illinois.

The notice of investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51629). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Mr. Eugene Dobish of Fastener Sales Company, and from Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any one of the criteria is not met, a negative determination must be made.

The basic question in this case is whether Mr. Dobish is a "worker," employed by an employer for wages, within the meaning of the Trade Act of 1974.

Mr. Dobish is the self-employed owner of Fastener Sales Company. Mr. Dobish pays himself by making periodic withdrawals from the sales account of Fastener Sales Company. Rather than "wages," defined at 29 CFR 91.3 as "all

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compensation for employment with an employer," Mr. Dobish's withdrawals from the Fastener Sales account serve as "renumeration"—defined in Section 247 of the Act as "wages and net earnings derived from services performed as a self-employed individual."

Section 232(a) of the Trade Act of 1974 draws a clear distinction between "remuneration" for services performed as a self-employed individual, and "wages". An individual whose weekly earnings are derived solely from remuneration as opposed to wages would not be eligible to receive trade readjustment allowances.

Although the Trade Act does not contain a definition of the term "worker" for purposes of Section 222(1), it is clear that the intent of the Act is to cover individuals earning compensation, in the form of wages, in return for employment with an employer.

After careful review of the issues, I have determined that as a self-employed individual Mr. Dobish, the self-employed owner of Fastener Sales Company, Chicago, Illinois is not a worker employed by an employer for wages within the meaning of Section 222(1) and Section 232(a) of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-6545 Filed 3-3-77;8:45 am]

[TA-W-1,626]

ROHM AND HAAS NORTH CAROLINA, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 28, 1977 the Department of Labor received a petition dated January 25, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Rohm and Haas North Carolina, Inc., Fayetteville, North Carolina, a wholly-owned subsidiary of Rohm and Haas Company, Philadelphia, Pa. (TA-W-1,626). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with textured polyester yarn produced by Rohm and Haas North Carolina, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 14, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Consitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.6546 Filed 3-3-77;8:45 am]

[TA-W-1,442]

U.S. STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Lorain, Ohio plant of U.S. Steel Corporation, Pittsburgh, Pa. (TA-W-1,442). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by U.S. Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

NOTE.—This document was originally filed for public inspection on January 6, 1977. Due to an oversight it was not published in the FEDERAL REGISTER. Therefore it has been refiled for public inspection on March 3 1977

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-687 Filed 3-3-77;8:45 am]

Office of Pension and Welfare Benefit Programs

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1142) a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. on Tuesday, March 22, 1977, in the Virginia Suite, Sheraton Park Hotel, 2660 Woodley Road N.W., Washington, D.C.

The meeting will be open to the public. The purpose of the meeting is to discuss the items listed in the following agenda:

1. Advisory Council Recommendations—Status Report.
2. Department of Labor Progress Report Since Last Advisory Council Meeting.
3. Small Plans Impact Work Group Report.
4. Surety Bond Experience and Fiduciary Insurance Work Group Report.
5. Actuarial and Accounting Responsibilities Work Group Report.
6. Legislative Amendment Work Group Report.

Any member of the public may file a written statement concerning the topics under this agenda by submitting 30 copies on or before the close of business Monday, March 21, 1977 to the Administrator of Pension and Welfare Benefit Programs, New Department of Labor Building, Third Street and Constitution Avenue, N.W., Room N4629, Washington, D.C. 20216.

Persons desiring to attend should notify Mr. Edward F. Lysczek, Executive Secretary of the Advisory Council, New Department of Labor Building, Third Street and Constitution Avenue N.W., Room N4629, Washington, D.C. 20216, or may call Area Code 202-523-8753.

Signed at Washington, D.C., this 28th day of February 1977.

J. VERNON BALLARD,
Acting Administrator of Pension and Welfare Benefit Programs.

[FR Doc.77-6587 Filed 3-3-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

NATIONAL SCIENCE BOARD

Meeting

The National Science Board, the policy-making body of the National Science Foundation, will meet on Thursday-Friday, March 17-18, 1977, in Room 540, 1800 G Street NW., Washington, D.C. 20550. Much of this meeting will be open to the public in keeping with the Government in the Sunshine Act. Attached is an agenda for the meeting. As indicated, the sessions of this meeting that will be open to the public are scheduled for Thursday, March 17, from 1:00 p.m. to 6:00 p.m. Should it be necessary to have an additional open session, such session shall commence at 12:30 p.m. on March 18.

The agenda also indicates the subjects to be discussed in both open and closed sessions.

Requests for information on the items may be directed to the Office of the National Science Board, Washington, D.C., which may be reached on 202/632-5840. If the person receiving your call is unable to answer your question, please ask for Miss Vernice Anderson, Executive Secretary, National Science Board.

The agenda is as follows:

THURSDAY, MARCH 17

OPEN SESSION

1:00 to 2:20 p.m.

1. Program Review—Science and Society.

2:20 to 2:40 p.m.

2. Report of Chairman, Advisory Committee for Science Education.

2:40 to 3:30 p.m.

3. Chairman's Report.
4. Director's Report.
   a. Report on Grant and Contract Activity—February 3-March 16.
   b. NSF Budget for Fiscal Year 1978.
5. Programs, Report, and Discussion Items.
   a. Astronomical, Atmospheric, Earth, and Ocean Sciences—Ocean Sciences. Report on Manganese Nodule Project, International Decade of Ocean Exploration.
   b. Mathematical and Physical Sciences, and Engineering.
      (1) Materials Research: (a) Establishment and Support of a National Research Facility for Small-Angle Neutron Scattering. (b) Policy for Terminal Funding of Materials Research Laboratories.
      (2) Physics: Institute for Theoretical Physics—Project Announcement.
   c. Scientific, Technological, and International Affairs—Science Information. Editorial Processing Center—Operational Evaluation.

3:30 to 3:45 p.m.

Recess.

3:45 to 6:00 p.m.

6. Board Committee Meetings.
7. Advisory Committees.
8. Annual Reviews of National Research Centers—Board Representation at Future Reviews.
9. Report on Industrial Support of Research and Development.
10. Agenda for April Board Meeting.
11. Other Business.
12. Next Meetings.

FRIDAY, MARCH 18

CLOSED SESSION

8:30 to 10:30 a.m.

a. Minutes—Closed Session—187th Meeting.
b. Grants and Contracts—Action Items.

10:30 to 10:45 a.m.

Recess.

c. NSF Budget for Fiscal Year 1979.
d. Draft Report—Science Indicators—1976.
e. Committee Reports.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 1, 1977.

[FR Doc.77-6585 Filed 3-3-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

AMETEX CORP.

Suspension of Trading

FEBRUARY 25, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Ametex Corp., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors.

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 12:15 p.m., e.s.t., on February 25, 1977 through March 6, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6549 Filed 3-3-77;8:45 am]

[70-5981]

CONNECTICUT LIGHT & POWER CO. ET AL.

Proposed Sale and Leveraged Leaseback of Substation Equipment

FEBRUARY 25, 1977.

In the matter of The Connecticut Light & Power Company, Selden Street, Berlin, Connecticut 06037, The Hartford Electric Light Company, 175 Cumberland Avenue, Wethersfield, Connecticut 06109, Western Massachusetts Electric Company, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, (70-5981).

Notice is hereby given that The Connecticut Light & Power Company ("CL&P"), The Hartford Electric Light Company ("HELCO") and Western Massachusetts Electric Company ("WMECO"), all of which are wholly owned subsidiaries of Northeast Utilities, a registered holding company, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 9(a), 10 and 12(d) of the Act as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

CL&P, HELCO and WMECO propose to sell and leaseback approximately $14,200,000 worth of equipment ("Equipment") to replace and/or supplement like equipment in their respective electric utility operations. Various elements of such Equipment will be placed in service at irregular intervals during 1977 and 1978. The proposed transaction is being arranged by Interet Corporation pursuant to a proposal dated October 19, 1976. CL&P, HELCO and WMECO (collectively the "Lessees") propose to enter into a Participation Agreement with The Connecticut Bank and Trust Company, as trustee ("Trustee"), Ford Motor Credit Company ("Ford Credit") and Bankers Life Company ("Bankers Life"). The Participation Agreement provides that the Lessee on whose system the particular item of Equipment is to be installed will take delivery of the Equipment from the manufacturer and will install and test it. Immediately prior to putting the Equipment into service, the Lessee will sell the Equipment to the Trustee. The Lessee will then be reimbursed, in cash, for all of its estimated investment with respect to the Equipment prior to the Trustee's taking of title, including taxes and allowance for funds used during construction. The Trustee will hold legal title to the Equipment for the benefit of Ford Credit and Bankers Life pursuant to a Trust Agreement.

When the Equipment is delivered to and accepted by the Trustee ("Acceptance Date"), the Trustee will simultaneously lease back the Equipment to the applicable Lessee pursuant to that Lessee's Lease Agreement. The separate Lease Agreements to be entered into by the three Lessees (collectively the "Leases") provide for the execution of lease supplements as the Trustee takes title to and leases back additional Equipment throughout 1977 and 1978. Each Lessee will assume only those liabilities and obligations imposed by the Leases to which it is a party. The Trustee will finance its acquisition of the Equipment through a combination of an investment

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of approximately 25 percent of the Trustee's cost by Ford Credit and of an issuance of secured notes to Bankers Life at an interest rate of 9 percent per annum in an amount equal to approximately 75 percent of the Trustee's cost. The secured notes will be without recourse to the Trustee or Ford Credit and will be collateralized by a perfected security interest in the Leases and the Equipment. The Lessees will be under an unconditional obligation to make semi-annual rental payments to the Trustee in amounts sufficient for the Trustee to pay off the secured notes. The lease term for each unit of the Equipment will be approximately 22 years with the Lessee having a right to renew the Lease for an additional five year period. The term for each unit of the Equipment will begin on the Acceptance Date of that unit. If a Lessee does not elect to renew a Lease at the end of the base term or any renewal term, it is expected that the Equipment will either be returned to the Lessor or purchased by the Lessee at its fair market value. Each Lease will provide that the Lessee will assume all costs of operating and maintaining the Equipment, including the payment of property taxes and insurance.

The proposed transaction will allow CL&P, HELCO and WMECO to obtain under favorable terms up to approximately $14,200,000 of equipment necessary for their respective electric utility operations. CL&P, HELCO and WMECO state that the net lease approach is the most reasonable and least expensive method now available to them for the acquisition of the Equipment. It is estimated that the annual cost to Lessees to purchase the Equipment by conventional methods would be approximately 14 percent as opposed to approximately 8 percent for the rental charge. On an annual basis, the resulting savings to the Lessees will be at least $735,000.

A statement of the fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. The Connecticut Public Utilities Control Authority has jurisdiction over the proposed transaction. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 21, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6550 Filed 3-3-77;8:45 am]

[File No. 500-1]

FIVE STAR COAL CO., INC.

Suspension of Trading

FEBRUARY 25, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Five Star Coal Co., Inc., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors.

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 12:20 p.m. e.s.t., on February 25, 1977 through March 6, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6551 Filed 3-3-77;8:45 am]

[70-5854]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Sale of Pollution Control Revenue Bonds

FEBRUARY 28, 1977.

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a post-effective amendment to a declaration previously filed with this Commission designating sections 9(a) and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44(b)(3) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration and the post-effective amendment thereto, which are summarized below, for a complete statement of the proposed transactions.

I&M states that in order to comply with perscribed environmental quality control standards of the State of Indiana it has been and will be necessary to construct certain high efficiency electrostatic precipitators ("Project") for particulate emission control and related facilities at its Tanners Creek Plant. By resolution of October 15, 1973, the City of Lawrenceburg, Indiana ("City"), determined that it would authorize and issue one or more series of its pollution control revenue bonds ("Revenue Bonds") to finance the cost of engineering, design, acquisition, and construction of the Project and to reimburse or repay I&M in connection with I&M's expenditures relating to the Project.

I&M has entered into an agreement of sale ("Agreement") with the City whereby the City will construct and equip the Project. To finance the Project, the City has issued Revenue Bonds in an initial principal amount of $25,000,000 ("Series A Bonds"), (HCAR No. 19620, July 21, 1976), and will issue additional Revenue Bonds in principal amounts presently estimated not to exceed $71,000,000 sufficient to cover construction costs of the Project. The City also entered into an indenture dated July 1, 1976 ("Indenture") with Lincoln National Bank and Trust Company of Fort Wayne, Indiana as trustee ("Trustee").

The Agreement and Indenture provide for the authorization and issuance by the City upon the request of I&M of additional Bonds sufficient to cover the cost of construction. In the Commission's order of July 21, 1976, jurisdiction was reserved over the issuance and sale of additional series of Revenue Bonds under the Agreement between I&M and the City. This post-effective amendment was filed pursuant to that reservation of jurisdiction. It is contemplated that an additional series of Revenue Bonds (the 'Series B Bonds') in the aggregate principal amount of $30,000,000 will be issued by the City pursuant to the Indenture and a First Supplemental Indenture of Trust between the City and the Trustee ('Supplemental Indenture') which will provide that the proceeds of the sale of the Series B Bonds will be deposited by the City with the Trustee and applied to payment of the cost of construction of the Project, which will include reimbursement of I&M for amounts it has previously expended, or will expend, to pay the cost of construction. I&M expects that at least $28,950,000 of the proceeds of the Series B Bonds will be deposited in the construction fund pursuant to the Agreement. It is contemplated that the Series B Bonds will be sold by the City pursuant to arrangements with a group of underwriters represented by E. F. Hutton & Company, Inc. While I&M will not be a party to the underwriting arrangements for the Series B Bonds, the Agreement provides that the terms of the Series B Bonds shall be specified by I&M. The Series B Bonds will bear interest semi-annually. It is expected that the Series B Bonds will mature at a date or dates not less than five years nor more than 30 years from the date of their issuance. The Series B Bonds will be subject to mandatory redemption under the circumstances and terms of the Supplemental Indenture. The Series B Bonds will be on a parity with and secured in the same manner as the Series A Bonds.

The Agreement provides for the sale of the Project to I&M, the payment by I&M of the purchase price of the Project in semi-annual installments over a term of years, and the assignment and pledge to the Indenture Trustee of the City's interest in, and of the monies receivable by the City under, the Agreement.

The Agreement provides that each installment of the purchase price for the Project payable by I&M will be in such an amount (together with other monies held by the Trustee under the Indenture for that purpose) as will enable the City to pay, when due, (i) the interest on the Revenue Bonds, any additional bonds and any refunding bonds, (ii) the principal amount of the Revenue Bonds, any additional bonds and any refunding bonds payable at the time of their respective stated maturities and (iii) amounts, including any accrued interest, payable in connection with any mandatory redemption of the Revenue Bonds, any additional bonds or any refunding bonds. The Agreement also obligates I&M to pay the fees and charges of the Trustee, as well as certain administrative expenses of the City. The Agreement further provides that I&M may prepay the purchase price of the Project (i) by paying, under certain conditions, amounts sufficient to redeem all the Revenue Bonds then outstanding and all other amounts payable under the Indenture or (ii) at any time by depositing in the Indenture's Bond Fund or delivering to the Trustee amounts sufficient to provide for the release of the indenture. Upon prepayment, I&M may terminate the Agreement.

I&M has been advised that the annual interest rates on obligations, interest on which is tax exempt, historically have been and can be expected at the time of issue of the Revenue Bonds to be 1½% to 2½% lower than the rates on obligations of like tenor and comparable quality, interest on which is fully subject to federal income tax.

A statement of the fees and expenses to be incurred, directly or indirectly, in connection with the proposed transaction will be filed by amendment. It is stated that the proposed transaction has been authorized by the Public Service Commission of Indiana and the Michigan Public Service Commission. It is further stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 21, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the post-effective amendment, as filed, or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6552 Filed 3-3-77;8:45 am]

NORTH AMERICAN GROWTH FUND, INC.

Filing of Application of Act for Order Declaring That Company Has Ceased To Be Investment Company

FEBRUARY 25, 1977.

Notice is hereby given that North American Growth Fund, Inc. ("Applicant"), 1100 Security Life Building, Denver, Colorado 80202, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on December 29, 1976, pursuant to section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant, a Colorado corporation, registered under the Act on November 22, 1971. The Applicant states that at a Special Meeting of the Shareholders held on December 20, 1976, 98.6 percent of the outstanding voting securities of Applicant were voted in favor of a plan of liquidation and dissolution (Plan). Pursuant to the Plan the Applicant's assets were liquidated at their current market value, the expenses of the Applicant paid and the net assets distributed on a pro-rata basis to the shareholders on December 27, 1976. No shares were voted against the Plan. None of the costs and expenses of implementation of the Plan were borne by the Applicant.

Applicant also states that in accordance with the provisions of the Plan all of the net assets of the Applicant have been distributed to the Shareholders, and active operations of it have ceased. In addition, it is alleged that all liabilities of Applicant have been paid. Applicant filed a Statement of Intent to Dissolve with the Secretary of State of Colorado on December 21, 1976. Applicant also filed a Certificate of Dissolution with the Secretary of State of Colorado on December 30, 1976, and will be finally dissolved in accordance with the requirements of Colorado law.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 22, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6554 Filed 3-3-77;8:45 am]

[70-5977]

NORTHEAST UTILITIES

Proposed Issuance and Sale of Common Stock Pursuant to Dividend Reinvestment and Common Share Purchase Plan

FEBRUARY 28, 1977.

Notice is hereby given that Northeast Utilities ("Northeast", 74 Brush Hill Avenue, West Springfield, Massachusetts 01809, a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Pursuant to prior orders of the Commission (File Nos. 70-5539 and 70-5928), Northeast has been authorized to issue and sell from time to time through April 15, 1977, up to 2,000,000 shares of its

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common stock, par value $5.00 per share, under a voluntary dividend reinvestment and common share purchase plan ("Plan"). As of February 1, 1977, Northeast had issued and sold 1,479,794 of its authorized common shares pursuant to the Plan. The proceeds (approximately $14,209,000) have been applied to the repayment of short-term borrowings incurred for capital contributions or advances to Northeast's subsidiaries to finance the cost of the continuing construction program of the Northeast system companies.

Northeast now proposes to issue and sell from time to time up to April 15, 1978, the 520,206 shares remaining from the 2,000,000 shares previously authorized, plus a maximum of 1,000,000 additional authorized but unissued shares. The purchase price for the 520,206 shares remaining from those previously authorized and for the additional common shares will be the average of the closing sales prices for common shares as reported by the Wall Street Journal as Composite Transactions during the fifteen trading days immediately preceding the dividend payment date. The proceeds from the sale of the balance of the shares pursuant to the revised Plan (estimated at approximately $16,722,266, assuming all of the remaining 1,520,206 common shares are sold at a price of $11 per share) will also be applied to the repayment of short-term borrowings incurred for capital contributions or advances to Northeast's subsidiaries to finance the cost of the continuing construction program of the Northeast system.

The Plan is being administered by The First National Bank of Boston ("Agent"), and all shares purchased are held for the exclusive benefit of the Plan participants. All record holders of Northeast's outstanding common stock are eligible to participate in the Plan and may join by executing an authorization form and returning it to the Agent. A participant may withdraw from the Plan at any time upon giving written notice to the Agent. Upon withdrawal, certificates for whole shares credited to a participant's account are issued and a cash payment is made for any fractional shares so credited. The Plan provides that a participant may also request that certificates for any number of full shares credited to his account be issued to him even though he wishes to remain in the Plan.

All costs for administering the Plan are paid by Northeast, and there are no brokerage fees when shares are purchased under the Plan; however, if a participant withdrawing from the Plan requests the Agent to sell his shares, there are brokerage commissions. The Agent does not vote any shares held by it under the Plan. Participants receive a single proxy with respect to full shares which they own of record or which are credited to their accounts under the Plan.

The fees, commissions, and expenses incurred or to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 24, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6555 Filed 3-3-77; 8:45 am]

[70-5734]

NORTHEAST UTILITIES ET AL.

Notice of Post-Effective Amendment Regarding Financing of Nuclear Fuel Cores

FEBRUARY 28, 1977.

Notice is hereby given that Northeast Utilities ("Northeast"), P.O. Box 270, Hartford, Connecticut 06101, a registered holding company; The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company, public-utility subsidiary companies of Northeast; and Northeast Nuclear Energy Company ("NNEC") a subsidiary company of Northeast formerly known as The Millstone Point Company, have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the post-effective amendment to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated October 21, 1975, January 16, 1976, and October 22, 1976 (HCAR Nos. 19218, 12346, and 19726), the Commission authorized NNEC to engage in certain financing of its nuclear fuel cores and related transactions, including the issuance and sale through March 31, 1977, of up to $25,000,000 of short-term notes outstanding at any one time to a group of banks.

NNEC now requests an extension of time through March 31, 1978, and proposes to issue and sell notes to banks as previously authorized in the maximum aggregate amount of $25,000,000 outstanding at any one time as a continuing component of the nuclear fuel financing program.

NNEC had $23,000,000 of notes to banks outstanding at January 31, 1977. The proposed bank borrowings will be repaid in part from the proceeds of any future long-term nuclear financing; however, short-term borrowings will remain as a continuing part of the fuel financing program.

Although no formal commitments for NNEC's bank borrowings to be effected in continuance of the financing program have been made with any bank, NNEC expects that a portion of such borrowings will be effected from the following banks in the following maximum amounts:

	Maximum Amount
The Connecticut Bank & Trust Co., Hartford, Conn	$10,000,000
Hartford National Bank & Trust Co., Hartford, Conn	7,000,000
The First National Bank of Boston, Mass	7,000,000
The Colonial Bank & Trust Co., Waterbury, Conn	3,000,000
Connecticut National Bank, Bridgeport, Conn	2,500,000
	29,500,000

The bank notes will each be dated the date of issue, will have a maximum maturity date of nine months with right of renewal, will bear interest at the prime rate in effect from time to time at the lending bank adjusted as of the date of any change in such rate, will be subject to prepayment at any time at NNEC's option without premium, and will be subordinated to any secured notes issued by NNEC. Compensating balances of up to 10 percent of the credit line plus 10 percent of the average borrowings are required by the above banks. The effective interest rate for the borrowings would be 7.81 percent based on a 6.25 percent prime rate.

It is stated that expenses in the amount of $500 will be incurred in connection with the proposed transactions and that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 24, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6556 Filed 3-3-77; 8:45 am]

[70-5974]

SOUTHWESTERN ELECTRIC POWER CO.

Proposed Charter Amendments To Increase Authorized Shares of Preferred Stock and Modify Calculation of Earnings for Purposes of Issuing Preferred Stock and for Purposes of Computing Common Stock Equity; Order Authorizing Solicitation of Proxies in Connection Therewith; Proposal To Issue Either Preferred Stock or Preferred Stock and First Mortgage Bonds

FEBRUARY 28, 1977.

Notice is hereby given that Southwestern Electric Power Company ("SWEPCO"), P.O. Box 21106, Shreveport, Louisiana 71156, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed an application-declaration with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10, 12(c) and 12(e) of the Act and Rules 42, 50, 62 and 65 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

SWEPCO proposes to amend its charter to allow an increase in its total authorized preferred stock, $100 par value, from 360,000 to 860,000 shares ("New Preferred Stock"). SWEPCO states that it currently has no authorized but unissued shares of preferred stock. SWEPCO further states that if the proposed amendment increasing the authorized preferred stock is adopted, it proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 either (a) 300,000 shares of the New Preferred Stock at not less than $100 per share nor more than $102.75 per share or (b) 200,000 shares of New Preferred Stock and $45,000,000 principal amount of its First Mortgage Bonds, Series O, dated May 1, 1977 and to mature May 1, 2007 ("Bonds"). Alternative (b), above, will be used only if it is determined that it would be advantageous to refund SWEPCO's outstanding $35,000,000 Series K bonds, due December 1, 1999. SWEPCO states that the net proceeds from the issue and sale of the securities will be used to pay a portion of the outstanding short-term borrowing, $42,500,000 expected to be outstanding as of May 12, 1977, and if Bonds are sold, to refund the outstanding $35,000,000 Series K First Mortgage Bonds. No funds generated from the sale of such securities nor any of the borrowings retired thereby will be or have been utilized to pay the cost of facilities which would be needed to provide service to customers of SWEPCO if it were not part of the Central and South West System. No expenditures will be made by SWEPCO for the construction or acquisition of any facility not so needed prior to the time all funds covered by this application-declaration have been expended.

Estimated construction and fuel exploration and development expenditures of SWEPCO for 1977 through 1979 are as follows:

	1977	1978	1979
Generation	$59,781,000	$63,905,000	$67,922,000
Transmission	21,170,000	10,590,000	17,479,000
Distribution and other	15,456,000	16,234,000	17,308,000
Fuel exploration and development	12,617,000	10,836,000	12,249,000
Total	108,944,000	100,558,000	114,956,00

If Bonds are issued they will be issued and secured by the Company's Indenture, dated February 1, 1940, under which Continental Illinois National Bank and Trust Company of Chicago and M. J. Kruger are Trustee, as amended by the indentures supplemental thereto heretofore executed (the "Indenture"), and to be further amended by a proposed supplemental indenture to be dated May 1, 1977.

SWEPCO further proposes that its charter be amended to change the earnings test that must be satisfied as a precondition for the issuance of New Preferred Stock without the approval of holders of a majority of preferred stock then outstanding. The earnings test presently requires that SWEPCO's gross income for a period of 12 consecutive calendar months ending within the 15 calendar months immediately preceding the date of the issuance of any additional preferred stock must be 1½ times the sum of the annual interest charges on all of SWEPCO's debt securities and the annual dividend requirement on all shares of its preferred stock or any prior or parity stock to be outstanding immediately after the issuance of the additional Preferred Stock. Gross income, for these purposes, excludes, among other things, a certain minimum aggregate amount for or on account of maintenance, repair, construction or acquisition of bondable property and the retirement of bonds. SWEPCO's first mortgage indenture requires such aggregate minimum amount to be not less in any calendar year, than 15 percent of gross operating revenues, less costs of power purchased for resale. SWEPCO states that due to the high recoveries yielded by the fuel adjustment clauses in its customers rate schedules, gross operating revenues have been inflated, which, if such trend continues, as SWEPCO believes it will, will make it difficult to satisfy the earnings test for issuance of additional preferred stock in the future. SWEPCO states that inasmuch as the increased revenue due to recovery of fuel costs has been out of proportion to increases in other areas, it is inappropriate to utilize operating revenues as a standard for determining expenditure requirements under the Indenture and the related earnings tests coverage requirements. The Indenture was previously amended, by substituting for the maintenance and renewal fund an annual retirement equal to 2.9 percent of depreciable bondable property and limited to construction and acquisition of bondable property and retirement of bonds. However, due to the provisions of the Indenture, this amendment will not be effective until all series of bonds issued prior to the amendment are retired. Therefore, SWEPCO proposes to change the amount deducted from gross income for depreciation, retirement, renewals and replacements and/or amortization to not less than 2.9 percent of the average amount of its depreciable bondable property during the period for which gross income is being determined. The amended provisions for a minimum deduction would relate solely to depreciation rather than maintenance, repair and depreciation. Calculation of the earnings test under the proposed amendment, based on 1976 figures, would result in a higher average ratio (2.09) than under the present charter provision (2.02).

SWEPCO further proposes modifying the minimum deduction required for for maintenance repairs and depreciation in computing "Common Stock equity" for purposes of Common Stock dividend limitations while preferred stock is outstanding. At present, common stock equity is defined as stated capital plus surplus minus, among other things, the excess of, for the prescribed period involved, an amount equal to 15 percent of gross operating revenues over the aggregate amount charged on SWEPCO's books for maintenance, repairs and depreciation. The amendment would require instead, the deduction of the excess, if any, of an amount equal to 2.9

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percent of the average depreciable bondable property under Indenture as of January 1, 1977 over the amount covered on SWEPCO's books for depreciation, retirements, renewals and replacements and/or amortization. SWEPCO states that this amendment is motivated by the same considerations relative to inflated gross revenues due to increased fuel recovery costs as described above and also relates solely to depreciation rather than maintenance, repair and depreciation.

Finally, SWEPCO proposes that the definition of common stock equity described in the prior amendment also apply for purposes of determining whether the liquidation amount for issuing preferred stock is sufficient. SWEPCO states that under its charter it may not issue additional preferred stock, without prior preferred shareholders approval, unless the common stock equity is more than the outstanding preferred stocks aggregate liquidation value and, if earned surplus is used to compute the liquidation amount required, dividends on common stock cannot be paid if they would have the effect of reducing the common stock equity to an amount less than the aggregate liquidation value of the outstanding preferred stock. SWEPCO states that it's reasons for requesting this charter modification are the same as those set out above.

SWEPCO proposes to call a special meeting of its shareholders, both preferred and common, to be held on or about April 22, 1977 to consider and vote upon the adoption of the proposed amendments. SWEPCO proposes to solicit proxies through the use of proposed proxy soliciting material. Each share of common stock and of preferred stock is entitled to one vote with respect to each amendment. Adoption of the proposal to increase the total authorized Preferred Stock requires the affirmative vote of the holders of a majority of each of the Preferred and Common shares, voting as separate classes. Adoption of the other amendments requires the assent of the holders of two-thirds of the preferred shares and a majority of the holders of common shares, each voting as a class. Central and South West Corporation owns all of the outstanding shares of Common Stock and has stated its intention to vote the shares held by it in favor of all four amendments.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at either $126,000 if only New Preferred Stock is sold, including $30,500 in legal fees or $175,000 if New Preferred Stock and Bonds are sold, including $35,500 in legal fees.

The Arkansas Public Service Commission and the Corporation Commission of Oklahoma have authority with respect to the issue and sale of the Bonds. No other state commission, and no federal commission other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 24, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the application-declaration, insofar as it proposes to solicitation of proxies from SWEPCO's stockholders, should be granted and permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the application-declaration, regarding the proposed solicitation of proxies of SWEPCO stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6557 Filed 3-3-77;8:45 am]

[File No. SR-SCCP-76-4]

STOCK CLEARING CORPORATION OF PHILADELPHIA

Order Approving Proposed Rule Change Submitted

FEBRUARY 25, 1977.

On December 20, 1976, the Stock Clearing Corporation of Philadelphia ("SCCP"), 17th Street and Stock Exchange Place, Philadelphia, Pennsylvania 19103, submitted a proposed rule change, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, extending the time during which SCCP will guarantee the delivery of securities in connection with tender offers.

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 3043, January 14, 1977), and the public was invited to submit comments. Notice of the filing and invitation for comments also appeared in Securities Exchange Act Release No. 13144, January 10, 1977. No letters of comment were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change contained in File No. SR-SCCP-76-4 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6558 Filed 3-3-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

ADVISORY COUNCILS

Charter Renewals

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, the following Small Business Administration District Advisory Councils have been renewed to May 4, 1977.

Albuquerque, Atlanta, Augusta, Baltimore, Birmingham, Boise, Boston, Casper, Clarksburg, Cleveland, Columbia, Columbus, Concord, Dallas, Denver, Des Moines, Montpelier.

The charter for the Small Business Administration National Advisory Council has been renewed to May 4, 1977.

Charters for the following Advisory Councils of the Small Business Administration have been renewed for two years and will expire on January 3, 1979, unless the council is dissolved before that date.

Minneapolis, New York, Spokane.

Dated: February 25, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications, Small Business Administration.

[FR Doc.77-6472 Filed 3-3-77;8:45 am]

[License No. 04/04/0047]

CAMERON-BROWN CAPITAL CORP.

Approval of Application for Transfer of Control of a Licensed Small Business Investment Company

Pursuant to the provisions of § 107.701 of the Small Business Administration's (SBA) rules and regulations governing small business investment companies (13 CFR 107.701 (1976)) a proposed transfer of control of Cameron-Brown Capital Corporation, 4300 Six Forks Road, Raleigh, North Carolina 27609, to R. S. Dickson & Company, 2000 Jefferson First Union Plaza, Charlotte, North Carolina 28282, T/A as Ruddick Investment Company was published on page 3944 in the

FEDERAL REGISTER on January 21, 1977.

Interested persons were given an opportunity to send their comments to SBA on the proposed transfer of control. No comments were received.

Upon consideration of the application and other relevant information, SBA hereby approves the transfer of control of Cameron-Brown Capital Corporation.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: February 24, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-6473 Filed 3-3-77;8:45 am]

[Proposed License No. 01 01-0283]

CHARLES RIVER RESOURCES, INC.

Application for a License To Operate Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 C.F.R. 107.102(1976)), under the name of Charles River Resources, Inc. (Applicant), for a license to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant was incorporated under the laws of The Commonwealth of Massachusetts on June 2, 1976, and it will commence operations with a capitalization of $993,500.

The Charles River Partnership II (C.R.P. II) will be the Applicant's parent by virtue of its ownership of 100 percent of its issued and outstanding no par common shares. C.R.P. II is a Limited Partnership organized under the laws of The Commonwealth of Massachusetts on June 30, 1976, primarily for the purpose of making venture capital investments and making the investment of C.R.P. II in the Applicant.

Charles River G.P., a Massachusetts Limited Partnership, organized on December 31, 1976 will be the sole general partner as well as a limited partner of C.R.P. II. The general partners of Charles River G.P. are John H. Carter, John T. Neisis and Richard M. Burnes, Jr. with First Chicago Investment Corporation as al imited partner.

The proposed officers and directors of the Applicant are:

Richard M. Burnes, Jr., President and Director, 17 Pinckney Street, Boston Massachusetts.
John T. Neisis, Treasurer and Director, 126 Charles Court East, Needham, Massachusetts.
John H. Carter, Clerk and Director, Huckleberry Hill, Lincoln, Massachusetts.

The above three individuals also own all of the issued and outstanding capital stock and constitute all of the officers and directors of the C.R.P. Management Inc., a Massachusetts corporation, which will serve as the Applicant's Investment Advisor.

The Applicant's office will be located at 575 Technology Square, Cambridge, Massachusetts 02139, and it will conduct operations principally within the six New England States.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may, on or before March 21, 1977, submit written comments on the Applicant to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Cambridge, Massachusetts.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 1, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-6525 Filed 3-3-77;8:45 am]

[Delegation of Authority No. 12-A, Rev. 1, Amdt. 4]

DIRECTOR, OFFICE OF COMMUNITY DEVELOPMENT

Delegation of Financial Assistance

Delegation of Authority No. 12-A, Revision 1 (39 FR 18595) as amended (40 FR 6395, 40 FR 10522, 41 FR 46665) is hereby further amended to delegate certain authorities to the Director, Office of Community Development.

Delegation of Authority No. 12-A (Revision 1) is amended to read as follows:

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Finance and Investment in Delegation of Authority No. 12 (38 FR 13063) as amended (38 FR 16001, 38 FR 26509, 40 FR 8398, 40 FR 18054, 41 FR 42994 and 42 FR 10083), the following authority is hereby delegated to the specific positions as indicated herein:

F. *Director, Office of Community Development* • • •

• • • • • •

10. To approve or decline applications for pollution control financing guarantees authorized to be made by the Agency including reconsiderations thereof and to execute commitments and modifications thereto and guarantees pertaining to such financings.

11. To determine eligibility and make size determinations of applicants for pollution control financing guarantees.

12. To take all necessary actions in connection with the servicing, administration, collection and payment of claims arising under the guarantees upon default of the small business.

• • • • • •

H. *Chief, Underwriting Division* • • •

• • • • • •

6. To approve or decline applications for pollution control financing guarantees authorized to be made by the Agency including reconsiderations thereof and to execute commitments and modifications thereto and guarantees pertaining to such financings.

7. To determine eligibility and make size determinations of applicants for pollution control financing guarantees.

8. To take all necessary actions in connection with the servicing, administration, collection and payment of claims arising under the guarantees upon default of the small business.

(FR Doc. 77-5115 Filed February 17, 1977; 8:45 a.m.)

Effective date: March 1, 1977.

JOHN T. WETTACH,
Associate Administrator for Finance and Investment.

[FR Doc.77-6526 Filed 3-3-77;8:45 am]

HATO REY DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Hato Rey District Advisory Council and its Virgin Islands Branch will hold public meetings at 9:30 a.m., Tuesday, March 29, 1977, at the Bankers Club, Hato Rey, Puerto Rico, and at 10:00 a.m., Wednesday, March 30, 1977, at the Frenchman's Reef Holiday Inn, Charlotte Amalie, St. Thomas, U.S. Virgin Islands, to discuss such business as may be presented by members, the staff of the Small Business Administration and others attending. For further information, write or call Antonio Yordan, District Director, U.S. Small Business Administration, U.S. Courthouse & Federal Building, Carlos Chardon Avenue, 6th Floor, Room 691, Hato Rey, Puerto Rico 00918, (809) 753-4218.

Dated: February 28, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-6527 Filed 3-3-77;8:45 am]

MONTPELIER DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Montpelier District Advisory Council will hold a public meeting at 11:30 a.m., Wednesday, April 13, 1977, at Royal's Hearthside Restaurant, 37 North Main Street, Rutland, Vermont to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call David C. Emery, District Director, U.S. Small

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Business Administration, P.O. Box 605, Montpelier, Vermont 05602, (802) 223-7472.

Dated: February 28, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-6528 Filed 3-3-77;8:45 am]

NEWARK DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Newark District Advisory Council will hold a public meeting at 9:30 a.m., Wednesday, May 4, 1977, at the Holiday Inn, Route 35, Hazlet, New Jersey, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Andrew P. Lynch, District Director, U.S. Small Business Administration, 970 Broad Street, Newark, New Jersey 07102, (201) 645-3580.

Dated: February 28, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-6529 Filed 3-3-77;8:45 am]

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1976 Rev., Supp. No. 10]

CONSOLIDATED MUTUAL INSURANCE CO.

Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to Consolidated Mutual Insurance Company, Brooklyn, New York, under Sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective this date.

The company was last listed as an acceptable surety on Federal bonds at 41 FR 28241 July 8, 1976.

With respect to any bonds currently in force with Consolidated Mutual Insurance Company, bond-approving officers of the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding.

Dated: February 25, 1977.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc.77-6511 Filed 3-3-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

MEXICAN BROADCAST STATIONS

Notification List

NOVEMBER 30, 1976.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Mexican List No. 277

Call letters	Location	Power watts	Antenna radiation millivolt/meter/kilowatt	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
			550 kHz:						
XEGUZ	Cd. Guzman, Jal., N. 19°43'-14", W. 103°27'54".	500	ND-D-175	D	III	358	120	358	1-30-77.
XE	Apatzingan, Mich., N. 19°04'-54", W. 102°15'31".	5,000	DA-D	D	III				4-30-77.
			560 kHz:						
XE	Tepic, Nay. N. 21°30'47", W. 104°53'42"	10,000D/150N	DA-D ND-N-190	U	III	446	120	446	1-30-77.
			560 kHz:						
XEHA	Tecate, Bcn., N. 32°43'00", W. 115°08'30".	250D/250N	ND-U-175	U	III	279	90	279	10-30-76.
XEQLA	Chetumal, Q. R., N. 18°29'39", W. 88°17'06".	500	ND-D-175	D	III	352	120	352	1-30-77.
			560 kHz:						
XEYO	Huatabampo, Son., N. 26°49'-00", W. 109°38'00".	1,000D/1500N	ND-U-175	U	III	304	120	446	10-30-76.
			570 kHz:						
XEVIP	Villa de Juarez, Pue., N. 20°17'17" W., 97°38'48".	250	ND-D-190	D	III	432	120	432	2-30-77.
			590 kHz:						
XEPAC	Palenque, Chis., N. 17°33'10", W. 91°58'10".	500D/100N	ND-U-175	U	III	338	120	345	6-1-77.
XEACM (PO 1/kW/D, 0.100/kw/N, ND-U-193.	Villahermosa, Tab., N. 17°59'-00", W. 92°55'45".	5,000D/100N	DA-D ND-N-193	U	III	427	120	427	4-30-77.
			630 kHz:						
XEFN	Guaymas, Son., N. 27°55'25", W. 110°54'32".	1,000D/250N	ND-U-175	U	III	322	120	322	1-30-77.
XEFU (*shares antenna system with XEQO, 980 kHz*).	Coatzacoalcos, Ver., N. 18°-29'27", W. 95°47'40".	5,000D/750N	ND-U-193		III	315	120	304	1-30-77.
			640 kHz:						
XEWM	S. Cristobal, L.C. Chis., N. 16°44'53", W. 92°38'45".	1,000	ND-D-175	D	II	197	120	197	10-30-76.
XETG	Merida, Yuc., N. 20°59'00", W. 89°38'43".	250	DA-D	D	II				3-30-77.
			700 kHz:						
XEWX	Durango, Dgo., N. 24°01'31", W. 104°39'11".	250	ND-D-190	D	II	186	120	225	2-30-77.

Call letters	Location	Power watts	Antenna radiation millivolt/meter/kilowatt	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
			660 kHz:						
XE (assignment deleted)	Atoyac De Alv., Gro., N. 17° 10'00", W. 100°25'40".	500	ND-D 190	D	II	367	120	367	
			670 kHz:						
XE	Atoyac De Alv., Gro., N. 17° 10'00", W. 100°25'40".	500	ND-D 190	D	II	367	120	367	2-30-77.
			670 kHz:						
XEIS (PO 1 kW/D, ND-D 190).	Cd. Guzman, Jal., N. 19° 43'14", W. 103°27'54".	1,000	ND-D 190	D	II	367	120	367	1-30-77.
			770 kHz:						
XE	Los Mochis, Sin., N. 25°47'00", W. 109°00'00".	500	ND-D 190	D	II	322	120	322	10-30-76.
			780 kHz						
XECQI	Coatzintla, Ver., N. 20°28'00", W. 97°26'30".	500	ND-D 190	D	II	315	120	315	6-1-77.
			810 kHz:						
XERI	Reynosa, Tam., N. 26°05'25", W. 98°16'30".	500	ND-D 190	D	II	216	90	918	Immediately.
			860 kHz:						
XE	Fco. Escarcega, Camp., N. 18°36'25", W. 90°43'55".	750	ND-D 175	D	II	240	120	240	4-30-77.
			820 kHz:						
XEBA (PO 1/kW/D, ND-D 177, 289 120 230).	Guadalajara, Jal., N. 20°13'-34", W. 103°20'05".	10,000	DA-D	D	II				1-30-77
			850 kHz:						
XEVQ	Nuevo Laredo, Tam., N. 27°30'25", W. 105°28'02".	1,000	ND-D 184	D	II	207	90	207	Immediately.
XETEY	Tepic, Nay., N. 21°30'47", W. 105°53'40".	500	ND-D 175	D	II	246	120	246	6-1-77
			870 kHz.						
XEACF	Irapuato, Gto., N. 20°57'25" W. 101°21'05"	1,000	DA-D	D	II				4-30-77
			910 kHz						
XEMST	Mazatlan, Sin., N. 23°13'15", W. 106°47'00".	500D/250N	ND-U-190	U	III	270	120	270	2-30-77.
			940 kHz:						
XELT (PO 1,000/kW/D, 0.250 kW/N, ND-U-190).	Ciudad Juarez, Chih., N. 29°-44", W. 106°23'47".	1,000D/250N	DA-D ND-N-190	U	III	267	120	267	10-30-76.
			940 kHz						
XELCM	Lazaro Cardenas, Mich., N. 17°55'30", W. 102°11'40"	500	ND-D 190	D	III	267	120	267	10-30-76
			950 kHz						
XE	Jesus Carranza, Ver., N. 17°26'23", W. 95°02'58".	1,000	ND-D 190	D	III	267	120	267	4-30-77.
			950 kHz.						
XE	Tuxpan, Ver., N. 20°57'18", W. 97°23'29".	10,000	ND-D 190	D	III	267	120	267	4-30-77.
			970 kHz:						
XERLA	Santa Rosalia, Bcs., N. 27°18'-36", W. 112°17'08"	1,000	DA-D	D	III				6-1-77.
			980 kHz:						
XE	Tehuca, Mex., N. 18°17'33", W. 97°39'38".	10,000D/2,000N	DA-N	N	III				4-30-77
			980 kHz:						
XEYJ (PO 1,kW/D, 0.100/kW N).	Nueva Rosita, Coah., N. 27°-55'23", W. 101°14'45".	10,000D/10,000N	ND-D 180 DA-N	U	III	264	90	264	5-30-77.
			970 kHz:						
XEEZ (PO 0.850/kW/D, 0.300 kW/N.)	Caborca, Son., N. 30°43'00" W 112°43'00"	500D/100N	ND-U-175	U	III	223	90	227	5-30-77
			980 kH.						
XETU	Tampico, Tam., N. 22°13'-57" W. 97°52'33"	50,000D/1,000N	DA-D ND-N-190	U	III	251	180	525	Immediately
			1010 kHz:						
XELO	Chihuahua, Chih., N. 28°38'-12" W. 106°04'12".	1,000	ND-D 180	D	II	244	120	244	6-1-77
			1010 kH.						
XEFM (PO 1/kW/D, 0.200/kW N, ND-U-175).	Veracruz, Ver., N. 19°06'30" W. 96°08'30"	5,000D/1,000N	ND-D 175 DA-N	U	II	220	90	190	6-1-77
			1050 kHz:						
XEVYN	Oaxaca, Oax., N. 17°03'43", W. 96°43'15"	1,000	ND-D 190	D	II	265	120	295	1-30-77
			1020 kH.						
XEIO	Mexico, D.F., N. 19°25'00" W. 99°10'00"	500	DA-D	D	II				10-30-76.
			1050 kH:						
XEVP	Acapulco, Gro., N. 16°50'21", W. 99°53'01"	1,000	ND-D-190	D	II	240	90	240	2-30-77.
			1040 kH:						
XE	La Paz, Bcs., N. 24°05'30", W. 110°18'00"	500	ND-D 190	D	II	227	180	227	6-1-77.

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Call letters	Location	Power watts	Antenna radiation millivolt/meter/kilowatt	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
		1040 kHz							
XEVE	Colima, Col., N. 19°14'29", W. 103°43'47".	250	ND-D-190	D	II	230	120	230	10-30-76.
		1040 kHz							
XESAG	Salamanca, Gto., N. 20°34'22", W. 101°11'39".	1,000	ND-D-190	D	II	237	120	237	6-1-77.
		1040 kHz							
XECX	Tala, Jal., N. 20°40'37", W. 103°20'22".	.500	DA-D	D	II				5-30-77.
		1040 kHz							
XE	Culiacan, Sin., N. 24°48'36", W. 107°23'57".	1,000	ND-D-190	D	II	237	120	237	4-30-77.
		1070 kHz							
XEZO	Guerrero Negro, Ben., N. 27°59'58", W. 114°03'12".	1,000	ND-D-175	D	II	184	120	184	2-30-77.
		1070 kHz							
XEEI	San Luis Potosi, Slp., N. 22°09'10", W. 100°58'38".	.250	ND-D-190	D	II	197	90	197	10-30-76.
		1080 kHz							
XEDC	Aguascalientes, Ags., N. 21°52'13", W. 102°18'04".	.250	ND-D-175	D	II	230	120	230	1-30-77.
		1080 kHz							
XE	Puerto Vallarta, Jal., N. 20°-30'56", W. 105°14'42".	5,000	ND-D-224	D	II	410	120	228	2-30-77.
		1080 kHz							
XE	Istepec, Oax., N. 16°33'30", W. 97°07'30".	5,000	ND-D-175	D	II	182	120	192	2-30-77.
		1080 kHz							
XEMC	Panuco, Ver., N. 22°02'20", W. 98°10'06".	5,000	ND-D-190	D	II	226	120	226	1-30-77.
		1100 kHz							
XETAK	Tapachula, Chis., N. 14°54'-00", W. 92°16'00".	.250	ND-D-175	D	II	179	120	179	10-30-76.
		1110 kHz							
XEPVJ	Pto. Vallarta, Jal., N. 20°36'-56", W. 105°14'42".	1,000	ND-D-175	D	II	190	90	203	1-30-76.
		1120 kHz							
XE	Caborca, Son., N. 30°41'50", W. 112°09'29".	.250	DA-D	D	II				10-30-76.
		1190 kHz							
XE	Zacatecas, Zac., N. 22°46'07", W. 100°01'15".	.250	ND-D-175	D	II	220	90	180	2-30-77.
		1150 kHz							
XECHG	Chihuahua, Chih., N. 17°-35'10", W. 99°30'03".	1,000	ND-D-190	D	II	218	120	218	6-1-77.
		1150 kHz							
XE	Los Mochis, Sin., N. 25°47'00", W. 109°00'00".	.500	ND-D-175	D	II	218	90	179	2-30-77.
		1140 kHz							
XELAI	Morelia, Mich., N. 19°42'14", W. 101°06'58".	.250	ND-D-175	D	II	166	90	166	10-30-76.
		1150 kHz							
XEAD	Guadalajara, Jal., N. 20°39'-44", W. 103°23'47". (PO 0.500 kW/D, 0.125/kW/N).	50,000D/.125N	DA-D ND-N-175	U	III	197	90	180	10-30-76.
		1150 kHz							
XETUR	Tuxpan, Ver., N. 20°57'18", W. 97°23'50". (PO Alamo, Ver., N. 19°55'-06", W. 97°31'00").	.250	ND-D-190	D	III	214	120	214	6-1-77.
		1170 kHz							
XEMDA	Monclova, Coah., N. 26°53'-30", W. 101°25'30".	.500	ND-D-190	D	II	210	120	210	10-30-76.
		1170 kHz							
XEYH	Bahia de Kino, Son., N. 28° 49'45", W. 111°56'40".	1,000	ND-D-175	D	II	210	90	210	2-30-77.
		1190 kHz							
XE	Tampico, Tan., N. 22°13'00", W. 97°51'10".	5,000	ND-D-190	D	II	207	120	207	3-30-77.
		1800 kHz							
XE	Coatzacoalcos, Ver., N. 18° 08'56", W. 94°24'40".	2,000	DA-D	D	II				4-30-77.
		1240 kHz							
XELD (PO 1/kW/D, 0.100/kW/N).	Autlan de Navar, Jal., N. 19° 45'12", W. 104°22'26".	5,000D/.100N	ND-U-180	U	IV	190	120	164	5-30-77.
		1260 kHz							
XE	Kantunil Kin, Q.R., N. 21° 06'14", W. 87°29'12".	.250	ND-D-190	D	III	195	120	195	2-30-77.
		1270 kHz							
XEHD	Durango, Dgo., N. 24°01'31", W. 104°40'11".	.500	ND-D-175	D	III	211	120	155	10-30-76.
		1270 kHz							
XEVHT	Villahermosa, Tab., N. 17° 59'01", W. 92°54'51".	.500D/.125N	ND-U-175	U	III	154	120	161	10-30-76.
		1280 kHz							
XESQ	San Miguel a, Gto., N. 20°54'-49", W. 100°44'47".	.500D/.250N	ND-U-175	U	III	164	90	185	Immediately.

Call letters	Location	Power watts	Antenna radiation millivolt/meter/kilowatt	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
		1280 kHz							
XE	Zihuatanejo, Gro., N. 17°38'-14", W. 101°33'48".	.500	ND-D-175	D	III	181	120	169	2-30-77.
		1290 kHz							
XEDB (PO 1/kW/D, 0.250/kW/N, ND-U-175).	Tonala, Chis., N. 16°05'42", W. 93°43'42".	5.000D/.250N	ND-175	U	III	200	90	180	6-1-77.
		1300 kHz							
XEP	Cd Juarez, Chih., N. 31°42'-48", W. 106°26'45".	1.000D/.500N	ND-U-175	U	III	194	90	164	Immediately.
		1300 kHz							
XE	Tihosuco, Q. R., N. 20°14'06", W. 88°20'06".	.250	ND-D-190	D	III	189	120	189	2-30-77.
		1360 kHz							
XELE (PO 0.500/kW/D, 0.150/kW/N, ND-U-175).	Tampico, Tam., N. 22°12'37", W. 97°49'51"	1.000D/.150N	ND-U-175	U	III	188	90	175	6-1-77.
		1510 kHz							
XELPZ	La Paz, Bcs., N. 24°09'41", W. 110°20'44".	10,000	DA-D	U	III				2-30-77.
		1530 kHz							
XEMAC	Manzanillo, Col., N. 19°03'15", W. 104°19'46".	.500	ND-D-175	D	III	148	120	148	6-1-77.
		1540 kHz							
XE (assignment deleted)	Apatzingan, Mich., N. 19°04'-54", W. 102°15'31".	1.000D/.250N	ND-U-190	U	IV	184	120	184	Immediately.
		1550 kHz							
XE	Yurecuaro, Mich., N. 20°15'-48", W. 102°17'54".	.500	DA-D	D	III				1-30-77.
		1560 kHz							
XE	J.M. Morelos, Q.R., N. 19°44'-42", W. 88°41'48".	.250	ND-D-190	D	III	182	120	181	2-30-77.
		1560 kHz							
XELS	Armeria, Col., N. 18°55'00", W. 103°57'35".	1.000D/.550N	ND-U-175	U	III	163	90	163	5-30-77.
		1560 kHz							
XE	Cd Valles, Slp., N. 21°59'04", W. 99°00'58".	5,000	ND-D-190	D	III	181	120	181	10-30-76.
		1560 kHz							
XE (assignment deleted)	Tampico, Tam., N. 22°13'00", W. 97°51'19".	5.000D/.250N	DA-D	U	III				Immediately.
		1570 kHz							
XEOBS	Cd Obregon, Son., N. 27°29'-35", W. 109°56'00".	10.000D/5.000N	ND-D-175 DA-N	U	III	295	120	295	6-1-77.
		1580 kHz							
XEPAB	La Paz, Bcs., N. 24°09'41", W. 110°20'44".	.250D/.250N	ND-U-190	U	III	177	120	177	6-1-77.
		1580 kHz							
XEZW	Cd Hidalgo, Chis., N. 14°40'-57", W. 92°08'55".	1.000D/.250N	ND-U-175	U	III	178	90	178	10-30-76.
		1580 kHz							
XE	Apatzingan, Mich., N. 19°04'-54", W. 102°15'31".	1.000D/.100N	ND-U-190	U	IV	178	120	178	6-1-77.
		1580 kHz							
XEPIC	Tepic, Nay., N. 21°30'47", W. 104°53'42".	1.000D/.500N	ND-U-190	U	III	178	120	178	2-30-77.
		1590 kHz							
XERW (PO 1/kW/D, .250/kW/N, ND-U-189)	Leon, Gto., N. 21°07'12", W. 101°40'39".	5.000D/.250N	ND-U-189	U	III	177	120	175	6-1-77.
		1590 kHz							
XERUY (PO 1400 kHz, 1/kW/D, 0/kW/N, ND-U-185).	Nerida, Yuc., N. 20°59'00", W. 89°38'43".	10.000D/.250N	DA-D ND-N-185	U	III	167	120	167	6-1-77.
		1490 kHz							
XEOJ	Lazaro Cardenas, Mich., N. 17°57'36", W. 102°08'38".	1.000D/.100N	ND-U-170	U	IV	134	120	134	2-30-77.
		1400 kHz							
XENAS	Navojoa, Son., N. 27°04'52", W. 109°27'13".	.500D/.200N	ND-U-170	U	IV	134	120	134	6-1-77.
		1420 kHz							
XEWF	Chernavaca, Mor., N. 18°55'00", W. 94°14'00".	.500D/.250N	ND-U-175	U	III	154	90	150	Immediately.
		1420 kHz							
XEEW	Matamoros, Tam. N. 25°51'36", W. 97°28'29".	1.000D/1.000N	DA-D	U	III				Do.
		1430 kHz							
XESHT	Saltillo, Coah., N. 25°28'18", W. 100°59'46".	.500	ND-D 190	D	III	171	120	171	1-30-77.
		1430 kHz							
XECOC	Colima, Col., N. 19°15'08", W. 103°42'55".	1.500D/.100N	ND-U-175	U	III	172	120	172	6-1-77.
		1430 kHz							
XEMTJ	Mascota, Jal., N. 20°31'15", W. 104°47'00".	1,000	ND-D 175	D	III	135	120	144	10-30-76.

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Call letters	Location	Power watts	Antenna radiation millivolt/meter/kilowatt	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
		1450 kHz							
XE	Pinotepa, Oax., N. 16°18'45", W. 98°01'00"	.500	ND-D-175	D	IV	136	120	143	10-30-76.
		1450 kHz							
XEIX (PO 1/kW/D, ND-D-175)	Matehuala, Slp., N. 23°37'23", W. 100°38'26".	1.000D/.200N	ND-U-175	U	IV	164	120	121	6-1-77.
		1450 kHz							
XE	Hermosillo, Son., N. 29°04'30", W. 110°57'40".	.250	ND-D-175	D	IV	136	120	142	3-30-77.
		1460 kHz							
XE	F. Carrillo Pto, Q.R., N. 19°-34'50", W. 88°02'38".	1.000	ND-D-190	D	III	166	120	168	1-30-77.
		1460 kHz							
XE	Nacozari, Son., N. 30°22'35", W. 109°41'28".	.250	ND-D-190	D	III	168	120	168	3-30-77.
		1470 kHz							
XEREC	Reforma, Chis., N. 17°59'02", W. 93°09'40".	.500	ND-D-190	D	III	167	120	167	6-1-77.
		1470 kHz							
XEQF	Loma Bonita, Oax., N. 18°06'-00", W. 95°53'00".	5.000D/5.000N	ND-D-175-DA-N	U	III	262	90	262	2-30-77.
		1470 kHz							
XEACE	Mazatlan, Sin., N. 23°12'54", W. 106°22'17".	1.000	ND-D-206	D	III	167	120	248	Immediately.
XEHI (PO 1.000/kW/D)	Cd Miguel a, Tam., N. 26°20'-20", W. 99°05'55".	3.000D/.250N	ND-U-196	U	III	197	161	164	10-30-76.
		1480 kHz							
XEIP	Uruapan, Mich., N. 19°24'56", W. 102°03'46".	.500	ND-D-190	D	III	166	120	166	1-30-77
		1480 kHz							
XECCQ	Cancun, Q. R., N. 21°04'52", W. 86°46'18".	.250	ND-D-175	D	III	132	120	179	1-30-77.
		1490 kHz							
XEHE	Chihuahua, Chih., N. 28°38'-12", W. 106°04'42".	1.000D/.250N	ND-U-175	U	IV	148	90	148	6-1-77.
		1490 kHz							
XEHPC	Hdgo. Dl Parral, Chih., N. 26°56'04", W. 105°39'58".	1.000D/.200N	ND-U-175	U	IV	262	120	262	6-1-77.
		1490 kHz							
XEPOP	Puebla, Pue., N. 19°03'04", W. 98°12'05". (PO 0.250/kW/U).	.500D/.250N	ND-U-166	U	IV	177	90	79	1-30-77.
		1500 kHz							
XEEBC	Ensenada, Ben., N. 31°51'10", W. 116°38'09".	.500	ND-D-175	D	II	262	120	262	10-30-76.
		1510 kHz							
XEQI	Monterrey, N.L., N. 25° 45'-24", W. 100°17'54". (PO 0.500/kW/D, ND-D-175).	10.000	DA-D	D	II				4-30-77.
		1540 kHz							
XEDCH	Cd Delicias, Chih., N. 28°11'-27", W. 105°30'12".	1.000	ND-D-175	D	II	194	90	194	6-1-77.
		1540 kHz							
XEDRD	Durango, Dgo., N. 24°01'31", W. 104°40'11".	.250	ND-D-184	D	II	141	120	148	6-1-77.
		1540 kHz							
XESTN	Santa Catarina, N.L., N. 25°-38'01", W. 100°26'36".	5.000	ND-D-190	D	II	166	120	160	2-30-77.
		1540 kHz							
XEPAV	Panuco, Ver., N. 22°02'33", W. 98°10'06".	3.000	ND-D-175	D	II	195	90	147	1-30-77.
		1550 kHz							
XEZAJ	Zapopan, Jal., N. 20°40'34", W. 103°23'12".	.500	ND-D-190	D	II	129	120	139	1-30-77.
		1550 kHz							
XE (assignment deleted)	Los Mochis, Sin., N. 25°47'00", W. 109°00'00".	10.000	ND-D-190	D	II	143	120	143	Immediately.
		1550 kHz							
XETAM	Cd. Victoria, Tam., N. 23°44'-07", W. 99°07'52".	.500	ND-D-190	D	II	159	120	159	1-30-77.
		1560 kHz							
XELAC	Lazaro Cardenas, Mich., N. 17°55'30", W. 102°11'40".	5.000	ND-D-175	D	II	136	120	132	1-30-77.
		1560 kHz							
XEGYS	Guaymas, Son., N. 27°55'30", W. 110°50'20".	.250	ND-D-190	D	II	138	120	166	6-1-77.
		1580 kHz							
XESAC	Saltillo, Coah., N. 25°26'37", W. 100°59'22".	.250	ND-D-190	D	II	156	120	158	6-1-77.
		1580 kHz							
XE	Cocula, Jal., N. 20°21'52", W. 103°49'24".	.250	ND-D-175	D	II	125	120	129	1-30-77.
		1580 kHz							
XE	Valle de Bravo, Mex., N. 19°-11'28", W. 100°08'08".	.250	ND-D-175	D	II	74	120	131	2-30-77.
		1580 kHz							
XEST	Mazatlan, Sin., N. 23°11'55", W. 106°25'20".	.250	ND-D-190	D	II	156	120	158	10-30-76.

Call letters	Location	Power watts	Antenna radiation millivolt/meter/kilowatt	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
		1580 kHz							
XETBV	Tierra Blanca, Ver., N. 18°27'-03", W. 96°21'28".	1.000	ND-D-190	D	II	156	120	156	4-1-77.
		1580 kHz							
XEIRG	Irapuato, Gto., N. 20°40'25", W. 101°20'51".	.250	ND-D-175	D	III	151	120	151	6-1-77.
		1580 kHz							
XE	Apatzingan, Mich., N. 19°04'-54", W. 102°15'31".	.250	ND-D-190	D	III	155	120	155	4-30-77.
		1590 kHz							
XEPNA	Tepic, Nay., N. 21°30'47", W. 104°53'42".	.250	ND-D-190	D	III	155	120	155	6-1-77.
		1590 kHz							
XEMTS	Cd Madero, Tam., N. 22°14'-30", W. 97°50'10".	1.000	DA-D	D	III				1-30-77.
		1600 kHz							
XETUG	Tuxtla, Gtz, Chis., N. 16°45'-20", W. 93°06'46".	.250	ND-D-175	D	III	154	90	126	6-1-77.
		1600 kHz							
XE	Puerto Vallarta, Jal., N. 20°-36'56", W. 105°14'42".	.250	ND-D-175	D	III	122	120	129	2-30-77.
		1600 kHz							
XE	Toluca, Mex., N. 19°17'23", W. 99°39'38".	2.000	DA-D	D	III				4-30-77.
		1600 kHz							
XE	Ixtepec, Oax., N. 16°33'30", W. 95°07'50".	.500	ND-D-175	D	III	123	120	129	10-30-76.
		1600 kHz							
XEJCP	Tehuacan, Pue., N. 18°27'51", W. 97°23'20".	.250	ND-D-175	D	III	154	90	126	6-1-77.
		1600 kHz							
XEJAQ	Jalpan, Qro., N. 21°12'20", W. 99°28'06".	.250	ND-D-175	D	III	143	120	129	10-30-76.
		1600 kHz							
XENAZ	Nacozari, Son., N. 30°22'25", W. 109°41'28".	1.000	ND-D-175	D	III	123	120	129	6-1-77.
		1600 kHz							
XE	Navojoa, Son., N. 27°04'52", W. 109°27'13".	.500	ND-D-175	D	III	154	90	126	2-30-77.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau, Federal Communications Commission.

[FR Doc.77-6395 Filed 3-3-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Assistant Secretary for Education

EDUCATION STATISTICS

Comments on Collection of Information and Data Acquisition Activity

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before April 4, 1977, and should be addressed to Administrator, National Center for Education Statistics, Attn: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: February 28, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Evaluation of the Emergency School Aid Act Nonprofit Organizations Program: Mail Questionnaires and Personal Interviews.

1. AGENCY BUREAU, OFFICE

U.S. Office of Education, Office of Planning, Budgeting, and Evaluation.

3. AGENCY FORM NUMBER

OE 516-1; 516-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"• • • The Secretary shall transmit (to specified committees of the Congress) an annual evaluation report which evaluates the effectiveness of applicable programs • • •" (20 U.S.C. 1226c.)

"• • • The Assistant Secretary is authorized to make grants • • • and contracts • • • for the purpose of evaluating programs and projects assisted under this chapter." (20 U.S.C. 1612.)

5. VOLUNTARY OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The study purposes include:

Describing the operations of the ESAA NPO program.

Evaluating the effectiveness of NPOs in facilitating desegregation or reducing the effects of minority isolation.

Describing the federal role in funding and assisting NPOs, to suggest alternative administrative strategies or changes in the ESAA legislation, program regulation or guidelines to facilitate increased effectiveness for NPOs.

Identifying characteristics associated with greater effectiveness of community organizations (not just NPOs) in facilitating desegregation or reducing the effects of minority isolation to suggest possible revisions of the ESAA legislation, program regulations or guidelines, to facilitate increased effectiveness for NPOs.

The results will be included in the Annual Evaluation Report to Congress (20 U.S.C 1226c). Such results will be used as a part of a basis for legislative or executive proposals.

Summary results will be distributed to ESAA-NPO personnel, and to other interested parties.

7. DATA ACQUISITION PLAN

(a) Method of collection: Mail and personal interview.
(b) Time of collection: Spring, 1977.
(c) Frequency: 1977 only.

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8. RESPONDENTS

(a) Type: Nonprofit Organizations.
(b) Number: 850.
(c) Estimated average man-hours per respondent: 0.8.
(d) Type: Principals (School).
(e) Number: 30.
(f) Estimated average man-hours per respondent: 0.5.
(g) Type: Local Education Agencies.
(h) Number: 30.
(i) Estimated average man-hours per respondent: 0.5.
(j) Type: Parents.
(k) Number: 75.
(l) Estimated average man-hours per respondent: 0.5.
(m) Type: Students, public elementary secondary schools.
(n) Number: 30.
(o) Estimated average man-hours per respondent: 0.5.
(p) Type: Teachers, elementary/secondary.
(q) Number: 300.
(r) Estimated average man-hours per respondent: 0.5.
(s) Type: Individuals.
(t) Number: 150.
(u) Estimated average man-hours per respondent: 1.
(v) Type: Other (Regional Office Panelists).
(w) Number: 70.
(x) Estimated average man-hours per respondent: 0.75.

9. INFORMATION TO BE COLLECTED

Respondent type: Nonprofit Organizations.

Describe Emergency School Aid Act Nonprofit Organization operations including: Specific organizational characteristics, types of activities done, interactions with school districts or national organizations, and Regional Office operations.

Describe the ESAA funding process.

Similar questions will be asked of Nonprofit Organizations which applied for ESAA funding but did not receive awards.

Discuss objectives of the organization, when and how it was established, role of the local education agency in the organizational structure, role of the national organization (if the organization is a chapter of a national organization) in organizational structure, acess to local education agency officials.

Extent of political involvement of the organization, areas and overall impact of the organization in minority isolation/desegregation, effectiveness of activities carried out by the organization and the impact (results) of activities.

Respondent type: Principals (School).

The effectiveness and impact of a specific activity carried out by a Nonprofit Organization when the respondent is involved in that activity.

Respondent type: Local Education Agencies.

Same as Principals (School).

Respondent type: Parents.

Same as Principals (School).

Respondent type: Students, public elementary/secondary schools.

Same as Principals (School).

Respondent type: Teacher, elementary/secondary.

Same as Principals (School).

Respondent type: Individuals.

Describe local context in which organizations operate, including: Economic health, level of involvement in civil affairs, political characteristics, characteristics of the school district (system quality, financial constraints, district decentralization, openness to change), and the desegregation environment of the district (level of support for desegregation, type of community group involvement in desegregation, the perceived inevitability of desegregation).

Respondent type: Other (Regional Office Panelists).

Assess the composition of the panels that review ESAA Nonprofit Organization proposals including demographic characteristics of panelists.

Describe procedures for the recruitment of panelists, training procedures, and perceptions of the review process.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

A Survey of Home Viewership of Television Series Sponsored by ESAA Legislation.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Office of Planning, Budgeting, and Evaluation.

3. AGENCY FORM NUMBER

OE 522-1; 522-2, 522-3, 522-4, 522-5.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"• • • The Secretary shall transmit to (appropriate Congressional Committees) an annual evaluation report which evaluates the effectiveness of applicable programs • • • such report shall • • • contain information on progress being made • • • describe the cost and benefits of the applicable program • • • identify which sectors of the public receive the benefits of such program • • •." (20 U.S.C. 1226c.)

Section 713 of Title VII, Pub. L. 92-318 also provides a one percent administrative set-aside for evaluation purposes as part of the Emergency School Aid Act. (20 U.S.C. 1112.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

This study is one component of the USOE effort to review and evaluate its sponsorship of educational television programs. This research will assess viewership of ESAA-TV programs. Data derived from this study will be utilized in a subsequent evaluation to assess the impact of ESAA programs and determine obstacles to increased viewership.

7. DATA ACQUISITION PLAN

(a) Method of collection: Interviews and forms administered in class.
(b) Time of collection: Spring 1977.
(c) Frequency: One time only.

8. RESPONDENTS

(a) Type: Principals of Elementary/Secondary Schools.
(b) Number: 150.
(c) Estimated average man-hours per respondent: 0.2.
(d) Type: Teachers of Elementary/Secondary Schools.
(e) Number: 400.
(f) Estimated average man-hours per respondent: 0.2.
(g) Type: Students in Public Elementary/Secondary Schools.
(h) Number: 12,000.
(i) Estimated average man-hours per respondent: 0.7.
(j) Type: Parents of Students in Elementary/Secondary Schools.
(k) Number: 1,200.
(l) Estimated average man-hours per respondent: 0.4.
(m) Type: Other—Preschool Siblings.
(n) Number: 800.
(o) Estimated average man-hours per respondent: 0.4.

9. INFORMATION TO BE COLLECTED

Principals: Size of student body; Attitudes toward educational television; Availability of viewing facilities in school; Awareness of ESAA programs; Viewership of ESAA programs.

Teachers: Attitudes toward educational television; Awareness of ESAA programs; Viewership of ESAA programs; Use of television in the classroom.

Students: Number of TV sets in home; General TV viewing habits; Programs watched by respondents; Programs preferred by respondents; Frequency of TV viewership by respondents; Who controls the selection of programs viewed by respondent; Awareness of ESAA programs; Viewership of ESAA programs; Demographics of respondents.

Parents: Availability of TV in home; General TV viewing habits; Programs watched by respondent and children; Programs preferred by respondent and children; Frequency of TV viewership by respondent and children; Who controls children's selection of TV programs; Awareness of ESAA programs; Viewership of ESAA programs; Demographics of respondent and household.

Pre-school Siblings: Programs watched by respondent; Programs preferred by respondent.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Evaluation of Communication Activities of Model Rural Career Education Program.

2. AGENCY/BUREAU/OFFICE

Office of Education/Office of Caree Education.

3. AGENCY FORM NUMBER

OE 542.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"(b) It is the purpose of this section to assist in achieving the policies set forth in subsection (a) by—

• • • • •

(2) Promoting a national dialogue on career education • • •

(3) Assessing the status of career education programs and practices • • •

(4) Providing for the demonstration of the best career education programs and practices by the development and testing of exemplary programs and practices • • •."

(Pub. L. 93-380, 20 U.S.C. 1865.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The data will be used by staff of the contractor (Cashmere School District No. 222. Cashmere, Washington) to improve the communication activities aimed at helping rural school districts implement career education. Data will be used to improve workshops and printed materials. The data will be used by the Office of Career Education, U.S. Office of Education, to assess the impact of this communication effort and to plan future communication efforts aimed at rural school districts.

7. DATA ACQUISITION PLAN

(a) Method of collection: Mail.
(b) Time of collection: Spring-Summer 1977.
(c) Frequency: One-time data collection.

8. RESPONDENTS

(a) Type: Principals (school), Teachers, elementary/secondary; and Counselors, elementary/secondary.
(b) Number: Sample, 500.
(c) Estimated average man-hours per respondent: 0.5.

9. INFORMATION TO BE COLLECTED

The same questionnaire will be used for all respondents. Information will be collected on the extent to which respondents have utilized a variety of products and activities sponsored by the rural career education model, including newsletters, handbook, and workshops. Data will also be collected on the perceived impact of these activities as reported by respondents. Some background data will be collected on size of respondent school system and system's prior involvement in career education to help determine the utility of the activities for systems/persons with various backgrounds.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Student Application For A Federal Loan.

2. AGENCY/BUREAU/OFFICE

Office of Education/Office of Management/Office of Guaranteed Student Loans.

3. AGENCY FORM NUMBER

OE 1154.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"• • • If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Commissioner may require, and otherwise in conformity with this section, the Commissioner finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance. • • •" (Pub. L. 89-329, sec. 429; 20 U.S.C. 1079(a)(1).)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

This information will be used to perform two primary program management functions:

(1) To determine the insurability of the loan under statutory and regulatory guidelines;

(2) To determine if the applicant is eligible for Federal interest benefits (under which the Office of Guaranteed Student Loans pays all interest on the loan until the borrower begins repayment).

7. DATA ACQUISITION PLAN

(a) Method of collection: Mail.
(b) Time of collection: Usually Late Summer/Early Fall.
(c) Frequency: Annually.

8. RESPONDENTS

(a) Type: Students.
(b) Number: 1,000,000.
(c) Estimated average man-hours per respondent: ½ hr.
(d) Type: Parents (and/or spouse).
(e) Number: 1,000,000.
(f) Estimated average man-hours per respondent: ½ hr.
(g) Type: Financial Aid Officers.
(h) Number: 10,000.
(i) Estimated average man-hours per respondent: 1/12 hr.

9. INFORMATION TO BE COLLECTED

Student: Identification and address information, financial information, references, educational cost information.

Parents (and/or spouse): Signatures and Social Security Numbers to certify income information.

Financial Aid Officer: School identification information, student eligibility information, costs of education and financial aid awarded to the student, analysis of need in some cases, recommended loan amount.

Financial Institution: Lender identification information, approved loan amount.

[FR Doc.77-6477 Filed 3-3-77;8:45 am]

Food and Drug Administration

SUBCOMMITTEE ON DEVELOPMENT OF GUIDELINES FOR EVALUATION OF HEPATOTOXICITY OF THE GASTROINTESTINAL DRUGS ADVISORY COMMITTEE

Notice of Rescheduling

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of January 18, 1977 (42 FR 3348), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Subcommittee on Development of Guidelines for Evaluation of Hepatotoxicity of the Gastrointestinal Drugs Advisory Committee scheduled for March 7 and 8, 1977, has been rescheduled for April 18 and 19, 1977, in Conference Rm. A, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, with the open session beginning at 9 a.m.

Dated: February 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6491 Filed 3-3-77;8:45 am]

TOPICAL ANALGESIC PANEL

Notice of Rescheduling

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of February 11, 1977 (42 FR 8709), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Topical Analgesic Panel scheduled for March 22 and 23, 1977, has been rescheduled for April 13 and 14, 1977, in Conference Rm. A, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, with the open sesion beginning at 9 a.m.

Dated: February 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6490 Filed 3-3-77;8:45 am]

[Docket No. 76F-0392]

DENIAL OF PETITION FOR CYCLAMATE (CYCLAMIC ACID, CALCIUM CYCLAMATE, AND SODIUM CYCLAMATE)

Hearing

The Food and Drug Administration (FDA) is granting a formal evidentiary public hearing on factual issues raised by objections to the order of the Commissioner of Food and Drugs denying a petition for the use of cyclamic acid, calcium cyclamate, and sodium cyclamate (collectively, "cyclamate") as sweetening agents in food and for technological purposes in food other than for calorie reduction. The date for the hearing will be set at the prehearing conference to be held on April 20, 1977.

A notice of filing of the petition (FAP 4A2975) was published in the FEDERAL REGISTER of February 8, 1974 (39 FR 4935). The petition sought the issuance of a regulation, pursuant to section 409 (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(b)), that would authorize use of the additive in food. It was denied by order published in the FEDERAL REGISTER of October 4, 1976 (41 FR 43754), on the grounds of lack of evidence that cyclamate is safe for any of the proposed uses.

The petitioner, Abbott Laboratories, by letter received on November 3, 1976, and the Calorie Control Council, by letter of October 29, 1976, filed timely objections to the October 4 order; only Abbott, however, made particularized objections. Both Abbott and the Calorie Control Council requested a hearing. The objectors have adequately demonstrated that they will be adversely affected by the order. There were other responses to the order, but no other objections or requests for a hearing. Abbott's request for a hearing is being granted on the following stated objections:

1. Abbott Laboratories objects to the Commissioner's finding that the carcinogenic potential of cyclamate is unresolved and that further testing is necessary. Specifically, Abbott objects to the Commissioner's finding, based upon the Report of the National Cancer Institute's Temporary Committee for the Review of Data on the Carcinogenicity of Cyclamate, that there is a basis for concluding that cyclamate may be a carcinogen.

2. Abbott Laboratories objects to the Commissioner's finding that the testicular and reproductive effects observed in the test animals would dictate a maximum level of exposure that is too low to permit establishment of a tolerance for the use of cyclamate as an artificial sweetening agent that could be expected to be adhered to.

The Commissioner rejects Abbott's contention that he has no authority to decline to set a tolerance for a food additive because it has potential for nonaddictive abuse (section 409(c)(5)(A) of the act (21 U.S.C. 409(c)(5)(A))). In any event, this is a question of law not appropriate for an evidentiary hearing. The Commissioner agrees, however, that the existence of such an abuse potential and its safety implications would be proper subjects of a hearing.

V42 43 MAR 4 77 UMI

3. Abbott Laboratories objects to the Commissioner's conclusions that several studies suggest that cyclamate has the potential to cause genetic damage.

4. Abbott Laboratories objects to the Commissioner's use of 30 percent as the rate of conversion of cyclamate to cyclohexylamine, and to the use of a 100-fold safety factor for no-effect levels established with cyclohexylamine in computing acceptable daily intake for cyclamate.

The Commissioner points out that the 100-fold safety factor is an accepted conventional principle, and Abbott recorded no objection when this criterion was proposed for inclusion in FDA regulation, 21 CFR 121.5. He believes, however, that the appropriateness and applicability of this "standard," specifically in the case of cyclamate, should be an issue at the hearing.

Abbott Laboratories also objects to the Commissioner's alleged failure to evaluate fairly the evidence presented in support of the petition.

The Commissioner recognizes that the evidence conflicts in some instances and rarely is unequivocal. He was and is, however, of the opinion that, viewed as a whole, the available data do not prove to a reasonable certainty that cyclamate is safe for its petitioned uses. Since the sole subject of the hearing will be the safety of cyclamate, however, the process by which the Commissioner's decision was reached will not be an issue.

The Calorie Control Council has filed no specific objections but instead complained that the Commissioner has failed to identify reasons for the decision not to approve the cyclamate petition.

It is true that the Commissioner's order published October 4, 1976 (41 FR 43754), did not identify the reasons specifically; however, these reasons were set forth in detail in a letter dated May 11, 1976 from Mr. Richard Ronk of FDA to Abbott Laboratories. The letter was available to all members of the public pursuant to the Freedom of Information Act.

The granting of a hearing on the issues raised by Abbott's objections does not indicate that the Commissioner agrees with those objections.

Therefore, it is ordered, That a public hearing be held on the following issues related to the safety of cyclamate:

1. Whether data submitted by petitioner, in addition to other data before FDA, establish to a reasonable certainty that cyclamate is not a carcinogen in man or animals.

2. Whether data submitted by petitioner, in addition to other data before FDA, establish to a reasonable certainty that cyclamate does not cause genetic damage.

3. Apart from issues of carcinogenesis and mutagenesis, what do available data show is an acceptable daily intake level for cyclamate?

4. Whether, apart from issues of carcinogenesis and mutagenesis, because of any abuse potential, safe conditions of use of cyclamate can be prescribed.

The hearing will be held at the Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857. The presiding Administrative Law Judge will be Daniel Davidson. The hearing will convene on a date to be set at the prehearing conference. Written notices of participation must be filed with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, not later than April 4, 1977.

Published elsewhere in this issue of the FEDERAL REGISTER is a notice of prehearing conference on April 20, 1977 at 10 a.m.

Participants other than the Bureau of Foods shall submit written data, information, and views pursuant to 21 CFR 2.153 by May 3, 1977.

Parties to the hearing shall be the Bureau of Foods, Abbott Laboratories and the Calorie Control Council.

The contents of the portions of the administrative record which the Bureau of Foods deems relevant at this time include the following:

1. The food additive petition.

2. Scientific literature concerning the hearing issues listed above and component issues.

3. Data on the safety of cyclamate in the possession of the Bureau of Foods, which data are not part of the petition.

4. The Report of the National Cancer Institute's Temporary Committee for the Review of Data on the Carcinogenicity of Cyclamate.

These relevant portions of the administrative record are on display in the office of the Hearing Clerk, Food and Drug Administration, and additional copies need not be submitted by other parties or participants.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives, and may be heard with respect to matters relevant to the issues under consideration.

Dated: February 28, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-6483 Filed 3-3-77;8:45 am]

[Docket No. 76F-0392]

DENIAL OF PETITION FOR CYCLAMATE (CYCLAMIC ACID, CALCIUM CYCLAMATE, AND SODIUM CYCLAMATE)

Prehearing Conference

Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs is ordering that a formal evidentiary public hearing be held in the matter above.

Pursuant to 21 CFR 2.157 of the administrative practices and procedural regulations, a prehearing conference for the purposes set forth in 21 CFR 2.158 and for consideration of such other matters as may aid in the disposition of this proceeding will be held in Rm. 4A–35, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, beginning at 10 a.m. on April 20, 1977.

Dated: February 28, 1977.

DANIEL J. DAVIDSON,
Administrative Law Judge.

[FR Doc.77-6484 Filed 3-3-77;8:45 am]

ANESTHESIOLOGY ADVISORY COMMITTEE

Cancellation of Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of February 11, 1977 (42 FR 8709), public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Anesthesiology Advisory Committee, which was incorrectly listed as the Anesthesiology Panel (see the FEDERAL REGISTER of February 25, 1977 (42 FR 11050) for a correction notice), scheduled for March 21, 1977, has been cancelled.

Dated: Feb. 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6595 Filed 3-3-77;8:45 am]

RADIOLOGICAL HEALTH ADVISORY COMMITTEES

Request for Nominations for Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice requests nominations for new members for two radiological health advisory committees.

DATES: Nominations must be received by April 4, 1977.

FOR FURTHER INFORMATION CONTACT:

For the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC): Marshall S. Little, Executive Secretary, TEPRSSC, Food and Drug Administration, Bureau of Radiological Health (HFX–440), 5600 Fishers Lane, Rockville, MD 20857, (301–443–3420).

For the Medical Radiation Advisory Committee (MRAC): Norman C. Telles, Executive Secretary, MRAC, Food and Drug Administration, Bureau of Radiological Health (HFX–4), 5600 Fishers Lane, Rockville, MD 20857. (301–443–6220).

SUPPLEMENTARY INFORMATION: The Secretary of Health, Education, and Welfare and, by delegation, the Commissioner of Food and Drugs and the Director, Bureau of Radiological Health, are charged with the administration of those portions of the Public Health Service Act (42 U.S.C. 217a, 263b, 263f) that are designed to protect the public health from hazardous radiation emissions from electronic products.

The Technical Electronic Product Radiation Safety Standards Committee, established by the Secretary pursuant to section 358(f)(1)(A) of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), must be consulted before the Secretary prescribes any performance standard for electronic product radiation safety.

The Medical Radiation Advisory Committee was established under the name Medical X-ray Advisory Committee on October 31, 1963, pursuant to section 222 of the Public Health Service Act (42 U.S.C. 217a). It was renamed the Medical Radiation Advisory Committee on June 25, 1970. The committee advises and consults with the Commissioner on the formulation of policy and development of a coordinated national program relating to application of ionizing radiation to obtain maximum diagnostic information and therapeutic benefit per unit of radiation exposure to the public.

NOMINATIONS, DUE DATE, AND ACCOMPANYING INFORMATION

All interested persons are invited to nominate qualified candidates for consideration as members of these two committees. To be considered for either of these two committees, each nomination of a qualified person must be received by April 4, 1977, and be accompanied by a curriculum vitae that states where the nominee may be contacted and provides detailed evidence of nominee qualifications, including current employment and professional affiliations. This information should be sent to the Executive Secretary of the committee for which the person is being nominated. Nominations must also state that the person nominated is aware of the nomination, is interested in becoming involved in the effort, and appears to have no conflict of interest. Potential candidates will be asked by the Food and Drug Administration to provide detailed information concerning financial holdings, consultancies, and research grants or contracts, to permit evaluation of possible sources of conflict of interest.

Further information on requirements for eligibility for membership on each committee is provided below, under the description of the respective committee.

The Commissioner requested, in a notice published in the FEDERAL REGISTER of February 23, 1976 (41 FR 7977), nominations of qualified persons to replace members of TEPRSSC and MIRAC whose terms expired in 1976. Eligible individuals nominated in response to that publication who did not receive committee appointments will be reconsidered along with new nominations for the vacancies announced herein. The names and affiliations of those appointed pursuant to the February 23, 1976 request for nominations follow:

New members on the TEPRSSC are: (1) *Public sector.* Dr. Stephen F. Cleary, Associate Professor, Department of Biophysics, Medical College of Virginia, Richmond, Virginia, and Dr. Gerald M. McDonnel, Department of Radiology, Hospital of the Good Samaritan Medical Center, Los Angeles, California.

(2) *Industrial sector.* Ms. Ellen M. Proctor, Manager Applications Laboratory, Xerox Corporation, Pasadena, California, and Dr. John F. Waymouth, Laboratory Director, Lighting Products Division, GTE Sylvania Incorporated, Danvers, Massachusetts.

(3) *Government.* Dr. Robert T. Wangemann, Chief, Laser Microwave Division, U.S. Army Environmental Hygiene Agency, Aberdeen Proving Ground, Maryland.

New members appointed to the MRAC are: (1) Dr. John S. Laughlin, Chairman, Department of Medical Physics, Memorial Hospital, New York, New York.

(2) Dr. Ervin E. Nichols, Director, Practice Activities, American College of Obstetricians and Gynecologists, Chicago, Illinois.

(3) Dr. Holger Rasmussen, Doctor of Medicine Group Practice, Fremont, California.

TECHNICAL ELECTRONIC PRODUCT RADIATION SAFETY STANDARDS COMMITTEE

Since its inception in 1969, the TEPRSSC has provided valuable technical and scientific advice to the Bureau of Radiological Health, Food and Drug Administration, on the development of electroic product radiation safety performance standards. Thus far, regulatory performance standards have been issued under 21 CFR Chapter I, Subchapter J, for television receivers, cold-cathode gas discharge tubes, microwave ovens, diagnostic x-ray systems and their major components, cabinet x-ray equipment (including x-ray baggage inspection devices for use at airports and similar facilities), and laser products. The committee meets approximately twice each year and occasionally reviews documents transmitted by mail.

Other electronic products for which performance standards may be issued in the future include equipment used for untrasound therapy, microwave diathermy, ultraviolet irradiation, radiation therapy, and general area, commercial and industrial illumination.

Pursuant to section 358(f) of the act, members will be appointed by the Commissioner after consulation with public and private agencies concerned with the technical aspect of electronic product radiation safety. Each member shall be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety. As required by the act, the committee is composed of 15 members selected as follows:

1. Five from governmental agencies, including State and Federal governments;

2. Five from the affected industry, after consulation with industry representatives; and

3. Five from the general public, of which at least one shall be representative of organized labor. The representative of organized labor must also be technically qualified by education or experience in one or more fields of electronic product radiation safety.

Effective December 31, 1977, one member from industry, two members from the public sector, and one member from the governmental sector will complete their terms and may be replaced.

Nominaitons are solicited for engineers or scientists qualified in electronic product radiation safety to fill these vacancies for a 3-year term. Nominations are invited from consumer, industry, government, and professional organizations, and should be sent with accompanying curriculum vitae and other pertinent information to Mr. Marshall S. Little, Executive Secretary.

MEDICAL RADIATION ADVISORY COMMITTEE

MRAC meets approximately twice each year and has provided advice to the Bureau of Radiological Health, Food and Drug Administration, on programs related to medical and dental use of x-ray equipment, training of medical radiation users, nuclear medicine, and the development of policy statements on the effective use of medical radiation.

Among its current activities, the committee reviews qualifications of operators of x-ray equipment; reviews radiological training programs; advises on equipment requirements, guidelines and standards; and considers efficacy in relation to the reduction of unnecessary radiological examinations.

The committee consists of 13 members including the chairman. Members are selected and the chairman is appointed by the Commissioner from those nominees who have expertise in the fields of medicine, dentistry, health sciences, engineering, public health, and related technology. For the 1977 membership the MRAC will have particular need for candidates with knowledge of ultrasound and computerized tomography in medical diagnosis. Members are invited to serve 4-year terms. Effective July 1, 1977, there will be a total of two vacancies on this committee. Interested person are invited to submit names of qualified candidates and accompanying curriculum vitae and other pertinent information to Dr. Norman C. Telles, Executive Secretary, MRAC, Food and Drug Administration, Bureau of Radiological Health (HFX–4), 5600 Fishers Lane, Rockville, MD 20857.

Dated: March 1, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6712 Filed 3-3-77;8:45 am]

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INTERSTATE COMMERCE COMMISSION

[Notice No. 338]

ASSIGNMENT OF HEARINGS

MARCH 1, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-9033, Browning Freight Lines, Inc., et al. v. Northwest Transport Service, Inc., et al., now being assigned April 13, 1977 (2 days) at Salt Lake City, Utah, in a hearing room to be later designated.

I & SM 29341, Class Rate Restructuring, C & SMFTA, January 1977, now assigned March 8, 1977, at Washington, D.C., is cancelled the rates are being canceled.

MC 127834 (Sub 115), Cherokee Hauling & Rigging, Inc. now being assigned April 12, 1977 (1 day) at Memphis, Tennessee in a hearing room to be later designated.

MC 115654 (Sub 56), Tennessee Cartage Co., Inc. now being assigned April 18, 1977 (2 days) at Memphis, Tennessee in a hearing room to be later designated.

MC-F-12903, Overnite Transportation Co.—Purchase—Southern Forwarding Co. and MC-FC-76677, Elizabeth C. Barnes, Ann Marie Torti and Melissa C. Barnes, Transferees, d.b.a. Southern Forwarding Co., Transferors now being assigned April 13, 1977 (3 days), at Memphis, Tennessee in a hearing room to be later designated.

MC 136273 (Sub-No. 6), Coronado Trucking Company, Inc., now assigned March 14, 1977, at San Francisco, Calif. is cancelled and application dismissed.

MC 106045 (Sub-No. 63), R. L. Jeffries Trucking Co., Inc., application dismissed.

MC 142134, Donald J. Bryden, d.b.a. Bryden Trucking now assigned March 8, 1977 at Seattle, Washington is cancelled, application dismissed.

MC 109533 (Sub-No. 76), Overnite Transportation Company, now being assigned for continued hearing on April 12, 1977 (2 days), at Birmingham, Ala., Kahler plaza, 808 South 20th Street.

MC 94350 (Sub 361), Transit Homes, Inc., MC 106398 (Sub 741), National Trailer Convoy, Inc., and MC 103993 (Sub 866), Morgan Drive-Away, Inc. now being assigned May 3, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 120472 (Sub 2), Goilot & Sons Transfer & Storage, Inc. now being assigned May 9, 1977 (1 week), at New Orleans, Louisiana in a hearing room to be later designated.

MC 119789 (Sub 200), Caravan Refrigerated Cargo, Inc. now being assigned May 4, 1977 (3 days), at Tampa, Florida in a hearing room to be later designated.

MC 110988 (Sub-No. 94), Great Western Trucking Co., Inc., now assigned March 14, 1977, at Denver, Colo. is cancelled and application dismissed.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6572 Filed 3-3-77;8:45 am]

[Exemption No. 131; Amdt. 1; Ex Parte No. 241]

EXEMPTION UNDER MANDATORY CAR SERVICE RULES

Upon further consideration of Exemption No. 131 issued February 8, 1977.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 131 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire March 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6569 Filed 3-3-77;8:45 am]

[Rev. Exemption No. 121; Amdt. 1; Ex Parte No. 241]

BALTIMORE & OHIO RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

In the matter of the Baltimore and Ohio Railroad Company, the Chesapeake and Ohio Railway Company, Norfolk and Western Railway Company, Western Maryland Railway Company.

Upon further consideration of Revised Exemption No. 121 issued November 23, 1976.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 121 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire May 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6570 Filed 3-3-77;8:45 am]

[Rev. Exemption No. 55; Amdt. 1; Ex Parte No. 241]

NORFOLK & WESTERN RAILWAY CO. AND CONSOLIDATED RAIL CORP.

Exemption Under Mandatory Car Service Rules

Upon further consideration of Revised Exemption No. 55 issued November 23, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Revised Exemption No. 55 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire August 31, 1977.

This amendment shall become effective February 28, 1977.

Issued at Washington, D.C., February 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-6571 Filed 3-3-77;8:45 am]

[AB 52; Sub-No. 8; Finance Docket No. 28300]

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.

Abandonment of Service

FEBRUARY 22, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Atchison, Topeka and Santa Fe Railway Company of its line between Richmond and Oakland, a distance of 9.2 miles, in Contra Costa and Alameda Counties, Calif. and the proposed acquisition of trackage rights by the Santa Fe over a line of the Southern Pacific Transportation Company between Richmond and Oakland, a distance of 8.5 miles, in Contra Costa and Alameda Counties, Calif., if approved by the Commission, do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332 (2) (C) of the NEPA.

It was concluded, among other things, that the purpose of this action is to remove a rail line from a primarily residential area, and to transfer rail operations to a nearby parallel Southern Pacific line. Consequently, there will be no impact with regard to the diversion of overhead traffic from one line to the other. Only a minimal amount of local traffic will be affected, and there are alternate team track facilities available to handle this traffic. Public interest has been expressed in acquiring the subject right-of-way for recreational/or other public purposes in connection with a linear park maintained by BART, and the line has been determined to be suitable for such public use.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before April 5, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6568 Filed 3-3-77;8:45 am]

[AB 18; Sub-No. 17]

CHESAPEAKE AND OHIO RAILWAY CO.

Abandonment of Service

FEBRUARY 24, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Chesapeake and Ohio Railway Company (C&O) of its line of railroad between Valuation Station 161+43 at or near North Caldwell, to the end of the line at Valuation Station 5021+22 at or near Durbin, a distance of 92.04 miles, all in Greenbrier and Pocahontas Counties, W. Va., if approved by the Commission does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2) (C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because alternative transportation in the region would still be available and the environmental effects attendant to the diversion of traffic from the line to motor carriers would be minimal. Overhead traffic will be rerouted to other nearby rail lines, generally resulting in less circuitous routings.

The proposed abandonment should not have a serious adverse impact on rural and community development in view of the fact that State plans call for reactivation of a portion of the transportation corridor for future direct rail service to principal shippers affected by the abandonment.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 7, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6575 Filed 3-3-77;8:45 am]

[AB 12 Sub-No. 35]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment of Service

FEBRUARY 18, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Southern Pacific Transportation Company of its line extending from Susanville, in a westerly direction to Westwood, a total distance of 30.533 miles, in Lassen County, Calif., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2) (C) of the NEPA.

It was concluded, among other things, that the associated environmental impacts are not considered significant because there has been no traffic on the subject line for twenty years. The city of Susanville will continue to be served by the applicant, thus providing a rail transportation option for potential geothermal industries in the area. It should be noted, however, that abandonment will preclude the reinstitution of a more direct rail route west to California markets. Physical abandonment of the line, and subsequent salvage operations should have minimal environmental impacts, as long as conservation measures dictated by the U.S. Forest Service are followed. Finally, interest has been expressed in utilizing the right-of-way for public use if abandonment is granted.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before April 4, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6576 Filed 3-3-77;8:45 am]

[AB 12; Sub-No. 29]

SOUTHERN PACIFIC TRANSPORTATION CO.

Environmental Impact Determination

FEBRUARY 24, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6565 Filed 3-3-77;8:45 am]

[AB 33; Sub-No. 12]

UNION PACIFIC RAILROAD CO.

Abandonment of Service

FEBRUARY 18, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Union Pacific Railroad Company of a portion of its Lyman Branch from Milepost 5.04 near Hartman to Milepost 6.16 near Stegall, a distance of 1.12 miles, in Scotts Bluff County, Nebr., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2) (C) of the NEPA.

It was concluded, among other things, that the only environmental impacts associated with this abandonment will result from line dismantlement and removal of equipment stored on the line. There will be no diversion of traffic to motor carrier since there was no traffic handled on subject trackage in 1976. Because of this fact and the lack of developmental plants dependent on the subject rail line, the subject abandonment should not affect rural and community development.

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This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 4, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–6567 Filed 3–3–77;8:45 am]

[AB 69 Sub-No. 3]

WESTERN MARYLAND RAILWAY CO.

Abandonement of Service

FEBRUARY 22, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–6566 Filed 3–3–77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 1, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before March 21, 1977.

FSA No. 43329—*Iron or Steel Pipe to Port Neches, Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B–657), for interested rail carriers. Rates on iron or steel pipe and related articles, in carloads, as described in the application, from points in official (including Illinois), southern and western trunk-line territories, to Port Neches, Texas.

Grounds for relief—Rate relationship and carrier competition.

Tariff—Supplement 117 to Southwestern Freight Bureau, Agent, tariff 259–F, I.C.C. No. 5080. Rates are published to become effective on April 5, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–6574 Filed 3–3–77;8:45 am]

[S.O. 1252; I.C.C. Order No. 24; Amdt. 2]

GREEN BAY & WESTERN RAILROAD CO.

Rerouting of Traffic

Upon further consideration of I.C.C. Order No. 24, (Green Bay and Western Railroad Company and the Ann Arbor Railroad), and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 24 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 14, 1977, unless otherwise modified, changed or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., February 28, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77–6573 Filed 3–3–77;8:54 am]

register
federal

FRIDAY, MARCH 4, 1977
PART II

PRINCIPAL EXECUTIVE BRANCH OFFICIALS of the ADMINISTRATION of JIMMY CARTER

■

appointed
January 20–March 1, 1977

Supplement 1 to 1976/77 United States Government Manual

NOTE: This special supplement to the United States Government Manual is limited to appointments and nominations made after January 20, 1977. Names contained herein replace corresponding names appearing in the 1976/77 edition of the Manual. Supplement 2 will be published on April 1, 1977.

Office of the Federal Register
National Archives and Records Service
General Services Administration

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PRINCIPAL EXECUTIVE BRANCH OFFICIALS
of the
ADMINISTRATION OF JIMMY CARTER
appointed
January 20–March 1, 1977

PRESIDENT
Jimmy Carter
VICE PRESIDENT
Walter F. Mondale

MEMBERS OF THE CABINET

Secretary of Agriculture	Bob S. Bergland
Secretary of Commerce	Juanita M. Kreps
Secretary of Defense	Harold Brown
Secretary of Health, Education, and Welfare	Joseph A. Califano, Jr.
Secretary of Housing and Urban Development	Patricia Roberts Harris
Secretary of the Interior	Cecil D. Andrus
Attorney General	Griffin B. Bell
Secretary of Labor	Ray Marshall
Secretary of State	Cyrus Vance
Secretary of Transportation	Brockman Adams
Secretary of the Treasury	W. Michael Blumenthal
Assistant to the President for National Security Affairs	Zbigniew Brzezinski
Director, Office of Management and Budget	Thomas Bertram Lance
Assistant to the President	James R. Schlesinger
Chairman, Council of Economic Advisers	Charles L. Schultze
United States Representative to the United Nations and Representative in the Security Council	Andrew J. Young

The Cabinet, a creation of custom and tradition dating back to George Washington's administration, functions at the pleasure of the President. Its purpose is to advise the President upon any subject on which he requests information (pursuant to Article II, section 2, of the Constitution).

The Cabinet is composed of the eleven executive departments listed above and certain other officials of the executive branch to whom the President has accorded Cabinet rank. The Vice President participates in all Cabinet meetings. Also, from time to time, others are invited to participate in a discussion of particular subjects.

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EXECUTIVE OFFICE OF THE PRESIDENT

The White House Office

Assistant to the President for National Security Affairs	ZBIGNIEW BRZEZINSKI
Assistant to the President for Public Liaison	MARGARET COSTANZA
Assistant to the President for Domestic Affairs and Policy	STUART E. EIZENSTAT
Assistant to the President	HAMILTON JORDAN
Counsel to the President	ROBERT J. LIPSHUTZ
Assistant to the President for Congressional Liaison	FRANK B. MOORE
Press Secretary to the President	JOSEPH L. POWELL
Assistant to the President	JAMES R. SCHLESINGER
Secretary to the Cabinet and Assistant to the President for Intergovernmental Affairs	JACK H. WATSON, JR.
Special Assistant to the President	JOSEPH W. ARAGON
Special Assistant to the President for Health Issues	PETER G. BOURNE
Special Assistant to the President for Administration	HUGH A. CARTER, JR.
Special Assistant to the President for Budget and Organization	RICHARD M. HARDEN
Special Assistant to the President for Media and Public Affairs	BARRY JAGODA
Special Assistant to the President for Personnel	JAMES B. KING
Special Assistant to the President for Appointments	TIMOTHY E. KRAFT
Special Assistant to the President for Special Projects	MARTHA M. MITCHELL
Personal Assistant and Secretary to the President	SUSAN S. CLOUGH
Press Secretary to the First Lady and East Wing Coordinator	MARY FINCH HOYT
Personal Assistant to the First Lady	MADELINE F. MACBEAN
Social Secretary	GRETCHEN POSTON
Social Assistant to the President	MAXIE WELLS
Deputy Assistant for National Security Affairs	DAVID L. AARON
Deputy Assistant for Intergovernmental Affairs	LAWRENCE A. BAILEY
Deputy Assistant	LANDON BUTLER
Deputy Director, Domestic Council	BERTRAM W. CARP
Deputy Secretary to the Cabinet	JANE L. FRANK
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FRIDAY, MARCH 4, 1977
PART III

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions and Index as of November 4, 1977

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders, 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:		
	AL77–1006; AL77–1007	Jan. 28, 1977.
Alaska:		
	AK77–5009	Jan. 21, 1977.
Arizona:		
	AZ76–5109; AZ76–5110; AZ 76–5111.	Nov. 26, 1976.
Arkansas:		
	AR76–4130	July 23, 1976.
	AR76–4188	Nov. 19, 1976.
Colorado:		
	CO76–5106	Nov. 26, 1976.
Florida:		
	FL75–1083	Sept. 5, 1975.
Illinois:		
	IL76–2120	Oct. 1, 1976.
	IL76–2123	Oct. 8, 1976.
	IL76–2133	Oct. 22, 1976.
	IL76–2130; IL76–2132	Oct. 29, 1976.
	IL76–2153	Nov. 26, 1976.
Indiana:		
	IN76–2005	Jan. 23, 1976.
	IN77–2006	Feb. 4, 1977.
	IN77–2008; IN77–2017	Feb. 11, 1977.
Kentucky:		
	KY76–1129	Nov. 26, 1976.
Michigan:		
	MI76–2139	Nov. 19, 1976.
New Jersey:		
	NJ76–3248; NJ76–3249	Oct. 1, 1976.
	NJ76–3252	Oct. 29, 1976.
New Mexico:		
	NM76–4181	Nov. 12, 1976.
	NM77–4022	Feb. 18, 1977.
North Dakota:		
	ND77–5022	Do.
Ohio:		
	OH77–2005	Jan. 21, 1977.
Oklahoma:		
	OK76–4139	July 30, 1976.
	OK77–4002	Jan. 14, 1977.
Oregon:		
	OR77–5007	Feb. 11, 1977.
Pennsylvania:		
	PA76–3165	Apr. 30, 1976.
	PA76–3206	June 25, 1976.
	PA76–3211	July 30, 1976.
	PA76–3250; PA76–3251	Sept. 24, 1976.
South Carolina:		
	NC77–1019	Feb. 11, 1977.
Texas:		
	TX76–4118	July 16, 1976.
	TX76–4192	Dec. 17, 1976.
	TX76–4193; TX76–4194; TX76–4196; TX76–4197.	Dec. 28, 1976.
Washington, D.C.:		
	DC76–3284	Nov. 19, 1976.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:		
	AL76–1134 (AL77–1025)	Dec. 3, 1976.
Hawaii:		
	HI77–5010 (HI77–5080)	Feb. 4, 1977.
Illinois:		
	IL76–2108 (IL77–2080)	Aug. 27, 1976.
Kansas:		
	KS76–4184 (KS77–4050)	July 30, 1976.
Louisiana:		
	LA76–4167 (LA77–4052)	Nov. 19, 1976.
Maryland:		
	AQ–3076 (MD77–3036)	Mar. 15, 1974.
	AR–3012 (MD77–3085)	Aug. 2, 1974.
Michigan:		
	AM–3041 (MI77–3085)	Dec. 17, 1971.
	AR–3178 (MI77–3086)	Dec. 20, 1974.
Minnesota:		
	AQ–3104 (MN77–3031); AQ–3105 (MN77–3062); AQ–3124 (MN77–3083);	Mar. 8, 1974.
	AR–3147 (MN77–3064)	Oct. 11, 1974.
Missouri:		
	MO76–4101 (MO77–4051)	Dec. 17, 1976.
Montana:		
	MT76–5103 (MT77–5021)	Nov. 19, 1976.
Nevada:		
	NV77–5004 (NV77–5020)	Jan. 4, 1977.
North Carolina:		
	AR–4017 (NC77–1012)	Aug. 9, 1974.
Oklahoma:		
	OK77–4138 (OK77–4066)	July 30, 1976.
South Dakota:		
	SD76–5093 (SD77–5027); SD76–5094 (SD77–5028).	Sept. 24, 1976.
Tennessee:		
	TN76–1066 (TN77–1022)	May 14, 1976.
Texas:		
	TX76–4115 (TX77–4065)	July 16, 1976.
	TX76–4127 (TX77–4067)	July 23, 1976.
	TX76–4170 (TX77–4054)	Oct. 8, 1976.
	TX77–4005 (TX77–4063)	Jan. 21, 1977.

Signed at Washington, D.C., this 25th day of February 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AK77-5009 - Mod. #2 (42 FR 4074 - January 21, 1977) Statewide, Alaska					
Change:					
ELECTRICIANS:					
Electricians, Equipment Operators, Technicians	$16.95	.70	1½+2.00		.15
Cable Splicers	18.70	.70	1½+2.00		.15
LINE CONSTRUCTION:					
Groundman	14.95	.70	1½+2.00		.15
Equipment Operators; Linemen; Technicians	16.95	.70	1½+2.00		.15
Cable Splicers	18.70	.70	1½+2.00		.15
DECISION NO. AZ76-5109 - Mod. #2 (40 FR 52189-November 26, 1976) Statewide, Arizona					
Change:					
Asbestos Workers	$11.04	.50	$1.10		.02
DECISION NO. AZ76-5110 - Mod. #2 (40 FR 52198-November 26, 1976) Maricopa County, Arizona					
Change:					
Asbestos Workers	$11.04	.50	$1.10		.02
DECISION NO. AZ76-5111 - Mod. #2 (40 FR 52204-November 26, 1976) Pima County, Arizona					
Change:					
Asbestos Workers	$11.04	.50	$1.10		.02
Carpenters:					
Carpenters; Drywall Applicator	9.385	.845	.955		.05
Piledriverman; Floorlayer (finish)	9.67	.845	.955		.05
Millwrights	9.80	.845	.955		.05

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL77-1006 - Mod. # 1 (42 FR 5618 January 28, 1977) Madison County, Alabama					
Change:					
Laborers:					
Laborers, mason tenders	4.72	.25	.40		
Air tool operator(jackhamer, vibrator) mortar mixers	4.97	.25	.40		
Decision # AL77-1007 - Mod. # 1 (42 FR 5619 - January 28, 1977) Jefferson & Shelby Counties, Alabama.					
Change:					
Asbestos workers	10.16	.45	.40		.05
Bricklayers, pointers, caulkers, stonemasons	9.35	.25	.25		.12
Carpenters:					
Carpenters, soft floor layers	8.35	.50	.25		.07
Piledriverman	8.55	.50	.25		.07
Plumbers, Pipefitters	10.75	.50	.65		.09
Tile, marble, terrazzo helpers	6.30				

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DECISION NO. AR76-4130 -Mod. #4 (41 FR 30509 - July 23, 1976) Conway, Faulkner, Perry, Van Buren & Cleburne Counties, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LINE CONSTRUCTION:					
Lineman	$10.85		1%		3/8%
Cable splicers	10.975		1%		3/8%
Operator	10.85		1%		3/8%
ADD:					
MARBLE, TILE & TERRAZZO HELPERS	5.35				
DECISION NO. AR76-4188 - Mod. #3 (41 FR 51253 - November 19, 1976) Pulaski County, Arkansas					
CHANGE:					
LINE CONSTRUCTION:					
Linemen	$10.85		1%		3/8%
Cable splicers	10.975		1%		3/8%
Operator	10.85		1%		3/8%
Groundmen (advanced)	65%JR		1%		3/8%
Groundmen (1st 6 months)	49%JR		1%		3/8%
Winch equipment	73%JR		1%		3/8%
ADD:					
MARBLE, TILE & TERRAZZO HELPERS	5.35				

DECISION #CO76-5106 - Mod. # 2 (41 FR 52225-November 26, 1976) Las Animas, Otero and Pueblo Counties, Colorado	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Plumbers:					
Zone I (0-15 miles from P.O.	$10.97	.60	.85		.08
Zone II (15-20 miles from P.O.)	11.54	.60	.85		.08
Zone III (20-40 miles from P.O.)	11.97	.60	.85		.08
Zone IV (Over 40 miles from P.O.)	12.995	.60	.85		.08
Decision # FL75-1083 - Mod. # 3 (40 FR-41361 - September 5, 1975 Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Lee, Monroe, and Okeechobee Counties, Florida.					
Omit:					
Ironworkers, reinforcing	9.75	.75	.58		.08
Add:					
Ironworkers, reinforcing (Collier County only)	9.75	.75	.58		.08

DECISION #IL76-2120 - Mod. #2 (41 FR 43570 - October 1, 1976) Adams, Brown & Pike Counties, Illinois	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Plasterers	$9.45		1.00		.01
DECISION #IL76-2123 - Mod. #4 (41 FR 44612 - October 8, 1976) DuPage, Grundy, Kane, Kendall, Lake, McHenry & Will Counties, Illinois					
CHANGE:					
Carpenters:					
Carpenters, Soft Floor Layers, Millwrights & Piledrivermen: Kane, Kendall & McHenry Counties	10.58	.55	.68		
Grundy County	11.225	.55	.53		.04
Sheet Metal Workers	10.80	.55	.45	.20	
Electricians:					
McHenry County & the northern ½ of Kane County	12.50	5%	7%		.5 of 1%
Ironworkers:					
Will & Grundy Counties; DuPage (Argonne) County; & southern ½ of Kendall County	10.80	2.65	.325		

DECISION #IL76-2125 - Mod. #2 (41 FR 44620 - October 8, 1976) Bureau, LaSalle, Livingston, Marshall, Putnam & Woodford Counties, Illinois	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers & Stonemasons:					
LaSalle County					
Peru & Vicinity	$10.65	.35	.60		
Streator & Vicinity	10.30	.40	.50		
Ottawa & Vicinity	11.00	.40	.50		
Bureau & Putnam Counties	11.00	.35	.25		
Livingston County	10.25	.40	.50		
Carpenters:					
LaSalle, Marshall & Bureau Counties; Northern ½ of Putnam Co; & Northeastern Corner of Livingston Co:					
Carpenters; Piledrivermen & Soft Floor Layers	10.43	.35	.50		.03
Millwrights	10.68	.35	.50		.03
Remainder of Livingston Co:					
Carpenters; Soft Floor Layers	10.21	.40	.40		.05
Millwrights & Piledrivermen	10.71	.40	.40		.05
Ironworkers:					
LaSalle, Bureau, Putnam & the Remainder of Marshall County	11.59	.65	.375		.02
Plasterers:					
Vicinity of LaSalle & Peru in LaSalle County	10.65	.35	.60		
Vicinity of Ottawa, Earlville, Seneca & Marseille in LaSalle County	11.00	.40	.50		
Vicinity of Streator in LaSalle Co; & the Northern Part of Livingston County	10.30	.40	.50		
Putnam & Bureau Counties	11.00	.35	.25		

MODIFICATIONS P. 7

DECISION #IL76-2125 - Mod. #2 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
Painters:					
Livingston County:					
Brush	$8.00				
Structural Steel	8.50				
DECISION #IL76-2130 - Mod. #2 (41 FR 47724 - October 29, 1976) Henderson, Henry, Knox, Mercer, Rock Island, Stark & Warren Counties, Illinois					
CHANGE:					
Bricklayers:					
Henry County:					
Bricklayers, Stonemasons & Plasterers	10.60		.45		
Cement Masons:					
Stark County & the Remainder of Henry County	10.15		.45		
Electricians:					
Knox, Henderson, Warren Cos; Twps. of Ohio Grove, North Henderson & Sues in Mercer County	10.45	.40	1%+.30		.25%
Glaziers:					
Remainder of Counties	9.00	.55	1.00		
Lathers:					
Rock Island, Mercer & Henry Counties	10.70		.30		

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2132 - Mod. #3 (41 FR 47729 - October 29, 1976) Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, Union, White & Williamson Counties, Illinois					
CHANGE:					
Cement Masons & Plasterers:					
Marion County:					
Centralia & Vicinity					
Cement Masons	$10.25				.01
Plasterers	10.35				.01
Alexander, Jackson, Perry, Pulaski & Union Counties	8.90	.30			
Painters:					
Marion County:					
Centralia & Vicinity					
Brush	8.00				
Roller & Spray	9.25				
Structural Steel	10.00				
Plumbers & Steamfitters: Alexander, Hardin, Massac, Jackson, Johnson, Perry, Pope, Pulaski & Union Counties	11.40	.30	.40		.08
Electricians	11.45	.40	11%		1%

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2133 - Mod. #2 (41 FR 46831 - October 22, 1976) Boone, Carroll, DeKalb, JoDaviess, Lee, Ogle, Stephenson, Whiteside & Winnebago Counties Illinois					
CHANGE:					
Bricklayers & Stonemasons:					
Lee & Whiteside Counties	$10.30	.30	.40		
Carpenters:					
DeKalb Co; Ogle (East of Hwy. #51 incl. Rochelle City) Co; Lee (Eastern ½ of Co., incl. Roxbury & Compton) Co:					
Carpenters & Soft Floor Layers	10.41	.55	.25		
Millwrights & Piledrivermen	10.66	.55	.25		
Electricians:					
Remainder of JoDaviess Co.	10.32	.30	1%+.25		1%
Painters:					
Winnebago, Boone & Stephenson Counties:					
Brush & Roller	9.35	.40			
Structural Steel & Sandblast	10.10	.40			
Spray	10.40	.40			
Roofers:					
Boone, Carroll, JoDaviess, Lee, Ogle, Stephenson, Winnebago, Whiteside (cities of Rock Falls, Sterling & W. Sterling) Co; DeKalb (Western ½ of County)					
Composition-Slate & Tile	10.55	.40			

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2153 - Mod. #3 (41 FR 52253 - November 26, 1976) Clay, Crawford, Edwards, Effingham, Fayette, Hamilton, Jasper, Jefferson, Lawerence, Marion, Richland, Wabash, Wayne & White Counties, Illinois					
CHANGE:					
Cement Masons:					
Wabash & Lawerence Counties, Southern Part of Crawford County	$9.65	.60			
Northern Part of Crawford County	9.75			.50	
Northern Part of Fayette County	9.85	.40			
Wayne, Hamilton, Marion, Effingham, White, Jefferson, Clay, Jasper, Richland, Edwards & the Remainder of Fayette County	10.25	.60			

MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IN76-2005 - Mod. #3 (41 FR 3602 - January 23, 1976) Marion County, Indiana					
Change: Electricians, not exceed 2½ stories above ground	$6.05	4%	5%		4%
DECISION NO. IN77-2005 - Mod. #2 (42 FR 7046 - February 4, 1977) Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana					
Change: Electricians: Grant Co.	10.75	.40	1%+.30		.2%
Ironworkers: Dearborn County: Ornamental; Structural	11.08	.75	.85		.03
Sheet metal workers: Vigo County	11.22	.31½	.45		.05
DECISION NO. IN77-2008 - Mod. #1 (42 FR 8908 - February 11, 1977) Decatur County, Indiana					
Change: Ironworkers: East ½ of Co.: Ornamental; Structural	11.08	.75	.85		.03
DECISION NO. IN77-2017 - Mod. #1 (42 FR 8920 - February 11, 1977 Adams, Blackford, Dekalb, Huntington, Jay, Noble, Steuben, Wabash, Wells, & Whitley Counties, Indiana					
Change: Electricians: Wabash County	10.75	.40	1%+.30		.2%

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KY76-1129 - Mod. #4 (41 FR-52257 - November 26, 1976) Hardin, Jefferson, and Meade Counties, Kentucky					
Change: Sheet metal workers: Zone 1 Jefferson County and Ft. Knox Reservation in Hardin and Meade Counties	11.08	1.077	.80		.14
Zone 2 Hardin and Meade Counties exclusing Ft. Knox Reservation	12.23	1.077	.80		.14
DECISION #MI76-2139 - Mod. #6 (41 FR 51313 - November 19, 1976) Macomb, Monroe, Oakland, Washtenaw & Wayne Counties, Michigan					
CHANGE: Tile & Terrazzo Workers: Remainder of Counties: Tile Setters' Helpers	8.89	.50+.25	.65	.80	

MODIFICATIONS P. 13

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NJ76-3248 - Mod. #6 (41 FR 43598 - October 1, 1976) Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem Counties, New Jersey					
Change: Air conditioning & refrigeration mechanics: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; installation of water-cooled air conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); installation of air-cooled air conditioning that does not exceed 15 tons.	$ 8.50	.045	.18	x	.04
Boilermakers	10.57	8%	20%+.25	10%	.01
Boilermakers' helpers	10.04	8%	20%+.25	10%	.01
Painters: Zone 5 New Construction & Major Alteration Work: Brush & roller rates:					
Any surface except steel	8.75	.40	.25		
Any surface except steel (exotic materials)	9.75	.40	.25		
Steel & swing	9.00	.40	.25		
Steel & swing (exotic materials)	10.00	.40	.25		
Steel above 70'	9.40	.40	.25		
Steel above 70' (exotic materials)	10.40	.40	.25		

MODIFICATIONS P. 14

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NJ76-3248 (Cont'd)					
Painters (Cont'd)					
Spray rates:					
Any surface except steel	$ 8.80	.40	.25		
Any surface except steel (exotic materials)	9.80	.40	.25		
Steel & swing	9.05	.40	.25		
Steel (exotic materials)	10.05	.40	.25		
Steel above 70'	9.45	.40	.25		
Steel above 70' (exotic materials)	10.45	.40	.25		
Sandblasting rates:					
Any surface except steel	8.80	.40	.25		
Steel & swing	9.05	.40	.25		
Steel above 70'	9.45	.40	.25		
Vacuum blasting rates:					
Any surface except steel	9.10	.40	.25		
Steel & swing	9.35	.40	.25		
Steel above 70'	9.75	.40	.25		
Repaint Work (except bridges, tank towers & all other open structural steel):					
Any surface	8.00	.40	.25		
Any surface (exotic materials)	8.50	.40	.25		

DECISION #NJ76-3249 - Mod. #0 (41 FR 43613 - October 1, 1976) Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, & Warren Counties, New Jersey	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Air conditioning & refrigeration mechanics: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; installation of water-cooled air conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); installation of air-cooled air conditioning that does not exceed 15 tons.	$ 8.50	.045	.18	m	.04
Boilermakers	10.57	8%	20% + .25	10%	.01
Boilermakers' helpers	10.04	8%	20% + .25	10%	.01

DECISION #NJ76-3252 - Mod. #3 (41 FR 47827 - October 19, 1976) Bergen, Essex, Hudson & Passaic Counties, New Jersey	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Air conditioning & refrigeration mechanics: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; installation					

DECISION #NJ76-3252 (Cont'd) Air conditioning & refrigeration mechanics - (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
of water-cooled air conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); installation of air-cooled air conditioning that does not exceed 15 tons.	$ 8.50	.045	.18	1	.04
Boilermakers	10.57	8%	20%+.25	10%	.01
Boilermakers' helpers	10.04	8%	20%+.25	10%	.01
Terrazzo workers	10.38	1.21	1.50		
Terrazzo workers' helpers	9.14	.76	1.95		

DECISION NO. NM76-4181 - Mod. #1 (41 FR 40160 - November 12, 1976) Statewide, New Mexico	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LINE CONSTRUCTION (BERNALILLO CO.)					
Cable splicers	$ 9.65	.60	1%+.60		1/2%
Linemen-Technicians	9.00	.60	1%+.60		1/2%
Equipment operators	8.58	.60	1%+.60		1/2%
Equipment mechanics	7.88	.60	1%+.60		1/2%
Powdermen	7.88	.60	1%+.60		1/2%
Groundmen & Jackhammer operators:					
1st 6 months	4.88	.60	1%+.60		1/2%
2nd 6 months	5.51	.60	1%+.60		1/2%
Experienced	6.36	.60	1%+.60		1/2%
LINE CONSTRUCTION (STATEWIDE EXCEPT BERNALILLO COUNTY):					
Cable splicers	10.51	.60	1%+.60		1/2%
Linemen-Technicians	9.82	.60	1%+.60		1/2%
Equipment operators	9.35	.60	1%+.60		1/2%
Equipment mechanics	8.58	.60	1%+.60		1/2%
Powderman	8.58	.60	1%+.60		1/2%
Groundman & Jackhammer operators:					
1st 6 months	5.31	.60	1%+.60		1/2%
2nd 6 months	5.99	.60	1%+.60		1/2%
Experienced	6.96	.60	1%+.60		1/2%

DECISION NO. NM77-4022 - Mod. #1 (42 FR 10243 - February 18, 1977) Statewide, New Mexico	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	$10.66	.50	1.17a		.06
ELECTRICIANS - ZONE IV					
4-A	9.70	.60	3%		.01
4-B	10.05	.60	3%		.01
4-C	10.20	.60	3%		.01
4-D	10.45	.60	3%		.01
CABLE SPLICERS - ZONE IV					
4-A	10.05	.60	3%		.01
4-B	10.40	.60	3%		.01
4-C	10.55	.60	3%		.01
4-D	10.80	.60	3%		.01
PLUMBERS-PIPEFITTERS:					
Residential	6.50	.63	.25		.12
LINE CONSTRUCTION:					
(Bernalillo County Only)					
Cable splicers	9.65	.60	1%+.60		1/2%
Linemen-Technicians	9.00	.60	1%+.60		1/2%
Equipment operators	8.58	.60	1%+.60		1/2%
Equipment mechanics	7.88	.60	1%+.60		1/2%
Powdermen	7.88	.60	1%+.60		1/2%
Groundman & Jackhammer operator					
1st 6 months	4.88	.60	1%+.60		1/2%
2nd 6 months	5.51	.60	1%+.60		1/2%
Experienced	6.36	.60	1%+.60		1/2%
LINE CONSTRUCTION:					
Statewide (Except Bernalillo Co.)					
Cable splicers	10.51	.60	1%+.60		1/2%
Linemen-Technicians	9.82	.60	1%+.60		1/2%
Equipment operators	9.35	.60	1%+.60		1/2%
Equipment mechanics	8.58	.60	1%+.60		1/2%
Powdermen	8.58	.60	1%+.60		1/2%
Groundmen & Jackhammer operator					
1st 6 months	5.31	.60	1%+.60		1/2%
2nd 6 months	5.99	.60	1%+.60		1/2%
Experienced	6.96	.60	1%+.60		1/2%

DECISION NO. NM77-4022 - Mod. #1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS ZONE III DEFINITION to Read "DeBaca, Guadalupe and Quay Counties"					
BRICKLAYERS - ZONE VIII	$ 7.765	.48			
ADD:					
BRICKLAYERS ZONE XI DEFINITION TO READ "Dona Ana County"					
Bricklayers XI	7.64	.48			
SPRINKLER FITTERS	11.01	.60	.90		.08
CHANGE:					
ELEVATOR CONSTRUCTORS:					
Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Union, Torrance and Valencia Counties:					
Elevator con structors	10.42	.545	.35	4%+a+b	.02
Elevator constructors helper	70%JR	.545	.35	4%+a+b	.02
Elevator constructors prob.	50%JR				

DECISION #ND77-5022 - Mod. #1
(42 FR 10255 - February 11, 1977)
Burleigh, Cass, Grand Forks, Morton, Richland, Stemle, Walsh and Ward Counties, North Dakota

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
ELECTRICIANS:					
Burleigh, Morton and Ward Cos.					
Zone mileage from main P. O. in the Cities of Minot, Bismarck and Mandan					
Zone (A) within 0-25 miles of each main P.O.					
Electricians	$9.25	.40	1%	6%	1½%
Cable Splicers	9.65	.40	1%	6%	1½%
Zone (B) Over 25 miles from main P.O.					
Electricians	11.00	.40	1%	6%	1½%
Cable Splicers	11.40	.40	1%	6%	1½%
BRICKLAYERS; Stonemasons:					
Burleigh and Morton Counties	9.00		.15		

DECISION NO. OH77-2005 - Mod. #2
(42 FR 4093 - January 21, 1977)
Clark, Franklin, Greene, Lawrence, Licking, Madison, Montgomery, Muskingum, Pickaway, Pike, Ross, & Scioto Counties, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Franklin, Madison, & Pickaway Cos.:					
Brush; Paperhanger; Roller & Wall washing	$9.45	.55	.55		
Spray	9.95	.55	.55		
Structural steel; & swing stage	9.75	.55	.55		
Sandblasting; Steamcleaning; & Water tanks	10.15	.55	.55		
Drywall tapers & finishers	9.85	.55	.55		

DECISION NO. OK76-4139 - Mod. #4
(41 FR 32184 - July 30, 1976)
Muskogee, Adair and Cherokee Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CEMENT MASONS:					
Cement masons	$8.55				
Power tool operators	8.80				

DECISION NO. OK77-4002 - Mod. #3
(42 FR 3155 - January 14, 1977)
Oklahoma, Cleveland, Caddo, Grady, Canadian, Kingfisher, Logan, Lincoln, McClain, Seminole and Pottawatomie Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LATHERS	$9.00				
BRICKLAYERS-STONEMASONS:					
Kingfisher County	8.45				
Logan County	8.90	.45	.50		.05
CARPENTERS - ZONE I					
Carpenters	7.95	.35	.25		.05
Power Saw Operator	8.20	.35	.25		.05
CARPENTERS - ZONE IV					
Carpenters	7.85	.30	.25		.02
Millwrights-Piledrivermen	8.675	.30	.25		.02
BRICKLAYERS-STONEMASONS:					
Lincoln, Pottawatomie and Seminole Counties	9.25	.45	.30		

DECISION NO. OR77-5007 - Mod. #1
(42 FR 890 - February 11, 1977)
Statewide, Oregon

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Line Construction:					
(All Counties except Malheur)					
Cable Splicers, Leadman Pole Sprayer	$12.23	.35	1%	.10	1/2%
Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	11.04	.35	1%	.10	1/2%
Tree Trimmer	9.97	.35	1%	.10	1/2%
Line Equipment Man	9.52	.35	1%	.10	1/2%
Head Groundman (chipper), Head Groundman, Powderman, Jackhammer Man	8.31	.35	1%	.10	1/2%
Groundman, Tree Trimmer Helper	7.83	.35	1%	.10	1/2%

ZONE PAY

Each classification will receive the base rate plus: Zone A - $1.25, Zone B - $2.00, Zone C - $2.75, Zone D - $4.00

BASE ZONE - 0 to 3 miles radius from geographical center of towns listed below

ZONE A - 3 to 20 miles radius from geographical center of towns listed below.

ZONE B - 20 to 35 miles radius from geographical center of towns listed below.

ZONE C - 35 to 50 miles radius from geographical center of towns listed below.

ZONE D - In excess of 50 miles

Base hourly rate will be paid to all men working out of employers' permanent shop.

OREGON		WASHINGTON	
Astoria	Portland	Bellingham	Spokane
Baker	Pendleton	Ellensburg	Tacoma
Burns	Salem	Ephrata	Walla Walla
Bend	Roseburg	Everett	Wenatchee
Eugene	The Dalles	Kennewick	Yakima
Klamath Falls	Umatilla	Longview	Wilbur
Lakeview	Corvallis	Olympia	Bellingham
Medford		Seattle	

MODIFICATIONS P. 23

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3206 - Mod. # 6 (41 FR 26579 - June 25, 1976) Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington & Westmoreland Counties, Pennsylvania					
Change:					
Bricklayers & Stonemasons:					
Zone 10	$10.48	.60	1.15		
Plumbers:					
Zone 4	10.40	.73	.87		.21
Steamfitters:					
Zones 2& 5	10.40	.73	.87		.21
DECISION #PA76-3211 - Mod. # 4 (41 FR 32091 - July 30, 1976) Greene, Somerset & Potter Counties, Pennsylvania					
Change:					
Plumbers & Steamfitters:					
Zone 1	10.40	.73	.87		.21
DECISION #PA76-3250 - Mod. # 3 (41 FR 42131 - September 24, 1976) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, Pennsylvania					
Change:					
Plumbers & Steamfitters:					
Zone 4	10.40	.73	.87		.21

MODIFICATIONS P. 24

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA76-3251 - Mod. # 4 (41 FR 42143 - Sept. 24, 1976) Elk, Forest, McKean & Warren Counties, Pennsylvania					
Change:					
Plumbers & Steamfitters:					
Zone 1	$10.40	.73	.87		.21
DECISION #PA76-3165 - Mod. # 1 (41 FR 18274 - April 30, 1976) Blair County, Pennsylvania					
Change:					
Plumbers & Pipefitters	$10.40	.73	.87		.21
Decision # NC77-1019 - Mod. # 1 (42 FR-8990 - February 11, 1977) Chester, Fairfield, and Lancaster Counties, South Carolina					
Change:					
Decision No. to SC77-1019					

MODIFICATIONS P. 25

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4118 - Mod. #5 (41 FR 29605 - July 16, 1976) Ector & Midland Counties, Texas					
Change:					
Electricians:					
Zone 1	$ 9.05	.60	1%		1/10%
Zone 2	9.35	.60	1%		1/10%
Painters:					
Brush	6.55	.30	.20		.04
Spray	7.30	.30	.20		.04
Tape & bed	6.673	.30	.20		.04
DECISION #TX76-4192 - Mod. #2 (41 FR 55289 - December 17, 1976) Jefferson & Orange Cos., Texas					
Change:					
Electricians	11.40	.40	1%+.70$		.06
Line Construction:					
Lineman	11.685	.40	1%		1/2%
Groundman	8.53	.40	1%		1/2%
DECISION #TX76-4193 - Mod. #2 (41 FR 56594 - December 28, 1976) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Line Construction:					
Lineman	10.75	.40	1%		1/2%
Cable splicer	10.875	.40	1%		1/2%
Groundman (last year)	5.38	.40	1%		1/2%
Groundman	5.91	.40	1%		1/2%

MODIFICATIONS P. 26

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4194 - Mod. #3 (41 FR 56596 - December 28, 1976) El Paso County, Texas					
Change:					
Asbestos workers	$ 8.11	.50	1.17		.03
Bricklayers; Blocklayers; Rock masons; Stonemasons	7.16	.57	.20		.05
Marble masons	6.40	.57	.20		.05
Terrazzo workers	6.40	.57	.20		.05
Terrazzo workers' helpers	4.43	.57	.20		
Tile setters	6.40	.57	.20		.05
Tile setters' helpers	4.43	.57	.20		
DECISION #TX76-4196 - Mod. #1 (41 FR 56601 - December 28, 1976 Harrison County, Texas					
Change:					
Electricians:					
Electricians	8.60	.60	1%		1/4%
Cable splicers	9.00	.60	1%		1/4%
DECISION #TX76-4197 - Mod. #3 (41 FR 56602 - December 28, 1976) Lubbock County, Texas					
Change:					
Painters:					
Brush	6.55	.30	.20		.04
Spray	7.30	.30	.20		.04

DECISION #DC76-3284 - Mod. # 4 (41 FR 51368 - November 19, 1976) Washington, D. C.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Building and Heavy Construction, (Including WMATA)					
Mosaic Workers	$10.68	.60	.40		
DEMOLITION					
(Excluding - WMATA - Rapid Rail Transit System Projects)					
Laborers	6.40	.35	.40		.05
Burners	6.90	.35	.40		.05

SUPERSEDEAS DECISION

STATE: Alabama COUNTIES: *See below
DECISION NO.: AL77-1025 DATE: Date of Publication
Supersedes Decision No.: AL76-1134 dated December 3, 1976 in 41 FR-53239
DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories)

*Counties: Lawrence, Limestone, Morgan

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	7.71	.30	.20		.05
Bricklayers:					
Bricklayers, Marble masons, Stonemasons, Pointers, Cleaners, & Caulkers	9.80				
Carpenters:					
Carpenters, & Soft floor layers	6.95	.30	.20		.03
Millwrights	7.54	.30	.20		.03
Piledrivermen	7.36	.30	.20		.03
Cement masons	8.65				
Electricians:					
Electricians, linemen	9.55	.40	1%+.30		1%
Cable splicers	9.80	.40	1%+.30		1%
Groundmen	8.55	.40	1%+.30		1%
Elevator Constructors	8.02	.445	.29	3%+a+b	.02
Elevator Constructors' helpers	70%JR	.445	.29	3%+a+b	.02
Elevator Constructors' helpers (prob.)	50%JR				
Ironworkers:					
Ornamental, reinforcing, structural	8.405	.40	.35		.03
Laborers (Lawrence County):					
Laborers, mason tenders, plasterers' tenders	5.15	.30	.30		
Air tool operator (jackhammer, vibrator), mortar mixers, pipelayers	5.35	.20	.30		
Laborers (Limestone & Morgan Counties):					
Laborers, mason tenders	4.72	.25	.40		
Air tool operator (jackhammer, vibrator), mortar mixers	4.97	.25	.40		
Plasterers & Troweling machine operator	8.30				
Plumbers, pipefitters, steamfitters:					
Lawrence Co. (Eastern portion of Co., north from intersection of State Rt. 33 & Rt. 20 to Wheeler Lake including Moulton & Wren, excluding Bankhead National Park), Limestone Co. & Morgan Co.	9.45	.45	.50	.25	.10

AL77-1025 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers, steamfitters:					
Lawrence Co., (Remaining portion)	7.40	.35	.35	.45	.08
Roofers	6.45		.20		.05
Sheet metal workers	9.75	.65	.70		.05
Terrazzo workers & tile setters	8.55				
Truck Drivers:					
½ up to but not including 3 tons	3.70				
3 to 5 tons but including 5 tons	3.97				
5 tons and over including special equipment such as Euclids, dempster, dumpsters, winch trucks, trailers, etc.	4.37				
Mechanic	4.37				
Warehouse & yard, material handler	3.92				
Scale man and/or weigher	4.07				

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

FOOTNOTES:
a. 6 paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business less than 5 years.

AL77-1025 - (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	8.78	.30	.30		
GROUP B	7.44	.30	.30		
GROUP C	6.73	.30	.30		

GROUP A - Backhoe, bulldozer, crane, crane car, central mixing plant, concrete pump, derrick, dragline, dredge, drill, elevating grader, finishing machine (concrete), forklift, front end loader, gradall, grout pump, helicopter pilot, hoist, locomotive engineer, mechanic, motor patrol, mucking machine, piledriver, post hole digger, scraper (pull type & self prop.) shovel, sweeper, tractor (spec. equip.), trenching machine, well point & winch truck operators

GROUP B - Bituminous dist., central air comp., concrete mixer (port.) fireman floating equip., front end loader, rubber tire, ½ cu. yd. & under, locomotive brakeman, locomotive flagman, locomotive switchman, oiler-driver (15 ton crane & over outboard motor boat (when used for towing), paving machine, portable hoist "Buck hoist type", post hole digger mounted on farm type tractor & walk behind type trenching machine operators

GROUP C - Air compressor (port.) conveyor, fireman stationary equip., mechanic helper, oiler, outboard motor boat & pump operators

Oiler driver - additional $.10 per hour

All cranes, derricks & gantry operators operating such equipment with an overall height of 150', including jibs; all scraper operators - additional $.25 per hour.

SUPERSEDEAS DECISION

STATE: Hawaii COUNTIES: Statewide
DECISION NUMBER: HI77-5030 DATE: Date of Publication
Supersedes Decision No. HI77-5010 dated February 4, 1977 in 42 FR 7042.
DESCRIPTION OF WORK: Building (including single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$9.03	.58	$1.40		.05
BOILERMAKERS	9.73	.65	1.00		.03
BRICKLAYERS; Stonemasons	7.45	.65	.75		.10
CARPENTERS:					
Carpenters; Hardwood floorlayers; Patent scaffold erectors; Pneumatic nailer; Shinglers	8.64	.62	1.40	.85	.06
Millwrights	8.89	.62	1.40	.85	.06
Power saw operator (2 HP and above)	8.79	.62	1.40	.85	.06
CEMENT MASONS:					
Cement masons	8.10	.85	1.00	.30	.10
Trowel machine operators	8.25	.85	1.00	.30	.10
DINETTE INSTALLERS	6.45	.50	.40	b	
DRYWALL APPLICATOR	8.64	.62	1.40	.85	.06
ELECTRICIANS:					
Electricians; Linemen	10.04	.67	1.74+13%	11.2%	.20
Technicians	10.34	.67	1.74+13%	11.2%	.20
Line equipment men	9.04	.67	1.74+13%	11.2%	.20
Groundmen	7.53	.67	1.74+13%	11.2%	.20
Cable splicers	11.04	.67	1.74+13%	11.2%	.20
ELEVATOR CONSTRUCTORS	10.68	.495	.32	3% + a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	3% + a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
FENCE ERECTORS (Chain Link)	4.70	.19	.24	.10	.04
GLAZIERS	9.64	.96	.85	.97	.12
IRONWORKERS:					
Bridge; Ornamental; Reinforcing; Structural	10.15	.85	1.27	.95	.10
LATHERS	10.09	.85	1.25		.16
LINE CONSTRUCTION WORKERS:					
Electricians; Linemen	10.04	.67	1.74+13%	11.2%	.20
Technicians	10.34	.67	1.74+13%	11.2%	.20
Line equipment men	9.04	.67	1.74+13%	11.2%	.20
Groundmen	7.53	.67	1.74+13%	11.2%	.20
Cable splicers	11.04	.67	1.74+13%	11.2%	.20

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	7.45	.65	.75		.10
PAINTERS:					
Brush	9.00	.68	2.00	.10	
Tapers	9.20	.68	2.00	.10	
Spray	9.30	.68	2.00	.10	
PLASTERERS	8.95	.85	1.00	.15	.16
PLASTERERS' HOD CARRIERS:					
Hod carriers	7.06	.59	.76	.33	.13
Mortar mixers	7.26	.59	.76	.33	.13
PLUMBERS; Steamfitters	9.80	1.09	1.70	1.25	.20
ROOFERS	9.15	.80	.50		.10
SHEET METAL WORKERS	10.05	.76	1.82+.40	.88	.32
SOFT FLOOR LAYERS	10.29	.60	.50	.15	.12
SPRINKLER FITTERS	11.26	.60	.90		.08
TERRAZZO WORKERS:					
Terrazzo workers and tile setters	7.45	.65	.75		.10
Terrazzo base grinder	7.19	.65	.75		.10
Terrazzo and tile helpers	6.14	.65	.75		.10
TRUCK DRIVERS:					
Flatbed	7.93	.61	.70		
Dump, 8 yds. and under; Water truck (up to and including 2000 gals.)	8.20	.65	.70		
Water truck (over 2000 gals.)	8.51	.65	.70		
Tandem, Semi-trailer or Semi-dump	9.16	.65	.70		
Slip-in or pump	9.48	.65	.70		
End dumps, unlicensed (Euclid, Mack, Caterpillar or similar); Tractor trailer (hauling equipment)	9.59	.65	.70		

RIGGERS; WELDERS: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.

FOOTNOTE:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

b. Seven Paid Holidays: A through G. A-New Year's Day; B-Memorial Day; C-Kamehameha Day; D-Fourth of July; E-Labor Day; F-Thanksgiving Day; G-Christmas Day. In order to be eligible for a Paid Holiday, employees must work the last working day before the holiday and the first working day following the holiday. If the employee did not work either of these two day due to illness or layoff, he shall be entitled to holiday pay. In case of illness, the Company may require proof of illness.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DREDGING:					
Hydraulic suction dredges; Clamshell dredges; Boat operators; Derricks:					
Leverman	$ 10.04	.65	$ 1.70	.70	.15
Operators (Derricks, Pile-drivers and Cranes)	10.29	.65	1.70	.70	.15
Assistant Engineer (steam or electric)	9.68	.65	1.70	.70	.15
Welder	9.68	.65	1.70	.70	.15
Boat Operator	9.74	.65	1.70	.70	.15
Deckmate; Barge Mate (seagoing)	9.23	.65	1.70	.70	.15
Winchman (stern winch on dredge)	8.91	.65	1.70	.70	.15
Fireman	7.95	.65	1.70	.70	.15
Oiler; Deckhand (can operate anchor scow under direction of deckmate)	7.68	.65	1.70	.70	.15
Boat Deckhand	7.13	.65	1.70	.70	.15
Leverman; Bargeman	7.51	.65	1.70	.70	.15
Master Boat Operator	10.04	.65	1.70	.70	.15

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Group 1	$ 7.61	.64	$1.06	.38	.13
Group 1-a	8.11	.64	1.06	.38	.13
Group 1-b	8.31	.64	1.06	.38	.13
Group 1-c	8.36	.64	1.06	.38	.13
Group 1-d	8.36	.64	1.06	.38	.13
Group 1-e	6.00	.64	.10	.38	
Group 2	7.86	.64	1.06	.38	.13
Group 3	8.06	.64	1.06	.38	.13
POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)					
Group 1	7.40	.65	1.70	.70	.15
Group 2	7.51	.65	1.70	.70	.15
Group 3	7.68	.65	1.70	.70	.15
Group 4	7.95	.65	1.70	.70	.15
Group 5	8.26	.65	1.70	.70	.15
Group 6	8.91	.65	1.70	.70	.15
Group 7	9.23	.65	1.70	.70	.15
Group 8	9.34	.65	1.70	.70	.15
Group 9	9.45	.65	1.70	.70	.15
Group 9-A	9.68	.65	1.70	.70	.15
Group 10	9.74	.65	1.70	.70	.15
Group 10-A	9.89	.65	1.70	.70	.15
Group 11	10.04	.65	1.70	.70	.15
Group 12	10.40	.65	1.70	.70	.15
Asphalt Paving Group:					
Asphalt Raker	7.95	.65	1.70	a	
Asphalt Roller	8.91	.65	1.70	a	
Asphalt Spreader	9.23	.65	1.70	a	

FOOTNOTE:

a. An employee who has completed two to five years service shall receive a vacation of one week with pay; each additional year an additional one day vacation with pay; ten or more years, a vacation of two weeks each year; for each year of completed service thereafter to and including fifteen years service, an addition of one day vacation with pay; fifteen or more years of service, a vacation of three weeks each year with pay.

LABORERS

Group 1: All clean-up work of debris, grounds and buildings; Bridge Laborers; Construction Laborers; Dumpman; General Laborers; Limbers, Brush Loaders and Pilers; Maintenance, repair (track and roadbeds)

Group 1-a: Mason Tenders

Group 1-b: High Scaler

Group 1-c: Gunnite Operator

Group 1-d: Powderman

Group 1-e: Landscape and Irrigation Laborers

Group 2: Asphalt Shovelers; Cement Dumpers; Choker Setter and Rigger (clearing work); Concrete Chipping; Driller's Helper; Chuck Tender; Outside Nipper; Guinea Chaser (Stakeman); High Pressure Nozzleman-hydraulic monitor (over 100# pressure) excluding levee work; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; Sloper; All pneumatic, gas and electric tools not listed in Group 1

Group 3: Asphalt Ironers and Rakers; Barko and similar type tampers; Buggymobile; Chainsaw, Faller, Logloader and Bucker; Concrete Laborers (wet or dry) including Bucket Tender for concrete; Concrete and Magnesite Mixer under 1/2 yard; Concrete Grinder; Concrete Pan Work; Concrete Saw (walking or hand type); Cribbers; Cut Granite Curb Setters; Form Raisers; Header Board; Mortar Mixers (block-brick-masonry); Jackhammer Operator; Jackson and similar type Compactors; Lagging, Sheeting, Whaling, Bracing, Trench-jacking, Hand-guided Lagging Hammer; Magnesite and Mastic workers (wet or dry); Mechanical Drillers not covered elsewhere; Pavement Breakers; Pipelayers, Caulkers, Bander; Pipewrappers, Kettlemen, Potmen and men applying asphalt, Lay-Kold, Creosote and similar type materials; Post Hole Diggers (hand held - gas, air and electric); Riprap, Stonepaver and Rockslinger, including placing of sacked concrete (wet or dry); Rotary Scarifier; Roto-tiller; Sandblasters; Tank Cleaners; Tree Climbers; Vibra-screed (bull float in connection with Laborers' work); Vibrator, Burning, Welding, Signaling and Rigging in connection with Laborers' work; Concrete Pump Machine; Joy Drill Model TWM-2A, Gardner, Denver DH-143 and similar type drills; Track Drillers, Diamond Core, Wagon Drillers and Davis Trencher T-66 or similar types

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Partsman (heavy duty shop parts room when needed); Repairman Helper

Group 2: Compressor, electrically, diesel or gas powered etc.; Hydraulic Monitor; Material Loader and/or Conveyor Operator (handling building material); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screeds); Tar Pot Fireman (power agitated)

Group 3: Oiler; Fireman; Switchman; Brakeman; Deckhand; Tar Pot Fireman; Box Operator (bunker); Locomotive (up to and including 30 tons); Roller (5 tons and under); Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Tugger Hoist, single drum

Group 4: Boom Truck or Dual Purpose "A" Frame Truck; Fork Lift or Lumber Stacker (construction job site); Material Hoist (1 drum); Straddle Truck; Ross Carrier and similar (jobsite); Dinky Operator

Group 5: Concrete Mixer (up to 2 yards); Concrete Pumps or Pumpcrete Guns; Generators, gasoline or diesel driven (100 K.W.); Lubrication and Service Engineer (mobile and grease rack); Towermobile; Welding Machine (gasoline or diesel); Agri-cat (Mini Cat)

Group 6: Combination Loader and Backhoe including Hopto (up to and including 1/2 yard); Concrete Batch Plants (wet or dry); Concrete Saws and/or Grinder (self-propelled unit on streets, highways, airports and canals); Drilling Machinery (not to apply to waterliners, wagon drills or jackhammers); Highline Cable-way Signalman; Loader (up to and including 2½ cu. yds.); Lull High Lift; Pavement Breaker; Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mechanical Finishers (concrete) (large Clary, Johnson Bidwell Bridge Deck or similar types); Mobile Crane Driver; Portable Crushers; Power Jumbo Operator (setting slip forms, etc. in tunnels); Rollers (over 5 tons); Self-propelled Compactor (single engine); Small Rubber-tired Tractors; Trencher (up to and including 6'); Slip Form Pumps (power driven hydraulic, electric, gas, etc., lifting device for concrete forms

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 7: Crusher Plant; Dual Drum Mixer; Gradesetter; Hoist (2 drums); Loader (over 2½ cu. yds. up to and including 5 cu. yds.); Mechanical Finishers or Spreader Machine, Asphalt (Barber Greene and similar) (Screedman required); Mine or Shaft Hoist; Pavement Breaker, Truck mounted, with Compressor combination; Pavement Breaker with Compressor Combination (operates 1 or 2); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Pipe Bending Machine (pipe lines only); Self-propelled Elevating Grader Plane; Slusher Operator; Trencher (over 6 '); Water Tanker (pulled by Euclid, T-Pulls DW-10, 20, 21 or similar); Mixermobile (over 5 tons); Small Tractor (with boom D-6 or similar)

Group 8: Boring Machine; Cast-in-place Pipe Laying Machine; Concrete Batch-Plant (multiple units); Combination Loader and Hydraulic Backhoe (over 1/2 yd. to and including 3/4 yd.); Conveyor (tunnel); Engineer, Locomotive (over 30 tons up to and including 100 tons); Finishing Machine Operator (airports and highways); Hydraulic Backhoe (over 1/2 yard to and including 3/4 yard); Kolman Loader; Mechanic Trench Shield; Mucking Machine; No-joint Pipe Laying Machine; Portable Crushing and Screening Plants; Saurman type Dragline (under 5 yards); Self-propelled Boom type Lifting Device; Stationary Pipe Wrapping, Cleaning and Bending Machine; Surface Heater and Planer; Tunnel Badger; Tri-batch Paver

Group 9: Boom type Backfilling Machine; Combination Mixer and Compressor (gunite); Do-more Loader and Adams Elegrader; Lull Hi-lift (40' or over); Rubber-tired Earthmoving Equipment (up to 12 cu. yds.); Wheel Trencher (over 6')

Group 9-A: Dozers; Heavy Duty Repairman or Welder; Push Cats; Scrapers; Self-propelled Compactor with dozer; Sheep Foot; Tractors; Tractors (with boom, larger than D-6 and similar)

Group 10: Chicago Boom; Hoist (3 drums); Koehring Skooper; Loader (over 5 yards up to and including 12 yards); Locomotive (over 100 tons) (single or multiple units); Power Blade Operator; Rubber-tired Earthmoving Equipment (up to and including 35 cu. yds., Euclid, T-Pulls, DW-10, 20, 21 and similar); Saurman type Dragline (5 yards or over); Soil Stabilizer (P & H equal); Sub-grader (Gurries or other automatic type); Track-laying type Earthmoving Machine (single engine with tandem scraper); Tractor, Compressor, Drill Combination; Tractor (tandem scraper); Tractors (D-9 or equivalent)

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 10-A: Cranes (not over 25 tons); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (up to and including 1 cu. yds.)

Group 11: Automatic Skip Form Paver (concrete or asphalt) (Gradesetter, Screedman required); Cranes (over 25 tons); DW-10, 20, etc. (Tandem); Earthmoving Machine (multiple propulsion power units and two or more scrapers) (up to and including 35 cu. yds. struck "MRC"); Highline Cableway; Lift Slab Machine; Loader (over 12 yards); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 yard and up to 7 yards); Power Blade Operator (16 or over); Prea-stress Wire Wrapping Machine; Self-propelled Compactor (with multiple propulsion power units); Single Engine Rubber Tired Earth Moving Machine (with tandem scraper); Tandem Cats; Tower Cranes, Mobile; Trencher (pulling attached shield); Universal, Liebher, Linden and similar types of tower cranes; Wheel Excavator (up to and including 750 cu. yds. per hour)

Group 12: Band Wagon (in conjunction with wheel excavator); Derricks; Drill Rigs; Multi-propulsion Earth Moving Machines (2 or more scrapers) (over 35 cu. yds. "struck" MRC); Power Shovels and Draglines (7 cu. yds. and over); Rubber-tired Earthmoving Equipment (over 35 cu. yds. Euclids, T-Pulls, DW-10, 20, 21 and similar); Wheel Excavator (over 750 cu. yds.)

SUPERSEDEAS DECISION

STATE: ILLINOIS
DECISION NUMBER: IL77-2030
COUNTIES: See Below
DATE: Date of Publication
Supersedes Decision No. IL76-2108, dated August 27, 1976 in 41 FR 36361
DESCRIPTION OF WORK: BUILDING Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTIES: Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawrence, Richland, Wabash & Wayne

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fayette County	$ 12.18	.45	.62		
Clark, Douglas & Edgar Counties	11.43	.50	.35		.05
Remainder of Counties	10.70	.45	.40		.03
BOILERMAKERS	10.90	.65	1.20		.03
BRICKLAYERS					
Fayette County:					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers-Caulkers-Cleaners-Marble-Tile-Terrazzo Workers	10.70	.35	.50		
Coles & Cumberland Cos; Arcola & South Thereof in Douglas County:					
Bricklayers & Stonemasons	9.65	.30			
Edgar Co; & North of Arcola in Douglas County:					
Bricklayers & Stonemasons	10.62	.35			.03
Remainder of Counties:					
Bricklayers, Stonemasons, Blocklayers, Pointer-Caulker, Cleaners-Marble-Tile-Terrazzo Workers	10.35				
CARPENTERS:					
Fayette County:					
Carpenters, Piledrivermen & Soft Floor Layers	8.77	.45	.25		.02
Millwrights	9.11	.45	.25		.02
Crawford & Lawrence Cos; Eastern ½ of Jasper County:					
Carpenters & Soft Floor Layers	9.24	.50	.40		
Millwrights & Piledrivermen	9.64	.50	.40		
Wayne Co.; Northeastern & Western ½ of Edwards County:					
Carpenters, Piledrivermen & Soft Floor Layers	8.76	.45	.50		.02
Millwrights	9.11	.45	.50		.02
Clay, Richland & Wabash Cos; Southeastern part of Edwards County:					
Carpenters, Piledrivermen & Soft Floor Layers	8.76	.45	.50		.02
Millwrights	9.11	.45	.50		.02

DECISION NO. IL77-2030

CARPENTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Coles, Clark, Cumberland, Edgar, Effingham Cos; Western ½ of Jasper Co., & Southern part of Douglas County:					
Carpenters & Soft Floor Layers	$10.55	.45	.30		.07
Millwrights & Piledrivermen	11.05	.45	.30		.07
Northern part of Douglas Co., including Tuscola & Newman:					
Carpenters & Soft Floor Layers	10.315	.35	.80		.08
Millwrights & Piledrivermen	10.815	.35	.80		.08
CEMENT MASONS & PLASTERERS					
Northern Part of Fayette Co.					
Cement Masons & Plasterers	9.65	.30	.35		.02
Eastern Part of Fayette Co.					
Cement Masons	8.40				
Clark, Edgar & Richland Cos:					
Cement Masons & Plasterers	9.50			.50	.01
Crawford, Lawrence & Wabash Cos:					
Cement Masons & Plasterers	8.90		.60	.50	
Clay, Edwards & Jasper Cos; & Remainder of Wayne County:					
Cement Masons & Plasterers	10.50				
Coles, Cumberland & Effingham Cos; & Southern part of Douglas County:					
Cement Masons	9.35				
Plasterers	8.85				.01
Northern part of Douglas County including Tuscola & Newman:					
Cement Masons	10.975	.35	.25		.025
Plasterers	10.365	.35			.025
S.W. Corner of Wayne County:					
Cement Mason & Plasterers	8.15				
ELECTRICIANS:					
Wabash County	11.15	.40	10		00
Coles & Cumberland Cos; Southern ½ of Douglas Co; Twps.of Bishop, Douglas, Lucas, Moccasin, St. Francis, Summit and Teutopols in Effingham County	9.90	.40	10+.20		.2%
Edwards, Wayne & Clay Cos; & Remainder of Effingham & Fayette Counties	11.20	.40	11%		1%

DECISION NO. I177-2030

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Northern ½ of Douglas County	$11.10	.40	10+.30		.3%
Twps. of Banner & Liberty in Effingham Co; Twps. of Hurrican, S. Hurricane, Ramsey, Bowling Green, Carson & Loudon in Fayette County	11.00	.40	10+.35		.35%
Remainder of Counties	11.00	.40	10+.50		.01
GLAZIERS:					
Fayette County	9.985	.45	.30		
Coles & Douglas	8.80	.25	.15		
Calrk & Edgar Counties	10.84				
Edwards, Lawrence, Wabash & Wayne Counties	9.305	.48	.50	.25	
IRONWORKERS:					
Coles, Cumberland, Douglas & Edgar Counties	10.05	.50	1.00		.08
Avena & North thereof in Fayette County & Remainder of Effingham County	10.35	.55	.75		.05
Fayette Co., (Southern ½ below Brownstown	11.00	.55	.75		
Clark, Jasper, Crawford Cos; Northern ½ of Lawrence Co., North of Olney in Richland Co., Dexter & East thereof in Effingham Co; Remainder of Clay County	10.15	.75	1.70		.10
Wabash, Wayne, Edwards Cos; Louisville & South thereof in Clay Co; Olney & South thereof in Richland Co; Southern ½ of Lawrence Co., including Lawrenceville	8.15	.25	.25		
LABORERS:	7.75	.30	.30		.035
Fayette County					
Coles & Cumberland Counties:					
Unskilled	8.70	.55	.40		.035
Semi-Skilled	8.90	.55	.40		.035
Skilled	9.05	.55	.40		.035

DECISION NO. IL77-2030

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Clark, Douglas & Edgar Counties:					
Unskilled	$8.72	.45	.48		.035
Semi-Skilled	8.92	.45	.48		.035
Skilled	9.07	.45	.48		.035
Remainder of Counties	7.75		.30		.035
LATHERS:					
Richland County	11.585			.65	.01
Fayette County	9.90				
Effingham County	9.95				
Coles, Crawford, Douglas & Edgar	10.14	.35	.20		.01
PAINTERS:					
Fayette County:					
Commercial	10.14	.45	.15		
Industrial	10.39	.45	.15		
Crawford County	8.05	.45			
Edgar & Clark Counties:					
Commercial & Industrial	6.15				
Edwards & Wayne Counties:					
Brush & Roller	6.65				
Clay County:					
Brush	8.00				
Roller	9.25				
Wabash County:					
Brush	7.75				
Roller	8.00				
Lawrence & Richland Counties:					
Brush	7.55				
Spray	8.55				
Remainder of Counties	9.97	.45	.40		.03
PLUMBERS & STEAMFITTERS:					
Clay & Fayette Counties	12.00	1.20	1.05		.15
Edwards & Wabash Counties	11.705	.50	.80		.06
Lawrence & Wayne Counties	11.80	.50	.55		.08
Clark, Crawford, Edgar & Richland Counties	11.25	.40	.80		.10
Remainder of Counties	9.75	.35	.80		.12

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ROOFERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fayette County:					
Roofers	$ 8.65	.47	.45	1.00	.03
Kettlemen	6.45	.47	.45	1.00	.03
Edwards & Wabash Counties	9.23	.50	.40		
Richland & Wayne Counties	7.85				
Caly, Effingham & Jasper Cos:					
Roofers	10.43	.30	.20		
Helpers	60%JR				
Coles, Cumberland & Douglas Cos:					
Roofers	10.90	.55	.30		.03
Helpers	80%JR				
Remainder of Counties	9.35	.40	.20		
SHEET METAL WORKERS:					
Crawford County	8.90	.31	.45		.02
Clark, Coles, Cumberland, Edgar & Douglas Counties	10.99	.45	.35		.12
Remainder of Counties	10.68	.25	.25	6%	.02
SPRINKLER FITTERS	11.40	.60	.90		.08

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

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ILL-2-PEO-1-2-3

POWER EQUIPMENT OPERATORS: FAYETTE COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 11.08	.42	.90		.05
GROUP II	10.25	.42	.90		.05
GROUP III	9.60	.42	.90		.05
GROUP IV	9.50	.42	.90		.05
GROUP V	9.25	.42	.90		.05
GROUP VI					
a.	13.23	.42	.80		.08
b.	13.53	.42	.90		.05
c.	11.35	.42	.80		.08
d.	11.85	.42	.90		.05

GROUP I Cranes, draglines, shovles, skimmer scoopes, clamshells or derrick boats, pile drivers, crane-type backhoes, asphalt plant opers. plant opers., ditching machines or backfiller (requiring oilers), dredge, asphalt spreading machines, heavy dury mechanic, ass't. master mechanic, all locomotives, cablways or tower machines, hoists 2 drum or more (where oiler or fireman is required), hoists-2 drum or more *where oiler or ifrement is not required)) Hydraulic backhoes, ditching machines or backfiller (not concrete pavers, excavators, concrete breakers, concrete pumps, bulk cement plants, cement pumps, derrick-type drills, mixers (over 3 bags) and broad oprs., (25' & over), Motor graders or pushcats, scoops or tournapulls, Bulldozers, endloaders or fork-lifts, power blade or elevating graders, winch cats, boom tractors, and pipe wrapping or painting machines, Drills (other than derrick type) 1-drum-hoists, mud jacks, mixers (2 or 3 bags), conveyors (2), air compressors (2), water pumps regardless of size (2), welding machines (2) siphons or jet (2), winch heads or apparatuses (2) and light plants (2), Mixers (under 2 bags), all tractors regardless of size (Straight tractor only), firemen on stationary boilers, automatic elevators, form grading machines, finishing machines, power-sub-grader or ribbon machine, longitudinal, flats, boats opers., (under 25', conveyors (1), distribution oprs., on trucks, siphons or jets (1) winch heads or apparatuses (1), light plant (1) mixers (under 2 bags)

GROUP II Air Compressor (1), water pumps regardless of size (1) welding machines (1)

GROUP III Firemen and asphalt spreader oiler

GROUP IV Heavy equipment oilers (trucks cranes, dredges, monigans, large cranes, etc.

GROUP V Oilers

GROUP VI
a. Engineers operating under air pressure
b. Engineers operating in air over 10 lbs. pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs. pressure

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ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS: Remainder of Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$11.00	.40	.75		.13
CLASS II	10.95	.40	.75		.13
CLASS III	10.75	.40	.75		.13
CLASS IV	7.25	.40	.75		.13

POWER EQUIPMENT OPERATORS:

CLASS I - Master Mechanic

CLASS II - Utility Operator

CLASS III - Power Cranes, Draglines, Derricks, Shovels, Gradalls, Mechanics, Concrete Mixers with skip, tournamixer, Two Drum Machine, One Drum Hoists with tower or Boom, cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, winch or Hydraulic Boom Truck, Truck Crane, Tournapull, Tractor Operating Scoops, Bulldozer, Push Tractor, asphalt Planer, Finishing Machine on Asphalt, Large rollers on Earth, Rollers on asphalt Mix, Ross Carriers or similar Machine Gravel, Processing Machine, Asphalt Plant Engineer, Paver Operator, Farm Tractor w/half yard Bucket and/or Backhoe Attachment, Dredging Equipment or Dredge engineer or Dredge Operator, Central Mix Plant Engineer. CMI or similar type machine, Concrete Pump, Truck or Skid Mounted, Tower Crane, Engine or Rock Crusher Plant, Concrete Plant engineer, Ditching Machine with dual attachment, Tractor Mounted Loaders, Cherry Picker, Hydro Crane, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machine, Back Filler, elevating Machine, Power Blade, Drilling Machines, incl. Well Testing, Caissons, shaft or any similar type drilling machines, Motor Driven Paint Machine, Pipe Cleaning Machine, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, (Head Equipment Greaser), Barber-Greene Loaders, Formless Paver, (Well Point System). Concrete Spreader, Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover, Helicopter Crew (3), Piledriver - Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine, Freezing Operator, Chair Cart - Self-Propelled, Hydra Seeder, Straw Blower, Power Sub Grader, Bull Float finishing Machine, Self-Propelled Pavement Breaker (Backhoe attached), Lull (or similar type machine), Two Air Compressors, Compressors hooked in Manifold, Overhead Crane chip Spreader, Mud Cat, Sull-Air

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POWER EUQIPMENT OPERATORS (CONT'D)

CLASS IV - Concrete Mixers without Skips, Rock Crusher, Ditching Machine under 6', curbing Machine, One Drum Machines without mower or Boom, Air Tugger, Self Propelled concrete Saw, Machine Mounted Post Hole Digger, ~~two to four Generators, Water Pumps, or Welding Machines, within 400~~ feet, Air Compressor 600 cu. ft. and under, Rollers on aggregate and Seal Coat Surfaces, Fork Lift, Concrete and Blacktop curb Machine, Farm Tractor with less than half yard Bucket, One Water Pump, Oilers, Air Valves or Steam Valves, One Welding Machine, Truck Jack, Mud Jack, Gunite Machine, House Elevators when used for hoisting Material, engine Tenders, Fireman, Wagon Drill, Flex Plane, conveyor, Siphons and Pulsometer, Switchman, Fireman on Pain Pots, Fireman on asphalt Plants, Distributor Operator on Trucks, Tampers, Self-Propelled Power Broom, Striping Machine (motor driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Deck hands, Truck Crane, Oiler Driver, Cement Blimps, Form Grader, Temporary Heat, Throttle Valve, Farm Tractor

DECISION NO. IL77-2030 ILL-82-YD 1-2-3

TRUCK DRIVERS	Basic Hourly Rates -	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 9.60	.5%	a14.00		
GROUP II	10.00	.5%	a14.00		
GROUP III	10.20	.5%	a14.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehousemen, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; fork lifts up to 6,000 lbs., capacity.

GROUP II: 9 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for tranportation purposes; fork lifts over 6,000 ob. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2,3 or 4 axle truck hauling 16 tons or more, drivers on oil distributors, water pulls, mechanim & working fureman; 5-axle or more combination units; dispatchers

FOOTNOTES:

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Kansas COUNTIES: Douglas, Jefferson, Leavenworth, Miami & Shawnee

DECISION NO.: KS77-4050 DATE: Date of Publication

Supersedes Decision No. KS76-4134, dated July 30, 1976 in 41 FR 32127

DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS and PILEDRIVERMEN:					
Zone 1	$8.1%	.3%	.2%		.0%
Zone 2	7.75	.35	.25		.05
Zone 3	10.20	.50	.30		.0%
Zone 4:					
Carpenters	8.9%	.50	.30		.05
Piledrivermen	10.20	.50	.30		.05
Zone 5	5.375	.275	.25		.05

AREAS COVERED BY CARPENTERS AND PILEDRIVERMEN ZONES

Zone 1 - Douglas and Shawnee Counties (Includes Forbes Air Force Base and within the City of Topeka and the City of Lawrence and with 3 miles of the city limits of these cities)
Zone 2 - Remainder of Douglas and Shawnee Counties
Zone 3 - Leavenworth County
Zone 4 - Miami County
Zone 5 - Jefferson County

CEMENT MASONS:					
Zone 1 - Leavenworth and Miami Counties	9.65%	.40	.50	1.2%	
Zone 3 - Douglas and Shawnee Co.	8.40	.35	.35		
Zone 3 - Jefferson County	8.4%	.40	.35		
ELECTRICIANS:					
Zone 1 - Leavenworth County (Delaware, High Prairie, Kickapoo and Leavenworth Townships)	11.72	.39	17+.31	.60	.06
Zone 2 - Douglas, Jefferson, Miami, Shawnee and the remainder of Leavenworth Counties	11.3%	.45	17+.3%		.0%
IRONWORKERS	9.60	.70	1.00	1.00	.05
LABORERS:					
Group 1					
Zone 1	5.60	.40	.35		.05
Zone 2	6.40	.40	.35		.05
Zone 3	6.45	.35	.35		.05
Zone 4	4.625	.35	.35		

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	Basic Hourly Rates.	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Group 2					
Zone 1	$5.75	.40	.35		.05
Zone 2	6.55	.40	.35		.05
Zone 3	6.60	.35	.35		.05
Zone 4	4.775	.35	.35		
Group 3					
Zone 1	5.85	.40	.35		.05
Zone 2	6.65	.40	.35		.05
Zone 3	6.70	.35	.35		.05
Zone 4	4.87%	.35	.35		
Group 4					
Zone 1	6.00	.40	.35		.05
Zone 2	6.80	.40	.35		.05
Zone 3	6.85	.35	.35		.05
Zone 4	5.02%	.35	.35		
Group 5					
Zone 1	6.10	.40	.35		.05
Zone 2	6.90	.40	.35		.05
Zone 3	6.95	.35	.35		.05
Zone 4	5.275	.35	.35		

CLASSIFICATION DEFINITIONS

Laborers:
Group 1 - Board mat weavers and cable tiers; georgia buggy (manually operated); mixerman-no skip lift; nailers; salamander tenders; track men; tractor swamper; truck dumper; wire mesh setter; water pump to to 4 inches; and all other general laborers including flagman
Group 2 - Air tool operators; cement handlers (bulk); chain saw; georgia buggy (mechanically operated); grade man; hot mastic kettlemen; crusher feeder; joint man; jute man; mason tender; material batch hopper and scale man; mixer man; pier hole man working 10 feet deep; pipelayer-drainage (concrete and/or corrugated metal); signal man (crane); truck dumper-dry batch; vibrator operator; wagon and churn drill operator
Group 3 - Asphalt raker, barco tamper; concrete saw; creosote material-handling and applying; nozzle burner (cutting torch)
Group 4 - Conduit pipe; tile and duct line setter; form setter and liner on concrete paving; powderman; sandblasting and gunnite nozzleman; sanitary sewer pipe layer
Group 5 - Leadmen or pusher

LABORERS: (cont'd) AREA COVERED BY LABORERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 1 - Jefferson County					
Zone 2 - Douglas and Shawnee Cos.					
Zone 3 - Leavenworth County					
Zone 4 - Miami County					
LINE CONSTRUCTION:					
Zone 1 - Remainder of Leavenworth Co.					
Lineman	10.56	.38	1%+.15		½%
Heavy equipment operator	9.83	.38	1%+.15		½%
Groundman powderman	7.34	.38	1%+.15		½%
Groundman	6.97	.38	1%+.15		½%
Groundman (1st year)	5.99	.38	1%+.15		½%
Zone 2 - Douglas, Jefferson, Miami and Shawnee Cos. and Southwestern 2/3 of Leavenworth County					
Lineman	8.62	.35	1%		½%
Cable splicers	9.05	.35	1%		½%
Groundman, over 1 year	5.39	.35	1%		½%
Groundman, 1st year	4.11	.35	1%		½%
Powderman	7.16	.35	1%		½%
Line Truck and Equipment Ops.:					
1st year	5.52	.35	1%		½%
2nd year	6.59	.35	1%		½%
Over 2 years' experience	7.16	.35	1%		½%
POWER EQUIPMENT OPERATORS:					
Zone 1 - Leavenworth County					
Group 1	10.10	.50	1.00	.75	.10
Group 2	9.85	.50	1.00	.75	.10
Group 3	9.60	.50	1.00	.75	.10
Group 4	8.60	.50	1.00	.75	.10
Group 5	10.35	.50	1.00	.75	.10
Group 6	10.60	.50	1.00	.75	.10
Group 7	10.10	.50	1.00	.75	.10
Group 8	9.10	.50	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Asphalt paver and spreader, asphalt plant console operator, auto grader, back hoe, blade operator, all types, boiler - 2; booster pump on dredge, boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator-central mix, concrete mixer paver, crane operator; derrick or derrick trucks; Ditching machine, dragline operator, dredge engineman, dredge operator, drill-cat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled, high loader-fork lift; locomotive operator, standard gauge, Mechanics and welders, maintenance operator, mucking machine, pile driver operator, pitman crane operator, pump-2; quad-trac; scoop operator - all types; scoops in tandem, self-propelled rotary drill (Leory or equal - not air trac); shovel operator, side discharge spreader; sideboom cats, skimmer scoop operator, slip-form paver (CMI, REX, or equal); throttle man, truck crane, welding machine maintenance operator - 2; hoisting engine - 2 active drums

Group 2 - "A" frame truck, asphalt hot mix silo, asphalt plant fireman, drum or boiler, asphalt plant mixer operator, asphalt plant man, asphalt roller backfiller operator; chip spreader, concrete batch plant, dry-power operated, concrete mixer operator, skip loader, concrete pump operator, crusher operator; elevating grader operator, greaser, hoisting engine - 1 drum, Latourneau rooter, multiple compactor, pavement breaker, self-propelled of the hydra-hammer or similar type, power shield, pug mill operator, stump cutting machine, towboat operator, tractor operator - over 50 HP

Group 3 - Boilers - 1; chip spreader (front man) churn drill operator, compressor maintenance operator - 1; concrete saws, self-propelled, conveyor opr., distributor operator, finishing machine opr., fireman, rig, float operator, form grader operator, pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor - 50 HP or less without attachments; vibrating machine operator, hot hand; welding machine maintenance operator - 1

Group 4 - Mechanic's helper; oiler

Group 5 - Clamshells, 3 yd. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; pile drivers, 80 ft. of boom or over (including jib); shovels, 3 yd. capacity or over

Group 6 - Crane or rigs, over 200 ft. of boom (including jib)

Group 7 - Hoists (each additional drum over 1 drum)

Group 8 - Oiler drivers, all types

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) feet or more in length or depth will be paid fifty (50) cents per hour above the regular classification.

POWER EQUIPMENT OPERATORS CONTD: Zone 2 - Douglas, Jefferson, Miami and Shawnee Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	8.10	.50	1.00	.50	.10
Group 2	7.85	.50	1.00	.50	.10
Group 3	7.60	.50	1.00	.50	.10
Group 4	7.35	.50	1.00	.50	.10
Group 5	7.00	.50	1.00	.50	.10
Group 6	7.10	.50	1.00	.50	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Master mechanic

Group 2 - Asphalt paver and spreader, backhoe, boring machine, blades, all types, clamshell, concrete mixer paver operator, concrete central plant operator (automatic), crane, truck crane, pitman crane, hydro crane or any machine with power swing, derrick or derrick trucks, dragline operator, dredge operator, dozer, ditching machine, duclid loader, hoist - 2 active drums; loader, all types, mechanic or welder, mixermobile, multi-unit scraper, piledriver operator, power shovel operator, quad track; scoop operators, all types; sideboom cat-cherry picker; skimmer scoop operator

Group 3 - Asphalt plant operator, elevating grader operator; gunnat operator

Group 4 - A-frame truck; asphalt roller operator; asphalt plant boiler fireman, backfiller operator, barger green loader, boiler - other than asphalt, bull float operator, chrun drill operator, compressor operator (1); concrete central plant operator, concrete mixer opr., skip; concrete pump operator, crusher operator, distributor operator, finish machine operator - concrete; fireman other than asphalt, flex plane operator, fork lift, form grader operator; greaser jhoist - 1 drum; jeep ditching machine; pavement breaker, self-propelled (of the hydra hammer or sipilar type); pump operator, 4" or over, two; pump operator, other than dredge; screening and wash plant operator, small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt; siphons and jets; subgrading machine operator, tank car heater operator, combination booster and boilers, towboat operator, vibrating machine operator, not hand

Group 5 - Concrete gang saw, self-propelled (con-cut); conveyor operator; harrow, disc. seeder; oiler, tractor operator, 50 h.p. or less without attachments

Group 6 - Oiler, motor crane

TRUCK DRIVERS: Zone 1 - Leavenworth and Miami Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	8.59	.50	1.00	.75	
Group 2	8.79	.50	1.00	.75	
Group 3	9.10	.50	1.00	.75	
Group 4	9.25	.50	1.00	.75	
Group 5	8.36½	.50	1.00	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:

Group 1 - One team; station wagons; pickup trucks; material tenders, single axle; tank wagon drivers, single axle

Group 2 - Material trucks, tandem, two teams, semi-trailers, winch truck-fork trucks; distributor drivers and operators; agitator and transit mix tank wagon drivers, single axle; tank wagon drivers; tandem or semi-trailer; insley wagons, dump trucks, excavator 5 cu. yds. and over; dump-sters; half-tracks; spaedace; euclids and other similar excavating equipment

Group 3 - A-frame, lowboy, boom truck drivers

Group 4 - Mechanics and welders

Group 5 - Mechanics' helpers, oilers and greasers

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TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 2 - Douglas and Shawnee Cos.					
Group 1	6.50	.40	.35		
Group 2	6.60	.40	.35		
Group 3	6.75	.40	.35		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:
Group 1 - Pickups, panel trucks, station wagons, flat beds, dump and batch trucks single axle

Group 2 - Tandem trucks, warehousemen or partsmen, mechanic helpers and servicemen

Group 3 - Lowboys; semi-trailers, all transit mixer trucks, (single or tandem axle); a-frame and winch trucks when used as such; euclid, end and bottom dump; tournatockers; atheys, dumpsters and similar off-road equipment and mechanics on such equipment

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TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 4 - Jefferson County					
Group 1	4.22	.275	.25		
Group 2	4.37	.275	.25		
Group 3	4.42	.275	.25		
Group 4	4.47	.275	.25		
Group 5	4.65	.275	.25		
Group 6	4.47	.275	.25		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:
Group 1 - Pickups, panel trucks, station wagons

Group 2 - Flat beds, dump and batch trucks, single axle

Group 3 - Tandem trucks

Group 4 - Lowboys, semi-trailers, all transit mixer trucks (single or tandem axle); A-frame and winch trucks when used as such

Group 5 - Euclid, end and bottom dump; tournatockers; atheys; dumpsters and similar off-road equipment and mechanics on such equipment

Group 6 - Watchmen or partsmen; mechanic helpers; servicemen

SUPERSEDEAS DECISION

STATE: Louisiana
DECISION NO.: LA77-4052
PARISH: Statewide
DATE: Date of Publication

Supersedes Decision No. LA76-4187, dated November 19, 1976, in 41 FR 51288.

DESCRIPTION OF WORK: Building Construction in all Parishes, Residential Construction in Bossier, Caddo & Calcasieu Parishes and Construction of Highway, Roads, Streets and Parking Areas in All Parishes (except those let with a building contract)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE 1	$ 9.845	.475	.70		.04
ZONE 2	9.38	.325	.685		.025
ZONE 3	9.05	.50	1.10		.05
ZONE 4	8.78	.45	.50		

AREA COVERED BY ASBESTOS WORKERS ZONES

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	$10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE 1	9.66	.30	.25		.06
ZONE 2	8.15	.53			
ZONE 3	9.85	.48	.30		.02
ZONE 4	10.12	.35	.20		.035
ZONE 5	8.25				
ZONE 6	8.15	.53			
ZONE 7	8.90	.40	.45		
ZONE 8	8.25		.30		
ZONE 9	9.05		.25		
ZONE 10	9.50				

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AREA COVERED BY BRICKLAYERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Evangeline, Pointe Coupee & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish Line on the west along U.S. Highway 190 through the lower limits of Covington, along State Highway 58, through the lower limits of Abita Springs & Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Highway 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Natchitoches & Sabine Parishes
ZONE 9 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 10 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS					
ZONE 1	$ 8.44	.30			
ZONE 2	8.845	.35	.28		.05
ZONE 3	8.85	.35	.30		
ZONE 4	9.41	.30	.35		.04
ZONE 5	9.72	.35	.30		.04
ZONE 6	9.555	.35	.30		.04
ZONE 7	8.30				
ZONE 8	8.65	.35	.30		.04
ZONE 9	8.30				
ZONE 10	8.10	.35	.20		.05
ZONE 11	7.25				

AREA COVERED BY CARPENTERS ZONES

ZONE 1 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes

AREA COVERED BY CARPENTERS ZONES (CONT'D)

ZONE 4 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 5 - Ascension (south of the Mississippi River), Assumption, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River) & St. John the Baptist Parishes
ZONE 6 - Iberia (northeast of the Atchafalaya River), Lafourche, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 3) & Terrebonne Parishes
ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 11 - Catahoula & Concordia Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (BUILDING CONSTRUCTION)					
ZONE 1	$ 8.61				
ZONE 2	8.60				
ZONE 3	8.20	.30	.50		.05
ZONE 4	9.445	.35	.30		.04
ZONE 5	7.35				
ZONE 6	6.25				
ZONE 7	7.95	.35			
ZONE 8	7.77		.25		
ZONE 9	6.50		.30		

AREA COVERED BY CEMENT MASONS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (the lower half) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Highway 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (HIGHWAY CONSTRUCTION)					
ZONE 1	$ 7.25				
On concrete lined ditches	8.195				
ZONE 2	6.45				
ZONE 3	7.10	.30			
ZONE 4	8.50				
ZONE 5	6.30				
On concrete lined ditches	8.20	.30	.50		.05
ZONE 6	6.30				
ZONE 7	5.72				

AREA COVERED BY CEMENT MASONS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, U.S. Highway 61 in East Feliciana & West Feliciana Parishes
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu & Cameron Parishes
ZONE 5 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 6 - Allen, Assumption, Avoyelles, Beauregard, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Highway 61), Evangeline, Iberville, Jefferson Davis, Lafourche, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Vernon, Webster & West Baton Rouge Parishes
ZONE 7 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
Electricians	$11.10	5%	6%		3/10%
ZONE 1	10.00		1%		
ZONE 2	11.25	.35	1%+.20		1/10%
ZONE 3	11.15	.35	1%		
ZONE 4	10.60	.30	1%+.30		.03
ZONE 5	10.05	.45	1%		1/2%
ZONE 6	9.95	.85	1%		1%
ZONE 7	10.25		1%	.30	1/2%
ZONE 8					

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cable splicers	$11.35	5%	6%		3/10%
ZONE 1	10.50		1%		
ZONE 2	11.50	.35	1%+.20		1/10%
ZONE 3	11.40	.35	1%		
ZONE 4	10.60	.30	1%+.30		.03
ZONE 5	10.55	.45	1%		1/2%
ZONE 6	10.45	.85	1%		1%
ZONE 7	10.50		1%	.30	1/2%
ZONE 8					

AREA COVERED BY ELECTRICIANS ZONES

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS					
ZONE 1					
Elevator constructors	$ 9.285	.495	.32	4%+a+b	.02
Elevator constructors' helpers	70%JR	.495	.32	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				
ZONE 2					
Elevator constructors	8.795	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				

FOOTNOTES FOR ELEVATOR CONSTRUCTORS

a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays: New Years' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day

AREA COVERED BY ELEVATOR CONSTRUCTORS ZONES

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS					
ZONE 1	$ 8.55				
ZONE 2	7.45				.01
ZONE 3	9.625	.17	.30		.01
ZONE 4	7.43				
ZONE 5	7.25		.25		
ZONE 6	6.40				
ZONE 7	7.50				

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (north & west of Highway 22), Assumption (north of Grand Bayou), East Baton Rouge, East Feliciana, Iberville, Livingston (north & west of Highway 22), Pointe Coupee, St. Helena, Tangipahoa (west of Highway 51), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (east & south of Highway 22), Assumption (south of Grand Bayou), Jefferson, Lafourche, Livingston (east & south of Highway 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (except Morgan City Area) & Vermilion Parishes
ZONE 5 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to the city of Natchitoches), Red River & Webster Parishes
ZONE 6 - Bienville (eastern half), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (north half) Parishes
ZONE 7 - St. Tammany (northern portion), Tangipahoa (east of Highway 51) & Washington Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (BUILDING CONSTRUCTION)					
ZONE 1	$ 9.86	.63	.35		.04
ZONE 2	10.14	.45	.50		.04
ZONE 3	9.75	.45	.50		.04
ZONE 4	9.70	.45	.50		.04
ZONE 5	8.15	.30	.35		.04
ZONE 6	9.45	.35	.50		.025

AREA COVERED BY IRONWORKERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Parishes (west of a straight line drawn from the Louisiana-Mississippi border, east of the city limits of Warrenton, Louisiana, southwest through Hammond, Louisiana to the Gulf of Mexico)

ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Parishes; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Parishes (east of a line drawn from the meeting point of the boundaries of the Parishes of Rapides, Avoyelles & Evangeline, southwest along the western city limits of Abbeville, Louisiana, to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Parishes (west of a straight line drawn from the Louisiana-Mississippi border, west of the city limits of Warrenton, Louisiana, southwest through Hammond, Louisiana to the Gulf of Mexico); Parts of Catahoula, Concordia, LaSalle & Rapides Parishes (south of a line drawn from the Natchez, Mississippi southwesterly to the city of Kolin, from there northwesterly through the city of Boyce to the Natchitoches Parish boundary)

ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Parishes; Parts of Bienville, Claiborne, Natchitoches & Winn Parishes (west of a line drawn directly south from the Arkansas-Louisiana border through the cities of Arcadia & Clouterville); Part of Sabine Parish (north of a line drawn from the Natchitoches Parish boundary west through the city of Pleason to the Texas-Louisiana border)

ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes; Parts of Bienville, Claiborne, Natchitoches & Winn Parishes (east of a line drawn directly south from the Arkansas-Louisiana border through the cities of Arcadia & Clouterville); Part of Madison Parish (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia, LaSalle & Rapides Parishes (north of a line drawn from Natchez, Mississippi southwesterly to the city of Kolin, from there northwesterly through the city of Boyce to the Natchitoches Parish boundary)

ZONE 5 - That part of Madison Parish (including the cities of Mound, Delta & adjacent areas)

AREA COVERED BY IRONWORKERS (BUILDING CONSTRUCTION) ZONES (CONT'D)

ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes; Parts of Acadia, Evangeline, Lafayette, Rapides, St. Landry & Vermilion Parishes (west of a line drawn from the city of Kolin, southwest along the western city limits of Abbeville, Louisiana to the Gulf of Mexico and southwest of a line drawn from Kolin through Boyce to the Natchitoches-Rapides Parish boundary); Part of Sabine Parish (south of a line drawn from the Natchitoches Parish boundary west through the city of Pleason to the Texas-Louisiana border)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (HIGHWAY CONSTRUCTION)					
ZONE 1	$ 8.72				
ZONE 2	8.48				
ZONE 3	8.70				
ZONE 4	8.30				
ZONE 5	9.76				
ZONE 6	6.99				
ZONE 7	6.45				
ZONE 8	5.84				

AREA COVERED BY IRONWORKERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson & Orleans Parishes
ZONE 2 - Plaquemines, St. Bernard & St. Charles Parishes
ZONE 3 - East Baton Rouge Parish
ZONE 4 - Calcasieu Parish
ZONE 5 - Bossier & Caddo Parishes
ZONE 6 - Lafayette, Ouachita & Rapides Parishes
ZONE 7 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 8 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Parish), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING CONSTRUCTION)					
ZONE 1					
GROUP 1	$ 3.90	.10			
GROUP 2	4.05	.10			
GROUP 3	4.15	.10			
ZONE 2					
GROUP 1	5.52	.15	.10		.05
GROUP 2	5.72	.15	.10		.05
ZONE 3					
GROUP 1	6.85	.15	.10		.05
GROUP 2	6.95	.15	.10		.05
GROUP 3	7.00	.15	.10		.05
GROUP 4	7.81	.15	.10		.05
GROUP 5	7.37	.15	.10		.05
GROUP 6	7.11	.15	.10		.05
GROUP 7	6.90	.15	.10		.05
ZONE 4					
GROUP 1	6.58	.15	.20		.05
GROUP 2	6.68	.15	.20		.05
GROUP 3	6.73	.15	.20		.05
ZONE 5					
GROUP 1	6.18	.15	.20		.05
GROUP 2	6.28	.15	.20		.05
GROUP 3	6.33	.15	.20		.05
ZONE 6					
GROUP 1	7.07	.15	.20		.05
GROUP 2	7.17	.15	.20		.05
GROUP 3	7.32	.15	.20		.05
GROUP 4	7.23	.15	.20		.05
GROUP 5	7.33	.15	.20		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7					
GROUP 1	$ 6.745	.15	.20		.05
GROUP 2	6.895	.15	.20		.05
GROUP 3	6.945	.15	.20		.05
ZONE 8					
GROUP 1	5.16	.15	.10		.05
GROUP 2	5.36	.15	.10		.05
GROUP 3	5.41	.15	.10		.05
GROUP 4	5.46	.15	.10		.05
GROUP 5	5.81	.15	.10		.05
ZONE 9					
GROUP 1	5.70	.15	.10		.05
GROUP 2	5.80	.15	.10		.05
GROUP 3	5.85	.15	.10		.05
GROUP 4	5.90	.15	.10		.05
ZONE 10					
GROUP 1	5.45	.15	.10		.05
GROUP 2	5.55	.15	.10		.05
GROUP 3	5.70	.15	.10		.05

CLASSIFICATION DEFINITIONS

LABORERS - ZONE 1

GROUP 1 - Building and labor construction
GROUP 2 - Stone mason helpers; mechanical tool operators; sewerman (bottom man, caulkers, tenders, joint wipers, mot put, grade carriers, layers and ditchers 4 feet or over); tender of all crafts; sandblaster (nozzlemen); Sandblaster (pot tender); laying non-metallic pipe over 4 feet deep, including sewer pipe, drain pipe and underground tile; septic tank diggers and installers, over 4 feet deep; gas & oil pipeline laborers and wrappers
GROUP 3 - Gunite tool operators

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LABORERS - ZONE 2

GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewmen
GROUP 2 - Mason mixer; plaster mixer; mechanical tool operator; sandblaster; laying concrete pipe, clay pipe, plastic pipe, asbestos cement pipe, casing pipe and corrugated metal pipe, as sewer pipe, drain pipe, and underground tile (caulkers, joint wrappers, hot pot and pipe layers); gas and oil pipeline laborers, wrappers and dopers

LABORERS - ZONE 3

GROUP 1 - Building and general laborer; tenders (carpenter, plaster, cement finisher, mason); tank and vessel cleaners
GROUP 2 - Air tool operator (except jackhammer); interior of closed tanks and vessels power equipment
GROUP 3 - Mortar mixers and jackhammer operators
GROUP 4 - Blasterers
GROUP 5 - Blaster helpers; concrete cutters behind paving machine and puddlers; form setters and lines asphalt worker
GROUP 6 - Wiping joints, laying pipe and tile from pumpcrete
GROUP 7 - Interior of closed tanks and vessels manually

LABORERS - ZONES 4 & 5

GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool operators (hammer man, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw operators, etc.); pipelayers (non-metallic)
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)

LABORERS - ZONE 6

GROUP 1 - Building laborers
GROUP 2 - Laborers handling steel pans, stone masons helpers, mechanical tool operators, sewermen (bottom man, caulkers, tenders, joint wipers, hot pot, grade carriers, layers and ditchers 4 feet and over), sand blaster (nozzleman and pot tender); laying non-metallic pipe over 4 feet deep, septic diggers and installers over 4 feet deep, gas and oil pipeline laborers and wrappers
GROUP 3 - Gunite tool operators
GROUP 4 - Bricklayers tenders and mason tenders
GROUP 5 - Hod carriers using prime mover to serve a bricklayer; mortar mixers

LABORERS - ZONE 7

GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons helpers, wibratormen
GROUP 3 - Mortar mixers

LABORERS - ZONE 8

GROUP 1 - Common laborers; carpenter helpers; mason tenders (other than cement); Plasterers' tenders; stone mason helpers; concrete workers; scaffold builders
GROUP 2 - Air tool operators (jackhammer, vibrator, and tamper), sewer pipe joiners and setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy operator; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother and shovelers; sewer pipe layers; blaster helpers
GROUP 5 - Powdermen

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LABORERS - ZONE 9

GROUP 1 - Building laborers
GROUP 2 - Mason tenders, plasterer tenders; Asphalt rakers, asphalt smoothers
GROUP 3 - Mortar mixers
GROUP 4 - Air jack operators, vibrator operators; Sewer pipe layers, sewer pipe wipers

LABORERS - ZONE 10

GROUP 1 - Laborers, tenders (bricklayers, stonemasons, cement masons, carpenter, plasterers); Stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artifical stone; building scaffolds; shoring
GROUP 2 - Mechanical tool operator (air, electric, motor, engine, etc.); Sewer pipe layers; mortar mixers (hand or machine); gunite operator
GROUP 3 - Pipe dopers & burners

AREA COVERED BY LABORERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - St. Tammany (as far south as Bayou Lacombe and east to the Mississippi State Line at Pearlington), Tangipahoa (except that portion south of a line running due east from the western boundary of Tangipahoa Parish which follows the northern city limits of Independence, Louisiana to 20 miles east of U.S. Highway 51, than running south paralleling Highway 51 at a 20 mile distance to Lake Pontchartrain) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Parishes; Parts of Assumption, St. James, St. John the Baptist Parishes (north of a line drawn from the southern limits of the town of St. James in St. James Parish to the northern limits of the town of Napoleonville, in Assumption Parish & then directly west to the Parish line, all of St. James Parish except that part which is east of a line drawn from Lutcher, Louisiana to U.S. Highway 61 (Airline Highway) then west on U.S. 61 to Blind River and on a direct line to Manchac, Louisiana)
ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western parish line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Mississippi River and the portion of St. John the Baptist on the east bank of the Mississippi River as far as the Sycamore Inn at Lutcher and north to Blind River and Manchac) & St. Tammany (north as far as Bayou Lacombe, east to the Mississippi State Line at Pearlington) Parishes
ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank and including the town of Vacherie) & Terrebonne Parishes
ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes
ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HIGHWAY CONSTRUCTION)					
GROUP 1					
ZONE 1	$ 5.10	.15	.10		.05
ZONE 2	4.80	.15	.10		.05
ZONE 3	4.15	.15	.10		.05
ZONE 4	5.85	.15	.10		.05
ZONE 5	4.10	.15	.10		.05
ZONE 6	3.85	.15	.10		.05
ZONE 7	3.75	.15	.10		.05
GROUP 2					
ZONE 1	5.20	.15	.10		.05
ZONE 2	4.90	.15	.10		.05
ZONE 3	4.25	.15	.10		.05
ZONE 4	5.95	.15	.10		.05
ZONE 5	4.20	.15	.10		.05
ZONE 6	3.95	.15	.10		.05
ZONE 7	3.85	.15	.10		.05
GROUP 3					
ZONE 1	5.65	.15	.10		.05
ZONE 2	5.35	.15	.10		.05
ZONE 3	4.70	.15	.10		.05
ZONE 4	6.40	.15	.10		.05
ZONE 5	4.65	.15	.10		.05
ZONE 6	4.40	.15	.10		.05
ZONE 7	4.30	.15	.10		.05
GROUP 4					
ZONE 1	5.90	.15	.10		.05
ZONE 2	5.60	.15	.10		.05
ZONE 3	4.95	.15	.10		.05
ZONE 4	6.65	.15	.10		.05
ZONE 5	4.85	.15	.10		.05
ZONE 6	4.60	.15	.10		.05
ZONE 7	4.50	.15	.10		.05

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CLASSIFICATION DEFINITIONS

GROUP 1 - Laborers, including but not limited to signalman, foundation driller, and demolishing and dismantling man
GROUP 2 - Raker, concrete spreader, carpenters helpers, distributor man, finishers helpers, formsetters helpers, jackhammer operator, jetting laborer, painters helpers, pit man, pipelayer or tile layer, power monkey helper, tamper, tree pruner, stone masons helper, stoker, asphalt raker, concrete shovelers, power tool operator and motorized buggy operator
GROUP 3 - Formsetter, head or master-high type pavement
GROUP 4 - Powderman

AREA COVERED BY LABORERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Parish), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE 1	$ 8.90				.01
ZONE 2	8.88	.20	.30		.05
ZONE 3	9.985	.30			.01
ZONE 4	10.05				
ZONE 5	7.90				.01

AREA COVERED BY LATHERS ZONES

ZONE 1 - All of Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, Vermilion, West Baton Rouge & West Feliciana Parishes; Parts of Assumption & St. James Parishes (up to a 40 mile radius of Baton Rouge); Parts of Evangeline & St. Mary Parishes (up to a 40 mile radius of Lafayette)
ZONE 2 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes; Parts of Assumption & St. James Parishes (beyond a 40 mile radius of Baton Rouge); Part of St. Mary Parish (beyond a 40 mile radius of Lafayette)
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (that portion beyond a 40 mile radius of Lafayette), Jefferson Davis & Vernon Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Parishes
ZONE 5 - Rapides Parish

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
ZONE 1					
Linemen	$10.60	.30	1%+.30		.03
Operator hole digging equipment; operator, tractor with winch & derrick; operator line truck with winch & derrick working hot lines	79%JR	.30	1%+.30		.03
Operator using hole trunk & trailer, or pole hauling & setting truck (not in energized lines)	69%JR	.30	1%+.30		.03
Operator using truck without winch; Groundmen (starting rate to 1½ years service)	45%JR	.30	1%+.30		.03
Groundmen (1½ years service or over)	50%JR	.30	1%+.30		.03
ZONE 2					
Linemen, line equipment & line truck operators	11.10	5%	6%		3/10%
Cable splicers	11.35	5%	6%		3/10%
ZONE 3					
Linemen, equipment operators	11.25	.35	1%+.20		1/10%
Cable splicers	11.50	.35	1%+.20		1/10%
Groundmen	9.25	.35	1%+.20		1/10%
ZONE 4					
Linemen & equipment operators	11.15	.35	1%		
Cable splicers	11.40	.35	1%		
Groundmen	50%JR	.35	1%		
ZONE 5					
Linemen & equipment operators	10.25		1%	.30	1/2%
Cable splicers	10.50		1%	.30	1/2%
Groundmen	60%JR		1%	.30	1/2%
ZONE 6					
Linemen & equipment operators	10.05	.45	1%		1/2%
Cable splicers	10.55	.45	1%		1/2%
Groundmen, 1st 6 months	2.85	.45	1%		1/2%
Groundmen, 2nd 6 months	3.44	.45	1%		1/2%
Groundmen, after 1 year	3.79	.45	1%		1/2%

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7					
Linemen; Operators	$ 9.95	.85	1%		1%
Cable splicers	10.45	.85	1%		1%
Groundmen	7.95	.85	1%		1%

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS					
ZONE 1	$10.12	.35	.20		.035
ZONE 2	9.85	.48	.30		.02
ZONE 3	9.50				
ZONE 4	8.02		.25		
ZONE 5	7.90	.30			
ZONE 6	9.10				

AREA COVERED BY MARBLE SETTERS ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish line on the west along U.S. Highway 190 through the lower limits of Covington, along State Highway 58 through the lower limits of Abita Springs and Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' HELPERS					
ZONE 1	$ 6.75	.25			
ZONE 2	5.55	.15	.10		.05
ZONE 3	3.00				

AREA COVERED BY MARBLE SETTERS' HELPERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Parish from the Tangipahoa Parish line on the west along U.S. Highway 190 through the lower limits of Covington, along State Highway 58, through the lower limits of Abita Springs and Talisheek and on a line due east from Talisheek to the Mississippi State Line), Tangipahoa, Terrebonne, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Webster & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS					
ZONE 1	$10.295				.05
ZONE 2	10.09	.35	.30		.04
ZONE 3	11.345				.06
ZONE 4	9.165	.30			
ZONE 5	9.05				
ZONE 6	9.35	.35	.30		.04
ZONE 7	9.05				
ZONE 8	9.00	.35	.20		.05
ZONE 9	10.50	.35	.30		
ZONE 10	8.15				

AREA COVERED BY MILLWRIGHTS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (south of the Mississippi River), Assumption, Iberia (northeast of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River), St. John the Baptist, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 9) & Terrebonne Parishes
ZONE 3 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 4 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes

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AREA COVERED BY MILLWRIGHTS ZONES (CONT'D)

ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes
ZONE 10 - Catahoula & Concordia Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS					
ZONE 1					
GROUP 1 - Brush, wool or wall, rollers	$ 9.41				
GROUP 2 - Brush on steel, buffer on wood or wall	9.535				
GROUP 3 - Paperhanging, taping & floating	9.61				
GROUP 4 - Spray; wood & wall	9.755				
GROUP 5 - Steeplejack, sandblasting, spider operator, rubberizing & pyroflexing, steam jennies, spray on steel	9.895				
ZONE 2					
GROUP 1 - Brush; Taping; floating & texture	$ 6.95		.10		.05
GROUP 2 - Sandblasting, industrial & steel	7.82		.10		.05

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3					
GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters	$ 7.755	.275	.30		.05
GROUP 2 - Structural steel painters of new buildings under construction; the following overall of 30 feet; tanks, air conditioning, towers, smoke stacks, sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter	8.13	.275	.30		.05
GROUP 3 - Industrial	9.005	.275	.30		.05
ZONE 4					
GROUP 1 - Brush	7.35				
GROUP 2 - Industrial & steel	7.72				
GROUP 3 - Hand tools or automatic tools to finish gypsum board: spray; sandblasting - 25c per hour above rate for brush					
GROUP 4 - All power tools; All stacks, steeples, flag poles, swing stages & window jacks; All towers, tanks & structural steel over 30 ft. high - 25c per hour above journeyman rate					
ZONE 5					
GROUP 1 - Brush	7.50				
GROUP 2 - Brush swing stage	7.95				
GROUP 3 - Brush industrial	7.65				
GROUP 4 - Spray; Spray steel; sandblasting	8.60				
GROUP 5 - Spray swing stage	8.85				
GROUP 6 - Paperhanger	8.30				
GROUP 7 - Sheet rock finishers	7.80				

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 6					
GROUP 1 - Painters, paperhangers, tapers, floaters; Commercial steel, such as churches or any commercial building with closed roof deck or walls	$ 7.50				
GROUP 2 - Other commercial work brush spray, stage, window jacks, flagpoles & steeple work	8.00				
GROUP 3 - All industrial work including sandblasting or power tools of any kind	8.50				
ZONE 7					
GROUP 1 - Painters, tape & float & paperhangers; stage, window jacks & structural steel	8.55		.30		.025
GROUP 2 - Stage, window jacks & structural steel over 30 ft.	8.80		.30		.025
GROUP 3 - Stage, window jacks & structural steel over 75 ft.	9.05		.30		.025
GROUP 4 - Sandblasting, spray	9.15		.30		.025
ZONE 8					
GROUP 1 - Painters, paperhangers, tapers, floaters	7.05				
GROUP 2 - Stage, window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack, sign, tank painting, steeple jack work	8.05				
GROUP 3 - Structural steel, brush	7.55				

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (north & west of Highway 22), Assumption (north of Grand Bayou), East Baton Rouge, East Feliciana, Iberville, Livingston (north & west of Highway 22), Pointe Coupee, St. Helena, Tangipahoa (west of Highway 51), West Baton Rouge & West Feliciana Parishes

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AREA COVERED BY PAINTERS ZONES (CONT'D)

ZONE 3 - Ascension (east & south of Highway 22), Assumption (south of Grand Bayou), Lafourche, Livingston (east & south of Highway 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Acadia, Iberia, Lafayette, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area) & Vermilion Parishes
ZONE 5 - St. Tammany (northern portion), Tangipahoa (east of Highway 51) & Washington Parishes
ZONE 6 - Allen (northeast corner), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (south half), Rapides, Sabine, St. Landry (north half) & Winn (south half) Parishes
ZONE 7 - Bienville (eastern half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River & Webster Parishes
ZONE 8 - Bienville (eastern half), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (north half) Parishes

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
FILEDRIVERMEN					
ZONE 1	$ 9.15	.35	.30		
ZONE 2	9.41	.30	.35		.04
ZONE 3	9.82	.35	.30		.04
ZONE 4	8.845	.35	.28		.03
ZONE 5	8.80				
ZONE 6	8.90	.35	.30		.04
ZONE 7	8.80				
ZONE 8	8.60	.35	.20		.05
ZONE 9	8.645	.30			
ZONE 10	8.15				

AREA COVERED BY FILEDRIVERMEN ZONES

ZONE 1 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes
ZONE 2 - Ascension (north of the Mississippi River), East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of the Mississippi River), Assumption, Iberia (north-east of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River), St. John the Baptist, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion), Tangipahoa (remainder of Parish not covered by Zone 1) & Terrebonne Parishes
ZONE 4 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Acadia, Evangeline, Iberia (west of the Atchafalaya River), Lafayette, St. Landry, St. Martin (west of the Atchafalaya River), St. Mary (west of the Atchafalaya River) & Vermilion Parishes
ZONE 10 - Catahoula & Concordia Parishes

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS					
ZONE 1	$ 7.70				
ZONE 2	7.73				.01
ZONE 3	9.17				
ZONE 4	8.61				.01
ZONE 5	7.05	.30	.20		.03
ZONE 6	6.50				.01
ZONE 7	9.05			1.00	
ZONE 8	9.05		.25		
ZONE 9	8.25		.30		

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - St. Tammany (northern half including Covington north of Highway 190) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (parish line on the west along U.S. Highway 190 through the lower limits of Covington and Abita Springs along State Highway 435 to Talisheek and on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS					
ZONE 1	$10.30	.45	.75		.06
ZONE 2	10.10	.54	.775		.06
ZONE 3	9.95	.45	.55		.10
ZONE 4	8.74	.40	.50	.95	.09
ZONE 5	10.38	.67	.72		.08

AREA COVERED BY PLUMBERS & PIPEFITTERS ZONES

ZONE 1 - Jefferson, Lafourche (except small portion of western part of Parish), Livingston (northeast corner), Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Parish), St. John the Baptist, St. Tammany, Tangipahoa (southern 1/2 of Parish), Terrebonne (eastern 1/3 of Parish) & Washington Parishes

ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/7 of Parish), Iberville, Lafourche (small portion of western part of Parish), Livingston (except northeast corner), Pointe Coupee (except northwest corner), St. Helena, St. James (western 1/3 of Parish), St. Landry (eastern 2/3 of Parish), St. Martin (southern part of eastern 1/2 of Parish), St. Mary (except western tip), Tangipahoa (northern 1/2 of Parish), Terrebonne (western 2/3 of Parish), West Baton Rouge & West Feliciana Parishes

ZONE 3 - Allen (northeast corner), Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline (excent southwest corner), Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches (south of Highway 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Highway 10) & Winn (east of a line drawn from Winnfield to the junction of the Parish boundaries of Winn, Bienville & Jackson) Parishes

ZONE 4 - All of Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes; Parts of Natchitoches & Vernon Parishes (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Highway 111 between Anacoco & Haddens); Part of Winn Parish (west of a line drawn from Winnfield to the junction of the Parish boundaries of Winn, Bienville & Jackson)

ZONE 5 - Acadia, Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Evangeline (southwest corner), Iberia (western 1/2 of Parish), Jefferson Davis, Lafayette, Pointe Coupee (northwest corner), St. Landry (western 1/3 of Parish), St. Martin (west of Highway 31), St. Mary (western tip), Vermilion & Vernon (south of Highway 111 & southwest of Highway 10) Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)					
ZONE 1 (Excluding Residential Construction in Caddo & Bossier Parishes					
GROUP 1	$ 6.63	.45	.48		.05
GROUP 2	6.95	.45	.48		.05
GROUP 3	7.26	.45	.48		.05
GROUP 4	7.33	.45	.48		.05
GROUP 5	7.63	.45	.48		.05
GROUP 6	8.97	.45	.48		.05
ZONES 2, 3 & 4					
GROUP 1	6.64	.45	.48		.05
GROUP 2	6.95	.45	.48		.05
GROUP 3	7.27	.45	.48		.05
GROUP 4	7.32	.45	.48		.05
GROUP 5	7.64	.45	.48		.05
GROUP 6	8.97	.45	.48		.05
ZONE 5					
GROUP 1	6.92	.45	.48		.05
GROUP 2	6.63	.45	.48		.05
GROUP 3	6.64	.45	.48		.05
GROUP 4	7.18	.45	.48		.05
GROUP 5	9.345	.45	.48		.05
GROUP 6	7.55	.45	.48		.05
GROUP 7	8.17	.45	.48		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 6					
GROUP 1	$ 7.20	.45	.48		.05
GROUP 2	6.67	.45	.48		.05
GROUP 3	6.48	.45	.48		.05
GROUP 4	6.93	.45	.48		.05
GROUP 5	7.59	.45	.48		.05
GROUP 6	8.63	.45	.48		.05
GROUP 7	9.61	.45	.48		.05
GROUP 8	9.86	.45	.48		.05
GROUP 9	10.11	.45	.48		.05
GROUP 10	10.36	.45	.48		.05
ZONE 7					
GROUP 1	9.80	.45	.48		.05
GROUP 2	10.05	.45	.48		.05
GROUP 3	7.12	.45	.48		.05
GROUP 4	7.51	.45	.48		.05
GROUP 5	8.12	.45	.48		.05
GROUP 6	9.55	.45	.48		.05

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4

GROUP 1 - Oiler

GROUP 2 - Mechanic helper

GROUP 3 - Oiler-Driver

GROUP 4 - Scaleman

GROUP 5 - Air Compressor; Asphalt Plant Operator; Bulldozers, D-4 and equivalent & under; Bullfloats; Concrete Spreader; Finishing Machines; Concrete Mixer (16-s or less); Concrete Saw; Distributors (Bitum Surface); Dowell Bar Machine; Farm-Type Tractor (with all attachments except backhoe); Fireman; Fork Lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum Buff Machine; Pull Cats; Pump (3" and over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle Buggies; Sweepers on streets & roads (Motorized); Winch Truck, A-Frame (other than handling steel or pipe)

GROUP 6 - Asphalt Spreader; Backhoe; Bulldozer, over D-4 and equivalent; Cableways; Concrete Mixer, over 16-s; Cranes; Derricks; Ditching or Trenching Machines; Draglines; Fork Lifts (setting steel, machinery or pipe); Front-End Loaders (except Farm-type tractors); Grease Serviceman; Hoist, 1 drum, 4 stories or more or 40 feet (on structures other than buildings); Hoist, 2 drums and over; Hydrolifts; Heavy Duty Mechanic; Motor Patrols; Piledrivers; Pump, concrete (6" & over); Road Pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom Cats; Shovels; Tractorvators; Welder, journeyman; Well Point System; Winch Cats (hoisting); Winch Truck, A-Frame (handling steel or pipe)

POWER EQUIPMENT OPERATORS - ZONE 5

GROUP 1 - Scale Operator; Oiler-Driver on Motor Crane; Batch Plant Operator

GROUP 2 - Pumps under 3 inch suction; Mechanic Helper

GROUP 3 - Oiler

GROUP 4 - Fireman

GROUP 5 - Combination Oiler-Compressor; Combination Oiler-Fireman; Asphalt Spreaders; Backhoe (all types); Bulldozers; Cableways; Cherry Pickers (all types); Concrete Mixers (over 1 sack); Cranes; Deck Winch (2 drums or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork Lifts (other than farm type) outside warehouses; Foundation Drill; Front End Loaders (except farm type); Grease Serviceman; Hoist-1 drum (4 stories or more on buildings); Hoist-1 drum (over 40 feet on structures other than buildings); Hoist (2 drum or over); Locomotives (all types); Mechanic; Mixer Plant Operator-Central Mix; Motor Patrols; Piledrivers; Pull Cat; Pump Crete-6" and over discharge; Push Cat; Road Pavers; Rollers (Plant Mix Asphalt); Scrapers; Shovels; Sideboome; Unit Operator; Welder, Journeyman; Well Point System; Whirleys; Winch Cats (Cat D-4 and over); Winch Truck with A-Frame (5 ton and over); Work Boats-requiring licensed operator

GROUP 6 - Bush Hog; Compressor; Concrete pump-under 6" discharge; Concrete Saw; Deck Winch (1 drum); Distributors; Ditching or trenching machines (non-riding type); Dowel Bar Machine; Farm-type tractors (when used to pull discs, grass-cutters, etc.); Hoist-1 drum (under 4 stories on buildings); Hoist-1 drum (40 feet or under on structures other than buildings); Kolum Buff Machines; Mixers (1 sack and under); Motorized street sweepers self-propelled; Pump (3" and over); Test Pump-Internal combustion engine powered; Water Blast Pumps

GROUP 7 - Asphalt Plant Operator; Boom Trucks; Bull Floats; Concrete Spreader; Farm Type Front End Loaders; Finishing Machines (Roadway, riding type); Roller (other than plant mix asphalt); Straddle Buggies; Winch Truck with A-Frame (under 5 tons); Work Boat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch Cat; Pumps, 3 inch suction or more

GROUP 2 - Pumps, under 3 inch suction; Mechanic Helper

GROUP 3 - Oiler

GROUP 4 - Batch Plant Operator

GROUP 5 - Air Compressor; Asphalt Plant Engineer; Blade Grader; Distributor (Bitum Surface); Finishing Machine (Concrete, Paving); Hoist - 1 drum, less than 4 stories; Concrete Mixer under 16S; Oiler Driver; Pump Crete; Street & Road Sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole digger; Tractor operated Bush Hog and similar grass or bush cutting equipment

GROUP 6 - A-Frame Truck; Crew Boat Operator; Fireman; Fork Lift; Straddle Buggy; Traxcavator, Scoopmobile and similar front-end loading equipment with Scoop or Bucket under 1 cubic yard capacity; Locomotive; Well Point System; Unit Operator; Hoist - 1 drum, 4 stories or over

GROUP 7 - Backhoe; Cable Way; Concrete Mixer, 16S and up; Derrick; Crane; Dragline; Dredge; Equipment Maintenance Mechanic; Hoist - 2 drum; Locomotive Crane; Paving Mixer; Piledriver; Road Paver; Roller on asphalt or brick (5 tons or over); Shovel; Sideboom Cat; Bulldozer; Motor Patrol; Scraper; Hydrolift Crane, Hydrolift Truck, Yard Crane, Cherry Picker, etc.; Foundation, Boring and Rossing Machine; Cement Stabilizer; Trenching Machine; Asphalt Spreader; Traxcavator & similar front end loading equipment with scoop or bucket of 1 cubic yard or more capacity; Tug Boat Operator; Turnapull, Euclid, DW-10 & other similar self-loading earth moving equipment; Concrete Pump (not Pump Crete)

POWER EQUIPMENT OPERATORS - ZONE 6 (CONT'D)

GROUP 8 - Crane Operator, 60 tons & over; Crane Operator, Boom 100 feet & over; Piledriver Operator, Leads 100 feet & over

GROUP 9 - Crane Operator, 100 tons & over; Crane Operator, Boom 150 feet & over; Piledriver Operator, Leads 150 feet & over

GROUP 10 - Crane Operator, Boom 250 feet & over; Piledriver Operator, Leads over 250 feet

POWER EQUIPMENT OPERATORS - ZONE 7

GROUP 1 - Assistant Master Mechanic

GROUP 2 - Master Mechanic

GROUP 3 - Oilers

GROUP 4 - Batch Plant Operators; Mechanic Helpers; Oilers (Drivers)

GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; Air Compressor; Asphalt Plant Engineers; Asphalt Finisher, Screed Men; Blade Graders; Boat Operator; Bullfloats; Concrete Joining Machines; Concrete Mixers, 16s and under; Concrete Spreader; Crusher Operator; Deck Winch Operator (1); Distributors, asphalt "Ditch Witch" and similar equipment; Electric Elevators (inside); Finishing Machine; Firemen; Form Graders; Fork Lifts; Hoist, 1 drum, under 4 stories; Power Subgrader; Pug Mill Operators; Pull Tractors; Pump, Pump Crete; Rollers, except on brick and asphalt; Rubber tired Front End Loader (with or without blade attachments) less than 1 cu. yd. capacity; Scale Operator; Scoopmobile; Snatch Cats; Spray Machines; Stabilizers, less than 3 drums; Straddle-Buggy; Track Machines and equivalent Machines; Tractors or Bulldozers smaller than D-6

GROUP 6 - A-Frame Truck, when working with ironworkers and pipefitters; Bulldozer D-6 and larger; Cable Ways; Concrete Mixers, over 16-s paving machines; Cranes, Derricks; Draglines and Clam Shells; Deck Winches (2); Gradealls; Hi-Ho and similar type equipment; Hoist, 1 drum, 4 stories and over; Hoist, 2 drums or more; Hydro cranes; Mechanic; Motor Patrols; Piledrivers; Rollers on brick and asphalt; Rubber Tired Front End Loader, with or without attachments, 1 cu. yd. capacity or more; Scrapers; Shovels; Backhoes (all types); Sideboom Cats; Stabilizers, 3 drums or more; Traxcavators; Trenching Machines; Unit Operator; Welder, journeymen; Well Point Systems (gas, diesel, electric, etc.); Concrete Pump/Boom Combinations

AREA COVERED BY POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermilion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of a line drawn from the city of Berwick to the junction of the Iberville-St. Landry Parishes border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Parishes; Parts of Assumption & St. James Parishes (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Parishes (east and west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Parishes (west of a line drawn north from the city of Lutcher to the east side of the city of Hammond to the Louisiana-Mississippi border)

AREA COVERED BY POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) ZONES (CONT'D)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Parishes; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Parishes (that portion of southeastern Louisiana bounded on the north by the State of Mississippi, on the east by the State of Mississippi and the Mississippi Sound, on the south by the Gulf of Mexico and on the west by a line drawn as follows: beginning at a point on the Louisiana-Mississippi boundary in Washington Parish, Louisiana, due north of the town of Hackley, Louisiana, thence southwesterly in a straight line to a point on the east bank of the Mississippi River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay and in a line due south to the Gulf of Mexico)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION)					
GROUP 1					
ZONE 1	$ 8.45	.25	.39		.05
ZONE 2	8.31	.25	.39		.05
ZONE 3	9.10	.25	.48		.05
ZONE 4	9.08	.45	.48		.05
ZONE 5	6.69	.25	.30		.05
ZONE 6	6.14	.25	.30		.05
ZONE 7	5.53	.25	.30		.05
GROUP 2					
ZONE 1	8.70	.25	.39		.05
ZONE 2	8.56	.25	.39		.05
ZONE 3	9.35	.25	.48		.05
ZONE 4	9.33	.45	.48		.05
ZONE 5	6.94	.25	.30		.05
ZONE 6	6.39	.25	.30		.05
ZONE 7	5.78	.25	.30		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 3					
ZONE 1	$ 8.20	.25	.39		.05
ZONE 2	8.06	.25	.39		.05
ZONE 3	8.85	.25	.48		.05
ZONE 4	8.83	.45	.48		.05
ZONE 5	6.44	.25	.30		.05
ZONE 6	5.89	.25	.30		.05
ZONE 7	5.28	.25	.30		.05
GROUP 4					
ZONE 1	7.20	.25	.39		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	7.80	.25	.48		.05
ZONE 4	7.61	.45	.48		.05
ZONE 5	5.58	.25	.30		.05
ZONE 6	5.02	.25	.30		.05
ZONE 7	4.46	.25	.30		.05
GROUP 5					
ZONE 1	6.88	.25	.39		.05
ZONE 2	6.39	.25	.39		.05
ZONE 3	7.21	.25	.48		.05
ZONE 4	7.00	.45	.48		.05
ZONE 5	5.02	.25	.30		.05
ZONE 6	4.48	.25	.30		.05
ZONE 7	3.97	.25	.30		.05
GROUP 6					
ZONE 1	6.27	.25	.39		.05
ZONE 2	5.75	.25	.39		.05
ZONE 3	6.50	.25	.48		.05
ZONE 4	6.30	.45	.48		.05
ZONE 5	4.86	.25	.30		.05
ZONE 6	4.31	.25	.30		.05
ZONE 7	3.81	.25	.30		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 7					
ZONE 1	$ 5.99	.25	.39		.05
ZONE 2	5.46	.25	.39		.05
ZONE 3	6.16	.25	.48		.05
ZONE 4	5.96	.45	.48		.05
ZONE 5	4.86	.25	.30		.05
ZONE 6	4.31	.25	.30		.05
ZONE 7	3.81	.25	.30		.05
GROUP 8					
ZONE 1	7.20	.25	.39		.05
ZONE 2	7.13	.25	.39		.05
ZONE 3	7.80	.25	.48		.05
ZONE 4	7.61	.45	.48		.05
ZONE 5	5.58	.25	.30		.05
ZONE 6	5.02	.25	.30		.05
ZONE 7	4.46	.25	.30		.05
GROUP 9					
ZONE 1	7.45	.25	.39		.05
ZONE 2	7.38	.25	.39		.05
ZONE 3	8.05	.25	.48		.05
ZONE 4	7.86	.45	.48		.05
ZONE 5	5.83	.25	.30		.05
ZONE 6	5.27	.25	.30		.05
ZONE 7	4.71	.25	.30		.05
GROUP 10					
ZONE 1	6.24	.25	.39		.05
ZONE 2	5.71	.25	.39		.05
ZONE 3	6.41	.25	.48		.05
ZONE 4	6.21	.45	.48		.05
ZONE 5	5.11	.25	.30		.05
ZONE 6	4.56	.25	.30		.05
ZONE 7	4.06	.25	.30		.05

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CLASSIFICATION DEFINITIONS

GROUP 1 - 60 ton crane & over; Crane with 125' boom
GROUP 2 - Crane with 175' boom
GROUP 3 - Heavy Duty Operators-Crane all types; deck winches (2); Hi-Ho and similar type equipment; three drum (or more) stabilizers; pulls all types; concrete mixer one yard and over; all pavers; ditching or trenching machines (track type); mechanics and equipment welders; well-point systems; hoist, two drums or more; hoist, one drum, forty vertical feet or more; scrapers; bull-dozers, rubber-tired or track other than farm-type; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, one cubic yard or over; shovels and backhoes, all types, and equivalent equipment; piledriver operator; sideboom cats; A-Frame trucks when handling steel or pipe; work boats requiring licensed operators; tugboats; fork lifts over ten ton capacity; and foundation drilling machines
GROUP 4 - Medium Duty Operators-Two drum stabilizers; front end loaders under 1 cubic yard; A-Frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); one drum hoist under 40 vertical feet; fireman; concrete spreader; pugmill operator; bituminous distributor on surface treatment and equivalent; bull floats and equivalent; job grease man on "Highway Construction"; unit operator (all Highway Zones); work boats not requiring licensed operators; inboard motored crew boats
GROUP 5 - Light Duty Operators-Single drum stabilizers; concrete mixer under one yard; spray curing machines; rollers on subgrade; one air compressor over 125 cubic feet; form graders; asphalt finisher screed man; pump over 4 inches; scale operators; crusher operators; concrete jointing machines; concrete saw; tack machines and equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type, rubber-tired tractor, with attachments, except back-hoes; Kolum buff and similar equipment; fork lifts, ten ton capacity and under; outboard motored crew boats
GROUP 6 - Mechanic Helper; Batch Plant Operator
GROUP 7 - Oiler
GROUP 8 - Fireman
GROUP 9 - Fireman Operating Steam Valve
GROUP 10 - Oiler on Crane Using Air to Drive Piles

AREA COVERED BY POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - Ascension, East Baton Rouge, Iberville & West Baton Rouge Parishes
ZONE 3 - Bossier, Caddo & Red River Parishes
ZONE 4 - Calcasieu, Cameron & Jefferson Davis Parishes
NONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Bienville, DeSoto, Iberia, Livingston, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington & Webster Parishes
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Parish), St. Mary, Tensas, Terrebonne, Union, Vermon, West Carroll, West Feliciana & Winn Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS					
ZONE 1					
Roofers	$ 8.88		.10		
Roofers' helpers	7.05		.10		
ZONE 2					
Roofers	7.96	.65	.65	.20	.25
ZONE 3					
Roofers	8.16	.35	.50		.04
Roofers' helpers	5.34	.35	.50		.04
ZONE 4					
Roofers, steep	7.35				
Roofers, flat	7.10				
Roofers, kettlemen	6.85				
Roofers' helpers	5.80				
ZONE 5					
Roofers	8.10		.20		.02
Kettlemen	5.62		.20		.02
Roofers' helpers	4.85		.20		.02

AREA COVERED BY ROOFERS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes
ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS					
ZONE 1	$ 9.97	.40	.27		.10
ZONE 2	10.16	3%+.45	.70		.14
ZONE 3	10.09	.40	.30		.12
ZONE 4	9.65	3%+.40	.25		.07

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE 1 - Calcasieu Parish
ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes
ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS					
ZONE 1	$ 8.845	.35	.28		.05
ZONE 2	9.72	.35	.30		.04
ZONE 3	9.555	.35	.30		.04
ZONE 4	8.35	.35	.30		
ZONE 5	8.30				
ZONE 6	8.65	.35	.30		.04
ZONE 7	8.30				
ZONE 8	8.10	.35	.20		.05

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AREA COVERED BY SOFT FLOOR LAYERS ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Ascension (south of the Mississippi River), Assumption, Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Mississippi River) & St. John the Baptist Parishes
ZONE 3 - Iberia (northeast of the Atchafalaya River), Lafourche, St. Martin (southern segment), St. Mary (northeast of the Atchafalaya River), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Parish) & Washington Parishes
ZONE 5 - Avoyelles, Grant, LaSalle & Rapides Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$10.10	.60	.90		.08
TERRAZZO WORKERS					
ZONE 1	9.10	.25			
ZONE 2	9.85	.48	.30		.02
ZONE 3	7.25				
ZONE 4	8.02		.25		
ZONE 5	7.90	.30			
ZONE 6	9.10				

AREA COVERED BY TERRAZZO WORKERS ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, West St. Tammany & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS' HELPERS					
ZONE 1	$ 6.75	.25			
ZONE 2	5.55	.15	.10		.05
ZONE 3	3.00				

AREA COVERED BY TERRAZZO WORKERS' HELPERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. John the Baptist, West St. Tammany, Tangipahoa, Terrebonne, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Webster & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS					
ZONE 1	$ 9.10	.25			
ZONE 2	7.65	.48	.30		.02
ZONE 3	8.25				
ZONE 4	8.02		.25		
ZONE 5	7.90	.30			
ZONE 6	9.10				

AREA COVERED BY TILE SETTERS ZONES

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, West St. Tammany & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - St. Tammany (northern half including Covington north of Highway 190) & Washington Parishes
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS' HELPERS					
ZONE 1	$ 6.75	.25			
ZONE 2	5.55	.15	.10		.05
ZONE 3	3.30				

AREA COVERED BY TILE SETTERS' HELPERS ZONES

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. Helena, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Webster & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (BUILDING CONSTRUCTION)					
ZONE 1					
GROUP 1	$ 4.91				
GROUP 2	5.34				
GROUP 3	5.55				
GROUP 4	5.35				
GROUP 5	5.55				
GROUP 6	5.45				
GROUP 7	5.55				
GROUP 8	5.37				
GROUP 9	5.76				
ZONE 2					
GROUP 1	5.20				
GROUP 2	5.46				
GROUP 3	6.00				
GROUP 4	5.86				
GROUP 5	6.31				
GROUP 6	6.39				
GROUP 7	6.68				
GROUP 8	6.86				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3					
GROUP 1	$ 5.47				
GROUP 2	5.55				
GROUP 3	5.80				
GROUP 4	5.95				
GROUP 5	6.10				
GROUP 6	6.30				
GROUP 7	6.65				

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - ZONE 1

GROUP 1 - Teamsters, Pick-up drivers & chauffeurs
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Trucks trailer & dumps over 8 yds.
GROUP 4 - Mixers on trucks up to and including 3 yds.
GROUP 5 - Mixers on trucks over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Mississippi wagons & Koehring dumpsters & similar dirt moving equipment (up to and including 8 yds.)
GROUP 8 - Trucks - dump
GROUP 9 - Mississippi wagons & Koehring dumpsters & similar dirt moving equipment over 8 yds.

TRUCK DRIVERS - ZONE 2

GROUP 1 - Teamster, pick-up drivers
GROUP 2 - Stake bodies (all sizes)
GROUP 3 - Truck & trailer; Dump
GROUP 4 - Mixers on trucks, up to and including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Mississippi wagons & Koehring dumpsters, tandem and similar dirt moving equipment, up to and including 8 yds.
GROUP 8 - Mississippi wagons, Koehring dumpsters, tandem and similar dirt moving equipment, over 8 yds.

TRUCK DRIVERS - ZONE 3

GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock; Truck helpers
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds,
GROUP 4 - Tandem axle dump, batch and water trucks over 3 tons, pickups with trailer
GROUP 5 - Mississippi wagons, floats, tractor trailers; rubber tired tractors and wobble wheels
GROUP 6 - Euclids, lowboys, Dempsey dumpsters, Koehring-dumps, five axle trucks, transit mix over 3 yds., fuel truck
GROUP 7 - Fork lift

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AREA COVERED BY TRUCK DRIVERS (BUILDING CONSTRUCTION) ZONES

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (HIGHWAY CONSTRUCTION)					
GROUP 1					
ZONE 1	$ 5.49				
ZONE 2	5.49				
ZONE 3	5.26				
ZONE 4	6.49				
ZONE 5	4.45				
ZONE 6	4.35				
ZONE 7	4.25				
GROUP 2					
ZONE 1	5.61				
ZONE 2	5.61				
ZONE 3	5.35				
ZONE 4	6.62				
ZONE 5	4.56				
ZONE 6	4.46				
ZONE 7	4.36				
GROUP 3					
ZONE 1	5.66				
ZONE 2	5.66				
ZONE 3	5.55				
ZONE 4	6.68				
ZONE 5	4.61				
ZONE 6	4.51				
ZONE 7	4.41				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 4					
ZONE 1	$ 5.73				
ZONE 2	5.73				
ZONE 3	5.73				
ZONE 4	6.75				
ZONE 5	4.67				
ZONE 6	4.57				
ZONE 7	4.47				
GROUP 5					
ZONE 1	5.89				
ZONE 2	5.89				
ZONE 3	6.09				
ZONE 4	6.96				
ZONE 5	4.83				
ZONE 6	4.73				
ZONE 7	4.63				

CLASSIFICATION DEFINITIONS

GROUP 1 - One ton and under; Warehousman, material checker, receiving clerk, spotter and dumper
GROUP 2 - One and one-half (1½) tons to and including two (2) tons (exclusive of dump trucks), truck mechanic helper
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump and tandem axle water trucks, winch lift, transit mix, floats, pole trailers, four axle trailers and truck mechanic
GROUP 5 - Special equipment, euclids and five axle moving equipment

AREA COVERED BY TRUCK DRIVERS (HIGHWAY CONSTRUCTION) ZONES

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
ZONE 2 - East Baton Rouge Parish
ZONE 3 - Bossier & Caddo Parishes
ZONE 4 - Calcasieu Parish
ZONE 5 - Lafayette, Ouachita & Rapides Parishes
ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Parish), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes
ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Parish), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

WELDFWI - receive rate prescribed for craft performin operation to which welding is incidental

SUPERSEDEAS DECISION

STATE: Maryland
COUNTY: Worcester
DECISION NO.: MD77-3035
DATE: Date of Publication
Supersedes Decision No. AR-2012, dated August 2, 1974, in 39 FR 27991.
DESCRIPTION OF WORK: Building construction, excluding single family hnuses and garden type apartments up to and including 4-stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 7.75	.33	.10		.01
CARPENTERS	6.10	.30			
CEMENT MASONS	7.75				
DRYWALL FINISHERS	7.60				.01
DRYWALL INSTALLERS	6.10	.30			
ELECTRICIANS	7.20	.50	.20	.15	½ of 1%
IRONWORKERS	7.96	.60	.85		.03
LABORERS	4.00	.225			
MASON TENDERS	4.50	.225			
PAINTERS	4.77				
PLASTERERS	7.50				
PLUMBERS & PIPEFITTERS	6.70	.45	.35		.02
ROOFERS	4.25				
TRUCK DRIVERS	4.30				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.46				
Bulldozer	7.25	.50	.50		.07
Crane	7.93	.50	.50		.07
Front end loader	5.50				
Gradall	7.93	.50	.50		.07
Hoist	7.14	.50	.50		.07

SUPERSEDEAS DECISION

STATE: Maryland
COUNTY: Wicomico
DECISION NO.: MD77-3036
DATE: Date of Publication
Supersedes Decision No. AQ-2075, dated March 15, 1974, in 39 FR 10068.
DESCRIPTION OF WORK: Residential Construction consisting of single family houses and garden type apartments up to and including 4-stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 7.75				
CARPENTERS	3.75				
CEMENT MASONS	4.00				
DRY WALL	4.14				
ELECTRICIANS	7.20	.30	.20	.15	1%
LABORERS:					
Asphalt rakers	3.25				
Mason tenders	4.15				
Mortar mixers	2.35				
Unskilled	2.45				
PAINTERS - BRUSH	3.50				
PLUMBERS	4.23				
SHEET METAL WORKERS	3.25				
TRUCK DRIVERS	2.30				
POWER EQUIPMENT OPERATORS:					
Backhoe	3.17				
Bulldozer	3.25				
Crane	3.75				
Forklift	3.05				
Grader	4.25				
Hi-grade finisher	4.37				
Loader	3.00				
Roller	4.25				

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SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: INGHAM & EATON
DECISION NO: MI77-2035 DATE: Date of Publication
Supersedes Decision No. AR-8041, dated December 17, 1971 in 36 FR 24027
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$6.50				
CARPENTERS	6.50				
CEMENT MASONS	6.00				
ELECTRICIANS	6.75				
LABORERS:					
Common	3.00				
Plasterer Tenders	3.25				
Landscape	3.00				
PAINTERS	5.25				
PLASTERERS	6.00				
PLUMBERS	7.72				
SOFT FLOOR LAYERS	6.69				
SHEET METAL WORKERS	4.20				
TILE SETTERS	7.99				
TRUCK DRIVERS	6.90				
POWER EQUIPMENT OPERATORS:					
Bulldozer	7.50				
Backhoe	7.50				

SUPERSEDEAS DECISION

STATE: Michigan COUNTY: Marquette
DECISION NO.: MI77-2036 DATE: Date of Publication
Supersedes Decision No. AR-3178, dated December 20, 1974 in 39 FR 44166
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.06	.60	.50		.05
BOILERMAKERS	10.90	.80	1.00	1.50	.03
BRICKLAYERS & STONEMASONS	8.03	.65	.50		.01
CARPENTERS & SOFT FLOOR LAYERS	8.74	.60	.50		.01
CEMENTMASONS	7.53	.65	.50		.01
ELECTRICIANS	7.10	.45	10%		.5%
ELEVATOR CONSTRUCTORS:					
Constructors	10.04	.545	.35	4%+a+b	.02
Helpers	7.03	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS	8.84	.50	1.00	.131	.04
LABORERS:					
Laborers	6.85	.55	.35		.04
Chipping Hammers; Concrete Mixers; Green Cutter (Air, Electric or Gas), Material Mixers; Mortar Mixers; Motor driven buggy operator; Sandblasters; Tamping machines; Vibrator operators	6.95	.55	.35		.04
LATHERS	8.85	.54	.10	.50	.01
MILLWRIGHTS	9.44	.60	.50		.01
PLASTERERS	7.90	.65	.50		.01
SHEET METAL WORKERS	8.88	.50	.55		
SPRINKLER FITTERS	11.40	.60	.90		.08
TILE-MARBLE & TERRAZZO WORKERS	7.78	.65	.50		.01
TILE SETTERS' HELPERS	7.18	.45	.35		.01
TRUCK DRIVERS:					
Regular	7.42	20.00c	14.00c		
Heavy Duty, double axle and semi	7.55	20.00c	14.00c		
Euclid type equipment	7.78	20.00c	14.00c		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators					
Regular Equipment Operator Crane; Dozer; Front End Loaders Job Mechanic Air Track Drill; Boom Truck Concrete Mixers; Fork Truck; Material Hoist and Tugger; Pump, 6" and over; Pumpcrete; Belt Crete; Squeeze crete; Sweeping Machine; Trencher; Winches; Well points and Freeze Systemsq	$ 8.22	.80	.85	10%	.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.	7.85	.80	.85	10%	.02

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F

b. Employer contributes 4% of regular hourly rate to vacation credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years

c. Per week, Per employee

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN77-2031
Supersedes Decision No. AQ-3104, dated March 8, 1974, in 39 FR 9369
DESCRIPTION OF WORK: Heavy and Highway Construction

COUNTIES: See Below
DATE: Date of Publication

COUNTIES: Becker, Cass, Clay, Hubbard, Ottertail, Todd, Wadena & Wilkin	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS	$4.30				
TRUCK DRIVERS:					
Tandem	5.55	.15	.15		
Semi	5.75	.15	.15		
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor	5.55	.15	.15		
Asphalt Plant	5.55	.15	.15		
Bulldozer	6.10	.15	.15		
Crusher-Screening Plant	6.10	.15	.15		
Loader	6.10	.15	.15		
Mechanic	6.10	.15	.15		
Motor Patrol	6.35	.15	.15		
Oiler-Greaser	5.55	.15	.15		
Rollers:					
Base	4.97				
Finish	5.27				
Scraper	5.52				
Tractor	5.20	.15	.15		

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN77-2032
Supersedes Decision No. AQ-3105, dated March 8, 1974, in 39 FR 9370
DESCRIPTION OF WORK: Heavy and Highway Construction

COUNTIES: See Below
DATE: Date of Publication

COUNTIES: Big Stone, Chippewa, Grant, Douglas, Kandiyohi, Lac Qui Parle, Pope, Stevens, Swift & Traverse	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS	$4.30				
TRUCK DRIVERS:					
Tandem	5.55	.15	.15		
Semi	5.75	.15	.15		
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor-Spreader	6.10	.15	.15		
Asphalt Plant	6.10	.15	.15		
Bulldozer	6.10	.15	.15		
Crusher-Screening Plant	6.10	.15	.15		
Loader-Front End	6.10	.15	.15		
Mechanic	6.10	.15	.15		
Motor Patrol	6.35	.15	.15		
Roller	5.55	.15	.15		
Scraper	6.10	.15	.15		
Tractor	5.20	.15	.15		

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN77-2033
Supersedes Decision No. AQ-3124, dated March 8, 1974, in 39 FR 935
DESCRIPTION OF WORK: Heavy and Highway Construction

COUNTIES: See Below
DATE: Date of Publication

COUNTIES: Cottonwood, Lincoln, Lyon, Murray, Pipestone, Redwood and Yellow Medicine	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS	$4.68				
TRUCK DRIVERS:					
Single Axle	5.55				
Tandem	5.62				
8 to 12 cubic yards	5.73				
Over 16 cubic yards	5.93				
POWER EQUIPMENT OPERATORS:					
Asphalt Paver	5.23				
Asphalt Distributor-Spreader	5.43				
Asphalt Plant	5.54				
Backhoes	6.82				
Bulldozers	6.60				
Cranes, Derricks & Draglines	6.82				
Crusher & Screening Plant	5.17				
Grader	5.36				
Front End Loader	5.06				
Mechanics	5.84				
Motor Patrols	5.92				
Rollers	5.19				
Pugmill	5.02				
Scrapers	5.99				
Tractors	5.68				

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN77-2034
Supersedes Decision No. AR-3147, dated October 11, 1974, in 39 FR 36704
DESCRIPTION OF WORK: Heavy and Highway Construction

COUNTIES: See Below
DATE: Date of Publication

COUNTIES: Beltrami, Clearwater, Kittson, Lake-of-the-Woods, Mahnomen, Polk, Marshall, Norman, Red-Lake, Pennington and Roseau	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS	$5.29				
TRUCK DRIVERS	5.93				
POWER EQUIPMENT OPERATORS:					
Asphalt-Dist.-Spreader & Rollers	5.88				
Asphalt Plant, Bulldozers & Paving Machine	6.10				
Blade Grader	5.74				
Cranes, Derricks, Draglines & Shovels	6.72				
Crusher & Screening Plant	6.15				
Finishing Machines	5.40				
Front-End-Loaders, Graders & Pugmill	6.50				
Tractors & Scrapers	6.50				
Mechanics	6.31				
Motor Patrols	6.35				
Oilers-Greasers	5.32				
Tournapull	6.60				

SUPERSEDEAS DECISION

STATE: Missouri
DECISION NO. MO77-4051 DATE: Date of Publication
Supersedes Decision No. MO76-4191 dated December 17, 1976, in 41 FR 55272
DESCRIPTION OF WORK AND LOCATION
Highway Construction
(Statewide)
Heavy Construction

Adair	Gasconade	Montgomery
Andrew	Gentry	Morgan
Atchison	Greene	Newton
Audrain	Grundy	Nodaway
Barton	Harrison	Osage
Bates	Henry	Perry
Benton	Hickory	Pettis
Bollinger	Holt	Phelps
Boone	Howard	Pike
Buchanan	Jackson	Platte
Caldwell	Jasper	Polk
Callaway	Jefferson	Pulaski
Camden	Johnson	Putnam
Cape Girardeau	Knox	Ralls
Carroll	Laclede	Randolph
Case	Lafayette	Ray
Cedar	Lawrence	St. Charles
Charitan	Lewis	St. Clair
Clark	Lincoln	St. Francois
Clay	Linn	St. Louis and City
Clinton	Livingston	Ste. Genevieve
Cole	McDonald	Saline
Cooper	Macon	Schuyler
Crawford	Madison	Scott
Dade	Maries	Scotland
Dallas	Marion	Shelby
Daviess	Mercer	Sullivan
DeKalb	Miller	Vernon
Franklin	Moniteau	Warren
	Monroe	Washington
		Worth

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CARPENTERS & PILEDRIVERMEN:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1	$9.96	.50	.70	.50	.03
ZONE 2	10.20	.50	.30		.05
ZONE 3	10.46	.50	.70		
ZONE 4	9.81	.50	.70	.50	.03
ZONE 5	10.45	.50	.30		.03
ZONE 6	9.85	.50	.30		.03
ZONE 7	8.95	.50	.70	.50	.03
ZONE 8	10.45	.20			.03
ZONE 9	10.32	.33			.03
ZONE 10	10.22	.23			.03
ZONE 11	10.17	.33	.15		.03

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN ZONES

ZONE 1 - Franklin, Jefferson, St. Charles, Lincoln and Warren Counties.
ZONE 2 - Clay, Jackson, Platte and Ray Counties
ZONE 3 - St. Louis County & City
ZONE 4 - Pike, St. Francois & Washington Counties
ZONE 5 - Cass and Lafayette Counties
ZONE 6 - Atchison, Andrew, Barry, Barton, Bates, Buchanan, Caldwell, Camden, Carroll, Cedar, Christian, Clinton, Dade, Dallas, Daviess, DeKalb, Douglas Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Jasper, Johnson, Laclede, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Ozark, Polk, St. Clair, Saline, Stone, Taney, Vernon, Webster, Worth & Wright Counties
ZONE 7 - Crawford, Dent, Gasconade, Iron, Madison, Maries, Montgomery, Phelps, Pulaski, Reynolds, Shannon and Texas Counties.
ZONE 8 - Boone, Cooper & Howard Counties
ZONE 9 - Adair, Audrain, Benton, Callaway, Charlton, Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Morgan, Pettis, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby and Sullivan Counties
ZONE 10 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Howell, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Ste. Genevieve, Scott, Stoddard and Wayne Counties
ZONE 11 - Cole, Miller, Moniteau and Osage Counties.

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CEMENT MASONS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
ZONE 1	9.475	.40	.50	.50	
ZONE 2	10.93				
ZONE 3	9.50	1.00	.95		
ZONE 4	9.655	.40	.50	1.25	
ZONE 5	7.05	.70	.30	.35	
ZONE 6	8.75				
ZONE 7	9.325				
ZONE 8	10.00				
ZONE 9	7.40				
ZONE 10	9.30	.40	.50		
ZONE 11	10.00				
ZONE 12	8.30		.50		
ZONE 13	10.15	1.00	.95		

AREAS COVERED BY CEMENT MASONS ZONES

ZONE 1 - Bates, Carroll, Cass and Lafayette Counties
ZONE 2 - Dent, Phelps, Pike, Pulaski, and Texas Counties
ZONE 3 - Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren & Washington Counties on projects less than $100,000.00.
ZONE 4 - Clay, Jackson, Platte and Ray Counties
ZONE 5 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Scott, Stoddard and Wayne Counties
ZONE 6 - Cedar, Christian, Dade, Dallas, Douglas, Greene, Howell, Laclede, Ozark, Polk, Stone, Taney, Webster and Wright Counties
ZONE 7 - Benton, Henry, Hickory, Johnson, Morgan, Pettis, Saline and St. Clair Counties
ZONE 8 - Adair, Audrain, Boone, Charlton, Cooper, Howard, Linn, Macon, Moniteau, Monroe, Randolph, Shelby, Schuyler, Sullivan and Putnam Cos.
ZONE 9 - Barry, Barton, Jasper, Lawrence, McDonald, Newton and Vernon Counties
ZONE 10 - Andrew, Atchison, Buchanan, Caldwell, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Livingston, Mercer, Nodaway and Worth Counties.
ZONE 11 - Callaway, Camden, Cole, Gasconade, Maries, Miller, Montgomery, and Osage Counties
ZONE 12 - Clark, Knox, Lewis and Scotland Counties.
ZONE 13 - St. Louis City and County, Jefferson and St. Charles Counties; and Counties of Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren and Washington on projects $100,000.00 and over.

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ELECTRICIANS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
Electrical contracts over $7,500.00	$10.38	4%	1%	11.5%	4%
Electrical contracts $7,500.00 and under	8.93	4%	1%	11.5%	4%
ZONE 2	11.22	.39	1%+.51	.80	.06
ZONE 3					
Electrical contracts over $5,000.00	11.22	.39	1%+.51	.80	.06
Electrical contracts $5,000.00 and under	10.67	.39	1%+.51	.80	.06
ZONE 4					
Electrical contracts over $5,000.00	11.22	.39	1%+.51	.80	.06
ZONE 5					
Electrical contracts over $5,000.00	11.22	.39	1%+.51	.80	.06
Electrical contracts $5,000.00 and under	10.06	.39	1%+.51	.80	.06
ZONE 6	10.30	.55	1%+3½%	13½%	.10
ZONE 7					
Electrical contracts over $10,000.00	10.30	.55	1%+3½%	13½%	.10
ZONE 8					
Electrical contracts $10,000.00 and under	9.64	.55	1%+3½%	13½%	.10
ZONE 9					
Electrical contracts $10,000.00 and under	7.45	.55	1%+3½%	13½%	.10
ZONE 10					
Electrical contracts $10,000.00 and under	5.27	.55	1%+3½%	13½%	.10

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ELECTRICIANS CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 11	$10.325	.47	1%+.50	6%	.02
ZONE 12	10.815	.47	1%+.50	6%	.02
ZONE 13	10.59	.35	1%	7%	.01
ZONE 14					
Electrical contracts over $10,000.00	10.83	.35	1%	7%	.01
Electrical contracts $10,000.00 and under	10.59	.35	1%	7%	.01
ZONE 15					
Electrical contracts over $10,000.00	11.18	.35	1%	7%	.01
Electrical contracts $10,000.00 and under	10.59	.35	1%	7%	.01
ZONE 16					
Electricians	9.15	.35	1%+.30		.01
Cable splicers	9.50	.35	1%+.30		.01
ZONE 17					
Electricians	10.25	.27	1%	7%+.30	½ of 1%
Cable splicers	10.50	.27	1%	7%+.30	½ of 1%

AREAS COVERED BY ELECTRICIANS ZONES

ZONE 1 - Adair, Audrain (That part east of Highway 19), Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Montgomery, Pike, Putnam, Ralls, Schuyler, Scotland, Shelby and Sullivan Counties:
Electrical contracts over $7,500.00
Electrical contracts $7,500.00 and under

ZONE 2 - Western half of Clay & Jackson Cos. not including Blue Springs; Northern half of Platte Co.; North Western portion of Cass Co. not including Pleasant Hill

ZONE 3 - Remainder of Clay, Jackson, Platte & Cass Counties:
Electrical contracts over $5,000.00
Electrical contracts $5,000.00 and under

ZONE 4 - Bates, Benton, Henry, Johnson, Lafayette and Pettis Counties:
Electrical contracts over $5,000.00
Electrical contracts $5,000.00 and under

ZONE 5 - Carroll, Cooper, Morgan, Ray & Saline Counties:
Electrical contracts over $5,000.00
Electrical contracts $5,000.00 and under

ZONE 6 - St. Charles County, St. Louis County and City

ZONE 7 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Franklin, Iron, Jefferson, Lincoln, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Ripley, Scott, St. Francois, Ste. Genevieve, Stoddard, Warren, Washington and Wayne Counties:
Electrical contracts over $10,000.00

ZONE 8 - Franklin, Jefferson, Lincoln and Warren Counties
Electrical contracts $10,000.00 and under

ZONE 9 - Bollinger, Cape Girardeau, Perry, Scott, St. Francois and Ste. Genevieve Counties:
Electrical Contracts $10,000.00 and under

ZONE 10 -Butler, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Pemiscot, Ripley, Reynolds, Stoddard, Washington and Wayne Counties:
Electrical contracts $10,000.00 and under

ZONE 11 -Christian, Dallas, Greene, Hickory, Howell, Laclede, Oregon, Ozark, Polk, Shannon, Stone, Taney, Texas, Webster, and Wright Counties

ZONE 12 -Pulaski County

ZONE 13 -Andrew, Buchanan, Clinton and DeKalb Counties

Zone 14-Caldwell, Daviess, Gentry, Holt and Nodaway Counties:
Electrical contracts over $10,000.00
Electrical contracts $10,000.00 and under

ZONE 15 -Atchinson, Grundy, Harrison, Livingston, Mercer and Worth Counties:
Electrical contracts $10,000.00 and under
Electrical contracts over $10,000.00

ZONE 16 -Barry, Barton, Cedar, Dade, Jasper, Lawrence, McDonald, Newton, St. Clair and Vernon Counties

ZONE 17 - Audrain (except Cuivre Township), Boone, Callaway, Camden, Chariton, Cole, Crawford, Dent, Gasconade, Howard, Maries, Miller, Moniteau, Osage, Phelps and Randolph Counties

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IRONWORKERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1	10.625	.55	.70		.05
ZONE 2	9.60	.70	1.00	1.00	.05
ZONE 3	9.475	.70	1.00	1.00	.05
ZONE 4	9.60	.45	.65		.12
ZONE 5	10.25	.50	.30		
ZONE 6	9.06	.45	.40		.04
ZONE 7	9.35	.65	.70		.125

AREAS COVERED BY IRONWORKERS ZONES

ZONE 1 - Audrain, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Iron, Jefferson, Lincoln, Madison, Maries, Miller, Montgomery, Osage, Perry, Phelps, Pike, Pulaski, Reynolds, Shannon, St. Charles, St. Francois, St. Louis & City, Ste. Genevieve, Texas, Warren, Washington, and Wright Counties

ZONE 2 - Andrew, Atchison, Barton, Bates, Benton, Buchanan, Caldwell, Camden, Carroll, Cass, Cedar, Chariton, Clay, Clinton, Cooper, Dallas, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Hickory, Holt, Howard, Jackson, Johnson, Laclede, Lafayette, Linn, Livingston, Mercer, Moniteau, Morgan, Nodaway, Pettis, Platte, Polk, Putnam, Randolph, Ray, St. Clair, Saline, Sullivan, Vernon and Worth Counties.

ZONE 3 - Christian, Dade, Douglas, Greene and Webster Counties.

ZONE 4 - Barry, Jasper, Lawrence, McDonald, Newton and Stone Counties.

ZONE 5 - Adair, Clark, Knox, Lewis, Macon, Marion, Monroe, Ralls, Schuyler, Scotland and Shelby Counties.

ZONE 6 - Howell, Oregon, Ozark and Taney Counties

ZONE 7 - Butler, Bollinger, Carter, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Ripley, Scott, Stoddard and Wayne Counties.

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LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1					
ZONE 1	7.98	.50	.50	.50	.10
ZONE 2	6.58	.50	.50	.50	.10
ZONE 3	6.58	.50	.50	.50	.10
ZONE 4	8.75	.40	.50		.10
ZONE 5	7.83	.40	.50		.10
ZONE 6	7.85	.40	.50		.10
GROUP 2					
ZONE 1	8.13	.50	.50	.50	.10
ZONE 2	6.73	.50	.50	.50	.10
ZONE 3	6.73	.50	.50	.50	.10
ZONE 4	8.90	.40	.50		.10
ZONE 5	8.00	.40	.50		.10
ZONE 6	8.00	.40	.50		.10
GROUP 3					
ZONE 1	8.28	.50	.50	.50	.10
ZONE 2	6.88	.50	.50	.50	.10
ZONE 3	6.88	.50	.50	.50	.10
ZONE 4	9.05	.40	.50		.10
ZONE 5	8.15	.40	.50		.10
ZONE 6	8.15	.40	.50		.10
GROUP 4					
ZONE 1	8.48	.50	.50	.50	.10
ZONE 2	7.08	.50	.50	.50	.10
ZONE 3	7.08	.50	.50	.50	.10
ZONE 4	9.25	.40	.50		.10
ZONE 5	8.35	.40	.50		.10
ZONE 6	8.35	.40	.50		.10
GROUP 5					
ZONE 1	8.73	.50	.50	.50	.10
ZONE 2	7.33	.50	.50	.50	.10
ZONE 3	7.33	.50	.50	.50	.10
ZONE 4	9.50	.40	.50		.10
ZONE 5	8.60	.40	.50		.10
ZONE 6	8.60	.40	.50		.10

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CLASSIFICATION DEFINITIONS

GROUP 1 - General laborer - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagmen; loading trucks under bins, hoppers, and conveyors; track men and all other general laborers.
GROUP 2 - First Semi-Skill - Air tool operator; cement handler, bulk or sack; dump man on earth fill; georgie buggie man; material batch hopper man; scale man; spreader on asphalt machine; material mixer man (except on manholes); coffer dams; riprap pavers - rock, block or brick; signal man; scaffolds over ten feet not self-supported from ground up; skipman on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only); straw blower nozzleman.
GROUP 3 - Second Semi-Skill - Asphalt plant platform man; chuck tender, crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; vibrator man; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 feet where compressed air is not used; abutment and pier hole man working six (6) feet or more below ground; men working in coffer dams for bridge piers and footings in the river
GROUP 4 - Third Semi-Skill - Laser beam man; asphalt raker; barco tamper; jackson or any other similar tamp; wagon driller; churn drills; air track drills and all other similar drills; cutting torch man; form setters; liners and stringline men on concrete paving, curb, gutters, ditch liners, etc.; hot mastic kettleman; hot tar applicator; hand blade operators; manhole builder helpers and mortar men on brick or block manholes; sand blasting and gunite nozzle men; rubbing concrete; air tool operator in tunnels; caulker and lead man; screed man on asphalt machine, chain or concrete saw; cliff scalers working from scaffolds, bosuns' chairs or platforms on dams or power plants over ten (10) feet above ground; grade checker on cuts and fills; string line man for electronic grade control; pressure groutmen
GROUP 5 - Fourth Semi-Skill - Manhole builders, - brick or block; dynamite and powder men; welder

AREA COVERED BY LABORERS

ZONE 1 - Buchanan, Cass and Lafayette Counties
ZONE 2 - Andrew, Barton, Bates, Benton, Caldwell, Carroll, Cedar, Christian, Clinton, Dade, Dallas, DeKalb, Greene, Henry, Jasper, Johnson, Laclede, Lawrence, Livingston, Newton, Pettis, Polk, St. Clair, Saline, Vernon, Webster and Wright Counties
ZONE 3 - Atchison, Barry Camden, Daviess, Douglas, Gentry, Grundy, Harrison, Hickory, Holt, McDonald, Mercer, Morgan, Nodaway, Ozark, Stone Taney and Worth Counties
ZONE 4 - Franklin, Jefferson, and St. Charles Counties
ZONE 5 - Audrain, Bollinger, Boone, Callaway, Cape Girardeau, Chariton, Cole, Cooper, Crawford, Dent, Gasconade, Howard, Iron, Lincoln, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Ralls, Randolph, Reynolds, St. Francois, Ste. Genevieve, Scott, Warren and Washington Counties.
ZONE 6 - Adair, Butler, Carter, Clark, Dunklin, Howell, Knox, Lewis, Linn, Macon, Oregon, Putnam, Ripley, Schuyler, Scotland, Shelby, Shannon, Stoddard, Sullivan, Texas and Wayne Counties.

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LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 8					
GROUP 1	8.30	.50	.50	.75	.10
GROUP 2	8.45	.50	.50	.75	.10
GROUP 3	8.60	.50	.50	.75	.10
GROUP 4	8.80	.50	.50	.75	.10
GROUP 5	9.10	.50	.50	.75	.10

CLASSIFICATION DEFINITIONS

GROUP 1 - General Laborer - Carpenter tenders, salamander tenders; dump man, & ticket takers on stock piles; flagmen; loading trucks under bins, hoppers and conveyors; track men and all other general laborers
GROUP 2 - First Semi-Skill - Air tool operator; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers on cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pierhole men working below ground); riprap pavers rock, block or brick; signal man; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; pudlers (paving only)
GROUP 3 - Second Semi-Skill - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe & ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working on underground tunnels where compressed air is not used
GROUP 4 - Third Semi-Skill - Spreader on screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any other similar tamp; wagon driller, churn drills, air track drills and all other similar drills; cutting torch man; form setter; liners and stringline men on concrete paving, curb, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operators; manhole builders helpers and mortar men on brick or block manholes; sand blasting and gunnite nozzle men; rubbing concrete; air tool operator in tunnels
GROUP 5 - Fourth Semi-Skill - Manhole builder (brick or block); dynamite and powder men.

AREA COVERED BY LABORERS

ZONE 8 - Clay, Jackson, Platte and Ray Counties

DECISION NO. MO77-4051

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7 - St. Louis City and County:					
General laborer	9.425	.40	.90		.03
Wrecking	9.30	.40	.90		.03
Plumbers laborer	9.80	.40	.90		.03
Dynamiter or powderman	9.925	.40	.90		.03

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LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
Lineman	$10.56	.38	1%+.15		4%
Heavy equipment operator	9.83	.38	1%+.15		4%
Groundman powderman	7.34	.38	1%+.15		4%
Groundman	6.97	.38	1%+.15		4%
Groundman (1st year)	5.99	.38	1%+.15		4%
ZONE 2					
Lineman	10.09	.38	1%+.15		4%
Heavy equipment operator	9.62	.38	1%+.15		4%
Groundman powderman	7.01	.38	1%+.15		4%
Groundman	6.48	.38	1%+.15		4%
Groundman (1st year)	4.93	.38	1%+.15		4%
ZONE 3					
Lineman & cable splicers	10.75	.40	1%	12½%	4%
Groundman - winch driver	7.90	.40	1%	12½%	4%
Groundman - driver	7.62	.40	1%	12½%	4%
Equipment operator	9.61	.40	1%	12½%	4%
Groundman - 1st 6 mos.	6.11	.40	1%	12½%	4%
Groundman - next 12 mos.	6.36	.40	1%	12½%	4%
Groundman - next 12 mos.	6.98	.40	1%	12½%	4%
Groundman - thereafter	7.62	.40	1%	12½%	4%
ZONE 4					
Lineman	9.77	.35	1%		.25%
Groundman - Class I	8.35	.35	1%		.25%
Groundman - Class II	6.83	.35	1%		.25%
Groundman - Class A	6.23	.35	1%		.25%
Groundman - 1st. 6 mos.	5.95	.35	1%		.25%

AREAS COVERED BY LINE CONSTRUCTION

ZONE 1 - Bates, Benton, Carroll, Cass, Clay, Henry, Johnson, Jackson, Lafayette, Pettis, Platte, Ray and Saline Counties.
ZONE 2 - Andrew, Atchison, Barry, Barton, Buchanan, Caldwell, Cedar, Christian, Clinton, Dade, Dallas, Daviess, DeKalb, Douglas, Gentry, Greene, Grundy, Harrison, Hickory, Holt, Jasper, Laclede, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Ozark, Polk, St. Clair, Stone, Taney, Vernon, Webster, Worth and Wright Counties
ZONE 3 - Crawford, Franklin, Iron, Jefferson, Reynolds, St. Charles, St. Francois, St. Louis, Washington, Adair, Audrain, Boone, Callaway, Camden, Carter, Chariton, Clark, Cole, Cooper, Dent, Gasconade, Howard, Howell, Knox, Lewis, Lincoln, Linn, Macon, Maries, Marion, Miller, Moniteau, Monroe, Montgomery, Morgan, Oregon, Osage, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Ripley, Ste. Genevieve, Schuyler, Scotland, Shannon, Shelby, Sullivan, Texas and Warren Counties
ZONE 4 - Bollinger, Butler, Cape Girardeau, Dunklin, Madison, Mississippi, New Madrid, Pemiscot, Scott, Stoddard, and Wayne Counties.

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PAINTERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
Brush & roller	9.49	.55	.70		.07
Spray	10.49	.55	.70		.07
Bridge	10.24	.55	.70		.07
ZONE 2					
Brush	7.40		.25		
Spray	8.15		.25		
ZONE 3					
Brush	6.80				
Spray	7.20				
ZONE 4					
Brush and roller	7.75	.45	.35		
Spray, structural steel and sandblasting	10.00	.45	.35		
ZONE 5					
Brush	8.75				
Spray, taping machine	9.75				
Bridges 75 ft. in height	9.75				
All structural steel over 50 ft. in height	9.50				
Sandblasting	9.75				
Bridge	9.50				
ZONE 6					
Brush	9.20	.45	.35		
Spray	10.20	.45	.35		
Structural steel 30 ft.. or more	9.60	.45	.35		
ZONE 7					
Brush	7.25				
Soray	7.75				
ZONE 8					
Brush, roller	7.92		.30		
Spray	8.295		.30		

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PAINTERS CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 9					
Brush	$9.15		.20		
Spray	9.65		.20		
ZONE 10					
Brush	10.08	.42	.30		.04
Spray	11.58	.42	.30		.04
ZONE 11					
Brush, bridge & construction steel	7.85				
Spray	8.35				
ZONE 12					
Brush	6.25				
Structural steel	7.75				
Spray	6.55				

AREA COVERED BY PAINTERS

ZONE 1 - Bates, Caldwell, Carroll, Cass, Clay, Henry, Jackson, Johnson, Lafayette, Livingston, Platte, and Ray Counties
ZONE 2 - Bollinger, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott and Stoddard Counties
ZONE 3 - Lincoln and Pike Counties
ZONE 4 - Camden, Crawford, Dent, Laclede, Maries, Miller, Phelps, Pulaski and Texas Counties
ZONE 5 - Benton, Cooper, Moniteau, Morgan, Pettis and Saline Counties
ZONE 6 - Andrew, Atchison, Buchanan, DeKalb, Gentry, Holt, Nodaway and Worth Counites
ZONE 7 - Adair, Knox, Linn, Macon, Putnam, Schuyler, Scotland, Shelby and Sullivan Counties
ZONE 8 - Barry, Barton, Cedar, Dade, Jasper, Lawrence, McDonald, Newton, St. Clair and Vernon Counties
ZONE 9 - Audrain, Boone, Callaway, Chariton, Cole, Gasconade, Howard, Monroe, Montgomery, Osage and Randolph Counties
ZONE 10- Jefferson, St. Charles and St. Louis & City Counties
ZONE 11- Christian, Dallas, Douglas, Greene, Hickory, Howell, Ozark, Polk, Stone, Taney, Webster and Wright Counties
ZONE 12- St. Francois and Ste. Genevieve Counties

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
GROUP I	10.10	.50	1.00	.75	.10
GROUP II	9.85	.50	1.00	.75	.10
GROUP III	9.60	.50	1.00	.75	.10
GROUP IV	8.60	.50	1.00	.75	.10
GROUP V	10.35	.50	1.00	.75	.10
GROUP VI	10.60	.50	1.00	.75	.10
GROUP VII	10.10	.50	1.00	.75	.10
GROUP VIII	9.10	.50	1.00	.75	.10
ZONE 2					
GROUP I	10.17	.50	1.00		
GROUP II	10.17	.50	1.00		
GROUP III	9.62	.50	1.00		
GROUP IV	9.17	.50	1.00		
GROUP V	10.97	.50	1.00		
GROUP VI	11.72	.50	1.00		
GROUP VII	12.17	.50	1.00		
GROUP VIII	12.92	.50	1.00		
GROUP IX	10.67	.50	1.00		
GROUP X	9.17	.50	1.00		
ZONE 3					
GROUP I	10.25	.35	.65	.40	.02
GROUP II	10.05	.35	.65	.40	.02
GROUP III	9.85	.35	.65	.40	.02
GROUP IV	9.25	.35	.65	.40	.02
GROUP V	10.50	.35	.65	.40	.02
GROUP VI	10.75	.35	.65	.40	.02
GROUP VII	11.00	.35	.65	.40	.02
ZONE 4					
GROUP I	9.80	.35	.65	.40	.02
GROUP II	9.45	.35	.65	.40	.02
GROUP III	9.25	.35	.65	.40	.02
GROUP IV	8.40	.35	.65	.40	.02
GROUP V	10.05	.35	.65	.40	.02
GROUP VI	10.30	.35	.65	.40	.02
GROUP VII	10.55	.35	.65	.40	.02

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POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ZONE 5					
GROUP I	10.10	.50	1.00	.75	.10
GROUP II	9.90	.50	1.00	.75	.10
GROUP III	9.70	.50	1.00	.75	.10
GROUP IV	8.60	.50	1.00	.75	.10
GROUP V	10.35	.50	1.00	.75	.10
GROUP VI	10.60	.50	1.00	.75	.10
GROUP VII	10.85	.50	1.00	.75	.10
GROUP VIII	9.10	.50	1.00	.75	.10
ZONE 6					
GROUP I	9.35	.50	1.00	.75	.10
GROUP II	9.00	.50	1.00	.75	.10
GROUP III	8.80	.50	1.00	.75	.10
GROUP IV	7.60	.50	1.00	.75	.10
GROUP V	9.35	.50	1.00	.75	.10
GROUP VI	9.60	.50	1.00	.75	.10
GROUP VII	9.85	.50	1.00	.75	.10
GROUP VIII	8.10	.50	1.00	.75	.10
ZONE 7					
GROUP I	10.35	.50	.25		.02
GROUP II	10.00	.50	.25		.02
GROUP III	9.80	.50	.25		.02
GROUP IV	8.35	.50	.25		.02
GROUP V	10.60	.50	.25		.02
GROUP VI	10.85	.50	.25		.02
GROUP VII	11.10	.50	.25		.02
GROUP VIII	9.10	.50	.25		.02
ZONE 8					
GROUP I	10.35	.50	.25		.02
GROUP II	10.00	.50	.25		.02
GROUP III	9.80	.50	.25		.02
GROUP IV	8.35	.50	.25		.02
GROUP V	10.60	.50	.25		.02
GROUP VI	10.85	.50	.25		.02
GROUP VII	11.10	.50	.25		.02
GROUP VIII	9.10	.50	.25		.02

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS ZONE 1

GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; back hoe; blade operator, all types; boilers-2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator-2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; highloader-fork lift; hoisting engine-2 active drums; locomotive operator, standard gauge; mechanics and welders, field or shop; maintenance operator; mucking machine; piledriver operator; pitman crane operator; pump-2; quad-trac; scoop operator-all types; scoops in tandem; self-propelled rotary drill (Leroy or Equal-not Ait Trac); shovel operator; side discharge spreader; side boom cats; skimmer scoop operator; slip-form paver (CMI, REX, OR Equal); throttle man; truck crane; welding machine maintenance operator-2

GROUP II - "A" frame truck; asphalt hot mix silo; asphalt plant fireman; drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; backfiller operator; chip spreader; concrete batch plant, dry, power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader operator; greaser; hoisting engine-1 drum; Latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator; tractor operator-over 50 h.p.

GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator-combination boiler and booster; tractor, 50 hp or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator - 1

GROUP IV - Mechanic's helper, oiler

GROUP V - Clamshells, 3 yd. capacity or over, crane or rigs 80 ft. of boom or over (including jib); draglines, 3 yd. capacity or over; pile drivers, 80 ft. of boom or over (including jib); shovels, 3 yd. capacity or over

GROUP VI - Crane or rigs, over 200 ft. of boom (including jib)

GROUP VII - Hoist (each additional drum over 1 drum)

GROUP VIII - Oiler driver, all types

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in lenght or depth will be paid fifty cents (50c) per hour above the regular classification.

POWER EQUIPMENT OPERATORS ZONE 2

GROUP I - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or cruiser mounted - 16 tons & over; crane, locomotive; derrick, steam; derrick car & derrick boat; dragline; dredge; gradeall, crawler or tire mounted; locomotive, gas, steam & other powers; pile driver, land or floating; scoop, skimmer, shovel, power (steam, gas, electric, or other powers), switch boat; whirley

GROUP II - Air tugger 2/air compressor; anchor-placing barge; asphalt spreader; athey force feed loader (self-propelled); backfilling machine; boat operator-push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine footing foundation; bullfloat; cherry picker; combination concrete hoist & mixer such as mixermobile; compressors, two, not more than 20 ft. apart; compressors, not more than five ft. apart; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as a pump-crete machine; concrete spreader; conveyor, large (not self-propelled), hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boiring (wagon drills and any hand drills obtaining power from other sources including concrete breakers jackhammers and barco equipment - no engineer required); elevating grader; engine man, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift; hoist, concrete and brick (brick cages on concrete skips operating in or on tower, towermobile, or similar equipment); hoist, stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-greene); mechanic, on job site; mixer, paving; mixermobile; mucking machine; pipe cleaning machine; pipe wrapping machine; plant asphalt; plant, concrete producing or ready-mix job site; plant heating-job site; plant mixing-job site; plant, power, generating-job site; pump, self-powered, over 2" (one operator will operate two); pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or sub-grade; scoop, tractor drawn; spreader box; sub-grader; tie tamper; tractor-crawler, or sheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine; tunnel boring machine; vibrating machine, automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine

GROUP III - Air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor air (mounted on truck); concrete saw, self-propelled; conveyor, large (not self-propelled); conveyor large (not self-propelled moving brick and concrete (distributing) on floor level; curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 KW or any number developing over 30 KW; greaser; hoist, one drum regardless of size (except brick or concrete); lad-a-vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity, mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; mixer, with outside loader, 2 bag capacity or more; mixer, with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane;

POWER EQUIPMENT OPERATORS ZONE 2 CONTD:

GROUP III CONTD: - pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; sweeper, street, welding machine, one over 400 amp.; winch operating from truck

GROUP IV - Boat operator-outboard motor (job site); conveyor (such as con-vay-it) regardless of how used; oiler; sweeper, floor

GROUP V - Air pressure; oiler engineer; operating under ten pounds

GROUP VI - Air pressure, oiler engineer operating over ten pounds

GROUP VII - Air pressure engineer operating under ten pounds

GROUP VIII - Air pressure engineer operating over ten pounds

GROUP IX - Crane-piledriving with loads; crane using rock socket tool; dragline - 7 cu. yds. & over; shovel, power - 7 cu. yds, and over; crane, climbing (such as Linden); derrick, diesel, gas, electric hoisting material and erecting steel - 150' or more above ground; hoist, three or more drums; scoop, tandem; tractor, tandem crawler

GROUP X - Heaters

Crane with boom (including jib), over 100' from pin to pin (add 1c per foot to maximum of 75c) above basic rate for crane

Work in tunnel or tunnel shaft, .25c above base rate.

POWER EQUIPMENT OPERATORS ZONE 3 and 4

GROUP I - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; automatic slipform paver; back hoe; blade operator - all types; boat operator - tow; boilers - 2; central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launchhammer wheel; locomotive operator - standard gauge; mechanics and welders; mucking machine; piledriver operator; pitman crane operator; push cat operator; quad-trac; scoop operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane, shovel operator

GROUP II - A-frame; asphalt hot-mix silo; asphalt roller operator; asphalt plant fireman (drum or boiler); asphalt plant man; asphalt plant mixer operator; backfiller operator; barber-greene loader; boat operator (bridge & dams); chip spreader; compressor maintenance operator - 2; concrete mixer operator - skip loader; concrete plant operator; concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor; pavement breaker; powerbroom - self-propelled; power shield; rooter; slip-form finishing machine; stumpcutter machine; side discharge concrete spreader; throttle man; tractor operator (over 50 hp); welding machine maintenance operator - 2 winch truck

POWER EQUIPMENT OPERATORS ZONE 3 and 4 CONTD

GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; clef plane operator; compressor maintenance operator - 1; concrete saw operator (self-propelled); conveyor operator; curb finishing machine; distributor operator; finishing machine, operator; fireman - rig; flex plane operator; float operator; form grader operator; generator-maintenance operator; light plant maintenance operator; maintenance operator; oiler driver; pugmill operator; pump maintenance operator (other than dredge); roller operator, other than high type asphalt; screening & washing plant operator; Siphons & Jets; subgrading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator (combination Boiler & Booster); ulmac, ulric or similar spreader; vibrating machine operator, not hand; welding machine maintenance operator - 1; Tractor operator (50 hp or less)

GROUP IV - Oiler

GROUP V - Dragline operator - 3 yds. & over; shovel - 3 yds. & over; clamshell - 3 yds. & over; crane, rigs or piledrivers, 100' to 150' of boom (incl. jib); hoists - each additional active drum over 2 drums

GROUP VI - Tandem scoop operator; crane, rigs or piledrivers, 150' to 200' of boom (incl. jib)

GROUP VII - Crane, rigs or piledrivers 200 ft of boom or over (incl. jib)

POWER EQUIPMENT OPERATORS ZONES 5, 6, 7, and 8

GROUP I - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; automatic slipform paver; autograder; back-hoe; blade operator, - all types; boat operator - tow; boilers - 2; central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launchhammer wheel; locomotive operator - standard gauge; mechanics and welders; mucking machine; piledriver operator; pitman crane operator; push cat operator; quad-trac; shovel operator; sideboom cats; skimmer scoop operator all types; trenching machine operator; truck crane,

GROUP II - A-frame; asphalt hot mix silo; asphalt plant fireman (drum or boiler); asphalt roller operator; asphalt plant man; asphalt plant mixer operator; backfiller operator; barber-greene loader; boat operator (bridge & dams); chip spreader; compressor maintenance operator - 2; concrete mixer operator - skip loader; concrete plant operator; concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor, pavement breaker; power-broom - self-propelled; power shield; rooter; slip form finishing machine; stumpcutter machine; side discharge concrete spreader; throttle man; tractor operator (over 50 hp); welding machine maintenance operator - 2 winch truck

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POWER EQUIPMENT OPERATORS ZONES 5, 6, 7, and 8 CONTD:

GROUP III - Boilers - 1; chip spreader (front man); churn drill operator; Elwood plane operator; compressor maintenance operator - 1, concrete saw operator (self-propelled); conveyor operator; curb finishing machine; distributor operator; finishing machine operator; fireman rig; flex plane operator; float operator; form grader operator; generator-maintenance operator; light plant maintenence operator; maintenance operator; oiler driver; pugmill operator; pump maintenance operator other than dredge; roller operator, other than high type asphalt; screening & washing plant operator; siphons & jets; subgrading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator (combination boiler & booster); ulmac, ulric or similar spreader; vibrating machine operator; welding machine maintenance operator - 1, tractor operator (50 hp or less)
GROUP IV - Oiler
GROUP V - Dragline operator - 3 yds. & over; shovel - 3 yds. & over; clamshell - 3 yds. & over; crane, rigs or piledrivers, 100' to 150' of boom (incl. jib), hoists - each additional active drum over 2 drums
GROUP VI - Tandem scoop operator; crane, rigs or piledrivers, 150' to 200' of boom (incl. jib)
GROUP VII - Crane rigs, or piledrivers 200 ft. of boom or over (incl. jib)
GROUP VIII - Oiler - drivers

AREAS COVERED BY POWER EQUIPMENT OPERATORS ZONES

ZONE 1 - Clay, Jackson, Platte and Ray Counties
ZONE 2 - St. Louis City & County
ZONE 3 - Franklin, Jefferson, Lincoln, St. Charles, and Warren Counties
ZONE 4 - Adair, Audrain, Bollinger, Boone, Butler, Callaway, Cape Girardeau, Carter, Clark, Cole, Crawford, Dent, Dunklin, Gasconade, Howell, Iron, Knox, Lewis, Macon, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, Morgan, New Madrid, Oregon, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Reynolds, Ripley, St. Francois, Ste. Genevieve, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Texas, Washington, and Wayne Counties
ZONE 5 - Buchanan, Cass, Clinton and Lafayette Counties
ZONE 6 - Andrew, Atchison, Bates, Benton, Caldwell, Carroll, Chariton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Johnson, Linn, Livingston, Mercer, Nodaway, Pettis, Saline, Sullivan and Worth Counties
ZONE 7 - Christian, Greene, Jasper, Lawrence and Taney Counties
ZONE 8 - Barry, Barton, Camden, Cedar, Dade, Dallas, Douglas, Hickory, Laclede, McDonald, Newton, Ozark, Polk, St. Clair, Stone, Vernon Webster and Wright Counties

DECISION NO. MO77-4051

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - St. Louis City and County					
GROUP 1	6.99	a	b	c&d	
GROUP 2	7.19	a	b	c&d	
GROUP 3	7.29	a	b	c&d	

FOOTNOTES:
a - Employer contribution of $12.50 per week
b - Employer contribution of $12.50 per week
c - Paid Holidays; New Year's Day, Thanksgiving Day, Memorial Day, Independence Day, Friday after Thanksgiving Day, Labor Day, Veternas Day, Christmas.
d - Paid vacation of 3 days for 600 hours of service in any one contract year;
4 days paid vacation for 800 hours of service in any one contract year;
5 days paid vacation for 1,000 hours of service in any one contract year

CLASSIFICATION DEFINITIONS

GROUP 1 - Truck or trailers of a water level capacity of 11.99 cu. yds. or less for lift trucks, job site ambulances, pick-up trucks, flat bed trucks
GROUP 2 - Trucks or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace & similar equipment of same capacity
GROUP 3 - Truck or trailers of a water level capacity of 22.0 cu. yds. & over including euclids, speedace & all floats, flat bed trailers & boom trucks & similar equipment of same capacity

DECISION NO. MO77-4051

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2					
GROUP 1	8.59	.50	1.00	.75	
GROUP 2	8.79	.50	1.00	.75	
GROUP 3	9.10	.50	1.00	.75	
GROUP 4	9.25	.50	1.00	.75	
GROUP 5	8.365	.50	1.00	.75	

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS

GROUP 1 - One team; station wagons; pickups, material, single axle; tank wagon, single axle
GROUP 2 - Two teams; material tandem; semi-trailers, winch, fork distributor drivers and operators, agitator and transit mix, tank wagon, tandem or semi-trailers, insley wagons, dump, excavating, 5 cu. yds. & over, dumpsters, half-tracks, speedace, euclids and other similar excavating equipment
GROUP 3 - A-frame, low boy, boom
GROUP 4 - Mechanics & welders
GROUP 5 - Mechanic's helpers, oilers, & greasers

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE 2 - Clay, Jackson, Platte and Ray Counties

DECISION NO. MO77-4051

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
ZONE 3					
GROUP 1	10.90				
GROUP 2	11.05				
GROUP 3	11.12				
GROUP 4	11.02				
GROUP 5	10.80				
ZONE 4					
GROUP 1	10.20				
GROUP 2	10.35				
GROUP 3	10.42				
GROUP 4	10.31				
GROUP 5	10.10				
ZONE 5					
GROUP 1	9.69	.50	1.00		
GROUP 2	9.84	.50	1.00		
GROUP 3	9.91	.50	1.00		
GROUP 4	9.80	.50	1.00		
GROUP 5	9.59	.50	1.00		
ZONE 6					
GROUP 1	8.83	.50	.75		
GROUP 2	8.98	.50	.75		
GROUP 3	9.10	.50	.75		
GROUP 4	8.99	.50	.75		
GROUP 5	8.73	.50	.75		
ZONE 7					
GROUP 1	8.10	.50	1.00		
GROUP 2	8.25	.50	1.00		
GROUP 3	8.37	.50	1.00		
GROUP 4	8.26	.50	1.00		
GROUP 5	8.00	.50	1.00		

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CLASSIFICATION DEFINITIONS
TRUCK DRIVERS

GROUP 1 - Flat bed trucks - single axle; station wagon; pickup trucks; material trucks - single axle; tank wagon - single axle
GROUP 2 - Flat bed trucks - tandem axle; material trucks, tandem axle; tank wagon - tandem axle
GROUP 3 - Semi and/or pole trailers; winch fork and steel trucks; Insley wagons, dumpsters, half tracks, speedace, euclids, and other similar equipmnt, a-frame and derrick trucks, float or low boy, distributor drivers and operators, tank wagon, semi-trailer
GROUP 4 - Agitator and transit mix trucks
GROUP 5 - Warehouseman

AREAS COVERED BY TRUCK DRIVERS ZONES

ZONE 3 - Franklin, Jefferson and St. Charles Counties
ZONE 4 - Lincoln and Warren Counties
ZONE 5 - Buchanan, Cass, Johnson and Lafayette Counties
ZONE 6 - Andrew, Audrain, Barton, Bates, Benton, Bollinger, Boone, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cedar, Chariton, Christian, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, DeKalb, Dent, Douglas, Gasconade, Greene Henry, Hickory, Howard, Iron, Jasper, Laclede, Lawrence, Linn, Livingston, Macon, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, Morgan, New Madrid, Newton, Osage, Pemiscot, Perry, Pettis, Phelps, Pike, Polk, Pulaski, Ralls, Randolph, Reynolds, St. Clair, St. Francois, Ste. Genevieve, Saline, Scott, Shannon, Shelby, Stoddard, Texas, Vernon, Washington, Wayne, Webster, and Wright Counties
ZONE 7 - Adair, Atchison, Barry, Butler, Clark, Dunklin, Gentry, Grundy, Harrison, Holt, Howell, Knox, Lewis, McDonald, Mercer Nodaway, Oregon, Ozark, Putnam, Ripley, Schuyler, Scotland, Stone, Sullivan, Taney, and Worth Counties

SUPERSEDEAS DECISION

STATE: Montana COUNTIES: Statewide
DECISION NUMBER: MT77-5021 DATE: Date of Publication
Supersedes Decision No. MT76-5103 dated November 19, 1976, in 41 FR 51326
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 11.80	.44	$1.10		
BOILERMAKERS	9.45	.60	1.00		
BRICKLAYERS:					
Beaverhead, Deer Lodge, Granite, Jefferson (except Northern Tip of County), Madison, Powell and Silver Bow Counties	10.50				
Gallatin and Park Counties	10.05				
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweetgrass, Stillwater, Treasure, Wibaux and Yellowstone Counties	10.60		.35		.02
Broadwater, Lewis and Clark and Meagher and Jefferson (Northern Tip)	9.75	.30			
Cascade, Chouteau, Glacier, Pondera and Teton Counties	9.80	.50	.55		
Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole and Valley Counties	9.80	.45	.55		
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	9.50	.40	.25		
CARPENTERS:					
Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Liberty, Meagher, Pondera, Teton and Toole Counties					
Carpenters	8.68	.45	.75		.02
Piledrivermen; Saw Filers; Sawmen	8.89	.45	.75		.02
Millwrights	9.14	.45	.75		.02
Blaine and Hill Counties					
Carpenters	6.36	.30	.45		.02
Broadwater, Lewis and Clark and Jefferson Counties					
Carpenters	8.27	.45	.75		.02
Piledrivermen	8.42	.45	.75		.02
Millwrights	8.52	.45	.75		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Deer Lodge, Granite (all area lying south of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County) and Powell (area lying south of the N.E. corner of Granite County) Counties					
Carpenters	$ 8.76	.45	.75		.02
Piledrivers	9.26	.45	.75		.02
Millwrights	9.01	.45	.75		.02
Granite (area lying north of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County) Lake (southern area, south of and including the Town of Ravalli), Mineral (area southeast of Southeast City limits of the Town of Superior), Missoula, Powell (area lying north of the N.E. corner of Granite County), Ravalli and Sander (Southeastern portion) Counties					
Carpenters	8.01	.45	.75		.02
Millwrights; Filedriver	8.26	.45	.75		.02
Carter, Custer, Daniels, Dawson, Fallon, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Sheridan, Valley and Wibaux Counties					
Carpenters	7.84	.45	.75		.02
Piledrivermen	8.09	.45	.75		.02
Millwrights	8.34	.45	.75		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Flathead, Lincoln, Lake (Northern area including Town of Ravalli from a point where Hwy. #10A and Hwy. #93 intersect), Mineral (Northern area including the Town of Superior), Sanders (except S.E. corner portion) Counties					
Carpenters	$ 8.22	.45	.75		.02
Sawmen; Filers, Piledrivers; carpenters working burned, charred, creosoted or similarly treated material	8.42	.45	.75		.02
Millwrights and Machine Erectors	8.57	.45	.75		.02
Big Horn, Carbon, Garfield, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Treasure, Wheatland and Yellowstone Counties					
Carpenters	8.18	.45	.75		.02
Floor Sander; Sawmen	8.33	.45	.75		.02
Piledrivermen	8.33	.45	.75		.02
Millwrights	8.68	.45	.75		.02
Beaverhead and Silver Bow Cos.					
Carpenters	7.91	.45	1.00	.75	.02
Millwrights and Piledrivermen	8.16	.45	1.00	.75	.02
Gallatin, Madison, Park and Sweetgrass Counties					
Carpenters	8.06	.45	.75		.02
Millwrights and Piledrivermen	8.31	.45	.75		.02
CEMENT MASONS:					
Flathead, Glacier, Lake (North of the City of Ronan), Lincoln and Sanders (North of the City of Plains) Counties	6.95	.37			
Granite (Northern half), Lake (Southern area, including the City of Pablo), Mineral, Missoula, Powell (Northern area including the City of Helmsville), Ravalli and Sanders (South portion including the City of Paradise) Counties	8.077	.50	.35		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland and Yellowstone Counties	$ 7.33	.40			
Gallatin, Park and Sweetgrass Counties	6.50	.35	.25		
Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud and Wibaux Counties	7.50	.50	.25		
Beaverhead, Deer Lodge, Granite (Southern half), Jefferson (Southern area including Town of Wickes), Madison, Powell (South portion including the Town of Deer Lodge) and Silver Bow Counties	8.95	.50	.25		
Broadwater, Jefferson (Area north of a line running E-W established south of the Town of Wickes and north of the Town of Basin), Lewis and Clark and Meagher Counties	6.22				
Blaine, Cascade, Chouteau, Hill, Liberty, Pondera, Teton and Toole Counties	7.35	.40			
ELECTRICIANS:					
Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Silver Bow and Powell Counties	9.90	.50	10+.35		1/2%
Gallatin County	9.55	.30	10		1/2%
Broadwater, Lewis and Clark and Meagher Counties					
Electricians	8.98	.42	10+.50		1/2%
Blaine, Hill, Liberty and Phillips Counties					
Electricians	9.85		10		1/2%
Cascade, Chouteau, Glacier, Judith-Basin, Pondera, Teton and Toole Counties					
Electricians	11.13	.42	10+.50		1/2%
Cable Splicers	11.38	.42	10+.50		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Flathead, Lake, Lincoln, Mineral Missoula, Ravalli and Sanders Counties					
Electricians	$ 9.68	.42	10		1/2%
Cable Splicers	10.18	.42	10		1/2%
Big Horn, Carbon, Golden Valley, Musselshell, Powder River, Rosebud, Stillwater, Treasure and Yellowstone Counties					
Electricians	10.07	.30	10+.50		1/2%
Cable Splicers	10.52	.30	10+.50		1/2%
Fergus, Petroleum and Wheatland Counties					
(Electrical contracts less than $30,000)	7.65	.40	10		1/2%
(Electrical contracts $30,000 or more)	8.75	.40	10		1/2%
Park and Sweetgrass Counties	9.05	.30	10+.50		1/2%
Carter, Daniels, Dawson, Fallon, McCone, Prairie, Richland, Roosevelt, Sheridan, Valley and Wibaux	8.70	.30	10+.50		1/2%
Custer and Garfield Counties	8.48		10		1/2%
ELEVATOR CONSTRUCTORS	9.12	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
IRONWORKERS:					
Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, (Southern half including Wolf Creek), Madison, Park, Powell, Ravalli and Silver Bow Cos.	10.11	.55	1.00		.05
Flathead, Glacier, Lake, Lincoln, Mineral, Missoula and Sanders Counties	11.15	.58	1.00		.05
Remaining Counties (including Northern half of Lewis and Clark County)	10.11	.55	1.00		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE MASONS:					
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	$ 8.50	.40	.35		
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Stillwater, Sweetgrass, Treasure, Wibaux and Yellowstone Counties	10.60		.35		.02
Gallatin and Park Counties	7.10				
Broadwater, Lewis and Clark, Meagher and Jefferson (northern area) Counties	8.75	.30			
Cascade, Chouteau, Glacier, Pondera Teton Counties	9.15	.40	.30		
Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole and Valley Counties	7.85				
PAINTERS:					
Beaverhead, Jefferson (Southern area, south of the City of Boulder), Madison (west of a line running north-south through the west limits of Harrison and Silver Bow Counties					
Brush	7.60	.35	.10		
Spray	10.40	.25	.10		
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweetgrass, Treasure, Wheatland, (South of the City of Harlowtown), Wibaux and Yellowstone Counties					
Brush	8.13	.49	.20		
Steel	8.38	.49	.20		
Spray	9.11	.49	.20		

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Broadwater, Gallatin, Jefferson, (Northern area from a line running East and West five miles south of the Southern City limits of Boulder), Lewis and Clark (Southern portion from a line running East and West through the southern limits of Craig), Madison (East of the West City limits of Harrison), Meagher, Park, Powell (Northern area from a line running East and West through the Southern City limits of Helmsville)					
Brush	$ 8.44	.25	.20		.03
Spray; Steel Brush	9.44	.25	.20		.03
Structural Steel Brush	9.44	.25	.20		.03
Steel Spray	10.44	.25	.20		.03
Structural Steel Spray	10.94	.25	.20		.03
Water and Sandblast	11.34	.25	.20		.03
Blaine, Hill, Liberty and Chouteau (north of the Southern limits of the City of Big Sandy) Counties	8.79				
Flathead, Granite (northern area north limits of Philipsburg), Lake (Southern area including City of Ronan), Lincoln, Mineral, Missoula, Powell (northern area through south limits of Helmsville), Ravalli and Sanders Counties	8.68	.34	.30		.04
PLASTERERS:					
Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland and Yellowstone Counties	7.38	.48			
Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland Rosebud and Wibaux Counties	7.50	.50	.25		
Gallatin, Park and Sweetgrass Counties	6.50	.35	.25		

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Richland, Rosebud, Stillwater, Treasure, Wibaux and Yellowstone Counties	$ 8.04		.25		
Blaine, Cascade, Chouteau, Daniels, Hill, Judith-Basin, Liberty, Lewis and Clark, McCone, Petroleum, Phillips, Ponder, Roosevelt, Sheridan, Teton, Toole and Valley Counties	8.50				
Beaverhead, Deer Lodge, Jefferson, Madison, Powell and Silver Bow Counties	7.63	.30	.40	.75	
Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	7.74	.60			.01
Broadwater, Gallatin, Meagher, Park, Sweetgrass and Wheatland Counties	7.65	.47			
SHEET METAL WORKERS:					
Broadwater, Jefferson (including North half of the City of Boulder), Lewis and Clark and Meagher Counties	9.81	.77	.25		.10
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	9.73	.82	.25		.10
Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Phillips, Powder River, Prairie, Richland, Park, Roosevelt, Rosebud, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland, Wibaux, Treasure and Yellowstone Counties	8.91	.37	34+.25		.02

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS: (Cont'd)					
Granite, Lake (Southern area, including the City of Pablo), Mineral, Missoula, Powell (Northern area including the City of Helmsville), Ravalli and Sanders (south portion, including the City of Paradise) Counties	$ 7.85	.40	.35		
Beaverhead, Deer Lodge, Jefferson (Southern area, including the Town of Wickes), Madison, Powell (South of a line running E-W north of the Town of Deer Lodge and Silver Bow Counties	8.95	.50	.25		
Flathead, Glacier, Lake (Northern area, including the City of Ronan), Lincoln and Sanders (north of the City of Plains) Counties	6.48	.20			
PLUMBERS:					
Flathead, Lake, Lincoln, Mineral Missoula and Sanders Counties	10.53	.35	.70		.05
Blaine, Cascade, Chouteau, Judith-Fergus, Glacier, McCone, Meagher Basin, Liberty, Pondera, Roosevelt, Phillips, Teton, Toole and Valley Cos.	10.60	.50	.85		1%
Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Park, Powell, Silver Bow and Sweetgrass Counties	10.65	.50	.65		.10
Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Richland, Rosebud, Sheridan, Stillwater, Treasure, Wheatland, Wibaux and Yellowstone Counties	11.25	.40	.80		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS: (Cont'd)					
Blaine, Cascade, Chouteau, Glacier, Hill, Judith-Basin, Liberty, Pondera, Teton and Toole Counties	$ 9.56	.62	.25		.07
Beaverhead, Deer Lodge, Granite, Jefferson (S½), Madison, Powell and Silver Bow Counties	9.15	.37	.40	1.00	.02
SPRINKLER FITTERS	9.82	.60	.90		.08
TERRAZZO WORKERS & TILE SETTERS:					
Broadwater, Lewis and Clark, Meagher and Jefferson (Northern area north of Boulder Hill) Counties	8.15	.30			
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweetgrass, Stillwater, Treasure, Wibaux and Yellowstone Counties	10.60		.35		.02
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	9.50	.40	.25		
Gallatin and Park Counties	7.75				
Cascade, Chouteau, Glacier, Pondera and Teton Counties	7.65	.50	.55		

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Beaverhead, Deer Lodge, Jefferson, Madison, Powell (excluding S.E. portion) and Silver Bow Counties					
Group 1	$ 6.88	.50	.40	.75	.03
Group 2	6.95	.50	.40	.75	.03
Group 3	6.96	.50	.40	.75	.03
Group 4	6.97	.50	.40	.75	.03
Group 5	6.98	.50	.40	.75	.03
Group 6	7.00	.50	.40	.75	.03
Group 7	7.04	.50	.40	.75	.03
Group 8	7.05	.50	.40	.75	.03
Group 9	7.06	.50	.40	.75	.03
Group 10	7.10	.50	.40	.75	.03
Group 11	7.13	.50	.40	.75	.03
Group 12	7.15	.50	.40	.75	.03
Group 13	7.16	.50	.40	.75	.03
Group 14	7.23	.50	.40	.75	.03
Group 15	7.26	.50	.40	.75	.03
Group 16	7.28	.50	.40	.75	.03
Group 17	7.38	.50	.40	.75	.03
Group 18	7.48	.50	.40	.75	.03
Group 19	7.13	.50	.40	.75	.03
Group 20	7.12	.50	.40	.75	.03
Group 21	7.00	.50	.40	.75	.03
Broadwater (Northern area), Lewis and Clark, Meagher, Powell (that portion lying east of a N-S line at the west edge of the Town of Elliston) Counties					
Group 1	7.52	.50	.40		.03
Group 2	7.68	.50	.40		.03
Group 3	7.77	.50	.40		.03
Group 4	8.12	.50	.40		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Cont'd)					
Broadwater (Southern portion including the City of Toston), Gallatin, Park, Sweetgrass and Wheatland Counties					
Group 1	$ 6.70	.50	.40		.03
Group 2	6.95	.50	.40		.03
Flathead, Glacier National Park, Lincoln and that area of Lake and Sanders Counties lying 5 miles north of the 5th Parallel					
Group 1	7.47	.50	.40		.03
Group 2	7.64	.50	.40		.03
Group 3	7.81	.50	.40		.03
Carter, Custer, Dawson, Fallon, Powder River, Prairie and Wibaux Counties					
Group 1	6.97	.50	.40		.03
Group 2	7.27	.50	.40		.03
Group 3	7.49	.50	.40		.03
Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure and Yellowstone Counties					
Group 1	6.82	.50	.40		.03
Group 2	7.12	.50	.40		.03
Group 3	7.34	.50	.40		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Cont'd)					
Granite, Lake (Southern area), Mineral, Missoula, Ravalli and Sanders (Southern area) Counties					
Group 1	$ 7.335	.50	.40		.03
Group 2	7.585	.50	.40		.03
Group 3	7.735	.50	.40		.03
Cascade, Chouteau, Fergus, Glacier (excluding Glacier National Park), Judith-Basin, Pondera, Teton and Toole Counties					
Group 1	7.52	.50	.40		.03
Group 2	7.67	.50	.40		.03
Group 3	7.87	.50	.40		.03
Group 4	7.92	.50	.40		.03
Group 5	8.02	.50	.40		.03
Group 6	8.27	.50	.40		.03
Group 7	8.12	.50	.40		.03
Blaine, Daniels, Garfield, Hill, Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan and Valley Counties					
Group 1	7.52	.50	.40		.03
Group 2	7.62	.50	.40		.03
Group 3	7.77	.50	.40		.03
Group 4	7.92	.50	.40		.03
Group 5	8.02	.50	.40		.03
Group 6	8.27	.50	.40		.03

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LABORERS

Beaverhead, Deer Lodge, Jefferson, Madison, Powell (excluding SE portion) and Silver Bow Counties

Group 1: General Laborer; Axeman; Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Cosmolene, applying and removing; Fence Erector and Installer including the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers); Form Stripper; Form Setter; Landscape Laborer; Nozzleman - air and water, gunnite and place machine; Pilot Car; Riprap Helper; Scaleman; Sod Cutter (hand operated) (General Laborer); Stake Jumper for equipment; Tool Checker, Toolhouseman

Group 2: Riprapper; Sandblaster; Sandblaster Tailhouseman; Pot Tender

Group 3: Hand Puller

Group 4: Post Hole Digger (power Auger)

Group 5: Concrete or asphalt saws; Tar Pot Operator

Group 6: Powderman Helper

Group 7: Caisson Workers (free air); Choker Setter; Spike Driver, single or dual or hand

Group 8: Drills, Air-track, self-propelled car or truck mount air operated drills; Jackhammer, Pavement Breaker, Wagon Driller, Mechanical Tamper, Vibrating Roller hand steered and other power tools; Pipe Wrapper, Power Saw (bucking)

Group 9: Asphalt Raker; Dumpman (grademan)

Group 10: High Pressure Machine Nozzleman

Group 11: Pipelayer (all types); Cutting Torch Operator

Group 12: Powderman

Group 13: Grade Setter

Group 14: High Scaler

Group 15: Dumpman (spotter)

Group 16: Power Saw (falling)

Group 17: Rigger

Group 18: Core Drill Operator

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LABORERS (Cont'd)

Beaverhead, Deer Lodge, Jefferson, Madison, Powell (excluding SE portion) and Silver Bow Counties

Group 19: Concrete Worker, wet or dry; Tending Masons when pouring and finishing concrete

Group 20: Vibrator Operator; Tending Stonesetters, Marble Setters, Tile Setters, Skagiola and Terrazzo Workers; Tending brick masons or brick or stone work; Tending Plasterers or stuccoing or plastering; (This does not include rubbing down of foundation or concrete walls), Surekete, Stonehard and Rubberslate; Concrete Conveyor Swinger Operator

Group 21: Power Driven Concrete Buggies

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LABORERS

Broadwater (Northern area), Lewis & Clark, Meagher, Powell (that portion lying east of a N-S line at the west edge of the Town of Elliston) Counties

Group 1: General laborer; Car and truck loader; Concrete handler; Form stripper; Fence erector and installer

Group 2: Concrete buggy; Vibrator; Jackhammer; Wagon driller; Barco tamper; Pavement breaker; Powderman helper

Group 3: All power tools; Rodder and spreader; Non-metallic pipe layers; Pipe wrappers; Sandblasters, Pot tenders; Curb form setter; Concrete tenders

Group 4: Mortar mixer; Powderman

Broadwater (Southern portion incl. the City of Townen), Gallatin, Park, Sweetgrass and Wheatland Counties

Group 1: Common laborers

Group 2: Semi-skilled; Hod carriers; Jackhammer operator; Vibrator; Mixer operator; Concrete pump tender; Nozzleman; Concrete machiner; Curb form setter

Flathead, Glacier National Park, Lincoln, and that area of Lake and Sanders Counties lying 5 miles north of the 5th Parallel

Group 1: General laborers; nozleman; form strippers; car and truck loaders

Group 2: Concrete handlers, conveying and handling concrete, Nozzlemen (air or water); Sand blast tail hose man; Powderman helper; Power driven wheelbarrow; Rodder and Spreader; Form setters (paving); Bucketman; Small air tool operators, including blow pipes and small power tool operators; Chuck tenders; Asphalt rakers, Dumpman; Rip rapping; Pipe wrapper; Pot tender; Concrete pumper hoseman; Jackhammer; Pavement breaker; Vibrator; mechanical tamper and other air tools; Cement handlers (sack or bulk); Burning bar

Group 3: Pipe layers (non-metallic); Metal culvert pipe layers; Mason and Plaster tenders; Cement finisher tender; Small concrete mixer operator; Shoring and lagging open ditches; Powderman; Drills, Air-Trac, wagon drill, cat or truck mounted air operated drills, Sand Blaster (wet or dry); gunite nozzleman; barco tamper

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LABORERS (Cont'd)

Carter, Custer, Dawson, Fallon, Powder River, Prairie and Wibaux Counties

Group 1: General laborers

Group 2: Jackhammer operator; Mechanical tampers; Pipelayers (all types); Pavement breakers; Pneumatic and electric tools operator; Pipewrappers

Group 3: Mason and plasterer's tenders

Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure and Yellowstone Counties

Group 1: General laborers; Concrete laborers; Chuck tenders and nippers

Group 2: Cement handler (sack or bulk); Jackhammer operator; Mortarman; Pipelayer (all types); Pipewrapper; Primerhouseman

Group 3: Mason and plasterer's tenders

Granite, Lake (Southern area), Mineral, Missoula, Ravalli and Sanders (Southern area) Counties

Group 1: Laborers

Group 2: All power tools, creosote workers; Jackhammer; Marble and tile setters' tenders; Pipelayers; Pipewrappers; Pot tenders; Small concrete mixers; Vibrators

Group 3: Cement masons and plasterer's tenders; Mason tenders; Pumpcrete, gunnite and plasterer pump

LABORERS

Cascade, Chouteau, Fergus, Glacier (excluding Glacier National Park), Judith Basin, Pondera, Teton and Toole Counties

Group 1: General and Building Laborers' and Scale Men; Concrete Laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpman (spotter) and Flagman; Fence Erectors and Installers, including the installation and erection of fences, guardrails, medium rails, reference posts, guide posts and right-of-way markers; Vibrators, under 1-1/2" in diameter; Small Air Tools such as Chippers, Clay Spades, etc.; Stake Setters; Stake Jumper, Rodder and Spreader, Form Stripper; Caisson Workers (Free Air); Vibrator 1-1/2" to 2-1/2" in diameter

Group 2: Concrete or Asphalt Saws, Creosote Material Handler; Curb Machine Form Setter (Slab Steel Forms); Diamond Drills up through 3 inches in diameter; Jackhammer, Pavement Breaker, Wagon Driller, Cat or Truck Mounted Air Operated Drills, and other Air Tools; Diesel Tamper, Wacker, Jay, Turtle, Pogo Sticks, etc., Mechanical Tampers; Nozzlemen; Air and Water, Gunite and Place, Machine (Grout); Pipe Layer (all types); Power Saw (bucking and falling); Power Driven Wheelbarrow; Chuck Tenders, Muckers and Nippers, Primeman

Group 3: Sand Blaster

Group 4: Vibrators, 2-1/2" to 4" in Diameter; Brick Tenders; Dumpmen (Grade); Small Concrete Mixers

Group 5: Diamond Drills up through 6 inches in diameter; Hod Carriers and Plaster Tenders (1 - one mixerman per crew); Asphalt Raker and Tamper; High Scaler; Powderman Helper; Concrete Nozzleman; Miners; Barco Tamper; Air-Trac

Group 6: Diamond Drill, over 6 inches in diameter; Self-Propelled Drills, with the exception of size differential, such as Mustang Drills or Twin Stack Drills; Core Drill Operator; Laser Equipment and Tools, excluding Transit; Powderman

Group 7: Concrete Vibrator, 4" and over

LABORERS

Blaine, Daniels, Garfield, Hill, Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan, and Valley Counties

Group 1: General and Building Laborers' and Scale Men; Form Stripper and Carpenter Tender; Car and Truck Loaders; Concrete Laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpmen (Spotter and Flagman); Small Power Tools, Chippers, Clay Spaders, Pogo Stick, etc.; Fence Erectors and Installers, installation and erection of fences, guard rails, median rails, reference posts, guide posts, and right-of-way markers

Group 2: Dumpmen (Grade)

Group 3: Power Driven Concrete Buggies or Power Driven Wheelbarrows; Pipe Layers (non-metallic); Sandblaster, Concrete Nozzleman, Place Operator, Jackhammer, Pavement Breaker, Vibrator (2½ inches and over) Barco Tamper, Vibrator Turtle; Small Concrete Mixers, Concrete Saw; Nozzleman (air and water); Sandblaster, Tailhoseman, Pot Tender, Tar Pot Tender; Gunite Nozzleman; Caisson Workers (Free Air); Tunnels and Shafts (Free Air); Hull Gang, Pot Tender; Chuck Tender, Muckers and Nippers, Primerhouseman

Group 4: Brick Tenders (handling bricks and blocks only)

Group 5: Hod Carriers and Plaster Tenders (men carrying motor either by hod, pail or barrow); High Scaler, Wagon Driller, Cat or Truck mounted Air Operated Drills; Asphalt Rakers and Tampers, Gunite, Form Setter (slab steel forms); Stake Setter, Stake Jumper, Rodder and Spreader, Grademan; Concrete Nozzleman; Miners

Group 6: Powdermen; Lazer Tools and Equipment

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck Crane, Winch Truck and similar	$ 9.20	.50	.50	.25	.05
Air Compressor, single	8.89	.50	.50	.25	.05
Air Compressor, two or more	9.06	.50	.50	.25	.05
Air Doctor	9.36	.50	.50	.25	.05
Asphalt Paving Machine	9.36	.50	.50	.25	.05
Asphalt Paving Machine Screed	9.36	.50	.50	.25	.05
Automatic Finegrade, Gurries and other similar types	9.49	.50	.50	.25	.05
Belt Finish Machine	9.06	.50	.50	.25	.05
Bit Grinder	9.36	.50	.50	.25	.05
Bituminous Mixer Paving, Travel Plant	9.36	.50	.50	.25	.05
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	8.95	.50	.50	.25	.05
Boring Machine (large)	9.36	.50	.50	.25	.05
Broom, Self-propelled	9.03	.50	.50	25	.05
Cableway Highline	9.07	.50	.50	.25	.05
Cement Silo	9.15	.50	.50	.25	.05
Central Mixing Plants, Concrete dam and stationary	9.61	.50	.50	.25	.05
Chain Bucket Loader	9.08	.50	.50	.25	.05
Chip or Gravel Spreader, self-propelled	9.08	.50	.50	.25	.05
Concrete Batch Plant, one and two Mixers	9.36	.50	.50	.25	.05
Concrete Batch Plant, three and four Mixers	9.56	.50	.50	.25	.05
Concrete Batch Plant, five Mixers and over	9.76	.50	.50	.25	.05
Concrete Batch Plant Oiler, up to and including two Mixers	8.88	.50	.50	.25	.05
Concrete Batch Plant Oiler, three Mixers and over	9.19	.50	.50	.25	.05
Concrete Bucket Dispatcher	9.36	.50	.50	.25	.05
Concrete Curing Machine	9.36	.50	.50	.25	.05
Concrete Finish Machine Paving	9.36	.50	.50	.25	.05

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Float-Spreader	$ 9.36	.50	.50	.25	.05
Concrete Mixer, three bags and under	8.95	.50	.50	.25	.05
Concrete Mixer, four bags and over	9.12	.50	.50	.25	.05
Concrete Power Saw, self-propelled	9.36	.50	.50	.25	.05
Concrete Travel Batcher	9.36	.50	.50	.25	.05
Concrete Conveyor under 40 feet	8.94	.50	.50	.25	.05
Concrete Conveyor over 40 feet	9.69	.50	.50	.25	.05
Concrete Pump	9.69	.50	.50	.25	.05
Conveyor Loader Operator up to and including 42" belt	8.94	.50	.50	.25	.05
Conveyor Loader Operator over 42" belt	9.06	.50	.50	.25	.05
Crane, to and including 80' boom	9.52	.50	.50	.25	.05
Crane, 81' to 130' boom	9.67	.50	.50	.25	.05
Crane, 131' to 150' boom	9.72	.50	.50	.25	.05
Crane, 151' boom and over	9.77	.50	.50	.25	.05
Crane Oiler	8.93	.50	.50	.25	.05
Crusher	9.36	.50	.50	.25	.05
Crusher Oiler and Helpers	8.85	.50	.50	.25	.05
Crusher Conveyor, when required	8.82	.50	.50	.25	.05
Distributor	9.36	.50	.50	.25	.05
RW 10, 15 or 20 Tractor pulling Roller	9.08	.50	.50	.25	.05
Electric Overhead Cranes	9.54	.50	.50	.25	.05
Farm Type Tractor, up to and including 50 HP Engine	8.82	.50	.50	.25	.05
Farm Type Tractor, over 50 HP Engine	8.90	.50	.50	.25	.05
Field Equipment Serviceman	9.28	.50	.50	.25	.05
Field Equipmend Serviceman Helper	8.85	.50	.50	.25	.05
Fireman	8.95	.50	.50	.25	.05
Forklift, on construction Site	9.17	.50	.50	.25	.05
Form Grader	9.13	.50	.50	.25	.05
Gradall	9.36	.50	.50	.25	.05
Grade Setter	8.82	.50	.50	.25	.05
Heavy Duty Drill, all types	9.36	.50	.50	.25	.05
Heavy Duty Driller Helper	8.95	.50	.50	.25	.05

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Herman-Nelson Heaters and similar types	$ 8.90	.50	.50	.25	.05
Hoist, single drum	9.13	.50	.50	.25	.05
Hoist, two or more drums	9.36	.50	.50	.25	.05
Helicopter Hoist	9.86	.50	.50	.25	.05
Hot Plant	9.36	.50	.50	.25	.05
Hot Plant Fireman, when in operation	9.36	.50	.50	.25	.05
Hot Plant Oiler, 100 ton per hour or over	8.85	.50	.50	.25	.05
Hydra Lift and similar types	9.26	.50	.50	.25	.05
Industrial Locomotive all classes	9.36	.50	.50	.25	.05
Mechanic and/or Welder on job	9.46	.50	.50	.25	.05
Mechanic and/or Welder Helper on job	8.85	.50	.50	.25	.05
Mechanic Shop	9.06	.50	.50	.25	.05
Mechanic Shop Helper	8.52	.50	.50	.25	.05
Mixermobile	9.44	.50	.50	.25	.05
Motor Patrol	9.49	.50	.50	.25	.05
Mountain Logger or similar type	9.36	.50	.50	.25	.05
Mucking Machine	9.36	.50	.50	.25	.05
Oiler-Driver, Rubber-tired Cranes	8.93	.50	.50	.25	.05
Oiler, other than shovels and Cranes	8.85	.50	.50	.25	.05
Oiler, Hoist House, Dams	9.26	.50	.50	.25	.05
Pavement Breaker, Emsco and similar	8.36	.50	.50	.25	.05
Paving and Mixing Machine	9.49	.50	.50	.25	.05
Power Auger, Large Truck or Tractor mounted and Punch	9.36	.50	.50	.25	.05
Power Mixer, single or double drum	9.36	.50	.50	.25	.05
Power Saw, multiple cut, self-propelled	9.36	.50	.50	.25	.05
Pumpcrete or Grout Machine	9.36	.50	.50	.25	.05
Pumpman	8.89	.50	.50	.25	.05

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Push Tractor	$ 9.36	.50	.50	.25	.05
Quad Cat	9.66	.50	.50	.25	.05
Quad Loader and similar type	9.94	.50	.50	.25	.05
Radiator Repairman	9.17	.50	.50	.25	.05
Raygo Gaint	9.94	.50	.50	.25	.05
Refrigeration Plant	9.36	.50	.50	.25	.05
Retort	8.95	.50	.50	.25	.05
Roller, on blade or hot mix oil paving	9.36	.50	.50	.25	.05
Roller, on other blade or hot mic paving	9.06	.50	.50	.25	.05
Roller, 25 ton or over	9.36	.50	.50	.25	.05
Ross and similar type carriers, on construction site	9.36	.50	.50	.25	.05
Rubber-tired Dozer	9.36	.50	.50	.25	.05
Rubber-tired Front End Loader, 1 yard and under	9.07	.50	.50	.25	.05
Rubber-tired Front End Loader, 1 yard to and including 3 yds.	9.36	.50	.50	.25	.05
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	9.48	.50	.50	.25	.05
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	9.58	.50	.50	.25	.05
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	9.68	.50	.50	.25	.05
Rubber-tired Front End Loader, over 15 yards	9.78	.50	.50	.25	.05
Scraper, DW 15, 20, 21 and similar type if power unit is not used	9.36	.50	.50	.25	.05
Scraper, single or twin engine pulling belly dump trailer	9.74	.50	.50	.25	.05
Scraper, single engine	9.49	.50	.50	.25	.05
Scraper, twin engine	9.59	.50	.50	.25	.05
Scraper, tandem engine or 3 engine	9.85	.50	.50	.25	.05
Self-propelled Sheepfoot and similar type	9.36	.50	.50	.25	.05

POWER EQUIPMENT OPERTORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Shovels, including all attachments, under 1 cu. yd.	$ 9.36	.50	.50	.25	.05
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	9.54	.50	.50	.25	.05
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	9.81	.50	.50	.25	.05
Shovels, including all attachments, over 5 cu. yds.	9.94	.50	.50	.25	.05
Shovel Oiler, 3 yards and under	8.85	.50	.50	.25	.05
Shovel Oiler, over 3 cu. yds.	9.06	.50	.50	.25	.05
Slip Form Paver	9.49	.50	.50	.25	.05
Stiff Leg Derrick and Guy Derrick	9.81	.50	.50	.25	.05
Track-type Front End Loaders, up to and including 5 cu. yds.	9.36	.50	.50	.25	.05
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	9.59	.50	.50	.25	.05
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	9.69	.50	.50	.25	.05
Track-type Front End Loaders, over 15 cu. yds.	9.79	.50	.50	.25	.05
Track-type Tractor w/wo attachments	9.36	.50	.50	.25	.05
Track-type Tractor, on Euclid Loader	9.54	.50	.50	.25	.05
Trenching Machine	9.36	.50	.50	.25	.05
Turnhead Conveyor, or Head Tower on Batch Plant	9.36	.50	.50	.25	.05
Wagner Roller and similar type	9.36	.50	.50	.25	.05
Whirley Crane	9.89	.50	.50	.25	.05
Whirley Crane Oiler	9.16	.50	.50	.25	.05
Water Pull when used for Compaction	9.36	.50	.50	.25	.05
Washing and Screening Plant	9.36	.50	.50	.25	.05
Washing and Screening Plant Oiler	8.85	.50	.50	.25	.05
Yo-Yo Cat, both ends	9.56	.50	.50	.25	.05

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Statewide, except Gallatin, Park, Sweetgrass, Broadwater (South of U. S. Highway #12) Counties					
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:					
To and including 4 cu. yds.	$ 8.26	.60	.50		
Over 4 cu. yds. to and including 6 cu. yds.	8.35	.60	.50		
Over 6 cu. yds. to and including 8 cu. yds.	8.42	.60	.50		
Over 8 cu. yds. to and including 10 cu. yds.	8.50	.60	.50		
Over 10 cu. yds. - additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER and HELPER	8.19	.60	.50		
DRY BATCH TRUCKS:					
3 Batch or under	8.01	.60	.50		
Over 3 Batch to and including 5 Batch	8.14	.60	.50		
Over 5 Batch to and including 10 Batch	8.30	.60	.50		
Over 10 Batch to and including 15 Batch	8.46	.60	.50		
Over 15 Batch - addtional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	8.11	.60	.50		
DUMPMAN, GRAVEL SPREADER BOX; Pilot Car Driver, Teamsters and Helpers	8.01	.60	.50		
Warehousemen, Partsmen, Cardex Men, Warehouse Expediter	8.21	.60	.50		

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TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FLAT TRUCKS:					
To and including 3 tons	$ 8.11	.60	.50		
Over 3 tons factory rating	8.36	.60	.50		
SERVICE TRUCK DRIVERS; FUEL TRUCK DRIVERS; TIREMEN	8.55	.60	.50		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	8.36	.60	.50		
LUMBER CARRIERS, LIFT TRUCKS	8.26	.60	.50		
POWER BROOM	8.10	.60	.50		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	8.01	.60	.50		
Over 2,500 gallons to and including 4,500 gallons	8.30	.60	.50		
Over 4,500 gallons to and including 6,000 gallons	8.50	.60	.50		
Over 6,000 gallons to and including 8,000 gallons	8.56	.60	.50		
Over 8,000 gallons to and including 10,000 gallons	8.64	.60	.50		
Over 10,000 gallons - additional $.08 per hour each additional 2,000 gallons increment					
TRUCK WITH POWER EQUIPMENT IF UNDER TEAMSTERS JURISDICTION, SUCH AS:					
Winch, A-frame, Swedish Crane, Hydra-lift, Groutcrete, and Combination mulching, seeding and fertilizing	8.26	.60	.50		
TRUCK MECHANIC	8.75	.60	.50		

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TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS AND SIMILAR EQUIPMENT WATER LEVEL CAPACITY, INCLUDING SIDEBOARDS:					
7 cu. yds. or less	$ 8.01	.60	.50		
Over 7 cu. yds. to and including 10 cu. yds.	8.14	.60	.50		
Over 10 cu. yds. to and including 15 cu. yds.	8.30	.60	.50		
Over 15 cu. yds. to and including 20 cu. yds.	8.44	.60	.50		
Over 20 cu. yds. to and including 25 cu. yds.	8.50	.60	.50		
Over 25 cu. yds. to and including 30 cu. yds.	8.56	.60	.50		
Over 30 cu. yds. to and including 35 cu. yds.	8.62	.60	.50		
Over 35 cu. yds. to and including 40 cu. yds.	8.68	.60	.50		
Over 40 cu. yds. to and including 45 cu. yds.	8.74	.60	.50		
Over 45 cu. yds. - additional $.06 per hour each additional 5 cu. yds. increment					
DUMPSTERS	8.14	.60	.50		
DW 20, DW 21, or EUCLID TRACTORS, PULLING P.R. 21 OR SIMILAR DUMP WAGONS:					
To and including 25 cu. yds.	8.50	.60	.50		
Over 25 cu. yds to and including 30 cu. yds.	8.56	.60	.50		
Over 30 cu. yds. - additional $.06 per hour each additional 5 cu. yds. increment					
SERVICEMEN	8.75	.60	.50		

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TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER TRUCK DRIVER (bulk unloader type)	$ 8.19	.60	.50		
TRUCK DRIVERS: (Cont'd) Gallatin, Park, Sweetgrass, Broadwater (South of U. S. Highway #12)					
DUMP, 7 yards or less; Pickup; hauling materials; Flat trucks less than 2 ton; Service and A-frame trailers	7.08	.60	.30		
HOUSE MOVERS	7.12	.60	.30		
DUMP, over 7 yards to and including 10 yards; Flat trucks 5 - 8 tons; Semi and four wheel trailers	7.33	.60	.30		
DUMP, over 10 yards to and including 15 yards	7.49	.60	.30		
DUMP, over 15 yards to and including 20 yards	7.63	.60	.30		

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MONTANA, LINE CONSTRUCTION

LINE CONSTRUCTION Flathead, Lake and Lincoln Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All construction of "H" fixtures and steel tower transmission lines with capacity of 69 K.V. voltages and over, Switch yard and substation rated at 5000 K.V.A. and all work not covered by schedule "B".					
SCHEDULE "A"					
Lineman	$10.29	.45	1%		1/2%
Cable Splicer	11.44	.45	1%		1/2%
Powderman, Jackhammer, Compressorman	7.60	.45	1%		1/2%
Line Equipment Operators	8.76	.45	1%		1/2%
Groundman	6.15	.45	1%		1/2%
Groundman (Experienced)	7.13	.45	1%		1/2%
All work for power utilities except work covered under Schedule "A", all highway lighting, street lighting and motor traffic controlling.					
SCHEDULE "B"					
Lineman	9.19	.45	1%		1/2%
Cable Splicers	10.22	.45	1%		1/2%
Pole Sprayer	9.08	.45	1%		1/2%
Line Equipment Operators	7.97	.45	1%		1/2%
Powderman, Jackhammer, Compressorman	6.94	.45	1%		1/2%
Groundman	6.52	.45	1%		1/2%
Tree Trimmer	9.44	.45	1%		1/2%

MONTANA LINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (ENAE'H)					
Remaining Counties					
Jobs over 69,000 Volts:					
Lineman, Pole Sprayer	$ 9.31	.35	1%		1/2%
Cable Splicer	9.80	.35	1%		1/2%
Line Equipment Operator; Powderman	8.53	.35	1%		1/2%
Groundman	7.04	.35	1%		1/2%
Jobs 69,000 Volts or less:					
Lineman	8.65	.35	1%		1/2%
Cable Splicer	9.56	.35	1%		1/2%
Line Equipment Operators; Powderman	8.47	.35	1%		1/2%
Groundman	5.93	.35	1%		1/2%
Experienced Groundman (1800 hours); Truck Drivers	6.68	.35	1%		1/2%

SUPERSEDEAS DECISION

STATE: Nevada
DECISION NUMBER: NV77-5029

COUNTIES: Statewide (excluding the Nevada Test Site and Tonopah Test Range), Nevada
DATE: Date of Publication

Supersedes Decision Number NV77-5004 dated January 4, 1977 in 42 FR 1000.
DESCRIPTION OF WORK: Building construction (excluding single family homes and Garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Clark, Esmeralda, Lincoln, Nye Counties	$12.11	.85	$1.10		
Elko, Eureka, White Pine Counties	10.56	.52	1.17		
Remaining Counties	13.06	.90	1.02		
BOILERMAKERS	12.80	.75	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Clark, Esmeralda, Lincoln, Nye County (south of Hwy. #6)	11.37	.70	.60		.06
Remaining Counties and Nye County (north of Hwy. #6):					
Zone 1: 0-35 miles from Courthouse in Reno, Nevada	11.00	.50	.60		.01
Zone 2: 35-75 miles from Courthouse in Reno, Nevada	11.90	.50	.60		.01
Zone 3: 75 miles and over from Courthouse in Reno, Nevada	11.00	.50	.60		.01
BRICK TENDERS:					
Clark, Esmeralda, Lincoln, Nye Counties	8.47	.51	1.25	1.00	
Remaining Counties:					
Zone A: 0-35 miles from Courthouse in Reno, Nevada	9.25	.50	.90		.05
Zone B: 35-75 miles from Courthouse in Reno, Nevada	10.15	.50	.90		.05
CARPENTERS:					
Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah):					
Zone 1: Area within the city limits of Henderson, Nevada; and Boulder City, Nevada; area within a 10 mile radius of Las Vegas, Nevada; area within a 5 mile radius of Tonopah, Nevada; present					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (Cont'd):					
Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah): (Cont'd):					
Zone 1 (Cont'd): fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base bounded on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad:					
Carpenters	$10.46	.55	.90	$1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operators	10.61	.55	.90	1.00	.10
Piledrivermen	10.66	.55	.90	1.00	.10
Millwrights	11.06	.55	.90	1.00	.10
Zone 2: Area outside of Zone 1 and not more than 20 miles from the communities described above:					
Carpenters	10.96	.55	.90	1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operators	11.11	.55	.90	1.00	.10
Piledrivermen	11.16	.55	.90	1.00	.10
Millwrights	11.56	.55	.90	1.00	.10
Zone 3: Area over 20 miles and not more than 40 miles from the communities described above:					
Carpenters	11.21	.55	.90	1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operators	11.36	.55	.90	1.00	.10
Piledrivermen	11.41	.55	.90	1.00	.10
Millwrights	11.81	.55	.90	1.00	.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (Cont'd):					
Nye County (north of Hwy. #6, excluding City of Tonopah) and all Remaining Counties (Cont'd):					
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Carpenters	$10.15	.65	$1.01	$1.00	.05
Floor layers; Patent Scaffold Erectors; Power Saw Operators	10.30	.65	1.01	1.00	.05
Piledrivermen	10.35	.65	1.01	1.00	.05
Millwrights	10.75	.65	1.01	1.00	.05
Zone 3: Area over 20 and not more than 40 road miles from the above communities:					
Carpenters	10.38	.65	1.01	1.00	.05
Floor layers; Patent Scaffold Erectors; Power Saw Operators	10.50	.65	1.01	1.00	.05
Piledrivermen	10.55	.65	1.01	1.00	.05
Millwrights	10.95	.65	1.01	1.00	.05
Zone 4: Area over 40 road miles from the above communities:					
Carpenters	11.05	.65	1.01	1.00	.05
Floor layers; Patent Scaffold Erectors; Power Saw Operators	11.20	.65	1.01	1.00	.05
Piledrivermen	11.25	.65	1.01	1.00	.05
Millwrights	11.65	.65	1.01	1.00	.05
CEMENT MASONS:					
Clark, Lincoln, Nye Counties:					
Cement Masons	8.90	1.00	.40	2.00	.08
Cement Floor Finishing Machine and Color Work	9.15	1.00	.40	2.00	.08

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (Cont'd):					
Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah) (Cont'd):					
Zone 4: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Carpenters	$12.48	.55	.90	$1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operators	12.61	.55	.90	1.00	.10
Piledrivermen	12.66	.55	.90	1.00	.10
Millwrights	13.06	.55	.90	1.00	.10
Nye County (north of Hwy. #6, excluding City of Tonopah) and all Remaining Counties:					
Zone 1: Area within 5 road miles of the following communities: Carson City, Elko, Ely, Fallon, Hawthorne, Lovelock, Minden, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base:					
Carpenter	9.53	.65	1.01	1.00	.03
Floor layers; Patent Scaffold Erectors; Power Saw Operators	9.70	.65	1.01	1.00	.05
Piledrivermen	9.75	.65	1.01	1.00	.05
Millwrights	10.15	.65	1.01	1.00	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd):					
Remaining Counties (Cont'd):					
Zone 2-Nonhighway construction (Cont'd):					
Zone 2-B: Area over 50 miles to the center of the jobsite:	$11.15	.65	.75	$1.00	.03
Cement Masons	11.40	.65	.75	1.00	.03
Mastic, Magnesite and all Composition Masons	11.65	.65	.75	1.00	.03
Troweling Machines Grinder Operator and Kelly Float	9.80	.65	1.01	1.00	.05
DRYWALL INSTALLERS:					
Statewide except the Counties of Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6):					
Zone 1: Area within 5 road miles of the following communities: Carson City, Elko, Ely, Fallon, Hawthorne, Lovelock, Minden, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base	10.40	.65	1.01	1.00	.05
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities	10.60	.65	1.01	1.00	.05
Zone 3: Area over 20 and not more than 40 road miles from the above communities	10.80	.65	1.01	1.00	.05
Zone 4: Area over 40 road miles from the above communities	11.30	.65	1.01	1.00	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS (Cont'd):					
Lake Tahoe Area:	$10.60	.65	.75	$1.00	.03
Cement Masons	10.85	.65	.75	1.00	.03
Mastic, Magnesite and all Composition Masons	11.10	.65	.75	1.0	
Troweling Machines Grinder Operator and Kelly Float					
Remaining Counties:					
Zone 1: Area within a 15 mile radius of the Main Post Office, Reno, Nevada, or within a 15 mile radius of the employee's permanent residence in the State of Nevada also area within a 7 mile radius of the Main Post Office, Carson City, Nevada:					
Cement Masons	9.15	.65	.75	1.00	.03
Mastic, Magnesite and all Composition Masons	9.40	.65	.75	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	9.65	.65	.75	1.00	.03
Zone 2-Highway construction:					
Area outside of Zone 1:					
Cement Masons	10.40	.65	.75	1.00	.03
Mastic, Magnesite and all Composition Masons	10.65	.65	.75	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	10.90	.65	.75	1.00	.03
Zone 2-Nonhighway construction:					
2-A: Area over 15 but not over 50 miles to the center of the jobsite:					
Cement Masons	9.90	.65	.75	1.00	.03
Mastic, Magnesite and all Composition Masons	10.15	.65	.75	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	10.40	.65	.75	1.00	.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Clark, Lincoln, Nye County (south of Mt. Diablo Base Line):					
Electricians; Technicians	$13.81	.73	1% + .40		.08
Cable splicers	14.14	.73	1% + .40		.08
Nye County (north of Mt. Diablo Base Line) and Remaining Counties including Lake Tahoe Area:					
Electricians; Technicians	12.33	.67	1% + .77		.08
Cable splicers	13.36	.67	1% + .77		.08
ELEVATOR CONSTRUCTORS:					
Nevada west of 118° longitude	13.49	.545	.35	3% + a	.02
Nevada east of 118° longitude and south of 39° N. latitude	12.95	.545	.35	3% + a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	3% + a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Clark, Esmeralda, Lincoln, Nye Counties	12.63	.35	.40		.05
Remaining Counties	10.495	.43	1.20	.84+.43	
IRONWORKERS:					
Elko, Eureka, White Pine Counties:					
Fence erectors; Machinery movers; Ornamental; Reinforcing; Riggers; Structural	9.35	.55	.85		.05
Remaining Counties:					
Fence erector	10.41	1.14	1.86	1.20	.04
Ornamental; Reinforcing; Structural	11.30	1.14	1.86	1.20	.04
LATHERS:					
Clark, Esmeralda, Lincoln, Nye Counties	9.30	.50	1.00	1.00	.06
Remaining Counties	10.86	.36	.20		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS:					
Clark, Lincoln, Nye County (south half):					
Line equipment operator	$13.73	.73	1%		.35
Cable splicers	5%overJR	.73	1%		.35
Lake Tahoe Area:					
Lineman	13.33	.67	1%+.77		.08
Line equipment operator	12.10	.67	1%+.77		.08
Groundman	10.25	.67	1%+.77		.08
Cable splicer	14.56	.67	1%+.77		.08
Remaining Counties (excluding Lake Tahoe Area):					
Lineman	12.33	.67	1%+.77		.08
Line equipment operator	11.10	.67	1%+.77		.08
Groundman	9.25	.67	1%+.77		.08
Cable splicers	13.36	.67	1%+.77		.08
MARBLE MASONS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	11.37	.70	.60		.06
PAINTERS:					
Clark, Esmeralda, Lincoln, Nye Counties:					
Brush; Roller	11.55	.75	.35		.06
Paperhangers; Spray; Steel; Swing stage; Sandblasters; Sign; Tapers	11.90	.75	.35		.06
Buffing steel; Sandblasters; Structural steel	12.35	.75	.35		.06
Steeplejack	13.15	.75	.35		.06
Remaining Counties including Lake Tahoe Area:					
Brush	10.95	.70	.75		
Paperhangers; Spray; Structural steel; Swing stage; Sandblaster; Tapers	11.20	.70	.75		
PLASTERERS:					
Clark, Lincoln, Nye Counties	9.98	1.00	.40	1.20	.08
Remaining Counties	10.52	.65	1.00		.03
PLASTERER TENDERS:					
Statewide except Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6)	7.75	.50	.45		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters:					
Clark, Esmeralda, Lincoln, Nye County (south half)	$11.05	$1.05	$1.90	$1.85	.08
Remaining Counties and Nye County (north half)	10.84	.73	.80	1.95	.10
PLUMBERS (UTILITY):					
Statewide except Clark, Esmeralda, Lincoln, Nye County (south half)	10.84	.73	.80	1.95	.10
PLUMBER HELPER (UTILITY)	5.80	.73	.10	.50	.10
ROOFERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	12.75	.85			
Remaining Counties and Nye County (north half)	9.75	.50	.35		.02
SHEET METAL WORKERS:					
Clark, Esmeralda, Lincoln, Nye County (south half), White Pine Counties	11.43	.83	1.60	1.00	.07
Remaining Counties and Nye County (north half)	9.80	.94	1.83	.98	.05
SOFT FLOOR LAYERS:					
Clark, Esmeralda, Lincoln, Nye Counties	12.52	.60			.15
Remaining Counties Including Lake Tahoe Area	10.80	.70	.20	2.4%	
SPRINKLER FITTERS	14.80	.60	.90		.08
TERRAZZO WORKERS; TILE SETTERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	11.37	.70	.60		.06
Remaining Counties and Nye County (north half):					
Zone 1: 0-35 miles from Courthouse in Reno, Nevada	11.00	.50	.60		.01
Zone 2: 35-75 miles from Courthouse in Reno, Nevada	11.90	.50	.60		.01
Zone 3: 75 miles and over from Courthouse in Reno, Nevada	11.00	.50	.60		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Clark, Esmeralda, Lincoln, Nye Counties:					
Group 1	$7.63	.51	$1.25	$1.00	
Group 2	7.68	.51	1.25	1.00	
Group 3	7.71	.51	1.25	1.00	
Group 4	7.73	.51	1.25	1.00	
Group 5	7.75	.51	1.25	1.00	
Group 6	7.76	.51	1.25	1.00	
Group 7	7.78	.51	1.25	1.00	
Group 8	7.81	.51	1.25	1.00	
Group 9	7.82	.51	1.25	1.00	
Group 10	7.84	.51	1.25	1.00	
Group 11	7.89	.51	1.25	1.00	
Group 12	7.92	.51	1.25	1.00	
Group 13	7.94	.51	1.25	1.00	
Group 14	7.97	.51	1.25	1.00	
Group 15	7.99	.51	1.25	1.00	
Group 16	8.055	.51	1.25	1.00	
Group 17	8.08	.51	1.25	1.00	
Group 18	8.15	.51	1.25	1.00	
POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection) Clark, Esmeralda, Lincoln, Nye Counties:					
Group 1	9.75	.95	2.00	.50	.04
Group 2	10.03	.95	2.00	.50	.04
Group 3	10.32	.95	2.00	.50	.04
Group 4	10.46	.95	2.00	.50	.04
Group 5	10.68	.95	2.00	.50	.04
Group 6	10.79	.95	2.00	.50	.04
Group 7	10.91	.95	2.00	.50	.04
Group 8	11.08	.95	2.00	.50	.04
Group 9	11.21	.95	2.00	.50	.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Clark, Esmeralda, Lincoln, Nye Counties:					
Group 1	$9.35	.40	.65		
Group 2	9.46	.40	.65		
Group 3	9.51	.40	.65		
Group 4	9.67	.40	.65		
Group 5	9.85	.40	.65		
Group 6	10.35	.40	.65		

LABORERS
(Clark, Esmeralda, Lincoln, Nye Counties)

Group 1: Debris handler; Dry packing of concrete and filling of form-bolt holes; Dumpman; Gas and oil pipeline laborers; Demolition laborers; General or construction laborers; Spotter; Window cleaner

Group 2: Cutting torch operator (demolition); Tarman and motorman

Group 3: Guinea chaser

Group 4: Fine grader, highway and street paving, airport, runways and similar type heavy construction; Landscape gardener and nursery-man

Group 5: ~~Laborers - packing rod steel and pans~~

Group 6: Underground laborer including caisson bellowers

Group 7: Chucktender (except tunnels); Scaler; Septic tank digger and installer (lead man); Tank scaler and cleaner

Group 8: Cesspool digger and installer

Group 9: Concrete curer-impervious membrane and oiler of all materials; Making and caulking of all non-metallic pipe joints; Riprap stonepaver; Sandblaster (pot tender)

Group 10: Asphalt ironer, raker, spreader; Buggymobile; Cement dumper (on 1 yd. or larger mixers and handling bulk concrete); Cement grinding machine operator; Concrete core cutter; Concrete saw man, excluding tractor type; Gas and oil pipeline wrapper, pot tender and form man; Tree climber, faller, chain saw operator; Pittsburgh chipper and similar type; Vibrators and all pneumatic, gas, electric and similar mechanical tools not separately classified herein; Roto Scraper

Group 11: Rock slinger; Scaler, using bosun chair, safety belt or power tools

Group 12: Driller and/or pavement breaker

Group 13: Laying of all non-metallic pipe (including sewer pipe, drain pipe and underground tile)

Group 14: Gas and oil pipeline wrapper - 6 inch pipe and over

LABORERS (Cont'd)
(Clark, Esmeralda, Lincoln, Nye Counties)

Group 15: Cribber or Shorer; Powderman

Group 16: Steel Header/Guard Man

Group 17: Driller (Core, Diamond or Wagon) Joy Driller Model TW-M-2A, Gardner-Denver Model DH-183 and similar drills; Sandblaster - Nozzleman

Group 18: Head Rock Slinger

POWER EQUIPMENT OPERATORS
(Except Piledriving & Steel Erection)

Clark, Esmeralda, Lincoln, Nye Counties

Group 1: Brakeman; Compressor Operator; Engineer Oiler; Generator; Heavy Duty Repairman Helper; Pump; Signalman; Switchman

Group 2: Concrete Mixer Operator, Skip Type; Conveyor Operator; Fireman; Generator, Pump or Compressor, (2-5 inclusive); Generator, Pump or Compressor Portable Units (over 5 units, 10¢ per hour for each additional unit up to nine units); Hydrostatic Pump; Oiler Crusher, (Asphalt or Concrete Plant); Plant Operator, Generator, Pump or Compressor; Skip-loader - Wheel type up to 3/4 yd. w/o attachment; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler; Rotary Drill Helper (oilfield)

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford, Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Powerdriven Jumbo Form Setter; Ross Carrier; Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (Asphalt or Concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge Type Unloader and Turntable; Dinkey Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (grease truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-Hammer - Aero Stomper; Power Sweeper; Roller (compacting); Screed (Asphalt or Concrete); Trenching Machine (up to 6 feet)

Group 5: Asphalt Plant Engineer; Concrete Batch Plant; Backhoe (up to and including 3/4 yds), Bit Sharpener; Concrete Joint Machine (Canal and similar type); Concrete Planer; Deck Engine; Forklift (under 8 ton capacity); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm (curb or gutter concrete or asphalt); Mechanical Finisher (concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker; Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment, (single engine, up to and including 25 yards struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive (over 10 and up to and including 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Crawler and Wheel type over 3/4 yds. and up to and including 1-1/2 yards); Tractor-Bulldozer, Tamper, Scraper (single engine, up to 100 HP, Flywheel and similar types, up to and including D-5 and similar types)

Group 6: Asphalt or Concrete Spreading (Tamping or Finishing); Asphalt Paving Machine (Barber Greene or similar type); BHL Lima Road Pactor or similar; Bridge Crane; Pipe Laying Machine (Cast in place); Combination Mixer and Compressor (Gunite Work); Concrete Pump (truck mounted);

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving & Steel Erection)

Clark, Esmeralda, Lincoln, Nye Counties

Concrete Mixer; Crane (up to and including 25 tons); Crushing Plant; Elevating Grader; Forklift (over 5 tons); Grade Checker; Gradall; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtborg and similar types); Lift Mobile; Loader-Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine 1/4 yd. - rubber-tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (Tunnel); Pumpcrete Gun; Rotary Drill (excluding Caisson type); Rubber-tired Earth Moving Equipment Operator (single engine - Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cubic yards struck); Rubber-tired Scraper (self-loading - Paddle Wheel Type - John Deere, 1040 and similar single unit); Skiploader (Crawler and Wheel type - over 1-1/2 yards, up to and including 6-1/2 yards); Surface Heaters and Planers; Rubber-tired Earth Moving Equipment, multiple engine (up to and including 25 yards, struck); Trenching Machine (over 6 feet depth capacity, manufacturers rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger D-5 - 100 Flywheel HP and over or similar) (Bulldozer, Tamper, Scraper and Push Tractor single engine); Tractor (Boom attachments); Traveling Pipe Wrapping, Cleaning and Bending; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yard and up to 5 cubic yards, M.R.C.)

Group 7: Crane (Over 25 tons up to and including 100 tons M.R.C., Derrick Barge, Dual Drum Mixer; Hoist, Stiff Legs, Guy Derrick, or similar type, up to and including 100 tons; Monorail Locomotive (Diesel, gas or electric); Motor Patrol - Blade Operator (single engine); Multiple Engine Tractor Operator (Euclid and similar type except Quad 9 Cat); Rubber-tired Earth Moving Equipment (single engine over 50 yards struck); Rubber-tired Earth Moving Equipment (Multiple, engine, Euclid, Caterpillar and similar) (Over 25 yards and up to 50 cubic yards struck); Tractor Loader Operator (Crawler and Wheel type over 6-1/2 yards); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell Operator (over 5 cubic yards, MRC; Woods Mixer and similar Pugmill Equipment; Heavy Duty Repairman - Welder Combination

Group 8: Auto Grader; Automatic Slip Form; Crane (over 100 tons); Hoist, Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more); Mass Excavator (less than 750 cubic yards); Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol (Multi engine); Pipe Mobile Machine; Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cubic yards struck); Rubber-tired Self Loading Scraper (Paddle Wheel - Auger type self-loading (2 or more units); Tandem Equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine; Rubber-tired Scraper (pushing without Push Cat, Push-Pull (50c per hour additional)

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POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving & Steel Erection)

Clark, Esmeralda, Lincoln, Nye Counties

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Wheel Excavator (over 750 cubic yds.); Remote Controlled Earth Moving Equipment ($1.00 per hour additional to base rate)

TRUCK DRIVERS

Clark, Esmeralda, Lincoln, Nye Counties

Group 1: Dump trucks (less than 12 yds.); Trucks (legal payload capacity less than 15 tons); Water and fuel trucks (under 2500 gals.); Pickups; Service; Repairman helper; Drivers of busses (on jobsite used for transportation of up to 25 passengers); Teamster equipment (highest rate for dual draft operation)

Group 2: Dump trucks (12 yds. but less than 16 yds.); Trunks (legal payload capacity between 15 and 20 tons); Water and fuel trucks (2500 to 4000 gals.); Truck driver working on gas and oil pipeline (including winch truck and all sizes of trucks); Truck greaser and fireman; Drivers of busses (on jobsite used for transportation of more than 25 passengers); Bootman

Group 3: Dumpcrete (less than 6½ yds.); Transit-mix (less than 3 yds.); Warehouse clerk

Group 4: Dump trucks (16 yds. up to and including 22 yds.); Trucks (legal payload capacity 20 tons but less than 30 tons); Water and fuel trucks (4000 gals. but less than 6000 gals.); Dumpcrete (6½ yds. and over); Transit-mix (3 yds. but less than 6 yds.); Euclid-type spreader trucks; Dumpster; Fork lift; Ross Carrier - highway; Road oil spreading truck, time spent spreading oil

Group 5: Dump trucks (over 22 yds.); Trucks (legal payload capacity 20 tons and over); Water and fuel trucks (6000 gals. and over); Transit-mix (6 yds. and over); Truck Repairman

Group 6: D.W. and similar-type equipment, D.W. 10 and D.W. 20; Euclid-type equipment, LeTourneau Pulls, Terra Cobras and similar types of equipment; also PB and similar-type trucks when performing work within Teamster jurisdiction, regardless of types of attachment including power units pulling off Highway Belly Dumps in tandem

LABORERS*:	Basic Hourly Rates.	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties:					
Building construction:					
Zone 1: Area within 5 road miles of the following communities - Carson City, Elko, Fallon, Hawthorne, Lovelock, Minden, Tonopah, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 5 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base; also the Tahoe Basin from the Summit to the Lake:					
Group 1	$8.00	.50	.90		.10
Group 2	8.10	.50	.90		.10
Group 3	8.25	.50	.90		.10
Group 4	8.50	.50	.90		.10
Group 5	8.80	.50	.90		.10
Group 6-A	8.80	.50	.90		.10
Group 6-B	8.50	.50	.90		.10
Group 6-C	8.15	.50	.90		.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Group 1	8.60	.50	.90		.10
Group 2	8.70	.50	.90		.10
Group 3	8.85	.50	.90		.10
Group 4	9.10	.50	.90		.10
Group 5	9.40	.50	.90		.10
Group 6-A	9.40	.50	.90		.10
Group 6-B	9.10	.50	.90		.10
Group 6-C	8.75	.50	.90		.10

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LABORERS (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties (Cont'd):					
Building Construction (Cont'd):					
Zone 3: Area over 20 and not more than 40 road miles from the above communities:					
Group 1	$8.80	.50	.90		.10
Group 2	8.90	.50	.90		.10
Group 3	9.05	.50	.90		.10
Group 4	9.30	.50	.90		.10
Group 5	9.60	.50	.90		.10
Group 6-A	9.60	.50	.90		.10
Group 6-B	9.30	.50	.90		.10
Group 6-C	8.95	.50	.90		.10
Zone 4: Area over 40 road miles from the above communities:					
Group 1	9.50	.50	.90		.10
Group 2	9.60	.50	.90		.10
Group 3	9.75	.50	.90		.10
Group 4	10.00	.50	.90		.10
Group 5	10.30	.50	.90		.10
Group 6-A	10.30	.50	.90		.10
Group 6-B	10.00	.50	.90		.10
Group 6-C	9.65	.50	.90		.10
Heavy and Highway construction:					
Area 1:					
Group 1	8.00	.50	.90		.10
Group 2	8.10	.50	.90		.10
Group 3	8.25	.50	.90		.10
Group 4	8.50	.50	.90		.10
Group 5	8.80	.50	.90		.10
Group 6-A	8.80	.50	.90		.10
Group 6-B	8.50	.50	.90		.10
Group 6-C	8.15	.50	.90		.10
Area 2:					
Group 1	9.15	.50	.90		.10
Group 2	9.25	.50	.90		.10
Group 3	9.40	.50	.90		.10
Group 4	9.65	.50	.90		.10
Group 5	9.95	.50	.90		.10
Group 6-A	9.95	.50	.90		.10
Group 6-B	9.65	.50	.90		.10
Group 6-C	9.30	.50	.90		.10

*LABORERS - Area Definition - See "Area Definition" page following TRUCK DRIVERS.

LABORERS
(Remaining Counties)

GROUP 1: All cleanup work of debris, grounds, and buildings including windows and tile; Dumpman or spotter (other than asphalt); General laborer; Gardeners and landscape laborers; Limber, brushloader and piler

GROUP 2: Choker setter or rigger (clearing work only); Pittsburgh chipper and similar type brush shredders; Concrete worker (wet or dry) all concrete work not listed in Group 3; Crusher or Grizzly tender; Guinea chaser (stakeman); Panel forms (wood or metal) handling, cleaning, and stripping of; Loading and unloading, carrying and handling of all rods and material for use in reinforcing concrete; Railroad trackmen (maintenance, repair or builders); Sloper; Semi-skilled wreckers (salvaging of building materials other than those listed in Group 3): Greasing Dowels

GROUP 3: Asphalt workers (ironers, shoveler, cutting machine); Buggymobile; Chainsaw, feller, logloader and bucker; Compactor (all types); Concrete mixer under 1/2 yds.; Concrete pan work (breadpan type), (handling, cleaning, stripping); Concrete saw, chipping, grinding, sanding, vibrator; Cribbing, shoring, lagging, trench jacking, hand-guided lagging hammer; Curbing or divider machine; Curb setter (precast or cut); Ditching machine (hand-guided); Drillers' helper, chuck tender; Form raiser, slip forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, pavement breaker, air spade; Mastic workers (wet or dry); Pipe wrapper, kettleman, potman, and men applying asphalt, creosote and similar type materials; All power tools (air, gas or electric) not listed in Group 5; Pipejacking; Posthole digger (air, gas or electric); Post driver; Riprap-stonepaver and rock slinger, incl. placing of sack concrete wet or dry; Rototiller; Rigging and signaling in connection with laborers' work; Sandblaster, potman, gunman or nozzleman; Vibra-screed; Skilled wrecker (removing and salvaging of sash, windows, doors, plumbing and electrical fixtures)

GROUP 4: Burning and welding in connection with laborers' work; Joy Drill Model TWM-2A, Gardner Denver Model DN 143 and similar type drills; Track drillers, Diamond core drillers, Wagon drillers, Mechanical drillers on multiple units; High scalers; Concrete pump; Heavy duty vibrator with stinger 5" diameter or over; Pipelayer, caulker and bander; Pipelayer - waterline, sewerline, gasline or conduit; Asphalt rakers

GROUP 5: Blasters and powdermen, all work of loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing.

GROUP 6-A: Nozzleman

GROUP 6-B: Gunman, Materialman

GROUP 6-C: Reboundman

POWER EQUIPMENT OPERATORS*: (Except Piledriving and Steel Erection):	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties:	AREA 1	AREA 2				
Group 1	$8.75	$9.90	$1.12	$2.23	.92	.20
Group 2	9.12	10.27	1.12	2.23	.92	.20
Group 3	9.32	10.47	1.12	2.23	.92	.20
Group 4	9.84	10.99	1.12	2.23	.92	.20
Group 5	10.09	11.20	1.12	2.23	.92	.20
Group 6	10.17	11.32	1.12	2.23	.92	.20
Group 7	10.34	11.49	1.12	2.23	.92	.20
Group 8	10.72	11.87	1.12	2.23	.92	.20
Group 9	10.94	12.09	1.12	2.23	.92	.20
Group 10	11.17	12.32	1.12	2.23	.92	.20
Group 10-A	11.29	12.44	1.12	2.23	.92	.20
Group 11	11.46	12.61	1.12	2.23	.92	.20
Group 11-A	12.54	13.69	1.12	2.23	.92	.20

*POWER EQUIPMENT OPERATORS - Area Definition - See "Area Definition" page following TRUCK DRIVERS.

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STEEL ERECTION:					
Remaining Counties:					
Group 1	$9.22	$1.12	$2.23	.92	.20
Group 2	9.61	1.12	2.23	.92	.20
Group 3	10.61	1.12	2.23	.92	.20
Group 4	10.75	1.12	2.23	.92	.20
Group 4-A	11.04	1.12	2.23	.92	.20
Group 5	11.52	1.12	2.23	.92	.20
Group 6	11.93	1.12	2.23	.92	.20
Group 6-A	12.50	1.12	2.23	.92	.20
Group 7	13.48	1.12	2.23	.92	.20
POWER EQUIPMENT OPERATORS:					
PILEDRIVING:					
Remaining Counties:					
Group 1	8.78	1.12	2.23	.92	.20
Group 1-A	9.11	1.12	2.23	.92	.20
Group 1-B	9.26	1.12	2.23	.92	.20
Group 2-A	9.89	1.12	2.23	.92	.20
Group 2-B	10.10	1.12	2.23	.92	.20
Group 3	10.40	1.12	2.23	.92	.20
Group 3-A	10.79	1.12	2.23	.92	.20
Group 4	11.34	1.12	2.23	.92	.20
Group 5	11.48	1.12	2.23	.92	.20
Group 6	12.50	1.12	2.23	.92	.20

POWER EQUIPMENT OPERATORS
(Except Piledriving & Steel Erection)
Remaining Counties

Group 1: Assistant to Engineer, including brakeman, deckhand, fireman, heavy duty repairman helper, oiler, partsman (heavy duty repair shops parts room when needed), switchman, tar pot fireman

Group 2: Compressor; Material loader and/or conveyor (handling building materials); Pump; Tar pot fireman (power agitated)

Group 3: Box operator (Bunker); Concrete curing machines (streets, highways, airports, canals); Conveyor belt (tunnel); Engineer generating plant (500 K.W.); Fireman hot plant; Hydraulic monitor; Lubrication and service engineer (mobile and grease rack); Mixer box operator (concrete plant); Motorman; Rotomist; Screedman (except asphaltic or concrete paving); Oiler (truck crane)

Group 4: Ballast jack tamper; Ballast regulator; Ballast tamper multi-purpose; Boxman (asphalt plant); Concrete mixer, skip type; Dinky; Fork lift (construction job site); Ross carrier; Skip loader (under 1 cu. yd.); Tie spacer; Line master

Group 5: Concrete mixer (over 1 cu. yd.); Concrete pumps or pumpcrete guns; Elevator and material hoist (1 drum); Screedman (Barber-Greene and similar) (asphaltic or concrete paving); Shuttle car; Signalman

Group 6: Boom truck or dual purpose "A" Frame truck; B.L.H. Lima road pactor or similar; Chip box spreader (Flaherty type or similar); Concrete batch plant (wet or dry); Concrete saws (highways, streets, airports, canals); Highline cableway signalman; Locomotive (over 30 tons); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical burn, curb and/or curb gutter machine (concrete or asphalt); Power jumbo (setting slip forms, etc., in tunnels); Roller (except asphalt); Self-propelled compactor (single engine); Slip form pump (power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Stationary pipe wrapping, cleaning and bending machine; Pavement breaker or tamper (with or without compressor combination); Pavement breaker, truck mounted, with compressor combination; Small rubber-tired tractors; Self-propelled tape machine

Group 7: Compressor (over 2); Concrete conveyor; Concrete conveyor or concrete pump, truck or equipment mounted (boom length to apply); Crusher plant engineer; Deck engineer; Drilling and boring machinery, vertical and horizontal (not to apply to waterliners, wagon drills or jackhammers); Generators; Grade setters; Grade checker; Kolman loader; Material hoist (2 or more drums); Mechanical finishers or spreader machine (asphalt, Barber-Greene and similar); Mine or shaft hoist; Pipe bending machines (pipelines only); Pipe cleaning machines (tractor propelled and supported), Pipe wrapping machines (tractor propelled and supported); Portable crushing and screening plants; Pumps (over 2); Refrigeration plant; Self-propelled boom type lifting device (center mount) (10 ton cap. or less); Slusher; Soil tester (certified); Surface heater and planer; Trenching machine (maximum digging capacity

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

3 ft. depth); Truck type loader; Welding machines (gasoline or diesel); Roller (Asphalt)

Group 8: Asphalt plant engineer; Car passer; Mast-in-place pipe laying machine; Combination slusher and motor; Dozer; Concrete batch plant (multiple units); Elevating grader; Grooving and grinding machine (Highways); Heavy-duty repairman and/or welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical trench shield; Mixermobile; Push cats; Road oil mixing machine; Woodmixer (and other similar pugmill equipment); Rubber-tired earthmoving equipment (up to and including 35 cu. yds. "struck" m.r.c., Euclids, T-pulls, DW's 10, 20, 21 and similar); Self-propelled compactor with dozer; Sheepfoot; Small tractor (with boom); Soil stabilizer (P & H or equal); Timber skidder (rubber tire) or similar equipment; Tractor; Tractor drawn scraper; Tractor mounted compressor drill combination; Trenching machine (over 3 ft. depth); Tri-batch paver; Tunnel badger or tunnel boring machine; Tunnel mole boring machine

Group 9: Canal finger drain digger; Chicago boom; Combination backhoe and loader (up to and including 3/8 yds.); Combination mixer and compressor (gunite); Lull Hi-Lift (20 ft. or over); Mucking machine; Tractor with boom (D6 or larger); Track laying type earth moving machine (single engine with tandem scrapers); Sub-grader (Gurries or other types)

Group 10: Boom type backfilling machine; Bridge crane; Cary-lift or similar; Chemical grouting machine; Derricks; Derrick barges (except excavation work); Euclid loader & similar types; Heavy duty rotary drill rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and incl. 4 cu. yds.); Locomotive (over 100 tons) (single or multiple units); Multiple engine earth moving machines (Euclid, dozers, etc.); Pre-stress wire wrapping machine; Rubber tired scraper, self-loading; Self-propelled reservoir-debris equipment floating (200 H.P. and over); Shuttle car (Reclaim station); Single engine scraper (over 35 cu. yds.); Train loading station; Vacuum cooling plant; Whirley Crane (up to and incl. 25 tons); Trenching machine; Multi-engine with sloping attachments (JEFFCO or similar)

Group 10-A: Backhoe (up to and incl. 1 cu. yd. hydraulic); Backhoe (up to and incl. 1 cu. yd. cable); Cranes (not over 25 tons) (Hammerhead and Gantry); Grade-alls (up to and incl. 1 cu. yd.); Motor patrol; Power shovels, clamshells, draglines, cranes (up to and incl. 1 cu. yd.); Rubber-tired scraper, self-loading (twin engine); Self-propelled boom-type lifting device (center mount) (over 10 tons)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
(Remaining Counties)

GROUP 11: Automatic Asphalt or Concrete Slip Form Paver; Automatic railroad car dumper; Canal finger drain backfiller; Canal trimmer; Cranes (over 25 tons); Highline cableway operator; Loader (over 4 yds. up to and including 12 cu. yds.); Multi-engine earthmoving equipment (up to and including 75 cu. yds. "struck" M.R.C.); Power shovels, Clamshells, Draglines, Backhoes, Grade-alls (over 1 yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled compactor (with multiple propulsion power units); Single engine rubber tired earth-moving machine (with tandem scraper); Slip form paver (concrete or asphalt); Tandem cats and scrapers; Tower crane mobile; Universal Liebher and Tower cranes (and similar types); Wheel excavator (up to and including 750 cu. yds. per hour); Whirley cranes (over 25 tons)

GROUP 11-A: Band Wagons (in conjunction with wheel excavators); Loader (over 12 cu. yds.); Multi-engine earth moving equipment (over 75 cu. yds. "struck" M.R.C.); Operator of helicopter (when used in construction work); Power shovels and Draglines (over 7 cu. yds. M.R.C.); Remote controlled earth moving equipment; Wheel excavator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS
STEEL ERECTION
Remaining Counties

Group 1: Oiler

Group 2: Compressor operator; Generator, gasoline or diesel-driven (180 K.W. or over); Truck crane oiler

Group 3: Compressors, generators and/or welding machines or combination (2 to 6) (Structural steel or tank erection only)

Group 4: Heavy duty repairman; Tractor operator

Group 4-A: Combination heavy-duty repairman-welder

Group 5: Boom truck or dual purpose A-Frame truck; Boom cat; Chicago boom; Crawler cranes and truck cranes (15 tons m.r.c. or less); Self-propelled boom-type lifting device (center mount) (10 ton capacity or less m.r.c.); Single drum hoist; Tugger hoist

Group 6: Crawler cranes and truck cranes (over 15 tons m.r.c.); Derricks; Gantry rider (or similar equipment); Highline cableway; Self-propelled boom-type lifting device (center mount) (over 10 tons); Tower cranes mobile; Universal Liebher and Tower cranes (and similar types); Two or more drum hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of helicopter

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POWER EQUIPMENT OPERATORS
PILEDRIVING
Remaining Counties

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor operator

Group 1-B: Truck crane oiler

Group 2-A: Operator of tugger hoist (hoisting material only)

Group 2-B: Compressor operator (over 2); Generator operator; Pump operator (over 2); Welding machine operator (powered other than by electricity)

Group 3: Deck engineer; Fork lift operator; A-Frames; Self-propelled boom-type lifting device (center mount) (10 ton capacity or less m.r.c.)

Group 3-A: Heavy duty repairman and/or welder

Group 4: Operating engineer in lieu of assistant to engineer tending boiler or compressor attached to crane piledriver; Operator of piledriving rigs, skid or floating and derrick barges; Operator of diesel or gasoline powered crane piledriver (without boiler) (up to and including 1 cu. yd. rating); Self-propelled boom-type lifting device (center mount) (over 10 tons); Truck crane operator (up to and including 25 tons)

Group 5: Operator of diesel or gasoline powered crane piledriver (without boiler) (over 1 cu. yd. rating); Operator of crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered crawler, or Universal type driver (Raymond or similar type); Truck crane operator (over 25 tons) (hoisting material or performing piledriving work)

Group 6: Cranes (over 125 tons)

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TRUCK DRIVERS * (Remaining Counties)	Basic Hourly Rates AREA I	Basic Hourly Rates AREA II	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
DUMP (Single or multiple units including semis, double and transfer units; Dumpcrete and bulk cement spreaders:						
Under 4 yards	$9.20	$10.35	.51	.65		.05
4 yards and under 8 yards	9.40	10.55	.51	.65		.05
8 yards and under 18 yards	9.60	10.75	.51	.65		.05
18 yards and under 35 yards	9.75	10.90	.51	.65		.05
35 yards and under 60 yards	10.00	11.15	.51	.65		.05
60 yards and under 75 yards	10.15	11.30	.51	.65		.05
75 yards and under 100 yards	10.30	11.45	.51	.65		.05
100 yards and over	10.45	11.60	.51	.65		.05
TRANSIT MIX:						
Under 8 yards	9.60	10.75	.51	.65		.05
8 yards and including 12 yards	9.70	10.85	.51	.65		.05
Over 12 yards	9.90	11.05	.51	.65		.05
WATER TRUCKS and Jetting Trucks:						
Up to 2,500 gallons	9.40	10.55	.51	.65		.05
2,500 gallons and over	9.60	10.75	.51	.65		.05
DW 20's and 21's and other similar Cat type, Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak; Water tank trailers, fuel and/or grease tank, or other misc. trailers (except as defined under dump trucks)	9.85	11.00	.51	.65		.05
FLATBACK; Industrial Lift with mechanical tailgate:						
Single unit 2 axle	9.40	10.55	.51	.65		.05
Single unit 3 axle	9.50	10.65	.51	.65		.05

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TRUCK DRIVERS (Cont'd) (Remaining Counties)	Basic Hourly Rates AREA I	Basic Hourly Rates AREA II	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
BUS AND MANHAUL DRIVERS, Single unit Pickup:						
Up to 18,000 pounds	$9.25	$10.40	.51	.65		.05
18,000 pounds and over	9.35	10.50	.51	.65		.05
WINCH TRUCKS, A-FRAME:						
Under 18,000 pounds	9.35	10.50	.51	.65		.05
18,000 pounds and over	9.45	10.60	.51	.65		.05
HEAVY DUTY TRANSPORT (Highbed); Heavy duty transport (gooseneck lowbed); Tiltbed or flatbed pull trailers	9.75	10.90	.51	.65		.05
BOOTMAN, Combination; Bootman and road oiler	9.65	10.80	.51	.65		.05
ROAD OIL TRUCKS OR BOOTMEN; Fuel driver; Fuel man and fuel island man	9.35	10.50	.51	.65		.05
HELICOPTER PILOT (When transporting men or material)	10.15	11.30	.51	.65		.05
LIFT JITNEYS AND FORK LIFTS	9.45	10.60	.51	.65		.05
WAREHOUSE CLERK	9.30	10.45	.51	.65		.05
TIRE REPAIRMAN	9.60	10.75	.51	.65		.05
TRUCK REPAIRMAN	9.90	11.05	.51	.65		.05

*TRUCK DRIVERS - Area Definition - See "Area Definition" page, on next page.

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AREA DEFINITIONS

Laborers:
Heavy and Highway construction:
Remaining Counties:

Power Equipment Operators:
(Except Piledriving and Steel Erection):
Remaining Counties:

Truck Drivers:
Remaining Counties:

AREA 1: All of northern Nevada within the following lines:
Commencing at the N.W. corner of township 22N, range 18E, Mount Diablo Baseline and Meridian at the California-Nevada border;
Thence easterly to the N.E. corner of township 22N, range 22E;
Thence southerly to the N.E. corner of township 20N, range 22E;
Thence easterly to the N.W. corner of township 20N, range 26E;
Thence northerly to the N.W. corner of township 22N, range 26E;
Thence easterly to the N.W. corner of township 22N, range 29E;
Thence northerly to the N.W. corner of township 30N, range 29E;
Thence easterly to the N.E. corner of township 30N, range 33E;
Thence southerly to the S.E. corner of township 24N, range 33E;
Thence westerly to the S.E. corner of township 24N, range 31E;
Thence southerly to the S.E. corner of township 16N, range 31E;
Thence westerly to the S.E. corner of township 16N, range 30E;
Thence southerly to the S.E. corner of township 15N, range 30E;
Thence westerly to the S.E. corner of township 15N, range 27E;
Thence southerly to the S.E. corner of township 14N, range 27E;
Thence westerly to the S.E. corner of township 14N, range 23E;
Thence southerly to the S.E. corner of township 13N, range 23E;
Thence westerly to the S.W. corner of township 13N, range 22E;
Thence southerly to the N.E. corner of township 10N, range 22E;
Thence easterly to the N.E. corner of township 10N, range 23E;
Thence southerly along the easterly line of range 23E to the intersection of the California-Nevada border;
Thence north-westerly, then northerly following the California-Nevada border to the point of beginning.

Area 1 also includes that portion of northern Nevada included within the following line:
Commencing at the S.W. corner of township 37N, range 52E;
Thence easterly to the S.E. corner of township 37N, range 52E;
Thence northerly to the N.E. corner of township 37N, range 52E;
Thence easterly to the N.W. corner of township 37N, range 58E;
Thence southerly to the S.W. corner of township 37N, range 58E;
Thence easterly to the S.E. corner of township 37N, range 58E;
Thence southerly to the N.E. corner of township 31N, range 58E;
Thence westerly to the N.W. corner of township 31N, range 58E;
Thence southerly to the S.W. corner of township 31N, range 58E;
Thence westerly to the S.E. corner of township 31N, range 52E;
Thence northerly to the N.E. corner of township 31N, range 52E;
Thence westerly to the S.E. corner of township 32N, range 51E;
Thence northerly to the point of beginning.

AREA 2: All areas not included within Area 1 as defined above.

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FEDERAL REGISTER, VOL. 42, NO. 43—FRIDAY, MARCH 4, 1977

SUPERSEDEAS DECISION

STATE: North Carolina COUNTIES: *See below
DECISION NUMBER: NC77-1012 DATE: Date of Publication
Supersedes Decision No.: AR-4017 dated August 9, 1974 in 39 FR-28739.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and includings 4 stories).

*Counties: Avery, Mitchell & Watauga

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	5.25				
Bricklayers	6.00				
Carpenters	3.85				
Cement masons	3.32				
Electricians (Avery and Watauga Counties)	4.34				
Electricians (Mitchell County)	5.50				
Ironworkers, structural & ornamental	4.10				
Laborers	2.72				
Painters, brush	4.50				
Plumbers & pipefitters	4.37				
Roofers	4.10				
Sheet metal workers	3.97				
Soft floor layers	3.50				
Tile setters	3.50				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe operator	4.00				
Crane operator	3.50				

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: COMANCHE
DECISION NO: OK77-4056 DATE: Date of Publication
Supersedes Decision No. OK77-4138 dated July 30, 1976 in 41 FR 3282.
Description of Work: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.70	.40	.60		.02
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS-Stonemasons	8.85	.45	.30		.10
CARPENTERS:					
Carpenters	7.70	.35	.25		.04
Millwrights-Piledrivermen	8.20	.35	.25		.04
Power saw operator	7.825	.35	.25		.04
CEMENT MASONS	7.00				
ELECTRICIANS	9.60	.40	1%		1/4%
ELEVATOR CONSTRUCTORS	8.855	.495	.32	2½%+a+b	.02
ELEVATOR CONSTRUCTORS HELPER	70%JR	.495	.32	2½%+a+b	.02
ELEVATOR CONSTRUCTORS HELPER (probationary)	50%JR				
IRONWORKERS	9.60	.45	.50		.10
LABORERS:					
Group I	5.65	.25	.30		
Group II	5.90	.25	.30		
Group III	6.40	.25	.30		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - All digging & dirt work, firing of salamanders & smudge pots; loading & unloading of materials & equipment; loading & unloading of materials to & from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement & distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures; cleaning and clearing of debris; loading & unloading of materials, hoist or cages, except when the man is directly tenders; and common laborers.

GROUP II - All machine tool operators that come under the jurisdiction of the laborers; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons & plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher helper; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machines, and gunite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which displaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier, and feeding operating sand blaster, except nozzle; signal men & cutting torch operators in connection with laborers work; concrete grader

GROUP III - Wagon drill operator and powdermen or blaster

DECISION NO. OK77-4056 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	$ 9.35		1%		1/2%
Cable splicers	9.91		1%		1/2%
Hole digger operator	8.49		1%		1/2%
Heavy equipment operators (or pole cat equivalent)	8.49		1%		1/2%
Line truck driver (winch op)	7.68		1%		1/2%
Jack hammerman	7.00		1%		1/2%
Powdermen	8.49		1%		1/2%
Groundmen	6.24		1%		1/2%
Truck driver (flat bed, ton and half and under)	6.66		1%		1/2%
MARBLE SETTERS	9.40		1%		1/2%
PAINTERS:					
Brush and roller	7.70		.20	.45	.03
Brush & roller(structural steel)	7.95		.20	.45	.05
Spray	8.40		.20	.45	.05
Swing stage, bosun chair work	7.95		.25	.45	.05
Taping & bedding (hand tools)	8.10		.25	.45	.05
Sandblasting	8.20		.20	.45	.05
PLASTERERS	7.25				
PLUMBERS & PIPEFITTERS	10.27	.60	.75		.10
POWER EQUIPMENT OPERATORS:					
Group I	10.10	.45	.50		.12
Group II	9.85	.45	.50		.12
Group III	9.60	.45	.50		.12
Group IV	9.35	.45	.50		.12
Group V	9.10	.45	.50		.12
Group VI	8.85	.45	.50		.12
Group VII	8.45	.45	.50		.12
Group VIII	8.35	.45	.50		.12
Group IX	8.15	.45	.50		.12
Group X	7.85	.45	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 200' of boom or over (including jib)
GROUP II - All crane type equipment with 150-200' of boom (including jib)
GROUP III -All crane type equipment with 100-150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rates by mfg.), sideboom (booms 30' & over), guy derrick
GROUP IV - Heavy duty mechanic welder, crane-hook & overhead monorail, whirley, panel board batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe, sideboom (under 30'), gradall, hydro crane, cherry picker, hoists while operating 2 or more drums, hoists while doing stack & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP V - Motor patrol (blade), fork lift (35' and over), dozer (engine h.p. 65 of over), fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber-tired equipment, Euclid, TS-24 and similar, loader operator or Hi-lift (Engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, power driven hole digger with less than 30' mast, trenching machine, concrete pump - boom type

GROUP VI - Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. and under, air compressor, over 500 cu. ft., (1) pump battery, 3 to 6, fork lift, bobcat and similar equipment, generator plant engineers, diesel electric, winch truck with a frame, roller, all types, outside elevator or building type of personnel hoist, concrete buster or tamper, heaters under jurisdiction of operators, engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor-with or without attachments, batch plant operator - duel, continous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from consola or machines

Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications.

GROUP VII - Greaser, tilt top trailer operator

GROUP VIII - Permanent elevator - building type (automatic, concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft. and under (1 or 2) welding machine (1 or 2), pump (1 or 2), fuelman, conveyor operator-single continuous belt bulk handling

GROUP IX - Asphalt lay machine back end man, helpers

GROUP X - Truck crane oiler driver or truck crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 8.80	.25	.25		.06
SHEET METAL WORKERS	9.56	.40	.4)		.05
SOFT FLOOR LAYERS:					
Resilient floor layers and carpet layers	8.85	.50			
SPRINKLER FITTERS	10.90	.50	.90		.08
TERRAZZO WORKERS:					
Terrazzo workers	9.40		.30		
Terrazzo workers helper	6.98				
Terrazzo workers floor machine op.	7.08				
Terrazzo base machine operator	7.28				
TILE LAYERS	9.40		.30		
TILE & MARBLE HELPERS(EXPERIENCED)	6.65				
TRUCK DRIVERS:					
Group I	6.92				
Group II	6.92				
Group III	6.62				

TRUCK DRIVERS CLASSIFICATION DEFINITION

Group I - Truck drivers for heavy equipment such as lowboys, heavy winch, and floats

Group II - Heavy earth moving equipment such as dump trucks and Euclids

Group III - Truck drivers and swampers, such as dump trucks, flat beds, stake bodies, and 3/4 and 1/2 ton pick-up trucks

WELDERS - received rate prescribed for craft performing operation to which welding is incidential.

FOOTNOTES:
A. 1st 6 mos. - none; 6 mos. to 5 yrs. - 2% over 5 yrs. - 4% of basic hourly rate.
B. Paid Holidays A through F

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

SUPERSEDEAS DECISION

STATE: South Dakota COUNTY: Minnehaha
DECISION NUMBER: SD77-5027 DATE: Date of Publication
Supersedeas Decision No. SD76-5093 dated September 24, 1976, in 41 FR 42147
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.48	.60	.65		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS; Stonemasons	10.35	.35	.40		
CARPENTERS:					
Carpenters; Piledivermen	8.83		.20		.05
Millwrights	9.79		.20		.05
CEMENT MASONS	9.54				
ELECTRICIANS:					
0 miles through 30 miles from Sioux Falls Post Office					
Electricians	9.52	.40	1%	6%	1½
Cable Splicers	10.47	.40	1%	6%	1½
Over 30 miles from Sioux Falls Post Office					
Electricians	10.52	.40	1%	6%	1½
Cable Splicers	11.47	.40	1%	6%	1½
GLAZIERS	7.04				
LABORERS:					
Laborers	4.35				
Mortar Mixers, paving breakers, jack hammer operator	4.45				
Nozzleman (gunnite, sandblast and shotcrete)	4.60				
LATHERS	8.81				.01
PAINTERS:					
Brush	7.29				
Spray	7.79				
Tapers	7.54				
PLASTERERS	8.81				.01
PLUMBERS; Steamfitters	8.99	.32	.15	.19	.03
SHEET METAL WORKERS	9.22		.15	.50	
SPRINKLER FITTERS	9.45	.60	.90		.08
WELDER: Receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: South Dakota COUNTIES: Meade and Pennington
DECISION NUMBER: SD77-5028 DATE: Date of Publication
Supersedes Decision No. SD76-5094 dated September 24, 1976, in 41 FR 42148
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.48	.60	.65		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS; Stonemasons	9.15		.30		
CARPENTERS:					
Carpenters, Acoustical and Drywall Applicators	9.21		.30		.05
Piledrivermen	9.46		.30		.05
Millwrights	9.71		.30		.05
CEMENT MASONS	7.85	.35	.40		
ELECTRICIANS:					
Within 15 mile radius of Rapid City Post Office					
Electricians	9.20	.40	1%	6%	1½%
Cable Splicers	9.75	.40	1%	6%	1½%
Within 15 to 35 miles radius of Rapid City Post Office					
Electricians	9.60	.40	1%	6%	1½%
Cable Splicers	10.15	.40	1%	6%	1½%
Outside a 35 mile radius of Rapid City Post Office					
Electricians	10.45	.40	1%	6%	1½%
Cable Splicers	11.00	.40	1%	6%	1½%
IRONWORKERS:					
Fence Erectors; Ornamental; Reinforcing; Sheeter; Structural	9.90	.55	1.00		.25
LABORERS:					
Laborers; Power Tool Operator or all Mechanical Air, gas, electric tools, including self-propelled Buggies, Wagon and Air Track Drills; Pipe Layer (non-metallic); Sandblasting; Mortar Mixer; Mason Tender; Plaster Tender	5.80	.50	.15		
Gunnite Nozzlemen; Powdermen; Miner; Timbermen	6.30	.50	.15		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	$ 5.25				.008
Drywall Finishers and Tapers	5.40				.005
All painting over 30 ft.; Paint Mitt; Sandblasting; Spray Steel (structural); Swing Stage; Windowjack	5.75				.005
PLASTERERS	8.50				
PLUMBERS; Steamfitters	9.13	.40	.35		.03
SHEET METAL WORKERS	9.25				.005
SPRINKLER FITTERS	9.45	.60	.90		.08
RIGGERS; WELDERS: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.					

SUPERSEDEAS DECISION

STATE: Tennessee COUNTY: Rutherford
DECISION NUMBER: TN77-1022 DATE: Date of Publication
Supersedes Decision No.: TN76-1056 dated May 14, 1976 in 41 FR-20147
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	8.29	.35	.21		
A/C & Heating mechanics	5.00				
Bricklayers	6.43				
Carpenters	4.91				
Cement masons	4.93				
Electricians	4.93				
Elevator constructors	6.92	.445	.29	3%+a&b	.02
Elevator constructors' helpers	70%JR	.445	.29	3%+a&b	.02
Elevator constructors' helpers (Prob.)	50%JR				
Glaziers	7.15	.45	.35		.02
Ironworkers:					
Structural & rminforming	4.56				
Laborers:					
Unskilled	3.00				
Air tool operator	3.75				
Asphalt raker	3.00				
Mason tender	4.00				
Lathers	5.50				
Painters, brush	6.20		.30		.05
Plasterers	7.00	.30	.20		.01
Plumbers & pipefitters	4.90				
Roofers	3.85				
Sheet metal workers	4.00				
Tile setters	5.10				
Tile setters helpers	3.08				
Truck drivers	2.76				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	3.25				
Bulldozers	4.26				
Cranes	4.00				
Front end loaders	5.45				
Graders	4.53				
Paver, asphalt	3.00				
Mechanic	5.45				

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

A. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

SUPERSEDEAS DECISION

STATE: Texas. COUNTIES: Bell, Rosque, Coryell, Falls, Hill & McLennan

DECISION NO.: TX77-4053 DATE: Date of Publication

Supersedes Decision No. TX77-4005, dated January 21, 1977, in 42 FR 4102

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction in Rosque, Falls, Hill & McLennan Counties).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
ZONE 1 - Bell, Coryell & Falls Counties	$ 9.88	.42	.60		.08
ZONE 2 - Rosque, Hill & McLennan Counties	9.38	.325	.685		.025
BOILERMAKERS	12.00	.50	1.00		.02
BRICKLAYERS	8.60		.55		.03
CARPENTERS:					
ZONE 1 - Bell & Coryell Counties:					
Carpenters	8.20				
Millwrights	8.45				
ZONE 2 - Rosque, Falls, Hill & McLennan Counties:					
Carpenters	8.45				
Millwrights	8.85				
CEMENT MASONS	8.69	.40	.30		
ELECTRICIANS:					
ZONE 1 - Rosque, Falls, Hill & McLennan Counties; Parts of Bell & Coryell Counties north of Cowhouse Creek	9.55		1%		1/4%
ZONE 2 - Parts of Bell & Coryell Counties south of Cowhouse Creek	10.60		1%		.6%
ELEVATOR CONSTRUCTORS	9.33	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	6.90				
IRONWORKERS	9.00	.55	.80		.12
LABORERS:					
Unskilled	2.97				
Mason tenders	3.55				
Mortar mixers	3.55				
LATHERS	9.30		-	.80	.05
LINE CONSTRUCTION:					
Linemen; Linemen operators	11.26		1%		1/2%
Cable splicers	12.39		1%		1/2%
Groundman, 1st 6 months	6.76		1%		1/2%
Groundman, 2nd 6 months	7.32		1%		1/2%
Groundman, 1 year & over	7.88		1%		1/2%

DECISION NO. TX77-4053

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
GROUP 1 - Brush	$ 7.15				.04
GROUP 2 - Roller pipes & steel, structural steel, window jacks, roofs, stage work, smoke stack, water towers, boatswain chair	7.65				.04
GROUP 3 - Ames tools for dry walls	7.75				.04
GROUP 4 - Spray work & self feeding rollers	7.90				.04
GROUP 5 - Steam cleaning, sand-blasting & hazardous work	8.25				.04
PLASTERERS	9.54	.35	.20		.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - Area within a 35 mile radius of Waco, including Temple, Marlin, Clifton & Hilleboro	8.26	.30	.30		.03
ZONE 2 - All other areas	8.66	.30	.30		.03
ROOFERS:					
GROUP 1 - Slate, tile, asbestos, roofing & siding	6.70				.03
GROUP 2 - Composition, built-up, damp & waterproofing	6.55				.03
GROUP 3 - Kettlemen	4.91				.03
SHEET METAL WORKERS:					
ZONE 1 - Within a radius of 20 miles from the McLennan County Courthouse, Waco	8.91				.05
ZONE 2 - Over 20 miles but less than 45 miles	9.41				.05
ZONE 3 - Over 45 miles	9.91				.05
SPRINKLER FITTERS	10.90	.60	.90		.08
TRUCK DRIVERS	2.80				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX77-4053

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	F

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX77-4053

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 8.63		.40		
GROUP 2	7.56		.40		
GROUP 3	6.34		.40		
GROUP 4	6.23		.40		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader - Self-propelled; Bull Clam; Back Filler; Derricks, power operated (all types); Dragline; Push Cat Operator; Euclid Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Back Hoe; Crane, Power Operated (all types); Elevating Grader, self-propelled; Hoist, Motor-Driver, two drums or more; Mix Mobile; High-Lifts & Loaders, over 1/3 cu. yd. capacity; Winch Truck; Locomotive; Mixer, 14 cu. ft. or over; Paving Mixer (all sizes); Scraper; Trenching Machine (all sizes); Gradall; Foundation Boring Machine; Scoopmobile; Shovel, power operated; Pump Crete Machines; Clam Shell Operator; Rock Crusher Operated on Job; Welding Machine, 6 to 12; Two 125 cu. ft. Compressors; Well points, including installations

GROUP 2 - Blade Grader, Towed; Flex Plane; Form Grader; Mixer, less than 14 cu. ft.; Pulsometer; Truck Crane Driver & Oiler, Combination man; Gasoline or Diesel Driven Welding Machine, 3 to 6; Hoist, Single Drum; Pump, 2½ in. or larger; Pneumatic Roller; High-Lifts & Loaders, 1/3 cu. yd. or less; Forklift, 1500 lbs. capacity or less; Air Compressors, anytime there are two or more attachments operating on a 125 cu. ft. compressor, a light equipment operator shall be employed. One 125 cu. ft. air compressor and one welding machine requires no operator. One 125 cu. ft. compressor and two welding machines or any 7 air compressors equivalent to a 125 cu. ft. air compressor requires a light equipment operator

GROUP 3 - Fireman

GROUP 4 - Oiler

DECISION NO. TX77-4053

INCIDENTAL PAVING & UTILITIES (BELL & CORYELL COUNTIES)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.00				
Asphalt Heaterman	3.25				
Asphalt Raker	3.90				
Batching Plant Scaleman	4.15				
Carpenter	4.10				
Carpenter Helper	3.00				
Concrete Finisher (Paving)	4.25				
Concrete Finisher Helper (Paving)	3.30				
Concrete Finisher (Structures)	4.25				
Concrete Finisher Helper (Structures)	3.00				
Concrete Rubber	3.35				
Electrician	6.00				
Electrician Helper	4.00				
Form Builder (Structures)	4.25				
Form Builder Helper (Structures)	3.35				
Form Setter (Paving and Curb)	3.85				
Form Setter (Structures)	4.25				
Form Setter Helper (Structures)	3.00				
Laborer, Common	2.50				
Laborer, Utility Man	3.00				
Mechanic	4.45				
Mechanic Helper	3.65				
Oiler	3.65				
Serviceman	3.50				
Painter (Structures)	3.25				
Pipelayer (Concrete & Clay)	3.50				
Pipelayer Helper (Concrete & Clay)	3.25				
Plumbers:					
Zone 1 - 35 miles from Waco, Texas including town of Temple	8.26	.30	.30		.03
Zone 2 - all area not included in Zone 1	8.66	.30	.30		.03
Powderman	4.00				
Reinforcing Steel Setter (Structures)	4.00				
Reinforcing Steel Setter Helper	2.75				
Sign Erector	3.25				
Sign Erector Helper	3.00				
Spreader Box Man	4.00				
Swamper	3.30				

DECISION NO. TX77-4053

INCIDENTAL PAVING & UTILITIES (BELL & CORYELL COUNTIES)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt Distributor	$ 3.85				
Asphalt Paving Machine	4.00				
Broom or Sweeper Operator	3.15				
Bulldozer, 150 HP and Less	3.75				
Bulldozer, over 150 HP	4.00				
Concrete Paving Curing Machine	3.50				
Concrete Paving Saw	3.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1¼ CY)	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1¼ CY and Over)	4.25				
Crusher or Screening Plant Op.	4.00				
Foundation Drill Op. (Crawler Mounted)	3.50				
Foundation Drill Op. (Truck Mounted)	5.35				
Foundation Drill Op. Helper	3.00				
Front End Loader (2½ CY & Less)	3.75				
Front End Loader (Over 2½ CY)	4.00				
Motor Grader Op., Fine Grade	5.00				
Motor Grader Operator	4.25				
Roller, Steel Wheel (Plant-Mix Pavements)	3.25				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.25				
Roller, Pneumatic(Self-Propelled)	3.20				
Scrapers (17 CY and Less)	3.75				
Scrapers (Over 17 CY)	4.00				
Tractor (Crawler Type) 150 HP and Less	3.50				
Tractor (Crawler Type) over 150 HP	4.25				
Tractor (Pneumatic) 80 HP & Less	2.75				
Tractor (Pneumatic) over 80 HP	3.75				
Traveling Mixer	3.60				
Trenching Machine, Light	3.25				
Trenching Machine, Heavy	4.00				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.60				
Truck Drivers:					
Single Axle, Light	3.15				
Lowboy-Float	3.35				
Weighman (Truck Scales)	2.50				
Welder	4.35				
Welder Helper	3.25				

SUPERSEDEAS DECISION

STATE: Texas. COUNTY: Brazos
DECISION NO.: TX77-4054 DATE: Date of Publication
Supersedes Decision No. TX76-4170, dated October 8, 1976, in 41 FR 44674.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.00	.70	.70		.06
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS	10.13	.38	.50		.05
CARPENTERS	9.00				
CEMENT MASONS	9.12	.49	.55		.05
ELECTRICIANS	11.05	.55	5%		.04
ELEVATOR CONSTRUCTORS	9.33	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.07	.60	.425		.01
IRONWORKERS	9.63	.55	.85		.075
LABORERS:					
GROUP 1	4.90	.28	.20		.02
GROUP 2	5.00	.28	.20		.02
GROUP 3	5.10	.28	.20		.02
GROUP 4	5.05	.28	.20		.02
GROUP 5	5.15	.28	.20		.02
GROUP 6	5.30	.28	.20		.02

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Construction labor, including excavation, concrete work, reinforcing, mason handler and wheeler (stock pile), asphalt ironer and raker, water proofing tender, pipe layer (non-metallic), pump crete pipe (handling and laying) and all building construction labor excepting that hereinafter classified; window washer, carpenters tender, cement mason tender, vibrator operator, other mechanic tender (except as otherwise classified); Dumper & spotter
GROUP 2 - Air tool operator
GROUP 3 - Well driller
GROUP 4 - Cutting torch man; mason tender; mason handler & wheelers handling material from first stock pile; concrete pipe (handling and laying); Sand blaster; Power buggy operator; plasterer tender & hod carrier; lather tender; well driller tender
GROUP 5 - Tool room tender; mortar mixer (How and otherwise); Blaster, powder man; gunite worker
GROUP 6 - Gunite nozzleman

DECISION NO. TX77-4054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman & cable splicer	$11.62	.40	1%		1/2%
Groundman (1st 6 months)	4.07	.40	1%		1/2%
Groundman (2nd 6 months)	4.88	.40	1%		1/2%
Groundman	6.74	.40	1%		1/2%
MARBLE MASONS	9.51				
PAINTERS:					
GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools	9.295	.365	.31	.40	.04
GROUP 2 - All spray painting, sandblasting, waterblasting	9.67	.365	.35	.40	.04
GROUP 3 - Tape, float & drywall	9.42	.365	.35	.40	.04
GROUP 4 - Steeple jack work, hot materials	9.92	.365	.35	.40	.04
PIPEFITTERS	10.35	.45	.60		.045
PLASTERERS	9.70	.77	.30		.02
PLUMBERS	10.42	.50	.60		.10
SHEET METAL WORKERS	10.18	.275	.595	.32	.06
SOFT FLOOR LAYERS	9.17	.35	.45		.09
TERRAZZO WORKERS	9.51				
TILE SETTERS	9.51				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays A thru F

PAID HOLIDAYS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

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DECISION NO. TX77-4054

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 9.87	.35	.65		.06
GROUP 2	8.38	.35	.65		.06
GROUP 3	7.84	.35	.65		.06
GROUP 4	7.66	.35	.65		.06

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick-power operated (all types); Clam shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more; Mix Mobile; Water Well Drilling Machines, used on construction; Building Elevator, used on construction; Tug Boat Operator, assigned to construction; Winnah Truck; Locomotive Crane; Concrete Mixer, 14 cubic feet or more; Paving Mixer (all types); File Driver; Scraper, heavy type, over 3 cubic yards; Trenching Machine (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel-Driven Welding Machines, 7 or more; Pumpcrete Machine Operator; Turnapulls; DW-10 Caterpillar, S-18 Euclid and similar tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

GROUP 2 - Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader; Concrete Mixer, less than 14 cubic feet; Pumps; Pulsometer; Truck Crane Driver; Gasoline or diesel driven welding machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cubic yards or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or diesel driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A light equipment operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Gregg
DECISION NO.: TX77-4055 DATE: Date of Publication
Supersedes Decision No. TX76-4115, dated July 16, 1976, in 41 FR 29652.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.38	.325	.685		.025
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS	8.85		.35		.05
CARPENTERS:					
Carpenters	7.75				.015
Millwrights	10.00				.015
Piledrivermen	8.25				.015
CEMENT MASONS	6.50				
ELECTRICIANS:					
Electricians	8.60	.60	1%		1/4%
Cable splicers	9.00	.60	1%		1/4%
GLAZIERS	5.80				
IRONWORKERS	8.95	.35	.35		.04
LABORERS:					
Laborers	3.40				
Mason tenders	3.80				
Plasterers' tenders	4.40				
LATHERS	6.875	.20	.10		.01
PAINTERS, BRUSH	6.75				
PLASTERERS	7.68				
PLUMBERS & PIPEFITTERS	7.79	.43	.90		.10
ROOFERS	6.40				
SHEET METAL WORKERS	8.455	3%+.35	.50		.055
TILE SETTERS	6.90				
TILE SETTERS' HELPERS	3.65				
TRUCK DRIVERS	3.50				
POWER EQUIPMENT OPERATORS:					
Backhoes	4.50				
Blade graders	4.50				
Bulldozers	4.75				
Cherry pickers	4.50				
Drilling machine operators	3.75				
Loaders	4.50				
Motor graders	5.00				
Rollers	4.87				
Scrapers	4.28				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Smith
DECISION NO.: TX77-4057 DATE: Date of Publication
Supersedes Decision NO. TX76-4127, dated July 23, 1976, in 41 FR 30491.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 4.63				
BRICKLAYERS	7.75				
CARPENTERS	7.55				
CEMENT MASONS	5.92				
ELECTRICIANS:					
Electricians	8.60	.60	1%		1/4%
Cable splicers	9.00	.60	1%		1/4%
GLAZIERS	5.25				
IRONWORKERS	8.50	.30	.35		.04
LABORERS:					
Laborers	3.00				
Mason tenders	4.00				
Mortar mixers	4.10				
Plasterer tenders	4.40				
LATHERS	7.15	.30	.10		.01
PAINTERS	4.50				
PLASTERERS	8.075				.05
PLUMBERS:					
On projects of $200,000 or more	7.59				.03
On projects less than $200,000	6.76				.03
ROOFERS	4.50				
SHEET METAL WORKERS	7.78	.62	.50		.03
SOUND INSTALLERS	6.00	.40	1%		
SPRINKLER FITTERS	10.90	.60	.90		.08
TRUCK DRIVERS	2.75				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

[FR Doc.77-6195 Filed 3-3-77;8:45 am]

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GENERAL WAGE DETERMINATION DECISIONS AND MODIFICATIONS

Index as of February 4, 1977

There is set forth below an index to general wage determination decisions and modifications as published in the FEDERAL REGISTER pursuant to the Davis-Bacon and related Acts. The index lists general wage determination decisions and modifications by State and County. An updated index is published on the first Friday of each month.

The index is published for the convenience of the public and the Department of Labor will endeavor to keep it accurate and up to date. In the event the data in the index and published general decisions do not coincide, the published general decisions shall control.

ABBREVIATIONS

(B)—Building Construction.
(D)—Dredging.
(F)—Flood Control Construction.
(H)—Heavy Construction.
(Hw)—Highway Construction.
(R)—Residential Construction.
Mod.—Modification.
(HE)—Heavy Engineering.
(LE)—Light Engineering.
(U)—Utility.
(W&S)—Water and Sewer.

Signed at Washington, D.C., this 25th day of February 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

ALABAMA

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #AL76-1082 (Hw)(Excluding Airport Construction)
41 FR 32108 - 7/30/76
AUTAUGA COUNTY
(D,Hw) - See Statewide
BALDWIN COUNTY
Decision #AL76-1009 (R)
41 FR 2540 - 1/16/76
(D,Hw) - See Statewide
BARBOUR COUNTY
(D,Hw) - See Statewide
BIBB COUNTY
(D,Hw) - See Statewide
BLOUNT COUNTY
Decision #AL75-1047 (R)
40 FR 17474 - 4/18/75
Mod. #1 - 41 FR 19004 - 5/7/76
Mod. #2 - 41 FR 52175 - 11/26/76
(D,Hw) - See Statewide
BULLOCK COUNTY
(D,Hw) - See Statewide
BUTLER COUNTY
(D,Hw) - See Statewide
CALHOUN COUNTY
Decision #AL76-1125 (B)
41 FR 47713 - 10/29/76
(D,Hw) - See Statewide
CHAMBERS COUNTY
(D,Hw) - See Statewide
CHEROKEE COUNTY
(D,Hw) - See Statewide
CHILTON COUNTY
(D,Hw) - See Statewide
CHOCTAW COUNTY
(D,Hw) - See Statewide
CLARKE COUNTY
(D,Hw) - See Statewide

ALABAMA (Cont'd.

CLAY COUNTY
(D,Hw) - See Statewide
CLEBURNE COUNTY
(D,Hw) - See Statewide
COFFEE COUNTY
(D,Hw) - See Statewide
COLBERT COUNTY
Decision #AL75-1046 (R)
40 FR 17451 - 4/18/75
Decision #AL76-1011 (B)
41 FR 4741 - 1/30/76
Mod. #1 - 41 FR 8623 - 2/27/76
Mod. #2 - 41 FR 18263 - 4/30/76
Mod. #3 - 41 FR 32101 - 7/30/76
Mod. #4 - 41 FR 40369 - 9/17/76
Mod. #5 - 42 FR 987 - 1/4/77
(D,Hw) - See Statewide
CONECUH COUNTY
(D,Hw) - See Statewide
(R) - See Baldwin County
COOSA COUNTY
(D,Hw) - See Statewide
COVINGTON COUNTY
(D,Hw) - See Statewide
CRENSHAW COUNTY
(D,Hw) - See Statewide
CULLMAN COUNTY
(D,Hw) - See Statewide
DALE COUNTY
(D,Hw) - See Statewide
DALLAS COUNTY
(D,Hw)- See Statewide
DE KALB COUNTY
(D,Hw) - See Statewide
ELMORE COUNTY
(D,Hw)- See Statewide
ESCAMBIA COUNTY
(D,Hw) - See Statewide
(R) - See Baldwin County
ETOWAH COUNTY
(D,Hw)-See Statewide

ALABAMA (Cont'd.

FAYETTE COUNTY
(D,Hw) - See Statewide
FRANKLIN COUNTY
(D,Hw) - See Statewide
(R) - See Colbert County
GENEVA COUNTY
(D,Hw) - See Statewide
GREENE COUNTY
(D,Hw) - See Statewide
HALE COUNTY
(D,Hw) - See Statewide
HENRY COUNTY
(D,Hw) - See Statewide
HOUSTON COUNTY
(D,Hw) - See Statewide
JACKSON COUNTY
(D,Hw) - See Statewide
JEFFERSON COUNTY
Decision #AL77-1007 (B)
42 FR 5619 - 1/28/77
(D) - See Statewide
(R) - See Blount County
(Hw) - See Statewide
LAMAR COUNTY
(D,Hw) - See Statewide
LAUDERDALE COUNTY
(B,R) - See Colbert County
(D,Hw) - See Statewide
LAWRENCE COUNTY
Decision #AL76-1134 (B)
41 FR 53239 - 12/3/76
Mod. #1 - 42 FR 907 - 1/4/77
Mod. #2 - 42 FR 4061 - 1/21/77
(D,Hw) - See Statewide
(R) - See Colbert County
LEE COUNTY
(D,Hw) - See Statewide
LIMESTONE COUNTY
(B) - See Lawrence County
(D,Hw) - See Statewide

ALABAMA (cont'd)

LOWNDES COUNTY
(D,Hw) - See Statewide
MACON COUNTY
(D,Hw) - See Statewide
MADISON COUNTY
Decision #AL77-1006 (B)
42 FR 5618 - 1/28/77
(D,Hw) - See Statewide
MARENGO COUNTY
(D,Hw) - See Statewide
MARION COUNTY
(R) - See Colbert County
(D,Hw) - See Statewide
MARSHALL COUNTY
(D,Hw) - See Statewide
MOBILE COUNTY
Decision #AL76-1124 (B)
41 FR 47719 - 10/29/76
Mod. #1 - 41 FR 55260 - 12/17/76
(D,Hw) - See Statewide
(R) - See Baldwin County
MONROE COUNTY
(D,Hw) - See Statewide
MONTGOMERY COUNTY
(D,Hw) - See Statewide
Decision #AL76-1002 (R)
41 FR 1693 - 1/9/76
Mod. #1 - 41 FR 36365 - 8/27/76
Decision #AL76-1138 (B)
41 FR 53241 - 12/3/76
MORGAN COUNTY
(B) - See Lawrence County
(D,Hw) - See Statewide
PERRY COUNTY
(D,Hw) - See Statewide
PICKENS COUNTY
(D,Hw) - See Statewide

ALABAMA (Cont'd)

PIKE COUNTY
(D,Hw) - See Statewide
RANDOLPH COUNTY
(D,Hw) - See Statewide
RUSSELL COUNTY
(D,Hw) - See Statewide
SAINT CLAIR COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
SHELBY COUNTY
(B) - See Jefferson County
(D,Hw) - See Statewide
(R) - See Blount County
SUMTER COUNTY
(D,Hw) - See Statewide
TALLADEGA COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
TALLAPOOSA COUNTY
(D,Hw) - See Statewide
TUSCALOOSA COUNTY
Decision #AL76-1027 (B)
41 FR 7897 - 2/20/76
Mod. #1 - 41 FR 18263 - 4/30/76
Mod. #2 - 41 FR 33125 - 8/6/76
(D,Hw) - See Statewide
WALKER COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
WASHINGTON COUNTY
(D,Hw) - See Statewide
(R) - See Baldwin County
WILCOX COUNTY
(D,Hw) - See Statewide
WINSTON COUNTY
(D,Hw) - See Statewide
(R) - See Colbert County

ALASKA

STATEWIDE
Decision #AK77-5009 (B,H,Hw,D,R)
42 FR 4074 - 1/21/77

ARIZONA

STATEWIDE
Decision #AZ76-5109 (B,H,Hw)
41 FR 52189 - 11/26/76
APACHE COUNTY
Decision #AZ75-5003 (R)
(Navajo and Hopi Indian Reservations in Apache, Coconino, Navajo Cos.)
40 FR 3868 - 1/24/75
(B,H,Hw) - See Statewide
COCHISE COUNTY
(B,H,Hw) - See Statewide
COCONINO COUNTY
(R) - See Apache County
(B,H,Hw) - See Statewide
GILA COUNTY
(B,H,Hw) - See Statewide
GRAHAM COUNTY
(B,H,Hw) - See Statewide
GREENLEE COUNTY
(B,H,Hw) - See Statewide
MARICOPA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ76-5110 (R)
41 FR 52198 - 11/26/76
MOHAVE COUNTY
(B,H,Hw) - See Statewide
NAVAJO COUNTY
(B,H,Hw) - See Statewide
(R) - See Apache County
PIMA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ76-5111 (R)
41 FR 52204 - 11/26/76
PINAL COUNTY
(B,H,Hw) - See Statewide
SANTA CRUZ COUNTY
(B,H,Hw) - See Statewide
YAVAPAI COUNTY
(B,H,Hw) - See Statewide
YUMA COUNTY
(B,H,Hw) - See Statewide

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ARKANSAS

STATEWIDE
Decision #AR76-4111 (Construction Alteration, and/or repair of streets, highways, runways, and water & sewer utilities)
41 FR 27547 - 7/2/76
Mod. #1 - 41 FR 29606 - 7/16/76
Decision #AR76-5090 (D)
41 FR 44609 - 10/8/76
ARKANSAS COUNTY
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
ASHLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BAXTER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BENTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BOONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BRADLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CALHOUN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CARROLL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CHICOT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.

CLARK COUNTY
(B) - See Garland County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLAY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEBURNE COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEVELAND COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
COLUMBIA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CONWAY COUNTY
Decision #AR76-4130 (B)
41 FR 30509 - 7/23/76
Mod. #1 - 41 FR 43557 - 10/1/76
Mod. #2 - 41 FR 52175 - 11/26/76
Mod. #3 - 42 FR 3133 - 1/4/77
Mod. #4 - 42 FR 7015 - 2/4/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAIGHEAD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAWFORD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
Decision #AR77-4018 (B)
42 FR 7040 - 2/4/77
CRITTENDEN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CROSS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DALLAS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DESHA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

DREW COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FAULKNER COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FRANKLIN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FULTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GARLAND COUNTY
Decision #AR76-4133 (B)
41 FR 30513 - 7/23/76
Mod. #1 - 41 FR 47715 - 10/29/76
Mod. #2 - 41 FR 52176 - 11/19/76
Mod. #3 - 42 FR 7015 - 2/4/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GRANT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GREENE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HEMPSTEAD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HOT SPRING COUNTY
(B) - See Garland County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HOWARD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
INDEPENDENCE COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County
IZARD COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.)

JACKSON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
JEFFERSON COUNTY
(D,H,Hw) - See Statewide
(F)- See Arkansas County
JOHNSON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LAFAYETTE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LAWRENCE COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LEE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LINCOLN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LITTLE RIVER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LOGAN COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LENOKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MADISON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
MARION COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

MILLER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MISSISSIPPI COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONROE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONTGOMERY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEVADA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEWTON COUNTY
(D,H,Hw) - See Statewide
(F) - Arkansas County
OUACHITA COUNTY
(B) - See Union County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PERRY COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PHILLIPS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PIKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POINSETT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POLK COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POPE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

PRAIRIE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PULASKI COUNTY
(D,H,Hw)- See Statewide
(F) - See Arkansas County
Decision #AR76-4188 (B)
41 FR 51253 - 11/19/76
Mod. #1 - 42 FR 7015 - 2/4/77
Decision #AR75-4068 (R)
40 FR 14218 - 3/28/75
RANDOLPH COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
ST. FRANCIS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SALINE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SCOTT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEARCY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEBASTIAN COUNTY
(F) - See Arkansas County
(D,H,Hw) - See Statewide
(B) - See Crawford County
SEVIER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SHARP COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.)

STONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
UNION COUNTY
Decision #AR76-4129 (B)
41 FR 30507 - 7/23/76
Mod. #1 - 41 FR 52175 - 11/26/76
Mod. #2 - 42 FR 7015 - 2/4/77
(F) - See Arkansas County
(D,H,Hw) - See Statewide
VAN BUREN COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WASHINGTON COUNTY
(B) - See Crawford County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WHITE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WOODRUFF COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
YELL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

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CALIFORNIA

ALAMEDA COUNTY
Decision #CA76-5101 (B,H,Hw,D)
41 FR 51255 - 11/19/76
Mod. #1 - 42 FR 7016 - 2/4/77
Decision #CA76-5102 (R)
41 FR 51272 - 11/19/76
Mod. #1 - 42 FR 7019 - 2/4/77
ALPINE COUNTY
(B,D,H,Hw,R) - See Alameda County
AMADOR COUNTY
(B,D,H,Hw,R) - See Alameda County
BUTTE COUNTY
(B,H,Hw,D) - See Alameda County
CALAVERAS COUNTY
(B,H,Hw,D,R) - See Alameda County
COLUSA COUNTY
(B,H,Hw,D) - See Alameda County
CONTRA COSTA COUNTY
(B,D,H,Hw,R) - See Alameda County
DELNORTE COUNTY
(B,D,H,Hw,R) - See Alameda County
ELDORADO COUNTY
(B,D,H,Hw,R) - See Alameda County
FRESNO COUNTY
(B,D,H,Hw,R) - See Alameda County

CALIFORNIA (Cont'd)

GLENN COUNTY
(B,H,Hw,D) - See Alameda County
HUMBOLDT COUNTY
(B,D,H,Hw,R) - See Alameda County
IMPERIAL COUNTY
Decision #CA76-5120 (B,D,H,Hw)
41 FR 56556 - 12/28/76
Mod. #1 - 42 FR 4061 - 1/21/77
Mod. #2 - 42 FR 7022 - 2/4/77
Decision #CA76-5121 (R)
41 FR 56566 - 12/28/76
Mod. #1 - 42 FR 4061 - 1/21/77
Mod. #2 - 42 FR 7024 - 2/4/77
INYO COUNTY
(B,H,Hw,D) - See Imperial County
KERN COUNTY
(B,D,H,Hw,R) - See Imperial County

CALIFORNIA (Cont'd)

KINGS COUNTY
(B,H,Hw,D) - See Alameda County
LAKE COUNTY
(B,H,Hw,D) - See Alameda County
LASSEN COUNTY
(B,H,Hw,D) - See Alameda County
LOS ANGELES COUNTY
(B,D,H,Hw,R) - See Imperial County
MADERA COUNTY
(B,H,Hw,D) - See Alameda County
MARIN COUNTY
(B,H,Hw,D,R) - See Alameda County
MARIPOSA COUNTY
(B,D,H,Hw,R) - See Alameda County
MENDOCINO COUNTY
(B,H,Hw, D) - See Alameda County
MERCED COUNTY
(B,D,H,Hw,R) - See Alameda County
MODOC COUNTY
(B,H,Hw,D) - See Alameda County
MONO COUNTY
(B,H,Hw,D) - See Imperial County
MONTEREY COUNTY
(B,D,H,Hw,R) - See Alameda County
NAPA COUNTY
(B,D,H,Hw,R) - See Alameda County
NEVADA COUNTY
(B,D,H,Hw,R) - See Alameda County
ORANGE COUNTY
(B,D,H,Hw,R) - See Imperial County
PLACER COUNTY
(B,D,H,Hw,R)- See Alameda County
PLUMAS COUNTY
(B,H,Hw,D) - See Alameda County
RIVERSIDE COUNTY
(B,D,H,Hw,R) - See Imperial County
SACRAMENTO COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN BENITO COUNTY
(B,H,Hw,D,R) - See Alameda County
SAN BERNARDINO COUNTY
(B,D,H,Hw,R) - See Imperial County
SAN DIEGO COUNTY
Decision #CA76-5116 (B,H,Hw,D)
41 FR 54115 - 12/10/76

CALIFORNIA (Cont'd.)

SAN DIEGO COUNTY (Cont'd.)
Decision #CA76-5117 (R)
41 FR 54122 - 12/10/76
SAN FRANCISCO COUNTY
(B,D,Hw,H,R) - See Alameda County
SAN JOAQUIN COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN LUIS OBISPO COUNTY
(B,H,Hw,D,R) - See Imperial County
SAN MATEO COUNTY
(B,D,H,Hw,R) - See Alameda County
SANTA BARBARA COUNTY
(B,D,H,Hw,R) - See Imperial County
SANTA CLARA COUNTY
(B,D,Hw,H,R) - See Alameda County
SANTA CRUZ COUNTY
(B,D,H,Hw,R) - See Alameda County
SHASTA COUNTY
(B,D,H,Hw) - See Alameda County
SIERRA COUNTY
(B,D,H,Hw) - See Alameda County
SISKIYOU COUNTY
(B,H,Hw,D) - See Alameda County
SOLANO COUNTY
(B,D,H,Hw,R) - See Alameda County
SONOMA COUNTY
(B,D,Hw,H,R) - See Alameda County
STANISLAUS COUNTY
(B,H,Hw,D) - See Alameda County
SUTTER COUNTY
(B,D,H,Hw,R) - See Alameda County
TEHAMA COUNTY
(B,D,H,Hw,R) - See Alameda County
TRINITY COUNTY
(B,H,Hw,D) - See Alameda County
TULARE COUNTY
(B,H,Hw,D) - See Alameda County
TUOLUMNE COUNTY
(B,D,H,Hw,R) - See Alameda County
VENTURA COUNTY
(B,D,H,Hw,R) - See Imperial County
YOLO COUNTY
(B,H,Hw,D,R) - See Alameda County
YUBA COUNTY
(B,H,Hw,D,R) - See Alameda County

COLORADO

STATEWIDE
Decision #CO76-5067 (Hw)
41 FR 32115 - 7/30/76
Mod. #1 - 41 FR 46806 - 10/22/76
Mod. #2 - 41 FR 52176 - 11/26/76
ADAMS COUNTY
Decision #CO76-5104 (B,H)
41 FR 52209 - 11/26/76
Decision #CO75-5061 (R)
40 FR 22744 - 5/23/75
Mod. #1 - 41 FR 10818 - 3/12/76
(Hw) - See Statewide
ALAMOSA COUNTY
(Hw) - See Statewide
ARAPAHOE COUNTY
(Hw) - See Statewide
(B,H,R) - See Adams County
ARCHULETA COUNTY
(Hw) - See Statewide
BACA COUNTY
(Hw) - See Statewide
BENT COUNTY
(Hw) - See Statewide
BOULDER COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
CHAFFEE COUNTY
(Hw) - See Statewide
CHEYENNE COUNTY
(Hw) - See Statewide
CLEAR CREEK COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
CONEJOS COUNTY
(Hw) - See Statewide
COSTILLA COUNTY
(Hw) - See Statewide
CROWLEY COUNTY
(Hw) - See Statewide
CUSTER COUNTY
(Hw) - See Statewide
DELTA COUNTY
Decision #CO76-5107 (B,H)
41 FR 53242 - 12/3/76
(Hw) - See Statewide
DENVER COUNTY
(Hw) - See Statewide
(B,H,R) - See Adams County
DOLORES COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
EAGLE COUNTY
(B,H) - See Adams County
(Hw) - See Statewide

COLORADO (Cont'd.

ELBERT COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
EL PASO COUNTY
Decision #CO76-5105 (B,H)
41 FR 52219 - 11/26/76
(Hw) - See Statewide
FREMONT COUNTY
(Hw) - See Statewide
GARFIELD COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
GILPIN COUNTY
(B,H) - See Adams County
(HW) - See Statewide
GRAND COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
GUNNISON COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
HINDSDALE COUNTY
(Hw) - See Statewide
HUERFANO COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(Hw) - See Statewide
JEFFERSON COUNTY
(Hw) - See Statewide
(B,H,R) - See Adams County
KIOWA COUNTY
(Hw) - See Statewide
KIT CARSON COUNTY
(Hw) - See Statewide
LAKE COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
LA PLATA COUNTY
(Hw) - See Statewide
LARIMER COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
LAS ANIMAS COUNTY
Decision #CO76-5106 (B,H)
41 FR 52225 - 11/26/76
Mod. #1 - 41 FR 56549 - 12/28/76
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
MESA COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
MINERAL COUNTY
(Hw) - See Statewide

COLORADO (Cont'd.)

MOFFAT COUNTY
(Hw) - See Statewide
MONTEZUMA COUNTY
(Hw) - See Statewide
MONTROSE COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
MORGAN COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
OTERO COUNTY
(B,H) - See Las Animas County
(Hw) - See Statewide
OURAY COUNTY
(Hw) - See Statewide
PARK COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
PHILLIPS COUNTY
(Hw) - See Statewide
PITKIN COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
PROWERS COUNTY
(Hw) - See Statewide
PUEBLO COUNTY
(B,H) - See Las Animas County
(Hw) - See Statewide
RIO BLANCO COUNTY
(Hw) - See Statewide
RIO GRANDE COUNTY
(Hw) - See Statewide
ROUTT COUNTY
(Hw) - See Statewide
SAGUACHE COUNTY
(Hw) - See Statewide
SAN JUAN COUNTY
(Hw) - See Statewide
SAN MIGUEL COUNTY
(Hw) - See Statewide
SEDGWICK COUNTY
(Hw) - See Statewide
SUMMIT COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
TELLER COUNTY
(Hw) - See Statewide
WASHINGTON COUNTY
(Hw) - See Statewide
WELD COUNTY
((B,H) - See Adams County
(Hw) - See Statewide
YUMA COUNTY
(Hw) - See Statewide

CONNECTICUT

FAIRFIELD COUNTY
Decision #CT76-2172 (B,H,Hw,H)
41 FR 56574 - 12/28/76
Decision #CT76-2173 (B,H,Hw)
41 FR 56581 - 12/28/76
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
HARTFORD COUNTY
Decision #CT76-2067 (R)
40 FR 18304 - 4/25/75
(B,H,Hw,R) - See Fair Field County
LITCHFIELD COUNTY
(B,H,Hw,R) - See Fairfield County
MIDDLESEX COUNTY
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW HAVEN COUNTY
Decision #CT76-2109 (R)
41 FR 38705 - 9/10/76
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW LONDON COUNTY
(B,H,Hw,D,R) - See Fairfield County
TOLLAND COUNTY
(B,H,Hw) - See Hartford County
WINDHAM COUNTY
(B,H,Hw,D,R) - See Fairfield County

DELAWARE

STATEWIDE
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
Decision #DE76-3212 (B,H,Hw)
41 FR 32122 - 7/30/76
Mod. #1 - 41 FR 35318 - 8/20/76
Mod. #2 - 41 FR 40371 - 9/17/76
Mod. #3 - 41 FR 43560 - 10/1/76
Mod. #4 - 41 FR 47715 - 10/29/76
KENT COUNTY
(B,H,Hw,D) - See Statewide
NEW CASTLE COUNTY
(B,H,Hw,D) - See Statewide
SUSSEX COUNTY
(B,H,Hw,D) - See Statewide

FLORIDA

ALACHUA COUNTY
Decision #FL75-1080 (Hw)
40 FR 41358 - 9/5/75
Mod. #1 - 41 FR 23885 - 6/11/76
Decision #FL75-1089 (B)
40 FR 42489 - 9/12/75
BAKER COUNTY
Decision #FL75-1081 (Hw)
40 FR 41359 - 9/5/75
BAY COUNTY
Decision #FL76-1059 (B)
41 FR 20130 - 5/14/76
Mod. #1 - 41 FR 23885 - 6/11/76
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #FL76-1021 (Hw)
41 FR 4749 - 1/30/76
Mod. #1 - 41 FR 23884 - 6/11/76

FLORIDA (Cont'd.)

BRADFORD COUNTY
(Hw) - See Alachua County
BREVARD COUNTY (Entire County)
Decision #FL76-5024 (D)
41 FR 12856 - 3/26/76
Decision #FL76-1105 (R)
41 FR 40365 - 9/17/76
(Cape Kennedy, Kennedy Space Flight Center and Patrick AFB only)
Decision #FL76-1048 (B,H,Hw)
41 FR 16360 - 4/16/76
Mod. #1 - 41 FR 18264 - 4/30/76
Mod. #2 - 41 FR 35318 - 8/20/76
Mod. #3 - 41 FR 37474 - 9/3/76
Mod. #4 - 41 FR 40371 - 9/17/76
Mod. #5 - 41 FR 46809 - 10/22/76
Mod. #6 - 41 FR 50117 - 11/12/76
(Remainder of County)
Decision #FL76-1108 (B)
41 FR 43555 - 10/1/76
Decision #FL76-1082 (Hw)
41 FR 41360 - 9/5/76
BROWARD COUNTY
Decision #FL75-1084 (Hw)
40 FR 41362 - 9/5/75
Mod. #1 - 40 FR 53168 - 11/14/75
Decision #FL76-1043 (B,H)
41 FR 15239 - 4/9/76
Mod. #1 - 41 FR 16306 - 4/16/76
Mod. #2 - 41 FR 37473 - 9/3/76
(D) - See Brevard County
CALHOUN COUNTY
(Hw) - See Alachua County
CHARLOTTE COUNTY
Decision #FL75-1083 (Hw)
40 FR 41361 - 9/5/75
Mod. #1 - 40 FR 53168 - 11/14/75
Mod. #2 - 41 FR 53229 - 12/3/76
(D) - See Brevard County
CITRUS COUNTY
Decision #FL75-1104 (R)
40 FR 49949 - 10/24/75
(Hw) - See Alachua County
(D) - See Brevard County
CLAY COUNTY
(Hw) - See Baker County
COLLIER COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
COLUMBIA COUNTY
(Hw) - See Alachua County
(B) - See Alachua County
DADE COUNTY
Decision #FL76-1102 (H)
41 FR 40365 - 9/17/76
Decision #FL76-1064 (B)
41 FR 21077 - 5/21/76
Mod. #1 - 41 FR 37474 - 9/3/76
Mod. #2 - 41 FR 54101 - 12/10/76

FLORIDA (Cont'd.)

DADE COUNTY (Cont'd.)
Decision #FL77-1003 (R)
42 FR 4081 - 1/21/77
Decision #FL76-1141 (Hw)
41 FR 56989 - 12/28/76
DESOTO COUNTY
Decision #AR-4065 (R)
39 FR 43468 - 12/13/74
(Hw) - See Charlotte County
DIXIE COUNTY
(Hw) - See Alachua County
(D) - See Brevard County
DUVAL COUNTY
Decision #FL76-1098 (R)
41 FR 37469 - 9/3/76
Decision #FL76-1069 (B)
41 FR 21997 - 5/28/76
Mod. #1 - 41 FR 51237 - 11/19/76
(D) - See Brevard County
(Hw) - See Baker County
ESCAMBIA COUNTY
Decision #FL76-1133 (B)
41 FR 52233 - 11/26/76
Mod. #1 - 41 FR 54101 - 12/10/76
Mod. #2 - 42 FR 3133 - 1/14/77
Decision #FL76-1017 (R)
41 FR 3589 - 1/23/76
(D,Hw) - See Bay County
FLAGLER COUNTY
(D) - See Brevard County
(Hw) - See Baker County
FRANKLIN COUNTY
(D) - See Bay County
(Hw) - See Alachua County
GADSDEN COUNTY
Decision #FL77-1004 (R)
42 FR 3141 - 1/14/77
(Hw) - See Alachua County
GILCHRIST COUNTY
(Hw) - See Alachua County
GLADES COUNTY
(Hw) - See Charlotte County
GULF COUNTY
(D) - See Bay County
(Hw) - See Bay County
HAMILTON COUNTY
(Hw) - See Alachua County
HARDEE COUNTY
(R) - See DeSoto County
(Hw) - See Charlotte County
HENDRY COUNTY
(Hw) - See Charlotte County
HERNANDO COUNTY
(D) - See Brevard County
(R) - See Citrus County
(Hw) - See Alachua County

FLORIDA (cont'd)

HIGHLANDS COUNTY
(R) - See DeSoto County
(Hw) - See Charlotte County
HILLSBOROUGH COUNTY
Decision #FL76-1014 (B)
41 FR 3587 - 1/23/76
Mod. #1 - 41 FR 22718 - 6/4/76
Mod. #2 - 41 FR 37473 - 9/3/76
(Hw) - See Brevard Co. (Remainder of Co.)
(D) - See Brevard County
(R) - See Citrus County
HOLMES COUNTY
(Hw) - See Alachua County
INDIAN RIVER COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
JACKSON COUNTY
(Hw) - See Alachua County
JEFFERSON COUNTY
(D) - See Bay County
(R) - See Gadsden County
(Hw) - See Alachua County
LAFAYETTE COUNTY
(H,Hw) - See Alachua County
LAKE COUNTY
Decision #FL75-1066 (R)
40 FR 28332 - 7/3/75
(Hw) - See Alachua County
LEE COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
LEON COUNTY
Decision #FL76-1135 (B)
41 FR 52234 - 11/26/76
Mod. #1 - 41 FR 55260 - 12/17/76
Mod. #2 - 42 FR 3133 - 1/14/77
(Hw) - See Alachua County
(R) - See Gadsden County
LEVY COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
LIBERTY COUNTY
(Hw) - See Alachua County
MADISON COUNTY
(R) - See Gadsden County
(Hw) - See Alachua County
MANATEE COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
MARION COUNTY
(Hw) - See Alachua County
MARTIN COUNTY
Decision #FL75-1033 (B)
40 FR 14219 - 3/28/75
Mod. #1 - 40 FR 19327 - 5/2/75
Mod. #2 - 40 FR 25324 - 6/13/75
Mod. #3 - 40 FR 32551 - 8/1/75
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)

FLORIDA (cont'd)

MONROE COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
NASSAU COUNTY
(D) - See Brevard County
(Hw) - See Baker County
OKALOOSA COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
Decision #FL76-1016 (R)
41 FR 3589 - 1/23/76
OKEECHOBEE COUNTY
(Hw) - See Charlotte County
ORANGE COUNTY
Decision #FL76-1036 (B)
41 FR 9755 - 3/5/76
Mod. #1 - 41 FR 15232 - 4/9/76
Mod. #2 - 41 FR 27539 - 7/2/76
(Hw) - See Brevard Co. (Remainder of Co
(R) - See Lake County
OSCEOLA COUNTY
(Hw) - See Brevard Co. (Remainder of Co
(R) - See Lake County
PALM BEACH COUNTY
(D) - See Brevard County
(B) - See Martin County
(Hw) - See Broward County
PASCO COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
(R) - See Citrus County
PINELLAS COUNTY
Decision #FL76-1040 (B)
41 FR 11738 - 3/19/76
(R) - See Citrus County
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co
POLK COUNTY
(Hw) - See Brevard Co. (Remainder of Co
(R) - See DeSoto County
PUTNAM COUNTY
(Hw) - See Alachua County
ST. JOHNS COUNTY
(D) - See Brevard County
(Hw) - See Baker County
ST. LUCIE COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co
SANTA ROSA COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County

FLORIDA (Cont'd)

SARASOTA COUNTY
(D) - See Brevard County
(Hw) - See Hillsborough County
SEMINOLE COUNTY
(Hw) - See Brevard Co. (Remainder of Co.)
(R) - See Lake County
SUMTER COUNTY
(R) - See Citrus County
(Hw) - See Alachua County
SUWANNEE COUNTY
(Hw) - See Alachua County
TAYLOR COUNTY
(Hw) - See Alachua County
(D) - See Brevard County
(R) - See Gadsden County
UNION COUNTY
(Hw) - See Alachua County
VOLUSIA COUNTY
(D) - See Brevard County (Entire County)
(Cape Kennedy, Kennedy Space Flight Center and Cape Canaveral Air Force Only)
(B,H,Hw) - See Brevard County (Cape Kennedy etc.)
(Remainder of County)
Decision #FL76-1029 (B)
41 FR 8638 - 2/27/76
Mod. #1 - 41 FR 20117 - 5/14/76
Mod. #2 - 41 FR 46809 - 10/22/76
(Hw) - See Brevard County
(Remainder of County)
WAKULLA COUNTY
(D) - See Bay County
(Hw) - See Alachua County
WALTON COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County
WASHINGTON COUNTY
(Hw) - See Alachua County

GEORGIA

STATEWIDE
Decision #AR-4038 (Hw)
39 FR 34984 - 9/27/74
Mod. #1 - 39 FR 36711 - 10/11/74
Mod. #2 - 40 FR 23629 - 5/30/76
Mod. #3 - 41 FR 7888 - 2/20/76
Mod. #4 - 42 FR 7025 - 2/4/77
APPLING COUNTY
(Hw) - See Statewide
ATKINSON COUNTY
(Hw) - See Statewide
BACON COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.)

BAKER COUNTY
Decision #AQ-4089 (R)
39 FR 10067 - 3/15/74
Mod. #1 - 40 FR 3083 - 1/17/75
Mod. #2 - 41 FR 28461 - 7/9/76
(Hw) - See Statewide
BALDWIN COUNTY
(Hw) - See Statewide
BANKS COUNTY
(Hw) - See Statewide
BARROW COUNTY
Decision #AQ-4108 (R)
39 FR 14841 - 4/26/74
(Hw) - See Statewide
BARTOW COUNTY
(Hw) - See Statewide
BEN HILL COUNTY
(Hw) - See Statewide
BERRIEN COUNTY
(Hw) - See Statewide
BIBB COUNTY
Decision #GA76-1122 (B)
41 FR 46803 - 10/22/76
(Hw) - See Statewide
BLECKLEY COUNTY
(Hw) - See Statewide
BRANTLEY COUNTY
(Hw) - See Statewide
BROOKS COUNTY
(Hw) - See Statewide
BRYAN COUNTY
(Hw) - See Statewide
Decision #GA76-1050 (R)
41 FR 16362 - 4/16/76
Decision #GA77-5005 (D)
42 FR 1015 - 1/4/77
Mod. #1 - 42 FR 3140 - 1/14/77
BULLOCH COUNTY
(R) - See Bryan County
(Hw) - See Statewide
BURKE COUNTY
Decision #GA76-1015 (R)
41 FR 3590 - 1/23/76
(Hw) - See Statewide
BUTTS COUNTY
(Hw) - See Statewide
CALHOUN COUNTY
(Hw) - See Statewide
(R) - See Baker County
CAMDEN COUNTY
(D) - See Bryan County
(Hw) - See Statewide
CANDLER COUNTY
(Hw) - See Statewide
CARROLL COUNTY
(Hw) - See Statewide
CATOOSA COUNTY
(Hw) - See Statewide
CHARLTON COUNTY
Decision #AR-4037 (R)
39 FR 33919 - 9/20/74
Mod. #1 - 40 FR 3083 - 1/17/75
Mod. #2 - 41 FR 28461 - 7/9/76
(Hw) - See Statewide
CHATHAM COUNTY
Decision #GA77-1009 (B)
42 FR 5623 - 1/28/77
(Hw) - See Statewide
(R) - See Bryan County

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GEORGIA (Cont'd.)

CHATTAHOOCHEE COUNTY
Decision #GA75-1039 (B)
40 FR 16471 - 4/11/75
Mod. #1 - 40 FR 24455 - 6/6/75
Mod. #2 - 40 FR 49942 - 10/24/75
Mod. #3 - 41 FR 10818 - 3/12/76
Mod. #4 - 41 FR 15232 - 4/9/76
Mod. #5 - 41 FR 24833 - 6/18/76
Decision #GA76-1035 (R)
41 FR 9758 - 3/5/76
(Hw) - See Statewide
CHATTOOGA COUNTY
(Hw) - See Statewide
CHEROKEE COUNTY
(Hw) - See Statewide
CLARKE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
CLAY COUNTY
(R) - See Baker County
(Hw) - See Statewide
CLAYTON COUNTY
Decision #GA77-1005 (B)
42 FR 5621 - 1/28/77
Decision #GA76-1033 (R)
41 FR 8642 - 2/27/76
Mod. #1 - 41 FR 15232 - 4/9/76
(Hw) - See Statewide
CLINCH COUNTY
(Hw) - See Statewide
COBB COUNTY
(R) - See Clayton County
(Hw) - See Statewide
COFFEE COUNTY
(Hw) - See Statewide
COLQUITT COUNTY
(Hw) - See Statewide
COLUMBIA COUNTY
(R) - See Burke County
(Hw) - See Statewide
COOK COUNTY
(Hw) - See Statewide
COWETA COUNTY
(Hw) - See Statewide
CRAWFORD COUNTY
(Hw) - See Statewide
CRISP COUNTY
(Hw) - See Statewide
DECATUR COUNTY
(R) - See Baker County
(Hw) - See Statewide

GEORGIA (Cont'd.)

DEKALB COUNTY
(B,R) - See Clayton County
(Hw) - See Statewide
DODGE COUNTY
(Hw) - See Statewide
DOOLY COUNTY
(Hw) - See Statewide
DOUGHERTY COUNTY
(Hw) - See Statewide
(R) - See Baker County
DOUGLAS COUNTY
(Hw) - See Statewide
EARLY COUNTY
(Hw) - See Statewide
(R) - See Baker County
ECHOLS COUNTY
(Hw) - See Statewide
EFFINGHAM COUNTY
(R) - See Bryan County
(Hw) - See Statewide
ELBERT COUNTY
(Hw) - See Statewide
(R) - See Barrow County
EMANUEL COUNTY
(Hw) - See Statewide
EVANS COUNTY
(R) - See Bryan County
(Hw) - See Statewide
FANNIN COUNTY
(Hw) - See Statewide
FAYETTE COUNTY
(Hw) - See Statewide
FLOYD COUNTY
(Hw) - See Statewide
FORSYTH COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
FULTON COUNTY
(Hw) - See Statewide
(B,R) - See Clayton County
GILMER COUNTY
(Hw) - See Statewide
GLASCOCK COUNTY
(Hw) - See Statewide
(R) - See Burke County
GLYNN COUNTY
(D) - See Bryan County
(Hw) - See Statewide
GORDON COUNTY
(Hw) - See Statewide
GRADY COUNTY
(Hw) - See Statewide
(R) - See Baker County
GREENE COUNTY
(R) - See Barrow County
(Hw) - See Statewide

GEORGIA (Cont'd.)

GWINNETT COUNTY
(R) - See Clayton County
(Hw) - See Statewide
HABERSHAM COUNTY
(Hw) - See Statewide
HALL COUNTY
Decision #GA75-1025 (B)
40 FR 8691 - 2/28/75
Mod. #1 - 40 FR 12003 - 3/14/75
Mod. #2 - 40 FR 49942 - 10/24/75
Mod. #3 - 41 FR 30500 - 7/23/76
Mod. #4 - 42 FR 3313 - 1/14/77
(Hw) - See Statewide
HANCOCK COUNTY
(Hw) - See Statewide
(R) - See Burke County
HARALSON COUNTY
(Hw) - See Statewide
HARRIS COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
HART COUNTY
(Hw) - See Statewide
(R) - See Barrow County
HEARD COUNTY
(Hw) - See Statewide
HENRY COUNTY
(Hw) - See Statewide
HOUSTON COUNTY
Decision #GA76-1123 (B)
41 FR 46804 - 10/22/76
(Hw) - See Statewide
IRWIN COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
JASPER COUNTY
(Hw) - See Statewide
JEFF DAVIS COUNTY
(Hw) - See Statewide
JEFFERSON COUNTY
(Hw) - See Statewide
(R) - See Burke County
JENKINS COUNTY
(Hw) - See Statewide
(R) - See Burke County
JOHNSON COUNTY
(Hw) - See Statewide
JONES COUNTY
(Hw) - See Statewide
LAMAR COUNTY
(Hw) - See Statewide
LANIER COUNTY
(Hw) - See Statewide
LAURENS COUNTY
Decision #AQ-4124 (B)
39 FR 20912 - 6/14/74
Mod. #1 - 41 FR 11722 - 3/19/76

GEORGIA (Cont'd.)

LAURENS COUNTY
(Hw) - See Statewide
LEE COUNTY
(Hw) - See Statewide
(R) - See Baker County
LIBERTY COUNTY
(D,R) - See Bryan County
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
(R) - See Burke County
LONG COUNTY
(Hw) - See Statewide
(R) - See Bryan County
LOWNDES COUNTY
(Hw) - See Statewide
LUMPKIN COUNTY
(Hw) - See Statewide
MCDUFFIE COUNTY
(Hw) - See Statewide
(R) - See Burke County
MCINTOSH COUNTY
(D) - See Bryan County
(Hw) - See Statewide
MACON COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
MADISON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
MARION COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
MERIWETHER COUNTY
(R) - See Chattahoochee County
(Hw) - See Statewide
MILLER COUNTY
(Hw) - See Statewide
(R) - See Baker County
MITCHELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
MONROE COUNTY
(Hw) - See Statewide
MONTGOMERY COUNTY
(Hw) - See Statewide
MORGAN COUNTY
(Hw) - See Statewide
(R) - See Barrow County
MURRAY COUNTY
(Hw) - See Statewide
MUSCOGEE COUNTY
(B,R) - See Chattahoochee County
(Hw) - See Statewide
NEWTON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
OCONEE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
OGLETHORPE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
PAULDING COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.)

PEACH COUNTY
(Hw) - See Statewide
PICKENS COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
(R) - See Charlton County
PIKE COUNTY
(Hw) - See Statewide
POLK COUNTY
(Hw) - See Statewide
PULASKI COUNTY
(Hw) - See Statewide
PUTNAM COUNTY
(Hw) - See Statewide
QUITMAN COUNTY
(Hw) - See Statewide
(R) - See Baker County
RABUN COUNTY
(Hw) - See Statewide
RANDOLPH COUNTY
(Hw) - See Statewide
(R) - See Baker County
RICHMOND COUNTY
Decision #GA76-1119 (B)
41 FR 45800 - 10/15/76
Mod. #1 - 42 FR 5613 - 1/28/77
(Hw) - See Statewide
(R) - See Burke County
ROCKDALE COUNTY
(Hw) - See Statewide
SCHLEY COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SCREVEN COUNTY
(R) - See Bryan County
(Hw) - See Statewide
SEMINOLE COUNTY
(Hw) - See Statewide
(R) - See Baker County
SPALDING COUNTY
(Hw) - See Statewide
STEPHENS COUNTY
(Hw) - See Statewide
STEWART COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SUMTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALBOT COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALIAFERRO COUNTY
(Hw) - See Statewide
(R) - See Burke County
TATTNALL COUNTY
(Hw) - See Statewide
TAYLOR COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County

GEORGIA (Cont'd.)

TELFAIR COUNTY
(Hw) - See Statewide
TERRELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
THOMAS COUNTY
(Hw) - See Statewide
TIFT COUNTY
(Hw) - See Statewide
TOOMBS COUNTY
(Hw) - See Statewide
TOWNS COUNTY
(Hw) - See Statewide
TREUTLEN COUNTY
(Hw) - See Statewide
TROUP COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TURNER COUNTY
(Hw) - See Statewide
TWIGGS COUNTY
(Hw) - See Statewide
UNION COUNTY
(Hw) - See Statewide
UPSON COUNTY
(Hw) - See Statewide
WALKER COUNTY
(Hw) - See Statewide
WALTON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
WARE COUNTY
Decision #GA75-1113 (B)
40 FR 58034 - 12/12/75
(R) - See Charlton County
(Hw) - See Statewide
WARREN COUNTY
(Hw) - See Statewide
(R) - See Burke County
WASHINGTON COUNTY
(Hw) - See Statewide
(R) - See Burke County
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
WHEELER COUNTY
(Hw) - See Statewide
WHITE COUNTY
(Hw) - See Statewide
WHITFIELD COUNTY
(Hw) - See Statewide
WILCOX COUNTY
(Hw) - See Statewide
WILKES COUNTY
(R) - See Burke County
(Hw) - See Statewide
WILKINSON COUNTY
(Hw) - See Statewide
WORTH COUNTY
(Hw) - See Statewide

GUAM

GUAM
Decision #AR-1029 (B,H,Hw,R)
39 FR 32448 - 9/6/74

HAWAII

STATEWIDE
Decision #H177-5010 (B,H,Hw,D,R)
42 FR 7042 - 2/4/77

IDAHO

STATEWIDE
Decision #ID76-5112 (B,H,Hw)
41 FR 52136 - 11/26/76
Mod. #1 - 41 FR 54102 - 12/10/76
Mod. #2 - 41 FR 55260 - 12/17/76
Mod. #3 - 42 FR 3133 - 1/14/77
ADA COUNTY
Decision #AQ-1029 (R)
38 FR 24513 - 9/7/73
Mod. #1 - 38 FR 26543 - 9/21/73
(B,H,Hw) - See Statewide
ADAMS COUNTY
(B,H,Hw) - See Statewide

IDAHO (Cont'd.)

BANNOCK COUNTY
(B,H,Hw) - See Statewide
BEAR LAKE COUNTY
(B,H,Hw) - See Statewide
BENEWAH COUNTY
(B,H,Hw) - See Statewide
BINGHAM COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BOISE COUNTY
(B,H,Hw) - See Statewide
BONNER COUNTY
(B,H,Hw) - See Statewide
BONNEVILLE COUNTY
(B,H,Hw) - See Statewide
BOUNDARY COUNTY
(B,H,Hw) - See Statewide
BUTTE COUNTY
(B,H,Hw) - See Statewide
CAMAS COUNTY
(B,H,Hw) - See Statewide
CANYON COUNTY
(B,H,Hw) - See Statewide
CARIBOU COUNTY
(B,H,Hw) - See Statewide
CASSIA COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
(B,H,Hw) - See Statewide
CLEARWATER COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
ELMORE COUNTY
(B,H,Hw) - See Statewide
FRANKLIN COUNTY
(B,H,Hw) - See Statewide
FREMONT COUNTY
(B,H,Hw) - See Statewide
GEM COUNTY
(B,H,Hw) - See Statewide
GOODING COUNTY
(B,H,Hw) - See Statewide
IDAHO COUNTY
(B,H,Hw) - See Statewide
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JEROME COUNTY
(B,H,Hw) - See Statewide

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IDAHO (Cont'd)

KOOTENAI COUNTY
(B,H,Hw) - See Statewide
LATAH COUNTY
(B,H,Hw) - See Statewide
LEMHI COUNTY
(B,H,Hw) - See Statewide
LEWIS COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MINIDOKA COUNTY
(B,H,Hw) - See Statewide
NEZ PERCE COUNTY
(B,H,Hw) - See Statewide
ONEIDA COUNTY
(B,H,Hw) - See Statewide
OWYHEE COUNTY
(B,H,Hw) - See Statewide
PAYETTE COUNTY
(B,H,Hw) - See Statewide
POWER COUNTY
(B,H,Hw) - See Statewide
SHOSHONE COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TWIN FALLS COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

ILLINOIS

ADAMS COUNTY
Decision #IL76-2120 (B)
41 FR 43570 - 10/1/76
Decision #IL76-2149 (H,Hw)
41 FR 54128 - 12/10/76
Mod. #1 - 42 FR 3135 - 1/14/76
Mod. #2 - 42 FR 7025 - 2/4/77
ALEXANDER COUNTY
Decision #IL76-2132 (B)
41 FR 47729 - 10/29/76
Mod. #1 - 41 FR 55262 - 12/17/76
Decision #IL76-2154 (H,Hw)
41 FR 53256 - 12/3/76
Mod. #1 - 41 FR 55263 - 12/17/76
Decision #IL76-5026 (D)
41 FR 12858 - 3/26/76
BOND COUNTY
Decision #IL76-2079 (H,Hw)
41 FR 34496 - 8/13/76
Decision #IL76-2080 (B)
41 FR 34475 - 8/13/76
Mod. #1 - 42 FR 4062 - 1/21/77

ILLINOIS (Cont'd.)

BOONE COUNTY
Decision #IL76-2133 (B)
41 FR 46831 - 10/22/76
Mod. #1 - 42 FR 5614 - 1/28/77
Decision #IL76-2141 (H,Hw)
41 FR 47733 - 10/29/76
Mod. #1 - 42 FR 7027 - 2/4/77
BROWN COUNTY
(B,H,Hw) - See Adams County
(D) - See Alexander County
BUREAU COUNTY
Decision #IL76-2125 (B)
41 FR 44620 - 10/8/76
Mod. #1 - 42 FR 5614 - 1/28/77
Decision #IL76-2142 (H,Hw)
41 FR 50125 - 11/12/76
CALHOUN COUNTY
(B,H,Hw) - See Bond County
(D) - See Alexander County
CARROLL COUNTY
(H,Hw) - See Bureau County
CASS COUNTY
Decision #IL76-2129 (B)
41 FR 44625 - 10/8/76
Mod. #1 - 42 FR 3135 - 1/14/77
(H,Hw) - See Adams County
(D) - See Alexander County
CHAMPAIGN COUNTY
Decision #IL76-2121 (B)
41 FR 43573 - 10/1/76
Mod. #1 - 42 FR 1679 - 1/7/77
Mod. #2 - 42 FR 7026 - 2/4/77
Decision #IL76-2145 (H,Hw)
41 FR 53251 - 12/3/76
Mod. #1 - 42 FR 1679 - 1/7/77
Mod. #2 - 42 FR 4062 - 1/21/77
CHRISTIAN COUNTY
(H,Hw) - See Adams County
Decision #IL76-2128 (B)
41 FR 46823 - 10/22/76
Mod. #1 - 42 FR 4063 - 1/21/77
CLARKE COUNTY
Decision #IL76-2108 (B)
41 FR 36361 - 8/27/76
(H,Hw) - See Champaign County
CLAY COUNTY
Decision #IL76-2153 (H,Hw)
41 FR 52253 - 11/26/76
Mod. #1 - 41 FR 55263 - 12/17/76
Mod. #2 - 42 FR 4063 - 1/21/77
(B) - See Clarke County
CLINTON COUNTY
(B,H,Hw) - See Bond County
COLES COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
COOK COUNTY
Decision #IL76-2122 (B,H,Hw,R)
41 FR 43576 - 10/1/76
Mod. #1 - 42 FR 987 - 1/4/77
Mod. #2 - 42 FR 5613 - 1/28/77
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76

ILLINOIS (Cont'd.)

CRAWFORD COUNTY
(H,Hw) - See Clay County
(B) - See Clarke County
CUMBERLAND COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
DEKALB COUNTY
(H,Hw) - See Boone County
DEWITT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
DOUGLAS COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
DU PAGE COUNTY
Decision #IL76-2123 (B,R)
41 FR 44612 - 10/8/76
Mod. #1 - 41 FR 51237 - 11/19/76
Mod. #2 - 42 FR 5613 - 1/28/77
Mod. #3 - 42 FR 7026 - 2/4/77
EDGAR COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
EDWARDS COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
EFFINGHAM COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
FAYETTE COUNTY
(H,Hw) - See Clay County
FORD COUNTY
Decision #IL76-2124 (B)
41 FR 44616 - 10/8/76
Mod. #1 - 42 FR 5614 - 1/28/77
Decision #IL76-2143 (H,Hw)
41 FR 50133 - 11/12/76
FRANKLIN COUNTY
(B,H,Hw) - See Alexander County
FULTON COUNTY
Decision #IL76-2068 (B)
41 FR 21977 - 5/28/76
Decision #IL76-2144 (H,Hw)
41 FR 52247 - 11/26/76
GALLATIN COUNTY
(B,H,Hw) - See Alexander County
(D) - See Alexander County
GREENE COUNTY
(B,H,Hw) - See Bond County
(D) - See Alexander County
GRUNDY COUNTY
(H,Hw) - See Ford County
HAMILTON COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
HANCOCK COUNTY
(H,Hw) - See Fulton County
HARDIN COUNTY
(B,H,Hw) - See Alexander County
HENDERSON COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
HENRY COUNTY
(B) - See Rock Island County
(H,Hw) - See Bureau County
IROQUOIS COUNTY
(B,H,Hw) - See Ford County

ILLINOIS (Cont'd.)

JACKSON COUNTY
(B,D,H,Hw) - See Alexander County
JASPER COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
JEFFERSON COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
JERSEY COUNTY
(B,H,Hw) - See Bond County
(D) - See Alexander County
JO DAVIESS COUNTY
(H,Hw) - See Bureau County
JOHNSON COUNTY
(B,H,Hw) - See Alexander County
KANE COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
KANKAKEE COUNTY
(B,H,Hw) - See Ford County
KENDALL COUNTY
(H,Hw) - See Boone County
KNOX COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
LAKE COUNTY
(B,R) - See Du Page County
(D) - See Cook County
(H,Hw) - See Boone County
LA SALLE COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LAWRENCE COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
LEE COUNTY
(H,Hw) - See Bureau County
LIVINGSTON COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LOGAN COUNTY
Decision #IL76-2126 (B)
41 FR 44630 - 10/8/76
Mod. #1 - 42 FR 3135 - 1/14/77
(H,Hw) - See Adams County
MCDONOUGH COUNTY
(H,Hw) - See Fulton County
MCHENRY COUNTY
(H,Hw) - See Fulton County
MC LEAN COUNTY
Decision #IL76-2127 (B)
41 FR 44627 - 10/8/76
Mod. #1 - 41 FR 52178 - 11/26/76
(H,Hw) - See Ford County
MACON COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
MACOUPIN COUNTY
(H,Hw) - See Bond County
MADISON COUNTY
Decision #IL76-2078 (B,R)
41 FR 34492 - 8/13/76
Mod. #1 - 42 FR 4062 - 1/21/77
(D) - See Alexander County
(H,Hw) - See Bond County

ILLINOIS (Cont'd)

MARION COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
MARSHALL COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
MASON COUNTY
(B) - See Logan County
(H,Hw) - See Adams County
MASSAC COUNTY
(B,D,H,Hw) - See Alexander County
MENARD COUNTY
(B) - See Logan County
(H,Hw) - See Adams County
MERCER COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
MONROE COUNTY
(B,H,Hw) - See Bond County
(D) - See Alexander County
MONTGOMERY COUNTY
(B,H,Hw) - See Bond County
MORGAN COUNTY
(B) - See Cass County
(H,Hw) - See Adams County
(D) - See Alexander County
MOULTRIE COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
OGLE COUNTY
(H,Hw) - See Bureau County
PEORIA COUNTY
Decision #IL76-2015 (B,D,R)
41 FR 8643 - 2/27/76
Mod. #1 - 41 FR 20120 - 5/14/76
Mod. #2 - 42 FR 7025 - 2/4/77
(H,Hw) - See Fulton County
PERRY COUNTY
(B,H,Hw) - See Alexander County
PIATT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
PIKE COUNTY
(B,H,Hw) - See Adams County
(D) - See Alexander County
POPE COUNTY
(B,D,H,Hw) - See Alexander County
PULASKI COUNTY
(B,D,H,Hw) - See Alexander County
PUTNAM COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
RANDOLPH COUNTY
(B) - See Bond County
(H,Hw,D) - See Alexander County
RICHLAND COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
ROCK ISLAND COUNTY
Decision #IL76-2130 (B)
41 FR 47724 - 10/29/76
Mod. #1 - 42 FR 7026 - 2/4/77
(H,Hw) - See Bureau County
SAINT CLAIR COUNTY
(B,R) - See Madison County
(H,Hw) - See Bond County
(D) - See Alexander County

ILLINOIS (Cont'd)

SALINE COUNTY
(B,H,Hw) - See Alexander County
SANGAMON COUNTY
Decision #IL76-2131 (B,R)
41 FR 46829 - 10/22/76
Mod. #1 - 42 FR 3135 - 1/14/77
(H,Hw) - See Adams County
SCHUYLER COUNTY
(H,Hw) - See Adams County
SCOTT COUNTY
(B) - See Scott County
(H,Hw) - See Adams County
(D) - See Alexander County
SHELBY COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
STARK COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
STEPHENSON COUNTY
(H,Hw) - See Bureau County
TAZEWELL COUNTY
(B,R,D) - See Peoria County
(H,Hw) - See Fulton County
UNION COUNTY
(B,D,H,Hw) - See Alexander County
VERMILLION COUNTY
(H,Hw) - See Champaign County
(B) - See Champaign County
WABASH COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
WARREN COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
WASHINGTON COUNTY
(B,H,Hw) - See Bond County
WAYNE COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
WHITE COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
WHITESIDE COUNTY
(H,Hw) - See Bureau County
WILL COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
WILLIAMSON COUNTY
Decision #IL76-2048 (B)
41 FR 16369 - 4/15/76
Mod. #1 - 41 FR 20124 - 5/14/76
(B,H,Hw) - See Alexander County
WINNEBAGO COUNTY
(B) - See Boone County
(H,Hw) - See Bureau County
WOODFORD COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County

INDIANA

STATEWIDE
Decision #IN76-2148 (H,Hw)
41 FR 47755 - 10/29/76
Mod. #1 - 41 FR 51238 - 11/19/76
Mod. #2 - 42 FR 54104 - 12/10/76
Mod. #3 - 42 FR 7028 - 2/4/77
ADAMS COUNTY
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #IN77-2006 (B)
42 FR 7046 - 2/4/77
Decision #AO-3000 (R)
38 FR 22341 - 8/17/73
(H,Hw) - See Statewide
BARTHOLOMEW COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BENTON COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BLACKFORD COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
CARROLL COUNTY
(H,Hw) - See Statewide
CASS COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
Decision #IL76-5021 (D)
41 FR 12858 - 3/24/76
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
CRAWFORD COUNTY
(H,Hw) - See Statewide
(D) - See Clark County
DAVIESS COUNTY
(H,Hw) - See Statewide
DEARBORN COUNTY
(B) - See Allen County
(D) - See Clarke County
(H,Hw) - See Statewide

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INDIANA (Cont'd.)

DECATUR COUNTY
(H,Hw) - See Statewide
DEKALB COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
DUBOIS COUNTY
(H,Hw) - See Statewide
ELKHART COUNTY
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
FLOYD COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
FOUNTAIN COUNTY
(H,Hw) - See Statewide
FRANKLIN COUNTY
(H,Hw) - See Statewide
FULTON COUNTY
(H,Hw) - See Statewide
GIBSON COUNTY
(H,Hw) - See Statewide
GRANT COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
GREENE COUNTY
(H,Hw) - See Statewide
HAMILTON COUNTY
(H,Hw) - See Statewide
HANCOCK COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
HENDRICKS COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
HOWARD COUNTY
(H,Hw) - See Statewide
HUNTINGTON COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JASPER COUNTY
(H,Hw) - See Statewide
JAY COUNTY
(H,Hw) - See Statewide

INDIANA (Cont'd.)

JEFFERSON COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
JENNINGS COUNTY
(H,Hw) - See Statewide
JOHNSON COUNTY
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
KOSCIUSKO COUNTY
(H,Hw) - See Statewide
LAGRANGE COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
Decision #IN76-2147 (B,H,Hw)
41 FR 47747 - 10/29/76
Mod. #1 - 41 FR 51238 - 11/19/76
Mod. #2 - 41 FR 54103 - 12/10/76
Mod. #3 - 42 FR 7027 - 2/4/77
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
LAPORTE COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County
LAWRENCE COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARION COUNTY
Decision #IN76-2005 (R)
41 FR 3602 - 1/23/76
Mod. #1 - 41 FR 9720 - 3/5/76
Mod. #2 - 41 FR 21984 - 5/28/76
(B) - See Allen County
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MARTIN COUNTY
(H,Hw) - See Statewide
MIAMI COUNTY
(H,Hw) - See Statewide
MONROE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NEWTON COUNTY
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide

INDIANA (Cont'd.)

OHIO COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
ORANGE COUNTY
(H,Hw) - See Statewide
OWEN COUNTY
(H,Hw) - See Statewide
PARKE COUNTY
(H,Hw) - See Statewide
PERRY COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
PIKE COUNTY
(H,Hw) - See Statewide
PORTER COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County
POSEY COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RIPLEY COUNTY
(H,Hw) - See Statewide
RUSH COUNTY
(H,Hw) - See Statewide
SAINT JOSEPH COUNTY
(B,H,Hw) - See Lake County
SCOTT COUNTY
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
SPENCER COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
STARKE COUNTY
(H,Hw) - See Statewide
STEUBEN COUNTY
(H,Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
SWITZERLAND COUNTY
(D) - See Clark County
(H,Hw) - See Statewide

INDIANA (Cont'd)

TIPPECANOE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
TIPTON COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
VANDERBURGH COUNTY
Decision #IN76-2046 (R)
41 FR 16302 - 4/16/76
(B) - See Allen County
(D) - See Clark County
(H,Hw) - See Statewide
VERMILLION COUNTY
(H,Hw) - See Statewide
VIGO COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
WABASH COUNTY
(H,Hw) - See Statewide
WARREN COUNTY
(H,Hw) - See Statewide
WARRICK COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WAYNE COUNTY
(H,Hw) - See Statewide
WELLS COUNTY
(H,Hw) - See Statewide
WHITE COUNTY
(H,Hw) - See Statewide
WHITLEY COUNTY
(H,Hw) - See Statewide

IOWA

ADAIR COUNTY
Decision #IA76-4120 (H,Hw)
41 FR 30481 - 7/23/76
ADAMS COUNTY
(H,Hw) - See Adair County
ALLAMAKEE COUNTY
None
APPANOOSE COUNTY
Decision #IA75-4192 (H,Hw)
40 FR 55629 - 11/28/75
AUDUBON COUNTY
None
BENTON COUNTY
Decision #IA75-4081 (Hw)
40 FR 17507 - 4/18/75
Mod. #1 - 41 FR 12847 - 3/26/76
BLACK HAWK COUNTY
Decision #IA76-4092 (B,H,Hw)(City of Waterloo & abutting Municipalities
41 FR 21079 - 5/21/76
Mod. #1 - 41 FR 33127 - 8/6/76
Mod. #2 - 41 FR 38708 - 9/10/76
Mod. #3 - 41 FR 44594 - 10/8/76
Mod. #4 - 41 FR 56549 - 12/28/76
BOONE COUNTY
None
BREMER COUNTY
None
BUCHANAN COUNTY
Decision #IA76-4121 (H,Hw)
41 FR 30482 - 7/23/76
BUENA VISTA COUNTY
None
BUTLER COUNTY
Decision #IA76-4122 (H,Hw)
41 FR 30483 - 7/23/76
CALHOUN COUNTY
None
CARROLL COUNTY
Decision #IA76-4053 (H,Hw)
41 FR 7907 - 2/20/76
CASS COUNTY
(H,Hw) - See Adair County
CEDAR COUNTY
(H,Hw) - See Buchanan County
CERRO GORDO COUNTY (MASON CITY)
Decision #IA77-4004 (B,H,Hw)
42 FR 4082 - 1/21/77
(H,Hw) - See Butler Co. (Excl Mason City)
CHEROKEE COUNTY
None
CHICKASAW COUNTY
None
CLARKE COUNTY
(H,Hw) - See Adair County

IOWA (Cont'd)

CLAY COUNTY
(H,Hw) - See Carroll County
CLAYTON COUNTY
None
CLINTON COUNTY (City of Clinton and abbutting municipalities)
Decision #IA76-4145 (B,H,Hw)
41 FR 38711 - 9/10/76
Mod. #1 - 41 FR 44594 - 10/8/76
Mod. #2 - 41 FR 48984 - 11/5/76
Mod. #3 - 41 FR 51239 - 11/19/76
Mod. #4 - 41 FR 56550 - 12/2d/76
CRAWFORD COUNTY
(H,Hw) - See Carroll County
DALLAS COUNTY
None
DAVIS COUNTY
(H,Hw) - See Appanoose County
DECATUR COUNTY
(H,Hw) - See Adair County
DELAWARE COUNTY
(H,Hw) - See Buchanan County
DES MOINES COUNTY (City of Burlington and Abutting Municipalities; and Burlington Ordance Plant
Decision #IA76-4146 (B,H,Hw)
41 FR 38713 - 9/10/76
Mod. #1 - 41 FR 44594 - 10/8/76
Mod. #2 - 41 FR 48984 - 11/5/76
Mod. #3 - 41 FR 51240 - 11/19/76
DUBUQUE COUNTY (City of Dubuque and abutting municipalities)
Decision #IA76-4147 (B,H,Hw)
41 FR 38716 - 9/10/76
Mod. #1 - 41 FR 44594 - 10/8/76
Mod. #2 - 41 FR 48984 - 11/5/76
Mod. #3 - 42 FR 4064 - 1/21/77
EMMET COUNTY
None
FAYETTE COUNTY
None
FLOYD COUNTY
(H,Hw) - See Butler County
FRANKLIN COUNTY
Decision #IA76-4123 (H,Hw)
41 FR 30484 - 7/23/76
FREMONT COUNTY
Decision #NE76-4184 (Channel Stabilization)
41 FR 53259 - 12/3/76
(H,Hw) - See Adair County
GREENE COUNTY
None
GRUNDY COUNTY
(H,Hw) - See Butler County

IOWA (Cont'd)

GUTHRIE COUNTY
None
HAMILTON COUNTY
(H,Hw) - See Butler County
HANCOCK COUNTY
(H,Hw) - See Butler County
HARDIN COUNTY
(H,Hw) - See Franklin County
HARRISON COUNTY
Decision #IA76-4124 (H,Hw)
41 FR 30485 - 7/23/76
Mod. #1 - 41 FR 51239 - 11/19/76
(Chann. Stab.) - See Fremont Co.
HENRY COUNTY
None
HOWARD COUNTY
None
HUMBOLDT COUNTY
None
IDA COUNTY
None
IOWA COUNTY
(Hw) - See Benton County
JACKSON COUNTY
(H,Hw) - See Buchanan County
JASPER COUNTY
None
JEFFERSON COUNTY
(H,Hw) - See Appanoose County
JOHNSON COUNTY (City of Iowa City and abutting municipalities)
Decision #IA76-4148 (B,H,Hw)
41 FR 38719 - 9/10/76
Mod. #1 - 41 FR 48984 - 11/5/76
Mod. #2 - 42 FR 5615 - 1/28/77
(Hw) - See Benton County
JONES COUNTY
(H,Hw) - See Buchanan County
KEOKUK COUNTY
(Hw) - See Benton County
KOSSUTH COUNTY
None
LEE COUNTY
None
LINN COUNTY
Decision #IA76-4149 (B,H,Hw)
41 FR 38722 - 9/10/76
Mod. #1 - 41 FR 48985 - 11/5/76
Mod. #2 - 42 FR 5615 - 1/28/77

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IOWA (Cont'd.)

LOUISA COUNTY
None
LUCAS COUNTY
(H,Hw) - See Adair County
LYON COUNTY
None
MADISON COUNTY
None
MAHASKA COUNTY
(Hw) - See Benton County
MARION COUNTY
None
MARSHALL COUNTY
None
MILLS COUNTY
(H,Hw) - See Adair County
(Channel Stab.) - See Freemont Co.
MITCHELL COUNTY
(H,Hw) - See Butler County
MONONA COUNTY
(H,Hw) - See Harrison County
(Channel Stab.) - See Freemont Co.
MONROE COUNTY
None
MONTGOMERY COUNTY
(H,Hw) - See Adair County
MUSCATINE COUNTY
None
O'BRIEN COUNTY
(H,hw) - See Carroll County
OSCEOLA COUNTY
(H,Hw) - See Carroll County
PAGE COUNTY
(H,Hw) - See Adair County
PALO ALTO COUNTY
None
PLYMOUTH COUNTY
None
POCAHONTAS COUNTY
None
POLK COUNTY
Decision #IA76-4150 (B,H,Hw)
41 FR 40393 - 9/17/76
Mod. #1 - 42 FR 4064 - 1/21/77
POTTAWATTAMIE COUNTY (City of Council Bluffs and the area within 3 miles from the City Limits)
Decision #IA76-4185 (B,H,Hw)
41 FR 51285 - 11/19/76
Mod. #1 - 42 FR 4064 - 1/21/77
(Chann. Stab.) - See Freemont County

IOWA (Cont'd)

POWESHIEK COUNTY
(Hw) - See Benton County
RINGGOLD COUNTY
(H,Hw) - See Adair County
SAC COUNTY
None
SCOTT COUNTY
Decision #IA76-4172 (B,H,Hw)
41 FR 45802 - 10/15/76
Mod. #1 - 41 FR 48985 - 11/5/76
Mod. #2 - 41 FR 51239 - 11/19/76
SHELBY COUNTY
None
SIOUX COUNTY
None
STORY COUNTY (City of Ames and abutting municipalities)
Decision #IA76-4173 (B,H,Hw)
41 FR 45805 - 10/15/76
Mod. #1 - 42 FR 4064 - 1/21/77
TAMA COUNTY
(Hw) - See Benton County
TAYLOR COUNTY
(H,Hw) - See Adair County
UNION COUNTY
(H,Hw) - See Adair County
VAN BUREN COUNTY
(H,Hw) - See Appanoose County
WAPELLO COUNTY
(H,Hw) - See Appannose County
WARREN COUNTY
None
WASHINGTON COUNTY
(Hw) - See Benton County
WAYNE COUNTY
(H,Hw) - See Adair County
WEBSTER COUNTY (City of Fort Dodge)
Decision #IA76-4174 (B,H,Hw)
41 FR 45808 - 10/15/76
Mod. #1 - 41 FR 51240 - 11/19/76
Mod. #2 - 42 FR 4064 - 1/21/77
WINNEBAGO COUNTY
(H,Hw) - See Butler County
WINNESHIEK COUNTY

IOWA (Cont'd.)

WOODBURY COUNTY (City of Sioux City and abutting municipalities)
Decision #IA76-4175 (B)
41 FR 45811 - 10/15/76
Mod. #1 - 41 FR 56550 - 12/28/76
(Chann. Stab.) - See Freemont Co.
(H,Hw) - See Harrison County
WORTH COUNTY
(H,Hw) - See Butler County
WRIGHT COUNTY
(H,Hw) - See Butler County

KANSAS

ALLEN COUNTY
Decision #KS75-4197 (Hw,W&S)
40 FR 57091 - 12/5/75
Mod. #1 - 41 FR 27542 - 7/2/76
Mod. #2 - 41 FR 29609 - 7/16/76
Mod. #3 - 41 FR 48985 - 11/5/76
ANDERSON COUNTY
(Hw, W&S) - See Allen County
ATCHISON COUNTY
Decision #MO75-4070 (D)
40 FR 14225 - 3/28/75
(Hw, W&S) - See Allen County
BARBER COUNTY
Decision #KS75-4198 (Hw, W&S)
40 FR 57090 - 12/5/75
BARTON COUNTY
(Hw, W&S) - See Barber County
BOURBON COUNTY
(Hw, W&S) - See Allen County
BROWN COUNTY
(Hw, W&S) - See Allen County
BUTLER COUNTY
(Hw, W&S) - See Allen County
CASS COUNTY
(Hw, W&S) - See Allen County
CHASE COUNTY
(Hw, W&S) - See Allen County
CHAUTAUQUA COUNTY
(Hw, W&S) - See Allen County
CHEROKEE COUNTY
(Hw, W&S) - See Allen County
CHEYENNE COUNTY
(Hw, W&S) - See Barber County
CLARK COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.)

CLAY COUNTY
(Hw, W&S) - See Allen County
CLOUD COUNTY
(Hw, W&S) - See Allen County
COFFEY COUNTY
(Hw, W&S) - See Allen County
COMANCHE COUNTY
(Hw, W&S) - See Barber County
COWLEY COUNTY
(Hw, W&S) - See Allen County
CRAWFORD COUNTY
(Hw, W&S) - See Allen County
DECATUR COUNTY
(Hw, W&S) - See Barber County
DICKINSON COUNTY
(Hw, W&S) - See Allen County
DONIPHAN COUNTY
(D) - See Atchison County
(Hw, W&S) - See Allen County
DOUGLAS COUNTY
Decision #KS76-4134 (Hw)
41 FR 32127 - 7/30/76
Mod. #1 - 42 FR 3135 - 1/14/77
EDWARDS COUNTY
(Hw, W&S) - See Barber County
ELK COUNTY
(Hw, W&S) - See Allen County
ELLIS COUNTY
(Hw, W&S) - See Barber County
ELLSWORTH COUNTY
(Hw, W&S) - See Barber County
FINNEY COUNTY
(Hw, W&S) - See Barber County
FORD COUNTY
(Hw, W&S) - See Barber County
FRANKLIN COUNTY
(Hw, W&S) - See Allen County
GEARY COUNTY
Decision #KS77-4019 (R)
42 FR 7056 - 2/4/77
(Hw, W&S) - See Allen County
GOVE COUNTY
(Hw, W&S) - See Barber County
GRAHAM COUNTY
(Hw, W&S) - See Barber County
GRANT COUNTY
(Hw, W&S) - See Barber County
GRAY COUNTY
(Hw, W&S) - See Barber County
GREELEY COUNTY
(Hw, W&S) - See Barber County
GREENWOOD COUNTY
(Hw, W&S) - See Allen County

KANSAS (Cont'd.)

HAMILTON COUNTY
(Hw, W&S) - See Barber County
HARPER COUNTY
(Hw, W&S) - See Allen County
HARVEY COUNTY
(Hw, W&S) - See Allen County
HASKELL COUNTY
(Hw, W&S) - See Barber County
HODGEMAN COUNTY
(Hw, W&S) - See Barber County
JACKSON COUNTY
(Hw, W&S) - See Allen County
JEFFERSON COUNTY
(Hw) - See Douglas County
JEWELL COUNTY
(Hw, W&S) - See Barber County
JOHNSON COUNTY
Decision #MO76-4177 (B,H,Hw)
41 FR 50139 - 11/12/76
Mod. #1 - 41 FR 54105 - 12/10/76
Decision #MO76-4103 (R)
41 FR 27602 - 7/2/76
Mod. #1 - 41 FR 34482 - 8/13/76
Mod. #2 - 41 FR 54104 - 12/10/76
KEARNY COUNTY
(Hw, W&S) - See Barber County
KINGMAN COUNTY
(Hw, W&S) - See Allen County
KIOWA COUNTY
(Hw, W&S) - See Barber County
LABETTE COUNTY
(Hw, W&S) - See Allen County
LANE COUNTY
(Hw, W&S) - See Barber County
LEAVENWORTH COUNTY
Decision #KS76-4098 (B)
41 FR 23899 - 6/11/76
Mod. #1 - 41 FR 44596 - 10/8/76
(D) - See Atchison County
(Hw) - See Douglas County
LINCOLN COUNTY
(Hw, W&S) - See Barber County
LINN COUNTY
(Hw, W&S) - See Allen County
LOGAN COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.

LYON COUNTY
(Hw, W&S) - See Allen County
McPHERSON COUNTY
(Hw, W&S) - See Allen County
MARION COUNTY
(Hw, W&S) - See Allen County
MARSHALL COUNTY
(Hw, W&S) - See Allen County
MEADE COUNTY
(Hw, W&S) - See Barber County
MIAMI COUNTY
(Hw) - See Douglas County
MITCHELL COUNTY
(Hw, W&S) - See Barber County
MONTGOMERY COUNTY
(Hw, W&S) - See Allen County
MORRIS COUNTY
(Hw, W&S) - See Allen County
MORTON COUNTY
(Hw, W&S) - See Barber County
NEMAHA COUNTY
(Hw, W&S) - See Allen County
NEOSHO COUNTY
(Hw, W&S) - See Allen County
NESS COUNTY
(Hw, W&S) - See Barber County
NORTON COUNTY
(Hw, W&S) - See Barber County
OSAGE COUNTY
(Hw, W&S) - See Allen County
OSBORNE COUNTY
(Hw, W&S) - See Barber County
OTTAWA COUNTY
(Hw, W&S) - See Allen County
PAWNEE COUNTY
(Hw, W&S) - See Barber County
PHILLIPS COUNTY
(Hw, W&S) - See Barber County
POTTAWATOMIE COUNTY
(Hw, W&S) - See Allen County
PRATT COUNTY
(Hw, W&S) - See Barber County
RAWLINS COUNTY
(Hw, W&S) - See Barber County
RAY COUNTY
(Hw, W&S) - See Allen County

KANSAS (Cont'd.

RENO COUNTY
(Hw, W&S) - See Allen County
REPUBLIC COUNTY
(Hw, W&S) - See Allen County
RICE COUNTY
(Hw, W&S) - See Barber County
RILEY COUNTY
(Hw, W&S) - See Allen County
(R) - See Geary County
ROOKS COUNTY
(Hw, W&S) - See Barber County
RUSH COUNTY
(Hw, W&S) - See Barber County
RUSSELL COUNTY
(Hw, W&S) - See Barber County
SALINE COUNTY
(Hw, W&S) - See Allen County
SCOTT COUNTY
(Hw, W&S) - See Barber County
SEDGWICK COUNTY
Decision #AP-533 (R)
38 FR 16573 - 6/22/73
Decision #KS77-4020 (B)
42 FR 7057 - 2/4/77
Mod. #1 - 41 FR 44596 - 10/8/76
Decision #KS75-4052 (Hw, W&S)
40 FR 6057 - 2/7/75
Mod. #1 - 40 FR 7775 - 2/21/75
SEWARD COUNTY
(Hw, W&S) - See Barber County
SHAWNEE COUNTY
Decision #KS76-4096 (B)
41 FR 23893 - 6/11/76
Mod. #1 - 41 FR 44595 - 10/8/76
Decision #KS76-4095 (R)
41 FR 23890 - 6/11/76
Mod. #1 - 41 FR 44595 - 10/8/76
(Hw) - See Douglas County

KANSAS (Cont'd.

SHERIDAN COUNTY
(Hw, W&S) - See Barber County
SHERMAN COUNTY
(Hw, W&S) - See Barber County
SMITH COUNTY
(Hw, W&S) - See Barber County
STAFFARD COUNTY
(Hw, W&S) - See Barber County
STANTON COUNTY
(Hw, W&S) - See Barber County
STEVENS COUNTY
(Hw, W&S) - See Barber County
SUMNER COUNTY
(Hw, W&S) - See Allen County
THOMAS COUNTY
(Hw, W&S) - See Barber County
TREGO COUNTY
(Hw, W&S) - See Barber County
WABAUNSEE COUNTY
(Hw, W&S) - See Allen County
WALLACE COUNTY
(Hw, W&S) - See Barber County
WASHINGTON COUNTY
(Hw, W&S) - See Allen County
WICHITA COUNTY
(Hw, W&S) - See Barber County
WILSON COUNTY
(Hw, W&S) - See Allen County
WOODSON COUNTY
(Hw, W&S) - See Allen County
WYANDOTTE COUNTY
(B,H,Hw,R) - See Johnson County
(D) - See Atchison County

KENTUCKY

ADAIR COUNTY
Decision #KY76-1093 (R)
41 FR 37472 - 9/3/76
Decision #KY76-1112 (H,Hw)
41 FR 43579 - 10/1/76
ALLEN COUNTY
Decision #KY75-1128 (H,Hw)
41 FR 50144 - 11/12/76
Mod. #1 - 41 FR 54106 - 12/10/76
ANDERSON COUNTY
Decision #KY76-1114 (H,Hw)
41 FR 44633 - 10/8/76
BALLARD COUNTY
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #IL76-5026 (D)
41 FR 12858 - 3/26/76
(H,Hw) - See Allen County
BARREN COUNTY
(H,Hw) - See Adair County
BATH COUNTY
(H,Hw) - See Anderson County
Decision #KY75-1105 (R)
40 FR 49950 - 10/24/75
BELL COUNTY
(H,Hw) - See Adair County
Decision #AQ-4126 (B)
39 FR 22359 - 6/21/74
BOONE COUNTY
Decision #KY76-1092 (R)
41 FR 37471 - 9/3/76
Decision #KY76-1113 (H,Hw)
41 FR 43582 - 10/1/76
Decision #KY76-1066 (B)
41 FR 36384 - 8/27/76
Mod. #1 - 41 FR 45887 - 10/15/76
Mod. #2 - 42 FR 988 - 1/4/77
Mod. #3 - 42 FR 5615 - 1/28/77
BOURBON COUNTY
(H,Hw) - See Anderson County
(B) - See Bath County
BOYD COUNTY
Decision #KY76-1110 (B)
41 FR 42113 - 9/24/76
Mod. #1 - 41 FR 46811 - 10/22/76
Mod. #2 - 41 FR 48985 - 11/5/76
Mod. #3 - 41 FR 51241 - 11/19/76
Mod. #4 - 42 FR 988 - 1/4/77
(R) - See Ballard County
(H,Hw) - See Anderson County
BOYLE COUNTY
Decision #KY76-1096 (R)
41 FR 38707 - 9/10/76
(H,Hw) - See Anderson County
BRACKEN COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
(R) - See Boone County
BREATHITT COUNTY
(H,Hw) - See Adair County
Decision #KY76-1101 (R)
41 FR 40366 - 9/17/76

KENTUCKY (Cont'd.)

BRECKINRIDGE COUNTY
Decision #KY76-1080 (R)
41 FR 30532 - 7/23/76
Mod. #1 - 41 FR 38709 - 9/10/76
(H,Hw) - See Anderson County
(D) - See Ballard County
BULLITT COUNTY
(D) - See Boone County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
BUTLER COUNTY
(H,Hw) - See Allen County
CALDWELL COUNTY
(H,Hw) - See Allen County
CALLOWAY COUNTY
(H,Hw) - See Allen County
CAMPBELL COUNTY
(D) - See Ballard County
(B,H,Hw,R) - See Statewide
CARLISLE COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
CARROLL COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
(R) - See Boone County
CARTER COUNTY
Decision #KY76-1111 (R)
41 FR 43456 - 10/1/76
(H,Hw) - See Anderson County
CASEY COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
CHRISTIAN COUNTY
Decision #KY76-1091 (B)
41 FR 37470 - 9/3/76
Mod. #1 - 41 FR 51241 - 11/19/76
Mod. #2 - 42 FR 5616 - 1/28/77
Decision #KY76-1118 (R)
41 FR 45801 - 10/15/76
(H,Hw) - See Allen County
CLARK COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
CLAY COUNTY
Decision #KY76-1097 (R)
41 FR 38707 - 9/10/76
(H,Hw) - See Adair County
CLINTON COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
CRITTENDEN COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
CUMBERLAND COUNTY
(H,Hw,R) - See Adair County
DAVIESS COUNTY
Decision #AQ-4122 (B)
39 FR 20281 - 6/7/74
Mod. #1 - 41 FR 19008 - 5/7/76
Mod. #2 - 41 FR 21987 - 5/28/76
Mod. #3 - 41 FR 43560 - 10/1/76

KENTUCKY (Cont'd)

DAVIESS COUNTY (Cont'd.)
Decision #KY76-1136 (R)
41 FR 53260 - 12/3/76
(D) - See Ballard County
(H,Hw) - See Allen County
EDMONSON COUNTY
(H,Hw) - See Allen County
ELLIOTT COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
ESTILL COUNTY
(H,Hw) - See Adair County
(R) - See Clay County
FAYETTE COUNTY
Decision #KY76-1079 (B)
41 FR 30529 - 7/23/76
Mod. #1 - 41 FR 33128 - 8/6/76
Mod. #2 - 41 FR 36368 - 8/27/76
Mod. #3 - 41 FR 45787 - 10/15/76
Mod. #4 - 41 FR 51241 - 11/19/76
Mod. #5 - 42 FR 988 - 1/4/77
(H,Hw) - See Anderson County
(R) - See Bath County
FLEMING COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
FLOYD COUNTY
Decision #AR-4002 (B)
39 FR 24777 - 7/5/74
(H,Hw) - See Adair County
FRANKLIN COUNTY
Decision #KY76-1132 (B)
41 FR 52260 - 11/26/76
Mod. #1 - 42 FR 988 - 1/4/77
Mod. #2 - 42 FR 7030 - 2/4/77
(H,Hw) - See Anderson County
FULTON COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
GALLATIN COUNTY
(D) - See Ballard County
(H,Hw) - See Anderson County
R(R) - See Boone County
GARRARD COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
GRANT COUNTY
(H,Hw) - See Anderson County
(R) - See Boone County
GRAVES COUNTY
(H,Hw) - See Allen County
GRAYSON COUNTY
(H,Hw) - See Anderson County
GREENE COUNTY
(H,Hw,R) - See Adair County
GREENUP COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
HANCOCK COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County

KENTUCKY (Cont'd)

HARDIN COUNTY
(B) - See Jefferson County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Ballard County
HARLAN COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
HARRISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
HART COUNTY
(H,Hw,R) - See Adair County
HENDERSON COUNTY
Decision #KY76-1078 (B)
41 FR 30527 - 7/23/76
Mod. #1 - 41 FR 43560 - 10/1/76
Mod. #2 - 41 FR 45787 - 10/15/76
Mod. #3 - 41 FR 53230 - 12/3/76
(H,Hw) - See Allen County
(D) - See Ballard County
HENRY COUNTY
(H,Hw) - See Anderson County
HICKMAN COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HOPKINS COUNTY
(H,Hw) - See Allen County
JACKSON COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
JEFFERSON COUNTY
Decision #KY76-1129 (B)
41 FR 52257 - 11/26/76
Mod. #1 - 41 FR 55263 - 12/17/76
Mod. #2 - 41 FR 56550 - 12/28/76
(D) - See Ballard County
(R) - See Breckinridge County
(H,Hw) - See Anderson County
JESSAMINE COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

KENTUCKY (Cont'd)

JOHNSON COUNTY
(H,Hw) - See Anderson County
KENTON COUNTY
(D) - See Ballard County
(B,H,Hw,R) - See Boone County
KNOTT COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
KNOX COUNTY
(H,Hw) - See Adair County
LARUE COUNTY
(R) - See Adair County
(H,Hw) - See Anderson County
LAUREL COUNTY
Decision #KY77-1002 (R)
42 FR 1684 - 1/7/77
(H,Hw) - See Adair County
LAWRENCE COUNTY
(H,Hw) - See Anderson County
LEE COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LESLIE COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LETCHER COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LEWIS COUNTY
(R) - See Carter County
LINCOLN COUNTY
(R) - See Boyle County
(H,Hw) - See Adair county
LIVINGSTON COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
LOGAN COUNTY
(H,Hw) - See Allen County
LYON COUNTY
(H,Hw) - See Allen County
McCRACKEN COUNTY
Decision #KY76-1058 (B)
41 FR 21082 - 5/21/76
Mod. #1 - 41 FR 29612 - 7/16/76
Mod. #2 - 41 FR 45786 - 10/15/76
Mod. #3 - 41 FR 51240 - 11/19/76
Mod. #4 - 41 FR 56550 - 12/28/76
(D) - See Ballard County
(H,Hw) - See Allen County

KENTUCKY (Cont'd.)

McCREARY COUNTY
(H,Hw) - See Adair County
McLEAN COUNTY
(H,Hw) - See Allen County
MADISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MAGOFFIN COUNTY
(H,Hw) - See Adair County
MARION COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
MARSHALL COUNTY
(H,Hw) - See Allen County
MARTIN COUNTY
(H,Hw) - See Adair County
MASON COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
(D) - See Ballard County
MEADE COUNTY
(H,Hw) - See Anderson County
(B) - See Jefferson County
(R) - See Breckinridge County
(D) - See Ballard County
MENIFEE COUNTY
(H,Hw) - See Adair County
MERCER COUNTY
(H,Hw) - See Anderson County
METCALFE COUNTY
(H,Hw,R) - See Adair County
MONROE COUNTY
(H,Hw,R) - See Adair County
MONTGOMERY COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MORGAN COUNTY
(H,Hw) - See Anderson County
MUHLENBERG COUNTY
(H,Hw) - See Allen County

KENTUCKY (Cont'd)

NELSON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
NICHOLAS COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
OHIO COUNTY
(H,Hw) - See Allen County
OLDHAM COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Ballard County
OWEN COUNTY
(H,Hw) - See Anderson County
OWSLEY COUNTY
(R) - See Clay County
(H,Hw) - See Adair County
PENDLETON COUNTY
(B,H,Hw,R) - See Boone County
(D) - See Ballard County
PERRY COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
PIKE COUNTY
(B) - See Floyd County
(H,Hw) - See Adair County
POWELL COUNTY
(H,Hw) - See Adair County
PULASKI COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
(R) - See Clay County
ROBERTSON COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
ROCKCASTLE COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
ROWAN COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
RUSSELL COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
SCOTT COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
SHELBY COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County

KENTUCKY (Cont'd.)

SIMPSON COUNTY
(H,Hw) - See Allen County
SPENCER COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
TAYLOR COUNTY
(R) - See Adair County
(H,Hw) - See Allen County
TODD COUNTY
(H,Hw) - See Allen County
TRIGG COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
(H,Hw) - See Anderson County
(D) - See Boone County
UNION COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
WARREN COUNTY
Decision #KY76-1077 (B)
41 FR 30525 - 7/23/76
Mod. #1 - 41 FR 35323 - 8/20/76
Mod. #2 - 41 FR 45787 - 10/15/76
Mod. #3 - 41 FR 55263 - 12/17/76
Mod. #4 - 42 FR 5615 - 1/28/77
(H,Hw) - See Allen County
WASHINGTON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
WAYNE COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
WEBSTER COUNTY
(H,Hw) - See Allen County
WHITLEY COUNTY
(H,Hw) - See Adair County
WOLFE COUNTY
(H,Hw) - See Adair County
(R) - See Clay County
WOODFORD COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

UMI

LOUISIANA

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #LA76-4187 (B,Hw,R)
41 FR 51288 - 11/19/76
Mod. #1 - 41 FR 55264 - 12/17/76
Mod. #2 - 42 FR 1679 - 1/7/77
Mod. #3 - 42 FR 4065 - 1/21/77
ACADIA PARISH
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(B,D,Hw) - See Statewide
ALLEN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ASCENSION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ASSUMPTION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
AVOYELLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BEAUREGARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BIENVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BOSSIER PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide
CADDO PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide
CALCASIEU PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide

LOUISIANA (Cont'd)

IBERVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JACKSON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON PARISH (R)
Decision #AR-2777 - 1/12/74
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON DAVIS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFAYETTE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFOURCHE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LA SALLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LINCOLN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LIVINGSTON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MADISON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MOREHOUSE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
NATCHITOCHES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ORLEANS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(H) - See Jefferson Parish
OUACHITA PARISH
Decision #AQ-118 (R)
39 FR 2397 - 1/21/74
(B,D,Hw) - See Statewide
(F) - See Acadia Parish

LOUISIANA (Cont'd.

PLAQUEMINES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
POINTE COUPEE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RAPIDES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RED RIVER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RICHLAND PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
SABINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. BERNARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
ST. CHARLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. HELENA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JAMES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JOHN THE BAPTIST PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. LANDRY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARTIN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARY PARISH
(F) - See Acadia Parish
(B,D) - See Statewide

LOUISIANA (Cont'd)

CALDWELL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CAMERON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CATAHOULA PARISH
(F) - See Acadia Parish
(D,B,Hw) - See Statewide
CLAIBORNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CONCORDIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
DE SOTO PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST BATON ROUGE PARISH
(B,D,Hw) - See Statewide
(F) - See Acadia Parish
EAST CARROLL PARISH
(B,D,Hw) - See Statewide
EAST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EVANGELINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
FRANKLIN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
GRANT PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
IBERIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

MARYLAND

ALLEGANY COUNTY
Decision #MD77-3020 (B)
42 FR 3151 - 1/14/77
Decision #MD77-3021 (H,Hw)
42 FR 3153 - 1/14/77
ANNE ARUNDEL COUNTY
Decision #C77-5001 (D)
42 FR 999 - 1/4/77
Decision #MD77-3019 (B,H)
42 FR 3147 - 1/14/77
Decision #MD76-3151 (Hw)
41 FR 11742 - 3/19/76
BALTIMORE CITY
Decision #MD77-3018 (Hw)
42 FR 3145 - 1/14/77
Decision #MD77-3017 (B,H)
42 FR 3142 - 1/14/77
(D) - See Anne Arundel County
BALTIMORE COUNTY
Decision #MD76-3153 (Hw)
41 FR 11744 - 3/19/76
Mod. #1 - 41 FR 14223 - 4/2/76
(D) - See Anne Arundel County
(B,H) - See Baltimore City
CALVERT COUNTY
(D,Hw) - See Anne Arundel County
CAROLINE COUNTY
Decision #MD76-3152 (Hw)
41 FR 11743 - 3/19/76
Mod. #1 - 41 FR 14223 - 4/2/76
(Hw) - See Anne Arundel County
CARROLL COUNTY
(Hw) See Carroline County
CECIL COUNTY
(Hw) See Carroline County
CHARLES COUNTY
(D,Hw) - See Anne Arundel County
DORCHESTER COUNTY
(Hw) - See Carroline County
(D) - See Anne Arundel County
FREDERICK COUNTY
Decision #AQ-2076 (R)
39 FR 10069 - 3/15/74
Mod. #1 - 40 FR 15272 - 4/4/75
(Hw) - See Anne Arundel County
GARRETT COUNTY
(B,H,Hw) - See Allegany County

MARYLAND (Cont'd.)

HARFORD COUNTY
(B,H) - See Baltimore County
(Hw) - See Anne Arundel County
HOWARD COUNTY
(B,H) - See Baltimore City
(R) - See Baltimore City
(Hw) - See Anne Arundel County
KENT COUNTY
(Hw) - See Carroline County
(D) - See Anne Arundel County
MONTGOMERY COUNTY
Decision #MD76-3285 (B)
41 FR 51308 - 11/19/76
(Hw) - See Anne Arundel County
PRINCE GEORGES COUNTY
(B) - See Montgomery County
(D,Hw) - See Anne Arundel County
QUEEN ANNES COUNTY
(Hw) - See Carroline County
(D) - See Anne Arundel County
ST. HARYS COUNTY
(D,Hw) - See Anne Arundel County
SOMERSET COUNTY
(Hw) - See Carroline County
(D) - See Anne Arundel County
TALBOT COUNTY
(Hw) - See Carroline County
(D) - See Anne Arundel County
WASHINGTON COUNTY
(Hw) See Anne Arundel County
WICOMICO COUNTY
Decision #AQ-2075 (R)
39 FR 10068 - 3/15/74
Mod. #1 - 39 FR 14849 - 4/26/74
(D) - See Anne Arundel County
(Hw) - See Carroline County
WORCESTER COUNTY
(D) - See Anne Arundel County
(Hw) - See Carroline County.
Decision #AR-2012 (B)
39 FR 27991 - 8/2/74

MAINE

ANDROSCOGGIN COUNTY (Hw)
Decision #ME76-2159
41 FR 52173 - 11/26/76
AROOSTOOK COUNTY (Hw)
Decision #ME76-2156
41 FR 52172 - 11/26/76
CUMBERLAND COUNTY
Decision #C777-5001 (D)
42 FR 999 - 1/4/77
(Hw) - See Androscoggin County
FRANKLIN COUNTY
(Hw) - See Androscoggin County
HANCOCK COUNTY
Decision #ME76-2166 (Hw)
41 FR 53227 - 12/3/76
(D) - See Cumberland County
KENNEBEC COUNTY
(Hw) - See Androscoggin County
KNOX COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
LINCOLN COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
OXFORD COUNTY
(Hw) - See Androscoggin County
PENOBSCOT COUNTY
(Hw) - See Aroostook County
PISCATAQUIS COUNTY
(Hw) - See Androscoggin County
SAGADAHOC COUNTY
(D) - See Cumberland County
(Hw) - See Aroostook County
SOMERSET COUNTY
(Hw) - See Androscoggin County
WALDO COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
WASHINGTON COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
YORK COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County

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MASSACHUSETTS

BARNSTABLE COUNTY
Decision #MA76-2095 (B,H,Hw, & Marine)
41 FR 34501 - 8/13/76
Mod. #1 - 41 FR 45788 - 10/15/76
Mod. #2 - 41 FR 51106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
Decision #CT77-5001 (D)
42 FR 909 - 1/4/77
BERKSHIRE COUNTY
Decision #MA76-2096 (B,H,Hw)
41 FR 34503 - 8/13/76
Mod. #1 - 41 FR 45788 - 10/15/76
Mod. #2 - 41 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
BRISTOL COUNTY
Decision #MA76-2097 (B,H,Hw,R & Marine)
41 FR 34509 - 8/13/76
Mod. #1 - 41 FR 45789 - 10/15/76
Mod. #2 - 42 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
(D) - See Barnstable County
DUKES COUNTY
(D) - See Barnstable County
ESSEX COUNTY
Decision #MA76-2098 (B,H,Hw, & Marine)
41 FR 34514 - 8/13/76
Mod. #1 - 41 FR 46811 - 10/22/76
Mod. #2 - 41 FR 51241 - 11/19/76
Mod. #3 - 41 FR 55266 - 12/17/76
Mod. #4 - 42 FR 7031 - 2/4/77
(D) - See Barnstable County
FRANKLIN COUNTY
Decision #MA76-2099 (B,H,Hw)
41 FR 34519 - 8/13/76
Mod. #1 - 41 FR 46812 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
HAMPDEN COUNTY
Decision #MA76-2100 (B,H,Hw)
41 FR 34522 - 8/13/76
Mod. #1 - 41 FR 46812 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
Decision #MA75-2134 (R)
40 FR 59166 - 12/19/75
HAMPSHIRE COUNTY
Decision #MA76-2101 (B,H,Hw)
41 FR 35369 - 8/20/76
Mod. #1 - 41 FR 46813 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
MIDDLESEX COUNTY
Decision #MA76-2102 (B,H,Hw, R, & Marine)
41 FR 37479 - 9/3/76
Mod. #1 - 41 FR 46813 - 10/22/76
Mod. #2 - 41 FR 55267 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
(D) - See Barnstable County

MASSACHUSETTS

NANTUCKET COUNTY
(D) - See Barnstable County
NORFOLK COUNTY
Decision #MA76-2103 (B,H,Hw,R)
41 FR 35373 - 8/20/76
Mod. #1 - 41 FR 46814 - 10/22/76
Mod. #2 - 41 FR 55267 - 12/17/76
Mod. #3 - 42 FR 7032 - 2/4/77
(D) - See Barnstable County
PLYMOUTH COUNTY
Decision #MA76-2104 (B,H,Hw,R)
41 FR 37485 - 9/3/76
Mod. #1 - 41 FR 46815 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 7032 - 2/4/77
(D) - See Barnstable County
SUFFOLK COUNTY
Decision #MA76-2105 (B,H,Hw,D,R, & Marine)
41 FR 35377 - 8/20/76
Mod. #1 - 41 FR 46815 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 7032 - 2/4/77
(D) - See Barnstable County
WORCESTER COUNTY
Decision #MA76-2106 (B,H,Hw,R)
41 FR 37490 - 9/3/76
Mod. #1 - 41 FR 46816 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 3136 - 1/14/77
Mod. #4 - 42 FR 7032 - 2/4/77

MICHIGAN

STATEWIDE
Decision #MI76-2140 (Hw, W&S)
41 FR 51318 - 11/19/76
Mod. #1 - 41 FR 54107 - 12/10/76
Mod. #2 - 42 FR 1681 - 1/7/77
ALCONA COUNTY
Decision #MI76-2135 (B,H)
41 FR 47766 - 10/29/76
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(Hw, W&S) - See Statewide
ALGER COUNTY
Decision #MI76-2136 (B,H)
41 FR 47771 - 10/29/76
(D) - See Alcona County
(Hw, W&S) - See Statewide
ALLEGAN COUNTY
Decision #MI76-2137 (B,H)
41 FR 47774 - 10/29/76
Decision #AM-398 (R)
36 FR 15891 - 8/18/71
(Hw, W&S) - See Statewide
(D) - See Alcona County
ALPENA COUNTY
(D) - See Alcona County
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
ANTRIM COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
ARENAC COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARAGA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARRY COUNTY
(Hw, W&S) - See Statewide
BAY COUNTY
Decision #MI76-2138 (B,H)
41 FR 48989 - 11/5/76
(D) - See Alcona County
(Hw, W&S) - See Statewide
BENZIE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

BERRIEN COUNTY
(B,H) - See Allegan County
Decision #AM-399 (R)
36 FR 15892 - 8/18/71
(D) - See Alcona County
(Hw, W&S) - See Statewide
BRANCH COUNTY
Decision #AM-401 (R)
36 FR 15894 - 8/18/71
(Hw, W&S) - See Statewide
CALHOUN COUNTY
(B,H) - See Allegan County
Decision #MI76-2107 (R)
41 FR 35381 - 8/20/76
(Hw, W&S) - See Statewide
CASS COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
CHARLEVOIX COUNTY
(B,H) - See Allegan County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHEBOYGAN COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHIPPEWA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CLARE COUNTY
(Hw, W&S) - See Statewide
CLINTON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
CRAWFORD COUNTY
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

DELTA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
DICKERSON COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County
(B,H) - See Alger County
EATON COUNTY
Decision #AM-8041 (R)
36 FR 24027 - 12/17/71
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
EMMET COUNTY
(B,H) - See Charlevoix County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GENESEE COUNTY
(B,H) - See Bay County
Decision #MI76-2081 (R)
41 FR 26448 - 6/25/76
(Hw, W&S) - See Statewide
GLADWIN COUNTY
(Hw) - See Statewide
GOGEBIC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRAND TRAVERSE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRATIOT COUNTY
(Hw, W&S) - See Statewide
HILLSDALE COUNTY
(Hw, W&S) - See Statewide
HOUGHTON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
HURON COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Allegan County
INGHAM COUNTY
(B,H) - See Allegan County
(R) - See Eaton County
(Hw, W&S) - See Statewide
IONIA COUNTY
(Hw, W&S) - See Statewide
IOSCO COUNTY
(B,H) - See Bay County
(Hw, W&S) - See Statewide
(D) - See Alcona County
IRON COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County

MICHIGAN (Cont'd.)

ISABELLA COUNTY
(Hw, W&S) - See Statewide
JACKSON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
KALAMAZOO COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
(R) - See Branch County
KALKASKA COUNTY
(Hw, W&S) - See Statewide
KENT COUNTY
Decision #MI76-2171 (B,H)
41 FR 56590 - 12/28/76
Decision #AM-402 (R)
36 FR 15895 - 8/18/71
(Hw, W&S) - See Statewide
KEWEENAW COUNTY
(D) - See Alcona County
(B,H) - See Alger County
(Hw, W&S) - See Statewide
LAKE COUNTY
(R) - See Genesee County
LAPEER COUNTY
(R) - See Genesee County
(B,H) - See Bay County
(Hw, W&S) - See Statewide
LEELANAU COUNTY
(D) - See Alcona County
(B,H) - See Grant Traverse County
(Hw, W&S) - See Statewide
LENAWEE COUNTY
(Hw, W&S) - See Statewide
LIVINGSTON COUNTY
(Hw, W&S) - See Statewide
LUCE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACKINAC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACOMB COUNTY
Decision #MI76-2139 (B,H,R)
41 FR 51313 - 11/19/76
Mod. #1 - 41 FR 54107 - 12/10/76
Mod. #2 - 41 FR 55267 - 12/17/76
Mod. #3 - 42 FR 1680 - 1/7/77
Mod. #4 - 42 FR 4066 - 1/21/77
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

MANISTEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MARQUETTE COUNTY
Decision #AR-3178 (R)
39 FR 44166 - 12/20/74
Mod. #1 - 40 FR 22734 - 5/23/75
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MASON COUNTY
(B,H) - See Charlevoix County
(D) - See Alcona County
MECOSTA COUNTY
(Hw, W&S) - See Statewide
MENOMINEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MIDLAND COUNTY
(Hw, W&S) - See Statewide
MISSAUKEE COUNTY
(Hw, W&S) - See Statewide
MONROE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MONTCALM COUNTY
(Hw, W&S) - See Statewide
(R) - See Kent County
MONTMORENCY COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
MUSKEGON COUNTY
Decision #MI75-2120 (R)
40 FR 49955 - 10/24/75
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
NEWAYGO COUNTY
(Hw, W&S) - See Statewide
OAKLAND COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OCEANA COUNTY
(B,H,R) - See Alcorn County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OGEMAW COUNTY
(Hw, W&S) - See Statewide
ONTONAGON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

OSCEOLA COUNTY
(Hw, W&S) - See Statewide
OSCODA COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
OTSEGO COUNTY
(Hw, W&S) - See Statewide
OTTAWA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
(R) - See Allegan County
PRESQUE ISLE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
ROSCOMMON COUNTY
(Hw, W&S) - See Statewide
SAGINAW COUNTY
(B,H) - See Bay County
(R) - See Genesee County
(Hw, W&S) - See Statewide
SAINT CLAIR COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(R) - See Genesee County
(Hw, W&S) - See Statewide
SAINT JOSEPH COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
SANILAC COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
SCHOOLCRAFT COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
SHIAWASSEE COUNTY
(B,H) - See Bay County
(R) - See Genesee County
(Hw, W&S) - See Statewide
TUSCOLA COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
VAN BUREN COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
WASHTENAW COUNTY
(B,H,R) - See Macomb County
(Hw, W&S) - See Statewide
(D) - See Alcona County
WAYNE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
WEXFORD COUNTY
(Hw, W&S) - See Statewide

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MINNESOTA

AITKIN COUNTY
Decision #MN76-2058 (H,Hw)
41 FR 20131 - 5/14/76
Mod. #1 - 41 FR 43561 - 10/1/76
Mod. #2 - 42 FR 1682 - 1/7/77
ANOKA COUNTY
Decision #MN76-2001 (B,R)
41 FR 2551 - 1/16/76
Mod. #1 - 41 FR 5521 - 2/6/76
Mod. #2 - 41 FR 6953 - 2/13/76
Mod. #3 - 41 FR 20124 - 5/14/76
Mod. #4 - 41 FR 52178 - 11/26/76
(H,Hw) - See Aitkin County
BECKER COUNTY
Decision #AQ-3104 (H,Hw)
39 FR 9369 - 3/8/74
BELTRAMI COUNTY
Decision #AR-3147 (H,Hw)
39 FR 36704 - 10/11/74
BENTON COUNTY
(H,Hw) - See Aitkin County
BIG STONE COUNTY
Decision #AQ-3105 (H,Hw)
39 FR 9370 - 3/8/74
BLUE EARTH COUNTY
Decision #MN76-2064 (B)
41 FR 21025 - 5/21/76
Mod. #1 - 41 FR 52179 - 11/26/76
(H,Hw) - See Aitkin County
BROWN COUNTY
None
CARLTON COUNTY
(B,R) - See Saint Louis County
(H,Hw) - See Aitkin County
CARVER COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
CASS COUNTY
(Hw) - See Becker County
CHIPPEWA COUNTY
(Hw) - See Big Stone County
CHISAGO COUNTY
(H,Hw) - See Aitkin County
CLAY COUNTY
(Hw) - See Becker County
CLEAR WATER COUNTY
(H,Hw) - See Beltrami County
COOK COUNTY
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(H,Hw) - See Aitkin County
COTTONWOOD COUNTY
Decision #AQ-3124 (H,Hw)
39 FR 9383 - 3/8/74
CROW WING COUNTY
(H,Hw) - See Aitkin County
DAKOTA COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

DODGE COUNTY
(H,Hw) - See Aitkin County
DOUGLAS COUNTY
(H,Hw) - See Big Stone County
FAIRBAULT COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
FILLMORE COUNTY
(H,Hw) - See Aitkin County
FREEBORN COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
GOODHUE COUNTY
(H,Hw) - See Aitkin County
GRANT COUNTY
(H,Hw) - See Big Stone County
HENNEPIN COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin Count
HOUSTON COUNTY
(H,Hw) - See Aitkin County
HUBBARD COUNTY
(H,Hw) - See Becker County
ISANTI COUNTY
(H,Hw) - See Aitkin County
ITASKA COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
JACKSON COUNTY
(H,Hw) - See Aitkin County
KANABEC COUNTY
(H,Hw) - See Aitkin County
KANDIYOHI COUNTY
(H,Hw) - See Big Stone County
KITTSON COUNTY
(H,Hw) - See Beltrami County
KOOCHICHING COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
LAC QUI PARLE COUNTY
(H,Hw) - See Big Stone County
LAKE COUNTY
(H,Hw) - See Aitkin County
(D) - See Cook County
LAKE OF THE WOODS COUNTY
(H,Hw) - See Beltramie County
LE SHUEUR COUNTY
(H,Hw) - See Aitkin County
LINCOLN COUNTY
(H,Hw) - See Cottonwood County
LYON COUNTY
(H,Hw) - See Cottonwood County
MCLEOD COUNTY
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

MAHNOMEN COUNTY
(H,Hw) - See Beltrami County
MARSHALL COUNTY
(H,Hw) - See Beltrami County
MARTIN COUNTY
(H,Hw) - See Aitkin County
MEEKER COUNTY
(H,Hw) - See Aitkin County
MILLE LACS COUNTY
(H,Hw) - See Aitkin County
MORRISON COUNTY
(H,Hw) - See Aitkin County
MOWER COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
MURRAY COUNTY
(H,Hw) - See Cottonwood County
NICOLLET COUNTY
(H,Hw) - See Aitkin County
NOBLES COUNTY
(H,Hw) - See Aitkin County
NORMAN COUNTY
(H,Hw) - See Beltrami County
OLMSTEAD COUNTY
Decision #MN76-2002 (B,R)
41 FR 3607 - 1/23/76
Mod. #1 - 41 FR 20125 - 5/14/76
Mod. #2 - 41 FR 52179 - 11/26/76
(H,Hw) - See Aitkin County
OTTER TAIL COUNTY
(H,Hw) - See Becker County
PENNINGTON COUNTY
(H,Hw) - See Beltrami County
PINE COUNTY
(H,Hw) - See Aitkin County
PIPESTONE COUNTY
(H,Hw) - See Cottonwood County
POLK COUNTY
(H,Hw) - See Beltrami County
POPE COUNTY
(H,Hw) - See Big Stone County
RAMSEY COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
RED LAKE COUNTY
(H,Hw) - See Beltrami County
REDWOOD COUNTY
(H,Hw) - See Cottonwood County
RENVILLE COUNTY
None
RICE COUNTY
(H,Hw) - See Aitkin County
ROCK COUNTY
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

ROSEAU COUNTY
(H,Hw) - See Beltrami County
SAINT LOUIS COUNTY
(D) - See Cook County
(H,Hw) - See Aitkin County
Decision #MN76-2134 (B,R)
41 FR 47780 - 10/29/76
SCOTT COUNTY
(H,Hw) - See Aitkin County
(B,R) - See Anoka County
SHERBURNE COUNTY
(H,Hw) - See Aitkin County
SIBLEY COUNTY
(H,Hw) - See Aitkin County
STEARNS COUNTY
Decision #MN76-2003 (B,R)
41 FR 3610 - 1/23/76
Mod. #1 - 41 FR 20126 - 5/14/76
Mod. #2 - 41 FR 23887 - 6/11/76
Mod. #3 - 41 FR 52179 - 11/26/76
(H,Hw) - See Aitkin County
STEELE COUNTY
(H,Hw) - See Aitkin County
STEVENS COUNTY
(H,Hw) - See Big Stone County
SWIFT COUNTY
(H,Hw) - See Big Stone County
TODD COUNTY
(Hw) - See Bekcer County
TRAVERSE COUNTY
(H,Hw) - See Big Stone County
WABASHA COUNTY
(H,Hw) - See Aitkin County
WADENA COUNTY
(H,Hw) - See Becker County
WASECA COUNTY
(H,Hw) - See Aitkin County
WASHINGTON COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
WATONWAN COUNTY
None
WILKIN COUNTY
(H,Hw) - See Becker County
WINONA COUNTY
(H,Hw) - See Aitkin County
WRIGHT COUNTY
(H,Hw) - See Aitkin County
YELLOW MEDICINE COUNTY
(H,Hw) - See Cottonwood County

MISSISSIPPI

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #MS76-1137 (Hw)
41 FR 55271 - 12/17/76
Mod. #1 - 42 FR 3136 - 1/14/77
Decision #MS76-1139(W&S)
41 FR 55259 - 12/17/76
ADAMS COUNTY
Decision #AR-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(D,Hw, W&S) - See Statewide
ALCORN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
AMITE COUNTY
(D, Hw, W&S) - See Statewide
(F) - See Adams County
ATTALA COUNTY
(D,Hw, W&S) - See Statewide
BENTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
BOLIVAR COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CALHOUN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CARROLL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CHICKASAW COUNTY
(Hw, W&S) - See Statewide
(F) - See Adams County
CHOCTAW COUNTY
(Hw, W&S) - See Statewide
CLAIBORNE COUNTY
Decision #MS76-1099 (R)
41 FR 40368 - 9/17/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CLARK COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Statewide
CLAY COUNTY
(Hw, W&S) - See Statewide
COAHOMA COUNTY
Decision #MS76-1004 (R)
41 FR 1695 - 1/9/76
Mod. #1 - 41 FR 40371 - 9/17/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.)

COPIAH COUNTY
Decision #MS76-1074 (R)
41 FR 29650 - 7/16/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
COVINGTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
DE SOTO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
FORREST COUNTY
Decision #MS75-1076 (R)
40 FR 36935 - 8/22/75
Mod. #1 - 40 FR 55609 - 11/28/75
Decision #MS76-1142 (B)
41 FR 56593 - 12/28/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
FRANKLIN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GEORGE COUNTY
Decision #MS75-1077 (R)
40 FR 36935 - 8/22/75
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GREENE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GRENADA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HANCOCK COUNTY
Decision #MS76-1020 (B,H)
41 FR 4780 - 1/30/76
Mod. #1 - 41 FR 7798 - 2/21/76
Mod. #2 - 42 FR 4066 - 1/21/77
(D) - See Statewide
(F) - See Adams County
(R) - See George County
HARRISON COUNTY
(B,H) - See Hancock County
(R) - See George County
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HINDS COUNTY
Decision #MS76-1084 (B)
41 FR 35382 - 8/20/76
Mod. #1 - 41 FR 36368 - 8/27/76
Mod. #2 - 41 FR 37476 - 9/3/76
Mod. #3 - 41 FR 56551 - 12/28/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

MISSISSIPPI (Cont'd.)

HOLMES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HUMPHREYS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
ISSAQUENA COUNTY
Decision #MS76-1076 (B)
41 FR 29651 - 7/16/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
ITAWAMBA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JACKSON COUNTY
(D,Hw, W&S) - See Statewide
(B,H) - See Hancock County
(R) - See George County
JASPER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JEFFERSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JEFFERSON DAVIS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JONES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B,R) - See Forrest County
KEMPER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAFAYETTE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAMAR COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAUDERDALE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAWRENCE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LEAKE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
LEE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LEFLORE COUNTY
(F) - See Adams County
(D,Hw, W&S) - See Statewide

MISSISSIPPI (Cont'd.)

LINCOLN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LOWNDES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MADISON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
MARION COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MARSHALL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MONROE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MONTGOMERY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NESHOBA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NEWTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NOXUBEE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
OKTIBBEHA COUNTY
(D,Hw, W&S) - See Statewide
PANOLA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PEARL RIVER COUNTY
(D,Hw, W&S) - See Statewide
(B,H) - See Hancock County
(F) - See Adams County
(R) - See George County
PERRY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PIKE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PONTOTOC COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PRENTISS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
QUITMAN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.)

WANKIN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SCOTT COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SHARKEY COUNTY
(D,Hw,W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
(B) - See Issaquena County
SIMPSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SMITH COUNTY
(D,Hw, W&S) - See Statewide
(R) - See Copiah County
(F) - See Adams County
STONE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See George County
SUNFLOWER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B) - See Issaquena County
(R) - See Coahoma County
TALLAHATCHIE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TATE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TIPPAH COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TISHOMINGO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TUNICA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
UNION COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WALTHALL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.

WARREN COUNTY
Decision #MS75-1109 (B)
40 FR 53208 - 11/14/75
Mod. #1 - 41 FR 4737 - 1/30/76
Mod. #2 - 41 FR 16309 - 4/16/76
Mod. #3 - 41 FR 18266 - 4/30/76
Mod. #4 - 41 FR 30502 - 7/23/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
WASHINGTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B) - See Issaquena County
(R) - See Coahoma County
WAYNE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WEBSTER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WILKINSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WINSTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
YALOBUSHA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
YAZOO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

MISSOURI

STATEWIDE
Decision #MO76-4191 (H,Hw)
41 FR 55272 - 12/17/76
ADAIR COUNTY
(H,Hw) - See Statewide
ANDREW COUNTY
Decision #MO75-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Statewide
ATCHISON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
AUDRAIN COUNTY
(H,Hw) - See Statewide
BARRY COUNTY
(Hw) - See Statewide
BARTON COUNTY
(H,Hw) - See Statewide
BATES COUNTY
(H,Hw) - See Statewide
BENTON COUNTY
(H,Hw) - See Statewide
BOLLINGER COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(H,Hw) - See Statewide
(D) - See Andrew County
BUCHANAN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
BUTLER COUNTY
(Hw) - See Statewide
CALDWELL COUNTY
(H,Hw) - See Statewide
CALLAWAY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CAMDEN COUNTY
(H,Hw) - See Statewide
CAPE GIRARDEAU COUNTY
Decision #IL76-5026 (D)
41 FR 12858 - 3/26/76
(H,Hw) - See Statewide
CARROLL COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CARTER COUNTY
(Hw) - See Statewide
CASS COUNTY
Decision #MO76-4177 (B,H,Hw)
41 FR 50139 - 11/12/76
Decision #MO76-4103 (R)
41 FR 27602 - 7/2/76
Mod. #1 - 41 FR 34482 - 8/13/76
(H,Hw) - See Statewide
CEDAR COUNTY
(H,Hw) - See Statewide

FEDERAL REGISTER, VOL. 42, NO. 43—FRIDAY, MARCH 4, 1977

MISSOURI (Cont'd)

CHARITON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CHRISTIAN COUNTY
(Hw) - See Statewide
CLARK COUNTY
(H,Hw) - See Statewide
CLAY COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
COLE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
COOPER COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CRAWFORD COUNTY
(H,Hw) - See Statewide
DADE COUNTY
(H,Hw) - See Statewide
DALLAS COUNTY
(H,Hw) - See Statewide
DAVIESS COUNTY
(H,Hw) - See Statewide
DE KALB COUNTY
(H,Hw) - See Statewide
DENT COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide
DUNKLIN COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
Decision #MO76-4108 (B)
41 FR 27624 - 7/2/76
Mod. #1 - 41 FR 34483 - 8/13/76
Mod. #2 - 41 FR 44598 - 10/8/76
Mod. #3 - 41 FR 54108 - 12/10/76
Mod. #4 - 41 FR 56551 - 12/28/76
Decision #MO76-4107 (R)
41 FR 27621 - 7/2/76
Mod. #1 - 41 FR 34482 - 8/13/76
Mod. #2 - 41 FR 44598 - 10/8/76
Mod. #3 - 41 FR 54107 - 12/10/76
Mod. #4 - 41 FR 56551 - 12/28/76
(D) - See Andrew County
(H,Hw) - See Statewide
GASCONADE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
GENTRY COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd)

GREENE COUNTY
(H,Hw) - See Statewide
GRUNDY COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
(B,H,Hw) - See Cass County
HICKORY COUNTY
(H,Hw) - See Statewide
HOLT COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWARD COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWELL COUNTY
(Hw) - See Statewide
IRON COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
JASPER COUNTY
Decision #MO76-4176 (B)
41 FR 45781 - 10/15/76
Mod. #1 - 41 FR 48985 - 11/5/76
JEFFERSON COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
JOHNSON COUNTY
(B,H,Hw) - See Cass County
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
LACLEDE COUNTY
(H,Hw) - See Statewide
LAFAYETTE COUNTY
(B,H,Hw) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
LAWRENCE COUNTY
(H,Hw) - See Statewide
LEWIS COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(B,R) - See Franklin County
(H,Hw) - See Statewide
LINN COUNTY
(H,Hw) - See Statewide
LIVINGSTON COUNTY
(H,Hw) - See Statewide

MC DONALD COUNTY
(B) - See Jasper County
(H,Hw) - See Statewide

MISSOURI (Cont'd)

MACON COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARIES COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(H,Hw) - See Statewide
MERCER COUNTY
(H,Hw) - See Statewide
MILLER COUNTY
(H,Hw) - See Statewide
MISSISSIPPI COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
MONITEAU COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MONROE COUNTY
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NEW MADRID COUNTY
(Hw) - See Statewide
NEWTON COUNTY
(B) - See Jasper County
(H,Hw) - See Statewide
NODAWAY COUNTY
(H,Hw) - See Statewide
OREGON COUNTY
(Hw) - See Statewide
OSAGE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
OZARK COUNTY
(Hw) - See Statewide
PEMISCOT COUNTY
(Hw) - See Statewide
PERRY COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
PETTIS COUNTY
(H,Hw) - See Statewide
PHELPS COUNTY
(H,Hw) - See Statewide
PIKE COUNTY
(H,Hw) - See Statewide
PLATTE COUNTY
(B,R,H,Hw) - See Cass County
(D) - See Andrew County
POLK COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd)

PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RALLS COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RAY COUNTY
(B,R) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
REYNOLDS COUNTY
(Hw) - See Statewide
RIPLEY COUNTY
(Hw) - See Statewide
ST. CHARLES COUNTY
(B,R) - See Franklin County
(D) - See Andrew County
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
ST. CLAIR COUNTY
(H,Hw) - See Statewide
ST. FRANCOIS COUNTY
(H,Hw) - See Statewide
ST. LOUIS COUNTY
(B,R) - See Franklin County
(D) - See Cape Girardeau County
(D) - See Andrew County
(H,Hw) - See Statewide
STE. GENEVIEVE COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SALINE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
SCHUYLER COUNTY
(H,Hw) - See Statewide
SCOTLAND COUNTY
(H,Hw) - See Statewide
SCOTT COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SHANNON COUNTY
(Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
STODDARD COUNTY
(Hw) - See Statewide

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MISSOURI (Cont'd)

STONE COUNTY
(Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
TANEY COUNTY
(Hw) - See Statewide
TEXAS COUNTY
(Hw) - See Statewide
VERNON COUNTY
(H,Hw) - See Statewide
WARREN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
WORTH COUNTY
(H,Hw) - See Statewide
WRIGHT COUNTY
(Hw) - See Statewide

MONTANA

STATEWIDE
Decision #MT76-5103 (B)
41 FR 51326 - 11/19/76
Mod. #1 - 41 FR 56552 - 12/28/76
Mod. #2 - 42 FR 3137 - 1/14/77
Mod. #3 - 42 FR 5616 - 1/28/77
Decision #MT76-5099 (H,Hw)
41 FR 47789 - 10/29/76
Mod. #1 - 41 FR 51241 - 11/19/76
Mod. #2 - 42 FR 3136 - 1/14/77
BEAVERHEAD COUNTY
(B,H,Hw) - See Statewide
BIG HORN COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BROADWATER COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
CARTER COUNTY
(B,H,Hw) - See Statewide
CASCADE COUNTY
Decision #MT76-5100 (R)
41 FR 47798 - 10/29/76
Mod. #1 - 41 FR 51244 - 11/19/76
Mod. #2 - 42 FR 3136 - 1/14/77
(B,H,Hw) - See Statewide
CHOUTEAU COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
DANIELS COUNTY
(B,H,Hw) - See Statewide
DAWSON COUNTY
(B,H,Hw) - See Statewide
DEER LODGE COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
FALLON COUNTY
(B,H,Hw) - See Statewide
FERGUS COUNTY
(B,H,Hw) - See Statewide
FLATHEAD COUNTY
(B,H,Hw) - See Statewide

MONTANA (Cont'd.

GALLATIN COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GLACIER COUNTY
(R) - See Cascade County
(B,H,Hw) - See Statewide
GOLDEN VALLEY COUNTY
(B,H,Hw) - See Statewide
GRANITE COUNTY
(B,H,Hw) - See Statewide
HILL COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JUDITH BASIN COUNTY
(B,H,Hw) - See Statewide
LAKE COUNTY
(B,H,Hw) - See Statewide
LEWIS & CLARK COUNTY
(B,H,Hw) - See Statewide
LIBERTY COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MC CONE COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MEAGHER COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
MISSOULA COUNTY
(R) - See Cascade County
(B,H,Hw) - See Statewide
MUSSELSHELL COUNTY
(B,H,Hw) - See Statewide
PARK COUNTY
(B,H,Hw) - See Statewide
PETROLEUM COUNTY
(B,H,Hw) - See Statewide
PHILLIPS COUNTY
(B,H,Hw) - See Statewide
PONDERA COUNTY
(B,H,Hw) - See Statewide
POWDER RIVER COUNTY
(B,H,Hw) - See Statewide
POWELL COUNTY
(B,H,Hw) - See Statewide
PRAIRIE COUNTY
(B,H,Hw) - See Statewide
RAVALLI COUNTY
(B,H,Hw) - See Statewide

MONTANA (Cont'd.)

RICHLAND COUNTY
(B,H,Hw) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide
ROSEBUD COUNTY
(B,H,Hw) - See Statewide
SANDERS COUNTY
(B,H,Hw) - See Statewide
SHERIDAN COUNTY
(B,H,Hw) - See Statewide
SILVER BOW COUNTY
(R) - See Cascade County
(B,H,Hw) - See Statewide
STILLWATER COUNTY
(B,H,Hw) - See Statewide
SWEET GRASS COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TOOLE COUNTY
(B,H,Hw) - See Statewide
TREASURE COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
WHEATLAND COUNTY
(B,H,Hw) - See Statewide
WIBAUX COUNTY
(B,H,Hw) - See Statewide
YELLOWSTONE COUNTY
(B,H,Hw) - See Statewide

NEBRASKA

ADAMS COUNTY
Decision #NE77-4001 (H,Hw)
42 FR 1685 - 1/7/77
ANTELOPE COUNTY
(H,Hw) - See Adams County
ARTHUR COUNTY
(H,Hw) - See Adams County
BANNER COUNTY
Decision #NE76-4190 (B)
41 FR 54132 - 12/10/76
(H,Hw) - See Adams County
BLAINE COUNTY
(H,Hw) - See Adams County
BOONE COUNTY
(H,Hw) - See Adams County
BOX BUTTE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
BOYD COUNTY
(H,Hw) - See Adams County
Decision #NE76-4184 (Channel Stabilization)
41 FR 53259 - 12/3/76
BROWN COUNTY
(H,Hw) - See Adams County
BUFFALO COUNTY
(H,Hw) - See Adams County
BURT COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
BUTLER COUNTY
(H,Hw) - See Adams County
CASS COUNTY
(Chann. Stab.) - See Boyd County
Decision #NE76-4179 (H,Hw)
41 FR 46837 - 10/22/76
Mod. #1 - 41 FR 50118 - 11/12/76
CEDAR COUNTY
Decision #NE75-4202 (B)
40 FR 58047 - 12/12/75
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
CHASE COUNTY
(H,Hw) - See Adams County
CHERRY COUNTY
(H,Hw) - See Adams County
CHEYENNE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
CLAY COUNTY
(H,Hw) - See Adams County
COLFAX COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

CUMING COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
CUSTER COUNTY
(H,Hw) - See Adams County
DAKOTA COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DAWES COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DAWSON COUNTY
(H,Hw) - See Adams County
DEUEL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DIXON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DODGE COUNTY
(H,Hw) - See Adams County
DOUGLAS COUNTY
Decision #NE77-4003 (B,R)
42 FR 4085 - 1/21/77
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
DUNDY COUNTY
(H,Hw) - See Adams County
FILLMORE COUNTY
(H,Hw) - See Adams County
FRANKLIN COUNTY
(H,Hw) - See Adams County
FRONTIER COUNTY
(H,Hw) - See Adams County
FURNAS COUNTY
(H,Hw) - See Adams County
GAGE COUNTY
(H,Hw) - See Adams County
GARDEN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
GARFIELD COUNTY
(H,Hw) - See Adams County
GOSPER COUNTY
(H,Hw) - See Adams County
GRANT COUNTY
(H,Hw) - See Adams County
GREELEY COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

HALL COUNTY
Decision #NE76-4107 (B)
41 FR 33150 - 8/6/76
(H,Hw) - See Adams County
HAMILTON COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
HARLAN COUNTY
(H,Hw) - See Adams County
HAYES COUNTY
(H,Hw) - See Adams County
HITCHCOCK COUNTY
(H,Hw) - See Adams County
HOLT COUNTY
(H,Hw) - See Adams County
HOOKER COUNTY
(H,Hw) - See Adams County
HOWARD COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
JEFFERSON COUNTY
(H,Hw) - See Adams County
JOHNSON COUNTY
(H,Hw) - See Adams County
KEARNEY COUNTY
(H,Hw) - See Adams County
KEITH COUNTY
(H,Hw) - See Adams County
KEYAPAHA COUNTY
(H,Hw) - See Adams County
KIMBALL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
KNOX COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
LANCASTER COUNTY
Decision #NE77-4017 (B)
42 FR 7060 - 2/4/77
Decision #NE76-4178 (R)
41 FR 45813 - 10/15/76
(H,Hw) - See Adams County
LINCOLN COUNTY
(H,Hw) - See Adams County
LOGAN COUNTY
(H,Hw) - See Adams County
LOUP COUNTY
(H,Hw) - See Adams County
MC PHERSON COUNTY
(H,Hw) - See Adams County
MADISON COUNTY
(H,Hw) - See Adams County
MERRICK COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
MORRILL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

NANCE COUNTY
(H,Hw) - See Adams County
NEMAHA COUNTY
Decision #M075-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
NUCKOLLS COUNTY
(H,Hw) - See Adams County
OTOE COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
PAWNEE COUNTY
(H,Hw) - See Adams County
PERKINS COUNTY
(H,Hw) - See Adams County
PHELPS COUNTY
(H,Hw) - See Adams County
PIERCE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
PLATTE COUNTY
(H,Hw) - See Adams County
POLK COUNTY
(H,Hw) - See Adams County
RED WILLOW COUNTY
(H,Hw) - See Adams County
RICHARDSON COUNTY
(Chann. Stab.) - See Boyd County
(D) - See Nemaha County
(H,Hw) - See Adams County
ROCK COUNTY
(H,Hw) - See Adams County
SALINE COUNTY
(H,Hw) - See Adams County
SARPY COUNTY
(Chann. Stab.) - See Boyd County
(B,R) - See Douglas County
(H,Hw) - See Cass County
SAUNDERS COUNTY
(H,Hw) - See Adams County
(H,Hw) - See Cass County
SCOTTS BLUFF COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SEWARD COUNTY
(H,Hw) - See Adams County
SHERIDAN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SHERMAN COUNTY
(H,Hw) - See Adams County
SIOUX COUNTY
(B) - See Banner County
(H,Hw) - See Adams County

NEBRASKA (Cont'd)

STANTON COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
THAYER COUNTY
(H,Hw) - See Adams County
THOMAS COUNTY
(H,Hw) - See Adams County
THURSTON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
VALLEY COUNTY
(H,Hw) - See Adams County
WASHINGTON COUNTY
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
WAYNE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
WEBSTER COUNTY
(H,Hw) - See Adams County
WHEELER COUNTY
(H,Hw) - See Adams County
YORK COUNTY
(H,Hw) - See Adams County

NEVADA

STATEWIDE (Excluding the Nevada Test Site & Tonopah Test Range)
Decision #NV77-5004 (B,H,Hw)
42 FR 1000 - 1/4/77
Mod. #1 - 42 FR 3137 - 1/14/77
Mod. #2 - 42 FR 5616 - 1/28/77
Mod. #3 - 42 FR 7032 - 2/4/77
CARSON CITY COUNTY
(B,D,Hw) - See Statewide
CHURCHILL COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
Decision #NV76-5114 (R)(Excluding Nevada Test Site)
41 FR 54133 - 12/10/76
Mod. #1 - 42 FR 989 - 1/4/77
Mod. #2 - 42 FR 3138 - 1/14/77
Mod. #3 - 42 FR 5616 - 1/28/77
(B,H,Hw) - See Statewide
Decision #NV76-5080 (B,H,Hw)(Nevada Test Site including the Tonopah Test Range
41 FR 35384 - 8/20/76
Mod. #1 - 41 FR 51250 - 11/19/76
Mod. #2 - 41 FR 52180 - 11/26/76
Mod. #3 - 42 FR 3138 - 1/14/77
DOUGLAS COUNTY
(B,H,Hw) - See Statewide
ELKO COUNTY
(B,H,Hw) - See Statewide
ESMERALDA COUNTY
(B,H,Hw) - See Statewide
EUREKA COUNTY
(B,H,Hw) - See Statewide
HUMBOLDT COUNTY
(B,H,Hw) - See Statewide
LANDER COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LYON COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
NYE COUNTY
(B,H,Hw) - See Clark Co. (Nevada Test Site)
(B,H,Hw) - See Statewide
PERSHING COUNTY
(B,H,Hw) - See Statewide
STOREY COUNTY
(B,H,Hw) - See Statewide
WASHOE COUNTY
Decision #NV76-5115 (R)
41 FR 54138 - 12/10/76
Mod. #1 - 42 FR 989 - 1/4/77
(B,H,Hw) - See Statewide
WHITE PINE COUNTY
(B,H,Hw) - See Statewide

NEW HAMPSHIRE

BELKNAP COUNTY
None
CARROLL COUNTY
None
CHESHIRE COUNTY
None
COOS COUNTY
None
GRAFTON COUNTY
None
HILLSBORO COUNTY
Decision #NH77-2001 (B,H,Hw,R)
42 FR 4087 - 1/21/77
MERRIMACK COUNTY
Decision #NH77-2002 (B,H,Hw, & Marine)
42 FR 4090 - 1/21/77
ROCKINGHAM COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
Decision #NH77-2003 (B,H,Hw,R, & Marine)
42 FR 5625 - 1/28/77
STRAFFORD COUNTY
Decision #NH77-2004 (B,H,Hw, & Marine)
42 FR 5629 - 1/28/77
SULLIVAN COUNTY
None

NEW JERSEY

ATLANTIC COUNTY
Decision #NJ76-3248 (B,H,Hw)
41 FR 43598 - 10/1/76
Mod. #1 - 41 FR 44599 - 10/8/76
Mod. #2 - 41 FR 52180 - 11/26/76
Mod. #3 - 41 FR 53233 - 12/3/76
Mod. #4 - 42 FR 4067 - 1/21/77
Mod. #5 - 42 FR 7033 - 2/4/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BERGEN COUNTY
Decision #NJ76-3252 (R)
41 FR 47827 - 10/29/76
Mod. #1 - 41 FR 52182 - 11/26/76
Mod. #2 - 42 FR 7034 - 2/4/77
Decision #NJ76-3249 (B,H,Hw)
41 FR 43613 - 10/1/76
Mod. #1 - 41 FR 44599 - 10/8/76
Mod. #2 - 41 FR 52181 - 11/26/76
Mod. #3 - 41 FR 53233 - 12/3/76
Mod. #4 - 42 FR 4067 - 1/21/77
Mod. #5 - 42 FR 7034 - 2/4/77
(D) - See Atlantic County

NEW JERSEY (Cont'd.)

BURLINGTON COUNTY
Decision #NJ75-3096 (R)
40 FR 43413 - 9/19/75
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAMDEN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAPE MAY COUNTY
Decision #NJ75-3068 (R)
40 FR 29437 - 7/11/75
(B,H,Hw,D) - See Atlantic County
CUMBERLAND COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
ESSEX COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
GLOUCESTER COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
HUDSON COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
HUNTERDON COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MERCER COUNTY
(B,D,H,Hw) - See Atlantic County
MIDDLESEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MONMOUTH COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County

NEW JERSEY (Cont'd.)

MORRIS COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
OCEAN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
PASSAIC COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
SALEM COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
SOMERSET COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
SUSSEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
UNION COUNTY
Decision #NJ75-3097 (R)
40 FR 43414 - 9/19/75
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
WARREN COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County

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NEW MEXICO

STATEWIDE
Decision #NM76-4181 (Streets, Highways, Utilities and Light Engineering Construction)
41 FR 50160 - 11/12/76
Decision #NM76-4182 (Building, including residential in McKinley, Santa Fe, San Juan, Bernalillo, Rio Arriba, Taos, Sandoval, & Valencia Cos., but not on the Indian Reservation, and Heavy engineering construction.
41 FR 50163 - 11/12/76
Mod. #1 - 41 FR 53234 - 12/3/76
Mod. #2 - 41 FR 55268 - 12/17/76
Mod. #3 - 41 FR 56553 - 12/28/76
Mod. #4 - 42 FR 7035 - 2/4/77
BERNALILLO COUNTY
(B,H,Hw,R) - See Statewide
CATRON COUNTY
(B,H,Hw) - See Statewide
CHAVES COUNTY
(B,H,Hw) - See Statewide
COLFAX COUNTY
(B,H,Hw) - See Statewide
CURRY COUNTY
(B,H,Hw) - See Statewide
DE BACA COUNTY
(B,H,Hw) - See Statewide
DONA ANA COUNTY
(B,H,Hw) - See Statewide
Decision #NM75-4014 (R)
40 FR 3148 - 1/17/75
EDDY COUNTY
(B,H,Hw) - See Statewide
GRANT COUNTY
(B,H,Hw) - See Statewide
GUADALUPE COUNTY
(B,H,Hw) - See Statewide
HARDING COUNTY
(B,H,Hw) - See Statewide
HIDALGO COUNTY
(B,H,Hw) - See Statewide
LEA COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LOS ALAMOS COUNTY
(B,H,Hw) - See Statewide
LUNA COUNTY
(B,H,Hw) - See Statewide
McKINLEY COUNTY
(R) - See San Juan County
(B,H,Hw,R) - See Statewide

NEW MEXICO (Cont'd.)

MORA COUNTY
(B,H,Hw) - See Statewide
OTERO COUNTY
(R) - See Dona Ana County
(B,H,Hw) - See Statewide
QUAY COUNTY
(B,H,Hw) - See Statewide
RIO ARRIBA COUNTY
(B,H,Hw,R) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide
SANDOVAL COUNTY
(B,H,Hw,R) - See Statewide
SAN JUAN COUNTY
Decision #NM75-5004 (R)(Navajo Indian Reservation)
40 FR 3921 - 1/24/75
(B,H,Hw,R) - See Statewide
SAN MIGUEL COUNTY
(B,H,Hw) - See Statewide
SANTE FE COUNTY
(B,H,Hw,R) - See Statewide
SIERRA COUNTY
(B,H,Hw) - See Statewide
SOCORRO COUNTY
(B,H,Hw) - See Statewide
TAOS COUNTY
(B,H,Hw,R) - See Statewide
TORRANCE COUNTY
(B,H,Hw) - See Statewide
UNION COUNTY
(B,H,Hw) - See Statewide
VALENCIA COUNTY
(B,H,Hw,R) - See Statewide

NEW YORK

ALBANY COUNTY
Decision #NY76-3277 (B,H,Hw)
41 FR 51342 - 11/19/76
ALLEGANY COUNTY
None
BRONX COUNTY
Decision #NY76-3256 (B,H,Hw)
41 FR 44645 - 10/8/76
Mod. #1 - 41 FR 50120 - 11/12/76
Decision #NY77-3022 (R)
42 FR 7063 - 2/4/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BROOME COUNTY
Decision #NY76-3240 (B,H,Hw)
41 FR 35439 - 8/20/76
Mod. #1 - 41 FR 44600 - 10/8/76
Mod. #2 - 41 FR 50120 - 11/12/76
CATTARAUGUS COUNTY
None
CAYUGA COUNTY
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
CHAUTAUQUA COUNTY
Decision #NY76-3259 (B,H,Hw)
41 FR 47840 - 10/29/76
Mod. #1 - 41 FR 50120 - 11/12/76
(D) - See Cayuga County
CHEMUNG COUNTY
Decision #NY76-3263 (B,H,Hw)
41 FR 47860 - 10/29/76
Mod. #1 - 41 FR 50121 - 11/12/76
CHENANGO COUNTY
None
CLINTON COUNTY
None
COLUMBIA COUNTY
None
CORTLAND COUNTY
None
DELAWARE COUNTY
None

NEW YORK (Cont'd)

DUTCHESS COUNTY
Decision #NY76-3280 (B,H,Hw)
41 FR 50174 - 11/12/76
(D) - See Bronx County
ERIE COUNTY
Decision #NY76-3236 (B,H,Hw)
41 FR 36387 - 8/27/76
Mod. #1 - 41 FR 50119 - 11/12/76
(D) - See Cayuga County
ESSEX COUNTY
None
FRANKLIN COUNTY
(D) - See Cayuga County
FULTON COUNTY
None
GENESEE COUNTY
None
GREENE COUNTY
None
HAMILTON COUNTY
None
HERKIMER COUNTY
None
JEFFERSON COUNTY
Decision #NY76-3269 - (B,H,Hw)
41 FR 47896 - 10/29/76
Mod. #1 - 41 FR 50122 - 11/12/76
(D) - See Cayuga County
KINGS COUNTY
(B,H,Hw,R,D) - See Bronx County
LEWIS COUNTY
None
LIVINGSTON COUNTY
None
MADISON COUNTY
None

NEW YORK (Cont'd)

MONROE COUNTY
Decision #NY76-3262 (B,H,Hw)
41 FR 47854 - 10/29/76
Mod. #1 - 41 FR 50120 - 11/12/76
(D) - See Cayuga County
MONTGOMERY COUNTY
None
NASSAU COUNTY
Decision #NY76-3278 (B,H,Hw)
41 FR 51348 - 11/19/76
(D) - See Bronx County
NEW YORK COUNTY
(B,H,Hw,R,D) - See Bronx County
NIAGARA COUNTY
Decision #NY76-3261 (B,H,Hw)
41 FR 47850 - 10/29/76
Mod. #1 - 41 FR 50120 - 11/12/76
(D) - See Cayuga County
ONEIDA COUNTY
Decision #NY76-3270 (B,H,Hw)
41 FR 4790 - 10/29/76
Mod. #1 - 41 FR 50122 - 11/12/76
ONONDAGA COUNTY
Decision #NY76-3258 (B,H,Hw)
41 FR 47835 - 10/29/76
Mod. #1 - 41 FR 50120 - 11/12/76
ONTARIO COUNTY
None
ORANGE COUNTY
Decision #NY76-3279 (B,H,Hw)
41 FR 52271 - 11/26/76
(D) - See Bronx County
ORLEANS COUNTY
(D) - See Cayuga County
OSWEGO COUNTY
(D) - See Cayuga County
OTSEGO COUNTY
None
PUTNAM COUNTY
(D) - See Bronx County
QUEENS COUNTY
(B,D,H,Hw,R) - See Bronx County

NEW YORK (Cont'd)

RENSSELAER COUNTY
(B,H,Hw) - See Albany County
RICHMOND COUNTY
(B,H,Hw,R,D) - See Bronx County
ROCKLAND COUNTY
(D) - See Bronx County
ST LAWRENCE COUNTY
(D) - See Cayuga County
SARATOGA COUNTY
(B,H,Hw) - See Albany County
SCHENECTADY COUNTY
(B,H,Hw) - See Albany County
SCHOHARIE COUNTY
None
SCHUYLER COUNTY
None
SENECA COUNTY
None
STEUBEN COUNTY
Decision #NY76-3268 (B,H,Hw)
41 FR 47890 - 10/29/76
Mod. #1 - 41 FR 50121 - 11/12/76
SUFFOLK COUNTY
(B,H,Hw) - See Nassau County
(D) - See Bronx County
SULLIVAN COUNTY
None
TIOGA COUNTY
None

NEW YORK (Cont'd.)

TOMPKINS COUNTY
None
ULSTER COUNTY
None
WARREN COUNTY
None
WASHINGTON COUNTY
None
WAYNE COUNTY
Decision #NY76-3267 (B,H,Hw)
41 FR 47884 - 10/29/76
Mod. #1 - 41 FR 50121 - 11/12/76
(D) - See Cayuga County
WESTCHESTER COUNTY
Decision #NY76-3281 (B,H,Hw)
41 FR 50181 - 11/12/76
(D) - See Bronx County
WYOMING COUNTY
None
YATES COUNTY
None

NORTH CAROLINA

STATEWIDE
Decision #NC75-1015 (Hw)
40 FR 4857 - 1/31/75
Mod. #1 - 40 FR 41351 - 9/5/75
Decision #NC75-1078 (Sewer & Water, H)
40 FR 41367 - 9/5/75
ALAMANCE COUNTY
Decision #NC76-1095 (R)
41 FR 37507 - 9/3/76
(Sewer & Water, H,Hw) - See Statewide
ALEXANDER COUNTY
(Sewer & Water, H,Hw) - See Statewide
ALLEGHANY COUNTY
(Sewer & Water, H,Hw) - See Statewide
ANSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ASHE COUNTY
(Sewer & Water, H,Hw) - See Statewide
AVERY COUNTY
Decision #AR-4017 (B)
39 FR 28739 - 8/9/74
Mod. #1 - 39 FR 43466 - 12/13/74
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #NC76-1109 (R)
41 FR 42120 - 9/24/76
Decision #GA77-5005 (D)
42 FR 1015 - 1/4/77
Mod. #1 - 42 FR 3140 - 1/14/77
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.)

BERTIE COUNTY
(D,R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
BLADEN COUNTY
(Sewer & Water, H,Hw) - See Statewide
BRUNSWICK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
Decision #NC77-1013 (R)
42 FR 7065 - 2/4/77
BUNCOMBE COUNTY
Decision #NC76-1062 (B)
41 FR 21119 - 5/21/76
Mod. #1 - 41 FR 29614 - 7/16/76
Mod. #2 - 41 FR 34486 - 8/13/76
Decision #NC75-1014 (R)
40 FR 6111 - 2/7/75
(Sewer & Water, H,Hw) - See Statewide
BURKE COUNTY
Decision #NC77-1014 (B)
42 FR 7065 - 2/4/77
Decision #AQ-4117 (R)
39 FR 18397 - 5/24/74
(Sewer & Water, H,Hw) - See Statewide
CABARRUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CALDWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CAMDEN COUNTY
Decision #NC76-1042 (B)
41 FR 11721 - 3/19/76
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CARTERET COUNTY
Decision #NC76-1019 (B)
41 FR 4796 - 1/30/76
Mod. #1 - 41 FR 21995 - 5/28/76
Decision #NC76-1073 (R)
41 FR 28469 - 7/9/76
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CASWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CATAWBA COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
CHATHAM COUNTY
Decision #NC75-1049 (B)
40 FR 18273 - 4/25/75
Mod. #1 - 41 FR 20128 - 5/14/76
Decision #NC76-1094 (R)
41 FR 37506 - 9/3/76
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
(Sewer & Water, H,Hw) - See Statewide
CHOWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D,R) - See Beaufort County
CLAY COUNTY
(Sewer & Water, H,Hw) - See Statewide
CLEVELAND COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide

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NORTH CAROLINA (Cont'd.

COLUMBUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CRAVEN COUNTY
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
CUMBERLAND COUNTY
Decision #NC76-1024 (B)
41 FR 6945 - 2/13/76
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
CURRITUCK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(B) - See Camden County
DARE COUNTY
(B) - See Camden County
(Sewer & Water, H,Hw) - See Statewide
(D,R) - See Beaufort County
DAVIDSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
DAVIE COUNTY
(Sewer & Water, H,Hw) - See Statewide
DUPLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
DURHAM COUNTY
Decision #NC76-1085 (R)
41 FR 35317 - 8/20/76
(Sewer & Water, H,Hw) - See Statewide
EDGECOMBE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
Decision #NC76-1046 (H)
41 FR 15231 - 4/9/76
FORSYTH COUNTY
Decision #AR-4019 (R)
39 FR 29702 - 8/16/74
(Sewer & Water, H,Hw) - See Statewide
FRANKLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
GASTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
GATES COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
GRAHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
GRANVILLE COUNTY
Decision #NC76-1121 (B)
41 FR 46805 - 10/22/76
(Sewer & Water, H,Hw) - See Statewide
GREENE COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County

NORTH CAROLINA (Cont'd.

GUILFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County
HALIFAX COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
HARNETT COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HAYWOOD COUNTY
(Sewer & Water, H,Hw) -See Statewide
HENDERSON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
HERTFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(R) - See Beaufort County
HOKE COUNTY
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HYDE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
IREDELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
JACKSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
JOHNSTON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
JONES COUNTY
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
LENOIR COUNTY
(Sewer & Water, H,Hw) - See Statewide
(B,R) - See Carteret County
LINCOLN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Burke County
MCDOWELL COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MACON COUNTY
(Sewer & Water, H,Hw) - See Statewide
MADISON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MARTIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
MECKLENBURG COUNTY
Decision #NC75-1115 (B)
40 FR 59177 - 12/19/75
Mod. #1 - 41 FR 9721 - 3/5/76
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.

MITCHELL COUNTY
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
MONTGOMERY COUNTY
(Sewer & Water, H,Hw) - See Statewide
MOORE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
NASH COUNTY
(B) - See Edgecombe County
(R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NEW HANOVER COUNTY
Decision #NC75-1054 (B)
40 FR 22723 - 5/23/75
Mod. #1 - 40 FR 43420 - 9/19/75
Mod. #2 - 41 FR 20128 - 5/14/76
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NORTHAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
ONSLOW COUNTY
(D) - See Beaufort County
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
ORANGE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Durham County
PAMLICO COUNTY
(B,R) - See Carteret County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PASQUOTANK COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PENDER COUNTY
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERQUIMANS COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERSONS COUNTY
(Sewer & Water, H,Hw) - See Statewide
PITT COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
POLK COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
RANDOLPH COUNTY
(R) - See Alamance County
(Sewer & Water, H,Hw) - See Statewide
RICHMOND COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROBESTON COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd)

ROCKINGHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County
ROWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide
RUTHERFORD COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
SAMPSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chatham County
SCOTLAND COUNTY
(Sewer & Water, H,Hw) - See Statewide
STANLY COUNTY
(Sewer & Water, H,Hw) - See Statewide
STOKES COUNTY
(Sewer & Water, H,Hw) - See Statewide
SURRY COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Forsyth County
SWAIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
TRANSYLVANIA COUNTY
Decision #NC76-1087 (B)
41 FR 36399 - 8/27/76
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
TYRRELL COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
UNION COUNTY
(Sewer & Water, H,Hw) - See Statewide
VANCE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WAKE COUNTY
Decision #NC76-1044 (B)
41 FR 14294 - 4/2/76
(R) - See Durham County
(Sewer & Water, H,Hw) - See Statewide
WARREN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WASHINGTON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
WATAUGA COUNTY
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
WAYNE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
WILKES COUNTY
Decision #NC76-1068 (B)
41 FR 22011 - 5/28/76
(Sewer & Water, H,Hw) - See Statewide
WILSON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
YADKIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
YANCEY COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH DAKOTA

STATEWIDE
Decision #ND75-5109 (Hw)
40 FR 40022 - 8/29/75
ADAMS COUNTY
(Hw) - See Statewide
BARNES COUNTY
(Hw) - See Statewide
BENSON COUNTY
(Hw) - See Statewide
BILLINGS COUNTY
(Hw) - See Statewide
BOTTINEAU COUNTY
(Hw) - See Statewide
BOWMAN COUNTY
(Hw) - See Statewide
BURKE COUNTY
(Hw) - See Statewide
BURLEIGH COUNTY
Decision #ND76-5108 (B)
41 FR 51353 - 11/19/76
(Hw) - See Statewide
CASS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
CAVALIER COUNTY
(Hw) - See Statewide
DICKEY COUNTY
(Hw) - See Statewide
DIVIDE COUNTY
(Hw) - See Statewide
DUNN COUNTY
(Hw) - See Statewide
EDDY COUNTY
(Hw) - See Statewide
EMMONS COUNTY
(Hw) - See Statewide
FOSTER COUNTY
(Hw) - See Statewide
GOLDEN VALLEY COUNTY
(Hw) - See Statewide

NORTH DAKOTA (Cont'd)

GRAND FORKS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
GRANT COUNTY
(Hw) - See Statewide
GRIGGS COUNTY
(Hw) - See Statewide
HETTINGER COUNTY
(Hw) - See Statewide
KIDDER COUNTY
(Hw) - See Statewide
LA MOURE COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
MCHENRY COUNTY
(Hw) - See Statewide
MCINTOSH COUNTY
(Hw) - See Statewide
MCKENZIE COUNTY
(Hw) - See Statewide
MCLEAN COUNTY
(Hw) - See Statewide
MERCER COUNTY
(Hw) - See Statewide
MORTON COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
MOUNTRAIL COUNTY
(Hw) - See Statewide
NELSON COUNTY
(Hw) - See Statewide
OLIVER COUNTY
(Hw) - See Statewide
PEMBINA COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
RAMSEY COUNTY
(Hw) - See Statewide
RANSOM COUNTY
(Hw) - See Statewide
RENVILLE COUNTY
(Hw) - See Statewide
RICHLAND COUNTY
(Hw) - See Statewide
(B) - See Burleigh County

NORTH DAKOTA (Cont'd.)

ROLETTE COUNTY
(Hw) - See Statewide
SARGENT COUNTY
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SIOUX COUNTY
(Hw) - See Statewide
SLOPE COUNTY
(Hw) - See Statewide
STARK COUNTY
(Hw) - See Statewide
STEELE COUNTY
(B) - See Burleigh County
(Hw) - See Statewide
STUTSMAN COUNTY
(Hw) - See Statewide
TOWNER COUNTY
(Hw) - See Statewide
TRAILL COUNTY
(Hw) - See Statewide
WALSH COUNTY
(H) - See Burleigh County
(Hw) - See Statewide
WARD COUNTY
(B) - See Burleigh County
(Hw) - See Statewide
WELLS COUNTY
(Hw) - See Statewide
WILLIAMS COUNTY
(Hw) - See Statewide

OHIO

STATEWIDE
Decision #OH76-2041 (H,Hw)
41 FR 15300 - 4/9/76
Mod. #1 - 41 FR 32101 - 7/30/76
Mod. #2 - 41 FR 34486 - 8/13/76
Mod. #3 - 41 FR 37477 - 9/3/76
Mod. #4 - 41 FR 52183 - 11/26/76
Mod. #5 - 41 FR 56553 - 12/28/76
ADAMS COUNTY
Decision #IL76-5026 (D)
41 FR 12858 - 3/26/76
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #OH76-2071 (B)
41 FR 22752 - 6/4/76
(H,Hw) - See Statewide
ASHLAND COUNTY
(H,Hw) - See Statewide

OHIO

ASHTABULA COUNTY
Decision #OH76-2074 (B,R)
41 FR 23911 - 6/11/76
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(H,Hw) - See Statewide
ATHENS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
AUGLAIZE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BELMONT COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
BUTLER COUNTY
Decision #OH76-2062 (B)
41 FR 21120 - 5/21/76
Mod. #1 - 41 FR 47716 - 10/29/76
Decision #OH76-2030 (R)
41 FR 9800 - 3/5/76
(H,Hw) - See Statewide
CARROLL COUNTY
(H,Hw) - See Statewide
CHAMPAIGN COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
Decision #OH77-2005 (B)
42 FR 4093 - 1/21/77
Decision #AP-684 (R)
38 FR 14049 - 5/25/73
(H,Hw) - See Statewide
CLERMONT COUNTY
Decision #OH76-2029 (R)
41 FR 8739 - 2/27/76
(B) - See Hamilton County
(D) - See Adams County
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
COLUMBIANA COUNTY
Decision #OH76-2060 (H)
41 FR 19001 - 5/7/76
(H,Hw) - See Statewide
COSHOCTON COUNTY
(H,Hw) - See Statewide
CRAWFORD COUNTY
(H,Hw) - See Statewide
CUYAHOGA COUNTY
Decision #OH76-2069 (B,R)
41 FR 23909 - 6/11/76
Mod. #1 - 41 FR 51250 - 11/19/76
(D) - See Ashtabula County
(H,Hw) - See Statewide

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OHIO (Cont'd)

DARKE COUNTY
(H,Hw) - See Statewide
DEFIANCE COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
Decision #AM-420 (R)
36 FR 15963 - 8/18/71
Mod. #1 - 38 FR 4630 - 2/16/73
(H,Hw) - See Statewide
ERIE COUNTY
Decision #OH76-2075 (B)
41 FR 23913 - 6/11/76
(D) - See Ashtabula County
(H,Hw) - See Statewide
FAIRFIELD COUNTY
(R) - See Delaware County
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
FRANKLIN COUNTY
(B) - See Clark County
(R) - See Delaware County
(H,Hw) - See Statewide
FULTON COUNTY
(B) - See Lucas County
(H,Hw) - See Statewide
GALLIA COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
GEAUGA COUNTY
(H,Hw) - See Statewide
GREENE COUNTY
(B) - See Clarke County
Decision #OH75-2109 (R)
40 FR 42498 - 9/12/75
(H,Hw) - See Statewide
GUERNSEY COUNTY
(H,Hw) - See Statewide
HAMILTON COUNTY
Decision #OH76-2110 (B)
41 FR 40402 - 9/17/76
(D) - See Adams County
(R) - See Clermont County
(H,Hw) - See Statewide
HANCOCK COUNTY
Decision #OH76-2076 (B)
41 FR 24851 - 6/18/76
Mod. #1 - 41 FR 37477 - 9/3/76
(H,Hw) - See Statewide
HARDIN COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd)

HARRISON COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
HIGHLAND COUNTY
(H,Hw) - See Statewide
HOCKING COUNTY
(H,Hw) - See Statewide
HOLMES COUNTY
(H,Hw) - See Statewide
HURON COUNTY
(B) - See Erie County
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(B,R) - See Cuyahoga County
(D) - See Ashtabula County
(H,Hw) - See Statewide
LAWRENCE COUNTY
(B) - See Clark County
(D) - See Adams County
(H,Hw) - See Statewide
LICKING COUNTY
(B)- See Clark County
(H,Hw) - See Statewide
(R) - See Delaware County
LOGAN COUNTY
(H,Hw) - See Statewide
LORAIN COUNTY
Decision #OH76-2073 (B)
41 FR 22754 - 6/4/76
(D) - See Ashtabula County
(H,Hw) - See Statewide
LUCAS COUNTY
Decision #OH76-2117 (B)
41 FR 43631 - 10/1/76
(H,Hw) - See Statewide
MADISON COUNTY
(B) - See Franklin County
(R) - See Delaware County
(H,Hw) - See Statewide
MAHONING COUNTY
Decision #OH76-2085 (B,R)
41 FR 30557 - 7/23/76
(H,Hw) - See Statewide

OHIO (Cont'd)

MARION COUNTY
(H,Hw) - See Statewide
MEDINA COUNTY
(H,Hw) - See Statewide
MEIGS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
MERCER COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MIAMI COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
MONROE COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(B) - See Greene County
(R) - See Greene County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
MORROW COUNTY
(H,Hw) - See Statewide
MUSKINGUM COUNTY
(B) - See Clark County
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide
OTTAWA COUNTY
(R) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
PAULDING COUNTY
(H,Hw) - See Statewide
PERRY COUNTY
(H,Hw) - See Statewide
PICKAWAY COUNTY
(B) - See Franklin County
(R) - See Delaware County
(H,Hw) - See Statewide
PIKE COUNTY
(B) - See Clark County
(H,Hw) - See Statewide
PORTAGE COUNTY
Decision #OH76-2089 (B,R)
41 FR 30561 - 7/23/76
(H,Hw) - See Statewide

OHIO (Cont'd.)

PREBLE COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RICHLAND COUNTY
Decision #OH76-2053 (B)
41 FR 16303 - 4/16/76
(H,Hw) - See Statewide
ROSS COUNTY
(B) - See Pike County
(H,Hw) - See Statewide
SANDUSKY COUNTY
(B) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
SCIOTO COUNTY
(B) - See Pike County
(D) - See Adams County
(H,Hw) - See Statewide
SENECA COUNTY
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
STARK COUNTY
Decision #OH76-2090 (B,R)
41 FR 32171 - 7/30/76
(H,Hw) - See Statewide
SUMMITT COUNTY
Decision #OH76-2091 (B,R)
41 FR 32173 - 7/30/76
(H,Hw) - See Statewide
TRUMBULL COUNTY
Decision #OH76-2092 (B,R)
41 FR 34528 - 8/13/76
(H,Hw) - See Statewide
TUSCARAWAS COUNTY
Decision #OH76-2054 (B)
41 FR 17285 - 4/23/76
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
VAN WERT COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
VINTON COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd.

WARREN COUNTY
(R) - See Butler County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
WAYNE COUNTY
(H,Hw) - See Statewide
WILLIAMS COUNTY
(H,Hw) - See Statewide
WOOD COUNTY
Decision #OH76-2055 (B)
41 FR 18261 - 4/30/76
(H,Hw) - See Statewide
WYANDOT COUNTY
(H,Hw) - See Statewide

OKLAHOMA

STATEWIDE (Except the City of Muskogee)
Decision #OK76-4073 (Constr., Alteration, and/or repair of streets, highways, runways, erosion control structures, well drilling, and water, and sewer utilities)
41 FR 16422 - 4/16/76
ADAIR COUNTY
(B) - See Muskogee County
(H,Hw) - See Statewide
ALFALFA COUNTY
(H,Hw) - See Statewide
ATOKA COUNTY
(H,Hw) - See Statewide
BEAVER COUNTY
(H,Hw) - See Statewide
BECKHAM COUNTY
(H,Hw) - See Statewide
BLAINE COUNTY
(H,Hw) - See Statewide
BRYAN COUNTY
(H,Hw) - See Statewide
Decision #OK76-4001 (R)
41 FR 2604 - 1/16/76
CADDO COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
Decision #OK776-4002 (B)
42 FR 3155 - 1/14/77

Decision #OK76-4109 (R)
41 FR 27648 - 7/2/76
CARTER COUNTY
(H,Hw) - See Statewide
CHEROKEE COUNTY
(B) - See Muskogee County
(H,Hw) - See Statewide
CHOCTAW COUNTY
(H,Hw) - See Statewide
CIMARRON COUNTY
(H,Hw) - See Statewide
CLEVELAND COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
COAL COUNTY
(H,Hw) - See Statewide

OKLAHOMA (cont'd)

COMANCHE COUNTY
(H,Hw) - See Statewide
Decision #OK76-4002 (R)
41 FR 2604 - 1/16/76
Mod. #1 - 41 FR 16312 - 4/16/76
Decision #OK76-4138 (B)
41 FR 32182 - 7/30/76
Mod. #1 - 41 FR 35329 - 8/20/76
Mod. #2 - 41 FR 47717 - 10/29/76
Mod. #3 - 42 FR 4068 - 1/21/77
COTTON COUNTY
(H,Hw) - See Statewide
CRAIG COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CREEK COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
ELLIS COUNTY
(H,Hw) - See Statewide
GARFIELD COUNTY
Decision #OK76-4160 (B)
41 FR 43629 - 10/1/76
Mod. #1 - 42 FR 4069 - 1/21/77
(H,Hw) - See Statewide
GARVIN COUNTY
(H,Hw) - See Statewide
GRADY COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide
GREER COUNTY
(H,Hw) - See Statewide
HARMON COUNTY
(H,Hw) - See Statewide
HARPER COUNTY
(H,Hw) - See Statewide
HASKELL COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
JOHNSTON COUNTY
(H,Hw) - See Statewide
KAY COUNTY
(H,Hw) - See Statewide
KINGFISHER COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide

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OKLAHOMA (cont'd)

KIOWA COUNTY
(H,Hw) - See Statewide
LATIMER COUNTY
(H,Hw) - See Statewide
LEFLORE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
LOGAN COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
LOVE COUNTY
(H,Hw) - See Statewide
McCLAIN COUNTY
(H,Hw) - See Statewide
(B) - See Canadian County
McCURTAIN COUNTY
(H,Hw) - See Statewide
McINTOSH COUNTY
Decision #OK76-4137 (B)
41 FR 32180 - 7/30/76
Mod. #1 - 41 FR 35329 - 8/20/76
Mod. #2 - 41 FR 51251 - 11/19/76
Mod. #3 - 42 FR 3138 - 1/14/77
(H,Hw) - See Statewide
MAJOR COUNTY
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MAYES COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
MURRAY COUNTY
(H,Hw) - See Statewide
MUSKOGEE COUNTY
Decision #OK76-4139 (B,H,Hw)
41 FR 32184 - 7/30/76
Mod. #1 - 41 FR 35329 - 8/20/76
Mod. #2 - 41 FR 51251 - 11/19/76
Mod. #3 - 42 FR 3139 - 1/14/77
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide
NOWATA COUNTY
(H,Hw) - See Statewide
OKFUSKEE COUNTY
(H,Hw) - See Statewide
OKLAHOMA COUNTY
(B,R) - See Canadian County
(H,Hw) - See Statewide
OKMULGEE COUNTY
(H,Hw) - See Statewide
OSAGE COUNTY
(H,Hw) - See Statewide
(R) - See Tulsa County
OTTAWA COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
PAWNEE COUNTY
(H,Hw) - See Statewide

OKLAHOMA (Cont'd.

PAYNE COUNTY
(H,Hw) - See Statewide
PITTSBURG COUNTY
Decision #OK76-4017 (B)
41 FR 5548 - 2/6/76
Mod. #1 - 41 FR 24837 - 6/18/76
Mod. #2 - 41 FR 32103 - 7/30/76
Mod. #3 - 41 FR 35328 - 8/20/76
Mod. #4 - 41 FR 36377 - 8/27/76
Mod. #5 - 41 FR 51251 - 11/12/76
Mod. #6 - 42 FR 4068 - 1/21/77
(H,Hw) - See Statewide
PONTOTOC COUNTY
(H,Hw) - See Statewide
POTTAWATOMIE COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
PUSHMATAHA COUNTY
(H,Hw) - See Statewide
ROGERS COUNTY
(H,Hw) - See Statewide
ROGERS MILLS COUNTY
(H,Hw) - See Statewide
SEMINOLE COUNTY
(B) - See Oklahoma County
(H,Hw) - See Statewide
SEQUOYAH COUNTY
(H,Hw) - See Statewide
STEPHENS COUNTY
(H,Hw) - See Statewide
TEXAS COUNTY
(H,Hw) - See Statewide
TILLMAN COUNTY
(H,Hw) - See Statewide
TULSA COUNTY
Decision #OK76-4186 (B)
41 FR 51399 - 11/19/76
Mod. #1 - 42 FR 3139 - 1/14/77
WAGONER COUNTY
Decision #OK76-4189 (B)
41 FR 52278 - 11/26/76
Mod. #1 - 42 FR 3140 - 1/14/77
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WASHITA COUNTY
(H,Hw) - See Statewide
WOODS COUNTY
(H,Hw) - See Statewide
WOODWARD COUNTY
(H,Hw) - See Statewide

OREGON

STATEWIDE
Decision #OR76-5057 (B,H,Hw,D)
41 FR 26520 - 6/25/76
Mod. #1 - 41 FR 42051 - 9/24/76
Mod. #2 - 41 FR 46818 - 10/22/76
Mod. #3 - 41 FR 48986 - 11/5/76
BAKER COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CLACKAMAS COUNTY
Decision #OR75-5042 (R)
40 FR 15312 - 4/4/75
Mod. #1 - 40 FR 48001 - 10/10/75
Mod. #2 - 40 FR 52244 - 11/7/75
(B,H,Hw,D) - See Statewide
CLATSOP COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COOS COUNTY
(B,H,Hw,D) - See Statewide
CROOK COUNTY
(B,H,Hw,D) - See Statewide
CURRY COUNTY
(B,H,Hw,D) - See Statewide
DESCHUTES COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
GILLIAM COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
HARNEY COUNTY
(B,H,Hw,D) - See Statewide
HOOD RIVER COUNTY
(B,H,Hw,D) - See Statewide
JACKSON COUNTY
(B,H,Hw,D) - See Statewide
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
JOSEPHINE COUNTY
(B,H,Hw,D) - See Statewide
KLAMATH COUNTY
(B,H,Hw,D) - See Statewide
LAKE COUNTY
(B,H,Hw,D) - See Statewide
LANE COUNTY
(B,H,Hw,D) - See Statewide
Decision #OR75-5122 (R)
40 FR 45989 - 10/3/75
Mod. #1 - 40 FR 52244 - 11/7/75
LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
LINN COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Lane County

OREGON (Cont'd.)

MALHEUR COUNTY
(B,H,Hw,D) - See Statewide
MARION COUNTY
(R) - See Lane County
(B,H,Hw,D) - See Statewide
MORROW COUNTY
(B,H,Hw,D) - See Statewide
MULTNOMAH COUNTY
(R) - See Clackamas County
(B,H,Hw,D) - See Statewide
POLK COUNTY
(B,H,Hw,D) - See Statewide
SHERMAN COUNTY
(B,H,Hw,D) - See Statewide
TILLAMOOK COUNTY
(B,H,Hw,D) - See Statewide
UMATILLA COUNTY
(B,H,Hw,D) - See Statewide
UNION COUNTY
(B,H,Hw,D) - See Statewide
WALLOWA COUNTY
(B,H,Hw,D) - See Statewide
WASCO COUNTY
(B,H,Hw,D) - See Statewide
WASHINGTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clackamas County
WHEELER COUNTY
(B,H,Hw,D) - See Statewide
YAMHILL COUNTY
(B,H,Hw,D) - See Statewide

PENNSYLVANIA

ADAMS COUNTY
Decision #PA76-3163 (H,Hw)
41 FR 19020 - 5/7/76
Mod. #1 - 41 FR 45797 - 10/15/76
Mod. #2 - 41 FR 47717 - 10/29/76
Mod. #3 - 42 FR 5616 - 1/28/77
Decision #PA76-3204 (B)
41 FR 24870 - 6/18/76
Mod. #1 - 41 FR 28467 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 43567 - 10/1/76
Mod. #4 - 41 FR 44604 - 10/8/76
ALLEGHENY COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
Decision #PA75-3070 (R)
40 FR 30433 - 8/18/75
Mod. #1 - 40 FR 34555 - 8/15/75
Mod. #2 - 41 FR 4738 - 1/30/76
Mod. #3 - 41 FR 26428 - 6/25/76
ARMSTRONG COUNTY
(H,Hw) - See Butler County
Decision #PA76-3206 (B)
41 FR 26529 - 6/25/76
Mod. #1 - 41 FR 42052 - 9/24/76
Mod. #2 - 41 FR 52185 - 11/26/76
BEAVER COUNTY
(H,Hw) - See Armstrong County
(B) - See Butler County
BEDFORD COUNTY
Decision #PA76-3250 (B)
41 FR 42131 - 9/24/76
Mod. #1 - 41 FR 52186 - 11/26/76
(H,Hw) - See Butler County
BERKS COUNTY
Decision #PA76-3178 (B)
41 FR 23919 - 7/9/76
Mod. #1 - 41 FR 28465 - 7/9/76
Mod. #2 - 41 FR 32104 - 7/30/76
Mod. #3 - 41 FR 43567 - 10/1/76
Mod. #4 - 41 FR 44602 - 10/8/76
Mod. #5 - 41 FR 52185 - 11/26/76
(H,Hw) - See Adams County
BLAIR COUNTY
Decision #PA76-3165 (B)
41 FR 18274 - 4/30/76
(Hw) - See Butler County

PENNSYLVANIA (Cont'd.

BRADFORD COUNTY
Decision #PA76-3208 (B)
41 FR 27535 - 7/2/76
Mod. #1 - 41 FR 43567 - 10/1/76
Mod. #2 - 41 FR 44604 - 10/8/76
(H,Hw) - See Adams County
BUCKS COUNTY
Decision #PA77-3016 (B,R)
42 FR 5632 - 1/28/77
Decision #PA76-3169 (H,Hw)
41 FR 21133 - 5/21/76
Mod. #1 - 41 FR 45797 - 6/25/76
Mod. #2 - 41 FR 45797 - 10/15/76
Mod. #3 - 41 FR 53235 - 12/3/76
BUTLER COUNTY
(B) - See Armstrong County
Decision #PA77-3023 (H,Hw)
42 FR 5640 - 1/28/77
(H,Hw) - See Butler County
(B) - See Bedford County
CAMERON COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CARBON COUNTY
(H,Hw) - See Adams County
CENTRE COUNTY
(H,Hw) - See Butler County
CHESTER COUNTY
(B,H,Hw,R) - See Bucks County
CLARION COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CLEARFIELD COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County

PENNSYLVANIA (Cont'd.)

CLINTON COUNTY
(H,Hw) - See Butler County
COLUMBIA COUNTY
Decision #PA76-3210 (B)
41 FR 30486 - 7/23/76
Mod. #1 - 41 FR 44605 - 10/8/76
(H,Hw) - See Adams County
CRAWFORD COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CUMBERLAND COUNTY
Decision #PA76-3175 (B)
41 FR 21137 - 5/21/76
Mod. #1 - 41 FR 24840 - 6/18/76
Mod. #2 - 41 FR 28465 - 7/9/76
Mod. #3 - 41 FR 32104 - 7/30/76
Mod. #4 - 41 FR 42150 - 9/24/76
Mod. #5 - 41 FR 44602 - 10/8/76
(H,Hw) - See Adams County
DAUPHIN COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
DELAWARE COUNTY
(B,H,Hw,R) - See Bucks County
ELK COUNTY
Decision #PA76-3251 (B)
41 FR 42143 - 9/24/76
Mod. #1 - 41 FR 44606 - 10/8/76
Mod. #2 - 41 FR 52186 - 11/26/76
(H,Hw) - See Butler County
ERIE COUNTY
Decision #PA76-3177 (B)
41 FR 23916 - 7/9/76
Mod. #1 - 41 FR 28428 - 6/25/76
Mod. #2 - 41 FR 44602 - 10/8/76
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(H,Hw) - See Butler County

PENNSYLVANIA (cont'd.

FAYETTE COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
FOREST COUNTY
(B) - See Elk County
(H,Hw) - See Butler County
FRANKLIN COUNTY
(H,Hw) - See Butler County
FULTON COUNTY
(H,Hw) - See Butler County
GREENE COUNTY
Decision #PA76-3211 (B)
41 FR 32091 - 7/30/76
Mod. #1 - 41 FR 42054 - 9/24/76
Mod. #2 - 41 FR 52185 - 11/26/76
(H,Hw) - See Butler County
HUNTINGDON COUNTY
(H,Hw) - See Butler County
INDIANA COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
JEFFERSON COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
JUNIATA COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
LACKAWANNA COUNTY
Decision #PA76-3179 (B)
41 FR 24855 - 6/18/76
Mod. #1 - 41 FR 28465 - 7/9/76
Mod. #2 - 41 FR 32104 - 7/30/76
Mod. #3 -41 FR 47717 - 10/29/76
Mod. #4 - 41 FR 54110 - 12/10/76
(H,Hw) - See Adams County
LANCASTER COUNTY
Decision #PA77-3026 (B)
42 FR 7066 - 2/4/77
(H,Hw) - See Adams County
LAWRENCE COUNTY
Decision #PA76-3246 (B)
41 FR 40506 - 9/17/76
Mod. #1 - 41 FR 44605 - 10/8/76
Mod. #2 - 41 FR 52186 - 11/26/76
(H,Hw) - See Butler County

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PENNSYLVANIA (Cont'd.

LEBANON COUNTY
Decision #PA76-3176 (B)
41 FR 24853 - 6/18/76
Mod. #1 - 41 FR 28464 - 7/9/76
Mod. #2 - 41 FR 32104 - 7/30/76
Mod. #3 - 41 FR 42051 - 9/24/76
Mod. #4 - 41 FR 44602 - 10/8/76
Mod. #5 - 41 FR 53235 - 12/3/76
(H,Hw) - See Adams County
LEHIGH COUNTY
Decision #PA76-3183 (B)
41 FR 24862 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32104 - 7/30/76
Mod. #3 - 41 FR 44603 - 10/8/76
Mod. #4 - 41 FR 52185 - 11/26/76
(H,Hw) - See Adams County
LUZERNE COUNTY
Decision #PA76-3271 (B)
41 FR 48993 - 11/5/76
Mod. #1 - 41 FR 54110 - 12/10/76
(H,Hw) - See Adams County
LYCOMING COUNTY
Decision #PA76-3185 (D)
41 FR 24864 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 43567 - 10/1/76
Mod. #4 - 41 FR 44603 - 10/8/76
Mod. #5 - 41 FR 53235 - 12/3/76

(H,Hw) - See Adams County
MC KEAN COUNTY
(B) - See Forest County
(H,Hw) - See Butler County
MERCER COUNTY
(B) - See Lawrence County
(H,Hw) - See Butler County
MIFFLIN COUNTY
(H,Hw) - See Butler County
MONROE COUNTY
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

MONTGOMERY COUNTY
(B,H,Hw,R) - See Bucks County
MONTOUR COUNTY
(B) - See Columbia County
(H,Hw) - See Adams County
NORTHAMPTON COUNTY
(H,Hw) - See Adams County
Decision #PA76-3187 (B)
41 FR 24868 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 44604 - 10/8/76
Mod. #4 - 41 FR 52185 - 11/26/76
Mod. #5 - 41 FR 53235 - 12/3/76
NORTHUMBERLAND COUNTY
Decision #PA76-3182 (B)
41 FR 24860 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 44603 - 10/8/76
Mod. #4 - 41 FR 53235 - 12/3/76

(H,Hw) - See Adams County
PERRY COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
PHILADELPHIA COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
(B,H,Hw,R) - See Bucks County
PIKE COUNTY
(H,Hw) - See Adams County
POTTER COUNTY
(B) - See Greene County
(H,Hw) - See Butler County
SCHYUKILL COUNTY
Decision #PA76-3181 (B)
41 FR 24858 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 38709 - 9/10/76
Mod. #4 - 41 FR 45798 - 10/15/76
Mod. #5 - 41 FR 47717 - 10/29/76
(H,Hw) - See Adams County
SNYDER COUNTY
(B) - See Columbia County
(H,Hw) - See Adams County
SOMERSET COUNTY
(B) - See Greene County
(H,Hw) - See Butler County
SULLIVAN COUNTY
Decision #PA75-3205 (B)
41 FR 24872 - 6/18/76
Mod. #1 - 41 FR 28467 - 7/9/76
Mod. #2 - 41 FR 32106 - 7/30/76
Mod. #3 - 41 FR 44604 - 10/8/65
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

SUSQUEHANNA COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
TIOGA COUNTY
(B) - See Bradford County
(H,Hw) - See Adams County
UNION COUNTY
(B) - See Bradford County
(H,Hw) - See Adams County
VENANGO COUNTY
(H,Hw) - See Butler County
(B) - See Bedford County
WARREN COUNTY
(B) - See Elk County
(H,Hw) - See Butler County
WASHINGTON COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
WAYNE COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
WESTMORELAND COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
WYCOMING COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
YORK COUNTY
(B,H,Hw) - See Adams Co. (Excluding New Cumberland Depot)
(B) - See Cumberland County (New Cumberland Depot)
(H,Hw) - See Adams County (New Cumberland Depot)

PUERTO RICO

PUERTO RICO
Decision #PR75-3091 (R)
40 FR 33644 - 8/8/75
Mod. #1 - 40 FR 59664 - 12/29/75
Mod. #2 - 42 FR 4069 - 1/21/77
Decision #PR75-3080 (B)
40 FR 33643 - 8/8/75
Mod. #1 - 40 FR 59664 - 12/29/75
Mod. #2 - 42 FR 4069 - 1/21/77
Decision #PR75-3089 (H,Hw)
40 FR 33643 - 8/8/75
Mod. #1 - 42 FR 4069 - 1/21/77

RHODE ISLAND

STATEWIDE
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BRISTOL COUNTY
Decision #RI76-2150 (B,H,Hw,R, & Marine)
41 FR 48996 - 11/5/76
(D) - See Statewide
KENT COUNTY
(B,H,Hw, R, & Marine) - See Bristol Co.
(D) - See Statewide
NEWPORT COUNTY
Decision #RI76-2151 (B,H,Hw,R, & Marine)
41 FR 50136 - 11/12/76
(D) - See Statewide
PROVIDENCE COUNTY
(D) - See Statewide
(B,H,Hw, R, & Marine) - See Bristol County
WASHINGTON COUNTY
Decision #RI76-2152 (B,H,Hw,R, & Marine)
41 FR 51362 - 11/19/76
(D) - See Statewide

SOUTH CAROLINA

STATEWIDE
Decision #SC75-1031 (Hw)
40 FR 12058 - 3/14/75
Mod. #1 - 40 FR 41355 - 9/5/75
Mod. #2 - 41 FR 10825 - 3/12/76
Mod. #3 - 41 FR 51251 - 11/19/76
Decision #SC75-1079 (H, W&S)
40 FR 41380 - 9/5/75
ABBEVILLE COUNTY
Decision #SC76-1053 (B)
41 FR 20146 - 5/14/76
(Sewer & Water, H,Hw) - See Statewide
AIKEN COUNTY
Decision #SC75-1029 (R)
40 FR 10900 - 3/7/75
Mod. #1 - 41 FR 1692 - 1/9/76
(Sewer & Water, H,Hw) - See Statewide

SOUTH CAROLINA (Cont'd)

ALLENDALE COUNTY
Decision #SC75-1045 (R)
40 FR 16636 - 4/11/75
Mod. #1 - 41 FR 1692 - 1/9/76
(Sewer & Water, H,Hw) - See Statewide
ANDERSON COUNTY
Decision #SC76-1115 (R)
41 FR 44657 - 10/8/76
(Sewer & Water, H,Hw) - See Statewide
BAMBERG COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
BARNWELL COUNTY
(R) - See Aiken County
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #SC75-1026 (B)
40 FR 8692 - 2/28/75
Mod. #1 - 40 FR 16496 - 4/11/75
Mod. #2 - 40 FR 27417 - 6/27/75
Mod. #3 - 41 FR 18267 - 4/30/76
Decision #MD75-3008 (D)
40 FR 3094 - 1/17/75
Mod. #1 - 40 FR 14204 - 3/28/75
(Sewer & Water, H,Hw) - See Statewide
BERKELEY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
Decision #SC76-1067 (R)
41 FR 22024 - 5/28/76
Mod. #1 - 41 FR 23889 - 6/11/76
Decision #SC75-1055 (B)
40 FR 22785 - 5/23/75
Mod. #1 - 40 FR 25336 - 6/13/75
Mod. #2 - 41 FR 18267 - 4/30/76
Mod. #3 - 41 FR 20129 - 5/14/76
CALHOUN COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
CHARLESTON COUNTY
(B,R) - See Berkeley County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
Decision #SC76-1100 (R)
41 FR 38739 - 9/10/76
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide

SOUTH CAROLINA (Cont'd.

CHESTER COUNTY
Decision #AR-4009 (B)
39 FR 25778 - 7/12/74
(Sewer & Water, H,Hw) - See Statewide
CHESTERFIELD COUNTY
(Sewer & Water, H,Hw) - See Statewide
CLARENDON COUNTY
Decision #SC76-1088 (R)
41 FR 36399 - 8/27/76
(Sewer & Water, H,Hw) - See Statewide
COLLETON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
DARLINGTON COUNTY
Decision #SC75-1041 (B)
40 FR 14194 - 3/28/75
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
DILLON COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
DORCHESTER COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Berkeley County
EDGEFIELD COUNTY
(R) - See Aiken County
(Sewer & Water, H,Hw) - See Statewide
FAIRFIELD COUNTY
(B) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
FLORENCE COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
GEORGETOWN COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
GREENVILLE COUNTY
Decision #SC75-1038 (B)
40 FR 12951 - 3/21/75
Mod. #1 - 40 FR 16496 - 4/11/75
Mod. #2 - 41 FR 43422 - 9/19/75
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
GREENWOOD COUNTY
(Sewer & Water, H,Hw) - See Statewide
HAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
HORRY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
JASPER COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
KERSHAW COUNTY
(Sewer & Water, H,Hw) - See Statewide

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SOUTH CAROLINA (Cont'd.

LANCASTER COUNTY
(B) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
LAURENS COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
LEXINGTON COUNTY
Decision #SC77-1008 (B)
42 FR 4101 - 1/21/77
Decision #SC76-1126 (R)
41 FR 47907 - 10/29/76
(Sewer & Water, H,Hw) - See Statewide
McCORMICK COUNTY
(Sewer & Water, H,Hw) - See Statewide
MARION COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
MARLBORO COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
NEWBERRY COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
OCONEE COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
ORANGEBURG COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
PICKENS COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
RICHLAND COUNTY
(B,R) - See Lexington County
(Sewer & Water, H,Hw) - See Statewide
SALUDA COUNTY
(Sewer & Water, H,Hw) - See Statewide
SPARTANBURG COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
SUMTER COUNTY
Decision #SC76-1008 (B)
41 FR 1699 - 1/9/76
Mod. #1 - 41 FR 19013 - 5/7/76
(Sewer & Water, H,Hw) - See Statewide
(R) - See Clarendon County
UNION COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
(B) - See Abbeville County
WILLIAMSBURG COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
YORK COUNTY
(Sewer & Water, H,Hw) - See Statewide

SOUTH DAKOTA

STATEWIDE
Decision #SD76-5039 (H,Hw)
41 FR 17300 - 4/23/76
AURORA COUNTY
(H,Hw) - See Statewide
BEADLE COUNTY
(H,Hw) - See Statewide
BENNET COUNTY
(H,Hw) - See Statewide
BON HOMME COUNTY
(H,Hw) - See Statewide
BROOKINGS COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
BRULE COUNTY
(H,Hw) - See Statewide
BUFFALO COUNTY
(H,Hw) - See Statewide
BUTTE COUNTY
(H,Hw) - See Statewide
CAMPBELL COUNTY
(H,Hw) - See Statewide
CHARLES MIX COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
CODINGTON COUNTY
(H,Hw) - See Statewide
CORSON COUNTY
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DAVISON COUNTY
(H,Hw) - See Statewide
DAY COUNTY
(H,Hw) - See Statewide
DEUEL COUNTY
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
DOUGLAS COUNTY
(H,Hw) - See Statewide
EDMUNDS COUNTY
(H,Hw) - See Statewide
FALL RIVER COUNTY
(H,Hw) - See Statewide
FAULK COUNTY
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.

GREGORY COUNTY
(H,Hw) - See Statewide
HAAKON COUNTY
(H,Hw) - See Statewide
HAMLIN COUNTY
(H,Hw) - See Statewide
HAND COUNTY
(H,Hw) - See Statewide
HANSON COUNTY
(H,Hw) - See Statewide
HARDING COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
HUTCHINSON COUNTY
(H,Hw) - See Statewide
HYDE COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JERAULD COUNTY
(H,Hw) - See Statewide
JONES COUNTY
(H,Hw) - See Statewide
KINGSBURY COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(H,Hw) - See Statewide
LAWRENCE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
LYMAN COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd)

MARSHALL COUNTY
(H,Hw) - See Statewide
Mc COOK COUNTY
(H,Hw) - See Statewide
Mc PHERSON COUNTY
(H,Hw) - See Statewide
MEADE COUNTY
Decision #SD76-5094 (B)
41 FR 42148 - 9/24/76
Mod. #1 - 41 FR 52186 - 11/26/76
(H,Hw) - See Statewide
MELLETTE COUNTY
(H,Hw) - See Statewide
MINER COUNTY
(H,Hw) - See Statewide
MINNEHAHA COUNTY
Decision #SD76-5093 (B)
41 FR 42147 - 9/24/76
Mod. #1 - 41 FR 52186 - 11/26/76
(H,Hw) - See Statewide
Decision #AQ-1091 (R)
39 FR 8146 - 3/1/74
Mod. #1 - 39 FR 14856 - 4/26/74
MOODY COUNTY
(H,Hw) - See Statewide
PENNINGTON COUNTY
(B) - See Meade County
(H,Hw) - See Statewide
PERKINS COUNTY
(H,Hw) - See Statewide
POTTER COUNTY
(H,Hw) - See Statewide
ROBERTS COUNTY
(H,Hw) - See Statewide
SANBORN COUNTY
(H,Hw) - See Statewide
SHANNON COUNTY
(H,Hw) - See Statewide
SPINK COUNTY
(H,Hw) - See Statewide
STANLEY COUNTY
(H,Hw) - See Statewide
SULLY COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.)

TODD COUNTY
(H,Hw) - See Statewide
TRIPP COUNTY
(H,Hw) - See Statewide
TURNER COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
WALWORTH COUNTY
(H,Hw) - See Statewide
WASHABAUGH COUNTY
(H,Hw) - See Statewide
YANKTON COUNTY
(H,Hw) - See Statewide
ZIEBACH COUNTY
(H,Hw) - See Statewide

TENNESSEE

STATEWIDE
Decision #TN77-1001 (Hw)
42 FR 1686 - 1/7/77
ANDERSON COUNTY
Decision #TN76-1072 (B)(Oak Ridge, Energy Research Development Administration Only)
41 FR 24874 - 6/18/76
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(Hw) - See Statewide
BEDFORD COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BENTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BLEDSOE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BLOUNT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BRADLEY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CAMPBELL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CANNON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CARROLL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CARTER COUNTY
Decision #TN76-1052 (B)
41 FR 17301 - 4/23/76
Decision #TN75-1098 (R)
41 FR 44476- 9/26/75
(F) - See Anderson County
(Hw) - See Statewide
CHEATHAM COUNTY
Decision #TN76-1010 (R)
41 FR 2614 - 1/16/76
(F) - See Anderson County
(Hw) - See Statewide
CHESTER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CLAIBORNE COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (CONT'D.)

CLAY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
COCKE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
COFFEE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CROCKETT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CUMBERLAND COUNTY
(Hw) - See Statewide
DAVIDSON COUNTY
Decision #TN75-1088 (B)
40 FR 42505 - 9/12/75
Mod. #1 - 40 FR 55616 - 11/28/75
Mod. #2 - 41 FR 22721 - 6/4/76
(R) - See Cheatham County
(F) - See Anderson County
(Hw) - See Statewide
DECATUR COUNTY
(F) - See Anderson County
(Hw) - See Statewide
DEKALB COUNTY
(F) - See Anderson County
(Hw) - See Statewide
DICKSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
DYER COUNTY
Decision #TN76-1140 (R)
42 FR 56593 - 12/28/76
Decision #TN76-1054 (B)
41 FR 21140 - 5/21/76
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
(F) - See Anderson County
(Hw) - See Statewide
FAYETTE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
FENTRESS COUNTY
(F)- See Anderson County
(Hw) - See Statewide
FRANKLIN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GIBSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(B,R) - See Dyer County

TENNESSEE (Cont'd)

GILES COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GRAINGLR COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GREENE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GRUNDY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAMBLEN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAMILTON COUNTY
Decision #TN76-1130 (B,H)
41 FR 51366 - 11/19/76
(F) - See Anderson County
(Hw) - See Statewide
HANCOCK COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HARDEMAN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HARDIN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAWKINS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAYWOOD COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HENDERSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HENRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HICKMAN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HOUSTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HUMPHREYS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
JACKSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (CONT'D)

JEFFERSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
JOHNSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
KNOX COUNTY
Decision #TN76-1081 (B)
41 FR 33178 - 8/6/76
Mod. #1 - 41 FR 44607 - 10/8/76
Mod. #2 - 41 FR 47718 - 10/29/76
Mod. #3 - 41 FR 51251 - 11/19/76
Decision #TN76-1055 (R)
41 FR 27648 - 7/2/76
(F) -See Anderson County
(Hw) - See Statewide
LAKE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Dyer County
LAUDERDALE COUNTY
(D,R) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
LAWRENCE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
LEWIS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
LINCOLN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
LOUDON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MC MINN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MC NAIRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MACON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MADISON COUNTY
Decision #TN75-1051 (B)
40 FR 21666 - 5/16/75
Mod. #1 - 40 FR 57075 - 12/5/75
(F) - See Anderson County
(Hw) - See Statewide
MARION COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (Cont'd)

MARSHALL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
MAURY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
MEIGS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MONROE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MONTGOMERY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MOORE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MORGAN COUNTY
(F) -See Anderson County
(Hw) - See Statewide
OBION COUNTY
(R) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
OVERTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PERRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PICKETT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
POLK COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PUTNAM COUNTY
(F) - See Anderson County
(Hw) - See Statewide
RHEA COUNTY
(Hw) - See Statewide
(F) - See Anderson County
ROANE COUNTY
(B) - See Anderson Co. (Oak Ridge Energy Research Development Administration Only)
(F) - See Anderson County
(Hw) - See Statewide
ROBERTSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County

TENNESSEE (Cont'd)

RUTHERFORD COUNTY
Decision #TN76-1056 (B)
41 FR 20147 - 5/14/76
Mod. #1 - 41 FR 53236 - 12/3/76
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
SCOTT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SEQUATCHIE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SEVIER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SHELBY COUNTY
Decision #TN76-1131 (B,H,W&S, & Utility
41 FR 55285 - 12/17/76
Decision #TN76-1057 (R)
41 FR 20148 - 5/14/76
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
SMITH COUNTY
(F) - See Anderson County
(Hw) - See Statewide
STEWART COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SULLIVAN COUNTY
Decision #TN76-1061 (B)
41 FR 20148 - 5/14/76
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Carter County
SUMNER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
TIPTON COUNTY
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
TROUSDALE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County

TENNESSEE (Cont'd.

UNICOI COUNTY
(F) - See Anderson County
(Hw) - See Statewide
UNION COUNTY
(F) - See Anderson County
(Hw) - See Statewide
VAN BUREN COUNTY
(Hw) - See Statewide
(F) - See Anderson County
WARREN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
WASHINGTON COUNTY
Decision #TN76-1045 (B)
41 FR 14306 - 4/2/76
Mod. #1 - 41 FR 20468 - 7/9/76
(F) - See Anderson County
(Hw) - See Statewide
WAYNE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
WEAKLEY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Dyer County
WHITE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
WILLIAMSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
WILSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County

TEXAS

STATEWIDE (Excluding Dallas-Fort Worth Regional Airport)
Decision #TX77-4008 (H(Excluding tunnels and dams,) Hw
Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 5644 - 1/28/77
ANDERSON COUNTY
Decision #TX77-4009 (R)
42 FR 5652 - 1/28/77
(H,Hw) - See Statewide
ANDREWS COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd.)

ANGELINA COUNTY
(H,Hw) - See Statewide
ARANSAS COUNTY
(H,Hw) - See Statewide
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
ARCHER COUNTY
(H,Hw) - See Statewide
ARMSTRONG COUNTY
Decision #TX76-4168 (B)
41 FR 44671 - 10/8/76
Mod. #1 - 41 FR 46820 - 10/22/76
Mod. #2 - 41 FR 53237 - 12/3/76
Mod. #3 - 41 FR 56555 - 12/28/76
Mod. #4 - 42 FR 4070 - 1/21/77
Decision #TX77-4010 (R)
42 FR 5654 - 1/28/77
(H,Hw) - See Statewide
ATASCOSA COUNTY
(H,Hw) - See Statewide
AUSTIN COUNTY
(H,Hw) - See Statewide
BAILEY COUNTY
(H,Hw) - See Statewide
Decision #TX76-4029 (R)
41 FR 7006 - 2/13/76
BANDERA COUNTY
(H,Hw) - See Statewide
BASTROP COUNTY
Decision #AR-1 (R)
39 FR 24809 - 7/5/74
(H,Hw) - See Statewide
BAYLOR COUNTY-
(H,Hw) - See Statewide
BEE COUNTY
Decision #TX76-4193 (B)
41 FR 56594 - 12/28/76
Mod. #1 - 42 FR 4072 - 1/21/77
Decision #TX76-4030 (R)
41 FR 7008 - 2/13/76
(H,Hw) - See Statewide
BELL COUNTY
(H,Hw) - See Statewide
Decision #TX77-4005 (B)
42 FR 4102 - 1/21/77
Mod. #1 - 42 FR 7036 - 2/4/77
BEXAR COUNTY
Decision #TX76-4080 (R)
41 FR 19037 - 5/7/76
Decision #TX76-4140 (B)
41 FR 33184 - 8/6/76
Mod. #1 - 41 FR 44607 - 10/8/76
Mod. #2 - 41 FR 45798 - 10/15/76
Mod. #3 - 41 FR 50125 - 11/12/76
Mod. #4 - 42 FR 5617 - 1/28/77
Mod. #5 - 42 FR 7036 - 2/4/77
(H,Hw) - See Statewide

TEXAS (Cont'd)

BLANCO COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
BORDEN COUNTY
(H,Hw) - See Statewide
BOSQUE COUNTY
Decision #TX77-4011 (R)
42 FR 5656 - 1/28/77
(B) - See Bell County
(H,Hw) - See Statewide
BOWIE COUNTY
Decision #TX76-4169 (B)
41 FR 44662 - 10/8/76
Mod. #1 - 41 FR 51252 - 11/19/76
Mod. #2 - 41 FR 54111 - 12/10/76
Mod. #3 - 41 FR 55269 - 12/17/76
Mod. #4 - 41 FR 56555 - 12/28/76
Mod. #5 - 42 FR 4071 - 1/21/77
(H,Hw) - See Statewide
BRAZORIA COUNTY
(H,Hw) - See Statewide
Decision #AR-11 (R)
39 FR 29910 - 8/16/74
(D) - See Aransas County
BRAZOS COUNTY
Decision #TX76-4170 (B)
41 FR 44674 - 10/8/76
Mod. #1 - 41 FR 54112 - 12/10/76
Mod. #2 - 41 FR 56555 - 12/28/76
Mod. #3 - 42 FR 4071 - 1/21/77
(H,Hw) - See Statewide
BREWSTER COUNTY
(H,Hw) - See Statewide
BRISCOE COUNTY
(H,Hw) - See Statewide
BROOKS COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
BURLESON COUNTY
(H,Hw) - See Statewide
BURNETT COUNTY
(H,Hw) - See Statewide
CALDWELL COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
CALHOUN COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
CALLAHAN COUNTY
(H,Hw) - See Statewide
CAMERON COUNTY
Decision #TX76-4126 (B)
41 FR 30565 - 7/23/76
Mod. #1 - 41 FR 42058 - 9/24/76
Mod. #2 - 41 FR 46819 - 10/22/76
Mod. #3 - 41 FR 56554 - 12/28/76

TEXAS (Cont'd)

CAMERON COUNTY (Cont'd.)
Decision #TX76-4162 (R)
41 FR 44669 - 10/8/76
Mod. #1 - 41 FR 46820 - 10/22/76
(H,Hw) - See Statewide
CAMP COUNTY
Decision #TX77-4012 (R)
42 FR 5658 - 1/28/77
(H,Hw) - See Statewide
CARSON COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
CASS COUNTY
(H,Hw) - See Statewide
CASTRO COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
CHAMBERS COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
CHEROKEE COUNTY
(R) - See Anderson County
(H,Hw) - See Statewide
CHILDRESS COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
COCHRAN COUNTY
(H,Hw) - See Statewide
(R) - See Bailey County
COKE COUNTY
(H,Hw) - See Statewide
COLEMAN COUNTY
(H,Hw) - See Statewide
COLLIN COUNTY
Decision #AQ-87 (R)
39 FR 10106 - 3/15/74
Decision #TX76-4183 (B-excluding Dallas-Fort Worth Regional Airport)
41 FR 50191 - 11/12/76
Mod. #1 - 41 FR 54112 - 12/10/76
Mod. #2 - 41 FR 56555 - 12/28/76
Mod. #3 - 42 FR 4071 - 1/21/77
(H,Hw) - See Statewide
COLLINGSWORTH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
COLORADO COUNTY
(H,Hw) - See Statewide
COMAL COUNTY
(H,Hw) - See Statewide
COMANCHE COUNTY
(H,Hw) - See Statewide
CONCHO COUNTY
(H,Hw) - See Statewide
COOKE COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

CORYELL COUNTY
(B) - See Bell County
(H,Hw) - See Statewide
COTTLE COUNTY
(H,Hw) - See Statewide
CRANE COUNTY
(H,Hw) - See Statewide
Decision #TX76-4038 (R)
41 FR 7009 - 2/13/76
CROCKETT COUNTY
(H,Hw) - See Statewide
CROSBY COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
CULBERSON COUNTY
(H,Hw) - See Statewide
DALLAM COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
DALLAS COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
DAWSON COUNTY
(H,Hw) - See Statewide
DEAF SMITH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
DELTA COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
DENTON COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
DE WITT COUNTY
(H,Hw) - See Statewide
DICKENS COUNTY
(H,Hw) - See Statewide
DIMMIT COUNTY
Decision #TX76-4039 (B,R)
41 FR 7014 - 2/13/76
(H,Hw) - See Statewide
DONLEY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
DUVAL COUNTY
(H,Hw) - See Statewide
EASTLAND COUNTY
(H,Hw) - See Statewide
ECTOR COUNTY
Decision #TX76-4118 (B)
41 FR 29605 - 7/16/76
Mod. #1 - 41 FR 33129 - 8/16/76
Mod. #2 - 41 FR 42058 - 9/24/76
Mod. #3 - 41 FR 56554 - 12/28/76
Mod. #4 - 42 FR 4070 - 1/21/77
(H,Hw) - See Statewide
(R) - See Crane County
EDWARDS COUNTY
(H,Hw) - See Statewide
ELLIS COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
EL PASO COUNTY
Decision #TX76-4194 (B)
41 FR 56596 - 12/28/76
Mod. #1 - 42 FR 4072 - 1/21/77
(H,Hw) - See Statewide

TEXAS (Cont'd.)

ERATH COUNTY
(H,Hw) - See Statewide
FALLS COUNTY
(B) - See Bell County
(H,Hw) - See Statewide
FANNIN COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
FISHER COUNTY
(H,Hw) - See Statewide
FLOYD COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
FOARD COUNTY
(H,Hw) - See Statewide
FORT BEND COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
FRANKLIN COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
FREESTONE COUNTY
(R) - See Bosque County
(H,Hw) - See Statewide
FRIO COUNTY
(H,Hw) - See Statewide
GAINES COUNTY
(H,Hw) - See Statewide
GALVESTON COUNTY
(R) - See Brazoria County
(D) - See Aransas County
(H,Hw) - See Statewide
Decision #TX76-4195 (B)
41 FR 56598 - 12/28/76
Mod. #1 - 42 FR 4072 - 1/21/77
GARZA COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
GILLESPIE COUNTY
(H,Hw) - See Statewide
GLASSCOCK COUNTY
(H,Hw) - See Statewide
GOLIAD COUNTY
(H,Hw) - See Statewide
GONZALES COUNTY
(H,Hw) - See Statewide
GRAY COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
GRAYSON COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
GREGG COUNTY
Decision #TX76-4115 (B)
41 FR 29652 - 7/16/76
Mod. #1 - 41 FR 33129 - 8/6/76
Mod. #2 - 41 FR 44607 - 10/8/76

TEXAS (Cont'd)

GREGG COUNTY (Cont'd.)
Mod. #3 - 41 FR 46819 - 10/22/76
Mod. #4 - 41 FR 56554 - 12/28/76
Mod. #5 - 42 FR 5617 - 1/28/77
Decision #TX77-4013 (R)
42 FR 5660 - 1/28/77
(H,Hw) - See Statewide
GRIMES COUNTY
(H,Hw) - See Statewide
GUADALUPE COUNTY
(H,Hw) - See Statewide
HALE COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
HALL COUNTY
(H,Hw) - See Statewide
HAMILTON COUNTY
(H,Hw) - See Statewide
HANSFORD COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
HARDEMAN COUNTY
(H,Hw) - See Statewide
HARDIN COUNTY
(H,Hw) - See Statewide
HARRIS COUNTY
(B) - See Galveston County
(R) - See Brazoria County
(D) - See Aransas County
(H,Hw) - See Statewide
HARRISON COUNTY
Decision #TX76-4196 (B)
41 FR 56601 - 12/28/76
(H,Hw) - See Statewide
(R) - See Gregg County
HARTLEY COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
HASKELL COUNTY
(H,Hw) - See Statewide
HAYS COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
HEMPHILL COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
HENDERSON COUNTY
(R) - See Anderson County
(H,Hw) - See Statewide
HIDALGO COUNTY
(R,B) - See Cameron County
(H,Hw) - See Statewide
HILL COUNTY
(R) - See Bosque County
(B) - See Bell County
(H,Hw) - See Statewide
HOCKLEY COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide

TEXAS (Cont'd)

HOOD COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
Decision #TX76-4043 (R)
41 FR 7011 - 2/13/76
HOPKINS COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
HOUSTON COUNTY
(H,Hw) - See Statewide
HOWARD COUNTY
Decision #TX77-4014 (B,R)
42 FR 5662 - 1/28/77
(H,Hw) - See Statewide
HUDSPETH COUNTY
(H,Hw) - See Statewide
HUNT COUNTY
(R)(B) - See Collin County
(H,Hw) - See Statewide
HUTCHINSON COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
IRION COUNTY
(H,Hw) - See Statewide
JACK COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
JASPER COUNTY
(H,Hw) - See Statewide
JEFF DAVIS COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
Decision #TX76-4192 (B,R)
41 FR 55289 - 12/17/76
Mod. #1 - 42 FR 4072 - 1/21/77
(D) - See Aransas County
(Hw) - See Statewide
JIM HOGG COUNTY
(H,Hw) - See Statewide
(B,R) - See Dimmit County
JIM WELLS COUNTY
(H,Hw) - See Statewide
JOHNSON COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
JONES COUNTY
(H,Hw) - See Statewide
KARNES COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

KAUFMAN COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
KENDALL COUNTY
(H,Hw) - See Statewide
KENEDY COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
KENT COUNTY
(H,Hw) - See Statewide
KERR COUNTY
(H,Hw) - See Statewide
KIMBLE COUNTY
(H,Hw) - See Statewide
KING COUNTY
(H,Hw) - See Statewide
KINNEY COUNTY
(H,Hw) - See Statewide
KLEBERG COUNTY
(B) - See Bee County
(D) - See Aransas County
(H,Hw) - See Statewide
(R) - See Bee County
KNOX COUNTY
(H,Hw) - See Statewide
LAMAR COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
LAMB COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
LAMPASAS COUNTY
(H,Hw) - See Statewide
LA SALLE COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
LAVACA COUNTY
(H,Hw) - See Statewide
LEE COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County

TEXAS (Cont'd)

LEON COUNTY
(H,Hw) - See Statewide
LIBERTY COUNTY
(H,Hw) - See Statewide
LIMESTONE COUNTY
(B) - See Bosque County
(H,Hw) - See Statewide
LIPSCOMB COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
LIVE OAK COUNTY
(H,Hw) - See Statewide
LLANO COUNTY
(H,Hw) - See Statewide
LOVING COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
LUBBOCK COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
Decision #TX76-4197 (B)
41 FR 56602 - 12/28/76
Mod. #1 - 42 FR 4072 - 1/21/77
LYNN COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
McCULLOCH COUNTY
(H,Hw) - See Statewide
McLENNAN COUNTY
(R) - See Bosque County
(B) - See Bell County
(H,Hw) - See Statewide
McMULLEN COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(H,Hw) - See Statewide
MARTIN COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

MASON COUNTY
(H,Hw) - See Statewide
MATAGORDA COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
(D) - See Aransas County
MAVERICK COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
MEDINA COUNTY
(H,Hw) - See Statewide
MENARD COUNTY
(H,Hw) - See Statewide
MIDLAND COUNTY
(B) - See Ector County
(H,Hw) - See Statewide
(R) - See Crane County
MILAM COUNTY
(H,Hw) - See Statewide
MILLS COUNTY
(H,Hw) - See Statewide
MITCHELL COUNTY
(H,Hw) - See Statewide
MONTAGUE COUNTY
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
MOORE COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
MORRIS COUNTY
(H,Hw) - See Statewide
MOTLEY COUNTY
(H,Hw) - See Statewide
NACOGDOCHES COUNTY
(H,Hw) - See Statewide
NAVARRO COUNTY
(R) - See Bosque County
(H,Hw) - See Statewide

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TEXAS (Cont'd)

NEWTON COUNTY
(H,Hw) - See Statewide
NOLAN COUNTY
(H,Hw) - See Statewide
NUECES COUNTY
(B) - See Bee County
(D) - See Aransas County
(H,Hw) - See Statewide
(R) - See Bee County
OCHILTREE COUNTY
(R) (B) - See Armstrong County
(H,Hw) - See Statewide
OLDHAM COUNTY
(W)(B) - See Armstrong County
(H,Hw) - See Statewide
ORANGE COUNTY
(R)(B) - See Jefferson County
(Hw) - See Statewide
(D) - See Aransas County
PALO PINTO COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
PANOLA COUNTY
(H,Hw) - See Statewide
PARKER COUNTY
(H,Hw) - See Statewide
(R) - See Hood County
PARMER COUNTY
(H,Hw) - See Statewide
PECOS COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
POLK COUNTY
(H,Hw) - See Statewide
POTTER COUNTY
(H,Hw) - See Statewide
(B) (R) - See Armstrong County
PRESIDIO COUNTY
(H,Hw) - See Statewide
RAINS COUNTY
(H,Hw) - See Statewide
RANDALL COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
REAGAN COUNTY
(H,Hw) - See Statewide
REAL COUNTY
(H,Hw) - See Statewide
RED RIVER COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

REEVES COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
REFUGIO COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
ROBERTS COUNTY
(H,Hw) - See Statewide
(B) (R) - See Armstrong County
ROBERTSON COUNTY
(H,Hw) - See Statewide
ROCKWALL COUNTY
(R)(B) - See Collin County
(H,Hw) - See Statewide
RUNNELS COUNTY
(H,Hw) - See Statewide
RUSK COUNTY
(R) - See Gregg County
(H,Hw) - See Statewide
SABINE COUNTY
(H,Hw) - See Statewide
SAN AUGUSTINE COUNTY
(H,Hw) - See Statewide
SAN JACINTO COUNTY
(H,Hw) - See Statewide
SAN PATRICIO COUNTY
(R) - See Bee County
(D) - See Aransas County
(H,Hw) - See Statewide
SAN SABA COUNTY
(H,Hw) - See Statewide
SCHLEICHER COUNTY
(H,Hw) - See Statewide
SCURRY COUNTY
(H,Hw) - See Statewide
SHACKELFORD COUNTY
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
SHERMAN COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
SMITH COUNTY
Decision #TX77-4015 (R)
42 FR 5664 - 1/28/77
Decision #TX76-4127 (B)
41 FR 30491 - 7/23/76
Mod. #1 - 41 FR 46819 - 10/22/76
Mod. #2 - 42 FR 5617 - 1/28/77
(H,Hw) - See Statewide
SOMERVELL COUNTY
(H,Hw) - See Statewide
STARR COUNTY
(H,Hw) - See Statewide
(B)(R) - See Cameron County
STEPHENS COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

STERLING COUNTY
(H,Hw) - See Statewide
STONEWALL COUNTY
(H,Hw) - See Statewide
SUTTON COUNTY
(H,Hw) - See Statewide
SWISHER COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
TARRANT COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
Decision #AQ-117 (R)
39 FR 22400 - 6/21/74
TAYLOR COUNTY
Decision #TX76-4171 (B)
41 FR 44664 - 10/8/76
Mod. #1 - 41 FR 56555 - 12/20/76
Mod. #2 - 42 FR 4071 - 1/21/77
(H,Hw) - See Statewide
TERRELL COUNTY
(H,Hw) - See Statewide
TERRY COUNTY
(H,Hw) - See Statewide
(R) - See Bailey County
THROCKMORTON COUNTY
(H,Hw) - See Statewide
TITUS COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
TOM GREEN COUNTY
Decision #TX76-4049 (B)
41 FR 7921 - 2/20/76
Mod. #1 - 41 FR 12854 - 3/26/76
Mod. #2 - 41 FR 30503 - 7/23/76
Mod. #3 - 41 FR 42058 - 9/24/76
Mod. #4 - 42 FR 4070 - 1/21/77
(H,Hw) - See Statewide
TRAVIS COUNTY
Decision #TX77-4006 (B)
42 FR 4105 - 1/21/77
(R) - See Bastrop County
(H,Hw) - See Statewide
TRINITY COUNTY
(H,Hw) - See Statewide
TYLER COUNTY
(H,Hw) - See Statewide
UPSHUR COUNTY
(R) - See Gregg County
(H,Hw) - See Statewide
UPTON COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
UVALDE COUNTY
(H,Hw) - See Statewide
VAL VERDE COUNTY
(H,Hw) - See Statewide
VAN ZANDT COUNTY
(R) - See Smith County
(H,Hw) - See Statewide

TEXAS (Cont'd.)

VICTORIA COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
WALKER COUNTY
(H,Hw) - See Statewide
(R) - See Brazoria County
WALLER COUNTY
(H,Hw) - See Statewide
WARD COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
WASHINGTON COUNTY
(H,Hw) - See Statewide
WEBB COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
WHARTON COUNTY
(H,Hw) - See Statewide
WHEELER COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
WICHITA COUNTY
Decision #TX77-4016 (R)
42 FR 5666 - 1/28/77
Decision #TX77-4007 (B)
42 FR 4107 - 1/21/77
(H,Hw) - See Statewide
WILBARGER COUNTY
(H,Hw) - See Statewide
WILLACY COUNTY
(R)(B) - See Cameron County
(H,Hw) - See Statewide
(D) - See Aransas County
WILLIAMSON COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
WILSON COUNTY
(H,Hw) - See Statewide
WINKLER COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
WISE COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
WOOD COUNTY
(R) - See Smith County
(H,Hw) - See Statewide
YOAKUM COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
YOUNG COUNTY
(H,Hw) - See Statewide
ZAPATA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
ZAVALA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide

UTAH

STATEWIDE
Decision #UT77-5006 (B,H,Hw)
42 FR 5668 - 1/28/77
BEAVER COUNTY
(B,H,Hw) - See Statewide
BOX ELDER COUNTY
(B,H,Hw) - See Statewide
CACHE COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
DAGGETT COUNTY
(B,H,Hw) - See Statewide
DAVIS COUNTY
(B,H,Hw) - See Statewide
DUCHESNE COUNTY
(B,H,Hw) - See Statewide
EMERY COUNTY
(B,H,Hw) - See Statewide
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GRAND COUNTY
(B,H,Hw) - See Statewide
IRON COUNTY
(B,H,Hw) - See Statewide
JUAB COUNTY
(B,H,Hw) - See Statewide
KANE COUNTY
(B,H,Hw) - See Statewide
MILLARD COUNTY
(B,H,Hw) - See Statewide
MORGAN COUNTY
(B,H,Hw) - See Statewide
PIUTE COUNTY
(B,H,Hw) - See Statewide
RICH COUNTY
(B,H,Hw) - See Statewide
SALT LAKE COUNTY
(B,H,Hw) - See Statewide
SAN JUAN COUNTY
(B,H,Hw) - See Statewide
SANPETE COUNTY
(B,H,Hw) - See Statewide
SEVIER COUNTY
(B,H,Hw) - See Statewide
SUMMIT COUNTY
(B,H,Hw) - See Statewide
TOOELE COUNTY
(B,H,Hw) - See Statewide
UINTAH COUNTY
(B,H,Hw) - See Statewide
UTAH COUNTY
(B,H,Hw) - See Statewide
WASATCH COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

UTAH (Cont'd)

WAYNE COUNTY
(B,H,Hw) - See Statewide
WEBER COUNTY
(B,H,Hw) - See Statewide

VERMONT

Statewide (Except Rutland County)
Decision #VT76-2170 (Hw)
41 FR 54146 - 12/10/76
Mod. #1 - 42 FR 3140 - 1/14/77
ADDISON COUNTY
(Hw) - See Statewide
BENNINGTON COUNTY
(Hw) - See Statewide
CALEDONIA COUNTY
(Hw) - See Statewide
CHITTENDEN COUNTY
(Hw) - See Statewide
ESSEX COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
GRAND ISLE COUNTY
(Hw) - See Statewide
LAMOILLE COUNTY
(Hw) - See Statewide
ORANGE COUNTY
(Hw) - See Statewide
ORLEANS COUNTY
(Hw) - See Statewide
RUTLAND COUNTY
None
WASHINGTON COUNTY
(Hw) - See Statewide
WINDHAM COUNTY
(Hw) - See Statewide
WINDSOR COUNTY
(Hw) - See Statewide

VIRGIN ISLANDS

ISLAND WIDE
Decision #VI76-3166 (B)
41 FR 19003 - 5/7/76
Decision #VI76-3167 (H,Hw)
41 FR 19003 - 5/7/76

VIRGINIA

ACCOMACK COUNTY
Decision #AP-805 (Hw)
38 FR 11279 - 5/4/73
Mod. #1 - 38 FR 13127 - 5/18/73
Mod. #2 - 40 FR 15284 - 4/4/75
Mod. #3 - 40 FR 23631 - 5/30/75
Mod. #4 - 41 FR 50122 - 11/12/76
Mod. #5 - 42 FR 4073 - 1/21/77
Decision #GA77-5005 (D)
42 FR 1015 - 1/4/77
Mod. #1 - 42 FR 3140 - 1/14/77
ALBERMARLE COUNTY
Decision #VA76-3244 (Hw)
41 FR 38784 - 9/10/76
Decision #VA75-3094 ((B)
40 FR 43415 - 9/19/75
Mod. #1 - 40 FW 48847 - 10/17/75
Mod. #2 - 41 FW 11735 - 3/19/76
ALEXANDRIA CITY
Decision #MD76-3285 (B)
41 FR 51308 - 11/19/76
Mod. #1 - 41 FR 55269 - 12/17/76
Mod. #2 - 42 FR 5617 - 1/28/77
ALLEGHANY COUNTY
Decision #VA76-3245 (Hw)
41 FR 38748 - 9/10/76
Mod. #1 - 41 FR 40374 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
AMELIA COUNTY
Decision #AR-2032 (Hw)
39 FR 31871 - 8/30/74
AMHERST COUNTY
Decision #AQ-2032 (Hw)
38 FR 33259 - 11/30/73
APPOMATTOX COUNTY
(Hw) - See Amherst County
ARLINGTON COUNTY
(B) - See Alexandria City
(D) - See Accomack County
AUGUSTA COUNTY
(Hw) - See Alleghany County
BATH COUNTY
(Hw) - See Alleghany County
BEDFORD CITY
(Hw) - See Bedford County
BEDFORD COUNTY
Decision #AQ-2021 (Hw)
38 FR 27744 - 10/5/73
Mod. #1 - 41 FR 50122 - 11/12/76

VIRGINIA (Cont'd.)

BOTETOURT COUNTY
(Hw) - See Bedford County
BRISTOL CITY
(Hw) - See Bland County
BRUNSWICK COUNTY
(Hw) - See Amelia County
BUCHANAN COUNTY
(Hw) - See Bland County
BUCKINGHAM COUNTY
(Hw) - See Amherst County
BUENA VISTA CITY
(Hw) - See Alleghany County
CAMPBELL COUNTY
Decision #VA75-3095 (B)
40 FR 43416 - 9/19/75
Mod. #1 - 41 FR 11735 - 3/19/76
Mod. #2 - 41 FR 50123 - 11/12/76
(Hw) - See Amherst County
CAROLINE COUNTY
Decision #AQ-2031 (Hw)
38 FR 33258 - 11/30/73
CARROLL COUNTY
(Hw) - See Bedford County
CHARLES CITY COUNTY
(Hw) - See Amelia County
CHARLOTTE COUNTY
(Hw) - See Amherst County
CHARLOTTSVILLE CITY
(B,Hw) - See Albermarle County
CHESAPEAKE CITY
Decision #VA76-3214 (B)
41 FR 32189 - 7/30/76
Mod. #1 - 41 FR 40373 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
Mod. #3 - 41 FR 50122 - 11/12/76
Mod. #4 - 42 FR 7038 - 2/4/77
Decision #AP-494 (Hw)
38 FR 7693 - 3/23/73
Mod. #1 - 40 FR 44446 - 9/26/75
(D) - See Accomack County
CHESTERFIELD COUNTY
(Hw) - See Amelia County
CLARKE COUNTY
(Hw) - See Alleghany County
CLIFTON FORGE CITY
(Hw) - See Alleghany County
COLONIAL HEIGHTS CITY
(Hw) - See Amelia County
COVINGTON CITY
(Hw) - See Alleghany County
CRAIG COUNTY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

CULPEPER COUNTY
(Hw) - See Albermarle County
CUMBERLAND COUNTY
(Hw) - See Amherst County
DANVILLE CITY
(Hw) - See Amherst County
DICKENSON COUNTY
(Hw) - See Bland County
DINWIDDIE COUNTY
(Hw) - See Amelia County
EMPORIA CITY
(Hw) - See Accomack County
ESSEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
FAIRFAX COUNTY
(B) - See Alexandria City
(D) - See Accomack County
FAIRFAX CITY
(B) - See Alexandria City
FALLS CHURCH CITY
(B) - See Alexandria City
FAUQUIER COUNTY
(Hw) - See Albermarle County
FLOYD COUNTY
(Hw) - See Bedford County
FLUVANNA COUNTY
(Hw) - See Albermarle County
FORT MONROE CITY
(Hw) - See Chesapeake City
(B,H,W&S) - See York County
FRANKLIN CITY
(Hw) - See Accomack County
FRANKLIN COUNTY
(Hw) - See Bedford County
FREDERICK COUNTY
(Hw) - See Alleghany County
(R) - See Clarke County

VIRGINIA (Cont'd)

FREDERICKSBURG CITY
(Hw) - See Caroline County
GALAX CITY
(Hw) - See Bedford County
GILES COUNTY
(Hw) - See Bedford County
GLOUCESTER COUNTY
(Hw) - See Carolinm County
(D) - See Accomack County
GOOCHLAND COUNTY
(Hw) - See Amelia County
GRAYSON COUNTY
(Hw) - See Bland County
GREENE COUNTY
(Hw) - See Albermarle County
GREENSVILLE COUNTY
(Hw) - See Accomack County
HALIFAX COUNTY
(Hw) - See Amherst County
HAMPTON CITY
Decision #VA76-3254 (R)
41 FR 44680 - 10/8/76
(B,H,W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
HANOVER COUNTY
(Hw) - See Amelia County
HARRISONBURG CITY
(Hw) - See Allegheny County
HENRICO COUNTY
Decision #VA76-3213 (B)
41 FR 32187 - 7/30/76
Mod. #1 - 41 FR 40373 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
Mod. #3 - 41 FR 50123 - 11/12/76
Mod. #4 - 42 FR 7038 - 2/4/77
(Hw) - See Amelia County

VIRGINIA (Cont'd)

HENRY COUNTY
(Hw) - See Bedford County
HIGHLAND COUNTY
(Hw) - See Alleghany County
HOPEWELL CITY
(Hw) - See Amelia County
ISLE OF WIGHT COUNTY
(D,Hw) - See Accomack County
JAMES CITY COUNTY
(D,Hw) - See Accomack County
KING AND QUEEN COUNTY
(Hw) - See Caroline County
KING GEORGE COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
KING WILLIAM COUNTY
(Hw) - See Caroline County
LANCASTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
LEE COUNTY
(Hw) - See Bland County
LOUDOUN COUNTY
(Hw) - (See Albermarle County
LOUISA COUNTY
(Hw) - See AlbermarleeCounty
LUNENBURG COUNTY
(Hw) - See Amelia County
LYNCHBURG CITY
(B) - See Campbell County
(Hw) - See Amherst County
MADISON COUNTY
(Hw) - See Albermarle County
MARTINSVILLE CITY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

MATHEWS COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MECKLENBURG COUNTY
(Hw) - See Amelia County
MIDDLESEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MONTGOMERY COUNTY
(Hw) - See Bedford County
NANSEMOND COUNTY
(D,Hw) - See Accomack County
NELSON COUNTY
(Hw) - See Amherst County
NEW KENT COUNTY
(Hw) - See Amelia County
NEWPORT NEWS CITY
(B,H,W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
(R) - See Hampton City
NORFOLK CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
NORTHAMPTON COUNTY
(D,Hw) - See Accomack County
NORTON CITY
(Hw) - See Bland County
NORTHUMBERLAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
NOTTOWAY COUNTY
(Hw) - See Amelia County
ORANGE COUNTY
(Hw) - See Albermarle County

VIRGINIA (Cont'd)

PAGE COUNTY
(Hw) - See Alleghany County
PATRICK COUNTY
(Hw) - See Bedford County
PETERSBURG COUNTY
(Hw) - See Amelia County
PITTSYLVANIA COUNTY
(Hw) - See Amherst County
PORTSMOUTH CITY
(Hw,B) - See Chesapeake City
(D) - See Iccomack County
POWHATAN COUNTY
(Hw) - See Amelia County
PRINCE EDWARD COUNTY
(Hw) - See Amherst County
PRINCE GEORGE COUNTY
(Hw) - See Amelia County
PRINCE WILLIAM COUNTY
(D) - See Accomack County
PULASKI COUNTY
(Hw) - See Bedford County
RADFORD CITY (Radford Army Ammunition Plant)
Decision #VA76-3220 (B)
41 FR 33186 - 8/6/76
(Hw) - See Bedford County
RAPPAHANNOCK COUNTY
(Hw) - See Albermarle County
RICHMOND CITY
(B) - See Henrico County
(Hw) - See Amelia County
RICHMOND COUNTY
(Hw) - See Caroline County
ROANOKE CITY
(Hw) - See Bedford County
ROANOKE COUNTY
(Hw) - See Bedford County
ROCKBRIDGE COUNTY
(Hw) - See Alleghany County
ROCKINGHAM COUNTY
(Hw) - See Alleghany County
RUSSELL COUNTY
(Hw) - See Bland County
SALEM CITY
(Hw) - See Bedford County
SCOTT COUNTY
(Hw) - See Bland County
SHENANDOAH COUNTY
(Hw) - See Alleghany County
(R) - See Clarke County
SMYTH COUNTY
(Hw) - See Bland County
SOUTHAMPTON COUNTY
(Hw) - See Accomack County

VIRGINIA (Cont'd)

SOUTH BOSTON CITY
(Hw) - See Amherst County
SPOTSYLVANIA COUNTY
(Hw) - See Caroline County
STAUNTON CITY
(Hw) - See Alleghany County
STAFFORD COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
SUFFOLK CITY
(Hw) - See Accomack County
SURRY COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
SUSSEX COUNTY
(Hw) - See Accomack County
TAZEWELL COUNTY
(Hw) - See Bland County
VIRGINIA BEACH CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
WARREN COUNTY
(Hw) - See Alleghany County
WASHINGTON COUNTY
(Hw) - See Bland County
WAYNESBORO CITY
(Hw) - See Allegheny County
WESTMORELAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
WILLIAMSBURG CITY
(Hw) - See Accomack County
WINCHESTER CITY
(Hw) - See Alleghany County
WISE COUNTY
(Hw) - See Bland County
WYTHE COUNTY
(Hw) - See Bland County
YORK COUNTY
Decision #VA76-3215 (B,H,W&S)
41 FR 32191 - 7/30/76
Mod. #1 - 41 FR 40373 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
Mod. #3 - 41 FR 50124 - 11/12/76
Mod. #4 - 42 FR 7039 - 2/4/77
(D,Hw) - See Accomack County

WASHINGTON

STATEWIDE
Decision #WA76-5079 (B,H,Hw,D)
41 FR 35457 - 8/20/76
Mod. #1 - 41 FR 46821 - 10/22/76
Mod. #2 - 41 FR 48987 - 11/5/76
ADAMS COUNTY
(B,H,Hw,D) - See Statewide
ASOTIN COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CHELAN COUNTY
(B,H,Hw,D) - See Statewide
CLALLAM COUNTY
Decision #WA76-5119 (R)
41 FR 54148 - 12/10/76
(B,H,Hw,D) - See Statewide
CLARK COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COWLITZ COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
FERRY COUNTY
(B,H,Hw, D) - See Statewide
FRANKLIN COUNTY
(B,H,Hw,D) - See Statewide
GARFIELD COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
GRAYS HARBOR COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
ISLAND COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KING COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
KITSAP COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KITTITAS COUNTY
(B,H,Hw,D) - See Statewide
KLICKITAT COUNTY
(B,H,Hw,D) - See Statewide

WASHINGTON (Cont'd)

LEWIS COUNTY
(B,H,Hw,D) - See Statewide
LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
MASON COUNTY
(B,H,Hw,D) - See Statewide
(R)- See Clallam County
OKANOGAN COUNTY
(B,H,Hw,D) - See Statewide
PACIFIC COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
PEND OREILLE COUNTY
(B,H,Hw,D) - See Statewide
PIERCE COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SAN JUAN COUNTY
(B,H,Hw,D) - See Statewide
SKAGIT COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
SKAMANIA COUNTY
(B,H,Hw,D) - See Statewide
SNOHOMISH COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SPOKANE COUNTY
(B,H,Hw,D) - See Statewide
STEVENS COUNTY
(B,H,Hw,D) - See Statewide
THURSTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WAHKIAKUM COUNTY
(B,H,Hw,D) - See Statewide
WALLA WALLA COUNTY
(B,H,Hw,D) - See Statewide
WHATCOM COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WHITMAN COUNTY
(B,H,Hw,D) - See Statewide
YAKIMA COUNTY
Decision #WA77-5008 (R)
42 FR 4109 - 1/21/77
(B,H,Hw,D) - See Statewide

WASHINGTON, D. C.

WASHINGTON, D. C.
Decision #DC76-3204 (B,Hw, W&S)
41 FR 51368 - 11/19/76
Mod. #1 - 41 FR 55270 - 12/17/76
Mod. #2 - 42 FR 5617 - 1/28/77
Decision #DW77-5005 (D)
42 FR 1015 - 1/4/77
Mod. #1 - 42 FR 3140 - 1/14/77
Decision #DC76-3171 (R)
41 FR 21027 - 5/21/76

WEST VIRGINIA

STATEWIDE
Decision #WV75-3105 (H,Hw)
40 FR 48004 - 10/17/75
Mod. #1 - 40 FR 53178 - 11/14/75
Mod. #2 - 41 FR 8631 - 2/27/76
Mod. #3 - 41 FR 11736 - 3/19/76
Mod. #4 - 41 FR 21041 - 5/21/76
BARBOUR COUNTY
Decision #WV76-3206 (B)
41 FR 56604 - 12/28/76
(H,Hw) - See Statewide
BERKELEY COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
BRAXTON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
BROOKE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
CABELL COUNTY
(B) - See Barbour County
Decision #IL76-5026 (D)
41 FR 12858 - 3/26/76
(H,Hw) - See Statewide
CALHOUN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
CLAY COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
DODDRIDGE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
FAYETTE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GILMER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GRANT COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GREENBRIER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HAMPSHIRE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd)

HANCOCK COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HARDY COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HARRISON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
JACKSON COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
(B) - See Barbour County
JEFFERSON COUNTY
(H,Hw) - See Statewide
KANAWHA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
Decision #AR-2058 (R)
39 FR 35948 - 10/4/74
Mod. #1 - 39 FR 44913 - 12/27/74
(H,Hw) - See Statewide
LEWIS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
LINCOLN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
LOGAN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MC DOWELL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MARION COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MARSHALL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MASON COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
MERCER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MINERAL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MINGO COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MONOGALIA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd.)

MONROE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NICHOLAS COUNTY
(H,Hw) - See Statewide
OHIO COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PENDLETON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PLEASANT COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
(B) - See Barbour County
POCAHONTAS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PRESTON COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RALEIGH COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RANDOLPH COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RITCHIE COUNTY
(H,Hw) - See Statewide
(B) - See Barbour County
ROANE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
SUMMERS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TAYLOR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TUCKER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TYLER COUNTY
(D) - See Cabell County
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd.

UPSHUR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WAYNE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WEBSTER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WETZELL COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
WIRT COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WOOD COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
WYOMING COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WISCONSIN

STATEWIDE
Decision #WI76-2119 (HW)
41 FR 44681 - 10/8/76
Decision #WI76-2045 (H, Sewer, Tunnel, & Water)
41 FR 16425 - 4/16/76
Mod. #1 - 41 FR 52188 - 11/26/76
Mod. #2 - 41 FR 53237 - 12/3/76
Mod. #3 - 42 FR 7039 - 2/4/77
ADAMS COUNTY
(H,Hw, W&S) - See Statewide
ASHLAND COUNTY
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(H,Hw, W&S) - See Statewide
Decision #WI76-2157 (B,R)
41 FR 55292 - 12/17/76
BARRON COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
BAYFIELD COUNTY
(B,R,D) - See Ashland County
(H,Hw, W&S) - See Statewide
BROWN COUNTY
Decision #WI76-2160 (B)
41 FR 55297 - 12/17/76
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
BUFFALO COUNTY
(H,Hw, W&S) - See Statewide
BURNETT COUNTY
(H,Hw, W&S) - See Statewide
CALUMET COUNTY
(H,Hw, W&S) - See Statewide
CHIPPEWA COUNTY
(H,Hw, W&S) - See Statewide
(B,R) - See Eau Clair County
CLARK COUNTY
(H,Hw) - See Statewide
COLUMBIA COUNTY
(H,Hw, W&S) - See Statewide
CRAWFORD COUNTY
(H,Hw, W&S) - See Statewide
DANE COUNTY
(H,Hw, W&S) - See Statewide
Decision #WI76-2161 (B,R)
41 FR 55299 - 12/17/76
DODGE COUNTY
(H,Hw, W&S) - See Statewide

WISCONSIN (Con't.d)

DOOR COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
DOUGLAS COUNTY
(D,D,R) - See Ashland County
DUNN COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
EAU CLAIR COUNTY
Decision #WI76-2162 (B,R)
41 FR 54150 - 12/10/76
(H,Hw, W&S) - See Statewide
FLORENCE COUNTY
(H,Hw, W&S) - See Statewide
FOND DU LAC COUNTY
(H,Hw, W&S) - See Statewide
FORREST COUNTY
(H,Hw, W&S) - See Statewide
GRANT COUNTY
(H,Hw, W&S) - See Statewide
GREEN COUNTY
(B) - See Rock County
(H,Hw, W&S) - See Statewide
GREEN LAKE COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
IOWA COUNTY
(B) - See Dane County
(H,Hw, W&S) - See Statewide
IRON COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
JACKSON COUNTY
(H,Hw, W&S) - See Statewide
JEFFERSON COUNTY
(H,Hw, W&S) - See Statewide
JUNEAU COUNTY
(H,Hw, W&S) - See Statewide
Decision #WI76-2165 (B)
41 FR 53261 - 12/3/76
KENOSHA COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
Decision #WI76-2167 (B,R)
41 FR 55301 - 12/17/76
KEWAUNEE COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
LA CROSSE COUNTY
Decision #WI76-2155 (B,R)
41 FR 52280 - 11/26/76
(H,Hw, W&S) - See Statewide

WYOMING

LA FAYETTE COUNTY
(I,Hw, W&S) - See Statewide
LANGLADE COUNTY
(B) - See Marathon County
(I,Hw, W&S) - See Statewide
LINCOLN COUNTY
(B) - See Marathon County
(I,Hw, W&S) - See Statewide
MANITOWOC COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
MARATHON COUNTY
Decision #W76-5070 (B,H)
41 FR 55303 - 12/17/76
(H,Hw, W&S) - See Statewide
MARINETTE COUNTY
(D) - See Ashland County
MARQUETTE COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
MENOMINEE COUNTY
(I,Hw, W&S) - See Statewide
MILWAUKEE COUNTY
Decision #W76-2116 (B,R)
41 FR 41155 - 9/24/76
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
MONROE COUNTY
(H,Hw, W&S) - See Statewide
OCONTO COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
ONEIDA COUNTY
(H,Hw, W&S) - See Statewide
OUTAGAMIE COUNTY
(H,Hw, W&S) - See Statewide
OZAUKEE COUNTY
(B,R) - See Milwaukee County
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
PEPIN COUNTY
(B,R) - See Eau Claire County
(H,Hw, W&S) - See Statewide
PIERCE COUNTY
(H,Hw, W&S) - See Statewide
POLK COUNTY
Decision #W76-2168 (B)
41 FR 55303 - 12/17/76
(H,Hw, W&S) - See Statewide
PORTAGE COUNTY
(H,Hw, W&S) - See Statewide
PRICE COUNTY
(H,Hw, W&S) - See Statewide

WISCONSIN (Cont'd.)

RACINE COUNTY
Decision #W76-2169 (B,R)
41 FR 56620 - 12/28/76
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
RICHLAND COUNTY
(H,Hw, W&S) - See Statewide
ROCK COUNTY
Decision #W76-2163 (B)
41 FR 54152 - 12/10/76
(H,Hw, W&S) - See Statewide
RUSK COUNTY
(H,Hw, W&S) - See Statewide
SAINT CROIX COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
SAUK COUNTY
(B) - See Dane County
(H,Hw, W&S) - See Statewide
SAWYER COUNTY
(H,Hw, W&S) - See Statewide
SHAWANO COUNTY
(H,Hw, W&S) - See Statewide
SHEBOYGAN COUNTY
(D) - See Ashland County
TAYLOR COUNTY
(H,Hw, W&S) - See Statewide
TREMPEALEAU COUNTY
(H,Hw, W&S) - See Statewide
VERNON COUNTY
(H,Hw, W&S) - See Statewide
VILAS COUNTY
(H,Hw, W&S) - See Statewide
WALWORTH COUNTY
(H,Hw, W&S) - See Statewide
WASHBURN COUNTY
(H,Hw, W&S) - See Statewide
WASHINGTON COUNTY
(B,R) - See Milwaukee County
(H,Hw, W&S) - See Statewide
WAUKESHA COUNTY
(B,R) - See Milwaukee County
(H,Hw, W&S) - See Statewide
WAUPACA COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
WASHARA COUNTY
(B) - See Winnebago County
(H,Hw, W&S) -See Statewide
WINNEBAGO COUNTY
Decision #W176-2164 (B)
41 FR 54154 - 12/10/76
(H,Hw, W&S) - See Statewide
WOOD COUNTY
(H,Hw, W&S) - See Statewide

WYOMING (Cont'd.)

TETON COUNTY
(Hw) - See Statewide
UINTA COUNTY
(Hw) - See Statewide
WASHAKIE COUNTY
(Hw) - See Statewide
WESTON COUNTY
(Hw) - See Statewide
YELLOWSTONE NATIONAL PARK
(Hw) - See Statewide

[FR Doc.77-6114 Filed 3-3-77;8:45 am]

federal register

FRIDAY, MARCH 4, 1977

PART IV

DEPARTMENT OF JUSTICE

Attorney General

PRIVACY ACT OF 1974

Systems of Records

V42I43 MAR 4 77 UMI

DEPARTMENT OF JUSTICE
ATTORNEY GENERAL
PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION
PRIVACY ACT OF 1974
Notice of Systems of Records

On November 19, 1976, there were published in the Federal Register in accordance with Section 3(e)(4) and (11) of the Privacy Act, 5 U.S.C. 552a(e) (4) and (11), notices of proposed routine uses (41 FR 51102-51108) for systems of records maintained by the Department of Justice and notices of proposed systems of records (41 FR 51089-51102).

No comments were received with respect to these proposed new routine uses. Pursuant to the authority vested in me by 5 U.S.C. 552a, and as Attorney General of the United States, these new routine uses are hereby adopted.

Following are corrections to notices of systems of records which have been previously published in the Federal Register:

(a):

JUSTICE/LEAA—005 Financial Management System.

JUSTICE/BIA—002 Roster of Organizations and Their Accredited Representatives Recognized by the Board of Immigration Appeals.

(b):

JUSTICE/DEA—010 is renumbered 006
JUSTICE/DEA—012 is renumbered 008
JUSTICE/DEA—014 is renumbered 010
JUSTICE/DEA—016 is renumbered 012
JUSTICE/DEA—019 is renumbered 014
JUSTICE/DEA—002 is renumbered 002
JUSTICE/DEA—004 is renumbered 003
JUSTICE/DEA—006 is renumbered 005
JUSTICE/DEA—021 is renumbered 016

(c):

JUSTICE/CRM—002

System name: Criminal Division Witness Security File. Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2), (k)(1) or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and letter clearly marked "Privacy Access Request". Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requester shall also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

JUSTICE/CRM—014

System name: Organized Crime and Racketeering Section, Intelligence and Special Services Unit, Information Request System.

Contesting record procedures: Same as JUSTICE/CRM—002.

JUSTICE/CRM—018

System name: Registration Files of Individuals Who Have Knowledge of, or Have Received Instruction or Assignment in Espionage, Counterespionage, or Sabotage Service or Tactics of a Foreign Government or of a Foreign Political Party.

Categories of records in the system: The system contains the statement of the registrant and other documents required to be filed under 50 U.S.C. 851. The system is a public record except that certain statements may be withdrawn from public examination pursuant to 50 U.S.C. 853 and 28 CFR 12.40 by the Attorney General having due regard for national security and the public interest. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM—001.

JUSTICE/CRM—021

System name: The Stocks and Bonds Intelligence Card File System.

Record access procedures: Same as JUSTICE/CRM—002.

Contesting record procedures: Same as JUSTICE/CRM—002.

Pursuant to Section 3(e)(4) of the Privacy Act of 1974, attached hereto is the annual compilation of notices of all systems of record maintained by the Department of Justice which have been finally adopted as of the effective date of this document. These records have been previously published in the Federal Register at 40 FR 38703, 40 FR 43871, 40 FR 50647, 40 FR 53605, 40 FR 56465, 41 FR 23215 and 41 FR 51089.

Dated: February 10, 1977.

Griffin B. Bell,
Attorney General.

JUSTICE/BOP - 001

System name: Custodial and Security Record System

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) Conduct Records; 2) Escape Information; 3) Assault Information; 4) Disturbance Information; 5) Investigative Reports; 6) Social Data; 7) Bus Movements; 8) Transfers; 9) Emergency Plans; 10) Daily Activity Sheet; 11) Intelligence Information; 12) Segregation Reports and Log Book; 13) Special Offender List; 14) Physical Health Data; 15) Personal Property Records; 16) Identification and Sentence Data; 17) Records of Work and Housing Assignments; 18) Visiting and Mail Records; 19) Confidential Informant Information from Inmates, Staff, and Others; 20) Work and Study Release Information; 21) FBI Referral Record; 22) Rectal and X-ray Examination Record; 23) Phone Call Record.

Authority for maintenance of the system: This system is established and maintained under authority of 18 U.S.C. 4003, 4042, 4082.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to provide information source and documented records of the protection given Federal inmates, and security in Federal penal facilities; (b) to provide information source to officers and employees of the Department of Justice who have a need for the information in the performance of their duties; (c) to provide information source to state and federal law enforcement officials for investigations, possible criminal prosecutions, civil court actions, or regulatory proceedings; (d) to provide information source for responding to inquiries from federal inmates involved or Congressional inquiries; (e) to provide information source for contracting or consulting correctional agencies who provide services to federal inmates. (f) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials.

Release of information to news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents.

Retrievability: Documents are indexed by name and/or register number.

Safeguards: Information issafeguarded in accordance with Bureau of Prisons rules governing access and release:

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U.S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director; Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) Inmates; 2) Federal Law Enforcement Agencies; 3) State and Federal Probation Services; 4) Non-Federal Law Enforcement Agencies; 5) Educational Institution (Study Release); 6) Relatives, friends, and other interested community individuals; 7) Former or Future Employers; 8) Evaluations, Observations, and Findings of Institutional Staff; 9) Foreign Law Enforcement Agencies.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP - 002

System name: Freedom of Information Act Record System

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) Administrative requests and responses to requests for information and records under 5 U.S.C. 552; 2) Personal data; 3) Litigation reports; 4) Litigation pleadings and court decisions; 5) Reports made in preparation for litigation.

Authority for maintenance of the system: This system is established and maintained under authority of 5 U.S.C. 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to maintain public records concerning the processing and determination of requests for information made pursuant to the Freedom of Information Act 5 U.S.C. 552; (b) to provide documentation of receipt and processing requests for information made pursuant to the Freedom of Information Act for purposes of litigation of contested denial of release of information; (c) to furnish information to employees of the Department of Justice who have a need for information from the system in performance of their duties; (d) to provide information relating to federal offenders and state courts, court personnel, and probation officials.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents.

Retrievability: Documents are indexed by name and/or register number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director; Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: 1) Inmates; 2) Department of Justice Employees; 3) State and Federal Law Enforcement Agencies; 4) Courts; 5) Attorneys.

Systems exempted from certain provisions of the act: None

JUSTICE/BOP - 003

System name: Industrial Inmate Employment Record System

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) Inmate assignment records; 2) Time and Attendance Reports; 3) Work Performance Reports; 4) Payroll Records.

Authority for maintenance of the system: This system is established and maintained under authority of 31 U.S.C. 841; 18 U.S.C. 4002, 4121 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to determine compensation of inmates pursuant to 18 U.S.C. 4002, 4126, 4125, 4121 et seq.; (b) to record employment history of an inmate within the Federal Prison Industries, Inc.; (c) to record disbursement of Federal Prison Industries, Inc., funds for payroll purposes; (d) to evaluate effectiveness of industrial training of inmates; (e) to evaluate authenticity of Federal Prison Industries, Inc., accounting records; (f) to provide information source to officers and employees of the Department of Justice who have need for information in the performance of their duties; (g) to provide information source to state and federal law enforcement officials for investigations, possible criminal prosecutions, civil court actions, or regulatory proceedings; (h) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress-or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents, magnetic tape, magnetic disk, tab cards, and microfilm.

Retrievability: 1) Documents, Tab Cards and Microfilm - Information is indexed by name and/or register number. 2) Magnetic Tape and Disk - Information is indexed by Name, Register Number, Social Security Number, and FBI Number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by electronic means or shredding.

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System manager(s) and address: Chief, Management and Information Systems Group; U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director; Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) The inmate; 2) Bureau of Prisons/Federal Prison Industries staff members; 3) U. S. Treasury Department.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP - 004

System name: Inmate Administrative Remedy Record System

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) ARS records include information on the current offense and sentence; 2) Prior criminal record; 3) Social background; 4) Institution adjustment; 5) Institution program data; 6) Medical information; 7) Personal property data.

Authority for maintenance of the system: This system is established and maintained under authority of 18 U.S.C. 4042.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to maintain records of receipt, processing and responses to grievances filed by inmates; (b) to provide source of information for reconsideration or amendment of Federal Prison System policy with regard to its operations; (c) to maintain source of information as to the exhaustion of administrative remedies for purposes of civil suits filed against the Federal Prison System by inmates; (d) to provide source of information for purposes of defending civil actions filed against the Federal Prison System by inmates; (e) to provide source of information for statistical reports furnished to Federal Courts for purpose of determining effectiveness of the Administrative Remedy Program in reducing the backlog of cases in Federal Court; (f) furnished to employees of the Department of Justice who have a need for the information in the performance of their duties; (g) furnished to appropriate law enforcement authorities, state and federal, for investigation and possible criminal prosecution, civil court action, or regulatory proceedings.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents.

Retrievability: Documents are indexed by name and/or register number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director; Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) ARS records sources include inmates, employees; 2) U. S. Department of Justice and its Bureaus; 3) U. S. Courts.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP - 005

System name: Inmate Central Records System.

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) Computation of sentence and supportive documentation; 2) Correspondence concerning pending charges, and wanted status, including warrants; 3) Requests from other federal and non-federal law enforcement agencies for notification prior to release; 4) Records of the allowance, forfeiture, withholding and restoration of good time; 5) Information concerning present offense, prior criminal background, sentence and parole from the U.S. Attorneys, the Federal Courts, and federal prosecuting agencies; 6) Identification data, physical description, photograph and fingerprints; 7) Order of designation of institution of original commitment; 8) Records and reports of work and housing assignments; 9) Program selection, assignment and performance adjustment/progress reports; 10) Conduct Records; 11) Social background; 12) Educational data; 13) Physical and mental health data; 14) Parole Board orders, actions and related forms; 15) Correspondence regarding release planning, adjustment and violations; 16) Transfer orders; 17) Mail and visit records; 18) Personal property records; 19) Safety reports and rules; 20) Release processing forms and certificates; 21) Interview request forms from inmates; 22) General correspondence; 23) Copies of inmate court petitions.

Authority for maintenance of the system: This system is established and maintained under authority of 18 U.S.C. 4003, 4042, 4082.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to provide documented records of the classification, care, subsistence, protection, discipline and programs, etc., of persons committed to the custody of the Attorney General; (b) to provide information source to officers and employees of the Department of Justice who have a need for the information in the performance of their duties; (c) to provide information source to state and federal law enforcement officials for investigations, possible criminal prosecutions, civil court actions, or regulatory proceedings; (d) to provide information source for disclosure of information that are matters solely of general public record, such as name, offense, sentence data, release date, and etc; (e) to provide information source for disclosure to contracting or consulting correctional agencies that provide correctional services for federal inmates; (f) to provide informational source for responding to inquiries from federal inmates involved or Congressional inquiries; (g)

Internal Users - Employees of the Department of Justice who have a need to know information in the performance of their duties; (h) External Users - State and Federal law enforcement officials for the purposes of investigation, possible criminal prosecution, civil court actions, and regulatory proceedings; state correctional agencies providing services to federal inmates; (i) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents, magnetic tape, magnetic disk, tab cards, and microfilm.

Retrievability: 1) Documents, Tab Cards and Microfilm - Information is indexed by name and/or register number. 2) Magnetic Tape and Disk - Information is indexed by name, register number, social security number, and FBI number.

Safeguards: Information is safeguarded in accordance with Bureau of prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by electronic means or shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director; Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) Individual inmate; 2) Federal law enforcement agencies and personnel; 3) State and federal probation services; 4) Non-federal law enforcement agencies; 5) Educational institutions; 6) Hospital or medical sources; 7) Relatives, friends and other interested individuals or groups in the community; 8) Former or future employers; 9) Evaluations, observations, reports, and findings of institution supervisors, counselors, boards and committees.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP - 006

System name: Inmate Commissary Accounts Record System

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) Financial data; 2) Identification data.

Authority for maintenance of the system: This system is established and maintained under authority of 18 U.S.C. 4042.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to maintain financial accounting of payments into and out of inmate trust fund accounts; (b) to provide accounts of inmate trust fund accounts for purposes of verifying pauper status under 28 U.S.C. 1915; (c) to provide information source to officers and employees of the Department of Justice who have need for information in the performance of their duties; (d) to provide information source to state and federal law enforcement officials for investigations, possible criminal prosecutions, civil court actions, or regulatory proceedings.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents.

Retrievability: Documents are indexed by name and/or register number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director; Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) Inmates; 2) Department of Justice employees.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and been published in the Federal Register.

JUSTICE/BOP - 007

System name: Inmate Physical and Mental Health Record System.

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) Medical history and examination (past and present); 2) Dental history and examination (past and present); 3) Medical information concerning deaths of inmates; 4) Offense; 5) Mental Health and Drug Abuse interview and testing data, generated in Bureau of Prisons; 6) Mental Health information generated outside Bureau of Prisons by other corrections agencies, mental hospitals, private therapists, etc; 7) Information as per 5 and 6 above on unsentenced individuals committed under Title 18, sections 4244 and 4246; 8) Mental Health Treatment progress notes and observations made by other staff members; 9) Urine surveillance reports of drug program participants.

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Authority for maintenance of the system: This system is established and maintained under authority of 18 U.S.C. 4003, 4042, 4082.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to provide documented records of the diagnosis, treatment, and cure of illnesses of persons committed to the custody of the Attorney General pursuant to 18 U.S.C. 4082; (b) to provide documented records and background medical, mental, or dental history to contracting, or consulting physicians, psychologists and psychiatrists, and dentists, or other specialists, for diagnosis, treatment and cure of federal inmates; (c) to provide information source to officers and employees of the Department of Justice who have a need for the information in the performance of their duties; (d) to provide information source for disclosure to state and federal law enforcement officials for investigations, possible criminal prosecutions, civil court actions, or regulatory proceedings; (e) to provide information source for responding to inquiries from federal inmates or Congressional inquiries; (f) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials; (g) to provide medical information relevant to the treatment being provided by physicians, psychiatrists, psychologists, state and federal medical facility personnel, other medical agencies and etc., providing treatment for a pre-existing condition for ex-federal offenders.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents, magnetic tape, magnetic disk, tab cards, and microfilm.

Retrievability: 1) Documents, Tab Cards and Microfilm - Information is indexed by name and/or register number. 2) Magnetic Tape and Disk - Information is indexed by name, register number, social security number, and FBI number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by electronic means of shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director; Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) Individual; 2) Hospital and/or medical sources; 3) Pre-sentence reports; 4) Other mental health care giving agencies; 5) Observation reports from other Bureau of Prisons staff.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP - 008

System name: Inmate Safety and Accident Compensation Record System

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office; U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: Inmate accident/injuries data sustained by: a) Work related accidents; b) Recreational injuries; c) Vehicle accidents; d) Assaults; e) Other non-work accident/injuries.

Authority for maintenance of the system: This system is established and maintained under authority of 18 U.S.C. 4042, 4126.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to provide a documented record of inmate accidents, injuries, for the purpose of measuring safety programs effectiveness; (b) to provide information source for compliance with the Occupational Safety and Health Act; (c) to provide documented records of inmate accidents, injuries, and disabilities for adjudication of claims by inmates filed pursuant to the Inmate Accident Compensation System, 18 U.S.C. 4126; Chapter III, Federal Prisons Industries, 28 C.F.R., Part 301; (d) furnished to employees of the Department of Justice who require information from these records for performance of their duty; (e) to provide background information and litigation reports to United States Attorneys for purpose of defending civil actions filed against the Bureau of Prisons; (f) furnished to consultant physicians, and physicians treating inmates following release from custody for the purpose of providing prior medical history in conjunction with further treatment of the individual inmate; (g) to provide documented records for disclosure to appropriate law enforcement authorities, state or federal, for investigation and possible criminal prosecution, civil court action, or regulatory proceeding; (h) to provide information source for responding to inquiries from the inmate involved or Congressional inquiries; (i) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents.

Retrievability: Documents are indexed by name and/or register number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by electronic means or shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director; Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) The inmate; 2) Bureau of Prisons staff members; 3) Medical staff members and medical consultants; 4) U. S. Probation Officers; 5) Attorneys; 6) Relatives of inmates; 7) Inquiries and replies to Congressmen; 8) U. S. Attorneys.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BOP - 009

System name: Federal Tort Claims Act Record System

System location: Records may be retained at any of the Bureau's facilities, the Regional Offices and the Central Office. All requests for records may be made to the Central Office: U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General.

Categories of records in the system: 1) Administrative Tort claims and supporting documents; 2) Personal data; 3) Investigative reports; 4) Medical reports; 5) Property records; 6) Litigation reports; 7) Reports made in preparation of litigation; 8) Social and Criminal Background; 9) Employment History; 10) Correspondence; 11) Litigation Pleadings and Court Decisions.

Authority for maintenance of the system: This system is established and maintained under authority of 28 U.S.C. 2671 et seq. FTCA.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of this system are: (a) to provide information source for purposes of adjudicating claims for personal injury and property damages pursuant to the Federal Tort Claims Act, 28 U.S.C. 2675; (b) to provide information source for purposes of preparing reports concerning litigation in United States Courts under the Federal Tort Claims Act, 28 U.S.C. 2671 et seq; (c) to provide information source that is furnished to counsel for claimants under the Federal Tort Claims Act; (d) to provide information source that is furnished to medical officials when requested by claimants under the Federal Tort Claims Act; (e) to provide information source that is disclosed to employees of the Department of Justice who have a need for the information in the performance of their duties; (f) to provide information source to state and federal law enforcement officials for the purpose of investigations, possible criminal prosecutions, civil court actions, or regulatory proceedings; (g) to provide information relating to federal offenders to federal and state courts, court personnel, and probation officials.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored in documents.

Retrievability: Documents are indexed by name and/or register number.

Safeguards: Information is safeguarded in accordance with Bureau of Prisons rules governing access and release.

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: Chief, Management and Information Systems Group; U. S. Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534.

Notification procedure: Address inquiries to: Director; Bureau of Prisons; 320 First Street, N.W.; Washington, D.C. 20534. The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempt from this requirement under 5 U.S.C. 552a (j). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received.

Contesting record procedures: Same as the above.

Record source categories: 1) Inmates; 2) Department of Justice Employees; 3) U. S. Probation Service; 4) Contract and Consulting Physicians including Hospitals; 5) Attorneys; 6) Relatives and friends of Inmates; 7) Congress; 8) State and Federal Law Enforcement Agencies.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

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System name: Appendix of Field Locations for the Bureau of Prisons.

Regional Offices

North East Region
Scott Plaza II, Industrial Highway
Philadelphia, Pa. 10113

South East Region
Bldg. No. 300, Greenbriar Office Park
3500 Greenbriar Parkway, S.W.
Atlanta, Georgia 30331

North Central Region
K.C.I. Bank Bldg.
8800 Northwest 112th Street
Kansas City, Missouri 64153

South Central Region
3883 Turtle Creek Blvd.
Dallas, Texas 75219

Western Region
330 Primrose Road, Fifth Floor
Burlingame, California 94010

United States Penitentiaries

Atlanta, Georgia 30315
Leavenworth, Kansas 66048
Lewisburg, Pennsylvania 17837
Marion, Illinois 62959
McNeil Island, Steilacoom, Washington 98388
Terre Haute, Indiana 47808

Federal Reformatories

Alderson, West Virginia 24910
El Reno, Oklahoma 73036
Petersburg, Virginia 23804

Federal Correctional Institutions

Danbury, Connecticut 06813
Fort Worth, Texas 76119
La Tuna, Anthony, New Mexico-Texas 88201
Lexington, Kentucky 40507
Lompoc, California 93436
Milan, Michigan 48160
Oxford, Wisconsin 53952
Sandstone, Minnesota 55072
Seagoville, Texas 75159
Tallahassee, Florida 32304
Terminal Island, California 90731
Texarkana, Texas 75502

Youth and Juvenile Institutions

Federal Youth Center, Ashland, Kentucky 41101
Federal Youth Center, Englewood, Colorado 80110
Federal Youth Center, Pleasanton, California 94568
Robert F. Kennedy Youth Center, Morgantown, West Virginia 16505

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Federal Prison Camps

Allenwood - Montgomery, Pennsylvania 17752
Eglin Air Force Base, Florida 32542
Maxwell Air Force Base, Montgomery, Alabama 36112
Safford, Arizona 85546

Medical Center for Federal Prisoners

Springfield, Missouri 65802

Federal Detention Headquarters

Florence, Arizona 85232

Federal Detention Center

El Paso, Texas 79925

Metropolitan Correctional Centers

Foley Square
New York, New York 10007

808 Union Street
San Diego, California 92101

Community Treatment Centers

715 McDonald Blvd. S.E.
Atlanta, Georgia 30315

826 S. Wabash Ave.
Chicago, Illinois 60605

3401 Gaston Ave.
Dallas, Texas 75248

1950 Trumbull Ave.
Detroit, Michigan 43216

2320 LaBranch Ave.
Houston, Texas 77044

404 E. 10th St.
Kansas City, Missouri 64106

1212 S. Alvardo St.
Los Angeles, California 90006

210 West 55th Street
New York, New York 10019

205 MacArthur Blvd.
Oakland, California 94610

316 W. Roosevelt Rd.
Phoenix, Arizona 85003

JUSTICE/DEA - 001

System name: Air Intelligence Program

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D. C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: (A.) Aircraft Owners; (B.) Licensed Pilots.

Categories of records in the system: (A.) FAA Civil Aircraft Registry; (B.) FAA Aircraft Owners Registry; (C.) FAA Airman Directory; (D.) Entries into NADDIS.

Authority for maintenance of the system: The System is maintained to provide intelligence and law enforcement activities pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91-513) and Reorganization Plan No. 2 of 1973.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system provides a research data base for identification of aircraft, aircraft owners and pilots that are known or suspected of involvement in illicit air transportation of narcotics. Information developed from this system is provided to the following categories of users for law enforcement purposes on a routine basis: (A.) Other Federal law enforcement agencies; (B.) State and local law enforcement agencies; (C.) Foreign law enforcement agencies with whom DEA maintains liaison.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Reference materials are maintained on microfiche. Information developed from the reference materials is entered onto the NADDIS magnetic tape.

Retrievability: This system is indexed by name and identifying numbers.

Safeguards: This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to authorized DEA employees with appropriate clearance on a need-to-know basis.

Retention and disposal: Reference materials are retained until updated and then destroyed. Entries into NADDIS are retained for fifty-five years.

System manager(s) and address: Assistant Administrator for Intelligence; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537.

Notification procedure: The reference materials in this system are matters of public record. Information developed from this system and entered into the Narcotics and Dangerous Drug Information System (NADDIS) has been exempted from compliance with subsection (d) of the Act by the Attorney General.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Federal Aviation Administration

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), and (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA - 002

System name: Automated Intelligence Records (Pathfinder I)

System location: Drug Enforcement Administration, 1405 Eye Street, N.W., Washington, D.C., 20537; also Field Offices and El Paso Intelligence Center, El Paso, Texas.

Categories of individuals covered by the system:

A. Known, suspected, or alleged drug traffickers and associates.

B. Known, suspected, or alleged alien smugglers and associates who are transiting the US-Mexico border.

C. Known, suspected, or alleged arms smugglers (narcotic-related) and associates who are transiting the US-Mexico border.

In the course of criminal investigation, DEA may detect violations of non-drug related laws. In the interests of effective law enforcement, this information is retained in order to establish patterns of criminal activity and to assist other law enforcement agencies that are charged with enforcing other segments of criminal law. Therefore, in certain limited circumstances, individuals known, suspected, or alleged to be involved in non-narcotic criminal activity may be subject to a file maintained in this system.

Categories of records in the system: Computerized Intelligence Information.

Authority for maintenance of the system: This system is maintained to provide DEA with an automated intelligence capability pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970; Reorganization Plan No. 2 of 1973 and the Single Convention on Narcotics Drugs. Also, due to the joint participation of INS at the El Paso Intelligence Center, additional authority for maintenance of the system is derived from the Immigration and Nationality Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system will be used to produce association and link analysis reports and such special reports as required by DEA intelligence analysts. Information from this system will be provided to the following categories of users for law enforcement purposes: A) Other Federal law enforcement agencies; B) State and local law enforcement agencies; C) Foreign law enforcement agencies with whom DEA maintains liaison; D) U. S. Intelligence and Military Intelligence agencies involved in drug enforcement.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These computerized records are maintained on direct access disc storage.

Retrievability: The system is retrievable by use of each data element in the system as a single entity or by a combination of data elements

Safeguards: This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, the system is housed in a special computer facility which meets CIA and NSA standards for intrusion, electronic and acoustic penetration. Access to the system is strictly limited to DEA intelligence analysts with appropriate clearances on a specific need-to-know basis.

Retention and disposal: Information will be maintained in the system indefinitely.

System manager(s) and address: Assistant Administrator for Intelligence; Drug Enforcement Administration; 1405 Eye Street, N. W.; Washington, D. C. 20537.

Record source categories: A) DEA Intelligence Reports; B) Reports of other Federal, state and local agencies; C) Reports of foreign agencies with whom DEA maintains liaison.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA - 003

System name: Automated Records and Consumated Orders System/Diversion Analysis and Detection System (ARCOS/DADS)

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D. C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: Persons registered with DEA under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91-513).

Categories of records in the system: The information contained in this system consists of individual business transactions between levels of handlers of controlled substances to provide an audit trail of all manufactured and/or imported controlled substances to the dispensing level.

Authority for maintenance of the system: This system of records is maintained pursuant to the reporting requirements of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826(d)) and to enable the United States to fulfill its treaty obligations under the Single Convention on Narcotic Drugs and the Convention on Psychotropic Substances.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information contained in this system is provided to the following categories of users for the purposes stated: A) Other Federal law enforcement and regulatory agencies for law enforcement or regulatory purposes; B) State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes; C) The International Narcotics Control Board as required by treaty obligations.

The ARCOS/DADS system of records generates the following reports: 1) Reports to the United Nations on Narcotics and Psychotropic Substances; 2) Aggregate Individual Quota Allocation Supportive Data; 3) Usage of Controlled Substances; 4) Controlled Substance Summary by Reporting Registrant; 5) Controlled Substance Summary by Location; 6) Controlled Substance Usage & Inventory Summary - by Schedule; 7) Discrepancy Notice Reports; 8) Discrepancy Error Analysis Report; 9) Potential Diversion Reports; 10) Incomplete Transfers; 11) Unauthorized Purchases; 12) Excess Inventory & Purchases; 13) Order Form Monitoring; 14) Improper Reporting of Partial Shipments; 15) Discrepancies in Quantities; 16) Waste & Sampling of Controlled Substances Beyond Limits; 17) Controlled Substances Used in Manufacturing of Non-controlled Substances; 18) Controlled Substances Used in Research; 19) Controlled Substances Sold to Government Agencies; 20) Controlled Substances Destroyed; 21) Controlled Substances Imported/Exported; 22) Quota Excess.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All automated data files associated with ARCOS/DADS are maintained in the Department of Justice Data Center and the Drug Enforcement Administration Data Center.

Retrievability: The system is indexed by name and identifying number. In addition a number of telecommunication terminals have been added to the existing network.

Safeguards: The portion of the records maintained in DEA headquarters is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to ARCOS Unit employees who have appropriate security clearances on a need to know basis. Information that is retrievable by terminals requires user identification numbers which are issued to authorized employees of the Department of Justice.

Retention and disposal: Input data received from registrants is maintained for 60 days for backup purposes and then destroyed by shredding or electronic erasure. ARCOS master inventory records are retained for eight consecutive calendar quarters. As the end of a new quarter is reached the oldest quarter of data is purged from the record. ARCOS transaction history will be retained for a maximum of five years and then destroyed.

System manager(s) and address: Assistant Administrator for Enforcement; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D. C. 20537.

Record source categories: Business forms and individuals registered with DEA under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91-513).

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3), (d), (e)(4)(G) and (H), (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA - 004

System name: Congressional Correspondence File

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

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Categories of individuals covered by the system: Members of the United States Congress

Categories of records in the system: (A) Inquiries from members of Congress; (B) Reply to Congressional inquiries.

Authority for maintenance of the system: 5 U.S.C. 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system is maintained to provide a history of Congressional inquiries. The information is not disseminated outside the Department of Justice.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The documents in this system are maintained in standard file folders.

Retrievability: The system is indexed by the name of the member of Congress.

Safeguards: This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, the records are stored in bar lock filing cabinets and access to the system is restricted to members of the DEA Congressional Relations Staff.

Retention and disposal: These records are retained indefinitely.

System manager(s) and address: Director of Congressional Relations; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537.

Notification procedure: Inquiries should be addressed to Freedom of Information Unit, Drug Enforcement Administration, 1405 Eye Street, N.W. Washington, D.C. 20537.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Members of Congress

Systems exempted from certain provisions of the act: None

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System name: Controlled Substances Act Registration Records (CSA)

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: Records are maintained on the following categories of individuals registered under the Controlled Substances Act including registrants doing business under their individual name rather than a business name: (A) Physicians and related practitioners; (B) Dentists; (C) Veternarians; (D) Persons conducting research with controlled substances; (E) Importers of controlled substances; (F) Exporters of controlled substances; (G) Manufacturers of controlled substances; (H) Distributors of controlled substances; (I) Pharmacies.

Categories of records in the system: The Controlled Substances Act Registration Records are maintained in a manual system which contains the original of the application for registration under 225, 226, 227, and 363, order forms (DEA-222's) and any correspondence concerning a particular registrant. In addition, the same basic data is maintained in an automated system for quick retrieval.

Authority for maintenance of the system: The Drug Enforcement Administration is required under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513) to register all handlers of controlled substances.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Controlled Substances Act Registration Records produce special reports as required for statistical analytical purposes. Disclosures of information from this system are made to the following categories of users for the purposes stated: (A) Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes; (B) State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes; (C) Persons registered under the Controlled Substances Act (Public Law 91-513) for the purpose of verifying the registration of customers and practitioners.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The automated portion of this system is maintained on magnetic tape and the manual portion is by batch.

Retrievability: The automated system is retrieved by name and registration number. The manual portion is filed in batches by date of application and indexed within each batch by name. A microfiche system of the names in each batch is maintained for quick reference purposes. In addition, a number of telecommunication terminals have been added to the existing network.

Safeguards: This system of records is maintained in DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to DEA personnel on a need-to-know basis. A specific computer program is necessary to extract information. Information that is retrievable by terminals requires user identification numbers which are issued to authorized employees of the Department of Justice.

Retention and disposal: Records in the manual portion of the system are retired to the Federal Records Center after one year and destroyed after five years. The automated data is stored in the Department of Justice Computer Center and destroyed after five years.

System manager(s) and address: Assistant Administrator for Enforcement; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537.

Notification procedure: The Attorney General has exempted the Controlled Substances Act Registration Records from compliance with subsection (d) of the Act.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Information contained in this system of records is obtained from: (A) Registrants under the Controlled Substances Act (Public Law 91-513); (B) DEA Compliance Investigators.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3), (d), (e)(4)(G) and (H), (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

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System name: Freedom of Information/Privacy Act Records.

System location: Freedom of Information Division, Drug Enforcement Administration, 1405 I Street, N.W., Room 200, Washington, D.C. 20537.

Categories of individuals covered by the system: Persons who request disclosure of records pursuant to the Freedom of Information Act; persons who request access to or correction of records pertaining to themselves contained in DEA's system of records pursuant to the Privacy Act; and, where applicable, persons about whom records have been requested or about whom information is contained in requested records.

Categories of records in the system: The system contains: (1) copies of all correspondence and internal memorandums related to the Freedom of Information Act and Privacy Act requests, and related records necessary to the processing of such requests received after January 1, 1975; (2) copies of all documents relevant to appeals and lawsuits under the Freedom of Information Act and Privacy Act.

Authority for maintenance of the system: This system is established and is maintained pursuant to the authority of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Reorganization Plan No. 2 of 1973; and is maintained to implement the provisions of 5 U.S.C. 552 and §52a and the provisions of 28 C.F.R. 16.1 et seq. and 28 C.F.R. 16.40 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system may be disseminated as a routine use of such records as follows: (1) a record may be disseminated to a Federal agency which furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate Federal, State, local, or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in systems of records maintained by the Freedom of Information Division.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records in this system are maintained in standard case file folders.

Retrievability: A record is retrieved by the name of the individual or person making a request for access or correction of records.

Safeguards: This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, the system is stored in Diebold combination vault and access is restricted to the staff of the Freedom of Information Division on a need-to-know basis.

Retention and disposal: Currently there are no provisions for disposal of records contained in this system. Destruction schedules will be developed as the system requirements become known.

System manager(s) and address: Chief, Freedom of Information Division, Drug Enforcement Administration, 1405 I Street, N.W., Room 200, Washington, D.C. 20537.

Notification procedure: A part of this system is exempted from this requirement under 5 U.S.C. 552a (j) or (k). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request is received by the Drug Enforcement Administration, 1405 I Street, Washington, D.C. 20537. A request shall be made in writing, with the envelope and the letter clearly marked 'Privacy Request'. Each Privacy request shall contain the name of the individual involved, his date and place of birth, and other verification of identity as required by 28 C.F.R. 16.41. Each requestor shall also provide a return address for transmitting the information. Requests shall be directed to the System Manager listed above.

Record access procedures: Same as Notification Procedures above.

Contesting record procedures: Same as Notification Procedures above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are the individuals and persons making requests, the systems of records searched in the processing of responding to requests, and other agencies referring requests for access to or correction of records originating in the Drug Enforcement Administration.

Systems exempted from certain provisions of the act: Records secured from other systems of records have been exempted from the provisions of the Freedom of Information/Privacy Acts to the same extent as the systems of records from which they were obtained. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b)(c), and (e) and have been published in the Federal Register.

JUSTICE/DEA - 007

System name: International Intelligence Data Base

System location: Drug Enforcement Administration; 1405 Eye Street, N. W.; Washington, D. C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: Known and suspected drug traffickers

Categories of records in the system: (A) Intelligence reports; (B) Investigative reports; (C) Subject files.

Authority for maintenance of the system: This system is maintained for law enforcement and intelligence purposes pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970, Reorganization Plan No. 2 of 1973 and the Single Convention on Narcotic Drugs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

This system is maintained to further criminal investigations through the collation, analysis and dissemination of intelligence information. This system produces the following reports: a) Tactical, operational and strategic intelligence reports; b) Major organizational reports; c) Network analysis; d) Trafficker profiles; e) Intelligence briefs on prior experience with individuals, firms, countries, etc; f) Country profiles; g) Country Intelligence Action Plans; h) Current situational reports; i) Special reports as requested; j) Drug patterns and trends and drug trafficking from source to U.S. distributors.

In addition, information is provided to the following categories of users for law enforcement purposes on a routine basis: A) Other Federal law enforcement agencies; B) State and local law enforcement agencies; C) Foreign law enforcement agencies with whom DEA maintains liaison; D) U.S. Intelligence and Military Intelligence Agencies involved in drug enforcement; E) U.S. Department of State; F) The Cabinet Committee on International Narcotics Control.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in standard case files and on index cards.

Retrievability: The system is indexed by name and subject category and retrieved by use of a card file index.

Safeguards: This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, all records contained in this system are stored in GSA approved security containers. Access to the system is restricted to authorized DEA personnel with Secret Clearance or above.

Retention and disposal: The Records contained in this system are currently retained for an indefinite period.

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System manager(s) and address: Assistant Administrator for Intelligence; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537.

Record source categories: A) Other Federal agencies; B) State and local law enforcement agencies; C) Foreign law enforcement agencies; D) Confidential informants.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA - 008

System name: Investigative Reporting and Filing System

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, DC 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system:

A. Drug offenders.
B. Alleged drug offenders.
C. Persons suspected of drug offenses.
D. Confidential informants.
E. Defendants.
F. Witness.
G. Non-implicated persons with pertinent knowledge of some circumstance or aspect of a case or suspect. These are pertinent references of fact developed by personal interview or third party interview and are recorded as a matter for which a probable need for recall will exist. In the regulatory portion of the system, records are maintained on the following categories of individuals: A) Individuals registered with DEA under the Comprehensive Drug Abuse Prevention and Control Act of 1970; B) Responsible officials of business firms registered with DEA; C) Employees of DEA registrants who handle controlled substances or occupy positions of trust related to the handling of controlled substances; D) Applicants for DEA registration and their responsible employees.

Categories of records in the system: The Investigative Reporting and Filing System includes, among other things, a system of records as defined in the Privacy Act of 1974. Individual records, i.e., items of information on an individual may be decentralized in separate investigative file folders. Such records as well as certain other records on persons and subjects not covered by the act, are made retrievable and are retrieved by reference to the following sub-systems.

A. The Narcotics and Dangerous Drugs Information (NADDIS) is a central automated index maintained by DEA Headquarters. It is accessible by the telecommunication means of appropriately equipped DEA headquarters and field offices. The index record contains names and selected items of information extracted from investigative reports. Direct references to the discrete file folders in which the source reports are filed are provided, therefore, the records point to the more comprehensive manual reports. The central index reflects records maintained at all DEA echelons. Records are retrievable by name and by certain identifying numbers.

B. Manual name indicies covering regional and district investigative activities are maintained by DEA field offices. A residual card index is retained at DEA headquarters that predates the automated central index. The items of information on the manual index records are extracted only from investigative reports and point to the more comprehensive information in pertinent investigative file folders. The records in the field office indicies are sub-sets of the central automated and manual indicies. Records are retrievable by name only by this manual technique. Four basic categories of files are maintained within the Investigative Reporting and Filing System. DEA does not maintain a dossier type file in the traditional sense on an individual. Instead, the files are compiled on separate investigations, topics and on a functional basis for oversight and investigative support. A) Criminal Investigative Case Files; B) General Investigative Files, Criminal and Regulatory; C) Regulatory Audit and Investigative Files; D) Confidential Informant Files.

The basic document contained in these files is a multi-purpose report of investigation (DEA-6) on which investigative activities and findings are rigorously documented. The reports pertain to the full range of DEA criminal drug enforcement and regulatory investigative functions that emanate from the Comprehensive Drug Prevention and Control Act of 1970. Within the categories of files listed above, the general file category includes preliminary investigations of a criminal nature, certain topical or functional aggregations and reports of pre-registrant inspections/investigations. The case files cover targeted conspiracies, trafficking situations and formal regulatory audits and investigations. Frequently the criminal drug cases are the logical extension of one or more preliminary investigations. The distinction between the case file and general file categories, therefore, is based on internal administrative policy and should not be construed as a differentiation of investigation techniques or practices. These files, except for Confidential Informant Files, contain also adopted reports received from other agencies to include items that comprise, when indexed, individual records within the meaning of the Act. The central files maintained at DEA Headquarters include, in general, copies of investigative reports and most of the supporting documents that are generated or adopted by DEA Headquarters and field offices.

Authority for maintenance of the system: This system is established and maintained to enable DEA to carry out its assigned law enforcement and regulatory functions under the Comprehensive Drug Abuse Prevention and Control Act of 1970. (Public Law 91-513), Reorganization Plan No. 2 of 1973, and to fulfill United States obligations under the Single Convention on Narcotics Drugs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system may be used as a data source or reference facility for numerous summary, management and statistical reports produced by the Drug Enforcement Administration. Only on rare occasions do such reports contain identifiable individual records. Information contained in this system is provided to the following categories of users as a matter of routine use for law enforcement and regulatory purposes: A) Other Federal law enforcement and regulatory agencies; B) State and local law enforcement and regulatory agencies; C) Foreign law enforcement agencies with whom DEA maintains liaison; D) The Department of Defense and Military Departments; E) The Department of State; F) U. S. intelligence agencies concerned with drug enforcement; G) The United Nations; H) Interpol; I) To individuals and organizations in the course of investigations to elicit information.

In addition, disclosures are routinely made to the following categories for the purposes stated: A) To federal agencies for national security clearance purposes and to federal and state regulatory agencies responsible for the licensing or certification of individuals in the fields of pharmacy and medicine; B) To the Office of Management and Budget upon request in order to justify the allocation of resources; C) To State and local prosecutors for assistance in preparing cases concerning criminal and regulatory matters; D) To the news media for public information purposes. E) To respondents and their attorneys for purposes of discovery, formal and informal, in the course of an adjudicatory, rule-making, or other hearing held pursuant to the Controlled Substances Act of 1970.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Administration regulations include detailed instructions for the preparation, adoption, handling, dissemination, indexing of individual records, storage, safeguarding of investigative reports and the accounting of disclosure of individual records.

Storage:

1. The Headquarters central files and the field office subsets of the Investigative Reporting and Filing System are maintained in standard file folders. Standard formats are employed. Manual indicies are maintained using standard index record formats.

2. The Narcotics and Dangerous Drugs Information subset is stored electronically on the Department of Justice Information System separate from DEA Headquarters.

Retrievability: Access to individual records is gained by reference to either the automated or manual indicies. Retrievability is a function of the presence of items in the index and the matching of names in the index with search argument names or identifying numbers in the case of the automated system. Files identified from field office indicies are held by the field office and Headquarters. Files identified from the automated index may not be held by the interested office, but the originators of such files are identified. In addition a number of telecommunication terminals have been added to the existing network.

Safeguards: The Investigative Reporting and Filing System is protected by both physical security methods and dissemination and access controls. Fundamental in all cases is that access to investigative information is limited too those persons or agencies with a demonstrated and lawful need to know for the information in order to perform assigned functions.

1. Physical security when investigative files are attended is provided by responsible DEA employees. Physical security when files are unattended is provided by the secure locking of material in approved containers or facilities. The selection of containers or facilities is made in consideration of the sensitivity or National Security Classification, as appropriate, of the files and the extent of security guard and/or surveillance afforded by electronic means.

2. Protection of the automated index is provided by physical, procedural and electronic means. The Master file resides on the Department of Justice Computer System and is physically attended or guarded on a full-time basis. Access or observation to active telecommunications terminals is limited to those with a demonstrated need to know for retrieval information. Surreptitious access to an unattended terminal is precluded by a complex sign-on procedure. The procedure is provided only to authorized DEA employees. For certain terminals, access is further restricted by cryptological equipment.

3. An automated log of queries is maintained for each terminal. Improper procedure results in no access. Terminals are signed-off after use. The terminals are otherwise located in locked facilities after normal working hours.

4. The dissemination of investigative information on an individual outside the Department of Justice is made in accordance with the routine uses as described herein or otherwise in accordance with the conditions of disclosure prescribed by the Act. The need to know of the recipient is determined in both cases by DEA as a prerequisite of the release.

Retention and disposal: Records contained within this system except for those in general files are retained for fifty-five (55) years. Records in general files are retained for twenty (20) years.

System manager(s) and address: Assistant Administrator for Enforcement; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537.

Record source categories: A) DEA personnel; B) Cooperating individuals; C) Suspects and defendants; D) Federal, State and local law enforcement and regulatory agencies; E) Other federal agencies; F) Foreign law enforcement agencies; G) Business records by subpoena; H) Drug and chemical companies; I) Concerned citizens.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA - 009

System name: Medical Records

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D. C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: A) DEA Employees; B) Cooperating Individuals;

Categories of records in the system: A) Annual physical examinations; B) Reports of disease or injury pertaining to DEA Special Agents and Chemists; C) Reports of job related injury or illness for employees and cooperating individuals; D) Pre-employment physical examination of DEA Special Agents and Compliance Investigators; E) Physical examination reports of non-federal police personnel applying to attend the National Training Institute.

Authority for maintenance of the system: These records are maintained to establish and maintain an effective and comprehensive health program for employees pursuant to 5 U.S.C. 7901, 29 U.S.C. 655 and 668 and Executive Order 11807 of September 28, 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are maintained for internal use DEA. The only disclosure outside the agency would be to a physician when authorized by the subject.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained in standard file folders.

Retrievability: Records are retrieved by name

Safeguards: This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, the records are stored in file safes in an alarmed, controlled access area. Access to the system is limited to employees of the medical office on a need-to-know basis.

Retention and disposal: These records are retained indefinitely

System manager(s) and address: Chief Medical Officer; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D. C. 20537.

Notification procedure: Inquiries should be addressed to Freedom of Information Unit, Drug Enforcement Administration, 1405 Eye Street, N.W., Washington, D.C. 20537. Inquiries should contain the following information: Name; Date and Place of Birth; Dates of Employment with DEA; Employee number.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: Individuals on whom records are maintained; Employees of Medical Office.

Systems exempted from certain provisions of the act: None

JUSTICE/DEA - 010

System name: Office of Internal Security Records

System location: Drug Enforcement Administration; 1405 Eye Street, N. W.; Washington, D. C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: A) DEA employees, past and present B) Applicants for employment with DEA C) Drug offenders, alleged drug offenders, and persons suspected of drug offenses D) Offenders, alleged offenders, and persons suspected of committing Federal and state crimes broadly characterized as corruption or integrity offenses E) Confidential informants F) Witnesses G) Non-implicated persons with pertinent knowledge of circumstances or aspects of a case or suspect. These are pertinent references of fact developed by personal interview or third party interview and are recorded as a matter for which a probable need will exist.

Categories of records in the system: A) Investigative reports with supporting memoranda and work papers relating to investigations of individuals and situations. B) General files which include, among other things, supporting memoranda and work papers and miscellaneous memoranda relating to investigations of and the purported existence of situations and allegations about individuals. C) Audit and inspection reports of inspections of DEA offices, personnel, and situations. D) Zero files containing general correspondence and memoranda relating to the subject matter of the categories of individuals covered by the system.

Authority for maintenance of the system: Reorganization Plan No. 1 of 1968 and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information contained in this system is provided to the following categories of users as a matter of routine uses for law enforcement and regulatory pur-

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poses: A. Other Federal law enforcement and regulatory agencies; B. State and local law enforcement and regulatory agencies; C. Foreign law enforcement agencies with whom DEA maintains liaison; D. The Department of State; E. The Department of Defense and Military Departments; F. U.S. Intelligence agencies concerned with drug enforcement; G. The United Nations; H. Interpol; I. To individuals and organizations in the course of investigations to elicit information.

In addition, disclosures are routinely made to the following categories for the purposes stated: A. To Federal agencies for national security clearance purposes and to Federal and state regulatory agencies responsible for the licensing or certification of individuals in the fields of pharmacy and medicine; B. To the Office of Management and Budget upon request in order to justify the allocation of resources; C. To state and local prosecutors for assistance in preparing cases concerning criminal and regulatory matters; D. To the news media for public information purposes.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in standard investigation folders.

Retrievability: These records are retrieved by use of a card index maintained alphabetically by employee name.

Safeguards: These records are maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to employees of the Office of Internal Security and upper level management officials. The records are stored in safe-type combination lock file cabinets.

Retention and disposal: These records are maintained for 55 years.

System manager(s) and address: Chief Inspector; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D. C. 20537.

Record source categories: A) DEA Investigations; B) Federal, State and local law enforcement agencies; C) Cooperating individuals.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act purusant to 5 U.S.C. 552a(j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA - 011

System name: Operations Files

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: A) Cooperating Individuals; B) Confidential Informants.

Categories of records in the system: A) Biographic and background information; B) Official Contact Reports; C) Intelligence Reports (DEA-6).

Authority for maintenance of the system: This system of records is maintained to assist in intelligence operations pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91-513) and Reorganization Plan No. 2 of 1973.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system is used to keep a history of intelligence operations against narcotics traffickers and their support networks. Information contained in this system is provided to the following categories of users for law enforcement purposes on a routine basis: A) Other Federal law enforcement agencies; B) State and local law enforcement agencies; C) Foreign law enforcement agencies with whom DEA maintains liaison; D) United States Intelligence and Military Intelligence agencies involved in drug enforcement; E) The United States Department of State.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in standard case files

Retrievability: These files are retrieved manually by subject matter category and coded identification number.

Safeguards: This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, all files are stored in GSA approved security containers approved for Secret material and treated as if they carried a Secret classification whether classified or not. Access to the files is restricted to authorized DEA employees with Top Secret clearances on a limited need-to-know basis.

Retention and disposal: These records are retained indefinitely.

System manager(s) and address: Assistant Administrator for Intelligence; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D. C. 20537.

Record source categories: A) DEA Reports; B) Reports of federal, state and local agencies; C) Reports of foreign agencies with whom DEA maintains liaison.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA - 012

System name: Registration Status/Investigation Records

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: Individuals who have a Controlled Substances Act registration number under their personal name who have had some action taken against their license or registration.

Categories of records in the system: A) DEA reports of investigation; B) Information received from state regulatory agencies.

Authority for maintenance of the system: This system of records is maintained to enable the Drug Enforcement Administration to perform its regulatory functions under the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information contained in this system of records is provided for law enforcement and regulatory purposes to the following categories of users on a routine basis: A) Other federal law enforcement and regulatory agencies; B) State and local law enforcement and regulatory agencies; C) To respondents and their attorneys for purposes of discovery, formal and informal, in the course of an adjudicatory, rule-making, or other hearing held pursuant to the Controlled Substances Act of 1970.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28

C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in standard case file folders.

Retrievability: This system is indexed by name of registrant.

Safeguards: This system of records is maintained in DEA Headquarters which is protected by 24-hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to authorized employees of the Compliance Investigations Division on a need-to-know basis.

Retention and disposal: These records are retained as long as there is a need for the file. These are working files and may be destroyed when no longer required or merged into the Investigative Case File and Reporting System.

System manager(s) and address: Assistant Administrator for Enforcement; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537.

Record source categories: A) DEA Investigators; B) State and local regulatory agencies.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3), (d), (e)(4)(G) and (H), (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA - 013

System name: Security Files

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: A) DEA personnel; B) Cooperating individuals and informants; C) Drug traffickers and suspected drug traffickers; D) Individuals who might discover DEA investigations or undercover operations by chance.

Categories of records in the system: This system of records contains reports concerning the categories of individuals stated above.

Authority for maintenance of the system: This system of records is maintained to identify and correct security problems in the area of intelligence operations and installations pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91-513) and Reorganization Plan No. 2 of 1973.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system is utilized to generate reports on security problems in the area of intelligence operations and installations. In addition, information is provided to the following categories of users for law enforcement purposes on a routine basis: A) Other federal law enforcement agencies; B) State and local law enforcement agencies; C) Foreign law enforcement agencies with whom DEA maintains liaison.

Release of information on the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in standard case folders.

Retrievability: The information in this system is retrieved by subject matter category or by coded identification number.

Safeguards: This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, these records are stored in GSA approved security containers authorized for Secret material. Access to the system is restricted to authorized DEA personnel who have Top Secret Clearances on a limited need-to-know basis.

Retention and disposal: Records in this system are retained as long as the individual remains active and then destroyed or retired to the Federal Records Center.

System manager(s) and address: Assistant Administrator for Intelligence; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537.

Record source categories: A) DEA Reports; B) Reports of federal, state and local agencies.

Systems exempted from certain provisions of the act: 6 The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA - 014

System name: System to Retrieve Information from Drug Evidence (STRIDE/Ballistics).

System location: Drug Enforcement Administration; 1405 Eye Street, N. W.; Washington, D. C. 20537. Also, field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: Defendants and suspected violators

Categories of records in the system: Ballistics report.

Authority for maintenance of the system: This system is maintained to provide drug intelligence for law enforcement purposes pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Reorganization Plan No. 2 of 1973.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from this system is provided to the following categories of users for law enforcement purposes on a routine basis: A) Other federal law enforcement agencies; B) State and local law enforcement agencies; C) Foreign law enforcement agencies with whom DEA maintains liaison.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information is stored on magnetic tape.

Retrievability: The system is indexed by case number and subject name. The information can be retrieved by name or DEA case number. In addition, a number of telecommunication terminals have been added to the existing network.

Safeguards: This system of records is maintained at DEA headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to authorized DEA employees with appropriate clearance on a need-to-know Basis. Information that is retrievable

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by terminals requires user identification numbers which are issued to authorized employees of the Department of Justice.

Retention and disposal: The information contained in this system is retained indefinitely.

System manager(s) and address: Chief, Forensic Sciences Division; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537.

Record source categories: DEA Reports; Scientific Analysis.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and been published in the Federal Register.

JUSTICE/DEA - 015

System name: Training Files

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addreses.

Categories of individuals covered by the system: Individuals who have attended the Drug Enforcement Administration National Training Institute.

Categories of records in the system: A) Class rosters; B) Biographic data; C) Evaluation reports; D) Application and attendance records.

Authority for maintenance of the system: This system is maintained to provide educational and training programs on drug abuse and controlled substances law enforcement pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system is maintained to assist in performing the administrative functions of the National Training Institute and is used to prepare Class Directories, Class Rosters, Program Evaluation Reports and Statistical Reports. In addition, information from this system is provided to federal, state and local law enforcement and regulatory agencies employing former students and to students in the programs.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records in this system are maintained on index cards and in file folders.

Retrievability: The system is indexed by name.

Safeguards: This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, the records are maintained in locked file cabinets and access is limited to National Training Institute Personnel on a need-to-know basis.

Retention and disposal: Records in this system are currently maintained indefinitely.

System manager(s) and address: Director; Office of Training; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C. 20537.

Notification procedure: Inquiries should be addressed to: Freedom of Information Unit, Drug Enforcement Administration, 1405 Eye Street, N.W., Washington, D.C. 20537. Inquiries should contain: Name; Date and Place of Birth; Dates of attendance at the National Training Institute.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: A) Students; B) Instructors.

Systems exempted from certain provisions of the act: None

JUSTICE/DEA - 016

System name: Drug Enforcement Administration Accounting System (DEAAS).

System location: Drug Enforcement Administration: 1405 Eye Street, N.W.; Washington, D.C. 20537. Also field offices. See Appendix 1 for list of addresses.

Categories of individuals covered by the system: All individuals who submit vouchers requesting payment for goods or services rendered, except payroll vouchers for DEA employees. These include vendors, contractors, experts, witnesses, court reporters, travelers, relocated employees, etc.

Categories of records in the system: All vouchers paid except payroll vouchers for DEA employees.

Authority for maintenance of the system: The system is established and maintained in accordance with the Budget and Accounting Procedures Act of 1950 as amended 31 U.S.C. 66(a) and 31 U.S.C. 200(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: After payment of the vouchers, the accounting data is used for the purpose of internal management reporting and external reporting to agencies such as OMB, U.S. Treasury, and the GAO.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Voucher files are maintained alphabetically by payees name.

Retrievability: Information is retrieved primarily by using the name of the payee. In addition, a number of telecommunication terminals have been added to the existing network.

Safeguards: Information contained in the system is unclassified. It is safeguarded in accordance with organizational rules and procedures. Information that is retrievable by terminals requires user identification numbers which are issued to authorized employees of the Department of Justice.

Retention and disposal: The payment documents are retained at this location for three fiscal years (current and two prior years). The records are then shipped to a Federal Records Center for storage in accordance with the General Record Schedule published by the General Services Administration.

System manager(s) and address: Controller, Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C., 20537.

Notification procedure: Inquiries should be addressed to Freedom of Information Unit, Drug Enforcement Administration, 1405 Eye Street, N.W., Washington, D.C., 20537.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Submitted by the payee involved.

Systems exempted from certain provisions of the act: None.

JUSTICE/DEA - 017

System name: Grants of Confidentiality Files (GCF).

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C., 20537.

Categories of individuals covered by the system: Applicants for grants of confidentiality.

Categories of records in the system: A) Requests for and actual Grants of Confidentiality; B) Correspondence relating to above; C) Documents relating to investigations of said applicants.

Authority for maintenance of the system: Pursuant to 21 U.S.C. 872 of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records are utilized for the purpose of investigating applicants prior to the granting of confidentiality. In the course of such investigations, information may be disseminated to state and local law enforcement and regulatory agencies to other federal law enforcement and regulatory agencies.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained on standard case folders.

Retrievability: The information in this system is retrieved by name of grantee.

Safeguards: This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, the records are stored in bar lock filing cabinets and access to the system is restricted to members of the DEA employees on a 'need to know basis'.

Retention and disposal: Records in this system are retained indefinitely.

System manager(s) and address: Chief Counsel; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C., 20537.

Notification procedure: Inquiries should be addressed to: Freedom of Information Unit; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C., 20537. Inquiries should include the inquirer's name, date, and place of birth.

Record access procedures: Same as above

Contesting record procedures: Same as above.

Record source categories: A) DEA investigative reports; B) Applicants; C) Reports from other federal, state and local agencies.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (d)(1) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA - 018

System name: DEA Applicant Investigations (DAI)

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C., 20537.

Categories of individuals covered by the system: Applicants for employment with DEA.

Categories of records in the system: Information in records may include date and place of birth, citizenship, marital status, military and social security status. These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for any violations against the law; information from inquiries directed to present and former supervisors, co-workers, associates, educators, etc., credit and National Agency checks; and other information developed from the above.

Authority for maintenance of the system: 5 U.S.C. 301 and Executive Order No. 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used by DEA to implement an effective screening process for applicants. To foreign, federal, state and local law enforcement and regulatory agencies, where appropriate, for referral to avoid duplication of the investigative process and where the appropriate agency is charged with the responsibility of investigating or prosecuting potential violations of law.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in standard investigative folders.

Retrievability: These records are retrieved by use of a card index maintained alphabetically by employee name.

Safeguards: These records are maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to employees of the office of Internal Security and upper level management officials. The records are stored in safe-type combination lock file cabinets.

Retention and disposal: These records are maintained indefinitely.

System manager(s) and address: Chief Inspector; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C., 20537.

Notification procedure: Inquiries should be addressed to: Freedom of Information Unit; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C., 20537. Inquiries should include the inquirer's name, date, and place of birth.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: DEA investigations, federal, state and local law enforcement agencies. Cooperating individuals, employees, educational institutions, references, neighbors, associates, credit bureaus, medical officials, probation officials.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections d)(1) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements at 5 U.S.C. 553(b),(c) and (e) and have been published in the Federal Register.

JUSTICE/DEA - 019

System name: Specialized Automated Intelligence Files (NIMROD).

System location: Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C., 20537.

Categories of individuals covered by the system: Known and suspected drug traffickers.

Categories of records in the system: Special purpose applications from which information includes, but is not limited to, comprehensive personality data, activity data, significant event data, phone numbers, addresses, and special purpose information related to individuals.

Authority for maintenance of the system: This system will be maintained to provide DEA with an automated intelligence capability pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970, Reorganization Plan No. 2 of 1973 and the Single Convention on Narcotic Drugs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system will be used to produce association and link analysis reports and such special reports as required by DEA intelligence analysts. Information from this system will be provided to the following categories of users for law enforcement purposes: A) Other federal law enforcement agencies; B) State and local law enforcement agencies.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

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Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained on magnetic tape. Reference materials are maintained on microfiche.

Retrievability: This system is retrievable by data elements as a single entity or by a combination of data elements.

Safeguards: This system of records is maintained by DEA Headquarters which is protected by twenty-four hour guard service and surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, the system is housed in a special computer facility which meets CIA and NSA standards for intrusion, electronic and acoustic penetration. Access to the system is strictly limited to DEA intelligence analysts with appropriate clearances on a specific need-to-know basis.

Retention and disposal: Information will be maintained in the system indefinitely.

System manager(s) and address: Assistant Administrator for Intelligence; Drug Enforcement Administration; 1405 Eye Street, N.W.; Washington, D.C., 20537.

Record source categories: A) DEA Intelligence Reports; B) Reports of other Federal agencies.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f)(g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k)(1). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(c) and (e) and have been published in the Federal Register.

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System name:

DEA Appendix 1 - List of record location addresses. Copies of all or part of any system of records published by the Drug Enforcement Administration pursuant to 5 U.S.C. 552a may be maintained at the DEA field offices listed below. However, procedures for processing inquiries concerning DEA systems of records have been centralized in DEA Headquarters. Inquiries concerning all DEA systems of records should be addressed to:

Freedom of Information Unit
Drug Enforcement Administration
1405 Eye Street, N.W.
Washington, D.C. 20537

Drug Enforcement Administration field offices:

Region 1

Boston Regional Office
JFK Federal Building
Room G-64
Boston, Massachusetts 02203

Portland District Office
U.S. Courthouse Building
156 Federal Street
P.O. Box 451
Portland, Maine 04112

Burlington District Office
P.O. Box 146
Burlington, Vermont 05401

Concord District Office
Federal Building & Post Office
55 Pleasant Street
P.O. Box 667
Concord, New Hampshire 03301

Providence District Office
Post Office & Federal Building
Room 231
Exchange Terrace
Providence, Rhode Island 02903

Hartford District Office
450 Main Street
Room 628-E
Hartford, Connecticut 06103

Region 2

New York Regional Office
555 West 57th Street
New York, New York 10019

Buffalo District Office
Niagara Square Station
U.S. Courthouse
Buffalo, New York 14201

Long Island District Office
2 Huntington Quadrangle
Melville, New York 11746

Montreal District Office
American Consulate General
1558 McGregor Avenue
Montreal 109, Canada

Rouses Point District Office
P.O. Box 38
Rouses Point, New York 12979

Albany District Office
Leo W. O'Brien Federal Building
Clinton Avenue & Pearl Street
Albany, New York 12207

JFK Airport District Office
P.O. Box 361
JFK Airport Station
Jamaica, New York 11430

Toronto District Office
U.S. Consulate General
360 University Avenue
Toronto, Canada M5G 154

Newark District Office
Federal Office Building
970 Broad Street
Newark, New Jersey 07101

New York DEA Drug Task Force
201 Varick Street
Room 1148
New York, New York 10014

Region 3

Philadelphia Regional Office
William J. Green Federal Building
600 Arch Street
Room 10224
Philadelphia, Pennsylvania 19106

Pittsburgh District Office
Federal Building
1000 Liberty Avenue
Room 2306
Pittsburgh, Pennsylvania 15222

Wilmington District Office
Courthouse, Customs House & Federal Office Building
844 King Street
Room 5305
Wilmington, Delaware 19801

Region 4

Baltimore Regional Office
955 Federal Building

31 Hopkins Plaza
Baltimore, Maryland 21201

Charleston District Office
22 Capital Street
Charleston, West Virginia 25324

Greensboro District Office
925 West Market Street
Room 111
Greensboro, North Carolina 27401

Norfolk District Office
870 North Military Highway
Room 211
Norfolk, Virginia 23502

Washington District Office
400 Sixth Street, S.W.
Room 2558
Washington, D.C. 20024

Wilmington District Office
3909-D Oleander Drive
Lambe Young Building
Wilmington, North Carolina 28401

Region 5

Miami Regional Office
8400 N.W. 53rd Street
Miami, Florida 33166

Atlanta District Office
United Family Life Building
230 Houston Street, N.E.
Suite 200
Atlanta, Georgia 30303

Charleston District Office
1529 Highway 7
Suite 5 & 6
Charleston, South Carolina 29407

Columbia District Office
2611 Forest Drive
P.O. Box 702
Columbia, South Carolina 29202

Jacksonville District Office
4077 Woodcock Drive
Suite 210
Jacksonville, Florida 32207

Orlando District Office
1080 Woodcock Road
Suite 180
Orlando, Florida 32803

San Juan District Office
Housing Investment Building
Suite 154
416 Ponce de Leon Avenue
Hato Rey, Puerto Rico 00919

Savannah District Office
430 Mall Boulevard
Suite C
Savannah, Georgia 31406

Tampa District Office
Barnett Bank Building
1000 Ashley Drive
Tampa, Florida 33602

West Palm Beach District Office
700 Clematis Street
Room 253
West Palm Beach, Florida 33402

Kingston District Office
American Embassy
43 Duke Street
Kingston, Jamaica

Region 6

Detroit Regional Office
357 Federal Building
231 West Lafayette
Detroit, Michigan 48226

Cleveland District Office
601 Rockwell
Room 300
Cleveland, Ohio 44114

Cincinnati District Office
Federal Office Building
550 Main Street
P.O. Box 1196
Cincinnati, Ohio 45201

Columbus District Office
Federal Office Building
85 Marconi Blvd.
Room 120
Columbus, Ohio 43215

Grand Rapids District Office
166 Federal Building, U.S. Courthouse
110 Michigan NW
Grand Rapids, Michigan 49502

Louisville District Office
Federal Building
600 Federal Plaza
Room 1006
Louisville, Kentucky 40202

Region 7

Chicago Regional Office
1800 Dirksen Federal Building
219 South Dearborn Street
Chicago, Illinois 60604

Indianapolis District Office
575 N. Pennsylvania
Room 267
Indianapolis, Indiana 46204

Milwaukee District Office
Federal Building & U.S. Courthouse
517 East Wisconsin
Room 232
Milwaukee, Wisconsin 53202

Mount Vernon District Office
Federal Building
105 South Sixth Street
P.O. Box 748
Mount Vernon, Illinois 62864

Hammond District Office
Federal Building
507 State Street
Room 407
Hammond, Indiana 46320

Region 8

New Orleans Regional Office
1001 Howard Avenue
New Orleans, Louisiana 70113

Birmingham District Office
236 Goodwin Crest
Suite 520
Birmingham, Alabama 35209

Little Rock District Office

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One Union National Plaza
Suite 850
Little Rock, Arkansas 72201

Jackson District Office
First Federal Building
525 East Capitol Street
P.O. Box 22631
Jackson, Mississippi 39205

Nashville District Office
U.S. Courthouse Annex
Room 929
8th & Broadway
P.O. Box 1189
Nashville, Tennessee 37202

Memphis District Office
Federal Building
167 North Main Street
Room 401
Memphis, Tennessee 38103

Baton Rouge District Office
4560 North Boulevard
Suite 118
Baton Rouge, Louisiana 70806

Mobile District Office
2 Office Park
Suite 216
Mobile, Alabama 36609

Region 10

Kansas City Regional Office
U.S. Courthouse
811 Grand Avenue
Kansas City, Missouri 64106

Des Moines District Office
U.S. Courthouse
P.O. Box 1784
Des Moines, Iowa 50309

Duluth District Office
Federal Building & U.S. Courthouse
515 West First Street
P.O. Box 620
Duluth, Minnesota 55801

Minneapolis District Office
Federal Building
110 South Fourth Street
Room 402
Minneapolis, Minnesota 55401

Omaha District Office
New Federal Building
215 North 17th Street
P.O. Box 661, Downtown
Omaha, Nebraska 68101

Minot District Office
123 Southwest First Street
Room 414
Minot, North Dakota 58701

Sioux Falls District Office
400 S. Philips
Room 309
Sioux Falls, South Dakota 57102

St. Louis District Office
10th Floor-Louderman Building
317 N. 11th Street
Room 1014
St. Louis, Missouri 63101

Wichita District Office
202 West First Street
Room 505
Wichita, Kansas 67201

Region 11

Dallas Regional Office
Earle Cabell Federal Building
1100 Commerce Street
Room 4A5
Dallas, Texas 75202

Beaumont District Office
827 Fannin Street
Beaumont, Texas 77701

Brownsville District Office
2100 Boca Chica Blvd.
Suite 305
Brownsville, Texas 78520

Corpus Christi District Office
723 Upper N. Broadway
P.O. Box 2443
Corpus Christi, Texas 78403

Del Rio District Office
3605 Highway 90, West
P.O. Drawer 1247
Del Rio, Texas 78840

Eagle Pass District Office
P.O. Box AH
Eagle Pass, Texas 78852

El Paso District Office
4110 Rio Bravo
Suite 100
El Paso, Texas 79902

Falcon Heights District Office
Customhouse Building NO. 1
P.O. Box 5
Falcon Heights, Texas 78545

Houston District Office
1540 Esperson Building
815 Walker Street
Houston, Texas 77002

Laredo District Office
Building 1050
Laredo Air Force Base
Laredo, Texas 78040

Midland District Office
100 East Wall Street
P.O. Drawer 2668
Midland, Texas 79701

McAllen District Office
3017 N. 10th Street
P.O. Box 338
McAllen, Texas 78501

Oklahoma City District Office
Old Federal Building
215 N.W. 3rd Street
Room 250
Oklahoma City, Oklahoma 73102

San Antonio District Office
4th Floor, 1800 Central Building
1802 N.E. Loop 410
San Antonio, Texas 78217

Tulsa District Office
333 W. 4th Street
Room 3335
Tulsa, Oklahoma 74103

Austin District Office
55 N. Interregional Highway
P.O. Box 8
Austin, Texas 78767

Lubbock District Office
3302 67th Street
Building No. 2
Lubbock, Texas 79413

Region 12

Denver Regional Office
U.S. Customs House
Room 336
P.O. Box 1860
Denver, Colorado 80201

Cheyenne District Office
Federal Center
2120 Capitol Avenue
Room 8020
Cheyenne, Wyoming 82001

Albuquerque District Office
First National Bank Building, East
5301 Central Avenue, N.E.
Albuquerque, New Mexico 87101

Deming District Office
P.O. Drawer 469
Deming, New Mexico 88030

Phoenix District Office
Valley Bank Center, Suite 1980
201 North Central
Phoenix, Arizona 85073

Tucson District Office
Tucson International Airport
P.O. Box 27063
Tucson, Arizona 85726

San Luis District Office
P.O. Box 445
San Luis, Arizona 85349

Nogales District Office
P.O. Box 39
Mile Post 4 1/2
U.S. Highway 89
Nogales, Arizona 85621

Douglas District Office
2130 15th Street
P.O. Box 1294
Douglas, Arizona 85607

Salt Lake City District Office
Federal Building
125 South State Street
Room 2218
Salt Lake City, Utah 84138

Region 13

Seattle Regional Office
221 1st Avenue West
Suite 200
Seattle, Washington 98119

Anchorage District Office
Loussac-Sogn Building
429 D Street
Room 306
Anchorage, Alaska 99501

Blaine District Office
170 C Street
P.O. Box 1680
Blaine, Washington 98230

Boise District Office
American Reserve Building
2404 Bank Drive
Suite 212
Boise, Idaho 83705

Fairbanks District Office
Federal Building
200 Cushman Street
P.O. Box 670
Fairbanks, Alaska 99707

Great Falls District Office
1111 14th Street South
P.O. Box 2887
Great Falls, Montana 59403

Portland District Office
Georgia-Pacific Building
900 S.W. Fifth Avenue
Suite 1515
Portland, Oregon 97204

Spokane District Office
U.S. Courthouse
920 W. Riverside
P.O. Box 1504
Spokane, Washington 99210

Vancouver B.C. District Office
DEA/Justice
American Consulate General
1199 West Hastings Street
Vancouver, B.C., Canada V6E2Y4

Region 14

Los Angeles Regional Office
1340 West Sixth Street
Los Angeles, California 90017

San Francisco District Office
450 Golden Gate Avenue
Box 36035
San Francisco, California 94102

San Diego District Office
610 A Street
Suite 300
San Diego, California 92101

Calexico District Office
632 Imperial Avenue
P.O. Box J
Calexico, California 92231

Las Vegas District Office
Federal Building & U.S. Courthouse
300 Las Vegas Blvd. South
P.O. Box 16023
Las Vegas, Nevada 89101

Fresno District Office
P.O. Box 72
Fresno, California 93707

San Bernardino/Riverside District Office
Norton Air Force Base
P.O. Box 4278
San Bernardino, California 92409

Honolulu District Office
1000 Bishop Street
Suite 810
Honolulu, Hawaii 96813

Tecate District Office
Post of Entry-Tecate
P.O. Box 67
Tecate, California 92080

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Sacramento District Office
Federal Building
2800 Cottage Way
P.O. Box 4495
Sacramento, California 95825

Los Angeles Airport Office
600 Worldway
P.O. Box 91160
Los Angeles, California 90009

Region 15

Mexico City Regional Office
DEA/Justice
American Embassy
Apartado Postal 88 Bis
Mexico 1, D.F., Mexico

Guadalajara District Office
DEA/Justice
American Consulate General
Apartado Postal 1 - 1 BIS
Guadalajara, Jalisco, Mexico

Hermosillo District Office
DEA/Justice
American Consulate General
Apartado Postal 972
Hermosillo, Sonora, Mexico

Mazatlan District Office
DEA/Justice
American Consulate
Apartado Postal 321
Mazatlan, Sinaloa, Mexico

Monterrey District Office
DEA/Justice
c/o Dept. of State
Washington, D.C. 20521

San Jose District Office
DEA/Justice
American Embassy
APO N.Y., N.Y. 09883

Guatemala District Office
American Embassy
APO N.Y., N.Y. 09891

Region 16

Bangkok Regional Office
Drug Enforcement Administration
American Embassy
APO San Francisco, California 96346

Chiang Mai District Office
Drug Enforcement Administration
American Consulate
APO San Francisco, California 96272

Hong Kong District Office
DEA/Justice
American Consulate General
Box 30
FPO San Francisco, California 96659

Kuala Lumpur District Office
DEA/Justice
American Embassy
A.I.A. Building 13th Floor
Jalan Ampang
Kuala Lumpur, Malaysia

Vientiane District Office
DEA/Justice
APO San Francisco, California 96352

Singapore District Office
DEA/Justice
FPO San Francisco, California 96699

Saigon District Office
DEA/Justice
APO San Francisco, California 96243

Songkhla District Office
DEA/Justice
American Consulate
APO San Francisco, California 96346

Region 17

Paris Regional Office
DEA/Justice
American Embassy
APO New York, New York 09777

Marseilles District Office
DEA/Justice
American Embassy (m)
APO New York, New York 09777

Vienna District Office
DEA/Justice
American Embassy Vienna
Department of State
Washington, D.C. 20520

Brussels District Office
DEA/Justice
American Embassy
APO New York, New York 09667

London District Office
DEA/Justice
American Embassy
Box 40
FPO New York, New York 09510

Bonn District Office
DEA/Justice
American Embassy
Box 290
APO New York, New York 09080

Frankfurt District Office
DEA/Justice
American Consulate General
APO New York, New York 09757

Hamburg District Office
DEA/Justice
American Consulate General
Box 2
APO New York, New York 09069

Munich District Office
DEA/Justice
American Consulate General
APO New York, New York 09108

Rome District Office
DEA/Justice
Consulate 301
APO New York, New York 09794

Genoa District Office
DEA/Justice
American Consulate General
Box G
APO New York, New York 09794

Milan District Office
DEA/Justice
American Consulate General
APO New York, New York 09689

The Hague District Office
DEA/Justice
American Embassy
APO New York, New York 09159

Madrid District Office
DEA/Justice
American Embassy
APO New York, New York 09285

Barcelona District Office
DEA/Justice
American Consulate General
APO New York, New York 09285

Region 18

Caracas Regional Office
DEA/Justice
American Embassy
Caracas, Venezuela
Dept. of State Pouch Mail
Washington, D.C. 20520

Buenos Aires District Office
DEA/Justice
Buenos Aires, Argentina
Department of State Pouch Mail
Washington, D.C. 20520

Asuncion District Office
DEA/Justice
American Embassy
Asuncion, Paraguay
Dept. of State Pouch Mail
Washington, D.C. 20520

Bogota District Office
DEA/Justice
American Embassy
Bogota, Columbia
Dept. of State Pouch Mail
Washington, D.C. 20520

Brazilia District Office
DEA/Justice
American Embassy
Dept. of State Pouch Mail
Washington, D.C. 220520

Guayaquil District Office
DEA/Justice
U.S. Consulate
Guayaquil, Ecuador
Dept. of State Pouch Mail
Washington, D.C. 20520

La Paz District Office
DEA/Justice
American Embassy
Calles Colony Mercado
Dept. of State Pouch Mail
Washington, D.C. 20520

Lima District Office
DEA/Justice
American Embassy
Lima, Peru
Dept. of State Pouch Mail
Washington, D.C. 20520

Montevideo District Office
DEA/Justice
American Embassy
Montevideo, Uruguay
Dept. of State Pouch Mail
Washington, D.C. 20520

Panama District Office
DEA/Justice
American Embassy
Panama City, Panama
Dept. of State Pouch Mail
Washington, D.C. 20520

Balboa District Office
DEA/Justice
American Embassy
Balboa Canal Zone
Dept. of State Pouch Mail
Washington, D.C. 20520

Quito District Office
DEA/Justice
American Embassy
[illegible]to, Ecuador
[illegible]t. of State Pouch Mail
Washington, D.C. 20520

Santiago District Office
DEA/Justice
American Embassy
Dept. of State Pouch Mail
Washington, D.C. 20520

Region 19

Ankara Regional Office
DEA/Justice
American Embassy
APO New York, New York 09254

Istanbul District Office
DEA/Justice
American Consulate General
APO New York, New York 09380

Izmir District Office
DEA/Justice
American Consulate General
APO New York, New York 09224

Beirut District Office
DEA/Justice
Dept. of State Pouch Mail
Washington, D.C. 20520

Kabul District Office
DEA/Kabul
Dept. of State Pouch Mail
Washington, D.C. 20520

Tehran District Office
DEA/Justice
American Embassy
Box 2000
APO New York, New York 09205

Islamabad District Office
DEA/Islamabad
Dept. of State Pouch Mail
Washington, D.C. 20520

New Delhi District Office
DEA/Delhi
Dept. of State Pouch Mail
Washington, D.C. 20520

Karachi District Office
DEA/Karachi
Department of State Pouch Mail
Washington, D.C. 20520,

Region 20

Manila Regional Office
DEA/Justice
American Embassy
APO San Francisco, California 96528

Guam District Office
P.O. Box 2137
Agana, Guam 96910

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Sukiran/Okinawa District Office
DEA/Justice, P.O. Box 792
APO San Francisco, California 96331

Tokyo District Office
DEA/Justice
American Embassy
APO San Francisco, California 96503

Seoul District Office
DEA/Justice ext. 4260
American Embassy
APO San Francisco, California 96301

Regional Laboratories

Special Testing & Research Lab
Watergate Research Park
7704 Old Springhouse Road
McLean, Virginia 22101

Mid-Atlantic Regional Lab
460 New York Avenue, N.W.
Washington, D.C. 20537

Northeast Regional Lab
90 Church Street
Room 1304
New York, New York 10007

Southeast Regional Lab
15655 S.W. 127th Avenue
Miami, Florida 33157

North-Central Regional Lab
723 Main Post Office Building
433 West Van Buren Street
Chicago, Illinois 60607

South-Central Regional Lab
1114 Commerce Street
Room 1020
Dallas, Texas 75202

Western Regional Lab
450 Golden Gate Avenue
Box 36075
San Francisco, California 92102

Ottawa Office
DEA/Justice
U.S. Embassy
100 Wellingtoon Street
Ottawa, Ontario, Canada
KIP-ST1

Special Project Division
Aircraft Section
(Addison Texas)
DEA/Justice
P.O. Box 302
Addison, Texas 75001

El Paso Intelligence Center
4110 Rio Bravo
Suite 100
El Paso, Texas 79902

Field Offices of Inspection

Northeast Field Office of Internal Security
Suite 208
222 South Marginal Road
Fort Lee, New Jersey 07024

Western Field Office of Internal Security
P.O. Box 807, Main Office
Los Angeles, California 90053

South Central Field Office of Internal Security
P.O. Box 15193
Dallas, Texas 75201

North Central Field Office of Internal Security
P.O. Box 992
Chicago, Illinois 60690

Southeast Field Office of Internal Security
P.O. Box 660316
Miami Springs, Florida 33166

Mid-Atlantic Field Office of Internal Security
1325 K Street, N.W.
Washington, D.C.

JUSTICE/LEAA - 001

System name: Personnel System

System location: Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Categories of individuals covered by the system: Regional Operating Files; Motor Vehicle Operators Permit, Form SF 74; Interagency Motor Pool Service Authorization, Form GSA 1313; Government Parking Spaces, Form GSA 7415; Property Sign-out, LEAA Form 1820/4; Equipment Control Records, LEAA Form 1820/5; Annual Physical Examination File.

Categories of records in the system: Motor Vehicle Operators Permit, Form SF 74; Interagency Motor Pool Service Authorization, Form GSA 1313; Government Parking Spaces, Form GSA 7415; Property Sign-out, LEAA Form 1820/4; Equipment Control Records, LEAA Form 1820/5; Annual Physical Examination File

Authority for maintenance of the system: The system is established and maintained in accordance with 5 U.S.C. 301, 1302.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The motor vehicle and property data is used for inventory control, parking space control, and to allow use of government vehicles for official purposes. Routine user would be GSA. Physical examination information is nonreleasable except upon written authorization of individual.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in system is stored in file folders and index cards.

Retrievability: Information is retrieved by name of employee.

Safeguards: Data is maintained in locked file cabinets.

Retention and disposal: Documents relating to equipment control and motor vehicles are closed when employee leaves agency. Records are destroyed three years thereafter. Health records are placed in sealed envelopes upon separation of employee and filed with official personnel folder. Such data is destroyed in accordance with Civil Service regulations. Operating files are destroyed when an individual resigns, transfers or is separated from Federal service.

System manager(s) and address: Assistant Administrator; Office of Operations Support; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531. Regional Operating Files: Regional Administration, applicable region.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from the system shall be in writing, with the envelope and letter clearly marked 'Privacy Access Request.' Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting itr and the proposed amendment to the information sought.

Record source categories: Individual to whom record pertains, employee's supervisors.

Systems exempted from certain provisions of the act: None

JUSTICE/LEAA - 002

System name: Law Enforcement Education System

System location: Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Categories of individuals covered by the system: Recipients of LEAA Law Enforcement Education Loans and Grants

Categories of records in the system: LEEP Master Computer File; LEEP Promissory Note File; LEAA Form 03

Authority for maintenance of the system: The system is established and maintained pursuant to 42 U.S.C. 3746.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To contractors for coding and statistical analysis, educational institutions for record reconciliation, IRS and references listed on application for address verification, referees in bankruptcy for claim action.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on computer magnetic tape and folders.

Retrievability: Information is retrievable by name of recipient and social security number.

Safeguards: Computerized information is safeguarded and protected by computer password key and limited access. Noncomputerized data is safeguarded in file room which is locked after business hours. Access is limited to accounting division.

Retention and disposal: Computerized records are kept indefinitely. Uncollected loans/grants are transferred to GAO as soon as determined uncollectable. Cancelled or repaid loan/grants are closed at end of fiscal year, held three years, sent to Federal Records Center and destroyed in accordance with instructions from GAO.

System manager(s) and address: Comptroller; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name and personal identifior number. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of Information are the recipients of loans/grants and their educational institutions.

Systems exempted from certain provisions of the act: None.

JUSTICE/LEAA - 003

System name: Inspector General Investigative System.

System location: Office of Inspector General; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Categories of individuals covered by the system: Grantees, subgrantees, contractors, subcontractors, employees, and applicants.

Categories of records in the system: Resolution of Investigations of Criminal or Civil Violations Investigatory Case Index Card File

Authority for maintenance of the system: 5 U.S.C. 301; 42 U.S.C. 3791, 3792, 3793.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Investigation of possible violations of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute, or by regulation, rule or order pursuant thereto. Records may be referred to the appropriate agency, whether federal, state, or local for the purpose of investigating or prosecuting such violations or enforcing compliance with statute, rule, regulation or order.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in the system is stored in file folders and on index cards.

Retrievability: Information is retrieved by name of respondent and complainant.

Safeguards: Information is kept in locked file cabinets and combination safe. Access is limited to investigative personnel.

Retention and disposal: Complaint control logs are destroyed upon completion of action on the inquiry or complaint. Complaint case files thereafter are not retrievable by name, number, or other information identifiable to the individual. Other investigative information is destroyed four years after the investigation is completed.

System manager(s) and address: Office of Inspector General; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Notification procedure: Same as the above.

Record source categories: Information contained in this system was received from individual complainants, witnesses, grant files, respondents, official state and federal records.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (d), (e)(4)(G) and (H), and (f) of the Privacy Act pursuant to 5 U.S.C. 522a(k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/LEAA - 004

System name: Grants Management Information System

System location: Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Categories of individuals covered by the system: The system contains recipients of LEAA funds, project monitors and project directors.

Categories of records in the system: Grant/Contract Applicant Index; Grant/Contract Award Computer Data File.

Authority for maintenance of the system: The system is established and maintained in accordance with 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records from this system of records may be disclosed for the purpose of technical review and fiscal or program evaluation to experts in particular subject areas related to the substantive or fiscal components of the program.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

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Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on computer discs for use in a computer environment.

Retrievability: Data is retrievable by name and grant/contract number.

Safeguards: Information in the system is safeguarded and protected by computer password key. Direct access is limited to computer personnel.

Retention and disposal: Data is maintained for current fiscal year and three previous fiscal years in Master File; thereafter information is retired to Historical File. No authority to destroy.

System manager(s) and address: Comptroller; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked 'Privacy Access Request.' Include in the request the name and grant/contract number. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their requests to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in the system are grant/contract award documents and applications for award.

Systems exempted from certain provisions of the act: None

JUSTICE/LEAA - 005

System name: Financial Management System

System location: Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Categories of individuals covered by the system: Recipients of LEAA funds; Employees.

Categories of records in the system: Employee Travel files; time and attendance files; Government Transportation Requests; Paid Vendor Document File.

Authority for maintenance of the system: 5 U.S.C. 301

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: There are no uses outside the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computerized discs, file folders.

Retrievability: Name, social security numbers, digital identifiers assigned by accounting office.

Safeguards: Manual information in system is safeguarded in locked file cabinets. Computerized passwork key is needed to access computerized information. Direct access only by comptroller personnel.

Retention and disposal: Employee travel files, time and attendance files and Government transportation files are closed at end of fiscal year, held three years thereafter; the records are then retired to Federal Records Center. Federal Records Center destroys in accordance with instructions of GAO.

System manager(s) and address: Comptroller; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked 'Privacy Access Request.' Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in the system are the individuals to whom the information pertains.

Systems exempted from certain provisions of the act: None

JUSTICE/LEAA - 006

System name: Congressional Correspondence System

System location: Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Categories of individuals covered by the system: Members of Congress

Categories of records in the system: Correspondence with Congressional Committees and members of Congress.

Authority for maintenance of the system: The system is established and maintained in accordance with 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: No uses are made outside the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored in file folders.

Retrievability: Information is retrieved by name of the member of Congress who is the correspondent.

Safeguards: Information contained in the system is of a general correspondence nature and maintained pursuant to LEAA Handbook Instruction HB 1330.2.

Retention and disposal: Records are retained for two years, then retired to Federal Records Center. Six years thereafter records are destroyed.

System manager(s) and address: Director; Office of Congressional Liaison; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from the system shall be in writing, with the envelope and letter clearly marked 'Privacy Access Request.' Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information are congressional members.

Systems exempted from certain provisions of the act: None

JUSTICE/LEAA - 007

System name: Public Information System

System location: Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Categories of individuals covered by the system: Public figures

Categories of records in the system: Biographical, Morgue, and Speech files. Photograph files.

Authority for maintenance of the system: The system is maintained and established in accordance with 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Available to the public under the Freedom of Information Act.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in system is stored in file folders.

Retrievability: Information is retrieved by name of person to whom information pertains.

Safeguards: This information is of a nonconfidential nature and maintained pursuant to LEAA Handbook Instruction HB 1330.2.

Retention and disposal: Records are retained for four years, retired to Federal Record Center, and destroyed pursuant to Disposal Instructions in LEAA Handbook Instruction HB 1330.2.

System manager(s) and address: Director; Office of Public Information; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from the system shall be in writing, with the envelope and letter clearly marked 'Privacy Access Request.' Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Newspaper, magazine and press service teletype clippings as well as individual to whom information pertains.

Systems exempted from certain provisions of the act: None

JUSTICE/LEAA - 008

System name: Civil Rights Investigative System.

System location: Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Categories of individuals covered by the system: Complaints of discrimination by individuals affected by the agency program for which the agency has compliance responsibility, grantees, subgrantees, contractors, subcontractors, employees, and applicants.

Categories of records in the system: Civil Rights Complaint Control Logs; Civil Rights Litigation Reference Files.

Authority for maintenance of the system: 42 U.S.C. 3766(c); E.O. 11246 (3 C.F.R. 173) as amended by E.O. 11375.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Investigation of complaints and to obtain compliance with Civil Rights laws. Users of the data are State Planning Agencies, State Governors and Attorneys General, Criminal Justice Agencies, Office of Federal Contract Compliance, Equal Employment Opportunity Commission, Office of Federal Revenue Sharing, and a United States Commission on Civil Rights.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in the system is stored in file folders and on index cards.

Retrievability: Information is retrieved by name of respondent and complainant.

Safeguards: Information is kept in locked file cabinets and combination safe. Access is limited to investigative personnel.

Retention and disposal: Complaint control logs are destroyed upon completion of action on the inquiry or complaint. Complaint case files thereafter are not retrievable by name, number, or other information identifiable to the individual. Other investigative information is destroyed four years after the investigation is completed.

System manager(s) and address: Office of Civil Rights Compliance; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record containing civil rights investigatory material shall be made in writing with the envelope and letter clearly marked 'Privacy Access Request' to the Civil Rights System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The information contained in this system was received from individual complainants, witnesses, grant files, respondents, official State and Federal records.

Systems exempted from certain provisions of the act: None.

JUSTICE/LEAA - 009

System name: Federal Advisory Committee Membership Files.

System location: Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Categories of individuals covered by the system: Individuals who have been or are presently members of or are being considered for membership on advisory committees within the jurisdiction of the Law Enforcement Assistance Administration.

Categories of records in the system: Correspondence with and documents relating to committee members.

Authority for maintenance of the system: Federal Advisory Committee Act, 5 U.S.C. App. I et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Annual Report to the President; administrative reports to OMB and other federal agencies.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in system is stored in file folders.

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Retrievability: Information is retrieved by name of individual.

Safeguards: Data is maintained in file cabinets. The entrance to the building requires building pass or security sign-in.

Retention and disposal: The data is placed in an inactive file upon discontinuance of membership, held for two years and then retired to the Federal Records Center.

System manager(s) and address: Federal Advisory Committee Officer; Office of General Counsel; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are those individuals to whom the information pertains.

Systems exempted from certain provisions of the act: None.

JUSTICE/LEAA - 010

System name: Technical Assistance Resource Files.

System location: Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Categories of individuals covered by the system: Consultants with expertise in criminal justice systems.

Categories of records in the system: The system consists of resumes and other documents related to technical assistance requests.

Authority for maintenance of the system: The system is maintained under authority of 42 U.S.C. 3763(c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is used to determine the qualifications and availability of individuals for technical assistance assignments. Users are State planning agencies and the Law Enforcement Assistance Administration.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information contained in the system is on hard copy and stored in file cabinets.

Retrievability: Information is manually retrieved by the name of the individual.

Safeguards: Records are stored in file cabinets. Admittance to the building in which they are stored requires a building pass or an individuals signature at the main entrance to the building.

Retention and disposal: Records are placed in an inactive file at the end of the fiscal year in which final use was made. They are held two years in the inactive file; then transferred to the Federal Records Center. Records are destroyed after six years.

System manager(s) and address: Technical Assistance Coordinator; Office of Regional Operations; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531, or the National Institute of Law Enforcement and Criminal Justice; Law Enforcement Assistance Administration; 633 Indiana Avenue, N.W.; Washington, D.C. 20531.

Notification procedure: Address inquiries to the system manager(s) at the above address.

Record access procedures: A request for access to a record contained in this system shall be made in writing with the envelope and letter clearly marked 'PRIVACY ACCESS REQUEST.' Include in the request the name and grant/contract number for the record desired. Access requests will be directed to the system manager(s) listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their requests to the system manager(s) listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are those individuals to whom the information pertains.

Systems exempted from certain provisions of the act: None.

JUSTICE/LEAA - 011

System name: Registered Users File--National Criminal Justice Reference Service (NCJRS).

System location: Justice Data Service Center; U.S. Department of Justice; 4th & I Streets, N.W.; Washington, D.C. 20537.

Categories of individuals covered by the system: The system contains information on those individuals engaged in criminal justice activities, citizen groups and academicians.

Categories of records in the system: The system provides a record for registrants for services and products of NCJRS.

Authority for maintenance of the system: The system is maintained and established in accordance with 42 U.S.C. 3742.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information contained in the system is used within the Department of Justice. No external dissemination of information is made.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored on magnetic disc pack for use in a computer environment.

Retrievability: Information is retrieved by the name and user identity number of the desired record.

Safeguards: Information is maintained in the Justice Data Services Center which is a secured area. Special identity cards are required for admittance to the area.

Retention and disposal: Information is retained until the individual no longer wishes to utilize the service. Upon notification by an individual that he no longer wishes to use the service, his record is electronically purged from the file.

System manager(s) and address: Director, Reference and Dissemination Division; National Criminal Justice Reference Service; Law Enforcement Assistance Administration; U.S. Department of Justice; Washington, D.C. 20531.

Notification procedure: Address inquiries to the system manager(s) at the above address.

Record access procedures: A request for access to a record contained in this system shall be made in writing with the envelope and letter clearly marked 'PRIVACY ACCESS REQUEST.' Access requests will be directed to the system manager(s) at the above address.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their requests to the system manager(s) listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources for the information contained in this system are those individuals to whom the information pertains.

Systems exempted from certain provisions of the act: None.

JUSTICE/BIA - 001

System name: Decisions of the Board of Immigration Appeals.

System location: 521 12th Street, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: (a) Aliens, including those previously admitted for lawful permanent residence, in deportation proceedings; (b) Aliens and alleged aliens in exclusion proceedings; (c) Aliens seeking waivers of inadmissibility; (d) Aliens in bond determination proceedings; (e) Aliens in whose behalf a preference classification is sought.

Categories of records in the system: This system of records consists of the formal orders and decisions of the Board of Immigration Appeals, including the indices and logs pertaining thereto.

Authority for maintenance of the system: This system is established and maintained under the authority granted the Attorney General by sections 103 and 292 of the Immigration and Nationality Act, 8 U.S.C. 1103 and 1362. Such authority has been delegated to the Board of Immigration Appeals by 8 C.F.R. Part 3.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Decisions of the Board of Immigration Appeals are disseminated to the following categories of users for the purposes indicated:

(a) Parties appearing before the Board, (including the Immigration and Naturalization Service), their attorneys or other representatives. Purpose: Parties are entitled to the decision as a matter of due process; and in accordance with the requirements of 8 C.F.R. 3.1(g).

(b) Other lawyers, organizations recognized to appear before the Immigration and Naturalization Service and their representatives. Purpose: To permit these users to be informed of current case law and general maintenance of open system of jurisprudence.

(c) Members of Congress. Purpose: Constituent inquiries.

(d) General public. Purpose: Selected decisions, designated as precedent decisions pursuant to 8 C.F.R. are published in bound volumes of Administrative Decisions Under Immigration and Nationality Laws of the United States. These are published to provide the public with guidance on the administrative interpretation of the immigration laws and to facilitate open and uniform adjudication of cases.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in the system is kept in typed form and stored in loose leaf binders.

Retrievability: Each decision is indexed by name and a numerical identifier.

Safeguards: Information contained in the records is unclassified and intended for wide dissemination. No specific safeguards to prevent unauthorized disclosure are employed since no type of disclosure is presently regarded as 'unauthorized'. Access to buildings in which records are stored is controlled by guards provided by GSA.

Retention and disposal: Records are retained indefinitely and are not disposed of.

System manager(s) and address: Executive Assistant; Board of Immigration Appeals; Department of Justice; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: Decisions of the Board of Immigration Appeals are available to anyone upon request pursuant to 5 U.S.C. 552a(b)(2).

Contesting record procedures: Decisions of the Board of Immigration Appeals constitute official opinions and are not subject to correction or amendment except in accordance with accepted standards of due process. Decisions have been exempted from the correction provisions of 5 U.S.C. 552a(d).

Record source categories: Sources of information contained in this system are provided primarily by the record of proceedings forwarded by the Immigration and Naturalization Service. Additionally, the person concerned and his representative provide information.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsection (d)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/BIA - 002

System name: Roster of Organizations and their Accredited Representatives Recognized by the Board of Immigration Appeals.

System location: 521 12th Street, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: (a) Persons associated in an official capacity with a recognized organization; (b) Persons who have applied for, have been granted or have been denied accreditation as representatives of recognized organizations.

Categories of records in the system: This system consists of (a) a roster of charitable, social service and similar organizations, and of their accredited representatives; (b) applications and related documents submitted by such organizations and their representatives and (c) orders of the Board of Immigration Appeals granting or denying recognition to such organizations and their representatives. Recognized organizations and their accredited representatives are authorized to practice before the Immigration and Naturalization Service and Board of Immigration Appeals.

Authority for maintenance of the system: This system is established and maintained under the authority granted the Attorney General by sections 103 and 292 of the Immigration and Nationality Act, 8 U.S.C. 1103 and 1362. Such authority has been delegated to the Board of Immigration Appeals by 8 C.F.R. Part 292.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Copies of decisions granting or denying applications for recognition and accreditation are sent to (a) the organization seeking recognition and (b) the Immigration and Naturalization Service.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information contained in the system is stored in file folders.

Retrievability: Information is retrieved by use of the name of the organization or person accredited.

Safeguards: Information contained in this record system is unclassified. Access to building in which records are stored is controlled by guards provided by GSA. No specific safeguards are employed.

Retention and disposal: Records in this system are retained indefinitely.

System manager(s) and address: Executive Assistant; Board of Immigration Appeals; Department of Justice; Washington, D.C. 20530.

Notification procedure: Address inquiries to: Chairman; Board of Immigration Appeals; Department of Justice; Washington, D.C. 20530.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and letter

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clearly marked 'Privacy Access Request'. Include in the request (a) the name of the organization which has sought, or has been granted or denied recognition and the name of the individual who has sought accreditation as a representative of such organization, or, (b) where no organization is concerned, the name of the individual who has sought accreditation or recognition. The requester will provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: The procedures for contesting or amending information contained in this system of records is governed by 8 C.F.R. Part 292. The procedures require that organizations seeking accreditation of their representatives be notified of adverse information and be given an opportunity to rebut such information.

Record source categories: Sources of information contained in this system are supplied by the organization seeking recognition, individuals seeking accreditation, and reports supplied by the Immigration and Naturalization Service.

Systems exempted from certain provisions of the act: None.

JUSTICE/CIV - 001

System name: Civil Division Case File System.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Any and all parties involved in the cases handled by the Civil Division will have identifying data contained in this system.

Categories of records in the system:

1) The main record of the system is the case file which is retained on each case under the jurisdiction of the Civil Division and constitutes the official record of the Department of Justice. All record material relating to a case is retained in the file. Each case is assigned a number comprised of the category designation for the subject matter, the code number for the judicial district where the action originated, and the number of cases of that category which have arisen in that district.

2) Alphabetical and numerical indices are utilized as a means of access to the proper file by the cross-referencing of the names of all parties to a suit with the file number. Forms CV-54 and carbon-interleaf index cards are used in these indices.

3) A Docket Card Index is maintained on each case in order to follow the progress of all Division cases and to obtain statistical data for monthly and fiscal reports. However, all information contained on the cards has been taken from the record material contained in the official file.

Authority for maintenance of the system: General authority to maintain the system is contained in 5 U.S.C. 301 and 44 U.S.C. 3101. The particular system was established in accordance with 28 C.F.R. 0.77(f) and was delegated to the Civil Division pursuant to the memorandum from the Deputy Attorney General, dated July 17, 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Any record pertaining to any case or matter in the Civil Division may be disseminated to any other component of the Department of Justice, including the F.B.I. and the United States Attorneys' Offices, for use in connection with the consideration of that case or matter or any other case or matter under consideration by the Civil Division or any other component of the Department of Justice. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal or regulatory in nature, or during the course of a trial or hearing, or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion of such matters as settlement of the case or matter, plea bargaining, or formal or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, or where the agency or officials thereof are a party to litigation or where the agency or officials may be affected by a case or matter, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence or extradition proceedings, or after conviction or after extradiction proceedings, may be disseminated to a federal, state, local or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, provided that the record does not contain any information identifiable to a specific individual other than is necessaryy to identify the matter or where the information has previously been filed in a judicial or administrative office, including the clerk of the court; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in civil or criminal proceedings in which the United States or one of its officers or agencies has an interest; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making positions to which they were appointed by the President, in accordance with the provisions of 28 C.F.R. 17.60.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 1) The case files utilize standard file jackets and are retained in electronic, rotary power files; 2) The alphabetical and numerical index cards, as well as the docket cards, are retained in standard file cabinets.

Retrievability: The files and docket cards must be retrieved by file number. The file number can be ascertained from the alphabetical index if the name of any party to the suit is known.

Safeguards: Information contained in the system is unclassified. However, only attorneys who have their names recorded in the File Unit can be issued a case file. Minimal information about a case is provided from the various indices to telephone callers, since there is a problem with identifying the identity of a caller. If a party desires detailed information, he is referred directly to the attorney of record.

Retention and disposal: When a case file is closed by the legal section, it is sent to the Federal Records Center for retention in accordance with the authorized Record Disposal Schedule for the classification of the case. Such schedules are approved by the National Archives. After the designated period has passed, the file is destroyed. However, the index and docket cards are not purged.

System manager(s) and address: Administrative Officer; Civil Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to: Assistant Attorney General; Civil Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Record access procedures: A request for information concerning the cases of the Civil Division should be submitted in writing, with the envelope and letter clearly marked 'Privacy Access Request'. The request should include the file number and/or the names of any litigants known to the requestor. The requestor should also provide a return address for transmitting the information. Such access requests should be submitted to the System Manager listed above. Requests may also be made by telephone. In such cases the caller will be referred to the attorney of record. The attorney, in turn, may require an official written request.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above. The request should clearly state, what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

Record source categories: All litigants involved in the cases of this Division are sources of information. Such information is either contained in the record material in the case files or has been extracted from that record material and put onto docket and index cards.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRT - 001

System name: Central Civil Rights Division Index File and Associated Records.

System location: U.S. Department of Justice; Civil Rights Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530; and, Todd Building; 550 - 11th Street, N.W.; Washington, D.C. 20530; and, Federal Records Center; Suitland, Maryland.

Categories of individuals covered by the system: Persons referred to in potential or actual cases and matters of concern to the Civil Rights Division and correspondents on subjects directed or referred to the Civil Rights Division.

Categories of records in the system: The system consists of alphabetical indices bearing individual names and the associated records to which the indices relate containing the general and particular records of all Civil Rights Division correspondence, cases, matters, and memoranda, including but not limited to, investigative reports, correspondence to and from the Division, memoranda, legal papers, evidence, and exhibits.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101. It is also maintained to implement the Civil Rights Division's responsibilities under 28 C.F.R. 0.50 to enforce Federal criminal and civil statutes affecting civil rights.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

A. Information in the system may be used by employees and officials of the Department to make decisions in the course of investigations and legal proceedings; to assist in preparing responses to correspondence from persons outside the Department; to prepare budget requests, Management by Objective (MBO) Program descriptions, and various reports on the work product of the Civil Rights Division; and to carry out other authorized internal functions of the Department.

B. A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) a record relating to a possible or potential violation of law, whether civil, criminal, or regulatory in nature may be disseminated to the appropriate federal, state or local agency charged with the responsibility of enforcing or implementing such law; (2) in the course of investigation or litigation of a case or matter, a record may be disseminated to a federal, state or local agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a prospective witness or informant; (3) a record relating to a case or matter may be disseminated to an appropriate court, grand jury or administrative or regulatory proceeding in accordance with applicable law or practice; (4) a record relating to a case or matter may be disseminated to an actual or potential party to litigation or his attorney a) for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or b) in formal or informal discovery proceedings; (5) a record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any determination that has been made; (6) a record relating to a person held in custody or probation during a criminal proceeding, or after conviction, may be disseminated to any agency or individual having responsibility for the maintenance, supervision or release of such person; (7) a record may be disseminated to the United States Commission on Civil Rights in response to its request and pursuant to 42 U.S.C. 1975d.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is stored manually on index cards and in file jackets.

Retrievability: A retrieval capability exists in this system through use of an index card system arranged alphabetically by the names of individuals or organizations that have been involved in possible civil rights violations either as the subjects of investigations by the Department or as victims and/or complainants. (Complaints received from individuals which have not been investigated by the Department have not been systematically indexed and information pertaining to such individuals may or may not be retrievable.) Information on such individuals may be retrievable from the file jackets by a number assigned and appearing on the index cards.

Safeguards: Information is safeguarded and protected in accordance with applicable Departmental rules and procedures.

Retention and disposal: There are no provisions for disposal of the records in the system although such procedures are currently under active consideration.

System manager(s) and address: Assistant Attorney General; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Notification procedure: Part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2) and (k)(2). Address inquiries to the System Manager listed above.

Record access procedures: Part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2), and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record retrievable in this system shall be made in writing, with the envelope and letter cclearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place, and any other information which is known and may be of assistance in locating the record, such as the name of the civil rights related case or matter involved, where and when it occurred and the name of the judicial district involved. The requester will also provide a return address for transmitting the information. Access requests should be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend non-exempt information retrievable in the system should direct their request to the System Manager listed above, stating

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clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system may be any agency or person who has or offers information related to the law enforcement responsibilities of the Division.

Systems exempted from certain provisions of the act: The Attorney General has exempted parts of this system from subsections (c)(3), (d), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(c) and (e) and have been published in the Federal Register.

JUSTICE/CRT - 002

System name: Files of Applications for the Position of Attorney with the Civil Rights Division.

System location: U.S. Department of Justice; Civil Rights Division, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who have applied for a positon as an attorney with the Civil Rights Division.

Categories of records in the system: The system may contain SF 171 forms, resumes, referral letters, letters of recommendation, writing samples, interview notes, internal notes or memoranda, and other correspondence and documents.

Authority for maintenance of the system: This system of records is maintained in the ordinary course of meeting the responsibilities assigned th Civil Rights Division under 28 U.S.C. 0.50, 0.51.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records in this system are used by employees and officials of the Department in making employment decisions. If an individual is hired, the records may become part of his or her standard personnel file.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in the system are primarily original papers or reproductions or copies thereof. The system consists of files pertaining to individual applicants.

Retrievability: Information is retrieved by using an applicant's name.

Safeguards: Information in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing access, production and disclosure of any materials contained in its official files.

Retention and disposal: Information is retained in the system until a final employment decision is made or until such time as the Civil Rights Division is notified by the applicant that he or she is no longer interested in or available for the position. If an individual is hired, some or all of the records may become part of his or her standard personnel file.

System manager(s) and address: Deputy Assistant Attorney General; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Notification procedure: Address inquiries to the Assistant Attorney General; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' The request should include the name of the applicant and the position applied for. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in the system generally are the applicants, persons referring or recommending the applicant, and employees and officials of the Department.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRT - 003

System name: Files of Pending Applications for Clerical or Research Analyst Positions with the Civil Rights Division.

System location: U.S. Department of Justice; Civil Rights Division, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who have applied for a clerical or research analyst position with the Civil Rights Division and upon whose applications no final action has been taken.

Categories of records in the system: The system contains S.F. 171 forms and resumes provided by the applicant. It may also contain letters of recommendation, letters rejecting the application, letters indicating that no positions are available, interview notes or internal memoranda, and other correspondence and documents.

Authority for maintenance of the system: This system is maintained in the ordinary course of meeting the responsibilities assigned the Civil Rights Division under 28 C.F.R. 0.50, 0.51.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records in this system are used by employees and officials of the Department in making employment decisions. If an individual is hired, the records may become part of his or her standard personnel file.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in the system are primarily original papers or copies thereof. The system consists of files pertaining to individual applicants.

Retrievability: Information is retrieved by using an applicant's name.

Safeguards: Information in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing access, production and disclosure of any materials contained in its official files.

Retention and disposal: Information is retained in this system until a final employment decision has been made or until such time as the Civil Rights Division is notified by the applicant that he or she is no longer interested in or available for the position. If an individual is hired, some or all of the records may become part of his or her standard personnel file.

System manager(s) and address: Chief; Administrative Section; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Notification procedure: Address inquiries to the Assistant Attorney General; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' The request should include the name of the applicant and the position applied for. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in the system generally are the applicants, persons recommending or referring the applicant, and the employees and officials of the Department.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRT - 004

System name: Registry of Names of Interested Persons Desiring Notification of Submissions under Section 5 of the Voting Rights Act.

System location: U.S. Department of Justice; Civil Rights Division; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who have requested that the Attorney General send them notice of submissions under Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c.

Categories of records in the system: The Registry contains the name, address and telephone numbers of interested persons and, where appropriate, the area or areas with respect to which notification was requested by such persons.

Authority for maintenance of the system: 28 C.F.R. 51.13; 42 U.S.C. 1973c; 5 U.S.C. 301 and 28 U.S.C. 509, 510.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Registry is used to identify persons interested in receiving notice of Section 5 submissions and to comply with their requests. The Registry may be used to notify the persons listed therein of any proposed changes in the 'Procedure for the Administration of Section 5 of the Voting Rights Act of 1965,' 28 C.F.R. 51-1 et seq., and to solicit their comments with respect to any such proposed changes.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Names are stored in a card file system.

Retrievability: Records in this system are retrievable by the names of interested persons or organizations.

Safeguards: Information in the system is safeguarded in accordance with Departmental rules and procedures governing access, production and disclosure of any materials contained in its official files.

Retention and disposal: An individual or organizational name is retained in the Registry until such time as that person or organization requests that the name be deleted.

System manager(s) and address: Chief; Voting Section; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Notification procedure: Address inquiries to: Assistant Attorney General; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Record access procedures: This system contains no information about any individual other than as described in Category of Record above. Persons whose names appear on the Registry may have access thereto or have their names and other information pertaining to them deleted or modified upon a request of the same nature as indicated in 28 C.F.R. 51.13.

Contesting record procedures: Same as the above.

Record source categories: Sources of information in the Registry are those persons or organizations whose names appear therein by virtue of their having requested inclusion in the Registry pursuant to 28 C.F.R. 51.13.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRT - 005

System name: Records Obtained by Office of Special Litigation Concerning Residents of Certain State Institutions.

System location: U.S. Department of Justice; Civil Rights Division; Todd Building; 550 11th Street, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: The information in this system pertains primarily to individuals who are residents of state operated or supported institutions for mentally and physically handicapped persons, juveniles and the aged, if such institutions have been the subject of litigation or investigation involving the Civil Rights Division. Information may also pertain to other individuals who are not receiving but may be entitled to forms of educational, habilitative or rehabilitative care under state or federal law.

Categories of records in the system: Information collected in the course of business by state agencies on persons generally identified by categories of individuals above including admission notes, commitment papers, transfer reports, juvenile records, psychological and social behavior notes, programming progress notes, disease records, restraint or seclusion notes, security reports, dental records, confinement notes, medicaid histories, incident and missing person reports, and death reports.

Authority for maintenance of the system: Collection and maintenance of these records is pursuant to 44 U.S.C. 3101 and is necessary to accomplish the Division's responsibility under 28 C.F.R. 0.50 to enforce Federal statutes involving unlawful discrimination including 42 U.S.C. 2000b, 2000d and 2000h-2 (Titles III, VI and IX of the Civil Rights Act of 1964).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

A. Information in this system may be used by authorized persons within the Civil Rights Division to make decisions in the course of investigations and legal proceedings and to assist in preparing memoranda, legal papers and responses to correspondence from persons outside the Department.

B. Except as prohibited by order of a court of competent jurisdiction, a record maintained in this system may be disseminated as a routine use of such record as follows: (1) to the extent the record relates to a possible or potential violation of law it may be disseminated to the appropriate federal, state or local agency charged with responsibility of enforcing or implementing such law; (2) a record may be disseminated to an appropriate court, grand jury or administrative or regulatory proceeding in accordance with applicable law or practice; (3) a record may be disseminated to an actual or potential party to litigation or his attorney (a) for the purpoe of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or (b) in formal or informal discovery proceedings; (4) a record may be returned or disseminated to the agency or institution from which it was obtained.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on xeroxed or microfilm reproductions of original documents or on computer printouts.

Retrievability: Information is retrieved primarily by reference to the name of the appropriate state institution or agency. Within the files maintained with respect to such institutions or agencies, records are often filed by individual names or identification numbers.

Safeguards: These records are maintained in accordance with (1) the terms of any applicable court orders (many of the records in this system are subject to outstanding court orders protecting their

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confidentiality), (2) applicable agreements or understandings made with the state and local agencies which furnished the records, and (3) Departmental rules and procedures governing the maintenance of its official files.

Retention and disposal: These records are retained and disposed of in accordance with applicable court orders and agreements as outlined under safeguards. Provisions for the disposal of records maintained by the Civil Rights Division are under active consideration.

System manager(s) and address: Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Record source categories: Sources of information in this system are the state operated or supported agencies responsible for administration of institutions which confine or treat individuals identified in categories of individuals of this notice.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3), and (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRT - 006

System name: Files of Federal Programs Section, Civil Rights Division.

System location: U.S. Department of Justice; Civil Rights Division; Federal Programs Section; Safeway Building; 521 12th Street, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system:

A. Individuals listed on the U.S. Department of Agriculture's FMIS (Extension Management Information System) personnel records for state extension service employees of the states of Mississippi, Alabama, North Carolina, Kansas, Illinois, Louisiana, Arkansas, Georgia, Texas and Maryland.

B. Children in the state of Alabama, and their families, including but not limited to: children receiving foster family care and day care under the jurisdiction of the state of Alabama Department of Pensions and Security, (DPS) 1970-1973; children receiving care in public and private institutions from 1964 through 1973; children and families having records maintained by juvenile courts as of July 1, 1973; children and families having records as AFDC assistance and/or as service cases as of July 1, 1973, with state and county DPS; adults functioning as foster parents in Montgomery County, Ala. as of January 1973, and foster families caring for children at any time, in other counties, appearing in above-mentioned AFDC-service files; and persons receiving AFDC, APTD, AB, or OAA (categorical assistance) in the state of Alabama as of January 31, 1973.

Categories of records in the system:

A. With respect to the category described in category of individual (A) of this notice, the records contain personnel information on individual employees.

B. With respect to the category described in category of individual (B) of this notice, the records contain identifications, social, psychological, economic, judicial, and educational histories of persons.

Authority for maintenance of the system: Collection and maintenance of the records in this system is pursuant to 44 U.S.C. 3101 and is necessary to fulfill the Civil Rights Division's responsibility under 28 C.F.R. 0.50 and Executive Order 11764 (Jan. 21, 1974) to enforce Federal statutes protecting the civil rights of beneficiaries of Federal assistance programs including 42 U.S.C. 2000d, 2000e, and 2000h.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

A. Information in this system be used by authorized persons within the Civil Rights Division to make decisions in the course of investigations and legal proceedings and to assist in preparing memoranda, legal papers and responses to correspondence from persons outside the Department.

B. Except as prohibited by order of a court of competent jurisdiction, a record maintained in this system may be disseminated as a routine use of such record as follows: (1) to the extent the record relates to a possible or potential violation of law, it may be disseminated to the appropriate federal, state or local agency charged with responsibility of enforcing or implementing such law; (2) a record may be disseminated to an appropriate court, grand jury or administrative or regulatory proceeding in accordance with applicable law or practice; (3) a record may be disseminated to an actual or potential party to litigation or his attorney (a) for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or (b) in formal or informal discovery proceedings; (4) a record may be returned or disseminated to the agency or institution from which it was obtained.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in this system consist of computer printouts of information stored electronically, and original papers or reproductions thereof stored manually.

Retrievability: Records described in categories of individuals and records of this notice are retrievable by name and identifying number of an individual.

Safeguards: Information in this system is safeguarded and protected in accordance with applicable Departmental rules and procedures. In addition, records described in category of individual (B) and category of record (B) of this notice are subject to the terms of a protective order entered by a United States District Court in Player v. Alabama Department of Pensions and Security, No. 3835-N (M.D. Ala.), to protect the confidentiality of their contents.

Retention and disposal: There are no provisions for disposal of the records in the system although such procedures are currently under active consideration.

System manager(s) and address: Assistant Attorney General; Civil Rights Division; Washington, D.C. 20530.

Record source categories: Sources of information described in categories of individuals and records of this notice were the federal or state agencies referred to therein.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRT - 007

System name: Files on Employment Civil Rights Matters Referred by the Equal Employment Opportunity Commission.

System location: U.S. Department of Justice; Civil Rights Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530; and, Todd Building; 550 11th Street, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons seeking employment or employed by a state or a political subdivision of a state who have filed charges alleging discrimination in employment with the Equal Employment Opportunity Commission (hereinafter EEOC) which have resulted in a determination by EEOC that there is probable cause to believe that such discrimination has occurred, and attempts by EEOC at conciliation have failed.

Categories of records in the system: The system may contain copies of charges filed with EEOC; copies of EEOC's 'determination' letters, letters of transmittal from and to EEOC, analyses or evaluations summarizing the charge and other materials in the EEOC file, internal memoranda, attorney notes, and copies of 'right to sue' letters issued by the Civil Rights Division.

Authority for maintenance of the system: The system is maintained pursuant to 44 U.S.C. 3101 and in order to accomplish the Civil Rights Division's responsibility under 28 C.F.R. 0.50 to enforce Federal statutes affecting civil rights including 42 U.S.C. 2000e-5(f) and 2000e-6.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is used by employees and officials of the Department to make decisions regarding prosecution of alleged instances of employment discrimination; to issue 'right to sue' letters on behalf of individuals; to make policy and planning determinations; to prepare annual budget requests and justifications; to prepare statistical reports on the work product of the Employment and Education Sections and to carry out other authorized internal functions of the Department. If the Department has determined to initiate an investigation or litigate a matter referred by EEOC, the records pertaining to that matter are not contained in this system. Such records and their routine uses are described under the notice for the system named: Central Civil Rights Division Index File and Associated Records.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in the system is stored manually on index cards and file jackets which are maintained by the Education Section, Civil Rights Division, if the charge relates to a public educational agency or institution, or the Employment Section, Civil Rights Division, if the charge relates to any other public employer.

Retrievability: Information is retrieved primarily by using the appropriate Department of Justice file number, or the name of the charging party, or the state in which the alleged discrimination occurred.

Safeguards: Information in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures.

Retention and disposal: There are no provisions for the disposal of the records in the system although such procedures are under active consideration.

System manager(s) and address: Assistant Attorney General; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked 'Privacy Access Request.' The request should indicate the state where the alleged employment discrimination took place and the employer to which the charge was related. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Disclosure of part of the materials in this system may be prohibited by 42 U.S.C. 2000e-8(e) and 44 U.S.C. 3508. Part of this system is exempted from access and contest under 5 U.S.C. 552(k)(2).

Record source categories: Sources of information in this system are charging parties, information compiled and maintained by EEOC, and employees and officials of the Department of Justice responsible for the disposition of the referral request.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRT - 008

System name: Files on Correspondence Relating to Civil Rights Matters from Persons Outside the Department of Justice.

System location: U.S. Department of Justice; Civil Rights Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530; and, Todd Building; 550 - 11th Street N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons communicating in written form, including complaints, requests for information or action, or expressions of opinion regarding civil rights matters.

Categories of records in the system: The system contains original correspondence regarding civil rights matters from persons, cover letters or notes from persons referring original correspondence to the Department, attorney or other employee notes regarding the correspondence, and copies of Civil Rights Division's responses to the original correspondence.

Authority for maintenance of the system: This system of records is maintained pursuant to 44 U.S.C. 3101 and in the ordinary course of fulfilling the responsibilities assigned to the Civil Rights Division under the provisions of 28 C.F.R. 0.50.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

A. The system is used by employees and officials of the Department to respond to incoming correspondence; to compile statistics for use in preparing budget requests, to insure proper disposition of incoming mail, to determine the status and content of responses to correspondence, to respond to inquiries from Division personnel, Office of Legislative Affairs and Congressional offices regarding the status of correspondence, and to carry out other authorized functions of the Department.

B. Information in the system regarding individual pieces of correspondence may be provided to members of Congress upon request in instances where the member making the request referred the correspondence in question to the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in the system are primarily index cards and original letters or copies thereof. They are stored manually.

Retrievability: Information may be retrieved through use of a card index file system which is subdivided into indexes (1) arranged according to the name of citizens that corresponded with the Department and (2) arranged according to the name of members of Congress or White House staff members who have referred correspondence to the Department.

Safeguards: Information in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures.

Retention and disposal: There are no provisions for disposal of the records in this system although such procedures are currently under active consideration.

System manager(s) and address: Assistant Attorney General; Civil Rights Division; U.S. Department of Justice; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' The request should include the name of the correspondent, his address or the name of the member of Congress or White House staff member who referred the correspondence to the Department, if known, the Department of Justice file number, if known, and the date of the correspondence. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

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Record source categories: Sources of information contained in this system are the original correspondents, persons referring original correspondence to the Department, and employees and officials of the Department responsible for the disposition of the correspondence.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRT - 009

System name: Civil Rights Division Employees Travel Reporting

System location: U.S. Department of Justice, Todd Building, 550 11th Street, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Employees of the Civil Rights Division who have traveled on official assignments for the Civil Rights Division.

Categories of records in the system: The system contains information, concerning travel expenditures, which was recorded by Division employees on travel authorization forms (Form JD-10) and travel voucher forms (Form OBD-157) and submitted to the Fiscal Unit of the Civil Rights Division, from Fiscal Year 1972 to the present.

Authority for maintenance of the system: This system is maintained in the ordinary course of meeting the responsibilities assigned the Civil Rights Division under 28 C.F.R. 0.50, 0.51.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records in this system are used to make monthly reports to the Executive Office, Civil Rights Division, and to the Fiscal Unit, Civil Rights Division, for use in controlling and reviewing Division expenditures. Copies of individual's reports may be disclosed to the individual when appropriate forms are not submitted following a return from travel status.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records in the system are stored on magnetic tape and on computer punch cards, and on monthly reports printed on computer. Individual vouchers and travel authorization forms are stored in file jackets.

Retrievability: Records in this system are retrievable by the names of present and former Division employees who have filed travel authorization forms or travel voucher forms.

Safeguards: Information in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures.

Retention and disposal: There are no provisions for disposal of the records in the system.

System manager(s) and address: Executive Officer, Civil Rights Division, United States Department of Justice, Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: Requests by former employees for access to records in this system may be made in writing with the envelope and letter clearly marked 'Privacy Act Request'. The request should clearly state the dates on which official travel was taken. The requestor should also provide a return address for transmitting the information. Access requests will be directed to the System Manager. Present employees may request access by contacting the System Manager directly.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information are the Civil Rights Division employees filing travel authorization and travel voucher forms.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRT - 010

System name: Freedom of Information/Privacy Act Records.

System location: U.S. Department of Justice, Civil Rights Division, 10th & Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who request disclosure of records pursuant to the Freedom of Information Act; persons who request access to or correction of records pertaining to themselves contained in Civil Rights Division systems of records pursuant to the Privacy Act; and, where applicable, persons about whom records have been requested or about whom information is contained in requested records.

Categories of records in the system: The system contains copies of all correspondence and internal memorandums relating to Freedom of Information and Privacy Act requests, and related records necessary to the processing of such requests received on or after January 1, 1975.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101 and is maintained to implement the provisions of 5 U.S.C. 552 and 552a and the provisions of 28 C.F.R. 16.1 et seq. and 28 C.F.R. 16.40 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system may be disseminated as a routine use of such record as follows: (1) a record may be disseminated to a Federal agency which furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate Federal, State, local, or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in systems of records maintained by the Criminal Division.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually in alphabetical order in file cabinets.

Retrievability: A record is retrieved by the name of the individual or person making a request for access or correction of records.

Safeguards: Access to physical records is limited to personnel of the Freedom of Information/Privacy Act Unit of the Civil Rights Division and known Department of Justice personnel who have a need for the record in the performance of their duties. The records are safeguarded and protected in accordance with applicable Departmental rules.

Retention and disposal: Currently there are no provisions for disposal of records contained in this system.

System manager(s) and address: Assistant Attorney General, Civil Rights Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Notification procedure: Parts of this system are exempted from this requirement under 5 U.S.C. 552a(j)(2) or (k)(2). Address inquiries to the System Manager listed above.

Record access procedures: Parts of this system are exempted from this requirement under 5 U.S.C. 552a(j)(2), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing,

with the envelope and letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other information which is known and may be of assistance in locating the record. The requester shall also provide a return address for transmitting the information. Access requests should be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend non-exempt information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are the individuals and persons making requests, the systems of records searched in the process of responding to requests, and other agencies referring requests for access to or correction of records originating in the Civil Rights Division.

Systems exempted from certain provisions of the act: Records secured from other systems of records have been exempted from the provisions of the Privacy Act to the same extent as the systems of records from which they were obtained. The Attorney General has also exempted certain categories of records in this system from subsection (c) (3), (d) of the Privacy Act pursuant to 5 U.S.C. 552a (k) (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(c), and (e) and have been published in the Federal Register.

JUSTICE/CRM - 001

System name: Central Criminal Division Index File and Associated Records.

System location: U.S. Department of Justice; Criminal Division; 10th and Constitution Avenue N.W.; Washington, D.C. 20530; and, Federal Records Center; Suitland, Maryland 20409.

Categories of individuals covered by the system: Persons referred to in potential or actual cases and matters of concern to the Criminal Division and correspondents on subjects directed or referred to the Criminal Division.

Categories of records in the system: The system consists of alphabetical indices bearing individual names, and the associated records to which they relate, arranged either by subject matter or individual identifying number containing the general and particular records of all Criminal Division correspondence, cases, matters, and memoranda, including but not limited to, investigative reports, correspondence to and from the Division, legal papers, evidence, and exhibits. The system also includes items classified in the interest of national security with such designations as confidential, secret, and top secret received and maintained by the Department of Justice. This system may also include records concerning subject matters more particularly described in other systems of records of the Criminal Division.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101, and is intended to assist in implementing and enforcing the criminal laws of the United States, particularly those codified in title 18, United States Code. The system is also maintained to implement the provisions codified in 28 C.F.R. 0.55 and 0.61.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which tthey were appointed by the President, in accordance with the provisions codified in 28 C.F.R. 17.60; (14) a record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintenance of a suit brought under such title.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually on index cards and in file jackets.

Retrievability: A record is retrieved from index cards by the name of the individual and from the file jackets by a number assigned and appearing on the index cards.

Safeguards: The records are safeguarded and protected in accordance with applicable Departmental rules.

Retention and disposal: Currently there is an agreement with the Federal Records Center for retention and disposal after ten years applicable to approximately 20 percent of the Division records;

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there are no provisions for disposal of the other records in the system although such procedures are currently under active consideration.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). Inquiry concerning this system should be directed to the system manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the infoormation. Access requests will be directed to the system manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Department officers and employees, and other federal, state, local, and foreign law enforcement and non-law enforcement agencies, private persons, witnesses, and informants.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (e)(4)(G), (H) and (I), (e)(5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 002

System name: Criminal Division Witness Security File.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530. In addition, some of the records contained in this system may be located at one or more of the Organized Crime and Racketeering Sections Field Offices listed in the appendix to the Criminal Division Systems of Records.

Categories of individuals covered by the system: Persons who are potential or actual witnesses and/or informants, relatives, and associates of those individuals.

Categories of records in the system: The system consists of the Witness Security Program files on all persons who are considered for admission or who have been admitted into the program. The files contain information concerning the individuals, the source and degree of danger to which they are exposed, the cases in which they are expected to testify, relocation information and documentation, job assistance, sponsoring office, requirements for reimbursement and administration of the program, and protection techniques. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM - 001.

Authority for maintenance of the system: This system is authorized pursuant to sections 501 through 504 of Public Law 91-452.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: 1. dissemination of a record may be made to a federal, state, local, or foreign agency to acquire information concerning the individual, or those associated with him, relating to the protection of the subject or to a criminal investigation; 2. in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law; 3. in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; 4. a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; 5. a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; 6. a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; 7. a record relating to an individual in a matter that has been referred for either consideration or investigation by an agency may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made; 8. a record relating to an individual held in custody pending arraignment, trial, or sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; 9. a record may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; 10. a record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; 11. a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; 12. a record may be disseminated to a non-governmental entity or individual in the acquisition of employment or other services in behalf of the witnesses.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is kept on index cards and in files stored in safe type filing cabinets.

Retrievability: A record is retrieved by name of the individual.

Safeguards: The records are maintained in safes with additional physical safeguards as wellll as limited access by Departmental personnel.

Retention and disposal: Currently there are no provisions for the disposal of the records in the system.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Inquiry concerning the system should be addressed to the System Manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as

to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

Record source categories: 1. Federal, state, local, or foreign government agencies concerned with the administration of criminal justice; 2. Members of the public; 3. Government agency employees; 4. Published material; 5. Persons considered for admission or admitted to the program.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H) and (I), (e)(5) and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 003

System name: File of Names Checked to Determine If Those Individuals Have Been the Subject of An Electronic Surveillance.

System location: U.S. Department of Justice; Criminal Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Grand jury witnesses, defendants and potential defendants in criminal cases and their attorneys.

Categories of records in the system: The system contains the names of those persons submitted by federal prosecutors to inquire whether such persons have been the subject of electronic surveillances. The file consists of the names, the inquiries made to federal investigatory agencies, the replies received from such agencies, and the reply submitted to the prosecutor. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM - 001.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101. The system is also maintained to implement the provisions of 18 U.S.C. 3504.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: 1. in an appropriate federal court proceeding in accordance with established constitutional, substantive, or procedural law or practice; 2. to an actual or potential party or his attorney in the case or matter in which the request was made.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually in file jackets.

Retrievability: A record is retrieved by the name of the individual checked.

Safeguards: The records are safeguarded and protected in accordance with applicable Departmental rules.

Retention and disposal: Currently there are no provisions for disposal of the records in this system.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: A part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2). Inquiry concerning this system should be directed to the System Manager listed above.

Record access procedures: A part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are an actual or potential party or his attorney in the case or matter in question, federal prosecutors, and the federal investigative agencies.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(4), (d), (e)(4)(G), (H) and (I), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 004

System name: General Crimes Section, Criminal Division, Central Index File and Associated Records.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons referred to in potential or actual cases and matters of concern to the General Crimes Section, Criminal Division, and correspondents on subjects directed or referred to the Criminal Division.

Categories of records in the system: The system consists of an alphabetical index by individual name or subject matter of all incoming correspondence, cases, and matters assigned, referred, or of interest to the General Crimes Section, Criminal Division. A large percentage of these records are duplicated in the central Criminal Division records; some, however, are not sent through central records and come to the General Crimes Section directly.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101, and is intended to assist in implementing and enforcing the criminal laws of the United States, particularly those codified in title 18, United States Code. The system is also maintained to implement the provisions codified in 28 C.F.R. 0.55.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there

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is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made aavailable to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually on index cards.

Retrievability: A record is retrieved from index cards by the name of the individual or matter which will then indicate the Section Unit or attorney assigned to work on the correspondence, case, or matter.

Safeguards: Records are safeguarded and protected in accordance with applicable Departmental rules.

Retention and disposal: Currently there are no provisions for disposal of the records contained in this system.

System manager(s) and address: Assistant Attorney General, Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). Inquiries concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to the applicability of an exemption as to a specific record shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Department offices and employees and other federal, state, local, and foreign law enforcement and non-law enforcement agencies, private persons, witnesses, and informants.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), and (e)(4)(G), (H) and (I), (e)(5) and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 005

System name: Index to Names of Attorneys Employed by the Criminal Division, U.S. Department of Justice, Indicating the Subject of the Memoranda on Criminal Matters They Have Written.

System location: U.S. Department of Justice; Criminal Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Past and present attorneys employed by the Criminal Division, U.S. Department of Justice.

Categories of records in the system: This system of records consists of the names of past and present Criminal Division attorneys and lists the memoranda they have written on various matters, generally involving legal research, on matters of interest to the Division. This system is a cross-reference index maintained for convenience only and does not include the memoranda themselves other than the fact of authorship.

Authority for maintenance of the system: This system is established and maintained pursuant to the authority granted by 44 U.S.C. 3101. The system is also maintained to implement the provisions codified in 28 C.F.R. 0.55 and 0.61.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: There are no uses of the records in this system outside of the Department of Justice.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually on index cards.

Retrievability: A record is retrieved by name of the individual.

Safeguards: Records are safeguarded and protected in accordance with applicable Departmental rules.

Retention and disposal: Currently there are no provisions for disposal of the records in this system.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the past or present attorney employed by the Criminal Division. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Past and present attorneys employed by the Criminal Division, U.S. Department of Justice.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRM - 006

System name: Information File on Individuals and Commercial Entities Known or Suspected of Being Involved in Fraudulent Activities.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Individuals involved in actual or suspected fraudulent activities and their victims.

Categories of records in the system: This system of records consists of alphabetized indices of the names of those individuals or commercial entities known or suspected of involvement in fraudulent activities both foreign and domestic, and of computerized printouts of information obtained from documents, records, and other files in the possession of the Criminal Division that indicate the scope, details, and methods of operation of known or suspected fraudulent activities. The system also consists of the documents, records, and other files to which the printouts relate. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM - 001.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101, and is intended to assist in implementing and enforcing the criminal laws of the United States, codified in title 18, United States Code and elsewhere, particularly the laws relating to offenses involving fraudulent activities. The system is also maintained to implement the provisions codified in 28 C.F.R. 0.55, particularly subsection (b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored on lists, index cards, and on computer printout paper. The documents, records, and other files to which the printouts relate are stored in file jackets in file cabinets.

Retrievability: A record is retrieved by name of the individual, trade style used, or by source of the information of the preceding.

Safeguards: The computer center is maintained by the Office of Management and Finance which has designed security procedures consistent with the sensitivity of the data. Materials related to the system maintained at locations other than the location of the computer center are protected and safeguarded in accordance with applicable Departmental rules.

Retention and disposal: Currently there are no provisions for disposal of records contained in this system.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Inquiries concerning the system should be directed to the System Manager listed above.

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Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

Record source categories: Federal, state, local, or foreign agencies, investigatorss, and prosecutors, private organizations, quasi-governmental agencies, trade associations, private individuals, publications, and the news media.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(G), (H) and (I), (e)(5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 007

System name: Name Card File on Criminal Division Personnel Authorized to Have Access to the Central Criminal Division Records.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530, or Federal Records Center; Suitland, Maryland 20409.

Categories of individuals covered by the system: Current personnel of the Criminal Division, generally attorneys.

Categories of records in the system: The file contains the names of those attorneys and others currently employed by the Criminal Division who are authorized to have access to the central records of the Division.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101. The system is also maintained to implement the provisions codified in 28 C.F.R. 0.55 and 0.61.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: There are no uses of the records in this system outside of the Department of Justice.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually on index cards.

Retrievability: A record is retrieved by name from the index cards.

Safeguards: The records are safeguarded and protected in accordance with applicable Departmental rules.

Retention and disposal: A name card is destroyed upon notification that the individual is no longer employed by the Criminal Division.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Personnel of the Criminal Division.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRM - 008

System name: Name Card File on Department of Justice Personnel Authorized to Have Access to Classified Files of the Department of Justice.

System location: U.S. Department of Justice; Criminal Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Current personnel of the Department of Justice, generally attorneys.

Categories of records in the system: This index file contains the names of those attorneys and others currently employed in the Department of Justice who are authorized to have access to records of the Department of Justice classified in the interest of national security with such designations as confidential, secret, and top secret.

Authority for maintenance of the system: This system is established pursuant to Executive Order No. 11652. The system is also maintained to implement the provisions codified in 28 C.F.R. 17.1 through 17.82.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: There are no uses of the records in this system outside of the Department of Justice.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually on index cards.

Retrievability: A record is retrieved by name from the index cards.

Safeguards: The index is contained in the vault maintained for classified files of the Department of Justice.

Retention and disposal: The names in the index are maintained and deleted in accordance with Departmental regulations.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Personnel of the Department of Justice.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRM - 009

System name: Narcotic and Dangerous Drug Witness Security Program File.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who are potential or actual witnesses and/or informants, relatives, and associates of those individuals in narcotic and dangerous drug cases.

Categories of records in the system: The system consists of the Witness Security Program files on all persons who are considered for admission or who have been admitted into the program. The files contain information concerning the individuals, the source and degree of danger to which they are exposed, the cases in which they are expected to testify, relocation information and documentation, job assistance, sponsoring office, requirements for reimbursement and administration of the program, and protection techniques. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM - 001.

Authority for maintenance of the system: This system is authorized pursuant to sections 501 through 504 of Public Law 91-452.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: 1. dissemination of a record may be made to a federal, state, local, or foreign agency to acquire information concerning the individual, or those associated with him, relating to the protection of the subject or to a criminal investigation; 2. in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law; 3. in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; 4. a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding, in accordance with established constitutional, substantive, or procedural law or practice; 5. a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; 6. a record relating to a case or matter may be disseminated to an actual or potential party or his attorney, for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; 7. a record relating to an individual in a matter that has been referred for either consideration or investigation by an agency may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made; 8. a record relating to an individual held in custody pending arraignment, trial, or sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; 9. a record may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; 10. a record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; 11. a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; 12. a record may be disseminated to a non-government entity or individual in the acquisition of employment or other services in behalf of the witnesses.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is kept on index cards and files stored in safe type filing cabinets.

Retrievability: A record is retrieved by name of the individual.

Safeguards: The records are maintained in safes with additional physical safeguards as well as limited access by Department personnel.

Retention and disposal: Currently there are no provisions for the disposal of the records in the system.

System manager(s) and address: Assistant Attorney General; Criminnal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Inquiry concerning this system should be addressed to the System Manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

Record source categories: 1. Federal, state, local, or foreign government agencies concerned with the administration of criminal justice; 2. Members of the public; 3. Government agency employees; 4. Published material; 5. Persons considered for admissions or admitted to the program.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H) and (I), (e)(5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 010

System name: Organized Crime and Racketeering Information System.

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System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530. In addition, some of the records contained in this system may be located at one or more of the Organized Crime and Racketeering Section Field Offices listed in the appendix to the Criminal Division's systems of records.

Categories of individuals covered by the system: Persons who have been prosecuted or who are under investigation for potential or actual criminal prosecution as well as persons allegedly involved in organized criminal activity and those alleged to be associated with the subject.

Categories of records in the system: The records contained in this system of records consist of a variety of categories related to the background, current and past activities, as well as records of investigation, if any, and prosecution, if any, of persons under investigation for potential or actual involvement in criminal activity relating to organized crime as well as those alleged to be associated with such persons. The records in this system concern matters primarily involving organized crime and include, but are not limited to, information obtained from investigative reports, grand jury files and records of indictments, prosecution, conviction, parole, probation, or immunity. The system also includes information as to those individuals involved in the investigation, prosecution, or trial of such persons. Records are originally recorded on forms CRM 75 - CRM 85 inclusive and are subsequently computerized. Additional information of the same nature is maintained on disc packs or tapes having been recorded prior to the advent of forms CRM 75 - CRM 85. Additional information of a similar nature is received from various federal investigatory agencies in machine readable form. Included within the system are various management control documents. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM - 001.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101 and the Presidential Directive on the Federal Drive Against Organized Crime issued May 5, 1966 (Weekly Compilation of Presidential Documents, Vol. 2, No. 18 (1966)). In addition, this system is maintained to assist in implementing and enforcing the criminal laws of the United States, particularly those codified in title 18, United States code. This system is also maintained to implement the provisions codified in 28 C.F.R. 0.55 particularly subsection (g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) a record may be disseminated to a federal agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (2) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored on forms CRM 75 - 85 inclusive, magnetic tape, disc packs and microfiche, index cards, computer paper, and punch cards.

Retrievability: The system is accessed by one or more of the components of the information contained in the system; accessing is by several methods including by individual name.

Safeguards: The computer center is maintained by the Office of Management and Finance which has designed security procedures consistent with the sensitivity of the data. Materials related to the system maintained at locations other than the location of the computer center are similarly protected by being maintained in a restricted area at the Department of Justice.

Retention and disposal: Information in the system is constantly modified as new information is received. Historical data is maintained as an audit trail until sufficient experience with the system is received to develop appropriate procedures for the elimination and destruction of the data. Such procedures are consistent with applicable governmental procedures.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Inquiry concerning the system should be addressed to the System Manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject ot exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

Record source categories: 1. Federal, state, local, or foreign government agencies concerned with administration of criminal justice and non-law enforcement agencies both public and private; 2. Members of the public; 3. Government employees; 4. Published material; 5. Witnesses and Informants.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3), and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H) and (I), (e)(5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 011

System name: Organized Crime and Racketeering Section File Check Out System.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Individuals having access to the Organized Crime and Racketeering Section files and subjects of the files.

Categories of records in the system: This system consists of a manual and automated index of those individuals who have had access to Organized Crime and Racketeering Section files with accompanying notations of the numbers of the files to which access was granted.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101. The system is also maintained to implement the provisions codified in 28 C.F.R. 0.55, particularly subsection (g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: There are no uses of the records in this system outside of the Department of Justice.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored on disc pack, tape, and paper.

Retrievability: A record in this system may be accessed by name or file number.

Safeguards: The computer center is maintained by the Office of Management and Finance which has designed security procedures consistent with the sensitivity of the data. Materials related to the system maintained at locations other than the location of the computer are similarly protected by being maintained in a restricted area at the Department of Justice.

Retention and disposal: Information in the system is constantly modified as new information is received. Historical data is maintained as an audit trail until sufficient experience with the system is received to develop appropriate procedures for the elimination and destruction of the data. Such procedures are consistent with applicable governmental procedures.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Inquiry concerning the system should be addressed to the System Manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

Record source categories: Employees of governmental agencies and personnel of the Department of Justice.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(4)(G), (H) and (I), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 012

System name: Organized Crime and Racketeering Section, General Index File and Associated Records.

System location: The general files of the Organized Crime and Racketeering Section are located at several locations and not all files are located at all locations. The location of the files are: 1. U.S. Department of Justice; Criminal Division, Organized Crime and Racketeering Section; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530; and 2. Organized Crime and Racketeering Section Field offices listed in the Appendix to the Criminal Division's systems of records.

Categories of individuals covered by the system: Persons who have been prosecuted or are under investigation for potential or actual criminal prosecution as well as persons allegedly involved in organized criminal activity and those alleged to be associated with the subject.

Categories of records in the system: The system consists of alphabetical indices bearing individual names and the associated records to which they relate, arranged either by subject matter or individual identifying number, of all incoming correspondence, cases, matters, investigations, and memoranda assigned, referred, or of interest, to the Organized Crime and Racketeering Section and its field offices. The records in this system concern matters primarily involving organized crime and include, but are not limited to, case files; investigative reports; intelligence reports; subpoena and grand jury files; records of warrants and electronic surveillances; records of indictment, prosecution, conviction, parole, probation, or immunity; legal papers; evidence; exhibits; items classified confidential, secret, and top secret; and various other files related to the Section's activities and its ongoing investigations, prosecutions, cases, and matters. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM - 001.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101 and the Presidential Directive on the Federal Drive Against Organized Crime, issued May 5, 1966 (Weekly Compilation of Presidential Documents, Vol. 2, No. 18 (1966)). In addition, this system is maintained to assist in implementing and enforcing the criminal laws of the United States, particularly those codified in title 18, United States Code. This system is also maintained to implement the provisions codified in 28 C.F.R. 0.55 particularly subsection (g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an idividual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security

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clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news meedia, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 C.F.R. 17.60.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records in this system are stored on various documents, tapes, disc packs, and punch cards, some of which are contained in files, on index cards, or in related type materials.

Retrievability: The system is accessed by name but may be grouped for the convenience of the user by subject matter, e.g., parole file, photograph file, etc.

Safeguards: Materials related to the system are maintained in appropriately restricted areas and are safeguarded and protected in accordance with applicable Department rules.

Retention and disposal: Currently there are no provisions for the disposal of the records in the system.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Inquiry concerning the system should be addressed to the System Manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letterr clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

Record source categories: 1. Federal, state, local, or foreign government agencies concerned with the administration of criminal justice and non-law enforcement agencies both public and private; 2. Members of the public; 3. Government employees; 4. Published material; 5. Witnesses and informants.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), and (I), (e)(5) and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 013

System name: Organized Crime Information Management System.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Intelligence clerks and technicians of the Organized Crime and Racketeering Section, Criminal Division.

Categories of records in the system: This system consists of a record of the quantity and accuracy of data input by various clerical and technical personnel of the Organized Crime and Racketeering Section, Criminal Division.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of the record as follows: 1. to data transcription service personnel from outside of the Department of Justice; 2. to demonstrate data transcription techniques to potential user agencies outside of the Department of Justice.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored on magnetic tape, disc pack, and paper.

Retrievability: A record in this system is accessed by individual name.

Safeguards: The records in this system are maintained in safes with additional physical safeguards as well as limited access by Departmental personnel.

Retention and disposal: Currently there are no provisions for disposal of records contained in this system.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual concerned and the dates of his or her employment, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Input clerks and technicians.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRM - 014

System name: Organized Crime and Racketeering Section, Intelligence and Special Services Unit, Information Request System.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530. In addition, some of the records contained in this system are located at one or more of the Organized Crime and Racketeering Section Field Offices listed in the appendix to the Criminal Division's systems of records.

Categories of individuals covered by the system: Individuals making inquiries of the Intelligence and Special Services Unit data sources, Unit personnel processing those inquiries, Intelligence Analysts assigned to the Strike Forces, and those individuals about whom such inquiries are made.

Categories of records in the system: The information request record system provides an audit trail of the Organized Crime and Racketeering Section information system. Included in this system of records is such information as the request from an agency and the date of the request, the employee processing the request, the subject of the request, and a brief summary of the results of the check.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101. The system is also maintained to implement the provisions codified in 28 C.F.R. 0.55 particularly subsection (g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record to a federal agency at its request if such agency has a need for the record to perform its duties.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored on computer tapes, paper, magnetic tape, and disc pack.

Retrievability: A record in this system is accessed by one or more of the components of the information contained in the system including accessing by the name of the individual.

Safeguards: The computer center is maintained by the Office of Management and Finance which has designed security procedures consistent with the sensitivity of the data. Materials related to the system maintained at locations other than the location of the computer are similarly protected by being maintained in a restricted area at the Department of Justice.

Retention and disposal: Information in the system is constantly modified as new information is received. Historical data is maintained as an audit trail until sufficient experience with the system is received to develop appropriate procedures for the elimination and destruction of the data. Such procedures are consistent with applicable governmental procedures.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Inquiry concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

Record source categories: Individuals who make inquiry of the Organized Crime and Racketeering Information System.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(4)(G), (H) and (I), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 015

System name: Organized Crime and Racketeering Section Intelligence and Special Services Unit Visitor Pass System.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Individuals from outside the Criminal Division who are permitted to enter the Intelligence and Special Services Unit for the purpose of transacting business, and the employee being visited.

Categories of records in the system: The system consists of an alphabetical index of the names of those from outside the Criminal Division who have visited the Intelligence and Special Services Unit of the Organized Crime and Racketeering Section. It includes the name of the visitor, the name of the person visited, the visitor's date of birth, address, employment, citizenship, security clearance, time of arrival and departure, the signature of the visitor, a brief statement of the purpose of the visit, and occasional comments by unit personnel on the visit.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101. The system is also maintained to implement the provisions codified in 28 C.F.R. 0.55 particularly subsection (g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: There are no uses of the records in this system outside of the Department of Justice.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is prepared on form CM-67 and kept in filing cabinets.

Retrievability: A record is retrieved either alphabetically by name of the person visited or chronologically.

Safeguards: The records are maintained in safe type filing cabinets.

Retention and disposal: Currently there are no provisions for disposal of the records in this system.

System manager(s) and address: Assistant Attorney General; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

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Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or other identifying numbers or information which may be of assistance in locating the record. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Visitors to the Intelligence and Special Services Unit, Organized Crime and Racketeering Section, and Unit personnel.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRM - 016

System name: Records on Persons Who Have Outstanding and Uncollected Federal Criminal Fines or Federal Bond Forfeitures.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who have outstanding and uncollected federal criminal fines or federal bond forfeitures whose address is presently unknown or was, at one time, unknown.

Categories of records in the system: This system contains the names of persons, and correspondence relating to such persons, who have federal criminal fines or federal bond forfeitures outstanding and whose whereabouts are presently unknown or were, at one time, unknown. The system is maintained to gather information on the whereabouts of such persons and to assist in federal collection efforts.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101. This system is also maintained to implement the provisions codified in 28 C.F.R. 0.171(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: (A) in the case of an individual whose whereabouts are unknown, to any individual, organization, or government agency for the purpose of gathering information to locate such person; or (B) in the case of any individual whose name is contained in the system, whether or not his whereabouts are known as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record cdntained in this system is stored manually in file jackets.

Retrievability: A record is retrieved by the name of the individual.

Safeguards: Records are safeguarded and protected in accordance with applicable Departmental rules.

Retention and disposal: Currently there are no provisions for disposal of the records in this system.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name and address of the individual involved, his address, his birth date and place, or other identifying number or information which may be of assistance in locating the record, the name of the case involved, if known, and the name of the judicial district, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are federal, state, local, or foreign agencies, and private individuals and organizations.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRM - 017

System name: Registration and Propaganda Files Under the Foreign Agents Registration Act of 1938, As Amended.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons required to file under the Foreign Agents Registration Act of 1938, 22 U.S.C. 611 et seq.

Categories of records in the system: The system contains the statement of the registrant and other documents required to be filed under the Foreign Agents Registration Act of 1938. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM - 001.

Authority for maintenance of the system: This system is established and maintained pursuant to 22 U.S.C. 611 et seq. The system is also maintained to implement the provisions of 28 C.F.R. 5.1 through 5.801.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record to any individual, organization, or government agency.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually on index cards and in file jackets.

Retrievability: A record is retrieved by name of the individual.

Safeguards: Records are safeguarded and protected in accordance with applicable Departmental rules.

Retention and disposal: Currently there are no provisions for disposal of the records in this system.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made pursuant to the provisions of 28 C.F.R. 5.600 and 5.601.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The source of information contained in this system is the registrant.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRM - 018

System name: Registration Files of Individuals Who Have Knowledge of, or Have Received Instruction or Assignment in, Espionage, Counterespionage, or Sabotage Service or Tactics of a Foreign Government or of a Foreign Political Party.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who have knowledge of, or who have received instruction or assignment in, espionage, counterespionage, or sabotage service or tactics of a foreign government or of a foreign political party.

Categories of records in the system: The system contains the statement of the registrant and other documents required to be filed under 50 U.S.C. 851. The system is a public record except that certain statements may be withdrawn from public examination pursuant to 50 U.S.C. 853 and 28 C.F.R. 12.40 by the Attorney General having due regard for national security and the public interest.

Authority for maintenance of the system: This system is established and maintained pursuant to 50 U.S.C. 851 et seq. The system is also maintained to implement the provisions codified in 28 C.F.R. 12.1 through 12.70.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: (A) in the case of a record not withdrawn by the Attorney General from public examination, to any individual, organization, or government agency; or (B) in the case of a record withdrawn by the Attorney General from public examination as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, or criminal or regulatory in nature, the registration record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a registration record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a registration may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a registration may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a registration may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a registration that has been referred by an agency for investigation may be disseminated to the referring agency to notify such agency of the status of the registration or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the matter; (7) a registration record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such person; (8) a record relating to a registration may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a registration record may be disseminated to a federal, state, local or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a registration record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decisions on the matter; (11) a registration record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 C.F.R. 17.60.

Release of information to the news media: Information permitted to be released to the news media and the public prusuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the recordd.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually on index cards and in file jackets.

Retrievability: A record is retrieved by name of the individual registrant.

Safeguards: Records are safeguarded and protected in accordance with applicable Departmental files.

Retention and disposal: Currently there are no provisions for disposal of the records in this system.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made pursuant to the provisions of 28 C.F.R. 12.40 and 12.41.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

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Record source categories: The source of information contained in this system is the registrant.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRM - 019

System name: Requests to the Attorney General For Approval of Applications to Federal Judges For Electronic Interceptions.

System location: U.S. Department of Justice; Criminal Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Individuals who have been the subject of requests by federal investigative agencies for electronic surveillance.

Categories of records in the system: The system contains requests received from federal investigative agencies and federal prosecutors, and associated documents, seeking the authorization of the Attorney General required by 18 U.S.C. 2516 for an application to a federal court for an order authorizing the interception of a wire or oral communication in cases involving federal criminal violations. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM - 001.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101. The system is also maintained to implement the provisions of 18 U.S.C. 2516 and 18 U.S.C. 2519.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: 1. in an appropriate federal, state, or local court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; 2. to the requesting agency to notify such agency of the status of the case or matter or of any decision or determination that has been made; 3. to furnish such information for reports to the Administrative Office of the United States Courts as is necessary to comply with the reporting provisions of 18 U.S.C. 2519; 4. to a party pursuant to 18 U.S.C. 2518 (8)(d), (9), and (10) and 18 U.S.C. 3504.

Release of information to the news media: Information permitted to be released to the news media and the public prusuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually in file jackets.

Retrievability: A record is retrieved by the name of the individual who appears first on the application or affidavit that is first received.

Safeguards: The records are safeguarded and protected in accordance with applicable Departmental rules.

Retention and disposal: Currently there are no provisions for disposal of the records in this system.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Inquiry concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

Record source categories: Sources of information contained in this system are federal investigative agencies, federal prosecutors, and personnel of the Criminal Division, Department of Justice.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(G), (H) and (I), (e)(8), (f), and (g) of the Privacy Act Pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 020

System name: Requests to the Attorney General For Approval of Applications to Federal Judges For Electronic Interceptions in Narcotic and Dangerous Drug Cases.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Individuals who have been the subject of requests by federal investigative agencies for electronic surveillance.

Categories of records in the system: The system contains requests received from federal investigative agencies and federal prosecutors, and associated documents, seeking authorization of the Attorney General required by 18 U.S.C. 2516 for an application to a federal court for an order authorizing an interception of a wire or oral communication in cases involving narcotics and dangerous drugs. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM - 001.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101. The system is also maintained to implement the provisions of 18 U.S.C. 2516 and 18 U.S.C. 2519.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system may be disseminated as a routine use of such record as follows: 1. in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; 2. to the requesting agency to notify such agency of the status of the case or matter or of any decision or determination that has been made; 3. to furnish such information for reports to the Administrative Office of the United States Courts as is necessary to comply with the reporting provisions of 18 U.S.C. 2519; 4. to a party pursuant to 18 U.S.C. 2518 (8)(d), (9), and (10) and 18 U.S.C. 3504.

Release of information to the news media: Information permitted to be released to the news media and the public prusuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually in file jackets.

Retrievability: A record is retrieved by the name of the individual who appears first on the application or affidavit that is first received.

Safeguards: The records are safeguarded and protected in accordance with applicable Departmental rules.

Retention and disposal: Currently there are no provisions for disposal of the records in this system.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Inquiry concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

Record source categories: Sources of information contained in this system are federal investigative agencies, federal prosecutors, and personnel of the Criminal Division, Department of Justice.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(G), (H) and (I), (e)(8), (f), and (g) of the Privacy Act Pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 021

System name: The Stocks and Bonds Intelligence Control Card File System.

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Individuals, and their known associates, who are actual, potential, or alleged violators, of statutes dealing with stocks, bonds, and other securities.

Categories of records in the system: This system is an alphabetical listing of all individuals, and their associates, who are actual, potential, or alleged violators of the statutes dealing with counterfeiting, forging, and theft of stocks, bonds, and other securities including those who traffic, or are suspected of trafficking, in such stocks, bonds, or other securities. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM - 001.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101, and is intended to assist in implementing and enforcing the criminal laws of the United States codified in title 18, United States Code and elsewhere, particularly the laws relating to offenses involving stocks and bonds. The system is also maintained to implement the provisions codified in 28 C.F.R. 0.55.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually on index cards.

Retrievability: A record is retrieved by the name of the individual.

Safeguards: Records are safeguarded and protected in accordance with applicable Departmental rules.

Retention and disposal: Currently there are no provisions for disposal of the records in this system.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Inquiry concerning the system should be directed to the System Manager listed above.

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Record source categories: Sources of information contained in this system are federal, state, local, and foreign government agencies and prosecutors, private organizations and individuals, and personnel of the Department of Justice.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H) and (I), (e)(5) and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 022

System name: Witness Immunity Records

System location: U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Potential or actual witnesses for whom immunity (pursuant to 18 U.S.C. 6001-6005 and 18 U.S.C. 2514) is proposed.

Categories of records in the system: The system contains background information on the individual and the case or matter in which he is expected to testify in a proceeding before or ancillary to a court or grand jury of the United States or an agency of the United States. In criminal cases or matters, the information maintained in the system is entered from DOJ Form-LAA-111, 'Request for Immunity Authorization.' The system also contains a record of action taken by the Criminal Division on the request.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101. The system is also maintained to implement the provisions of 18 U.S.C. 6001-6005 and 18 U.S.C. 2514.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) a record may be disseminated to a federal, state, local, or foreign law enforcement agency to alert such agency to the proposed immunity or, to the extent necessary for identification purposes, to elicit information concerning the potential or actual witness which may be necessary to an evaluation of the proposed immunity; (2) a record from this system, relating to a proposed immunity that has been referred to the Department of Justice for approval, may be disseminated to the referring agency to notify such agency of the status of the referral or of any decision or determination that has been made, and the reasons therefor.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Index records, cross-indexed to request files, are maintained alphabetically in locked index card cabinets. Request files are maintained numerically in file cabinets.

Retrievability: A record is retrieved from the index cards by the name of the individual and from the files by a number assigned and appearing on the index cards.

Safeguards: Access to physical records is limited to unit personnel and known Department personnel.

Retention and disposal: There are no provisions for disposal of the records contained in this system of records.

System manager(s) and address: Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: The major part of this system is exempted from this requirement pursuant to 5 U.S.C. 552a (j)(2) or (k)(2). Inquiry concerning this system should be directed to the System Manager listed above.

Record access procedures: The major part of this system is exempted from this requirement pursuant to 5 U.S.C. 552a (j)(2) or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: 1. Federal government prosecutors; 2. Federal agencies; 3. Department of Justice attorneys and personnel.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2), (3) and (e)(4)(G), (H) and (I), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/CRM - 023

System name: Weekly Statistical Report.

System location: U.S. Department of Justice; Criminal Division; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Past or present attorneys of the Criminal Division.

Categories of records in the system: The system consists of weekly statistical reports submitted by each attorney of the Criminal Division detailing the time expended on case or matter oriented activities and on non-case and matter oriented activities. The system also includes periodic computer printout summaries.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Statistical compilations arranged by Section and by Division are submitted to the Congress and the Office of Management and Budget in connection with annual appropriations. There are no other uses of the records in this system outside of the Department of Justice.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original Weekly Statistical Reports are retained and the information contained thereon is also stored at the Department's computer center. Summaries are also retained on computer printout paper. Records not at the computer center are stored in file cabinets in the Criminal Division.

Retrievability: The record is retrieved by date, section, unit, or name of attorney.

Safeguards: The computer center is maintained by the Office of Management and Finance which has designed security procedures consistent with the sensitivity of the data. Materials related to the system maintained at locations other than the location of the computer center are protected and safeguarded in accordance with applicable Departmental rules.

Retention and disposal: Information as to individuals is destroyed at the computer center annually. Original weekly reports are

destroyed approximately every two years. Statistical data and compilations are maintained indefinitely.

System manager(s) and address: Assistant Attorney General, Criminal Division; U.S. Department of Justice; 10th & Constitution Avenues, N.W.; Washington, D.C. 20530.

Notification procedure: Same as above.

Record access procedures: A request for access to a record from this system shall be made in writing with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the past or present attorney employed by the Criminal Division. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Attorneys of the Criminal Division.

Systems exempted from certain provisions of the act: None.

JUSTICE/CRM - 024

System name: Freedom of Information/Privacy Act Records.

System location: U.S. Department of Justice, Criminal Division, 10th & Constitution Avenue, N.W, Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who request disclosure of records pursuant to the Freedom of Information Act, persons who request access to or correction of records pertaining to themselves contained in Criminal Division systems of records pursuant to the Privacy Act; and, where applicable, persons about whom records have been requested or about whom information is contained in requested records.

Categories of records in the system: The system contains copies of all correspondence and internal memorandums related to Freedom of Information and Privacy Act requests, and related records necessary to the processing of such requests received on or after January 1, 1975.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101 and is maintained to implement the provisions of 5 U.S.C. 552 and 552a and the provisions of 28 C.F.R. 16.1 et seq. and 28 C.F.R. 16.40 et seq

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system may be disseminated as a routine use of such record as follows: (1) a record may be disseminated to a Federal agency which furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate Federal, State, local, or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in systems of records maintained by the Criminal Division.

Release of information to the news media; Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually in alphabetical order in file cabinets.

Retrievability: A record is retrieved by the name of the individual or person making a request for access or correction of records.

Safeguards: Access to physical records is limited to personnel of the Freedom of Information/Privacy Act Unit of the Criminal Division and known Department of Justice personnel who have a need for the record in the performance of their duties. The records are safeguarded and protected in accordance with applicable Department rules.

Retention and disposal: Currently there are no provisions for disposal of records contained in this system.

System manager(s) and address: Assistant Attorney General, Criminal Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Notification procedure: A part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2), (k) (1), or (k) (2). Inquiry concerning this system should be directed to the system manager listed above.

Record access procedures: A part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2), (k) (1), or (k) (2), to the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Requests.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requester shall also provide a return address for transmitting the information. Access requests shall be directed to the system manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are the individuals and persons making requests, the systems of records searched in the process of responding to requests, and other agencies referring requests for access to or correction of records originating in the Criminal Division.

Systems exempted from certain provisions of the act: Records secured from other systems of records have been exempted from the provisions of the Privacy Act to the same extent as the systems of records from which they were obtained. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b) (c), and (e) and have been published in the Federal Register.

JUSTICE/CRM - 999

System name: Appendix to Criminal Division System of Records

Field Offices of the Organized Crime and Racketeering Section are located as follows:

Organized Crime and Racketeering Section
U. S. Department of Justice
P.O. Box 834
Atlanta, Georgia 30301

Organized Crime and Racketeering Section
U.S. Dept. of Justice
U.S. Attorney's Office
P.O. Box 375
600 East Monroe Street
Springfield, Illinois 62705

Organized Crime and Racketeering Section
U.S. Department of Justice
Room 1703
U.S. Post Office and Courthouse
Boston, Massachusetts 02109

Organized Crime and Racketeering Section
U.S. Department of Justice
Room 327-A, Federal Building
Brooklyn, New York 11201

Organized Crime and Racketeering Section
U.S. Department of Justice
Suite 921 - Genesee Building
1 West Genesee Street
Buffalo, New York 14202

Organized Crime and Racketeering Section

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U.S. Department of Justice
Room 1552
219 South Dearborn Street
Chicago, Illinois 60604

Organized Crime and Racketeering Section
U.S. Department of Justice
Room 526
Northern Ohio Bank Building
Cleveland, Ohio 44113

Organized Crime and Racketeering Section
U.S. Department of Justice
Room 940 - Federal Building
Detroit, Michigan 48226

Organized Crime and Racketeering Section
U.S. Department of Justice
Federal Building
Hartford, Connecticut 06103

Organized Crime and Racketeering Section
U.S. Department of Justice
Suite 717
906 Grand Avenue
Kansas City, Missouri 64106

Organized Crime and Racketeering Section
U.S. Department of Justice
Room 2307 - Federal Building
300 North Los Angeles Street
Los Angeles, California 90012

Organized Crime and Racketeering Section
U.S. Department of Justice
111 Northwest 5th Street
Miami, Florida 33128

Organized Crime and Racketeering Section
U.S. Department of Justice
P.O. Box 89
Newark, New Jersey 07101

Organized Crime and Racketeering Section
U.S. Department of Justice
526 St. Louis Street
New Orleans, Louisiana 70130

Organized Crime and Racketeering Section
U.S. Department of Justice
Room 339
1 St. Andrews Plaza
New York, New York 10007

Organized Crime and Racketeering Section
U.S. Department of Justice
P.O. Box B
9th and Chestnut Streets
Philadelphia, Pennsylvania 19107

Organized Crime and Racketeering Section
U.S. Department of Justice
Room 816 - Chatham Center
Pittsburgh, Pennsylvania 15219

Organized Crime and Racketeering Section
U.S. Department of Justice
Federal Building
Providence, Rhode Island 02901

Organized Crime and Racketeering Section
U.S. Department of Justice
Room 318 - New Federal Building
100 State Street
Rochester, New York 14614

Organized Crime and Racketeering Section
U.S. Department of Justice
Box 36132
450 Golden Gate Avenue
San Francisco, California 94102

Organized Crime and Racketeering Section
U.S. Department of Justice
Room 1552
219 South Dearborn Street
Chicago, Illinois 60604

Organized Crime and Racketeering Section
U.S. Department of Justice
Room 630 - U.S. Courthouse
St. Louis, Missouri 63101

Organized Crime and Racketeering Section
U. S. Department of Justice
Box 571 Ben Franklin Station
Washington, D.C. 20044

Organized Crime and Racketeering Section
U.S. Department of Justice
P.O. Box 2799
Tampa, Florida 33601

JUSTICE/LDN - 001

System name: Appraisers File.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Appraisers who have indicated their availability for appraisal of real property proposed to be acquired by the United States.

Categories of records in the system: Alphabetized list, alphabetized index cards, and associated papers including application and information relating to qualifications.

Authority for maintenance of the system: The system is established and maintained as an incidence of such of the statutory authority of the Attorney General relating to the conduct of litigation as he has delegated to the Land and Natural Resources Division (28 U.S.C. 509 and 510, and 28 C.F.R. Subpart M), particularly the authority to conduct proceedings for condemnation of property (see 40 U.S.C. 257 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are utilized in compiling a list of individual appraisers, with their qualifications, who have indicated their availability for appraisal of real property proposed to be acquired by the United States, for use by Federal agencies and the Department of Justice for acquisitions involving or which may finally involve exercise of the power of eminent domain.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained in form received.

Retrievability: Information is retrieved by alphabetized name of the subject.

Safeguards: Information contained in the system is unclassified. It is safeguarded in accordance with Departmental rules and procedures governing Justice records.

Retention and disposal: Records are retained during their useful life and are subject to destruction 15 years after the pertinent subject has ceased to be in an active status.

System manager(s) and address: Chief, Administrative Section; Land and Natural Resources Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the: Assistant Attorney General; Land and Natural Resources Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D. C. 20530.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request', and the system and record sufficiently described in the letter for identification.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are principly the applicant and his references, which sources may be supplemented by others having knowledge of the applicant's professional qualifications.

Systems exempted from certain provisions of the act: None.

JUSTICE/LDN - 002

System name: Congressional Correspondence File.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N. W.; Washington, D. C. 20530.

Categories of individuals covered by the system: Senators and Congressmen

Categories of records in the system: This file contains the correspondence had by the Land and Natural Resources Division with Members of the Congress.

Authority for maintenance of the system: This file is maintained pursuant to requirements for maintenance of records by Federal agencies (see 44 U.S.C. 3101 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This file is routinely consulted by personnel of the Land and Natural Resources Division to determine past actions on specific matters and to expedite any additional action as to which there is correspondence with a Member of the Senate or House of Representatives.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained in form received.

Retrievability: Information is retrieved by alphabetized name of the subject.

Safeguards: Information contained in the system is unclassified. It is safeguarded in accordance with Departmental rules and procedures governing Justice records.

Retention and disposal: Records are retained during their useful life and are subject to destruction 15 years after the pertinent subject has ceased to be in an active status.

System manager(s) and address: Chief, Administrative Section; Land and Natural Resources Division; U. S. Department of Justice; 10th and Constitution Avenue, N. W.; Washington, D. C. 20530.

Notification procedure: Address inquiries to the: Assistant Attorney General; Land and Natural Resources Division; U. S. Department of Justice; 10th and Constitution Avenue, N. W.; Washington, D. C. 20530.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request', and the system and record sufficiently described in the letter for identification.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The sole sources of the information in this system are the Senators or Congressmen with whom the correspondence is conducted.

Systems exempted from certain provisions of the act: None.

JUSTICE/LDN - 003

System name: Docket Card System.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D. C. 20530.

Categories of individuals covered by the system: Persons, associations or corporations whose names may appear in the case name or subject name of a matter coming to the attention of the Land and Natural Resources Division for possible litigation.

Categories of records in the system: The system contains index cards on which is maintained a summary of the correspondence, pleadings, and other developments regarding the pertinent matter.

Authority for maintenance of the system: The system is established and maintained as an incidence of such of the statutory authority of the Attorney General relating to the conduct of litigation as he has delegated to the Land and Natural Resources Division (28 U.S.C. 509 and 510, and 28 C.F.R. Subpart M).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used by personnel of the Division as an aid in determining the existence in the Division of a matter relating to the named case or subject, and to facilitate appraisal of the status of the pertinent matter for the purpose of taking timely appropriate action relating thereto.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained on index cards.

Retrievability: Information is retrieved by alphabetized name of the case or subject.

Safeguards: Information contained in the system is unclassified. It is safeguarded in accordance with Departmental rules and procedures governing Justice records.

Retention and disposal: Records are retained during their useful life and are subject to destruction 15 years after the pertinent case or subject has ceased to be in an active status.

System manager(s) and address: Chief, Administrative Section; Land and Natural Resources Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D. C. 20530.

Notification procedure: Address inquiries to the: Assistant Attorney General; Land and Natural Resources Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request', and the system and record sufficiently described in the letter for identification.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are the correspondence, pleadings, and other indices of developments regarding the pertinent case or subject, from wheresoever received.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (d) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/LDN - 004

System name: Title Abstractors, Attorneys and Insurance Corporations File.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D. C. 20530.

V4243 MAR 4 77 UMI

Categories of individuals covered by the system: Abstractors, Attorneys and Insurance Corporations requesting approval for preparation of title evidence in land acquisitions by the United States.

Categories of records in the system: Alphabetized list, alphabetized index cards, and associated papers including application and information relating to qualifications.

Authority for maintenance of the system: The system is established and maintained, incident to carrying out the statutory requirement (R.S. 355; 40 U.S.C. 255) that the Attorney General pass on title to land acquired by the United States or delegate such responsibility in accordance with regulations promulgated by him (see 28 C.F.R. 0.66).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are utilized in compiling a list of those abstractors, attorneys and insurance corporations which are approved, for advising agencies of the United States as to the fact of such approval and consequent eligibility for preparation of title evidence.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained in form received.

Retrievability: Information is retrieved by alphabetized name of the subject.

Safeguards: Information contained in the system is unclassified. It is safeguarded in accordance with Departmental rules and procedures governing Justice records.

Retention and disposal: Records are retained during their useful life and are subject to destruction 15 years after the pertinent subject has ceased to be in an active status.

System manager(s) and address: Chief, Administrative Section; Land and Natural Resources Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D. C. 20530.

Notification procedure: Address inquiries to the: Assistant Attorney General; Land and Natural Resources Division; U. S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D. C. 20530.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request', and the system and record sufficiently described in the letter for identification.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are the Abstractors, Attorneys and Insurance Corporations involved and the United States Attorneys for the districts in which they principally do business, with the latter supplementing his personal knowledge with information from local banks, clients and other sources having knowledge reflecting on the professional qualifications of the subject involved.

Systems exempted from certain provisions of the act: None.

JUSTICE/LDN - 005

System name: Freedom of Information Act and Privacy Act Records System.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: All persons who request, under the Freedom of Information and Privacy Acts, access to or copies of records maintained by the Land and Natural Resources Division.

Categories of records in the system: This system contains, in alphabetical order, requests, under the Freedom of Information and Privacy Acts, for access to Division records, and the responses thereto.

Authority for maintenance of the system: 5 U.S.C. 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is used: a) to maintain records concerning the processing and determination of requests for information made pursuant to the Freedom of Information Act and the Privacy Act; b) to provide documentation of receipt and processing requests for information made pursuant to the Freedom of Information Act and the Privacy Act if needed for processing contested denials of release of data; c) to furnish information to employees of the Department of Justice who have a need for information from the system in performance of their duties; d) to maintain a count of requests and method of compliance as required by the Freedom of Information Act and the Privacy Act.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained in form received.

Retrievability: Information is retrieved by alphabetized name of the subject.

Safeguards: Information contained in the system is unclassified. It is safeguarded in accordance with Departmental rule, and procedures governing Justice records.

Retention and disposal: Records are retained during their useful life and are subject to destruction 15 years after the pertinent subject has ceased to be in an active status.

System manager(s) and address: Division Control Officer; Land and Natural Resources Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the: Assistant Attorney General; Land and Natural Resources Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request' and the system and record sufficiently described in the letter for identification.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Source of information contained in this system is the applicant for information.

Systems exempted from certain provisions of the act: Records secured from other systems of records have been exempted from the provisions of the Privacy Act to the same extent as the systems of records from which they were obtained. The Attorney General has also exempted certain categories of records in this system from subsection (c) (3), (d) of the Privacy Act pursuant to 5 U.S.C. 552a (k) (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(c), and (e) and have been published in the Federal Register.

JUSTICE/DAG - 001

System name: Appointed Assistant United States Attorneys Personnel System.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: The system encompasses all Assistant United States Attorneys.

Categories of records in the system: This system of records consists of records folders which may contain up to a total of five sections. The personnel section contains personnel records such as completed Civil Service forms, letters of recommendation, law school grade transcripts, appointment letters, appointment affidavits, bar affidavits, locator forms and personnel action forms. The character section contains completed or portions of ongoing background investigations and matters related thereto. The Congressional section contains Congressional and other political type recommendations regarding appointment. The protest section contains correspondence, if any exists, protesting the appointment of applicants. The complaint section contains correspondence from individuals or groups complaining about office holders. Rarely does a personnel folder contain more than the personnel and character sections.

Authority for maintenance of the system: These records are maintained pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used only by Department of Justice personnel. Information contained in a folder may be used as the basis for answering future inquiries from other government agencies about a former assistant's qualifications. The personnel section may be made available to other federal agencies, at their request, upon the transfer of the assistant to such an agency.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in paper folders.

Retrievability: Information is retrieved by use of the assistant's name, as the folders are filed alphabetically by name.

Safeguards: These records are maintained in cabinets stored in a locked room.

Retention and disposal: These records are retained until the subjects of the files resign or otherwise leave their offices for non-federal government employment. In that instance, the personnel section is sent to the St. Louis Records Center for an indefinite period. If the assistant transfers to another agency of the federal government, the personnel section is sent to the gaining agency. All other sections of the folder are destroyed six months after the assistant leaves office.

System manager(s) and address: Executive Assistant to the Deputy Attorney General; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address all inquiries to the System Manager. These records will be exempted from subsections (d)(1) and (e)(1) of section 552a, Title 5, United States Code, by the Attorney General under the authority of 5 U.S.C. 552a(k)(5) to the extent therein permitted.

Record access procedures: A request for access to non-exempt portions of records from this system should be directed orally or in writing to the Executive Assistant to the Deputy Attorney General. When requests are in writing, the envelope and letter should clearly be marked 'Privacy Access Request.'

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the Executive Assistant to the Deputy Attorney General, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

Record source categories: Sources of information contained in this system include the individuals, government agencies as appropriate, and interested third parties.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (d)(1) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DAG - 002

System name: Assistant United States Attorney Applicant Records System.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: The system encompasses all applicants for Assistant United States Attorney positions.

Categories of records in the system: This system of records consists of records folders which may contain up to a total of four sections. The personnel section contains records such as resumes, letters of recommendation, law school grade transcripts, completed Civil Service forms, and related personnel matters. The character section contains completed or portions of ongoing background investigations and matters related thereto. The Congressional section contains Congressional and other political type recommendations regarding appointment. The protest section contains correspondence, if any exists, protesting the appointment of applicants. Rarely does a personnel folder contain more than the personnel and character sections.

Authority for maintenance of the system: These records are maintained pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used only by Department of Justice personnel for recruitment purposes. However, the fact that the applicant was being considered would be made known to the references supplied by the applicant and others contacted. Information about the applicant, as then known, might be supplied to contacted individuals as necessary to verify already obtained information or to seek elaboration of that information.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in paper folders.

Retrievability: Information is retrieved by use of the applicant's name, as the folders are filed alphabetically by name.

Safeguards: These records are maintained in cabinets stored in a locked room.

Retention and disposal: These records are retained, in the case of applicants who are not offered positions, for two years and then destroyed. If the applicant is offered a position and accepts it, his folder is transferred to the Appointed Assistant United States Attorney Personnel System and retained as specified therein.

System manager(s) and address: Executive Assistant to the Deputy Attorney General; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address all inquiries to the System Manager. These records will be exempted from subsections (d)(1) and (e)(1) of section 552a, Title 5, United States Code, by the Attorney General under the authority of 5 U.S.C. 552a(k)(5) to the extent therein permitted.

Record access procedures: A request for access to non-exempt portions of records from this system should be directed orally or in writing to the Staff Assistant to the Deputy Attorney General. When requests are in writing, the envelope and letter should clearly be marked 'Privacy Access Request.'

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Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the Staff Assistant to the Deputy Attorney General, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

Record source categories: Non-exempt sources of information contained in this system include the individual, government agencies as appropriate, and interested third parties.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (d)(1) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DAG - 003

System name: Declassification Review Index.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: All persons who request declassification of Department documents.

Categories of records in the system: Copies, filed by year of requests for declassification of Department of Justice documents.

Authority for maintenance of the system: These records are maintained pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are public information.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in paper folders.

Retrievability: By name of the requester.

Safeguards: These records are stored in cabinets in a lockable room.

Retention and disposal: These records are maintained indefinitely.

System manager(s) and address: Staff Assistant to the Deputy Attorney General; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: The individuals who request declassification.

Systems exempted from certain provisions of the act: None.

JUSTICE/DAG - 004

System name: Freedom of Information and Privacy Appeals Index.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D. C. 20530.

Categories of individuals covered by the system: The system encompasses all individuals who submit administrative appeals under the Freedom of Information or Privacy Acts.

Categories of records in the system: The system contains copies of administrative appeals and other related correspondence filed under the Freedom of Information and Privacy Acts and copies are filed sequentially by date of receipt based on a numerical identifier assigned to each appeal.

Authority for maintenance of the system: The system was established and is maintained to enable the Office of the Deputy Attorney General to comply with the reporting requirements set forth in 5 U.S.C. 552 and 552a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are maintained for the purpose of processing administrative appeals under the Freedom of Information and Privacy Acts and to comply with the reporting requirements of those Acts.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in file folders in cabinets.

Retrievability: These folders are filed by the number assigned to each.

Safeguards: These records are stored in cabinets in a lockable room.

Retention and disposal: These folders are kept indefinitely.

System manager(s) and address: Chief, Freedom of Information and Privacy Appeals Unit, Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: Same as the System Manager.

Contesting record procedures: Same as the System Manager.

Record source categories: Those individuals who submit appeals under the Freedom of Information and Privacy Acts.

Systems exempted from certain provisions of the act: None.

JUSTICE/DAG - 005

System name: Honor Program Applicant System.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: The system encompasses third year law students who will be honor graduates of law schools and law clerks of federal judges who file applications for attorney positions in the Department.

Categories of records in the system: These records consist of items supplied by the applicant, such as resumes, completed Civil Service forms, application forms, and transcripts of grades, items supplied by third parties such as letters of recommendation, and items supplied by the Department such as acceptance or rejection letters and interview evaluation sheets.

Authority for maintenance of the system: This system is established and maintained pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are made available within the Department for recruitment purposes and may be made available to other federal agencies, at their request, for recruitment purposes.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in paper folders.

Retrievability: Information is retrieved in various ways, depending upon the age of the record. Initially, the records are indexed by the name of the applicant's law school, then by the names of the applicants according to their ranking by interviewers. Therefore, to locate an individual's file, it is necessary to know both the name of the individual and his or her law school. After the Department's annual attorney hiring is completed, these files are transferred to the control of the Executive Assistant to the Deputy Attorney General. The Executive Assistant's staff then places the files in alphabetical order by name and stores them.

Safeguards: These records are maintained in cabinets stored in a locked room.

Retention and disposal: These records are maintained and stored for two years and then destroyed if the applicant is not offered a position with the Department or rejects an offered position. If a position is accepted by the applicant, his folder is transferred to another system.

System manager(s) and address: Honor Program Director; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: A request for access to a record from this system may be made in person or in writing to the System Manager. Any written request should clearly be marked 'Privacy Access Request' on both the letter and envelope.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager and clearly and concisely state what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

Record source categories: Sources of information contained in this system are as noted in Categories of Records.

Systems exempted from certain provisions of the act: None.

JUSTICE/DAG - 006

System name: Master Index File of Names.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: This system encompasses all individuals having file folders contained in the following systems of records; Appointed Assistant U.S. Attorneys Personnel System, Assistant U.S. Attorney Applicant Records, Presidential Appointee Candidate Records System, Presidential Appointee Records System, Special Candidates for Presidential Appointments Records System, and U.S. Judges Records System, dating from 1932 until the present.

Categories of records in the system: This system consists of file cards containing an individual's date of birth, date of entry on duty in Federal Service, date of termination of Federal Service, notes as to the disposition of his records folder, and title.

Authority for maintenance of the system: These records are maintained pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These cards contain information used solely for Department internal purposes.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained on file cards.

Retrievability: Information is retrieved by using the name of the individual, as these cards are filed alphabetically.

Safeguards: These cards are kept in file drawers stored in a locked room.

Retention and disposal: These cards are retained indefinitely, except in the instance of cards relating to applicants for attorney positions within the Department. If the applicant is rejected, his card is destroyed after two years.

System manager(s) and address: Executive Assistant to the Deputy Attorney General; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address all inquiries to the: Staff Assistant to the Deputy Attorney General; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Record access procedures: A request for access to these records should be directed orally or in writing to the Staff Assistant to the Deputy Attorney General. When requests are in writing, the envelope and letter should clearly be marked 'Privacy Access Request.'

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the Staff Assistant to the Deputy Attorney General, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

Record source categories: Information contained in this system is obtained from the individual's records folder.

Systems exempted from certain provisions of the act: None.

JUSTICE/DAG - 007

System name: Presidential Appointee Candidate Records System.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: This system encompasses all individuals who are brought to the attention of the Department of Justice as potential candidates for appointment as United States Judges, United States Attorneys, or United States Marshals.

Categories of records in the system: As to any particular individual, the number and kind of records may vary according to the qualifications of the individual. Thus, these records, in some instances, contain merely single letters from the individual himself or some other person recommending his consideration for one of the positions mentioned in Categories of Individuals. The records may also contain biographical sketches of the individual, supplied either by the individual himself or the person recommending him. If the individual is under serious consideration for nomination for appointment, a confidential evaluation of his qualifications for the position will be in his folder. Also present may be completed background investigations on the individual. Letters, if any are received, protesting the individual's potential appointment may also be in his folder. Also present would be any information supplied by the individual or any other letters of recommendation.

Authority for maintenance of the system: These records are maintained pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of these records vary with the amount of consideration given to nominating the individual for appointment. In some instances, the records are stored, reviewed by Department personnel, and destroyed as outlined under Retention and Disposal. The candidate's entire records folder would be sent to the President upon his request. After a candidate is nominated and his nomination is pending Senate confirmation, the background investigation is routinely provided to the Chairman of the Senate Judiciary Committee. The fact that the candidate was being considered for appointment would be made known to the references supplied by the candidate and others contacted. Information about the candidate, as then known, might be supplied to contacted individuals as necessary to verify already obtained information or to seek elaboration of that information.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

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Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in paper folders.

Retrievability: Information is retrieved from this system by reference first to the office, indexed geographically or by the circuit or district, for which the individual is being considered, and then alphabetically by name of the candidate.

Safeguards: These records are stored in cabinets which are kept in a locked room.

Retention and disposal: These records are kept for five years and then destroyed, unless the individual receives the appointment. In that event, his individual record is transferred to another records system.

System manager(s) and address: Executive Assistant to the Deputy Attorney General; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address all inquiries to the System Manager. These records will be exempted from subsections (d)(1) and (e)(1) of section 552a, Title 5, United States Code, by the Attorney General under the authority of 5 U.S.C. 552a(k)(5) to the extent therein permitted.

Record access procedures: A request for access to non-exempt portions of records from this system should be directed orally or in writing to the Executive Assistant to the Deputy Attorney General. When requests are in writing, the envelope and letter should clearly be marked 'Privacy Access Request.'

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the Executive Assistant to the Deputy Attorney General stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

Record source categories: Non-exempt sources of information in this system include the general public, the candidates themselves, government agencies where appropriate, and any other interested party.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (d)(1) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DAG - 008

System name: Presidential Appointee Records System.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue; N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: The system encompasses the following: Department of Justice Presidential appointees and retired, resigned, or deceased appointees.

Categories of records in the system: This system of records consists of records folders which may contain up to five sections. The personnel section includes such items as biographical sketches, qualification statements, completed Civil Service forms if applicable, letters recommending appointment, notifications of appointment, and other personnel-related matters. The character section contains completed or portions of ongoing background investigations and matters related thereto. The Congressional section contains Congressional and other political type recommendations regarding appointment. The protest section contains correspondence, if any exists, protesting the appointment of candidates. The complaint section contains correspondence from individuals or groups complaining about office holders.

Authority for maintenance of the system: These records are maintained pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Generally, these records are used only for internal Department of Justice purposes. Prior to appointment, routine uses would include those specified for the Presidential Appointee Candidate Records System. If an appointee leaves the Department, information contained in his personnel folder might be used as the basis for answering inquiries from prospective employers about his qualifications and performance. The personnel section of his folder would be made available to other federal agencies, at their request, upon the transfer of the appointee to such an agency.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in paper folders.

Retrievability: Information is retrieved by using the name of the individual who is the subject of the folder.

Safeguards: These records are stored in cabinets which are kept in a locked room.

Retention and disposal: The personnel section of these records is retained indefinitely at the Office of the Deputy Attorney General, except in the instance of an appointee who resigns or dies, in which case that section is sent to the St. Louis Records Center for indefinite storage. All other sections of the folders, in the instance where an appointee dies or resigns, are sent to the Suitland, Maryland Records Center for storage for five years and then destroyed.

System manager(s) and address: Executive Assistant to the Deputy Attorney General; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D. C. 20530.

Notification procedure: Address all inquiries to the System Manager. These records will be exempted from subsections (d)(1) and (e)(1) of section 552a, Title 5, United States Code, by the Attorney General under authority of 5 U.S.C. 552a(k)(5) to the extent therein permitted.

Record access procedures: A request for access to non-exempt portions of records from this system should be directed orally or in writing to the Executive Assistant to the Deputy Attorney General. When requests are in writing, the envelope and letter should clearly be marked 'Privacy Access Request.'

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the Executive Assistant to the Deputy Attorney General, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

Record source categories: Non-exempt sources of information contained in this system include the general public, the subjects of the records themselves, government agencies when appropriate, and any other interested party.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (d)(1) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 553(b), (c), and (e) and have been published in the Federal Register.

JUSTICE/DAG - 009

System name: Special Candidates for Presidential Appointments Records System.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: The system encompasses all individuals under consideration for presidential appointments as heads of divisions or sections of the Department of Justice.

Categories of records in the system: This system of records consists of records folders which may contain up to a total of four sections. The personnel section contains records such as resumes, letters of recommendation, and related personnel matters. The character section contains completed and portions of ongoing background investigations and matters related thereto. The Congressional section contains Congressional and other political type recommendations regarding appointment. The protest section contains correspondence, if any exists, protesting the appointment of candidates. The majority of these personnel folders contain only the personnel section.

Authority for maintenance of the system: These records are maintained pursuant to 5 U.S.C. 301 to assist the President in obtaining information necessary for determining the qualifications and availability of individuals for appointed offices.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses of these records vary with the amount of consideration given to nominating the candidate for appointment. In some instances, the records are stored, reviewed by Department personnel, and destroyed as outlined under Retention and Disposal. The candidate's entire records folder would be sent to the President upon his request. After a candidate is nominated and his nomination is pending Senate confirmation, the background investigation is routinely provided to the Chairman of the Senate Judiciary Committee. The fact that the candidate was being considered for appointment would be made known to the references supplied by the candidate and others contacted. Information about the candidate, as then known, might be supplied to contacted individuals as necessary to verify already obtained information or to seek elaboration of that information.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in paper folders.

Retrievability: Information is retrieved by the name of individuals seeking appointment as the files are arranged alphabetically by name.

Safeguards: These records are stored in cabinets in a locked room.

Retention and disposal: In the event a candidate is not nominated for appointment, his record is maintained for five years and then destroyed. If the candidate is appointed, his records are transferred to the Presidential Appointee Records System.

System manager(s) and address: Executive Assistant to the Deputy Attorney General; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address all inquiries to the System Manager. These records will be exempted from subsections (d)(1) and (e)(1) of section 552a, Title 5, United States Code, by the Attorney General under the authority of 5 U.S.C. 552a(k)(5) to the extent therein permitted.

Record access procedures: A request for access to non-exempt portions of records from this system should be directed orally or in writing to the Executive Assistant to the Deputy Attorney General. When requests are in writing, the envelope and letter should clearly be marked 'Privacy Access Request.'

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the Executive Assistant to the Deputy Attorney General, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

Record source categories: Non-exempt sources of information contained in this system include the general public, the subjects of the records themselves, government agencies when appropriate, and any other interested party.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (d)(1) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register

JUSTICE/DAG - 010

System name: Summer Intern Program Records System.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: All individuals who submit applications for the Department's Summer Intern Program for Law Students.

Categories of records in the system: This system of records consists of items such as completed Civil Service forms, law school grade transcripts, letters of recommendation, and completed Summer Law Intern Applications.

Authority for maintenance of the system: These records are maintained pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used by Department personnel for recruitment purposes. However, in the case of an applicant with regard to whom the Department has decided not to extend an offer of employment, his or her application and Civil Service forms might be referred to another agency, upon its request, for that agency's recruitment purposes.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stapled together.

Retrievability: Information is retrieved by use of the applicant's name, as these records are filed by use of the first letter of the applicant's last name.

Safeguards: These records are maintained in cabinets stored in a locked room.

Retention and disposal: These records are retained, in the case of applicants who are not offered positions, for one year and then destroyed. In the case of accepted applicants, their records enter the Civil Service system.

System manager(s) and address: Executive Assistant to the Deputy Attorney General; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to these records should be directed orally or in writing to the Staff Assistant to the Deputy Attorney General. When requests are in writing, the envelope and letter should clearly be marked 'Privacy Access Request.'

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the Staff Assistant to the Deputy Attorney General, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

Record source categories: Information contained in this system is obtained from the applicant and references provided by him.

Systems exempted from certain provisions of the act: None.

JUSTICE/DAG - 011

System name: United States Judge and Department of Justice Presidential Appointee Records.

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System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: This system encompasses all United States Judges and all Department of Justice Presidential Appointees.

Categories of records in the system:

A. Card index relating to United States Judges which includes name, salary, Congress of appointment, state of birth, political party (if known), religion (if known), and American Bar Association rating.

B. Cross index of judges' names and districts.

C. Roster of districts showing the dates of duty of district court judges and Department of Justice Presidential Appointees, indexed alphabetically by name.

D. Book of commissions of United States Judges and Department of Justice Presidential Appointees in order by date of appointment and indexed alphabetically by name.

E. Nomination book showing the name of the nominated judge or Department of Justice Presidential Appointee, the date the proposed nomination was sent to the White House, the date the nomination was made to the Senate, the date of confirmation, the date of appointment, and the date of entrance on duty. This book is in chronological order, and is indexed alphabetically by name of the nominee.

F. Biographical sketches of United States Judges back to John Jay and Department of Justice Presidential Appointees for the last ten years.

Authority for maintenance of the system: These records are maintained pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are maintained to make responses to public inquiries regarding those individuals noted in Categories of Individuals, (the political party and religion of an appointee is not released), and for Department internal purposes.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are kept on cards, in folders or in books.

Retrievability: As noted above in Categories of Records.

Safeguards: Biographical sketches are kept in a lockable safe. All other information is kept in cabinets or card files.

Retention and disposal: This information is maintained indefinitely.

System manager(s) and address: Executive Assistant to the Deputy Attorney General; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to these records should be directed orally or in writing to the Staff Assistant to the Deputy Attorney General. When requests are in writing, the envelope and letter should clearly be marked 'Privacy Access Request.'

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the Staff Assistant to the Deputy Attorney General, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

Record source categories: Information contained in this system is obtained from the individuals who are the subjects of the records and from other Department of Justice records.

Systems exempted from certain provisions of the act: None.

JUSTICE/DAG - 012

System name: United States Judges Records System.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: The system encompasses every United States Judge except those appointed to the United States Court of Military Appeals and Tax Court.

Categories of records in the system: This system of records consists of records folders which may contain up to five sections. The personnel section contains general, personnel-type information and includes such items as biographical sketches, oaths of office, copies of commissions, nomination letter, qualifications statements, letters of recommendation, and copies of notifications of appointment. The character section contains completed or portions of ongoing background investigations and matters related thereto. The Congressional section contains Congressional and other political type recommendations regarding appointment. The complaint section contains correspondence from individuals or groups complaining about office holders. The protest section contains correspondence, if any exists, protesting the appointment of candidates.

Authority for maintenance of the system: These records are maintained pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Generally, these records are used only for internal Department of Justice purposes. Prior to appointment, routine uses would include those specified for the Presidential Appointee Candidate Record System. If a judge decided to leave the bench, information contained in his personnel folder might be used as the basis for answering inquiries from prospective employers about his qualifications and performance. The personnel section of his folder would be made available to other federal agencies, at their request, upon the transfer of the judge to such an agency.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in paper folders.

Retrievability: Information is retrieved by use of the name of the judge, as these records are filed alphabetically.

Safeguards: These records are maintained in cabinets stored in a locked room.

Retention and disposal: The personnel section of the folders of United States Supreme Court Judges are sent to the National Archives upon the death of the judge. All other sections are retained indefinitely as are the entire records folders of all other United States Judges.

System manager(s) and address: Executive Assistant to the Deputy Attorney General; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address all inquiries to the System Manager. These records will be exempted from subsections (d)(1) and (e)(1) of section 552a, Title 5, United States Code, by the Attorney General under the authority of 5 U.S.C. 552a(k)(5) to the extent therein permitted.

Record access procedures: A request for access to non-exempt portions of records from this system should be directed orally or in writing to the Executive Assistant to the Deputy Attorney General. When requests are in writing, the envelope and letter should clearly be marked 'Privacy Access Request.'

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the Executive Assistant to the Deputy Attorney General, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

Record source categories: Non-exempt sources of information contained in this system include the general public, organizations, associations, the subjects of the records themselves, government agencies as appropriate, and other interested parties.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (d)(1) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DAG - 013

System name: Miscellaneous Attorney Personnel Records System.

System location: Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who applied to or are employed by the Department of Justice as attorneys and are not included within another ODAG system.

Categories of records in the system: This system of records consists of records folders which may contain up to a total of four sections. The personnel section contains records such as resumes, letters of recommendation, law school grade transcripts, completed Civil Service forms, and related personnel matters. The character section contains completed or portions of ongoing background ivestigations and matters related thereto. The Congressional section contains Congressional and other political type recommendations regarding appointment. The protest section contains correspondence, if any exists, protesting the appointment of applicants. The complaint section contains correspondence from individuals or groups complaining about office holders and may contain matters relating to the disposition of those complaints. Rarely does a personnel folder contain more than the personnel and character sections.

Authority for maintenance of the system: These records are maintained pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used only by Department of Justice personnel. Information contained in a folder may be used as the basis for answering future inquiries from other government agencies about a former employee's qualifications. The personnel section may be made available to other federal agencies, at their request, upon the transfer of an employee to such an agency.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in paper folders.

Retrievability: Information is retrieved by use of an individual's name, as the folders are filed alphabetically by name.

Safeguards: These records are maintained in cabinets stored in a lockable room.

Retention and disposal: These records are retained until the subjects of the files resign or otherwise leave their offices for non-federal employment. In that instance, the personnel section is sent to the St. Louis Records Center for an indefinite period. If the individual transfers to another agency of the Federal government, the personnel section is sent to the gaining agency. All other sections of the folder are destroyed six months after the individual leaves office. The entire folders of individuals who were applicants and were not offered employment or did not accept employment with the Department are destroyed one year after final action is taken on the application.

System manager(s) and address: Executive Assistant to the Deputy Attorney General; Office of the Deputy Attorney General; United States Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address all inquiries to the System Manager. These records will be exempted from subsections (d)(1) and (e)(1) of section 552a, Title 5, United States Code, by the Attorney General under the authority of 5 U.S.C. 552a(k)(5) to the extent therein permitted.

Record access procedures: A request for access to non-exempt portions of records from this system should be directed orally or in writing to the Executive Assistant to the Deputy Attorney General. When requests are in writing, the envelope and letter should clearly be marked 'Privacy Access Request.'

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the Executive Assistant to the Deputy Attorney General, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

Record source categories: Non-exempt sources of information contained in this system include the individuals who are the subjects of the records, government agencies as appropriate, and interested third parties.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (d)(1) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DAG - 014

System name: Financial Disclosure Statements.

System location: Department of Justice, 10th and Constitution Ave. N.W., Washington, D.C. 20530. Statements are filed with the head of the office in which the particular employee works or in the Office of the Deputy Attorney General.

Categories of individuals covered by the system: Current employees required to file statements by 28 C.F.R. 45.735-22. Special government employees of the Department required to file statements pursuant to 28 C.F.R. 45.735-23.

Categories of records in the system: The financial disclosure statement includes lists of business and nonprofit entities and educational institutions with which the employee has a connection and financial holdings or interests in those entities. Names of creditors of the employee and spouse and other members of the household. Lists of interests of the employee, spouse and household members in real property.

Authority for maintenance of the system: 28 C.F.R. 45.735-22, 45.735-23.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are confidential and are made available only to officials of the Department and: (1) To the Civil Service Commission in order to carry out its responsibilities; (2) To courts or agencies, of federal, state or local government where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and the court or agency is charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute or a rule, regulation or order issued pursuant thereto; (3) To an agency, organization or individual when the Deputy Attorney General has determined that there is good cause for such disclosure in order to obtain necessary information concerning the subject of the record; (4) To parties involved in litigation in which the record is relevant, and their counsel, in accordance with the Federal Rules of Civil and Criminal Procedure.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are filed on D.J. Forms 120 or 121 and are maintained in confidential files in the immediate office of the division or bureau head.

Retrievability: The arrangment of the records for purpose of retrieval will vary from office to office, but the small number of such records makes them readily retrievable under a variety of systems.

Safeguards: Records are secured in accordance with applicable regulations of the Department of Justice and as required by 28 C.F.R. 45.735-22, 45.735-23.

Retention and disposal: Records are retained during the employment of the individual. Upon termination of employment they are destroyed in the manner provided for confidential records.

System manager(s) and address: Deputy Attorney General; U.S. Department of Justice; Washington, D.C. 20530.

Notification procedure: Inquiries should be addressed directly to the head of the Office, Board, Division or Bureau in which the individual is employed.

Record access procedures: Individuals may seek access and contest from the head of the employing office in accordance with Department of Justice regulations.

Contesting record procedures: Same as the above.

Record source categories: The individual employee completing the statement.

Systems exempted from certain provisions of the act: None.

JUSTICE/OLC - 001

System name: Attorney Assignment Reports.

System location: Office of Legal Counsel; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Attorneys employed in the Office of Legal Counsel, U.S. Department of Justice at the time each report was filed.

Categories of records in the system: The system consists of memoranda addressed to the Assistant Attorney General by each staff attorney listing current assignments pending on the first of the month. Some reports also list completed assignments, projected workload and anticipated leave.

Authority for maintenance of the system: These records are kept for administrative convenience pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from the system is not used outside the Department except to advise Executive Branch agencies as to the identity of the attorney working on a specific assignment, when inquiry is made.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The Assistant Attorney General, each of his Deputies, the Administrative Officer and the attorney who filed the report each have copies. Some are retained chronologically in file folders, some alphabetically in note books.

Retrievability: Information may be retrieved by name, alphabetically, or chronologically.

Safeguards: Information is maintained in offices occupied during the day and locked at night.

Retention and disposal: The Administrative Officer's file is chronological and maintained indefinitely. Attorneys may retain their copies indefinitely, others are kept for about two years and disposed of.

System manager(s) and address: Assistant Attorney General; Office of Legal Counsel; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the System Manager, the Administrative Officer or the two Deputies at the above address.

Record access procedures: A request for access to a record from this system may be made in person or in writing, specifying the name of the attorney and the dates of reports requested.

Contesting record procedures: Any requests for correction should be addressed to the System Manager.

Record source categories: Information is supplied by the attorneys employed by the Office of Legal Counsel on the date the report is filed.

Systems exempted from certain provisions of the act: None.

JUSTICE/OLC - 002

System name: Citizens Mail Index.

System location: Office of Legal Counsel; U.S Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: A. Individuals who write to the Office of Legal Counsel, its Assistant Attorney General, or one of his Deputies; B. Individuals who write to the Attorney General or the Department of Justice and whose letters are referred to the Office of Legal Counsel; C. Individuals whose letters have been referred to the Office of Legal Counsel for a response by the White House or Executive Agencies. In all of the above categories, the individuals include only those who express general views or seek information or assistance. Official correspondence and Freedom of Information Act requests are not indexed in this sytem.

Categories of records in the system: The system consists of 3' X 5' index cards, arranged alphabetically, and containing the name and address of the correspondent, the date of the letter or the date received, the Department of Justice file number, if known, the person to whom addressed, the attorney to whom it was assigned for response, the date of response, and an indication if it was referred by the White House or an Executive Agency.

Authority for maintenance of the system: These records are kept for administrative convenience pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from the index card may be provided to the White House or the agency which referred the letter to the Department. All other uses are internal within the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information is on 3 X 5 index cards and stored in a cabinet.

Retrievability: The system is indexed by name, arranged alphabetically. White House and Department of Justice cards are separated.

Safeguards: The cards are maintained in a room which is occupied by office personnel during the day and locked at night.

Retention and disposal: Cards are maintained for approximately two years from the date of the letter and then discarded.

System manager(s) and address: Assistant Attorney General; Office of Legal Counsel; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name and address as included in the original letter, together with the current address if different, the date of the letter and to whom it was addressed. Requests should be directed to the System Manager listed above.

Contesting record procedures: Any requests for correction should also be directed to the System Manager and should indicate the exact correction required.

Record source categories: Sources of information in this system are the actual letter received, the response letter, and any transmittal from the White House or an Executive Agency.

Systems exempted from certain provisions of the act: None.

JUSTICE/OLA - 001

System name: Congressional Committee Chairman Correspondence File.

System location: U. S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Current and past Chairman of Congressional Committees who correspond with the Department on legislative and other related matters.

Categories of records in the system: The system contains letters and attachments transmitted by Congressional Committee Chairmen together with copies of the Departmental responses to these letters.

Authority for maintenance of the system: The system is established and maintained in accordance with 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Use of the information is entirely within the Department on a need to know basis.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored in locked file cabinets.

Retrievability: Information is retrieved by using the name of the particular Congressional Committee Chairman who initiated the correspondence in a particular matter.

Safeguards: Information contained in the system is unclassified. Routine protection is provided.

Retention and disposal: Information maintained in this system contains correspondence generated during the 93rd and 94th Congresses. This system was not maintained prior to the 93rd Congress.

System manager(s) and address: Legislative Counsel; Office of Legislative Affairs; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the: Assistant Attorney General; Office of Legislative Affairs; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the nature of the letter or document as well as the general subject matter of the document. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The source of the information contained in this system comes directly from the individual initiating the correspondence.

Systems exempted from certain provisions of the act: None.

JUSTICE/OLA - 002

System name: Congressional Correspondence File.

System location: U. S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Current and past members of Congress who correspond with the Department on legislative and other related matters.

Categories of records in the system: The system contains letters and attachments transmitted by the individual members of Congress together with copies of the Departmental responses to these letters.

Authority for maintenance of the system: The system is established and maintained in accordance with 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Use of the information is entirely within the Department on a need to know basis.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored in file cabinets.

Retrievability: Information is retrieved by using the name of the individual member of Congress who initiated the correspondence in a particular matter.

Safeguards: Information contained in the system is unclassified. Routine protection is provided.

Retention and disposal: Information maintained in this system contains correspondence generated during the 93rd and 94th Congresses. This system was not maintained prior to the 93rd Congress.

System manager(s) and address: Legislative Counsel; Office of Legislative Affairs; U. S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the: Assistant Attorney General; Office of Legislative Affairs; U. S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and letter clearly marked 'Privacy Access Request'. Include in the request the nature of the letter or document as well as the general subject matter of the document. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The source of the information contained in this system comes directly from the individual initiating the correspondence.

Systems exempted from certain provisions of the act: None.

JUSTICE/OLA - 003

System name: Citizen Correspondence File.

System location: U. S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

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Categories of individuals covered by the system: Persons corresponding with the Department on legislative and other related matters.

Categories of records in the system: The system contains letters and attachments transmitted by individuals together with copies of the Departmental responses to these letters.

Authority for maintenance of the system: The system is established and maintained in accordance with 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Use of the information is entirely within the Department on a need to know basis.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored in file cabinets.

Retrievability: Information is retrieved by using the name of the individual who initiated the correspondence in a particular matter.

Safeguards: Information contained in the system is unclassified. Routine protection is provided.

Retention and disposal: Information maintained in this system contains correspondence from individuals during 1974 and 1975. This system was not maintained prior to 1974.

System manager(s) and address: Legislative Counsel; Office of Legislative Affairs; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the: Assistant Attorney General; Office of Legislative Affairs; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the nature of the letter or document as well as the general subject matter of the document. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The source of the information contained in this system comes directly from the individual initiating the correspondence.

Systems exempted from certain provisions of the act: None.

JUSTICE/OSG - 001

System name: Attorney Assignment Reports.

System location: Office of the Solicitor General; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Attorneys employed in the Office of the Solicitor General, U.S. Department of Justice, at the time each report was filed.

Categories of records in the system: The system consists of forms completed by each staff attorney listing current assignments pending at the end of the week. Some reports also list completed assignments.

Authority for maintenance of the system: These records are kept for administrative convenience pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from the system is not used outside the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The Administrative Officer and the attorney who filed the report each have copies.

Retrievability: Information may be retrieved by name.

Safeguards: Information is maintained in offices occupied during the day and locked at night.

Retention and disposal: The Administrative Officer's file is maintained only until the next weekly report is filed.

System manager(s) and address: Solicitor General; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system may be made in person or in writing, specifying the name of the attorney and the dates of reports requested.

Contesting record procedures: Any requests for correction should be addressed to the System Manager.

Record source categories: Information is supplied by the attorneys employed by the Office of the Solicitor General on the date the report is filed.

Systems exempted from certain provisions of the act: None.

JUSTICE/OPA - 001

The following Notice is published for the benefit of the public. Executive Clemency Files, while maintained in the Office of the Pardon Attorney, U.S. Department of Justice, are files of the President of the United States compiled and maintained to provide for the exercise of his constitutional responsibilities pursuant to Article II, section 2, and are not subject to the provisions of the Privacy Act of 1974, P.L. 93-579.

System name: Executive Clemency Files

System location: Office of the Pardon Attorney; U. S. Department of Justice; HOLC Building; 320 First Street, N.W.; Washington, D.C. 20534.

Categories of individuals covered by the system: Applicants for Executive clemency.

Categories of records in the system: The system contains the individual petitions for Executive clemency (OPA-6 or 6-15) submitted by the applicants and accompanying oath and character affidavits (DOJ-1973-06), investigatory material, evaluative reports, interagency and intra-agency correspondence and memoranda relating to individual petitions for clemency. The system includes Presidential Clemency Board files transferred to the Office of the Pardon Attorney upon termination of the Board's existence on Sept. 15, 1975.

Authority for maintenance of the system: The system is established and maintained in accordance with the United States Constitution, Article II, Section 2, Executive Order of the President dated June 16, 1893, Order No. 288-62, 27 F.R. 11002, November 10, 1962, as codified in 28 CFR 1.1 through 1.9 and E.O. 11878 dated Sept. 10, 1975.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Executive clemency files are used to (a) enable the Attorney General to investigate each petition for Executive clemency, to review each petition and information developed by his investigation thereof and to advise the President whether, in his judgment, the request for clemency is of sufficient merit to warrant favorable action by the President; (b) prepare notices to the public of the name of each grantee of

clemency, date of Presidential action, nature of clemency granted, nature of grantee's offense, date and place of sentencing, description of sentence imposed, and names of character affiants and interested members of Congress; (c) prepare bound and indexed volumes containing photocopies of the official warrant of clemency granted each recipient of clemency as a public and official record of Presidential action; (d) upon request of the President and members of his staff, to make available to them individual clemency files; and (e) upon specific request by an individual, to advise the requestor whether a named person has applied for, been granted or denied clemency, the date thereof and the nature of the clemency granted or denied.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upn the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored in the Office of the Pardon Attorney and in Archives.

Retrievability: Information is retrieved by reference to the file number assigned to the name of each applicant for clemency.

Safeguards: Information contained in the system is safeguarded and protected in accordance with Department of Justice rules governing petitions for Executive clemency, specifically, 28 CFR 1.6. Executive clemency files are maintained in the Office of the Pardon Attorney and are not commingled with Department of Justice records.

Retention and disposal: Records are stored in the Office of the Pardon Attorney as long as space requirements permit and are then transferred to Archives. These records are not destroyed.

System manager(s) and address: Pardon Attorney; Office of the Pardon Attorney; Department of Justice; 654 HOLC Building; 320 First Street, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the Pardon Attorney; Department of Justice; Washington, D.C. 20530.

Record access procedures: While the Attorney General has exempted Executive Clemency files from the access provisions of the Privacy Act, requests for discretionary releases of records contained in the system shall be made in writing with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the general subject matter of the document and the name of the clemency applicant in whose file it is contained. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: While the Attorney General has exempted Executive Clemency files from the correction (contest and amendment) provisions of the Privacy Act, requests for the discretionary correction (contest or amendment) of records contained in this system should be directed to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are the individual applicants for clemency, Federal Bureau of Investigation or other official investigatory reports, Bureau of Prison records, Selective Service System and Armed Forces Reports, probation or parole reports and reports from individuals or non-Federal organizations, both solicited and unsolicited.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/OPI - 001

System name: News Release, Document and Index System.

System location: Room 5114; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: A. Defendants in civil and criminal actions brought by the Department of Justice for which news releases were issued; B. Current and former employees of the Department of Justice on which news releases and biographical information were prepared.

Categories of records in the system: The system contains an index record of each news release and document issued by the Department of Justice and copies of the news release and document.

Authority for maintenance of the system: The system is established and maintained at the direction of the Attorney General pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The index is used to retrieve news releases and documents issued by the Department upon request.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored manually on index cards and letter- and legal-size paper.

Retrievability: Information is retrieved by using the name of the defendant, subject matter of legal action, state in which action is filed, and name of current or former employee.

Safeguards: Information contained in the system is unclassified.

Retention and disposal: The index and one copy of each news release are retained indefinitely. Additional copies are retained for one year and then destroyed.

System manager(s) and address: Director of Public Information; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for a copy of a record from this system may be made in writing, by telephone, or in person.

Contesting record procedures: Persons desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendments to the information sought.

Record source categories: Sources of information contained in this system are those employees who prepared the document on which a news release is based.

Systems exempted from certain provisions of the act: None.

JUSTICE/PRC - 001

System name: Docket, Scheduling and Control.

System location: Records are maintained at each of the Regional Offices for inmates incarcerated in and persons under supervision in each region, except for the National Appeals Board docket maintained in Washington. All requests for records should be made to the appropriate regional office or Headquarters at the following addresses: United States Parole Commission; Scott Plaza II; Industrial Highway; 6th Floor; Philadelphia, Pennsylvania 19113; United States Parole Commission; 3500 Greenbriar Parkway, Bldg. 300; Atlanta, Georgia 30331; United States Parole Commission; 320 First Street; Washington, D.C. 20537; ATTN: National Appeals Board; United States Parole Commission; KCI Bank Bldg; 8800 N.W. 112th Street; Kansas City, Missouri 64153. United States Parole Commission; 3883 Turtle Creek Blvd. Suite I: Dallas, Texas 75219. United States Parole Commission; 330 Primrose Drive - 5th Floor; Burlingame, Calif. 94010.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General who

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have become eligible for parole. Former inmates includes those presently under supervision as parolees or mandatory releasees and those against whom a revocation warrant has been issued.

Categories of records in the system: (a) Docket Sheets - Each region and the National Appeals Board in Washington maintain a cumulative series of Docket sheets in time sequence showing Commission Action. Principal data elements are name and register number of inmate, offense, sentence, and previous and present Action. The Appeal Docket includes the date and type of appeal in addition to much of the above data. These provide a continual running record of the basic data elements per inmate and former inmate. (b) Hearing Schedules - When inmates become eligible for parole through operation of law, their names appear on an eligibility list prepared by the Bureau of Prisons, for initial parole hearings. Inmates denied parole are 'continued' by the Commission to future dates for review hearings or record reviews. There is a legal requirement for record reviews of certain inmates at the 1/3 point of their sentences. Other types of hearings and reviews are provided for in the Code of Federal Regulations as part of parole rescission or revocation procedures. All of the different types of hearings and reviews are placed on schedules for panels of examiners to process when they visit the various institutions or hold 'local' hearings. The data elements are similar to those on the docket but indicate the number and type of hearing or review to be held instead of the result.

Authority for maintenance of the system: 18 U.S.C. 4201-4218, 28 C.F.R. Subpart V.O.125(f) and 0.129(g) and (j). 28 C.F.R. 2.23, 2.24, 2.25, 2.26, 2.55 and 2.56.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(a) The dockets provide the basis of answering basic inquiries, mostly from within the Parole Commission, as to when a hearing came up for an individual and what action was taken. The schedules indicate to examiners and prison staff the specific hearings and reviews to be prepared for and held.

(b) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(c) A record from this system of records may be disclosed to a federal, state or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision concerning parole matters.

(d) A record from this system may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(e) Internal Users - Employees of the Department of Justice who have a need to know the information in the performance of their duties.

(f) External Users - As noted above, on occasion employees of federal, state and local enforcement, correctional, prosecutive, or other agencies, and courts may have access to this information.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information stored in the system is on sheets of paper, one item per line, stored in folders or binders. An experimental program to store such data on tape, disk, or microfiche using ADP technology, is in the beginning stages.

Retrievability: Name, register number, date, institution, Commission action.

Safeguards: Copies of dockets and schedules are not disseminated outside of Commission offices and Bureau of Prisons installations. They are available only to Commission and Bureau employees on a 'need to know' basis. Information therefrom may be given outside the Department as indicated in the 'Routine Uses.' If soo, a letter will be written covering the item disclosed, date, and identity of the recipient. If information must be given over the phone due to urgency, the caller will be identified beforehand and details of the call recorded.

Retention and disposal: Records in this system are kept for five (5) years after the effective date of the schedule or date of the last item recorded on the docket. They are then shredded.

System manager(s) and address: Herman Levy - Attorney-Management Analyst; United States Parole Commission; 320 First Street N.W., Rm. 342; Washington, D.C. 20537.

Notification procedure: Address inquiries to Regional Director at appropriate location. For general inquiries, address System Manager. The Attorney General has exempted this system from compliance with the provisions of Subsection (d), under the provisions of Subsection (j).

Record source categories: 1) Bureau of Prisons files; 2) Parole Commission and Bureau of Prison's employees; 3) Court Records; 4) Parole Commission inmate files.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/PRC - 002

System name: Freedom of Information Act Record System.

System location: Records may be retained at any of the Regional Offices as indicated in the Inmate and Supervision Files System and the Headquarter's Office. All requests for records may be made to the Central Office: United States Parole Commission; 320 First Street, N.W.; Washington, D.C. 20537; ATTN: Executive Assistant to Chairman.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General, including former inmates on supervision.

Categories of records in the system: 1) Administrative Requests and Responses to requests for information and records under 5 U.S.C. 552, and appeals from denials of data; 2) Final orders of Board following all parole rescission and revocation hearings, record reviews, and appeals are maintained in the Freedom of Information Act Reading Room at Commission Headquarters with names and register numbers removed to protect individual privacy of inmates and persons on supervision. Final decisions in labor and pension cases are maintained in said reading room.

Authority for maintenance of the system: 5 U.S.C. 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is used: a) to maintain records concerning the processing and determination of requests for information made pursuant to the Freedom of Information Act 5 U.S.C. 552; and make final orders available in a reading room pursuant to 5 U.S.C. 552; b) to provide documentation of receipt and processing requests for information made pursuant to the Freedom of Information Act if needed for processing contested denials of release of data; c) to furnish information to employees of the Department of Justice who have a need for information from the system in performance of their duties; d) to maintain a count of requests and method of compliance as required by Freedom of Information Act.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests

the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on documents.

Retrievability: Documents are indexed by name and/or register number. Final orders in the reading room are indexed by type, and within each type the source (Region or National Appeals Board).

Safeguards: Information is stored in file cabinets in rooms supervised by day and locked at night and are made available to Board personnel and other Department of Justice employees on a 'need to know' basisEach requestor may see his own file. The public may use the reading room.

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by shredding.

System manager(s) and address: General Counsel; United States Parole Commission; 320 First Street, N.W.; Washington, D.C. 20537.

Notification procedure: Same as the above.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above.

Record source categories: 1) Inmates and persons on supervision; 2) Department of Justice employees.

Systems exempted from certain provisions of the act: None.

JUSTICE/PRC - 003

System name: Inmate and Supervision Files.

System location: Records are maintained at each of the Commission's Regional Offices for inmates incarcerated in and persons under supervision in each region. Records are housed temporarily at the Commission's Headquarters office located at 320 First Street, Washington, D.C. 20537 when used by the National Appeals Board or other Headquarter's personnel. Prior to the first parole hearing, the inmate's file is maintained at the institution at which he is incarcerated. All requests for records should be made to the appropriate regional office at the following addresses: U.S. Parole Commission; Scott Plaza II; Industrial Highway - 6th Floor; Philadelphia, Pennsylvania 19113. U.S. Parole Commission; 3500 Greenbriar Parkway - Bldg. 0300; Atlanta, Georgia 30331. U.S. Parole Commission; KCI Bank Bldg.; 8800 N.W. 112th Street; Kansas City, Missouri 64153. U.S. Parole Commission; 3883 Turtle Creek Blvd. - Suite I; Dallas, Texas 75219. U.S. Parole Commission; 330 Primrose Drive - 5th Floor; Burlingame, Calif. 94010.

Categories of individuals covered by the system: Current and former inmates under the custody of the Attorney General. Former inmates include those presently under supervision as parolees or mandatory releasees.

Categories of records in the system:

1. Computation of sentence and supportive documentation.
2. Correspondence concerning pending charges, and wanted status, including warrants.
3. Requests from other federal and non-federal law enforcement agencies for notification prior to release.
4. Records of the allowance, forfeiture, withholding and restoration of good time.
5. Information concerning present offense, prior criminal background, sentence and parole from the U.S. Attorneys, the Federal Courts, and federal prosecuting agencies.
6. Identification data, physical description, photograph and fingerprints.
7. Order of designation of institution of original commitment.
8. Records and reports of work and housing assignments.
9. Program selection, assignment and performance adjustment/progress reports.
10. Conduct records.
11. Social background.
12. Educational data.
13. Physical and mental health data.
14. Parole Board applications, appeal documentation, orders, actions, examiner's summaries, transcripts or tapes of hearings, guideline evaluation documents, parole or mandatory release certificates, statements of third parties for or against parole, special reports on youthful offenders and adults required by statute and related documents.
15. Correspondence regarding release planning, adjustment and violations.
16. Transfer orders.
17. Mail and visit records.
18. Personal property records.
19. Safety reports and rules.
20. Release processing forms and certificates.
21. Interview request forms from inmates.
22. General correspondence.
23. Copies of inmate court petitions and other court documents.
24. Reports of probation officers, Board correspondence with former inmates and others, and Board orders and memoranda dealing with supervision and conditions of parole or mandatory release.
25. If an alleged parole violation exists, correspondence requesting a revocation warrant, warrant application, warrant, instructions as to service, detainers and related documents.

Authority for maintenance of the system: 18 U.S.C. 4201-4218, 18 U.S.C. 5010, 18 U.S.C. 5014-5024, 28 C.F.R. Subpart V 0.125(f), 0.129(g) and (j).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(a) The file is the 'working tool' used by Parole Commission examiners to frame the questions at the inmates initial hearing. After that hearing, it is placed in the appropriate regional office where it provides the principle information source for decisions necessary during the pre-release stage (before parole), the review hearing or record review, and the post release stage (when supervision takes place). It is sent temporarily to Commission Headquarters when appeals come before the National Appeals Board or when needed by Counsel and others on the Headquarters Staff. It is used by employees at all levels including Commission Members to provide the information for decision making in every area of Commission responsibility. Files of released inmates are used to make statistical studies of subjects related to parole and revocation.

(b) The system is used to provide information source to officers and employees of the Department of Justice who have a need for the information in the performance of their duties.

(c) The system is used to provide information source for disclosure of information that are matters solely of general public record, such as offense, sentence data, release date, and etc. Names are not disclosed when information is so provided.

(d) The system is used to provide informational source for responding to inquiries from federal inmates involved, their families or representatives, or Congressional inquiries.

(e) Internal Users - Employees of the Department of Justice who have a need to know information in the performance of their duties.

(f) External Users - U.S. Probation Officers, who supervise parolees and mandatory releasees, and U.S. District Court judges on rare occasions when Commission action is attacked in litigation. Very rarely, to enforcement authorities outside of the Department of Justice.

(g) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order, issued pursuant thereto.

(h) A record from this system may be disclosed to a federal, state or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision relating to current or former inmates under supervision.

(i) AA record from this system may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of

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Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored on papers fastened into file jackets and a minimal amount is on cards stored in card file drawers. Active files and card indices are located in each region; inactive files are at the Washington Federal Records Center and the card index to inactive files is at Board Headquarters in Washington. An experimental program to store such data on tape, disk or microfiche using ADP technology is in the beginning stages.

Retrievability: All data is indexed by name and/or register number. When ADP technology is used in the future, such data may be available by Social Security Number, FBI identification number, or other indices.

Safeguards: Within the Department of Justice, routine use is made available to employees only on a 'need to know' basis. Files are stored in rooms which are supervised by day and locked at night. Data from files for recipients outside of the Parole Commission and Bureau of Prisons is conveyed by letter so that a record exists. When files are sent they are covered by a letter with a follow-up on return of the file. Such disclosure is infrequent, and is within the federal enforcement-prosecution-judicial area only.

Retention and disposal: Records in this system are retained for a period of ten (10) years after expiration of sentence, then destroyed by electronic means or shredding.

System manager(s) and address: Herman Levy - Attorney-Management Analyst; United States Parole Commission; 320 First Street, N.W. - Rm. 342; Commission D.C. 20537.

Notification procedure: Address inquiries to Regional Director at appropriate location. For general inquiries, address System Manager. The Attorney General has exempted this system from compliance with the provisions of Subsection (d) under the provisions of Subsection (j).

Record source categories: 1. Individuaal inmate; 2. Federal law enforcement agencies and personnel; 3. State and federal probation services; 4. Non-Federal law enforcement agencies; 5. Educational institutions; 6. Hospital or medical sources; 7. Relatives, friends and other interested individuals or groups in the community; 8. Former or future employers; 9. Evaluations, observations, reports, and findings of institution supervisors, counselors, boards and committees, Parole Commission examiners, Parole Commission Members; 10. Federal Court records; 11. U.S. Bureau of Prisons personnel and records.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/PRC - 004

System name: Labor and Pension Case, Legal File and General Correspondence System.

System location: All Labor and Pension cases, and Legal file and some general correspondence material is located at: Commission Headquarters; 320 First Street, N.W.; Washington, D.C. 20537. The balance of the general correspondence material is located at the Commission's Regional Offices, the addresses of which are specified in the Inmate and Supervision System.

Categories of individuals covered by the system: All applicants for exemptions under 29 U.S.C. 504 and 29 U.S.C. 1111, all persons litigating with the U.S. Parole Commission, all persons corresponding with the Commission on subjects not amenable to being filed in an inmate or supervision file identified by an individual, and all congressmen inquiring about constituents.

Categories of records in the system: The Commission processes applications of persons convicted of certain crimes for exemptions to allow their employment in the Labor field under 29 U.S.C. 504 or by Employee Benefit Plans under 29 U.S.C. 1111. The files contain memoranda, correspondence, and legal documents with information of a personnel nature, i.e., family history, employment history, income and wealth, etc., and of a criminal history nature, i.e., record of arrests and convictions, and details as to the crime which barred employment. The final decision of the Commission in each case is a public document under the Freedom of Information Act. The Counsel's Office of the Parole Commission maintains work files for each inmate or person on supervision who is litigating with the Commission. These files contain personnel and criminal history type data regarding inmates, and internal communications among attorneys, Members and others developing the Commission's legal position in these cases. Files of the Commission's correspondence with Congressmen who inquire about groups of constituents who have paroles or revocations pending or other subjects are maintained in the Chairman's Office and in the regions. Files of correspondence, notes, and memoranda concerning parole revocation and related problems are also maintained in those locations. Some of this material duplicates material in the inmate files and contains personnel-criminal history type information about individuals.

Authority for maintenance of the system: These files are maintained pursuant to 18 U.S.C. 4201-4218, 28 C.F.R. 0.125(f) and 0.129(g) and (j), 29 U.S.C. 504, 1111, and all statutory sections and procedural rules allowing inmates, persons under supervision, or others to litigate with the Parole Commission.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Within the Parole Commission material in this system is used respectively by Counsel's Office staff and Commission Members in processing exemption applications. The legal file material is used by Counsel's Office staff in asserting the litigation position of the Commission. The general correspondence is used by Commission personnel in responding to Congressmen, and by Commission Members and others in transacting the day-to-day business of the Commission. Final pension and labor case decisions are used by the Commission, the Justice, and Labor Departments, and the public to establish precedents in this field of litigation. In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. A record from this system of records may be disclosed to a federal, state or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision relating to pension or labor matters. A record from this system may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All data is on documents or other papers in bound files. Labor and pension case material is in Counsel's Office or the Chairman's Office at Headquarters, except for final decisions which are in the Freedom of Information Act reading room. Legal files are in Counsel's Office at Headquarters, general correspondence is in the Chairman's Office, the office of his staff at Headquarters, and the offices of each regional director. Files are in file cabinets.

Retrievability: Labor, pension, and legal file material is indexed or filed by name of applicant or litigant, respectively. General correspondence is indexed or filed by subject, time sequence or individuals to whom the items refer.

Safeguards: Material is available only to Commission employees on a 'need to know' basis. Storage locations are supervised by day and locked at night. Only disclosure made therefrom is to other agencies of the Department of Justice, the U.S. Probation Office, federal enforcement agencies or the Congress. Disclosure to congressmen in response to inquiries concerning constituents is subject to the exemptions of the Freedom of Information Act. The Commission Decisions in labor and pension cases are public information under the Freedom of Information Act.

Retention and disposal: Records are maintained for 10 years and are shredded or destroyed electronically thereafter.

System manager(s) and address: Herman Levy; Attorney/Management Analyst; United States Parole Commission; 320 First Street, N.W. - Rm. 342; Washington, D.C. 20537.

Record source categories: a. Applicants for Exemptions under 29 U.S.C. 504 and 29 U.S.C. 1111; b. U.S. Department of Labor; c. Administrative Law Judges and others connected with labor or pension cases; d. Litigants proceeding against Parole Commission; e. The Commission's legal staff and other Commission personnel; f. Congressmen and others making inquiries of Commission; g. Commission Members and employees responding to inquiries, corresponding with others, preparing speeches, policy statements and other means of contact with other branches of the Federal Government, state and local governments, and the public.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (4)(G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/PRC - 005

System name: Office Operation and Personnel System.

System location: At each regional office as indicated in the 'Inmate and Supervision File System Report' and at the: United States Parole Commission; 320 First Street, N.W.; Washington, D.C. 20537.

Categories of individuals covered by the system: Present and former Commission Members and employees of the United States Parole Commission.

Categories of records in the system: Personnel records, leave records, property schedules, budgets and actual expense figures, obligation schedules, expense and travel vouchers, and the balance of the usual paperwork to run a government office efficiently.

Authority for maintenance of the system: All statutory sections, C.F.R. sections, and CSC, GSA, and OMB directives establishing procedures for government personnel, financial, and operational functions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Day to day activity involving personnel, financial, procurement, maintenance, record-keeping, mail delivery and management functions.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be release pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are in paper files or on computer printouts - They are stored in operations areas of offices.

Retrievability: Data of a personal nature is in employee personnel files, used by Commission personnel on a 'need to know' basis. Each employee has a right to see his own file on request. Other files are used by Commission personnel on a 'need to know' basis.

Safeguards: Files are supervised by appropriate personnel during the working day and are in locked rooms at night.

Retention and disposal: Subject to applicable CSC, OMB, DOJ, and GSA regulations.

System manager(s) and address: Executive Assistant to the Chairman; United States Parole Commission; 320 First Street, N.W. - Rm. 354B; Washington, D.C. 20537.

Notification procedure: Same as the above.

Record access procedures: Same as the above.

Contesting record procedures: Same as the above

Record source categories: Parole Commission employees, Office of Management and Finance. All other contributing government agencies.

Systems exempted from certain provisions of the act: None.

JUSTICE/PRC - 006

System name: Statistical, Educational and Developmental System.

System location: Parole Commission Headquarters; 320 First Street - 3rd Floor; Washington, D.C. 20537

Categories of individuals covered by the system: Any inmate or former inmate under custody of the Attorney General including former inmates supervised as parolees or mandatory releasees.

Categories of records in the system: All records as described in the Workload Record, Decision Result, and Annual Report System plus data on additional input forms known as Revocation Data Sheets, Parole Decision Information Sheet and follow-up forms of July, 1971 and July, 1972 and the Salient Factor Worksheet Form. These forms include criminal history-type data elements regarding specific individuals selected from the above category of individual. This data is either organized and processed by hand or is input into a computer through punch cards and has been used to provide the following one-time reports in phamphlet-text form. a) Administrative Review of Parole Selection and Revocation decisions; b) Parole Decision Making, a Salient Factor Score; c) Effect of Representation at Parole Hearings; d) Parole Decision Making - Structuring Discretion; e) Time Served and Release Performance - A Federal Sample. The data base collected as described in this and the preceding system will be used to prepare studies on similar or related subjects in the future. It is presently being used to develop revocation guidelines similar to parole guidelines. Items collected for this data base may change depending on the subject matter of new studies to be undertaken by the Commission.

Authority for maintenance of the system: 18 U.S.C. 4201-4218 - 28 C.F.R. Subpart V. 0.125(f) and 0.129(g) and (j).

Routine files of records maintained in the system, including categories of users and the purposes of such uses:

a. Internal - Develop methodology for a more scientific determination of parolability and revocability, methodology to comply with changing concepts of due process, and methodology to select persons to be released from prison who will be less likely to recidivate.

b. External - Add to the general body of knowledge in the parole area of criminology, and provide educational material for other parole boards, and members of the criminal justice and academic communities interested in this subject. Published pamphlets in text form are prepared on subjects of interest in this area of criminology and are circulated freely. They contain no references to individuals, either by name, address, register number or other means of identification. They do not contain recognizable fact situations, descriptions, or other writings through which identification of any individual within the present or former jurisdiction of the Parole Commission can be made.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of informatn to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be release pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Data is in input forms, IBM card decks and on computer tape. It is stored as described in the preceding system description - Pamphlet text reports are public documents stored in offices, libraries, and in bookshelves.

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Retrievability: Information by name, register number or FBI identification number may be retrieved from the input forms, card decks, or tape. This material is used only by authorized parole board research personnel on a 'need to know' basis and is data processed only by authorized Bureau of Prisons personnel. Material is not retrieved in identifiable form except that computer produced 'hard copy' may be used as a temporary expedient to prepare a report. The final pamphlet-text reports and material resulting from studies are used by Commission Personnel for internal purposes and the public externally. None of this material contains any reference to an individual. One source form, the Salient Factor Worksheet, which contains information retrievable as to one individual is made available to that individual if requested under the Freedom of Information Act.

Safeguards: See 'Safeguards' of preceding system regarding input forms, IBM cards or tape. Reports in pamphlet form are not safeguarded.

Retention and disposal: See 'Retention and Disposal' of preceding system. The studies in pamphlet form are not disposed of on schedule. Some will be maintained perpetually in archives.

System manager(s) and address: Research Director; U.S. Parole Commission; 320 First Street, N.W.; Room 366; Washington, D.C. 20537.

Record source categories: a. Commission inmate files; b. Docket Sheets; c. Commission Notices of Action, orders and documentation following hearings; d. Commission warrant applications and warrants; e. General Commission records and data; f. Enforcement agency records regarding former inmates.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/PRC - 007

System name: Workload Record, Decision Result, and Annual Report System.

System location: U.S. Parole Commission Headquarters; 320 First Street, 3rd Floor; Washington, D.C. 20537.

Categories of individuals covered by the system: Any inmate and parolee or mandatory releasee who has been the subject of a decision for the period covered in the report for which the data is used (prior month, prior quarter, or prior year).

Categories of records in the system: The five original input forms (R-1, R-2, R-9, R-10 and R-13) indicate the inmate or person under supervision by name and register number and give the date and specific statistical detail as to the decision made. They include criminal history type of information regarding the persons in question. Types of decisions covered in order of the form numbers above are after hearing or record review, after recommendation, after Regional Appeal, after National Appeal, and after a decision reopening and modifying. Similar input is obtained regarding warrants issued and some other detailed steps performed by the Parole Commission. The data is input into a computer through punch cards and is used to provide the following: (a) A monthly report of workload containing number and type of hearings per region further broken out by institutions within regions and type of sentence; (b) A quarterly report on decision results indicating, among other statistics, number and type of decisions within, above, and below guidelines broken out by examiners making the decisions; (c) Together with hand posted data on other items of statistical value, this data will be used to create the Annual Report of the Commission in lieu of duplicative and older methodology now in use.

Authority for maintenance of the system: 18 U.S.C. 4202-4210, 28 C.F.R. 0.125(f) and 0.129(g) and (j).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(a) These records are used internally to analyze work product, the performance of evaluators, and various types of procedures and hearings and to evaluate the guidelines themselves.

(b) These records are used to prepare an annual report to the Attorney General and Congress and the public indicating in quantitative and qualitative terms Commission activity and accomplishment.

(c) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

(d) A record from this system of records may be disclosed to a federal, state or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to Parole Commission matters.

(e) A record from this system may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that information is relevant and necessary to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper input forms are stored in folders only until information from them is punched into cards. Data is stored principly on punch cards and plans are being developed to convert it to tape storage. Monthly and quarterly reports in the form of computer printouts are filed in folders. Annual report is in book form and stored in library shelves.

Retrievability: Data in this system can be retrieved by inmate's name and register number from the original input forms, IBM card decks, and planned tape substitute for card decks. It is only retrieved by region, by examiner, by type of decision made or hearing held, by relation to the guidelines and other similar means except for individual case retrievability in the guideline section of the quarterly report. Except for this, there is no output from this system now produced in which any information is identifiable by the name or register number of any person. Such identification exists in the input and storage data area.

Safeguards: Data on forms and IBM cards and/or tape retrievable by individual is stored in the Research Sections Office in cabinets. Research personnel (all selected Commission employees) supervise this data by day and use it on a 'need to know' basis. The room where it is stored is locked outside of office hours, and the entire Headquarters building is guarded and secured. Monthly and quarterly reports are for use of the Chairman, his Executive Assistant and Commission Members and professional personnel. No information thereon is retrievable as pertaining to any individual except certain breakouts by Parole Commission employee examiners and by inmate in the guideline section of the quarterly reports. These printouts are stored in the Commission Headquarters offices, all of which are supervised by day, locked at night, and are in a secured building. The Annual Report contains no information identifiable by individual and is a public document.

Retention and disposal: Completed input forms - Until data is keypunched into IMB cards - usually one month after forms are completed. They are then destroyed; 2. IBM card decks or planned tape substitute - Ten years after preparation, cards will be destroyed - tape degaussed; 3. Printouts of annual and quarterly reports - 10 years; 4. Annual Reports - Some copies retained perpetually in Archives.

System manager(s) and address: Executive Assistant to the Chairman; Rm. 354-B; U.S. Parole Commission; 320 First Street, N.W.; Washington, D.C. 20537.

Record source categories: (a) Commission inmate files; (b) Docket sheets; (c) Commission notices of action, orders and documentation following hearings; (d) Commission warrant applications and warrants; (e) General Commission records and data.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4),

(d), (e)(2) and (3), (e)(4)(G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/INS - 001

System name: THE IMMIGRATION AND NATURALIZATION SERVICE INDEX SYSTEM WHICH CONSIST OF THE FOLLOWING SUBSYSTEMS.

A. Agency information control record index.
B. Alien address report index.
C. Alien enemy index.
D. Automobile decal parking identification system for employees.
E. Centralized index and records relating to, but not limited to aliens lawfully admitted for permanent residence and United States citizens (Master index).
F. Congressional Mail Unit correspondence control index.
G. Document vendors and alterers index (Service documents).
H. Enforcement branch indices:
1. Air detail office index system.
2. Anti-smuggling index (general).
3. Anti-smuggling information centers systems for Canadian and Mexican borders.
4. Border Patrol Academy index.
5. Border Patrol sectors general index system.
6. Contact index.
7. Criminal, immoral, narcotic, racketeer, and subversive indices.
8. Enforcement correspondence control index.
9. Fraudulent document center index system.
10. Informant index.
11. Suspect third party index.
I. Examinations correspondence control index.
1. Branch indices.
2. Service lookout system.
J. Extension training program enrollees.
K. Finance section indices.
1. Accounts with creditors.
2. Accounts with debtors.
L. Freedom of Information correspondence control index
M. Intelligence index.
N. Microfilmed manifest records
O. Naturalization and citizenship indexes.
1. Naturalization and citizenship docket cards.
2. Examiner's docket lists of petitioners for naturalization.
3. Master docket list of petitons for naturalization pending one year or more.
P. Personnel investigations index.
Q. Procurement - property issued employees.
R. Security system access clearance information index system.
S. White House and Attorney General correspondence control index.
T. Health Record System.
U. Personal Data Card System.
V. Compassionate Cases System.
W. Emergency Reassignment Index.
X. Alien Documentation Identification and Telecommunication (ADIT) System.

System location:

A. Central Office: 425 'I' Street; N.W. Washington; D.C. 20536.
B. Regional Offices:
1. Burlington, Vermont
2. Fort Snelling, Twin Cities, Minnesota
3. Dallas, Texas
4. San Pedro, California
C. District Offices in the United States:
1. Anchorage, Alaska
2. Atlanta, Georgia
3. Baltimore, Maryland
4. Boston, Massachusetts
5. Buffalo, New York
6. Chicago, Illinois
7. Cleveland, Ohio
8. Denver, Colorado
9. Detroit, Michigan
10. El Paso, Texas
11. Hartford, Connecticut
12. Helena, Montana
13. Honolulu, Hawaii
14. Houston, Texas
15. Kansas City, Missouri
16. Los Angeles, California
17. Miami, Florida
18. Newark, New Jersey
19. New Orleans, Louisiana
20. New York, New York
21. Omaha, Nebraska
22. Philadelphia, Pennsylvania
23. Phoenix, Arizona
24. Portland, Maine
25. Portland, Oregon
26. St. Albans, Vermont
27. St. Paul, Minnesota
28. San Antonio, Texas
29. San Diego, California
30. San Francisco, California
31. San Juan, Puerto Rico
32. Seattle, Washington
33. Washington, D.C.
D. District offices in foreign countries
1. Hong Kong, B.C.C.
2. Mexico City, Mexico
3. Rome, Italy
E. Sub Offices:
1. Agana, Guam
2. Albany, New York
3. Cincinnati Ohio
4. Dallas, Texas
5. Hammond, Indiana
6. Harlingen, Texas
7. Las Vegas, Nevada
8. Memphis, Tennessee
9. Milwaukee, Wisconsin
10. Norfolk, Virginia
11. Pittsburgh, Pennsylvania
12. Providence, Rhode Island
13. Reno, Nevada
14. St. Louis, Missouri
15. Salt Lake City, Utah
16. Spokane, Washington
F. Border Patrol Sector Headquarters:
1. Blaine, Washington;
2. Buffalo, New York;
3. Chula Vista, California;
4. Del Rio, Texas;
5. Detroit, Michigan;
6. El Centro, California;
7. El Paso, Texas;
8. Grand Forks, North Dakota;
9. Havre, Montana;
10. Houlton, Maine;
11. Laredo, Texas;
12. Livermore, California;
13. Marfa, Texas;
14. McAllen, Texas;
15. Miami, Florida;
16. New Orleans, Louisiana;
17. Ogdensburg, New York;
18. Spokane, Washington;
19. Swanton, Vermont;
20. Tucson, Arizona;
21. Yuma, Arizona
G. Border Patrol Academy - Los Fresnos, Texas
H. Charlotte Amalie, St. Thomas, Virgin Islands
I. Sub offices in foreign countries:
1. Athens, Greece
2. Frankfurt, Germany
3. Naples, Italy
4. Palermo, Italy
5. Rome, Italy
6. Tokyo, Japan
7. Vienna, Austria
J. El Paso Intelligence Center (EPIC) - El Paso, Texas. Addresses of each office are listed in the telephone directories of the respective cities listed above under the heading 'United States Government, Immigration and Naturalization Service'.

Categories of individuals covered by the system:

A. Agency information control record index (Location A, supra)
1. United States citizens, resident and non-resident aliens named in documents classified for National Security reasons.

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2. Individuals referenced in documents classified for National Security reasons.

B. Alien address reports (Form I-53), 1975 and subsequent years. (Location A, supra); 1974 and previous years (Locations: C, D, and H supra).

C. Alien enemy index (Location: A supra)

1. Alien enemies who were interned during World War II.
2. Americans of Japanese ancestry (Nisei) who returned to Japan and, during World War II, either accepted employment by the Japanese Government or became naturalized in Japan.

D. Automobile decal parking identification for employees. (Location B-4 supra).

Current Service employees of this office who have the privilege of parking their cars on government premises, have a decal for their cars for parking identification.

E. Centralized index (Master index). (Locations: A, C, D, E and I supra)

1. Aliens lawfully admitted for permanent residence, and United States citizens; and individuals who are under investigation, were investigated in the past, or who are suspected of violating the criminal or civil provisions of treaties, statutes, Executive orders and Presidential proclamation administered by the Immigration and Naturalization Service, hereinafter referred to as the Service, and witnesses and informants having knowledge of such violations.

F. Congressional Mail Unit (Location A, supra)

1. Aliens lawfully admitted for permanent residence and United States citizens named in correspondence received including, but not necessarily limited to: a. employees and past employees; b. federal state and local officials; and c. members of the general public.
2. Aliens lawfully admitted for permanent residence and United States citizens named in reports or correspondence received, as individuals investigated in the past or under active investigations for, or suspected of violations of, the criminal or civil provisions of statutes enforced by the Service, including Presidential proclamations and Executive orders relating thereto, and witnesses and informants having knowledge of violations.

G. Document vendors and alterers index (Service documents) (Location B-4; duplicates are housed in several Service offices in the southwest region). This index relates to, but is not limited to, aliens lawfully admitted for permanent residence and United States citizens.

H. Enforcement Branch Indices

1. Group one -- (Locations: A, B, C and E, supra) - contact index; informant index; anti-smuggling index (General); criminal, immoral, narcotic, racketeer and subversive indices; and suspect third party index -- all relate to same general categories of individuals as follows:
   (a) Aliens lawfully admitted for permanent residence, and citizens who are in a position to know or learn of, and assist in locating aliens illegally in the United States.
   (b) Aliens lawfully admitted for permanent residence, and citizens who are former or present members of an organization subversive in nature, whether foreign or domestic, and are willing to appear as government witnesses to testify as to their knowledge of an individual's membership therein, or as to the nature, aims and purpose of the organization, or as to the identification, publication, distribution and authenticity of the literature of such organization, or are in possession of information relative to such organization or on specific individuals and are willing to cooperate with the Immigration and Naturalization Service, or who although they have not been members of subversive organizations, are in possession of information relating to such organizations or members thereof, and are willing to cooperate with the Service on a continuing basis;
   (c) Aliens lawfully admitted for permanent residence, and citizens who are known or suspected of being professional arrangers, transporters, harborers, and smugglers of aliens, who operate or conspire to operate with others to facilitate the surreptitious entry of an alien over a coastal or land border of the United States and witnesses having knowledge of such matters;
   (d) Aliens lawfully admitted for permanent residence and citizens who are known or suspected of being habitual or notorious criminals, immorals, narcotic violators or racketeers, or subversive functionaries or lleaders;
   (e) Aliens lawfully admitted for permanent residence, and citizens who are known, or are believed, to be engaged in fraud operations involving the preparation and submission of visa petitions and other applications for Service benefits, or the preparation and submission of applications for immigrant visas and/or Department of Labor certifications, or the filing of false United States birth registrations for alien children to enable parents who are immigrant visa applicants to evade the labor certification requirements or to enable such children to pose as citizens.
2. Group two -- relate to specific categories of individuals as follows:
   (a) Air detail office index system (Location: J, supra) (1) The majority of the system contains information relating to United States citizens and aliens lawfully admitted for permanent residence who are pilots and/or owners of private aircraft and who have engaged in flying between the United States and foreign countries. (2) The system also contains information of an investigative nature relative to pilots, owners, and associates, including United States citizens and aliens lawfully admitted for permanent residence, who engage in, or are suspected of being engaged in, illegal activity, such as alien smuggling or entry without inspection.
   (b) Anti-smuggling information centers for the Canadian border and Mexican border. (Location: Northern Border: F-19, supra - Southern Border: J, supra). Categories of individuals include United States citizens and aliens lawfully admitted for permanent residence who are smugglers or transporters of illegal aliens, or who are suspects in the violation of statutes relating to smuggling and transporting illegal aliens.
   (c) Border Patrol Academy index system -- (Location: G, supra). United States citizens who are: students in attendance at the Border Patrol Academy; former students who have attended the Academy; and officers attending advanced training classes at the Academy.
   (d) Border Patrol Sectors general index -- (Locations: F, supra). (1) United States citizens who are past or present employees of the Service; and (2) United States citizens and aliens lawfully admitted for permanent residence classified as law violators, witnesses, contacts, informants, members of the general public, federal, state, county and local officials.
   (e) Fraudulent Document Center index system -- (Location: J, supra). The system contains information relating to United States citizens and/or aliens lawfully admitted for permanent residence categorized as members of the general public, Notaries Public, state and local birth registration officials and employees, immigration law violators, vendors of documents, donors of documents, midwives and witnesses. Also included in the system are names and information of fictitious non-existent individuals such as may be used by counterfeiter or alterer of citizenship documents.
3. Group three --
   (a) Enforcement correspondence control index -- ((Location: A, supra -- Associate Commissioner, Enforcement). (1) Aliens lawfully admitted for permanent residence and citizens of the United States named in correspondence received, including but not necessarily limited to: a. employees and past employees; b. federal, state, and local officials; and c. members of the general public. (2) Aliens lawfully admitted for permanent residence and citizens of the United States named in documents, reports or correspondence received as individuals under investigation, or investigated in the past, or suspected of violation of the criminal or civil provisions of the statutes enforced by the Service, including Presidential Executive Orders and Proclamations relating thereto, and witnesses and informants having knowledge of violations.

I. Examinations branch indexes (Location: A, supra (duplicates are in some local offices)) Aliens lawfully admitted for permanent residence and United States citizens and individuals who are violators or suspected violators of the criminal or civil provisions of statutes enforced by the Service.

J. Extension training program enrollees (Location: A, supra) contains the names of Service employees, and other federal agency employees enrolled in extension training program courses.

K. Finance Section indexes -- (Locations: A and B, supra)

1. Individuals who are indebted to the United States Government for goods, services, or benefits or for administrative fines and assessments;

2. Employees who have received travel advances or overpayments from the United States Government, who are in arrears in their accounts, or who are liable for damage to Government property,
3. Vendors who have furnished supplies, material, equipment and services to the Government;
4. Employees, witnesses and special deportation attendants who have performed official travel; and
5. Employoees and individuals who have a valid claim against the Government.

L. Freedom of Information correspondence control index (Locations: A; B; C; D; E; F; G; H and I, supra) Individuals who request, under the Freedom of Information Act, access to, or copies of, records maintained by the Service.

M. Intelligence index -- (Location): A and B, supra) Aliens who have been lawfully admitted to the United States for permanent residence and United States citizens, who have, or who are suspected of having, violated the criminal or civil provisions of the statutes enforced by the Service.

N. Microfilmed manifest records -- (Locations: A, C-26, C-10, C-20, and C-29, supra) Aliens lawfully admitted for permanent residence to the United States and United States citizens.

O. Naturalization and citizenship indexes.

1. Naturalization and citizenship docket cards (Locations: C and E supra, except E-6, 7, 8 and 13). Aliens lawfully admitted for permanent residence and citizens of the United States, and other individuals seeking benefits under Title III of the Immigration and Nationality Act of 1952, as amendded.
2. Examiner's docket lists of petitioners for naturalization. (Locations: C and E supra, Except E- 6, 7, 8, and 13.) Petitioners for naturalization and beneficiaries
3. Master docket list of petitioners for naturalization pending one year or more. (Locations: A, B, C and E supra, Except E-6, 7, 8 and 13.) Petitioners for naturalization and beneficiaries.

P. Personnel Investigations -- (Location: A, supra) Employees, former employees, other Government agency employees designated to perform immigration functions, witnesses, informants, and certain persons having contacts with Service operations.

Q. Property issued to employees -- (Locations: A, B, C, E and F, supra). Employees of the Service who have been issued property and have in addition signed for receipt of the property on Form G-570.

R. Security system -- (Location: A supra). United States citizens and aliens lawfully admitted for permanent residence to the United States currently employed with the Service who have been cleared for access to documents and materials classified in the interest of National Security.

S. White House and Attorney General correspondence control index -- (Location: A, supra). Citizens and aliens lawfully admitted for permanent residence to the United States named in correspondence received, including, but not necessarily limited to: (a) employees and past employees of the Service; (b) federal, state and local officials; and (c) members of the general public.

T. Health Record System (Location: A, supra). Persons at Location A, supra, who need health services or who require emergency treatment.

U. Personal Data Card System (Locations: A and B, supra). Employees and former employees of the Service.

V. Compassionate Cases System. (Location: A and B-1 and 4, supra). Employees of the Service.

W. Emergency Reassignment Index (Locations: B, C, E and F). Employees of the Service.

X. Alien Documentation, Identification, and Telecommunication (ADIT) system - (Location A, supra). Aliens lawfully admitted for permanent residence, commuters and others authorized frequent border crossings, nonimmigrant persons other than transients.

Categories of records in the system

A. Agency information control record index system contains.

1. Top secret and secret material originated, received or transmitted by Service officers that has been classified as National Security information including all copies prepared from a controlled document.
2. Confidential material originated by another agency which is received by this Service including all copies prepared from a controlled document.
3. All investigative reports, responses to security checks, and material of an intelligence nature concerning individuals, organizations, movements, conditions in foreign countries, received from sources within the Department of Justice and other federal intelligence sources.

B. Alien address report index. This system contains information such as name, address, occupation, date of admission into the United States and Alien Regisstration number.

C. Alien enemy index. This system contains a microfilm index of each file opened on these individuals.

D. Automobile decal parking identification system for employees vehicles. This system contains a list by number of each DJ decal car sticker issued by the Security Division to regional employees who require car parking permission.

E. Centralized index and records relating to permanent resident aliens, and citizens of the United States (Master index). The system consists of records relating to the categories of individuals described in E-1, supra. The records contain various Service forms, applications and petitions for benefits under the immigration and nationality laws, reports of investigation, sworn statements, and reports, correspondence and memoranda.

F. Congressional mail unit. This system contains a permanent index record for each report or piece of correspondence received. Information maintained in the index of this subsystem is that which is entered on a 3' x 5' index card. The index record is solely a locator reflecting the name of the individual and the number of the file in which specific information concerning the individual is maintained.

G. Document vendors and alterers index (Service documents). This system consists of 'mug book' containing photos of alleged immigration law violators involved in the supply of fradulent documents, and data relating to the pictured violators including: name, aliases, vital statistics, method of operation, list of convictions, present location, and source material.

H. Enforcement branch.

1. Group one -- contact index; informant index; anti-smuggling index (general); criminal, immoral, narcotic, racketeer and subversive indices; and suspect third party index. These systems of records are maintained on the following.
   (a) Form G-598, 'Contact Record'.
   (b) Form G-169, 'Informant Record'.
   (c) Form G-170, 'Smuggler Information Index Card'.
   (d) Alphabetical index cards reflecting the name of the individual and the file in which specific information concerning the individual is housed. Some index cards reflect the individual's biographic data, address, etc., and may contain a brief description of the individual's activities.
2. Group two.
   (a) Air detail office index. The primary record in the system is Form I-92A, Report of Private Aircraft Arrival, which is executed by the inspecting official upon arrival of a private aircraft from foreign territory. There are also indices, forms, investigative reports, records, and correspondence relative to aircraft arrivals, failure to report for inspection, and known or suspected alien smuggling operations wherein aircraft are utilized. In addition, microfiche containing names of owners of aircraft of United States registry are maintained at this location.
   (b) Anti-smuggling information centers for the Canadian and Mexican borders. This system contains G-170, Smuggler Information Index Card, other index cards, and correspondence relating to annti-smuggling activities. Two indices of active smugglers are compiled, one for the Canadian border and the other for the Mexican border area. These indices are in loose leaf booklet form and are distributed to Border Patrol offices in the respective border areas.
   (c) Border Patrol Academy index. This system contains general information and correspondence regarding the student's academic progress in training. The information is maintained on the following forms. (1) SW 91 - Probationary Achievement Report. (2) SW 91A - Scholastic Grade Worksheets. (3) SW 91B-10 BTC Achievement Report Immigration Inspector. (4) SW 91C - 10 BTC Achievement Report Investigator. (5).SW 96 - Class Rating Form. (6) SW 128 - Training Data. (7) SW 282 - Registration Information Form. (8) 446 - Conduct and Efficiency Report of Probationary Employee 5 1/2 and 10 months exam grades.
   (d) Border Patrol sectors general index. (1) This system contains indices, forms, reports and records relating to activities of the Border Patrol. Included in the various segments of the system are the following numbered and

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titled forms: a. Form I-44 - Record of Apprehension or Seizure; b. Form I-215W - Affidavit - witness; c. Form I-263A and I-263B - Record of Sworn Statement; d. Form I-195 - Criminal Prosecution Control Card; e. Form I-263W - Records of Sworn Statement - witness; f. Form I-326 - Prosecution Reports; g. Form G-170 - Smuggler Information Index Card; h. Form G-296 - Report of Violation of Section 239, Immigration and Nationality Act; i. Form G-330 - Notice of Action Information; j. Form G-445 - Conduct and Efficiency Evaluation of Probationary Appointees; and k. Form G-598 - Contact Record. (2) This system also contains copies of correspondence and memoranda between offices of the Service and with outside agencies and individuals, as well as photographs of some violators of the immigration laws or of individuals suspected of being involved in immigration law violations. (3) The Service lookout book and booklets of indexes of active smugglers are at each location; however, these are duplicated records which are reported separately in other systems of records.

(e) Fraudulent document center index. This system contains birth certificates, baptismal certificates, and other indentification documents used by aliens to support their fraudulent claims to United States citizenship. Most of the documents are genuine, however, there are also counterfeit and altered documents in the system. Also within the system are cross indexes, investigative reports, and records of individuals involved in fraud schemes and of individuals whose documents have been put to fradulent usage. Correspondence and memoranda between the Fraudulent Document Center and other Service Offices, outside agencies and individuals are retained.

3. Group three.

(a) Enforcement correspondence control index. This system contains a semi-permanent index/record for each document, report or piece of correspondence receivedd. Information maintained in the system is that which is entered on Form G-617, 'Correspondence Control Card', and CO Form 147, 'Call-Up Index - Domestic Control'. The index record is primarily a locator reflecting the name of the individual and the file in which specific information concerning the individual is housed.

I. Examinations branch.

1. Examinations correspondence control index: contains a semi-permanent index record for each document, report or piece of correspondence received. Information maintained in the system is that which is entered on Form G-617, 'Correspondence Control Card'. The index record is primarily a locator reflecting the name of the individual and the file in which specific information concerning the individual is housed.

2. Service lookout system contains names of violators, alleged violators and suspected violators of the criminal or civil provisions of statutes enforced by the Service.

J. Extention training program enrollees. The system contains a folder for each enrollee. Each folder contains a complete record of the enrollee's test scores, correspsondence and dates of every action taken with regard to the mailing of lesson materials, receipt of tests, scoring and mailing out test results and dates certificates were completed and mailed.

K.

1. Accounts with creditors. The records consist of vendors' invoices, purchase orders, travel vouchers and claims filed by appropriation for the fiscal year from which payment is chargeable.

2. Accounts with debtors. The records consist of bills for inspection services performed under the Act of March 2, 1931 (8 U.S.C. 1353a); fees, fines, penalties and deportation expenses assessed pursuant to the Immigration and Nationality Act; and employee indebtedness for travel advances, for the unofficial use of Government facilities and services, for damage to or loss of Government property, and for the erroneous or overpayment of compensation for travel expenses.

L. Freedom of Information correspondence control index. The system contains an index record for each piece of correspondence received requesting information under the Freedom of Information Act.

M. Intelligence index. This system contains a semi-permanent index record for each document, report, bulletin or correspondence received. The index is categorized by name, violation, and activity. The index is primarily a locator reflecting the category, source of material and specific housing of information.

N. Microfilmed manifest records. Microfilmed indices, and arrival and departure manifests reflecting brief biographical data and facts of arrival or departure. The arrival records for certain ports date from 1891 and departure records date from 1900. The records are not complete; certain records were destroyed and were not microfilmed.

O.

1. Naturalization and citizenship docket cards. Docket cards consist of 3" x 5" or 5" x 8" index cards arranged alphabetically according to name of applicant, beneficiary or petitioner, indicating type of application submitted, date of receipt, file and/or petition number, and court number wherein petition for naturalization was filed. The docket cards are locators for the files in which specific information concerning the individuals is maintained.

2. Examiner's docket lists of petitioners for naturalization. Lists of petitioners for naturalization (Form N-476) are arranged chronolgically for each court exercising naturalization jurisdiction, showing petition number, petition filing date, file number, court number, name of petitioner for naturalization, name of beneficiary in whose behalf a petition is filed, proposed recommendation by the naturalization examiner and reasons for the continuance. The lists serve as locators for the files in which specific information concerning the petitioners is maintained.

3. Master docket lists of petitions for naturalization pending one year or more. Master docket lists of petitions for naturalization (Form N-476) pending for a year or more are arranged chronologically for each court exercising naturalization jurisdiction showing the petition number, petition filing date, petitioner's name, recommendation and issues and reason why petition is still pemding. The lists serve as locators for the files in which specific information concerning the petitioners is maintained.

P. Personnel investigations index. Contains two separate card index files, one for cases under active investigation, and the other for formerly active cases now closed. These cards are locator cards listing names of investigation subjects, their locations, and the allegations under investigation. Two relating sets of temporary work folders exist housing open/closed allegations of misconduct and investigative reports.

Q. Property issued to employees. The records consist of a Form G-570, 'Record-Receipt-Property Issued to Employee,' which lists property issued to an employee. The Form G-570 lists the employee's name, description of the property, serial number, date received and employee's initials, and finally date returned and supervisor's intials.

R. Security system index. The system is comprised of 3" x 5" index cards filed alphabetically which reflect levels of access clearances granted to employees of the Service and the dates when the clearances were granted.

S. White House and Attorney General correspondence control index. Contains an index record for each piece of correspondence addressed to the President and the Attorney General, with certain exceptions, which has been referred to this Service for appropriate attention. Information maintained in the system is that which is entered on Form G-617, 'Correspondence Control Card'. The index record is primarily a locator reflecting the name of the correspondent and/or the subject individual of the correspondence and the file in which specific information concerning the individual is housed.

T. Health Recordd System. The record consists of a 5" x 7" index card that lists the name, date and treatment given any person in the Health Unit.

U. Personal Data Card System. The record consists of a 3" x 5" card for each employee or former employee (G-74). The entries on the card (G-74) include name, date of birth, height, weight, sex, blood type, photograph, and color of hair and eyes.

V. Compassionate Cases System. The record consists of a 3" x 5" index card containing employee's name, position, grade, present location, date request received in Central Office, date circulated to compassionate committee, disposition, new location of employee whose request is granted; and a folder containing copy of employee's Form G-410, employee's request (memo), local and regional recommendations, doctor's statement (where applicable), record of committee action, and response to employee.

W. Emergency Reassignment Index. The record consists of 3" x 5" card (G-560) which reflects the name, age, grade, title, official station, residence, telephone number and emergency assignment activity.

X. Alien Documentation, Identification and Telecommunication (ADIT) system. The records consist of formatted data base records of personal and biographical information such as name, date of birth, picture and fingerprint coordinates, height, mother's first name, father's first name, city/town/village of birth.

Authority for maintenance of the system:

A. General, applicable to all Service index systems, includes but is not limited to: Sections 103, 265 and 290 and Title III of the Immigration and Nationality Act, hereinafter referred to as the Act (66 Stat. 163), as amended, (8 U.S.C. 1103; 8 U.S.C. 1305; 8 U.S.C. 1360), and the regulations pursuant thereto.

B. Specific, applicable to some of the indices, including but not limited to: (1) Executive Order 11652, and 28 C.F.R. 17.79 - agency control information record index, and access clearance information system. (2) 31 U.S.C. 66a - Finance branch indices. (3) Title III of the Act, as amended, (8 U.S.C. sections 1401 through 1503), and the regulations promulgated thereunder - naturalization and citizenship indices. (4) Sections 235 and 287 of the Act, as amended, (8 U.S.C. 1225; and 8 U.S.C. 1357), and the regulations promulgated pursuant thereto in personnel investigations. (5) Section 231 of the Act, as amended, (8 U.S.C. 1221) - manifest records. (6) 40 U.S.C. 483 - property management system. (7) 5 U.S.C. 4113 - extension training program. (8) 5 U.S.C. 552. The Freedom of Information Act, requires certain record keeping, this system was established and is maintained in order to enable the Service to comply with this requirement. (9) 5 U.S.C. 301 - Health Record System, Personal Data Card System, and Compassionate Cases System. (10) Executive Order 11490 - Emergency Reassignment Index.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system of records is used to serve the public by providing data for responses, when authorized, to written inquiries, complaints, and so forth. It is also used to administer the maanagement, operational, and enforcement activities of the Service. The records are used by officers and employees of the Service and the Department of Justice in the administration and enforcement of the immigration and nationality laws, and related statutes, including the processing of applications for benefits under these laws, detecting violations of these laws, and for referrals for prosecution.

A. Relevant information contained in this system of records maintained by the Service to carry out its functions may be referred, as a routine use, to clerks and judges of courts exercising naturalization jurisdiction for the purpose of filing petitions for naturalization and to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

B. Relevant information contained in this system of records maintained by the Service to carry out its functions may be referred, as a routine use, to the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Laws Act, and all other immigration and nationality laws, including treaties and reciprocal agreements.

C. Relevant information contained in this system of records maintained by the Service to carry out its functions may be provided, as a routine use, to other federal, state, and local government law enforcement and regulatory agencies, foreign governments, the Department of Defense, including all components thereof, the Department of State, the Department of the Treasury, the Central Intelligence Agency, the Selective Service System, the United States Coast Guard, the United Nations, Interpol, and individuals and organizations during the course of investigation in the processing of a matter or a proceeding within the purview of the immigration and nationality laws, to elicit information required by the Service to carry out its functions and statutory mandates.

D. In the event that this system of records maintained by the Service to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforceing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

E. In the event that this system of records maintained by the Service to carry out its functions indicates a violation or potential violation of the immigration and nationality laws, or of a general statute within Service jurisdiction, or by regulation, rule, or order issued pursuant thereto, the relevant records in this system of records may be disclosed, as a routine use, in the coursee of presenting evidence to a court, magistrate, or administrative tribunal and to opposing counsel in the course of discovery.

F. A record from this system of records may be disclosed, as a routine use, to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

G. A record from this system of records may be disclosed, as a routine use, to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision of this Service concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

H. Indication of a violation or potential violation of the laws of another nation, whether civil or criminal, may be referred to the appropriate foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforceing or implementing such laws; indication of any such violation or potential violation may also be referred to international organizations engaged in the collection and dissemination of intelligence concerning criminal activity.

I. Relevant information contained in this system of records may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: General.

Storage: Generally, information is stored manually; in some instances, in automated index systems. The actual records relating to individuals are stored in file folders at the addresses located in locations A, B, C, E, F and H, supra.

Retrievability: In general, recods are indexed alphabetically by name and/or 'A' file number or petition and court number, some include date and port of entry. Access: Most systems are accessed manually. In some cases, index records may be accessed electronically from remote terminals.

Safeguards: Each system of records is safeguarded and protected in accordance with Department of Justice and Service rules and procedures.

Retention and disposal:

a. The period of retention for alien registration records is 100 years from the closing date or date of last action.

b. Materials retained in correspondence portion of subject files are normally retained no longer than two years and are then either microfilmed or destroyed by burning.

c. Materials retained in policy portions of subject files are retained indefinitely.

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d. Indexes and records not enumerated above are generally retained only so long as they serve a useful purpose.

e. Microfilmed manifest records are retained permanently.

f. Freedom of Information Act index cards and materials kept in the correspondence portion of files are retained for one year; the disposal is by burning, shredding or pulverizing.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Exceptions to the general practices above:

Storage:

a. Air detail office index systems. Forms I-92 are filed in rotary index machines by calendar year. Suspect files are in letter size cabinets, both are operated manually.

b. Alien address reports, I-53, are microfilmed from 1975 and subsequent. In 1973 and 1974 they are filed in cabinets in Service offices and in Federal Record Centers.

c. Alien enemy index information is maintained in the system and is on microfilm. The actual files are stored in Federal Record Centers.

d. Intelligence indices, are stored not by name, but by organization, activity or violation.

e. Some systems are stored numerically, or by subject, or by court and petition number or time sequence, as well as alphabetically.

f. Alien Documentation, Identification and Telecommunication (ADIT) system information is stored on magnetic tape and disk. Original forms completed by the individuals to whom the records pertain are filed with other records in subsystem E, 'Centralized index and records.'

Retrievability: Aircraft data is filed in numerical sequence (air detail office index system).

Retention and disposal:

a. Access clearance index is maintained on a current basis. Cards forms completed by the the index are destroyed upon the resignation, death or retirement of the employee.

b. Air detail office index, Form I-92A, forms information is retained for 5 years.

c. Border Patrol examination papers are destroyed 6 months after the trainee officer completes his probationary year.

d. Finance indices: Accounts with creditors and debtors are retained by the Service for 2 years from the close of the fiscal year to which they relate and are then transferred to the Federal Record Centers pending their ultimate disposition. The records are disposed of in accordance with General Service Administration regulations.

e. Intelligence indices: Intelligence bulletins are retained indeffinitely.

f. Index Form G-617 is maintained for three years, then destroyed. However, in the White House and Attorney General Correspondence Indexes, form G-617 information is retained through the administration of each President and one year beyond.

g. Index Form CO - 147 is maintained until the subject matter is finally acted upon and is then destroyed.

h. Personnel investigations are generally destroyed in June of the year following the one year anniversary of the close of the investigation. Operation Clean Sweep cases are being retained as a package until the program is terminated. Criminal matters of unusual sensitivity are retained as long as there is a useful need.

i. Health Unit records: The records are retained for a period of 6 years after the date of the last entry therein. The records are disposed of by burning, shredding, macerating or pulverizing.

j. Indexes relating to law violators and witnesses are retained for 3 years and then destroyed. General correspondence is retained for no longer than 2 years. Investigative matters of a routine nature may be disposed of when the investigation is closed. Information on present and past employees is retained only as long as such information serves a useful purpose.

k. Naturalization examiners docket lists and master docket lists of petitioners for naturalization are retained for two years, disposal is by tearing, shredding, pulverizing, or burning. Naturalization and citizenship docket cards are purged after applications are rejected, closed, petitions non-filed, applications granted or denied, or petitions for naturalization granted, or denied, the disposal is by tearing the cards.

l. Personal Data Card System: The record is retained for a period of 3 years after an employee is separated and then destroyed (Location: A, supra). The record is ratined until an employee is separated and then destroyed (Location: B, supra). The records are disposed of by burning, shredding, macerating or pulverizing (Locations: A and B, supra).

m. Compassionate Cases System: The records are retained for 3 years and then destroyed. The records are disposed of by burning, shredding, macerating or pulverizing.

n. Emergency Reassignment Index: The records are retained on a current basis and are destroyed upon the transfer, separation, retirement or death of the employee. The records are destroyed by burning.

o. Alien Documentation, Identification and Telecommunication (ADIT) system records are maintained until naturalization, death or other material change in status of the individual, or until the registration card is relinquished.

System manager(s) and address:

A. The system manager, service-wide is the Associate Commissioner, Management (Location: A supra)

B. The Associate Commissioner, Management is the sole manager of the following systems:

1. Agency information control record index;
2. Alien address report (I-53);
3. Alien enemy index;
4. Centralized index (Master index);
5. Congressional mail unit index;
6. Document veendors and alterers;
7. Enforcement correspondence control index;
8. Examinations correspondence control index;
9. Finance unit indexes;
10. Freedom of Information Act correspondence control index;
11. Intelligence indexes;
12. Microfilmed manifest records;
13. Property issued to employees;
14. Access clearance information system; and
15. White House and Attorney General correspondence control index.
16. Health Record System.
17. Alien Documentation, Identification and Telecommunication (ADIT) system.

C. The following official for Service personnel investigations: Director, Internal Investigations (Location: A supra).

D. The following officials (for inquiry for special need) by category:

1. Alien address reports for portion of system maintained: (a) Associate Commissioner, Management; (b) District Directors (Locations: C supra); and/or (c) Officers in Charge - (Locations: - E supra).
2. Investigation units indices for: Contact index; enforcement index; anti-smuggling index (general); criminal, immoral, narcotic, racketeer and subversive indices; and suspect third party index, the managers are the ranking Service officer, of the Service offices in which such indices are maintained - (Location: A, B, C and E supra).
3. Border Patrol unit indices. (a) Air detail office index: Deputy Director (Location: J, supra). (b) Anti-smuggling information center: (1) Canadian Border: Chief Patrol Agent (Location: F-19 supra); and (2) Mexican Border: Deputy Director (Location: J, supra). (c) Fraudulent Document Center: Deputy Director (Location: J, supra). (d) Border Patrol Academy: Chief Patrol Agent (Location: G supra). (e) Border Patrol sector general indices: Chief Patrol Agent (Location: F-1 thru 21 supra).
4. Assistant Regional Commissioner, Security (Location: B-4 supra) For automobile decal identification system.
5. Chief, Employee Development Branch, Office of Assistant Commissioner, Personnel (Location: A supra) for extension training program enrollee file.
6. Naturalization and Citizenship indexes. (a) Naturalization and citizenship docket cards: District Directors and Officers in Charge (Locations: C and E supra, except E-6, 7, 8 and 13). (b) Docket lists of Petitioners for Naturalization Form N-476: District Directors and Officers in Charge (Locations: C and E supra, except E-6 and 8). (c) Docket lists of petitions pending at least one year (Form N-476): The Associate Commissioner Mgt. (Location: A supra), Regional Commissioners (Location: B supra), District Directors and OIC's (Locations: C and E supra, except E-6, 7, 8 and 13).
7. Personal Data Card System: Associate Commissioner, Management (Location: A, supra); Regional Commissioners (Location: B, supra).
8. Compassionate Cases System: Associate Commissioner, Management (Location: A, supra); Regional Commissioners (Locations: B-1 and 4, supra).

9. Emergency Reassignment Index: Regional Commissioners (Location: Be supra); District Directors (Location: C, supra); Officers in charge (Location: E, supra); and Chief patrol agents (Location: F, supra).

Notification procedure:

A. Address inquiries to the respective systems managers listed in System Manager supra, except Finance unit inquiries shall be addressed to the office of the Service at which the individual did business (for locations see Location supra) and Freedom of Information Act inquiries shall be addressed to the office of the Service nearest the requestor's place of residence, or if known, the office of the Service where the requestor knows his record is located.

B. Systems totally exempt from disclosure pursuant to 5 U.S.C. 552a (j) and (k).

1. Agency information control index system.
2. Anti-smuggling index (general).
3. Anti-smuggling information centers system for Canadian and Mexican Borders.
4. Contact index.
5. Criminal, immoral, narcotic, racketeer and subversive indexes.
6. Document vendors and alterers index.
7. Informant index.
8. Intelligence indexes.
9. Service look out system.
10. Suspect third party index.
11. Emergency Reassignment Index.

Record access procedures: In all cases, requests for access to a record from any record subsystem shall be in writing or in person; if request for access is made in writing, the envelope and letter shall be clearly marked 'Privacy Access Request'. The requester must include a description of the general subject matter and, if known, the relating numerical identifier. The request must also include sufficient data to identify a relating record, such as the individual's full name, date and place of birth, and if appropriate, the date and place of entry into the United States, or departure from the United States. The requester shall also provide a return address for transmitting the information. Most of the systems contain records which the Attorney General has exempted from disclosure pursuant to 5 U.S.C. 552a (j) and (k) and records which are classified pursuant to Executive order. The requester will be accorded access to the records relating to himself only to the extent that such records are not within the scope of exemptions and are not classified.

Contesting record procedures: Any individual desiring to contest or amend information maintained in the system should direct his request to the office of this Service nearest his residence, or in which he believes a record concerning him may exist, (see Notification, supra), stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

Record source categories: The basic information contained in these records is supplied by the individual on Department of State and Service applications and reports; inquiries and/or complaints from members of the general public, members of the Congress; referrals of inquiries and/or complaints directed to the White House or to the Attorney General by members of the general public; Service reports of investigation, sworn statements, correspondence and memoranda; official reports, memoranda and written referrals fromm other government agencies, including Federal, state and local; from the various courts and regulatory agencies; and infromation from foreign government agencies and international organizations.

The source of the data in the Freedom of Information Act correspondence control index is those individuals who seek information under that Act.

The information contained in the Emergency Reassignment Index is supplied by the individual and the Associate Commissioner, Management.

Nearly all the systems contain information received from sources which are exempted from disclosure pursuant to 5 U.S.C. 552a (j) and (k).

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H) and (I), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/WSPF - 001

System name: Watergate Special Prosecution Force Investigative and Prosecutory Files - WSPF 1.

System location: Watergate Special Prosecution Force; U.S. Department of Justice; 1425 K Street, N.W.; Washington, D.C. 20005. No plans have been formalized for the location of these records after the dissolution of the Watergate Special Prosecution Force.

Categories of individuals covered by the system: Persons referred to in potential or actual cases and matters of concern to the Watergate Special Prosecution Force and correspondents on subjects directed or referred to the Watergate Special Prosecution Force.

Categories of records in the system: The system consists of alphabetical indices bearing individual names and the associated records to which they relate arranged by subject matter or containing the general and particular records of all WSPF correspondence, cases, matters and memoranda, including, but not limited to, testimony, investigative reports, correspondence to and from the Watergate Special Prosecutor's Office, memoranda, legal paper, evidence and exhibits. The system also includes all items classified in the interest of national security as confidential, secret and top secret received and maintained by the Watergate Special Prosecutor's Office.

Authority for maintenance of the system: This system is established and maintained to implement the provisions codified in 28 C.F.R. 0.38 and Appendix.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated to the appropriate federal, state, local, or foreign court or grand jury in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other

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benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions or crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 C.F.R. 17.60; (14) a record relating to a case or matter may be included in public reports of the Special Prosecutor pursuant to the regulations of the Department of Justice; see 28 C.F.R. 0.38 and Appendix.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information contained in this system is stored manually on index cards and in file jackets.

Retrievability: Information is retrieved from index cards by the name of the individual and from the file jackets by a number assigned and appearing on the index cards.

Safeguards: Information is safeguarded and protected in accordance with applicable WSPF rules.

Retention and disposal: There are no provisions for disposal of the records in the system.

System manager(s) and address: Watergate Special Prosecutor; U.S. Department of Justice; 1425 K Street, N.W.; Washington, D.C. 20005.

Notification procedure: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). Address any inquiries to the System Manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number which may be of assistance in locating the record, the name of the case or matter involved, if known, the name of the judicial district involved, if known, and any other information which may be of assistance in locating the record. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Department offices and employees and other federal, state, local, and foreign law enforcement agencies, private persons, witnesses, and informants.

Systems exempted from certain provisions of the act: The Attorey General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H) and (I), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(1) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/WSPF - 002

System name: Watergate Special Prosecution Force Automated Investigation Files - WSPF 2.

System location: Watergate Special Prosecution Force; U.S. Department of Justice; 1425 K Street, N.W.; Washington, D.C. 20005. No plans have been formalized for the location of these records after the dissolution of the Watergate Special Prosecution Force.

Categories of individuals covered by the system: Persons referred to in potential or actual cases and matters of concern to the Watergate Special Prosecutor's Office.

Categories of records in the system: The system consists of computer records which may be retrieved by the names of individuals contained in the record. The computer records are derived from material in the WSPF Investigative and Prosecutory Files including, but not limited to, investigative reports, correspondence to and from the Special Prosecutor's Office, testimony, memoranda, legal papers, evidence and exhibits.

Authority for maintenance of the system: This system is established and maintained to implement the provisions codified in 28 C.F.R. 0.38 and Appendix.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated to the appropriate federal, state, local, or foreign court or grand jury in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information

relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions or crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 C.F.R. 17.60; (14) a record relating to a case or matter may be included in public reports of the Special Prosecutor pursuant to the regulations of the Department of Justice; see 28 C.F.R. 0.38 and Appendix.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific infrmation in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information contained in this system is stored on magnetic tape.

Retrievability: Information may be retrieved from the computer files by the name of the individual.

Safeguards: Information is safeguarded and protected in accordance with the applicable WSPF rules.

Retention and disposal: There are no provisions for disposal of the records in the system.

System manager(s) and address: Watergate Special Prosecutor; U.S. Department of Justice; 1425 K Street, N.W.; Washington, D.C. 20005.

Notification procedure: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). Address any inquiries to the System Manager listed above.

Record access procedures: The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number which may be of assistance in locating the record, the name of the case or matter involved, if known, the name of the judicial district involved, if known, and any other information which may be of assistance in locating the record. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Department offices and employees and other federal, state, local, and foreign law enforcement agencies, private persons, witnesses, and informants.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H) and (I), (e)(5), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(1), (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/WSPF - 003

System name: Watergate Special Prosecution Force Travel File - WSPF 3.

System location: Watergate Special Prosecution Force; U.S. Department of Justice; 1425 K Street, N.W.; Washington, D.C. 20005. The Special Prosecution Force has not yet determined the repository for its records upon the termination of the Office.

Categories of individuals covered by the system: Persons who are retained by the Watergate Special Prosecution Force as staff, consultants or experts.

Categories of records in the system: The system consists of alphabetical files bearing individual names containing travel vouchers - SF 1012, official travel request and authorization - DJ 10, and request for travel advance - SF 1038.

Authority for maintenance of the system: Department of Justice Travel Regulations OBD 2200.1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: There are no routine uses of the travel files other than distribution to officers and employees of the Department of Justice who have a need for the record in the performance of their duties.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information contained in this system is stored manually in file jackets.

Retrievability: Information is retrieved by the name of the individual on file jackets.

Safeguards: Information is safeguarded and protected in accordance with applicable WSPF rules.

Retention and disposal: There are no provisions for disposal of the records in the system.

System manager(s) and address: Watergate Special Prosecutor; U.S. Department of Justice; 1425 K Street, N.W.; Washington, D.C. 20005.

Notification procedure: Address any inquiries to the System Manager listed above.

Record access procedures: A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number which may be of assistance in locating the record, and any other information which may be of assistance in locating the record. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to e information sought.

Record source categories: Department offices and employees, experts and consultants.

Systems exempted from certain provisions of the act: None.

JUSTICE/FBI - 001

System name: National Crime Information Center (NCIC).

System location: Federal Bureau of Investigation; 9th and Pennsylvania Avenue, N.W.; Washington, D.C. 20535.

Categories of individuals covered by the system:

A. Wanted Persons

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1. Individuals for whom Federal warrants are outstanding.
2. Individuals who have committed or have been identified with an offense which is classified as a felony or serious misdemeanor under the existing penal statutes of the jurisdiction originating the entry and felony or misdemeanor warrant has been issued for the individual with respect to the offense which was the basis of the entry. Probation and parole violators meeting the foregoing criteria.
3. A 'Temporary Felony Want' may be entered when a law enforcement agency has need to take prompt action to establish a 'want' entry for the apprehension of a person who has committed, or the officer has reasonable grounds to believe has committed, a felony and who may seek refuge by fleeing across jurisdictional boundaries and circumstances preclude the immediate procurement of a felony warrant. A 'Temporary Felony Want' shall be specifically identified as such and subject to verification and support by a proper warrant within 48 hours following the initial entry of a temporary want. The agency originating the 'Temporary Felony Want' shall be responsible for subsequent verification or re-entry of a permanent want.

B. Individuals who have been charged with serious and/or significant offenses.

C. Missing Persons.
1. A person of any age who is missing and who is under proven physical/mental disability or is senile, thereby subjecting himself or others to personal and immediate danger.
2. A person of any age who is missing under circumstances indicating that his disappearance was not voluntary.
3. A person of any age who is missing and in the company of another person under circumstances indicating that his physical safety is in danger.
4. A person who is missing and declared unemancipated as defined by the laws of his state of residence and does not meet any of the entry criteria set forth in 1, 2, or 3 above.

Categories of records in the system:

A. Stolen Vehicle File
1. Stolen vehicles
2. Vehicles wanted in conjunction with felonies or serious misdemeanors
3. Stolen vehicle parts, including certificates of origin or title.

B. Stolen License Plate File
1. Stolen or missing license plates.

C. Stolen/Missing Gun File
1. Stolen or missing guns.
2. Recovered gun, ownership of which has not been established.

D. Stolen Article File

E. Wanted Person File
Described in 'Categories of individuals covered by the system: A. Wanted Persons'

F. Securities File
1. Serially numbered stolen, embezzled, counterfeited, missing securities.
2. 'Securities' for present purposes of this file are currency (e.g. bills, bank notes) and those documents or certificates which generally are considered to be evidence of debt (e.g. bonds, debentures, notes) or ownership of property (e.g. common stock, preferred stock), and documents which represent subscription rights (e.g. rights, warrants) and which are of those types traded in the securities exchanges in the United States, except for commodities futures. Also included are warehouse receipts, travelers checks and money orders.

G. Boat File

H. Computerized Criminal History File
A cooperative Federal-State program for the interstate exchange of criminal history record information for the purpose of facilitating the interstate exchange of such information among criminal justice agencies.

I. Missing Person File
Described in 'Categories of individuals covered by the system: C. Missing Persons'

Authority for maintenance of the system: The system is established and maintained in accordance with Title 28, United States Code, Section 534 and Title 28 - Judicial Administration, Chapter I - Department of Justice (Order No. 601-75) Part 20 - Criminal Justice Information Systems.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Data in NCIC files is exchanged with and for the official use of authorized officials of the Federal Government, the states, cities, and penal and other institutions in accordance with Title 28, U.S. Code, Section 534. The data is exchanged through NCIC terminals under the control of criminal justice agencies in the 50 states, FBI Field Offices, and other Federal law enforcement agencies. Dissemination of criminal history record information is set forth in Title 28 - Judicial Administration, Chapter I - Department of Justice (Order No. 601-75) Part 20 - Criminal Justice Information Systems, Subpart C, Section 20.33.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the NCIC system is stored electronically for use in a computer environment.

Retrievability: On-line access to data in NCIC is achieved by using the following search descriptors. 1. Vehicle File: a) Vehicle identification number; b) License plate number; c) NCIC number (unique number assigned by the NCIC computer to each NCIC record).

2. License Plate File: a) License plate number; b) NCIC number.

3. Gun File: a) Serial number of gun; b) NCIC number.

4. Article File: a) Serial number of article; b) NCIC number.

5. Wanted Person File: a) Name and one of the following numerical identifiers: date of birth, FBI number (number assigned by the Federal Bureau of Investigation to an arrst fingerprint record), Social Security number (It is noted the requirements of the Privacy Act with regard to the solicitation of Social Security numbers have been brought to the attention of the members of the NCIC system.), Operator's license number (driver's license number), Miscellaneous identifying number (military number or number assigned by Federal, state, or local authorities to an individual's record, Originating agency case number; b) Vehicle or license plate known to be in the possession of the wanted person; c) NCIC number (unique number assigned to each NCIC record).

6. Securities File: a) Type, serial number, denomination of security; b) Type of security and name of owner of security; c) Social Security number of owner of security; d) NCIC number.

7. Boat File: a) Registration document number; b) Hull serial number; c) NCIC number.

8. Computerized Criminal History File: a) Name, sex, race, and date of birth; b) FBI number; c) State identification number; d) Social Security Number; e) Miscellaneous number.

9. Missing Person File-SAME AS WANTED PERSON FILE.

Safeguards: Data stored in the NCIC is documented criminal justice agency information and access to that data is restricted to duly authorized criminal justice agencies. The following security measures are the minimum to be adopted by all criminal justice agencies having access to the NCIC Computerized Criminal History File. These measures are designed to prevent unauthorized access to the system data and/or unauthorized use of data obtained from the computerized file.

1. Computer Centers
   a. The criminal justice agency computer site must have adequate physical security to protect against any unauthorized personnel gaining access to the computer equipment or to any of the stored data.
   b. Since personnel at these computer centers can access data stored in the system, they must be screened thoroughly under the authority and supervision of an NCIC control terminal agency. (This authority and supervision may be delegated to responsible criminal justice agency personnel in the case of a satellite computer center being serviced through a state control terminal agency.) This screening will also apply to non-criminal justice maintenance or technical personnel.
   c. All visitors to these computer centers must be accompanied by staff personnel at all times.
   d. Computers having access to the NCIC must have the proper computer instructions written and other built-in controls to prevent criminal history data from being accessible to any terminals other than authorized terminals.
   e. Computers having access to the NCIC must maintain a record of all transactions against the criminal history file in the same manner the NCIC computer logs all transactions. The NCIC identifies each specific agency entering or receiving information and maintains a record of those transactions. This transaction record must be monitored and reviewed on a regular basis to detect anny possible misuse of criminal history data.
   f. Each state control terminal shall build its data system around a central computer, through which each inquiry must pass for screening and verification. The configuration and operation of the center shall provide for the integrity of the data base.
2. Communications
   a. Lines/channels being used to transmit criminal history information must be dedicated solely to criminal justice use, i.e., there must be no terminals belonging to agencies outside the criminal justice system sharing these lines/channels.
   b. Physical security of the lines/channels must be protected to guard against clandestine devices being utilized to intercept or inject system traffic.
3. Terminal Devices Having Access to NCIC
   a. All agencies having terminals on the system must be required to physically place these terminals in secure locations within the authorized agency.
   b. The agencies having terminals with access to criminal history must have terminal operators screened and restrict access to the terminal to a minimum number of authorized employees.
   c. Copies of criminal history data obtained from terminal devices must be afforded security to prevent any unauthorized access to or use of that data.
   d. All remote terminals on NCIC Computerized Criminal History will maintain a hard copy of computerized criminal history inquiries with notations of individual making request for record (90 days).

Retention and disposal: Unless otherwise removed, records will be retained in file as follows:

1. Vehicle File
   a. Unrecovered stolen vehicle records (including snowmobile records) which do not contain vehicle identification numbers (VIN) therein, will be purged from file 90 days after the end of the license plate's expiration year as shown in the record. Unrecovered stolen vehicle records (including snowmobile records) which contain VIN's, will remain in file for the year of entry plus 4.
   b. Unrecovered vehicles wanted in conjunction with a felony will remain in file for 90 days after entry. In the event a longer retention period is desired, the vehicle must be re-entered.
   c. Unrecovered stolen VIN plates, certificates of origin or title, and serially numbered stolen vehicle engines or transmissions will remain in file for the year of entry plus 4.
2. License Plate File
   Unrecovered stolen license plates not associated with a vehicle will remain in file for one year after the end of the plate's expiration year as shown in the record.
3. Gun File
   a. Unrecovered weapons will be retained in file for an indefinite period until action is taken by the originating agency to clear the record.
   b. Weapons entered in file as 'recovered' weapons will remain in file for the balance of the year entered plus 2.
4. Article File
   Unrecovered stolen articles will be retained for the balance of the year entered plus one year.
5. Wanted Person File
   Persons not located will remain in file indefinitely until action is taken by the originating agency to clear the reecord (except 'Temporary Felony Wants', which will be automatically removed from file after 48 hours).
6. Securities File
   Unrecovered, stolen, embezzled, counterfeited or missing securities will be retained for the balance of the year entered plus 4, except for travelers checks and money orders which will be retained for the balance of the year entered plus 2.
7. Boat File
   Unrecovered stolen boats will be retained in file for the balance of the year entered plus 4.
8. Missing Person File
   Will remain in the file until the individual is located or, in the case of unemancipated persons, the individual reaches the age of emancipation as defined by laws of his state.
9. Computerized Criminal History File
   When an individual reaches age of 80.

System manager(s) and address: Director, Federal Bureau of Investigation; J. Edgar Hoover F.B.I. Building; 9th and Pennsylvania Avenue, N.W.; Washington, D.C. 20535.

Notification procedure: Same as the above.

Record access procedures:

It is noted the Attorney General is exempting this system from the access and contest procedures of the Privacy Act. However, the following alternative procedures are available to a requester. The procedures by which an individual may obtain a copy of his Computerized Criminal History are as follows:

If an individual has a criminal record supported by fingerprints and that record has been entered in the NCIC CCH File, it is available to that individual for review, upon presentation of appropriate identification, and in accordance with applicable state and Federal administrative and statutory regulations.

Appropriate identification includes being fingerprinted for the purpose of insuring that he is the individual that he purports to be. The record on file will then be verified as his through comparison of fingerprints.

Procedure. 1. All requests for review must be made by the subject of his record through a law enforcement agency which has access to the NCIC CCH File. That agency within statutory or regulatory limits can require additional identification to assist in securing a positive identification.

2. If the cooperating law enforcement agency can make an identification with fingerprints previously taken which are on file locally and if the FBI identification number of the individual's record is available to that agency, it can make an on-line inquiry of NCIC to obtain his record on-line or, if it does not have suitable equipment to obtain an on-line response, obtain the record from Washington, D.C., by mail. The individual will then be afforded the opportunity to see that record.

3. Should the cooperating law enforcement agency not have the individual's fingerprints on file locally, it is necessary for that agency to relate his prints to an existing record by having his identification prints compared with those already on file in the FBI or, possibly, in the State's central identification agency.

Contesting record procedures: The subject of the requested record shall request the appropriate arresting agency, court, or correctional agency to initiate action neccessary to correct any stated inaccuracy in his record or provide the information needed to make the record complete.

Record source categories: Information contained in the NCIC system is obtained from local, state, Federal and international criminal justice agencies.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(8), (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/FBI - 002

System name: The 'FBI Central Records System' containing investigative, personnel, administrative, applicant, and general files.

System location: a. Federal Bureau of Investigation, J. Edgar Hoover FBI Building, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535; b. 59 field divisions (see Appendix); c. 14 Legal Attaches (see Appendix).

Categories of individuals covered by the system:

a. Individuals who relate in any manner to official FBI investigations including, but not limited to suspects, victims, witnesses, and close relatives and associates that are relevant to an investigation.

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b. Applicants for and current and former personnel of the FBI and persons related thereto that are considered relevant to an applicant investigation, personnel inquiry, or persons related to personnel matters.

c. Applicants for and appointees to sensitive positions in the United States Government and persons related thereto that are considered relevant to the investigation.

d. Individuals who are the subject of unsolicited information, who offer unsolicited information, request assistance, and make inquiries concerning record material, including general correspondence, contacts with other agencies, businesses, institutions, clubs, the public and the news media.

e. Individuals, associated with administrative operations or services including pertinent functions, contractors and pertinent persons related thereto.

Categories of records in the system:

The FBI Central Records System - The FBI utilizes a 'central records system' of maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in file. Files kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

Files kept in FBI Field Offices - Field offices maintain certain records that are not contained at FBIHQ that include files, index cards, and related material pertaining to cases in which there was no prosecutive action undertaken; perpetrators of violations not developed during investigation; or investigation revealed allegations were unsubstantiated or not within the investigative jurisdiction of the Bureau. These investigations closed in field offices and correspondence not forwarded to FBI Headquarters. Duplicate records and records which extract information reported in the main files are also kept in the various divisions of the FBI to assist them in their day-to-day operation. Some of the information contained in the main files has also been extracted and placed on computer to enable various divisions to retrieve information more rapidly by avoiding the need for a manual search for information maintained in the main files. Also, personnel type information dealing with such matters as attendance and production and accuracy requirements is maintained by some divisions.

Authority for maintenance of the system: Federal Records Act of 1950, The Constitution of the United States, various provisions of U.S. Code, Executive Orders and Presidential directives.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records contained in this system are utilized by the FBI in support of its mission to conduct investigations within its jurisdiction and for various administrative purposes. Information from these files is disseminated to appropriate Federal, state, local, and foreign agencies where the right and need to have access to this information exists -- For example, to assist in the general crime prevention and detection efforts of the recipient agency. Information is also disseminated to these agencies and to individuals and organizations, where such dissemination is necessary to elicit information from such agencies and individuals. Information from this system is also disseminated during appropriate legal proceedings. For example, witness interviews are made available to defendants pursuant to the Jencks Act during Federal criminal trials. In the event that a system of records maintained by this agency to carry out its functions indicated a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. For example, in discharging its obligations under Executive Order 10450, this agency would disseminate record information as a direct result of a name check request submitted by another government agency. A record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him/her in the institution or mainteenance of a suit brought under such title. Background and descriptive information on Federal fugitives is disseminated to the general public and the news media in an effort to bring about the apprehension of these wanted individuals. News releases are also disseminated to the public and the news media concerning apprehensions of FBI fugitives and other notable accomplishments. Additionally, public source information is distributed on a continuing basis, upon request, to the general public and representatives of the media.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files are maintained in hardcopy form, computer tape, and microfilm.

Retrievability: The FBI General Index must be searched to determine what information, if any, the FBI may have in its files. The index cards are on all manner of subject matters, but primarily a name index of individuals. It should be noted the FBI does not index all individuals that furnish information or names developed in an investigation. Only that information that is considered pertinent and relevant and essential for future retrieval, is indexed. In certain major cases most persons contacted are indexed in order to facilitate the proper administrative handling of a large volume of material. The FBI is in the process of automating its 'Central Records System' and, therefore, the retrieval of certain data will be accomplished by utilizing certain computer peripheral equipment such as CRT (Cathode Ray Tube) video screens, and printers. This will basically involve certain personnel information, general index information, and the abstracting system. Automation in no way changes the 'Central Records System'; it only facilitates access more effectively and efficiently.

Safeguards: Records are maintained in a restricted area and are accessed only by FBI employees. All FBI employees receive a complete background investigation prior to being hired. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a 10,000 dollar fine or 10 years' imprisonment or both. Employees that resign or etire are also cautioned about divulging information acquired in the job.

Retention and disposal: The Bureau, by its investigative mandate, collects and maintains information from a wide variety of sources. The records support the Bureau's investigative and administrative needs and its obligation to act as a clearinghouse under Executive Order 10450 regarding the security of Government employees. An active destruction program includes microfilming of certain files over 10 years old and researching files. to determine whether they contain sufficient historical, research, investigative, or intelligence value to warrant their retention. The Code of Federal Regulations, Title 41, and Title 44 of the U.S. Code set forth Records Management procedures to be followed by government agencies in relation to their records. All agencies are required to retain any material made or received during the course of public business which has been preserved or is appropriate for preservation. Accordingly, disposition of record material must be in accordance with established regulations. Subsequent destruction is accomplished

through authority granted by National Archives and Records Service, GSA, utilizing either the General Records Schedules or a specific request for record destruction which is approved by the Archivist. Records are also destroyed or returned to source as a result of Court Order. Subsequent to 1/27/75, a Congressional moratorium on all destruction, and a later decision rendered on further retention of security and intelligence material, has substantially reduced the tangible effects of the destruction program.

System manager(s) and address: Director; Federal Bureau of Investigation; Washington, D.C. 20535.

Notification procedure: Same as above.

Record access procedures: A request for access to a record from the system shall be made in writing with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request your full name, complete address, date of birth, place of birth, notorized signature, and other identifying data you may wish to furnish to assist in making a proper search of our records. Also include the general subject matter of the document or its file number. The requester will also provide a return address for transmitting the information. Access requests will be directed to the Director, Federal Bureau of Investigation, Washington, D.C. 20535.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should also direct their request to the Director, Federal Bureau of Investigation, Washington, D.C. 20535, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The FBI, by the very nature and requirement to investigate violations of law within its investigative jurisdiction and its responsibility for the internal security of the United States, collects information from a wide variety of sources. Basically it is the result of investigative efforts and information furnished by other Government agencies, law enforcement agencies, and the general public, informants, witnesses, and public source material.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/FBI - 003

System name: Bureau Mailing List.

System location: External Affairs Division, FBI; 9th and Penna, N.W.; Washington, D.C. 20535.

Categories of individuals covered by the system: Individuals who have requested receipt of published Bureau material and who meet established criteria (basically law enforcement or closely related areas).

Categories of records in the system: Name, address and business affiliation, if appropriate.

Authority for maintenance of the system: Title 5, U.S. Code, Section 301 and Title 44, U.S. Code Section 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For mailing of FBI material published on a regular basis.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computerized and 3X5 index card.

Retrievability: ID number in computer, alphabetically for card index.

Safeguards: Computer records maintained by Administrative Services Division, system operated by FBI personnel

Retention and disposal: Revised on a monthly basis.

System manager(s) and address: Director, FBI, Washington, D.C. 20535

Notification procedure: Director, FBI, Washington, D.C. 20535

Record access procedures: Inquiry directed to Director, FBI, Washington, D.C. 20535

Contesting record procedures: Same as the above.

Record source categories: Individual requests for FBI material or official recommendation, from individuals associated with law enforcement.

Systems exempted from certain provisions of the act: None.

JUSTICE/FBI - 004

System name: Routine Correspondence Handled By Preprinted Form.

System location: External Affairs Division; FBI; 9th and Penna, N.W.; Washington, D.C. 20535.

Categories of individuals covered by the system: Routine correspondence from citizens not requiring a dictated response.

Categories of records in the system: Original correspondence and 3x5 index card.

Authority for maintenance of the system: Title 5, U.S. Code, Section 301 and Title 44, U.S. Code, Section 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Internal reference use of record of such correspondence.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filing of original correspondence plus 3x5 index card.

Retrievability: Correspondence alphabetically and chronologically; index card alphabetically.

Safeguards: Maintained by FBI personnel; locked file cabinets during nonduty hours.

Retention and disposal: Original correspondence retained 90 days and destroyed; 3x5 index cards maintained one years and destroyed.

System manager(s) and address: Director, FBI, Washington, D.C. 20535

Notification procedure: Director, FBI, Washington, D.C. 20535

Record access procedures: Inquiry directed to Director, FBI, Washington, D.C. 20535

Contesting record procedures: Same as the above.

Record source categories: Incoming citizen correspondence.

Systems exempted from certain provisions of the act: None.

JUSTICE/FBI - 005

System name: Routine Correspondence Prepared Without File Yellow.

System location: External Affairs Division; FBI; 9th and Penna, N.W.; Washington, D.C. 20535.

Categories of individuals covered by the system: Routine requests received via correspondence from citizens.

Categories of records in the system: Tickler copy of routine response plus original citizen's letter.

Authority for maintenance of the system: Title 5 U.S. Code, Section 301 and Title 44, U.S. Code, Section 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Temporary record of

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routine inquiries without substantive, historical or record value for which no record is to be made in central FBI files.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Onionskin copy of outgoing correspondence.

Retrievability: Alphabetically and chronologically filed.

Safeguards: Maintained by FBI personnel; locked file cabinets during nonduty hours.

Retention and disposal: Retained 90 days, destroyed through confidential trash disposal.

System manager(s) and address: Director, FBI, Washington, D.C. 20535

Notification procedure: Director, FBI, Washington, D.C. 20535.

Record access procedures: Inquiry directed to Director, FBI, Washington, D.C. 20535

Contesting record procedures: Same as the above.

Record source categories: Incoming citizen correspondence.

Systems exempted from certain provisions of the act: None.

JUSTICE/FBI - 006

System name: Electronic Surveillance (Elsur) Indices.

System location: FBI Headquarters; Washington, D.C. 20535.

Categories of individuals covered by the system: Individuals who have been the targets of direct electronic surveillance coverage by the FBI, who have participated in conversations monitored by an FBI electronic installation, or who have owned, leased, or licensed premises on which the FBI has conducted an electronic surveillance.

Categories of records in the system: The Elsur Indices are maintained on 3' x 5' cards, which set forth the name of each person monitored by the FBI since January 1, 1960, a source number to identify the individual on whom the surveillance was installed, the date the conversation occurred, and the location of the field office which conducted the monitoring.

Authority for maintenance of the system: The Elsur Indices were initiated in October, 1966, at the instructions of the Department of Justice, which also established the cutoff date of January 1, 1960. The authority for the maintenance of these records is Title 5, Section 301, USC, which grants the Attorney General the authority to issue rules and regulations prescribing how Department of Justice information can be employed. Title 18, USC, Section 2519, also sets forth recordkeeping requirements.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Elsur Indices are utilized: (1) To respond to judicial inquiries about possible electronic surveillance coverage of witnesses, defendants, or attorneys involved in Federal court proceedings, and (2) To enable the Government to certify whether a person regarding whom court-order authority is being sought for electronic coverage has ever been so covered in the past. The actual users of the indices are always Agents of the FBI.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are maintained manually on 3' x 5' cards.

Retrievability: They are indexed alphabetically under the two general categories of 'Criminal' and 'Security.'

Safeguards: They are maintained in a guarded room at all times, with a special locking system for off-duty hours when they are not in use.

Retention and disposal: Until advised to the contrary by the Department, the courts, or Congress, these indices will be maintained indefinitely.

System manager(s) and address: Director, Federal Bureau of Investigation, Washington, D.C. 20535.

Notification procedure: Same as the above.

Record source categories: See Category of Individual.

Systems exempted from certain provisions of the act: The Attorney General hasxempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/FBI - 007

System name: FBI Automated Payroll System.

System location: Federal Bureau of Investigation; Computer Systems Division; Ninth and Pennsylvania Avenue; Washington, D.C. 20535.

Categories of individuals covered by the system: A) Current employees of the Federal Bureau of Investigation (FBI); B) Resigned employees of the FBI are retained in the automated file for the current year for the purposes of clearing all pay actions and providing for any retroactive actions that might be legislated.

Categories of records in the system: System contains full record for each employee reflecting all elements relative to payroll status, plus accounting records and authorization records through which payrolls are issued and by which payrolls are audited. For example, this system contains the employees' Social Security Number, time and attendance data, and place of assignment.

Authority for maintenance of the system: System is established and maintained in accordance with Federal pay requirements, and all legislative enactments, Civil Service Commission regulations, General Accounting Office rulings and decisions, Treasury Department requirements, and Office of Management and Budget regulations relative thereto. Title 5, U.S. Code, Section 301 and Title 44, U.S. Code, Section 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Biweekly issuance of State Tax Report and Federal Insurance Contributions Act Report. Resign and End-of-Year Federal Tax Records (W-2's). Bi-weekly, quarterly, fiscal and annual Budget and Accounting Reports. Appropriate information is made available to the Internal Revenue Service and state and city tax bureaus.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored electronically on magnetic tapes and disks for use in a computer environment.

Retrievability: Information is retrieved by Social Security Number. (The authority to solicit an employee's Social Security Number is based on Title 26, Code of Federal Regulations, Section 31.6011(b)-2(b).)

Safeguards: Information contained in the system is relative to the individual employee's payroll status and is considered confidential to that employee and to official business conducted for that employee's pay and accounting purposes. It is safeguarded and protected in accordance with the FBI's Computer Center's regulations that permit aess and use by only authorized personnel.

Retention and disposal: Master Payroll and Accounting Records stored electronically are retained for a period of three years, as are Federal Tax files. Auxiliary files pertinent to main payroll functions are retained for periods varying from three pay periods to three years, depending on support files needed for any retroactive or audit purposes. Hard copy records are retained in accordance with instructions contained in General Records Schedule 2, GSA Reg. 3, and GSA Bulletin FPMR B-47 Archives and Records.

System manager(s) and address: Director; Federal Bureau of Investigation; Ninth and Pennsylvania Avenue; Washington, D.C. 20535.

Notification procedure: Same as the above.

Record access procedures: A request of access to information may be made by an employee through his supervisor or by a former employee by writing to the Federal Bureau of Investigation, 9th and Pennsylvania Avenue, Washington, D.C. 20535, Attention Payroll Office.

Contesting record procedures: Contest of any information should be set out in detail and a check of all supportive records will be made to determine the factual data in existence, which is predetermined by source documents and accounting procedures governing pay matters.

Record source categories: Source of information is derived from personnel actions, employee authorizations, and time records which are issued and recorded in accordance with regulations governing Federal pay.

Systems exempted from certain provisions of the act: None.

JUSTICE/FBI - 008

System name: Personnel Information Network System (PINS).

System location: Federal Bureau of Investigation; Identification Division; 2nd and D Streets, S.W.; Washington, D.C. 20537; (with access terminals located at the following address): Federal Bureau of Investigation; John Edgar Hoover Building; 10th Street and Pennsylvania Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Federal Bureau of Investigation employees and former employees.

Categories of records in the system: The system contains personnel information which includes information set forth on (1) FBI form 3-634 in lieu of Standard Form 50 - Notification of Personnel Action, (2) SF 176-T-Federal Employee Group Life Insurance Plan, (3) FBI form 12-60 in lieu of SF 1126 - Notification of Pay Change, (4) SF 2801 and CSC 1084 - Application for and additional information in support of retirement, respectively, (5) SF 2809 - Federal Employee Health Benefit Plan and (6) various intra-agency forms and memoranda.

Authority for maintenance of the system: The system is established and maintained pursuant to regulations set forth in the Federal Personnel Manual. Title 5, U.S. Code, Section 301 and Title 44, U.S. Code, Section 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The PINS is used (1) to prepare the Notification of Personnel Action, copies of which are furnished to the Civil Service Commission (2) to locate and charge out personnel files for official use, (3) to generate lists of employees which are used internally by authorized personnel for record keeping, planning, and decision making purposes, and (4) as a source for the dissemination of information (A) to federal, state and local agencies and to private organizations pursuant to service record inquiries and (B) pursuant to credit inquiries (In response to proper credit inquiries from credit bureaus and financial institutions, the FBI will verify employment and furnish salary and length of service).

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in PINS is stored by disc and magnetic tape.

Retrievability: Information is retrieved (1) on-line through Cathode Ray Tubes by keying the name or Social Security Number of the employee and (2) off-line by tape reading. (It is noted the authority to solicit an employee's Social Security Number is based on Title 26, Code of Federal Regulations, Secti 31.6011(b)-2(b).)

Safeguards: Areas housing the system and access terminals are located in secure buildings available to authorized FBI personnel and escorted maintenance and repair personnel only. Access terminals are operational only during normal daytime working hours at which time they are constantly attended.

Retention and disposal: Electronically stored records for employees and former employees are maintained indefinitely in a vault under the control of a vault supervisor. Pursuant to regulations set forth in the Federal Personnel Manual a copy of the Notification of Personnel Action is made a part of the employees' personnel file.

System manager(s) and address: Director; Federal Bureau of Investigation; John Edgar Hoover Building; 10th Street and Pennsylvania Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name and return address of the requestor. Access requests will be directed to the Director, Federal Bureau of Investigation.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the Director, FBI stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are present and former FBI employees and employee personnel files.

Systems exempted from certain provisions of the act: None.

JUSTICE/FBI - 009

System name: Identification Division Records System.

System location: Federal Bureau of Investigation; U.S. Department of Justice; 10th and Pennsylvania Avenue, N.W.; Washington, D.C. 20535.

Categories of individuals covered by the system:

A. Individuals fingerprinted as a result of arrest or incarceration by Federal, state or local law enforcement agencies.

B. Persons fingerprinted as a result of federal employment applications, military service, alien registration and naturalization purposes and individuals desiring to have their fingerprints placed on record with the FBI for personal identification purposes.

Categories of records in the system:

A. Criminal fingerprint cards and related criminal justice information submitted by authorized agencies having criminal justice responsibilities.

B. Civil fingerprint cards submitted by Federal agencies and civil fingerprint cards submitted by persons desiring to have their fingerprints placed on record for personal identification purposes.

C. Identification records sometimes referred to as 'rap sheets' which are compilations of criminal history information pertaining to individuals who have criminal fingerprint cards maintained in the system.

D. An alphabetical name index pertaining to each individual whose fingerprints are maintained in the system. The criminal records and the civil records are maintained in separate files and each file has an alphabetical name index related to the data contained therein.

Authority for maintenance of the system: The system is established, maintained and used under authority granted by 28 U.S.C. 534 and P.L. 92-544 (86 Stat. 1115). The authority is also codified in 28 C.F.R. 0.85(b), and (j).

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The FBI operates the Identification Division Records System to perform identification and criminal history record information functions for federal, state, and local criminal justice agencies, and for noncriminal justice agencies, and other entities where authorized by Federal statute, state statute pursuant to Public Law 92-544 (86 Stat. 1115), Presidential executive order, or regulation of the Attorney General of the United States. In addition, identification assistance is provided in disasters and for other humanitarian purposes. Dissemination is also conducted in accordance with Public Law 94-29, known as the Securities Acts Amendments of 1975.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in the system is stored manually in file cabinets either in its natural state or on microfilm. In addition, some of the information is stored electronically in converting the manual system to an automated system.

Retrievability: (1) All information in the system is retrievable by technical fingerprint classification index and positive identification is effected only by comparison of the unique characteristics obtained from fingerprint impressions submitted for search against the fingerprint cards maintained within the system.

(2) An auxiliary means of retrieval is through the alphabetical name indexes which contain names of the individuals, their birth data, other physical descriptors and the individuals' technical fingerprint classifications and FBI numbers, if such have been assigned.

(3) The name of an individual and his FBI number may assist in retrieval of information about that individual from within the system. Since July, 1971, all individuals whose fingerprints have been placed in the criminal file have been assigned unique FBI numbers. Prior to July, 1971, all individuals who had two or more fingerprint cards in the criminal file were assigned FBI numbers.

Safeguards: Information in the system is unclassified. Disclosure of information from within the system is made only to authorized recipients upon authentication and verification of the right to access the system by such persons and agencies. The physical security and maintenance of information within the system is provided by FBI rules, regulations and procedures.

Retention and disposal:

(1) The Archivist of the United States has approved the destruction of records maintained in the criminal file when the records indicate individuals have reached 80 years of age and the destruction of records maintained in the civil file when the records indicate individuals have reached 75 years of age.

(2) Fingerprint cards and related arrest data in the system are destroyed seven years following notification of the death of an individual whose record is maintained within the system.

(3) Fingerprint cards submitted by state and local criminal justice agencies are returned upon requests of the submitting agencies. The return of a fingerprint card under this procedure results in the deletion from the system of all arrest information related to that fingerprint card.

(4) Fingerprint cards and related arrest data are removed from the Identification Division Records System upon receipt of Federal court orders for expunctions when accompanied by necessary identifying information. Recognizing lack of jurisdiction of local and state courts over an entity of the Federal Government, the Identification Division Records System, as a matter of comity, returns fingerprint cards and related arrest data to local and state criminal justice agencies upon receipt of orders of expunction directed to such agencies by local and state courts when accompanied by necessary identifying innformations.

System manager(s) and address: Director; Federal Bureau of Investigation; 10th and Pennsylvania Avenue, N.W.; Washington, D.C. 20535.

Notification procedure: Address inquiries to the System Manager. The Attorney General has exempted the Identification Division Records System from compliance with subsection (d) of the Act:

Record access procedures: The Attorney General has exempted the Identification Division Records System from compliance with subsection (d) of the Act. However, pursuant to 28 C.F.R. 16.30-34, and Rules and Regulations promulgated by the Department of Justice on May 20, 1975 at 40 Fed. Reg. 22114 (Section 20.34) for Criminal Justice Information Systems, an individual is permitted access to his identification record maintained in the Identification Division Records System and procedures are furnished for correcting or challenging alleged deficiencies appearing therein.

Contesting record procedures: Same as the above.

Record source categories: See Categories of Individuals.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/FBI - 999

System name: Appendix of Field Divisions for the Federal Bureau of Investigation.

Field Office:

502 U.S. Post Office & Court House
Albany, New York 12207

4303 Federal Office Building
Albuquerque, New Mexico 87101

Room 500, 300 North Lee Street
Alexandria, Virginia 22314

Room 238, Federal Building
Anchorage, Alaska 99510

275 Peachtree Street, N.E.
Atlanta, Georgia 30303

7142 Ambassador Road
Baltimore, Maryland 21207

Room 1400 - 2121 Building
Birmingham, Alabama 35203

John F. Kennedy Federal Office Building
Boston, Massachusetts 02203

Room 1400 - 111 West Huron Street
Buffalo, New York 14202

115 U.S. Court House and Federal Building
Butte, Montana 59701

1120 Jefferson Standard Life Building
Charlotte, North Carolina 28202

Room 905, Everett McKinley Dirksen Building
Chicago, Illinois 60604

415 U.S. Post Office & Court House Building
Cincinnati, Ohio 45202

3005 Federal Office Building
Cleveland, Ohio 44199

1529 Hampton Street
Columbia, South Carolina 29201

Room 200, 1810 Commerce Street
Dallas, Texas 75201

Room 18218, Federal Office Building
Denver, Colorado 80202

333 West Fort Building
Detroit, Michigan 48226

202 U.S. Court House Building
El Paso, Texas 79901

Room 605, Bishop Trust Building
Honolulu, Hawaii 96813

6015 Federal Building and U.S. Court House
Houston, Texas 77002

575 North Pennsylvania St.
Indianapolis, Indiana 46202

800 Unifirst Federal Savings & Loan Building
Jackson, Mississippi 39205

414 U.S. Court House & Post Office Building
Jacksonville, Florida 32202

Room 300 - U.S. Courthouse
Kansas City, Missouri 64106

Room 800, 1111 Northshore Drive
Knoxville, Tennessee 37919

Room 2-011, Federal Office Building
Las Vegas, Nevada 89101

215 U.S. Post Office Building
Little Rock, Arkansas 72201

11000 Wilshire Boulevard
Los Angeles, California 90024

Room 502, Federal Building
Louisville, Kentucky 40202

841 Clifford Davis Federal Building
Memphis, Tennessee 38103

3801 Biscayne Boulevard
Miami, Florida 33137

Room 700, Federal Building and U.S. Court House
Milwaukee, Wisconsin 53202

392 Federal Building
Minneapolis, Minnesota 55401

520 Federal Building
Mobile, Alabama 36602

Gateway I, Market Street
Newark, New Jersey 07101

770 Chapel Building
New Haven, Connecticut 06510

701 Loyola Avenue
New Orleans, Louisiana 70113

201 East 69th Street
New York, New York 10021

Room 300, 870 Military Highway
Norfolk, Virginia 23502

50 Penn Place, N.W., 50th at Pennsylvania
Oklahoma City, Oklahoma 73118

1010 Federal Office Building
Omaha, Nebraska 68102

8th Floor, Federal Office Building
600 Aren Street
Philadelphia, Pennsylvania 19106

2721 North Central Avenue
Phoenix, Arizona 85004

1300 Federal Office Building
Pittsburgh, Pennsylvania 15222

Crown Plaza Building
Portland, Oregon 97201

200 West Grace Street
Richmond, Virginia 23220

Federal Building
2800 Cottage Way
Sacramento, California 95825

2704 Federal Building
St. Louis, Missouri 63103

3203 Federal Building
Salt Lake City, Utah 84138

433 Federal Building
San Antonio, Texas 78296

3211 Fifth Avenue
San Diego, California 92103

450 Golden Gate Avenue
San Francisco, California 94102

Pan Am Building
255 Ponce de Leon Avenue
San Juan, Puerto Rico 00917

5401 Paulsen Street
Savannah, Georgia 31405

915 Second Avenue
Seattle, Washington 98174

535 West Jefferson Street
Springfield, Illinois 62702

Room 610, Federal Office Building
Tampa, Florida 33602

506 Old Post Office Building
Washington, D.C. 20535

Federal Bureau of Investigation Academy
Quantico, Virginia 22135

LEGAL ATTACHE (all c/o The American Embassy for the cities indicated):

Bern, Switzerland

Bonn, Germany (Box 310, APO, New York 09080)

Brasilia, Brazil (APO, New York 09676)

Buenos Aires, Argentina

Caracas, Venezuela (APO, New York 09893)

Hong Kong, B.C.C. (FPO, San Francisco 96659)

London, England (Box 40, FPO, New York 09510)

Madrid, Spain (APO, New York 09285)

Manila, Philippines (APO, San Francisco 96528)

Mexico City, Mexico

Ottawa, Canada

Paris, France (APO, New York 09777)

Rome, Italy (APO, New York 09794)

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Tokyo, Japan (APO, San Francisco 96503)

JUSTICE/TAX - 001

System name: Tax Division Central Classification Cards, Index Docket Cards, and Associated Records.

System location: U.S. Department of Justice; Tax Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons referred to in potential or actual cases and matters of concern to the Tax Division under the Internal Revenue laws.

Categories of records in the system: The system consists of an alphabetical index by individual name of all cases, and matters assigned, referred, or of interest to the Tax Division. Records in many instances are duplicated in the various sections of the Division having specific jurisdiction over the case.

Authority for maintenance of the system: This system is established and maintained pursuant to 28 C.F.R., 0.70 and 0.71.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

A. Classification cards are maintained on each Tax Division case to identify and assign mail to the proper office within the Division; to relate incoming material to an existing case; to establish a file number for a new case upon receipt; and to provide a central index of cases within the Division.

B. Docket cards are records pertaining to the flow of legal work in the Division. They are maintained on each case which is being or was handled by the Division's sections.

C. Case files maintained allow Division attorneys immediate access to information which is essential in carrying out their responsibilities concerning all tax cases.

D. A record maintained in this system of records may be disseminated as a routine use as follows: (1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) In the course of investigating the potential or actual violation of any law whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) A record relating to a case or matter may be disseminated to the appropriate federal, state, local, or foreign court or grand jury in accordance with established constitutional, substantive, or procedural law or practice; (4) A record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) A record relating to a case or matter that has been referred to the Tax Division may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made; (7) A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (8) A record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information contained in this system is stored manually on index cards and in folders.

Retrievability: Information is retrieved by the name of the individual from the index card which will then indicate the case number, and the section unit or attorney assigned to work on the material.

Safeguards: Information is safeguarded and protected in accordance with applicable Departmental rules.

Retention and disposal: Currently there are no provisions for the disposal of the cards in this system, however, the records of the closed classes are forwarded to the Federal Record Center, where they are destroyed after 25 years.

System manager(s) and address: Assistant Attorney General; Tax Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: Part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to the applicability of an exemption as to a specific record shall be made at the time a request for access is received. A request for access to a record contained in this system shalll be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number which may be of assistance in locating the record, the name of the case or matter involved, if known, the name of the judicial district involved, if known, and any other information which may be of assistance in locating the record. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Internal Revenue Service, Department offices and employees, and other federal, state, local, and foreign law enforcement and non-law enforcement agencies, private persons, witnesses, and informants.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsection (d), (e)(2) and (3) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/TAX - 002

System name: Files of Applications for the Position of Attorney with the Tax Division.

System location: U.S. Department of Justice; Tax Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Applicants who have applied for a position as an attorney with the Tax Division.

Categories of records in the system: This system contains a card of each applicant filed alphabetically. Files may contain background information of the applicant, including SF 171 forms, resumes, referral letters, letters of recommendation, interview notes, internal notes or memoranda, and other miscellaneous correspondence.

Authority for maintenance of the system: This system is established and maintained pursuant to the responsibilities assigned the Tax Division under 28 C.F.R., 0.70 and 0.71.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A) This system may be used by employees and officials of the Division and the Justice Department in making employment decisions; B) A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring of an employee, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information contained in this system is stored manually, alphabetically by name.

Retrievability: Information is retrieved manually by using the name of the applicant desired.

Safeguards: Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing access, production and disclosure of any materials contained in its official files.

Retention and disposal: Information is retained in the card system for 10 years. Information in the files is retained in the system until a decision is made as to the employment of the applicant.

System manager(s) and address: Assistant Attorney General; Tax Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number which may be of assistance in locating the record, as well as the position applied for. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely which information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Generally, sources of information contained in the system are the individual applicants, persons referring or recommending the applicant, and employees and officials of the Division and the Department.

Systems exempted from certain provisions of the act: None.

JUSTICE/TAX - 003

System name: Freedom of Information Request Files.

System location: U.S. Department of Justice; Tax Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who have requested information under the Freedom of Information Act.

Categories of records in the system: (a) Correspondence relating to requests for information; (b) documents relevant to appeals and lawsuits under the Freedom of Information Act.

Authority for maintenance of the system: The system is maintained to enable the Tax Division to process requests under the Freedom of Information Act (5 U.S.C. 552).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is maintained to insure the efficient processing of requests made pursuant to the Freedom of Information Act (5 U.S.C. 552).

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information contained in this system is stored manually in standard file folders, alphabetically by name of the person making the request.

Retrievability: Information is retrieved manually by name of the persons making the request.

Safeguards: The system of records is stored in a file cabinet in a locked closet. Access is restricted to the Freedom of Information Unit staff on a need-to-know basis.

Retention and disposal: Destruction schedules will be developed as the needs of the system requirements become known. Presently, records are retained indefinitely.

System manager(s) and address: Assistant Attorney General; Tax Division; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Inquiry concerning this system should be directed to the System Manager listed above. Inquiries should contain the inquirer's name, date and place of birth.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: (a) Persons requesting information; (b) Department of Justice employees.

Systems exempted from certain provisions of the act: None.

JUSTICE/ATR - 001

System name: Antitrust Division Expert Witness File.

System location: U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Individuals who have served in the capacity of an 'expert' for the Department of Justice in connection with civil or criminal antitrust litigation.

Categories of records in the system: This system contains the names of persons used by the Antitrust Division in an expert capacity and also indicates the area of their specialty, the type of service rendered, the fees paid, and the dates on or during which such services were performed.

Authority for maintenance of the system: Authority for the establishment and maintenance of this system exists under 44 U.S.C. 3101 and 28 U.S.C. 522.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system is routinely used by trial attorneys of the Antitrust Division when considering the selection of experts as consultants or expert witnesses for the development or presentation of specific antitrust cases. The system also serves as a reference resource for Division personnel in compiling statistical information or reports regarding the actual or anticipated costs of litigation.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in this system is contained in documents organized in individual file folders.

Retrievability: Information is retrieved primarily by using the name of the individual retained as a consultant or called as an expert witness for the Government in antitrust cases brought by the Department.

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Safeguards: Information contained in the system is unclassified. During working hours access to the system is controlled and monitored by Antitrust Division personnel in the area where the system is maintained; during non-duty hours all doors to that area are locked.

Retention and disposal: Indefinite.

System manager(s) and address: Administrative Officer; Antitrust Division; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the Assistant Attorney General; Antitrust Division; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Record access procedures: Requests for access to a record from this system shall be in writing and be clearly identified as a 'Privacy Access Request'. Included in the request should be the name of the person retained as a consultant or presented as an expert witness fothe Government and the name of the case in which such services were rendered. The requester should indicate a return address. Requests will be directed to the System Manager shown above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their requests to the System Manager and state clearly and concisely what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

Record source categories: Sources of information maintained in this system are those records reflecting the commitment between the individual and the Department of Justice (including matters of compensation etc.) and staff attorneys or other employees directly involved with the individual in the preparation or conduct of the litigation.

Systems exempted from certain provisions of the act: None.

JUSTICE/ATR - 002

System name: Congressional Correspondence Log File.

System location: U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Present and former members of Congress and White House staff members.

Categories of records in the system: This system contains an index record to inquiries or referrals from members of the Congress and White House staff.

Authority for maintenance of the system: Authority for the establishment and maintenance of this system exists under 44 U.S.C. 3101 and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system is maintained as a record of inquiries or referrals by members or committees of the Congress and by White House staff. Routine use is made of this file by Antitrust Division personnel incident to monitoring the response status of or identifying other material related to such inquiries or referrals.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on index cards.

Retrievability: Information is retrieved primarily by using the name of the member of Congress or the White House staff making an inquiry or referral to the Department of Justice, Antitrust Division.

Safeguards: Information contained in the system is unclassified. During working hours access to the system is controlled and monitored by Antitrust Division personnel in the area where the system is maintained; during non-duty hours all doors to such area are locked.

Retention and disposal: Indefinite.

System manager(s) and address: Assistant Attorney General; Antitrust Division; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the Assistant Attorney General; Antitrust Division; Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Record access procedures: Requests for access for a record from this system shall be written and clearly identified as a 'Privacy Access Request'. The request should include the name of the member of Congress or White House staff originating a request or referral and the date thereof. Requester should indicate a return address.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should state clearly and concisely what information is being contested, the reasons for contesting it and the proposed amendment to the information sought.

Record source categories: Source of information maintained in the system a those records (e.g., that Congressional or White House correspondence), reflecting inquiries or referrals by members of Congress or White House staff.

Systems exempted from certain provisions of the act: None.

JUSTICE/ATR - 003

System name: Index of Defendants in Pending and Terminated Antitrust Cases.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Individual defendants in pending and terminated criminal and civil cases brought by the United States under the antitrust laws.

Categories of records in the system: This system contains an index reference to the case in which an individual (or corporation) is or was a defendant; included in information is proper case name, the judicial district and number of the case, and the date filed.

Authority for maintenance of the system: Authority for the establishment and maintenance of this index system exists under 28 U.S.C. 522 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Routine use of this cross index system is generally made by Department personnel for reference to proper case name. In addition a compilation of antitrust cases filed is prepared semi-annually showing the names of all defendants in pending civil and criminal Government antitrust cases. This compilation is utilized within the Department and distributed to some 30 other Government agencies for reference and statistical purposes.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in the system is maintained on index cards.

Retrievability: Information in the system is retrieved by reference to the name of individual or corporate defendants in antitrust cases.

Safeguards: Information contained in the system is unclassified and of a public nature. During working hours access to the index is monitored by Antitrust Division personnel; during non-duty hours the area in which the system is maintained is locked.

Retention and disposal: Indefinite.

System manager(s) and address: Chief, Legal Procedure Unit; Antitrust Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the Assistant Attorney General; Antitrust Division; U.S. Department of Justice; Washington, D.C. 20530.

Record access procedures: Requests for access to a record from this system shall be in writing and be clearly identified as a 'Privacy Access Request'. Included in the request should be the name of the defendant in pending or terminated Government antitrust litigation. Requesters should indicate a return address. Requests will be directed to the System Manager shown above.

Contesting record procedures: Individuals desiring to ctest or amend information maintained in the index should direct their request to the System Manager and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this index are complaints filed under the antitrust laws by the United States and from Department records relating to such cases.

Systems exempted from certain provisions of the act: None.

JUSTICE/ATR - 004

System name: Statements by Antitrust Division Officials (ATD Speech File).

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Past and present employees of the Antitrust Division.

Categories of records in the system: This system contains an index record for each public statement or speech issued or made by employees of the Antitrust Division.

Authority for maintenance of the system: Authority for maintaining this system exists under 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This index is maintained for ready reference by Department personnel for the identification of the subject matter of and persons originating public statements by Antitrust Division employees; such reference is utilized in aid of compliance with requests from the public and within the agency for access to texts of such statements.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information contained in the index system is maintained on index cards.

Retrievability: This reference index utilizes name of present and former employees making or issuing statements as well as the subject matter or title of the statement.

Safeguards: Information contained in the system is unclassified. During duty hours personnel monitor access to this index; the area is locked during non-duty hours.

Retention and disposal: Indefinite.

System manager(s) and address: Chief, Legal Procedure Unit; Antitrust Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the Assistant Attorney General; Antitrust Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Record access procedures: Request for access to a record from this system should be made in writing and be clearly identified as a 'Privacy Access Request'. Included in the request should be the name of the Antitrust Division employee making or issuing a public statement. Requesters should indicate a return address. Requests will be directed to the System Manager shown above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the index should direct their request to the System Manager and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information maintained in the index are those recos reflecting public statements issued or made by Antitrust Division employees.

Systems exempted from certain provisions of the act: None.

JUSTICE/ATR - 005

System name: Antitrust Caseload Evaluation System (ACES) - Time Reporter.

System location: U.S. Department of Justice; 10th and Constitution Ave., N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Professional Employees (Lawyers and Economists) of the Antitrust Division of the U.S. Department of Justice.

Categories of records in the system: The file contains the employee's name and allocations of his/her work time.

Authority for maintenance of the system: The file will be established and maintained pursuant to the following authorities: 28 CFR.40 (f) and 28 U.S.C. 522.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The file is used by Antitrust Division personnel as a basis for determining Antitrust Division allocations of resources (professional time) to particular products and industries (e.g., oil, autos, chemicals) and to broad categories of resource use such as civil cases, criminal cases, regulatory agency cases and Freedom of Information Act requests. In addition, the file will be employed in the preparation of reports for the Division's budget requests and to the Attorney General and Congress.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained electronically in the Economic Policy Office's ACES computerized information system and in file folders.

Retrievability: Information is retrieved by a variety of key words.

Safeguards: Information contained in the system is unclassified. It is safeguarded and protected in accordance with Department rules and procedures governing the handling of computerized information. Access to the file is limited to those persons whose official duties require such access and to employees of the Antitrust Division.

Retention and disposal: Information contained in the file is retained for 14 months or the life of the matter to which the lawyer or economist is assigned whichever is longer.

System manager(s) and address: Director of the Economic Policy Office; Antitrust Division; U.S. Department of Justice; Star Building; 11th and Pennsylvania Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as System Manager.

Record access procedures: Same as Notification.

Contesting record procedures: Same as Notification.

Record source categories: Information on time allocation is provided by Antitrust Division section and field office chiefs.

Systems exempted from certain provisions of the act: None.

JUSTICE/ATR - 006

System name: Antitrust Caseload Evaluation System (ACES) - Monthly Report.

System location: U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Professional employees (lawyers and economists) of the Antitrust Division of the U.S. Department of Justice and individual defendants and investigation targets involved in past and present Antitrust investigations and cases.

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Categories of records in the system: The system contains the names of Division employees and their case/investigation assignments and the names of individual defendants/investigation targets as they relate to a specific case/investigation. In addition, information reflecting the current status and handling of Antitrust cases/investigations is included within this system.

Authority for maintenance of the system: The file is established and maintained pursuant to 28 C.F.R. 40(f), 28 U.S.C. 552, and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The file is used by Antitrust Division personnel as a basis for determining Antitrust Division allocation of resources to particular products and industries (e.g., oil, autos, chemicals), to broad categories of resource use such as civil cases, criminal cases, regulatory agency cases, and Freedom of Information Act requests. It is employed by the section chiefs, the Director and Deputy Director of Operations, and other Division personnel, to ascertain the progress and current status of cases and investigations within the Division. In addition, the files will be employed in the preparation of reports for the Division's budget requests and to the Attorney General and Congress.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained electronically in the Economic Policy Office's ACES Computerized information system and in file folders.

Retrievability: Information is retrieved by a variety of key words.

Safeguards: Information contained in the system is unclassified. It is safeguarded and protected in accordance with Department rules and procedures governing the handling of computerized information. Access to the file is limited to those persons whose official duties require such access and employees of the Antitrust Division.

Retention and disposal: Information contained in the file is retained for 14 months or the life of the specific case/investigation, whichever is longer.

System manager(s) and address: Direor of the Economic Policy Office; Antitrust Division, U.S. Department of Justice, Star Building, 11th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

Notification procedure: Address inquiries to the Assistant Attorney General, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue, Washington, D.C. 20530.

Record source categories: Information for the monthly reports is provided by the Antitrust Division section and field office chiefs.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3), (d), (e)(4)(G)-(H), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e) and have been published in the Federal Register.

JUSTICE/ATR - 007

System name: Antitrust Division Case Cards.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Individual defendants in pending and terminated criminal and civil cases brought by the United States under the antitrust laws where the defendant's name appears in the case title.

Categories of records in the system: This system contains an index reference to the case in which an individual (or corporation) is or was a defendant; included information is proper case name, the judicial district, number of the case, the commodity involved, each alleged violation, the section of the Antitrust Division responsible for the matter, and the disposition of the case.

Authority for maintenance of the system: Authority for maintaining this system exists under 44 U.S.C. 3101 and 28 U.S.C. 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This index is maintained for ready reference by Department personnel. It is utilized for referrals to case names, the preparation of speeches and to aid in determinations of the antitrust histories of companies.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information contained in this system is maintained on index cards.

Retrievability: Information is retrieved by case name.

Safeguards: Information contained in the system is unclassified. During duty hours access to this system is monitored and controlled by Antitrust Division personnel in the area where the system is maintained. This area is locked during non-duty hours.

Retention and disposal: Indefinite.

System manager(s) and address: Chief, Legal Procedure Unit, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Notification procedure: Address inquiries to the Assistant Attorney General, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Record access procedures: Request for access to a record from this system should be made in writing and be clearly identified as a 'Privacy Access Request.' Included in the request should be the name of the defendant appearing in the title of the pending or terminated Government antitrust litigation. Requester should indicate a return address. Requests will be directed to the System Manager above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the index should direct their request to the System Manager and state cleaand concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information maintained in the index are those records reflecting litigation conducted by the Antitrust Division.

Systems exempted from certain provisions of the act: None.

JUSTICE/ATR - 008

System name: Freedom of Information/Privacy Requester/Subject Index File.

System location: U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Individuals who have requested information under the Freedom of Information and Privacy Acts from files maintained by the Antitrust Division and individuals about whom material has been requested under the above acts.

Categories of records in the system: This system contains an index record of every request under the Freedom of Information and Privacy Acts made to the Antitrust Division since November, 1974, including all request letters and our responses.

Authority for maintenance of the system: Authority for maintaining this system exists under 44 U.S.C. 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This index is maintained for ready reference by Division personnel for the identification of the subject matter of and persons originating Freedom of Information and Privacy Act requests. Such reference is utilized in aid of access to files, maintained by the Freedom of Information and Privacy Unit, for purposes of reference to requests on appeal,

questions concerning pending or terminated requests, and compliance with requests similar or identical to past requests.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on index cards.

Retrievability: Information in the system is retrieved by reference to the names of present and past requesters and names of individuals about whom information is requested under the Freedom of Information and Privacy Act.

Safeguards: Information contained in the system is unclassified. During duty hours access to this system is monitored and controlled by Antitrust Division personnel in the area where the system is maintained. The area is locked during non-duty hours,

Retention and disposal: Indefinite.

System manager(s) and address: Freedom of Information and Privacy Acts Control Officer, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Notification procedure: Address inquiries to the Assistant Attorney General, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Record access procedures: Request for access to a record from this system should be made in writing and be clearly identified as a 'Privacy Access Request.' Included in the request should be the of the individual having made the Freedom of Information request and/or the individual about whom the records were requested. Requesters should indicate a return address. Requests will be directed to the System Manager shown above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the index should direct their request to the System Manager and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Source of the information maintained in the system are those records derived from the receipt and processing of Freedom of Information and Privacy Act requests.

Systems exempted from certain provisions of the act: Records secured from other systems of records have been exempted from the provisions of the Privacy Act to the same extent as the systems of records from which they were obtained. The Attorney General has also exempted certain categories of records in this system from subsection (c) (3), (d) of the Privacy Act pursuant to 5 U.S.C. 552a (k) (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(c), and (e) and have been published in the Federal Register.

JUSTICE/USM - 001

System name: United States Marshals Service Badge & Credentials File.

System location: United States Marshals Service; Star Building; 414 11th Street, N.W., Room 0056; Washington, D.C. 20530.

Categories of individuals covered by the system: United States Marshals Service Personnel.

Categories of records in the system: Personnel data system established to control issuance of badges and credentials to U.S. Marshals Service personnel.

Authority for maintenance of the system: 28 C.F.R. 0.111-113.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This file serves as a record of issuance of credentials. Information from this file is requested by various law enforcement agencies, e.g., FBI, Secret Service, state, county & municipal police.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Originals kept in files.

Retrievability: Indexed by name and chronological order of number.

Safeguards: Access restricted to personnel of Administrative Services Division.

Retention and disposal: Records are kept for duration of employee's tenure in the Service.

System manager(s) and address: Chief, Administrative Services Division; United States Marshals Service; U.S. Depart. of Justice; 10th & Constitution Ave. N.W.; Washington, D.C. 20530

Notification procedure: Same as System Manager.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' It should clearly indicate name of requestor, the nature of the record sought and approximate dates covered by the record. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Record of Notification of Employment by U.S. Marshals Service Personnel Division.

Systems exempted from certain provisions of the act: None.

JUSTICE/USM - 002

System name: United States Marshals Service Internal Inspections System.

System location: United States Marshals Service; Department of Justice; 521 12th Street; Washington, D.C. 20530.

Categories of individuals covered by the system: United States Marshals Service employees.

Categories of records in the system: The Internal Inspections System contains reports prepared by the Office of Internal Inspections United States Marshals Service on findings of alleged misconduct of U.S. Marshals Service employees.

Authority for maintenance of the system: 28 C.F.R. Subpart T. 0.111(n).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information gathered is used by U.S. Marshals Service in disciplinary proceedings against employees. It is also used in administrative hearings before the Civil Service Commission and in court proceedings.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Originals stored in file.

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Retrievability: Information is retrieved by name of employee.

Safeguards: Records are stored in locked safe.

Retention and disposal: Records are retained for 12 months and then referred to Federal Records Center.

System manager(s) and address: Associate Director of Administration; U.S. Marshals Service; U.S. Department of Justice, 10th & Constitution Ave., N.W.; Washington, D.C. 20530.

Notification procedure: Same as System Manager.

Record access procedures: The major part of these systems is exempted from this requirement under 5 U.S.C. 552a (k)(5). To the extent that these systems are not subject to exemption they are subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' It should clearly indicate name of the requestor, the nature of the record sought and approximate dates covered by the record. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Information derived from inspection of alleged malfeasance, by U.S. Marshals Service Internal Inspections Division.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(G) and (H), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USM - 003

System name: United States Marshals Service Prisoner Coordination System.

System location: United States Marshals Service; Department of Justice; 521 12th Street; Washington, D.C. 20530.

Categories of individuals covered by the system: Prisoners taken into U.S. Marshal custody.

Categories of records in the system: D.J. 100's; Compilation of identifying information for each prisoner taken into U.S. Marshal custody, when and where the prisoner is taken into custody, what he is charged with and where he is moved to. These files provide a ready reference source on the prisoner for purposes of arranging prisoner transportation.

Authority for maintenance of the system: The Prisoner Coordination Program is authorized under 28 C.F.R. Subpart T 0.111(k).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used as working files in the transporting of prisoners, by the U.S. Marshals Service, Bureau of Prisons and other federal, state and local law enforcement officials.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored in standard file cabinets.

Retrievability: Information is retrieved by name of prisoner and number.

Safeguards: Access restricted to Operations Personnel.

Retention and disposal: Records are disposed of after 3 years.

System manager(s) and address: Associate Director for Operations; United States Marshals Service; U.S. Department of Justice; 10th & Constitution Ave., N.W.; Washington, D.C. 20530.

Notification procedure: Same as System Manager.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' It should clearly indicate name of requestor, the nature of the record sought and approximate dates covered by the record. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Identifying material of each prisoner taken into custody by the U.S. Marshal.

Systems exempted from certain provisions of the act: None.

JUSTICE/USM - 004

System name: Special Deputy File.

System location: United States Marshals Service; Department of Justice; 521 12th Street; N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Special Deputies, who are selected law enforcement officers or employees of the U.S. Government.

Categories of records in the system: Special deputization file contains oath of office of persons utilized as deputy marshals for a short duration.

Authority for maintenance of the system: 28 C.F.R. Subpart T, Section 0.112; 28 U.S.C. 562.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Federal agencies for whom the Marshals Service has deputized employees would have access to this system.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Originals are filed.

Retrievability: Files are indexed by name and by government department.

Safeguards: Records are kept in a locked file.

Retention and disposal: Records are retained for one year.

System manager(s) and address: Chief, Personnel Management & Training; U.S. Marshals Service; U.S. Department of Justice; 10th & Constitution, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to: System Manager.

Record access procedures: A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked 'Privacy Access Request.' The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it and the proposed amendment to the information sought.

Record source categories: Federal agencies requesting special deputations provide all necessary information required by the Marshals Service in making the special deputations.

Systems exempted from certain provisions of the act: None.

JUSTICE/USM - 005

System name: Special Detail System.

System location: United States Marshals Service; Department of Justice; 521 12th Street; Washington, D.C. 20530. Each of the 96 district offices maintain their own files.

Categories of individuals covered by the system: Deputy United States Marshals.

Categories of records in the system: Records maintained in this system include a compilation of deputies' special assignments; e.g., civil disturbances, special trials, witness security, process serving, etc.

Authority for maintenance of the system: The Special Detail System is authorized under 28 C.F.R. 0.111(a) through (g).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Special Detail System provides background data on what details were made; who went where, etc. This information may be used in Civil Service Commission hearings and court cases involving the Marshals Service or its personnel.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Originals are filed.

Retrievability: Records are retrieved by name of deputy.

Safeguards: Records are kept in a locked file.

Retention and disposal: Dispose after 10 years; transfer to Federal Records Center after 3 years.

System manager(s) and address: Associate Director of Operations; U.S. Marshals Service; U.S. Department of Justice; 10th & Constitution, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to: System Manager.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' It should clearly indicate name of the requestor, the nature of the record sought and approximate dates covered by the record. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Information provided by designated U.S. Marshals Service Personnel in each district who work on special details.

Systems exempted from certain provisions of the act: None.

JUSTICE/USM - 006

System name: United States Marshals Service Training Files.

System location: United States Marshals Service; Department of Justice; 521 12th Street; Washington, D.C. 20530.

Categories of individuals covered by the system: Trainees.

Categories of records in the system: 1) Individual United States Marshals Service training files contain information on the individual's educational background and training history, and an individual development plan; 2) Skills files identify special skills possessed by the individual United States Marshals Service employee.

Authority for maintenance of the system: The training school is established pursuant to 28 C.F.R. Subpart T, Section 0.111(h) which authorizes the Director to provide a training school for United States Marshals Service personnel.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: 1) Records are used as training histories; 2) records are used to determine training eligibility; 3) records are used in Administrative hearing before U.S. Civil Service Commission, and in court proceedings.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Standard file cabinets containing original documents.

Retrievability: Records are indexed by name.

Safeguards: Records are kept in locked files.

Retention and disposal: Training files are maintained until the employee leaves the Service.

System manager(s) and address: Officer in Charge, U.S. Marshals Service Training Academy; U.S. Department of Justice; 10th & Constitution Ave. N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to: System Manager.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' It should clearly indicate name of requestor, the nature of the record sought and approximate dates covered by the record. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: 1) The forms, documentation of skills, etc. which are completed by a new trainee; 2) documentation of skills by Training Personnel; 3) evaluation reports prepared by the Combined Federal Law Enforcement Training Academy.

Systems exempted from certain provisions of the act: None.

JUSTICE/USM - 007

System name: Warrant-Information System.

System location: Each district office of the U.S. Marshals Service maintains their own files. See Appendix.

Categories of individuals covered by the system: Individuals for whom Federal warrants have been issued.

Categories of records in the system: All pertinent information, correspondence, etc. vis-a-vis the warrant, as well as NCIC copy.

Authority for maintenance of the system: Authority for this system is established by 28 C.F.R. Subpart T. 0.111(a) and 28 U.S.C. 569(b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: U.S. Attorneys, Federal Courts and other Federal law enforcement agencies have access to this information.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on Roladex Cards.

Retrievability: Records are retrieved by individual name.

Safeguards: Access is restricted to personnel in each districts U.S. Marshals office.

Retention and disposal: Records are kept in operating file until warrant is executed and then transferred to closed files, where they are indefinitely kept.

System manager(s) and address: Associate Director for Operations; U.S. Marshals Service; U.S. Department of Justice; 10th & Constitution Ave. N.W.; Washington, D.C. 20530.

Record source categories: Information is obtained from the Bureau of Prisons, Department of Justice and arresting agencies.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USM - 008

System name: Witness Security Files Information System.

System location: United States Marshals Service; Department of Justice; 521 12th Street, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Government witnesses, who are participants in the Federal Witness Security Program.

Categories of records in the system: 1) Request to enter program; 2) background information (education, experience, medical history, names, relatives, etc.); 3) funding information; 4) moving information; 5) documentation of all the above.

Authority for maintenance of the system: Authority for the Witness Security Program is O.B.D. 2110.2 January 10, 1975; 28 C.F.R. Subpart T. 0.111(c), 28 U.S.C. 524; 18 U.S.C. prec 3481.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: 1) Background for planning working files; 2) Used to accomplish major functions of witness security e.g. protection of government witnesses and their families; 3) Used in court proceedings.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Originals are kept in files.

Retrievability: Filed according to ID special number.

Safeguards: Locked files limited access - (Witness Security Personnel)

Retention and disposal: All records at this time are being indefinitely maintained.

System manager(s) and address: Associate Director for Witness Security; U.S. Marshals Service; U.S. Department of Justice; 10th & Constitution Ave. N.W.; Washington, D.C. 20530.

Record source categories: All identifying background criteria of individual: 1) education; 2) job history; 3) medical history; 4) history of residence; 5) relatives, etc.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(G) and (H), (e)(8), (f)(2) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

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System name: Appendix to U.S. Marshals Systems of Records

NAMES AND OFFICIAL ADDRESSES OF UNITED STATES MARSHALS

Northern Alabama
Federal Courthouse
Birmingham, Alabama 35203

Middle Alabama
P.O. Box 211
Montgomery, Alabama 36101

Southern Alabama
P.O. Box 343
Mobile, Alabama 36601

District of Alaska
P.O. Box 1979
Anchorage, Alaska 99510

District of Arizona
8202 Federal Bldg.
Phoenix, Arizona 85025

Eastern Arkansas
P.O. Box 8
Little Rock, Arkansas 72203

Western Arkansas
P.O. Box 1572
Fort Smith, Arkansas 72901

Northern California
P.O. Box 36056
San Francisco, California 94102

Eastern California
1013 U.S. Courthouse
Sacramento, California 95814

Central California
G-23 U.S. Courthouse
Los Angeles, California 90012

Southern California
223 U.S. Courthouse
San Diego, California 92101

District of Canal Zone
P.O. Box 2010
Balboa Heights, Canal Zone

District of Colorado
P.O. Box 1796
Denver, Colorado 80201

District of Connecticut
P.O. Box 1686
New Haven, Connecticut 06507

District of Delaware
P.O. Box 1927
Wilmington, Delaware 19899

District of Columbia
U.S. Courthouse
3rd & Constitution Avenue, N.W.
Washington, D.C. 20001

Northern Florida
P.O. Box 1150
Pensacola, Florida 32595

Middle Florida
P.O. Box 4967
Jacksonville, Florida 32201

Southern Florida
P.O. Box 391
Miami, Florida 33101

Northern Georgia
P.O. Box 1365
Atlanta, Georgia 30301

Middle Georgia
P.O. Box 7
Macon, Georgia 31202

Southern Georgia
P.O. Box 9765
Savannah, Georgia 31402

District of Guam
P.O. Box 3396
Agana, Guam 96910

District of Hawaii
P.O. Box 142
Honolulu, Hawaii 96810

District of Idaho
692 Federal Bldg. & Cthse.
Boise, Idaho 83702

Northern Illinois
219 S. Dearborn Street
Chicago, Illinois 60604

Eastern Illinois
Federal Bldg.
East St. Louis, Illinois 62201

Southern Illinois
P.O. Box 156
Springfield, Illinois 62705

Northern Indiana
Federal Bldg.
South Bend, Indiana 46624

Southern Indiana
P.O. Box 575
Indianapolis, Indiana 46244

Northern Iowa
P.O. Box 356
Dubuque, Iowa 52001

Southern Iowa
203 U.S. Courthouse
Des Moines, Iowa 50309

District of Kansas
P.O. Box 327
Topeka, Kansas 66601

Eastern Kentucky
P.O. Box 30
Lexington, Kentucky 40501

Western Kentucky
204 P.O. Bldg.
Louisville, Kentucky 40202

Eastern Louisiana
400 Royal Street, Room 303
New Orleans, Louisiana 70130

Middle Louisiana
U.S. Courthouse
Baton Rouge, Louisiana 70801

Western Louisiana
P.O. Box 53
Shreveport, Louisiana 71161

District of Maine
P.O. Box 349
Portland, Maine 04112

District of Maryland
515 P.O. Bldg.
Baltimore, Maryland 21202

District of Massachusetts
P.O. Box 352
Boston, Massachusetts 02101

Eastern Michigan
932 Federal Bldg. & Cthse.
Detroit, Michigan 48226

Western Michigan
514 Federal Bldg.
Grand Rapids, Michigan 49502

District of Minnesota
523 U.S. Courthouse
Minneapolis, Minnesota 55401

Northern Mississippi
P.O. Box 231
Oxford, Mississippi 38655

Southern Mississippi
P.O. Box 959
Jackson, Mississippi 39205

Eastern Missouri
322 U.S. Courthouse & Customhouse
St. Louis, Missouri 63101

Western Missouri
509 U.S. Cthse.
Kansas City, Missouri 64106

District of Montana
5110 Federal Bldg.
Billings, Montana 59101

District of Nebraska
P.O. Box 1477
Omaha, Nebraska 68101

District of Nevada
4033 Federal Bldg.
Las Vegas, Nevada 89101

District of New Hampshire
P.O. Box 423
Concord, New Hampshire 03301

District of New Jersey
P.O. Bldg. Federal Sq.
Newark, New Jersey 07101

District of New Mexico
P.O. Box 444
Albuquerque, New Mexico 87103

Northern New York
P.O. Box 418
Utica, New York 13503

Eastern New York
U.S. Courthouse
Brooklyn, New York 11201

Southern New York
U.S. Courthouse, Foley Sq.
New York, New York 10007

Western New York
702 U.S. Courthouse
Buffalo, New York 14202

Eastern North Carolina
P.O. Box 25640
Raleigh, North Carolina 27611

Middle North Carolina
P.O. Box 1528
Greensboro, North Carolina 27402

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Western North Carolina
P.O. Box 59
Asheville, North Carolina 28802

North Dakota
P.O. Box 2425
Fargo, North Dakota 58102

Northern Ohio
323 U.S. Courthouse
Cleveland, Ohio 44114

Southern Ohio
P.O. Box 963
Cincinnati, Ohio 45201

Northern Oklahoma
4557 U.S. Courthouse
Tulsa, Oklahoma 74101

Eastern Oklahoma
P.O. Box 738
Muskogee, Oklahoma 74401

Western Oklahoma
P.O. Box 886
Oklahoma City, Oklahoma 73102

District of Oregon
P.O. Box 388
Portland, Oregon 97207

Eastern Pennsylvania
3032 U.S. Courthouse
Philadelphia, Pennsylvania 19107

Middle Pennsylvania
P.O. Box 310
Scranton, Pennsylvania 18501

Western Pennsylvania
810 Post Office & Cthse.
Pittsburgh, Pennsylvania 15219

District of Puerto Rico
P.O. Box 3748
San Juan, Puerto Rico 00904

Rhode Island
P.O. Box 1524
Providence, Rhode Island 02901

District of South Carolina
P.O. Box 1774
Columbia, South Carolina 29202

District of South Dakota
U.S. Cthse. & Fed. Bldg.
Sioux Falls, South Dakota 57102

Eastern Tennessee
P.O. Box 551
Knoxville, Tennessee 37901

Middle Tennessee
866 U.S. Courthouse
Nashville, Tennessee 37203

Western Tennessee
1007 Federal Bldg.
Memphis, Tennessee 38103

Northern Texas
1100 Commerce Street, Room 16F47
Dallas, Texas 75202

Eastern Texas
P.O. Box 111
Beaumont, Texas 77704

Southern Texas
P.O. Box 61608
Houston, Texas 77061

Western Texas
P.O. Box 359
San Antonio, Texas 78292

District of Utah
P.O. Box 1234
Salt Lake City, Utah 84110

District of Vermont
P.O. Box 946
Burlington, Vermont 05401

Eastern Virginia
P.O. Box 1706
Norfolk, Virginia 23501

Western Virginia
P.O. Box 2280
Roanoke, Virginia 24009

District of the Virgin Islands
P.O. Box 720
St. Thomas, Virgin Islands 00801

Eastern Washington
P.O. Box 1463
Spokane, Washington 99210

Western Washington
300 U.S. Courthouse
Seattle, Washington 98104

Northern West Virginia
P.O. Box 1629
Fairmont, West Virginia 26554

Southern West Virginia
4202 Federal Bldg.
Charleston, West Virginia 25301

Eastern Wisconsin
310 Federal Bldg.
Milwaukee, Wisconsin 53202

Western Wisconsin
P.O. Box 90
Madison, Wisconsin 53701

District of Wyoming
P.O. Box 768
Cheyenne, Wyoming 82001

JUSTICE/USA - 001

System name: Administrative Files.

System location: Ninety-four United States Attorneys' Offices (See attached Appendix).

Categories of individuals covered by the system: a) Office Personnel (present and past); b) Expert professionals whose services are used by the office; c) Applicants for office positions; d) Witnesses in Court proceedings; e) Prisoners-In-Custody; f) Defendants; g) Debtors; h) Vendors; i) Citizens making inquiries; j) Members of local and state Bar Associations.

Categories of records in the system: a) Personnel Files (official/unofficial); b) Applicant Files; c) Employee Record Cards (SF-7B); d) Office Rosters; e) Tickler File System for Promotions; f) Personnel Address and Telephone Number Lists; g) Sign In/Out Sheets; h) Time and Attendance Records (OMF - 44); i) Wage Earnings Statement (DOJ - 296); j) Travel Authorizations and Vouchers (OBD - 1 and SF - 1012); k) Advice of Obligations Incurred (DJ - 60); l) Telephone Records and Logs; m) Fiscal Vouchers; n) Witness Records (LAA - 3); o) Lists of Records at Federal Records Centers; p) In-House Statistical Reports; q) Internal Meetings Records; r) Equal Employment Opportunity (EEO) Records; s) Employees: Organizations and Unions Records; t) Federal Woman's Program Records; u) Address and Telephone Indexes; v) Lists of State and Local Bar Members; w) Lists of Expert Professionals; x) Requests for Expert Witnesses; y) Teletype Files; z) Correspondence Files; aa) Evaluation Reports by Regional Assistant Directors.

Authority for maintenance of the system: These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) in any case in which there is an indication of a violation or potential violation of law or legal obligation, criminal, civil, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law or civil remedy;

(b) in the course of investigating the potential or actual violation of any law, criminal, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive or procedural law or practice;

(d) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(k) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(l) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which theyy were appointed by the President, in accordance with the provisions codified in 28 C.F.R. 17.60.

(n) a record relating to an actual or potential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintenance of a suit brought under such title.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

Retrievability: Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorneys' offices by means of catho-ray tube terminals (CRT's).

Safeguards: Information in the system is stored in file cabinets in the United States Attorney's offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within various U.S. Attorneys' offices requires user identification numbers which are issued to authorized employees of the Department of Justice.

Retention and disposal: Records are maintained and disposed of in accordance with Department of Justice retention plans.

System manager(s) and address: System manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district. (See attached Appendix).

Notification procedure: Address inquiries to the System Manager for the judicial district in which the case or matter is pending (See attached Appendix).

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number or informatin which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager (See attached Appendix).

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (See attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system include, but are not limited to investigative reports of federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; data, memoranda and reports from the Court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and administrative staff of the divisions, offices and bureaus, work product of secretarial and administrative staff within the U.S. Attorneys office and the Executive Office for U.S. Attorneys, from general public referral sources or as provided by members of the public who participate,

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assist or observe in pending cases or matters, or commercial establishments which provide goods or services, publications and reports from the Department's other offices, divisions and bureaus and internal U.S. Attorney work product.

Systems exempted from certain provisions of the act: None.

JUSTICE/USA - 002

System name: A.U.S.A. Applicant files.

System location: Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Applicants tentatively selected (by nomination of a U.S. Attorney) for the position of Assistant U.S. Attorney.

Categories of records in the system: The system includes the applicants name, status of Bar membership and dates of receipt, status and final determination on the appointment of the applicant. The system is arranged chronologically by date of receipt of file and applicants name.

Authority for maintenance of the system: These records are kept for administrative convenience pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: All uses are internal within the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The material is stored within manila file folders, within metal file cabinets.

Retrievability: The system is indexed by name, arranged alphabetically.

Safeguards: The correspondence is maintained in a room which is occupied by office personnel during the day and locked at night.

Retention and disposal: Records are maintained and disposed of in accordance with Department retention plans.

System manager(s) and address: Director; Executive Office of United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name and address as included in the original letter, together with the current address if different, the date of the letter and to whom it was addressed. Requests should be directed to the System Manager listed above.

Contesting record procedures: Any requests for correction should also be directed to the System Manager and should indicate the exact correction required.

Record source categories: Sources of information in this system are the actual letter received, the response and any transmitted information and enclosures.

Systems exempted from certain provisions of the act: None.

JUSTICE/USA - 003

System name: Citizen Complaint Files.

System location: U.S. Attorney's Office; 3rd & Constitution Avenue, N.W.; Washington, D.C. 20001.

Categories of individuals covered by the system: The individuals on whom records are maintained in this system may be broadly classified in four categories. 1) Those individuals who have been charged with Federal and D.C. Code violations; 2) those individuals who are currently under investigation for violations of Federal and D.C. Code; 3) those individuals about whom complaints have been made on upon whom investigations were conducted, but no prosecution was initiated; and 4) complainants.

Categories of records in the system: A file may consist of a single sheet of paper describing briefly the nature of a complaint and its disposition or it may consist of a more comprehensive file containing the results of a hearing, depending on the complexity or seriousness of the complaint. If the complaint results in criminal charges being preferred, the contents of the file are transferred to the appropriate criminal file system.

Authority for maintenance of the system: 5 U.S.C. 301, 28 U.S.C. 547, 23 D.C. Code 101(c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate agency, federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law;

(2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual, if there is reason to believe that such agency or individual possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(3) records or extracts thereof relating to a case or matter may be disseminated to a defendant or his attorney or to the appropriate federal, state, local, or foreign, court or grand jury in accordance with established constitutional, substantive, or procedural law or practice;

(4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(6) a record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made;

(7) a record relating to a person held pending arraignment, trial or sentence, or after conviction, may be disseminated to a federal, state, local, or foreign prison, probation, parole, bail or pardon authority, or to any agency or individual concerned with the custody maintenance, transportation, or release of such a person;

(8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

(9) a record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; and

(10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests

the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Citizen complaint files are maintained in one of two ways: either on a single sheet which is a record of the complaint and disposition thereof or in complaints which result in further proceedings, a file folder would be established.

Retrievability: Information is retrieved either by the name of a complainant, the name of a person about whom a complaint is registered or by a complaint number. If further proceedings are conducted with respect to a citizen's complaint and the complaint materializes into a criminal action, the file folder will become part of the criminal files and then is retrievable in the same manner as any criminal file is retrieved.

Safeguards: Information contained in the system is unclassified. It is safeguarded and protected by being maintained in files at the Citizens Complaint Center which is manned at all times when it is open and at other times is locked. More sensitive files that materialize into hearings or required for further action by the Misdemeanor Trial Section of the Superior Court Division are maintained by the Chief of the Misdemeanor Trial Section in his office in Building B of the Superior Court.

Retention and disposal: Files are retained and disposed of in accordance with Title 8, U.S. Attorney's Manual, pages 70-77.

System manager(s) and address: Chief, Misdemeanor Trial Section; U.S. Attorney's Office; Superior Court Division; Building B, 4th & E Streets, N.W.; Washington, D.C.

Notification procedure: Address inquiries to the System Manager.

Record access procedures: The major part of these systems are exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the general subject matter of the document or its file number. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: The major parts of these systems are exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system come primarily from citizens walking into this unit to register complaints. Sources also include but are not limited to investigative reports of federal, state and local law enforcement agencies, forensic reports, statements of witnesses and parties, as well as verbatim transcripts of grand jury proceedings and court proceedings, memoranda and reports from the court and agencies thereof and the work product of Assistant United States Attorneys and legal assistants working on particular cases.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA - 004

System name: Citizen Correspondence Files.

System location: Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system:

a) Individuals who write to the Executive Office for United States Attorneys, its Director or a member of his staff.

b) Individuals who write to the Attorney General or the Department of Justice and whose letter is referred to the Executive Office of United States Attorneys.

c) Individuals whose letter has been referred to the Executive Office of United States Attorneys for a response by the White House, Executive Agencies or Members of Congress.

In all of the above categories, the individuals include only those who express general views or seek information or assistance. Freedom of Information requests are not indexed in this system.

Categories of records in the system: The system includes the original correspondence received as well as any response, referral letters or notes concerning the subject of the correspondence and copies of any enclosures. The system is arranged alphabetically by the last name of the original correspondent.

Authority for maintenance of the system: These records are kept for administrative convenience pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from the responses may be provided to the referror of the original correspondence. All other uses are internal within the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The material is stored within manila file folders, within metal file cabinets.

Retrievability: The system is indexed by name, arranged alphabetically.

Safeguards: The correspondence is maintained in a room which is occupied by office personnel during the day and locked at night.

Retention and disposal: Records are maintained and disposed of in accordance with Department retention plans.

System manager(s) and address: Director; Executive Office of United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name and address as included in the original letter, together with the current address if different, the date of the letter d to whom it was addressed. Requests should be directed to the System Manager listed above.

Contesting record procedures: Any requests for correction should also be directed to the System Manager and should indicate the exact correction required.

Record source categories: Sources of information in this system are the actual letter received, the response and any transmitted information and enclosures.

Systems exempted from certain provisions of the act: None.

JUSTICE/USA - 005

System name: Civil Case Files.

System location: Ninety-four United States Attorneys' Offices (See attached Appendix).

Categories of individuals covered by the system: a) Individuals being investigated in anticipation of Civil suits; b) Individuals involved in Civil suits; c) Defense Counsel(s); d) Information sources; e) Individuals relevant to the development of Civil suits.

Categories of records in the system: a) All Civil Cases Files (USA - 34); b) Docket Cards (USA - 116); c) Civil Debtor Cards (USA - 117b); d) Civil Case Activity Card (USA - 164); e) Civil Debtor Activity Card (USA - 166); f) 3' X 5' Index Cards; g) Caseload Printouts; h) General Correspondence re: Civil Cases; i) Reading Files re: Civil Cases; j) Information Source File; k) Attorney Assignment sheets; l) Telephone records; m) Miscellaneous Investigative files; n) Lands Condemnation Files (Appraisal and Negotiator Reports);

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o) Tax Case Resource File; p) Material in Civil File related to Criminal cases arising out of Civil Proceedings; q) Search Warrants; r) Files unique to District; s) Civil Miscellaneous Correspondence File.

Authority for maintenance of the system: These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) in any case in which there is an indication of a violation or potential violation of law, civil, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating, defending or pursuing such violation, civil claim or remedy, or charged with enforcing, defending or implementing such law;

(b) in the course of investigating the potential or actual violation or civil liability of any government action or law, civil, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such civil action, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation or civil action trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an agency;

(c) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, or informal discovery proceedings;

(f) a record relating to a case or matter that has been referred by an agency for investigation, civil action, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(h) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency or to assist in general civil matters or cases;

(i) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance as is required, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(j) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of types or courses of action or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(k) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in general crime prevention, the pursuit of general civil, regulatory or administrative civil actions or to provide investigative leads to such country, or assist in the location and/or returning of witnesses and other evidence;

(l) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 C.F.R. 17.60.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congres. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

Retrievability: Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorneys' offices by means of cathode-ray tube terminals (CRT's).

Safeguards: Information in the system is both confidential and non-confidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievalbe by CRT's within various U.S. Attorneys' offices requires user identification numbers which are issued to authorized employees of the Department of Justice.

Retention and disposal: Records are maintained and disposed of in accordance with Department of Justice retention plans.

System manager(s) and address: System Manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district. (See attached Appendix).

Notification procedure: Address inquiries to the System Manager for the judicial district in which the case or matter is pending (See attached Appendix).

Record access procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager (See attached Appendix).

Contesting record procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the eextent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (See attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system include, but are not limited to investigative reports of federal, state and local law enforcement, civil litigation, regulatory and administrative agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of deposition and court proceedings; data, memoranda

and reports from the court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA - 006

System name: Consumer Complaints.

System location: U.S. Attorney's Office; 3rd & Constitution Avenue, N.W.; Washington, D.C. 20001.

Categories of individuals covered by the system: The individuals on whom records are maintained in this system may be broadly classified in four categories: 1) Those individuals who have been charged with Federal and D.C. Code violations; 2) Those individuals who are currently under investigation for violations of Federal and D.C. Code; 3) Those individuals upon whom investigations were conducted, but no prosecution was initiated; and 4) Complainants.

Categories of records in the system: The system contained allegations of consumer fraud by citizens of the District of Columbia Metropolitan area. It includes names, addresses, and the substance of the complaints.

Authority for maintenance of the system: 5 U.S.C. 301, 28 U.S.C. 547, 23 D.C. Code 101(c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate agency, federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law;

(2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual, if there is reason to believe that such agency or individual possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(3) records or extracts thereof relating to a case or matter may be disseminated to a defendant or his attorney or to the appropriate federal, state, local, or foreign, court or grand jury in accordance with established constitutional, substantive, or procedural law or practice;

(4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(6) a record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made;

(7) a record relating to a person held pending arraignment, trial or sentence, or after conviction, may be disseminated to a federal, state, local, or foreign prison, probation, parole, bail or pardon authority, or to any agency or individual concerned with the custody maintenance, transportation, or release of such a person;

(8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into or ratified by the United States;

(9) a record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; and

(10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in this system is stored in the Fraud Section of the U.S. Attorney's Office.

Retrievability: Information is retrieved via a cross-index by complainant and potential defendant.

Safeguards: Information contained in this system is unclassified. It is protected in accordance with Departmental rules and is safeguarded in the U.S. Attorney's Office in the Fraud Section

Retention and disposal: The records are stored for a period of at least the statute of limitations for the offense charged.

System manager(s) and address: Chief, Fraud Division; U.S. Attorney's Office; U.S. District Court; 3rd & Constitution Avenue, N.W.; Washington, D.C. 20001.

Notification procedure: Address inquiries to the System Manager.

Record access procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in te request the general subject matter of the document or its file number. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The sources of information contained in this system are complaints referred to the U.S. Attorney's Office by citizens and consumer protection agencies.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA - 007

System name: Criminal Case Files.

System location: Ninety-four United States Attorneys' Offices (See attached Appendix).

Categories of individuals covered by the system: a) Individuals charged with violations; b) Individuals being investigated for violations; c) Defense Counsel(s); d) Information Sources; e) Individuals relevant to development of Criminal Cases; f) Individuals investigated, but prosecution declined; g) Individuals referred to in

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potential or actual cases and matters of concern to a U.S. Attorney's Office.

Categories of records in the system: a) All case files (USA - 33); b) Docket Cards (USA - 115); c) Criminal Debtor Cards (USA - 117a); d) Criminal Case Activity Card (USA - 163); e) Criminal Debtor Activity Card (USA - 164); f) 3" X 5" Index Cards; g) Caseload Printouts; h) Attorney Assignment Sheets; i) General Correspondence re: Criminal Cases; j) Reading Files re: Criminal Cases; k) Grand Jury Proceedings; l) Miscellaneous Investigative Reports; m) Information Source Files; n) Parole Recommendations; o) Immunity Requests; p) Witness Protection Files; q) Wiretap Authorizations; r) Search Warrants; s) Telephone records; t) Criminal Complaints; u) Sealed Indictment Records; v) Files unique to a District; w) Criminal Miscellaneous Correspondence File; x) Prosecution Declined Reports.

Authority for maintenance of the system: These systems are established and maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(a) in any case in which there is an indication of a violation or potential violation of law, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

(b) in the course of investigating the potential or actual violation of any law, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(c) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

(d) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(e) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(f) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

(g) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person;

(h) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

(i) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

(j) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(k) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi;

(l) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return;

(m) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 C.F.R. 17.60.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant tto 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: All information, except that specified in this paragraph, is recorded on basic paper/cardboard material, and stored within manila file folders, within metal file cabinets, electric file/card retrievers or safes. Some material is recorded and stored on magnetic tape, card or other data processing type storage matter for reproduction later into conventional formats.

Retrievability: Information is retrieved primarily by name of person, case number, complaint number or court docket number. Information within this system of records may be accessed by various U.S. Attorneys' offices by means of catho-ray tube terminals (CRT's).

Safeguards: Information in the system is both confidential and non-confidential and located in file cabinets in the United States Attorney offices. Some materials are located in locked file drawers and safes, and others in unlocked file drawers. Offices are locked during non-working hours and are secured by either Federal Protective Service, United States Postal Service, or private building guards. Information that is retrievable by CRT's within various U.S. Attorneys' offices requires user identification numbers which are issued to authorized employees of the Department of Justice.

Retention and disposal: Records are maintained and disposed of in accordance with Department of Justice retention plans.

System manager(s) and address: System manager for the system in each office is the Administrative Officer/Assistant, for the U.S. Attorney for each district (See attached Appendix).

Notification procedure: Address inquiries to the System Manager for the judicial district in which the case or matter is pending (See attached Appendix).

Record access procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record and the name of the case or matter involved, if known. The rquester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager (See attached Appendix).

Contesting record procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager (See attached Appendix) stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system include, but are not limited to investigative reports of federal, state and local law enforcement agencies; client agencies of the Department of Justice; other non-Department of Justice investigative agencies; forensic reports; statements of witnesses and parties; verbatim transcripts of Grand Jury and court proceedings; data, memoranda and reports from the Court and agencies thereof; and the work product of Assistant United States Attorneys, Department of Justice attorneys and staff, and legal assistants working on particular cases.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA - 008

System name: Freedom of Information Act/Privacy Act Files.

System location: Executive Office for United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system:

a) Individuals who write to the Executive Office for United States Attorneys, its Director or a member of his staff, or a U.S. Attorneys office.

b) Individuals who write to the Attorney General or the Department of Justice or the FOI/PA Unit and whose letter is referred to the Executive Office of United States Attorneys.

c) Individuals whose letter has been referred to the Executive Office of United States Attorneys for a response by the FOI/PA Unit or Appeals Unit.

Categories of records in the system: The system includes the original correspondence received as well as any response, referral letters or notes concerning the subject of the request and copies of any enclosures. The system is arranged alphabetically by the last name of the original requestor.

Authority for maintenance of the system: These records are kept for administrative convenience pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101 and the provisions of the Freedom of Information Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from the responses may be provided to the referrer of the original request or the requester. All other uses are internal within the Department.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The material is stored within manila file folders, within metal file cabinets.

Retrievability: The system is indexed by name, arranged alphabetically.

Safeguards: The correspondence is maintained in a room which is occupied by office personnel during the day and locked at night.

Retention and disposal: Records are maintained and disposed of in accordance with Department retention plans.

System manager(s) and address: Director; Executive Office of United States Attorneys; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the System Manager listed above.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Freedom of Information' or 'Privacy Access Request.' Include in the request the name and address as included in the original letter, together with the current address if different, the date of the letter and to whom it was addressed. Requests shod be directed to the system manager listed above.

Contesting record procedures: Any requests for correction should also be directed to the System Manager and should indicate the exact correction required.

Record source categories: Sources of information in this system are the actual letter received, the response and any transmitted information and enclosures.

Systems exempted from certain provisions of the act: Records secured from other systems of records have been exempted from the provisions of the Privacy Act to the same extent as the systems of records from which they were obtained. The Attorney General has also exempted certain categories of records in this system from subsection (c) (3), (d) of the Privacy Act pursuant to 5 U.S.C. 552a (k) (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(c), and (e) and have been published in the Federal Register.

JUSTICE/USA - 009

System name: Kline - District of Columbia and Maryland - Stock and Land Fraud Interrelationship Filing System.

System location: U.S. Attorney's Office; 3rd & Constitution Avenue, N.W.; Washington, D.C. 20001.

Categories of individuals covered by the system: The individuals on whom records are maintained in this system may be broadly classified in three categories: 1) Those individuals who have been charged with Federal and D.C. Code violations; 2) Those individuals who are currently under investigation for violations of Federal and D.C. Code; 3) Those individuals upon whom investigations were conducted, but no prosecution was initiated. These include but are not limited to possible witnesses, corporate entities, corporate employees, business contacts, financial institutions and governmental contacts.

Categories of records in the system: The system contains an index record for individual names and types of transactions with named individuals.

Authority for maintenance of the system: 5 U.S.C. 301, 28 U.S.C. 547, 23 D.C. Code 101(c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(1) in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate agency, federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law;

(2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual, if there is reason to believe that such agency or individual possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(3) records or extracts thereof relating to a case or matter may be disseminated to a defendant or his attorney or to the appropriate federal, state, local, or foreign, court or grand jury in accordance with established constitutional, substantive, or procedural law or practice;

(4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(6) a record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made;

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(7) a record relating to a person held pending arraignment, trial or sentence, or after conviction, may be disseminated to a federal, state, local, or foreign prison, probation, parole, bail or pardon authority, or to any agency or individual concerned with the custody maintenance, transportation, or release of such a person;

(8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

(9) a record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; and

(10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is stored electronically in the Department of Justice Juris System.

Retrievability: Information is retrieved primarily by referencing the individuals' names who participated in the business transactions.

Safeguards: Information contained in this system is protected as though it was classified as confidential. It is accessible only to holders of the entry code; the only holders of the code are the U.S. Attorney's Offices for the District of Columbia and Maryland.

Retention and disposal: The records are to be retained for the period of usefulness as determined by the U.S. Attorney's Office.

System manager(s) and address: Chief, Fraud Division; U.S. Attorney's Office; U.S. District Court; 3rd & Constitution Avenue, N.W.; Washington, D.C. 20001.

Notification procedure: All inquiries should be addressed to the System Manager.

Record access procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemptio, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the general subject matter of the document or its file number. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are individuals who have cooperated with the U.S. Attorney's Office in the investigation of criminal activity.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA - 010

System name: Major Crimes Division Investigative Files.

System location: U.S. Attorney's Office; 3rd & Constitution Avenue, N.W.; Washington, D.C. 20001.

Categories of individuals covered by the system: The individuals on whom records are maintained in the Major Crimes Division Investigative Files may be broadly classified in four categories: 1) Those individuals who have been charged with Federal and D.C. Code violations; 2) those individuals who are currently under investigation for violations of Federal and D.C. Code; 3) those individuals upon whom investigations were conducted, but no prosecution was initiated; and 4) other informants.

Categories of records in the system: In addition to the standard files maintained in accordance with the U.S. Attorney's Manual and the Department of Justice Docket and Reporting System, there are also maintained in the Major Crimes Division of this office certain investigative and intelligence files. The type of information maintained is identifying data, criminal records, intelligence compiled for the purpose of investigation of criminal offenses, criminal investigative reports, informant debriefing summaries, and information provided in confidence during investigative and prosecutive states of criminal cases.

Authority for maintenance of the system: 5 U.S.C. 301, 28 U.S.C. 547, 23 D.C. Code 101(c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate agency, federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law;

(2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual, if there is reason to believe that such agency or individual possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(3) records or extracts thereof relating to a case or matter may be disseminated to a defendant or his attorney or to the appropriate federal, state, local, or foreign, court or grand jury in accordance with established constitutional, substantive, or procedural law or practice;

(4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(6) a record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made;

(7) a record relating to a person held pending arraignment, trial or sentence, or after conviction, may be disseminated to a federal, state, local, or foreign prison, probation, parole, bail or pardon authority, or to any agency or individual concerned with the custody maintenance, transportation, or release of such a person;

(8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

(9) a record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; and

(10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employeei the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information is maintained in memorandum form in file folders.

Retrievability: Information is retrieved primarily by the name of a person, complaint number, court docket number, FBI number, Metropolitan Police Department identification number and District of Columbia Department of Corrections number.

Safeguards: Information contained in the system is both unclassified and classified and is safeguarded and protected by being maintained in tumbler locked file safes in the Major Crimes Division which is manned during all times that it is open and at other times is locked. This room is located in the U.S. Courthouse which is guarded by the Federal Protective Service twenty four hours a ay with roving patrols during non-working hours.

Retention and disposal: Files are retained and disposed of in accordance with Title 8, U.S. Attorney's Manual, pages 70-77.

System manager(s) and address: Chief, Major Crimes Division; U.S. Attorney's Office; U.S. District Court; 3rd & Constitution Avenue, N.W., Room 4400; Washington, D.C. 20001.

Notification procedure: Address inquiries to the System Manager.

Record access procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the general subject matter of the document or its file number. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are investigative reports of federal, state and local law enforcement agencies, statement of witnesses, informants and parties, as well as verbatim transcripts of grand jury proceedings and court proceedings, memoranda and reports from the court and agencies thereof and the work product of Assistant United States Attorneys and legal assistants working on particular cases.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA - 011

System name: Prosecutor's Management Information System (PROMIS).

System location: U.S. Attorney's Office; 3rd & Constitution Avenue, N.W.; Washington, D.C. 20001.

Categories of individuals covered by the system: The individuals on whom records are maintained in PROMIS are as follows: 1) Those individuals who have been charged with criminal violations; 2) those individuals who are currently under investigation for criminal violations; 3) those individuals upon whom criminal investigations were conducted, but no prosecution was initiated; and 4) the names and addresses of all witnesses and arresting police officers.

Categories of records in the system: The data in PROMIS fall into six major categories.

1. Information about the accused or defendant. This includes name, alias, sex, race, date of birth, address, facts about prior arrests and convictions, and employment status. If judged appropriate, additional data could be added, such as information about alcohol or drug abuse. Some of this information is used to rate the gravity of the case in terms of the defendant's criminal history.

2. Information about the crime. The date, time, and place of the crime; the number of persons involved in the crime; and a numerical rating reflecting the gravity of the crime in terms of the amount and degree of personal injury, property damage or loss, and intimidation.

3. Information about the arrest. The date, time, and place of the arrest, the type of arrest, and the identity of the arresting officers.

4. Information about criminal charges. The charges originally placed by the police against the arrestee, the charges actually filed in court against the defendant, the reasons for changes in the charges by the prosecutor, the penal statute for the charge, the FBI Uniform Crime Report Code for the charge, and the Project SEARCH Code for the charge.

5. Information about court events. The dates of every court event in a case from arraignment through motion hearing, continuance hearing, final disposition, and sentencing; the names of the principals involved in each event, including the defense and prosecution attorneys and judge; the outcomes of the events and the reasons therefor.

6. Information about witnesses. The names and addresses of all witnesses, the prosecutor's assessment of whether the witnesses are essential to the case, and any indications of reluctance to testify by the witnesses.

Authority for maintenance of the system: 5 U.S.C. 301, 28 U.S.C. 547, 23 D.C. Code 101(c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate agency, federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law;

(2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual, if there is reason to believe that such agency or individual possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(3) records or extracts thereof relating to a case or matter may be disseminated to a defendant or his attorney or to the appropriate federal, state, local, or foreign, court or grand jury in accordance with established constitutional, substantive, or procedural law or practice;

(4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case

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or matter, plea bargaining, or informal discovery proceedings, or to the Public Defender Service in connection with caseload management or other purposes;

(6) a record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made or to assist in eliciting additional information;

(7) a record relating to a person held pending arraignment, trial or sentence, or after conviction, may be disseminated to a federal, state, local, or foreign prison, probation, parole, bail or pardon authority, or to any agency or individual concerned with the custody maintenance, transportation, or release of such a person;

(8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

(9) a record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; and

(10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

Because PROMIS is an automated information system, this office utilizes it to track the workload of the criminal court process from three separate vantage points. First, the workload is tracked from the vantage point of the crime or criminal incident. This is accomplished by including in PROMIS the complaint number which the police department assigns to a reported crime. With this number, prosecutors can follow the full history of the court actions arising from the crime even though those actions may involve multiple defendants, multiple cases, and multiple trials and dispositions.

Second, PROMIS tracks the court workload from the vantage point of the accused or defendant. This is achieved by incorporating in PROMIS the fingerprint-based number the police department assigns to the individual following his or her arrest. This identification number is used again by the department if the same individual is subsequently arrested. Through this number, prosecuting attorneys accumulate criminal history files on offenders and note incidents of recidivism.

Finally, PROMIS tracks from the vantage point of the court proceedings. This is accomplished by including in PROMIS the docket number the Court assigns to the case pending before it. With this number, prosecutors trace the history of any formal criminal action from arraignment through final disposition and sentencing, and account for the separate fate of each count or charge.

The inclusion of these three numbers is significant. The numbers provide a capability to track the criminal incident, the defendant, or the court actions and provide the basis for the routine communication among the various Federal, state, local, and foreign law enforcement agencies.

In addition, PROMIS generates, on a recurring basis, five categories of reports: misdemeanor calendars, felony calendars, case status reports, workload reports, and special reports. These reports are prepared from information contained in the data base both by persons employed by this office, the Justice Department and persons under contract to the Department for this purpose.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored on magnetic tapes and discs at the District of Columbia Metropolitan Police Department Computer Center. Printouts from the terminals are stored with case jackets. Status, calendars, and statistical reports are stored in the files and office of supervisory attorneys.

Retrievability: This system has an on-line data retrieval capability with respect to certain information continued in the data base. These subsets of information are retrieved on data display terminals which are located at various work stations throughout the office. Certain of these terminals have a printout capability. All information on these subsets is a matter of public record. The system also has the capability for the production of periodic reports. Both the periodic reports and the on-line displays are utilized in accordance with the above listed routine uses.

Safeguards: The magnetic tapes and discs are maintained in a secure vault at the Metropolitan Police Department Computer Center. In addition to the physical security safeguards, there is a twenty-four hour patrol. The data display terminals are located in semi-public areas of the office (i.e., administrative work stations through which the public must pass on official business). However, only trained operators may retrieve the information, which is of public record. The terminals are not open to the public after working hours.

Retention and disposal: The files are retained and disposed of in accordance with Title 8, U.S. Attorney's Manual, pages 70-77.

System manager(s) and address: Administrative Assistant; United States Attorney; U.S. District Court; 3rd & Constitution Avenue, N.W.; Room 3602-A; Washington, D.C. 20001.

Notification procedure: Address inquiries to the System Manager.

Record access procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the general subject matter of the document or its file number. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: About 80 percent of the data contained in PROMIS is obtained at the intake and screening stage as the by-product of the case documentation process. Carbon copies of various forms completed immediately before or during the case screening stage serve as iinput documents for PROMIS.

As a case moves through the subsequent proceedings, additional information about its status is fed to PROMIS. This is achieved through turnaround documents--forms generated by PROMIS in advance of a court event--on which the results of a given proceeding (e.g., preliminary hearing, sentencing, etc.) are recorded and then entered in PROMIS.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USA - 012

System name: Security Clearance Forms for Grand Jury Reporters.

System location: U.S. Attorney's Office; 3rd & Constitution Avenue, N.W.; Washington, D.C. 20001.

Categories of individuals covered by the system: Proposed Grand Jury Reporters.

Categories of records in the system: Request for security clearance of grand jury reporter(s) employed by the reporting firm under contract with the Justice Department; carbon copy of 'PERSONNEL INFORMATION SHEET - Grand Jury Reporting' on which is listed name of proposed grand jury reporter, home address, date and place of birth, and present business affiliation; and clearance or denial of clearance for the proposed reporter from the Department of Justice.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: All uses of this information are internal within the Department of Justice.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Security clearance forms are kept alphabetically in file cabinets in the Administrative Office.

Retrievability: Security clearance forms on grand jury reports are retrievable from an alphabetical filing system.

Safeguards: Security clearance forms are maintained in the Administrative Division in the District Court Building which is manned at all times during working hours and at other times is locked.

Retention and disposal: Security clearance forms are maintained for five years, at which time they must be renewed. Upon receipt of renewed security clearance, old forms are destroyed.

System manager(s) and address: Administrative Officer; U.S. Attorney's Office; U.S. District Court; 3rd & Constitution Avenue, N.W.; Washington, D.C. 20001.

Notification procedure: Address inquiries to the System Manager.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the general subject matter of the document. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The source of the information contained in these files are the reporr's request for security clearance, personnel information sheet and the clearance or denial of clearance

Systems exempted from certain provisions of the act: None.

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System name: U.S. Attorney, District of Columbia Superior Court Division, Criminal Files, including but not limited to the following subsystems: (a) Criminal File Folder (USA-S1), (b) Criminal File Folder (USA-33), (c) Criminal Docket Card (USA-T7), and (d) Index.

System location: U.S. Attorney's Office; 3rd & Constitution Avenue, N.W.; Washington, D.C. 20001.

Categories of individuals covered by the system: The individuals on whom records are maintained may be broadly classified in three categories: 1) Those individuals who have been charged with criminal violations; 2) those individuals who are currently under investigation for criminal violations; and 3) those individuals upon whom criminal investigations were conducted, but no prosecution was initiated.

Categories of records in the system: This system of records, consisting of numbered Criminal File Folders, (USA-S1 and USA-33), contains criminal investigative reports about named individuals submitted to this office by federal, state, local and foreign law enforcement agencies involved with the investigation of suspected violations as well as by complaints made by private parties. Those matters which become cases either by way of indictment or information in addition to the data contained in the investigative reports, also contain copies of indictments, informations, complaints, and all pleadings submitted to the court in connection with the actual prosecution of the case. These files also contain communications between the Court and agencies thereof, and the United States Attorney, and all correspondence relative to the case or matter. The files further contain psychiatric, chemical and other forensic reports, documentary evidence and the work product and internal memoranda of the Assistant United States Attorney in charge of the investigation compiled in preparation for the prosecution of each case. In those cases which have gone through trial and appeal, the file would further reflect transcripts of the trial, all pleadings and correspondence between the attorneys and the Court of Appeals, and copies of briefs submitted in the prosecution of the appeal.

A synopsis record of a matter or case is maintained by means of a criminal docket card (USA-T7), for all actions through sentencing. A synopsis record of a case on appeal is maintained on an Appellate Docket Card (USA-9X-199), (Appellate Proceedings). All of these subsystems comprise an internal cross-reference record keeping system of the criminal business at the office. Through the medium of forms and on-line data input, certain of this information is conveyed to a computer center for inclusion in the Prosecutor's Management Information System (a system which will be reported on separately), from which status and statistical reports are issued and distributed back to this office either in the form of computer printouts or on data display terminals which contain much of the same information as the files in different format.

Because of the number of diverse functions which must be performed with respect to each case; and because of the large volume of cases and because operations are conducted in three separate buildings, there are a number of file folder locator mechanisms and cross references utilized to constantly track a file folder when it is not physically located in file control. These indexes or locators are maintained in the form of 'out cards,' log books, index card files, etc. They are referenced by name, number, and other identifiers. In themselves, they are not separate systems of records, but indexes or references to the primary system.

Authority for maintenance of the system: 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system of records may be disseminated as a routine use of such record as follows:

(1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate agency, federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law;

(2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual, if there is reason to believe that such agency or individual possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant;

(3) records or extracts thereof relating to a case or matter may be disseminated to a defendant or his attorney or to the appropriate federal, state, local, or foreign, court or grand jury in accordance with established constitutional, substantive, or procedural law or practice;

(4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

(5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

(6) a record relating to a case or matter that has been referred for investigation may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made or to assist in eliciting additional information;

(7) a record relating to a person held pending arraignment, trial or sentence, or after conviction, may be disseminated to a federal,

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state, local, or foreign prison, probation, parole, bail or pardon authority, or to any agency or individual concerned with the custody maintenance, transportation, oor release of such a person;

(8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

(9) a record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; and

(10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The information in the various indexes is maintained on index cards, log books, out cards, etc. The criminal files themselves are maintained in criminal file folders (USA-S1 and USA-33). The synopsis information is maintained on a Criminal Docket Card (USA-T7) and Appellate Proceedings (USA-9X-199).

Retrievability: Information is retrieved primarily by the name of a person, complaint number, court docket number, FBI number, Metropolitan Police Department identification number and District of Columbia Department of Corrections number.

Safeguards: Information contained in the system is both unclassified and classified and is safeguarded and protected by being maintained in filerooms which are manned during all times that they are open and at other times are locked. These rooms are located in the Superior Court for the District of Columbia, Buildings B and G which are guarded by the federal protective service twenty four hours a day with roving patrols during non-working hours. Files which are not in the filerooms but which are checked out to attorneys are maintained in locked offices after working hours.

Retention and disposal: The files are retained and disposed of in accordance with Title 8, U.S. Attorney's Manual, pages 70-77.

System manager(s) and address: Administrative Officer; U.S. Attorney's Office; Superior Court Division; Room 108, Building B;4th & F Sreets, N.W.; Washington, D.C. 20001.

Notification procedure: Address inquiries to the System Manager.

Record access procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to access. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the general subject matter of the document or its file number. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: The major part of the information maintained in this system is exempt from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and/or (k)(2). To the extent that this system is not subject to exemption, it is subject to contest. A determination as to exemption shall be made at the time a request for contest is received. Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system include but are not limited to investigative reports of federal, state and local law enforcement agencies, forensic reports, statements of witnesses and parties, as well as verbatim transcripts of grand jury proceedings and court proceedings, memoranda and reports from the court and agencies thereof and the work product of Assistant United States Attorney and legal assistants working on particular cases.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(1) and (2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

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System name: Appendix of United States Attorney Office locations:

Alabama, N
200 Federal Building
1800 Fifth Avenue North
Birmingham, Alabama 35203

Alabama, M
P.O. Box 197
Montgomery, Alabama 36101

Alabama, S
P.O. Drawer E
Mobile, Alabama 36601

Alaska
P.O. Box 680
Anchorage, Alaska 99510

Arizona
P.O. Box 1951
Tucson, Arizona 85702

Arkansas, E
P.O. Box 1229
Little Rock, Arkansas 72203

Arkansas, W
P.O. Box 1524
Fort Smith, Arkansas 72901

California, N
450 Golden Gate Avenue
San Francisco, Calif. 94102

California, E
2058 Fed. Bldg. & Court House
650 Capitol Mall
Sacramento, Calif. 95814

California, C
312 N. Spring St.
Los Angeles, Calif. 90012

California, S
U.S. Court House, Annex A
325 West F Street
San Diego, Calif. 92101

Canal Zone
Box 2090
Balboa, Canal Zone

Colorado
323 U.S. Court House
P.O. Box 3615
1961 Stout Street
Denver, Colorado 80202

Connecticut
Post Office Bldg.
141 Church St.
New Haven, Conn. 06507

Delaware
5001 New Federal Bldg.
9th & King Sts.
Wilmington, Delaware 19801

D.C.
Room 3600-E U.S. Court House
3rd & Constitution Ave., N.W.
Washington, D.C. 20001

Florida, N
P.O. Box 12313
Pensacola, Florida 32501

Florida, M
P.O. Box 600
Jacksonville, Florida 32201

Florida, S
300 Ainsley Bldg.
14 N.E. 1st Avenue
Miami, Florida 33132

Georgia, N
P.O. Box 912
Atlanta, Georgia 30301

Georgia, M
P.O. Box U
Macon, Georgia 31202

Georgia, S
P.O. Box 2017
Augusta, Georgia 30903

Guam
P.O. Box Z
Agana, Guam 96910

Hawaii
P.O. Box 654
Honolulu, Hawaii 96809

Idaho
Room 698 Federal Bldg.
Box 037, 550 W. Fort St.
Boise, Idaho 83702

Illinois, N
Everett McKinley Dirksen Bldg.
219 S. Dearborn St.
Room 1500 South
Chicago, Illinois 60604

Illinois, E
P.O. Box 226
East St. Louis, Ill. 62202

Illinois, S
P.O. Box 375
Springfield, Illinois 62705

Indiana, N
P.O. Box 327
Fort Wayne, Indiana 46801

Indiana, S
Room 246, Federal Bldg. & U.S. Court House
Ohio & Meridian Sts.
Indianapolis, Indiana 46204

Iowa, N
P.O. Box 1138
Sioux City, Iowa 51102

Iowa, S
113 U.S. Court House
Des Moines, Iowa 50309

Kansas
P.O. Box 2098
Wichita, Kansas 67201

Kentucky, E
P.O. Box 1490
Lexington, Kentucky 40501

Kentucky, W
U.S.P.O. & Court House Bldg.
Sixth and Broadway
Louisville, Kentucky 40202

Louisiana, E
500 St. Louis Street
New Orleans, La. 70130

Louisiana, M
Federal Bldg. & U.S. Court House
Rm. 130, 707 Florida St.
Baton Rouge, La. 70801

Louisiana, W
P.O. Box 33
Shreveport, La. 71161

Maine
Federal Court House
156 Federal St.
Portland, Maine 04112

Maryland
405 U.S. Court House
Fayette & Calvert Sts.
Baltimore, Maryland 21202

Massachusetts
1107 John W. McCormack
P.O. & Court House
Boston, Mass. 02109

Michigan, E
817 Federal Building
231 Lafayette
Detroit, Michigan 48226

Michigan, W
544 Federal Bldg. & U.S. Court House
110 Michigan Ave., N.W.
Grand Rapids, Michigan 49502

Minnesota
596 U.S. Court House
110 S 4th Street
Minneapolis, Minn. 55401

Mississippi, N
P.O. Drawer 886
Oxford, Miss. 38655

Mississippi, S
P.O. Box 2091
Jackson, Miss. 39205

Missouri, E
Room 402
1114 Market St.
St. Louis, Missouri 63101

Missouri, W
549 U.S. Court House
811 Grand Avenue
Kansas City, Missouri 64106

Montana
P.O. Box 1478
Billings, Montana 59101

Nebraska
P.O. Box 1228
Omaha, Nebraska 68101

Nevada
Box 16030

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Las Vegas, Nevada 89101

New Hampshire
Federal Building
Concord, New Hampshire 03301

New Jersey
P.O. Box 330
Newark, New Jersey 07101

New Mexico
P.O. Box 607
Albuquerque, N. Mex. 87105

New York, N
P.O. Box 1258
Federal Bldg.
Syracuse, N.Y. 13201

New York, S
U.S. Court House Annex
One St. Andrew's Plaza
New York, N.Y. 10007

New York, E
U.S. Court House
225 Cadman Plaza East
Brooklyn, N.Y. 11201

New York, W
502 U.S. Court House
Buffalo, N.Y. 14202

N. Carolina, E
P.O. Box 26897
Raleigh, N.C. 27611

N. Carolina, M
P.O. Box 1858
Greensboro, N.C. 27402

N. Carolina, W
P.O. Box 132
Asheville, N.C. 28802

N. Dakota
P.O. Box 2505
Fargo, N.D. 58102

Ohio, N
Room 400
U.S. Court House
Cleveland, Ohio 44114

Ohio, S
200 Federal Bldg.
85 Marconi Blvd.
Columbus, Ohio 43215

Oklahoma, N
Rm. 460, U.S. Court House
333 West Fourth Street
Tulsa, Okla. 74103

Oklahoma, E
P.O. Box 1009
Muskogee, Okla. 74401

Oklahoma, W
Room 4434
U.S. Court House & Federal Office Bldg.
Oklahoma City, Okla. 73102

Oregon
P.O. Box 71
Portland, Oregon 97207

Penn., E
Room 4042, U.S. Court House
9th & Market Sts.
Philadelphia, Penn. 19107

Penn., M
U.S.P.O. Building
Room 426
Scranton, Penn. 18501

Penn., W
633 U.S.P.O. & Court House
7th Ave. & Grant St.
Pittsburgh, Penn. 15219

Puerto Rico
P.O. Box 3391
San Juan, Puerto Rico 00904

Rhode Island
P.O. Box 1401
Providence, R.I. 02901

S. Carolina
151 U.S. Court House
Columbia, S.C. 29201

S. Dakota
231 Federal Bldg. & U.S. Court House
400 S. Phillips Avenue
Sioux Falls, S.D. 57102

Tennessee, E
201 U.S.P.O. & Court House Bg.
Knoxville, Tenn. 37902

Tennessee, M
P.O. Box 800
Nashville, Tenn. 37202

Tennessee, W
1058 Federal Office Bldg.
167 North Main Street
Memphis, Tenn. 38301

Texas, N
310 U.S. Court House
10th at Lamar
Ft. Worth, Texas 76102

Texas, S
P.O. Box 61129
Houston, Texas 77061

Texas, E
P.O. Box 1049
Tyler, Texas 75701

Texas, W
P.O. Box 1701
San Antonio, Texas 78296

Utah
200 P.O. & Court House
350 South Main Street
Salt Lake City, Utah 84101

Vermont
P.O. Box 10
Rutland, Vermont 05701

Virgin Islands
P.O. Box 1441
St. Thomas, V.I. 00801

Virginia, E
Box 749
Alexandria, Va. 22313

Virginia, W
P.O. Box 1709
Roanoke, Va. 24008

Washington, E
Box 1494

Spokane, Wash. 99210

Washington, W
P.O. Box 1227
Seattle, Wash. 98111

W. Virginia, N
P.O. Box 591
Wheeling, W. Va. 26003

W. Virginia, S
Room 4006 Federal Bldg.
500 Quarrier Street
Charleston, W. Va. 25301

Wisconssin, E
361 Federal Bldg.
517 East Wsiconsin Ave.
Milwaukee, Wisc. 53202

Wisconsin, W
P.O. Box 112
Madison, Wisc. 53701

Wyoming
P.O. Box 668
Cheyenne, Wyoming 82001

JUSTICE/OMF - 001

System name: Background Investigation Check-off Card (OMF-154).

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: All employees of the Offices, Boards, and Divisions except attorneys and employees in the Offices of the Attorney General and Deputy Attorney General.

Categories of records in the system: The system contains an index card for each employee of the Offices, Boards, and Divisions, except those excluded in Categories of Individuals above, on whom a name and fingerprint or background investigation has been initiated.

Authority for maintenance of the system: The system is established and maintained in order to fulfill the requirements of Executive Order 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The index cards are used to annotate and monitor the progress of the name and fingerprint checks and the full field character investigations of the employees. The completed cards are used to develop a variety of workload and timeframe data concerning the initiation and completion of these investigations to ensure that the requirements of Executive Order 10450 and Department of Justice Order 1732.1 are being effectively and efficiently met.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is manually stored in file boxes.

Retrievability: Information is retrieved manually by reference to the name of the employee on whom the investigation is being conducted.

Safeguards: Information contained in the system is unclassified. It is safeguarded and protected in accordance with Personnel Section policies and procedures.

Retention and disposal: The index cards are retained by the Personnel Section Teams for a period of one year after completion of the background investigation. The cards are then forwarded to the Personnel Programs Unit where they are retained for one additional year and are then destroyed.

System manager(s) and address: Director; Operations Support Staff; Office of Management and Finance; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: Same as the System Manager.

Contesting record procedures: Same as the System Manager.

Record source categories: The sources of information contained in this system are those Personnel Section employees authorized to annotate these cards. Information reported is extracted from personnel documents initiating the various investigations and the resulting reports of completion.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 002

System name: Controlled Substances Act Nonpublic Records.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who have been convicted for the first time of violating Section 404 (a) of the Controlled Substances Act (Public Law 91-513), i.e. persons who have knowingly or intentionally possessed a controlled substance except as authorized by the act.

Categories of records in the system: Arrest records of law enforcement agencies, which include personal data, photographs, fingerprints, copies of court orders, DOJ-330 Request for Non-Public Records and/or DOJ-329 Certificate of Expungement.

Authority for maintenance of the system: This system is established and maintained in accordance with the Controlled Substances Act, Public Law 91-513 Sec. 404, 21 U.S.C. 844.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are retained by the Department of Justice and are available only to a Federal court upon a Federal court order issued to the Attorney General demanding such records for use by said court in determining whether or not a person qualified under Public Law 91-513 Sec. 404 (b), 21 U.S.C. 844 (b).

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in locked file cabinets.

Retrievability: These records are indexed by the name of the offender.

Safeguards: Access to these records is restricted to the Chief, Directives and Records Management Unit and the assistant to the Chief.

Retention and disposal: Although these records will ultimately be destroyed by shredding, the establishment of a disposal schedule is still pending.

System manager(s) and address: Director; Operations Support Staff; Office of Management and Finance; U.S. Department of Justice; 10th & Constitution Avenue N.W.; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: Same as the System Manager.

Contesting record procedures: Same as the System Manager

Record source categories: Law enforcement agencies and courts.

Systems exempted from certain provisions of the act: The Attorney General has exempted the system from subsection (d) of the Priva-

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cy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/OMF - 003

System name: Department of Justice Payroll System.

System location: Categories of records within the Payroll System of Records are kept at the following locations. (1) Justice Payroll Services Center; 425 EYE St. N.W.; Washington, D.C. 20537. (2) Justice Data Center; 615 Pennsylvania Ave., N.W.; Washington, D.C. (3) At various time and attendance recording and processing stations around the world. (4) At computerized record off-site back-up facilities. (5) At various Federal Record Centers.

Categories of individuals covered by the system: (1) Current DOJ employees with the exception of those employed within the FBI, and; (2) Many past DOJ employees with the exception of those that served within the FBI.

Categories of records in the system:

A. Payroll Master Employee Records: These are machine-readable records containing information on current pay and leave status for individuals serviced by the automated payroll accounting system.

B. Bond, Allotment and Check Mailing Records: These are machine-readable records containing information on Savings Bond deductions, savings account allotments, and net check mailing requested by the employee.

C. History of Earnings Records: These are machine-readable records containing information on earnings, leave and other pay related activity during a two-year period.

D. Automated Retirement Records: These are machine-readable records containing information relevant to the Civil Service Retirement System. These records will be used to automatically generate Individual Retirement Records (SF-2806) upon an employee's separation.

E. Revised Social Security Number Records: These are machine-readable records containing the new and old social security number for employees whose current social security number is different from that previously entered into the automated system.

F. Employee Pay Records: These are manilla folders containing all source documents, correspondence and other papers in support of an active employee's pay, leave and allowances.

G. Active Retirement Records: These are manual records maintained on active employees to facilitate timely compliance with requirements of the Civil Service Retirement System. Upon separation, the original SF-2806 is forwarded to the Civil Service Commission and a copy is filed in the Employee Pay Record (F above). This category of records will eventually be replaced by the automated retirement records (D above).

H. Former Employee Pay Records: These records are the Employee Pay Records (F above) for employees that have been separated, transferred or retired. In addition to information contained in the Employee Pay Records, these records include information related to the retirement, separation or transfer.

I. Employee Death Records: These records are the Employee Pay Records (F above) for employees that died while on active duty with the Department of Justice. In addition to information contained in the Employee Pay Records, these records include information related to the employee's death and the settlement of pending pay and allowances.

J. Returned Check Records: These records are a manual log for recording and controlling checks issued to employees that were returned to the Payroll Services Center because they were undelivered, erroneous or cancelled prior to conversion to cash.

K. Time and Attendance Report: These records contain information on an employee's attendance and use of leave in a particular pay period. They are also used to indicate leave adjustments and balances. The standard form number is DOJ-296.

Authority for maintenance of the system: The head of each executive agency is responsible for establishing and maintaining an adequate payroll system, covering pay, leave, and allowances, as a part of the system of accounting and internal control of the Budget and Accounting Procedures Act of 1950, as amended, 31 U.S.C. 66, 66a and 200(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Purpose: The purpose of each use of categories of records within the DOJ Payroll System of Records is to enable the administration of the payroll function and related financial matters in accordance with applicable laws and regulations and to comply with the requirements of the Comptroller General.

System Uses:

A. Authorize, prepare and document payment to all Department employees covered by the DOJ Payroll System entitled to be paid, with consideration given to all authorized deductions from gross pay.

B. Specify and document proper disposition of all authorized deductions from gross pay.

C. Prepare adequate and reliable payroll reports needed for (1) management, (2) budget, (3) support of payments, (4) the conduct and accounting of payroll related employee services, (5) control and documentation of payroll system operation, and (6) to meet external reporting requirements.

D. Support effective communication on payroll matters between the Department of Justice and its present and former employees.

E. Support proper coordination of pay, leave and allowance operations with personnel functions and other related activities.

F. Support adequate control over all phases and segments of the payroll system including leave accounting.

G. Support appropriate integration of the payroll system with the Departmental accounting systems.

H. Records maintained in this system shall include providing a copy of an employee's Department of Treasury Form W-2, Wage and Tax Statement to the State, City, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, City, or other local jurisdiction and the Department of Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520 or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the System Manager listed below. The request must include a copy of the applicable statute authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both. However, the social seccurity numbers will only be provided to State or local taxing authorities which meet the criteria of section 7(a) (2) (B) of the Privacy Act.

I. Provide permanent record of actions taken pertinent to the administration of pay leave and allowances.

J. Support legal investigations of suspected fraud.

Categories of Users: Records are accessed by users on a need or right to know basis. A category of user may have potential access under more than one use above.

A. Present or former employees serviced by the DOJ Payroll System.

B. Payroll Services Center staff.

C. Department of Treasury Disbursing Offices.

D. Department of Justice budget and accounting offices.

E. Department of Justice personnel offices.

F. Employee supervisors.

G. Employee administrative offices.

H. Federal, state and local taxing authorities.

I. Federal Employees Health Benefits carriers.

J. Employee organization offices participating in dues allotment program.

K. Financial organizations participating in savings account allotment program.

L. Financial organizations participating in net pay to checking account program.

M. State human resource offices administering unemployment compensation programs.

N. General Accounting Office and internal audit staffs.

O. Federal, state or local law enforcement agencies (in support of legal investigations of suspedted fraud).

P. Other Federal agencies requiring information as specified in applicable laws or regulations (i.e., Civil Service Commission).

Q. Heirs, executors and legal representatives of beneficiaries.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Various categories of records are stored on different mediums. Categories A, B & E are on magnetic discs. Categories C&D are on magnetic tape. All other records are maintained in paper form.

Retrievability: Categories of records on magnetic media are retrievable by employee social security number which is maintained to comply with Internal Revenue requirements. Records in paper form are retrievable by employee name and Social Security Number.

Safeguards: The principal current safeguard for payroll records is guard force screening of individuals entering buildings within which records are kept. More stringent security practices and proceduerees are under development.

Retention and disposal: Payroll records retention and disposal are in accordance with General Schedule 2 promulgated by the General Services Administration.

System manager(s) and address: Director; Information Systems Staff; Office of Management and Finance; U.S. Department of Justice; 10th and Constitution Ave., N.W.; Washington, D.C. 20530.

Notification procedure: A request for notification of the existence of records upon an individual shall be made in writing by the individual or legal designate, with the envelope and the letter clearly marked 'Privacy Notification Request'. Include in the request the name of the system of records, the individual's full name and social security number while employed with the Department of Justice, the organization within which employed (if available), and whether the individual is a current or former employee. The requestor shall include a return address for the notification response. If the request is submitted by other than the subject individual, indicate the authority under which the information is sought. The request must be signed by the subject individual and, if applicable, by the legal designate. Address inquiries to the System Manager.

Record access procedures: A request for access to records from this system shall be made in writing by the subject individual or legal designate, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the system of records, the legal name and social security number of the data subject, the organization within which the individual was employed (if known), and whether the individual is a current or former employee. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system of records should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought. If the request is submitted by other than the subject individual, indicate the authority under which the information is sought. The request must be signed by the subject individual and, if applicable, by the legal designate.

Record source categories: Information contained within the DOJ Payroll System of Records is obtained from the following sources:

A. Subject Individual: Information collected from the subject individual generally consists of that necessary to administer allotments, deductions or other services requested by the individual.

B. Personnel Office: Information collected from the personnel office generally consists of employment status information which provides the legal basis upon which valid payments are computed.

C. Time and Attendance Clerk: Information collected from this clerk generally consists of an accounting of the individual's presence or absence from the duty station and the usage of leave.

D. Supervisor or Administrative Officer: Information collected from these officers generally consists of leave authorizations and information concerning the individual's duty station.

E. Financial Institutions or Employee Organizations: Information collected from institutions or organizations generally consists of that necessary to insure the timely and accurate forwarding to the institution or organization of monies allotted to an account at the institution or organization by the subject individual.

F. Previous Federal Employer: Information collected from the previous employer within the Federal government generally consists of leave status information at the time of separation.

G. Other Federal Agencies: Information collected from other Federal agencies generally consists of program information necessary to properly administer pay, leave, and allowance.

H. Other Officials: Information collected from other officials consists of that necessary to administer the payroll function. This may include authorization for special payments, death certificate or other documents as necessary.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 004

System name: Employee Clearance Record.

System location: U.S. Department of Justice; Office of Management and Finance; Internal Audit Staff; 425 Eye Street, N.W., Room 5031; Washington, D.C. 20530.

Categories of individuals covered by the system: Current and former employees of the Internal Audit Staff.

Categories of records in the system: This system contains a list of all items of Government property charged to the employee.

Authority for maintenance of the system: The system is established and maintained in accordance with 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The employee clearance record is used by administrative officials of the Internal Audit Staff to ensure that all Government property is returned before the employee separates from the service.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Employee clearance records are stored in a loose-leaf binder and are filed in an open filing system.

Retrievability: These records are indexed by name and retrieved manually.

Safeguards: Information contained in the system is unclassified and is appropriately safeguarded and protected in accordance with DOJ Order 2900.1A.

Retention and disposal: These records are retained continuously.

System manager(s) and address: Director; Internal Audit Staff; Office of Management and Finance; U.S. Department of Justice; 425 Eye Street, N.W., Room 5031; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: A request for access to a record from this system must be in writing and addressed to the System Manager.

Contesting record procedures: Individuals who desire to contest or amend information in the system should include in their request what information is being contested, the reasons for contesting it, the proposed amendment to the information, and documentation to support the proposed amendment. Send this material to the System Manager.

Record source categories: Information is entered into the system by an administrative clerk when Government property is issued to employees.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 005

System name: Employee Time Distribution Record.

System location: U.S. Department of Justice; Office of Management and Finance; Internal Audit Staff; 425 Eye Street, N.W., Room 5031; Washington, D.C. 20530.

Categories of individuals covered by the system: Current and former employees of the Internal Audit Staff.

Categories of records in the system: This system shows the manner in which the employee's time was spent during the month. It identifies each audit and the number of hours devoted thereto as well as time spent on other duties. It also shows the number of hours on leave and holidays. This record is submitted by each employee on the last workday of each month.

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Authority for maintenance of the system: The system is established and maintained in accordance with 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The employee time distribution record is used by Internal Audit Staff officials to support requests for reimbursements from agencies and for statistical purposes.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Employee time distribution records are stored in folders in an open filing system.

Retrievability: These records are separated by month and indexed by name.

Safeguards: Information contained in the system is unclassified and is appropriately safeguarded and protected in accordance with Department of Justice Order 2900.1A.

Retention and disposal: These records are retained continuously.

System manager(s) and address: Director; Internal Audit Staff; Office of Management and Finance; U.S. Department of Justice; 425 Eye Street, N.W., Room 5031; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: A request for access to a record from this system must be in writing and addressed to the System Manager.

Contesting record procedures: Individuals who desire to contest or amend information in the system should include in their request what information is being contested, the reasons for contesting it, the proposed amendment to the information, and documentation to support the proposed amendment. Send this material to the System Manager.

Record source categories: Information in the system is prepared by each employee.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 006

System name: Interim Performance Appraisal Record.

System location: U.S. Department of Justice; Office of Management and Finance; Internal Audit Staff; 425 Eye Street, N.W. Room 5031, Washington, D.C. 20530.

Categories of individuals covered by the system: Current and former employees of the Internal Audit Staff.

Categories of records in the system: This system contains a rating of each auditor's performance according to a schedule and specific factors.

Authority for maintenance of the system: The system is established and maintained in accordance with 5 U.S.C. 4302 and 4303 and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: When annual performance ratings or potential promotions are considered, Internal Audit Staff officials refer to interim performance appraisals as a measure of actual performance.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Interim Performance Appraisal records are maintained in a locked filing system.

Retrievability: These records are indexed by name and are retrieved manually.

Safeguards: Information contained in the system is unclassified and is appropriately safeguarded and protected in accordance with DOJ Order 2900.1A.

Retention and disposal: These records are retained continuously.

System manager(s) and address: Director; Internal Audit Staff; Office of Management and Finance; U.S. Department of Justice; 425 Eye Street, N.W., Room 5031; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: A request for access to a record from this system must be in writing and addressed to the System Manager.

Contesting record procedures: Individuals who desire to contest or amend information in the system should include in their request what information is being contested, the reasons for contesting it, the proposed amendment to the information, and documentation to support the proposed amendment. Send this material to the System Manager.

Record source categories: Information in the system is prepared by employee supervisors.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 007

System name: Legal and General Administration Accounting System (LAGA).

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: All individuals who submit vouchers requesting payment for goods or services rendered, except payroll vouchers for DOJ employees. These include vendors, contractors, experts, witnesses, court reporters, travelers, relocated employees, etc.

Categories of records in the system: All vouchers paid except payroll vouchers for DOJ employees.

Authority for maintenance of the system: The system is established and maintained in accordance with the Budget and Accounting Procedures Act of 1950 as amended 31 U.S.C. 66(a) and 31 U.S.C. 200(a).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: After payment of the vouchers, the accounting data is used for the purpose of internal management reporting and external reporting to agencies such as OMB, U.S. Treasury, and the GAO.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Prior to FY 76, voucher files were maintained alphabetically by payee's name. After FY 76, vouchers are filed by batch, controlled by schedule on which paid.

Retrievability: Information is retrieved primarily by using the name of the payee.

Safeguards: Information contained in the system is unclassified. It is safeguarded in accordance with organizational rules and procedures.

Retention and disposal: The payment documents are retained at this location for three fiscal years (current year and two prior years). The records are then shipped to a Federal Records Center for storage in accordance with the General Record Schedule published by the General Services Administration.

System manager(s) and address: Director; Operations Support Staff; Office of Management and Finance; U.S. Department of Justice; 10th & Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: Same as the System Manager.

Contesting record procedures: Same as the System Manager.

Record source categories: Submitted by the payee involved.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 008

System name: Security Clearance Information System (SCIS)

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Current employees of the Department of Justice (excluding FBI) who have been investigated and cleared for employment, and for access to data classified for National Security reasons; B. Former employees of the Department of Justice (excluding FBI) who had been investigated and cleared for employment and for access to data classified for National Security reasons, (maintained for a maximum of two years from date of termination).

Categories of records in the system: The system contains two subsystems; (a) a Clearance Index Reference Record for identifying the individuals in Categories of Individuals above listing the status of the investigations, the dates of clearances, level of clearances and when appropriate, dates of termination of employment; and (b) a Character File containing (1) Standard Form 86 (U.S. Civil Service Commission), Security Investigation Data for Sensitive Position; (2) Copies of investigative reports from the Civil Service Commission and/or Federal Bureau of Investigation; (3) Correspondence related to the request for the investigation, results of the investigation, and clearance approvals for access to classified national security information and waivers; and (4) other information relating to the trustworthiness of the employee.

Authority for maintenance of the system: The system is established and maintained in accordance with Presidential Executive Orders 10450 (clearance for Federal employment) and 11652 (access to data classified for National Security reasons).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

(a) The investigative material compiled in this system is used for the purpose of determining the suitability, eligibility and/or qualifications of applicants for employment in the Department of Justice (except the FBI) and for sensitive positions involving access to classified information. In the event of employee transfers to other Government Agencies, this information could be reviewed by investigators of the gaining agency to expedite the employees transfer if necessary.

(b) The clearance status of the employees is certified to security officials and investigators of other U.S. Government Agencies or Departments, for liaison purposes involving access to classified material during meetings, conferences or training courses.

(c) The personal data in the system is reviewed by Central Intelligence Agency for the purposes of granting Special Intelligence access clearances to Department employees. These clearances are within the purview of the Director, Central Intelligence.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: SCIS is a manual system consisting of index name cards and individual file folders. It is planned to convert the index name cards to a computer listing for ease of maintenance and better accuracy.

Retrievability: All data is retrieved by searching under the employee's name in the manual system. The computer system will permit the additional retrieval by organization and type of clearance.

Safeguards: Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing the protection of personnel records.

Retention and disposal: Clearance Index Reference Record cards are maintained for the tenure of employment and for a maximum of two years after termination. An employee's Character File is maintained for the tenure of employment at which time the investigation reports are returned to the investigating agency or destroyed by shredding.

System manager(s) and address: Director; Security and Administration Services Staff; Office of Management and Finance; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name, title and organization of the employee and the general subject matter of the inquiry. The requestor will also provide a return address for transmitting a reply. Access requests will be directed to the System Manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: Sources of information contained in this system are (a) applicants for employment and employees in the Department of Justice (except FBI) and (b) those individuals (informants) contacted by the Investigators for the Civil Service Commission and Special Agents of the Federal Bureau of Investigation who furnished information in the background investigation.

Systems exempted from certain provisions of the act: The Attorney General has exempted this system from sections (d)(1) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/OMF - 009

System name: Justice Data Services Center Utilization Data

System location: Justice Data Services Center; 615 Pennsylvania Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Personnel submitting computer jobs to run at the Justice Data Service Center.

Categories of records in the system: The data describes the resource utilization of the individual jobs submitted. Certain information is also recorded which pertains to the entire computer system rather than individual jobs.

Authority for maintenance of the system: These records are kept for administrative convenience pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used to recover costs associated with running computer jobs, to analyze the utilization of the Justice Data Services Center computer systems, detect inefficiencies and areas having high potential benefit from optimization.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Utilization reports are provided to a designated manager for each organization which uses the Justice Data Services Center.

Retrievability: Information may be retrieved by name of the individual submitting computer runs.

Safeguards: The machine readable (magnetic tape) data is kept in the Justice Data Services Center tape library. Utilization reports are controlled by the designated individual of each using agency.

Retention and disposal: The machine readable data is kept indefinitely. Utilization reports are controlled by the designated individual of each using agency.

System manager(s) and address: Director, Information Systems Staff; U.S. Department of Justice; Office of Management and Finance; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as above.

Record access procedures: A request for access to a record from this system may be made in person or in writing, specifying the name of the individual submitting a computer run and the date and name of the computer run.

Contesting record procedures: Requests for correction should be addressed to the System Manager.

Record source categories: Information is collected by the IBM 360/370 Operating System and program modules developed by personnel of the Department of Justice.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 010

System name: Data Index System for Classified Documents (DIS).

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Employees of the Department of Justice who have been designated by the Attorney General as authorized to classify documents. Employees of the Department of Justice who have been delegated classifying authority by Attorney General designates. Individuals (mostly aliens) upon whom documents exist which have been classified in the interest of National Security.

Categories of records in the system: The system contains records of all documents classified by Department of Justice employees. The system also contains a record on all Department of Justice employees (from January 1, 1973 to present) who have or have had the authority to classify documents.

Authority for maintenance of the system: The system was established and is maintained pursuant to Executive Order 11652.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The system is routinely used by the Interagency Classification Review Committee, the Department of Justice Security Staff, and the Department of Justice Review Committee.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored in machine readable form on magnetic tape. A copy of the data capture form is maintained in originating office for two weeks, then destroyed. The original data capture form is maintained at the Department until data contained therein has been successfully processed, then the form is destroyed.

Retrievability: Information is retrieved in any form for all routine uses. Information may be retrieved for non-routine uses with the approval of the Director, Information Systems Staff.

Safeguards: Access to information contained in the system is controlled by the Chief, Privacy, Records and Reports Control Group. Access is normally limited to routine users and members of the Privacy, Records and Reports Control Group staff having a 'Need-To-Know'.

Retention and disposal: Records contained in the system are retained indefinitely. The system of records is never purged and no disposal schedule is required.

System manager(s) and address: Director, Information Systems Staff, Office of Management and Finance, U.S. Department of Justice, 10th & Constitution Avenue, N.W., Washington, D.C. 20530.

Notification procedure: Address inquiries to the System Manager.

Record access procedures: Same as the System Manager.

Contesting record procedures: Same as the System Manager.

Record source categories: Employees of the Department who have been designated by the Attorney General as classifying officials and employees who have been delegated classifying authority.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 011

System name: Justice Data Services Center Tape Library System.

System location: Justice Data Services Center; 615 Pennsylvania Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Personnel submitting computer jobs which create magnetic tape data sets.

Categories of records in the system: The data describes the contents of the magnetic tape volumes.

Authority for maintenance of the system: These records are kept for administrative convenience pursuant to 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used to control and protect the data recorded on magnetic tapes.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Reports can be obtained by any Justice Data Services Center user by submitting a computer job requesting the report.

Retrievability: Information can be obtained by name of the individual who submitted the job which created the tape resident data sets.

Safeguards: The machine readable data is kept within the Justice Data Services Center. Reports are controlled by the tape librarian and by the individuals receiving the reports.

Retention and disposal: Reports are controlled by the tape librarian and by the individuals receiving the reports.

System manager(s) and address: Director, Information Systems Staff; U.S. Department of Justice; Office of Management and Finance; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: A request for access/correction to a record from this system may be made in person or in writing, specifying the serial number of the tape in question. Requests should be addressed to the System Manager.

Contesting record procedures: Same as the above.

Record source categories: Information is collected by the IBM 360/370 Operating System and other program modules.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 012

System name: Executive Biography.

System location: U.S. Department OF Justice; 10th and Constitution Avenueg N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Officials of the Department of Justice, generally in grades GS-16 through Executive Level I, who hold key administrative and/or managerial positions within the Department.

Categories of records in the system: The file consists of biographical sketches of key staff officials of the Department and includes: position, title, grade, date of birth, education, professional experience, honors and awards, and professional associations and bar membership.

Authority for maintenance of the system: The file is maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The file is used to obtain information on the background and qualifications of key staff members for the purpose of acquainting top management officials of the Department of Justice with key members of their staff.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Records are maintained by position and by organization. A periodic report with a distribution limited to ten, top management officials of the Department is produced from the file.

Safeguards: Records are maintained in a locked file cabinet. All information in the records is limited to those persons within the Department whose official duties require such access.

Retention and disposal: Records are maintained as long as the incumbent remains in a position which is covered by the system. If the incumbent's employment in a covered position ceases, his record is retained for three years and then destroyed.

System manager(s) and address: Director, Personnel and Training Staff; Office of Management and Finance; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as System Manager.

Record access procedures: Same as Notification.

Contesting record procedures: Same as Notification.

Record source categories: Information in this system of records is voluntarily provided by the individual to whom it applies, or is derived from personnel record information he or she supplied.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 013

System name: Employee Locator File.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: All employees of the U.S. Department of Justice, with the exception of individuals employed by the Federal Bureau of Investigation.

Categories of records in the system: The system contains information relating to each employee's home and business address, home and business telephone number, information as to next of kin, and personal physician preferred in case of medical emergency.

Authority for maintenance of the system: The system is maintained pursuant to 5 U.S.C. 301, 5 U.S.C. 7901, 26 U.S.C. 6011, 26 U.S.C. 6109, 5 U.S.C. 5516, 5 U.S.C. 5517 and 5 U.S.C. 5520.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The locator system is used to provide address data to federal, state and local tax authorities in accordance with the reporting requirements of their income tax withholding programs. The locator system is also used to contact employees of the Department at their official place of business or their residence regarding matters of an official nature relating to their employment with the Department of Justice. It is also used in medical emergencies to contact an employee's personal physician if he or she has an indicated preference, and to notify next of kin. Use of the file for these purposes is limited to supervisors of the employees concerned or individuals having the permission of a supervisor of the employee concerned.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape.

Retrievability: Records are retrieved by name.

Safeguards: Access to and use of these records is limited to those individuals whose duties require such access.

Retention and disposal: Records are retained for 3 years after the year of an employee's separation or transfer to another agent.

System manager(s) and address: Director, Personnel and Training Staff; Office of Management and Finance; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as System Manager.

Record access procedures: Same as Notification.

Contesting record procedures: Same as Notification.

Record source categories: Information is supplied by the individual to whom the record pertains.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 014

System name: Directory of Organization, Functions, and Staff for Office of Management and Finance.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Key officials within the Office of Management and Finance.

Categories of records in the system: The Directory consists of biographical information on key officials of OMF and includes: position, title, grade, date of birth, education, professional experience, honors and awards, and professional associations and bar membership.

Authority for maintenance of the system: The Directory is maintained pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Directory is used routinely by key officials of the Department as a source of information pertaining to the organization, functions, and staffing of OMF.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The Directory is bound in book form and maintained in a file drawer.

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Retrievability: Information in the Directory is retrieved in any form, for briefing key officials within the Department.

Safeguards: Access to the Directory is limited to key officials of the Department and is controlled by the Director, Management Programs and Budget Staff.

Retention and disposal: Information contained in the Directory is retained for a period of one year and revised and republished on a yearly basis, with discarded material being promptly destroyed.

System manager(s) and address: Director, Management Programs and Budget Staff; Office of Management and Finance; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as System Manager.

Record access procedures: Same as Notification.

Contesting record procedures: Same as Notification.

Record source categories: Information in the Directory is voluntarily provided by the individual key officials within OMF.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 015

System name: EEO (Equal Employment Opportunity) Volunteer Representative Roster.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Employees of the Department of Justice who have volunteered to serve as EEO representatives.

Categories of records in the system: The roster provides the representative's name, position, title, organization, office address and telephone number.

Authority for maintenance of the system: The roster was established and is maintained pursuant to the following authorities: 5 CFR Part 713, 28 CFR 42.2(a), and Department of Justice Order 1713.5 (October 30, 1973).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The roster is used by Department personnel and applicants for Department jobs who have filed or contemplate filing discrimination complaints based on race, color, religion, sex, national origin, or age.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders.

Retrievability: Information from the roster is retrieved by name.

Safeguards: Access to the roster is limited to those persons whose official duties require such access and to Justice Department employees and applicants for employment with the Department who have filed or contemplate filing discrimination complaints.

Retention and disposal: Information contained in the roster is retained for the duration of an individual's services as a volunteer EEO representative.

System manager(s) and address: Director, Personnel and Training Staff; Office of Management and Finance; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as System Manager.

Record access procedures: Same as Notification.

Contesting record procedures: Same as Notification.

Record source categories: Information in the file is voluntarily provided by employees who wish to serve as volunteer EEO representatives.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 016

System name: Inter-Divisional Information System (IDIS), (A non-operational, deactivated system).

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Individuals who were allegedly involved or connected with civil disturbances or other activities.

Categories of records in the system: IDIS, consisted of two subsystems. The incident subsystem was used to establish a record of various events, such as meetings and demonstrations. The subject subsystem provides individual's names, biographical sketches, and organizational affiliation(s). Some cross referencing between the two subsystems exists.

Authority for maintenance of the system: The system is currently being maintained by reason of an agreement between the Department of Justice and members of the Committee on the Judiciary of the United States Senate.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: There are no present or anticipated operational uses of IDIS records by Department of Justice personnel. IDIS material is exclusively used to respond to inquiries from citizen who are subject of the files and also may be used by litigants involved in court proceedings.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained on index cards and computer produced reports stored in locked cabinets.

Retrievability: Index cards of the subject subsystem are filed alphabetically by individual name.

Safeguards: IDIS information is maintained in secured storage devices in a locked room, rendered inaccessible for any operational use and accessible by a limited number of employees who must respond to Freedom of Information Act requests and to decrees in court proceedings.

Retention and disposal: IDIS information will be maintained until such time as the legislative and executive branches of government agree to its disposal.

System manager(s) and address: Director, Information Systems Staff; U.S. Department of Justice; Office of Management and Finance; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Address inquiries to the System Manager.

Record access procedures: Access to information maintained in IDIS will be granted in accordance with the procedures set forth in 28 C.F.R. 16.41. Requests for access will be directed to the System Manager.

Contesting record procedures: Requests for correction of IDIS data will be processed in accordance with the procedures set forth in 28 C.F.R. 16.53. Requests for correction will be directed to the System Manager.

Record source categories: Information in IDIS was derived from FBI reports and teletypes; U.S. Attorney Offices; the Bureau of Alcohol, Tobacco, and Firearms; U.S. Department of Treasury; citizen complaints; wire service clippings; and articles in periodicals.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 017

System name: Department of Justice Controlled Parking Records.

System location: U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Categories of individuals covered by the system: Department of Justice employees who have applied for vehicle parking space which is assigned and controlled by the Department of Justice, per Department of Justice Order 2540.2C, November 11, 1974.

Categories of records in the system: This system contains copies of Form DOJ-362, Department of Justice Parking Space Application (DOJ Space), and Form DOJ-OT-20, Department of Justice Parking Space Application (DOJ Carpool Space), which have been completed and submitted by Department of Justice employees.

Authority for maintenance of the system: This system is established and maintained in accordance with Federal Energy Office (FEO) memorandum of January 17, 1974, Federal Management Circular 74-1 of January 21, 1974, and Federal Energy Office memorandum of April 5, 1974, as reflected in Federal Property Management (Temporary) Regulation D-47 of May 22, 1974. Operating procedures are contained in Department of Justice Order 2450.2C of November 11, 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used to assign, identify and control the use of vehicle parking space for which the Department of Justice is responsible.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in a locked file cabinet.

Retrievability: These records are indexed alphabetically, by the last name of the applicant, within the organizational element.

Safeguards: Information contained in this system is unclassified and is disseminated on a need to know basis by the Office of the Director, Operations Support Staff, Office of Management and Finance.

Retention and disposal: Although these records are currently retained as long as applicants remain as employees of the Department of Justice, the establishment of a disposal schedule is still pending.

System manager(s) and address: Director; Operations Support Staff; Office of Management and Finance; U.S. Department of Justice; 10th Street and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as System Manager.

Record access procedures: Same as System Manager.

Contesting record procedures: Same as System Manager.

Record source categories: Applications from employees.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 018

System name: Occupational Health Physical Fitness Files.

System location: U.S. Department of Justice; 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Employee/participants in the DOJ Occupational Health Physical Fitness Program.

Categories of records in the system: A separate file is established for each Program participant. Data contained in the file consists of a Medical History Questionnaire, Physician Consent Form, Participant Waiver of Liability Form, Physical Fitness Profile, electrocardiographic tracings, Anthropometric Measurement Record, Exercise Prescription, Conditioning Record, attitudinal questionnaries, any positive test results and related correspondence.

Authority for maintenance of the system: The files are maintained pursuant to 5 U.S.C. 7901.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Data contained in each file will be used to evaluate the physical condition of each participant and serve as a basis for preparation of the exercise prescription. Changes in physiological and attitudinal data taken at several points throughout the period of participation will be examined relative to program effect. Data will be taken from each file and anonymously aggregated in order to examine group norms. Use of this data is limited to the Occupational Health Physical Fitness Program staff and its contractors. Research findings may occasionally be published in professional journals but only in summary form. Positive examination results will be referred to the participant's physician upon the written request of the participant.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information maintained in the system is manually stored in individual file folders. Summary data will be maintained in the computer data banks of the Department of Justice and the contractor, the University of Maryland.

Retrievability: File folders are maintained alphabetically by participant name. A 4-digit sequentially assigned number is used to imput computerized data which can subsequently be sorted against any other items pertaining to the participant.

Safeguards: File folders are maintained in locked file cabinets. Access to identifiable information is limited to those Department of Justice employees and contract employees whose official duties require such access.

Retention and disposal: Records identified to the participant are retained for as long as the participant is associated with the Program and for three years thereafter. Upon completion of the three-year holding period, the file is given to the participant, or destroyed, as determined by the participant

System manager(s) and address: Director, Operations Support Staff, Office of Management and Finance, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: Same as the System Manager.

Contesting record procedures: Same as the System Manager.

Record source categories: Information is supplied by the individual to whom the record pertains, and as a result of fitness evaluations conducted within the Program.

Systems exempted from certain provisions of the act: None.

JUSTICE/OMF - 019

System name: Freedom of Information/Privacy Act Records.

System location: U.S. Department of Justice, Office of Management and Finance, 10th & Constitution Avenue, N.W., Washington, D.C. 20530.

Categories of individuals covered by the system: Persons who request disclosure of records pursuant to the Freedom of Information Act; persons who pursuant to the Privacy Act request access to or correction of records pertaining to themselves contained in systems of records maintained by the Office of Management and Finance; and, where applicable, persons about whom records have been requested or about whom information is contained in requested records.

Categories of records in the system: The system contains copies of all correspondence and internal memoranda related to Freedom of Information Act and Privacy Act requests or responses associated with the Office of Management and Finance, and related records necessary to the processing of such requests.

Authority for maintenance of the system: This system is established and maintained pursuant to 44 U.S.C. 3101 and is maintained to implement the provisions of 5 U.S.C. 552 and 552a and the provisions of 28 C.F.R. 16.1 et. seq. and 28 C.F.R. 16.40 et. seq.

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A record maintained in this system may be disseminated as a routine use of such record as follows: (1) a record may be disseminated to a Federal agency which furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate federal, state, local, or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in a system of records maintained by the Office of Management and Finance; (3) records maintained on behalf of the U.S. Civil Service Commission may be disseminated to the U.S. Civil Service Commission on request, as the custodian of these records.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A record contained in this system is stored manually in alphabetical order in file cabinets.

Retrievability: A record is retrieved by the name of the individual or person making a request for access or correcton of records.

Safeguards: Access to physical records is limited to personnel of the U.S. Department of Justice who have a need for the record in the performance of their duties under the Freedom of Information or Privacy Acts. The records are safeguarded and protected in accordance with applicable Departmental and Civil Service Commission regulations.

Retention and disposal: A disposal schedule has not been established for these records.

System manager(s) and address: Assistant Attorney General, Office of Management and Finance; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

Notification procedure: Same as the System Manager.

Record access procedures: A request for access to a record contained in this system shall be made in writing with the envelope and the letter clearly marked (Freedom of Information) or 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record. The requester will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above.

Contesting record procedures: Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories: The sources of information contained in this system are the individuals and persons making requests, the systems of records searched in the process of responding to requests, and other agencies referring requests for access to or correction of records originating in the Office of Management and Finance.

Systems exempted from certain provisions of the act: None.

[FR Doc.77-5154 Filed 3-3-77;8:45 am]

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MONDAY, MARCH 7, 1977

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC–0045, FC–0046, FC–0047, FC–0048]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

In accordance with 12 CFR 226.1(d), the Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6.

Official staff interpretations may be reconsidered by the Board upon request of interested parties and in accordance with 12 CFR 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

These interpretations shall be effective as of February 28, 1977.

12 CFR Part 226, FC–0045

§ 226.2(d) A State statute and regulation which requires posting of APR's and finance charges is not an advertisement when used in the manner prescribed by the statute and regulation.

FEBRUARY 10, 1977.

This is in response to your letter of • • •, and your letter of • • •, in which you requested an interpretation as to the applicability of Regulation Z to a statute (§ 3.305 of Act No. 686 of 1976 on Posting Rates) and regulation (Reg. 28–27–3.305) of the State of South Carolina which require posting in chart form of annual percentage rates for instalment loans in certain financial institutions.

You inquire whether or not the charts which display such rates and other credit information constitute advertisements as defined by § 226.2(d) of Regulation Z. If such charts are advertisements within the meaning of the Regulation, advertising disclosures would be required. It is the staff's opinion that such charts are not advertisements as defined by Regulation Z.

The regulation promulgated by the South Carolina Commission on Consumer Affairs requires that each lending institution in the State making consumer loans post the appropriate Loan Finance Charge Schedules in a conspicuous place in the institution and each branch thereof. The schedules must be prepared in the format provided for each type of lender (General Lenders, Restricted Lenders and Supervised Lenders). The schedules must be printed in a minimum of 14 point type with the words "Annual Percentage Rate" printed more conspicuously than other required terminology. The schedule for Supervised Lenders (which is given here as an example) reads as follows. The words "Loan Finance Charge Stated as Annual Percentage Rate" are centered at the top of the schedule. Below are the following statements:

"Consumers.—All lending institutions making consumer loans are required to post examples of their usual and customary loan finance charges stated as annual percentage rates for the purpose of assisting you in comparing the various credit terms available to you, furthering your understanding of the terms of credit transactions and to help you avoid the uninformed use of credit."

NOTE.—Lenders are not required to make loans in the amounts or at the rate, or for the term shown on this chart. Amounts of credit available to you and your cost depends upon amount, terms collateral and credit worthiness.

Beneath these statements in a chart form are the following entries with the appropriate information as applicable.

"Amount financed."
"5 months annual percentage rate."
"10 months annual percentage rate."
"24 months annual percentage rate."
"36 months annual percentage rate."

The question you have posed is whether or not this schedule and the others required of different institutions constitute advertisements under Regulation Z. Section 226.2(d) of the Regulation defines an advertisement as "any commercial message • • • on any interior or exterior sign or display • • • which is delivered or made available to a customer or prospective customer in any manner whatsoever." The Regulation requires that any "advertisement to aid, promote, or assist directly or indirectly any credit sale • • •, loan, or other extension of credit" state that the specific terms offered for that transaction. the staff is of the opinion that the schedules required to be posted by the State regulation would not, when used in strict accordance with the State regulation, constitute commercial messages and would therefore not be advertisements subject to the requirements of Regulation Z.

The adjective "commercial" connotes that which is done primarily to promote business purposes of salability or profit. The stated purpose of the State regulation in question is to "further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost" (section 1, Regulation, supra.). It appears that the primary purpose of requiring posted examples of usual or customary finance charges of lenders is educational rather than commercial in nature. It must again be emphasized, however, that this opinion extends only to the use of these schedules in the manner and for the purposes prescribed by the South Carolina statute and regulation and any use of the schedules in a manner other than that prescribed would not necessarily be exempted from the requirements of Regulation Z.

This is an official staff interpretation of Regulation Z issued in accordance with § 226.1(d) and is limited to the facts stated herein. I trust this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

12 CFR Part 226, FC–0046

§§ 226.6(c)–226.8(n) Where a periodic statement is provided in accordance with § 226.8(n), the simple annual interest rate together with an explanation of the method to be used to determine the earned interest component of the amount dated in the periodic statement may be included on the periodic statement under the additional information provisions of § 226.6(c).

FEBRUARY 14, 1977.

This is in response to your letter of • • •, requesting an official staff interpretation with regard to providing additional information under § 226.6(c) on a periodic statement provided by your client in accordance with § 226.8(n) in conjunction with consumer loans used to purchase a dwelling.

Your client wishes to provide customers with an explanation of the method by which the interest component of the periodic payment was computed, since mortgage loans often include one or more prepaid finance charges which have the effect of producing an annual percentage rate greater than the interest rate applied in determining the earned interest component of the amount stated on the periodic statement. This additional information disclosure would appear directly under the Annual Percentage Rate disclosure on the periodic statement in one of the following forms:

Annual percentage rate ------%.

The "Interest Due" results from multiplying the principal balance by a simple annual interest rate of ------ and dividing by 12 if payments are monthly or 2 if semi-annually.

or

Annual percentage rate ------%.

Your finance charge (interest) due results from multiplying the principal balance by a simple annual interest rate of ------ and dividing by 12 if payments are monthly or 2 if semi-annually.

You have requested in a separate letter an opinion as to the use of the terms "Interest Due" or "Finance Charge (interest) Due". At this time, you are simply inquiring whether a disclosure explaining the method of determining the earned interest component of the periodic statement can be provided as additional information under § 226.6(c). In doing so, customers would be presented with the simple annual interest rate for use in determining the earned interest component.

Staff is of the opinion that your proposed disclosure, which provides customers with the simple annual interest rate together with an explanation of the method to be used to determine the earned interest component of the amount stated on the periodic statement, may be included on the periodic statement under the additional information provisions of § 226.6(c).

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This is an official staff interpretation issued in accordance with § 226.1(d)(3) and is limited solely to the facts and issues presented herein. I note that your client is a creditor subject to the laws of the State of Connecticut and not the Federal law. Since that State has been granted an exemption under the relevant portion of the Truth in Lending Act, I suggest that you contact the office of Mr. Lawrence Connell, Jr., Bank Commissioner of the State of Connecticut, for his views. I trust that this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

12 CFR Part 226, FC–0047

§§ 226.8(c)(8)–226.8(d)(3) If mortgage insurance premiums are not imposed on customer as a specific and separately stated fee but rather are paid by the creditor out of interest charged as an item of overhead, the premiums need not be itemized as a component of finance charge.

FEBRUARY 14, 1977.

This is in reply to your letter of * * *, requesting an official staff interpretation of Regulation Z with regard to itemization of finance charge. You note that prior official staff interpretations, FC–0003, FC–0025, and FC–0030, discussed the proper way to disclose scheduled payments under § 226.8(b)(3) when mortgage guarantee insurance premiums are charged by the lender in addition to the interest being charged on a loan. In some cases, however, creditors absorb the mortgage insurance premium themselves and pay the premiums out of the interest being charged. The insurance is not imposed on the customer as a specific and separately stated fee; rather the premiums are paid by the bank as one of a number of items of overhead.

It is staff's opinion that in the situation described above, the cost of such insurance need not be separately itemized in disclosing the finance charge in those cases where the finance charge is required to be disclosed under §§ 226.8(c)(8) and 226.8(d)(3). If the premium is imposed as a specific and separately stated charge, however, the cost of that insurance must be itemized as such whenever the finance charge must be disclosed.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the Regulation, and it is limited to the facts as discussed herein. It appears that your client may be a creditor subject to the laws of the State of Connecticut and not the Federal law. Since that State has been granted an exemption under the relevant portion of the Truth in Lending Act, I suggest that you contact the office of Mr. Lawrence Connel, Jr., Bank Commissioner of the State of Connecticut for his views. I trust this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

12 CFR Part 226, FC–0048

§ 226.2(q) Life insurance policy "loans" not evidenced by contractual obligation are not extensions of credit and therefore are not subject to Regulation Z.

FEBRUARY 14, 1977.

This is in reply to your letter of * * *, asking whether "loans" made against life insurance policy cash values are subject to Regulation Z. These "loans" made by insurance carriers to policy holders, although subject to a rate of interest, are not evidenced by an enforceable contractual obligation to pay either the amount advanced or the interest thereon other than as an offset against the cash value of the policy. In effect, the policy holder is simply drawing upon the cash value that has accrued under the policy. Such "loans" have no maturity or schedule of payments, and consequently it would be impossible to disclose the finance charge, the number, amount, or due dates of payments, or the total of payments. There are no default, delinquency, or late payment charges. The only disclosure that apparently could be made, other than the amount of the "loan" ("amount financed"), would be the annual percentage rate.

It is staff's opinion that there is no debt involved here because the policy holder has not incurred an obligation to repay anything to the insurance carrier; he/she is just withdrawing from the accrued cash value of the policy. Since there is no debt, there can be no extensin of credit within the meaning of § 226.2(q). Therefore, it is staff's opinion that "loans" of the type described here are not subject to Regulation Z.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the Regulation, and it is limited to the facts as presented herein. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System, February 25, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77–6625 Filed 3–4–77;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 371—GENERAL LICENSES

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

General Licenses Ship Stores and Plane Stores

AGENCY: Office of Export Administration.

ACTION: Final rule.

SUMMARY: The Export Administration Regulations are revised to modify §§ 371.9(b)(1) and 371.10(b) to make these sections no longer applicable to third country ships and aircraft involved in trade with North and South Vietnam. The effect of the amendments is to permit the use of General License Ship Stores and General License Plane Stores for the bunkering of third country ships and aircraft involved in trade with North or South Vietnam. However, the current restrictions on the bunkering of ships of 500 or more registered tons and aircraft of 12,000 or more pounds gross load, registered in, owned or controlled by, or under charter or lease to, Vietnam or a Vietnamese national remain in effect.

A technical amendment is also being made to these sections to delete the obsolete reference to 12:01 a.m. e.d.t., May 16, 1975 in § 371.9(b)(1)(i) and § 371.10(b)(1) as the initial computation date for the restrictions contained in those paragraphs relating to the bunkering of ships and aircraft that had called at points in South Vietnam and Cambodia. In addition, a technical amendment is being made to § 376.9(c)(4) conforming to the amendments cited.

EFFECTIVE DATE: March 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Ronald D. McGehee, Acting Director, Exporters' Service Staff, Office of Export Administration, Domestic and International Business Administration, Department of Commerce, Washington, D.C. 20230 (202–377–4811).

SUPPLEMENTARY INFORMATION: The existing restrictions against Vietnamese ships and aircraft calling in the United States and on American ships and aircraft calling in Vietnam are not affected by these amendments.

Because the amendments contained herein are matters relating to a foreign affairs function of the United States, it has been determined that proposed rulemaking procedures are inapplicable. Further, because the amendments relieve a restriction, the requirement for a delay in the effective date of the amendments is also inapplicable.

* * * * *

Accordingly, Parts 371 and 376 of the Export Administration Regulations (15 CFR Parts 371 and 376) are amended as follows:

1. By revising § 371.9(b)(1) to read as follows:

§ 371.9 General license ship stores.

(b) *Restrictions on exports of petroleum and petroleum products.* (1) North Korea or Cambodia. No export of petroleum products (including those used as bunker fuel) listed in § 371.9(b)(4) below may be made under this general license on a foreign vessel of 500 gross registered tons or more departing from the United States for use on board such vessel if the vessel (i) has called at a port under the control of North Korea or Cambodia during the 180 days immediately preceding the date on which such commodities are to be laden aboard the vessel; (ii) will call at a port under the control of North Korea or Cambodia within 120 days after the date on which such commodities are laden aboard the vessel; (iii) will carry within the next 120 days any commodities known by the owner, master, or agent to be destined, directly or indirectly, to these ports, unless the commodities are covered by an export license issued by an agency of the U.S. Government; or (iv) meets the registry restrictions in § 371.9(b)(3) below.

2. By revising § 371.10(b) to read as follows:

§ 371.10 General license plane stores.

* * * * *

(b) *Restrictions on petroleum and petroleum products for use on aircraft.* No export of petroleum or petroleum products (including those used as fuel) listed in § 371.9(b)(4) above may be made under this general license on a foreign aircraft of 12,000 pounds or more gross load departing from the United States, for use on board such aircraft, if the aircraft (1) has called at any point under the control of North Korea or Cambodia, during the 30 days immediately preceding the date on which such commodities are to be laden aboard the aircraft, (2) will call at any point under the control of North Korea or Cambodia, within 30 days after the date such commodities are laden aboard the aircraft, (3) will carry within this 30-day period commodities, of any origin, known by the owner, aircraft commander, or agent to be destined directly or indirectly to any point under the control of North Korea or Cambodia, unless the commodities so carried are covered by an export license issued by an agency of the U.S. Government, or (4) is registered in, owned or controlled by, or under charter or lease to North Korea, North Vietnam, South Vietnam, or Cambodia, or a national of any of these countries.

3. By revising § 376.9(c)(4) to read as follows:

§ 376.9 Ship stores, plane stores, supplies, and equipment.

* * * * *

(c) * * *

(4) *Commodity description and ports of call.* (i) Ports visited. In addition to a description of the commodities to be exported, list for each of the carrier's calls at any point under the control of North Korea or Cambodia within 180 days prior to the date of application (or 30 days in the case of aircraft), the dates of each call, and a statement, or a copy of the manifest, showing the cargo loaded or discharged. (If the carrier was in balast, so state.)

(ii) Proposed ports of call. Also submit the carrier's proposed calls at any point under the control of North Korea or Cambodia for the next 120 days in the case of vessels (30 days in the case of aircraft) from the anticipated date of departure from the last port in the United States. If the carrier's itinerary for all of the next 120 days in the case of vessels (or 30 days in the case of aircraft) is not known and cannot be ascertained, the itinerary shall be stated so far as it may be known or ascertainable. In addition, all other available information as to future destinations and areas of operation shall be submitted. If the carrier (a) will call at a point under the control of North Korea or Cambodia within the next 120 days in the case of vessels (30 days in the case of aircraft) from the date of departure, or (b) is registered in North Korea, North Vietnam, South Vietnam, Cambodia, or Cuba, or (c) is under charter to, or under control of a national of North Korea, North Vietnam, South Vietnam, Cambodia, or Cuba, state whether any commodities identified by the code letter "A," "B," "C," or "M" following the Export Control Commodity Number on the Commodity Control List (§ 399.1), included on the U.S. Munitions List (see Supplement No. 2 to Part 370), or subject to the Atomic Energy Act (§ 370.10(e)) are carried on board the vessel or aircraft and destined directly or indirectly to any point under the control of North Korea, North Vietnam, South Vietnam, or Cambodia. If the answer is in the affirmative, indicate where such commodities will be discharged.

* * * * *

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.77–6659 Filed 3–4–77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 694–77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart K—Criminal Division

DESIGNATION OF CENTRAL AUTHORITY UNDER TREATY ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Treaty between the United States and Switzerland on Mutual Assistance in Criminal Matters, which entered into force on January 23, 1977, provides for mutual assistance in the investigation and prosecution of criminal matters. This includes assistance in locating witnesses, obtaining statements and testimony, production and authentication of business records and service of judicial or administrative documents. Article 28 of the Treaty provides that requests for assistance be handled by a "Central Authority" and that for the United States the Central Authority shall be the Attorney General or his designee. This order designates the Assistant Attorney General in charge of the Criminal Division as the Central Authority to handle requests for assistance under the Treaty.

FOR FURTHER INFORMATION CONTACT:

Lawrence W. Chamblee, Criminal Division, U.S. Department of Justice. (202–739–4593).

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, and Article 28 of the Treaty Between the United States of America and the Swiss Confederation on Mutual Assistance in Criminal Matters, Subpart K of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding the following new § 0.64–1 at the end thereof:

§ 0.64–1 Central authority under treaty on mutual assistance in criminal matters.

The Assistant Attorney General in charge of the Criminal Division shall have the authority and perform the functions of the "Central Authority" under the Treaty Between the United States of America and the Swiss Confederation on Mutual Assistance in Criminal Matters, which entered into force January 23, 1977.

Dated: February 28, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77–6634 Filed 3–4–77;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER M—MISCELLANEOUS

PART 242a—PUBLIC MEETING PROCEDURES OF THE BOARD OF REGENTS, UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 22, 1976 (41 FR 55724). The proposal would add a new Part 242a entitled Public Meeting Procedures of the Board of Regents, Uniformed Services University of the Health Sciences, to Title 32 of the Code of Federal Regulations. This part provides for procedures to implement section 3(a) of the Government in the Sunshine Act, Pub. L. 94–409. Interested persons were given until January 21, 1977 to submit written comments. Two comments were received and considered by the members of the Board.

In consideration of the comments received 32 CFR Part 242a is issued as follows:

Sec.
242a.1 Applicability.
242a.2 Definitions.
242a.3 Open meetings.
242a.4 Grounds on which meetings may be closed, or information may be withheld.
242a.5 Procedure for announcing meetings.
242a.6 Procedure for closing meetings.
242a.7 Transcripts, recordings and minutes of closed meetings.
242a.8 Effective date.

AUTHORITY: 5 U.S.C. 552b (g); Pub. L. 94–409.

§ 242a.1 Applicability.

These procedures apply to meetings of the Board of Regents, Uniformed Services University of the Health Sciences (USUHS), including committees of the Board of Regents.

§ 242a.2 Definitions.

(a) "Board" or "Board of Regents" means the collegial body that conducts the business of the Uniformed Services University of the Health Sciences as specified in Title 10, United States Code, section 2113, consisting of:

(1) Nine persons outstanding in the fields of health and health education appointed from civilian life by the President, by and with the advice and consent of the Senate;

(2) The Secretary of Defense, or his designee, an ex officio member;

(3) The surgeons general of the uniformed services, ex officio members; and

(4) The Dean (President) of the University, an ex officio non-voting member.

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(b) "Board Representative" means the individual named as Executive Secretary by the Board, or any person officially designated by the Board.

(c) "Chairman" means the presiding officer of the Board, designated by the President, as specified in Title 10, United States Code, Section 2113.

(d) "Committee" means any formally designated subdivision of the Board, consisting of at least two Board members, authorized to act on behalf of the Board, including, the Board's standing committees (the Executive, Administrative Affairs, Educational Affairs, Fine Arts and Gifts, and Nominating Committees) and any ad hoc committees appointed by the Board for special purposes.

(e) "Meeting" means the deliberations of at least eight voting members of the Board, or for committees, the deliberations of at least the number of individual voting members of the Board required to take action on behalf of the Board, where such deliberations determine or result in the joint conduct or disposition of official business of the Board, but does not include:

(1) Deliberations to open or close a meeting, or to release or withhold information, required or permitted by §§ 242a.5 or 242a.6;

(2) Notation voting or similar consideration of matters whether by circulation of material to members individually in writing, or polling of members individually by telephone or telegram; and

(3) Instances where individual members, authorized to conduct business on behalf of the Board or to take action on behalf of the Board, meet with members of the public or staff. Conference telephone calls that involve the requisite number of members, and otherwise come within the definition, are included.

(f) "Member" means a member of the Board of Regents.

(g) "Public Announcement" means posting notices on the Board's public notice bulletin board, and mailing announcements to persons on a mailing list maintained for those who desire to receive notices of Board meetings, and who pay such fee as may be determined by the Executive Secretary, not to exceed $10.00 per year, to cover the costs involved in such distribution.

(h) "Staff" includes the employees of the USUHS, other than the members of the Board.

§ 212a.3 Open meetings.

(a) Members shall not jointly conduct or dispose of business of the Board of Regents other than in accordance with these procedures. Every portion of every meeting of the Board of Regents or any committee of the Board shall be open to public observation subject to the exceptions provided in § 242a.4.

(b) Open meetings will be attended by members of the Board, certain staff, and any other individual or group desiring to observe the meeting. The public will be invited to observe and listen to the meeting but not to record any of the discussions by means of electronic or other devices or cameras unless approval in advance is obtained from the Executive Secretary. The public will not participate in the meeting unless public participation is invited by the Board.

(c) The Executive Secretary shall be responsible for making physical arrangements that provide ample space, sufficient visibility, and adequate acoustics for public observation of meetings.

§ 242a.4 Grounds on which meetings may be closed, or information may be withheld.

Except in a case where the Board or a committee finds that the public interest requires otherwise, the open meeting requirement set forth in the second sentence of § 242a.3(a) shall not apply to any portion of a Board or committee meeting, and the informational disclosure requirements of §§ 242a.5 and 242a.6 shall not apply to any information pertaining to such meeting otherwise required by this part to be disclosed to the public, where the Board or committee as applicable, properly determines that such portion or portions of its meetings or the disclosure of such information is likely to:

(a) Disclose matters that are:

(1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy; and

(2) Properly classified pursuant to such executive order;

(b) Relate solely to the internal personnel rules and practices of the USUHS;

(c) Disclose matters specifically exempted from disclosure by statute (other than Title 5, United States Code, Section 552), provided that such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except that this subsection shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such prooosal; or

(j) Specifically concern the issuance of a subpoena, or USUHS participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the USUHS of a particular case of formal adjudication pursuant to the procedures in Title 5, United States Code, section 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 242a.5 Procedure for announcing meetings.

(a) Except to the extent that such information is exempt from disclosure under the provisions of § 242a.4, in the case of each Board or committee meeting, the Board representative, shall make public announcement, at least 7 days before the meeting, of the following:

(1) Time of the meeting;

(2) Place of the meeting;

(3) Subject matter of the meeting;

(4) Whether the meeting or parts thereof are to be open or closed to the public; and

(5) The name and telephone number of the person designated by the Board or committee to respond to requests for information about the meeting.

(b) The 7 day period for the public announcement required by paragraph (a) of this section may be reduced if a majority of the members of the Board or committee, as applicable, determine by a recorded vote that Board or committee business requires that such expedited meeting be called at an earlier date. The Board or committee shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(c) The time or place of a meeting or deletion of subject matter may be changed following the public announcement required by paragraph (a) of this section only if the Board representative publicly announces such change at the earliest practicable time. Such change need not be voted on by the members.

(d) The subject matter of a meeting or the determination of the Board or committee, as applicable, to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by paragraph (a) only if:

(1) A majority of the entire voting membership of the Board or a majority of the entire voting membership of a committee, determines by a recorded vote that Board or committee business so requires and that no earlier announcement of the change was possible; and

(2) The Board or committee publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(e) The "earliest practicable time" as used in this section, means as soon as possible, which should in few, if any, instances be no later than commencement of the meeting or portion in question.

(f) Immediately following each public announcement required by this section, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and telephone number of the person designated by the Board or committee to respond to requests for information about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

§ 242a.6 Procedure for closing meetings.

(a) Action to close a meeting or portion thereof, pursuant to the exemptions set forth in § 242a.4 shall be taken only when a majority of the entire voting membership of the Board or a majority of the entire voting membership of a committee, as applicable, vote to take such action.

(b) A separate vote of the Board or committee members shall be taken with respect to each Board or committee meeting a portion or portions of which are proposed to be closed to the public pursuant to § 242a.4 or with respect to any information which is proposed to be withheld under § 242a.4.

(c) A single vote of the Board or committee may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in such series.

(d) The vote of each member shall be recorded, and may be by notation voting, telephone polling or similar consideration.

(e) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Board or a committee close such portion to the public under any of the exemptions relating to personal privacy, criminal accusation, or law enforcement information referred to in § 242a.4 (e), (f), and (g), the Board or committee, as applicable, upon request of any one of its members, shall vote by recorded vote whether to close such meeting. Where the Board receives such a request prior to a meeting, the Board's representative may ascertain by notation voting, or similar consideration, the vote of each member of the Board, or committee, as applicable, as to the following:

(1) Whether the business of the Board or committee permits consideration of the request at the next meeting, and delay of the matter in issue until the meeting following, or

(2) Whether the members wish to close such meeting.

(f) Within 1 day following any vote taken pursuant to paragraphs (a), (b), (c), or (e), of this section, the Board or committee shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Board or committee shall, within 1 day of the vote taken pursuant to paragraphs (a), (b), (c), or (e) of this section, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation. The information required by this paragraph shall be disclosed except to the extent it is exempt from disclosure under the provisions of § 242a.4.

(g) For every meeting closed pursuant to paragraphs (a) through (j) of § 242a.4, the General Counsel or chief legal officer of the USUHS shall publicly certify before the meeting that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Board as part of the transcript, recording or minutes required by § 242a.7.

§ 242a.7 Transcripts, recordings, and and minutes of closed meetings.

(a) The Board of Regents shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, closed to the public pursuant to § 242a.4(j), the Board shall maintain either such a transcript or recording, or a set of minutes.

(b) Where minutes are maintained they shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any action taken, and the reasons for such actions, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(c) The Board shall maintain a complete, verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting or portion of a meeting, closed to the public, for a period of at least 2 years after such meeting, or until 1 year after the conclusion of any Board proceeding with respect to which the meeting or portion was held, whichever occurs later.

(d) Public availability of records shall be as follows:

(1) Within 10 days of receipt of a request for information (excluding Saturdays, Sundays, and legal public holidays), the Board shall make available to the public, in the offices of the Board of Regents, USUHS, Bethesda, Maryland, the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Executive Secretary determines to contain information which may be withheld under § 242a.4.

(2) Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be available at the actual cost of duplication or transcription.

(3) The determination of the Executive Secretary to withhold information pursuant to subsection (1) of this paragraph, may be appealed to the Board. The appeal shall be circulated to individual Board members. The Board shall make a determination to withhold or release the requested information within 20 days from the date of receipt of a written request for review (excluding Saturdays, Sundays, and legal public holidays).

(4) A written request for review shall be deemed received by the Board when it has arrived at the offices of the Board in a form that describes in reasonable detail the material sought.

§ 242a.8 Effective date.

This part shall become effective on March 12, 1977.

MEREL P. GLAUBIGER,
Legal Counsel, Uniformed Services University of the Health Sciences.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MARCH 2, 1977.

[FR Doc.77-6615 Filed 3-4-77;8:45 am]

CHAPTER XIV—RENEGOTIATION BOARD

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1482—PUBLIC NOTICE AND OBSERVATION OF MEETINGS

Government in the Sunshine Rules

On January 18, 1977, a document was published in the FEDERAL REGISTER (42 FR 3322-3325) proposing to amend 32 CFR by adopting a new Part 1482 to implement the provisions of the Government in the Sunshine Act (Pub. L. 94-409, 90 Stat. 1241). Interested persons were given until February 21, 1977 to submit written comments. Full and careful consideration was given to each of the comments received. In view of such comments minor changes have been made in the proposed regulations.

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The changes include: (1) Elimination of a portion of the proposed § 1482.4(b)(9), which is not applicable; (2) a revision of § 1482.4(b) to require, rather than permit, the Board to open a meeting to public observation if the public interest so requires even though the meeting is otherwise exempt from such public observation; (3) a revision of § 1482.4(c)(1) to make it clear that the Board can close a meeting to the public only after tht General Counsel has determined that such action is authorized under one or more of the exemptions set forth in §§ 1482.4(b); and (4) 1482.4(e) has been changed to remove the restriction on recording meetings of the Board which are open to the public and to include more restrictive prohibition against conduct which could reasonably disturb a meeting. The Board regards the above changes as insubstantial.

The regulations as adopted read as set forth below and shall be effective for all meetings held on or after March 12, 1977.

Dated: March 2, 1977.

REX M. MATTINGLY,
Chairman.

32 CFR Chapter XIV is amended by adding a new Part 1482, reading as follows:

Sec.
1482.1 Scope.
1482.2 Definitions.
1482.3 Public announcement of meetings.
1482.4 Public observation of meetings.
1482.5 Recordings of meetings.

AUTHORITY: Sec. 109, Pub. L. 9, 82d Cong., 65 Stat. 22 (50 U.S.C. App. 1219); sec. 3, Pub. L. 94-409, 90 Stat. 1241 (5 U.S.C. 552b).

§ 1482.1 Scope.

(a) *In general.* This part implements the Government in the Sunshine Act (Pub. L. 94-409, 90 Stat. 1241). The regulations herein provide for public announcement of information concerning meetings of the Board, public observation of such meetings unless exempt from such obstrvation by law, and public access to recordings of such meetings except to the extent that such recordings are of meetings or portions of meetings closed to public observation and the discussion thereon is exempt from disclosure by law.

(b) *Applicability.* This part applies to all meetings of the Board and all meetings of divisions of the Board which are composed of two or more members. The members of the Board shall not jointly conduct or dispose of official agency business other than in accordance with this part.

(c) *Access to records.* Access to records, including those discussed, referred to or adopted in a meeting to which this part is applicable, shall be governed exclusively by the provisions of Part 1480 of this subchapter.

§ 1482.2 Definitions.

(a) "Board" means the Renegotiation Board.

(b) "Division" means one or more members of the Board designated by the Chairman pursuant to section 107(e) of the act.

(c) "Member" means an individual who has been appointed to the Board.

(d) "General Counsel" means the General Counsel of the Board appointed pursuant to section 107(c) of the act or, in his absence, the Acting General Counsel.

(e) "Meeting" means the deliberations of at least the number of members required to take action on behalf of the Board, or the deliberations of at least the number of members of a division required to take action on behalf of the division but not less than two, where such deliberations determine or result in the joint conduct or disposition of official business, but does not include deliberations for the purpose of closing a meeting or portion thereof to public observation under § 1482.4, deliberations for the purpose of establishing or changing the time, place or subject matter of a meeting under § 1482.3, or actions taken by the Board or a division through sequential, written notation of its members.

(f) "Earliest practicable time" means as soon as reasonably possible which, except in unusual circumstances, will be not later than the close of the next day which is not a Saturday, Sunday or legal holiday.

§ 1482.3 Public announcement of meetings.

(a) *In general.* A public announcement, in the form prescribed in paragraph (c) of this section, will be posted at least seven calendar days in advance of each meeting except that if a majority of the Board determines by recorded vote that agency business requires that such meeting be called at an earlier date, such public announcement will be posted at the earliest practicable time.

(b) *Changes in public announcements.* The time and place of a meeting may be changed following its public announcement only if the Board posts a public announcement of such change at the earliest practicable time. The subject matter of a meeting or the determination to open or close a meeting or portion thereof to public observation may be changed only if (1) a majority of the Board determines by recorded vote that that agency business so requires and that no earlier announcement of the change was possible, and (2) a public announcement of such change, and the vote of each member thereon, is posted at the earliest practicable time.

(c) *Contents of public announcements.* Each public announcement of a meeting required by paragraphs (a) and (b) of this section shall state:

(1) The time and place of the meeting;

(2) The subject matter of the meeting;

(3) Whether the meeting will be open or closed to public observation; and

(4) The name, address and telephone number of the official designated to respond to requests for information concerning the meeting;

except that, with respect to a meeting or portion thereof which is to be closed to public observation under § 1482.4, to the extent that any information required to be stated in a public announcement by this paragraph is exempt from disclosure under the provisions of § 1482.4(b), such information will not be included in a public announcement.

(d) *Posting.* A public announcement required under this section shall be posted by making it available for public inspection and copying during the usual hours of business in the Public Information Office at the principal office of the Board. See §§ 1472.6 (d)(1) and (e)(2). Immediately following its posting, such public announcement shall be submitted for publication in the FEDERAL REGISTER.

§ 1482.4 Public observation of meetings.

(a) *In general.* Except as provided in paragraph (b) of this section, every meeting shall be open to public observation.

(b) *Exemptions.* Meetings or portions of meetings will be closed to public observation, and information concerning such meetings or such portions will not be announced to the public, if the Board determines that public observation of such meeting or such portion, or public announcement of such information, is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive Order;

(2) Relate solely to internal personnel rules and practices of the Board;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided,* That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Disclose trade secrets and commercial or financi lanfor amtcionmmmm mercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(9) Disclose information the premature disclosure of which would be likely to frustrate implementation of a proposed agency action, except that this subparagraph shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the Board's participation in a civil action or proceeding an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Board of a particular case of formal agency adjudication involving a determination on the record after opportunity for a hearing;

Provided, That the Board will open to public observation any meeting to which this paragraph applies if it determines that the public interest so requires. In making a determination that the public interest requires public observation of a meeting, the Board shall consider the probable effect of such public observation on the Board's ability to carry out the purposes and intent of the act and on the rights, duties and interests of affected persons, including other agencies, employees and contractors, and whether such public observation would violate any applicable provision of law, such as 5 U.S.C. 552a, 18 U.S.C. 1905 or 26 U.S.C. 7213.

(c) *Procedures.* (1) Upon the motion of any member of the Board to close any meeting or portion thereof to public observation, the General Counsel shall certify whether, in his opinion, such meeting or such portion may be closed to public observation under one or more of the exemptions set forth in paragraph (b) of this section. If the General Counsel certifies that such meeting or such portion may be closed to public observation, the Board shall vote upon such motion.

(2) Within one business day following a vote under subparagraph (1) of this paragraph, a written record of such vote, reflecting the vote of each member and attaching the General Counsel's certification, shall be posted.

(3) If the vote of the Board under subparagraph (1) of this paragraph is to close such meeting or such portion to public observation, within one business day following such vote a full written explanation of the Board's action, together with a list of all persons expected to attend such meeting or such portion and their affiliation shall be posted.

(4) At the earliest practicable time following a meeting any portion of which is closed to public observation pursuant to this paragraph, the presiding member shall file a statement setting forth the time and place of such meeting and the persons present, which shall be posted.

(5) For the purposes of this paragraph, posting a document shall consist of making such document available for public inspection and copying during usual hours of business in the Public Information Office at the principal office of the Board. See § 1472.6(d)(1) and (e)(2) of this subchapter.

(6) With respect to any meeting or portion of a meeting closed to public observation pursuant to this section, if the Board determines that any information contained in any of the documents required to be posted pursuant to subparagraphs (1)–(4) of this paragraph is exempt from public disclosure under paragraph (b) of this section, such information shall be deleted from the copies of such documents that are posted: *Provided, however,* That undeleted copies of such documents shall be retained by the Board in its files.

(d) *Requests to close meetings.* Any person who believes that his interests may be directly affected by public observation of a meeting or portion of a meeting may request that such meeting or such portion be closed to such public observation for any of the reasons set forth in paragraph (b) of this section. Such requests shall be filed with the Assistant General Counsel-Secretary at the principal office of the Board, who shall distribute copies of such request to each member at the earliest practicable time. See § 1472.6 (d)(1) and (e)(2). Action on such request, if any, shall thereafter be taken in accordance with the procedure set forth in paragraph (c) of this section.

(e) *Public observation.* Unless otherwise stated in a public announcement made pursuant to § 1482.3 (a) or (b) of this subchapter, public observation of a meeting shall mean that all members of the public are invited to attend such meeting for the purposes of observing and listening to the proceedings but not for the purposes of participating in such proceedings. The Board reserves the right to prohibit any conduct by persons attending any meeting which can reasonably be expected to result in the disruption of such meeting.

§ 1482.5 Recordings of meetings.

(a) *In general.* Recordings of every meeting, whether open or closed to public observation under § 1482.4 of this subchapter, shall be made and retained. Each such recording shall accurately identify the meeting to which it relates, each speaker thereat and each document or physical item discussed thereat.

(b) *Excision of recordings of closed meetings.* The Assistant General Counsel-Secretary or his duly appointed representative shall prepare a copy of the recording of each meeting or portion thereof closed to public observation pursuant to § 1482.4 of this subchapter and shall excise therefrom all discussion which, in his opinion, is exempt from public disclosure under paragraph (b) of such section. The original recording of each such meeting or portion shall be retained by him.

(c) *Public access to recordings.* The recording of each meeting or portion thereof which is open to public observation and the copy of the recording of each meeting or portion thereof which is closed to public observation, after excision in accordance with paragraph (b) of this section, together with an index of the subject matter thereon and suitable equipment for the review of such recordings and copies, shall be available to the public during the usual hours of business in the Public Information Office at the principal office of the Board. See § 1472.6 (d)(1) and (e)(2) of this subchapter.

(d) *Procedure for obtaining copies of recordings.* (1) Any person desiring a copy of any recording available to the public under the preceding paragraph shall submit a written request therefor, stating that it is made pursuant to the Government in the Sunshine Act and describing such recording with sufficient particularity to permit its identification with reasonable certainty. All requests should be addressed to the Assistant General Counsel-Secretary, Renegotiation Board, Washington, D.C. 20446. The envelope in which such request is sent shall be prominently marked with the letters "GISA."

(2) The Assistant General Counsel-Secretary or, in his absence, his duly appointed representative, shall furnish the requested copies within ten days (excluding Saturdays, Sundays and legal holidays) after the receipt of a request under this paragraph.

(e) *Review of excisions.* Any person who has been afforded access to a copy of a recording of a closed meeting under paragraph (c) of this section or who has received a copy of such a recording under paragraph (d) of this section may obtain review by the Board of the decision of the Assistant General Counsel-Secretary excising portions of such recordings under paragraph (b) of this section by making written application to the Renegotiation Board, Washington, D.C. 20446, within 20 calendar days after the date of such access or receipt of such copy. The decision of the Board shall be made within 20 days (excluding Saturdays, Sundays and legal holidays) after the receipt of such application. Failure of the Board to act within the time limit prescribed in the preceding sentence shall constitute a decision of the Board not to furnish the excised discussion to the requester.

(f) *Fees.* (1) The charge for furnishing a copy of a recording under paragraph (d) of this section shall be the actual cost of its duplication.

(2) Where it is anticipated that the fees chargeable under this section will amount to more than $25, and the requester has not indicated in advance his willingness to pay fees as high as antici-

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pated, the requester shall be notified of the amount of the anticipated fee. Such notification shall be transmitted as soon as possible, but in any event within five working days, giving the best estimate then available. In such cases, a request will not be deemed to have been received until the requester is notified of the anticipated cost and agrees to bear it.

(3) Where the anticipated fee exceeds $25 or where a requester has previously failed to pay a fee under this paragraph, an advance deposit of the full amount of the anticipated fee may be required. In any case requiring a deposit, the request will not be deemed to be received until receipt of such deposit.

(4) Remittances of fees under this paragraph shall be made payable to the order of the Renegotiation Board and mailed to the Renegotiation Board, Attention: Director, Office of Administration, Washington, D.C. 20446. The Board will assume no responsibility for cash which is lost in the mail.

(5) The Board shall waive any fee prescribed in this paragraph in any instance in which the Board, in its discretion, determines such waiver to primarily benefit the general public. There will be no charge for making copies of recordings required for use by other agencies of the Government.

(g) *Period of retention.* A recording made and maintained under paragraphs (a) or (b) of this section shall be retained for a period of not less than two years after the meeting or one year after the conclusion of any Board proceeding with respect to which the meeting was held, whichever is longer.

(Sec. 109, Pub. L. 9, 82nd Cong., 65 Stat. 22; 50 U.S.C.A., App. Sec. 1219.)

[FR Doc.77-6660 Filed 3-4-77;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER VIII—ADVISORY COUNCIL ON HISTORIC PRESERVATION

PART 800—PROCEDURES FOR THE PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

CFR Correction

Section 800.5(d) should read as follows:

§ 800.5 Consultation process.

* * * * *

(d) Finding of no adverse effect. Upon finding the effect not to be adverse, the Agency Official shall forward adequate documentation of the determination, including evidence of the views of the State Historic Preservation Officer, to the Executive Director for review. Unless the Executive Director notes an objection to the determination within 45 days after receipt of adequate documentation, the Agency Official may proceed with the undertaking.

Title 38—Pensions, Bonuses and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

CONTINUANCE IN EFFECT OF ALL CURRENT REGULATIONS AND OTHER FORMAL ISSUES AND CONFIRMATION OF ISSUES PROMULGATED BY OR PURSUANT TO THE AUTHORITY OF RICHARD L. ROUDEBUSH TO BECOME EFFECTIVE AFTER TERMINATION OF HIS APPOINTMENT

All current Veterans Administration regulations, manuals, instructions, bulletins, circulars, Administrator's decisions, delegations of authority and other issues applicable to the Veterans Administration shall remain in full force and effect.

In addition all Veterans Administration issues applicable to the Veterans Administration which were approved by or pursuant to the authority of Richard L. Roudebush to become effective on a date subsequent to the termination of his appointment as Administrator of Veterans' Affairs are hereby confirmed and approved as though the same had been approved by me.

All the above issues shall remain in full force and effect until such time as they may be specifically amended or revoked. This issue is effective March 2, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-6653 Filed 3-4-77;8:45 am]

Title 39—Postal Service

CHAPTER 1—U.S. POSTAL SERVICE

SUBCHAPTER A—THE BOARD OF GOVERNORS OF THE U.S. POSTAL SERVICE

GOVERNMENT IN THE SUNSHINE ACT

Bylaws of the Board of Governors

AGENCY: United States Postal Service (Board of Governors).

ACTION: Final Rule.

SUMMARY: This notice announces the amendment of Postal Service regulations to comply with the requirements of the Government in the Sunshine Act. In addition, it announces a general revision and republication of the bylaws of the Board of Governors, including certain unpublished provisions formerly referred to as "operating procedures".

EFFECTIVE DATE: March 12, 1977.

ADDRESSES: Secretary of the Board of Governors, U.S. Postal Service, Room 9150, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Louis A. Cox. (202-245-4632).

SUPPLEMENTARY INFORMATION: On January 13, 1977, the Postal Service published for public comment in the FEDERAL REGISTER (42 FR 2699) a notice of proposed rulemaking setting forth proposed regulations complying with the requirements of new 5 U.S.C. 552b(a)-(f), as enacted by the Government in the Sunshine Act, Pub. L. No. 94-409. On January 28, 1977, a subsequent notice corrected minor printing errors in the initial publication (42 FR 5383). These proposed regulations, contained in a new Part 7 of title 39, CFR, were drafted after consultation with the Office of the Chairman of the Administrative Conference of the United States, and a copy of the proposed regulations was supplied to the Office of the Chairman for reference and comment. Members of the public were invited to submit written data, views, or arguments concerning the proposed regulations.

In addition, the January 13, 1977, notice contained a tentative general revision of the bylaws of the Board of Governors, previously codified at 39 CFR Parts 1-6. Although the Board was not required to submit its proposed bylaws (with the exception of those dealing with the Government in the Sunshine Act) for public comment, the Board hoped that informational publication of the full text of its tentative bylaws would permit a more accurate evaluation of its proposed Sunshine regulations.

The Postal Service received only one public comment which specifically addressed the proposed provisions of new 39 CFR Part 7. This comment suggested: (1) that proposed § 7.3 be modified to indicate more clearly that the Board will consider public interest factors in each determination to close a meeting or withhold information concerning a meeting which otherwise would be disclosed to the public, (2) that §§ 7.4(e) and 7.5(d) be amended to provide for publicizing Board meetings and related information through methods in addition to publication of notices in the FEDERAL REGISTER; and (3) that § 7.6(a) be amended to clarify that the General Counsel's certification of a closed meeting must be given before the meeting is closed.

The Postal Service has made appropriate changes in the sections referred to in the comment received. As amended, § 7.3 indicates that the Board must determine that the public interest does not require otherwise before taking action to close a meeting or withhold information. Revised §§ 7.4(e) and 7.5(d) require the Secretary to submit information published in the FEDERAL REGISTER to the Postal Service Public and Employee Communications Department for dissemination to the public. Finally, revised § 7.6(a) provides for the General Counsel's certification at the beginning of any meeting or portion of a meeting closed to the public.

The Postal Service also received one comment regarding the general revision of the bylaws of the Board. This comment suggested that the minutes of

Board meetings be made more widely available. In response to this suggestion, a new § 6.5 dealing with minutes of meetings has been inserted in the final version of the bylaws. This new section provides that after approval by the Board, copies of the minutes of meetings will be available in the Public and Employee Communications Department at Postal Service Headquarters.

As a result of its own review of proposed new 39 CFR Parts 1-8, the Postal Service has made certain other changes in the proposed text. Editorial corrections have been made wherever necessary, throughout the text. Proposed § 6.1 has been amended by adding a procedure for setting the agenda of a regular or annual meeting. A general prohibition against proxy voting, and special majority requirements for certain votes under the Government in the Sunshine Act have been inserted in § 6.6 (formerly § 6.5).

In Part 7, proposed § 7.2 has been amended slightly to prohibit any person to participate in, film, televise, or broadcast any portion of a Board meeting without permission, and to apply the rules of 39 CFR 232.6, dealing with conduct on postal property, with regard to meetings of the Board. Members of the public will be permitted to record or photograph a meeting, as long as that action does not interfere with the members of the Board in the performance of their duties, or with members of the public who are attempting to attend or observe a meeting.

In view of the considerations discussed above, the Postal Service hereby adopts, as amended, the following amendment to title 39, Code of Federal Regulations, effective March 12, 1977:

In 39 CFR, Parts 1 through 8 are revised, and new parts 7 and 8 are adopted to read as follows:

PART 1—POSTAL POLICY [ARTICLE I]

Sec.
1.1 The United States Postal Service.
1.2 The Board of Governors.
1.3 Delegation of authority.
1.4 Open meetings.

AUTHORITY: The provisions of this Part 1 are issued under authority of 39 U.S.C. 101, 202, 205, 401(2), 402, 403, 3621, as enacted by Pub. L. No. 91-375, and 5 U.S.C. 552b(b), (g), as enacted by Pub. L. No. 94-409.

§ 1.1 The United States Postal Service.

The United States Postal Service is operated as a fundamental service provided to the people by the Government of the United States, authorized by the Constitution, created by Act of Congress, and supported by the people. The Postal Service has as its basic function the obligation to bind the Nation together through the correspondence of the people. It is charged with providing prompt, reliable, and efficient services throughout the Nation; and its statutory charter, the Postal Reorganization Act (the Reorganization Act) of August 12, 1970, Pub. L. No. 91-375, 84 Stat. 719, clothes it with extensive powers intended to enable it to carry out its responsibilities effectively and economically.

§ 1.2 The Board of Governors.

The Board of Governors of the Postal Service (the Board) directs the exercise of its powers under management that is expected to be honest, efficient, and economical. The Board consists of nine Governors chosen by the President, by and with the advice and consent of the Senate, to represent the public interest generally, together with the Postmaster General and Deputy Postmaster General. The Board directs and controls the expenditures of the Postal Service, reviews its practices and policies, and establishes basic objectives and long-range goals in consonance with the provisions of the Postal Reorganization Act.

§ 1.3 Delegation of authority.

Except for powers, duties, or obligations specifically vested in the Governors by law, the Board may delegate its authority to the Postmaster General under such terms, conditions, and limitations, including the power of redelegation, as it finds desirable. The bylaws of the Board are the framework of the system through which the Board monitors the exercise of the authority it has delegated, measures progress toward the goals it has set, and shapes the policies to guide the future development of the Postal Service. Delegations of authority do not relieve the Board of full responsibility for carrying out its duties and functions, and are revocable by the Governors in their exclusive judgment.

§ 1.4 Open meetings.

It is the policy of the United States, established in section 2 of the Government in the Sunshine Act, Pub. L. 94-409, 90 Stat. 1241, that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government. The Postal Service is charged to provide the public with this information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities. Accordingly, except as specifically permitted by statute, every portion of every meeting of the Board of Governors, or of a subdivision of the Board authorized to act on its behalf, is open to public observation.

PART 2—GENERAL AND TECHNICAL PROVISIONS [ARTICLE II]

Sec.
2.1 Establishment of the United States Postal Service.
2.2 Agent for receipt of process.
2.3 Offices.
2.4 Seal.
2.5 Authority.
2.6 Severability, amendment, repeal, and waiver of bylaws.

AUTHORITY: The provisions of this Part 2 are issued under authority of 39 U.S.C. 202, 203, 205(c), 207, 401(2), as enacted by Pub. L. No. 91-375, and 5 U.S.C. 552b(f), (g), as enacted by Pub. L. No. 94-409.

§ 2.1 Establishment of the United States Postal Service.

The United States Postal Service is established under the provisions of the Postal Reorganization Act, as an independent establishment of the executive branch of the Government of the United States, under the direction of a Board of Governors, with the Postmaster General as its chief executive officer.

§ 2.2 Agent for receipt of process.

The General Counsel of the Postal Service shall act as agent for the receipt of legal process against the Postal Service, and as agent for the receipt of legal process against members of the Board of Governors and all other officers and employees of the Postal Service to the extent that the process arises out of the official functions of those officers and employees. The General Counsel shall also issue public certifications concerning closed meetings of the Board as appropriate under 5 U.S.C. 552b(f).

§ 2.3 Offices.

The principal office of the Postal Service is located in Washington, D.C., with such regional and other offices and places of business as the Postmaster General establishes from time to time, or the business of the Postal Service requires.

§ 2.4 Seal.

(a) The Seal of the Postal Service is filed by the Board in the Office of the Secretary of State, and is required by 39 U.S.C. 207 to be judicially noticed. The General Counsel shall keep the Seal in his custody, affix it to all commissions of officers of the Postal Service, and use it to authenticate records of the Postal Service and for other official purposes. The following describes the Seal adopted for the Postal Service:

(1) A stylized bald eagle is poised for flight, facing to the viewer's right, above two horizontal bars between which are the words "U.S. MAIL", surrounded by a square border with rounded corners consisting of the words "UNITED STATES POSTAL SERVICE" on the left, top, and right, and consisting of nine five-pointed stars on the base.

(2) The color representation of the Seal shows, a white field on which the bald eagle appears in dark blue, the words "U.S. MAIL" in black, the bar above the words in red, the bar below in blue, and the entire border consisting of the words "UNITED STATES POSTAL SERVICE" and stars in ochre.

(b) The Postal Service emblem, which is identical with the seal, is registered as

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a trademark and service mark by the U.S. Patent Office. Except for the emblem on official stationery, the emblem must bear one of the following notations: "Reg. U.S. Pat. Off.", "Registered in U.S. Patent Office", or the letter R enclosed within a circle.

§ 2.5 Authority.

These bylaws are adopted by the Board under the authority conferred upon the Postal Service by 39 U.S.C. 401(2) and 5 U.S.C. 552b(g).

§ 2.6 Severability, Amendment, Repeal, and Waiver of Bylaws.

The invalidity of any provision of these bylaws does not affect the validity of the remaining provisions, and for this purpose these bylaws are severable. The Board may amend or repeal these bylaws at any special or regular meeting, provided that each member of the Board has received a written notice containing a statement of the proposed amendment or repeal at least 5 days before the meeting. The members of the Board may waive the 5 days' notice or the operation of any other provision of these bylaws by unanimous consent, if that action is not prohibited by law. The Secretary shall submit the text of any amendment to these bylaws for publication in the FEDERAL REGISTER as soon as practicable after the amendment is adopted by the Board.

PART 3—BOARD OF GOVERNORS [ARTICLE III]

Sec.
3.1 Composition of Board.
3.2 Responsibilities of Board.
3.3 Compensation of Board.
3.4 Matters reserved for decision by Board.
3.5 Delegation of authority by Board.
3.6 Information furnished to Board—Statistical reports.
3.7 Information furnished to Board—Program review.
3.8 Information furnished to Board—Special reports.

AUTHORITY: The provisions of this Part 3 are issued under authority of 39 U.S.C. 202, 203, 205, 401(2), 402, as enacted by Pub. L. No. 91-375, and 5 U.S.C. 552b(g), (j), as enacted by Pub. L. No. 94-409.

§ 3.1 Composition of Board.

The Board of Governors consists of 11 members. Nine members (the Governors) are appointed by the President, by and with the advice and consent of the Senate. Not more than five Governors may be adherents of the same political party. The Governors are chosen to represent the public interest generally, may not be representatives of specific interests using the Postal Service, and may be removed only for cause. The Postmaster General, appointed by the nine Governors, and the Deputy Postmaster General, appointed by the Governors and the Postmaster General, are also voting members of the Board of Governors.

§ 3.2 Responsibilities of Board.

The Board directs the exercise of the powers of the Postal Service, reviews the practices and policies of the Postal Service, and directs and controls the expenditures of the Postal Service. Consistent with the broad delegation of authority to the Postmaster General in 3.5 of these bylaws, and except for those powers, duties, or obligations which the Reorganization Act specifically vests in the Governors, as distinguished from the Board of Governors, the Board accomplishes its purposes by monitoring the operations and performance of the Postal Service, and by establishing basic objectives, broad policies, and long-range goals for the Postal Service.

§ 3.3 Compensation of Board.

As provided by 39 U.S.C. 202(a), each Governor receives a salary of $10,000 a year plus $300 a day for not more than 30 days of meetings each year, and reimbursement for travel and reasonable expenses incurred in attending meetings of the Board.

§ 3.4 Matters reserved for decision by the Board.

The following matters are reserved for decision by the Board of Governors;

(a) Appointment, pay, term of service, and removal of the Postmaster General (by the Governors, 39 U.S.C. 202(c)).

(b) Appointment, term of service, and removal of the Deputy Postmaster General (by the Governors and the Postmaster General, 39 U.S.C. 202(d)); pay of the Deputy Postmaster General (by the Governors, 39 U.S.C. 202(d)).

(c) Election of the Chairman of the Board of Governors (by the Governors, 39 U.S.C. 202(a)), the Vice Chairman of the Board, and the Secretary of the Board.

(d) Adoption of, and amendments to, the bylaws of the Board.

(e) Approval of the annual Postal Service budget program in both tentative and final form, including requests for appropriations.

(f) Approval of Postal Service five-year plans and capital investment plans, including specific approval of each capital investment project exceeding $5 million.

(g) Approval of the budget of the Postal Rate Commission, or adjustment of the total amount of the budget (by unanimous written vote of the Governors in office, 39 U.S.C. 3604(d)).

(h) Authorization of the Postal Service to request the Postal Rate Commission to submit a recommended decision on changes in postal rates, including specific authorization of the amount of revenue estimated to be required so that total estimated income and appropriations will equal total estimated costs as nearly as practicable.

(i) Authorization of the Postal Service to request the Postal Rate Commission to submit a recommended decision on changes in the mail classification schedule.

(j) Action upon a recommended decision of the Postal Rate Commission, including action to approve, allow under protest, reject, or modify that decision (by the Governors, 39 U.S.C. 3625); determination of an effective date for changes in postal rates or mail classification.

(k) Authorization of the Postal Service to request the Postal Rate Commission to submit an advisory opinion on a proposed change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis.

(l) Approval of any use of the authority of the Postal Service to borrow money under 39 U.S.C. 2005, except for short-term "line of credit" borrowings and purchase money obligations assumed in the normal course of business.

(m) Approval of the terms and conditions of each issue of obligations by the Postal Service under 39 U.S.C. 2005, including the time and manner of sale and the underwriting arrangements.

(n) Approval of any use of the authority of the Postal Service to require the Secretary of the Treasury to purchase Postal Service obligations under 39 U.S.C. 2006(b), or to request the Secretary of the Treasury to pledge the full faith and credit of the Government of the United States for the payment of principal and interest on Postal Service obligations under 39 U.S.C. 2006(c).

(o) Determination of the number of Assistant Postmasters General, including Senior Assistant Postmasters General and Regional Postmasters General.

(p) Compensation of officers and executives in PES Grade 34 and above.

(q) Selection of an independent, certified public accounting firm to certify the accuracy of Postal Service financial statements as required by 39 U.S.C. 2008(e).

(r) Approval and transmittal to the President and the Congress of the annual report of the Postmaster General under 39 U.S.C. 2402.

(s) Approval and transmittal to the Congress of the annual report of the Board under 5 U.S.C. 552b(j).

(t) Approval of the annual comprehensive statement of the Postal Service to Congress under 39 U.S.C. 2401(g).

(u) All other matters that the Board may consider appropriate to reserve for its decision.

§ 3.5 Delegation of authority by Board.

As authorized by 39 U.S.C. 402, these bylaws delegate to the Postmaster General the authority to exercise the powers of the Postal Service to the extent that this delegation of authority does not conflict with powers reserved to the Governors or to the Board by law, these bylaws, or resolutions adopted by the Board. The Postmaster General may redelegate to any officer, employee, or agency of the Postal Service any of the powers delegated to him by these bylaws that he considers appropriate.

§ 3.6 Information furnished to Board—statistical reports.

To enable the Board to monitor the operations and performance of the Postal Service during the most recent accounting periods for which data are available, postal management shall furnish the Board the following statistical reports at least quarterly:

(a) Detailed summaries of financial and operating statements of the Postal Service, with balance sheet information, for each accounting period during the fiscal year to date, together with comparable figures for the previous year and for the current budget plan, categorized as:

(1) Income (revenue by principal mail classification, subsidies, and reimbursements); and

(2) Expenditures (expenses by function and by unit of organization).

(b) Performance data for the most recent quarter, categorized as:

(1) Service performance measurement (by particular classes and types of mail, and showing delivery times within representative distances); and

(2) Employee productivity measurement (reflecting paid work hours and mail volume).

§ 3.7 Information furnished to Board—Program review.

(a) To enable the Board to review the Postal Service operating program, postal management shall furnish the Board information on all aspects of the Postal Service budget plan, including:

(1) The tentative and final annual budgets submitted to the Office of Management and Budget and the Congress, and amendments to the budget;

(2) Five-year plans, annual operating and investment plans, and significant departures from estimates upon which the plans were based;

(3) The need for rate increases or decreases and the progress of any pending rate cases and related litigation; and

(4) Debt financing needs, including a review of all borrowings of the Postal Service from the United States Treasury and private sources.

(b) Postal management shall also regularly furnish the Board information regarding major programs for improving postal service or reducing the cost of postal operations.

§ 3.8 Information furnished to Board—Special reports.

To insure that the Board receives significant information on developments meriting its attention, postal management shall bring to the Board's attention the following matters:

(a) Major developments in personnel areas, including but not limited to equal employment opportunity, career development and training, and grade and salary structures.

(b) Other matters of special importance, including but not limited to important research and development initiatives, major changes in Postal Service organization or structure, major litigation and law enforcement activities, and other matters having a significant impact upon the relationship of the Postal Service with its employees, with any major branch of Government, or with the general public.

PART 4—OFFICERS [ARTICLE IV]

Sec.
4.1 Chairman.
4.2 Vice Chairman.
4.3 Postmaster General.
4.4 Deputy Postmaster General.
4.5 Assistant Postmasters General, General Counsel, Judicial Officer.
4.6 Secretary.

AUTHORITY: The provisions of this Part 5 are issued under authority of 39 U.S.C. 202, 203, 205(c), 401(2), as enacted by Pub. L. No. 91-375.

§ 4.1 Chairman.

The Chairman of the Board of Governors is elected by the Governors from among the members of the Board. The Chairman:

(a) Shall preside at all regular and special meetings of the Board;

(b) Shall select and appoint the Chairman and members of any committee properly established by the Board;

(c) Serves a term that commences at his election and expires at the end of the first annual meeting following the meeting at which he was elected.

If the Postmaster General is elected Chairman of the Board, the Governors shall also elect one of their number to preside during proceedings dealing with matters upon which only the Governors may vote.

§ 4.2 Vice Chairman.

The Vice Chairman is elected by the Board from among the members of the Board. He shall perform the duties and exercise the powers of the Chairman during the Chairman's absence or disability. The Vice Chairman serves a term that commences at his election and expires at the end of the first annual meeting following the meeting at which he was elected.

§ 4.3 Postmaster General.

The Governors appoint and have the power to remove the Postmaster General, who is a voting member of the Board. In addition to his responsibilities as a member of the Board, the Postmaster General is the chief executive officer of the Postal Service, authorized to exercise the powers of the Postal Service under the general supervision and direction of the Board. The Governors set the salary of the Postmaster General by resolution, subject to the limitations of 39 U.S.C. 1003(a).

§ 4.4 Deputy Postmaster General.

The Governors and the Postmaster General appoint and have the power to remove the Deputy Postmaster General, who is a voting member of the Board. In addition to his responsibilities as a member of the Board, the Deputy Postmaster General is the alternate chief executive officer of the Postal Service. He shall perform all tasks assigned to him by the Postmaster General, and act as Postmaster General during the Postmaster General's absence or disability, and when a vacancy exists in the office of Postmaster General. The Governors set the salary of the Deputy Postmaster General by resolution, subject to the limitations of 39 U.S.C. 1003(a).

§ 4.5 Assistant Postmasters General, General Counsel, Judicial Officer.

There are within the Postal Service a General Counsel, a Judicial Officer, and such number of Assistant Postmasters General (including Senior Assistant Postmasters General and Regional Postmasters General) as the Board authorizes by resolution. The Assistant Postmasters General, the General Counsel, and the Judicial Officer are appointed by, and serve at the pleasure of, the Postmaster General. Their powers and duties are delegated to them by the Postmaster General, consistent with these bylaws and the Reorganization Act.

§ 4.6 Secretary.

The Secretary of the Postal Service is elected by the Board. The Secretary shall issue notices of meetings of the Board and its committees, keep minutes of these meetings, and monitor compliance with all statutes and regulations dealing with public observation of meetings. He shall perform all duties incident to his office, including those duties assigned to him by the Board or by the Chairman of the Board. The Chairman may designate such assistant secretaries as he considers necessary to perform any of the duties of the Secretary.

PART 5—COMMITTEES [ARTICLE V]

Sec.
5.1 Establishment and appointment.
5.2 Committee procedure.
5.3 Compensation of members.

AUTHORITY: The provisions of this Part 5 are issued under authority of 39 U.S.C. 202, 203, 204, 205(c), 401(2), as enacted by Pub. L. No. 91-375, and 5 U.S.C. 552b (a), (b), (g) as enacted by Pub. L. No. 94-409.

§ 5.1 Establishment and appointment.

From time to time the Board may establish by resolution special and standing committees of one or more members of the Board. The Board shall specify, in the resolution establishing any committee, whether the committee is authorized to submit recommendations or preliminary decisions to the Board, to conduct hearings for the Board, or otherwise to take action on behalf of the Board. Each committee may exercise only those duties, functions, and powers prescribed from time to time by the Board, and the Board may affirm, alter, or revoke any action of any committee. Each member of the Board may have access to all of the information and records of any committee at any time. The Chairman of the Board shall appoint the chairman and members of each committee, who serve terms which expire at the end of each annual meeting. Each committee chairman may assign responsibilities within his committee as he considers appropriate. The committee chairman or his designee shall preside at all meetings of the committee.

§ 5.2 Committee procedure.

Each committee establishes its own rules of procedure, consistent with these bylaws, and meets as provided in its rules. A majority of the members of a committee constitute a quorum, and may take action by majority vote of the members present. Except as specifically provided by statute, every portion of every meeting of every committee of more than

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one member, which is authorized to submit recommendations or preliminary decisions to the Board, to conduct hearings for the Board, or otherwise to take action on behalf of the Board, is open to public observation, and is subject to the requirements of §§ 7.1 through 7.8 of these bylaws.

§ 5.3 Compensation of members.

A Governor receives compensation of $300 a day for attendance at committee meetings, and reimbursement for travel and reasonable expenses incurred in attending committee meetings. No Governor may receive compensation under this section and § 3.3 of these bylaws for more than a combination of 30 days of Board meetings and committee meetings in any year.

PART 6—MEETINGS [ARTICLE VI]

Sec.
6.1 Regular meetings, annual meeting.
6.2 Special meetings.
6.3 Notice of meetings.
6.4 Attendance by conference telephone call.
6.5 Minutes of meetings.
6.6 Quorum and voting.

AUTHORITY: The provisions of this Part 6 are issued under authority of 39 U.S.C. 202, 205, 401(2), as enacted by Pub. L. No. 91–375, and 5 U.S.C. 552b, (e), (g), as enacted by Pub. L. No. 94–409.

§ 6.1 Regular meetings, annual meeting.

The Board shall meet regularly in Washington, D.C., on the first Tuesday of each month. The first regular meeting of each calendar year is designated as the annual meeting. Consistent with the provisions of § 7.5 of these bylaws, the time or place of a regular or annual meeting may be varied by action of the Chairman, or by a recorded vote of a majority of the members of the Board, with the earliest practicable notice to the other members of the Board and to the Secretary. If the Chairman varies the time or place of a meeting, he shall give not less than 8 days' notice to the other members of the Board and to the Secretary. The Secretary shall distribute to the members an agenda setting forth the proposed subject matter for any regular or annual meeting in advance of the meeting, after appropriate consultation with the Chairman and the Postmaster General.

§ 6.2 Special meetings.

Consistent with the provisions of § 7.5 of these bylaws, the Chairman may call a special meeting of the Board at any place in the United States, with not less than 8 nor more than 30 days' notice to the other members of the Board and to the Secretary, specifying the time, date, place, and subject matter of the meeting. By recorded vote a majority of the members of the Board may call a special meeting of the Board at any place in the United States, with the earliest practicable notice to the other members of the Board and to the Secretary, specifying the time, date, place and subject matter of the meeting.

§ 6.3 Notice of meetings.

The Chairman or the members of the Board may give the notice required under § 6.1 or § 6.2 of these bylaws in oral or written form. Oral notice to a member may be delivered by telephone and is sufficient if made to the member personally or to a responsible person in his home or office. Any oral notice to a member must be subsequently confirmed by written notice. Written notice to a member may be delivered by telegram or by mail sent by the fastest regular delivery method addressed to the member at his address of record filed with the Secretary, and except for written notice confirming a previous oral notice, must be sent in sufficient time to reach that address at least 2 days before the meeting date under normal delivery conditions. A member waives notice of any meeting by attending the meeting, and may otherwise waive notice of any meeting at any time. Neither oral nor written notice to the Secretary is sufficient until actually received by him, and the Secretary may not waive notice of any meeting.

§ 6.4 Attendance by conference telephone call.

Unless prohibited by law or by these bylaws, a member of the Board may participate in a meeting of the Board by conference telephone or similar communication equipment which enables all persons participating in the meeting to hear each other and which permits full compliance with the provisions of these bylaws concerning public observation of meetings. Attendance at a meeting by this method constitutes presence at the meeting, except that no Governor may receive compensation for any meeting attended in this manner.

§ 6.5 Minutes of meetings.

The Secretary shall preserve the original minutes of Board meetings prepared under § 4.6 of these bylaws. After the minutes of any meeting are approved by the Board, the Secretary shall promptly make available to the public, in the Public and Employee Communications Department at Postal Service Headquarters, or in another place easily accessible to the public, copies of the minutes, except for those portions which contain information inappropriate for public disclosure under 5 U.S.C. 552(b) or 39 U.S.C. 410(c).

§ 6.6 Quorum and voting.

As provided by 39 U.S.C. 205(c), the Board acts by resolution upon a majority vote of those members who are present. No proxies are allowed in any vote of the members of the Board. Any 6 members constitute a quorum for the transaction of business by the Board, except:

(a) In the appointment or removal of the Postmaster General, and in setting the compensation of the Postmaster General and Deputy Postmaster General, 39 U.S.C. 205(c)(1) requires a favorable vote of an absolute majority of the Governors in office;

(b) In the appointment or removal of the Deputy Postmaster General, 39 U.S.C. 205(c)(2) requires a favorable vote of an absolute majority of the Governors in office and the Postmaster General;

(c) In the adjustment of the total budget of the Postal Rate Commission, 39 U.S.C. 3604(c) requires a unanimous written vote of the Governors in office;

(d) In the modification of a recommended decision of the Postal Rate Commission, 39 U.S.C. 3625 requires a unanimous written vote of the Governors in office; and

(e) In the approval, allowance under protest, or rejection of a recommended decision of the Postal Rate Commission, the Governors act upon a majority vote of the Governors present, and the required quorum of 6 members must include at least 5 Governors;

(f) In the determination to close a portion of a meeting or to withhold information concerning a meeting, 5 U.S.C. 552b(d)(1) requires a vote of a majority of the entire membership of the Board; and

(g) In the decision to call a meeting with less than a week's notice, 5 U.S.C. 552b(e)(1) requires a vote of a majority of the members of the Board. In the decision to change the subject matter of a meeting, or the determination to open or close a meeting, 5 U.S.C. 552b(e)(2) requires a vote of a majority of the entire membership of the Board.

PART 7—PUBLIC OBSERVATION [ARTICLE VII]

Sec.
7.1 Definitions.
7.2 Open meetings required.
7.3 Exceptions.
7.4 Procedure for closing a meeting.
7.5 Public notice of meetings, subsequent changes.
7.6 Certification and transcripts of closed meetings.
7.7 Enforcement.
7.8 Open meetings, Freedom of Information, and Privacy of Information.

AUTHORITY: The provisions of this Part 7 are issued under authority of 39 U.S.C. 401 (a), as enacted by Pub. L. No. 91–375, and 5 U.S.C. 552b (a)–(m) as enacted by Pub. L. No. 94–409.

§ 7.1 Definitions.

For purposes of §§ 7.2 through 7.8 and 8.1 of these bylaws:

(a) The term "Board" means the Board of Governors, and any subdivision or committee of the Board authorized under section 5.1 of these bylaws to submit recommendations or preliminary decisions to the Board, to conduct hearings for the Board, or otherwise to take action on behalf of the Board.

(b) The term "meeting" means the deliberations of at least the number of individual members required to take action on behalf of the Board under §§ 5.2 or 6.5 of these bylaws, where such deliberations determine or result in the joint conduct or disposition of the official business of the Board. The term "meeting" does not include any procedural deliberations required or permitted by §§ 6.1, 6.2, 7.4, or 7.5 of these bylaws.

§ 7.2 Open meetings required.

(a) Except as provided in § 7.3 of these bylaws, every portion of every meeting of the Board is open to public observation. Members of the Board may not jointly conduct or dispose of business of the Board without complying with §§ 7.2 through 7.8 of these bylaws. Members of the public may obtain access to documents considered at meetings to the extent provided in the regulations of the Postal Service concerning the release of information.

(b) Without the permission of the Board, no person may participate in, film, televise, or broadcast any portion of any meeting of the Board. Any person may electronically record or photograph a meeting, as long as that action does not tend to impede or disturb the members of the Board in the performance of their duties, or members of the public while attempting to attend or observe a meeting of the Board. The rules and penalties of 39 CFR 232.6, concerning conduct on postal property, apply with regard to meetings of the Board.

§ 7.3 Exceptions.

Section 7.2 of these bylaws does not apply to a portion of a meeting, and §§ 7.4 and 7.5 do not apply to information concerning the meeting which otherwise would be required to be disclosed to the public, if the Board properly determines that the public interest does not require otherwise, and that such portion of the meeting or the disclosure of such information is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy, and (2) in fact properly classified under that Executive order;

(b) Relate solely to the internal personnel rules and practices of the Postal Service, including the Postal Service position in negotiations or consultations with employee organizations.

(c) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552), provided that the statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential, such as market information pertinent to Postal Service borrowing or investments, technical or patent information related to postal mechanization, or commercial information related to purchases of real estate;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature, such as personal or medical data regarding an individual under consideration for appointment to a Postal Service office, if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in those records, but only to the extent that the production of those records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely significantly to frustrate implementation of a proposed action of the Board, such as information relating to the negotiation of a labor contract or proposed Postal Service procurement activity, except that this provision does not apply in any instance where (1) the Postal Service has already disclosed to the public the content or nature of the proposed action, or (2) the Postal Service is required by law to make such disclosure on its own initiative before taking final action on the proposal; or

(j) Specifically concern the issuance of a subpoena by the Postal Service, or the participation of the Postal Service in a civil action or proceeding, such as a postal rate or classification proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Postal Service of a particular case of formal adjudication under the procedures of 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 7.4 Procedure for closing a meeting.

(a) A majority of the entire membership of the Board may vote to close a portion of a meeting or to withhold information concerning a meeting under the provisions of § 7.3 of these bylaws. The members shall take a separate vote with respect to each meeting a portion of which is proposed to be closed to the public, or with respect to any information which is proposed to be withheld, and shall make every reasonable effort to take any such vote at least 8 days before the date of the meeting involved. The members may take a single vote with respect to a series of meetings, portions of which are proposed to be closed to the public, or with respect to information concerning the series, so long as each portion of a meeting in the series involves the same particular matters, and no portion of any meeting is scheduled to be held more than 30 days after the initial portion of the first meeting in the series.

(b) Whenever any person whose interest may be directly affected by a portion of a meeting requests that the Board close that portion to the public for any of the reasons referred to in § 7.3 (e), (f), or (g) of these bylaws, upon request of any one of its members the Board shall vote by recorded vote whether to close that portion of the meeting.

(c) The Secretary shall record the vote of each member participating in a vote under subsection (a) or (b) of this section. Within 1 day of any vote under subsection (a) or (b) of this section, the Secretary shall make publicly available a written copy of the vote showing the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Secretary shall, within 1 day of the vote, make publicly available a full written explanation of the action closing the portion, together with a list of all persons expected to attend the meeting and their affiliation.

(d) If a committee of the Board determines that a majority of its meetings may properly be closed to the public for any combination of reasons referred to in § 7.3 (d), (h), or (j) of these bylaws, it may close a meeting or a portion of a meeting by a recorded vote of a majority of its members at the beginning of the meeting or portion in question. The Secretary shall promptly make available to the public a written copy of the vote showing the vote of each member on the question. Subsections (a), (b), and (c) of this section, and § 7.5 of these bylaws do not apply to any meeting or portion of a meeting closed under this subsection. However, at the earliest practicable time, the Secretary shall publicly announce the time, place, and subject matter of the meeting and each of its portions.

(e) Immediately following each public announcement required under subsections (c) and (d) of this section, the Secretary shall submit for publication in the FEDERAL REGISTER the text of the announcement or the information made available. The Secretary shall also submit the announcement or information to the Postal Service Public and Employee Communications Department for dissemination to the public.

§ 7.5 Public notice of meetings, subsequent changes.

(a) At least one week before any meeting of the Board, the Secretary shall publicly announce the time, date, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the Board to respond to requests for information about the meeting.

(b) By a recorded vote, a majority of the members of the Board may determine that the business of the Board requires a meeting to be called with less

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than a week's notice. At the earliest practicable time, the Secretary shall publicly announce the time, date, place, and subject matter of the meeting, and whether it is to be open or closed to the public.

(c) Following the public announcement required by paragraphs (a) or (b) of this section:

(1) As provided in § 6.1 of these bylaws, the Board may change the time or place of a meeting. At the earliest practicable time, the Secretary shall publicly announce the change.

(2) A majority of the entire membership of the Board may change the subject matter of a meeting, or the determination to open or close a meeting to the public, if it determines by a recorded vote that the change is required by the business of the Board and that no earlier announcement of the change was possible. At the earliest practicable time, the Secretary shall publicly announce the change, and the vote of each member upon the change.

(d) Immediately following each public announcement required under paragraphs (a), (b), or (c) of this section, the Secretary shall submit for publication in the FEDERAL REGISTER a notice of the time, date, place, and subject matter of the meeting, whether the meeting is open or closed, any change in the preceding, and the name and phone number of the official designated by the Board to respond to requests for information about the meeting. The Secretary shall also submit the announcement and information to the Postal Service Public and Employee Communications Department for dissemination to the public.

§ 7.6 Certification and transcripts of closed meetings.

(a) At the beginning of every meeting or portion of a meeting closed under § 7.3 (a) through (j) of these bylaws, the General Counsel shall publicly certify that, in his opinion, the meeting or portion of the meeting may be closed to the public, stating each relevant exemptive provision. The Secretary shall retain this certification, together with a statement from the officer presiding at the meeting which sets forth the time and place of the meeting, and the persons present.

(b) The Secretary shall arrange for a complete transcript or electronic recording adequate to record fully the proceedings to be made of each meeting or portion of a meeting of the Board which is closed to the public. The Secretary shall maintain a complete verbatim copy of the transcript, or a complete electronic recording of each meeting or portion of a meeting closed to the public for at least 2 years after the meeting, or for 1 year after the conclusion of any Postal Service proceeding with respect to which the meeting was held, whichever occurs later.

(c) Except for those items of discussion or testimony which the Board, by a majority vote of those members who are present, determines to contain information which may be withheld under § 7.3 of these bylaws, the Secretary shall promptly make availaibe to the public, in the Public and Employee Communications Department at Postal Service Headquarters, or in another place easily accessible to the public, the transcript or electronic recording of a closed meeting, including the testimony of any witnesses received at the meeting. The Secretary shall furnish a copy of this transcript, or a transcription of this electronic recording disclosing the identity of each speaker, to any person at the actual cost of duplication or transcription.

§ 7.7 Enforcement.

(a) Under 5 U.S.C. 552b(g), any person may bring a proceeding in the United States Court of Appeals for the District of Columbia to set aside any provisions of these bylaws which are not in accord with the requirements of 5 U.S.C. 552b (a)–(f) and to require the promulgation of provisions that are in accord with those requirements.

(b) Under 5 U.S.C. 552b(h) any person may bring a civil action against the Board in an appropriate United States District Court to obtain judicial review of the alleged failure of the Board to comply with 5 U.S.C. 552b (a)–(f). The burden is on the Board to sustain its action. The court may grant appropriate equitable relief, including enjoining future violations, or ordering the Board to make public information improperly withheld from the public.

(c) Under 5 U.S.C. 552b(i) the court may assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails, except that the court may assess costs against the plaintiff only if the court finds that he initiated the suit primarily for frivolous or dilatory purposes.

§ 7.8 Open meetings, Freedom of Information, and Privacy of Information.

The provisions of 5 U.S.C. 552b(c)(1)–(10), enacted by Pub. L. No. 94–409, the Government in the Sunshine Act, govern in the case of any request under the Freedom of Information Act 5 U.S.C. 552, to copy or to inspect the transcripts or electronic recordings described in § 7.6 of these bylaws. Nothing in 5 U.S.C. 552b authorizes the Board to withhold from any individual any record, including the transcripts or electronic recordings described in § 7.6 of these bylaws, to which the individual may otherwise have access under 5 U.S.C. 552a, enacted by the Privacy Act of 1974 Pub. L. No. 93–579.

PART 8—REPORTS AND RECORDS [ARTICLE VIII]

Sec.
8.1 Open meetings report.
8.2 Annual report.
8.3 Annual budget; financial reports.

AUTHORITY: The provisions of this Part 8 are issued under authority of 39 U.S.C. 202, 203, 205(c), 401(2), as enacted by Pub. L. No. 91–375, and 5 U.S.C. 552b (g), (j), as enacted by Pub. L. No. 94–409.

§ 8.1 Open meetings report.

The Secretary shall annually prepare for approval by the Board and transmittal to Congress a report on the Board's compliance with 5 U.S.C. 552b, as enacted by the Government in the Sunshine Act. The report must contain a tabulation of the total number of Board meetings open to the public, the total number of meetings closed to the public, the reasons for closing those meetings and a description of any litigation brought against the Board under the Act, including any costs assessed against the Board in that litigation.

§ 8.2 Annual report.

No later than the annual meeting of the Board, the Postmaster General shall give to the Board an annual report concerning the operations of the Postal Service, as required by 39 U.S.C. 2402. Upon approval of this report, or after making any changes it considers appropriate, the Board shall transmit this report to the President and the Congress. The Postmaster General shall make the necessary arrangements for the printing of the report and its sale to the public.

§ 8.3 Annual budget; financial reports.

The Postmaster General shall annually submit to the Board a budget for the following fiscal year under requirements as to form, content, and schedule established by the Board. After review by the Board, the Postmaster General shall submit the annual budget of the Postal Service to the Office of Management and Budget of the Executive Office of the President in the manner provided by 39 U.S.C. 2009, and to the Committees on Post Office and Civil Service and the Committees on Appropriations of the Senate and the House of Representatives, as required by 39 U.S.C. 2401(g).

(39 U.S.C. 202, 205, 401(2), 410(a); 5 U.S.C. 552b(g).)

RESOLUTION OF THE BOARD OF GOVERNORS OF THE UNITED STATES POSTAL SERVICE

Resolution No. 77–3

ADOPTION OF REVISED BYLAWS

Resolved:

Pursuant to the Postal Reorganization Act (39 U.S.C. 401(2)), and the Government in the Sunshine Act (Pub. L. 94–409), the Board of Governors adopts the revised Bylaws which are attached hereto and incorporated herein by reference. The revised Bylaws are effective on March 12, 1977.

The foregoing resolution was adopted by the Board of Governors on March 1, 1977.

LOUIS A. COX,
Secretary.

[FR Doc.77-6652 Filed 3-4-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21032; FCC-77-144]

PART 0—COMMISSION ORGANIZATION

PART 1—PRACTICE AND PROCEDURE

Implementation of Government in the Sunshine Act

Adopted: February 24, 1977.

Released: March 4, 1977.

Report and Order. In the matter of implementation of the Government in the Sunshine Act, Pub. L. 94–409, Docket No. 21032.

1. A Notice of proposed rulemaking in this proceeding was released on December 23, 1976 (FCC 76–663, 41 FR 56675, December 29, 1976). The purpose of the proposed rules was to implement the Government in the Sunshine Act, Pub. L. 94–409. The Act and the proposed rules open many Commission meetings to public observation, require notice of all Commission meetings, and specify circumstances under which some meetings may be closed to the public and under which some information may be omitted from meeting notices. Comments were requested by January 27, 1977. Comments were submitted by two members of the Communications Committee, Section on Administrative Law, of the American Bar Association on their own behalf (Practitioners), The National Black Media Coalition (Black Media), and the Department of Applied Communications, Howard University School of Communications (Howard).[1] Reply comments were not requested. Comments were filed by Media Access Project (MAP) after the filing date and after a substantial part of this Report and Order had been drafted. MAP's Motion to Receive Late-Filed Comments is hereby granted. Because of the late filing, however, MAP's comments are dealt with out of sequence in the latter part of the Report and Order.

2. The comments are generally critical of the fact that the proposed rules essentially track the statute and do not go further to spell out procedural and substantive detail. In response to such comment we would note that the Sunshine Act itself is unusually precise and leaves little room for discretion in its interpretation or in implementing regulations.

This being the case, the rules closely follow the Act. In addition, we are hesitant to try to interpret the substantive provisions of the Act prior to reviewing individual items and gaining experience in judging whether they should be considered at open or closed meetings. We acknowledge that the Act should be construed in the light of its legislative history and, in the case of exemptions which parallel those contained in the Freedom of Information Act, case law under that Act. The rules contain cross references to the Freedom of Information Rules (§ 0.457), which set out examples of papers which are not routinely available for public inspection and, by analogy, meetings which may be closed to the public. Although we may eventually be able to embellish the rules with categories of matters usually considered in open or closed meetings, we note that the Act requires an individual determination for each item considered at each meeting.[2]

3. The Act imposes a substantial procedural burden. But no one should read the Commission's prior opposition to its enactment as meaning that we will not fully implement both the letter and spirit of the Act. The Congess has determined that public access to the decisionmaking processes of Government is more important than other considerations, and we will honor that determination in every respect. We hope that the details concerning implementation of the statute which are supplied in this Report and Order and in FCC Directive 1109.1[3] will dispel the cynicism and suspicion which appear to underlie the comments.

4. A number of questions were raised concerning the mechanics of Commission meetings which can be answered as follows with details concerning the meetings which we do not consider appropriate for the regulations:

(a) Commission meetings are held in the Commission meeting room—Room 856, 1919 M St., NW., Washington, D.C. This room contains 70 theatre-type seats which will be available to members of the public who attend open meetings. There are no steps for the handicapped to negotiate. The meeting room is equipped with a loud speaker system. A closed circuit television system connects the meeting room with a nearby conference room, which will be available to handle overflow crowds.

(b) Members of the audience may record the proceedings, provided they use battery-operated recording devices at their seats. They may take photographs from their seats, provided flash bulbs are not used. They may make artists' sketches. The only limitation imposed is that such activities be unobtrusive. Any additional activities of this nature which may be obtrusive should be cleared with the Executive Director in advance of the meeting. The Commission's policy statement on "Audio Visual Coverage of Agency Proceedings" (FCC 72–1181, January 23, 1973, 39 FCC2d 373) will govern audio and or visual (i.e., video or film) coverage of Commission meetings opened by the Sunshine Act, just as it has heretofore governed other public Commission proceedings.

(c) Notice will be given of all open and closed meetings. Copies of the notice will be available in the Public Information Office. We currently plan to attach the notice to "FCC Actions Alert", which is mailed to a number of individuals and public interest groups. The notice will name the Public Information Officer as the individual from whom additional information can be obtained. It will contain a concise, but specific, statement of the subject matter, including the docket number (if any) or other appropriate aids to identification of the subject. In the case of closed meetings, the applicable exemption(s) will be listed, together with an explanation of the reasons why the exemption applies, if they are not obvious from the subject matter.

(d) The notice will list all persons expected to attend a closed meeting, including Commission personnel. See § 0.605(d)(3) of the final rules.[4] The Commissioners, their assistants, the General Counsel, the Executive Director, the Public Information Officer and the Secretary are expected to attend all meetings. The appropriate Bureau or Office Chief and Division Chief are expected to attend meetings which relate to their responsibilities. In addition, the author(s) of the item under consideration is (are) expected to be present for discussion of that item. Other staff members are often present for discussion of all or part of an item on the agenda, because of interest in the subject matter, because they are responsible for matters to be considered later at the meeting, or for a variety of other trivial reasons, but their presence is not expected. After the meeting, the presiding Commissioner will issue a statement listing those persons other than Commission personnel who were present at the meeting and Commission personnel who participated in the discussion of each matter. We believe it would be misleading to list agency personnel who happened to be present for all or part of the discussion but who had no role in deciding the matters under consideration, and that the final rule is a truer rendering of the Congressional purpose than would be a listing of all those physically present.

(e) Howard notes that some Commission proceedings (or meetings) involve public participation and asks that the terms "participation" and "disruptive conduct" be defined. Black Media suggests that public input at the end of meetings may be appropriate. The Commission does, of course, hold meetings at which public input is solicited, and participation by the public is obviously welcomed and expected at such meetings. The Commission also conducts oral arguments, at which parties to the proceeding are allotted time to present their positions, and clearly no change in that procedure is contemplated by these rules. The Sunshine Act, and the implementing regulations, open to the public meetings in which members of the Commission and its staff discuss and decide matters of business before the agency—not those which have been held previously for the specific purpose of obtaining the views of the public or parties to the proceeding. Public participation in meetings opened by the Sunshine Act is not appropriate. Members of the public who attend such meetings will be expected to sit quietly and observe the meeting and not engage in any activity which is obtrusive or disruptive. Smoking will be permitted in the Conference Room only (RM. 847), and will not be permitted in the Commission Meeting Room (RM 856). We cannot go further in defining "disruptive conduct." However, any person engaging in inappropriate conduct will be cautioned by the presiding Commissioner and will be removed if such conduct continues.

5. Black Media takes exception to the definitions of "agency" and "meeting" set out in § 0.601 of the rules. Although the operative words are the same as those set out in section 552b(a) of the Act, Black Media apparently sees them as an attempt by the Commission to close meetings which will not result in final Commission action. However, that is not the intent and that is not what the Act

[1] Howard's comments were filed on January 28, 1977, one day after the filing date set out in the notice but within the 30 day comment period prescribed by the Sunshine Act, and were timely filed. Apparently, the notice was published one day later than had been expected.

[2] We surveyed matters considered by the Commission over a six month period and determined that a majority could not have been considered at a closed meeting under section 552(c) (4), (8), 9A or 10 of the Act. Thus, the rules do not provide for closing meetings by regulation pursuant to section 552(d)(4).

[3] This Directive instructs the staff on implementation of the Act. Copies are available in the Public Information Office.

[4] As suggested in the comments, proposed § 0.605 has been divided into three sections. Except as otherwise specified, references in this document to § 0.605 are to the section as proposed.

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or the same words in the Rules provide. The term "meeting" encompasses deliberations which "determine or result in the joint *conduct* or determination of agency business." (Emphasis supplied) The conduct of business is not limited to the final vote on a matter but includes deliberations leading up to the vote. The words, "group of Commissioners * * * authorized to act on behalf of the Commission" likewise encompass any group of Commissioners authorized by the Commission to engage in deliberations which determine or result in the joint conduct of official agency business, regardless of whether they take, or are authorized to take, final action. However, the term "agency" does not include meetings of two or three Commissioners who are not authorized by the Commission to act on behalf of the Commission.

6. Practitioners object to the provision in § 0.601(b) which excludes the sequential consideration of Commission business from the definition of "meeting". Apparently, it is feared that this procedure will be used as a device to avoid holding open meetings. In any event, certain safeguards are suggested to preclude such use or the appearance thereof. Suffice it to say that this procedure (referred to as "action by circulation") has been in use for many years, subject to each of the suggested safeguards, and will continue to be used. Thus, action is taken by circulation only when action is required prior to the next regularly scheduled Commission meeting and where no Commissioner requests that the matter be discussed at a meeting. The vote of each Commissioner is reported to the Secretary, recorded and made public. The action document (if any) and a public notice are issued, exactly as if the action had been taken at a meeting. The final rules also provide for action by notation—a procedure under which Commissioners individually, but simultaneously, consider a matter referred to them for action. This procedure will replace the "Consent Agenda" meeting, which is now held prior to the "Regular Agenda" meeting and whose purpose is to weed out and act on those matters which no Commissioner believes warrant discussion. The same safeguards apply, except that the matter need not be urgent. The purpose of the procedure is to avoid wasting the time of the public and the staff in attending meetings which will not involve discussion.

7. Howard takes exception to § 0.605 (a) and (b) of the rules, under which the staff gives notice of open meetings and, if it believes a meeting should be closed, submits that question to the Commission for a vote. In Howard's view, this procedure, "gives the staff * * * too much discretion * * * and does not actually require that the staff make any announcement at all." We cannot understand Howard's position on this point or its reason for taking it. The whole thrust of the Sunshine Act is that as many meetings as possible should be open to the public. Consistently therewith, the Act requires an agency vote prior to holding a closed meeting but does not require a vote to hold an open meeting. Howard is understood to favor open meetings. This being the case, we do not understand why it should object to opening a meeting without a vote. Further, the rule clearly states that the notice of the open meeting required by the Act will be given. Since the matter does not go to the Commission for a vote, the notice will obviously be issued by the staff, for the agency. The basis for any contrary reading of the rule is not apparent. After the notice of an open meeting is issued, it is possible for a Commissioner who believes it should be closed to request a vote on closing the meeting, and § 0.060(b)(1) of the final rules allows for that possibility.

8. Black Media asks that § 0.605(b)(2) be expanded to specify the procedures under which a person directly affected may ask that a meeting be closed. Practitioners ask that we specify procedures for asking that a closed meeting be opened. These are sensible suggestions, and we are implementing them. Such requests may be submitted to the Secretary in writing at any time before the meeting is held, and should briefly state the reason(s) for closing or opening the meeting. To assure that they reach the Commission for consideration before the meeting is held, they should be submitted at the earliest possible time and should call prominent attention to the urgent nature of the request. If possible, they should be hand-carried to the Secretary's office and called specifically to his attention. If the request is mailed, telephone contact with the Secretary concerning the request would be appropriate. It will be helpful, though it is not required, if copies are also directed to the seven Commissioners and the General Counsel. If the request is granted, it should be appreciated that the meeting may be delayed. However, the filing of a request will not stay the holding of a meeting.

9. Practitioners and Black Media read § 0.605(e)(4) of the rules as providing that the Commission may omit notices of closed meetings. Black Media believes that the provision can only be based on § 552b(d)(4) of the Act, which provides that certain types of meetings can be closed by rule, without a vote and an explanation of the reasons for closing the meeting in each instance, if a majority of an agency's meetings are of those types. A number of things need to be said in response to these comments.

(a) First, notice of every open and closed meeting will be given.

(b) Secondly, § 0.605(e)(4) is based on section 552b(c) of the Act, which provides that subsections (d) and (e) of the Act, "shall not apply to any information pertaining to a closed meeting otherwise required by this section to be disclosed to the public, where the agency properly determines that * * * disclosure of such information is likely to (fall within one of the 10 bases for closing a meeting set out in subsection (c)."[3])

(c) Third, we do not read this provision as permitting an agency to withhold notice of a meeting. However, we do read it to mean that certain of the information usually contained in the notice may be omitted if there is a valid basis for omitting such information under subsection (c) of the Act. A separate vote to withhold information is required, and the basis for withholding information must be reasonably related to the act of withholding as opposed to the act of closing the meeting. For example, if the meeting involved accusing a person of a crime, we would announce the time and place of the meeting, the fact that it involved a criminal accusation and was being closed for that reason, the vote on the question of closing the meeting and on that of withholding information, and the name and phone number of the Public Information Officer. The name of the person involved would be withheld. To take a more extreme example, if a meeting involved a freeze on the filing of applications and notice of that fact would frustrate the purpose of the freeze, the subject matter of the meeting would be withheld; the other information would be set out in the notice.

(d) Fourth, the subsection has nothing to do with subsection (d)(4) of the Act. See footnote 2, above.

(e) Finally, we have altered § 0.605(e)(4) of the rules to make these matters clear. See § 0.605 (a) and (d)(4) of the final rules.

10. A number of the comments concerned the maintenance and availability of the transcripts of closed meetings. A public file of transcripts will be maintained in the Minute and Rules Branch, Office of the Secretary. If, after the meeting, the responsible Bureau or Office Chief decides, in light of the discussion which in fact took place, that the meeting could have been open to the public or that the reason for withholding information no longer pertains, he will direct the Secretary to place the transcript in the public file. If the sole reason for closing the meeting was to avoid frustrating a Commission action, for example, the transcript will be placed in the public file after the action is taken. In addition, if a request for inspection of a transcript is granted, in whole or in part, the transcript, or portion thereof, which is made available will thereafter be maintained in the public file. Where the transcript is not maintained in the public file, requests for copies must be reviewed by the responsible Bureau or Office Chief and in some cases, possibly, by the Commission. We expect to act without appreciable delay in most instances, since most transcripts should not be long and most judgments should not be difficult. However, there may be delays if requests are expansive in scope or large in number. It should also be appreciated that we cannot act on requests until the transcript has been typed and returned to us by the reporter. Some requests will be denied and some information may be deleted when a copy is furnished. If the meeting involved discussion of a trade secret for a period of time following the meeting, portions of the transcript which would disclose the secret cannot be furnished during that period.

11. Requests for inspection of transcripts will be considered under the Freedom of Information procedures.[5] Procedures for inspection of transcripts maintained in the public file are set out in § 0.460; provisions for inspection of other transcripts appear at § 0.461. Copies of transcripts maintained in the public file and those made available for inspection may be obtained through the duplicating contractor pursuant to § 0.465(a). There will be no search fee.[4] However, persons requesting copies will be expected to furnish the date of the meeting, the name of the agenda, and the agenda item number, which information will appear in the meeting notice. Under § 0.465(c)(3), the Commission will make copies available directly, free of charge, if it serves the regulatory or financial interests of the U.S. Government. It would serve the regulatory interests of the Commission to waive the fee if the party seeking the transcript can use it to make a contribution to a proper public interest determination and cannot afford to pay the duplicating charges. However, if the request is reasonable in scope, the fee will not in most cases be very large and should not pose a financial problem for most members of the public.

12. All closed meetings will be transcribed, ordinarily by a court reporter. There will be a backup electronic recording system and, if that system is used, the recording will be transcribed immediately after it is made. We plan to fall back on the provision for minutes, where permissible, only in the unlikely event that both provisions for transcription should fail. We are considering the possibility of reducing the transcripts to microfiche and maintaining them in perpetuity. Transcripts of open meetings will not be prepared.

13. Black Media asks that we include in § 0.603 the statutory provision under which a meeting which may be closed to the public will be open if the agency finds that the public interest so requires. We are adding a passage to that effect, although we had thought the matter obvious; we would scarely vote to close a meeting after finding that the public interest requires it to be open.

14. At this stage of drafting this Report and Order, the late filed comments of Media Access Project (MAP) were received. Many of the points made in the comments are dealt with above. Others are covered in internal instructions to the staff (FCC Directive 1109.1), which have been prepared separately and are available for public inspection in the Public Information Office. The remaining matters are dealt with here.

(a) MAP states that § 0.605(a) should state that all meetings are open to the public unless the agency decides to close them. That is precisely what § 0.605 (a) and (b) now provide. The staff either issues a notice of an open meeting or refers the matter to the Commission for a vote. All meetings are open unless the Commission votes to close them.

(b) Affirmative action is required by someone to determine that a meeting should be open (or not closed), since it is required that notice of an open meeting be issued. We have assigned that function to the staff.

(c) We reject the proposition that a vote to close a meeting should be taken at least 48 hours prior to the meeting. While we expect to give the full 7 days notice in almost every case, there are bound to be emergency situations in which less than 7 days (or 48 hours) notice can be given. If a court should determine that such a meeting was improperly closed, the remedy would involve placing the transcript in the public file.

(d) Section 0.605(e)(4) is discussed above and, as noted, has been altered to make it clear that notice of all meetings will be given and that information will be deleted from the notice only if there is a substantial and sensible reason for the deletion pursuant to § 552(c) of the Act. Such deletions will probably be "most unusual", as MAP suggests, but we think it unwise to try to predict the frequency with which matters warranting such deletions will come before the Commission in the future.

(e) If the reason for giving less than 7 days notice of a meeting is not self-apparent, the reason will be stated.

(f) We reject the proposition that the transcript of each closed meeting should be reviewed regularly to determine whether it can be made available to the public. The proposition is impracticable. As noted above, consideration is being given to keeping the transcripts in perpetuity. After a relatively short passage of time, the regular review of transcripts would be consuming a substantial portion of the man hours available to the Commission to conduct its business. Many of the matters acted on by the Commission in closed meetings should be of little or no interest to the general public and should rarely be made the subject of requests for transcripts. A periodic review of such transcripts would be a waste of time and public funds. Transcripts may be placed in the public file just after the meeting is held, but otherwise will be reviewed only when requests for copies are received. Nor can we undertake to issue a public notice every time a transcript of a closed meeting is released.

15. Authority for the rules hereby adopted and set out below is set out in section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and in the Government in the Sunshine Act, 5 U.S.C. 552b.

16. Accordingly, it is ordered, That Part O of the rules and regulations is amended by adding a new Subpart F, as set out in the Appendix below. As provided in the Sunshine Act, the rules apply to Commission meetings held on or after March 12, 1977. Because time has not permitted preparation of the Rules 30 days in advance of their publication, they are being published less than 30 days before the effective date.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1982 (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

Part 0 and 1 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

1. In § 0.457, a sentence is added at the end of the portion preceding paragraph (a), and the portion of paragraph (c) preceding subparagraph (1) is revised, to read as follows:

§ 0.457 Records not routinely available for public inspection.

* * * Requests to inspect or copy the transcripts, recordings or minutes of agency or advisory committee meetings will be considered under § 0.603 rather than under the provisions of this section.

* * * * * *

(c) Materials that are specifically exempted from disclosure by statute (other than the Government in the Sunshine Act, 5 U.S.C. 552b): *Provided*, That such statute (1) requires that the materials be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of materials to be withheld. The Commission is authorized under the following statutory provisions to withhold materials from public inspection.

* * * * * *

2. Subpart F of Part 0 is added, to read as follows:

Subpart F—Meeting Procedures

Sec.
0.601 Definitions.
0.602 Open meetings.
0.603 Bases for closing a meeting to the public.
0.605 Procedures for announcing meetings.
0.606 Procedures for closing a meeting to the public.
0.607 Transcript, recording or minutes; availability to the public.

AUTHORITY: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).

Subpart F—Meeting Procedures

§ 0.601 Definitions.

For purposes of this section—

(a) The term "agency" means (1) the Commission, (2) a Board of Commissioners (see § 0.212), (3) the Telecommunications Committee (see § 0.215), (4) the Subscription Television Committee (see § 0.216), and (5) any other group of Commissioners hereinafter established by the Commission on a continuing or ad hoc basis and authorized to act on behalf of the Commission.

(b) The term "meeting" means the deliberations among a quorum of the Commission, a Board of Commissioners, or a quorum of a committee of Commissioners, where such deliberations determine or result in the joint conduct or disposition of official agency business, except that the term does not include deliberations to decide whether a meeting should be open or closed. (The term includes conference telephone calls, but does not include the separate consideration of Commission business by Commissioners.) For purposes of this subpart, each item on the agenda of a meeting is considered a meeting or a portion of a meeting.

§ 0.602 Open meetings.

(a) All meetings shall be conducted in accordance with the provisions of this subpart.

[3] However, the bases for nondisclosure are those set out in § 0.603 of the Sunshine rules.

[4] There will also be no transcription fee. We can devise no equitable way of dividing the transcription costs among the several persons to whom copies may be furnished at different times.

[1] Commissioner Quello absent.

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(b) Except as provided in § 0.603, every portion of every meeting shall be open to public observation. Observation does not include participation or disruptive conduct by observers, and persons engaging in such conduct will be removed from the meeting.

§ 0.603 Bases for closing a meeting to the public.

Except where the agency finds that the public interest requires otherwise, an agency or advisory committee meeting may be closed to the public, and information pertaining to such meetings which would otherwise be disclosed to the public under § 0.605 may be withheld, if the agency determines that an open meeting or the disclosure of such information is likely to—

(a) Disclose matters that (1) are specifically authorized under criteria established by executive order to be kept secret in the interest of national defense or foreign policy, and (2) are in fact properly classified pursuant to such executive order (see § 0.457(a));

(b) Relate solely to the internal personnel rules and practices of an agency (see § 0.457(b));

(c) Disclose matters specifically exempted from disclosure, by statute (other than the Freedom of Information Act, 5 U.S.C. 552). *Provided*, That such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld (see § 0.457(c));

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential (see § 0.457(d));

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy (see § 0.457(f));

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source, and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except where the agency has already disclosed to the public the content or nature of the disclosed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the agency's issuance of a subpoena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures specified in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for hearing.

§ 0.605 Procedures for announcing meetings.

(a) Notice of all open and closed meetings will be given.

(b) The meeting notice will be submitted for publication in the FEDERAL REGISTER on or before the date on which the announcement is made. Copies will be available in the Public Information Office on the day the announcement is made. Copies will also be attached to "FCC Actions Alert", which is mailed to certain individuals and groups who have demonstrated an interest in representing the public in Commission proceedings.

(c)(1) If the agency staff determines that a meeting should be open to the public, it will, at least one week prior to the meeting, announce in writing the time, place and subject matter of the meeting, that it is to be open to the public, and the name and phone number of the Public Information Officer, who has been designated to respond to requests for information about the meeting.

(2) If the staff determines that a meeting should be closed to the public, it will refer the matter to the General Counsel, who will certify that there is (or is not) a legal basis for closing the meeting to the public. Following action by the General Counsel, the matter may be referred to the agency for a vote on the question of closing the meeting (See § 0.606).

(d)(1) If the question of closing a meeting is considered by the agency but no vote is taken, the agency will, at least one week prior to the meeting, announce in writing the time, place and subject matter of the meeting, that it is to be open to the public, and the name and phone number of the Public Information Officer.

(2) If a vote is taken, the agency will, in the same announcement and within one day after the vote, make public the vote of each participating Commissioner.

(3) If the vote is to close the meeting, the agency will also, in that announcement, set out a full written explanation of its action, including the applicable provision(s) of § 0.603, and a list of persons expected to attend the meeting, including Commission personnel, together with their affiliations. The Commissioners, their assistants, the General Counsel, the Executive Director, the Public Information Officer, and the Secretary are expected to attend all Commission meetings. The appropriate Bureau or Office Chief and Division Chief are expected to attend meetings which relate to their responsibilities (see Subpart A of this part).

(4) If a meeting is closed, the agency may omit from the announcement information usually included, if and to the extent that it finds that disclosure would be likely to have any of the consequences listed in § 0.603.

(e) If the prompt and orderly conduct of agency business requires that a meeting be held less than one week after the announcement of the meeting, or before that announcement, the agency will issue the announcement at the earliest practicable time. In addition to other information, the announcement will contain the vote of each member of the agency who participated in the decision to give less than seven days notice and will specify the nature of the emergency situation if it is not clear from the subject matter.

(f) If, after announcement of a meeting, the time or place of the meeting is changed or the meeting is cancelled, the agency will announce the change at the earliest practible time.

(g) If the subject matter or the determination to open or close a meeting is changed, the agency will publicly announce the change and the vote of each member at the earliest practicable time. The announcement will contain a finding that agency business requires the change and that no earlier announcement of the change was possible.

§ 0.606 Procedures for closing a meeting to the public.

(a) For every meeting closed under § 0.603, the General Counsel will certify that there is a legal basis for closing the meeting to the public and will state each relevant provision of § 0.603. The staff of the agency will refer the matter to the General Counsel for certification before it is referred to the agency for a vote on closing the meeting. Certifications will be retained in a public file in the Minute and Rules Branch, Office of the Secretary.

(b) The agency will vote on the question of closing a meeting—

(1) If a member of the agency requests that a vote be taken;

(2) If the staff recommends that a meeting be closed and one member of the agency requests that a vote be taken; or

(3) If a person whose interests may be directly affected by a meeting requests the agency to close the meeting for any of the reasons listed in § 0.603 (e), (f) or (g), or if any person requests that a closed meeting be opened, and a member of the agency requests that a vote be taken. (Such requests may be filed with the Secretary at any time prior to the meeting and should briefly state the reason(s) for opening or closing the meeting. To assure that they reach the Commission for consideration prior to the meeting, they should be submitted at the earliest practicable time and should be called specifically to the attention of the Secretary—in person or by telephone. It will be helpful if copies of the request are furnished to the members of the agency and the General Counsel. The filing of a request shall not stay the holding of a meeting.)

(c) A meeting will be closed to the public pursuant to § 0.603 only by vote of a majority of the entire membership of the agency. The vote of each participating Commissioner will be recorded. No Commissioner may vote by proxy.

(d) A separate vote will be taken before any meeting is closed to the public and before any information is withheld from the meeting notice. However, a single vote may be taken with respect to a series of meetings proposed to be closed to the public, and with respect to information concerning such series of meetings (a vote on each question, if both are presented), if each meeting involves the same particular matters and is scheduled to be held no later than 30 days after the first meeting in the series.

(e) Less than seven days notice may be given only by majority vote of the entire membership of the agency.

(f) The subject matter or the determination to open or close a meeting will be changed only if a majority of the entire membership of the agency determines by recorded vote that agency business so requires and that no earlier announcement of the change was possible.

§ 0.607 Transcript, recording or minutes; availability to the public.

(a) The agency will maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting closed to the public, except that in a meeting closed pursuant to paragraph (h) or (j) of § 0.603, the agency may maintain minutes in lieu of a transcript or recording. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any item will be identified in the minutes.

(b) A public file of transcripts (or minutes) of closed meetings will be maintained in the Minute and Rules Branch, Office of the Secretary. The transcript of a meeting will be placed in that file if, after the meeting, the responsible Bureau or Office Chief determines, in light of the discussion, that the meeting could have been open to the public or that the reason for withholding information concerning the matters discussed no longer pertains. Transcripts placed in the public file are available for inspection under § 0.460. Other transcripts, and separable portions thereof which do not contain information properly withheld under § 0.603, may be made available for inspection under § 0.461. When a transcript, or portion thereof, is made available for inspection under § 0.461, it will be placed in the public file. Copies of transcripts may be obtained from the duplicating contractor pursuant to § 0.465(a). There will be no search or transcription fee. Requests for inspection or copies of transcripts shall specify the date of the meeting, the name of the agenda and the agenda item number; this information will appear in the notice of the meeting. Pursuant to § 0.465(c)(3), the Commission will make copies of the transcript available directly, free of charge, if it serves the financial or regulatory interests of the United States.

(c) The Commission will maintain a copy of the transcript or minutes for a period of at least two years after the meeting, or until at least one year after conclusion of the proceeding to which the meeting relates, whichever occurs later.

(d) The Commissioner presiding at the meeting will prepare a statement setting out the time and place of the meeting, the names of persons other than Commission personnel who were present at the meeting, and the names of Commission personnel who participated in the discussion. These statements will be retained in a public file in the Minute and Rules Branch, Office of the Secretary.

3. Section 1.1223 is revised to read as follows:

§ 1.1223 Presentations prohibited in restricted application proceedings prior to their designation for hearing.

As provided in § 1.1203(b), certain application proceedings are "restricted" following the submission of a petition to deny or public notice of the filing of a mutually exclusive application. Except as provided in § 1.1227, no interested person shall, directly or indirectly, make or attempt to make any oral or written ex parte presentation to decision-making Commission personnel concerning such a proceeding. Nor, in the absence of public notice, shall such an ex parte presentation be made, directly or indirectly, by an interested person having actual knowledge that a mutually exclusive application has been filed. No interested person outside the Commission who knows that a proceeding will be designated for hearing shall make any ex parte presentation concerning that proceeding.

4. Section 1.1225(b) is revised to read as follows:

§ 1.1225 Solicitation of ex parte presentations.

* * * * *

(b) Except as provided in § 1.1227, decision-making personnel shall not make or cause to be made, solicit or encourage ex parte presentations from any person, and shall not entertain ex parte presentations which are made to them.

5. Section 1.1251(a) is revised to read as follows:

§ 1.1251 Sanctions.

(a) *Parties.* (1) Upon notice and hearing, any party to a restricted proceeding who directly or indirectly makes any unauthorized ex parte presentation, who encourages or solicits others to make any such presentation, or who fails to advise the Executive Director of the facts and circumstances concerning an unauthorized ex parte presentation (see § 1.1245), may be disqualified from further participation in that proceeding. Such alternative or additional sanctions as may be appropriate may be imposed.

(2) To the extent consistent with the interests of justice and the public, a party who has made an ex parte presentation may be required to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded or otherwise adversely affected.

* * * * *

[FR Doc.77-6703 Filed 3-4-77;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. 74-25; Notice 04]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Metric Series and 60-psi Passenger Car Tires

AGENCY: National Highway Traffic Safety Administration.

ACTION: Final rule.

SUMMARY: This amendment of safety Standard No. 109, *New Pneumatic Tires*, permits the manufacture of both a new series of tires having load ratings and inflation pressures expressed in metric units and a newly designed tire having a maximum inflation pressure of 60 psi. The change for metric-unit tires accommodates a world-wide standardization process, and the change for 60-psi tires accommodates tires designed as substitutes for conventional spare tires, in order to reduce the overall weight of, and increase storage space in, passenger cars.

EFFECTIVE DATE: March 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Arturo Casanova, Office of Crash Avoidance, Motor Vehicle Programs, National Highway Traffic Safety Administration, Washington, D.C. 20590. (202-426-1715).

SUPPLEMENTARY INFORMATION: On September 30, 1976, the NHTSA published a proposed rule (41 FR 43192) to amend the requirements of Standard No. 109 (49 CFR 571.109) as indicated in the summary statement. All comments received supported the amendments, except that Dunlop Corporation suggested that adoption of metric-series tires be delayed while other approaches to the world-wide standardization of tire sizes and nomenclature are studied. Because the agency's ability to further modify the standard in response to future standardization efforts is not hindered by final action on metric-series tires, the proposed changes are adopted, for the reasons set forth below.

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TIRE PERFORMANCE REQUIREMENTS

Goodyear Tire and Rubber Company and the Rubber Manufacturers Association (RMA) petitioned for the adoption of new requirements and test specifications necessary to permit the production of a metric-series family of tires that differ in specification and construction from existing tire types. The metric-series tires have load ratings expressed in kilograms (in place of pounds) and inflation pressures expressed in kilopascals (kPa) (in place of pounds per square inch (psi)).

Firestone Tire and Rubber Company petitioned for the adoption of new requirements and test specifications necessary to permit the production of a "temporary use" spare tire that differs substantially in specification and construction from conventional tires. This tire type has a higher inflation pressure (60 psi), different dimensions, and a shorter treadwear life than conventional tires. In some cases its diameter may differ from that of the conventional tires it is designed to replace.

The NHTSA concluded that the new tire types should be accommodated by appropriate revisions of the requirements and test specifications, as long as they can meet the same safety performance levels of the standard as conventional tires do. Data supplied by Firestone indictate that no significant degradation of vehicle handling occurs when the 60-psi tire is used on a vehicle in conjunction with three conventional tires, despite the substantial difference in its construction and other characteristics.

Endurance and high-speed performance. The standard set forth endurance and high-speed performance requirements that are conducted by pressing the tire against a test wheel at various levels of force. The appropriate force levels are taken from tables of information contained in the standard that list each passenger car tire size presently produced for use in the United States. In anticipation of deletion of these tire tables, the agency proposed that the appropriate force levels for the new tire types be stated as percentages of the maximum load rating of the tire, corresponding to the values set out in the standard's existing tables, but without the need to add additional tables to the standard.

Vehicle manufacturers, the RMA, and Goodyear requested that, in the case of metric-series tires, the new force levels be adopted using tire tables instead of the percentage method. Detailed review of the proposal demonstrates that use of a flat percentage would have an unintended result. Specifically, the tire selection standard for passenger cars (Standard No. 110, Tire Selection and Rims (49 CFR 571.110)) requires that the normal load-carrying ability assigned to a tire be no more than that used for the test loading in the Standard No. 109 high-speed performance test. Thus, the practical result of replacing specifically assigned test loads in Standard No. 109 with percentages would be an unintentional reduction of the tire's assignable load-carrying capabilities in some cases. Goodyear and the RMA provided tire tables for the metric-series tires that specify values that are approximately the same as the percentage values proposed.

Having reviewed these comments and the tables provided by the tire industry, the NHTSA finds that test values derived from the tables are, for safety purposes, virtually the same as the percentage values proposed and therefore fall within the ambit of the proposal. Accordingly, the agency has decided to incorporate additional tables in the standard as the basis for amendments of the high speed and endurance requirements for metric-series tires. Percentage values are required for the 60-psi tires because their tire tables do not list the appropriate values.

The general issue of deletion of tire tables from Standard No. 109 will be addressed comprehensively in future rulemaking.

With regard to the new tire tables, Goodyear and the RMA noted that additional metric-series tire sizes have been developed since the submission of their petitions. Firestone noted that additional 60-psi type tires have also been added to those proposed. These commenters asked that the additional tire listings be added to the standard. Although not proposed, the agency believes that the new listings can be added to the standard in the same manner that routine tire table changes are regularly made by the agency in accordance with published procedures (33 FR 14964, October 5, 1968) (39 FR 28980, August 31, 1974). These guidelines specify procedures by which routine additions are made without notice, unless any objection is subsequently received.

Testing of a conventional tire on a test wheel is conducted at the "design" load level (with overloading in the case of endurance testing up to the maximum load rating of the tire) and corresponding inflation pressure. Because the 60-psi tires does not have a "design" load level but only a single load level at its maximum inflation pressure of 60 psi, the agency used this single load level as if it constituted the design load level. The RMA demonstrated that the single load level of these tires is more accurately characterized as its maximum load level, and that a lower load level would constitute the tire's design load. Because the 60-psi tire is intended only for occasional use as a spare tire, it is not assigned the lower "design" load ratings that are provided in the case of conventional tires to improve vehicle ride.

The NHTSA accepts this view of the 60-psi tire's design load rating and makes appropriate adjustments in the tables that appear in S5.4.2.3 and S5.5.1. In the case of inflation pressures, 52- and 58-pound values are utilized in Table III, consistent with comparable values for conventional tires.

Strength requirements. The agency proposed breaking energy requirements for the new tire types that are comparable to those for existing tires. The only comment on these propeed amendments were RMA suggestions for modification of terminology and the statement of breaking energy values in Table III. The test values are made final as proposed.

The RMA believed that reference to tires with a certain "designated" section width would be clarified by reference to "specified" section width instead. The agency disagrees, and notes that the word "designated" conveys the intended meaning that section width characteristics are controlled by the manufacturer and not "specified" by this or any other Federal regulation.

In its comments on this and other aspects of the proposal the RMA suggested that the listing of English-system equivalents following metric-system values (and vice versa) would improve the clarity and informational value of Standard No. 109. General Motors Corporation (GM) also encouraged the listing of measurement equivalents in safety standards.

The agency believes it made clear in its proposal the reason why the publication of equivalent values in a motor vehicle safety standard is totally inappropriate. Motor vehicle safety standards are not informational or advisory documents but rather are minimum standards which must be complied with on pain of civil penalty. For this reason they must be stated objectively, without confusion. Because the equivalence of the metric and English systems is not exact, using significant figures, the listing of appropriate English-system equivalents in the standard would produce some confusion concerning what are the real test conditions or performance levels required. For example, several NHTSA requirements specify a 30-mph barrier crash as a procedure underlying certain minimum crashworthiness capabilities. If the metric equivalent (49 km/h) were listed next to this 30-mph value, it would convey the impression that the manufacturer (and the agency) has the choice whether to test at 30 mph or at 30.4 mph. Thus, the statement of an "equivalent value" that is not in fact equivalent only confuses in a regulatory environment where objectivity is important and is required by statute (15 U.S.C. § 1392(a)). For this reason, the RMA suggestion to add English-system and metric equivalents to Table II and the GM suggestion to add "dual dimensioning" throughout the standard are not adopted.

Physical dimensions. The NHTSA proposed a "growth allowance" for the new tire types that is comparable to the requirement for existing tires, with the addition of a 0.4-inch minimum for technical reasons in the case of both the metric-series tires and the 60-psi tire. Goodyear and the RMA requested that the 0.4-inch allowance be restated as a 10-millimeter allowance, in view of its association with metric-series tires. These requests are denied, because the 0.4-inch allowance is also associated with the 60-psi tire which does not have metric values. As a general matter, the agency intends to make a systematic change to metric measurements in its standards, rather than making isolated

and arbitrary changes which consist of simple substitutions of near equivalents without regard to the basic units of the metric system.

Tubeless tire resistance to bead unseating. The NHTSA proposed that the force levels which must be sustained by conventional tubeless tires without bead unseating should be modified appropriately for the 60-psi tire because of its uncharacteristic section width. No objection was made to the proposed performance values and they are made final without change. The RMA noted that its earlier recommendations for test fixture modification should be supplemented in two minor respects based on further testing of the new tire type. One dimension of the test fixture should have been three-tenths-of-an-inch longer than proposed, and the cross section of the bead unseating block should have been narrower to avoid contact with the rim on which the tested tire is mounted. The agency considers these minor modifications from the proposed values to fall within the scope of the proposal and adopts the changes in the final rule.

TIRE LABELING

The NHTSA proposed that the metric-unit inflation pressure and load rating on metric-series tires be supplemented by English-system equivalents on the tire sidewall. Unlike the confusing listing of near-equivalent values in a performance standard, the use of equivalent markings on the tire sidewall can be of substantial benefit to the user without introducing confusion. No commenter objected to the proposed supplementary markings, and they are made final as proposed. General Motors suggested that "rounding" conventions be established to further assist the consumer. The agency does not wish to restrict the tire manufacturer's latitude in this area, and declines to adopt this suggestion in the absence of a demonstrable safety problem.

The agency proposed that the legend "Inflate to 60 psi" appear on the sidewall of the new 60-psi tire to make clear its distinctive inflation requirement. The RMA suggested that the proposed limits on location of the legend should be somewhat relaxed in view of the comparatively small size of the 60-psi sidewall. The agency agrees that some relaxation of the requirement is justified. As made final, location of the legend is limited to the area between the tire shoulder and the bead of the tire.

OTHER CONSIDERATIONS

The agency specifically addressed the possibility that consumers would have difficulty with the unconventional characteristics of the 60-psi tire, and that some safety problems could result from the confusion. The only problem raised by the agency that was responded to by commenters was the issue of storage of a large conventional tire after replacement by the smaller 60-psi tire, assuming that the car's trunk was full. Commenters minimized the extent of the problem, and Firestone noted that a majority of tires fail when the vehicle has been parked for a significant period of time, not on the highway.

In consideration of the foregoing, Standard No. 109 (49 CFR 571.109) is amended as follows:

1. Section S4.2.1(b) is amended to read:

S4.2.1 General.

* * * * *

(b) Its maximum permissible inflation pressure shall be either 32, 36, 40, or 60 psi, or 240 or 280 kPa.

* * * * *

2. S4.2.2.2(a) is amended to read:

S4.2.2.2 Physical Dimensions.

* * * * *

(a) Its actual section width and overall width shall not exceed the section width specified in Table I for its size designation and type by more than:

(1) (For tires with a maximum permissible inflation pressure of 32, 36, or 40 psi) 7 percent, or

(2) (For tires with a maximum permissible inflation pressure of 60 psi or 240 or 280 kPa) 7 percent or .4 inches, whichever is larger; and

* * * * *

3. S4.2.2.3 is amended to read:

S4.2.2.3 Tubeless tire resistance to bead unseating.

S4.2.2.3.1 When a tubeless tire that has a maximum inflation pressure other than 60 psi is tested in accordance with S5.2, the applied force required to unseat the tire bead at the point of contact shall be not less than:

(a) 1,500 pounds for tires with a designated section width of less than six (6) inches;

(b) 2,000 pounds for tires with a designated section width of six (6) inches or more, but less than eight (8) inches;

(c) 2,500 pounds for tires with a designated section width of eight (8) inches or more, using the section width specified in Table I for the applicable tire size designation and type.

S4.2.2.3.2 When a tire that has a maximum inflation pressure of 60 psi is tested in accordance with S5.2, the applied force required to unseat the tire bead at the point of contact shall be not less than:

(a) 1,500 pounds for tires with a maximum load rating of less than 880 pounds;

(b) 2,000 pounds for tires with a maximum load rating of 880 pounds or more but less than 1400 pounds;

(c) 2,500 pounds for tires with a maximum load rating of 1400 pounds or more, using the maximum load ratings specified in Table I for the applicable tire size designation and type.

4. The word "designed" in the third sentence of S4.3 is corrected to read "designated" and new paragraphs S4.3.4 and S4.3.5 are added after S4.3.3 to read:

S4.3.4 If the maximum inflation pressure of a tire is 240 or 280 kPa, then:

(a) Each marking of that inflation pressure pursuant to S4.3(b) shall be followed in parenthesis by the equivalent inflation pressure in psi, rounded to the nearest whole number; and

(b) Each marking of the tire's maximum load rating pursuant to S4.3(c) in kilograms shall be followed in parenthesis by the equivalent load rating in pounds, rounded to the nearest whole number.

S4.3.5 If the maximum inflation pressure of a tire is 60 psi, the tire shall have permanently molded into or onto both sidewalls, in letters and numerals not less than ½ inch high, the words "Inflate to 60 psi". On both sidewalls, the words shall be positioned in an area between the tire shoulder and the bead of the tire. However, in no case shall the words be positioned on the tire so that they are obstructed by the flange of any rim designated for use with that tire in this standard or in Standard No. 110 (§ 571.110 of this part).

5. The table in Figure 1 is revised to read:

Wheel size	Dimension "A" for tires with maximum inflation pressure	
	Other than 60 lb/in²	60 lb/in²
17	12.0	
16	11.5	9.9
15	11.0	9.4
14	10.5	8.9
13	10.0	
12	9.5	
11	9.0	
10	8.5	

6. Section S5.2.1.3 is amended by the addition of a new sentence at the end of the text to read:

"However, in testing a tire that has an inflation pressure of 60 psi, use the bead unseating block described in Figure 2A in place of the bead unseating block described in Figure 2."

7. A new Figure 2A (as set forth at the end of this notice) is added to the standard adjacent to existing Figure 2.

8. The table of loads in S5.4.2.4 is relocated immediately following S5.4.2.3 and is amended to read:

S5.4.2.3

* * * * *

Maximum permissible inflation pressure	Loads for—		
	4 hr	6 hr	24 hr
	Loads from table I (listed in specified lb/in² or kPa column)		
32 lb/in²	24	28	32
36 lb/in²	28	32	36
40 lb/in²	32	36	40
240 kPa	180	200	240
280 kPa	220	260	280
	Load as specified percentage of maximum load rating marked on tire sidewall		
60 lb/in²	85	92	100

9. The term "Table I" in S5.4.2.1 is replaced by the phrase "the table in S5.4.2.3".

10. Section S5.5.1 is amended to read:

S5.5.1 After preparing the tire in accordance with S5.4.1, mount the tire and

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wheel assembly in accordance with S5.4.2.1, and press it against the test wheel with the load indicated in the following table:

A—Maximum permissible inflation pressure:	B—Load
32 lb/in².....	[1] 24 lb/in² col.
36 lb/in².....	[1] 28 lb/in² col.
40 lb/in².....	[1] 32 lb/in² col.
240 kPa.....	[1] 180 kPa col.
280 kPa.....	[1] 220 kPa col.
60 lb/in².....	[2] 85.

[1] Load from table I.
[2] Load as specified percentage of maximum load rating marked on tire sidewall.

11. In Appendix A, new tables II–D and II–E are added, and tables II–A, II–B, and II–C are amended by the addition of two columns at the right end, to read:

TABLE II—*Minimum breaking energy values (inch-pounds)*

TABLE II–A—FOR BIAS PLY TIRES WITH DESIGNATED SECTION WIDTH OF 6 IN AND ABOVE

Cord material	Maximum permissible inflation	
	• • • 240 kPa	280 kPa
Rayon.....	• • • 1,650 in-lb...	3,300 in-lb.
Nylon or polyester.	• • • 2,600 in-bi...	5,200 in-lb.

TABLE II–B—FOR BIAS PLY TIRES WITH DESIGNATED SECTION WIDTH BELOW 6 IN

Cord material	Maximum permissible inflation	
	• • • 240 kPa	280 kPa
Rayon.....	• • • 1,000 in-lb...	2,500 in-lb.
Nylon or polyester.	• • • 1,950 in-lb...	3,900 in-lb.

TABLE II–C—FOR RADIAL PLY TIRES

Designated section width	Maximum permissible inflation pressure	
	• • • 240 kPa	280 kPa
Below 160 mm.....	• • • 1,950 in-lb...	3,900 in-lb.
160 mm or above...	• • • 2,600 in-lb...	5,200 in-lb.

TABLE II–D—FOR TIRES WITH 60 LB/IN² MAXIMUM PERMISSIBLE INFLATION PRESSURE AND MAXIMUM LOAD RATING OF 880 LB AND ABOVE

Cord material:	*Inch pounds*
Rayon.....	1,650
Nylon or polyester.....	2,600

TABLE II–E—FOR TIRES WITH 60 LB/IN² MAXIMUM PERMISSIBLE INFLATION PRESSURE AND MAXIMUM LOAD RATING BELOW 880 LB

Cord material:	*Inch-pounds*
Rayon.....	1,000
Nylon or polyester.....	1,950

12. In Appendix A, Table III would be amended to read:

TABLE III—*Test inflation pressures*

Maximum permissible inflation pressure	32 lb/in²	36 lb/in²	40 lb/in²	60 lb/in²	240 kPa	280 kPa
Pressure to be used in tests for physical dimensions, bead unseating, tire strength, and tire endurance.....	24	28	32	52	160	220
Pressure to be used in test for high-speed performance.....	30	34	38	58	200	260

13. In Appendix A, Table I is amended by the addition of new tables I–GG (for "P/80" ISO type tires), I–HH (for "P/75" ISO type tires), I–JJ (for "P/70" ISO type tires), I–KK(for "P/60" ISO type tires), and I–LL (for "T Series" 60-psi type tires), incorporating the following new tire size designations and corresponding values:

TABLE I–GG Tire load ratings, test rims, minimum size factors, and section widths for "P/80" ISO type tires

Tire Size Designation[1]	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test Rim Width (inches)	Minimum Size Factor (mm)	Section[2] Width (mm)
	120	140	160	180	200	220	240	260	280			
P155/80R12	290	315	340	360	380	395	415	430	445	4.50	698	157
P155/80R13	310	335	355	380	400	420	435	455	470	4.50	723	157
P165/80R13	345	370	395	425	445	465	485	505	525	4.50	748	165
P175/80R13	380	410	440	465	490	515	535	560	580	5.00	773	177
P185/80R13	415	450	480	510	540	565	590	615	640	5.00	796	184
P145/80R14	360	390	420	445	470	490	510	535	555	4.50	772	165
P175/80R14	400	430	460	490	515	540	565	590	610	5.00	799	177
P185/80R14	440	475	510	540	565	595	630	645	670	5.00	822	184
P195/80R14	480	520	555	590	620	650	680	710	735	5.50	849	196
P215/80R14	570	615	655	695	735	770	805	835	870	6.00	899	216

1. The letters "D" for diagonal and "B" for bias-belted may be used in place of the "R"

2. Actual section width and overall width shall not exceed the specified section width by more than the amount specified in S4.2.2.2.

TABLE I–HH Tire load ratings, test rims, minimum size factors, and section widths for "P/75" ISO type tires

Tire Size Designation[1]	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test Rim Width (inches)	Minimum Size Factor (mm)	Section[2] Width (mm)
	120	140	160	180	200	220	240	260	280			
P165/75R13	320	350	370	395	415	435	455	475	490	4.50	731	165
P195/75R13	430	460	495	525	550	580	605	630	655	5.50	803	196
P185/75R14	410	445	475	505	530	560	585	605	630	5.00	804	184
P195/75R14	450	485	520	550	580	610	635	665	690	5.50	829	196
P205/75R14	490	530	565	600	635	665	695	720	750	5.50	852	203

1. The letters "D" for diagonal and "B" for bias-belted may be used in place of the "R"

2. Actual section width and overall width shall not exceed the specified section width by more than the amount specified in S4.2.2.2.

TABLE I–JJ Tire load ratings, test rims, minimum size factors, and section widths for "P/70" ISO type tires

Tire Size Designation[1]	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test Rim Width (Inches)	Minimum Size Factor (mm)	Section[2] Width (mm)
	120	140	160	180	200	220	240	260	280			
P195/70R13	380	410	440	465	490	515	535	560	580	5.50	786	196
P205/70R13	415	445	480	505	535	560	585	610	635	5.50	806	203
P205/70R14	435	470	505	535	565	590	615	640	665	5.50	832	203
P215/70R14	475	510	545	580	610	640	670	695	720	6.00	858	216
P225/70R15	535	580	620	655	690	725	755	790	820	6.50	904	223

1. The letters "D" for diagonal and "B" for bias-belted may be used in place of the "R"

2. Actual section width and overall width shall not exceed the specified section width by more than the amount specified in S4.2.2.2.

TABLE I–KK Tire load ratings, test rims, minimum size factors, and section widths for "P/60" ISO type tires

Tire Size Designation[1]	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test Rim Width (Inches)	Minimum Size Factor (mm)	Section[2] Width (mm)
	120	140	160	180	200	220	240	260	280			
P235/60R15	575	620	660	705	740	775	810	845	875	7.00	925	255

1. The letters "D" for diagonal and "B" for bias-belted may be used in place of the "R"

2. Actual section width and overall width shall not exceed the specified section width by more than the amount specified in S4.2.2.2.

TABLE I–LL Tire load ratings, test rims, minimum size factors, and section widths for "T Series" 60 lb/in² tires.

Tire Size Designation[1]	Maximum tire load (pounds) at 60-psi cold inflation pressure	Test rim Width (inches)	Minimum size factor (inches)	Section[2] Width (inches)
T105/70R14	1070	4.0	24.02	4.57
T105/70R15	1135	4.0	25.00	4.57
T105/70R16	1190	4.0	25.98	4.57
T115/70R14	1235	4.0	24.84	4.84
T115/70R15	1310	4.0	25.83	4.84
T115/70R16	1380	4.0	26.81	4.84
T125/70R14	1420	4.0	25.71	5.16
T125/70R15	1500	4.0	26.69	5.16
T125/70R16	1575	4.0	27.68	5.16
T135/70R14	1610	4.0	26.54	5.43
T135/70R15	1685	4.0	27.52	5.43
T135/70R16	1775	4.0	28.50	5.43

1. The letters "D" for diagonal and "B" for bias-belted may be used in place of the "R"

2. Actual section width and overall width shall not exceed the specified section width by more than the amount specified in S4.2.2.2.

Effective date finding: Because the amendments relieve a restriction and do not create additional requirements for any person, and because of vehicle manufacturers' need to settle on allowable tire designs as soon as possible, an immediate effective date is found to be in the public interest.

(Sec. 103, 112, 114, 119, 201, 202, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1403, 1407, 1421, 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on March 1, 1977.

JOHN W. SNOW,
Administrator.

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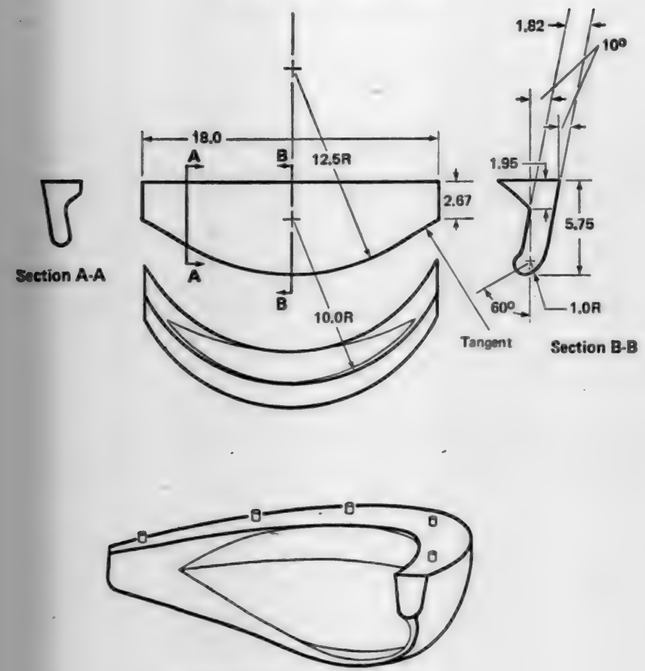

Figure 2A
Diagram of Bead Unseating Block (60-psi tire) - Dimensions in Inches

[FR Doc.77-6530 Filed 3-1-77;2:41 pm]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Taking of Marine Mammals Incidental to Commercial Fishing Operations

Correction

In FR Doc. 77-5990 appearing in the issue of Tuesday, March 1, 1977 on page 12010, the following corrections should be made:

1. On page 12010 in the first column, paragraphs "7" and "8" should read:

7. *Section 216.24(d)(2)(Q)(iv)(E)(i)* has been renumbered as § 216.24(d)(2)(iv)(E).

8. *Section 216.24(d)(2)(iv)(E)(ii)* has been renumbered as § 216.24(d)(2)(iv)(F) and its language amended to clarify placement of bunchlines.

2. On page 12011 in the 2nd column, paragraph "(A)(1), the tenth line should read, "• • • of 10 fathoms in length for each strip • • •".

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 9—PUBLIC RECORDS

Rules Governing Public Attendance at Meetings of the Nuclear Regulatory Commission

The Nuclear Regulatory Commission published a notice in the FEDERAL REGISTER on December 23, 1976 (41 FR 55880), announcing proposed amendments to Part 9 of its Rules of Practice to implement the open meeting requirements of the Government in the Sunshine Act of 1976, 5 U.S.C. 552b, Pub. L. No. 94-409 (the "Act"). Interested persons were requested to submit comments by February 1, 1977. Two written comments have been received, from Chairman Richardson Pryor of the House Subcommittee on Government Information and Individual Rights of the Government Operations Committee and from the Freedom of Information Clearinghouse. These comments have been considered, as have been suggestions received from other agencies and the Administrative Conference of the United States. The Commission has consulted with the Office of the Chairman of the Administrative Conference, as required by 5 U.S.C. 552b(g) of the Act. By this notice, final regulations are adopted.

These regulations make no major changes in the proposed rules, and the Statement of Considerations accompanying the proposed rules thus remains applicable. Minor changes have been made as the result of further analysis of the Act and of the Commission's experience during the past several months employing criteria similar to those in the Act to determine whether to open meetings to public attendance. 41 F.R. 55880. In several cases the proposed regulations have been altered to provide more direct guidance on the Act's application to specific items of Commission business.

The two commenters each questioned whether the definition of "Commission" in proposed § 9.101(a) left open the possibility that the Commission could circumvent the Act by delegating the power to act to assistants or employees and instructing them how to vote. The Commission acts only through the votes of a quorum of members present and may not use proxies for any vote. Its power to delegate certain authority (for example, to adopt minor amendments to its rules) to its Executive Director for Operations or other officials is not affected by the Act. It has delegated, pursuant to statute, certain authority for the conduct and review of adjudicatory proceedings to its Atomic Safety and Licensing Board and Appeal Board. The legislative history of the Act plainly supports the exclusion of these Boards (whose meetings would in any event be closed) from the definition of bodies subject to the Act.

Both commenters also questioned the proposed exclusion of "social or ceremonial" gatherings from the definition of meeting in proposed § 9.101(e). While the Commission acknowledges that agency decisions or covered discussions could occur at a "social" gathering, it is aware of the requirements of the Act and fully intends to observe the required discipline. The purpose of the exclusion is to prevent gatherings from being labeled meetings and made subject to the detailed procedural requirements of the Act solely because a quorum of Commissioners will be present. Section 9.102 of the rules adopted herein deals with the problem by making observance of these procedures mandatory whenever a quorum does conduct discussions that determine or result in the conduct or disposition of official agency business.

Public comment was specifically sought on the provision of proposed § 9.101(c) which specifically excludes from the definition of meeting "• • • briefings of the Commission by representatives of other agencies or departments of the United States Government or by representatives of foreign governments or international bodies, where such briefings are informational in nature and do not relate to any matter pending before the Commission." The two commenters questioned this provision, emphasizing those items of the legislative history of the Act providing that "all discussion relating to the business of the agency" was within the definition of meeting in 5 U.S.C. 552b(a)(2), H.R. Rep. 94-880, Part I, 94th Cong., 2nd Sess. (1976) at 8. Other legislative history, however, indicates that the Act was not intended to cover all gatherings of a quorum of agency members at which any discussion of agency business occurs. See, e.g., S. Rep. 94-354, 94th Cong., 1st Sess., (1975) at 18-19; 121 Cong. Rec. H. 9260 (daily ed. August 31, 1976) (remarks of Representative Fascell).

The amendment to the definition of meeting made by the Conference Committee appears clearly intended to make that definition less broad and less inclusive. See, S. Rep. 94-1178, 94th Cong., 2nd Sess. (1976) (Conference Report). Although the purpose of that amendment is not explained in the Conference Report or in subsequent floor discussion, it can only be interpreted as intending a limiting and narrowing of the House and Senate definitions. It seems most plausible to read that narrowing as excluding from the definition deliberations which do "concern" agency business but which are so tentative and general as not "to determine or result in" any joint agreement regarding future agency action. In this category might be placed briefings and even perhaps exploratory talks among Commissioners, provided, however, that such sessions are not designed or expected to result in any concensus among the Commissioners on any matter pending before the Commission. In supporting these views the Executive Secretary of the Administrative Conference of the United States ("ACUS") noted that to administer the fine distinction discussed above in accordance with the letter and the spirit of the Act will require diligence on the part of presiding officers and restraint on the part of individual Commissioners. The Commission agrees and intends to exercise the necessary diligence and restraint.

As the Commission remarked in the Statement of Considerations accompanying the proposed rules,

> • • • staff briefings of • • • the full Commission • • • purely to inform the Commissioners of matters of interest and general relevance to the performance of their duties • • • may well not come with the definition of "meeting" in the Act. (Nonetheless) • • • the Commission has determined to include such briefings of a quorum of the Commissioners within these regulations • • • because the Commission believes such briefings • • • are a vital portion of the Commission's supervision of its staff and of Commission business in general, and because of the presumption in favor of opening agency business to public observation established by the Act.

The situation is quite different with regard to other briefings the Commission receives from time to time from sources outside the Commission. Where such briefings concern a specific item of Commission business such as a particular rulemaking or license application, then they properly are "meetings" and are treated as such in these regulations. However, some Commission briefings are by other agencies or by representatives of foreign governments and are not focused on specific items of Commission business, but are intended purely to provide general background information to the Commission. Often such briefings are on such sensitive topics that any application of the Act, even with the use of the mitigative procedures of that Act, would prevent the briefing from being held at all.

Experience in the past several months has demonstrated that such gatherings, although infrequent, do occur, particularly in connection with the Commission's export business and safeguards responsibilities. The inability of the Commission to participate in such gatherings would cause significant harm to the Commission's ability to carry out its responsibilities in several areas. The Commission continues to believe, for these reasons, that the definition of meeting contained in § 9.101(c) (with the minor amendment discussed below) is consistent with the Act.

Both commenters also suggested that, in determining whether to close particular meetings, the Commission must adopt a formal two-step procedure. The decision whether a specific exemption is available does not, in their view, aid in determining whether the public interest nevertheless requires a meeting to be open. Section 9.104(a) of the rules, like the proposals of several other agencies, gives presumptive but not conclusive force to the determination that an exemption is available in deciding the public interest question. The fact that a meeting does come within a specific provision of § 9.104(a) indicates that the Congress recognized a public interest in closing, not opening, meetings of this character. The Commission staff has been instructed to consider the public interest in recommending to the Commission whether or not to close particular meetings. The Commission believes that this internal procedure and the awareness of the Commissioners themselves and their advisors of public inter-

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est concerns will ensure adequate consideration of the public interest before any decision to close a meeting is made, without need for a formal procedure of the type proposed.

Both comments raised questions concerning the first example stated in proposed § 9.104(b). These comments interpreted the reference to *Brockway* v. *Department of the Air Force*, 518 F.2d 1184 (8th Cir. 1975), in the accompanying Statement of Considerations as an effort to create an exemption similar to Exemption 5 of the Freedom of Information Act, which the Commission recognizes was considered and rejected in the Sunshine Act. However, the Commission has no such purpose. In its view, the "Brockway" decision reflects a more basic consideration also embodied in Exemption 9(B) of the Sunshine Act, namely that the government has an inherent privilege to attempt to obtain information necessary for its functioning. 5 U.S.C. 552b(c)(9)(B) authorizes closing a meeting if opening it would substantially frustrate a proposed Commission action. In those few cases where needed information simply will not be provided to the Commission except in confidence, if the Commission does not close the meeting it would be forced to take action without that information and therefore may not have the required basis on which to proceed—a significant frustration of its action. While the Commission appreciates the contrary arguments, which were also suggested by the Administrative Conference comment, its experience has been that on those occasions when this exemption would be used the need for such information is pervasive and crucial to the Commission's decision. To abandon the exemption would be to risk error in decisions of great significance to the public.

Chairman Pryor also comments, with respect to the second example of § 9.104(b), that this reasoning may not be applied where the possible effect is upon the actions of others. An example of such a situation might be where anticipated discussion would influence the outcome of pending or reasonably anticipated litigation in which the Commission was not or would not be a party. The Commission agrees that in such a situation, this exemption would not apply.

Section 9.104(a)(10) provides for closing of meetings that concern, inter alia, the Commission's participation in a civil action or proceeding. It should be noted that this also covers discussions about whether to initiate such an action or the possibility that outside parties might initiate such a proceeding against the Commission. See, S. Rep. 94-354, 94th Cong., 1st Sess. (1975) at 26; H.R. Rep. 94-880, Part I, 94th Cong., 2nd Sess. (1976) at 12. This point was also noted by the Administrative Conference.

Both commenters objected to the wording of § 9.105(c), which has been changed to meet their objections. Similarly, § 9.108(a) has been altered, inter alia, to reflect a comment by Chairman Pryor.

The comments received from the Executive Secretary of the Administrative Conference of the United States pointed out that the procedure provided for in proposed § 9.108(c) was not required by the statute. The Commission recognizes its right to delegate the responsibility for reviewing transcripts, S. Rep. 94-354, supra at 31, and see below, but believes that in the early period of implementation of the Act, it is appropriate to retain that responsibility for itself to ensure that it is carried out in a responsible and consistent manner. We note that the attachment to the comments of the Chairman of the Subcommittee on Government Information and Individual Rights appears to approve as appropriate the suggested procedures.

Outline of Changes to Proposed Regulations

Section 9.101(c) has been slightly changed to provide that briefings must not be "conducted" with reference to specific matters before the Commission to be excluded from the definition of meeting.

Two changes have been made in § 9.103. A sentence has been added to make it clear that the statements of Commissioners or NRC employees at open meetings do not represent final determinations or beliefs. This simply recognizes that during discussions before the Commission or any other deliberative body positions are often expressed not as reflections of fixed determinations but for purposes of argument or to obtain further exploration of certain points. Also, it is not uncommon for a position that was tentatively stated during a meeting to be abandoned upon further reflection. This addition restates the established rule that the Commission speaks formally only through its written opinions, orders or other documents. The other change to § 9.103 is intended to simplify enforcement of the portion of the rule prohibiting use of unauthorized recording equipment or cameras at open meetings.

A minor change was made to § 9.104(a) to delete an unnecessary reference to § 9.106 in the first sentence. Several clarifications were made to the specific exceptions in § 9.104(a). Section 9.104(a)(4) was clarified to include a reference to 10 CFR 2.790(d) in which the Commission defines certain information about safeguards for licensed special nuclear material and details of physical security measures for licensed facilities as proprietary information.

Section 9.104(a)(5) was changed to reflect that the exemption is available in circumstances involving a possible imposition of a civil penalty upon any person or possible revocation of any license. "Person" as used therein includes a corporation. S. Rep. 94-354, 94th Cong., 1st Sess. (1975) at 22. Both of the proposed changes reflect sanctions the Commission may inflict that have severity intermediate between accusation of a crime and formal censure. It would be anomalous to close meetings dealing with sanctions at the ends of the spectrum while leaving open meetings involving intermediate sanctions.

Section 9.104(a)(7) was changed to include specific reference to the Atomic Energy Act and the Energy Reorganization Act. The numbering of the subsections was changed by inserting a new § 9.104(a)(8) which will remain vacant and renumbering proposed § 9.104(a)(8) as § 9.104(a)(9), and § 9.104(a)(9) as § 9.104(10). This is designed to keep the numbering system of the regulations similar to that of the Act.

Section 9.104(a)(10) (proposed § 9.104(a)(9)) has been changed by adding Commission participation in a proceeding before another administrative agency to the list of varieties of proceedings. Considerations identical to those relating to participation before a court are applicable to such participation and it should receive similar treatment.

The two examples of possible applicability of 5 U.S.C. 552b(c)(9)(B) in the proposed regulations have been slightly changed and a third example added. The added example, dealing with communications with other agencies including the Executive Branch and the Congress is based upon a dialogue on the Senate floor between Senators Percy and Chiles, 121 Cong. Rec. S. 19442 (daily ed. November 6, 1975).

Section 9.105(c) has been slightly changed in response to comments received to make it clear that information may be withheld only if that information falls within one of the specific categories mentioned and a specific exemptive provision or provisions is cited by the Commission.

The public notice provisions of proposed § 9.107(c) have been somewhat modified to eliminate any possible implication that the Secretary would be obligated to perform useless acts such as mailing notices to persons who cannot possibly receive those notices until after the meeting takes place. Also, the requirement that the Secretary maintain a telephone recording system to give out the announcement has been deleted as of this time, although the practice may be introduced at some future date.

Section 9.108(a) has been changed in two respects. First, it now clearly provides, as recommended in a comment, that the General Counsel's certification must be made prior to the meeting in question. Second, a provision has been added permitting the certification not to be made public for the same reasons other information may be withheld from the public. Section 9.108(b) has been slightly changed to provide that the fee schedule used for requests for documents under the Freedom of Information Act shall also apply to requests made under the Sunshine Act. Minor changes have been made in the wording of the § 9.108(c), and there has been added an explicit reservation of the Commission's right to delegate the responsibilities provided for in that section.

A new § 9.108(d) has been added providing for the release of transcripts, recordings or other information which

may no longer be justifiably withheld from the public.

In accordance with section 161 of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552b(g) and 553, 10 CFR Parts 2, 7, and 9 are amended as follows:

PART 2—RULES OF PRACTICE

1. Section 2.790 is amended by revising paragraph (a)(3) to read as follows:

§ 2.790 Public inspections, exemptions, requests for withholding.

(a) * * *

(3) specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types or matters to be withheld.

* * * * *

PART 7—ADVISORY COMMITTEES

2. In § 7.8(b) the second sentence is changed to read:

§ 7.8 Meetings.

* * * * *

(b) * * * It shall also indicate when any part of the meeting will concern matters within the exceptions of the Government in the Sunshine Act, 5 U.S.C. 552b and § 9.104 of this chapter.

§ 7.9 [Amended]

3. In Paragraph 7.9(a) the phrase "listed in 5 U.S.C. 552b and Sec. 9.5(a) of this chapter" is changed to read: * * * listed in 5 U.S.C. 552b(c) and Sec. 9.104 of this chapter.

4. In the first sentence of Paragraph 7.9(e) the phrase "policy of 5 U.S.C. 552(b) and Part 9 of this chapter" is changed to read: * * * policy of 5 U.S.C. 552b(c) and Subpart C of Part 9 of this chapter.

PART 9—PUBLIC RECORDS

5. The authority section of Part 9 is amended by changing the period at the end to a semicolon and adding the following:

* * * Subpart C also issued under 5 U.S.C. 552b.

6. Sections 9.1 and 9.1a are revised to read as follows:

Sec. 9.1 Scope.

The regulations in this part implement: (a) The provisions of the Freedom of Information Act, 5 U.S.C. 552, with respect to the availability to the public of Nuclear Regulatory Commission records for inspection and copying; (b) the provisions of the Privacy Act of 1974, Pub. L. 93-579, with respect to disclosure and availability of certain Nuclear Regulatory Commission records maintained on individuals; and (c) the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b, with respect to opening Commission meetings to public observation.

Sec. 9.1a Subparts.

Subpart A sets forth special rules applicable to matters pertaining to the Freedom of Information Act. Subpart B sets forth special rules applicable to matters pertaining to the Privacy Act of 1974. Subpart C sets forth special rules applicable to matters pertaining to the Government in the Sunshine Act.

7. A new § 9.2a is added to Part 9 to read as follows:

§ 9.2a Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by an officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

8. Paragraph (a)(3) of § 9.5 is revised to read as follows:

§ 9.5 Exemptions.

(a) * * *

(3) records specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

9. A new Subpart C is added to 10 CFR part 9 to read as follows:

Subpart C—Government in the Sunshine Act Regulations

Sec.

9.100 Scope of subpart
9.101 Definitions
9.102 General requirement
9.103 General provisions
9.104 Closed meetings
9.105 Commission procedures
9.106 Persons affected and motions for reconsideration
9.107 Public announcement of commission meetings
9.108 Certification, transcripts, recordings and minutes
9.109 Report to Congress.

Authority: Sec. 161, Atomic Energy Act of 1954, as amended, Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552b(g) and 553.

Subpart C—Government in the Sunshine Act Regulations

§ 9.100 Scope of Subpart.

This subpart prescribes procedures pursuant to which NRC meetings shall be open to public observation pursuant to the provisions of 5 U.S.C. Sec. 552b. This subpart does not affect the procedures pursuant to which NRC records are made available to the public for inspection and copying which remain governed by subpart A, except that the exemptions set forth in § 9.104(a) shall gover in the case of any request made pursuant to § 9.8 to copy or inspect the transcripts, recordings or minutes described in § 9.108. Access to documents considered at NRC meetings shall continue to be governed by subpart A of this Part.

§ 9.101 Definitions.

As used in this subpart:

(a) "Commission" means the collegial body of five Commissioners or a quorum thereof as provided by section 201 of the Energy Reorganization Act of 1974, or any subdivision of that collegial body authorized to act on its behalf, and shall not mean any body not composed of members of that collegial body.

(b) "Commissioner" means an individual who is a member of the Commission.

(c) "Meeting" means the deliberations of at least a quorum of Commissioners where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by §§ 9.105, 9.106, or § 9.108(c), gatherings of a social or ceremonial nature, or briefings of the Commission by representatives of other agencies or departments of the United States government, or representatives of foreign governments or international bodies where such briefings or discussions are informational in nature and are not conducted with specific reference to any particular matter then pending before the Commission.

(d) "Closed meeting" means a meeting of the Commission closed to public observation as provided by § 9.104.

(e) "Open meeting" means a meeting of the Commission open to public observation pursuant to this subpart.

(f) "Secretary" means the Secretary to the Commission.

(g) "General Counsel" means the General Counsel of the Commission as provided by section 25(b) of the Atomic Energy Act of 1954 and section 201(f) of the Energy Reorganization Act of 1974, and, until such time as the offices of that officer are in the same location as those of the Commission, any member of his office specially designated in writing by him pursuant to this subsection to carry out his responsibilities under this subpart.

§ 9.102 General requirement.

Commissioners shall not jointly conduct or dispose of Commission business in Commission meetings other than in accordance with this subpart. Except as provided in § 9.104, every portion of every meeting of the Commission shall be open to public observation.

§ 9.103 General provisions.

The Secretary shall ensure that all open Commission meetings are held in a location such that there is reasonable space, and adequate visibility and acoustics, for public observation. No additional right to participate in Commission meetings is granted to any person by this subpart. An open meeting is not part of the formal or informal record of decision of the matters discussed therein except as otherwise required by law. Statements of views or expressions of opinion made by Commissioners or NRC employees at open meetings are not intended to represent final determinations or beliefs. No pleading or other paper may be filed with the Commission in any proceeding as the

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result of or addressed to any loral argument or discussion of any matter during an open meeting except as the Commission shall direct. No electronic recording devices, cameras, photograchic equipment or other similar devices shall be permitted in a Commission meeting except such as have been approved in writing in advance by the Secretary.

§ 9.104 Closed meetings.

(a) Except where the Commission finds that the public interest requires otherwise, Commission meetings shall be closed, and the requirements of §§ 9.105 and 9.107 shall not apply to any information pertaining to such meeting otherwise required by this subpart to be disclosed to the public, where the Commission determines in accordance with the procedures of § 9.105 that opening such meetings or portions thereof or disclosing such information, is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy, and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. Sec. 552) provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential, including such information as defined in § 2.790(d) of this title;

(5) involve accusing any person of a crime, imposing a civil penalty on any person pursuant to 42 U.S.C. Sec. 2282 or 42 U.S.C. Sec. 5846, or any revocation of any license pursuant to 42 U.S.C. Sec. 2236, or formally censuring any person;

(6) disclose information of a personal nature where such disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) disclose investigatory reports compiled for law enforcement purposes, including specifically enforcement of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Sec. 2011 et seq., and the Energy Reorganization Act of 1974, as amended, 42 U.S.C. Sec. 5801 et seq., or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) [Reserved]

(9) disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Commission action, except that this subparagraph shall not apply in any instance where the Commission has already disclosed to the public the content or nature of its proposed action, or where the Commission is required to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) specifically concern the Commission's issuance of a subpoena, or the Commission's participation in a civil action or proceeding or an action or proceeding before a state or federal administrative agency, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition by the Commission of a particular case of formal agency adjudication pursuant to 5 U.S.C. Sec. 554 or otherwise involving a determination on the record after an opportunity for a hearing pursuant to part 2 or similiar provisions.

(b) Examples of situations in which Commission action may be deemed to be significantly frustrated are (1) if opening any Commission meeting or negotiations would be likely to disclose information provided or requests made to the Commission in confidence by persons outside the Commission and which would not have been provided or made otherwise; (2) if opening a meeting or disclosing any information would reveal legal or other policy advice, public knowledge of which could substantially affect the outcome or conduct of pending or reasonably anticipated litigation or negotiations; or (3) if opening any meeting or disclosing any information would reveal information requested by or testimony or proposals to be given to other agencies of government, including the Congress and the Executive Branch before the requesting agency would receive the information, testimony or proposals. The examples in the above sentence are for illustrative purposes only and are not intended to be exhaustive.

§ 9.105 Commission procedures.

(a) Action under § 9.104 shall be taken only when a majority of the entire membership of the Commission votes to take such action. A separate vote of the Commissioners shall be taken with respect to each Commission meeting a portion or portions of which are proposed to be closed to the public pursuant to § 9.104, or with respect to any information which is proposed to be withheld under § 9.105 (c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(b) Within one day of any vote taken pursuant to paragraph (a) of this section, § 9.106(a) or § 9.108(c) the Secretary shall make publicly available in the Public Document Room a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Secretary shall, within one day of the vote taken pursuant to paragraph (a) of this section or § 9.106(a), make publicly available in the Public Document Room a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(c) The notices and lists required by paragraph (b) of this section to be made public may be withheld from the public to the extent that the Commission determines that such information itself would be protected against disclosure by § 9.104 (a). Any such determinations shall be made independently of the Commission's determination pursuant to paragraph (a) of this section to close a meeting, but in accordance with the procedure of that subsection. Any such determination, including a written explanation for the action and the specific provision or provisions of § 9.104(a) relied upon, must be made publicly available to the extent permitted by the circumstances.

§ 9.106 Persons affected and motions for reconsideration.

(a) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in paragraph (5), (6), or (7) of § 9.104, the Commission, upon request of any one Commissioner, shall vote by recorded vote whether to close such meeting.

(b) Any person may petition the Commission to reconsider its action under § 9.105(a) or paragraph (a) of this section by filing a petition for reconsideration with the Commission within seven days after the date of such action and before the meeting in question is held.

(c) A petition for reconsideration filed pursuant to paragraph (b) of this section shall state specifically the grounds on which the Commission action is claimed to be erroneous, and shall set forth, if appropriate, the public interest in the closing or opening of the meeting. The filing of such a petition shall not act to stay the effectiveness of the Commission action or to postpone or delay the meeting in question unless the Commission orders otherwise.

§ 9.107 Public announcement of Commission meetings.

(a) In the case of each meeting, the Secretary shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the Commission determines by a recorded vote that Commision business requires that such meeting be called at an earlier date, in which case the Secretary shall make public announcement of the time, place and subject matter of such meeting, and whether open or closed to the public, at the earliest practical time.

(b) The time or place of a meeting may be changed following the public announcement required by paragraph (a) of this section only if the Secretary publicly announces such changes at the earliest practicable time. The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this subsection only if (1) a majority of the entire membership of the Commission determines by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and (2) the Secretary publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(c) Immediately following each public announcement required by this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

(d) The public announcement required by paragraph (a) of this section shall consist of the Secretary:

(1) publicly posting a copy of the document in the Public Document Room at 1717 H Street, N.W., Washington, D.C.; and, to the extent appropriate under the circumstances.

(2) mailing a copy to all persons whose names are on a mailing list maintained for this purpose;

(3) submitting a copy for possible publication to at least two newspapers of general circulation in the Washington, D.C. metropolitan area;

(4) any other means which the Secretary believes will serve to further inform any persons who might be interested.

(e) Action under the second sentence of paragraph (a) or (b) of this section shall be taken only when the Commission finds that the public interest in prompt Commission action or the need to protect the common defense or security or to protect the public health or safety overrides the public interest in having full prior notice of Commission meetings.

§ 9.108 Certification, transcripts, recordings and minutes.

(a) For every meeting closed pursuant to subparagraphs (1) through (10) of § 9.104(a) and for every determination pursuant to subsection 9.105(c), the General Counsel shall publicly certify at the time of the public announcement of the meeting, or if there is no public announcement at the earliest practical time, that, in his or her opinion, the meting may be closed to the public and shall state each relevant exemptive provision unless the Commission votes pursuant to § 9.105(c) that such certification is protected against disclosure by § 9.104(a). A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Commission. The Commission shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (10) of § 9.104(c), the Commission shall maintain such a transcript or recording or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each Commissioner on the question). All documents considered in connection with any action shall be identified in such minutes.

(b) The Commission shall make promptly available to the public, in the Public Document Room, the transcript, electronic recording, or minutes (as required by paragraph (a) of this section) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Commission determines pursuant to paragraph (c) of this section to contain information which may be withheld under § 9.104 or § 9.105(c). Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person upon payment of the actual cost of duplication or transcription as provided in § 9.14. The Secretary shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

(c) In the case of any meeting closed pursuant to § 9.104, a member of the Office of the General Counsel shall observe each portion of such meeting unless the Commission determines that the nature of the matter to be discussed precludes such participation. Immediately following the last item on the agenda of each such closed meeting, the Commission shall receive an oral report from that person. The report shall indicate that person's recommendation as to which, if any, portions of the transcript, electronic recording or minutes and which, if any, items of information withheld pursuant to § 9.105(c) contain information which may be withheld pursuant to § 9.104. Immediately after receiving such report, or if no report is received, as the last item of business, the Commission shall vote on which, if any, portions of the electronic recording, transcript or minutes and which, if any items of information withheld pursuant to § 9.105(c) contain information which may be withheld pursuant to § 9.104; but the Commission may delegate the authority to make such determinations to the Secretary or to the General Counsel. Any portions or items determined not to contain such information shall be made available pursuant to paragraph (b) of this section, and the Commission's determination shall specify whether it has been made on the advice of an observer. If the Commission determines that further study is required, those questions shall be resubmitted for determination at the first opportunity.

(d) If at some later time the Commission determines that there is no further justification for withholding any transcript, recording or other item of information from the public which has previously been withheld, then such information shall be made available.

§ 9.109 Report to Congress.

The Secretary shall annually report to the Congress regarding the Commission's compliance with the Government in the Sunshine Act, including a tabulation of the total number of open meetings, the total number of closed meetings, the reasons for closing such meetings and a description of any litigation brought against the Commission pursuant to the Government in the Sunshine Act, including any costs assessed against the Commission in such litigation (whether or not paid by the Commission).

Effective date: These amendments become effective on March 12, 1977. The porcedural nature of these rules, the requirements of the Government in the Sunshine Act, and the public benefit anticipated from the implementation of these rules all contribute good cause for this early effectiveness.

Dated at Washington, D.C. this 3rd day of March, 1977.

For the United States Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-6898 Filed 3-4-77;9:03 am]

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Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5811]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Prospectus Rules

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission has amended the filing requirements of certain prospectuses and registration statements in a minor fashion. The amendments will reduce the number of copies of prospectuses required to be filed and require that certain data be set forth on the front pages of the documents in question. The amendments have been adopted in order to reduce the filing burden on issuers and to improve the processing time for the documents involved.

DATES: Effective Date: March 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-1240).

SUPPLEMENTARY INFORMATION:

The Commission announces the adoption of certain minor amendments to Rule 424 (17 CFR 230.424) and Rule 429 (17 CFR 230.429) under the Securities Act of 1933 (15 U.S.C. 77a et seq., as amended by Pub. L. 94-29 (June 4, 1975)). The amendments have been adopted without public notice and comment because the Commission finds that, for good cause, the notice and procedures specified in the Administrative Procedure Act (5 U.S.C. 553) are unnecessary.

Discussion of Amendments

Rule 424 requires an issuer to file with the Commission copies of all prospectuses used by it in connection with an effective registration statement or a radio or television broadcast. The number of copies required to be filed under Rule 424 varies, depending on the purpose for which the prospectus is used.

The Commission has amended Rule 424 in two respects. First, paragraphs (b) and (c) of the rule have been revised to reduce the number of copies required to be filed thereunder from 25 to 10. The reduction is intended to lessen the filing burden on issuers, and it is based on the Commission's determination that 10 copies of the documents in question will be sufficient for its purposes.

The second change in Rule 424 is the addition of a new paragraph (e) which will require issuers to include certain nonsubstantive information in the upper right corner of prospectuses filed under the rule. The information to be included will consist of the file number of the registration statement to which the prospectus relates and the paragraph of the rule under which the prospectus is being filed. The above information, which may be set forth in longhand, will allow the Commission's staff to expedite the processing of Rule 424 prospectuses.

The Commission also has amended Rule 429 under the Securities Act. That rule permits an issuer under certain circumstances to use a combined prospectus for two or more registration statements. Although Rule 429 requires in paragraph (b) thereof that the latest registration statement or any amendment thereto indicate the earlier registration statements to which the combined prospectus relates, it has not previously stated where such information should be located. To cure this deficiency, the rule has been amended to state that the requisite information should appear at the bottom of the facing page of the document being filed. This change will assist issuers in complying with paragraph (b) of Rule 429 and will help expedite the processing of filings under that rule.

Text of the Amendments

17 CFR 230.424 (b), (c) and (e) are amended to read as follows:

§ 230.424 Filing of prospectuses, number of copies.

* * * * *

(b) Within 5 days after the effective date of a registration statement or the commencement of a public offering after the effective date of a registration statement, whichever occurs later, 10 copies of each form of prospectus used after the effective date in connection with such offering shall be filed with the Commission in the exact form in which it was used: *Provided, however,* That this paragraph shall not apply in respect of a form of prospectus contained in a registration statement and relating solely to securities offered at competitive bidding which prospectus is intended for use prior to the opening of bids.

(c) After the effective date of a registration statement no prospectus which purports to comply with section 10 of the Act and which varies from any form of prospectus filed pursuant to paragraph (b) of this section shall be used until 10 copies thereof have been filed with, or mailed for filing to, the Commission, together with 5 copies of a cross reference sheet similar to that previously filed, if changed: *Provided, however,* That this paragraph shall not apply in respect of a form of prospectus contained in a registration statement and relating solely to securities offered at competitive bidding which prospectus is intended for use prior to the opening of bids.

* * * * *

(e) Each copy of a prospectus filed under this rule shall contain in the upper right corner of the cover page the paragraph of this rule under which the filing is made and the file number of the registration statement to which the prospectus relates. The information required by this paragraph may be set forth in longhand: *Provided,* It is legible.

17 CFR 230.249(b) is amended to read as follows:

§ 230.429 Prospectus relating to several registration statements.

* * * * *

(b) Where the use of a combined prospectus is permitted by paragraph (a) of this section, the filing of such prospectus as a part of the latest registration statement or compliance with any undertaking contained in such statement to file as an amendment thereto any prospectus with purports to meet the requirements of section 10(a)(3) of the Act, shall be deemed to constitute compliance with any similar undertaking contained in the earlier registration statements. The latest registration statement or any such amendment thereto shall indicate on the facing page at the bottom thereof the earlier registration statements to which the combined prospectus relates but copies of such prospectus need not be filed with such earlier statements.

(Secs. 6, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; (15 U.S.C. 77f, 77h, 77j, 77s(a)).)

Authority for, and Operation, of the Amendments

The foregoing amendments are adopted pursuant to the authority contained in sections 6, 8, 10 and 19(a) of the Securities Act of 1933. Inasmuch as the amendments are of a minor nonsubstantive nature and will not require the filing of any additional materials, the Commission finds that, for good cause, the notice and procedures specified in the Administrative Procedure Act of 1946 (5 U.S.C. 553) are unnecessary. Accordingly, the amendments are adopted effective March 7, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 28, 1977.

[FR Doc.77-6928 Filed 3-4-77;9:48 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 29]

FLUE-CURED TOBACCO

Official Standard Grades

Notice is hereby given that the U.S. Department of Agriculture is considering a modification, as hereinafter proposed, of the Official Standard Grades for Flue-Cured Tobacco, U.S. Types 11, 12, 13, and 14, pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.).

Statement of consideration. Changes in cultural and marketing practices in the flue-cured tobacco industry which have been intensified in the last 3 years have made it necessary to modify certain standard grades for flue-cured tobacco. Two particular problems which have resulted in a lowering of the overall quality of flue-cured tobacco brought to market under present cultural and marketing practices are the increase of foreign matter present in tobacco and, to some extent, the waste tolerances allowed in certain grades of tobacco. The proposed modifications are aimed at resolving or reducing these problem areas, where appropriate, by restricting further the amount of foreign matter allowed in certain grades of flue-cured tobacco and, at the same time, eliminating waste tolerances in certain grades of tobacco and modifying these tolerances in other grades. The proposed modifications would result in a more marketable product by improving the quality of flue-cured tobacco brought to market.

Previous revisions or modifications to the standard grades for flue-cured tobacco were made in 1956, 1958, 1959, 1963, 1968, and 1976. As has been done on previous occasions, Department personnel met with various representatives of the flue-cured tobacco industry on March 2, 1977, and presented a working draft of the proposed modifications for views and comments.

This proposal would: (1) Modify and delete definitions to clarify terminology related to grade determinations; (2) rephrase rules to govern and facilitate grade application; (3) modify certain percentage factors to reduce or increase tolerances to more accurately describe the product of today's cultural and marketing practices; and (4) add grades C4GK, X3S, C4S, and N1BO to more accurately describe tobacco as it is presently prepared for market.

All persons who desire to submit written data, views, or arguments for consideration in connection with these proposals may file the same in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, not later than March 22, 1977.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

In Subpart C of Part 29 delete §§ 29.1001 through 29.1225 and substitute therefor the following:

Subpart C—Standards

OFFICIAL STANDARD GRADES FOR FLUE-CURED TOBACCO (U.S. TYPES 11, 12, 13, AND 14)

DEFINITIONS

Sec.
29.1001 Definitions.
29.1002 Body.
29.1003 Class.
29.1004 Clean.
29.1005 Color.
29.1006 Color intensity.
29.1007 Color symbols.
29.1008 Combination symbol.
29.1009 Condition.
29.1010 Crude.
29.1011 Cured.
29.1012 Damage.
29.1013 Elasticity.
29.1014 Elements of Quality.
29.1015 Finish.
29.1016 Fire-killed.
29.1017 Flue-cured.
29.1018 Foreign matter.
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29.1020 Grade.
29.1021 Grademark.
29.1022 Green (G).
29.1023 Greenish (V).
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29.1026 Leaf scrap.
29.1027 Leaf structure.
29.1028 Lemon (L).
29.1029 Length.
29.1030 Lot.
29.1031 Maturity.
29.1032 Mixed color (KM).
29.1033 Mixed group (M).
29.1034 Nested.
29.1035 No-G.
29.1036 No-G-F.
29.1037 Oil.
29.1038 Offtype.
29.1039 Orange (F).
29.1040 Orange Red (FR).
29.1041 Order (Case).
29.1042 Oxidized (O).
29.1043 Package.
29.1044 Packing.
29.1045 Prematurity.
29.1046 Quality.
29.1047 Raw.
29.1048 Red (R).
29.1049 Semicured.
29.1050 Side.
29.1051 Slick (S).
29.1052 Smoked.
29.1053 Sound.
29.1054 Special factor.
29.1055 Steam-dried.
29.1056 Stem.
29.1057 Stemmed.
29.1058 Strips.
29.1059 Sweated.
29.1060 Sweating.
29.1061 Symbol.
29.1062 Tobacco.
29.1063 Tobacco products.
29.1064 Type.
29.1065 Type 11.
29.1066 Type 12.
29.1067 Type 13.
29.1068 Type 14.
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29.1070 Uniformity.
29.1071 Unsound (U).
29.1072 Unstemmed.
29.1073 Variegated (K).
29.1074 Variegated Red or Scorched (KR).
29.1075 Waste.
29.1076 Wet (W).
29.1077 Width.

ELEMENTS OF QUALITY

29.1101 Elements of quality and degrees of each element.

RULES

29.1106 Rules.
29.1107 Rule 1.
29.1108 Rule 2.
29.1109 Rule 3.
29.1110 Rule 4
29.1111 Rule 5.
29.1112 Rule 6.
29.1113 Rule 7.
29.1114 Rule 8.
29.1115 Rule 9.
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29.1117 Rule 11.
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29.1119 Rule 13.
29.1120 Rule 14.
29.1121 Rule 15.
29.1122 Rule 16.
29.1123 Rule 17.
29.1124 Rule 18.
29.1125 Rule 19.
29.1126 Rule 20.
29.1127 Rule 21.
29.1128 Rule 22.
29.1129 Rule 23.
29.1130 Rule 24.
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GRADES

29.1161 Wrappers (A Group).
29.1162 Leaf (B Group).
29.1163 Smoking Leaf (H Group).
29.1164 Cutters (C Group).
29.1165 Lugs (X Group).
29.1166 Primings (P Group).
29.1167 Mixed (M Group).
29.1168 Nondescript (N Group).
29.1169 Scrap (S Group).

SUMMARY OF STANDARD GRADES

29.1181 Summary of standard grades.

KEY TO STANDARD GRADEMARKS

29.1225 Key to standard grademarks.

AUTHORITY: Sections 29.1001 to 29.1225 issued under sec. 14, 49 Stat. 734; 7 U.S.C. 511m.

Subpart C—Standards

OFFICIAL STANDARDS GRADES FOR FLUE-CURED TOBACCO (U.S. TYPES 11, 12, 13, AND 14)

DEFINITIONS

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§ 29.1001 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.1002 Body.

The thickness and density of a leaf or the weight per unit of surface. (See Elements of Quality Chart.)

§ 29.1003 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.1004 Clean.

Tobacco is described as clean unless it contains a noticeable amount of foreign matter. (See rule 4.)

§ 29.1005 Color.

The third factor of a grade based on the relative hues, saturations or chromas, and color values common to the type.

§ 29.1006 Color intensity.

The varying degree of saturation or chroma. Color intensity as applied to tobacco describes the strength or weakness of a specific color or hue. (See Elements of Quality Chart.)

§ 29.1007 Color symbols.

As applied to flue-cured tobacco, color symbols are L—lemon, F—orange, FR—orange red, R—red, V—greenish, K—variegated, KR—variegated red or scorched, G—green, GR—green red, GK—green variegated (may be scorched), GG—gray green, KL—variegated lemon, KF—variegated orange, KV—variegated greenish, and KM—variegated (scorched) mixed.

§ 29.1008 Combination symbol.

A color or group symbol used with another symbol to form the third factor of a grademark to denote a particular side or characteristic of the tobacco. As applied to flue-cured tobacco, the combination symbols are XL—lub side, PO—oxidized primings, XO—oxidized lugs or cutters, BO—oxidized leaf or smoking leaf, GL—thin-bodied nondescript, and GF—medium-bodied nondescript.

§ 29.1009 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are: Undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.1010 Crude.

A subdegree of maturity. Crude leaves are usually hard and slick as a result of extreme immaturity. A similar condition may result from fire-kill, sunburn, or sunscald. Any leaf which is crude to the extent of 15 percent or more of its surface may be described as crude (See rule 20.)

§ 29.1011 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.1012 Damage.

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damage. (See rule 21.)

§ 29.1013 Elasticity.

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched.

§ 29.1014 Elements of quality.

Elements of quality and the degrees used in the specifications of the Official Standard Grades for Flue-cured, U.S. Types 11–14, are shown in chart form. Words have been selected to describe the degrees of each element.

§ 29.1015 Finish.

The reflectance factor in color perception. Finish indicates the sheen or shine of the surface of a tobacco leaf.

§ 29.1016 Fire-killed.

Any leaf of which 5 percent or more of its surface has a set green color caused by excessive heat in the curing process. Any lot containing 5 percent or more of such tobacco may be described as fire-killed. (See rule 23.)

§ 29.1017 Flue-cured.

Tobacco cured under artificial atmospheric conditions by a process of regulating the heat and ventilation without allowing smoke or fumes from the fuel to come in contact with the tobacco; or tobacco cured by some other process which accomplishes the same results.

§ 29.1018 Foreign matter.

Any extraneous substance or material such as straw, strings, rubber bands, grass, weeds, or a noticeable amount of dirt or sand. (See rule 24.)

§ 29.1019 Form.

The stage or preparation of tobacco such as stemmed or unstemmed.

§ 29.1020 Grade.

A subdivision of a type according to group, quality, and color.

§ 29.1021 Grademark.

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. For example, B3F means: Leaf, good quality, orange color.

§ 29.1022 Green (G).

A color term applied to immature or crude tobacco. Any leaf which has a green color affecting 15 percent or more of its surface may be described as green. (See rule 19.)

§ 29.1023 Greenish (V).

A color term applied to greenish-tinged tobacco. Any leaf which has a greenish tinge or a pale green color affecting 15 percent or more of its surface may be described as greenish. (See rule 18.)

§ 29.1024 Group.

A division of a type covering closely related grades based on certain characteristics which are related to stalk position, body, or the general quality of the tobacco. Groups in Flue-cured, U.S. Types 11–14, are: Wrappers (A), Leaf (B), Smoking Leaf (H), Cutters (C), Lugs (X), Primings (P), Mixed (M), Nondescript (N), and Scrap (S).

§ 29.1025 Injury.

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state, but which is not serious enough to be classified as waste. (See definitions of Damage and Waste; see also rule 14.)

§ 29.1026 Leaf scrap.

A byproduct of stemmed and unstemmed tobacco.

§ 29.1027 Leaf structure.

The cell development of a leaf as indicated by its porosity. (See Elements of Quality Chart.)

§ 29.1028 Lemon (L).

Yellow.

§ 29.1029 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

§ 29.1030 Lot.

A pile, basket, bulk, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

§ 29.1031 Maturity.

The degree of ripeness. (See Elements of Quality Chart.)

§ 29.1032 Mixed color.

Distinctly different colors of the type mingled together. (See rule 16.)

§ 29.1033 Mixed group.

This group consists of tobacco from three or more groups or two distinctly different groups which are mixed together in various combinations.

§ 29.1034 Nested.

Any lot of tobacco which has been loaded, packed, or arranged to conceal tobacco of inferior grade, quality, or condition. Nested includes: Any lot of tobacco which contains injured or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged. (See rule 23.)

§ 29.1035 No–G.

A designation applied to a lot of tobacco which is nested, offtype, semicured, fire-killed, smoked, oxidized over 10 percent, or has an odor foreign to the type. (See rule 23.)

§ 29.1036 No–G–F.

A designation applied to a lot of tobacco that contains foreign matter or a noticeable amount of stalks or suckers. (See rule 24.)

§ 29.1037 Oil.

A soft semifluid constituent of tobacco. (See Elements of Quality Chart.)

§ 29.1038 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Flue-cured, U.S. 11-14. (See rule 23.)

§ 29.1039 Orange (F).

A reddish yellow.

§ 29.1040 Orange Red (FR).

A yellowish red.

§ 29.1041 Order (case).

The state of tobacco with respect to its moisture content.

§ 29.1042 Oxidized (O).

A term applied to tobacco that has deteriorated and turned black during the curing process. Any leaf of which 10 percent or more or its surface has been blackened during the curing process may be described as oxidized. Oxidized tobacco is also known as barn scald or barn rot. (See rules 23 and 25.)

§ 29.1043 Package.

A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

§ 29.1044 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspecting. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.1045 Prematurity.

A condition of growth and development characteristic of the lower leaves of the tobacco plant. Premature leaves have some apperance of ripeness due to a process of starvation caused by translocation of plant food elements from these leaves to other leaves higher on the stalk.

§ 29.1046 Quality.

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

§ 29.1047 Raw.

Tobacco as it appears between the time of harvesting and the beginning of the curing process.

§ 29.1048 Red (R).

A brownish red.

§ 29.1049 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, swelled stems, frozen tobacco, and tobacco having frozen stems, or stems that have not been thoroughly dried in the curing process. (See rule 23.)

§ 29.1050 Side.

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristic of tobacco.

§ 29.1051 Slick.

A term used to denote tobacco having a close or tight leaf structure. Any leaf of lemon or orange color of which 15 percent or more of its surface is close or tight may be described as slick. (See rule 17.)

§ 29.1052 Smoked.

Any tobacco affected by smoke or fumes in the curing process. (See rule 23.)

§ 29.1053 Sound.

Free of damage.

§ 29.1054 Special factor.

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but has a peculiar side or characteristic which tends to modify the grade. (See rules 10, 21, and 22.)

§ 29.1055 Steam-dried.

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

§ 29.1056 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.1057 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.1058 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.1059 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition sometimes is described as aged.

§ 29.1060 Sweating.

The condition of tobacco in the process of fermentation.

§ 29.1061 Symbol (S).

As applied to Flue-cured tobacco the symbol (S), when used as the third factor of a grademark, denotes slick, unripe tobacco in lemon or orange color. (See rule 17.)

§ 29.1062 Tobacco.

Tobacco as it appears betwen the time it is primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semi-manufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

§ 29.1063 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff.

§ 29.1064 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.1065 Type 11.

That type of flue-cured tobacco commonly known as Western Flue-cured or Old Belt and Middle Belt Flue-cured, produced principally in the Piedmont sections of Virginia and North Carolina and the district extending eastward to the coastal plains region. That portion of this type known as Old Belt Flue-cured, normally characterized by a heavier body and darker color shade and produced principally in the Piedmont sections of Virginia and North Carolina, may be classified as Type 11a; and that portion of the type known as Middle Belt Flue-cured, normally characterized by a thinner body and lighter color shade and produced principally in a section lying between the Piedmont and coastal plains regions of Virginia and North Carolina, may be classified as Type 11b.

§ 29.1066 Type 12.

That type of flue-cured tobacco commonly known as Eastern Flue-cured or Eastern Carolina Flue-cured, produced principally in the coastal plains section of North Carolina, north of the South River.

§ 29.1067 Type 13.

That type of flue-cured tobacco commonly known as Southeastern Flue-cured or South Carolina Flue-cured, produced principally in the coastal plains section of South Carolina and the southeastern counties of North Carolina, south of the South River.

§ 29.1068 Type 14.

That type of flue-cured tobacco commonly known as Southern Flue-cured, produced principally in the southern section of Georgia, in northern Florida, and to some extent in Alabama.

§ 29.1069 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.1070 Uniformity.

An element of quality which describes the consistency of a lot of tobacco as it is prepared for market. Uniformity is expressed as a percentage in grade specifications. (See rule 13.)

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§ 29.1071 Unsound (U).

Damaged. (See rule 21.)

§ 29.1072 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.1073 Variegated (K).

Any tobacco that does not blend with the normal colors of the type; any leaf of which 15 percent or more of its surface is grayish, mottled, bleached, dotyfaced, scalded, or sunbaked. (See rule 15.)

§ 29.1074 Variegated red or scorched (KR).

A red discoloration which usually results from excessive heat in the curing process. Any leaf of which 15 percent or more of its surface has been reddened in the curing proces may be described as variegated red or scorched. (See rule 16.)

§ 29.1075 Waste.

The portion or portions of the web of tobacco leaves which have been lost or rendered less servicable for use in tobacco products, including: (a) Portions which have decomposed or largely decomposed by field diseases and field-firing, pole-burning, bulk-burning; (b) portions which are dead, lifeless, and do not have sufficient strength or stability to hold together in the normal manufacturing process due to excessive injury of any kind.

§ 29.1076 Wet (W).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See rule 22.)

§ 29.1077 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See Elements of Quality Chart.)

ELEMENTS OF QUALITY

§ 29.1101 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality and to assist in interpreting grade specifications. Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by the use of words or terms designated as degrees. These several degrees are arranged to show their relative value, but the actual value of each degree varies with group.

Elements	Degrees					
Maturity	Immature	Unripe	Mature	Ripe		Mellow.
Leaf structure	Tight	Close	Firm	Open		
Body	Heavy	Fleshy	Medium	Thin		
Oil	Lean	Oily	Rich			
Color intensity	Pale	Weak	Moderate	Strong		Deep.
Width	Stringy	Narrow	Normal	Spready		
Length		(1)	(1)	(1)		
Uniformity		(2)	(2)	(2)		
Injury tolerance		(2)	(2)	(2)		
Waste tolerance		(2)	(2)	(2)		

[1] Expressed in inches.
[2] Expressed in percentage.

RULES

§ 29.1106 Rules.

The application of these official standard grades shall be in accordance with the following rules.

§ 29.1107 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.1108 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot.

§ 29.1109 Rule 3.

In drawing an official sample from a hogshead or other package of tobacco, three or more breaks shall be made at such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. All breaks shall be made so that the tobacco contained in the center of the package is visible to the sampler. Tobacco shall be drawn from at least three breaks from which a representative sample shall be selected. The sample shall include tobacco of each different group, quality, color, length, and kind found in the lot in proportion to the quantities of each contained in the lot.

§ 29.1110 Rule 4.

All standard grades must be clean.

§ 29.1111 Rule 5.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

§ 29.1112 Rule 6.

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

§ 29.1113 Rule 7.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.1114 Rule 8.

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

§ 29.1115 Rule 9.

The use of any grade may be restricted by the Director during any marketing season when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.1116 Rule 10.

Any special factor approved by the Director of the Tobacco Division, Agricultural Marketing Service, may be used after a grademark to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

§ 29.1117 Rule 11.

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Marketing Program Branch and approved by the Director.

§ 29.1118 Rule 12.

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

§ 29.1119 Rule 13.

Degrees of uniformity shall be expressed in terms of percentages. The percentages shall govern the portion of a lot which must meet the specifications of the grade. (These percentages shall not affect limitations established by other rules.) The minor portion must be closely related, but may be of a different group, quality, and color from the major portion.

§ 29.1120 Rule 14.

The application of injury tolerance as an element of quality shall be expressed in terms of a percentage. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury. In appraising injury, consideration shall be given to the normal characteristics of the group as related to injury.

§ 29.1121 Rule 15.

Any lot of tobacco containing 15 percent or more of variegated tobacco other than variegated red or scorched shall be described as variegated and designated by the color symbol "K," "KL," "KF," or "KV."

§ 29.1122 Rule 16.

Any lot of ripe tobacco which contains 15 percent or more of variegated red or scorched tobacco shall be designated by the color symbol "KR." Any lot of unripe tobacco which is under 15 percent greenish or green but which contains 15 percent or more of scorched tobacco, or any lot of tobacco which contains 15 percent or more of a color distinctively different from the major color shall be classified as mixed color and designated by the color symbol "KM."

§ 29.1123 Rule 17.

Any lot of lemon, or orange colored tobacco containing 15 percent or more of slick tobacco shall be designated by the symbol "S" in the –, C, or B groups.

§ 29.1124 Rule 18.

Any lot of mature tobacco in lemon or orange color containing 15 percent or more of greenish tobacco, or any lot which is not green but which contains 15 percent or more of greenish and green tobacco combined shall be designated by the color symbol "V."

§ 29.1125 Rule 19.

Any lot of tobacco containing 15 percent or more of green tobacco, or any lot which is not crude but contains 15 percent or more of green and crude combined shall be designated by the color symbols "G," "GR," "GK," "GG," or the combination symbols "GL," or "GF."

§ 29.1126 Rule 20.

Crude tobacco shall not be included in any grade of any color except green, green red, green variegated, gray green, or the combination symbols "GL," or "GF" in the nondescript group. Any lot containing 15 percent or more of crude tobacco shall be classified as nondescript.

§ 29.1127 Rule 21.

Damaged tobacco which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor "U" after the grademark.

§ 29.1128 Rule 22.

Sound tobacco that is wet or in doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor "W" after the grademark.

§ 29.1129 Rule 23.

Tobacco shall be designated by the grademark "No-G," when it is nested, offtype, semicured, firekilled, smoked, oxidized over 10 percent, or has an odor foreign to the type.

§ 29.1130 Rule 24.

Tobacco shall be designated by the grademark "No-G-F," when it contains a noticeable amount of stalks or suckers or contains foreign matter such as straw, strings, rubber bands, grass, weeds, or a noticeable amount of dirt or sand.

§ 29.1131 Rule 25.

Any lot of tobacco containing 10 percent or less of oxidized tobacco, except as provided in rule 12, shall be designated by the combination symbols "FO," "XO," or "BO." Crude or green tobacco containing 10 percent or less of oxidized shall be graded "N2."

GRADES

§ 29.1161 Wrappers (A group).

This group consists of leaves from the C and B group stalk positions. Wrappers are mature to ripe, elastic, have small and blending fibers, and show a low percentage of injury affecting wrapper yield.

U.S. GRADES, NAMES, MINIMUM SPECIFICATIONS, AND TOLERANCES

A1L—Choice quality lemon wrappers: Firm leaf structure, medium body, spready, deep color intensity, rich in oil, 18 inches or over in length, 30 percent of leaves not lower than B3 or C3, 5 percent injury tolerance affecting wrapper yield.

A1F—Choice quality orange wrappers: Firm leaf structure, fleshy, spready, deep color intensity, rich in oil, 18 inches or over in length, 30 percent of leaves not lower than B3 or C3, 5 percent injury tolerance affecting wrapper yield.

§ 29.1162 Leaf (B group).

This group consists of leaves normally grown at or above the midportion of the stalk. Leaves of the B group have a pointed tip, tend to fold, usually are heavier in body than the other groups, and show little or no ground injury.

U.S. GRADES, NAMES, MINIMUM SPECIFICATIONS, AND TOLERANCES

B1L—Choice quality lemon leaf: Ripe, firm leaf structure, medium body, rich in oil, deep color intensity, spready, 20 inches or over in length. Uniformity, 90 percent; injury tolerance, 5 percent.

B2L—Fine quality lemon leaf: Ripe, firm leaf structure, medium body, rich in oil, deep color intensity, normal width, 18 inches or over in length. Uniformity, 85 percent; injury tolerance, 10 percent.

B3L—Good quality lemon leaf: Ripe, firm leaf structure, medium body, oily, strong color intensity, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4L—Fair quality lemon leaf: Ripe, firm leaf structure, medium body, oily, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

B5L—Low quality lemon leaf: Ripe, firm leaf structure, medium body, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B6L—Poor quality lemon leaf: Ripe, firm leaf structure, medium body, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance, 40 percent.

B1F—Choice quality orange leaf: Ripe, firm leaf structure, fleshy, rich in oil, deep color intensity, spready, 20 inches or over in length. Uniformity, 90 percent; injury tolerance, 5 percent.

B2F—Fine quality orange leaf: Ripe, firm leaf structure, fleshy, rich in oil, deep color intensity, normal width, 18 inches or over in length. Uniformity, 85 percent; injury tolerance, 10 percent.

B3F—Good quality orange leaf: Ripe, firm leaf structure, fleshy, oily, strong color intensity, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4F—Fair quality orange leaf: Ripe, firm leaf structure, fleshy, oily, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

B5F—Low quality orange leaf: Ripe, firm leaf structure, fleshy, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B6F—Poor quality orange leaf: Ripe, firm leaf structure, fleshy, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance, 40 percent.

B1FR—Choice quality orange red leaf: Ripe, firm leaf structure, fleshy, rich in oil, deep color intensity, spready, 20 inches or over in length. Uniformity, 90 percent; injury tolerance, 5 percent.

B2FR—Fine quality orange red leaf: Ripe, firm leaf structure, fleshy, rich in oil, deep color intensity, normal width, 18 inches or over in length. Uniformity, 85 percent; injury tolerance, 10 percent.

B3FR—Good quality orange red leaf: Ripe, firm leaf structure, fleshy, oily, strong color intensity, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4FR—Fair quality orange red leaf: Ripe, firm leaf structure, fleshy, oily, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

B5FR—Low quality orange red leaf: Ripe, firm leaf structure, fleshy, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B6FR—Poor quality orange red leaf: Ripe, firm leaf structure, fleshy, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance, 40 percent.

B4R—Fair quality red leaf: Ripe, firm leaf structure, heavy, oily, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

B5R—Low quality red leaf: Ripe, firm leaf structure, heavy, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B3K—Good quality variegated leaf: Ripe, firm leaf structure, fleshy, oily, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4K—Fair quality variegated leaf: Ripe, firm leaf structure, fleshy, lean in oil, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5K—Low quality variegated leaf: Ripe, firm leaf structure, fleshy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6K—Poor quality variegated leaf: Ripe, firm leaf structure, fleshy lean in oil, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

B3KR—Good quality variegated red or scorched leaf: Ripe, firm leaf structure, fleshy, oily, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4KR—Fair quality variegated red or scorched leaf: Ripe, firm leaf structure, fleshy, lean in oil, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

B5KR—Low quality variegated red or scorched leaf: Ripe, firm leaf structure, fleshy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B3V—Good quality greenish leaf: Mature, firm leaf structure, fleshy, oily, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4V—Fair quality greenish leaf: Mature, firm leaf structure, fleshy, oily, normal width.

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Uniformity, 70 percent; injury tolerance, 20 percent.

B5V—Low quality greenish leaf: Mature, firm leaf structure, fleshy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B3KL—Good quality variegated lemon leaf: Unripe, close leaf structure, heavy, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4KL—Fair quality variegated lemon leaf: Unripe, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

B5KL—Low quality variegated lemon leaf: Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B6KL—Poor quality variegated lemon leaf: Unripe, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance, 40 percent.

B3KF—Good quality variegated orange leaf: Unripe, close leaf structure, heavy, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4KF—Fair quality variegated orange leaf: Unripe, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

B5KF—Low quality variegated orange leaf: Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B6KF—Poor quality variegated orange leaf: Unripe, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance, 40 percent.

B3KM—Good quality variegated mixed leaf: Unripe, close leaf structure, heavy, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4KM—Fair quality variegated mixed leaf: Unripe, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

B5KM—Low quality variegated mixed leaf: Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B6KM—Poor quality variegated mixed leaf: Unripe, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance, 40 percent.

B4KV—Fair quality variegated greenish leaf: Unripe, firm leaf structure, medium body, normal width. Uniformity, 70 percent; tolerance, 10 percent waste.

B5KV—Low quality variegated greenish leaf: Unripe, firm leaf structure, medium body, narrow. Uniformity, 70 percent; tolerance, 20 percent waste.

B6KV—Poor quality variegated greenish leaf: Unripe, firm leaf structure, medium body, stringy. Uniformity, 70 percent; tolerance, 30 percent waste.

B3S—Good quality slick leaf: Unripe, close leaf structure, fleshy, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4S—Fair quality slick leaf: Unripe, close leaf structure, fleshy, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

B5S—Low quality slick leaf: Unripe, tight leaf structure, fleshy, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B4G—Fair quality green leaf: Immature, close leaf structure, fleshy, oily, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

B5G—Low quality green leaf: Immature, tight leaf structure, fleshy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B6G—Poor quality green leaf: Immature, tight leaf structure, fleshy, lean in oil, stringy. Uniformity, 70 percent; injury tolerance, 40 percent.

B5GR—Low quality green red leaf: Immature, tight leaf structure, heavy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B4GK—Fair quality green variegated leaf: Immature, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

B5GK—Low quality green variegated leaf: Immature, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

B6GK—Poor quality green variegated leaf: Immature, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance, 40 percent.

B5GG—Low quality gray green leaf: Immature, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

§ 29.1163 Smoking leaf (H Group).

This group consists of leaves normally grown at or above the midportion of the stalk. Leaves of the H group show a high degree of maturity, more open leaf structure in relation to the B Group, and a material amount of injury characteristic of very ripe leaf tobacco.

U.S. GRADES, NAMES, MINIMUM SPECIFICATIONS, AND TOLERANCES

H3L—Good quality lemon smoking leaf: Mellow, open leaf structure, medium body, lean in oil, strong color intensity, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

H4L—Fair quality lemon smoking leaf: Mellow, open leaf structure, medium body, lean in oil, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

H5L—Low quality lemon smoking leaf: Mellow, open leaf structure, medium body, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

H6L—Poor quality lemon smoking leaf: Mellow, open leaf structure, medium body, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance, 40 percent.

H1F—Choice quality orange smoking leaf: Mellow, open leaf structure, medium body, lean in oil, deep color intensity, spready, 20 inches or over in length. Uniformity, 90 percent; injury tolerance, 5 percent.

H2F—Fine quality orange smoking leaf: Mellow, open leaf structure, medium body, lean in oil, deep color intensity, normal width, 18 inches or over in length. Uniformity, 85 percent; injury tolerance, 10 percent.

H3F—Good quality orange smoking leaf: Mellow, open leaf structure, medium body, lean in oil, strong color intensity, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

H4F—Fair quality orange smoking leaf: Mellow, open leaf structure, medium body, lean in oil, moderate color intensity normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

H5F—Low quality orance smoking leaf: Mellow, open leaf structure, medium body, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

H6F—Low quality orange smoking leaf: Mellow, open leaf structure, medium body, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance, 40 percent.

H4FR—Fair quality orange red smoking leaf: Mellow, open leaf structure, fleshy, lean in oil, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance, 20 percent.

H5FR—Low quality orange red smoking leaf: Mellow, open leaf structure, fleshy, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance, 30 percent.

H6FR—Poor quality orange red smoking leaf: Mellow, open leaf structure, fleshy, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance, 40 percent.

H4K—Fair quality variegated smoking leaf: Mellow, open leaf structure, medium body, lean in oil, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

H5K—Low quality variegated smoking leaf: Mellow, open leaf structure, medium body, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

H6K—Poor quality variegated smoking leaf: Mellow, open leaf structure, medium body, lean in oil, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

§ 29.1164 Cutters (C Group).

This group consists of leaves normally grown at or just below the midportion of the stalk. Leaves of the C group have a tendency to roll concealing the stem or midrib. Cutters usually have a rounded tip, are thin to medium in body, and show some ground injury.

U.S. GRADES, NAMES, MINIMUM SPECIFICATIONS, AND TOLERANCES

C1L—Choice quality lemon cutters: Ripe, open leaf structure, thin, oily, deep color intensity, spready, 20 inches or over in length. Uniformity, 90 percent; injury tolerance, 5 percent.

C2L—Fine quality lemon cutters: Ripe, open leaf structure, thin, oily, deep color intensity, spready, 20 inches or over in length. Uniformity, 85 percent; injury tolerance, 10 percent.

C3L—Good quality lemon cutters: Ripe, open leaf structure, thin, oily, strong color intensity, spready, 18 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

C4L—Fair quality lemon cutters: Ripe, open leaf structure, thin, lean in oil, moderate color intensity, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance, 20 percent, of which not over 5 percent may be waste.

C5L—Low quality lemon cutters: Ripe, open leaf structure, thin, lean in oil, weak color intensity, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

C1F—Choice quality orange cutters: Ripe, open leaf structure, medium body, oily, deep color intensity, spready, 20 inches or over in length. Uniformity, 90 percent; injury tolerance, 5 percent.

C2F—Fine quality orange cutters: Ripe, open leaf structure, medium body, oily, deep color intensity, spready, 20 inches or over in length. Uniformity, 85 percent; injury tolerance, 10 percent.

C3F—Good quality orange cutters: Ripe, open leaf structure, medium body, oily, strong color intensity, spready, 18 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

C4F—Fair quality orange cutters: Ripe, open leaf structure, medium body, lean in oil, moderate color intensity, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C5F—Low quality orange cutters: Ripe, open leaf structure, medium body, lean in oil, weak color intensity, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

C4KR—Fair quality variegated red or scorched cutters: Ripe, open leaf structure, medium body, lean in oil, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4V—Fair quality greenish cutters: Mature, open leaf structure, medium body, lean in oil, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4KL—Fair quality variegated lemon cutters: Unripe, close leaf structure, medium body, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4KM—Fair quality variegated mixed cutters: Unripe, close leaf structure, medium body, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4S—Fair quality slick cutters: Unripe, close leaf structure, medium body, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4G—Fair quality green cutters: Immature, close leaf structure, medium body, lean in oil, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4GK—Fair quality green variegated cutters: Immature, close leaf structure, medium body, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

§ 29.1165 Lugs (X Group).

This group consists of leaves normally grown near the bottom of the stalk. Leaves of the X group usually have a blunt tip and open face; they show some ground injury characteristic of the group.

U.S. GRADES, NAMES, MINIMUM SPECIFICATIONS, AND TOLERANCES

X1L—Choice quality lemon lugs: Ripe, open leaf structure, thin, oily, strong color intensity. Uniformity, 90 percent; injury tolerance, 10 percent.

X2L—Fine quality lemon lugs: Ripe, open leaf structure, thin, oily, strong color intensity. Uniformity, 80 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

X3L—Good quality lemon lugs: Ripe, open leaf structure, thin, lean in oil, moderate color intensity. Uniformity, 75 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

X4L—Fair quality lemon lugs: Ripe, open leaf structure, thin, lean in oil, weak color intensity. Uniformity, 70 percent; tolerance, 20 percent waste.

X5L—Low quality lemon lugs: Ripe, open leaf structure, thin, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.

X1F—Choice quality orange lugs: Ripe, open leaf structure, medium body, oily, strong color intensity. Uniformity, 90 percent; injury tolerance, 10 percent.

X2F—Fine quality orange lugs: Ripe, open leaf structure, medium body, oily, strong color intensity. Uniformity, 80 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

X3F—Good quality orange lugs: Ripe, open leaf structure, medium body, lean in oil, moderate color intensity. Uniformity, 75 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

X4F—Fair quality orange lugs: Ripe, open leaf structure, medium body, lean in oil, weak color intensity. Uniformity, 70 percent; tolerance, 20 percent waste.

X5F—Low quality orange lugs: Ripe, open leaf structure, medium body, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.

X3KR—Good quality variegated red or scorched lugs: Ripe, open leaf structure, medium body, lean in oil. Uniformity, 75 percent, injury tolerance 30 percent, of which not over 10 percent may be waste.

X4KR—Fair quality variegated red or scorched lugs: Ripe, open leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 20 percent waste.

X3V—Good quality greenish lugs: Mature, open leaf structure, medium body, lean in oil. Uniformity, 75 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

X4V—Fair quality greenish lugs: Mature, open leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 20 percent waste.

X4KL—Fair quality variegated lemon lugs: Unripe, close leaf structure, thin. Uniformity, 70 percent; tolerance, 20 percent waste.

X4KF—Fair quality variegated orange lugs: Unripe, close leaf structure, medium body. Uniformity, 70 percent; tolerance, 20 percent waste.

X4KV—Fair quality variegated greenish lugs: Unripe, firm leaf structure, medium body. Uniformity, 70 percent; tolerance, 20 percent waste.

X3KM—Good quality variegated mixed lugs: Unripe, close leaf structure, medium body. Uniformity, 75 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

X4KM—Fair quality variegated mixed lugs: Unripe, close leaf structure, medium body. Uniformity, 70 percent; tolerance, 20 percent waste.

X3S—Good quality slick lugs: Unripe, close leaf structure, medium body. Uniformity, 75 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

X4G—Fair quality green lugs: Immature, firm leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 20 percent waste.

X5G—Low quality green lugs: Immature, firm leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 30 percent waste.

X4GK—Fair quality green variegated lugs: Immature, close leaf structure, medium body. Uniformity, 70 percent; tolerance, 20 percent waste.

§ 29.1166 Primings (P Group).

This group consists of round-tipped leaves from the lowest portion of the stalk. Leaves of the P group ripen prematurely as a result of starvation and show a material amount of injury characteristic of leaves grown close to the ground.

U.S. GRADES, NAMES, MINIMUM SPECIFICATIONS, AND TOLERANCES

P2L—Fine quality lemon primings: Prematurely ripe, open leaf structure, thin, oily, moderate color intensity. Uniformity, 80 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

P3L—Good quality lemon primings: Prematurely ripe, open leaf structure, thin, lean in oil, weak color intensity. Uniformity, 75 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

P4L—Fair quality lemon primings: Prematurely ripe, open leaf structure, thin, lean in oil, pale color intensity. Uniformity 70 percent; tolerance, 20 percent waste.

P5L—Low quality lemon primings: Prematurely ripe, open leaf structure, thin, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.

P2F—Fine quality orange primings: Prematurely ripe, open leaf structure, medium body, oily, moderate color intensity. Uniformity, 80 percent; injury tolerance, 20 percent, of which not over 5 percent may be waste.

P3F—Good quality orange primings: Prematurely ripe, open leaf structure, medium body, lean in oil, weak color intensity. Uniformity, 75 percent; injury tolerance, 30 percent, of which not over 10 percent may be waste.

P4F—Fair quality orange primings: Prematurely ripe, open leaf structure, medium body, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 20 percent waste.

P5F—Low quality orange primings: Prematurely ripe, open leaf structure, medium body, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 20 percent waste.

P4G—Fair quality green primings: Immature, firm leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 20 percent waste.

P5G—Low quality green primings: Immature, firm leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 30 percent waste.

§ 29.1167 Mixed (M Group).

This group consists of tobacco from three or more groups or two distinctly different groups which are mixed together in various combinations.

U.S. GRADES, NAMES, MINIMUM SPECIFICATIONS, AND TOLERANCES

M4F—Fair quality mixed groups: Ripe, firm leaf structure, fleshy body, lean in oil, injury tolerance 30 percent, of which not over 10 percent may be waste.

M5F—Low quality mixed groups: Ripe, firm leaf structure, fleshy body, lean in oil, injury tolerance 40 percent, of which not over 20 percent may be waste.

M4KR—Fair quality variegated red or scorched mixed groups: Ripe, firm leaf structure, fleshy body, lean in oil. Injury tolerance 30 percent, of which not over 10 percent may be waste.

M4KM—Fair quality variegated mixed groups: Unripe, close leaf structure, heavy body. Injury tolerance 30 percent, of which not over 10 percent may be waste.

M5KM—Low quality variegated mixed groups: Unripe, tight leaf structure, heavy body. Injury tolerance 40 percent, of which not over 20 percent may be waste.

M4GK—Fair quality green variegated mixed groups: immature, close leaf structure, heavy body. Injury tolerance 30 percent, of which not over 10 percent may be waste.

M5GK—Low quality green variegated mixed groups: immature, tight leaf structure,

V 42 44 MAR 7 77 UMI

heavy body. Injury tolerance 40 percent, of which not over 20 percent may be waste.

§ 29.1168 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group except Scrap.

U.S. GRADES, NAMES, MINIMUM SPECIFICATIONS, AND TOLERANCES

N1L—Best nondescript from the P group: tolerance: 50 percent waste.
N1XL—Best nondescript from the X group: tolerance: 50 percent waste.
N1K—Best nondescript from the H group: tolerance: 50 percent waste.
N1R—Best, heavy, dark-colored nondescript from the B group: tolerance: 50 percent injury or waste.
N1KV—Best variegated, medium-bodied greeniah nondescript from the B group: tolerance: 50 percent injury or waste.
N1GL—Best, thin, crude green nondescript from the P or X groups: tolerance: 50 percent crude, injury, or waste.
N1GF—Best medium body, medium-colored, crude green nondescript from the B or C groups: tolerance: 50 percent crude, injury or waste.
N1GR—Best, heavy, dark-colored, crude green nondescript from the B group: tolerance: 50 percent crude, injury, or waste.
N1GG—Best, crude, gray green nondescript from the B group: tolerance: 50 percent crude, injury, or waste.
N1PO—Oxidized tobacco from the P group: tolerance: 50 percent injury or waste.
N1XO—Oxidized tobacco from the X or C group: tolerance: 50 percent injury or waste.
N1BO—Oxidized tobacco from the B or H groups: tolerance: 50 percent injury or waste.
N2—Poorest nondescript of any group or color: tolerance: Over 50 percent crude, injury, waste, or over 10 percent oxidized.

§ 29.1169 Scrap (S Group).

A byproduct of stemmed and unstemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

U.S. GRADE, NAME AND SPECIFICATIONS

S—Scrap; loose, whole, or broken unstemmed leaves; or the web portion of tobacco leaves reduced to scrap by any process.

SUMMARY OF STANDARD GRADES

§ 29.1181 Summary of Standard Grades.

2 GRADES OF WRAPPERS

A1L, A1F.

24 GRADES OF LEAF

B1L, B2L, B3L, B4L, B5L, B6L, B1F, B2F, B3F, B4F, B5F, B6F, B1FR, B2FR, B3FR, B4FR, B5FR, B6FR, B4R, B5R, B3K, B4K, B5K, B6K.

16 GRADES OF SMOKING LEAF

H3L, H4L, H5L, H6L, H1F, H2F, H3F, H4F, H5F, H6F, H4FR, H5FR, M6FR, H4K, H5K, H6K.

10 GRADES OF CUTTERS

C1L, C2L, C3L, C4L, C5L, C1F, C2F, C3F, C4F, C5F.

10 GRADES OF LUGS

X1L, X2L, X3L, X4L, X5L, X1F, X2F, X3F, X4F, X5F.

5 GRADES OF PRIMINGS

P2L, P3L, P4L, P5L, P2F, P3F, P4F, P5F.

6 GRADES OF GREENISH

B3V, B4V, B5V, C4V, X3V, X4V.

15 GRADES OF VARIEGATED

B3KL, B4KL, B5KL, B6KL, B3KF, B4KF, B5KF, B6KF, B4KV, B5KV, B6KV, C4KL, X4KL, X4KF, X4KV.

7 MIXED GRADES

M4F, M5F, M4KR, M4KM, M5KM, M4GK, M5GK.

15 GRADES OF GREEN

B4G, B5G, B6G, B5GR, B4GK, B5GK, B6GK, B5GG, C4G, C4GK, X4G, X5G, X4GK, P4G, P5G.

7 GRADES OF VARIEGATED MIXED

B3KM, B4KM, B5KM, B6KM, C4KM, X3KM, X4KM.

5 GRADES OF VARIEGATED RED OR SCORCHED

B3KR, B4KR, B5KR, C4KR, X3KR, X4KR.

5 GRADES OF SLICK

B3S, B4S, B5S, C4S, X3S.

13 GRADES OF NONDESCRIPT

N1L, N1XL, N1K, N1R, N1KV, N1GL, N1GF, N1GR, N1GG, N1PO, N1XO, N1BO, N2.

1 GRADE OF SCRAP

S

Special factors "U" (unsound) and "W" (doubtful-keeping order) may be applied to all grades. Tobacco not covered by the standard grades is designated "No-G" or "No-G-F."

KEY TO STANDARD GRADEMARKS

§ 29.1225 Key to Standard Grademarks.

GROUPS

A—Wrappers. B—Leaf. H—Smoking Leaf. C—Cutters. X—Lugs. P—Primings. M—Mixed Group. N—Nondescript. S—Scrap.

QUALITIES

1—Choice. 2—Fine. 3—Good. 4—Fair. 5—Low. 6—Poor.

COLOR SYMBOLS

L—Lemon. F—Orange. FR—Orange red. R—Red. K—Variegated. KR—Variegated red or scorched. G—Green. V—Greenish. GR—Green red. GK—Green variegated. GG—Gray green. KL—Variegated lemon. KF—Variegated orange. KV—Variegated greenish. KM—Variegated mixed.

COMBINATION SYMBOLS

XL—Lug side. PO—Oxidized priming. XO—Oxidized lugs or cutters. BO—Oxidized leaf or smoking leaf. GL—Thin-bodied nondescript. GF—Medium-bodied nondescript.

SPECIAL SYMBOL

S—Slick

Dated: March 2, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-6698 Filed 3-4-77;8:45 am]

[7 CFR Part 908]

HANDLING OF VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Minimum Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This proposal would require fresh Valencia oranges shipped from District 3 of the California-Arizona production area to measure at least 2.32 inches in diameter during the period April 1, 1977, through January 15, 1978. The proposal was submitted by the Valencia Orange Administrative Committee established under the order to administer the program locally. The committee reports that the composition of the crop is such that more than ample quantities of larger, more desirable sizes of oranges are available to meet fresh market demand and it would be in the interest of producers and consumers to limit shipments to the sizes specified. The smaller sizes of oranges could be disposed of in export and in processing outlets.

DATE: Comments must be received on or before March 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202-447-3545).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department is considering the establishment of a size regulation for Valencia oranges grown in District 3, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908) regulating the handling of Valencia oranges grown in Arizona and designated part of California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposed amendment was recommended by the Valencia Orange Administrative Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof.

The 1976-77 season crop of Valencia oranges is currently estimated by the committee at 59,000 carlots. The committee reports that demand in regulated fresh market channels is expected to require about 37 percent of this volume. The remaining 63 percent would be available for utilization in export and processing outlets. The committee indicates that volume and size composition of the crop of Valencia oranges grown in District 3 are such that ample supplies of the more desirable sizes will be available to satisfy the demand in regulated channels. The regulation is designed to permit shipment of ample supplies of fruit of the more desirable sizes in the interest of growers and consumers.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than March 18, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

Order. (a) During the period April 1, 1977, through January 15, 1978, no handler shall handle any Valencia oranges grown in District 3 which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Valencia oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(b) As used in this section, "handle," "handler," and "District 3" shall have the same meaning as when used in said amended marketing agreement and order.

Dated: March 2, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-6697 Filed 3-4-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1301]

REFUSE BINS

Extension of Time

The purpose of this notice is to extend from March 8, 1977 until June 6, 1977 the period in which the Consumer Product Safety Commission must publish in the FEDERAL REGISTER a consumer product safety rule to declare that certain unstable refuse bins are banned hazardous products under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057) or to withdraw the applicable notice of proceeding.

On January 3, 1975, Stephen R. Redmond, the Commissioner of Health of Dutchess County, New York, petitioned the Commission to commence an appropriate proceeding to establish safe design criteria for the manufacture of refuse bins.

After studying the problem set out in the petition, the Commission published for comment in the FEDERAL REGISTER of January 7, 1977 (42 FR 1484) a proposed consumer product safety rule to declare that certain unstable refuse bins are banned hazardous products. (A more detailed history of the development of this proposed rule appears in the January 7, 1977 notice.) The proposal set the written comment period to extend through February 7, 1977. On January 31, 1977 the Commission held a public meeting to hear oral presentations of data, views, and arguments on the proposal from interested persons. A transcript of that proceeding is on file with the Commission's Office of the Secretary.

The Commission is now in the process of closely evaluating transcripts of the testimony presented at the public meeting as well as the written comments, which span a variety of technical, legal and social issues. A major concern of those who have contributed to this public record appears to be that the Commission further consider the effective date of the ban which, in the proposal, was specified as nine months after publication of a consumer product safety rule declaring that certain unstable refuse bins are banned hazardous products. The Commission is persuaded that the effective date of the ban merits further consideration. Therefore, this extension of time will be used to further consider the effective date of the ban as well as the other complex issues raised in the comments.

In its preliminary review of technical portions of the testimony and written comments, the Commission also notes that the criteria for distinguishing unstable refuse bins have not been seriously called into question. At this time the Commission believes that the technical criteria in the proposed ban are sufficient to determine the instability of certain refuse bins and plans to make no substantive changes in those criteria in issuing a final banning rule. Further, aside from whether the effective date of the ban remains at nine months from publication of a consumer product safety rule or is modified, the Commission notes that this 3-month extension of time effectively lengthens the period during which needed modifications to unstable refuse bins may be implemented. Therefore, in the interest of avoiding further unreasonable risk of injury from unstable refuse bins, the Commission now urges those who would, under the ban, have the responsibility to modify unstable refuse bins, to initiate and carry out as soon as possible the needed modifications so that bins will meet the technical criteria set forth in the proposed ban.

Accordingly, the period of time in which the Commission must publish a consumer product safety rule declaring that certain unstable refuse bins are banned hazardous products or withdraw the applicable notice of proceeding is extended to June 6, 1977. This period may be further extended for good cause by notice published in the FEDERAL REGISTER.

Dated: March 2, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-6620 Filed 3-4-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[21 CFR Part 1309]

PAPAVER BRACTEATUM

Hearing

On December 21, 1976, the Administrator of the Drug Enforcement Administration published a notice in the FEDERAL REGISTER (41 FR 55558) which scheduled hearings to be held on January 27 and 28, 1977, for the purpose of hearing comments on the notice of proposed production and control of Papaver Bracteatum in the United States, which had been published originally in the FEDERAL REGISTER on November 19, 1976, (41 FR 51036). On January 28, 1977, the Administrator published a notice in the FEDERAL REGISTER which postponed the hearings and indicated that a future notice would announce the time and place of the rescheduled hearings (42 FR 5370).

The hearings have been rescheduled for March 15, 16 and 17, 1977, to commence each day at 10:00 a.m., in Trial Courtroom No. 1, Second Floor, United States Court of Claims, 717 Madison Place, N.W., Washington, D.C. 20005.

Dated: March 2, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-6779 Filed 3-4-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGD 76-47]

ST. SIMONS ISLAND, GEORGIA

Proposed Special Anchorage

The Coast Guard is considering amending the Anchorage Regulations by establishing a special anchorage area at St. Simons Island, Georgia. The purpose of this anchorage is to meet the heavy demand for anchorage space for transient vessels. This anchorage would be for the general use of the public. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Interested persons may participate in this proposed rule-making by submitting written data, views, or arguments concerning the proposal to the Commander, Seventh Coast Guard District 51 SW. 1st

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Avenue, Miami, Florida 33130. Each person submitting comments should include his name and address and organization, if any, identify the notice (CGD 76–47), and give reasons for any recommended changes in the proposal. Copies of all written comments will be available for examination by interested persons at the Office of Commander Seventh Coast Guard District.

The Commander, Seventh Coast Guard District will forward all comments received before April 20, 1977, and his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters who will evaluate all communications received and take final action on the proposal. The proposed regulations may be changed in light of comments received.

In consideration of the foregoing, it is proposed that a new § 110.72b be added to Part 110, Title 33 of the Code of Federal Regulations to read as follows:

§ 110.72b St. Simons Island, Georgia.

The area beginning at a point southwest of Frederica River Bridge, St. Simons Island Causeway at latitude 31°09'58" N., longitude 81°24'55" W.; thence southwesterly to latitude 31° 09'42" N., longitude 81°25'10" W.; thence westerly to the shoreline at latitude 31°09'45" N., longitude 81°25'20" W.; thence northeasterly along the shoreline to latitude 31°10'02" N., longitude 81°25'00" W.; thence southeasterly to the point of origin.

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937 (49 U.S.C. 1655(g)(1)(B)); 49 CFR 1.46(c)(2).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated March 2, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77–6664 Filed 3–4–77;8:45 am]

[33 CFR Part 110]

[CGD 76–192]

BEVERLY HARBOR, SALEM, MASSACHUSETTS

Proposed Enlargement of Special Anchorage Area

The Coast Guard is considering enlarging the special anchorage at Beverly Harbor, north of Salem Neck. Enlargement of this special anchorage area is needed because of the increase in recreational boating in the area. This anchorage would be for the general use of the public. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Interested persons may participate in the proposed rulemaking by submitting written data, views, or arguments concerning the proposal to Commander, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD 76–192), and give reasons for any recommended change in the proposal. Copies of all written comments will be available for examination by interested persons at the Office of the Commander, First Coast Guard District.

The Commander, First Coast Guard District will forward all comments received before April 20, 1977, and his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on the proposal. The proposed regulations may be changed in light of comments received.

In consideration of the foregoing, it is proposed that § 110.25(a) of Part 110 of Title 33 of the Code of Federal Regulations be amended to read as follows:

§ 110.25 Beverly and Salem Harbors, Massachusetts.

(a) *Beverly Harbor, North of Salem Neck.* A line extending from the northerly end of the Salem Willows Yacht Club House 360 yards bearing 281° true to latitude 42°32'14" N., longitude 70°-52'26" W.; thence north 275 yards to Monument Bar Beacon thence 540 yards bearing 080° to latitude 42°32'25" N., longitude 70°52'04" N.; thence 365 yards bearing 175° to latitude 42°32'14" N., longitude 70°52'03" W.; thence 237° to the shore.

* * * * *

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937 (49 U.S.C. 1655(g)(1)(b)); 49 CFR 1.46(c)(2).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: March 2, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77–6665 Filed 3–4–77;8:45 am]

[33 CFR Part 110]

[CGD 76–197]

DANA POINT HARBOR, CALIFORNIA

Proposed Special Anchorage Area

The Coast Guard is considering amending the Anchorage Regulations by establishing a special anchorage area in Dana Point Harbor, California. The purpose of this anchorage is to meet the heavy demand for anchorage space for transient vessels. This anchorage would be for the general use of the public. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments concerning the proposal to the Commander, Eleventh Coast Guard District, Union Bank Building, 400 Oceangate, Long Beach, California 90822. Each person submitting comments should include his name and address and organization, if any, identify the notice (CGD 76–197), and give reasons for any recommended changes in the proposal. Copies of all written comments will be available for examination by interested persons at the Office of the Commander, Eleventh Coast Guard District.

The Commander, Eleventh Coast Guard District will forward all comments received before April 20, 1977, and his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters who will evaluate all communications received and take final action on the proposal. The proposed regulations may be changed in light of comments received.

In consideration of the foregoing it is proposed that a new § 110.93 be added to Part 110, Title 33 of the Code of Federal Regulations to read as follows:

§ 110.93 Dana Point Harbor, California.

The area in Dana Point Harbor, California commencing at a point at latitude 33°27'36.2" N., longitude 117°42'20.4" W.; thence 016°20' True for 612 feet to a point at latitude 33°27'42.1" N., longitude 117°42'18.4" W.; thence 106°20' True for 85 feet to a point latitude 33°27'41.8" N., longitude 117°42'17.7" W.; thence 196°20' True for 222 feet to a point at latitude 33°27'39.7" N., longitude 117°42'18.2" W.; thence 182°20' True 234 feet to a point latitude 33°27'37.4" N., longitude 117°42'18.2" W.; thence 166°20' True for 499 feet to a point at latitude 33°27'32.6" N., longitude 117°42'16.8" W.; thence 320° True for 470 feet to the point of origin.

(Sec. 1, 30 Stat. 98, as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937 (49 U.S.C. 1655(g)(1)(B)); 49 CFR 1.46(c)(2).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: March 2, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77–6666 Filed 3–4–77;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR 231]

NATIONAL FOREST SYSTEM LANDS

Proposed Amendments Regarding Wild Free-Roaming Horse and Burro Management

It is hereby proposed to amend the wild free-roaming horse and burro regulations contained in 36 CFR 231.11.

The purpose of the amendment is to make changes which would implement section 9 of the Wild Free-Roaming Horse and Burro Act (16 U.S.C. 1331–1340) as provided in section 404 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701). This amendment to the Wild Free-Roaming Horse and Burro Act authorizes the use of helicopters in administering the provisions of the Wild Free-Roaming Horse and Burro Act, as amended (16 U.S.C. 1331–1340). The amendment also authorizes the use of motor vehicles for the purpose of transporting captured animals as provided in the Act. The amendment directs that the use of helicopters and motor vehicles lie undertaken (1) in accordance with humane procedures prescribed by the Secretaries of the Interior and Agriculture, (2) under the direct supervision of the appropriate Secretary of a duly authorized official or employee of the Departments, and (3) only after a public hearing.

This document proposes to establish procedures to be used in carrying out the amendment to the Wild Free-Roaming Horse and Burro Act by:

1. Defining the terms "the Act," "malicious harassment," "captured animal," and "humane procedures."

2. Revising the provisions of § 231.11 (c), "Ownership Claims," to clarify them and to exclude use of helicopters in gathering operations of claimed animals.

3. By adding § 231.11(r) establishing procedures for using fixed-wing aircraft, helicopters, and motor vehicles in management operations.

4. Establishing procedures for the use of helicopters in a manner which will insure humane treatment of wild free-roaming horses and burros and, in addition, procedures for use of motor vehicles in transporting captured animals.

Since both the Forest Service and the Bureau of Land Management are subject to the provisions of the Wild Free-Roaming Horse and Burro Act as amended by the Federal Land Policy and Management Act of 1976, both agencies are issuing rulemaking proposals in the FEDERAL REGISTER. During the period allowed for public comment, joint public hearings will be held on the subject of using helicopters and motorized vehicles as proposed herein. Written comments received at the hearings will be carefully analyzed prior to final rulemaking. The public hearings are scheduled as follows:

State:	*Date/time (1977), place*
Arizona	Mar. 2, 1 p.m.–5 p.m., Maricopa County Board of Supervisors Auditorium, 205 W. Jefferson St., Phoenix, Ariz.
California	Mar. 5, 10 a.m.–4 p.m., Yuba Room, Sacramento Community Center, 14th and K Sts., Sacramento, Calif.
Colorado	Mar. 23, 10 a.m., City Hall Auditorium, 5th and Rood Sts., Grand Junction, Colo.
Idaho	Mar. 15, 7:30 p.m., Rodeway Inn, 29th and Chinden Blvd., Boise, Idaho.
Montana	Mar. 15, 2 p.m., Eastern Montana College, Library Building, Rm. 152, Billings, Mont.
Nevada	Mar. 15, 3–5 p.m. and 7–9 p.m., Pioneer Motor Inn, 221 S. Virginia, Reno, Nev.
New Mexico	Mar. 3, 7 p.m., Albuquerque Convention Center, Navajo Nambe Room, Albuquerque, N. Mex.
Oregon	Mar. 2, 7:30 p.m., Harney County Court House, Burns, Oreg.
Utah	Mar. 2, 7 p.m., Salt Palace, Room 220, Salt Lake City, Utah.
Wyoming	Mar. 16, 7:30 p.m., College Meeting Room, Western Wyoming College, Rock Springs, Wyo.

The Department of Agriculture has determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is not required.

In accordance with the Federal Land Policy and Management Act of 1976, interested parties may submit written comments, suggestions, or objections with respect to the proposed amendments to the Chief, Forest Service (2200), P.O. Box 2417, Washington, D.C. 20013, until April 30, 1977. Questions regarding this proposal can be directed to Don D. Seaman, Range Management Staff Unit, telephone 703–235–8139.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection in the Range Management Staff, Forest Service, Room 610, RP–E, 1621 N. Kent Street, Arlington, Virginia, during regular business hours (8:15 a.m.–4:45 p.m.).

Dated: March 2, 1977.

BOB BERGLAND,
Secretary.

In light of the foregoing, it is proposed to revise 36 CFR 231.11 as follows:

1. Section 231.11 is amended by amending paragraphs (a)(9) and (c) adding new paragraphs (a) (11), (12), and (13) and (r) to read as follows:

§ 231.11 Wild free-roaming horses and burros.

* * * * *

(a) *Definitions.* * * *

(9) "Act" means the Act of December 15, 1971 (85 Stat. 649, 16 U.S.C. 1331–1340). Pub. L. 92–195, as amended by Pub. L. 94–579 (90 Stat. 2775).

* * * * * *

(11) "Captured Animal" means a wild free-roaming horse or burro taken and held in the custody of an authorized officer, his delegate or agent. This term does not apply to an animal after it is placed in private custody through a cooperative agreement.

(12) "Humane Treatment" means kind and merciful treatment, without causing unnecessary stress or suffering to the animal, in all actions involving roundup, other capture operations, handling, transporting or other involvement with wild free-roaming horses and burros.

(13) "Malicious Harassment" means any intentional act which creates the likelihood of injury or is detrimental to normal behavior pattern of wild, free-roaming horses or burros including feeding, watering, resting and breeding. Such acts include, but are not limited to, unauthorized chasing, pursuing, herding, roping or attempting to gather wild free-roaming horses or burros. It does not apply to lawfully conducted activities by, or on behalf of, the Bureau of Land Management or the Forest Service in implementation or performance of duties and responsibilities under this act.

* * * * *

(c) *Ownership claims.* (1) Any person claiming ownership under State branding and estray laws, of branded or unbranded horses or burros within a wild horse or burro territory or orange on National Forest System lands where such animals are not authorized must present evidence of ownership to justify a roundup before permission will be granted to gather such animals. Claims of ownership with supporting evidence were required to be filed during a claiming period which expired November 15, 1973. Unauthorized privately owned horses or burros entering the National Forest System after November 15, 1973, which become intermingled with wild horses or burros, may be claimed by filing an application with the District Ranger. All authorizations to gather claimed animals shall be in writing in accordance with instructions as the Chief, Forest Service, may prescribe. After such public notice as an authorized officer deems appropriate to inform interested parties, gathering operations may be authorized. The authorization shall provide that the gathering or roundup be consistent with regulations. Such authorization shall: (1) Exclude use of aircraft or motor vehicles to capture claimed horses or burros; (2) establish a specific, reasonable period of time to allow the gathering of claimed animals; and (3) stipulate other conditions, including visual observation by Forest Service personnel, deemed necessary to assure humane treatment of associated wild free-roaming horses and burros and to protect other resources involved.

(2) Prior to removal of claimed, captured animals from National Forest System lands, claimants shall substantiate their claim of ownership in accordance with whatever criteria are cooperatively agreed to between the Forest Service and the State agency administering the State estuary laws. In the absence of a cooperative agreement, ownership claims shall be substantiated in accordance with State law and subject to approval of the Forest Service.

* * * * *

(r) *Use of helicopters, fixed-wing aircraft and motor vehicles.* The Chief, Forest Service, is authorized to use helicopters, fixed-wing aircraft and motor vehicles in a manner that will ensure humane treatment of wild free-roaming horses and burros as follows:

(1) Prior to using helicopters in capture opertions and/or using motor vehicles for the purpose of transporting captured animals, a public meeting will be held in the proximity of the territory where the capture operation is proposed.

(2) Helicopters may be used in all phases of the administration of the Act including, but not limited to, inventory, observation, surveillance and capture

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operations. In capture operations, the use of helicopters is authorized to locate the animals involved and for related purposes such as to transport personnel and equipment (including veterinarians and medical supplies). The condition of the animals shall be continuously observed by the authorized officer and, should signs of unnecessary stress be noted, the source of stress shall be removed so as to allow recovery. Helicopters may be used in roundups or other capture operations subject to the following procedures:

(i) Helicopters shall be used in such a manner that bands or herds will tend to remain together.

(ii) Horses or burros will not be moved at a rate which exceeds limitations set by the authorized officer who shall consider terrain, weather, distance to be traveled and condition of the animals.

(iii) The helicopter shall be used to observe for the presence of dangerous areas and shall be used to move animals away from hazards which may cause stress during capture operations.

(iv) During capture operations, animals shall be moved in such a way as to prevent unnecessary stress.

(v) The authorized officer shall supervise all helicopter use as follows:

(A) Have means to communicate with the pilot and be able to direct the use of the helicopter.

(B) Be able to observe effects of the use of the helicopter on the well being of the animals.

(3) Fixed-wing aircraft may be used for inventory, observation and surveillance purposes necessary in administering the Act. Such use shall be consistent with the Act of September 8, 1959, as amended (18 U.S.C. 41 et seq.). Fixed-wing aircraft shall not be used in connection with capture operations.

(4) Motor vehicles may be used in the administration of the Act except that such vehicles shall not be used for driving or chasing wild horses or burros in capture operations. Motor vehicles may be used for the purpose of transporting captured animals, subject to the following humane procedures:

(i) Such transportation shall comply with appropriate State and Federal laws and regulations applicable to the transportation of animals (horses and burros).

(ii) Vehicles shall be inspected by an authorized officer prior to use to assure vehicles are in good repair and of adequate rated capacity.

(iii) Vehicles shall be safely operated to insure that captured animals are transported without undue risk or injury.

(iv) Animals shall be sorted as to age, size and condition so as to limit, to the extent possible, injury due to fighting and trampling.

(v) The authorizing officer shall consider the condition of the animals, weather conditions, type of vehicle and distance to be traveled when planning for transportation of captured animals.

(85 Stat. 649, as amended, 90 Stat. 2775 (16 U.S.C. 1331–1340); 30 Stat. 35, as amended (16 U.S.C. 551); sec. 32, 50 Stat. 525, as amended (7 U.S.C. 1011); 74 Stat. 215 (16 U.S.C. 528–531).)

[FR Doc.77-6699 Filed 3-4-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

[41 CFR Parts 101–43, 101–44, 101–45]

UTILIZATION, DONATION, AND DISPOSAL OF PERSONAL PROPERTY CONTAINING RADIUM

Proposed Regulation

The General Services Administration proposes to amend the regulations issued in Parts 101–43, 101–44, and 101–45 of the Federal Property Management Regulations (FPMR) concerning the utilization, donation, and disposal of Government-owned personal property by incorporating new regulations applying to property which contains radium.

An earlier draft of this proposed amendment was submitted to a limited number of interested agencies for review. Their comments were analyzed by GSA and the Bureau of Radiological Health, Food and Drug Administration, Department of Health, Education, and Welfare, and are reflected to the extent feasible in this proposal.

Written comments concerning this proposed amendment may be submitted to the General Services Administration (F), Washington, DC 20406, on or before April 20, 1977.

Radioactive materials, because of the potential hazards they represent, require a certain degree of control from production through disposal. One of the most hazardous of all radionuclides used by man is radium-226 with its associated daughter products. This element is widely used in the manufacture of such items as plaques and needles used in medical radiation therapy, radioactive test and calibration sources used with radiation detection equipment, and electronic equipment meters as well as clocks and watches which have been painted with luminescent paint containing radium. These items could present external radiation exposure problems or, if the radium is not properly sealed or fixed, lead to environmental radioactive contamination and internal ingestion.

Because of the particular risks associated with radium-226, Federal agencies should exercise special precautions in the management of any personal property containing this radioactive element. This proposal would provide controls and safeguards for the transfer by Federal agencies of excess and surplus property containing radium and would bring such transfers under regulations which are consistent with those of the Nuclear Regulatory Commission and State radiation control programs. In brief, the provisions of this proposal include:

a. Measuring to determine unit quantity of radium and testing to detect leakage or contamination.

b. Identifying property as to radium content and labeling with the traditional radiation warning symbol.

c. Alerting recipients or prospective recipients to the potential hazards involved.

d. Requiring all donees and purchasers to be properly licensed or otherwise certified by the appropriate State radiation control agency to be eligible to receive such property.

e. Requiring all donees and purchasers to certify that their possession and utilization of such property is in compliance with applicable Federal and State regulations.

f. Requiring that a written notice of transfer be forwarded to the appropriate State radiation control agency within 30 calendar days following donation or sale.

In consonance with the foregoing, it is proposed to amend the FPMR as follows:

PART 101–43—UTILIZATION OF PERSONAL PROPERTY

By adding § 101–43.001–25 as follows:

§ 101–43.001–25 Personal property containing radium.

"Personal property containing radium" means personal property in which radium-226 and its related daughter products are incorporated as a functional component. This includes property to which radium is purposefully added; e.g., meters, clocks, watches, and dials to which radium-bearing luminescent paint is applied to improve visibility, and plaques and needles used in medical radiation therapy to which radium is added as a source of ionizing radiation. (Radioactive materials other than radium are also commonly used in such products, and their transfer must be in accordance with the appropriate regulations and licences of the Nuclear Regulatory Commission and the Agreement States; that is, States with which the Commission has cooperative agreements concerning radiation control pursuant to the Atomic Energy Act of 1954, as amended.) This definition does not include material which contains radium as a natural contaminant or compound such as granite and concrete. Although such material normally does not need to be controlled as radioactive material, whenever the hazard warrants, it should be controlled and disposed of as radioactive waste. (See §§ 101–43.313–5(a)(2) and 101–45.309–12(c).)

Subpart 101–43.3—Utilization of Excess

By adding § 101–43.313–5 as follows:

§ 101–43.313–5 Personal property containing radium.

(a) *Determination of radium content.* Holding agencies shall comply with this § 101–43.313–5 to ensure adequate safeguards in the transfer of Government-owned personal property containing radium as defined in § 101–43.001–25. This property shall be handled as nonreportable excess as provided in §101–43.306, subject to the following:

(1) Before making available for transfer to other Federal agencies any excess property known or suspected to contain radium, the holding agency shall obtain measurments of the quantity of radium contained in the property, unless the property is clearly labeled and identified as to radioactive content. The measurements shall be performed by or under the supervision of a qualified radiation specialist. A "qualified radiation specialist" (or "expert") with reference to radiation protection is a person having the knowledge and training necessary to measure ionizing radiation, evaluate safety techniques, and provide advice regarding radiation protection needs; e.g., persons certified in this field by the American Board of Radiology or the American Board of Health Physics, or those having equivalent qualifications. Agencies unable to determine radium content may request assistance from the Radiological Health Representative at the appropriate Food and Drug Administration (FDA) regional office.

(2) When measurements of radium content, source leak tests, and other considerations result in classification of property as radioactive waste, the property shall only be transferred to a recipient qualified under Federal or State regulations to receive radioactive wastes for disposal.

(3) The following personal property containing radium represents an unacceptable potential hazard and, therefore, shall be classified and handled as radioactive waste:

(i) Pocket watches, clocks, and other ordinary timepieces; and

(ii) Items determined in accordance with § 101–43.313–5(d) to have smearable contamination exceeding 0.005 microcurie of alpha or a leakage rate exceeding 0.001 microcurie of radon in 24 hours.

(4) Items determined by measurement to have radium content less than 0.1 microcurie shall be either:

(i) Classified as radioactive waste; or

(ii) Offered for transfer to other Federal agencies, without control, on an individual item basis if the total radium transferred by one transaction to any one recipient is not more than 1.0 microcurie; *Provided*, the items are labeled as containing less than 0.1 microcurie per item or 1.0 microcurie of radium in aggregate amounts and the recipient is so notified.

(5) Individual items exceeding 0.1 microcurie and aggregate quantities exceeding 1.0 microcurie shall be transferred to Federal agencies in accordance with § 101–43.313–5 (b), (c), (d), and (e).

(b) *Labeling.* Holding agencies shall label containers which contain more than 0.01 microcurie of radium with the radiation warning symbol specified in 10 CFR 20.203(a)(1), the approximate radium content, the number of items, and the appropriate identification. Where feasible, individual items should be labeled with the radiation warning symbol and the radium content.

(c) *Identification in notice of availability.* Notices of availability of property determined by measurement to have radium content greater than 0.1 microcurie per item or more than 1.0 microcurie in aggregate quantity shall include in the identification of the individual item or aggregate the term "contains radioactive material-radium" and shall indicate the total radium content of the individual item and aggregate in appropriate units.

(d) *Testing for leakage and contamination.* Before transferring personal property containing radium, the holding agency shall test, (or have tested) such property for leakage and contamination in accordance with the following provisions:

(1) Items containing 10 microcuries or more of radium shall be tested for leakage by a method which is capable of detecting the release of 0.001 microcurie of radon in 24 hours.

(2) Items containing less than 10 microcuries of radium shall be tested for contamination using a smear test and should also be leak tested when appropriate. The smear test for contamination shall be capable of detecting the presence of 0.005 microcurie of alpha activity. Assistance in arranging for leak tests may be requested from the Radiological Health Representative at the appropriate FDA regional office.

(3) Items determined by test to be leaking radon in excess of 0.001 microcurie in 24 hours or contaminated in excess of 0.005 microcurie of alpha activity shall be classified as radioactive waste for handling pursuant to the provisions of §§ 101–43.313–5(a)(2) and 101–43.313–5(e). In cases in which the personal property which is leaking or contaminated has specific value, the property may be transferred if the recipient has been notified of the condition and agrees to accept the property in that condition.

(e) *Transportation.* The physical transfer or shipment of radioactive items or radioactive waste shall be in accordance with the regulations of the Department of Transportation for the transportation of dangerous materials (Title 49, Code of Federal Regulations).

PART 101–44—DONATION OF PERSONAL PROPERTY

Subpart 101–44.3—Donation for Educational, Public Health, and Civil Defense, Including Research or Public Airport Purposes

By adding § 101–44.324 as follows:

§ 101–44.324 Donation of property containing radium.

(a) *General.* Personal property containing radium (as defined in § 101–43.001–25) which was offered for tranfer as excess to other Federal agencies under § 101–43.313–5 and for which there is no further requirement shall be made available for donation for educational, public health, and civil defense, including research or public airport, purposes.

(b) *Donation procedures and safeguards.* Donations of surplus property containing radium shall be processed in accordance with (1) or (2), below, depending on radium content. Regardless of the amount of radium involved, all property donated pursuant to this § 101–44.324 shall be labeled and reported to the appropirate State agency in accordance with (3) and (4), below.

(1) *Low radium content.* Surplus property with a radium content not exceeding 0.1 microcurie per individual item or 1.0 microcurie in aggregate quantities, as determined by the holding agency, may be donated without special control.

(2) *High radium content.* Surplus property with a radium content greater than 0.1 microcurie per individual item or 1.0 microcurie in aggregate quantities may be donated in accordance with the procedures set forth below.

(i) Applicants for donation shall be required to obtain a valid license or other appropriate document from the State radiation control agency having jurisdiction in the area in which the prospective donee is located. The license or documentation shall certify that the acceptance of the property by the donee is not in violation of applicable State radiation control regulations.

(ii) The Office of Federal Property Assistance, Department of Health, Education, and Welfare (DHEW), shall submit the following to the General Services Administration (FW), Washington, D.C. 20406, for approval:

(A) Standard Form 123, Application for Donation of Surplus Personal Property (illustrated in § 101–44.4901);

(B) A copy of the license or documentation obtained by the prospective donee from the State radiation control agency;

(C) Certification by the prospective donee that the property is to be used and accounted for in accordance with State radiation control regulations and applicable regulatory requirements of the Occupational Safety and Health Administration, Department of Labor; and

(D) Certification by the Office of Federal Property Assistance, DHEW, that the property approved for donation will only be released directly to the prospective donee designated in the SF 123.

(3) *Labeling.* The holding agency shall label containers of radium which exceed 0.01 microcurie with the radiation warning symbol specified in 10 CFR 20.203(a)(1), the approximate total radium content, the number of items, and the appropriate identification. Where feasible, individual items should be labeled with the radiation warning symbol and the radium content.

(4) *Notice to State agency.* Within 30 calendar days after donation of the property, the appropriate holding agency shall forward to the State radiation control agency where the donee is located a written notice of donation which shall include the name and address of the donee, a description of the property, and the total amount of radium involved. A list of State radiation control agencies is provided in § 101–45.4926.

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Subpart 101–45.3—Sale of Personal Property

By adding § 101–45.309–12 as follows:

§ 101–45.309–12 Property containing radium.

(a) *General.* Surplus personal property containing radium (as defined in

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§ 101–43.001–25) shall only be sold in accordance with § 101–45.304 and the special conditions of sale in this § 101–45.309–12.

(b) *Sale procedures and safeguards.* Offers for sale of surplus property containing radium shall be in accordance with (1) or (2), below, depending on radium content. Regardless of the amount of radium involved, all property sold pursuant to this § 101–45.309–12 shall be labeled and reported to the appropriate State agency in accordance with (3) and (4), below.

(1) *Low radium content.* When the property being offered has a radium content not exceeding 0.1 microcurie per individual item or 1.0 microcurie in aggregate quantities, no special condition of sale is required to be included in the invitation for bids.

(2) *High radium content.* When the property being offered has a radium content greater than 0.1 microcurie per item or greater than 1.0 microcurie in aggregate quantities, the invitation for bids shall:

(i) Identify the individual item or aggregate with the term "contains radioactive material—radium";

(ii) Indicate the total radium content of the individual item or aggregate in appropriate units;

(iii) Inform bidders of the necessity to comply with the State regulations and applicable regulatory requirements of the Occupational Safety and Health Administration, Department of Labor, pertaining to the control of radioactive sources within their jurisdiction; and

(iv) Contain a notice to bidders substantially as follows:

Property Containing Radium. (a) Bidders are advised that the items offered for sale herein contain radium and that the appropriate State radiation control agency should be contacted prior to the submission of a bid to determine whether the release of such property by the Government to the bidder for use in such State would be in violation of applicable State radiation control regulations. (b) Purchasers shall, prior to removal of any such property from Government premises, furnish to the contracting officer a valid license or other document from the State radiation control agency stating that a bidder is qualified to handle such property and the release of such property by the Government to said bidder would not be in conflict with any applicable State radiation control regulations.

(3) *Labeling.* The selling agency shall label containers of radium which exceed 0.01 microcurie with the radiation warning symbol specified in 10 CFR 20.203 (a)(1), the approximate total radium content, the number of items, and the appropriate identification. Where feasible, individual items should be labeled with the radiation warning symbol and the radium content.

(4) *Notice to State agency.* Within 30 calendar days after award, the selling agency shall forward to the State radiation control agency where the successful bidder is located a written notice of sale which shall include the name and address of the purchaser, a description of the property, the total amount of radium involved, and the number of items sold. A list of State radiation control agencies is provided in § 101–45.4926.

(c) *Unsold property.* Surplus property containing radium which has been offered for sale in accordance with this § 101–45.309–12, but for which no satisfactory or acceptable bid or bids have been received, shall be treated as radioactive waste and disposed of in accordance with Federal and State regulations. Assistance in the disposal of radioactive waste can be obtained from the Radiological Health Representative located at the appropriate Food and Drug Administration (FDA) regional office.

Subpart 101–45.49—Illustrations

By adding § 101–45.4926 as follows:

§ 101–45.4926 State radiation control agencies.

ALABAMA

Director, Division of Radiological Health, Alabama State Department of Public Health, State Office Building, Montgomery, AL 36104.

ALASKA

Commissioner, Alaska Department of Environmental Conservation, Pouch O, Juneau, AK 99801.

ARIZONA

Executive Director, Arizona Atomic Energy Commission, 1601 West Jefferson Street, Phoenix, AZ 85007.

ARKANSAS

Director, Division of Radiological Health, Arkansas Department of Health, 4815 West Markham Street, Little Rock, AR 72201.

CALIFORNIA

Chief, Radiological Health Section, California Department of Health, Building No. 8, 714 P Street, Sacramento, CA 95814.

COLORADO

Director, Division of Occupational and Radiological Health, Colorado Department of Health, 4210 East 11th Avenue, Denver, CO 80220.

CONNECTICUT

Assistant Director of Compliance (Ionising Radiation), Connecticut Department of Environmental Protection, State Office Building, Hartford, CT 06115.

DELAWARE

Program Director, Office of Radiation Safety, Division of Public Health, Delaware Department of Health and Social Services, Jesse S. Cooper Memorial Building, Capitol Square, Dover, DE 19901.

DISTRICT OF COLUMBIA

Chief, Bureau of Institutional Hygiene and Radiological Health, Bureau of Public Health Engineering, Department of Environmental Services, D.C. General Hospital, Box 97, Washington, DC 20003.

FLORIDA

Administrator, Radiological and Occupational Health Section, Division of Health, Florida Department of Health and Rehabilitative Services, P.O. Box 210, Jacksonville, FL 32201.

GEORGIA

Director, Radiological Health Unit, Georgia Department of Human Resources, State Office Building, Atlanta, GA 30334.

HAWAII

Chief, Noise and Radiation Branch, Hawaii Department of Health, P.O. Box 3378, Honolulu, HI 96801.

IDAHO

Chief, Radiation Control Section, Idaho Department of Health and Welfare, Statehouse, Boise, ID 83720.

ILLINOIS

Chief, Division of Radiological Health, Illinois Department of Public Health, 535 West Jefferson Street, Springfield, IL 62761.

INDIANA

Director, Division of Radiological Health, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, IN 46206.

IOWA

Chief, Hazardous Substance Section, Iowa State Department of Environmental Quality, 3920 Delaware Street, P.O. Box 3326, Des Moines, IA 50316.

KANSAS

Director, Radiation Control Program, Kansas Department of Health and Environment, Forbes AFB, Building 740, Topeka, KS 66620.

KENTUCKY

Director, Radiological Health Program, Kentucky State Department for Human Resources, Capitol Annex, Frankfort, KY 40601.

LOUISIANA

Director, Division of Radiation Control, Louisiana Board of Nuclear Energy, P.O. Box 44033, Capitol Station, Baton Rouge, LA 70804.

MAINE

Commissioner, Maine Department of Health and Welfare, State House, Augusta, ME 04330.

MARYLAND

Chief, Division of Radiation Control, Maryland Department of Health and Mental Hygiene, State Office Building, 301 West Preston Street, Baltimore, MD 21201.

MASSACHUSETTS

Assistant to the Commissioner (Radiological Health), Massachusetts Department of Public Health, 80 Boylston Street, Room 940, Boston, MA 02116.

MICHIGAN

Chief, Radiation Division, Michigan Department of Public Health, 3500 North Logan Street, Lansing MI 48914.

MINNESOTA

Chief, Section of Radiation Control, Minnesota Department of Health, 717 Delaware Street, SE., Minneapolis, MN 55440.

MISSISSIPPI

Supervisor, Radiological Health Unit, Mississippi State Board of Health, P.O. Box 1700, Jackson, MS 39205.

MISSOURI

Director, Bureau of Radiological and Occupational Health, Missouri Division of Health, State Office Building, Jefferson City, MO 65101.

MONTANA

Chief, Radiological and Occupational Health Program, Montana Department of Health and Environmental Sciences, Cogswell Building, Helena, MT 59601.

NEBRASKA

Director, Division of Radiological Health, Nebraska Department of Health, Lincoln Building, 1003 O Street, Lincoln, NE 68508.

NEVADA

Supervisor, Radiological Health, Nevada Department of Health and Welfare, 201 South Fall Street, Carson City, NV 89701.

NEW HAMPSHIRE

Director, State Radiation Control Agency, New Hampshire Department of Health, and Welfare, State Laboratory Building, Hazen Drive, Concord, NH 03301.

NEW JERSEY

Chief, Bureau of Radiation Protection, New Jersey Department of Environmental Protection, P.O. Box 1390, John Fitch Plaza, Trenton, NJ 08625.

NEW MEXICO

Chief, Radiological and Occupational Health and Air Quality Control Section, New Mexico Environmental Improvement Agency, P.O. Box 2348, Santa Fe, NM 87501.

NEW YORK

Director, Bureau of Radiological Health, New York State Department of Health, 845 Central Avenue, Albany, NY 12206.

NORTH CAROLINA

Head, Radiation Protection Branch, North Carolina Department of Human Resources, P.O. Box 12200, Raleigh, NC 27605.

NORTH DAKOTA

Director, Division of Environmental Engineering, Radiological Health Program, North Dakota State Department of Health, Capitol Building, Bismarck, ND 58501.

OHIO

Engineer-in-Charge, Radiological Health Unit, Ohio Department of Health, P.O. Box 118, Columbus, OH 43216.

OKLAHOMA

Chief, Occupational and Radiological Health Service, Oklahoma Department of Health, NE. 10th and Stonewall Streets, Oklahoma City, OK 73105.

OREGON

Director, Radiological Control Service, Oregon State Health Division, P.O. Box 231, Portland, OR 97207.

PENNSYLVANIA

Director, Bureau of Radiological Health, Pennsylvania Department of Environmental Resources, P.O. Box 2063, Harrisburg, PA 17120.

PUERTO RICO

Director, Radiological Health Program, Puerto Rico Department of Health, 1306 Ponce de Leon Avenue, Stop 16, Santurce, PR 00908.

RHODE ISLAND

Director of Health, Rhode Island Department of Health, Health Department Building, Davis Street, Providence, RI 02908.

SOUTH CAROLINA

Director, Division of Radiological Health, South Carolina Department of Health and Environmental Control, 137 J. Marion Sims Building, Columbia, SC 29201.

SOUTH DAKOTA

Secretary of Health, South Dakota Department of Health, State Capitol, Pierre, SD 57501.

TENNESSEE

Director, Division of Occupational and Radiological Health, Tennessee Department of Public Health, 727 Cordell Hull Building, Sixth Avenue, North, Nashville, TN 37219.

TEXAS

Director, Division of Occupational Health and Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, TX 78756.

UTAH

Chief, Radiation and Occupational Health Section, Utah Division of Health, 44 Medical Drive, Salt Lake City, UT 84113.

VERMONT

Director, Division of Occupational Health, Radiological Health Program, Vermont Department of Health, P.O. Box 607, Barre, VT 05641.

VIRGINIA

Director, Bureau of Industrial Hygiene and Radiological Health, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219.

VIRGIN ISLANDS

Director, Division of Environmental Health, Virgin Islands Department of Health, Charlotte Amalie, St. Thomas, VI 00801.

WASHINGTON

Chief, Radiation Chemical and Physical Hazards Section, Washington Department of Social and Health Services, P.O. Box 1788, Olympia, WA 98504.

WEST VIRGINIA

Director, Bureau of Industrial Hygiene, Radiological Health Program, West Virginia Department of Health, 1800 East Washington Street, Charleston, WV 25305.

WISCONSIN

Chief, Radiation Protection Section, Wisconsin Department of Health and Social Services, P.O. Box 309, Madison, WI 53701.

WYOMING

Radiological Health Specialist, Wyoming Department of Health and Social Services, New State Office Building, Cheyenne, WY 82001.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: February 17, 1977.

WALLACE H. ROBINSON JR.,
Commissioner,
Federal Supply Service.

[FR Doc.77–6626 Filed 3–4–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3800]

SURFACE MANAGEMENT OF PUBLIC LAND UNDER U.S. MINING LAWS

Public Meetings; Correction

The following is a correction for the notice of public meetings which appeared February 25 beginning on page 11026 of Volume 42 of the FEDERAL REGISTER:

Notice is hereby given of public meetings to obtain public comment pursuant to the publication of the proposed rule making on Surface Mining Regulations in the FEDERAL REGISTER December 6, 1976. The Secretary of Interior has extended the public comment period to April 5, 1977 in an effort to allow additional public involvement and comment.

The public meeting schedule is as follows:

1. 10:00 a.m., March 24, 1977, Sacramento Convention Center, Placer Sutter Room, 14th and K Street, Sacramento, California.

2. 10:00 a.m., March 22, 1977, Ben H. Lewis Hall (Community Room), Raincross Square, 3443 Orange Street, Riverside, California.

3. 10:00 a.m., March 24, 1977, Yinema Hall, Siskiyou County Golden Fair Grounds, off of Fairline Road, Rt. 1, Box 500, Yreka, California.

Comments from the public will be taken orally or in writing at the above times and places. In addition to the above meetings, written comments may be submitted to Director (210), Bureau of Land Management, Washington, D.C. by April 5, 1977.

ED HASTEY,
State Director.

FEBRUARY 28, 1977.

[FR Doc.77–6650 Filed 3–4–77;8:45 am]

[43 CFR Part 3800]

WASHINGTON

Public Meeting

Notice is hereby given of a public meeting to obtain public comment pursuant to the publication of the proposed rulemaking on Surface Mining Regulations in the FEDERAL REGISTER December 6, 1976. The Secretary of the Interior has extended the public comment period to April 5, 1977, in an effort to allow additional public involvement and comment.

The public meeting will be held as follows: March 22, 1977, 1:00 p.m., Red Lion Motel, East Interstate Highway 90 and Sullivan Exist, Veradale, Washington 99037 (just outside of Spokane, Washington).

Comments from the public will be taken orally or in writing at the above meeting. In addition to the above meeting, written comments may be submitted to the Director (210), Bureau of Land Management, Washington, D.C., by April 5, 1977.

GEORGE L. TURCOTT,
Acting Director.

MARCH 3, 1977.

[FR Doc.77–6724 Filed 3–4–77; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21126; RM-2720]

FM BROADCAST STATIONS IN PLACERVILLE AND GRASS VALLEY, CALIFORNIA

Proposed Change in Table of Assignments

Adopted: February 23, 1977.

Released: March 1, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Placerville and Grass Valley, California), Docket No. 21126, RM-2720.

1. The Commission has before it a petition filed by Hangtown Broadcasters ("petitioner") proposing the assignment of FM Channel 221A to Placerville, California, as its first FM assignment, and deleting Channel 221A from Grass Valley, California, and replacing it with Channel 232A. No oppositions were filed to the petition. Channel 221A at Grass Valley, approximately 61 kilometers (38 miles) from Placerville, is unoccupied and unapplied for. In order for a Placerville station on Channel 221A to meet the minimum separation requirements of 64 kilometers (40 miles) to Station KFBK-FM (Channel 223) at Sacramento, a site located 3 kilometers (1.9 miles) east of Placerville would be required. As to Channel 232A at Grass Valley, a site located 3 kilometers (1.9 miles) north of the community would be required in order to meet the spacing requirements of 105 kilometers (65 miles) to Station KNGT operating on the same channel at Jackson, California. These restrictions do not present a problem since operating from such locations stations in both communities would be able to provide the required city coverage. However, petitioner should show the preclusionary effect, if any, of assigning Channel 221A to Placerville upon the future assignment of educational stations on Channels 218, 219 and 220.

2. Placerville (pop. 5,416),[1] seat of El Dorado County (pop. 43,833) is located in northern California approxmiately 64 kilometers (40 miles) east of Sacramento and 173 kilometers (108 miles) northeast of San Francisco. It has no local aural broadcast service.

3. In support of its request, petitioner states that the population of El Dorado County has increased 35 percent since 1970 and that an FM assignment at Placerville would provide service to an area of 1,835 square kilometers (708 square miles) with a population of 39,813, according to Pacific Gas and Electric Company records. It asserts that at present there is no medium for rapid dissemination of local news, timely airing of local issues, and promulgation of cultural events and activities. Petitioner claims that an FM station in Placerville would provide the only useful radio service to the thousands of automobiles that travel an all-weather highway connecting Sacramento with the popular resort area of South Lake Tahoe. Petitioner states that, if the proposed channel is assigned, it intends to apply for it and, if granted, will promptly commence service to the area.

4. In view of the apparent need for a local broadcast service in Placerville, and the fact that a substitute channel is available for Grass Valley, without affecting any other existing FM assignment, we believe that consideration of the proposal described above would be in the public interest.

5. Accordingly, it is proposed to AMEND the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as follows for the below named communities:

City	Channel No.	
	Present	Proposed
Placerville, Calif.		221A
Grass Valley, Calif.	221A	232A

6. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained below and are incorporated herein.

7. Interested parties may file comments on or before April 11, 1977, and reply comments on or before May 2, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and Regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promotly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposals(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.77-6704 Filed 3-4-77;8:45 am]

[1] All population figures are taken from the 1970 U.S. Census.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

PRIVACY ACT OF 1974

Additional Routine Use for System of Records

Notice is hereby given that ACTION proposes to amend its notice of systems of records published in 41 FR 238 December 9, 1976, by adding to the Preliminary Statement under the heading Statement of General Routine Uses therein an additional routine use as set forth below:

10. A record from any system of records may be disclosed as a routine use to the National Archives and Records Service, General Services Administration, in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Section 505(c) of the Federal Records Act of 1950 (44 U.S.C. 595(c)) authorizes the Administrator of General Services to inspect or survey, personally or by deputy, the records of any Federal agency, as well as to make surveys of records management and records disposal practices in such agencies.

In keeping with the above authority ACTION will make its records available to the National Archives and Records Service for inspection purposes.

Any person interested in this notice may submit written views, comments, or other data to ACTION/GC, Room 607, 806 Connecticut Avenue NW., Washington, D.C. 20525 on or before April 1, 1977. All written comments received will be available for public inspection at the above address between the hours of 9 a.m. and 5 p.m., Monday through Friday (except holidays).

This notice is issued in Washington, D.C. on March 2, 1977.

SAM BROWN,
Director, ACTION.

[FR Doc.77-6707 Filed 3-4-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Marketing Order No. 905]

SHIPPERS ADVISORY COMMITTEE

Public Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Commitee Act (86 Stat. 770), notice is hereby given of a meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The committee will hold a meeting on March 22, 1977, at 10:30 a.m. in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the meeting includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, and other information pertaining to the meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: March 2, 1977.

WILLIAM T. MANLEY,
Deputy Administrator, Program Operations.

[FR Doc.77-6696 Filed 3-4-77;8:45 am]

Forest Service

SANDY BAY AND HIDDEN FALLS LAKE AQUACULTURE FACILITIES

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for proposed aquaculture facilities at Sandy Bay and Hidden Falls Lake, Tongass National Forest, USDA-FS-R10-DES(Adm)-77-06.

This statement was initiated by two special use permit applications to use National Forest lands for salmon hatchery building sites. Both sites are located on Baranof Island and are within inventoried roadless areas. The hatcheries are expected to contribute to the rebuilding of Southeast Alaska salmon stocks by an increase of 5 to 10 percent in the present salmon harvest.

This draft environmental statement was transmitted to CEQ on February 25, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agricultural Building, Room 3231, 12th St. and Independence Ave. SW., Washington, D.C. 20250.

USDA, Forest Service, Alaska Region, Federal Office Building, Juneau, Alaska 99802.

Forest Supervisor, Chatham Area, Tongass National Forest, Federal Building, Sitka, Alaska 99835.

Forest Supervisor, Stikine Area, Tongass National Forest, Federal Building, Petersburg, Alaska 99833.

Forest Supervisor, Ketchikan Area, Tongass National Forest, Federal Building, Room 313, Ketchikan, Alaska 99901.

A limited number of single copies are available upon request to Forest Supervisor, Chatham Area, Tongass National Forest, P.O. Box 1980, Sitka, Alaska 99835.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Richard M. Wilson, Forest Supervisor, Chatham Area, Tongass National Forest, P.O. Box 1980, Sitka, Alaska 99835. Comments must be received by April 8, 1977 in order to be considered in the preparation of the final environmental statement.

CARL W. SWANSON,
Environmental Coordinator, Alaska Region.

FEBRUARY 25, 1977.

[FR Doc.77-6654 Filed 3-4-77;8:45 am]

Packers and Stockyards Administration

MORGAN LIVESTOCK MARKETING, ET AL.

Posted Stockyards

Correction

In FR Doc. 77-5126, appearing on page 10021, in the issue of Friday, February 18, 1977, in the first column, under the heading *Iowa*, the facility number should read: "IA-253."

CIVIL AERONAUTICS BOARD

[Docket No. 30544]

AIR PANAMA INTERNATIONAL, S.A. ENFORCEMENT PROCEEDING

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., March 1, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-6671 Filed 3-4-77;8:45 am]

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[Docket No. 30543]

BRITISH AIRWAYS BOARD ENFORCEMENT PROCEEDING

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., March 1, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6672 Filed 3-4-77;8:45 am]

[Docket No. 30545]

COMPAGNIE NATIONALE DE TRANSPORTES AERIENS ROYAL AIR MAROC (ROYAL AIR MAROC) ENFORCEMENT PROCEEDING

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., March 1, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6670 Filed 3-4-77;8:45 am]

[Docket No. 30542]

TRANS WORLD AIRLINES, INC. ENFORCEMENT PROCEEDING

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., March 1, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6673 Filed 3-4-77;8:45 am]

[Docket No. 30546]

TRANSPORTURILE AERIENE ROMANE ENFORCEMENT PROCEEDING

Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Arkerakis.

Dated at Washington, D.C., March 1, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-6669 Filed 3-4-77;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

CAPRICE HANDBAGS CO., INC.

Petition For a Determination of Eligibility to Apply for Trade Adjustment Assistance

An amended petition dated February 16, 1977, from Caprice Handbags Company, Inc., 22 West 32nd Street, New York, New York 10001, a producer of handbags and purses, was accepted for filing on February 23, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has resumed its investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration U.S. Department of Commerce, Washington, D.C. 20230, on or before March 17, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-6606 Filed 3-4-77;8:45 am]

National Oceanic and Atmospheric Administration

MARINE MAMMALS

Incidental Taking in the Course of Commercial Fishing Operations

Correction

In FR Doc. 77-5991 appearing in the issue of Tuesday, March 1, 1977 on page 12015, the following corrections should be made:

1. On page 12015, in the 2nd column, the 2nd full paragraph, the 13th line should read, "* * * Protection Agency. A final Supplement * * *".

2. The fifth full paragraph in small type, the 10th line should read: * * * Society of the U.S., International Fund for * * *".

3. On page 12016, in the 1st column, 2nd full paragraph, the 6th line should read. "* * * viewed in the administrative hearing."

4. In the 2nd column, the 1st paragraph, the 3rd line from the bottom, "* * * population estimates in the record are * * *", should be deleted.

5. In the 3rd column, the 5th paragraph, the 2nd line, should read, "* * * an in-depth review of the record and re- * * *".

6. On page 12019, in the 2nd column, the 3rd paragraph, the 8th line should read, "* * * economic feasibility. Weather conditions, * * *".

7. On page 12020, the last paragraph, the 3rd line should read, "* * * in the workshop report. The workshop * * *".

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CORRELATION OF TEXTILE AND APPAREL CATEGORIES WITH THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED

MARCH 2, 1977.

There is published below a list of the Tariff Schedules of the United States Annotated numbers citing changes in the arrangement of the cotton, wool, and man-made fiber textile product categories used by the United States in administering the textile trade agreements program. A full description of the textile products falling within each of the cotton, wool and man-made fiber textile product categories may be obtained by using the Tariff Schedules of the United States Annotated which also provides category placement for the item numbers covered by the program. The list of Tariff Schedules of the United States Annotated numbers published in the FEDERAL REGISTER December 30, 1976 (FR Doc. 76-38255) and amended on January 21, 1977 (42 FR 3888) is hereby amended effective March 1, 1977.

Copies of the complete Correlation with errata sheet are available upon request to the Office of Textiles, BRTA/DIBA, Room 2815, U.S. Department of Commerce, Washington, D.C. 20230.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements and Acting Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

LIST OF THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED NUMBERS SPECIFYING CHANGES IN THE ARRANGEMENT OF TEXTILE CATEGORIES USED BY THE UNITED STATES IN ADMINISTERING THE TEXTILE TRADE AGREEMENTS PROGRAM

Category	Old T.S.U.S.A.	New T.S.U.S.A.	Description
31	366.1860		Towels, other: Terry towels, other than dish:
		366.1855	Bar mops (18" by 20" in length and 15" by 17" in width).
		366.1865	Other.
49	791.7500pt	791.7414	Coats, other, not knit: Coats and jackets of leather.
50	791.7500pt	791.7418	Trousers, slacks, and shorts (outer) men and boy's, not knit: Of leather, men's and boys'.
51	791.7500pt	791.7420	Trousers, slacks and shorts (outer) not knit, Womens', girls', and infants': Of leather, women's, girls', and infants'.
62	791.7500pt	791.7462	Other wearing apparel, knit, not elsewhere specified: Other knit wearing apparel of leather.
63	701.1220	702.1220	Other wearing apparel, not knit, not elsewhere specified: Headwear of cotton, flax or both, not knit.
	791.7500pt	791.7426	Other wearing apparel of leather.
117	791.7500pt	791.7430	Knit wearing apparel, not elsewhere specified., valued over $6/dz: Other wearing apparel of leather.
125	791.7500pt	791.7440	Articles of wearing apparel, not elsewhere specified.: Other articles of wearing apparel of leather.
221	791.7500pt	791.7456	Sweaters and cardigans: Other of leather.
222	791.7500pt	791.7458	Trousers, slacks and shorts: Other of leather.
224	791.7500pt		Other wearing apparel, knit: Other of leather:
		791.7462	Coats and jackets.
		791.7464	Other.
229	791.7500pt	791.7472	Coats, not knit: Other coats of leather.
238	791.7500pt	791.7482	Trousers, slacks and shorts, not knit: Other of leather.
240	791.7500pt	791.7484	Other wearing apparel, not knit: Other wearing apparel of leather.
243	389.0010	389.0210	Man-made fiber manufactures: Tarpaulins and tents.

[FR Doc.77-6648 Filed 3-4-77;8:45 am]

MEXICO

Import Levels for Certain Man-Made Fiber Textile Products

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the levels for body supporting garments (Category 225) and woven trousers (Category 238), both of man-made fibers, exported from Mexico during the twelve-month period which began on May 1, 1976.

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 12, 1975, as amended, between the Governments of the United States and Mexico, provides, among other things, for increases in certain specific category ceilings amounting to seven percent for flexibility and six percent for carryforward during an agreement year. Carryforward is an amount borrowed from the level applicable to the affected category in the succeeding agreement year and is deducted from that year's level. At the request of the Government of Mexico, pursuant to the foregoing provisions of the bilateral agreement, the import levels for Categories 225 and 238 are being increased to 2,180,781 dozen and 1,036,235 dozen, respectively, for the agreement period which began on May 1, 1976 and extends through April 30, 1977.

EFFECTIVE DATE: March 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Edmond Callahan, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230. (202-377-5423).

SUPPLEMENTARY INFORMATION: On May 3, 1976, a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (41 FR 18343), which established import levels for certain specified categories of cotton and man-made fiber textile products, pursuant to the bilateral agreement, during the twelve-month period which began on May 1, 1976. In the letter published below the Commissioner of Customs is directed to increase the twelve-month levels of restraint previously established for Categories 225 and 238 to the amounts indicated.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

MARCH 1, 1977.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: On April 28, 1976, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning May 1, 1976 and extending through April 30, 1977 of cotton and man-made fiber textile products in certain specified categories, produced or manufactured in Mexico, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textile done at Geneva on December 20, 1973, pursuant to paragraphs 6(b) and 7(a)(ii) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 12, 1975, as amended, between the Governments of the United States and Mexico, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective on March 1, 1977, the levels of restraint established for Categories 225 and 238 to the following amounts:

Category	Amended 12-month level of restraint[1]
225	dozen.. 2,180,781
238	do.. 1,036,235

[1] The levels of restraint have not been adjusted to reflect any entries made after Apr. 30, 1976.

The actions taken with respect to the Government of Mexico and with respect to imports of man-made fiber textile products from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions of the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements and Acting Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.77-6647 Filed 3-4-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

PRIVACY ACT OF 1974

Notice of an Amendment of a Record System

In FR Doc. 76-21185 published in the FEDERAL REGISTER (41 FR 31062) of July 26, 1976 and also in Privacy Act Issuances, 1976 Comp. Vol. I, p. 419, the Department of the Air Force set forth a record system as prescribed by Subsections 3(e) (4) and (11) of the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a). This record system is identified as F03004 AFDPMDB, entitled "Ad-

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of May 12, 1975, as amended, between the Governments of the United States and Mexico which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by specified percentages; (2) these levels may be increased for carryover and carry-forward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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vanced Personnel Data System (APDS)–ADS:E300".

Notice is hereby given that the Department of the Air Force is amending this record system. A report for altering this record system was submitted on January 26, 1977 pursuant to the provision of Office of Management and Budget (OMB) Circular No. A–108, Transmittal Memorandum No. 1, dated September 30, 1975 and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974. This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

Following the identification code of the record system and the specific changes made therein, the complete revised record system, as amended, is published in its entirety. Any public comments, including written data, views or arguments concerning the changes should be addressed to the system manager identified in the record system notice on or before April 1977. The system will be effective as proposed without further notice, April 6, 1977, unless comments are received which result in a contrary determination and requiring republication for further comments.

F03004 AFDPMDB

System title. Advanced Personnel Data System, (APDS)–ADS: E300.

CHANGES

System location. Line 5, change "3800 York Street, Denver, CO 80205" to "7300 East First Avenue, Denver, CO 80280."

Line 11, after "offices," add a comma followed by "at central civilian personnel offices (CCPOs)."

Line 20, delete "All Major Command Headquarters (e.g., HQ Strategic Air Command, HQ Aerospace Defense Command) have access to a computer data base containing records on individuals assigned to their command."

Line 33, delete "Headquarters Command/DPD, Bolling AFB, DC 20332."

Line 39, after "09012" add "HQ Alaskan Air Command/DPD, Elmendorf AFB, AK 99506."

Line 44, after "AF/Judge Advocate" add "(AF/Director of Civilian Personnel)."

Line 49, change "3800 York Street, Denver, CO 80205" to "7300 East First Avenue, Denver, CO 80280."

Line 50, after "80205" add "HQ Air Force Reserve, Robins AFB, GA 31093, United States Air Force Academy, Colorado Springs, CO 80840, Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279, Air Force Office of Special Investigations, Washington, DC 20330, Air Force Data Automation Agency, Gunter AFS, AL 36114, Air Force Audit Agency, Norton AFB, CA 92409, Air Force Intelligence Service, Ft. Belvoir, VA 22060, Air Force Inspection and Safety Center, Norton AFB, CA 92409, Air Force Technical Evaluation Center, Kirtland AFB, NM 87117, and Headquarters, United States Air Force, Pentagon, Washington, DC 20330."

Line 54, after "78148" add "Office of Civilian Personnel Operations, Randolph AFB, TX 78148."

Line 54, 57, 59, 60 after "CBPOs" add, "and CCPOs."

Line 63, delete "AUTODIN" and after "vertical system" add "The CBPOs are linked into Major Command and HQ USAF via AUTODIN. Major Commands are linked into HQ USAF via AUTODIN and telecommunications network."

Categories of individuals covered by the system. After Line 6, add "Air Force Civilian Employees."

Add at end, "Prospective, pending current and former Air Force civilian employees, except Air National Guard Technicians and nonappropriated fund employees—current and former civilian employees from other Governmental agencies that are serviced at CCPOs may be included at option of servicing CCPO."

Categories of records in the system. Add at end, "Civilian employment information including authorization for position, personnel data, suspense information; position control information; projected information and historical information; civilian education and training data; performance appraisal, ratings, evaluation of potential; civilian historical files covering job experience, training and transactions; civilian awards information, merit promotion plan work files; career programs files for such functional areas as procurement, logistics, civilian personnel, etc., civilian separation and retirement data for reports and to determine eligibility; adverse and disciplinary data for statistical analysis and employee assistance; standalone file, as for complaints, enrollee programs; extract files from which to produce statistical reports in hard copy, or for immediate access display on remote computer terminals; miscellaneous files, as described in item 26, above."

Authority for maintenance of the system. Add, at end, "For civilian employees—5 US Code 301 and 44 US Code 3101."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses. Add at end, "For civilian personnel—to provide automated system support to Air Force officials at all levels from that part of the Civil Service Commission required personnel management and records keeping system that pertains to evaluation, authorization and position control, position management, staffing skills inventory, career management, training, retirement, employee services, rights and benefits, merit promotion, demotions, reductions in force, complaints resolution, labor management relations, and the suspensing and processing of personnel actions: to provide for transmission of such records between employing activities within the Department of Defense—to provide individual records and reports to the Civil Service Commission: to provide information required by the Civil Service Commission for the transfer between other federal activities to provide reports of military reserve status to other armed services for contingency planning—to obtain statistical data on the work force to fulfill internal and external report requirements and to provide Air Force offices with information needed to plan for and evaluate manpower, budget and civilian personnel programs—to provide minority group designator codes to the United States Civil Service Commission's automated data file—to provide the Office of the Assistant Secretary of Defense—Manpower and Reserve Affairs with data to assess the effectiveness of the program for employment of women in executive level positions—to obtain listings of employees by function or area for locator and inventory purposes by Air Force offices—to assess the effect or probable impact of personnel program changes by simulation and modeling exercises—to obtain employee duty locations and other employee data for personnel program management purposes—to obtain employee duty locations and other information releasable under Civil Service Commission rules and the Freedom of Information Act to respond to requests from Air Force offices—other Federal agencies and the public—to provide individual records to other components of the Department of Defense in the conduct of their official personnel management program responsibilities—to provide records to law enforcement or investigatory authorities for investigation and possible criminal prosecution—civil court action—or regulatory order—to provide records to the Civil Service Commission for file reconciliation and maintenance purposes—and to provide information to employee unions as required by negotiated contracts."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system. Add at end, "In addition, for civilian personnel at base level (CCPO), master personnel files for prospective employees are transfered to the active file upon appointment of the employee or in the event the employee is not appointed and will no longer be considered a candidate for appointment, are destroyed by degaussing-master personnel files for active employees are transferred to the separated employee history file where they are retained for three years subsequent to separation and then destroyed by degaussing. The notification of personnel action—Standard Form 50—is disposed of as directed by the Civil Service Commission—work files and records such as the employee career brief, position survey work sheet, retention register work sheet, alphabetic and social security account number locator files, and personnel and position control register are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning—work sheets pertaining to qualification and retention registers are disposed of as directed by the Civil Service Commission—transitory files such as pending file, automatic digital network file, and recovery file are destroyed after use by degaussing—files and records retrieved through general retrieval systems are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning. Those records at AF Military Personnel Center for the end of each fiscal year quarter are retained for five years before destroying by deletion—the separated employee file retains employee information at time of separation for five years after which the employee's record is destroyed by degaussing."

System manager(s) and address. Add at end, "D. The Civilian Personnel Officer at Air Force installations for civilian systems operated at that level."

Notification procedure. Line 21, after "Military Identification Card", add "Air Force civilian employees must provide SSAN, full name, previous names if any, last date and location of Air Force civilian employment if not currently employed by the Air Force—current employees should submit such requests to their servicing CCPO—former employees of the Air Force should submit such requests to the CCPO for the last Air Force installation at which they were employed."

Record access procedures. Add after "CBPO/CRPO", "/CCPO."

F03004 AFDPMDB

System name:

Advanced Personnel Data System (APDS)—ADS: E300

System location:

At Headquarters United States Air Force, Washington, DC 20330.

At Air Force Military Personnel Center, Randolph Air Force Base, TX 78148.

At Air Reserve Personnel Center, 7300 East First Avenue, Denver, CO 80280.

At headquarters of the major commands and separate operating agencies. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

At consolidated base personnel offices at central civilian personnel offices CCPOs and at consolidated reserve personnel offices.

Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice. The Central Data Processing facility for APDS is operated by the Directorate of Personnel Data Systems, Asst DCS/Personnel for Military Personnel, Headquarters USAF, Randolph AFB, TX, 78148. Remote terminals located within this "Air Force Military Personnel Center" (AFMPC) complex permit authorized users access to the central data base. In addition, remote terminals located at Headquarters of the following Major commands provide direct access to the Central Data Base at Randolph AFB for update and retrieval of data: Hq Air Training Command/DPD, Randolph AFB, TX 78148; Hq Strategic Air Command/DPD, Offutt AFB, NE 68113; Hq Tactical Air Command/DPD, Langley AFB, VA 23365; Hq Aerospace Defense Command/DPD, Ent AFB CO 80912; Hq Air Force Logistics Command/DPM, Wright Patterson AFB OH 45433; Hq Air Force Systems Command/DPD, Andrews AFB, MD 20331; Hq Air University/DPD, Maxwell AFB, AL 36112; Hq Military Airlift Command/DPD, Scott AFB, IL 62225; Hq USAF Security Service/DPD, San Antonio, TX 78243; Hq Air Force Communications Service/DPD, Richards-Gebaur AFB, MO 64030; Hq Air Force Reserve/DPD, Robbins AFB, GA 31093; Hq Pacific Air Force/DPD, APO San Francisco 96553; Hq United States Air Force Europe/DPD, APO New York 09012; Hq Alaskan Air Command/DPD Elmendorf AFB, AK 99506. Certain Air Force Staff Agencies, Separate Operating Activities and other specialized activities are provided remote access to the Central Data Base as required to discharge their respective functions. Remote terminals to support these requirements are found at the following locations: The Forrestal Bldg, (AF/Surgeon General, AF/Judge Advocate) (AF/Director of Civilian Personnel) Washington DC 20314; The Pentagon, (AF/Director of Personnel Plans, AF/Director of Personnel Programs, AF/Reserve Personnel Division, National Guard Bureau/Air Personnel Division, AF/Assistant for Colonels' Assignments) Washington DC 20330; Air Reserve Personnel Center, Director of Personnel Systems, 7300 East First Avenue, Denver, CO. 80280; HQ Air Force Reserve, Robins AFB, GA 31093, United States Air Force Academy, Colorado Springs, CO 80840, Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279, Air Force Office of Special Investigations, Washington, DC 20330, Air Force Data Automation Agency, Gunter AFS, AL 36114, Air Force Audit Agency, Norton AFB, CA 92409, Air Force Intelligence Service, Ft. Belvoir, VA 22060, Air Force Inspection and Safety Center, Norton AFB, CA 92409, Air Force Technical Evaluation Center, Kirtland AFB, NM 87117, and Headquarters United States Air Force, Pentagon, Washington, DC 20330; Washington Area Automated Data Processing Support Office/DPMDQ, Bolling AFB, DC 20332; Hq Air Training Command, Directorate of Student Resources, and Deputy Chief of Staff for Recruiting Service, Randolph AFB, TX 78148; Office of Civilian Personnel Operations, Randolph AFB, TX 79148; Consolidated Base Personnel Offices (CBPO's) and CCPOs located at selected Air Force Bases around the world maintain computer data bases on persons for whom they have a servicing responsibility. In addition, CBPO's and CCPOs can request—by mail or the DOD Automatic Digital Network (AUTODIN) data from the Central Data Base at Randolph AFB, TX. CBPOs and CCPOs do not have direct remote access to the Central Data Base. Official mailing addresses of CBPOs and CCPOs are in the DOD directory in the Appendix to this systems notice. The three APDS processing echelons (Base, Major Command, and Hq USAF) are linked into one vertical system. The CBPOs are linked into Major Command and Hq USAF via AUTODIN. Major Commands are linked into Hq USAF via AUTODIN and telecommunications network. Data items are updated by the office and at the level having primary responsibility for the item in question. Data may be retrieved by the office and at the level having a validated requirement for access to it.

Categories of individuals covered by the system:

Air Force Reserve personnel.
Air National Guard personnel.
Retired Air Force military personnel.
Air Force Academy cadets.
Air Force civilian employees.

Certain surviving dependents of deceased members of the US Air Force and predecessor. Organizations; potential Air Force enlistees; candidates for commission enrolled in college. Level Air Force Reserve Officer Training Corps Programs; Deceased members of the Air Force and predecessor organizations; Separated members of the US Air Force, the Air National Guard (ANG) and Air Force Reserve (USAFR); ANG and USFAR Technicians.

Prospective, pending current and former Air Force civilian employees, except Air National Guard Technicians and nonappropriated fund employees—current and former civilian employees from other Governmental agencies that are serviced at CCPOs may be included at option of servicing CCPO.

Categories of records in the system:

The principal digital record maintained at each APDS operating level is the master personnel record, which contains the following categories of information: 1. Accession data—that data which pertains to an individuals entry into the Air Force. Some examples are: Place of enlistment, source of commission, home of record, date of enlistment, place from which ordered to EAD. 2. Education and training data, describing the level and type of education and training—civilian or military—received by the data subject, for instance: academic education level, major academic specialty, professional specialty courses completed, professional military education received. 3. Utilization data—that information which is used in assigning and reassigning the individual, determining skill qualifications, awarding Air Force Specialty codes, determining duty location and job assignment, screening/selecting individual for overseas assignment, performing strength accounting processes, etc. Examples are: Primary Air Force Specialty code, Duty and Control Air Force Specialty Code, personnel accounting symbol, duty location, up to 24 previous duty assignments, aeronautical rating, date departed last duty station, short tour return date, reserve section, current/last oversea tour. 4. Evaluation Data—data relating to various evaluations performed on members of the Air Force during their career, for example: Officer Effectiveness Report dates and ratings, Airman Performance Report dates and ratings, results of various qualification tests, an Unfavorable Information indicator, and Drug and Alcohol Abuse data. 5. Promotion Data—concerning an individual's promotion history, current grade and/or

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selection for promotion, e.g.: current grade, date of rank and effective date; up to 10 previous grades, dates of rank and effective dates; projected temporary grade, key service dates. 6. Compensation data—although APDS does not deal directly with paying Air Force members, military pay is largely predicated on personnel data maintained in APDS and provided to the Air Force Accounting and Finance Center (AFAFC) as described in ROUTINE USES below. Among these data are: Pay date, Aviation Service Code, sex, grade, proficiency pay status. 7. Sustentation data—information dealing with programs provided or actions taken to improve the life, personal growth and morale of Air Force members. In this category are such items as: awards and decorations, marital status, number of dependents, religious denomination of member and spouse, race relations education. 8. Separation and retirements data, which identifies an individual's eligibility for and reason for separation, using items such as: date of separation, mandatory retirement date, projected or actual separation program designation and character of discharge. At the central processing site (AFMPC), a number of subsidiary files or processes are operated. Although some may be called 'systems', they are in fact integral parts of APDS, and function as such. 1. Procurement Management Information System (PROMIS)—is an automated system designed to enable the USAF to exercise effective management and control of the personnel procurement personnel required to meet the total scheduled manpower requirements necessary to accomplish the Air Force mission. The system provides the recruiter with job requirement data such as necessary test scores, Air Force Specialty Code, sex, date of enlistment; and the recruiter enters personnel data on the applicant—SSAN, name, date of birth, etc.—to reserve the job for him or her. 2. Career Airman Reenlistment Reservation System (CAREERS)—is a selective reenlistment process that manages and controls the numbers by skill of first-term airmen that can enter the career force to meet established objectives for accomplishing the Air Force mission. A process and to recruit and enlist the quantity and quality of prior and non-prior service centralized data bank contains the actual number, by quarter, for each Air Force Specialty Code (AFSC) that can be allowed to reenlist during that period. The individual requests reenlistment by stating his eligibility (AFSC, grade, active military service time, etc). If a vacancy exists, a reservation—by name, SSAN, etc—will be made and issued to the CBPO processing the reenlistment. 3. Airman Accessions—provides the process to capture a new enlistee's initial personal data (entire personnel records) to establish that person's personnel data record and gain it to the Master Personnel File, whereby it will add to the strength of the Air Force. The initial record data is captured through the established interface with the Processing and Classification of Enlistees System (PACE) at Basic Military Training, Lackland AFB for non-prior service; For prior service enlistees the basic data (Name, SSAN, DOE, Grade, etc.) is input directly by USAF Recruiting Service and updated and completed by the initial gaining CBPO. 4. Office Acessions—is the process whereby each of the various Air Force sources of commissions (AF Academy, AFROTC, Office Training School, etc.) project their graduates in advance allowing management to select by skill, academic specialty, etc. which and how many will be called to active duty when, by entering into the record an initial assignment and projected entry onto Active Duty date. On that date the individual's record is accessed to the active Master Personnel File and gained to the strength of the Air Force. 5. Technical Training Management Information System (TRAMIS) is a system dealing with the Technical Training activities controlled by Air Training Command. The purpose of the system is to integrate the training program, quota control and student accounting into the personnel data system. TRAMIS consists of numerous files which constitute 'quota banks' of available training spaces, in specific courses, projected for future use based on estimated training requirements. Files include such data as: Course Identification Numbers, Class Start and Graduation Dates, Length of Training, Weapon System Identification, Training Priority Designators, Responsible Training Centers, Trainee Names, SSAN (and other pertinent personnel data) on individuals scheduled to attend classes. 6. Training Pipeline Management Information System (TRAPMIS) is an automated quota allocating system which deals with specialized combat aircrew training and aircrew survival training. Its files constitute a 'quota bank' against which training requirements are matched and satisfied and through which trainees are scheduled in 'pipeline' fashion to accoinmodate the individual's scheduled geographical movement from school to school to end assignment. Files contain data concerning the courses monitored as well as Names, SSAN's and other pertinent personnel data on members being trained. 7. Air Force Institute of Technology (AFIT) Quota Bank File. This file reflects the AFIT program quotas by academic specialty for each fiscal year (current plus two future fiscal years, plus the past fiscal year programs for historical purposes). Also, this file reflects the total number of quotas for each academic specialty. Officer assignment transactions process against the AFIT Quota Bank file to reflect the fill of AFIT Quotas. Examples of data maintained are: Academic Specialty, Program Level, Fiscal Year, Name of Incumbent selected, projected, filing AFIT Quota. 8. Job File. The Job File is derived from the Authorization Record and is accessible by Position Number. Resource managers can use the Job File to validate authorizations by Position Number for assignment actions and also to make job offers to individual officers. Internal suspensing within the Job File occurs based upon Resource Managers update transactions. Data in the file includes: Position Number, Duty AFSC, Functional Account Code, Program Element, Location, and name of incumbent. 9. Casualty subsystem is composed of a number of transactions which may be input at Headquarters Air Force and/or CBPO's to report death or serious illness of members from all components. A special file is maintained in the system to record various information on individuals on whom death has occurred. Besides basic identification data unique data such as country of occurrence, date of incident, casualty group, aircraft involved in the incident and military status are recorded and maintained in this file. 10. Awards/Decorations: Awards/Decorations are recorded and maintained on all component personnel in the headquarters Air Force master files. All approved decorations are input at CBPO's whereas disapproved decorations are input at MAJCOM/HAF. A decorations statistical file is built at AFMPC which reflects an aggression of approvals/disapprovals by category of decoration. This file does not reflect any individually identifiable data. All individually identifiable data on decorations is maintained in the Master Personnel File. Such information as the type of decoration, awarding authority, special order number and date of award are identified in an individual record. Seven occurences for all decorations are stored; however only specific data on the last decoration of a particular type is maintained. 11. Point Credit Accounting and Reporting System (PCARS). This system is an Air National Guard/Air Force Reserve Unique supported by APDS. Its basic purpose is to maintain and account for retirement/retention points accrued as a result of participating in Drills/Training. The system stores basic personal identification data which is associated with a calendar of points earned by participation in various elements of the Reserve program. Each year an individual's record is closed and point totals are accumulated in history and a point earning statement is provided the individual and various records custodians. 12. Human Reliability/Personnel Reliability File: This file is maintained at Headquarters Air Force in support of AFM 35–98 and AFR 35–99. It is not part of the Master Personnel Files but a free standing file which is updated by transactions from CBPO's. The file was established to specifically identify individuals who have become permanently disqualified under the provisions of the above regulations. A record is maintained on each disqualified individual which includes basic identification data, service component, Personnel/Human reliability

status and date, and reason for disqualification. 13. Variable Incentive Pay (VIP) File for medical officers: Contains about 125 character record on all Air Force physicians and is specifically used to identify whether the individual is participating in the Continuation Pay or Variable Incentive Pay programs. Update to this file is provided by the Surgeon (AFMPC), the Air Force Accounting and Finance Center and directly from changes to the Master Personnel File. Besides basic identification data on individual's record includes source of appointment, graduate medical location status, amount of VIP or Continuation Pay and the dates of authorization and the dates and reason for separation. 15. Weighted Airman Promotion System: (a) The Test Scoring and Reporting Subsystem (TSRS) encompasses: Identifying at the CBPO individuals eligible for testing; providing output to the Base Test Control Officer and the CBPO to control, monitor, and operate WAPS testing functions; editing and scoring WAPS test answer cards at AFMPC; providing output for maintaining historical and analytical files at AFMPC and the Human Resources Laboratory (HRL) and includes the central identification at AFMPC of individuals eligible for testing. (b) The Personnel Data Reporting Subsystem (PDRS) provides for: identifying promotion eligibles at AFMPC; verifying these eligibles and selection promotion data; merging test and weighted promotion data at AFMPC to effect promotion scoring, assigning the promotion objective and aligning selectees in promotion priority sequence; maintaining projections on promotion selectees at AFMPC, MAJCOM, and the CBPO; updating these projections monthly; creating output products to monitor the flow of data in the system; maintaining promotion historical and analytical files and reports at AFMPC. (c) Basically, identification data along with time in grade, test scores, decoration information, time in service, and airman performance report history is used to support this program. 16. Retired Personnel Data System (RPDS) is made up of four files—Retired Officer Management File and Retired Airman Management File containing records on members in retired status and the Retired Officers and Airman Loss Files containing records on former retirees who have been lost from rolls, usually through death. The RPDS is used to produce address listings for the Retired Newsletter and Policy letter, statistical reports for budgeting, to manage the Advancement Program, The Temporary Disability Retired List, Age 59 rosters for ARPC, General Officer roster, and statistical digest data for management analysis functions. Data is extracted from the master files upon retirement from Active Duty or Reserves. Data includes: Name, SSAN, Grade data, service data, Education data, Retirement data and address. 17. Separated Officer File contains historical information on officers who leave the Air Force via separation, retirement, or death. Copies are sent to Human Resources Lab and Washington offices for research purposes. The data comprises the Master Personnel Record in its entirety and is capture 30 to 60 days after separation from the Air Force. 18. Airman Gain/loss File includes data extracted from the Airman Master file when accession and separation (gains and losses) occur. This file, like the Separated Officer File, is used for historical reports regarding strength changes. Data includes Name, SSAN, and other data that reflects strength, i.e., promotions, reassignment data, specialty codes, etc. 19. Officer and Airman Separation Subsystem is used to process, track, approve, disapprove and project separations from the Air Force and transfers between components of the Air Force. This subsystem uses the Active, Guard, and Reserve MPFs. Data used includes that specifically related to separations, e.g., Date of Separation, Separation Program Designator, waivers, etc. 20. The Retirements Subsystem is used to process and track applications for and approval/disapproval and projections of retirements. This subsystem uses the Master Files for Active Duty and Reserve officers and airmen. Data specifically related to retirements includes application data, date of separation, waiver codes, disapproval reason codes, Separation Program Designator, Title 10 United States Code section, etc. 21. Retired Orders Log is generated by the computer-produced retirement orders routine. Orders are automatically produced when approval, verification of service dates, and physical clearance have been entered in system. The orders log contains data found in administrative orders for retirement, including name, SSAN, grade, order number, effective dates, etc. The log is used to control assignment of order number, and as a crossreference between orders, revocations, and amendments. 22. General Officer Subsystem of APDS. The General Officer Subsystem of APDS contains data extracted from the Master Personnel File and language qualification data and assignment history data maintained by the Assistant for General Officer matters. A record is maintained on each general officer and general officer selectee. The general officer files is updated monthly and is used to produce products used in the selection/identification of general officers for applicable assignments. 23. Officer Structure Simulation Model (OSSM). The Officer Structure and Simulation Model is a capability which provides officer force descriptions in various formats for existing, predictive or manipulated structures. It functions as a planning tool against which policy options can be applied so as to determine the impact of such policy decisions. The OSSM input records contain individual identifiable data from the Master Personnel Record, but all output is statistical. 24. Widow's File. This file is maintained on magnetic tape and updated by the Office of Primary Responsibility. When required, address labels and listings are produced by employing selected APDS utility programs. The address labels are used to forward the Retired Newsletter to widows of active duty and retired personnel. The listings are used for management control of the program. Contained in the file are the name, address, and SSAN of the widow. Additionally, the deceased sponsor's name, SSAN, date of death, and status at time of death are maintained. 25. Historical Files. Files with a retention period of 365 days or more are designated historical files. They consist of copies of active master files, and are used primarily for aggregation and analysis of statistical data, although individual records may be accessed to meet ad hoc requirements. 26. Miscellaneous files, records, and processes. In this category are a number of work files, inactive files with a less-than-365-day retention period, intermediate records, and processes relating to statistical compilations, computer operation, quality control and problem diagnosis. Although they may contain individual-identifying data, they do so only as a function of system operation, and are not used in making decisions about people. Civilian employment information including authorization for position, personnel data, suspense information; position control information; projected information and historical information; civilian education and training data; performance appraisal, ratings, evaluations of potential; civilian historical files covering job experience, training and transactions; civilian awards information; merit promotion plan work files; career programs files for such functional areas as procurement, logistics, civilian personnel, etc., civilian separation and retirement data for reports and to determine eligibility; adverse and disciplinary data for statistical analysis and employee assistance; stand alone files, as for complaints, enrollee programs; extract files from which to produce statistical reports in hard copy, or for immediate access display on remote computer terminals; miscellaneous files, as described in item 26, above.

Authority for maintenance of the system:

10 USC, Chapter 11, Reserve Components. Section 265—policies and regulations: paraticipation of reserve officers in preparation and administration: 269—Ready reserve: placement in; transfer from: 275—Personnel records; 278—Dissemination of information. 10 USC Chapter 13, The Militia, Section 279—Training Reports. 10 USC, Chapter 31, Enlistments, Sections 504—Persons not qualified: 505—Regular components: qualifications, term, grade; 506—Regular components: extension of enlistments during war; 507—Extension of enlistment for members needing medical care or hospitalization; 508—Reenlistment: qualifications; 509—Voluntary extension of enlistments: periods and benefits; 510—Reserve components: qualifications; 511—Reserve components: terms; 512—Reserve components: transfers. 10 USC Chapter 33, Appointments in Regular Components, Section 564—Warrant officers: effect of second failure of pro-

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motion. 10 USC Chapter 35, Appointments as Reserve Officers, Section 593—Commissioned officers: appointment, how made: term. 10 USC Chapter 37, General Service Requirements, Section 651—Members: required service. 10 USC Chapter 39, Active Duty, Sections 671—Members not to be assigned outside US before completing training; and 673—Ready reserve. 10 USC Chapter 47, Uniform Code of Military Justice, Sections 835—Art. 35. Service of Charges: 837—Art. 37. Unlawfully inflencing action of court; 885—Art. 85. Desertion; 886—Art. 86. Absence without leave; 887—Art. 87. Missing movement; 972—Enlisted members: required to make up time lost. 10 USC Chapter 51, Reserve components: standards and procedures for retention and promotion, Section 1005—Commissioned officers: retention until completion of required service. 10 USC Chapter 59, Separation, Sections 1163—Reserve components: members; limitations on separation; 1164—Warrant officers; separation for age; 1166—Regular warrant officers: elimination for unfitness or unsatisfactory performance. 10 USC Chapter 61, Retirement—Physical disability. 10 USC Chapter 63, Retirement for Age, Section 1263—Age 62: Warrant officers. 10 USC Chapter 65, Retirement for Length of Service, Sections 1293—Twenty years or more: warrant officers; 1305—Thirty years or more: regular warrant officers. 10 USC Chapter 67, Retired pay, Sections 1331—Computation of years of service in determining entitlement to retired pay; 1332—Age and service requirements; 1333—Computation of years of service in computing retired pay. 10 USC Chapter 79, Correction of Military Records. 10 USC Chapter 165, Accountability and responsibility, Section 2771—Final settlement of accounts: deceased members. 10 USC Chapter 803, Department of the Air Force, Section 8012—Secretary of the Air Force: powers and duties: delegation by: compensation. 10 USC Chapter 805, The Air Staff, Sections 8032—General duties; and Section 8033—Reserve components of Air Force; policies and regulations for government for government of: functions of National Guard Bureau with respect to Air National Guard. 10 USC Chapter 831, Strength, Section 8224—Air National Guard of the United States. 1-USC Chapter 833, Enlistments, Sections 8251—Definition; 8252—Temporary enlistments; 8253—Air Force: persons not qualified; 8256—Regular Air Force: qualifications, term, grade; 8257—Regular Air Force: aviation cadets: qualifications, grade limitations; 8258—Regular Air Force; reenlistment after service as an officer; 8259—Air Force Reserve: transfer from Air National Guard of United States; 8260—Air Force Reserve: transfer to upon withdrawal as member of Air National Guard; 8261—Air National Guard of United States; 8262—Extension of enlistment for members needing medical care or hospitalization; 8263—Voluntary extension of enlistment. 10 USC Chapter 835, Appointments in the Regular Air Force, Sections 8284—Commissioned officers: appointment, how made; 8285—Commissioned officers: original appointment; qualifications; 8296—Promotion lists: promotion-list officer defined; determination of place upon transfer or promotion; 8297—Selection boards; 8303—commissioned officers: effect of failure of promotion to captain, major, or lieutenant colonel. 10 USC Chapter 837, Sections 8360—Commissioned officers: promotion service; 8362—Commissioned officers: selection boards; 8363—Commissioned officers: selection boards; general procedures; 8366—Commissioned officers: promotion to captain, major or lieutenant colonel; 8376—Commissioned officers: promotion when serving in temporary grade higher than reserve grade. 10 USC Chapter 839, Temporary Appointments, Sections 8442—Commissioned officers; regular and reserve components: appointment in higher grade; 8447—Appointments in commissioned grade: how made; how terminated. 10 USC Chapter 841, Active Duty, Section 8496—Air National Guard of United States: commissioned officers; duty in National Guard Bureau. 10 USC Chapter 853, Rights and benefits, Section 8691—Flying officer rating: qualifications. 10 USC Chapter 857, Decorations and Awards, Sections 8741—Medal of Honor: award; 8742—Distinguished service cross: award; 8743—Distinguished service medal: award; 8746—Silver star: award; 8749—Distinguished flying cross: award; limitations; 8751—Service medals: issue, replacement; availability of appropriations. 10 USC Chapter 859, Separation, Sections 8786—Officer considered for removal: voluntary retirement or honorable discharge; severance benefits; 8796—Officers considered for removal: retirement or discharge. 10 USC Chapter 863, Separation or Transfer to Retired Reserve, sections 8846—Deferred Officers; 8848—28 years: reserve first lieutenants, captains, majors, and lieutenant colonels; 8851—Thirty years or five years in grade: reserve colonels and brigadier generals; 8852—Thirty-five years or five years in grade: reserve major generals; 8853—Computation of years of service. 10 USC Chapter 865, Retirement for Age, Sections 8883—Age 60; regular commissioned officers below major general; 8884—Age 60; regular major generals whose retirement has been deferred; 8885—Age 62; regular major generals; 8886—regular major generals whose retirement has been deferred. 10 USC Chapter 867, Retirement for Length of Service, Sections 8911—Twenty years or more; regular or reserve commissioned officers; 8913—Twenty years or more: deferred officers not recommended for promotion; 8914—twenty to thirty years: regular enlisted members; 8915—Twenty-five years: female majors except those designated under section 8067 (a)–(d) or (g)–(i) of this title; 8916—twenty-eight years: promotion-list lieutenant colonels; 8917—Thirty years or more: regular enlisted members; 8918—Thirty years or more: regular commissioned officers; 8921—Thirty years or five years in grade: promotion-list colonels; 8922—Thirty years or five years in grade: regular brigadier generals; 8923—Thirty-five years or five years in grade: regular major generals; 8924—Forty years or more: Air Force officers. 10 USC Chapter 901, Training generally, Sections 9301—Members of Air Force: detail as students, observers and investigators at educational institutions, industrial plants, and hospitals; and 9302—Enlisted members of Air Force: schools. 10 USC Chapter 903, United States Air Force Academy, Sections 9342—Cadet: appointment; numbers, territorial distribution; 9344—Selection of persons from Canada and American Republics; 9345—Selection of Filipinos. 32 USC Chapter 1, Organization, sections 102—General policy; and 104—units: location; organization; command. 32 USC Chapter 3, Personnel, Section 307—Federal recognition of officers: examination, certification of eligibility. 32 USC Chapter 7, Services, supplies, etc., Section 709—Caretakers and clerks. 37 USC Chapter 3, Basic Pay, Section 308—Special pay: reenlistment bonus; 313—Special pay: medical officers who execute active duty agreements. 37 USC Chapter 7, Allowances, Section 407—Travel and transportation allowances: dislocation allowance. 37 USC Chapter 10. For civilian employees—5 USC 301 and 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The Air Force operates what is essentially a centralized personnel management system in an environment that is widely dispersed geographically and encompasses a population that is quite diverse in terms of qualifications, experience, military status and needs. There are three major centers of Air Force personnel management: Washington, D.C., where most major policy and long-range planning/programming decisions are made; the Air Force Military Personnel Center at Randolph AFB, Tx., which performs most personnel operations-type functions for the active duty components of the force; and the Air Reserve Personnel Center at Denver Co., which performs certain operational functions for the Reserve components of the force. Offices at Major Command Headquarters, State Adjutant General, and Air Force Bases perform operational tasks pertaining to the population for which they are responsible. The structure of the Air Force and its personnel management system, the composition of the force, and the Air Force's stated objective of treating its people as individuals, i.e., giving due consideration to their desires, needs and goals, demand a dynamic data system that is capable of supporting the varying needs of the personnel managers at each echelon and operating locations. It is to this purpose that the data in the Advanced Personnel Data System is collected, maintained, and used. A. ROUTINE USES WITHIN THE AIR FORCE - INTERNAL TO THE PERSONNEL COMMUNITY: HQ USAF, WASHINGTON, DC: Deputy Chief of Staff, Personnel and his immediate staff; Director of Personnel Plans; Director of Personnel Programs; Assistant for General Officer Matters; Assistant for Colonel Assignments; Reserve Personnel Division; Air National Guard Division; and The Surgeon General, the Chief of

government motor vehicles and selected personnel data items (basic identification data) will be authorized for access by the vehicle operator managers. The base Chief of Transportation will be responsible for accuracy of this data and will be the responsible official for actions associated with the Privacy Act of 1974. d. Monthly, a magnetic tape is extracted from BLMP containing selected assignment data on all asigned personnel. This tape is transferred to the base Accounting and Finance Office for input into the Accounting Operations Svstem. This system uses these data to derive aggregate base manpower cost data. e. A procedure is designed into BLMPS to output selected background data in a pre-defined printed format for personnel being administered military justice. This output is initiated upon notification by the base legal office. The data is forwarded to the major command where it is input into the Automated Military Analysis and Management System (AMJAMS). f. The BLIMPS output (on an event-oriented basis) pay-affecting transactions such as certain promotions, accessions, and assignments/reassignments, to AFAFC, where the data is entered into the JUMPS. C. ROUTINE USES EXTERNAL TO THE AIR FORCE, TO THE OFFICE OF THE SECRETARY OF DEFENSE (OSD). Individual information is provided to offices in OSD on a recurring basis to support top-level management requirements within the Department of Defense. Examples are the DOD Recruiter File to the Assistant Secretary for Manpower and Reserve Affairs (M&RA), a magnetic tape extract of military personnel records (RCS: DDM(SA)1221) to M&RA, input to the Reserve Component Common Personnel Data System to M&RA, and the Post Career Data File to M&RA. 2. TO OTHER DEFENSE AGENCIES. APDS supports other components of DOD by provision of individual data in suport of programs operated by those agencies. Examples are the Selected Officer List to the Defense Intelligence Agency for use in monitoring a classified training program and the Defense System Management School (DSMS) Track Record System to DSMS for use in evaluating the performance of graduates of that institution. An extract file on Air National Guard Technicians is provided the National Guard Computer Center. 3. OTHER GOVERNMENT/QUASI-GOVERNMENT AGENCIES. Information used in analysing officer/airman retention is provided RAND Corporation. Data or prior service personnel with military service obligations is forwarded to the National Security Agency. Lists of officers selected for promotion and/or appointment in the Regular Air Force are sent to the Office of the President and/or the Congress of the United States for review and confirmation. Certain other personnel information is provided these and other government agencies upon request when such data is required in the performance of official duties. Selected personnel data is provided foreign governments, US governmental agencies, and other Uniformed Services on USAF personnel assigned or attached to them for duty. Examples: the government of Canada, Federal Aviation Administration, US Army, Navy, etc.) 4. LITIGATION. Information from APDS may be used in litigation in the event that the United States, its officers, or its employees are involved in the litigation. 5. MISCELLANEOUS. Lists of individuals selected for promotion or appointment, who are being reassigned, who die, or who are retiring are provided to unofficial publications such as the Air Force Times, along with other information of interest to the general Air Force public. Information from APDS support a world-wide locator system which responds to queries as to the location of individuals in the Air Force. Material for preparing mailing labels is furnished commercial publishing or mailing firms working under contract to the Air Force who print or mail quasi-official publications to specified portions of the Air Force population, e.g., retired personnel, widows, etc. Locator information pertinent to personnel on active duty may be furnished to a recognized welfare agency such as the American Red Cross or the Air Force Aid Society. For civilian personnel—to provide automated system support to Air Force officials at all levels from that part of the Civil Service Commission required personnel management and records keeping system that pertains to evaluation, authorization and position control, position management, staffing skills inventory, career management, training, retirement, employee services, rights and benefits, merit promotion, demotions, reduction in force, complaints resolution, labor management relations, and the suspensions and processing of personnel actions: to provide for transmission of such records between employing activities within the Department of Defense—to provide individual records and reports to the Civil Service Commission: to provide information required by the Civil Service Commission for the transfer between Federal activities: to provide reports of military reserve status to other armed services for contingency planning—to obtain statistical data on the work force to fulfill internal and external report requirements and to provide Air Force offices with information needed to plan for and evaluate manpower, budget and civilian personnel programs—to provide minority group designator codes to the United States Civil Service Commission's automated data file—to provide the Office of the Assistant Secretary of Defense—Manpower and Reserve Affairs with data to access the effectiveness of the program for employment of women in executive level positions—to obtain listings of employees by function or area for locator and inventory purposes by Air Force offices—to assess the effect or probable impact of personnel program changes by simulation and modeling exercises—to obtain employee duty locations and other employee data for personnel program management purposes—to obtain employee duty locations and other information releasable under Civil Service Commission rules and the Freedom of Information Act to respond to request from Air Force offices—other Federal agencies and the public—to provide individual records to other components of the Department of Defense in the conduct of their official personnel management program responsibilities—to provide records to law enforcement or investigatory authorities for investigation and possible criminal prosecution—civil court action—or regulatory order—to provide records to the Civil Service Commission for file reconciliation and maintenance purposes—and to provide information to employee unions as required by negotiated contracts.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visible file binders/cabinets.

Maintained in card files.

Maintained on computer magnetic tapes.

Maintained on disks or drums.

Maintained on computer paper printouts.

Maintained on microfiche.

Retrievability:

Filed by Name.

Filed by Social Security Account Number (SSAN).

Filed by other identification number or system identifier.

The primary individual record identifier in APDS is SSAN. Some files are sequenced and retrieved from by other identifiers; for instance, the assignment action record is identified by an assignment action number. Additionally, at each echelon there exists computer programs to permit extraction of data from the system by constructing an inquiry containing parameters against which to match and select records. As an example, an inquiry can be written to select all Captains who are F–15 pilots, married, stationed at Randolph AFB, who possess a master's degree in Business Administration; then display name, SSAN, number of dependents and duty location. There is the added capability of selecting an individual's record or certain pre-formatted information by SSAN on an immediate basis using a teletype or cathode ray tube display device. Highspeed line printers located in the Washington, D.C. area, at Major Command Headquarters and at ARPC permit the transmission of high volume products to and for the use of Personnel managers at those locations.

Safeguards:

Records are accessed by custodian of the record system.

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

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AF Chaplains and the Staff Judge Advocate, each of which perform certain Personnel functions within their area of responsibility. Data from the central data base at the AFMPC is furnished Washington area agencies by retrieval from the computer at Randolph via remote access devices and by provision of recurring products containing required management information, including computer tape files which are used as input to unique systems with which APDS interfaces. Although most of the data is used by policy makers to develop long-term plans and programs and track progress toward established goals, some individual data is provided/retrieved to support actions taken on certain categories of persons managed by offices in the headquarters e.g. General Officers, Colonels, Air National Guard personnel, etc. AIR FORCE MILITARY PERSONNEL CENTER (AFMPC), RANDOLPH AFB, TX. Personnel managers at AFMPC use the data in APDS to make decisions on individual actions to be taken in areas such as personnel procurement, education and training, classification, assignment, career development, evaluation, promotion, compensation, casualty and personal affairs, separation and retirement. AIR RESERVE PERSONNEL CENTER (ARPC), DENVER, COLORADO. Personnel managers at ARPC perform many of the same functions for the Reserve components of the Air Force as the managers at AFMPC perform for the active duty force. As with the Washington area, ARPC obtains data from the central data base at AFMPC by retrieval through remote terminals and recurring output products containing information necessary to their management processes. MAJOR COMMAND HEADQUARTERS. Standard major command headquarters personnel operations are supported by the standard content of APDS records provided them by AFMPC. In addition, there is provided in the APDS record an 'add-on' area which the commands are authorized to use for the storage of data which will assist them in fulfilling unique personnel management requirements generated by their mission, structure, geographical location, etc. The standard functions performed fall generally under the same classifications as those in AFMPC, e.g., assignment, classification, separation, etc. Non-standard usages include provisions of unique aircrew data, production of specially-tailored name listing, control of theatre oriented training, etc. Some commands use APDS data—both standard and add-on as input to unique command systems, which are separately described in the FEDERAL REGISTER. CONSOLIDATED BASE PERSONNEL OFFICES (CBPO). CBPOs, which represent the base-level aspect of APDS, are the prime point of system-to-people interface. Supplied with a standard data base and system, CBPOs provide personnel management support to commanders and supervisors on a daily basis. Acting on receipt of data from higher headquarters, primarily by means of transactions processed through APDS, they notify people of selection for reassignment, promotion, approval/disapproval of requests for separation and retirement, and similar personnel actions. When certain events occur on an individual at the local level, e.g., volunteer for overseas duty, reduction in grade, change in marital status, application for retirement, etc., the CBPO enters transactions into the vertical system to transmit the requisite information to other management levels and update the automated records resident at those levels. CBPOs too are alloted an 'add'-on area in the computer record which they use to support local management unique requirements such as local training scheduling, unique locator listing, urinalysis testing scheduling, etc. B. ROUTINE USES WITHIN THE AIR FORCE—EXTERNAL TO THE PERSONNEL COMMUNITY I. HEADQUARTERS USAF/AFMPC INTERFACES: Automated interfaces exist between the APDS centrol site files and the following systems of other functions: a. The Flight Records Data System (FRDS) maintained by the Air Force Inspection and Safety Center (AFISC) at Norton AFB, CA. (1) Certain personnel identification data on rated officers is transferred monthly to the FRDS. This data flow creates the basic identifying data in the FRDS, insures compatability with the APDS, and precludes duplicative data collection and input generation by the AFISC. (2) Update of the personnel data to the FRDS generates return flow of flying hour data which is used at AFMPC for rated resource distribution management. b. The Master Military Pay Account (MMPA), is the Joint Uniform Military Pay System (JUMPS) centralized pay file maintained by the Air Force Accounting and Finance Center (AFAFC) at Denver, CO. The APDS transfers certain pay related data as changes occur to update the MMPA, e.g., promotions, accessions, separations/retirements, name, SSAN, grade. These data provide criteria for the AFAFC to determine specific pay entitlements. c. The AFAFC maintains a separate pay system for Air National Guard and Air Force Reserve personnel called the Air Reserve Pay and Allowances System (ARPAS). (1) APDS outputs certain pay related data to ARPAS as changes occur, e.g., retirements/separations, promotions, name, SSAN, grade. These data form the criteria for the AFAFC to determine specific Reserve pay entitlements. (2) ARPAS outputs data which affect accumulated point credits for Air National Guard/Reserve participation to AFMPC for update of the Point Credit Accounting and Reporting System (PCARS), a component of APDS. PCARS also receives monthly input from Hq Air University which updates point credits as a result of completing an Extension Courses Institute correspondence program. d. AFAFC provides data on Variable Incentive Pay (VIP) for Medical Officers which is used to update a special control file within APDS and produce necessary reports for management of the VIP program. e. Air Training Command operates a system called PACE (Processing and Classification of Enlistees) at Lackland AFB TX. From that system data is fed to AFMPC to initially establish the APDS record on an Air Force enlistee. f. On a monthly basis, copies of the APDS master Personnel File are provided to the Human Resources Laboratory at Brooks AFB, TX, where they are used as a statistical data base for research purposes. g. On a quarterly basis, AFMPC provides the USAF School of Aerospace Medicine with data concerning name, SSAN and changes in base and command of assignment of flying personnel. The data reflects significant medical problems in the flying population. h. A complete printout of APDS data pertaining to an individual is included in his Master Personnel Record when it is forwarded to National Personnel Records Center. i. APDS data is provided to the Contingency Planning Support Capability (CPSC) at seven major command headquarters: Tactical Air Command, Strategic Air Command, Military Airlift Command, Aerospace Defense Command, Air Force Communications Service, United States Air Forces, Europe, and Pacific Air Forces. A record identifiable by individual's name and SSAN provides contingency and/or manning assistance temporary duty (TDY) being performed by the individual. Record is destroyed upon completion of the TDY. Statistical records (gross statistics by skill and unit) are also generated for CPSC from APDS providing force availability estimates. CPSC is described separately in the FEDERAL REGISTER. 2. BASE LEVEL (CBPO) INTERFACES: Certain interfaces have been established at base level to pass data from one functional system to another. The particular mode of interface depends on the needs of the receiving function and the capabilities of the system to produce the necessary data: a. The Flight Management Data System (FMDS) receives an automated flow of selected personnel data on flying personnel as changes occur. This data consists primarily of assignment data and service dates which the base flight manager uses to determine appropriate category of aviation duty which is reflected by designation of an Aviation Service Code. The FMDS outputs aviation service data as changes occur to the BLMPS. These data subsequently flow to the APDS central site files at AFMPC so it is available for resource management decisions. b. The Medical Administration Management System (MAMS), currently being developed and tested, will receive flow of selected assignment data as changes occur for personnel assigned to medical activities. MAMS will use these data to align assigned personnel with various cost accounting work centers within the medical activity and thus be able to track manpower expenditure by sub-activities. c. The Automated Vehicle Operator Record (AVOR) is being developed to support motor vehicle operator management. Approximately 115 characters of vehicle operator data will be incorporated into the BLMPS data base during FY76 for both military and civilian personnel authorized to operate

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know.

Records are accessed by commanders of medical centers and hospitals.

Records are stored in security file containers/cabinets.

Records are stored in safes.

Records are stored in vaults.

Records are stored in locked cabinets or rooms.

Records are protected by guards.

Records are controlled by personnel screening.

Records are controlled by visitor registers.

Records are controlled by computer system software.

Retention and disposal:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

Preceding retention statement applies to Analog output products of the Advanced Personnel Data System. Data stored digitally within system is retained only for the period required to satisfy recurring processing requirements and/or historical requirements. Files with a retention period of 364 days or less are automatically released at the end of their specified retention period. 'Permanent history' files are retained for 10 years. Files 365 or more days old are defined as 'historical files' and are not automatically released. Retention periods for categories of APDS files are as follows: If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next daily, then the retention will be not greater than 10 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next daily, which is also used for processing of weekly runs, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next weekly, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next weekly, which is also used for processing of monthly runs, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is weekly, and the created magnetic tape file will be used for processing of next weekly, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is weekly, and the created magnetic tape file will be used for processing of next weekly, which is also used for processing of monthly runs, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of quarterly runs, then the retention will be not greater than 90 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of Semi-Annual run, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of annual runs, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, then the retention will be not greater than 90 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of semi-annual run, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is semi-annual, and the created magnetic tape file will be used for processing of next semi-annual, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is semi-annual, and the created magnetic tape file will be used for processing of next semi-annual, which is also used for processing of annual runs, then the retention will be not greater than 365 days. created magnetic tape file will be used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is annual, and the created magnetic tape file will be used for processing of next annual, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is semi-annual, and the If cycle in which a program or series of programs creating output is annual, and the created magnetic tape file will be used for processing of next annual, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If the program or series of programs creating output is a one time run, and the file will be used for processing as required, then the retention will be lowest possible retention commensurate to job completion. If the program or series of programs creating output is compile card image or SOLT tapes, and the created magnetic tape file will be used for processing as required run, then the retention will be not greater than 90 days maximum. If cycle in which a program or series of programs creating output is as required runs, and the created magnetic tape file will be used for processing as required, the retention will be lowest possible retention commensurate to job completion. If the program or series of programs creating output is test files, and the created magnetic tape file will be used for processing as required, then the retention will be not greater than 30 days. If the program or series of programs creating output is print/punch backup and the created magnetic tape file will be used for processing as required, then the retention will be not greater than 10 days. In addition, for civilian personnel at base level (CCPO), master personnel files for prospective employees are transferred to the active file upon appointment of the employee or in the event the employee is not appointed and will no longer be considered a candidate for appointment, are destroyed by deguassing-master personnel files for active employees are transferred to the separated employee history file where they are retained for three years subsequent to separation and then destroyed by degaussing. The notification of personnel action—Standard Form 50—is disposed of as directed by the Civil Service Commission-work files and records such as the employee career brief, position survey work sheet, retention register work sheet, alphabetic and social security account number locator files, and personnel and position control register are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning-work sheets pertaining to qualification and retention registers are disposed of as directed by the Civil Service Commission—transitory files such as pending files, and recovery files are destroyed after use by degaussing-files and records retrieved through general retrieval systems are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning. Those records at AF Military Personnel Center for the end of each fiscal year quarter are retained for five years before destroying by deletion—the separated employee file retains employee information at time of separation for five years after which the employee's record is destroyed by degaussing.

System manager(s) and address:

Deputy Chief of Staff/Personnel, Headquarters United States Air Force.

Subordinate system managers are: A. Director of Personnel Data Systems, As-

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sistant Deputy Chief of Staff for Personnel for Military Personnel, Air Force Military Personnel Center (AFMPC), Randolph AFB, TX, 78148. He is responsible for overall APDS design, maintenance and operation, and is designated the Autodinated Data Processing System Manager for all Air Force personnel data system. B. The Director of Personnel Data Systems at each Major Command headquarters for systems operated at that level. C. The Chief, CBPO, at Air Force installations for systems operated at that level. D. The Civilian Personnel officer at Air Force installations for civilian systems operated at that level.

Notification procedure:

Requests from individuals for notification as to whether the system contains a record on them should be addressed to the system manager of the operating level with which they are concerned. Persons submitting such a request, either personally or in writing, must provide SSAN, name, and military status (active, ANG/USAFR, retired, etc. ANG members not on extended active duty may submit such requests to the appropriate State Adjutant General or the Chief of the servicing ANG CBPO. USAFR personnel not on extended active duty may submit such requests to ARPC, 3800 York St., Denver, CO, 80205 or, if unit assigned, to the Chief of the servicing CBPO or Consolidated Reserve Personnel Office. Personal visits to obtain notification may be made to the Military Records Review Room, Air Force Military Personnel Center, Randolph AFB, TX 78148, the Military Records Review Room, Air Reserve Personnel Center, Denver, CO 80205; The Office of the Director, National Personnel Records Center (NPRC), 111 Winnebago St., St. Louis, MO, 63118; the office of the Director of Personnel Data Systems at the appropriate major command headquarters; or the office of the Chief of his servicing CBPO. Identification will be based on presentation of DD Form 2AF, Military Identification Card. Air Force civilian employees must provide SSAN, full name, previous names if any, last date and location of Air Force civilian employment if not currently employees by the Air Force—current employees should submit such requests to their CCPO—former employees of the Air Force should submit such requests to the CCPO for the last Air Force installation at which they were employed. Authorization for a person other than the data subject to have access to an individual's records must be based on a notarized statement signed by the data subject.

Record access procedures:

Assistance in gaining access to his records will be provided the individual by the appropriate subordinate system manager at AFMPC, ARPC, NPRC, major command or CBPO/CRPO/CCPO.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from educational institutions.

Information obtained from medical institutions.

Information obtained from automated system interfaces.

Information obtained from police and investigating officers.

Information obtained from the bureau of motor vehicles.

Information obtained from a state or local government.

Information obtained from source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth.

Systems exempted from certain provisions of the act:

NONE

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MARCH 2, 1977.

[FR Doc.77-6614 Filed 3-4-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MARCH 1, 1977.

The USAF Scientific Advisory Board ad hoc Committee on the EF-111A will hold a meeting at the Air Force Electronic Warfare Simulator (AFEWS), Ft. Worth, Texas on March 23, 1977 from 9:00 a.m. to 5:00 p.m.

The Committee will receive classified briefings and hold classified discussions on AFEWS support of the EF-111A.

The meeting concerns matters listed in section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer; Directorate of Administration.

[FR Doc.77-6611 Filed 3-4-77;8:45 am]

Department of the Navy

ALBERT ROLKE DAWE

Intent To Grant Limited Exclusive Patent License

Pursuant to the provisions of Part 746 of title 32, Code of Federal Regulations (41 FR 55711-55714, December 22, 1976) the Department of the Navy announces its intention to grant to Albert Rolke Dawe of Deerfield, Illinois, a revocable, nonassignable, limited exclusive license for a period of five years under United States Patent Number 3,998,223 entitled "Syringe Apparatus," issued December 21, 1976, to inventor Albert Rolke Dawe.

This license will be granted unless on or before May 6, 1977 an application for a nonexclusive license from a responsible applicant is received by the Office of Naval Research (Code 302), Arlington, VA 22217 and the Chief of Naval Research or his designee determines that such applicant has established that he has already brought or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or the Chief of Naval Research or his designee determines that a third party has presented to the Office of Naval Research (Code 302) evidence and argument which has established that it would not be in the public interest to grant the limited exclusive license.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed to the Office of Naval Research (Code 302), Arlington, VA 22217 within 60 days from the publication of this notice. Also, copies of the patent may be obtained for fifty cents ($0.50) from the Commissioner of Patents and Trademarks, Washington, DC 20231.

For further information concerning this notice, contact:

Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, VA 22217, telephone No. 202-692-4005.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.77-6649 Filed 3-4-77;8:45 am]

SITE SELECTION AND PROPOSED TEST OPERATIONS FOR THE SEAFARER ELF COMMUNICATIONS SYSTEM: NEW MEXICO

Public Hearing and Availability of Draft Environmental Impact Statement

Notice is hereby given that a public hearing will be held for the purpose of providing the public with relevant information on site selection and proposed test operations, at the White Sands Missile Range, New Mexico, for the SEAFARER Extremely Low Frequency (ELF) Communications System, and to afford the public an opportunity to present their views on the Navy's proposed SEAFARER project. The hearing will be held on Tuesday, March 22, 1977, at the Holiday Inn de Las Cruces, 201 East University Avenue, Las Cruces, New Mexico. If interest warrants, the hearing will be continued on the following evening, Wednesday, March 23, 1977. The hearing will commence at 7:00 p.m. and terminate at 11:00 p.m. The hearing will be conducted by Captain John Dobson, U.S. Navy, and will include a project presentation explaining the Navy's proposed action, a system description, a site-dependent environmental impact summary, alternatives, proposed Navy recommendations, and the proposed program plan for the future.

This hearing is being held in Las Cruces, New Mexico because the White Sands Missile Range is one of three candidate areas considered for building a SEAFARER test facility, conducting ELF communications experiments, and developing appropriate construction criteria and operational methods to ensure maximum environmental protection in the event an operational SEAFARER system is built on the White Sands Missile Range at some future time.

SEAFARER is principally an unusually large transmitting antenna system consisting of many insulated cables buried in a grid pattern. The system's principal purpose is to facilitate communications with submerged submarines.

The following procedures will be followed during the public hearing. Individual speakers will be limited to three minutes with five minutes for a group spokesman for each recognized group. There will be no relinquishing of time by one speaker to another. Written preregistration is required by persons and organizations who wish to present their views, accompanied by the name and title of the expected speaker for organizations. Individuals and organizations who wish their statements to be included in their entirety in the hearing record are requested to provide written statements. The closing date for including written communications in the hearing record is March 31, 1977.

Anticipated environmental effects are available for review in the "SEAFARER ELF Communications Systems Draft Environmental Impact Statement for Site Selection and Test Operations" (Naval Electronic System Command, February, 1977). Copies of this statement are available at the following locations:

Alamogordo Public Library, Alamogordo, New Mexico.
College of Santa Fe Library, Santa Fe, New Mexico.
El Paso Public Library, El Paso, Texas.
New Mexico Legislative Council Library, Santa Fe, New Mexico.
New Mexico State Library, Santa Fe, New Mexico.
New Mexico State University Library, Alamogordo, New Mexico.
New Mexico State University Library, Carlsbad, New Mexico.
New Mexico State University Library, University Park, New Mexico.
Santa Fe Public Library, Santa Fe, New Mexico.
Socorro Public Library, Socorro, New Mexico.
Thomas Branigan Library, Las Cruces, New Mexico.
Truth or Consequences Public Library, Truth or Consequences, New Mexico.
University of New Mexico Library, Albuquerque, New Mexico.
White Sands Missile Range Post Library, White Sands Missile Range, New Mexico.

For further information, contact Captain John Dobson, CEC, USN, Naval Electronics Systems Command, Code 011F, Washington, D.C. 20360, telephone number 202-692-8863.

Dated: March 2, 1977.

K. D. LAWRENCE,
Captain, JAGC, United States Navy, Alternate Federal Register Liaison Officer.

[FR Doc.77-6713 Filed 3-4-77;8:45 am]

PRIVACY ACT OF 1974

Systems of Records Notice

In FR Doc. 75-21075 appearing at page 35151 in the FEDERAL REGISTER of August 18, 1975 (40 FR 35151) as amended by FR Doc. 75-22756 appearing at page 40087 in the FEDERAL REGISTER of August 29, 1975 (40 FR 40087); FR Doc. 75-27219 appearing at page 47748 in the FEDERAL REGISTER of October 9, 1975 (40 FR 47748); FR Doc. 76-19335 appearing at page 27746 in the FEDERAL REGISTER of July 6, 1976 (41 FR 27746) and FR Doc. 76-22869 appearing at page 32931 in the FEDERAL REGISTER of August 6, 1976 (41 FR 32931) concerning blanket general routine uses for Department of Defense systems of records subject to Subsection 3(e)(11) of the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a), A new blanket general routine use is added to those Department of Defense Generic Systems set forth in the FEDERAL REGISTER of October 9, 1975 (40 FR 47748) and at the beginning of each Department of Defense Component's records system notices set forth in Privacy Act Issuances, 1976 Comp, Vols I and II. This new general routine use, set forth below, is applicable to any record from a system of records maintained by a Component of the Department of Defense:

ROUTINE USE—DISCLOSURE OF INFORMATION TO NARS (GSA)

A record from a system of records maintained by this Component may be disclosed as a routine use to the National Archives and Records Service of the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

The Defense Privacy Board invites public comment to be considered on this blanket general routine use provision. Interested persons are invited to submit written data, views, and arguments to the Executive Secretary, Defense Privacy Board, Room 5H-023, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314. All material received on or before April 6, 1977 will be considered. This routine use provision will be effective as proposed without further notice, on or before April 6, 1977, unless comments are received which result in a contrary determination and requiring republication for further comments.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense Comptroller).

MARCH 27, 1977.

[FR Doc.77-6613 Filed 3-4-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PROCUREMENT POLICY ADVISORY COMMITTEE

Meeting

MARCH 1, 1977.

In accordance with provisions of Public Law 92-463 (Federal Advisory Committee Act) the Procurement Policy Advisory Committee will hold its next meeting from 9:00 a.m. to 5:00 p.m., Thursday, March 24, 1977, on the 12th floor, Century Building, National Center No. 4, 2341 Jefferson Davis Highway, Arlington, Virginia. This meeting will be open to the public. The purpose of the meeting is to discuss those subjects included on the following agenda:

9:00-9:05. Review Minutes of January 27 Meeting.
9:05-9:30. Discussion of Administrative Matters: 1. Future Meeting Schedule and Locations; 2. Procedural Aspects of Handling Discussion Matters.
9:30-10:30. ERDA Procurement Organization and Funding Practices: 1. Line of Authority—Field Offices, Area Offices and Operating Contractors; 2. Procurement Policy Development and Control
10:30-10:45. Break.
10:45-11:45. The Institution to Institution Concept
1:45-1:00. Lunch.
1:00-2:30. Discussion of ERDA's Role and Responsibility: 1. As seen by the Committee; 2. As seen by ERDA Management.
2:30-3:30. ERDA Contract Funding Practices
3:30-3:45. Break.
3:45-4:30. Effect of Standard Reporting Requirements.
4:30-5:00. Agenda Items for Next Meeting.

Practical considerations may dictate unannounced alterations in the agenda or schedule.

Mr. Stephen W. Rowen, Chairman of the Committee, will preside.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof post-marked no later than March 16, 1977, to the Director of Procurement, Room C-167, U.S. Energy Research and Development Administration, Washington, DC, 20545. Comments shall be directly relevant to the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

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(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on March 18, 1977, to Mr. Harry M. Tayloe, Division of Procurement, on 301–353–5526 between 8:30 a.m. and 5:00 p.m. e.s.t.

(c) Questions at the meeting may be propounded only by members of the committee and ERDA officials assigned to participate with the committee in its deliberations.

(d) Seating will be made available to the public on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, following their certification by the chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77-6637 Filed 3-4-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 695-3; PP6E1819/P50]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for Pesticide Chemical Dinoseb

Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick NJ 08903, has submitted a pesticide petition (PP 6E1819) to the Environmental Protection Agency (EPA) on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Idaho and Washington. This petition requests that Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose that 40 CFR 180.281 be amended by the establishment of tolerances for residues of the herbicide dinoseb (2-*sec*-butyl-4,6-dinitrophenol) in or on the raw agricultural commodities lentil forage, lentil hay, and lentils at 0.1 part per million (ppm.).

The data submitted in the petition and all other relevant material have been evaluated. Although it has been determined that neither chronic studies nor carcinogenic potential analysis have been conducted in support of the proposed tolerances, data on subacute effects (three studies) and teratogenic potential (two studies negative) are available. Furthermore, the proposed tolerances present no expectation of real residues, and lentils are of such low consequence in the diet that they are not even included in the dietary intake tables used in the hazard evaluation. It would be expected that the alkanolamine moiety used as the cation in some formulations would not persist or appear in commodities to any greater extent than the nitrophenol. Thus, because there is no predicted exposure from the proposed use, it is concluded that the tolerances of 0.1 ppm in or on lentil forage and hay and lentils will protect the public health. There is a possibility of *N*-nitrosamines as impurities in the herbicide, although this fact has not been confirmed. The Agency will make such determination in the course of its nitrosamine analysis program. In the event of any finding of adverse effect in data generated as a result of EPA reregistration or nitrosamine activities, immediate action will be expectation of residues in eggs, milk, meat, or poultry as delineated in 40 CFR 180.6(a)(3). It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before April 6, 1977, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, East Tower, Room 401, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before April 6, 1977, and should bear a notation indicating both the subject and the petition/document control number, "PP6E-1819/P50". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: March 1, 1977.

DOUGLAS D. CAMP,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart C, Section 180.281 be revised by editorially restructuring the section into an alphabetized columnar listing and alphabetically inserting a tolerance of 0.1 ppm for lentils, etc., to read as follows:

§ 180.281 Dinoseb; tolerances for residues.

Tolerances are established for residues of the herbicide, insecticide, and fungicide dinoseb (2-sec-butyl-4,6-dinitrophenol) from application of its phenol or its readily hydrolyzable salts (alkanolamine salts, ammonium salt, or sodium salt) in or on raw agricultural commodities as follows:

Commodity:	*Parts per million*
Alfalfa	0.1(N)
Alfalfa, hay	.1(N)
Almonds	.1(N)
Almonds, hulls	.1(N)
Apples	.1(N)
Apricots	.1(N)
Barley, forage	.1(N)
Barley, grain	.1(N)
Barley, straw	.1(N)
Beans	.1(N)
Beans, forage	.1(N)
Beans, hay	.1(N)
Blackberries	.1(N)
Blueberries	.1(N)
Boysenberries	.1(N)
Cherries	.1(N)
Citrus	.1(N)
Clover	.1(N)
Clover, hay	.1(N)
Corn, fodder	.1(N)
Corn, forage	.1(N)
Corn, fresh (including sweet K+CWMR)	.1(N)
Corn, grain (including pop)	.1(N)
Cotton, forage	.1(N)
Cottonseed	.1(N)
Cottonseed, hulls	.1(N)
Cucurbits	.1(N)
Currants	.1(N)
Dates	.1(N)
Figs	.1(N)
Filberts	.1(N)
Garlic	.1(N)
Gooseberries	.1(N)
Grapes	.1(N)
Hops	.1(N)
Lentils	.1(N)
Lentils, forage	.1(N)
Lentils, hay	.1(N)
Loganberries	.1(N)
Nectarines	.1(N)
Oats, forage	.1(N)
Oats, grain	.1(N)
Oats, straw	.1(N)
Olives	.1(N)
Onions	.1(N)
Peaches	.1(N)
Peanuts	.1(N)
Peanuts, forage	.1(N)
Peanuts, hulls	.1(N)
Pears	.1(N)
Peas	.1(N)
Peas, forage	.1(N)
Peas, hay	.1(N)
Pecans	.1(N)
Plums (prunes)	.1(N)
Potatoes	.1(N)
Raspberries	.1(N)
Rye, forage	.1(N)
Rye, grain	.1(N)
Rye, straw	.1(N)
Soybeans	.1(N)
Soybeans, forage	1.0
Soybeans, hay	1.0
Strawberries	.1(N)
Trefoil, birdsfoot	.1(N)
Trefoil, hay	.1(N)
Vetch	.1(N)
Vetch, hay	.1(N)
Walnuts	.1(N)
Wheat, forage	.1(N)
Wheat, grain	.1(N)
Wheat, straw	.1(N)

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[FR Doc.77-6714 Filed 3-4-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Doc. No. 21111]

AMERICAN FEDERATION OF CB'ERS

Application for Class D Citizens Radio Station License

Adopted: February 10, 1977

Released: March 1, 1977.

The Chief, Safety and Special Radio Services Bureau, has under consideration the above-captioned application. It was filed on December 9, 1975, by the American Federation of CB'ers (AFCB), George Bennett, President, 18485 Kentucky Avenue, Detroit, Michigan 48221, a non-profit corporation in Detroit, Michigan. It was signed by George Bennett as president of the applicant corporation. Authorization for 5,000 transmitters was requested for use by AFCB.

1. George Bennett is the former licensee of Citizens radio station KBQ–8214. On March 13, 1969, the Commission released an Order directing George Bennett to Show Cause why the license for radio station KBQ–8214 should not be revoked. The Order to Show Cause provided Bennett an opportunity for a hearing concerning the allegations. Bennett failed to file an appearance saying he would participate and present evidence, thus waiving the hearing. He submitted written statements instead.

2. An Order of Revocation of Citizens radio station license KBQ–8214, was released effective September 22, 1969 (SS–251–69). The Order was based on numerous wilful and repeated violations of the Commission's Rules governing the Citizens Radio Service, including failure to identify by assigned call sign, attempting to communicate over a distance of more than 150 miles, use of an overheight antenna, and failure to allow an inspection. The revocation of Bennett's license raises questions concerning the qualifications of the applicant corporation of which he is president.

3. Bennett replied to the Order of Revocation with two letters stating that he had no intention of going off the air. True to his word, Bennett continued to operate without a license, in violation of Section 301 of the Communications Act of 1934, as amended. On April 30, 1970, the United States District Court for the Eastern District of Michigan, at the Commission's request, issued a Judgment enjoining Bennett from further operation of a radio transmitter without a license (Civil Action No. 34568). Despite the injunction, Bennett persisted in operating his radio station. On August 19, 1970, the court issued an Order finding him in contempt, placing him on probation and ordering his equipment seized (Civil Action No. 34568). Even after the District Court issued the contempt judgment, Bennett continued to transmit without a license.[1]

4. On October 8, 1970, Bennett filed an application for a new license. On May 5, 1971, the Commission released an Order (FCC 71–483, Docket No. 19247) designating the application for hearing alleging, inter alia, that Bennett had operated unlicensed on 24 separate dates since the revocation of his prior license. After Bennett failed to appear or participate at the hearing, the Commission dismissed his application, with prejudice, on June 11, 1971. The allegations in the Order were not resolved.

5. Meanwhile, on March 10, 1970, Bennett founded the United CB'ers of America (UCBA). On March 26, 1971, Bennett obtained a Citizens Radio Service license in the name of Philip O. Nolan at his own address. He then altered the document to indicate that the licensee was UCBA and that 1,000,000 transmitters were authorized to be operated under the license. Upon joining the UCBA and paying a fee, each member was sent a copy of this "license" and urged to use its call letters—KDW–6076. As president of UCBA, Bennett urged members not to respond directly to violation notices and other official Commission correspondence. Instead, the UCBA offered to handle, for a fee, all violation notices from the Commission. In each case, the UCBA sent a form letter to the Commission stating the intention of the member to ignore any further correspondence or actions from the Commission.

6. On May 3, 1973, a federal grand jury in Detroit, Michigan, indicted Bennett and the UCBA corporation on eleven counts each for violations of federal criminal law. The indictment charged violations of the following statutes: counterfeiting a United States agency seal, to wit, a Citizens radio license document (18 U.S.C. 506); possessing these counterfeit documents (18 U.SC. 506); transferring these counterfeit documents (18 U.S.C. 1017); making a false statement in a matter within the jurisdiction of a United States agency, to wit, a Citizens radio application (18 U.S.C. 1001); mail fraud (18 U.S.C. 1341); mailing unmailable matter, to wit, counterfeit documents (18 U.S.C. 1717); conspiracy to commit offenses against the United States and to defraud the United States (18 U.S.C. 371); and unlicensed Citizens radio operation—four counts (47 U.S.C. 301, 501). Bennett and UCBA were found guilty on all charges on December 20, 1973, after a jury trial in the Federal District Court for the Eastern District of Michigan (Criminal No. 49204). On January 9, 1976, the United States Court of Appeals for the Sixth Circuit denied Bennett's and UCBA's appeal; on March 15, 1976, the Court denied their motion for rehearing (Nos. 75–1345 and 75–1941). The UCBA was fined $5,000.00. Bennett was sentenced to eighteen months imprisonment, to be followed by two years probation. After serving three and a half months, Bennett was released from federal prison on July 23, 1976. One of the conditions of Bennett's two year probation is that he not keep or operate any radio transmitting apparatus.

7. The revocation of Bennett's license, the civil injunction and contempt orders directed against him as well as the criminal convictions against Bennett and UCBA raise substantial questions concerning the qualifications of AFCB to be a licensee.[2] Accordingly, AFCB's application will be designated for hearing and issues will be specified inquiring into AFCB's qualifications in light of the Commission and court orders, decisions and verdicts. Issues will also be specified to examine the extent of Bennett's participation in AFCB and the relationship between UCBA and the applicant AFCB.

8. In the instant application, AFCB requested authorization for 5,000 transmitters. The Commission returned the application to Bennett with a form letter requesting information to justify the need for 5,000 transmitters. When asked how many people are presently in the organization, Bennett responded:

> The question as to how many members presently belong to the American Federation of CBers is not a prerequisite in determining the eligibility, ineligibility for the issuance of a Class D license, therefore, the answer to question number one is classified.

When asked how many people he anticipates will be members during the next five years, Bennett responded:

> To speculate as to how many members the American Federation of CBers will have in the next five will depend upon several factors, therefore such a question would be rather difficult to answer with any certainty.

9. From the foregoing, it is evident Bennett has failed to supply the Commission the information it needs to determine whether the public interest would be served by a grant of a license to AFCB authorizing 5000 transmitters. AFCB has not shown present or anticipated future membership, nor has it shown how it proposes to maintain control over 5000 transmitters. The Commission cannot authorize 5000 transmitters without a specific finding that it would be in the public interest. The Commission must, therefore, examine the purposes of the organization and how the 5000 units will be used and controlled. AFCB must demonstrate that a legitimate need exists for this license and that it can be relied upon to comply with the terms of the license.

Accordingly, it is ordered, Pursuant to Section 309(e) of the Communication Act of 1934, as amended, and §§ 1.973(b) and 0.331 of the Commission's Rules, That the captioned application is designated for hearing, at a time and place to be specified by a subsequent order, upon the following issues:

(1) To determine the effect of the prior Commission decision revoking the license of George Bennett and the court orders and conviction directed against George Bennett and the United CB'ers of America, on the qualifications of the American Federation of CB'ers.

(2) To determine the relationship between George Bennett and the American Federation of CB'ers.

[1] See paragraph 6 infra.

[2] By letters dated June 18 and August 15, 1974, Bennett indicated that AFCB was the successor organization to UCBA.

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(3) To determine the relationship between the United CB'ers of America and the American Federation of CB'ers.

(4) To determine, based on the evidence adduced above, whether the American Federation of CB'ers possesses the requisite qualifications to be a licensee of the Commission.

(5) To determine the manner in which the American Federation of CB'ers will utilize the 5,000 transmitters specified in its application.

(6) To determine, in light of the foregoing, whether the public interest, convenience and necessity would be served by a grant of the captioned application.

It is further ordered, That, to avail himself of the opportunity to be heard the applicant, pursuant to § 1.221(c) of the Commission's Rules (47 CFR 1.221 (c)), in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intent to appear on a date to be fixed for hearing and to present evidence on the issues specified in this Order.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

[FR Doc 77-6705 Filed 3-4-77;8:45 am]

[Report No. 847]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

FEBRUARY 28, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's Rules.)

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20824-CD-AL-77 Merle Demerly dba Batavia Radio-Page Consent to Assignment of License from Batavia Radio-Page, assignor to Tel-Page Corporation, assignee Station: KUD214, Batavia, New York.

20825-CD-TC-77 Contact, Inc. Consent to Transfer of Control from Walter G. Lohr transferor to Walter G. Lohr, Jr., et al. transferees. Station: KGA807, Baltimore, Maryland.

20826-CD-P-77 Mobilfone Service, Inc. (KQZ792), C.P. to change antenna system operating on 152.24 MHz at Loc. No. 2: approximately 3.5 miles NW of Highway 109 and FM1575, Los Fresnos, Texas.

20827-CD-P-77 South Shore Radio-Telephone, Inc. (KTS201), C.P. for additional facilities to operate on 158.70 MHz to be located at Hines Hospital, Maywood, Illinois.

20828-CD-TC-(2)-77 Curtin Call Communications, Inc. Consent to Transfer of Control from Benjamin and Mary Ciaccio transferors to William and Eleanor Curtin transferees. Stations: KTS233 and KTS236, Council Bluffs, Iowa.

20829-CD-ML-77 Mobilfone Service, Inc. (KKM254), Modification of License to change repeater frequency from 459.10 MHz to 459.125 MHz at Loc. No. 1: 0.125 mile South of Laferia, Texas; and change control frequency from 454.10 MHz to 454.125 MHz at Loc. No. 2: 2.5 miles North of U.S. Hwy. 83, on North 10 St., McAllen, Texas.

20830-CD-P-77 Chawilla, Incorporated (KWH313), C.P. to change antenna system and relocate facilities operating on 152.12 MHz to be located approx. 0.75 mile (1.21 km) West of Orange Mills, Florida.

20832-CD-AL-(3)-77 Mobilfone Corporation Consent to Assignment of License from Mobilfone Corporation, assignor to Minnesota Communications Corporation, assignee. Stations: KSV992, KUS262, and KRS863, Minneapolis, Minnesota.

20833-CD-P-(3)-77 Kelley's TAS of Pasco, Inc. dba Kelley's Answering Service (new), C.P. for a new station to operate on 454.100, 454.175 and 454.200 MHz to be located at 107 North Second Avenue, Walla Walla, Washington.

20834-CD-P-77 Marc Weber Tobias and Michael Charles Tobias dba MT Systems, Inc. (new), C.P. for a new station to operate on 152.09 MHz to be located at Rt. No. 37, 1 mile SE of Mitchell, South Dakota.

20835-CD-P-77 Thomas F. Carter dba Carter MobileFone Company (new), C.P. for a new station to operate on 454.175 MHz to be located 1.1 miles South of Mabank, Texas.

20836-CD-TC-(2)-77 Delaware Telephone Answering Service, Inc. Consent to Transfer of Control from Jan L. Etchison, transferor to Edward B. Wagnon and Daphne L. Wagnon, transferees. Stations: KJU800 and KUO595, Muncie, Indiana.

20837-CD-P-(3)-77 Uintah Basin Telephone Association, Inc. (KUC857), C.P. to change repeater frequencies 72.12 and 72.20 MHz to 72.02 and 72.08 MHz and delete repeater frequency 72.04 MHz at Loc. No. 1: 3 miles NW of Myton, Flattop Butte, Utah and for additional facilities to operate on 75.92 MHz, control at Loc. No. 2: 1 mile East of Neola on Highway 121, Neola, Utah.

20838-CD-R-77 Central Ohio Radiotelephone, Inc. (KQK584), Renewal of License expiring April 1, 1977. Term: April 1, 1977 to April 1, 1979.

20839-CD-P-(2)-77 William L. Elsele dba Lake Shore Communications (new), C.P. for a new station to operate on 152.03 and 152.09 MHz to be located at 300 West High Street, Elkhart, Indiana.

RURAL RADIO SERVICE

60214-CR-P L-77 Continental Telephone Company of California (new), C.P. and license for a new rural subscriber station to operate on 157.89 MHz to be located approx. 1.5 miles NE of Sugarloaf Mountain, California.

POINT TO POINT MICROWAVE RADIO SERVICE

1519-CF-P-77 American Telephone and Telegraph Company (KAI81), Summit 4.2 miles N. of Pacific, Missouri C.P. to increase antenna structure height and add a new point of communication on frequencies 3750.0H, 3830.0H, 3990.0H, 4070.0H, MHz toward Newbern, Illinois on azimuth 34.7°.

1520-CF-P-77 Same (KSE25), 0.9 miles NE of Newbern, Illinois, Lat. 39°00'52" N., Long. 90°19'41" W., C.P. to add a new point of communication on frequencies 3710H, 3790H, 3950H, 4030H, MHz toward Gray Summit on azimuth 215.0°.

1521-CF-P-77 Southern Bell Telephone and Telegraph Company (KJC23), Pearl and Waukeenan Street Monticello, Florida, Lat. 30°32'48" N., Long. 83°52'06" W., C.P. to change polarization on frequencies from horizontal to vertical 3730, 4050, 4130, MHz toward Madison and from vertical to horizontal on frequency 3990H MHz toward Madison, Florida.

1522-CF-P-77 Same (KJC22), Brookwood Ave. S.R. 10 Madison, Florida, Lat. 30°28'-11" N., Long. 83°25'11" W., C.P. to change frequencies 3770H, 4090H, 4170H, to 4050H, 4130H, 3730H, MHz toward Jasper, Florida and to change polarization from horizontal to vertical on frequencies 3770, 3850, 4170, MHz toward Monticello, Florida.

1523-CF-P-77 Same (KJC21), 5.5 miles South of Jasper, Florida, Lat. 30°16'17" N., Long. 82 56 17" W., C.P. to change frequencies 3730H, 3810H, 4130H, to 3770H, 3850H, 4170H, MHz toward Madison, Florida.

1526-CF-P-77 American Telephone and Telegraph Company (KCA46), Johntom Hill 7 miles East of Glastonburg, Connecticut C.P. to change polarization from vertical to horizontal on frequency 4170 MHz toward WHNB N., Bristol.

1527-CF-P-77 Same (KAC47), Spindle Hill 4 miles SW of Bristol, Connecticut, Lat. 41°37'15" N., Long. 72°58'07" W. C.P. to change polarization from vertical to horizontal on frequency 4190 WATR-TV.

1531-CF-P-77 New York Telephone Company (KXR80), 314 Glen Street Falls, New York, Lat. 43°18'39" N., Long. 73°38'54" W., C.P. increase antenna structure height and antenna on frequencies 6301.0V, 10755V, MHz toward Beadie Mtn.

1532-CF-P-77 American Telephone and Telegraph Company (KOC26), Chicago No. 6 10 South Canal Street Chicago, Illinois., Lat. 41°52'54" N., Long. 87°38'24" W., C.P. to add frequencies 3790H, 3870H, MHz toward Matteson, Illinois.

1533-CF-P-77 Same (KOC27), 2.0 miles N of Matteson, Illinois, Lat. 41°31'36" N., Long. 87°43'42" W., C.P. to add frequencies 3830H, 3910H, MHz toward Chicago, Illinois and 3830H, 3910H, MHz toward Grant Park, Illinois.

1534-CF-P-77 Same (KSG64), 1.3 miles SE of Grant Park, Illinois, Lat. 41°31'46" N., Long. 87°37'31" W., C.P. to add frequencies 3790V, 3870V, MHz toward Matteson, Illinois.

1543-CF-P-77 The Pacific Telephone and Telegraph Company (KMA30) Mount Oso 10 miles WSW of Westley, Oregon, Lat. 37°30'07" N., Long. 121°22'23" W., C.P. to change polarization from horizontal to vertical 3710, 3730, 3750, 3810, 3870, 3890, 3970, 4030, 4050, 4110, 4130, 3950, MHz toward Gustine, Oregon.

1544C-F-P-77 The Pacific Telephone and Telegraph Company (KNM65), 5.2 miles SSW of Gustine, Oregon, Lat. 37°11'02" N., Long. 121°01'29" W., C.P. To change polarization from horizontal to vertical on frequencies 3750, 3770, 3830, 3850, 3910, 3990, 4010, 4070, 4050, 4090, 4150, 4170 MHz toward Mtn. Oso, Oregon.

1545-CF-P-77 Michigan Bell Telephone Company (KZI57), 304 S. Jackson Street, Jackson, Michigan, Lat. 42°14'43" N., Long. 84°24'33" W., C.P. to correct coordinates and add frequency 10795V MHz toward Parma, Michigan on azimuth 277°9'.

1546-CF-P-77 Same (KQA87), 8 miles WNW of Parma, Michigan, C.P., to add frequency 11245V MHz toward Jackson, Michigan.

1563-CF-P-77 The Chesapeake and Potomac Telephone Company of Virginia (KIR29), 703 E. Grace Street, Lat. 37°32'-36" N., Long. 77°26'13" W., C.P. to add frequency 11055H MHz toward Glen Allen, Virginia on azimuth 326.4°.

1564-CF-P—77 Same (WBB200), 2.1 miles west of Glen Allen, Virginia, Lat. 37°40'06" N., Long. 77°32'37" W., C.P. to add frequencies 11265H MHz toward Richmond on azimuth 146.4° and 11265H MHz toward Ashland on azimuth 29.2°.

1565-CF-P-77 Same (WBA999), 1.65 miles NNE of Ashland, Virginia, Lat. 37°46'48" N., Long. 77°27'55" W., C.P. to add frequency 11055H MHz toward Glen Allen on azimuth 209.3° and to add a new point of communication on frequencies 11035V, 10875V MHz toward Ruther Glen on azimuth 16.8°.

1566-CF-P-77 Same (new), 2.65 miles East of Ruther Glen, Virginia, Lat. 37°55'52" N., Long. 77°24'27" W., C.P. for a new station on frequencies 11485V, 11325V MHz toward Ashland on azimuth 196.8° and 11325V, MHz toward Bowling Green on azimuth 12.3°.

1567-CF-P-77 Same (KJJ32), 2.2 miles N of Bowling Green, Virginia, Lat. 38°04'36" N., Long. 77°22'02" W., C.P. to add new point of communication on frequencies 11035V, 10875V MHz toward Ruther Glen on azimuth 192.4° and 11035V, 10875V, MHz toward Corbin on azimuth 3.2°.

1568-CF-P-77 Same (new), 2.4 miles SW of Corbin, Virginia, Lat. 38°12'44" N., Long. 77°21'28" W., C.P. for a new station on frequencies 11485V, 11325V MHz toward Bowling Green on azimuth 183.2° and 11465V, 11385V MHz toward Fredericksburg on azimuth 317.4°.

1569-CF-P-77 Same (WGI22), 901 Prince Edward Street, Fredericksburg, Virginia, Lat. 38°18'06" N., Long. 77°27'44" W., C.P. to add new point of communication on frequencies 10855V, 10775V MHz toward Corbin on azimuth 137.3°.

1576-CF-P-77 Southern Bell Telephone and Telegraph Company (KJC23), Pearl and Waukeenan Streets, Lat. 30°32'48" N., Long. 83°52'06" W., C.P. to increase antenna structure height; move and replace antenna and increase output power on frequencies 3730H, 4050H, 4130H, 3990V, 6004.5H MHz toward Madison, Florida.

1577-CF-P-77 Southern Bell Telephone and Telegraph Company (KJC22), Brookwood Ave. and S.R. 10, Madison, Florida, Lat. 30°28'11" N., Long. 83°25'11" W. C.P. to increase antenna structure height; move and replace antenna and increase output power on frequencies 3770H, 4090H, 4170H, 3950V, 6256.5H MHz, toward Jasper and 3770H, 3850H, 4170H MHz toward Monticello, Florida.

1578-CF-P-77 Same (KJC21), 5.5 miles South of Jasper, Florida, Lat. 30°26'17" N., Long. 82°56'17" W. C.P. to increase antenna structure height; move and replace antenna on frequencies 3770V, 3850V, 3990H, 4170V, 6004.5V MHz toward Lake City and 3730H, 3310H, 4130H MHz toward Madison, Florida.

1579-CF-P-77 Same (KJB55), Nassau and Columbia Streets, Lake City, Florida, Lat. 30°11'17" N., Long. 82°38'18" W. C.P. to increase output power on frequencies 3730V, 4050V, 4130V MHz toward Jasper, Florida.

CORRECTION

1044-CF-P-77 The Bell Telephone Company of Pennsylvania (KIL37), Lookout Mountain 4.7 miles SE. of Dupont, Pennsylvania, corrected frequency to read 10855 MHz toward Locust, Pa. All other particulars to remain as reported on Public Notice No. 842 dated January 24, 1977.

1276-CF-P-77 New York Telephone Company (KJM73), Pearl and Waukeenan Streets, Monticello, Florida, corrected frequencies to read horizontal to vertical 3810, 3890, 3970 MHz toward Madison, Florida. All other particulars remain as reported on Public Notice No. 843 dated January 31, 1977.

1277-CF-P-77 Same (KJM72), Brookwood Ave. and State Rd. 10, Madison, Florida, corrected frequencies to read horizontal to vertical 3930, 4010, 4090 MHz toward Monticello, Florida. All other particulars remain as reported on Public Notice No. 843 dated January 31, 1977.

611-CF-P-77 South Central Bell Telephone Company (KLK85), corrected company name. All other particulars to remain as reported on Public Notice No. 844 dated February 7, 1977.

MAJOR AMENDMENT

843-CF-P-77 Southern Montana Telephone Company (new), Lloyd Street, Jackson, Montana, Lat. 42°22'05" N., Long. 113°24'-35" W. Amended to change frequency toward Hirschy, Montana, from 2129.0V MHz as stated in Public Notice Jan. 3, 1977, to 2110.8 MHz.

844-CF-P-77 Same (new), Hirschy, 14.5 miles NW of Jackson, Montana, Lat. 45°-28'23" N., Long. 113°31'06" W. Amended to change the frequencies as stated in Public Notice Jan. 3, 1977, from 2179.0V MHz to 2160.8H MHz toward Jackson, Montana, and from 2160.8H MHz to 2170.0V MHz toward Wisdom, Montana.

845-CF-P-77 Same (new), 2nd Street, Wisdom, Montana, Lat. 45°37'05" N., Long. 113°26'56" W. Amended to change the frequency toward Hirschy, Montana, from 2110.8 MHz as stated in Public Notice Jan. 3, 1977, to 2129.0V MHz.

[FR Doc.77-6706 Filed 3-4-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CONSTRUCTION ADVISORY COMMITTEE

Cancellation of Meeting

A meeting of the Construction Advisory Committee to the Federal Energy Administration, scheduled for 10 a.m., Wednesday, March 9, 1977, Conference Room B, Departmental Auditorium, Constitution Avenue between 12th and 14th Streets, NW., Washington, D.C. has been cancelled. A notice of meeting was published in the issue of February 14, 1977 (42 FR 9208).

Issued at Washington, D.C. on March 3, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-6828 Filed 3-3-77;8:01 pm]

COMPUTATION OF LANDED COSTS: TRANSPORTATION

Modification to Instructions to Form FEA-F-701-M-0

On December 20, 1976, the Federal Energy Administration (FEA) issued interim regulations amending Part 212 of Chapter II of Title 10 of the Code of Federal Regulations, which established standard measures of the cost of marine transportation of crude oil as a component of the landed cost of that crude oil (41 FR 55851, December 23, 1976). In order that the Form FEA F-701-M-0 (Transfer Pricing Report) can be completed by reporting companies on a basis that reflects the procedures established by these regulations, FEA has revised the instructions to the form. These revisions appear in the appendix to this notice.

Since the interim regulations were effective January 1, 1977, reporting companies should utilize these revised instructions when submitting the form for January, 1977 and succeeding months. Where submissions were made for that period and use of these revised instructions would have changed the applicable results, then appropriate resubmissions must be made.

If further assistance is required, firms should contact Ms. Doris Dewton at 202-254-8660.

Issued in Washington, D.C., March 1 1977.

ERIC J. FYGI,
Acting General Counsel.
Federal Energy Administration.

APPENDIX

INSTRUCTIONS TO SCHEDULE B

Type of Transaction (b)

An additional code is required to implement the revision to 10 CFR § 212.54(e)(3), providing that for delivered sales the sale shall not be used in determining representative and maximum prices where there is insufficient information regarding transportation costs to adjust the crude oil price to the price f.o.b. port of loading. It is anticipated that Code U will only be used for cases of transshipped crudes where it is im-

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possible to identify the components of the crude oil actually imported.

Code—"U". Insufficient information to calculate transportation costs in delivered sales, utilizing the actual transportation cost or the cost of transportation computed under § 212.85(d)(1).

Volume Purchased (f). Enter the loaded volume of imported crude purchased, expressed in barrels.

Purchase Price (j). A new paragraph (d) is required because of modification of the definition of landed cost in 10 CFR § 212.82(6):

(d) For purchases from an affiliate where § 212.84(g) is not applicable and where delivery is taken other than in the country of origin, port of loading, the price shall be the purchase price adjusted to an f.o.b. port of loading country of origin basis established in accordance with § 212.84(e).

The current paragraph (d) is redesignated (e) and is modified as follows in accordance with § 212.84(e)(3):

For delivered sales, the price shall be adjusted to an f.o.b. price at port of loading in the country of origin by using the actual transportation cost, if stipulated, or by subtracting the imputed cost of transportation as provided in § 212.85(d)(1) (the reference loading date being the month of loading and the vessel class being that actually used).

Transportation (k)

Instructions to Column (k) are revised to read as follows:

a. If the firm is using the AFRA method, the AFRA component shall be set forth in Column (k) and the costs recognized under § 212.85(d)(1) (ii) through (v) shall be set forth in Column (l). If the firm is using the net cost method, all elements of cost shall be reported in Column (k).

b. For delivered sales, where adjustment has been made pursuant to 10 CFR § 212.84 (e)(3) to impute an f.o.b. value, enter adjustment in (j) for transportation.

c. (1) Under the AFRA method when delivery is taken at a point other than in the country of loading and § 212.84(g) is not applicable, the crude oil shall be treated as though the crude oil has been shipped to the U.S. port of entry from the country of origin of the crude oil, on the route and in the class of vessels most commonly used by the firm and its affiliated entities for shipments between the country of origin and the U.S. port.

(2) Under the net cost method when delivery is taken at a point other than in the country of loading and § 212.84(g) is not applicable, the number of cargo ton-miles of crude oil attributed to a particular shipment for purposes of § 212.85(c)(3) shall be determined with reference to the route and class of vessels most commonly used by the firm and its affiliated entities, as in (c)(1) above between the country of origin and the U.S. port.

INSTRUCTIONS TO SCHEDULE C

Transportation Costs (l)

Instructions to Column (l) are revised to read as follows:

Transportation costs calculated in accordance with § 212.85. If the firm is using the AFRA method, the AFRA component shall be set forth in Column (l) and the costs recognized under § 212.85(d)(1)(ii)–(v) shall be set forth in Column (m). If the firm is using the net cost method, all elements of costs shall be reported in Column (l).

INSTRUCTIONS TO SCHEDULE D

Type of Transaction (b)

An additional code is required to implement the revision to 10 CFR § 212.84(e)(8), providing that for delivered sales the sale shall not be used in determining representative and maximum prices where there is insufficient information regarding transportation costs to adjust the crude oil price to the price f.o.b. port of loading, country of origin. It is anticipated that Code U will only be used for cases of transshipped crudes where it is impossible to identify the components of the crude oil actually imported.

Code—"U". Insufficient information to calculate transportation costs in delivered sales, utilizing the actual transportation cost or the cost of transportation computed under § 212.85(d)(1).

[FR Doc.77-6592 Filed 3-2-77;9:31 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1722]

INTERNATIONAL SHIPPING CO.

Order of Revocation

By letter dated January 19, 1977, Mr. James H. Batuyios, President, International Shipping Company, P.O. Box 1693, Wilmington, NC 28401 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1722 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before February 18, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license shall be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

International Shipping Company has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01 (c) dated June 30, 1975;

It is ordered, that Independent Ocean Freight Forwarder License No. 1722 issued to International Shipping Company be returned to the Commission for cancellation.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1722 be and is hereby revoked effective February 18, 1977.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served upon International Shipping Company.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77-6602 Filed 3-4-77;8:45 am]

LINEA MANAURE, C. A. AND C. A. NAVIERA DE TRANSPORTE Y TURISMO

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 28, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

David L. Hauenstein, Vice-President, International Tariff Services, Inc., 815 Fifteenth Street NW., Washington, D.C 20005.

Agreement No. 10288, between Linea Manaure C. A. and C. A. Naviera De Transporte Y Turismo, would permit the lines to discuss the matter of rates, charges, classifications, practices and related tariff provisions to be charged or observed by them in the trades between U.S. South Atlantic and Gulf ports and ports in Venezuela and the Netherlands Antilles.

The agreement also provides that nothing therein authorizes the parties to carry out any substantive agreement which may be reached except upon the prior approval of the Commission.

By Order of the Federal Maritime Commission.

Dated: March 2, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6691 Filed 3-4-77;8:45 am]

[Docket No. 69-57]

NEW YORK SHIPPING ASSOCIATION, INC., AND TRANSAMERICAN TRAILER TRANSPORT, INC., ET AL.

Action

Correction

In FR Doc. 77-6130 appearing at page 11871 in the issue of Tuesday, March 1, 1977 the heading should read as set forth above.

SOUTH ATLANTIC MARINE TERMINAL CONFERENCE AND NORFOLK MARINE TERMINAL ASSOCIATION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 28, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Marion S. Moore, Jr., Chairman, South Atlantic Marine Terminal Conference, Norfolk Marine Terminal Association, P.O. Box 817, Charleston, South Carolina 29402.

Agreement No. T-2299, between the South Atlantic Marine Terminal Conference (SAMTC) and the Norfolk Marine Terminal Association (NMTA), was originally approved by the Commission by order issued July 11, 1969, for a three-year term and subsequently extended for a five-year term by the Commission by order issued July 11, 1972. The parties to the agreement have now requested that the Commission approve the agreement for operation beyond July 11, 1977. The agreement provides for the formation of a joint conference whereby the members of SAMTC and NMTA may confer, discuss, and make recommendations on rates, charges, practices, and matters of concern to the marine terminal industry. The agreement does not confer ratemaking power upon the members nor shall any action taken pursuant to the agreement be binding upon the members. The agreement does not preclude either association from taking any action without the concurrence of the other, provided, however, that with respect to recommendations which have been made pursuant to Agreement No. T-2299, the association taking such action shall promptly notify the other association.

By order of the Federal Maritime Commission.

Dated: March 2, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6690 Filed 3-4-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER77-199]

AMERICAN ELECTRIC POWER SERVICE CORP.

Changes in Rates and Charges

MARCH 1, 1977.

Take notice that American Electric Power Service Corporation (AEP) on February 14, 1977, tendered for filing on behalf of its affiliate, Indiana and Michigan Electric Company (Indiana Company), Amendment No. 10 dated December 31, 1976, to the Operating Agreement dated March 1, 1966, among Indiana Company, Consumers Power Company and the Detroit Edison Company (Michigan Companies), designated Indiana Company Rate Schedule FPC No. 68.

AEP states that section 1 of Amendment No. 10 provides for an increase in the demand charge for Short Term Power from $0.50 to $0.60 per kilowatt per week and section 3 provides for an increase in the demand charge for Limited Term Power from $2.75 to $3.25 per kilowatt per month. AEP states that section 2 of Amendment No. 10 provides for an increase in the transmission charge for third party Short Term Power transactions from $0.125 per kilowatt per week to $0.15 per kilowatt per week and section 4 provides for an increase in the transmission charge for third party Limited Term transactions from $0.55 per kilowatt per month to $0.65 per kilowatt per month, both schedules proposed to become effective January 3, 1977. Applicant states that since the use of Short Term and Limited Term Power cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the Amendment.

AEP requests waiver of the notice requirement pursuant to § 35.11 of the Commission's regulations under the Federal Power Act and states that copies of the filing were served upon Michigan Companies, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 10, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6812 Filed 3-4-77;8:45 am]

[Docket No. ER77-188]

ARIZONA PUBLIC SERVICE CO.

Filing of Supplement to Agreement

MARCH. 1. 1977.

Take notice that on February 4, 1977, Arizona Public Service Company (APS) tendered for filing a Supplement dated December 27, 1976 to the wholesale power agreement between Wellton-Mohawk Irrigation and Drainage District (Wellton-Mohawk) and Arizona Power Authority (APA) respectively, previously designated APS–FPC Rate Schedule No. 58. This Supplement revises Exhibit "B" of the Agreement which provides for maximum and minimum contract demands.

On behalf of Wellton-Mohawk, APS requests waiver of the Commission's Regulations to permit an effective date of January 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance wtih §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-6680 Filed 3-4-77;8:45 am]

[Docket No. CP70-196, etc.]

DISTRIGAS CORP. AND DISTRIGAS OF MASSACHUSETTS CORP.

Notice of Settlement Agreement

MARCH 1, 1977.

Take notice that on December 22, 1976, Presiding Administrative Law Judge Litt certified to the Commission a proposed settlement agreement in Docket No. CP70-196, et al. together with certain

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materials which were placed into evidence during formal hearings, all of which relate to certain issues in the subject proceeding involving the feasibility of the proposed Everett, Massachusetts LNG terminal, markets, financing and rates, as more fully set forth in the Judge's certification and the settlement agreement.

The Commission in Opinion No. 613 issued March 9, 1972 (47 FPC 752) granted Distrigas Corporation (Distrigas) authorization to import annually from Algeria up to 15.4 million MMBTU of LNG for a period of twenty years, as a result of a subsequent court decision and other Commission orders, Distrigas and Distrigas of Massachusetts (DOMAC) filed applications for authorization to construct and operate the Everett, Massachusetts terminal and to sell for resale such LNG or vaporized gas. The subject settlement proposal attemps, to resolve certain issues in this consolidated proceeding b ythe following stipulations:

(1) Design, construction and operation of the Everett terminal are feasible (CP74–137);

(2) DOMAC's sales to Massachusetts and interstate customers will be primarily for high priority uses (CP70–196 and CP73–135);

(3) The proposed rate at which Distrigas shall sell its gas to DOMAC is in the public interest; and

(4) DOMAC's proposed sales and storages rates are in the public interest.

Any person, including the parties to this proceeding, wishing to file comments with the Commission either in support or against this proposal settlement should do so on or before March 14, 1977. Any person wishing to reply to the initial comment shall do so within 10 days after the aforesaid initial comment date. All comments shall be served on all parties to this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–6678 Filed 3–4–77;8:45 am]

[Docket No. ER77–195]

EL PASO ELECTRIC CO.

Supplemental Agreement

MARCH 1, 1977.

Take notice that on February 7, 1977, El Paso Electric Company (El Paso Electric) tendered for filing Supplement No. 4 to its Export Rate Schedule FPC No. 20 to provide for permanent rates during an extended term thereof, commencing effective November 25, 1976 and terminating March 31, 1977.

El Paso Electric states that on January 25, 1977 it executed a supplemental agreement with the Commission Federal de Electricidad (CFE), providing for permanent rates to be charged during an extended term of its electric service to CFE authorized by the Commission's letter authorization issued February 3, 1977, in Docket No. ER77–101. El Paso Electric states that the filing requests no other change in the terms of electrical service previously authorized by the Commission and that the proposed rates will have no effect on its other jurisdictional customers. El Paso Electric requests that the supplemental agreement be made effective on November 25, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 7, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–6813 Filed 3–4–77;8:45 am]

[Docket No. E77–41]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95–2

On March 1, 1977, United Cities Gas Company (United Cities) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 10,000 Mcfd from a group of five producers, namely, Petro Funds, Inc., Sunny South Oil and Gas, Inc., O. Biller, Exchange Oil and Gas Corporation and The South Coast Corporation (hereinafter referred to as the "Producers"), at a price of $2.25 per MMBtu.

United Cities advises that it is purchasing the subject gas for Public Service Company of North Carolina (Public Service) and that United Cities will assume Public Service's reporting requirements under Order No. 4.

United Cities will purchase the subject gas from the Producers at a total price which does not exceed $2.25 per MMBtu. This price is fair and equitable in accordance with Order No. 2.

United Cities states that the gas will be received from the Producers by United Gas Pipe Line Company (United) and transported and delivered to Public Service by United and Transcontinental Gas Pipe Line Corporation (Transco). I find such transportation arrangements to be required by the Act. I lack the necessary information to determine whether the transportation charges to be received by United and Transco are fair and equitable. United Cities shall, therefore, submit to the Administrator all relevant information regarding the transportation charges to be paid to United and Transco.

United Cities certified that the subject gas will be used as required by Order No. 6. I find that United Cities and Public Service have complied with Order No. 6, as amended by Order No. 6–A.

I authorize United Cities to purchase emergency natural gas from Producers at a price not to exceed $2.25 per MMBtu inclusive of all adjustments. I authorize and order United and Transco to transport gas for United Cities on the above specified terms and conditions.

United Cities, on behalf of Public Service, shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon United Cities, Public Service, United and Transco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 2, 1977.

[FR Doc.77–6735 Filed 3–4–77;8:45 am]

[Docket No. E77–42]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95–2

On March 1, 1977, United Cities Gas Company (United Cities) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), a request for an order authorizing an emergency purchase of approximately 7,500 Mcf per day of natural gas at $2.25 per MMBtu from Energy Consultants, Inc. (Producer). United Cities is purchasing 4,500 Mcfd for its own account and 3,000 Mcfd for the account of Pennsylvania and Southern Gas Company (Pennsylvania and Southern). United Cities advises that it will assume Pennsylvania and Southern's reporting requirements under Order No. 4.

United Cities will purchase the subject volumes at $2.25 per MMBtu inclusive of all adjustments. I find such price to be fair and equitable in accordance with Order No. 2.

United Cities states that the gas will be received from the Producer by United Gas Pipe Line Company (United) and transported and delivered to United Cities and Pennsylvania and Southern by United and Transcontinental Gas Pipe Line Corporation (Transco). I find such transportation arrangements to be required by the Act. I lack the necessary information to determine whether the transportation charges to be received by United and Transco are fair and equitable. United Cities shall, therefore, submit to the Administrator all relevant information regarding the transportation charges to be paid to United and Transco.

United Cities certified that the subject gas will be used as required by Order No. 6. I find that United Cities and Public Service have complied with Order No. 6, as amended by Order No. 6–A.

I authorize United Cities to purchase emergency natural gas from Producer at a price not to exceed 2.25 per MMBtu inclusive of all adjustments. I authorize and order United and Transco to transport gas for United Cities on the above specified terms and conditions.

United Cities shall submit, for itself and Pennsylvania and Southern, the weekly reports required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon United Cities, Pennsylvania and Southern, United and Transco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 2, 1977.

[FR Doc.77–6734 Filed 3–4–77;8:45 am]

[Docket No. E77–43]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order

On February 25, 1977, Northern Natural Gas Company (Northern), as agent for its Peoples Natural Gas Division (Peoples) and Columbia Gas Transmission Corporation (Columbia), filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 35,000 Mcfd of natural gas at $2.25 per MMBtu from Pioneer Corporation (Pioneer) through July 31, 1977.

Northern states that these gas volumes will be available to Peoples on any day when Northern has invoked curtailment into Priority 3 of its presently effective curtailment plan on file with the Federal Power Commission (FPC). On such days, Peoples would receive the volumes necessary to serve all of its Priority 3 requirements up to 35,000 Mcfd. On all other days, and on those days that Peoples does require the entire 35,000 Mcfd to serve its Priority 3 requirements, Columbia will receive the available volumes up to 35,000 Mcfd. Northern advises that the priorities in its curtailment plan (FPC Docket No. RP76–52) differ from the priorities defined in 18 CFR 2.78(a)(1)(i)–(ix) as follows: (i) Industrial requirements up to 200 Mcfd are placed in its Priority 1 rather than FPC Priority 3 and (ii) industrial requirements of 200 to 499 Mcfd are placed in Priority 2(c) rather than FPC Priority 3 or lower. Thus, when Northern curtails 100 percent of its Priority 4, it would curtail all of the uses defined in FPC Priorities 4 through 9 except that some service may be rendered for industrial requirements between 300 and 499 Mcfd.

Order No. 6 specifies that, subsequent to February 22, 1977, no interstate pipeline or local distribution company may execute a contract for the purchase of gas pursuant to section 6 of the Act if, contemporaneously with the execution of the contract, the purchaser was serving directly or indirectly any uses specified in Priorities 4 through 9 (18 CFR 2.78(a)(1)(iv)–(ix)). Order No. 6 is based upon a defined set of priorities and uses rather than upon the priorities specified in the curtailment plans of various pipelines and permits an interstate pipeline or local distribution company to make new emergency purchases only if that company is not serving directly or indirectly certain uses as defined in that set of priorities. This set of priorities was adopted to determine the qualification to execute new contracts for purchases pursuant to section 6(a) of the Act so that available emergency supplies are utilized for only the higher priority uses for the near term. Because each of the pipeline curtailment plans approved by the FPC is based upon different priorities it is not practicable to base the qualifying criteria upon those plans. Likewise, qualification may not be based upon what uses would be served if the pipeline's plan were based upon the specified priorities. Instead qualification to make such purchases must be based upon those uses actually being served to insure the implementation of the policy of Order No. 6.

Therefore, if Peoples is serving any uses in FPC Priorities 4 through 9, I cannot authorize Northern to purchase gas for Peoples unless, on those days that Peoples is curtailed into Priority 3, Peoples totally curtails all industrial uses between 300 and 499 Mcfd which are properly classified in FPC Priorities 4 through 9. I have previously found that Columbia is not serving any uses classified in FPC Priorities 4 through 9. Columbia Gas Transmission Corporation, Docket No. E77–36 (February 26, 1977); Docket No. E77–38 (March 1, 1977). Thus, I authorize Northern, as agent for Columbia, to purchase up to 35,000 Mcfd from Pioneer.

Columbia and Peoples have agreed to pay Pioneer $2.25 per MMBtu for the subject gas. I find this price to be fair and equitable in accordance with Order No. 2.

Pioneer will deliver all volumes to Northern at an existing interconnection in Hemphill County, Texas. Northern will make all deliveries to Peoples and charge 3.4 cents per Mcf per 100 miles (approximately 34.8 cents per Mcf for deliveries to Northern Minnesota) plus 7 percent of the volumes transported for compressor fuel. Northern will deliver all volumes purchased for the account of Columbia to Panhandle Eastern Pipe Line Company (Panhandle) at Mullinville, Kansas, and Panhandle will deliver to Columbia at Maumee, Ohio. For deliveries to Columbia, Northern will charge 5.4 cents per Mcf plus 1.0 percent of the volumes transported for compressor fuel, and Panhandle will charge 23.25 cents per Mcf plus 11.0 percent of the volumes transported for compressor fuel.

Northern advises and I find that contractual provisions between Pioneer and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of its intrastate pipeline system gas supplies with gas moving in interstate commerce. The transportation and delivery of gas for which Northern seeks approval may result in some commingling of interstate natural gas with Pioneer's normal intrastate pipeline system gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas. Under the provisions of section 9 (b), (c) of Pub. L. 95–2 (91 Stat. at 9), the suppliers of such gas which is so commingled, may not terminate existing contracts with Pioneer or such other parties or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts as referred to above are not enforceable by reason of section 9 of Pub. L. 95–2 since Pioneer is selling, delivering and transporting gas for Northern pursuant to section 6(a) of that Act. Pioneer and any third person whose gas is commingled with Northern's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Pioneer is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *" 91 Stat. at 8. In addition, section 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law

Thus, the sale, delivery and transportation of this gas will not subject Pioneer or any person supplying gas to Pioneer to the provisions of the Natural Gas Act or to regulation as a common carrier under state law.

Therefore, I authorize Pioneer to sell gas to Northern pursuant to the pricing provisions set forth above, and authorize and order Northern and Panhandle to transport and deliver gas to Columbia and Peoples on the above-stated terms and conditions.

Columbia and Peoples shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to be by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Northern, Pioneer, Peoples, Columbia and

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Panhandle. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder

RICHARD L. DUNHAM
Administrator.

MARCH 3, 1977.

[FR Doc.77-6814 Filed 3-4-77;8:45 am]

[Docket No. CI77-173 etc.]

GULF OIL CORP.

Order Consolidating Proceedings and Setting For Hearing

FEBRUARY 28, 1977.

On September 20, 1974, Gulf Oil Corporation (Gulf) filed in Docket No. CI75-173 an application for Commission authorization to abandon a sale of natural gas to National Fuel Gas Supply Corporation (National Fuel) under a December 1, 1952 contract which expired November 1, 1974. Gulf's application was noticed by the Commission on September 30, 1974, and appeared in the FEDERAL REGISTER on October 4, 1974, at 39 FR 35849. Petitions to intervene were filed by National Fuel, Tennessee Gas Pipeline Company, and Texas Eastern Transmission Corporation (Texas Eastern).

On November 30, 1976, Gulf filed in Docket No. CI77-131 for authorization to abandon a sale of gas to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) under a gas sales contract dated January 23, 1956. Gulf states that it may terminate this contract pursuant to its terms effective April 23, 1977, and Gulf has notified Michigan Wisconsin that it will terminate the contract on that date. Notice of Gulf's application was issued on December 8, 1976, and was published in the FEDERAL REGISTER on December 15, 1976, at 41 FR 54807. Petitions to intervene have been received from Michigan Wisconsin, Algonquin Gas Transmission Company, Texas Eastern, and Philadelphia Gas Works.

On December 13, 1976, Gulf filed in Docket No. CI77-149 for authorization to abandon a sale of gas to Michigan Wisconsin under a gas sales contract dated November 6, 1953, which expired by its own terms on June 1, 1976. Notice of Gulf's application was issued on December 30, 1976, and was published in the FEDERAL REGISTER on January 7, 1977, at 42 FR 1509. Petitions to intervene have been received from Michigan Wisconsin, Algonquin Gas Transmission Company, Texas Eastern, General Motors Corporation, Philadelphia Gas Works, and Brooklyn Union Gas Company.

On December 30, 1976, Gulf filed an application in Docket No. CI77-199 requesting abandonment authorization for a sale of gas to Texas Eastern under an April 12, 1956 contract which had expired July 21, 1976. Gulf's application was noticed on January 12, 1977, and appeared in the FEDERAL REGISTER on January 25, 1977, at 42 FR 4531. Petitions to intervene have been filed by Texas Eastern, Michigan Wisconsin, General Motors Corporation, Bay State Gas Company, Algonquin Gas Transmission Corporation, and Brooklyn Union Gas Company.

In its application Gulf alleges that it should be permitted to abandon the subject sales on the grounds that it has been ordered by the Commission to serve Texas Eastern under its warranty contract and certificate issued in Docket No. CI64-26; that Texas Eastern's curtailment situation is considerably more severe than that of National Fuel and Michigan Wisconsin; that the current interstate purchasers have no claim to the gas inasmuch as their contracts with Gulf have expired and since the gas would remain in the interstate market; and that the price for the sale to Texas Eastern under its warranty contract is substantially lower than the likely price for continued sales to the current interstate purchasers.

We find that a hearing is desirable to determine, on the record, whether the present or future public convenience or necessity will be served by permitting the abandonment of service proposed herein. Moreover, in view of the fact that all four of Gulf's applications involve similar questions of law and policy, we conclude that their ultimate disposition would best be accomplished in a consolidated proceeding.

One of the issues to be considered at that hearing should be a "... comparison of the needs of the two natural gas systems and the public markets they serve ..." *Transcontinental Gas Pipe Line Corp.* v. *F.P.C.*, 488 F. 2d 1325, 1330 (D.C. Cir. 1973). The Commission declares that the underlying validity of the Commission's orders concerning the Gulf warranty contract, as expressed in Opinions 692, 692-A, 780, and 780-A, is not an issue in this proceeding, nor is the impact of a decision on these applications with regard to the corporate financial situation of Gulf, National Fuel, Michigan Wisconsin, or Texas Eastern.

The Commission finds: Gulf's abandonment applications, filed in Docket Nos. CI75-173, CI77-131, CI77-149, and CI77-199 should be consolidated and set for hearing.

The Commission orders: (A) Docket Nos. CI75-173, CI77-131, CI77-149, and CI77-199 are consolidated for purposes of hearing and disposition.

(B) Pursuant to the authority of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a public hearing under Section 7(b) of the Act shall be held in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, to determine whether the present or future public convenience or necessity permit the proposed abandonment.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 C.F.R. Section 3.5(d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure.

(D) Gulf and any intervenor supporting Gulf shall file their direct testimony and evidence on or before March 22, 1977. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(E) The Presiding Administrative Law Judge shall preside at a pre-hearing conference to be held on April 6, 1977, at 9:30 a.m. EST, in a hearing room at the address noted in Ordering Paragraph B.

(F) The above-named petitioners are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6683 Filed 3-4-77;8:45 am]

[Docket No. ER76-714]

INDIANA AND MICHIGAN ELECTRIC CO.

Extension of Time

FEBRUARY 28, 1977.

On February 22, 1977, Michigan Public Service Commission filed a motion to extend the date for filing comments fixed by notice issued February 8, 1977, in the above-designated matter.

Upon consideration, notice is hereby given that the date for filing comments is extended to and including March 11, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6686 Filed 3-4-77;8:45 am]

[Project No. 2360]

MINNESOTA POWER AND LIGHT CO.

Notice of Further Extension of Time

FEBRUARY 25, 1977.

On January 31, 1977, Minnesota Power and Light Company filed a motion to further extend the date within which to submit the initial statement of costs required by § 4.20 of the Commission's rules and regulations. By Notice issued November 16, 1976, an extension had been granted to and including February 28, 1977.

Notice is hereby given that an extension of time is granted to and including August 31, 1977, within which to submit the initial statement of costs

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6685 Filed 3-4-77;8:45 am]

[Docket No. ER76-46]

MONTAUP ELECTRIC CO.

Electric Rates; Order Approving Settlement

FEBRUARY 25, 1977.

On June 30, 1975, Montaup Electric Company (Montaup) submitted for filing a proposed increase in its rate to all of its wholesale customers. By order issued August 29, 1975, the Commission accepted the proposed rate for filing, suspended it for one month and permitted it to become effective October 1, 1975. By order issued November 3, 1975, the effective date of the rate increase was changed to February 1, 1976.

As a result of formal settlement conferences and other informal discussions between the parties, an uncontested settlement agreement was reached which was submitted to the Commission on December 10, 1976, with a motion for Commission approval thereof.

Based on our review of the record in these proceedings, including the settlement agreement itself, we conclude that the settlement agreement represents a reasonable resolution of the issues in the proceeding in the public interest and that accordingly the settlement should be approved.

The Commission finds:

The settlement agreement submitted to the Commission in this docket should be approved and made effective, as hereinafter ordered.

The Commission orders: (A) The settlement agreement submitted to the Commission in this docket on December 10, 1976, is hereby approved and made effective, and is incorporated herein by reference.

(B) Within 30 days from the date of this order, Montaup shall file with the Commission revised tariff sheets in conformance with the settlement agreement.

(C) Within 60 days after the settlement tariff sheets are accepted for filing, Montaup shall refund amounts collected in excess of the settlement rates with interest computed at 9% per annum.

(D) Within 15 days after refunds have been made, Montaup shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and settlement rates; the monthly settlement rate increase; the monthly revenue refund; and the monthly interest computation together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(E) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against Montaup or any person or party.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6681 Filed 3-4-77;8:45 am]

[Docket No. CP77-250]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

MARCH 1, 1977

Take notice that on February 22, 1977, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, and P.O. Box 1348, Kansas City, Missouri 64141, filed in Docket No. CP77-250 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to Consumers Power Company (Consumers) its Flint Town Border Measuring and Regulating Station, Flint, Michigan, and a related 12-inch lateral pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon by sale to Consumers the Flint Town Border Measuring and Regulating Station, Flint, Michigan, together with all miscellaneous fittings and valves appurtenant thereto, and the related 1,052 feet of 12-inch lateral pipeline and all right-of-way easements, permits and property rights affecting said facilities. Applicant further states that it proposes to sell the above described facilities for the sum of $1.00.

Applicant asserts that the abandonment of such facilities would relieve it of the obligation of operating and maintaining a measuring and regulating station which is now in use solely as a regulating station to regulate gas which is sold to Michigan Gas Storage and ultimately flowing into Consumers' distribution system, and which is located in a highly commercialized, densely populated area, near a major highway intersection and a shopping center. It is further asserted that the acquisition of such facilities by Consumers would enable it to heat and regulate the pressure of the gas which flows through such facilities, enabling Consumers to serve more easily the requirements of its market area.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 24, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6677 Filed 3-4-77;8:45 am]

[Docket No. RP75-50]

PENNSYLVANIA GAS AND WATER CO. v. TENNESSEE GAS PIPELINE CO.

Order Accepting Settlement

FEBRUARY 28, 1977.

On October 3, 1975, as supplemented on October 20, 1975, the Administrative Law Judge in Docket No. RP75-50 certified a proposed settlement to the Commission for action. The instant proceeding was instituted by Commission order of February 14, 1975, which was issued in response to a number of complaints filed against Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) by several of its customers.[1] The proposed settlement as it is stated resolves all issues remaining in the instant docket.

In view of the somewhat convoluted procedural history of this proceeding, a brief review is in order. In response to the aforementioned complaints, the Commission by order of February 14, 1975, in Docket No. RP74-24, et al., inter alia, consolidated the complaints of Con

[1] Complaints were filed against Tennessee by Consolidated Edison Company of New York, Inc. (Con Ed); Orange and Rockland Utilities, Inc. (O&R); Knoxville Utilities Board, et al. (Knoxville); Pennsylvania Gas and Water Company (PG&W) and the Berkshire Gas Company (Berkshire).

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Ed. O&R Knoxville, and PG&W for hearing and decision; construed filings by Alabama-Tennessee Natural Gas Company (filed in Docket No. RP75–45) and General Motors Corporation (filed in Docket No. RP74–24) as complaints under section 5(a) of the Natural Gas Act, and consolidated them with the aforementioned complaints. By order of March 14, 1975, the Commission dismissed Knoxville's complaint without prejudice, consolidated with the remainder of the proceeding a complaint filed by Berkshire against Tennessee, and redesignated the instant proceeding Docket Nos. RP75–35, et al. By order of April 28, 1975, the Commission allowed Berkshire to withdraw its complaint, and further severed Docket No. RP74–24 from the instant proceeding. On July 7, 1975, the Commission granted the joint motion of Con Ed and O&R to severe their complaints (Docket Nos. RP75–35 and RP75–36, respectively) from the remainder of the proceeding "since the balance of the proceeding relates to issues of law and fact different from that raised by Con Ed and O&R." (Order of July 7, 1975, p. 3). Then on September 9, 1975, the Commission designated the balance of the proceeding, i.e. PG&W's complaint, and Alabama-Tennessee's and GM's filings, Docket No. RP75–50. It is the issues contained in the latter docket which are the subject of the proposed settlement. The proposed settlement does not, according to the Presiding Judge, affect the issues in the Con Ed and O&R proceedings. (Certification of Proposed Settlement Agreement, October 3, 1975).

The Secretary of the Commission noticed this settlement agreement on November 6, 1975. Comments in support of the settlement were subsequently received from Brooklyn Union Gas Company, PG&W, Columbia Gas Transmission Corporation, Entex, Inc., General Motors Corporation, and Delta Natural Gas Company. No comments opposing the settlement were received.

THE SETTLEMENT

The proposed settlement in this proceeding consists of Exhibit 27, a nine page document with appendices A and B dated September 18, 1975, and Exhibit 28, a compilation of settlement end-use data which revises and takes the place of Exhibit 26.

The settlement agreement provides, inter alia:

a. That effective November 1, 1975, Tennessee shall use in the implementation of its presently effective curtailment plan the end use data reflected in Exhibit Nos. 25 and 26 (Settlement End Use Data) unless modified below.

b. That no motions, petitions, complaints, or other pleadings are to be filed with the Commission or the Courts directly or indirectly requesting a change in all or any part of the Settlement End Use Data, to be effective prior to November 1, 1980, except as hereinafter provided.

c. On or after November 1, 1976, pleadings may be filed with the Commission requesting revision of the Settlement End Use Data, solely in regard to the effect of applying a different method of allocation of the storage injection volumes reflected in each customer's total system and use profile underlying the Settlement End Use Data with no other changes in such total system end use profile."

d. If upon review of the Initial Decision in Docket No. RP74–24, the Commission revises the priority-of-service in Tennessee's presently effective curtailment plan, the Settlement End Use Data shall be revised upon a customer's request to the Commission solely to reflect the changes deemed appropriate by the Commission in its final decision. Any changes made by Tennessee pursuant to this section shall be made prospectively only and pursuant to Commission order.

e. That if the Commission modifies the Annual Volumetric Limitation (AVL) of any of Tennessee's customers, the end use data for such customer, as reflected in the Settlement End Use Data, may be changed prospectively by Tennessee or the Commission, upon the request of such customer or any party to this proceeding, solely to reflect the modification ordered by the Commission.

f. That the proposed settlement does not proscribe or prohibit the filing of petitions for extraordinary relief or requests for emergency relief under Article XXIV, section 4 of Tennessee's curtailment plan; however, the proposed settlement states that no petition for extraordinary relief will lie which is based on or requires a change in the customers end use profile as shown in the Settlement End Use Data.

g. That section 8 of the proposed settlement be construed as ad hoc petitions for relief from the provisions of Opinion No. 712. That those customers listed in Appendix A, attached to the Proposed Settlement, be allowed to group delivery points, and that the AVL of those customers listed in Appendix B be increased as reflected therein, starting with the annual period October 31, 1976.

h. That the Data Committee, which was established in this proceeding, will be, upon Commission approval of the proposed settlement dissolved. Tennessee will establish a Study Group "to evaluate various methods of allocating storage injection volumes to priorities-of-service categories in any customer's total system end use profile."

We have reviewed this uncontested settlement and find that it properly resolves the numerous base period end-use data issues raised in Docket No. RP75–50. Accordingly, we accept the settlement as being in the public interest.

The Commission further finds: The settlement of this proceeding on the basis of the settlement proposal of September 18, 1975, certified by the Presiding Administrative Law Judge on October 3, 1975, to the Commission for approval is just and reasonable and in the public interest in carrying out the provisions of the Natural Gas Act and should be approved.

The Commission orders: (A) The settlement proposal between Tennessee and its customers, marked Exhibit 27, and accompanying end-use data, marked Exhibit 28, are incorporated by reference and are approved.

(B) The complaint proceedings encompassed by this docket are hereby terminated.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6654 Filed 3-4-77;8:45 am]

[Docket No. CP77-239]

SEA ROBIN PIPELINE CO.

Notice of Application

MARCH 1, 1977.

Take notice that on February 17, 1977, Sea Robin Pipeline Company (Sea Robin) filed in Docket No. CP77–239, an application for a temporary and permanent certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act requesting authorization to transport natural gas for Natural Gas Pipe Line Company of America (Natural) from Block 315 Eugene Island Area, offshore Louisiana to the outlet side of metering and regulating facilities of Sea Robin on its pipeline near Earth, Vermilion Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 18, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commisison's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6679 Filed 3-4-77;8:45 am]

[Docket Nos. G–12446, et al.; RI72 –1 through –4]

TEXAS EASTERN TRANSMISSION CORP., ET AL.

Order Vacating Prior Rate Increase Orders, Consolidating Proceedings and Remanding Matters to Administrative Law Judge

FEBRUARY 28, 1977.

The United States Court of Appeals for the District of Columbia Circuit by order issued December 28, 1976, remanded to the Commission the appeals of the Public Service Commission of the State of New York, and Texas Eastern Transmission Corporation (Case Nos. 71–1814, et al.) from the Commission's orders of July 2 and August 30, 1971, Docket Nos. RI72–1, et al.[1] These orders of the Commission were issued subsequent to Opinion Nos. 565 and 565A, 42 FPC 376 (1969), 44 FPC 1079, (1970), which had been issued on August 6, 1969, and September 29, 1970, in Texas Eastern Transmission Corporation, et al., Docket No. G–12446, et al. (Rayne Field certificate proceeding). On appeal of the Opinions to the Court of Appeals, the Court remanded the certificate cases with instructions relating to refunds, rate adjustments, and flow-through of refunds. *Public Service Commission of the State of New York* v. *FPC*, 543 F. 2d 757 and 830 (D.C. Cir. 1974, 1975), cert. denied, 44 U.S. L.W. 3471 (February 24, 1976).

On August 17, 1976, the Commission issued an order in Texas Eastern Transmission Corporation, et al., Docket No. G–12446, et al., remanding the proceeding to the Administrative Law Judge for further procedures. An Order clarifying the order was issued September 14, 1976, and on October 14, 1976, the Commission issued an order denying rehearing. Conferences and hearings have been held before the Administrative Law Judge in the remanded proceedings and were concluded on January 27, 1977. Briefs are to be filed with the administrative Law Judge on March 18 and April 18, 1977.

The decision of the Court of Appeals in the certificate case prescribed the application of just and reasonable rates for the sale of gas by the producers to Texas Eastern in order to "conventionalize" the lease-sale transfer. Texas Eastern and the New York Commission and contended that the rate increase orders modified or amended the cetrificate orders contained in Opinion Nos. 565 and 565A, which were in 1971 the subject of review before the Court of Appeals, and that the Commission lacked the authority to modify or amend orders subject to judicial review by virtue of 19(b) of the Natural Gas Act. Other assertions were made by the appellants and applicants before the Commission.

Petitioners, Public Service Commission and Texas Eastern, filed a motion with the Court of Appeals, with the agreement of the respondents, that the appeal of the rate increase orders were ripe for summary disposition to effectuate the decision of the previous Court of Appeals decisions in the certificate cases. The Court, therefore, remanded the rate increase orders to the Commission with instructions to vacate the orders and to enter appropriate refund orders, all without prejudice to the right of any person to petition for review of such refund orders as may be entered.

In order to properly dispose of these matters, the Commission will vacate the rate increase orders of July 2, and August 30, 1971, and consolidate these matters with the certificate proceeding which is pending before the Administrative Law Judge. Should any further evidence be required on these matters not satisfactorily covered by the evidence in the record, any participant in the proceeding may by proper motion to the Administrative Law Judge request permission to supplement the record.

The Commission finds:

(1) The matters pending in Continental Oil Company, Sun Oil Company, M. H. Marr, and General Crude Oil Company, Docket Nos. RI72–1, RI72–2, RI72–3, and RI72–4, respectively, should be consolidated for hearing and decision with Docket Nos. G–12446, et al.

(2) The orders issued July 2, and August 20, 1971, in Continental Oil Company, et al., Docket Nos. RI72–1, et al., should be vacated.

(3) All parties to the rate increase dockets have been parties to the certificate proceedings and may by proper motion to the Administrative Law Judge seek to submit whatever further evidence may be required pursuant to this order.

(4) Expedition of the Commission's business requires that these matters be consolidated into a single proceeding as they involve common issues of fact and law.

The Commission orders:

(A) The orders issued July 2, and August 30, 1971, in Continental Oil Company, et al., Docket No. RI72–1, et al., are hereby vacated.

(B) The matters pending before the Commission in Continental Oil Company, et al., Docket Nos. RI72–1, et al., are hereby consolidated for hearing and decision with the matters previously consolidated in Texas Eastern Transmission Corporation, et al., Docket Nos. G–12446, et al.

(C) The matters pending before the Commission in Continental Oil Company, et al., Docket Nos. RI72–1, et al., are hereby remanded to the Administrative Law Judge for appropriate disposition in the consolidated proceeding consistent with the order of the Court of Appeals for the District of Columbia Circuit in *Public Service Commission, et al.* v. *FPC*, Docket Nos. 71–1814, et al., issued December 27, 1976.

(D) Any participant in the consolidated proceeding may, within 30 days of the date of issuance of this order, file a motion for leave to submit additional evidence on the matters which are the subject of this remand from the Court of Appeals.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6682 Filed 3-4-77;8:45 am]

[1] Involved are Continental's Rate Schedule No. 318, Sun's Rate Schedule No. 209, Marr's Rate Schedule No. 11, and General Crude's Rate Schedule No. 10.

[Docket No. CP77–186]

TEXAS EASTERN TRANSMISSION CORP.

Further Extension of Time

FEBRUARY 28, 1977.

On February 25, 1977, Texas Eastern Transmission Corporation filed a motion to extend the time to comply with Ordering Paragraph (C) of the Commission's Order issued February 4, 1977, as most recently modified by Notice issued February 16, 1977.

Upon consideration, notice is hereby given that an extension of time is granted to and including March 7, 1977, to comply with Ordering Paragraph (C).

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6815 Filed 3-4-77;8:45 am]

[Docket No. CP76–279]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Providing for Formal Hearing, etc.

FEBRUARY 25, 1977.

Transcontinental Gas Pipeline Corporation (Transco) has made two filings in recent days in Docket No. CP76–279. On February 3, 1977 Transco filed, pursuant to Section 7(c) of the Natural Gas Act, a petition to amend further the certificate of public convenience and necessity issued herein on August 18, 1976, and as previously amended by order issued January 25, 1977, and temporary authorization issued January 29, 1977, to enable Transco to transport volumes of natural gas for use as boiler fuel at the Burlington Industries, Inc. (Burlington) facility at Rockleigh, New Jersey. Transco proposes to deliver said volumes to Public Service Electric and Gas Company of New Jersey (PSE&G) for Burlington's account. This additional facility is proposed to be serviced from the same 1,500 Mcf per day currently authorized in said docket. On February 11, 1977, Transco filed a petition to amend further the certificate in the instant docket to enable Transco to transport volumes of natural gas and deliver them at seven additional facilities located in Virginia, North Carolina, and South Carolina for Burlington Industries, Inc. (Burlington).

Transco is currently authorized to transport up to 1,500 Mcf per day of gas on an interruptible basis for various

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Burlington plants which are existing industrial customers of Transco's resale customers. The transportation certificate has a term of two years beginning on September 1, 1976, and takes place between mutually agreeable existing, authorized exchange points between Transco and United Gas Pipe Line Company (United) where the gas is delivered to Transco by United.

The February 3rd petition to amend seeks to add an additional delivery point to serve a Burlington facility in Rockleigh, New Jersey, which employs 423 people and contains Burlington's administrative and executive offices. In its affidavit dated January 31, 1977, Burlington states that the facility requirements are 95 Mcf on the average day and 135 Mcf per peak day for Priority 2 needs and that no alternate source of fuel is available. Burlington further states that without the proposed transportation volume, it would have to reduce the plant temperature to 45° F, which would necessitate the closing the facility. PSE&G indicated their willingness to transport the gas for the Rockleigh facility but also that the subject gas is to be used in a boiler fuel use which can technically utilize an alternate.

The February 3rd application was noticed on February 10, 1977, no petitions for leave to intervene, notice of intervention, or oppositions have been filed herein. Transco's January 11th petition to amend seeks to include deliveries to seven additional Burlington facilities located in Virginia, North Carolina and South Carolina:

K. M. Altavista, Hurt, Virginia.
Altavista Glass, Hurt, Virginia.
Brookneal, Brookneal, Virginia.
Stokesdale, Stokesdale, North Carolina.
Reidsville, Reidsville, North Carolina.
Society Hill, Society Hill, South Carolina.
James Fabrie, Cheraw, South Carolina.

Transco states that the additional facilities are proposed to be served from the same 1,500 Mcf per day currently authorized. The distributor that serves K. M. Altavista, Altavista Glass, and Brookneal is Virginia Pipe Line Company (Virginia). The distributors that serve Stokesdale and Reidsville are Piedmont and North Carolina Gas Service Division, Pennsylvania and Southern Gas Company (N.C. Gas), respectively. Carolina Pipeline Company (Carolina) is the distributor that serves Society Hill and James Fabrie. These distributors are existing Transco customers under Rate Schedule CD 2. Transco further states that it will perform the service under the same terms and conditions currently authorized.

Transco alleges that the seven Burlington facilities require the following amounts of natural gas for high priority uses per average and peak day:

	Thousand cubic feet per day—	
	Average	Peak
K. M. Altavista	85	1,400
Altavista Glass	400	800
Brookneal	700	700
Stokesdale	125	175
Reidsville	110	140
Society Hill	1,275	2,000
James Fabrie	100	345

The volumes to be transported are not intended to meet these requirements fully, according to Transco, but rather to afford Burlington the opportunity to increase its flexibility in dealing with the current energy crisis related to the abnormally cold weather prevailing east of the Rocky Mountains. Burlington states that the needs of various plants shift due to weather, curtailment levels, and availability of propane; and with added flexibility, production schedules can be adjusted to keep plants operating which otherwise would be forced to close.

As alleged by Transco, the K. M. Altavista, Altavista Glass and Brookneal facilities use natural gas for essential process uses in finishing operations. The Society Hill and James Fabries facilities use natural gas for finishing processes and heating, which it states is a Priority 2 commercial use. Likewise, the Stockesdale and Reidsville facilities use natural gas for Priority 2 commercial uses.

The gravamen of Transco's petition is that natural gas would be essential for open-flame processing in the finishing plants for the principal operations of singeing, drying, heat setting, thermosol drying, and curing. If gas services were terminated, Transco alleges that the operations of a finishing plan, as well as the dependent griege operations, would cease. Natural gas is allegedly also essential for the commercial facilities, in that the plants could not operate effectively without the services provided by the commercial facilities. If the supply of natural gas were curtailed to the point where these seven facilities were forced to close. Transco states that approximately 4,841 employees would be affected.

This application was noticed on February 23, 1977. No petition for leave to intervene, notices of intervention, or opposition have yet been filed.

Our review of the circumstances expressed in the February 11, 1977 petition to further amend indicates that temporary authorization should be granted in order to permit the temporary continued operation of the seven additional facilities as to the use of natural gas in processing operations only. We find these proceedings should be set for immediate hearing on an expedited basis. We reserve the right to review the record in these proceedings prior to making our final decision. The Commission has consistently denied authorization to use natural gas as boiler fuel or other lower priority uses during times of extreme curtailment pursuant to Section 2.79 of the Commission's Rules and believes that the question should be explored at a hearing to be established below us to what volumes of gas are to be used as boiler fuel and what alternate fuel capabilities there might be.

As to the February 3, 1977 petition to further amend we note the proposed transportation volumes are to be used for a boiler fuel use for which alternate fuels can technically be utilized, and there has been no showing that the proposed transportation meets the criteria of Section 2.79(c) of the Commission's General Policy and Interpretations (18 CFR 2.78 (c)). Said section provides that the uses which would qualify are uses contained in Priorities 2 and 3 as set forth in Section 2.78(c)(10) for which there exists no alternate fuel capabilities. "Alternate fuel capability" is defined as a situation where an alternate fuel could have been utilized whether or not the facilities for such use have actually been installed. We therefore feel that the temporary authorization sought by the February 3rd, 1977 filing be denied. We will however provide an opportunity for Transco and Burlington to come forward and present proof that the public convenience and necessity will be served by the grant of the requested authority in a hearing. The record in that hearing shall contain, inter alia, information as to the exact end-usage of all gas sought to be transported and the alternate fuel which could be utilized whether or not the facilities for such use have actually been installed.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and the issues presented in these proceedings as hereinbefore described.

(2) The public convenience and necessity require that the request for a temporary certificate authorizing transportation of volumes of natural gas as hereinbefore described in the Rockleigh, New Jersey facility of Burlington be denied.

(3) The granting of a temporary certificate to petitioner to transport natural gas for use in processing operations is required by the public convenience and necessity and therefore should be permitted as hereinafter ordered and conditioned.

The Commission orders:

(A) The proceedings in Docket No. CP76-279 and the issues raised by the February 3, 1977 and February 11, 1977 filings are hereby set for hearing and disposition. Pending the same, a temporary certificate of public convenience and necessity authorizing Transco to transport the aforementioned volumes of natural gas for use in processing operations is hereby granted as hereinafter ordered and conditioned, without prejudice to the final outcome of these proceedings:

(1) The volumes proposed to be transported shall be those dedicated for use in Priority 2 processing operations only. The transportation of volumes for use as boiler fuel is not authorized herein.

(2) Within ten days of the issuance of this temporary certificate, Transco shall advise the Commission in writing of the volumes of natural gas hereinbefore described which are to be dedicated to use in processing operations, and what volumes are proposed for use for heating fuel.

(B) The request for temporary authorization for the transportation of the aforementioned volumes of natural gas to the Rockleigh, New Jersey facility of Burlington is denied.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure, and the regulations under the Natural Gas Act (18 CFR Chapter 1), a public hearing on the issues presented by the applications filed in this proceeding will be held in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 at 10:00 a.m. on March 7, 1977 commencing with a prehearing conference concerning the matters involved in the issues presented by this application.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at a hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, and motions to consolidate and serve, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

(E) On or before March 4, 1977 Transco and Burlington shall file with the Secretary of this Commission and serve upon all parties of this proceeding, including the Commission Staff, their testimony and exhibits.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6687 Filed 3-4-77;8:45 am]

FEDERAL RESERVE SYSTEM

ALLEN BANCSHARES, INC.

Formation of Bank Holding Company

Allen Banchares, Inc., Allen, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 94.375 percent of the voting shares of Farmers State Bank, Allen, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not laer than March 28, 1977.

Board of Governors of the Federal Reserve System, February 28, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6621 Filed 3-4-77;8:45 am]

FIRST INTERNATIONAL BANCSHARES, INC.

Order Approving Acquisition of Bank

First International Bancshares, Inc., Dallas, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)), to acquire 100 percent of the voting shares, less directors' qualifying shares, of the successor by merger to Beaumont State Bank, Beaumont, Texas ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Texas, controls 24 banks with aggregate deposits of approximately $3.6 billion, representing approximately 7.67 percent of total commercial bank deposits in Texas.[1] Acquisition of Bank (approximately $41.6 million in deposits would increase Applicant's share of Statewide commercial bank deposits by less than 0.1 of one percent and would have no appreciable effect upon the concentration of banking resources in this State.

Bank is the fifth largest of 22 banking organizations in the Beaumont banking market, which is the relevant banking market,[2] and controls approximately 4.3 percent of the total deposits in commercial banks in the market. Applicant's nearest subsidiary bank is approximately 74 miles west of Bank. In view of the distance between Bank and Applicant's nearest banking subsidiary, and other facts of record, no significant competition exists or is likely to develop in the future between Bank and Applicant's banking subsidiaries. Although Applicant has the financial capability to enter the market de novo, demographic data suggest that this is not a likely means of entry by Applicant. Consummation of the proposal would neither eliminate any significant existing or potential competition nor increase the concentration of banking resources in any relevant market. Accordingly, based on the above and other facts of record, it has been determined that competitive considerations are consistent with approval of the application.

Considerations relating to the financial and managerial resources and future prospects of Bank, Applicant, and its subsidiaries are regarded as satisfactory and consistent with approval, particularly in light of Bank's retention of $200,000 of interim capital. Applicant will proivde Bank with the capabilities of offering improved retail banking services and many services not currently provided by Bank, including servicing of large commercial accounts, investment analysis, trust portfolio mangement, natural gas property management, factoring, equipment leasing, and international banking. Applicant, through its insurance subsidiaries, will enable Bank to provide credit life and credit accident and health insurance for its borrowing customers at rates substantially below the maximum rate permitted by State regulatory authority. Thus, considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application. It has been determined that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective February 28, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[RF Doc.77-6622 Filed 3-4-77;8:45 am]

[1] All banking data are as of December 31, 1975, and reflect bank holding company formations and acquisitions through January 15, 1977.

[2] The relevant banking market is approximated by the Beaumont-Port Arthur-Orange SMSA, located on the Texas Gulf Coast, and includes Hardin, Jefferson, and Orange Counties.

JACOBUS CO., INLAND HERITAGE CORP., AND INLAND BELOIT CORP.

Acquisition of Banks and Formation of Bank Holding Company

The Jacobus Company, Milwaukee, Wisconsin, and its 45.4 percent owned

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subsidiary, Inland Heritage Corporation, Wauwatosa, Wisconsin, have applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 182(a)(3)) to acquire, indirectly, 95.4 percent of The Beloit State Bank, Beloit, Wisconsin, through the acquisition of Financial Network Corporation, Beloit, Wisconsin, the parent holding company of The Beloit State Bank, by Inland Beloit Corporation, Milwaukee, Wisconsin, a wholly-owned subsidiary of Inland Heritage Company; and to acquire, indirectly, 75.3 percent of Community Bank of Beloit, Beloit, Wisconsin, through the acquisition of Community Holding Corporation, Beloit, Wisconsin, the parent holding company of Community Bank of Beloit, by Inland Beloit Corporation. At the same time, Inland Beloit Corporation has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through the acquisition of Financial Network Corporation and Community Holding Corporation. Previous applications for Board approval of these proposed acquisitions were denied by the Board on February 7, 1977 (42 FR 9059). The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 24, 1977.

Board of Governors of the Federal Reserve System, March 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6613 Filed 3-4-77;8:45 am]

KREMMLING HOLDING CO.

Formation of Bank Holding Company

Kremmling Holding Company, Kremmling, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares of Bank of Kremmling, Kremmling, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 28, 1977.

Board of Governors of the Federal Reserve System, February 28, 1977.

GRIFFITH L. GARWOOD.
Deputy Secretary of the Board.

[FR Doc.77-6623 Filed 3-4-77;8:45 am]

RAMAPO FINANCIAL CORP.

Order Amending Time Requirement for Raising Equity Capital by Applicant to Augment the Capital of Its Subsidiary, The Ramapo Bank, Wayne Township, New Jersey

On August 31, 1973, the Board denied by Order an application by Ramapo Financial Corporation, Wayne Township, New Jersey ("Applicant"), then known as Cegrove Corporation, to acquire 100 per cent (less directors' qualifying shares) of the voting shares of The Ramapo Bank, Wayne Township, New Jersey ("Bank"). The Board's denial was based on concerns about Applicant's ability to service its acquisition debt without straining the capital of its existing and proposed subsidiaries and Applicant's ability to raise additional capital. On September 20, 1973, Applicant formally requested that the Board reconsider its previous denial. As part of its request for reconsideration, Applicant committed to sell $400,000 of common stock within thirty days of the effective date of the proposed acquisition with the entire proceeds of such sale to be applied immediately to reduce Applicant's debt. In addition, Applicant committed to raise $1 million in equity capital within 18 months of consummation of the proposed acquisition with the proceeds of such sale to be added directly to the equity capital funds of Bank. By Order of February 25, 1974, the Board, after granting Applicant's request for reconsideration, granted Applicant's application to acquire Bank, in reliance upon Applicant's commitments to reduce its debt and augment Bank's capital. On April 1, 1974, Applicant acquired the shares that were the subject of the Board's Order of February 25, 1974.

By letter dated October 22, 1976, Applicant requested an extension for an unspecified amount of time in which to fulfill its commitments under the Board's February 25, 1974 Order. Although such commitments were to have been satisfied by October 1, 1975, Applicant had been in contact with the Federal Reserve Bank of New York soon after that time concerning its inability to honor its commitment to raise equity capital by $1 million. The commitment to sell $400,000 in common stock within thirty days of acquisition of Bank and apply the proceeds to the acquisition debt was accomplished.

In support of its request for an extension of time, Applicant maintains that it has been unable to market a $1 million equity issue. An investment banking firm hired by Applicant to study the feasibility of marketing a $1 million equity issue in New Jersey confirms Applicant's inability to do so and attributes that inability to what it characterizes as the "depressed" condition of the market for bank stocks and the generally low earnings performance of the banking industry in New Jersey. Applicant has taken steps to avoid strain on capital in light of its inability to market its equity issue. However, Applicant increased its dividend in 1976, placing additional demand on Bank.

The Board has carefully considered Applicant's request for modification of the Order of February 25, 1974. Based upon all the facts of record, the Board believes that an extension of time in which to satisfy the requirements of its Order is justified. Accordingly, Applicant's request for a modification of the Board's Order of February 25, 1974, is hereby granted. Therefore, the Board hereby grants Applicant one year from the effective date of this Order in which to meet its previous commitment to raise $1 million in equity capital. However, this extension of time is conditioned upon (1) Bank's refraining from further increases in dividends and (2) Applicant's submission of quarterly progress reports on its efforts to meet the capital commitment to the Federal Reserve Bank of New York beginning March 31, 1977, and continuing until the capital commitment is met. Accordingly, the Board's Order of February 25, 1974, is hereby so amended for the reasons summarized above.

By order of the Board of Governors,[1] effective February 28, 1977.

GRIFFITH L. GARWOOD.
Deputy Secretary of the Board.

[FR Doc.77-6624 Filed 3-4-77;8:45 am]

FEDERAL TRADE COMMISSION

CORRECTIVE ADVERTISING

Opportunity to Submit Comments on Petition to Adopt Interpretive Rule or Policy Statement

The Federal Trade Commission has been petitioned by the Institute for Public Interest Representation, Georgetown University Law Center, to adopt an interpretive rule or statement of policy requiring corrective advertising whenever (1) the advertiser makes a claim concerning health, safety or nutrition; and (2) the claim is found in an adjudication to be false or misleading; and (3) the false or misleading advertising campaign has lasted for one year or more, or six months if the claim was the major element of the campaign.

The Commission has determined that prior to considering the merits of this or any similar approaches to corrective advertising, or to publishing a specific proposal for further comment, interested parties should have the opportunity of making their views known. Accordingly, the Commission is soliciting written views on the Petition and on the various questions posed in this Notice.

Petitioners believe that the type of evidence necessary to demonstrate specifically, in a given case, the nature and extent of consumers' false beliefs will be rarely, if ever, available from respondents and that it would be costly and burdensome for the Commission to develop it. Consequently, petitioners are concerned that if the Commission requires in each case elaborate empirical evidence of the existence and nature of consumer beliefs, as a prerequisite to consideration of corrective advertising, the remedy will be ordered only in rare cases, a result that petitioners believe would be contrary to what is known about the effects of advertising and contrary to the public interest.

Petitioners argue that evidence as well as the Commission's own experience in three separate, detailed false advertising adjudications (Firestone Tire and Rubber Co., 81 F.T.C. 398, aff'd 481 F. 2d 246 (6th Cir. 1973), cert. denied 414 U.S. 1112 (1973); ITT Continental Baking Co., Inc., 83 F.T.C. 865, mod. in part 532 F. 2d 207 (2nd Cir. 1976); Warner-Lambert Co., Dkt. 8891 (Dec. 9, 1975), appeal docketed, No. 76-1138, D.C. Cir. (Feb. 13, 1976)), justify the Commission's drawing inferences (a) That consumers believe these three types of advertising claims, (b) That those beliefs play a material role in consumer purchasing decisions and (c) That a substantial number of consumers will continue to hold false beliefs even if advertising of the false claims has ceased. Therefore, petitioners argue, the Commission no longer needs additional evidence, specifically relating to each particular case, to support a requirement of corrective advertising in future instances of false claims of greater than the specified duration and involving health, safety or nutrition.

In publishing this petition and inviting interested persons to comment, the Commission takes no position on the issues raised by petitioner's proposal. The questions that accompany the petition are provided in order to facilitate public comment and should not be construed to limit the nature and scope of comments prepared in response to this notice.

A. AREAS OF FACTUAL INQUIRY

(1) What evidence exists to provide a factual basis for treating health, safety, and nutrition claims differently from other product characteristic claims for purposes of corrective advertising?

(a) What evidence establishes whether these claims are especially material and believed?

(b) Does the evidence establish that consumers are unable to determine for themselves the truth of these claims? Under what circumstances? To what extent?

(c) What evidence establishes whether false health, safety and nutrition claims cause physical injury to consumers? To what extent?

(d) What evidence establishes whether false claims about these products characteristics create persistent misimpressions or have other continuing effects? With what strength and duration?

(2) Do companies gather data on consumer beliefs about advertised products in the ordinary course of business? To what extent?

(3) Are there general, predictable and reliable relationships between the duration, frequency or other measure or exposure to advertisements and the persistence of consumer beliefs in their claims, or other lasting effects?

(4) Can uniform corrective advertising requirements (for example, as to content, duration, media) be designed that would correct persistent misimpressions caused by these false claims? Could such requirements be keyed to the characteristics of individual false claims, or to their effects? Comments suggesting objective measurements should be specific.

(5) If the content, duration, media and other requirements of corrective advertisements were to be tailored to the facts of each case, would a major purpose of the rule (i.e., to expedite administrative determinations) be undermined?

(6) What are the anticipated effects of the rule?

(a) Would false claims be significantly deterred?

(b) Would advertisers simply change their advertising campaigns more frequently to avoid the rule?

(c) Would truthful claims be deterred? To what extent? Why?

(d) Would advertisers eschew claims about the health, safety, and nutritional characteristics of their products?

(e) Will development and marketing of new products with health, safety, or nutritional advantages be affected? How? To what extent?

(f) How would the rule affect settlements? Would it prolong litigation over truthfulness?

(7) To what extent, if any, would a rule shifting to respondent the burden of proving non-belief, immateriality and non-persistence achieve the rule's purpose of expediting administrative determinations?

B. AREAS OF LEGAL AND POLICY INQUIRY

(1) Can the Commission, consistently with the Administrative Procedure Act, direct its Administrative Law Judges to order a particular mode of relief in a class of cases?

(2) Given the Commission's expertise, what should the state of general knowledge, or of a rulemaking record, be to permit the Commission to draw the inferences concerning the existence and stability of consumer beliefs that would be necessary in order to adopt a per se corrective advertising remedy for certain false advertisements? What is the bearing, if any, of the "substantial evidence" test for judicial review upon the Commission's authority to adopt a per se corrective advertising remedy for certain false advertisements?

(3) Are there constitutional limitations on the Commission's authority to adopt a per se remedy of corrective advertising?

(4) Does any provision of the Federal Trade Commission Act limit the Commission's authority to adopt a per se approach to a particular remedy?

(5) Should the Commission announce the adoption of a per se approach to a particular remedy in an interpretive rule or a policy statement or should it do so only in the context of a particular case? Should the Commission hold hearings prior to adopting the proposal in an interpretive rule or policy statement?

(6) In order to adopt a per se approach to remedy, should the Commission proceed under Section 18(a)(1)(B) of the Act, as amended?

(7) Petitioners assert that the considerations that support adoption of a per se rule with respect to corrective advertising are analogous to considerations which led to judicial adoption of a per se rule with respect to price fixing agreements under the Sherman Act.

(a) Do such judicial determinations, which dispense with the need for proving in each case that an act or practice is a violation of law, articulate criteria for determining whether or not to adopt a *per se* rule with respect to remedy rather than violation?

(b) Are there any prior administrative or judicial decisions which address the issue of whether, once a law violation has been found, proof in each case as to the appropriateness of a remedy is unnecessary?

(8) Would response to these questions be affected if the proposed rule provided for shifting of the burden of proof to an advertiser to demonstrate that his false advertisement had no significant lasting effect?

(9) Are there any other constitutional, statutory or legal impediments to the adoption of this proposed rule?

C. DEFINITIONS

(1) How would "health," "safety," and "nutrition" claims be defined?

(2) How should "advertising campaign" be defined?

Comments should be submitted to the Assistant Director for National Advertising, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 on or before May 6, 1977. Copies of the petition and its supporting memorandum are available for inspection during regular business hours in Room 130 of the Federal Trade Commission building at 6th and Pennsylvania Avenue, Northwest, Washington, D.C. Copies may be obtained from the Division of National Advertising.

By direction of the Commission dated February 10, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-6589 Filed 3-4-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of April 1977:

Name: United States National Committee on Vital and Health Statistics. Date and Time: April 5-6, 1977, 9:00 a.m. Place: Wardman Towers Conference Center, Sheraton-Park Hotel, 2660 Woodley Road, N.W., Washington, D.C. 20008. Open for entire meeting.

Purpose: The Secretary and by delegation the Assistant Secretary for Health and the Director, National Center for Health Statistics (NCHS) are charged under section 306 of the Public Health Service Act, as amended, 42 USC 242k, with the responsibility to collect, analyze and disseminate national health statistics on vital events and health activities, including the physical, mental, and physiological characteristics of the population, illness, injury, impairment, the supply and utilization of health facilities and manpower, the operation of the health services system, health economic expenditures, and changes in the health status of people; administer the Cooperative Health Statistics System; stimulate and conduct basic and applied research in health data systems and sta-

[1] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, and Lilly. Absent and not voting: Governors Jackson and Partee.

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tistical methodology; coordinate the overall health statistical activities of the programs and agencies of the Health Resources Administration and provide technical assistance in the management of statistical information; maintain operational liaison with statistical gathering and processing services of other health agencies, public and private, and provide technical assistance within the limitations of staff resources, research, consulation and training programs in international statistical activities; and participate in the development of national health policy with Federal agencies.

Agenda: Review of legislative mandate for the Committee; discussion on relationship between the Committee, Office of Management and Budget, and NCHS; current activities of the NCHS; review of DHEW Health Statistics Plan; review status of Report on the Nations Health; review current activities of the Technical Consultant Panels; review annual report of the Committee; review research activities of NCHS; and discuss plans for the 1978 Public Health Conference on Records and Statistics.

The meeting is open to the public for observation and participation. Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact James A. Smith, National Center for Health Statistics, Room 8-21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1470.

Agenda items are subject to change as priorities dictate.

Dated: March 1, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-6596 Filed 3-4-77;8:45 am]

National Institutes of Health

ADVISORY COMMITTEE TO THE DIRECTOR, NIH

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, April 28-29, 1977, National Institutes of Health, Bethesda, Maryland, Building 31, Conference Room 10, C Wing. The meeting will take place from 9:00 a.m. to 5:00 p.m. on April 28, and from 9:00 a.m. to 1:00 p.m. on April 29. The entire meeting will be open to the public.

The purpose of the meeting will be to examine recent developments in the field of recombinant DNA research, and possible courses of action that may be taken to regulate such research; a review of FY 1978 budget proposals; and a consideration of technology assessment issues. In addition, other policy issues of concern to the Director, NIH, will be discussed. Attendance by the public will be limited to space available.

The Executive Secretary, Charles R. McCarthy, Ph. D., National Institutes of Health, Building 1, Room 224, Bethesda, Maryland 20014, 301-496-1480, will furnish summaries of the meeting, rosters of Committee members and guests, and substantive program information.

Dated: March 1, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6605 Filed 3-4-77;8:45 am]

DRUG DEVELOPMENT COMMITTEE

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Drug Development Committee, National Cancer Institute, National Institutes of Health, March 29, 1977, which was published in the FEDERAL REGISTER on February 24, 1977 (42 FR 10898).

Dated: March 1, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6599 Filed 3-4-77;8:45 am]

CONTRACEPTIVE EVALUATION RESEARCH CONTRACT REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Contraceptive Evaluation Research Contract Review Committee, National Institute of Child Health and Human Development on April 18, 1977, in Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on April 18 for the review of the current program, to discuss plans for new contracts and the budget for FY 1978. Attendance by the public will be limited to space available.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1848, will provide summaries of the meeting and rosters of the committee members.

Dr. Heinz W. Berendes, Chief, Contraceptive Evaluation Branch, Center for Population Research, NICHD, Landow Building, Room A-716, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-4924, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.864, National Institutes of Health.)

Dated: March 1, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institute of Health.

[FR Doc.77-6603 Filed 3-4-77; 8:45 am]

LIPID METABOLISM ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, April 11-12, 1977, Building 31, Conference Room 9, Bethesda, Maryland.

This meeting will be open to the public on April 11 from 9 a.m. to 10:30 a.m. to discuss the Lipid Metabolism Branch Program Review. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on April 11 from 10:30 a.m. to adjournment on April 12 for the review, discussion and evaluation of individual contract proposals. The proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 5A03, Bethesda, Maryland 20014, (301) 496-4236, will provide summaries of meetings and rosters of committee members. Dr. Basil M. Rifkind, Chief, Lipid Metabolism Branch, NHLBI, Building 31, Room 4A18, (301) 496-1681, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: February 28, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6603 Filed 3-4-77;8:45 am]

MENTAL RETARDATION RESEARCH COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Mental Retardation Research Committee, National Institute of Child Health and Human Development, on April 7-9, 1977, in the Landow Building, Room C-418, 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on April 7 from 12:30 p.m. to 3:00 p.m. to discuss items relative to the Committee's activities including announcements by the Chief of the Mental Retardation and Developmental Disabilities Branch and the Executive Secretary of the Committee. The Committee will review the Branch contracts program including concept clearance of any new contract areas not previously cleared by an outside review group.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on April 7 from 3:00 p.m. to adjournment on April 9 for the review, discussion and evaluation of individual grant applications.

The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1848 will provide a summary of the meeting and a roster of committee members. Dr. Lyle Lloyd Executive Secretary, Mental Retardation Research Committee, NICHD, Landow Building, Room C-704, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1383, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, National Institutes of Health.)

Dated: February 28, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6601 Filed 3-4-77;8:45 am]

NATIONAL COMMISSION ON DIGESTIVE DISEASES

Meeting

Pursuant to Pub. L. 94-562, notice is hereby given of the meeting of the National Commission on Digestive Diseases, National Institute of Arthritis, Metabolism, and Digestive Diseases on April 11, 1977, in Building 1, Wilson Hall, Bethesda, Maryland. The entire meeting will be open to the public from 9 a.m. to 5 p.m.

The meeting is being held to discuss the scope of the Commission's work as set forth in the Arthritis, Diabetes and Digestive Disease Amendments of 1976 (Pub. L. 94-562) and to organize a plan for its accomplishment. Attendance by the public will be limited to space available.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, (301) 496-3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.848, National Institutes of Health.)

Dated: March 1, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6602 Filed 3-4-77;8:45 am]

PRIMATE RESEARCH CENTERS ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Primate Research Centers Advisory Committee, Division of Research Resources, March 15, 1977, Sheraton Inn New Orleans International Airport, Conference Room, 2150 Veterans Memorial Boulevard, New Orleans, Louisiana 70062.

This meeting will be open to the public on March 15, 1977, from 9:00 a.m. to 10:00 a.m., to discuss status of the Animal Resources Program as it relates to function of the Primate Centers and current status of primate supply. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 15, 1977, from 10:00 a.m. to adjournment for the review, discussion and evaluation of a renewal research grant application, three individuals initial pending research grant applications, and two individual contract proposals. The grant applications and contract proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries, and personal information concerning individuals associated with the grant applications and contract proposals.

Mr. James Augustine, Information Officer, Division of Research Resources, Building 31, Room 5B39, Bethesda, Maryland 20014, 301/496-5545, will provide summaries of the meeting and rosters of Committee members. Dr. Dennis Johnsen, Executive Secretary, Primate Research Centers Advisory Committee, Building 31, Room 5B33, Bethesda, Maryland 20014, 301/496-5507 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13,306, National Institutes of Health.)

Dated: February 28, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6598 Filed 3-4-77;8:45 am]

SICKLE CELL CENTERS (CSCC) AD HOC REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Comprehensive Sickle Cell Centers (CSCC) ad hoc Review Committee, National Heart, Lung, and Blood Institute, April 4-5, 1977, National Institutes of Health, Building 31, Conference Room 9.

This meeting will be open to the public on April 4, 1977 from 8:30 a.m. to approximately 9:00 a.m. to discuss administrative details and the criteria to be used in the review of the Comprehensive Sickle Cell Centers (CSCC) applications. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Comprehensive Sickle Cell Centers (CSCC) ad hoc Review Committee will be closed to the public on April 4, 1977, from 9:00 a.m. to adjournment on April 5, 1977, for the review, discussion, and evaluation of individual grant applications. The applications contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 5A03, Bethesda, Maryland 20014, telephone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Michael A. Oxman, Ph. D., Executive Secretary, NHLBI, NIH, Westwood Building, Room 555A, telephone (301) 496-7351, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, National Institutes of Health.)

Dated: February 28, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-6600 Filed 3-4-77;8:45 am]

Office of Education

COMMUNITY EDUCATION ADVISORY COUNCIL

Meeting

AGENCY: Community Education Advisory Council.

ACTION: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act, P.L. 92-634. This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting: March 24 and 25, 1977.

ADDRESSES: March 24—Board Room, Department of Education, San Diego County, 6401 Linda Vista Road, San Diego, California. March 25—Patio Room, Vacation Village, 1404 Vacation Road, Mission Bay, San Diego, California.

FOR FURTHER INFORMATION CONTACT:

Paul Tremper, Office of Education, Department of Health, Education, and Welfare, Room 5622-ROB 3, 7th and D Streets, S.W., Washington, D.C. 20202. Telephone: (202) 245-0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Public Law 93-380. The Council is established to ad-

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vise the Commissioner of Education on policy matters relating to the interest of community schools.

The meetings on March 24 and 25, 1977, will be open to the public.

This meeting is being held simultaneously with the California State Community Education Association's Annual Conference. The Council plans to attend selected sessions of this Conference. The meeting on March 24 will begin at 9:00 a.m. Induction of the newly appointed members to the Community Education Advisory Council will take place at the opening session on March 24. The new members, all of whom will serve three-year terms, are: Mrs. Carol Kimmel, President, National Congress of Parents and Teachers, Chicago, Illinois, Honorable George W. Romney, Chairman of the Board, National Center for Voluntary Action, Washington, D.C. (former Governor of Michigan); Dr. Richard M. Turner, III, Dean of Faculty, Harbor Campus, Community College of Baltimore, Baltimore, Maryland; and Mrs. Joanne C. Walker, Chairperson, Dothan Board of Education, Dothan, Alabama.

At approximately 4:00 p.m. on March 24 the Council will depart on a site-visit to selected community schools in the area including a project funded under the Community Schools Act which is located at Imperial Beach, California.

The meeting on March 25 will begin at 8:00 a.m. and end at 5:00 p.m. During this meeting the Council will hear reports on community education development and unique community education models from: Centers for Community Education Development located in the State of California; Directors of local community education schools in California; the California State Department of Education; and, leaders in community education from the surrounding States.

The proposed agenda includes:

(1) Induction of newly appointed Council members;

(2) Site-visit to selected community education schools in the area;

(3) Reports from the California State Department of Education;

(4) Reports from Centers for Community Education Development located in California;

(5) Reports on Community Education programs from Directors of local community education schools;

(6) Reports on community education programs from community educators in surrounding States;

(7) Review of the Community Education Advisory Council's Annual Report to Congress for 1976;

(8) Update on Evaluation;

(9) Schedule of Future Meetings;

(10) Status of Advisory Council Special Projects;

(11) Future Programmatic directions and recommendations;

(12) Other administrative matters and related business.

Records shall be kept of all Council proceedings and shall be available for public inspection in Room 5622, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. 20202.

Signed at Washington, D.C. on February 28, 1977.

PAUL TREMPER,
Acting Director,
Community Education Program.

[FR Doc 77-6638 Filed 3-4-77;8:45 am]

Office of the Secretary

WELFARE REFORM

Statement of Issues for Public Hearing

INTRODUCTION

In a notice published in the FEDERAL REGISTER on February 18, 1977, the Department of Health, Education, and Welfare announced that a public hearing would be held on March 10, 1977, to receive public comments on welfare reform. This statement provides background material for the public hearing and sets out major issues on which comment would be useful.

BACKGROUND

The Secretary of Health, Education, and Welfare has been asked by the President to undertake a comprehensive study of welfare reform. The President has requested a report by May 1, 1977. On January 26, 1977, the Secretary announced the beginning of the study and appointed an advisory panel, the Consulting Group on Welfare Reform, chaired by Henry Aaron, Assistant Secretary-Designate for Planning and Evaluation. This panel will provide the advice and views of a wide variety of Federal governmental agencies, the Congress, representatives of State and local governments, and designees of the Legal Services Corporation. The group's members from the Federal Government include representatives of the Secretaries of the Treasury, Agriculture, Labor, Commerce, and Housing and Urban Development, the Office of Management and Budget, the Council of Economic Advisors, the Domestic Council, the White House Office of Inter-Governmental Relations, the Senate Finance and Human Resources Committees, the Senate and House Budget Committees, and the House Ways and Means and Education and Labor Committees. State and local representatives on the panel include the National Governors' Conference, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors. In addition, three members have been designated by the Legal Services Corporation. The Consulting Group meets each Friday at 9:00 a.m. in the auditorium of HEW's South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201. The meetings are open to the public.

The Department has also begun a major effort to obtain the views of others interested and knowledgeable in the field of welfare reform. The Secretary has requested in writing the views of numerous public and private organizations and individuals. Further, he has asked the ten Regional Directors of the Department of Health, Education, and Welfare to mount a wide ranging campaign to provide an opportunity for all interested persons and organizations to express their views on the appropriate approach to welfare reform. One person in each region has been designated to coordinate this effort, and their names appear at the end of this statement. To allow full opportunity for comment on the Department's analysis and proposals, staff papers will be available to interested parties.

The Secretary has also decided to chair personally a public hearing on welfare reform on March 10, 1977. This will ensure that he hears and understands the views and positions of many of the participants in the welfare debate. Within the constraints of time, as many speakers as possible will be scheduled. Anyone unable to testify at the hearing and anyone with a statement that goes beyond their oral testimony may add written comments to the record prior to March 18, 1977.

We recognize the complexity of welfare reform and the difficulty of preparing testimony and written statements within the extremely brief period since this hearing was announced. To meet the President's request, however, the Department will be preparing its report in the very near future. In order for advice and recommendations received from the public to be taken into account in a timely fashion, there is no alternative to the present rapid time table. To provide some focus for testimony at the hearing and for written comment, the Department has prepared a discussion of issues that it views as critical to decisions on welfare reform. The issues and questions set out in this statement are intended to organize public comments in a way that will be most useful to us, the President, and the Congress. In setting out these discussion points, however, we do not intend in any way to place limits on the content or subject of anyone's submission.

WELFARE REFORM ISSUES

The "welfare system" is best understood as an income maintenance system consisting of diverse Federal, State, and local programs including social insurance (principally Social Security, Railroad Retirement, Workmen's Compensation, Unemployment Insurance, Veterans' Compensation, and Medicare) and income assistance (principally Aid for Families with Dependent Children, Supplemental Security Income, Veterans Pension, Food Stamps, Medicaid, Public Housing, and General Assistance). Social Services are also related to these programs. This system has several fundamental purposes: To provide access to basic goods and services; to provide protection against unpredictable catastrophic events; and to provide a cushion against a sudden interruption in earnings.

Social insurance programs share two common characteristics:

Eligibility for benefits is dependent upon previous work in covered employment and benefit levels are related, although not precisely, to previous earnings.

Eligibility is dependent upon the occurrence of a particular event such as unemployment, illness, disability, retirement, or death of a principal earner.

In Fiscal Year 1977 social insurance benefits will equal approximately $134 billion. While some benefits will go to low income families, most will go to families and individuals with incomes above the official poverty line.

Benefits under income assistance programs are in general contingent on low total household income, and in some instances on other tests of dependency such as a dead or absent father. Some programs (such as AFDC and SSI) provide assistance in the form of cash. Others (such as Food Stamps and Section 8 Housing) provide vouchers. Still others (such as Medicaid and Public Housing) provide assistance in the form of direct services. In most cases, households can qualify for benefits from two or more of these programs. Benefits from these programs are conditioned upon income. In Fiscal Year 1977 approximately $49 billion will be spent by all levels of government on income assistance benefits.

Families and individuals derive revenue from three primary sources: the labor market; private savings and charity; and the income maintenance system. The last acts as a safety net to assist those who either have insufficient income from their own efforts or have been forced (for whatever reason) to withdraw from the labor market. The private labor market provides most, but not all, Americans wth sufficient income to meet their consumption needs. During 1975, for example, 17 percent of all heads of poor families worked full-time, for a full year, and still had incomes below the official poverty line. Many other Americans do not work because of disability, old age, or responsibilities in the home. These individuals and their dependents must rely upon public and private transfers.

Even with additional assistance from the income maintenance programs, many Americans remain poor. In 1976, 11 percent of all families had incomes below the official poverty line after all cash income from public and private sources was taken into consideration. While this figure represents a decline from the 14 percent of all families who were poor in 1965, approximately 25 million Americans still remain in poverty.

Full employment and robust economic growth are essential for reducing poverty. But the performance of the income assistance programs in cushioning low income families against economic adversity is flawed. Some allege that benefits are too low to enable a poor family to achieve a minimally adequate level of consumption. Some maintain that the programs are inequitable because they provide limited benefits to some families (e.g., childless couples or two-parent families) and more generous assistance to others (e.g., single-parent families) with equivalent needs. Many people are also disturbed by the disparities in benefit levels among States. Others believe that these programs waste assistance on those who are not truly needy.

Some observers have also argued that the welfare system contributes to family break-ups by providing higher benefits to single-parent families than to two-parent families. Others assert that it discourages the poor from working because a family may, by increasing its earnings by a small amount, lose its eligibility not only for cash assistance (AFDC or SSI) but for Medicaid and/or Public Housing as well. Thus, an income increase of a few dollars could reduce a family's total benefits by a far greater amount. Other critics point out that benefits in some States exceed earnings from many full time jobs. In addition, many believe that current assistance programs undermine the self-image of the poor and unduly intrude into the lives of recipients. Lastly, most people view the welfare system as excessively costly to administer, confusing to recipients and administrators alike, and full of opportunities for fraud and abuse.

While almost everyone agrees that the present system needs changing, there remains considerable disagreement on what changes should be made. Difficult choices must be made concerning such issues as the "adequacy" of benefits; the extent to which benefits should be concentrated on those most in need; the extent to which benefits should be in cash as opposed to assistance to purchase specific items such as food; the desirability of strong work incentives; the importance of promoting family stability and a positive self-image among the poor; the value of administrative efficiency; and reasonable burdens on taxpayers. Unfortunately, these objectives often come into conflict with one another. For example, those who want to raise benefit levels will come into conflict with those who want to lower costs or those who feel that welfare income should not exceed earnings from a low wage job. Similarly, many people believe that means-testing is desirable in order to concentrate resources on those most in need, while others believe that means-testing is undesirable because it stigmatizes the poor. Administrative efficiency may be consistent with a simple and coherent program structure, but may conflict with notions of individual need determination or of individualized prescriptions for work or training.

This hearing will not resolve these difficult choices. It will, however, provide a forum in which these and other choices can be clearly identified and defined. Below is a brief description of six issue areas central to any informed discussion of welfare reform. Those who choose to comment are invited to focus their observations around these issues and the list of specific questions appended to this document. No one should feel compelled to address all, most, or even any of these issues. They are designed merely to serve as a guide when they correspond to an area of particular concern to the respondent. The six issue-areas are:

Coverage and benefit levels. The necessity of setting eligibility criteria, specifying benefit levels, and determining the scope and variety of programs through which benefits will flow.

Relationship between the income maintenance system and the labor market. The extent to which programs will encourage and or require recipients to work, the role of government in making available employment opportunities, and the character of the jobs provided.

Appropriate roles for Federal, State, and local governments. The division of administrative and financial responsibility based upon criteria which include efficiency, accountability, and availability of resources.

Impact of the welfare system on the family. Consideration of the results of the present system and approaches available for promoting individual and family strength, stability, and self-image.

Relationship between welfare and social services. The kinds of services, if any, that should be provided to recipients, the manner in which they should be administered and financed, and the basis on which recipients should qualify for services.

Administration and management. The value placed on an efficient system, the degree of discretion allowed to administrators, the extent to which the programs intrude into the lives of recipients, and the steps that should be taken to discourage fraud and abuse.

Dated: March 3, 1977.

HENRY AARON,
Chairman,
Consulting Group on Welfare Reform.

APPENDIX

I. COVERAGE AND BENEFIT LEVELS

1. Should different categories of recipients be treated differently? Should all families be covered under a single program? Which categorical approaches should be considered? (e.g., aged, disabled, single-parent families, two-parent families, families with children?)

2. How should benefit levels be set? What standards should be used? (e.g., the official poverty thresholds, eligibility levels in existing programs, prevailing entry level wage rates, a new standard?) Are there factors unique to any group which should be considered in formulating benefit levels?

3. How should other income and resources be treated in determining eligibility? (e.g., employment earnings, social insurance benefits, home-ownership and other assets, contributions from other family members?)

4. Should there be a basic minimum benefit for which any family qualifies? Should there be an upper income eligibility level above which no family can qualify?

5. Should benefits vary according to the cost-of-living or standard-of-living in a particular region or geographic area?

6. How should benefits be scaled down as other income and/or resources rises? Should all families face the same benefit reduction rate? For which families should it differ?

7. Should benefits be provided in the form of cash or in-kind services? Some combination? Do in-kind benefits unfairly restrict the consumption choices of the poor or should the consumption of certain goods and services be encouraged?

8. Which current welfare programs should be preserved? Which not? Which new ones added? How would new programs be coordinated with existing ones that remain?

9. How much more, or less, should the nation spend for income assistance?

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10. If the present system is substantially altered, should any families be made "worse off" under the new system? Should there be a "hold harmless" provision? How would such a provision be financed?

II. RELATIONSHIP BETWEEN THE INCOME MAINTENANCE SYSTEM AND THE LABOR MARKET

1. Who among recipients should work? Should work be voluntary or mandatory? What kind of a "work test" or "work requirement" should be used? How should it be administered? Under a strict "work requirement" should a family forfeit all benefits if a member refuses a job?

2. What is the government's responsibility to provide jobs for recipients? Which level of government should provide and finance these jobs?

3. Where should the jobs be located? In the private sector? In the public sector? Some combination? How many jobs can government reasonably expect to create in either sector? What kinds of financing mechanisms can be used to create jobs? How much will it cost to provide jobs?

4. What is likely to be the impact of these jobs on private, low wage employment? Will this impact be good or bad?

5. What should be the minimum characteristics of these jobs? With respect to wage rates? Skills required learned? Opportunities for advancement? With a minimum set of characteristics in mind, what specific kinds of jobs could be created?

6. Should jobs be available for all recipients who want them? Should they be limited to one per household?

III. APPROPRIATE ROLES FOR FEDERAL, STATE, AND LOCAL GOVERNMENTS

1. How should the welfare system be financed? Should costs be shared among levels of government?

2. Which level of government should administer the programs?

3. Which level of government should assume responsibility for establishing benefit levels and eligibility rules?

4. Assuming a Federally funded and administered basic income support program, should States supplement the Federal grant? Should such a supplement be optional or mandatory? Who should administer a State supplement?

IV. THE IMPACT OF THE WELFARE SYSTEM ON THE FAMILY

1. Should single-parent families be treated differently from two-parent families?

2. What has been the impact of the current welfare system on the family?

3. What should be the responsibility of one family member for another? (e.g., should children be responsible for poor, aged parents?) Should relatives live together in order to bear some responsibility?

4. What has been the impact of welfare on the migration patterns of low income families?

V. THE RELATIONSHIP BETWEEN WELFARE AND SOCIAL SERVICES

1. What kinds of services, if any, should accompany cash or in-kind assistance?

2. What changes in the provision of services will be required from a basic change in the income maintenance system?

3. Which level of government should provide the services? How should they be financed?

4. Should services be provided on a categorical or income-tested basis? Which service needs are income-related and which are not?

5. To what extent can an adequate income be a substitute for provided services?

6. What "special needs" should be met by services?

7. Should services be provided directly, through provider contracts with public or private agencies, or through vouchers which permit recipients to purchase them through the private market?

8. In the case of a separation of payments and services, which agency should assume responsibility for "protective payment" (i.e., payments made on behalf of clients who are not personally responsible)?

VI. ADMINISTRATION AND MANAGEMENT

1. How should recipients be treated? How can the welfare system support a more positive self-image among the poor?

2. To what extent should the system intrude into the lives of recipients? How much discretion should be allowed to program administrators? What steps should administrators be permitted to take to verify the statements of recipients?

3. What steps should be taken to prevent and discourage fraud or abuse? On the part of recipients? On the part of administrators? On the part of providers?

4. Should a quality control program be incorporated into a revised welfare system? What should be the objectives of such a system? How should it be structured? Who should administer it?

5. What practical steps can be taken to simplify welfare administration?

6. What factors should be included to insure the selection of program administrators who are sensitive to the cultural and linguistic needs of the communities they serve? What special provisions should be made for recipients whose primary language is not English?

REGIONAL CONTACTS ON WELFARE REFORM

Region I

Neil P. Fallon, Regional Commissioner, Social and Rehabilitation Service, Room 1309, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203. 617-223-6871.

Region II

Arthur O'Leary, Assistant Regional Director for Program Coordination, 3838 Federal Building, 26 Federal Plaza, New York, New York 10007, 212-264-4607.

Region III

Michael Mangano, Assistant Regional Director for Planning and Evaluation, Room 9220, 3535 Market Street, Philadelphia, Pennsylvania 19101, 215-596-6507.

Region IV

Walter D. Branch, Assistant Regional Director for Intergovernmental Affairs, Room 426, 50 Seventh Street N.E., Atlanta, Georgia 30323, 404-881-3873.

Region V

George R. Holland, Deputy Regional Director, 300 South Wacker Drive, Chicago, Illinois 60606, 312-353-5677.

Region VI

Dan Reed, Assistant Regional Director for Program Coordination, Room 1126, 1200 Main Tower Building, Dallas, Texas 75202, 214-655-3310.

Region VII

Darrel Stotts, Assistant Regional Director for Management and Finance, Room 612, 601 East 12th Street, Kansas City, Missouri 64106, 816-374-3436.

Region VIII

Edwin R. LaPedis, Deputy Regional Director, Room 10001, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294, 303-837-3373.

Region IX

Daniel M. Sprague, Deputy Regional Director, Room 431, 50 United Nations Plaza, San Francisco, California 94102, 415-556-1961.

Region X

Louis Weissman, Director, Assistance Payments and Public Services, Room 5019, Arcade Plaza Building, Mail Stop 505, 1321 Second Avenue, Seattle, Washington 98101. 206-442-0526.

[FR Doc.77-6832 Filed 3-4-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Filing of Plat of Survey

FEBRUARY 23, 1977.

1. Plat of survey of the lands described below will be officially filed in the Alaska State Office, Anchorage, Alaska, effective at 10:00 a.m., April 15, 1977.

SEWARD MERIDIAN, ALASKA

T. 16 N., R. 4 E.
Sec. 33: All
Sec. 34: Lots 1 to 3 inclusive, $SW\frac{1}{4}NE\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}$.
Containing 1295.02 acres.

2. The land encompassed in this survey is bordered on the north by the Knik River, flowing northwest, and by the Chugach Mountains to the south. The soil is a thin sandy loam with some gravel mix.

Access to the township is an improved dirt road that enters the township in section 30.

The timber is cottonwood, birch and spruce. The undergrowth is alder, rose brier, willow, and devil's club.

The elevation of the portion of the township surveyed ranges from 100 feet to 1500 feet above sea level.

3. The public lands affected by this order are open to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 5418, filed March 28, 1974, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the State Director, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Dated: February 23, 1977, Division of Cadastral Survey, Anchorage, Alaska.

JIM H. TYER,
Acting Chief,
Division of Cadastral Survey.

[FR Doc.77-6651 Filed 3-4-77;8:45 am]

[Serial No. A 9884]

ARIZONA

Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 6, 1973 (87 Stat. 576), El Paso Natural Gas Company, Post Office Box 1492, El Paso, Texas 79978, has applied for a cathodic protection site across the following described land:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 14 N., R. 2 W.,
Sec. 9, $NE\frac{1}{4}SW\frac{1}{4}$.

The cathodic protection site will serve to protect an existing 6⅝" diameter natural gas pipeline from corrosive action and will occupy 495 feet of Federal land in Yavapai County, Arizona.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should promptly send their name and address to the District Manager, Phoenix District Office, Bureau of Land Management, 2929 West Clarendon, Phoenix, Arizona 85073.

MARIO L. LOPEZ,
Chief, Branch of
Lands and Minerals Operations.

FEBRUARY 24, 1977.

[FR Doc.77-6627 Filed 3-4-77;8:45 am]

[OR 7964 (Wash.)]

WASHINGTON

Opportunity for Public Hearing and Re-Publication of Notice of Proposed Withdrawal and Reservation of Lands

FEBRUARY 25, 1977.

The Department of Agriculture on behalf of the Forest Service, on May 3, 1971, filed application, Serial No. OR 7964 (Wash.), for the withdrawal of approximately 150 acres of national forest lands from location and entry under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights. The Department of Agriculture has requested that the withdrawal be granted for permanent duration.

The Forest Service desires these lands for use as the Wolf Creek Research Natural Area.

A notice of proposed withdrawal and reservation of lands was published on July 7, 1971 in the FEDERAL REGISTER (36 FR 12800).

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, by April 2, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

All previous comments submitted in connection with the withdrawal proposal have been included in the case file record and will be considered in making a final determination on the proposal.

The lands involved in the application are:

WILLAMETTE MERIDIAN

OKANOGAN NATIONAL FOREST

Wolf Creek Research Natural Area

T. 34 N., R. 20 E., unsurveyed.
Sec. 1, a tract of land within the $N\frac{1}{2}$ described as follows: Beginning at the section corner common to secs. 35 and 36, T. 35 N., R. 20 E., thence due south 1,426 feet to its intersection with Wolf Creek, thence following the left bank of said creek southeasterly 3,453 feet to a point due south of corner No. 3 of H.E.S. 217, thence due north 297 feet to said corner No. 3, thence due north 1,650 feet to corner No. 2 of said H.E.S., thence N. 89°48' W. 652.08 feet to south quarter corner of sec. 36, thence due west 2,640 feet to point of beginning.

The area described contains approximately 150 acres in Okanogan County, Washington.

All communications in connection with this withdrawal should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

CHAMP C. VAUGHAN, Jr.,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-6629 Filed 3-4-77;8:45 am]

Office of the Secretary

CARLOS GALANES

Appointee's Statement of Financial Interests

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on January 19, 1977, as DEPA Deputy Director, PR/VI, Defense Electric Power Admin., an officer or director:

PUERTO RICO WATER RESOURCES AUTHORITY

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests: None.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment: None.

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment: None.

CARLOS GALANES

FEBRUARY 16, 1977.

[FR Doc.77-6630 Filed 3-4-77;8:45 am]

DIRECTOR, NATIONAL PARK SERVICE

Delegation of Authority

This Notice is issued in accordance with the provisions of 5 U.S.C. 552(a)(1). The Secretary of the Interior has issued a revised general program delegation of authority to the Director, National Park Service. The revision combines authorities regarding historic preservation activities which were previously separately described. The revision is reflected in paragraph .1A of Chapter 1, Part 245 of the Department of the Interior Manual which is published in its entirety below.

Further information regarding the revised delegation of authority may be obtained from Mr. Ernest A. Connally, Associate Director—Preservation of Historic Properties, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-2573.

RICHARD R. HITE,
Deputy Assistant
Secretary of the Interior.

FEBRUARY 23, 1977.

DEPARTMENTAL MANUAL

DELEGATION, PART 245 NATIONAL PARK SERVICE, GENERAL PROGRAM DELEGATION, CHAPTER 1 DIRECTOR, NATIONAL PARK SERVICE 245.1.1

.1 *Delegation.*

A. The Director, National Park Service, is authorized, except as provided in 200 DM 1 and 519 DM 1.4A, B, and D, to exercise the program authority of the Secretary of the Interior with respect to the supervision, management, and operation of the National Park System and the program authority of the Secretary of the Interior with respect to all historic preservation activities and responsibilities of the Secretary authorized pursuant to statute and or executive order.

B. The Director is authorized to exercise the authority of the Secretary of the Interior to issue such rules and regulations as would amend by addition, revision, or revocation, regulations contained in Chapter 1, Title 36, Code of Federal Regulations.

C. The Director, National Park Service, is delegated the Secretary's authority to carry out the purposes of Public Laws 90-542 and 90-543 relating to the selection and location of boundaries, property acquisition, development, and administration for assigned components of the National Trails System, and Wild and Scenic Rivers. This authority will be exercised in accordance with the provisions of 710 DM 1.

D. The Director is delegated the Secretary's enforcement authority as specified in Sec. 8(b) of the Wild Free-Roaming Horse and Burro Act of 1971 (Stat. 649; 16 U.S.C. 1331-1340). This authority will be exercised in accordance with the provisions of 633 DM 1.

.2 *Limitations.*

A. The following authority is not delegated in the general authority listed in 245 DM 1.1:

(1) Any action to be taken with the approval or concurrence of the President, or the head of any department or independent agency of the Government;

(2) Authority related to functions and responsibilities under the Act of June 23, 1936 (49 Stat. 1894), which have been or may be reserved by the Secretary;

(3) The establishment of criteria to be followed by the States in the preparation of statewide historic surveys and plans for the preservation, acquisition, and development of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture;

(4) Making final apportionments of funds among the States for comprehensive statewide historic surveys and plans, and for the projects in approved statewide historic preservation plans, as prescribed in Title I of the Act of October 15, 1966, 80 Stat. 915.

[FR Doc.77-6631 Filed 3-4-77;8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation 337-TA-24]

CERTAIN EXERCISING DEVICES

Notice and Order Concerning Procedure for Commission Action

Notice is hereby given that—

1. The Commission will hold a hearing beginning at 10 a.m., e.s.t., March 29, 1977, in the Commission's Hearing Room, Room 331, 701 E Street NW., Washington, D.C., for the purpose of receiving information and hearing oral argument, as provided for in section 210.14(a) of the Commission's Rules of Practice and Procedure (41 FR 17710), concerning relief, bonding, and the public interest factors set forth in sections 337 (e) and (f) of the Tariff Act which the Commission is to consider in the event it determines that there is a violation of section 337 and determines that there should be relief.

For the purpose of the hearing on relief, bonding, and the public interest factors, each party, interested person and agency will be limited to no more than 30 minutes time for making its presentation, and each participant will be permitted an additional 5 minutes time for closing arguments after all of the 30 minutes presentations have been concluded. Questioning of presenters shall be limited to members of the Commission and its staff.

Requests for appearances at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington no later than March 25, 1977. Requests should indicate the part of the hearing (i.e., with respect to the recommended determination; relief; or relief, bonding, and the public interest the requesting person desires to participate.

2. The Commission's investigative staff shall file and serve upon all parties a formal report reflecting its investigation of public interest factors to be considered by the Commission with the staff's recommendations and conclusions not later than Monday, March 14, 1977.

3. Written comments and information are encouraged by any party, interested person, Government agency or Government concerning relief, bonding, and the public interest factors set forth in sections 337(d) and (f) of the Tariff Act of 1930, as amended (19 U.S.C. 1337), which the Commission is to consider in the event it determines that there should be relief. A proposed order granting relief, including if appropriate a determination of bonding, shall be filed by Complainant and served by it upon all parties not later than the close of business, Monday, March 7, 1977; Respondents and all other interested persons, Government agencies and Governments shall file and serve upon all parties their comments and information on remedy, bonding and the aforesaid public interest factors not later than the close of business, Monday, March 14, 1977, and Complainant shall file and serve upon all parties their comments and information on these matters not later than the close of business, Monday, March 21, 1977.

4. The Commission shall schedule oral argument on the recommended determination of the presiding officer that there is a violation of section 337 only if such argument is requested, in writing, by one or more of the parties to this investigation. Requests for such oral argument must be filed with the Secretary of the Commission at his office in Washington no later than noon, March 11, 1977.

Notice of the Commission's institution of investigation was published in the FEDERAL REGISTER of April 20, 1976 (41 FR 16617). A notice of Preliminary Conference was published June 28, 1976 (41 FR 26607).

By order of the Commission.

Issued: March 2, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-6702 Filed 3-4-77;8:45 am]

[USITC SE-77-19A]

GOVERNMENT IN THE SUNSHINE

Additional Agenda Item for Meeting

In deliberations held March 1, 1977, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 in conformity with 19 CFR 201.37, voted to add the following item to its agenda for the meeting of March 10, 1977:

9. Sugar (Inv. TA-201-16)—vote on remedy, if necessary (after 3 p.m.).

Commissioner Minchew, Leonard, Moore, Bedell, and Ablondi determined by recorded vote that Commission business requires the change in subject matter by addition of the agenda item, and affirmed that no earlier announcement of the addition to the agenda was possible, and directed the issuance of this notice at the earliest practicable time. Commissioner Parker was not present for the vote.

If you have any questions concerning the agenda for the March 10, 1977, Commission meeting, please contact the Secretary to the Commission at 202-523-0161. Access to documents to be considered by the Commission at the meeting is provided for in Subpart C of the Commission's rules (19 CFR 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with proposed 19 CFR 201.38(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

By order of the Commission:

Issued: March 2, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-6701 Filed 3-4-77;8:45 am]

PRELIMINARY DRAFT OF PARTS OF AN ENUMERATION OF ARTICLES TO PROVIDE FOR COMPARABILITY AMONG U.S. IMPORT, PRODUCTION, AND EXPORT DATA

Release for Public Comment

Notice is hereby given that the United States Departments of the Treasury and Commerce and the United States International Trade Commission are releasing for public comment the following preliminary draft of parts of an enumeration of articles which will provide for comparability among U.S. import, production, and export data pursuant to section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)), as amended by section 608(a) of the Trade Act of 1974 (19 U.S.C. 2101):

Woven fabrics; fabrics of special construction or for special purposes; miscellaneous textile products; rags and scrap cordage—schedule 3, parts 3, 4, and 7, Tariff Schedules of the United States Annotated (TSUSA); release date: March 8, 1977;

Petroleum, natural gas, and products derived therefrom—schedule 4, part 10, TSUSA; release date: March 11, 1977;

Pigments and pigment-like materials; inks, paints, and related products—schedule 4, parts 9B and 9C, TSUSA; release date: March 2, 1977;

Chemical elements; inorganic acids; inorganic chemical compounds—schedule 4, part 2, subparts A, B, and C, TSUSA; release date: March 4, 1977;

Metal-bearing ores and other metal-bearing materials—schedule 6, part 1, TSUSA; release date: March 3, 1977;

Textile machines; laundry and dry-cleaning machines; sewing machines—schedule 6, part 4E, TSUSA; release date: March 3, 1977;

Generators, motors, motor generators, converters, transformers, rectifiers and rectifying apparatus, and inductors—schedule 6, part 5, items 682.05-682.65, TSUSA; release date: March 11, 1977;

Miscellaneous electrical machinery and equipment—schedule 6, part 5, items 682.70-684.50, TSUSA; release date: March 3, 1977;

Footwear—schedule 7, part 1A, TSUSA; release date: March 1, 1977.

Background.—The preparation of the draft by the three agencies has generally proceeded from recommendations made in a joint report of the Secretary of Commerce and the U.S. International Trade Commission, dated August 1, 1975, submitted to Congress and the President pursuant to section 608(b) of the Trade Act of 1974, and entitled Principles and Concepts Which Should Guide the Organization and Development of an Enumeration of Articles Which Would Result in Comparability of U.S. Import, Production, and Export Data.

The report noted that the principal advantages of achieving comparability among import, production, and export data are:

1. To permit the development and implementation of a more coordinated and efficient program for the administration, interpretation, and maintenance of national systems;

2. To improve and facilitate the publication of trade data most useful for international economic analysis;

3. To permit more reliable analysis of the impact of external trade on domestic industry.

In making specific recommendations concerning the organization and development of an enumeration of articles which would result in comparability, the report recognized various prerequisites to achieving comparability, such as adhering to sound nomenclature principles, employing identical descriptive techniques and product definitions, using compatible standards of valuation and measurement, and providing for centralized responsibility for interpretation and coordinated responsibility for maintenance. The report also acknowledged many of the practical considerations involved in achieving comparability among the three generally discordant classification systems presently used for the collection of import, production, and export data, including reconciling differences among the three existing systems, preserving statistical continuity, and achieving useful levels of product comparability with the least disruptive impact on current programs and reporting.

In summary, the specific recommendations provided that:

1. The organizational framework of the TSUS should be adopted as the basis for the enumeration of the export schedule.

2. The review and development of an enumeration should take into account the current import, production, and export product classes, with the primary aim of obtaining comparability at a common level.

3. Changes may be proposed to any system, including combinations, subdivisions, and modifications of existing language and content. In particular, consideration should be given to updating of definitions and terms to make them more reflective of current practice in the trade. It must be borne in mind that the TSUS structure and detail are legally based. Therefore, the enumeration should consist of individual TSUSA classifications, or combinations of individual TSUSA classifications (current or as proposed by this program), since this is the only way to attain comparability to the relatively rigid classifications of imports. Combinations may be made of commodities falling in different TSUS classes, if necessary, as long as they consist of aggregations of individual TSUSA classifications.

Continuing program for statistical annotation. The establishment of an enumeration for statistical purposes is, and should be looked upon as, a continuing program. It is intended that the initial modifications to the import, production, and export schedules will serve as a basis for further refinement and change. Modifications to each of the systems will be made from time to time to reflect changing statistical needs and also to improve the comparability of U.S. trade data with trade data reported by other countries on the basis of the Standard International Trade Classification (SITC). The publication of trade data by the Department of Commerce on the basis of the SITC will continue.

Modifications to the Tariff Schedules of the United States. Any proposals to modify the TSUS (other than statistical annotations thereto) could not be implemented without legislative approval. After comments have been recovered and reviewed, consideration may then be given to the extent of, and need for, amendatory legislation.

Comments by interested parties. Over the next several months further preliminary drafts will be released for public comment and consideration. Interested parties are invited to comment on all aspects of the comparability program. Specific recommendations and proposals are invited with respect to the extent to which the drafts would:

Recognize the specific needs of users of statistics; Facilitate economic analysis; Reflect sound principles of commodity identification and specifications; and Impose undue reporting burdens for business establishments.

We would also welcome comments with respect to modifications which would provide greater comparability with the SITC (revision 2).

Copies of the drafts are available from the Chief, Industry and Commodity Classification Branch, Economic Surveys Division, U.S. Bureau of the Census, Washington, D.C. 20233.

Written comments should be submitted at the earliest practicable date, but, to be assured of consideration, not later than 60 days after release of the drafts. Such statements should be submitted to the Chief, Industry and Commodity Classification Branch, at the address shown above.

By order of the Commission.

Issued: March 2, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-6700 Filed 3-4-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 76-29]

PATRICK L. TIGHE, M.D.

Revocation of Registration

On June 28, 1976, the Administrator of the Drug Enforcement Administration (DEA) directed to Patrick L. Tighe, M.D., the Respondent herein, an Order to Show Cause as to why Respondent's DEA Certificate of Registration (AT0573988) should not be revoked for reason that on June 11, 1976, in the United States District Court for the Middle District of Pennsylvania, Respondent had been convicted of 18 counts of unlawfully distributing controlled substances, felony violations of 21 U.S.C. 841(a)(1). Through counsel, Respondent requested a hearing on the Order to Show Cause. After preliminary procedures, including a Prehearing Conference conducted by telephone in which the Administrative Law Judge and Counsel for the Government and the respondent participated, a hearing was conducted by the Honorable Francis L. Young, Administrative Law Judge, in Washington, D.C., on October 14, 1976.

On January 31, 1977, Judge Young certified to the Administrator, pursuant to 21 CFR § 1316.65, the record of the proceedings in this matter, together with his recommended findings of fact and conclusions of law, and a recommended decision. Pursuant to 21 CFR § 1316.66, the Administrator hereby publishes his Final Order in this proceeding, based upon the findings of fact and conclusions of law set forth below.

The Administrative Law Judge found, inter alia, that as a result of complaints from pharmacists in and around Scranton, Pennsylvania, routine checks of prescriptions filled, and other indicia, the Pennsylvania Department of Justice, Bureau of Drug Control, became aware that various individuals had been receiving multiple prescriptions from the Respondent and that such prescriptions resulted in the patients' receiving excessive amounts of controlled substances. In order to determine whether these prescriptions were proper or improper, the Bureau of Drug Control commenced an undercover investigation of the Respondent.

Judge Young found that during the course of the investigation, one of the State agent's visited the Respondent's office nine times and received a total of sixteen prescriptions, several of which were written in the names of women the Respondent had never seen and who, in fact, were fictitious characters whose names were invented by the agent. Respondent's prescriptions each called for the dispensing of a month's supply of Schedule II controlled substances, in spite of the fact that the agent's visits were often separated by less than a week. A second agent visited Respondent's office on five occasions, each time receiving a prescription for controlled substances. The circumstances under which the agents received prescriptions from the Respondent indicated to the Administrative Law Judge that they were clearly not in the course of the Respondent's professional practice and that the Respondent, by his comments and actions during his dealings with the agents, clearly showed that he realized that his actions were unlawful. Judge Young further found that on December 18, 1974, the Respondent was indicted by a federal grand jury and was charged in 18 counts with knowingly, willfully, unlawfully and intentionally distributing and dispensing Biphetamine, a Schedule II controlled substance, and that on June 5, 1975, the trial jury sitting in No. 74-204, United States of America v. Patrick L. Tighe, found the Respondent guilty of all 18 counts. On June 11, 1976, the Honorable Michael H. Sheridan, Chief Judge of the United States District Court for the Middle District of Pennsylvania, entered judgment of conviction upon the Respondent and thereupon sentenced him to two concurrent six-month terms, a $15,000 fine and a 36 year special parole term. Judge Young concluded that there is a lawful basis for the revocation of Respondent's DEA registration pursuant ot 21 U.S.C. 824(a)(2) and recommended that said registration be revoked. The Administrator hereby adopts the Administrative Law Judge's findings, conclusion and recommended decision as set forth above.

Judge Young further found that the Respondent is 67 years of age, has been practicing medicine since 1939, and that he intends to close his office for general

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practice and concentrate on the practice of anesthesiology in hospitals if he is permitted to do so. The Administrator finds that the public interest will be served if the Respondent is permitted to administer or order the administration of controlled substances to hospitalized patients in the course of his professional practice as an anesthesiologist. The Administrator further finds that there is no legal or regulatory impediment to his doing so, as long as he remains licensed to practice medicine in the State of Pennsylvania and confines his practice to a hospital properly registered under the Controlled Substances Act. However, 21 CFR § 1301.-76(a) provides that a "registrant shall not employ as an agent or employee who has access to controlled substances any person who has had * * * his registration revoked, at any time." Therefore, in order that this Respondent may be employed or practice in a registered hospital, the Administrator hereby waives the prohibition of 21 CFR § 1301.76(a) with respect to the employment or practice of Patrick L. Tighe, M.D. as an anesthesiologist.

Having reviewed the record of this proceeding in its entirety, and having concluded that the subject registration should be revoked for reason that the Respondent has been convicted of a felony relating to controlled substances, it is the Administrator's decision that said registration be revoked. Accordingly, pursuant to the authority vested in the Attorney General by Section 824 of Title 21, United States Code, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the Certificate of Registration, AT0573988, previously issued to Patrick L. Tighe, M.D., be, and it hereby is, revoked, effective thirty days after the publication of this Order in the FEDERAL REGISTER.

Dated: February 28, 1977.

PETER B. BENSINGER,
Administrator.

[FR Doc.77-6640 Filed 3-4-77;8:45 am]

SIGMA CHEMICAL CO.

Importation of Controlled Substances; Application

Pursuant to Section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 15, 1976 and January 31, 1977, Sigma Chemical Co., 3500 Dekalb Street, St. Louis, MO 63118, made application to the Drug Enforcement Administration to be registered as an importer of the basic class of controlled substances listed below:

Drug:	*Schedule*
Ibogaine	I
Bufotenine	I
Dimethyltryptamine	I

As to the basic class of controlled substances listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than April 8, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: February 28, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-6639 Filed 3-4-77;8:45 am]

Law Enforcement Assistance Administration

NATIONAL MINORITY ADVISORY COUNCIL ON CRIMINAL JUSTICE

Fact Finding and Needs Assessment Meeting

Notice is hereby given that the National Minority Advisory Council on Criminal Justice (NMACCJ) will meet Wednesday and Thursday, March 23 and 24, 1977, in San Antonio, Texas. The fact finding and needs assessment meeting is scheduled to convene at 7:30 p.m. on March 23, at La Mansion Hotel, located at 112 College Street in San Antonio, Texas, telephone number 512/225-2581. This meeting is scheduled to run from 6:00 p.m. until 10:00 p.m. on Wednesday evening, and 9:00 a.m. until 5:00 p.m. on Thursday, the 24th.

This meeting represents the efforts of the NMACCJ to gather factual information and data concerning the problems of minorities and the criminal justice system at the local, county, state and Federal level in the areas of community crime prevention, criminal justice educational and training programs, police, courts, and corrections. The NMACCJ will not concentrate on specific allegations of discrimination but rather on the impact of the criminal justice system on minorities.

This will be an open meeting and persons wishing to attend must furnish their own transportation and accommodations. Anyone wishing to make written or oral statements should contact:

Lewis W. Taylor, Special Assistant for Minorities and Women, Law Enforcement Assistance Administration, 633 Indiana Avenue NW, Washington, D.C. 20531, 202/376-3936.

JAY A. BROZOST,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.77-6632 Filed 3-4-77;8:45 am]

NATIONAL MINORITY ADVISORY COUNCIL ON CRIMINAL JUSTICE

Meeting

Notice is hereby given that the National Minority Advisory Council on Criminal Justice will hold a quarterly meeting Friday and Saturday, March 25 and 26, 1977 in Denver, Colorado. The meeting is scheduled to convene at 12:00 noon on Friday, March 25th at the Executive Tower Inn, 1405 Curtis Street, Denver, Colorado, telephone number 303/571-0300. This meeting is scheduled to run from 12:00 noon until 5:00 p.m. on Friday and 9:00 a.m. until 5:00 p.m. on Saturday, the 26th.

Discussion at the meeting will focus on the community crime prevention program, San Antonio hearings, LEAA's new Administration, researchers, progress on overall workplan and reports from the executive and subcommittees. Additionally, time will be set aside to allow testimony from anyone who wishes to provide the Council with information.

The meeting will be open to the public.

For further information, please contact:

Lewis W. Taylor, Special Assistant for Minorities and Women, Law Enforcement Assistance Administration, 633 Indiana Ave. NW, Washington, D.C. 20531, 202/376-3936.

JAY A. BROZOST,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.77-6633 Filed 3-4-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION MANAGERS

Meeting

The next meeting of the Federal Scientific and Technical Information Managers will be held on Wednesday, March 16, 1977, from 9:30 a.m.-12 noon, at the National Aeronautics and Space Administration, 400 Maryland Avenue, SW., Conference Room 6004. The theme of this meeting will be the "Scientific and Technical Data Handling: Where are the Information Scientists?"

These meetings, sponsored by the National Science Foundation, provide a forum for the interchange of information concerning common problems and coordination in the areas of Federal scientific and technical information and communications.

These meetings are designed solely for the benefit of Federal employees and officers, and do not fall under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463). However, this meeting is believed to be of sufficient importance and interest to the public to be announced in the FEDERAL REGISTER.

Any persons wishing to attend this meeting or requiring further information should notify Mr. Andrew A. Aines, Division of Science Information, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550, telephone: (202) 632-5836.

LEE G. BURCHINAL,
Director,
Division of Science Information.

FEBRUARY 28, 1977.

[FR Doc. 77-6553 Filed 3-4-77; 8:45 am]

SUBPANEL ON INSTRUCTIONAL SCIENTIFIC EQUIPMENT PROGRAM (ISEP) OF ADVISORY PANEL ON SCIENCE EDUCATIONAL PROJECTS

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on the Instructional Scientific Equipment Program (ISEP) of the Advisory Panel on Science Education Projects.
Date and time: March 23, 1977; 7:30 p.m.-10:00 p.m. March 24, 1977; 8:00 a.m.-5:00 p.m. March 25, 1977; 8:00 a.m.-5:00 p.m. March 26, 1977; 8:00 a.m.-4:00 p.m.
Place: Adolphus Hotel, 1321 Commerce Street, Dallas, Texas.
Type of meeting: Closed.
Contact person: Dr. Thomas S. Quarles, Program Manager, ISEP, Room W-424, National Science Foundation, Washington, D.C., telephone (202) 282-7751.
Purpose: To provide advice and recommendations concerning support for the ISEP Program.
Agenda: To review and evaluate specific science education proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc 77-6661 Filed 3-4-77; 8:45 am]

SUBPANEL OF THE NATO POSTDOCTORAL FELLOWSHIPS IN SCIENCE PROGRAM OF THE ADVISORY PANEL ON SCIENCE EDUCATIONAL PROJECTS

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on the NATO Postdoctoral Fellowships in Science Program of the Advisory Panel on Science Education Projects.
Date and time: March 24, 1977; 8:30 a.m.-5:00 p.m. March 25, 1977; 8:30 a.m.-5:00 p.m.
Place: Mayflower Hotel, 1127 Connecticut Avenue, Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Hall Taylor, Program Manager, NATO Postdoctoral Fellowships in Science, Room W-476, National Science Foundation, Washington, D.C. 20550, Telephone (202) 282-7751.
Purpose: To provide advice and recommendations concerning support for the NATO Postdoctoral Fellowships in Science Program.
Agenda: To review and evaluate specific science education proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-6662 Filed 3-4-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Doc. No. 50-289]

METROPOLITAN EDISON CO., ET AL.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-50 issued to Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company (the licensees), for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility), located in Dauphin County, Pennsylvania.

The amendment would revise the provisions of the Technical Specifications to permit expansion of the spent fuel storage capacity at the facility in Spent Fuel Pool "B" from 174 elements to 496 elements in accordance with the licensees' application for amendment dated February 3, 1977.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By April 6, 1977, the licensees may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and §2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esq., Shaw, Pittman, Potts, and Trowbridge 1800 M Street, N.W., Washington, D.C. 20036, the attorney for the licensees.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated February 3, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1610 (Education Building), Harrisburg, Pennsylvania.

V42 44 MAR 7 77 UMI

Dated at Bethesda, Maryland, this 1st day of March 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-6744 Filed 3-4-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 28, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Energy Information Needs Survey, single-time, industrial and public organizations which consume or produce energy, Ellett, C. A., 395-5867.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Draft Contract/Project Statement, single-time, film and video equipment access centers, Caywood, D. P., 395-3443.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

A Questionnaire for Manufacturers, Distributors and Researchers Currently Involved in Wind Energy Systems Development, single time, businesses and researchers involved in wind energy systems development, Ellett, C. A., 395-5867.

U.S. COMMISSION ON CIVIL RIGHTS

Bilingual Education for Franco Americans: an assessment of need, single time, school teacher and administrative staff, Kathy Wallman, 395-6140.

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis, Verification of Mailing List for BE-10, Survey of U.S. Direct Investment Abroad—1976, BE-10 (P), single time, firms with investment abroad, C. Louis Kincannon, 395-3211.

Economic Development Administration, Application for Financial Assistance, ED-20; on occasion, firms expanding or starting new operations, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Office of Human Development, A Survey Questionnaire: Training Programs for Home Visitors, single time, private institutions, charitable organizations, non-profit agencies, Warren Topelius, 395-5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary, Application for Coinsurance Benefits (multifamily), on occasion, approved coinsurance mortgagees, Housing, Veterans and Labor Division, 395-3532.

DEPARTMENT OF LABOR

Employment Standards Administration, Application for Federal Certificate of Age, WH-14, on occasion, minors applying for Federal certificate of age, Warren Topelius, 395-5872.

REVISIONS

VETERANS ADMINISTRATION

Application for Designation as Management Broker, 26-6685, on occasion, management broker, Warren Topelius, 395-5872.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Fruit Inquiries—Growers, monthly, fruit growers, Will Sherman, 395-4730.

Food and Nutrition Service, Application for Participation and Site Information (Summer Food Service Program for Children), FNS-81, FNS-81-1, on occasion, service institutions where Food and Nutrition Service administers program, Will Sherman, 395-4730.

Statistical Reporting Service, Monthly Cold Storage Survey, monthly, refrigerated warehouses, Will Sherman, 395-4730.

Agricultural Marketing Service, Fruit and Vegetable Market News Report, FV-8, FV-18, FV-28, FV-29, FY-29-1, FV-372, monthly, fruit and vegetable producers and processors, Will Sherman, 395-4730.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Consumer Affairs Regulatory Functions, Counseling Agency and Activity Report and Instructions, HUD 9902, quarterly, HUD-approved counseling agencies, Housing, Veterans and Labor Division, 395-3532.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, A—Establishment Information, B—Wage Data, C—Quarterly Report, D—Benefit Document, E—Benefit Change Document, 3076 Refinement Survey, A—3038A, B, C, D, E 3076, 3038C, quarterly, private nonfarm establishments, EXC. HH'S, States local governments, Strasser, A. 395-5867.

EXTENSIONS

GENERAL SERVICES ADMINISTRATION

Contractors Qualifications and Financial Information, GSA527, on occasion, construction contractors, Warren Topelius, 359-5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, application for approval as investing mortgagee, 2001-G, on occasion, foundations, labor unions, Housing, Veterans and Labor Division, 395-3532.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, retail prices—fuel and utilities, BLS 2922, annually, business firms, Strasser, A., Ellett, C. A., 395-5867

EXTENSIONS

DEPARTMENT OF THE INTERIOR

Bureau of Sport Fisheries and Wildlife, woodcock wing collection envelope, 3-156A, annually, woodcock hunters, Warren Topelius, 395-5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-6743 Filed 3-4-77;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

PUBLIC MEETING

The Privacy Protection Study Commission hereby announces that it will hold meetings from 9 a.m. to 5:30 p.m. on March 16, 17, and 18, 1977, in Washington, D.C. The meetings on March 16 and 18 will be held in Room 6202, Dirksen Senate Office Building, and the meeting on March 17 will be held in Room 155, Russell Senate Office Building. All meetings will be open to the public.

The agenda for the meetings will include a discussion of Commission business matters, as well as the Commission projects on employment and personnel, public assistance and social services, government access, implementation issues, and draft recommendations on the Privacy Act.

For further information, contact John Barker, Public Affairs Director, at (202) 634-1477.

CAROLE W. PARSONS,
Executive Director, Privacy Protection Study Commission.

[FR Doc.77-6909 Filed 3-4-77;9:48 am]

DEPARTMENT OF STATE

Agency for International Development

[16S-14]

AID AFFAIRS OFFICER, REGIONAL DEVELOPMENT OFFICE/CARIBBEAN

Redelegation of Authority

Pursuant to the authority vested in me as Assistant Administrator for Latin America, Agency for International Development, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the A.I.D. Affairs Officer, Regional Development Office/Caribbean, authority to execute Amendment No. 1 to A.I.D. Loan No. 538-L-002 (Caribbean Development Bank—Low Cost Housing and Secondary Mortgage Market) which is enclosed herewith.

This Delegation of Authority shall lapse within 60 days from the date of execution hereof.

FEBRUARY 22, 1977.

E. N. S. GIRARD, II,
Assistant Administrator.

[FR Doc.77-6635 Filed 3-4-77;8:45 am]

[Public Notice 526]

FISHERY CONSERVATION ZONE

Notice of Limits

The Fishery Conservation and Management Act of 1976 establishes a fishery conservation zone contiguous to the territorial sea of the United States, effective March 1, 1977, the outer boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

The Government of the United States of America has been, is, and will be, engaged in consultations and negotiations with the governments of neighboring countries concerning the delimitation of areas subject to the respective jurisdiction of the United States and of these countries.

The limits of the fishery conservation zone of the United States as set forth below are intended to be without prejudice to any negotiations with these countries or to any positions which may have been or may be adopted respecting the limits of maritime jurisdiction in such areas.

Therefore, the Department of State on behalf of the Government of the United States of America hereby announces the limits of the fishery conservation zone of the United States of America, within which the United States will exercise its exclusive fishery management authority as set forth in the Fishery Conservation and Management Act of 1976, pending the establishment of permanent maritime boundaries by mutual agreement.

Publication of a notice on this subject which is effective immediately upon publication is necessary to effectively exercise the foreign affairs responsibility of the Department of State. (See Title 5, U.S.C., 553 (a)(1) and (b)(B)).

The North American coordinates in this notice relate to the Clarke 1866 Ellipsoid and the North American 1927 datum for the contiguous United States.

Straight line in this notice means a geodetic line.

U.S. ATLANTIC COAST AND GULF OF MEXICO

In the Gulf of Main area [1] the limit of the fishery conservation zone shall be determined by straight lines connecting the following coordinates:

1. 44°46'35.346" N., 66°54'11.253" W.
2. 44°44'41" N., 66°56'17" W.
3. 44°43'56" N., 66°56'26" W.
4. 44°39'18" N., 66°57'29" W.
5. 44°36'58" N., 67°00'36" W.
6. 44°33'27" N., 67°02'57" W.
7. 44°30'38" N., 67°02'38" W.
8. 44°29'03" N., 67°03'42" W.
9. 44°25'27" N., 67°02'16" W.
10. 44°21'43" N., 67°02'33" W.
11. 44°14'06" N., 67°08'38" W.
12. 44°07'42" N., 67°26'30" W.
13. 43°32'00" N., 67°50'00" W.
14. 43°23'00" N., 67°46'00" W.
15. 42°27'30" N., 67°06'00" W.
16. 42°23'42" N., 66°21'36" W.
17. 42°00'00" N., 65°40'00" W.
18. 41°29'18.07" N., 65°06'11.94" W.

Between point 18 and 19 the limit of the fishery conservation zone is 200 nautical miles seaward from the baseline from which the territorial sea is measured.

In the area of the Blake Plateau, the Straits of Florida and the Eastern Gulf of Mexico, the limit of the fishery conservation zone shall be determined by straight lines connecting the following coordinates:

19. 28°17'10" N., 76°36'45" W.
20. 28°17'10" N., 79°11'24" W.
21. 27°52'54" N., 79°28'36" W.
22. 27°26'00" N., 79°31'38" W.
23. 27°16'12" N., 79°34'18" W.
24. 27°11'53" N., 79°34'56" W.
25. 27°05'58" N., 79°35'19" W.
26. 27°00'27" N., 79°35'17" W.
27. 26°55'15" N., 79°34'39" W.
28. 26°53'57" N., 79°34'27" W.
29. 26°45'45" N., 79°32'41" W.
30. 26°44'29" N., 79°32'23" W.
31. 26°43'39" N., 79°32'20" W.
32. 26°41'11" N., 79°32'01" W.
33. 26°38'12" N., 79°31'33" W.
34. 26°36'29" N., 79°31'07" W.
35. 26°35'20" N., 79°30'50" W.
36. 26°34'50" N., 79°30'46" W.
37. 26°34'10" N., 79°30'38" W.
38. 26°31'11" N., 79°30'15" W.
39. 26°29'04" N., 79°29'53" W.
40. 26°25'30" N., 79°29'58" W.
41. 26°23'28" N., 79°29'55" W.
42. 26°23'20" N., 79°29'54" W.
43. 26°18'56" N., 79°31'55" W.
44. 26°15'25" N., 79°33'17" W.
45. 26°15'12" N., 79°33'23" W.
46. 26°08'08" N., 79°35'53" W.
47. 26°07'46" N., 79°36'09" W.
48. 26°06'58" N., 79°36'35" W.
49. 26°02'51" N., 79°38'22" W.
50. 25°59'29" N., 79°40'03" W.
51. 25°59'15" N., 79°40'08" W.
52. 25°57'47" N., 79°40'38" W.
53. 25°56'17" N., 79°41'06" W.
54. 25°54'03" N., 79°41'38" W.
55. 25°53'23" N., 79°41'46" W.
56. 25°51'53" N., 79°41'59" W.
57. 25°49'32" N., 79°42'16" W.
58. 25°48'23" N., 79°42'23" W.
59. 25°48'19" N., 79°42'24" W.
60. 25°46'25" N., 79°42'44" W.
61. 25°46'15" N., 79°42'45" W.
62. 25°43'39" N., 79°42'59" W.
63. 25°42'30" N., 79°42'48" W.
64. 25°40'36" N., 79°42'27" W.
65. 25°37'23" N., 79°42'27" W.
66. 25°37'07" N., 79°42'27" W.
67. 25°31'02" N., 79°42'12" W.
68. 25°27'58" N., 79°42'11" W.
69. 25°24'03" N., 79°42'12" W.
70. 25°22'20" N., 79°42'20" W.
71. 25°21'28" N., 79°42'08" W.
72. 25°16'51" N., 79°41'24" W.
73. 25°15'56" N., 79°41'31" W.
74. 25°10'38" N., 79°41'31" W.
75. 25°09'50" N., 79°41'36" W.
76. 25°09'02" N., 79°41'45" W.
77. 25°03'53" N., 79°42'30" W.
78. 25°02'58" N., 79°42'57" W.
79. 25°00'28" N., 79°44'06" W.
80. 24°59'01" N., 79°44'49" W.
81. 24°55'26" N., 79°45'58" W.
82. 24°44'16" N., 79°49'25" W.
83. 24°43'02" N., 79°49'39" W.
84. 24°42'34" N., 79°50'51" W.
85. 24°41'45" N., 79°52'58" W.
86. 24°38'30" N., 79°59'59" W.
87. 24°36'25" N., 80°03'52" W.
88. 24°33'16" N., 80°12'44" W.
89. 24°33'03" N., 80°13'22" W.
90. 24°32'11" N., 80°15'17" W.
91. 24°31'25" N., 80°16'56" W.
92. 24°30'55" N., 80°17'48" W.
93. 24°30'12" N., 80°19'22" W.
94. 24°30'04" N., 80°19'45" W.
95. 24°29'36" N., 80°21'06" W.
96. 24°28'16" N., 80°24'36" W.
97. 24°28'04" N., 80°25'11" W.
98. 24°27'21" N., 80°27'21" W.
99. 24°26'28" N., 80°29'31" W.
100. 24°25'05" N., 80°32'23" W.
101. 24°23'28" N., 80°36'10" W.
102. 24°22'31" N., 80°38'57" W.
103. 24°22'05" N., 80°39'52" W.
104. 24°19'29" N., 80°45'22" W.
105. 24°19'14" N., 80°45'48" W.
106. 24°18'36" N., 80°46'50" W.
107. 24°18'33" N., 80°46'55" W.
108. 24°09'49" N., 80°59'48" W.
109. 24°09'46" N., 80°59'52" W.
110. 24°08'56" N., 81°01'08" W.
111. 24°03'28" N., 81°01'52" W.
112. 24°08'24" N., 81°01'58" W.
113. 24°07'26" N., 81°03'07" W.
114. 24°02'18" N., 81°09'06" W.
115. 23°59'58" N., 81°11'16" W.
116. 23°56'24" N., 81°13'27" W.
117. 23°55'00" N., 81°16'41" W.
118. 23°51'50" N., 81°25'09" W.
119. 23°50'37" N., 81°28'12" W.
120. 23°49'50" N., 81°30'08" W.
121. 23°49'41" N., 81°30'29" W.
122. 23°49'33" N., 81°32'33" W.
123. 23°49'22" N., 81°35'11" W.
124. 23°49'06" N., 81°38'57" W.
125. 23°49'05" N., 81°39'21" W.
126. 23°48'22" N., 81°46'48" W.
127. 23°48'24" N., 81°47'02" W.
128. 23°48'28" N., 81°47'53" W.
129. 23°48'48" N., 81°54'30" W.
130. 23°49'44" N., 82°08'01" W.
131. 23°49'50" N., 82°09'06" W.
132. 23°51'29" N., 82°17'58" W.
133. 23°51'35" N., 82°18'31" W.
134. 23°52'21" N., 82°21'53" W.
135. 23°52'28" N., 82°23'33" W.
136. 23°53'17" N., 82°33'15" W.
137. 23°53'30" N., 82°35'32" W.
138. 23°53'20" N., 82°36'04" W.
139. 23°49'25" N., 82°50'01" W.
140. 23°49'13" N., 82°50'46" W.
141. 23°49'08" N., 82°52'46" W.
142. 23°49'06" N., 83°54'21" W.
143. 23°49'08" N., 83°58'41" W.
144. 23°49'08" N., 82°58'46" W.
145. 23°49'30" N., 83°07'00" W.
146. 23°49'42" N., 83°09'13" W.
147. 23°49'53" N., 83°11'09" W.
148. 23°49'53" N., 83°11'10" W.
149. 23°50'02" N., 83°12'10" W.
150. 23°51'11" N., 83°20'13" W.
151. 23°52'49" N., 83°31'09" W.
152. 23°54'12" N., 83°39'45" W.
153. 23°56'09" N., 83°48'16" W.
154. 23°56'11" N., 83°48'23" W.
155. 23°58'20" N., 83°55'52" W.
156. 24°03'18" N., 84°11'20" W.
157. 24°10'22" N., 84°29'19" W.
158. 24°12'56" N., 84°35'44" W.
159. 24°14'17" N., 84°38'37" W.
160. 24°40'23" N., 85°31'20" W.
161. 24°51'56" N., 85°53'45" W.
162. 25°10'29" N., 86°27'25" W.
163. 25°13'03" N., 86°32'08" W.

Between point 163 and point 164 the limit of the fishery conservation zone is 200 nautical miles seaward from the baseline from which the territorial sea is measured.

In the area of the Central Gulf of Mexico, the limit of the fishery conservation zone shall be determined by straight lines connecting the following coordinates: [2]

164. 25°41'56.52" N., 88°23'05.54" W.
165. 25°46'52.00" N., 90°29'41.00" W.
166. 25°42'13.05" N., 91°05'24.89" W.

Between point 166 and point 167, the limit of the fishery conservation zone is 200 nautical miles seaward from the baseline from which the territorial sea is measured.

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In the area of the western Gulf of Mexico, the limit of the fishery conservation zone shall be determined by straight lines connecting the following coordinates:[3]

167. 25°59'48.28'' N., 93°26'42.19'' W.
168. 26°00'30'' N., 95°39'26'' W.
169. 26°00'31'' N., 96°48'29'' W.
170. 25°58'30.57'' N., 96°55'27.37'' W.

From point 170, the limit of the fishery conservation zone shall follow the line established by the United States of America and the United Mexican States in Article V(A) and annexes of the Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary, signed at Mexico City, November 23, 1970.

U.S. PACIFIC COAST (WASHINGTON, OREGON AND CALIFORNIA)

In the area seaward of the Strait of Juan de Fuca,[4] the limit of the fishery conservation zone shall be determined by straight lines connecting the following coordinates:

1. 48 29'37.19'' N., 124°43'33.19'' W.
2. 48 30'11'' N., 124°47'13'' W.
3. 48 30'22'' N., 124°50'21'' W.
4. 48 30'14'' N., 124°54'52'' W.
5. 48 29'57'' N., 124°59'14'' W.
6. 48 29'44'' N., 125°00'06'' W.
7. 48 28'09'' N., 125°05'47'' W.
8. 48 27'10'' N., 125°08'25'' W.
9. 48 26'47'' N., 125°09'12'' W.
10. 48 20'16'' N., 125°22'48'' W.
11. 48°18'22'' N., 125°29'58'' W.
12. 48°11'05'' N., 125°53'48'' W.
13. 47°49'15'' N., 126°40'57'' W.
14. 47 36'47'' N., 127°11'58'' W.
15. 47°22'00'' N., 127°41'23'' W.
16. 46°42'05'' N., 128°51'56'' W.
17. 46°31'47'' N., 129°07'39'' W.

Between point 17 and 18 the limit of the fishery conservation zone is 200 nautical miles seaward from the baseline from which the breadth of the territorial sea is measured.

In the area of the Southern California coast,[5] the limit of the fishery conservation zone shall be determined by a series of straight lines connecting the following coordinates:

18. 30°32'31.20'' N., 121°51'58.37'' W.
19. 31°07'58'' N., 118°36'18'' W.
20. 32°37'37'' N., 117°49'31'' W.
21. 32 35'22.11'' N., 117°27'49.42'' W.

From point 21 the limit of the fishery conservation zone shall follow the line established by the United States of America and the United Mexican States in Article V(B) and annexes of the Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary, signed at Mexico City, November 23, 1970.

ALASKA

Off the coast of Alaska, in the area of the Beaufort Sea,[1] the eastern limit of the fishery conservation zone shall be determined by straight lines connecting the following coordinates:

1. 69°38'48.88'' N., 140°59'52.57'' W.
2. 69 38'52'' N., 140°59'51'' W.
3. 69 39'37'' N., 140°59'01'' W.
4. 69°40'10'' N., 140°58'34'' W.
5. 69°41'30'' N., 140°57'00'' W.
6. 69°46'25'' N., 140°49'45'' W.
7. 69°47'54'' N., 140°47'07'' W.
8. 69°51'40'' N., 140°42'37'' W.
9. 70°09'26'' N., 140°19'22'' W.
10. 70°11'30'' N., 140°18'09'' W.
11. 70°29'07'' N., 140°09'51'' W.
12. 70°29'19'' N., 140°09'45'' W.
13. 70°37'31'' N., 140°02'47'' W.
14. 70°48'25'' N., 139°52'31'' W.
15. 70°58'02'' N., 139°47'16'' W.
16. 71°01'15'' N., 139°44'24'' W.
17. 71°11'58'' N., 139°33'58'' W.
18. 71°23'10'' N., 139°21'46'' W.
19. 72°12'18'' N., 138°26'19'' W.
20. 72°46'39'' N., 137°39'02'' W.
21. 72°56'49'' N., 137°34'08'' W.

Between point 21 and point 22 at 72°46'53.00'' N., 168°58'22.587'' W., the limit of the fishery conservation zone is 200 nautical miles seaward from the baseline from which the territorial sea is measured.

From point 22, the limit of the fishery conservation zone extends southerly along the line set forth in the Convention signed at Washington, March 30, 1867, until point 23 at 60 36'53'' N., 179°52'54'' W., is reached.

From point 23 to point 24 at 56°19'03'' N., 173°25'24'' E., the limit of the fishery conservation zone is 200 nautical miles seaward from the baseline from which the territorial sea is measured.

From point 24, the limit of the fishery conservation zone extends southerly along the line set forth in the Convention signed at Washington, March 30, 1867, until point 25 at 51 18'15'' N., 167°42'30'' E., is reached.

From point 25 to point 26, the limit of the fishery conservation zone is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

From point 26, the southern limit of the fishery conservation zone off the coast of Alaska[1] shall be determined by straight lines connecting the following coordinates:

26. 53°38'27'' N., 138°45'20'' W.
27. 54°00'01'' N., 135°45'57'' W.
28. 54°07'30'' N., 134°56'24'' W.
29. 54°12'45'' N., 134°25'03'' W.
30. 54°12'57'' N., 134°23'47'' W.
31. 54°15'40'' N., 134°10'49'' W.
32. 54 20'33'' N., 133°49'21'' W.
33. 54 22'01'' N., 133°44'24'' W.
34. 54°30'06'' N., 133°16'58'' W.
35. 54°31'02'' N., 133°14'00'' W.
36. 54°30'42'' N., 133°11'28'' W.
37. 54°30'10'' N., 133°07'43'' W.
38. 54°30'03'' N., 133°07'00'' W.
39. 54°28'32'' N., 132°56'28'' W.
40. 54°28'25'' N., 132°55'54'' W.
41. 54°27'23'' N., 132°50'42'' W.
42. 54°27'07'' N., 132°49'35'' W.
43. 54°26'00'' N., 132°44'12'' W.
44. 54°24'54'' N., 132°39'46'' W.
45. 54°24'34'' N., 132°38'16'' W.
46. 54°24'39'' N., 132°26'51'' W.
47. 54°24'41'' N., 132°24'35'' W.
48. 54°24'41'' N., 132°24'29'' W.
49. 54°24'52'' N., 132°23'39'' W.
50. 54°21'51'' N., 132°02'54'' W.
51. 54°26'41'' N., 131°49'28'' W.
52. 54°28'18'' N., 131°45'20'' W.
53. 54°30'32'' N., 131°38'01'' W.
54. 54°29'53'' N., 131°33'48'' W.
55. 54°36'53'' N., 131°19'22 W.
56. 54°39'09'' N., 131°16'17'' W.
57. 54°40'52'' N., 131°13'54'' W.
58. 54°42'11'' N., 131°13'00'' W.
59. 54°46'16'' N., 131°04'43'' W.
60. 54°45'39'' N., 131°03'06'' W.
61. 54°44'12'' N., 130°59'44'' W.
62. 54°43'46'' N., 130°58'55'' W.
63. 54°43'00'' N., 130°57'41'' W.
64. 54°42'34'' N., 130°57'09'' W.
65. 54°42'27'' N., 130°56'18'' W.
66. 54°41'26'' N., 130°53'39'' W.
67. 54°41'21'' N., 130°53'18'' W.
68. 54°41'05'' N., 130°49'17'' W.
69. 54°41'06'' N., 130°48'31'' W.
70. 54°40'46'' N., 130°45'51'' W.
71. 54°40'41'' N., 130°44'59'' W.
72. 54°40'42'' N., 130°44'43'' W.
73. 54°40'03'' N., 130°42'22'' W.
74. 54°39'48'' N., 130°41'35'' W.
75. 54°39'14'' N., 130°39'18'' W.
76. 54°39'54'' N., 130°38'58'' W.
77. 54°41'09'' N., 130°38'58'' W.
78. 54°42'22'' N., 130°38'26'' W.
79. 54°42'47'' N., 130°38'06'' W.
80. 54°42'58'' N., 130°37'57'' W.
81. 54°43'00'' N., 130°37'55'' W.
82. 54°43'15'' N., 130°37'49'' W.
83. 54°43'24'' N., 130°37'39'' W.
84. 54°43'30.15'' N., 130°37'37.01'' W.

THE CARIBBEAN SEA

Commonwealth of Puerto Rico and the Virgin Islands of the United States: The seaward limit of the fishery conservation zone around the Commonwealth of Puerto Rico and the Virgin Islands of the United States is a line 200 nautical miles from the baseline from which the breadth of the territorial sea is measured, except that to the west, south, and east, the limit of the fishery conservation zone shall be determined by straight lines connecting the following coordinates:

1. 21°48'41'' N., 65°50'02'' W.
2. 21°44'37'' N., 65°49'19'' W.
3. 20°41'49'' N., 65°36'51'' W.
4. 20°27'10'' N., 65°33'41'' W.
5. 20°18'44'' N., 65°31'51'' W.
6. 19°57'59'' N., 65°27'17'' W.
7. 19°38'16'' N., 65°21'00'' W.
8. 19°13'24'' N., 65°06'29'' W.
9. 18°41'12'' N., 64°59'36'' W.
10. 18°33'36'' N., 64°55'50'' W.
11. 18°29'25'' N., 64°53'53'' W.
12. 18°27'53'' N., 64°53'29'' W.
13. 18°26'15'' N., 64°52'58'' W.
14. 18°25'47'' N., 64°52'40'' W.
15. 18°25'29'' N., 64°52'42'' W.
16. 18°24'31'' N., 64°52'23'' W.
17. 18°24'30'' N., 64°52'22'' W.
18. 18°24'07'' N., 64°52'03'' W.
19. 18°23'55'' N., 64°51'54'' W.
20. 18°23'50'' N., 64°51'40'' W.
21. 18°23'46'' N., 64°50'32'' W.
22. 18°23'47'' N., 64°50'25'' W.
23. 18°23'53'' N., 64°49'45'' W.
24. 18°24'13'' N., 64°49'10'' W.
25. 18°24'19'' N., 64°49'00'' W.
26. 18°24'25'' N., 64°48'36'' W.
27. 18°24'31'' N., 64°48'17'' W.
28. 18°24'37'' N., 64°48'01'' W.
29. 18°24'23'' N., 64°47'04'' W.
30. 18°23'21'' N., 64°46'41'' W.
31. 18°23'20'' N., 64°46'40'' W.
32. 18°23'08'' N., 64°46'14'' W.
33. 18°23'02'' N., 64°46'03'' W.
34. 18°22'46'' N., 64°45'22'' W.
35. 18°22'47'' N., 64°45'16'' W.
36. 18°22'48'' N., 64°45'05'' W.
37. 18°22'49'' N., 64°45'02'' W.
38. 18°22'48'' N., 64°44'56'' W.
39. 18°22'50'' N., 64°44'48'' W.
40. 18°22'49'' N., 64°44'39'' W.
41. 18°22'50'' N., 64°44'37'' W.
42. 18°22'46'' N., 64°44'26'' W.
43. 18°22'44'' N., 64°44'23'' W.
44. 18°22'43'' N., 64°44'10'' W.
45. 18°22'46'' N., 64°44'01'' W.
46. 18°22'48'' N., 64°43'45'' W.
47. 18°22'40'' N., 64°43'38'' W.
48. 18°22'38'' N., 64°43'36'' W.
49. 18°22'38'' N., 64°43'29'' W.
50. 18°22'37'' N., 64°43'25'' W.
51. 18°22'33'' N., 64°43'04'' W.
52. 18°22'34'' N., 64°43'00'' W.
53. 18°22'34'' N., 64°42'50'' W.
54. 18°22'33'' N., 64°42'38'' W.
55. 18°22'34'' N., 64°42'32'' W.
56. 18°22'31'' N., 64°42'20'' W.
57. 18°22'30'' N., 64°42'14'' W.
58. 18°22'26'' N., 64°42'05'' W.
59. 18°22'24'' N., 64°42'02'' W.
60. 18°22'24'' N., 64°41'49'' W.
61. 18°22'28'' N., 64°41'24'' W.
62. 18°22'31'' N., 64°41'09'' W.
63. 18°22'32'' N., 64°40'57'' W.
64. 18°22'24'' N., 64°40'47'' W.
65. 18°22'13'' N., 64°40'32'' W.
66. 18°22'10'' N., 64°40'27'' W.
67. 18°22'06'' N., 64°40'12'' W.
68. 18°22'05'' N., 64°40'04'' W.
69. 18°22'05'' N., 64°39'50'' W.
70. 18°22'01'' N., 64°39'25'' W.
71. 18°22'01'' N., 64°39'21'' W.
72. 18°22'02'' N., 64°39'03'' W.
73. 18°21'59'' N., 64°38'28'' W.
74. 18°21'59'' N., 64°38'25'' W.
75. 18°21'28'' N., 64°38'20'' W.
76. 18°21'23'' N., 64°38'21'' W.
77. 18°20'44'' N., 64°38'36'' W.
78. 18°20'44'' N., 64°38'36'' W.
79. 18°20'10'' N., 64°38'28'' W.
80. 18°19'29'' N., 64°38'19'' W.
81. 18°19'21'' N., 64°38'15'' W.
82. 18°19'12'' N., 64°38'18'' W.
83. 18°17'48'' N., 64°39'21'' W.
84. 18°17'18'' N., 64°39'46'' W.
85. 18°16'13'' N., 64°39'39'' W.
86. 18°04'26'' N., 64°38'14'' W.
87. 18°03'06'' N., 64°38'05'' W.
88. 18°03'04'' N., 64°34'22'' W.
89. 18°03'03'' N., 64°33'44'' W.
90. 18°03'01'' N., 64°30'56'' W.
91. 18°03'01'' N., 64°29'05'' W.
92. 18°02'55'' N., 64°26'30'' W.
93. 18°02'37'' N., 64°22'20'' W.
94. 18°02'37'' N., 64°20'34'' W.
95. 18°02'37'' N., 64°19'58'' W.
96. 18°01'38'' N., 64°11'59'' W.
97. 18°00'48'' N., 64°06'02'' W.
98. 18°00'29'' N., 64°03'43'' W.
99. 17°59'20'' N., 63°56'37'' W.
100. 17°58'53'' N., 63°54'22'' W.
101. 17°56'35'' N., 63°53'22'' W.
102. 17°39'48'' N., 63°54'54'' W.
103. 17°37'15'' N., 63°55'11'' W.
104. 17°30'28'' N., 63°55'57'' W.
105. 17°11'43'' N., 63°58'00'' W.
106. 17°05'07'' N., 63°58'42'' W.
107. 16°45'47'' N., 64°00'49'' W.
108. 16°43'22'' N., 64°06'31'' W.
109. 16°43'10'' N., 64°06'59'' W.
110. 16°42'40'' N., 64°08'06'' W.
111. 16°41'43'' N., 64°10'07'' W.
112. 16°35'19'' N., 64°23'39'' W.
113. 16°23'30'' N., 64°45'54'' W.
114. 15°39'31'' N., 65°58'41'' W.
115. 15°30'10'' N., 66°07'09'' W.
116. 15°14'06'' N., 66°19'57'' W.
117. 14°55'48'' N., 66°34'30'' W.
118. 14°56'06'' N., 66°51'40'' W.
119. 14°58'27'' N., 67°04'19'' W.
120. 14°58'45'' N., 67°05'17'' W.
121. 14°58'58'' N., 67°06'11'' W.
122. 14°59'10'' N., 67°07'00'' W.
123. 15°02'32'' N., 67°23'40'' W.
124. 15°05'07'' N., 67°36'23'' W.
125. 15°10'38'' N., 68°03'46'' W.
126. 15°11'06'' N., 68°09'21'' W.
127. 15°12'33'' N., 68°27'32'' W.
128. 15°12'51'' N., 68°28'56'' W.
129. 15°46'46'' N., 68°26'04'' W.
130. 17°21'30'' N., 68°17'53'' W.
131. 17°38'01'' N., 68°16'46'' W.
132. 17°50'24'' N., 68°16'11'' W.
133. 17°58'07'' N., 68°15'52'' W.
134. 18°02'28'' N., 68°15'40'' W.
135. 18°06'10'' N., 68°15'27'' W.
136. 18°07'27'' N., 68°15'33'' W.
137. 18°09'12'' N., 68°14'53'' W.
138. 18°17'06'' N., 68°11'28'' W.
139. 18°19'20'' N., 68°09'40'' W.
140. 18°22'42'' N., 68°06'57'' W.
141. 18°24'39'' N., 68°04'58'' W.
142. 18°25'25'' N., 68°04'09'' W.
143. 18°28'08'' N., 68°00'59'' W.
144. 18°31'27'' N., 67°56'57'' W.
145. 18°32'58'' N., 67°55'07'' W.
146. 18°34'34'' N., 67°52'53'' W.
147. 18°54'37'' N., 67°46'21'' W.
148. 19°00'42'' N., 67°44'25'' W.
149. 19°10'00'' N., 67°41'24'' W.
150. 19°19'03'' N., 67°38'19'' W.
151. 19°21'20'' N., 67°38'01'' W.
152. 19°59'45'' N., 67°31'52'' W.
153. 20°00'59'' N., 67°31'35'' W.
154. 20°01'17'' N., 67°31'29'' W.
155. 20°02'49'' N., 67°31'04'' W.
156. 20°03'30'' N., 67°30'52'' W.
157. 20°09'28'' N., 67°29'11'' W.
158. 20°48'18'' N., 67°17'50'' W.
159. 21°22'48'' N., 67°02'34'' W.
160. 21°30'18'' N., 66°59'05'' W.
161. 21°33'47'' N., 66°57'30'' W.
162. 21°51'24'' N., 66°49'30'' W.

Navassa Island. The limits of the fishery conservation zone around Navassa Island remain to be determined.

CENTRAL AND WESTERN PACIFIC

Baker and Midway Island. The seaward limit of the fishery conservation zone is 200 nautical miles from the baseline from which the territorial sea is measured.

American Samoa. The seaward limit of the fishery conservation zone shall be determined by straight lines connecting the following points:

1. 11°01'21'' S., 173°46'15'' W.
2. 11°02'28'' S., 173°44'37'' W.
3. 11°22'08'' S., 173°15'50'' W.
4. 11°26'56'' S., 173°08'46'' W.
5. 11°40'49'' S., 172°48'17'' W.
6. 11°53'57'' S., 172°23'09'' W.
7. 11°54'06'' S., 172°22'53'' W.
8. 12°05'27'' S., 172°00'55'' W.
9. 12°13'49'' S., 171°44'47'' W.
10. 12°14'01'' S., 171°44'25'' W.
11. 12°17'36'' S., 171°37'14'' W.
12. 12°23'34'' S., 171°25'18'' W.
13. 12°27'27'' S., 171°17'25'' W.
14. 12°29'47'' S., 171°08'24'' W.
15. 12°35'21'' S., 170°36'26'' W.
16. 12°36'11'' S., 170°31'35'' W.
17. 12°36'18'' S., 170°30'44'' W.
18. 13°09'05'' S., 170°42'39'' W.
19. 13°13'56'' S., 170°44'20'' W.
20. 13°50'40'' S., 170°56'24'' W.
21. 13°53'43'' S., 170°57'57'' W.
22. 13°54'30'' S., 170°58'20'' W.
23. 13°56'54'' S., 170°59'34'' W.
24. 14°03'05'' S., 171°02'53'' W.
25. 14°03'27'' S., 171°03'05'' W.
26. 14°03'28'' S., 171°03'06'' W.
27. 14°06'18'' S., 171°04'48'' W.
28. 14°27'02'' S., 171°14'46'' W.
29. 14°46'48'' S., 171°24'21'' W.
30. 15°01'58'' S., 171°31'37'' W.
31. 15°14'19'' S., 171°37'37'' W.
32. 15°50'12'' S., 171°50'44'' W.
33. 15°50'48'' S., 171°50'23'' W.
34. 15°58'20'' S., 171°46'06'' W.
35. 16°04'47'' S., 171°42'37'' W.
36. 16°13'29'' S., 171°37'41'' W.
37. 16°49'33'' S., 171°17'03'' W.
38. 16°48'46'' S., 171°12'29'' W.
39. 16°39'17'' S., 170°19'09'' W.
40. 16°34'58'' S., 169°55'59'' W.
41. 16°37'36'' S., 169°19'12'' W.
42. 16°37'55'' S., 169°18'19'' W.
43. 16°56'20'' S., 168°26'05'' W.
44. 17°31'45'' S., 166°42'07'' W.
45. 17°30'42'' S., 166°41'17'' W.
46. 15°36'59'' S., 165°12'33'' W.
47. 14°51'29'' S., 165°24'22'' W.
48. 14°38'39'' S., 165°27'41'' W.
49. 14°03'59'' S., 165°36'57'' W.
50. 14°00'54'' S., 165°40'31'' W.
51. 13°35'14'' S., 166°10'05'' W.
52. 13°24'32'' S., 166°22'23'' W.
53. 13°01'48'' S., 166°48'11'' W.
54. 12°47'51'' S., 167°03'56'' W.
55. 12°30'48'' S., 167°23'09'' W.

Guam. The seaward limit of the fishery conservation zone is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured, except that to the north of Guam, the limit of the fishery conservation zone shall be determined by straight lines connecting the following points:

1. 15°43'28'' N., 142°05'43'' E.
2. 14°55'18'' N., 143°15'29'' E.
3. 14°47'43'' N., 143°26'23'' E.
4. 14°30'07'' N., 143°51'50'' E.
5. 14°11'10'' N., 144°26'36'' E.
6. 14°05'34'' N., 144°36'47'' E.
7. 13°57'14'' N., 144°51'43'' E.
8. 13°53'11'' N., 144°59'19'' E.
9. 13°51'18'' N., 145°03'00'' E.
10. 13°51'16'' N., 145°03'05'' E.
11. 13°51'00'' N., 143°03'36'' E.
12. 13°50'11'' N., 145°06'15'' E.
13. 13°49'15'' N., 145°08'37'' E.
14. 13°47'40'' N., 145°12'31'' E.
15. 13°46'00'' N., 145°16'14'' E.
16. 13°45'27'' N., 145°17'23'' E.
17. 13°41'18'' N., 145°26'08'' E.
18. 13°37'16'' N., 145°34'33'' E.
19. 13°36'23'' N., 145°36'21'' E.
20. 13°35'54'' N., 145°37'14'' E.
21. 13°16'24'' N., 146°12'14'' E.
22. 13°05'18'' N., 146°32'02'' E.
23. 13°00'17'' N., 146°41'05'' E.
24. 12°33'02'' N., 147°29'57'' E.
25. 12°14'34'' N., 148°03'11'' E.
26. 12°13'55'' N., 148°04'31'' E.

and, except that to the south of Guam, the limit of the fishery conservation zone shall be determined by straight lines connecting the following points:

27. 11°38'25'' N., 147°44'42'' E.
28. 11°36'53'' N., 147°31'03'' E.
29. 11°31'48'' N., 146°55'19'' E.
30. 11°27'15'' N., 146°25'34'' E.
31. 11°22'13'' N., 145°52'36'' E.
32. 11°17'31'' N., 145°22'38'' E.
33. 11°13'32'' N., 144°57'26'' E.
34. 11°13'23'' N., 144°56'29'' E.
35. 10°57'03'' N., 143°26'53'' E.
36. 10°57'30'' N., 143°03'09'' E.
37. 11°52'33'' N., 142°15'28'' E.
38. 12°54'00'' N., 141°21'48'' E.
39. 12°54'17'' N., 141°21'33'' E.
40. 12°57'34'' E., 141°19'17'' E.
41. 13°06'32'' N., 141°12'53'' N.

Johnston Atoll. The seaward limit of the fishery conservation zone is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

Palmyra Atoll. The seaward limit of the fishery conservation zone is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured, except that to the southeast of Palmyra Atoll the limit of the fishery conservation zone shall be determined by straight lines connecting the following coordinates:

1. 7°55'04'' N., 159°22'29'' W.
2. 7°31'05'' N., 159°39'30'' W.
3. 7°09'43'' N., 159°54'35'' W.
4. 6°33'40'' N., 160°19'51'' W.
5. 6°31'37'' N., 160°21'18'' W.
6. 6°25'31'' N., 160°25'40'' W.
7. 6°03'05'' N., 160°41'42'' W.
8. 5°44'12'' N., 160°55'13'' W.
9. 4°57'25'' N., 161°28'19'' W.
10. 4°44'38'' N., 161°37'18'' W.
11. 3°54'25'' N., 162°12'56'' W.
12. 2°39'50'' N., 163°05'14'' W.

Wake Island. The seaward limit of the fishery conservation zone is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured, except that to the south of Wake Island the limit of the fishery conservation zone shall be determined by straight lines connecting the following coordinates:

1. 17°56'15'' N., 166°54'00'' E.
2. 17°46'02'' N., 169°31'18'' E.
3. 17°37'47'' N., 169°12'53'' E.
4. 17°11'18'' N., 168°13'30'' E.
5. 16°41'31'' N., 167°07'39'' E.
6. 16°02'45'' N., 165°43'30'' E.

Jarvis Island. The seaward limit of the fishery conservation zone is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured, except that to the north of Jarvis Island, the

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limit of the fishery conservation zone shall be determined by straight lines connecting the following coordinates:

1. 2°01'00" N., 162°22'00" W.
2. 2°01'42" N., 162°01'35" W.
3. 2°03'20" N., 161°41'33" W.
4. 2°02'30" N., 161°36'20" W.
5. 2°00'13" N., 161°22'24" W.
6. 1°50'18" N., 160°20'42" W.
7. 1°45'46" N., 159°52'59" W.
8. 1°43'31" N., 159°39'27" W.

and, except that to the eastward of Jarvis Island, the limit of the fishery conversation zone between point No. 8 and a point at 3°10'40" S., 158°10'30" W. remains to be determined.

Howland and Baker Islands. The seaward limit of the fishery conservation zone is a line 200 nautical miles from the baseline from which the breadth of the territorial sea is measured, except that to the south of Howland and Baker Islands, the limit of the fishery conservation zone remains to be determined between 0°14'30" N., 173°08'00" W. and 02°58'45" S., 177°26'00" W.

FOOTNOTES

The limits of the U.S. fishery conservation zone in areas adjacent to Canada do not correspond to limits of the Canadian fishery zone as described in the Canada Gazette of January 1, 1977.

[2] In view of the fact that the claimed limits of fishery jurisdiction published by the United States and Canada would leave an unclaimed area within the Gulf of Maine, the United States will exercise its fishery management jurisdiction to the Canadian claimed line where that line is situated eastward of the United States claimed line, until such time as a permanent maritime boundary with Canada is established in the Gulf of Maine.

[3] Agreed with the Government of Mexico as a provisional maritime boundary on November 24, 1976.

[4] Establishment of the fishery conservation zone as set forth in this notice is without prejudice to claims regarding the sovereignty of disputed islands.

Dated: March 1, 1977.

MARK B. FELDMAN,
Deputy Legal Adviser.

[FR. Doc.77-6563 Filed 3-3-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-025]

UNITED STATES COAST GUARD ACADEMY ADVISORY COMMITTEE

Renewal and Charter

This is to give notice, in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1) of October 6, 1972, that the U.S. Coast Guard Academy Advisory Committee has been renewed by the Secretary of Transportation for a two-year period beginning January 16, 1977 through January 16, 1979.

The U.S. Coast Guard Academy Advisory Committee was established under section 6 of an Act of Congress, Pub. L. 75-38 of April 16, 1937 (14 U.S.C. 193) as amended.

The purpose of the Advisory Committee is to examine the curriculum and faculty of the Academy and advise the Commandant of recommendations to maintain and improve the Academy's high quality.

CHARTER—U.S. COAST GUARD ACADEMY ADVISORY COMMITTEE

1. *Purpose.* The purpose of this Instruction is to promulgate the charter of the Coast Guard Academy Advisory Committee in response to the provisions of reference (a).

2. *Cancellation.* Commandant Instruction 5420.10A is hereby canceled.

3. *Background.* The Coast Guard Academy Advisory Committee was authorized by section 6, of an Act of Congress, Pub. L. 75-38, on 16 April 1937. This Act permitted the Secretary to appoint an advisory committee of "five persons of distinction in the field of education who shall serve without pay." Subsequently, the 81st Congress increased the membership to "seven persons of distinction in education and other fields relating to the purposes of the Academy, who shall serve without pay."

4. *Objective.* The objective and mission of the Committee is to advise the Commandant, United States Coast Guard, on the status of the curriculum and faculty of the United States Coast Guard Academy, making recommendations for improvement and maintenance of its high quality.

5. *Membership.* The Committee will consist of seven members who are recognized persons of distinction in the field of education and other fields relating to the purpose of the Academy.

6. *Committee Officers.* a. The "Chairman" shall be appointed by the Secretary and shall conduct each meeting, provide opportunity for participation by each member, and ensure adherence to the agenda.

b. The "Executive Director" and permanent Vice Chairman shall be the Superintendent, United States Coast Guard Academy. He shall be responsible for preparing the agenda and submitting same to Commandant (G-P) eight weeks prior to the scheduled date of the meeting. He shall be the designated Federal Official required by section 10 of the Federal Advisory Committee Act and perform the duties pertaining thereto.

(c) The "Executive Secretary" shall be the Academic Dean, United States Coast Guard Academy. He will assist the chairman and the Executive Director in discharging committee responsibilities.

d. The "Coast Guard Headquarters Liaison Officer" shall be Chief, Office of Personnel. He will be the point of contact for the Committee, Executive Director and the Executive Secretary and will provide all the necessary support services to permit the effective execution of Committee functions.

7. *Meetings.* The Committee shall meet approximately once every six months with special meetings called as necessary. Timely notice shall be published in the FEDERAL REGISTER. All meetings shall be open to the public, who shall be permitted to attend, appear before or file statements with the Committee. All members of the public may file written statements with the Advisory Committee before or after the meeting. The Committee may allow oral statements if desired and may establish procedures for their introduction. The Executive Director shall approve the calling of all meetings, approve all agenda, attend all meetings and is authorized to adjourn any meeting whenever he determines it to be in the public interest.

8. *Cost.* All necessary operating expenses will be borne by the United States Coast Guard. It is estimated that the annual cost will be $5,000.00 and 0.1 man-years. All members serve voluntarily without compensation, except for reimbursement for travel expenses and lodging plus $16.00 in lieu of subsistence, the total not to exceed $35.00 per day.

9. *Sponsor.* The sponsor of the Committee shall be the Commandant, to whom the Committee shall report.

10. *Subcommittees.* The Chairman is authorized, with the approval of the sponsor, to establish subcommittees from among the membership of the Committee. Subcommittees shall comply with the provisions of paragraph 9. of DOT Order 1120.3A.

11. *Availability of Records.* Subject to section 552 of Title 5, U.S.C., the records, reports, minutes, agenda or other documents shall be made available for public inspection and copying at a single location in the offices of the Executive Secretary.

12. *Reports.* A detailed report, including the minutes of each meeting, shall be furnished to the Commandant and shall include:

a. Persons present.

b. Complete and accurate description of matters discussed and conclusions reached.

c. Copies of reports received, issued or approved by the Committee.

d. Certification of accuracy by the Chairman and Executive Director.

13. *Filing Date—January 16, 1977.* This is the effective date of the charter which will expire two years from that date unless sooner terminated or extended.

Interested persons may seek additional information by writing:

Capt. R. M. White, U.S.C.G., Executive Secretary, Coast Guard Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06320.

or by calling: 203-443-8688.

Dated: March 2, 1977.

C. E. LARKIN,
Rear Adm., U.S. Coast Guard,
Chief, Office of Personnel.

[FR Doc.77-6667 Filed 3-4-77;8:45 am]

[CGD 77-038]

PROPOSED PEDESTRIAN BRIDGE ACROSS AMERICAN RIVER BETWEEN CARMICHAEL AND RANCHO CORDOVA IN SACRAMENTO COUNTY, CALIFORNIA

Public Hearing

The Commandant has authorized a public hearing to be held by the Commander, Twelfth Coast Guard District in conjunction with the Sacramento County Board of Supervisors. The hearing will be held in the Sacramento County Board of Supervisors Chambers at 7:30 p.m., April 19, 1977. The purpose of the hearing is to consider the permit application from the County of Sacramento, California to construct a pedestrian bridge, across the American River between Carmichael and Rancho Cordova in Sacramento County, California. The proposed bridge will be a new crossing of the American River to provide for non-motorized access between two sections of the American River Parkway System and to provide the final link in the 23 mile long Jedediah Smith Memorial Trail.

A Draft Environmental Impact Statement (DEIS) on the project was filed with the Council on Environmental Quality on February 28, 1977 in compliance with the National Environmental Policy Act of 1969 (Pub. L. 91-190).

The determination of whether a Coast Guard bridge permit will be issued must rest primarily on the projects impact on navigation; however, all factors (environment, economics, etc.) will be given careful consideration by the Coast Guard and County decision-makers to determine whether the project is in the public interest.

The hearing will be informal. Both the Coast Guard and County representatives will preside at the hearing, make a brief opening statement describing the proposed bridge, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Twelfth Coast Guard District, 630 Sansome Street, San Francisco, California 94126, or the Sacramento County Board of Supervisors 3701 Branch Center Road, Sacramento, California 95827. Such notification should include the approximate time required to make the presentation. Comments previously submitted are a matter of record and need not be resubmitted at the hearing. Speakers are encouraged to provide written copies of their oral statements to the Chairman at the time of the hearing. Those wishing to make written comments only may submit these comments at the hearing, or to the Commander (oan) Twelfth Coast Guard District, or to the Sacramento County Board of Supervisors through May 3, 1977. A transcript of the hearing, as well as written comments received outside the hearing, will be available for public review in the Coast Guard and Sacramento County offices approximately 10 days after the hearing.

All comments, oral and written, will be considered before a final determination is made of the subject application by the Commandant, U.S Coast Guard, Washington, D.C.20590.

(Sec. 502, 60 Stat. 847, as amended; (33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C)); 49 CFR 1.46(c)(10).)

Dated February 24, 1977

A. F. FUGARO,
Rear Admiral, United States Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc 77-6668 Filed 3-4-77;8:45 am]

National Highway Traffic Safety Administration

[Docket No. IP77-5; Notice No. 1]

GENERAL MOTORS CORP.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

General Motor Corporation of Warren, Michigan ("GM" herein) has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et. seq.) for an apparent noncompliance with 49 CFR 571.208, Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, on the basis that it is inconsequential as it relates to motor vehicle safety.

Paragraph S4.1.2.3.1(c) of Standard No. 208 requires that each rear designated seating position in a passenger car shall have a Type 1 (lap belt) seat belt assembly that conforms to 49 CFR 571.209, Motor Vehicle Safety Standard No. 209, Seat Belt Assemblies. Paragraph S4.1(k) of Standard No. 209 requires each seat belt assembly to "be permanently and legibly marked or labeled with year of manufacture, model and name or trademark of manufacturer or distributor * * *." GM has discovered that the right rear seat belt assemblies in approximately 34,000 1977-model Pontiac, Oldsmobiles, Buick, and Cadillac passengers cars lack the required label, while the center rear seat belt assemblies have two labels. The company argues that the noncompliance is inconsequential as the seat belt assemblies comply in all other respects.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition. Interested persons are invited to submit written data, views and arguments on the petition of General Motors Corporation described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: April 21, 1977.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on February 28, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-6645 Filed 3-4-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

LEATHER WEARING APPAREL FROM THE REPUBLIC OF CHINA

Receipt of Countervailing Duty Petition and Initiation of Investigation

A petition in satisfactory form was received on January 21, 1977, alleging that payments or bestowals conferred by the Government of the Republic of China (Taiwan) upon the manufacture, production or exportation of leather wearing apparel from Taiwan constitute the payment or bestowal of a bounty or grant within the meaning of section 303 Tariff Act of 1930, as amended (19 U.S.C. 1303).

The term "leather wearing apparel", as used in the petition, covers wearing apparel, of leather, other than reptile leather, and is classifiable under item 791.75, Tariff Schedules of the United States (TSUS).

Taiwan is a designated "beneficiary developing country" for the purposes of the Generalized System of Preferences (GSP) under Title V of the 1974 Trade Act and, currently, all merchandise imported directly from Taiwan and classifiable under TSUS item number 791.75 is eligible for duty-free treatment under the GSP. In the event it becomes necessary to refer this matter to the United States International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), there is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States.

Pursuant to section 303(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt in satisfactory form of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than July 21, 1977, as to whether or not the alleged payments or bestowals conferred by the Government of the Republic of China upon the manufacture, production, or exportation of the above

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described merchandise constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than January 23, 1978.

(Sec. 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and (19 CFR 159.47(c)).)

VERNON D. ACREE,
Commissioner of Customs.

Approved: February 25, 1977.

JOHN H. HARPER,
Acting Assistant Secretary of the Treasury.

[FR Doc.77-6610 Filed 3-4-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 2-58297, (22-9145)]

PAN AMERICAN WORLD AIRWAYS, INC.

Application and Opportunity for Hearing

MARCH 4, 1977.

Notice is hereby given that Pan American World Airways, Inc. (the "Company") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of North Carolina National Bank ("NCNB") under three proposed indentures which are to be qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify NCNB from acting as trustee under any of these indentures.

Section 310(b) of the Act provides, inter alia, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeship under the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection on investors to disqualify such trustee from acting as trustee under any of such indentures.

The Company alleges that:

1. A registration statement was filed on February 28, 1977, covering $26,500,000 principal amount of Secured Equipment Certificates due May 15, 1994, Series A and $26,500,000 principal amount of Secured Equipment Certificates due May 15, 1994, Series B. In addition, the registration statement may be amended prior to effectiveness to provide for an issue of Secured Equipment Certificates due 19 , Series C.

2. Each series of Secured Equipment Certificates will be issued pursuant to a separate trust indenture to be qualified under the Act, between the Company and a trustee. The Company desires to appoint NCNB as trustee under each of the proposed indentures.

3. The proceeds from the sale of each series of Secured Equipment Certificates will be used to provide financing for 70 percent of the purchase price of one aircraft to be purchased by NCNB as trustee and leased to the Company. The balance of the purchase price will be provided by the Company or independent equity investors. The principal and interest on each series will be payable out of rentals owed by the Company on the related aircraft.

4. Pending delivery of each aircraft, NCNB will hold the proceeds (and any permitted investments thereof) in segregated accounts as security for that series of Secured Equipment Certificates. In addition, each series of Secured Equipment Certificates will be secured by a security interest in the related aircraft. Should NCNB have occasion to proceed against the security under one of the indentures, such action would not affect the security, or the use of any security, under the other indenture(s).

5. The differences in the provisions of the indentures are not so likely to involve the Bank in a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under any indenture.

The Company waives notice of hearing and waives hearing and waives any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street NW., Washington, D.C.

Notice is further given that any interested person may, not later than March 22, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6948 Filed 3-4-77;11:35 am]

AGRICULTURE DEPARTMENT

Office of the Secretary

NATIONAL ADVISORY COUNCIL OR CHILD NUTRITION

Cancellation of Meeting

Notice is hereby given that the March 8-9, 1977, meeting of the National Advisory Council on Child Nutrition as published on page 11029 of the FEDERAL REGISTER of February 25, 1977, has been cancelled. The meeting will be rescheduled at a later date.

Dated: March 4, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-6950 Filed 3-4-77;11:59 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 339]

ASSIGNMENT OF HEARINGS

MARCH 2, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 142045 Sub 1, McNeil Transport Limited now being assigned May 9, 1977 (1 week) at Buffalo, New York in a hearing room to be later designated.

MC 113666 Sub 105, Freeport Transport, Inc. now being assigned May 5, 1977 (2 days) at Buffalo, New York in a hearing room to be later designated.

MC 65626 Sub 31, Fredonia Express, Inc. now being assigned May 4, 1977 (1 day) at Buffalo, New York in a hearing room to be later designated.

MC 134922 (Sub-203), B. J. McAdams, Inc., now being assigned April 20, 1977 (1 day) at New Orleans, Louisiana, in a hearing room to be later designated.

MC 135797 (Sub-61), J. B. Hunt Transport, Inc., now being assigned April 21, 1977 (1 day) at New Orleans, Louisiana, in a hearing room to be later designated.

MC 119789 (Sub-306), Caravan Refrigerated Cargo, Inc., now being assigned April 22, 1977 (1 day) at New Orleans, Louisiana, in a hearing room to be later designated.

MC 140829 (Sub-No. 28), Cargo Contract Carrier Corp., application dismissed.

MC-C-9237, Southwestern Transportation Co. & St. Louis Southwestern Railway Co.—Investigation of Operations, now being assigned May 3, 1977 (1 day) at Dallas, Texas, in a hearing room to be later designated.

MC 104523 (Sub-65), Hutton Truck Line, Inc., now being assigned May 4, 1977 (1 day) at Dallas, Texas, in a hearing room to be later designated.

MC 142426, C. T. Dykes, d.b.a. Dykes Garage, now being assigned May 5, 1977 (2 days) at Dallas, Texas, in a hearing room to be later designated.

MC 4405 (Sub-537), Dealers Transit, Inc., now being assigned May 9, 1977 (1 day) at Dallas, Texas, in a hearing room to be later designated.

MC 120761 (Sub-16), Newman Bros. Trucking Company, now being assigned May 10, 1977 (1 day) at Dallas, Texas, in a hearing room to be later designated.

MC 139495 (Sub-165), National Carriers, Inc., now being assigned May 11, 1977 (1 day) at Dallas, Texas, in a hearing room to be later designated.

MC 340 (Sub-41), Querner Truck Lines, Inc.; MC 127042 (Sub-174), Hagen, Inc. and MC 140033 (Sub-15), Cox Refrigerated Express, Inc., now being assigned May 12, 1977 (2 days) at Dallas, Texas, in a hearing room to be later designated.

MC 114737 Sub 7, O & A Tex-Pack Express, O Inc., now assigned March 22, 1977, at El Paso, Tex., will be held in the Ramada Inn (formerly Centro Del Paso) 325 North Kansas Street.

MC-C-9299, Antrim Transportation Co., Inc., v. A & D Rentals Inc., now assigned March 21, 1977, at New York, N.Y., will be held in Room E 2222, Federal Bldg., 26 Federal Plaza.

MC 119789 Sub 307, Caravan Refrigerated Cargo, Inc., now assigned March 22, 1977, at New York City, N.Y., will be held in Room E 2222 Federal Bldg., 26 Federal Plaza.

MC 12942 Sub 3, Metric Teen Tours, Inc., now assigned March 14, 1977, at New York, N.Y., will be held in Room E 2222, Federal Bldg., 26 Federal Plaza.

MC-C 9033, Browning Freight Lines, Inc., et al. v. Northwest Transport Service, Inc., now assigned April 13, 1977, at Salt Lake City, Utah, will be held in Room B-20, Federal Bldg., 125 South State Street.

MC 48315 Sub 6, Hopkins Motor Coach, Inc., MC 100853 Sub 15, Pinkett's Shore Lines, Inc., and MC 104656 Sub 13, Mandrell Motor Coach, Inc., now assigned March 22, 1977, at Cambridge, Maryland will be held in the Housing Authority, 700 Weaver Avenue.

MC-F-12986, All American Inc.,—Purchase—Mid-Continent Freight Lines, Inc., now assigned March 29, 1977, at Chicago, Ill., will be held in Room 3955A, 230 South Dearborn Street.

FD 27972, Louisville & Nashville Railroad Company Trackage Rights Over Grand Trunk Western Railroad Company South Bend Subdivision Between Munster, Lake County, Indiana and Thornton Junction Cook County, Ill., now assigned April 4, 1977, at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 135009 Sub 2, Peak Transfer Co., Inc., now assigned May 3, 1977, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Bldg., 219 South Dearborn Street, FF 361, Sub 1, Crest Mayflower International, Inc., now assigned May 4, 1977, at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 107743 Sub 41, System Transport, Inc., and MC 107743 Sub 42, System Transport, Inc., now assigned May 9, 1977, at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Bldg., 219 S. Dearborn Street.

MC-F-12844, Aurora Fast Freight Inc., Purchase-(Portion)-Kessman Tank Service Inc., and MC 120253 Sub 2, Aurora Fast Freight, Inc., now assigned April 12, 1977, at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6709 Filed 3-4-77;8:45 am]

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federal register

MONDAY, MARCH 7, 1977

PART II

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

INJURIOUS WILDLIFE

Proposed Importation and Shipment Requirements

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 16]

INJURIOUS WILDLIFE

Proposed Importation and Shipment Requirements

Notice is hereby given that the United States Fish and Wildlife Service proposes to amend Part 16 of Subchapter B, Chapter I of Title 50, Code of Federal Regulations. These amendments are proposed under authority of section 42 of Title 18, United States Code.

BACKGROUND

Section 42 of Title 18, United States Code, authorizes the Secretary to prescribe by regulation those wild mammals, wild birds, fish (including mollusks and crustaceans), amphibians, reptiles, and the offspring or eggs of any of the foregoing, (hereafter "prescribed wildlife") which are injurious to human beings, to the interests of agriculture, horticulture, forestry, wildlife, or to the wildlife resources of the United States (hereafter "the designated interests"). Aside from limited exceptions for zoological, educational, medical, or scientific permits, internal use by Federal agencies, dead natural history specimens, domesticated psittacine birds, and other situations authorized by statute, no injurious wildlife may be (1) imported into the United States, any territory of the United States, the Commonwealth of Puerto Rico or any possession of the United States, or (2) shipped between the continental United States, Hawaii, the Commonwealth of Puerto Rico or any possession of the United States. 18 U.S.C. § 42.

Information currently available shows that harm caused to the designated interests by the importation and shipment of wildlife is more wide-spread and serious than had been previously believed. Recent examples of injury to the designated interests and to similar interests in other countries demonstrate the need for thorough regulation of the importation and shipment of wildlife.

HISTORY OF THIS PROPOSAL

This publication gives notice of the third proposed rulemaking concerning Part 16 of Title 50, Code of Federal Regulations.

The first proposal was published in the FEDERAL REGISTER on December 20, 1973 (38 FR 34970). That proposal contained a determination that all wildlife is or could be injurious to the designated interests at some time or place and prohibited the importation of all live wildlife except as authorized by permit for scientific, educational, zoological or medical purposes. The first proposal also created a list of "low risk" species which the Secretary had determined posed little risk of injury to the designated interests. The proposal would have allowed the importation, without a permit of species listed as "low risk," and the prohibition of importation would thus have applied only to those species not listed as "low risk."

A draft environmental impact statement for the first proposal was made available to the public by notice published in the FEDERAL REGISTER on June 5, 1974 (39 FR 19969). The period for submission of public comments concerning the proposal was extended upon publication of the draft environment impact statement (39 FR 19969) and on July 31, 1974, in response to requests for a second extension (39 FR 2744). Public hearings concerning the proposal were held during August of 1974 in Washington, D.C., Kansas City, Miami, and San Francisco.

After due consideration of the issues raised by the testimony of witnesses at the public hearings and the 4,315 public comments which were received, the Service made numerous changes in the first proposal. The cumulative effect of the changes was to significantly modify the original proposal. In order to give the public an opportunity to comment on the modifications, it was decided to publish the amended proposal as a notice of proposed rulemaking rather than as a final rulemaking action.

The second proposal was published in the FEDERAL REGISTER on February 24, 1975 (40 FR 7935), and a draft environmental impact statement for the proposal was made available to the public on that date. The second proposal was the same as the first proposal in its basic approach, prohibiting importation of all wildlife but allowing importation without a permit of species which were listed as "low risk." A summary of the specific changes which had been made in the first proposal was published in the preamble to the second proposal and is not repeated here.

COMMENTS ON THE SECOND PROPOSAL

The comment period for the second proposal expired on April 10, 1975. A total of 1,162 responses which had been received were classified by origin as follows:

Government (State and Federal)	25
Research (medical and university)	32
Zoos and aquaria	58
Pet industry	151
Conservation organizations	31
General public	444
Special interest groups:	
Aviculturists	214
Game bird breeders	137
Falconers	39
Aquarium hobbyists	12
Aquaculture	10
Herpetology hobbyists	5
Big game breeders	4

The following is a summary of the comments received and the issues raised by those comments:

GOVERNMENT

Several State and Federal agencies expressed concern that the regulations should be coordinated to avoid conflicts with their own.

RESEARCH

Although improvement of the permit system was acknowledged, there was still some misunderstanding and general opposition to the addition of the new administrative workload that permits will require.

Biological supply houses called attention to the fact that, because the frogs *Rana pipiens* and *R. catesbiana* are not on the low risk list, every laboratory, university, or high school that uses frogs routinely would require a permit.

ZOOS AND AQUARIA

Apparent discrepancies in the low risk list were pointed out, where a species not listed was closely related to one that was listed.

Certain permit restrictions were criticized as unreasonable. Questions were raised about restrictions on animals already in the country, which would be designated as "injurious" by the new regulations.

PET INDUSTRY

The Pet Industry Joint Advisory Council and other respondents contended that the Secretary had insufficient proof to support a determination that all wildlife is injurious.

Some respondents were critical that the criteria used in judging the low risk status of animals were not published.

Many responses expressed concern about possible adverse effects of regulation on the industry and urged that an economic impact statement be prepared.

CONSERVATION ORGANIZATIONS

Some responses criticized the low risk list as being too permissive.

OTHER SEGMENTS OF THE PUBLIC

Aviculturists, game bird breeders, falconers, and other hobbyists objected that because of the wording of the definition of "zoological purpose," in proposed § 16.22(b)(2), it appeared that an applicant would have to meet both criteria, that is, zoological display and propagation. Very few hobbyists could meet both criteria.

Aviculturists urged that the published list of low risk birds be replaced with a list they prepared. Some aviculturists were concerned that the canary did not appear on the low risk list.

Aquaculture interests objected that the giant prawn, *Macrobrachium rosenbergii*, was not on the low risk list, and presented information to show that it could be so classed.

Fish food distributors and aquarium hobbyists urged reconsideration of the restrictions on importation of brine shrimp eggs.

All the comments which had been received on the second proposal were carefully reviewed by the Service, and as a result parts of that proposal have again been substantially revised. In order to provide an adequate opportunity for public comment on the changes made, the Service has decided to publish a third proposal instead of final regulations based on the second proposal.

DESCRIPTION OF THIS PROPOSAL

Part 16 of Title 50, Code of Federal Regulations, governs the importation and shipment of wildlife prescribed by

the Secretary as injurious. This proposal would restructure Part 16 for clarity and would add a number of species to the list of wildlife declared injurious.

Part 16 currently lists those species of wildlife which have been designated injurious and therefore cannot be imported or shipped. Preceding proposed amendments of Part 16 would have abandoned this "dirty list" approach in favor of an expansive "clean list" of species which present a low risk of injury to the designated interests and therefore could be imported or shipped. This proposal preserves the present structure of Part 16 and provides a specific list of injurious species. In addition, the proposal adds a number of species to the list of wildlife deemed injurious.

The Secretary believes that all wildlife outside its native habitat is potentially injurious to one or more of the designated interests. However, the Secretary recognizes that the degree of risk to the designated interests varies from species to species. The species which this proposal would add to the present list of injurious wildlife have been determined by the Secretary to be injurious on the basis of one or more of the following criteria:

1. The species occupies an ecological niche (including feeding habits, roosting habits, requirements for reproduction, and other factors) that overlaps to a considerable extent the ecological niche of a native species;

2. The species is a close relative of a native species with which it might be expected to compete with for food, space, or some other resource, or with which it might be expected to interbreed;

3. The species has behavioral traits, feeding habits, or ecological requirements that could be disruptive or destructive to natural communities or environmental features, or in conflict with man's use of the environment;

4. The species is known to have feeding or foraging habits that include crops or other agricultural products or harvested natural resources, or that suggest that it may readily be able to adapt to such food resources;

5. The species is known to be the host of a parasite that would be detrimental to humans, domestic animals, or native wildlife, or is known to be a reservoir or vector of, or the host of a parasite that is a vector of, a disease that can readily be transmitted to humans, domesticated animals, or native wildlife;

6. The species is known to be dangerously venomous or toxic or otherwise noxious to man or to other animals;

7. The species occupies ecologically disturbed areas, particularly urbanized areas or those altered by the addition of exotic vegetation, as a major portion of its habitat;

8. The species has demonstrated an ease of establishment, colonization, or dispersal, or has reproductive characteristics that suggest an ease of establishment in the absence of its normal population controls; or

9. The species is a close relative of a species that falls into one of the above categories.

Using these guidelines, it is proposed to add the following species to the existing lists of injurious wildlife for the reasons assigned:

Vampire bats feed only, as far as is known, on fresh blood lapped from wounds inflicted on warm-blooded vertebrates, including domestic mammals and man. They are carriers and transmitters of rabies, and some harbor the causative virus of equine encephalitis.

Ferrets, stoats, weasels and mink have been destructive to native wildlife where they have been introduced deliberately or accidentally. Being ecologically similar to native species, they would be detrimental to native wildlife by both competition and predation. They may carry and transmit rabies.

Bulbuls are gregarious birds that feed on fruit, berries, and insects. Two species are established in the United States, and the ecological similarity in the genus suggests that other species could become established.

Starlings and mynahs in the genera listed are gregarious, aggressive, and omnivorous. Species in these three genera have demonstrated an ease of colonization and have been introduced widely throughout the world. Four species in these genera are established in the United States and Canada.

The Japanese white-eye is established in Hawaii, where it appears to compete with native especies for food. It readily colonizes new habitats and would compete with many continental species if established.

The skin glands of newts produce a toxic secretion that could be extremely dangerous to humans if accidentally ingested. This toxin is very effective against potential predators, and these salamanders would be difficult to eliminate or control if established. They would compete with native species. Other genera of newts and salamanders are similarly toxic, but are not listed because the likelihood of importation is low.

The African clawed frog, established in southern California, feeds on almost all other forms of aquatic animals, and not only competes with but preys on native amphibians.

The giant toad, already established in the United States, competes with and preys on other wildlife species. Poison produced in its parotid glands can be harmful to domesticated pets and to other potential predators.

All the snakes listed are venomous and can inflict serious, even fatal, bites on humans. Some species in the genera listed are frequently imported and may be sold to persons unaware of the danger involved. Other venomous genera of snakes are not listed because the likelihood of importation is low.

There are 50 genera of fishes belonging to 22 families included on the list. The fishes included on the list are either parasitic, venomous, electric, large aggressive predators or superior competitors and would be detrimental if introduced into U.S. waters. There are presently no known safe and efficient means for control of these fishes if they become established.

There are 28 genera of fishes in nine families (Centropomidae, Characidae, Cichlidae, Citharinidae, Ctenoluciidae, Erythrinidae, Hepsetidae, Lebiasinidae, Ophiocephalidae) included on the list that are considered to be injurious to man and fish and other aquatic resources due to their (1) aggressive predatory behavior, (2) superior competitive ability, and (3) tendency to disrupt habitats into which they are introduced. Some of the predators attain lengths of three to four feet and have powerful jaws well armed with teeth. In some cases, the smaller species, such as piranhas, which rarely exceed 18 inches, are most dangerous.

There are several genera of fishes on the list which have the capacity to product an electric discharge. These fishes include the electric eels in the genus *Electrophorus* (family Gymnotidae), the electric catfishes in the genus *Malapterurus* (family Malapteruridae) and the electric rays of the family Torpedinidae. The electric shocks of these fishes range up to 600 volts. The electric eel is one of the most powerful, adults producing an average output of 350 volts. Electric eels are largely air breathers, which would make control very difficult. Other electric fishes, the electric rays and electric catfishes are less powerful usually producing less than 200 volts.

The candiru, diminutive catfishes native to South America, are often parasitic on fishes, feeding on the blood of the gills. The opercle and preopercle of these fishes are armed with retrose spines which, when extended, enables the fish to become hooked to objects it contacts. These fishes are feared by South American natives due to their habit of penetrating the urogenital openings of swimmers causing severe pain and inflammation which often necessitates surgery.

Several genera belonging to six families are included on the list due to their venomous nature. The toxicity of the venom varies depending on the species and the type of venom. The venomus toad fishes of the genus *Daector* and *Thalassophryne* (family Batrachoididae), all genera of stingrays both freshwater and saltwater (family Dasyatidae and Potamotrygonidae), the catfish eels of the genus *Plotosus* (family Plotosidae), five genera of scorpion fishes *Brachirus, Dendrochirus, Inimicus, Pterois and Synanceja* (family Scorpaenidae) and the weever fishes of the genus *Trachinus* (family Trachinidae) are all dangerous to fishermen, swimmers and other aquatic recreationists who may come in contact with these fishes. The

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reaction of the victim, to their sting, is dependent on a number of variables, but it may result in death.

The climbing perch of the genus *Anabas* (family Anabantidae) would be detrimental to native fishes. This fish is very aggressive, prolific, and is an air-breathing species with the ability to move over land.

The six genera *Aristichthys, Ctenopharyngodon, Hypothalmichthys, Leuciscus, Mylopharyngodon, Opsariichthys* of cyprinid fishes (family Cyprinidae) included on the list would be detrimental if introduced and subsequently became established. These fishes are prolific, tenacious and agressive. If established, these fishes, through competition for food and space, could eliminate native fishes which occupy the same or similar niche.

The pike killifish of the genus *Belonesox* (family Poeciliidae) is a very aggressive predator which attains lengths up to eight inches. It preys on small aquatic life including fishes. In Florida where this species is already established, it is reported to seriously impair the natural control of mosquito larvae by the mosquitofish, *Gambusia affinis*.

In accordance with 18 U.S.C. § 42, this proposal would prohibit the importation into the United States, any territory of the United States, Puerto Rico, or any possession of the United States, of these additional injurious species and of the injurious wildlife already listed in the current Part 16. Pursuant to the statute, the proposed regulations would also prohibit the shipment of injurious wildlife between any two of the following geographic areas: the continental United States, the State of Hawaii, Puerto Rico, or any possession of the United States. Limited exceptions to the prohibitions would be provided through permits for zoological, educational, medical or scientific purposes, importation or shipment by Federal agencies for their own use, importation or shipment of dead natural history specimens for museums or scientific collections, and importation or shipment of domesticated psittacine birds or certified salmon. As authorized by statute, an exception would also be reserved for additional designated cage birds.

Environmental Assessment

An assessment of the environmental effects of these proposed amendments is now being prepared, and when completed it will be available for public inspection during regular business hours at the Service's Office of Wildlife Assistance, Suite 1200, 1612 K Street, N.W., Washington, D.C. 20036.

Submittal of Written Comments

Interested persons are invited to participate in this rulemaking by submitting written comments to the Director, United States Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. Comments should contain file number REG 16-02-2. The Service will attempt to acknowledge receipt of comments, and all written communications received on or before May 6, 1977, will be considered by the Service before final rulemaking activity is initiated. The proposal contained in this notice may be changed in consideration of comments received.

Comments received will be available for public inspection between 7:45 a.m. and 4:15 p.m., Monday through Friday, in Suite 600 of the Service's office at 1612 K Street, N.W., Washington, D.C.

Author of Regulations

The principal author of these proposed regulations is David R. Endres, a legal specialist for the Fish and Wildlife Service.

Dated: February 25, 1977.

HARVEY K. NELSON,
Acting Director,
Fish and Wildlife Service.

In consideration of the foregoing, it is proposed to amend Part 16 of Subchapter B, Chapter I of Title 50, Code of Federal Regulations, as set forth below:

1. The table of sections would be amended to read as follows:

PART 16—INJURIOUS WILDLIFE

Subpart A—Introduction

Sec.
16.1 Purpose of regulations.
16.2 Scope of regulations.
16.3 Definitions.

Subpart B—List of Injurious Wildlife

16.11 Injurious wildlife.
16.12 Amendment of the list.

Subpart C—Prohibitions

16.21 Importation.
16.22 Shipment.

Subpart D—Exceptions

16.31 Injurious wildlife permits.
16.32 Importation and shipment by Federal agencies.
16.33 Importation and shipment of dead natural history specimens.
16.34 Importation and shipment of domesticated canaries, parrots or other psittacine birds.
16.35 Importation and shipment of designated cage birds. [Reserved]
16.36 Importation and shipment of Salmonidae.

AUTHORITY: Lacey Act, 18 U.S.C. § 42, 74 Stat. 753.

2. Part 16 would be revised to read as follows:

Subpart A—Introduction

§ 16.1 Purpose of regulations.

The regulations contained in this Part restrict the importation and shipment of those species of wildlife which have been designated injurious to human beings, to the interests of agriculture, horticulture, forestry, wildlife, or to the wildlife resources of the United States. These regulations implement section 42 of Title 18, United States Code (the Lacey Act).

§ 16.2 Scope of regulations.

(a) The provisions of this Part are in addition to, and not in lieu of, other regulations contained in this subchapter which require a permit or prescribe restrictions or conditions for the importation or shipment of wildlife.

(b) The provisions of this Part are in addition to, and not in lieu of, the laws or regulations of any State, county, municipality, or other Federal agency which prohibit or restrict activity involving wildlife.

§ 16.3 Definitions.

In addition to the definitions contained in Part 10 of this subchapter, and unless the context requires otherwise, in this Part 16:

"Continental United States" includes the 48 conterminous states, the State of Alaska and the District of Columbia.

"Educational purpose" means the use of wildlife for teaching or demonstrating the concepts of an academic discipline relating to animals, such as biology, zoology, anthropology or wildlife management, in a regular curriculum or laboratory program through an educational institution or facility.

"Injurious wildlife" means any wild mammal, bird, fish, mollusk, crustacean, amphibian or reptile, alive or dead, listed in § 16.11, including any offspring or egg thereof.

"Medical purpose" means the use of wildlife for medical or pharmaceutical research, for the production of vaccines or tissues to be used in the preparation of medicines or for laboratory tests, by a bona fide medical institution, clinic, laboratory or researcher, and includes the use of such wildlife to establish captive-bred colonies for such purposes.

"Scientific purpose" means the use of wildlife for (i) scientific research by a bona fide scientific institution, clinic, laboratory or researcher, and includes the use of such wildlife to establish captive-bred colonies for such research; or (ii) scientific research related to wildlife management programs or aquaculture carried out by or under the auspices of State or local governments, but not including release of animals to the wild.

"United States" includes the fifty States and the District of Columbia.

"Zoological purpose" means the use of wildlife for (i) public display by bona fide zoological institutions, or (ii) developing propagation and animal husbandry technology for maintaining captive strains of wildlife.

Subpart B—List of Injurious Wildlife

§ 16.11 Injurious wildlife.

Pursuant to section 42 of Title 18, United States Code, the Director has determined that the following species of wildlife are injurious to human beings, to the interests of agriculture, horticulture, forestry or to wildlife or the wildlife resources of the United States:

Family	Genus	Species
REPTILES (cont'd)		
Crotalidae (Pit vipers, rattlesnakes)	Agkistrodon	All
	Bothrops	All
	Calloselasma	All
	Crotalus	All
	Lachesis	All
	Sistrurus	All
	Trimeresurus	All
Elapidae (Cobras)	Bungarus	All
	Dendroaspis	All
	Hemachatus	All
	Naja	All
	Ophiophagus	All
Colubridae (Boomslang) (Vine snake)	Elaphe	Taeniura
	Thelotornis	kirtlandii
AMPHIBIANS		
Salamandridae (Newts, salamanders)	Cynops	All
	Paramesotriton	All
	Salamandra	All
	Taricha	All
	Tylototriton	All
Pipidae (African clawed frog)	Xenopus	laevis
Bufonidae (Giant toad)	Bufo	marinus
FISHES		
Anabantidae (Climbing fishes)	Anabas	All
Batrachoididae (Vocalized toadfishes)	Daector	All
	Thalassophryne	All
Centropomidae (Nile perch)	Lates	All
Characidae (Piranhas and caribes)	Astyanax	All
	Pygopristis	All
	Serrasalmus	All

Family	Genus	Species
MAMMALS		
Pteropidae (Flying foxes, fruit bats)	Pteropus*	All
Phyllostomatidae (Vampire bats)	Desmodus	All
	Diphylla	
	Diaemus	
Mustelidae (Weasels, ferrets, stoats)	Mustela	All (except M. vison)
Viverridae (Mongooses, genets)	Atilax*	All
	Cynictis*	All
	Helogale*	All
	Herpestes*	All
	Ichneumia*	All
	Mungos*	All
	Suricata*	All
Leporidae (European rabbit)	Oryctolagus*	All
Canidae (Indian wild dog, red dog, dhole)	Cuon*	All
Muridae (Multimammate rat or mouse)	Mastomys*	All
BIRDS		
Pycnonotidae (Bulbuls)	Pycnonotus*	All
Zosteropidae (Japanese white-eye)	Zosterops	japonica
Sturnidae (Starlings, mynahs)	Acridotheres	All
	Gracula	All
	Sturnus*	All
Ploceidae (Baya, Quelea)	Quelea*	quelea
Estrildidae (Java sparrow)	Padda*	oryzivora
REPTILES		
Viperidae (Vipers)	Atheris	All
	Atractaspis	All
	Bitis	All
	Causus	All
	Echis	All
	Eriatocophis	All
	Vipera	All

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Family	Genus	Species
FISHES (cont'd)		
Cichlidae (Cichlids)	Batrachops	All
	Boulengerochromis	All
	Cichla	All
	Crenicichla	All
	Rhamphochromis	All
	Sarotherodon	All
	Serranochromis	All
	Tilapia	All
Citharinidae	Belonophago	All
	Citharinus	All
	Paraphago	All
	Phago	All
Ctenoluciidae	Boulengerella	All
	Ctenolucius	All
Cyprinidae (Carps and minnows)	Aristichthys	All
	Ctenopharyngodon	All
	Hypophthalmichthys	All
	Luciosus	All
	Mylopharyngodon	All
	Opsariichthys	All
Dasyatidae (Stingrays)	All	All
Erythrinidae (Trahiras and aimaras)	Erythrinus	All
	Hoplerythrinus	All
	Hoplias	All
	Pseuderythrinus	All
Gymnotidae (Knifefishes and electric eels)	Electrophorus	All
Hepsetidae	Hydrocynus	All
	Sarcodaces	All
Lebiasinidae	Lebiasina	All
	Piabucina	All
Malapteruridae (Electric catfishes)	Malapterurus	All
Ophiocephalidae (Snakeheads and channas)	Channa	All
	Ophicephalus	All

Family	Genus	Species
FISHES (cont'd)		
Plotosidae (Catfishes)	Plotosus	All
Poeciliidae (Top minnows)	Belonesox	All
Potamotrygonidae (Freshwater stingrays)	All	All
Scorpaenidae (Scorpion fishes)	Brachirus	All
	Dendrochirus	All
	Inimicus	All
	Pterois	All
	Synanceja	All
Torpedinidae (Electric rays)	All	All
Trichomycteridae (Catfishes)	Stegophilus	All
	Trichomycterus	All
	Vandellia	All
Trachinidae (Weeverfishes)	Trachinus	All
Salmonidae (salmon, trouts)	All*	All
Clariidae (walking catfishes)	All*	All

* denotes species presently listed as injurious. The status of species designated by an asterik is already determined and is therefore not an issue for comment in this proposal.

+ indicates a genus in which some species, but not all species, are presently listed as injurious. The status of species currently listed is not an issue for comment in this proposal.

§ 16.12 Amendment of the list.

(a) The list in § 16.11 may be revised from time to time as additional data become available which show, to the Director's satisfaction, that a species should be added to or removed from the list.

(b) At any time, any interested person may petition the Director to review the status of any species, with a view to taking one of the actions described in paragraph (a) of this section. Such petitions must be dated and in writing, and must be submitted to the Director. The petition must contain the following information:

(1) Name and address of the person making the request;

(2) Association, organization, or business, if any, represented by the person making the request;

(3) Designation of the particular species in question by common and scientific names;

(4) Narrative explanation of the request for review and justification for a change in the status of the species in question;

(5) Scientific, commercial, or other data believed to support the request; and

(6) Signature of the person making the request.

If it is determined that substantial evidence has been presented which warrants a review, a finding to that effect, shall be published in the FEDERAL REGISTER. Such notice shall give all interested persons an opportunity to comment and to submit additional data and information.

Subpart C—Prohibitions

§ 16.21 Importation.

Except as provided in subpart D of this United States, any territory of the Part, no person may import into the United States, the Commonwealth of Puerto Rico, or any possession of the United States, any wildlife listed in § 16.11.

§ 16.22 Shipment.

Except as provided in subpart D of this Part, no person may ship any wildlife listed in § 16.11 between any of two of the following geographic areas: the continental United States, the State of Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States.

Subpart D—Exceptions

§ 16.31 Injurious wildlife permits.

(a) *General.* In accordance with the criteria set forth in paragraph (d) of this section, the Director may issue a permit authorizing importation or shipment of injurious wildlife otherwise prohibited by §§ 16.21 or 16.22 if such importation or shipment is for a zoological, educational, medical or scientific purpose. The permit may be issued either to a person who will actually use the injurious wildlife for a zoological, educational, medical or scientific purpose, or to a person who will transfer the wildlife to a permittee under this section.

(b) *Scope.* Permits issued under this section may authorize a single importation or shipment, a series of importations or shipments, or importations and shipments within a specific time period. Injurious wildlife permits may specifically designate the wildlife to be imported or shipped or may designate larger taxonomic groups, such as genera or families, from which wildlife may be imported or shipped.

(c) *Application requirements.* Applications for a permit to import or ship injurious wildlife must be submitted to the Director on an application Form 3-200 by the person who wishes to engage in the activity for which a permit is required. Unless waived by the Director, each application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) Common and scientific names of the species, number, age and sex (if applicable) of the wildlife to be covered by the permit, or, where this information is inappropriate because of the large number of separate species involved, a listing of the taxonomic groups, by family or genus;

(2) A statement of justification for the permit, including a summary of the project or other plans for utilization of the wildlife in relation to zoological, educational, medical, or scientific purposes;

(3) A description and the address of the institution or other facility where the wildlife will be used or maintained, with a description of the area and facilities in which the wildlife will be housed; the description must be sufficiently complete and detailed to allow a judgment on the adequacy of the facilities for securely housing the numbers and kinds of wildlife to be imported;

(4) A statement as to what precautions the importer or shipper plans to take to insure that importation, shipment and holding of the wildlife will not result in injury to human beings, the interests of agriculture, horticulture, forestry, wildlife, or wildlife reseources of the United States, or uncontrollable exposure of these interests to parasites, pathogens or other pests;

(5) A description of disposal methods for animal wastes and dead diseased animals; and

(6) A summary of the technical expertise available to the applicant, and any experience the applicant or his personnel have had in transporting and maintaining in captivity the species to be imported or shipped, or closely related species.

(d) *Issuance criteria.* Upon receiving an application completed in accordance with the preceding paragraph, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider the following factors:

(1) The degree of threat of injury to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States presented by such importation or shipment;

(2) Whether the wildlife to be imported or shipped will in fact be used by the permittee for zoological, educational, medical or scientific purposes, or will in fact be transferred by the permittee to another permittee under this section;

(3) Whether the facilities for transportation and holding the wildlife in captivity are adequately designed and constructed to prevent escape;

(4) Whether the applicant by reason of his knowledge, experience, and facilities can reasonably be expected to provide adequate protection to the interests of human beings, agriculture, horticulture, forestry, wildlife, and wildlife resources, and is aware of and can act responsibly regarding the dangers to these interests posed by such wildlife; and

(5) The applicant's prior history of compliance with the terms of a permit issued under this Section.

(e) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter b, every permit issued under this section shall be subject to the following special conditions, unless otherwise stated on the face of the permit:

(1) Each permittee shall keep complete records of the importation, shipment, transfer, birth of progeny or death of wildlife imported or shipped under authority of the permit. Summaries of such records shall be submitted in writing to the Director within 30 days after the end of each one-year period for which the permit is held, or if the permit is for less than one year, within 30 days after the expiration date of the permit; the records, and the summary report, shall show the following data for the reporting period:

(i) The number of animals of each species (using the spencies designated in the application) imported or shipped;

(ii) The number of progeny born to such wildlife;

(iii) The number of such wildlife or their progeny transferred the dates of such transfers, and the name and the address of the transferee; and

(iv) The death or escape of such wildlife or their progeny, including dates of death or escape.

(2) All injurious wildlife possessed under permit and all progeny thereof, must be confined in the facilities and on the premises authorized in the permit;

(3) No injurious wildlife imported or shipped under a permit, and no eggs or progeny thereof, may be released to the wild, or sold, donated, traded, loaned or transferred to any other person unless that person has a permit issued under this section, valid at the time of the transfer;

(4) Permittees must notify the Director by letter (see § 10.21 of this Chapter), telephone 202-343-9242, or telegraph within 24 hours following the escape of any wildlife or progeny thereof possessed

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under the authority of a permit, and must file a complete written report of the facts regarding the escape within 10 days of the notification of the Director. The report must contain, in addition to the factual description of the escape, a summary of attempts to recapture the wildlife, and steps taken to assure no further escapes; and

(5) Each injurious wildlife permit shall expire on the date designated on the face of the permit, and in no case shall any such permit be valid for more than two years from the date of issuance.

§ 16.32 Importation and shipment by Federal agencies.

Nothing in this Part restricts the importation or shipment, without a permit, of injurious wildlife by a Federal agency solely for its own use.

§ 16.33 Importation and shipment of dead natural history specimens.

Nothing in this Part restricts the importation or shipment, without a permit, of dead injurious wildlife to be used solely as a natural history specimen for a museum or scientific collection.

§ 16.34 Importation and shipment of domesticated canaries, parrots or other psittacine birds.

Nothing in this Part restricts the importation or shipment, without a permit, of domesticated canaries, parrots or other species of psittacine birds.

§ 16.35 Importation and shipment of designated cage birds.

[Reserved.]

§ 16.36 Importation and shipment of Salmonidae.

(a) Nothing in this Part restricts the importation or shipment of the fish family Salmonidae if such importation or shipment is direct and is accompanied by certification that the fish or eggs in question are free of the protozoan *Myxosoma cerebralis*, the causative agent of so-called "whirling disease," and the virus causing viral hemorrhagic septicemia or "Egtved disease." The certification shall be signed in the country of origin by a designated official acceptable to the Director as being qualified in fish pathology, or in the United States by a qualified fish pathologist designated for this purpose by the Director.

(b) The certificate required by this section shall consist of a statement in the English language, printed or typewritten, that the shipment of fish or eggs is free of the protozoan *Myxosoma cerebralis* and the virus causing viral hemorrhagic septicemia by the methods outlined in Fish Disease Leaflet 9, and shall contain (i) the date and port of export in the country of origin and the anticipated United States date of arrival and port of entry, (ii) the name of the surface or air carrier and flight number, or the vessel name or number, (iii) the bill of lading number or airway bill number, and (iv) the handwritten signature, in ink, of the authorized certifying officer. The certificate shall be substantially in the following form:

I, _____ approved
(Date)
by the Director of the U.S. Fish and Wildlife Service, on _____, as a certifying official for _____, as required by Title
(Country)
50 CFR 16.36(b), do hereby certify, using the methodology described in Fish Disease Leaflet (FDL–9, July 1968), that this shipment of _____ of dead or live fish or
(Weight in pounds)
fish eggs to be shipped under _____ is
(Bill of Lading number, or airway bill number)
free of the protozoan *Myxosoma cerebralis*, the causative agent of so-called "Whirling disease," and the virus causing viral hemorrhagic septicemia or "Egtved disease."

The shipment is scheduled to depart _____ on _____, via _____
(City and country) (Date) (Name of carrier)
with anticipated arrival at the port of _____ U.S.A., on _____
(City) (Date)

_____
(Date)

_____
(Signature in ink of certifying officer)

_____
(Date)

[FR Doc.77–6495 Filed 3–4–77;8:45 am]

federal register

MONDAY, MARCH 7, 1977

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

HOUSING ASSISTANCE PAYMENTS PROGRAM

Miscellaneous Amendments

V 42 44 MAR 7 77 UMI

Title 24—Housing and Urban Development

CHAPTER VIII—LOW-INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–77–380]

PART 880—SECTION 8—HOUSING ASSISTANCE PAYMENTS PROGRAM—NEW CONSTRUCTION

Miscellaneous Amendments

The Department gave notice on December 15, 1976, at 41 FR 54856 that it was proposing to amend 24 CFR Part 880 to implement section 2(d) of the Housing Authorization Act of 1976, which revised section 8(c)(4) of the U.S. Housing Act of 1937 and states:

And subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an occupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period (i) if the unoccupied unit is in a project insured under the National Housing Act, except pursuant to section 244 of such Act, or (ii) if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

The Department has received 21 comments in response to the December 15, 1976, publication. All comments were carefully considered, and changes have been made to the proposed regulation based on these and other comments. A discussion of the principal changes and the more recurrent and significant comments is set forth below:

1. Section 880.107(d) as proposed has been renumbered for clarity. References contained herein refer to the new paragraph numbers.

2. Section 880.107(d)(1) has been revised to provide that claims shall be submitted and payments made on a semiannual basis. It has been determined that it would not be administratively feasible to establish a more frequent claims procedure.

3. Many comments objected to the provision in § 880.107(d)(2) limiting the additional payments to an aggregate of 12 months for each unit during the entire term of the Contract. In reconsidering this issue, it has been determined that removing this limitation would substantially enhance the security provided by the Housing Assistance Payments Contract so as to result in savings in the cost of financing which will be reflected in lower Contract Rents. It is expected that the savings from lower Contract Rents should more than compensate for payments under the revised provision. It should be emphasized that the removal of the limitation in no way affects the obligation of the Owner to maintain the units in decent, safe, and sanitary condition and to make maximum efforts to fill the vacancies.

4. Several comments suggested that the units in projects insured under the National Housing Act be made eligible for the additional payments. This is not possible since the statute prohibits payments if the unit is in a project insured under the National Housing Act (except under section 244, where coinsurance is involved). However, the Department is considering recommending legislation for the removal of this restriction.

5. Several comments requested clarification of the method to be used for determining whether revenues equal or exceed costs in connection with the provision in § 880.107(d)(2)(iv) requiring the Owner to show that the project is not providing the Owner with revenues exceeding costs. In response, a provision has been added to clarify that the amount of the payments requested shall not be in excess of that portion of the deficiency which is attributable to the vacant units for the period of the vacancies. Similar clarifying language has been added to paragraph d(1) with respect to debt service. The amount of the payments will be (a) the portion of the deficiency attributable to the units for the period of the vacancies; or (b) the similarly attributable portion of the debt service, whichever is less. Further details as to the method of making these determinations will be discussed in the program Handbook which will be made available to Owners upon request to the field offices.

6. There were several objections to the provision in § 880.107(d)(2)(v) that debt service payments shall be made only if the project can reasonably be expected to achieve financial soundness, on the ground that this clause would adversely affect financing. Such a provision is required pursuant to the legislative intent expressed in the floor debate in the House of Representatives. The provision has been modified to require in connection with such semiannual claim, a statement by the Owner with relevant supporting evidence that there is a reasonable prospect that the project can achieve financial soundness within a reasonable time. The statement shall indicate the causes of the deficiency; the corrective steps that have been and will be taken; and the time by which it is expected that the project revenues will at least equal project costs without the additional payments provided under this paragraph. A further provision, § 880.107(d)(3), is added to specify that HUD may deny an application or suspend or terminate payments if it determines that there is not such a reasonable prospect.

7. There were numerous objections to the last sentence of § 880.107(d) as published for comment. This sentence stated that the new provision would be applicable to projects "for which the permanent financing has not been secured as of the effective date of this paragraph." It was suggested that the paragraph be made applicable to projects receiving permanent financing on or after August 3, 1976, the date the Housing Authorization Act of 1976 was enacted. Several comments suggested that all Housing Assistance Payments Contracts executed on or after August 3, 1976, be covered by the new provision. Questions were also raised as to the meaning of "secured" in this context.

Accordingly, § 880.107(d)(4) has been revised in several respects. Paragraph (d) is being made applicable to projects where the "* * * permanent financing was not secured * * * prior to December 15, 1976." The Department has determined that December 15th will be the cutoff date since a lender making a commitment for permanent financing before the regulations were proposed on that date could not assume how or when section 2(d) of the Housing Authorization Act would be implemented. The terms of the financing, therefore, presumably did not take into consideration the more favorable security offered. The additional security provided by § 880.107(d) which involves potential additional obligations by the Government should not be made available to projects financed prior to December 15th since this would constitute a "windfall" in these situations. In line with this, a new provision has been added to authorize an Owner of a project for which a commitment was secured prior to December 15, 1976, to apply to HUD to make paragraph (d) applicable on a showing that the financing terms have been renegotiated to result in a lower cost of financing and lower Contract Rents. In response to questions concerning the meaning of "secured," the provision has been clarified to make it applicable to projects "for which a conditional or unconditional commitment for permanent financing has not been secured by the Owner from a lender or underwriter prior to December 15, 1976." The program Handbook will include additional guidance concerning what constitutes a "commitment," and will be available upon request to the field offices.

8. Several comments asked why conforming amendments to the Section 8 Housing Finance and Development Agencies Regulations, 24 CFR Part 883, Subparts A–D were not proposed. This omission was an oversight. Also, conforming amendments to the Section 8 New Construction Set-Aside for Section 515 Rural Rental Housing Projects Regulations, 24 CFR Part 883, Subparts G and H were inadvertently omitted. Conforming amendments to Part 883, Subparts A–D and G and H are being published for effect in this edition of the FEDERAL REGISTER.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. In addition, a finding of inapplicability of inflation impact statement requirements has been made in accordance with HUD procedures. Copies of these findings will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C.

Accordingly, 24 CFR Part 880 is amended as follows:

1. A new § 880.107(d) is added, and the old paragraph (d) is redesignated as (e), to read:

§ 880.107 Housing assistance payments to owners.

* * * * *

(d) *Debt service payments.* (1) If a unit continues to be vacant after the 60-day period specified in paragraph (b) or (c) of this section, the Owner may submit a claim and receive additional housing assistance payments on a semiannual basis with respect to such a vacant unit in an amount equal to the principal and interest payments required to amortize the portion of the debt attributable to that unit for the period of the vacancy, whether such vacancy commenced during rent-up or after rent-up.

(2) Additional payments under this paragraph (d) for any unit shall not be for more than 12 months for any vacancy period, and shall be made only if:

(i) The unit is not in a project insured under the National Housing Act except pursuant to section 244 of that Act.

(ii) The unit was in decent, safe, and sanitary condition during the vacancy period for which payments are claimed.

(iii) The Owner has taken and is continuing to take the actions specified in paragraphs (b)(1), (2) and (3) or paragraphs (c)(1)(i) and (ii) and (c)(2) of this section, as appropriate.

(iv) The Owner has demonstrated in connection with the semiannual claim on a form and in accordance with the standards prescribed by HUD with respect to the period of the vacancy, that the project is not providing the Owner with revenues at least equal to the project costs incurred by the Owner, and that the amount of the payments requested is not in excess of that portion of the deficiency which is attributable to the vacant units for the period of the vacancies.

(v) The Owner has submitted, in connection with the semiannual claim, a statement with relevant supporting evidence that there is a reasonable prospect that the project can achieve financial soundness within a reasonable time. The statement shall indicate the causes of the deficiency; the corrective steps that have been and will be taken; and the time by which it is expected that the project revenues will at least equal project costs without the additional payments provided under this paragraph.

(3) HUD may deny any claim for additional payments or suspend or terminate payments if it determines that based, on the Owner's statement and other evidence, that there is not a reasonable prospect that the project can achieve financial soundness within a reasonable time.

(4) This paragraph (d) shall be applicable to any project eligible for payments under this paragraph for which a conditional or unconditional commitment for permanent financing was not secured by the Owner from a lender or underwriter prior to December 15, 1976. An Owner of a project for which a commitment for permanent financing was secured prior to December 15, 1976, may request HUD to agree to make this paragraph applicable, on a showing that the financing terms have been renegotiated to result in a lower cost of financing and lower contract rents.

(Sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d)); sec. 5(b) of the United States Housing Act of 1937, (42 U.S.C. 1437c (b)); sec. 8 of the United States Housing Act of 1937, (42 U.S.C. 1437f).)

NOTE.—It is hereby certified that the economic and inflationary impact of these regulations have been carefully evaluated in accordance with Executive Order No. 11821.

Effective Date: These amendments are effective on March 7, 1977.

Issued at Washington, D.C. on February 25, 1977.

JOSEPH BURSTEIN,
Acting Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.77-6675 Filed 3-4-77;8:45 am]

[Docket No. R–77–387]

PART 881—SECTION 8—HOUSING ASSISTANCE PAYMENTS PROGRAM—SUBSTANTIAL REHABILITATION

Miscellaneous Amendments

The Department gave notice on December 15, 1976, at 41 FR 54856 that it was proposing to amend 24 CFR Part 881 to implement section 2(d) of the Housing Authorization Act of 1976, which revised section 8(c)(4) of the U.S. Housing Act of 1937 and states:

And subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an occupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period (i) if the unoccupied unit is in a project insured under the National Housing Act, except pursuant to section 244 of such Act, or (ii) if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

The Department has received 21 comments in response to the December 15, 1976, publication. All comments were carefully considered, and changes have been made to the proposed regulation based on these and other comments. A discussion of the principal changes and the more recurrent and significant comments is set forth below:

1. Section 881.107(d) as proposed has been renumbered for clarity. References contained herein refer to the new paragraph numbers.

2. Section 881.107(d)(1) has been revised to provide that claims shall be submitted and payments made on a semiannual basis. It has been determined that it would not be administratively feasible to establish a more frequent claims procedure.

3. Many comments objected to the provision in § 881.107(d)(2) limiting the additional payments to an aggregate of 12 months for each unit during the entire term of the Contract. In reconsidering this issue, it has been determined that removing this limitation would substantially enhance the security provided by the Housing Assistance Payments Contract so as to result in savings in the cost of financing which will be reflected in lower Contract Rents. It is expected that the savings from lower Contract Rents should more than compensate for payments under the revised provision. It should be emphasized that the removal of the limitation in no way affects the obligation of the Owner to maintain the units in decent, safe, and sanitary condition and to make maximum efforts to fill the vacancies.

4. Several comments suggested that the units in projects insured under the National Housing Act be made eligible for the additional payments. This is not possible since the statute prohibits payments if the unit is in a project insured under the National Housing Act (except under section 244, where coinsurance is involved). However, the Department is considering recommending legislation for the removal of this restriction.

5. Several comments requested clarification of the method to be used for determining whether revenues equal or exceed costs in connection with the provision in § 881.107(d)(2)(iv) requiring the Owner to show that the project is not providing the Owner with revenues exceeding costs. In response, a provision has been added to clarify that the amount of the payments requested shall not be in excess of that portion of the deficiency which is attributable to the vacant units for the period of the vacancies. Similar clarifying language has been added to paragraph d(1) with respect to debt service. The amount of the payments will be (a) the portion of the deficiency attribute to the units for the period of the vacancies; or (b) the similarly attributable portion of the debt service, whichever is less. Further details as to the method of making these determinations will be discussed in the program Handbook which will be made available to Owners upon request to the field offices.

6. There were several objections to the provision in § 881.107(d)(2)(v) that debt service payments shall be made only if the project can reasonably be expected to achieve financial soundness, on the ground that this clause would adversely affect financing. Such a provision is required pursuant to the legislative intent expressed in the floor debate in the House of Representatives. The provision has been modified to require in connection with such semiannual claim, a statement by the Owner with relevant supporting evidence that there is a reasonable prospect that the project can achieve financial soundness within a reasonable time. The statement shall indicate the causes of the deficiency;

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the corrective steps that have been and will be taken; and the time by which it is expected that the project revenues will at least equal project costs without the additional payments provided under this paragraph. A further provision, Section 881.107(d)(3), is added to specify that HUD may deny an application or suspend or terminate payments if it determines that there is not such a reasonable prospect.

7. There were numerous objections to the last sentence of § 881.107(d) as published for comment. This sentence stated that the new provision would be applicable to projects "for which the permanent financing has not been secured as of the effective date of this paragraph." It was suggested that the paragraph be made applicable to projects receiving permanent financing on or after August 3, 1976, the date the Housing Authorization Act of 1976 was enacted. Several comments suggested that all Housing Assistance Payments Contracts executed on or after August 3, 1976, be covered by the new provision. Questions were also raised as to the meaning of "secured" in this context.

Accordingly, § 881.107(d)(4) has been revised in several respects. Paragraph (d) is being made applicable to projects where the "* * * permanent financing was not secured * * * prior to December 15, 1976." The Department has determined that December 15th will be the cutoff date since a lender making a commitment for permanent financing before the regulations were proposed on that date could not assume how or when section 2(d) of the Housing Authorization Act would be implemented. The terms of the financing, therefore, presumably did not take into consideration the more favorable security offered. The additional security provided by § 881.107(d) which involves potential additional obligations by the Government should not be made available to projects financed prior to December 15th since this would constitute a "windfall" in these situations. In line with this, a new provision has been added to authorize an Owner of a project for which a commitment was secured prior to December 15, 1976, to apply to HUD to make paragraph (d) applicable on a showing that the financing terms have been renegotiated to result in a lower cost of financing and lower Contract Rents. In response to questions concerning the meaning of "secured," the provision has been clarified to make it applicable to projects "for which a conditional or unconditional commitment for permanent financing has not been secured by the Owner from a lender or underwriter prior to December 15, 1976." The program Handbook will include additional guidance concerning what constitutes a "commitment," and will be available upon request to the field offices.

8. Several comments asked why conforming amendments to the section 8 Housing Finance and Development Agencies Regulations, 24 CFR Part 883, Subparts A–D were not proposed. This omission was an oversight. Also, conforming amendments to the section 8 New Construction Set-Aside for section 515 Rural Rental Housing Projects Regulations, 24 CFR Part 883, Subparts G and H were inadvertently omitted. Conforming amendments to Part 883, Subparts A–D and G and H are being published for effect in this edition of the FEDERAL REGISTER.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. In addition, a finding of inapplicability of inflation impact statement requirements has been made in accordance with HUD procedures. Copies of these findings will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C.

Accordingly, 24 CFR Part 881 is amended as follows:

1. A new § 881.107(d) is added and the old paragraph (d) is redesignated as (e) to read:

§ 881.107 Housing assistance payments to owners.

* * * * *

(d) *Debt service payments.* (1) If a unit continues to be vacant after the 60-day period specified in paragraph (b) or (c) of this section, the Owner may submit a claim and receive additional housing assistance payments on a semiannual basis with respect to such a vacant unit in an amount equal to the principal and interest payments required to amortize the portion of the debt attributable to that unit for the period of the vacancy, whether such vacancy commenced during rent-up or after rent-up.

(2) Additional payments under this paragraph (d) for any unit shall not be for more than 12 months for any vacancy period, and shall be made only if:

(i) The unit is not in a project insured under the National Housing Act except pursuant to section 244 of that Act.

(ii) The unit was in decent, safe, and sanitary condition during the vacancy period for which payments are claimed.

(iii) The owner has taken and is continuing to take the actions specified in paragraphs (b)(1), (2) and (3) or paragraphs (c)(1) (i) and (ii) and (c)(2) of this section, as appropriate.

(iv) The Owner has demonstrated in connection with the semiannual claim on a form and in accordance with the standards prescribed by HUD with respect to the period of the vacancy, that the project is not providing the Owner with revenues at least equal to the project costs incurred by the Owner, and that the amount of the payments requested is not in excess of that portion of the deficiency which is attributable to the vacant units for the period of the vacancies.

(v) The Owner has submitted, in connection with the semiannual claim, a statement with relevant supporting evidence that there is a reasonable prospect that the project can achieve financial soundness within a reasonable time. The statement shall indicate the causes of the deficiency; the corrective steps that have been and will be taken; and the time by which it is expected that the project revenues will at least equal project costs without the additional payments provided under this paragraph.

(3) HUD may deny any claim for additional payments or suspend or terminate payments if it determines that based on the Owner's statement and other evidence, there is not a reasonable prospect that the project can achieve financial soundness within a reasonable time.

(4) This paragraph (d) shall be applicable to any project eligible for payments under this paragraph for which a conditional or unconditional commitment for permanent financing was not secured by the Owner from a lender or underwriter prior to December 15, 1976. An Owner of a project for which a commitment for permanent financing was secured prior to December 15, 1976, may request HUD to agree to make this paragraph applicable, on a showing that the financing terms have been renegotiated to result in a lower cost of financing and lower contract rents.

(Sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d)); sec. 5(b) of the United States Housing Act of 1937, (42 U.S.C. 1437c(b)); sec. 8 of the United States Housing Act of 1937, (42 U.S.C. 1437f).)

Effective date: These amendments are effective on March 7, 1977.

Issued at Washington, D.C. on February 25, 1977.

JOSEPH BURSTEIN,
Acting Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

NOTE.—It is hereby certified that the economic and inflationary impact of these regulations have been carefully evaluated in accordance with Executive Order No. 11821.

[FR Doc.77-6676 Filed 3-4-77;8:45 am]

[Docket No. R-77-309]

PART 883—SECTION 8—HOUSING ASSISTANCE PAYMENTS PROGRAM—HOUSING FINANCE AND DEVELOPMENT AGENCIES AND NEW CONSTRUCTION SET-ASIDE FOR SECTION 515 RURAL RENTAL HOUSING PROJECTS

Miscellaneous Amendments

The Department gave notice on December 15, 1976, at 41 FR 54856 that it was proposing to amend 24 CFR Parts 880 and 881 to implement section 2(d) of the Housing Authorization Act of 1976, which revised section 8(c)(4) of the U.S. Housing Act of 1937 and states:

And subject to the provisions of the following sentence, such payments may be made, in the case of a newly constructed or substantially rehabilitated project, after such sixty-day period in an amount equal to the debt service attributable to such an unoccupied dwelling unit for a period not to exceed one year, if a good faith effort is being made to fill the unit and the unit provides decent, safe, and sanitary housing. No such payment may be made after such sixty-day period (i) if the unoccupied unit is in a project insured under the National Housing Act, except pursuant to section 244 of such Act, or (ii) if the Secretary determines that the dwelling unit is in a project which provides the owner with revenues exceeding the costs incurred by such owner with respect to such project.

Conforming amendments to the section 8 Housing Finance and Development Agencies Regulations, 24 CFR Part 883, Subpart B were omitted which was an oversight. Also, conforming amendments to the Section 8 New Construction Set-Aside for Section 515 Rural Rental Housing Projects Regulations, 24 CFR Part 883, Subpart G, were inadvertently omitted. Conforming amendments to Part 883 are being published because of the importance of this amendment in facilitating the implementation of the section 8 program.

The Department has received 21 comments in response to the December 15, 1976 publication. All comments were carefully considered, and changes have been made to the proposed regulation based on these and other comments. A discussion of the principal changes and the more recurrent and significant comments is set forth below as if amendments to Part 883, conforming to those proposed to Parts 880 and 881 had also been published for comment.

1. Sections 883.204 (d) and (e) and 883.706(d) proposed as 880.107(d) and 881.107(d) have been renumbered for clarity. References contained herein refer to the new paragraph numbers.

2. Sections 883.204(d)(1) and 883.706(d)(1) have been revised to provide that claims shall be submitted and payments made on a semiannual basis. It has been determined that it would not be administratively feasible to establish a more frequent claims procedure.

3. Many comments objected to the provision in §§ 883.204(d)(2) and 883.706(d)(2) limiting the additional payments to an aggregate of 12 months for each unit during the entire term of the Contract. In reconsidering this issue, it has been determined that removing this limitation would substantially enhance the security provided by the Housing Assistance Payments Contract so as to result in savings in the cost of financing, which will be reflected in lower Contract Rents. It is expected that the savings from lower Contract Rents should more than compensate for payments under the revised provision. It should be emphasized that the removal of the limitation in no way affects the obligation of the Owner to maintain the units in decent, safe, and sanitary condition and to make maximum efforts to fill the vacancies.

4. Several comments suggested that units in projects insured under the National Housing Act be made eligible for the additional payments. This is not possible since the statute prohibits payments if the unit is in a project insured under the National Housing Act (except under section 244, where coinsurance is involved). However, the Department is considering recommending legislation for the removal of this restriction.

5. Several comments requested clarification of the method to be used for determining whether revenues equal or exceed costs in connection with the provision in §§ 883.204(d)(2)(iv) and 883.706(d)(2)(iv) requiring the Owner to show that the project is not providing the Owner with revenues exceeding costs. In response, a provision has been added to clarity that the amount of the payments requested shall not be in excess of that portion of the deficiency which is attributable to the vacant units for the period of the vacancies. Similar clarifying language has been added to paragraph d(1) with respect to debt service. The amount of the payments will be (a) the portion of the deficiency attributable to the units for the period of the vacancies; or (b) the similarly attributable portion of the debt service, whichever is less. Further details as to the method of making these determinations will be discussed in the program Handbook, which will be made available to Owners upon request to the field offices.

6. There were several objections to the provision in §§ 883.204(d)(2)(v) and 883.706(d)(2)(v) that debt service payments shall be made only if the project can reasonably be expected to achieve financial soundness, on the ground that this clause would adversely affect financing. Such a provision is required pursuant to the legislative intent expressed in the floor debate in the House of Representatives. The provision has been modified to require, in connection with such semiannual claim, a statement by the Owner with relevant supporting evidence that there is a reasonable prospect that the project can achieve financial soundness within a reasonable time. The statement shall indicate the causes of the deficiency; the corrective steps that have been and will be taken; and the time by which it is expected that the project revenues will at least equal project costs without the additional payments provided under this paragraph. Further provisions, §§ 883.204(d)(3) and 883.706(d)(3), are added to specify that HUD may deny an application or suspend or terminate payments if it determines that there is not such a reasonable prospect.

7. There were numerous objections to the last sentence of §§ 883.204(d) and 883.706(d) as published for comment. This sentence stated that the new provision would be applicable to projects "for which the permanent financing has not been secured as of the effective date of this paragraph." It was suggested that the paragraph be made applicable to projects receiving permanent financing on or after August 3, 1976, the date the Housing Authorization Act of 1976 was enacted. Several comments suggested that all Housing Assistance Payments Contracts executed on or after August 3, 1976, be covered by the new provision. Questions were also raised as to the meaning of "secured" in this context.

Accordingly, §§ 883.204(d)(4) and 883.706(d)(4) have been revised in several respects. Paragraph (d) is being made applicable to projects where the "* * * permanent financing was not secured * * * prior to December 15, 1976." The Department has determined that December 15th will be the cutoff date since a lender making a commitment for permanent financing before the regulations were proposed on that date could not assume how or when section 2(d) of the Housing Authorization Act would be implemented. The terms of the financing, therefore, presumably did not take into consideration the more favorable security offered. The additional security provided by §§ 883.204(d) and 883.706(d) which involves potential additional obligations by the Government shall not be made available to projects financed prior to December 15th since this would constitute a "windfall" in these situations.

In line with this, a new provision has been added to authorize an Owner of a project for which a commitment was secured prior to December 15, 1976, to apply to HUD to make paragraph (d) applicable on a showing that the financing terms have been renegotiated to result in a lower cost of financing and lower Contract Rents. In response to questions concerning the meaning of "secured," the provision has been clarified to make it applicable to projects "for which a conditional or unconditional commitment for permanent financing has not been secured by the Owner from a lender or underwriter prior to December 15, 1976." The program Handbook will include additional guidance concerning what constitutes a "commitment," and will be available upon request to the field offices.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. In addition, a finding of inapplicability of inflation impact statement requirements has been made in accordance with HUD procedures. Copies of these findings will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C.

Accordingly, 24 CFR Part 883 is amended as follows:

1. Sections 883.204(d) and 883.706(d) are added and the old paragraphs 883.204(d) and 883.706(d) are redesignated as paragraphs (e), and § 883.204(e) is redesignated as § 883.204(f) to read:

(d) *Debt service payments.* (1) If a unit continues to be vacant after the 60-day period specified in paragraph (b) or (c) of this section, the Owner may submit a claim to receive additional housing assistance payments on a semiannual basis with respect to such a vacant unit in an amount equal to the principal and interest payments required to amortize the portion of the debt attributable to that unit for the period of the vacancy, whether such vacancy commenced during rent-up or after rent-up.

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(2) Additional payments under this paragraph (d) for any unit shall not be for more than 12 months for any vacancy period, and shall be made only if:

(i) The unit is not in a project insured under the National Housing Act except pursuant to Section 244 of that Act.

(ii) The unit was in decent, safe, and sanitary condition during the vacancy period for which payments are claimed.

(iii) The Owner has taken and is continuing to take the actions specified in paragraphs (b) (1), (2) and (3) or paragraphs (c) (1) (i) and (ii) and (c) (2) of this section, as appropriate.

(iv) The Owner has demonstrated in connection with the semiannual claim on a form and in accordance with the standards prescribed by HUD with respect to the period of vacancy, that the project is not providing the Owner with revenues at least equal to the project costs incurred by the Owner, and that the amount of the payments requested is not in excess of that portion of the deficiency which is attributable to the vacant units for the period of the vacancies.

(v) The Owner has submitted, in connection with the semiannual claim, a statement with relevant supporting evidence that there is a reasonable prospect that the project can achieve financial soundness within a reasonable time. The statement shall indicate the causes of the deficiency; the corrective steps that have been and will be taken; and the time by which it is expected that the project revenues will at least equal project costs without the additional payments provided under this paragraph.

(3) HUD may deny any application for additional payments or suspend or terminate payments if it determines based on the Owner's statement and other evidence, that there is not a reasonable prospect that the project can achieve financial soundness within a reasonable time.

(4) This paragraph (d) shall be applicable to any project eligible for payments under this paragraph for which a conditional or unconditional commitment for permanent financing was not secured by the Owner from a lender or underwriter prior to December 15, 1976. An Owner of a project for which a commitment for permanent financing was secured prior to December 15, 1976, may request HUD to agree to make this paragraph applicable on a showing that the financing terms have been renegotiated to result in a lower cost of financing and lower Contract Rents.

(Sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d)); sec. 5(b)) of the United States Housing Act of 1937, (42 U.S.C. 1437c (b)); (sec. 8 of the United States Housing Act of 1937, (42 U.S.C. 1437f)).)

NOTE.—It is hereby certified that the economic and inflationary impact of these regulations have been carefully evaluated in accordance with Executive Order No. 11821.

Effective Date: These amendments are effective on March 7, 1977.

Issued at Washington, D.C. on February 25, 1977.

JOSEPH BURSTEIN,
Acting Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc.77-6674 Filed 3-4-77;8:45 am]

federal register

MONDAY, MARCH 7, 1977

PART IV

OFFICE OF THE FEDERAL REGISTER

■

THESAURUS OF INDEXING TERMS

Request For Public Comment

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OFFICE OF THE FEDERAL REGISTER

THESAURUS OF INDEXING TERMS

ACTION: Publication of a thesaurus of indexing terms and request for comments.

SUMMARY: The purpose of this notice is to announce the development of a thesaurus or list of subject headings to be used by the Office of the Federal Register in indexing the Federal Register, Code of Federal Regulations and related publications, and to invite comments on the suitability of the subject headings to meet the needs of users of these publications.

Federal Register users may frequently find the same or similar material identified in different terms by different Government agencies. The vocabulary used by Government agencies in turn often differs from Federal Register indexing terms and users' search terms.

The thesaurus is intended to support the public information function of Federal Register publications by standardizing, wherever possible, the language used to describe Federal regulations. In this connection it may be useful not only to the Office of the Federal Register in its indexing function, but also to Government agencies in drafting regulations, and to the public in researching regulations.

ADDRESSES: Comments and suggestions on the thesaurus should be submitted to: Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Carol Mahoney, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408. (202-523-5242.)

SCOPE AND ARRANGEMENT OF THIS THESAURUS

The Federal Register and Code of Federal Regulations are large volume publications containing detailed regulations on a wide variety of subjects. Indexing terms are needed to describe the specific program regulations of individual agencies and those general administrative provisions common to all agencies. The variety of subject matter covered is further complicated by the variety of users of these publications. Indexing terms are needed to express and organize the often technical regulatory concepts under research terms familiar to the layperson.

The subject terms included in this thesaurus were derived from terms previously used in Federal Register and Code of Federal Regulations indexes. These terms were reviewed and consolidated and a cross-reference structure showing the relationships between terms was added. Various published thesauruses and indexes were consulted in selecting terms and cross-references. While the list of subject terms and cross-references in this first edition of the thesaurus will undoubtedly require additions and changes, the thesaurus establishes a basic structure on which to build a controlled vocabulary for Government regulations.

There are two sections to this thesaurus. The first is an alphabetical list of all terms with a series of notations under each term to refer users to preferred or related terms. The second is an alphabetical listing of terms under broad subject categories, allowing the user to determine quickly the extent of coverage for any one of the categories within the thesaurus.

USE OF THIS THESAURUS

The compilation of a thesaurus at the Office of the Federal Register is one part of a phased program to develop an automated publication and information system for Federal regulations. Until this system is installed, use of the thesaurus at the Office of the Federal Register will be essentially experimental. Any use of the thesaurus in indexing will be directed toward refining or adding to existing terminology and developing a publication format for providing this additional subject access to Federal regulations in the future.

Publishing the thesaurus at this time however provides the Office of the Federal Register the opportunity to invite comments from the public and Government agency personnel on the suitability of the terminology to their needs. Federal agencies are especially encouraged to review the thesaurus. Agencies should consider using it on a trial basis, by assigning terms from the thesaurus to the documents they submit to the Office of the Federal Register for publication, or by using the terms in the thesaurus in drafting the summary paragraph prescribed by the Administrative Committee of the Federal Register in the new preamble requirements for proposed and final rules documents (December 29, 1976, 41 FR 56623). Staff of the Office of the Federal Register will be available to assist agencies wishing to use the thesaurus in their drafting or indexing functions.

FRED J. EMERY,
Director of the Federal Register.

Accounting (02, 08)
sa Uniform System of Accounts
xx Business and industry

Acreage allotments
see Marketing quotas and acreage allotments

Additives
see Food additives
Fuel additives

Adjustment assistance
see Trade adjustment assistance

Administrative practice and procedure (08)
x Practice and procedure

Adult education (04)
x Continuing education
Extension and continuing education
xx Education

Advertising (02)
xx Business and industry

Advisory committees (08)
[Use only for documents on the management of advisory committees within an agency]
x Committees

AFDC
see Aid to Families with Dependent Children

Affirmative action plans
see Equal employment opportunity

Aged (13)
sa Medicare
Supplemental Security Income (SSI)
x Elderly
Senior citizens

Agricultural commodities (01)
sa *Specific commodities*
Commodities exchanges
Crop insurance
Fruits
Grains
Marketing quotas and acreage allotments
Oilseeds
Price support programs
Surplus agricultural commodities
Vegetables
x Commodities
Crops
xx Agriculture

Agricultural research (01, 17)
xx Agriculture
Research

Agricultural statistics (01)
x Statistics
xx Agriculture

Agriculture (01)
sa Agricultural commodities
Agricultural research
Agricultural statistics
Farm loans
Farmers
Fertilizers
Food relief programs
Foods
Foreign agriculture
Forestry
Irrigation
Migrant labor
Pesticides and pests
Range management
Rural areas

Aid to Families with Dependent Children (18)
sa Public Assistance Programs
x AFDC
xx Child welfare
Public Assistance Programs

Air carriers (19)
[Organizations operating passenger or cargo carrying aircraft]
x Airlines
Common carriers
Shipping
xx Civil air transportation

Air fares (19)
x Rates and fares
xx Civil air transportation

Air pollution control (06)
sa Motor vehicle pollution
xx Air quality

Air quality (06)
sa Air pollution control
x Clean Air Act
xx Environmental protection

Air taxis (19)
xx Aircraft

Air traffic control (19)
xx Air transportation

Air transportation (19)
sa Air traffic control
Aircraft
Aircraft pilots
Airports
Airways
Aviation safety
Civil air transportation
Military air transportation
Navigation (air)
xx Transportation

Aircraft (19)
sa Air taxis
Airworthiness directives
Helicopters
x Airplanes
xx Air transportation

Aircraft pilots (13, 19)
x Pilots
xx Air transportation

Aircraft safety
see Airworthiness directives

Airlines
see Air carriers

Airplanes
see Aircraft

Airports (19)
sa Heliports
xx Air transportation

Airspace
see Airways

Airways (19)
x Airspace
xx Air transportation

Airworthiness directives (19)
x Aircraft safety
xx Aircraft
Aviation safety

Alcoholic beverages (01)
sa Beer
Liquors
Wine
xx Beverages

Alcoholism (09)
xx Drug abuse

Alien property (07)

Aliens (07, 13)
sa Immigration
Naturalization
Refugees
x Foreign persons
xx Immigration
Naturalization
Refugees

American revolution bicentennial (08)
x Bicentennial

Amnesty (12)
sa Pardon
xx Pardon

Anchorage grounds (19)
sa Harbors
xx Water transportation

Animal drugs (01, 09)
xx Animals
Drugs

Animal feeds (01)
sa Fish meal
xx Animals

see refers to authorized terms; x refers from terms not used; sa refers to more specific or related terms; xx refers from broader or related terms

Numbers in parenthesis refer to subject category listings following alphabetical listing of terms

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Animals (01)
sa Animal drugs
Animal feeds
Birds
Livestock
Pets
Wildlife

Antibiotics (09)
xx Drugs

Antidumping (02, 07)
[Prohibition on sales of imports at less than fair value]
xx Foreign trade
Imports

Antitrust (02)
xx Business and industry

Apartments (10)
xx Housing

Apprenticeship programs
see Manpower training programs

Architecture (04)

Archives and records (08)
x Historical records
Records

Armed forces (14)
sa Armed forces reserves
Conscientious objectors
Desertion from armed forces
Military academies
Military law
Military personnel
Selective service
xx National defense

Armed forces reserves (14)
sa National guard
x Reserve forces
xx Armed forces

Arms and munitions (14)
sa Firearms
Military arms sales
Nuclear weapons
x Guns
Munitions
Weapons
xx National defense

Arms control (07, 14)
x Disarmament
xx Foreign relations
National defense

Art (04)

Artificial sweeteners
see Sugar substitutes

Athletics (16)

Atomic energy
see Nuclear energy

Attorneys
see Lawyers

Authority delegations (Government agencies) (08)

Automatic data processing
see Computer technology

Automobiles (19)
sa Carpools
Motor vehicles
xx Motor vehicles

Aviation safety (09, 19)
sa Airworthiness directives
xx Air transportation
Safety

Awards
see Decorations, medals, awards

Bakery products (01)
x Bread
xx Foods

Bankruptcy (02)
xx Business and industry

Banks, banking (02)
sa Federal home loan banks
Federal reserve system
Foreign banking
Savings and loan associations
xx Finance

Barley (01)
xx Grains

Beaches (16)
sa Coastal zone
xx Coastal zone
Recreation areas

Beer (01)
xx Alcoholic beverages

Berries (01)
xx Fruits

Beverages (01)
sa Alcoholic beverages
Coffee
Fruit juices
Soft drinks
Tea
Vegetable juices
xx Foods

Bicentennial
see American revolution bicentennial

Bilingual education (04)
xx Education
Minority education

Biologics (09)
[Viruses, serums, toxins, etc., used in disease treatment]
sa Blood
x Serums
Toxins
Vaccines
Viruses
xx Drugs

Birds (15)
sa Wildlife
xx Animals

Birth control methods (09)
sa Family planning
x Contraceptives
Sterilization
xx Family planning

Black lung benefits (09)
xx Health insurance

Black lung disease (09)
x Pneumoconiosis
xx Diseases

Blind (09, 13)
xx Handicapped

Blood (09)
xx Biological products

Boats and boating (16)
sa Marine safety
xx Recreation

Bonding
see Surety bonds

Bonds (02)
x Savings bonds
xx Securities

Borders
see International boundaries

Bread
see Bakery products

Bridges (19)
x Drawbridges
xx Highways
Transportation
Waterways

Broadcasting
see Broadcasting facilities
Radio broadcasting
Television broadcasting

Broadcasting facilities (03)
x Broadcasting

Brokers (02, 13)
xx Investments

Buses (19)
sa Motor carriers
Motor vehicles
xx Motor carriers
Motor vehicles

Business and industry (02)
sa Accounting
Advertising
Antitrust
Bankruptcy
Construction industry
Franchises
Holding companies
Labeling
Minority businesses
Packaging and containers
Small businesses
Trade adjustment assistance
Trade names
Trade practices
Trademarks
x Industry

Butter (01)
xx Dairy products

Cable television (03)
x CATV
Community antenna television systems
xx Television

Cacao products (01)
xx Foods

Campaign funds (08)
x Election finance
xx Elections
Political candidates

Camping (16)
xx Recreation

Cancer (09)
xx Diseases

Candy (01)
xx Foods

Cargo
see Freight

Cargo vessels (19)
sa Maritime carriers
xx Maritime carriers
Vessels

Carpools (19)
xx Automobiles
Highway transportation

Cattle (01)
xx Livestock

CATV
see Cable television

Census data (08)
sa Population census
x Statistics

Cereals (commodity)
see Grains

Cereals (food) (01)
xx Foods

Charter flights (19)
xx Civil air transportation

Cheese (01)
xx Dairy products

Chemicals (01, 09)
sa Drugs
Fertilizers
Hazardous materials
Pesticides and pests

Child abuse
see Child welfare

Child health
see Maternal and child health

Child labor (11, 13)
xx Child welfare
Labor

Child support
see Child welfare

Child welfare (18)
sa Aid to Families with Dependent Children
Child labor
Day care
Maternal and child health
x Child abuse
Child support
xx Infants and children

Children
see Infants and children

Cigars and cigarettes (01)
xx Tobacco

Citizens radio services
see Radio communications

Citrus fruits (01)
sa *Specific fruits*
xx Fruits

Civil air transportation (19)
sa Air carriers
Air fares
Charter flights
xx Air transportation

Civil defense (14)
sa Disaster assistance
x Emergency mobilization
xx Disaster assistance
National defense

Civil disorders (12)
sa Riots

Civil rights (12)
sa Desegregation in education
Equal employment opportunity
Fair housing
Racial discrimination
Religious discrimination
Sex discrimination
Voting rights
x Discrimination
Nondiscrimination

Claims (12)
sa Foreign claims
Tort claims

Classified information (14)
x Information
Intelligence
National security information
Security information
xx National defense

Clean Air Act
see Air quality

Coal (05)
sa Coal allocation
Coal conversion program
Coal lands
xx Energy
Mineral resources

Coal allocation (05)
xx Coal

Coal conversion program (05)
xx Coal

Coal lands (15)
x Land
xx Coal
Public lands

Coal miners
see Miners

Coal mines
see Mine safety
Mines

Coastal zone (15)
sa Beaches
Wetlands
x Estuaries
xx Beaches
Natural resources
Wetlands

Coffee (01)
xx Beverages

Collective bargaining (11)
xx Labor management relations

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Colleges and universities (04)
sa Medical and dental schools
Military academies
Nursing schools
x Community colleges
Higher education
Universities
xx Education
Schools

Commercial fisheries
see Fisheries

Committees
see Advisory committees

Commodities
see Agricultural commodities

Commodities exchanges (01, 02)
xx Agricultural commodities
Investments

Common carriers
see Air carriers
Freight forwarders
Maritime carriers
Motor carriers
Railroads

Communications (03)
sa Communications equipment
Defense communications
Motion pictures
News media
Recordings
Telecommunications

Communications equipment (03)
xx Communications

Community Action Programs (18)
[Financial assistance to local communities to provide basic antipoverty services]
x Poverty
xx Community development

Community antenna television systems
see Cable television

Community colleges
see Colleges and universities

Community development (10)
[Economic development of deprived areas, emphasizing improved living conditions and participation of the local population]
sa Community Action Programs
Open Space Land Program
Urban renewal
xx Urban renewal

Community development block grants (10)

Compensation
see Unemployment compensation
Wages
Workmen's compensation

Comprehensive Employment and Training Act
see Manpower training programs

Computer technology (17)
x Automatic data processing
Data processing
Electronic data processing

Condominiums (10)
xx Housing

Conduct standards
see Conflict of interests

Conflict of interests (08)
sa Financial disclosure
Political activities (Government employees)
x Conduct standards
xx Government employees

Conscientious objectors (13, 14)
xx Armed forces

Conservation
see Natural resources

Construction industry (02)
xx Business and industry

Consumer protection (02)
sa Truth in lending
Truth in savings

Consumers (02, 13)

Containers
see Packaging and containers

Continental shelf (15)
x Outer continental shelf
xx Natural resources

Continuing education
see Adult education

Contraceptives
see Birth control methods

Contracts
see Government contracts

Copyright (12)

Cosmetics (09)
x Toiletries

Cotton (01)
xx Agricultural commodities

Cottonseeds (01)
xx Oilseeds

Courts (12)

Courts-martial (12, 14)
xx Military law

Credit (02)
sa Credit cards
Credit unions
xx Finance

Credit cards (02)
xx Credit

Credit unions (02)
xx Credit

Crime (12)
sa Drug abuse
Juvenile delinquency

Crime insurance (02)
xx Insurance

Crop insurance (01, 02)
xx Agricultural commodities
Insurance

Crops
see Agricultural commodities

Crude oil
see Petroleum

Cultural affairs (04)

Cultural exchange programs (04, 07)
sa Exchange visitor program
xx Foreign relations

Currency (02)
sa Foreign currencies
Gold
x Money
xx Finance

Customs duties (02, 07)
sa Imports
x Tariffs
xx Foreign trade
Imports

Dairy products (01)
sa *Specific dairy products*
xx Foods

Dams (15)
xx Water supply

Dance (04)

Dangerous cargo
see Hazardous materials transportation

Data processing
see Computer technology

Day care (18)
xx Child welfare

Daylight saving time (08)
x Time

Deaf (09, 13)
xx Handicapped

Decorations, medals, awards (08)
x Awards
Medals

Defense
see National defense

Defense communications (03, 14)
xx Communications
National defense

Delinquency
see Juvenile delinquency

Dental health (09)
xx Health

Dental schools
see Medical and dental schools

Dentists (09, 13)
xx Health professions

Desegregation in education (04, 12)
x Discrimination in education
School integration
Segregation in education
xx Civil rights
Education

Desertion from armed forces (14)
xx Armed forces

Dietary foods (01)
xx Foods

Disabled
see Handicapped

Disadvantaged (13)
[Persons with educational, economic or social handicaps resulting from poverty or cultural isolation from the community]
sa Education of the disadvantaged

Disarmament
see Arms control

Disaster assistance (08)
sa Civil defense
Flood assistance
xx Civil defense

Discrimination
see Civil rights

Discrimination in education
see Desegregation in education

Discrimination in employment
see Equal employment opportunity

Discrimination in housing
see Fair housing

Diseases (09)
sa *Names of diseases, groups of diseases and diseases of particular organs, e.g. Cancer, Venereal diseases, Kidney diseases*
xx Health

Distilled spirits
see Liquors

Doctors
see Physicians

Domestic animals
see Livestock

Draft
see Selective service

Drawbridges
see Bridges

Drug abuse (09)
sa Alcoholism
xx Crime
Health

Drug traffic control (12)

Drugs (09)
sa Animal drugs
Antibiotics
Biologics
Marihuana
Methadone
Narcotics
Prescription drugs
x Chemicals
Health

Ecology
see Environmental protection

Economic impact statements (02)
[Use only for documents on the drafting and issuance of economic impact statements]
x Inflation impact statements
xx Economics

Economic statistics (02)
xx Economics
Statistics

Economics (02)
sa Economic impact statements
Economic statistics
Impounded funds
Wage and price controls

Education (04)
sa Adult education
Bilingual education
Colleges and universities
Desegregation in education
Education of the disadvantaged
Education of the handicapped
Educational facilities
Educational study programs
Elementary and secondary education
Libraries
Minority education
School breakfast and lunch programs
School construction
Schools
Student aid
Students
Teachers
Vocational education

Education of the disadvantaged (04)
x Follow Through Program
Head Start Program
Upward Bound Program
xx Disadvantaged
Education

Education of the handicapped (04)
xx Education
Handicapped

Educational facilities (04)
xx Education
Schools

Educational study programs (04)
[Use for particular areas of study, e.g. Reading, Foreign languages]
xx Education

Eggs (01)
xx Foods

Elderly
see Aged

Election finance
see Campaign funds

Elections (08)
sa Campaign funds
Political activities (Government employees)
Political candidates
Voting rights

Electric power (05)
sa Electric power allocation
Electric power plants
Electric power rates
Electric utilities
x Hydroelectric power
xx Energy

Electric power allocation (05)
xx Electric power

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Electric power plants (05)
xx Electric power

Electric power rates (05)
x Rates and fares
xx Electric power

Electric utilities (05)
x Public utilities
Utilities
xx Electric power

Electronic data processing
see Computer technology

Electronic surveillance
see Wiretapping and electronic surveillance

Elementary and secondary education (04)
x Secondary education
xx Education

Emergency mobilization
see Civil defense

Emergency powers (08, 14)
[Extraordinary authority delegated to the Executive in time of national emergency]
xx National defense

Employee benefit plans (11)
[Various plans established by employers to provide financial protection to employees against accidents, illness, death; or to provide certain services such as training, day care, etc.]
xx Labor
Pensions

Employee management relations
see Labor management relations

Employment
see Equal employment opportunity
Manpower
Unemployment

Endangered and threatened wildlife (15)
xx Wildlife

Energy (05)
sa Coal
Electric power
Energy conservation
Geothermal energy
Natural gas
Nuclear energy
Petroleum
Pipelines
Solar energy
x Fuel
Power resources
xx Natural resources

Energy conservation (05)
xx Energy

Engineers (13)

Environmental impact statements (06)
xx Environmental protection

Environmental protection (06)
sa Air quality
Environmental impact statements
Natural resources
Noise control
Pesticides and pests
Waste treatment and disposal
Water pollution
x Ecology
Pollution
xx Natural resources

Equal employment opportunity (11, 12)
x Affirmative action plans
Discrimination in employment
Employment
xx Civil rights
Labor

Estate taxes (02)
xx Taxes

Estuaries
see Coastal zone

Exchange visitor program (04, 07)
xx Cultural exchange programs

Excise taxes (02)
x Stamp taxes
xx Taxes

Explosives (09)
xx Hazardous materials

Exports (02, 07)
xx Foreign trade

Expositions
see Fairs and expositions

Extension and continuing education
see Adult education

Fair housing (10, 12)
x Discrimination in housing
xx Civil rights
Housing

Fairs and expositions (02, 07)
x Expositions
International expositions
Trade fairs
xx Foreign trade

Family health (09)
sa Maternal and child health
xx Health
Maternal and child health

Family planning (09, 18)
sa Birth control methods
x Population control
xx Birth control methods
Health

Farm loans (01)
xx Agriculture

Farmers (01, 13)
xx Agriculture

Fats and oils
see Oils and fats

Federal buildings and facilities (08)
x Government buildings
Public buildings
xx Government property

Federal employees
see Government employees

Federal home loan banks (02)
xx Banks, banking

Federal reserve system (02)
xx Banks, banking

Federal-State relations
see Intergovernmental relations

Federally affected areas (08)
[Use for local jurisdictions, especially school districts, financially burdened by serving Federal installations in the area]
x Impacted areas programs

Feed grains (01)
xx Grains

Fellowships
see Scholarships and fellowships

Fertilizers (01)
xx Agriculture
Chemicals

Films
see Motion pictures

Finance (02)
sa Banks, banking
Credit
Currency
Investments
Loan programs
Mortgages
Revenue sharing
Trusts

Financial assistance programs
see Public Assistance Programs

Financial disclosure (08)
[Disclosure of personal finances by public officials]
xx Conflict of interests

Fines and penalties
see Penalties

Fire prevention (09)
xx Safety

Firearms (12, 14)
[Use for small arms]
x Guns
xx Arms and munitions

Firemen (13)

Fish (15)
[Use for documents on the conservation, etc., of fish as marine life. Use Seafood for documents on fish as food]
sa Fisheries
Seafood
xx Natural resources
Seafood

Fish meal (01)
xx Animal feeds

Fisheries (15)
[Use for documents on commercial fishing]
x Commercial fisheries
xx Fish
Seafood

Fishing (16)
[Use for documents on sport fishing]
xx Recreation

Fishing vessels (19)
xx Vessels

Flags (08)

Flammable materials (09)
xx Hazardous materials

Flavorings
see Spices and flavorings

Flax (01)
xx Agricultural commodities

Flaxseed
see Linseeds

Flood assistance (08)
xx Disaster assistance

Flood insurance (02)
xx Insurance

Follow Through Program
see Education of the disadvantaged

Food additives (01)
sa Sugar substitutes
x Additives

Food grades and standards (01)

Food labeling (01)
xx Labeling

Food relief programs (01, 18)
sa Food stamps
School breakfast and lunch programs
xx Agriculture

Food stamps (01, 18)
xx Food relief programs

Foods (01)
sa *Specific foods*
Bakery products
Beverages
Cacao products
Dairy products
Dietary foods
Frozen foods
Fruits
Meat and meat products
Nuts
Oils and fats
Poultry
Seafood
Spices and flavorings
Sugar
Vegetables
xx Agriculture

Foreign agriculture (01)
xx Agriculture

Foreign aid (07)
xx Foreign relations

Foreign banking (02)
xx Banks, banking

Foreign claims (07, 12)
sa War claims
xx Claims
Foreign relations

Foreign countries (07)

Foreign currencies (02)
xx Currency

Foreign investments (02)
[Use for documents on investment of U.S. funds in foreign countries]
x Overseas private investment
xx Investments

Foreign persons
see Aliens

Foreign relations (07)
sa Arms control
Cultural exchange programs
Foreign aid
Foreign claims
Foreign Service
Foreign trade
Immigration
International boundaries
Naturalization
Passports and visas
Treaties

Foreign Service (07)
xx Foreign relations
Government employees

Foreign trade (02, 07)
sa Antidumping
Customs duties
Exports
Fairs and expositions
Imports
Military arms sales
Trade adjustment assistance
Trade agreements
x International trade
xx Foreign relations

Forestry (01)
xx Agriculture

Forests
see National forests

Foundations (13)

Franchises (02)
xx Business and industry
Small businesses

Freedom of Information Act (08)
x Information
Records

Freight (19)
sa Hazardous materials transportation
x Cargo
xx Transportation

Freight forwarders (19)
x Common carriers
Shipping

Frozen foods (01)
xx Foods

Fruit juices (01)
xx Beverages

Fruits (01)
sa *Specific fruits*
Berries
Citrus fruits
xx Agricultural commodities
Foods

Fuel
see Energy

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Fuel additives (05)
x Additives
Gasoline additives
xx Petroleum

Gambling (12)

Gas
see Natural gas

Gas exploration
see Oil and gas exploration

Gas reserves
see Oil and gas reserves

Gas utilities (05)
x Public utilities
Utilities
xx Natural gas

Gasoline (05)
xx Petroleum

Gasoline additives
see Fuel additives

Geothermal energy (05)
xx Energy

Gift taxes (02)
xx Taxes

Gold (02)
xx Currency

Government buildings
see Federal buildings and facilities

Government contracts (08)
x Contracts

Government employees (08, 11, 13)
sa Conflict of interests
Foreign Service
Military personnel
Postal employees
x Federal employees

Government procurement (08)
x Procurement

Government property (08)
sa Federal buildings and facilities
Surplus government property

Grain sorghum (01)
xx Grains

Grains (01)
sa *Specific grains*
Feed grains
x Cereals (commodity)
xx Agricultural commodities

Grant programs (08)
[Use for programs involving grants of money by the Federal Government to a State or local government for a public undertaking, or to an institution or individual for an educational or artistic project. Divide by the following categories to indicate broad area of grant: Agriculture, Business, Communications, Education, Energy, Environmental protection, Foreign relations, Health, Housing and community development, Labor, Law, National defense, Natural resources, Recreation, Science and technology, Social programs, Transportation]

Grazing lands (15)
x Land
xx Public lands

Guns
see Arms and munitions
Firearms

Handicapped (09, 13)
sa Blind
Deaf
Education of the handicapped
Mentally handicapped
Supplemental Security Income (SSI)
Vocational rehabilitation
x Disabled
Physically handicapped
xx Health

Harbors (19)
x Ports
xx Anchorage grounds
Water transportation

Hatch Act
see Political activities (Government employees)

Hazardous materials (09)
sa Explosives
Flammable materials
Radioactive materials
x Poisons
Toxins
xx Chemicals
Safety

Hazardous materials transportation (19)
x Dangerous cargo
xx Freight

Head Start Program
see Education of the disadvantaged

Health (09)
sa Dental health
Diseases
Drug abuse
Drugs
Family health
Family planning
Handicapped
Health care
Health facilities
Health insurance
Health maintenance organizations (HMO)
Health professions
Maternal and child health
Medical devices
Medical research
Medical and dental schools
Mental health
Nursing schools
Nutrition
Public health
Quarantine
Safety

Health care (09)
sa Hospital care
Medicaid
x Medical care
xx Health

Health facilities (09)
sa Hospitals
Mental health centers
Nursing homes
x Medical facilities
xx Health

Health insurance (02, 09)
sa Black lung benefits
Medicare
xx Health
Insurance

Health insurance for the aged
see Medicare

Health maintenance organizations (HMO) (09)
[Prepaid group medical practice]
xx Health

Health professions (09, 13)
sa Dentists
Nurses
Physicians
x Medical personnel
xx Health

Hearing aids (09)
xx Medical devices

Helicopters (19)
xx Aircraft

Heliports (19)
xx Airports

Herbicides
see Pesticides and pests

Higher education
see Colleges and universities

Highway safety (09, 19)
xx Highways
Safety

Highway transportation (19)
sa Carpools
Highways
Motor carriers
Motor vehicle safety
Motor vehicles
Parking
xx Transportation

Highways (19)
sa Bridges
Highway safety
x Roads
xx Highway transportation

Historic places (15)
sa National Register of Historic Places
xx Historic preservation

Historic preservation (15)
sa Historic places

Historical records
see Archives and records

Hobbies (16)

Hogs (01)
x Swine
xx Livestock

Holding companies (02)
xx Business and industry

Holidays (08)

Homesteads (15)
xx Public lands

Horses (01)
xx Livestock

Hospital care (09)
xx Health care

Hospitals (09)
xx Health facilities

Housing (10)
sa Apartments
Condominiums
Fair housing
Low income housing
Mobile homes
Mortgages
Public housing
Relocation assistance

Hunting (16)
xx Recreation

Hydroelectric power
see Electric power

Immigration (07)
sa Aliens
Naturalization
xx Aliens
Foreign relations
Naturalization

Impacted areas programs
see Federally affected areas

Imports (02, 07)
sa Antidumping
Customs duties
Oil imports
Trade adjustment assistance
xx Customs duties
Foreign trade

Impounded funds (02, 08)
xx Economics

Income taxes (02)
xx Taxes

Indian education
see Minority education

Indians
see Minority groups

Industrial safety
see Occupational safety and health

Industry
see Business and industry

Infants and children (13)
sa Child welfare
Youth
x Children
xx Youth

Inflation impact statements
see Economic impact statements

Information
see Classified information
Freedom of Information Act

Insecticides
see Pesticides and pests

Insignia
see Seals and insignia

Insurance (02)
sa Crime insurance
Crop insurance
Flood insurance
Health insurance
Life insurance
Mortgage insurance
Surety bonds
War risk insurance
Workmen's compensation

Intelligence
see Classified information

Interest equalization tax (02)
xx Taxes

Intergovernmental relations (08)
x Federal-State relations
State-Federal relations

Internal revenue
see Taxes

International boundaries (07)
x Borders
xx Foreign relations

International expositions
see Fairs and expositions

International organizations (07)

International trade
see Foreign trade

Inventions and patents (17)
x Patents

Investments (02)
sa Brokers
Commodities exchanges
Foreign investments
Securities
Securities exchanges
xx Finance

Irrigation (01)
xx Agriculture
Water supply

Juvenile delinquency (12)
x Delinquency
xx Crime
Youth

Kidney diseases (09)
x Renal diseases
xx Diseases

Labeling (02)
sa Food labeling
Packaging and containers
xx Business and industry
Packaging and containers

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Labor (11)
sa Child labor
Employee benefit plans
Equal employment opportunity
Labor management relations
Labor statistics
Manpower
Migrant labor
Occupational safety and health
Retirement
Unemployment
Wages

Labor disputes (11)
xx Labor management relations

Labor management relations (11)
sa Collective bargaining
Labor disputes
Labor unions
x Employee management relations
xx Labor

Labor statistics (11)
x Statistics
xx Labor

Labor unions (11)
x Trade unions
Unions
xx Labor management relations

Land
see Coal lands
Grazing lands
Public lands

Land sales (10)

Landfills (06)
xx Waste treatment and disposal

Landmarks
see Natural landmarks

Law enforcement (12)

Lawyers (12, 13)
x Attorneys

Lead poisoning (09)
xx Poison prevention

Legal services (12)

Libraries (04)
xx Education

Life insurance (02)
xx Insurance

Linseeds (01)
x Flaxseed
xx Oilseeds

Liquors (01)
x Distilled spirits
xx Alcoholic beverages

Livestock (01)
sa *Specific animals*
Meat and meat products
x Domestic animals
xx Animals

Loan programs (02, 08)
[Divide by the following categories to indicate broad area of loan: Agriculture, Business, Communications, Education, Energy, Environmental protection, Foreign relations, Health, Housing and community development, Labor, Law, National defense, Natural resources, Recreation, Science and technology, Social programs, Transportation]
xx Finance

Low income housing (10)
sa Public housing
xx Housing
Public housing

Magazines
see Newspapers and magazines

Mail
see Postal service

Manpower (11)
sa Manpower training programs
xx Employment
Labor

Manpower training programs (11)
[Use for occupational or on-the-job training, distinguished from vocational education within a school curriculum]
sa Vocational education
Work incentive programs
x Apprenticeship programs
Comprehensive Employment and Training Act
Occupational training
Training programs
xx Manpower
Vocational education

Marihuana (09)
xx Drugs

Marine mammals (15)

Marine safety (09, 19)
xx Boats and boating
Safety
Water transportation

Maritime carriers (19)
[Organizations operating passenger or cargo carrying vessels]
sa Cargo vessels
Passenger vessels
x Common carriers
Merchant marine
Shipping
xx Cargo vessels
Passengers vessels
Water transportation

Marketing quotas and acreage allotments (01)
x Acreage allotments
xx Agricultural commodities

Mass transportation (19)
xx Transportation

Maternal and child health (09)
sa Family health
x Child health
xx Child welfare
Family health
Health

Meat and meat products (01)
sa Meat inspection
Stockyards
xx Foods
Livestock

Meat inspection (01)
xx Meat and meat products

Medals
see Decorations, medals, awards

Medicaid (09, 18)
sa Public Assistance Programs
x Medical assistance program
xx Health care
Public Assistance Programs

Medical and dental schools (04, 09)
x Dental schools
xx Colleges and universities
Health

Medical assistance program
see Medicaid

Medical care
see Health care

Medical devices (09)
sa Hearing aids
x Prosthetic devices
xx Health
Scientific equipment

Medical facilities
see Health facilities

Medical personnel
see Health professions

Medical research (09, 17)
xx Health
Research

Medicare (09)
x Health insurance for the aged
xx Aged
Health insurance
Social security

Mental health (09)
xx Health

Mental health centers (09)
xx Health facilities

Mentally handicapped (09, 13)
xx Handicapped

Merchant marine
see Maritime carriers

Methadone (09)
xx Drugs

Metric system (17)

Migrant labor (01, 11, 13)
xx Agriculture
Labor

Migratory birds
see Wildlife

Military academies (04, 14)
xx Armed forces
Colleges and universities

Military air transportation (14, 19)
xx Air transportation
National defense

Military arms sales (02, 07)
xx Arms and munitions
Foreign trade

Military law (12, 14)
sa Courts-martial
x Uniform Code of Military Justice
xx Armed forces

Military personnel (13, 14)
xx Armed forces
Government employees

Milk (01)
xx Dairy products

Milk marketing orders (01)
xx Agriculture

Mine safety (09)
x Coal mines
xx Mines
Occupational safety and health
Safety

Mineral resources (15)
sa Coal
Oil and gas reserves
xx Natural resources

Miners (13)
x Coal miners
xx Mines

Mines (15)
sa Mine safety
Miners
x Coal mines

Minimum wages (11)
xx Wages

Minority businesses (02)
xx Business and industry
Small businesses

Minority education (04)
sa Bilingual education
x Indian education
xx Education

Minority groups (13)
x Indians
Spanish speaking persons

Mobile homes (10)
xx Housing

Money
see Currency

Mortgage insurance (02, 10)
xx Insurance
Mortgages

Mortgages (02, 10)
sa Mortgage insurance
xx Finance
Housing

Motion pictures (03)
x Films
xx Communications

Motor carriers (19)
[Organizations operating passenger or cargo carrying motor vehicles]
sa Buses
Trucks
x Common carriers
Shipping
xx Buses
Highway transportation
Trucks

Motor vehicle pollution (06, 19)
xx Air pollution control
Motor vehicles

Motor vehicle safety (09, 19)
xx Highway transportation
Motor vehicles
Safety

Motor vehicles (19)
sa Automobiles
Buses
Motor vehicle pollution
Motor vehicle safety
Motorcycles
Taxicabs
Trucks
xx Automobiles
Buses
Highway transportation
Trucks

Motorcycles (19)
xx Motor vehicles

Munitions
see Arms and munitions

Museums (04)

Music (04)

Narcotics (09)
xx Drugs

National defense (14)
sa Armed forces
Arms and munitions
Arms control
Civil defense
Classified information
Defense communications
Emergency powers
Military air transportation
Strategic and critical materials
x Defense

National forests (15)
x Forests
xx Natural resources
Public lands
Recreation areas

National guard (14)
xx Armed forces reserves

National parks (15)
x Parks
xx Public lands
Recreation areas

National Register of Historic Places (15)
xx Historic places

National Registry of Natural Landmarks (15)
xx Natural landmarks

National security information
see Classified information

National trails system (16)
x Trails
xx Recreation areas

National wild and scenic rivers system (16)
xx Rivers

National Wildlife Refuge System (15)
xx Wildlife refuges

Natural gas (05)
sa Oil and gas exploration
Oil and gas reserves
Gas utilities
x Gas
xx Energy

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Natural landmarks (15)
sa National Registry of Natural Landmarks
x Landmarks
xx Natural resources

Natural resources (15)
sa Coastal zone
Continental shelf
Energy
Environmental protection
Fish
Mineral resources
National forests
Natural landmarks
Public lands
Recreation
Soil conservation
Water resources
Wildlife
x Conservation
xx Environmental protection

Naturalization (07)
sa Aliens
Immigration
xx Aliens
Foreign relations
Immigration

Naval stores (01)
[Turpentine, resin products]

Navigation (air) (19)
xx Air transportation

Navigation (water) (19)
xx Water transportation

News media (03)
sa Newspapers and magazines
Radio broadcasting
Television broadcasting
xx Communications

Newspapers and magazines (03)
x Magazines
xx News media

Noise control (06, 19)
xx Environmental protection
Transportation

Nondiscrimination
see Civil rights

Nonprofit organizations (13)

Nuclear energy (05)
sa Nuclear materials
Nuclear power plants
Nuclear reactors
x Atomic energy
xx Energy

Nuclear materials (05)
xx Nuclear energy
Radioactive materials

Nuclear power plants (05)
xx Nuclear energy

Nuclear reactors (05)
xx Nuclear energy

Nuclear safety
see Radiation protection

Nuclear vessels (19)
xx Vessels

Nuclear weapons (14)
x Weapons
xx Arms and munitions

Nursery stock (01)
sa Plants (agriculture)

Nurses (09, 13)
xx Health professions

Nursing homes (09)
xx Health facilities

Nursing schools (04, 09)
xx Colleges and universities
Health

Nutrition (09)
sa Vitamins
xx Health

Nuts (01)
xx Foods

Oats (01)
xx Grains

Occupational safety and health (09, 11)
sa Mine safety
Workmen's compensation
x Industrial safety
xx Labor
Safety

Occupational training
see Manpower training programs
Vocational education

Oceanographic vessels (19)
xx Vessels

Oil
see Petroleum

Oil and gas exploration (05)
x Gas exploration
xx Natural gas
Petroleum

Oil and gas reserves (05, 15)
x Gas reserves
xx Mineral resources
Natural gas
Petroleum

Oil imports (02, 05, 07)
xx Imports
Petroleum

Oil pollution (06)
xx Water pollution

Oils and fats (01)
x Fats and oils
xx Foods

Oilseeds (01)
sa Cottonseeds
Linseeds
Soybeans
Tung nuts
xx Agricultural commodities

Old-age, Survivors and Disability Insurance (11, 18)
xx Social security

Open Space Land Program (10)
xx Community development

Organization and functions (Government agencies) (08)

Outer continental shelf
see Continental shelf

Overseas private investment
see Foreign investments

Packaging and containers (02)
sa Labeling
x Containers
xx Business and industry
Labeling

Pardon (12)
sa Amnesty
xx Amnesty

Parking (19)
xx Highway transportation

Parks
see National parks

Parole
see Probation and parole

Passenger vessels (19)
sa Maritime carriers
xx Maritime carriers
Vessels

Passports and visas (07, 19)
x Visas
xx Foreign relations
Travel

Patents
see Inventions and patents

Pay
see Wages

Penalties (12)
x Fines and penalties

Pensions (11)
sa Employee benefit plans
xx Retirement

Pesticides and pests (01, 06)
x Herbicides
Insecticides
Poisons
Rodenticides
xx Agriculture
Chemicals
Environmental protection

Petroleum (05)
sa Fuel additives
Gasoline
Oil and gas exploration
Oil and gas reserves
Oil imports
Petroleum allocation
Petroleum price regulations
x Crude oil
Oil
xx Energy

Petroleum allocation (05)
xx Petroleum

Petroleum price regulations (02, 05)
xx Petroleum
Wage and price controls

Pets (01)
xx Animals

Physically handicapped
see Handicapped

Physicians (09, 13)
x Doctors
xx Health professions

Pilots
see Aircraft pilots

Pipeline safety (09, 19)
xx Pipelines
Safety

Pipelines (05, 19)
sa Pipeline safety
xx Energy
Transportation

Plants (agriculture) (01)
xx Nursery stock

Pneumoconiosis
see Black lung disease

Poison prevention (09)
sa Lead poisoning
x Poisons
Toxins
xx Safety

Poisons
see Hazardous materials
Pesticides and pests
Poison prevention

Police (12, 13)

Political activities (Government employees) (08)
x Hatch Act
xx Conflict of interests
Elections

Political candidates (08)
sa Campaign funds
xx Elections

Pollution
see Environmental protection

Population census (08)
xx Census data

Population control
see Family planning

Ports
see Harbors

Postal employees (08, 11, 13)
xx Government employees
Postal service

Postal rates (03)
x Rates and fares
xx Postal service

Postal service (03)
sa Postal employees
Postal rates
x Mail

Poultry (01)
xx Foods

Poverty
see Community Action Programs
Public Assistance Programs

Power resources
see Energy

Practice and procedure
see Administrative practice and procedure

Prescription drugs (09)
xx Drugs

Price controls
see Wage and price controls

Price support programs (01)
xx Agricultural commodities

Prisoners (12, 13)

Prisons (12)
sa Probation and parole

Privacy Act (08, 12)
x Records

Private schools (04)
xx Schools

Probation and parole (12)
x Parole
xx Prisons

Procurement
see Government procurement

Prosthetic devices
see Medical devices

Public Assistance Programs (18)
[Cash assistance programs under the Social Security Act]
sa Aid to Families with Dependent Children
Medicaid
x Financial assistance programs
Poverty
Welfare programs
xx Aid to Families with Dependent Children
Medicaid
Social security

Public buildings
see Federal buildings and facilities

Public health (09)
sa Quarantine
xx Health

Public housing (10)
sa Low income housing
xx Housing
Low income housing

Public lands (15)
sa Coal lands
Grazing lands
Homesteads
National forests
National parks
Reclamation
x Land
xx Natural resources

Public utilities
see Electric utilities
Gas utilities
Water supply

Public works (10)

Quarantine (09)
xx Health
Public health

Racial discrimination (12)
xx Civil rights

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Radiation protection (09)
sa Radioactive materials
x Nuclear safety
xx Radioactive materials
Safety

Radio (03)
sa Radio broadcasting
Radio communications
Radio frequencies
Radio operators
Radio stations
xx Telecommunications

Radio broadcasting (03)
x Broadcasting
Radio programs
xx News media
Radio

Radio communications (03)
x Citizens radio services
xx Radio

Radio frequencies (03)
xx Radio

Radio operators (03, 13)
xx Radio

Radio programs
see Radio broadcasting

Radio stations (03)
xx Radio

Radioactive materials (09)
sa Nuclear materials
Radiation protection
xx Hazardous materials
Radiation protection

Railroad employees (13, 19)
xx Railroads

Railroad retirement (11)
xx Retirement

Railroads (19)
sa Railroad employees
x Common carriers
Shipping
xx Transportation

Range management (01)
xx Agriculture

Rates and fares
see Air fares
Electric power rates
Postal rates

Reclamation (15)
xx Public lands

Record retention (08)
[Use for document requiring the keeping of records by the public]
x Records

Recordings (03)
xx Communications

Records
see Archives and records
Freedom of Information Act
Privacy Act
Record retention

Recreation (16)
sa Boats and boating
Camping
Fishing
Hunting
Recreation areas
xx Natural resources

Recreation areas (16)
sa Beaches
National forests
National parks
National trails system
Rivers
Wilderness areas
xx Recreation

Recycling (06)
xx Waste treatment and disposal

Refugees (07, 13)
sa Aliens
xx Aliens

Religious discrimination (12)
xx Civil rights

Religious orders (13)

Relocation assistance (10)
xx Housing

Renal diseases
see Kidney diseases

Reporting requirements (Government agencies) (08)

Research (17)
sa Agricultural research
Medical research

Reserves forces
see Armed forces reserves

Reservoirs (15)
xx Water supply

Retirement (11)
sa Pensions
Railroad retirement
Social security
xx Labor

Revenue sharing (02, 08)
xx Finance

Rice (01)
xx Grains

Riots (12)
xx Civil disorders

Rivers (16, 19)
sa National wild and scenic rivers system
xx Recreation areas
Waterways

Roads
see Highways

Rodenticides
see Pesticides and pests

Rural areas (01)
xx Agriculture

Rye (01)
xx Grains

Safety (09)
sa Aviation safety
Fire prevention
Hazardous materials
Highway safety
Marine safety
Mine safety
Motor vehicle safety
Occupational safety and health
Pipeline safety
Poison prevention
Radiation protection
xx Health

Salaries
see Wages

Satellite communications (03)
xx Telecommunications

Savings and loan associations (02)
xx Banks, banking

Savings bonds
see Bonds

Scholarships and fellowships (04)
x Fellowships
xx Student aid

School breakfast and lunch programs (01, 04, 18)
xx Education
Food relief programs

School construction (04)
xx Education
Schools

School integration
see Desegregation in education

Schools (04)
sa Colleges and universities
Educational facilities
Private schools
School construction
xx Education

Science and technology (17)

Scientific equipment (17)
sa Medical devices

Seafood (01)
[Use for documents on fish as food. Use Fish fordocuments on conservation, etc., of fish as marine life]
sa Fish
Fisheries
xx Fish
Foods

Seals and insignia (08)
x Insignia

Seamen (13, 19)

Secondary education
see Elementary and secondary education

Securities (02)
sa Bonds
x Stocks
xx Investments

Securities exchanges (02)
x Stock exchanges
xx Investments

Security information
see Classified information

Security measures (08)

Segregation in education
see Desegregation in education

Selective service (14)
x Draft
xx Armed forces

Senior citizens
see Aged

Serums
see Biologics

Sewage disposal (06)
xx Waste treatment and disposal

Sex discrimination (12)
xx Civil rights

Sheep (01)
xx Livestock

Shipping
see Air carriers
Freight forwarders
Maritime carriers
Motor carriers
Railroads

Ships
see Vessels

Small businesses (02)
sa Franchises
Minority businesses
xx Business and industry

Social security (11, 18)
sa Medicare
Old-age, Survivors and Disability Insurance
Public Assistance Programs
Supplemental Security Income (SSI)
xx Retirement

Soft drinks (01)
xx Beverages

Soil conservation (01, 15)
xx Natural resources

Solar energy (05)
xx Energy

Solid waste disposal
see Waste treatment and disposal

Soybeans (01)
xx Oilseeds

Space exploration (17)

Spanish speaking persons
see Minority groups

Spices and flavorings (01)
x Flavorings
xx Foods

Stamp taxes
see Excise taxes

State-Federal relations
see Intergovernmental relations

Statistics
see Agricultural statistics
Census data
Economic statistics
Labor statistics

Sterilization
see Birth control methods

Stock exchanges
see Securities exchanges

Stockpiling
see Strategic and critical materials

Stocks
see Securities

Stockyards (01)
xx Meat and meat products

Strategic and critical materials (14)
x Stockpiling
xx National defense

Student aid (04)
sa Scholarships and fellowships
xx Education

Students (04, 13)
xx Education

Sugar (01)
xx Foods

Sugar substitutes (01)
x Artificial sweeteners
xx Food additives

Sunshine Act (08)

Supplemental Security Income (SSI) (18)
[Assistance to aged, blind and handicapped]
xx Aged
Handicapped
Social security

Surety bonds (02)
x Bonding
xx Insurance

Surplus agricultural commodities (01)
xx Agricultural commodities

Surplus government property (08)
xx Government property

Swine
see Hogs

Tariffs
see Customs duties

Tax reform (02)
xx Taxes

Taxes (02)
sa Estate taxes
Excise taxes
Gift taxes
Income taxes
Interest equalization tax
Tax reform
x Internal revenue

Taxicabs (19)
sa Motor vehicles
xx Motor vehicles

Tea (01)
xx Beverages

Teachers (04, 13)
xx Education

Technical education
see Vocational education

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Telecommunications (03)
sa Radio
Satellite communications
Telegraph
Telephone
Television
xx Communications

Telegraph (03)
xx Telecommunications

Telephone (03)
xx Telecommunications

Television (03)
sa Cable television
Television broadcasting
Television stations
xx Telecommunications

Television broadcasting (03)
x Broadcasting
Television programs
xx News media
Television

Television programs
see Television broadcasting

Television stations (03)
xx Television

Time
see Daylight saving time

Tobacco (01)
sa Cigars and cigarettes
xx Agricultural commodities

Toiletries
see Cosmetics

Tort claims (08, 12)
xx Claims

Toxins
see Biologics
Hazardous materials
Poison prevention

Trade adjustment assistance (02, 07)
[Aid to domestic industries or workers injured by competition from imported products]
x Adjustment assistance
xx Business and industry
Foreign trade
Imports

Trade agreements (02, 07)
xx Foreign trade
Treaties

Trade fairs
see Fairs and expositions

Trade names (02)
xx Business and industry

Trade practices (02)
xx Business and industry

Trade unions
see Labor unions

Trademarks (02)
xx Business and industry

Trails
see National trails system

Training programs
see Manpower training programs

Transportation (19)
sa Air transportation
Bridges
Freight
Highway transportation
Mass transportation
Noise control
Pipelines
Railroads
Water transportation

Travel (19)
sa Passports and visas
Travel and transportation expenses
Travel restrictions

Travel and transportation expenses (19)
xx Travel

Travel restrictions (19)
xx Travel

Treaties (07)
sa Trade agreements
xx Foreign relations

Trucks (19)
sa Motor carriers
Motor vehicles
xx Motor carriers
Motor vehicles

Trusts (02)
xx Finance

Truth in lending (02)
xx Consumer protection

Truth in savings (02)
xx Consumer protection

Tung nuts (01)
xx Oilseeds

Unemployment (11)
sa Unemployment compensation
x Employment
xx Labor

Unemployment compensation (11)
x Compensation
xx Unemployment

Uniform Code of Military Justice
see Military law

Uniform System of Accounts (02, 08)
xx Accounting

Unions
see Labor unions

Universities
see Colleges and universities

Upward Bound Program
see Education of the disadvantaged

Urban renewal (10)
sa Community development
xx Community development

Utilities
see Electric utilities
Gas utilities
Water supply

Vaccines
see Biologics

Vegetable juices (01)
xx Beverages

Vegetables (01)
sa *Specific vegetables*
xx Agricultural commodities
Foods

Venereal diseases (09)
xx Diseases

Vessels (19)
sa Cargo vessels
Fishing vessels
Nuclear vessels
Oceanographic vessels
Passenger vessels
x Ships
xx Water transportation

Veterans (13)

Veterinarians (01, 13)

Viruses
see Biologics

Visas
see Passports and visas

Vitamins (09)
xx Nutrition

see refers to authorized terms; x refers from terms not used; sa refers to more specific or related terms; xx refers from broader or related terms

Numbers in parenthesis refer to subject category listings following alphabetical listing of terms

Vocational education (04)
[Use for vocational instruction within a school curriculum. Distinguish from manpower training programs for on-the-job training]
sa Manpower training programs
x Occupational training
Technical education
xx Education
Manpower training programs

Vocational rehabilitation (18)
[Training of the handicapped for employment]
xx Handicapped

Volunteers (13)

Voting rights (08, 12)
xx Civil rights
Elections

Wage and price controls (02, 11)
sa Petroleum price regulations
x Price controls
xx Economics
Wages

Wages (11)
sa Minimum wages
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[FR Doc.77-6591 Filed 3-4-77;8:45 am]

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federal register

TUESDAY, MARCH 8, 1977

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

highlights

HOW TO USE THE FEDERAL REGISTER

Seattle, Washington workshops on March 30 and 31, 1977. Reservations required: Dorothy Clegg, 206–442–5556.

(Details: 42 FR 11933, March 1, 1977)

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USDA/REA proposes new specifications for two and three electrode gas tube protectors and for spring action type bonding connectors with buried plant housings (3 documents); comments by 4–7–77 ..... 13024, 13025

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FEA extends current ceiling price freeze and adjusts downward the upper tier ceiling price by an additional 45 cents a barrel for period between March and July 1977; effective 3–1–77 13013

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 3753.....Pub. L. 95–8
To bring certain governing international fishery agreements within the purview of the Fishery Conservation Zone Transition Act. (Mar. 3, 1977; 91 Stat. 18).
Price: $.35

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 295—PUBLIC OBSERVATION OF COMMISSION MEETINGS

AGENCY: Civil Service Commission.

ACTION: Final regulations.

SUMMARY: These regulations are designed to implement the "Government in the Sunshine Act", Pub. L. 94–409 in the U.S. Civil Service Commission. In addition to a statement of policy, they contain procedures governing decisions about meetings, the conduct of meetings, and maintenance of meeting records. They also contain the requirements for administrative and judicial review.

EFFECTIVE DATE: March 12, 1977.

FOR FURTHER INFORMATION CONTACT:

James C. Spry, Executive Assistant to the Commissioners, Room 5H09, U.S. Civil Service Commission, Washington, D.C. 20415. 202–632–5556.)

SUPPLEMENTARY INFORMATION: In complying with the "Government in the Sunshine Act" the Civil Service Commission developed proposed regulations to implement the act and published them in the FEDERAL REGISTER on December 21, 1976, for public comment.

During the 30 day period for public comment, the Civil Service Commission received comments from only one source. In addition, one source commented after the public notice period. The major comments were concerned with the adequacy of the proposed procedures for public notice of meetings and the amount of advance public notice given.

ADEQUACY OF NOTICE

The commenter suggested that, "at a minimum, provision should be made" for "accompanying press releases to be distributed to the media, including the press, at least one week in advance of the scheduled meeting."

The regulations implementing the act provide for the public announcement of meetings and the publication of the notice in the FEDERAL REGISTER. In addition, the regulations provide the opportunity for individuals and/or organizations having a special interest in Commission activities to be placed on a mailing list for receipt of public notices. The Commission has, in addition, adopted an internal procedure under which the Director, Office of Public Affairs, will review each public notice and determine whether the meeting is likely to generate substantial public interest and make the issuance of a press release desirable. Any time that there is significant public interest in a meeting, the Commission intends to issue press releases publicizing the meeting.

The regulations fully comply with the public notice requirements of the act and are designed to abide by the spirit of the act. If, after a period of time, the Commission finds that it is apparent that the proposed public notice precedures do not fulfill the intent of the act, consideration will again be given to revising the regulations.

ADVANCE NOTICE OF MEETINGS

The commenter recommended that the regulations require the publication of notices in the FEDERAL REGISTER one week in advance of the respective meeting.

The regulations prescribe that the notice of each meeting be forwarded for publication in the FEDERAL REGISTER immediately after the public announcement of the meeting—at least one week before the scheduled meeting. The Commission believes that it should retain the flexibility of providing notice within the time frame provided for by law. However, the Commission recognizes that more notice may be helpful to some interested parties and intends to give as much advance notice as practical. This is consistent with the regulations as written.

Accordingly, 5 CFR is amended by adding Part 295:

Subpart A—General Provisions

Sec.
295.101 Purpose.
295.102 Definitions.
295.103 Applicability and scope.
295.104 Open meeting policy.

Subpart B—Procedures Governing Decisions About Meetings

295.201 Decision to hold meeting.
295.202 Provisions under which a meeting may be closed.
295.203 Decision to close meeting.
295.204 Public availability of recorded vote to close meeting.
295.205 Public announcement of meeting.
295.206 Providing information to the public.
295.207 Change in meeting plans after public announcement.
295.208 Meetings for extraordinary agency business.
295.209 Notice of meeting in FEDERAL REGISTER.

Subpart C—Conduct of Meetings

295.301 Meeting place.
295.302 Role of observers.

Subpart D—Maintenance of Meeting Records

295.401 Requirements for maintaining records of closed meetings.
295.402 Availability of records to the public.
295.403 Requests for records under Freedom of Information and Privacy Acts.
295.404 Copying and transcription charges.

Subpart E—Administrative Review

295.501 Procedures for objections.

Subpart F—Judicial Review

295.601 Filing an action in court.

AUTHORITY: 5 U.S.C. 552(b).

Subpart A—General Provisions

§ 295.101 Purpose.

This part sets forth the regulations under which the Commission shall engage in public decisionmaking processes, make public announcement of meetings at which a quorum of or all Commission members consider and determine official Commission actions, and inform the public of which meetings they are entitled to observe.

§ 295.102 Definitions.

In this part:

(a) "Meeting" means the deliberations of at least two Commission members where such deliberations determine or result in the joint conduct of official Commission business.

(b) "Member" means one of the Commissioners of the Civil Service Commission who is appointed to that position by the President with the advice and consent of the Senate.

§ 295.103 Applicability and scope.

This part applies to deliberations of at least two Commission members. Excluded from coverage of this part are deliberations of interagency committees whose composition includes Commission members and deliberations of Commission officials who are not members.

§ 295.104 Open meeting policy.

The public is entitled to the fullest practicable information regarding the decisionmaking processes of the Commission. Commission meetings involving deliberations which determine or result in the joint conduct or disposition of official Commission business are presumptively open to the public. It is the intent of these regulations to open such meetings to public observation while protecting individuals' rights and the Commission's ability to carry out its responsibilities. Meetings or portions of meetings may be closed to public observation only if closure can be justified under one of the provisions set forth in § 295.202 of this part.

Subpart B—Procedures Governing Decisions About Meetings

§ 295.201 Decision to hold meeting.

When Commission members make a decision to hold a meeting, the proposed meeting will ordinarily be scheduled for

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a date no earlier than seven days after the decision to allow sufficient time to give appropriate public notice. At the time a decision is made to hold a meeting, the time, place, and subject matter of the meeting will be determined, as well as whether the meeting is to be open or closed to the public.

§ 295.202 Provisions under which a meeting may be closed.[1]

(a) A meeting or portion thereof may be closed to public observation, and information pertaining to such meeting may be withheld from the public, where the Commission determines that such portion or portions of its meeting or disclosure of such information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of an agency;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of this title), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would—

(i) In the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or

(ii) In the case of any agency, be likely to significantly frustrate implementation of a proposed agency action.

except that paragraph (a)(9)(ii) shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

(b) The Commission may exercise its authority to open to public observation a meeting which could be closed under one of the provisions of § 295.202(a), if it would be in the public interest to do so.

§ 295.203 Decision to close meeting.

(a) Commission members may decide to close to public observation a meeting or a portion or portions thereof, or to withhold information pertaining to such meeting, only if at least two members vote on the record to take such action. No proxy votes shall be allowed. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. If a decision is made to close a portion or portions of a meeting or a series of meetings, the Commission shall prepare a full written explanation of the closure action together with a list naming all persons expected to attend the meeting and identifying their affiliation.

(b) For every meeting or portion thereof which Commission members have voted to close, the General Counsel of the Civil Service Commission shall publicly certify that, in his or her opinion, the meeting may properly be closed to the public. In addition, the General Counsel shall state each relevant exemptive provision as set forth in § 295.202(a). A copy of the General Counsel's certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and listing the persons present, shall be retained by the Commission.

(c) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in § 295.202(a)(5), (6), or (7), the Commission members, upon request of any of the Commissioners, shall decide by recorded vote whether to close such portion. If a closure decision is made, the Commission shall prepare a full written explanation of the closure action together with a list naming all persons expected to attend the meeting and identifying their affiliation.

§ 295.204 Public availability of recorded vote to close meeting.

Within one day of any vote taken on a proposal to close a meeting, the Commission shall make publicly available a record reflecting the vote of each member on the question. In addition, within one day of any vote which closes a portion or portions of a meeting to the public, the Commission shall make publicly available a full written explanation of its closure action together with a list naming all persons expected to attend and identifying their affiliation, unless such disclosure would reveal the information that the meeting itself was closed to protect.

§ 295.205 Public announcement of meeting.

(a) Except as provided in §§ 295.207 and 295.208, the Commission shall make a public announcement at least one week before the scheduled meeting, to include the following:

(1) Time, place, and subject matter of the meeting;

(2) Whether the meeting is to be open or closed; and

(3) Name and telephone number of agency official who will respond to requests for information about the meeting.

(b) If announcement of the subject matter of a closed meeting would reveal the information that the meeting itself was closed to protect, the subject matter shall not be announced.

§ 295.206 Providing information to the public.

Information available to the public in accordance with §§ 295.204 and 295.205 shall be posted in the lobby of the Civil Service Commission Building, 1900 E Street, N.W., Washington, D.C. Individuals or organizations interested in obtaining copies of information available under § 295.204 may request same under provisions set forth in §§ 295.402 and 295.404. Individuals or organizations having a special interest in activities of the Commission may request the Executive Assistant to the Commissioners to place them on a mailing list for receipt of information available under § 295.205.

§ 295.207 Change in meeting plans after public announcement.

(a) Following public announcement of a meeting, the time or place of a meeting may be changed only if the change is announced publicly at the earliest practicable time.

[1] Text of § 295.202 taken directly from Pub. L. 94-409.

(b) Following public announcement of a meeting, the subject matter of a meeting or the determination to open or close a meeting may be changed only if both of the following conditions are met:

(1) There must be a majority, recorded vote of the Commission members that Commission business requires the change and that no earlier announcement of such changes was possible; and

(2) There must be a public announcement of the change and of the individual Commission members' votes at the earliest practicable time.

§ 295.208 Meetings for extraordinary agency business.

Where agency business so requires, Commission members may decide by majority, recorded vote to schedule a meeting for a date earlier than eight days after the decision. Such a decision would obviate the general requirement for a public announcement at least one week before the scheduled meeting. At the earliest practicable time, however, the Commission will announce publicly the time, place, and subject matter of the meeting, whether the meeting is to be open or closed, and the name and telephone number of an agency official who will respond to requests for information about the meeting.

§ 295.209 Notice of meeting in Federal Register.

Immediately following each public announcement required by this subpart, the following information, as applicable, shall be submitted for publication in the FEDERAL REGISTER:

(a) Notice of the time, place, and subject matter of a meeting;

(b) Whether the meeting is open or closed;

(c) Any change in one of the preceding; and

(d) The name and telephone number of an agency official who will respond to requests for information about the meeting.

Subpart C—Conduct of Meetings

§ 295.301 Meeting place.

Meetings will be held in meeting rooms designated in the public announcement. Whenever the number of observers is greater than can be accommodated in the meeting room designated, alternative facilities will be made available.

§ 295.302 Role of observers.

The public may attend open meetings for the sole purpose of observation. Observers may not participate in meetings unless expressly invited or create distractions to interfere with the conduct and disposition of Commission business. When meetings are partially closed, observers will leave the meeting room upon request so that discussion of matters exempt under provisions of § 295.202 may take place.

Subpart D—Maintenance of Meeting Records

§ 295.401 Requirements for maintaining records of closed meetings.

(a) A record of each meeting or portion thereof which is closed to the public must be made and retained for two years or for one year after the conclusion of the Commission proceeding involved in the meeting. The record of any portion of a meeting closed to the public shall be a verbatim transcript or electronic recording. In lieu of a transcript or recording, a comprehensive set of minutes may be produced if the closure decision was made pursuant to § 295.202(a)(8), (9)(i), or (10).

(b) If minutes are produced, such minutes shall fully and clearly describe all matters discussed, provide a full and accurate summary of any actions taken and the reasons expressed therefor, and include a description of each of the views expressed on any item. The minutes must also reflect the vote of each member on any roll call vote taken during the proceedings and identify all documents produced at the meeting.

(c) The following documents produced under provisions of § 295.203(b) shall be retained by the agency as part of the transcript, recording, or minutes of the meeting:

(1) Certification by the General Counsel that the meeting may properly be closed; and

(2) Statement from the presiding officer of the meeting setting forth the date, time, and place of the meeting and listing the persons present.

§ 295.402 Availability of records to the public.

(a) The Commission shall make promptly available to the public the transcript, electronic recording, or minutes maintained as a record of a closed meeting, except for such information as may be withheld under one of the provisions of § 295.202(a). Copies of such transcript, minutes, or transcription of an electronic recording, disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(b) The nonexempt parts of transcripts, minutes, and electronic recordings shall be in the official custody of the Executive Assistant to the Commissioners. Appropriate facilities and equipment will be made available to any person who makes a request to review these records.

(c) Requests for copies of nonexempt parts of transcripts, minutes, or transcriptions of electronic recordings shall be directed to the Executive Assistant to the Commissioners. Such requests shall identify the records being sought and include a statement that whatever costs are involved in furnishing the records will be acceptable or, alternatively, that costs will be acceptable up to a specified amount.

§ 295.403 Requests for records under Freedom of Information and Privacy Acts.

Requests to review or obtain copies of records other than transcripts, electronic recordings or minutes of a meeting will be processed under the Freedom of Information Act (5 U.S.C. 552) or, where applicable, the Privacy Act (5 U.S.C. 552a).

§ 295.404 Copying and transcription charges.

(a) The Commission will charge fees for furnishing records at the rate of ten cents per page for photocopies and at the actual cost of transcription. When the anticipated charges exceed $50, a deposit of 20 percent of the amount anticipated must be made within 30 days. Requested information will not be released until the deposit is received. Fees shall be paid by check or money order made payable to the United States Civil Service Commission.

(b) The Executive Assistant to the Commissioners has the discretion to waive charges whenever release of the copies is determined to be in the public interest.

Subpart E—Administrative Review

§ 295.501 Procedures for objections.

Any person who believes a Commission action governed by this part to be contrary to the provisions of this part may file an objection in writing with the Executive Assistant to the Commissioners. Wherever possible, the Executive Assistant will respond within two working days to objections concerning decisions to close meetings or portions thereof. Responses to objections concerning matters other than closed meetings will be made within ten working days.

Subpart F—Judicial Review

§ 295.601 Filing an action in court.

Any person may bring an action in a United States District Court to challenge or enforce the provisions of this part or the manner of their implementation. Such action may be brought prior to or within 60 days after the meeting in question, except that if proper public announcement of the meeting is not made, the action may be instituted at any time within 60 days after such announcement is made. An action may be brought where the Commission meeting was or is to be held or in the District of Columbia.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-6949 Filed 3-7-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Expenses and Rate of Assessment for the 1976-77 Fiscal Year

This document authorizes expenses of $487,000 of the Navel Orange Administrative Committee, under Marketing Order No. 907, for the 1976-77 fiscal year, and fixes a rate of assessment of $0.013 per carton of oranges handled during such year to be paid to the committee by

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each first handler as his pro rata share of such expenses.

On February 11, 1977, notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 8662) regarding proposed expenses and related rate of assessment for the period November 1, 1976, through October 31, 1977, pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California. This notice allowed interested persons 17 days to submit written data, views, or arguments pertaining to these proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the committee, established pursuant to said marketing agreement and order, it is hereby found and determined that:

§ 907.214 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Navel Orange Administrative Committee, during the period November 1, 1976, through October 31, 1977, will amount to $487,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 907.41, is fixed at $0.013 per carton of Navel oranges.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (7 U.S.C. 553) in that (1) shipments of oranges have already begun, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable orange handled during the 1976–77 fiscal year; and (3) such year began on November 1, 1976, and the rate of assessment herein fixed will automatically apply to all assessable oranges beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: March 3, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-6888 Filed 3-7-77;8:45 am]

[Lemon Reg. 81, Amdt.]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period February 27–March 5, 1977. The quantity that may be shipped is increased due to improved market conditions for California-Arizona lemons. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of lemons available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lemon Regulation 81 (42 FR 10996). The marketing picture now indicates that there is a greater demand for lemons than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of lemons to fill the current market demand thereby making a greater quantity of lemons available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* Paragraph (b)(1) of § 910.381 Lemon Regulation 81 (42 FR 10996) is hereby amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period February 27, 1977 through March 5, 1977, is hereby fixed at 220,000 cartons."

(Sec. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: March 3, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-6750 Filed 3-7-77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined

This amendment quarantines portions of San Diego County in California because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of California before the reference to "Virginia" and a new paragraph (a)(3) relating to the State of California is added to read:

§ 82.3 Areas quarantined.

(a) • • •

• • • • • •

(3) *California.* (i) That portion of San Diego County comprised of secs. 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36, T. 15 S., Range 2 E.

(ii) That portion of San Diego County comprised of secs. 1, 2, 3, 4, and 5, T. 16 S., Range 2 E.

(iii) That portion of San Diego County comprised of secs. 18, 19, 30, and 31, T. 15 S., Range 3 E.

(iv) That portion of San Diego County comprised of sec. 6, T. 16 S., Range 3 E.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1, 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date: The foregoing amendment shall become effective on March 3, 1977.

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., this 3rd day of March 1977.

G. V. PEACOCK,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-6767 Filed 3-7-77;8:45 am]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, MEAT AND POULTRY INSPECTION, DEPARTMENT OF AGRICULTURE

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Designation of the State of Ohio

AGENCY: Department of Agriculture, Animal and Plant Health Inspection Service, Meat and Poultry Inspection.

ACTION: Final Rule.

SUMMARY: In a document published on March 3, 1977, in the FEDERAL REGISTER (42 FR 12177), the State of Ohio was designated, effective March 3, 1977, under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act; and April 3, 1977, was specified as the "Effective date of application of Federal provisions". This document changes the effective date of designation of Ohio under both Acts from March 3, 1977, to March 10, 1977, and changes the "Effective date of application of Federal provisions" from April 3, 1977, to April 10, 1977.

EFFECTIVE DATE: March 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. James K. Payne, Director, Federal-State Relations, Field Operations, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202/447-6313).

SUPPLEMENTARY INFORMATION: The document published in the FEDERAL REGISTER on March 3, 1977, referred to above, provided that the State of Ohio would cease administering its State meat and poultry inspection programs on March 31, 1977. The provisions of the Federal Acts become applicable by law to intrastate operations and transactions in the State of Ohio upon expiration of 30 days after publication of the notice of designation in the FEDERAL REGISTER. Therefore, under the provisions of the said document, the "Effective date of application of Federal provisions" would be April 3, 1977. In order to prevent a gap in the inspection coverage of intrastate meat and poultry operations and transaction in the State of Ohio, representatives of the Governor of Ohio have advised this Department that the State of Ohio will continue to administer its State meat and poultry inspection programs through April 9, 1977, and will not administer such programs thereafter. Therefore, the effective date of designation under the Federal Meat Inspection Act and the Poultry Products Inspection Act is changed from March 3, 1977, to March 10, 1977, and the effective date of application of Federal provisions is changed from April 3, 1977, to April 10, 1977.

Accordingly, the table in § 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is amended as follows:

§ 331.2 [Amended]

In the "Effective date of application of Federal provisions" column, on the line with "Ohio", the reference to "April 3, 1977" is changed to "April 10, 1977".

(Secs. 21 and 301(c), 34 Stat. 1260, as amended; 21 U.S.C. 621, 661(c); 37 FR 28464, 28477.)

§ 381.221 [Amended]

Further, the table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended as follows:

In the "Effective date of application of Federal provisions" column, on the line with "Ohio", the reference to "April 3, 1977" is changed to "April 10, 1977".

(Secs. 5(c) and 14, 71 Stat. 441, as amended; 21 U.S.C. 454(c), 463; 37 FR 28464, 28477.)

These amendments of the Federal meat inspection regulations and the poultry products inspection regulations are necessary to reflect the determinations of the Secretary of Agriculture under section 301(c) of the Federal Meat Inspection Act and section 5(c) of the Poultry Products Inspection Act. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on March 3, 1977.

T. G. DARLING,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.77-6889 Filed 3-7-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Crude Oil Prices; Miscellaneous Actions

A. SUMMARY

FEA is today amending the domestic crude oil price regulations to provide for a continuation of the current freeze on monthly crude oil ceiling price adjustments and to adjust downward the upper tier ceiling price by an additional 45 cents per barrel for the months of March through July, 1977. These actions are taken to achieve compliance with the limitations on domestic crude oil prices prescribed by section 8 of the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"). Upper tier crude oil accounts for about 36 percent of domestic crude oil production and about 20 percent of all crude oil processed in United States refineries.

Under section 8 of the EPAA, the weighted average first sale ("statutory composite") price for domestic crude oil is set at $7.66 per barrel, subject to a ten percent annual price increase to reflect the effects of inflation and to provide production incentives. Under FEA regulations, the statutory composite price is approximated by weight-averaging the average lower tier price (currently about $5.17 per barrel) with the average upper tier price (about $11.62 per barrel). A third category, exempt stripper well crude oil, is given an imputed value near the upper tier price. If the actual composite price exceeds the statutory composite price, FEA is required to take compensating actions to the extent necessary to achieve compliance with statutory pricing limitations.

B. BACKGROUND

On November 16, 1976, the FEA issued a notice of proposed rulemaking and public hearing (41 FR 50960, November 18, 1976) in order to consider what steps FEA should take to comply with the requirement in section 8(c) of the EPAA, to make adjustments in crude oil price levels to compensate for actual weighted average first sale prices of domestic crude oil which have exceeded the statutory maximum weighted average first sale price limitations. In its notice of proposed rulemaking, FEA noted that the amounts in excess of the statutory limits appeared to have increased significantly in recent months, due primarily to recent statutory and regulatory amendments relating to qualification for stripper well status and the definition of "property," even though upper and lower tier crude oil price ceilings had remained since July 1, 1976, at the maximum levels permissible for June, 1976.

Alternative proposals upon which comments were requested were: (1) a rollback of upper tier price levels by an estimated $1.40 to $1.60 per barrel during December, 1976, and January, 1977,

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in order to compensate fully by January 31, 1977, for cumulative pricing overages since February which, as of September (preliminary data), totalled nearly $200 million; (2) a continuation of the limitation on crude oil ceiling prices at their June, 1976, levels through December, 1976, in order to obtain more complete data, followed by appropriate compensatory action extending over a seven-month period (January to July, 1977) in order to compensate fully by July 31, 1977, for cumulative pricing overages through December, 1976, while also minimizing disruptive effects on domestic production which might result from option (1); and (3) depending upon the results of data for December, 1976, under alternative (2), further continue the price freeze pending consideration by Congress of an energy action to be submitted by FEA pursuant to section 8(e) of the EPAA, under which a one-time increase in the statutory composite price for January, 1977, sufficient to compensate for total cumulative receipts projected to exist at that time, would be proposed.

FEA noted that, if preliminary results for September, 1976, were confirmed by available data in December, 1976, a continuation of the present freeze on crude oil price ceilings until July 31, 1977, would be sufficient to correct fully for all crude oil pricing overages which have occurred or which shall have occurred since February, 1976. FEA also stated, however, that later data might indicate that this course of action would not be sufficient, and in such event FEA would, under the proposed regulation amendments, be able to reduce upper tier ceiling price levels to the extent necessary to reduce cumulative excess revenues to zero by July 31, 1977.

Following receipt of written comment and public hearings on these matters, FEA on November 30, 1976, issued regulation amendments which (1) extended the ceiling price freeze until December 31, 1976, in order to obtain more complete data before taking further corrective action to compensate for pricing overages, and (2) provided FEA with authority to require price reductions should such action become necessary (41 FR 53333, December 6, 1976). In addition, the rulemaking proceedings were expressly continued with respect to a final decision on the appropriate action to be taken with respect to crude oil ceiling prices during the period January 1977–July 1977 to achieve compliance with the composite price constraints.

Based on preliminary data for October, 1976, and other information indicating a further decline in the percentage of lower tier crude oil (which automatically increases the actual composite price for crude oil), FEA issued regulation amendments on December 31, 1976, which (1) reduced the upper tier price ceilings by 20 cents per barrel, applicable to crude oil produced and sold in January, February, and March, 1977, and (2) continued the freeze on monthly price adjustments, with respect to both lower tier ceiling price levels and the reduced upper tier price ceilings, through March, 1977.

C. Basis for Today's Action

In its notice of proposed rulemaking in this matter, FEA presented the following table indicating the extent to which actual composite prices had exceeded the statutory composite price based on preliminary data for September, 1976:

Table 1

Month	Lower tier percent	Lower tier price	Upper tier price	Statutory composite price	Actual composite price	Cumulative excess receipts
			(in thousands)			
February	56.12	$5.05	$11.48	$7.66	$7.87	$49
March	56.93	5.07	11.39	7.72	7.79	67
April	56.69	5.07	11.52	7.78	7.86	86
May	57.04	5.13	11.55	7.84	7.89	97
June	55.92	5.15	11.60	[1] 7.88	7.99	123
July	55.58	5.19	11.60	[1] 7.93	8.04	152
August [2]	55.66	5.18	11.62	[1] 7.98	8.03	104
September [2]	52.60	5.16	11.65	[1] 8.04	[3] 8.18	197

[1] Reduced from original projected figures (see table I) of $7.91 for June, $7.97 for July, $8.03 for August, and $8.09 for September, due to reduction in annual rate of increase from 9.3 to 6.5 pct (reflecting decline in rate of inflation from 6.8 to 3.5 pct) applicable to June, July, and Aug. 1–13. Pursuant to secs. 122 and 124 of the ECPA, a full 10 pct annual rate of increase is used for Aug. 14–31 and the month of September. The average rate of increase for August is 8.52 pct.
[2] Preliminary.
[3] Includes prices for stripper well crude oil production at an imputed value of $11.63/bbl in accordance with sec. 121 of the ECPA.

In commenting on this table, FEA indicated that the decline of about 2.28 percentage points in the percentage of lower tier crude oil between August and September, 1976, contributed to a 15 cent-per-barrel increase in the actual composite price between August and September and a $33 million increase in excess revenues for September. (The decline of about 2.28 percentage points in one month contrasts with the monthly decline of about 0.38 percentage points used for projection purposes in developing FEA's first crude oil price adjustment schedule, based on an estimated national average decline in the volume of lower tier crude oil of eight percent annually.) FEA attributed this unusual decline in the percentage of lower tier crude oil largely to the change in the definition of "property" and the change in the terms of qualification for the stripper well exemption, both of which became effective September 1, 1976.

In its December 31, 1976, regulation amendment providing for a 20 cents per barrel reduction in the upper tier ceiling price, FEA noted that a further abrupt decline in the percentage of lower tier crude oil appeared to have occurred based on preliminary data for October, 1976, and that another unusual decline could be anticipated for November, 1976. Based on data available in December, 1976, FEA projected that cumulative excess receipts would climb from almost $200 million by the end of September, 1976, to about $270 million by the end of December, 1976.

FEA now has final data for all months through November and preliminary data for December, 1976. Data for the last five months show the following developments and trends:

Table 2

Month (1976)	Lower tier percent	Lower tier price	Upper tier price	Statutory composite price	Actual composite price [1]	Cumulative excess receipts (in thousands)
August	55.66	5.18	11.62	7.98	8.03	104
September	53.41	5.17	11.62	8.04	8.19	198
October	52.39	5.15	11.62	8.11	8.23	227
November	49.94	5.17	11.62	8.17	8.40	282
December [2]	50.07	5.17	11.64	8.24	8.40	320

[1] Includes prices for stripper well crude oil production at values imputed in accordance with sec. 121 of the ECPA.
[2] Preliminary.

Table 2 shows an abrupt decline in the percentage of lower tier crude oil between October and November which was similar in proportions to the decline between August and September, previously noted. In November, 1976, for the first time, the percentage of lower tier crude oil dropped below 50 percent of total domestic production. FEA attributes the decline for November, in the main, to a second, and probably the final significant round, of effects on the ratio of lower to upper tier crude oil resulting from the redefinition of "property" and the change in the period of qualification for the stripper well exemption. Although the change in the definition of "property" can have effects in future months, the slight resurgence in the percentage of lower tier crude oil for December (preliminary), which brought lower tier production just above the 50 percent mark, supports FEA's view that most of the effects of the regulatory changes effective September 1, 1976, have now been felt.

Since total cumulative excess receipts in December appear to be $320 million, or about $50 million in excess of the $270 million projected for December at the time of the upper tier price rollback effective January 1, 1977, it appears that further corrective action is necessary in order to achieve compliance with statutory requirements for fully compensating action by the end of the six-month period ending July 31, 1977. In addition, because the prior forecasts by FEA have tended to underestimate the effects on the percentage of lower tier crude oil of regulatory changes such as the change in the definition of "property," FEA believes that it is appropriate to set price levels beginning March 1, 1977, such that reduction of cumulative excess receipts to zero is projected to occur by the end of June, 1977, rather than by the end of July, 1977. This will provide a reasonable margin of "deficit receipts" to accommodate any further unanticipated data trends and the like over the next few months.

In accordance with the foregoing, and based on data available to date, FEA has determined that a further reduction in the upper tier ceiling price level of 45 cents per barrel, effective March 1, 1977, coupled with a continuation of the freeze on lower tier price ceilings, until July 31, 1977, is necessary to achieve full compliance with statutory requirements relating to crude oil price adjustments. This decision is implemented by issuance today of Price Schedule No. 6, which supersedes the most recently issued price schedule effective March 1, 1977. Schedule No. 6 is issued pursuant to § 212.77 as an appendix to 10 CFR Part 212, Subpart D.

FEA plans to monitor on a month-to-month basis the extent to which the "curve" of declining cumulative excess receipts matches the FEA projected decline of excess receipts to zero by June, 1977. If actual performance closely matches the projection over the next few months, and if there are no new factors present which might disrupt the orderly progress of corrective action, FEA plans to resume monthly price increases (consistent with statutory authority as it exists at that time) in gradual steps rather than in one large increment compensating for prices which have been held in check through freeze and rollback actions. This approach is designed to (1) discourage withholding of production in anticipation of a large price increase, and (2) provide FEA with a "bank" of deficit receipts which will be useful in compensating for any future misestimations in connection with compliance with statutory composite price requirements in future periods.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective March 1, 1977.

Issued in Washington, D.C., March 1, 1977.

Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

1. Subpart D of Part 212 is amended to add an Appendix to read as follows:

Appendix.—*Schedule No. 6 of monthly price adjustments. Effective Mar. 1, 1977*

Month	Lower tier, May 15, 1975, posted price [1] (plus)	Upper tier, Sept. 30, 1975, posted price [2] (less)
1976		
February	1.35	1.32
March	1.38	1.25
April	1.41	1.18
May	1.45	1.11
June	1.48	1.05
July	1.48	1.05
August	1.48	1.05
September	1.48	1.05
October	1.48	1.05
November	1.48	1.06
December	1.48	1.05
1977		
January	1.48	1.25
February	1.48	1.25
March	1.48	1.70
April	1.48	1.70
May	1.48	1.70
June	1.48	1.70
July	1.48	1.70

[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).
[2] The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Federal Energy Administration on March 1, 1977, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through February 1977, as determined under 10 CFR 212.73, 212.74, and 212.77, and continues to hold the lower tier price ceilings applicable to crude oil to be produced and sold in the months of March through July 1977, at the ceiling price level for the month of June 1976. In addition, upper tier ceiling prices, which were reduced under Schedule No. 5 effective January 1, 1977, are further reduced effective March 1, 1977, as indicated in this schedule.

This schedule is effective only through July 31, 1977. Price ceilings for subsequent months will be provided by Schedule No. 7, to be issued on or about July 31, 1977. This schedule may, however, be superseded prior to July 31, 1977, by early issuance of Schedule No. 7 to reflect further ceiling price adjustments based on unanticipated trends in actual composite price levels.

[FR Doc.77–6593 Filed 3–2–77;9:32 am]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 720—DESCRIPTION OF OFFICE, DISCLOSURE OF OFFICIAL RECORDS—AVAILABILITY OF INFORMATION, PROMULGATION OF REGULATIONS

Privacy Act of 1974; Specific Exemptions of Systems of Records

On page 4430 of the October 8, 1976, edition of the Federal Register, the National Credit Union Administration (NCUA) set forth a proposal to revise 12 CFR 720.35, in order to specifically identify (1) those systems of records for which exemptions from the Privacy Act are claimed and (2) the provisions of the Privacy Act from which those systems are exempted.

Interested persons were given until November 12, 1976, to submit written data, views or arguments on the proposal. All comments received recommended adoption of the proposal without change.

Accordingly, as set forth below, the October 8, 1976, proposal is adopted without change, effective immediately.

C. Austin Montgomery,
Administrator.

February 22, 1977.

Authority: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766; sec. 209, 84 Stat. 1014 (12 U.S.C. 1789).

§ 720.35 Exemptions.

(a) The Administration maintains three systems of records which are exempted from some of the provisions of the Privacy Act of 1974. In paragraphs (b) and (c) of this section, those systems of records are identified (by System Name and System Number as stated in the Administration's "Notice of Systems of Records," published in the Federal Register) and the provisions from which each system is exempted and the reasons therefor are set forth.

(b) System NCUA–2, entitled "Federal Employee Security Investigations Containing Adverse Information," consists of adverse information about Administration employees which has been obtained as a result of routine Civil Service Commission security investigations. System NCUA–17, entitled "Security Clearance Records Concerning NCUA Personnel Who Occupy Critical Sensitive Positions," consists of records obtained as a result of investigations conducted by the Civil Service Commission and/or the Federal Bureau of Investigation to determine qualifications of NCUA officials for security clearances. To the extent that the Administration maintains records in either of these systems pursuant to Civil Service Commission guidelines which require or may require retrieval of information by use of individual identifiers, those records are encompassed by and included in the Civil Service Commission's Government Wide System of Records Number 4, entitled "Personnel Investigations Records," and thus are subject to the applicable specific exemptions promulgated by the Commission at 5 C.F.R. 297.117. Additionally, in order to ensure the protection of properly confidential sources, particularly as to those records which are not maintained pursuant to such Civil Service Commission requirements, the records in these systems of records are exempted, pursuant to section k(5) of the Act (5 U.S.C. 552a (k)(5)), from section (d) of the Act (5 U.S.C. 552a(d)). As a result, to the extent that disclosure of a record would reveal the identity of a confidential source the Administration need not grant access to that record by its subject. Information which would reveal a confidential source shall, however, whenever possible, be extracted or summarized in a manner which protects the source and the summary or extract shall be provided to the requesting individual.

(c) System NCUA–4, entitled "Investigative Reports Involving Possible

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Felonies and/or Violations of the Federal Credit Union Act," consists of a limited number of records about individuals suspected of involvement in felonies or infractions under the Federal Credit Union Act (12 U.S.C. 1751, et seq.). These records are maintained in an overall context of general investigative information concerning crimes against credit unions, the bulk of which does not pertain to and is not identifiable to individual persons. To the extent that individually identifiable information is maintained, however, for purposes of protecting the security of any investigations by appropriate law enforcement authorities and promoting the successful prosecution of all actual criminal activity, the records in this system are exempted, pursuant to section k (2) of the Act (5 U.S.C. 552a(k)(2)), from sections (c)(3) and (d) of the Act (5 U.S.C. 552a (c)(3), (d)). As a result, the Administration need not make an accounting of previous disclosures of a record in this system of records available to its subject, and the Administration need not grant access to any records in this system of records by their subject. Further, whenever an individual requests records about himself and maintained in this system of records, the Administration shall, to the extent necessary to realize the above stated purposes, neither confirm nor deny the existence of that record but shall advise the individual only that no record available to him pursuant to the Privacy Act of 1974 has been identified. However, should a review of the information reveal that it has been used or is being used to deny the individual any right, privilege or benefit for which he is eligible or to which he would otherwise be entitled under Federal law, the individual shall be advised of the existence of the information and shall be provided the information except to the extent it would identify a confidential source. Information which would identify a confidential source shall, if possible, be extracted or summarized in a manner which protects the source and the summary or extract shall be provided to the requesting individual.

(d) For the purposes of this section, a "confidential source" means a source who furnished information to the Government under an express promise that the identity of the source would remain confidential, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

[FR Doc.77-6723 Filed 3-7-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-968, Amdt. 1]

PART 221a—FARE SUMMARIES

Notice of Approval by Comptroller General

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., March 1, 1977.

In Regulation ER-979, 41 FR 55865, December 23, 1976, 42 FR 1220, January 6, 1977 (Docket 27769), the Board issued a new Part 221a, Fare Summaries, which contained the following note:

NOTE.—The Civil Aeronautics Board has decided to submit this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, U.S.C. 3512. The effective date of this rule accordingly reflects inclusion of the 45-day period which that statute allows for such review. 44 U.S.C. 3512(c)(2).

This is to serve notice that Regulation ER-979 has been approved by the Comptroller General, under Number B-180226 (R0434), and that its effective date remains unchanged: June 1, 1977.

Moreover, in order to reflect such review and approval by the Comptroller General, said note is hereby amended to read as follows:

§ 221a.8 Filing with the Board.

* * * * *

NOTE.—The reporting requirement contained in Part 221a has been approved by the U.S. General Accounting Office under Number B-180226 (R0434).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

Effective: March 1, 1977.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6895 Filed 3-7-77;8:45 am]

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-110, Amdt. 56]

PART 385—DELEGATION AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Delegation of Authority to Secretary

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., March 1, 1977.

Some rules adopted by the Board contain provisions that may require clearance by the Comptroller General under the Federal Reports Act 44, U.S.C. 3512, and the Comptroller General is allowed 45 days in which to conduct such review (44 U.S.C. 3512(c)(2)).

Under its recently adopted practice, with respect to the issuance and effectiveness of rules that it adopts containing provisions submitted to the Comptroller General for clearance, the Board issues and publishes in the FEDERAL REGISTER such rules upon adoption, and appends a note thereto advising the public that the rule is being submitted to the Comptroller General for clearance and that the effective date of the rule reflects inclusion of the 45-day period which the statute allows for such review.

Under this practice, it therefore is necessary for the Board to further advise the public when such clearance has been received, by issuance of an appropriate note that supersedes the note originally published, as aforesaid.

Since the issuance of the superseding note is a purely ministerial function the Board has decided to delegate to its Secretary the authority to issue these purely informative amendments, and to specifically authorize the Secretary's action to become immediately effective.

Since this is a rule of agency organization, and imposes no burden on anyone, the Board has determined that notice and public procedure are unnecessary and that this rule may become effective upon adoption.

Accordingly, Part 385 of the Board's Organization Regulations is hereby amended as follows:

Amend § 385.24 by redesignating the existing delegation of authority as paragraph (a) and adding a paragraph (b) to include the new delegation of authority, the section as revised to read as follows:

§ 385.24 Delegation to the Secretary.

The Board hereby delegates to the Secretary the authority to:

(a) Receive and determine pursuant to the Privacy Act of 1974, Pub. L. 93-579, section 552a, 5 U.S.C. 552a and Part 310a of the Board's Procedural Regulations, requests for notification, accounting of disclosure, inspection and amendment of records contained in a system of records of which the Board has published notice other than the system of records entitled "Employee payroll and leave and attendance records and files—CAB."

(b) Issue appropriate amendments to any of the Board's regulations that are necessary to reflect the fact that such regulation has been approved by the Comptroller General and that the effective date of such regulation remains unchanged. Action taken by the Secretary under this delegation shall become effective immediately.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6896 Filed 3-7-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-77]

PART 159—COUNTERVAILING DUTIES

Float Glass From Italy

On January 7, 1976, Treasury Decision 76-9 was published in the FEDERAL REGISTER (41 FR 1274). That Treasury Decision stated that it had been determined that imports of float glass from Italy produced by Societa' Italiana Vetro, S.p.A. (SVI) and Fabbrica Pisana, S.p.A. (Pisana) benefit from the payment or bestowal of bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), "by reason of various incentive programs including investment grants, special tax reductions, low-interest rate financing and the reduction of the contribution to state welfare organizations by the float glass manufacturers." It was also stated that float glass produced by Verrara di Verrante, S.p.A., did not benefit from the payment or bestowal of bounties or grants.

Because SIV and Pisana declined to provide any detailed information prior to the aforementioned determination regarding the benefits each received, the determination was based on the best information available, and the net amount of the bounties or grants was estimated at 10 percent ad valorem for float glass produced by both companies. Effective on January 7, 1976, liquidation was suspended of all entries for consumption or withdrawals from warehouse for consumption of such dutiable float glass produced by SIV and Pisana imported directly or indirectly from Italy which benefits from such bounties or grants.

Information has now been received with respect to SIV which permits a more complete analysis of the alleged bounties and grants. Under various regional development programs administered by the Government of Italy, it now appears that an investment grant, preferential financing and a reduction in the required contribution to the state welfare organization have been given to SIV. No special tax reductions have been utilized by SIV. The Italian Government has advised the Treasury Department that the benefits received by SIV have the effect of offsetting disadvantages which would discourage SIV from moving to and expanding in less prosperous regions. Inasmuch as SIV sells a preponderance of its production in the European Community—more than 97 percent in 1975—the level of its exports outside the European Community is a small percentage of its production, and the amount of assistance provided by the government programs to SIV totaled less than three percent of the value of float glass it produced, those benefits are not regarded as bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

For the reasons stated above, it is hereby determined that no bounty or grant is being, or has been, paid or bestowed directly or indirectly, upon the manufacture, production, or exportation of float glass from Italy produced by Societa' Italiana Vetro, S.p.A. within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), and T.D. 76-9 is hereby modified so as to exclude float glass from Italy produced by SIV.

Accordingly, it has been ascertained, determined or estimated and hereby declared, that the net amount of the bounty or grant paid or bestowed upon the subject merchandise produced by SIV is 0 percent ad valorem, and no countervailing duties will be collected upon the liquidation of entries of the subject merchandise for consumption or withdrawals from warehouse for consumption for the period January 7, 1976, through the date of publication of this notice in the FEDERAL REGISTER. Furthermore, the order to suspend liquidation of all entries for consumption or withdrawals from warehouse for consumption of the subject merchandise produced by SIV, is hereby revoked.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by deleting in the last entry for Italy under the column headed "Commodity", which now reads "Float glass manufactured by Societa' Italiana Vetro S.p.A. and Fabbrica Pisana S.p.A.", the words "Societa' Italiana Vetro S.p.A and"; inserting in the column headed "Treasury Decision" the number of this Treasury Decision; and inserting the words "Bounty declared-rate; Modified as to float glass manufactured by Societa' Italiana Vetro S.p.A." in the column headed "Action".

(R.S. 251, as amended secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2051, 2052 (19 U.S.C. 66, 1303, as amended, 1624))

VERNON D. ACREE,
Commissioner of Customs.

Approved: March 2, 1977.

JOHN H. HARPER,
Acting Assistant Secretary of the Treasury.

[FR Doc.77-6739 Filed 3-7-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 76P-0104]

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

Expanded Use of National Drug Code (NDC) Number

The Food and Drug Administration (FDA) is permitting the National Drug Code (NDC) number to appear on the label of any drug product as part of and contiguous to any bar-code symbol that is used, provided the bar-code has a format for including the numeric characters of the NDC number. This regulation is effective April 7, 1977.

The Commissioner of Food and Drugs proposed, in the FEDERAL REGISTER of July 19, 1976 (41 FR 29709), to revise § 207.35(b)(3)(i) (21 CFR 207.35(b)(3)(i)) to permit the NDC number to appear as part of and contiguous to the Universal Product Code (UPC) symbol on all drug products. The proposal was issued in response to a petition by Parke, Davis & Co., Detroit, MI. Interested persons were invited to comment until September 17, 1976.

Comments were received from two manufacturers, a trade association, an individual, and an organization concerned with blood-bank automation. A summary of the significant comments and the Commissioner's conclusions are as follows:

1. One comment objected to permitting the use of the UPC bar code on prescription drugs because other bar codes might be better suited for hospitals, particularly for patient identification and physician order verification. The comment also suggested that the proposal would amount to FDA setting a bar-code standard.

The Commissioner did not intend to establish the UPC symbol as a bar-code standard. The Universal Product Code was developed by the retail industry several years ago for application to all products, including drug products, sold by participating retailers to ease price totaling and inventory control. At the outset, drug manufacturers requested that the NDC system be made compatible with the UPC system and that FDA permit the NDC number, which is printed as part of the UPC symbol on consumer packages, to be accepted as meeting the FDA labeling provisions for printing the NDC number on such consumer packages. Members of the industry and FDA agreed on procedures to achieve compatibility of the two systems, and the NDC number was permitted to appear as part of and contiguous to the UPC symbol for OTC drugs. (See the FEDERAL REGISTER of November 7, 1975 (40 FR 52000).) The purpose of the July 19, 1976 proposal was to permit the use of the NDC number as an integral part of the UPC symbol for prescription drug products.

The Food and Drug Administration encourages the use of the NDC number on drug product labels and labeling, including the label of any prescription drug container furnished to a consumer. The Commissioner recognizes that there are bar-code systems other than the UPC system that may be useful for the control or marketing of drug products or in patient identification. The final regulation is therefore revised to permit the NDC number to appear as part of and contiguous to any bar-code symbol for any drug product, provided such symbol is compatible with the NDC number, i.e., the symbol provides a format capable of encoding the numeric characters of an NDC number.

2. Another comment requested that human blood and blood products be exempt from the requirement to use the UPC.

The Commissioner advises that the amendment to § 207.35(b)(3)(i) merely permits, and does not require, the use of the UPC or other code on any drug product. An exemption from the regulation for human blood and blood products is therefore not required.

3. One comment objected to the requirement that the NDC number appear in the top third of the principal display panel of the label. The comment stated that the top third of the front panel has traditionally been reserved for the brand name, generic name, and function of the drug and that any prominent placement of the NDC number would serve the function of having a unique code for every drug without restricting package design. The comment stated further that the proposal would allow the NDC number to be placed anywhere on the label, except the natural bottom, if the NDC number is part of and contiguous to a bar-code and that this is unfair to manufacturers who do not use a bar-code symbol.

The Commissioner advises that although use of the NDC number is en-

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couraged, the regulations do not require its use. But when the NDC number is used, the requirement that it appear in the top third of the principal display panel is necessary to assure that the NDC number is prominently displayed on the label and readily discernible from other graphic and printed matter on the label. A bar-code symbol itself is readily discernible from other graphic and printed matter on the label. The Commissioner concludes that an NDC number that is part of and contiguous to a bar-code symbol will continue to assure prominent placement of the NDC number and will continue to make it readily discernible from other graphic and printed matter on the label.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 506, 507, 510, 512, 701(a), 704, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055, 55 Stat. 851, 59 Stat. 463 as amended, 67 Stat. 477 as amended, 76 Stat. 794–795 as amended, 82 Stat. 343–351 (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374)); the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)); and the Drug Listing Act of 1972 (Pub. L. 92–387 (86 Stat. 559–562)) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner is amending Part 207 by revising § 207.35(b)(3)(i) to read as follows:

§ 207.35 Notification of registrant; drug establishment registration number and drug listing number.

* * * * *

(b) * * *

(3) * * *

(i) The NDC number shall be placed prominently in the top third of the principal display panel of the label of the immediate container and of any outside container or wrapper. In lieu of placement of the NDC number in the top third of the label, the NDC number may appear as part of and contiguous to any bar-code symbol for any drug product if such symbol appears prominently on the immediate container and any outside container or wrapper and in a conspicuous location, but in no event on the natural bottom of a container or wrapper: *Provided*, That such bar-code symbol is compatible with the NDC, i.e., the symbol provides a format capable of encoding the numeric characters of an NDC number. The term "principal display panel," as used in this paragraph, means that part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display to the consumer (for over-the-counter drug products) or to the dispenser (for prescription drug products).

* * * * *

Effective date: This regulation shall become effective on April 7, 1977.

(Secs. 201, 502, 505, 506, 507, 510, 512, 701(a), 704, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055, 55 Stat. 851, 59 Stat. 463 as amended, 67 Stat. 477 as amended, 76 Stat. 794–795 as amended, 82 Stat. 343–351 (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374); (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)); (Pub. L. 92–387, 86 Stat. 559–562).)

Dated: March 2, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-6737 Filed 3-7-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Bunamidine Hydrochloride

The Food and Drug Administration has evaluated two supplemental new animal drug applications to NADA No. 35–016V filed by Burroughs Wellcome Co., 3030 Cornwallis Rd., Research Triangle Park, N.C. 27709, proposing the safe and effective use of bunamidine hydrochloride tablets for dogs for the treatment of *Echinococcus granulosus* infections in addition to its other approved uses, and to indicate that Burroughs Wellcome Co. is now the sponsor of this application. The supplemental applications are approved, effective March 8, 1977.

The Commissioner of Food and Drugs is amending Part 520 (21 CFR Part 520) to reflect this approval.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday except on Federal legal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 520 is amended in § 520.222 by revising paragraphs (b), (c), and (d)(1) to read as follows:

§ 520.222 Bunamidine hydrochloride.

* * * * *

(b) *Specifications.* The drug is an oral tablet containing 100, 200, or 400 milligrams of bunamidine hydrochloride.

(c) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(d) *Conditions of use.* (1) The drug is intended for oral administration to dogs for the treatment of the tapeworms *Dipylidium caninum*, *Taenia pisiformis*, and *Echinococcus granulosus*, and to cats for the treatment of the tapeworms *Dipylidium caninum* and *Taenia taeniaeformis*.

* * * * *

Effective date. This amendment becomes effective March 8, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: March 3, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-6911 Filed 3-7-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7470]

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Change of Annual Accounting Period for Foreign Corporations

Correction

In FR Doc. 77–6443, appearing in the issue of Thursday, March 3, 1977, on page 12178, the T.D. number now reading "[T.D. 1479]" should read "[T.D. 7470]" as set forth above.

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

PART 243—INTERGOVERNMENTAL COORDINATION OF DOD LAND AND FACILITY PLANS AND PROJECTS

A notice of proposed rulemaking was published in the FEDERAL REGISTER on March 3, 1976 (41 FR 43) for addition to Part 32 (CFR Part 243 entitled "Intergovernmental Coordination of DoD Land and Facility Plans and Projects"). This addition establishes policies, responsibilities and procedures for an intergovernmental process to facilitate the coordination of appropriate DoD land and facilities plans and projects in the United States with State, areawide, local government and other Federal agencies. Interested persons were given until April 5, 1976 to submit written comments. Several comments were received from the public, other Federal agencies and from DoD components. In consideration of comments received, 32 CFR 243 is issued as follows:

Sec.
243.1 Purpose.
243.2 Applicability and scope.
243.3 Policy.
243.4 Responsibilities.
243.5 Procedures.
243.6 Examples of other agency plans and programs which may require DoD component review and/or input.
243.7 Examples of A–95 coordinating agencies.
243.8 DoD Federal Regional Council liaison representatives for A–95 matters.
243.9 Effective date.

AUTHORITY: OMB Circular Number A–95 of January 18, 1976.

§ 243.1 Purpose.

This part:

(a) Establishes Department of Defense policies, responsibilities, and procedures for an intergovernmental coordination process pursuant to Title IV of the Intergovernmental Cooperation Act of 1968 (42 USC 4231) to facilitate coordination of appropriate DoD land and facility plans and projects in the United States with State, areawide, local government and other Federal agencies.

(b) Provides policy, responsibilities and procedures for a DoD review process which encourages State, areawide, local government and other Federal agencies to submit to DoD components for review and evaluation, plans and projects of DoD activities in the United States.

(c) Implements Office of Management and Budget Circular A–95 with specific reference to portions of Part II thereof which are not otherwise implemented by DoD issuances.

§ 243.2 Applicability and scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments (excluding the Civil Works function of the Corps of Engineers and the functions under Part I and Part III of Office of Management and Budget Circular Number A–95 of the Defense Civil Preparedness Agency), and the Defense Agencies (hereinafter referred to collectively as "DoD Components").

(b) This part encompasses: (1) all plans and projects developed by DoD Components for construction (regardless of funding source), acquisition of real property, withdrawals of Federal land for military use, substantial changes in existing utilization of military installations and real property, and disposal of real property which may affect State, areawide, local government or other Federal agencies (hereinafter referred to collectively as "Domestic Agencies") community development plans and programs and conversely (2) plans and programs developed and implemented by Domestic Agencies which may affect the land and facility plans and projects of DoD activities. A representative listing of such non-DoD agency plans and programs is contained in § 243.6. An illustrative list of Domestic Agencies involved in such plans and programs is contained in § 243.7.

(c) The policies, responsibilities and procedures discussed in this part do not substitute for or limit compliance with existing laws, executive orders and applicable Federal regulations applying to requirements such as contained in the National Environmental Policy Act (NEPA) of 1969 (Pub. L. 91–190) as implemented by DoD Directive 6050.1 [1] (32 CFR 214); Federal Water Pollution Control Act; Executive Order 11512, Planning, Acquisition and Management of Federal Space, and the Coastal Zone Management Act as implemented by DoD Instruction 4165.59, or with existing cooperative agreements between DoD Components and State, areawide, local governments or other Federal agencies on other than A–95 matters such as conservation, etc.

[1] See footnotes at end of document.

§ 243.3 Policy.

(a) DoD Components shall establish and maintain an intergovernmental coordination management process to achieve full consultation with required State and area-wide clearinghouses, other Federal Agencies and other appropriate elected and appointed officials at the earliest appropriate stage of planning for construction, acquisition of real property, substantial changes in the utilization of military installations and real property, and disposal of real property that may affect Domestic Agencies' community development plans and programs.

(b) DoD Components, which conduct activities or operate installations which may be affected by the plans or programs of Domestic Agencies, shall actively engage in the community planning process by providing information, policy and position statements on these plans and programs to the appropriate agencies.

(c) Implementation of this part is intended to assure maximum feasible consistency of plans and projects of the DoD with Domestic Agencies' plans and programs; to identify those plans and projects that may be duplicative or in conflict; and to provide a management process to facilitate resolving any such differences.

(d) To the exent practicable, individual DoD Components shall make every effort to ensure that their plans and projects of other DoD Components in the area and with the development plans and programs of Domestic Agencies and shall encourage reciprocal actions by these agencies with regard to their plans and programs.

(e) DoD Components will provide clearinghouses with required information, standards and criteria as contained in DoD Instruction 4270.1,[1] and similar Military Department publications, and positions in regard to the review process which are consistent with applicable DoD policies and guidance. To the extent practicable, DoD Components shall make every reasonable effort to ensure that conflicting information is not provided. Should a significant dichotomy of policy or criteria develop among DoD Components, expeditious action will be taken by the cognizant DoD Components to present the problem to the to the Office of the Deputy Assistant Secretary of Defense (Installations and Housing) for resolution.

(f) The requirements established in this part must be weighed in consideration of possible significant public interest in determining whether notification as prescribed by existing DoD procedures on provisions of information to the Congress and the public should be accomplished prior to submission of required information to State and areawide clearinghouses and other Federal Agencies as provided for in this part.

§ 243.4 Responsibilities.

(a) The Assistant Secretary of Defense (Installations and Logistics) (ASD (I&L)) shall designate the Deputy Assistant Secretary of Defense (Installations and Housing) (DASD (I&H)) to:

(1) Serve as the Secretary of Defense's responsible official for Office of Management and Budget Circular Number A–95 and to act as the focal point for all matters pertaining thereto.

(2) Ensure that DoD directives, instructions and other major DoD issuances are reviewed for their effect on intergovernmental coordination in accordance with the policies and procedures contained in this part.

(3) Maintain liaison with the Office of Management and Budget and other Federal Agencies with respect to intergovernmental relationships encompassed in Office of Management and Budget Circular Number A–95.

(4) Evaluate significant applicable events and experiences; resolve problem areas provided by DoD Components, DoD Federal Regional Council (FRC) Liaison Officers, and clearinghouse activities; and provide the necessary guidance to all required organizations.

(5) Assign a lead DoD Component to effect the coordination stipulated in this Directive where a required review of plans and programs of a non-DoD agency involves more than one DoD Component.

(b) The General Counsel shall:

(1) Advise the ASD (I&L) of all new legislation which has or may have a potential impact on the activities, policies and procedures contained in this part, as well as other new laws which should be implemented by this part.

(2) Apprise the ASD (I&L) of litigation which interprets, modifies and/or clarifies the enactments referenced in this part.

(c) The DoD Components shall:

(1) Establish and maintain an intergovernmental coordination management process concerning their land and facility plans and projects as prescribed in this part.

(2) Develop and publish documents for the implementation of the policies, responsibilities and procedures contained in this part.

(3) Monitor the application of policies, responsibilities and procedures contained in this part within their subordinate elements.

(4) Designate a single headquarters point of contact for A–95 matters covered by this part and identify to the DASD (I&H) the designated individual or office, together with any subsequent changes.

(5) Develop procedures which will ensure that copies of clearinghouse comments, reviews, determinations, and recommendations together with the current status of DoD plans and projects are properly available and retained.

(6) Establish appropriate procedures to ensure that planned actions within the Hudson River Basin are not initiated prior to final clearance by the Department of the Interior. The Secretary of the Interior is the U.S. official designated to negotiate a compact among the States involved to assure the development, preservation and restoration of the natural,

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scenic history and recreational resources of the Hudson River Basin, and is responsible for consulting with, and reviewing all plans, programs, projects and grants of all Federal Agencies within, or affecting the basin.

(7) Designate, as an additional duty, a knowledgeable and qualified person, in accordance with § 243.8 for each of the 10 Federal regions to serve as the DoD Federal Regional Council (FRC) Liaison Officer for the DASD (I&H) for all DoD A–95 matters within the cognizance of the Region. The identification of each DoD FRC Liaison Officer will be provided to the DASD (I&H) who will ensure the widest possible dissemination of these designations, and any subsequent changes.

(d) The State and areawide A–95 clearinghouses and applicable Federal Agencies, pursuant to Office of Management and Budget Circular Number A–95:

(1) Shall be provided the necessary information and data by the DoD Components for those plans and projects covered by this part.

(2) May review, evaluate, and provide comments and recommendations, as appropriate, within the specified time frame, on the plans and projects submitted by DoD Components. Comments and recommendations are to be forwarded to the DoD Components making the submission and the single response should normally contain those of all interested State and areawide clearinghouse activities.

(3) Shall be encouraged to provide to DoD Components for review and evaluation, information on applicable plans and programs proposed by Domestic Agencies that may affect DoD Component plans and projects.

§ 243.5 Procedures.

(a) *General.* (1) DoD Components should utilize cooperative agreements in the form of memoranda of understanding to establish the information and data to be submitted to clearinghouses and the time frames in which the submittals will be made, within the guidelines contained in this part. DoD Components shall coordinate with DoD FRC Liaison Officers to determine those specific clearinghouses and/or Federal activities with whom DoD Components shall establish such memoranda. When a determination is made by a DoD Component that a cooperative agreement with a particular clearinghouse or Federal Agency is desirable and possible, all DoD Components which have installations within the clearinghouse geographical area should become parties to the agreement to the extent practical. When such agreements are used, the application and content shall be uniform and shall be consistent with the policies and procedures contained in this part. However, cooperative agreements which predate this part may continue in force until revision is required, and should be used as the basis for any new agreements to be concluded by other DoD Components in the affected area, if appropriate.

(2) DoD Components will maintain, as part of the records of each review, the comments received from the clearinghouse or Federal Agency together with the current status of the review.

(3) The specific information and data to be provided to clearinghouses or Federal Agencies depends upon the particular plan or project and must be determined by each DoD Component element. However, such information as is normally available for construction projects such as site location, scope of work, type of construction, description of work, etc.; together with necessary site plans should be provided to the clearinghouse activities. Normally, justification or rationale for the project is not to be provided. In general, sufficient information and data necessary to review and evaluate the plan or project in question is to be provided.

(4) Requests from clearinghouse activities or Federal Agencies for additional information and data should be handled in accordance with the provisions of DoD Directive 5400.7[1] and 5400.10[2] (32 CFR 286 and 297). In the case of a negative response to a clearinghouse or Federal Agency request for information, the DoD Component shall so advise the clearinghouse or Federal Agency in writing, with appropriate explanation, and ensure that this response is a part of the record maintained for that particular review.

(5) Classified data on DoD Component plans or projects is not to be provided to any non-DoD agency which does not have the necessary authority to receive such data and the necessary procedures and facilities to safeguard it.

(6) A period of 30–45 days, or as otherwise mutually agreed upon by the DoD Component and the appropriate clearinghouse in a cooperative agreement shall be allowed to permit a thorough review, prepare staff comments, if appropriate, and consolidate and transmit clearinghouse activities' comments to the DoD Component. Cooperative agreements should also contain provisions for procedures to shorten or extend the time allowed for performance of clearinghouse functions in case such need arises. A statement for the record shall be prepared if no comments or recommendations are received from the clearinghouse and/or Federal Agency within the agreed period. These shall constitute State and areawide clearinghouse and/or Federal Agency concurrence in the proposed DoD Component plan or project.

(7) DoD Components shall make every reasonable effort to accommodate, modify or otherwise change their plans or projects as to be consistent to the extent practicable with clearinghouse and Federal Agency comments. If DoD Components determine that recommendations made by the clearinghouse or other Federal Agency cannot be made, DoD Components will advise the clearinghouse or Federal Agency in writing, with appropriate explanation, and this response will be made a part of the permanent record maintained for that particular review.

(8) Applicable DoD Components will have complied with the intergovernmental coordination requirements pursuant to OMB Circular A–95 Part II, for those plans and projects covered by this part by submission of the applicable plans and projects required by the provisions of this part to appropriate A–95 clearinghouses and/or applicable Federal Agencies. DoD Components are cautioned, however, that compliance with the provisions of this part does not constitute compliance with the requirements of such laws, executive orders, the Federal regulations which govern NEPA, Federal Water Pollution Control Act, etc., because these require special considerations which are covered in other publications. DoD Components should also be aware that there are other appropriate local government activities not covered by the clearinghouse procedures which may have an interest in the plans and projects under consideration. Such additional coordination should be considered on the same basis as are the official clearinghouses and shall be consistent with the security, sensitivity and other considerations involved.

(9) DoD Components responsible for land and facility plans and projects covered by this part in the National Capital Region (as defined in section 1 (b) of the National Capital Planning Act of 1952, as amended) shall coordinate with the National Capital Planning Commission in accordance with existing DoD procedures, except as provided for under the provisions of section 610, Pub. L. 93–166.

(b) *DoD component plans and projects.* (1) There are no minimum quantitative levels that can be utilized to determine whether a specific planned action or project shall be coordinated with State and areawide clearinghouses or other Federal Agencies. However, as a general rule repair, maintenance and rehabilitation projects are excluded from the provisions of this part unless they result in substantially increased capacity or change in primary functions of facilities which could affect non-DoD utility services and systems, road networks or other such facilities in the surrounding area or region. Similarly, urgent minor construction projects accomplished under the provisions of 10 USC 2674 and military contingency projects involving national security would normally be excluded from the provisions of this part. Such exclusions should be negotiated and included in cooperative agreements with clearinghouses, if used. In general, the following type of plans and projects are to be considered for submission to State and areawide clearinghouses:

(i) Military Department Approved Installation Master Plans developed in accordance with the provisions of DoD Instruction 4270.1.[3]

(ii) Major Military Construction and/or Family Housing Projects included in the budget fiscal year DoD Military Construction and Family Housing Program which may affect community development, plans or programs of Domestic Agencies, especially as regards utility systems, road networks, schools, transportation systems, etc.

(iii) Real Property Acquisition Projects approved by the appropriate Military Department or included in the current fiscal year DoD Military Construction and Family Housing Program which may affect community development plans or programs of Domestic Agencies.

(iv) Military Department approved plans and projects which substantially change the utilization of military installations and real property and may affect community development plans or programs of Domestic Agencies.

(v) Real Property Disposal Projects which may affect community development plans or programs of Domestic Agencies.

(2) Any of the aforementioned DoD Component plans or projects may or may not affect community development plans and programs depending on the evaluation of the specific plans or projects under consideration. Whether or not a particular plan or project is to be coordinated with the appropriate clearinghouse activities depends upon the judgement of the DoD Component element involved and should be based upon an evaluation of the impact of the plan or project on the locally and surrounding area where the planned action is to take place.

(3) The procedures discussed above will be considered in addition to compliance with the requirements of the NEPA, Federal Water Pollution Control Act, Coastal Zone Management Act, etc., since these require special considerations which are covered in other publications.

(c) Subject to such other provisions as may be required by the implementing guidelines of the National Environmental Policy Act of 1969, Coastal Zone Management (DoD Instruction 4165.59[4]) and other similar statutory and regulatory requirements, DoD Components should submit their plans and projects to State and areawide clearinghouses and applicable Federal Agencies for review at the stage of the planning process indicated below.

(1) The Military Installation Master Plan as described in DoD Instruction 4270.1,[3] should be submitted upon approval by the appropriate Military Department. Similarly, significant changes to the installation master plan should be submitted for review. Review of an installation's master plan will enable the clearinghouse activities or applicable Federal Agency to better understand and evaluate the impact of land use and facility development proposed by the military installation in question. It will also facilitate the review of subsequent annual construction, acquisition and disposal of real property projects which may result from the continued implementation of the master plan.

(2) Information on appropriate major Military Construction and Family Housing projects should be submitted no later than after approval of a design directive for project development to be accomplished either in-house or by contract. With regard to the latter, the information should normally be provided upon initiation of architect-engineer (AE) selection for project development as announced in the Commerce Business Daily. However, DoD Component elements should evaluate any substantive changes in project development subsequent to completion of a review, for possible additional review. Since based on the foregoing, project information could be provided prior to transmission of a project in the Military Construction Program to the Congress, care must be exercised to ensure that no project data which indicates the year of funding or estimated cost of the project is provided to clearinghouses. Upon verification that a project is included in the budget fiscal year DoD Military Construction Program which has been submitted to the Congress, additional information and documentation on the project, as appropriate, (e.g. DD Forms 1391) may be provided for review provided it is consistent with the information submitted to the Congress. Proposed major military construction projects included in the Five Year Defense Plan will not be submitted to the clearinghouses or other Federal Agencies individually or collectively except as provided for above. The requirements of the National Health Planning and Resources Development Act of 1975 do not basically change the review process specified in DoD Directive 6015.17[1] for military health and medical facility projects. Accordingly, DoD Component elements will continue to comply with the provisions of this reference for military health and medical facility projects. Each document (DD Form 1391) for projects subject to the provisions of this part which is forwarded to the Office of the Secretary of Defense for review and approval pursuant to DoD Instruction 7040.4[1] will include a statement explaining the status of the clearinghouse and/or other Federal Agency review.

(3) Appropriate Real Property Acquisition Projects will be submitted only upon verification that the project has been approved by the competent authority of the concerned Military Department, or, if Congressional approval is required, only after the Congress has been officially notified of the plan or action by the responsible DoD Component authority. However, for exceptional cases, this procedure may be waived by the DASD (I&H). In addition, in cases where real property acquisition is part of a major Military Construction or Family Housing project, the real property acquisition may be coordinated as part of that project even though the above events may not have occurred.

(4) Appropriate plans and projects which may substantially change the utilization of military installations and real property and therefore could affect non-DoD facilities, services activities, etc., will be submitted only after approval by the competent authority of the concerned DoD Component and, if Congressional notification of the plan or action is required to be made by existing DoD policy, only after the Congress has been officially notified of the plan or action by the responsible DoD Component authority.

(5) Appropriate real property disposal projects which require prior DoD approval in accordance with the provisions of DoD Instruction 4165.12,[1] will be submitted only after all required DoD screening has been completed and the disposal report required by 10 USC 2662 has been cleared by the Congress. For exceptional cases, this procedure may be waived by the DASD (I&H) to enable submission to clearinghouses at the time the disposal report required by 10 USC 2662 is submitted to the Congress.

(d) DoD Federal Regional Council (FRC) Liaison Officers:

(1) Will serve as the DASD (I&H) local representatives.

(2) Shall establish and maintain liaison with State and Areawide clearinghouses in their assigned regions to determine any special requirements which may exist and to effect necessary coordination.

(3) Shall keep all appropriate DoD Component elements within their assigned regions of responsibility informed of significant A–95 FRC and clearinghouse activities.

(4) Shall, to the extent possible, through the use of the DoD Component designated A–95 point of contact, if necessary, resolve issues and problems between DoD Components and/or clearinghouse activities and other Federal Agencies in regard to A–95 matters. In the event resolution is not achieved at these levels, the matter will be expeditiously forwarded to the DASD (I&H) for resolution.

(5) Shall ensure that within their assigned regions, reviews of plans and projects among DoD Components and between DoD components and clearinghouse activities are uniform and consistent with the policies and procedures contained in this part.

(6) Shall inform the DASD (I&H) of those events, experiences and problem areas which can be used to improve the DoD A–95 review process, so that these can be evaluated and disseminated to the other FRC Liaison Officers and interested personnel and activities.

§ 243.6 Examples of other agency plans and programs which may require DoD Component review and/or input.

Environmental Impact Assessments and Statements.
Noise Abatement and Control Plans and Programs.
Coastal Zone Management Plans and Programs.
HUD 701 Comprehensive Plans and Programs.
EPA Section 208 Areawide Waste Treatment Management Plans and Programs.
Recreation Plans and Programs.
Fish and Wildlife Conservation Plans and Programs.
Air Quality Plans and Programs.
Flood Control Plans and Programs.
State and Regional Transportation Plans and Programs.
State and Regional Land Use Plans and Programs.
Energy Facility Siting Plans and Programs.
FHA Mortgage Insurance Plans and Programs.

See footnotes at end of document.

See footnotes at end of document.

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VA Mortgage Insurance Plans and Programs.
Primitive Area Plans and Programs.
Wilderness Area Plans and Programs.
Historic and Scenic Trails Plans and Programs.

§ 243.7 Examples of A–95 Coordinating Agencies.[2]

Federal Agencies

Environmental Protection Agency (EPA).
Federal Aviation Administration (FAA of DOT).
Department of Housing and Urban Development (HUD).
Veterans Administration (VA).
Federal Energy Administration (FEA).
Department of Health, Education, and Welfare (HEW).
Department of the Interior: Outdoor Recreation, Land Management, Fish and Wildlife.
U.S. Forest Service (USFS of DOA).
Soil Conservation Service (SCS of DOA).
U.S. Army Corps of Engineers.
Federal Highway Administration (DOT).

State Agencies or Activities

Planning and Community Affairs.
Economic Development.
Transportation (Highway, Aeronautics).
Recreation Activities.
Natural Resources Activities.
Fish and Wildlife Activities.
Land Agencies.
Water Resources Agencies.
Air Quality Agencies.
Environment of Ecology Activities.
Conservation Activities.
Coastal Zone Management Activities.

§ 243.8 DoD Federal Regional Council liaison representatives for A–95 matters.[3]

Standard Federal Regions

Number	Address of Federal Regional Council Office	DOD Federal Regional Council, liaison representative
I	Region I, Federal Regional Council Office, JFK Federal Bldg., Room E431, Boston, Mass. 02203.	Air Force.
II	Region II, Federal Regional Council Office, 26 Federal Plaza, Room 3643A, New York, N.Y. 10007.	Army.
III	Region III, Federal Regional Council Office, 4450 Federal Bldg., 600 Arch St., Philadelphia, Pa. 19106.	Navy.
IV	Region IV, Federal Regional Council Office, 1371 Peachtree St. NE., Atlanta, Ga. 30309.	Do.
V	Region V, Federal Regional Council Office, 300 South Wacker Dr., 18th Floor, Chicago, Ill. 60606.	Air Force.
VI	Region VI, Federal Regional Council Office, 1100 Commerce St., Room 9C23, Dallas, Tex. 75202.	Do.
VII	Region VII, Federal Regional Council Office, 610 East 12th St., Kansas, Mo. 64106.	Army.
VIII	Region VIII, Federal Regional Council Office, Federal Bldg., Room 14041, 1961 Stout St., Denver, Colo. 80202.	Air Force.
IX	Region IX, Federal Regional Council Office, 450 Golden Gate Ave., P.O. Box 36008, San Francisco, Calif. 94102.	Navy.
X	Region X, Federal Regional Council Office, 1321 3d Ave., Seattle, Wash. 98101.	Army.

§ 243.9 Effective date.

This part shall become effective immediately.

MAURICE W. ROCHE,
Director, Correspondence and Directives OAS (Comptroller).

MARCH 3, 1977.

FOOTNOTES

[1] Copies available Naval Forms and Publications Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120 Code: 300.

[2] This example of coordinating agencies for A–95 purposes, is not a complete list. The actual coordinating agencies for which this DoD implementation of A–95 applies will depend upon State and areawide clearinghouse activity requirements and the circumstances of the plan or project to be reviewed and evaluated. Moreover, it is most important that DoD Components coordinating plans and projects do not consider the above list of agencies as complete as regards the compliance requirements of the National Environmental Policy Act of 1969 and the implementing guidlines of the Council on Environmental Quality; Federal Water Pollution Control Act and other such laws, Executive Orders and Federal regulations. Compliance with such requirements require special considerations which are contained in other publications.

[3] Military Department responsible for designating ODASD (I&H) representative.

[FR Doc.77–6747 Filed 3–7–77;8:45 am]

PART 256—AIR INSTALLATIONS COMPATIBLE USE ZONES

Runway Classification by Aircraft Type; Correction

In FR Doc 77–132 appearing at page 773 in the FEDERAL REGISTER of January 4, 1977, the following § 256.6 was inadvertently omitted and should be inserted immediately after the last paragraph on page 776 and before § 256.7 on page 777:

§ 256.6 Runway Classification by Aircraft Type.

Class A runways

S–2, VC–6, C–1, C–2, TC–4C, U–10, U–11, LU–16, TU–16, HU–16, C–7, C–8, C–12, C–47, C–117, U–21, QU–22, E–1, E–2, O–1, U–1, U–3, U–8, U–9, O–2, OV–1, OV–10, T–28, T–34, T–41, T–42.

Class B runways

A–1, A–3, A–4, A–5, A–6, F–106, F–5, F–15, F–18, S–3, C–121, EC–121, WC–121, C–123, C–130, A–7, A–38, AV–8, P–2, P–3, T–29, T–33, T–37, T–39, T–1, HC–130B, C–131, C–140, C–5A, KC–97, F–9, F–14, F–4, F–8, F–111, T–2, T–38, B–52, B–57, B–57F, C–124, EC–130E, HC–130, C–135, VC–137, YP–12, SR–71, F–100, F–101, F–102, B–66, C–9, C–54, C–97, C–118, C–141, KC–135, EC–135, RC–135, U–2, F–104, F–105, C–119.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Secretary of Defense (Comptroller).

MARCH 3, 1977.

[FR Doc.77–6885 Filed 3–7–77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 105—GENERAL SERVICES ADMINISTRATION

[ADM 7900.2 Chge. 7]

PART 105–61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

Miscellaneous Amendments

Part 105–61 is amended to make NARS-issued researcher identification cards valid for a longer period, to update the hours of operation and addresses of certain Federal records centers and Federal archives and records centers, and to make minor editorial changes.

1. Section 105–61.001–6 is revised to read as follows:

§ 105–61.001–6 Researcher.

"Researcher" means a person who has applied for access to records or donated historical materials, in accordance with § 105–61.101–3, and who has been issued a researcher identification card.

Subpart 105–61.1—Public Use of Archives and FRC Records

2. Paragraph (d) of § 105–61.101–1 is revised to read as follows:

§ 105–61.101–1 General.

• • • • • •

(d) A director may require that researchers under the age of 16 years be accompanied by an adult researcher who agrees in writing to be present when the records are used and to be responsible for compliance with the research room rules set forth in § 105–61.102.

• • • • • •

3. Paragraph (c) of § 105–61.101–2 is revised to read as follows:

§ 105–61.101–2 Location of records and hours of use.

• • • • • •

(c) Except for Federal holidays and other times specified by the Archivist or other authorized GSA officials, records will be made available according to the schedule set forth in § 105–61.5101.

• • • • • •

4. Section 105–61.101–4 is revised to read as follows:

§ 105–61.101–4 Researcher identification card.

A researcher identification card will be issued to each person whose application is approved. The card will be valid for the use of records at only the depository where it was issued, and for a period of not more than 2 years, but it may be renewed upon application. Cards are not transferable and shall be produced when requested by a guard or research room attendant.

5. Section 105–61.102–5 is revised to read as follows:

§ 105–61.102–5 Conduct.

Researchers are subject to the provisions of Subpart 101–20.3, Conduct on Federal Property. Eating in a research room is prohibited. Smoking is prohibited except in designated smoking areas. Loud talking and other activities likely to disturb other researchers are also prohibited. Persons desiring to use typewriters, sound recording devices, or photocopying equipment shall work in areas designated by the research room attendant.

Subpart 105–61.3—Public Use of Facilities of the National Archives and Records Service

6. Section 105–61.307 is revised to read as follows:

§ 105–61.307 General conditions governing use of all facilities.

All persons using the facilities in the National Archives Building, Presidential libraries, and Federal records centers are subject to the regulations applicable to conduct on Federal property, as specified in Subpart 101–20.3.

Subpart 105–61.51—Location of Records and Hours of Use

7. Paragraph (b) of § 105–61.5101–6 is revised to read as follows:

§ 105–61.5101–6 Federal records centers.

• • • • • •

(b) 3150 Bertwynn Drive, Dayton, OH 45439. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

8. Paragraphs (c) and (d) of § 105–61.5101–7 are revised to read as follows:

§ 105–61.5101–7 Federal archives and records centers.

• • • • • •

(c) 5000 Wissahickon Avenue, Philadelphia, PA 19144. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

(d) 1557 St. Joseph Avenue, East Point, GA 30344. Hours: 8 a.m. to 4:30 p.m., Monday through Friday.

• • • • • •

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Effective date: This regulation is effective on March 8, 1977.

The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: February 25, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77–6727 Filed 3–7–77;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER G—EMERGENCY OPERATIONS

[General Order 75, 2nd Revision, Amdt. 35]

PART 308—WAR RISK INSURANCE

Interim Binders and Renewal Procedures; Standard Forms

The authority of the Secretary to provide insurance and reinsurance under Title XII, War Risk Insurance, of the Merchant Marine Act, 1936, as amended, (46 U.S.C. 1281–1293) expired on September 7, 1975, and was reinstated by section 5 of Public Law 94–523, approved October 17, 1976, for a period which expires September 30, 1979.

The purpose of this amendment to Part 308 is to provide the terms and conditions upon which war risk insurance binders on United States-flag vessels will be reinstated and to change the expiration date of the binder forms. Section 1 of Public Law 94–523 amended section 1203(a) of the Merchant Marine Act, 1936, 46 U.S.C. 1283(a), by inserting new criteria for considering the eligibility of foreign-flag vessels for war risk insurance binders. Until such time as new regulations can be established and published, interim binders for foreign-flag vessels in effect prior to midnight, September 7, 1975, G.m.t., will remain cancelled and applications for binders will not be accepted for foreign-flag vessels until further notice.

In FR Doc. 75–4465 (Amendment 34), appearing in the FEDERAL REGISTER issue of February 19, 1975. (40 FR 7097), Part 308 was amended to reflect the following changes:

Amend §§ 308.6 Period of interim binders and renewal procedure; 308.106 Standard form of war risk hull insurance interim binder and optional disbursements insurance endorsement; 308.206 Standard form of war risk protection and indemnity insurance interim binder, and 308.305 Standard form of Second Seamen's war risk insurance interim binder, by changing the expiration dates contained therein to read "midnight, September 7, 1975, G.m.t."

Effective on March 8, 1977, Part 308 is amended to reflect the following changes:

1. Section 308.6 is revised to read as follows:

§ 308.6 Period of interim binders and renewal procedure.

(a) All interim binders on United States-flag vessels under § 308.1(a) issued in accordance with Subparts B, C, and D of this part and which expired at midnight, September 7, 1975, are reinstated from the date of publication of this notice until September 30, 1979, provided that on or before May 9, 1977 the assureds under interim binders on United States-flag vessels comply with the regulations as set forth in paragraph (b) of this section. Failure to comply with the requirements stipulated in paragraph (b) of this section within the prescribed period will result in automatic termination of the binders.

(b) Assureds under interim binders on United States-flag vessels reinstated under paragraph (a) above must file a statement, in triplicate, on the letterhead of the assured, setting forth the former binder numbers, the vessel name and official number (unless the vessel is undocumented), and a list of all documents previously submitted, with a certification as to their completeness and accuracy as of the date of filing for reinstatement. In the event any previously submitted documents are no longer complete and accurate, as required, corrected documents and any required documents not previously submitted must be attached to the certification and accompany the binder fees as prescribed in §§ 308.102, 308.202 and/or 308.302. Checks should be made payable to "Maritime Adm. Commerce" and be sent with the other required documents to the American War Risk Agency, 14 Wall Street, New York, New York 10005, within the prescribed 60 day period.

(c) New applications for interim binders on United States-flag vessels, with necessary attachments (as specified in § 308.3) and check for the binding fees prescribed, should be filed with the American War Risk Agency at its offices at 14 Wall Street, New York, New York 10005. All interim binders on United States-flag vessels shall become effective as of the date of determination of eligibility by the Maritime Administration (as required).

(d) The binders as set forth in §§ 308.106, 308.206 and 308.305 may be terminated by the assured on written request as of the date of receipt of such request by the Maritime Administration, Office of Marine Insurance, Washington, D.C. 20230, provided insurance has not attached.

§§ 308.106, 308.206, 308.305 [Amended]

2. As amended by Amendment 34, §§ 308.106, 308.206, and 308.305 are hereby further amended by changing the expiration dates contained therein to read, "midnight, September 30, 1979, G.m.t."

(Sec. 204, 49 Stat. 1987, as amended: 46 U.S.C. 1114.)

Dated: March 2, 1977.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77–6816 Filed 3–7–77;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1126, 1071, 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1132, 1138]

[Docket Nos. AO-231-A45, etc.]

MILK IN THE TEXAS AND CERTAIN OTHER MARKETING AREAS

Rescheduling of Hearing on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR parts	Marketing area	Docket No.
1126	Texas	AO-231-A45
1071	Neosho Valley	AO-227-A34
1073	Wichita, Kans.	AO-173-A35
1097	Memphis, Tenn.	AO-219-A34-R01
1102	Fort Smith, Ark.	AO-237-A28-R01
1104	Red River Valley	AO-238-A28
1106	Oklahoma metropolitan.	AO-210-A41
1108	Central Arkansas	AO-243-A32-R01
1120	Lubbock-Plainview, Tex.	AO-328-A21
1132	Texas Panhandle	AO-262-A30
1138	Rio Grande Valley	AO-335-A26

A notice was issued on February 11, 1977 (42 FR 9674) giving notice of a public hearing to be held March 15, 1977, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Texas and certain other marketing areas.

Notice is hereby given, pursuant to the rules of practice applicable to these proceedings (7 CFR PART 900) that the said hearing is rescheduled to be held at Holiday Inn—D.F.W. North, Highway 114 and Esters Road (Northeast corner of Regional Airport), Irving, Texas, beginning at 9:30 a.m., local time, April 5, 1977.

Signed at Washington, D.C., on March 3, 1977.

WILLIAM T. MANLEY,
Deputy Administrator, Program Operations.

[FR Doc.77-6751 Filed 3-7-77;8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revised Pages of REA Specification PE-56 for Three-Electrode Gas Tube Protectors

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed Rule.

SUMMARY: Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), REA proposes to revise REA Bulletin 345-71 to announce revised pages 3, 5, 6, 7, and 8 of REA Specification PE-56 for Three-Electrode Gas Tube Protectors. On issuance of REA Bulletin 345-71, Appendix A to Part 1701 will be modified accordingly.

DATE: Comments on or before April 7, 1977.

ADDRESS: Persons interested in the revised pages of the specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Claude F. Buster, Jr., Chief, Station Equipment and Protection Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1347, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3173.

SUPPLEMENTARY INFORMATION: A copy of the proposed revised pages of REA Specification PE-56 may be secured in person or by written request from the Director, Telephone Operations and Standards Division. The text of the revised REA Bulletin 345-71 announcing the issuance of the revised pages of PE-56 is as follows:

SUPPLEMENT TO REA BULLETIN 345-71

REVISED PAGES OF REA SPECIFICATION PE-56

It has been considered mandatory at this time to upgrade the life test requirements for three-electrode gas tube arresters in view of reports from high lightning areas indicating that some arresters have reached the end of their useful life in only a few years. Lower maintenance expense can be achieved through the use of arresters having much longer service life. The determination of longer life can be achieved through the ability of these arresters to meet the more rigorous test requirements described in the enclosed revised pages 3, 5, 6, 7, and 8.

Each of the revised pages 3, 5, 6, 7, and 8 bear a revision date of March 1977 and will become effective June 1, 1977. All three-electrode gas tube arresters supplied and installed on REA borrowers' systems after June 1, 1977, must comply with the requirements contained in the enclosed revised pages. The revised pages 3, 5, 6, 7, and 8 are to replace pages 3, 5, 6, 7, and 8 of the existing issue of REA Specification PE-56 dated August 1974.

Copies of the revised pages of REA Specification PE-56 will be furnished by REA upon request. Questions concerning these changes may be referred to the Chief, Station Equipment and Protection Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3173.

Dated: March 1, 1977.

C. R. BALLARD,
Assistant Administrator—Telephone.

[FR Doc.77-6641 Filed 3-7-77;8:45 am]

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revised Pages of REA Specification PE-55 for Two-Electrode Gas Tube Protectors

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed Rule.

SUMMARY: Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), REA proposes to revise REA Bulletin 345-68 to announce revised pages 5, 6, and 7 of REA Specification PE-55 for Two-Electrode Gas Tube Protectors. On issuance of REA Bulletin 345-68, Appendix A to Part 1701 will be modified accordingly.

DATE: Comments on or before April 7, 1977.

ADDRESS: Persons interested in the revised pages of the specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Claude F. Buster, Jr., Chief, Station Equipment and Protection Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1347, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3173.

SUPPLEMENTARY INFORMATION: A copy of the proposed revised pages of REA Specification PE-55 may be secured in person or by written request from the Director, Telephone Operations and Standards Division. The text of the revised REA Bulletin 345-68 announcing these changes may be referred to the Chief, Station Equipment and Protection Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3173.

Dated: March 1, 1977.

C. R. BALLARD,
Assistant Administrator—Telephone.

[FR Doc.77-6641 Filed 3-7-77;8:45 am]

the issuance of the revised pages of PE-55 is as follows:

SUPPLEMENT TO REA BULLETIN 345-68

REVISED PAGES OF REA SPECIFICATION PE-55

It has been considered mandatory at this time to upgrade the life test requirements for two-electrode gas tube arresters in view of reports from high lighting areas indicating that some arresters have reached the end of their useful life in only a few years. Lower maintenance expense can be achieved through the use of arresters having much longer service life. The determination of longer life can be achieved through the ability of these arresters to meet the more rigorous test requirements described in the enclosed revised pages 5, 6, and 7.

Each of the revised pages 5, 6, and 7 bear a revision date of March 1977 and will become effective June 1, 1977. All two-electrode gas tube arresters supplied and installed on REA borrowers' systems after June 1, 1977, must comply with the requirements contained in the enclosed revised pages. The revised pages 5, 6, 7, and 8 are to replace pages 5, 6, 7, and 8 of the existing issue of REA Specification PE-55 dated March 1973.

Copies of the revised pages of REA Specification PE-55 will be furnished by REA upon request. Questions concerning these changes may be referred to the Chief, Station Equipment and Protection Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3173.

Dated: March 1, 1977.

C. R. BALLARD,
Assistant Administrator—Telephone.

[FR Doc. 77-6642 Filed 3-7-77;8:45 am]

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed New Specification for Spring Action Type Bonding Connectors Within Buried Plant Housings

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed Rule.

SUMMARY: Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), REA proposes to issue REA Bulletin 345-76 to announce a new REA Specification PE-57 for Spring Action Type Bonding Connectors Within Buried Plant Housings. On issuance of REA Bulletin 345-76, Appendix A to Part 1701 will be modified accordingly.

DATE: Comments on or before April 7, 1977.

ADDRESS: Persons interested in the new specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Warner T. Smith, Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administraiton, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3827.

SUPPLEMENTARY INFORMATION: A copy of the proposed new REA Specification PE-57 may be secured in person or by written request from the Office of the Director, Telephone Operations and Standards Division. The text of the proposed new REA Bulletin 45-76 announcing the issuance of the new specification is as follows:

REA BULLETIN 345-76

Subject: REA Specification for Spring Action Type Bonding Connectors Within Buried Plant Housings.

I. *Purpose:* To announce the issuance of a new REA Specification PE-57 for Spring Action Type Bonding Connectors Within Buried Plant Housings.

II. *General:* REA Specification PE-57 has been developed to cover requirements for spring action type bonding connectors that will be used within buried plant housings. The connectors produced to meet these requirements are expected to provide shield bonding connections of greater reliability with accompanying reduction in maintenance expense. This new specification will become effective upon issuance.

III. *Availability of Specification:* Copies of the new PE-57 will be furnished by REA upon request. Questions concerning the new specification may be referred to the Chief, Outside Plant Branch, Telephone Operations and Standards Division, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3827.

Dated: March 1, 1977.

C. R. BALLARD,
Assistant Administrator—Telephone.

[FR Doc.77-6643 Filed 3-7-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

ASSIGNMENT OR ALIENATION OF BENEFITS

Public Hearing on Proposed Regulations

Proposed regulations under section 401(a)(13) of the Internal Revenue Code of 1954, relating to the assignment or alienation of benefits appear in the FEDERAL REGISTER for December 28, 1976 (41 FR 56334).

A public hearing on the provisions of such proposed regulations will be held on April 15, 1977, beginning at 10 a.m. in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Ave. NW., Washington, D.C. 20224.

Internal Revenue Code section 401(a)(13), under which the regulations were proposed, was enacted by the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406). Title I of that Act also enacted into law a substantially identical provision to be administered by the Department of Labor. For this reason, the Internal Revenue Service has invited representatives of the Department of Labor to be present at the scheduled hearing, and these representatives may address questions to persons making oral presentations at the hearing.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention:CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-566-3935. Under such § 601.601(a)(3) persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who desire to present oral comments at the hearing on such proposed regulations, should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by April 6, 1977. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention:CC:LR:T, Washington, D.C. 20224. Under § 601.601(a)(3) (26 CFR Part 601) each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers, and copies of the agenda will be available free of charge at the hearing. Further information with respect to the hearing may be obtained from Mr. George H. Bradley who may be contacted by telephone at (Washington, D.C.) 202-566-3935, or by mail as follows: Chief, Technical Section (CC:LR:T), 1111 Constitution Avenue NW., Room 4317, Washington, D.C. 20224.

ROBERT A. BLEY,
Acting Director, Legislation and Regulations Division.

[FR Doc.77-6900 Filed 3-7-77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-004]

EXPOSURE TO LEAD

Proposed Standard; Additional Locations for Informal Public Hearings

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of additional locations for informal hearings.

SUMMARY: This notice schedules two regional hearings concerning the proposed standard for occupational exposure to lead, in addition to the previously announced Washington hearing which will begin on March 15, 1977.

The purpose of holding these regional hearings is to permit persons who are unable to attend the Washington hearing, particularly small businesses and individual employees, the opportunity to orally present their views to the Agency.

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All persons who want to make a presentation at either of the regional hearings should file a notice of intention to appear no later than April 11, 1977, in accordance with the requirements set forth below.

DATES: All notices of intention to appear at these two hearings must be filed by April 11, 1977.

Dates on which regional hearings will begin, locations and times are as follows:

April 26, 1977: 9:30 a.m.—Bel Air Hilton, 333 Washington Avenue, St. Louis, Missouri 63102.

May 3, 1977: 9:30 a.m.—The Holiday Inn, Golden Gate Way, Van Ness Avenue at California St., San Francisco, California 94109.

Notices of intention to appear and requests for further information should be addressed to:

Clarence Page, OSHA Office of Committee Management, Docket No. H–004, Room N–3633, U.S. Department of Labor, 3rd and Constitution Avenue, NW., Washington, D.C. 20210. (202–523–8024.)

SUPPLEMENTARY INFORMATION: On October 3, 1975, OSHA published in the FEDERAL REGISTER (40 FR 45934) a proposed standard for occupational exposure to lead. On January 4, 1977, OSHA scheduled an informal rulemaking hearing on all relevant issues relating to the lead proposal (42 FR 808). The hearing will begin on March 15, 1977, at 9:30 a.m. in the Departmental Auditorium on Constitution Avenue between 12th and 14th Streets, NW., Washington, D.C. On February 15, 1977, the availability of the Economic Impact Study for lead was announced (42 FR 9190). The requirements for filing proper notices of intention to appear at the Washington hearing are set forth in the January 4 and February 15, 1977, notices. The notice of proposed rulemaking and the January 4 and February 15 notices discuss the issues that are involved in these proceedings.

PUBLIC PARTICIPATION AT REGIONAL HEARINGS

OSHA is scheduling two regional hearings on the lead proposal, at the times and places stated above, to provide interested persons who are unable to attend the Washington hearing the opportunity to make brief oral presentations to the Agency on any of the issues involved in these proceedings. These hearings are particularly designed to provide an opportunity for small businesses and employees who may not have the resources to appear at the hearing in Washington to more fully participate in the lead rulemaking proceeding. In order to allow as many people as possible to participate in these informal hearings, presentations will generally be limited to 15 minutes. We will attempt, however, within the time available, to accommodate any requests for additional time which are made necessary by special circumstances.

In view of the brief duration of these regional hearings, OSHA requests interested persons who are able to attend the Washington hearing to present their testimony in Washington. OSHA will make its presentation and will be available for questioning only at the beginning of the hearing in Washington. In addition, the expert witnesses who have been asked by OSHA to testify are scheduled to appear only in Washington.

All persons who want to participate in either of these informal regional hearings should file a notice of intention to appear, postmarked on or before April 11, 1977, with Clarence Page at the above address. The notice must contain the following information:

(1) The hearing location—St. Louis or San Francisco—at which you wish to testify;

(2) The name, address, and telephone number of each person to appear;

(3) The organization, if any, which the person represents;

(4) The issues that will be addressed and a brief statement of your views; and

(5) Complete copies of any studies, scientific or economic data, or any other documentary materials which you will be presenting for the record or discussing at the hearing.

All persons giving advance notice as above will have time reserved for oral presentation. Persons wishing to testify who have not submitted advance notice. will be allowed to make oral presentations if time permits; however, priority will be given to those who have submitted notices of appearance.

All written submissions will become part of the record of this proceeding and will be available for inspection and copying at the above address.

Any person who has already filed a notice of intention to appear, or who intends to file a timely notice of intention to appear at any of the hearing locations may ask appropriate questions of any other participant at any of the hearing locations. In addition, any person who has filed a notice of intention to appear at the Washington hearing, but now wishes to make a brief presentation of the type permitted at one of the regional hearings, rather than Washington, may do so by notifying Clarence Page at the above address as soon as possible.

CONDUCT OF HEARING

The hearing will be conducted in accordance with 29 CFR Part 1911, and will commence with the resolution of any procedural matters. It will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing, including the powers:

(1) To regulate the course of the proceedings;

(2) To dispose of procedural requests, objections, and comparable matters;

(3) To confine the presentations to matters pertinent to the proposed standard;

(4) To regulate the conduct of those present at the hearing by appropriate means;

(5) In the judge's discretion, to question and permit questioning of any witness; and

(6) In the judge's discretion, to keep the record open for a reasonable, stated time to receive written information and additional data, views and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record thereof to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a final standard will be issued based on the entire record in this proceeding.

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911.)

Signed at Washington, D.C., this 3d day of March 1977.

JOSEPH KIRK,
Acting Deputy Assistant Secretary of Labor.

[FR Doc.77–6983 Filed 3–7–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 695–1]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Arizona

INTRODUCTION

The Regional Administrator hereby issues this notice proposing approval of revisions to the Arizona State Implementation Plan (SIP) and advising the public that comments may be submitted on the proposed approval.

BACKGROUND

On January 28, 1972, pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the State of Arizona submitted to EPA an implementation plan for the attainment and maintenance of the National Ambient Air Quality Standards. The plan included the Rules and Regulations of the Pima County Air Pollution Control District. On May 31, 1972 (37 FR 10842), the Administrator approved the plan with specific exceptions. Since then, Arizona has submitted to EPA numerous proposed revisions to the SIP correcting deficiencies originally identified by EPA and including new and amended regulations adopted by the Sate and local governments.

On February 20, 1975, the Arizona Department of Health Services submitted to EPA amendmentments of the Rules and Regulations of the Pima County Air Pollution Control District. The amendments include: Regulation I, Rule 2—Definitions; Regulation I, Rule 4D—Operating Permits; Regulation I, Rule 4E—Permit Fees; Regulation I, Rule 4J—Racing Event Site Operating Permits and Unpaved Parking Lot Operating Permits; Regulation I, Rule 8G—Permit Revocation Fees; Regulation I, Rule 16C—Conditional Permit Fees; Regulation I, Rule 29—Fees for various types of permits; and Regulation I, Rule 30—Equipment Fee Schedules.

DISCUSSION OF ACTION

Adoption of the amendments was in conformance with the procedural requirements of 40 CFR 51.4 for a thirty-day notice by prominent advertisement of the public hearing on the proposed amendments, that the proposed amendments were made available for public inspection, and that the Regional Administrator, the Arizona Department of Health Services and the appropriate local air pollution control agencies were notified at least thirty days prior to the date of the hearing.

EPA has reviewed the amendments and determined that they do not conflict with any of the requirements of the Clean Air Act and 40 CFR Part 51. Therefore, the Regional Administrator proposes approval of the amendments as submitted.

PUBLIC INVOLVEMENT

Interested persons are invited to submit comments concerning the proposed approval to the Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, 100 California Street, San Francisco, California 94111. Relevant comments received on or before April 7, 1977 will be considered. Comments received will be available for inspection during normal working hours at the EPA-Region IX office and the EPA Public Information Reference Unit.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations:

Pima County Health Department, 151 West Congress Street, Tucson AZ 85701.
Arizona Department of Health Services, Bureau of Air Pollution Control, 1740 West Adams Street, Phoenix AZ 85007.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460.

(Sec.) 110, Clean Air Act, as amended (42 U.S.C. 1857c–5).)

Dated: February 25, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77–6715 Filed 3–7–77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

[45 CFR Part 1115]

PRIVACY ACT REGULATIONS

Proposed Modifications

On October 21, 1975, final regulations concerning implementation of the Privacy Act of 1974 (Pub. L. 93–579) by the National Foundation on the Arts and the Humanities were published in the FEDERAL REGISTER (40 FR 49286). Notice is hereby given that the Foundation proposes to revise these regulations to reflect the comments and suggestions of the Ad Hoc Interagency Task Force on Privacy Act Implementation and OMB.

Changes include: Modification of former § 1115.4 in order to keep at a minimum requirements with respect to verification of identity accompanying requests for records; addition of a new § 1115.5 to provide for an appeal procedure when access to records has been denied; addition of a new paragraph (f) to § 1115.6 to provide procedures for sending a copy of an individual's record, with disputed portions clearly noted, to prior recipients of the record; addition of a new § 1115.7 to provide an individual with the right to request an accounting of disclosures made of his or her record, and clarification of former § 1115.7 relating to exemptions claimed pursuant to 5 U.S.C. 552 (a) (k) (5).

Interested persons are invited to submit written comments on these proposed revisions to the Office of the General Counsel, National Endowment for the Arts, 2401 E Street NW., Washington, D.C. 20506 or the Office of the General Counsel, National Endowment for the Humanities, 806 15th Street NW., Washington, D.C. 20506. All written comments received on or before April 7, 1977, will be considered by the Foundation before adoption of final revised regulations.

PART 1115—PRIVACY ACT REGULATIONS

Sec.
1115.1 Purpose and scope.
1115.2 Definitions.
1115.3 Procedures for notification of existence of records pertaining to individuals.
1115.4 Procedures for requests for access to or disclosure of records pertaining to individuals.
1115.5 Appeals from denials of access.
1115.6 Correction of records.
1115.7 Requests for accounting of record disclosures.
1115.8 Disclosure of records to agencies or persons other than the individual to whom the record pertains.
1115.9 Exemptions.

AUTHORITY: 5 U.S.C. 552a(f).

§ 1115.1 Purpose and scope.

This part sets forth the National Foundation on the Arts and the Humanities' procedures under the Privacy Act of 1974 as required by 5 U.S.C. 552a(f). Internal guidance for Foundation staff and other regulations implementing the Privacy Act are contained or will be contained in Foundation circulars.

§ 1115.2 Definitions.

For purposes of this part:

(a) "Foundation" means the National Foundation on the Arts and the Humanities.

(b) "Act" means the Privacy Act of 1974 (Pub. L. 93–579).

(c) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(d) "Maintain", used with reference to a record means to collect, to use, to disseminate, to have control over and responsibility for such record.

(e) "Record" means any item, collection or grouping of information about an individual that is maintained by the Foundation and that is retrievable by his or her name or an identifying particular, such as a number, symbol, fingerprint, or photograph of the individual. Information maintained by the Foundation includes, but is not limited to, education, financial transactions, medical history, employment history and criminal history.

(f) "Routine use" means, with respect to the disclosure of a record, the use of such a record for a purpose which is compatible with the purpose for which it was collected. The routine uses of record systems maintained by the Foundation were established pursuant to notice in the FEDERAL REGISTER.

(g) "System of records" means a group of any records under the control of the Foundation from which information about an individual is retrievable by his or her name or by some identifying particular.

§ 1115.3 Procedures for notification of records pertaining to individuals.

(a) The systems of records, as defined in the Privacy Act of 1974, maintained by the National Foundation on the Arts and the Humanities are listed annually in the FEDERAL REGISTER as required by that Act. Any person who wishes to know whether a system of records contains a record pertaining to him may appear in Person at the National Endowment for the Arts, Room 1338, 2401 E Street N.W., Washington, D.C. 20506 or the National Endowment for the Humanities, Room 1000, 806 15th Street, N.W., Washington, D.C. 20506, on work days between the hours of 9:00 a.m. and 5:30 p.m. or by writing to the Office of the General Counsel, National Endowment for the Arts or National Endowment for the Humanities, Washington, D.C. 20506. It is recommended that requests be made in writing, since in many cases it will take several days to ascertain whether a record exists.

(b) Requests for notification of the existence of a record should specifically identify the system of records involved and should state, if the requester is other than the individual to whom the record pertains, the relationship of the requester to that individual. (Note that requests will not be honored by the Foundation pursuant to the Privacy Act unless made (1) by the individual to whom the record pertains, (2) by such individual's parent if the individual is a minor, or (3) by such individual's legal guardian if the individual has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction.)

(c) The Foundation will attempt to respond to a request as to whether a record exists within 10 working days from the time it receives the request or from the time any required identification is established, whichever is later.

§ 1115.4 Procedures for requests for access to or disclosure or records pertaining to an individual.

(a) Any person may request review of records pertaining to him by appearing at the National Endowment for the Arts, Room 1338, 2401 E Street NW., Washington, D.C. 20506, or the National Endowment for the Humanities, Room 1000, 806 15th Street NW., Washington, D.C. 20506 on work days between the hours of 9:00 a.m. and 5:30 p.m., or by writing

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to the Office of the General Counsel, National Endowment for the Arts, or National Endowment for the Humanities, Washington, D.C. 20506. (See paragraphs (b) and (c) of this section for identification requirements.) The request should specifically identify the systems or records involved. The Foundation will strive either to make the record available within 15 working days of the request or to inform the requestor of the need for additional identification or the tendering of fees (as specified in paragraph (d) of this section) within 15 working days.

(b) In the case of persons making requests by appearing at the Foundation, the amount of personal identification required will of necessity vary with the sensitivity of the record involved. Except as indicated below, reasonable identification such as employment identification cards, drivers licenses, and credit cards will normally be accepted as sufficient evidence of identity in the absence of any indications to the contrary. Records in the following systems of records, however, are considered to contain relatively sensitive and/or detailed personal information.

Grant Applications—NEA
Grant Applications—NEH
Grants to Individuals—NEA
Grants to Individuals and Institutions—NEH
Equal Employment Opportunity Case File—NFAH NEA/NEH
Employee Payroll—NFAH
Personnel Records—NFAH

Accordingly, with respect to requests for records in these systems the Foundation reserves the rights to require sufficient identification to identify positively the individual making the request. This might involve independent verification by the Foundation as by phone calls to determine whether an individual has made a request, personal identification by Foundation employees who know the individual, or such other means as are considered appropriate under the circumstances.

(c) A written request for records contained in any of the systems of records listed in paragraph (b) of this section will be honored only if it contains the following certification before a duly commissioned notary public of any state or territory (or similar official if the request is made outside the United States):

I, ----------, do hereby
(Printed name)
certify that I am the individual about whom the record requested in this letter pertains or that I am within the class of persons authorized to act on his behalf in accordance with 5 U.S.C. 552a(h).

(Signature)

(Date)

In the County of----------
State of ---------- On this
------ day of ----------
(Name of individual)
who is personally known to me, did appear before me and sign the above certificate.

(Signature)

(Date)

(s) My Commission expires----------

(d) Charges for copies of records will be at the rate of $0.10 per photography of each page. Where records are not susceptible to photo-copying, e.g., punch cards, magnetic tapes or oversize materials, the amount charged will be actual cost as determined on a case-by-case basis. Only one copy of each record requested will be supplied. No charge will be made unless the charge as computed above would exceed $3.00 for each request or related series of requests. If a fee in excess of $25.00 would be required, the requestor shall be notified and the fee must be tendered before the records will be copied.

§ 1115.5 Appeals from denials of access.

An individual who has been denied access to records concerning him may appeal that decision to the Assistant Chairman/Management, National Endowment for the Arts, or the Chairman, National Endowment for the Humanities by filing a written appeal within 30 working days of the receipt of the denial. The appeal shall be marked on its face and on the face of the envelope "Privacy Appeal—Denial of Access," and shall be addressed to the Assistant Chairman/Management, National Endowment for the Arts, 2401 E Street NW., Washington, D.C. 20506, or the Chairman, National Endowment for the Humanities, 806 15th Street NW., Washington, D.C. 20506. Appeals shall be determined in thirty working days unless the appropriate official, by notice to the individual, extends that period for an additional thirty working days because of the volume of records requested, the scattered location of records, the need to consult other agencies, or the difficulty of the legal issues involved, or other administrative difficulty.

§ 1115.6 Correction of records.

(a) Any individual is entitled to request amendments of records pertaining to him pursuant to 5 U.S.C. 552a(d)(2). Such a request shall be made in writing and addressed to the Office of the General Counsel, National Endowment for the Arts or National Endowment for the Humanities, Washington, D.C. 20506.

(b) The request should specify the record and systems of records involved, and should specify the exact correction desired and state that the request is made pursuant to the Privacy Act. An edited copy of the record showing the desired correction is desirable. Within 10 working days of the receipt of a properly addressed request (or within 10 working days of the time the General Counsel, National Endowment for the Arts or the General Counsel, National Endowment for the Humanities becomes aware that a particular communication not addressed as prescribed above is a request for correction of a record under the Privacy Act), the General Counsel's office shall acknowledge receipt of the request.

(c) The General Counsel's office upon receipt of such a request shall promptly confer with the office within the Foundation responsible for the record. In the event it is felt that correction is not warranted in whole or in part, the matter shall be brought to the attention of the Deputy Chairman of the Endowment involved. If, after review by the Deputy Chairman of the involved Endowment and discussion with the request or, if deemed helpful, it is determined that correction as requested is not warranted, a letter shall be sent by the Deputy Chairman's office to the requestor denying his request and/or explaining what correction might be made if agreeable to the requestor. This letter shall set forth the reasons for the refusal to honor the request for correction. It shall also inform him of his right to appeal this decision and include a description of the appeals procedure set forth in paragraph (d) of this section.

(d) An appeal may be taken from an adverse determination under paragraph (c) of this section to the Assistant Chairman/Management, National Endowment for the Arts or the Chairman, National Endowment for the Humanities. Such appeal must be made in writing and should clearly indicate that it is an appeal. The basis for the appeal should be included, and it should be mailed to the same address as listed in paragraph (a) of this section. A hearing at the Foundation may be requested. Such hearing will be informal, and shall be before the Assistant Chairman/Management, National Endowment for the Arts, the Chairman, National Endowment for the Humanities, or an appointed designee. If no hearing is requested, the request for appeal should include the basis for the appeal. Where no hearing is requested the Assistant Chairman or Chairman before whom the appeal is taken shall render his decision within thirty working days after receipt of the written appeal at the Foundation, unless the Assistant Chairman or Chairman before whom the appeal is taken, for good cause shown, extends the 30-day period and the appellant is advised in writing of such extension. If a hearing is requested, the Foundation will attempt to contact the appellant within five working days and arrange a suitable time for the hearing. In such cases the decision of the Assistant Chairman or Chairman shall be made within 30 working days after the hearing unless the time is extended and the appellant is advised in writing of such extension.

(e) The final decision of the Assistant Chairman or Chairman in an appeal shall be in writing, and, if adverse to the appellant, set forth the reasons for the refusal to amend the record and advise him of this right to appeal the decision under 5 U.S.C. 552a(g)(1)(A). The individual shall also be notified that he has the right to file with the Foundation a concise statement setting forth the reasons for his disagreement with the refusal of the Foundation to amend his record.

(f) Notices of correction or disagreement. When a record has been corrected the system manager shall, within thirty working days thereof, advise all prior recipients of the record whose identity can be determined pursuant to the accounting required by the Privacy Act or any other accounting previously made, of the correction. Any dissemination of a record after the filing of a statement of disagreement shall be accompanied by a copy of that statement. Any statement of the agency giving reasons for refusing to correct shall be included in the file.

§ 1115.7 Requests for accounting of record disclosures.

At the time of his request for access or correction or at any other time, an individual may request an accounting of disclosures made of his record outside the Foundation. Requests for accounting shall be directed to the system manager or other person specified in the "Notice of Records Systems." Any available accounting, whether kept in accordance with the requirements of the Privacy Act or under procedures established prior to September 27, 1975 shall be made available to the individual except that an accounting need not be made available if it relates to: (a) Records with respect to which no accounting need be kept; (b) A disclosure made to a law enforcement agency pursuant to 5 U.S.C. 552a(b)(7); (c) An accounting which has been exempted from disclosure pursuant to 5 U.S.C. 552a (j) or (k).

§ 1115.8 Disclosure of records to agencies or persons other than the individual to whom the record pertains.

Records subject to the Privacy Act that are requested by any person other than the individual to whom they pertain will not be made available except under the following circumstances:

(a) Records required to be made available by the Freedom of Information Act will be released in response to a request formulated in accordance with Foundation regulations found at Part 1100 of this chapter.

(b) Records not required by the Freedom of Information Act to be released may be released, at the discretion of the Foundation, if the written consent of the individual to whom they pertain has been obtained or if such release would be authorized under 5 U.S.C. 552a(b)(1) or (3)–(11).

§ 1115.9 Exemptions.

(a) *Fellowships and grants.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of section 552a(d) any materials which would disclose the identity of references for fellowship or grant applicants contained in the systems of records named in this paragraph:

Grant Applications—NFAH/NEA–5
Grant Applications—NFAH/NEH–6
Grants to Individuals—NFAH/NEA–7
Grants to Individuals and Institutions—NFAH/NEH–8
Reviewer File—NFAH/NEH–10

The disclosure of these materials would reveal the identity of sources who furnished information to the Government under an express promise that the identity of the sources would be held in confidence.

(b) *Applicants for employment.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552(d) any materials which would disclose the identity of references of applicants for employment at the Foundation contained in the systems of records entitled "Official Personnel Folders." The disclosure of these materials would reveal the identity of sources who furnished information to the Government under an express promise that the identity of the sources would be held in confidence.

NANCY HANKS,
Chairman, National Endowment for the Arts.

ROBERT KINGSTON,
Acting Chairman, National Endowment for the Humanities.

[FR Doc.77-6773 Filed 3-7-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 64]

[Docket No. 20828; FCC 77-151]

COMPUTER INQUIRY

Supplemental Notice of Inquiry and Enlargement of Proposed Rulemaking

Adopted: March 1, 1977.

Released: March 8, 1977.

Notice of intent to participate to be filed with FCC by March 25, 1977.

In the matter of amendment of § 64.702 of the Commission's rules and regulations (Computer Inquiry).

1. On August 9, 1976 the Commission issued a Notice of Inquiry and Proposed Rulemaking[1] (Notice) suggesting a new definitional structure of data processing as set forth in § 64.702[2] of our rules and regulation. This section of our rules embodies the policies which were developed as a result of our original Computer Inquiry in 1971 and has provided the framework for Commission determinations as to the nature of various service offerings by common carriers.

2. Technological and market developments since our decision in the original Computer Inquiry[3] are such that § 64.702, as set forth in the original Computer Inquiry, appears to be an inadequate regulatory device for coping with certain current service offerings. Our recent decision[4] regarding American Telephone and Telegraph Company's (AT&T) Dataspeed 40/4 tariff revision (Transmittal No. 12449) illuminated the limited applicability of the present § 64.702. The Dataspeed 40.4 offering represented an advancement in the evolution of communications terminal devices used to interact, via a common carrier communications network, with a host computer. Recognizing the limited applicability of § 64.702, we proposed that our rules be reexamined in light of the issues raised by such offerings.[5]

3. The potential inadequacy of the present § 64.702 is evident when viewed in the context of its original adoption. The immediate issue before the Commission at the time of the original Computer Inquiry concerned the various applications which might be made of central computers, and the proper role and regulation of common carriers with respect to these different uses. The regulatory guidelines which were incorporated into § 64.702 were addressed primarily to situations wherein a carrier might be using a host computer, in conjunction with a remote, "unintelligent" communications terminal, to provide a data processing service. The original Computer Inquiry did not address the question of data processing elements being removed from the central computer and distributed throughout the total information processing and transmission system. The "smart" remote access device capable of both traditional communications functions and certain data processing functions was not then a practical reality—hence no specific guidelines applicable to these devices were offered.

4. Rapid advancements in data handling technology have taken place since then. In our new Computer Inquiry, we noted that peripheral devices are now capable of duplicating many of the data-manipulative capabilities which were previously available only at centralized locations housing large scale general purpose computers. The applications of modern solid state technology to the fabrication of microprocessors and minicomputers has led to the development of new types of devices—which may be viewed as ranging from "smart" remote access devices to "distributed" data processing devices and systems. The new devices are capable of executing local processing operations, thus alleviating a remote host computer of a processing burden which would otherwise be implemented in its central processing unit (CPU).[6] They are also capable of performing message addressing and routing operations, which again, could otherwise be implemented in a host CPU. In either application these devices would be equipped with relatively inexpensive solid state random access memory arrays which may be used for the storage

[1] Notice of Inquiry and Proposed Rulemaking, released August 9, 1976, 61 FCC 2d 103 (Docket No. 20828). See 41 FR 33563, Aug. 10, 1976; Extension of time at 41 FR 44057, Oct. 6, 1976.

[2] 47 CFR § 64.702.

[3] 28 FCC 2d 291 (1970); 28 FCC 2d 267 (1971); Aff'd in part sub. nom. *GTE Service Corp. v. FCC*, 474 F.2d 724 (2d Cir., 1973).

[4] Memorandum Opinion and Order, released January 5, 1977 (FCC 76–1199). Appeal pending 2d Cir. Case Nos. 77–4005, 77–4020.

[5] Ibid. paragraph 32.

[6] These applications include, inter alia: (a) arithmetic operations upon raw data by a CPU located in the remote access device prior to further computations to be carried out by a remote host computer CPU, (b) the editing of originating text prior to transmission to a host or to another remote access device, (c) the generation of displays of hard copy data (printed) and soft copy (video).

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and retrieval of data formerly stored in the host computer's memory unit.

5. The modern "smart" remote access devices, which incorporate microprocessor technology in conjunction with the new solid state mass memories, are capable of duplicating many of the capabilities of the general purpose digital computers which were on the market in 1971.[7] Microprocessors can be combined with a variety of input/output devices and mass memories[8] to function as powerful stand-alone processing installations. A stand-alone installation can be converted to a full fledged communications device (or host computer) with but a relatively minimal amount of additional electronic circuitry.

6. Processing can be performed by such devices—either in the stand-alone mode or when connected to a communications line. The scope of the processing capability is, of course, quantitatively limited by constraints in the processing speed of the terminal microprocessor or in the amount of mass memory which can be made available to the device. But these devices are qualitatively capable of performing all of the data processing activities cited under the broad categories in Paragraph 20 of our original Notice.[9] Similarly, all of the processing activities listed under the categories cited in Paragraph 21 are possible.[10] In fact, merely by inserting a new program, which can be incorporated into a wired-in read-only memory, a manufacturer can radically change the nature of the processing activity performed by the terminal device and market it as, inter alia, any of the following: text editor, information storage and retrieval system, inventory control system, payroll system, scientific calculator, network controller, message switch or code converter.

7. The new technology has clearly made it possible for terminals to automatically perform many processing operations which they previously performed poorly or not at all—by employing techniques previously limited to central computers. The new technology may also have rendered meaningless any real distinction between "terminals" and computers. We are now seeing the development of the so-called distributed network—one in which data processing and communications processing capabilities are distributed, to varying degrees, among a number of processing units. Greater flexibility is afforded in designing a system wherein computer power, and just the right amount of it, can be placed wherever in a system it makes economic sense to do so. Data manipulation requirements control the extent to which this distribution of processing takes place. To the extent one is able to distribute computing power and a centralized data base, a reduced dependence on the processing capabilities of the host CPU is possible. From a technical point of view, processing can be placed anywhere—within the network or outside the network interface—giving one greater flexibility in designing equipment and structuring various service offerings.

8. Processing activities are characteristically involved in the provision of both communication and data processing services. Since § 64.702 only addressed the processing activities which take place within a central computer, we propose to enlarge the scope of § 64.702 to include all processing activities, whether performed at a central location, at the customer's premises, or at intermediate locations within or interconnected with a telecommunications network. An appropriately modified definition of data processing must be set forth to take into account the fact that processing activities are not confined solely to a central computer and to render Section 64.702 applicable to determinations as to the nature of a carrier's processing activities—regardless of location or system structure. We therefore propose to amend § 64.702(a) and to modify the definition of data processing as propsed in our original Notice as follows:

"Data processing" is the electronically automated processing of information wherein: (a) the information content, or meaning, of the input information is in any way transformed, or

(b) where the output information constitutes a programmed[11] response to input information.[12]

9. Processing activities which would constitute data processing under this new definition would include, inter alia:

Arithmetic processing. Applications include: general commercial accounting, inventory control, banking and point-of-sale processing, financial and econometric modeling, scientific calculations, etc.;

Word processing. Applications include: interactive information retrieval systems, management information systems, text editing, translation, typesetting, etc.;

Process control. Applications include the use of electronic equipment to monitor and control some process which is occurring on a continuing basis—such as nuclear-powered generating stations, an electric power distribution grid, an automatic machine tool, or a fire detection and control system.

Given our new definition, these processing activities would be considered data processing and could not be offered by a carrier except under the maximum separation conditions of § 64.702.

10. The revision of our proposed definition also necessitates a modification of the processing categories listed in Paragraph 21 of our *Notice*. Two categories were set forth therein as not being within the ambit of our definition of data processing—"network control and routing" and "input/output processing". For purposes of clarification and in order to conform with our new proposed definition, a restatement of these categories is now called for:

Network control and routing. Applications include: message and circuit switching,[13] speed and code conversion, pulse format conversion, transmission error detection and correction, analog to digital and digital to analog conversion, signal processing,[14] and time division multiplexing.

Input/output processing. This category comprises the uses of processing capability resident in a carrier network facility for the purpose of making disparate information sources and receptors compatible with the transmission system and with each other. Such processing activities include those necessary for formatting, editing, and buffering of information to make it compatible with the electrical characteristics of different transmission media.

Since these processing activities would not constitute data processing, they could be incorporated into a carrier's communications offering without evoking the constraints imposed by the maximum separation requirements. Moreover, the utilization of these processing activities in the course of providing either a communications or a data processing service would not necessarily, in of itself, change the nature of that service.

11. Subsequent to stating our intention to expand the scope of the Computer Inquiry, the Computer and Business Equipment Manufacturers Association (CBEMA) filed a motion with the Commission to enlarge the issues in this proceeding. CBEMA asserts that there are issues raised by the Commission's Resale decision[15] (Docket No. 20097) and the Bell System's recent intrastate offering of Transaction Network Service (TNS) which should be addressed within the context of the Computer Inquiry. It further contends that the Commission's determination in the Resale decision to consider waivers of the maximum separation requirements of § 64.702 for entities providing resale services had not been adequately addressed in the record of that proceeding. Docket No. 20097, however, did not adopt any changes in § 64.702,[16] and we do not believe this proceeding is the proper forum to further address resale related issues. Specific issues raised by items (b) and (c) of footnote 15, therefore, should properly have been raised in Docket No. 20097. However, to the extent that item (a) can be addressed within the context of our proposed definition and its applications, it is a proper subject for comment, and item (d) may be addressed within the context of paragraph 17, infra. Moreover, the nature of individual service offerings, such as TNS, should not specifically be addressed in the new Computer Inquiry, since we are dealing herein with policies and rules of general applicability. To the extent that the scope of this inquiry has been enlarged to include issues which might arise regarding the provision of TNS, or any other carrier provided service, these issues will be addressed on a general level and will not address the merits of a particular service offering. This does not mean that an existing or future service to which the proposed definition might apply should not be brought to the Commission's attention. Comments directed toward such a service should focus on the proposed definition and possible deficiencies in the definition with respect to the particular service, and not in terms of whether the Commission should find a particular service to constitute communications or data processing.

12. AT&T and Telenet Communications Corporation (TELENET) filed comments on CBEMA's motion. AT&T opposed CBEMA's motion and TELENET, while opposing the inclusion of items (b) and (c) of footnote 15, proposed, instead, two groups of issues for inclusion in this proceeding which distinguish between carrier provided communication services and the provision of data terminal equipment by a carrier on a tariffed basis as part of a communications package, or through unregulated sale or lease. TELENET also suggests that consideration should be given to the manner in which monopoly carriers should be permitted to compete in the competitive data communications market. While we consider such broad-ranging issues to be beyond both the useful and contemplated scope of this proceeding and will therefore deny TELENET's specific suggestions, part of the broad issue sought to be addressed by TELENET is subsumed in issue (c) of paragraph 18, which we are adding. Having considered TELENET's request, we conclude that it would be more appropriate to structure this proceeding in the manner set forth herein.

13. In commenting on CBEMA's motion TELENET also states its concern over the multiple interpretations that are possible regarding the proposed amendment to § 64.702 as contained in our original Notice. With the proposed elimination of the hybrid concept, TELENET states that it appears that the net effect of the proposed amendment would be "to render *not* subject to regulation any communications service which contained within it a non-separable data processing function."[17] On the other hand, it states that when the proposed amendment of § 64.702 is read in conjunction with Paragraph 22 of the Notice, it appears that the Commission "intends to preclude any hybrid services—to require that carriers eliminate any data processing functions from their current communications offerings, and to prevent data processing service entities from including within their offerings even incidental communications functions."[18] TELENET suggests that any ambiguity be removed with respect to whether hybrid services could be offered under our proposed definition.

14. In our Notice we proposed to delete the hybrid concept as a method of classifying services under the present structure of § 64.702. Further elaboration may be called for to the extent that uncertainty may exist as to what is being proposed in its place. As §64.702 is currently structured, the processing functions of storing, retrieving, merging, and calculating establish the criteria for determining whether a particular offering constitutes data processing. Recognizing that these processing functions can be employed in the provision of either data processing or communications services, the new definition is structured in a manner so as to focus on processing activities.[19] In addition to proposing a definition for data processing, we have set forth certain processing activities which by their nature would constitute data processing within the meaning of the proposed definition.[20] Examples of processing activities which would not fit within the ambit of the data processing definitions, and which, therefore, might be utilized in the provision of either data processing or communications have also been put forth.[21] Under this proposed standard it would be inconsistent to talk in terms of a communications service having non-separable data processing functions, since communications and data processing now would be considered mutually exclusive activities.[22] The nature of the processing employed would determine whether communications processing or data processing is being engaged in. To the extent that a carrier is offering a communications service, data processing could not be offered as part of that service except if offered in accordance with the requirements imposed by our maximum separation policy. With the elimination of the hybrid concept, however, ad hoc determinations may still be necessary, but the specific

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[7] Miniaturization has imposed some compromises in the microcomputer system architecture—e.g., shorter word lengths, microcoding and serial computations. These compromises have resulted primarily in slower computational speeds. On the other hand, some microprocessor systems are also capable of being programmed in popular programming languages such as FORTRAN and BASIC.

[8] Typical input/output devices would be: electric typewriters, various keyboard/CRT combinations, high speed line printers. Memory options include: solid state random access arrays, magnetic tape cassettes and disc files.

[9] The categories are: "arithmetic processing," "word processing," and "process control."

[10] These categories are: "network control and routing" and "input/output processing."

Arithmetic processing. General commercial accounting, payroll, inventory control, banking and point-of-sale processing, financial and econometric modeling, scientific calculations, etc.

Word processing. A rapidly developing application resulting from advances in mass memory technology and word processing software. Applications include: interactive information retrieval systems, management information systems, text editing, translation, typesetting, etc.

Process control. The increased reliability and availability of computers is leading to an expansion of applications where a computer is used to monitor and control some process which is occuring continuously—such as a nuclear-powered generating station, an electric power distribution grid, an automatic machine tool, or a fire detection and control system.

Network control and routing. Applications include: pulse format conversion, error detection and correction, analog to digital and digital to analog conversion, signal processing and time division multiplexing.

Input/output processing. This category comprises the uses of a computer capability resident in a carrier network facility for the purpose of making disparate computers and terminals compatible with each other. Typical functions are the formatting, editing and buffering of data to make it compatible with the electrical characteristics of different transmission media.

See, however, paragraph 10, infra.

[11] "Programmed", as used herein, constitutes the means of preordaining a response to given input or stimulus regardless of whether that means is achieved through the use of software, hardware, firmware or fundamental equipment design.

[12] The second condition (b) brings services such as process control and proprietary information retrieval within the ambit of the definition of data processing. In the process control case, a message or other stimulus results in a change of state in the process which is being controlled. In the proprietary information retrieval case, the arrival of an input message or stimulus—the information request—is operated upon by the processing device and results in an output which is the specific information requested.

[13] The categories are meant to include packet switching (and its variations) and time-division circuit switching. We also would consider permissible those processing activities utilized in the provision of ancillary network services such as automatic call-forwarding, abbreviated dialing, and special announcements.

[14] Signal processing comprises the use of processing operations in applications which maintain the information content of an electrical signal. These include signal detection and regeneration and the adaptive equilization of transmission channels.

[15] Regulatory Policies Concerning Resale and Shared Use of Common Carrier Services (Docket No. 20097) Repart and Order 60 FCC 2d 261 (1976). CBEMA asserts that because the issues in Docket No. 20097 did not relate with particularity to the data processing services and equipment fields, the recently initiated Computer Inquiry should address:

(a) Whether communications services involving elements of both data processing and communications should be provided through unregulated entities;

(b) Whether the characteristics of communications resellers dictate regulation (e.g., "is there any reason to think that resale is a natural monopoly?");

(c) Would regulation impede resale activities both domestically and internationally?

(d) Whether there are natural monopoly characteristics associated with "computer communications" which indicate a need for legislation.

[16] Ibid. In acting on the various petitions for reconsideration, Memorandum Opinion and Order, released January 12, 1977 the Commission, in paragraph 19, stated that the Report and Order made no changes with respect to Section 64.702. The Commission merely indicated that the policy considerations set forth in the Report and Order would be a factor in determining whether the public interest might be served by a waiver of the maximum separation rule in individual cases.

[17] Comments, p. 7.

[18] Comments, p. 6.

[19] A *function* is a separable specific operation, such as storing, merging, etc., whereas an activity is the aggregate end result of a combination of operations, no matter where performed.

[20] Paragraph 9, supra.

[21] Paragraph 10, supra.

[22] Inherent in this structure is a rejection of the functional approach as a means of classifying common carrier offerings, wherein the determination as to the data processing or communications nature of a particular offering is based on the extent to which such functions as storing, retrieving, merging, and calculating are utilized in the offering.

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determination to be made becomes whether the processing activity under consideration constitutes a data processing activity. To the extent that the processing performed is data processing under our definition, a carrier's offering would be subject to our maximum separation requirements.

15. Under the new definition the determination as to whether a communications or data processing service is being offered would depend on the nature of the processing activity involved. While the processing activities listed in paragraph 9 are applicable in making this determination, the activities listed should not be considered exhaustive of all possible processing activities. To the extent that they are helpful in determining the nature of a given service or activity, they can provide direction to the various carriers in structuring future service offerings—especially in terms of whether the requirements of our maximum separation policy must be complied with.

16. Our proposed expanded application of § 64.702 is based on the assumption that it is possible to classify processing activities as either communications or data processing based on the nature of the processing performed. To the extent that our assumption is valid, it is hoped that this Inquiry will provide a more definitive basis upon which such determinations can be made. The confluence of data processing and communications may be such, however, that it is no longer parctical or possible, from a regulatory point of view, to classify these activities in the manner proposed herein. This may be particularly applicable to carrier equipment offerings, especially in view of the potential that exists for changing the nature of an offering through the utilization of interchangeable software programs in a given device. Accordingly, we invite comments as to whether the offering of customer-premises equipment which performs any information processing activity, other than basic media conversion, should be considered a communications common carrier activity, and the proper institutional arrangements, terms, conditions, and regulations under which communications common carriers should be permitted to make such offerings. We recognize the possible relevance of the 1956 consent decree [28] and we therefore specifically invite comments on the 1956 consent decree and its applicability to the offering of customer-premises equipment by AT&T.

17. We have attempted to address the confluence of data processing and communications within the confines of our statutory mandate as set forth in the Communications Act of 1934, as amended. In commenting on the matters raised in this proceeding, however, we also seek comments on the need for, or desirability of, more definitive legislation in this area. In particular, comments are sought regarding: (a) possible inadequancies of the Communications Act in addressing the convergence of data processing and communications, and (b) specific legislative recommendations or proposals directed at resolving any such inadequacies.

18. In view of the foregoing we seek to obtain information, views, and recommendations from the public in order to assist the Commission in resolving the regulatory and policy questions presented by the technological advancements being made in the communications and information processing fields. In addition to those items contained in the August 9, 1976 Notice of Inquiry and Proposed Rulemaking, we invite comments on the proposed amendment to § 64.702 of our rules, as discussed herein, and request that the following items of inquiry be addressed:

(a) Whether the proposed definition of "data processing" correctly divides "communications" and "data processing" when applied to a carrier's processing activities, regardless of location within a service offering; and whether the proposed § 64.702 will be administratively enforceable and in the public interest;

(b) Whether the proposed amendment of § 64.702 will afford flexibility in the structuring of service offerings, and, at the same time, be conducive to innovation in the communications and data processing fields;

(c) Whether the offering of customer-premises equipment which performs any information processing activity, other than basic media conversion, should be considered a communications common carrier activity; and the proper institutional arrangements, terms, conditions, and regulations under which communications common carriers should be permitted to make such offerings.

(d) Specific legislative proposals or recommendations directed at remedying any inadequacies of the Communications Act of 1934, as amended, in dealing with the confluence of data processing and communications.

19. Accordingly, pursuant to sections 4(i), 4(j), 403 and 404 of the Communications Act of 1934, it is ordered, that this Supplemental Notice of Inquiry and Enlargement of Proposed Rulemaking be incorporated and be made part of our August 9, 1976 Notice of Inquiry and Proposed Rulemaking in this proceeding (Docket No. 20828).[29]

20. It is further ordered that the requests to enlarge the issues in Docket No. 20828 filed by CBEMA and TELENET are denied, except as otherwise indicated herein.

21. Pursant to the applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before May 16, 1977, and reply comments on or before June 30, 1977. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

22. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this Notice will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

23. Pursuant to our Memorandum Opinion and Order, released October 4, 1976, a service list, which is attached hereto, has been compiled for the convenience of the parties to this proceeding.[30] In view of the enlargement of Docket No. 20828, additional parties may be interested in participating in this proceeding. In the event that a party not listed should desire to participate, notice of such intent should be filed with the Commission by March 25, 1977 stating the name and address of the party on whom pleadings in this proceeding are to be served.

24. It is further ordered, that the proceeding herein shall be subject to further order by the Commission.

FEDERAL COMMUNICATIONS COMMISSION,[31]
VINCENT J. MULLINS,
Secretary.

ATTACHMENT A

Jeremiah Courtney, Esq., Ad Hoc Telecommunications Committee, 2120 L Street NW., Washington, D.C. 20037.

Charles R. Cutler, Esq., Kirkland, Ellis and Rowe, 1776 K Street NW., Washington, D.C. 20006, Counsel for Aeronautical Radio, Inc.

Gerald M. Lowrie, American Bankers Association, 1120 Connecticut Avenue NW., Washington, D.C. 20036.

Victor J. Toth, Esq., Cohn and Marks, 1920 L Street NW., Suite 700, Washington, D.C. 20036, Counsel for American Facsimile Systems, Inc.

Aloysius B. McCabe, Esq., Michael Yourshaw, Esq., Kirkland, Ellis and Rowe, 1776 K Street NW., Washington, D.C. 20006, Counsel for American Newspaper Publishers Association, Associated Press.

Michael D. Campbell, Esq., Stuart G. Meister, Esq., American Satellite Corporation, 20301 Century Blvd., Germantown, Maryland 20767.

[28] *United States v. Western Electric Company, Inc. and AT&T*, 13 R.R. 2143, 1956 Trade Cases 71, 134; Consent Judgment filed January 24, 1956 (D.C.N.J.).

[29] It should be pointed out that in our Notice of August 9, 1976 we failed to mention that § 64.702(c) was being amended by deletion of the introductory phrase "(E)xcept for companies of the Bell System". This amendment is without substantive effect since the American Telephone and Telegraph Company (AT&T) is prohibited by the terms of the 1956 consent decree from engaging in anything other than regulated common carrier services and activities incidental thereto. If AT&T, consistent with the decree or consistent with any future modification or judicial interpretation of that decree, engages in data processing activities, then § 64.702 would be applicable to AT&T in the same fashion as applicable to any other regulated communications common carrier.

[30] Parties filing comments should serve at least one copy per party on those firms representing more than one party.

[31] See attached statement of Commissioner Washburn.

Alfred A. Green, Esq., Cornelia McDougald, Esq., H. John Hokenson, Esq., Edgar Mayfield, Esq., American Telephone and Telegraph Company, 32 Avenue of the Americas, New York, New York 10013.

Carol A. Cohen, Esq., Applied Data Research, Inc., Route 206 Center, Princeton, N.J. 08540.

Herbert E. Marks, Esq., Stephen R. Bell, Esq., Richard P. Carr, Esq., Wilkinson, Cragun and Barker, 1735 New York Avenue NW., Washington, D.C. 20006, Counsel for Remote Processing Services Section (RPSS) of the Association of Data Processing Service Organizations; Independent Data Communications Manufacturers, Assoc., Inc.

Ben Harty, Esq., Vice President, Boeing Computer Services, Inc., P.O. Box 708, Dover, N.J. 07801.

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Paul S. Hoffman, Vice President, Bowne and Company, Inc., 345 Hudson Street, New York, New York 10014.

Charles E. Carlson, Jr., Esq., Bunker Ramo Corporation, Trumbull Industrial Park, 35 Nutmeg Drive, Trumbull, Connecticut 06609.

Tedson J. Meyers, Esq., Michael W. Faber, Esq., Peabody, Rivlin, Lambert and Meyers, Connecticut Building, 12th floor, 1150 Connecticut Avenue, Washington, D.C. 20036, Counsel for Citicorp.

Joseph M. Kittner, Esq., Peter M. Anderson, Esq., McKenna, Wilkinson and Kittner, 1150 17th Street NW., Washington, D.C. 20036, Counsel for the Computer and Business Equipment Manufacturers Association; McDonnell Douglas Corporation.

John S. Voorhees, Esq., Howrey and Simon, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006, Counsel for the Computer and Business Equipment Manufacturers Association.

Robert P. Bigelow, Editor, Computer Law and Tax Report, 28 State Street, Suite 2200, Boston, Massachusetts 02109.

James T. Roche, Esq., COMSAT General Corporation, 950 L'Enfant Plaza SW., Washington, D.C. 20024.

Terry G. Mahn, Esq., Computer and Communications Industry Association, 1911 N. Fort Myer Drive, Rossiyn, Virginia 22209.

Philip C. Onstad, Manager Telecommunications Policies, Control Data Corporation, 500 West Putnam Avenue, Greenwich, Connecticut 06830.

David Sherman, Esq., General Electric Company, 401 N. Washington Street, Rockville, Maryland 20850.

Richard A. Fazzone, Esq., General Electric Company, 2500 Cambridge Road, Schenectady, New York 12304.

Edward P. Taptich, Esq., McKenna, Wilkinson and Kittner, 1150 17th Street NW., Washington, D.C. 20036, Counsel for General Electric Company.

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Allen R. Frischkorn, Jr., Esq., 1120 Connecticut Avenue NW., Suite 900, Washington, D.C. 20036, Counsel for GTE Automatic Electric, Inc.; GTE Data Services, Inc.

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J. Gordon Walter, Esq., Senior Attorney, IBM Corporation, Old Orchard Road, Armonk, New York 10504.

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Gerald A. Poch, ITT–North American Telecommunications Group, 320 Park Avenue, New York, New York.

Joseph J. Jacobs, Esq., Vice President and General Attorney, ITT World Communications, Inc., 67 Broad Street, New York, New York 10004.

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William B. Moriarity, II, National Data Corporation, One National Data Plaza, Atlanta, Georgia 30329.

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David R. Ellis, Esq., RCA American Communications, Inc., 201 Centennial Avenue, Piscataway, New Jersey 08854.

Donald J. Elardo, Esq., RCA Global Communications, Inc., 60 Broad Street, New York, New York 10004.

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F. Thomas Tuttle, Esq., Counsel—Regulatory Matters, Satellite Business Systems, 1750 K Street NW., Washington, D.C. 20006.

Philip S. Abrams, Vice President, Scientific Time Sharing Corporation, 7316 Wisconsin Avenue, Suite 207, Bethesda, Maryland 20014.

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John M. Lothschuetz, Esq., Carolyn C. Hill, Esq., 1800 K Street NW., Suite 1102, Washington, D.C. 20006, Counsel for United Systems Service, Inc., on behalf of the member companies of the United Telephone Systems.

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Stephen C. Weingarten, Esq., Western Union International, Inc., One WUI Plaza, New York, New York 10004.

Joel Yohalem, Esq., Robert N. Green, Esq., Western Union Telegraph Company, 1828 L Street N.W., Washington, D.C. 20036.

James H. Carlisle, The Annenberg School of Communications, University of Southern California, University Park, Los Angeles, California 90007.

William K. Coulter, Esq., Communications Satellite Corporation, 950 L'Enfant Plaza S.W., Washington, D.C. 20024.

David J. Cook, Esq., Nixon, Hargrave, Devans & Doyle, Lincoln First Tower, Rochester, New York 14603, Counsel for Rochester Telephone Corporation.

CONCURRING STATEMENT OF COMMISSIONER ABBOT WASHBURN ON ENLARGEMENT OF COMPUTER INQUIRY (DOCKET 20828)

The Commission is confronted with the difficult interface between communications, a regulated activity, and data processing, a non-regulated activity. The situation is further complicated by a continually evolving technology which tends to blur the distinctions between the two.

With this Supplemental Notice of Inquiry the Commission attempts to address the problem by establishing manageable definitions for communications and data processing. I fully agree that a manageable approach is needed. But it should be one that does not hamper development and improved service to the public; and I am not sure that the approach outlined in the combined initial Notice of Inquiry and this Supplement (Docket 20828) will accomplish this objective.

I would encourage those who respond to this Inquiry to carefully consider the effect of the approach and the definitions set forth here, and to respond with their most candid and informal appraisals. In particular, I hope that respondents will feel free to propose any other approaches which might provide this Commission with a sound, manageable, and objective basis on which to make future judgments in this complex area.

[FR Doc.77-6882 Filed 3-7-77;8:45 am]

V4245 MAR 8 77 UMI

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A447]

GEORGIA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Georgia Counties as a result of drought July 6 through August 27, 1976, freeze October 28, 1976, and excessive rain November 5 through December 15, 1976, in Burke County; drought April 1 through August 30, 1976, in Jefferson County; and extreme dry hot weather July 7 through September 14, 1976, freeze October 29, and extreme wet and cold weather November 1 through December 31, 1976, in Washington County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor George Busbee that such designation be made.

Applications for emergency loans must be received by this Department no later than April 19, 1977, for physical losses and November 17, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 1st day of March 1977.

FRANK W. NAYLOR, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–6748 Filed 3–7–77;8:45 am]

Forest Service

FLATHEAD WILD AND SCENIC RIVER PROPOSAL

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Flathead Wild and Scenic River Proposal, USDA–FS–FES(Leg)74–30.

The environmental statement concerns a proposal to include 219 miles of the Flathead River in the National Wild and Scenic Rivers System. The river flows through Flathead and Powell Counties, Montana. The proposal provides the means to preserve and enhance the river in its free-flowing status and to minimize adverse environmental effects to the river and adjacent lands. The impacts of development and increased recreation use will be controlled on the basis of the capability of the river and its environment to support these uses and activities rather than on projected trends and demands.

This final environmental statement was filed with CEQ on March 2, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture Bldg., Rm. 3210, 12th St. and Independence Ave., SW, Washington, DC 20013.

USDA, Forest Service, Northern Region, Federal Building, Missoula, Montana 59801.

USDA, Forest Service, Flathead National Forest, 290 North Main, Kalispell, Montana 59901.

Copies are also available at the six ranger districts on the Flathead National Forest.

A limited number of single copies are available upon request to the Forest Supervisor, Flathead National Forest, 290 North Main, Kalispell, Montana 59901.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

R. MAX PETERSON,
Deputy Chief Forest Service.

MARCH 2, 1977.

[FR Doc.77–6749 Filed 3–7–77;8:45 am]

Rural Electrification Administration

UNITED POWER ASSOCIATION, ELK RIVER, MINNESOTA

Proposed Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $25,396,000 to United Power Association of Elk River, Minnesota and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approxmiate amount of $10,000,000 to this cooperative. These loan funds will be used to finance a project consisting of 124 miles of transmission line, 20 substations, pollution control equipment, an energy control center, additional computer facilities, and miscellaneous system improvements.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Phillip Martin, Manager, United Power Association, Elk River, Minnesota 55330.

In order to be considered, proposals must be submitted on or before April 7, 1977, to Mr. Martin. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as United Power Association and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration. Copies of REA Bulletin 20–22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington D.C., this 28th day of February 1977.

DAVID H. ASKEGAARD,
Acting Administrator, Rural Electrification Administration.

[FR Doc.77–6644 Filed 3–7–77;8:45 am]

ALLEGHENY ELECTRIC COOPERATIVE, INC., HARRISBURG, PENNSYLVANIA

Proposed Loan Guarantee

Under the Authority of Pub. L. 93–32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $260,000,000 to Allegheny Electric Cooperative, Inc., of Harrisburg, Pennsylvania. These loan funds will be used to finance the purchase of 10.00 percent of Pennsylvania Power and Light Company's Susquehanna nuclear powered 2100 MW generating unit and to construct approximately 42.3 miles of 500 kV transmission line.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. William Matson, Executive Vice President and General Manager, Allegheny Electric Cooperative, Inc., 2929 North Front Street, Harrisburg, Pennsylvania 17110.

In order to be considered, proposals must be submitted on or before April 7, 1977 to Mr. Matson. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Allegheny Electric Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 1st day of March, 1977.

DAVID H. ASKEGAARD,
Acting Administrator, Rural Electrification Administration.

[FR Doc.77–6708 Filed 3–7–77;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets 30079, 30149, 30197; Order 77–3–14]

VARIOUS CARRIERS

Domestic Passenger-Fare Increase; Order Denying Petitions for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 2nd day of March, 1977.

By Order 77–1–93, January 14, 1977, the Board dismissed complaints and permitted various carriers to increase 48-state passenger fares by two percent. The Board's Office of the Consumer Advocate (OCA) and the National Passenger Traffic Association (NPTA) seek reconsideration of that portion of the order which indicates that the Board will consider, under certain circumstances, the implementation of a general fare increase on less than the 30-day statutory notice, and intends to publish by press release each quarter the industry's adjusted return on investment (ROI) based upon the most current information available.[1]

OCA alleges that the Board's decision with respect to the short-notice procedure was made without affording the public a fair opportunity to comment on its merits and/or faults; and that the Board failed to provide a comprehensive discussion in its order on the question of "regulatory lag," or to address just how the short-notice procedure would narrow the shortfall in revenues that may occur under current procedures. It is further alleged that the Board's decision undermines the complaint procedure, and that good cause has not been shown for severely reducing the public's time and therefore ability to file complaints against a proposed general fare increase. OCA strongly objects to the "obvious implication" that the Board places less importance on the views of complainants than it does on the alleged needs of the carriers. Finally, OCA contends that the Board's decision will lead to greater instability in fares, consumer, and travel agent confusion as to the appropriate fare to be charged, and greater administrative burden and cost for the carriers.

NPTA argues that the industry can, and is, in fact, becoming economically viable without need for the short-notice procedure now suggested. It further contends that this new approach is ill-advised, and contrary to the intent of Congress expressed in section 403 of the Federal Aviation Act of 1958 (the Act), which contemplates a 30-day notice requirement of a proposed change in fares, so as to provide the public adequate time in which to analyze the proposal, its impact, and to file complaints seeking suspension and investigation as appropriate.

American Airlines, Inc. (American), and Eastern Air Lines, Inc. (Eastern) have answered the petitions contending, inter alia, that the procedure established by the Board in Order 77–1–93 does not constitute new "policy" since the Board's ratemaking policy was established in the Domestic Passenger-Fare Investigation (DPFI), and is not at issue here. If anything, the policy established in the DPFI requires the Board to resolve the cost-lag in its fare methodology and to implement procedures to resole it; this is precisely what the Board has done. The respondents allege that OCA and NPTA have misread the Board's statement on short-notice filings and, contrary to their assertion that opportunity for public comment will be eliminated, the Board carefully emphasized that such filings would be considered only in instances where the carriers have proposed even greater increases on statutory notice with full opportunity for complaints and answers.[2] The carriers also disagree with OCA's characterization of "chaos and confusion" resulting from the short-notice procedure, noting that new fares are normally either not assessed for two or more weeks after the tariff is filed or in any event not until the Board acts on the proposal and, if a carrier does charge the higher fare, the process of making refunds to passengers will be exactly the same whether the Board suspends the increase or permits a lesser increase on short notice.

Upon review of the petitions, the answers thereto, and all other relevant matters, the Board concludes that the petitions do not establish error in the Board's decision or otherwise warrant recision of the Board's announced policy with respect to short-notice filings as detailed in Order 77–1–93.

In that order, the Board emphasized that it would consider the filing of a general fare increase on short notice only in instances where the carriers had previously proposed a greater increase on statutory notice, which provides full opportunity for complaints and answers. Implicit in the petitions is the rationale that there are potential complainants who would remain silent were, for example, a three-percent increase filed on statutory notice, but who would object if the Board, on the basis of the most current data, found a lesser increase reasonable. We simply do not see the reasonableness of such an assumption. The Board clearly has no intention of precluding potential complainants from expressing their views on proposed fare increases, and is convinced that its announced policy with respect to short-notice filings will in no way vitiate this basic right. The Board's short-notice policy is merely aimed at facilitating the processing of requests for a general fare increase after it has reviewed the matter and applied all of its established ratemaking standards. For the Board to remain silent and "keep the carriers guessing," once it has determined the level of the increase which is warranted under its criteria, would create "bureaucratic" cost and paperwork which is unnecessary to the dispatch of the Board's business.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered That: (1) The motion of the Civil Aeronautics Board's Office of the Consumer Advocate for leave to file an otherwise unauthorized document in Dockets 30149, 30079, and 30197 is granted;

(2) The petitions for reconsideration filed by the Board's Office of the Consumer Advocate and the National Passenger Traffic Association, Inc. in Dockets 30149, 30079, and 30197 are denied; and

(3) Copies of this order be served upon all certificated scheduled carriers operating between points within the 48-contiguous states and the District of Columbia, the Civil Aeronautics Board's Office of the Consumer Advocate, and the National Passenger Traffic Association, Inc.

[1] OCA accompanied its petition with a motion for leave to file an otherwise unauthorized document since it was not a party to Dockets 30079, 30149, and 30197, and therefore is not entitled under the Board's Regulations to petition for reconsideration. We will grant OCA's motion.

[2] American notes that the Board's short-notice procedure will not be available in the far more likely instances when later cost data justifies a larger increase than that proposed by the carriers.

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This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6894 Filed 3-7-77;8:45 am]

[Docket 29727]

CARAIBISCHE LUCHT TRANSPORT MAATSCHAPPIJ, N.V.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of March 1977.

Caraibische Lucht Transport Maatschappij, N.V. (Caribbean Air Transport Company, Inc.) (CLTM) is the holder of a foreign air carrier permit[1] authorizing: (a) nonscheduled foreign air transportation of property and mail between a point or points in the Netherlands Antilles and the terminal point Miami, Florida; and between a point or points in the Netherlands Antilles and the terminal point San Juan, Puerto Rico; and (b) the performance of charter trips of property in foreign air transportation pursuant to Part 212 of the Board's Economic Regulations.

By application filed on September 1, 1976, as amended on January 21, 1977,[2] CLTM requests an amendment of its permit so as tto authorize it to engage in scheduled foreign air transportation with respect to property only: (a) between a point or points in the Netherlands Antilles, the intermediate points Santo Domingo, Dominican Republic, Port au Prince, Haiti, and Kingston and Montego Bay, Jamaica, and the terminal point Miami, Florida; and (b) between a point or points in the Netherlands Antilles, and the terminal point San Juan, Puerto Rico.

The points to which CLTM seeks to provide scheduled cargo service are contained in two routes set forth in paragraphs 2 (d) and (f) of the Schedule to the Air Transport Services Agreement, as amended on November 25, 1969, between the United States of America and the Kingdom of the Netherlands. The Government of the Kingdom of the Netherlands has officially designated[3] CLTM to operate the routes set forth in paragraphs 2 (d) and (f) of the Schedule to the bilateral Agreement.

In Order 76-7-95 the Board found in its Opinion that CLTM was substantially owned and effectively controlled by citizens of the Netherlands Antilles. The information provided in the instant application for amendment continues to support this finding. Accordingly, it is tentatively found from the foregoing that CLTM is owned and controlled by citizens of the Netherlands Antilles.

It is also tentatively found that CLTM is fit, willing, and able to provide the scheduled cargo service for which authority is sought. In Order 76-7-95 the Board previously found that CLTM met the nonscheduled cargo service being provided was in the public interest. CLTM has no history of formal violations of Board regulations.

On the basis of the record before us, CLTM has demonstrated that the amendment of its foreign air carrier permit is in the public interest, and that it possesses the necessary fitness, willingness, and ability to provide the proposed services and to conform to the provisions and requirements of the Act and the Board's regulations.

In view of the foregoing and all the facts of record, the Board tentatively finds:

1. That Caraibische Lucht Transport Maatschappij, N.V. (Caribbean Air Transport Company, Inc.) is substantially owned and effectively controlled by nationals of the Netherlands Antilles;

2. That it is in the public interest to amend the foreign air carrier permit of Caraibische Lucht Transport Maatschappij, N.V. (Caribbean Air Transport Company, Inc.) so as to authorize the carrier: (a) to engage in foreign air transportation with respect to property only between a point or points in the Netherlands Antilles, the intermediate points Santo Domingo, Dominican Republic, Port au Prince, Hati, and Kingston and Montego Bay, Jamaica, and the terminal point Miami, Florida; and between a point or points in the Netherlands Antilles, and the terminal point San Juan, Puerto Rico; and (b) to engage in charter trips of property in foreign air transportation subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations;[4]

3. That the public interest requires that the exercise of the privileges granted by said permit shall be subject to the terms, conditions, and limitations contained in the speciment form of permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

4. That Caraibische Lucht Transport Maatschappij, N.V. (Caribbean Air Transport Company, Inc.) is fit, willing, and able properly to perform the above-described foreign air transportation, and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

5. That an evidentiary hearing is not required in the public interest; and

6. That the amendment of Caraibische Lucht Transport Maatschappij, N.V.'s (Caribbean Air Transport Company, Inc.) foreign air carrier permit is not a "major federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Quality Act of 1969.[5]

Accordingly, it is ordered, that:

1. All interested persons be and they hereby are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and why an amended foreign air carrier permit substantially in the form attached to this order should not, subject to the approval of the President pursuant to section 801 of the Act, be issued to Caraibische Lucht Transport Maatschappij, N.V. (Caribbean Air Transport Company, Inc.);

2. Any interested person having objection to the issuance, without hearing, of an order making final the tentative findings and conclusions stated herein shall file a statement of objections supported by evidence within 21 days after the adoption of this order. If an evidentiary hearing is requested the objection should state in detail why such hearing is considered necessary and what relevant and material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before action is taken by the Board; [6]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. Copies of this order shall be served upon Caraibische Lucht Transport Maatschappij, N.V. (Caribbean Air Transport Company, Inc.), American Airlines, Inc., Eastern Air Lines, Inc., Pan American World Airways, Inc., and the Ambassador of the Kingdom of the Netherlands in Washington, D.C.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[1] Issued pursuant to Order 76-7-95, approved July 23, 1976.

[2] A copy of the application, as amended, has been transmitted to the President of the United States in accordance with the requirements of section 801 of the Act.

[3] By diplomatic note date July 20, 1976, from the Embassy of the Kingdom of the Netherlands.

[4] The authority to perform off-route charters pursuant to Part 212 of the Board's Economic Regulations extends only to the class of traffic authorized in the permit for on-route foreign air transportation, i.e., property. See Sociedad Aeronautica de Medellin Consolidada, S.A. SAM, 41 CAB 27, 28, n. 4 (1964); Americana de Aviacion, C.A., 48 CAB 489, 490, n. 3 (1968); Aerotransportes Entre Rios S.R.L., Order 72-4-154, n. 2; Caribwest Airways Ltd., Order 73-5-49, n. 5; Servicio Aero de Transportes Commerciales (SATCO), Order 73-5-141, n. 4; Compania de Aviacion "Faucett," S.A., Order 73-7-150, n. 1; Argo, S.A., Order 73-8-90, n. 1; and Turks Air Limited, Order 74-6-12, n. 8.

[5] Our tentative finding herein is based upon the fact that the amendment of CLTM's permit will not result in a significant increase in operations in view of the limited nature of CLTM's proposed scheduled operations in lieu of the nonscheduled service presently being offered by the carrier.

[6] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

Specimen Permit

UNITED STATES OF AMERICA, CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Caraibische Lucht Transport Maatschappij, N.V. (Carribbean Air Transport Company, Inc.), is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958, and the order, rules, and regulations issued thereunder, to engage in foreign air transportation with respect to property as follows:

1. Between a point or points in the Netherlands Antilles, the intermediate points Santo Domingo, Dominican Republic, Port au Prince, Haiti, and Kingston and Montego Bay, Jamaica; and the terminal point Miami, Florida.

2. Between a point or points in the Netherlands Antilles; and the terminal point San Juan, Puerto Rico.

The holder shall be authorized to engage in charter trips of property in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

The holder shall conform to the airworthiness and air man competency requirements prescribed by the Government of the Netherlands Antilles, a constituent part of the Kingdom of the Netherlands, for international air service of the Kingdom of the Netherlands.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the Kingdom of the Netherlands shall be parties.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder shall not provide foreign air transportation under this permit unless (1) there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, (2) there is in effect minimum liability insurance coverage for bodily injury to or death of cargo handlers in the amount of $75,000 per cargo handler, and (3) there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the insurance provided under (1) and (2) above. Upon request, the Board may authorise the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The holder shall not commence any service authorized herein, except pursuant to an initial tariff setting forth rates, fares, and charges no lower than the lowest rates, fares, or charges that are then in effect for any U.S. air carrier engaged in the same foreign air transportation.

By accepting this permit the holder waives any right it may posses to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted hereby shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall be effective on ---------- Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the routes hereby authorized from the routes which may be operated by airlines designated by the Government of the Netherlands (or in the event of the elimination of any part of a route or routes hereby authorized, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of the Netherland in lieu of the holder hereof, or (3) upon the termination or expiration of the Air Transport Agreement between the Government of the United States and the Government of the Netherlands, effective April 3, 1957, as last amended by an exchange of notes dated November 25, 1969: *Provided, however,* That clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention or agreement to which the United States and the Netherlands are or shall become parties.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the ----------

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Secretary.

Issuance of this permit to the holder approved by the President of the United States on ---------- in ----------

[FR Doc.77-6891 Filed 3-7-77;8:45 am]

[Docket 30070]

NORTH CENTRAL AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 2nd day of March, 1977.

On November 17, 1976, North Central filed a motion for an order to show cause why its certificate of public convenience and necessity for Route 86 should not be amended so as to authorize one-stop services between Milwaukee and Denver.[1]

In support of its motion, North Central alleges, *inter alia*, that in 1969 it was awarded Twin Cities-Denver authority;[2] that under ordinary circumstances the award of that route would have permitted the tacking of its pre-existing Milwaukee-Twin Cities authority to permit single-plane service between Milwaukee and Denver; that a procedurally inspired pretrial restriction in the Twin Cities-Denver case, however, prohibits the operations of this service; that on four previous occasions both before and after the Twin Cities-Denver award, North Central has sought immediate consideration of its pending application for Milwaukee-Denver nonstop authority which the Board has denied; and that in its most recent rejection of North Central's request,[3] the Board indicated that it would be receptive to a motion by North Central for the issuance of a show cause order requesting modification of the current single-plane restriction to that of one-stop authority between Denver and Milwaukee. Pursuant to that statement of intent by the Board, North Central states that it is now requesting Milwaukee-Denver one-stop authority by show cause procedures.

In addition, North Central states that it currently operates five daily nonstop round trips between Milwaukee and Twin Cities and three daily nonstop round trips between Twin Cities and Denver; that if the authority requested is granted, some of these flights would be linked up to provide Milwaukee-Denver one-stop service; that the grant of its request does not involve any significant diversion from United as long as that carrier provides reasonably adequate nonstop service in the market; and that since no additional direct operating expenses would be incurred, any additional traffic would more than pay for the servicing expense related to the new service.

No answers to North Central's motion have been received.

Upon consideration of the foregoing and all of the relevant facts, we have tentatively concluded that the public convenience and necessity require the modification of North Central's single-plane restriction in the Milwaukee-Denver market to a one-stop restriction; that the application presents no questions of fact or law which require a hearing; and that all interested persons should be directed to show cause why the Board's tentative findings and conclusions herein should not be made final.[4]

In support of our ultimate determination, we make the following tentative findings and conclusions. The principal benefit which will derive from the grant of improved authority to North Central will be the provision of additional and alternative service between Milwaukee and Denver. As we noted in Order 76-10-34, p. 5, while this market[5] is not currently worthy of an immediate hearing in relation to other more significant applications pending in the Board's crowed docket, there are certain schedule and peak period load factors deficiencies with United's service that could be

[1] North Central is currently prohibited from operating single-plane service in this market.

[2] Order 69-4-20, April 2, 1969.

[3] Order 76-10-34, October 7, 1976.

[4] We further find that North Central is a citizen of the United States within the meaning of the Act and is fit, willing, and able properly to perform the transportation proposed herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements, thereunder.

[5] The Milwaukee-Denver market exchanged 67,380 O&D plus connecting passengers in 1974, C.A.B. O&D survey.

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remedied by the grant of North Central's application.[6]

We further find that the amendment proposed herein is consistent with the Board's often reiterated general policy of eliminating or modifying certificate restrictions, the retention of which have been placed in issue, absent an affirmative showing that their continuance is required.[7] The authority requested involves no new stations or equipment for North Central and will permit the carrier more scheduling and operating flexibility.

Finally, we tentatively find that there will be little or no adverse impact on the incumbent carrier in the Milwaukee-Denver market. United holds unrestricted nonstop authority in the market and currently offers five nonstop round trips. Thus, the limited one-stop service proposed by North Central will have a *de minimis* diversionary impact on United's system revenues and is more than outweighed by the carrier and public benefits—improved scheduling and equipment flexibility which should flow from the proposed action.[8]

Interested persons will be given 30 days from the date of the adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. Answers thereto shall be due 15 days thereafter. We expect such persons to set forth their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent and/or detailed economic analysis. If an evidentiary hearing is requested, the objector should state; in detail why a hearing is considered necessary and what relevant and material facts he would expect to establish through a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered that:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending the certificate of public convenience and necessity of North Central Airlines, Inc. for Route 86 so as to modify its current single-plane restriction to a one-stop restriction on flights operated between Milwaukee and Denver;

2. Any interested person have objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein, shall, within 30 days after the date of the adoption of this order, file with the Board and serve upon all persons listed in Paragraph 5, a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections. Answers thereto shall be filed within 15 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;[9]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. A copy of this order will be served upon North Central Airlines, Inc., United Air Lines, Inc., Ozark Air Lines, Inc., the Governors of Colorado and Wisconsin, and the mayors of the cities of Denver and Milwaukee.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[10]

PHYLLIS T. KAYLOR,
Secretary.

MINETTI AND WEST, MEMBERS, CONCURRING IN THE RESULT:

We continue to believe that the issue of deleting altogether North Central's restriction in the Milwaukee-Denver market is fully worthy of being set for hearing on a priority basis, in light of recent Board decisions to set for hearing, and to delete similar restrictions in, markets of comparable size and not notably inferior existing service. See our dissent in Order 76-10-34, October 7, 1976.[1] We remain unable to discern any pattern of logic or consistency—related either to the fundamental public-interest factors which the Congress in section 102 of the Federal Aviation Act has mandated the Board to consider or to the Board's own announced standards for route hearing priorities which are contained in Section 399.60 of the Board's Policy Statements—in the majority's recent decisions setting or refusing to set applications for hearing.

Nevertheless, we welcome the present order as making at least a start on the process of ridding North Central of this oppressive and wasteful restriction. It now appears that this restriction—like Eastern's long-haul restriction in the Pittsburgh-Atlanta market, for example—is fated to be whittled away in a series of proceedings, where it could have been decisively addressed in a single hearing. The waste of the Board's scarce manpower resources involved in nibbling away at obsolete certificate restrictions bit by bit would appear to be obvious, but this evidently is not the decisive consideration.[2] In any event, it is better to do something than nothing at all, so we join in the present order.

G. JOSEPH MINETTI,
LEE R. WEST.

[FR Doc.77-6890 Filed 3-7-77;8:45 am]

[Docket 29773]

PAN AMERICAN WORLD AIRWAYS, INC. AND TRANS WORLD AIRLINES, INC.

North Atlantic Charter Transfer Rules; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on April 5, 1977, at 10:00 a.m. (local time) in Room 1003, Hearing Room D, Universal Building North, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned Administrative Law Judge.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on February 1, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 2, 1977.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc.77-6892 Filed 3-7-77;8:45 am]

[Docket 30569]

NOVO AIRFREIGHT CORP.

Nonacceptance of Furs; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 2nd day of March, 1977.

By tariff revision[1] issued February 4 and marked to become effective March 6, 1977, Novo Airfreight Corporation (Novo), an air freight forwarder, proposes to add a rule providing for the nonacceptance of furs in domestic shipments.

In support of the proposal, Novo asserts that its insurance company does not cover furs under its current policy; that Novo is not currently handling any fur shipments; that the proposed rule revision will remove the possibility of accepting this freight in the future; and that Novo's proposed rule is similar to that published by Airborne Freight Corporation (Airborne), another freight forwarder, in its currently effective rules tariff.

Upon consideration of all relevant factors, the Board finds that the proposed rule revision may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

The forwarder's proposed nonacceptance of furs would result in a significant derogation of its common-carrier responsibilities to provide service for which no adequate justification has been submitted. The Board has traditionally suspended, on these grounds, proposals by both direct and indirect carriers to limit their acceptance of traffic. Among those we have suspended were numerous proposals which refused acceptance of watches, live animals, snakes and other poisonous creatures, shipments with excess declared values, etc.[2]

Although the forwarder cites lack of current insurance coverage for such shipments, Novo has not stated why it could not obtain coverage from another insurance company in order to accommodate fur shipments in the future. Other forwarders and all direct carriers apparently have not encountered an insurance problem and are accepting fur shipments.[3]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered that:

1. An investigation is instituted to determine whether the provisions in Rule No. 105(A) relating to the nonacceptance of shipments of Furs on 10th Revised Page 9 of Novo Airfreight Corporation's C.A.B. No. 4, and rules, regulations, or practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, and practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions which read "Furs" in Rule No. 105(A) on 10th Revised Page 9 of Novo Airfreight Corporation's C.A.B. No. 4 are suspended and their use deferred to and including June 3, 1977, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein designated Docket 30569, be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariff and served upon Novo Airfreight Corporation, which is hereby made a party to Docket 30569.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6893 Filed 3-7-77;8:45 am]

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[6] In that order, we noted that United did not provide early morning eastbound service and that some of its peak period load factors were relatively high.

[7] See *e.g.*, Orders 75-7-15, July 2, 1975; 74-7-63, July 15, 1974; 69-6-87, June 17, 1969.

[8] North Central has indicated that its proposal will not result in any increase in air carrier operations. Consequently, we also tentatively find and conclude that the Board action sought by the applicant will not result in a major federal action significantly affecting the environment within the meaning of the National Environmental Protection Act of 1969.

[9] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[10] Minetti and West, members, filed the attached concurrences.

[1] And see also Member Minetti's earlier dissents in Orders 71-6-7, June 1, 1971, and 73-7-120, July 25, 1973.

[2] See Orders 75-11-118, 75-2-31, 74-12-86, 74-4-156, 72-11-112, 72-11-10 and 72-8-55. These involve live animals, watches, certain precious metals, stamps and bonds, certain other articles of extraordinary value, and shipments with a declared value in excess of $.50 per pound or $50, whichever is greater.

[3] In its justification, Novo states that Airborne, another forwarder, currently has a rule precluding the acceptance of shipments of furs. Numerous other forwarders, however, as well as all direct carriers do accept such shipments.

[1] Revision to Rule No. 105(A), Tariff C.A.B. No. 4 issued by Novo Airfreight Corporation.

COMMISSION ON CIVIL RIGHTS

IOWA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Iowa Advisory Committee (SAC) of the Commission will convene at 9 a.m. and end at 3 p.m. on April 15, 1977, at the Federal Building, Room 430, 8th Street and 2nd Avenue South, Fort Dodge, Iowa 50501.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Bldg., Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to receive current information on affirmative action hiring from city and county agencies that have resulted from the Fort Dodge SAC report recommendations.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 2, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77-6774 Filed 3-7-77;8:45 am]

NEBRASKA ADVISORY COMMITTEE

Change of Meeting Date

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nebraska Advisory Committee (SAC) of the Commission previously published in the FEDERAL REGISTER Monday, February 28, 1977, (FR Doc. 77-5874) on page 11256 is hereby amended to show change of meeting dated. The meeting was scheduled for March 14, 1977, and is changed to March 23, 1977.

Dated at Washington, D.C., March 2, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77-6775 Filed 3-7-77;8:45 am]

OHIO ADVISORY COMMITTEE

Meeting Cancellation

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission previously published in the FEDERAL REGISTER on Friday, February 18, 1977, (FR Doc. 77-5152) on page 10023 is hereby cancelled.

Dated at Washington, D.C., March 2, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77-6776 Filed 3-7-77;8:45 am]

TENNESSEE ADVISORY COMMITTEE

Meeting Cancellation

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee Advisory Committee (SAC) of the Commission a notice previously published in the FEDERAL REGISTER on Monday, February 8, 1977, (FR Doc. 77-5878) on page 11257 is hereby cancelled.

Dated at Washington, D.C., March 2, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77-6777 Filed 3-7-77;8:45 am]

WYOMING ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wyoming Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and end at 3:00 p.m. on March 26, 1977, at the Job Services Center Conference Room, 506 W. 17th Street, Cheyenne, Wyoming 82001.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission. Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to discuss progress of abortion services project and to finalize plans for education project in Carbon, Goshen and Laramie counties.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 2, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.77-6778 Filed 3-7-77;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF DEFENSE

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Defense to fill by noncareer executive assignment in the ex-

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cepted service the position of Deputy Director (Command and Control), Officer of the Director, Telecommunications and Command and Control Systems, Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-6607 Filed 3-7-77;8:45 am]

DEPARTMENT OF DEFENSE

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Principal Deputy Director Telecommunications and Command and Control Systems, Office of the Director, Telecommunications and Command and Control Systems, Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-6608 Filed 3-7-77;8:45 am]

DEPARTMENT OF JUSTICE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Attorney General, Office of Legal Counsel.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-6609 Filed 3-2-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON POPULATION STATISTICS

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I (1974)), notice is hereby given that the Census Advisory Committee on Population Statistics will convene on April 1, 1977 at 9:30 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Population Statistics advises the Director, Bureau of the Census, on current programs and on plans for the decennial census of population.

The Committee is composed of five members appointed by the Secretary of Commerce, and ten members designated by the President of the Population Association of America from the membership of that Association.

The agenda for the meeting is: (1) Developments since the last meeting; (2) current status of 1980 census planning; (3) results of 1980 census pretests—field procedures and coverage aspects, and subject content; (4) content of the Oakland, California pretest; (5) income data from Survey of Income and Education vs. Current Population Survey; (6) use of income data from complete count and 20 percent sample in the 1980 census; (7) initial proposals for presenting 1980 data—tabulations, publications, tape files, monographs, etc.; and (8) Committee recommendations.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Dr. Paul C. Glick, Senior Demographer, Population Division, Bureau of the Census, Room 2011, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, D.C. 20233). Telephone (301) 763-7030.

Dated: March 2, 1977.

ROBERT L. HAGEN,
Acting Director, Bureau of the Census.

[FR Doc.77-6769 Filed 3-7-77;8:45 am]

Domestic and International Business Administration

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on April 20, 1977 at 1:30 p.m. in Room 4830, Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee, which is comprised of 33 members, was established by the Secretary of Commerce on April 23, 1962 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the DIBA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5078.

ROBERT E. SHEPHERD,
Acting Deputy Assistant Secretary for Resources and Trade Assistance.

MARCH 2, 1977.

[FR Doc.77-6736 Filed 3-7-77;8:45 am]

Economic Development Administration

MUSHROOM INDUSTRY

Study of Producing Firms

SUMMARY

The Department of Commerce has conducted a study of the firms growing and processing mushrooms pursuant to section 264 of the Trade Act of 1974. Such a study is required whenever the U.S. International Trade Commission makes an industry investigation under section 201 of the Act. The Department published a section 264 report of the mushroom industry last year on April 13.

In its report of January 10, 1977, the Commission determined (by a 4 to 1 vote, with one abstention) that increased mushroom imports are causing or threatening to cause serious injury to the domestic industry. Three of the five participating Commissioners recommended to the President the imposition of a tariff rate quota as import relief for the U.S. mushroom industry, while two Commissioners recommended adjustment assistance as the appropriate remedy. According to section 202 of the Trade Act, the President shall determine whether to provide import relief and what method and amount of import relief will be provided. Mushrooms in their natural state are found in the rich, damp organic humus of shaded forest floors. Commercial mushroom cultivation in sheds or other enclosures basically duplicates the natural environment but achieves greater output per unit of area by controlled organic soil enrichment, temperature, shade and dampness. Mushrooms, used primarily to garnish meats and other foods, are also eaten separately or served in gravies, sauces, relishes, salads and soups. Fresh mushrooms are highly perishable and must be marketed within a few days after harvesting even though properly refrigerated. The canned product forms the vast bulk of preserved mushrooms entering the U.S. market from domestic and foreign processors. Canned mushrooms are usually packed in a light brine solution and used like fresh mushrooms. Most of the imported canned mushrooms are of the same species as those grown in the United States and are comparable in flavor and appearance.

The domestic mushroom industry is generally considered as consisting of two integral parts, namely the growers and the canners. In practice, however, both the growing and the processing of mushrooms may be carried out by the same firm, and some domestic firms even import canned mushrooms for sales to the U.S. market. In 1976, there were approximately 500 commercial mushroom growers, about 30 percent fewer than a decade ago. The decline in the number of growers, however, has been accompanied by an increase in area cultivated and in average yield. Commercial production is concentrated in Pennsylvania, although mushrooms are also grown near many of the large urban areas.

In 1976, there were 27 mushroom canneries in the United States, compared to 35 in 1972. Over one-half of the canneries are in Pennsylvania; the remainder are in California, Ohio, Michigan and Washington. Processors package mushrooms in cans ranging in size from 4-ounce and 8-ounce cans for the retail trade to larger institutional sizes up to 64 ounces. Canned mushrooms are marketed either as whole, including buttons, as sliced, or as stems and pieces.

Aproximately 90 percent of the imports of mushrooms come from Taiwan and South Korea; lesser quantities come from Japan, Latin America and France. The total quantity of U.S. imports of canned, dried and frozen mushrooms, on a fresh weight basis, increased from 53 million to 100 million pounds between 1970 and 1976. Canned mushrooms accounted for 88 percent of the imports in 1976; the balance was mostly dried mushrooms. Imported mushrooms are now equivalent to 32 percent of domestic production compared with 26 percent five years ago.

To be certified eligible to apply for trade adjustment assistance, a firm must petition the Department of Commerce and demonstrate that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in sales or production, or both, and to the separation, or threat of separation, of a significant number or proportion of the firm's workers. A trade-impacted producing firm may petition the Department for a certification at any time regardless of a prospective Commission finding or its results. For firms in the mushroom industry that are considering petitioning for certification, the first requirement of the qualifying criteria has been met, since U.S. imports of mushrooms have increased dramatically in recent years.

As of the date of this report, 8 petitions have been filed by members of the mushroom industry seeking certification to apply for adjustment assistance. Six of the petitioners, including a mushroom processing cooperative, three growers and two processor-growers, have been certified; petitions by two other firms growing and processing mushrooms were rejected as incomplete. The likelihood of other firms in the industry being able to meet the qualifying criteria for certification would depend on a number of unknown factors which could vary considerably in individual cases. Most of the mushroom growers probably would not be able to qualify for certification, since the producing segment of the industry as a whole shows rising trends in employment and production. The mushroom canners, however, have had declines in production and employment. It is estimated that approximately a dozen of the mushroom processors may be able to qualify for certification if they should decide to petition the Department, and a few growers may also be certifiable. Each case would have to be judged on its own merits and on the basis of whatever evidence the petitioning firm may adduce concerning its own operations and market situation.

Under the program of adjustment assistance for firms authorized by the Trade Act and administered by the Economic Development Administration ("EDA") in the Department of Commerce, financial assistance to certified firms may take the form of direct loans and loan guarantees, and technical assistance, to enable a firm to establish a competitive position in the same or a different industry. Financial assistance may be used for the acquisition, construction, installation, modernization, expansion or conversion of fixed assets, or for working capital necessary for a firm to implement its adjustment plan. Technical assistance may be used for management and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

The Trade Act also provides for certification of communities located in trade-impacted areas or in areas where a firm or subdivision has transferred to a foreign country. Certified communities are eligible for public works grants, loans, and loan guarantees—all of which can be directed towards assisting affected firms. Under the Public Works and Economic Development Act of 1965 ("PWEDA"), as amended, direct and indirect assistance to firms is available without Trade Act certification. Firms located in EDA-designated "redevelopment areas" and "economic development centers" can benefit indirectly from grants to the designated places and related entities for financing public works and directly from business development loans and guarantees. Under PWEDA, neither loans nor guarantees can be used to assist firms in industries found to have long-term overcapacity. However, PWEDA does authorize technical assistance to firms regardless of location and grants of loanable funds to communities with actual or threatened unemployment.

The Farmers Home Administration ("FmHA") of the Department of Agriculture has programs of both farm ownership loans and farm operating loans that could benefit mushroom growers which operate family farms. Mushroom canners may be able to participate in a program of loan guarantees to businesses located in areas other than cities of over 50,000 population. As with EDA business loans, however, these guarantees are not available to firms in industries characterized by long-term overcapacity. FmHA also can make grants and loans to public bodies, such as local governments and development organizations, in areas other than cities of over 10,000 population. These funds can be used for public projects, such as utility extensions and access roads, that would benefit industry.

The Small Business Administration ("SBA") administers three programs of potential assistance to small processors: a management assistance program for small business; a loan program for local development companies; and a business loan program of direct, participating, and guaranteed loans. Eligibility is limited to independently owned and operated firms that are not dominant in their field and do not have over 500 average employment. The amount of the guaranteed loan, however, cannot exceed $500,000, and participating and direct loans have even lower limits.

Additional information about the adjustment assistance program and copies of the report "Prospects for Firms in the Mushroom Industry," are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202/377-5113).

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-6817 Filed 3-7-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

PHILIPPINES

Import Restraint Level Established for Certain Cotton Coats in Category 49

MARCH 3, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: To augment the import restraint level established for certain cotton coats in Category 49 from the Philippines during the year which began on October 1, 1976.

SUMMARY: Paragraph 9(b) of the Bilateral Cotton, Wool of Man-Made Fiber Textile Agreement of October 15, 1975 between the Governments of the United States and the Republic of the Philippines provides that under certain specified conditions shortfalls in category ceilings during one agreement year may be carried forward and applied to ceilings in the succeeding agreement year. Pursuant to this provision of the bilateral agreement, the level for Category 49 is being raised by 4,708 dozen to a limit of 47,508 dozen for the twelve-month period

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which began on October 1, 1976 and extends through September 30, 1977.

EFFECTIVE DATE: March 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Edmond Callahan, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230. (202–377–5423).

SUPPLEMENTARY INFORMATION: On September 27, 1976, a letter was published in the FEDERAL REGISTER (41 F.R. 42234) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established the levels of restraint applicable to certain specified categories of cotton and man-made fiber textile products under the terms of the bilateral agreement, which have been produced or manufactured in the Philippines and exported to the United States during the twelve-month period which began on October 1, 1976. In the letter of March 3, 1977, published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry of cotton textile products in Category 49 from the Philippines at a level of 47,508 dozen during the agreement year which began on October 1, 1976.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, United States Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

MARCH 3, 1977.

DEAR MR. COMMISSIONER: On September 22, 1976, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning October 1, 1976 and extending through September 30, 1977, of cotton and man-made fiber textile products in certain specified categories, produced or manufactured in the Republic of the Philippines, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraph 9(b) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, between the Governments of the United States and the Republic of the Philippines, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed, effective on March 3, 1977, to amend the level of restraint established for cotton textile products in Category 49 to 47,508 dozen.[2]

The action taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton textile products from the Philippines has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, United States Department of Commerce.

[FR Doc.77–6879 Filed 3–7–77;8:45 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975 between the Governments of the United States and the Republic of the Philippines which provide, in part, that: (1) Within the aggregate and applicable group limits, specific levels of restraint may be exceeded by specified percentages; (2) these levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any entries made after September 30, 1976.

CONSUMER PRODUCT SAFETY COMMISSION

ADVISORY COMMITTEES

Invitation for Membership Application

The purpose of this notice is to invite application for membership on three advisory committees of the Consumer Product Safety Commission for vacancies that will occur in June 1977. The advisory committees are (1) the Product Safety Advisory Council, (2) the National Advisory Committee for the Flammable Fabrics Act, and (3) the Technical Advisory Committee on Poison Prevention Packaging. This notice contains information on the functions and composition of the advisory committees and the number and representational category of the vacancies occurring on each committee in June 1977. Also included in this notice is information about the representational categories and expertise of members remaining on the committees, general criteria for selection of members on Consumer Product Safety Commission advisory committees, and procedures for making application or nomination of applicants.

PRODUCT SAFETY ADVISORY COUNCIL

Section 28 of the Consumer Product Safety Act (15 U.S.C. 2077) provides that the Commission shall establish a 15-member Product Safety Advisory Council to be composed of:

(1) Five members selected from governmental agencies including, Federal, State, and local governments;

(2) Five members selected from consumer product industries including at least one representative of small business; and

(3) Five members selected from among consumer organizations, community organizations, and recognized consumer leaders.

Upon request of the Commission the Council provides safety rules or other actions under the Consumer Product Safety Act. The Council may also propose safety rules for the Commission's consideration. The Commission, in establishing the Advisory Council, envisioned that this diversely-composed Council would assist it in its decision-making process by providing advice on proposed major policies as well as approaches to particular issues and problems.

The Commission anticipates ten (10) vacancies in June 1977; three (3) in the consumer category, three (3) in the industry category, and four (4) in the government category.

The seven (7) members remaining on the Product Safety Advisory Council include: in the consumer category, an attorney with the Minnesota Public Interest Group with specific expertise in antitrust and product liability matters; and a member of the Waterbury, Connecticut Welfare Association involved in community information and out-reach work in Model Cities Programs; in the industry category, a deputy member of the Risk and Insurance Management Society's Legislative Policy Committee, New York, with responsibility for consumer product safety; and the Chairman of the Board of Directors of Frank R. Jellef, Inc. (retailer of women's apparel), Virginia; in the government category, the Deputy Commissioner, Bureau of Electrical Inspection, Department of Buildings, City of Chicago.

NATIONAL ADVISORY COMMITTEE FOR THE FLAMMABLE FABRICS ACT

The National Advisory Committee for the Flammable Fabrics Act was first established in 1968 by the Department of Commerce under section 17 of the Flammable Fabrics Act, as amended (Pub. L. 83–88, 15 U.S.C. 1204). Functions under the Act, including administration of the National Advisory Committee, were transferred, effective May 14, 1973, to the Commission by section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)).

The Commission consults with the National Advisory Committee for opinions, advice, and recommendations before prescribing flammability standards or other regulations under the Act.

The National Advisory Committee for the Flammable Fabrics Act is composed of 20 members, ten (10) of whom are representatives of manufacturers and distributors, with manufacturers to include the natural fiber producing industry, the man-made fiber producing industry, and manufacturers of fabrics, related materials, apparel or interior furnishings.

Eleven (11) vacancies are anticipated in June 1977 on the National Advisory Committee—five in the consumer category and six (6) in the industry representational category.

The nine (9) members remaining on the National Advisory Committee include among the consumer representatives four academicians: a professor of textiles and consumer economics at the University of Maryland; a professor of law at George Washington University, Washington, D.C.; a professor in environmental medicine at Mt. Sinai School of Medicine in New York; and a professor in consumer and business studies, State University College, Buffalo, New York. The other consumer member is a chemist with the Boston, Massachusetts, Fire Department. Among the remaining industry members on the National Advisory Committee are two manufacturers/distributors of fabrics and textiles from Washington, D.C., and New York; a manufacturer of children's apparel, Massachusetts; and a manufacturer/distributor of household laundry products, California.

TECHNICAL ADVISORY COMMITTEE ON POISON PREVENTION PACKAGING

The Technical Advisory Committee on Poison Prevention Packaging was first established in 1971 by the Department of Health, Education, and Welfare under the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601; 15 U.S.C. 1471, et seq.). Functions under this Act including administration of the Technical Advisory Committee on Poison Prevention Packaging, were transferred, effective May 14, 1973, to the Commission by section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)).

The Technical Advisory Committee provides advice and recommendations to the Commission on the establishment of packaging standards to protect children from injury or illness resulting from handling, using or ingesting household substances.

The Technical Advisory Committee is composed of 18 members, including one representative each from the Department of Health, Education, and Welfare (DHEW) and the Department of Commerce (DOC), with the remaining 16 members equally divided among consumers and industry interests. Within the industry category, representation is provided for manufacturers of household substances subject to the Poison Prevention Packaging Act and for manufacturers of packages and closures for household substances. Scientists with expertise related to the Act and licensed medical practitioners may be included in either the consumer or industry category depending upon their employment affiliation.

The Commission anticipates eight (8) vacancies on the Technical Advisory Committee: Five representatives of the consuming public: and three representatives of industry interests.

The eight (8) members remaining on the committee, in addition to the representatives from DHEW and DOC, include three academicians representing the consumer interests: A family ecologist from Colorado State University on sabbatical doing graduate work at the Michigan State University, an assistant dean at the University of Kentucky College of Pharmacy, and a professor of pediatrics at Duke University Medical Center in North Carolina. Among the industry members remaining on the Technical Advisory Committee are five representatives of manufacturers of packaging and closures: Owens-Illinois, Inc., Illinois; Alcoa Laboratories, Indiana; Kerr Glass Manufacturing Corp., Pennsylvania; Rexham Corp., North Carolina; and Desoto, Inc. (packager for household substances) Illinois.

MEMBERSHIP SELECTION AND APPLICATION PROCEDURE

The membership of the Commission's advisory committees shall be, insofar as practicable, fairly balanced in terms of geographic location, age, sex, and minorities. Further, within the representational categories specifically mandated by law, the Commission seeks in the selection of individual members to ensure an advisory committee of the widest possible diversity of experience, expertise, background, and interests. Examples of such diversity are provided below for each of the advisory committees.

Product Safety Advisory Council.—Among consumer representatives such diversity would include past or current involvement in the areas of consumer protection and consumer information; activities directed to the special needs of children, the handicapped, minorities, low-income, elderly, etc., teaching and/or research in safety of consumer products, public interest law, and educational programs for consumers. Diversity among industry representatives would include occupational responsibilities such as quality control, product testing, product engineering and design, marketing experience, voluntary standards development, trade associations, policy level corporate executives, import/export of products, etc. Among government representatives, such diversity would include involvement in activities at the Federal, State, or local level related to product safety regulatory activities, community groups and/or programs, product-related research and/or testing, etc.

National Advisory Committee for the Flammable Fabrics Act.—Among consumers on this committee, such diversity would include past or current involvement in burn treatment programs, fire prevention programs, teaching and/or research relating to textiles and home furnishings, consumer organization or local citizen group activities relating to flammability, public interest law, homemaking, etc. Diversity among industry representatives within the basic categories provided for by law would include past or current activities related to voluntary standards development in the area of fabric/textile flammability, fire-prevention programs, trade associations, research and/or teaching, occupational responsibilities such as quality control, product testing, product engineering, export/import of consumer products, etc.

Technical Advisory Committee on Poison Prevention Packaging.—Diversity among consumer representatives would include past or current involvement in activities related to poison control centers, data gathering research and analysis of incidents of poisoning in children, pediatrics, public interest law, home accident prevention efforts, teaching and/or research relating to household substances and drugs, homemaking, childrearing, etc. Diversity among industry representatives within the basic categories provided for by law would relate to specific types of products dealt with, past and current occupational responsibilities such as quality control, product testing, product engineering and design, marketing, voluntary standards development, practicing pharmacists, medical practitioners and scientists with industry employment affiliation, etc.

An application form designed to assist potential candidates in submitting information on which committee applications will be evaluated is available from the Commission and should be used by persons interested in making application for the advisory committee vacancies announced in this notice. Persons wishing to nominate another individual to serve on an advisory committee also should use the application form and should include a statement that the person nominated has agreed to serve if selected by the Commission. Application forms are available from and should be submitted not later than April 15, 1977, to the Committee Management Officer, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone 202–634–7700.

Dated: March 3, 1977.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77–6820 Filed 3–7–77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

CHEMICAL PROPULSION ADVISORY COMMITTEE PROPULSION SYSTEMS COST WORKING GROUP

Closed Meeting

Pursuant to the provisions of section 10 of Pub. L. 920463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Chemical Propulsion Advisory Committee (Propulsion Systems Cost Working Group) will be held on Tuesday, Wednesday and Thursday, March 29–31, 1977 at 8:30 a.m. in Building 7, Room 257, Johns Hopkins University Applied Physics Laboratory, Johns Hopkins Road, Laurel, Maryland.

The Committee's primary responsibilities are to provide technical advice to the Joint Army, Navy, NASA, Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of propulsion. At this meeting, the Committee will exchange technical information on reduction of life-cycle costs and de-

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velopment of cost-estimating techniques for chemical propulsion systems.

Under the provision of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are concerned with matters listed in section 552(b) of Title 5, United States Code. One of the matters so listed is that specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy.

Accordingly, this meeting will be closed to the public because the matters concerned are related to the design, development and production of classified rocket motors (5 U.S.C. 552(b)(1)). However, those individuals who possess a personal security clearance of at least confidential and a certified need-to-know in the area of chemical rocket propulsion may attend, provided they have notified the Advisory Committee Chairman in writing at least five (5) days prior to the meeting.

Members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. All communications regarding this Advisory Committee should be addressed to the Chairman, Mr. Sidney E. Solomon, Johns Hopkins University Applied Physics Laboratory, CPIA, Johns Hopkins Road, Laurel, MD 20810.

JAMES L. KOURY,
AFRPL/MKMB, Edwards, CA.

Office of the Secretary

BOARD OF VISITORS OF DEFENSE SYSTEMS MANAGEMENT COLLEGE

Meeting

A meeting of the Board of Visitors of the Defense Systems Management College will be held in Building 202, Fort Belvoir, VA, on Wednesday, April 20, 1977, from 8:30 a.m. until 5:00 p.m. The agenda will include a review of the course offerings and discussion of DSMC operations, educational policies, and plans. The meeting is open to the public; however, because of limitations on space available, allocations of seating will be made on a first-come, first-served basis. Persons desiring to attend should call the DSMC Director, Department of Administration, Operations & Support (703-664-1314) to reserve a seat as far in advance as possible.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MARCH 3, 1977.

[FR Doc.77-6746 Filed 3-7-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

ENHANCED OIL RECOVERY WORKSHOPS

The Oil, Gas and Shale Technology Division of ERDA—Fossil Energy will hold three workshops on the implementation of an enhanced oil recovery (EOR) program. The first workshop will be in Los Angeles, California, on March 29 and 30 and will discuss steam injection methods. The next workshop will take place in Bartlesville, Oklahoma, on April 5 and 6. This workship will consider three topics: the micellar-polymer flooding process, residual oil, and technology transfer of EOR information. The third workshop will be in Houston, Texas, on April 12 and 13 and will examine the carbon dioxide miscible process.

Each workshop is designed to help identify specific field efforts and laboratory work required for implementation of ERDA's EOR program. The workshops are open to the public; however, notification prior to attendance is requested to assist ERDA in its planning.

For further information, please contact Dr. John Vlahakis, (202) 376-4841, or George Stosur (202) 376-4690 at ERDA Headquarters in Washington, D.C.

Dated: March 3, 1977.

S. WILLIAM GOUSE,
Deputy Assistant Administrator for Fossil Energy.

[FR Doc.77-7022 Filed 3-7-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00044]

ADMINISTRATOR'S PESTICIDE POLICY ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Administrator's Pesticide Policy Advisory Committee.

Date: Wednesday, March 23, 1977.

Place: Environmental Protection Agency (EPA), 401 M St. SW., Washington, D.C., Room 2117-2123, Mall. Seating capacity of the conference room is limited.

Time: 9:30 a.m.-4 p.m. (approximately).

Proposed Agenda: The purpose of this meeting is to review in-depth proposals put forth by EPA and other interested parties for legislative changes to be made during the present session of Congress in the amended Federal Insecticide, Fungicide, and Rodenticide Act, and to receive public comments on these proposals.

The Committee meeting is open to the public. All communications regarding this meeting should be telephoned to Mr. P. H. Gray, Jr., Acting Executive Secretary, Administrator's Pesticide Policy Advisory Committee, (202) 755-7014.

Dated: March 4, 1977.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77-7033 Filed 3-7-77;9:46 am]

[FRL 695-5]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Amendment to Equivalent Method for SO_2

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7044, February 18, 1975), has approved three additional options to SO_2 equivalent method number EQSA-1275-005 (FEDERAL REGISTER, Vol. 41, page 3893, January 27, 1976). Accordingly, the method identification is amended to read as follows:

EQSA-1275-005, Lear Siegler Model "SM1000 SO_2 Ambient Monitor," operated on the 0-0.5 ppm range, at a wavelength of 299.5 nm, with the "slow" (300 second) response time, with or without any of the following options:

SM-1 Internal zero/span.
SM-2 Span timer card.
SM-3 0-01 volt output.
SM-4 0-5 volt output.
SM-5 Alternate sample pump.

This method is available from Lear Siegler, Inc., Environmental Technology Division, 74 Inverness Drive East, Englewood, Colorado 80110.

This change is made in accordance with 40 CFR 53.14 and is based on additional information and test data submitted by the applicant subsequent to the original designation (41 FR 3893, January 27, 1976). The new information will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As an equivalent method, this method is acceptable for use by States and other control agencies for purposes of section 51.17(a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, the method must be used in strict accordance with the operation of instruction manual provided with the method and subject of any limitations (e.g., operating range) specified in the application designation (see description of method above). Modifications of a designated method used for purposes of § 51.17(a) are permitted only with the prior approval of EPA. Provisions for vendor modification are given in 40 CFR 53.14, and provisions for user modifications are given in 40 CFR 51.17a(f) (promulgated on March 17, 1976; 41 FR 11255).

Additional information concerning the use of this designated method may be obtained from the original Notice of Designation (41 FR 3893, January 27, 1976) or by writing to: Director, Environmental Monitoring and Subpart Laboratory, Department E (MD-76), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. Technical questions concerning the method should be directed to the manufacturer.

WILSON K. TALLEY,
Assistant Administrator for Research and Development.

MARCH 2, 1977.

[FR Doc.77-6716 Filed 3-7-77;8:45 am]

[FRL 695-2; OPP-50278]

DOW CHEMICAL U.S.A.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 464-EUP-49. Dow Chemical U.S.A., Midland, Michigan 48640. This experimental use permit allows the use of 4,000 pounds of the insecticide chlorpyrifos on cotton to evaluate control of thrips, fleahoppers, and plant bugs. A total of 3,600 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, Tennessee, and Texas. The experimental use permit is effective from February 4, 1977, to February 4, 1978. A permanent tolerance for residues of the active ingredient in or on cottonseed has been established (40 CFR 180.342).

No. 464-EUP-50. Dow Chemical U.S.A., Midland, Michigan 48640. This experimental use permit allows the use of 6,000 pounds of the insecticide chlorpyrifos on cotton to evaluate control of the pink bollworm and other bollworms. A total of 600 acres is involved; the program is authorized only in the States of Arizona and California. The experimental use permit is effective from February 4, 1977, to February 4, 1978. A permanent tolerance for residues of the active ingredient in or on cottonseed has been established (40 CFR 180.342).

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m., Monday through Friday.

Dated: February 28, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-6718 Filed 3-7-77;8:45 am]

[FRL 695-4; PF65]

ICI UNITED STATES, INC.

Pesticide Programs; Filing of Pesticide Petition

ICI United States, Inc., Concord Pike & New Murphy Rd., Wilmington, DE 19897, has submitted a petition (PP 7F1915) to the Environmental Protection Agency which proposes that 40 CFR 180.365 be amended by establishing a tolerance for combined residues of the insecticide 2-(dimethylamino)-5,6-dimethyl-4-pyrimidinyl dimethylcarbamate and its metabolites 5,6 - dimethyl - 2 - (formylmethylamino)-4-pyrimidinyl dimethylcarbamate and 5,6-dimethyl-2-(methylamino)-4-primidinyl dimethylcarbamate (both calculated as parent) in or on the raw agricultural commodities broccoli and lettuce at 1.0 part per million (ppm); brussels sprouts, cabbage, cauliflower and bell peppers at 0.5 ppm; and chili peppers 2.0 ppm. The proposed analytical method for determining residues is a gas chromatographic procedure using a rebidium bromide thermionic detector. Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 16, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202/426-9425. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: March 1, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-6717 Filed 3-7-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Schedule of Meeting

MARCH 3, 1977.

Pursuant to Public Law 92-463, notice is hereby given of the following meeting.

WARC-79 SATTELLITE BROADCASTING SERVICE GROUP

Wednesday, March 23, 1977, 9:30 am to 12:00 Noon, Room 6331, 2025 "M" Street NW., Washington, D.C.

Chairman: Edward E. Reinhart.
FCC Liaison: Charles H. Breig.

The Agenda will be as follows:

1. Call to Order by the Chairman.
2. Approval of Minutes of Previous Meeting.
3. Discussion of Third Notice of Inquiry. Docket 20271.
4. Reports from Task Groups.
5. Further Discussion.
6. Next Meeting Date and Adjournment.

The above meeting is open to broadcast industry representatives and interested members of the general public.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-6680 Filed 3-7-77;8:45 am]

[Docket No. 21114]

LYCURGUS G. TSIMPIDES

Applicatior for Amateur Radio Station and Technician Class Operator Licenses

Adopted: February 10, 1977.

Released: March 1, 1977.

The Chief, Safety and Special Radio Services Bureau, has under consideration the above-entitled application for an Amateur radio station license and an Amateur radio operator (Technician Class) license filed by Lycurgus G. Tsimpides, 545 Durham Drive, Homewood, Alabama 35209, on June 23, 1976.

The applicant's license for Citizens radio station KCQ-6091 was revoked, effective August 13, 1973, in Docket No. 19406, Lycurgus G. Tsimpides, 48 FCC 2d 248, following a hearing held December 5, 1972. In an Initial Decision issued June 22, 1973, the presiding Administrative Law Judge found and concluded, inter alia, that Tsimpides had operated his radio station in violation of various Commission Rules and that he had made misrepresentations of material facts, which continued throughout the hearing process. No exceptions were filed to the Initial Decision and it became final on August 13, 1973, (FCC 73 R-326, released September 18, 1973).

In an Order released on January 8, 1974, Tsimpides was directed to cease

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and desist from further operation of an unlicensed Citizens radio station (SS–194–74). The Cease and Desist Order was predicated on Tsimpides' having operated radio transmitting apparatus without authorization on September 4, 1973.

By an Order released January 8, 1975, a previous application by Tsimpides for Amateur radio station and operator licenses was designated for hearing. When Tsimpides failed to file an appearance, that application was dismissed with prejudice by an Order of the presiding judge released March 7, 1975.

Notwithstanding the Order to Cease and Desist from further unlicensed operations on Citizen Band radio frequencies, Tsimpides apparently so operated on January 18, 1974; October 28, 1974; and April 9 and 10, 1976. In the April 1976 transmissions, it appears that Tsimpides identified as "HF 85," indicating membership in HF International, an organized scheme to operate radio transmitting apparatus illegally and avoid detection.[1]

In view of the Findings and Conclusions of the Initial Decision (48 FCC 2d 248) and the Order to Cease and Desist (SS–194–74), and his apparently unlicensed operation subsequent thereto, it cannot be determined that a grant of Tsimpides' application would serve the public interest, convenience and necessity. Therefore, the Commission must designate the application for hearing. The findings and conclusions of the Initial Decision and the Order to Cease and Desist shall be res judicata as to the applicant and shall not be relitigated in this proceeding.

Accordingly, it is ordered, Pursuant to section 309(e) of the Communications Act of 1934, as amended, and § 1.973(b) of the Commission's Rules, that the captioned application is designated for hearing, at a time and place to be specified by subsequent Order, upon the following issues:

1. To determine the effect of the facts and conclusions contained in the Initial Decision (48 FCC 2d 248) and Order to Cease and Desist (SS–194–74) upon the applicant's requisite qualifications to be a licensee of the Commission.

2. To determine whether the applicant engaged in unlicensed operation subsequent to the release of the Order to Cease and Desist.

3. To determine, in light of the evidence adduced under the foregoing issues, whether the applicant has the requisite qualifications to be a licensee of the Commission.

4. To determine whether a grant of the subject application for Amateur radio station and operator (Technician) licenses would serve the public interest, convenience, and necessity.

It is further ordered, That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall within 20 days of the mailing of this Order file with the Commission, in triplicate, a written appearance stating an intent to appear on the date fixed for hearing and to present evidence on the issues specified on this Order.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

[FR Doc.77–6861 Filed 3–7–77;8:45 am]

[1] In the proceeding in Docket No. 19406, Lycurgus G. Tsimpides, 48 FCC 2d 248, the presiding judge found and concluded that Tsimpides had been a member of a group of radio operators, who, in order to evade detection, used "Charlie Charlie" numbers for identification. The presiding judge also found that Tsimpides encouraged participation in the group and assigned "Charlie Charlie" numbers to new participants.

FEDERAL ENERGY ADMINISTRATION

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94–163) notice is hereby provided of a meeting of the Industry Working Part (IWP) to the International Energy Agency (IEA) to be held on March 16, 17 and 18, 1977, at the Grande Hotel, Via Victorio Emannelle Orlando, Rome, Italy, beginning at 10:00 a.m. on March 16. The agenda is as follows:

1. Status of the Standing Group on the Oil Market (SOM) and Industry Working Party (IWP) activities and outstanding questions dealing with IWP work procedures.

2. Discussion of possible areas of improvement in the existing crude oil and petroleum product price and cost reporting systems.

3. Discussion of data systems for the reporting of historical financial information.

4. Discussion of the reporting of IWP recommendations to the SOM and arrangements for meeting with the SOM and its ad hoc groups as necessary.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., March 3, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

[FR Doc.77–6897 Filed 3–7–77;8:45 am]

NATIONAL ENERGY POLICY

Announcement of Citizen Town Hall Meetings

As part of the President's effort to obtain the comments and recommendations of individual citizens about appropriate goals and actions for inclusion in a comprehensive national energy plan scheduled for release on April 20, 1977, the Federal Energy Administration will hold a series of ten Citizen Town Hall Meetings on National Energy Policy. These meetings will be held between March 14 and March 21, 1977 at locations set forth below. This invitation requests assistance from the public in the formulation of a comprehensive, workable and equitable program to meet short and long-term energy needs of the United States.

The Nation's current experiences with natural gas supplies in a severe winter and the oil embargo of 1973 have provided sharp and unpleasant evidence of the country's heavy dependence on certain non-renewable energy resources. However, the Nation still lacks a coherent and balanced set of energy goals, programs and actions. Having built an economy and a way of life based on cheap and abundant energy resources, the Nation has yet to adjust to the real and growing cost of energy and the depletion of many low price resources. Inadequate information on and understanding of the problems, conflicts among competing and legitimate goals, pricing and regulatory practices that no longer make sense, and institutions which have been poorly structured or failed to respond have all contributed to the current problems. Whatever these shortcomings have been, however, the United States need now to set itself firmly on a course that:

Places appropriate priority on conservation as a key element in energy policy,

Minimizes the harmful impact of possible supply disruptions and adverse weather conditions,

Takes account of the relative availability and provides for the proper use of our non-renewable resources—coal, gas and oil.

Assesses realistically the technical and economic potential of new energy technology together with its availability and safety,

Provides for proper protection of the environment,

Makes sure that the burdens of any national energy policy are shared fairly among all citizens, and

Initiates firm measures toward energy utilization that makes social and economic sense with due regard for timing needed to prevent serious dislocations and consequences.

Toward this end, all interested individuals are invited to present their views and recommendations on appropriate goals and actions to achieve those goals and resolve important policy issues. While the following are neither a complete list of issues nor intended in any way to limit the scope of responses, comments are particularly solicited on:

Conservation: The United States per capita energy consumption and growth rate exceeds that of many other industrial nations. Opportunities for significant conservation or improvements in the energy efficiency of homes and offices, in industry, and in transportation have been identified such as better insulation, better industrial practices, and more fuel efficient cars and trucks. How should these and other possibilities for improvements be vigorously pursued?

Voluntary means?

Financial incentives (benefits or taxes?)

Mandatory standards/or other direct government action?

Imported energy: How should the United States seek to reduce vulnerability to supply disruption?

Should a substantial reserve stockpile be built and, if so, how large?

Should the country count on voluntary measures during a crisis?

Other measures?

Supply development: What emphasis should be given to the development and use of coal, oil, gas, nuclear power, hydroelectric, synthetic fuels, solar power, geothermal and other energy sources?

Which one or group of resources should be given highest priority?

Which of these resources can be developed with minimum environmental damage?

What should be the Federal role in research and development?

How deeply should the Federal Government become involved in financing supply development?

Environment: What new approaches or improved processes, if any, should be used to insure proper consideration of air, water and land use impacts and achieve appropriate reclamation in surface mining? Should any sacrifices be made in environmental quality in order to develop new energy resources?

Federal regulation: What is the appropriate Federal role and approach in regulation of oil, natural gas, leasing of public lands and outer continental shelf, nuclear power plant, electric utilities and fuels allocation?

What new approaches should be taken or stimulated?

For each area, should policy move toward greater controls over prices and other matters or toward greater reliance on market forces?

What kinds and types of regulatory protections should be adopted to protect consumers?

Intergovernmental relationships: What is the appropriate division of responsibilities and roles among Federal, State and local governments in all dimensions of the development and implementation of energy policies?

Citizen participation: How can the public, and various organizations and interested groups best participate in the continuing evolution and implementation of energy policies?

Hardships: How can the economic hardships of a severe weather or an unanticipated sharp rise in energy prices best be alleviated?

All interested persons are invited to present their comments and recomendations, with any supporting data and analyses, at any of the Citizen Town Hall Meetings, which will be held in the following cities:

MONDAY, MARCH 14

Dallas, Tex., Baker Hotel—Terrace Room, 1400 Commerce St., 9 a.m. to 10 p.m. Information: 214–749–7714.

Seattle, Wash., Seattle Center—Center House, 3d and Harrison Sts., 9 a.m. to 10 p.m. Information: 206–442–7285.

TUESDAY, MARCH 15

San Francisco, Calif., PSA Hotel San Franciscan, 1231 Market St., 9 a.m. to 10 p.m. Information: 415–556–7130.

New York, N.Y., Federal Bldg.—room 305, 26 Federal Plaza, 9 a.m. to 10 p.m. Information: 212–264–0520.

WEDNESDAY, MARCH 16

Philadelphia, Pa., Drexel University—Stein Auditorium, 33d and Market Sts., 9 a.m. to 10 p.m. Information: 215–597–3880.

THURSDAY, MARCH 17

Boston, Mass., John W. McCormack Post Office and Court House, Post Office Square, 9 a.m. to 10 p.m. Information: 617–223–0504.

Atlanta, Ga., Atlanta Civic Center; 385 Piedmont Ave. NE., 9 a.m. to 10 p.m. Information: 404–275–3696.

FRIDAY, MARCH 18

Kansas City, Mo., Federal Bldg.—room 140, 601 East 12th St., 9 a.m. to 10 p.m. Information: 816–374–3720.

MONDAY, MARCH 21

Chicago, Ill., Illinois Institute of Technology, Hermann Hall, 3300 South Federal St., 9 a.m. to 10 p.m. Information: 312–886–5173.

Denver, Colo., United States Post Office, 19th and Stout Sts., 9 a.m. to 10 p.m. Information: 303–234–2449.

All comments and suggestions will be heard by a panel of persons from Federal energy offices and agencies. They will be noted, summarized and transmitted to Washington for consideration in the formulations of the April 20, 1977, National energy plan. All persons wishing to make presentations will be heard on a first come, first served basis, and time limits on presentations may be imposed to enable all interested persons to be heard. If there are persons present who have not had an opportunity to speak at a meeting's scheduled conclusion time, the meeting will remain open until they have spoken.

Interested persons who cannot attend a meeting have been invited by the President to submit written comments and recommendations, together with any supporting data and analyses, to Post Office Box 2709, Washington, D.C. 20013. Submissions should be identified on the outside of the envelope in which they are transmitted with the designaton "National Energy Policy Recommendations." No material submitted in response to this notice can be returned. All written submissions must be received on or before March 21, 1977, if they are to be read and considered in formulating the President's proposed National energy policy which is scheduled for April 20, 1977.

Any information or data considered by the person furnishing it to be confidential must be so identified and be submitted in writing, one copy only. The Federal Government reserves the right to determine the confidential status of the information or data and treat it according to its determination.

Issued at Washington, D.C., on March 3, 1977.

JOHN F. O'LEARY,
Administrator, Federal Energy Administration.

[FR Doc.77–6906 Filed 3–4–77;9:27 am]

FEDERAL MARITIME COMMISSION

AMERICAN EXPORT LINES ET AL.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. on or before March 28, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

In the matter of American Export Lines, American President Lines, Atlantica S.p.A., Black Sea Shipping Company, Costa Line, Italia, S.p.A., Jugolinija, Sea-Land Service Inc., Turkish Cargo Lines, Zim Israel Navigation Co., Ltd.

Agreement No. 10286, among the above named carriers who are now, or will become members of WINAC creates the Italy–U.S.A. North Atlantic Pool Agreement, which is a cargo and revenue pooling agreement in the Italy/U.S. North Atlantic trade, whereby the parties agree to abide by certain basic pool

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shares as set forth therein. The agreement also sets forth in detail the administrative and housekeeping functions which will be maintained.

By Order of the Federal Maritime Commission.

Dated: March 3, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6883 Filed 3-7-77;8:45 am]

MEDITERRANEAN DISCUSSION AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by March 28, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 9972-5, among the members of the Mediterranean Discussion Agreement, is an application to extend the term of approval of the agreement from March 29, 1977, through March 29, 1979.

By Order of the Federal Maritime Commission.

Dated: March 3, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-6884 Filed 3-7-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RM77-13]

NATIONAL RATES FOR JURISDICTIONAL SALES OF NATURAL GAS FROM WELLS COMMENCED ON OR AFTER JANUARY 1, 1977, FOR PERIOD JANUARY 1, 1977 TO DECEMBER 31, 1978

Order Instituting National Rate Proceeding

MARCH 1, 1977.

Pursuant to the Administrative Procedure Act[1] and sections 4, 5, 7, 8, 10, 14, 15 and 16 of the Natural Gas Act,[2] proceedings are hereby instituted to prescribe rules and regulations establishing just and reasonable rate for jurisdictional sales of natural gas from wells commenced on or after January 1, 1977, for the two year period from January 1, 1977 to and including December 31, 1978, and otherwise regulating such jurisdictional sales by natural gas producers on a nationwide basis. Such rates will be exclusive of production, severance, or similar taxes, and subject to adjustment for these taxes, Btu content, gathering, and onshore delivery by the producer.

The Commission has previously established national rates in Docket Nos. R-389-B,[3] R-478,[4] and RM75-14.[5] In Accordance with § 2.56a(m)[6] of the Commission's Regulations, the Commission will reexamine the rate prescribed in Docket No. RM75-14, for the 1975-1976 biennium, and will consider any changes in the rate structure established therein as may be required in the public interest.

We do not propose, at this time any specific rates for the two year period, 1977-1978, or specific revisions to the rules prescribed in § 2.56a.[7] Instead, we will rely upon all information gathered by the Commission and the comments and responses thereto filed in this proceeding as the basis for establishing new rates. Although reserve and drilling cost data from FPC Form Nos. 40 and 64 are not presently available for Commission analysis due to the Court action staying or remanding Commission orders,[8] to the extent that such data becomes available during the new biennium we intend to give full consideration to it along with other available data in determining the cost based portion of the new rates established in this proceeding.

In addition to Form Nos. 40 and 64, certain industry sponsored data should become available by mid-1977, specifically the Independent Petroleum Association of America (IPAA) drilling cost index for 1976, the Joint Association Survey (JAS) actual drilling costs and exploration and development expenditures for 1975, and the American Gas Association (AGA) reserve additions for 1976.

With this information, respondents to this order will be capable of formulating a projected cost presentation for the 1977-1978 period, and evaluate whether there is a need for a change in the rate set in Opinion No. 770-A for the 1975-1976 biennium. Accordingly, on or before August 1, 1977, any party to the proceeding, including Staff, may file with the Commission a proposed rate structure and cost study for both the 1975-1976 and 1977-1978 periods, together with a written explanation of the components of the rate and the support therefor. In such filing a party may also address such additional issues or matters as it may deem appropriate.

The Commission in Opinion Nos. 699-H and 770-A deferred making some rate allowance for drilling efforts to depths below 15,000 feet and/or in water depths greater than 250 feet. In the first opinion, the deferral was based on procedural grounds and in the second was based on the absence of a sufficient factual basis for determining a proper allowance.

The Commission, therefore, provided that sellers may petition for special relief for these sales based on a showing that the cost of producing the gas exceeds the national rate. Since the issuance of Op. 770-A there has not been a sufficient number of filings to provide an adequate data base for a general determination of rate treatment for these deep drilling or deep water sales. It is, therefore, appropriate that the parties in their comments direct specific discussion and provide supporting data on these issues.

In addition, the parties are also requested to direct specific comments to the general questions of continuing the Commission's Optional Procedures, 18 CFR 2.75.

Any party that desires to comment on the filed rate structure and cost study of another party shall do so on or before October 1, 1977.

In order to assure the effective resolution of this proceeding, all natural gas

[1] 60 Stat. 237, 918, 993 (1946); 61 Stat. 37, 301 (1947); 62 Stat. 99 (1948); 80 Stat. 250 (1966); 5 U.S.C. 551, et seq. (1970).

[2] 52 Stat. 822, 823, 824, 825, 829, 830 (1938); 56 Stat. 83, 84 (1942); 61 Stat. 459 (1947); 76 Stat. 72 (1962); 15 U.S.C. 717c, 717d, 717f, 717g, 717m, 717n, 717o (1970).

[3] See, Opinion No. 699-H, 52 FPC 1604 (December 4, 1974).

[4] See, Opinion No. 749, ____ FPC ____ (December 31, 1975).

[5] See, Opinion No. 770-A, ____ FPC ____ (November 5, 1976).

[6] 18 CFR 2.56a(m) (Opinion No. 770-A at 195), which states:

Prior to January 1, 1977, the Commission shall initiate such proceedings as shall be necessary to establish a just and reasonable rate to be effective from the date of establishment of rates by order of the Commission through December 31, 1976, for the sales described in subsection (a) and for all wells commenced on or after January 1, 1977, and prior to January 1, 1979.

[7] 18 CFR 2.56a.

[8] See, *Union Oil Company of California, et al.* v. *F.P.C.* (9th Cir.), Nos. 75-3891, et al., and *Superior Oil Co.* v. *F.P.C.* (5th Cir.), No. 76-2113; *Mitchell Energy Corporation* v. *F.P.C.* (5th Cir), No. 76-2246.

producers,[9] whether or not affiliated with an interstate pipeline company, and all interstate companies will be made respondents to this proceeding.

A list of such persons is attached as Appendix A to this order.

All interested persons, including those persons named as respondents, desiring to participate in this proceeding shall file with the Secretary of the Commission on or before April 1, 1977, a notice of intention to participate. Those parties who have common interests shall combine in a group, where practicable and desirable. The Secretary, on or before April 22, 1977, will prepare, publish, and serve upon all persons who filed a notice of intention to participate a list of all participants, including groups of participants.

The Commission orders. (A) Proceedings are hereby instituted, pursuant to sections 4, 5, 7, 8, 10, 14, 15, and 16 of the Natural Gas Act of 1938, as amended, to prescribe rules and regulations establishing just and reasonable rates for jurisdictional sales of natural gas from wells commenced on or after January 1, 1977 for the two year period from January 1, 1977, to and including December 31, 1978, and otherwise regulating such jurisdictional sales on a nationwide basis. Such rates shall be exclusive of all State or Federal production, severance, or similar taxes, and shall be subject to adjustment for Btu content, gathering taxes, and onshore delivery by the producer. The Commission will also undertake to review the rate set in Opinion No. 770-A for the period January 1, 1975 to December 31, 1976.

(B) The proceedings instituted by Ordering Paragraph (A), supra, shall encompass an investigation of the facts, conditions, practices, and any other relevant matters pertaining to the sale of natural gas in interstate commerce. Included within such investigation shall be a determination of the cost of finding and producing new supplies of natural gas for sale in interstate commerce for resale.

(C) All persons named in Appendix A below are hereby made respondents to this proceeding.

(D) All persons, including the persons named in Appendix A below and the Commission Staff, desiring to participate in this proceeding shall file with the Secretary of the Commission on or before Apiri 1, 1977, a notice of intent to participate in this proceeding setting forth the name of the person desiring to participate in the proceeding and the name, title, mailing address, and telephone number of the person or persons to whom communications concerning this proceeding should be adressed; and such notices shall be submitted on letter size paper (8″×10½″ or 8½″×11″) and single spaced. The Secretary will prepare, publish, and serve upon all persons who filed a notice of intention to participate, on or before April 22, 1977, a list of all persons filing a notice of intention to participate including groups of participants.

(E) Any party to the proceeding may file with the Secretary of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 1, 1977, with respect to all matters set forth in Ordering Paragraph (B), supra, a proposed rate structure and cost study and an explanation of the components thereof. Comments on these submittals shall be filed with the Commission on or before October 1, 1977. All such written comments shall state the name, title, mailing address, and telephone number of the person or persons to whom communications concerning this rulemaking proceeding should be addressed. The written submittals shall be single spaced and submitted on letter size paper (8″×10½″ or 8½″×11″). An original and fourteen (14) conformed copies of each such response shall be filed with the Commission, and copies of all written submittals will be placed in the Commission's public files and will be available for inspection in the Commission's Office of Public Information at 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours. All statements and submittals in response to this notice shall be under oath, acknowledged by a notary public or comparable official, as follows:

----------, being
(Name)
duly sworn, deposes and says that he is

(Title and organization, if filing in a representative capacity)

that he is authorized to verify and file this document, that he has examined the statements contained in the submittal or response, and that all such statements are true and correct to the best of his knowledge, information, and belief.

(F) Upon considerations of all written comments and responses to be filed in this rulemaking proceeding by the participants, the Commission will prescribe such amendments or modifications to the existing rate structure as it may find to be in the public interest.

(G) The Secretary of the Commission shall cause prompt publication of this order and the accompanying Appendix A in the FEDERAL REGISTER and shall serve this order and accompanying Appendix A below upon all persons named in Appendix A below, all State Commissions, all other Federal agencies and departments.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[9] The term "natural gas producer" is used to refer to all persons producing natural gas including pipeline companies having exploration and production departments. An "affiliated producer" is a natural gas producer that is affiliated with an interstate pipeline company. An "independent producer" is a natural gas producer "who is engaged in the production or gathering of natural gas in interstate commerce for resale, but who is not engaged in the transportation of natural gas (other than gathering) by pipeline in interstate commerce," 18 CFR 154.91(a).

APPENDIX A

NATURAL GAS PRODUCERS

I

Independent Producers

Amerada Hess Corporation
American Petrofina Co. of Texas
Amoco Production Company
Ashland Oil, Inc.
The Atlantic Richfield Company
Austral Oil Co., Inc.
Aztec Oil and Gas Company
Bass Enterprises Produciton Company
Perry R. Bass
Belco Petroleum Corporation
Beta Development Company
Cabot Corporation
California Company, a Division of Chevron Oil Company
Champlin Petroleum Company
Chevron Oil Co., Western Division
Clinton Oil Company
Coastal States Gas Producing Company
Coltexo Corporation
Continental Oil Company
Cox, Edwin L.
Diamond Shamrock Corporation
Dorchester Gas Production Company
Exchange Oil and Gas Company
Exxon Corporation
Felmont Oil Corporation
Forest Oil Corporation
General American Oil Co. of Texas
Getty Oil Company
Gulf Oil Corporation
Helmerich & Payne, Inc.
J. M. Huber Corporation
Hassie Hunt Trust
Hunt Oil Company
Imperial American Management Company
The Jupiter Corporation
Kerr-McGee Corporation
King Resources Company
LVO Corporation
Louisiana Land and Exploration Company
McCulloch Gas Processing Corporation
McCulloch Oil Corporation
McCulloch Oil Corporation of California
McCulloch Oil Corporation of Texas
MAPCO Inc.
Marathon Oil Company
George Mitchell and Associates
Mobil Oil Corporation
Monsanto Company
Murphy Oil Corporation
Natural Gas & Oil Company
North East Blanco Development Corp.
Ocean Drilling & Exploration Company
Oklahoma Natural Gas Gathering Corporation
Petroleum Inc.
Phillips Petroleum Company
Pioneer Production Corporation
Placid Oil Company
Pubco Petroleum Corp.
River Corporation
The Rodman Corporation
Shell Oil and Gas Company
Signal Oil and Gas Company
Skelly Oil Company
Sohio Petroleum Company
The South Coast Corporation
Southern Union Gathering Company
Southern Union Production Company
Stephens Production Company
Sun Oil Company
Suburban Propane Gas Company
Superior Oil Company
Tennessee Gas Company
Terra Resources, Inc.
Texaco Inc.
Texas Oil and Gas Corporation
Texas Pacific Oil Company, Inc.
Transocean Oil, Inc.
Union Oil Company of California
Union Texas Petroleum, Division of Allied Chemical

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Warren Petroleum Corporation, a Division of Gulf Oil Corp.

AFFILIATED PRODUCERS

Anadarko Production Company

CIG Exploration, Inc.
Cities Service Oil Company
Colorado Oil and Gas Company
Columbia Fuel Corporation
Columbia Gas Development Company

El Paso Products Company

La Gloria Oil and Gas Company
Lone Star Gathering Company
Lone Star Producing Company
NAPECO Inc.
Northern Natural Gas Producing Company
Northwest Production Corporation
Odessa Natural Gasoline Company
Pan Eastern Exploration Company
Pennzoil Company
Pennzoil Producing Company
Pennzoil Offshore Gas Operators
Pennzoil Louisiana and Texas Offshore
The Preston Oil Company
Southern Natural Gas Company Joint Venture
Tenneco Oil Company
Texas Gas Exploration Corporation
Texoma Production Company

PIPELINE PRODUCERS

Arkansas Louisiana Gas Company
Arkansas Oklahoma Gas Corporation
Carnegie Natural Gas Company
Colorado Interstate Gas Corporation
Columbia Gas Transmission Corporation
Consolidated Gas Supply Corporation
El Paso Natural Gas Company
Equitable Gas Company
Inland Gas Company, Inc., The
Iroquois Gas Corporation
Kentucky West Virginia Gas Company
Lake Shore Pipe Line Company
Michigan Wisconsin Pipe Line Company
Mid Louisiana Gas Company
Mississippi River Transmission Corporation
Montana-Dakota Utilities Company
Mountain Fuel Supply Company
Natural Gas Pipeline Company of America
North Penn. Gas Company
Northern Natural Gas Company
Northern Utilities, Inc.
Panhandle Eastern Pipe Line Company
Pennsylvania Gas Company
Southern Natural Gas Corporation
Sylvania Corporation
Tenneco Inc.
Texas Eastern Transmission Corp.
Texas Gas Transmission Corporation
Trunkline Gas Company
United Natural Gas Company
Western Gas Interstate

PIPELINE RESPONDENTS

Alabama-Tennessee Natural Gas Company
Algonquin Gas Transmission Company
Arkansas Louisiana Gas Company
Arkansas-Missouri Power Company
Arkansas Oklahoma Gas Corporation
Black Marlin Pipeline Company
Blue Dolphin Pipe Line Company
Bluebonnet Gas Corporation
Bluefield Gas Company
Caprock Pipeline Company
Carnegie Natural Gas Company
Cascade Natural Gas Company
C.B. Gas Gathering Inc.
Chandeleur Pipe Line Company
Cimarron Transmission Company
Cities Service Gas Company
Colorado Interstate Gas Co., a Division of Colorado Interstate Corporation
Columbia Gas Transmission Corporation
Columbia Gulf Transmission Company
Commercial Pipeline Company, Inc.
Consolidated Gas Supply Corporation
Consolidated System LNG Co.
Delta Gas, Inc.
East Tennessee Natural Gas Company
Eastern Shore Natural Gas Company
El Paso Natural Gas Company
Equitable Gas Company
Farmland Industries Inc.
Florida Gas Transmission Company
Gas Transport, Inc.
Grand Gas Corporation
Grand Valley Transmission Company
Granite State Gas Transmission, Inc.
Great Lakes Gas Transmission Company
Gulf Energy and Development Company
Hampshire Gas Company
Horner and Smith
Industrial Gas Corporation
Inland Gas Company, Inc.
Inter-City Minnesota Pipeline Ltd., Inc.
Iroquois Gas Corporation
Kansas-Nebraska Natural Gas Company
Kentucky-West Virginia Gas Company
Lake Shore Pipeline Co.
Lawrenceburg Gas Transmission Corporation
Lone Star Gas Co.
Louisiana-Nevada Transit Company
McCulloch Interstate Gas Corporation
Marengo Corporation
Michigan Gas Storage Company
Michigan Wisconsin Pipe Line Company
Mid Louisiana Gas Company
Midwestern Gas Transmission Company
Mississippi River Transmission Corporation
Montana-Dakota Utilities Company
Mountain Fuel Supply Company
Mountain Gas Co.
National Fuel Gas Supply Corporation
Natural Gas Pipeline Company of America
North Penn Gas Company
Northern Natural Gas Company
Northern States Power Company (Wisconsin)
Northern Utilities, Inc. (Wyoming)
Northwest Pipeline Corporation
Ohio River Pipeline Corporation
Oklahoma Natural Gas Gathering Corporation
Orange and Rockland Utilities, Inc.
Pacific Gas Transmission Company
Panhandle Eastern Pipe Line Company
Penn-Jersey Pipe Line Company
Pennsylvania Gas Company
Plaquemines Oil and Gas Company
Raton Natural Gas Company
Regis Gas System Inc.
Sabine Pipe Line Company
Sea Robin Pipeline Company
South County Gas Company
South Georgia Natural Gas Company
South Texas Natural Gas Gathering Company
Southern Energy Co.
Southern Natural Gas Company
Southwest Gas Corporation
Standard Pacific Gas Lines, Inc.
Stingray Pipeline Company
Sylvania Corporation
Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
Tennessee Gas Pipe Line Company
Tennessee Natural Gas Lines, Inc.
Texas Eastern Transmission Corporation
Texas Gas Pipe Line Corporation
Texas Gas Transmission Corporation
Tidal Transmission Company
Transcontinental Gas Pipe Line Corporation
Transwestern Pipeline Company
Trunkline Gas Company
Union Light, Heat and Power Company
United Gas Pipe Line Company
United Natural Gas Company
Urbana Pipe Line Company
Valley Gas Transmission, Inc.
Washington Natural Gas Company
West Texas Gathering Company
Western Gas Interstate Company
Western Transmission Corporation
Zenith Natural Gas Company

[FR Doc.77-6783 Filed 3-7-77;8:45 am]

[Project No. 2146]

ALABAMA POWER CO.

Application for Change in Land Rights

MARCH 1, 1977.

Public notice is hereby given that an application was filed on September 12, 1974, under the Federal Power Act (16 U.S.C. § 791a–825r) by Alabama Power Company (Applicant) (Correspondence to: Mr. S. R. Hart, Jr., Vice President, Engineering, Alabama Power Company, 600 North 18th Street, P.O. Box 2641, Birmingham, Alabama 35291) for approval of a change in land rights at Project No. 2136, known as the Coosa River Project, located on the Coosa River in Elmore, Chilton, Coosa, Shelby, Talladega and Cherokee Counties, Alabama and Floyd County, Georgia.

Applicant seeks Commission approval to sell three parcels of land within the boundary of Project No. 2146. These parcels of land, each less than one acre in area, are located in St. Clair County adjacent to the boundary of the H. Neely Henry reservoir of the project where it is crossed by U.S. Route 411 at Big Canoe Creek.

Each of the parcels of land would be sold to the respective adjacent property owner, Ruby Mae Cooper, Sy and Mary F. Rathey, and Millard Edgeworth. Applicant alleges that the property owners removed earth from the reservoir area and used it as fill adjacent to their properties, raising the land above the 590-foot contour. As a result, the project boundary, defined as the 509-foot contour, was moved and the area of the project was reduced. Applicant proposes to settle the matter of the encroachment through the sale of the lands involved.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 11, 1977, file with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1975). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6796 Filed 3-7-77;8:45 am]

[Docket Nos. RI76-119, RI76-133, RI76-135]

ANADARKO PRODUCTION CO., CLARK OIL PRODUCING CO., DIAMOND SHAMROCK CORP.

Order Approving Settlement Proposal and Granting Special Relief

MARCH 1, 1977.

On June 29, 1976, Diamond Shamrock Corporation (Diamond) filed a petition for special relief pursuant to § 2.56a(g)(2) of the Commission's General Policy and Interpretations for the sale of natural gas produced in waters more than 250 feet deep. Petitioner, on the basis of the records submitted to date, was seeking an average rate over the project life of approximately $1.93 per Mcf for the sale of natural gas from its 13.34 percent working interest in the gas reserves produced from West Cameron Block 639, offshore Louisiana. The proposed settlement rate is approximately $1.75 per Mcf over the life of the project. Diamond is selling the subject gas to Trunkline Gas Company pursuant to a contract dated July 16, 1973 as amended April 29, 1976 under its FPC Gas Rate Schedule No. 67.

By order issued August 4, 1976, the Commission consolidated Docket No. RI76-135 with the other captioned proceedings and provided for a prehearing conference to be held on September 9, 1976, which was subsequently rescheduled for September 23, 1976. In a subsequent order, the Commission provided that an informal conference would be convened on October 8, 1976, for the purposes of settlement or agreeing to stipulations if settlement was not possible. Thereafter, additional conferences were held in which applicants, Staff, and other interested parties participated. As a result of these settlement discussions, Diamond on February 3, 1977, filed[1] a proposed settlement agreement which amended its petition for special relief to provide for the settlement rate of approximately $1.75 per Mcf. Notice of its amended petition was issued February 9, 1977. Eratta Notice of its amended petition was issued February 17, 1977 to provide for a shortened Notice period to February 18, 1977. No objections or interventions have been filed with respect to such amended petition and settlement proposed by Diamond, including any parties to these consolidated proceedings.

The Commission Staff has conducted a thorough and in depth study and analysis of project costs which indicate that the settlement rate is cost supported, permitting Diamond to recover its total costs including a component for Federal income taxes together with a 15 percent rate of return.

[1] Also on June 29, 1976 Diamond Shamrock filed an application in Docket No. CI75-13 to amend its certificate to include the remaining 10 percent of its 13.34 percent working interest in gas reserves produced from West Cameron Block 639, offshore Louisiana. The settlement rates will apply to Diamond's entire 13.34 percent working interest including the 10 percent previously withheld for its own use.

Accordingly, based on our consideration of the petition, data filed by Diamond, and Staff's study and analysis, we conclude that the settlement rate proposed herein is cost justified and in the public interest.

The Commission orders: (A) The settlement proposal submitted to the Commission on February 3, 1977, by Diamond in Docket No. RI76-135 is hereby approved.

(B) Diamond is authorized to collect $1.7498 per Mcf for the sale of natural gas from its 13.34 percent working interest in the gas reserves produced from West Cameron Block 639, offshore Louisiana, effective March 1, 1977 or the date of issuance of this order, whichever is later, provided it complies with Ordering Paragraph (C) below.

(C) Within thirty (30) days of the issuance of this order Diamond shall file a notice of change in rate to the level authorized in Ordering Paragraph (B) above.

(D) Docket No. RI76-135 is severed from the other petitions in this consolidated docket and it is terminated.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6801 Filed 3-7-77;8:45 am]

[Docket No. RI 76-119 etc.]

ANADARKO PRODUCTION CO., ET AL.

Order Approving Settlement Proposal and Granting Special Relief

On June 24, 1976, Clark Oil Producing Company (Clark) filed a petition for special relief pursuant to § 2.56a(g)(2) of the Commission's General Policy and Interpretations for the sale of natural gas produced in waters more than 250 feet deep. Petitioner, on the basis of the record submitted to date, requested an average rate over the project life of approximately $2.26 per Mcf for the sale of natural gas from its 15 percent working interest in the gas reserves produced from West Cameron Block 639, offshore Louisiana. The proposed settlement rate is approximately $1.57 per Mcf over the life of the project. Clark is currently selling the subject gas under a small producer certificate issued October 7, 1971 in Docket No. CS71-447.

By order issued August 4, 1976, the Commission consolidated Docket No. RI 76-133 with the other captioned proceeding (Docket Nos. RI76-119 and 135) and provided for a prehearing conference to be held on September 9, 1976, which was subsequently rescheduled for September 23, 1976. In a subsequent order, the Commission provided that an informal conference would be convened on October 8, 1976, for the purpose of settlement or agreeing to stipulations if settlement was not possible. Thereafter, additional conferences were held in which applicants, Staff, and other interested parties participated. As a result of these settlement discussions, Clark, on January 14, 1977, filed a proposed settlement agreement which amended its petition for special relief to provide for the settlement rate of approximately $1.57 per Mcf. Notice of its amended petition was issued January 25, 1977, with protests or petitions to intervene to be filed on or before February 7, 1977. No objections or interventions have been filed with respect to such amended petition and settlement proposed by Clark, including any parties to these consolidated proceedings.

The Commission Staff has conducted a thorough and in depth study and analysis of project costs which indicate that the settlement rate is cost supported, permitting Clark to recover its total costs including a component for Federal income tax together with a 15 percent rate of return.

Accordingly, based on our consideration of the petition, data filed by Clark, and Staff's study and analysis, we conclude that the settlement rate proposed herein is cost justified and in the public interest.

The Commission orders: (A) The settlement proposal submitted to the Commission on January 14, 1977, by Clark in Docket No. RI76-133 is hereby approved.

(B) Clark is authorized to collect $1.5735 per Mcf for the sale of natural gas from its 15 percent working interests in the gas reserves produced from West Cameron Block 639, offshore Louisiana, effective February 1, 1977, or the date of issuance of this order, whichever is later, provided it complies with Ordering Paragraph (C) below.

(C) Within thirty (30) days of the issuance of this order Clark shall file a notice of change in rate to the level authorized in Ordering Paragraph (B) above.

(D) Docket No. RI76-133 is severed from the other petitions in this consolidated docket.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6810 Filed 3-7-77;8:45 am]

[Docket No. RI76-119, etc.]

ANADARKO PRODUCTION CO.

Order Approving Settlement Proposal and Granting Special Relief

On March 26, 1976, Anadarko Production Company (Anadarko) filed a petition for special relief pursuant to § 2.56 a(g)(2) of the Commission's General Policy and Interpretations for the sale of natural gas produced in waters more than 250 feet deep. Petitioner, on the basis of the record submitted to date, was seeking an average rate over the project life of approximately $1.85 per Mcf for the sale of natural gas from its 12.5 percent working interest in the gas reserves produced from West Cameron Block 639, offshore Louisiana. The proposed settlement rate is approximately $1.62 per Mcf over the life of the project. Anadarko is currently selling the subject gas under its FPC Gas Rate Schedule No. 203 to Trunkline Gas Com-

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pany pursuant to permanent authority extended in Opinion 693–B, Ordering Paragraph (A), issued September 27, 1974.

By order issued August 4, 1976, the Commission consolidated Docket No. RI76–119 with the other captioned proceedings (Docket Nos. RI76–133 and 135) and provided for a prehearing conference to be held on September 9, 1976, which was subsequently rescheduled for September 23, 1976. In a subsequent order, the Commission provided that an informal conference would be convened on October 8, 1976, for the purposes of settlement or agreeing to stipulations if settlement was not possible. Thereafter, additional conferences were held in which applicants, Staff, and other interested parties participated. As a result of these settlement discussions, Anadarko on January 28, 1977, filed a proposed settlement agreement which amended its petition for special relief to provide for the settlement rate of approximately $1.62 per Mcf. Notice of its amended petition was issued January 31, 1977, with protests or petitions to intervene to be filed on or before February 14, 1977. No objections or interventions have been filed with respect to such amended petition and settlement proposed by Anadarko, including any parties to these consolidated proceedings.

The Commission Staff has conducted a thorough and in depth study and analysis of project costs which indicate that the settlement rate is cost supported, permitting Anadarko to recover its total costs including a component for Federal income taxes together with a 15 percent rate of return.

Accordingly, based on our consideration of the petition, data filed by Anadarko, and Staff's study and analysis, we conclude that the settlement rate proposed herein is cost justified and in the public interest.

The Commission orders: (A) The settlement proposal submitted to the Commission on January 28, 1977, by Anadarko in Docket No. RI76–119 is hereby approved.

(B) Anadarko is authorized to collect $1.6193 per Mcf for the sale of natural gas from its 12.5 percent working interest in the gas reserves produced from West Cameron Block 639, offshore Louisiana, effective March 1, 1977 or the date of issuance of this order, whichever is later, provided it complies with Ordering Paragraph (C) below.

(C) Within thirty (30) days of the issuance of this order Anadarko shall file a notice of change in rate to the level authorized in Ordering Paragraph (B) above.

(D) Docket No. RI76–119 is severed from the other petitions in this consolidated docket and it is terminated.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–6802 Filed 3–7–77;8:45 am]

[Docket No. CP77–241]

BLUEBONNET GAS CORP.

Notice of Application

MARCH 1, 1977.

Take notice that on February 18, 1977, Bluebonnet Gas Corporation (Applicant), P.O. Box 2806, Corpus Christi, Texas 78403, filed in Docket No. CP77–241 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the sale for resale of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon its sale of gas to Trunkline Gas Company (Trunkline), which sale was authorized by the Commission in its order issued April 5, 1966, in Docket No. CP66–252. Applicant indicates that such gas was purchased from Erwyn E. Grimes and was produced from the Cypress Creek Field, Newton County, Texas. Applicant states that the last deliveries were made in December 1967 and the well has been plugged and abandoned.

Applicant further proposes to abandon its sales of gas to Florida Gas Transmission Company (Florida Gas) at a point in Pointe Coupee Parish, Louisiana, which sale was authorized by the Commission in its order issued December 21, 1966, in Docket No. CP67–123. Applicant indicates that such gas was purchased from Franks Petroleum, Inc., and was produced from the Bayou Fordoche Field, Pointe Coupee Parish, Louisiana. Applicant states that no deliveries have been made since July, 1967, and the wells have been plugged and abandoned.

Any person desiring to be heard or to heard or to make protest with reference to said application should on or before March 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–6800 Filed 3–7–77;8:45 am]

[Docket No. ER77–210]

BOSTON EDISON CO.

Notice of Tariff Change

MARCH 1, 1977.

Take notice that Boston Edison Company ("Edison") on February 23, 1977, tendered for filing a supplement to its Rate Schedule FPC No. 105. The supplement, which consists of three separate agreements, reflects the fact that two additional parties, the Taunton Municipal Lighting Plant of Taunton, Massachusetts ("Taunton") and the Vermont Electric Cooperative, Inc., Johnson, Vermont ("Vermont") have purchased ownership shares in the Pilgrim 2 nuclear unit and now share in the related transmission costs under Rate Schedule FPC No. 105. It also reflects the fact that the Massachusetts Municipal Wholesale Electric Company ("MMWEC") has increased its Pilgrim 2 ownership interest and, as a result, bears a larger percentage of transmission costs under Rate Schedule FPC No. 105. The aggregate Pilgrim Unit No. 2 ownership shares resulting from the three agreements equals the total ownership interest previously held by two Northeast Utilities Companies, The Connecticut Light and Power Company and Western Massachusetts Electric Company, now transferred to Taunton, MMWEC and Vermont.

Copies of the filing have been sent to Taunton, MMWEC and Vermont.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–6803 Filed 3–7–77;8:45 am]

[Docket No. RI77–33]

CLAY J. CALHOUN

Petition For Special Relief

MARCH 1, 1977.

Take notice that on February 8, 1977, Clay J. Calhoun (Petitioner), P.O. Drawer 4380, New Orleans, Louisiana, 70178, in Docket No. RI77–33 filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations. Petitioner requests relief from the nation-wide small producer rate established in Opinion No. 742–A for the sale of natural gas to United Gas Pipe Line Company (United) from acreage in the Learned Field, Hinds County, Mississippi under small producer certificate authorization granted in Docket No. CS72–194. Petitioner's proposed rate is 67.7188¢ per Mcf. In consideration for the rate increase Petitioner proposes to engage in the work required to recover the remaining reserves in the Learned Field. Petitioner estimates that these operations will bring forth an additional 1.85 billion cubic feet of natural gas for the interstate market.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 24, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–6794 Filed 3–7–77;8:45 am]

[Docket No. CP77–126]

COLUMBIA GAS TRANSMISSION CORP.

Order Prescribing Procedures Regarding Considerations of Requests For Allocation of Additional Import Gas

On February 24, 1977, Equitable Gas Company (Equitable) pursuant to the notice and order concurrently issued by the Commission on February 20, 1977, in the above-styled proceeding filed for an allocation of 25,000 Mcf per day of the additional natural gas that Columbia was authorized to import from Canada under the latter order.[1]

On February 20, 1977, the Commission issued its "Order Extending Limited Term Authorization to Import Natural Gas" from Canada authorizing Columbia Gas Transmission Corporation (Columbia) to import an additional 12 Bcf over and above the import volumes authorized by the Commission's Order issued on January 18, 1977, in the above-styled proceeding. The latter order permitted Columbia to import 250,000 Mcf per day that it had contracted to purchase from Trans-Canada Pipelines Ltd. (Trans-Canada) for a period of approximately sixty days from the date of authorization.[2]

On February 16, 1977, Columbia filed an application with the Commission to import an additional 12 Bcf from Canada. Columbia was authorized to import this additional gas by increasing its volumetric takes from Trans-Canada up to 300,000 Mcf per day (this volume is inclusive of the 187,500 Mcf authorized pursuant to our February 1, 1977, order.) Columbia was authorized to extend the previously authorized importation time period up to approximately May 3, 1977, in order to enable it to bring in the additional import gas contemplated under the February 20, 1977, order. Equitable requests that it be afforded an allocation of 25,000 Mcf per day from the supplies that we authorized Columbia to import in the latter order. Transco requests an unspecified volume of this gas.

In this order we will, as we did in our January 21, 1977, order provide for procedures enabling those contending entitlement to an allocation of Columbia's latest import volumes to make a showing that they have either an equivalent or greater relative need for this gas than Columbia.

Equitable and Transco are the only interstate pipeline companies that have advised the Commission that they desire an allocation of Columbia's latest additional import gas because of the emergency situation confronting them in the time frame prescribed by the Commission in its February 20, 1977, order.[3]

The general allegations of need made by Equitable in its allocation request do not provide the Commission with any basis upon which it can determine the propriety of Equitable's request for 25,000 Mcf per day of the additional import volumes that it requests. We noted both in January 18, 1977, and February 20, 1977, orders that we would authorize these importations on the basis of Columbia's needs alone. However, we did not foreclose other interstate pipelines from having the opportunity to demonstrate that they had a greater relative need to the imported gas. We shall provide Equitable and Transco with such an opportunity herein.

Transco's request for an allocation is extremely vague and idefinite particularly on the issue of the existence of a greater relative need for this gas than Columbia. In the formulation of an allocation that is in the public interest, the Commission must not only allocate with specificity but it must have a firm basis to support its actions. Hence, if Transco or Equitable desire to be afforded an allocation of this gas these pipeline companies must not only show that they are entitled to an allocation but further show with specificity the volumetric size of the allocation which may be justified.[4]

The Commission has determined, in effectuating the purposes of the Natural Gas Act, the Commission's Regulations thereunder, and the Commission's Rules of Practice and Procedure, that it is necessary and appropriate to consider the requests of Equitable and Transco for an allocation of the latest import of Canadian gas that we have authorized Columbia to make in our February 20, 1977, order. In order for the Commission to assess the merits of the requests of Equitable and Transco and take timely action thereon, it will be necessary to conduct a public hearing on the merits of the issues involved therein on an expedited basis. The Commission will therefore make provision for a hearing to be conducted on this matter on March 2, 1977. It is contemplated that the hearing shall not take more than one day, and that the Presiding Judge shall certify the record to the Commission together with his recommendations immediately thereafter.

The Commission further finds that, except as provided by this order prior public notice is impfacticable, unnecessary and contrary to the public interest given the circumstances set forth herein.

The Commission orders: (A) Pursuant to § 1.20 of the Commission's Rules of Practice and Procedure, a public hearing shall be convened on March 2, 1977, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. for the purpose of considering the issues raised herein. Because of the urgency of this matter, the 15-day notice period is waived.

(B) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.4(d)) shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided for in ordering paragraph (A) of this order.

(C) All persons desiring to intervene in this proceeding are hereby directed to notify the Secretary of such intention, and such notification shall constitute the basis for participation in this proceeding as a party intervenor.

(D) In order to render an expeditious and timely decision in this proceeding the

[1] Transcontinental Gas Pipe Line Corporation (Transco) on February 24, 1977, also tendered a request for an unspecified allocation of this import gas.

[2] The Commission authorized the importation as requested subject to a determination relating to whether other pipelines had in fact a greater relative need for this supply. The Commission, after hearing, issued a subsequent order on February 1, 1977, allocating 75 percent or 187,500 Mcf/day to Columbia and 25 percent or 62,500 Mcf/day to Southern Natural Gas Company, prospectively of the Canadian import gas.

[3] Equitable is both an interstate pipeline company and a distributor. It prefaced the basis for an allocation upon the emergency situation on its "distribution system".

[4] On February 28, 1977, Columbia filed an answer to the requests of Equitable and Transco in which it voiced its opposition to any diversion of Canadian import gas to the latter two companies.

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Commission will waive and omit the intermediate decision procedure provided in its Rules and Regulations under the Natural Gas Act and require that the Presiding Judge certify the record directly to it as provided for in the context of this order.

(E) The Secretary shall publicly post copies of this order today and shall also submit copies of this order to the Federal Register with the request that it be published in the FEDERAL REGISTER at the earliest possible date.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6786 Filed 3-7-77;8:45 am]

[Docket No. E-8947]

DELMARVA POWER & LIGHT CO. AND SUBSIDIARIES

Filing of Proposed Settlement Agreement and Presiding Administrative Law Judge's Certification

MARCH 1, 1977.

Take notice that on February 14, 1977 the Delmarva Power & Light Company and Subsidiaries transmitted to the office of the Secretary of the Federal Power Commission a proposed Settlement Agreement in the captioned docket. The accompanying motion for approval of the proposed Settlement Agreement contained a request for certification by the Presiding Administrative Law Judge of the Settlement Agreement and the record. Such certification was made on February 16, 1977. An opportunity is hereby provided for comments thereon by any interested person.

The proposed Settlement Agreement now pending before the Commission settles all the issues in contention among the parties in the captioned docket. Copies of the negotiated settlement are on file for the inspection of all interested persons.

Any person desiring to comment upon any of the matters contained in the proposed Settlement Agreement above described should file such comments with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426 on or before March 23, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6795 Filed 3-7-77;8:45 am]

[Docket No. RI77-35]

DIXIE WELL SERVICE, INC.

Petition For Special Relief

MARCH 1, 1977.

Take notice that on February 14, 1977, Dixie Well Service, Inc. (Operator) (Petitioner), Route 1, P.O. Box 407-A, St. Bernard, Louisiana, 70085, in Docket No. RI77-35 filed a petition for Special Relief pursuant to Section 2.56B of the Commission's Regulations and Sections 1.7 and 1.5 of the Commission's Rules of Practice and Procedure, or, in the alternative, for abandonment pursuant to § 157.30 of the Commission's regulations. Petitioner requests relief from the nationwide rates prescribed in Opinion No. 699-H for the sale of natural gas to Southern Natural Gas Company from acreage in the Breton Sound Area, Plaquemines Parish, Louisiana. Petitioner requests a rate of $1.60 per Mcf. In consideration for the rate increase Petitioner proposes to improve its recovery in one well and initiate gas recovery in two wells by work-over methods and installation of new equipment. Petitioner requests that the proposed rate become effective, subject to refund, after a one day suspension.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 22, 1977, file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6791 Filed 3-7-77;8:45 am]

[Docket No. ER77-213]

DUKE POWER CO.

Supplement to Electric Power Contract

MARCH 2, 1977.

Take notice that Duke Power Company (Company) tendered on February 24, 1977 a supplement to Duke Power Company's Electric Power Contract (dated April 20, 1976) with Wake Electric Membership Corporation (customer). The Company's contract with the Rural Electric Cooperatives served by the Company provides for service at all delivery points, plus any new delivery points to be added in the future by Exhibit A attached to the contract. Exhibit A provides for the following:

1. Effective date: March 21, 1977.
2. Designated kilowatts: 2,000 (requested by the customer).
3. Delivery point: Where the conductors of the Company connect with those of the customer at a delivery structure located along N.C. Highway No. 98, approximately ½ mile east of N.C. Road No. 1087, in the Roger Grove Church vicinity in Durham County.

The Company states that requisite agreement has been obtained, as shown by the signatures of both parties on the Exhibit A.

The Company also requests a waiver of the 30-day notice requirement, under Paragraph 35.11 of the Commission's Regulations, so that this service may become effective March 21, 1977. The Company states that adverse weather conditions prevented the customer from making final site preparations until recently.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 16, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6788 Filed 3-7-77;8:45 am]

[Docket No. CP 77-233]

EL PASO NATURAL GAS CO.

Notice of Application

MARCH 1, 1977.

Take notice that on February 17, 1977, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP77-233 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain tap facilities and the sale and delivery of gas to existing distributor customers, Pioneer Natural Gas Company (Pioneer) and Gas Company of New Mexico (Gas Company), for resale to two right-of-way grantors, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has received a request from Bill Waddell, a right-of-way grantor, for gas service at a point on its 20-inch O.D. Goldsmith-Keystone loop pipeline in Winkler County, Texas. Applicant proposes to install the necessary valve assembly to activate an existing tap facility on the above-mentioned 20-inch O.D. loop pipeline. It is further stated that the sale and delivery of gas would be made by Applicant to Pioneer for resale to Bill Waddell for Priority 1 residential purposes, and the estimated peak day requirement, on a heating season basis, is 1 Mcf and the estimated annual requirement for the first full year of operation is 181 Mcf.

Applicant further states that it has received a written request from William T. Anderson, a right-of-way grantor, for gas service at a point on Applicant's 12¾-inch O.D. El Paso to Douglas pipeline in Luna County, New Mexico. Applicant proposes to install on the above-mentioned pipeline a tap facility necessary to provide such service, to be known as the William T. Anderson Tap. It is further stated that the sale and delivery of gas herein proposed would be made to Gas Company for resale to William T. Anderson for Priority 1 residential use, and the estimated peak day requirement, on a heating season basis, is 3.5 Mcf and the estimated annual requirement for the first full year of operation is 140 Mcf.

It is asserted that the sale and delivery of gas by Applicant to Pioneer and Gas Company would be made at the rate in effect under the applicable rate schedule contained in Applicant's FPC Gas Tariff, Original Volume No. 1, or superseding tariff.

Applicant states that the estimated total cost of the above described facilities would be $3,750, which cost is proposed to be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6804 Filed 3-7-77;8:45 am]

[Docket No. CP77-255]

EL PASO NATURAL GAS CO.

Notice of Application

MARCH 2, 1977.

Take notice that on February 23, 1977, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP77-255 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of gas with Gulf Oil Corporation (Gulf), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a gas purchase agreement dated October 14, 1976, between Applicant and Gulf, Applicant has acquired a new source of supply in Eddy County, New Mexico, which quantities of gas are produced from the Gulf Oil Corporation-Eddy "FV" State Com. No. 1 well and the Gulf Oil Corporation-Eddy "FI" State No. 1 well, both of which are connected to Applicant's field gathering system pipeline. It is stated that under the gas purchase agreement, Gulf has reserved the right to receive in kind up to 25 percent of the production from said wells for use in its operating facilities utilized for the production of oil from the West Bisti Field, San Juan County, New Mexico.

It is asserted that Gulf has agreed that such non-committed quantities of in-kind gas would be delivered to Applicant and Applicant would deliver equivalent quantities of gas to Gulf at an existing delivery point in the San Juan Basin. It is further asserted that the sale of excess gas requirements by Applicant to Gulf under their casinghead gas contract dated May 1, 1959, as amended, which provides that Applicant will deliver residue gas to Gulf for uses associated with the production of oil and gas in the Bisti Field area, would be suspended during the term of the gas exchange agreement.

It is stated that the proposed exchange would be accomplished by the use of existing facilities. It is further stated that such exchange would benefit Gulf in that Gulf would continue to receive necessary fuel gas supplies without interruption, and Applicant and its customers would benefit because the quantities of excess gas previously delivered and sold to Gulf would become available for delivery and sale to Applicant's interstate system customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 28, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulation under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice, before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6787 Filed 3-7-77;8:45 am]

[Docket No. CP77-116]

HOUSTON PIPELINE CO.

Notice of Oral Argument

On December 23, 1976, Houston Pipeline Company (Houston) filed for a Commission order permitting it to make 60-day emergency gas sales of 85,000 Mcf per day to Transcontinental Gas Pipe Line Corporation (Transco), and 150,000 Mcf of gas per day to United Gas Pipe Line Company (United).

The Commission held two days of public hearings on January 13 and 14 concerning these applications, and on January 14, issued an order permitting such sales under § 2.68 of the Commission's rules. After the hearing had begun, the American Public Gas Association filed a document indicating that it opposed Commission approval of the application, but that it did not have time to participate in the hearing.

Since the Commission's order, substantial gas has flowed under the order, and substantial revenues have been received by Houston Pipeline Company.

On February 11, American Public Gas Association filed a petition for rehearing of the Commission's order, in which it states that the Commission "must set aside this order in its entirety on rehearing," and requests that the Commission's order "be reversed by the Commission on rehearing." This petition for rehearing raises a number of questions important in the administration of the Natural Gas Act, and the Commission finds it appropriate to hold an oral argument on this petition. Particularly, as the party seeking rehearing did not take advantage of its opportunity to participate in the original hearing, the Commission is uncertain as to the full scope of its arguments or to the counter-arguments that may be made.

In addition, a reversal of the Commission's decision could have the effect that the purchasing pipelines would be re-

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quired to repay to Houston very large volumes of natural gas, and Houston would be required to repay substantial quantities of money. The Commission would request that all parties address themselves to methods of implementation, should the Commission decide in favor of the petitioners for rehearing, and also the practical effect of such a decision.

The Commission finds. It is necessary and appropriate in the administration of the Natural Gas Act to hold an oral argument on the petition for rehearing filed February 11 by the American Public Gas Association.

The Commission orders. (A) An oral argument shall be held at 3:00 p.m., Monday, March 7, 1977, in Hearing Room A, Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(B) This order shall be served on all parties, participating or filing comments in Docket No. CP77-116.

(C) All parties wishing to participate in the oral argument are requested to notify the Secretary of the Commission by 11:00 a.m., Friday, March 4.

(D) A copy of this order is to be published in the FEDERAL REGISTER forthwith.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-6784 Filed 3-7-77;8:45 am]

[Docket No. ER76-206]

IOWA ELECTRIC LIGHT AND POWER CO.

Filing of Tariff Sheets Reflecting Settlement Rates

MARCH 1, 1977.

Take notice that by letter dated January 6, 1977, as corrected by a filing of January 21, 1977, Iowa Electric Light and Power Company (Iowa) tendered for filing revised tariff sheets to reflect the settlement rates in the above-captioned docket. Iowa states that the purpose of the supplemental filing is to correct an inadvertent error in the January 6, 1977 filing of First Revised Sheet No. 8.0 and Original Sheet No. 8.3 in which the term "maximum" was used in paragraph 3(a) of both sheets in place of the correct term "minimum."

Iowa further states that copies of both filings have been served upon Iowa's jurisdictional customers and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said filing should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 25, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6789 Filed 3-7-77;8:45 am]

[Docket No. ID-1802]

RICHARD L. JOHNSON

Application

MARCH 1, 1977.

Take notice that on January 3, 1977, Richard L. Johnson, President, Menasha Corporation, Neenah, Wilson, filed an application pursuant to section 305(b) of the Federal Power Act, to hold the following positions:

Director, Wisconsin Electric Power Company, Public Utility.
Director, Wisconsin Michigan Power Company, Public Utility.

Wisconsin Michigan Power Company is a wholly subsidiary of Wisconsin Electric Power Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6798 Filed 3-7-77;8:45 am]

[Docket No. RI77-34]

MAURICE L. BROWN CO.

Petition for Special Relief

MARCH 1, 1977.

Take notice that on February 14, 1977, the Maurice L. Brown Company (Petitioner), P.O. Box 11320, Kansas City, Missouri, 64112, in Docket No. RI77-54 filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretation. Petitioner requests relief from the nationwide small producer rate prescribed in Opinion No. 742-A for the sale of natural gas to Tennessee Gas Pipeline Company from acreage in the Bethany and Carthage Fields, Harrison and Panola Counties, Texas. Petitioner requests a rate of 47 cents per Mcf from July 27, 1976 and a rate of $1.05 per Mcf effective the date of the Commission order approving the application. In consideration for the rate increase Petitioner proposes to undertake engineering an remedial work on eleven marginal wells.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6790 Filed 3-7-77;8:45 am]

[Docket No. ER77-211]

MT. CARMEL PUBLIC UTILITY CO.

Notice of Tariff Change

MARCH 1, 1977.

Take notice that Mt. Carmel Public Utility Co., on February 18, 1977 tendered for filing proposed changes in its FPC Electric Service Tariff, FPC Rate Schedule No. 1. The proposed changes would increase revenues from jurisdictional sales and service by approximately $47,441.38 based on the 12 month period ending January 31, 1978.

The change in this tariff is being made to produce a rate of return for serving the Village of Allendale, Illinois substantially equal to Mt. Carmel Public Utility Co.'s overall rate of return.

Copies of this filing were served upon the Village of Allendale, Illinois, this Company's only wholesale customer, and upon the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6809 Filed 3-7-77;8:45 am]

[Docket No. ER 77-206]

NIAGARA MOHAWK POWER CORP.

Filing of Superseding Transmission Agreement

MARCH 1, 1977.

Take notice that on February 18, 1977, Niagara Mohawk Power Corporation (Niagara) tendered for filing, a transmission agreement between Niagara and New York State Electric and Gas Corporation (NYSEG). Niagara states that this agreement supersedes, in its entirety, an agreement between the parties dated July 21, 1966, as amended, and filed with the Commission as Niagara Mohawk Power Corporation Rate Schedule FPC No. 51 Supplement 1, 4 and 6 thereto. Niagara states that the service to be rendered by Niagara Mohawk provides for a delivery of power and energy over Niagara's transmission system from NYSEG's owned and contracted sources of generation to various points of NYSEG's system. They further have stated that the agreement also provides for NYSEG to lease portions of specific transmission lines owned by Niagara.

Niagara requests that the requirements for prior notice for filing be waived and the effective date be designated as January 1, 1976 under the provisions of § 35.11 of the regulations under the Federal Power Act. In support of the request of waiver of notice requirements Niagara states that NYSEG is the only customer to be served under the Rate Schedule and they have agreed to make payments retroactive to the above date upon acceptance of this agreement by the Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6793 Filed 3-7-77;8:45 am]

[Docket No. ER76-532]

PACIFIC GAS AND ELECTRIC CO.

Extension of Time

FEBRUARY 28, 1977.

On February 14, 1977, the Secretary of the Interior filed a motion to extend the filing and hearing dates fixed by notice issued by the Administrative Law Judge on February 4, 1977, in the above-designated proceeding.

Upon consideration, notice is hereby is hereby given that the procedural dates in the above proceeding are modified as follows:

Filing of evidence in answer to PG&E's case-in-chief, May 3, 1977.
Filing of trial brief by parties filing answering evidence, May 17, 1977.
Filing of PG&E's rebuttal evidence, May 31, 1977.
Filing of PG&E's trial brief, June 17, 1977.
Hearing, July 5, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6785 Filed 3-7-77;8:45 am]

[Docket No. ER77-212]

PACIFIC POWER & LIGHT COMPANY

Filing of Revised Load and Resource Forecast

MARCH 1, 1977.

Take notice that on January 31, 1977, Pacific Power & Light Company filed the Annual Revision of the Load and Resource Forecast to the Cheyenne Light, Fuel and Power Company Service Agreement, dated May 5, 1972, and designated as PP&L Rate Schedule FPC No. 108.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 21, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6799 Filed 3-7-77;8:45 am]

[Docket No. ER77-208]

SOUTHERN CALIFORNIA EDISON CO.

Tariff Change

MARCH 1, 1977.

Take notice that Southern California Edison Company (Edison) on February 22, 1977 tendered for filing a change of rate for transmission services under the provisions of Edison's agreement with Pacific Gas and Electric Company (PG&E), as embodied in Rate Schedule FPC No. 79. The new rate for these services effective on February 1, 1977, is $8,615 per month. This is an increase of $615 per month. Said filing is in accordance with terms of the agreement stating that whenever the California Public Utilities Commission (CPUC) finds a new rate of return to be reasonable for Edison, (the) transmission service charge will be redetermined based on said new rate of return and shall become effective as of the first day of the month following the date such CPUC finding is effective. Said new rate of return was authorized in CPUC Decision No. 86794, effective January 13, 1977.

The Company states that copies of this filing were served upon PG&E and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 21, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6797 Filed 3-7-77;8:45 am]

[Project No. 199]

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

Application for Use of Project Lands for Transmission Line Right-of-Way

MARCH 1, 1977.

Public notice is hereby given that an application was filed on December 17, 1976, under the Federal Power Act, 16 U.S.C. 791a et seq., by the South Carolina Public Service Authority (Applicant) (Correspondence to: Mr. William C. Mescher, President and Chief Executive Officer, South Carolina Public Service Authority, P.O. Box 398, Moncks Corner, South Carolina 29461) for Commission authorization to construct, operate, and maintain a 230 kV transmission line that would cross lands of Applicant's Santee-Cooper Project No. 199, located on the Santee and Cooper Rivers in Berkeley Calhoun, Clarendon, Organgeburg and Sumter Counties, South Carolina.

The Applicant's proposed 230 kV transmission line would cross project lands for 4.27 miles in Berkeley County in a generally southeasterly direction originating at Applicant's 230 kV switchyard adjacent to the Jefferies steam-electric generating station, which is near the Pinopolis Hydroelectric plant and 115 kV switchyard. A right-of-way 100 feet in width will be required with the line constructed along the center of the right-of-way through project lands. The line will terminate off project lands at the Charity 230 kV switching station located on the east side of the Cooper River across from the South Carolina Electric & Gas Company's (SCE&G) steam station at Bushy Park.

The proposed 230 kV line would consist of three phase 60 hertz on wood pole H-frame structures except for two lattice type steel towers near the Jefferies steamplant. The purpose of the transmission line is to enable interchange of electric power between Applicant and SCE&G systems and to increase reliability of electric power service to the new Amco Chemical Corporation plant in the Applicant's service area.

Applicant has requested the shortened procedure pursuant to § 1.32(b) of the Commission's rules and regulations, 18 CFR 1.32(b)(1976). The application is on file with the Commission and is available for public inspection.

Any person desiring to be heard or to make a protest with reference to this application should on or before April 18, 1977, file with the Federal Power Com-

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mission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1976). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to this proceeding. Any person wishing to become a party to this proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act, 16 U.S.C. 825g and 825h, and the Commission's rules of practice and procedure, specifically § 1.32(b), 18 CFR 1.32 (b) (1976), as amended by Order No. 518, a hearing before the Commission may be held on this application without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for the applicant to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6803 Filed 3-7-77;8:45 am]

[Docket No. CP76-455]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petiton to Amend Certificate of Public Convenience and Necessity

MARCH 1, 1977.

Take notice that on February 22, 1977, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas, 77001, Florida Gas Transmission Company (Florida Gas), Post Office Box 44, Winter Park, Florida, 32790, and Sea Robin Pipeline Company (Sea Robin), Post Office Box 1478, Houston, Texas, 77001, filed a petition to amend the certificate of public convenience and necessity issued to Transco and Florida Gas on January 27, 1977, on their joint application in Docket No. CP76-455 to include Sea Robin as one of the owners and operators of certain of the pipeline facilities authorized therein.

Transco and Florida Gas state that, as originally proposed in their joint application herein and as certificated by the Commission, they were authorized as equal co-owners to construct and operate 13.84 miles of 24-inch pipeline for the purchase and transportation of natural gas from the Vermilion Block 22 Field, offshore Louisiana. Transco and Florida Gas further state that each has contractual entitlements to one-sixth of the reserves to be produced from Block 22, and the remaining two-thirds is now to be purchased by Sea Robin. After the issuance of the certificate, Transco, Florida Gas and Sea Robin agreed to a revision of the ownership of certain of the pipeline facilities, described above, to reflect the proportionate call of each pipeline on the Block 22 production, i.e., a one-sixth interest each in Transco and Florida Gas and a two-thirds interest in Sea Robin. The parties further state that no other change in the certificate as issued in Docket No. CP76-455 is proposed.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 17, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6805 Filed 3-7-77;8:45 am]

[Docket No. CP77-240]

TRUNKLINE GAS CO.

Application

MARCH 1, 1977.

Take notice that on February 22, 1977, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas, 77001, filed in Docket No. CP77-249 an application pursuant to section 7 of the Natural Gas Act and the regulations thereunder for a Certificate of Public Convenience and Necessity authorizing the transportation of natural gas on behalf of Transcontinental Gas Pipe Line Corporation (Transco) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for Transco from Vermilion Block 14 quantities of up to 250 Mcf per day on a firm basis and additional volumes on an interruptible basis to correct for underproduction imbalance, utilizing the capacity of its existing system. Applicant will redeliver the volumes transported to Transco at an existing point of interconnection between Truckline and Transco in Vermilion Parish, Louisiana. No facilities are proposed to be constructed by Applicant to effectuate this transportation service.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 17, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6807 Filed 3-7-77;8:45 am]

[Docket No. ER77-205]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Tendered Revised Contract Supplements

MARCH 1, 1977.

Take notice that on February 18, 1977, Virginia Electric and Power Company (VEPCO), tendered for filing revised supplements to contracts between VEPCO and Tri-County Electric Cooperative. VEPCO states that the revised contract supplements correct certain items to reflect changes made in the past at various delivery points as set forth below:

Delivery point	Federal Power Commission— Present No.	Proposed No.	Item corrected
Arcola	86-31	86-9	4, 5(3), 5(5)
Herndon	86-22	86-2	3, 4, 5(3), 5(5), 6, 7
Hillsboro	86-23	86-5	4, 5(3)
Leesburg	86-34	86-1	4, 5(3)
Sycoline	86-25	86-6	4, 5(3), 6

The Company states that the revised contract supplements are intended to supersede the listed FPC Rate Schedules and requests that the revised supplements be allowed to become effective on February 1, 1977, the requested effective date. The Company also states that there will be no increase in the unit cost of the electricity to Tri-County Cooperative as a result of the corrections.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6792 Filed 3-7-77;8:45 am]

[Docket No. CP77-220]

WESTERN GAS INTERSTATE CO.

Application

MARCH 1, 1977.

Take notice that on February 11, 1977, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Texas 75270 filed in Docket No. CP77-220 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued use of certain facilities and the transportation of natural gas in interstate commerce for Southern Union Gas Company (Southern Union), a division of Southern Union Company, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to the Commission's order issued on September 6, 1973, in Docket No. CP73-325 (50 FPC 676), Cities Service Gas Company (Cities) is authorized to operate certain gas transmission and sales facilities in Texas County, Oklahoma, and to sell to Southern Union natural gas delivered thereby for resale for irrigation and other incidental farm uses in and about Texas County, Oklahoma. It is further stated that at some time subsequent to March 15, 1973, Southern Union's operating personnel rearranged certain facilities of Southern Union and of Applicant so that the gas purchased from Cities is introduced into Applicant's East Mainline System, is transported by Applicant as required for Southern Union's distribution purposes, and is delivered into Southern Union's distribution facilities for residential and other uses in Beaver and Texas Counties, Oklahoma.

Hence, it is stated that Southern Union has made application in Docket No. CP76-462 for an order permitting it to use the natural gas purchased from Cities as part of its general system supply in Beaver and Texas Counties, Oklahoma. It is asserted that the continued use of the gas receipt facilities and the continued transportation by Applicant of the gas purchased from Cities by Southern Union is necessary in order to make such supply available to all of Southern Union's customers.

Applicant states that it has entered into a transportation agreement with Southern Union dated February 10, 1977, by which it would receive natural gas for transportation from Cities at a point of receipt in Sec. 30, T. 5 N., R. 19 E., Texas County, Oklahoma, and would deliver such gas to Southern Union at existing Southern Union delivery points along Applicant's system in Beaver and Texas Counties, Oklahoma.

It is stated that for each Mcf of natural gas delivered by Applicant to Southern Union, Southern Union would pay an initial transportation charge of 7.12 cents per Mcf. Applicant states that the primary term of the transportation agreement extends through December 31, 1980, and would be continued thereafter in effect from year to year.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6806 Filed 3-7-77;8:45 am]

FEDERAL RESERVE SYSTEM

BANCORPORATION OF MONTANA

Order Denying Acquisition of Bank

Bancorporation of Montana, Great Falls, Montana, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under Section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Bank of Montanta, Helena, Montana ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the third largest banking organization in Montana, controls thirteen banks with aggregate deposits of $171 million, representing approximately 5.9 percent of the total commercial bank deposits in Montana.[1] Acquisition of Bank would increase Applicant's share of State deposits by only 0.4 percent and its ranking Statewide would remain unchanged.

Bank ($11.1 million in deposits) is the fourth largest of six banks in the Helena banking market and controls 7.6 percent of the total deposits in commercial banks in the market.[2] Both of the two largest banks in the relevant market are subsidiaries of bank holding companies and hold, respectively, 38.5 and 37.6 percent of the total deposits in commercial banks in the market. There are no subsidiary banks of Applicant presently competing in the relevant market, and Applicant's subsidiary bank closest to Bank is located approximately 63 miles from the Helena banking market. Thus, consummation of this proposal would not result in the elimination of a significant amount of existing competition and, in view of the distances involved, would not appear to foreclose the development of a significant

[1] All banking data are as of December 31, 1975, but reflect structural changes through January 12, 1976.

[2] The Helena banking market is the relevant banking market and is approximated by the southern half of Lewis and Clark County, the northern half of Jefferson County, and the northern half of Broadwater County.

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amount of competition in the future. Accordingly, competitive considerations are consistent with approval of the application.

The Board has indicated on previous occasions that it believes a bank holding company should constitute a source of both financial and managerial strength to its subsidiary bank(s). Accordingly, in acting upon any application under the Act, the Board will closely examine the financial condition, managerial resources, and future prospects of an applicant and its subsidiary bank(s) with these factors in mind. Based upon an evaluation of such factors with respect to this application, the Board has determined that denial of this application is warranted.

With respect to the financial and managerial resources and future prospects associated with this application, it appears that, while Applicant's managerial resources are regarded as satisfactory and consistent with approval of the application, Applicant's overall financial condition will not permit it to serve as a source of financial strength to Bank. Rather, based upon an examination of all the facts of record, the Board concludes that consummation of this proposal with the attendant assumption of acquisiton debt would increase Applicant's debt to equity ratio from a level already regarded as high to a point considerably higher than that which the Board regards as acceptable for a multibank holding company the size of Applicant. Consequently, it appears that Applicant's proposal, if consummated, would result in substantial added financial burden to Applicant and that for several years following consummation, it may become necessary for Applicant to draw excessive dividends from its subsidiary banks in order to service the debt associated with the acquisition of Bank. Based on the above and other facts of record, the Board concludes that the banking factors weigh against approval of this application and that Applicant's funds could be better utilized in support of its existing subsidiaries.

While there is no evidence in the record to indicate that the banking needs of the Helena community are not being met, Applicant states that following consummation of this proposal, it would make available to Bank such services as loan review, automated accounting services, investment consulting, and personnel advice. While considerations relating to the convenience and needs of the community to be served are consistent with approval of the application, they are not sufficient, in the Board's judgment, to outweigh the aforementioned adverse banking factors reflected in the record. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[1] effective March 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6780 Filed 3-7-77;8:45 am]

WELLS FARGO AND CO.

Proposed Acquisition of Ben G. McGuire and Company

Wells Fargo and Company, San Francisco, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Ben G. McGuire and Company, Houston, Texas, through a de novo subsidiary, WF–BGM, Inc. Notice of the application was published on January 27, 1977, in The Houston Chronicle, a newspaper circulated in Houston, Texas, and on January 29, 1977, in the San Francisco Chronicle, a newspaper circulated in San Francisco, California.

Applicant states that the proposed subsidiary would engage in the activities of making or acquiring, for its own account or for the account of others, loans and other extensions of credit; servicing loans and other extensions of credit for other persons. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than March 30, 1977.

Board of Governors of the Federal Reserve System, March 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6781 Filed 3-7-77;8:45 am]

[1] Voting for this action: Governors Wallich, Coldwell, Jackson, and Lilly. Absent and not voting: Chairman Burns and Governors Gardner and Partee.

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 1–77]

MEETINGS

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of routine Commission business and other matters specified, as follows:

Date and Time	*Subject matter*
Wed., Mar. 16, 1977 at 10:00 a.m.	Oral hearings on objections to decisions issued under the Hungarian Claims Program.
Thurs., Mar 17, 1977 at 9:30 a.m.	Consideration of Hungarian Claims.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, N.W., Washington, D.C. 20579. Telephone: 202/653–6156.

Dated at Washington, D.C. on March 2, 1977.

FRANCIS T. MASTERSON,
Executive Director.

[FR Doc.77-6736 Filed 3-7-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on February 24, 1977 (CPSC), and March 2, 1977 (CAB). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CPSC and CAB requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before March 28, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, N.W., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

CIVIL AERONAUTICS BOARD

CAB requests clearance of the new, single time reporting requirements contained in Appendix A to Civil Aeronautics Board Order 77–2–87, dated February 18, 1977. The information provided will assist the Board in determining what further procedural steps, if any, are appropriate in the Institutional Control of Air Carriers Investigation, Docket 26348. The principal purposes of the Institutional Control of Air Carriers Investigation is to determine whether and in what manner financial institutions may influence the management of air carriers. Order 77–2–87 directs the Board's Bureau of Operating Rights to conduct an informal investigation at the close of which the Board will determine whether further procedural steps such as rulemaking, legislative recommendation, or adjudication, are appropriate. Through Appendix A the Board seeks to obtain industry-wide data depicting the financial and other relationships between air carriers and financial institutions and other persons. CAB states respondents are approximately 25 air carriers; 10 insurance companies; 24 banks; 7 flight equipment manufacturers and their lease credit subsidiaries and flight equipment lessors; 5 investment bankers, securities brokers and funds; and the Air Transport Association, the National Air Carriers Association and the Transportation Association of America. CAB estimates reporting burden for each respondent to average: 510 hours for air carriers, 355 hours for insurance companies, 387.5 hours for banks, 210 hours for equipment manufacturers, 235 hours for investment bankers, and 32 hours for the association.

CONSUMER PRODUCT SAFETY COMMISSION

CPSC requests clearance of a new voluntary survey plan to collect data on the size and types of objects involved in suffocation deaths to children between birth and six years and corresponding oral pharyngeal tract measurements. This information collection is authorized under Public Law 92–573, including amendments enacted in October 1972 and May 1976. This information is needed by CPSC to develop a small parts standard for protecting children under six years old from suffocation. In a letter dated December 26, 1976, CPSC invited 600 prospective respondents, such as members of the National Association of Medical Examiners, vital statistics offices, hospitals and emergency rooms to participate in the survey. CPSC anticipates that 100 of the invitees will respond. A letter will be sent to each of the 100 potential respondents giving more specific information on the type of data needed. CPSC estimates that each respondent will furnish information on an average of 5.5 cases. CPSC will then request by a voluntary response letter to hospitals any information they may have on each of the cases cited by the respondents but for which they were unable to furnish full information. CPSC estimates the time for respondents to collate and furnish the data to average 2.75 hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-6829 Filed 3-7-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temp. Reg. F–417]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a gas and electric rate increase proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

(a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Montana Public Service Commission (Docket No. 6454) involving the petition filed by the Montana Power Company, requesting an increase in its gas and electric rates.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: February 25, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-6741 Filed 3-7-77;8:45 am]

[Federal Property Management Regs.; Temp. Reg. G–30]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a transportation rulemaking proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

(a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Hawaii Public Utility Commission (Docket No. 3026) involving an Order of the Commission which initiates a rulemaking proceeding to amend its Rules of Practice and Procedure.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ROBERT T. GRIFFIN,
Acting Administrator.

FEBRUARY 25, 1977.

[FR Doc.77-6742 Filed 3-7-77;8:45 am]

[Federal Property Management Regs.; Temporary Reg. F–416]

SECRETARY OF AGRICULTURE

Delegation of Authority

1. *Purpose.* This regulation delegates to the Secretary of Agriculture, for redelegation to the Forest Service only, authority to enter into long-term contracts with public utilities for the purchase of electric, gas, water, and waste treatment and disposal services for the period November 11, 1976, through November 10, 1977.

2. *Effective date.* This regulation is effective November 11, 1976.

3. *Delegation.* (a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, authority is delegated to the Secretary of Agriculture for redelegation only to the Forest Service, to enter into contracts in accordance with section 201(a)(3) thereof, for a period not to exceed 10 years for the purchase of electric, gas, water, and waste treatment and disposal services with public utilities under the following circumstances:

(1) When the annual cost of service per contract is not more than $50,000; and

(2) When the connection or termination charge does not exceed $50,000 for any one contract.

(b) This delegation of authority shall be subject to all provisions of Title III of said act with respect to such contracts and to all other applicable provisions of law.

(c) The authority delegated herein may be redelegated to any official or contracting officer of the Forest Service, U.S. Department of Agriculture.

(d) The Forest Service shall file with the General Services Administration as soon as practicable after the execution thereof a copy of each contract, any amendments thereto which it may execute pursuant to the authority granted

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by this delegation, and other pertinent data and information with respect to such contracts.

(e) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

FEBRUARY 25, 1977.

[FR Doc.77-6726 Filed 3-7-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76G-0488]

PROCTER & GAMBLE

Filing of Petition for Affirmation of GRAS Status

Pursuant to the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701 (a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)) and the regulations for affirmation of GRAS status (21 CFR 121.40), published in the FEDERAL REGISTER of December 2, 1972 (37 25705), notice is given that a petition (GRASP 7G0081) has been filed by the Procter & Gamble Co., 6071 Center Hill Rd., Cincinnati, OH 45224, and placed on public display in the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that "cocoa butter prepared from other vegetable oils" is generally recognized as safe (GRAS) for human use in candy products. The designated name in this petition is for descriptive purposes only and does not establish a common or usual name for this product. The common or usual name for this product, if any, will be established at the time that a final GRAS or food additive regulation is promulgated.

Any petition that meets the format requirements outlined in 21 CFR 121.40 is filed by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before May 9, 1977, review the petition and/or file comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. Comments should include any available information that would be helpful in determining whether the substance is or is not generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 28, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-6912 Filed 3-7-77;8:45 am]

Office of the Assistant Secretary for Health

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council.

Date and time: March 21, 1977 (10:00 a.m. to 5:00 p.m.); March 22, 1977 (9:00 a.m. to 1:00 p.m.).

Place: Auditorium (first floor), DHEW North Building, 330 Independence Avenue SW., Washington, D.C.

Purpose of Meeting. The Council was established to advise the Secretary of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program.

Meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairman may allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to William D. Coughlan, Staff Director, National Professional Standards Review Council, Office of Quality Standards, Room 16A-09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: March 1, 1977.

WILLIAM B. MUNIER,
Executive Secretary, National Profesional Standards Review Council.

[FR Doc.77-6816 Filed 3-7-77;8:45 am]

Office of Education

ACCREDITATION AND INSTITUTIONAL ELIGIBILITY ADVISORY COMMITTEE

Schedule and Proposed Agenda of Public Meeting

AGENCY: United States Office of Education, HEW.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the next public meeting of the Advisory Committee on Accreditation and Institutional Eligibility. It also describes the functions of the Committee. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend and to participate.

DATES: March 23, 1977, 9:00 a.m. to 5:00 p.m., local time; March 24, 9:00 a.m. to 5:00 p.m.; and March 25, 9:00 a.m. to 3:00 p.m. Requests for oral presentations before the Committee must be received on or before March 15, 1977. All written material which a party wishes to file may be submitted at any time and will be considered by the Advisory Committee.

ADDRESS: Old Town Holiday Inn, 480 King Street, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT:

John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue, S.W., Washington, D.C. 20202. (202–245–9873).

SUPPLEMENTARY INFORMATION: The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee is directed to:

1. Review all current and future policies relating to the responsibility of the Commissioner for the recognition and designation of accrediting agencies and associations wishing to be designated as nationally recognized accrediting agencies and associations, and recommend desirable changes in criteria and procedures;

2. Review all current and future policies relating to the responsibility of the Commissioner for the recognition and listing of State agencies wishing to be designated as reliable authority as to the quality of public post-secondary vocational education, and of nurse education, and recommend desirable changes in criteria and procedures;

3. Review and advise the Commissioner of Education in the formation of all current and future policy relating to the matter of institutional eligibility;

4. Review the provisions of current legislation affecting Office of Education responsibility in the area of accreditation and institutional eligibility and suggest needed changes to the Commissioner of Education;

5. Develop and recommend to the Commissioner of Education criteria and procedures for the recognition and designation of accrediting agencies and associations in accordance with legislative provisions, Presidential directives, or intergency agreements;

6. Review and recommend to the Commissioner of Education for designation as nationally recognized accrediting agencies and associations of reliable authority all applicant accrediting agencies and associations which meet criteria established under (5) above;

7. Develop and recommend to the Commissioner of Education criteria and procedures for the recognition, designation and listing of State agencies in accordance with statutory provisions, Executive Orders, or interagency agreements;

8. Review and recommend to the Commissioner of Education for designation as State agencies of reliable authority as to the quality of public postsecondary vocational education, and of nurse education, all applicant State agencies which meet criteria established under (7) above;

9. Develop, under the authority of the Vocational Education Act of 1963, as amended, and recommend for the approval of the Commissioner of Education, standards and criteria for specific categories of private vocational training institutions which have no alternative route by which to establish eligibility for Federal funding programs;

10. Develop, under the authority of the Higher Education Act of 1965, as amended, and recommend for the approval of the Commissioner of Education, standards and criteria for specific categories of institutions of higher education, for which there is no recognized accrediting agency or association, in order to establish eligibility for participation in the student loan programs authorized by Title IV–B thereof;

11. Maintain a continuous review of Office of Education administrative practice, procedures and judgments relating to accreditation and institutional eligibility and advise the Commissioner of needed changes;

12. Keep within its purview the accreditation and approval process as it develops in all levels of education;

13. Advise the Commissioner of Education concerning the relations of the Office with accrediting agencies or associations, or other approval bodies as the Commissioner may request.

14. Advise the Commissioner of Education, pursuant to the Bureau of the Budget (Office of Management and Budget) policy dated December 23, 1954, regarding the award of degree-granting status to Federal agencies and institutions.

15. Not later than March 31 of each year, make an annual report of its activities, findings and recommendations.

The meeting on March 23, 24 and 25, 1977, will be open to the public. This meeting will be held at the Old Town Holiday Inn, Alexandria, Virginia. The Committee will review petitions and reports by accrediting and State approval agencies for initial or continued recognition by the U.S. Commissioner of Education. The Committee also will hear presentations by representatives of the petitioning agencies and interested third parties, and will review policy items pertaining to accreditation and institutional eligibility. Agencies having petitions and reports pending before the Committee are:

American Association of Bible Colleges
American Bar Association, Council of the Section of Legal Education and Admissions to the Bar
American Dietetic Association, Commission on Evaluation of Dietetic Education
American Psychological Association, Committee on Accreditation
American Society of Landscape Architects, Board of Landscape Architectural Accreditation
Association of Theological Schools in the United States and Canada
Liaison Committee on Medical Education
National Accreditation Council for Agencies Serving the Blind and Visually Handicapped
National Architectural Accrediting Board, Inc.
National Association of Trade and Technical Schools, Accrediting Commission
National League for Nursing, Inc., Boards of Review
New Hampshire Board of Nursing Education and Nurse Registration
West Virginia Board of Examiners for Registered Nurses

Requests for oral presentations before the Committee should be submitted in writing to the Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Requests should include the names of al persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Requests must be received by the Division of Eligibility and Agency Evaluation on or before March 15, 1977. Time constraints may limit oral presentations. However, all additional written material that a party wishes to file will be considered by the Advisory Committee.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Division of Eligibility and Agency Evaluation.

Signed at Washington, D.C., on March 3, 1977.

JOHN R. PROFFITT,
Director, Division of Eligibility and Agency Evaluation, Office of Education.

[FR Doc.77-6720 Filed 3-7-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice.

SUMMARY: The National Advisory Council on Adult Education sets forth in this notice the agenda of the forthcoming conference on futures and amendments for adult education legislation; conference is open to the public; and, functions of the Council. Notice of this conference is required under the Federal Advisory Committee Act (Pub. L. 92–463, Section 10(a)(2)).

DATES: March 21, 1977, 9:00 a.m. to 5:00 p.m.; March 22, 1977, 9:00 a.m to 3:00 p.m.

ADDRESS: Hotel Washington, 15th and Pennsylvania Ave., N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street, N.W., Washington, D.C. 2004. (202–376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The conference shall be open to the public; however, because of limited space, interested persons wanting to attend must contact, in writing, the Executive Director. The proposed agenda includes:

Federal Legislative Overview.
FY–78 Appropriations.
Sectional Amendments to the Adult Education Act.
Future Legislative Components and Specifications.
Compilation of Legislative Recommendations.

Recommendations and conclusions from this conference will be compiled in concert with other futures and amendments conference materials, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education located in Room 323, Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004.

Signed at Washington, D.C. on March 2, 1977.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc.77-6811 Filed 3-7-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NH 29863]

NEW MEXICO

Application

FEBRUARY 28, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 15 S., R. 29 E.,
Sec. 21, NE¼NE¼;
Sec. 22, W½NW¼ and NW¼SW¼.

This pipeline will convey natural gas across 0.468 miles of national resource land in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-6819 Filed 3-7-77;8:45 am]

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[Serial Number I–12857]

NORTHWEST PIPELINE CO.

Application

FEBRUARY 28, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) the Northwest Pipeline Corporation filed an application for a right-of-way to construct a cathodic protection station on their Ignacio to Sumas natural gas pipeline system.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho 83702.

VINCENT S. STROBEL,
Chief, Branch of L&M Operations.

[FR Doc.77–6728 Filed 3–7–77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Applications

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93–205).

Applicant: Colorado Department of Natural Resources, 6060 Broadway, Denver, Colorado 80216, Mr. Jack Grieb, Director.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Amendment to PRT 8-140-C to include recovery efforts for the following endangered species: greenback cutthroat trout, Colorado squawfish, humpback chub, American peregrine falcon, arctic peregrine falcon, southern bald eagle, black-footed ferret and whooping crane.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Colorado Division of Wildlife
6060 Broadway
Denver, Colorado 80216
Phone: 303 825-1192

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. HEIGHT WEIGHT
DATE OF BIRTH COLOR HAIR COLOR EYES
PHONE NUMBER WHERE EMPLOYED SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
The Colorado Division of Wildlife is a state agency charged with the responsibility of protecting, preserving, enhancing and managing wildlife for public benefit.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Jack R. Grieb, Director 825-1192
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Throughout the State of Colorado

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit numbers)
Endangered Species Permit PRT 8-140-C
Migratory Bird Banding Permit 20205

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Scientific Collecting Permit issued by Colorado Division of Wildlife

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE
Jan. 1, 1976

11. DURATION NEEDED
2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
See attachments

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (in ink) Jack R. Grieb DATE 10-25-76

3-200 (8/74)

APPLICATION FOR ENDANGERED SPECIES PERMIT

I. (1) (a) Species: Greenback cutthroat trout, *Salmo clarki stomias* Cope.

(b) Number, age, and sex: It is difficult to itemize the number, age, and sex of the greenback cutthroat trout which will eventually be involved in the activities requested. However, estimates are provided in (1) (c) where applicable.

(c) Activities sought to be authorized:

(i) Conduct scientific research on the greenback cutthroat trout to determine if and where additional suspected populations exist by electrofishing candidate headwater streams and to collect and preserve 15 to 20 specimens from each suspected greenback cutthroat trout population for the purpose of taxonomic evaluation and identification.

(ii) Collect with elecrofishing gear and transplant 50 to 100 greenback cutthroat trout from viable populations into barren or reclaimed streams and/or lakes within its historic range.

(iii) Monitor known populations with electrofishing gear to determine reproductive success and year-class abundance and possible invasion of greenback cutthroat trout habitat by non-native trout.

(iv) Photograph and film greenback cutthroat trout specimens and their habitat to document research efforts and provide material for conservation education purposes.

(2) Each of the activities in (1) (c) will involve wild greenback cutthroat trout.

(3) Not applicable.

(4) Not applicable.

(5) Specimens of suspected greenback cutthroat trout collected for taxonomic identification will be preserved in 10 percent buffered formalin. All collections will be kept either at the Colorado Division of Wildlife, Denver Headquarter, or in the Colorado State University fish collection.

(6) Greenback cutthroat trout will be transported to restoration sites in portable 100 gallon fiberglass fish tanks equipped with baffles and 12-volt aerators. Approved prophylactic chemicals to prevent external bacterial and fungal infections will be administered in transit if necessary.

(7) See attached document.

(8) (i) and (ii) See section (1) (c).

(iii) The above mentioned activities are essential for the restoration of the greenback cutthroat trout in Colorado and have been incorporated into the recovery plan being developed by the Greenback Cutthroat Trout Recovery Team.

(iv) Not applicable.

II. (1) (a) Species: Colorado squawfish, *Ptychocheilus lucius* Girard.

(b) Number, age, and sex: the activities requested by this permit will involve only juvenile Colorado squawfish. It is difficult to itemize the number or sex of the fishes involved.

(c) Activities sought to be authorized.

(i) Monitor river sections of the Colorado, Gunnison, and Yampa Rivers in Colorado to determine reproductive success and year-class abundance of Colorado squawfish. Backwater trend zones along each of these three rivers will be sampled with small-mesh seines and electrofishing gear for evidence of juvenile Colorado squawfish.

(ii) Photograph and film Colorado squawfish specimens and their habitat to document research efforts and provide material for conservation education purposes.

(2) Each of the activities in (1) (c) will involve wild Colorado squawfish.

(3) All specimens of Colorado squawfish will be returned to the water alive and unharmed.

(4) Not applicable.

(5) Not applicable.

(6) Not applicable.

(7) Contracts have not yet been entered into with contract recipients.

(8) (i) and (ii) See section (1) (c).

(iii) The above mentioned activities are essential for the monitoring of reproductive success of Colorado squawfish in Colorado and have been incorporated into the recovery plan being developed by the Colorado Squawfish Recovery Team.

(iv) Not applicable.

III. (1) (a) Species: Humpback chub, *Gila cypha* Miller.

(b) Number, age, and sex: the activities requested by this permit will involve only juvenile humpback chubs. It is difficult to itemize the number or sex of the fishes involved.

(c) Activities sought to be authorized: (i) Monitor river sections of the Colorado and Yampa Rivers in Colorado to determine reproductive success and year-class abundance of juvenile humpback chubs. Backwater trend zones along these two rivers will be sampled with small-mesh seines and electrofishing gear for evidence of juvenile humpback suckers.

(ii) Photograph and film humpback chub specimens and their habitat to document research efforts and provide material for conservation education purposes.

(2) Each of the activities in (1) (c) will involve wild humpback chubs.

(3) All specimens of humpback chubs will be returned to the water alive and unharmed.

(4) Not applicable.

(5) Not applicable.

(6) Not applicable.

(7) Contracts have not yet been consummated with contract recipients.

(8) (i) and (ii) see Section (1) (c).

(iii) The above mentioned activities are essential for the monitoring of possible reproductive success of humpback chubs in Colorado.

(iv) Not applicable.

IV. (1) (a) Species: American peregrine falcon, *Falcon peregrinus anatum*.

(b) Number, age and sex: It is difficult to specify the number, age and sex of the falcons which will eventually be involved in the activities requested. However, estimates are provided where applicable.

(c) Activities sought to be authorized: (i) Survey of eyrie sites to establish productivity and population trends.

(ii) Collect, receive and interstate shipment of unhatched or infertile wild eggs and shell fragments for analysis.

(iii) Captively propagate peregrines in cooperation with the Peregrine Fund of Cornell University. The activities will take place on the Division's property at Fort Collins, Colorado.

(iv) Introduce captive produced young and eggs into the wild environment at active, historic and potential eyrie sites. Only eggs and young representing the gene pool from the Rocky Mountain Region will be introduced into the wild.

(v) Remove thin-shelled eggs from up to six wild eyries annually and artificially incubate them to avoid breakage. "Dummy" eggs will be placed in the eyries to maintain site fidelity by breeding adults. Upon hatching in captivity, the original young or captive produced young will be returned to the wild eyries.

(vi) Induce production of second clutches at up to six wild eyries by timely removal of the first clutches of wild eggs. Those eggs which are removed will be artificially incubated and every effort will be made to return the young to the wild.

(vii) Retain in captivity up to eight wild produced young annually for captive propagation purposes. Those young removed from the wild or retained as a result of this activity and activities v. and vi. will be replaced with the same number or more captive produced young.

(viii) Place approved Fish and Wildlife Service bands and color markers on all wild produced and introduced young. Wild adult falcons will be banded and color marked when they are encountered.

(ix) Attach radio transmitters to up to twelve immature and six adult falcons annually.

(x) Photographs and film wild eyrie sites, young and adults only as an incidental activity in conjunction with other authorized activities, which incorporate a minimum disturbance.

(xi) Salvage injured and dead specimens. Injured specimens are to be released at capture sites upon recovery.

(2) Activities iii, iv and vii involve peregrines and their offspring already in captivity at the facilities in Fort Collins. Activities iv, v, vi, vii, viii, ix, x and xi involves wild peregrine falcons. The activities described in (1c) further describes the falcons' status, whether wild, captive or captive produced.

(3) Not applicable.

(4) Falcons which are sought to be covered by this permit which will not be removed from the wild will be obtained from the presently authorized propagation programs of Cornell University (The Peregrine Fund, Inc.) at Ithaca, New York and Fort Collins, Colorado. A complete listing of the status of all falcons currently possessed at the Cornell and Fort Collins facilities are provided in reports submitted as required by Special Purpose Permit No. 5–SP–565.

(5) Those falcons which are obtained from the wild as well as those which will be held for captive propagation purposes will be maintained at Cornell's (The Peregrine Fund, Inc.) facilities at Fort Collins, Colorado. The Fort Collins facilities consist of 34 breeding lofts each measuring 10 feet wide, 20 feet long and 18 feet high. The facilities are located at the Colorado Division of Wildlife's Wildlife Research Station northeast of Fort Collins at 1424 Northeast Frontage Road, Fort Collins, Colorado, 80521.

Whole eggs, shell fragments and carcasses (if any) of peregrine falcons will be shipped to the Fish and Wildlife Service's facilities at Patuxent, Maryland for pesticide analysis.

(6) Information in this section is not applicable since any wild peregrines held in possession will be maintained at facilities currently possessing the necessary Federal permits. The propagation facilities at Fort Collins is covered under permit No. 5–SP–565.

(7) Attached are copies of pertinent contracts between the Colorado Division of Wildlife, Cornell University, Bureau of Land Management and Fish and Wildlife Service. The Division has also entered into an Endangered Species Cooperative Agreement with the Fish and Wildlife Service. Additional contracts relative to Endangered Species Grant-in-aid funding for the peregrine falcon are being processed and not yet available.

(8) (i) and (ii) The survey of eyrie sites (III (1) (c) (i)) involves the observation of nest sites from a distance to ascertain the presence of nesting peregrines. On occasion, a helicopter may be used to visit those sites which are inaccessible to normal foot travel. The presence of a helicopter is generally ignored by nesting peregrines. Later in the season, accessible sites will be roped into and the number of young will be determined. At this time also, any unhatched eggs and shell fragments will be collected for pesticide analysis (III (1) (c) (ii)). Analysis of eggs is the most effective method to determining pesticide levels still present in the population.

While the captive propagation facilities (III (1) (c) (iii)) at Fort Collins is already covered by a Special Purpose Permit (No. 5–SP–565), the issuance of a second permit to the Division will provide further coverage since the activity is occurring on the Division's property.

The current wild reproduction is not sufficient to sustain the wild population. The only way to reverse the downward population trend is to inject captive produced peregrines into the wild. The capability of producing significant numbers of peregrines in captivity has already been proven by Cornell and it is now a matter of the mechanics of placing them in the wild (III (1) (c) (iv)). The most effective method of introducing captive produced birds into the wild is by placing them under wild adult pairs to rear and protect. Where possible, all active eyrie sites will be visited and additional captive reared young will be placed in the nests to increase brood size. The procedure of placing young at historic or unoccupied sites requires the presence of observers to feed the young and protect them. Since the young do not have the benefit of protection and care by wild adults, they may face a more difficult adolescence. The second method is necessary to re-establish falcons at presently unoccupied sites.

Wild breeding falcons are experiencing reproductive failure since thin-shelled eggs are breaking under the weight of incubating adults. If one egg in a clutch breaks, all the eggs are likely to be abondoned and otherwise good eggs will spoil. Because of this, all accessible eyries should be visited shortly after the clutch of eggs is completed. The wild eggs will be exchanged (III (1) (c) (v)) for artificial eggs which will not break and will encourage the adults to continue to incubate them. Meanwhile, the wild eggs will be artifically incubated at the Fort Collins facility where they will receive gentler treatment. About a week to ten days earlier than the wild clutch would normally have hatched, captive produced young will be exchanged for the artificial eggs at the wild sites. It is preferable to introduce the young earlier than normal hatching to assure that the wild adults have not lost interest in incubating the eggs and abandon the nest prematurely. After the wild eggs have hatched in captivity, the young will be placed in other wild nests which are undergoing similar manipulation a week or so later. Undoubtedly, not all the wild young will be returned to the wild in this manner. Therefore, it will be necessary to retain them in captivity for propagation purposes (III (1) (c) (vii)). This will benefit the captive breeding program by infusing additional wild genes into the breeding stock and assuring as much heterogeneity in the captive gene pool as possible. Wild produced young will not be retained in captivity at cost to wild production. That is, an equal number and more generally, a significantly larger number of captive produced young will be placed under wild adults.

At several wild eyries, the data of initiation and completion of egg laying will be established. Upon laying the last egg in the clutch, the adults will begin incubation and one week after commencement of incubation, the nest will be visited and all the eggs removed and artificially incubated. Within ten days to two weeks after removal of the eggs, the adults will recycle and lay a second clutch (III (1) (c) (v)). Depending upon the situation, the record clutch may be replaced with artificial eggs to avoid breakage and the procedure followed which is described above, or the adults may be permitted to incubate and hatch the second clutch. Young produced from the first clutch will be placed in other wild nests. This technique has been proven in captive situation and successfully tested in the wild in Colorado in 1976.

At present, little is known of the hunting range of wild breeding peregrines. The telem-

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etry study proposed in III (1) (c) (ix) will provide important information about the hunting range of nesting peregrines which in turn will assist in protecting essential hunting areas. Adults at two eyries in 1977 (and up to three sites in 1978) will be trapped after the young are hatched and will be equipped with radio transmitters. They will be released immediately at the site upon completion of radio tagging and banding. They will then be tracked and their movements plotted. Use of fixed-wing aircraft may be used on occasion. The transmitters will be affixed in such a manner that they will drop off shortly after the batteries fail. Transmitters will also be placed on young which fledge and their movement will also be followed until the battery fails or they cannot be located.

Additional details about the above activities are given in the recent Recovery Plan submitted by the Rocky Mountain/Southwestern Peregrine Falcon Recovery Team.

(iii) The above requested activities are consistent with and essential to the recovery efforts designated for the peregrine falcon by the Rocky Mountain/Southwestern Peregrine Falcon Recovery Team.

(iv) It is premature to concern ourselves with final disposition of peregrine falcons held upon termination of these activities since the reintroduction and recovery program for the peregrine will take ten to twenty years.

V. (1) (a) Species: Arctic peregrine falcon, *Falco peregrinus tundrius*.

(b) Number, age and sex: It is difficult to specify the number, age and sex of the falcons involved in the activities requested.

(c) Activities sought to be authorized: (i) Capture wild peregrines for the purpose of banding, color marking and attaching radio transmitters. All birds will be released at the site of capture immediately after completing the permitted activities. It is expected that fewer than twenty individuals will be banded and color market annually and no more than six individuals will be radio tagged.

(ii) Savage injured and dead specimens. Injured specimens will be released at capture sites upon recovery.

(2) The above requested activities will involve only wild arctic peregrine falcons.

(3) Not applicable.

(4) Not applicable.

(5) Not applicable.

(6) Not applicable.

(7) No contracts or agreements have been entered into at this time other than the Endangered Species Cooperative Agreement with the Fish and Wildlife Service.

(8) (i) and (ii) The activities requested in (1) (c) are sufficiently detailed.

(iii) There is evidence that those peregrines which occur in Colorado during the spring and fall migration periods are probably of the *tundrius* subspecies. If this is true, individuals should be banded and color-marked, and several instances, radio tagged to determine their movements and hopefully locality of origin. Photographs and appropriate measurements will be taken to assist in determining the subspecies.

Additionally, it is extremely difficult to positively identify the subspecies of peregrines which are found injured or dead in the field. A salvage permit would assure that the state has proper authorization to handle all peregrine subspecies.

(iv) Those injured birds which are not capable of being returned to the wild after rehabilitation efforts, will be placed in federally approved captive breeding programs or placed in other federally approved programs. Dead specimens will be placed in federally approved scientific collections.

VI. (1) (a) Species: Southern bald eagle, *Haliaeetus leucocephalus leucocephalus*.

(b) At this time, only one pair of nesting southern bald eagles (those nesting south of the 40th parallel) have been located in Colorado. Even with more intensive work, it is doubtful if more than four nesting pairs will ever be involved in the activities listed in cl.

(c) Activities sought to be authorized: (i) Conduct studies of nesting activities of nesting Southern bald eagles.

(ii) Visit active nest sites to band and color mark young eagles. Nesting adults will not be captured or disturbed other than to visit the nest.

(iii) Collect unhatched or infertile eggs and shell fragments for analysis.

(iv) Salvage injured and dead specimens. Injured specimens will be released at capture sites upon recovery.

(2) The above requested activities will involve only wild Southern bald eagles.

(3) Not applicable.

(4) Not applicable.

(5) Not applicable.

(6) Not applicable.

(7) No contracts or agreements have been entered into at this time other than the Endangered Species Cooperative Agreement with the Fish and Wildlife Service.

(8) (i) The activities sought to be authorized are already described in sufficient detail in (1) (c).

(ii) Nesting studies (item (1) (c) (i)) will be conducted primarily by aircraft with suspected nests being visited subsequently by foot. Nest sites will not be visited while the adults are incubating.

Banding and color marking activities (item (1) (c) (ii)) will take place only after the young are hatched and their feather development is in advanced stages. Only approved Fish and Wildlife Service bands and color markers will be placed upon the eaglets. Any unhatched or infertile eggs and shell fragments (item (1) (c) (iii)) encountered after the young have hatched or should have hatched will be collected and sent to the Fish and Wildlife Service's facilities at Patuxent, Maryland for pesticide analysis. Injured eagles (item (1) (c) (iv)) will be taken for treatment to the appropriate veterinarian possessing the necessary federal permits.

(iii) These activities are consistent with management objectives to sustain and enhance the populations of the endangered Southern bald eagle. Band and especially color marking are necessary to monitor movements of the eagles so that key habitats may be delineated and protected.

(iv) Injured eagles which cannot be rehabilitated will be sent to federally approved programs. Dead specimens will be provided to appropriate federally approved scientific or educational institutions.

VII. (1) (a) Species: Black-footed ferret, *Mustela nigripes*.

(b) Number, age and sex: Since there are no recently authenticated records of ferrets in Colorado, it is doubtful if more than a few individual ferrets will be involved in the requested activities. No guess can be given as to age and sex.

(c) Activities sought to be authorized:

(i) Conduct habitat studies and population status surveys at close range with minimum disturbance.

(ii) Photograph and film wild ferrets which may be encountered during field investigations.

(iii) Salvage injured and dead specimens.

(2) The above requested activities involve only wild ferrets.

(3) Not applicable.

(4) Not applicable.

(5) Injured ferrets which cannot be rehabilitated will be sent to the Fish and Wildlife Service's facilities at Patuxent, Maryland. Dead specimens will be provided to Federally authorized institutions.

(6) Not applicable.

(7) Other than the Endangered Species Cooperative Agreement with the Fish and Wildlife Service, no contracts or agreements have been entered into at this time.

(8) The above activities are necessary to establish the presence of ferrets in Colorado and if any are present, initiate measures necessary to protect them.

VIII. (1) (a) Species: Whooping crane, *Grus americana*

(b) Number, age and sex: This information cannot be provided at this time since the number and composition of individuals which will be encountered is not known.

(c) Activities sought to be authorized: (i) Conduct habitat studies and population status surveys, at close range with minimum disturbance.

(ii) Photograph and film wild cranes which are encountered during field investigations.

(iii) Salvage injured and dead specimens.

(2) The above requested activities involve only wild cranes.

(3) Not applicable.

(4) Not applicable.

(5) Injured cranes which cannot be rehabilitated will be sent to the Fish and Wildlife Service facilities at Patuxent, Maryland. Dead specimens will be provided to Federally approved institutions.

(6) Not applicable.

(7) Other than the Endangered Species Cooperative Agreement with the Fish and Wildlife Service, no contracts or agreements have been entered into at this time.

(8) The above activities are necessary to protect those cranes traveling through or stopping in Colorado.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or aguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–557–07; please refer to this number when submitting comments. All relevant comments received on or before April 7, 1977 will be considered.

Dated March 3, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77–6823 Filed 3–7–77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Dallas Zoo, 621 East Clarendon Drive, Dallas, Texas 75203, Larry O. Calvin, Director.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one): IMPORT OR EXPORT LICENSE ☐ PERMIT ☒

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Purchase and import two (1 male & 1 female) captive born sub-adult, domestic Bactrian Camels Camelus bactrianus bactrianus from Alberta Game Farm, Alberta, Canada for purpose of public display and breeding.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested): DALLAS ZOO, 621 East Clarendon Drive, Dallas, Texas 75203

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: ☐ MR. ☐ MRS. ☐ MISS ☐ MS. HEIGHT, WEIGHT, DATE OF BIRTH, COLOR HAIR, COLOR EYES, PHONE NUMBER WHERE EMPLOYED, SOCIAL SECURITY NUMBER, OCCUPATION

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: To be purchased through dealer: Mr. Jurgen Schulz, Catskill Game Farm, Inc. RD1, Box 92, Catskill, N.Y. 12414

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: Municipal zoo, non-profit public zoological exhibits for education and recreation of mass audiences. Propagation and related research programs.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: Larry O. Calvin, Director (214) 946-5155

IF "APPLICANT" IS A CORPORATION, AND DATE STATE IN WHICH INCORPORATED: ——————

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: Import one pair Bactrian Camels from Alberta Game Farm, Alberta, Canada to the Dallas Zoo, Texas

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO (If yes, list license or permit numbers): USDI 2-SF-193

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO (If yes, list jurisdictions and type of documents): Valid Canadian Government health certificate, Canadian Customs Exporter's declaration and U.S. Customs Form 3321 will be completed prior to consumation of sale and importation.

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: Not Applicable

10. DESIRED EFFECTIVE DATE: ASAP

11. DURATION NEEDED: Until Terminated

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE PERMIT REQUESTED (See 50 CFR 13.12 b) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Larry O. Calvin — Larry O. Calvin, Director, Dallas Zoo and Aquarium — DATE: 11-15-76

NOVEMBER 15, 1976.

DIRECTOR (FWS/LE), *U.S. Fish and Wildlife Service, U.S. Department of Interior, Post Office Box 19183, Washington, D.C.*

DEAR SIR: This accompanies and explains our application under Title 50, Chapter 1, Item 17.22 for a permit to:

(1) Purchase and import one male and one female, sub-adult, domestic bactrian camels *Camelus bactrianus bactrianus* for the purpose of propagation, research and educational exhibition to mass public audiences in a municipal, non-profit zoological garden.

(2) These camels were born in captivity in the spring of 1975 at the Alberta Game Farm, Sherwood Park, Alberta, Canada, T8A 3K4. They will be purchased through animal dealer, Jurgen Schulz of the Catskill Game Farm, Catskill, New York 12414. A copy of the contract is attached. Shipping arrangements will be provided by the dealer. Both he and the breeder have many years experience in shipping animals of this type and are cognizant of the pertinent government and I.A.T.A. regulations.

(3) The justification for the purchase and importation of these animals is that they will be used for the purpose of educational exhibition, research and the re-establishment of a self-sustaining population of this domestic variety of a vulnerable species. There are no wild-caught camels involved since the subject animals are captive bred and captive born from a long term captive group of domestic bactrian camels.

(4) The Dallas Zoo is a non-profit municipal zoological garden with a very good record of breeding endangered, threatened and difficult species. Excluding the acquarium, it has an animal inventory of approximately 2000 specimens of over 700 species. It consists of 55 acres and has a staff of 83 people. It has been in existence since shortly after the turn of the century and has made consistant improvements and modernizations. The zoo has excellent support of both the general public and the Dallas Zoological Society. The address is 621 East Clarendon Drive, Dallas, Texas 75203.

(5) It is planned that these camels will be kept in the same moated lot where bactrian camels have previously been exhibited and successfully bred. The dimensions of the lot are 73 feet long by 37½ feet wide with additional space of 25½ x 14½ feet in the heated, brick and concrete barn. There are permanent inside and outside water troughs. There is an adjoining pen 61½ x 21 feet that has been used for separating the male during parturition and raising weaned young and could again be utilized for these purposes.

(6) Over the years the Dallas Zoo has kept all forms of the Family Camelidae, and has successfully bred Vicuna, Guanaco, Llama, Arabian and Bactrian camels. Alpaca were also maintained in the distant past but archive records are too incomplete to confirm breeding. A pair of bactrian camels obtained in August 1958 produced five offspring. Following the death of the female, from chronic hepatic degeneration in October 1972, two females were sent to Dallas from another zoo for breeding. The male was later sent to the Madison, Wisconsin Zoo on breeding loan.

(7) The professional animal keepers at the Dallas Zoo will care for the subject camels. The two Curators, the Supervisor and Assistant Supervisor of the Hoofed Animal section have a combined experience in animal keeping in excess of 71 years.

(8) The Dallas Zoo and The Dallas Zoological Society are deeply concerned with the conservation of wildlife, particularly those forms designated as threatened or endangered. To that end, we have shown our commitment in various activities and programs. Our breeding record is well known and we are constantly striving to improve our husbandry techniques and to learn from and to share our experiences with our colleagues. When surpluses are produced, they will be made available to other zoos and qualified organizations to facilitate the establishment and continuation of a captive self-sustaining population of this vulnerable form and other endangered species. Communications with the Madison, Wisconsin Zoo indicate that our old male bactrian camel, there on breeding loan, is showing signs of senility and is now well past being a productive breeder. It would be costly and pointless to return him to Dallas.

(9) I hereby certify that I have read and am familiar with the regulations contained in Title 50 of the Code of Federal Regulations and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 101.

Sincerely,

LARRY O. CALVIN,
Director, Dallas Zoo and Aquarium.

DIRECTOR (FWS/LE),
Fish and Wildlife Service,
Department of Interior,
Washington, D.C.

JANUARY 21, 1977.

DEAR SIR: This letter is in response to your request of December 13, 1976, concerning the application of the Dallas Zoo and Aquarium to import two bactrian camels (PRT 2–491–07).

The additional information you have requested under 50 CFR 17.22(a) is provided below:

(6)(iii) We are willing to participate in a cooperative breeding program and to maintain or contribute data to a Studbook.

(iv) The two bactrian camels will be transported in a compartment of a livestock trailer. The size of the compartment is seven feet wide by ten feet long by nine feet high. The floor of the compartment will have an adequate amount of hay for bedding. The trailer has adequate ventilation for the animals and provisions for protection in case of severe weather conditions.

(v) During the past five year period two mortalities have occurred, one female bactrian camel and one male Arabian camel. The female bactrian camel died on October 6, 1972, at an age of seventeen years after living in the Dallas Zoo for fourteen years and producing five offspring. The cause of her death was generalized septicemia with chronic hepatic degeneration. The male Arabian camel died on April 10, 1975, at an age of fifteen years after living in the Dallas Zoo

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six years and siring four young. The cause of death of this animal was respiratory failure.

The above should complete all of the information you have requested for processing of the Dallas Zoo and Aquarium permit application to import two bactrian camels.

Sincerely,

LARRY O. CALVIN,
Director, Dallas Zoo and Aquarium.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-491-07; please refer to this number when submitting comments. All relevant comments received on or before April 7, 1977 will be considered.

Dated: March 3, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-6824 Filed 3-7-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Greater Baton Rouge Zoo, P.O. Box 458, Baton Rouge, Louisiana 70821, George R. Felton, Jr., Director.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R355

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Delivery, receipt, carriage, transportation or shipment in interstate commerce, in the course of a commercial activity, or sale, or offer for sale in interstate commerce, of specimens of a CSSP.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Greater Baton Rouge Zoo
P. O. Box 458
Baton Rouge, LA 70821
Phone 504 775-3877

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PRESENT EMPLOYER | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN (TYPE OF KIND OF BUSINESS, AGENCY, OR INSTITUTION)
Zoological Park

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
George R. Felton, Jr., Director
504 775-0463
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Greater Baton Rouge Zoo
Greenwood Park
La. Highway 19
Baton Rouge, Louisiana

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
Migratory Bird Permit #4-PR-5-8

8. IF ACQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ submitted with original application

10. DESIRED EFFECTIVE DATE: as soon as approved

11. DURATION NEEDED: 2 year permit

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED:
Attachments relevant to 50 CFR 17.33 permits

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) G R Felton Jr. DATE 2-24-77

3-200
01/76

GPO 888-842

1. Siberian Tiger (*Panthera tigris altaica*); Leopard (*Panthera pardus*); Jaguar (*Panthera onca*); Ring-tailed Lemur (*Lemur catta*).

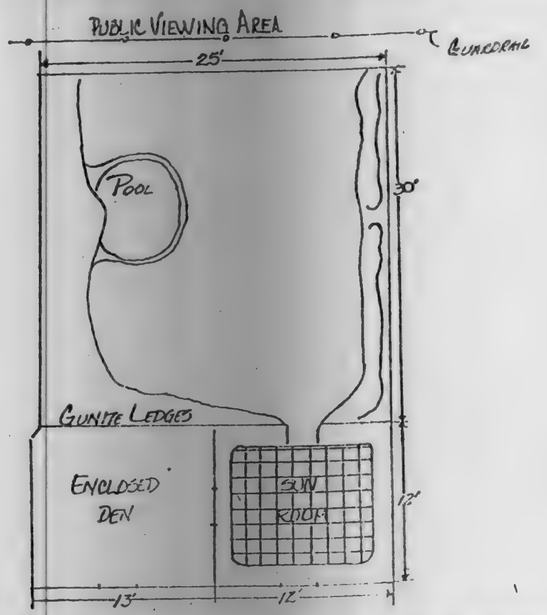
Activity Sought To Be Authorized: Delivery, receipt, carriage, transportation or shipment in interstate commerce, in the course of a commercial activity, or sale, or offer for sale in interstate commerce, of specimens of a CSSP. Unlimited number of transactions for two-year period.

2. Description of facilities: The cats are kept in spacious cages of gunite and chain link construction. Each cage has 3 major areas:

(1) Front viewing areas large enough for exercising, climbing and swimming (25' x 30').

(2) A sun room away from public viewing area (12' x 12').

(3) A den area with an elevated bench and complete darkness (13' x 12').



All cats are allowed free run of all three areas to avoid psychological problems stemming from frustrations caused by cats' moods. None of our cats are "forced" to stay in public view if it prefers the security of the darkened den. The only time a cat is locked in an area is in the case of an expectant mother that we suspect may have trouble accepting her cubs. When possible an animal of this nature is given an entire cage to itself just prior to the anticipated time of birth.

All feline cages are cleaned daily with a quaternary disinfectant and hosed down thoroughly with clear water—all run off goes directly into a sanitary sewer system. Pools are kept algae-free and a fresh input of water is maintained throughout the day.

The viewing public is allowed to pass directly in front of the cages only, giving the cats a great deal of latitude in exposing themselves or retiring completely out of sight. Most of our cats are completely comfortable in full view of the public.

There are six of these cat cages in which we house five species of large cats. The "extra" cage is used for expectant mothers or juveniles.

Some of the lemurs are housed in open-air primate exhibits of gunite and chain link. Each cage housing a maximum of four lemurs. Two areas, front and den are provided and again no attempt is made to force the animals to stay in public view. The front area is circular with ledges, bars and swings for exercise and sunning. The den area has an elevated bench and a heater for cold weather. There are eleven primate cages of this type.

Our breeding colony of ring-tailed lemurs are housed in a large Behlen cage (oblong—25' x 15' x 15') with a den. Furniture and swings are provided in the spacious front area and heating with an elevated bench are provided in the den.

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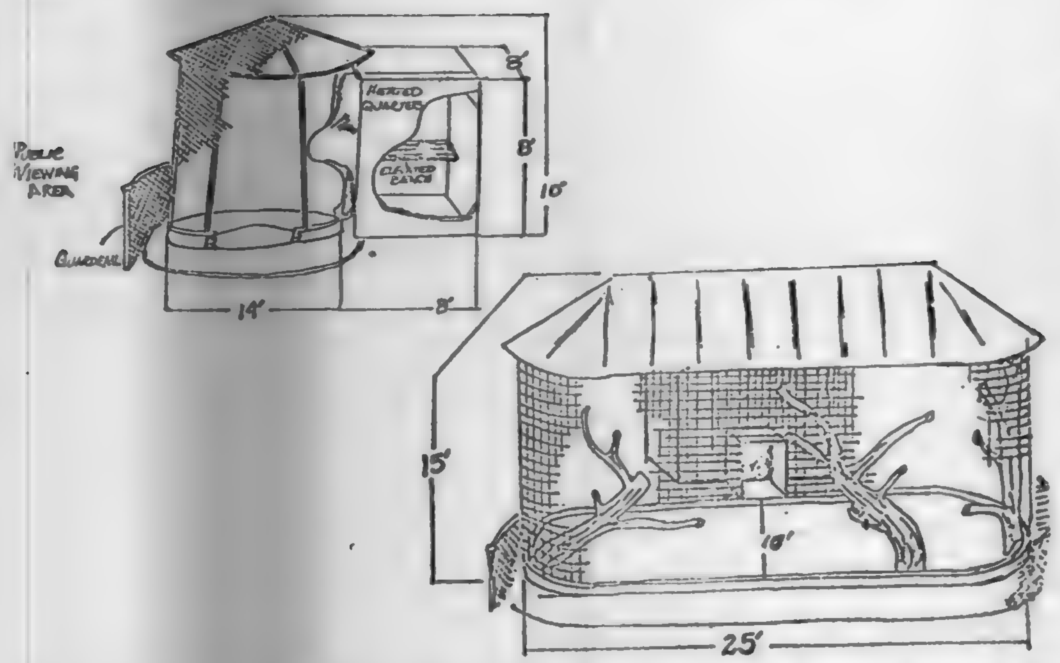


All primate cages are disinfected and clear washed thoroughly every day into the sanitary sewer system. Automatic watering devices are provided in each cage. The lemurs are fed twice a day and absolutely no public feeding is allowed.

3. Personnel caring for these animals: Director: George R. Felton, 17 years zoo experience; General Curator: Gary E. Reid, 5 years zoo experience; Dietician: Florence A. Felton, 17 years zoo experience.

The Director is a Professional Fellow in the American Association of Zoological Parks and Aquariums and has been Professionally Registered with the AAZPA since 1971. He has actively served on and chaired many committees for this organization such as the Professionalism Study Committee and the Ethics Committee. He is a member of the Legislative and Membership Committees at this time.

Every policy regarding animal welfare or care in this zoo is reviewed and approved by the Director and is categorized under the supervision of the Dietician or the General Curator. All diets, feeding instructions, and nutritional requirements are formulated and prepared by the Dietician. The animal collection, exhibits, animal handling, and Animal Keepers are under the supervision of the General Curator. All personnel in contact with the animals are trained by the above and operate under the close supervision of the Curator until they exhibit proper ability and quality of work.

The Dietician is also in charge of all baby animals that must be hand raised. She and the Director have successfully raised tigers, leopards, jaguars, lions, pumas, bobcats and several species of primates, canines, and hoofed stock. Her staff is trained to assist her in the care of these nursery animals. The Curator and his wife have raised or assisted in raising lions, patas monkeys, anubis baboons, hamadryas baboons, dingos, beaver and hoofed stock.

4. The Greater Baton Rouge Zoo sends information on all our mammal collection to ISIS and participates freely in the exchange of data and ideas with other zoos, research institutions and interested parties. Accurate records are kept on each animal in the collection with reference to tattoo or tag number, ISIS number, identifying marks, origin, birthdate, vaccinations, medications, illnesses and injuries, temperament, breeding data, births, deaths, post mortem data, and disposition.

This zoo is actively participating in some 20 breeding loan arrangements (11 in and 9 out). Of these agreements eleven of them deal with endangered species. These figures alone should show our willingness to work with others whenever possible to propagate endangered species in an attempt to bring more species up to the CSSP level.

5. Size and description of transportation containers:

The Greater Baton Rouge Zoo has had a great deal of experience crating, shipping and handling animals of all sizes. Each shipment must be handled on an individual basis and several basic requirements must be met in each case. These requirements are:

(1) Cage must be large enough for animal to move about freely;
(2) Bottom must be liquid proof;
(3) Ample ventilation;
(4) Wire covers on vent holes;
(5) Secure latches;
(6) Made of:
  a. fiber board,
  b. fiberglass,
  c. metal,
  d. wood;
(7) Ample bedding must be provided;
(8) Containers for food and water

It is obvious that a much smaller crate can be used to ship a 20 lb. tiger cub than an 85 lb. cub. Therefore, a set cage description and dimensions cannot be stated. When use fiberglass airline flight cages of 3 different sizes as well as crates constructed by our carpenter depending on the size, strength and temperament of the animal being shipped.

The crates made of fiberglass are molded, one or two piece, cages with steel mesh vent holes and hinging doors. They are spring loaded door locking mechanisms that are further secured by wiring the mechanism shut.

The crates constructed here are usually made of ½–¾" plywood, reinforced with 2 x 4's, bolted together. Galvanized wire mesh covered vent holes are provided and the inside of the crate is double checked for sharp corners, pieces of wire sticking out, etc. In some of our crates we completely line the inside with galvanized sheet tin, in others we fiberglass the bottom. The doors are usually guillotine-type and are equipped with a hasp and padlock for security.

7. The Greater Baton Rouge Zoo is qualified for and justified in obtaining a permit authorizing delivery, receipt, carriage, transportation or shipment in interstate commerce, in the course of a commercial activity or sale or offer for sale in interstate commerce, of specimens of a CSSP, "T(C/P)" in the "current status" column.

One of our zoo's foremost goals is the propogation of wildlife, especially those threatened by extinction or extreme depletion of numbers in the wild. Our past experiences and efforts in this direction support the stand we have taken and encourage us to make further, more positive steps toward the end of successful reproduction in these species. Thus far, our only "tools" in this work have been caring for and encouraging breeding in our own animals and participating in breeding loan agreements with other reputable institutions. This permit would be an invaluable asset to our program, and would allow our efforts to be much more effective and productive.

This permit would enable us to avoid the inevitable surplus of animals born here, as well as ease the situation of an undesirable "gene cess pool". When a successful breeding program has neither the outlet for its surplus offspring, nor the input of fresh, vital blood lines, it becomes an inefficient, faltering operation. The surplus animals eat into the budget, making it difficult to afford the costly upkeep of the breeding colonies of specimens, and even more difficult to provide adequate and necessary environmental changes as new aspects of breeding success prerequisities become known. To compound these problems, inability to revitalize gene pools can be a devastating catastrophy when dealing with the delicate standards of pure bloodlines of sub-species * * * such as the Siberian tiger.

This permit would be used by the Greater Baton Rouge Zoo to bring in new animals that would add strength and quality to our already successful endeavors. Further, this permit would be used to place solid, purebred stock from our program into other zoos and breeding colonies to help perpetuate these successes all over the United States.

I cannot think of a more positive approach to encourage the conservation and propogation of animals than this. This zoo heartily endorses this approach and will strive to achieve and maintain its ultimate success.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–585–25; please refer to this number when submitting comments. All relevant comments received on or before April 7, 1977 will be considered.

Dated: March 3, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77–6822 Filed 3–7–77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed

to have been received under section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Lexington Pheasantry, 219 Cowlitz Drive, Kelso, Washington 98626, F. M. (Chick) Driscoll.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1676

1. APPLICATION FOR (Indicate only one) Captive, self-sustaining population
IMPORT OR EXPORT LICENSE [XX] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED
The requested CSSP Permit is desired in order that I may legally transport and sell the surplus stock from existing breeders. They are as follows: Brown Eared Manchurian, White Eared Manchurian, Mikado, Elliot and Edwards Pheasants.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
F. M. (Chick) Driscoll
Lexington Pheasantry
219 Cowlitz Drive
Kelso, Washington 98626
Phone (206)423-2460

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

[X] MR. [ ] MRS. [ ] MISS [ ] MS.	HEIGHT 5'10"	WEIGHT 170
DATE OF BIRTH 30 July 1920	COLOR HAIR Grey	COLOR EYES Brown
PHONE NUMBER WHERE EMPLOYED (206)425-1550	SOCIAL SECURITY NUMBER 538-03-4467	
OCCUPATION Lead Order Writer-Paper Mill		

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
None

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
None

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
N.A.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N.A.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
As Above
219 Cowlitz Drive
Kelso, Washington 98626

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(If yes, list license or permit numbers)
1-PR-516

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [X] YES [ ] NO
(If yes, list jurisdictions and type of documents)
State of Washington Commercial Game Farm License No. GF 77 00011

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N.A.

10. DESIRED EFFECTIVE DATE as soon as possible

11. DURATION NEEDED 2 years or as authorized

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Title 50 17.33 Attachments and enclosures, including photographs and diagrams are included with application for this CSSP Permit.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) [illegible signature] DATE 10 January 1977

3-200 (6/74) GPO 895-042 [illegible]

CAPTIVE, SELF-SUSTAINING PERMIT

(Title 50, 17:33, Attachment to Form 3–200)

Application requirements: (1) Pheasant species sought to be covered by the attached permit application are as follows: Brown Eared Manchurian (*Crossoptilon-manchurian*); White Eared Manchurian (*Crossoptilon-Crossoptilon*); Elliots (*Syrmaticus-elliotti*); *Mikado* (*Syrmaticus-mikado*); and Edwards (*Gennacus edwardsi* (*Oustalet*)).

This requested permit, if authorized, will enable me to sell legally (interstate) the surplus stock from my existing breeders as listed above.

(2) Diagrams and pictures of the interior and exterior facilities are attached.

(3) I have been raising rare ornamental pheasants for the past six years and have been very successful in the propagation of Edwards, Satyr Tragopans, Mikado, Scintillating and Ijima Coppers, Elliot, Blue Eared Manchurian, Golden, Himalayan Monal and Java Green Peafowl.

(4) I shall be very happy to participate in any cooperative breeding program and maintain or contribute data to a "Stud Book" as directed by the U.S. Fish and Wildlife Service

(5) All birds shipped will be in Masonite containers measuring 12" wide, 18" high and 24" long with the top on the inside lined with 1" foam rubber. Water and feed will be placed in each container. Only one bird will be contained in each shipping container and the exterior will have "LIVE BIRDS—PLEASE RUSH" printed in large letters on four sides

(6) During the past six years the only loss of birds occurred when they flew into the top wire, breaking their neck, or attack on a chick by other chicks in a brooder. We have never lost a bird to disease.

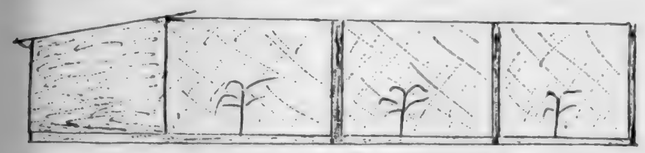
(7) It is believed that the statements made in (3), (4), (5) and (6) above would fully justify the issuance of the requested permit.

(7) (i) As stated above, I have been raising rare ornamental pheasants for six years, several of whom are covered by the CSSP Permit that I desire to obtain. In view of our previous successes, I feel confident that we will have a surplus of the young in the CSSP category which must be moved each fall or early spring. In order to insure the survival of our endangered species, surplus stock must be placed in the custody of qualified aviculturists for the enhancement of these species.

(7) (ii) I have hopes that the termination of the activity covered by the requested permit will be a long way in the future. However, at the time when I may become required to terminate my activities due to my inability to properly care for my birds, all birds will be disposed of to qualified breeders holding the CSSP Permit, or as directed by the latest regulations of the U.S. Fish and Wildlife Service.

Permit Conditions: (c) I fully understand that the above permit, if authorized and issued, will enable me to transact transfers only to those holding CSSP Permits.

Lexington Pheasantry consists of 15 pens measuring 8' wide by 6' high by 16' long, 17 pens measuring 8' wide by 6' high by 24' long, 2 pens measuring 12' wide by 35' long by 12' high, one flight pen measuring 12' wide by 7' high by 80' long, 8 pens measuring 9' long by 6' high by 8' wide, and a Java Green Peafowl pen measuring approximately 7' high by 25' wide by 25' long plus a completely enclosed house for their protection in inclement weather. All pheasant pens are constructed using creosoted 8" x 8" x 8' long or 15' long railroad ties. The house at the back of each pen is constructed of ½" exterior plywood with roofs measuring 8' and 12" in width and covered by 80 lb. roofing paper and covered with tar. All pens are completely enclosed with 1" mesh poultry netting; however, all outside poultry netting is being covered this spring with extremely heavy gauge 1" x 2" welded wire which will cover the outside of each pen from the base of each pen up to a height of 5', thus making them completely varmint proof. The railroad ties are used for support posts and ground runners and a profile drawing is shown below.



Also attached are several color photographs taken to show how railroad ties are utilized in our pen construction plus one showing the type of cover employed in 8 of our brooder pens plus another to show interior arrangement and the cover afforded our birds.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–607–25; please refer to this number when submitting comments. All relevant comments received on or before April 7, 1977 will be considered.

Dated: March 3, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-6821 Filed 3-7-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: Regional Director, Region 1, U.S. Fish and Wildlife Service, P.O. Box 3737, Portland, Oregon 97208.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (check only one): ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
To capture, hold, transport, study, rear, and transplant certain endangered fish species: Pahranagat roundtail chub, *Gila robusta jordani*, and Moapa dace, *Moapa coriacea*

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
U.S. Fish and Wildlife Service
Regional Director, Region One
P.O. Box 3737
Portland, Oregon 97208

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MRS. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: WEIGHT:
DATE OF BIRTH: COLOR HAIR: COLOR EYES:
PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER:
OCCUPATION:

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Conservation of U.S. Fish and Wildlife, and collection of scientific data

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
University of Nevada-Las Vegas
Bureau of Land Management, N.P.S.,
Nevada Department of Fish and Game

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 8-429-4041
R. Kahler Martinson, Regional Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Southeastern Nevada

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit numbers)
Various appropriate FWS permits

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE
Jan. 1, 1977

11. DURATION NEEDED
Indefinite

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
(see enclosures)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Acting Regional Director
DATE: January 18, 1977

3-200
10-76

GPO 893-042

1. Pahranagat roundtail chub, *Gila robusta jordani* Tanner, and Moapa Dace, *Moapa coriacea*.

Exact numbers are not known but permit is requested to cover entire population which probably numbers around 500 individuals of each species in the wild. It is requested that authorized personnel be allowed to: capture, hold, transport, study, rear, and transplant all age classes, and both sexes of the above fish species. In addition, they be allowed to capture and remove alive no more than 50 individuals of each species from the wild for scientific study, and be allowed to sacrifice no more than 25 individuals of each species for food, reproduction, and taxonomic study.

2. Native fish—not imported.

3. The pahranagat roundtail chub and Moapa dace are listed as endangered by the Department of the Interior and the Fish and Wildlife Service is obligated to remove the fish from endangered status. The USFWS proposes to do this by studying, propagating, transplanting, and stocking these unique subspecies of the genus *Gila* and *Moapa*.

A. Proposed studies: (1) Food and feeding habits (i.e., bioenergetics); (2) Population dynamics; (3) Reproductive season and substrate requirements; (4) Competitive interactions with introduced fish; bioassay for water chemistry tolerance parameters.

B. Propagation efforts: (1) Propagation techniques; (2) Raise fish for study purposes; (3) Raise fish for future transplant and stocking purposes.

C. Transplanting and stocking efforts: (1) Suitable sites will be investigated and subsequent transplant may be required to enhance the survival of these species.

As a result of the studies proposed, some fish will have to be sacrificed especially for food and reproductive studies. In addition, when fish are moved from their native habitat and transplanted to a new environment they sometimes change morphologically. These changes will have to be studied. Because of the nature of the food, reproductive, and taxonomic studies some fish will have to be sacrificed. Permission is requested to sacrifice 25 adult fish of each species a year from the present wild stock and 25 fish of each species a year from any transplanted stock so that subtle changes in body shape can be determined. At the termination of the project, all fish will be released or those which died while captive or were sacrificed for scientific purposes will be preserved in alcohol and kept in the fish museum at the University of Nevada-Las Vegas.

4. The USFWS has a field project office located at the University of Nevada-Las Vegas. The University of Nevada-Las Vegas is a standard state university offering undergraduate and graduate degrees in a number of fields, including biology. Dr. James E Deacon, Chairman of the Biology Department, is a highly regarded ichthyologist and aquatic ecologist and has done much research on endangered fishes, as well as being in the forefront of those trying to conserve our native fishes. All of the Pahranagat roundtail chubs will be kept at the Fish Research Facility at the University of Nevada-Las Vegas.

Address: University of Nevada-Las Vegas, 4505 Maryland Parkway, Las Vegas, Nevada 89154.

5. All of the Pahranagat roundtail chubs and Moapa dace are existing as wild fish in their native habitat.

6. There is no other source of these fish than the remaining wild population

7. (i) Fish will be maintained in two aquaria rooms and an artificial stream on the campus of the University of Nevada-Las Vegas. The aquaria rooms have regulated temperature and lighting for simulation of natural conditions. The doors to the rooms are keyed and access is strictly controlled. The artificial stream is located in the Fishery Research Facility and is protected by a 10-foot high barbed wire rimmed chain-link fence. The gates to the facility are keyed and access is strictly controlled. Valid for use by permittee named above and any person who is under the direct control of, or who is employed by or under contract or a cooperator by agreement to the permittee

(ii) Mr. Gail Kobetich, USFWS Fishery Project Biologist, and Dr. James E. Deacon and his staff will be involved in all the work under this permit. Mr. Kobetich's expertise in working with desert fishes extends to management of wild populations and directing and carrying out of field efforts to prevent the extinction of these fish. Dr. Deacon is a respected authority on desert fishes and has conducted extensive research on these species. Both are presently involved in several projects on other endangered fishes; the Devils Hole pupfish, the Warm Springs pupfish, the Pahrump killifish, and the Woundfin.

(iii) One of the major goals of our recovery effort is propagation of these fish to provide transplant stock and to provide experimental animals.

(iv) Any fish transported will be carried in a standard fish transport system with aeration and oxygen supply

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has

V 4245 MAR 8 77 UMI

been assigned File Number PRT 2-614-07; please refer to this number when submitting comments. All relevant comments received on or before April 7, 1977 will be considered.

Dated: March 3, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-6825 Filed 3-7-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Dr. F. Prescott Ward, Chief, Ecological Research, Department of the Army, Edgewood Arsenal, Demil Disposal Office, Aberdeen Proving Ground, Maryland 21010

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE
LICENSE PERMIT APPLICATION

DR. F. PRESCOTT WARD
Chief, Ecological Research
Edgewood Arsenal, Aris., MD 21010

(301) 671-2586

Dr. | 5'10" | 165 lb
22 August 1940 | Brown | Brown
(301) 671-2586 | 165-32-2200

Research Scientist

Wildlife agencies of Mississippi and Louisiana, Fish and Wildlife Service Recovery Teams, US Army, and potential contractors (biologists) from regional colleges and universities

Southern Mississippi and Louisiana on and in the vicinity of the National Space Technology Laboratory (NASA), Bay St. Louis, Mississippi

To conduct scientific research and management on certain endangered species indigenous to southern Mississippi and Louisiana including Florida panther, Mississippi sandhill crane, red-cockaded woodpecker, southern bald eagle, and American alligator.

N/A

See attached documentation

See attached letter; Louisiana authorizations will also be obtained prior to conducting any work in that state.

1 April 1977 | Indefinite

$ N/A

50 CFR 17.22(a)(1) through (9)(iv)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE: F. Prescott Ward
DATE: 3 February 1977

SUPPLEMENTAL INFORMATION PROVIDED IN APPLYING FOR AN ENDANGERED SPECIES PERMIT TO CONDUCT SCIENTIFIC RESEARCH AND MANAGEMENT ON VARIOUS ENDANGERED SPECIES INDIGENOUS TO SOUTHERN MISSISSIPPI AND LOUISIANA

CURRENTLY VALID FEDERAL FISH AND WILDLIFE PERMITS HELD BY APPLICANT (ITEM 7 ON FORM 3-200)

Federal Bird Banding Permit 9448 with salvage rider and color-marking rider (banding and color-banding authorization for peregrine falcons).

Federal Fish and Wildlife Endangered Species Permit Number PRT 8-251, Amendment Number 3 (authority for importation, scientific research, and banding of peregrine falcons).

Federal Fish and Wildlife Endangered Species Permit Number PRT 2-310, Subpermittee (authority to obtain blood samples from peregrine falcons for pesticide studies).

Federal Fish and Wildlife Scientific Collecting Permit PRT 2-992BA Renewal.

National Park Service and Fish and Wildlife Service Special Use Permits for: Chincoteague National Wildlife Refuge, VA; Assateague Island National Seashore, MD/VA; Cape Hatteras National Seashore, NC; Cumberland Island National Seashore, GA; and Everglades National Park, FL (all provide authorizations for subpermittees of mine to trap and band peregrine falcons).

GENERAL RATIONALE AND DESCRIPTION OF ACTIVITIES FOR WHICH PERMIT IS NEEDED

In January 1976 a Final Environmental Impact Statement (EIS) entitled "Mississippi Army Ammunition Plant" was filed with the President's Council on Environmental Quality. The subject of the EIS is proposed construction and operation of an Army manufacturing plant for an improved type of 155 mm artillery ammunition; the potential site is the National Space Technology Laboratory (NSTL) near the town of Bay St. Louis in southern Mississippi. The huge NSTL tract (which encompasses portions of Mississippi and Louisiana) is rich in unique flora, fauna, and habitats. As described in detail in the EIS, construction and operation of the Mississippi Army Ammunition Plant will be compatible with federal and state edicts on endangered threatened species and protection of indigenous biota if ecological planning accompanies various phases of the project. Therefore, the purpose of this permit application is to acquire authority to provide for scientific research and management prerogatives that might be necessary to assure the protection and perpetuation of endangered species on and in the vicinity of the proposed construction site, and to provide for reintroduction options if compatible with other use of the property.

SPECIFIC INFORMATION AS REQUIRED BY 50 CFR 17.22(A) (1) THROUGH (8) (IV) ON EACH OF THE SPECIES FOR WHICH A PERMIT IS REQUESTED

(a) First Species Sought to be Covered by the Permit.

(1) Florida panther (*Felis concolor coryi*). Activity sought to be authorized is the treeing and color marking of not more than five Florida panthers of any age and sex. It is emphasized, however, that there is no concrete evidence that the Florida panther inhabits the area. The purpose of acquiring this permit is to document its existence, then, if present, take the necessary steps to protect it.

(2) At the time of this application, the wildlife sought to be covered by the permit is still in the wild (if present at all).

(3) This section is not applicable.
(4) This section is not applicable.
(5) This section is not applicable.
(6) This section is not applicable.
(7) This section is not applicable.

(8) (i) through (iii). Purported sightings of Florida panthers began to be reported about three years ago on the NSTL site; several panthers have been reported by professional biologists working at the site. A pilot study is proposed which will either prove or tend to disprove the existence of *F. c. coryi* in the region. It is my intention to contract Mr. Roy McBride of Alpine, Texas who is a professional biologist and experienced cougar hunter (he has done extensive field work and has co-authored several technical reports on the status of the Florida panther in Florida). In the event he is not available, a person of similar skills will be sought. Field work will consist of night tracking and treeing of panthers using trained dogs plus daytime inspection of likely habitats for panther signs such as scrapes, scats, and kills. Verification of panther inhabitation will be via photographs of treed cats, photographs of signs, and analyses of scats for cougar hair. In order to ascertain that a treed cougar is different from one previously treed, each will be temporarily color-marked using harmless dyes. The dye will be delivered via a special marking syringe from a CO_2-charged pistol-type marking device. No more than five panthers would be so marked, and the study would not exceed thirty cumulative days in the field. Mr. Robert C. Belden, leader of the Florida panther recovery team has already been contacted (see attached correspondence), and every phase of this proposed study will be coordinated with the recovery team. If the pilot study verifies the existence of *F. c. coryi*, authority is requested to engage in management initiatives as directed by the recovery team.

(b) Second Species Sought to be Covered by the Permit.

(1) Mississippi sandhill crane (*Grus canadensis pulla*). Activity sought to be authorized is to conduct management techniques as stipulated by the Mississippi sandhill crane recovery team in an attempt to enhance the reproduction and survival of *G. c. pulla* in the wild. Cranes do not now occupy the NSTL site, but several large tracts would provide optimum habitat according to Jacob M. Valentine, Jr. (leader of the recovery team) who personally inspected the site in August 1975). Permit authority is sought to manage wild cranes should they naturally occupy the site, and to expedite reintroduction options should they ever be deemed feasible and desirable by the recovery team. Specific authority is requested: to transport and/or receive cranes or eggs for artificial incubation; to collect infertile eggs and shell fragments; to capture and band, color band, color mark, and/or radio-tag cranes; to rehabilitate injured cranes and salvage dead cranes; and to photograph various facets of any future management techniques or reintroduction scheme on the NSTL site keeping disturbance to a minimum. The number, age, and sex of Mississippi sandhill cranes to be involved in the study is unknown.

(2) At the time of this application, the wildlife sought to be covered by the permit is both still in the wild (Jackson County, Mississippi) and has already been removed from the wild (some individuals in captivity at the Patuxent Wildlife Research Center, US Fish and Wildlife Service, Laurel, MD).

(3) This section is not applicable.
(4) This section is not applicable.
(5) This section is not applicable.
(6) This section is not applicable.
(7) This section is not applicable.

(8) (i) through (iii). The remaining wild members (about 50 birds) of *G. c. pulla* occupy fire-maintained pitcher plant (*Sarracenia sp.*) savannas in nearby Jackson County, Mississippi. Mr. Jacob M. Valentine, Jr. leader of the Mississippi sandhill crane recovery team, visited the NSTL site on 28 August 1975 to evaluate prevailing habitat. Several large tracts are virtually identical to the open bogs now occupied by the cranes in Jackson County. These areas would constitute potential habitat for a naturally expanding crane population, or could be used for a reintroduction scheme if feasible and agreeable to all parties involved. Exercise of permit authority would only be as sanctioned by the recovery team.

(8) (iv). This section is not applicable.

(c) Third Species Sought to be Covered by the Permit.

(1) Red-cockaded woodpecker (*Dendrocopus borealis*). Activity sought to be authorized is to conduct, and/or to contract to a recognized authority, ecological surveys to determine the occurrence of *D. borealis* on the NSTL tract, and, if it occurs, to determine the species' range and population size. It is emphasized that there is no concrete evidence that the species occurs on the site. The ultimate purpose of the proposed study would be to furnish sufficient data to protect the species if it does inhabit the area. Specific authority is requested to capture and band adults and nestlings. The number, age, and sex of red-cockaded woodpeckers to be involved in the study is unknown.

(2) At the time of this application, the wildlife sought to be covered by the permit is in the wild (if present at all).

(3) This section is not applicable.
(4) This section is not applicable.
(5) This section is not applicable.
(6) This section is not applicable.
(7) This section is not applicable.

(8) (i) through (iii). Red-cockaded woodpeckers occupy mature pine forests greater than 60 or 70 years old in southeastern U.S. Optimum pine stands are those with basal areas of 50 to 80 square feet per acre (i.e., sparse stands), particularly with trees afflicted with the fungus *Fomes pini* which causes "red-heart" disease. Several forests in the vicinity of the proposed construction site have passed or are approaching the age threshold, and they meet the other criteria. The permit would authorize a study to determine their existence, and, if present, their distribution and abundance. The ultimate goal would be to insure that construction and operation of the proposed plant would not impact adversely on the species. Responsibility for the study would probably be contracted to Dr. Jerome Jackson of Mississippi State University, who is one of the country's authorities on *D. borealis* and leader of the red-cockaded woodpecker recovery team (see attached correspondence).

(8) (iv). This section is not applicable.

(d) Fourth Species Sought to be Covered by the Permit.

(1) American alligator (*Alligator mississippiensis*). Activities sought to be authorized are ecological surveys (mostly contracted) to determine population parameters of alligators inhabiting drainages potentially affected by the proposed ammunition plant. Surveys would be long-term and could involve capture, marking, weighing, measuring, and recapturing alligators to determine abundance, distribution, growth, and other factors potentially impacted upon by the proposed facility. The number, age, and sex of American alligators to be involved in the study is unknown.

(2) At the time of this application, the wildlife sought to be covered by the permit is in the wild.

(3) This section is not applicable.
(4) This section is not applicable.
(5) This section is not applicable.
(6) This section is not applicable.
(7) This section is not applicable.

(8) (i) through (iii). American alligators are relatively common in all large drainage systems on the NSTL site. The ultimate goal of the proposed studies is to insure that construction and operation of the proposed facility does not impact adversely on the species.

(8) (iv) This section is not applicable.

ADDITIONAL INFORMATION AND REQUESTS

Because most of the work proposed above would be contracted to various experts, the applicant requests authority to designate in writing alternate scientific investigators who would not work under the direct physical supervision of the applicant, but would conduct research and/or management as delineated in a contract scope-of-work. Authority to proceed on a contracted investigation would be contingent upon review of the contractor's qualifications and the scope-of-work, both to be submitted to the Division of Law Enforcement, US Fish and Wildlife Service at least 30 days before commencing the activity.

All permitted activities would be implemented in cooperation with respective recovery teams, and the appropriate recovery team leader would be notified when the permittee or his contractor is conducting authorized activities in the area. All activities will be in accordance with all other federal, state, and local licensing and regulatory requirements.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-573-07; please refer to this number when submitting comments. All relevant comments received on or before April 7, 1977 will be considered.

Dated: March 3, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-6826 Filed 3-7-77;8:45 am]

SNAIL DARTER

Emergency Exemption; Issuance

On February 24, 1977, letter waiving the 30 day public comment period was issued to the Regional Director, Region 4 authorizing emergency actions to enhance the survival of snail darters (*Percina tanasi*). This waiver was granted to allow the release of the snail darter into the Little Tennessee River in an attempt to achieve spawning during the spring of 1977.

It was determined by the U.S. Fish and Wildlife Service that an emergency does in fact exist and that the health and well-being of the species are threatened and that no reasonable alternative to the proposed action is available to the applicant.

Snail darters will be moved from the holding facilities of the Morristown State Fish Hatchery and released in the Little Tennessee River upstream from the Tellico Dam.

A copy of the letter of waiver is herewith presented. This emergency waiver is provided in accordance with the Endangered Species Act of 1973, as amended by Pub. L. 94-359 (90 Stat. 911).

Dated: March 3, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

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OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE [X] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To replace the snail darter (Percina tanasi) into the Little Tennessee River above the Tellico Dam from the Morristown Fish Hatchery, Morristown, Tennessee.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Regional Director
U. S. Fish & Wildlife Service
17 Executive Park Dr., N. E.
Atlanta, Georgia 30329
OR his designee

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Federal Agency - Fish and Wildlife Resources

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Kenneth E. Black, Reg. Director, Phone: FTS 257-4678
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Little Tennessee River and Morristown Fish Hatchery, Tennessee

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES ☐ NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: 2/23/77

11. DURATION NEEDED: 3/1/77

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 CFR 17.23

CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Kenneth E Black
DATE February 23, 1977

ATTACHMENT TO FEDERAL FISH AND WILDLIFE PERMIT APPLICATION

Information Required by 50 CFR Section 17.23(a):

(1) Snail Darter (*Percina tanasi*). Approximately 600 of varied age and sex.

(2) NA.

(3) The fish will be taken from live-holding facilities and placed in the Little Tennessee River above Tellico Dam, an area determined to be critical habitat for the species. The fish were originally captured below Tellico Dam. They had drifted downstream and could not move back upstream to their spawning and adult habitat because of the dam. Thus, we are returning the species to their natural habitat, attempting to maintain the only viable population in existence in their natural habitat and preventing jeopardy to the species.

(4) NA.

(5) NA.

(6) NA.

(7) NA.

REGIONAL DIRECTOR,
Fish and Wildlife Service,
Department of the Interior,
Atlanta, Ga.

Attention: Harold W. Benson.

DEAR MR. BENSON: This letter will serve to waive the 30-day public comment period in regard to an application submitted by the Regional Director, U.S. Fish and Wildlife Service, Atlanta, for an emergency exemption from the provisions of the Endangered Species Act of 1973. This waiver, and the issuance of the permit, authorize the activities outlined below without the normal 30-day public comment period on the permit application.

It has been determined by the Service that the snail darters (*Percina tanasi*) must be moved from the holding facilities of the Morristown State Fish Hatchery and released in the Little Tennessee River upstream from the Tellico Dam for the health and well-being of the species and that no reasonable alternative is available.

The Regional Director is authorized, in accordance with permit PRT 2-645, to transport all snail darters collected under authority of permit PRT 2-436 from the Morristown State Fish Hatchery and to release them into the Little Tennessee River above Tellico Dam.

This authority is granted to allow the release of the snail darter into the Little Tennessee River in an attempt to achieve spawning during the spring of 1977. If those held in captivity can spawn this year, it will greatly enhance the chances of survival of the species.

This exemption is granted, conditional to the provisions of endangered species permit PRT 2-645, issued February 23, 1977. A copy of this permit has been sent to the Tennessee Valley Authority and the Tennessee Wildlife Resources Agency.

Sincerely yours,

Director.

[FR Doc.77-6827 Filed 3-7-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Henry Doorly Zoo, Riverview Park, Omaha, Nebraska 68108.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

X PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Endangered species permit to receive 2.2 captive born ring-tailed lemurs (lemur catta) from the San Diego Zoo, San Diego California.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Henry Doorly Zoo
Riverview Park
Omaha, NE 68107

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION

5. IF "APPLICANT" IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Zoological Park

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Lee G. Simmons, D.V.M.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
NE

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Henry Doorly Zoo
Riverview Park
Omaha, NE 68107

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES ☐ NO
(If yes, list license or permit number)
Amendment No. 2
PRT-7-205-S-Z (KC)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
N/A

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE: April 1, 1977

11. DURATION NEEDED: 8 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Attachments have previously been submitted.

CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink)
DATE 2/15/77

DIRECTOR (FWS, LE)
U.S. Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 19183, Washington, D.C. 20036.

DEAR SIR: The Henry Doorly Zoo requests an endangered species permit to receive two male and two female ring-tailed lemurs (*Lemur catta*) from the San Diego Zoo, San Diego, California.

1. Common and scientific names of the species or subspecies, number, age and sex of the wildlife to be covered in the permit.

The Henry Doorly Zoo proposes to purchase two male and two female captive-born ring-tailed lemurs (*Lemur catta*) from the San Diego Zoo. One pair was born in 1974 and the other pair in 1975; all were born at the San Diego Zoo.

2. Copy of the contract or other agreement under which such wildlife is to be imported, showing the country of origin, name and address of the seller or consignor, date of the contract, number and weight (if available), and description of the wildlife.

Attached are photocopies of letters from Mr. Clyde Hill, Curator of Mammals, San Diego Zoo, and from Dr. Lee Simmons, Director, Henry Doorly Zoo. Data to fulfill this section are contained in these letters.

3. A full statement of justification for the permit including details of the project or other plans for utilization of the wildlife in relation to zoological, educational, scientific, or propagational purposes as appropriate and the planned disposition of the wildlife upon termination of the project.

The Henry Doorly Zoo has had ring-tailed Lemurs (*Lemur catta*) in its collection for the past ten years and has had successful reproduction during this time. The recent death of the collection's female has left us with an unpaired male. The addition of the animals proposed for this permit would again allow us to successfully breed this species and continue to expand its captive breeding population.

4. A description and the address of the institution or other facility where the wildlife will be used or maintained.

The ring-tailed lemurs (*Lemur catta*) will be maintained at the Henry Doorly Zoo, Omaha, Nebraska. The Henry Doorly Zoo is a non-profit institution operated by the Omaha Zoological Society. The zoo is an institutional member of the American Association of Zoological Parks & Aquariums. Founded in 1965, the zoo covers 120 acres. Annual attendance is approximately 290,000. The postal address is: Henry Doorly Zoo, Riverview Park, Omaha, NE 68107.

5. A statement that at the time of application the wildlife to be imported is still in the wild, was born in captivity or has been removed from the wild.

The four ring-tailed lemurs (*Lemur catta*) to be sent to the Henry Doorly Zoo were born at the San Diego Zoo. The letters referred to in section 2 reflect this fact.

6. A résumé of the applicant's attempts to obtain the wildlife to be imported from sources which would not cause the death or removal of additional animals from the wild.

All the animals in this transaction were born in captivity and thus will not be a drain on the natural population of wild lemurs.

(v) For the five years preceding the date of this application provide a detailed description of all mortalities involving the species covered in the application and held by the applicant, if any (or any other wildlife of the same genus or family held by the applicant), including the causes of such mortalities and the steps taken to avoid or decrease such mortalities.

During the past five years, there have been three mortalities in this genus or family. The first was a male *Lemur catta* donated to the zoo by a private individual. The animal died of pneumonia in 1973. The second was a female *Lemur catta* purchased in 1966. This animal died in 1972 of undetermined causes. The third was a female *Lemur catta* born at the Henry Doorly Zoo in 1967. She died this year from an unknown toxic agent.

The Henry Doorly Zoo has two full-time veterinarians on its staff. An active program of preventative medicine is maintained. A nursery/hospital building is located on the zoo grounds. The zoo receives excellent cooperation from local hospitals and universities. Primates are routinely tested for tu-

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berculosis and parasites.

7. (i) A complete description, including photographs or diagrams of the area and facilities in which the wildlife will be housed.

The lemurs will be displayed during warm weather in a Model E-15C Behlen Circular Cage (mfr. by Behlen Manufacturing Co. Columbus, Nebraska). The cage is 16 ft. 6 in. in diameter, 15 ft. tall at the eave, 23 ft. tall at the top. The welded, galvanized steel mesh is covered with a black siliconized polyester. These cages have been successfully utilized for breeding groups of animals in may zoological gardens. A picture of the cage is attached. The cage will contain a large tree climbing ropes, and a hide box.

During cold weather, the lemurs will be housed inside our Primate Research Building in indoor cages. The heated lemur area is 16 ft. long and 12 ft. wide, ceiling height is 16 ft. A drawing of the facility is attached. The area will have climbing apparatus and several resting boards.

(ii) A brief résumé of the technical expertise available, including any experience the applicant or his personnel have had in propagating the species or closely related species to be imported.

Personnel résumés of the Henry Doorly Zoo senior staff, who will be involved with caring for the lemurs are enclosed. In their zoo careers, they have had experience in propagating ring-tailed lemurs (*Lemur catta*).

(iii) A statement of willingness to participate in a cooperative breeding program and maintain or contribute data to a studbook.

We are willing to participate in a co-operative breeding program and to contribute data to a studbook.

(iv) A detailed description of the type, size and construction of the container: arrangements for feeding, watering, and otherwise caring for the wildlife in transit; and the arrangements for caring for the wildlife on importation into the United States.

The lemurs will be transported from San Diego to Omaha on a direct flight on either United or American Airlines. The shipping crates will exceed the minimum standards required by the International Air Transport Association (IATA). Feeding and watering facilities are built into the crates.

8. (iv) The planned disposition of such wildlife upon termination of the activities sought to be authorized.

The university of Nebraska at Lincoln Museum of Natural History or the University of Omaha's Biology Department receives suitable carcasses after thorough post mortum examination. Carcasses or "part thereof" are also utilized by the zoo's docents as part of their educational program for the Henry Doorly Zoo.

"I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I, Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001."

Sincerely,

LEE G. SIMMONS,
Director.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-549-07; please refer to this number when submitting comments. All relevant comments received on or before April 7, 1977 will be considered.

Dated: March 3, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-6910 Filed 3-7-77;8:45 am]

Geological Survey

RESEARCH AND DEVELOPMENT ASSESSMENT ON SAFETY AND POLLUTION CONTROL FOR OCS OPERATIONS

Final Report; Extension of Comments Period

The Geological Survey hereby extends the time to submit written comments concerning the report prepared by Harry Diamond Laboratories entitled "Final Report: Research and Development Assessment on Safety and Pollution Control for Outer Continental Shelf Operations" to May 1, 1977. A request for comments on this report was previously published in the FEDERAL REGISTER (42 FR 8232) on February 9, 1977.

Interested parties may submit written comments to:

Acting Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 600, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

W. A. RADLINSKI,
Acting Director.

[FR Doc.77-6719 Filed 3-7-77;8:45 am]

National Park Service

NATIONAL CAPITAL MEMORIAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Advisory Committee will be held at 1:30 p.m. on Tuesday, April 5, 1977, in Room 234 at the National Capital Region Headquarters, 1100 Ohio Drive SW., Washington, D.C.

The Committee was established for the purpose of preparing and recommending to the Secretary broad criteria, guidelines, and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended) through the media of monuments, memorials, and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary with respect to site location on Federal land in the National Capital Region and to serve as an information focal point for those seeking to erect memorials on Federal land in the National Capital Region.

The members of the Committee are as follows:

Mr. Gary E. Everhardt (Chairman), Director, National Park Service, Washington, D.C.
Mr. George M. White, Architect of the Capitol, Washington, D.C.
General Mark W. Clark, Chairman, American Battle Monuments Commission, Washington, D.C.
Mr. J. Carter Brown, Chairman, Fine Arts Commission, Washington, D.C.
Mr. David Childs, Chairman, National Capital Planning Commission, Washington, D.C.
Honorable Walter E. Washington, Mayor of the District of Columbia, Washington, D.C.
Mr. Nicholas Panuzio, Commissioner, Public Buildings Service, Washington, D.C.

The purpose of the meeting is to consider:

1. H.R. 2960—To authorize the Secretary of the Interior to erect a memorial in honor of the 56 signers of the Declaration of Independence in Constitution Gardens in the District of Columbia.

2. H.R. 1210—To authorize the Secretary of the Interior to establish a National Law Enforcement Heroes Memorial within the District of Columbia and for other purposes.

3. H.J. Res. 108—To authorize the erection of a memorial on public grounds in the District of Columbia or its environs in honor and commemoration of members of the Armed Forces of the United States who served in the Vietnam War.

4. H.R. 1009 and S. 244—To authorize the construction and maintenance of the General Draza Milhailovich Monument in Washington, District of Columbia, in recognition of the role he played in saving the lives of approximately five hundred United States airmen in Yugoslavia during World War II.

5. To consider alternative designs for architectural supports to hang the American Legion Freedom Bell.

The meeting will be open to the public. Any person may file with the Committee a written statement concerning the matters to be discussed. Persons who wish to file a written statement or who want further information concerning the meeting may contact Mr. Richard L. Stanton, Associate Regional Director, Cooperative Activities, National Capital Region, at area code 202-426-6715. Minutes of the meeting will be available for public inspection 2 weeks after the meeting at the Office of National Capital Region, Room 208, 1100 Ohio Drive SW., Washington, D.C.

Dated: February 28, 1977.

MANUS J. FISH, Jr.,
Regional Director, National Capital Region.

[FR Doc.77-6887 Filed 3-7-77;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 1, 1077. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by March 18, 1977.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

ALASKA

Matanuska-Susitna Division

Palmer, *Palmer Depot*, AK 1.
Wasilla, *Wasilla Depot*, Parks Highway and Knik Rd.

Yukon-Koyukuk Division

Gold Creek vicinity, *Susitna River Bridge*, N of Gold Creek.
Nenana, *Nenana Depot*, A St.

CONNECTICUT

Fairfield County

Westport, *Godillot Place*, 60 and 65 Jesup Rd.

GEORGIA

Oglethorpe County

Crawford vicinity, *Amis-Elder House*, W of Crawford on Elder Rd.
Crawford vicinity, *Langston-Daniel House*, 5 mi. W of Crawford on U.S. 78.
Vesta vicinity, *Gilmer, Thomas M., House*, E of Vesta off GA 17.

Troup County

LaGrange vicinity, *Rutledge House*, S of LaGrange on Bartley Rd.

IDAHO

Bannock County

Pocatello, *Pocatello Federal Building*, Lewis and Arthur Ave.

KENTUCKY

Fulton County

Fulton vicinity, *Whitesell, Jesse, House*, W of Fulton on KY 116.

LOUISIANA

St. Bernard Parish

St. Bernard vicinity, *Magnolia Mound*, E of St. Bernard.

MARYLAND

Baltimore (independent city)

U.S. Post Office and Courthouse, 111 N. Calvert St.

NEBRASKA

Douglas County

Omaha, *Specht, Christian, Building*, 1110 Douglas St.

Lancaster County

Lincoln, *Ziemer, Arthur C., House*, 2030 Euclid St.

NEW JERSEY

Hudson County

Hoboken, *Church of the Holy Innocents*, Willow Ave. and 6th St.

Middlesex County

New Brunswick, *Demarest House*, 542 George St.

Warren County

Columbia vicinity, *Fairview Schoolhouse*, E of Columbia on Dean Rd.

PENNSYLVANIA

Adams County

East Berlin vicinity, *Kuhn Fording Covered Bridge*, S of East Berlin on Kuhn Fording Rd.

Berks County

Stonersville vicinity, *Mill Tract Farm*, 1.3 mi. NE of Stonersville on Mill Rd.

Bucks County

Rushland vicinity, *Vansant Farmhouse*, N of Rushland on Cedar La.

Butler County

Butler, *Butler County Courthouse*, S. Main and Diamond Sts.

Chester County

Coatesville, *National Bank of Coatesville Building*, 234 E. Lincoln Highway.
Marshallton vicinity, *Carter-Worth House and Farm*, E of Marshallton.

Crawford County

Meadville, *Bently Hall*, Allegheny College campus.

Cumberland County

Shippensburg vicinity, *Blythe, Benjamin, Homestead*, S of Shippensburg on Means Hollow Rd.

Philadelphia County

Philadelphia, *Laurel Hill Cemetery*, 3822 Ridge Ave.

York County

York vicinity, *Bixler, Michael, Plantation*, N of York on Mundis Race Dr.

PUERTO RICO

Esperanza vicinity, *Hacienda Casa del Frances*, NW of Esperanza.
Humacao, *Casa Roig*, Antonio Lopes 66.
Isabel, *Faro de Vieques*, off PR 36.
Isabel, *Fuerte de Vieques*, Calle del Fuerte.
Lares, *San Jose de Lares*, Plaza de Recreo, Calle San Jose, and Calle Commercio.
Mayaguez, *Edificio Jose de Diego*, University of Puerto Rico campus.

TENNESSEE

Shelby County

Memphis, *Rayner, Eli, House*, 1020 Rayner St.

Sullivan County

Bristol vicinity, *Steel-Seneker Houses*, 4 mi. W of Bristol on TN 126.

TEXAS

Floyd County

Quitaque vicinity, *Quitaque Railway Tunnel*, 10 mi. SW of Quitaque.

Galveston County

Port Bolivar, *Point Bolivar Lighthouse*, TX 87.

Harrison County

Marshall vicinity, *Edgemont*, 3 mi. W of Marshall on Longview Rd.

Pecos County

Sheffield vicinity, *Cannon Ranch Railroad Eclipse Windmill*, W of Sheffield on Charles C. Canon Ranch.

Smith County

Tyler vicinity, *Tyler Hydraulic-Fill Dam*, W of Tyler off TX 31.

UTAH

Salt Lake County

Salt Lake City, *McIntyre Building*, 68-72 S. Main St.

Sanpete County

Manti, *Patten, John, House*, 95 W. 400 North

Utah County

Salem, *Gardner, Ira W., House*, 10 N. Main St.
Springville, *Houtz, Jacob, House*, 980 N. Main St.

Weber County

Ogden, *Becker, Gustav L., House*, 2408 Van Buren Ave.

WYOMING

Uinta County

Evanston, *Uinta County Courthouse*, Courthouse Square.

[FR Doc.77-6733 Filed 3-7-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[USITC SE-77-17A]

GOVERNMENT IN THE SUNSHINE

Additional Persons Expected To Be Present at Closed Portion of Meeting of March 3, 1977

At its meeting of March 3, 1977, the Commission acting on the authority of 19 U.S.C. 1335 and in conformity with 19 CFR 201.35 (b) and (e)(1), amended the portion of its public notice for the meeting of March 3, 1977, which pertains to the selection of personnel under reorganization (agenda item No. 5) in closed session. The following person and his corresponding affiliation is also expected to be present during the closed portion of the meeting:

Robert A. Cornell, Acting Deputy Director of Operations.

By order of the Commission.

Issued: March 3, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-6899 Filed 3-7-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place

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of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C. this 1st day of March, 1977.

ROBERT J. MCCANNON,
Deputy Assistant Secretary-Designate for Employment and Training.

Applications received during the week ending Feb. 25, 1977

Name of applicant	Location of enterprise	Principal product or activity
Burton Enterprises, Inc.	Cobleskill, N.Y.	Millwork and glass products.
Gunn Associates of New Jersey, Inc.	Pine Brook, N.J.	Pleating, decorative and novelty stitchery productions.
Black Diamond Service Co., Inc.	Fayetteville, W. Va.	Manufacture of roof bolter for mines.
Byrd Foods, Inc.	Parksley, Va.	Dried and dehydrated fruits, vegetables, and soup mixes.
Cedarcrest Mobile Homes	Huntington, W. Va.	Residential mobile homesites.
County of Madison	Madison County, Tenn.	Development of industrial park.
Wonderland of Florida, Inc.	Bunnell, Fla.	Amusement parks.
Ball-Co Contractors, Inc.	Bay Minette, Ala.	General contractors.
Robert D. Mathis (tenant to the city of Carbondale).	Carbondale, Ill.	Manufacture of plastic bags.
Tri-County Radio, Inc.	Monticello, Minn.	Operation of an AM/FM commercial radio station.
Electric Wire Corp. (tenant to the village of Spring Green).	Spring Green, Wis.	Manufacture of electrical harnesses.
Motek Engineering Manufacturing	Cambridge, Minn.	Nonelectrical machinery parts and repair shop.
Stein Furniture & Fixture Co.	Fredericksburg, Tex.	Manufacture of metal display shelving and custom wood production of store fixtures, technical and office furniture.
Lincoln Eggs, Inc.	Lincoln, Ark.	Hatching pullets for commercial egg producers.
Thomas A. McPherron, DVM	Holyoke, Colo.	Veterinary services.
Hartvik P. Garsjo	Glasgow, Mont.	70-unit motel complex.

[FR Doc.77-6590 Filed 3-7-77;8:45 am]

Employment and Training Administration

JOB CORPS

Experimental Project: Waiver of Limited Prohibition Against Travel Home at Government Expense

BACKGROUND

The provisions on leave and travel expenses for enrollees in the Job Corps are contained in sections 409(a) and 409(b) of the Comprehensive Employment and Training Act of 1973, as amended (CETA), 29 U.S.C. sections 919(a) and 919(b), and in § 97a.91 of Title 29, Code of Federal Regulations.

The Job Corps has experienced a continually high dropout rate during the first 30 to 45 days of enrollees' service. Various reasons, such as poor orientation and homesickness, have been given for the inordinately high early dropout rate, but while orientation procedures have been improved, no substantial lowering of the dropout rate has occurred.

At Job Corps centers where corpsmembers come from nearby localities, the early dropout rate is significantly lower than at centers where the corpsmembers come from more distant localities—For example, in a study of 14 centers—5 with input from nearby localities, and 9 with input from more distant localities—it was found that the 30-day loss rate during fiscal year 1975 was 3.3 percent–23.5 percent at the 5 local input centers, and 26.0 percent–37.2 percent at the 9 distant input centers. It seems, therefore, that a more flexible home level policy would lower the dropout rate.

While corpsmembers may travel home at Federal Government expense after their first 6 months of service, section 409(b) of CETA, 29 U.S.C. section 919(b), and 29 CFR 97a.91(d) prohibit transportation at Government expense for annual leave before the corpsmember has spent 6 months in service. Further, 29 CFR 97a.91(d) provides that a corpsmember may take only one annual leave with transportation at Government expense in a year of enrollment. However, section 413(b) of CETA, 29 U.S.C. section 923(b), permits the United States Secretary of Labor to waive any of the provisions of Title IV of CETA, 29 U.S.C. section 911 et seq., which the Secretary finds would prevent the carrying out of elements of experimental projections under section 413(b).

EXPERIMENTAL PROJECT

Pursuant to section 413(b) of CETA, 29 U.S.C. section 923(b), an experimental project will be conducted at four Job Corps Centers: The Keystone Job Corps Center at Drums, Pennsylvania; the Golconda Job Corps Center at Golconda, Illinois; the Timberlake Job Corps Center at Estacada, Oregon; and the Tongue Point Job Corps Center at Astoria, Oregon. The first eligibility date for home leave will be April 13, 1977, and the last date for home leave will be October 12, 1977.

Under the project, corpsmembers would be entitled to a 1 week home leave after 6 weeks of satisfactory service from the date he/she commenced travel to the first center of assignment during his/her current enrollment. Home leave is defined as a Saturday, Sunday, 2 days' travel time at Government expense, and 3 days of the corpsmember's accrued annual leave. Satisfactory service will be defined by the individual Center Directors during the orientation of new corpsmembers.

The corpsmember would also be entitled to another home leave after 6 months of satisfactory service after his/her return from the first home leave at Government expense. For corpsmembers who choose not to take the home leave at 6 weeks, the home leave entitlement after 6 months of satisfactory service would apply.

The primary objectives of the experimental project are:

(a) To measure loss-rate of enrollees during their first 30 to 45 days in the Job Corps;

(b) To measure the impact on recruitment costs which may result from a reduced enrollee turnover at the four centers; and

(c) To measure the cost savings in center operations which may result from reduced enrollee attrition at the four centers.

If the Department of Labor deems the project successful, the Secretary will consider requesting from Congress the authority to make the waiver of section 409(b) contained in this document permanent.

WAIVERS

Based on the authority granted to the United States Secretary of Labor in section 413(b) of the Comprehensive Employment and Training Act of 1973, as amended (CETA), 29 U.S.C. section 923(b), to waive any provision of Title IV of CETA, 29 U.S.C. section 911 et seq., for experimental purposes, and the delegation of that authority to the Assistant Secretary for Employment and Training by Secretary's Order No. 4–75 (40 FR 18515; April 28, 1975), and for the purposes of conducting the above-described experimental project, I hereby waive the provision contained in the second sentence in section 409(b) of CETA, 29 U.S.C. section 919(b), which states that the Secretary of Labor shall not assume transportation costs connected with leave of any enrollee who has not completed at least 6 months of service in the Job Corps; the implementation of 29 U.S.C. section 919(b) contained in the second sentence in § 97a.91(d) of Title 29, Code of Federal Regulations; and the provision in the second sentence of § 97a.91(d) of Title 29, Code of Federal Regulations, which states that a corpsmember in the Job Corps shall be allowed only one annual leave with transportation at Government expense per year of enrollment. These waivers shall be in effect only at the Keystone, Golconda, Timberlake, and Tongue Point Job Corps Centers, and only from April 13, 1977, through October 12, 1977.

REPORT OF FINDINGS

Pursuant to section 413(b) of CETA, 29 U.S.C. section 923(b), the Secretary of Labor will, in the annual report of the Secretary, report to the Congress concerning this experimental project.

Signed at Washington, D.C., on March 2, 1977.

WILLIAM B. HEWITT,
Acting Assistant Secretary for Employment and Training.

[FR Doc.77-6833 Filed 3-7-77;8:45 am]

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) will meet on March 29 and 30, 1977, starting at 9:00 a.m., in the Francis Scott Key Room, Key Bridge Marriott, Rosslyn, Virginia. The meeting is open to the public.

The agenda for this meeting will include the swearing in of Committee members, a review of OSHA activities as they relate to the construction industry, a discussion of proposed citation guidelines at multi-employer worksites, discussion of the development of standards and general compliance activities as they relate to the safety and health of construction workers, and development of plans for future meetings. Any materials provided to members of the Committee are available for inspection and copying at the Committee Management Office.

Written data related to Committee activities may be submitted, preferably with 20 copies, to the Committee Management Office. Any such submissions received prior to the meeting will be provided to the members of the group and will be included in the record of the meeting.

Communications may be mailed to:

Ken Hunt, Committee Management Office, Department of Labor—OSHA, 3rd. Street and Constitution Avenue, NW., Room N-3635, Washington, D.C. 20210 Phone: (202) 523-8024.

Signed at Washington, D.C., this 2d day of March 1977.

JOSEPH KIRK,
Acting Deputy Assistant Secretary of Labor.

[FR Doc.77-6834 Filed 3-7-77;8:45 am]

Office of the Secretary

[TA-W-1,680]

A–M FASHIONS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 7, 1977 the Department of Labor received a petition dated February 2, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of A–M Fashions, Incorporated, New Britain, Connecticut (TA–W–1,680). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with women's clothes produced by A–M Fashions, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc 77-6835 Filed 3-7-77;8:45 am]

[TA-W-1,673]

AMERICAN BAZAAR, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 14, 1977 the Department of Labor received a petition dated February 2, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of American Bazaar Incorporated, New Britain, Connecticut (TA–W–1,673). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with ladies' coats and suits produced by American Bazaar, Incorporated, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

V4245 MAR 8 77 UMI

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 22d day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6836 Filed 3-7-77;8:45 am]

[TA-W-1,648]

ANNA-RUBINA, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977 the Department of Labor received a petition dated January 31, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Anna-Rubina, Inc., Port Isabel, Texas (TA-W-1,648). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the catching and selling of shrimp provided by Anna-Rubina, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the suject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 14th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6837 Filed 3-7-77;8:45 am]

[TA-W-1,656]

BENDIX CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 14, 1977, the Department of Labor received a petition dated February 1, 1977, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Automobile, Aerospace, Agricultural and Implement Workers of America on behalf of the workers and former workers of Hydraulics Division, St. Joseph, Michigan of The Bendix Corporation, Southfield, Michigan (TA-W-1,656). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with rear wheel cylinders produced by The Bendix Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firms or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6838 Filed 3-7-77;8:45 am]

[TA-W-1,643]

BORDER FISHERIES, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977, the Department of Labor received a petition dated February 6, 1977, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Border Fisheries, Inc., Port Isabel, Texas, a wholly-owned subsidiary of Callaway Ice & Fuel Company, Inc., Port Isabel, Tex. (TA-W-1,643). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the catching and selling of shrimp provided by Border Fisheries, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 14th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6839 Filed 3-7-77;8:45 am]

[TA-W-1,670]

CARDINAL COTTONS CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 7, 1977, the Department of Labor received a petition dated January 28, 1977, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Cardinal Cottons Corporation, New York, New York, a wholly-owned subsidiary of Dero Industries, New York, New York (TA-W-1,670). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with ladies' robes and loungewear produced by Cardinal Cottons Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjusment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22d day of February 1977

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6840 Filed 3-7-77;8:45 am]

[TA-W-1,671]

CARDINAL COTTONS CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 7, 1977, the Department of Labor received a petition dated January 28, 1977, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Coatesville Warehouse, Coatesville, Pennsylvania, of Cardinal Cottons Corp., New York, New York, a wholly-owned subsidiary of Dero Industries, N.Y., N.Y. (TA-W-1,671). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the warehousing and shipping of ladies' robes and loungewear provided by Cardinal Cottons Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 22d day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6841 Filed 3-7-77;8:45 am]

[TA-W-1,669]

CENTRAL SHOE MANUFACTURING CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 3, 1977, the Department of Labor received a petition dated January 31, 1977, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Central Shoe Manufacturing Co., Norwich, Connecticut (TA-W-1,669). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports or articles like or directly competitive with Men's and Children's shoes produced by Central Shoe Manufacturing Co. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

V42 45 MAR 8 77 UMI

Signed at Washington, D.C., this 22d day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6842 Filed 3-7-77;8:45 am]

[TA-W-1,666]

CHERIE BRASSIERE COMPANY, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 2, 1977 the Department of Labor received a petition dated January 28, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Corset and Brassiere Workers' Union on behalf of the workers and former workers of Cherie Brassiere Company, Inc., Brooklyn, New York (TA-W-1,666). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brassieres and girdles produced by Cherie Brassiere Company, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 17th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6843 Filed 3-7-77;8:45 am]

[TA-W-1,672]

CONVERSE RUBBER CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 17, 1977 the Department of Labor received a petition dated February 14, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Converse Rubber Company, Wilmington, Mass., a Division of Eltra Corporation, New York, New York (TA-W-1,672). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with rubber, canvas and leather athletic footwear produced by Converse Rubber Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 22d day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6844 Filed 3-7-77;8:45 am]

[TA-W-1,665]

DELUXE FASHIONS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 2, 1977 the Department of Labor received a petition dated January 28, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Corset and Brassiere Workers' Union on behalf of the workers and former workers of DeLuxe Fashions, Inc., New York, New York (TA-W-1,665). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brassieres and girdles produced by DeLuxe Fashions, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 17th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6845 Filed 3-7-77;8:45 am]

[TA-W-1,664]

ELEGANTE FOUNDATIONS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 2, 1977 the Department of Labor received a petition dated January 28, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Corset and Brassiere Workers' Union on behalf of the workers and former workers of Elegante Foundations, Inc., New York, New York (TA-W-1,664). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of article like or directly competitive with girdles produced by Elegante Foundations, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 17th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6846 Filed 3-7-77;8:45 am]

[TA-W-1,675]

GAYTONE FASHIONS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 7, 1977 the Department of Labor received a petition dated February 2, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Gaytone Fabrics, Incorporated, New York, New York (TA-W-1,675). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with textile printing for fabrics provided by Gaytone Fabrics, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6847 Filed 3-7-77;8:45 am]

[TA-W-1,679]

GILBERT SHOE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 15, 1977 the Department of Labor received a petition dated February 11, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of The Gilbert Shoe Company, Thiensville, Wisconsin (TA-W-1,679). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with children's footwear produced by The Gilbert Shoe Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

V 42 45 MAR 8 77 UMI

Signed at Washington, D.C., this 24th day of February 1977.

MARVIN M. FOOKS
Director, Office of Trade Adjustment Assistance.

[FR Doc 77-6848 Filed 3-7-77;8:45 am]

[TA-W-1,667]

GOLD SEAL GARTER CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 2, 1977, the Department of Labor received a petition dated January 28, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Corset and Brassiere Workers' Union on behalf of the workers and former workers of Gold Seal Garter Corporation, New York, New York (TA-W-1,667). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brassieres, girdles, and garter belts produced by Gold Seal Garter Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 17th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc 77-6849 Filed 3-7-77;8:45 am]

[TA-W-1,652]

GULFWAY TRAWLERS

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977, the Department of Labor received a petition dated January 31, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Gulfway Trawlers, Port Isabel, Texas (TA-W-1,652). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the catching and selling of shrimp provided by Gulfway Trawlers or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc 77-6859 Filed 3-7-77;8:45 am]

[TA-W-1,660]

INTERNATIONAL SHOE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 8, 1977 the Department of Labor received a petiiton dated January 27, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of El Dorado Springs, Missouri, plant of International Shoe Co., St. Louis, Missouri, a div. of Interco, Inc., St. Louis, Missouri (TA-W-1,660). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with women's and children's shoes produced by International Shoe Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc 77-6851 Filed 3-7-77;8:45 am]

[TA-W-1,649]

JEANNIE

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977 the Department of Labor received a petition dated February 6, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Jeannie, Los Fresnos, Texas (TA-W-1,649). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the catching and selling of shrimp provided by Jeannie or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 14th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6852 Filed 3-7-77;8:45 am]

[TA-W-1,682]

J. G. KNITS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 9, 1977 the Department of Labor received a petition dated February 4, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of J. G. Knits, Incorporated Ridgefield, New Jersey (TA-W-1,682). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with knitted dresses, blouses, suits and sweaters produced by J. G. Knits, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6853 Filed 3-7-77;8:45 am]

[TA-W-1,647]

JOE & RUBEN BARRERA

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977 the Department of Labor received a petition dated February 6, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Joe & Ruben Barrera, Port Isabel, Texas (TA-W-1,647). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the catching and selling of shrimp provided by Joe & Ruben Barrera or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 14th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6854 Filed 3-7-77;8:45 am]

V42N45 MAR 8 77 UMI

[TA-W 1,678]

JOSEPH PETRILLI

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 17, 1977 the Department of Labor received a petition dated February 14, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union on behalf of the workers and former workers of Joseph Petrilli, Egg Harbor, New Jersey (TA-1,678). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with ladies' blazers, winter coats and 4 seasons coats produced by Joseph Petrilli or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6855 Filed 3-7-77;8:45 am]

[TA-W-1,674]

KENBAR INDUSTRIES

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 15, 1977 the Department of Labor received a petition dated February 7, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Kenbar Industries, Whitehouse, New Jersey (TA-W-1,674). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with electronic testing equipment produced by Kenbar Industries or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibilty requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 22d day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6856 Filed 3-7-77;8:45 am]

[TA-W-1,668]

LITTLE FALLS FOOTWEAR, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 11, 1977 the Department of Labor received a petition dated January 28, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Little Falls Footwear, Inc., St. Johnsville, New York (TA-W-1,668). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in sectoin 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with slippers and casual shoes produced by Little Falls Footwear, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 22d day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6857 Filed 3-7-77;8:45 am]

[TA-W-1,644]

LLOYD GUILLOT

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977 the Department of Labor received a petition dated February 6, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Lloyd Guillot, Port Isabel, Texas (TA-W-1,644). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the catching and selling of shrimp provided by Lloyd Guillot or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 14th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6858 Filed 3-7-77;8:45 am]

[TA-W-1,655]

LUCHADOR

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977 the Department of Labor received a petition dated February 6, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Luchador, Port Isabel, Texas (TA-W-1,655). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of artioles like or directly competitive with the catching and selling of shrimp provided by Luchador or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 16th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6859 Filed 3-7-77;8:45 am]

[TA-W-1,651]

MADLIN SHRIMP, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977 the Department of Labor received a petition dated February 6, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Madlin Shrimp, Incorporated, Port Isabel, Texas (TA-W-1,651). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the catching and selling of shrimp provided by Madlin Shrimp, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6860 Filed 3-7-77;8:45 am]

V 42 45 MAR 8 77 UMI

[TA-W-1,681]

MAIDENFORM, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 11, 1977 the Department of Labor received a petition dated February 7, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union on behalf of the workers and former workers of Perth Amboy, New Jersey plant of Maidenform, Incorporated, New York, New York (TA-W-1,681). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brassieres, girdles, and swimsuits produced by Maidenform, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6861 Filed 3-7-77;8:45 am]

[TA-W-1,659]

MAR MAC MANUFACTURERS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 7, 1977 the Department of Labor received a petition dated January 28, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Mar Mac Manufacturers, Inc., Baltimore, Maryland (TA-W-1,659). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's slacks and shorts produced by Mar Mac Manufacturers, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 16th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6862 Filed 3-7-77;8:45 am]

[TA-W-1,642]

MICHAEL BERKOWITZ COMPANY, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 24, 1977 the Department of Labor received a petition dated January 18, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing & Textile Workers Union on behalf of the workers and former workers of Waynesburg, Pennsylvania plant of Michael Berkowitz Company, Inc., New York, New York (TA-W-1,642). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's and ladies' sleepwear produced by Michael Berkowitz Company, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a signficant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 10th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6863 Filed 3-7-77;8:45 am]

[TA-W-1,657]

MILADY BRASSIERE & CORSET CO., INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 2, 1977 the Department of Labor received a petition dated January 28, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Corset and Brassiere Workers' Union on behalf of the workers and former workers of Milady Brassiere & Corset Co., Inc., New York, New York (TA-W-1,657). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brassieres and girdles produced by Milady Brassiere & Corset Co., Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 16th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6864 Filed 3-7-77;8:45 am]

[TA-W-1,653]

NIKKI G.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977 the Department of Labor received a petition dated February 6, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Nikki G., Port Isabel, Texas (TA-W-1,653). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the catching and selling of shrimp provided by Nikki G. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6865 Filed 3-7-77;8:45 am]

[TA-W-1,686]

OHIO FERRO-ALLOYS CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 8, 1977 the Department of Labor received a petition dated February 1, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Philo, Ohio plant of Ohio Ferro-Alloys Corporation, Canton, Ohio (TA-W-1,686). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with silicon metal produced by Ohio Ferro-Alloys Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6866 Filed 3-7-77;8:45 am]

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[TA-W-1,687]

OHIO FERRO-ALLOYS CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 8, 1977 the Department of Labor received a petition dated February 1, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Powhatan Point, Ohio plant of Ohio Ferro-Alloys Corporation, Canton, Ohio (TA-W-1,687). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with ferrosilicon, ferromanganese and silicon manganese produced by Ohio Ferro-Alloys Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6867 Filed 3-7-77;8:45 am]

[TA-W-1,645]

RAFIELITO, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977 the Department of Labor received a petition dated February 6, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Rafielito, Incorporated, Port Isabel, Texas (TA-W-1,645). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the catching and selling of shrimp provided by Rafielito, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 14th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6868 Filed 3-7-77;8:45 am]

[TA-W-1,661]

RCA CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 9, 1977 the Department of Labor received a petition dated January 24, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the International Union of Electrical & Machine Workers on behalf of the workers and former workers of Mountaintop, Pa. plant of RCA Corp, New York, New York (TA-W-1,661). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with transistors produced by RCA Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 16th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6869 Filed 3-7-77;8:45 am]

[TA-W-1,662]

RCA CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 9, 1977 the Department of Labor received a petition dated January 25, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the International Union of Electrical & Machine Workers on behalf of the workers and former workers of Somerville, New Jersey plant of RCA Corp., New York, New York (TA-W-1,662). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the catching and selling of shrimp provided by Ruben Barrera Trawlers or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C, this 14th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6871 Filed 3-7-77;8:45 am]

[TA-W-1,658]

SKILL KNIT FABRICS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 8, 1977 the Department of Labor received a petition dated January 21, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies' Garment Workers Union on behalf of the workers and former workers of Skill Knit Fabrics, Inc., Garwood, New Jersey (TA-W-1,658). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with circular single knit fabrics produced by Skill Knit Fabrics, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 16th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6872 Filed 3-7-77;8:45 am]

[TA-W-1,685]

TELEDYNE GURLEY

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 17, 1977 the Department of Labor received a petition dated February 14, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Teledyne Gurley, Troy, New York, a Division of Teledyne Industries, Los Angeles, California (TA-W-1,685). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with surveying instru-

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ments provided by Teledyne Gurley or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6873 Filed 3-7-77;8:45 am]

[TA-W-1,650]

TEXALL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977 the Department of Labor received a petition dated January 31, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Texall Corporation, Port Isabel, Texas (TA-W-1,650). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the catching and selling of shrimp provided by Texall Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6874 Filed 3-7-77;8:45 am]

[TA-W-1,683]

UNIROYAL, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 11, 1977 the Department of Labor received a petition dated February 7, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of the workers and former workers of Naugatuck Footwear Plant, Naugatuck, Connecticut of Uniroyal, Incorporated, Middlebury, Connecticut (TA-W-1,683). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with waterproof and fabric rubber sole footwear produced by Uniroyal, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjusutment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6875 Filed 3-7-77;8:45 am]

[TA-W-1,663]

VANITY CORSET COMPANY, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 2, 1977 the Department of Labor received a petition dated January 28, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Corset and Brassiere Workers' Union on behalf of the workers and former workers of Vanity Corset Company, Incorporated, New York, New York (TA-W-1,663). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with brassieres, girdles and garter belts produced by Vanity Corset Company, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 17th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-6876 Filed 3-7-77;8:45 am]

[TA-W-1,654]

WONDERING BOY

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977 the Department of Labor received a petition dated February 6, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Wondering Boy, Port Isabel, Texas (TA-W-1,654). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the catching and selling of shrimp provided by Wondering Boy or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77 6877 Filed 3-7 77:8:45 am]

[TA-W-1,677]

YKK USA, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 15, 1977 the Department of Labor received a petition dated February 12, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of YKK USA, Incorporated, Lyndhurst, New Jersey, a subsidiary of Yoshada Koydgo, Tokyo, Japan (TA-W-1,677). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with zippers produced by YKK USA, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing: *Provided*, Such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77 6878 Filed 3-7-77;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[77-15]

PRIVACY ACT

Systems of Records

In the notices of systems of records published by the National Aeronautics and Space Administration on page 38922 of the FEDERAL REGISTER of Monday, September 13, 1976, it is proposed to change number (8) of "Routine uses of records * * *" under NASA 10PAYS to read as follows:

"(8) To respond to requests by State employment security agencies and the U.S. Department of Labor for employment, wage, and separation data on former employees for the purpose of determining eligibility for unemployment compensation;".

This change has been recommended by the U.S. Department of Labor. Since this change broadens an existing routine use, public comment on this change is invited.

Written comments should be addressed to NASA Privacy Officer, Code AE, NASA Headquarters, Washington, DC 20546. All comments received by April 1, 1977, will be considered by NASA before taking final action on the proposed changes. Any comments received will be available for public inspection at NASA Headquarters, Room 7137, 400 Maryland Ave., SW, Washington, DC 20546, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday (except holidays) until 4:00 p.m., April 1, 1977.

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Unless otherwise indicated in a subsequent Notice, this change shall be finally effective on April 1, 1977.

DUWARD L. CROW,
Associate Deputy Administrator.

[FR Doc.77-6722 Filed 3-7-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

CHALLENGE GRANTS

General Information and Preliminary Guidelines

The following are preliminary guidelines and information about a proposed new program, Challenge Grants, of the National Endowment for the Humanities (NEH).

The National Endowment for the Humanities is an independent agency of the Federal government, which makes grants to support research, education, and public activity in the Humanities.

In the 1976 amendments (Pub. L. 94-462) to the National Foundation on the Arts and the Humanities Act (Pub. L. 89-209, 20 U.S.C. 951-963), Congress authorized the National Endowment for the Humanities to expand its assistance to the humanities through Challenge Grants. Challenge Grants are intended to help humanistic institutions improve their financial stability by stimulating new or increased support from the public.

The President has proposed funding beginning in 1977. Funds for Challenge Grants, however, are not presently available, but depend on appropriations by the Congress for this purpose. Such appropriation action is not expected to take place until the Spring of 1977.

In addition, these guidelines are subject to review by the National Council on the Humanities. Therefore, these guidelines should be considered preliminary and subject to change.

Written suggestions and comments on these guidelines are welcomed. Send your comments to:

NEH Challenge Grants, Mail Stop 800, National Endowment for the Humanities, Washington D.C. 20506.

ROBERT J. KINGSTON,
Deputy Chairman and Acting Chairman, National Endowment for the Humanities.

INTRODUCTION: CHALLENGE GRANTS

As part of the 1976 amendments to the National Foundation on the Arts and the Humanities Act the Congress authorized the Endowment to expand its assistance to the humanities through a broad new program, Challenge Grants, which is intended to help humanistic institutions improve their financial stability by stimulating new or increased support from the public.

Challenge Grants differ from ordinary Endowment grants in a significant way: because the amount of available funding has been small in relation to the demand, Endowment aid is normally limited to specific projects which have a defined scope, duration, and result and which relate to priority areas recommended by the National Council on the Humanities as meriting special attention by NEH. In enacting the Challenge Grants provision, however, the Congress recognized the need for basic operating support to those institutions which—as they develop, organize, preserve, and disseminate humanistic knowledge and provide the human and material resources required for high quality humanities programs—undergird the Nation's educational and cultural strength.

Challenge Grants therefore complement existing NEH programs by offering institutions the assistance they need to carry out their basic functions and by stimulating non-Federal sources to share in their support. The new type of grants authorized by the Congress are termed Challenge Grants as they:

Challenge an institution to examine carefully both its traditional sources of support and untapped potential sources, its present audiences and others which it might usefully serve, and its long-range programming and financial needs;

Challenge members of the public to demonstrate the value they place on their local humanities institutions and to express their concern about the continuing functioning of those agencies;

Challenge state and local government, business firms, labor organizations, and civic groups to recognize the role played by humanities institutions in the educational or cultural life of their state and community and to help support that role.

OBJECTIVES OF NEH CHALLENGE GRANT PROGRAM

According to the legislative authorization, the broad purposes to be pursued by the Endowment through Challenge Grants are:

Enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the program of such organizations or institutions;

Providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

Enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

Stimulating greater cooperation among cultural organizations and institutions, especially when it is designed to serve better the communities in which such organizations or institutions are located;

Fostering greater citizen involvement in planning and cultural development of a community; and

Encouraging a continuing observance of the Bicentennial period through support of humanities projects which bring the public and private sectors together to assess "where our society and Government stand in relation to the founding principles of the Republic" and to find "new processes for solving problems facing our Nation in its third century."

WHAT MAY CHALLENGE GRANTS BE USED FOR?

Unlike regular Endowment grants, which may support only projects in defined NEH program areas, Challenge Grants may be used for a variety of broad purposes which the recipient institution judges to be most critical to its long-term functioning and financial health. Possible uses include:

General operating expenses (including staff salaries, rent, utilities, mortgage, general administration); defraying of operating deficits; renovation of facilities; acquisition of equipment and materials; maintenance, preservation, and conservation of collections; improved planning, evaluation, and automated data systems; design and conducting of development and fund-raising efforts; new or expanded programming and services; increased community-oriented information and "outreach" programs; establishment of inter-institutional programs for resource-sharing and joint administrative improvements.

NOTE.—Federal regulations prevent the use of NEH funds for endowment, cash reserve, or construction of new facilities; however, donations to an institution for such purpose may be used by it to meet the matching requirements of a Challenge Grant (see below), and the NEH portion of the Challenge Grant may then be used for current or other operating expenses.

BICENTENNIAL PROJECTS

A special provision of the Challenge Grant authorization encourages public and private groups to explore the development of American ideals and institutions, to examine the humanistic dimensions—historical, philosophical, ethical—of contemporary problems, to infuse the humanities and humanistic concerns into the approaches developed for resolving such problems, and, thereby, to lay the foundation for a thoughtful observance of the two-hundredth anniversary of the adoption of the U.S. Constitution in 1989.

In preparing an application for a Bicentennial Challenge Grant institutions should note that a preliminary proposal, or at least prior consultation with NEH staff, is necessary in order to assure that the activity envisioned is eligible for Endowment support. Inquiries should be addressed to

NEH Bicentennial Challenge Grants, MS 801, National Endowment for the Humanities, Washington, D.C. 20506.

GRANT AMOUNTS

A Challenge Grant consists of two parts—the NEH or Federal portion and the non-Federal matching portion. A minimum of 3 non-Federal dollars is required for every 1 Federal dollar. (This 3-to-1 matching requirement may be reduced to a lower ratio in support of those "Bicentennial" projects (see preceding page) which the National Council on the Humanities finds particularly meritorious and needing a greater proportion of NEH funds than Challenge Grants permit. For such projects the legislattion authorizes the Chairman to provide up to 50% of the project's cost.)

In keeping with the purpose of Challenge Grants—to stimulate continuing long-term support—it is anticipated that most applicants will present multi-year plans for raising funds which will be expended over a two-to-four year period. Thus the size of Challenge Grants will vary according to the plans an applicant proposes as well as the kind of institution it represents and the uses it intends to make of the Challenge Grant.

The Federal portion of a Challenge Grant may range from a minimum of $2,000 in total up to $1 million a year, depending on the availability of funds appropriated by the Congress and the merits of individual applications.

ELIGIBILITY

Any non-profit humanities organization—that is, an institution whose entire operation is in the humanities—is eligible to apply for a Challenge Grant for either general or specific institutional purposes. Institutions, like educational institutions, public libraries and public broadcast stations, whose work extends beyond the humanities may apply for a Challenge Grant to cover the costs of specific humanities programs, components or activities, or to cover the portion of total institutional costs which can be identified with these.

NOTE.—It is expected that typical NEH grantees—educational institutions, libraries, museums, historical organizations, film television radio production centers, advanced study centers, research organizations, scholarly societies and presses, and consortia of such groups—will submit applications for Challenge Grants while continuing to apply to other NEH programs for support of specific projects.

SOURCES OF MATCHING

Any non-Federal source of funds is eligible to be matched by NEH—state or local governments, foundations, corporations, labor unions, businesses, professional and civic organizations, or individuals.

The basic requirement is that the matching funds must be from new sources or in addition to the support normally provided by traditional sources.

Institutions themselves will define "new" funds and are subject to audit of such definitions. In general, fulfillment of earlier pledges, customary or fixed annual contributions (or appropriations), and income from endowment cannot be considered as "new" funds.

Pledges made in anticipation or on condition of a successful NEH Challenge Grant application, however, do constitute eligible matching. Gifts of property and bequests may in certain circumstances also be eligible for matching.

Fund-raising "benefits" may also be used to meet the Endowment's offer as may income from other special events, proceeds from special sales, and augmented membership contributions as long as contributors understand that their donations will be used to match an NEH Challenge Grant.

NOTE.—Funds donated to the Endowment or to a tax-exempt institution in connection with an NEH Challenge Grant are deductible as charitable contributions for Federal income tax purposes (and may also be for purposes of State and local income tax).

In view of the purpose of Challenge Grants—to broaden the base of institutions' support—applicants are strongly encouraged to seek donations from local sources and from individuals who use their services rather than to rely primarily on a single, nonrepeating source (e.g. a major foundation grant) to raise matching funds.

HOW ARE CHALLENGE GRANTS AWARDED

In brief, Challenge Grant Funding proceeds as follows:

1. An institution submits to the Endowment an application describing (a) how it would use an NEH Challenge Grant offer to help it raise new or increased financial support, both in the short-term and long-term, and (b) the purposes for which Challenge Grant funds would be used.

2. The application is reviewed by the National Council on the Humanities and, if recommended by the Council for approval, results in a Challenge Grant. The Chairman of the Endowment, as part of the notification, will specify the maximum level and conditions of funds. The major conditions will include:

a. the matching requirement (normally amounting to a minimum of triple the Federal funds offered);

b. acknowledgement by donors that they are responding specifically to an NEH Challenge Grant offer;

c. the date by which the matching funds should be raised; and

d. the grant period within which the matching and Federal monies may be actually expended.

3. The approved applicant proceeds to identify eligible donors and arranges for transmittal of their gifts and acknowledgements to the Endowment or for transmittal to the applicant (in which case appropriate gift certification should be submitted to the Endowment). Private donations, if they are to remain eligible for matching under this program, must not be expended until the Federal matching funds have been released.

4. On receipt of the gifts (or certifications) by the Endowment, the Federal funds are released from the U.S. Treasury and made available to the grantee.

5. The grantee is now free to use the gifts and the Federal funds according to the approved application and grant conditions, and provides an annual report during the life of the grant.

6. Two years after the completion of the Challenge Grant project, the grantee provides the Endowment with a brief "follow-up" report describing the continuing effects of the grant in terms of on-going contributions generated by the initial Challenge Grant or the resulting change in the institution's financial or operating condition from the pre-Challenge Grant period.

TIMETABLE

It should be noted that funds for Challenge Grants are not presently available. Federal funding for Challenge Grants will depend on appropriations made by the Congress specifically for this purpose. The ceiling set by the authorizing act—that is, the maximum that the Congress may appropriate—is $12 million for fiscal year 1977 and $18 million for fiscal year 1978.

Fiscal year 1977 funds for Challenge Grants require a supplemental appropriation, and Congressional action on this is not expected before the spring of 1977. The amount of Federal money to be available for grants in 1978 will not be known until the late summer or early fall of 1977.

Reflecting the expected timing of appropriations, the Endowment has established the following schedule for Challenge Grant applications in 1977.

Applications postmarketed by April 1 will be reviewed by the National Council at its spring meeting, with notifications for successful applicants issued in mid-June.

Applications postmarked by June 1 will be reviewed by the National Council at its summer meeting, with notifications for successful applicants issued in mid-September.

Applications postmarked by December 15 will be reviewed by the National Council at its winter meeting with notifications issued in mid-March, 1978.

TIMETABLE FOR BICENTENNIAL CHALLENGE GRANTS

The nature of the project supported by Bicentennial Challenge Grants and the variable amount of Federal funds which the Chairman may offer make it necessary to allow more time to process these applications. The following schedule should be observed for Bicentennial Challenge Grants:

Deadline	*Notification*
Apr. 1, 1977	September 1977.
June 1, 1977	December 1977.
Dec. 15, 1977	June 1978.

NOTE.—Preliminary Bicentennial proposals should reach the Endowment two months prior to the deadline date being considered for application.

NOTICE OF INTENT

In order for the Endowment to make plans necessary for appropriate and expeditious processing of proposals, it is requested that applicants expecting to submit proposals by April 1 inform the Endowment of their intentions by March 1; those intending to apply by the June 1 deadline are requested to inform the Endowment by April 15. The notice of intent may be brief, stating only:

The institution's name and address:

The amount of the Challenge Grant expected to be requested (including the Federal portion, the non-Federall portion, and the total) along with information and as firm an estimate as possible about gifts expected to be "in hand" by the notification date:

The NEH division or program most appropriate for processng; (e.g. "Museum Program," "Division of Education Programs," etc.);

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The name and title of the official who will authorize the application; and

The name, title, and telephone number of the official charged with preparing the application.

Intent notices should be mailed to:

NEH Challenge Grants, MS 802, National Endowment for the Humanities, Washington, D.C. 20506

CHALLENGE GRANT APPLICATIONS

A. CONTENTS

An application for an NEH Challenge Grant normally will consist of the following:

1. *Description of the institution.* A brief description of the nature and extent of institutional activities and the size and type of the community or audiences served.

2. *Financial profile.* The institution's operating budget for the current and past two years, the amount and principal sources of income, and where relevant, the number of contributors to the institution.

3. *Previous NEH support.* A summary of grant support received from the Endowment during the last two operating years.

4. *An analysis of the requested Challenge Grant.* An explanation of the proposed uses of the Challenge Grant, the probable sources and amount of matching contributions (with anticipated semi-annual totals), a proposed timetable for obtaining all the matching funds and spending the total award, and an analysis of how the grant will enable the institution to continue to expand its activities. A "fall back" plan, in case fund-raising efforts prove only 50% or 75% successful or a smaller amount of Federal funds be offered, should also be briefly discussed.

5. *Long-range financial development plan.* A discussion of how the activity made possible by the Challenge Grant can be sustained or will continue to prove useful, after the grant has been spent, together with a plan to maintain new sources or to identify and cultivate further sources of continuing financial support. This section in combination with section 4 should make clear that the applicant has a coherent and well formulated plan, with attainable goals, which will significantly bolster the institution's financial position and/or strengthen its capacity to serve a broader public, once the broad Federal assistance represented by the Challenge Grant has ended.

The following should also be noted:

Institutions whose Challenge Grant application concerns only a limited activity or specific component among the institution's overall interests should present the kind of detail outlined above for that activity/component and indicate the portion it has claimed of the institution's total budget during the current and past two years.

Except for tables, charts, or attachments which the applicant may deem useful, applications are not expected to exceed five single-spaced pages.

Applicants not previously awarded an NEH grant should include along with their application a copy of their latest two annual reports, proof of their nonprofit status, and assurance of civil rights compliance.

B. SUBMISSION

Applications should be accompanied by the NEH "Challenge Grant Summary Face Sheet," (which will be sent upon request), and submitted in five copies to:

NEH Challenge Grants, Grants Office, MS–200, National Endowment for the Humanities, Washington, D.C. 20506

C. REVIEW PROCESS

As with regular program applications, the Endowment encourages all Challenge Grant applications to discuss their proposals with NEH staff prior to submission of a formal application. Particularly, applications for Bicentennial Challenge Grants or for support of specific humanities activities/components within institutions should be discussed with the staff of the Endowment program office most appropriate to the project prior to submission of the formal proposal.

(A listing of Endowment program officers may be found at the end of this brochure.)

EXAMPLES OF POSSIBLE CHALLENGE GRANT PROJECTS

A public radio station is currently able to spend only $3,000 out of its annual operating budget of $120,000 for the production of humanities programming. It seeks a Challenge Grant offer of $3,000 in NEH funds over three years in order to generate an additional $9,000 in matching funds, more than doubling the amount available for humanities-oriented programming in each of the three years and to attract continuing support from its listeners.

A small historical organization which relies heavily on a volunteer staff has a collection of documents and photographs important to the local history of its community. These materials are uncatalogued, poorly stored, and partially in need of conservation. A Challenge Grant of $10,000 over a two-year period, which would stimulate $30,000 or more from other sources, could provide funds for a trained staff member to organize the collections, to pay for immediate conservation needs, and to acquire a storage system that would prevent further deterioration. The organization believes the Federal Challenge will stimulate new membership and new support from local business firms.

A group of two-year and four-year colleges wishes to establish a visiting lecturer program bringing outstanding scholars to their campuses and community for a series of public lectures and faculty seminars on an emerging field. They apply for an NEH Challenge Grant consisting of $50,000 matched by $150,000 in donations from the public over three years in order to endow the program.

A number of libraries in a region wish to cooperate to solve the problems which all face in the field of conservation and preservation. They apply for a Challenge Grant of $100,000 in Federal funds over a two-year period and prepare to raise gifts of $300,000 in order to (1) set up a conservation laboratory which can service all the participating institutions; (2) to run workshops to give basic training to members of all their staffs in certain elementary techniques of preventing further deterioration of the materials in their care; and (3) to launch a coordinated microfilming effort to transfer to that medium deteriorating materials which do not need to be preserved in their original form. The libraries believe that most of their users will respond to the Challenge Grant and will continue to make annual contributions.

A museum finds that, in order to maintain existing staff and services and to respond to demands for expansion of its educational program, it must: eliminate a $600,000 deficit, increase its operating budget, and raise capital funds in a major endowment drive. The institution seeks an NEH Challenge Grant of $500,000 a year for three years in order to stimulate a minimum of $1,500,000 annually in other support, and to enable the institution to accomplish all of these objectives. It would also be used to encourage donors to the Challenge program to regard the ongoing needs of the institution as a continuing responsibility.

EQUAL OPPORTUNITY

Organizations receiving Endowment support must conduct their operations in accordance with the requirements of Title VI of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973, as amended, which bar discrimination in Federally-assisted projects on the basis of race, color, national origin or handicap, and Title IX of the Education Amendments of 1972 prohibiting discrimination on the basis of sex under any education program or activity receiving Federal financial assistance.

PRIVACY ACT NOTIFICATION

In compliance with the Privacy Act of 1974, applicants are advised of the following:

Section 7 of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 956) authorizes the Endowment to solicit the requested information. This information is needed to process your grant application and also for statistical research and analysis of trends. The routine uses of this information are general administration of application review process, statistical research, Congressional oversight, and analysis of trends.

Failure to provide information as requested could result in rejection of your application because the Endowment would then have insufficient facts to determine either your eligibility for a grant or the amount which should be awarded.

STAFF DIRECTORY

The following is a brief listing of those staff members who may be contacted for further information concerning Challenge Grants and other programs of the National Endowment for the Humanities.

Chairman.

Deputy Chairman, Robert Kingston.
Special Assistant to the Chairman, Joseph Hagan, 202–382–6088.
Program Officer (Bicentennial), Leonard Oliver, 202–382–4278.
Public Information Officer, Darrel deChaby, 202–382–5721.

DIVISION OF RESEARCH GRANTS

Director, Harold Cannon, 202–382–5857.
Deputy Director, Leeds Barroll, 202–382–5857.
Assistant Director, General Research Program, Philip Marcus, 202–382–3414.
Assistant Director, Research Materials Program, George Farr, 202–382–1072.
Assistant Director, Centers of Research Program, Margaret Child, 202–382–5857.

DIVISION OF FELLOWSHIPS

Director, James Blessing, 202–382–1491.
Deputy Director and Program Officer, Centers for Advanced Study, Fellowship Program, Guinevere Griest, 202–382–1491.

DIVISION OF EDUCATION PROGRAMS

Director, Abraham Ascher, 202–382–5891.
Deputy Director, Richard Ekman, 202–382–5891.
Assistant Directors, Institutional Grants, Susan Cole, 202–382–8085.
Assistant Director, Higher Education Projects, Stephen Miller, 202–382–7081.
Assistant Director, Elementary and Secondary Education Projects, William Russell, 202–382–7081.

DIVISION OF PUBLIC PROGRAMS

Director, John Barcroft, 202–382–1111.
Deputy Director, Alex Lacy, 202–382–1111.
Assistant Director, Media Program, Steven Rabin, 202–382–5537.
Assistant Director, Museums and Historical Organizations Program, Nancy Englander, 202–382–5714.
Assistant Director, Program Development, Martin Sullivan, 202–382–8333.
Assistant Director, State-Based Programs, Geoffrey Marshall, 202–382–3986.

OFFICE OF PLANNING AND ANALYSIS

Director, Armen Tashdinian, 202–382–5862.
Evaluation Officer, Arlene Krimgold, 202–382–2405.
Coordinator, Program of Science, Technology, and Human Values, Richard Hedrich, 202–382–5996.
Youth Programs Officer, Marion Blakey, 202–382–8301.
Special Projects Officer, James Kraft, 202–382–7068.
Planning and Analytical Studies Officer, Stanley Turesky, 202–382–7068.

[FR Doc.77-6772 Filed 3-7-77;8:45 am]

MUSEUM ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Museum Advisory Panel to the National Council on the Arts will be held on March 20, 1977, from 1:30 p.m. to 5:00 p.m., and March 21–23, 1977, from 9:00 a.m. to 5:00 p.m., in the first floor conference room, Shoreham Building, 806 15th St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on March 20, from 1:30 p.m. to 5:00 p.m. on a space available basis. Accommodations are limited. The agenda for this session will include a discussion of Program guidelines.

The remaining sessions of this meeting on March 21–22, 1977, from 9:00 a.m. to 5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552 (b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-6771 Filed 3-7-77;8:45 am]

RESEARCH GRANTS PANEL ADVISORY COMMITTEE

Meeting

MARCH 2, 1977.

The meeting of the Research Grants Panel scheduled for March 21 and March 22, 1977 as published in the FEDERAL REGISTER Thursday, February 24, 1977, Volume 42, Number 37, has been postponed.

This meeting will be rescheduled for April 4 and April 5, 1977 and will be reannounced in the FEDERAL REGISTER.

For further information contact the Advisory Committee Management Officer at (202) 382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-6729 Filed 3-7-77;8:45 am]

RESEARCH GRANTS PANEL ADVISORY COMMITTEE

Meeting

MARCH 2, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on April 4 and April 5, 1977.

The purpose of the meeting is to review General Research applications in the field of State, Local and Regional History submitted to the National Endowment for the Humanities for projects beginning after October 1, 1977.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-6730 Filed 3-7-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

Practice of Allowing Options of Same Class and Expiration Date to be Traded on More Than One Exchange

ANNOUNCEMENT OF OPPORTUNITY TO DISCUSS BEFORE COMMISSION

Pursuant to a request of the Philadelphia Stock Exchange, Inc. ("PHLX"),[1] the Securities and Exchange Commission announced today that on March 17, 1977 interested persons, including representatives of national securities exchanges, may appear before the Commission to present their views concerning the practice of allowing options of the same class and expiration date to be traded on more than one exchange ("dual trading"), and whether such dual trading of options is in the public interest at this time. This meeting of the Commission will be open to the public pursuant to the Government in the Sunshine Act, 5 U.S.C. 552b ("Sunshine Act"), and will be held at 2:00 p.m. in Room 776 at Commission headquarters, 500 North Capitol Street, Washington, D.C.

No rulemaking proposal by the PHLX or by the Commission itself is contemplated at this time. Nevertheless, the Commission invites all interested persons to file written submissions and to appear before the Commission to present their views on the existing Commission policy permitting dual trading of options. Persons desiring to appear before the Commission should so inform the Secretary of the Commission in writing, and should file six copies of their intended statements to the Commission with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, at least two days prior to the appearance

[1] Letter dated February 23, 1977, from J. G. Gordon Yocum, Vice President and General Counsel, Philadelphia Stock Exchange, Inc., to George A. Fitzsimmons, Secretary, Securities and Exchange Commission.

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date cited above. Persons who do not desire to appear before the Commission, but who desire to make their views known on the subject of dual trading of options, may file six copies of a written submission with the Secretary of the Commission by the appearance date cited above.

Persons seeking additional information concerning this meeting of the Commission should contact Sheldon Rappaport, Associate Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. (202) 755–1156. Refer to File No. S7–681.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–6768 Filed 3–7–77;8:45 am]

[Public Notice CM–7/37]

DEPARTMENT OF STATE

SHIPPING COORDINATING COMMITTEE

Meeting

The Shipping Coordinating Committee will hold an open meeting at 9:30 a.m. on Wednesday, April 13, 1977, in Room 8236 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of this meeting is to finalize preparations for the 36th Session of the Maritime Saftey Committee of the Intergovernmental Maritime Consultative Organization (IMCO) which is scheduled for April 18–22, 1977, in London. In particular, the Shipping Coordinating Committee will discuss development of U.S. positions dealing with, inter alia, the following topics:

Reports by various IMCO MSC subcommittees and working groups.

Matters related to the Convention on Tonnage Measurements.

Investigation into serious casualties.

Deficiency reports.

Persons carried by supply vessels to and from drilling units.

Safety measures for roll-on/roll-off ships.

Requests for further information on the meeting should be directed to CAPT Donald C. Hintze, United States Coast Guard. He may be reached by telephone on (area code 202) 426–2280.

The Chairman will entertain comments from the public as time permits.

Dated: February 24, 1977.

CARL TAYLOR, JR.,
Acting Director,
Office of Maritime Affairs.

[FR Doc.77–6732 Filed 3–7–77;8:45 am]

[Public Notice CM–7, 36]

STUDY GROUPS 10 AND 11 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Groups 10 and 11 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet jointly on March 29, 1977, under the chairmanship of Mr. Neal K. McNaughten. The meeting will convene at 2:30 p.m. in Room 8210, Federal Communications Commission, 2025 M Street, N.W., Washington, D.C.

Study Group 10 deals with questions relating to sound broadcasting; Study Group 11 deals with questions relating to television broadcasting. The purpose of the meeting on March 29 will be to review the proposed contributions to the international meetings of Study Groups 10 and 11 in October 1977.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: March 1, 1977.

GORDON L. HUFFCUTT,
Chairman, National Committee for the International Radio Consultative Committee.

[FR Doc.77–6731 Filed 3–7–77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 77–5]

ADVISORY COMMITTEE ON EXPLOSIVES TAGGING

Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a closed meeting of the Advisory Committee on Explosives Tagging will be held on April 5, 1977, at the Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., Room 5041 beginning at 9:30 a.m. (e.s.t.).

The Advisory Committee will discuss detailed proprietary scientific and technical data concerning various candidate explosive tagging systems that can be used in the detection and identification of explosives. The information which will be presented and discussed during the meeting will constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential within the ambit of Title 5, United States Code, section 552(c)(4). Accordingly, the meeting of the Advisory Committee will, under authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), not be open to the public.

All communications regarding this Advisory Committee meeting should be addressed to the Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, Attention: Mr. Robert F. Dexter, Committees Manager, Technical Services Division, Explosives Technology Branch, Room 8233.

Signed: March 3, 1977.

REX D. DAVIS,
Director.

[FR Doc.77–6830 Filed 3–7–77;8:45 am]

FIREARMS

Granting of Relief

Notice is hereby given that pursuant to 18 U.S.C. section 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions of each applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief will not be dangerous to the public interest.

Allen, Christopher, 4006 Bay Villa, Tampa, Florida, convicted on July 7, 1972, in the Circuit Court for Hillsborough County, Florida.

Anderson, Howard H., Box 223, Wilbur, Washington, convicted on or about July 22, 1974, in the Superior Court of the State of Washington, Lincoln County.

Barrau, Stephen J., Jr., 7662 Mercier Street, New Orleans, Louisiana, convicted on December 2, 1970, in the United States District Court, Eastern District of Louisiana.

Bone, Roy M., 821 Orion Drive, Colorado Springs, Colorado, convicted on March 14, 1975, in the United States District Court, Denver, Colorado.

Brantner, William J., 2718 Hennepin Avenue, Minneapolis, Minnesota, convicted on September 18, 1972, in the United States District Court, Southern District of California.

Colgan, Clifford D., 5021 Lexington Avenue, Jacksonville, Florida, convicted on March 16, 1962, in the Criminal Court of Record, Duval County Florida.

Crawford, James E., Route 1, Box 302, Grottoes, Virginia, convicted on March 14, 1950, Rockingham County Circuit Court, Virginia.

Donahue, David R., 1501 Big Bend, Houston, Texas, convicted on February 22, 1974, 178th District Court of Harris County, Texas.

Dugger, Michael S., 1484 Holton, St. Paul, Minnesota, convicted on August 12, 1974, District Court of Sarpy County, Nebraska.

Gomm, Arlin L., Route No. 1, Afton, Wyoming, convicted on November 2, 1970, in the District Court of Lincoln County, Third Judicial District, Wyoming.

Griffin, Charles, 3029 N. Keystone Avenue, Indianapolis, Indiana, convicted on March 19, 1947, in the District Court for the County of Douglas, Nebraska; and on February 13, 1953, in the Marion County Court, Indianapolis, Indiana.

Guarino, James C., 8 Ann Lynn Road, Pittsford, New York, convicted on or about June 3, 1960, in the Ontario County Court, New York.

Harraman, Roland A., 11105 Bristol Terrace, Kansas City, Missouri, convicted on November 23, 1966, in the Circuit Court, County of Platte, Missouri.

Hart, Thomas G., Route 2, Box 84, Arlington, Washington, convicted on March 19, 1974, in the Superior Court of the State of Washington, County of Snohomish.

Hebner, Albert W., Jr., 2104 Bristol Avenue, Lakeland, Florida, convicted on March 13, 1967, in the Criminal Court of Record, Polk County, Florida.

Kathawn, Emanuel F., 1136 Woodside Trail, Troy, Michigan, convicted on August 31, 1964, in the United States District Court, Detroit, Michigan.

Kelly, Edward C., 8606 Jackson Street, Philadelphia, Pennsylvania, convicted on March 6, 1950, in the Philadelphia Common Pleas Court, Pennsylvania.

Kingery, Orville W., Sr., 4382 Virginia Avenue, Cincinnati, Ohio, convicted on or about May 14, 1937, in the United States District Court, West Virginia.

Kirkwood, Billy D., 822 29th Street, Rock Island, Illinois, convicted on March 24, 1969, in the Circuit Court of Bay County, Florida.

Lance, Clarence R., Route 3, Box 206, Sapulpa, Oklahoma, convicted on June 9, 1947, District Court of Muskogee County, Oklahoma.

Love, Patrick E., P.O. Box 162, Amberg, Wisconsin, convicted on or about October 23, 1973, in Portage County Court, Stevens Point, Wisconsin.

McRae, Martin L., 2418 West 16th Street, North Platte, Nebraska, convicted on February 29, 1960, in the District Court of Lincoln County, Nebraska; and on February 3, 1970, in the District Court of Lincoln County, Nebraska.

Maynard, Loyd M., 1200 Foster Avenue, Nashville, Tennessee, convicted on September 18, 1958, in the Criminal Court for Putnam County, Tennessee; and on May 2, 1960, in the United States District Court, Middle District of Tennessee.

Mowrer, Orville E., 980 Chickadee Drive, Lemmon Valley, Nevada, convicted on or about November 16, 1973, in the Second Judicial District Court, Washoe County, Nevada.

Niles, Richard L., 1606 Hallmark, Tampa, Florida, convicted on January 7, 1963, in the Hillsborough County Criminal Court, Tampa, Florida.

Orr, Hugh A., 2621 Lakewood, Dyer, Indiana, convicted on December 11, 1947, in the Cook County Circuit Court, Illinois.

Pierce, Lewis R., 1507 North Sixth Street, Boise, Idaho, convicted on January 18, 1955, in the District Court, Seventh Judicial District, State of Idaho, County of Canyon.

Rhoden, Donnie C., 2212 Bourland, Greenville, Texas, convicted on February 2, 1973, in the District Court of Hunt County, Texas.

Serrano, Richard S., Jr., 1816 South Adams, Tucumcari, New Mexico, convicted on May 22, 1963, in the Tenth Judicial District Court, Quay County, New Mexico.

Smith, Frank, 101–A Nichol Street, Greenville, South Carolina, convicted on January 18, 1961, in the Court of General Sessions, Greenville County, South Carolina.

Stephens, Floyd T., PO. Box 821, Rye, Texas, convicted on April 11, 1962, in the Fourth District Court of Ouachita Parish, Louisiana.

Stevens, Carvell B., 4006 Caseyville Avenue, East St. Louis, Illinois, convicted on September 10, 1968, in the United States District Court, Eastern District of Illinois.

Stockberger, Jack M., 7404 South Gessner, Houston, Texas, convicted on September 11, 1974, in the 174th Criminal District Court, Harris County, Texas.

Stout, Eugene P., 17461 Wakenden, Detroit, Michigan, convicted on June 4, 1974, in the United States District Court, Eastern District of Michigan.

Wilson, John L., 905 Huisache Street, Refugio, Texas, convicted on March 23, 1961, 24th District Court, Refugio County, Texas.

Woodruff, Billy L., 7371 E. Marshall Place, Tulsa, Oklahoma, convicted on or about February 13, 1962, in the District Court of Tulsa County, Oklahoma.

Woody, Alvin R., Jr., Route 1, Box 334, Quantico, Maryland, convicted on January 1, 1974, in the Wicomico County Court, Salisbury, Maryland.

Wright, Wilbur J., Route 1, Box 137, Earlysville, Virginia, convicted on November 30, 1971, in the Circuit Court, City of Charlottesville, Virginia.

Signed at Washington, D.C., this 2d day of March 1977.

REX D. DAVIS,
Director Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.77–6831 Filed 3–7–77;8:45 am]

Customs Service

[T.D. 77–80]

PORTABLE ELECTRIC TYPEWRITERS FROM JAPAN

American Manufacturer's Petition Requesting That Antidumping Duties Be Assessed Has Been Denied and American Manufacturers Desire to Contest That Decision

AGENCY: United States Customs Service.

ACTION: Determination on American manufacturer's petition; notice of desire to contest.

SUMMARY: This notice is to advise the public that the Customs Service has denied an American manufacturer's petition, requesting that antidumping duties be assessed with regard to portable electric typewriters from Japan, and has received notification of that manufacturer's desire to contest such decision.

EFFECTIVE DATE: This notice is effective on March 8, 1977.

FOR FURTHER INFORMATION CONTACT: Michael Lublinski, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202–566–2938).

SUPPLEMENTARY INFORMATION: On January 24, 1977, a petition was received in proper form, pursuant to section 516 (a) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(a)), from counsel acting on behalf of SCM Corporation, asserting that a finding of dumping be issued and antidumping duties be assessed on those entries of portable electric typewriters from Japan where it has been determined that sales were being made at prices less than the foreign market (or constructed) value, within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160).

A "Notice of Petition Filed by American Manufacturer, Producer or Wholesaler" was published in the FEDERAL REGISTER on February 9, 1977 (42 FR 8255) with respect to such entries from Japan, and interested persons were afforded an opportunity to make written submissions. By letter dated February 25, 1977, the petitioner was notified that:

The Customs Service is foreclosed from investigating allegations as to injury or examining any conclusions of the International Trade Commission made within the scope of its statutory authority under section 201 of the Antidumping Act of 1921, as amended (19 U.S.C. 160). It is our opinion that the negative determination of injury, having been made, must be considered valid in the absence of a decision of the Customs Court to the contrary, and therefore is binding upon us. Accordingly, the decision not to assess antidumping duties was correct and your petition must be denied.

Notification was received by the Department of the Treasury on February 28, 1977, of SCM Corporation's desire to contest in the United States Customs Court the failure of the Department to assess antidumping duties.

In accordance with the provisions of section 516(c) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(c)), and § 175.24 of the Customs Regulations (19 CFR 175.24), notice is hereby given that the Secretary of the Treasury has decided that the antidumping duties should not be assessed and that a domestic producer has given notice, as contemplated by section 516, that it desires to contest such decision.

VERNON D. ACREE,
Commissioner of Customs.

Approved: March 4, 1977.

JOHN H. HARPER,
Assistant Secretary of the Treasury.

[FR Doc.77–7052 Filed 3–7–77;10:29 am]

Internal Revenue Service

[Order No. 67 (Rev. 12)]

ACTING COMMISSIONER OF INTERNAL REVENUE

Delegation of Authority

Date of issue: February 27, 1977.

Effective Date: February 27, 1977.

Effective 12:01 A.M., February 27, 1977, all outstanding authorizations to sign the name of, or on behalf of, Donald C. Alexander, Commissioner of Internal Revenue, are hereby amended to authorize the signing of the name of, or on behalf of, William E. Williams, Acting Commissioner of Internal Revenue.

This Order supersedes Delegation Order No. 67 (Rev. 11) issued May 29, 1973.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc.77–6901 Filed 3–7–77;8:45 am]

VETERANS ADMINISTRATION

VETERANS ADMINISTRATION WAGE COMMITTEE

Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Veterans Administration Wage

V 42 45 MAR 8 77 UMI

Committee has been renewed by the Administrator of Veterans Affairs for a two year period beginning March 7, 1977 through March 7, 1979.

By direction of the Administrator.

Dated: March 2, 1977.

A. J. SCHULTZ, Jr.,
Associate Deputy Administrator.

[FR Doc.77-6782 Filed 3-7-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 302]

ASSIGNMENT OF HEARINGS

Correction

In FR Doc. 77-1081, appearing on page 2545 in the issue of Wednesday, January 12, 1977, the sixth entry in the list of assignments should read:

MC 140361, Sub 4, Columbus Parcel Service, Inc., now assigned February 8, 1977 (9 days) at Columbus, Ohio, will be held in Room 235, Federal Bldg. 85 Marconi Blvd.

[Notice No. 328]

ASSIGNMENT OF HEARINGS

Correction

In FR Doc. 77-5065, appearing at page 9740 in the issue for Thursday, February 17, 1977, the date in the second line of the third from last paragraph in the first column should read "March 29, 1977".

[Notice No. 340]

ASSIGNMENT OF HEARINGS

MARCH 3, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135062 (Sub-No. 33), Bursch Trucking, Inc., DBA Roadrunner Trucking, Inc. and MC 135062 (Sub-No. 34), Bursch Trucking, Inc., DBA Roadrunner Trucking, Inc., now assigned March 22, 1977, at Albuquerque, N. Mex. will be held at the Bernalillo County Courthouse, Juvenile Court Room, 415 Tijeras Avenue, N.W.

MC 53965 (Sub-No. 122), Graves Truck Line, Inc., now assigned March 28, 1977, at Denver, Colo., will be held at the Division 2 Court of Appeals, 4th Floor, U.S. Courthouse, 1961 Stout Street.

MC 138274 (Sub-No. 33), Shippers Best Express, Inc., now assigned April 4, 1977, at Salt Lake City, Utah, will be held in Room 314, Federal Annex Building, 135 South State Street.

MC 125308 (Sub-No. 3), Karl S. Robinson Trucking Company, Inc., now assigned April 5, 1977, at Salt Lake City, Utah will be held in Room 314, Federal Annex Building, 135 South State Street.

MC 109397 (Sub-No. 332), Tri-State Motor Transit Co., MC 114211 (Sub-No. 281), Warren Transport, Inc., MC 125433 (Sub-No. 75), F-B Truck Line Company and MC 125433 (Sub-No. 81), F-B Truck Line Company, now assigned April 7, 1977, at Salt Lake City, Utah, will be held in Room 314, Federal Annex Building, 135 South State Street.

MC 130420, Bruse Thompson, DBA Virgula Ski Travel Service, now assigned March 28, 1977, at Norfolk, Va., will be held in Court Room No. 421, U.S. Post Office and Courthouse, 600 Granby Street.

AB-19 (Sub-28), Buffalo, Rochester & Pittsburgh Railway Co. & Baltimore & Ohio Railroad Co., Abandonment Between Ashford & Leroy Including Silver Lake Branch Between Silver Lake Junction and Chance, in Genesee, Wyoming, Allegany and Chattaraugus Counties, New York, now assigned March 16, 1977 at Warsaw, New York, hearing canceled and the application is dismissed.

MC 123023 (Sub-6), Di Pietro Trucking Company, now being assigned April 18, 1977 (1 week) at Olympia, Washington; in a hearing room to be later designated.

MC 30487 Sub 7, Dearman Moving and Storage Co. now being assigned May 3, 1977 (1 day) at Memphis, Tennessee in a hearing room to be later designated.

MC 138627 Sub 16, Smithway Motor Xpress, Inc. now being assigned May 4, 1977 (3 days) at Memphis, Tennessee in a hearing room to be later designated.

MC 141109 Sub 2, Bingham Trucking Corp. now being assigned May 9, 1977 (1 week) at Tupelo, Mississippi in a hearing room to be later designated.

MC 30844 (Sub-573), Kroblin Refrigerated Xpress, Inc., now being assigned April 20, 1977 (1 day) at Kansas City, Missouri, in a hearing room to be later designated.

AB 83 (Sub-No. 2), Maine Central Railroad Company Abandonment Between Livermore Falls, and Farmington in Androscoggin and Franklin Counties, Maine now assigned March 30, 1977, at Farmington, Maine will be held at the Farmington Municipal Building, Conference Meeting Room, Lower Main Street.

MC 136611 Sub 1, Red & White Market & Transfer, Inc. now being assigned May 9, 1977 (1 week) at Hastings, Nebraska in a hearing room to be later designated.

MC 106195 Sub 9, Clark Bros. Transfer, Inc. now being assigned May 5, 1977 (2 days) at Omaha, Nebraska in a hearing room to be later designated.

MC 82841 Sub 175, Hunt Transportation, Inc. now being assigned May 4, 1977 (1 day) at Omaha, Nebraska in a hearing room to be later designated.

MC 22301 Sub 22, Sioux Transportation Co., Inc. and MC 134477 Sub 127, Schanno Transportation, Inc. now being assigned May 3, 1977 (1 day) at Omaha, Nebraska in a hearing room to be later designated.

MC 136786 (Sub-No. 106), Robco Transportation, Inc., now assigned March 15, 1977, at San Francisco, Calif. is canceled and application dismissed.

F.D. 28295, Transcon Lines, now assigned April 13, 1977 at Kansas City, Missouri, is canceled.

MC-F 12312, Whitfield Transportation, Inc.—Purchase (Portion)—Lee Hawkes Transfer; and Whitfield Transportation, Inc.—CONTROL and Merger—Miller Bros. Truck Line and MC 108461 Sub 123, Whitfield Transportation, Inc. now being assigned May 16, 1977 (1 week) for continued hearing at Salt Lake City, Utah in a hearing room to be later designated.

MC 1074 (Sub 16), Allegheny Freight Lines, Inc., now being assigned May 9, 1977 (1 week) at Charleston, West Virginia, in a hearing room to be later designated.

MC 119974 Sub 62, L.C.L. Transit Company. MC 117815 Sub 255, Pulley Freight Lines, Inc., MC 129600 Sub 26, Polar Transport, Inc. and 82492 Sub 130, Michigan & Nebraska Transit Co., Inc. now being assigned June 20, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 125533 (Sub 15), George W. Kugler, Inc., now assigned March 16, 1977 at Washington, D.C., has been postponed to May 16, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-6886 Filed 3-7-77;8:45 am]

V 42 45 MAR 8 77 UMI

Just Published

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federal register

WEDNESDAY, MARCH 9, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for April and May are now being accepted for the free weekly workshops on how to use the FEDERAL REGISTER. These sessions begin at 9:00 a.m. and end at approximately 11:30 a.m. and are held in Room 9409, 1100 L Street NW., Washington, D.C.

Each session will cover the following:

1. Brief history of the FEDERAL REGISTER.
2. Difference between legislation and regulations.
3. Relationship of the FEDERAL REGISTER to the Code of Federal Regulations.
4. Elements of a typical FEDERAL REGISTER document.
5. Introduction to the finding aids.

RESERVATIONS REQUIRED: DEAN L. SMITH, 202–523–5282

EDUCATIONAL WORKSHOPS ON HOW TO USE THE FEDERAL REGISTER

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

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Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 30]

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

Temporary Revision of Shipping Percentage

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the provisions of § 1030.7(b)(6) of the order regulating the handling of milk in the Chicago Regional marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 10853) concerning a proposed decrease in the supply plant shipping percentages for the month of March 1977. Interested persons were afforded an opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the month of March 1977 the supply plant shipping percentage of 20 percent set forth in § 1030.7(b)(4) should be decreased to 10 percent and in § 1030.7(b)(7)(iii) the shipping requirement of 10 percent applicable to each plant in a unit of two or more plants should be removed entirely.

Pursuant to the provisions of § 1030.7(b)(6) the supply plant shipping percentages set forth in § 1030.7(b)(4) and § 1030.7(b)(7)(iii) shall be increased or decreased by up to 10 percentage points during the month of August-March, if necessary to obtain needed shipments or to prevent uneconomic shipments.

Cooperative associations representing a majority of producers supplying the Chicago Regional market requested that during March 1977 the supply plant shipping percentages be reduced 10 percentage points. These cooperatives stated that the 20 percent and 10 percent shipping requirements in March would cause uneconomic shipments of milk.

Views that were received from interested parties overwhelmingly supported this position. It was pointed out repeatedly that a reduction in the shipping requirements would eliminate uneconomic, energy-wasting movements of milk made merely for the purpose of qualifying supply plants for pooling.

To fulfill their fluid milk requirements, distributing plants obtain a major portion of their milk supplies from supply plants, since about 80 percent of the market's milk supply is assembled at supply plants. In recent months, however, Class I sales have been significantly below a year ago. For the month of January, for instance, Class I sales were down 20 million pounds compared to the same month a year ago. Moreover, receipts of producer milk on the market increased by 31 million pounds for the month of January compared to the same month of 1976.

This combination of lower Class I sales and higher receipts of producer milk indicates that a significantly lower proportion of supply plant milk will need to be shipped to distributing plants this March than in prior years.

A reduction in the required shipments of supply plant milk during the month of March will allow greater flexibility in obtaining milk from supply plants in the market and may prevent uneconomic movements of milk made merely for purposes of pool plant qualification.

It is concluded that it is necessary to reduce the pool supply plant shipping percentages as specified above for the month of March 1977 to prevent uneconomic shipments.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the month of March 1977.

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rule making was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective for the month of March 1977.

It is therefore ordered, That the aforesaid provisions of the order are hereby revised for March 1977.

(Secs. I–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Effective date: March 9, 1977.

NOTE.—Inflation Impact Statement. The United States Department of Agriculture has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Signed at Washington, D.C., on March 4, 1977.

WILLARD H. BLANCHARD,
Acting Director.

[FR Doc.77–7016 Filed 3–8–77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC–0049]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

In accordance with 12 CFR 226.1(d), the Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6.

Official staff interpretations may be reconsidered by the Board upon request of interested parties and in accordance with 12 CFR 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

This interpretation shall be effective as of March 7, 1977.

[FC–0049]

§ 226.8(n) Information on a closed end periodic statement such as "principal due," "finance charge (interest) due," "reserve due" and "total mortgage payment" may be given as additional information under § 226.6(c). "Finance charge due" should be substituted for "finance charge (interest) due" when this item has more components than just interest.

FEBRUARY 22, 1977.

This is in response to your letter of * * *, requesting an official staff interpretation of § 226.8(n) of Regulation Z with respect to certain practices by your client, a savings bank. Your client sends a periodic statement to customers who have taken out a loan to purchase a dwelling. You propose showing the total payment due, and the breakdown of that total payment as follows:

1. The "Principal Due" (which is the amount of the payment to be applied to reduce the unpaid principal of the loan);

2. The "Interest Due" or "Finance Charge (interest) Due" (to indicate the amount of the payment to be attributed to earned interest unpaid);

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3. The "Reserve Due" followed by a column entitled "Current Reserve Due Itemized" (which would show the amount of the payment to be attributed to the customer's reserve for such escrow items as taxes and insurance, each individually itemized);

4. The "Total Mortgage Payment" (which would be the sum of the amounts shown as number 1, 2, and 3).

Section 226.8(n) requires that a periodic statement for an other than open end credit transaction state the annual percentage rate and the date by which or the period, if any, within which payment must be made to avoid delinquency or late payment charges. Consequently, staff views the type of information which you are seeking to give customers as additional information which may be provided in accordance with § 226.6(c) of Regulation Z so long as it does not detract from the required disclosures.

With respect to the specific wording of the disclosures which you present, staff has only one comment to make. Item 2 calls for the disclosure of "Interest Due" or, alternatively, "Finance Charge (Interest) Due." Your letter does not indicate whether the only portion of the total finance charge which is being paid by any single payment is interest. If interest is the only component being paid by any single payment then either of those disclosures would be permissible. If, on the other hand, there is more than one component to the "Finance Charge" element, staff believes that the disclosure you suggest may be misleading since it indicates that only interest is being paid. If this is the case, staff suggests that you could use the term "FINANCE CHARGE DUE." This will more accurately convey the fact that it is finance charge, and not necessarily only interest, which is being paid by this portion of the payment.

This is an official staff interpretation of Regulation Z issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts as outlined above. I note that your client is a creditor subject to the laws of the State of Connecticut and not the Federal law. Since that State has been granted an exemption under the relevant portion of the Truth in Lending Act, I suggest that you contact the office of Mr. Lawrence Connell, Jr., Bank Commissioner of the State of Connecticut, for his views. I trust that this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System. March 2 ,1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-6995 Filed 3-8-77;8:45 am]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

[2/585]

PART 335—SECURITIES OF INSURED STATE NONMEMBER BANKS

Disclosure of Interim Results in Financial Reports

On June 22, 1976 the Federal Deposit Insurance Corporation ("Corporation") requested public comment on proposed amendments to Part 335 of its regulations respecting securities of insured State nonmember banks (12 CFR Part 335). The proposed amendments were intended to render the Corporation's requirements with respect to disclosure of interim results in financial reports substantially similar to comparable reporting requirements of the Securities and Exchange Commission (the "Commission"), as required by section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l***(i)) ("1934 Act"). Notice of the proposal was published in the FEDERAL REGISTER (41 FR 25032–25035 (1976)) and all interested parties were invited to submit comments regarding the proposal no later than August 31, 1976.**

A. SUMMARY OF COMMENTS AND RESPONSES

The Corporation received several comments objecting to the expanded disclosure required by the proposed amendments. The Corporation has determined, however, that adoption of the proposed amendments, as modified herein, is necessary in order to maintain substantial similarity between the reporting requirements of Part 335 and comparable regulations of the Commission, as required by Section 12(i) of the 1934 Act.

One commentator suggested that the rule requiring disclosure of interim financial data in notes to annual financial statements of certain banks be modified to exempt those banks which are listed only on a single regional exchange or which have assets of less than $1 billion. The Corporation declined to modify its proposal in accordance with that suggestion. The rule conforms with the Commission's regulations, and the Corporation has determined that there exists substantial public interest to require improved interim reporting for banks meeting the criteria adopted by the Commission.

Commentators also objected to the proposed rule on the ground that requiring disclosure of interim financial data in notes to financial statements would impose additional auditing costs on banks filing certified financial statements. It was suggested that the rule be modified to permit affected banks to disclose interim data elsewhere in annual reports than in the notes to financial statements. The Corporation rejected the suggested modification. It believes that the required disclosure of interim data should be included in financial statements.

One commentator objected to the rule requiring that in the first Form F–4 filed after the date of an accounting change, the letter from the bank's accountants, or if none, from management, be filed as an exhibit indicating whether the change is to an alternative principle which in their judgment is preferable under the circumstances. Accounting Principles Board Opinion No. 20 requires that a change in accounting principles be justified on the basis that the change is to a preferable principle. The effect of the proposed rule is merely to require the submission of a letter to that effect on a timely basis.

B. EFFECT OF AMENDMENTS AS ADOPTED

After consideration of all comments received in response to the notice of proposed rulemaking, the Board has determined that the proposed amendments should be adopted with the following three changes:

(1) The proposal has been modified to require the inclusion in quarterly reports of statements of changes in capital accounts, which requirement was inadvertently omitted from the proposed revision of Form F–4. The quarterly report form presently in use contains an abbreviated anlaysis of capital accounts.

(2) The period in which to file Form F–4 has been extended from 30 to 45 days after the end of the reported quarter.

(3) The proposed rule requiring disclosure of selected interim financial data in notes to annual financial statements has been modified to conform the rule's exemptive provisions to those of the Commission's Rule 3–16(t). As originally adopted, Rule 3–16(t) provided an exemption for registrants which did not meet requirements set by the Board of Governors of the Federal Reserve System for continued inclusion on the list of OTC margin stocks. As certain of those requirements involve determinations by the Board of Governors, the Commission recently amended Rule 3–16(t) by adopting its own objective criteria for exemption in lieu of the similar requirements of the Board. The Corporation's proposal has been modified to reflect that change.

The following is a summary of the amendments, as adopted, to 12 CFR Part 335:

(1) Form F–4 (12 C.F.R. 335.44) is revised to require the quarterly submission of condensed balance sheets and income statements, statements of changes in financial position, statements of changes in capital accounts, and a narrative analysis of results of operations. Condensed balance sheets are to be provided as of the end of the most recent quarter and as of the same date of the preceding year. Income statements are required for the most recent quarter, for the period between the end of last year and the end of the most recent quarter, and for corresponding periods of the preceding year. Summarized statements of changes in financial position and statements of changes in capital accounts are to be furnished on a year-to-date basis for the current and preceding year.

The revised form also requires the signature of the bank's chief financial officer or chief accounting officer and the submission of a letter by the bank's accountants, or if none, from management, justifying any accounting change.

(2) Section 335.7(e)(15)(ix) has been added to provide for disclosure of selected interim financial data in notes to financial statements of certain banks. Affected are banks which meet certain asset size and/or income criteria and whose securities are either listed on a national securities exchange or are quoted on the National Association of Securities Dealers Automated Quotations System and which meet certain other criteria.

(3) Section 335.7(d)(3)(v) has been added to conform the Corporation's rules governing certification by independent accountants to the Commission's Rule 2–02(e) of Regulation S–X relating to an accountant's association with an unaudited note covering interim financial data.

(4) Section 335.4(i) has been amended to extend the period in which to file Form F–4 to 45 days after the end of the reported quarter.

(5) Section 335.51, Item 14(b) and the instructions thereto have been amended for purposes of internal consistency.

Inasmuch as the changes to the proposal of June 22, 1976 are of a minor nature, the Board finds that further public participation in this rulemaking proceeding is unnecessary. Accordingly, pursuant to the authority contained in Section 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78***l***(i)), 12 CFR Part 335 is amended as set forth below.

C. EFFECTIVE DATE

These amendments shall be effective for financial statements filed with the Corporation for periods beginning subsequent to December 20, 1976, but disclosure of comparative data shall not be required for periods beginning prior to that date.

By Order of the Board of Directors, March 3, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

12 CFR Part 335 is amended as follows:

1. Section 335.4(i) is amended by substituting the number "45" for the number "30" each time it appears.

2. Section 335.7 is amended by adding a new (d)(3)(v) and (e)(15)(ix) as follows:

§ 335.7 Form and content of financial statements.

* * * * *

(d) * * *

(15) * * *

(v) *Association with unaudited note covering interim financial data.* If the financial statements covered by the accountant's report designated as "unaudited" the note required by § 335.7(e)(15)(ix), it shall be presumed that appropriate professional standards and procedures with respect to the data in the note have been followed by the independent accountant who is associated with the unaudited footnote by virtue of reporting on the financial statements in which it is included.

* * * * *

(e) * * *

(15) * * *

(ix) *Disclosure of selected quarterly financial data in notes to financial statements.* (A) *Exemption.* This subparagraph (15)(ix) shall not apply to any bank that does not meet both of the following two tests:

(*1*) *First test.* The bank (*i*) has securities registered pursuant to section 12(b) of the Securities Exchange Act of 1934, or (*ii*) has securities registered pursuant to section 12(g) of that Act which also (*A*) are quoted on the National Association of Securities Dealers Automated Quotation System, and (*B*) meet the criteria set forth in the following notes:

NOTES

1. Three or more dealers stand willing to, and do in fact, make a market in such stock including making regularly published bona fide bids and offers for such stock for their own accounts; or the stock is registered on a securities exchange that is exempted by the Commission from registration as a national securities exchange pursuant to section 5 of the Securities Exchange Act of 1934.

(a) For purposes of this subsection, the insertion of quotations into the National Association of Securities Dealers Automated Quotation System by three or more dealers on at least 10 business days during the six-month period immediately preceding the fiscal year for which the financial statements are required shall satisfy the requirement that three dealers be making a market.

2. There continue to be 800 or more holders of record, as defined in § 335.2(i), of the stock who are not officers, directors, or beneficial owners of 10 percent or more of the stock.

3. The issuer continues to be a U.S. corporation.

4. There are 300,000 or more shares of such stock outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 percent of the stock.

5. In addition, the issuer shall meet two of the three following requirements:

(a) The shares described in subsection (d) continue to have a market value of at least $2.5 million.

(b) The minimum representative bid price of such stock is at least $5 per share.

(c) The issuer continues to have at least $2.5 million of capital, surplus, and undivided profits.

INSTRUCTIONS

1. The computation required by 5(a) and 5(b) shall be based on the average of the closing representative bid prices as reported by NASDAQ for the 20 business days immediately preceding the fiscal year for which the financial statements are required.

2. The computation required by 5(c) shall be as at the last business day of the fiscal year immediately preceding the fiscal year for which the financial statements are required.

(*2*) *Second test.* The bank and its consolidated subsidiaries either (*i*) have had a net income after taxes but before extraordinary items and the cumulative effect of a change in accounting, of at least $250,000 for each of the last three fiscal years; or (*ii*) had total assets of at least $200,000,000 for the last fiscal year-end.

(B) *Disclosure requirement.* (*1*) Disclosure shall be made in a note to financial statements of (*i*) total operating income, (*ii*) total operating expenses, (*iii*) income before securities gains (losses), (*iv*) income before extraordinary items, and (*v*) net income for each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented. In addition, provide per share data for items (*iii*), (*iv*) and (*v*).

(*2*) When the data supplied in (*1*) above vary from the amounts previously reported on the Form F–4 filed for any quarter, such as would be the case when a pooling of interests occurs or where an error is corrected, reconcile the amounts given with those previously reported describing the reason for the difference.

(*3*) Describe the effect of any disposals of segments of a business, and extraordinary, unusual or infrequently occurring items recognized in each full quarter within the two most recent fiscal years and any subsequent interim period for which income statements are presented, as well as the aggregate effect and the nature of year-end or other adjustments which are material to the results of that quarter.

(*4*) Where this note is part of financial statements which are presented as audited, it may be designated "unaudited."

3. Section 335.44, Form F–4, is deleted in its entirety, including the instructions thereto, and a new § 335.44 is sustituted as follows:

§ 335.44 Form for quarterly report of bank (Form F–4) to be filed pursuant to § 335.4(i).

FORM F–4

Quarterly Report Under Section 13 of the Securities Exchange Act of 1934 For Quarter Ended _____

FDIC Insurance Certificate Number _____

_____

(Exact name of bank as specified in its charter)

_____

(State or other jurisdiction of incorporation or organization)

_____

(I.R.S. Employer Identification No.)

_____

(Address of principal executive offices)

_____

(Zip Code)

Bank's telephone number, including area code _____

_____

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the bank (1) has filed all reports required to be filed by section 13 of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the bank was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes_____ **No**_____

A. *Rule as to Use of Form F–4.*

(a) Form F–4 shall be used for quarterly reports under section 13 of the Securities Exchange Act of 1934, filed pursuant to § 335.4(i).

(b) A report on this form shall be filed within 30 days after the end of each of the first three fiscal quarters of each fiscal year. No report need be filed for the fourth quarter of any fiscal year.

B. *Application of General Rules and Regulations.* Particular attention is directed to §335.4(t) which contains general requirements regarding matters such as the kind and size of paper to be used, the printing and the language; § 335.4(x) regarding the information to be given whenever the title of securities is required to be stated; and § 335.3(a) regarding the filing of the report. The definitions contained in § 335.2 should be especially noted.

C. *Preparation of Report.*

(a) This is not a blank form to be filled in. It is a guide to be used in preparing the report in accordance with § 335.4(i). The Corporation does not furnish blank copies of this form to be filled in for filing.

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(b) These general instructions are not to be filed with the report. The instructions to the various captions of the form are also to be omitted from the report as filed.

D. *Persons for Whom the Information is to be Given.*

(a) The required information is to be given as to the registrant bank or, if the bank filed consolidated financial statements with the annual reports filed with the Corporation, it shall cover the bank and its consolidated subsidiaries. If the information is given as to the bank and its consolidated subsidiaries, it need not be given separately for the bank.

(b) The required information shall also be given separately as to each unconsolidated subsidiary or 50 percent owned person or other person, or group of such subsidiaries, 50 percent owned persons or other persons, for which separate individual or group statements are required to be included in the bank's annual reports filed with the Corporation. It need not be furnished, however, for any such unconsolidated subsidiary or person which would not be required pursuant to § 335.4(l) to file quarterly financial information if it were a bank.

E. *Preparation of Financial Information.* The form requires only the items of information specified. The information may carry a notation to the effect that it is not certified and any other qualification considered necessary or appropriate. Amounts may be stated in thousands of dollars (000 omitted) provided it is stated that such has been done. Losses or other negative amounts shall be indicated clearly in the caption and the amounts shown in parentheses.

F. *Incorporation by Reference to Published Statements.* If the bank makes available to its stockholders or otherwise publishes, within the period prescribed for filing the report, a financial statement containing the information required by this form, such information may be incorporated by reference to such published statement if copies thereof are filed as an exhibit to this report.

G. *Delay in Filing Information.* The information required may be omitted with respect to foreign subsidiaries not consolidated or other foreign persons if it is impracticable to furnish it within the time specified for filing the report, provided it is indicated that such information is furnished by amendment when available. Apart from the foregoing, any request for extension of time for the filing of the report or the furnishing of any of the required information shall be made pursuant to § 335.4(r).

H. *Financial Statements.* (a) The bank shall furnish an income statement, balance sheet, statement of changes in financial position, and statement of changes in capital accounts for the periods set forth in (b) below. These statements shall follow the general form of presentation set forth in §§ 335.7 and 335.71 with the following exceptions:

(1) Where any balance sheet caption is less than 10 percent of total assets, and the amount in the caption has not increased or decreased by more than 25 percent since the previous balance sheet presented, the caption may be combined with others. When any income statement caption is less than 15 percent of average net income for the most recent three years and the amount in the caption has not increased or decreased by more than 20 percent as compared to the next preceding comparable income statement, the caption may be combined with others. In calculating average net income, loss years should be excluded. If losses were incurred in each of the most recent three years, the average loss shall be used for purposes of this test.

(2) The statement of changes in financial position may be abbreviated, starting with a single figure of funds provided by operations and showing other sources and applications individually only when they exceed 10 percent of the average of funds provided by operations for the most recent three years.

(3) Section 335.7(e), § 335.7(l), and other requirements which call for detailed footnote disclosure and schedules shall not apply. As with all information filed with the Corporation, however, disclosures must be adequate to make the information presented not misleading.

(b) The condensed financial statements shall be provided for periods set forth below:

(1) The condensed income statement shall be presented for the most recent fiscal quarter, for the period between the end of the last fiscal year and the end of the most recent fiscal quarter, and for corresponding periods of the preceding fiscal year. It also may be presented for the cumulative twelve month period ended during the most recent fiscal quarter and for the corresponding period of the preceding fiscal year.

(2) The balance sheet shall be presented as of the end of the most recent fiscal quarter and for the end of the corresponding period of the preceding fiscal year.

(3) The statement of changes in financial position and the statement of changes in capital accounts shall be presented for the period between the end of the last fiscal year and the end of the most recent fiscal quarter, and for the corresponding period of the preceding fiscal year. They also may be presented for the cumulative twelve month period ended during the most recent fiscal quarter and for the corresponding period of the preceding fiscal year.

(c) If, during the current period in (b) above, the bank or any of its consolidated subsidiaries entered into a business combination treated for accounting purposes as a pooling of interests, the interim financial statements for both the current year and the preceding year shall reflect the combined results of the pooled businesses. Supplemental disclosure of the separate results of the combined entities for periods prior to the combination shall be given in a footnote with appropriate explanations.

(d) In case the bank has disposed of any significant portion of its business during any of the periods covered by the report, the effect thereof on revenues and net income—total and per share—for all periods shall be disclosed. In addition, where a material business combination accounted for as a purchase has occurred during the current fiscal year, pro forma disclosure shall be made of the results of operations for the current year up to the date of the end of the most recent fiscal quarter (and for the comparable period in the preceding year) as though the companies had combined at the beginning of the period being reported on. This pro forma information should as a minimum show (1) total operating income, (2) operating expenses, (3) income before securities gains (losses), (4) income before extraordinary items, and (5) net income. In addition, provide per share data for items (3), (4), and (5).

(e) The financial statements to be included in this report shall be prepared in conformity with the standards of accounting measurement set forth in Accounting Principles Board Opinion No. 28 and any amendments thereto adopted by the Financial Accounting Standards Board. In addition to meeting the reporting requirements for accounting changes specified therein, the bank shall state the date of any change and the reasons for making it. In addition, in the first Form F-4 filed subsequent to the date of an accounting change, a letter from the bank's independent accountants, or if none, from management, shall be filed as an exhibit indicating whether or not the change is to an alternative principle which in their judgement is preferable under the circumstances; except that no letter need be filed when the change is made in response to a standard adopted by the Financial Accounting Principles Board which requires such change.

(f) If appropriate, the income statement shall show earnings per share and dividends per share applicable to common stock and the basis of the earnings per share computation shall be stated together with the number of shares used in the computation. The bank shall file as an exhibit a statement setting forth in reasonable detail the computation of per share earnings, unless the computation is otherwise clearly set forth in the report.

(g) The information furnished shall reflect all adjustments which are, in the opinion of management, necessary to a fair statement of the results for the interim periods. A statement to that effect shall be included. Such adjustments shall include, for example, appropriate estimated provisions for bonus and profit sharing arrangements normally determined or settled at year-end.

(h) Any material retroactive prior period adjustment made during any period included in this report shall be disclosed, together with the effect thereof upon net income—total and per share—of any prior period included herein and upon the balance of undivided profits. If results of operations for any period reported herein have been adjusted retroactively by such an item subsequent to the initial reporting of such period, similar disclosure of the effect of the change shall be made.

I. *Management's Analysis of Quarterly Income Statements.* The bank shall provide a narrative analysis of the results of operations explaining the reasons for material changes in the amount of revenue and expense items between the most recent quarter and the quarter immediately preceding it, between the most recent quarter and the same calendar quarter in the preceding year, and, if applicable, between the current year to date and the same calendar period in the preceding year. Explanations of material changes should include, but not be limited to, changes in the various elements which affect revenue and expense levels, such as asset composition, deposit mix, sources of funds other than deposits, significant interest rate fluctuations, abnormal loan loss provisions, and discretionary spending programs. In addition, the analysis should include an explanation of the effect of any changes in accounting principles and practices or in the method of their application that have a material effect on net income as reported.

J. *Other Financial Information.* The bank may furnish any additional information related to the periods being reported on which, in the opinion of management, is of significance to investors, such as the seasonality of the bank's business, major uncertainties currently facing the bank, significant accounting changes under consideration and the dollar amount of standby letters of credit. In addition, the bank shall indicate whether any Form F-3 was required to be filed reporting any material unusual charges or credits to income during the most recently completed fiscal quarter or whether any Form F-3 was required to be filed during that period reporting a change in independent accountants.

K. *Review by Independent Public Accountant.* The financial information included in this form need not be reviewed prior to filing by an independent public accountant. If, however, a review of the data is made in accordance with established professional standards and procedures for such a review, the bank may state that the independent accountant has performed such a review. If such a statement is made, the bank shall indicate whether all adjustments or additional disclosures proposed by the independent accountant have been reflected in the data presented, and, if not, why not. In addition, a letter from the bank's independent accountant confirming or otherwise commenting upon the bank's representations and making such other comments as the independent accountant deems appropriate may be included as an exhibit to the form.

L. *Filing of Other Statements in Certain Cases.* The Corporation may, upon the informal written request of the bank, and where consistent with the protection of investors, permit the omission of any of the information herein required or the filing in substitution therefor of appropriate information of comparable character. The Corporation may also by informal written notice require the filing of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person for which financial statements are required, or whose statements are otherwise necessary for the protection of investors.

M. *Sales of Securities (Debt or Equity).* If present, give the following information as to all securities of the bank or its subsidiaries sold by the bank or its subsidiaries during the fiscal quarter. Include sales of reacquired securities as well as new issues, securities issued in exchange for property, services or other securities, and new securities resulting from the modification of outstanding securities. If the information called for has been previously reported on another form, it may be incorporated by a specific reference to the previous filing.

(1) Give the date of sale, and the title and amount of the securities sold;

(2) Give the marekt price on the date of sale, if applicable;

(3) Give the names of the brokers, underwriters, or finders, if any. As to any securities sold but which were not the subject of a public offering, name the persons or identify the class of persons to whom the securities were sold;

(4) As to securities sold for cash, state the aggregate offering price and the aggregate underwriting discounts, brokerage commissions, or finder's fees. As to any securities sold otherwise than for cash, state the nature of the transaction and the nature and aggregate amount of consideration received; and

(5) State whether the securities have been legended or lettered, and stop-transfer instructions given in connection therewith.

N. *Signature and Filing of Report.* Six copies of the report shall be filed with the Corporation. At least one copy of the report shall be filed with each exchange on which any class of securities of the bank is listed and registered. At least one copy of the report filed with the Corporation and one copy filed with each such exchange shall be manually signed on the bank's behalf by a duly authorized officer of the bank and by the principal financial officer or chief accounting officer of the bank. Copies not manually signed shall bear typed or printed signatures.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the bank has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

____
(Name of bank)

Date__________ ________________________
([1] Signature)

Date__________ ________________________
([1] Signature)

§ 335.51 [Amended]

4. Section 335.51, Item 14(b)(5) is amended by adding the sentence "See Instruction 4 to this item."

5. Section 335.51, Item 14(b) is amended by adding a new Instruction 4, as follows:

4. The provisions of Section 335.41, Item 2, Instruction 6 shall apply to the summaries required by this item.

[FR Doc.77-7017 Filed 3-8-77;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER A—GENERAL REGULATIONS OF THE FEDERAL HOME LOAN BANK BOARD

[No. 77-157]

PART 505b—PUBLIC INFORMATION REGARDING MEETINGS OF THE FEDERAL HOME LOAN BANK BOARD

Public Information

MARCH 4, 1977.

Summary. The following summary of the amendments adopted by this Resolution is included for the reader's convenience and is subject to the full explanation in the preamble and to the specific provisions of the regulations.

I. *Previous Regulation.* None.

II. *Proposed Regulation.* Promulgation of rules to implement the Government in the Sunshine Act by providing the public with information regarding the Board's decisionmaking processes.

III. *Final Regulation.* Substantially the same; restructuring and expansion of some provisions for purposes of clarification.

The Federal Home Loan Bank Board, by Resolution No. 77-9, dated January 5, 1977, proposed a new Part 505b to its general regulations (12 CFR Part 505b) to implement the Government in the Sunshine Act of 1976 (section 552b of Title 5 of the United States Code), which requires agencies of the Federal Government headed by collegial bodies, which includes the Board, to open their meetings to public observation, except under specified circumstances, by March 12, 1977.

Notice of such proposed rulemaking was published in the FEDERAL REGISTER on January 12, 1977 (42 FR 2503-2505), with an invitation to interested persons to submit written comments by February 14, 1977. On the basis of all relevant material presented by interested persons and otherwise available, the Board hereby adopts the regulations as proposed with modifications of a clarifying nature. These include a restructuring and renumbering of certain sections, expansion of certain provisions to conform more closely to the language of the Act, provision for additional availability of public notices if deemed desirable, and revision of the definition of "meeting" by deletion of the descriptive phrase *"in collegio,"* explicit inclusion of certain telephonic deliberations, and explicit exclusion of deliberations regarding the nature of meetings, disposition by circulation of materials to and notation voting by individual Board members, staff briefings of Board members, and informal background discussions among Board members and staff which clarify issues and expose varying views.

The Board finds that publication of these regulations for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553 (d) prior to effective date is unnecessary because the regulations relate to Board procedure and practice.

Accordingly, the Board hereby amends its General Regulations by adding a new Part 505b thereto, effective March 12, 1977.

Sec.
505b.1 Purpose and scope.
505b.2. Definitions.
505b.3 Open meetings.
505b.4 Exemptions.
505b.5 Closed meetings.
505b.6 Public announcements of meetings.
505b.7 Accommodation for public attendance at open meetings.

AUTHORITY: Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); Pub. L. 94-409; approved September 13, 1976. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.

§ 505b.1 Purpose and scope.

This part is issued by the Federal Home Loan Bank Board pursuant to the requirement of the Government in the Sunshine Act, section 552b of Title 5, United States Code, that certain Federal agencies, including the Board, promulgate rules to implement the Act by providing the public with the fullest practicable information regarding the Board's decisionmaking processes while protecting the rights of individuals and the ability of the Board to carry out its responsibilities.

§ 505b.2 Definitions.

(a) For purposes of this part, the term "meeting" means any deliberations (including those conducted by conference telephone call) of two or more members of the Board, the purpose or effect of which is to determine or result in joint conduct of official business of the Board, but does not include (1) deliberations to determine whether meetings will be open or closed or whether information pertaining to closed meetings will be disclosed, (2) disposition of Board business by circulation of materials to and notation voting by individual Board members, (3) staff briefings of Board members,

[1] Print name and title of the signing officer under his signature.

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and (4) informal background discussions among Board members and staff which clarify issues and expose varying views.

§ 505b.3 Open meetings.

Except as provided in § 505b.4 every portion of every meeting of the Board shall be open to public observation. Board members shall not jointly conduct or dispose of official agency business other than in accordance with this part.

§ 505b.4 Exemptions.

(a) The Board may close a meeting or portion of a meeting, and withhold information pertaining to such meeting, where it determines that disclosure of information pertaining to such meeting or portion thereof is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Board;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets or commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source or, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Board or another agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would:

(i) Be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or

(ii) Be likely to significantly frustrate implementation of a proposed Board action,

except that subdivision (ii) shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern the Board's issuance of a subpena, or its participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition of a particular case of formal Board adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(b) A meeting or portions of a meeting shall not be closed nor information withheld pursuant to paragraph (a) of this section if the Board finds that the public interest requires that the meeting or portion or portions of a meeting be open to public observation or that such information should not be withheld.

§ 505b.5 Closed meetings.

(a) *Meetings closed under expedited procedures.* (1) Since the Board qualifies for the use of expedited closing procedures under subsection 552b(d)(4) of the Act, meetings or portions thereof exempt under paragraphs (4), (8), (9)(i), or (10) of subsection (c) of the Act (paragraphs (a)(4), (8), (9)(i), or (10) of § 505b.4) may be closed to public observation and information pertaining to such meeting or portions thereof may be withheld from public disclosure, under the expediting procedures of this paragraph, unless the Board determines that the public interest requires an open meeting.

(2) Where a meeting or portion thereof is to be closed under this paragraph (a), a public record shall be kept of the Board Members' vote at the beginning of the meeting to close it or a portion thereof, and a copy of such vote, reflecting the vote of each member on the question, shall be made available to the public at or through the Office of the Secretary to the Board.

(3) Public announcement of the time, place, and subject matter of meetings or portions thereof closed under this paragraph (a) shall be made at the earliest practicable time.

(b) *Meetings closed under regular procedures.* (1) A meeting or portion thereof will be closed to public observation under regular procedures, or information pertaining to such meeting or portion of a meeting will be withheld, only by recorded vote of a majority of the members of the Board when it is determined that such meeting or portion or the withholding of such information qualifies for exemption under § 505b.4(a)(1), (2), (3), (5), (6), (7), or (9)(ii), and the Board does not find that the public interest requires otherwise. Votes by proxy shall not be allowed.

(2) Except as provided in paragraph (b)(3) of this section, a separate vote of the Board members will be taken with respect to the closing or the withholding of information as to each meeting or portion thereof which is proposed to be closed to public observation or with respect to which information is proposed to be withheld pursuant to this paragraph (b).

(3) A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to public observation, or with respect to any information concerning such series of meetings proposed to be withheld, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series.

(4) Whenever any person's interests may be directly affected by a portion of a meeting for any of the reasons referred to in § 505b.4(a)(5), (6), or (7), such person may send a written request to the Secretary of the Board asking that such portion of the meting be closed to public observation. The Secretary, or in his absence the Acting Secretary to the Board, will transmit the request to the Board members and upon the request of any one of them a recorded vote will be taken whether to close such meeting to public observation.

(5) Within one day of any vote taken pursuant to this paragraph (b), the Board will make publicly available at or through the Office of the Secretary a written copy of such vote reflecting the vote of each Board member on the question. If a meeting or a portion of a meeting is to be closed to public observation, the Board, within one day of the vote taken pursuant to this paragraph (b), will make publicly available at or through the Office of the Secretary a full, written explanation of its action closing the meeting or portion of the meeting together with a list of all persons expected to attend the meeting and their affiliation, except to the extent such information is determined by the Board to be exempt from disclosure under § 505b.4(a).

(c) *Recordkeeping.* (1) A complete transcript or recording shall be made and maintained of the proceedings at each meeting or portion thereof closed to the public under this part, except that, where appropriate, minutes may be made and maintained in lieu of such transcript or recording with respect to meetings closed or information withheld under § 505b.4(a)(8), (9)(i) or (10). Such minutes shall fully and clearly describe all matters discussed and provide a full and accurate summary of any action taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each Board member on the question). All documents considered in connection with any action shall be identified in such minutes.

(2) Such transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, shall be made promptly available to the public at or through the Office of the Secretary, except for such item or items of such discussion or testimony as the Board determines to contain information which may be withheld under § 505b.4(a). Copies of such transcript or minutes or a transcription of such recording, disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The Board shall maintain a complete verbatim copy of the transcript, a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Board proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

(3) For every meeting or portion thereof closed pursuant to this section, the General Counsel (or in his absence or incapacity the senior legal officer of the Board available) shall certify that such closure is authorized by law, including a statement pertaining to the relevant exemptive provision or provisions of law. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons (other than staff) present shall be retained by the Board.

(d) The following are examples of meetings or portions of meetings which may be closed:

(1) Meetings involving discount notes, bond amounts and maturities, and bond pricing;

(2) Meetings concerning institutions causing supervisory concern, formal examination, cease-and-desist, suspension, removal, or termination-of-insurance proceedings, conservatorships, or receiverships;

(3) Meetings concerning requests for insurance of accounts by existing institutions;

(4) Meetings concerning aspects of merger applications, applications for permission to convert from mutual to stock form of organization, or holding company matters, discussion of which is likely to disclose information in one or more of the categories in § 505b.4(a);

(5) Meetings concerning aspects of facilities applications, applications for insurance of accounts by new institutions, applications for permission to organize a Federal savings and loan association, or consideration of certain regulatory amendments, discussion of which is likely to disclose information in one or more of the categories in § 505b.4(a); and

(6) Meetings involving discussion of litigation in which the Board is involved.

§ 505b.6 Public announcements of meetings.

(a) Except as otherwise provided in this section, public announcement of open meetings and meetings or portions thereof closed under § 505b.5(b) will be made at least one week in advance of each meeting. Except to the extent that such information is determined to be exempt from disclosure under § 505b.4(a), each such public announcement will state the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and telephone number of the official designated to respond to requests for information about the meeting. Each such announcement shall be posted in the main lobby of the Board's headquarters, and may be made available by other means or at other locations as may be deemed desirable by the Board. Immediately following each public announcement, the stated information shall also be submitted for publication in the FEDERAL REGISTER.

(b) Where a majority of the Board members determine by recorded vote that agency business requires that a meeting be called at any earlier date, the one-week prior-announcement rule shall be suspended and announcement shall be made at the earliest practicable time.

(c) Change of the time or place of a meeting following public announcement may be made only if announced at the earliest practicable time.

(d) Change of the subject matter of a meeting or redetermination to open or close a meeting or portions thereof may be made after public announcement only if a majority of the Board determines by recorded vote that agency business so requires and no earlier announcement of the change was possible, and public announcement of such change and the vote of each member upon such change is made at the earliest practicable time.

§ 505b.7 Accommodation for public attendance at open meetings.

Unless otherwise specified, open meetings are held in Room 630 at the Board's headquarters located at 320 First Street, NW., Washington, D.C. 20552, at the time and on the date specified in the advance public notice; such information is posted in the main lobby at such location. Interested members of the public may attend such meetings but may not participate therein unless invited or permitted to do so by the Board.

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-6999 Filed 3-8-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2866]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Mayday Company, Inc., et al.

Correction

In FR Doc. 77-6154 appearing on page 12038 in the issue of Wednesday, March 2, 1977, on page 12041 in the third column, the first paragraph, the third line from the bottom should be corrected to read, "* * * statement setting forth said reasons prior * * *".

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13310; File No. S7-641]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Extension of Temporary Rule for Submission of Price Quotations to Inter-Dealer Quotation System

AGENCY: Securities and Exchange Commission.

ACTION: Extension of temporary rule.

SUMMARY: The Commission has extended the expiration date of paragraph (f)(4)(T) of § 240.15c2-11 which presently requires market-makers to obtain certain basic information on the issuers of securities in which they submit price quotations. Paragraph (f)(4)(T) extends the exemptive provisions of § 240.15c2-11 to broker-dealers who submit quotations to inter-dealer quotation systems on the basis of previous price quotations appearing in a system published weekly.

DATES: The expiration date of paragraph (f)(4)(T) of § 240.15c2-11 has been extended to April 30, 1977.

ADDRESSES: All communications on this matter should be directed in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7-641 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Richard Smith, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202-755-7918).

SUPPLEMENTARY INFORMATION: The Securities Exchange Commission (the "Commission") announced today the extension of temporary paragraph (f)(4)(T) of § 240.15c2-11[1] to April 30,

[1] 17 CFR 240.15c2-11(f)(4).

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1977 pursuant to the Securities Exchange Act of 1934 (the "Act") [2] particularly Sections 2, 3, 11A, 15 and 23 thereof.[3] Paragraph (f)(4)(T) of § 240.15c2-11 was temporarily adopted on July 15, 1976,[4] and its expiration date was extended to February 28, 1977 by the Commission on November 15, 1976.[5] Temporary paragraph (f)(4)(T) of § 240.-15c2-11 exempts from the provisions of that section certain publications and submissions of quotations [6] respecting securities traded over-the-counter which have been the subject, at least once each fifth business day, of both bid and ask quotations at specified prices reported to, and published by, an inter-dealer quotation system.

The staff of the Commission has engaged in extensive discussions with those persons directly affected by § 240.15c2-11 and has determined that a considerable number of questions remain as to the ultimate course, if any, which the Commission should take in revising that Section. Until such time as those questions are resolved, the Commission believes it is consistent with the public interest and the protection of investors to extend the expiration date of temporary paragraph (f)(4)(T) of § 240.15c2-11 to April 30, 1977.

The text of the temporary rule, as amended, is as follows:

§ 240.15c2-11 Initiation or resumption of quotations without specific information.

* * * * *

(f) The provisions of this section shall not apply to:

* * * * *

(4)(T) The publication or submission of a quotation respecting a security which, at least once each fifth business day, has been the subject of both bid and ask quotations at specified prices reported to, and published by, an inter-dealer quotation system—

(i) Which has reported to the broker or dealer who wishes to submit such a quotation that records of the system reflect that at least one registered broker or dealer has made, or

(ii) To which a registered broker or dealer who wishes to submit such a quotation has reported or represented that he has made both bid and ask quotations at specified prices on each of at least 12 business days within the previous 30 calendar days, with no more than 4 business days in succession without a reflection of the existence of such a two-way quotation.

This temporary subsection shall expire on April 30, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 28, 1977

[FR Doc.77-6946 Filed 3-8-77;8:45 am]

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[2] 15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975).

[3] 15 U.S.C. 78 (b), (c), (k-1), (o and (w).

[4] Exchange Act Release No. 34-12630 (July 15, 1976), 41 FR 30008 (July 21, 1976), 9 SEC Doc. 1114 (July 28, 1976).

[5] Exchange Act Release No. 34-12969 (November 15, 1976), 41 FR 50646 (November 17, 1976, 10 SEC Doc. 953 (November 30, 1976).

[6] A quotation is defined in § 240.15c2-11 for the purposes of that Rule as "any bid or offer at a specified price with respect to a security."

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER H—REGULATIONS UNDER THE EMERGENCY NATURAL GAS ACT OF 1977

PART 295—EMERGENCY REGULATIONS

Order No. 1-A; National Association of Regulatory Utility Commissioners

Paragraph No. (2) of Order No. 1 dated February 3, 1977, is hereby amended by inserting "National Association of Regulatory Utility Commissioners" after "the National Governors' Conference" in subsection (3) as follows:

* * * (3) representatives of state and local governments, as designated by the National Governors' Conference, the National Association of Regulatory Utility Commissioners, the Conference of Mayors, and the National Association of Counties; * * *.

The change merely adds the National Association of Regulatory Utility Commissioners (NARUC) to the list of persons with whom I have consulted in administering the Emergency Natural Gas Act of 1977. NARUC representatives have attended and participated in the meetings of the Emergency Natural Gas Working Group.

RICHARD L. DUNHAM,
Administrator.

MARCH 4, 1977.

[FR Doc. 77-7099 Filed 3-8-77;8:45 am]

Title 19—Customs Duties

CHAPTER II—UNITED STATES INTERNATIONAL TRADE COMMISSION

SUBCHAPTER C—ADJUDICATIVE INVESTIGATIONS

PART 210—INVESTIGATIONS OF ALLEGED UNFAIR PRACTICES IN IMPORT TRADE

Applicability of Part

Notice is hereby given that the United States International Trade Commission is amending 19 CFR 210.1 to read as follows:

§ 210.1 Applicability of part.

The rules in this part govern procedure relating to proceedings under section 337 of the Tariff Act of 1930 (88 Stat. 2053; 19 U.S.C. 1337), and Pub. L. 710, July 2, 1940 (54 Stat. 724, 19 U.S.C. 1337a). These rules are authorized by sections 333 and 335 of the Tariff Act of 1930 (46 Stat. 699; 19 U.S.C. 1333 and 72 Stat. 680; 19 U.S.C. 1335).

No notice of proposed rulemaking has issued as this authorization language was published in the preamble to the notice of rulemaking, published in the FEDERAL REGISTER on April 27, 1976 (41 FR 17710), promulgating § 210.1 and the amendment of that section to include the subject language is noncontroversial and affirmatory in nature.

Issued: March 4, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-7026 Filed 3-8-77;8:45 am]

Title 22—Foreign Relations

CHAPTER VII—OVERSEAS PRIVATE INVESTMENT CORPORATION

PART 708—SUNSHINE REGULATIONS

Meetings Policy

On January 27, 1977, there was published in the FEDERAL REGISTER (42 FR 5086) a notice of proposed regulations necessary to implement the provisions of the Government in the Sunshine Act which would amend Title 22, Chapter VII of the Code of Federal Regulations by adding a new Part 708. The proposed regulations state the policy of the Corporation for open meetings, exemptions to the open meeting rule, procedures for transcribing meetings closed to public observation and for making the non-exempt portions of the transcripts available to the public, and procedures for the public announcement of meetings open or closed to public observation. All comments submitted with respect to the proposed regulations were given due consideration.

As a result of comments received, the following changes in the proposed regulations are made in addition to language changes for clarification:

A. The right to drop agenda items for meetings without notice under § 708.4 (b) has been deleted.

B. Section 708.5(c) has been reworded to make clear that any proposal to close a meeting should include consideration of how the public interest will be served by closure.

C. Section 708.6(a) has been clarified to indicate that the certification by the General Counsel should be made prior to the meeting to be closed.

Accordingly, Title 22, Chapter VII of the Code of Federal Regulations is amended by the addition of a Part 708 as set forth below.

Effective date: March 12, 1977.

Adopted by the Overseas Private Investment Corporation at its office in Washington, D.C. on March 3, 1977.

MARSHALL T. MAYS,
President.

Sec.
708.1 Purpose and applicability.
708.2 Open meeting policy.
708.3 Scheduling of a meeting.
708.4 Public announcement.
708.5 Closed meetings.
708.6 Records of closed meetings.

AUTHORITY: 5 U.S.C. 552b.

§ 708.1 Purpose and applicability.

The purpose of this part is to effectuate the provisions of the Government in the Sunshine Act. This part applies to the deliberations of a quorum of the Directors of the Corporation required to take action on behalf of the Corporation where such deliberations determine or result in the joint conduct or disposition of official Corporation business, but does not apply to deliberations to take action to open or close a meeting or to release or withhold information under § 708.5. Any deliberation to which this part applies is hereinafter in this part referred to as a meeting of the Board of Directors.

§ 708.2 Open meeting policy.

(a) It is the policy of the Corporation to provide the public with the fullest practicable information regarding the decisionmaking process of the Board of Directors of the Corporation while protecting the rights of individuals and the ability of the Corporation to carry out its responsibilities. In order to effect this policy, every meeting of the Board of Directors shall be open to public observation and will only be closed to public observation if justified under one of the provisions of § 708.5. The public is invited to observe and listen to all meetings of the Board of Directors, or portions thereof, open to public observation, but may not participate or record any of the discussions by means of electronic or other devices or cameras. Documents being considered at meetings of the Board of Directors may be obtained subject to the procedures and exemptions set forth in Part 706 of this chapter.

(b) Directors of the Corporation shall not jointly conduct or dispose of agency business other than in accordance with this part. This prohibition shall not prevent Directors from considering individually business that is circulated to them sequentially in writing.

(c) The Secretary of the Corporation shall be responsible for assuring that ample space, sufficient visibility, and adequate acoustics are provided for public observation of meetings of the Board of Directors.

§ 708.3 Scheduling of a meeting.

A decision to hold a meeting of the Board of Directors should be made as provided in the By-laws of the Corporation and at least eight days prior to the scheduled meeting date in order for the Secretary of the Corporation to give the public notice required by § 708.4. However in special cases, a majority of the Directors may decide to hold a meeting less than eight days prior to the scheduled meeting date if they determine by a recorded vote that Corporation business requires such meeting at such earlier date. After public announcement of a meeting of the Board of Directors under the provisions of § 708.4, the subject matter thereof, or the determination to open or close a meeting, or portion thereof, may only be changed if a majority of the Directors determines by a recorded vote that business so requires and that no earlier announcement of the change is possible.

§ 708.4 Public announcement.

(a) Except to the extent that such information is exempt from disclosure under the provisions of § 708.5, in the case of each meeting of the Board of Directors, the Secretary shall make public announcement at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and telephone number of the official designated by the Corporation to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the Directors determines by a recorded vote that Corporation business requires that such meeting be called at an earlier date, in which case the Secretary shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(b) The time or place of a meeting may be changed following the public announcement required by paragraph (a) of this section only if the Secretary publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the Corporation to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this section only if (1) a majority of the Directors determines by a recorded vote that business so requires and that no earlier announcement of the change was possible, and (2) the Secretary publicly announces such change and the vote of each Director upon such change at the earliest practicable time.

(c) The "earliest practicable time", as used in this subsection, means as soon as possible, which should in few, if any, instances be later than the commencement of the meeting or portion in question.

(d) The Secretary shall use reasonable means to assure that the public is fully informed of the public announcements required by this section. Such public announcements may be made by posting notices in the public areas of the Corporation's headquarters and mailing notices to the persons on a list maintained for those who want to receive such announcements.

(e) Immediately following each public announcement required by this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding announcements, and the name and telephone number of the official designated by the Corporation to respond to requests for information about the meeting shall also be submitted by the Secretary for publication in the FEDERAL REGISTER.

§ 708.5 Closed meetings.

(a) Meetings of the Board of Directors will be closed to public observation where the Corporation properly determines, according to the procedures set forth in paragraph (c) of this section, that such portion or portions of the meeting or disclosure of such information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and are (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of an agency;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), *Provided*, That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose the trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final Corporation action on such proposal; or

(9) Specifically concern the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Corporation of a particular case of formal Corporation adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

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(b) Meetings of the Board of Directors shall not be closed pursuant to paragraph (a) of this section when the Corporation finds that the public interest requires that they be open.

(c) (1) Action to close a meeting, or portion thereof, pursuant to the exemptions defined in paragraph (a) of this section may be initiated by the President or any Director of the Corporation by presentation of a request for closure to the Board of Directors. The person initiating the request for closure shall give the Board of Directors a statement specifying the extent of the proposed closure, the relevant exemptive provisions and the circumstances pertinent to such request, and how the public interest will be served by closure. Such statement shall also be given to the General Counsel of the Corporation to serve as a basis for the certification the General Counsel may determine can be issued in accordance with § 708.6. The General Counsel's determination shall be given to the Board of Directors. Action to close a meeting, or portion thereof, shall be taken only when a majority of the entire membership of the Board of Directors votes to take such action. A separate vote of the Board of Directors shall be taken with respect to each meeting of the Board of Directors a portion or portions of which are proposed to be closed to the public or with respect to any information which is proposed to be withheld. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information which is proposed to be withheld. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Director participating in such vote shall be recorded and no proxies shall be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Corporation close such portion to the public for any of the reasons referred to in paragraph (a)(5), (a)(6), or (a)(7) of this section, the Corporation, upon request of any one of its Directors, shall vote by recorded vote whether to close such meeting.

(3) Within one day of any vote taken pursuant to paragraph (c)(1) or (c)(2) of this section, the Secretary shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Secretary shall, by the close of the business day next succeeding the day of the vote taken pursuant to paragraph (c)(1) or (c)(2) of this section, make publicly available a full written explanation of the Corporation's action closing the portion together with a list of all persons expected to attend the meeting and their affiliation. The information required by this subparagraph shall be disclosed except to the extent that it is exempt from disclosure under the provisions of paragraph (a) of this section.

§ 708.6 Records of closed meetings.

(a) For every meeting of the Board of Directors closed pursuant to § 708.5, the General Counsel of the Corporation shall publicly certify prior to such meeting that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Secretary as part of the transcript, recording, or minutes required by paragraph (b) of this section.

(b) The Secretary shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to § 708.5(a)(9), the Secretary shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll-call vote (reflecting the vote of each member on the question). All documents considered in connection with any Corporation action shall be identified in such minutes.

(c) The Secretary shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of the proceeding of the Board of Directors with respect to which the meeting or portion was held, whichever occurs later.

(d) Within ten days of receipt of a request for information (excluding Saturdays, Sundays, and legal public holidays), the Corporation shall make available to the public, in the Office of Secretary of the Corporation, Washington, D.C., the transcript, electronic recording, or minutes (as required by paragraph (b) of this section) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Secretary determines to contain information which may be withheld under the provisions of § 708.5. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identify of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(e) The determination of the Secretary to withhold information pursuant to paragraph (d) of this section may be appealed to the President of the Corporation, in his or her capacity as administrative head of the Corporation. The President will make a determination to withhold or release the requested information within twenty days from the date of receipt of the request for review (excluding Saturdays, Sundays, and legal public holidays).

[FR Doc.77-6907 Filed 3-8-77;8:45 am]

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-839]

PART 35—LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

Amendments of Definitions in Subparts A and B and Addition of New Subpart F (Prohibition Against the Use of Lead-Based Paint in Federal and Federally Assisted Construction of Residential Structures); Correction

On January 27, 1977 (42 FR 5042) the Department published an Amendment to Part 35 which changed Subparts A and B and added a new Subpart F. By mistake, the number 36 rather than number 35 was prefixed as part number to each of the section numbers in the new Subpart F.

Therefore, section numbers in 24 CFR Subpart F now reading § 36.60 through § 36.65 should be changed to read § 35.60 through § 35.65, respectively, in both the section headings and the Table of Sections.

(Sec. 7(d) of Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Issued at Washington, D.C., March 2, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-6963 Filed 3-8-77;8:45 am]

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-407]

SUBCHAPTER B—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER NATIONAL HOUSING ACT

MORTGAGE INSURANCE

Deferral of Effective Date of Certain Provisions

AGENCY: Department of Housing and Urban Development.

ACTION: Deferral of effective date of certain provisions.

SUMMARY: This rule defers for 90 days the effective date of the miscellaneous amendments published as final rules at 42 FR 762, January 4, 1977, with a notice of correction published at 42 FR 2954,

January 14, 1977. These amendments established regulatory procedures for disbursement of mortgage proceeds for construction items of projects regulated under parts 207, 213, 221 and 231 of Title 24. Parts 220, 227, 234 and 236 would also be amended by incorporation by reference. The deferral of the effective date is necessary to provide an opportunity to evaluate the effect of recent litigation on the final rule.

EFFECTIVE DATE: June 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Shelby Friedman, Office of the Deputy Assistant Secretary for Insured and Direct Loan Programs, HUD, Washington, D.C. 20410. (202-755-6497)

SUPPLEMENTARY INFORMATION: On the day prior to publication of the subject amendments as final rulemaking, the Court of Appeals for the District of Columbia Circuit handed down an opinion concerning a case directly on point with the intent of the amendments. The pertinence of the appellate decision in this case, entitled *Trans-Bay Engineers and Builders, Inc.* v. *Carla A. Hills, et al.*, ____F.2d____(D.C. Cir. 1977) (No. 75-1976), to the final rule has given the Department cause to closely examine its impact on the final rule, and to review the final rule for conformance with the law as it now stands. Additionally, initial review indicates that alteration to present HUD documentation is desirable. While these revisions are not subject to formal rulemaking, they suggest the opportunity for ancillary regulatory change, thus further warranting the extension of the effective date for 90 days. The Department finds that 90 days is necessary to permit further consideration to revising the relevant regulations, handbooks and documents, and to permit a sufficent interval to have revised material printed and distributed to the field offices and other affected parties.

(Section 7(d) of the Department of HUD Act; 42 U.S.C. 3535(d).)

Issued at Washington, D.C., March 3, 1977.

MORTON A. BARUCHI,
Acting Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc.77-7061 Filed 3-8-77;8:45 am]

Title 29—Labor

CHAPTER I—NATIONAL LABOR RELATIONS BOARD

PART 102—RULES AND REGULATIONS, SERIES 8

Ex Parte Communications

AGENCY: National Labor Relations Board.

ACTION: Promulgation of Amendments of Rules.

SUMMARY: Subpart P of the Rules and Regulations of the National Labor Relations Board prohibits ex parte communications, as therein defined, in agency proceedings. Subpart P was initially promulgated on November 1, 1966. The amendments made at this time are those required to conform the terminology and scope of the Board's rules to the requirements of 5 U.S.C. 557(d), as enacted by Public Law 94-409, September 13, 1976. The changes in terminology and definition do not significantly affect the broad prohibition of such communications provided heretofore, but such prohibition now may be applicable from the time a notice of hearing in an unfair labor practice proceeding is issued, or the time the communicator has knowledge that a complaint or notice of hearing will issue, whichever occurs first. The amended rules now require that any such communication become part of the record in the proceeding. They also provide additional penalties for violation of the rule, as permitted by 5 U.S.C. 557(d)(1)(D), and 556(d), as amended.

The reorganization of the various provisions of Subpart P by these amendments has resulted in the rule section number 102.134 having no corresponding provision, wherefore that number is now blank.

DATES: These amendments shall be effective on March 9, 1977.

FOR FURTHER INFORMATION CONTACT:

John C. Truesdale, Esquire, Executive Secretary, National Labor Relations Board, 1717 Pennsylvania Avenue, Washington, D.C. 20570

The National Labor Relations Board hereby promulgates amendments to Subpart P of its Rules and Regulations and revises 29 CFR 102.126 through 102.133 as set forth below:

Subpart P—Ex Parte Communications

Sec.
102.126 Unauthorized communications.
102.127 Definitions.
102.128 Types of on-the-record proceedings; categories of Board agents, and duration of prohibition.
102.129 Communications prohibited.
102.130 Communications not prohibited.
102.131 Solicitation of prohibited communications.
102.132 Reporting of prohibited communications; penalties.
102.133 Penalties and enforcement.

AUTHORITY: Section 6 of National Labor Relations Act, as amended (49 stat. 452; 29 U.S.C. 156).

Subpart P—Ex Parte Communications

§ 102.126 Unauthorized communications.

(a) No interested person outside this agency shall, in an on-the-record proceeding of the types defined in § 102.128, make or knowingly cause to be made any prohibited ex parte communication to Board agents of the categories designated in that section relevant to the merits of the proceeding.

(b) No Board agent of the categories defined in § 102.128, participating in a particular proceeding as defined in that section, shall (1) request any prohibited ex parte communications; or (ii) make or knowingly cause to be made any prohibited ex parte communications about the proceeding to any interested person outside this agency relevant to the merits of the proceeding.

§ 102.127 Definitions.

When used in this subpart:

(a) The term "person outside this agency," to whom the prohibitions apply, shall include any individual outside this agency, partnership, corporation, association, or other entity, or an agent thereof, and the general counsel or his representative when prosecuting an unfair labor practice proceeding before the Board pursuant to section 10(b) of the act.

(b) The term "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, subject however, to the provisions of §§ 102.129 and 102.130.

§ 102.128 Types of on-the-record proceedings; categories of Board agents; and duration of prohibition.

Unless otherwise provided by specific order of the Board entered in the proceeding, the prohibition of § 102.126 shall be applicable in the following types of on-the-record proceedings to unauthorized ex parte communications made to the designated categories of Board agents who participate in the decision, from the stage of the proceeding specified until the issues are finally resolved by the Board for the purposes of that proceeding under prevailing rules and practices:

(a) In a preelection proceeding pursuant to section 9(c)(1) or 9(e), or in a unit clarification or certification amendment proceeding pursuant to section 9(b) of the act, in which a formal hearing is held, communications to the regional director and members of his staff who review the record and prepare a draft of his decision, and members of the Board and their legal assistants, from the time the hearing is opened.

(b) In a postelection proceeding pursuant to section 9(c)(1) or 9(e) of the act, in which a formal hearing is held, communications to the hearing officer, the regional director and members of his staff who review the record and prepare a draft of his report or decision, and members of the Board and their legal assistants, from the time the hearing is opened.

(c) In a postelection proceeding pursuant to section 9(c)(1) or 9(e), or in a unit clarification or certification amendment proceeding pursuant to section 9(b), of the act, in which no formal hearing is held, communications to members of the Board and their legal assistants, from the time the regional director's report or decision is issued.

(d) In a proceeding pursuant to section 10(k) of the act, communications to members of the Board and their legal assistants, from the time the hearing is opened.

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(e) In an unfair labor practice proceeding pursuant to section 10(b) of the act, communications to the administrative law judge assigned to hear the case or to make rulings upon any motions or issues therein and members of the Board and their legal assistants, from the time the complaint and/or notice of hearing is issued, or the time the communicator has knowledge that a complaint or notice of hearing will be issued, whichever occurs first.

(f) In any other proceeding to which the Board by specific order makes the prohibition applicable, to the categories of personnel and from the stage of the proceeding specified in the order.

§ 102.129 Communications prohibited.

Except as provided in § 102.130, ex parte communications prohibited by section 102.126 shall include:

(a) Such communications, when written, if copies thereof are not contemporaneously served by the communicator on all parties to the proceeding in accordance with the provisions of § 102.112.

(b) Such communications, when oral, unless advance notice thereof is given by the communicator to all parties in the proceeding and adequate opportunity afforded to them to be present.

§ 102.130 Communications not prohibited.

Ex parte communications prohibited by § 102.126 shall not include:

(a) Oral or written communications which relate solely to matters which the hearing officer, regional director, administrative law judge, or member of the Board is authorized by law or Board rules to entertain or dispose of on an ex parte basis.

(b) Oral or written requests for information solely with respect to the status of a proceeding.

(c) Oral or written communications which all the parties to the proceeding agree, or which the responsible official formally rules, may be made on an ex parte basis.

(d) Oral or written communications proposing settlement or an agreement for disposition of any or all issues in the proceeding.

(e) Oral or written communications which concern matters of general significance to the field of labor-management relations or administrative practice and which are not specifically related to pending on-the-record proceedings.

(f) Oral or written communications from the general counsel to the Board when the general counsel is acting as counsel for the Board.

§ 102.131 Solicitation of prohibited communications.

No person shall knowingly and willfully solicit the making of an unauthorized ex parte communication by any other person.

§ 102.132 Reporting of prohibited communications; penalties.

(a) Any Board agent of the categories defined in § 102.128 to whom a prohibited oral ex parte communication is attempted to be made shall refuse to listen to the communication, inform the communicator of this rule, and advise him that if he has anything to say it should be said in writing with copies to all parties. Any such board agent who receives, or who makes or knowingly causes to be made, an unauthorized ex parte communication shall place or cause to be placed on the public record of the proceeding (1) the communication, if it was written, (2) a memorandum stating the substance of the communication, if it was oral, (3) all written responses to the prohibited communication, and (4) memoranda stating the substance of all oral responses to the prohibited communication. The executive secretary, if the proceeding is then pending before the Board, the administrative law judge, if the proceeding is then pending before any such judge, or the regional director, if the proceeding is then pending before a hearing officer or the regional director, shall serve copies of all such materials placed on the public record of the proceeding on all other parties to the proceeding and on the attorneys of record for the parties. Within 10 days after the mailing of such copies, any party may file with the executive secretary, administrative law judge, or regional director serving the communication, and serve on all other parties, a statement setting forth facts or contentions to rebut those contained in the prohibited communication. All such responses shall be placed in the public record of the proceeding, and provision may be made for any further action, including reopening of the record, which may be required under the circumstances. No action taken pursuant to this provision shall constitute a waiver of the power of the Board to impose an appropriate penalty under § 102.133.

(b) Upon notice and hearing, the Board may censure, suspend, or revoke the privilege of practice before the agency of any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication. However, before the Board institutes formal proceedings under this subsection, it shall first advise the person or persons concerned in writing that it proposes to take such action and that they may show cause, within a period to be stated in such written advice, but not less than 7 days from the date thereof, why it should not take such action.

(c) The Board may censure, or, to the extent permitted by law, suspend, dismiss, or institute proceedings for the dismissal of, any Board agent who knowingly and willfully violates the prohibitions and requirements of this rule.

§ 102.133 Penalties and enforcement.

Where the nature and circumstances of a prohibited communication made by or caused to be made by a party to the proceeding are such that the interests of justice and statutory policy may require remedial action, the Board, administrative law judge, or regional director, as the case may be, may issue to the party making the communication a notice to show cause, returnable before the Board within a stated period not less than 7 days from the date thereof, why the Board should not determine that the interests of justice and statutory policy require that the claim or interest in the proceeding of a party who knowingly makes a prohibited communication or knowingly causes a prohibited communication to be made, should be dismissed, denied, disregarded or otherwise adversely affected on account of such violation.

Dated, Washington, D.C., March 4, 1977.

By direction of the Board.

JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc.77-6990 Filed 3-8-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 696-1; PP6E1833/R121]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Sodium Chlorate

On January 4, 1977, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking (42 FR 815) announcing its intention to amend 40 CFR 180.1020 by establishing an exemption from the requirement of a tolerance for residues of the pesticide chemical sodium chlorate in or on the raw agricultural commodity soybeans. This proposed rulemaking was published in connection with a petition (PP 6EF1833) submitted to the EPA by Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Arkansas, Kansas, Mississippi, Missouri, and Texas.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking. Therefore, effective March 9, 1977, 40 CFR 180.1020 is amended as proposed.

Any person adversely affected by this regulation may on or before April 8, 1977 file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M Street, SW, East Tower, Room 1019, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions for the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Dated: March 3, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart D, Section 180.1020 is amended by revising paragraph (b) to exempt residues of sodium chlorate in or on soybeans, from the requirement of a tolerance, to read as follows:

§ 180.1020 Sodium Chlorate; exemption from the requirement of a tolerance.

* * * * *

(b) Sodium chlorate is exempted from the requirement of a tolerance for residues in or on grain sorghum, fodder, and forage, rice and rice straw, soybeans, and sunflower seeds, when used as a desiccant in accordance with good agricultural practice in the production of grain sorghum, rice, soybeans, and sunflower seeds.

* * * * *

[FR Doc.77-6903 Filed 3-8-77;8:45 am]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

[General Order 22; Admt. 8; Doc. No. 76-65]

PART 503—PUBLIC INFORMATION

Correction

In the Commission's final rules in this proceeding served February 25, 1977, and published March 2, 1977 (42 FR 12049), the designation of these rules as "General Order 22" should read "General Order 22; Amdt. 8".

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-7021 Filed 3-8-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21001; RM-2753]

PART 73—RADIO BROADCAST STATIONS

FM Broadcast Station in Benton, La.; Changes Made In Table of Assignments

Adopted: March 2, 1977.

Released: March 4, 1977.

Report and Order.—Proceeding terminated. In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Benton, Louisiana), Docket No. 21001, RM-2753.

1. The Commission has under consideration its Notice of Proposed Rule Making, adopted November 16, 1976, 41 FR 52499, inviting comments on a proposal to assign Channel 221A to Benton, Louisiana. This proceeding was instituted on the basis of a petition filed by Blossman Associates, Inc. ("petitioner"). Supporting comments were filed by petitioner. No oppositions were filed.

2. Benton (pop. 1,493),[1] the seat of Bossier Parish (pop. 64,519), is located approximately 19 kilometers (12 miles) north of Shreveport, Louisiana, and approximately 450 kilometers (280 miles) northwest of New Orleans, Louisiana. Benton has no local aural broadcast service. The proposed assignment could be made in conformance with the minimum separation requirements. Petitioner states that, if Channel 221A is assigned to Benton, it will apply for it and, if granted, will immediately construct and operate a station.

3. In support of its proposal, petitioner submitted information with respect to Benton and its need for a first FM channel assignment to bring the community its first local aural service.

4. We have given careful consideration to the proposal and believe that Channel 221A should be assigned to Benton, Louisiana. An interest has been shown for its use and it would be in the public interest as it would provide the community with a first local aural broadcast service.

5. Authority for the adoption of the amendment contained herein appears in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

6. In view of the foregoing: *It is ordered*, That effective April 15, 1977, § 73.202(b) of the Commission's rules, the FM Table of Assignments, as regards Benton, Louisiana, is amended to read as follows:

§ 73.202 Table of assignments.

* * * * *

(b) Table of FM assignments.

* * * * *

City	Channel No.
LOUISIANA	
* * * * *	
Benton	221A
* * * * *	

[1] Both population figures are taken from the 1970 U.S. Census.

7. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-6967 Filed 3-8-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Swan Lake National Wildlife Refuge, Mo.

The following special regulation is issued and is effective March 9, 1977.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

MISSOURI

SWAN LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Swan Lake National Wildlife Refuge, Sumner, Missouri, is permitted on the areas designated by signs as open to fishing. The open areas, comprising 10,500 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Denver Federal Center, P.O. Box 25486, Denver, Colorado 80225. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from March 1 through September 30, 1977 inclusive, during daylight hours only.

(2) Boats without motors may be used on Swan Lake, Silver Lake, and that portion of South Lake immediately adjacent to No. 5 Levee.

(3) Travel is permitted on all roads except those posted with "Road Closed" signs.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through September 30, 1977.

ALFRED O. MANKE,
Refuge Manager,
Swan Lake National Wildlife Refuge.

MARCH 1, 1977.

[FR Doc.77-6924 Filed 3-8-77;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1901]

FAIR HOUSING AFFIRMATIVE MARKETING PLAN FROM BUILDERS, DEVELOPERS AND CONTRACTORS

Civil Rights Compliance Requirements

Notice is hereby given that the Farmers Home Administration has under consideration the proposed amendment of § 1901.203(c) of Subpart E, Part 1901, Title 7, Code of Federal Regulations (41 FR 40112). The proposed amendment requires a fair housing affirmative marketing plan from builders, developers, contractors who build with conditional commitments, packagers and others who provide housing for sale or rent under Title VIII of the Civil Rights Act of 1968.

Interested persons are invited to submit written comments, suggestions or objections to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before April 8, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Chief, Directives Management Branch during regular business hours (8:15 a.m. to 4:45 p.m.).

As proposed, § 1901.203(c) is amended to read as follows:

§ 1901.203 Title VIII of the Civil Rights Act of 1968.

* * * * *

(c) *FmHA affirmative action.* (1) It is the policy of the Farmers Home Adminstration to administer its FmHA housing program affirmatively so individuals of similar income levels in the housing market area have housing choices available to them regardless of their race, color, religion, sex or national origin. Applicants and participants in FmHA housing programs who request approval for subdivision development involving five or more sites, multi-family projects with five or more units, or five or more conditional commitments for dwelling units during a 12-month period must submit an affirmative fair housing marketing plan. Any real estate broker who agrees to list acquired rural housing properties on a term basis as described in § 1955.118(c) of this chapter must sign a nondiscrimination certification. The Farmers Home Administration will develop, maintain and operate an affirmative fair housing marketing plan for acquired properties managed in accordance with § 1955.63 of this chapter and offered for sale in accordance with § 1955.117 of this chapter. Such applicants shall pursue affirmative fair housing marketing policies in soliciting buyers and tenants; in determining their eligibility; and in concluding sales and rental transactions.

(2) The affirmative fair housing marketing plans must be submitted as follows:

(i) For subdivisions—with the preliminary submission of plans and specifications.

(ii) For rural rental housing, labor housing and rural rental site projects—with the AD 621, "Application for Federal Assistance" or with the letter of application.

(iii) For conditional commitment of five or more individual dwelling units in a 12 month period with the application for the fifth conditional commitment.

(3) Affirmative fair housing marketing plans will be submitted on form HUD–935.2 (3–76) or a narrative statement which includes:

(i) A statement of the seller's proposed efforts to reach those persons in the marketing area who traditionally would not be expected to apply for housing.

(ii) A description of efforts undertaken and/or planned to maintain a nondiscriminatory hiring policy in recruiting for staff engaged in the sale or rental of properties.

(iii) A description of methods used to train and instruct employees engaged in the sale or rental of properties in the policy and application of nondiscrimination and fair housing.

(iv) A commitment to display in all sales and rental offices the "Fair Housing" poster.

(v) A commitment to post in a conspicuous position on each property a sign displaying the equal housing opportunity logo or the following statement, "We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex or national origin."

(vi) A description of efforts to publicize the availability of housing opportunities to minority persons through the type of media customarily used by the applicant or participant. As part of this effort, all advertising must include either the equal housing opportunity logo or statement.

(4) Affirmative fair housing marketing plans will cover the following time periods:

(i) For subdivision, from time of application until all lots are sold.

(ii) For multi-family projects, from time of application until loan is paid in full.

(iii) For conditional commitments for individual dwelling units, one year.

(5) Affirmative fair housing marketing plans for conditional commitments will be reviewed and approved by the County Supervisor. The County Supervisor will review and submit with any comments other fair housing marketing plans to the State Office for approval. Any applicant or participant covered by this section must have an affirmative fair housing marketing plan for subdivisions, conditional commitments, or multi-family project approved after the issuance of these regulations.

(6) Approved affirmative fair housing marketing plans will be made available by the applicant or participant for public inspection upon request at the appropriate sale or rental office.

(7) Applicants failing to comply with these requirements will be liable to sanctions authorized by regulations, rules or policies governing the program in which they are participating including but not limited to denial of further participation in FmHA programs and referral to the Department of Justice for suit by the United States for injunctive or other appropriate relief.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

Dated: February 28, 1977.

F. W. Naylor, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–6056 Filed 3–8–77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 211 and 212]

ALASKA NORTH SLOPE CRUDE OIL

Pricing and Entitlements Treatment

AGENCY: Federal Energy Administration ("FEA").

ACTION: Notice of Inquiry (Advance Notice of Proposed Rulemaking).

SUMMARY: FEA is considering what amendments to its price and allocation regulations, if any, will be necessary in anticipation of the first deliveries of crude oil from Alaska North Slope ("ANS") production in August or September, 1977.

This notice of inquiry is being issued in order to obtain preliminary comments from interested persons with respect to regulatory treatment of ANS production, which is expected to provide an estimated 8 to 12 percent of total U.S. refinery needs in 1978 and 1979. FEA seeks initial comments at this time, in advance of formal proposed rulemaking procedures, particularly in view of the report which must be submitted to the Congress on April 15, 1977, under section 8(g) of the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"), concerning the effects of price and allocation regulations on ANS and other domestic crude oil production, and with respect to the matter of exclusion or inclusion of ANS production under the national statutory composite crude oil price established by section 8 of the EPAA.

In general, this notice outlines several price and allocation (entitlements program) issues which are raised by the prospect of significant volumes of ANS crude oil being added to domestic production this year. Included are issues relating to the appropriate wellhead price for such crude oil and the appropriate treatment of such crude oil under the entitlements program. These issues are complicated by (1) the unusually large—$5 to $8 per barrel—anticipated cost of transportation of ANS crude oil through the Trans-Alaska Pipeline System ("TAPS"), then by tanker to West Coast ports, and in some cases further by pipeline or other means to mid-continent refineries; and (2) uncertainties concerning the volumes of ANS crude oil that will be transported by various means to different markets. These transportation costs will influence the national average composite price, as they reduce the wellhead price used in composite price computations.

ANS production would not bring a price at the refinery in excess of the landed cost of imported crude oil, which currently is approximately $2.00 per barrel above the average delivered cost for upper tier domestic crude oil. If ANS production were treated as upper tier crude oil under the entitlements program (which results in roughly equivalent costs to the refiner of upper tier and imported crude oil), the wellhead price that could be realized by ANS production would be reduced, under current market conditions, by about $1.50 to $2.00 per barrel. In order to permit ANS production to be priced to the refiner at a level equivalent to that of the landed cost of imported crude oil, thereby to provide higher wellhead prices, it may be necessary to modify entitlements treatment for ANS production to some extent, either with respect to ANS production destined for mid-continent refineries, or with respect to all ANS production.

COMMENTS BY: Monday, March 21, 1977, 4:30 p.m.

ADDRESS TO: Executive Communications, Room 3309, Federal Energy Administration, Box LB, Washington, D.C. 20461.

HEARINGS: 1. *Washington Hearing:* March 21, 1977, 9:30 a.m., Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

2. *San Francisco Hearing:* March 22, 1977, 9:30 a.m., Federal Court House, Court Room No. 15, 7th and Mission Streets, San Francisco, CA 94111.

3. *Anchorage Hearing:* March 23, 1977, 9:30 a.m., Federal Court House Bldg., Conference Room 284, 605 W. 4th Ave., Anchorage, Alaska 99501.

REQUESTS TO SPEAK BY: Wednesday, March 16, 1977, 4:30 p.m.

ADDRESS TO: National Office, San Francisco Office, or Anchorage Office, at addresses listed, in Section E, below.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette, (202) 254–3345

SUPPLEMENTARY INFORMATION:

A. Background.
B. General Price and Allocation Issues.
C. Adequacy of Assumed Wellhead Price.
D. Other Considerations.
E. Comment Procedures.

A. Background

1. *FEA Crude Oil Price and Allocation Regulations.* The landed cost for imported crude oil (i.e., the cost of acquisition plus transportation to the United States) ranges from about $13.00 per barrel to over $15.00 per barrel, depending upon country of origin, grade and quality of crude oil, and location of the U.S. port. These prices represent a more than four-fold increase in the cost of imports since early 1973. Congress has determined that U.S. domestic crude oil prices should not generally be allowed to rise to the import (world market) level, but should be held at levels which minimize undue inflationary or other harmful effects on the U.S. economy while at the same time provide sufficient incentives to producers to achieve maximum production of domestic crude oil.

Under the EPAA amendments enacted in 1975 by the Energy Policy and Conservation Act, Congress provided FEA with flexibility to control domestic crude oil prices as long as the national weighted average first sale price (composite price) did not exceed $7.66 per barrel applicable to crude oil produced and sold in February, 1976. Beginning in March, 1976, FEA was authorized to increase the statutory composite price to reflect the effects of inflation and to provide production incentives. Under present authority, the statutory composite price is adjusted upward at the rate of 10 percent annually.

Under FEA price regulations adopted to implement the statutory composite price restrictions, domestic crude oil is classified as lower tier (about 50 percent of total production), upper tier (about 36 percent) and stripper well (about 14 percent).

Stripper well crude oil, which is production from properites which have declined to a level of 10 barrels per day per well or less for a 12-month period, is permitted by statutory authority to be sold at market price levels, so as to encourage continued production from such marginal properties for as long as possible. For purposes of the statutory composite price computation, stripper well crude oil is given an imputed value which approximates the average upper tier price. (See, Section 121 of the Energy Conservation and Production Act, enacted August 14, 1976.)

Upper tier crude oil generally includes production from properties which first began producing after 1972 (except those which qualify as stripper well properties), plus incremental production from older properties which exceeds a certain base production level. The upper tier price (an average of $11.64 per barrel at the end of 1976, or roughly $2 below the landed cost of imported crude oil) is generally designted to stimulate additional production from older properties and to encourage further exploration and development of domestic crude oil resources.

The lower tier price, which averaged about $5.17 nationally at the end of 1976, applies to all U.S. production which is not exempt or which does not qualify as upper tier crude oil.

In December, 1976, the latest month for which actual (preliminary) price data is currently available, the actual composite price for domestic crude oil was $8.40. Because this amount exceeded the adjusted statutory composite price for December of $8.24, FEA has taken corrective action to achieve compliance with the composite price restriction by temporarily deferring further increases in lower tier prices and temporarily reducing upper tier prices by 65 cents per barrel through July, 1977 (see 42 FR 13013, March 8, 1977).

While a composite price for domestic crude oil can be easily determined by weight-averaging the first sale prices (or imputed first sale prices) of crude oil under the three price classifications, it is more difficult to achieve an actual marketplace result in which each refiner pays approximately the equivalent of a national average price for all domestic and imported crude oil purchases. Each refiner generally has a different "mix" of lower tier, upper tier, and exempt or imported crude oil, due to historical purchasing patterns and refinery location. Thus, without some kind of compensating or equalizing device, a refiner with access to an above-average proportion of lower tier crude oil, with its lower price, would have a competitive advantage over another refiner that could obtain only higher-priced imported or upper tier crude oil.

The FEA domestic crude oil allocation (entitlements) program is designed to approximately equalize the cost of crude oil purchases among U.S. refiners. Essentially, the entitlements program

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(subject to certain qualifications), by requiring transfers of cash through purchases and sales of entitlements among refiners, achieves the same result as if FEA had directly allocated to each refiner a "mix" of lower tier, upper tier, and exempt or imported crude oil that reflected the national supply ratios for each of these pricing categories of crude oil.

Stated another way, the entitlements program operates so that lower tier crude oil, upper tier crude oil, and exempt or imported crude oil all have relatively equivalent effective acquisition costs to the refiner (subject to certain qualifications). Because entitlement benefits and obligations are determined on the basis of average acquisition costs for the category of crude oil concerned, domestic crude oil which has a cost (due to higher than average transportation charges) to the refinery which significantly exceeds the average cost for crude oil of the same tier classification and quality, may not be competitive with imported crude oil of similar quality even though the landed cost of the imported crude oil is significantly higher.

2. *The April 15 Report on ANS Production.* Section 8(g) of the EPAA requires the submission of a report to Congress on April 15, 1977, as to whether the FEA price and allocation regulations "will provide positive price incentives for the development of" ANS production "without lessening needed incentives for sustaining or enhancing crude oil production in the remainder of the United States."

Because the statutory composite price limitation applies to nearly all domestic production, the inclusion of ANS production at upper tier or exempt price levels—or at any other level above the adjusted statutory composite price—would require an offsetting reduction in prices applicable to other controlled domestic production. Thus, the conference report relating to section 8(g) explains that section as requiring a report on "the adequacy of the then-current weighted average (adjusted statutory composite) price to provide positive incentives for the development of Alaska (North Slope) oil production without reducing ceiling prices and production incentives in the lower forty-eight states."

Section 8(g) goes on to provide that if the finding of the report is that the then-current maximum weighted average price is not adequate to provide such positive incentive for domestic production, a proposed regulation amendment may be submitted with the April 15 report (or at a later date) which would exclude from the statutory composite price limitation up to two million barrels per day of crude oil flowing through the Trans-Alaska Pipeline. Any such proposed amendment must include a regulation specifying a ceiling price or prices for such excluded Alaska production, accompanied by findings justifying the level of the proposed ceiling(s), and the average of the proposed ceiling(s) cannot exceed "the highest actual weighted first sale price permitted under (FEA regulations) for significant volumes of any other classification of domestic crude oil." Such a proposed amendment is subject to disapproval by either house of Congress during a period of 15 sessional days.

If such a proposed amendment is disapproved, an additional proposal for exclusion of ANS production from the statutory composite price may be submitted within 30 days. If either the first or second proposal becomes effective, further proposals to modify the ceiling price(s) applicable to ANS production may not be submitted until January 1, 1978, and thereafter at not more frequent intervals than every 90 days.

3. *ANS Production Data.* ANS production is expected to begin flowing into the northern end of TAPS in mid-June, 1977. However, outflow at the southern terminus (Valdez, Alaska) is not expected to occur until August, with the deliveries at West Coast ports anticipated to commence in September, 1977.

It is planned that the initial flow will be at a level of 600,000 barrels per day. A flow rate of 1.2 million barrels per day is expected to be achieved in December, 1977. ANS production is expected to continue at this level through May, 1979, when current crude oil price authority becomes discretionary rather than mandatory under the EPAA. Depending upon further pipeline improvements and additional pumping capacity, a flow of up to 1.6 million barrels per day could be achieved in the early 1980's. A level of up to two million barrels per day might be attained in the mid-1980's, depending upon further exploration and field development in northern Alaska.

Substantial flow volumes, although at declining rates, are expected to be achieved over a period of approximately 25 years. Total recoverable reserves (Prudhoe Bay Field) are currently estimated at between 10 to 12 billion barrels.

Based on domestic crude oil production in 1976 of approximately 8.1 million barrels per day and a continuation of the current rate of decline of "lower 48" production, the ANS 1978 flow rate of 1.2 million barrels per day would represent about 12 to 13 percent of total domestic production.

B. General Price and Allocation Issues

In the absence of special price rules for Alaska North Slope (ANS) production, first sales of that production would qualify for the upper tier price under FEA price regulations since it is all "new" crude oil. Data reported to FEA for domestic crude oil sales in November and December, 1976, indicate average upper tier crude oil first sale prices in the range of $11.62–$11.64 per barrel (in contrast to an average of $5.17 for first sales of lower tier crude oil and an average of $13.30 for first sales of exempt domestic crude oil). As noted, these price levels reflect the "first sale," which normally occurs at the wellhead. In order to provide equivalent treatment for all producers, the "first sale" is one which occurs (or is imputed to occur) in all cases at the wellhead and one which therefore excludes cost of transportation of crude oil beyond the lease or unit from which it was produced.

Assuming that the landed cost on the West Coast of ANS production would not exceed under any circumstances the landed cost of imported crude oil of equivalent quality, ANS production could not be sold at upper tier wellhead prices because the high cost of transportation via pipeline and freighter to West Coast ports would bring the total cost of ANS crude oil to a level more than $3 per barrel in excess of the CIF West Coast price of imported crude oil, at current world market prices. The difference in price is illustrated in the table below.

TABLE 1

Illustrative ANS price at upper tier wellhead price

Average upper tier price	$11.64
Estimated pipeline (TAPS) tariff	5.00
Estimated transshipment cost to west coast	.76
Total west coast price	17.40

Illustrative import price

Saudi Arabian crude oil f.o.b. Ras Tanura	12.10
Transshipment to west coast	1.43
Import fee	.21
Total west coast price	13.74

NOTE.—TAPS tariff levels have not yet been officially established. Current estimates range from $4.50 to $6.10/bbl. Intercoastal and international shipping costs vary according to tanker size, length of voyage, and other factors. Crude oil prices may vary according to grade and quality. Thus, cost and price figures used in table 1 and elsewhere in this notice are for purposes of illustration only, in order to facilitate discussion of the issues presented.

It appears, therefore, more appropriate in determining the first sale price for ANS production to use the West Coast market price for imported crude oil of a comparative quality with ANS crude oil as the beginning point of reference and work back toward the wellhead price by subtracting transportation cost elements. Thus—

TABLE 2

CIF west coast market price	$13.74
Less: Transshipment from Alaska (Valdez) to west coast	.76
Maximum price at Valdez	12.98
Less: Estimated pipeline tariff (TAPS)	5.00
Estimated wellhead price (rounded)	8.00

One option to be considered by FEA is to make no change in the price regulations and thus permit ANS production to be classified as upper tier crude oil, it being understood that market forces and transportation costs would confine ANS wellhead prices to a level significantly below the average upper tier price. This approach would, of course, reduce or increase the actual composite price, depending on whether transportation costs result in the first sale price of ANS crude oil being above or below (the

composite price for all other domestic crude oil. (The statutory composite price, $8.24 per barrel in December, 1976, if it continues to increase at an annual rate of 10 percent, will rise to $8.79 by August, 1977.) A reduced actual composite price would generally benefit all producers since it would, at least initially, reduce the actual composite price below the statutory maximum and thus reduce the need for the price reductions or price freezes that FEA has found it necessary to impose in recent months in order to assure that actual composite price remain within the statutory maximum. It might also allow a means of affording additional incentives for domestic production.

However, if ANS production is accorded upper tier classification for purposes of the entitlements program, CIF West Coast prices for ANS crude oil could not be maintained at levels equivalent to CIF West Coast prices for imported crude oil, because the entitlements program affords imported crude oil a significantly higher entitlement value than upper tier crude oil. If ANS crude oil is to be priced at levels comparable to imported crude oil, it would therefore appear that the entitlements regulations would have to be modified to afford ANS production an entitlement value equal to that of imported crude oil. Comment on this approach is requested.

Another alternative would be to assume the average acquisition cost for upper tier crude oil (approximately $11.64 in December, 1976) as the West Coast refinery price and determine the wellhead price by subtracting intercoastal transshipment and Alaskan pipeline tariff costs. ANS production would thus receive upper tier entitlements treatment under FEA regulations. However, the ANS wellhead price under this approach would approximate the lower tier price average, a level which may not provide sufficient returns to ANS producers to assure full development of ANS production (see next section). Comment on this alternative is requested.

Still another alternative might be to provide a ceiling price for ANS crude oil equal to the maximum composite price under the EPAA. This would serve to protect against the eventuality that the gap between upper tier and imported crude oil might widen to such an extent that ANS crude oil would be priced higher than the composite price. Entitlements treatment would be as an import or, if necessary, as a separate tier.

As already noted, section 8(g) of the EPAA permits the submission of an "energy action" to exclude up to two million barrels a day of ANS crude oil production from the actual composite price computation and to establish an ANS ceiling price which does not exceed the ceiling price for "significant volumes of any other classification of domestic crude oil." However, the submission of such an energy action is conditioned upon a finding that the price required to provide positive price incentives for development of ANS production would have the effect (because of the composite price limitation) of reducing or limiting ceiling prices for other domestic crude oil to levels which would result in less production of such crude oil than would otherwise occur. In view of the foregoing analysis, indicating that inclusion of ANS production as upper tier crude oil under current market conditions would probably not have a negative impact on the actual composite price calculation and would not therefore operate to reduce production of other domestic crude oil, comment is requested on the appropriateness of a request for exclusion from the statutory composite price under EPAA section 8(g) at this time.

Prior to the four-fold increase in the price of imported crude oil during 1973–74, it was expected that all ANS production would be used in Petroleum Administration for Defense ("PAD") District No. 5, consisting of Alaska, Hawaii, Washington, Oregon, California, Nevada and Arizona, to meet rising demand and as import replacement. However, substantially higher prices for imported and domestic crude oil, a slow-down in economic growth in the 1974–75 period, and other factors have significantly reduced current and project demand for petroleum products in PAD District 5. In addition, the rate of decline in crude oil production in PAD District 5 (as well as in other regions) has not been as great as anticipated in 1973, perhaps because of the increased incentives created by higher prices, and unanticipated production from the Elk Hills Naval Petroleum Reserve. Offshore drilling activities have also increased West Coast crude oil supplies. Simultaneously, for a variety of reasons, the substantial degree of refinery conversion that would be necessary on the West Coast to process ANS production and was predicted in 1973 has not occurred. Finally, due to refinery limitations in PAD District 5, it is expected that 300 to 500 thousand barrels per day of imported crude oil will continue to be needed in PAD District 5 in the 1978 to 1980 period. FEA now estimates that approximately 35 to 50 percent of ANS production will be surplus to PAD District 5 needs between 1978 and 1980, due to significantly altered PAD District 5 supply/demand projections since 1973.

It is expected that most of ANS production in excess of PAD District 5 needs will initially be transported by tanker to the Gulf Coast and later via pipeline systems to Northern Tier, Midwest and Gulf Coast refiners. The cost for such additional transportation to the mid-continent is expected to be $1.50 to $2.25, depending upon the transportation alternative selected and distance to the refinery concerned. To the extent this incremental cost exceeds the incremental cost of delivery of imported crude oil from Gulf Coast ports to the refinery gate (including import fees), the wellhead price must be further reduced below the average upper tier price level for the refinery-gate price to remain competive in mid-continent markets.

As noted in the discussion of sales of ANS production in PAD District 5 markets, treatment of ANS production as upper tier crude oil results in a competitive disadvantage to ANS production compared with imported crude oil, assuming equivalent costs to the refiner, because of the significant entitlement advantage to be gained from purchasing imported crude oil. Therefore, it appears that ANS production destined for the mid-continent market would have to be treated as uncontrolled crude oil for purposes of the entitlements program, if it is to be priced in those markets at levels comparable with costs of imported crude oil. Comments are requested on this approach for mid-continent markets for ANS production.

Comment is also requested on the authority of FEA to afford one kind of entitlements treatment to ANS production to be refined in mid-continental regions and another to ANS production for consumption in PAD District 5, if deemed necessary to achieve the goals of the EPAA concerning development of ANS production in particular and equitable allocation of crude oil at equitable prices in general. Such differential entitlements treatment would serve to "equalize" the transportation cost differential between the West Coast and the mid-continent. The current difference between the average cost of upper tier crude oil and the average landed cost of imported crude oil approximates this transportation differential only by happenstance, however, and differenetial entitlements treatment to alleviate transportation cost disparities might ultimately lead to a fourth tier in the entitlements program.

C. Adequacy of Assumed Wellhead Prices

The preceding section examined issues arising from an assumed refinery acquisition cost for ANS production which is at or below the cost of imported crude oil to the refiner. This section explores the question of the adequacy of the price at the wellhead if ANS production is sold to refiners at or near world market price levels.

As noted, if the refinery acquisition cost for imported crude oil is about $13.74 per barrel (CIF West Coast market price), under the assumption that adjustments to the entitlements program are made which would permit ANS production to be sold at comparable price levels, then the wellhead price derived from subtracting assumed TAPS tariff and intercoastal shipping charges would be $8.00 per barrel. If no such adjustments to the entitlements program are made, the West Coast refinery acquisition price for ANS production would drop to the vicinity of $12.00 per barrel, and the assumed wellhead price would correspondingly drop to the vicinity of $6.25 per barrel. Due to the extra transportation charges to mid-continent refineries, the well head price could be as low as $4.00 to $4.75 per barrel without special entitlement adjustments and perhaps $6.00 to $6.75 per barrel with entitle-

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ment adjustments, with respect to the estimated 35–50 percent of ANS production that is expected to be in excess of PAD District 5 demand.

Under the assumption that regulatory changes will permit ANS production to be treated as imports under the entitlements program in both PAD District 5 and non-PAD District 5 domestic markets, the average wellhead price would appear to be in the vicinity of $7.50 per barrel, under current cost and price assumptions. FEA requests comment on the adequacy of the foregoing alternative price levels to provide an adequate rate of return to producers and to encourage further development of ANS and other Alaskan reserves.

A report prepared for FEA by Mortada International suggested that a rate of return of about 12 percent (discounted cash flow, after-tax real rate of return) on investments in the field plus TAPS would be appropriate and would be provided by a wellhead price between $6.50 and $7.40 per barrel as long as the price continues to be adjusted for inflation.

(The Mortada Study was prepared under contract to the FEA and does not necessarily state or reflect the views, opinions, or policies of FEA. The study, entitled, "The Determination of Equitable Pricing Levels for North Slope Alaskan Crude Oil," dated November, 1976, may be obtained at the FEA Press Room, Room 3138, 1200 Pennsylvania Ave., NW., Washington, D.C. In addition, copies may be obtained by writing to FEA, Office of Communications and Public Affairs, Publications Distribution Center, Washington, D.C. 20461. Copies will also be made available at the FEA regional offices in San Francisco and Anchorage.)

Although somewhat higher rates of return are sometimes expected for higher-risk "frontier" exploration and development activity such as that on the Alaskan North Slope, the Mortada study indicated that the risk factor connected with industry activity on the North Slope was lessened by the intensive exploration program carried out by the Department of the Navy in Naval Petroleum Reserve No. 4 ("NPR No. 4") prior to 1953. (NPR No. 4 is adjacent to the Prudhoe Bay Field to be served by the Trans-Alaska Pipeline.) This NPR No. 4 program contributed significantly to the geological knowledge of the North Slope, according to the Mortada study. Comments on this assertion are requested.

The rate of return suggested by the study was also influenced by the fact that the ANS exploratory program of the early 1960s may still yield new discoveries in the North Slope region.

The Mortada study takes into account the fact that the principal ANS crude oil field (the Prudhoe Bay Field) consists of three principal hydrocarbon accumulations: (1) the largest accumulation, Prudhoe Oil Pool (includes the Sadlerochit formation), upon which current development plans are exclusively centered; (2) the Lisburne Oil Pool, which underlies the Prudhoe Pool; and (3) the Kuparuk Oil Pool, a separate reservoir overlying the Prudhoe Oil Pool. Only crude oil from the Prudhoe Oil Pool will flow through the Trans-Alaska Pipeline during the first three years of operation. To obtain flow in excess of 1.6 million barrels per day it will be necessary to develop the Kuparuk and Lisburne reservoirs. The Mortada study suggests that the rate of return of about 12 percent is sufficient to result in timely development of the more costly and speculative Kuparuk and Lisburne reservoirs without special price incentive. Comment on this view is requested.

D. Other Considerations

Much of the price, cost, demand and supply data and projections upon which FEA currently relies in connection with ANS production is contained in an FEA draft study entitled "An analysis of the alternatives available for the transportation and disposition of Alaskan North Slope Crude." This study, which is dated November 29, 1976, is available to the public on the same basis as the Mortada study, discussed in the preceding section.

Interested persons may comment on any of the assumptions or projections of the FEA study in response to this notice. However, comment is particularly requested in response to the following specific questions.

1. What are planned TAPS flow levels for 1977–1981? (Estimated on a monthly basis, if possible.)

2. What are the anticipated shipping tariffs for the 1977–1981 period for (1) the Trans-Alaskan Pipeline System to Valdez; and (2) tanker movement from Valdez to (a) Puget Sound, (b) San Francisco, (c) Los Angeles, and (d) the Gulf Coast?

3. What are the total daily volumes of ANS crude oil which are expected to be used in each of the above domestic destinations over time?

Expected daily volume

Market	December 1977	June 1978	December 1978	June 1979	December 1979	June 1980	December 1980	June 1981	December 1981
Puget Sound									
San Francisco									
Los Angeles									
Gulf Coast									
Other									
Total									

4. Will there be sufficient U.S. flag tanker capacity to supply all of the forecasted volume to all of the markets shown in the response to Question 3?

5. Please identify the crudes that will be supplanted by North Slope crudes. FEA requests information as to which imported crudes will be supplanted, which imported crudes will not be supplanted, and whether or not any domestic crudes are expected to be supplanted.

6. Assuming current OPEC prices and treatment for entitlement purposes as uncontrolled crude oil, what are the anticipated wellhead and Valdez prices through September 1981? These estimates should be made in current dollars, without assuming any increases in domestic or foreign crude prices.

Anticipated prices

Market	December 1977	June 1978	December 1978	June 1979	December 1979	June 1980	December 1980	June 1981	December 1981
Wellhead									
Valdez									
Puget Sound									
San Francisco									
Los Angeles									
Gulf Coast									
Other									
Total									

7. What is the effect on the information provided in Question 6 assuming ANS crude oil is upper tier for entitlements and pricing purposes.

8. Should ANS crude oil be included in the domestic composite price? What effect will its inclusion have on the production and use of all other domestically produced crudes?

9. What limitations of refineries in PAD District 5, or elsewhere, are expected to restrict the refining of ANS crude oil? What is the estimated cost of modifications to reduce any limitations? Are there any regulatory impediments to making such modifications?

10. What would be the effect if (1) all ANS crude oil is treated as imported crude oil for entitlements purposes, or (2) only ANS crude oil delivered to mid-continent refineries is treated as imported crude oil?

11. Is the assumption valid that the refinery acquisition cost for ANS production could not exceed the price of imported oil in order to be competitive? Is ANS production likely to create upward pressures on the landed cost of imported oil?

12. Is it necessary or appropriate, in order to insulate the U.S. as much as possible from arbitrary OPEC price increases and to carry out the letter and spirit of the EPAA, to put a regulatory cap on ANS production prices?

13. What would be the effect, either in Alaska or at Elk Hills or elsewhere in California, of shutting in production that exceeds amounts that can be refined in PAD District 5?

14. How does the quality of ANS crude oil compare with the average quality of imported crude oil and the average quality of upper tier domestic crude oil? Would adjustments in the entitlements program to take into account the uniform quality of ANS crude oil be necessary?

E. Comment Procedures

1. *Written Comment.* Interested persons are invited to participate in this inquiry by submitting data, views or arguments with respect to the issues set forth in this notice to Executive Communications, Room 3309, Federal Energy Administration, Box LB, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Alaska North Slope Price and Entitlements Issues." Fifteen copies should be submitted. All comments received by Monday, March 21, 1977, before 4:30 p.m. will be considered.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

2. *Public Hearings.* FEA has determined that in addition to holding a public hearing in this proceeding in Washington, D.C., public hearings will also be held in FEA Regions X (Anchorage, Alaska) and IX (San Francisco, California).

a. *National Hearings.* The Washington, D.C. hearing (the "National hearing") will be held beginning at 9:30 a.m. on Monday, March 21, 1977 and continued, if necessary, on Tuesday, March 22, 1977, in Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C., 20461, in order to receive comments from interested persons on the matters set forth herein. Any person who has an interest in this matter, or who is a representative of a group or class of persons that has an interest in this matter, may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m. on Wednesday, March 16, 1977. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Requests should be submitted in accordance with the "Request Procedures" set forth below.

b. *Regional Hearings.* The San Francisco regional hearing will be held at 9:30 a.m., Tuesday, March 22, 1977, at the location specified below, and will be continued, if necessary, on Wednesday, March 23, at the same location. The Anchorage regional hearing will be held at 9:30 a.m., Wednesday, March 23, 1977, at the location specified below, and will be continued, if necessary, on Thursday, March 24, 1977 at the same location. Any person who has an interest in this matter today or who is a representative of a group or class of persons that has an interest in this matter may make a written request for an opportunity to make an oral presentation. Such a request should be directed to FEA at the address given below for the appropriate Region, and in accordance with the "Request Procedures" set forth below. Requests must be received before 4:30 p.m. on Wednesday, March 16, 1977.

Region	Submit requests to testify to—	Hearing location
IX. San Francisco, Calif.	FEA Regional Administrator, attention: R. Laffel, External Affairs Division, 111 Pine St., San Francisco, Calif. 94111.	Federal Court House, court room No. 15, 7th and Mission Sts., San Francisco, Calif. 94111.
X. Anchorage, Alaska.	Federal Energy Administration, Subregional Office G-11, Federal Office Bldg., 605 West 4th Ave., Anchorage 99501.	Conference room 284, Federal Court House Bldg., 605 West 4th Ave., Anchorage 99501.

c. *Request procedures.* The following request procedures are applicable to both the National and Regional Hearings. Persons requesting an opportunity to make an oral presentation should submit their written requests to the appropriate address for the region in which they wish to appear. Requests should be labeled both on the document and on the envelope "Alaska North Slope Price and Entitlements Issues."

The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he may be contacted through Friday, March 18, 1977. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., Thursday, March 17, 1977, and must, if feasible, submit 100 copies of his statement to Executive Communications, FEA, Room 3309, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, before 9:00 a.m. on Monday, March 21, 1977, for the National hearing, and to the location of the hearing on the day the statement is scheduled to be presented for the Regional hearings.

The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or enidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desired, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to ask a question at the National or Regional hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

Issued in Washington, D.C., March 7, 1977.

Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

[FR Doc. 77-7062 Filed 3-7-77;1:46 am]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 4]

COMMODITY POOL OPERATORS

Proposed Comprehensive Scheme for Regulation; Correction

On February 9, 1977, the Commodity Futures Trading Commission ("Commission") issued a proposed comprehensive scheme for regulation of commodity pool operators, proposed Part 4 of the Commission's regulations. 42 FR 9266,

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(February 15, 1977). An inadvertent clerical error resulted in the omission of several lines from proposed regulation 4.4 (Record keeping by commodity pool operators).

At 42 FR 9274–5, Proposed regulation 4.4 (b) and (c) should read as follows:

§ 4.4 Record keeping by commodity pool operators.

* * * * *

(b) *Retention of certain documents.* Each commodity pool operator shall retain a copy of each statement of account, report, letter, circular, memorandum, publication, writing, advertisement or other literature or advice distributed or caused to be distributed by such commodity pool operator to any pool participant or prospective pool participant or received by such commodity pool operator from any commodity trading advisor with which the commodity pool operator or any pool maintains an advisory services contract.

(c) *Availability of trading record.* The records required to be kept by paragraphs (a) of this section must be made available to any pool participant for inspection and copying during normal business hours at the principal business office of the commodity pool operator immediately upon his request. Copies of any portion of these records requested by any pool participant must be furnished immediately to such pool participant, subject to the payment of reasonable reproduction and distribution costs.

Issued in Washington, D.C., on March 3, 1977, by the Commission.

WILLIAM T. BAGLEY,
Chairman Commodity Futures Trading Commission.

[FR Doc.77–6964 Filed 3–8–77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 210, 240]

[Release No. 34–13309]

LIFE INSURANCE COMPANIES

Quarterly Reporting Requirements

BACKGROUND

On September 20, 1976 the Commission issued Accounting Series Release No. 197 (41 FR 42645) adopting amendments of rules to require increased disclosure of interim financial data by life insurance companies and related holding companies.

Subsequent to publication of the release three errors were noted in the text of the amendments adopted. This release proposes to correct those errors. In addition, a technical amendment relating to foreign private issuers which file Form 6–K (§ 249.306) rather than Form 10–Q (§ 249.308a) is proposed.

The first proposed correction is in Regulation S–X, Rule 3–16(t) (17 CFR 210.3–16) in which the reference in paragraph (1)(i)(C)(v)(a) to subsection (d) should be changed to subsection (iv). The other changes relate to the exemptions from the requirements to file quarterly reports on Form 10–Q in Rules 13a–13 and 15d–13 under the Securities Exchange Act of 1934 (17 CFR 240.13a–13 and 240.15d–13). The Commission's intention when issuing ASR 197 was to require "actively traded" life insurance companies and related holding companies to begin filing Form 10–Q in 1977 and other life insurers in 1978 (with a reconsideration of these less actively traded companies by September 30, 1977). Actively traded for these purposes was to include those "listed" life insurance companies (with securities registered under section 12(b) of the Securities Exchange Act of 1934) and those companies whose shares are traded over-the-counter which meet the specific criteria of Rule 3–16(t) (17 CFR 210.13–16(t)). An error was made in drafting the exemptive language of Rules 13a–13 and 15d–13 (17 CFR 240.13a–13 and 15d–13). As presently written these rules could be interpreted to not require the filing of Form 10–Q by life insurance companies and holding companies having only life insurance subsidiaries which are listed on a national exchange (i.e., section 12(b) securities). This interpretation was not the Commission's intent; however, because a change to these rules technically changes the reporting responsibilities of the "listed" life insurers, this proposal for comments has been issued.

Because the impact of these corrections is limited to only a few companies, and because the Commission's intent to require life insurance companies and their related holding companies whose securities are registered under section 12(b) of the Securities Exchange Act of 1934 (i.e., listed on a national exchange) to file Form 10–Q's beginning in 1977 was previously expressed in ASR 197, the Commission does not propose to change the effective date of the requirements of Rules 13a–13 and 15d–13 (17 CFR 240.13a–13 and 15d–13). As previously published the requirements of these rules regarding life insurance companies and related holding companies are effective for reports filed for quarterly periods in fiscal years beginning after December 25, 1976.

TECHNICAL AMENDMENT

The impact of the disclosure requirements of Rule 3–16(t) (17 CFR 210.3–16) on certain foreign private issuers was unforeseen at the time of its adoption.

Rule 15d–13 (17 CFR 240.15d–13) provides for an exemption from Form 10–Q reporting for registrants subject to the reporting requirements of Form 6–K. Rule 15d–16 (17 CFR 240.15d–16) governs the applicability of Form 6–K and requires reporting thereon by "every foreign private issuer," with several enumerated exceptions. Form 6–K calls for reporting to the Commission on a current basis of certain information, including interim financial information, which has been made public pursuant to foreign law, filed with a foreign stock exchange, or distributed to the security holders. Thus, foreign registrants, with a few limited exceptions, are not required to report interim financial information on Form 10–Q, nor on Form 6–K unless the information has otherwise been compiled and made available to the specified parties.

The Commission believes that foreign private issuers should not be required to provide data pursuant to Rule 3–16(t) (17 CFR 210.3–16) that they do not otherwise provide. An amendment to the rule by addition of new paragraph (t)(6), is therefore proposed to exempt foreign registrants from the application of that rule, except to the extent that the information called for in the rule has been furnished the Commission. Thus amended, the rule will require disclosure in the annual reports of foreign registrants of interim financial information required to be reported to the Commission on Form 6–K. The content of the disclosures will conform to the extent practicable with the existing requirements of paragraphs (1) through (4) of Rule 3–16(t).

PROPOSED AMENDMENTS

Commission actions. The Commission hereby proposes to amend § 210.3–16 and § 240.13a–13 and 15d–13, Title 17, Chapter II, Code of Federal Regulations, as given below.

1. In Part 210 (Regulation S–X), § 210.3–16 is proposed to be amended by changing the reference to (d) in paragraph (t)(1)(i)(C)(v)(a) to (iv) and adding a new paragraph (t)(6) as follows:

§ 210.3–16 General notes to financial statements. (see Release No. AS–4.)

* * * * *

(t) * * *

(6) Paragraphs (t)(1) through (t)(4) of this section shall not apply to a foreign private issuer not required to report quarterly financial information on Form 10–Q (§ 249.308a of this chapter: *Provided, however,* That a foreign registrant which reports or is required to report interim financial information on Form 6–K (§ 249.306 of this chapter) shall disclose such data in the manner provided in paragraphs (t)(1) through (t)(4) of this section with respect to the financial information reported on Form 6–K.

2. In Part 240, § 240.13a–13 and § 240.15d–13 would be amended by revising paragraphs (b)(3) thereof to read as follows:

§ 240.15d–3 Quarterly reports on Form 10–Q (§ 249.308a of this Chapter).

* * * * *

(b) * * *

(3) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1978, if they do not meet the tests specified in paragraph (t)(1)(i) of §210.3–16; or

* * * * *

If adopted these amendments would be effective when issued.

These amendments would be adopted pursuant to authority in sections 12, 13, 15(d) and 23(a) (15 U.S.C. 78*l*, 78o(d) and 78w) of the Securities Exchange Act of 1934. Pursuant to section 23(a)(2) of the Exchange Act the Commission has considered the effect that the proposed amendments would have on competition and is not aware, at this time, of any burden that such amendments, if adopted, would impose on competition not necessary or appropriate in furtherance of the purposes of that Act. However, the Commission specifically invites comment as to the anticompetitive effects, if any, the proposals likely would engender.

All interested persons are invited to submit their views or comments on these proposed amendments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before April 15, 1977. Such communications should refer to File No. S–7679 and will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 28, 1977.

[FR Doc.77–6945 Filed 3–8–77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 16]

[Docket No. R–77–350]

PRIVACY ACT OF 1974

Proposed Implementation

On August 28, 1975, the Department of Housing and Urban Development (hereinafter "Department") published in the FEDERAL REGISTER (40 FR 39729) an Interim Rule creating Part 16 of Subtitle A of Title 24 of the Code of Federal Regulations and implementing the Privacy Act of 1974, Pub. L. 93–579. This Rule was adopted on April 1, 1976, at 41 FR 13917.

The Department hereby proposes to amend Part 16 of Subtitle A of Title 24 of the Code of Federal Regulations as follows:

1. The Department proposes to amend § 16.12(a)(3) so as to permit the Department to charge a fee when an individual requests voluminous records covered by the United States Civil Service Commission's Government-wide published notice of systems of records and the cost of copying such records would be in excess of five dollars.

2. The Department proposes to amend § 16.12(c) so that payment of fees under the Department's Privacy Act Regulations will be made payable to the "Treasurer of the United States" rather than the "U.S. Department of Housing and Urban Development". The proposed amendment also would eliminate the requirement that copying fees must necessarily be paid by individuals before copying will be undertaken.

Interested persons may submit written data, views, or arguments in regard to these proposed amendments to the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street S.W., Washington, D.C. 20410 on or before April 7, 1977.

All written comments received through said date will be considered by the Department in determining whether publication of this proposed amendment would be in the public interest.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the address set forth in the preceding paragraph.

Therefore, the Department proposes the following changes:

1. The Department proposes to amend § 16.12 (a) (3) and (c) of Title 24 of the Code of Federal Regulations to read as follows:

§ 16.12 Fees.

(a) * * *

(3) As requested by the United States Civil Service Commission in its published regulations implementing the Act, the Department will charge no fee to an individual who requests copies of a personnel record covered by that Commission's Government-wide published notice of systems of records: *Provided, however,* That when such records are voluminous and the cost would be in excess of five dollars ($5.00), the Department may, at its discretion, charge a fee.

* * * * *

(c) Payment of fees under this section shall be made in cash, or preferably by check or money order payable to the "Treasurer of the United States," and it shall be paid or sent to the office stated in billing notice or, if none, to the Privacy Act Officer processing the request. Where appropriate, payment may be required in the form of a certified check. Postage stamps will not be accepted.

(5 U.S.C. 552a, 88 Stat. 1896; sec 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

NOTE.—It is hereby certified that the economic and inflationary impacts of this proposed rule have been carefully evaluated in accordance with OMB Circular A–107.

Issued at Washington, D.C., on March 2, 1977.

PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development.

[FR Doc.77–6951 Filed 3–8–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 43n]

GRAND RIVER OTTAWA INDIAN BLOOD

Preparation of a Roll of Persons To Be Used as Basis To Distribute Judgment Funds

FEBRUARY 25, 1977.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Notice is hereby given that it is proposed to add a new Part 43n to Subchapter F, Chapter I of Title 25 of the Code of Federal Regulations. This addition is proposed pursuant to the authority contained in the Act of October 18, 1976 (90 Stat. 2503), governing preparation of a roll of persons of Grand River Ottawa Indian blood to be used as the basis to distribute judgment funds awarded the Grand River Band of Ottawa Indians in Indian Claims Commission docket 40–K.

The purpose of the new Part 43n is to establish procedures to govern preparation of a roll, as provided in the Act, of persons of Grand River Ottawa Indian blood to be used as the basis to distribute the judgment funds.

Section 43n.4 of the regulations provides that applications are to be filed with the Michigan Agency in Sault Ste. Marie, Michigan rather than with the Great Lakes Agency as specified in the Act. The Michigan Agency was established from within the jurisdiction formerly administered by the Great Lakes Agency when the legislation was introduced. The Solicitor's office has advised that since Congress in designating the Great Lakes Agency as the agency to receive applications simply intended that the agency most convenient for the applicants would be used for that purpose that the now more convenient Michigan Agency may be used to receive the applications rather than the Great Lakes Agency.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding these proposed regulations to the Director, Office of Indian Services, Attention: Tribal Government Services, Bureau of Indian Affairs, Washintgon, D.C. 20245, on or before April 8, 1977.

It is proposed to add a new Part 43n to Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations to read as follows:

PART 43n—PREPARATION OF A ROLL OF PERSONS OF GRAND RIVER OTTAWA INDIAN BLOOD TO BE USED AS THE BASIS TO DISTRIBUTE JUDGMENT FUNDS

Sec.
43n.1 Definitions.
43n.2 Purpose.
43n.3 Qualifications for enrollment.

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Sec.
43n.4 Filing of applications and deadline for filing.
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43n.7 Appeals.
43n.8 Preparation of the roll.
43n.9 Certification and approval of the roll.
43n.10 Special instructions.

AUTHORITY: 90 Stat. 2503.

§ 43n.1 Definitions.

(a) "Act" means the Act of October 18, 1976 (90 Stat. 2503), which directs the Secretary of the Interior to prepare the roll of the Grand River Band of Ottawa Indians.

(b) "Secretary" means the Secretary of the Interior or his authorized representative.

(c) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(d) "Area Director" means the Area Director, Minneapolis Area Office or his authorized representative.

(e) "Superintendent" means the Superintendent of the Michigan Agency.

§ 43n.2 Purpose.

The regulations in this part govern the preparation of a roll of persons who possess Grand River Ottawa Indian blood to be used to distribute the judgment funds awarded the Grand River Band of Ottawa Indians in Indian Claims Commission docket 40–K.

§ 43n.3 Qualifications for enrollment.

The roll shall contain the names of persons who meet the following requirements:

(a) They were born on or prior to and living on October 18, 1976;

(b) Their name or the name of a lineal ancestor through whom they claim eligibility appears as a Grand River Ottawa on the roll of the Ottawa and Chippewa Tribe of Michigan, Durant Roll of 1908, containing the Commissioner's recommendation that it be approved except for those persons listed opposite numbers 747, 1331, 2437, 3957, 4462, 4684, 6151, 6273, 6275, 6496, 6525, 7028, 7035 and 7168, and those persons whose names are checked in red pencil, indicating descendants of half-breeds or mixed bloods, and in blue pencil, indicating persons who affiliated with, received rights or were enrolled members of other tribes, approved by the Secretary on February 18, 1910, with the Commissioner's recommendation, or on any available census rolls or other records acceptable to the Secretary;

(c) They possess one-fourth degree or more Grand River Ottawa Indian blood;

(d) They are citizens of the United States; and,

(e) They file or have filed in their behalf applications for enrollment within the time specified in § 43n.4.

(f) In the absence of proof to the contrary, for the purposes of determining degree of Grand River Ottawa blood, all persons named as Grand River Ottawas on the Durant Roll of 1908 with the exceptions specified in paragraph (b) of this section shall be considered as possessing 4/4 degree Grand River Ottawa Indian blood.

§ 43n.4 Filing of applications and deadline for filing.

(a) Application forms may be obtained from the Superintendent, Michigan Agency, Bureau of Indian Affairs, Sault Ste. Marie, Michigan 47983. Completed applications must be received by the Superintendent by close of business on September 2, 1977.

(b) Applications received after that date will be denied for failure to file in time regardless of whether the applicants otherwise meet the requirements for enrollment.

§ 43n.5 Burden of proof.

The burden of proof rests upon the applicant to establish his eligibility for enrollment. Documentary evidence such as birth certificates, baptismal records, copies of probate findings or affidavits may be used to support claims for enrollment. Records of the Bureau of Indian Affairs may also be used to establish eligibility.

§ 43n.6 Action by the Superintendent.

The Superintendent must notify rejected applicants by certified mail, addressee only, return receipt requested, explaining the reason for the adverse action and advising them of their right to appeal to the Secretary.

§ 43n.7 Appeals.

Appeals from rejected applicants must be in writing and filed pursuant to Part 42 of this subchapter, a copy of which will be furnished with each notice of rejection.

§ 43n.8 Preparation of the roll.

The roll shall contain for each person a roll number, name, address, sex, date of birth, and, when applicable, the roll number and name and relationship of applicant to ancestor through whom eligibility is established.

§ 43n.9 Certification and approval of the roll.

The Superintendent shall attach a statement to the roll certifying that to the best of his knowledge and belief the roll contains only the names of those persons who meet the requirements for enrollment. The roll shall be submitted to the Area Director for approval.

§ 43n.10 Special instructions.

To facilitate the work of the Superintendent the Commissioner may issue special instructions not inconsistent with the regualtions in this part.

RAYMOND V. BUTLER,
Acting Commissioner of Indian Affairs.

[FR Doc.77-7000 Filed 3-8-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 865]

AIR FORCE DISCHARGE REVIEW BOARD

Proposed Revision

The title of Subchapter G—Boards, is changed to "Organization and Mission—General."

The Department of the Air Force proposes to revise Subpart B of Part 865, Subchapter G, Chapter VII of Title 32 CFR. The revision explains the use of case summaries and investigative reports; requires applicants to submit contentions and/or isues of fact, law, or discretion via DD Form 293 prior to Board consideration; amplifies review process used by the Board; changes Board decision announcements to include names and votes of Board members, statements of findings and conclusions on all issues relevant to the appeal, and statement of the reasons for the findings and conclusions; establishes a public reading room containing Board decisional announcements indexed by contentions raised during the review process.

Interested persons are invited to comment on the proposed rulemaking on or before April 7, 1977. Data, views, arguments concerning the proposal must be submitted in writing to Colonel Lee, Principal Assistant for Discharge Review Matters, Office of the Secretary of the Air Force (Personnel Council), Commonwealth Building, 1300 Wilson Boulevard, Room 920, Arlington, Virginia 22209. Comments and suggestions submitted will be available for public inspection and copying at the above address.

The revised subpart will read as follows:

Subpart B—Air Force Discharge Review Board

Sec.
865.100 Purpose.
865.101 Statutory authority.
865.102 Organization and purpose of the board.
865.103 Jurisdiction and authority.
865.104 Application for review.
865.105 Board meetings and locations.
865.106 Procedures for hearings.
865.107 Findings, conclusions, and reasons.
865.108 Disposition of proceedings.
865.109 Public disclosures.
865.110 Approval of exceptions to directive.
865.111 Procedures for regional boards.
865.112 Guidance sheet.

AUTHORITY: Sec. 8012, 70A, Stat. 488, Sec. 1553, 72 Stat. 1267, 10 U.S.C. 8012, 1553.

Subpart B—Air Force Discharge Review Board

§ 865.100 Purpose.

This Subpart explains the jurisdiction, authority, and actions of the Air Force Discharge Review Board. It applies to all Air Force activities. This Subpart is affected by the Privacy Act of 1974. The system of records cited in this Subpart is authorized by 10 U.S.C. 1553 and 8012. Each data gathering form or format which is required by this Subpart contains a Privacy Act Statement, either incorporated in the body of the document or in a separate statement accompanying each such document.

§ 865.101 Statutory authority.

The Air Force Discharge Review Board (hereafter called the "Board") was established within the Department of the Air Force under section 301 of the Serviceman's Readjustment Act of 1944, as amended (now 10 U.S.C. 1553). The authority for actions set out in § 865.103 (b) (1) is derived from discretionary authority conferred upon the Secretary of the Air Force under 10 U.S.C. 508(a).

§ 865.102 Organization and purpose of the board.

The Board, a part of the Secretary of the Air Force Personnel Council, is administered and supervised by the Council's Director. An administrative agency, it reviews the discharge (other than a discharge by sentence of a general court-martial) of former military personnel, on its own motion or at the request of a former military member or his or her appropriate representative.

§ 865.103 Jurisdiction and authority.

The Board has jurisdiction and authority in cases of former military personnel who, at the time of their separation from the Service, were members of the U.S. Army aviation components (Aviation Section, Signal Corps; Air Service; Air Corps; or Air Forces) or the U.S. Air Force. The Board does not have jurisdiction and authority concerning personnel of other arms and services who, at the time of their separation, were assigned to duty with the Army Air Forces or the U.S. Air Force.

(a) The Board's review is based on the former member's available military records, contentions submitted by the applicant, and on any other evidence that is presented to the Board. The review, as accorded the applicant by law, is not an adversary proceeding to relitigate the reasons for the applicant's separation. The Board determines whether the type of discharge the former serviceman or woman received is equitable and proper; if not, the Board instructs the U.S.A.F. Military Personnel Center to change the discharge or to issue a new discharge according to the Board's findings. The Board's determination is subject to review by the Secretary of the Air Force.

(b) The Board is not authoized to revoke any discharge, to reinstate any person who has been separated from the military service, or to recall any person to active duty. However, if an applicant was discharged from his or her last period of Air Force service under conditions which would bar his re-entry, the Board may restore the applicant's eligibility to enlist (actual enlistment would be subject to the needs of the service).

(c) The Board, on its own motion, may review a case that appears likely to result in a decision favorable to the former military member, without the member's knowledge or presence. In this case, if the decision is: (1) Favorable, the Board directs AFMPC/DPM to notify the former member accordingly at the member's last known address; (2) unfavorable, the Board returns the case to the files without any record of formal action. If the former member later files an application for review, the Board then reconsiders the case without prejudice.

§ 865.104 Application for review.

An application for review must be submitted within 15 years after the effective date of the former member's discharge, subject to exceptions in § 865.106(h).

(a) The applicant submits a single copy of DD Form 293, Application for Review of Discharge or Separation from the Armed Forces of the United States, with supporting affidavits and other evidence.

(b) The spouse, next-of-kin, or legal representative of a former member may submit the application for the review as agent for the member, but proof of the member's death or mental incompetency must accompany the request.

(c) Applicants forward their requests for review to the National Personnel Records Center (NPRC/MPR–AF), 9700 Page Boulevard, St. Louis, MO 63132. The National Personnel Records Center forwards all available military records of the former members to the Military Personnel Center for further processing to the Board.

(d) Applicants who express a desire to make a personal appearance before the Board have the option of requesting that one Board member be of enlisted status. The Board corresponds with the applicant before the hearing date to determine his or her perference. If requested, one senior noncommissioned officer is appointed as a voting member to the Board which considers the case.

§ 865.105 Board meetings and locations.

(a) The Board consists of five members and assembles to hear all cases. The president convenes, recesses and adjourns the Board. If the president is absent, the next senior member acts as president.

(b) In addition to holding hearings in Washington, D.C., the Board periodically conducts regional hearings at selected locations throughout the Continental United States. Boards are conducted at centralized locations in those areas with the greatest number of applicants. The selected locations enable applicants to have a personal appearance closer to their home. A continuing review and appraisal is conducted to ensure convenience of hearing locations within the Board's budgetary and manpower capability. Administrative details and responsibilities for traveling boards are outlined in § 865.111.

§ 865.106 Procedures for hearings.

(a) The applicant is entitled, by law, to appear in person at his or her request before the Board in open session and to be represented by counsel of his or her own selection. (In this subpart, "counsel" includes members in good standing of the Federal or a State bar, accredited representatives of veterans organizations recognised by the Veterans Administration under 38 U.S.C. chapter 59, and any other person the Board considers to be competent to present the applicant's claim equitably and comprehensively.) he applicant also may present such witnesses as he or she may desire.

(1) There are three methods of presenting a case before the Discharge Review Board. These are:

(i) *Nonpersonal appearance cases.*—When an applicant indicates that he or she does not desire to appear at the Board, and does not desire to be represented by counsel.

(ii) *Personal appearance cases.*—When an applicant desires to appear in person with or without counsel.

(iii) *Nonpersonal appearance with counsel.*—When an applicant does not desire to appear in person but does want to be represented by counsel.

(2) The Government does not compensate or pay the expenses of the applicant, applicant's witnesses, or counsel.

(3) The applicant may submit any documents he or she wishes as evidence for the Board's consideration. All applicants are provided a guidance sheet (§ 865.112) which suggests various types of information which would be beneficial in the Board's review.

(4) Based upon the available military personnel records of the applicant, a summary of the case is prepared for use by the Board in the review process. A copy of this summary is available to the applicant or his/her counsel upon request.

(5) A designated member of each Air Force Discharge Review Board case insures the accuracy and completeness of the file.

(6) When an applicant has requested a personal appearance, the Board sends the applicant (and designated counsel, if any) written notice of the hearing time and place. The notice will normally be mailed at least 30 calendar days before the hearing date. If the applicant wishes, the time limit may be waived, and in such case the Board may set an earlier hearing date. Evidence must be placed in the record to show how and when the notice was given.

(7) If an applicant has requested a personal appearance and, after being notified of the hearing time and place, fails to appear at the appointed time, either in person or by counsel, the right to be present is waived.

(b) The Director, Secretary of the Air Force Personnel Council, ensures that hearings are conducted to afford full and fair inquiries by the Board.

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(1) The Board members and recorder are sworn as are the applicant and witnesses if they decide to testify under oath.

(2) All parts of an applicant's military record that may be viewed by the Board members are made available to the applicant and his/her counsel.

(i) Only investigative reports having a direct bearing on member's discharge may be considered by the Board.

(ii) In cases where applicable investigative reports are in the record, neither Board members nor applicants and their counsel are permitted access to the complete report. An appropriate official prepares an extract of salient information which is included in the summary of the case (without including references to sources of information and other matters that would be detrimental to public interest, if disclosed).

(iii) This unclassified summary may be made available to the applicant and counsel.

(c) The Board, in conducting its inquiries, is not limited by the rules of evidence applicable in judicial proceedings.

(1) Witnesses may present evidence to the Board either in person or by affidavit. If a witness testifies under oath or affirmation, he or she is subject to examination by the Board members.

(2) At the request of applicant or his or her counsel, and at the discretion of the Board, witnesses may be allowed to make unsworn statements in respondent's behalf, in which case they will not be examined by Board members.

(d) Applicants must state clearly and specifically any contention(s) and/or issue(s) of fact, law or discretion having a bearing on their case in order for a written determination to be made in accordance with § 865.107. A DD Form 293 provided for this purpose must be completed or amended prior to the Board's decision.

(e) The Air Force Discharge Review Board employs a three-step process in the review of each case:

(1) *Prejudicial error in the administrative discharge process.* The Board looks for technical errors made by the Air Force in discharging the indivdual.

(2) *Changes in discharge policy since the date of the applicant's discharge.* When no error exists, the Board considers the performance and conduct of the individual during period of military service. In its evaluation of the applicant's performance, the Board applies current policies, attitudes and views.

(3) *Clemency.* The clemency review involves the individual's development before joining the Air Force, the totality of the individual's military service, and post-service adjustment.

(f) The Board may continue an inquiry on its motion or, at its discretion, grant an applicant's (or his or her counsel's) request for continuance if this appears necessary to ensure a full and fair hearing.

(g) The Board, at its discretion and for good cause, may permit an applicant to withdraw his or her request without prejudice at any time before the Board begins its deliberations.

(h) Once the Board has heard and rendered a decision on a case, an application for rehearing is entertained only on the basis of the following:

(1) If the original review did not involve a personal appearance by the applicant and a personal appearance is now desired, a rehearing is granted on application.

(2) If the applicant submits new substantial and reliable information which might reasonably be expected to change the original findings and decision, a rehearing is granted. The granting of a rehearing under this basis is discretionary, predicated on the Board's consideration of the new material submitted.

(3) Where, after the original decision, there have been relevant changes in law either in statute or through court decisions, or changes in Department of Defense and Air Force policies, the board will consider, on application, whether in light of these changes it should rehear the case.

§ 865.107 Findings, conclusions, and reasons.

(a) The Board, in executive closed session, determines the findings, conclusions and reasons in each case. The findings, conclusions, and reasons of a majority of the Board members constitute the Board's decision. A dissenting Board member may file a minority report.

(b) The decision of the Board in each case shall be made in writing. Any review of the Board's decision shall be made in writing.

(c) The decision of the Board and the reviewing authority, if any, shall include a statement of findings, conclusions, and reasons, except where the reviewing authority expressly adopts in whole or in part the statement of findings, conclusions, and reasons of the Board. In those cases where the reviewing authority adopts the Board's statement of findings, conclusions, and reasons, there is no requirement for duplicative publication.

(d) The decision of the Board shall include:

(1) The date, character of and reason for the discharge certificate at issue, including the specific regulatory authority under which the discharge was issued.

(2) Findings on all issues of fact, law or discretion upon which the decision on the application is based.

(3) Findings and conclusions on all other issues of fact, law or discretion raised by the applicant, including claims by applicant that statutory, regulatory and/or constitutional provisions were violated and such other claims made by applicant, which in the opinion of the Board would warrant greater relief than that afforded applicant by the Board's decision if resolved in the applicant's favor.

(4) Conclusion(s) as to whether or not any change, correction, or modification should be made in the type or character of the discharge certificate and/or the reasons and authority for the discharge and, if so, the particular changes, corrections, or modifications that should be made.

(5) A statement of the reasons for the findings and conclusions made in each case.

(e) Advisory opinions or portions thereof containing factual information relied upon for final decision not fully set forth in the statement of findings, conclusions and reasons; or containing advice, recommendation(s) or opinion(s) accepted as a basis for rejecting any of applicant's claims that are not fully set forth in the statement of findings, conclusions, and reasons shall be incorporated by reference in the statement of findings, conclusions and reasons, and appended to the decision.

(f) Statements of findings, conclusions, and reasons are not required in any determination as to whether a rehearing may be authorized, but apply to a final determination of the Board and/or reviewing authority after a rehearing except to the extent findings, conclusions, and reasons exist from any previous hearings and remain unchanged.

§ 865.108 Disposition of proceedings.

(a) When the Board has concluded its proceedings in any case, the recorder prepares a complete record.

(1) *The record includes:* (i) the application for review; (ii) an electromagnetic recording of the hearing, if any; (iii) documentary evidence considered including, by reference only, the applicant's Master Personnel Record; (iv) the findings, conclusions, reasons, and instructions (see § 865.103(a)); (v) minority reports of dissenting Board members, if rendered; and (vi) all other documents necessary to a true and complete history of the proceedings.

(2) The Board president signs the record and the recorder authenticates it as true and complete. (If the recorder is absent or incapacitated, a voting member of the board may authenticate the record.)

(b) For each case, the Board transmits the record of its proceedings and directions to AFMPC/DPMDR, Randolph AFB, TX 78148. That office administratively carries out the Board's directions and reports the results to the applicant and his or her counsel if any.

(c) The final determination, votes of Board members, and the statement of findings, conclusions, and reasons together with any required appendices thereto and minority opinions, if any, shall be sent promptly to the applicant and counsel with the notice of decision in accordance with § 865.108(b). Information that appears to be potentially injurious to the applicant's physical or metal health is furnished only to the guardian or other authorized representative.

(d) Unclassified records of Board proceedings are open to perusal by the Administrator of Veterans Affairs or his or her authorized representative.

§ 865.109 Public disclosures.

(a) Statements of findings, conclusions, reasons, and the record of the votes

of Board members will be made available for public inspection and copying promptly after a notice of final decision is sent to the applicant. If not otherwise listed in the statement of findings, conclusions, and reasons, a list of contentions and/or the issues of fact, law or discretion presented by the applicant will be public with the decision.

(b) Written minority opinions or reports of a Board panel member on the decision of the Board will be made available for public inspection and copying.

(c) To the extent required to prevent invasion of personal privacy, identifying details of applicant and other persons will be deleted from the documents made available for public inspection and copying. Names, addresses, social security numbers, and military service numbers will be deleted. Written justifications, available for public inspection shall be made for all other deletions.

(d) Documents and records provided for public inspection and copying shall be made available at a reading room located at the Pentagon, Washington, D.C.

(e) All documents made available for public inspection and copying in accordance with paragraphs (a) and (b) of this section shall be indexed.

(1) The index will include an identifying characteristic (i.e., case number) for each case; the date, character of, reason for and authority for the discharge challenged therein, the decision of the Board and the reviewing authority, if any; and the issues addressed in the statement of findings, conclusions and reasons.

(2) Each index shall be published quarterly or more frequently and upon request be distributed for sale.

(3) The index will be available for review at all regional locations where the Board meets to hear cases. Notice of hearings to applicants will include information as to where the index may be located for inspection and copying. Index will be permanently maintained only at the permanent Board location.

§ 865.110 Approval of exceptions to directive.

Only the Secretary of the Air Force may authorize or approve a waiver of, or exception to, any part of this Subpart.

§ 865.111 Procedures for regional boards.

(a) The Air Force Discharge Review Board, for the convenience of the applicant, conducts regional board hearings at selected locations throughout the Continental United States. Boards are conducted at centralized locations in those areas with the greatest number of applicants. Selected board locations enable applicants to have a personal appearance closer to their home. As a location is determined, applicants from that area are advised of the date the board will be held. The locations normally are at an Air Force installation for the convenience o fusing existing facilities and selecting board augmentees.

(b) Composition of the Board for these hearings consists of three members from Washington with augmentation by two members from nearby local Air Force resources. One member may be a senior noncommissioned officer (E–8 or E–9) when an applicant requests such membership.

(c) The major commands of the installation selected are required to task the subordinate units to provide two colonels and a senior enlisted person on an additional duty basis, to serve as members of the Board. Detailed information must be provided to the Chief, Personnel Division, of the installation involved before each hearing date.

(d) The administrative staff in Washington processes all cases for regional hearings, establishes hearing dates, and returns the records to the Military Personnel Center at Randolph AFB, Texas, when the case is finalized. Detailed information for the local Board members is provided to the Directors of Personnel of the bases involved approximately four weeks before each hearing date.

(e) Travel and per diem for all board members are funded by the Secretary of the Air Force Personnel Council (SAF/PC). The funding cite number is included in the information provided to the local Board members before each hearing date.

§ 865.112 Guidance sheet.

(a) Regardless of the reason for your discharge, the suggested evidence listed below under No. 1 would be beneficial to the Board. If you can recall the specific reason for discharge (types are shown in left-hand column), additional suggested evidence is shown by the corresponding number in the right-hand column.

Reason for discharge	*Evidence needed by the Board*
Discharge for any reason	Your statement on what happened that caused your discharge, what motivated you.
	Current police record (statement from local police department).
	Statement from schools and colleges (if you are attending or have completed any school or college since discharge, provide a copy of your transcript, diploma, or letter of accomplishment from the school).
	Employment record (be specific—list jobs in order held—who supervisor was—reason for leaving job).
	Participation in civic or community affairs.
	Character references (frank statements about your character from members of your family, family friends, employer(s), family doctor or pastor, and other responsible people in the community).
General ineffectiveness, (unsuitability, unfitness, limited potential/minimally productive).	Indication that your attitude, ability, bearing, and behavior are now improved.
	Indication that your capacity toward organizational loyalty, willingness to work, and dedication are improved.
Financial irresponsibility	Verification of good credit (statements from banks, lending institutions, department stores, etc., that would attest to your financial condition).
	Statement from you on how your previous debts were resolved (paid off, bankruptcy, etc.).
Alcoholism	Verification of good credit (statements from banks, lending institutions, department stores, etc., that would attest to your financial condition).
	Membership in Alcoholics Anonymous—how long.
	Medical statement (statement by competent authority on your physical condition).
Character and behavior disorder.	Medical statement (statement by competent authority on your physical and mental condition).
Hardship	If discharge was for financial reasons: Verification of good credit (statement from banks, lending institutions, department stores, etc., that would attest to your financial condition).
	If discharge was for medical reasons: A medical statement from competent medical authority disclosing the hardship no longer exists.
Civil convictions	If applicable: Statement by competent authority that a pardon has been granted.
Homosexuality	Circumstances surrounding act or acts for which discharged:
	Was the applicant seduced or coerced by someone in authority?
	Was alcohol a factor? Were there any familial or pre-service factors?
	Present status: Married with a family? Are you dating?
	Medical statement: if you have been receiving psychotherapy.
Drug abuse	Statement concerning the underlying causes of the offense:
	Was it because of youthful curiosity? Did you have a need to be a member of the gang? Did you have the habit prior to enlistment?
	Medical statement by competent medical authority if you have been receiving psychiatric treatment.
	Verification of good credit (statements from banks, lending institutions, department stores, etc., that would attest to your financial condition).

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Reason for discharge	*Evidence needed by the Board*
Conscientious objector	Statement from applicant concerning past views and what has happened to change them.
Enuresis	Medical statement by competent medical authority on the applicant's physical condition.
Exceeding weight standards.	Medical statement by competent medical authority on the applicant's physical condition—specifically, your present weight and height.

(b) Fire-related case: If you are advised that all or part of your records were destroyed by the fire in July 1973 at the National Personnel Records Center, it is doubly important that you provide as much evidence as possible to support your request. In these cases, the Board may have limited or no record evidence available to it and must rely on evidence presented by the applicant.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Directorate of Administration.

[FR Doc.77-6955 Filed 3-8-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 695-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS; FITCHBURG, MASS.

Sulfur Content of Fuel Oil Burned by Large Fuel Burning Sources

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved with exceptions the Massachusetts Implementation Plan for the attainment of national ambient air quality standards.

State law requires the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) to periodically review portions of the State Implementation Plan (SIP) to determine if any of the regulations are more stringent than necessary to attain and maintain National Ambient Air Quality Standards (NAAQS). The state law is intended to "minimize the economic cost" of the SIP while still maintaining air standards. Accordingly, on June 25, 1976, the Massachusetts Secretary of Environmental Affairs, Evelyn F. Murphy, submitted a revision for the Central Massachusetts Intrastate Air Quality Control Region ("the AQCR"). This SIP revision requested the relaxation of sulfur limitations in fuel oil burned by large fuel burning sources in the AQCR. This revision was approved by EPA on February 15, 1977. Excluded from this revision, however, were the Cities of Fitchburg and Worcester. The Massachusetts Department has subsequently submitted additional information in support of a seasonal control strategy for large fuel oil burning sources located in the City of Fitchburg.

The proposed strategy for Fitchburg would establish an emission limitation which would allow fossil fuel users of over 100 million Btu's per hour rated energy input capacity to burn 2.2 percent sulfur content fuel oil during 7 months of the year, April through October. During the 5 month heating season, November through March, these sources would be allowed to burn fuel oil with a sulfur content not in excess of one (1) percent. All other sources in Fitchburg would be limited to one (1) percent sulfur content fuel year round.

Technical support documentation submitted by the Massachusetts Department in support of this revision indicates that higher point source emissions could be tolerated in Fitchburg in the summer months when, because of reduced space heating requirements, SO_2 background concentrations are lowest. The modeling analyses were performed for the only four sources under consideration: James River Associates, Inc., Fitchburg Paper Company, General Electric, and Fitchburg Gas and Electric. These analyses were based on the strategy that the sources would only burn the higher sulfur fuel from April through October.

EPA performed additional modeling to evaluate the strategy as proposed and also the effects of burning the higher sulfur fuel year round. Although no violations of the annual NAAQS for SO_2 are predicted if the four sources are allowed to burn 2.2 percent sulfur fuel oil year round, the analyses showed violations of the 24-hour primary SO_2 standard if any of three of the sources were allowed to burn 2.2 percent sulfur fuel, whether such fuel was burned year round or only during the off-heating season. These three sources are: Fitchburg Paper Company, General Electric Company, and Fitchburg Gas and Electric Company. Subsequently, Fitchburg Paper Company requested the Massachusetts Department to revaluate the proposal, including only boilers emitting through Fitchburg Paper Company's 55 meter stack. This analysis indicates that the higher sulfur content fuel could be burned in the Fitchburg Paper Company boilers which emit through the 55 meter stack, without violating the NAAQS for SO_2. James River Associates, Inc. was also shown to be able to burn 2.2 percent sulfur content fuel. Therefore, EPA's analysis of this submittal indicates that the only sources which could be approved to implement the provisions of the revision as submitted by the Massachusetts Department are James River Associates, Inc., and part of Fitchburg Paper Company.

Evaluations of the impact of the revision have indicated that use of higher sulfur content fuel oil may cause an increase in particulate emissions. Violations of the total suspended particulate (TSP) primary annual and 24-hour NAAQS have occurred in Worcester. However, because of the distance between Fitchburg and Worcester, EPA has determined that any increase in particulate emissions resulting from the use of higher sulfur content fuel oil in Fitchburg should not significantly affect existing TSP violations in Worcester. In addition, two violations of the TSP secondary 24-hour standard have been recorded in Fitchburg in the past three years. EPA has reviewed the violation days and determined that none of the sources under consideration for burning higher sulfur fuel impacted on the monitor recording the violations. The Massachusetts Department, however, has been required to study the problem and to develop, if necessary, a SIP revision for the attainment of TSP standards in Fitchburg.

Further, none of the sources for which approval is being considered will be permitted to continue burning higher sulfur content fuel if the source has particulate emissions in excess of the emission limitation established for it in the SIP. This determination will be made from stack emission testing which is a condition of the Massachusetts Department permit for all sources.

If the revision is finally approved by EPA, sources included in the approval must receive a permit from the Massachusetts Department prior to using higher sulfur content fuel. The Massachusetts Department has the authority to require the establishment of a network of continuous ambient sulfur dioxide monitors at specified locations in the vicinity of the facility eligible to burn higher sulfur content fuel. The Massachusetts Department intends to take all actions necessary to assure maintenance of the NAAQS, including requiring any approved sources to return permanently to burning lower sulfur fuel if there are any recorded violations of SO_2 standards in the vicinity of the facility.

Accordingly, EPA has determined that adequate measures will be undertaken to assure that any violations of the NAAQS for TSP, whether or not attributable to the use of higher sulfur fuel, will be corrected in a timely manner.

During the comment period EPA will accept further information on this proposal, which may demonstrate that one or more of the other sources could use fuel with a sulfur content higher than one (1) percent and not violate the NAAQS. In addition, if, subsequent to a final rulemaking notice approving fewer than all four sources, additional information is submitted demonstrating that an additional source or sources can be approved for use of fuel with a sulfur content higher than one (1) percent, this will be done at a later date by another final rulemaking notice without the publication of another proposed rulemaking notice for the City of Fitchburg. Consequently, interested persons are urged to submit comments at this time on the proposed revision, as it would apply to all four sources.

Copies of the Massachusetts submission and EPA's technical review are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, JFK Federal Building, Room 2113, Boston, Massachusetts 02203; Department of Environmental Quality Engineering, Division of Air and Hazardous Materials, Room 320, 600 Washington Street, Boston, Massachusetts, 02111; and the Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

The Regional Administrator hereby issues this notice setting forth the Massachusetts revision as proposed rulemaking and advises the public that interested persons may participate in this rulemaking by submitting written comments to the address below. Comments received will be available for public inspection during normal business hours at the Region I office. All comments should be addressed to: Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203. Relevant comments received on or before April 8, 1977 will be considered.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of section 110(a)(2)(A)-(H) and 110(a)(3) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

(Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 1857c-(5) and 1857(g)).)

Dated: February 28, 1977.

JOHN A. S. MCGLENNON,
Regional Administrator, Region I.

[FR Doc.77-6904 Filed 3-8-77;8:45 am]

[40 CFR Part 180]

[FRL 695-3; PP6E1819/P50]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for Pesticide Chemical Dinoseb

NOTE.—The document was originally published in the Notices section of the FEDERAL REGISTER of March 7, 1977 in error. Therefore, it is being republished in the Proposed Rules section of this issue. This republication also contains corrections to the table in § 180.281.

Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick NJ 08903, has submitted a pesticide petition (PP6E1819) to the Environmental Protection Agency (EPA) on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Idaho and Washington. This petition requests that Administrator, pursuant to section 403(e) of the Federal Food, Drug, and Cosmetic Act, propose that 40 CFR 180.281 be amended by the establishment of tolerances for residues of the herbicide dinoseb (2-*sec*-butyl-4,6-dinitrophenol) in or on the raw agricultural commodities lentil forage, lentil hay, and lentils at 0.1 part per million (ppm.).

The data submitted in the petition and all other relevant material have been evaluated. Although it has been determined that neither chronic studies nor carcinogenic potential analysis have been conducted in support of the proposed tolerances, data on subacute effects (three studies) and teratogenic potential (two studies negative) are available. Furthermore the proposed tolerances present no expectation of real residues, and lentils are of such low consequence in the diet that they are not even included in the dietary intake tables used in the hazard evaluation. It would be expected that the alkanolamine moiety used as the cation in some formulations would not persist or appear in commodities to any greater extent than the nitrophenol. Thus, because there is no predicted exposure from the proposed use, it is concluded that the tolerances of 0.1 ppm in or on lentil forage and hay and lentils will protect the public health. There is a possibility of *N*-nitrosamines as impurities in the herbicide, although this fact has not been confirmed. The Agency will make such determination in the course of its nitrosamine analysis program. In the event of any finding of adverse effect in data generated as a result of EPA reregistration or nitrosamine activities, immediate action will be expectation of residues in eggs, milk, meat, or poultry as delineated in 40 CFR 180(a)(3). It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before April 6, 1977, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, East Tower, Room 401, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before April 6, 1977, and should bear a notation indicating both the subject and the petition/document control number, "PP6E-1819/P50". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: March 1, 1977.

DOUGLAS D. CAMP,
Acting Director, Registration Division.

It is proposed that Part 180, Subpart C, Section 180.281 be revised by editorially restructuring the section into an alphabetized columnar listing and alphabetically inserting a tolerance of 0.1 ppm for lentils, etc., to read as follows:

§ 180.281 Dinoseb; tolerances for residues.

Tolerances are established for residues of the herbicide, insecticide, and fungicide dinoseb (2-sec-butyl-4,6-dinitrophenol) from application of its phenol or its readily hydrolyzable salts (alkanolamine salts, ammonium salt, or sodium salt) in or on raw agricultural commodities as follows:

Commodity:	*Parts per million*
Alfalfa	0.1(N)
Alfalfa, hay	0.1(N)
Almonds	0.1(N)
Almonds, hulls	0.1(N)
Apples	0.1(N)
Apricots	0.1(N)
Barley, forage	0.1(N)
Barley, grain	0.1(N)
Barley, straw	0.1(N)
Beans	0.1(N)
Beans, forage	0.1(N)
Beans, hay	0.1(N)
Blackberries	0.1(N)
Blueberries	0.1(N)
Boysenberries	0.1(N)
Cherries	0.1(N)
Citrus	0.1(N)
Clover	0.1(N)
Clover, hay	0.1(N)
Corn, fodder	0.1(N)
Corn, forage	0.1(N)
Corn, fresh (inc. sweet K+CWHR)	0.1(N)
Corn, grain (inc. pop)	0.1(N)
Cotton, forage	0.1(N)
Cottonseed	0.1(N)
Cottonseed, hulls	0.1(N)
Cucurbits	0.1(N)
Currants	0.1(N)
Dates	0.1(N)
Figs	0.1(N)
Filberts	0.1(N)
Garlic	0.1(N)
Gooseberries	0.1(N)
Grapes	0.1(N)
Hops	0.1(N)
Lentils	0.1(N)
Lentils, forage	0.1(N)
Lentils, hay	0.1(N)
Loganberries	0.1 N)
Nectarines	0.1(N)
Oats, forage	0.1(N)
Oats, grain	0.1(N)
Oats, straw	0.1(N)
Olives	0.1(N)
Onions	0.1(N)
Peaches	0.1(N)
Peanuts	0.1(N)
Peanuts, forage	0.1(N)
Peanuts, hulls	0.1(N)
Pears	0.1(N)
Peas	0.1(N)
Peas, forage	0.1(N)
Peas, hay	0.1(N)
Pecans	0.1(N)
Plums (prunes)	0.1(N)
Potatoes	0.1(N)
Raspberries	0.1(N)
Rye, forage	0.1(N)
Rye, grain	0.1(N)
Rye, straw	0.1(N)
Soybeans	0.1(N)
Soybeans, forage	1
Soybeans, hay	1
Strawberries	0.1(N)
Trefoil, birdsfoot	0.1(N)
Trefoil, hay	0.1(N)

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Commodity:	Parts per million
Vetch	0.1(N)
Vetch, hay	0.1(N)
Walnuts	0.1(N)
Wheat, forage	0.1(N)
Wheat, grain	0.1(N)
Wheat, straw	0.1(N)

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[FR Doc.77-6714 Filed 3-4-77;8:45 am]

[40 CFR Part 700, 710]

[OTS-081001 FRL 690-5]

TOXIC SUBSTANCES CONTROL

General Provisions and Inventory Reporting Requirements

AGENCY: Office of Toxic Substances, Environmental Protection Agency.

ACTION: Proposed rules pursuant to the authority of section 8(a), The Toxic Substances Control Act (Pub. L. 94-469; 15 U.S.C. 2601, et seq., hereinafter referred to as TSCA).

SUMMARY: These proposed regulations would establish a new 40 CFR Part 700 and 710). Part 700, General Provisions, would prescribe the scope of the rules under TSCA and definitions applicable to such rules. Part 710, Inventory Reporting, would prescribe what chemical substances must be reported for inclusion on an inventory of chemical substances required by section 8(b) of TSCA; procedures for reporting chemical substances for the inventory; exemptions from such reporting requirements and certain prohibitions; and procedures for handling claims of confidentiality.

DATES: Comments must be received on or before May 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Cynthia C. Kelly, or George Semeniuk, Office of Toxic Substances (WH-557), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-755-4880).

SUPPLEMENTARY INFORMATION: On December 29, 1976, the Environmental Protection Agency (EPA) announced in the FEDERAL REGISTER (41 FR 56688) the formation of a work group to implement the premarket notification and inventory sections of the Toxic Substances Control Act (TSCA). Earlier, on December 7, 1976, EPA published in the FEDERAL REGISTER (41 FR 53567) a list of issues concerning implementation of the Act. At a public meeting held in Washington, D.C. on December 14 and 15, 1976, representatives from industry, labor, and environmental groups were invited to comment publicly on these issues. Since that time, the work group on premarket notification has met with spokesmen of these interests in the preparation of these proposed regulations.

EPA will be holding another public meeting to discuss these proposed regulations in early April. A future FEDERAL REGISTER notice will announce the exact time and place.

OVERALL APPROACH

THE CANDIDATE LIST APPROACH

Shortly after publicaion of these proposed regulations, EPA will publish in the FEDERAL REGISTER a notice of availability of a candidate list of approximately 30,000 chemical substances compiled from various governmental and private sources. The sole purpose of this candidate list is to simplify reporting by listing these chemical substances with code numbers to be used in reporting them.

A manufacturer must report on EPA form A (for chemical substances on the candidate list) or on EPA form B (for all other chemical substances) all chemical substances he has manufactured for commercial purposes since January 1, 1977. Manufacturers and processors may report on these forms other chemical substances manufactured or processed for commercial purposes since July 1, 1974. Chemical substances which are not reported will not be included on the inventory of existing chemicals and beginning in December 1977 will be subject to premarket notification requirements. Draft reporting forms are included in Appendix I of these regulations for public comment. Detailed instructions concerning use of the candidate list will be published along with that list.

In deliberating alternative approaches to compiling the inventory, EPA considered requiring no further reporting for certain chemicals already known to be manufactured for commercial purposes in accordance with these regulations, and relying instead on information available from the International Trade Commission and other government sources. Unlike the proposed approach, however, such an approach would not create a data base of the manufacturers of each chemical substance in commerce. Such information will be useful in identifying those manufacturers subject to any future EPA notice or requirement with respect to any chemical substance on the inventory and will facilitate communication with the industry.

EPA also seriously considered but decided to postpone gathering information on production, use, byproducts, and impurities. If EPA or another agency wants production or other information about a specific chemical substance, EPA has authority under section 8 to require such information including the chemical identity, impurities, production, use, byproducts, disposal, worker exposure, and available health and safety data. While small manufacturers and processors are exempt from such general reporting requirements, EPA may require them to report concerning chemical substances that are subject to rules under certain sections of the Act. In addition, while EPA recognizes the potential hazards of some impurities and byproducts of a chemical substance, EPA intends to use the alternative authorities of sections 4, 5, 6, 7, or 8(a) of the Act to prevent and reduce any unreasonable risks posed by impurities and byproducts rather than join these objectives with the already difficult task of compiling the inventory.

FUTURE REVISIONS OF THE INVENTORY

Fundamental to EPA's approach is the concept of a dynamic rather than a static inventory. As provided in Section 710.1 of these regulations, EPA intends to revise any categories of chemical substances on the inventory and to make other revisions as appropriate based on information obtained through section 8 of TSCA or other sources. For example, if new toxicological data indicate that some members of a listed category produce adverse health or environmental effects, EPA might delete the category and list each member separately. Accordingly, any proposed new chemical substance which previously would have fallen in that category and would have been exempt from premarket notification requirements would now be subject to such requirements. Such premarket notification requirements would not, of course, apply retroactively. Similarly, in future revisions of the inventory EPA may distinguish among polymers with respect to their structural features, for example, even though the initial inventory will make no such distinctions.

In addition, as new chemical substances are reported to the Agency pursuant to the premarket notification requirements of section 5 of the Act, they will be included in the inventory.

REPORTING FOR THE INITIAL INVENTORY

What chemical substances would be included on the inventory published November 1977? Section 8(b) of the Act specifies that the inventory will include each chemical substance which is manufactured or processed for commercial purposes in the United States within a period not to exceed three years before the effective date of these regulations. EPA proposes to allow chemical substances which were manufactured or processed after July 1, 1974, to be included. Accordingly, the inventory would contain only those chemical substances which were manufactured or processed at some point during the period beginning July 1, 1974, and extending through the effective date of the premarket notification requirements in December 1977.

Who would report to EPA under these regulations to make sure that a chemical substance is included on the list published in November 1977? All persons who manufacture or have manufactured a chemical substance after January 1, 1977, according to these regulations must report such substance to EPA. Since the term "manufacture" includes importation, an importer, as defined in § 700.2 (n), must also report the chemical substances he imported after January 1, 1977. A manufacturer or importer may report any chemical substance manufactured or imported between July 1, 1974, and January 1, 1977. Further, if a chemical substance was manufactured or imported prior to July 1974 but was processed after that date, a manufacturer or importer may report such substance for the inventory if he certifies that the substance was processed after July 1, 1974.

Importers must report not only bulk chemical substances but also those which are contained in imported articles, insofar as known to the importer or reasonably ascertainable. No article may be imported into the United States after the effective date of the premarket notification requirements unless each component chemical substance contained in that article is included on the inventory or the importer has complied with premarket notification requirements. Premarket notification requirements will be further clarified when regulations concerning notification are proposed. EPA specifically solicits comments on these proposed reporting requirements for importers.

While EPA anticipates that most chemical substances in commerce will be reported by the manufacturers or importers of those substances, any person who processes or has processed a chemical substance according to these regulations after July 1, 1974, may report that substance to EPA. Of course, if a processor has knowledge that another person has reported or is reporting a substance, he need not separately report.

Any person who manufactures or processes a chemical substance in small quantities for research, as defined in § 700.2(aa) of these regulations, would be excluded from reporting that substance for the inventory. Further, any person who distributes a chemical substance in commerce in amounts limited to such small quantities to customers who use it solely for such research purposes is excluded from reporting.

As mixtures are excluded from the inventory, a person who manufactures or processes a mixture would not report such mixture. However, each component chemical substance of that mixture would be reported for inclusion on the inventory, as described above.

Since naturally occurring substances such as minerals, plants, and animal products are chemical substances within the meaning of the Act, these chemical substances must be included on the inventory. In § 710.5(a)(4), EPA proposes to exclude the general category of raw agricultural commodities from reporting requirements and from premarket notification requirements, at least initially. The broad category "raw agricultural commodities" will automatically be included on the inventory. Accordingly, manufacturers or processors of raw agricultural, horticultural, and silvicultural products, such as unprocessed cotton, wood, wool, straw, oat hulls, and raw hides, would not report. However, processors who extract chemicals from raw agricultural commodities (e.g., oils, fats, gums, and dyes) are subject to the reporting requirements for compilation of the inventory. Similarly, at § 710.5(a)(5) certain specially designated raw minerals of the candidate list will be excluded from reporting. Mining companies and other processors of such substances would not report. These minerals will automatically be included on the inventory. Other minerals not so designated should be reported for inclusion in the inventory. EPA recognizes that refinement of such categories of naturally occurring substances may be necessary and solicits comments on these proposed categories. Commercial biological preparations, such as yeasts, bacteria, enzymes, and fungi, would be reported. To the extent possible, EPA will include such substances on the candidate list to simplify reporting.

DEFINITIONS

BASIC DEFINITION OF CHEMICAL SUBSTANCE

As defined in § 700.2(d)(1) of these regulations, "chemical substance" means "any organic or inorganic substance of a particular molecular identity, including (i) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and (ii) any chemical element or uncombined radical." Thus, the term "chemical substance" encompasses everything from the basic elements to the most complex organic chemicals. It also includes naturally occurring substances such as coal and wood and any chemical substances derived or extracted from them.

TSCA creates two main types of exclusions to the term "chemical substance." The first are all those combinations of chemical substances which are termed "mixtures." The other exclusions apply to chemical substances insofar as they are regulated under certain other Federal authorities.

DISTINGUISHING MIXTURES FROM CHEMICAL SUBSTANCES

As defined in § 700.2(s) of these regulations, the term "mixture" means

> any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction. Such term does include, however, (1) any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances which react or which comprise the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined; (2) any combination of chemical substances which is the result of solution or hydration; and (3) any combination which occurs as a consequence of a reaction which may take place if a chemical substance which functions as a stabilizer, colorant, antioxidant, filler, solvent, carrier, surfactant, or plasticizer is added to another chemical substance and performs as intended.

In accordance with this definition, certain combinations of chemical substances would be encompassed within the term "mixture" even though there may be some chemical reaction among the component chemical substances. As clarified in clause (1) of the definition, the term "mixture" would include certain reaction-produced combinations of chemical substances which could have been manufactured for commercial purposes without a chemical reaction. To illustrate, a processor might combine two chemical substances, C and D, which do not react to produce a mixture consistent with the basic definition of the term. On the other hand, it may be more efficient to mix the precursor substances of C together with D in one step. Thus, a processor may combine chemical substances A, B, and D. The final product, a mixture of C and D, would be considered equivalent to the mixture made by directly combining C and D. Whether the process of combining the precursor chemical substances involves a chemical reaction is not strictly relevant to the determination of whether the product is a chemical substance or a mixture.

As provided in clause (2) of the definition of "mixture," any combination of chemical substances which are the result of solution or hydration would not be considered produced by a chemical reaction. This clause does not apply to the products of discrete chemical reactions in which either water or solvent is a reactant, e.g., water reacting with an ester to form an acid and an alcohol. However, most glasses, ceramics, alloys, or solvated compounds would be considered "mixtures". For example, a continuously variable set of combinations of oxides forming glasses would be considered to be a set of mixtures of the oxides even though some chemical reactions occur among the oxides. Similarly, the formation of a solution of hydrated sodium and hydrated chloride ions as a consequence of dissolving a sodium chloride crystal in water would be considered a "mixture" of the chemical substances water and sodium chloride.

As provided in clause (3), the addition of stabilizers, colorants, antioxidants, fillers, solvents, carriers, surfactants, or plasticizers would not be considered to be manufacturing "chemical substances" even if there is an incidental reaction upon the additive performing its intended function during or after the processing operation.

As provided in § 710.4(d), polymers and copolymers with the same constituent monomers would be considered equivalent irrespective of the proportion of the major starting materials or catalysts used, variations in average molecular weight, molecular weight distribution, chain structure, or crystallinity. For purposes of the initial inventory, the Agency is considering requiring polymers to be identified in a way that cites every constituent monomer. However, interested parties have argued that EPA pursue an alternative approach. Accordingly, EPA is considering polymer identification based upon only those monomers present at greater than two percent. Further, EPA is considering requiring that each monomer present at levels of less than five or perhaps ten percent be specially designated within that polymer as listed, so that premarket notification would be required before a polymer containing

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more than this percentage of the specially designated monomers could be manufactured. The Agency specifically solicits comments on these alternatives.

EXCLUSIONS TO DEFINITION OF CHEMICAL SUBSTANCES

In addition to excluding any combination of chemical substances which falls within the definintion of "mixture," the term "chemical substance" excludes many substances insofar as they are regulated by certain other Federal authorities. This latter exclusion is intended to be coextensive with the authorities contained in these other Federal statutes.

Any pesticide as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, is excluded from the definition of chemical substance when manufactued, processed, or distributed in commerce for use as a pesticide. A chemical substance is not a "pesticide" within the meaning of FIFRA until its value for pesticide purposes has been established. Therefore, a chemical substance may first be subject to the provisions of TSCA. When its value for pesticide purposes is established and it becomes a component of a pesticide product, it will be subject to FIFRA. EPA invites comment on the extent to which chemicals used at various stages in the manufacture of pesticides are subject to TSCA and should be included in the inventory.

Any food, food additive, drug, cosmetic or device as defined in section 201 of the Federal Food, Drug, and Cometic Act (FFDCA) is excluded from the definition of chemical substance when manufactured, processed, or distributed in commerce for such use(s). There is legislative history indicating that drug intermediates would not be subject to TSCA. The definitions of the FFDCA provide that chemical substances which are used as components of a food, drug, cosmetic, or device are encompassed within the meaning of such terms, respectively. In addition, chemical substances used for drug, food, food additive, or cosmetic research and development, respectively, are encompassed within the FFDCA. Such substances therefore appear to be excluded from the provisions of TSCA when manufactured, processed, or distributed in commerce solely for such uses. EPA solicits comment on this interpretation.

The exclusion from the definition of chemical substance for any pesticide, food, food additive, drug, cosmetic, or device extends only insofar as the substance or mixture is actually manufactured, or processed, or distributed in commerce for use as a pesticide, food, food additive, drug, cosmetic, or device. If a chemical substance is used both as a drug and as an industrial chemical, for example, the exclusion would apply only to the chemical substance when and to the extent it is actually manufactured, processed, or distributed in commerce for use as a drug. If the manufacturer or processor is not able to establish clearly that a chemical substance is ultimately intended for use for an excluded purpose, it would be subject to TSCA.

TSCA also excludes from the definition of chemical substance any nuclear source material such as uranium or thorium, special nuclear material such as plutonium or uranium 233, or nuclear byproduct material, as these terms are defined in the Atomic Energy Act of 1954 and regulations thereunder.

The Act also specifically excludes tobacco or any tobacco products from the definition of chemical substance. This exemption extends only insofar as a chemical substance is manufactured, processed, or distributed in commerce as tobacco or a tobacco product, such as cigarettes or cigars. A chemical substance, such as nicotine, which is derived from tobacco and is processed or distributed in commerce as an industrial or other commercial product would not be exempt from the definition of chemical substance.

Finally, the Act exempts pistols, firearms, revolvers, shells, and cartridges from the definition of chemical substances. Ammunition, accordingly, cannot be regulated under TSCA. The components of ammunition, however, are not excluded from the Act and are considered "chemical substances".

CLARIFICATION OF "MANUFACTURE FOR COMMERCIAL PURPOSES"

Only chemical substances which are manufactured or processed for "commercial purposes" should be included in the inventory or subject to premarket notification. As defined in § 700.2(r) of these regulations, the term manufacture or process for "commercial purposes" would mean to manufacture or process a chemical substance or mixture (1) for distribution in commerce, or (2) for use by the manufacturer or processor. Thus, all chemical substances as defined in these regulations including intermediates, whether or not they are distributed in commerce, would be reported.

EXEMPTION FOR SMALL QUANTITIES FOR RESEARCH

Section 700.2(aa) of these proposed regulations defines the term "small quantities for scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including any such research or analysis for the development of a product", (hereinafter "small quantities for research"), as

> such amounts of a chemical substance manufactured or processed or proposed to be manufactured or processed which meet the following conditions: (1) The quantities are no greater than reasonably necessary for such purposes; (2) the quantities are limited to amounts used solely for such purposes; and (3) after (the effective date of premarket notification requirements) such research is conducted by, or directly supervised by, a technically qualified individual(s).

Such scientific experimentation or analysis on a chemical substance is intended to include quality control testing. The Act excludes from the inventory and from premarket notification any chemical substance which is produced in "small quantities solely for research". Although clause (3) of the definition of "small quantities for research" requires that such research be conducted or supervised by technically qualified personnel, failure to meet such criteria is not grounds for including on the inventory substances which would otherwise have been excluded. EPA intends to clarify further the exclusion of such substances from premarket notification requirements in future regulations.

The term "technically qualified individual" is defined in § 700.2(dd) as "a person who because of his education, training, or experience, or combination of such factors, is capable of appreciating the health and environmental risks associated with exposure to the chemical substance which is used under his supervision, and who because of his position can enforce appropriate methods of conducting scientific experimentation, analysis, or chemical research in order to minimize such risks."

These two definitions are based on the assumption that reduction of the risk during research and development depends not only on the limitations on the quantities produced but also on the degree of control maintained and the expertise of the persons handling the chemical substances. In order to fit within the meaning of "small quantities for research", the proposed approach would require the industry to assure that all activities including preparation, handling, utilization, and disposal are conducted by, or adequately and directly supervised by, technically qualified personnel. These responsible people would have to be made a diligent effort to be informed of all known health or environmental effects of the chemicals under development. Nothing contained herein is intended to remove any responsibilities to inform workers of hazards to which they are being exposed.

In deliberations prior to the proposal of these regulations, various interest groups endorsed this general approach to defining small quanties. The alternatives considered were to define the term "small quantities" by either one general quantly, such as 50 or 500 kilograms, or by different quantities for various broad classes of chemical substances. Both of these approaches would provide a clear demarcation between research and commercial chemicals and thereby assist the industry in determining exactly when the premarket notification provisions apply.

Such approaches may, however, have serious drawbacks. If one quantity was chosen as the limitation for "small quantities for research," EPA would probably be inundated with requests for exemption. The task of selecting different quantities for different product lines is complex. The amounts necessary for development of the same chemical substance may vary significantly depending on whether the substance is a chemical product or a minor component of another product. Such amounts would also depend on the intended application and process equipment used for testing. For example, much smaller quantities of a polymer coating would be necessary for testing specialty papers than for testing merchant grades which are made on larger machines.

Moreover, any specific quantity definition of "small quantities for research" may exclude some legitimate commercial chemicals from the inventory and premarket notification requirements simply because they are manufactured in amounts below the designated quantity. Other chemicals in various stages of research or development, however, may be produced in amounts exceeding the "small quantities" definition. As a consequence, manufacturers would have to submit, and EPA would have to review, premarket notices for some chemicals which may never be introduced into commerce.

Accordingly these regulations would establish a general standard. This approach is consistent with the programs of other countries which have similar laws. For example, the Japanese chemical substances control law which was in effect April 1974 exempts in general terms from premarket notification any new chemical substance which is manufactured solely for testing and research purposes. The Agency explicitly solicits comment on this approach.

COMMERCIAL PRODUCTION OF RESEARCH CHEMICALS

Some chemical companies supply or sell chemical substances to chemical companies, universities, or other institutions solely for research and development purposes. Section 710.5(a)(1) would exclude such chemical substances from the inventory insofar as they are sold exclusively in "small quantities for research," as defined in § 700.2(aa), to customers who use it solely for such purposes. EPA is considering a requirement whereby any person who claims to distribute a chemical substance in "small quantities for research" after the effective date of the premarket notification requirements would have to be prepared to document that assertion upon request. A manufacturer would have to obtain a statement upon each sale or an annual blanket certification from his customers verifying that the chemical substances are used in "small quantities for research." The Agency specifically solicits comments on this proposal.

DISTINGUISHING THE DEVELOPMENT PHASE FROM TEST MARKETING

A chemical substance in a development phase that meets the criteria for "small quantities for research" in § 700.2(aa) is excluded from the inventory and premarket notification requirements. A chemical substance may not undergo test marketing, however, unless the manufacturer or processor complies with, or is granted an exemption from, the premarket notification requirements.

The development phase of a chemical substance is primarily directed to evaluating a product's performance for a proposed use or in a production process or operation. Test marketing, on the other hand, is primarily concerned with evaluating the customer acceptance of that substance for a particular use or the market demand for that product. The evaluation in a test marketing situation is not necessarily conducted by technical personnel.

Accordingly, EPA is proposing in § 700.2(ee) to define the term "test marketing" to mean:

> The distribution of a predetermined amount of a chemical substance or article containing such chemical substance by a manufacturer or processor to a defined number of potential customers for purposes of evaluating that substance or article for a particular use or uses or for assessing the potential demand for the product during a predetermined testing period prior to the distribution of such chemical substance or article in commerce.

Analysis or experimentation by an outside testing laboratory or by a potential industrial user may still be considered part of the development phase of the chemical and not test marketing. Moreover, an industrial user may pay for the cost of the substance without necessarily ending the development phase.

CHEMICAL INTERMEDIATES

In § 700.2(p) the term "intermediate" is defined as "any chemical substance (1) (i) that is deliberately present in a chemical reaction sequence used to produce another chemical substance, (ii) whose presence is known or reasonably ascertainable, and (iii) which could be isolated and identified under conditions which are practically encountered in the environment, or (2) is an intentionally present catalyst".

In practice, chemical reactions do not always precisely coincide with the chemical equation used to describe that reaction. In a long chain of chemical reactions, a chemical substance involved in an early stage may be partially carried over into a subsequent stage where it reacts in part with another chemical substance. EPA does not intend that every minor chemical substance formed incidental to principal chemical reaction sequences would be reported for the inventory.

In general, if a chemical substance is not part of an intended reaction sequence, it would not be considered an intermediate for purposes of the inventory. For example, an intended reaction sequeince might be A+B=C; C+D=E. Yet the substance F may be formed when some of A is not completely reacted with B and is carried over to the subsequent reaction phase where is incidentally reacts with E. While F was produced during the manufacture of E, a commercial chemical, We would not be considered an "intermediate" for purposes of this regulation as it was not an intended part of the chemical reaction sequence.

Consistent with section 8(a)(2) of the Act, EPA would require a manufacturer to report an intermediate for the inventory only insofar as its identity was known to the manufacturer or processor. In some cases various chemical substances exist temporarily during a chemical reaction. Although such substances may be considered as intermediates in a chemical reaction, EPA proposes not to include such substances in the inventory unless they can be isolated and identified under conditions which are practically encountered in the environment. By this definition, it should be clear that EPA would not intend to include such chemical substances which could be isolated and identified only under special laboratory conditions.

With additional testing and increasingly sophisticated sampling and analytical techniques, chemical substances which were present all along in a chemical reaction sequence but undetected will be identified. If such newly detected substances conform with the definition of intermediate, a manufacturer or processor would report them for inclusion on the inventory. If the principal chemical substance was not a new chemical substance, the newly discovered intermediate may be reported to EPA at any time after the publication of the November 1977 inventory. EPA would consider on a case-by-case basis a manufacturer's failure to report the substance previously to fall within the meaning of the phrase "for good cause" at § 710.4(g) and would not require premarket notification.

Section 5(h)(5) of the Act provides the Administrator authority, upon application, to exempt from the premarket notification requirements those chemical substances which "exist temporarily as a result of a chemical reaction" and "to which there is no, and will not be, human or environmental exposure." Clause (1)(iii) of the definition of "intermediate" excludes any short-lived chemical substance which could be isolated and identified only under special laboratory conditions. The exemption provided in section 5(h)(5) would be applicable to those chemical substances which could exist in the environment but which in practice do not. For example, a chemical substance may be formed during a chemical reaction sequence and at all times be totally contained in a reaction vessel or other enclosed facility. These chemicals would be reported for the inventory. Any proposed new chemicals which are at all times totally contained in a reaction vessel may be exempt from premarket notification pursuant to section 5(h)(5) of the Act. EPA will further clarify this exemption provision in regulations issued in November 1977 governing premarket notification.

BYPRODUCTS

As defined in §700.2(c), byproduct means "a secondary chemical substance produced during the manufacture, processing, storage, or end use of another chemical substance or product, provided that the secondary substance does not

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appear only as an impurity of the principal substance or product."

As provided in § 710.5(a)(2)(ii), any chemical substance which is only a byproduct and is not used for any commercial purposes will be excluded from the inventory. Similarly, such byproducts would not be subject to premarket notification.

For example, if a manufacturer processes or sells a byproduct produced during the manufacture of another chemical substance, the byproduct has a commercial purpose and would be reported as any other chemical substance. On the other hand, adhesives, paints, inks, drying oils, and curable plastic molding compounds may undergo certain chemical reactions which produce a different substance or mixture during their storage or upon end use. These substances would be considered byproducts and would be excluded from the inventory as they have no commercial purpose separate from the principal product of which they are a part. Thus, a painter who in effect creates a new chemical substance upon applying paint to a wall or an automobile would be considered to be producing a byproduct which would be excluded from the inventory. The manufacturers of the chemical substance(s) in the paint or other product from which the byproduct is produced would be responsible for meeting any requirement EPA may impose under TSCA respecting such byproduct. EPA intends to consider fully cured resins as byproducts in this sense so long as their polymeric precursors are separately listed as chemical substances. EPA recognizes that the product categories cited above, such as adhesives and paints, may not represent all the products that produce chemical substances upon end use or storage that should be considered as byproducts. The Agency specifically solicits appropriate additions to these examples and any comments on this approach.

IMPURITIES

EPA is proposing to define "impurity" in § 700.2(o) as "a chemical substance which is unintentionally present in another chemical substance." As provided in § 710.5(a)(2)(i), any chemical substance which is only an impurity and is not used for any commercial purpose is excluded from the initial inventory. The presence of an impurity may be known or suspected to contribute to the desired performance of a product and may accordingly not be removed. However, so long as the impurity is not deliberately present in the chemical reaction sequence it would be excluded from reporting for the initial inventory.

CONFIDENTIALITY

Several interested parties have informed the Agency that they intend to claim confidential treatment, pursuant to TSCA Section 14, for the name of one or more chemical substances they produce or for the fact that they are the manufacturers or processors of particular chemical substances for commercial purposes. Both of these types of claims must be asserted in accordance with the Agency's business confidentiality rules contained in Part 2, Subpart B of Title 40 of the Code of Federal Regulations (CFR), and will be disposed of in accordance with the rules of that part.

Proposed § 710.6, in addition, requires any manufacturer or processor when making a claim of confidentiality for a chemical name to furnish the Agency (1) the confidential name; (2) a proposed chemical name for the chemical substance which is only as generic as necessary to protect the confidential identity of the substance; (3) a list of the elements of the chemical substance and its molecular weight; and (4) a bibliography identifying any published literature and summaries of unpublished information concerning the health and ecological effects and environmental behavior of the chemical substance.

EPA would list the proposed generic name or some modification on the inventory to provide the public some indication of the undisclosed substance. Since the substance's specific identity would not have been published, however, the public would not be able to search the scientific literature to assess whether such substance may present an unreasonable risk to human health or the environment. Therefore, the Agency will give particular attention to these chemicals and, as necessary, require the submission of information necessary to assess the environmental acceptability of the chemical substances.

The Agency is considering amending Part 2 of Title 40 of the CFR to require detailed support for any claim that the specific name of a chemical substance is confidential at the same time that the manufacturer or processor asserts such a claim. EPA specifically solicits comments on the practical implications of this modification of the Agency's normal approach. In addition, EPA invites suggestions concerning possible methods of discouraging competitors from submitting exploratory premarket notification inquiries with the sole intent of discovering the confidential identity of chemical substances identified only by generic name on the inventory.

ECONOMIC IMPACT ANALYSIS STATEMENT

Executive Order 11821 (as extended) and OMB Circular A-107 require that major legislative proposals and regulations by agencies of the Executive Branch must be accompanied by a statement certifying that the economic impact of the proposal has been evaluated. EPA's guidelines on Economic Impact Analysis Statements (formerly Inflation Impact Statements) provide that regulations shall be considered a major action and shall require an Economic Impact Analysis under the following conditions: (1) If the incremental annualized costs of compliance, including capital charges, exceed $100 million in any year, (2) the incremental cost of production of any major product exceeds five percent of the selling price of the product, (3) net national energy consumption would be increased by the equivalent of 25,000 barrels of oil a day, or (4) the supply or demand of certain specified materials would be affected by more than three percent.

The Environmental Protection Agency has determined that these regulations do not constitute a major proposal requiring preparations of an Economic Impact Analysis for the reasons discussed below.

The proposed regulations (40 CFR Part 710) require that manufacturers report chemical substances manufactured for commercial purposes according to these regulations for the inventory required by section 8(b) of the Act. Reporting is restricted to the identities of commercial chemical substances and intermediates. EPA is not requiring data on use, production, byproducts or impurities.

As the identities of these chemical substances are generally know to the manufacturers, EPA is not requiring major expenditures to gather new information. Rather EPA is requiring a compilation of information readily available to persons familiar with the process chemistry involved. The total cost of complying with these reporting requirements is estimated to be in the $5 million range. EPA specifically requests comments by the chemical industry on the costs of preparing the accompanying draft reporting forms, including the approximate number of chemicals to be reported on each form (Form A and B), the average number of man-hours required per response, the estimated total man-hours required for responding, and other major costs, such as computer time, that may be associated with reporting.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on these proposed regulations. To receive full consideration, comments must be received on or before May 9, 1977. Comments should be filed in triplicate and bear the identifying notation OTS-081001. Comments should be addressed to the Federal Register Section (WH-557), Office of Toxic Substances, Attention: Vickie Briggs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. All written comments filed pursuant to this notice will be available for public inspection in the Office of Toxic Substances, Room 715, from 8:30 a.m. to 4:30 p.m., Monday through Friday.

The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 2, 1977.

JOHN QUARLES,
Acting Administrator.

It is proposed to establish in 40 CFR Chapter I a new Subchapter R, Toxic Substances, consisting at this time of new Parts 700 and 710 to read as follows:

PART 700—GENERAL PROVISIONS

SUBCHAPTER R—TOXIC SUBSTANCES

Sec.
700.1 Scope.
700.2 Definitions.

AUTHORITY: Sec. 8, Toxic Substances Control Act.

§ 700.1 Scope.

This subchapter sets forth rules pursuant to the Toxic Substances Control Act.

§ 700.2 Definitions.

For purposes of this subchapter:

(a) "Act" means the Toxic Substances Control Act, 15 U.S.C. 2601, et seq.

(b) "Administrator" means the Administrator of the U.S. Environmental Protection Agency or any employee of the Agency to whom the Administrator may either herein or by order delegate his authority to carry out his functions, or any person who shall by operation of law be authorized to carry out such functions.

(c) "Byproduct" means a secondary chemical substance produced during the manufacture, processing, storage, or end use of another chemical substance or product: *Provided*, That a secondary substance does not appear only as an impurity of the substance or product.

(d)(1) "Chemical substance," except as provided in paragraph (d)(2) of this sections, means any organic or inorganic substance of a particular molecular identity, including (i) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and (ii) any chemical element or uncombined radical.

(2) Such term does not include—(i) Any mixture, (ii) Any pesticide when manufactured, processed, or distributed in commerce for use as a pesticide, (iii) Tobacco or any tobacco product, but not including any derivative products, (iv) Any nuclear source material, special nuclear material, or nuclear byproduct material, (v) Any pistol, firearm, revolver, shells, and cartridges, and (vi) Any food, food additive, drug, cosmetic, or device when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

(e) "Commerce" means trade, traffic, transportation, or other commerce (1) between a place in a State and any place outside of such State, or (2) which affects trade, traffic, transportation, or commerce described in paragraph (e)(1) of this section.

(f) "Cosmetic" means (1) articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance, and (2) articles intended for use as a component of any such article; except that such term shall not include soap, (as defined by 21 U.S.C. 321).

(g) "Devise" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory which is (1) recognized in the official National Formulary, or the United States Pharmacopeia, or any supplement to them, (2) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment or prevention of disease, in man or other animals, or (3) intended to affect the structure or any function of the body of man or other animals, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes (as defined by 21 U.S.C. 321).

(h) "Distribute in commerce" and "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture mean to sell, or to transfer the ownership, of the substance, mixture, or article in commerce, to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

(i) "Drug" means (1) articles recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in paragraphs (i)(1), (2), or (3) of this section; but does not include devices or their components, parts, or accessories (as defined by 21 U.S.C. 321).

(j) "Environment" includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

(k) "EPA" means the U.S. Environmental Protection Agency.

(l) "Food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article, (as defined by 21 U.S.C. 321). The term food also includes poultry and poultry products (as defined in sections 4(e) and 4(f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(m) "Food additive" means any substance the intended use of which results or may reasonbly be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any blood (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or in the case of a substance used in food prior to January 1, 1958 through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include (1) a pesticide chemical in or on a raw agricultural commodity; or (2) a pesticide chemical to the extent that it is intended for use or is used in the production, storage or transportation of any raw agricultural commodity; or (3) a color additive; or (4) any substance used in accordance with a sanction or approval granted prior to the enactment of the Federal Food, Drug and Cosmetic Act, the Poultry Products Inspection Act or the Meat Inspection Act; or (5) a new animal drug (as defined by 21 U.S.C. 321).

(n) "Importer" means any person who imports any chemical substance or article containing such substances into the customs territory of the U.S. and includes: (1) The person primarily liable for the payment of any duties on the merchandise, or (2) an authorized agent acting on his behalf (as defined in 19 CFR 1.11).

(o) "Impurity" means a chemical substance which is unintentionally present in another chemical substance.

(p) "Intermediate" means any chemical substance (1) (i) that is deliberately present in a chemical reaction sequence used to produce or process another chemical substance, (ii) whose presence is known or reasonably ascertainable, and (iii) which could be isolated an identified under conditions which are practically encountered in the environment, or (2) is an intentionally present catalyst.

(q) "Manufacture" means to produce, manufacture, or import into the customs territory of the United States.

(r) Manufacture or process for "commercial purposes" means to manufacture or process a chemical substance or mixture (1) for distribution in commerce, or (2) for use by the manufacturer or processor.

(s) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction. Such term does include (1) any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined, (2) any combination of chemical substances which is the result of solution or hydration; and (3) any combination which occurs as a consequence of a reaction which may take place if a chemical substance which functions as a stabilizer, colorant, antioxidant, filler, solvent, carrier, sur-

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factant, or plasticizer is added to another chemical substance and performs as intended.

(t) "New chemical substance" means any chemical substance which is not included in the inventory compiled and published under section 8(b) of the Act.

(u) "Nuclear byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material (as defined by 42 U.S.C. 2014(e)).

(v) "Nuclear source material" means (1) uranium, thorium, or any other material which is determined by the Commission pursuant to the provisions of 42 U.S.C. 2091 to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission may by regulation determine from time to time (as defined by 42 U.S.C. 2014(z)).

(w) "Person" means any natural or juridical person including any individual, corporation, partnership, or association, any State or political subdivision thereof, any interstate body and any department, agency, or instrumentality of the Federal government.

(x) "Pesticide" means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant (as defined by 7 U.S.C. 136 (u)).

(y) "Process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce (1) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or (2) as part of an article containing the chemical substance or mixture.

(z) "Processor" means any person who processes a chemical subsance or mixture.

(aa) "Small quantities for scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including any such research or analysis for the development of a product" (hereinafter sometimes shortened to "small quantities for research"), means such amounts of a substance manufactured or processed or proposed to be manufactured or processed which meet the following conditions: (1) The quantities are no greater than reasonably necessary for such purposes; (2) the quantities are limited to amounts used solely for such purposes; and, (3) after (the effective date of premarket notification requirements), such research is conducted by, or directly supervised by, a technically qualified individual(s).

(bb) "Special nuclear material" means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, or any other material which the Commission, pursuant to 42 U.S.C. 2071, determines to be special nuclear material, but does not include source material; or (2) any material artifically enriched by any of the foregoing, but does not include source material (as defined by 42 U.S.C. 2104 (aa)).

(cc) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

(dd) "Technically qualified individual" means a person who because of his education, training, or experience, or combination of such factors, is capable of appreciating the health and environmental risks associated with exposure to the chemical substance which is used under his supervision, and who because of his position can enforce appropriate methods of conducting scientific experimentation, analysis, or chemical research in order to minimize such risk.

(ee) "Test marketing" means the distribution of a predetermined amount of a chemical substance or article containing such chemical substance by a manufacturer or processor to a defined number of potential customers for purposes of evaluating that substance or article for a particular use or uses or for assessing the potential demand for the product, during a predetermined testing period prior to distribution of such chemical substance or article in commerce.

(ff) "United States," when used in the geographic sense, means all of the States.

PART 710—INVENTORY REPORTING

Sec.
710.1 Purpose and scope.
710.2 Definitions.
710.3 Applicability.
710.4 Reporting chemical substances for the inventory.
710.5 Exceptions and prohibitions.
710.6 Confidentiality.

AUTHORITY: Sec 8, Toxic Substances Control Act.

§ 710.1 Purpose and scope.

This part establishes regulations governing reporting by manufacturers and processors of chemical substances under section 8(a) of the Toxic Substances Control Act (15 U.S.C. 2607) for purposes of compiling the inventory of chemical substances manufactured or processed for commercial purposes required pursuant to section 8(b) of the Act. In accordance with that section, EPA will periodically amend the inventory to include new chemical substances which are introduced into commerce, revise the categories of chemical substances, and make other amendments as appropriate.

§ 710.2 Definitions.

The terms used in this part are defined in § 700.2 of this chapter.

§ 710.3 Applicability.

(a) Except as provided in § 710.5(a), each chemical substance which has been manufactured or processed for a commercial purpose in the United States during the period beginning July 1, 1974, is eligible for inclusion on the inventory published in November 1977 under section 8(b) of the Act.

(b) Any person who manufacturers or has manufactured a chemical substance for commercial purposes in accordance with these regulations after January 1, 1977, must report that chemical substance for inclusion in the inventory of chemical substances required by section 8(b) of the Act.

(c) Any person who manufactured a chemical substance for commercial purposes in accordance with these regulations between the period July 1, 1974, to January 1, 1977, may report that substance for inclusion in the inventory. If a chemical substance was manufactured prior to July 1, 1974, but was processed after that date, a manufacturer may report such substance for the inventory if he certifies that the substance was processed after July 1, 1974.

(d) Any person who processes or has processed a chemical substance for commercial purposes in accordance with these regulations after July 1, 1974, may report that substance for inclusion in the inventory.

(e) Thirty days after the publication of the inventory, manufacturers or processors of any new chemical substance must comply with the premarket notification procedures to be established by regulation pursuant to section 5 of the Act, before manufacturing or processing that chemical substance for commercial purposes.

§ 710.4 Reporting chemical substances for the inventory.

Any person who manufactures or processes a chemical substance that should be included in the inventory shall follow these reporting procedures.

(a) Any person who intends to report a chemical substance for the inventory shall first consult the candidate list of chemical substances published by EPA.

(b) To report a chemical substance on the list for the November 1977 inventory, a manufacturer or processor must complete, sign, and submit to EPA inventory reporting Form A (EPA Form No.).

(c) To report a chemical substance manufactured or processed for a commercial purpose which was not included in the candidate list of chemical substances, a manufacturer or processor shall complete, sign, and submit the appropriate inventory reporting Form B (EPA Form No.).

(d) A polymer shall be considered to be identical to a listed polymer only if the constituent monomers of each are identical.

(e) Any chemical substance which has been manufactured or processed for commercial purposes in the United States between the period July 1, 1974, and September 1, 1977, should be reported between July 1 and September 1, 1977.

(f) Chemical substances manufactured or processed for commercial purposes for the first time in the United States after September 1, 1977, and before the effective date of the premarket notification requirements in December 1977, shall be reported to EPA upon their introduction into commerce.

(g) Any chemical substance which is not reported for inclusion on the inventory in accordance with these regulations is subject to premarket notification requirements for new chemical substances prior to manufacture for commercial purposes unless it can be shown that failure to report for inclusion in the inventory was for good cause.

§ 710.5 Exemptions and prohibitions.

(a) *Exemptions.* (1) Any chemical substance which is manufactured or processed in "small quantities for research," as defined in § 700.2(aa) of this chapter, is excluded from the inventory. Any person who distributes a chemical substance in commerce in amounts limited to such "smal quantities for research" to customers who use it solely for such purposes is exempted from reporting for the inventory.

(2) Any chemical substance which is (i) only an impurity, or (ii) only a byproduct not used for any commercial purpose, is excluded from the initial inventory.

(3) Mixtures are excluded from the inventory. Each component chemical substance of a mixture, however, is to be reported.

(4) Raw agricultural commodities need not be reported. They automatically will be included in the inventory under the broad category of "raw agricultural commodities."

(5) Any mineral specifically designated in Appendix A of the candidate list need not be reported as it will automatically be included on the inventory. Other minerals, however, are subject to these reporting requirements.

(6) Any chemical substance included in the inventory which was not manufactured or processed for a commercial purpose in accordance with these regulations may be deleted at any time.

(b) *Prohibition.* Any manufacturer who fails to report as required by these regulations will be in violation of section 15(3)(B) of the Act and may be subject to penalties provided in Section 16 of the Act.

§ 710.6 Confidentiality.

(a) A manufacturer or processor may assert a business confidentiality claim concerning the chemical name or the fact he manufactures or processes a particular chemical substance for commercial purposes.

(b) Any claim for confidentiality shall be asserted in accordance with the rules of Part 2, Subpart B of Title 40 and will be disposed of in accordance with the rules of that part.

(c) If no claim of confidentiality accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to the business.

(d) If a claim of confidentiality is asserted concerning a chemical name, the manufacturer or processor shall furnish the Agency (1) the confidential name; (2) a proposed name which is only as generic as necessary to protect the substance's confidential identity; (3) a list of the elements of the chemical substance and its molecular weight; and (4) a bibliography identifying any published literature and summaries of any unpublished information concerning the health and ecological effects and environmental behavior of the chemical substance.

(e) All claims of confidentiality must be submitted on a separate form from the form containing information not subject to claims of confidentiality.

APPENDIX I: REPORTING FORMS

The following forms make no provision for claims of confidentiality. EPA is considering use of color-coded forms to separate confidential from non-confidential submissions.

U.S. ENVIRONMENTAL PROTECTION AGENCY
REPORTING CHEMICAL SUBSTANCES FOR INVENTORY
(Section 8(a) and (b), Toxic Substances Control Act, 15 USC 2607)

Form Approved OMB No. A

NOTE: READ ALL INSTRUCTIONS BEFORE COMPLETING

EPA Use Only

1. Company Name and Address:

2. Principal Technical Contact(s):

3. Statement
I hereby certify that the chemical substances designated below have been manufactured, processed, or imported for "commercial purposes", as defined by EPA by regulation, during the period beginning July 1, 1974, to the present. I understand that all information on this form may be made available to the public without further notice.

4A. Signature | 4B. Name and Title (Typed) | 4C. Date (mo,day,yr)

5. LIST OF CHEMICAL SUBSTANCES

No.	CAS Registry No.	Code Designation	No.	CAS Registry No.	Code Designation
1			21		
2			22		
3			23		
4			24		
5			25		
6			26		
7			27		
8			28		
9			29		
10			30		
11			31		
12			32		
13			33		
14			34		
15			35		

CONTINUED ON ATTACHED SHEET

INSTRUCTIONS

(FORM A: LISTING OF INVENTORIED CHEMICAL SUBSTANCES)

Section 8(b) of the Toxic Substances Control Act (15 U.S.C. 2607) requires the Administrator of the Environmental Protection Agency to compile, keep current, and publish a list of each chemical substance which is manufactured or processed for a commercial purpose in the United States within the period not to exceed three years before the effective date of the inventory reporting regulations (40 CFR Part 710).

To aid in such reporting, EPA has published a candidate list of chemicals which is available from the Agency. EPA has reason to believe these chemicals have been manufactured or processed in the United States during the period July 1, 1974, to the present. If any person wishes to report a chemical substance on this candidate list for inclusion on the November 1977 inventory, he should complete this form and certify that he manufactures, imports, or processes the chemical substance consistent with EPA's regulations governing compilation of the inventory.

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A manufacturer or importer must report all chemical substances manufactured or imported for commercial purposes since January 1, 1977. Manufacturers, importers, and processors may report on these forms the chemical substances manufactured or processed for commercial purposes since July 1, 1974.

Every person who completes the attached form should carefully read the regulations (40 CFR Part 710). The completed form should be signed by a responsible officer of the company or his duly authorized designee and sent to the U.S. Environmental Protection Agency, Office of Toxic Substances, Attention: , 401 M Street SW, Washington, D.C. 20460.

Item(s)

1. Company name and address. Enter the complete name and address of the home office or headquarters of the company submitting the application.

2. Principal technical contact(s). Enter the name, telephone number including area code, and address of a person or persons whom EPA may contact for clarification of information submitted on this form.

2. Self-explanatory.

4. Signature. An individual authorized by a company officer to sign official documents for the company should enter his signature, title, and the date. The authorization should be in writing and available to EPA upon request.

5. List of chemical substances. For each chemical substance which the company proposes for inclusion on the inventory and which is found on the candidate list published by EPA, record the Chemical Abstract Services (CAS) Registry Number and Code Designation which is provided for each of the chemicals on that list.

Check the box indicating continuation on attached sheet if applicable. Continuation sheets should repeat Items 1 and continue numbering 41, 42, 43, 44, etc.

U.S. ENVIRONMENTAL PROTECTION AGENCY
REPORTING CHEMICAL SUBSTANCES FOR INVENTORY
(Section 8(a) and (b), Toxic Substances Control Act, 15 USC 2607)

Form Approved
OMB No. 8

NOTE: READ ALL INSTRUCTIONS BEFORE COMPLETING

EPA Use Only

1. Company Name and Address:

2. Principal Technical Contact(s):

3. Statement
I hereby certify that the chemical substances designated below have been manufactured, processed, or imported for "commercial purposes", as defined by EPA by regulation, during the period beginning July 1, 1974, to the present. I understand that all information on this form may be made available to the public without further notice.

4A. Signature	4B. Name and Title (Typed)	4C. Date (mo,day,yr)

5. CAS Registered Chemical Substance(s) _____ (List CAS Registry Numbers in 7)

6. Proposed Chemical Name Class 1 ___; 2 ___ (See Instructions)

7. Supplementary Information to Identify Chemical Substance

7A. Empirical Formula

☐ SUPPLEMENTAL SHEET ATTACHED

INSTRUCTIONS

(FORM B: PROPOSED ADDITION TO THE INVENTORY OF CHEMICAL SUBSTANCES)

Section 8(b) of the Toxic Substances Control Act (15 U.S.C. 2607) requires the Administrator of the Environmental Protection Agency to compile, keep current, and publish a list of each chemical substance which is manufactured or processed for a commercial purpose in the United States within the period not to exceed three years before the effective date of the inventory reporting regulations (40 CFR Part 710).

To aid in such reporting, EPA has published a list of chemicals which EPA has reason to believe have been manufactured or processed in the United States during the period July 1, 1974, to the present. The purpose of the attached form is to allow manufacturers and processors to report chemical substances which are not included on the published list but which should be included in the inventory published in November 1977.

A manufacturer or importer must report all chemical substances manufactured or imported for commercial purposes since January 1, 1977. Manufacturers, importers, and procesors may report on these forms the chemical subetances manufactured or processed for commercial purposes since July 1, 1974.

In submitting the attached form, a company officer or designee must certify that inclusion of a chemical substance on the inventory is consistent with EPA's regulations governing compilation of the inventory. Accordingly, every person who completes the attached form should carefully read the regulations (40 CFR Part 710). The completed form should be sent to the U.S. Environmental Protection Agency, Office of Toxic Substances, Attention: , 401 M Street, SW, Washington, D.C. 20460.

Important: Before completing the form, please read the more detailed instructions that accompany the list of chemicals.

Item(s)

1. Company name and address. Enter the complete name and address of the home office or headquarters of the company submitting the application.

2. Principal technical contact(s). Enter the name, telephone number including area code, and address of person(s) whom EPA may contact for clarification of information submitted on this form.

3. Self-explanatory.

4. Signature. An individual authorized by a company officer to sign official documents for the company should enter his signature, title, and the date. The authorization should be in writing and available to EPA upon request.

5. CAS registered chemical substance(s). Any person who wishes to report a chemical substance or substances for the inventory (1) which is not on the candidate list of chemical substances and (2) for which the Chemical Abstracts Service (CAS) has assigned a registry number, may complete this form by listing the appropriate CAS registry numbers in the space provided, for "Supplementary Information to Identify Chemical Substance". If CAS registry numbers are supplied, check the box provided in Item 5 and omit Items 6 and 7a.

6. Proposed chemical name for chemical substances that do not have CAS registry numbers. Indicate whether the chemical substance proposed for addition to the inventory falls within class 1 or 2, as described as follows: Class 1 chemicals are distinct chemicals which can be represented by definite structural diagrams. For class 1 chemicals, provide a systematically derived chemical name that uniquely defines the chemical. If such a name is not known, provide trade or common name synonyms.

Class 2 chemicals are those which cannot be named by a class 1 description. Propose an appropriate name following the instructions provided with the candidate list, or provide a common name or synonym.

7. Supplementary information to identify chemical substance(s). For class 1 chemicals, provide the empirical formula, or inventory of the atoms present in the molecule without regard to how the atoms are bonded. In the large space provided, for class 1 chemicals draw the structural diagram of the chemical substance indicating the atoms, bonds, valence, and, if relevant, stereochemistry.

For class 2 chemicals, provide a suggested descriptive term for inclusion in the inventory. This term may be a product name used by the company other than a trade name. In addition, provide to the best of your ability the method used in the final reaction sequence to create the reported chemical substance, and a description of the precursor chemicals. If a precursor chemical is included on the published list, provide the CAS registry number and code designation assigned to that chemical. If the precursor is not listed, a manufacturer or importer of that chemical must complete a separate form B.

[FR Doc.77-6978 Filed 3-8-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 61]

[Doc. No. 21005]

INTERNATIONAL TELEX SERVICE WITH DOMESTIC TELEX AND TWX SERVICES

Interface; Extension of Comment Period

Adopted: February 22, 1977.

Released: February 28, 1977.

Order. In the matter of interface of the International Telex Service with the Domestic Telex and TWX Services, Docket No. 21005.

1. Before us for consideration are the motions for extension of time for the filing of comments filed February 9, 1977 by RCA Global Communications (RCA), and February 15, 1977 by ITT World Communications Inc. (ITT). The notice of proposed-rulemaking in this proceeding, FCC 76-1088, released December 9, 1976[1] established January 24, 1977 as the date for filing comments, February 21, 1977 for filing responses, and March 7, 1977 for filing replies. These dates were extended thirty days in light of a pending request to modify and clarify issues[2] and the current comment filing date is February 24, 1977.

2. In support of its request ITT asserts that its evaluation of the impact of the Commission's proposal, particularly in light of the denial of the petition to modify and clarify the issues, which allegedly necessitates inclusion of the effects of all possible issues, will be completed in approximately three weeks. Following this evaluation, ITT continues, a period for management review and comment preparation processes will be required. ITT estimates that an extension of forty-five days is required in order to produce a reasonable initial response to the Commission's proposal.

3. RCA asserts that significant efforts are required to develop information and perform background work it considers "an essential prerequisite" to the preparation of its filing. Specifically, RCA sets forth a "Milestone Schedule" outlining a ten week schedule for assembling revenue and cost program studies, including management review, and an additional two weeks for preparation and submission of its initial comments. RCA states that an extension of not less than ninety days is warranted in order for it to constructively address the Commission's proposal.

4. The Commission stated in its rulemaking notice that the complaints and associated pleading leading up to this proceeding "raised substantial questions that United States telex users are unduly restricted in the availability and flexibility of telex service." The Commission further stated its belief that current practices disserve the public interest, and that under the Communications Act an obligation exists to assure U.S. telex users universal access on reasonable terms and conditions. It is in the public interest that this proceeding be conducted expeditiously and that the issues be resolved without undue delay. The current filing date is seventy-two days after publication of the Commission's notice in the FEDERAL REGISTER.[3] The ninety day extension now sought by RCA appears to be unduly long, particularly in view of the apparent ability of the other carriers to prepare comments in a shorter time. Furthermore, the milestone schedule submitted does not indicate when the studies were commenced. RCA has had the opportunity to proceed with the preparation of its comments since the comment period began to run. ITT's schedule does not appear unreasonable and reflects on-going efforts. Two parties have informed the Commission that, while they are prepared to file on February 24, they do not object to a limited extension of time if the extension appears warranted.

[1] 41 FR 54500, December 14, 1976, and 42 FR 10856, February 24, 1977.

[2] By Memorandum Opinion and Order, FCC 77-112, released February 17, 1977 the Commission denied a Petition to Specify, Modify, Enlarge and Clarify Issues filed by ITT.

[3] RCA previously supported a Western Union International motion to extend the original filing deadline of January 24, 1977 for a period of ninety days, a period sixty days later than the current filing deadline. By delegated authority the Chief, Common Carrier Bureau granted a thirty day extension in order that the Commission could act on the interlocutory request and denied the additional time requested.

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5. We conclude that a sixty day extension of time would be in the public interest in order to assure the compilation of a full record to assist the Commission's determination of the issues. We believe that our action herein establishes a schedule permitting the development of a full record in an expeditious manner.

6. *Accordingly, it is ordered,* That pursuant to delegated authority, 47 CFR 0.303(c) (1976), comments, responses, and replies shall be filed in accordance with the following schedule:

(a) Comments shall be filed on or before April 25, 1977;

(b) Responses to those comments may be filed on or before May 25, 1977; and

(c) Replies may be filed on or before June 8, 1977.

WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.77-6966 Filed 3-8-77;8:45 am]

[47 CFR Part 73]

[Doc. No. 20863; RM-2624]

TABLE OF ASSIGNMENTS, FM BROADCAST STATIONS; ROME, OR UTICA, N.Y.

Denial of Petition for Rule Making

Adopted: March 2, 1977.

Released: March 7, 1977.

Memorandum opinion and order—Proceeding terminated. In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Rome, New York), Docket No. 20863, RM-2624.

1. The Commission has before it the notice of proposed rulemaking adopted June 23, 1976 (41 FR 27389), proposing the assignment of FM Channel 273 to Rome or Utica, New York. The only comments filed in response were those of petitioner, Promedia Communications, Inc. ("Promedia"), licensee of daytime-only AM Station WRNY at Rome, New York, seeking the assignment of its present city of license.

2. The petition pointed out that the only full-time broadcast services licensed to Rome (population 50,148),[1] the second largest community in Oneida County, New York (population 273,037), are Stations WKAL-AM-FM which are commonly owned and simulcast 100 percent of the time.[2] It was further asserted that a second FM station would facilitate getting emergency messages, warnings and advisories to the residents of Rome.[3] Letters from community leaders submitted by Promedia with its petition, indicated that an additional full-time broadcast facility at Rome was necessary for live coverage of local sports events and municipal board meetings occurring in the evenings. While the Notice stated that preclusion, with the exception of Utica, would be minimal and that Canadian approval had been obtained for the proposed transmitter site,[4] it also pointed out that assigning Channel 273 to Rome would not provide a first or second FM service or a new nighttime service to any area. Rather, it would result in the intermixture at Rome of Class A and B FM channels. Although petitioner asserted that no Class A channel was available for assignment to Rome and that Channel 273 was available only for assignment at either Rome or Utica, New York, we pointed out in the Notice our hesitance to add a Class B channel to a community with only a Class A channel absent a convincing public interest showing. Because assignment of the channel to Rome would preclude its otherwise possible use at Utica it was requested that Promedia inform us in its comments whether any channels other than 273 were available for future assignment to Utica and whether Class B channels other than 273 were available for assignment at Rome.

3. Petitioner notes that Class B Channel 235 would be available for assignment to Utica if the transmitter site is located in an area six miles east and two miles south of Utica's reference point. However, asserts Promedia, if Channel 237A presently vacate and assigned to Cazenovia, New York, were to be used at Manlius, New York, as is presently being requested,[5] the site selection for Channel 235 at Utica would be improved and Channel 235 would be available for assignment at Rome (as a possible replacement for the current Class A channel). We note, however, that although Channel 235 is technically feasible for assignment at Utica or Rome, it cannot realistically be used at these locations because of an interference problem. In fact, we earlier substituted Channel 254 for Channel 235 at Utica, in part, to avoid potential second harmonic interference to reception of the Syracuse Channel 9 television station (WNYS-TV) in the Utica area.[6]

4. It is our general policy to avoid intermixing classes of FM channels in the same community, as proposed by petitioner, in order that all local stations may have the opportunity to obtain comparable facilities for service and competition.[7] As pointed out by Promedia, we have occasionally departed from this policy in those areas where FM allocations are becoming more difficult to obtain. The circumstances of this case, however, as petitioner also notes, do not parallel those normally relied upon by the Commission. This is not a situation in which a party finding no other available channel seeks a Class A channel even though the others already in the community are Class B or C. In those cases, the proponent runs the risk of not being able to compete with a more powerful station and the public stands to receive the gains since the channel is the only one which could be used in those locations. Thus, the public would not lose and might well benefit by intermixture of this variety.[8] In this situation, however, the public could well lose a viable Class A station without being assured of the establishment or the success of the new Class B station.

5. In support of intermixture, petitioner cites three cases, one of which. In the Matter of Yakima, Washington, 42 FCC 2d 548 (1973), is inapplicable because it involves assignment of a Class A channel to a community with pre-existing Class C channels rather than assignment of a Class B/C channel in a community with a pre-existing Class A channel. The other proceedings cited as precedent, In the Matter of Oak Ridge, Tennessee, 32 FCC 2d 937, 940 (1972), and In the Matter of Parkersburg, West Virginia, 37 FCC 2d 54, 56 (1972), differ from the instant situation in that assignment of a Class C channel to Oak Ridge and a Class B channel to Parkersburg, when considering AM nighttime service, provide service to substantial unserved (no aural service) and underserved (one aural service) areas. The instant proposal would provide neither a first nor a second FM service to any area. Thus, petitioner has not indicated the compelling public interest consideration evidenced in the Oak Ridge and Parkersburg cases. Nor has Promedia shown any other important public need that would be served warranting deviation from our intermixture policy.

6. In the alternative, petitioner argues that Rome and Utica are so close geographically that they may be considered the same market. Since the four Class B stations at Utica presently provide a city grade signal to Rome, it is argued, the Rome-Utica area is already intermixed. Promedia contends that intermixture should not be considered a significant stumbling block to the proposed assignment. However, as petitioner recognizes, our policy against intermixture of channels applies to assignments within the same community not to those within the same county. Moreover, if we considered the market as a whole, assigning a Class B channel to Rome would only worsen the intermixture situation in the market and create intermixture in Rome itself for the first time. The proximity of Rome and Utica alone does not warrant applying the intermixture policy in the fashion suggested. No compelling arguments have been offered to justify this unusual approach.

7. In regard to assigning Channel 273 to Utica, there has neither been an expression of interest in the proposal nor does Utica's population of 91,611 appear to warrant a fifth assignment.[9] Moreover, petitioner's contention that if the proposed assignment is not made to either Rome or Utica, Channel 273 will be wasted, is not necessarily correct. The existence of this vacant channel might well make a reallocation of other frequencies in other communities possible.

8. After careful consideration of the supporting comments filed by petitioner, we conclude that the public interest, convenience and necessity would not be served by the assignment of Channel 273 to either Rome or Utica, New York.

9. *Accordingly, it is ordered,* That the subject petition for rule making is denied.

10. *It is further ordered,* That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-6965 Filed 3-8-77;8:45 am]

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[1] All population information is from the 1970 U.S. Census.

[2] Under § 73.242 of the Commission's rules, such simulcasting will soon be limited to 50 percent and later to 25 percent.

[3] But see § 73.98 of the Commissions rules which permits daytime-only stations such as petitioner's to broadcast emergency announcements during hours when it ordinarily is not permitted to operate if the emergency so requires.

[4] If Channel 273 were assigned to Rome, its transmitter site would have to be located eleven miles south of Rome (which would also locate it nine miles west of Utica) to meet separation requirements with co-channel CBOF at Ottawa-Hull, Ontario.

[5] Mutually exclusive applications to use Channel 237A at Manlius, New York, have been filed by Manlius Broadcasting, Inc. (BPH-9992) and AGK Communications, Inc. (BPH-10331).

[6] See In the Matter of Utica, New York, 33 FCC 2d 901, 902 (1972).

[7] See In the Matter of St. Augustine, Florida, FCC 77-23, released January 13, 1977; and In the Matter of Fayetteville, N.C., FCC 2d 1067, 1075 (1974).

[8] See In the Matter of Iowa City, Iowa, 46 FCC 2d 520, 523 (1974).

[9] See the population criteria in para. 4 of the Further Notice of Proposed Rule Making in Docket No. 14185 (FCC 62-867) and incorporated by reference in para. 25 of the Third Report, Memorandum Opinion and Order, 40 FCC 747, 758 (1963).

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Doc. No. 30528; Order 77-2-95]

AMERICAN AIRINES, INC.

Order Regarding Container Charges Between New York and Los Angeles/San Francisco

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of February 1977.

By tariff revisions[1] posted January 5 and marked for effectiveness February 19, 1977, American Airlines, Inc. (American) proposes the following:

1. Add Type M–1 container specific commodity rates and charges for 47 different classifications of commodities from New York to Los Angeles and San Francisco. The proposed rates are set at an identical level per container, offer discounts of approximately 25 percent below current general commodity rates, and require a minimum tender of 45,000 pounds per shipment. The proposed rates bear an expiry date of February 20, 1978. The carrier also proposes to establish a mixed specific commodity rating rule in connection with the foregoing proposal which permits the shipper to combine any of the 47 commodities in a shipment: 2. Add single M–1 container specific commodity rates for wearing apparel from New York to Los Angeles and San Francisco, and from Los Angeles to New York: and L–3 container specific commodity rates on cloth from New York to Los Angeles.

In support of its 45,000-pound proposal, American contends, inter alia, that it will (1) generate approximately 15 million pounds of traffic representing over $3.3 million in annual revenue; (2) divert most of this traffic from charter to scheduled service; and (3) recover noncapacity costs plus about 70 percent of capacity costs. The carrier also states that the high minimum tender requirement will prevent the diversion of higher rated traffic to the new rates. In support of its proposed rates on wearing apparel and cloth, American states that they will generate about 4 million pounds of traffic annually, representing revenues of over $1 million, and will recover between 64 and 75 percent of capacity costs.

Complaints requesting suspension and investigation of the proposed charges for 45,000-pound tenders and the mixed shipment rule related thereto have been filed by Airlift International, Inc. (Airlift), The Flying Tiger Line, Inc. (Tiger), and Trans World Airlines, Inc. (TWA).[2]

The complaints contend, inter alia, that the proposal involves multi-container rates which are not cost justified and are unjustly discriminatory against the small shipper; that the proposal contravenes the established Board policy of permitting volume discounts only upon a showing that the reduced rates are reasonably related to the reduced costs of transportation; that the proposal represents a device to make the 45,000-pound container weightbreak available to a few large shippers without labeling it as a general commodity rate; that the charging of identical discount rates for a large and diverse number of commodities in mixed shipments is sufficient reason to find that the instant proposal constitutes unduly discriminatory pricing vis-a-vis traffic that must bear the general commodity rate; and that the proposal represents a totally unwarranted departure from the rule of equality in ratemaking.

Tiger has filed a separate complaint against the proposed specific commodity rates on wearing apparel and cloth contending, among other things, that the proposed rates are wholly unjustified reductions; and that American has failed to provide any basis for the Board to conclude that the proposed rates would generate sufficient new traffic to off-set industry dilution on existing traffic or that the new rates are priced at the maximum level of the traffic's value of service, which is very high for wearing apparel. Tiger further contends that, if the proposed rates become effective, it will be forced to reduce not only its competitive New York rates but also its Philadelphia rates, resulting in a net annual dilution of almost 162,000.

Shulman Air Freight, Inc. (Shulman), an air freight forwarder, has filed a consolidated answer to the complaints, contending, inter alia, that American's proposal represents an innovative rate package clearly designed to enhance the economies of large volume tenders in the nation's single most important air freight market; that, with respect to the 45,000–pound minimum tender rates, neither Tiger nor TWA makes any claim of traffic diversion; that American has made significant investments in freighter aircraft and this has been one of the few bright spots in an otherwise dismal pattern of continual freighter reductions; and that the proposal should be permitted to become effective because the risk of success or failure will be borne by American, not by the shipping public.

In its answer to the complaints against the proposed 45,000-pound tender rates and mixed shipment rule, American contends, inter alia, that, in establishing the identical rate for several commodities, it has actually increased 15 existing specific commodity rates and slightly reduced 6 others; that the proposal represents an adoption of numerous specific commodity rates existing in both these and other markets, and available both on American and other carriers, at a common level; that it contains a mixing rule that reflects the operating efficiencies of the B–747 freighter; that a uniform rate for different commodities is designed to simplify the application of the commodity mixing rule and the freight rate structure; and that consolidation of specific commodity traffic into larger containers will produce operating efficiencies and reduce the cost of air transportation. In answer to the complaint against its proposed single container rates on cloth and wearing apparel, American asserts that Tiger's estimate of dilution resulting from American's proposal is in error because it has ignored the higher rate and higher minimum weight of American's M–1 container; and the Board does not have a policy of protecting bulk specific commodity rates against lower container specific commodity rates resulting from more efficient container operations.

Upon consideration of the tariff filings, complaints and answers thereto, and all other relevant factors, the Board finds that the proposed charges for M–1 containers with a minimum tender of 45,000 pounds and the mixed shipment rule applicable to these charges may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated.[3]

American's minimum tender of 45,000 pounds requires between three and eight containers. There is little question that the proposed charges, applicable to 47 different commodities that may be combined in any shipment, are, for practical purposes, general commodity charges. In fact, American itself, in the justification acompanying its tariff transmittal, compares the proposed charges with currently effective single M–1 container general commodity charges, showing that the proposal involves a 25-percent discount.

The above discount, assuming 6,000 pounds in a container, amounts to about $428 per container from New York to Los Angeles and $439 per container from New York to San Francisco. However, the cost reductions to American resulting from transporting the number of containers required to meet the tender of 45,000 pounds are miniscule in comparison with the foregoing rate reductions. We estimate that, based upon industry-average costs,[4] the cost savings to American would amount to between about $2.90 and $3.70 per container. These savings would amount to less than one percent of the discount offered in its proposal.

The Board, however, has concluded not to suspend the foregoing proposals pending investigation. Although the Board, in a number of decisions, has found volume discounts not based on reduced costs unjustly discriminatory,[5] we have also concluded that competition may be a justification for discrimination.[6] American justifies its proposal as an attempt to compete with forwarder air charter services.[7] Furthermore, neither Tiger nor TWA allege that they would suffer diversion or dilution from their scheduled services. Although an investigation is desirable to determine whether this competition justifies the discriminatory aspects of the proposal and to provide further insight into the entire issue of volume rates, we are loath to prevent, pending the results of this investigation, the public from enjoying these lower rates.

With respect to American's proposed container rates on wearing apparel and cloth, we find that investigation is not warranted, and the request therefor, and consequently the request for suspension, will be dismissed. The proposed rates exceed noncapacity costs and make a contribution toward capacity costs of between about 65 and 75 percent.[8] Furthermore, the Board has for some time granted carrier management considerable flexibility discretion with respect to specific commodity rates.[9]

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the rates, charges, and provisions described in Appendix A hereto,[9] and the rules, regulations and practices affecting such rates, charges, and provisions, including subsequent revisions or reissues thereof, are, or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful charges and provisions and rules, regulations, or practices affecting such rates, charges, and provisions;

2. The proceeding herein designated Docket 30528, be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated;

3. The complaints of Airlift International, Inc. in Docket 30364, The Flying Tiger Line Inc. in Dockets 30366 and 30368, and Trans World Airlines, Inc. in Docket 30369, except to the extent granted herein, are dismissed; and

4. Copies of this order shall be served upon American Airlines, Inc., Airlift International, Inc., The Flying Tiger Line Inc., Shulman Air Freight, Inc., and Trans World Airlines, Inc., which are hereby made parties to Docket 30528.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–6988 Filed 3–8–77;8:45 am]

[Doc. Nos. 29486, etc.; Order 77–3–16]

EASTERN AIR LINES, INC., ET AL.

Order Regarding Restoration of Certificated Air Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 2nd day of March, 1977.

Application of Eastern Air Lines, Inc., Docket 29486, to amend its certificate; Application of Southern Airways, Inc., Docket 29306, to amend its certificate; petition of Savannah Airport Commission, Docket 29454, for an air service investigation; petition of the Brunswick, Georgia Parties, Docket 29644, for restoration of certificated air service; Service to Brunswick and Savannah Case, Docket 30570.

On June 28, 1976, the Savannah Airport Commission (Savannah) filed a petition in Docket 29454 seeking an investigation of the need for authorization of first competitive nonstop service between Savannah and Atlanta. On August 12, 1976, the Brunswick, Georgia, parties (Brunswick)[1] filed a petition in Docket 29644 seeking restoration of certificated air service particularly to and from Atlanta, but also between Brunswick and Savannah/Jacksonville.

Savannah, in support of its petition, states that Savannah-Atlanta is not only Savannah's most important air service segment but also dominates Savannah's air traffic network. Savannah states that in the year ended June 30, 1975, there were 359,580 coupon O&D passengers on the Savannah-Atlanta segment—out of a total for all Savannah passengers in all markets of 428,870—or nearly 84 percent of all Savannah passengers enplaned at one end of the segment and deplaned at the other. Savannah alleges that load factors in the Savannah-Atlanta market have been unreasonably high for a segment which so completely dominates and controls the flow of Savannah's traffic. Savannah believes that Delta's 1974 average annual load factor of 68 percent substantially understates the passenger delays and inconvenience which occurred since the overall coach load factors from March through August of 1974 were at, or near, the 80 percent level. Savannah also argues that competitive nonstop service will eliminate the monopoly and inadequacy of air transportation between Savannah and its major community of interest.

Eastern Air Lines, Southern Airways, and the Glynn Development Authority[2] filed timely answers in support of Savannah's petition.

Delta also filed a timely answer to Savannah's petition. Delta states that it does not oppose any reasonable effort by Savannah to improve its air service but does not believe the Savannah-Atlanta market requires another carrier. Delta suggests that the most effective method of meeting Savannah's expanded needs is to certificate Delta to provide direct north-south service between Savannah and northeast points on Delta's certificate for Route 27 (Washington, Baltimore, New York, Boston, and other points in New England).[3] Delta alleges that such authority would correct long-standing problems in north-south service which have stemmed from the apparent unwillingness of National to provide adequate services and the total abandonment of Savannah by Eastern when Eastern was deleted at Savannah in 1964.[4] In addition, Delta contends that the lack of service by Eastern and National has deprived Savannah of needed

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[1] Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 227.

[2] TWA's complaint requests rejection or suspension and investigation.

[3] The Board finds no valid basis for rejection.

[4] Although no data on M–1 containers were introduced in evidence in the Domestic Air Freight Rate Investigation (DAFRI), we have estimated such costs on the basis of industry-average Type A container costs submitted in that investigation, revised to reflect cost increases through September 30, 1976.

[5] Container Rates for B–747 Aircraft Proposed by Continental Airlines, Inc., Order 71–7–155/156, July 27, 1971, Airlift Blocked-Space Case, Order 73–4–25, Revised Aggregate Rates Proposed by WTC Air Freight, Order 73–2–61, Multicharter Cargo Rates Investigation, 47 C.A.B. 626 (1967), New York-San Juan Cargo Rates, 44 C.A.B. 599 (1966).

[6] Tour Basing Fares, 14 C.A.B. 257 (1951), Free and Reduced-Rate Transportation Case, 14 C.A.B. 481 (1951), Group Inclusive Tour Basing Fares to Hawaii, Order 70–7–60, July 13, 1970, and Military-Tender Investigation, 28 C.A.B. 902 (1959). See also the following court cases: Eastern-Central Motor Carriers Ass'n v. United States, 321 U.S. 194 (1944), Barringer & Co. v. United States, 319 U.S. 1 (1942), Texas and Pacific R.R. v. I.C.C., 162 U.S. 197 (1895).

[7] The entire question of forwarder charters is under investigation in Air Freight Forwarders' Charters Investigation, Docket 23287.

[8] See footnote 4, supra.

[9] See the Board's decision in United Air Lines, Inc., Specific Commodity Rates on Periodicals, Floral Products, and Seafood, Docket 22157, Order 72–11–78, November 20, 1972.

[9] Filed as part of the original document.

[1] The Brunswick parties are Glynn County, Georgia, acting through the Glynn Development Authority, the City of Brunswick, and the Brunswick-Golden Isles Chamber of Commerce.

[2] The Glynn Development Authority has primary responsibility for promoting the economic well being and progress of the Glynn County/Brunswick area of Georgia. In its answer, Glynn County stated that any investigation of Savannah's air service also should consider the need for new air service for Brunswick. Glynn County stated it would file a separate petition for an air service investigation which it did on August 12, 1976.

[3] Delta filed an application in Docket 29491 to amend its certificate for Routes 24, 27, and 54 to allow Delta to operate direct north-south service between Savannah and Delta's northeastern points.

[4] North-South Service at Savannah, 40 C.A.B. 32 (1964).

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north-south service and has artifically inflated Delta's Savannah-Atlanta segment load factors.

Eastern filed a reply to Delta's answer accompanied by a motion to file an otherwise unauthorized document.[6] Eastern contends that Delta's request for north-south Savannah authority is a delaying tactic which the Board should reject. In addition, Eastern argues that in many cases service via Atlanta is preferable to a north-south direct routing to and from Savannah because many northeastern markets enjoying nonstop service to Atlanta are too small to support nonstop service to Savannah, and that the major northeast points of Boston, Philadelphia, New York, and Washington do not have a need for two-carrier competition to and from Atlanta that is true of the Savannah-Atlanta segment.

In support of its petition of August 12, 1976, the Brunswick parties state that the Board granted for a three-year period Delta's application for authority to suspend service at Brunswick based upon three findings:[7] (1) The Board found that Air South[7] was providing ample alternative air transportation in view of its then existing five daily round trips between Brunswick and Atlanta, three of which were with F-27 aircraft; (2) the Board found that Delta's cost of service was disproportionate to the benefits derived; and (3) the Board relied upon the fact that the Glynn Naval Air Station—the only airport serving Brunswick capable of handling jet aircraft—was scheduled to shut down by August 1974.

Brunswick argues that today at least two of the three foregoing findings of the Board are no longer valid. In early 1975, air service into Brunswick deteriorated significantly: the number of round trips has been reduced from six to one daily and all service utilizing F-27 aircraft has been eliminated.[8] Also, all scheduled flights in the Brunswick-Atlanta market now utilize nonpressurized non-air-conditioned, and non-radar-equipped DC-3's which have met with little community acceptance. As a result, the traffic has declined nearly 50 percent from 1974 levels. Brunswick also states that the former Naval Air Field was reactivated for civilian use on April 28, 1975, and is now known as the Brunswick-Golden Isles Municipal Airport—an active airfield capable of handling jet aircraft. In addition, the other Naval facilities located at the Glynco base were taken over on September 12, 1975, by the Federal Law Enforcement Training Center (Center), a division of the United States Treasury Department. Brunswick alleges that the initial annual student load was expected to be between 5,900 and 8,700 students per year but that the Center is gearing its capacity to accommodate a potential 100-percent increase in students per year within three years. In addition, the Brunswick parties note that they have been advised by the Assistant Director of the Center that at present 68 percent of the Center's traffic utilize air service and that the Center busses its students and staff to and from the Jacksonville airport. Brunswick argues that the opening of the Center and the growth of the Brunswick-Golden Isles area as a tourist spot in addition to Brunswick's existing and expanding industry and labor base requires the restoration of certificated air service.[9]

Finally, Brunswick does not wish to have the Board revoke Delta's temporary suspension authority because Delta would be a reluctant party and would not provide adequate promotion and full development of Brunswick's traffic potential. Brunswick believes that any proceeding should include the issue of deletion of Delta's authority at Brunswick in the event another carrier is certificated to serve Brunswick.

Answers in support of Brunswick's petition were timely filed by Southern Airways and the United States Department of the Treasury.

Delta also filed a timely answer to the Brunswick petition stating that it is willing to cooperate fully with Brunswick and to work toward the resolution of the community's certificated air service needs. Delta believes that since Southern has expressed interest in providing service to Brunswick that it would be appropriate for the Board to move expeditiously to consider Southern's application. Although Delta currently takes no position concerning the resolution of such an issue, the carrier urges the Board to reserve for itself the issue of deleting Delta's Brunswick authority. Should it be determined that air services for the community can best be provided through another certification, Delta does not believe that the current traffic is sufficient to support viable operations for two scheduled carriers—especially in view of the continued presence of a commuter air carrier.

Eastern also filed a timely answer to Brunswick's petition stating that it believes the community has offered a persuasive case for the restoration of at least limited Brunswick-Atlanta service but does not feel that an adequate reason has been offered for consolidation with Atlanta-Savannah. Eastern argues that to the extent that Brunswick needs nonstop service to and from Atlanta, the obvious remedy is to vacate the suspension order which permitted Delta to cease operating at Brunswick. Eastern opposes consolidating Atlanta-Brunswick with Atlanta-Savannah because it would unduly delay the Board in meeting the needs of both the Savannah and Brunswick communities for improved air service. Although Eastern feels that Brunswick has made an adequate case for nonstop service to and from Atlanta, it points out that Brunswick travelers do have access through Jacksonville to air transportation services which bypass the airport congestion at Atlanta. Eastern alleges that the driving time from Brunswick to the Jacksonville airport is in the range of an hour to an hour and a half and upon completion of Interstate 95 the drive will be 64 uninterrupted miles.

Upon consideration of the pleadings and the relevant facts, we have decided to institute an investigation to consider the need for new or additional authority between and among Atlanta, Savannah, Brunswick, and Jacksonville, subject to a pretrial restriction requiring all flights serving Atlanta and Jacksonville also to serve Savannah or Brunswick. In addition, we will place in issue the deletion of Delta's authority to serve Brunswick. The Atlanta-Savannah market with 166,200 true O&D plus connecting passengers for the year ended September 30, 1975, is one of the nation's largest markets in terms of both local O&D plus connecting passengers and nonstop flow that lacks competitive nonstop service. The Brunswick-Atlanta market offers the prospect of economic certificated service in light of the changed circumstances indicated by the Brunswick parties since Delta's service was suspended in 1974. We also deem it advisable to include the small Savannah-Brunswick-Jacksonville markets, in order to enable the Board to examine a full service proposal connecting these markets with Atlanta, such as Southern proposes in Docket 29306. Exclusion of these small markets, which ordinarily would not merit a priority hearing, could create a route pattern which would stub end at Brunswick, a point which is smaller than most other terminal points in the air transportation network. Moreover, the addition of these markets will not significantly increase the complexity of the proceeding. Finally, the pretrial restriction requiring Atlanta-Jacksonville flights to serve Savannah or Brunswick will assure that the primary focus on the investigation is upon the Atlanta-Savannah-Jacksonville and Atlanta-Brunswick-Jacksonville markets as well as minimizing any diversion from the carriers presently providing Atlanta-Jacksonville nonstop service.

We will not consider at this time Delta's suggestion in its answer to Savannah's petition to certificate Delta to provide direct north-south service between Savannah and the northeast points on Delta's certificate for Route 27. The issues involved are different from those in the proposed investigation, and including Delta's proposal would unnecessarily delay and complicate the proposed investi-

[6] We will grant Eastern's motion.

[7] Order 74-3-69, March 14, 1974.

[7] The corporate name "Air South" is used herein. However, Brunswick states that Air South has been taken over by Florida Airlines.

[8] Air South will provide 2-daily round trips in the Atlanta-Brunswick market effective December 15, 1976. OAG, December 1, 1976. The additional round trip does not alter our decision to institute the investigation indicated in the ordering paragraphs, *infra*.

[9] Brunswick estimates that in 1976 there would have been 108,000 passengers available to support certificated service between Brunswick and Atlanta. The forecast assumes a total two-year growth rate from the 1974 base of 12 percent, including Jacksonville diversion, and a further increase of 25,840 passengers as a result of the new demand created by the Center and the new convention facilities which have recently been opened.

gation. Furthermore, Delta's answer does not constitute a motion for immediate hearing on its application in Docket 29491 under Rule 18 of the Board's Procedural Regulations.

Finally, Eastern and Southern have not submitted sufficient information for us to determine the environmental consequences of their certificate amendment applications at this time. Therefore, we will require Eastern and Southern to file information set forth in Part 312 of the Board's Procedural Regulations. We will allow Eastern, Southern, and all other carriers filing applications in this proceeding 30 days from the date of adoption of this order to file their environmental evaluations.

Accordingly, it is orderd, that:

1. The petitions of the Savannah in Docket 29454 and Brunswick Parties in Docket 29644 to institute an air service investigation be and they hereby are granted;

2. The motion of Eastern Air Lines to file an otherwise unauthorized document be and it hereby is granted;

3. A proceeding to be known as the "Service to Brunswick and Savannah Case," Docket 30570, be and it hereby is instituted and shall be set down for hearing before an administrative law judge of the Board at a time and place hereinafter designated, as the orderly administration of the Board's docket permits;

4. The proceeding set for hearing in paragraph 3, above, shall include consideration of the following issues:

(a) Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in new or additional air transportation between and among Atlanta, Savannah and Brunswick, Georgia, and Jacksonville, Florida?

(b) If the answer to (a) is in the affirmative, which carrier(s) should be authorized to engage in such transportation?

(c) What terms, conditions, and limitations, if any, should be placed upon the operation of such carrier(s)? and

(d) Should Delta's service at Brunswick, Georgia, be deleted?

5. Any authority awarded in this proceeding shall be granted without eligibility for subsidy;

6. Any authority awarded in the Atlanta-Jacksonville market shall be subject to a restriction that all flights serving Atlanta, Georgia, and Jacksonville, Florida, shall also serve Savannah, Georgia, or Brunswick, Georgia.

7. The applications of Eastern Airlines in Docket 29486 and Southern Airways in Docket 29306, be and they hereby are consolidated with the proceeding instituted by paragraph 3 above;

8. Delta Air Lines, Eastern Airlines, Southern Airways, the Brunswick Parties, the Savannah Airport Commission, and the United States Department of the Treasury be and they hereby are made parties to this proceeding;

9. Eastern Airlines, Southern Airways, and all other carriers filing applications in this proceeding shall file environmental evaluations pursuant to § 312.12 of the Board's Procedural Regulations within 30 days from the date of adoption of this order; and

10. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed within twenty (20) days from the service date of this order and answers thereto shall be filed no later than fifteen (15) days thereafter.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-6987 Filed 3-8-77;8:45 am]

[Doc. No. 26354]

NORTH CENTRAL AIRLINES, INC.; CERTIFICATE APPLICATION (MILWAUKEE/DULUTH/SUPERIOR-WINNIPEG)

Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on March 15, 1977 (42 FR 6868), is postponed until further notice.

Dated at Washington, D.C., March 3, 1977.

KATHERINE A. KENT,
Administrative Law Judge.

[FR Doc.77-6985 Filed 3-8-77;8:45 am]

[Doc. No. 30555]

TEXAS INTERNATIONAL AIRLINES, INC.

Prehearing Conference Regarding "Peanuts" Fares Investigation

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on March 31, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, Washington, D.C., before Administrative Law Judge Burton S. Kolko.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements and issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before March 15, 1977, and the other parties on or before March 25, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., March 3, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc. 77-6986 Filed 3-8-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

DR. GLENN W. KUSWA

Certification

Pursuant to the provision contained in section 207 of Title 18 U.S.C. (Pub. L. 87-849, 76 Stat. 1124), having found that Dr. Glenn W. Kuswa, formerly a physicist in the Division of Laser Fusion, Energy Research and Development Administration (ERDA), and presently an employee of Sandia Corporation at the Sandia Laboratories, possesses outstanding scientific qualifications, I certify that the national interest would be served by the said Dr. Glenn W. Kuswa acting as an agent for or appearing personally before ERDA on behalf of Sandia Corporation in connection with performance of work under Sandia's Contract No. AT(29-1)-789 with ERDA for the operation of the Sandia Laboratories, on matters in which he participated personally and substantially as an employee of ERDA or which were under his official responsibility as an ERDA employee.

This certification is directed to be published in the FEDERAL REGISTER.

Dated: February 28, 1977.

ROBERT W. FRI,
Acting Administrator.

[FR Doc.77-7023 Filed 3-8-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

Availability of Data

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on relationship to the head of the household, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the Decennial Census.

Summary results of special censuses are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area, by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since June 30, 1976, for which tabulations were completed between February 1, 1977, and February 28, 1977.

Dated: March 2, 1977.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

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State/place or special area	County	Date of census	Population
Arkansas:			
Atkins City	Pope	Nov. 18	2,630
Biscoe Town	Prairie	Nov. 17	561
White Hall City	Jefferson	Nov. 22	1,909
Idaho:			
Meridian City	Ada	Dec. 6	5,258
Illinois:			
Brighton Village	Macoupin and Jersey	Dec. 7	2,255
Henry City	Marshall	Nov. 29	2,655
Palatine Village	Cook	Nov. 18	31,447
Wheaton City	DuPage	Oct. 21	29,300
Will County, unincorporated area only		Oct. 18	98,200
Iowa:			
Springville City	Linn	Dec. 13	1,065
Michigan:			
Casco Township	St. Clair	Jan. 4	3,687
Newton Township	Calhoun	Dec. 13	1,798
Missouri:			
Raymore City	Cass	Nov. 9	2,100
Montana:			
Big Horn County		Oct. 26	10,618
Custer County		Sept. 30	12,979
South Carolina:			
Mauldin City	Greenville	Nov. 29	7,356
Tennessee:			
Gallatin City	Sumner	Dec. 16	14,374
Texas:			
Frio County		Oct. 14	13,702
Wisconsin:			
Barton Town	Washington	Dec. 9	2,125
Rosendale Village	Fond du Lac	Jan. 12	953
Stanley City	Chippewa	Jan. 3	3,101
Wyoming:			
Unita County (part)		Nov. 30	7,973

[FR Doc.77-6770 Filed 3-8-77;8:45 am]

Domestic and International Business Administration

ADVISORY COMMITTEE ON EAST-WEST TRADE

Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Advisory Committee on East-West Trade will be held on Wednesday, March 30, 1977, at 9:30 a.m., in Room 4832, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee was established to advise the Department, through the Deputy Assistant Secretary for East-West Trade, on ways to facilitate and coordinate the expansion of two-way trade with countries having centrally planned economies, so as to enhance the balance of trade and payments situation.

Agenda items are as follows:

MORNING SESSION, ROOM 4832

9:30 A.M.-12:00 NOON

1. Review of miscellaneous items outstanding from previous meetings.

2. U.S. anti-trust enforcement policy for East-West trade. Synopsis of recent Justice Department publication. Anti-trust Guide for International Operations.

3. Review of potential problems faced by U.S. companies in locating personnel in the U.S.S.R., Eastern Europe, and the People's Republic of China.

AFTERNOON SESSION, ROOM 4832

1:00 P.M.-3:30 P.M.

4. Discussion of U.S. business views toward technology licensing to the U.S.S.R.

5. Discussion of the significance of whipsawing in East-West trade.

6. Review of items submitted by Committee members.

7. Review of items submitted by the public.

The meeting will be open to public observation and a period will be set aside for oral comments or questions by the public which do not exceed ten minutes each.

More extensive questions or comments should be submitted in writing before March 25, 1977. Other public statements regarding committee affairs may be submitted at any time before or after the meeting.

Approximately 20 seats will be available for the public (including 5 seats reserved for media representatives) on a first-come first-served basis.

Copies of minutes will be available 30 days after the meeting upon written request addressed to the Domestic and International Business Administration, Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Inquiries should be addressed to William F. Kolarik, Jr., Committee Control Officer, Office of East-West Policy and Planning, Bureau of East-West Trade, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-4796.

ARTHUR T. DOWNEY,
Deputy Assistant Secretary for East-West Trade.

[FR Doc.77-6992 Filed 3-8-77;8:45 am]

Maritime Administration

[Doc. No. S-548]

LYKES BROS. STEAMSHIP CO., INC.

Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc. (Lykes) has filed an application, dated February 11, 1977, for operating-differential subsidy for a proposed new service on Trade Route 18 between United States Atlantic and Gulf ports (Maine through Texas, inclusive) and ports in Southwest Asia from Suez to Burma, inclusive, and Africa on the Red Sea, the Gulf of Aden and the Gulf of Aqaba, with the privilege of providing service on Trade Route 10 between U.S. North Atlantic ports (Maine through Virginia, inclusive) and ports in Portugal, Spain south of Portugal, Atlantic Morocco, and the Mediterranean Sea (including the Adriatic Sea, Aegean Sea, Black Sea, and other seas which are arms of the Mediterranean).

The proposed service would be in addition to the present service of Lykes under Operating-Differential Subsidy Agreement, Contract No. FMB-59, and is an addition to its services under its proposed 20-year renewal for which an application is now pending. The Applicant proposes a maximum of 36 annual sailings on the proposed service with C3-S-37b/c/d, C4-S-66a and C5-S-37e/f type vessels provided that Sea Barge Carrier (SEABEE) vessels may be substituted on any or all such sailings on the basis of one SEABEE sailing for two sailings of conventional vessels. It is proposed that up to four barge carriers or Ro/Ro vessels will be subsequently constructed or acquired for the service.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets, N.W., Washington, D.C. 20230.

Any person, firm or corporation having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on March 22, 1977.

The Maritime Subsidy Board will consider these views and comments, and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidies (ODS)).

Dated: March 4, 1977.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-6958 Filed 3-8-77;8:45 am]

[Doc. No. S-549]

WATERMAN STEAMSHIP CORP.

Application

Notice is hereby given that Waterman Steamship Corporation (Waterman), a New York Corporation, 120 Wall Street, New York, New York 10005, has filed an application dated February 11, 1976, as amended January 18, 1977, with the Maritime Subsidy Board, pursuant to Title VI (41 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended, for an interim Operating-Differential Subsidy Agreement to aid in the operation of four C4 type vessels on its existing service on Trade Route No. 21 (U.S. Gulf/Western Europe), with the privilege of calling at ports in the Scandinavian and Baltic countries (including ports in the U.S.S.R.) and U.S.S.R. ports east of Finland in the Barents Sea, such Operating-Differential Subsidy Agreement to be in effect for a period which is the lesser of six months or the time required to complete the processing of Waterman's application for a long-term contract on Trade Routes Nos. 21, 5-7-8-9, 6 and 11 (Docket No. S-421). Waterman proposes to make a minimum of six and a maximum of ten sailings during the term of the proposed interim Operating-Differential Subsidy Agreement.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets, N.W., Washington, D.C. 20230.

Any person, firm, or corporation having an interest in such application and who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit such views and comments in writing, in triplicate, to the Secretary, Maritime Subsidy Board, by the close of business on March 22, 1977. The Maritime Subsidy Board will consider such views and comments and take such actions with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidy (ODS))

Dated: March 4, 1977.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-6959 Filed 3-8-77;8:45 am]

National Oceanic and Atmospheric Administration

AMERICAN TUNABOAT ASSOCIATION

Receipt of Application for General Permit

Notice is hereby given that the following Applicant has applied in due form for a General Permit to take marine mammals incidental to the course of commercial fishing operations during 1977 as authorized by the Marine Mammal Protection Act of 1972 (U.S.C. 1361-1407) and the regulations thereunder.

The American Tunaboat Association, 1 Tuna Lane, San Diego, California, has applied for a general permit, category 2, "Encircling Gear, Yellowfin Tuna Purse Seining."

Copies of the application are available for review as follows: Office of the Director, National Marine Fisheries Service, Department of Commerce, 3300 Whitehaven Street, NW., Washington, D.C. 20235 (Telephone 202/634-7283); and Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Interested parties may submit written data or views on this application or request a hearing in connection therewith, on or before April 8, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such a hearing is at the discretion of the Director. The views or hearing requests may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

Dated: March 3, 1977.

ROBERT J. AYERS,
Acting Associate, Director for Resource Management, National Marine Fisheries Service.

[FR Doc.77-6957 Filed 3-8-77;8:45 am]

SATELLITE DATA ARCHIVING WORKSHOP

Meeting

Announcement is made of the following interagency meeting:

Name: Satellite Data Archiving Workshop.
Dates and times: March 15, 1977 (0830-1600); March 16, 1977 (0830-1300).
Place: MSL Conference Room, 7th Floor, World Weather Building, 5200 Auth Road, Camp Springs, Md.
Topics to be discussed: Satellite data currently archived. Future satellite data availability (TIROS-N, GOES, SEASAT, NIMBUS-G). User data requirements.
Sponsors: Department of Commerce, NOAA, Environmental Data Service and National Environmental Satellite Service.

The meetings are open to public attendance, but the seating space for observers is limited.

For further information, contact the Chief, Satellite Data Services Branch, National Climatic Center, EDS, NOAA, Room 606, World Weather Building, Camp Springs, Md. 301-763-8111.

Dated: March 7, 1977.

T. P. GLEITER,
Assistant Administrator for Administration.

[FR Doc.77-7143 Filed 3-8-77;8:45 am]

Patent and Trademark Office

RECOMBINANT DNA

Suspension of Accelerated Processing of Patent Applications for Recombinant DNA Research Inventions

On January 10, 1977, the Patent and Trademark Office issued a notice, published in the FEDERAL REGISTER of January 13, 1977, 42 FR 2712-2713, which provided for the accelerated processing of patent applications for inventions relating to Recombinant DNA, including those that contribute to safety of research in the field.

In order that the Federal Interagency Committee for Recombinant DNA Research may consider recommendations concerning research conducted by the private sector in this field, that part of the referenced notice dealing with accelerated processing of patent applications for Recombinant DNA research inventions is suspended until further notice.

That part of the referenced notice dealing with accelerated processing of patent applications relating to safety of research in this field will remain in force.

Dated: March 3, 1977.

RENE D. TEGTMEYER,
Acting Commissioner of Patents and Trademarks.

Approved: March 3, 1977.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

[FR Doc.77-6908 Filed 3-8-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MARCH 3, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Simulation Technology will hold meetings at the Aeronautical Systems Division, Wright-Patterson AFB, Ohio on March 30 and 31, 1977 from 8:30 a.m. to 5:00 p.m. each day.

The Committee will receive classified briefings and hold classified discussions on Air Force simulator programs and technology.

The meetings concern matters listed in section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-6954 Filed 3-8-77;8:45 am]

Department of the Army

BALLISTIC MISSILE DEFENSE TECHNOLOGY ADVISORY PANEL

Closed Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), an announcement is made of the following committee meeting:

Name of Committee: Ballistic Missile Defense Technology Advisory Panel.
Dates of Meeting: March 29 through 31, 1977.
Place: BMD Advanced Technology Center, 106 Wynn Drive, Huntsville, Alabama 35807.
Time: 0830-1630 hours on dates indicated above.

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Proposed Agenda: (I) Review of Ballistic Missile Defense Advanced Technology Center Programs; (II) Review the Results of Advanced Technology Studies, Programs, and Special Reports.

2. The meeting is closed to the public since the agenda consists of BMDATC's on-going and future programs which are classified as secret or higher defense information pursuant to Executive Order 11652 (dated March 8, 1972), and therefore, are concerned with matters listed in section 552(b)(1) of Title 5, U.S. Code. National security requires that the details of these programs be withheld.

JAMES D. CARLSON,
Director.

[FR Doc.77-6962 Filed 3-8-77;8:45 am]

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of Committee: Executive Committee of the National Board for the Promotion of Rifle Practice.

Date of Meeting: March 25, 1977.

Place: Secretary of the Army Conference Room, Room 1E687, the Pentagon.

Time: 0900 hours.

Proposed Agenda: (A) Sale of service ammunition and components; (B) Range facilities for civilian clubs; (C) Award of service rifles in national trophy competition; (D) Scheduling of 1977 annual board meeting; (E) Conduct of 1977 President's match.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

JACK R. ROLLINGER,
Colonel,
Infantry Executive Officer.

[FR Doc.77-6961 Filed 3-8-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 695-8]

MARINE SANITATION DEVICE STANDARD; MISSISSIPPI AND ST. CROIX RIVERS, AND LAKE SUPERIOR WATERS WITHIN MINNESOTA AND WISCONSIN

Petition; Extension of Time for Comments

On January 4, 1977, (42 FR 837) the Agency published a notice acknowledging receipt of a joint petition from the States of Minnesota and Wisconsin for a determination pursuant to Section 312(f)(3) of Public Law 92-500 that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Minnesota-Wisconsin portions of the Mississippi and St. Croix Rivers and for the Minnesota-Wisconsin portions of Lake Superior. Comments were requested by February 18, 1977.

The Agency has received requests for additional time in which to respond to the joint petition; these requests have stated that additional time is required to check the available facilities for their adequacy and practicability. Such surveys have been complicated by the severe weather conditions in the upper Midwest this winter. Accordingly, because of the Agency's desire to encourage informed and thoughtful public participation in its decision process regarding this petition, and because the Agency believes that a short time extension will not unduly affect the decision process on this petition for the coming moating season, the Agency concurs that the public should be allowed an extended time period in which to formulate meaningful comments. Consequently, the final date above-mentioned joint Minnesota-Wisconsin petition is hereby extended through the close of business March 25, 1977.

Date: March 2, 1977.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazard Materials.

[FR Doc.77-6905 Filed 3-8-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

NATIONAL INDUSTRY ADVISORY COMMITTEE; BROADCAST SERVICES SUBCOMMITTEE

Meeting

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Broadcast Services Subcommittee of the National Industry Advisory Committee to be held Tuesday, March 29, 1977. The Subcommittee will meet at the Sheraton Park Hotel, Palladium Room, 2500 Calvert Street, NW., Washington, D.C., at 3:00 p.m.

Purpose. To consider modifiation to the Emergency Broadcast System (EBS) Rules.

Agenda, Item.

1. Chairman's Opening Remarks.
2. Inclusion of the National News Radio/Press Wire ("600" Net) into the "500" Net used with the Emergency Broadcast System (EBS).
3. Status of Revision of NIAC Order No. 2.
4. Consideration of modification of the Broadcast Announcement used with the "Weekly Transmission Tests of the Attention Signal and Test Script" to include a statement to the effect: "This station serves the Operational Area."
5. Consideration of modification of the EBS Rules to permit stations broadcasting exclusively in a foreign language to make emergency announcements during activation of the EBS initially in that foreign language and followed in English.
6. New Business.
7. Closing comments and adjournment.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-6968 Filed 3-8-77;8:45 am]

FEDERAL TRADE COMMISSION

[File No. 752 3157]

FLAGG INDUSTRIES, INC., ET AL.

Consent Agreement With Analysis to Aid Public Comment

Correction

In FR Doc. 77-5763 appearing in the issue of Friday, February 25, 1977 on page 11043; on page 11045, the middle column, in paragraph (3), the 2nd line from the bottom should be corrected to read, "* * * paragraph (2) of Section III of this * * *".

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Doc. No. 301-12]

GEORGE F. FISHER, INC.

Complaint; Correction

FR Doc. 77-6046 appearing at page 11935 in the FEDERAL REGISTER for Tuesday, March 1, 1977, is corrected as follows: Line 4 of the first column on page 11937 should read "Tuesday, March 29. 1977, at the Office".

MORTON POMERANZ,
Chairman, Section 301 Committee, Office of the Special Representative for Trade Negotiations.

[FR Doc.77-6960 Filed 3-8-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT

Quarterly Update of Environmental Review Documents Available for Public Review

Pursuant to 10 CFR 208.15(b), the Federal Energy Administration (FEA) hereby supplements its listing of environmental review documents, prepared under the authority of the National Environmental Policy Act, 42 U.S.C. 4321 et seq., which are available for public inspection and review. Listed below are environmental review documents made available to the public during the period December 1, 1976, through February 28, 1977. The last update of the review document listing was published in the FEDERAL REGISTER on November 30, 1976, (41 FR 174).

Single copies of the review documents are available upon request from the FEA Office of Communications and Public Affairs, Room 3138, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. Copies of the review documents are also available for public inspection in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, NW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Dated: March 3, 1977.

ERIC FYGI,
Acting General Counsel, Federal Energy Administration.

FEA list of published environmental impact statements and negative determinations, Dec. 1, 1976 to Feb. 28, 1977

Program/project designation	Type of document and number where applicable	Date made available to the public
Strategic petroleum reserve	Final programmatic environmental impact statement (FES-76-2).	Dec. 22, 1976
Strategic petroleum reserve: Proposed storage site, Bayou Choctaw Salt Dome, Iberville Parish, La.	Final environmental impact statement (FES-76-5).	Dec. 23, 1976
Emergency Petroleum Allocation Act: Review of application by the Indiana Gas Co. for petroleum feedstock allocation for synthetic natural gas production, Marion County, Ind.	Draft environmental impact statement (DES-77-1).	Dec. 30, 1976
Strategic petroleum reserve: Proposed storage site, Bryan Mound Salt Dome, Brazoria County, Tex.	Final environmental impact statement (FES-76-77-6).	Jan. 4, 1977
Energy Supply and Environmental Coordination Act: Proposed conversion to coal burning, Maynard Generating Station, Waterloo, Iowa.	Negative determination and environmental assessment.	Jan. 7, 1977
Strategic petroleum reserve: Proposed storage site, Central Rock Limestone Mine, Fayette County, Ky.	Draft environmental impact statement (DES-76-9).	Jan 10, 1977
Strategic petroleum reserve: Proposed storage site, Ironton Limestone Mine, Lawrence County, Ohio.	Draft environmental impact statement (DES-76-10).	Do.
Strategic Petroleum reserve: Proposed storage site, West Hackberry Salt Dome, Cameron Parish, La.	Final environmental impact statement (FES-76-77-4).	Jan. 25, 1977
Strategic petroleum reserve: proposed storage site, Cote Blanche Salt Mine, St. Mary Parish, La.	Final environmental impact statement (FES-76-77-7).	Jan. 26, 1977
Strategic petroleum reserve: Proposed storage site, Weeks Island Salt Mine, Iberia Parish, La.	Final environmental impact statement (FES-76-77-8).	Do.
Strategic petroleum reserve: Proposed storage site, Kleer Salt Mine, Van Zandt County, Texas.	Draft environmental impact statement (DES-77-2).	Jan. 27, 1977
Energy supply and environmental Coordination Act, as amended, sec. 2, coal conversion program.	Draft environmental impact statement (DES-77-3).	Feb. 22, 1977

[FR Doc.77-7024 Filed 3-4-77;4:23 pm]

FEDERAL MARITIME COMMISSION

PRUDENTIAL LINES, INC. AND COMPANIA PERUANA DE VAPORES

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 18, 1977. Any person desiring a hearing on the proposd agreeement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street, Northwest, Washington, D.C. 20006.

Agreement No. 10041-4, between the above named parties, amends their basic pooling, sailing and equal access to government-controlled cargo agreement in the trade from the U.S. Atlantic ports of New York, Philadelphia and Baltimore to the Peruvian ports of Callao and Ilo, by extending the term thereof through March 31, 1979. By order of the Federal Maritime Commission.

Dated: March 4, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-7020 Filed 3-8-77;8:45 am]

FEDERAL POWER COMMISSION

[Doc. No. ID-1807]

CHARLES R. PIERCE

Application

MARCH 3, 1977.

Take notice that on February 14, 1977, Charles R. Pierce filed an application, pursuant to section 305(b) of the Federal Power Act, to hold the following positions:

President and Director, Long Island Lighting Co., Public Utility.
Director, Empire State Power Resources, Inc., Public Utility.

Empire State was formed by seven electric utility companies in New York to construct, own and operate large-scale electric generating facilities within the State of New York. Substantially all of the energy generated will be sold to the sponsoring companies.

The application to hold an interlocking position as Director of Empire State will be deferred at least until such time as a decision on the merits of the Empire State proposal is reached by the New York State Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 4, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6975 Filed 3-8-77;8:45 am]

[Doc. No. E77-46]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order

On March 2, 1977, Entex, Inc. (Entex), filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase up to a total of 600,000 Mcf of natural gas at a rate of up to 15,000 Mcfd on a best efforts basis plus such additional volumes as are mutually agreeable from Houston Pipe Line Company (Houston) during the period ending April 30, 1977. Entex will purchase these volumes to serve its distribution systems in northern Mississippi supplied by Tennessee Gas Pipe Line Company, a Division of Tenneco, Inc. (Tennessee), at city-gate stations located in Coffeeville, Crowder, Drew-Jocquith, Lambert, Ruleville, Shaw, Sumner, and Oxford, Mississippi, and by the City of Senatobia, Mississippi, at Sardis, Mississippi.

Entex will purchase these volumes from Houston at a price of $2.20 per MMBtu at the tailgate of Shell Oil Company's Houston Central Plant, Colorado County, Texas. I find such price to be fair and equitable in accordance with Order No. 2.

Houston will deliver the subject volumes to Tennessee at the outlet of the Houston Central Plant, and Tennessee will deliver to Entex at the above-mentioned city-gate stations in northern Mississippi. Since Entex advises that deliveries will be made through existing facilities, no reason exists to require the construction and operation of facilities as permitted under section 6(c)(1) of Pub. L. 95-2 (91 Stat. 4, 8). Entex will pay Tennessee a transportation charge of 30 cents per Mcf. I find such charge to be fair and equitable.

Entex advises and I find that contractual provisions between Houston and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of its intrastate pipeline system gas supplies with gas moving

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in interstate commerce. The transportation and delivery of gas for which Entex seeks approval may result in some commingling of interstate natural gas with Houston's normal intrastate pipeline system gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas. Under the provisions of section 9(b), (c) of Pub. L. 95–2 (91 Stat. at 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Houston or such other parties, or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts referred to above are not enforceable by reason of section 9 of Pub. L. 95–2 since Houston is selling, delivering and transporting gas for Entex pursuant to section 6(a) of that Act. Houston and any third person whose gas is commingled with Entex's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Houston is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply • • • to any sale to an interstate pipeline • • • under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale • • •" 91 Stat. at 8. In addition section 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carried under any provision of state law.

Thus, the sale, delivery and transportation of this gas will not subject Houston or any person supplying gas to Houston to the provisions of the Natural Gas Act or to regulation as a common carrier under state law.

Order No. 6 provides in part that, subsequent to the date of the order, no local distribution company may contract for gas pursuant to section 6 of the Act if, contemporaneously with the execution of such contract, the local distribution company is serving directly or indirectly any uses classified in Priorities 4 through 9 as defined by the Federal Power Commission in 18 CFR 2.78 (a)(1)(iv)–(ix). Entex's filing does not represent that Entex is not serving any gas directly or indirectly to uses classified in Priorities 4 through 9 on any of its local distribution systems. The filing merely represents that gas to be purchased hereunder is necessary to enable Entex to serve uses of natural gas other than the uses specified in Priorities 4 through 9. Entex may well need the subject volumes to serve only Priorities 1 through 3 on the subject distribution systems while continuing to serve uses in Priorities 4 through 9 on other distribution systems. Therefore, Entex's authority to purchase gas from Houston is conditioned upon Entex's submission of a sworn statement that, based upon information reasonably available to it at the time of execution of the contract, it was not serving any uses classified in Priorities 4 through 9 directly or indirectly on any of its distribution systems, or, if it was serving such uses on any of its distribution systems, that it could not under the provisions of the Act or any other applicable law, have transferred the volumes used to serve uses classified in Priorities 4 through 9 to the subject distribution systems to serve uses classified in Priorities 1 through 3.

I authorize Houston to sell gas to Entex as set forth above, and authorize and order Tennessee to transport and deliver gas to Entex on the above-stated terms and conditions.

Entex shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Entex, Houston and Tennessee. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 3, 1977.

[FR Doc.77–6973 Filed 3–8–77;8:45 am]

[Doc. No. E77–47]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order

On March 3, 1977, Columbia Gas Transmission Corporation (Columbia) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to purchase a quantity of gas not to contain in excess of sixty-one billion (61,000,000,000) British Thermal Units (Btu's) at an estimated price of $2.562 per MMBtu from Houston Lighting and Power Company (Houston) and Exxon Company, U.S.A. (Exxon). For the reasons set forth below, I find the terms and conditions of the subject agreement between Houston and Columbia and Exxon to be fair and equitable and (i) authorize and approve the same and (ii) authorize, approve, and order the transportation and delivery of the subject gas to Columbia.

Under the terms of the agreement Columbia will deliver to Houston up to a maximum of 10,000 barrels per day of No. 6 fuel oil of certain quality specifications at (i) Houston's barge unloading dock located at or near Houston's Sam Bertron generating plant, Harris County, Texas and (ii) such other points as may be agreed upon by Houston and Columbia from time to time. Title to the fuel oil shall pass to Houston at such time as the fuel oil enters Houston's pipeline system serving the delivery points. The delivery of oil at such points shall be at Columbia's sole cost and expense.

Exxon will deliver to Columbia or Columbia's nominee a volume of gas having a Btu content equal to the Btu content of the fuel oil delivered to Houston at Exxon's Conroe Field Gas Plant, Montgomery County, Texas, Exxon's Greta Tom O'Connor Field Gas Plant, Refugio County, Texas, and the Magnet Withers Field, Wharton County, Texas, to United Texas Transmission Company (United Texas) which will transport and deliver the gas to the Katy Gas Processing Plant near Katy, Waller County, Texas. At the tailgate of the Katy Plant, Amoco Gas Company (Amoco Gas) will receive an equivalent volume of gas which shall be transported and delivered to Trunkline Gas Company (Trunkline) at a proposed interconnection in the vicinity of Katy, Texas. Trunkline will transport and deliver such gas to Tennessee Gas Pipeline Company (Tennessee) at an existing interconnection near Kinder, Louisiana. Tennessee will deliver said gas to Columbia Gulf Transmission Company (Columbia Gulf), an affiliate of Columbia, at a proposed interconnection near Centerville, Louisiana, for delivery to Columbia.

Because the total emergency gas receipts from Tennessee in Docket Nos. E77–10, E77–21, E77–30, and Federal Power Commission (FPC) Docket No. CP77–182 as well as receipt from Tennessee as proposed in this proceeding cannot be accomplished at Egan, Louisiana, Columbia proposes to construct a temporary interconnection between the pipelines of Columbia Gulf and Trunkline near Centerville, Louisiana. Tennessee will cause Trunkline to deliver gas from Trunkline's facility to Columbia Gulf.

Columbia requests authorization under the Act to construct the temporary interconnection at Centerville, Louisiana, to be used to receive excess gas from Tennessee purchased and transported under the Act which cannot be received by Columbia Gulf near Egan, Louisiana. The estimated cost of the temporary facilities for the Centerville interconnection is $175,000.

Columbia has agreed to pay the following transportation and related charges: United Texas—15.78 cents per Mcf transported, at 14.65 psia, its regulated cost of service charge under its domestic sales contracts as set by the Railroad Commission of Texas and approved by the Administrator in Docket No. E77–28; Amoco Gas—3 cents per Mcf transported at 14.65 psia; Trunkline—4.47 cents per Mcf transported plus 1 percent of the volumes as a fuel charge; and Tennessee—1 cent per Mcf at 14.73 psia.

Columbia advises and I find that the gas made available from Exxon and the transportation of such gas by United Texas and Amoco Gas will result in commingling of interstate natural gas with the gas delivered by Exxon and United Texas' and Amoco Gas' normal intrastate system gas supply and with volumes of gas owned by other parties. The contractual provisions between Houston, Exxon, United Texas and Amoco Gas and their producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling their intrastate pipeline system gas supplies with gas moving in interstate commerce. The sale, transportation and delivery of gas for which Columbia seeks approval may result in some commingling of interstate natural gas with Exxon's, United Texas', and Amoco Gas' normal intrastate gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas. Under the provisions of Section 9 (b), (c) of Pub. L. 95–2 (91 Stat. at 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Exxon, United Texas, Amoco Gas or such other parties or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts referred to above are not enforceable by reason of section 9 of Pub. L. 95–2 since Exxon, United Texas, Amoco Gas, and Houston are selling, delivering and transporting gas for Columbia pursuant to section 6(a) of that Act. Houston, Exxon, United Texas, Amoco Gas and any third person whose gas is commingled with Columbia's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Houston, United Texas and Amoco Gas are not classified as natural gas companies within the meaning of the Natural Gas Act. Section 6(b)(1)(A) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply • • • to any sale to an interstate pipeline • • • under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale • • •" 91 Stat. at 8. In addition, § 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Exxon is a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1)(B) provides that the provisions of the Natural Gas Act shall not apply "to any natural gas company (within the meaning of the Natural Gas Act) solely by reason of any such sale or transportation." Thus, the sale, delivery and transportation of this gas will not subject Houston, Exxon, United Texas, Amoco Gas or any person supplying gas to Houston, Exxon, United Texas, and Amoco Gas to the provisions of the Natural Gas Act or to regulation as a common carrier under state law.

Columbia will pay Houston a total price of approximately $2.562 per MMBtu for the subject gas volumes. This price is based on a cost of No. 6 fuel oil to Columbia of $13.70 per barrel plus a storage and handling charge of $0.25 per barrel. Assuming 6.0 MMBtu per barrel, the delivered price of $13.95 yields a gas cost of $2.325 per MMBtu. In addition, Houston estimates that the switch to fuel oil will reduce the thermal efficiency of its electrical generating plants approximately three percent (3%). Columbia shall compensate Houston for such loss by utilizing a conversion factor of three percent (3%) so that one hundred (100) Btu's of fuel oil equals ninety-seven (97) Btus of natural gas. Houston also represents that operating its electrical generating units with fuel oil rather than natural gas will result in additional operating and maintenance costs. Columbia has agreed to reimburse Houston for such additional costs and expenses incurred, including damage to equipment, if any, and will reimburse Houston monthly an amount equal to seven percent (7%) of the cost (including without limitation, transportation costs) to Columbia of fuel oil delivered during the preceding month. The generating units in which fuel oil will be burned have not been operated on fuel oil for extended periods, and Houston is, therefore, unable to determine accurately the actual additional costs and expenses which will be incurred as a result of burning oil. Since both the thermal efficiency loss and the increased operating and maintenance costs are estimates, the parties have agreed that reimbursement for such additional expenses will be adjusted upward or downward to reflect Houston's actual thermal efficiency losses and actual increased operating and maintenance costs. Columbia has also agreed to reimburse Houston for any increased or additional tax liability, federal or otherwise, subsequently determined to be applicable with respect to these transactions. The purpose of these adjustments is to assure that Houston will make no profit on the transaction but will be recompensated for any additional expenses to keep its rate payers whole:

Order No. 2 in Paragraph (2) provides in part:

> Where the seller of the gas will be required to use alternate fuel to replace the volumes sold, emergency purchases may be made without prior notification to or authorization by the Administrator, where such price is equal to or less than the cost of alternate fuel plus 7 percent.

Paragraph (4) of that Order provides in part:

> Where the seller of the gas will be required to use alternate fuel to replace the volumes sold, the Administrator will consider the appropriateness of such price, based upon the cost of alternate fuel suitably adjusted for loss of efficiency and increased maintenance costs.

Houston represents that it will experience a 3 percent thermal efficiency loss and a 7 percent increase in operating and maintenance expenses. Houston has also stated that these figures will be adjusted to reflect its actual experienced thermal efficiency losses and increased costs. I find such terms to be fair and equitable in accordance with Order No. 2.

Columbia states that to best of its "knowledge and belief" that its purchase complies with Order No. 6. I find that Columbia has complied with Order No. 6.

Columbia shall submit weekly reports as required by Order No. 4 and shall include in such reports any adjustments in the estimated thermal efficiency losses and increased operating and maintenance expenses incurred by Houston and the basis for such changes.

Pursuant to section 6(a) of the Act, I hereby authorize Houston to sell to Columbia up to 61,000 MMBtu per day of natural gas on the terms and conditions set forth in Columbia's filing in this proceeding and the February 28, 1977 agreement between Houston and Columbia and Exxon. Pursuant to section 6(c)(1) of the Act, I hereby authorize and order (i) United Texas, Amoco Gas, Trunkline, Tennessee and Columbia Gulf to transport gas for Columbia, (ii) Columbia Gulf to construct and recover the costs of such construction, and interconnection with Tennessee near Centerville, Louisiana, and (iii) Columbia to pay the agreed upon transportation charges.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia, Houston, Exxon, United Texas, Amoco Gas, Trunkline, Tennessee and Columbia Gulf. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77–6974 Filed 3–8–77;8:45 am]

[Doc. No. ER77–160]

ILLINOIS POWER CO.

Filing First Revised Exhibit I to Agreements For Purchase of Power

MARCH 3, 1977.

Take notice that Illinois Power Company ("Illinois Power") on January 19, 1977 tendered for filing First Revised Exhibit I to the Agreement for Purchase of Power dated March 25, 1971 between McDonough Power Cooperative ("McDonough") and Illinois Power.

First Revised Exhibit I which supersedes original Exhibit I, provides for additional territory in Warren and Knox County in which McDonough agrees to purchase and receive electric energy from Illinois Power.

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Copies of the filing were served upon McDonough and the Illinois Commerce Commission, Springfield, Illinois.

Any person desiring to be heard or to protest said application should file a petition or protest with the Federal Power Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies for this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6976 Filed 3-8-77;8:45 am]

[Docket No. CP77-253]

PANHANDLE EASTERN PIPE LINE CO.

Application

MARCH 3, 1977.

Take notice that on February 23, 1977, Panhandle Eastern Pipe Line Company (Applicant), 3000 Bissonnet Street, Houston, Texas 77001, and 3444 Broadway, Kansas City, Missouri 64141, filed in Docket No. CP77-253 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and storage of natural gas for existing customers and the construction and operation of a new redelivery point to effectuate such storage service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into two gas storage agreements with Consolidated Gas Company (Consolidated) dated October 31, 1976 ,and November 1, 1976, respectively, pursuant to which Applicant has offered its existing customers the opportunity to participate in long-term gas storage and transportation arrangements by which Applicant would transport to storage during the period March 1 through October 31 of each year volumes of gas designated by each customer from its volumetric entitlement and would redeliver such gas or a portion thereof, during the period November 1 through March 31.

Applicant states that the designated volumes of gas would be transported and delivered to Consolidated at an existing measurement facility at Melvindale, Michigan, for injection into Consolidated's underground storage fields. Applicant further states that the October 31, 1976, gas storage agreement is for firm service and provides for the annual summer period injection into storage of 6,000,000 Mcf of natural gas, exclusive of compressor fuel, and the November 1, 1976, gas storage agreement is an agreement for off-peak service wherein daily redelivery rates and times would be determined from time to time within Consolidated's ability to redeliver, and provides for the annual summer period injection of up to 5,000,000 Mcf of natural gas, exclusive of compressor fuel.

It is asserted that under the firm contract, Applicant would pay to Consolidated a monthly charge for each month of the term, commencing March, 1977, equal to 1/12th of such volumes multiplied by $.4882 per Mcf for those volumes committed for a fourteen year term, and a charge equal to 1/12th of such volumes multiplied by $.5523 per Mcf for those volumes committed for a seven year term. It is further asserted that the off-peak contract provides that Applicant would pay Consolidated a monthly charge for volumes committed for a fourteen year term equal to 1/12th of such volumes multiplied by $.4097 per Mcf for those volumes committed for a committed for a seven-year term equal to 1/12th of such volumes multiplied by $.4640 per Mcf. It is stated that under both contracts, at any time before March 1, 1984, all or any portion of the volumes initially committed for seven-year terms may be converted to the fourteen-year storage service, at which time the monthly charge for such converted volumes would be computed at the lesser price.

It is stated that Consolidated would redeliver the stored volumes to Applicant during the months of November through March of each year of the term of the contracts at an existing point of interconnection between Southeastern Michigan Gas Company (Southeastern), Consolidated and Applicant, and if the volume to be redelivered on any day is in excess of that which can be accommodated by Southeastern, then the delivery of such excess would be at a new point of interconnection between Consolidated's supplier, Michigan Wisconsin Pipe Line Company (M-W), and Applicant near Defiance, Ohio. Applicant states that under the firm contract, the redelivery rate would not be in excess of a maximum daily quantity equal to (a) 60.000 Mcf per day until 93 percent of the stored volumes has been withdrawn from storage or until March 1, whichever first occurs; and (b) thereafter, 18.000 Mcf per day. Applicant further states that under the off-peak contract, Consolidated would redeliver at daily rates and times within Consolidated's ability to redeliver, but, in any event, would redeliver to Applicant the following percentage of stored volume in the months set forth:

	Percent
November	25
December	30
January	25
February	15
March	5

Applicant asserts that it has entered into storage and transportation service agreements with certain of its existing customers, which service has been offered to the customers on the basis of either fourteen or seven-year terms, each with a further choice of firm or off-peak service. Applicant further asserts that the seven-year term agreements contain provisions whereby the customer may elect to purchase a second seven-year term for all or any portion of its stored volumes at any time before the expiration of the initial term; and if the customer so elects, the monthly charge for the service rendered in the remaining years becomes equal to the lesser, fourteen-year charge.

It is stated that the firm contracts provide that during the summer period, participating customers would direct that a portion of their monthly gas entitlement be transported by Applicant for storage and that during the winter period, specified portions of such stored volumes be redelivered by Applicant to such customers for use in their respective service areas. It is further stated that the daily volume to be redelivered would not be in excess of one percent of the customer's total stored volume, until 93 percent of the total stored volume has been redelivered or until March 1 of each year, whichever first occurs; thereafter, the maximum daily delivery quantity would be no greater than .3 percent of the customer's total stored volume.

Applicant states that the charge for the storage service rendered under the firm contracts would be a monthly charge for each month of the term equal to 1/12th of the stored volume multiplied by $.4882 under the fourteen-year contract and $.5523 under the seven-year contract. Applicant further states that there would be a transportation charge equal to $.025 per Mcf of gas transported on behalf of the customer for injection into storage and $.025 per Mcf of gas withdrawn from storage and transported and delivered by Applicant to the customer.

It is stated that the injection provisions of the off-peak contracts are identical to those of the firm contracts; however, the daily redelivery rates are based on Applicant's ability to redeliver. It is further stated that under the off-peak contracts Applicant would use its best efforts to redeliver gas in amounts equal to the portion of the customers' stored volume elected for redelivery during any month of the winter period, divided by the number of days designated by the customer for redelivery during that month, but would not be required to do so; in no event would Applicant be required to redeliver on any day a volume in excess of the customer's stored volume divided by one hundred, nor is it required to redeliver to the customer on a day when a gas supply deficiency curtailment is in effect a total volume of gas in excess of the customer's contract demand as set forth in the customer's service agreement with Applicant. Applicant states that the charge for the storage service rendered under the off-peak contract would be a monthly charge equal to 1/12th of the stored volume multiplied by $.4097 per Mcf for the fourteen-year contract and $.4640 per Mcf for the seven-year contract. Applicant further states that as in the firm contract there is a transportation charge of $.025 per Mcf of gas transported for the customer for injection into storage, and $.025 per Mcf of gas withdrawn from storage, transported and delivered to the customer.

It is asserted that in either contract, the customer may carry-over in storage specified volumes that the customer may elect not to have redelivered during the winter period; in which case, the buyer may request redelivery to it in the months of February, March and April in subsequent years of all or a portion of such carry-over volumes in addition to that otherwise deliverable and Applicant would use its best efforts to redeliver such volumes.

It is stated that deliveries of gas for injection into storage would be performed by utilizing existing facilities and existing points of interconnection; however, it is contemplated that a new delivery point would be required to assist in redeliveries from Consolidated during the winter period, such new delivery point being an interconnection between M-W and Applicant near Defiance, Ohio. Applicant states that the estimated cost of the facilities, $768,000, would be financed from funds on hand.

Applicant asserts that those of its customers desiring either firm-contract or off-peak storage service are as follows:

Firm contract customers	Carryover volume (1,000 ft.³)	Total volume (1,000 ft.³)
Citizens Gas Fuel Co.		250,000
Michigan Gas Utilities		800,000
Village of Morton	10,000	80,000
Northern Indiana Public Service Co.		2,000,000
Richmond Gas Corp.		100,000
Brockway Glass Co.		7,334
Citizens Gas and Coke Utility		1,255,666
Indiana Gas Co., Inc.		376,700
National Distillers and Chemical		941,750
Ohio Gas Co.		188,350
OFFPEAK SERVICE		
Brockway Glass Co., Inc.		1,466
Citizens Gas and Coke Utility		2,744,334
Great River Gas Co.		40,000
Indiana Gas Co., Inc.		389,550
Johns-Manville Sales Corp.		300,000
Kokomo Gas and Fuel Co.		1,000,000
Missouri Utilities Co.		200,000
Ohio Gas Co.		311,650

Applicant states that it would commence such storage service as hereinbefore described with initial injection in the 1977 summer period.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-6977 Filed 3-8-77;8:45 am]

GAS POLICY ADVISORY COUNCIL

Meeting

Agenda for meeting of the Transmission Distribution and Storage—Technical Advisory Task Force—Rate Design, to be held in Conference Room 3401, at the Federal Power Commission, Union Plaza Building, 941 North Capitol Street, N.E., Washington, D.C. 20426, on April 7, 1977 at 9:00 a.m.—Subgroup No. 5.

Presiding: Ms. Janet S. Grimes, FPC Coordinating Representative and Secretary.

1—Call to Order—Ms. Janet S. Grimes.

2—Review Final Chapter of Task Force Report—Mr. Donald Quinn, Subgroup No. 5 Chairman.

11:00 A.M.—ENTIRE TASK FORCE

3—Review and approve Task Force Report—Mr. Richard Walker, Task Force Chairman.

4—Adjournment—Ms. Janet S. Grimes.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7094 Filed 3-7-77;3:24 pm]

[Dockets Nos. RI76-157, RI76-158, RI76-159, RI76-161]

BRIDWELL OIL CO., ET AL.

Amended Petition for Special Relief

MARCH 3, 1977.

Take notice that on February 15, 1977, Valley Gas Transmission, Inc. (Valley), on its own behalf and on behalf of Bridwell Oil Company, W. M. Laughlin, Manler Oil Company, and William Perlman (collectively referred to as the Producers) filed a proposed settlement agreement applicable to the four Producer dockets listed above which amended Valley's petition for special relief filed September 3, 1976,[1] on its own behalf, on behalf of the four Producers joining herein (including all working interests relating to the gas sold), and on behalf of three other producers whose separate dockets have been disposed of independently of this settlement.

The petitions have been regarded as filings, requesting rates in excess of the National flowing gas rate pursuant to §§ 1.7(b) and 2.56(h) of the Commission's rules of practice and procedure. By this amendment to the petition filed September 3, 1976, Producers seek the following rates as compared to rates initially requested.

	Requested rate in cents per 1,000 ft.³	Settlement rate in cents per 1,000 ft.³
Bridwell Oil Co.	73.30	42.25
W. M. Laughlin	103.50	74.77
Manler Oil Co.	91.10	65.66
William Perlman	183.70	115.37

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before March 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition

[1] Valley's initial petition involved seven producers. Glen A. Martin, et al., petition, Docket No. RI76-134 is being processed separately; Jack M. Wolf, Docket No. RI76-137 and Mormac Oil & Gas Company, Docket No. RI76-160 have withdrawn to accept National or area rates. Notice of the initial petition filed September 3, 1976, was issued October 6, 1976, and published in the FEDERAL REGISTER on October 14, 1976, at 41 FR 45048.

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to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7095 Filed 3-8-77;8:45 am]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95-2

On March 2, 1977, Consolidated Edison Company of New York, Inc. (Con Ed), filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act); Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 50,000 Mcfd of natural gas from Pacific Gas and Electric Company (PG&E). Con Ed states that it will use such volumes to serve high priority uses and to replenish storage and that, as agent, it will make up to 100 percent of the volumes purchased from PG&E available to other New York State utilities similarly situated on the same terms and conditions that Con Ed purchases from PG&E.

Con Ed will pay PG&E 35 cents per Mcf for storage and transportation charges and 1.8 cents per Mcf per month on the outstanding balance of gas delivered by PG&E beginning April 1, 1977, and on of each month thereafter until Conthe outstanding balance as of the first Ed repays all gas received in kind. In addition, Con Ed will repay to PG&E, at the Arizona-California border, a volume of gas having a total Btu content equal to the total Btu content of the gas delivered to Con Ed at the Arizona-California border. I have previously found such terms to be fair and equitable. Columbia Gas Transmission Corporation, Docket No. E77-21 (February 24, 1977); Southern Natural Gas Company, Docket No. E77-5 (February 20, 1977). I find such charges to be fair and equitable in this proceeding.

This gas will be delivered to Con Ed by El Paso Natural Gas Company (El Paso) reducing deliveries to PG&E at the Arizona-California border and diverting an equivalent volume to Transwestern Pipewestern will deliver to Natural Gas Pipeline Company (Transwestern). Transline Company of America (Natural) which will deliver to Texas Eastern Transmission Corporation (Texas Eastern) which will deliver to United Gas Pipe Line Company (United). United will redeliver the gas to Texas Eastern for delivery to Con Ed. All deliveries will be made through existing facilities. I lack the necessary information to determine whether the transportation charges to be received by El Paso, Transwestern, Natural, Texas Eastern and United are fair and equitable. Con Ed shall, therefore, submit all relevant information regarding the transportation charges to be paid in this proceeding.

According to the official files of the Federal Power Commission, PG&E is not classified as a natural gas company within the meaning of the Natural Gas Act. Seciton 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *" 91 Stat. 4, 8. In addition, section 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the sale, delivery and transportation of this gas will not subject PG&E to the provisions of the Natural Gas Act.

Order No. 6 provides in part that, subsequent to the date of the order, no local distribution company may contract for gas pursuant to section 6 of the Act if, contemporaneously with the execution of such contract, the local distribution company is serving directly or indirectly any uses classified in Priorities 4 through 9 as defined by the Federal Power Commission in 18 CFR 2.78(a)(1)(iv)-(ix). Con Ed's filing does not demonstrate that it will not serve such uses directly or indirectly. Therefore, Con Ed's authority to purchase gas from PG&E is conditioned upon Con Ed's submission of a sworn statement that, based upon information reasonably available to it at the time of execution of the contract, it was not serving any uses classified in Priorities 4 through 9 indirectly as well as directly.[1]

I authorize PG&E to sell gas to Con Ed pursuant to the pricing provisions set forth above, and authorize and order El Paso, Transwestern, Natural, Texas Eastern, and United to transport and deliver gas to Con Ed on the above-stated terms and conditions.

Con Ed shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Con Ed, PG&E, El Paso, Transwestern, Natural, Texas Eastern and United. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

MARCH 3, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77-7097 Filed 3-8-77;8:45 am]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95-2

On March 2, 1977, Texas Gas Transmission Corporation (Texas Gas) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to transport natural gas which has been purchased by United Cities Gas Company (United Cities) for its own account and the accounts of Texas Gas, Memphis Light, Gas and Water Division (Memphis), and the Jackson Utility Division, Jackson, Tennessee (Jackson).

Texas Gas advises that United Cities has arranged to purchase up to 15,000 Mcfd at a price of $2.25 per MMBtu from Louisiana Gas Intrastate, Inc. (Louisiana Gas). This price will be paid by United Cities for gas for itself, Memphis and Jackson; Texas Gas will pay United Cities this same price for gas it purchases. I find the proposed price of $2.25 per MMBtu to be fair and equitable in accordance with Order No. 2.

Approximately 12,000 Mcfd will be delivered to Memphis, and United Cities, Jackson, and Texas Gas will receive approximately 800, 700, and 1500 Mcfd, respectively. Texas Gas will receive this gas from Louisiana Gas at the tailgates of the Claiborne Gasoline Plant, Claiborne Parish, Louisiana, and the Dubach Gasoline Plant, Lincoln Parish, Louisiana. No new facilities are required to render the proposed transportation service. Texas Gas' proposed transportation rates are based upon the cost data supporting the settlement rates in Texas Gas' most recent Federal Power Commission rate case in Docket No. RP76-17 and the retention of a percent of the transported volumes for compressor fuel and company use and loss. I find such rates, to be fair and equitable.

I find that contractual provisions between Louisiana Gas and its producers, transporters and other suppliers of gas may prohibit the sale of natural gas in interstate commerce and the commingling of its intrastate pipeline system gas supplies with gas moving in interstate commerce. The transportation and delivery of gas for which Texas Gas seeks approval may result in some commingling of interstate natural gas with Louisiana Gas' normal intrastate pipeline system gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas. Under the provisions of section 9(b), (c) of Pub. L. 95-2 (91 Stat. 4, 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Louisiana Gas or such other parties, or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition, or redetermination provisions in any such contracts as referred to above are not enforceable by reason of section 9 of Pub. L. 95-2 since Louisiana Gas is selling gas pursuant to section 6(a) of that Act. Louisiana Gas and any third person whose gas is commingled with United Cities' gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Louisiana Gas is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *" 91 Stat. at 8. In addition, section 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the sale of this gas will not subject Louisiana Gas or any person supplying gas for Louisiana Gas to the provisions of the Natural Gas Act or to regulation as a common carrier under state law.

Therefore, I authorize Louisiana Gas to sell gas to United Cities pursuant to the pricing provisions set forth above, and authorize and order Texas Gas to transport and deliver gas for United Cities on the above-stated terms and conditions.

Texas Gas and United Cities, on behalf of itself and Jackson and Memphis, have advised that all recipients of these volumes are currently curtailing into Category 2 requirements and expect to continue such curtailment level in the near future. Order No. 6 provides in part that, subsequent to the date of the order, no interstate pipeline or local distribution company may contract for gas pursuant to § 6 of the Act if, contemporaneously with the execution of such contract, it is serving directly or indirectly any uses classified in Priorities 4 through 9 as defined by the Federal Power Commission in 18 CFR 2.78(a)(1)(iv)-(ix). Therefore, United Cities' authority to purchase gas from Louisana Gas is conditioned upon the submission of sworn statements by United Cities, Texas Gas, Jackson and Memphis that, based upon information reasonably available at the time of execution of the contract, they were not serving any uses classified in Priorities 4 through 9 indirectly as well as directly.

United Cities, Texas Gas, Jackson and Memphis shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon United Cities, Texas Gas, Louisiana Gas, Jackson and Memphis. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 3, 1977.

[FR Doc.77-7098 Filed 3-8-77;8:45 am]

[1] As a part of such statement, Con Ed shall certify that it was not consuming gas in either its electric generating plants or its gas fired turbines for the purpose of generating electric energy or steam to be sold for heating purposes.

GLEN A. MARTIN, ET AL.

Amended Petition for Special Relief

MARCH 3, 1977.

Take notice that on January 31, 1977, Glen A. Martin (Petitioner), National Bank of Commerce Building, San Antonio, Texas 78205, together with Douglas Weatherston and George Weatherston (Petitioners), Alamo National Bank Building, San Antonio, Texas 78205, filed an amendment to the petition for special relief initially filed on June 25, 1976,[1] in the above captioned docket pursuant to § 2.76 of the Commission's General Policy and Interpretations. By the amendment of January 31, 1977, petitioners seek a rate of 66 cents per Mcf for gas sold relating to all working interests from seven leases, six leases in the Sejita Field and one lease in the East Sejita Field, Duval County, Texas. Petitioners were seeking a rate of $1.80 per Mcf.

It appears reasonable and consistent with the public interest in this case to prescribed a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before March 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7096 Filed 3-8-77;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST BANKERS CORP. OF FLORIDA

Acquisition of Bank

First Bankers Corporation of Florida, Pompano Beach, Florida, has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of The First National Bank of Winter Garden, Winter Garden, Florida. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 1, 1977.

Board of Governors of the Federal Reserve System, March 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6993 Filed 3-8-77;8:45 am]

PAGE BANK HOLDING CO.

Order Approving Formation of Bank Holding Company

Page Bank Holding Company, Page, North Dakota, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 92.7 percent of the voting shares of Page State Bank, Page, North Dakota ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Bank, with deposits of $4.3 million,[1] is the 22nd largest of 23 banking organizations and controls approximately 0.79 percent of the total commercial bank deposits in the relevant banking market.[2] Upon acquisition of Bank, Applicant would control the 124th largest banking organization in North Dakota, holding 0.15 percent of the total deposits in commercial banks in the State. Inasmuch as the proposed transaction is essentially a reorganization whereby the shareholder who presently controls Bank directly will control Bank indirectly through Applicant, and since Applicant presently has no subsidiaries and engages in no activities, consummation of the proposal would not eliminate existing or potential competition, or increase the concentration of banking resources in the relevant market. Therefore, competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant, which are dependent upon those of Bank, are considered to be satisfactory, and their future prospects appear favorable. Although Applicant will incur some debt as a result of this proposal, it appears that income from Bank should provide Applicant with sufficient revenues to meet its debt service requirements without adversely

[1] Notice issued on July 13, 1976, published in the FEDERAL REGISTER on July 19, 1976 at 41 FR 29753.

[1] All banking data are as of December 31, 1975.

[2] The relevant banking market is approximated by Cass County, North Dakota and Clay County, Minnesota.

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affecting the financial condition of Bank. While Applicant's principal has certain interests in and relationships with other banking organizations in the State of North Dakota, the financial and managerial resources of such organizations are regarded as consistent with approval. Accordingly, considerations relating to banking factors are consistent with approval of the application. While no major changes are contemplated in Bank's services, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Accordingly, it is the Board's judgment that consummation of the proposed transaction would be consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[1] effective March 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-6994 Filed 3-8-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Assistant Secretary for Education

EDUCATION STATISTICS

Comments on Collection of Information and Data Acquisition Activity

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below. Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before April 8, 1977, and should be addressed to Administrator, National Center for Education Statistics, Attn.: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue S.W., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: March 4, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Instructions for completing the Financial Status Report and the Follow Through Grantee Performance Report.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Elementary and Secondary Education.

3. AGENCY FORM NUMBER

OE 376.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Recipients shall use the standard Financial Status Report prescribed by Attachment H of OMB Circular A-102 (HEW Form 601T) to report the status of funds for all nonconstruction projects * * * grantees shall submit a performance report with each Financial Status Report * * *"

Sections 100a403 and 100a432 of the General Provisions for Office of Education Programs (38 FR 30676 and 38 FR 30677).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Program Management—Financial Status Reports and Follow Through Grantee Performance Reports will be used to determine program accomplishments and to help assure grantee compliance with Follow Through Regulations and with the approved application as well as to bring about accountability of each grantee in terms of the expenditure of funds.

7. DATA ACQUISITION PLAN

a. Method of Collection: Mail.
b. Time of Collection: Fall 1977.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: Follow Through Grantees.
b. Number: 204 Universe.
c. Estimated Average Man-Hours per respondent: 2.5.

9. INFORMATION TO BE COLLECTED

For the performance period, for an activity or function: A grantee will be requested to (1) indicate Federal and required non-Federal outlays; (2) describe program accomplishments in terms of objectives; and (3) explain slippage in accomplishments in terms of these objectives. Local Project applicants with Supplementary Training for paraprofessionals will be requested to report on the following: (1) Number of paraprofessionals funded in the project; (2) number of paraprofessionals funded for Supplementary Training; (3) sex of the paraprofessionals funded for Supplementary Training; (4) ethnic/racial composition of paraprofessionals funded for Supplementary Training; (5) academic status of paraprofessionals funded for Supplementary Training; (6) number of paraprofessionals funded for Supplementary Training receiving special acceleration support for full-time enrollment; (7) number of paraprofessionals funded for Supplementary Training who earned college course credits; and (8) number of paraprofessionals funded for Supplementary Training who graduated from college.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Basic Educational Opportunity Grant Application Questionnaire.

2. AGENCY/BUREAU/OFFICE

Office of Education/Bureau of Postsecondary Education/Division of Basic and State Student Grants.

3. AGENCY FORM NUMBER

OE-556.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 408(a) Each administrative head of an education agency * * * is * * * authorized * * *

(4) * * * to enter into and perform such contracts, leases, cooperative agreements, or other transaction as may be necessary for the conduct of such agency * * *" (Pub. L. 93-380, 20 U.S.C. 1221e-3).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The form will be used to determine the results of the use of optical mark reading format for the Basic Grant application in a sample of high schools and postsecondary institutions. If the form can be used by students without difficulty, its adoption for the full Basic Grant population would significantly reduce the time and expense related to the processing of Basic Grant applications.

7. DATA ACQUISITION PLAN

a. Method of Collection: Mail.
b. Time of Collection: May 1977.
c. Frequency: One time only.

8. RESPONDENTS

a. Type: Financial Aid Officers.
b. Number: 200.
c. Estimated Average Man-House Per Respondent: ½ hour.

a. Type: High School Guidance Counselors.
b. Number: 200.
c. Estimated Average Man-Hours per Respondent: ½ hour.

9. INFORMATION TO BE COLLECTED

Data to be collected will be the same for financial aid officers and counselors. The questionnaire will collect the following information on students experience with the optical mark reading format: (a) The number of applications submitted by students and problems incurred in completing the applications; (b) the degree of difficulty of the form; (c) the quality of the data gathered from the form; (d) the speed of the processing of the form.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Follow Through Comprehensive Health Services Planning Questionnaire.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Elementary and Secondary Education.

3. AGENCY FORM NUMBER

OE Form 4535.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 551. (a) (1) The Secretary is authorized to provide financial assistance in the form of grants to local educational agencies, combinations of such agencies, and, as provided in paragraph (2) of this subsection any other public or appropriate nonprofit private organizations, and institutions for the purpose of carrying out Follow Through programs focused primarily on children from low-income families in kindergarten and primary grades, including such children enrolled in private nonprofit elementary schools, who were previously enrolled in Headstart or similar programs."

(3) Programs to be assisted under this Section shall provide such comprehensive services as the Secretary determines will aid in the continued development of children described in Paragraph (1) to their full potential (Pub. L. 93-644, 42 U.S.C. 2929).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Program Management—The Follow Through Comprehensive Health Services Planning Questionnaire will provide information for research and evaluation purposes in the comprehensive services being provided in FT projects. The questionnaire is also designed to provide technical assistance to the project administrators by suggesting resources or activities which could benefit the low-income FT children.

7. DATA ACQUISITION PLAN

a. Method of Collection: Mail
b. Time of Collection: Fall 1977
c. Frequency: Annually

8. RESPONDENTS

a. Type: Follow Through Local Project grantees
b. Number: 144—Universe
c. Estimated Average Man-Hours per Respondent: 1

9. INFORMATION TO BE COLLECTED

The Follow Through Comprehensive Health Services Planning Questionnaire is comprised of four sections:

A. Planning-School Year—For the school year, this section provides information such as the persons responsible for planning the health services program; measures taken to ensure parental consent, and sources or methods used to provide comprehensive health care information to eligible Follow Through children and their families.

B. Provision of Comprehensive Health Services—This section:

1. Addresses how individual children's health histories have been or will be obtained and

2. Encompasses the specific services to be provided.

The information sought for these services is as follows:

1. Medical—The percentage of low-income Follow Through children who have received or will receive immunizations and what these immunizations are; the screening procedures which have been or will be used, according to income percentages; the percentages of Follow Through children who have been or will be receiving general physical examinations; and who will provide or has provided medical supervision and emergency care.

2. Dental—What attempts will or have been made to prevent problems in Follow Through children; the types of services, according to income percentages, which will or have been received; if appropriate, reasons why all low-income Follow Through children have not received services; what actions will be or have been taken if problems occur; and by what means services have been or will be provided.

3. Psychological—Whether there is a psychological consultation service; if so, what personnel and activities are included; who provided services; if there is not a consultation service, how services are provided; the services which have been or will be received by Follow Through children according to income percentages; if appropriate, reasons why low-income Follow Through children have not or will not receive services; who has or will refer children and their families for services; and by what measures confidentiality has been or will be ensured.

4. Nutritional—The percentages of Follow Through children who have been or will be receiving specific services, according to family income; if appropriate, what other sources of funds are used to pay for services; whether a nutrition education program is offered and what it encompasses; and, if appropriate, why a nutrition program has not or will not be offered.

C. Health Education—This section seeks information concerning the health education services which have been or will be included in the overall health program; questions concerning employee health and school safety are asked in order to determine whether health and safety measures in the schools are taken and, if measures to assure employee health and school safety are not taken, the reasons why not.

D. Additional Resources and Future Care—This section seeks information on what sources will contribute or have contributed 10 percent or more of the cost of the comprehensive health services; which organizations will provide or have provided in-kind services; if appropriate, the reasons why the project does not use and does not plan to use additional funds or services; and information about what the project will do or has done to help ensure adequate future care for the Follow Through children and their families.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Survey of State Education Provisions for the Gifted and Talented.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Office of the Gifted and Talented.

3. AGENCY FORM NUMBER

OE 9064.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

This project is authorized under Pub. L. 93-380, Section 408(a), "Each administrative head of an education agency * * * is * * * authorized—

(4) * * * to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary for the conduct of such agency;"

5. VOLUNTARY OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

To serve federal, state and local agencies who are concerned with initiating, maintaining, improving, and measuring progress in the development of the policy base and the delivery of appropriate educational services to gifted and talented children. The collection and organization of current base data will enable measurements to be taken as to the future progress of the field.

7. DATA ACQUISITION PLAN

a. Method of Collection: Mail and telephone.
b. Time of Collection: Spring 1977
c. Frequency: Single time.

8. RESPONDENTS

a. Type: Education Agencies of the States and Territories.
b. Number: 57 (universe).
c. Estimated Average Man-Hours Per Respondent: 3.

9. INFORMATION TO BE COLLECTED

The study will seek to collect information in the following categories: (a) Policy base—laws, administrative policy, state plans; (b) resources—personnel, appropriations, documents; (c) children—gifted and talented school population; (d) programs—types of services, delivery of services in rural areas and (e) teacher or administrator preparation—preservice and inservice training

[FR Doc.77-6984 Filed 3-8-77;8:45 am]

Alcohol, Drug Abuse, and Mental Health Administration

COMMITTEE ON MENTAL HEALTH AND ILLNESS OF ELDERLY

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory body scheduled to assemble during the month of April 1977:

Committee on Mental Health and Illness of the Elderly: April 15-16; 9:00 a.m.; Room 723A-727A, South Portal Building, Department of Health, Education & Welfare, 200 Independence Avenue, S.W., Wash., D.C.

Open Meeting: Contact Dr. Carole B. Allan, Room 18-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3726.

Purpose: The Committee on Mental Health and Illness of the Elderly will study and make recommendations to the Secretary, HEW, respecting: (1) the future needs for mental health facilities, manpower, research, and training to meet the mental health care needs of elderly persons; (2) the appropriate care of elderly persons who are in mental institutions or who have been discharged from such institutions; and (3) proposals for implementing the recommendations of the 1971 White House Conference on Aging respecting the mental health of the elderly. A report on the findings and

[1] Voting for this action: Governors Wallich, Coldwell, Jackson, and Lilly. Absent and not voting: Chairman Burns and Governors Gardner and Partee.

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recommendations of this Committee shall be submitted by the Secretary, HEW, to the Senate Committee on Labor and Public Welfare and to the House Committee on Interstate and Foreign Commerce no later than July 29, 1977; the Committee shall terminate 30 days after submission of the report.

Agenda: The April 15–16 meeting of the Committee (the fourth of five 2-day meetings planned to accomplish its purpose) will be open to the public. The entire 2-day meeting will be devoted to Committee discussion of its final report. Attendance by the public will be limited to space available. Substantive information may be obtained from the contact person listed above.

The National Institute of Mental Health Information Officer who will furnish summaries of the meeting and rosters of the Committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3600.

Dated: March 3, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77–6927 Filed 3–8–77;8:45 am]

Health Services Administration

NATIONAL ADVISORY COMMITTEE ON MIGRANT HEALTH

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of May 1977:

Name: National Advisory Council on Migrant Health.

Date and Time: May 16–18, 1977, 9 a.m.

Place: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Type of meeting: Open for entire meeting.

Purpose: The Committee is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 319 of the Public Health Service Act.

Agenda: The Council will consider (1) recommendations on National Health Planning and Resources Development Act of 1974, and recognition of special needs of migrants in Health Systems Agencies Regulations and Guidelines; (2) recommendations on Health Professions Educational Assistance Act of 1976 Application to Migrant Health Centers and Projects; (3) legislative proposals for FY 1979 extension of the Migrant Health Title IV of the Public Health Service Act.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Billy M. Sandlin, Bureau of Community Health Services, Room 7A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1153.

Agenda items are subject to change as priorities dictate.

Dated: March 3, 1977.

WILLIAM H. ASPDEN, JR.,
Associate Administrator, for Management.

[FR Doc.77–6971 Filed 3–8–77;8:45 am]

Office of Education

COMMUNITY EDUCATION PROGRAM

Closing Date for Receipt of Amendments Fiscal Year 1977

On November 26, 1976, a notice of closing date for the receipt of grant applications under the Community Education Program (section 405 of the Education Amendments of 1974, Pub. L. 93–380 (20 U.S.C. 1864); 45 CFR Part 160c) was published in the FEDERAL REGISTER (41 FR 32107). The notice established a closing date of February 7, 1977. It also: (1) required that each local educational agency (LEA) applicant provide a copy of its application to the State educational agency (SEA) of the State within which the applicant was located concurrently with its submission of the application to the U.S. Office of Education; (2) required the LEA to verify submission to the SEA by enclosing in its application to the U.S. Office of Education a copy of the dated cover letter used to forward a copy of its application to the SEA; and (3) provided that advice and comments received from SEA's no later than March 8, 1977, would be considered in reviewing applications.

A number of LEA applications for grants under the Community Education Program which were received by the February 7 closing date failed to include any verification that a copy of the application had been submitted to the SEA.

The purpose of this notice is to provide each LEA applicant under the Community Education Program which did not meet this requirement with an opportunity to do so through an amendment to its application.

A copy of the dated cover letter used to forward a copy of the LEA's application to the SEA (or comparable verification of such submission to the SEA) must be received by the U.S. Office of Education, Application Control Center on or before March 18, 1977. This copy of the cover letter or other verification is referred to hereinafter as the "amendment" to the application.

If the LEA has not already submitted a copy of its application to the appropriate SEA, it shall do so no later than the day on which it submits its application amendment to the U.S. Office of Education.

A. *Amendments sent by mail.* An amendment sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202, Attention: 13.563. An amendment sent by mail will be considered to be received on time by the Application Control Center if:

(1) The amendment was sent by registered or certified mail not later than March 14, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The amendment is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. *Hand delivered amendments.* An amendment to be hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered amendments will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Amendments will not be accepted after 4:00 p.m. on the closing date, March 18, 1977.

C. *Cut-off for SEA comment.* The cut-off date for receipt of advice and comments from SEA's applications is hereby extended to March 31, 1977. Advice and comments received from SEA's no later than March 31, 1977 will be considered by the Office of Education in reviewing applications.

D. *Forms for amendment.* There are no forms for the amendment. To facilitate review, the applicant is asked to identify in a cover letter the application control number for its FY 1977 application.

E. *Other amendments.* No other amendments to applications are being accepted.

(Catalog of Federal Domestic Assistance Number 13.563; Community Education Program.)

(20 U.S.C. 1864; 45 CFR Part 160c.)

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.77–7144 Filed 3–8–77;8:45 am]

Health Resources Administration

TASK FORCE ON COST-SHARING OF THE COOPERATIVE HEALTH STATISTICS ADVISORY COMMITTEE

Meeting; Cancellation

In FR Doc. 77–4003 appearing at page 8222 in the issue for Wednesday, February 9, 1977, the March 10–11, 1977, meeting of the "Task Force on Cost-Sharing of the Cooperative Health Statistics Advisory Committee" has been cancelled. The meeting will be rescheduled at a later date, and announcement made in the FEDERAL REGISTER accordingly.

Dated: March 7, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77–7180 Filed 3–8–77;11:07 am]

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

[Doc. No. M 77–112]

OHIO-ATLAS CONSTRUCTION CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Ohio-Atlas Construction Co., P.O. Box 2482, Wenton, West Virginia, has filed a petition to modify the application of 30 CFR 77.1907(d), hoist construction: general, to its Lick Run Mine, located in Raleigh County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Ohio-Atlas Construction Company has entered into a contract with Becklers Basin Company, Inc., whereby Ohio-Atlas Construction Company is to construct a slope and two shafts at the Lick Run Mine. Due to the nature of the construction work, hoisting facilities must be used to raise and lower men and materials in the shafts and slope being constructed.

2. Petitioner requests that 30 CFR 77.1907(d) be modified so that Ohio-Atlas Construction Company may use hoists and mobile cranes where the hoist rope is not fastened by means of clamps, but rather is secured to the drum by means of a rope wedge.

3. Throughout the construction industry, the method of using a rope wedge to secure a hoisting rope at the drum end has been widely used on crawler cranes, truck cranes, and other hoisting equipment. Ohio-Atlas Construction Company has been using rope wedges since 1967 on most of its hoisting equipment used in constructing shafts and slopes, and Ohio-Atlas Construction Company has never had a rope slip or loosen where it has been secured at the drum end by a rope wedge.

4. The use of a rope wedge as a safe means of securing a hoisting rope to a drum is recognized as a proper method. ANSI Safety Standard B–30.5 recognizes a wedge and socket arrangement as an approved method for securing the rope to the drum on crawler, locomotive, and truck cranes. Similarly, ANSI Safety Standard B–30.7 permits the use of a wedge and socket arrangement for base-mounted drum hoists. (See letter from American Hoist & Derrick Company).[1]

5. A rope wedge is preferable to a cable clamp arrangement because the rope wedge permits a variation of rope sizes in the rope pocket. Furthermore, it diminishes the possibility of having a rope pull through a clamp under heavy line pull. This is something that could happen where cable clamps are used and the cable clamps are too large for the hoisting rope. (See letter from American Host & Derrick Company).[1]

6. The hoist used by Ohio-Atlas Construction Company are not permanent mine hoists, but instead are temporary construction hoists and mobile cranes designed to be used with rope wedges, and these hoists are not designed to be used with cable clamps.

7. 30 CFR 77.1907(d) requires that a hoisting rope contain at least three full turns on the hoist drum when the rope is extended to its maximum working length. Ohio-Atlas Construction Company normally has at least five full turns of rope on the hoist drum and in many cases, one full layer. As the number of full turns of rope increases on the drum, the tension on the rope wedge end of the rope decreases.

8. Granting of this petition will in no way provide less than the same measure of protection afforded employees under the existing standard.

9. The Safety Committee of the United Mine Workers of America at the project site, and the safety representative for UMWA District 29, have been notified of this petition.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments by April 8, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FRISHBERG,
Acting Director, Office of Hearings and Appeals.

MARCH 1, 1977.

[FR Doc.77–7008 Filed 3–8–77;8:45 am]

[Doc. No. M 77–110]

OHIO-ATLAS CONSTRUCTION CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Ohio-Atlas Construction Co., P.O. Box 2482, Wenton, West Virginia, has filed a petition to modify the application of 30 CFR 77.1907(d), hoist construction: general, to its Skelton Mine Shaft, located in Raleigh County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Ohio-Atlas Construction Company has entered into a contract with The New River Company, whereby Ohio-Atlas Construction Company is to construct a shaft at The Skelton Mine. Due to the nature of the construction work, hoisting facilities must be used to raise and lower men and materials in the shaft being constructed.

2. Petitioner requests that 30 CFR 77.1907(d) be modified so that Ohio-Atlas Construction Company may use hoists and mobile cranes where the hoist rope is not fastened by means of clamps, but rather is secured to the drum by means of a rope wedge.

3. Throughout the construction industry, the method of using a rope wedge to secure a hoisting rope at the drum end has been widely used on crawler cranes, truck cranes, and other hoisting equipment. Ohio-Atlas Construction Company has been using rope wedges since 1967 on most of its hoisting equipment used in constructing shafts, and Ohio-Atlas Construction Company has never had a rope slip or loosen where it has been secured at the drum end by a rope wedge.

4. The use of a rope wedge as a safe means of securing a hoisting rope to a drum is recognized as a proper method. ANSI Safety Standard B–30.5 recognizes a wedge and socket arrangement as an approved method for securing the rope to the drum on crawler, locomotive, and truck cranes. Similarly, ANSI Safety Standard B–30.7 permits the use of a wedge and socket arrangement for base-mounted drum hoists. (See letter from American Hoist & Derrick Company).[1]

5. A rope wedge is preferable to a cable clamp arrangement because the rope wedge permits a variation of rope sizes in the rope pocket. Furthermore, it diminishes the possibility of having a rope pull through a clamp under heavy line pull. This is something that could happen where cable clamps are used and the cable clamps are too large for the hoisting rope. (See letter from American Hoist & Derrick Company).[1]

6. The hoist used by Ohio-Atlas Construction Company is not permanent mine hoists, but instead are temporary construction hoists and mobile cranes designed to be used with rope wedges, and these hoists are not designed to be used with cable clamps.

7. 30 CFR 77.1907(d) requires that a hoisting rope contain at least three full turns on the hoist drum when the rope is extended to its maximum working length. Ohio-Atlas Construction Company normally has at least five full runs of rope on the hoist drum and in many cases, one full layer. As the number of full turns of rope increases on the drum the tension on the rope wedge end of the rope decreases.

8. Granting of this petition will in no way provide less than the same measure of protection afforded employees under the existing standard.

9. The Safety Committee of the United Mine Workers of America at the project site, and the safety representative for UMWA District 29, have been notified of this petition.

[1] The enclosed letter is available for inspection at the address listed in the last paragraph of the notice.

[1] The enclosed letter is available for inspection at the address listed in the last paragraph of the notice.

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REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments by April 8, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FISHBERG,
Acting Director, Office of Hearings and Appeals.

[FR Doc.77-7009 Filed 3-8-77;8:45 am]

[Doc. No. M 77-113]

PEABODY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Peabody Coal Co., Box 235, St. Louis, Missouri 63166, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies; electrical face equipment, to its Alston No. 3 Mine, located in Ohio County, Kentucky.

The substance of Petitioner's statement is as follows:

1. The minimum top at Petitioner's Alston No. 3 Mine is 46 inches where Petitioner is now operating and said top varies from a maximum of 52 inches to a minimum of 38 inches.

2. Certain safety hazards are created by the installation of cabs or canopies on the following self-propelled electric face equipment at Alston No. 3 Mine:

(a) Loaders; (b) Cutters; (c) Coal Drills; (d) Pinners; (e) Shuttle Cars; (f) Scoops; and (g) Tractors.

3. Among the safety hazards created by the installation of cabs or canopies on the equipment listed in paragraph 2 herein are the following:

(a) The equipment operator's field of vision is significantly reduced as a result of the close proximity of the cab or canopy top to the operator's cinoartnebt:

(b) The operator's arm and leg movements are significantly restricted as a result of reduced space in the operator's compartment;

(c) Increased operator fatigue is caused by the reduced operator compartment space;

(d) The significant increase in the height of the equipment creates the danger of destruction of line curtains and other similar ventilation devices which would cause substantially diminished air velocity.

(e) The operator's means of getting on and off the equipment is limited, thereby impairing his ability to escape from the equipment in an emergency.

4. Operators of the equipment listed in paragraph 2 herein refuse to operate such equipment when equipped with cabs or canopies because the operators fear for their safety and the safety of other miners.

5. Incorporated herein by reference are affidavits from the President of Local 1894 of UMWA and the Chairman of the Local Safety Committee of the UMWA describing the safety hazards resulting from the installation of cabs and canopies on the equipment listed in paragraph 2 here.[1]

6. For the reasons herein set forth, the application of 30 CFR 75.1710–1 to the face equipment listed in paragraph 2 herein at all locations of Petitioner's Alston No. 3 Mine results in a diminution of safety to the miners at said mine.

7. As an alternative method in lieu of the application of 30 CFR 75.1710–1 to the face equipment listed in paragraph 2 above at Alston No. 3 Mine, Petitioner proposes the following:

(a) Petitioner will comply with all terms and provisions of its roof control plan for Alston No. 3 Mine which was adopted and filed in accordance with 30 CFR 75.200;

(b) Petitioner has adopted and will continue a regular program of safety instruction for its employees designed to educate and train its employees in safety techniques and to eliminate employee exposure to problems inherent in mining with specific emphasis on problems relating to top and roof falls;

(c) Petitioner's management employees and its miners will make frequent tests of the top to determine its stability;

(d) Petitioner will continue to make job safety analysis studies to assure that roof control practices comply not only with company policy but federal and state requirements as well;

(e) Petitioner has endeavored to design and construct cabs and canopies which would be suitable for installation on the equipment listed in paragraph 2 above and which would not diminish the safety of miners. Petitioner has required its suppliers to attempt to design and make available such cabs and canopies. In cooperation with the MESA Technical Support Group, Petitioner will continue these efforts in the design and construction of such suitable cabs and canopies which will not diminish the safety of miners.

(f) Petitioner will intensify its training and retraining programs involving the roof control plan and roof examination.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments by April 8, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FISHBERG,
Acting Director,
Office of Hearings and Appeals.

MARCH 1, 1977.

[FR Doc. 77-7010 Filed 3-8-77;8:45 am]

[1] The enclosed affidavits are available for inspection at the address listed in the last paragraph of this notice.

[Docket No. M 77-114]

PEABODY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Peabody Coal Co., Box 235, St. Louis, Missouri 63166, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies; electrical face equipment, to its Alston No. 4 Mine, located in Ohio County, Kentucky.

The substance of Petitioner's statement is as follows:

1. The minimum top at Petitioner's Alston No. 4 Mine is 46 inches where Petitioner is now operating and said top varies from a maximum of 52 inches to a minimum of 38 inches.

2. Certain safety hazards are created by the installation of cabs or canopies on the following self-propelled electric face equipment at Alston No. 4 Mine:

(a) Loaders; (b) Cutters; (c) Coal Drills; (d) Pinners; (e) Shuttle Cars; (f) Scoops; and (g) Tractors.

3. Among the safety hazards created by the installation of cabs or canopies on the equipment listed in paragraph 2 herein are the following:

(a) The equipment operator's field of vision is significantly reduced as a result of the close proximity of the cab or canopy top to the operator's compartment;

(b) The operator's arm and leg movementments are significantly restricted as a result of reduced space in the operator's compartment;

(c) Increased operator fatigue is caused by the reduced operator compartment space;

(d) The significant increase in the height of the equipment creates the danger of destruction of line curtains and other similar ventilation devices which would cause substantially diminished air velocity.

(e) The operator's means of getting on and off the equipment is limited, thereby impairing his ability to escape from the equipment in an emergency.

4. Operators of the equipment listed in paragraph 2 herein refuse to operate such equipment when equipped with cabs or canopies because the operators fear for their safety and the safety of other miners.

5. Incorporated herein by reference are affidavits from the President of Local 1893 of the UMWA and the Chairman of the Local Safety Committee of the UMWA describing the safety hazards resulting from the installation of cabs and canopies on the equipment listed in paragraph 2 here.[1]

6. For the reasons herein set forth, the application of 30 CFR 75.1710–1 to the face equipment listed in paragraph 2 herein at all locations of Petitioner's Alston No. 4 Mine results in a diminution of safety to the miners at said mine.

[1] The enclosed affidavits are available for inspection at the address listed in the last paragraph of this notice.

7. As an alternatives method in lieu of the application of 30 CFR 75.1710–1 to the face equipment listed in paragraph 2 above at Alston No. 4 Mine, Petitioner proposes the following:

(a) Petitioner will comply with all terms and provisions of its roof control plan for Alston No. 4 Mine which was adopted and filed in accordance with 30 CFR 75.200;

(b) Petitioner has adopted and will continue a regular program of safety instruction for its employees designed to educate and train its employees in safety techniques and to eliminate employee exposure to problems inherent in mining with specific emphasis on problems relating to top and roof falls;

(c) Petitioner's management employees and its miners will make frequent tests of the top to determine its stability;

(d) Petitioner will continue to make job safety analysis studies to assure that roof control practices comply not only with company policy but federal and state requirements as well;

(e) Petitioner has endeavored to design and construct cabs and canopies which would be suitable for installation on the equipment listed in paragraph 2 above and which would not diminish the safety of miners. Petitioner has required its suppliers to attempt to design and make available such cabs and canopies. In cooperation with the MESA Technical Support Group, Petitioner will continue these efforts in the design and construction of such suitable cabs and canopies which will not diminish the safety of miners.

(f) Petitioner will intensify its training and retraining programs involving the roof control plan and roof examination.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FISHBERG,
Acting Director,
Office of Hearings and Appeals.

MARCH 1, 1977.

[FR Doc.77-7011 Filed 3-8-77;8:45 am]

[Doc. No. M 77-115]

PEABODY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861 (c) (1970), Peabody Coal Company, Box 235, St. Louis, Missouri, 63166, has filed a petition to modify the application of 30 CFR 75.1710 cabs or canopies, electrical face equipment, to its Simco No. 4 Mine, located in Coshocton County, Ohio.

The substance of Petitioner's statement is as follows:

1. The minimum top at Petitioner's Simco No. 4 Mine is 39 inches where Petitioner is now operating and said top varies from a maximum of 48 inches to a minimum of 31 inches.

2. Certain safety hazards are created by the installation of cabs or canopies on the following self-propelled electric face equipment at Simco No. 4 Mine:

(a) Loaders; (b) Cutters; (c) Coal Drills; (d) Pinners; (e) Shuttle Cars; (f) Scoops; (g) Tractors.

3. Among the safety hazards created by the installation of cabs or canopies on the equipment listed in paragraph 2 herein are the following:

(a) The equipment operator's field of vision is significantly reduced as a result of the close proximity of the cabs or canopy top to the operator's compartment;

(b) The operator's arm and leg movements are significantly restricted as a result of reduced space in the operator's compartment;

(c) Increased operator fatigue is caused by the reduced operator compartment space;

(d) The significant increase in the height of the equipment creates the danger of destruction of line curtains and other similar ventilation devices which would cause substantially diminished air velocity.

(e) The Operator's means of getting on and off the equipment is limited, thereby impairing his ability to escape from the equipment in an emergency.

4. Operators of the equipment listed in paragraph 2 herein refuse to operate such equipment when equipped with cabs or canopies because the operators fear for their safety and the safety of other miners.

5. Incorporated herein by reference are affidavits from the President of Local 1323 of the UMWA and the Chairman of the Local Safety Committee of the UMWA describing the safety hazards resulting from the installation of cabs and canopies on the equipment listed in paragraph 2 herein.[1]

6. For the reasons herein set forth, the application of 30 CFR 75.1710–1 to the face equipment listed in paragraph 2 herein at all locations of Petitioner's Simco No. 4 Mine results in a diminution of safety to the miners at said mine.

7. As an alternative method in lieu of the application of 30 CFR 75.1710–1 to the face equipment listed in paragraph 2 above at Simco No. 4 Mine, Petitioner proposes the following:

(a) Petitioner will comply with all terms and provisions of its roof control plan for Simco No. 4 Mine which was adopted and filed in accordance with 30 CFR 75.200;

[1] The enclosed affidavits are available for inspection at the address listed in the last paragraph of this notice.

(b) Petitioner has adopted and will continue a regular program of safety instruction for its employees designed to educate and train its employees in safety techniques and to eliminate employee exposure to problems inherent in mining with specific emphasis on problems relating to top and roof falls;

(c) Petitioner's management employees and its miner will make frequent tests of the top to determine its stability;

(d) Petitioner will continue to make job safety analysis studies to assure that roof control practices comply not only with company policy but federal and state requirements as well;

(e) Petitioner has endeavored to design and construct cabs and canopies which would be suitable for installation on the equipment listed in paragraph 2 above and which would not diminish the safety of miners. Petitioner has required its suppliers to attempt to design and make available such cabs and canopies. In cooperation with the MESA Technical Support Group, Petitioner will continue these efforts in the design and construction of such suitable cabs and canopies which will not diminish the safety of miners.

(f) Petitioner will intensify its training and retraining programs involving the roof control plan and roof examination.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments by April 8, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FISHBERG,
Acting Director, Office of Hearings and Appeals.

MARCH 1, 1977.

[FR Doc.77-7012 Filed 3-8-77;8:45 am]

[Doc. No. M 77-116]

PEABODY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970)), Peabody Coal Co., Box 235, St. Louis, Missouri 63166, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies; electrical face equipment, to its Simco No. 5 Mine, located in Coshocton County, Ohio.

The substance of Petitioner's statement is as follows:

1. The minimum top at Petitioner's Simco No. 5 Mine is 37 inches where Petitioner is now operating and said top varies from a maximum of 48 inches to a minimum of 31 inches.

2. Certain safety hazards are created by the installation of cabs or canopies on

V4246 MAR 9 77 UMI

the following self-propelled electric face equipment at Simco No. 5 Mine:

(a) Loaders; (b) Cutters; (c) Coal Drills; (d) Pinners; (e) Shuttle Cars; (f) Scoops; (g) Tractors.

3. Among the safety hazards created by the installation of cabs or canopies on the equipment listed in paragraph 2 herein are the following:

(a) The equipment operator's field of vision is significantly reduced as a result of the close proximity of the cab or canopy top to the operator's compartment;

(b) The operator's arm and leg movements are significantly restricted as a result of reduced space in the operator's compartment;

(c) Increased operator fatigue is caused by the reduced operator compartment space;

(d) The significant increase in the height of the equipment creates the danger of destruction of line curtains and other similar ventilation devices which would cause substantially diminished air velocity.

(e) The operator's means of getting on and off the equipment is limited, thereby impairing his ability to escape from the equipment in an emergency.

4. Operators of the equipment listed in paragraph 2 herein refuse to operate such equipment when equipped with cabs or canopies because the operators fear for their safety and the safety of other miners.

5. Incorporated herein by reference are affidavits from the President of Local 1323 of the UMWA and the Chairman of the Local Safety Committee of the UMWA describing the safety hazards resulting from the installation of cabs and canopies on the equipment listed in paragraph 2 here.[1]

6. For the reasons herein set forth, the application of 30 CFR 75.1710–1 to the face equipment listed in paragraph 2 herein at all locations of Petitioner's Simco No. 5 Mine results in a diminution of safety to the miners at said mine.

7. As an alternative method in lieu of the application of 30 CFR 75.1710–1 to the face equipment listed in paragraph 2 above at Alston No. 4 Mine, Petitioner proposes the following:

(a) Petitioner will comply with all terms and provisions of its roof control plan for Simco No. 5 Mine which was adopted and filed in accordance with 30 CFR 75.200;

(b) Petitioner has adopted and will continue a regular program of safety instruction for its employees designed to educate and train its employees in safety techniques and to eliminate employee exposure to problems inherent in mining with specific emphasis on problems relating to top and roof falls;

(c) Petitioner's management employees and its miners will make frequent tests of the top to determine its stability;

(d) Petitioner will continue to make job safety analysis studies to assure that roof control practices comply not only with company policy but federal and state requirements as well;

(e) Petitioner has endeavored to design and construct cabs and canopies which would be suitable for installation on the equipment listed in paragraph 2 above and which would not diminish the safety of miners. Petitioner has required its suppliers to attempt to design and make available such cabs and canopies. In cooperation with the MESA Technical Support Group, Petitioner will continue these efforts in the design and construction of such suitable cabs and canopies which will not diminish the safety of miners.

(f) Petitioner will intensify its training and retraining programs involving the roof control plan and roof examination.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments by April 8, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FISHBERG,
Acting Director, Office of Hearings and Appeals.

MARCH 1, 1977.

[FR Doc.77-7013 Filed 3-8-77;8:45 am]

[Doc. No. M77-117]

PEABODY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861 (c) (1970), Peabody Coal Company, Box 235, St. Louis, Missouri 63166, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, electrical face equipment, to its Simco No. 7 Mine, located in Coshocton County, Ohio.

The substance of Petitioner's statement is as follows:

1. The minimum top at Petitioner's Simco No. 7 Mine is 42 inches where Petitioner is now operating and said top varies from a maximum of 48 inches to a minimum of 31 inches.

2. Certain safety hazards are created by the installation of cabs or canopies on the following self-propelled electric face equipment at Simco No. 7 Mine:

(a) Loaders.
(b) Cutters.
(c) Coal Drills.
(d) Pinners.
(e) Shuttle Cars.
(f) Scoops.
(g) Tractors.

3. Among the safety hazards created by the installation of cabs or canopies on the equipment listed in paragraph 3 herein are the following:

(a) The equipment operator's field of vision is significantly reduced as a result of the close proximity of the cab or canopy top to the operator's compartment;

(b) The operator's arm and leg movement are significantly restricted as a result of reduced space in the operator's compartment;

(c) Increased operator fatigue is caused by the reduced operator compartment space;

(d) The significant increases in the height of the equipment creates the danger of destruction of line curtains and other similar ventilation devices which would cause substantially diminished air velocity;

(e) The operator's means of getting on and off the equipment is limited, thereby impairing his ability to escape from the equipment in an emergency.

4. Operators of the equipment listed in paragraph 2 herein refuse to operate such equipment when equipped with cabs or canopies because the operators fear for their safety and the safety of other miners.

5. Incorporated herein by reference are affidavits from the President of Local 1323 of the UMWA and the Chairman of the Local Safety Committee of the UMWA describing the safety hazards resulting from the installation of cabs and canopies on the equipment listed in paragraph 2 herein.[1]

6. For the reasons herein set forth, the application of 30 CFR 75.1710–1 to the face equipment listed in paragraph 2 herein at all locations of Petitioner's Simco No. 7 Mine results in a diminution of safety to the miners at said mine.

7. As an alternative method in lieu of the application of 30 CFR 75.1710–1 to the face equipment listed in paragraph 2 above at Simco No. 7 Mine, Petitioner proposes the following:

(a) Petitioner will comply with all terms and provisions of its roof control plan for Simco No. 7 Mine which was adopted and filed in accordance with 30 CFR 75.200;

(b) Petitioner has adopted and will continue a regular program of safety instruction for its employees designed to educate employee exposure to problems inherent in mining with specific emphasis on problems relating to top and roof falls;

(c) Petitioner's management employees and its miners will make frequent tests of the top to determine its stability;

(d) Petitioner will continue to make job safety analysis studies to assure that roof control practices comply not only with company policy but federal and state requirements as well;

(e) Petitioner has endeavored to design and construct cabs and canopies which would be suitable for installation on the equipment listed in paragraph 2 above and which would not diminish the safety of miners. Petitioner has required its suppliers to attempt to design and make available such cabs and canopies. In cooperation with the MESA Technical Support Group, Petitioner will continue these efforts in the design and construction of such suitable cabs and canopies which will not diminish the safety of miners.

(f) Petitioner will intensify its training and retraining programs involving the roof control plan and roof examination.

REQUESTS FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments by April 8, 1970. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FISHBERG,
Acting Director, Office of Hearings and Appeals.

MARCH 1, 1977.

[FR Doc.77-7014 Filed 3-8-77;8:45 am]

[Doc. No. M77-85]

W & W COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861 (c) (1970), W & W Coal Company, 620 Frederick Street, Bluefield, West Virginia 24701, has filed a petition to modify the application of 30 CFR 75.1103, automatic fire warning devices, to its No. 8 Mine, located in Mercer County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Petitioner's belt line is maintained regularly on an 8-hour shift by one man. This man's duties concern proper maintenance of the belt line. It is his job to grease the rollers, to make sure that the rollers are rolling freely and to make sure that at all times the belt line is clean.

2. Petitioner has permanent stoppings on each side of the belt and a permanent stopping with a main door at the mouth of the drift. Located along the belt line are 250 pounds of rock dust and fire extinguishers at specified intervals.

3. The belt line now extends 1,200 feet into the mine. The life expectancy of this mine is one more year.

4. There are no electrical motors on the belt inside the mine. All electrical systems are on the outside of the mine, 50 feet from the mouth of drift.

5. Due to the fact that this is a nongassy mine, Petitioner feels that it has personnel to maintain this belt hourly and feels that this provides better protection than a monitor.

6. If Petitioner were to go to other means, the man who maintains this belt would lose his job and Petitioner feels this would be unwarranted.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments by April 8, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FISHBERG,
Acting Director, Office of Hearings and Appeals.

MARCH 1, 1977.

[FR Doc.77-7015 Filed 3-8-77;8:45 am]

Bureau of Land Management

[Colorado 4436]

COLORADO

Partial Termination of Proposed Withdrawal and Reservation of Lands; Correction

MARCH 1, 1977.

The Notice of Partial Termination of Proposed Withdrawal and Reservation of Lands under serial number Colorado 436, dated January 10, 1976, appearing in the January 21, 1977, issue of the FEDERAL REGISTER at page 3903, is hereby corrected as follows:

The date of the notice is corrected to read "January 10, 1977" and the serial number as it appears in the heading is corrected to read "Colorado 4436".

Wherefore, pursuant to the regulations contained in 43 CFR, Part 2311, the lands will be relieved of the segregative effect of the above-mentioned application 30 days from the date of this notice.

RODNEY A. ROBERTS,
Acting Chief, Branch of Land Operations.

[FR Doc.77-7001 Filed 3-8-77;8:45 am]

[NM 29915]

NEW MEXICO

Application

MARCH 2, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 6-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 25 E.,
Sec. 31, SE¼SW¼ and S½SE¼;
Sec. 32, SW¼SE¼.

This pipeline will convey natural gas across 0.794 miles of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Mineral Operations.

[FR Doc.77-7002 Filed 3-8-77;8:45 am]

[NM 27256]

NEW MEXICO

Restoration of Public Lands

By Powersite Cancellation No. 175 (42 FR 10344 of February 22, 1977), the U.S. Geological Survey canceled Powersite Classification No. 327 of October 4, 1941, effective February 15, 1977. The affected land is described as follows:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 11 S., R. 20 W.,
Sec. 23, lot 9

The area described aggregate 35.67 acres in Catron County.

Pursuant to authority delegated by Bureau of Land Management Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, it is ordered as follows:

At 10 a.m. on March 11, 1977, the above described lands will be restored to the operation of the public land laws generally, subject to valid existing rights. All valid applications received prior to that time will be considered as simultaneously filed at that time.

Further information regarding these lands is available from the Chief, Division of Technical Services, Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87501.

ARTHUR W. ZIMMERMAN,
State Director.

[FR Doc.77-7003 Filed 3-8-77;8:45 am]

[NM 29900]

NEW MEXICO

Application

MARCH 2, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for five-buried cathodic protection cable rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 5 W.,
Sec. 6, SW¼NW¼ and NW¼SW¼;
Sec. 19, SE¼SE¼;
Sec. 20, SW¼SW¼;
Sec. 26, SW¼NW¼;
Sec. 27, SE¼NE¼;
Sec. 33, E½NE¼ and NE¼SE¼.
T. 29 N., R. 6 W.,
Sec. 33, E½NW¼, SW¼NW¼ and NW¼SW¼.

[1] The enclosed affidavits are available for inspection at the address listed in the last paragraph of this notice.

V 4246 MAR 9 77 UMI

The cables are necessary to provide cathodic protection for gas wells and will cross 1.284 miles of national resource lands in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-7004 Filed 3-8-77;8:45 am]

[NM 29857, 29858, 29859, and 29860]

NEW MEXICO

Applications

MARCH 1, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for four 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 12 W.,
Sec. 14, NE¼NW¼ and S½NW¼.
T. 26 N., R. 12 W.,
Sec. 17, NW¼SW¼;
Sec. 18, SE¼NE¼ and NE¼SE¼;
Sec. 34, E½SE¼.

These pipelines will convey natural gas across 1.299 miles of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-7005 Filed 3-8-77;8:45 am]

[N-16377]

NEVADA

Proposed Withdrawal and Reservation of Lands

FEBRUARY 28, 1977.

The U.S. Forest Service filed application N-16377 on February 11, 1977, for the withdrawal of lands described below from settlement, sale, location or entry under the public land laws, including the mining and mineral leasing laws and disposals of materials under the Act of July 31, 1947, as amended (30 U.S.C. 601, 602).

The applicant desires the lands for an administrative site in connection with the Humboldt National Forest.

On or before April 8, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976 (hereinafter referred to as the act), an opportunity for a public hearing is hereby afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 3008 Federal Building, 300 Booth Street, Reno, Nevada 89509, within the 30-day period allowed. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

Effective March 9, 1977, the lands will be segregated to the extent described above for a period of two years unless the application is rejected prior to that date. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested. The determination of the Secretary on the application will be published in the FEDERAL REGISTER.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, NEVADA

T. 34 N., R. 55 E.,
Sec. 2, S½SE¼NE¼.

The area described contains 20 acres.

WM. J. MALENCIK,
Chief, Division of Technical Services.

[FR Doc.77-7006 Filed 3-8-77;8:45 am]

[U-36494]

UTAH

Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a cathodic protection station right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 18 S., R. 24 E.,
Sec. 24, NW¼NE¼, SW¼NE¼.

The cathodic protection station is necessary for the protection and safe operation of Northwest Pipeline Corporation's natural gas pipeline system.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

PAUL L. HOWARD,
State Director.

FEBRUARY 25, 1977.

[FR Doc.77-7007 Filed 3-8-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

USITC SE-77-20

GOVERNMENT IN THE SUNSHINE

Commission Meeting for March 17, 1977

Interested members of the public are invited to attend and to obeserve the meeting of the United States International Trade Commission to be held on Thursday, March 17, 1977, beginning at 9:30 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street N.W., Washington, D.C. 20436. Except as herein after specified, the Commission plans to consider the following agenda items in open session.

1. Agenda;
2. Minutes;
3. Discussion of corrections to the transcripts of Government in the Sunshine meetings;
4. Chicory root (Inv. 337-TA-27);
5. Status report on the study on Customs oversight;
6. Classification appeal regarding a staff member;
7. Reorganization.

If you have any questions concerning the agenda for the March 17, 1977, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Access to documents to be considered by the Commission at the meeting is provided for in Subpart C of the Commission's rules (19 CFR 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with proposed 19 CFR 201.38(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c) (2) and (6), on the authority of 19 U.S.C. 1335, and in conformity with proposed 19 C.F.R. 20136(b) (2) and (6), Commissioners Parker, Moore, Bedell, and Ablondi voted to hold the portion of the March 17, 1977, meeting with respect to the selection of personnel under reorganization (agenda item No 77) in closed session. Commissioners Minchew and Leonard voted against closing this portion to the public.

A majority of the entire membership of the Commission felt that this portion of the meeting should be closed to the public since: (1) the discussion would only concern internal personnel practice and procedures; and (2) the information discussed in such portion would be likely to disclose information of a personal nature which could constitute a clearly unwarranted invasion of personal privacy.

Those persons expected to be present at this closed portion, and their corresponding affiliations, are listed as follows:

Daniel Minchew, Chairman.
Joseph O. Parker, Vice Chairman.
Will E. Leonard, Commissioner.
George M. Moore, Commissioner.
Catherine Bedell, Commissioner.
Italo H. Ablondi, Commissioner.
Kenneth R. Mason, Secretary.
Jayne L. Silva, Staff Assistant (if Mr. Mason is not available).
E. Bernice Morris, Staff Assistant.
Charles R. Ramsdale, Director, Personnel.
Norma H. Warbis, Personnel Management Specialist (if Mr. Ramsdale is not available).
Bruce N. Hatton, Assistant to Commissioner Leonard.

The General Counsel to the Commission certified that it is his opinion that the Commission's action in closing this portion of its meeting of March 17, 1977, was properly taken by a vote of a majority of the entire membership of the Commission pursuant to 5 U.S.C. 552b (d)(1) and in conformity with proposed 19 C.F.R. 201.36(e). The discussion to be held in closed session is within the specific exemptions of 5 U.S.C. 552b(c) (2) and (6) and proposed 19 C.F.R. 201.36(b) (2) and (6).

By order of the Commission.

Issued: March 4, 1977.

RUSSELL N. SHEWMAKER,
General Counsel.
KENNETH R. MASON,
Secretary.

[FR Doc.77-7025 Filed 3-8-77;8:45 am]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

MEETINGS; AMENDMENT

As previously scheduled (41 FR 12356), the Commission will meet on Friday, March 11, 1977. The Steering Committee will meet first, beginning at 10 a.m., followed by a meeting of the full Commission in Dining Room E of the Federal Reserve Martin Annex Building in Washington, D.C. The purpose of the meeting is to consider the Commission's research agenda for the next several months.

The meeting will be open to public observation to the extent that limited space permits. Any person interested in observing the meeting should first call Ms. Janet Miller at (202) 634-1746.

In April the Commission will meet on April 15, rather than on April 8 as previously scheduled. The exact time and place for this meeting will be published at a later time.

Dated: March 3, 1977.

JAMES O. HOWARD, JR.,
Advisory Committee Management Officer.

[FR Doc.77-6953 Filed 3-8-77;8:45 am]

NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

PRIVACY ACT OF 1974

Revocation and Transfer of Systems of Records

MARCH 2, 1977.

Pursuant to the provisions of the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a, the National Commission on Supplies and Shortages published in the FEDERAL REGISTER (41 FR 14497, and 51784) notices of the existence of the following systems of records subject to the Privacy Act: NCSS-1, Financial Records; NCSS-2, Payroll Records; NCSS-3, Personnel Files; NCSS-4, Personnel Security Files.

The National Commission on Supplies and Shortages will cease operations March 31, 1977, and the aforementioned systems of records revoked on that date.

The systems of records disposition subsequent to March 31, 1977, follows:

NCSS-1: FINANCIAL RECORDS

To be retained by General Services Administration Central Office (Office of Finance), for use in concluding administrative operations of the Commission as part of the GSA system of records, Defunct Agency Records GSA/OAD-36.

NCSS-2: PAYROLL RECORDS

To be retained by General Services Administration, Region 3, Payroll Processing Branch, for use, as above.

NCSS-3: PERSONNEL FILES

To be retained by General Services Administration Central Office (Office of Management Services), for use, as above, or to be disposed of in accordance with General Records Schedule #1, Civilian Personnel Records, as approved by the Archivist of the United States.

NCSS-4: PERSONNEL SECURITY FILES

To be retained by General Services Administration Central Office (Office of Investigations), for use, as above, or to be disposed of in accordance with General Records Schedule #18, Security and Protective Services Records, as approved by the Archivist of the United States.

Copies held by the Commission will be destroyed on or before March 31, 1977.

GEORGE C. EADS,
Executive Director.

[FR Doc.77-6925 Filed 3-8-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EXPANSION ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held on March 22-25, 1977, from 9 a.m. to 5:30 p.m., in Room 1422, Columbia Plaza Building, 2401 E Street N.W., Washington, D.C.

A portion of this meeting will be open to the public on March 22, from 9 a.m. to 12:30 p.m. on a space available basis. Accommodations are limited. The agenda for this session will include a discussion of program policy.

The remaining sessions of this meeting on March 22, from 12:30 p.m. to 5:30 p.m., and March 23-25, from 9 a.m. to 5:30 p.m., are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-6979 Filed 3-9-77;8:45 am]

PUBLIC MEDIA ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Public Media Advisory Panel to the National Council on the Arts will be held on March 22-23, 1977, from 9 a.m. to 5:30 p.m., in the 12th Floor Screening Room, Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including

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discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77–6980 Filed 3–9–77;8:45 am]

SPECIAL PROJECTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a closed meeting of the Special Projects Advisory Panel to the National Council on the Arts will be held on March 25–26, 1977, from 9 a.m. to 5:30 p.m. Sessions on March 25 will be held in Room 1345 and on March 26 in Room 1422 of the Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77–6982 Filed 3–9–77;8:45 am]

THEATRE ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that a closed meeting of the Theatre Advisory Panel to the National Council on the Arts will be held on March 26–28, 1977, from 9:30 a.m. to 5:30 p.m., in the Essex House, 160 Central Park South, New York City, New York.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77–6981 Filed 3–9–77;8:45 am]

NATIONAL SCIENCE FOUNDATION

BIOLOGICAL RESEARCH RESOURCES PROGRAM

Meeting on Long-Term Ecological Measurements

The Biological Research Resources Program of the National Science Foundation is sponsoring a meeting to be held at the Marine Biological Laboratory, Woods Hole, Massachusetts on March 16, 17 and 18, 1977.

The meeting, involving approximately 20 invited participants, is to study the feasibility of establishing an integrating system for collection of long time-series data. The focus will be on the fundamental scientific needs of ecology, rather than on applied aspects.

While this meeting is not considered to be a meeting of an "advisory committee" as defined in Section 3 of the Federal Advisory Committee Act (Pub. L. 91–463), the meeting is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open to the public.

The meeting will be chaired by Daniel B. Botkin of the Marine Biological Laboratory.

Copies of the final report of the meeting will be available through William E. Sievers, Biological Research Resources Program, NSF, Washington, D.C. 20550.

WILLIAM E. SIEVERS,
Program Director, Biological Research Resources Program.

MARCH 4, 1977.

[FR Doc.77–6997 Filed 3–8–77;8:45 am]

ALAN T. WATERMAN AWARD COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following:

Name: Alan T. Waterman Award Committee.
Date and Time: March 29, 1977—8:30 a.m. to 5 p.m.
Place: Room 517, National Science Foundation, Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Jack Sanderson, Director, Office of Planning and Resources Management, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–4364.
Purpose of award committee: To provide recommendations concerning the recipient of the Alan T. Waterman Award.
Agenda: To review nominations as part of the selection process for the Award.
Reason for closing: The nominations being reviewed include information of a personal and confidential nature. These matters are within exemption (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: The determination made by the Acting Director of the National Science Foundation on February 14, 1977, pursuant to the provisions of Section 10(d) of P.L. 92–463.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 4, 1977.

[FR Doc.77–6998 Filed 3–8–77;8:45 am]

OFFICE OF THE FEDERAL REGISTER

EDUCATIONAL WORKSHOPS ON HOW TO USE THE FEDERAL REGISTER

Workshop in Honolulu, Hawaii

The Office of the Federal Register (OFR) will hold a workshop on "The FEDERAL REGISTER—What It Is and How To Use It" in Honolulu, Hawaii, as part of the General Services Administration's Consumer Representation Plan.

Workshop Date: Wednesday, April 6, 9:00 a.m. (Reservations required).
Location: Room 202 Kuykendall Hall, Manoa Campus, University of Hawaii.

For reservations call Bernice Wong at 808–948–8175.

AGENDA

The workshop will last for approximately three hours and will cover the following areas:

1. A brief history of the FEDERAL REGISTER.

2. The difference between legislation and regulations.

3. The relationship of the FEDERAL REGISTER and the Code of Federal Regulations.

4. Important elements of a typical FEDERAL REGISTER document.

5. An introduction to the finding aids of the OFR and a practical exercise using those finding aids.

The OFR does not interpret specific agency regulations and the workshops will not provide a forum for the discussion of substantiative questions. Rather, the workshops are designed as an introduction for the person who discovers that he or she must use FEDERAL REGISTER publications to keep track and to gain an understanding of Federal regulations.

Dated: February 24, 1977.

FRED J. ENERY,
Director of the Federal Register.

[FR Doc.77–7155 Filed 3–8–77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on March 2, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Presurvey Questionnaire to the Producers of Fresh Cut Flowers, single-time, commercial fresh cut flower producers, Evinger, S.K., 395–3710.

DEPARTMENT OF AGRICULTURE

Forest Service: National Skier Market Study—Request for Proposal, single-time, Outdoor Recreationist, Maria Gonzalez, 395–6132.

DEPARTMENT OF COMMERCE

Maritime Administration:
Report of Revenues Earned for Calendar Year, Cumulative Quarterly Period Ending or Other Cumulative Period Ending, MA–819, annually, U.S. flag liner shipping companies, Warren Topelius, 395–5872.
1977 Worldwide Shipping Pilot Questionnaire, single time, U.S. merchant ship masters, Warren Topelius, 395–5872.
Bureau of Census: 1977 Census of Transportation Nonregulated Bus and Motor Carrier Survey, TC–41 and 42, single time, nonregulated bus and truck carriers, Strasser, A., 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service: 1977–78 National Inventory of Optomerist, single time, licensed optometrists in non-CHSS States, Richard Eisinger, Strasser, A., 395–6140.

DEPARTMENT OF LABOR

Employment and Training Administration:
An Analysis of Unassigned Recipients in the WIN Program, MT–280, single time, WIN recipients, Sunderhauf, M. B., 395–6140.
Program Monitoring System Handbook, ETA 355, single time, State employment agencies, Warren Topelius, 395–5872.

REVISIONS

DEPARTMENT OF AGRICULTURE

Economic Research Service: Cost of Production Survey, other (see SF–83), sample of farms producing commodities being surveyed, Will Sherman, 395–4730.

DEPARTMENT OF COMMERCE

Bureau of Census, Knit Fabric Production, MQ–22K, MA–22K, quarterly, knit fabric producers, C. Louis Kincannon, 395–3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary: Study of Family Economics: Basic Questionnaire and Wives Questionnaire, OS–6–77, annually, heads of households in the Michigan longitudinal study, Sunderhauf, M. B., 395–6140.

DEPARTMENT OF LABOR

Employment Standards Administration: Application for Authority to Employ Full-Time Students at Subminimum Wages in Retail or Service Establishments or Agriculture, WH–200, on occasion, retail and service establishments and agricultural employers, Strasser, A., 395–5867.

EXTENSIONS

DEPARTMENT OF LABOR

Employment Standards Administration: Employee Personal Interview Statement, WH–31, on occasion, employees, Strasser, A., 395–5867.
Employment and Training Administration: Jobs Corps Health Questionnaire, MA6–53, on occasion, disadvantaged youth, Warren Topelius, 395–5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–7062 Filed 3–8–77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on March 3, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collecton.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control: Amended Annual Program Plan for FY 1879, Part B, Education of the Handicapped Act, OE–9055, single time, State education agencies, Caywood, D. P., 395–3443.

DEPARTMENT OF TRANSPORTATION

Departmental and Other Discussion Subjects for Five Different Types of Respondents to Offshore Pipeline Study, single time organizations involved in offshore pipelining, Ellett, C. A., 395–5867.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Social Security Administration: Physician Extender Study, 1—Physician Comparison, 2—Physician, 3—NP/PA/Medex, SSA 9761, on occasion, sample of 200 primary medical practices participating in SSA, Richard Eisinger, 395–6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary: Home Inspection and Warranty Program Study Needs and Demand Survey Instruments, single time, individuals, housing, Veterans and Labor Division, Larry Haber, 395–3532.

EXTENSIONS

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration
Equal Employment Opportunity Compliance Safe Streets Act (Construction projects), LEAA7400/1, on occasion, 52 SPA's, Lowry, R. L., 395–3772.
Immigration and Naturalization Service
Biographic Information, G–325, on occasion, applicants for permanent residence and citizenship, Warren Topelius, 395–5872.
Registration for Classification as Conditional Entrant, I–590, on occasion, conditional entrants, Warren Topelius, 395–5872.
Application for Status as Permanent Resident, I–485, on occasion, applicants for permanent residence, Warren Topelius, 395–5872.
Guarantee of Payment (Aliens on Vessel or Aircraft), I–510, on occasion, masters of vessels or aircraft, Warren Topelius 395–5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–7063 Filed 3–8–77;8:45 am]

RENEGOTIATION BOARD

MEETING

Pursuant to RBR 1482.3(a) of its regulations, the Renegotiation Board hereby announces its intention to conduct a meeting as follows:

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Time: March 15, 1977 at 10:00 a.m.

Place: Conference Room, 4th floor, 2000 M Street, NW., Washington, D.C. 20446.

Subject matter: 1. Approval of Minutes of meeting held March 8, 1977, and other Board meetings, if any.

2. Partial Mandatory New Durable Productive Equipment Exemption: Warner & Swasey Company; fiscal year ended December 31, 1972.

3. Recommended Clearances Without Assignment:

(a) Canton Drop Forging and Mfg. Co., fiscal year ended December 31, 1975.

(b) N L Industries, Inc., fiscal year ended December 31, 1974.

(c) The Hawkins-Hamilton Company, fiscal years ended December 31, 1974 and 1975.

(d) Stratoflex, Incorporated, fiscal year ended February 29, 1976.

(e) Co-Operative Industries, Inc., fiscal year ended December 31, 1975.

(f) Bourns, Inc., fiscal years ended December 31, 1974 and 1975.

(g) Precision Monolithics, Inc., fiscal years ended December 31, 1974 and 1975.

(h) Analog Integrated Microsystems, Inc., fiscal years ended December 31, 1974 and 1975.

4. Recommended Determination of Clearance: Zero Manufacturing Co. (Consolidated), fiscal year ended March 31, 1974.

5. Recommended Clearance Without Assignment: New Bradford Dyeing Association, Inc., fiscal year ended October 31, 1975.

6. Recommended Assignments to Regional Boards:

(a) Esso Standard Sekiyu Kabush, fiscal years ended December 31, 1972 and 1974.

(b) Esso AG, fiscal years ended December 31, 1970, 1971 and 1972.

(c) Esso Pappas Industrial Co., fiscal years ended December 31, 1970 and 1971.

(d) Esso Standard Oil Co. (Puerto Rico), fiscal year ended December 31, 1970.

(e) Mediterranean Standard Oil, fiscal years ended December 31, 1970, 1971 and 1972.

(f) Thessaloniki Refining Co., fiscal years ended December 31, 1970, 1971 and 1972.

(g) Esso Eastern Inc., fiscal year ended December 31, 1974.

(h) Esso Standard Products & Trading Co., fiscal year ended December 31, 1974.

(i) Esso Standard Sekiyu Okinawa, fiscal years ended December 31, 1973 and 1974.

(j) Exxon Research Engineering, fiscal year ended December 31, 1974.

7. Court of Claims Case: *Bennett Box & Pallet Co., Inc.* v. *U.S.* Court of Claims Nos. 617–71, 383–72 and 413–73.

8. Court of Claims Case: *Instrument Systems Corp. and Harold Beck* v. *U.S.*, Court of Claims Nos. 338–73 and 339–73.

9. Approval of Agenda for meeting to be held March 29, 1977.

10. Approval of Agenda for other meetings.

Public observation: (1) Open; (2) open; (3) open; (4) open; (5) open; (6) closed; (7) closed; (8) closed; (9) not applicable; and (10) not applicable.

Office to be contacted: Kelvin H. Dickinson, Assistant General Counsel—Secretary, Office of the Secretary, 2000 M Street, NW., Washington, D.C. 20446, 202/254–8277.

(Sec. 3(a), Pub. L. 94–409, 90 Stat. 1241; (5 U.S.C. 552b(e)(3)))

Dated: March 4, 1977.

REX M. MATTINGLY,
Chairman.

[FR Doc.77–6972 Filed 3–8–77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 19910; 70–5970]

CENTRAL & SOUTH WEST CORP.

Proposed Charter Amendment Increasing Amount of Authorized Common Stock and Order Authorizing Solicitation of Proxies

MARCH 1, 1977.

Notice is hereby given That Central and South West Corporation ("CSW"), P.O. Box 1631, Wilmington, Delaware 19899, a registered holding company, has filed a declaration with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a), 7 and 12(e) of the Act and Rule 62 promulgated thereunder, as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

CSW proposes to amend its Restated Certificate of Incorporation, as heretofore amended, to increase its authorized common stock, par value $3.50, from 58,300,000 to 65,300,000 shares ("additional shares"). CSW states that the increase of 7,000,000 in its authorized Common Stock is proposed to permit the issuance and sale of additional common stock during the next two years. CSW states that proceeds from the sale of such additional shares will be used to help finance planned construction expenditures of its subsidiaries which are estimated at approximately $1,100,000,000 for 1977–1978. CSW states that approximately 51,460,000 shares of common stock are now outstanding.

CSW proposes to submit the amendment to its stockholders at the Annual Meeting to be held on April 21, 1977. CSW proposes to submit proxies from its shareholders, through the use of the proposed soliciting material to obtain the required approval of the proposed amendment and to elect directors and select auditors. An affirmative vote of the holders of a majority of the outstanding shares of common stock issued and entitled to vote at the annual meeting is required for adoption of the amendment.

Total fees and expenses to be incurred in connection with the proposed transaction, including proxy solicitation costs, are estimated to be $29,050, including $1,500 in legal fees. CSW states that no state commission and no federal commission, other than this Commission has jurisdiction over the proposed transaction.

Notice is further given That any interested person may, not later than March 24, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes to solicitation of proxies from CSW's stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered That the declaration, regarding the proposed solicitation of proxies of CSW's stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–6929 Filed 3–8–77;8:45 am]

EQUITY EXCHANGE FUND

Application for Order Declaring That Equity Exchange Fund Has Ceased To Be Investment Company

MARCH 2, 1977.

Notice is hereby given that Equity Exchange Fund ("Applicant"), 1500 Walnut Street, Philadelphia, Pennsylvania 19102, registered with the Commission as an open-end diversified management investment company under the Investment Company Act of 1940 ("Act"), filed an application on December 10, 1976, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a limited partnership formed under the Uniform Limited Partnership Acts of the States of New Jersey and California, registered under the Act on September 8, 1976. Applicant subsequently registered its Units of Limited Partnership Interest ("Shares") for sale to the public under the Securities Act of 1933, effective October 15, 1976.

Applicant states that its purpose was to provide an investment medium to persons having substantial holdings of individual securities acceptable to Applicant with relatively large unrealized capital appreciation who wished to exchange such holdings for Shares of Applicant without incurring Federal capital gains tax liability by reason of the exchange.

The provisions of the Tax Reform Act of 1976 which authorized the exchange of securities for Shares of Applicant without capital gains tax liability to investors required, inter alia, that all deposits of securities with Applicant be made by December 3, 1976. Applicant states that no sales were made pursuant to its Registration Statement, which was withdrawn on December 6, 1976.

Applicant represents that its Partnership Agreement required that the Applicant have an initial capitalization of at least $25,000,000 from its initial public offering of its shares and further required that Applicant be dissolved and terminated if this minimum capitalization were not received. Applicant states that it did not receive sufficient deposits of securities and cash prior to December 3, 1976 to achieve this minimum capitalization, and that all deposits of securities and cash received by Applicant from the public offering of its Shares were returned to the depositors prior to December 3, 1976.

Applicant represents that the sole owners of its Shares are its nine General Partners and its original Limited Partner, all of whom have taken the necessary action under its Partnership Agreement to dissolve and terminate Applicant; that appropriate documents are being filed with state authorities; and that upon such filing, Applicant will no longer exist.

Section 8(f) of the Act provides in part that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 28, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–6930 Filed 3–8–77;8:45 am]

[Release No. 9658; 811–2391]

FUND FOR FEDERAL SECURITIES, INC.

Application for Order Declaring That Company Has Ceased To Be Investment Company

MARCH 1, 1977.

Notice is hereby given that Fund for Federal Securities, Inc. ("Applicant"), P.O. Box 1100, Valley Forge, Pennsylvania 19482, an open-end, diversified investment company registered under the Investment Company Act of 1940, ("Act") filed an application on January 17, 1977, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a Maryland corporation on June 23, 1973, and registered under the Act by filing a Form N–8A Notification of Registration on July 10, 1973.

On February 19, 1976, the Board of Directors of the Applicant, by unanimous vote, approved a plan to liquidate and dissolve the Applicant and to cease business as an investment company. This plan was approved by shareholders at a special meeting held on April 29, 1976.

Applicant asserts that it ceased all business on April 29, 1976 and since that date has not engaged in any business activities except for the purpose of winding up its business and affairs and distributing its assets to shareholders in accordance with the plan of liquidation. Applicant further represents that it has completed the liquidation of its assets and on the date of the application had no assets and no shareholders. Applicant states that it has filed Articles of Dissolution with the State of Maryland and will be dissolved in accordance with the laws of that State.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 25, 1977, at 5:30 p.m., submit to the Commission in writing a a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–6931 Filed 3–8–77;8:45 am]

[Rel. No. 19911; 70–5967]

INDIANA & MICHIGAN POWER CO.

Proposed Issuance of Additional Notes Under Amended Bank Loan Agreement

MARCH 1, 1977.

Notice is hereby given that Indiana & Michigan Power Company ("I&MP"), P.O. Box 458, Bridgman, Michigan 49106, an electric generating subsidiary company of Indiana & Michigan Electric Company ("I&M"), an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

I&MP, a Michigan corporation, was organized for the purpose of acquiring, completing the construction of, and operating, the Donald C. Cook Nuclear Plant ("Cook Plant"), a nuclear fueled steam electric generating station situated in Michigan along the shore of Lake

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Michigan near Bridgman, Michigan. By order issued May 20, 1971 (HCAR No. 17135), the Commission authorized I&MP to acquire the Cook Plant from I&M. The Cook Plant is to consist of two nominally rated 1,100,000 kilowatt generating units, the first of which was placed in commercial operation on August 23, 1975 and the second of which is scheduled to be placed in commercial operation in 1978 or later. It is estimated that the total construction costs of the Cook Plant will equal at least $970,000,000. Construction costs aggregating $852,982,000 have been incurred through November 30, 1976.

To finance the purchase and to continue construction, I&MP issued and had outstanding, as of September 30, 1976, the following securities:

	Actual (in thousands)	Percent
Long-term debt:		
First mortgage bonds	75,000	8.67
Notes payable to banks	300,000	34.68
Subordinated notes—I&M due 1981	69,000	7.97
Unamortized debt discount	(261)	(.03)
Total	443,739	51.29
Common stock equity	421,366	48.71
Total capitalization	865,105	100.0

All of the common stock of I&MP is owned by I&M. I&MP and I&M have entered into a Capital Funds Agreement and a Power Agreement, under the latter of which, the right to all power and energy available at the Cook Plant is held by I&M. The $75,000,000 principal amount bonds are a 10⅞ percent Series due 1984. The bank notes, issued under a Bank Loan Agreement dated July 1, 1971, as amended, mature September 30, 1980.

I&MP proposes by a further amendment to the Bank Loan Agreement to raise the present borrowing limit of $300,000,000 by an additional $75,000,000 so as to permit I&MP to finance the completion of the construction of the Cook Plant on what I&MP states is the most economical basis.

The proposed additional notes to banks will bear interest at a rate per annum equal to 115 percent of the prime commercial loan rate in effect from time to time of Manufacturers Hanover Trust Company ("Manufacturers"). I&MP will also be obliged to pay to each bank substitute interest computed at the rate of ½ percent on the daily average unused amount of the commitment for such bank, such obligation to pay substitute interest commencing on March 1, 1977 and terminating on April 1, 1978. I&MP states that it does not plan to maintain any compensating balances in connection with the additional notes. The additional notes may be prepaid in whole or in part at any time without premium or penalty, unless such prepayment is made from the proceeds of, or in anticipation of, a borrowing by I&MP from banking institutions at a rate of interest equal to or less than the then applicable interest rate on any of the notes outstanding under the Bank Loan Agreement, in which event I&MP will be obligated to pay a premium in an amount equivalent to interest at the rate of ¼ of 1 percent per annum on the amount of such prepayment from the date thereof to September 30, 1980. It is stated that the additional notes will rank pari passu with notes presently outstanding under the Bank Loan Agreement and will in other respects be entitled to the benefits afforded by the Bank Loan Agreement, as proposed to be amended. It is further stated that the effective cost of borrowing to I&MP under the Bank Loan Agreement, as amended, after the full $75,000,000 has been borrowed, would be 7.1875 percent per annum, assuming a prime commercial rate of Manufacturers of 6¼ percent, presently in effect.

The proceeds from the issue of the additional notes will be utilized by I&MP for construction of the Cook Plant, and for the acquisition of equipment, materials and supplies relating thereto.

I&MP claims exception from the competitive bidding requirements of Rule 50 by reason of Rule 50(a)(2), and in support thereof, asserts that the notes have a maturity of less than ten years and will be issued and sold to commercial banks, not for resale to the public; and that no finder's or other fee, commission or remuneration is to be paid in connection therewith to any third person for negotiating the transaction.

Estimates of expenses to be incurred by I&MP in connection with the proposed transaction will be filed by amendment. I&MP is requesting the Michigan Public Service Commission to determine that it lacks jurisdiction over the proposed transaction, or, in the alternative, to authorize this transaction. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, no later than March 24, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6932 Filed 3-8-77;8:45 am]

[Rel. No. 9662, 812-4074]

LUTHERAN BROTHERHOOD FUND, INC., ET AL.

Application To Permit an Offer of Exchange and Provide an Exemption

MARCH 2, 1977.

Notice is hereby given, That Lutheran Brotherhood Fund, Inc. ("Stock Fund"), Lutheran Brotherhood Income Fund, Inc. ("Income Fund"), Lutheran Brotherhood U.S. Government Securities Fund, Inc. ("Government Fund"), and Lutheran Brotherhood Municipal Bond Fund, Inc. ("Municipal Fund"), 421 Seventh Avenue, Pittsburgh, Pennsylvania 15219, each of which is registered with the Commission as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), and Lutheran Brotherhood Securities Corp., 701 Second Avenue South, Minneapolis, Minnesota 55402 (collectively referred to with the above mentioned funds ("Funds") as "Applicants"), have filed an application on December 29, 1976, for orders pursuant to (i) Section 11(a) of the Act to permit Municipal Fund to offer to exchange its shares for shares of Stock Fund, Income Fund or Government Fund on a basis other than the relative net asset values of the Fund shares involved at the time of the exchange; (ii) Section 6(c) of the Act to exempt Applicants from the provisions of Section 22(d) of the Act and Rule 22d-1 thereunder in connection with such exchange; and (iii) Section 6(c) of the Act to exempt Applicants from the provisions of Section 22(d) of the Act and the rules and regulations thereunder to the extent necessary to permit the reduction of sales loads where proceeds of certain insurance products are used to purchase shares of the Funds under described circumstances. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations therein, which are summarized below.

Lutheran Brotherhood is a fraternal benefit insurance society offering life insurance and annuity contracts exclusively to Lutherans and individuals affiliated with Lutheran Church organizations.

Lutheran Brotherhood Securities Corp., acts as principal underwriter for sale of the Funds' shares to those persons qualified under the Funds' prospectuses. Lutheran Brotherhood owns 51 percent of the outstanding shares of Lutheran Brotherhood Securities Corp. and Federated Investors, Inc. of Pittsburgh, Pennsylvania, owns 49 percent. Shares of each Fund are offered to the public at a price based on net asset value plus a sales charge that varies with the quantity of securities purchased. The current sales charge is as follows:

Amount invested:	Sales charge as percentage of offering price
Less than $10,000	8½
$10,000 but less than $25,000	7½
$25,000 but less than $50,000	6
$50,000 but less than $100,000	4
$100,000 but less than $250,000	2
$250,000 but less than $500,000	1
$500,000 or more	½

Shares of Income Fund Stock Fund, Government Fund, and Municipal Fund at present may be exchanged for shares of any other of such Funds on the basis of relative net asset value per share at the time of exchange without any sales charge.

Applicants state that the Municipal Fund's Board of Directors approved a reduction in the sales charge of Municipal Fund for the period October 7, 1976, through December 3, 1976 ("Special Offering"), and that an appropriate registration statement was filed. During the Special Offering, the sales charge on shares of the Municipal Fund was as follows:

Size of transaction at offering price:	Sales charge as percentage of offering price
Less than $10,000	1.9
$10,000 but less than $25,000	1.9
$25,000 but less than $50,000	1.0
$50,000 but less than $100,000	.5
$100,000 but less than $250,000	.3
$250,000 but less than $500,000	.2
$500,000 or more	.1

Applicants propose to offer shares of Income Fund, Stock Fund, and Government Fund in exchange for shares of Municipal Fund that were purchased during the Special Offering, on the basis of relative net asset values at the time of exchange, plus the difference between the sales charge described in the prospectus of the Fund being acquired and the sales charge paid on such Municipal Fund shares purchased during the Special Offering. An investor acquiring shares of Income Fund, Stock Fund, or Government Fund through an exchange of shares of Municipal Fund purchased at the reduced sales charge would, therefore, pay the same total sales charge that he would have paid had he purchased the same number of shares of Income Fund, Stock Fund, or Government Fund directly.

At present, Applicants offer shares of the Funds at one-half their normal sales load to recipients of proceeds from Lutheran Brotherhood insurance and annuity products pursuant to an exemption granted by the Commission in 1975. (See Investment Company Act Release No. 8997, October 21, 1975). That offer is limited to the investment of such proceeds within ninety days of the date of the check issued in payment of such proceeds.

Applicants now propose to extend the existing offer to include investment of all monies derived from death claims, matured endowments, matured annuities and/or lump sum cash options available to holders or beneficiaries of any life insurance or annuity contracts who are also recipients of benefits of Lutheran Brotherhood insurance or annuity contracts. The offer would continue to be applicable only to monies which are applied to the purchase of shares of the Funds within ninety days after the date of a check issued in payment of such insurance or annuity proceeds.

Applicants assert that the selling effort and expenses involved in sales of this type will be less than those entailed in making an initial sale of such shares since the holder or beneficiary of a Lutheran Brotherhood insurance or annuity contract would have a degree of familiarity with Lutheran Brotherhood products and services and since shares of the Fund are to be sold only through sales representatives who are licensed to sell Lutheran Brotherhood insurance and annuity contracts. Applicant estimates that one-half of the normal sales charges appropriately reflects the selling efforts and expenses involved in the sale of Fund shares to Lutheran Brotherhood insurance annuity beneficiaries in the manner set out above.

Section 11(a) of the Act provides, in part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and improved by the Commission.

Section 22(d) of the Act provides, in part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current offering price described in the prospectus and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer except at a current public offering price described in the prospectus. Rule 22d-1 provides an exemption from Section 22(d) to the extent necessary to permit the sale of redeemable securities of a registered investment company at prices which reflect reductions in or eliminations of the sales load under certain stated circumstances.

Applicants state that the purpose of the proposed exchange offer is to permit a shareholder of Municipal Fund who changes his investment objective to change his investment to a different investment company without paying the full sales charge otherwise applicable. Applicants assert that the exchange offer to shareholders of Municipal Fund for Municipal Fund shares acquired during the effectiveness of the Special Offering cannot fairly be made at the relative net asset value of the Fund to be acquired because the Municipal Fund shareholders would have paid substantially less sales load on their investment than similarly situated investors in the Fund to be acquired. Applicants further submit that if shares of Income Fund, Stock Fund, or Government Fund could be acquired at net asset value by exchanging Municipal Fund shares purchased at the reduced sales loads, it is possible that Section 22(d) would be violated since an investor would be able to purchase shares of one of the Funds at a sales charge other than that described in its prospectus merely by purchasing shares of the Municipal Fund at the reduced sales load rates and thereafter exchanging such Municipal Fund shares for shares of one of the other Funds at net asset value.

Section 6(c) provides that the Commission, by rules and regulations upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given, That any interested person may, not later than March 28, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as, of course, following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6933 Filed 3-8-77;8:45 am]

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[Release No. 19909; 70-5973]

MIDDLE SOUTH UTILITIES, INC.

Proposed Amendment to Articles of Incorporation; Solicitation of Proxies

MARCH 1, 1977.

Notice is hereby given, That Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a), 7 and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Middle South's Articles of Incorporation presently provide that common shareholders have preemptive rights only if Middle South offers shares of common stock (including any security convertible into common stock) for money, other than by (a) a public offering, (b) an offering to or through underwriters or investament bankers for prompt public offering or (c) an offering pursuant to a stock option plan for employees of Middle South or of any company of which Middle South holds at least 50 percent of the outstanding voting stock, which plan is approved by the holders of a majority of the outstanding common stock.

Middle South proposes to amend its Articles of Incorporation to limit the preemptive rights of its common shareholders to offerings of shares of common stock (including any security convertible into common stock) for money, other than by (i) a public offering, (ii) an offering to or through underwriters or investment bankers for prompt public offering, (iii) an offering pursuant to grams open to all shareholders, including without limitation dividend reinvestment and stock purchase programs or limited investment programs, or (iv) an offering pursuant to programs for share ownership by, or for the benefit of, employees of Middle South or any company of which Middle South holds directly or indirectly at least 50 percent of the outstanding voting stock, including without limitation employee stock purchase, bonus or option programs.

In furtherance of this proposal Middle South proposes to solicit proxies from the holders of its outstanding stock in connection with its annual meeting of shareholders at which the shareholders will take action upon the proposed amendment to the Articles of Incorporation.

A statement of the fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given, That any interested person may, not later than March 25, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6934 Filed 3-8-77;8:45 am]

[Release No. 13315; SR-MSRB-77-1]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Change

MARCH 1, 1977.

On January 18, 1977, the Municipal Securities Rulemaking Board ("MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change would revise the reference date to fidelity bonding rules of the National Association of Securities Dealers, Inc. and the Commission in order to incorporate recent changes in Rule 15b10-11 of the Commission.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13191 (January 19, 1977) and by publication in the FEDERAL REGISTER (42 FR 5167 (January 27, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Municipal Securities Rulemaking Board, and in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, That the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6935 Filed 3-8-77;8:45 am]

[Release No. 34-13306; File No. SR-NSCC-77-1]

NATIONAL SECURITIES CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 22, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

TEXT OF PROPOSED RULE CHANGES

Rule 3, Section 1 of the Rules of the SCC Division of National Securities Clearing Corporation (NSCC) states that the SCC Division shall maintain a list of securities which may be the subject of contracts cleared through the SCC Division and which are called "Cleared Securities" and that the SCC Division may from time to time add securities to such list.

The SCC Division of NSCC proposes to add to its list of Cleared Securities all debt securities listed from time to time on the American Stock Exchange, Inc. (AMEX).

Rule 3, Section 1 of the Rules of the ASECC Division of NSCC states that the ASECC Division shall maintain a list of the securities which may be the subject of contracts cleared through the ASECC Division and which are called "Cleared Securities" and that the ASECC Division may from time to time remove securities from such list.

The ASECC Division of NSCC proposes to remove from its list of Cleared Securities all debt securities listed from time to time on AMEX.

NSCC proposes as soon as possible to include in its interfaces with Midwest Clearing Corporation (MCC), Pacific Clearing Corporation (PCC) and Stock Clearing Corporation of Philadelphia (SCCP) the ability to settle transactions in debt securities listed on the New York Stock Exchange, Inc. (NYSE) and AMEX. In anticipation of Phase II of NSCC's operations as contemplated by the Order of the Securities and Exchange Commission granting registration to NSCC as a clearing agency (Securities Exchange Act of 1934, Release No. 16163) NSCC has developed a data processing capability to permit such transactions to be included in such interfaces. This data processing capability will work most efficiently if it operates in connection with a single NSCC division rather than two or three NSCC divisions. As a consequence, NSCC proposes that this data processing capability accept transactions in debt securities for such interfaces from the SCC Division. In order to permit the inclusion of debt securities listed from time to time on AMEX in such interfaces, NSCC proposes that all AMEX listed debt securities transactions to be settled through its SCC Division rather than through its ASECC Division.

BASIS UNDER THE ACT FOR THE PROPOSED RULE CHANGE

The proposed rule change relates to the removal of impediments to and perfection of the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions by permitting the expansion of the NSCC interfaces with MCC, PCC and SCCP.

Comments have neither been solicited nor received.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 28, 1977.

[FR Doc.77-6938 Filed 3-8-77;8:45 am]

[Released No. 19914; 70-5963]

SOUTHERN CO.

Order Authorizing Amendments of Certificate of Incorporation and Solicitation of Proxies

MARCH 2, 1977.

The Southern Company ("Southern"), Atlanta, Georgia, a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to Sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 62 promulgated thereunder regarding the following proposed transactions.

Southern's Certificate of Incorporation presently authorizes the issuance of 150,000,000 shares of common stock of which 129,826,633 shares are currently issued and outstanding. Southern proposes to amend its Certificate of Incorporation to increase the number of authorized shares of common stock from 150,000,000 shares to 185,000,000 shares to provide a reasonable amount of authorized but unissued shares of common stock to be used for financing additional common equity capital requirements of Southern's subsidiaries and for general corporate purposes, including investments by stockholders under the corporation's dividend reinvestment and stock purchase plan. It is stated that during the three-year period 1974 through 1976 Southern was required to issue and sell 41,557,133 shares of common stock in order to provide to its subsidiary companies the additional common equity portion of the capital needed to finance their construction programs required to service their rapidly developing business. Southern has no present plans for the issuance of any shares of its common stock other than for cash.

Southern also proposes to amend its Certificate of Incorporation so as to add to the exceptions from preemptive rights: (1) sales to security holders of the company or of any subsidiary pursuant to a divided reinvestment and or stock purchase or similar plan and (2) stock sold to employees of the company or any subsidiary, or to a trust for their benefit, pursuant to a thrift, savings, employee stock ownership, pension, or other employee benefit plan. The purpose of this proposed amendment is to facilitate the sale by Southern of shares of its common stock pursuant to one or more of the types of plans referred to. By expanding the potential market for its shares, the corporation would thus be able to obtain necessary and desirable additional equity capital at prices related to current market values of shares of its common stock without payment of underwriting discounts or commissions. It is stated that this is in the best interests of the corporation and its stockholders.

Southern intends to submit the proposed amendments to its stockholders for consideration and vote at its 1977 annual meeting to be held on May 25, 1977. The favorable vote of a majority of the outstanding shares of common stock is necessary for the adoption of the amendments increasing the number of authorized shares. The adoption of the amendments relating to preemptive rights requires the favorable vote of at least two-thirds of the outstanding shares of the common stock of the company. Southern proposes to solicit proxies from its common stockholders in connection with the proposed amendments.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $14,000, including a legal fee of $7,500. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Due notice of the filing of said declaration has been given in the manner prescribed in Rule 23 promulgated under the Act (HCAR No. 19869), and no hearing has been requested of or ordered by the Commission. Upon the basis of the facts in the record, it is hereby found that the applicable standards of the Act and the rules thereunder are satisfied and that no adverse findings are necessary; and that it is appropriate in the public interest and in the interest of investors and consumers that said declaration, as amended, be permitted to become effective:

It is ordered, Pursuant to the applicable provisions of the Act and rules thereunder, That said declaration, as amended, be, and it hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rules 24 and 62 promulgated under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6936 Filed 3-8-77;8:45 am]

[File No. 500-1]

WESTERN GEOTHERMAL & POWER CORP.

Suspension of Trading

MARCH 1, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Western Geothermal and Power Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors:

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:45 a.m. (EST) on March 1, 1977 through March 10, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-6937 Filed 3-8-77;8:45 am]

[Release No. 34-13316; File No. SR-CBOE-1977-2]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C 78s(b)(1) as amended by Pub. L.

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No. 94–29, 16 (June 4, 1975), notice is hereby given that on February 10, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

FEE REVISIONS

Pursuant to Rule 2.22 of the rules and regulations of the Chicago Board Options Exchange, Incorporated ("Exchange"), the Exchange has determined to revise certain of its existing charges and fees as more fully described below:

Description	Current rate	Proposed rate
Trade match fees	$0.005 per contract side	$0.01 per contract side, effective Apr. 1, 1977.
Badge fees	$75 per nonmember per year, $500 per non-member floor manager per year.	$150 per nonmember per year, $500 per non-member floor manager per year.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The new and revised fees and charges will permit the Exchange to establish equitable charges for services performed by the Exchange.

The Exchange believes that it is consistent with Section (6)(b)(4) for the Exchange to implement the new schedule of fees and charges set forth above, and that it has acted equitably to allocate the costs incurred in providing the particular service among those who benefit therefrom.

The Exchange has recognized in its increased trade match fees the additional costs incurred in extending such service to members, i.e., the clearing firms, on the Exchange floor. The fee has been revised to provide the necessary revenue to offset the costs thereof.

The revision in badge fees results from a reclassification of those persons engaged in Exchange floor duties for member firms who are the subject of the current fee structure. Previously, various categories of non-member individuals had been included in the "non-member floor manager" category in addition to floor managers. Steps have now been taken to preclude anyone other than a non-member floor manager from being placed in that category and being obligated to pay a $500 fee. One of the primary reasons for strictly limiting the scope of said category is to relieve various members of the burdensome $500 fee obligation previously imposed upon them. In order to compensate for the decrease in revenue from the reduction in the number of persons required to pay the $500 fee, and in view of the increase in the number of persons now encompassed by the broad based "non-member" category, the Exchange deemed it necessary to increase the current annual fee of $75 applied to the category "non-member" to $150 annually. Such an adjustment was necessary in order to allocate expenses in a more judicious manner.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

The Exchange believes that no burden on competition will be imposed through the implementation of the fee schedule proposed above.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of inevstors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 1, 1977.

[FR Doc. 77-6940 Filed 3-8-77;8:45 am]

[Release No. 34-13316; File No. SR-NSCC-77-2]

NATIONAL SECURITIES CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on February 22, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

TEXT OF PROPOSED RULE CHANGE

Rule 7, section 10 of the Rules of the SCC Division of NSCC is proposed to be amended to read as follows (Brackets indicate deletions and italics indicate new material):

(a) A Special Representative may submit, on any business day in accordance with the time schedules established or from time to time determined by the Corporation, [odd-lot] transaction data, which may reflect the netted results of other transactions, as to the rights and obligations of a [Clearing] Member which calls for the delivery of [Cleared Securities] *any security which the Corporation has stated is acceptable for purposes of this Rule,* and is between [Clearing] Members, notwithstanding the fact that the rights and obligations do not represent transactions compared under the foregoing sections of this Rule, provided, that the data submitted regarding the transaction meets the requirements specified in the Procedures. The obligations of the [Clearing] Member reflected in such [odd-lot] transaction data shall be deemed to have been confirmed and acknowledged by the [Clearing] Member designated by the Special Representative as a party thereto and to have been adopted by such [Clearing] Member and, for the purposes of these Rules and determining the rights and obligations between the Corporation and any such [Clearing] Member under these Rules, *any such Member which is not a Clearing Member shall be deemed to be a Clearing Member and such obligation* shall be valid and binding upon such [Clearing] Member to the same extent as any *such* transaction *compared under the foregoing sections of this Rule would be valid and binding on a Clearing Member,* and shall be deemed to be transactions[,] compared under this Rule. A [Clearing] Member which has been so designated by a Special Representative shall resolve any differences or claims regarding the rights and obligations reflected in the [odd-lot] transaction data submitted by the Special Representative with the Special Representative, and the Corporation shall have no responsibility in respect thereof or to adjust its records or the accounts of the [Clearing] Member in any way, otherwise than pursuant to the instructions of the Special Representative.

(b) *A Special Representative may submit, on any business day in accordance with the time schedules established or from time to time determined by the Corporation, transaction data, which may reflect the netted results of other transactions, as to the rights and obligations of itself and another party which is not a Member (a "non-participant") which calls for the delivery of any security which the Corporation has stated is acceptable for the purposes of this Rule, notwithstanding the fact that the rights and obligations do not represent transactions compared under the foregoing sections of this Rule provided that the data submitted regarding the transaction meets the requirements specified in the Procedures and that the Special Representative designates a clearing agency (as defined in the Securities Exchange Act of 1934) which has been granted registration as a clearing agency under the Securities Exchange Act of 1934 (a "registered clearing agency") as responsible for the obligations of the non-participant. The obligations of the Special Representative and the non-participant reflected in such transaction data shall be deemed to have been compared and acknowledged by the Special Representative for the purposes of this Rule. In the event that the registered clearing agency does not accept responsibility for the obligations of the non-participant reflected in such transaction data, the Special Representatives shall be responsible therefor.*

and the last paragraph of Rule 39 of the Rules of the SCC Division is proposed to be amended and read as follows:

Rule 39. The Corporation may accept or rely upon any instruction given to the Corporation by a [Clearing] Member including wire transmission, physical delivery or delivery by other means of instructions recorded on magnetic tape or other media or of facsimile copies of instructions, in form acceptable to the Corporation and in accordance with the Procedures, which reasonably is understood by the Corporation to have been delivered to the Corporation by the [Clearing] Member, and the Corporation, shall have no responsibility or liability for any errors which may occur, without negligence on the Corporation's part, in the course of transmission or recording of any transmissions of which may exist in any magnetic tape, document or other media so delivered to the Corporation.

The Corporation may accept and rely upon any instruction given to the Corporation by a Special Representative, including wire transmission, physical delivery or delivery by other means of instructions, in form acceptable to the Corporation and in accordance with the Procedures, which reasonably is understood by the Corporation to have been delivered to the Corporation by the Special Representative [, provided that such instruction does not relate to the Comparison Operation], and the Corporation shall have no responsibility or liability for any errors which may occur, without negligence on the Corporation's part, in the course of transmission or recording of transmission or which may exist in any magnetic tape, document or other media so delivered to the Corporation and the Corporation shall be entitled to act pursuant to any such instruction as though such instruction had been received from the [Clearing] Member for which the Special Representative is acting.

Any [Clearing] Member delivering instructions as provided above, or on whose behalf a Special Representative shall deliver instructions as provided above, shall indemnify the Corporation, and any of its employees, officers, directors, shareholders, agents, Settling Members and Non-Members who may sustain any loss, liability or expense as a result of (a) any act done in reliance upon the authenticity of any instruction received by the Corporation, (b) the inaccuracy of the information contained therein or (c) effecting transactions in reliance upon such information or instruction against any such loss, liability or expense so long as such transactions are effected in accordance with such information and instructions even though they may be inaccurate or not authentic and so long as the person asserting a right to indemnification shall not have knowledge of such inaccuracy or lack of authenticity at the time of the event or events giving rise to such loss, liability or expense.

Notwithstanding the foregoing, the Corporation will not act upon any instruction purporting to have been given by a [Clearing] Member or a Special Representative which is received by wire transmission or in the form of facsimile copies or magnetic tape or media other than written instructions or from a Special Representative commencing one business day after the Corporation receives written notice from the [Clearing] Member that the Corporation shall not accept such instructions until such time as the [Clearing] Member shall withdraw such notice.

For the purposes of these Rules a Special Representative shall be [(i) Carlisle, de Coppet & Co., so long as it shall be a Clearing Member, but only to the extent that firm, or one or more of its partners, acts as an odd-lot dealer or broker and (ii) any Clearing] *either* a Member *or a registered clearing agency* [, but only to the extent that it, or one or more of its partners or officers, acts as an odd-lot dealer or broker] which [Clearing Member] applies to the Corporation for such status and designates those Members and non-participants for which it will act, provided, however, that the Corporation will not act upon any instruction received from a Special Representative which applies pursuant to this [clause (ii)] paragraph *until* (i) 10 business days after written notice of its designation as such is delivered by the Corporation to Settling Members and Non-Members and the Members and non-participants for which the Special Representative proposes to act which notice shall be delivered by the Corporation promptly after its receipt of such application *or (ii) each Member and non-participant for which the Special Representative proposes to act has consented there-to in writing delivered to the Corporation.*

The proposed rule change expands the class of persons which may become a Special Representative to include any registered clearing agency and any Member of the SCC Division ("Member" being defined in Rule 1 of the SCC Division Rules to encompass Clearing Members. Affiliate Members and Associate Members).

In addition, the proposed rule change amends section 10 of Rule 7 to permit a Special Representative to submit transaction data in respect of transactions other than odd-lot transactions under two separate arrangements i.e. when the Special Representative acts for a Member and when the Special Representative acts for a person other than a Member (a non-participant).

SPECIAL REPRESENTATIVE ACTING FOR A MEMBER

Proposed section 10(a) of Rule 7 permits a Special Representative for a Member to submit trade data for both sides of a transaction between two Members and thereby bind both Members in the same manner as two Clearing Members are bound when a compared trade is confined by them. Any objection by either Member, which is a party to a trade, to the submission by the Special Representative is a matter to be resolved between the Member and the Special Representative.

(N.B. that under Rule 39, as proposed to be amended, any Member can, within a 10 day period after notice that a Special Representative proposes to act for it in this manner, deny such proposal and thereby avoid the assumption of liabilities which would arise under this Rule.)

For example, The Depository Trust Company (DTC) might as to transactions confirmed by a broker and its customer in DTC's ID System submit both sides of the transaction to the SCC Division for settlement in the SCC Division CNS System whereupon the selling side (e.g. the customer) would have a CNS obligation to deliver to the SCC Division and the buying side (the broker) would have a CNS obligation to receive from the SCC Division. This would involve non-Clearing Member Customers of Clearing Members in CNS transactions and provide the netting benefits of the CNS System to such non-Clearing Members.

As an additional example, a Member which sold securities for another Member (its correspondent) might enter the sell side of its transaction in the normal SCC Division Comparison Operation thereby incurring, after comparison, a CNS obligation to deliver and, acting as Special Representative for the correspondent, submit transaction data showing the Member as the buyer and the correspondent as the seller. As a consequence, the Member would net out in the CNS System (its sell side netting against its buy side) and the correspondent would generate a CNS obligation to deliver. In other words the correspondent's obligation would be substituted for that of the Member.

SPECIAL REPRESENTATIVE ACTING FOR A NON-PARTICIPANT

Proposed section 10(b) of Rule 7 would permit a Special Representative for a non-participant to submit trade data for both sides of a transaction between the special Representative and the non-participant where the non-participant is a participant in a registered clearing agency having a RIO interface with the SCC Division. This would permit a Member which executed, e.g., a sell transaction for a non-participant, which is a participant in Pacific Clearing Corporation (PCC), to submit the sell side for comparison thereby generating a CNS deliver obligation for itself and, acting as Special Representative for the non-participant, to submit transaction data showing the Special Representative as the buyer and PCC, on behalf of the non-participant, as the seller. The CNS obligation would, if acceptable to PCC, be assumed by PCC and transferred to the non-participant in the normal RIO interface. The Special Representative would net out in the CNS System so that PCC would, as to the SCC Division CNS System, be substituted for the Special Representative. If PCC rejected the transaction, which it is entitled to do under the Clearing Facility RIO Agreement, the Special Representative would be obligated and would, presumably, resolve the matter with the non-participant.

The proposed rule change relates to the prompt and accurate clearance and settlement of securities transactions; fostering cooperation and coordination with persons engaged in the clearance and settlement of securities transactions; and the removal of impediments to and perfection of the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions in that it makes the CNS System available to persons other than Clearing Members, permits broker to customer and customer side transactions to be included in the CNS System and facilitates and permits the expansion of the existing interfaces.

Comments have neither been received nor solicited.

NSCC does not perceive any burden on competition.

On or before April 13, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 1, 1977.

[FR Doc.77-6942 Filed 3-8-77;8:45 am]

[Release No. 34—13319; File No. SR-NYSE-77-6]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b) (1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b) (1), as amended by Pub. L. No. 94-29 (June 4, 1975), notice is hereby given that on February 24, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Exchange's Board of Directors has endorsed a system of competing specialists on the Floor of the Exchange, and the proposed Procedures for Competing Specialists summarize the qualifications required to become an Exchange specialist and the procedures which will apply regarding applications to compete. The text of the proposed procedures is attached as Exhibit I.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

PURPOSE OF THE PROPOSED RULE CHANGE

On May 13, 1976, the Exchange's Board of Directors endorsed a system of competition between Exchange specialists by reaffirming the ability of Exchange members to register and act as specialists in stocks which are also assigned to other specialists. The proposed "Procedures for Competing Specialists" are designed to provide Exchange members with a clear statement of the qualifications required to become a specialist and the procedures to be followed. They are also designed to guide the Exchange's Market Performance Committee in its consideration and approval of applications to compete.

Procedures numbered 1, 2, 8 and 9 are "housekeeping" in nature and merely establish the manner in which applications to compete will be received and processed. They do not constitute any substantive statement of rule or policy. Similarly, procedure number 10 is designed to clarify the Exchange's surveillance efforts with regard to any competitive situation and to advise members of reporting requirements which will normally be imposed.

Procedures numbered 3, 4 and 5 serve to summarize existing Exchange requirements for registration as a specialist. Procedure number 3 clarifies the uniform application of the specialist capital requirement currently contained in Exchange Rule 104.20 to all existing or newly created specialist organizations. Procedure number 4 states, in part, that all specialist organizations, existing and newly created alike, must satisfy Exchange Rule 114 which requires any specialist organization to have a minimum of three active members registered and functioning as regular specialists. Procedure number 5 states that no member may act as a specialist unless registered as a specialist with the Exchange; and that before registration as a specialist, a member is required to pass a Specialist's Examination prescribed by the Exchange. These requirements are set forth in Exchange Rules 103 and 103.10, respectively. Procedures 3, 4 and 5 as described above do not constitute any change in the established interpretations and applications of Exchange Rules 103, 103.10, 104.20 and 114. They are designed merely to summarize and clarify, for the benefit of members, the requirements for registration as a specialist.

Procedure number 4, in part, also serves to remind members that competing specialists are required to fulfill the responsibilities of a specialist that are set forth in Exchange Rule 104.10 regarding the maintenance of fair and orderly markets. In this regard, procedure 4 also provides that any specialist organization which applies to compete with another organization must have manpower which will enable it to fulfill its specialist responsibilities in all registered stocks. Absence, on the part of an applicant, of manpower which would enable the applicant under normally expected circumstances to maintain continuous fair and orderly markets in all registered stocks would be viewed as a failure to qualify to act as competing specialist. This procedure is designed to insure the quality and continuity of Exchange markets by requiring that commitment of capital by a competing specialist as required by Exchange rule is accompanied by a corresponding commitment of manpower.

Procedure number 11 provides an appropriate method for specialist organizations to withdraw from competitive situations. The procedure is designed to allow members to withdraw from competition with relative ease without unduly prejudicing their future ability to compete; and, at the same time, to enable the Exchange to insure the stability and continuity of its marketplace. Members may withdraw from competition without restriction so long as they provide the Exchange's Market Performance Committee with at least one month's notice prior to the desired effective date of withdrawal. The Market Performance Committee will approve withdrawals as soon as possible within the one-month period as soon as necessary arrangements are made to avoid interruptions in the quality and continuity in the markets of the stocks involved. Specialist organizations which withdraw from a competitive situation may apply to compete in other stocks without restriction but they will normally be barred from applying to re-enter into competition in the same stocks for a period of six months following withdrawal. In the case of extenuating circumstances, the Market Performance Committee may waive this six-month restriction at the time of withdrawal where imposition of the restriction would be inappropriate and would work to weaken rather than strengthen Exchange markets.

Procedures numbered 6, 7 and 12 provide for fair proceedings. Procedure 6 allows an applicant to request an appearance before the Market Performance Committee if desired. Procedure 7 reaffirms the Market Performance Committee's obligation to approve applications to compete unless it can show lack of qualifications. Procedure 12 reminds members that decisions of the Market Performance Committee are reviewed by the Exchange's Quality of markets Committee, and that Article III, Section 1 of the Exchange Constitution provides for a member to appeal to the Board of Directors any decision of the Market Performance Committee.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The proposed "Procedures for Competing Specialists" are designed to facilitate and enable the implementation of a system of competing specialists; and they are, therefore, based on Section 11 (b) of the Securities Exchange Act of 1934 which provides for exchange rules to permit members to be registered as specialists; and section 11A(a) (1) (C) which states the Congress finds that it in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers among exchange markets. The proposed rule change relates to Item 4(a) (v) (D) of Form 19b-4A in that it is designed to facilitate entry into and participation in a free and open market. It does not relate to the remaining Items set forth in section 4(a) of Form 19b-4A.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

The Exchange has not solicited comment on the proposed "Procedures for Competing Specialists" nor have any written comments been received.

BURDEN ON COMPETITION

The proposed "Procedures for Competing Specialists" were developed to

facilitate the implementation of a system of competing specialists on the Exchange Floor, thus they do not impose any burden on competition but rather provide for increased competition.

On or before April 13, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority

GEORGE A. FITZSIMMONS
Secretary.

MARCH 1, 1977.

EXHIBIT I.—TEXT OF PROPOSED RULE CHANGE

NEW YORK STOCK EXCHANGE, INC.—PROCEDURES FOR COMPETING SPECIALISTS

1. Applications to compete must be by letter directed to the Market Performance Committee and must list the stock(s) in which the applicant intends to compete.

2. Upon receipt of a written application to the Market Performance Committee, the Exchange will post a notice of such application for membership comment.

3. All applicants must satisfy the Exchange's capital requirement for specialists as set forth in Rule 104.20. The total position requirements for an existing specialist organization applicant shall be increased to include the position requirement(s) of the additional stock(s) in which the organization applies to compete. A newly created specialist organization must establish that it can meet the minimum capital requirement of $500,000 or 25 percent of the position requirement(s) of the stock(s) in which it applies to compete, whichever is greater.

4. Newly created specialist organization applicants must satisfy Exchange Rule 114 which requires a specialist organization to have a minimum of three active members registered and functioning as regular specialists. In addition, all applicant organizations, existing or newly created, must have manpower which will enable them to fulfill the functions of a specialist as set forth in Exchange Rule 104.10 in all of the stocks in which the applicant will be registered.

5. All applicants must be registered with the Exchange as specialists. Exchange Rule 103.10 provides that before registration as specialist, a member is required to pass a Specialist's Examination prescribed by the Exchange.

6. Consideration will be given to any applicant's request to appear before the Market Performance Committee during its deliberation.

7. The Market Performance Committee will grant approval of applications to compete unless lack of qualifications are shown.

8. Upon approval of an application to compete, an effective date will be established and all members and member organizations will be notified to enable them to address their orders to the desired specialist organization.

9. Every effort will be made to provide adequate Floor space to each new competitor within a reasonable period of time.

10. Any new competitive situation will be reviewed by the Exchange for a period of six months, and reports of specialists' dealings (Forms 81) will be required on a daily basis for the first four weeks and on an as needed basis for the remainder of the six-month review period .

11. Any specialist organization which desires to voluntarily withdraw its registration in one or more stocks involved in a competitive situation, should so notify the Market Performance Committee at least one month prior to the desired effective date of such withdrawal. The Market Performance Committee will approve such requests within the one-month period as soon as the necessary arrangements are made to insure no interruptions in the quality and continuity of the market in such stocks. Any specialist organization which withdraws its registration in a stock will be barred from applying to compete in that same stock for a period of six months following the effective date of withdrawal unless such restriction is waived by the Market Performance Committee at the time of withdrawal.

12. Any decision of the Market Performance Committee with regard to the above items is subject to the review of the Quality of Markets Committee and may be appealed to the Exchange Board of Directors under the provisions of Article III, section 1 of the Exchange Constitution.

[FR Doc.77-6943 Filed 3-8-77;8:45 am]

[Release No. 34-13304; File No. SR-PSE-77-5]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b) (1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b) (1) (the "Act"), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 24, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE BY THE PACIFIC STOCK EXCHANGE INCORPORATED

The proposed rule amends Rule II of the Pacific Stock Exchange Incorporated ("Exchange") to provide for the trading of securities on an alternate specialist basis. The proposed rule change provides for the appointment of alternate specialist and primary specialists with respect to securities traded on a competing specialist basis. The proposed amendment specifies the market making responsibilities of alternate specialists and authorizes the primary specialists to call upon alternate specialists to make bids and/or offers to contribute to maintaining a fair and orderly market.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change is designed to facilitate the development of markets with greater depth and liquidity on the Exchange. It is believed that the proposed rule change will assist the Exchange in providing markets that are more competitive with markets available on other national security exchanges.

The proposed rule change, by facilitating the development of markets with greater depth and liquidity on the Exchange and by assisting in the establishment of markets on the Exchange that can be more competitive with markets available on other exchanges, contributes to the removal of impediments to and the perfection of the mechanism of a free and open market and a national market system, and further contributes to the protection of investors and of the public interest. As a result, the Exchange believes that section 6(b) (5) of the Act provides that statutory basis for the proposed rule change.

Comments were not solicited from members of the Exchange, and no comments were received.

The Exchange concludes that the proposed rule change would impose no burden on competition. Rather the Exchange believes that the proposal will enhance market-maker competition in the context of a developing national market system.

On or before April 13, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file referenced in the caption above and should be submitted on or before March 30, 1977.

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For the Commission by the Division of Market Regulations, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 28, 1977.

[FR Doc.77-6939 Filed 3-8 77:8:45 am]

[Release No. 34-13320; File No. SR-PSE-77-7]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on February 24, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

PSE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change consists of renumbering Rule VI, Section 60 of the Pacific Stock Exchange Incorporated ("Exchange") as Rule VI, section 60(a) and adding a section 60(b) thereto to read as follows:

POOLING OF FLOOR BROKERAGE

Sec. 60(b). No member organization having one or more floor brokers shall enter into any agreement, arrangement or understanding with another member organization having one or more floor brokers, whereby such member organizations are to handle floor brokerage for each other. This prohibition does not apply to the handling of floor brokerage by one such organization for another such organization on an occasional basis, nor to any arrangement that may be permitted by the Options Floor Trading Committee in writing, upon a showing of extraordinary circumstances.

COMMENTARY: .01

Section 60(b) is not intended to prevent two or more independent floor brokers from forming a member firm for joint handling of a floor brokerage business.

COMMENTARY: .02

Any member adversely affected by a determination of the Options Floor Trading Committee under this Section may obtain a review thereof in accordance with the provisions of Section 84 of this Rule.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change is designed to insure that sufficient floor brokers will be available to handle orders brought to the options/floor of the Exchange by any member organization.

The proposed rule change, by helping to provide that there will be suffcient floor brokers on the floor of the Exchange available to handle any order brought to such floor by any member organization of the Exchange, contributes to the protection of investors and of the public interest.

Comments regarding the proposed rule change have neither been solicited nor received from members of or participants in the Exchange.

The Exchange does not believe that the proposed rule change imposes any burden on competition, and it believes that if any such burden on competition is imposed, it is necessary in order to insure that there will be adequate floor brokerage capacity on the options floor of the Exchange, and thus it is necessary or appropriate in furtherance of the purposes of the Securities Exchange Act.

On or before April 13, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 1, 1977.

[FR Doc.77-6944 Filed 3-8-77;8:45 am]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 24, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF THE PROPOSED RULE CHANGE SUBMITTED BY THE PACIFIC STOCK EXCHANGE INCORPORATED

The rule change proposed by the Pacific Stock Exchange Incorporated ("Exchange") consists of redesignating what is presently section 2 of Exchange Rule V as section 2(a), and adding section 2(b) which reads as follows:

COMPETING SPECIALISTS POST CAPITAL

Section 2(b). Unless a competing specialist is subject to the provisions of Section 2(a) above, the competing specialist registered with the Exchange shall at all times maintain a minimum of $10,000 in cash or marketable securities for each security in which such specialist is so registered up to $100,000, or an amount equal to 25 percent of the aggregate long and short market value of all securities with respect to which such competing specialist is registered, whichever is greater. Such competing specialist's capital shall be maintained on deposit with the Pacific Clearing Corporation, except that the Board of Governors may grant an exception to such requirements for good and sufficient reasons.

THE EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change is designed to facilitate participation in market-making activities, in the capacity of a competing specialist, by persons who are not presently specialists on the Exchange. It is thus believed that the proposed rule change will assist the Exchange in maintaining competitive markets of greater depth and liquidity.

The proposed rule change, by increasing the ability of the Exchange to maintain markets that are more competitive and have greater depth and liquidity, and by lowering capital barriers to entry into market making as competing specialists, contributes to the removal of impediments to and the perfection of the mechanism of a free and open market and a national market system, and further contributes to the protection of investors and of the public interest. Therefore, the Exchange believes that section 6(b)(5) of the Act provides the statutory basis for the proposed amendment.

Comments from members of the Exchange were neither solicited nor received.

The Exchange concludes that the proposed rule change imposes no burdens on competition, and, indeed, facilitates competition by lowering barriers to entry as a market maker on a competing specialist basis.

On or before April 13, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 30, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 1, 1977.

[FR Doc.77-6941 Filed 3-8-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Application No. 03/03-5158]

LICO MESBIC INVESTMENT CO.

Application for License to Operate as Small Business Investment Company

An application for a license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.) has been filed by LICO MESBIC Investment Co. (applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1976).

The officers, directors and stockholders are as follows:

Edward T. Liu, President, director and 15% Stockholder, 117 McTaggart Drive, Beckley, W. Va. 25801.
Kenneth L. Simpson, Vice President and director and General Manager, 121 Oakview Lane, Beckley, W. Va. 25801.
Karman L., Liu, Secretary, Treasurer, director and 15% Stockholder, 117 McTaggart Drive, Beckley, W. Va. 25801.
Raymond Co., 28% Stockholder (under trust of E. T. Liu), 102 Abbeywood Trail, Don Mills, Ontario, Canada.
Bonifacio Co., 9% Stockholder, 102 Abbeywood Trail, Don Mills, Ontario, Canada.
Liu Hun Kun, 9% Stockholder, 102 Abbeywood Trail, Don Mills, Ontario, Canada.
Evylene Co., 8% Stockholder, 102 Abbeywood Trail, Don Mills, Ontario, Canada.
Deborah Co., 8% Stockholder, 102 Abbeywood Trail, Don Mills, Ontario, Canada.
Frida Co., 8% Stock holder, 102 Abbeywood Trail, Don Mills, Ontario, Canada.

This applicant, a West Virginia Corporation, provisionally located at 129 Main Street, Beckley, W. Va. 25801 (Law offices of Thornhill, Kennedy & Vaughan), will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 5,000 shares of common stock to the eight individuals above named as stockholders.

The applicant will not concentrate its investments in any particular industry. As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Act of SBA Rules and Regulations.

Any person may, not later than March 24, 1977, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to Deputy Associate Administrator for Investment, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Beckley, W. Va.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 3, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77 6952 Filed 3-8-77;8:45 am]

[Declaration of Disaster Loan Area No. 1298]

ARKANSAS

Declaration of Disaster Loan Area

Baxter, Benton, Boone, Cleburne, Marion, Van Buren and adjacent counties within the State of Arkansas constitute a disaster area because of physical damage caused by a combined result of drought conditions and severe winter weather from September 1, 1976 through February 9, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage as a result of drought until the close of business on May 2, 1977 and for economic injury until the close of business on December 5, 1977 at:

Small Business Administration, District Office, 611 Gaines Street, Suite 900, Little Rock, Arkansas 72201.

or other locally announced locations.

Dated: March 3, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-7019 Filed 3-8-77;8:45 am]

NASHVILLE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Nashville District Advisory Council will hold a public meeting at 9 a.m. to 12 noon, Wednesday, April 20, 1977, in the Fireside Room at the Fairfield Glade Resort, near Crossville, Tennessee, to discuss such business as may be presented by members, staff of the Small Business Administration, or others present. For further information write or call W. J. Shaver, District Director, U.S. Small Business Administration, 1012 Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee 37219, (615) 852-5850.

Dated: March 3, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-7018 Filed 3-8-77;8:45 am]

NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS

MEETING

Pursuant to Subsection 10(a) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the National Study Commission on Records and Documents of Federal Officials will meet on March 24, 1977 beginning at 9:30 a.m. in Room 1105 of the Department of State.

Purpose: The Commission was established under Title II of the Presidential Recordings and Materials Preservation Act (Pub. L. 93-526; 88 Stat. 1698; 44 U.S.C. 3315 et seq.) to study problems involving the control, disposition, and preservation of records and documents produced by or on behalf of Federal officials.

Agenda: The purpose of the meeting is to review and discuss the final report of the Commission.

The meeting will be open to the public. Individuals are welcome to attend to the extent of available space.

Dated: March 7, 1977.

HERBERT BROWNELL,
Chairman.

[FR Doc.77-7194 Filed 3-8-77;11:00 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 341]

ASSIGNMENT OF HEARINGS

MARCH 4, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

V 42 46 MAR 9 77 UMI

MC 119974 (Sub-No. 61), L.C.L. Transit Company, now assigned April 18, 1977, at Chicago, Ill., is postponed indefinitely.

MC 138741 (Sub 26), American Central Transport, Inc., now being assigned April 18, 1977 (1 day), at Chicago, Illinois, in Room 286, 219 South Dearborn Street, Everett McKinley Dirksen Building.

MC 106674 (Sub 210), Schilli Motor Lines, Inc., now being assigned April 19, 1977 (1 day), at Chicago, Illinois; in Room 204–A, 219 South Dearborn Street, Everett McKinley Dirksen Building.

MC 142336 (Sub 1), D. Terry Chamness, d.b.a. Terry's Road Truck and Wrecker Service, now being assigned April 20, 1977 (3 days), at Chicago, Illinois, in Room 286, 219 South Dearborn Street, Everett McKinley Dirksen Building.

MC 142495, Terbax Corporation, now being assigned May 18, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 142083, Specialty Carrier, Inc., now being assigned May 5, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 141550 Sub 2, Hoppy Lines, Inc., now being assigned May 5, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 113495 Sub 78, Gregory Heavy Haulers, Inc., now being assigned June 13, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 31023 Sub 4, Moon Carrier and MC 117940 Sub 200, Nationwide Carriers, Inc., now being assigned May 4, 1977 (3 days), at New York, New York, in a hearing room to be later designated.

MC 135009 (Sub-No. 2), Peak Transfer Co., Inc., now assigned May 3, 1977, at Chicago, Ill., is canceled and reassigned for May 3, 1977, at New York, N.Y. (1 day), location of hearing room will be by subsequent notice.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7031 Filed 3-8-77;8:45 am]

[No. 36497; Service Date Mar. 4, 1977]

ILLINOIS CENTRAL GULF RAILROAD

Petition for a Declaratory Order-Switching Charges at St. Louis

Upon consideration of the record in the above-entitled proceeding including the petition of the Illinois Central Gulf Railroad Company filed December 15, 1976, for issuance of a declaratory order and the petition in support thereof and for leave to intervene filed January 9, 1977, by the Continental Grain Company;

It appearing, that a question has arisen as to the applicability of switching charges with respect to the shipment of grain and/or seeds from origins in Illinois and Iowa on the Burlington Northern, Inc., to East St. Louis, Ill., for reshipment beyond by the Illinois Central Gulf Railroad with ultimate destinations in Southern Freight Association Territory;

It further appearing, that court action has been filed in The Circuit Court of Cook County, Ill., for the collection of said switching charges alleged to have accrued to the Burlington Northern, Inc., which proceeding has been stayed pending issuance of a declaratory order by this Commission;

And it further appearing, that the Continental Grain Company petitioned for leave to intervene in support of petitioner, and stated that its intervention will not unduly broaden the issues herein;

Wherefore, and for good cause:

It is ordered, That pursuant to section 5(e) of the Administrative Procedure Act, 5 U.S.C. 554(e), and in the exercise of the Commission's sound discretion thereunder, this petition for a declaratory order be, and it is hereby, granted and docketed as set forth above;

It is further ordered, That this proceeding be, and it is hereby, instituted to determine the applicability of switching charges assessed but not collected.

It is further ordered, That this matter appears susceptible of handling under the modified procedure, pursuant to Rules 45 to 54 of the Commission's general rules of practice, 49 CFR 1100.45–54, the filing and service of pleadings to be as follows: (a) Opening statement of facts and argument by petitioner and any parties supporting petitioner on or before 20 days from the date of service of this order; (b) 30 days after that date, statement of facts and argument by any party in opposition; and (c) 20 days thereafter, replies by petitioner and any supporting parties;

It is further ordered, That the Continental Grain Company be, and it is hereby, granted leave to intervene and fully participate herein;

And it is further ordered, That a copy of this order be served upon petitioner, the Burlington Northern, Inc., and Continental Grain Company, that a copy be deposited in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and that a copy of this order be given to the public by delivery thereof to the Director, Office of the Federal Register for Publication therein.

Dated at Washington, D.C., this 28th day of February, 1977.

By the Commission, Commissioner Hardin.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7032 Filed 3-8-77;8:45 am]

federal register

WEDNESDAY, MARCH 9, 1977

PART II

FEDERAL ELECTION COMMISSION

■

GOVERNMENT IN THE SUNSHINE

Final Implementation Regulations

V 42 46 MAR 9 77 UMI

Title 11—Federal Elections

CHAPTER I—FEDERAL ELECTION COMMISSION

[Notice 1977-12]

PART 2—SCOPE AND DEFINITIONS

PART 3—MEETINGS

Government in the Sunshine

ACTION: Final regulation.

SUMMARY: This notice contains the final regulation implementing the Government in the Sunshine Act, Pub. L. 94-409, as required by section 3(a) of the Act.

EFFECTIVE DATE: March 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Swillinger, Assistant General Counsel (202) 382-4055.

SUPPLEMENTARY INFORMATION: The proposed regulation was published on January 19, 1977 at 42 FR 3810 for a 30-day comment period. Comments were received and incorporated into the final regulation. The final regulation was adopted by the Commission on March 2, 1977.

Dated: March 3, 1977.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

Part 2 is added to Title 11 CFR as follows:

Sec.
2.1 Scope.
2.2 Commission.
2.3 Commissioner or member.
2.4 Person.
2.5 Meeting.

AUTHORITY: Sec. 3(a), Pub. L. 94-409.

§ 2.1 Scope.

These regulations are promulgated pursuant to the directive of 5 U.S.C. 552b(g) which was added by section 3(a) of Pub. L. 94-409, the Government in the Sunshine Act and specifically implement subsections (b) through (f) of that Act.

§ 2.2 Commission.

"Commission" means the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

§ 2.3 Commissioner or member.

"Commissioner" or "member" means an individual appointed to the Federal Election Commission pursuant to 2 U.S.C. 437(a) and 101(e) of Pub. L. 94-283 and shall also include ex-officio non-voting Commissioners or members, the Secretary of the Senate and the Clerk of the House, but does not include a proxy or other designated representative of a Commissioner.

§ 2.4 Person.

"Person" includes an individual, partnership, corporation, association, or public or private organization, other than an agency of the United States Government.

§ 2.5 Meeting.

"Meeting" means the deliberation, including those conducted through conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, of at least four voting members of the Commission in collegia where such deliberations determine or result in the point conduct or disposition of official Commission business, but does not include deliberations to schedule a meeting, to take action to open or close a meeting, or to release or withhold information, or to change the subject matter of a meeting under §§ 3.2 and 3.3 of this chapter.

Part 3 of Title 11, CFR is added as follows:

Sec.
3.1 General rules.
3.2 Exempted meetings.
3.3 Procedure for closing meetings.
3.4 Transcripts, recordings and minutes.
3.5 Announcement of meetings and schedule changes.
3.6 Annual report.

AUTHORITY: Sec. 3(a), Pub. L. 94-409.

§ 3.1 General rules.

(a) Commissioners shall not jointly conduct, determine or dispose of Commission business other than in accordance with this part.

(b) Except as provided in § 3.2, every portion of every Commission meeting shall be open to public observation.

§ 3.2 Exempted meetings.

(a)(1) As required by 2 U.S.C. 437g (a)(3)(B), all Commission meetings, or parts of meetings, pertaining to the notification or investigation of a complaint that the Act has been violated, shall be closed to the public, and the requirements of §§ 3.3 and 3.5 shall not apply.

(2) For the purposes of this section, "notification or investigation of a complaint" means, inter alia, determinations pursuant to 2 U.S.C. 437g(a), the issuance of subpoenas, discussion of civil actions or proceedings, formal agency adjudication pursuant to section 5 of the Administrative Procedure Act, discussion of referrals to the Department of Justice, or any other matter related to the Commission's enforcement activity.

(b) The requirement of open meetings shall not apply where the Commission finds, (1) pursuant to § 3.3, that an open meeting is more likely than not to result in the disclosure of:

(i) Matters that relate solely to the Commission's internal personnel decisions, rules and practices, except that exemption does not extend to Commission discussions regarding employees' dealings with the public, such as personnel manuals or Commission directives setting forth job functions or procedures;

(ii) Matters which involve the consideration of a proceeding of a formal nature by the Commission against a specific person or the formal censure of any person;

(iii) Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(iv) Financial information obtained from any person and which is privileged or confidential;

(v) Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action as long as the Commission has not already disclosed the content on nature of its proposed action, or is not required by law to disclose it prior to final action: and

(2) The public interest does not require the meeting to be open.

§ 3.3 Procedure for closing meetings.

(a) No meeting or portion of a meeting may be closed pursuant to § 3.2(b) to public observation unless a majority of the Commissioners (not including the ex-officio non-voting Commissioners) vote to take such action.

(b) A Commission vote to close a meeting shall be taken upon the motion of any member, other than the ex-officio non-voting members. A single vote may be taken with respect to a series of meetings, all or a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in such series.

(c) Although no meeting need be held to consider closing a meeting each vote taken pursuant to paragraph (b) of this section shall be recorded by the Secretary to the Commission. No proxies, written or otherwise, shall be counted.

(d) (1) If the Commission votes to close a meeting, or any portion or portions thereof, to the public, then within 24 hours it shall make publicly available a written statement with respect to such vote. The written statement shall contain:

(i) A citation to the section of these regulations pursuant to which the meeting was closed to public observation together with an explanation as to why the specific discussion comes within the cited exemption;

(ii) The vote of each Commissioner on the motion to close the meeting;

(iii) A list of the names of all persons expected to attend the closed meeting and their affiliations. For purposes of this subdivision (iii) affiliation means title or position, and employer and, in the case of a representative, the name of the person represented, and

(iv) Shall be signed by the Commissioner who presided at the meeting where the vote to close the meeting was taken.

(2) The original copy of the statement shall be maintained in the Commission's Public Records Office.

(e) Each time that the Commission votes, pursuant to paragraph (b) of this section, to close a meeting, the General Counsel shall publicly certify before the meeting may be closed that, in his or her opinion, the meeting may properly be closed to public observation. The certification shall state each relevant exemptive provision. The original copy of such certification shall be attached to, and preserved with, the statement required by paragraph (d) of this section.

§ 3.4 Transcripts, recordings and minutes.

(a) The Secretary to the Commission shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to public observation. An electronic recording of a meeting shall be coded, or other records shall be kept, in a manner adequate to identify each speaker.

(b) In the case of a meeting, or portion of a meeting, closed to public observation because it concerns matters set out in paragraph (a) of § 3.2, the Commission may, in lieu of a complete transcript or electronic recording, maintain a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed at the meeting on any item by any person attending and shall reflect the vote of each member on any document considered in connection with any action taken at the meeting.

(c) The Commission shall, within a reasonable time not to exceed 30 days, place on file in the Public Records Office of the Commission, a copy of the transcript, recording, or minutes, as appropriate, which reflects matters discussed or information developed, at the meeting which were not within the scope of the exemption provision of § 3.2 pursuant to which the meeting was closed.

(d) A complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of meeting, closed to the public, shall be maintained by the Secretary to the Commission in the confidential files of the Commission, for a period of two years subsequent to such meeting, or until one year after the conclusion of any agency proceeding with respect to which the meeting, or portion of the meeting was held, whichever occurs later.

§ 3.5 Announcement of meetings and schedule changes.

(a) In the case of each meeting, the Commission shall publicly announce and shall submit such announcement for publication in the FEDERAL REGISTER at least seven days prior to the day on which the meeting is to be called to order. Such announcement must contain:

(1) The date of the meeting; (2) the place of the meeting; (3) the subject matter of the meeting; (4) whether the meeting is to be open or closed to the public; and (5) the name and telephone number of the official designated by the agency to respond to requests for information about the meeting.

(b) The public announcement and submission for publication required by paragraph (a) of this section shall be made in the case of every meeting to be held by the Commission unless a majority of the Commissioners decide by recorded vote that the situation requires that a particular meeting be called at an earlier date, in which case the Commission shall make, at the earliest practicable time, the public announcement required by paragraph (a) of this section and a concurrent submission to the FEDERAL REGISTER.

(c) The time or place of a meeting may be changed following the public announcement required by paragraphs (a) and (b) of this section only if the Commission publicly announces such change at the earliest practicable time.

(d) The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by paragraphs (a) and (b) of this section only if:

(1) A majority of the entire membership of the Commission determines by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and (2) the Commission publicly announces, and concurrently submits for publication in the FEDERAL REGISTER, the change and the vote of each member upon such change at the earliest practicable time.

§ 3.6 Annual report.

The Commission shall report annually to Congress regarding its compliance with such requirements including:

(a) A tabulation of the total number of Commission meetings open to the public; (b) the total number of such meetings closed to the public; (c) the reasons for closing such meetings; and (d) a description of any litigation brought against the Commission under the Act, including any costs assessed against the Commission in such litigation (whether or not paid by the Commission).

[FR Doc.77-6947 Filed 3-8-77;8:45 am]

V 4246 MAR 9 77 UMI

federal register

WEDNESDAY, MARCH 9, 1977

PART III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

COMMUNITY BLOCK GRANT PROGRAM

Environmental Review Procedures

V 42 46 MAR 9 77 UMI

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Doc. No. R-77-297]

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Applicants Lacking Legal Capacity; Interim Rule

On January 7, 1975 the Department of Housing and Urban Development (HUD) amended Title 24 of the Code of Federal Regulations by adding a new Part 58 to Subtitle A, published at 40 FR 1392. On July 16, 1975, corrections and amendments to Part 58 were published at 40 FR 29992 and on June 30, 1976 at 41 FR 26856 a further amendment, regarding the computation of time periods, was published.

Part 58 sets forth procedures governing the carrying out of the environmental review responsibilities by Community Development Block Grant (CDBG) applicants which would otherwise be the responsibility of the Secretary of HUD, under the National Environmental Policy Act of 1969 (NEPA). It is the policy of HUD, pursuant to section 104(h) of Title I of the Housing and Community Development Act of 1974, to require CDBG applicants to assume and carry out such responsibilities, unless the applicant lacks legal capacity to do so. If an applicant lacks such legal capacity, these environmental responsibilities remain the responsibility of HUD. In such cases, the applicant is required by regulation to prepare, circulate and receive comments on a proposed Draft Environmental Impact Statement (EIS), prior to submitting its CDBG application. The regulations provide for HUD to review the proposed Draft EIS and prepare and issue the Final EIS.

It has been determined by HUD, in consultation with CEQ, that the foregoing procedure respecting applicants which lack the legal capacity should be modified to eliminate the applicant's responsibility for a proposed Draft EIS. HUD will perform all the environmental review responsibilities in such cases in accordance with HUD Handbook 1390.1, the Handbook of Departmental Policies, Responsibilities and Procedures for Protection and Enhancement of Environmental Quality (38 FR 19182, as amended). Accordingly, both the procedures set forth at Part 58 and those contained in HUD Handbook 1390.1 are being amended to reflect these determinations. Conforming amendments to the CDBG regulations, 24 CFR Part 570, are also being promulgated to reflect this revised procedure.

The approvals of the applications of several CDBG applicants lacking legal capacity are dependent on the implementation of this amendment because of the existing procedure. This amendment does not diminish any responsibilities under NEPA, and is necessary to assure the proper carrying out of those responsibilities. For these reasons, the Secretary has determined that public comment prior to the adoption of this amendment would be impracticable and contrary to the public interest and that good cause exists for making this amendment effective as an interim rule. However, the Department invites interested persons to submit data and comments with respect to this amendment, and all relevant materials received on or before April 11, 1977, will be considered before a final rule is adopted. All submittals should refer to Docket No. R-77-297, and should be filed with the Rules Docket Clerk, Room 10141, Office of the Secretary, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Section 104(h) of the Housing and Community Development Act of 1974 requires that this regulation may be issued only after consultation with the Council on Environmental Quality. Such consultation has been accomplished. Also, a Finding of Inapplicability with respect to any environmental impact of this regulation has been made in accordance with HUD Handbook 1390.1 (38 FR 19182). A copy of that finding and of all comments received respecting this regulation will be available for public inspection during business hours in the Office of the Rules Docket Clerk at the address indicated above.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular No. A-107.

Accordingly, Title 24, Part 58 is amended by deleting § 58.5(b)(1), renumbering § 58.5(b)(2) to become § 58.5(b)(3); and inserting the following § 58.5(b) (1) and (2).

§ 58.5 General policy.

* * * * *

(b) *Exception.* (1) Each applicant shall, prior to submitting an application, review its legal capacity to assume and carry out the environmental responsibilities hereunder. If an applicant believes it may lack legal capacity to assume and carry out environmental review responsibilities hereunder, then it shall submit to the HUD official authorized to receive the application the legal opinion of its attorney in support of such claim and shall consult with said HUD official in order to obtain appropriate instructions. Such claim shall be made prior to submitting an entitlement or discretionary application. Discretionary applicants shall submit such claim to HUD with the preapplication, if a preapplication is required. HUD will review such claim and approve or disapprove it.

(2) If an applicant's claim of lack of legal capacity has been approved by HUD, then HUD will complete an environmental assessment, including an EIS if appropriate, pursuant to HUD Handbook 1390.1, as amended, before the application is approved, or in those cases where a preapplication is required, before the applicant is invited to submit a full application.

* * * * *

(Sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d).)

Effective date. This amendment shall be effective on March 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-7028 Filed 3-8-77;8:45 am]

CHAPTER V—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Doc. No. R-77-292]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Applications and Criteria for Discretionary Grants; Interim Rule

This interim rule amends § 570.402, published on October 18, 1976, at 41 FR 45966. Section 570.603 of Title 24 CFR requires that Community Development Block Grant recipients comply with 24 CFR Part 58, which sets forth procedures governing the assumption and carrying out of environmental review responsibilities by Community Development Block Grant (CDBG) applicants, which would otherwise be the responsibility of the Secretary of HUD under the National Environmental Policy Act of 1969 (NEPA). If a CDBG applicant lacks legal capacity to assume and carry out such delegated responsibilities, then HUD retains the responsibilities and carries them out. In such cases, the applicant has been required by 24 CFR 58.5 to prepare, circulate and receive comments on a proposed Draft Environmental Impact Statement (EIS), prior to submitting its CDBG application. The regulations provide for HUD to review the proposed Draft EIS and prepare and issue the Final EIS.

It has been determined by HUD, in consultation with the Council on Environmental Quality (CEQ), that the foregoing procedure, as it applies to applicants which HUD determines lack legal capacity to assume and carry out environmental review responsibilities, should be modified to provide that HUD will perform the environmental review responsibilities prior to approval of such application, or in those cases where a preapplication is required, before the applicant is invited to submit a full application. Accordingly, Part 570 is being amended to provide specific reference to the revised procedure, which requires completion of an environmental assessment for those applicants found by HUD to lack legal capacity before the applicant is invited to submit a full application. The procedures set forth at Part 58, and those contained in HUD Handbook 1390.1, are also being amended.

Section 570.402 sets forth requirements for submission and review of preapplications and applications for general purpose funds for metropolitan and nonmetropolitan areas. Paragraph (d) of § 570.402 provides that HUD will invite full applications based upon numerical ratings of preapplications. This revision establishes a new § 570.402(d)(1)(vi) involving applicants that lack legal capacity to perform environmental reviews. If a preapplication from such applicant rates highly enough for the recipient to be invited to submit a full application, HUD will complete the environmental assessment prior to issuing the invitation to submit a full application. If the preapplication involves more than one activity, the invitation to submit a full application may be issued in stages as the respective environmental assessments are completed.

The approvals of the applications of several CDBG applicants lacking legal capacity are dependent on the implementation of this amendment because of the existing procedure. This amendment does not diminish any responsibilities under NEPA, and is necessary to assure the proper carrying out of those responsibilities. For these reasons, the Secretary has determined that public comment prior to the adoption of this amendment on an interim basis would be impracticable and contrary to the public interest and that good cause exists for making this amendment effective upon publication. However, the Department invites interested persons to submit data and comments with respect to this amendment, and all relevant materials received on or before April 11, 1977, will be considered before a final rule is adopted. All submittals should refer to Docket No. and should be filed with the Rules Docket Clerk, Room 10141, Office of the Secretary, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Also, a Finding of Inapplicability with respect to any environmental impact of this regulation has been made in accordance with HUD Handbook 1390.1 (38 FR 19182). A copy of that finding and of all comments received will be available for public inspection during business hours in the Office of the Rules Docket Clerk at the address indicated above.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular No. A-107.

Accordingly, Title 24, Part 570 is amended by adding a paragraph to § 570.402(d)(1) as follows:

§ 570.402 General purpose funds for metropolitan and nonmetropolitan areas.

* * * * *

(d) * * *

(1) * * *

(vi) With respect to an applicant for which HUD has approved a claim of legal incapacity pursuant to 24 CFR 58.5(b), HUD will advise the applicant of the ranking and status of the preapplication. A full application shall not be invited, however, unless HUD has completed an environmental assessment, including an environmental impact statement if appropriate, on the proposed activities, pursuant to HUD Handbook 1390.1, as amended.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

Effective date. This amendment shall be effective on March 8, 1977.

JOHN TUITE,
Acting Deputy Assistant Secretary for Community Planning and Development.

[FR Doc.77-7027 Filed 3-8-77;8:45 am]

V4246 MAR 9 77 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Doc. No. N–77–182]

POLICIES, RESPONSIBILITIES AND PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

Amendments to Departmental Handbook

HUD Handbook 1390.1 (38 FR 19132) sets forth the policies, responsibilities and procedures for HUD's compliance with the National Environmental Policy Act of 1969 (NEPA). Section 104(h) of the Housing and Community Development Act of 1974 authorizes HUD to provide for the assumption by applicants for assistance under Title I of that statute (the Community Development Block Grant (CDBG) Program) of environmental review responsibilities under NEPA. Section 104(h) has been implemented by regulations set forth at 24 CFR Part 58. If an applicant for assistance under Title I lacks legal capacity to assume and carry out such responsibilities, then HUD retains these responsibilities, and carriers them out in accordance with its own procedures under HUD Handbook 1390.1. HUD is hereby amending Handbook 1390.1 with an interim rule to add an appropriate provision for the CDBG Program concerning the environmental review of applications submitted by applicants that lack legal capacity to assume these environmental responsibilities. HUD is also amending 24 CFR Part 58 and 24 CFR Part 570 to conform to the procedures herein being adopted.

The amendments to HUD Handbook 1390.1 are as follows:

(1) Appendix A–1 is being amended to specify the decision point and threshold criteria for environmental reviews performed by HUD under the CDBG Program, where an applicant thereunder lacks such legal capacity.

(2) A footnote, following the Threshold Table in Appendix A–1, is being added to cross-reference these procedures with those contained at 24 CFR Part 58.

Under these amendments to HUD Handbook 1390.1, HUD will conduct the environmental review and will not approve the application, or in those cases where a preapplication is required, will not invite the submission of a full application, unless the process required by Handbook 1390.1 is completed.

This amendment does not diminish the applicable responsibilities under NEPA and is necessary to expedite the proper carrying out of those responsibilities. For these reasons, the Secretary has determined that comment prior to the adoption of the amendment on an interim basis would be impracticable, unnecessary and contrary to the public interest and that good cause exists for making this amendment effective immediately. However, the Department invites interested persons to submit data and comments with respect to this amendment and all material received on or before April 17, 1977, will be considered. All material should refer to Docket No. N–77–182, and should be filed with the Rules Docket Clerk, Room 10141, Office of the Secretary, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Also, a Finding of Inapplicability for any environmental impact of this notice has been made in accordance with HUD Handbook 1390.1 (38 FR 19182). A copy of that finding and of all comments received respecting this will be available for public inspection during business hours in the Office of the Rules Docket Clerk, at the address indicated above.

NOTE: It is hereby certified that the economic and inflationary impacts of this Notice have been carefully evaluated in accordance with OMB Circular No. A–107.

(1) Threshold Table at Appendix A–1 of HUD Handbook 1390.1 (38 FR 19182) is amended by adding thereto, under the appropriate column headings thereof, as indicated in parentheses, the following:

(Program): "Community Development Block Grant Program under Title I of the Housing and Community Development Act of 1974, where HUD has approved an applicant's claim of lack of legal capacity to assume environmental responsibilities.[10]"

(Decision Point): "Approval of application or amendment required to be submitted to HUD for approval); or in those cases where a preapplication is required, the invitation to submit a full application."

(Threshold): "All new Community Development Block Grant Programs applications and all second and succeeding year applications containing any new or changed program activity not covered in a previous environmental review."

(2) A footnote following the Threshold Table at Appendix A–1 is added, as follows:

[10] Under the CDBG Program, the applicant assumes the environmental review responsibilities otherwise applicable to HUD and carries them out in accordance with 24 CFR Part 58, unless the applicant's claim of legal incapacity to do so has been approved by HUD."

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Effective date. These Notice amendments shall be effective on March 8, 1977.

Issued at Washington, D.C., on March 2, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77–7029 Filed 3–8–77;8:45 am]

federal register

WEDNESDAY, MARCH 9, 1977

PART IV

DEPARTMENT OF STATE

FISHERY CONSERVATION AND MANAGEMENT

Applications for Permits To Fish; Spain, Germany, France, Ireland and Italy

V42 46 MAR 9 77 UMI

DEPARTMENT OF STATE

[Public Notice 527]

FISHERY CONSERVATION AND MANAGEMENT

Applications for Permits to Fish Off Coasts of United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing beginning March 1, 1977, have been received from the Government of Spain, and are published herewith.

Dated: March 2, 1977.

ALBERT L. ZUCCA,
Director, Office of Fisheries Affairs.

THE UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

APPLICATION FOR VESSEL PERMITS TO FISH WITHIN THE FISHEPY CONSERVATION ZONE OF THE UNITED STATES, OR FOR ANADROMOUS SPECIES OR CONTINENTAL SHELF FISHERY RESOURCES

DATE _____

SP-77-0001 to 0063
APPLICATION NO. _____
for use of issuing Officer

In accordance with the provision of Section 204 of the Fishery Conservation and Management Act of 1976, (16 U.S.C. 1801-1882), and the governing international fisheries agreement entered into with the Government of the United States of America, which entered into force on _____,
date

the government (or competent authority) of Spain

hereby submits this application for permits for fishing vessels under its jurisdiction to fish within the fishery conservation zone of the United States, or beyond that zone for anadromous species or Continental Shelf fishery resources subject to the jurisdiction of the United States.

The following information is submitted in support of this application (Use additional sheets as required).

A completed Fishing Vessel Identification Form for each permit that is requested; and a compilation of data contained in questions 5 and 20 in the attached Fishing Vessel Identification Form.

Submitted 21 Feb 1977
Date

Signature of Authorized Official
JOSE LUIS TATO

Title

Ocean Area	Name of Vessel	Type of Vessel	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
1. FISHING GULF WATE 120° W	VILLA DE LAREDO	OTB-Stern Trawler	1/1-31/12/77	Squid, Other		Other trawl
2. FISHING GULF WATER 120° W	HONTES	OTB-Stern Trawler	1/1-31/12/77	Squid, Other		Other trawl
3. FISHING GULF WATE 120° W	LAXE DOS FIGOS	OTB-Stern Trawler	1/1-31/12/77	Squid, Other		Other trawls

Gp. 1

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0001

Permit Period Applied For: 1977
Application No. For Use of Issuing Office
State: SPAIN

1. Name of Vessel LAXE DOS FIGOS
2. Vessel No.: Hull No. VI-5 Registration No. 9561
3. Name and Address of Owner / Name and Address of Charterer
   Name ANTONIO VAQUEIRO HERMELO
   Address Apdo.1081-Vigo
   Cable Address
4. Homeport and State of Registry: TENERIFE
5. Type of Vessel OTB
6. Tonnage (Gross) 365,5 (Net) 184,26
7. Length 38,5 M. 8. Breadth 8,5 M. 9. Draft 3,08 M.
10. Horsepower 1000 shp. 11. Maximum Speed 10 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other
13. Date Built
14. Number and Nationality of Personnel 21 - españoles
    Officers 2 Crew 19 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( )
    Other
    International Radio Call Sign EESR
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

SP-77-0001

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (2), Fathometer (2),
    Other
17. Cargo Capacity (MT)
    Salted Fish
    Fresh Fish
    Frozen Fish 360
    Fish Meal
    Other
18. Cargo Space — Number / Name
    Freezer
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT)
    12 tns. for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW Atlantic	1/1/77 al 31/12/77	Squid Loligo Illex Other		Other trawls

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0002

Permit Period Applied For: 1977
Application No. For Use of Issuing Office
State: SPAIN

1. Name of Vessel MOURA
2. Vessel No.: Hull No. VI-5 Registration No. 9559
3. Name and Address of Owner / Name and Address of Charterer
   Name ARGAPESCA, S.A.
   Address
   Cable Address
4. Homeport and State of Registry: VIGO
5. Type of Vessel OTB
6. Tonnage (Gross) 257,3 (Net) 107,25
7. Length 35,4 M. 8. Breadth 8,0 M. 9. Draft 1,80 M.
10. Horsepower 1.000 shp. 11. Maximum Speed 12 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other
13. Date Built 1.975
14. Number and Nationality of Personnel
    Officers 3 Crew 17 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( )
    Other
    International Radio Call Sign E.G.E.G.
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

V4246 MAR 9 77 UMI

SP-77-0002

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (2), Fathometer (2), Other _____

17. Cargo Capacity (MT) 18. Cargo Space Number / Name

Salted Fish _____ Freezer
Fresh Fish 210 m^3 Dry Hold
Frozen Fish ___ m^3 Tanks
Fish Meal _____ Other
Other _____

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW Atlantic	1/1/77 al 31/12/77	Squid Loligo Illex Other		Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0003

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel VILLA DE MARIN
2. Vessel No.: Hull No. VI-5 Registration No. 9507
3. Name and Address of Owner / Name and Address of Charterer
   Name MANUEL NOMES GONZALEZ
   Address Calvo Sotelo, 70
   (Marin)
   Cable Address
4. Homeport and State of Registry: MARIN
5. Type of Vessel O.T.B
6. Tonnage (Gross) 114,1 (Net) 151,20
7. Length 39,4 M. B. Breadth 8,5 M. D. Draft 1,50 M.
10. Horsepower 1.000 shp. 11. Maximum Speed 12 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1975
14. Number and Nationality of Personnel 20 - espaÑoles
    Officers 4 Crew 16 Other (Specify) _____
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ), Other _____
    International Radio Call Sign EGSM
    Radio Frequencies Monitored _____
    Other Working Frequencies _____
    Schedule _____

SP-77-0003

16. Navigation Equipment: Loran C (X), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar ( ), Fathometer (X), Other _____

17. Cargo Capacity (MT) 18. Cargo Space Number / Name

Salted Fish _____ Freezer
Fresh Fish _____ Dry Hold
Frozen Fish 390 Tanks
Fish Meal _____ Other
Other _____

19. Processing Equipment (Indicate daily capacity,MT)
10

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-3-77 al 31-12-77	Squid Loligo Illex Other		Ottor Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

Ocean Area	Name of Vessel	Type of Vessel	Period (From-To)	Species	Contemplated catch (mt)	Gear to be Used
ICNAF 5 and 6	AYORA	OTB-Steern Trawler	1/1--31/12/77	Loligo	450	Otter trawl
ICNAF 5 and 6	AMAIA	OTB-Steern Trawler	1/1--31/12/77	Loligo	440	Otter trawl
ICNAF 5 and 6	ARGUSTEGUI	OTB-Steern Trawler	1/1--31/12/77	Loligo	350	Otter trawl
ICNAF 5 and 6	ARTICA	OTB-Steern Trawler	1/1--31/12/77	Loligo	350	Otter trawl
ICNAF 5 and 6	ARZ. CAYA	OTB-Steern Trawler	1/1--31/12/77	Loligo	340	Otter trawl
ICNAF 5 and 6	BEITAT	OTB-Steern Trawler	1/1--31/12/77	Loligo	180	Otter trawl
ICNAF 5 and 6	CASTANESA II	OTB-Steern Trawler	1/1--31/12/77	Loligo	220	Otter trawl
ICNAF 5 and 6	TXACHO	OTB-Steern Trawler	1/1--31/12/77	Loligo	414	Otter trawl
ICNAF 5 and 6	URRALLA	OTB-Steern Trawler	1/1--31/12/77	Loligo	270	Otter trawl
ICNAF 5 and 6	PUNTA ALDEA	OTB-Steern Trawler	1/1--31/12/77	Loligo	210	Otter trawl
ICNAF 5 and 6	PACAPESCA I	OTB-Steern Trawler	1/1--31/12/77	Loligo	350	Otter trawl
ICNAF 5 and 6	PESCAPESCA II	OTB-Steern Trawler	1/1--31/12/77	Loligo	440	Otter trawl
ICNAF 5 and 6	PLAZA DE LUGO	OTB-Steern Trawler	1/1--31/12/77	Loligo	270	Otter trawl
ICNAF 5 and 6	XIXONDO	OTB-Steern Trawler	1/1--31/12/77	Loligo	430	Otter trawl
ICNAF 5 and 6	MARUCA	OTB-Steern Trawler	1/1--31/12/77	Loligo	200	Otter trawl
ICNAF 5 and 6	PUERTO RICO	OTB-Steern Trawler	1/1--31/12/77	Loligo	400	Otter trawl

Gr. 2

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0004

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel CARVIMA UNO
2. Vessel No.: Hull No. 00-1 Registration No. ____
3. Name and Address of Owner / Name and Address of Charterer
   Name CARVIMA, S.A.
   Address GARCIA BARBON, 121
   VIGO
   Cable Address
4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B
6. Tonnage (Gross) 280,4 (Net) 264,11
7. Length 29,2 M. B. Breadth 7,5 M. D. Draft 3,71 M.
10. Horsepower 625 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1.975
14. Number and Nationality of Personnel 15 spanish
    Officers 4 Crew 11 Other (Specify) ____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ), Other _____
    International Radio Call Sign E.G.P.B
    Radio Frequencies Monitored _____
    Other Working Frequencies _____
    Schedule _____

SP-77-0004

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar XX), Fathometer (X), Other _____

17. Cargo Capacity (MT) 18. Cargo Space Number / Name

Salted Fish _____ Freezer
Fresh Fish _____ Dry Hold
Frozen Fish 180 Tanks 133 m^3
Fish Meal _____ Other
Other _____

19. Processing Equipment (Indicate daily capacity,MT)
5 Tns for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-3-77 31-3-77	squid	110	Otter trawl
ICNAF	5 and 6	Loligo Illex Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0005

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel PRIXE DO MAR
2. Vessel No.: Hull No. VI - 5 Registration No. 9.258
3. Name and Address of Owner / Name and Address of Charterer
   Name PRIXE DO MAR, S.A.
   Address ALAMEDA SUAREZ LLANOS, 11
   VIGO
   Cable Address
4. Homeport and State of Registry: HUELVA
5. Type of Vessel O.T.B
6. Tonnage (Gross) 148,4 (Net) 68
7. Length 27,8 M. B. Breadth 6,4 M. D. Draft 3,6 M.
10. Horsepower 435 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1971
14. Number and Nationality of Personnel 14 spanish
    Officers 3 Crew 11 Other (Specify) ____
15. Communications: VHF-FM XX), AM/SSB, Voice ( ), Telegraphy ( ), Other _____
    International Radio Call Sign E.P.E.V
    Radio Frequencies Monitored _____
    Other Working Frequencies _____
    Schedule _____

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SP-77-0005

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	64	Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-3-77 31-3-77	squid		
		Loligo		
ICNAF	5 and 6	Ilex	180	Otter trawl
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0006

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel RIBERA DE ORBIGO
2. Vessel No.: Hull No. VL-5 Registration No. 8263
3. Name and Address of Owner — Name and Address of Charterer
   Name PESQUERA DE ALTAMAR, S.A.
   Address Concepcion Arenal, 2
   LA CORUÑA
   Cable Address
4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B
6. Tonnage (Gross) 246,4 (Net) 88
7. Length 35,1 M. 8. Breadth 6,8 M. 9. Draft 3,60 M.
10. Horsepower 480 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.961
14. Number and Nationality of Personnel 15 spanish
    Officers 3 Crew 12 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
    International Radio Call Sign E.D.J.U
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

SP-77-0006

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	80	Tanks	110 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-3-77 31-3-77	squid		
		Loligo		
ICNAF	5 and 6	Ilex	150	Otter trawl
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0007

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel SANTA ELVIRA
2. Vessel No.: Hull No. CC-2 Registration No. 2,353
3. Name and Address of Owner — Name and Address of Charterer
   Name PESGA
   Address GENERAL PARDIÑAS, 92
   MADRID - 6
   Cable Address
4. Homeport and State of Registry: LA CORUÑA
5. Type of Vessel O.T.B
6. Tonnage (Gross) 1300 (Net) 568
7. Length 71,7 M. 8. Breadth 10,6 M. 9. Draft 5,24 M.
10. Horsepower 1200 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.954
14. Number and Nationality of Personnel 59 spanish
    Officers 7 Crew 52 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
    International Radio Call Sign E.A.R.B
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

SP-77-0007

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish	676	Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	676	Tanks	
Fish Meal		Other	410 m³
Other			

19. Processing Equipment (Indicate daily capacity,MT)

15 Tne for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-3-77 31-3-77	squid		
		Loligo		
ICNAF	5 and 6	Ilex	600	Otter trawl
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0008

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel CAMPA DE TORRES
2. Vessel No.: Hull No. GC-1 Registration No. 2.854
3. Name and Address of Owner — Name and Address of Charterer
   Name COPEMAR,S.A.
   Address APARTADO, 448
   VIGO
   Cable Address
4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B
6. Tonnage (Gross) 454,5 (Net)
7. Length 47,2 M. 8. Breadth 9,5 M. 9. Draft 4,9 M.
10. Horsepower 1600 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.974
14. Number and Nationality of Personnel 25 spanish
    Officers 5 Crew 20 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
    International Radio Call Sign E.G.H.G
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

SP-77-0008

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca (X), Navsat ( ), Radar (X), Fathometer (X), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	520	Tanks	253 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

15 Tone for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-3-77 31-3-77	squid		
		Loligo		
ICNAF	5 and 6	Ilex	960	Otter trawl
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0009

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel AVIOR
2. Vessel No.: Hull No. CA-1 Registration No. 964
3. Name and Address of Owner — Name and Address of Charterer
   Name S.A.P. INDUSTRIAL GALLEGA
   Address Avda. de las Camelias, 58, Vigo
   Cable Address RIVEIRIÑA
4. Homeport and State of Registry: Cadiz
5. Type of Vessel O.T.B
6. Tonnage (Gross) 765,4 (Net) 458,70
7. Length 53,8 M. 8. Breadth 9,3 M. 9. Draft 4,73 M.
10. Horsepower 1400 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1966
14. Number and Nationality of Personnel 33 spanishs
    Officers 5 Crew 28 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X), Other
    International Radio Call Sign E.E.V.X
    Radio Frequencies Monitored 500 -2,182 - 156,8
    Other Working Frequencies
    Schedule

V4246 MAR 9 77 UMI

SP-77-0009

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (1), Fathometer (1), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish ____ Freezer
Fresh Fish ____ Dry Hold
Frozen Fish 850 Tanks 257 m3
Fish Meal ____ Other
Other ____

19. Processing Equipment (Indicate daily capacity,MT)
20 Tns. for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC (I.C.N.A.F.)	1-1-77 / 31-3-77 and 5 and 6	squid	450	Otter trawl
		Loligo		
		Illex		
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0010

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office: ____

State: SPAIN

1. Name of Vessel ALAMO
2. Vessel No.: Hull No. GI - 4 Registration No. 1729
3. Name and Address of Owner — Name and Address of Charterer
Name S.A.P. INDUSTRIAL GALLEGA
Address Avda de Las Camelias 58, VIGO
Cable Address RIVEIRINA
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 667,3 (Net) 320
7. Length 53 M. 8. Breadth 9,5 M. 9. Draft 4 M.
10. Horsepower 1400 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1967
14. Number and Nationality of Personnel 34 Spanish
Officers 5 Crew ____ Other (Specify) ____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
International Radio Call Sign E.F.N.E
Radio Frequencies Monitored 500- 2,182 - 156,8
Other Working Frequencies ____
Schedule ____

SP-77-0010

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (1), Fathometer (1), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish ____ Freezer
Fresh Fish ____ Dry Hold
Frozen Fish 128 Tanks 253 m3
Fish Meal ____ Other
Other ____

19. Processing Equipment (Indicate daily capacity,MT)
12 Tns. for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-3-77 / 31-3-77	squid	440	Otter trawl
I.C.N.A.F.	5 and 6	Loligo		
		Illex		
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0011

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office: ____

State: SPAIN

1. Name of Vessel ARMENTEIRA
2. Vessel No.: Hull No. CO - 2 Registration No. 3.612
3. Name and Address of Owner — Name and Address of Charterer
Name CONSERVACION ALIMENTOS, S.A.
Address Apartado, 757 LA CORUÑA
Cable Address ____
4. Homeport and State of Registry: LA CORUÑA
5. Type of Vessel O.T.B
6. Tonnage (Gross) 2[illegible] (Net) 180
7. Length 38,1 M. 8. Breadth 8 M. 9. Draft 6 M.
10. Horsepower 1.170 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.974
14. Number and Nationality of Personnel 15 spanish
Officers 5 Crew ____ Other (Specify) 10
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
International Radio Call Sign E.G.W.W
Radio Frequencies Monitored ____
Other Working Frequencies ____
Schedule ____

SP-77-0011

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (1), Fathometer (1), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish ____ Freezer
Fresh Fish ____ Dry Hold
Frozen Fish 300 Tanks 140 m3
Fish Meal ____ Other
Other ____

19. Processing Equipment (Indicate daily capacity,MT)
8 for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-3-77	squid	200	Otter trawl
I.C.N.A.F.	31-3-77	Loligo		
	5 and 6	Illex		
		other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0012

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office: ____

State: SPAIN

1. Name of Vessel ANUSKA
2. Vessel No.: Hull No. VI-5 Registration No. 8917
3. Name and Address of Owner — Name and Address of Charterer
Name Jose Puerta Oviedo
Address Orillamar, 2ª travesia - VIGO
Cable Address PESCAPUERTA
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 284,4 (Net) 136
7. Length 37,3 M. 8. Breadth 7,4 M. 9. Draft 1,90 M.
10. Horsepower [illegible] shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.969
14. Number and Nationality of Personnel 12
Officers 2 Crew 10 Other (Specify) ____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
International Radio Call Sign E.D.B.Y
Radio Frequencies Monitored ____
Other Working Frequencies ____
Schedule ____

SP-77-0012

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (1), Fathometer (1), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish ____ Freezer
Fresh Fish ____ Dry Hold
Frozen Fish 128 Tanks 125 m3
Fish Meal ____ Other
Other ____

19. Processing Equipment (Indicate daily capacity,MT)
12 Tns for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-3-77	squid	200	Otter Trawl
I.C.N.A.F.	31-3-77	loligo		
	5 and 6	ilex		
		other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0013

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office: ____

State: SPAIN

1. Name of Vessel AREA COVA
2. Vessel No.: Hull No. VI-5 Registration No. 9.287
3. Name and Address of Owner — Name and Address of Charterer
Name JESUS VAQUEIRO GANDON
Address Apartdo, 1.081 VIGO
Cable Address ____
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 307,1 (Net) ____
7. Length 36,5 M. 8. Breadth 8,5 M. 9. Draft 3,5 M.
10. Horsepower 800 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1972
14. Number and Nationality of Personnel 16
Officers 3 Crew 13 Other (Specify) ____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X), Other
International Radio Call Sign E.G.B.P
Radio Frequencies Monitored 500 -c2.182 - 156,8
Other Working Frequencies ____
Schedule ____

V4246 MAR 9 77 UMI

SP-77-0013

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (2), Fathometer (2),
Other

17. Cargo Capacity (MT) — 18. Cargo Space Number — Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	300	Tanks	195 m³ (3)
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
10 Tns fdr day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC I.C.N.A.F 5 and 6	1-3-77 / 31-3-77	squid, loligo, ilex, other	240	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0014

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel MEUTAN
2. Vessel No.: Hull No. GI-4 Registration No. 1.969
3. Name and Address of Owner: Name Marvalfer,S.A.; Address Vicente Gaoso, 23, MADRID -29; Cable Address
Name and Address of Charterer
4. Homeport and State of Registry: [illegible]
5. Type of Vessel O.T.B
6. Tonnage (Gross) 285,4 (Net)
7. Length 37,1 M. 8. Breadth 8 M. 9. Draft 3,805 M.
10. Horsepower 1200 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1975
14. Number and Nationality of Personnel 21 spanish
Officers 2 Crew 19 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
International Radio Call Sign E.G.Y.S
Radio Frequencies Monitored
Other Working Frequencies
Schedule

SP-77-0014

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (2), Fathometer (2),
Other

17. Cargo Capacity (MT) — 18. Cargo Space Number — Name

Salted Fish	210	Freezer	
Fresh Fish	53	Dry Hold	
Frozen Fish		Tanks	173 m³ (3)
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
12 Tns for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC I.C.N.A.F 5 and 6	1-3-77 / 31-3-77	loligo, ilex, squid, other	180	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0015

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel CONBAROYA II
2. Vessel No.: Hull No. VI - 5 Registration No. 9.306
3. Name and Address of Owner: Name ANTONIO GONZALEZ CONCHEIRO; Address San Francisco, 28, VIGO; Cable Address
Name and Address of Charterer
4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B
6. Tonnage (Gross) 319,2 (Net) 230,14
7. Length 38,1 M. 8. Breadth 8,5 M. 9. Draft M.
10. Horsepower 960 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.973
14. Number and Nationality of Personnel 20 spanish
Officers 4 Crew 16 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X), Other
International Radio Call Sign E.G.O.M
Radio Frequencies Monitored 500 - 2182 - 156,8
Other Working Frequencies
Schedule

SP-77-0015

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (2), Fathometer (2),
Other

17. Cargo Capacity (MT) — 18. Cargo Space Number — Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	330	Tanks	300 m³ (3)
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
12 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 and 6	1-3-77 / 31-3-77	loligo, ilex, squid, other	230	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0016

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel TONALLA
2. Vessel No.: Hull No. VI -5 Registration No. 9.315
3. Name and Address of Owner: Name P. VASCO GALLEGA, S.A.; Address ORILLAMAR, 97, VIGO; Cable Address VASGA
Name and Address of Charterer
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 415,7 (Net) 126
7. Length 45,4 M. 8. Breadth 9,5 M. 9. Draft 4,30 M.
10. Horsepower 1200 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1973
14. Number and Nationality of Personnel 25 spanish
Officers 4 Crew 21 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X), Other
International Radio Call Sign E.E.E.V
Radio Frequencies Monitored 500 - 2,182 - 156,8
Other Working Frequencies
Schedule

SP-77-0016

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca (1), Navsat ( ), Radar (1), Fathometer (2),
Other

17. Cargo Capacity (MT) — 18. Cargo Space Number — Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	480	Tanks	228 m³ (3)
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF 5 and 6	1-3-77 / 31-3-77	squid, loligo, ilex, Other	370	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0017

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel TZUCRO
2. Vessel No.: Hull No. GI-4 Registration No. 1.976
3. Name and Address of Owner: Name Garcia y Vidal armadores; Address MARQUES DE VALTERRA,1, MARIN (PONTEVEDRA); Cable Address
Name and Address of Charterer
4. Homeport and State of Registry: MARIN
5. Type of Vessel O.T.B
6. Tonnage (Gross) 489,2 (Net)
7. Length 44,7 M. 8. Breadth 9,3 M. 9. Draft 4,25 M.
10. Horsepower 1500 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1975
14. Number and Nationality of Personnel 23 spanish
Officers 2 Crew 21 Other (Specify)
15. Communications: VHF-FM (1), AM/SSB, Voice ( ), Telegraph (X), Other
International Radio Call Sign E.G.X.C
Radio Frequencies Monitored 500 - 2,182 - 156,8
Other Working Frequencies
Schedule

V42 46 MAR 9 77 UMI

SP-77-0017

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (2), Fathometer ( ), Other

17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	415	Tanks	380 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF	1-3-77 31-3-77 5 and 6	squid Loligo Ilex Other	410	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0018

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel PUENTE PEDRIÑA
2. Vessel No.: Hull No. VI-5 Registration No. 861F
3. Name and Address of Owner: Name P. PAULINO FREIRE, S.A.; Address Avd.ORILLAMAR, s/n VIGO; Cable Address REFREYPESCA — Name and Address of Charterer
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 476,7 (Net) 384
7. Length 51,4 M. 8. Breadth 8,3 M. 9. Draft 4,1 M.
10. Horsepower 1.320 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.966
14. Number and Nationality of Personnel 24 spanish
Officers 6 Crew 18 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X), Other
International Radio Call Sign E.E.R.Q
Radio Frequencies Monitored 500 - 2,182 - 156,8
Other Working Frequencies
Schedule

SP-77-0018

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (1), Fathometer (2), Other

17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer	
Fresh Fish		Dry Hold	3
Frozen Fish	465	Tanks	228 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT) 16 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF	1-3-77 31-3-77 5 and 6	squid Loligo Ilex Other	310	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0019

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office SPAIN

State: SPAIN

1. Name of Vessel PESCAPUERTA PRIMERO
2. Vessel No.: Hull No. VI - 5 Registration No. 9.229
3. Name and Address of Owner: Name PESCAPUERTA, S.A.; Address ORILLAMAR, 28 Travesia, VIGO; Cable Address PESCAPUERTA — Name and Address of Charterer
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 290.9 (Net) 133
7. Length 37,3 M. 8. Breadth 7,4 M. 9. Draft 3,90 M.
10. Horsepower 800 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.972
14. Number and Nationality of Personnel 20 spanish
Officers 4 Crew 16 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
International Radio Call Sign E.G.A.X
Radio Frequencies Monitored
Other Working Frequencies
Schedule

SP-77-0019

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (1), Fathometer (2), Other

17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	270	Tanks	133 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT) 6 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF	1-3-77 31-3-77 5 and 6	squid Loligo Ilex Other	200	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0020

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel PESCAPUERTA TERCERO
2. Vessel No.: Hull No. VI-5 Registration No. 9488
3. Name and Address of Owner: Name PESCAPUERTA, S.A.; Address ORILLAMAR, 2ª travesia, VIGO; Cable Address PESCAPUERTA — Name and Address of Charterer
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 442,1 (Net)
7. Length 43,9 M. 8. Breadth 9,5 M. 9. Draft 4,256 M.
10. Horsepower 1200 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.974
14. Number and Nationality of Personnel 26 spanish
Officers 4 Crew 22 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph: X, Other
International Radio Call Sign E.G.A.S
Radio Frequencies Monitored 500 - 2,182- 156,8
Other Working Frequencies
Schedule

SP-77-0020

16. Navigation Equipment: Loran C (2), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (2), Fathometer ( ), Other

17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	720	Tanks	208,43 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT) 8 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF	1-3-77 31-3-77 5 and 6	squid Loligo Ilex other	340	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0021

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel PLAYA DE MIGOR
2. Vessel No.: Hull No. GI-4 Registration No. 1.937
3. Name and Address of Owner: Name PESQUERIAS MARINENSES; Address Avda. Calvo Sotelo 83, MARIN (PONTEVEDRA); Cable Address PESMAR — Name and Address of Charterer
4. Homeport and State of Registry: MARIN
5. Type of Vessel O.T.B
6. Tonnage (Gross) 493,1 (Net)
7. Length 44,5 M. 8. Breadth 9,3 M. 9. Draft 4,27 M.
10. Horsepower 1200 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.974
14. Number and Nationality of Personnel 23
Officers 4 Crew 19 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph: X, Other
International Radio Call Sign
Radio Frequencies Monitored 500 - 2.182 - 156,8
Other Working Frequencies
Schedule

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SP-77-0021

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca (X), Navsat ( ), Radar (X), Fathometer (X), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish — Freezer
Fresh Fish — Dry Hold
Frozen Fish 460 — Tanks 190 m³
Fish Meal — Other
Other

19. Processing Equipment (Indicate daily capacity,MT)
14 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF	1-3-77 31-3-77 5 and 6	squid, Loligo, Ilex, Other	370	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0022

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel XOTXIRO
2. Vessel No.: Hull No. VI-5 — Registration No. 9.554
3. Name and Address of Owner: Name PESCABOA,S.A. / Address RIBERA, 35 / VIGO / Cable Address — Name and Address of Charterer
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 439,7 (Net)
7. Length 47,2 M. 8. Breadth 9,5 M. 9. Draft 6,50 M.
10. Horsepower 1.400 shp. 11. Maximum Speed — kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 27
Officers 2 Crew 25 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X), Other
International Radio Call Sign E.G.Z.F
Radio Frequencies Monitored 500 - 2.182 - 156,8
Other Working Frequencies
Schedule

SP-77-0022

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish — Freezer
Fresh Fish — Dry Hold
Frozen Fish 520 — Tanks 253 m³
Fish Meal — Other
Other

19. Processing Equipment (Indicate daily capacity,MT)
15 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF	1-3-77 31-3-77 5 and 6	squid, Loligo, Ilex, Other	410	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0023

Permit Period Applied For: 1977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel FUENTE MINOR
2. Vessel No.: Hull No. VI - 5 — Registration No. 9.477
3. Name and Address of Owner: Name JOSE PEREIRA ALVAREZ / Address JOSE ANTONIO, 93 / VIGO / Cable Address — Name and Address of Charterer
4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B
6. Tonnage (Gross) 314,1 (Net) 229,94
7. Length 39,4 M. 8. Breadth 8,5 M. 9. Draft 3,50 M.
10. Horsepower 1250 shp. 11. Maximum Speed — kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.974
14. Number and Nationality of Personnel 20 spanish
Officers 2 Crew 18 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
International Radio Call Sign
Radio Frequencies Monitored
Other Working Frequencies
Schedule

SP-77-0023

16. Navigation Equipment: Loran C (X), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish — Freezer
Fresh Fish — Dry Hold
Frozen Fish 390 — Tanks 149 m³
Fish Meal — Other
Other

19. Processing Equipment (Indicate daily capacity,MT)
8 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF	1-3-77 31-3-77 5 and 6	squid, Loligo, Ilex, Other	290	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0024

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel MADROA
2. Vessel No.: Hull No. VI -5 — Registration No. 9.406
3. Name and Address of Owner: Name JUAN MANUEL OYA PEREZ / Address Avda. San Francisco 29 VIGO / Cable Address — Name and Address of Charterer
4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B
6. Tonnage (Gross) 257,3 (Net) 185,60
7. Length 33,4 M. 8. Breadth 8 M. 9. Draft 3,96 M.
10. Horsepower 800 shp. 11. Maximum Speed — kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.974
14. Number and Nationality of Personnel 20 spanish
Officers 4 Crew 16 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
International Radio Call Sign E.G.I.A
Radio Frequencies Monitored
Other Working Frequencies
Schedule

SP-77-0024

16. Navigation Equipment: Loran C (X), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish — Freezer
Fresh Fish — Dry Hold
Frozen Fish 200 — Tanks
Fish Meal — Other
Other

19. Processing Equipment (Indicate daily capacity,MT)
8 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC ICNAF	1-3-77 31-3-77 5 and 6	squid, Loligo, Ilex, Other	200	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

Ocean Area	Name of Vessel	Type of Vessel	Period (from-to)	Species	Contemplated catch (mt)	Gear to be Used
1/ ICNAF 5 and 6	NUMEA	OTB-Stern Trawler	15/5--18/5/77	illex	400	Otter trawl
2/ ICNAF 5 and 6	ALIANZA	OTB-Stern Trawler	15/5--18/5/77	illex	530	Otter trawl
3/ ICNAF 5 and 6	EL ORDANDO	OTB-Stern Trawler	15/5--18/5/77	illex	320	Otter trawl
4/ ICNAF 5 and 6	MAKUTA	OTB-Stern Trawler	15/5--18/5/77	illex	210	Otter trawl
5/ ICNAF 5 and 6	VIKINGOR	OTB-Stern Trawler	16/5--18/5/77	illex	230	Otter trawl
6/ ICNAF 5 and 6	TITO MANUEL	OTB-Stern Trawler	15/5--18/5/77	illex	300	Otter trawl
7/ ICNAF 5 and 6	COSTA DE ASTURIAS	OTB-Stern Trawler	15/5--18/5/77	illex	300	Otter trawl
8/ ICNAF 5 and 6	ORMALLO	OTB-Stern Trawler	15/5--18/5/77	illex	250	Otter trawl
9/ ICNAF 5 and 6	LAGO DO. PICOS	OTB-Stern Trawler	15/5--18/5/77	illex	200	Otter trawl
10/ ICNAF 5 and 6	PLACIDO M. F.	OTB-Stern Trawler	15/5--18/5/77	illex	200	Otter trawl
11/ ICNAF 5 and 6	PLAYA DE LAREDO	OTB-Stern Trawler	15/5--18/5/77	illex	200	Otter trawl
12/ ICNAF 5 and 6	EL DIAMANTE	OTB-Stern Trawler	15/5--16/5/77	illex	200	Otter trawl
13/ ICNAF 5 and 6	GO--A	OTB-Stern Trawler	16/5--18/5/77	illex	220	Otter trawl
14/ ICNAF 5 and 6	CASTRO DE CORA	OTB-Stern Trawler	15/5--18/5/77	illex	240	Otter trawl
15/ ICNAF 5 and 6	MONTE AVELAS	OTB-Stern Trawler	15/5--18/5/77	illex	420	Otter trawl
16/ ICNAF 5 and 6	PEDRIÑOS	OTB-Stern Trawler	15/5--18/5/77	illex	200	Otter trawl
17/ ICNAF 5 and 6	MONSUBOSA	OTB-Stern Trawler	15/5--18/5/77	illex	200	Otter trawl

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Ocean Area	Name of Vessel	Type of Vessel	Period (From-To)	Species	Contemplated Catch (mt)	Gear to be Used
IP ICNAF 5 and 6	ULZAMA	Otb-Steve Trawler	15/6--15/9/77	Illex	180	Otter trawl
IP ICNAF 5 and 6	CHICHA TOUZA	Otb-Steve Trawler	15/6--15/9/77	Illex	180	Otter trawl

SP-77-0025

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other _____

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	800	Tanks	186 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
12 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Ilex, Other	390	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0026

Permit Period Applied For: 1.977 — Application No. _____ For Use of Issuing Office

State: SPAIN

1. Name of Vessel ULZAMA
2. Vessel No.: Hull No. VI-5 Registration No. 7823
3. Name and Address of Owner / Name and Address of Charterer
   Name PESQUERA VASCO GALLEGA
   Address ORILLAMAR, 97
   VIGO
   Cable Address VASGA
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 280,5 (Net) 115
7. Length 36,7 M. 8. Breadth 6,8 M. 9. Draft ____ M.
10. Horsepower 700 shp. 11. Maximum Speed _____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1956
14. Number and Nationality of Personnel 21 spanish
    Officers 2 Crew 19 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ), Other _____
    International Radio Call Sign E.P.X.A
    Radio Frequencies Monitored _____
    Other Working Frequencies _____
    Schedule _____

SP-77-0026

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other _____

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	170	Tanks	80 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Ilex, Other	180	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0027

Permit Period Applied For: 1.977 — Application No. _____ For Use of Issuing Office

State: SPAIN

1. Name of Vessel NOGUEROSA
2. Vessel No.: Hull No. VI-5 Registration No. 8.614
3. Name and Address of Owner / Name and Address of Charterer
   Name PESCANOVA, S.A
   Address APARTADO, 424
   VIGO
   Cable Address PESCANOVA
4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B
6. Tonnage (Gross) 749,1 (Net) 346
7. Length 53,4 M. 8. Breadth 9,3 M. 9. Draft 4 M.
10. Horsepower 1.500 shp. 11. Maximum Speed _____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1.965
14. Number and Nationality of Personnel 31 spanish
    Officers 5 Crew 26 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X), Other _____
    International Radio Call Sign E.E.Q.S
    Radio Frequencies Monitored 500 - 2.182 - 156,8
    Other Working Frequencies _____
    Schedule _____

SP-77-0027

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other _____

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	637	Tanks	250 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
24 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Illex, Other	680 Two travels	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0028

Permit Period Applied For: 1.977 — Application No. _____ For Use of Issuing Office

State: SPAIN

1. Name of Vessel PULEIROS
2. Vessel No.: Hull No. VI-5 Registration No. 9.339
3. Name and Address of Owner / Name and Address of Charterer
   Name PESQUERIAS MOLARES, S.A.
   Address AVDA. ORILLAMAR, 195
   VIGO
   Cable Address MOLARES
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 297,6 (Net) 141
7. Length 38,7 M. 8. Breadth 7,5 M. 9. Draf 3,60 M.
10. Horsepower 800 shp. 11. Maximum Speed _____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1.971
14. Number and Nationality of Personnel 21 spanish
    Officers 2 Crew 19 Other (Specify) ____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ), Other _____
    International Radio Call Sign E.A.[illegible]
    Radio Frequencies Monitored _____
    Other Working Frequencies _____
    Schedule _____

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Ocean Area	Name of Vessel	Type of Vessel	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
IP ICNAF 5 and 6	CHICHA	OTB-Otoño Trawler	16/5--16/9/77	illex	500	Otter trawl
IP ICNAF 5 and 6	CHICHA TOUZA	OTB-Otoño Trawler	16/5--16/9/77	illex	500	Otter trawl

Gp. 3

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0025

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel CHICHA TOUZA
2. Vessel No.: Hull No. VI-4 Registration No. 1.978
3. Name and Address of Owner / Name and Address of Charterer
   Name ANTONIO TOUZA BLANCO
   Address MARQUES DE VALLADARES, 32
   VIGO
   Cable Address
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 411,4 (Net)
7. Length 39,7 M. 8. Breadth 8,5 M. 9. Draft 4,105 M.
10. Horsepower 1200 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.975
14. Number and Nationality of Personnel 22 spanish
    Officers 2 Crew 20 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (
    Other
    International Radio Call Sign E.G.Z.V
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

SP-77-0025

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other
17. Cargo Capacity (MT) 18. Cargo Space Number / Name
    Salted Fish — Freezer
    Fresh Fish — Dry Hold
    Frozen Fish 490 Tanks 186 m³
    Fish Meal — Other
    Other
19. Processing Equipment (Indicate daily capacity,MT)
    12 Tons for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Illex, Other	390	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0026

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel ULZAMA
2. Vessel No.: Hull No. VI-5 Registration No. 7823
3. Name and Address of Owner / Name and Address of Charterer
   Name PESQUERA VASCO GALLEGA
   Address ORILLAMAR, 97
   VIGO
   Cable Address VASGA
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 280,5 (Net) 115
7. Length 36,7 M. 8. Breadth 6,8 M. 9. Draft M.
10. Horsepower 700 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1956
14. Number and Nationality of Personnel 21 spanish
    Officers 2 Crew 19 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( )
    Other
    International Radio Call Sign E.B.X.A
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

SP-77-0026

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other
17. Cargo Capacity (MT) 18. Cargo Space Number / Name
    Salted Fish — Freezer
    Fresh Fish — Dry Hold
    Frozen Fish 170 Tanks 80 m³
    Fish Meal — Other
    Other
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Illex, Other	180	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0027

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel NOGUEROSA
2. Vessel No.: Hull No. VI-5 Registration No. 8.614
3. Name and Address of Owner / Name and Address of Charterer
   Name PESCANOVA, S.A
   Address APARTADO, 424
   VIGO
   Cable Address PESCANOVA
4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B
6. Tonnage (Gross) 749,1 (Net) 346
7. Length 53,4 M. 8. Breadth 9,3 M. 9. Draft 4 M.
10. Horsepower 1.500 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.965
14. Number and Nationality of Personnel 31 spanish
    Officers 5 Crew 26 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X).
    Other
    International Radio Call Sign E.E.Q.S
    Radio Frequencies Monitored 500 - 2.182 - 156,8
    Other Working Frequencies
    Schedule

SP-77-0027

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer XX),
    Other
17. Cargo Capacity (MT) 18. Cargo Space Number / Name
    Salted Fish — Freezer
    Fresh Fish — Dry Hold
    Frozen Fish 617 Tanks 250 m³
    Fish Meal — Other
    Other
19. Processing Equipment (Indicate daily capacity,MT)
    24 Tons for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Illex, Other	680 two trawls	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0028

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel PUXEIROS
2. Vessel No.: Hull No. VI-5 Registration No. 9.339
3. Name and Address of Owner / Name and Address of Charterer
   Name PESQUERIAS MOLARES, S.A.
   Address AVDA. ORILLAMAR, 195
   VIGO
   Cable Address MOLARES
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 297,6 (Net) 143
7. Length 38,7 M. 8. Breadth 7,5 M. 9. Draft 3,60 M.
10. Horsepower 600 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.973
14. Number and Nationality of Personnel 21 spanish
    Officers 2 Crew 19 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( )
    Other
    International Radio Call Sign E.A.S.G
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

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SP-77-0028

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	265	Tanks	117 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

7 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 15-9-77	squid Loligo Ilex Other	200	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0029

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel MONTE FUNAJO
2. Vessel No.: Hull No. 01-4 Registration No. 1,965
3. Name and Address of Owner / Name and Address of Charterer
   Name PESQUERIAS MOLARES, S.A.
   Address AVDA. ORILLAMAR,195
   VIDO
   Cable Address MOLARES
4. Homeport and State of Registry: VIDO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 513,1 (Net) 134,48
7. Length 44,5 M. B. Breadth 9,3 M. D. Draft 4,268 M.
8. Horsepower 1200 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 22 spanish
    Officers 4 Crew 18 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X), Other
    International Radio Call Sign E.G.W.O
    Radio Frequencies Monitored 500 - 2,182 - 156,8
    Other Working Frequencies
    Schedule

SP-77-0027

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	520	Tanks	208, 3 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

14 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 15-9-77	squid Loligo Ilex Other	420	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0030

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel CANTON DE COBA
2. Vessel No.: Hull No. VI-5 Registration No. 9.532
3. Name and Address of Owner / Name and Address of Charterer
   Name PESQUERA ARCADE, S.L.
   Address EDUARDO CABELLO, 29
   VIGO
   Cable Address
4. Homeport and State of Registry: CADIZ
5. Type of Vessel O.T.B
6. Tonnage (Gross) 299,1 (Net) 199,45
7. Length 39,2 M. B. Breadth 8,8 M. D. Draft 1,80 M.
8. Horsepower 1.160 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 21 spanish
    Officers 2 Crew 19 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ), Other
    International Radio Call Sign E.O.S.A
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

SP-77-0030

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	260	Tanks	218 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 15-9-77	squid Loligo Ilex Other	240	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0031

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel COMBA
2. Vessel No.: Hull No. VI-5 Registration No. 9.513
3. Name and Address of Owner / Name and Address of Charterer
   Name PESQUERAS RIAS BAJAS,S.A
   Address MUELLE DE BOUZAS
   VIGO
   Cable Address
4. Homeport and State of Registry: VIDO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 299,1 (Net)
7. Length 39,7 M. B. Breadth 8,8 M. D. Draft M.
8. Horsepower 1.235 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 21 spanish
    Officers 2 Crew 21 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ), Other
    International Radio Call Sign E.G.O.K
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

SP-77-0031

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	260	Tanks	218 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

6 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 15-9-77	squid Loligo Ilex Other	250	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0032

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel EL DIAMANTE
2. Vessel No.: Hull No. CA - 3 Registration No. 1.030
3. Name and Address of Owner / Name and Address of Charterer
   Name SALMEDINA, S.A.
   Address APARTADO, 352
   CADIZ
   Cable Address SALMEDINA
4. Homeport and State of Registry: CADIZ
5. Type of Vessel O.T.B
6. Tonnage (Gross) 412,6 (Net)
7. Length 43,4 M. B. Breadth 9 M. D. Draft M.
8. Horsepower 1190 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.974
14. Number and Nationality of Personnel 12 [illegible]
    Officers 2 Crew 10 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ), Other
    International Radio Call Sign E.G.E.M
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

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SP-77-0032

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navaid ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	155	Tanks	176 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

12 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Ilex, Other	250	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0033

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel PLAYA DE ARENTEIRO
2. Vessel No.: Hull No. VI-5 Registration No. 9445
3. Name and Address of Owner — Name and Address of Charterer

Name JUAN BARREIRO FRANCO

Address c APARTADO 1.031

VIGO

Cable Address

4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 257,1 (Net)
7. Length 33,7 M. 8. Breadth 8 M. 9. Draft 3,96 M.
10. Horsepower 800 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.974
14. Number and Nationality of Personnel 20 spanish

Officers 4 Crew 16 Other (Specify)

15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ), Other

International Radio Call Sign E.E.K.W

Radio Frequencies Monitored

Other Working Frequencies

Schedule

SP-77-0033

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navaid ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	200	Tanks	130 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

4 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Ilex, Other	200	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

~~SP-77-0033~~ SP-77-0034

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel PESCAMARO UNO
2. Vessel No.: Hull No. VI-5 Registration No. 9.540
3. Name and Address of Owner — Name and Address of Charterer

Name PESCAMARO, S.A.

Address Liñeros del Espartal, s/n

ALICANTE

Cable Address FRIGOMARO

4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B
6. Tonnage (Gross) 314,1 (Net)
7. Length 39,3 M. 8. Breadth 8,5 M. 9. Draft 4,05 M.
10. Horsepower 1200 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 20 spanish

Officers 4 Crew 16 Other (Specify)

15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X), Other

International Radio Call Sign E.O.U.U

Radio Frequencies Monitored Eco - 2.182 - 156,8

Other Working Frequencies

Schedule

SP-77-0034

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navaid ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	190	Tanks	146,3 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

8 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Ilex, Other	240	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0035

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel LAKE DOS PIGOS
2. Vessel No.: Hull No. GI-4 Registration No. 1.947
3. Name and Address of Owner — Name and Address of Charterer

Name ANTONIO VAQUEIRO

Address APALTADO, 1.0F1

VIGO

Cable Address

4. Homeport and State of Registry: ~~S'CRIPTS~~
5. Type of Vessel O.T.B
6. Tonnage (Gross) 365,3 (Net) 243,60
7. Length 38,5 M. 8. Breadth 8,5 M. 9. Draft 3,98 M.
10. Horsepower 1.000 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.974
14. Number and Nationality of Personnel 21 spanish

Officers 2 Crew 19 Other (Specify)

15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ), Other

International Radio Call Sign E.E.S.B

Radio Frequencies Monitored

Other Working Frequencies

Schedule

SP-77-0035

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navaid ( ), Radar XX), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	360	Tanks	221 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

12 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Ilex, Other	280	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0036

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel ORBALIO
2. Vessel No.: Hull No. VI-5 Registration No. 9539
3. Name and Address of Owner — Name and Address of Charterer

Name JULIO MOLARES PEREZ

Address PUERTO PESQUERO

PUESTO, 11 VIGO

Cable Address

4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B
6. Tonnage (Gross) 314,1 (Net) 229,95
7. Length 39,3 M. 8. Breadth 8,5 M. 9. Draft 4,05 M.
10. Horsepower 1,000 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 20 spanish

Officers 3 Crew 20 Other (Specify)

15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ), Other

International Radio Call Sign E.G.T.I

Radio Frequencies Monitored

Other Working Frequencies

Schedule

V 42 46 MAR 9 77 UMI

SA-77-0036

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	390	Tanks	148,8 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

10 tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Ilex, Other	290	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SA-77-0037

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel: COSTA DE NORUEGA
2. Vessel No.: Hull No. ST-4 — Registration No. 2.479
3. Name and Address of Owner — Name and Address of Charterer
   Name: HIJOS DE ANGEL OJEDA,S,A.
   Address: APARTADO, 259
   GIJON
   Cable Address: OJEDA
4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel: O.T.B
6. Tonnage (Gross): 411,1 (Net)
7. Length 37,6 M. B. Breadth 9 M. D. Draft 4,74 M.
10. Horsepower 1200 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built: 1.973
14. Number and Nationality of Personnel: 22 spanish
    Officers 4 Crew 18 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph: (X), Other
    International Radio Call Sign: E.D.E.L
    Radio Frequencies Monitored: 500 - 2.181 - 156,8
    Other Working Frequencies
    Schedule

SA-77-0037

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	330	Tanks	114 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

12 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Ilex, Other	250	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SA-77-0038

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel: TIXO ARCOS
2. Vessel No.: Hull No. VI-5 — Registration No. 9.452
3. Name and Address of Owner — Name and Address of Charterer
   Name: MARAIGS, S.A.
   Address: MUELLE DE LEVANTE, 518
   CADIZ
   Cable Address: MARAIGSA
4. Homeport and State of Registry: VIGO
5. Type of Vessel: O.T.B
6. Tonnage (Gross): 454,5 (Net) 313,71
7. Length 47,2 M. B. Breadth 9,5 M. D. Draft ____ M.
10. Horsepower 1.850 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built: 1.974
14. Number and Nationality of Personnel: 26 spanish
    Officers 4 Crew 22 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph: (X), Other
    International Radio Call Sign: E.G.K.I
    Radio Frequencies Monitored: 500 - 2.182 - 156,8
    Other Working Frequencies
    Schedule

SA-77-0038

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	520	Tanks	253 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

15 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Ilex, Other	380	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SA-77-0039

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel: VIXIADOR
2. Vessel No.: Hull No. VI-5 — Registration No. 9.338
3. Name and Address of Owner — Name and Address of Charterer
   Name: FERNANDO OYA PEREZ
   Address: AVDA. SAN FRANCISCO, 39
   VIGO
   Cable Address:
4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel: O.T.B
6. Tonnage (Gross): 319,2 (Net) 230,14
7. Length 35,6 M. B. Breadth 8,5 M. D. Draft ____ M.
10. Horsepower 800 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built: 1.973
14. Number and Nationality of Personnel: 21 spanish
    Officers 4 Crew 17 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph: (X), Other
    International Radio Call Sign: E.G.D.R
    Radio Frequencies Monitored: 500 - 2.182 - 156,8
    Other Working Frequencies
    Schedule

SA-77-0039

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	300	Tanks	92 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

7 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 / 15-9-77	squid, Loligo, Ilex, Other	230	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SA-77-0040

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel: MOUTA
2. Vessel No.: Hull No. VI-5 — Registration No. 9.559
3. Name and Address of Owner — Name and Address of Charterer
   Name: ARSAPESCA, S.A.
   Address: J.JANER, 14
   MARIN (PONTEVEDRA)
   Cable Address:
4. Homeport and State of Registry: VIGO
5. Type of Vessel: O.T.B
6. Tonnage (Gross): 257,3 (Net)
7. Length 35,4 M. B. Breadth 8 M. D. Draft ____ M.
10. Horsepower 1.000 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built: 1.975
14. Number and Nationality of Personnel: 20 spanish
    Officers 3 Crew 17 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph: ( ), Other
    International Radio Call Sign: E.G.Z.G
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

V 42 46 MAR 9 77 UMI

SP-77-0040

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X).
Other ______

17. Cargo Capacity (MT) | 18. Cargo Space Number | Name

Salted Fish ______ Freezer
Fresh Fish ______ Dry Hold
Frozen Fish 65 Tanks 190 m³
Fish Meal ______ Other
Other ______

19. Processing Equipment (Indicate daily capacity, MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 15-9-77	squid Loligo Ilex	210	Otter trawl
ICNAF 5 and 6		Other	–	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. SP-77-0041 For Use of Issuing Office

State: SPAIN

1. Name of Vessel EL QUEMADO
2. Vessel No.: Hull No. CA-3 Registration No. 1.029
3. Name and Address of Owner | Name and Address of Charterer
Name SALMEDINA, S.A.
Address APARTADO, 352 CADIZ
Cable Address SALMEDINA
4. Homeport and State of Registry: CADIZ
5. Type of Vessel O.T.B
6. Tonnage (Gross) 412,8 (Net) ______
7. Length 43,3 M. 8. Breadth 9 M. 9. Draft 3,5 M.
10. Horsepower 1.190 shp. 11. Maximum Speed ______ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other ______
13. Date Built 1.974
14. Number and Nationality of Personnel 17 spanish
Officers 2 Crew 15 Other (Specify) ______
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ), Other ______
International Radio Call Sign E.G.R.H
Radio Frequencies Monitored ______
Other Working Frequencies ______
Schedule ______

SP-77-0041

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X).
Other ______

17. Cargo Capacity (MT) | 18. Cargo Space Number | Name

Salted Fish ______ Freezer
Fresh Fish ______ Dry Hold
Frozen Fish 155 Tanks 176 m³
Fish Meal ______ Other
Other ______

19. Processing Equipment (Indicate daily capacity, MT)
12 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 15-9-77	squid Loligo	250	Otter trawl
ICNAF 5 and 6		Ilex Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. SP-77-0042 For Use of Issuing Office

State: SPAIN

1. Name of Vessel ALTAMAR
2. Vessel No.: Hull No. CA-1 Registration No. 937
3. Name and Address of Owner | Name and Address of Charterer
Name MAR, S.A.
Address GARCIA BARBON, 6 VIGO
Cable Address MARPESCA
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 643,5 (Net) 406
7. Length 57,1 M. 8. Breadth 9,5 M. 9. Draft 3,8 M.
10. Horsepower 1.500 shp. 11. Maximum Speed ______ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other ______
13. Date Built 1.965
14. Number and Nationality of Personnel 30 spanish
Officers 5 Crew 25 Other (Specify) ______
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ), Other ______
International Radio Call Sign E.E.G.K
Radio Frequencies Monitored ______
Other Working Frequencies ______
Schedule ______

SP-77-0042

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X).
Other ______

17. Cargo Capacity (MT) | 18. Cargo Space Number | Name

Salted Fish ______ Freezer
Fresh Fish ______ Dry Hold
Frozen Fish 700 Tanks 180 m³
Fish Meal ______ Other
Other ______

19. Processing Equipment (Indicate daily capacity, MT)
30 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 15-9-77	squid Loligo	330	Otter Trawl
ICNAF 5 and 6		Ilex Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1.977 Application No. SP-77-0043 For Use of Issuing Office

State: SPAIN

1. Name of Vessel [illegible]
2. Vessel No.: Hull No. VI-5 Registration No. 8.524
3. Name and Address of Owner | Name and Address of Charterer
Name JULIAN ALVAREZ GONZALEZ
Address ORILLAMAR, 35 VIGO
Cable Address ______
4. Homeport and State of Registry: [illegible]
5. Type of Vessel O.T.B
6. Tonnage (Gross) 747,1 (Net) 381
7. Length 49,3 M. 8. Breadth 9,3 M. 9. Draft ______ M.
10. Horsepower 1120 shp. 11. Maximum Speed ______ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other ______
13. Date Built 1.964
14. Number and Nationality of Personnel 34 spanish
Officers 6 Crew 28 Other (Specify) ______
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X), Other ______
International Radio Call Sign E.D.Z.J
Radio Frequencies Monitored 500 -2.182 -156,8
Other Working Frequencies ______
Schedule ______

SP-77-0043

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X).
Other ______

17. Cargo Capacity (MT) | 18. Cargo Space Number | Name

Salted Fish ______ Freezer
Fresh Fish ______ Dry Hold
Frozen Fish 560 Tanks 233 m³
Fish Meal ______ Other
Other ______

19. Processing Equipment (Indicate daily capacity, MT)
20 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	15-6-77 15-9-77	squid Loligo Illex	400	Otter trawl
ICNAF 5 and 6		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

Ocean Area	Name of Vessel	Typ of Vessel	Period (from-to)	Species	Contemplated Catch (mt)	Gear to be Used
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	180	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	MAR DE GALICIA	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	PUENTE TORALLA	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	VILLA DE MARIN	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Side Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl
ICNAF 5 and 6	[illegible]	OTB-Stern Trawler	1/11.—31/12/77	Loligo	[illegible]	Otter trawl

Ocean Area	Name of Vessel	Type of Vessel	Period (From-To)	Species	Contemplated Catch (mt)	Gear to be Used
ICNAF 5 and 6	PRAIANA	OTB-Otter Trawler	1/11-31/12/77	Loligo	280	Otter trawl
ICNAF 5 and 6	PESCA	OTB-Otter Trawler	1/11-31/12/77	Loligo	290	Otter trawl
ICNAF 5 and 6	VIEIRASA IV	OTB-Otter Trawler	1/11-31/12/77	Loligo	370	Otter trawl

Gp. 4

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0044

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel VIEIRASA CHAING
2. Vessel No.: Hull No. VI-5 Registration No. 8681
3. Name and Address of Owner / Name and Address of Charterer
   Name S.A EDUARDO VIEIRA
   Address AVDA.ORILLAMAR, 1
   VIGO
   Cable Address VIEIRASA
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 440,3 (Net) 169
7. Length 46,2 M. 8. Breadth 8,3 M. 9. Draft 4,4 M.
10. Horsepower 1200 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.967
14. Number and Nationality of Personnel 20 spanish
    Officers 2 Crew 18 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X),
    Other
    International Radio Call Sign E.E.V.K
    Radio Frequencies Monitored 500 - 2,182 - 156,8
    Other Working Frequencies
    Schedule

SP-77-0044

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer (X),
    Other
17. Cargo Capacity (MT) 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	400	Tanks	204 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    14 Tons for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid, Loligo, Ilex, Other	NTU	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0045

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel PESCA
2. Vessel No.: Hull No. VI-5 Registration No. 9.140
3. Name and Address of Owner / Name and Address of Charterer
   Name PESQUERA CIES, S.A.
   Address
   BOUZA - VIGO
   Cable Address
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 415,7 (Net) 126
7. Length 42 M. 8. Breadth 8,5 M. 9. Draft 4,3 M.
10. Horsepower 1200 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.973
14. Number and Nationality of Personnel 24 spanish
    Officers 4 Crew 20 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( )
    Other
    International Radio Call Sign E.A.E.O
    Radio Frequencies Monitored 500 - 2.182 - 156,8
    Other Working Frequencies
    Schedule

SP-77-0045

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer (X),
    Other
17. Cargo Capacity (MT) 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	400	Tanks	204 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    14 Tons for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid, Loligo, Ilex, Other	NTU	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

SP-77-0045

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other
17. Cargo Capacity (MT) 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	480	Tanks	233 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    12 Tons for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid, Loligo, Ilex, Other	370	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0046

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel PRAIANA
2. Vessel No.: Hull No. VI-5 Registration No. 9.565
3. Name and Address of Owner / Name and Address of Charterer
   Name JUANA OYA PEREZ
   Address AVDA.SAN FRANCISCO, 29
   VIGO
   Cable Address
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 350,3 (Net)
7. Length 40,4 M. 8. Breadth 8,5 M. 9. Draft 4,05 M.
10. Horsepower 1220 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.975
14. Number and Nationality of Personnel 20 spanish
    Officers 5 Crew 15 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ),
    Other
    International Radio Call Sign E.G.Y.I
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

SP-77-0046

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other
17. Cargo Capacity (MT) 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	420	Tanks	127 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    8 Tons for day
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid, Loligo, Ilex, Other	290	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0047

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel COMBAROYA III
2. Vessel No.: Hull No. VI-5 Registration No. 9.499
3. Name and Address of Owner / Name and Address of Charterer
   Name BARCONOYA, S.A.
   Address AVDA.SAN FRANCISCO, 29
   VIGO
   Cable Address
4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B
6. Tonnage (Gross) 314,1 (Net) 229,95
7. Length 39,4 M. 8. Breadth 8,5 M. 9. Draft 3,50 M.
10. Horsepower 1160 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built 1.974
14. Number and Nationality of Personnel 20 spanish
    Officers 5 Crew 15 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ),
    Other
    International Radio Call Sign E.G.M.Y
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

V 42 46 MAR 9 77 UMI

SP-77-0047

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other _____

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	390	Tanks	148,9 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

12 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid, Loligo, Ilex, Other	290	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

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FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0048

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel MOGUEROSA
2. Vessel No.: Hull No. VI-5 — Registration No. 8.614
3. Name and Address of Owner — Name and Address of Charterer

Name PESCANOVA,S.A.
Address APARTADO, 424
VIGO
Cable Address PESCANOVA

4. Homeport and State of Registry: LAS PALMAS
5. Type of Vessel O.T.B
6. Tonnage (Gross) 749,1 (Net) 346
7. Length 51,4 M. 8. Breadth 9,1 M. 9. Draft 4 M.
10. Horsepower 1500 shp. 11. Maximum Speed _____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1.965
14. Number and Nationality of Personnel 31 spanish
Officers 5 Crew 26 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X), Other _____
International Radio Call Sign E.E.Q.S
Radio Frequencies Monitored 500 - 2.182- 156, 8
Other Working Frequencies _____
Schedule _____

SP-77-0049

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other _____

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	637	Tanks	290 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

24 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid, Loligo, Ilex, Other	400	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

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FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0049

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel PARPESCA CHACO
2. Vessel No.: Hull No. VI-5 — Registration No. 9422
3. Name and Address of Owner — Name and Address of Charterer

Name PARPESCA, S.A.
Address APARTADO, 1077
VIGO
Cable Address

4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 471 (Net) 250
7. Length 43,9 M. 8. Breadth 9,5 M. 9. Draft 4,3 M.
10. Horsepower 1200 shp. 11. Maximum Speed _____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1.974
14. Number and Nationality of Personnel 24 spanish
Officers 4 Crew 20 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X), Other _____
International Radio Call Sign E.G.J.V
Radio Frequencies Monitored 500 - 2,182- 156,8
Other Working Frequencies _____
Schedule _____

SP-77-0049

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other _____

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	720	Tanks	250 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

8 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid, Loligo, Ilex, Other	440	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

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FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0050

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel [illegible]
2. Vessel No.: Hull No. VI -5 — Registration No. 9.381
3. Name and Address of Owner — Name and Address of Charterer

Name S.A PESQUERA INDUSTRIAL — GALLEGA
Address AVD. DE LAS CANELIAS
58, VIGO
Cable Address

4. Homeport and State of Registry: HUELVA
5. Type of Vessel O.T.B
6. Tonnage (Gross) 697,3 (Net) 422
7. Length 51,8 M. 8. Breadth 9,5 M. 9. Draft 4,4 M.
10. Horsepower 1400 shp. 11. Maximum Speed _____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1.966
14. Number and Nationality of Personnel 34 spanish
Officers 5 Crew 29 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X), Other _____
International Radio Call Sign E.F.H.O
Radio Frequencies Monitored 500 - 2.182 - 156, 8
Other Working Frequencies _____
Schedule _____

SP-77-0050

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other _____

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	700	Tanks	256 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

24 Tns for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 / 31-12-77	squid, Loligo, Ilex, Other	440	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

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FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0051

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel VILLA DE MARIN
2. Vessel No.: Hull No. VI-5 — Registration No. 9507
3. Name and Address of Owner — Name and Address of Charterer

Name MANUEL MORES GONZALEZ
Address CALVO SOTELO, 70
MARIN (PONTEVEDRA)
Cable Address

4. Homeport and State of Registry: MARIN
5. Type of Vessel O.T.B
6. Tonnage (Gross) 314,1 (Net) 229,95
7. Length 39,4 M. 8. Breadth 8,5 M. 9. Draft 3,50 M.
10. Horsepower 1000 shp. 11. Maximum Speed _____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other _____
13. Date Built 1.975
14. Number and Nationality of Personnel 20 spanish
Officers 4 Crew 16 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other _____
International Radio Call Sign E.G.S.M
Radio Frequencies Monitored _____
Other Working Frequencies _____
Schedule _____

V 42 46 MAR 9 77 UMI

SA-77-0051

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	390	Tanks	195 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

10 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid		
ICNAF	5 and 6	Loligo, Ilex, Other	390	Otter Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SA-77-0052

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel PUENTE TORAILA
2. Vessel No.: Hull No. VI-5 Registration No. 9508
3. Name and Address of Owner — Name and Address of Charterer
   Name PESQUERIAS PAULINO PEREIRE
   Address AVDA ORILLAMAR, s/n
   BOUZA - VIGO
   Cable Address PEREYPESCA
4. Homeport and State of Registry: VIGO
5. Type of Vessel OTB
6. Tonnage (Gross) 287,4 (Net) 197
7. Length 38 M. 8. Breadth 8,4 M. 9. Draft 3,70 M.
10. Horsepower 1160 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 15 spaniah
    Officers 3 Crew 12 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
    International Radio Call Sign E.O.N.H
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

SA-77-0052

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	56	Tanks	120,8 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

6 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid		
ICNAF	5 and 6	Loligo, Ilex, Other	240	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SA-77-0053

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel BAIANTE
2. Vessel No.: Hull No. VI-5 Registration No. 8741
3. Name and Address of Owner — Name and Address of Charterer
   Name PESQUEROS TARSTRONES, S.A.
   Address AVDA. ORILLAMAR, 1
   VIGO
   Cable Address
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 494, (Net) 249
7. Length 49,1 M. 8. Breadth 8,1 M. 9. Draft 4,4 M.
10. Horsepower 1200 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel XX), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.967
14. Number and Nationality of Personnel 29 spaniah
    Officers 5 Crew 24 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X), Other
    International Radio Call Sign E.F.W.I
    Radio Frequencies Monitored 500 - 2,182 - 156, 8
    Other Working Frequencies
    Schedule

SA-77-0053

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	490	Tanks	200 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

16 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid		
ICNAF	5 and 6	Loligo, Ilex, Other	350	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SA-77-0054

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel COSSA DE HONTANDIA
2. Vessel No.: Hull No. SS - 4 Registration No. 2.475
3. Name and Address of Owner — Name and Address of Charterer
   Name PESQUERA OJEDA, S.A.
   Address Apartado, 250
   GIJON
   Cable Address
4. Homeport and State of Registry: CADIZ
5. Type of Vessel O.T.B
6. Tonnage (Gross) 411,8 (Net)
7. Length 46,2 M. 8. Breadth 9 M. 9. Draft 4 M.
10. Horsepower 1200 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.974
14. Number and Nationality of Personnel 22 spaniah
    Officers 4 Crew 18 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X), Other
    International Radio Call Sign E.A.P.8
    Radio Frequencies Monitored 500 - 2.182 - 156, 8
    Other Working Frequencies
    Schedule

SA-77-0054

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	290	Tanks	165 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

12 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid		
ICNAF	5 and 6	Loligo, Ilex, other	250	Otter trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SA-77-0055

Permit Period Applied For: 1.977 — Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel MAR DE GALILEA
2. Vessel No.: Hull No. VI-5 Registration No. 9.516
3. Name and Address of Owner — Name and Address of Charterer
   Name PESCAMARIN, S. A
   Address AVDA ORENSE, 60
   MARIN (PONTEVEDRA)
   Cable Address
4. Homeport and State of Registry: MARIN
5. Type of Vessel O.T.B
6. Tonnage (Gross) 257,3 (Net) 185,60
7. Length 35,4 M. 8. Breadth 8 M. 9. Draft M.
10. Horsepower 1000 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 20 spaniah
    Officers 4 Crew 16 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
    International Radio Call Sign E.C.S.C
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

V 42 46 MAR 9 77 UMI

SP-77-0055

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navaat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) | 18. Cargo Space Number | Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	200	Tanks	150 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid		
ICNAF	5 and 6	Loligo	210	Otter trawl
		Ilex		
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0056

Permit Period Applied For: 1.977 | Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel KANTXOPE
2. Vessel No.: Hull No. BI-4 Registration No. 161
3. Name and Address of Owner: Name MARBASA; Address DARSENA DE ERUIDA-ETXEBARRIA, 1,2,3 OMDARROA(VIZCAYA); Cable Address
   Name and Address of Charterer
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 491 (Net)
7. Length 46,9 M. 8. Breadth 9,5 M. 9. Draft 4 M.
10. Horsepower 1.600 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 20 spanish
    Officers 5 Crew 15 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph; (X), Other
    International Radio Call Sign E.G.S.J
    Radio Frequencies Monitored 500 - 2.182 - 156, 8
    Other Working Frequencies
    Schedule

SP-77-0056

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navaat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) | 18. Cargo Space Number | Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	343	Tanks	245 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

15 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid		
ICNAF	5 and 6	Loligo	290	Otter trawl
		Ilex		
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0057

Permit Period Applied For: 1.977 | Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel ANA MARIA GANDON
2. Vessel No.: Hull No. VI - Registration No. 9334
3. Name and Address of Owner: Name VENCESLAO GANDON; Address CASAL - ALDAN - VIGO; Cable Address
   Name and Address of Charterer
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 358,1 (Net)
7. Length 39,7 M. 8. Breadth 8,5 M. 9. Draft 4,127 M.
10. Horsepower 800 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.973
14. Number and Nationality of Personnel 19 spanish
    Officers 4 Crew 15 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph; (X), Other
    International Radio Call Sign E.F.Y.K
    Radio Frequencies Monitored 500 - 2.182 - 156, 8
    Other Working Frequencies
    Schedule

SP-77-0057

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navaat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) | 18. Cargo Space Number | Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	115	Tanks	196 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

~~10 Tons for day~~

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid		
ICNAF	5 and 6	Loligo	280	Otter trawl
		Ilex		
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0058

Permit Period Applied For: 1.977 | Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel VEKI-PESY
2. Vessel No.: Hull No. 01-4 Registration No. 1738
3. Name and Address of Owner: Name PESCANOVA, S.A.; Address APARTADO, 424 VIGO; Cable Address PESCANOVA
   Name and Address of Charterer
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 1.045,5 (Net) 549
7. Length 57,5 M. 8. Breadth 10,5 M. 9. Draft 4,9 M.
10. Horsepower 1.910 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.967
14. Number and Nationality of Personnel 46 spanish
    Officers 7 Crew 39 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph; (X), Other
    International Radio Call Sign E.F.O.P
    Radio Frequencies Monitored 500 - 2.182 - 156,8
    Other Working Frequencies
    Schedule

SP-77-0058

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navaat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) | 18. Cargo Space Number | Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	850	Tanks	245 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

20 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid		
ICNAF	5 and 6	Loligo	500	Otter trawl
		Ilex		
		Other		

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0059

Permit Period Applied For: 1.977 | Application No. For Use of Issuing Office

State: SPAIN

1. Name of Vessel HUMAR
2. Vessel No.: Hull No. VI-5 Registration No. 9594
3. Name and Address of Owner: Name HUMAR, S.L.; Address FILIPINAS, 29 VIGO; Cable Address
   Name and Address of Charterer
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 315,9 (Net) 229,95
7. Length 38,1 M. 8. Breadth 8,5 M. 9. Draft 4,05 M.
10. Horsepower 1160 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 20 spanish
    Officers 8 Crew 12 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph; ( ), Other
    International Radio Call Sign E.O.X.P
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

V4246 MAR 9 77 UMI

SP-77-0059

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	376	Tanks	148 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity, MT)
12 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid / Loligo / Ilex / Other	290	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0060

Permit Period Applied For: 1.977 — Application No. / For Use of Issuing Office

State: SPAIN

1. Name of Vessel MARU
2. Vessel No.: Hull No. BI-3 — Registration No. 2.752
3. Name and Address of Owner — Name and Address of Charterer
   Name: PESCANOVA, S.A
   Address: APARTADO, 424
   VIGO
   Cable Address: PESCANOVA
4. Homeport and State of Registry: LA CORUÑA
5. Type of Vessel O.T.B
6. Tonnage (Gross) 462,8 (Net) 229
7. Length 45,4 M. 8. Breadth 8,1 M. 9. Draft ____ M.
10. Horsepower 1230 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.969
14. Number and Nationality of Personnel 18 spanish
    Officers 3 Crew 15 Other (Specify) ____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph (X), Other
    International Radio Call Sign E.H.Y.E
    Radio Frequencies Monitored 500 - 2.182 - 156,8
    Other Working Frequencies
    Schedule

SP-77-0060

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer (X), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	[illegible]	Tanks	65 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity, MT)
17 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid / Loligo / Ilex / Other	250	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0061

Permit Period Applied For: 1.977 — Application No. / For Use of Issuing Office

State: SPAIN

1. Name of Vessel GLADIAR
2. Vessel No.: Hull No. GI-4 — Registration No. 1.966
3. Name and Address of Owner — Name and Address of Charterer
   Name: CONSTANTINO VALLEJO
   Address: SAN FRANCISCO, 29
   VIGO
   Cable Address:
4. Homeport and State of Registry:
5. Type of Vessel O.T.B
6. Tonnage (Gross) 281,4 (Net) 220,29
7. Length 37,6 M. 8. Breadth 8 M. 9. Draft 3,70 M.
10. Horsepower 980 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 18 spanish
    Officers 2 Crew 16 Other (Specify) ____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
    International Radio Call Sign E.G.W.H
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

SP-77-0061

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	54	Tanks	186 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity, MT)
7 tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid / Loligo / Ilex / Other	200	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0062

Permit Period Applied For: 1.977 — Application No. / For Use of Issuing Office

State: SPAIN

1. Name of Vessel [illegible]
2. Vessel No.: Hull No. VI-5 — Registration No. 9584
3. Name and Address of Owner — Name and Address of Charterer
   Name: ONDARENTZARRA, S.A.
   Address: PRIMO DE RIVERA, 21
   ONDARROA (VIZCAYA)
   Cable Address:
4. Homeport and State of Registry: [illegible]
5. Type of Vessel O.T.B
6. Tonnage (Gross) 439 (Net) 313,75
7. Length 47,2 M. 8. Breadth 9,5 M. 9. Draft 4,25 M.
10. Horsepower 1.600 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.975
14. Number and Nationality of Personnel 25 spanish
    Officers 3 Crew 22 Other (Specify) ____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
    International Radio Call Sign E.H.C.8
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

SP-77-0062

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	503	Tanks	257 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity, MT)
15 Tons for day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid / Loligo / Ilex / Other	370	Otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

SP-77-0063

Permit Period Applied For: 1.977 — Application No. / For Use of Issuing Office

State: SPAIN

1. Name of Vessel [illegible]
2. Vessel No.: Hull No. VI-5 — Registration No. 8739
3. Name and Address of Owner — Name and Address of Charterer
   Name: JOSE PUERTA OVIEDO
   Address: ORTIZ LAMAR, 28 Travesia
   VIGO
   Cable Address:
4. Homeport and State of Registry: VIGO
5. Type of Vessel O.T.B
6. Tonnage (Gross) 249,7 (Net) 122
7. Length 35,4 M. 8. Breadth 7,1 M. 9. Draft ____ M.
10. Horsepower 620 shp. 11. Maximum Speed ____ kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other
13. Date Built 1.967
14. Number and Nationality of Personnel 14 spanish
    Officers 2 Crew 12 Other (Specify) ____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraph ( ), Other
    International Radio Call Sign E.F.R.C
    Radio Frequencies Monitored
    Other Working Frequencies
    Schedule

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SP-77-0063

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (X), Fathometer ( ), Other _____

17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	150	Tanks	67 m³
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)

8 tons per day

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NW ATLANTIC	1-11-77 31-12-77	squid Lolige Illex Other	150	otter trawl
ICNAF	5 and 6			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

[FR Doc.77-6694 Filed 3-8-77;8:45 am]

[Public Notice 528]

FISHERY CONSERVATION AND MANAGEMENT

Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing beginning March 1, 1977, have been received from the Governments of the Federal Republic of Germany, France, Ireland and Italy through the European Economic Community pursuant to the agreement between the United States and the Community, and are published herewith.

Dated: March 2, 1977.

ALBERT L. ZUCCA,
Director, Office of Fisheries Affairs.

THE UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

APPLICATION FOR VESSEL PERMITS TO FISH WITHIN THE FISHERY CONSERVATION ZONE OF THE UNITED STATES, OR FOR ANADROMOUS SPECIES OR CONTINENTAL SHELF FISHERY RESOURCES

DATE 17.12.1976

EC(GE)-77-0001 to 0014
APPLICATION NO. _____
for use of issuing Officer

In accordance with the provision of Section 204 of the Fishery Conservation and Management Act of 1976, (16 U.S.C. 1801-1882), and the governing international fisheries agreement entered into with the Government of the United States of America, which entered into force on _____ (date),

the government (or competent authority) of the Federal Republic of Germany

hereby submits this application for permits for fishing vessels under its jurisdiction to fish within the fishery conservation zone of the United States, or beyond that zone for anadromous species or Continental Shelf fishery resources subject to the jurisdiction of the United States.

The following information is submitted in support of this application (Use additional sheets as required).

A completed Fishing Vessel Identification Form for each permit that is requested; and a compilation of data contained in questions 5 and 20 in the attached Fishing Vessel Identification Form.

Submitted 17.12.1976
Date

Signature of Authorized Official

Title

V4246 MAR 9 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

ec(GE)-77-0001

Permit Period Applied For: 1977 — Application No. ec(GE)-77-000 For Use of Issuing Office

State: Federal Republic of Germany

1. Name of Vessel: Wiesbaden
2. Vessel Hull No.: MC 101 — Registration No.: 723
3. Name and Address of Owner: "Nordsee" Deutsche Hochseefischerei GmbH, Klußmannstrasse, 2850 Bremerhaven, Cable Address: Nordsee
   Name and Address of Charterer:
4. Homeport and State of Registry: Cuxhaven, FR Germany
5. Type of Vessel: Stern Trawler
6. Tonnage (Gross): 3181 (Net): 1359,3
7. Length: 91,98 M. 8. Breadth: 15,02 M. 9. Draft: 6,70 M.
10. Horsepower: 3.000 shp. 11. Maximum Speed: 15 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other:
13. Date Built: 1973
14. Number and Nationality of Personnel: 63:30 Portug., 33 German
    Officers: 8 Crew: 55 Other (Specify):
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X), Other:
    International Radio Call Sign: D F Q B
    Radio Frequencies Monitored: 500, 2182 KHZ
    Other Working Frequencies: 2396, 3197, 3282 KHZ
    Schedule: H 8
16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca (X), Navaz ( ), Radar (X), Fathometer (X), Other:
17. Cargo Capacity (MT): Salted Fish: -, Fresh Fish: -, Frozen Fish: 900, Fish Meal: 350, Other: Fish Oil 75
    18. Cargo Space — Number / Name: Freezer 1 Frozen Fish; Dry Hold 1 Fish Meal; Tanks 4 Fish Oil; Other
19. Processing Equipment (Indicate daily capacity,MT): 1 Header Baader 412, 4 Filleters Baader 33, 1 Baader Filleter each Nr. 99, 150, 181, 38, 338; 2 Skinning machines Baader 46, 6 Skinning machines Baader 47, 1 Bones Seperator Baader 694, 1o Vertical Freezers Stal Astra, Fishmeal plant Schlotterhose, 2 Oil Seperators Westphalia. Processing capacity per day 3o to frozen fish, 1o to fish meal
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5Z+6	15.8.-3o.9.77	Herring 1184		Bottom trawl, Midwater trawl
5+6	15.6.-15.9.77	Loligo 125		Bottom trawl, Midwater trawl
5+6	1.1o.-31.12.77	Mackerel 276		Midwater trawl
5+6	15.6.-15.9.77	Illex up to 45		Midwater trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States: Elliot Shipping Co., Ship Agent, 47-49 Parker Street, P.O.Box 1189, Gloucester, Massachusetts 01930

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

ec(GE)-77-0002

Permit Period Applied For: 1977 — Application No. ec(GE)-77-0002 For Use of Issuing Office

State: Federal Republic of Germany

1. Name of Vessel: Stuttgart
2. Vessel Hull No.: MX 752 — Registration No.: 760
3. Name and Address of Owner: "Nordsee" Deutsche Hochseefischerei GmbH, Klußmannstrasse, 2850 Bremerhaven, Cable Address: Nordsee
   Name and Address of Charterer:
4. Homeport and State of Registry: Bremerhaven FR Germany
5. Type of Vessel: Stern Trawler
6. Tonnage (Gross): 3181 (Net): 1359,3
7. Length: 91,98 M. 8. Breadth: 15,02 M. 9. Draft: 6,2o M.
10. Horsepower: 3.000 shp. 11. Maximum Speed: 15 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other:
13. Date Built: 1973
14. Number and Nationality of Personnel: 63:29 Portug., 34 German
    Officers: 8 Crew: 55 Other (Specify):
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X), Other:
    International Radio Call Sign: D E O U
    Radio Frequencies Monitored: 500, 2182, KHZ
    Other Working Frequencies: 2396, 3197, 3282, 425 KHZ
    Schedule: H 8
16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca (X), Navaz ( ), Radar (X), Fathometer (X), Other:
17. Cargo Capacity (MT): Salted Fish: -, Fresh Fish: -, Frozen Fish: 900, Fish Meal: 350, Other: Fish Oil 75
    18. Cargo Space — Number / Name: Freezer 1 Frozen Fish; Dry Hold 1 Fish Meal; Tanks 4 Fish Oil; Other
19. Processing Equipment (Indicate daily capacity,MT): 1 Header Baader 412, 3 Filleters Baader 33, 1 Baader Filleter each Nr. 99, 150, 181, 38, 338; 2 Skinning machines Baader 46, 6 Skinning machines Baader 47, 1 Bones Seperator Baader 694, 1o Vertical Freezers Stal Astra, Fishmeal plant Schlotterhose, 2 Oil Seperators Westphalia, Processing capacity per day 3o t frozen fish, 1o t fish meal
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5Z+6	15.8.-3o.9.77	Herring 1184		Bottom Trawl
5+6	15.6.-15.9.77	Loligo 125		Midwater Trawl
5+6	1.1o.-31.12.77	Mackerel 276		Midwater Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States: Elliot Shipping Co., Ship Agent, 47-49 Parker Street, P.O.Box 1189, Gloucester, Massachusetts 01930

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

ec(GE)-77-0003

Permit Period Applied For: 1977 — Application No. ec(GE)-77-0003 For Use of Issuing Office

State: Federal Republic of Germany

1. Name of Vessel: Bremen
2. Vessel Hull No.: MX 741 — Registration No.: 744
3. Name and Address of Owner: "Nordsee" Deutsche Hochseefischerei GmbH, Klußmannstrasse, 2850 Bremerhaven, Cable Address: Nordsee
   Name and Address of Charterer:
4. Homeport and State of Registry: Bremerhaven, FR Germany
5. Type of Vessel: Stern Trawler
6. Tonnage (Gross): 3181 (Net): 1359,3
7. Length: 91,98 M. 8. Breadth: 15,02 M. 9. Draft: 7 M.
10. Horsepower: 3.000 shp. 11. Maximum Speed: 15 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other:
13. Date Built: 1972
14. Number and Nationality of Personnel: 63: 24 Portug., 1 Guyanese, 1 stateless, 37 German
    Officers: 8 Crew: 55 Other (Specify):
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X), Other:
    International Radio Call Sign: D F C X
    Radio Frequencies Monitored: 500, 2182 KHZ
    Other Working Frequencies: 2396, 3197, 3282, 425 KHZ
    Schedule: H 8
16. Navigation Equipment: Loran C (X, Loran A (X), Omega ( ), Decca (X), Navaz ( ), Radar (X), Fathometer (X), Other:
17. Cargo Capacity (MT): Salted Fish: -, Fresh Fish: -, Frozen Fish: 900, Fish Meal: 350, Other: Fish Oil 75
    18. Cargo Space — Number / Name: Freezer 1 Frozen Fish; Dry Hold 1 Fish Meal; Tanks 4 Fish Oil; Other
19. Processing Equipment (Indicate daily capacity,MT): 1 Header Baader 412, 3 Filleters Baader 33, 1 Baader Filleter each Nr. 99, 150, 181, 38, 338; 2 Skinning machines Baader 46, 6 Skinning machines B 47, 1 Bones Seperator Baader 694, 1o Vertical Freezers Stal Astra, Processing Capacity 3o to frozen fish per day. Fishmeal plant Schlotterhose 5o t raw material per day. 2 Oil Seperators Westphalia
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5Z+6	15.8.-3o.9.77	Herring 1184		Midwater Trawl
5+6	15.6.-15.9.77	Loligo 125		Bottom Trawl, Midwater Trawl
5+6	1.1o.-31.12.77	Mackerel 276		Midwater Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States: Elliot Shipping Co., Ship Agent, 47-49 Parker Street, P.O.Box 1189, Gloucester, Massachusetts 01930

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

ec(GE)-77-0004

Permit Period Applied For: 1977 — Application No. ec(GE)-77-0004 For Use of Issuing Office

State: Federal Republic of Germany

1. Name of Vessel: Mainz
2. Vessel Hull No.: MC 1oo — Registration No.: 722
3. Name and Address of Owner: "Nordsee" Deutsche Hochseefischerei GmbH, Klußmannstrasse, 2850 Bremerhaven, Cable Address: Nordsee
   Name and Address of Charterer:
4. Homeport and State of Registry: Cuxhaven FR Germany
5. Type of Vessel: Stern Trawler
6. Tonnage (Gross): 3181 (Net): 1359,3
7. Length: 91,98 M. 8. Breadth: 15,02 M. 9. Draft: 6,2o M.
10. Horsepower: 3.000 shp. 11. Maximum Speed: 15 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other:
13. Date Built: 1973
14. Number and Nationality of Personnel: 63: 33 Portug., 3o Germ.
    Officers: 8 Crew: 55 Other (Specify):
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X), Other: D F Q A
    International Radio Call Sign: 500, 2182 KHZ
    Radio Frequencies Monitored: 2396, 3197, 3282 KHZ
    Other Working Frequencies: H 8
    Schedule:
16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca (X), Navaz ( ), Radar (X), Fathometer (X), Other:
17. Cargo Capacity (MT): Salted Fish: -, Fresh Fish: -, Frozen Fish: 900, Fish Meal: 350, Other: Fish Oil 75
    18. Cargo Space — Number / Name: Freezer 1 Frozen Fish; Dry Hold 1 Fish Meal; Tanks 4 Fish Oil; Other
19. Processing Equipment (Indicate daily capacity,MT): 1 Header Baader 412, 4 Filleters Baader 33, 1 Baader Filleter each Nr. 99, 150, 181, 38, 338; 2 Skinning machines Baader 46, 6 Skinning machines Baader 47, 1 Bones Seperator Baader 694, 1o Vertical Freezers Stal Astra, Fishmeal plant Schlotterhose, 2 Oil Seperators Westphalia. Processing Capacity per day 3o to frozen fish, 1o to fish meal
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5Z+6	15.8.-3o.9.77	Herring 1184		Midwater Trawl
5+6	15.6.-15.9.77	Loligo 125		Bottom Trawl, Midwater Trawl
5+6	1.1o.-31.12.1977	Mackerel 276		Midwater Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States: Elliot Shipping Co., Ship Agent, 47-49 Parker Street, P.O.Box 1189, Gloucester Massachusetts, 01930

V4246 MAR 9 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(GE)-77-0005

Permit Period Applied For: 1977

Application No. ____ For Use of Issuing Office

State: Federal Republic of Germany

1. Name of Vessel: Kiel
2. Vessel No./Hull No.: BX 749 Registration No.: 752
3. Name and Address of Owner: Name "Nordsee" Deutsche Hochseefischerei GmbH; Address Klußmannstrasse, 2850 Bremerhaven; Cable Address Nordsee. Name and Address of Charterer: ____
4. Homeport and State of Registry: Bremerhaven FR Germany
5. Type of Vessel: Stern Trawler
6. Tonnage (Gross) 3181 (Net) 1359.2
7. Length 91,98 M. 8. Breadth 15.02 M. 9. Draft 6,70 M.
10. Horsepower 3000 shp. 11. Maximum Speed 15 kt.
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other ____
13. Date Built 1973
14. Number and Nationality of Personnel 63:29 Portug., 1Austrian, 33 German
Officers 8 Crew 55 Other (Specify) ____
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X), Other ____
International Radio Call Sign: D E O P
Radio Frequencies Monitored: 500, 2182 KHZ Channel 16
Other Working Frequencies: 2396, 3197, 3282 KHZ
Schedule: H 8

EC(GE)-77-0005

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca (X), Navsat ( ), Radar (X), Fathometer (X), Other ____
17. Cargo Capacity (MT): Salted Fish /; Fresh Fish -; Frozen Fish 900; Fish Meal 350; Other Fish Oil 75
18. Cargo Space: Number / Name — Freezer 1 Frozen Fish; Dry Hold 1 Fish Meal; Tanks 4 Fish Oil; Other ____
19. Processing Equipment (Indicate daily capacity, MT): 1 Header Baader 412, 4 Filleters Baader 33, 1 Baader Filleter each Nr. 99, 150, 181, 38, 338; 2 Skinning machines Baader 46, 6 Skinning machines Baader 47, 1 Bones Seperator Baader 694, 10 Vertical Freezers Stal Astra, Fish meal plant Schlotterhose, 2 Oil Seperators Westphalia, Processing capacity per day 30 ts frozen fish, 10 ts fish meal
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
52 + 6	15.8.-30.9.76	Herring	1184	Bottom Trawl (Midwater Trawl)
5 + 6	15.6.-15.9.76	Loligo	185	Midwater Trawl
5 + 6	1.10.-31.12.76	Mackerel	276	Midwater Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States: Elliot Shipping Co., Ship Agent, 47-49 Parker Street, P.O.Box 1189, Gloucester Massachusetts 01930

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(GE)-77-0006

Permit Period Applied For: ____

Application No. ____ For Use of Issuing Office

State: ____

1. Name of Vessel: Karlsburg
2. Vessel No./Hull No.: BX 742 Registration No.: SSR 743
3. Name and Address of Owner: Name Reederei Söhle; Address 2850 Bremerhaven, Am Seedeich 11; Cable Address Fischhanseat Bremerhaven. Name and Address of Charterer: ____
4. Homeport and State of Registry: Bremerhaven/Fed.Rep.of Germ.
5. Type of Vessel: Stern-Trawler
6. Tonnage (Gross) 3.576,87 (Net) 1.560,52
7. Length 94,95 M. 8. Breadth 15,84 M. 9. Draft 7,00 M.
10. Horsepower 5.000 shp. 11. Maximum Speed 16,0 kt.
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other -
13. Date Built 1972
14. Number and Nationality of Personnel German(35) and Portuguese(25)
Officers 8 Crew 52 Other (Specify) -
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X), Other -
International Radio Call Sign: DFCW
Radio Frequencies Monitored: Kc 500 and 16/2182 Khz
Other Working Frequencies: 2396,3197,3282,425
Schedule: H 8

EC(GE)-77-0006

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca (X), Navsat ( ), Radar (X), Fathometer ( ), Other -
17. Cargo Capacity (MT): Salted Fish -; Fresh Fish -; Frozen Fish 940 metric tons; Fish Meal 350 " "; Other fishoil: 70 tons
18. Cargo Space: Number / Name — Freezer 5 Jackstone vertical, 3 Sabroe horizontal; Dry Hold 1 hold frozen fish 1294 cbm; Tanks 4 fishoiltanks total 96 cbm; Other 1 fishmeal hold 700 cbm
19. Processing Equipment (Indicate daily capacity, MT): 4 Baader machines whitefish filletting, 1 Baader Redfish, 3 Baader herring fillets, 1 heading machine, 9 skinning machines, 1 fishmeal plant, 1 fishoil plant, daily capacity: 30 tons frozen fish and 10 tons fishmeal
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5 Z/6	= 15.8.-30.9.77	Herring	452	midwater trawl
5/6	= 15.6.-15.9.77 1.10.-31.12.77	Loligo	100	midwater trawl and bottom trawl
5/6	= 1.10.31.12.77	Mackerel	105	midwater trawl
5/6	= 15.6.-15.9.77 1.10.-31.12.77	Illex	upto 500	bottom trawl and midwater trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States: Elliott Stevedoring Inc., 47-49 Parker Street, Gloucester/Mass. 01930, Telex 0940727 Telephone 617-281-1700

Bremerhaven, December 17, 1976

Reederei Söhle

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(GE)-77-0007

Permit Period Applied For: ____

Application No. ____ For Use of Issuing Office

State: ____

1. Name of Vessel: Geeste
2. Vessel No./Hull No.: BX 738 Registration No.: SSR 750
3. Name and Address of Owner: Name Reederei Söhle; Address 2850 Bremerhaven, Am Seedeich 11; Cable Address Fischhanseat Bremerhaven. Name and Address of Charterer: ____
4. Homeport and State of Registry: Bremerhaven/Fed.Rep.of Germany
5. Type of Vessel: ____
6. Tonnage (Gross) 3.576,87 (Net) 1.560,52
7. Length 94,95 M. 8. Breadth 15,84 M. 9. Draft 7,00 M.
10. Horsepower 5.000 shp. 11. Maximum Speed 16,0 kt.
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other -
13. Date Built 1973
14. Number and Nationality of Personnel German(35) and Portuguese(25)
Officers 8 Crew 52 Other (Specify) -
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X), Other -
International Radio Call Sign: DENX
Radio Frequencies Monitored: Kc 500 and 16/2182 Khz
Other Working Frequencies: 3295, 3197, 3282, 425
Schedule: H 8

Geeste

EC(GE)-77-0007

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca (X), Navsat ( ), Radar (X), Fathometer ( ), Other -
17. Cargo Capacity (MT): Salted Fish -; Fresh Fish -; Frozen Fish 940 metric tons; Fish Meal 350 " "; Other fishoil: 70 mt
18. Cargo Space: Number / Name — Freezer 5 Jackstone vertical, 3 Sabroe horizontal; Dry Hold 1 hold frozen fish 1294 cbm; Tanks 4 fishoil tanks total 96 cbm; Other 1 fishmeal hold 700 cbm
19. Processing Equipment (Indicate daily capacity, MT): 4 Baader machines whitefish filletting, 1 Baader Redfish, 3 Baader herring fillets, 1 heading machine, 9 skinning machines, 1 fishmeal plant, 1 fishoil plant, daily capacity: 30 tons frozen fish and 10 tons fishmeal
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5 Z/6	= 15.8.-30.9.77	Herring	452	midwater trawl
5/6	= 15.6.-15.9.77 1.10.-31.12.77	Loligo	100	midwater trawl and bottom trawl
5/6	= 1.10.-31.12.77	Mackerel	105	midwater trawl
5/6	= 15.6.-15.9.77 1.10.-31.12.77	Illex	up to 500	bottom trawl and midwater trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States: Elliott Stevedoring Inc., 47-49 Parker Street, Gloucester/Mass. 01930, Telex 0940727 Telephone 617-281-1700

Bremerhaven, December 17, 1976

Reederei Söhle

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(GE)-77-0008

Permit Period Applied For: ____

Application No. ____ For Use of Issuing Office

State: ____

1. Name of Vessel: Johann Dietrich Broelemann
2. Vessel No./Hull No.: BX 756 Registration No.: SSR 761
3. Name and Address of Owner: Name Reederei Söhle; Address 2850 Bremerhaven, Am Seedeich 11; Cable Address Fischhanseat Bremerhaven. Name and Address of Charterer: ____
4. Homeport and State of Registry: Bremerhaven/Fed.Rep.ofGerm.
5. Type of Vessel: ____
6. Tonnage (Gross) 3.576,87 (Net) 1.560,52
7. Length 94,95 M. 8. Breadth 15,84 M. 9. Draft 7,00 M.
10. Horsepower 5.000 shp. 11. Maximum Speed 16,0 kt.
12. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other -
13. Date Built 1973
14. Number and Nationality of Personnel German(35) and Portuguese(25)
Officers 8 Crew 52 Other (Specify) -
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X), Other -
International Radio Call Sign: DEOW
Radio Frequencies Monitored: Kc 500, 16/2182 Khz
Other Working Frequencies: 2396,3197,3282,425
Schedule: H 8

EC(GE)-77-0008

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca (X), Navsat ( ), Radar (X), Fathometer ( ), Other /
17. Cargo Capacity (MT): Salted Fish /; Fresh Fish /; Frozen Fish 940; Fish Meal 350; Other fishoil:70
18. Cargo Space: Number / Name — Freezer 5 Jackstone vertical, 3 Sabroe horizontal; Dry Hold 1 hold frozen fish 1294 cbm; Tanks 4 fishoiltanks total 96 cbm; Other 1 fishmeal hold 700 cbm
19. Processing Equipment (Indicate daily capacity, MT): 4 Baader machines whitefish filletting, 1 Baader Redfish, 3 Baader herring fillets, 1 heading machine, 9 skinning machines, 1 fishmeal plant, 1 fishoil plant, daily capacity: 30 tons frozen fish and 10 tons fishmeal
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5 Z/6	= 15.8.-30.9.77	Herring	452	midwater trawl
5/6	= 15.6.-15.9.77 1.10.-31.12.77	Loligo	100	midwater trawl and bottom trawl
5/6	= 1.10.31.12.77	Mackerel	105	midwater trawl
5/6	= 15.6.-15.9.77 1.10.-31.12.77	Illex upto	500	bottom trawl and midwater trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States: Elliott Stevedoring Inc., 47 - 49 Parker Street, Gloucester / Mass. 01930, Telex 0940727 Telephone 617 - 218 - 1700

FEDERAL REGISTER, VOL. 42, NO. 46—WEDNESDAY, MARCH 9, 1977

V42-46 MAR 9 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(GE)-77-0009

Permit Period Applied For: _____ Application No. _____ For Use of Issuing Office

State: _____

1. Name of Vessel Wesermünde
2. Vessel Nat. Hull No. BX 755 Registration No. SSR 759
3. Name and Address of Owner: Reederei Söhle, 2850 Bremerhaven, Am Seedeich 11, Cable Address: Fischhansa Bremerhaven
   Name and Address of Charterer: _____
4. Homeport and State of Registry: Bremerhaven/Fed.Rep. of Germ.
5. Type of Vessel Fish. Fac.
6. Tonnage (Gross) 3.576,87 (Net) 1.560,52
7. Length 94,95 M. 8. Breadth 15,84 M. 9. Draft 7,00 M.
10. Horsepower 5.000 shp. 11. Maximum Speed 16,0 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built 1973
13. Number and Nationality of Personnel German(35)Portuguese(25)
    Officers 8 Crew 52 Other (Specify) _____
14. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X).
    Other _____
    International Radio Call Sign DEOO
    Radio Frequencies Monitored Kc 500, 1E/2182 Khz
    Other Working Frequencies 2395, 3197, 3282, 425
    Schedule H.B

EC(GE)-77-0009

Wesermünde

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca (X), Navaat ( ), Radar (X), Fathometer ( ), Other _____
17. Cargo Capacity (MT): Salted Fish _____, Fresh Fish _____, Frozen Fish 940 mt, Fish Meal 350 mt, Other fishoil: 70 mt
18. Cargo Space — Number / Name: Freezer 5 Jacksons vertical 3 Sabroe horizontal; Dry Hold 1 hold frozen fish 1294 cbm; Tanks 4 fishoil tanks total 96 cbm; Other 1 fishmeal hold 760 cbm
19. Processing Equipment (Indicate daily capacity,MT): 4 Baader machines whitefish filletting, 1 Baader Redfish, 3 Baader herring fillets, 1 heading machine, 9 skinning machines, 1 fishmeal plant, 1 fishoil plant; daily capacity: 30 tons frozen fish and 10 tons fishmeal
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5 Z/6	15.8.-30.9.77	Herring	452	midwater trawl
5 / 6	15.8.-15.9.77	Loligo	100	midwater trawl and
	1.10.-31.12.77			bottom trawl
5/6	1.10.-31.12.77	Mackerel	105	midwater trawl
5/6	15.8.-15.9.77	Illex up to	500	bottom trawl and
	1.10.-31.12.77			midwater trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Elliott Stevedoring Inc.
    47-49 Parker STreet, Gloucester/Mass. 01930
    Telex 940727 Telephone 617-281-1700

Bremerhaven, December 17, 1976 Reederei Söhle

EC(GE)-77-0010

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(GE)-77-0010

Permit Period Applied For: _____ Application No. _____ For Use of Issuing Office

State: _____

1. Name of Vessel "FRIEDRICH BUSSE"
2. Vessel Nat. Hull No. 744 Registration No. SSR 748
3. Name and Address of Owner: HOCHSEEFISCHEREI, Address: NORDSTERN AG., 2850 BREMERHAVEN-F., Cable Address: NORDSTERN, BREMERHAVEN
   Name and Address of Charterer: _____ Tx.: 238758 nstag-d
4. Homeport and State of Registry: BREMERHAVEN/W.-GERMANY
5. Type of Vessel STERNTRAWLER
6. Tonnage (Gross) 3.183 (Net) 1.368
7. Length 86,87 M. 8. Breadth 15,02 M. 9. Draft 5,40 M.
10. Horsepower 3.000 shp. 11. Maximum Speed 15,5 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built 1972
13. Number and Nationality of Personnel 35 GERMANS/30 PORTOGUESE
    Officers 8 Crew 57 Other (Specify) _____
14. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X).
    Other SF MARC GENF 1974
    International Radio Call Sign DEOL
    Radio Frequencies Monitored Channel 16/2182 KC/500 KC
    Other Working Frequencies VHF Channel 6/8/9/10/13/67/72/73/77 2196/3197/3252/1163/512/480/468
    Schedule no fixed schedule

EC(GE)-77-0010

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca (X), Navaat ( ), Radar (X), Fathometer (X), Other LOG, GIRO, DIRECTION-FINDER/AUTO-PILOT/ SONAR
17. Cargo Capacity (MT): Salted Fish -, Fresh Fish -, Frozen Fish appr. 850, Fish Meal appr. 250, Other Oil appr. 60
18. Cargo Space — Number / Name: Freezer 1 FROZEN FISH; Dry Hold 1 FISHMEAL; Tanks 4 FISHOIL; Other - -
19. Processing Equipment (Indicate daily capacity,MT): see encl.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5 Z. 6	15.August/ 30.Sept.	HERRING	822	Midwater-Trawl
	1.Oktober/ 31.Decemb.	MACKEREL	191	Midwater-Trawl
	1.Nov./ 31.Decemb.	LOLIGO	183	BOTTOM-TRAWL
	1.Nov./ 31.Decemb.	ILLEX	out of others	BOTTOM-TRAWL

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Elliott Shipping Comp. Gloucester/Mass.
    Phone: 281-1700
    Telex: 940727 (W.U.)

Bremerhaven, den 17.12.1976 Rädven (Manager)

FMS "FRIEDRICH BUSSE" BX 744

EC(GE)-77-0010

Processing equipment

For Whitefish	Number of Units	
BAADER 189	1	Whitefish-Filletting-Machine
BAADER 38	1	Whitefish-Filletting-Machine
BAADER 338	1	Whitefish-Filletting-Machine
BAADER 181	2	Whitefish-Filletting-Machine
BAADER 419	1	Whitefish-Heading-Machine
BAADER 46	2	Whitefish-Skinning-Machine
BAADER 47	9	Whitefish-Skinning-Machine
BAADER 809	1	BONES-SEPARATOR
For Herring		
BAADER 34	2	Herrings-Filletting-Machine
BAADER 33	1	Herrings-Filletting-Machine
HABIG-PRESSE	2	Fish-Block-Press
SABROE	6	Horizontal-Freezer
SCHLOTTERHOSE	1	Fishmeal-Plant
WESTFALIA	1	Fish-Oil-Separator

Daily Capacity: 30 to Whitefish-Fillets or 30 to Herrings-Products 10 to Fishmeal

EC(GE)-77-0011

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(GE)-77-0011

Permit Period Applied For: _____ Application No. _____ For Use of Issuing Office

State: _____

1. Name of Vessel "REGULUS"
2. Vessel Nat. Hull No. BX 743 Registration No. SSR 746
3. Name and Address of Owner: Hochseefischerei, Address: NORDSTERN AG., 2850 Bremerhaven - F., Cable Address: NORDSTERN, Bremerhaven
   Name and Address of Charterer: _____ Tx.: 238758 nstag-d
4. Homeport and State of Registry: Bremerhaven/W.Germany
5. Type of Vessel Sterntrawler
6. Tonnage (Gross) 3.183 (Net) 1.368
7. Length 86,87 M. 8. Breadth 15,02 M. 9. Draft 5,40 M.
10. Horsepower 3.000 shp. 11. Maximum Speed 15,5 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other _____
12. Date Built 1972
13. Number and Nationality of Personnel 35 Germans/30 Portoguese
    Officers 8 Crew 57 Other (Specify) _____
14. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X).
    Other SW WARC GENF 1974
    International Radio Call Sign DEOL
    Radio Frequencies Monitored Channel 16/2182 KC/500 KC
    Other Working Frequencies VHF Channel 6/8/9/10/13/67/72/73/77 2396/3197/3282/3363/512/480/468
    Schedule no fixed schedule

EC(GE)-77-0011

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca (X), Navaat ( ), Radar (X), Fathometer (X), Other LOG, GIRO, DIRECTION-FINDER / AUTO-PILOT/SONAR
17. Cargo Capacity (MT): Salted Fish -, Fresh Fish -, Frozen Fish appr. 850, Fish Meal appr. 250, Other Oil appr. 60
18. Cargo Space — Number / Name: Freezer 1 FROZEN FISH; Dry Hold 1 FISHMEAL; Tanks 4 FISHOIL; Other - -
19. Processing Equipment (Indicate daily capacity,MT): see encl.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5 Z. 6	15.August/ 30.Sept.	HERRING	822	MIDWATER-TRAWL
	1.Oct./ 31.Dec.	MACKEREL	191	MIDWATER-TRAWL
	1.Nov./31.Dec.	LOLIGO	183	BOTTOM-TRAWL
	1.Nov./31.Dec.	ILLEX	out of others	BOTTOM-TRAWL

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    ELLIOTT SHIPPING COMP., GLOUCESTER/ MASS.
    PHONE: 281-1700
    TELEX: 940727 (W.U.)

Bremerhaven, den 17.12.1976 Rädven (Manager)

FMS "REGULUS" BX 743

EC(GE)-77-00011

Processing equipment

For Whitefish	Number of Units	
BAADER 189	1	Whitefish-Filletting-Machine
BAADER 38	1	Whitefish-Filletting-Machine
BAADER 338	1	Whitefish-Filletting-Machine
BAADER 181	1	Whitefish-Filletting-Machine
BAADER 419	1	Whitefish-Heading-Machine
BAADER 46	2	Whitefish-Skinning-Machine
BAADER 47	7	Whitefish-Skinning-Machine
BAADER 809	1	BONES-SEPARATOR
For Herring		
BAADER 34	2	Herrings-Filletting-Machine
BAADER 33	1	Herrings-Filletting-Machine
HABIG-PRESSE	2	Fish-Blocks-Press
SABROE	6	Horitontal-Freezer
SCHLOTTERHOSE	1	FISHMEAL-PLANT
WESTFALIA	1	FISH-OIL-SEPARATOR

Daily Capacity: 30 to Whitefish-Fillets or 30 to Herrings-Products 10 to Fishmeal

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FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(GE)-77-0012

Permit Period Applied For: ______ Application No. ______ For Use of Issuing Office

State: ______

1. Name of Vessel "SCOMBRUS"
2. Vessel No.: Hull No. HH 350 Registration No. 12095
3. Name and Address of Owner / Name and Address of Charterer
   Name FMS "SCOMBRUS" Fischfang GmbH
   Address Fischereihafen, Ausrüstungskai 6
   2000 Hamburg 50
   Cable Address
   Packfisch - Hamburg
4. Homeport and State of Registry: Hamburg F.R.Germ.
5. Type of Vessel Factory-Trawler
6. Tonnage (Gross) 1.995,01 (Net) 833,42
7. Length 80,95 M. 8. Breadth 14,63 M. 9. Draft 5,3 M.
10. Horsepower 3.000 shp. 11. Maximum Speed 16 kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ),
    Other ______
13. Date Built 12/75
14. Number and Nationality of Personnel 57 F.R.G/Portug.
    Officers 8 Crew 22 Other (Specify) 27
15. Communications: VHF-FM (x), AM/SSB, Voice (x), Telegraphy (x),
    Other ______
    International Radio Call Sign DHFS
    Radio Frequencies Monitored ALL Channel 16/2182 [illegible]/500 KC
    Other Working Frequencies VHF Channel 6/8/9/10/13/[illegible]/77 ALL 2336/3197/3282/[illegible]/468
    Schedule ALL no fixed schedule
16. Navigation Equipment: Loran C (x), Loran A (x), Omega ( ),
    Decca (x), Navsat ( ), Radar (x), Fathometer (x).
    Other Radio Direction Finder
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer 1 + 2	Deep Freeze Hold
Fresh Fish		Dry Hold 1	Fish-Meal-Hold
Frozen Fish	720	Tanks 18	Fuel, Fishoil, Water
Fish Meal	250	Other	
Other Fishoil	140		

19. Processing Equipment (Indicate daily capacity, MT)
    2x "Baader 160"
    3 x "Baader 33"
    3 x "Baader 188") 22 MT
    4 Horizontal Plate Freezers 10/24 h
    Fish-Meal-Plant 50/24 h
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5 Z. 6	15. August/ 30. Sept.	Herring	316	Midwater Trawl
	1. Oct./ 31. Dec.	Makrele Pollock Squid	73	Midwater-Trawl Bottom Trawl
	1. Nov./31. Dec. 8/1-9/15	Loligo	70	Bottom-Trawl/Midwater-Trawl
	1. Nov./31. Dec. 8/1-9/15	Illex	34	Bottom-Trawl/Midwater-Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Elliot Shipping Co. Rowe Square P.O. Box 1189
    Gloucester / Mass. 01930 / USA

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(GE)-77-0013

Permit Period Applied For: ______ Application No. ______ For Use of Issuing Office

State: ______

1. Name of Vessel "HARENGUS"
2. Vessel No.: Hull No. HH 336 Registration No. 11679
3. Name and Address of Owner / Name and Address of Charterer
   Name Fabrikschiff-Kommanditgesellschaft "HARENGUS"
   Address Fischereihafen, Ausrüstungskai 6
   2000 Hamburg 50
   Cable Address Pakfisch-Hamburg
4. Homeport and State of Registry: Hamburg F.R.G.
5. Type of Vessel Factory-Trawler
6. Tonnage (Gross) 1728 (Net) 773
7. Length 80,5 M. 8. Breadth 13,6 M. 9. Draft 5,3 M.
10. Horsepower 3500 shp. 11. Maximum Speed 15 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ),
    Other ______
13. Date Built 8/72
14. Number and Nationality of Personnel 54 F.R.G./Portug.
    Officers 8 Crew 20 Other (Specify) 26
15. Communications: VHF-FM (x), AM/SSB, Voice (x), Telegraphy (x),
    Other ______
    International Radio Call Sign DHID
    Radio Frequencies Monitored All Channel 16/2182 KC/500 KC
    Other Working Frequencies VHF Channel 6/8/9/10/13/[illegible]/77 All 2336/3197/3282/[illegible]/468
    Schedule All no fixed schedule
16. Navigation Equipment: Loran C ( ), Loran A (x), Omega ( ),
    Decca (x), Navsat ( ), Radar (x), Fathometer (x),
    Other Radio Direction Finder
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer 1	Deep Freeze Hold
Fresh Fish		Dry Hold 1	Fish-Meal-Hold
Frozen Fish	820	Tanks 19	Fuel, Fishoil, Water
Fish Meal	175	Other	
Other Fish. Oil	80		

19. Processing Equipment (Indicate daily capacity, MT)
    1 x "Baader 412
    1 x "Baader 99
    3 x "Baader 33) 20
    2 x "Baader 188
    1 x "Baader 181
    6 x Horizontal Plate Freezers 8 each
    Fish-Meal-Plant 40
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5 Z. 6	15. August/ 30. Sept.	Herring	316	Mid Water Trawl
	1. Oct./ 31. Dec.	Mackarels Pollock Squid	73	Midwater-Trawl Bottom Trawl
	1. Nov./31. Dec. 8/1-9/15	Loligo	70	Bottom-Trawl/Midwater-Trawl
	1. Nov./31. Dec. 8/1-9/15	Ilex	34	Bottom-Trawl/Midwater-Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Elliot Shipping Co. Rowe Square, P.O. Box 1189
    Gloucester / Mass. 01930 / USA

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(GE)-77-0014

Permit Period Applied For: ______ Application No. ______ For Use of Issuing Office

State: ______

1. Name of Vessel "JULIUS FOCK"
2. Vessel No.: Hull No. HH 333 Registration No. 11 197
3. Name and Address of Owner / Name and Address of Charterer
   Name Hans Pickenpack Reederei KG
   Address Fischereihafen, Ausrüstungskai 6
   2000 Hamburg
   Cable Address
4. Homeport and State of Registry: Hamburg F.R.G.
5. Type of Vessel Factory Trawler
6. Tonnage (Gross) 1.568 (Net) 726
7. Length 80,5 M. 8. Breadth 13,6 M. 9. Draft 5,3 M.
10. Horsepower 2260 shp. 11. Maximum Speed [illegible] kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ),
    Other ______
13. Date Built 4/69
14. Number and Nationality of Personnel 52 F.R.G / Portug.
    Officers 8 Crew 22 Other (Specify) 22
15. Communications: VHF-FM (x), AM/SSB, Voice (x), Telegraphy (x)
    Other ______
    International Radio Call Sign DIEG
    Radio Frequencies Monitored All Channel 16/2182 KC/500 KC
    Other Working Frequencies VHF Channel 6/8/9/10/13/[illegible]/77 All 2336/3197/3282/[illegible]/468
    Schedule All no fixed schedule
16. Navigation Equipment: Loran C ( ), Loran A (x), Omega ( ),
    Decca (x), Navsat ( ), Radar (x), Fathometer (x),
    Other Rad. Dir. Finder
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish		Freezer 2	Deep Freeze Hold
Fresh Fish		Dry Hold 1	Fish-Meal-Hold
Frozen Fish	810	Tanks 19	Fuel, Fish-Oil, Water
Fish Meal	175	Other	
Other Fish Oil	[illegible]		

19. Processing Equipment (Indicate daily capacity, MT)
    3 x "Baader 33"
    2 x "Baader 188"
    1 x "Baader 181") [illegible]
    1 x "Baader 412"
    1 x "Baader 99"
    2 Horizontal Plate Freezers 15
    Fish-Meal-Plant 33
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5 Z 6	15.8.-30.9.	Herring	316	Mid Water Trawl
	1.10.-31.12.	Mackarels Pollock Squid	73	Midwater-Trawl Bottom Trawl
	1.11.-31.12./8.1.-9.15.	Loligo	70	Bottom-Trawl/Midwater-Trawl
	1.11.-31.12./8.1.-9.15.	Illex	34	Bottom-Trawl/Midwater-Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Elliot Shipping Co., Rowe Square, P.O. Box 1189
    Gloucester / Mass. 01930 / USA

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(FR)-77-0001

Permit Period Applied For: 15 Oct 1977 Application No. ______ For Use of Issuing Office

State: France

1. Name of Vessel CAPITAINE PLEVEN
2. Vessel No.: Hull No. S.M./199077/N Registration No. 11.308/4060
3. Name and Address of Owner / Name and Address of Charterer
   Name Societe anonyme Pecheries PLEVEN / LE BORGNE Fernand
   Address 6 Boulevard de la Republique / 6 Bd de la Republique
   35400 ST-MALO / 35400 SAINT-MALO
   Cable Address PLEVEN St-Malo
4. Homeport and State of Registry: SAINT-MALO FRANCE
5. Type of Vessel Stern-rigged trawler
6. Tonnage (Gross) 2413 (Net) 1051,72
7. Length 81,60 M. 8. Breadth 15,02 M. 9. Draft 6,20 M.
10. Horsepower 4000 shp. 11. Maximum Speed 14 Noeuds kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ),
    Other Diesel
13. Date Built 1973
14. Number and Nationality of Personnel 58
    Officers 9 Crew 49 Other (Specify) 0
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other ______
    International Radio Call Sign Main Call Sign ST 1400 C
    Radio Frequencies Monitored Emergency Frequency B L U 1232
    Other Working Frequencies Receiver DRABKE RRI PLESSEY PR 155
    Schedule ______
16. Navigation Equipment: Loran C (1), Loran A ( ), Omega ( ),
    Decca (1), Navsat ( ), Radar (2), Fathometer ( ),
    Other ______
17. Cargo Capacity (MT)

		18. Cargo Space Number	Name
Salted Fish	322 m3	Freezer	4 JACKSTONE vertical-plate freezers
Fresh Fish		Dry Hold	4 FABROT horizontal-plate freezers
Frozen Fish	1310 m3	Tanks	
Fish Meal	350 m3	Other	
Other			

19. Processing Equipment (Indicate daily capacity, MT)
    2 Bader 38 (filet makers) 10t 1 Bader 189 K (filet makers) 10 T
    1 Bader 338 (" ") 15 T 7 Bader 47 (scaling machine) 10 T
    1 Bader415 (machine to remove heads)
    3 Bader 34 (" ") 12 T 1 (fish meal maker) 4 T
    1 Bader 440 (machine to cut fish steaks) 10 T
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
5 Z + 6	1 September 15 October	Herring Other species	1.000 T 200 T	Midwater Trawl

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Monsieur ELLIOT Rowe Square
    P.O. Box 1189 GLOUCESTER
    MASSACHUSETTS 01930 U.S.A.

V42-46 MAR 9 77 UMI

IRLANDE

THE UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

APPLICATION FOR VESSEL PERMITS TO FISH WITHIN THE FISHERY CONSERVATION ZONE OF THE UNITED STATES, OR FOR ANADROMOUS SPECIES OR CONTINENTAL SHELF FISHERY RESOURCES

EC(EI)-77-0001

DATE ____________ APPLICATION NO. ________ for use of issuing Officer

In accordance with the provision of Section 204 of the Fishery Conservation and Management Act of 1976, (16 U.S.C. 1801-1882), and the governing international fisheries agreement entered into with the Government of the United States of America, which entered into force on ____________ (date)

the government (or competent authority) of IRELAND

hereby submits this application for permits for fishing vessels under its jurisdiction to fish within the fishery conservation zone of the United States, or beyond that zone for anadromous species or Continental Shelf fishery resources subject to the jurisdiction of the United States.

The following information is submitted in support of this application (Use additional sheets as required).

A completed Fishing Vessel Identification Form for each permit that is requested; and a compilation of data contained in questions 5 and 20 in the attached Fishing Vessel Identification Form.

Submitted ____________ Date

____________ Signature of Authorized Official

____________ Title

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(EI)-77-0001

Permit Period Applied For: ____________ Application No. ________ For Use of Issuing Office

State: ____________

1. Name of Vessel ERIN FISHER
2. Vessel No.: Hull No. C54 Registration No. 401393
3. Name and Address of Owner — Name ATLANTIC FISHERIES DEVELOPMENT COMPANY LTD. Address 6 PRINCES STREET CORK IRELAND Cable Address AFCo CORK. Name and Address of Charterer — NONE
4. Homeport and State of Registry: CORK IRELAND
5. Type of Vessel STERN TRAWLER
6. Tonnage (Gross) 1921·46 (Net) 1159·83
7. Length 79·70 M. 8. Breadth 13·51 M. 9. Draft 8·904 M.
10. Horsepower 2750 shp. 11. Maximum Speed 13·30 kt. (at full load)
12. Propulsion: Diesel (✓), Steam ( ), Diesel/Electric ( ), VERTICAL INTERNAL COMBUSTION Other ____________
13. Date Built 30 APRIL 1965
14. Number and Nationality of Personnel IRISH 28; BRITISH 1; JAPANESE 27 Officers 11 Crew 43 Other (Specify) NONE
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ), (SEE SEPARATE ATTACHED) Other ____________
International Radio Call Sign EI 63
Radio Frequencies Monitored 2182 U.S. COASTGUARD CALLING FREQ
Other Working Frequencies NONE
Schedule NONE

EC(EI)-77-0001

16. Navigation Equipment: Loran C (✓), Loran A (✓), Omega (NO), Decca (✓), Navsat (NO), Radar (✓), Fathometer (✓), Other DIRECTION FINDER; ECHO SOUNDER; DEPTH RECORDER
17. Cargo Capacity (MT) — Salted Fish NIL; Fresh Fish NIL; Frozen Fish 1200 MT; Fish Meal NIL; Other NIL
18. Cargo Space ~~Number~~ ~~Name~~ CAPACITY — Freezer only No. 1 Cold; No. 2 " 120 TONS. ~~Dry Hold~~ ~~Tanks~~ ~~Other~~
19. Processing Equipment (Indicate daily capacity, MT)
HEADERS: 2 - CAPACITY 45 TONNES PER DAY
FLASH FREEZERS; 15 CONTACT PLATE FREEZERS - CAPACITY 45 M.T./DAY
FILLETERS: NIL; FISHMEAL PLANTS: NIL;
FISH OIL PLANTS: NIL.
20. Fisheries for which Permit is Requested: ~~TO BE FORWARDED~~

Ocean Area | Period (From-To) | Species | Contemplated Catch (MT) | Gear to be Used

AS PER ATTACHED LIST

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
MR J. HIGGINS
c/o KIRLIN, CAMPBELL & KEATING
120 BROADWAY, NEW YORK, N.Y. 10005.

COMMUNICATIONS EQUIPMENT (ERIN FISHER) EC(EI)-77-0001

VHF-FM (30-40 CHANNELS)

AM/SSB VOICE RADIOTELEPHONE TO VESSELS AND SHORE STATIONS

FREQUENCIES AND SIGNALS:-

A1. A2 COASTAL STATIONS - 410 kHz; 425 kHz; 454 kHz; 480 kHz; 500 kHz; 512 kHz.

A3 CALLING VOICE U.K. only: 2023; 2182; 2211; 2226; 2381.
INTERNATIONAL: 2049, 2056

A3J (27274·5; 27346·5; 27374·5)

MORSE ONLY: 1660; 2070; 2091; 4176; 4201; 4206; 4211; 4213·5; 6299; 6301·5; 6309; 6316·5; 6326; 8372; 8402; 8412; 8422; 8427; 12558; 12603; 12618; 12633; 12648; 16764; 16804; 16824; 16844; 16854; 22227·5; 22305; 22281; 22290; 22299.

EC(EI)-77-0001

2. para 20 fisheries for which permit is requested:-

ocean area	period	species	contemplated * catch m/t
icnaf 5/6	1/3/77 to 30/4/77 and 1/11/77 to 28/2/78	common squid (loligo)	1070
"	ditto	butterfish	420
"	1/4/77 to 31/5/77	short-finned squid (illex)	1300
icnaf 5	1/9/77 to 10/10/77	herring	400
icnaf 5/6	1/3/77 to 28/2/78	silver hake, mackerel and haddock (as by-catch of other species above)	280

* based on actual catch for 1975.

gear to be used for all species: bottom trawl, possibly modified slightly.

ITALIAN EMBASSY
COMMERCIAL OFFICE
WASHINGTON, D.C.

Cable Address: ITALCOM
Telex: ITALCOM

EC(IT)-77-0001 to 0008

In reply refer to AC/ 501

March 1, 1977

By hand urgent

Mr. Leo M. Schowengerdt
Fisheries & Law Enforcement Officer
of the U.S. Coast Guard
U.S. Department of State
Oceans & Fisheries Affairs
Washington, D.C.

Dear Mr. Schowengerdt:

You might have received by now, through the European Community, fishing permit applications duly filled out on "Fishing Vessel Identification Forms (Foreign)" by owners of Italian vessels.

However, if there should be some delay in the delivery of these documents, I am enclosing, on an informal basis, advance data which I just received from Rome, concerning the following vessels:

1 - Assunta Tontini Madre
2 - Tontini Pesca Terzo
3 - Tontini Pesca Quarto
4 - De Giosa T.
5 - Amoruso Settimo
6 - Sagitta
7 - Airone
8 - Mascaretti Primo

Please do not hesitate to call on me if you feel that we can be of assistance.

Sincerely,

Antonio Badini
First Secretary

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(IT)-77-0001

Permit Period Applied For: ____________ Application No. ________ For Use of Issuing Office

State: Italy (EEC)

1. Name of Vessel Assunta Tontini Madre
2. Vessel No.: Hull No. Registration No. 761
3. Name and Address of Owner — Name Tontini Pesca; Address Anzio, Italy; Cable Address Tontini Pesca - Anzio. Name and Address of Charterer ____________
4. Homeport and State of Registry: Anzio
5. Type of Vessel Stern Trawler
6. Tonnage (Gross) 3,700 (Net) 2,100
7. Length 107.65 M. 8. Breadth 16 M. 9. Draft 6.5 M.
10. Horsepower 300x0x2 shp. 11. Maximum Speed 11 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ), Other ____________
13. Date Built 1976
14. Number and Nationality of Personnel 70 Officers 10 Crew 60 Other (Specify) ____________
15. Communications: VHF-FM (x), AM/SSB, Voice ( ), Telegraphy ( ), Other ____________
International Radio Call Sign I.B.A.Y.
Radio Frequencies Monitored ____________
Other Working Frequencies Frequency syntonizer
Schedule ____________

EC(IT)-77-0001

16. Navigation Equipment: Loran C (x), Loran A ( ), Omega ( ), Decca (x), Navsat ( ), Radar (x), Fathometer (x), Other ____________
17. Cargo Capacity (MT) — Salted Fish ____; Fresh Fish ____; Frozen Fish 3,000 cu.mt.; Fish Meal 5,000 cu.mt.; Other ____
18. Cargo Space Number Name — Freezer; Dry Hold; Tanks; Other
19. Processing Equipment (indicate daily capacity, MT)
40 fish-minute
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ICNAF 5+6	year 1977	Squid, Butterfish, Mackerel, Other	600	Bottom Semipelagique, Pelagique

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
International Trading & Shipping Agency
25 Broadway
New York, N.Y.

V42-46 MAR 9 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(IV)-77-0002

Permit Period Applied For: _____ Application No. For Use of Issuing Office _____

State: Italy (EEC)

1. Name of Vessel Tontini Pesca Terzo
2. Vessel No.: Hull No. _____ Registration No. 757
3. Name and Address of Owner: Tontini Pesca, Address Anzio, Roma, Cable Address Tontini Pesca - Anzio
   Name and Address of Charterer: _____
4. Homeport and State of Registry: Anzio
5. Type of Vessel Stern Trawler
6. Tonnage (Gross) 1,244.69 (Net) 586.21
7. Length 71.15 M. 8. Breadth 12 M. 9. Draft 5.50 M.
10. Horsepower 2,400 shp. 11. Maximum Speed 11 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Date Built 1969
14. Number and Nationality of Personnel 34
    Officers 6 Crew 28 Other (Specify) _____
15. Communications: VHF-FM (x), AM/SSB, Voice ( ), Telegraphy ( ).
    Other _____
    International Radio Call Sign I.L.X.D.
    Radio Frequencies Monitored _____
    Other Working Frequencies 2182
    Schedule _____

EC(IV)-77-0002

16. Navigation Equipment: Loran C (x), Loran A ( ), Omega ( ), Decca (x), Navsat ( ), Radar (x), Fathometer (x), Other _____
17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	600 tons	Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ICNAF 546	Year 1977	Squid Butterfish Mackerel Other	4/500	Bottom Semipelagique

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    International Trading & Shipping Agency
    25 Broadway
    New York, N.Y.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(IV)-77-0003

Permit Period Applied For: _____ Application No. For Use of Issuing Office _____

State: Italy (EEC)

1. Name of Vessel Tontini Pesca Quarto
2. Vessel No.: Hull No. _____ Registration No. 759
3. Name and Address of Owner: Tontini Pesca, Address Anzio - Italy, Cable Address Tontini Pesca - Anzio
   Name and Address of Charterer: _____
4. Homeport and State of Registry: Anzio (Italy)
5. Type of Vessel Stern Trawler
6. Tonnage (Gross) 1,584.20 (Net) 811.24
7. Length 75.01 M. 8. Breadth 12.50 M. 9. Draft 5.80 M.
10. Horsepower 2,900 shp. 11. Maximum Speed 11 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Date Built 1970
14. Number and Nationality of Personnel 38
    Officers 6 Crew 32 Other (Specify) _____
15. Communications: VHF-FM (x), AM/SSB, Voice ( ), Telegraphy ( ).
    Other _____
    International Radio Call Sign I.T.A.Y.
    Radio Frequencies Monitored _____
    Other Working Frequencies 2182
    Schedule _____

EC(IV)-77-0003

16. Navigation Equipment: Loran C (x), Loran A ( ), Omega ( ), Decca (x), Navsat ( ), Radar (x), Fathometer (x), Other _____
17. Cargo Capacity (MT) 600 — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	Negative
Frozen Fish		Tanks	
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    Negative
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ICNAF 546	Year 1977	Squid Butterfish Mackarel Other	400-500	Bottom Semipelagique

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    International Trading & Shipping Agency
    25 Broadway
    New York, N.Y.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(IV)-77-0004

Permit Period Applied For: _____ Application No. For Use of Issuing Office _____

State: Italy (EEC)

1. Name of Vessel De Giosa T.
2. Vessel No.: Hull No. _____ Registration No. 162
3. Name and Address of Owner: Meridionalpesca, Bari (Italy)
   Name and Address of Charterer: _____
4. Homeport and State of Registry: Bari (Italy)
5. Type of Vessel Stern Trawler
6. Tonnage (Gross) 1,245 (Net) 590
7. Length 71.15 M. 8. Breadth 12.02 M. 9. Draft 4.44 M.
10. Horsepower 2,900 shp. 11. Maximum Speed 11 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Date Built 1970
14. Number and Nationality of Personnel 32
    Officers 6 Crew 26 Other (Specify) _____
15. Communications: VHF-FM (x), AM/SSB, Voice ( ), Telegraphy ( ).
    Other _____
    International Radio Call Sign I.K.Z.T.
    Radio Frequencies Monitored _____
    Other Working Frequencies 2182
    Schedule _____

EC(IV)-77-0004

16. Navigation Equipment: Loran C (x), Loran A ( ), Omega (x), Decca ( ), Navsat ( ), Radar (x), Fathometer ( ), Other _____
17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	650	Tanks	(Negative)
Fish Meal		Other	
Other			

19. Processing Equipment (Indicate daily capacity,MT)
    Negative
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ICNAF 546	Year 1977	Squid Butterfish Mackarol Other	400-500	Bottom Semipelagique

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Van Ommeren Shipping
    120 Broadway
    New York, N.Y.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(IV)-77-0005

Permit Period Applied For: _____ Application No. For Use of Issuing Office _____

State: Italy (EEC)

1. Name of Vessel Amoruso Settimo
2. Vessel No.: Hull No. _____ Registration No. 179
3. Name and Address of Owner: Amopesca Bari (Italy)
   Name and Address of Charterer: _____
4. Homeport and State of Registry: Bari (Italy)
5. Type of Vessel Stern Trawler
6. Tonnage (Gross) 1,375 (Net) 660
7. Length 73.17 M. 8. Breadth 12.02 M. 9. Draft 4.20 M.
10. Horsepower 3,500 shp. 11. Maximum Speed 11 kt.
11. Propulsion: Diesel (x), Steam ( ), Diesel/Electric ( ).
    Other _____
13. Date Built 1973
14. Number and Nationality of Personnel 35
    Officers 6 Crew 29 Other (Specify) _____
15. Communications: VHF-FM (x), AM/SSB, Voice ( ), Telegraphy ( ).
    Other _____
    International Radio Call Sign I.K.A.U.
    Radio Frequencies Monitored _____
    Other Working Frequencies 2182
    Schedule _____

EC(IV)-77-000.

16. Navigation Equipment: Loran C (x), Loran A ( ), Omega ( ), Decca (x), Navsat ( ), Radar (x), Fathometer (x), Other _____
17. Cargo Capacity (MT) — 18. Cargo Space Number / Name

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	600	Tanks	(Negative)
Fish Meal		Other	
Other			

19. Processing Equipment (Indicare daily capacity,MT)
    (Negative)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ICNAF 546	Year 1977	Squid Butterfish Mackarol Other	400-500	Bottom Semipelagique

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Van Ommeren Shipping
    120 Broadway
    New York, N.Y.

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FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(IA)-77-0006

Permit Period Applied For: _____ Application No. _____ For Use of Issuing Office

State: Italy (EEC)

1. Name of Vessel Mascaretti Primo
2. Vessel No.: Hull No. _____ Registration No. 568
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   _____ / _____
   Cable Address Mascaretti Pesca _____ / _____
   San Benedetto del Tronto (Italy) _____ / _____
4. Homeport and State of Registry: San Benedetto del Tronto (Italy)
5. Type of Vessel Stern Trawler
6. Tonnage (Gross) 1,241 (Net) 580
7. Length 73.16 M. B. Breadth 12 M. D. Draft 4.60 M.
10. Horsepower 3,950 shp. 11. Maximum Speed 11 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other _____
13. Date Built 1970
14. Number and Nationality of Personnel 32
    Officers 7 Crew 25 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign I.K.M.A.
    Radio Frequencies Monitored _____
    Other Working Frequencies 2477
    Schedule _____

EC(IA)-77-0006

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ),
    Decca (X), Navsat ( ), Radar (X), Fathometer (X),
    Other _____
17. Cargo Capacity (MT) 18. Cargo Space: Number / Name

Salted Fish	_____	Freezer	
Fresh Fish	_____	Dry Hold	
Frozen Fish	600	Tanks	(Negative)
Fish Meal	_____	Other	
Other	_____		

19. Processing Equipment (Indicate daily capacity,MT)
    _____
    (Negative)
    _____
    _____
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ICNAF 5+6	Year 1977	Squid Butterfish Mackerel Other	4/500	Bottom Semipelagique

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    International Trading & Shipping Agency
    25 Broadway
    New York, N.Y.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(IA)-77-0007

Permit Period Applied For: _____ Application No. _____ For Use of Issuing Office

State: Italy (EEC)

1. Name of Vessel Sagitta
2. Vessel No.: Hull No. _____ Registration No. 112
3. Name and Address of Owner / Name and Address of Charterer
   Name _____ / _____
   Address _____ / _____
   _____ / _____
   Cable Address Ittimar _____ / _____
   Portogaribaldi (Italy) _____ / _____
4. Homeport and State of Registry: San Benedetto del Tronto (Ita
5. Type of Vessel Stern Trawler
6. Tonnage (Gross) 717.23 (Net) 349.23
7. Length 66.96 M. B. Breadth 9.62 M. D. Draft 4.31 M.
10. Horsepower 2,000 shp. 11. Maximum Speed 11 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other _____
13. Date Built 1957
14. Number and Nationality of Personnel 34
    Officers 10 Crew 24 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (
    Other _____
    International Radio Call Sign I.R.O.R.
    Radio Frequencies Monitored _____
    Other Working Frequencies 2477
    Schedule _____

EC(IA)-77-0007

16. Navigation Equipment: Loran C (X), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer (X),
    Other _____
17. Cargo Capacity (MT) 18. Cargo Space: Number / Name

Salted Fish	_____	Freezer	
Fresh Fish	_____	Dry Hold	
Frozen Fish	370	Tanks	(Negative)
Fish Meal	_____	Other	
Other	_____		

19. Processing Equipment (Indicate daily capacity,MT)
    _____
    (Negative)
    _____
    _____
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ICNAF 5+6	Year 1977	Squid Butterfish Mackarel Other	150/200	Bottom Semipelagique

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    Van Camperen Shipping
    120 Broadway
    New York, N.Y.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

EC(IA)-77-0003

Permit Period Applied For: _____ Application No. _____ For Use of Issuing Office

State: Italy (EEC)

1. Name of Vessel Airone
2. Vessel No.: Hull No. _____ Registration No. 749
3. Name and Address of Owner / Name and Address of Charterer
   Name I.A.L.I., S.p.A. / _____
   Address Via Onorato 4 / _____
   Palermo (Italy) / _____
   Cable Address _____ / _____
   _____ / _____
4. Homeport and State of Registry: Palermo (Italy)
5. Type of Vessel Stern Trawler
6. Tonnage (Gross) 1,251.02 (Net) 518.19
7. Length 68.03 M. B. Breadth 11.52 M. D. Draft 6.02 M.
10. Horsepower 1,700 shp. 11. Maximum Speed 11 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other _____
13. Date Built 1969
14. Number and Nationality of Personnel 32
    Officers 10 Crew 22 Other (Specify) _____
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy ( ),
    Other _____
    International Radio Call Sign I.J.M.B.
    Radio Frequencies Monitored _____
    Other Working Frequencies 2477
    Schedule _____

EC(IA)-77-0001

16. Navigation Equipment: Loran C (X), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer (X),
    Other _____
17. Cargo Capacity (MT) 18. Cargo Space: Number / Name

Salted Fish	_____	Freezer	
Fresh Fish	_____	Dry Hold	
Frozen Fish	500	Tanks	(Negative)
Fish Meal	_____	Other	
Other	_____		

19. Processing Equipment (Indicate daily capacity,MT)
    _____
    (Negative)
    _____
    _____
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ICNAF 5+6	Year 1977	Squid Butterfish Mackerel Other	150/200	Bottom Semipelagique

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    International Trading & Shipping Agency
    20 Broadway
    New York, N.Y.

[FR Doc.77-6695 Filed 3-8-77;8:45 am]

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federal register

WEDNESDAY, MARCH 9, 1977

PART V

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary
and
Office of Education

■

REORGANIZATION ORDERS

V 42 46 MAR 9 77 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

HEALTH CARE FINANCING ADMINISTRATION ET AL.

Reorganization Order

Under the authority of section 6 of Reorganization Plan No. 1 of 1953 and pursuant to the authorities vested in me as Secretary of Health, Education, and Welfare, I hereby order organizational changes in the Department of Health, Education, and Welfare as follows:

I. ORGANIZATION

A. *Health Care Financing Administration.* The Health Care Financing Administration is established as a principal operating component of the Department. The following organizational units are transferred to the Health Care Financial Administration:

1. The Bureau of Health Insurance from the Social Security Administration.
2. The Medical Services Administration from the Social and Rehabilitation Service.
3. The Bureau of Quality Assurance from the Health Services Administration.
4. The Office of Long Term Care from the Office of the Assistant Secretary for Health.
5. The Regional Offices of Long Term Care Standards Enforcement from each of the ten Regional Offices.
6. Such other organizational units or portions thereof located in the Social Security Administration, the Social and Rehabilitation Service, the Office of the Assistant Secretary for Health and agencies of the Public Health Service, with responsibilities related to the administration of Medicare, Medicaid and supporting functions and services.

The Health Care Financing Administration shall be headed by an Administrator who shall report to the Secretary.

B. *Social Security Administration.* The following organizational units are transferred to the Social Security Administration:

1. The Assistance Payments Administration from the Social and Rehabilitation Service.
2. Such other organizational units or portions thereof located in the Social and Rehabilitation Service with responsibilities related to the administration of the Aid to Families with Dependent Children program and supporting functions and services.

C. *Office of Child Support Enforcement.* The Office of Child Support Enforcement, a separate unit the director of which is the Administrator, Social and Rehabilitation Service, shall remain a separate organizational unit, and the Commissioner of Social Security shall be its director.

D. *Office of the Assistant Secretary for Human Development.* The following organizational units are transferred to the Office of the Assistant Secretary for Human Development:

1. The Public Services Administration from the Social and Rehabilitation Service.
2. Such other organizational units and portions thereof located in the Social and Rehabilitation Service with responsibilities related to the administration of Child Welfare Services and Social Services programs and supporting functions and services.

E. *Office of the Assistant Secretary, Comptroller.* 1. The Office of the Assistant Secretary, Comptroller is redesignated as the Office of the Assistant Secretary, Management and Budget, and the following offices in the Office of the Assistant Secretary for Administration and Management are transferred to the Office of the Assistant Secretary, Management and Budget:

Office of Administration.
Office of Facilities Engineering and Property Management.
Office of Grants and Procurement Management.
Office of Management Planning and Technology.

2. The following organizational units in the Office of Personnel and Training within the Office of the Assistant Secretary for Administration and Management are transferred to the Office of the Assistant Secretary, Management and Budget:

Office of Personnel Management Information and Reports.
Division Central Payroll.

F. *Office of the Assistant Secretary for Administration and Management.* The Office of the Assistant Secretary for Administration and Management is redesignated as the Office of the Assistant Secretary for Personnel Administration.

G. *Social and Rehabilitation Service.* The Social and Rehabilitation Service is abolished effective upon the completion of the transfer of the organizational units referred to in Paragraphs A, B, and D above from the Social and Rehabilitation Service to the Health Care Financing Administration, the Social Security Administration and the Office of the Assistant Secretary for Human Development.

H. *Bureau of Student Financial Assistance, Office of Education.* By separate order, the Commissioner of Education is establishing in the Office of Education, the Bureau, of Student Financial Assistance, to which will be assigned programs administered by the Office of Guaranteed Student Loans and the Bureau of Postsecondary Education, and the Federal Program of Insured Loans to Graduate Students in Health Professions Schools referred to in Part IV of this Order.

II. CONTINUATION OF REGULATIONS

Except as inconsistent with this Reorganization Order, all regulations, rules, orders, statements of policy and interpretations with respect to the Social Security Administration, the Social and Rehabilitation Service, the Office of Child Support Enforcement, the Public Health Service and the Office of the Assistant Secretary for Administration and Management heretofore issued and in effect prior to the date of this Reorganization Order, or to become effective subsequent to said date, are continued in full force and effect. Except as inconsistent with this Reorganization Order, all regulations, rules, orders, statements of policy and interpretations relating to the Office of the Assistant Secretary, Comptroller and the Office of the Assistant Secretary for Administration and Management shall be continued in effect as applicable to the Office of the Assistant Secretary, Management and Budget and Office of the Assistant Secretary for Personnel Administration, respectively.

III. PRIOR STATEMENTS OF ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

A. To the extent inconsistent with this Reorganization Order, all previous statements of organization, functions and delegations of authority, as well as applicable present chapters of the Department's Organization Manual, are hereby superseded by this Reorganization Order, except that, pending further redelegations,

1. All delegations to (a) the Administrator, Social and Rehabilitation Service pertaining to the Medical Services Administration, (b) the Commissioner of Social Security pertaining to the Bureau of Health Insurance, (c) the Assistant Secretary for Health pertaining to the Buerau of Quality Assurance, the Office of Long Term Care and the Regional Offices of Long Term Care Standards Enforcement are vested in the Administrator, Health Care Financing Administration, with authority to redelegate, consistent with this Reorganization Order and the provisions of the respective delegations;
2. All delegations to the Administrator, Social and Rehabilitation Service pertaining to the Assistance Payments Administration are vested in the Commissioner of Social Security with authority to redelegate, consistent with this Reorganization Order and the provisions of the respective delegations;
3. All delegations to the Administrator, Social and Rehabilitation Service pertaining to the Public Services Administration are vested in the Assistant Secretary for Human Development, with authority to redelegate, consistent with this Reorganization Order and the provisions of the respective delegations; and
4. All delegations to the Assistant Secretary for Administration and Management pertaining to the Offices set forth in Paragraphs E.1 and 2 of Part I of this Reorganization Order are vested in the Assistant Secretary, Management and Budget, with authority to redelegate, consistent with this Reorganization Order and the provisions of the respective delegations.

B. All redelegations of authorities made by the Administrator, Social and Rehabilitation Service, the Commissioner of Social Security, the Assistant Secretary for Health and the Assistant Secretary for Administration and Management to the heads of the organizational units transferred by this Reorganization Order and to any other officer or employee of the Department of Health, Education, and Welfare and all further redelegations of such authorities in effect immediately prior to the effective date of this Reorganization Order shall continue in effect pending further redelegation.

IV. DELEGATION OF AUTHORITY

All authority vested in the Secretary by Section 401, P.L. 94-484 with respect to the Federal Program of Insured Loans to Graduate Students in Health Professions Schools is delegated through the Assistant Secretary for Education to the Commissioner of Education.

V. FUNDS, PERSONNEL, AND EQUIPMENT

Transfers of organizations and functions effected by this Order shall be accompanied in each instance by direct and supporting funds, positions, personnel, records, equipment, supplies and other resources.

Effective date: This Reorganization Order shall be effective March 8, 1977.

Dated: March 8, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc.77-7167 Filed 3-8-77;10:01 am]

Office of Education

BUREAU OF STUDENT FINANCIAL ASSISTANCE

Reorganization Order

Under the authority of section 421A of the General Education Provisions Act and as Commissioner of Education, I hereby order the following reorganization of the administration of student financial assistance programs:

I. ORGANIZATION

A. There is established in the Office of Education, the Bureau of Student Financial Assistance which shall be responsible for the administration of the student financial assistance programs listed in paragraphs B and C below.

B. The following organizational units are transferred to the Bureau of Student Financial Assistance:

1. From the Bureau of Postsecondary Education, the organizational units or portions thereof responsible for the administration of the following programs:

Basic Educational Opportunity Grants.
Supplemental Educational Opportunity Grants.
Grants to States for State Student Incentives.
Direct Loans to Students in Institutions of Higher Education.
Work-Study.
Cooperative Education.

2. The Office of Guaranteed Student Loans from the Office of Management.
3. Such other organizational units or portions thereof in the Bureau of Postsecondary Education and the Office of Management which provide administrative or other services to the programs listed in subparagraphs 1 and 2 above.

C. The Bureau of Student Financial Assistance shall also administer the Federal Program of Insured Loans to Graduate Students in Health Professions Schools. Authority to administer this program has been delegated to the Commissioner of Education through the Assistant Secretary for Education by the Secreary of Health, Education, and Welfare and redelegated this date to the Deputy Commissioner, Bureau of Student Financial Assistance.

D. The Bureau of Student Financial Assistance shall be headed by a Deputy Commissioner, who shall report to the Commissioner of Education.

II. CONTINUATION OF REGULATIONS

Except as inconsistent with this Reorganization Order, all regulations, rules, orders, statements of policy, and interpretations with respect to the programs transferred by this Reorganization Order heretofore issued and in effect prior to the date of this Reorganization Order, or to become effective subsequent to said date, are continued in full force and effect.

III. PRIOR STATEMENTS OF ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

To the extent inconsistent with this Reorganization Order, all previous statements of organization, functions, and delegations of authority are hereby superseded by this Reorganization Order, except that all delegations or redelegations to the Deputy Commissioner, Bureau of Postsecondary Education with respect to the programs set forth in Paragraph B.1. of Part I of this Reorganization Order and all delegations to the Associate Commissioner, Office of Guaranteed Student Loans are hereby vested in the Deputy Commissioner, Bureau of Student Financial Assistance, with authority to redelegate, consistent with this Reorganization Order and the provisions of the respective delegations.

All redelegations made by the Deputy Commissioner, Bureau of Postsecondary Education with respect to the programs set forth in Paragraph B.1. of Part I of this Reorganization Order and by the Associate Commissioner, Office of Guaranteed Student Loans in effect immediately prior to the effective date of this Reorganization Order shall continue in effect pending further redelegation.

IV. FUNDS, PERSONNEL, AND EQUIPMENT

Transfers of organizations and functions effected by this Order shall be accompanied in each instance by direct and supporting funds, positions, personnel, records, equipment, supplies, and other resources.

Effective date: This Reorganization Order shall be effective March 8, 1977.

Dated: March 7, 1977.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

[FR Doc.77-7166 Filed 3-8-77;10:01 am]

DEPUTY COMMISSIONER, BUREAU OF STUDENT FINANCIAL ASSISTANCE

Delegation of Authority

1. Pursuant to Section 421A of the General Provisions Education Act, 20 U.S.C. 1231, I hereby delegate to the Deputy Commissioner, Bureau of Student Financial Assistance, the authority delegated to the Commissioner of Education by the Secretary of Health, Education, and Welfare to administer the Federal Program of Insured Loans to Graduate Students in Health Professions Schools, added to Title VII of the Public Health Service Act by section 401 of Pub. L. 94-484, the Health Professions Educational Assistance Act of 1976.

2. This delegation of authority is effective March 8, 1977.

Dated: March 7, 1977.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

[FR Doc.77-7165 Filed 3-8-77;10:01 am]

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3-10-77

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federal register

THURSDAY, MARCH 10, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for April and May are now being accepted for the free weekly workshops on how to use the FEDERAL REGISTER. These sessions begin at 9:00 a.m. and end at approximately 11:30 a.m. and are held in Room 9409, 1100 L Street NW., Washington, D.C.

Each session will cover the following:

1. Brief history of the FEDERAL REGISTER.
2. Difference between legislation and regulations.
3. Relationship of the FEDERAL REGISTER to the Code of Federal Regulations.
4. Elements of a typical FEDERAL REGISTER document.
5. Introduction to the finding aids.

RESERVATIONS REQUIRED: DEAN L. SMITH, 202–523–5282

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.J. Res. 132..... Pub. L. 95–9
To authorize a special gold medal to be awarded to Miss Marian Anderson. (Mar. 8, 1977; 91 Stat. 19). Price: $.35

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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Title 3—The President

PROCLAMATION 4490

Cancer Control Month, 1977

By the President of the United States of America

A Proclamation

Approximately 385,000 of our people will die this year of cancer, one of our greatest unsolved medical problems. The economic cost of cancer is high, but its toll in terms of human suffering is far higher. Recognizing that—and that our efforts to overcome cancer must be aggressive and sustained—the United States has committed itself to the conquest of cancer as a national goal.

Our efforts have been rewarded. Every year we learn more about the causes of cancer, and about its prevention, diagnosis, treatment, and control. Our progress is largely due to the dedication of scientists and physicians throughout our Nation. But the fight against cancer also depends on the willingness of the American people to alter their eating, drinking, and smoking habits and to seek early and appropriate medical care.

In order to encourage public dedication to our national commitment to the control of cancer, the Congress, by a joint resolution of March 28, 1938 (52 Stat. 148, 36 U.S.C. 150), requested the President to issue annually a proclamation designating April as Cancer Control Month.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the month of April, 1977, as Cancer Control Month, and I invite the Governors of the several States and the Commonwealth of Puerto Rico, the Mayor of the District of Columbia, and the appropriate officials of all other areas subject to the jurisdiction of the United States to issue similar proclamations.

I also urge the health and medical professions, educators, the communications media, and all other concerned individuals and organizations to join during this period of time in activities which are designed to impress upon the people of the Nation the importance of our continuing commitment to cancer control.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of March, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and first.

Jimmy Carter

[FR Doc.77-7358 Filed 3-8-77;4:41 pm]

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Executive Order 11975 March 7, 1977

Abolishing the President's Economic Policy Board, and for Other Purposes

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the International Economic Policy Act of 1972, as amended (22 U.S.C. 2841 *et seq.*), and the Council on Wage and Price Stability Act (88 Stat. 750, 12 U.S.C. 1904 note), and as President of the United States of America, in order to permit a new designation of the Chairman of the Council on Wage and Price Stability and to abolish the Economic Policy Board, it is hereby ordered as follows:

SECTION 1. Executive Order No. 11808, as amended, is hereby revoked.

SEC. 2. The Secretary of the Treasury shall continue as Chairman of the Council on International Economic Policy (22 U.S.C. 2844 and 2848).

Jimmy Carter

THE WHITE HOUSE,
March 7, 1977.

[FR Doc.77-7357 Filed 3-8-77;4:40 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 404]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

PREAMBLE

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period March 11–17, 1977. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.704 Navel Orange Regulation 404.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges has not improved as much as anticipated under current competitive conditions. Prices f.o.b. averaged $3.64 a carton on a reported sales volume of 1,091 carlots last week, compared with $3.72 per carton on sales of 1,054 carlots a week earlier. Track and rolling supplies at 488 cars were down 96 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 8, 1977.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period March 11, 1977, through March 17, 1977, are hereby fixed as follows:

(i) District 1: 1,175,000 cartons;

(ii) District 2: 275,000 cartons;

(iii) District 3: Unlimited movement."

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated: March 9, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-7402 Filed 3-9-77;11:34 am]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, MEAT AND POULTRY INSPECTION, DEPARTMENT OF AGRICULTURE

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Designation of the State of New York

AGENCY: Animal and Plant Health Inspection Service, Meat and Poultry Inspection, USDA.

ACTION: Final Rule.

SUMMARY: The Secretary of Agriculture hereby designates the State of New York as required under section 5(c)(3) of the Poultry Products Inspection Act. A representative of the Governor of the State of New York has advised this Department that the State of New York is no longer in a position to continue administering the State poultry inspection program after April 9, 1977.

EFFECTIVE DATE: March 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. James K. Payne, Director, Federal-State Relations, Field Operations, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202–447–6313).

SUPPLEMENTARY INFORMATION: A representative of the Governor of the State of New York has advised this Department that the State of New York is no longer in a position to continue administering the State poultry inspection program after April 9, 1977, and has requested the Department to assume the responsibility for carrying out the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act with respect to establishments within the State at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions

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concerning products and other articles and animals subject to the Poultry Products Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of New York had developed and activated requirements at least equal to the requirements under sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. However, such sections contemplate continuous, ongoing programs, and in view of the termination date now applicable to the New York program, it is hereby determined that New York is not effectively enforcing requirements at least equal to those imposed under section 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 5(c)(3) of the Poultry Products Inspection Act.

On April 10, 1977, the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Poultry Products Inspection Act, and any establishment in the State of New York which conducts any slaughtering or processing of poultry or poultry products must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 15 or 5(c)(2) of the Poultry Products Inspection Act.

Therefore, the operator of each such establishment who desires to continue any such operations after April 9, 1977, should immediately communicate with the Regional Director for Meat and Poultry Inspection, as listed below, for information concerning the requirements and exemptions under the Act and application for inspection and survey of the establishment:

Dr. M. J. Hatter, Director, Northeastern Region, Meat and Poultry Inspection Program, Seventh Floor, 1421 Cherry Street, Philadelphia, PA 19102. (Telephone: 215–597–4219).

§ 381.221 [Amended]

Accordingly, the table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended as follows:

1. In the "State" column, "New York" is added immediately below "New Jersey."

2. In the "Effective date of application of Federal provisions" column, "April 10, 1977" is added on the line with "New York."

(Secs. 5(c) and 14, 71 Stat. 441, as amended, 21 U.S.C. 454(c), 463; 37 FR 28464, 28477.)

These amendments of the Federal poultry products inspection regulations are necessary to reflect the determination of the Secretary of Agriculture under section 5(c) of the Poultry Products Inspection Act. It does not appear that public participation in this rule-making proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

NOTE: The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Done at Washington, D.C. on March 7, 1977.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.77–7213 Filed 3–9–77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 77–SW–4; Amdt. 39–2846]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Model 212 Helicopters

There have been cracks reported in the upper and lower surface skins of the main rotor blades installed on Bell Model 212 helicopters that could result in possible loss of the main rotor blade. There have also been cracks reported in the spar of certain designs of the Bell Model 212 main rotor blades that were allegedly caused by fretting in a blade tuning weight bolt hole 76 inches from the tip and by corrosion of the blade spar in the area of the blade leading edge scarf joint. These conditions are likely to develop or exist on other Bell Model 212 main rotor blades of the same design. Therefore, an airworthiness directive is being issued to reduce the retirement time or service life of certain Model 212 main rotor blades from 4,000 hours' to 1,500 hours' total time in service. The FAA has initiated separate rule making action to establish frequent mandatory inspections of the Model 212 main rotor blades.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

This amendment is made under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), Section 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BELL. Applies to Bell Model 212 helicopters certificated in all categories.

Compliance required as indicated.

To prevent possible failure of certain main rotor blades having possible corrosion or fretting in the blade weight bolt holes or other defects in the spar, accomplish the following for main rotor blades, P/N 204–012–001–23 and –29.

For blades with less than 1,475 hours' total time in service on the effective date of this AD, remove these blades from further service prior to attaining 1,500 hours' total blade time in service.

For blades with 1,475 or more hours' total blade time in service on the effective date of this AD, remove these blades from further service within 25 hours' time in service.

This AD does not apply to blades, P/N 204–012–001–33.

(Bell Helicopter Textron message dated February 17, 1977, to all Model 212 operators pertains to this subject).

This amendment becomes effective March 10, 1977.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Fort Worth, Texas, on February 18, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77–6915 Filed 3–9–77;8:45 am]

[Docket No. 77–SO–7; Amdt. No. 39–2848]

PART 39—AIRWORTHINESS DIRECTIVES

Teledyne Continental Motors Models IO–470–L; IO–520–D, –F, –L; and TSIO–520–C, –G, –H, –M, –R Engines

There have been fractures of crankshafts on certain Teledyne Continental Motors Model IO–470, IO–520, and TSIO–520 series engines which could result in complete engine failure. Since this condition is likely to exist or develop in other engines of the same design, an airworthiness directive is being issued to require inspection and, if necessary, replacement of the engine.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

This amendment is made under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

TELEDYNE CONTINENTAL MOTORS. Applies to the following Teledyne Continental Motors engines installed in but not limited to:

IO–520–D installed on Cessna 185 and 188 aircraft serial numbers 18502839 through 18503234, 18503236 through 18503284, 18503287, 18503291, 18503293, 18802349 through 18802887, and 18802893.

IO–520–F, TSIO–520–C, TSIO–520–G, TSIO–520–M and TSIO–520–R installed on Cessna U–206, T–206, and T–207 aircraft serial numbers U20603021 through U20603693, U20603695, U20603696, U20603699, U20603712, 20700315 through 20700378.

IO–520–L, TSIO–520–H, TSIO–520–R, installed on Cessna 210 and T–210 aircraft serial numbers 21061040 through 21061736, 21061738 through 21061763, 21061766, 21061771, 21061773, 21061775 through 21061777, 21061789.

IO–470–L installed on Beech Model 95–B55, aircraft serial numbers TC–2003 through TC–2053 .

Compliance required as indicated after the effective date of this AD unless already accomplished.

To prevent crankshaft failure:

A. Engines with less than 100 hours total time in service accomplish the following:

(1) Within the next 10 hours time in service, check propeller operation in accordance with paragraph C or E as appropriate, and thereafter at intervals not to exceed 10 hours time in service from the previous check until 100 hours total time in service has been reached, whereupon this special check may be discontinued if no problem is evident.

(2) Within the next 10 hours time in service examine the oil filter or screen as appropriate for each engine in accordance with paragraph F, and thereafter at intervals not to exceed 25 hours time in service until 100 hours total time in service has been reached, whereupon this special examination may be discontinued if no problem is evident.

B. Engines with 100 hours or more total time in service, perform a one-time check or inspection of the following:

(1) Within the next 10 hours time in service, check propeller operation in accordance with paragraph C or E as appropriate.

(2) Within the next 10 hours time in service, examine the oil filter or screen, for each engine, in accordance with paragraph F.

C. Check single engine airplane propeller operation as follows:

(1) Ascertain that oil temperature is at or above the middle of the green arc on the oil temperature gage but in no case above the red line.

CAUTION: DO NOT EXCEED MAXIMUM CYLINDER HEAD TEMPERATURES.

(2) With the propeller control in the low-pitch high RPM position, set engine speed with the throttle to 1700 RPM.

(3) At 1700 RPM, pull the propeller control to the full high-pitch low RPM position until minimum governing RPM is observed, then push the control back to the low-pitch high RPM position. Repeat this procedure three times noting minimum governing RPM each time. Using this procedure the RPM should drop at least 400 RPM and should be reasonably smooth and consistent.

(4) If a minimum drop of 400 RPM is obtained consistently in Paragraph C(3), proceed with paragraph F at time intervals specified.

NOTE.—Propeller operation checks C(1) through C(4) may be performed by the pilot; however, requirements of C(5)(a) through C(5)(c) and Paragraph F require appropriately authorized mechanic or repair station.

(5) If a minimum drop of 400 RPM cannot be obtained or the propeller operation is not smooth and consistent, the following additional checks are to be accomplished. (Reference the applicable Aircraft Service Manual.)

(a) Operation of the propeller control—check routing, control clamping, rod end attachments, control rigging and adjustment.

(b) Governor operation—check security, signs of leakage, arm attachment and stop adjustment.

(c) Propeller—check for any external signs of leakage and/or damage.

D. If any discrepancies are noted when accomplishing C(5)(a), (b) or (c), correct condition and recheck in accordance with Paragraph C(1) through C(4). If propeller operation is not in accordance with Paragraph C(3), proceed immediately to Paragraph C(3), and prior to further flight, contact Mr. R. J. Moore, FAA–DER SO–260, Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601, (205) 438–3411, or his representative for disposition or other equivalent disposition method authorized by the Chief, Engineering and Manufacturing Branch, ASO–210, P.O. Box 20636, Atlanta, Georgia 30320.

E. Check multiengine airplane propeller operation as follows:

NOTE.—Propeller checks in paragraphs E(1) and E(2) may be conducted by the pilot.

(1) Ground run the engine at 1,000 RPM until some oil temperature is indicated. Increase the engine RPM to 1700 until oil temperature has stabilized at or above the middle of the green arc but in no case above the red line.

CAUTION: DO NOT EXCEED MAXIMUM CYLINDER HEAD TEMPERATURES.

(2) Place the propeller control in the low-pitch high RPM position and set engine speed to 900 RPM using the throttle. Note any tendency of the propeller to feather after engine speed has stabilized.

(3) If feathering does occur in Step (2), the following additional checks are to be accomplished. (Reference the applicable aircraft Service Manual.)

(a) Operation of the propeller control—check routing, control clamping, rod end attachments, control rigging and adjustment.

(b) Governor operation—check security, signs of leakage, arm attachment and stop adjustment.

(c) Propeller—check for any external signs of leakage and/or damage.

If any discrepancies are noted in accomplishing Paragraph E(3)(a), (b), or (c), correct condition and recheck in accordance with Paragraph E(1) through E(2). If feathering occurs, proceed immediately to Paragraph F, and prior to further flight contact Mr. R. J. Moore, FAA–DER SO–260, Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601, (205) 438–3411, or his representative for disposition or other equivalent disposition method authorized by the Chief, Engineering and Manufacturing Branch, ASO–210, P.O. Box 20636, Atlanta, Georgia 30320.

F. Perform the following inspections of the oil filter or screen for evidence of metal contamination.

(1) Remove and cut open the oil filter or remove and inspect the screen (whichever is applicable).

(2) Visually inspect for *abnormal* amount of metal.

(3) Some small quantity of minute metal particles is considered normal; however, should an *abnormal* amount be present it could be indicative of bearing distress; therefore, check the magnetic properties of the metal, and prior to further flight, request disposition in accordance with Paragraph D or E as appropriate.

(4) If no abnormal amount of metal is present, and propeller control checks as outlined in Paragraph D or E are satisfactory, the aircraft may remain in service.

NOTE.—For the requirements regarding the listing of compliance and method of compliance with this AD in the airplane's permanent maintenance record, see FAR 91.173.

NOTE.—Teledyne Continental Motors Service Bulletin M77–6, Supplement 1, pertains to this same subject.

This amendment becomes effective March 11, 1977.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A–107.

Issued in East Point, Georgia, on February 25, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.77–6916 Filed 3–9–77;8:45 am]

[Docket No. 77–NW–5–AD; Amdt. 39–2849]

PART 39—AIRWORTHINESS DIRECTIVES

ADS Supply Co., and Air Spares International, Inc.; Unapproved Appliances Installed in BOEING Model Airplanes

AGENCY: Federal Aviation Administration/DOT (FAA).

ACTION: Final Rule, Supersedure of Existing AD.

SUMMARY: This supersedure of AD 77–04–03, Amendment 39–2837 to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) (42 FR 9671) accomplishes two purposes:

(1) FEDERAL REGISTER publication of a telegraphically-issued amendment dated February 18, 1977, amending, effective immediately, the requirement of AD 77–04–03 with respect to all known U.S. operators of Boeing Model 737 airplanes: and

(2) Expansion of AD 77–04–03 to increase the listing of unapproved appliances the FAA is aware of and to add Air Spares International, Inc., as an identified supplier of such appliances.

This amendment requires removal of the unapproved appliances on specific dates which vary according to the criticality of the appliance. The appliances in question have not been shown to conform to FAA approved type design data and cannot, therefore, be considered to be in a condition for safe operation.

EFFECTIVE DATE: March 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald L. Riggin, Engineering and Manufacturing Branch, NW Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767–2717.

SUPPLEMENTARY INFORMATION: Airworthiness Directive 77–04–03, was issued on February 11, 1977, and published in the FEDERAL REGISTER on February 17, 1977 (42 FR 9671). The AD required removal from Boeing airplanes certain unapproved appliances sold by or procured through the ADS Supply Co., Bellevue, Washington. Subsequent to the issuance of AD 77–04–03, several events took place as follows:

1. The consequence of malfunction of three of the appliances was determined to be more critical than had previously been believed.

2. A second supplier, Air Spares International, Inc., was identified.

3. Additional appliances, not identified in AD 77–04–03, were found to have been supplied by either ADS Supply Co., or Air Spares International, Inc.

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As a result of the first two events, a telegraphic amendment to AD 77-04-03 was issued on February 18, 1977, to require immediate removal of the three appliances but providing for continued operation if certain tests/operational restrictions are met. Also, the applicability of the AD was expanded to include Air Spares International, Inc. The first purpose of this action is to publish the telegraphic amendment in the FEDERAL REGISTER.

The preamble to AD 77-04-03 indicates that the AD will be amended to include additional appliances/suppliers should such information become available. Since additional appliances, other than those specified in AD 74-04-03, are now known to the FAA, the second purpose of this action is to include those appliances.

As stated previously, the basis for this amendment is that the appliances specified herein have not been found to comply with FAA approved type design data. Airplanes in which they are installed, therefore, cannot be considered to be in a condition for safe operation. The effect of the rule is to require the removal of such appliances.

This rule was coordinated with the Boeing Company, ADS Supply Co., Air Spares International, Inc., and the operators through the Air Transport Association (ATA) prior to issuance. There were no substantial comments.

Accordingly, pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended effective March 10, 1977, by deleting amendment 39-2837 and by adding the following new Airworthiness Directive:

ADS SUPPLY COMPANY AND AIR SPARES INTERNATIONAL, INC.: Applies to various unapproved appliances, identified herein by the Boeing part number, sold by or procured through ADS Supply Company, Bellevue, Washington, or Air Spares International, Inc., Seattle, Washington, and installed in various Boeing model airplanes. Compliance required as indicated. Accomplish the following:

A. Before further flight, except as provided in paragraph F, remove part number 65-52811—Landing Gear Accessory Unit.

B. Before further flight, except as provided in paragraph G, remove part number 65-52809—Fire Detection Accessory Unit and part number 69-37307—Engine and Fire Control Module.

C. By March 18, 1977, remove the following appliances (additional dash numbers identify airline configurations):

Boeing part No.:	Unit
65-52801	APU accessory unit.
65-52807	Flap/slat position switching unit.
69-37335	Fuel system module assembly.
65-52804	Audio accessory unit.
65-60211	Landing gear accessory unit.
69-37369	Ground proximity system test accessory module.
69-37336	Ground proximity aural warning accessory module.
65-52805	Flight instrument accessory unit.
69-37346	Window and pitot heat module.
69-37338	Gyro switching panel.

D. By April 2, 1977, remove the following appliances (additional dash numbers identify airline configuration):

Boeing part No.:	Unit
65-49808	Electrical power relay module.
65-52803	Window heat accessory unit.
65-52808	Compartment overheat accessory unit.
65-52810	Air-conditioning accessory unit.
69-37314	AC system generator and APU module.
69-37315	Generator drive standby power module.
69-37317	Hydraulic pump module.
69-37319	Air-conditioning module.
69-37320	Engine and wing anti-ice module.
69-37324	Cabin temperature module.
69-55179	Light dimming module.
69-37344	VHF navigation and compass switching unit.
65-52806	Miscellaneous solid state switching module.
69-37357	Trust reverser override module.
69-37352	Door warning annuciator.

E. By April 8, 1977, remove the following appliances (additional dash numbers identify airline configuration):

Boeing part No.:	Unit
65-37568	Landing gear accessory unit.
65-60209	Engine fire detection control unit assembly.
65-24917	Autopilot accessory unit.
69-37313	Flight control module.
65-24920	Fire detector module.
69-37321	Electrical module assembly.
65-60214	Flight instrument accessory unit.

F. Operations with part number 65-52811—Landing Gear Accessory Unit may continue until March 18, 1977, provided that before further flight a placard is installed adjacent to the speed brake handle stating "DO NOT ARM." Airplanes may be flown in accordance with FAR 21.197 to a maintenance base to accomplish the above.

G. Operations with part number 65-52809—Fire Detection Accessory Unit and part number 69-37307—Engine and APU Fire Control Module may continue until March 18, 1977, provided that before further flight, and daily thereafter, conduct tests in accordance with a procedure available from the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Airplanes may be flown in accordance with FAR 21.197 to a maintenance base to accomplish the above.

H. Upon request of the operator, an FAA Principal Inspector, subject to the prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, may adjust the compliance schedule in this AD for specific appliances if the request contains substantiating data to justify the increase for that operator.

Amendment 39-2837 is hereby deleted.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE: An evaluation of the anticipated impacts has been made, and it is expected that the final regulation is neither costly nor controversial. The preparation of an Inflation Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107 is not required.

Issued in Seattle, Washington on March 2, 1977.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.77-7196 Filed 3-9-77;8:45 am]

[Airspace Docket No. 76-WA-21]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

VORTAC Name Change in Airways; Correction

In FR Doc. 77-3769 appearing at page 7123 in the FEDERAL REGISTER of February 7, 1977, the following addition is made by adding the following paragraph immediately after paragraph number 3.

§ 71.203 (42 FR 626) is amended as follows:

"Myrtle Beach, S.C." is deleted and "Grand Strand, S.C." is added.

Issued in Washington, D.C., on March 1, 1977.

WILLIAM E. BRO. ...LTER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-6913 Filed 3-9-77;8:45 am]

[Airspace Docket No. 76-SO-112]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration and Designation of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Hopkinsville, KY, control zone.

The Hopkinsville control zone is described in § 71.171 (42 FR 355) and as presently described includes a five-mile radius of Campbell AAF, Outlaw Field and Sabre Army Heliport plus extensions associated with instrument approach procedures. This alteration will reduce the size control zone around Sabre Army Heliport from five to three miles and will separate the area at Outlaw Field from the Hopkinsville control zone. The control zone at Outlaw Field will be designated on a part-time basis. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., April 21, 1977, as hereinafter set forth.

In § 71.171 (42 FR 355), the Hopkinsville, KY, control zone is amended by deleting the present description and substituting the following therefor:

Within a 5-mile radius of the Campbell AAF (Lat. 36°40'23" N., Long. 87°29'27" W.); within 1.5 miles each side of the 224 bearing from Campbell RBN, extending from the 5-mile radius zone to 0.5 mile southwest of the RBN; excluding that airspace 3 miles southeast of, and parallel to, Campbell AAF Runway 4/22 centerline and centerline extended; within a 3-mile radius of Sabre Army Heliport (Lat. 36°34'14" N., Long. 87°28'50" W.).

In § 71.171 (42 FR 355), the following control zone is added:

CLARKSVILLE, TN

Within a 5-mile radius of Outlaw Field (Lat. 36°37'15" N., Long. 87°24'52" W.); within 3 miles each side of Clarksville VOR 171° radial, extending from the 5-mile radius zone to 8.5 miles south of the VOR; excluding that portion which coincides with the Hopkinsville, KY, control zone. This control zone is effective during the specific dates and time established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual.

This amendment is made under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in East Point, Ga., on February 17, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 77-6914 Filed 3-9-77;8:45 am]

[Airspace Docket No. 76-SW-62]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate a transition area at McGehee, Ark.

On January 24, 1977, a notice of proposed rule making was published in the FEDERAL REGISTER (42 FR 4132) stating the Federal Aviation Administration proposed to designate a transition area at McGehee, Ark.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 Gmt, June 16, 1977, as hereinafter set forth.

§ 71.181 [Amended]

In § 71.181 (42 FR 440), the following transition area is added:

MCGEHEE, ARK.

That airspace extending upward from 700 feet above the surface within a 6.5-statute-mile radius of McGehee Municipal Airport, McGehee, Ark. (latitude 33°37'15" N., longitude 91°22'00" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act [49 U.S.C. 1655(c)].)

Issued in Fort Worth, Tex., on Mar. 2, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc. 77-7077 Filed 3-9-77;8:45 am]

[Airspace Docket No. 76-SW-63]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Monroe, La., transition area.

On January 24, 1977, a notice of proposed rule making was published in the FEDERAL REGISTER (42 FR 4133) stating the Federal Aviation Administration proposed to alter the Monroe, La., transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 Gmt, June 16, 1977, as hereinafter set forth.

§ 71.181 [Amended]

In § 71.181 (42 FR 440), the Monroe, La., transition area is amended as follows:

MONROE, LA.

That airspace extending upward from 700 feet above the surface within a 20-mile radius of the Monroe Municipal Airport (latitude 32°30'30" N., longitude 92°02'20" W.); and within an 8.5-mile radius of Morehouse Memorial Airport, Bastrop, La. (latitude 32°45'25" N., longitude 91°52'50" W.); and within an 8.5-mile radius of Rayville Municipal Airport, Rayville, La. (latitude 32°29'00" N., longitude 91°46'15" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Fort Worth, Tex., on March 2, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc.77-7078 Filed 3-9-77;8:45 am]

[Airspace Docket No. 76-GL-29]

PART 73—SPECIAL USE AIRSPACE

Alteration of a Restricted Area

On September 30, 1976, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 43186) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation Regulations that would enlarge, subdivide and renumber Restricted Area R-3403 Jefferson Proving Ground, Ind.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., April 21, 1977, as hereinafter set forth.

§ 73.34 [Amended]

Section 73.34 (42 FR 676) is amended as follows:

1. The title "R-3403 Jefferson Proving Ground, Ind." is changed to "R-3403A Jefferson Proving Ground, Ind."

2. Add the following:

R-3403B JEFFERSON PROVING GROUND, IND.

Boundaries. Beginning at Lat., 39°05'00" N., Long. 85°30'00" W.; to Lat. 39°05'00" N., Long. 85°22'00" W.; to Lat. 39°02'00" N., Long. 85°22'00" W.; to Lat. 39°02'57" N., Long. 85°27'42" W.; to Lat. 38°55'00" N., Long. 85°27'42" W.; to Lat. 38°57'30" N., Long. 85°30'00" W.; to point of beginning.

Designated altitudes. 1200 feet AGL to FL 180.

Time of designation. Daily 0800 to 2300 local time.

Controlling agency. Federal Aviation Administration, Indianapolis ARTC Center.

Using agency. Commanding Officer, Jefferson Proving Ground, Madison, Ind.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on March 4, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-7080 Filed 3-9-77;8:45 am]

[Docket No. 16568; Amdt. No. 1063]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rulemaking dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, S.W., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

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Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR–VOR/DME SIAPs, effective April 21, 1977:

Mobile, AL—Bates Field, VOR/DME Rwy 32, Orig., cancelled
Mobile, AL—Bates Field, VOR Rwy 32, Original
Mobile, AL—Mobile Aerospace, VOR Rwy 32, Amdt. 6
Mobile, AL—Mobile Aerospace, VOR/DME Rwy 14, Amdt. 1
Muskegon, MI—Muskegon County, VOR/DME Rwy 5, Amdt. 4
Atlantic City, NJ—NAFEC Atlantic City, VOR/DME Rwy 22, Amdt. 2
Old Bridge, NJ—Old Bridge Arpt., VOR Rwy 24, Original
Dansville, NY—Dansville Muni Arpt., VOR/DME Rwy 18, Original
New York, NY—John F. Kennedy Int'l Arpt., VOR Rwy 4L/R, Amdt. 12
Bluffton, OH—Bluffton Arpt., VOR Rwy 23, Amdt. 3
Findlay, OH—Findlay Arpt., VOR Rwy 7, Amdt. 8
Fostoria, OH—Fostoria Metropolitan Arpt., VOR-A, Amdt. 1
Toledo, OH—Toledo Express Arpt., VOR/DME Rwy 34, Amdt. 2
Upper Sandusky, OH—Wyandot County, VOR/DME–A, Original
Hilltop Lakes, TX—Hilltop Lakes Arpt., VORTAC–A, Amdt. 1, cancelled
Pecos City, TX—Pecos Municipal Arpt., VOR Rwy 13, Amdt. 3
Richmond, VA—Richard E. Byrd Int'l Arpt., VOR Rwy 2, Original
Walla Walla, WA—Walla Walla City-County Arpt., VOR Rwy 2, Amdt. 8
Walla Walla, WA—Walla Walla City-County Arpt., VOR Rwy 16, Amdt. 10

* * * effective March 24, 1977:

Coeur d'Alene, ID—Coeur d'Alene Air Terminal, VOR Rwy 5, Original

* * * effective March 17, 1977:

Fairmont, MN—Fairmont Muni Arpt., VOR Rwy 13, Amdt. 1
Fairmont, MN—Fairmont Municipal Arpt., VOR Rwy 31, Amdt. 4

* * * effective February 24, 1977:

Reidsville, NC—Shiloh Airport, VOR/DME–A, Amdt. 1

2. Section 97.25 is amended by originating, amending, or canceling the following SDF–LOC–LDA SIAPs, effective April 21, 1977:

Bethel, AK—Bethel Arpt., LOC/DME (BC) Rwy 36, Amdt. 1

* * * effective March 24, 1977:

Schenectady, NY—Schenectady County Arpt., LOC Rwy 4, Original

* * * effective February 25, 1977:

Casper, WY—Natrona County Int'l Arpt., LOC BC Rwy 25, Amdt. 16

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective April 21, 1977:

Mobile, AL—Bates Field, NDB Rwy 14, Amdt. 21
Petersburg, AK—Petersburg Arpt., NDB–A, Original, cancelled
Dalton, GA—Dalton Muni Arpt., NDB Rwy 32, Amdt. 3
DeKalb, IL—DeKalb Municipal Arpt., NDB Rwy 27, Amdt. 3
West Yellowstone, MT—Yellowstone Arpt., NDB Rwy 1, Amdt. 1
Gordon, NE—Gordon Muni Arpt., NDB Rwy 22, Original
Carrollton, OH—Carroll County-Tolson Arpt., NDB Rwy 25, Amdt. 1
Columbus, OH—Bolton Field, NDB Rwy 3, Amdt. 3
Findlay, OH—Findlay Arpt., NDB Rwy 36, Amdt. 7
Fostoria, OH—Fostoria Metropolitan Arpt., NDB Rwy 27, Amdt. 1
Marysville, OH—Union County Arpt., NDB Rwy 27, Original
Toledo, OH—Toledo Express Arpt., NDB Rwy 7, Amdt. 16
Walla Walla, WA—Walla Walla City-County Arpt., NDB Rwy 20, Amdt. 2
Appleton, WI—Outagamie County Arpt., NDB Rwy 3, Amdt. 5
Appleton, WI—Outagamie County Arpt., NDB Rwy 11, Amdt. 6
Appleton, WI—Outagamie County Arpt., NDB Rwy 21, Amdt. 3
Appleton, WI—Outagamie County Arpt., NDB Rwy 29, Amdt. 7
Land O'Lakes, WI—King's Land O'Lakes Muni Arpt., NDB Rwy 14, Amdt. 5
Minocqua-Woodruff, WI—Lakeland Arpt., NDB Rwy 10, Amdt. 3
Minocqua-Woodruff, WI—Lakeland Arpt., NDB Rwy 18, Amdt. 6
Minocqua-Woodruff, WI—Lakeland Arpt., NDB Rwy 28, Amdt. 4
Minocqua-Woodruff, WI—Lakeland Arpt., NDB Rwy 36, Amdt. 1

* * * effective March 24, 1977:

Coeur d'Alene, ID—Coeur d'Alene Air Terminal, NDB Rwy 5, Amdt. 3
Maquoketa, IA—Maquoketa Muni Arpt., NDB Rwy 15, Original

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective April 21, 1977:

Mobile, AL—Bates Field, ILS Rwy 14, Amdt. 23
Mobile, AL—Bates Field, ILS Rwy 32, Admt. 2
Bethel, AK—Bethel Arpt., ILS/DME, Rwy 18, Amdt. 1
West Yellowstone, MT—Yellowstone Arpt., ILS Rwy 1, Amdt. 1
New York, NY—John F. Kennedy Int'l Arpt., ILS Rwy 4L, Amdt. 2
New York, NY—John F. Kennedy Int'l Arpt., ILS Rwy 13L, Amdt. 8
Columbus, OH—Bolton Field, ILS Rwy 3, Amdt. 1
Toledo, OH—Toledo Express Arpt., ILS Rwy 7, Amdt. 16
Toledo, OH—Toledo Express Arpt., ILS Rwy 25, Amdt. 1
Walla Walla, WA—Walla Walla City-County Arpt., ILS Rwy 20, Amdt. 2
Appleton, WI—Outagamie County Arpt., ILS Rwy 3, Amdt. 6

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective April 21, 1977:

Mobile, AL—Bates Field, RADAR–1, Amdt. 3
Atlanta, GA—The William B. Hartsfield Atlanta Int'l Arpt., RADAR–1, Amdt. 26
Seattle, WA—Boeing Field/King County Int'l Arpt., RADAR–1, Amdt. 5, cancelled
Seattle, WA—Seattle-Tacoma Int'l Arpt., RADAR–1, Amdt. 19, cancelled

* * * effective March 24, 1977:

Ormond Beach, FL—Municipal Airport, Ormond Beach, RADAR–1, Orig.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective April 21, 1977:

Carlsbad, CA—Palomar Arpt., RNAV Rwy. 6, Amdt. 2, cancelled
Moline, IL—Quad City Arpt., RNAV Rwy 30, Amdt. 4

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; (49 U.S.C. 1348, 1354, 1421, 1510); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on March 4, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77–7079 Filed 3–9–77;8:45 am]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

PART 581—PERSONNEL REVIEW BOARD

Army Discharge Review Board

The Army Discharge Review Board has revised its rules of procedures published in August 13, 1976, issue of the FEDERAL REGISTER (41 FR 24253). The revised rules are effective on March 1, 1977 and will apply to all cases pending before the Army Discharge Review Board as well as to new appeals.

Since the rules specify Agency procedures to be followed, notice of proposed rule making and the procedures thereto are not necessary.

Dated: March 1, 1977.

By Authority of the Secretary of the Army:

ROME D. SMYTH,
Lieutenant Colonel, U.S. Army,
Director, Administrative Management, TAGCEN.

In consideration of the foregoing and for the reasons given by the authority of section 301, title I, act of 22 June 1944 (10 U.S.C. 1553), 32 CFR 581.2 is revised as follows:

§ 581.2 Army Discharge Review Board.

(a) *Constitution, applicability, purpose, and jurisdiction.* (1) The Army Discharge Review Board (ADRB), an entity which may consist of such number of panels as the Secretary of the Army may deem necessary, is an administrative agency created within the Office, Secretary of the Army, Department of the Army, under authority of section 301, title I, act of 22 June 1944 (10 U.S.C. 1553) to review on its own motion or upon application by or on behalf of the individual concerned, the discharge or dismissal of former members of the Army. The scope of the inquiry of the ADRB will be to determine whether the discharge received was equitably and properly given. When the ADRB determines in an individual case that the discharge was not equitably and properly given, it is authorized, in the manner herein prescribed, to direct The Adjutant General to take appropriate action; that is, to change, correct, or modify any discharge or dismissal, and to issue a new discharge, such direction being subject to review and modification only by the Secretary of the Army. Such remedial action is intended primarily to insure that no discharged or dismissed former member of the Army will be deprived unjustly of any benefit provided by law for former members of the military service by reason of a type of discharge or dismissal inequitably or improperly given.

(2) The ADRB will not review a discharge or dismissal given by reason of the sentence of general court-martial.

(3) The ADRB has no authority to revoke any discharge or dismissal, to reinstate any person in the military service subsequent to his discharge or dismissal, or to recall any person to active duty.

(b) *Definitions.* (1) *ADRB.* An administrative Board (entity) designated by the Secretary of the Army consisting of one or more panels.

(2) *ADRB Panel.* A panel consisting of five officers for the purpose of hearing a discharge review appeal. Panels are located at Washington, D.C. and at such other locations as designated by the Secretary of the Army.

(3) *ADRB Field Panel.* A panel located at a fixed location other than Washington, D.C., as designated by the Secretary of the Army.

(4) *ADRB Traveling Panel.* A panel designated to hear discharge review appeals at a temporary field location.

(5) *ADRB Hearing Examiner.* An experienced ADRB panel member designated to conduct a video tape hearing.

(6) *Video Tape Hearing.* A hearing conducted by an ADRB Hearing Examiner at which an applicant is given the opportunity to present this appeal to the Hearing Examiner, with the entire presentation, including cross-examination by the Hearing Examiner, recorded on video tape. This video tape presentation is later displayed to an ADRB panel designated by the president of the ADRB. Video tape hearings shall be conducted only with the consent of the applicant and with the concurrence of the president of the ADRB.

(7) *President of the ADRB.* An officer designated by the Secretary of the Army to control operations of the ADRB and its panels. Only the president of the ADRB will execute action under this regulation in the name of the Secretary. In the event of absence or inconvenience of the president of the ADRB, the next senior line officer member on the ADRB in Washington, D.C., will serve as acting president for all purposes.

(8) *Presiding Officer.* The senior line officer member of any ADRB panel convened by the president of the ADRB for the purpose of conducting hearings.

(9) *Secretary-Recorder of the ADRB.* An officer designated by the president of the ADRB performing the functions as directed, and with the authority to administer oaths in accordance with Article 136, Uniform Code of Military Justice.

(10) *Alternate Secretary-Recorder.* An officer designated by the president of the ADRB to exercise certain secretary-recorder functions for a panel of the ADRB.

(11) *Legal Advisor of the ADRB.* An officer of The Judge Advocate General's Corps assigned to the ADRB to provide opinions and guidance on legal matters relating to ADRB functions.

(12) *Medical Consultant of the ADRB.* An officer of the Army Medical Corps assigned to the ADRB to provide opinions and guidance on medical matters relating to ADRB functions.

(13) *Members of the ADRB.* Officers assigned to or, when authorized by the Secretary of the Army upon request by the president of the ADRB, detailed by installation commanders to sit as panel members to hear discharge review cases when scheduled by the president of the ADRB.

(14) *Applicant.* An ex-service member of the Army who, in accordance with statutory and regulatory provisions, requests to have an appeal heard by the ADRB.

(15) *Applicant's Counsel/Representative.* Any individual designated by the applicant to represent him in his appeal before the ADRB. Under no circumstances will applicant's counsel/representative, compensation for applicant's counsel/representative, or travel expenses for applicant or his counsel/representative be provided by agencies of the United States Army. Categories of representatives:

(i) *Counsel*—a lawyer who is a member of the bar of a Federal court or of the highest court of a state.

(ii) *Accredited representative*—one who has been so designated by an organization recognized by the Administrator of Veterans' Affairs as provided in 10 U.S.C. 1553.

(iii) Representative from a state agency concerned with veterans' affairs.

(iv) Representatives from private organization or local governmental agencies.

(v) Any other individual or agency designated by applicant.

(c) Composition.

(1) Members.

(i) As designated by the Secretary of the Army, the ADRB will have one or more panels, each of which when in deliberation will consist of five officers with the senior line officer member acting as presiding officer.

(ii) The president of the ADRB is designated by the Secretary of the Army and is responsible for the operation of the ADRB and its panels. He will prescribe the operating procedures of the panels, designate officers to sit on respective panels, and schedule hearings by the panels.

(iii) For the purpose of maintaining the number of members needed to conduct hearings, additional members may be appointed to the ADRB by the Secretary or be detailed to a panel by a field commander when requested by the president of the ADRB. In any proceeding a member who has not been present at prior sessions of a panel may participate thereafter if that member has read or has read to him the record of proceedings held during his absence or prior to his participation.

(2) *Secretary-Recorder.* (i) The secretary-recorder and designated alternate secretary-recorders shall have authority to administer oaths as granted in Article 136, Uniform Code of Military Justice, and shall perform such other duties as requested by the president of the ADRB. The secretary-recorder or alternate secretary-recorders will not serve as counsel for the applicant.

(ii) The alternate secretary-recorders of panels tenanted outside the Washington, D.C., area shall, as directed by the president of the ADRB, coordinate the activities of panels conducting hearings at such locations and shall be supported by field commanders as established by separate directive. The alternate secretary-recorders will report directly to the president of the ADRB.

(d) *Administrative personnel.* Such administrative personnel as are required for the proper functioning of the ADRB and its panels will be furnished by the Secretary of the Army or by field commanders when so directed by the Secretary of the Army.

(e) *Application for review.* (1) The applicant will submit a written request for a review by the ADRB and such other statements or affidavits as he desires to present.

(2) The request will be made on a DD Form 293 (Application for Review of Discharge or Separation from the Armed Forces of the United States) which may be requisitioned through normal publications supply channels. When an individual is requested to complete DD Form 293, he will also be required to acknowledge that under the Privacy Act his failure to provide information may result in his appeal being returned without action. From time to time, additional forms or input may be required to complete action on appeal. The request will state in brief the full name, service number and/or social security number, and grade and organization or assignment at date of discharge of the person whose discharge or dismissal is in question; the date and place of discharge; the type and nature of the discharge or dismissal; the basis of the claim for review; what corrective action is desired of the ADRB; whether the applicant desires to be represented by counsel/representative before a panel of the ADRB and, if so, the name and address of counsel/representative so designated; and the address to which correspondence in connection with the review is to be sent.

(3) The request will be signed by the former officer or enlisted man or woman or, if deceased, by the surviving spouse, next-of-kin, or legal representative. If the former member is deceased, proof of death must accompany the request. If the applicant is mentally incompetent, his or her spouse, next-of-kin, or legal guardian will sign the request. Such requests must be accompanied by legal proof of the mental incompetency.

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(4) No application for review will be accepted unless received by the Department of the Army within 15 years after the date of the discharge or dismissal or previous hearing.

(5) The request for review will be forwarded to—

Commander, U.S. Army Reserve Components Personnel and Administration Center, 9700 Page Blvd., St. Louis, Mo. 63132.

(6) Upon receipt of an application, The Adjutant General will verify that the provisions of paragraph (b) and (c) of this section have been met. The Adjutant General will then assemble the originals or certified copies of all available Department of the Army records pertaining to the former service man or woman named in such application. Such records, together with the application and any supporting documents, will be transmitted to the President of the ADRB, Washington, D.C.

(7) Applicants must state clearly and specifically their contention(s) and/or the issue(s) of fact, law or discretion for a written determination to be made in accordance with paragraph 8a(3) below. Applicants may be provided a form for this purpose which must be completed or amended prior to the panel's hearing on their case decision.

(8) Applicants should seriously contemplate submitting evidence and/or supporting documents at the time of application. Briefs, legal arguments, etc., should be submitted at the time notification is received of scheduled hearing date.

(f) *Convening of a panel of the ADRB.* (1) Panels located in Washington, D.C., will be convened at the call of the president of the ADRB. Panels designated to conduct hearings in other locations will convene at the time and place indicated by the president of the ADRB to consider cases directed to the panels by him in accordance with established procedures. Presiding officers may, when authorized by the president of the ADRB, modify the time and place of scheduled hearings, and will recess and adjourn the panels in accordance with established procedures.

(2) Panels of the ADRB will assemble in open or closed session for the consideration and determination of cases presented to them.

(3) Cases in which no request for either a personal, counsel/representative only, or video tape hearing is made by the applicants will be considered only by a panel in Washington, D.C., in closed session on the basis of all documentary evidence presented to the ADRB, including any briefs submitted by the applicant.

(4) Cases in which the applicant has elected to present his appeal by means of a video tape hearing will be considered only by a panel in Washington, D.C., in closed session on the basis of the video tape and all documentary evidence presented to the ADRB, including any briefs submitted by the applicant.

(5) Cases in which the applicant has selected counsel/representative from a private organization and/or any other source other than accredited agencies listed on DD Form 293 may be scheduled for presentation to a Traveling Panel of the ADRB. Such cases will be arranged by separate correspondence.

(g) *Hearings.* (1) *General.* (i) An applicant, upon request, is entitled by law to appear before a panel of the ADRB in open session, either in person or by counsel/representative of his selection.

(ii) An applicant may, with his concurrence and for his own convenience, be offered an opportunity to appear by video tape hearing. The use of such video tape hearings is encouraged, in appropriate cases, since it does not require the applicant and his counsel/representative to travel to the panel location. Video tape hearings will be conducted as directed by the president of the ADRB.

(iii) In every case in which either a personal or video tape hearing is requested, the ADRB will transmit to the applicant and to designated counsel/representative for the applicant, if any, a written notice stating the time and place of hearing. The record will contain evidence that written notice to the applicant and his counsel, if any, has been given.

(iv) An applicant who requests either a personal or counsel/representative only, or video tape hearing and who, after being duly advised of the time and place of hearing, fails to appear without previous satisfactory arrangement with the ADRB will be considered as having waived his right of appearance. In such cases, the applicant's case will be presented only to a panel in Washington, D.C., and will be reviewed on the evidence contained in his military record or any other evidence which may have been provided by the applicant.

(2) *Conduct of hearing.* (i) Conduct of hearings will be in accordance with this regulation. Applicant and/or his counsel/representative may have access to the records considered by the panel in the case except such classified material the disclosure of which would jeopardize defense interests of the United States. When necessary to acquaint the applicant with the substance of a document classified by intelligence agencies, the Assistant Chief of Staff for Intelligence, Department of the Army, on the request of the ADRB will prepare a summary of, or extract from the document, deleting all references to sources of information and other matter the disclosure of which, in his opinion, would be detrimental to the defense interests of the United States.

(ii) In the conduct of its inquiries, the ADRB and its panels will not be limited by the restrictions of common law or other judicial rules of evidence.

(iii) In all cases in which the applicant appears in person or by video tape hearing, or in which a counsel/representative makes an appearance for the applicant, the president of the ADRB shall cause a sufficient record of the proceedings and testimony to be prepared.

(3) *Witnesses.* The testimony of witnesses may be presented either in person or by affidavits. If a witness testifies in person he will be subject to examination by members of the panel.

(4) *Continuances.* A panel may continue a hearing on its own motion. A request for continuance by or on behalf of the applicant may be granted at the discretion of the panel, if a continuance appears necessary to insure a full and fair hearing.

(5) *Withdrawal.* An applicant may withdraw his request for review at any time without prejudice.

(6) *Expenses.* Expenses incurred by the applicant, his witnesses, or in the procurement of their testimony, whether in person or by affidavit, will not be paid by the Government.

(7) *Challenges.* Challenges shall be for cause only and will be ruled on by the presiding officer, or the next senior line officer member if the presiding officer is challenged. Applicants who elect to appear by video tape hearing will be considered to have waived their right to challenges for cause. To the extent possible, the president, ADRB, will insure that the Hearing Examiner is not a subject for challenge.

(h) *Findings, conclusions, and reasons of a panel of the ADRB.* (1) Findings, conclusions, and reasons of the panel will be made in closed session and where agreed to by a majority of the panel will constitute the determination of the panel, and will be made in writing in each case. No corrective action which exceeds the jurisdiction of the ADRB, as defined in paragraph (a), will be taken. Statements of findings, conclusions, and reasons shall include:

(i) Date, character of and reason for the discharge or dismissal, including the specific regulatory authority under which it was issued.

(ii) Findings on all issues of fact, law, or discretion upon which the panel's determination is based, including pertinent factors required by applicable AR's when such factor(s) is (are) a basis for denial of any relief requested.

(iii) Findings and conclusions on all other issues of fact, law, or discretion raised by the applicant, and resolved against him, including claims by the applicant that statutory, regulatory or constitutional provisions were violated, and such other claims made by the applicant, which in the opinion of the panel would warrant greater relief than that afforded applicant by the panel's determination if resolved in the applicant's favor.

(iv) Conclusions as to whether or not any change, correction or modification should be made in the type or character of the discharge or dismissal certificate, and/or the reason and authority for the discharge or dismissal, and, if so concluded, the particular changes, corrections or modifications that should be made.

(v) A statement of the reasons for the findings and conclusions made in accordance with paragraphs (h)(1)(i)-(iv), of this section.

(2) Advisory opinions or portions thereof containing factual information relied upon for final decision not fully set forth in the statement of findings, conclusions and reasons; or containing advice, recommendation(s) or opinion(s) accepted as a basis for rejecting any of applicant's claims that are not fully set forth in the statement of findings, conclusions, and the reasons shall be incorporated by reference in the statement of findings, conclusions and reasons, and appended to the decision.

(3) The name and vote of each panel member will be recorded on each statement of findings, conclusions and reasons.

(4) The final determination and the statement of findings, conclusions, and reasons together with any required appendices thereto and minority opinions, if any, shall be sent promptly to the applicant and counsel with the notice of decision.

(5) *Statements of findings, conclusions, and reasons.* The record of the votes of Board members, and minority opinions, if any, will be made available for public inspection and copying promptly after a notice of final decision is sent to the applicant. If not otherwise listed in the statement of findings, conclusions, and reasons, a list of contentions and/or the issues of fact, law or discretion presented by the applicant will be made public with the decision.

(6) To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details of applicant and other persons will be deleted from the documents made available for public inspection and copying. Names, addresses, social security numbers and military service numbers must be deleted. Written justifications, which are to be made available for public inspection, shall be made for all other deletions.

(7) Documents and records required by this agreement to be made available for public inspection and copying shall be made available at a reading room location within the Washington, D.C. metropolitan area as is readily accessible to the public.

(8) All documents made available for public inspection and copying as provided above shall be indexed in a usable and concise form so as to enable those who represent applicants before the Boards to isolate from all those decisions that are indexed those cases that may be similar to any applicant's case and that indicate the circumstances under and/or reasons for which the Board and/or Secretary have granted or denied relief. The index shall include, in addition to any other items determined by each Board, and identifying characteristic (i.e., case number) for each case; the date, character of, reason for and authority for the discharge or dismissal challenged therein, the decision of the Board and the reviewing authority, if any; and the issues addressed in the statement of findings, conclusions and reasons.

(9) Each index shall be published quarterly or more frequently and upon request be distributed by sale or otherwise.

(10) The ADRB shall make its index available for public inspection and distribution by sale or otherwise at the reading room(s) established in accordance with paragraph (h)(7) of this section.

(11) Each index shall also be made available at all static regional locations where ADRB panels shall meet to hear cases. Notice of hearings to applicants shall include information as to where the ADRB indexes may be located for inspection and copying. Indexes shall be permanently maintained only at permanent regional locations.

(i) *Review Panels.* (1) When in the judgment of the President of the ADRB, the finding and/or conclusion of a Field Panel of the ADRB may be contrary to law, regulation or policy, or may be inequitable or not supported by the evidence in the record of hearing, he will cause one of the following actions to be taken:

(i) Return the case to the Field Panel for a review and submission of detailed rationale.

(ii) Submit the case without comment to a Review Panel consisting of five permanent Board members in the grade of 0–6. This Review Panel will review the case and take one of the following actions:

(A) When the Review Panel by unanimous vote determines that the Field Panel's finding and conclusion is contrary to law, regulation or policy, or is not supported by the evidence, the Review Panel shall submit findings, conclusions, reasons, and recommended action.

(B) If only a majority of the Review Panel finds per the foregoing the case will be returned to the President for submission to the Secretary of the Army for a decision.

(C) When the Review Panel by majority vote determines that the Field Panel's finding and conclusion is not contrary to law, regulation or policy, and is supported by the evidence, the Review Panel shall submit only reasons.

(D) Upon receipt of the Review Panel's (findings, conclusions, and) reasons, the President of the ADRB may take action to approve or reject the Field Panel's findings, conclusions and reasons, and, if rejected, substitutes therefor the Review Panel's recommended findings, conclusions and reasons subject to paragraph (j) of this section.

(j) *Minority reports.* (1) In case of a disagreement between members of a Washington, D.C., panel, including a Review Panel, a minority report may be submitted. (In the event of (i)(1)(ii)(B) of this section, a minority report must be submitted.) The reasons for the minority report must be stated clearly. The complete case with the minority report and majority comments will be submitted to the president of the ADRB. Whenever such a minority report is submitted, the complete case with the minority report and majority comments shall be submitted by the president of the ADRB with his recommendations to the Office of the Secretary of the Army for final resolution.

(2) On every decision of the Board that is reviewed by the Secretary, or by one to whom reviewing authority has been delegated, the decision on review shall be made in writing.

(3) In every case, the decision of the reviewing authority, if any, shall include a statement of findings, conclusions, and reasons, except where the reviewing authority expressly adopts in whole or in part the statement of findings, conclusions, and reasons of the Board. Similarly, where the reviewing authority adopts the Board's statement of findings, conclusions and reasons, there is no requirement for duplicative publication and indexing under terms of paragraph (h), of this section.

(k) *Directive to The Adjutant General.* Except in minority report cases submitted to the Office of the Secretary of the Army for final resolution, the president of the ADRB will, in the name of the Secretary of the Army, issue a directive to The Adjutant General specifying the action to be taken as a result of the ADRB's review of discharge or dismissal of former members of the U.S. Army. Presiding officers, other than the president of the ADRB, will not take the foregoing action. They will return the completed case to the president of the ADRB for final action.

(l) *Record of proceedings.* (1) When the proceedings in any case have been concluded, the secretary-recorder with the assistance of alternate secretary-recorders will prepare a record thereof. Such record will include the application for review; a record of proceedings and summary of testimony, if any [if the applicant and/or his counsel/representative appear(s) before a panel in person]; affidavits, papers, and documents considered by the ADRB; all briefs and written arguments filed in the case; the findings, conclusions and reasons of the panel of the ADRB, the directive to The Adjutant General; any minority report prepared by dissenting members of the

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panel; and all other relevant papers and documents. The record so prepared will be signed by the President of the ADRB and authenticated by the secretary-recorder. In the event of the absence or incapacity of the secretary-recorder, the record may be authenticated by a designated alternate secretary-recorder.

(2) Release of information from such records will be in accordance with AR 340–17 and 340–21.

(m) *Transmittal of records and action by The Adjutant General.* Designated alternate secretary-recorders will forward cases heard by their panels, and as approved by the presiding officers, to the president of the ADRB for final disposition. Except in minority report cases submitted to the Office of the Secretary of the Army for final resolution, the record of the proceedings in each case will be transmitted by the secretary-recorder to The Adjutant General for appropriate Department of the Army action to carry out the directions of the president, ADRB. The Adjutant General will perform such administrative acts as may be necessary, and thereafter will notify the applicant and his counsel/representative, if any, of the action taken. Written notice specifying the action taken and the date thereof will be transmitted by The Adjutant General to the president of the ADRB to be filed as a part of the records of the ADRB pertaining to each case. The Adjutant General, upon written request from the applicant, his guardian, or legal representative, will furnish a copy of the directive of the Secretary of the Army, and a copy of the record of proceedings and testimony, if any, provided that such record of proceedings and testimony has been reduced to written form. If it should appear that furnishing a copy of the record of proceedings and testimony would prove injurious to the physical or mental health of the applicant, such information will be furnished only to the guardian or legal representative of the applicant.

(n) *Consideration initiated by the ADRB.* The president of the ADRB may, at any time, direct consideration of a case which appears, on the face of the record, likely to result in a decision favorable to the former member without the knowledge or presence of the former member. If, upon consideration by a panel, such a case does not result in a decision favorable to such member, it will be returned to the files with no formal action recorded and will be considered without prejudice if and when an appeal is made by the former member. If such consideration results in a decision favorable to the former member, The Adjutant General will be directed to notify the member at his last known address. Only the president of the ADRB may schedule the hearing of such cases.

(o) *Rehearings.* When a panel has formally considered the case of an applicant and its decision has been approved in the name of the Secretary of the Army, the ADRB will not grant a rehearing unless the basis of the request indicates material evidence, not available at the time of the original hearing, which will likely result in a decision contrary to that reached at the original hearing. The president of the ADRB will make the final determination pertaining the authorization of rehearing. The provisions of paragraph (h) do not apply to any determination as to whether a rehearing may be authorized, but apply to a final determination of the Board and/or reviewing authority after a rehearing except to the extent findings, conclusions, and reasons consistent with paragraph (h) exist for any prior denial and remain unchanged.

(p) *Changes in procedure of the ADRB.* The ADRB may initiate recommendation for such changes in procedures as established herein as may be deemed necessary for the proper functioning of the ADRB. Such changes will be subject to the approval of the Secretary of the Army. Panel presiding officers will submit each recommendation to the president of the ADRB.

(q) *Army-Navy-Air Force coordination.* Periodic liaison will be conducted with similar boards of the Navy and Air Force to exchange ideas and to discuss common problems.

(r) *Applications.* This regulation applies to the USAR and to the NG concerning those records of former members of the NG maintained by the Federal Government.

[FR Doc. 77–7064 Filed 3–9–77;8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76–02]

PART 260—REGULATIONS GOVERNING SECTION 511 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Procedures for Computing the Internal Rate of Return on Projects

Correction

In FR Doc. 77–2363 appearing at page 4652 in the FEDERAL REGISTER of Tuesday, January 25, 1977, the following changes should be made:

1. Section 260.35 appearing on pages 4653 and 4654 is corrected as follows: In line 7 of paragraph (b) (4) the expression

$$\text{"} \sum_{i=\ell}^{n} \frac{c_i}{(\ell+r)^i} \text{"}$$

is changed to read

$$\text{"} \sum_{i=1}^{n} \frac{c_i}{(1+r)^i} \text{"}.$$

2. The section titled *"Characteristic Actions"* under "USE OF ASSETS" in APPENDIX A to subpart C appearing on page 4655 is corrected as follows:

a. In line 13 the word "permits" is changed to read "permit"; and

b. In line 3 of the second paragraph the phrase "of assets already" is deleted.

3. The following sections under "CONTRIBUTION FROM TRAFFIC" in APPENDIX A to subpart C appearing on page 4655 are corrected:

a. In line 13 of *"Characteristic Actions"* the comma immediately following the word "communication" is deleted and a period is inserted in lieu thereof;

b. In line 7 of *"Special Features"* the word "improvment" is changed to read "improvement".

4. In line 1 of the third paragraph of the section titled *"Special Features"* under "LABOR REQUIREMENTS" of APPENDIX A to subpart C appearing on page 4655 the word "benefits" is corrected to read "benefit".

5. Under "LOCOMOTIVE REQUIREMENTS" of Appendix A to subpart C, appearing on page 4656, make the following corrections:

a. In line 5 of the fourth paragraph of *"Monetary Value"* the expression

$$\text{"} \frac{r(\ell+r)^n}{(\ell+r)^n - \ell} \text{"}$$

is changed to read

$$\text{"} \frac{r(1+r)^n}{(1+r)^n - 1} \text{"};$$

and

b. In the first line after the above corrected formula in *"Monetary Value,"* the phrase "* * * yield in Sept. 2 * * *" should be changed to read "* * * yield in step 2 * * *."

6. In line 1 of the section titled *"Monetary Value" under* "ENERGY CONSUMPTION" of APPENDIX A to subpart C appearing on page 4656 the word *"Monetry"* is corrected to read *"Monetary."*

7. Under "SALVAGE VALUE" of APPENDIX A to subpart C appearing on page 4657, in line 2 of *"Characteristic Actions"* the word "or" is changed to read "of" in the second place it appears.

8. In the original publication of FR Doc. 77–2363, Forms I–V were printed smaller than the Federal Railroad Administration felt was necessary. So that these forms may be copied or used as is, the Office of the Federal Register has agreed to reprint them larger below.

Applicant: _____
Project: _____
Date: _____
Sheet No. _____ of _____

FORM I

ANALYSIS OF CAPITALIZED INVESTMENT

(CONSTANT DOLLARS)

Portion of Investment Covered by this Sheet: _____ Depreciation Period: _____
Depreciation Method Used: _____
This Investment Would Occur in the ☐ Project ☐ Base Case (Check One)

Year	(1) Amount Capitalized	(2) Depreciation	(3) Tax Reduction From Depreciation	(4) Tax Reduction From Investment Tax Credit	(5) Net Cash Flow In (Out)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
TOTALS					

INSTRUCTIONS:

- Use separate forms for portions of the investment which would receive different tax treatment or which would enter service in different years.
- Estimate amounts in columns 1–4 as would be done in reporting to IRS.
- Column 5 equals column 3 plus column 4 minus column 1.

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Applicant: _____
Project: _____
Date: _____
Sheet No. _____ of _____

FORM II

ANALYSIS OF SALE OR RETIREMENT OF ASSETS

(CONSTANT DOLLARS)

Assets Covered by this Sheet: _____
Depreciation Method Used: _____ Depreciation Period: _____
Book Value of Assets at Time of Sale: _____
This Sale Would Occur in the ☐ Project ☐ Base Case (Check One)

Year	(1) Sale Price	(2) Tax On Gain (Or Tax Saving on Loss) From Disposal	(3) Tax Credit Recapture	(4) Net Cash Flow In (Out)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
TOTALS				

INSTRUCTIONS:
- Use a separate form for each portion of the assets which would receive different tax treatment or be disposed of at different times.
- Estimate amounts in columns 1–3 as would be done in reporting to the IRS.
- Column 4 equals column 1 minus column 2 (plus column 2 if a tax saving occurs) minus column 3.

Applicant: _____
Project: _____
Date: _____
Sheet No. _____ of _____

FORM III

ANALYSIS OF EXPENSES AND CONTRIBUTION TO PROFIT

(CONSTANT DOLLARS)

Expense or Contribution: _____
Physical Units Used: _____ Monetary Value per Physical Unit: _____

Year	Physical Units (1) Project	Physical Units (2) Base Case	Physical Units (3) Difference	(4) Cash Difference (in Before-Tax Constant Dollars)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
TOTALS				

INSTRUCTIONS:
- This form applies to all cash flow impacts except capitalized investments and sales or retirements of assets. Use a separate form for each type of expense or contribution to profit.
- Column 3 equals column 1 minus column 2.
- Column 4 equals column 3 times Monetary Value per Physical Unit.

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Applicant: _____
Project: _____
Date: _____
Sheet No. _____ of _____

FORM IV
CONSOLIDATION OF CASH FLOWS
(CONSTANT DOLLARS)

Year	Form I Totals		Form II Totals		Form III		Net Cash Flow In (Out)
	(1) Project	(2) Base Case	(3) Project	(4) Base Case	(5) Before Tax Totals	(6) After Tax	(7)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
TOTALS							

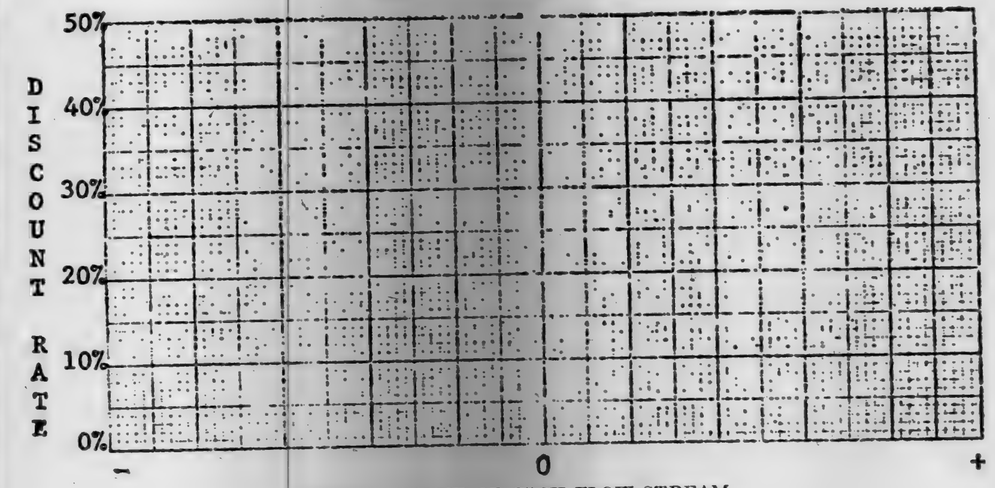
INSTRUCTIONS:
- Columns 1 through 5 are found by summing the rightmost columns on the indicated Forms I–III.
- Column 6 equals column 5 times (1 minus marginal tax rate) unless taxes will be paid in some years but not others.
- Column 7 equals column 1 plus column 3 plus column 6 minus column 2 minus column 4. The subtracting of a (Net Cash Flow Out) results in the addition of a positive number.

Date: _____
Sheet No. _____ of _____

FORM V
COMPUTATION OF IRR
(CONSTANT DOLLARS)
PRESENT VALUE

YEAR	(1) CASH FLOW	at 10% FACTOR	at 10% (2) VALUE	at 25% FACTOR	at 25% (3) VALUE	at 40% FACTOR	at 40% (4) VALUE
1		.909		.800		.714	
2		.826		.640		.510	
3		.751		.512		.364	
4		.683		.410		.260	
5		.621		.328		.186	
6		.564		.262		.133	
7		.513		.210		.095	
8		.467		.168		.068	
9		.424		.134		.048	
10		.386		.107		.035	
11		.350		.086		.025	
12		.319		.069		.018	
13		.290		.055		.013	
14		.263		.044		.009	
15		.239		.035		.066	
TOTAL							

INTERPOLATION CHART



IRR=_____
INSTRUCTIONS:
1. Column 1 is brought from Form IV, column 7.
2. Columns 2, 3, and 4 are found by multiplying column 1 each time by the indicated factor.
3. Plot totals of columns 1, 2, 3, and 4 against discount rate used (0%, 10%, 25%, and 40% respectively). Applicant must indicate scale on horizontal axis of chart and connect the points in a column (1–4) sequence.
4. IRR is the discount rate corresponding to the point at which the graphical presentation intersects the zero present value ordinate.

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CHAPTER VIII—NATIONAL TRANSPORTATION SAFETY BOARD

PART 801—PUBLIC AVAILABILITY OF INFORMATION

Government in the Sunshine Act—Exemptions From Public Disclosure

Section 5(b) of the Government in the Sunshine Act, Pub. L. 94-409 amends exemption 3 of the Freedom of Information Act (FOIA) 5 U.S.C. 552(b)(3). The National Transportation Safety Board (Board) hereby amends its corresponding FOIA exemption to reflect this statutory change.

Exemption 4 of the FOIA, which pertains to trade secrets and commercial or financial information, was inadvertently omitted from the Board's rules governing information exempt from public disclosure (49 CFR Part 801, Subpart F). The Board therefore amends Subpart F to include the trade secrets exemption.

These amendments are being published without notice of proposed rulemaking since they merely reflect statutory exemptions and are not in derogation of any rights of any person.

Accordingly, 49 CFR Part 801 is hereby amended and the table of contents adopted to conform thereto as follows:

1. In the Table of Contents in Part 801, by adding a new § 801.59 as follows:

Sec.

801.59 Trade secrets and commercial or financial information.

2. By revising § 801.53 to read as follows:

§ 801.53 Records exempt by statute from disclosure.

This exemption applies to records specifically exempted from disclosure by statute (other than 5 U.S.C. 552b): *Provided*, That such statute (a) requires that the matters be withheld from the public in such manner as to leave no discretion on the issue, or (b) establishes particular criteria for withholding or refers to particular types of matters to be withheld.
(5 U.S.C. 552b.)

3. By adding a new § 801.59 to read as follows:

§ 801.59 Trade secrets and commercial or financial information.

Trade secrets and commercial or financial information obtained from a person and privileged or confidential are exempt from public disclosure.
(5 U.S.C. 552(b)(4).)

Effective date: March 12, 1977.

Signed at Washington, D.C., on March 7, 1977.

WEBSTER B. TODD, JR.,
Chairman.

[FR Doc.77-7136 Filed 3-9-77;8:45 am]

PART 804—RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Pursuant to the Government in the Sunshine Act (Act), Pub. L. 94-409, 90 Stat. 1241 (5 U.S.C. 552b), the National Transportation Safety Board (Board), on January 27, 1977, at 42 FR 5111 et seq., published a notice of proposed rulemaking to add to its regulations a new Part 804—Rules Implementing the Government in the Sunshine Act. All comments received were given full and careful consideration in developing the final regulations.

A. As a result of comments received, the following changes are made in addition to a language change for clarification:

1. Section 804.1(b) has been reworded to make clear that access to documents other than the transcripts, recordings and minutes described in § 804.9, will continue to be governed by 49 CFR Part 801—Public Availability of Information.

2. The proposal included in § 804.5 (i)(1) an exemption for an agency which regulates currencies, securities, commodities or financial institutions. Since the Board does not perform these functions, we agree with the suggestion to delete § 804.5(i)(1) and the reference thereto in § 804.9.

3. In accordance with another suggestion, § 804.6(d) has been changed to provide that the General Counsel's certification must take place before the meeting. A reference to the certification has also been added to § 804.9.

B. Two suggestions have been carefully considered, but are not accepted.

1. It was suggested that the Board in § 804.5 appears to have discretion to consider whether the public interest requires that an otherwise closed meeting be open, whereas the Act contemplates that the Board must make the public interest determination for each closed meeting. Section 804.5 is entirely consistent with the language of the Act and therefore necessitates a public interest evaluation for every closed meeting.

2. It was suggested that § 804.6(a) improperly states that Members need not approve changes in the time and place of previously announced meetings. The Act does not require Members to vote on those changes and the Conference Report states that Members need not approve such changes.

One comment suggested methods of meeting announcements in addition to publication in the FEDERAL REGISTER. This point was addressed in the preamble to the proposed rule. The Board will post meeting notices in the Public Reference Room (Room 806B), provide announcements to the media, and maintain a special mailing list for anyone desiring notices.

Accordingly, 49 CFR Part 804 is added with the foregoing changes as set forth below.

Effective date: March 12, 1977.

Adopted by the National Transportation Safety Board at its office in Washington, D.C., on March 4, 1977.

WEBSTER B. TODD, JR.,
Chairman.

Sec.

804.1 Applicability.
804.2 Policy.
804.3 Definitions.
804.4 Open meetings requirement.
804.5 Grounds on which meetings may be closed or information may be withheld.
804.6 Procedures for closing meetings, or withholding information, and requests by affected persons to close a meeting.
804.7 Procedures for public announcement of meetings.
804.8 Changes following public announcement.
804.9 Transcripts, recordings, or minutes of closed meetings.
804.10 Availability and retention of transcripts, recordings, and minutes, and applicable fees.

AUTHORITY: Government in the Sunshine Act, Pub. L. 94-409, 90 Stat. 1241 (5 U.S.C. 552b); Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).

§ 804.1 Applicability.

(a) This part implements the provisions of the Government in the Sunshine Act (5 U.S.C. 552b). These procedures apply to meetings, as defined herein, of the Members of the National Transportation Safety Board (NTSB).

(b) Requests for all documents other than the transcripts, recordings, and minutes described in § 804.9 shall continue to be governed by Part 801 of the NTSB regulations (49 CFR Part 801).

§ 804.2 Policy.

It is the policy of the NTSB to provide the public with the fullest practicable information regarding the decisionmaking processes of the Board, while protecting the rights of individuals and the ability of the Board to discharge its statutory functions and responsibilities. The public is invited to attend but not to participate in open meetings.

§ 804.3 Definitions.

As used in this part: "Meeting" means the deliberations of three or more Members where such deliberations determine or result in the joint conduct or disposition of official NTSB business, and includes conference telephone calls otherwise coming within the definition. A meeting does not include:

(a) Notation voting or similar consideration of business, whether by circulation of material to the Members individually in writing or by a polling of the Members individually by telephone.

(b) Deliberations by three or more Members (1) to open or to close a meeting or to release or to withhold information pursuant to § 804.6, (2) to call a meeting on less than seven days' notice as permitted by § 804.7(b), or (3) to change the subject matter or the determination to open or to close a publicly announced meeting under § 804.8(b).

"Member" means an individual duly appointed and confirmed to the collegial body, known as "the Board," which heads the NTSB.

"National Transportation Safety Board (NTSB)" means the agency set up under the Independent Safety Board Act of 1974.

§ 804.4 Open meetings requirement.

Members shall not jointly conduct or dispose of agency business other than in accordance with this part. Except as provided in § 804.5, every portion of every meeting of the Board shall be open to public observation.

§ 804.5 Grounds on which meetings may be closed or information may be withheld.

Except in a case where the Board finds that the public interest requires otherwise, a meeting may be closed and information pertinent to such meeting otherwise required by §§ 804.6, 804.7, and 804.8 to be disclosed to the public may be withheld if the Board properly determines that such meeting or portion thereof or the disclosure of such information is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy, and (2) are in fact properly classified pursuant to such Executive Order;

(b) Relate solely to the internal personnel rules and practices of the NTSB;

(c) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the NTSB: *Provided*, That the NTSB has not already disclosed to the public the content or nature of its proposed action or is not required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(j) Specifically concern the Board's issuance of a subpoena, or the NTSB's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the NTSB of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 804.6 Procedures for closing meetings, or withholding information, and requests by affected persons to close a meeting.

(a) A meeting shall not be closed, or information pertaining thereto withheld, unless a majority of all Members votes to take such action. A separate vote shall be taken with respect to any action under § 804.5. A single vote is permitted with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular subject matters and is scheduled to be held no more than thirty days after the initial meeting in such series. Each Member's vote under this paragraph shall be recorded and proxies are not permitted.

(b) Any person whose interest may be directly affected if a portion of a meeting is open may request the Board to close that portion on any of the grounds referred to in §§ 804.5 (e), (f), or (g). Requests, with reasons in support thereof, should be submitted to the General Counsel, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594. On motion of any Member, the Board shall determine by recorded vote whether to grant the request.

(c) Within one working day of any vote taken pursuant to this section, the NTSB shall make available a written copy of such vote reflecting the vote of each Member on the question and, if a portion of a meeting is to be closed to the public a full written explanation of its action closing the meeting and a list of all persons expected to attend and their affiliation.

(d) Before every closed meeting, the General Counsel of the NTSB shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement of the presiding officer setting forth the time and place of the meeting and the persons present, shall be retained by the NTSB as part of the transcript, recording, or minutes required by § 804.9.

§ 804.7 Procedures for public announcement of meetings.

(a) For each meeting, the NTSB shall make public announcement, at least one week before the meeting, of the:

(1) Time of the meeting;

(2) Place of the meeting;

(3) Subject matter of the meeting;

(4) Whether the meeting is to be open or closed; and

(5) The name and business telephone number of the official designated by the NTSB to respond to requests for information about the meeting.

(b) The one week advance notice required by paragraph (a) of this section may be reduced only if: (1) A majority of all Members determines by recorded vote that NTSB business requires that such meeting be scheduled in less than seven days; and

(2) The public announcement required by paragraph (a) of this section be made at the earliest practicable time.

(c) Immediately following each public announcement required by this section, or by § 804.8, the NTSB shall submit a notice of public announcement for publication in the FEDERAL REGISTER.

§ 804.8 Changes following public announcement.

(a) The time or place of a meeting may be changed following the public announcement only if the NTSB publicly announces such change at the earliest practicable time. Members need not approve such change.

(b) The subject matter of a meeting or the determination of the Board to open or to close a meeting, or a portion thereof, to the public may be changed following public announcement only if:

(1) A majority of all Members determines by recorded vote that NTSB business so requires and that no earlier announcement of the change was possible; and

(2) The NTSB publicly announces such change and the vote of each Member thereon at the earliest practicable time.

§ 804.9 Transcripts, recordings, or minutes of closed meetings.

Along with the General Counsel's certification and presiding officer's statement referred to in § 804.6(d), the NTSB shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or a portion thereof, closed to the public. The NTSB may maintain a set of minutes in lieu of such transcript or recording for meetings closed pursuant to § 804.5 (h) or (j). Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote. All documents considered in connection with any actions shall be identified in such minutes.

§ 804.10 Availability and retention of transcripts, recordings, and minutes, and applicable fees.

The NTSB shall make promptly available to the public the transcript, electronic recording, or minutes of the discussion of any item on the agenda or of any testimony received at the meeting, except for such item, or items, of discus-

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sion or testimony as determined by the NTSB to contain matters which may be withheld under the exemptive provisions of § 804.5. Copies of the nonexempt portions of the transcript or minutes, or transcription of such recordings disclosing the identity of each speaker, shall be furnished to any person at the actual cost of transcription or duplication. The NTSB shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or a portion thereof, closed to the public for at least two years after such meeting, or until one year after the conclusion of any NTSB proceeding with respect to which the meeting, or a portion thereof, was held, whichever occurs later.

[FR Doc.77-7137 Filed 3-9-77;8:45 am]

Title 33—Navigation and Navigable Water

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 209—ADMINISTRATIVE PROCEDURE

Mississippi River Commission: Public Observation of Commission Meetings

On January 12, 1977 the Mississippi River Commission proposed a regulation to implement Sections (b) through (f) of the Government in the Sunshine Act (5 U.S.C. 552b) to provide for public observation of meetings of the Commission. Interested persons were given until February 14, 1977 in which to submit comments on the proposed regulation.

Comments were received from Congressman Richardson Preyer, Chairman, Subcommittee on Government Information and Individual Rights, House Committee on Government Operations.

Congressman Preyer's comments were given careful consideration and as a result, the following changes were made to the proposed regulation:

(1) Section 209.50(d)(1) The following sentence has been added to the paragraph:

Public announcements of Commission meetings shall include releases to the news media in the Lower Mississippi River Valley and mailing notices of such meetings to all persons and agencies known to have an interest in the Commission's work and to others who request such announcements.

(2) *Section 209.50(e)(2).* Paragraph (2) has been deleted and the following sentence substituted therefor:

(2) In each instance where the Commission determines that a portion or portions of a meeting may be closed to the public, or determines that information may be withheld from the public for one or more of the exemptions listed in paragraph (e)(1) of this section, the Commission shall consider and determine whether or not the public interest requires that the portion or portions of the meeting be open to the public and whether or not the public interest requires that the information be released to the public.

With the above changes the proposed regulation is adopted as set forth below.

Effective date: This regulation is effective March 12, 1977.

Dated: February 28, 1977.

(Government in the Sunshine Act (5 U.S.C. 552b).)

F. P. KOISCH,
Major General, USA, President,
Mississippi River Commission.

Section 209.50 is added to read as follows:

§ 209.50 Mississippi River Commission: Public Observation of Commission Meetings.

(a) *Purpose.* (1) The purpose of this regulation is to afford to the public, to the fullest possible extent, information regarding the decisionmaking processes of the Mississippi River Commission and to open all meetings of the Mississippi River Commission to public observation except in instances where a portion or portions of a meeting may be closed to the public in accordance with this regulation in order to protect the rights of individuals and/or in order to permit the Mississippi River Commission to carry out its statutory and assigned functions and responsibilities. This regulation is issued in accordance with section (g) of the Government in the Sunshine Act and implements sections (b) through (f) of said Act [5 U.S.C. 552b (b) through (f)].

(2) Public observation of Mississippi River Commission meetings includes public participation in the deliberations of the Commission only to the extent specifically provided in public notices of such meetings.

(b) *Definitions.* The following definitions apply to the regulation in this section.

(1) "Commission" means The Mississippi River Commission.

(2) "President" means the duly appointed President and Executive Officer of the Commission.

(3) "Commissioner" means a duly appointed member of the Commission.

(4) "Secretary" means the Secretary of the Commission.

(5) "Chief Legal Officer" means the Division Counsel or the acting Division Counsel of the Lower Mississippi Valley Division, Corps of Engineers.

(6) "Meeting" means the deliberations of at least a majority of the Commissioners where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include:

(i) Deliberations of the Commission in determining whether or not to close a portion or portions of a meeting in accordance with paragraphs e(4) and e(5) of this section.

(ii) deliberations of the Commission in determining whether or not to withhold from disclosure information pertaining to a portion or portions of a meeting as provided in section e(4) and e(5) of this section.

(iii) deliberations of the Commission pertaining to changes in the subject matter of a meeting or changes in the determination to open or close a portion or portions of a meeting to the public following the public announcement of such meeting in accordance with paragraph d(4) of this section.

(iv) deliberations of the Commission in determining whether to waive the one-week public notice requirement in accordance with paragraph d(2) of this section.

(c) *Time, place and agenda of meetings.* (1) The meetings of the Commission, except those held on Government boats during inspection trips of the Commission, shall be held at Vicksburg, Mississippi. The time of such meetings shall be fixed by the President of the Commission, who shall cause due notice of such meetings to be given members of the Commission and the public.

(33 U.S.C. 646)

(2) The President shall, after consultation with the Commissioners, prepare a detailed agenda for planned Commission meetings at the earliest practicable time. Suggestions from the public of proposed agenda items are invited.

(d) *Public notices and Federal Register publication.* (1) At least one week before each Commission meeting the Secretary shall issue a public announcement which (i) States the time and place of the meeting, (ii) Lists the agenda items or subjects to be discussed at the meeting, (iii) States whether the meeting or portions of the meeting are to be closed or open to public observation, (iv) States whether or not public participation in the meeting will be permitted, and (v) States the name and business phone number of the official who will respond to requests for information about the meeting. Public announcements of Commission meetings shall include releases to the news media in the Lower Mississippi River Valley and mailing notices of such meetings to all persons and agencies known to have an interest in the Commission's work and to others who request such announcements.

(2) The one-week period for public notice required by paragraph d(1) of this section shall not be applicable when a majority of the entire membership of the Commission determines by a recorded vote that Commission business requires that a meeting be called at an earlier date. The Secretary shall, however, issue the public notice required by paragraph d(1) of this section at the earliest practicable time.

(3) When due to unforeseen circumstances it is necessary to change the time or place of a meeting following the public announcement required by paragraph d(1) of this section, the Secretary will publicly announce such change at the earliest practicable time.

(4) The subject matter of a meeting, or the determination of the Commission to

open or close a portion or portions of a meeting to the public, may be changed following the public announcement required by paragraph d(1) of this section only if (i) a majority of the entire membership of the Commission determines by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and (ii) the Secretary publicly announces such change and the vote of each member on such change at the earliest practicable time.

(5) Immediately following each public announcement required by this section, notice of the time, place, and subject matter of a meeting, whether a portion or portions of the meetings are open or closed to public observation, any change in one of the preceding, and the name and business telephone number of the official of the Commission who will respond to requests for information about the meeting, shall be submitted for publication in the FEDERAL REGISTER.

(e) *Closing a portion or portions of a meeting.* (1) All Commission meetings shall be open to the public except when the Commission determines that public disclosure of information to be discussed in a portion or portions of a meeting is likely to:

(i) Disclose matters that are (A) Specifically authorized under criteria established by Executive order to be kept secret in the interests of national defense or foreign policy and (B) In fact properly classified pursuant to such Executive order;

(ii) Relate solely to the internal personnel rules and practices of the Commission;

(iii) Disclose matters specifically exempted from disclosure by statute [other than the Freedom of Information Act (5 U.S.C. 552)], provided that such statute (A) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(iv) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(v) Involve accusing any person of a crime, or formally censuring any person;

(vi) Disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;

(vii) Disclose investigatory records compiled for law-enforcement purposes, or information which, if written, would be contained in such records, but only to the extent that the production of such records or information would: (A) Interfere with enforcement proceedings, (B) Deprive a person of a right to a fair trial or to an impartial adjudication, (C) Constitute an unwarranted invasion of personal privacy, or (D) Disclose the identity of a confidential source, and, in the case of a record compiled by a criminal law-enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national-security intelligence investigation, confidential information furnished only by the confidential source;

(viii) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Commission action except: (A) When the Commission has already disclosed to the public the content or nature of its proposed action or (B) When the Commission is required by law to make such disclosure on its own initiative prior to taking final Commission action on such proposal;

(ix) Specifically concerns the Commission's participation in a civil action or proceeding.

(2) In each instance where the Commission determines that a portion or portions of a meeting may be closed to the public, or determines that information may be withheld from the public for one or more of the exemptions listed in paragraph (e)(1) of this section, the Commission shall consider and determine whether or not the public interest requires that the portion or portions of the meeting be open to the public and whether or not the public interest requires that the information be released to the public.

(3) Whenever any person whose interest may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in paragraph e(1) (v), (vi) or (vii) of this section, the Commission, upon the request of any one of its members, shall vote by recorded vote whether to close such meeting.

(4) Action to close a portion or portions of a meeting for one or more of the reasons listed in paragraphs (e)(1) (i) through (ix) of this section, or to withhold information from the public for one or more of the reasons listed in paragraphs (e)(1) (i) through (ix) of this section shall be taken only when a majority of the entire membership of the Commission votes to take such action.

(5) A separate recorded vote of the Commission shall be taken with respect to each meeting a portion or portions of which the Commission proposes to close to the public, and a separate vote of the members of the Commission shall be taken to determine whether to withhold information from the public. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(6) Within one day of any vote taken pursuant to paragraphs (e)(4) and (e)(5) of this section, the Commission shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion or portions of a meeting are to be closed to the public, the Commission shall within one day of the vote taken pursuant to paragraphs (e)(4) and (e)(5) of this section make publicly available a written explanation of its action in closing a portion or portions of the meeting together with a list of all persons expected to attend the meeting and their affiliations.

(7) For every portion or portions of a meeting closed pursuant to paragraphs (e)(1) (i) through (ix) of thi section, the Chief Legal Officer of the Commission shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained in the Commission files.

(f) *Records.* (1) The Secretary shall maintain in the official files:

(i) A complete transcript or electronic recording (disclosing the identity of each speaker) adequate to record fully the proceedings of the Commission at a portion or portions of a meeting closed to the public for the reasons specified in paragraphs (e)(1) (i) through (ix) of this section.

(ii) The statement of the presiding officer of each Commission meeting, a portion or portions of which were closed to the public, as required by paragraph (e)(7) of this section.

(iii) The certification of the Chief Legal Officer, as required by paragraph (e)(7) of this section, for each Commission meeting, a portion or portions of which were closed to the public.

(2) The records required by paragraph (f)(1) of this section shall be retained for at least two years following any meeting or not less than one year following conclusion of Commission action with respect to any matter discussed at such meeting, whichever occurs later.

(g) *Public access to records.* (1) All records required to be maintained in accordance with the provisions of f(1) of this section shall promptly be made available to the public by the Secretary except for information which the Commission has determined may be withheld from the public for the reasons stated in paragraphs (e)(1) (i) through (ix) of this section.

(2) Public inspection of such records shall take place at the headquarters of the Mississippi River Commission, 1400 Walnut Street, Vicksburg, Mississippi 39180.

(3) The Secretary shall provide (subject to withholding of information for the reasons stated in paragraphs (e)(1) (i) through (ix) of this section) upon request of any person, copies of the records required by the provisions of (f)(1) of this section, including transcriptions of electronic recordings at the actual cost of transcription or duplication.

[FR Doc.77-6926 Filed 3-9-77;8:45 am]

Title 39—Postal Service

CHAPTER III—POSTAL RATE COMMISSION

[Docket No. RM77-3; Order No. 154]

PART 3001—RULES OF PRACTICE

Rules Governing Public Attendance at Meetings of The Postal Rate Commission and Ex Parte Communications; Order of the Commission Amending Rules of Practice and Procedure

MARCH 4, 1977.

By notice dated December 10, 1976 (41 FR 54950), the Postal Rate Commission initiated a rulemaking proceeding to

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amend certain sections of 39 CFR Part 3001, Subpart A, to implement (1) the open meeting requirements of Section 3 (a) of the Government in the Sunshine Act (Pub. L. 94–409) and (2) the ex parte provisions of Section 4 of that Act.

Section 3(a) of Pub. L. 94–409 amends title 5 of the United States Code by adding a new Section 552b. Subsection (b) of this new section requires that, except as provided in Section 552b(c), every portion of every meeting of government agencies subject to the Act must be open to public observation. Moreover, Section 4 of the Act contains provisions prohibiting ex parte communication and sanctions for violations thereof.

In response to the publication of the Commission's proposed rulemaking, comments were submitted by the United States Postal Service (hereinafter referred to as "Postal Service" or "Service"), and by the Honorable Jack Brooks, Chairman of the Committee on Government Operations of the House of Representatives. Having considered the written comments submitted, the Commission has determined it should incorporate certain modifications to its originally proposed rules; however, for the most part, the proposed rules restate verbatim the provisions of the Act.

The Commission is publishing the instant regulations in accordance with Section 552b(g) of the Act which requires each agency subject to Section 552b to promulgate regulations to implement the requirements of Sections 552b (b) through (f) within 180 days of enactment and following the opportunity for written comment by any person. In preparing and adopting the attached rules, the Commission has recognized the importance of adopting provisions which embody both the spirit and the letter of the Sunshine Act. Federal regulation is a public interest activity and best serves the public interest when it occurs in full view. Because the authority to regulate is derived from the people, the regulator is accountable to them. The best means of insuring accountability is to open the process of regulation to public scrutiny. For this reason, the Commission contemplates conducting agency business in open meetings with advance public notice, thereby providing the public with the fullest practicable information and, at the same time, protecting the rights of individuals and performing the statutory duties imposed on the Commission. Should we determine that it is necessary under particular circumstances to depart from the policy of open meetings, we will do so on the basis of a narrow construction of the appropriate exemption.

Applicability of 5 U.S.C. Section 552b (d)(4) to Commission Meetings

The United States Postal Service, in comments filed January 12, 1977, suggested that the Commission provide additional support for its determination that a majority of its meetings may be closed for the reasons stated in 5 U.S.C. Section 552b(c) (4), (8), (9)(A), or (10). The Postal Service challenged the reliability of the Commission's determination of a "majority" of meetings for the purpose of 5 U.S.C. Section 552b(d)(4).[1] In particular, it asserted that a calculation of the percentage of agenda items over an historical period which involved discussions of exempt material[2] is not a satisfactory basis for determining the applicability of the expedited procedures of 5 U.S.C. 552b(d)(4) to Commission business. Rather, the Postal Service urged the use of a method which would measure the percentage of time in Commission meetings or the portion of the staff's preparation time devoted to these subjects. In lieu of that information, the Postal Service recommended that the Commission postpone its determination on the applicability of subsection (d)(4) until it is obtained.

As discussed earlier in this order, the Commission desires to comply to the fullest extent possible with the spirit as well as the letter of the Act. We think, however, that the Postal Service's suggestion is not one we can adopt at this time. The amount of time spent on discussions of exempt material cannot be easily monitored by those interested in the Commission's performance under the Act, since those discussions take place in closed sessions. Agendas, however, are completely public, and it would be a relatively simple matter for interested parties to review them and calculate the approximate proportion of exempt items. This seems to us to promise a better method of checking on the justification for closing meetings than would the system proposed by the Service.

Moreover, we do not believe, on the basis of information now available, that the result would be different if we were to adopt the Postal Service's suggestion. The Commission is required to determine by far the greatest part of its cases following a hearing on the record, and these deliberations, as formal rulemakings, are exempt under 5 U.S.C. 552b(c)(10). The legislative history makes this clear: "The exception would also apply to matters concerning arbitration, formal agency adjudication or *determinations on the record after opportunity for hearing (formal rule making)*." (Emphasis added.)[3] The Commission has in the past held many informal meetings of a deliberative character, which did not figure in the 57 percent calculation referred to above; thus—were it possible to count those meetings for which no formal agenda existed—it seems most probable that the 57 percent figure would be higher still. Since the conduct of these types of proceedings by means of a hearing on the record is required by statute, the preponderantly deliberative character of our meetings may be expected to continue in the future.

We do, however, intend to revisit the question of whether a majority of meetings are subject to closing under the Act, and the related question of whether § 3001.43(d)(5) should be retained, modified, or dropped from our rules. In this connection, we expect to pay particular attention to our experience under 39 U.S.C. 404, as amended by Pub. L. 94–421. That section, which vests the Commission with appellate jurisdiction to review Postal Service determinations to close small post offices, becomes effective on March 16, 1977, and will result in additional workload of as yet undetermined scope. In connection with our review of § 3001.43(d)(5), we will experimentally monitor the amount of Commission meeting time required by the items on our agendas.

Applicability of Restrictions on Ex Parte Communications to the Officer of the Commission

The Postal Service also raised the concern that the proposed amendments to implement the ex parte provisions of section 4 of the Sunshine Act do not "clearly bar ex parte communications between the Officer of the Commission (OOC) and Commission personnel who are involved in the decisional process."[4] Proposed § 3001.7(a) would prohibit ex parte communications between any "interested person outside the Commission" and any "member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding." Similarly, § 3001.7(b) would prohibit ex parte communications addressed to the Officer of the Commission and his staff as well.

We concur in the position of the Postal Service that the OOC, as well as persons outside the Commission, should be prohibited from improperly communicating with Commission personnel involved in the decisional process and vice versa. Accordingly, we are adopting the Postal Service's suggestion that proposed § 3001.7(a) (1) and (2) be modified to apply the prohibitions on ex parte communications to the OOC by inserting the words, "or the Officer of the Commission designated to represent the interest of the general public," immediately after the words, "interested person outside the Commission," in those sections.

[1] "(d) * * *

(4) Any agency, a majority of whose meetings may properly be closed to the public pursuant to paragraph (4), (8), (9)(A), or (10) of subsection (c), or any combination thereof, may provide by regulation for the closing of such meetings or portions thereof * * *."

[2] In the Notice of Proposed Rulemaking, the Commission cited approximately 57 percent of its agenda items during FY 1976 as involving "the initiation, conduct, or disposition of proceeding requiring a hearing on the record pursuant to sections 556 and 557 of title 5" and concluded that a majority of its meetings may be closed under 5 U.S.C. Section 552b(c)(10).

[3] H.R. Rep. No. 94–880, Part 2, p. 9 (April 8, 1976).

[4] It should be clear, of course, that the Commission's "separation-of-functions" rule has prohibited, and will continue to be a bar, communications from the Officer of the Commission, the administrative law judge, or its advisory staff concerning decisions in cases in which he participated in the preparation and presentation of the evidence. 39 CFR 3001.8.

Employee's Obligation To Place an Ex Parte Communication on the Public Record

In a letter dated January 21, 1977, the Honorable Jack Brooks, Chairman of the Committee on Government Operations of the House of Representatives, also addressed proposed § 3001.7 regarding ex parte communications. In particular, Chairman Brooks stated that although proposed § 3001.7(a)(3) provides that a decisionmaking employee receiving an ex parte communication relevant to the merits of a proceeding from an interested party should decline to listen to the prohibited communication, it suggests that if the employee succeeds in preventing a communication, he need not place it on the public record. He added that paragraphs (a)(3) and (a)(4) should be amended to clearly provide that "a decisionmaking employee receiving a prohibited communication has no option as to whether to place it upon the public record."

In order to eliminate any ambiguity with respect to the duty of an employee to place on the public record a communication prohibited by § 3001.7, we are deleting from paragraph (a)(3) the words, "[i]f successful in preventing such communication," prior to the directive to the recipient to inform the Commission of the communication.[5] However, we believe proposed paragraph (a)(4) which adopts verbatim 5 U.S.C. 557(d)(1)(C) does not require changing.

Closed Commission Meetings

Congressman Brooks' comments also discussed the criteria for closing a meeting set forth in § 3001.43(c). He suggested that the section should be amended to provide a two-step procedure for determining to close a meeting: (1) the Commission must determine whether the discussion comes within one of the specific exemptions; and (2) if the discussion is determined to be exempt, the Commission must consider and determine whether the public interest nevertheless requires that the meeting be open. He explained that the Act contemplates that the public interest issue will be considered in each instance where the Commission determines that the discussion comes within a specific exemption, whereas the proposed regulation seems to suggest that the Commission has an option not to consider the public interest.

The Commission's proposed regulation copies nearly verbatim subsection (c) of 5 U.S.C. 552b of the Act. To the extent that the Act carries an implicit obligation to perform the two-step procedure for closing a meeting described in Congressman Brooks' letter, we believe that procedure is subsumed in the determination to close a meeting. The Commission intends to consider and determine whether the public interest requires a meeting to remain open whenever it decides that the discussion falls within a specific exemption and believes a vote to close a meeting under an exemption implies a public interest finding as well.

Exemption to Prevent the Premature Disclosure of Certain Information

Section 300143(c)(9)(i) of the Commission's proposed rules provides an exemption from the open meeting requirement where the premature disclosure of the subject information would "be likely to (a) lead to significant financial speculation in currencies, securities, or commodities, or (b) significantly endanger the stability of any financial institution * * *." In his comments, Congressman Brooks noted that the statute makes that exemption available only to an agency which "regulates currencies, securities, commodities, or financial institutions," which the Commission does not do.

The Commission agrees that its activities do not qualify it to assert that a discussion is exempt from the open meeting requirement under paragraph (9)(A) of section 552b(c).[6] Accordingly, the Commission is deleting paragraph (c)(9)(i) and amending § 3001.43(c)(9) to read as follows:

(9) disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Commission action, except that paragraph (c)(9) shall not apply in any instance where the Commission has already disclosed to the public the content or nature of its proposed action or where the Commission is required by law to make such disclosure on its own initiative prior to taking final Commission action on such proposal; or * * *

In addition, references to paragraph (c)(9)(i) will be deleted where they appear in § 3001.43 of the proposed regulations.

Announcement of Meetings

In his comments, Congressman Brooks noted that § 3001.43(e) of the Commission's proposed regulations requires public announcement of certain facts and relevant information concerning a forthcoming meeting, but does not specify how that information should be disseminated other than by publication in the Federal Register. The legislative history of the Act included the following statement by the managers in the conference report:

> The bill requires that reasonable means be used to assure that the public is fully informed of public announcements pursuant to this section. Such means include posting notices on the agency's public notice boards, publishing them in publications whose readers may have an interest in the agency's operations, and sending them to the persons on the agency's general mailing list maintained for those who desire to receive such material.[7]

Besides submitting announcements of Commission meetings for publication in the Federal Register, the Secretary will post meeting notices on a board in the Office of Public Information, and the Commission is providing for a service list to be maintained for anyone who desires to receive notice of the Commission's meetings through the mail. In addition, the Commission is providing for the establishment of a specially recorded phone message. The proposed paragraph (e) will be amended to include those additional means of disseminating notice of Commission meetings to the public.

Certification of Closed Meetings

With respect to the requirement in proposed § 3001.43(f)(1) that for each closed meeting the General Counsel of the Commission must publicly certify that in his or her opinion the meeting properly may be closed, Congressman Brooks recommended that the paragraph be amended to clearly provide that the certification must be made before the meeting may be closed.

Inasmuch as it has copied verbatim pargaraph (f)(1) of its proposed regulations from the Act, the Commission has also adopted as controlling, the interpretations of its content and practical application contained in the legislative history paragraph (f)(1) of its proposed regula-accompanying Pub. L. 94–409 (Government in the Sunshine Act). We note that the House Conference Report does specify that the General Counsel's certification that the meeting may properly be closed should be made before the meeting may be closed. (H.R. Rep. No. 94–1441, at 19). Although the Commission believes that the legislative history accompanying the Act is implicitly incorporated by the Commission under this section of its rules, we shall amend our rule regarding certification by the General Counsel to eliminate any possible ambiguity with respect to our interpretation of this requirement. In the first sentence of paragraph (f)(1) of § 3001.43, we shall remove the words, "For every meeting closed," and substitute in their place, "Before any meeting to be closed."

Accordingly, in consideration of the foregoing findings and for the reasons given in the Notice of Proposed Rulemaking, Part 3001 of Chapter 3 of title 39 of the Code of Federal Regulations is amended, effective March 12, 1977, as follows:

[5] However, it has been the practice from inception that the Commission's employees who receive ex parte communications promptly prepare a report which becomes a public record of the Commission. 39 CFR 3000.735–501, –502. The Secretary issues a monthly summary of case-related ex parte communications, which lists the date, communicator, commission employee involved, the circumstances and substance of the communication, and its relationship to a particular matter at issue.

[6] The legislative history further indicates that exemption (9)(A) is not available to the Commission. The House Report (Government Operations Committee) states that subparagraph (A) "applies solely to agencies that regulate securities, currencies, commodities or financial institutions" and that, for example, it "would cover many of the regulatory activities of such agencies as the Federal Reserve Board and the Securities and Exchange Commission." H.R. Rep. No. 94–880 (Part I), 94th Cong., 2nd Sess., 12–13 (1976).

[7] H.R. Rep. No. 94–1441, 94th Cong., 2d Sess, 19 (1976).

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Subpart A—Rules of General Applicability

1. Add § 3001.5 (n) and (o) to read as follows:

§ 3001.5 Definitions.

* * * * *

(n) *Commission meeting* means the deliberations of at least three Commissioners where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by § 3001.43(d) or § 3001.43(e).

(o) *Ex parte communication* means an oral or written communication not on the public record with respect to which reasonable prior notice to all participants and limited participators is not given, but it shall not include requests for status reports on any matter or proceeding covered by subchapter II of chapter 5 of title 5 or a proceeding conducted pursuant to Subpart H of this Part.

2. Revise § 3001.7 to read as follows:

§ 3001.7 Ex parte communications.

(a) *Prohibition.* In any agency proceeding which is required to be conducted in accordance with § 556 of title 5 or a proceeding conducted pursuant to Subpart H of this Part, except to the extent required for the disposition of ex parte matters as authorized by law—

(1) No interested person outside the Commission or the Officer of the Commission designated to represent the interest of the general public shall make or knowingly cause to be made to any member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communication relevant to the merits of the proceeding;

(2) No member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall make or knowingly cause to be made to any interested person outside the Commission or the Officer of the Commission designated to represent the interest of the general public an ex parte communication relevant to the merits of the proceeding;

(3) A member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding who receives an ex parte communication relevant to the merits of the proceeding shall decline to listen to such communication and explain that the matter is pending for determination. The receipient thereof shall advise the communicator that he will not consider the communication and shall promptly and fully inform the Commission in writing of the substance of and the circumstances attending the communication, so that the Commission will be able to take appropriate action.

(4) A member of the body comprising the Commission, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or knowingly causes to be made, a communication prohibited by this paragraph shall place on the public record of the proceeding:

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications; and

(iii) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraph (a)(4)(i) and (a)(4)(ii) of this section;

(5) Requests for an opportunity to rebut, on the record, any facts or contentions contained in an ex parte communication which have been placed on the public record of the proceeding pursuant to paragraph (a)(4) of this section may be filed in writing with the Commission. The Commission will grant such requests only where it determines that the dictates of fairness so require. Generally, in lieu of actually receiving rebuttal material, the Commission will direct that the alleged factual assertion and the proposed rebuttal be disregarded in arriving at a decision.

(b) *Officer of the Commission.* The prohibitions of paragraph (a) of this section shall apply to the Officer of the Commission designated to represent the interest of the general public (or his staff or the technical staff designated to support him); however, the prohibitions of paragraph (a) of this section do not apply to a communication between a participant, a limited participator, or a commenter and the Officer of the Commission (or his staff or the technical staff designated to support him), if such communication relates to matters of procedure only, including matters arising in the course of requests for interrogatories or discovery and informal requests for clarification of evidentiary material. Said Officer shall file with the Commission a monthly report briefly describing any ex parte communication received pursuant to this exception, and this report, which shall be a public record of the Commission, shall identify the individuals involved and the nature of the subject matter discussed.

(c) *Applicability.* (1) The prohibitions of paragraph (a) of this section shall apply beginning at the time at which a proceeding is noticed for hearing or appeal unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

(2) Paragraph (a) of this section does not constitute authority to withhold information from Congress.

(d) *Violations of ex parte rules.* (1) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of paragraph (a) of this section, the Commission, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(2) The Commission may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the Commission, consider a violation of paragraph (a) of this section sufficient grounds for a decision adverse to a party who has knowlingly committed such violation or knowingly caused such violated to occur.

3. Add § 3001.43 to read as follows:

§ 3001.43 Public attendance at Commission meetings.

(a) *Open Commission meetings.* Commissioners shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in paragraph (c), every portion of every meeting of an agency shall be open to public observation. The public shall not be permitted to participate nor to record any of the discussions by means of electronic or other devices, or cameras. Access to documents being considered at Commission meetings shall be obtained in the manner set forth in § 3001.42.

(b) *Physical arrangements for open meetings.* The Secretary shall be responsible for seeing that ample space, sufficient visibility, and adequate acoustics are provided for public observation of the Commission meetings.

(c) *Closed Commission meetings.* Except in a case where the Commission finds that the public interest requires otherwise, the second sentence of paragraph (a) shall not apply to any portion of a Commission meeting, and the requirements of paragraphs (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the Commission properly determines that such portion or portions of its meetings or the disclosure of such information is likely to

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of title 5), provided that such statute (i) requires that the matter be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Commission action, except that paragraph (c)(9) shall not apply in any instance where the Commission has already disclosed to the public the content or nature of its proposed action, or where the Commission is required by law to make such disclosure on its own initiative prior to taking final Commission action on such proposal; or

(10) Specifically concern the Commission's issuance of a subpoena or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition by the Commission of a particular case of formal Commission adjudication pursuant to the procedures in section 554 of title 5 or otherwise involving a determination on the record after opportunity for a hearing as provided by section 3624(a) of title 39.

(d) *Procedures for closing meetings.* (1) Action under paragraph (c) shall be taken only when three Commissioners vote to take such action. A separate vote of the Commissioners shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to paragraph (c), or with respect to any information which is proposed to be withheld under paragraph (c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in paragraphs (c)(5), (c)(6), or (c)(7) of this section, the Commission upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

(3) Within one day of any vote taken pursuant to paragraph (d)(1) or (d)(2) of this section, the Commission shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Commission shall, within one day of the vote taken pursuant to paragraph (d)(1) or (d)(2) of this section, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(4) Any person may protest a Commission decision to hold a closed meeting under paragraphs (d)(1) or (d)(2) of this section by filing a motion to open the meeting. Such motion shall be addressed to the Commission and shall set forth with particularity the statutory or other authority relied upon, the reasons for which the movant believes the meeting should not be closed, and the reasons for which the movant believes that the public interest requires the meeting to be open. Such motion shall be filed with the Secretary no later than 24 hours prior to the time for which the closed meeting is scheduled.

(5) The Commission has determined that a majority of its meetings may be closed to the public pursuant to paragraphs (c)(4), (c)(8) or (c)(10) of this section or any combination thereof. Therefore, pursuant to 5 U.S.C. § 552b (d)(4), Commission meetings shall be closed to the public pursuant to paragraphs (c)(4), (c)(8) or (c)(10) of this section or any combination thereof when three Commissioners vote by recorded vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each Commissioner on the question, is made available to the public. The provisions of paragraphs (d)(1), (d)(2), (d)(3) and (e) of this section shall not apply to any portion of a meeting to which paragraph (d)(5) of this section applies: Provided, that the Commission shall, except to the extent that such information is exempt from disclosure under the provisions of paragraph (c) of this section, provide the public with public announcement of the time, place, and subject matter of the meeting and of each portion thereof at the earliest practicable time.

(e) *Scheduling and public announcement.* (1) In the case of each meeting, the Commission shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting. Such announcement shall be made unless three Commissioners determine by a recorded vote that Commission business requires that such meeting be called at an earlier date, in which case the Commission shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(2) The time or place of a meeting may be changed following the public announcement required by paragraph (e)(1) of this section only if the Commission publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or a portion of a meeting, to the public, may be changed following the public announcement required by paragraph (e)(1) only if (i) three Commissioners determine by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and (ii) the Commission publicly announces such change and the vote of each Commissioner upon such change at the earliest practicable time.

(3) Immediately following each public announcement required by paragraph (e) of this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

(4) The public announcement required by this section may consist of the Secretary

(i) Publicly posting a copy of the document in the Office of Public Information of the Commission at 2000 L Street NW., Room 500, Washington, D.C. 20268;

(ii) Mailing a copy to all persons whose names are on a mailing list maintained for this purpose;

(iii) Operating a recorded telephone announcement, giving the announcement, and

(iv) Any other means which the Secretary believes will serve to further inform any persons who might be interested.

(f) *Certification of closed meetings: transcripts, electronic recordings, and minutes.* (1) Before any meeting to be closed pursuant to paragraphs (c)(1) through (c)(10) of this section, the General Counsel of the Commission should publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Commission. The

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Commission shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (c)(8) or (c)(10) of this section; the Commission shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each Commissioner on the question). All documents considered in connection with any action shall be identified in such minutes.

(2) The Commission shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes [as required by paragraph (f)(1) of this section] of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Commission determines by a majority vote of all its members (i) contains information which may be withheld under paragraph (c), and (ii) is not required by the public interest to be made available. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The Commission shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

(39 U.S.C. § 3603, 84 Stat. 759; 5 U.S.C. § 552b (g), 90 Stat. 1246; 5 U.S.C. § 553, 80 Stat. 383)

By the Commission.

DAVID F. HARRIS,
Secretary.

[FR Doc.77-7093 Filed 3-9-77;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Need and Amount of Assistance Exclusion of SSI Beneficiaries From AFDC; Correction

In FR Doc. 76-36568 published at page 54489 on December 14, 1976, the last sentence of the preamble to the regulation amending 45 CFR 233.20 is incorrect. The sentence erroneously refers to a revision of paragraph (a)(3)(x) as though the paragraph had been codified prior to issuance of the amendment. The content of that paragraph is new material.

The sentence is corrected to read: "45 CFR 233.20 is amended by revising paragraphs (a)(1) and (a)(3)(vi) and adding a new paragraph (a)(3)(x) to read as set forth below:".

Dated: March 4, 1977.

THOMAS S. MCFEE,
Deputy Assistant Secretary for Management Planning and Technology.

[FR Doc.77-7110 Filed 3-9-77;8:45 am]

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

PART 1061—CHARACTER AND SCOPE OF SPECIFIC COMMUNITY ACTION PROGRAMS

Subpart—Summer Youth Recreation Programs

Section 222(a)(13) of the Economic Opportunity Act of 1964, as amended, provides for a program to be known as "Summer Youth Recreation" which is designed to provide recreational opportunities for low-income children during the summer months. The legislation also directs that the funds made available under this section of the EOA be allocated by the Director of the Community Services Administration, after consultation with the Secretary of Labor, among prime sponsors and other agencies designated under Title I of the Comprehensive Employment and Training Act of 1973 on a formula basis.

The Community Services Administration is hereby publishing its regulations for applying for FY77 funds to operate Summer Youth Recreation programs under Section 222(a)(13). These regulations remain basically the same as those issued for FY76 funds. However, a number of pre- and post-grant requirements, such as bonding, insurance, and financial reporting have changed due to publication of CSA's regulations implementing OMB Circular A-110 and Federal Management Circular 74-7, which will be effective April 1, 1977. (See FEDERAL REGISTER Vol. 42—No. 11, January 17, 1977). One additional change is that CSA now requires CAAs to monitor and evaluate SYRP programs in their area.

Due to the continuing adverse economic conditions in most communities, the non-Federal share requirement is waived for all projects funded under Section 222(a)(13) for FY77.

Although this regulation is not effective until April 11, 1977, applications may be submitted at any time to the appropriate CSA Regional Office.

Any comments, questions, or information regarding these regulations should be addressed to: Nolan Lewis, Community Services Administration, Room 308, 1200—19th Street NW., Washington, D.C. 20506.

Any specific program or grant application questions should be addressed to the appropriate CSA Regional Office.

Effective: April 11, 1977.

ROBERT C. CHASE,
Acting Director.

45 CFR Chapter X 1061.20-1 through 1061.20-11 is revised to read as follows:

Sec.
1061.20-1 Applicability.
1061.20-2 Definitions.
1061.20-3 Summer Youth Recreation Program—description and components.
1061.20-4 Eligible sponsors/alternates.
1061.20-5 Eligible participants.
1061.20-6 Funding.
1061.20-7 Application process.
1061.20-8 Expenditure of funds.
1061.20-9 Coordination with other programs.
1061.20-10 General requirements.

AUTHORITY: Sec. 602, 78 Stat. 530 (42 U.S.C. 2942).

§ 1061.20-1 Applicability.

This subpart applies to grantees funded under section 222(a)(13) of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1061.20-2 Definitions.

For purposes of this subpart the following definitions will apply:

(a) "Act" shall mean the Economic Opportunity Act of 1964, as amended.

(b) "Allocation" shall mean the distribution of funds among prime sponsors designated by the Secretary of Labor under Section 102 of the CETA Act according to the formulas contained in Act.

(c) "Certification" shall mean a legally binding statement that certain requirements have been fulfilled.

(d) "CETA Act" shall mean the Comprehensive Employment and Training Act of 1973 (Public Law 93-203).

(e) "Chief Elected Official" and "Chief Executive Officer" shall include their designees.

(f) "Community Action Agency" shall mean a political jurisdiction, public agency, or private non-profit agency which has the power and authority and will perform the functions set forth in Section 212 of the Act and is determined to be capable of planning, conducting, administering and evaluating a community action program and is currently designated as a community action agency by the Director.

(g) "CSA Regional Director" shall mean the ten Regional Directors of the Community Services Administration in specified geographical areas of the country. (See Appendix C for the appropriate CSA Regional Office serving your area).

(h) "Director" shall mean the Director of the Community Services Administration.

(i) "Economically Disadvantaged" shall mean a person who is a member of a family as defined under CETA income poverty guidelines.

(j) "Summer Youth Program" shall mean the Summer Program for Economically Disadvantaged Youth funded under Title III, Section 304(a)(3) of the Comprehensive Employment and Training Act of 1973 and administered by the U.S. Department of Labor.

§ 1061.20-3 Summer Youth Recreation Program—Description and components.

(a) *Description.* (1) The Summer Youth Recreation Program is designed to provide recreational opportunities for economically disadvantaged children during the summer months. The programs will be conducted in conjunction with the Summer Youth Program administered by the U.S. Department of Labor. Summer Youth enrollees should be utilized to the maximum extent possible in the conduct of this program.

(2) The program shall begin as soon as possible after the Spring Closing of school and shall not continue beyond the end of the Federal fiscal year (Sept. 30).

(3) To the maximum extent possible, Summer Youth Recreation Program sites shall be located directly in low-income communities or areas to ensure that disadvantaged youth are the beneficiaries of the programs. Activities shall be conducted in as many low-income areas of the sponsor's jurisdiction and designed to serve as many low-income children as possible within the constraints of effective program management and support.

(b) *Components.* Summer Youth Programs will consist of the following components:

(1) Recreation support programs will provide recreation opportunities such as playground activities, organized sports and games, arts and crafts, informational tours, cultural field trips, instruction in the creative arts and special events.

(2) Transportation support programs will provide transportation services to such cultural, recreational, or educational activities.

§ 1061.20-4 Eligible sponsors/alternates.

(a) *Eligible agencies.* Agencies eligible to receive summer recreation funds shall be prime sponsors designated under Title I of the CETA Act.

(b) *Alternative sponsors.* The CSA Regional Director may provide for the funding of an alternative sponsor if a sponsor, for any reason, is unable or fails to establish or maintain an acceptable Summer Youth Recreation Program.

(c) *Delegate agencies/subgrants.* A Summer Youth Recreation sponsor may enter into contracts or subgrants under the terms set forth in and through use of OEO Form 280, *Agreement for Delegation of Activities.*

§ 1061.20-5 Eligible participants.

Participants in a Summer Youth Recreation Program shall be youth too young to obtain employment and economically disadvantaged. The main target group for the Summer Youth Recreation Program shall be disadvantaged youth between the ages of eight and thirteen.

§ 1061.20-6 Funding.

(a) *Allocation of funds.* Section 222(a)(13) of the Economic Opportunity Act of 1964, as amended, provides for the allocation of funds for the Summer Youth Recreation Program by the Director after consultation with the Secretary of Labor. Funds are allocated on the basis of (1) the relative number of public assistance recipients in the areas served by such prime sponsor or agency, as compared to the Nation; (2) the relative number of unemployed persons in such areas as compared with the Nation; and (3) the relative number of related children living with families with incomes below the poverty line in such area, as compared to the Nation. That part of any allotment which the Director determines will not be needed may be realloted at such dates during the fiscal year as the Director may fix, to the extent feasible in proportion to the original allotments. In making Summer Youth Recreation allocations under the Act, the Director shall insure, to the maximum extent possible, that for the program commencing in the fiscal year ending June 30, 1975, and for the program in each succeeding fiscal year no sponsor shall receive an amount less than the amount received for such programs during the fiscal year ending June 30, 1973, or the fiscal year ending June 30, 1974, whichever is higher.

(b) *Non-Federal share; waiver of.* Non-Federal share required by Section 225(c) is waived for all programs funded under Section 222(a)(13), Summer Youth Recreation Programs, and does not require a request for waiver from applicants for grants.

§ 1061.20-7 Application process.

(a) *Role of the CAA.* (1) *Review of application.* The Community Action Agency or Agencies operating within the jurisdiction of the Summer Youth Recreation program sponsor shall be given an opportunity to formally comment on the Summer Youth Recreation Program grant application and to recommend approval or disapproval to the CSA Regional Director. Community Action Agencies shall be provided with a copy of the Summer Youth Recreation Program grant application by the SYRP Sponsor at the same time that the proposal is submitted to the CSA Regional Director. The CAAs will have five days within which to recommend approval or disapproval to the CSA Regional Director. The Community Services Administration retains final approval authority. In addition CAAs may undertake on-site evaluations of SYRP projects.

(2) *Monitoring and evaluation.* In accordance with the legislative requirement outlined in Section 212(b)(1) of the Act that CAAs will "• • • determine how much and how effectively assistance is being provided to deal with • • • problems and causes (of poverty in the community)", CAAs will monitor and evaluate the Summer Youth Recreation Program serving within their jurisdictions. CAAs will make advance arrangements with program sponsors for monitoring activities. In those cases where there is no CAA serving the jurisdiction of the SYRP sponsor, the CSA Regional Office will make alternate monitoring and evaluation arrangements. In addition, CSA may undertake on-site evaluations of selected projects.

(b) *Forms/documentation required.* The forms and other documents to be used in applying for Summer Youth Recreation Programs will be made available to eligible sponsors by the CSA Regional Directors. The forms to be used in applying for a Summer Youth Recreation Program are as follows:

(1) Applicant forms.[1]

CSA Form 419, *Summary of Work Programs and Budget*
CSA Form 301, *Applicant Certification*
OEO Form 325, *Budget Summary*
OEO Form 394, *Checkpoint Procedure for Coordination*

(Optional— See 45 CFR 1067.10 (CSA Instruction 6710-3a))

OEO Form 325a, *Budget Support*
SF424, Federal Assistance (Sections I and II completed)
CAP Form 84, *Participant Characteristics Plan*
Statment of Accounting System Certification, Appendix A of this Instruction (for use by public agencies)

(i) When delegating programs.

CAP Form 11, *Assurance of Compliance with Civil Rights Act*
OEO Form 280, *Agreement for Delegation of Activities*
CAP Form 85, *Administering Agency Funding Estimate*
CAP Form 87, *Delegate Agency Basic Information*

(c) *Deadline for submission of applications.* Summer Youth Recreation grant applications shall be submitted to CSA Regional Office no later than April 15.

(d) *Clearinghouse notification and review.* All eligible applicants must follow the Project Notification and Review System procedures as outlined in 45 CFR 1067.10 (CSA Instruction 6710-3a). (NOTE.—Applicants are reminded that it is in their best interest to file their notice of intent with Clearinghouses immediately upon determination to apply for funds from CSA under this program.)

§ 1061.20-8 Expenditures of funds.

(a) *Allowable costs.* (1) Administration, including salaries, wages and fringe benefits of administrative staff (but not program staff); consumable office supplies; rent, and utilities; telephone and postage; travel of administrative staff and audit costs. Funds in this category are subject to the administrative cost limitation of 15 percent as defined in OEO Instruction 6807-1, CAA Administrative Cost Limitation.

[1] Detailed instructions for the preparation of forms can be found in Appendix B.

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(2) Recreation services including but not limited to: purchase of recreation equipment[2] and supplies up to $200 per unit cost to be used in support of the program; rental of recreational equipment and supplies to be used in support of the program; admission to special events; field trip expenses; salaries; wages, fringe benefits and orientation of program staff, such as art instructors and playground supervisors; transportation for participants and program staff; lunches or food provided as an integral part of a recreation activity; recreation clothing and insurance. The standards to be used for the procurement of supplies, equipment and other material and services with Federal grant funds described in 45 CFR 1050. (CSA Instruction 6800–9).

(3) Charges above operating costs for the use of grantee owned facilities will not be made to the SYRP program except with the written authorization of the appropriate CSA Regional Director.

(4) Transportation services, including but not limited to: but tokens, and rental of buses and vans.

(b) *Non-allowable costs.* (1) Summer Youth Recreation Program funds shall not be expended on office equipment, in-place installations, capital improvements, to compensate participants in the program or to purchase transportation vehicles or equipment such as cars, vans, or buses.

(2) Summer Youth Recreation funds shall not be used to finance any other program activities and services not authorized under the Summer Youth Recreation Program such as, but not limited to, work experience, on-the-job training or public service employment activities.

(3) Summer Youth Recreation Program funds shall not be used to finance trips outside a 100-mile radius of the sponsor's jurisdiction unless the trip has received the specific written approval of the CSA Regional Director or his designee.

§ 1061.20–9 Coordination with other programs.

(a) The Summer Youth Recreation Programs will be closely coordinated with the anti-poverty programs of the Community Action Agency serving the jurisdiction covered by the Summer Youth Recreation Program with a view of minimizing possible duplication of effort and promoting efficiency by use of common facilities and services.

(b) Sponsors should coordinate Summer Youth Recreation Programs with manpower and social service programs, including the Summer Youth Employment Program and other CETA manpower activities.

(c) The extensive outreach and intake capability of the Community Action Agencies should be utilized to the maximum extent possible. The CAA network of Neighborhood Service Centers in disadvantaged communities provides a ready means of assuring that the disadvantaged are effectively served by the program. In addition, transportation services may be provided as services for participants in the Summer Youth Program and thus supplement transportation support activities carried out under the Summer Youth Recreation Program.

(d) Sponsors may utilize the Summer Feeding Program for low-income children which provides meals (and recreational activities as well in most instances) in schools, community centers, parks, playgrounds, storefronts and other settings. (See Appendix D for listing of state School Lunch Directors who can assist sponsors in applying for the program).

(e) Participants in the Summer Youth Program and other manpower programs, including public service jobs incumbents under the CETA Act, should be utilized as program and administrative staff in the Summer Youth Recreation Program to the maximum extent feasible by using the Summer Youth Recreation Program sites as work stations.

§ 1061.20–10 General requirements.

(a) *Maintenance of effort.* No sponsor shall, because of funds granted under Section 222(a)(13) of the Act, reduce or decrease funds already planned for summer youth recreation activities of a nature similar to those provided under the aforementioned Section.

(b) *Insurance.* (1) *Public grantees.* Public grantees will follow their regular requirements and practices.

(2) *Nongovernmental grantees.* General liability insurance, including automobile liability insurance must be obtained, in amounts which assure the adequate protection of program participants and the grantee. The required minimum property damage coverage shall be $25,000.

(c) *Bonding.* (1) Public grantees will follow their regular requirements and practices.

(2) Prior to the release of funds to any private grantee, CSA must receive written assurance that arrangements have been made for appropriate bonding of grantee officials in accordance with the provisions set forth in 45 CFR 1050.15 (CSA Instruction 6800–3).

(d) *Program progress report.* All sponsors must submit a program Progress Report (PPR) as outlines in 45 CFR 1050 (CSA Instruction 6800–9) on the accomplishments of the Summer Youth Recreation Program to the appropriate CSA Regional Office no later than October 30 of the calendar year in which the program has been funded.

(e) *Financial reporting.* A Financial report is to be submitted by October 30 of the calendar year in which the program has been funded to the appropriate CSA Regional Office in accordance with the requirements and procedures set forth in 45 CFR 1050.70 (CSA Instruction 6800–8) and OEO Instruction 6801–1.

(f) *Auditing.* Audit requirements for this program are to be met by complying with OEO Instruction 6801–1 and Appendix A of this subpart for public agencies and any special conditions that are part of the grant award.

(g) *Safety and health conditions.* Participants shall not be exposed to conditions which are unsanitary or hazardous or dangerous to their safety or health.

(h) *Licensing.* All transportation services under this program will be from sources properly licensed to provide carriage of the public, and which are operated in compliance with all applicable local, State and/or Federal statutes covering public transportation.

Appendix A

STATEMENT TO BE SUBMITTED BY APPROPRIATE PUBLIC FINANCIAL OFFICER WHEN THE APPLICANT IS A PUBLIC AGENCY OR WHEN THE ACCOUNTING SYSTEMS OF A PRIVATE-NONPROFIT AGENCY WILL BE MAINTAINED BY A PUBLIC AGENCY.

(Address of Regional or Program Office or CSA, as appropriate)

DEAR SIRS: I am the chief financial officer of _____ and, in this capacity, I will be responsible for providing financial services adequate to insure the establishment and maintenance of an accounting system for the _____;
(Name of applicant)
which is a public (or non-profit) agency charged with carrying out a CSA program in _____. The accounting
(Name of community)
system and internal procedures will be adequate to safeguard the assets of such agency(ies), check the accuracy and reliability of accounting data, promote operating efficiency, and encourage compliance with prescribed management policies of the agency(ies).

_____
(Signature of financial officer)
_____
(Name of financial officer)
_____
(Title)
_____
(Name of Public body)

STATEMENT TO BE SUBMITTED WHEN APPLICANT IS A PRIVATE-NONPROFIT AGENCY (OR A PUBLIC AGENCY) WHOSE ACCOUNTING SYSTEM WILL NOT BE MAINTAINED BY A PUBLIC AGENCY.

(Address of Regional or Program Office of CSA, as appropriate)

DEAR SIRS: I am a certified or duly licensed public accountant and have been engaged to examine and report on the financial account of the _____, which
(Name of applicant)
is a private-nonprofit organization (or public agency) carrying out a CSA program in _____.
(Name of community)

I have reviewed the accounting system that this agency has established and, in my opinion, it includes internal controls adequate to safeguard the assets of the agency, check the accuracy and reliability of accounting data, promote operating efficiency, and encourage compliance with prescribed management policies of the agency.

_____
(Signature of accountant)
_____
(Name of accountant)
_____
(Name of firm)

[2] Disposition of property will be in accordance with the policy stated in 45 CFR 1060 (CSA Instruction 6800–6).

Appendix B

INSTRUCTIONS FOR PREPARATION OF SUMMER YOUTH RECREATION DOCUMENTS

Eligible applicants should submit the original and two copies of all required forms and documents to the appropriate CSA Regional Director by April 15. One copy of the grant application shall be submitted to the CAA(s) serving the jurisdictions covered by the Summer Youth Recreation program at the same time as the application is submitted to the CSA Regional Office. The following instructions are provided to assist applicants in completing grant application forms:

BUDGET SUMMARY, OEO FORM 325

Item 3A. Grant No. — this number to be entered by the CSA Regional Office.

Item 3C. Program Account Title and No. — to be provided by CSA Regional Office.

Section I. Budget Summary—eligible applicants will complete Column C only. Column C corresponds with Columns A (Cost Category No.) and B (Cost Category). Enter the estimated expenditures in Columns C.1 (OEO Federal) and C.2 (Non-Federal), based upon the amount of funds allocated by the Director in each applicable cost category. Total for Column C.1 should agree with the amount allocated the applicant. Column C.2—not applicable.

Section II.—Estimated Future Costs—not applicable.

Budget Support Sheet, Part I (Salaries and Wages) and Part II (Budget Support Data), OEO Form 325a.

Part I. Salaries and Wages (Itemization of Cost Category No. 1.1)—enter the appropriate data as specified based upon the amount allocated (e.g., estimate expenditures in support of this project).

Part II. Budget Support Data (Itemization of Cost Categories Other Than Salaries and Wages. Show Subtotal for Each Cost Category)—enter the estimated expenditures for each item as specified.

CHECKPOINT PROCEDURE FOR COORDINATION, OEO FORM 394

This form will be used if and when the CSA Regional Director determines that the applicant's comments are not being circulated to all appropriate public and private agencies. It also may be used by applicants who wish to carry out additional coordinating activities with local agencies and local units of government.

Appendix C

CSA REGIONAL OFFICES

CSA Regional Office, Region I, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
Director, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

CSA Regional Office, Region II, New Jersey, New York, Puerto Rico, Virgin Islands.
Director, 26 Federal Plaza, 32nd Floor, New York, New York 10007.

CSA Regional Office, Region III, Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.
Director, Gateway Building, 3535 Market Street, Philadelphia, Pennsylvania 19104.

CSA Regional Office, Region IV, Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
Director, 730 Peachtree Street NE., Atlanta, Georgia 30308.

CSA Regional Office, Region V, Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
Director, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606.

CSA Regional Office, Region VI, Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
Director, 1200 Main Street, Dallas, Texas 75202.

CSA Regional Office, Region VII, Iowa, Kansas, Missouri, Nebraska.
Director, 911 Walnut Street, Kansas City, Missouri 64106.

CSA Regional Office, Region VIII, Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
Director, Federal Office Building, 1961 Stout Street, Denver, Colorado 80202.

CSA Regional Office, Region IX, Arizona, California, Guam, Hawaii, Nevada, Pacific Trust Territories.
Director, 450 Golden Gate Avenue, P.O. Box 36006, San Francisco, California 94102.

CSA Regional Office, Region X, Alaska, Idaho, Oregon, Washington.
Director, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

Appendix D

STATE SCHOOL LUNCH DIRECTOR

Mr. T. G. Smith, Coordinator, Food Service and Local Accounting, State Department of Education, 410 State Office Building, Montgomery, Alabama 36104.

Mrs. Marge Dawes, School Food Coordinator, State Department of Education, Alaska Office Building—Pouch F, Juneau, Alaska 99801.

Mrs. Litea Tua'olo, Director, Food Service Programs, Department of Education, Pago Pago, Tutuila, American Samoa 96920.

Mrs. Junetta Barrett, Director, Food Service Division, School Lunch Program, 1535 West Jefferson Avenue, Phoenix, Arizona 85007.

Mr. James Niven, Coordinator, School Lunch Division, State Department of Education, Education Building, Little Rock, Arkansas 72201.

Mrs. L. Gene White, Director, Bureau of Food Services, State Department of Education, 721 Capitol Mall, Sacramento, California 95814.

Mr. Daniel G. Wisotzkey, Director, School Food Services, Colorado Department of Education, 318 State Office Building, 201 E. Colfax, Denver, Colorado 80203.

Mrs. Ann Tolman, Director, School Lunch Program, State Department of Education, State Capitol Building, Hartford, Connecticut 06115.

Mr. Robert L. John, State Supervisor of School Lunch, Department of Public Instruction, Food Service Office, John Townsend Building, Dover, Delaware 19901.

Mr. Joseph M. Stewart, Director, Department of Food Services, Public Schools of the District of Columbia, 415 12th Street NW., Washington, D.C. 20004.

Mr. George W. Hockenbery, Administrator, Food and Nutrition Services, State Department of Education, Tallahassee, Florida 32304.

Miss Josephine Martin, Administrator, School Food Service Program, State Department of Education, 156 Trinity Avenue SW., Atlanta, Georgia 30303.

Mr. J. B. Charfauros, Associate Superintendent of Business Affairs, Department of Education, Government of Guam, P.O. Box DE, Agana, Guam 96910.

Mr. Stanley W. Doucette, Director, School Lunch Service, State Department of Education, P.O. Box 2360, Honolulu, Hawaii 96804.

Mr. Cecil F. Olsen, Director, School Lunch Programs, State Department of Education, State Office Building—Room 213, Boise, Idaho 83707.

Mr. Robert E. Ohlzen, Director, School Food Services Section, Department of Pupil Services, Illinois Office of Education, 100 North First Street, Springfield, Illinois 62777.

Mr. John J. Harter, Director, Division of School Lunch, State Department of Public Instruction, 120 West Market Street—16th Floor, Indianapolis, Indiana 46204.

Mr. Verne E. Carpenter, Director, Child Nutrition Programs Division, State Department of Public Instruction, Grimes State Office Building, Des Moines, Iowa 50319.

Mr. T. William Goodwin, Acting Director, School Food Services, State Department of Education, Kansas State Education Building, 120 East 10th Street, Topeka, Kansas 66612.

Mr. Redwood Taylor, Co-Director, Division of School Food Service, Finance, Reimbursement—Claims Processing, Accounting and fiscal control, Capitol Plaza, 19th Floor, Frankfort, Kentucky 40601.

Mr. C. E. Bevins, Co-Director, Division of School Food Services, Bureau of Pupil Personnel Services, State Department of Education, Capitol Plaza, 19th Floor, Frankfort, Kentucky 40601.

Dr. Joseph A. Dazzio, State Director, Local School System Services, State Department of Education, P.O. Box 44064, Baton Rogue, Louisiana 70804.

Miss M. Gertrude Griney, Director, School Nutrition Programs, State Department of Education, State House, Augusta, Maine 04330.

Mrs. Ruthetta Gilgash, Coordinator, Food Service Program, State Department of Education, BWI Airport—P.O. Box 8717, Baltimore, Maryland 21240.

Mr. John C. Stalker, Director, Bureau of Nutrition Education and School Food Services, State Department of Education, 182 Tremont Street, Boston, Massachusetts 02111.

Mr. James L. Borough, Supervisor, Food and Nutrition Services Section, School Management Services, State Department of Education, P.O. Box 420, Lansing, Michigan 48902.

Mr. Charles L. Matthew, Director, School Lunch Section, State Department of Education, Capitol Square Bldg., Room 509, St. Paul, Minnesota 55101.

Mr. John H. Walker, Assistant Director, Administration and Finance, State Department of Education, Walter Sillers Office Building—Room 604, P.O. Box 771, Jackson, Mississippi 39205.

Mr. Wilbert Grannemann, Director, Missouri State Department of Elementary and Secondary Education, Jefferson Building, P.O. Box 480, Jefferson City, Missouri 65101.

Mr. H. Brisbin Skiles, Supervisor, School Food Services, State Department of Public Instruction, State Capitol, Helena, Montana 59601.

Dr. Ray Steinert, Director, School Food Services, State Department of Education, 233 South 10th Street, Lincoln, Nebraska 68508.

Miss Eleanor Bateman, Supervisor of Food Services, State Department of Administration, 400 W. King Street, Carson City, Nevada 89701.

Attention: Ms. Judy Chase, Food and Nutrition Services, Division of Administration, State House Annex, Concord, New Hampshire 03301.

Mr. Walter F. Colender, Director, Bureau of Food Program Administration, Division of Field Services, State Department of Education, 225 West State Street, Trenton, New Jersey 08625.

Mrs. Gretchen Plagge, Director, School Food Services, State Department of Education, Santa Fe, New Mexico 87501.

Mr. Richard O. Reed, Chief, Bureau of School Food Management, State Education Department, 99 Washington Avenue—17th Floor, Albany, New York 12210.

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Mr. Ralph W. Eaton, State Director, School Food Services, State Department of Public Instruction, P.O. Box 12197, Raleigh, North Carolina 27605.

Miss Roberta A. Bosch, Director, School Food Services, State Department of Public Instruction, State Capitol Building, Bismarck, North Dakota 58501.

Mr. Robert H. Koon, Director, Division of School Lunch, State Department of Education, 65 South Front Street—Room 1009, Columbus, Ohio 43215.

Mr. Fred L. Jones, Director, School Lunch Section, State Department of Education, Room 340, Oliver Hodge Memorial Office Bldg., Oklahoma City, Oklahoma 73105.

Mr. Richards S. Miller, Coordinator, School Food and Nutrition Services, Oregon State Department of Education, 942 Lancaster Drive, NE., Room 212, Salem, Oregon 97310.

Mr. Warren M. Vann, Jr., Chief, Division of Food and Nutrition Services, State Department of Education, P.O. Box 911, Harrisburg, Pennsylvania 17126.

Mrs. Mary Blanco, Directress, School Lunchroom Division, Department of Education, URB Industrial, Tres Monjitas, P.O. Box 759, Hato Rey, Puerto Rico 00919.

Mr. Robert F. Kaveny, Program Business Manager, Office of School Food Services, Roger Williams Building, Hayes Street, Providence, Rhode Island 02908.

Mr. John L. Seurynck, Director, Office of School Food Services, State Department of Education, 305 Rutledge Building, Columbia, South Carolina 29201.

Mr. Martin Sorensen, Director, School Food Services, Department of Education and Cultural Affairs, Division of Elementary and Secondary Education, Pierre, South Dakota 57501.

Mr. Lawrence Bartlett, Director, School Food Services, State Department of Education, Cordell Hull Building, Nashville, Tennessee 37219.

Mr. Charles A. Cole, Program Director, School Lunch Program, Texas Education Agency, 201 East 11th Street, Austin, Texas 87101.

Mr. George Bussell, Food Service Officer, Department of Education, Trust Territory of the Pacific Islands, Saipan, Mariana Islands 96950.

Mr. Cluff D. Snow, Administrator, Division of School Food Services, 250 East 500 South, Salt Lake City, Utah 84111.

Miss Banba Foley, Chief, Child Nutrition Programs, State Department of Education, State Office Building, Montpelier, Vermont 05605.

Mrs. Andriana Segarra, Acting State Director, School Lunch Program, Department of Education, P.O. Box 630, Charlotte Amile, St. Thomas, Virgin Islands 00801.

Mr. John F. Miller, Supervisor, School Lunch Program, State Department of Education, 8th St., Office Building, Richmond, Virginia 23216.

Miss Virginia R. Whitlatch, Supervisor, School Food Services, Department of Public Instruction, Old Capitol Building, Olympia, Washington 98504.

Mrs. Faith Gravenimer, State Director of School Lunch, State Department of Education, State Capitol Building, Charleston, West Virginia 25311.

Mr. Edward J. Post, Director, Bureau for School Food Services, Department of Public Instruction, 126 Langdon Street, Madison, Wisconsin 53703.

Mr. Sidney C. Werner, Assistant Superintendent of Administrative Services, State Department of Education, Hathaway Building, Cheyenne, Wyoming 82002.

[FR Doc.77-6970 Filed 3-9-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0085; Regs. D and Q]

PART 204—RESERVES OF MEMBER BANKS

PART 217—INTEREST ON DEPOSITS

"Loan-to-Lender" Programs—Notice of Continuaiton of Waiver of Reserve Requirements and Interest Rate Limitations

The Board of Governors has reconsidered the question of the deposit status under its Regulations D and Q of funds obtained by member banks on their notes issued to State or municipal housing authorities under "Loan-to-Lender" type programs. The Board has determined to continue the waiver of reserve requirements and interest rate limitations announced in September 1975 with respect to funds obtained by member banks under these programs. This action is based upon the Board's authority to determine what types of obligations shall be deemed a deposit under section 19(a) of the Federal Reserve Act, 12 U.S.C. 461, and its regulatory authority under § 204.1(f) of Regulation D and § 217.1(f) of Regulation Q. The following notice has been issued to all Federal Reserve Banks:

LOAN-TO-LENDER PROGRAMS

The Board has reviewed the question of whether funds obtained by member banks on their notes issued to State and municipal housing authorities under "Loan-to-Lender" agreements should be regarded as "deposits" under the Board's Regulation D (§ 204.1(f)) and Regulation Q (§ 217.1(f)).

"Loan-to-Lender" programs usually involve the issuance by a State or municipal housing authority of tax-exempt bonds and the subsequent lending of the bond revenue funds to financial institutions under the requirement that these funds be used to make specified types of real estate loans (generally mortgage loans to low or moderate income home buyers). The funds advanced to financial institutions pursuant to a "Loan-to-Lender" program are evidenced by a loan agreement and a promissory note issued by the financial institution to the housing authority. These programs enable State and municipal authorities to channel funds obtained into housing programs through financial institutions possessing specialized expertise in real estate lending and construction financing. At the present time such programs are in operation in 11 States. Thirteen other State legislatures have approved legislation authorizing such programs. On the basis of available information, "Loan-to-Lender" programs currently represent approximately $800 million in funds lent for these purposes.

By letter of August 6, 1975, the Board requested that the Federal Reserve Banks inform member banks in their districts that funds obtained by member banks on their notes issued to State or municipal housing authorities under "Loan-to-Lender" programs are funds to be used in the banking business and, therefore, should be treated as deposits subject to Regulation D reserve requirements and Regulation Q interest rate limitations.

On September 29, 1975, the Board announced that, in response to requests for such action, it would review the deposit status of funds received by member banks on their notes issued to State and municipal housing authorities under "Loan-to-Lender" type programs. In conjunction with that review, the Board suspended the effectiveness of its determination of August 6, 1975, and waived the maintenance of required reserves on "Loan-to-Lender" obligations.

The Board has conducted an extensive review of all known "Loan-to-Lender" type programs. Based upon this review, the Board has determined to continue, for an indefinite period, the suspension of its August 6, 1975, determination regarding the deposit status of "Loan-to-Lender" funds. (This suspension was first announced on September 29, 1975.) This action is based upon the Board's belief that a determination on the deposit status of funds obtained by member banks under "Loan-to-Lender" programs should be deferred pending the completion of broader based studies of possible statutory and regulatory reforms pertaining to interest on deposits and reserves held by member banks. The continued suspension will also provide the Board with further opportunity to assess the potential impact of application of reserve requirements and interest rate limitations on funds obtained by member banks through participation in "Loan-to-Lender" programs.

The Board recognizes that its decision to defer for an indefinite period a final determination regarding the deposit status of funds obtained by member banks under "Loan-to-Lender" agreements may result in some uncertainty among member banks presently participating in such programs or contemplating participation at a future date. Accordingly, in order to avoid any uncertainty with respect to member bank participation in "Loan-to-Lender" programs during the time this suspension is in effect, the Board has determined that any funds obtained by member banks as the result of "Loan-to-Lender" agreements entered into during this suspension period will continue to be exempt from interest rate limitations and reserve requirements, regardless of any future decision of the Board to reinstate its determination of August 6, 1975.

Where "Loan-to-Lender" programs are being offered, it is suggested that you inform member banks in your district of the Board's decision to continue, indefinitely, the suspension of the effectiveness of its August 6, 1975, determination regarding the deposit status of such funds.

Board of Governors of the Federal Reserve System, March 2, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-6996 Filed 3-9-77;9:10 am]

[Reg. Z; FC-0043, FC-0044]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

Correction

In FR Doc. 77-4809, appearing at page 9384, of the issue for Wednesday, February 16, 1977, make the following correction: On page 9385, in the second column, in the twelfth line of 226.8(b)(7), change the word "neither" to "either."

[Docket No. R-0077]

PART 261b—RULES REGARDING PUBLIC OBSERVATION OF MEETINGS

By notice of proposed rulemaking published in the FEDERAL REGISTER on January 31, 1977 (42 FR 5699) the Board of Governors proposed for comment a new Part 261b to provide for the procedures under which the open meeting requirements of subsection (b) through (f) of the Government in the Sunshine Act ("the Act"), (5 U.S.C. § 552b) will be met.

The objective of the Act is to provide the public with the fullest practicable information regarding the decision making processes of defined agencies while at the same time protecting the rights of individuals and the ability of the Government to carry out its responsibilities. Under the Act and the proposed regulations, members of the Board may not, after March 12, 1977, jointly conduct or dispose of official agency business other than in accordance with the procedures specified in this Part. Generally, such procedures require that every portion of every Board meeting be open to public observation, except when a meeting or a portion of a meeting is closed because it relates to a matter exempt from such public observation under subsection (c) of the Act.

The Board has determined that it qualifies for the use of expedited procedures for closing meetings under subsection (d)(4) of the Act because a majority of its meetings may properly be closed pursuant to paragraph (4), (8), (9)(A) or (10) of subsection (c) of the Act or any combination thereof. The Board has examined the records of its meetings from January 1, 1974 to December 31, 1976, and determined that of the 493 meetings held, a portion or portions of 465 (94 per cent) could have been properly closed pursuant to paragraph (4), (8), (9)(A) or (10) of subsection (c) of the Act or any combination thereof.

As a result of this finding, the regulations provide for the closing of meetings under expedited procedures as well as for the closing of meetings under regular procedures. The proposed regulations also provide for the public announcement of meetings open to public observation and meetings to be partially or completely closed under regular procedures, changes with respect to publicly announced meetings, and certification by the General Counsel with respect to closed meetings. In addition, rules are set forth for the maintenance of transcripts, recordings, and minutes, for inspection and copying of such transcripts and minutes and for fees related thereto.

Consideration has been given to all comments received by the Board through March 4, 1977. With respect to questions raised about the status of the Federal Open Market Committee, attention is directed to a statement of policy of the Federal Open Market Committee regarding the Act published in the FEDERAL REGISTER as subchapter B, Part 281 of Title 12.

In order to make it clear that § 261b.5 of the Regulations relating to exemptions does not vary from the statutory requirement, this section has been revised to conform to the express language of subsection (c) of the Act, which provides that the exemptions may be used as a basis for closing a meeting, or portion thereof, or withholding information "except in a case where the agency finds that the public interest requires otherwise."

Section 261b.7(b) has been revised to clarify that, in accordance with section (d)(4) of the Act, a majority of the members of the agency must vote to close a meeting under expedited procedures.

Section 261b.10 relating to the certification of the General Counsel has been revised to specify that the General Council's certification is to be made before closing a meeting to public observation.

Following consultation with the office of the Chairman of the Administrative Conference of the United States and published notice in the FEDERAL REGISTER of at least 30 days giving opportunity for written comment by any person, the Board of Governors, effective March 12, 1977, adopts Part 261b, as follows:

Sec.
261b.1 Basis and scope.
261b.2 Definitions.
261b.3 Conduct of agency business.
261b.4 Meetings open to public observation.
261b.5 Exemptions.
261b.6 Public announcements of meetings.
261b.7 Meetings closed to public observation under expedited procedures.
261b.8 Meetings closed to public observation under regular procedures.
261b.9 Changes with respect to publicly announced meeting.
261b.10 Certification of General Counsel.
261b.11 Transcripts, recordings, and minutes.
261b.12 Procedures for inspection and obtaining copies of transcripts and minutes.
261b.13 Fees.

AUTHORITY: 5 U.S.C. 552b.

§ 261b.1 Basis and scope.

This Part is issued by the Board of Governors of the Federal Reserve System ("the Board") under section 552b of Title 5 of the United States Code, the Government in the Sunshine Act ("the Act"), to carry out the policy of the Act that the public is entitled to the fullest practicable information regarding the decision making processes of the Board while at the same time preserving the rights of individuals and the ability of the Board to carry out its responsibilities. These regulations fulfill the requirement of subsection (g) of the Act that each agency subject to the provisions of the Act shall promulgate regulations to implement the open meeting requirements of subsections (b) through (f) of the Act.

§ 261b.2 Definitions.

For purposes of this Part, the following definitions shall apply:

(a) The term "agency" means the Board and subdivisions thereof.

(b) The term "subdivision" means any group composed of two or more Board members that is authorized to act on behalf of the Board.

(c) The term "meeting" means the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official Board business, but does not include (1) deliberations required or permitted by subsections (d) or (e) of the Act, or (2) the conduct or disposition of official agency business by circulating written material to individual members.

(d) The term "number of individual agency members required to take action on behalf of the agency" means in the case of the Board, a majority of its members except that (1) Board determination of the ratio of reserves against deposits under section 19(b) of the Federal Reserve Act requires the vote of four members, (2) Board action with respect to advances, discounts and rediscounts under sections 10(a), 11(b) and 13(3) of the Federal Reserve Act requires the vote of five members and (3) Board action with respect to the percentage of individual member bank capital and surplus which may be represented by loans secured by stock and bond collateral under section 11(m) of the Federal Reserve Act requires the vote of six members. In the case of subdivisions of the Board, the term means the number of members constituting a quorum of the designated subdivision.

(e) The term "member" means a member of the Board appointed under section 10 of the Federal Reserve Act. In the case of certain Board proceedings pursuant to 12 U.S.C. 1818(e), the Comptroller of the Currency is entitled to sit as a member of the Board and for these proceedings he shall be deemed a "member" for the purposes of this Part. In the case of any subdivision of the Board, the term "member" means a member of the Board designated to serve on that subdivision.

(f) The term "public observation" means that the public shall have the right to listen and observe but not to record any of the meetings by means of cameras or electronic or other recording devices unless approval in advance is obtained from the Public Affairs Office of the Board and shall not have the right to participate in the meeting, unless participation is provided for in the Board's Rules of Procedure.

(g) The term "Federal agency" means an "agency" as defined in 5 U.S.C. 551(1).

§ 261b.3 Conduct of agency business.

Members shall not jointly conduct or dispose of official agency business other than in accordance with this Part.

§ 261b.4 Meetings open to public observation.

Except as provided in section 261b.5 of this Part, every portion of every meeting of the agency shall be open to public observation.

§ 261b.5 Exemptions.

(a) Except in a case where the agency finds that the public interest requires

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otherwise, the agency may close a meeting or a portion or portions of a meeting under the procedures specified in § 261b.7 or § 261b.8 of this Part, and withhold information under the provisions of §§ 261b.6, 261b.7, 261b.8, or 261b.11 of this Part, where the agency properly determines that such meeting or portion or portions of its meeting or the disclosure of such information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy, and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to internal personnel rules and practices;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of Title 5 of the United States Code), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by a Federal agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Board or other Federal agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would—

(i) Be likely to (A) lead to significant speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or

(ii) Be likely to significantly frustrate implementation of a proposed action, except that paragraph (a)(9)(ii) of this section shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern the issuance of a subpoena, participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition of a particular case of formal agency adjudication pursuant to the procedures in section 554 of Title 5 of the United States Code or otherwise involving a determination on the record after opportunity for a hearing.

§ 261b.6 Public announcements of meetings.

(a) Except as otherwise provided by the Act, public announcement of meetings open to public observation and meetings to be partially or completely closed to public observation pursuant to section 261b.8 of this Part will be made at least one week in advance of the meeting. Except to the extent such information is determined to be exempt from disclosure under section 261b.5 of this Part, each such public announcement will state the time, place and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated to respond to requests for information about the meeting.

(b) If a majority of the members of the agency determines by a recorded vote that agency business requires that a meeting covered by paragraph (a) of this section be called at a date earlier than that specified in paragraph (a) of this section, the agency will make a public announcement of the information specified in paragraph (a) of this section at the earliest practicable time.

(c) Changes in the subject matter of a publicly announced meeting, or in the determination to open or close a publicly announced meeting or any portion of a publicly announced meeting to public observation, or in the time or place of a publicly announced meeting made in accordance with the procedures specified in § 261b.9 of this Part will be publicly announced at the earliest practicable time.

(d) Public announcements required by this section will be posted at the Board's Public Affairs Office and Freedom of Information Office and may be made available by other means or at other locations as may be desirable.

(e) Immediately following each public announcement required by this section, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding announcements, and the name and telephone number of the official designated by the Board to respond to requests about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

§ 261b.7 Meetings closed to public observation under expedited procedures.

(a) Since the Board qualifies for the use of expedited procedures under subsection (d)(4) of the Act, meetings or portions thereof exempt under paragraph (a)(4), (a)(8), (a)(9)(i) or (a)(10) of § 261b.5 of this Part, will be closed to public observation under the expedited procedures of this section. Following are examples of types of items that, absent compelling contrary circumstances, will qualify for these exemptions: matters relating to a specific bank or bank holding company, such as bank branches or mergers, bank holding company formations, or acquisition of an additional bank or acquisition or de novo undertaking of a permissible nonbanking activity; bank regulatory matters, such as applications for membership, issuance of capital notes and investment in bank premises; foreign banking matters; bank supervisory and enforcement matters, such as cease-and-desist and officer removal proceedings; monetary policy matters, such as discount rates, use of the discount window, changes in the limitations on payment of interest on time and savings accounts, and changes in reserve requirements or margin regulations.

(b) At the beginning of each meeting, a portion or portions of which is closed to public observation under expedited procedures pursuant to this section, a recorded vote of the members present will be taken to determine whether a majority of the members of the agency votes to close such meeting of portions of such meeting to public observation.

(c) A copy of the vote, reflecting the vote of each member, and except to the extent such information is determined to be exempt from disclosure under § 261b.5, a public announcement of the time, place and subject matter of the meeting or each closed portion thereof, will be made available at the earliest practicable time at the Board's Public Affairs Office and Freedom of Information Office.

§ 261b.8 Meetings closed to public observation under regular procedures.

(a) A meeting or a portion of a meeting will be closed to public observation under regular procedures, or information as to such meeting or portion of a meeting will be withheld, only by recorded vote of a majority of the members of the agency when it is determined that the meeting or the portion of the meeting or the withholding of information qualifies for exemption under § 261b.5. Votes by proxy are not allowed.

(b) Except as provided in subsection (c) of this section, a separate vote of the members of the agency will be taken with respect to the closing or the withholding of information as to each meeting or portion thereof which is proposed to be closed to public observation or with respect to which information is proposed to be withheld pursuant to this section.

(c) A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to public observation or with respect to any information concerning such series of meetings proposed to be withheld, so long as each meeting or portion thereof in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series.

(d) Whenever any person's interests may be directly affected by a portion of a meeting for any of the reasons referred to in exemption (a)(5), (a)(6) or (a)(7) of § 261b.5 of this Part, such person may request in writing to the Secretary of the Board that such portion of the meeting be closed to public observation. The Secretary, or in his or her absence, the Acting Secretary of the Board, will transmit the request to the members and upon the request of any one of them a recorded vote will be taken whether to close such meeting to public observation.

(e) Within one day of any vote taken pursuant to paragraphs (a) through (d) of this section, the agency will make publicly available at the Board's Public Affairs Office and Freedom of Information Office a written copy of such vote reflecting the vote of each member on the question. If a meeting or a portion of a meeting is to be closed to public observation, the agency, within one day of the vote taken pursuant to paragraphs (a) through (d) of this section, will make publicly available at the Board's Public Affairs Office and Freedom of Information Office a full, written explanation of its action closing the meeting or portion of the meeting together with a list of all persons expected to attend the meeting and their affiliation, except to the extent such information is determined by the agency to be exempt from disclosure under subsection (c) of the Act and § 261b.5 of this Part.

§ 261b.9 Changes with respect to publicly announced meeting.

The subject matter of a meeting or the determination to open or close a meeting or a portion of a meeting to public observation may be changed following public announcement under section 261b.6 only if a majority of the members of the agency determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible. Public announcement of such change and the vote of each member upon such change will be made pursuant to § 261b.6(c). Changes in time, including postponements and cancellations of a publicly announced meeting or portion of a meeting or changes in the place of a publicly announced meeting will be publicly announced pursuant to § 261b.6(c) by the Secretary of the Board or, in the Secretary's absence, the Acting Secretary of the Board.

§ 261b.10 Certification of general counsel.

Before every meeting or portion of a meeting closed to public observation under § 261b.7 or 261b.8 of this Part, the General Counsel, or in the General Counsel's absence, the Acting General Counsel, shall publicly certify whether or not in this or her opinion the meeting may be closed to public observation and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, will be retained for the time prescribed in § 261b.11(d).

§ 261b.11 Transcripts, recordings, and minutes.

(a) The agency will maintain a complete transcript or electronic recording or transcription thereof adequate to record fully the proceedings of each meeting or portion of a meeting closed to public observation pursuant to exemption (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7) or (a)(9)(ii) of § 261b.5 of this Part. Transcriptions of recordings will disclose the identity of each speaker.

(b) The agency will maintain either such a transcript, recording or transcription thereof, or a set of minutes that will fully and clearly describe all matters discussed and provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each member on the question), for meetings or portions of meetings closed to public observation pursuant to exemptions (a)(8), (a)(9)(A) or (a)(10) of § 261b.5 of this Part. The minutes will identify all documents considered in connection with any action taken.

(c) Transcripts, recordings or transcriptions thereof, or minutes will promptly be made available to the public in the Freedom of Information Office except for such item or items of such discussion or testimony as may be determined to contain information that may be withheld under subsection (c) of the Act and § 261b.5 of this Part.

(d) A complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording or verbatim copy of a transcription thereof of each meeting or portion of a meeting closed to public observation will be maintained for a period of at least two years or one year after the conclusion of any agency proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

§ 261b.12 Procedures for inspection and obtaining copies of transcriptions and minutes.

(a) Any person may inspect or copy a transcript, a recording or transcription of a recording, or minutes described in § 261b.11(c) of this Part.

(b) Requests for copies of transcripts, recordings or transcriptions of recordings, or minutes described in § 261b.11(c) of this Part shall specify the meeting or the portion of meeting desired and shall be submitted in writing to the Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Copies of documents identified in minutes may be made available to the public upon request under the provisions of 12 CFR 261 (Rules Regarding Availability of Information).

§ 261b.13 Fees.

(a) Copies of transcripts, recordings or transcriptions of recordings, or minutes requested pursuant to section 261b.12(b) of this Part will be provided at a cost of 10¢ per standard page for photocopying or at a cost not to exceed the actual cost of printing, typing, or otherwise preparing such copies.

(b) Documents may be furnished without charge where total charges are less than $2.

* * * * *

By order of the Board of Governors, March 7, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-7136 Filed 3-9-77;8:45 am]

SUBCHAPTER B—FEDERAL OPEN MARKET COMMITTEE

PART 271—RULES REGARDING AVAILABILITY OF INFORMATION

Implementation of the Amendment to the Freedom of Information Act Required by the Government in the Sunshine Act

Consistent with section 5(b) of the Government in the Sunshine Act (Pub. L. No. 94-409, 5 U.S.C. § 552b), the Federal Open Market Committee hereby amends § 271.6(a) of Title 12 of the Code of Federal Regulations. The amendment will revise the Committee's Rules with regard to exemption (3) of the Freedom of Information Act, and will become effective on March 12, 1977, the effective date of section 5(b) of the Government in the Sunshine Act. The amended regulation will read as follows:

§ 271.6 Information not disclosed.

Except as may be authorized by the Committee, information of the Committee that is not available to the public through other sources will not be published or made available for inspection, examination, or copying by any person if such information:

(a) Is specifically exempted from disclosure by statute (other than section 552b of Title 5 United States Code), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld; or is specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and is in fact properly classified pursuant to such executive order.

* * * * *

The requirements of section 553 of Title 5 United States Code with respect to notice, public participation, and deferred effective date were not followed in connection with this amendment because the amendment merely conforms the Com-

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mittee's rules to the language of exemption 552(b)(3) of the Freedom of Information Act, as amended by section 5 (b) of the Government in the Sunshine Act which will become effective on March 12, 1977, and thus such procedures were found to be unnecessary.

By order of the Federal Open Market Committee, effective March 12, 1977.

ARTHUR L. BROIDA,
Secretary of the Committee.

[FR Doc.77-7140 Filed 3-9-77;8:45 am]

PART 281—STATEMENTS OF POLICY

GOVERNMENT IN THE SUNSHINE ACT

Adoption of Policy Statement

The Federal Open Market Committee ("FOMC") hereby amends section 281 of Title 12 of the Code of Federal Regulations to provide a statement of policy by the FOMC regarding the nonapplicability to the FOMC of the Government in the Sunshine Act, which Act will become effective March 12, 1977. The policy statement reflects the FOMC's judgment that the definition of "agency" set forth in the Government in the Sunshine Act does not apply to the FOMC. It further reflects the FOMC's recognition of Congressional purpose in enactment of the Government in the Sunshine Act and the reasoning underlying the FOMC's conclusion that its current practices are consistent with the intent and spirit of the Act, as that Act would apply to deliberations of the nature engaged in by the FOMC. On the basis of these positions taken, the statement reflects the FOMC's intent to pursue its present procedures and timing of public disclosure. The amendment will become effective March 12, 1977, and will read as follows.

§ 281.2 Policy regarding the Government in the Sunshine Act.

On September 13, 1976, there was enacted into law the Government in the Sunshine Act, Pub. L. No. 94-409, 90 Stat. 1241 ("Sunshine Act"), established for the purpose of providing the public with the "fullest practicable information regarding the decisionmaking processes of the Federal Government * * * while protecting the rights of individuals and the ability of the Government to carry out its responsibilities."[1] The Sunshine Act applies only to those Federal agencies that are defined in section 552(e) of Title 5 of the United States Code and "headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency."[2]

The Federal Open Market Committee ("FOMC") is a separate and independent statutory body within the Federal Reserve System. In no respect is it an agent or "subdivision" of the Board of Governors of the Federal Reserve System ("Board of Governors"). It was originally established by the Banking Act of 1933 and restructured in its present form by the Banking Act of 1935 and subsequent legislation in 1942 (generally see 12 U.S.C. § 263(a)). The FOMC's membership is composed of the seven members of the Board of Governors and five representatives of the Federal Reserve Banks who are selected annually in accordance with the procedures set forth in Section 12A of the Federal Reserve Act, 12 U.S.C. § 263(a). Members of the Board of Governors serve in an ex officio capacity on the FOMC by reason of their appointment as Members of the Board of Governors, not as a result of an appointment "to such position" (the FOMC) by the President. Representatives of the Reserve Banks serve on the FOMC not as a result of an appointment "to such position" by the President, but rather by virtue of their positions with the Reserve Banks and their selection pursuant to Section 12A of the Federal Reserve Act. It is clear therefore that the FOMC does not fall within the scope of an "agency" or "subdivision" as defined in the Sunshine Act and consequently is not subject to the provisions of that Act.

As explained below, the Act would not require the FOMC to hold its meetings in open session even if the FOMC were covered by the Act. However, despite the conclusion reached that the Sunshine Act does not apply to the FOMC, the FOMC has determined that its procedures and timing of public disclosure already are conducted in accordance with the spirit of the Sunshine Act, as that Act would apply to deliberations of the nature engaged in by the FOMC.

In the foregoing regard, the FOMC has noted that while the Act calls generally for open meetings of multi-member Federal agencies, 10 specific exemptions from the open meeting requirement are provided to assure the ability of the Government to carry out its responsibilities. Among the exemptions provided is that which authorizes any agency operating under the Act to conduct closed meetings where the subject of a meeting involves information "the premature disclosure of which would—in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities."[3]

As to meetings closed under such exemption, the Act requires the maintenance of either a transcript, electronic recording or minutes and sets forth specified, detailed requirements as to the contents and timing of disclosure of certain portions or all of such minutes. The Act permits the withholding from the public of the minutes where disclosure would be likely to produce adverse consequences of the nature described in the relevant exemptions.

The FOMC has reviewed the agenda of its monthly meetings for the past three years and has determined that all such meetings could have been closed pursuant to the exemption dealing with financial speculation or other exemptions set forth in the Sunshine Act. The FOMC has further determined that virtually all of its substantive deliberations could have been preserved pursuant to the Act's minutes requirements and that such minutes could similarly have been protected against premature disclosure under the provisions of the Act.

The FOMC's deliberations are currently reported by means of a document entitled "Record of Policy Actions" which is released to the public approximately one month after the meeting to which it relates. The Record of Policy Actions complies with the Act's minutes requirements in that it contains a full and accurate report of all matters of policy discussed and views presented, clearly sets forth all policy actions taken by the FOMC and the reasons therefor, and includes the votes by individual members on each policy action. The timing of release of the Record of Policy Actions is fully consistent with the Act's provisions assuring against premature release of any item of discussion in an agency's minutes that contains information of a sensitive financial nature. In fact, by releasing the comprehensive Record of Policy Actions to the public approximately a month after each meeting, the FOMC exceeds the publication requirements that would be mandated by the letter of the Sunshine Act.

Recognizing the Congressional purpose underlying enactment of the Sunshine Act, the FOMC has determined to continue its current practice and timing of public disclosures in the conviction that its operations thus conducted are consistent with the intent and spirit of the Sunshine Act.

By order of the Federal Open Market Committee, effective March 12, 1977.

ARTHUR L. BROIDA,
Secretary of the Committee.

[FR Doc.77-7139 Filed 3-9-77;8:45 am]

[1] Government in the Sunshine Act, Pub. L. No. 94-409, § 2, 90 Stat. 1241 (1976).

[2] Government in the Sunshine Act, Pub. L. No. 94-409, § 3(a), 90 Stat. 1241 (1976).

[3] Government in the Sunshine Act, Pub. L. No. 94-409, § 3(a), 90 Stat. 1242 (1976).

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 991]

HANDLING OF HOPS OF DOMESTIC PRODUCTION

Proposed Salable Quantity and Allotment Percentage For the 1977-78 Marketing Year

Notice is hereby given of a proposal to establish, for the 1977-78 marketing year, beginning August 1, 1977, a salable quantity of 60,270,000 pounds, and an allotment percentage of 100 percent, for hops grown in Washington, Oregon, Idaho, and California. The salable quantity is the total quantity of hops that may be freely marketed from any crop grown in those states and handled by handlers. The salable quantity is prorated among producers by applying the allotment percentage to each producer's allotment base.

The proposed salable quantity and allotment percentage would be established in accordance with the provisions of Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was recommended by the Hop Administrative Committee.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than March 28, 1977. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)). For further information, contact: Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3545.

The proposed salable quantity and allotment percentage are based upon a recommendation of the Committee made at its meeting of January 19, 1977, and derive from the following estimates for the marketing year beginning August 1, 1977.

(1) Total domestic consumption of 35,500,000 pounds of hops;

(2) Minus imports of 10,000,000 pounds of hops to result in domestic consumption of U.S. hops of 25,500,000 pounds;

(3) Plus total U.S. exports of 30,000,000 pounds of hops to equal 55,500,000 pounds total usage of U.S. hops;

(4) Plus 1,000,000 to adjust for weight loss for hops processed into pellets;

(5) Plus an adjustment of 3,700,000 pounds to provide for adequate supplies should some producer allotments not be fully produced.

Under the proposal, the salable quantity during the 1977-78 marketing year would be 60,270,000 pounds.

The proposed salable percentage of 100 percent is computed by subtracting from this salable quantity 1,000,000 pounds for additional allotment bases for hops of the Fuggle variety pursuant to §§ 991.38(b) and 991.138(c) and dividing the remainder by 59,270,000 pounds, the total of all allotment bases less the 1,000,000 pounds additional allotment bases for Fuggle variety hops.

The Committee's recommendation for an allotment percentage of 100 percent, which was favored by 10 of the 13 Committee members, was based on several factors. The Committee recognized that current drought conditions could reduce production later this year. Moreover, any significant reduction in the allotment percentage might prompt growers to remove vines or leave a portion of their acreage idle, which could be detrimental to the U.S. hop industry in the long run. It was also noted that most growers have already sold 100 percent of their 1977 crop, and any reduction would prevent growers from filling their contracts. This could decrease grower income, but might not increase the average price paid for 1977 crop hops. The three members of the Committee, who voted against the motion for an allotment percentage of 100 percent, however, favor a percentage less than 100 percent. They contend that the proper function of the marketing order is to reduce the current oversupply of U.S. hops, so that U.S. grower prices will eventually improve.

The proposal is as follows:

§ 991.215 Allotment percentage and salable quantity for hops during the marketing year beginning August 1, 1977.

The allotment percentage during the marketing year beginning August 1, 1977, shall be 100 percent, and the salable quantity shall be 60,270,000 pounds.

Dated: March 4, 1977.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.77-7070 Filed 3-9-77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 77-159]

FEDERAL SAVINGS AND LOAN SYSTEM

Proposed Servicing of Loans

MARCH 4, 1977.

Summary. The following summary of the amendments proposed by this Resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the regulations.

I. *Present regulations.* Authorize Federal associations to service loans for others under certain conditions.

II. *Proposed amendments.* Would clarify such authority and extend it to permit Federal associations to service loans for certain public housing corporations and not-for-profit organizations.

The Federal Home Loan Bank Board considers it desirable to propose to amend § 545.11 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.11) for the purpose of clarifying and extending the authority of Federal associations to service loans for others. Present § 545.11 authorizes a Federal association (1) to service loans which it owns or in which it has a participation interest, and (2) to service for others loans in which any of certain specified entities owns or has owned an interest. The proposed amendment would extend such authority to permit a Federal association to service loans made and owned by a public housing corporation or not-for-profit private organization established for the sole purpose of providing directly or indirectly for housing and incidental services, including financing, particularly for families of low or moderate income. The proposal would limit the total amount of such loans serviced by a Federal association to 25 percent of the total dollar amount of its mortgage portfolio and would require that such public housing corporation or private not-for-profit organization be established or chartered by a State or political subdivision in which the principal office or a branch office of the association is located. Such additional authority would be consistent with present authority of Federal associations to invest limited amounts in such corporations and organizations under certain circumstances.

The proposal would also clarify the authority of Federal associations to service loans in which an institution whose accounts are insured by the Fed-

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eral Savings and Loan Insurance Corporation owns any interest if such interest was acquired pursuant to § 563.9 or paragraph (b) of § 563.9–1 of this chapter. The reference in present § 545.11(f) to loans originated or purchased pursuant to any of the provisions of § 563.9 (a) predates amendments made in 1973 to these provisions which rendered it ambiguous.

Accordingly, the Board hereby proposes to amend paragraph (f) of § 545.11 and add a new paragraph (g) thereto, to read as set forth below.

Interested persons are invited to submit written data, views and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street, N.W., Washington, D.C. 20552, by April 11, 1977, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address.

Section 545.11 is amended by amending paragraph (f) and by adding a new paragraph (g) to read as follows:

§ 545.11 Servicing of loans.

A Federal association may, except as otherwise limited by regulation, service any loan which it owns and any loan in which it has a participation interest. In addition, a Federal association may service for others any loan in which—

• • • • •

(f) An institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation owns any interest, if such interest was acquired pursuant to any of the provisions of § 563.9 or paragraph (b) of § 563.9–1 of this chapter; or

(g) Total proceeds were disbursed, and sole ownership is retained, by a public housing corporation, or a not-for-profit private organization, established or chartered by any State or political subdivision thereof (including the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States) if: (1) The principal office or a branch office of such association is located in such State or political subdivision; (2) the sole purpose of such public housing corporation or private not-for-profit organization is to provide directly or indirectly for housing and incidental services, including financing, particularly for families of low or moderate income; and (3) undertaking to service such loan will not cause the total outstanding balance of all such loans serviced by such association to exceed 25 percent of the total dollar amount then outstanding in its mortgage portfolio.

(Sec. 5, 48 Stat. 132, as amended; (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77–7104 Filed 3–9–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77–WE–4–AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC–10–10F and –30F Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to McDonnell Douglas Model DC–10–10F and DC–10–30F airplanes. An FAA post certification review of the Model DC–10 cargo door disclosed an area where the upper cargo door integrity could be further enhanced by the installation of a large viewport and by following specified procedures for securing the door, or installation of a vent door. These changes would minimize the possibility that operational errors could result in dispatch of an aircraft with the upper cargo door unlatched or unlocked. Since this condition could exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require installation of a large viewport, and specified procedures for securing the door or installation of a vent door on the upper cargo door on McDonnell Douglas Model DC–10–10F and DC–10–30F airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rules Docket, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. All Communications received on or before April 6, 1977 will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

McDonnell Douglas. Applies to Model DC–10–10F and DC–10–30F airplanes certificated in all categories.

Compliance required within the next 1,000 hours time in service after the effective date of this AD unless already accomplished.

To reduce the possibility that operational errors could result in dispatch of an aircraft with the upper cargo door unlatched or unlocked, accomplish (a) and either (b) or (c) as follows:

(a) Install a lock mechanism viewing window on the upper cargo door and add a new instruction placard per McDonnell Douglas DC–10 Service Bulletin No. 52–120 dated September 4, 1974, or later FAA approved revision.

(b) Install an upper cargo door vent door with integral blockers for the torque tube and lock tube and add instruction placard per McDonnell Douglas DC–10 Service Bulletin No. 52–137 dated July 9, 1976, or later FAA approved revision, or

(c) After each operation of the upper cargo door, prior to flight verify that the door is flush with the fuselage, that lock pin engagement has occurred by observing through the viewing port, and secure the upper cargo door by accomplishing (1) and either (2) or (3) as follows:

(1) Install bolt (NAS 6304017 or NAS 6404017) with locknut in lieu of pip pin in lock tube hole.

(2) Open and secure with positive lock-out devices, the upper cargo door power circuit breakers (B1–1340, B1–1341), and B1–1342) located on the Flight Engineer's lower main circuit breaker panel and "upper cargo door power control" circuit breaker (B1–1343) located on the forward left cabin equipment panel; or

(3) Remove or hydraulically disconnect lock tube actuator (P/N 477667–5503).

(d) Equivalent modifications may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(e) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMP Circular A–107.

Issued in Los Angeles, California, on February 22, 1977.

WILLIAM R. KRIEGER,
Acting Director,
FAA Western Region.

[FR Doc.77–6917 Filed 3–9–77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77–SO–8]

TRANSITION AREAS

Proposed Alteration and Revocation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Meridian, Mississippi, transition area and revoke the Meridian, Mississippi (OLF Bravo Field) transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before April 25, 1977, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Meridian, Mississippi (OLF Bravo Field) transition area described in § 71.181 (42 FR 440) would be revoked.

The Meridian, Mississippi, transition area described in § 71.181 (42 FR 440) would be amended by deleting the present description and substituting the following therefor:[1]

MERIDIAN, MISS.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Key Field (Lat. 32°19'58" N., Long. 88°45'05" W.); within 3 miles each side of the 191° bearing from the Lauderdale RBN, extending from the 11-mile radius area to 8.5 miles south of the RBN; within 5 miles each side of Meridian VORTAC 315° radial, extending from the 11-mile radius area to 11.5 miles northwest of the VORTAC; within an 8.5-mile radius of OLF Bravo Field (Lat. 32°47'33" N., Long. 88°49'40" W.); within a 10-mile radius of NAS Meridian (Lat. 32°33'-27" N., Long. 88°33'33" W.); within a 29-mile radius of the Medidian VORTAC, extending clockwise from the 340° radial to the 050° radial, and within 5 miles north and 7 miles south of the Kewanee VORTAC 273° radial, extending from the VORTAC to Long. 88°36'00" W.

The proposed alteration would:

1. Place the airspace required for aeronautical operations at OLF Bravo Field in the Meridian transition area.

2. Expand the Meridian transition area to the west and northwest to encompass that area south and southwest of OLF Bravo. This additional airspace is required for IFR operations at OLF Bravo and to accommodate random radar vectoring operations.

3. Delete an extension presently predicated on the 021° bearing from the NAS Meridian UHF RBN as it will no longer be required if the proposed alteration is adopted.

4. Slightly increase the airspace designation southwest of the Kewanee VOR TAC. The additional airspace is required for random vectoring operations.

5. Delete an extension predicated on the Key Field ILS localizer course as sufficient airspace is already in existence.

6. Shorten and clarify the description of the transition area.

[1] Map filed as part of the original document.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Issued in East Point, Ga., on February 17, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.77–6918 Filed 3–9–77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77–CE–1]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Humboldt, Nebraska.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before April 11, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

A new public-use instrument approach procedure is being established to serve the Humboldt, Nebraska Municipal Airport utilizing the Pawnee City, Nebraska, VORTAC. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a 700-foot floor transition area at Humboldt, Nebraska.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (42 FR 440), the following transition area is added:

HUMBOLDT, NEBRASKA

That airspace extending upward from 700 feet above the surface within a five mile radius of the Humboldt Municipal Airport (latitude 40°09'50" N, longitude 95°55'55" W); within 1.75 miles each side of the 099° radial of the Pawnee City VORTAC, extending from the five mile radius to seven miles west of the airport.

This amendment is proposed under the authority of Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri on February 25, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77–6920 Filed 3–9–77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77–CE–3]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Moberly, Missouri.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before April 11, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Since designation of controlled airspace at Moberly, Missouri, two new pub-

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llc-use instrument approach procedures are being established predicated on a new non-directional radio beacon on the Omar N. Bradley Airport, Moberly, Missouri. Accordingly, it is necessary to alter the Moberly 700-foot floor transition area to adequately protect aircraft executing these new approach procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (42 FR 440) the following transition area is amended to read:

MOBERLY, MISSOURI

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Omar N. Bradley Airport (Latitude 39°27'50" N., Longitude 92°25'35" W.); and 3 miles either side of the 315° bearing from the airport extending from the 6.5 mile radius to 8 miles northwest of the airport; and 3 miles either side of the 126° bearing from the airport extending from the 6.5 mile radius to 8 miles southeast of the airport.

This amendment is proposed under the authority of Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri on February 15, 1977.

C. R. MELUGIN, JR.,
Director, Central Region.

[FR Doc.77-6921 Filed 3-9-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-9]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Orange, Tex., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before April 11, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (42 FR 440), the Orange, Tex., transition area is amended as follows: [1]

ORANGE, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Orange NDB (latitude 30°04'14" N., longitude 93°47'42" W.) within 2.5 miles each side of the 159°M bearing (155°T bearing) from the Orange NDB extending from the 5-mile radius to 8 miles southeast of the Orange NDB and within 2.5 miles each side of the 028°M bearing (034°T bearing) from the Orange NDB extending from the 5-mile radius to 8 miles northeast of the Orange NDB.

The proposed alteration will provide controlled airspace for an NDB instrument approach procedure to the Orange County Airport.

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on March 1, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77-6922 Filed 3-9-77;8:45 am]

[14 CFR Parts 71 and 73]

[Airspace Docket No. 77-WE-4]

TEMPORARY RESTRICTED AREA

Proposed Designation

The Federal Aviation Administration (FAA) is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate joint use temporary restricted areas in the vicinity of Twenty-Nine Palms, Calif., to contain a joint military exercise "Brave Shield XVI." The designations would extend from July 14, 1977, through July 20, 1977. The restricted areas encompass airspace at and above 14,500 feet MSL and would, therefore, also be included in the continental control area for the duration of their time of designation.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications on or before April 11, 1977 will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this Notice of Proposed Rulemaking should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591.

NOTE.—The FAA has determined that this document does not contain a major proposal requiring perparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

The proposed amendments would designate the following restricted areas: [1]

1. R-2501A BRAVE SHIELD XVI

Boundaries. Beginning at Lat. 34°40'30" N., Long. 116°29'40" W., to Lat. 34°30'00" N., Long. 116°42'00" W., to Lat. 34°10'00" N., Long. 116°42'00" W., to Lat. 34°10'00" N., Long. 115°47'30" W., to Lat. 34°14'00" N., Long. 115°44'00" W., thence along the southern and western borders of R-2501E, R-2501S, and R-2501N to point of beginning.
Designated altitudes. 500 feet AGL to and including 17,000 feet MSL, excluding that airspace below 1000 feet AGL within 3 NM of Soggy Dry Lake, Giant Rock, and Frick Airports.
Time of Designation. Continuously from 0001 local July 14 through 2359 local July 20, 1977.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

2. R-2501B BRAVE SHIELD XVI

Boundaries. Beginning at Lat. 34°43'00" N., Long. 116°17'00" W., to Lat. 34°42'50" N., Long. 116°26'30" W., to Lat. 34°22'00" N., Long. 115°36'20" W., to Lat. 34°14'00" N., Long. 115°44'00" W., thence along the eastern and northern boundaries of R-2501E and R-2501N to the point of beginning.
Designated altitudes. 500 feet AGL to and including FL 250.
Time of designation. Continuously from 0001 local July 14 through 2359 local July 20, 1977.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

3. R-2501C BRAVE SHIELD XVI

Boundaries. Beginning at Lat. 34°10'00" N., Long. 116°42'00" W., to Lat. 33°56'00" N., Long. 116°23'00" W., to Lat. 33°53'30" N., Long. 116°02'40" W., to Lat. 34°10'00" N., Long. 115°47'30" W., to point of beginning.
Designated altitudes. 2000 feet AGL to and including 17,000 feet MSL.
Time of designation. Continuously from 0001 local July 14 through 2359 local July 20, 1977.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

4. R-2501D BRAVE SHIELD XVI

Boundaries. Beginning at Lat. 34°42'50" N., Long. 115°26'30" W., to Lat. 34°42'00" N., Long. 115°16'00" W., to Lat. 34°19'00" N., Long. 115°25'00" W., to Lat. 34°03'40" N., Long. 115°43'00" W., to Lat. 33°52'00" N., Long. 115°51'40" W., to Lat. 33°53'30" N., Long. 116°02'40" W., to Lat. 34°14'00" N., Long. 115°44'00" W., to Lat. 34°22'00" N., Long. 115°35'20" W., to point of beginning.
Designated altitudes. 14,000 feet MSL to and including FL 180.
Time of designation. Continuously from 0001 local July 14 through 2359 local July 20, 1977.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

5. R-2501F BRAVE SHIELD XVI

Boundaries. Beginning at Lat. 34°42'00" N., Long. 115°16'00" W., to Lat. 34°41'50" N., Long. 114°40'00" W., to Lat. 34°07'00" N., Long. 114°54'20" W., to Lat. 33°52'00" N., Long. 115°51'40" W., to Lat. 34°03'40" N., Long. 115°43'00" W., to Lat. 34°19'00" N., Long. 115°25'00" W., to point of beginning.
Designated altitudes. 14,000 feet MSL to and including FL 250.
Time of designation. Continuously from 0001 local July 14 through 2359 local July 20, 1977.
Controlling agency. Federal Aviation Administration, Los Angeles ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va. 23665.

Temporary Restricted Areas R-2501A, B, C, D and F defined above would be included in the Continental Control Area for the duration of their time of designation.

The proposed restricted areas would be used to contain a joint military exercise, Brave Shield XVI, involving aircraft conducting close air support, interdiction, electronic warfare, reconnaissance counter air and tactical airlift missions to include airborne delivery of supplies requiring maneuvering through a wide range of speed and altitudes. The exercise will be conducted during the July 14–20, 1977, time frame.

The restricted areas will operate on a joint use basis and procedures have been established to accommodate nonparticipating aircraft to the maximum extent possible. Leased communications lines will be installed with FAA facilities in order to coordinate participating and nonparticipating air traffic movements. Also a wide area telecommunications service number (reverse charge) will be obtained and published to accommodate nonexercise air traffic coordination.

[1] Map filed as part of the original document.

[1] Map filed as part of the original document.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on March 4, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-7061 Filed 3-9-77;8:45 am]

[14 CFR Part 73]

[Airspace Docket No. 77-SW-8]

RESTRICTED AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations that would internally subdivide and also realign the boundaries of Restricted Area R-6302, Fort Hood, Tex.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before April 11, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this notice of proposed rulemaking should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue S.W., Washington, D.C. 20591. The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

The proposed amendment would modify Restricted Area R-6302, Fort Hod, Tex., as follows: [1]

NEW BOUNDARIES

R6302A Beginning at Lat. 31°10'00" N., Long. 97°35'40" W.; to Lat. 31°10'00" N., Long. 97°41'00" W.; to Lat. 31°11'00" N., Long. 97°43'00" W.; to Lat. 31°10'00" N., Long. 97°45'00" W.; to Lat. 31°09'00" N., Long. 97°45'00" W.; to Lat. 31°10'00" N., Long. 97°48'00" W.; to Lat. 31°15'00" N., Long. 97°51'00" W.; to Lat. 31°19'00" N., Long. 97°51'00" W.; to Lat. 31°24'00" N., Long. 97°48'00" W.; to Lat. 31°23'00" N., Long. 97°43'00" W.; to Lat. 31°21'00" N., Long. 97°41'00" W.; to Lat. 31°20'00" N., Long. 97°41'00" W.; to Lat. 31°14'00" N., Long. 97°33'00" W., to the point of beginning.
R6302B Beginning at Lat. 31°10'00" N., Long. 97°41'00" W.; to Lat. 31°09'30" N., Long. 97°43'00" W.; to Lat. 31°09'00" N., Long. 97°43'30" W.; to Lat. 31°09'00" N., Long. 97°45'00" W.; to Lat. 31°10'00" N., Long. 97°45'00" W.; to Lat. 31°11'00" N., Long. 97°43'00" W.; to the point of beginning.
R6302C Beginning at Lat. 31°09'00" N., Long. 97°45'00" W.; to Lat. 31°09'00" N., Long. 97°52'00" W.; to Lat. 31°09'00" N., Long. 97°55'00" W.; to Lat. 31°16'00" N., Long. 97°54'00" W.; to Lat. 31°19'00" N., Long. 97°51'00" W.; to Lat. 31°15'00" N., Long. 97°51'00" W.; to Lat. 31°10'00" N., Long. 97°48'00" W., to the point of beginning.
R6302D Beginning at Lat. 31°08'00" N., Long. 97°37'00" W.; to Lat. 31°08'00" N., Long. 97°39'00" W.; to Lat. 31°10'00" N., Long. 97°41'00" W.; to Lat. 31°10'00" N., Long. 97°35'40" W.; to the point of beginning.
R6302E Begining at Lat. 31°14'00" N., Long. 97°33'00" W.; to Lat. 31°06'00" N., Long. 97°33'00" W.; to Lat. 31°08'00" N., Long. 97° 39'00" W.; to Lat. 31°08'00" N., Long. 97° 37'00" W.; to the point of beginning.

It is proposed that R6302 A, B and C be further subdivided into R6302 A, B, C, D and E to allow more efficient utilization of restricted airspace. Proposed configuration would provide a better means for Fort Hood to return unused portions of R6302 to Houston Center for normal air traffic control use. Minor peripheral boundary changes are proposed to provide additional public use airspace north of the Killeen Municipal Airport. Proposed subdivisions are designed for maximum civil untilization of unused portions of R6302.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on March 2, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-6919 Filed 3-9-77;8:45 am]

DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Proposed Rulemaking

Pursuant to the authority of 28 CFR Chapter I, Part O, Subpart V and 18 U.S.C. 4203(a)(1), 90 Stat. 220, notice is hereby given that the Parole Commission intends to consider adoption of certain regulations listed below governing parole, release, supervision and recommitment of prisoners, youth offenders and juvenile delinquents.

[1] Map filed as part of the original document.

V 42 47 MAR 10 77 UMI

All interested persons who wish to make comments or suggestions in connection with these proposed regulations should send written statements to the United States Parole Commission, Federal Home Loan Bank Board Building, 320 First Street Northwest, Washington, D.C. 20537, Attention: Rulemaking Committee. All comments and suggestions must be received by May 16, 1977.

(1) *Section 2.14(c).* (Proposed regulation.) It has been proposed to eliminate the Commission's present regulation which provides that in certain circumstances federal prisoners, including youth offenders and juvenile delinquents, serving indeterminate terms of less than five years, will receive further hearings at one-third of their sentences. The Commission believes that the recent enactment of 18 U.S.C. 4208(h), which establishes an eighteen month maximum permissible continuance of such cases before further review, is the final expression of Congressional intent on that subject.

Extensive litigation prior to the enactment of that section revolved around the question whether, in enacting the former 18 U.S.C. 4208(a)(2), Congress intended to place such emphasis on the factor of institutional progress that the Board of Parole could not lawfully continue a prisoner sentenced under that Act without a further opportunity to evaluate the prisoner's performance. The one-third point of such a sentence was chosen as the limit for continuances (by a number of courts) on the theory that Congress did not intend to give an "(a)(2)" prisoner less of an opportunity to show his institutional record than a "regular adult" prisoner would have under the former 18 U.S.C. 4202.

However, in the enactment of the Parole Commission and Reorganization Act, 90 Stat. 219 (May 14, 1976), Congress did not adopt the one-third limit as law, choosing instead to set an eighteen month limit to continuances for sentences under seven years, and a twenty-four month limit to sentences of seven years and over. Moreover, Congress made clear that a balance of considerations (set forth at 18 U.S.C. 4206) should be taken into account in parole decisions (under the "fundamental gauge" of parole guidelines) rather than institutional performance alone. Thus, a prisoner sentenced under 18 U.S.C. 4205(b)(2) (or the former 4208(a)(2)) will be eligible to be released on parole without the usual restriction of waiting until the expiration of one-third of his sentence, in any case in which the prisoner's guideline range calls for less time to be served than one-third of the sentence, or where the Commission determines that release is warranted notwithstanding the guidelines at a date earlier than one-third of the sentence. Otherwise, the statutory limit to continuances is the intended standard for further review.

(2) *Section 2.20 (Proposed regulation).* Revision of the Commission's offense severity classification system has also been proposed.

The principal features of this revision are: (1) consolidation and classification of offenses termed "property offenses"; (2) clarification of the rating of large scale hard drug offenses; (3) the establishment of a category for large scale marihuana offenses and the change from dollar amount to weight as a more equitable basis for rating marihuana offenses generally; (4) the clarification of the term "bribery" to include both offering and accepting; (5) the classification of non-violent escape; (6) the clarification and revision of the term "burglary" as the Commission applies it to certain offenses involving theft from a bank or post office; and (7) the establishment of a method for rating conspiracy offenses according to whether the conspiracy actually involved the commission of the substantive offense or not.

The text of the offense severity system, as proposed, is set forth below:

It is proposed that "property offenses" be classified as follows:

Proposed	*Present*
Very high: Property offenses (theft, forgery, fraud, embezzlement, interstate transportation of stolen or forged securities, receiving stolen property) (over $100,000 but not exceeding $500,000).	*Very high.*
High: Property offenses (theft, forgery, fraud, embezzlement, interstate transportation of stolen or forged securities, receiving stolen property) ($20,000 to $100,000).	*High:* Embezzlement ($20,000 to $100,000). Interstate transportation of stolen, forged securities ($20,000 to $100,000). Theft, forgery, fraud ($20,000 to $100,000). Receiving stolen property ($20,000 to $100,000).
Moderate: Property offenses (theft, forgery, fraud, embezzlement, interstate transportation of stolen or forged securities, receiving stolen property) ($1,000 to $19,999).	*Moderate:* Embezzlement (less than $20,000). Interstate transportation of stolen or forged securities (less than $20,000). Receiving stolen property with intent to resell (less than $20,000). Theft, forgery, fraud ($1,000 to $19,999).
Low moderate: Property offenses (forgery, fraud, theft from mail, embezzlement, interstate transportation of stolen or forged securities, receiving stolen property with intent to resell) (less than $1,000).	*Low moderate:* Forgery, fraud (less than $1,000). Theft from mail (less than $1,000).
Low: property offenses (theft or simple possession of stolen property) (less than $1,000).	*Low:* Minor theft (includes larceny and simple possession of stolen property less than $1,000).

It is proposed that the "hard drugs" offense categories be modified as follows:

Proposed	*Present*
Greatest: Drugs: "hard drugs" (possession with intent to distribute, sale) for profit prior conviction(s) for sale of "hard drugs", or in excess of $100,000).	*Greatest:* Drugs: "hard drugs" (possession with intent to distribute, sale) for profit (prior conviction(s) for sale of "hard drugs").
Very high: Drugs: "hard drugs" (possession with intent to distribute, sale) (no prior conviction for sale of "hard drugs" and) not exceeding $100,000.	*Very high:* Drugs: "hard drugs" (possession with intent to distribute, sale (no prior convictions for sale of "hard drugs").

It is proposed that the categories relating to marihuana be modified as follows:

Proposed	*Present*
Very high: Drugs: Marihuana (possession with intent to distribute, sale)—large scale (e.g., 2,000 lb. or more).	*Very high.*
High: Drugs: Marihuana (possession with intent to distribute, sale)—medium scale (e.g., 50 to 1,999 lb.).	*High:* Drugs: Marihuana, possession with intent to distribute, sale ($5,000 or more).
Moderate: Drugs: Marihuana (possession, with intent to distribute, sale) small scale (e.g., less than 50 lb.).	*Moderate:* Drugs: Marihuana, possession with intent to distribute, sale (less than $5,000).

It is proposed that the offense behavior concerning bribery be clarified.

Proposed	*Present*
Moderate: Bribery of a public official (offering or accepting).	*Moderate:* Bribery of public officials.

It is proposed that the offense behaviors relating to escape be modified as follows:

Proposed	*Present*
Low: Escape (open institution or program (e.g., ETC, work release)—absent less than 7 d.).	*Low:* Walkaway.
Moderate: Escape (secure program or institution, or absent 7 d. or more—no fear or threat used).	*Moderate.*

It is proposed that the offense behavior burglary be clarified as follows to reflect the fact the more aggravated form of the offense is the more common occurrence.

Proposed	*Present*
High ----------	*High:* Burglary or larceny (other, than embezzlement) from bank or post office.
Very high: Burglary (bank or post office—Entry or attempted entry to vault).	*Very high.*

NOTES

7. Conspiracy shall be rated for guideline purposes according to the underlying offense behavior if such behavior was consummated. If the offense is unconsummated, the conspiracy will be rated one step below the consummated offense.

8. Burglary of a bank or post office means the breaking and entering of a bank or post office with the intent to commit a felony therein.

(3) *Section 2.24(c) (Proposed Regulation).* Existing regulations require that the Regional Commissioner refer any disagreement with a panel's recommendations to the National Directors for reconsideration of the decision, and permit modification with such referral only with the concurrence of the Administrative Hearing Examiner to the nearer limit of the appropriate guideline range 28 CFR § 2.24 (a) and (b). To provide greater flexibility in decision making for the Regional Commissioners and to eliminate elaborate review when only a slight disagreement exists, it was felt that Regional Commissioners should be enabled to modify decisions to any date within six months of the panel's recommendation. The term "modification" does not include the changing of a parole date to a continuance or vice versa. The text of the proposed rule is as follows:

§ 2.24 Review of panel recommendation by the Regional Commissioner.

* * * * *

(c) Notwithstanding the above, a Regional Commissioner may modify the recommendation of a hearing examiner panel to a date not to exceed six months from the date recommended by the examiner panel.

(4) *Section 2.27(a) (Proposed regulation).* It has been proposed that the provision for voting on appeal of original jurisdiction decisions be amended by eliminating the restriction that the Chairman vote only in the absence of a Commissioner. This restriction appears inconsistent with 18 U.S.C. § 4203(c), which suggests that all Commissioners, including the Chairman, should vote on decisions to parole, supervise or recommit federal prisoners. The text of the proposed rule is as follows:

§ 2.27 Appeal of original jurisdiction cases.

(a) Cases decided under the procedure specified in § 2.17 may be appealed within thirty days of the entry of the decision on a form provided for this purpose. Attorneys, relatives and other interested parties who wish to submit written information in support of a prisoner's appeal should send such information to the National Appeals Board Analyst, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537. Appeals of original jurisdiction cases shall be reviewed by the Commission at its next regular meeting. A quorum of five Commissioners shall be required and all decisions shall be by majority vote.

* * * * *

(5) *Section 2.59 (Proposed rule).* A new § 2.59 is proposed to be added in order to further the purposes of 18 U.S.C. 4203(a)(1) in carrying out a national parole policy consistently among the five regions.

§ 2.59 Appointment of committees.

The Chairman shall appoint four permanent committees, as follows: (1) Policy, (2) Budget, (3) Personnel and Training, (4) Research, and in addition such Ad Hoc Committees as may from time to time be approved by a majority of the Commissioners to study, review and recommend to the Commission and Chairman regarding policies and procedures of the Commission. Such Committees shall be appointed from among the Commissioners.

Dated: March 4, 1977.

GEORGE J. REED,
Acting Vice Chairman,
U.S. Parole Commission.

[FR Doc.77-7054 Filed 3-9-77;8:45 am]

POSTAL SERVICE

[39 CFR Part 266]

PRIVACY OF INFORMATION

Exemptions

Correction

In FR Doc. 77-5281 appearing on page 10320 in the issue for Tuesday, February 22, 1977, in column three, between the 7th and 8th lines of § 266.9(b)(7), insert the following line: "formation to the Government in con-".

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 22]

[FRL 606-2]

ADMINISTRATIVE PRACTICES AND PROCEDURES

Financial Assistance to Participants in Agency Proceedings; Extension of Comment Period

In response to a written request, the time for comment on EPA's Advance Notice of Proposed Rulemaking concerning compensation for taking part in agency proceedings, 42 FR 1492 (Jan. 7, 1977), is hereby extended by ten days, to March 18, 1977.

Dated: March 4, 1977.

G. WILLIAM FRICK,
General Counsel.

[FR Doc.77-7034 Filed 3-9-77;8:45 am]

[40 CFR Part 52]

[FRL 606-5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Butte County Rules and Regulations in the State of California

On July 25, 1973, January 10, 1975, and February 10, 1976, the Air Resources Board of the State of California submitted revised Rules and Regulations of the Butte County Air Pollution Control District (APCD) as a revision to the California State Implementation Plan (SIP). The submissions listed above will be addressed in this notice, except when such submissions are deficient in a specific area. In this event, the appropriate portions of the earlier submissions have been evaluated and will be discussed in this notice.

The changes contained in the July 25, 1973, January 10, 1975, and February 10, 1976, submissions being acted upon by this package include the following: addition and clarification of certain definitions; addition of a chapter governing wood waste burning; addition of a rule prohibiting ignition of waste due to wind direction; addition of a rule specifying burning techniques for vegetation treated with herbicides; addition of rules governing rice straw burning; and other minor changes of a procedural nature, including among other things, adding titles to existing sections.

It is the purpose of this notice to propose approval of all the changes included in the July 25, 1973, January 10, 1975, and February 10, 1976 submissions.

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision and, therefore, invites public comment on the State's submission and his proposed approval or disapproval.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations.

Butte County Air Pollution Control District, 316 Nelson Avenue, Oroville, CA 95965.
California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460.

Interested persons may participate in this rulemaking by submitting written comments to the Regional Administrator, EPA, Region IX; Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section; 100 California Street, San Francisco, CA 94111.

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Relevant comments received on or before April 11, 1977, will be considered. Comments received will be available for inspection during normal working hours at the Region IX office and the EPA Public Information Reference Unit.

This notice is issued under the authority of Section 110 of the Clean Air Act, as amended.

(42 U.S.C. 1857c-5).

Dated: March 1, 1977.

PAUL DE FALCO, JR.,
Regional Administrator.

[FR Doc.77-7035 Filed 3-9-77;8:45 am]

[40 CFR Part 52]

[FRL 696-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Glenn County Rules and Regulations in the State of California

On July 25, 1973, January 22, 1974, January 10, 1975, and April 21, 1976, the Air Resources Board of the State of California submitted revised Rules and Regulations of the Glenn County Air Pollution Contorl District (APCD) as a revision to the California State Implementation Plan (SIP). Because the January 10, 1975 and April 21, 1976 submissions supersede the July 25, 1973 and January 22, 1974 submissions, only the most recent submissions listed above will be adressed in this notice, except when such submissions are deficient in a specific area. In this event, the appropriate portions of the earlier submissions have been evaluated and will be discussed in this notice.

The significant changes to the Glenn County new source review rules (Article III), submitted on January 10, 1975, will be acted upon in a separate FEDERAL REGISTER notice.

On January 10, 1975, Section 95.2, *Maintenance of Equipment* and Section 95.3, *Malfunction of Equipment* were submitted by the Air Resources Board. These Sections are not being acted upon in this notice, but will be addressed in a separate FEDERAL REGISTER notice dealing with SIP malfunction provisions.

The changes contained in the January 10, 1975 and April 21, 1976 submissions being acted upon by this package include the following: additions, deletions, and revisions to certain definitions; addition of a rule establishing right of entry for inspection; additions and revisions to agricultural burning rules; exemption of emission data from confidentiality clauses; addition of rules establishing fees; and other minor changes of a procedural nature.

It is the purpose of this notice to propose approval of all the changes in the January 10, 1975 and April 21, 1976 submissions with the exception of the rules specified above that are not being acted upon at this time.

Section 57, *Public Information*, now allows emission data to be made available to the public, which is consistent with 40 CFR Part 51.10(e). It is proposed to approve this Section and rescind the current disapproval notice in 40 CFR Part 52.224(a) and rescind the substitute regulation in 40 CFR Part 52.224(b) for Glenn County.

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision and, therefore, invites public comment on the State's submission and his proposed approval or disapproval.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations.

Glenn County Air Pollution Control District, 777 North Colusa Street, Willows, CA 95988.
California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

Interested persons may participate in this rulemaking by submitting written comments to the Regional Administrator, EPA, Region IX; Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section; 100 California Street, San Francisco, CA 94111. Relevant comments received on or before April 11, 1977, will be considered. Comments received will be available for inspection during normal working hours at the Region IX office and the EPA Public Information Reference Unit.

This notice is issued under the authority of Section 110 of the Clean Air Act, as amended.

(42 U.S.C. 1857c-5.)

Dated: March 1, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-7036 Filed 3-9-77;8:45 am]

[40 CFR Part 52]

[FRL 696-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Tehama County Rules and Regulations in the State of California

On July 25, 1973, July 19, 1974, and April 10, 1975, the Air Resources Board of the State of California submitted revised Rules and Regulations of the Tehama County Air Pollution Control District (APCD) as a revision to the California State Implementation Plan (SIP). The submissions listed above will be addressed in this notice, except when such submissions are deficient in a specific area. In this event, the appropriate portions of the earlier submissions have been evaluated and will be discussed in this notice.

The significant changes to the Tehama County new source review rules (Regulation II), submitted on July 25, 1973 and July 19, 1974, will be acted upon in a separate FEDERAL REGISTER notice.

On July 19, 1974, Rule 4.17, *Upset or Breakdown Conditions* was submitted by the Air Resources Board. This Rule is not being acted upon in this notice because of unresolved national policy. This Rule will be addressed in a separate FEDERAL REGISTER notice as soon as the policy is resolved so that EPA can provide for national consistency in its review.

The changes contained in the July 25, 1973, July 19, 1974, and April 10, 1975 submissions being acted upon by this package included the following: addition of agricultural burning definitions; addition of a new set of agricultural burning regulations including permit requirements, "no burn days", exceptions to "no burn days", advance notice, preparation of waste to be burned, restricted burning days, burning hours, fire permit agencies, exemptions, ignition of fires, fire prevention, burning on "no burn days", enforcement procedures, penalties, range improvement burning, and forest management burning; additions and deletions to the open burning rule; and exemption of emission data from confidentiality clauses.

It is the purpose of this notice to propose approval of all the changes included in the July 25, 1973, July 19, 1974, and April 10, 1975 submissions with the exception of the rules specified above which are not being acted upon at this time.

Rule 4.18, *Disclosure of Data*, allows emission data to be made available to the public, which is consistent with 40 CFR Part 51.10(e). It is proposed to approve this Rule and rescind the current disapproval notice in 40 CFR Part 52.224(a) and rescind the substitute regulations in 40 CFR Part 52.224(b) for Tehama County.

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision and, therefore, invites public comment on the State's submission and his proposed approval or disapproval.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations.

Tehama County Air Pollution Control District, 1760 Walnut Street, Red Bluff, CA 96080.
California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460.

Interested persons may participate in this rulemaking by submitting written comments to the Regional Administrator, EPA, Region IX, Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section; 100 California Street, San Francisco, CA 94111. Relevant comments received on or before April 11, 1977, will be considered. Comments received will be available for inspection during normal working hours at the Region IX office and the EPA Public Information Reference Unit.

This notice is issued under the authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 1857c-5).

Dated: March 1, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-7037 Filed 3-9-77;8:45 am]

[40 CFR Part 52]

[FRL 696-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Yuba County Rules and Regulations in the State of California

On July 25, 1973, January 10, 1975, July 22, 1975, and February 10, 1976, the Air Resources Board of the State of California submitted revised Rules and Regulations of the Yuba County Air Pollution Control District (APCD) as a revision to the California State Implementation Plan (SIP). The Submissions listed above will be addressed in this notice, except when such submissions are deficient in a specific area. In this event, the appropriate portions of the earlier submissions have been evaluated and will be discussed in this notice.

The changes contained in the July 25, 1973, January 10, 1975, July 22, 1975, and February 10, 1976 submissions being acted upon by this package include the following: addition, deletion, and amendment of certain definitions; addition of a rule requiring emission control equipment on used motor vehicles; deletion of exceptions to the nuisance rule; addition of agricultural burning regulations including definitions, permit requirements, prohibitions, exceptions, enforcement procedures, and penalties; and other minor changes of a procedural nature.

It is the purpose of this notice to propose approval of all the changes included in the July 25, 1973, January 10, 1975, July 22, 1975, and February 10, 1976 submissions.

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as an SIP revision and, therefore, invites public comment on the State's submission and his proposed approval or disapproval.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations.

Yuba County Air Pollution Control District, 1420 "I" Street, Marysville, CA 95901.
California Air Resources Board, 1709 11th Street, Sacramento, CA 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460.

Interested persons may participate in this rulemaking by submitting written comments to the Regional Administrator, EPA, Region IX; Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section; 100 California Street, San Francisco CA 94111.

Relevant comments received on or before April 11, 1977, will be considered. Comments received will be available for inspection during normal working hours at the Region IX office and the EPA Public Information Reference Unit.

This notice is issued under the authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 1857c-5).

Dated: March 1, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-7038 Filed 3-9-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 21]

[Docket Nos. 18261, 21039]

AVAILABILITY OF LAND MOBILE CHANNELS

Order Extending Time for Filing Comments and Reply Comments

Adopted: March 3, 1977.

Released: March 7, 1977.

In the matter of amendment of Part 21, of the rules to reflect the availability of land mobile channels in the 470–512 MHz band in the ten largest urbanized areas of the United States, Docket No. 18261; Amendment of Part 21, of the rules to reflect the availability of land mobile channels in the 470–512 MHz band in thirteen urbanized areas of the United States, Docket No. 21039.

1. Presently before the Chief, Common Carrier Bureau is a motion by the National Association of Radiotelephone Systems (NARS), filed on February 24, 1977, requesting an extension of time to file comments to the above referenced docket. The Commission adopted a Memorandum Opinion and Order and Notice of Proposed Rule Making in the above entitled matter on January 12, 1977, which was released on January 31, 1977 (42 FR 8157, Feb. 9, 1977).

2. Because of the substantial technical and legal issues involved, the importance of this proceeding to the radio common carrier industry, and the Commission's desire to have the most definitive responses possible, good cause has been shown for the requested extension.

3. *Accordingly, it is ordered*, Pursuant to delegated authority under § 0.303 of the Commission's rules, that the time to file comments is extended from March 7, 1977 to April 8, 1977 and to file reply comments from March 28, 1977 to May 9, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALTER HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.77-7106 Filed 3-9-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of Hazardous Materials Operations

[49 CFR Parts 170, 171, 172, 173, 174, 175, 176, 177, 178 and 179]

[Docket No. HM-145]

ENVIRONMENTAL AND HEALTH EFFECTS MATERIALS

Advance Notice of Proposed Rule Making; Extension of Comment Period

On December 9, 1975, the Materials Transportation Bureau published an advance notice of proposed rule making (41 FR 53824) giving notice that it was considering whether new or additional transportation controls are necessary for classes of materials presenting certain hazards to humans and to the environment and which are not generally subject to the existing Hazardous Materials Regulations. The closing date for filing comments to this notice is March 14, 1977.

Two petitions have been received requesting that the time for filing comments be extended in order to allow more time for study of the questions presented in the notice. The Bureau has considered the reasons submitted in these petitions and has decided that an extension of the comment period is reasonable.

In consideration of the foregoing, the date for filing comments in Docket No. HM-145 is extended from March 14, 1977 to June 13, 1977.

(18 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102.)

Issued in Washington, D.C., on March 7, 1977.

C. H. THOMPSON,
Acting Director, Office of Hazardous Materials Operations.

[FR Doc. 77-7083 Filed 3-9-77;8:45 am]

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSGM-1, Notice 1]

IMPROVED GLAZING MATERIAL IN WINDOWS OF LOCOMOTIVE CABS, RAILROAD PASSENGER AND COMMUTER CARS, RAPID TRANSIT CARS, AND CABOOSES

Advance Notice of Proposed Rulemaking

The Federal Railroad Administration (FRA) is studying the need for a Federal regulation to require the use of improved glazing material in the windows of locomotive cabs, railroad passenger and commuter cars, rapid transit cars, and cabooses. The purpose of this notice is to solicit views and comments from the public as to the need for such a regulation and the costs and benefits that would result.

BACKGROUND INFORMATION

On September 29, 1976, the Railway Labor Executives Association (RLEA) filed a rulemaking petition requesting that the FRA issue a regulation to require the use of safety glass in all windows of

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locomotive cabs, railroad passenger cars and cabooses" (FRA Rulemaking Petition 76–4).

Pursuant to § 211.13 of the FRA Rules of Practice (49 CFR 211.13, 41 FR 54181) the rulemaking proceeding initiated by this notice shall be completed not later than 12 months after the date this notice is published in the FEDERAL REGISTER. The provision of § 211.13 that rulemaking petitions initiated as the result of a rulemaking petition be completed within 12 months following the filing of that petition does not apply in this instance because the RLEA petition was filed prior to January 1, 1977, the effective date of the Rules of Practice.

RLEA asserts in its petition that the safety of railroad employees and passengers is placed in serious jeopardy by the lack of safety glass that would:

1. Protect railroad crew members, railroad passengers and other railroad employees from death or injury resulting from being struck by stones, bottles, bullets and other missiles thrown or shot by criminal vandals.

2. Protect employees and passengers from the effects of broken glass in the event of a railroad accident.

3. Aid in the prevention of the ejection of employees and passengers from the interior of the railroad equipment in which they are riding in the event of a railroad accident.

In its petition, RLEA requests that FRA determine what is the "best possible safety glazing material" for these purposes and issue a regulation requiring that this glazing material be installed in the windows of locomotive cabs, railroad passenger cars and cabooses within two years. RLEA states further that "this safety glazing material should be free from distortion and should not be affected by abrasion, windshield wipers or cleaning, which would not permit clear visibility."

FRA regulations now require shatterproof glass on locomotives (49 CFR §§ 230.229(b) and 230.423(b)). In addition, several states have laws and regulations governing the glazing material applied to the windows of railroad equipment. State laws and regulations vary from general safety glass requirements, to detailed in-depth standards and specifications for window glazing material.

As part of its study, FRA reviewed its train accident files. This review revealed that during calendar year 1975, a total of 305 injuries and no fatalities resulted from persons being struck by flying objects. These injuries involved 297 employees, six passengers, one non-trespasser and one trespasser. In the first eight months of 1976, a total of 231 injuries and one fatality resulted. The injuries involved 228 on-duty employees, one off-duty employee, and two passengers. The one fatality was an on-duty employee.

FRA also conducted a meeting on September 22, 1976, to examine the feasibility of effecting improvements in the glazing material applied to railroad equipment to eliminate or reduce such casualties in the future. This meeting was attended by representatives of the Association of American Railroads (AAR), various railroads, American and British glazing manufacturers, locomotive manufacturers, railroad equipment manufacturers and suppliers, and railroad operating labor unions. The glazing industry representatives indicated that glazing materials capable of stopping almost any missile are available. At this meeting the AAR offered to review the repair and train accident claim records of its member railroads for information concerning the incidence of broken glazing material on locomotives, passenger and commuter cars and cabooses. This review is to include data concerning the number and types of acts of vandalism causing such damage. In addition, it is to include information concerning the nature and extent of injuries sustained by railroad employees and passengers.

Additional meetings were held on November 18, 1976 and January 27, 1977. The consensus of those attending these meetings was that the glazing material and its supporting frame on windows of locomotives, cabooses and passenger cars should—

1. Withstand without penetration and inside spalling or splintering these impacts:

a. A suspended cinder block struck at a speed of 30 mph;

b. A first-size object thrown from a distance of 25 feet such as ballast rock, ½ of a masonry brick, track spikes and bolts, rail anchors, tie plates and bottles; and

c. A .22 caliber long rifle or .38 caliber pistol bullet fired from a distance of 150 feet; and

2. Provide clear visibility without distortion, discoloration or other visual impairment.

Further meetings will be scheduled if necessary. Persons desiring to attend these meetings should contact the Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590.

PUBLIC PARTICIPATION REQUESTED

FRA believes that additional information is required concerning the necessity for, the cost of, and the benefits to be derived from a Federal regulation requiring the use of improved glazing material in the windows of locomotive cabs, railroad passenger and commuter cars, rapid transit cars and cabooses. FRA invites written comments from the public, particularly from railroads including rapid transit railroads, railroad employees and railroad equipment manufacturers and suppliers. FRA also requests commenters to indicate their willingness and capability to supply, upon request, further information and statistics that may be needed to perform cost-benefit and economic impact analyses for specific rulemaking proposals concerning the subjects discussed in this notice.

Specific advice is requested on the following points:

1. Should FRA develop regulations to require the use of improved glazing material in the windows of locomotive cabs, railroad passenger and commuter cars, rapid transit cars and cabooses? What alternatives to this course of action should also be considered? How costly and effective would each be?

2. How many fatalities and injuries in the past ten years resulted from occupants of locomotive cabs, railroad passenger and commuter cars, rapid transit cars and cabooses being—

(a) Struck by objects suspended from overhead structures and missiles?

(b) Struck by broken glazing material during train accidents?

(c) Ejected from the interior of such vehicles?

3. What means other than improved glazing material are available to protect occupants from the hazards described in question 2? How costly and effective would each be?

4. Should improved glazing material be required only in the windows of new equipment? Should its installation on existing equipment also be required?

(a) What would be the resulting costs for new and existing equipment?

(b) How effective would improved glazing material be in reducing injuries and fatalities?

(c) What would be the impact of these requirements on equipment maintenance?

(d) What would be a reasonabde amount of time to allow the equipment manufacturers and railroads to install improved glazing material on new and existing equipment?

5. What objects suspended from overhead structures, and what missiles should window glazing material prevent from penetrating the interiors of locomotive cabs, railroad passenger and commuter cars, rapid transit cars, and cabooses? What combinations of velocities, shapes, sizes and weights of objects suspended from overhead structures and missiles should be considered? (Example: (a) Bullet, impact speed 2450 ft. sec., cylindrical pointed, .30 cal, 180 grains; and (b) Brick, suspended, impact speed 30 m.p.h. rectangular polyhedron 2¼x3⅝x8 inches, 4½ pounds).

6. What types of glazing material can sustain the impacts discussed previously under "Background of Information" as well as these listed in response to question 5? How thick must these glazing materials be? Are they readily available and in adequate supply? How difficult and costly would it be to mount them securely in new and existing locomotives, railroad passenger and commuter cars, rapid transit cars and cabooses?

7. Should FRA regulations specify performance criteria, tests and/or other requirements for windows and window glazing materials of locomotive cabs, railroad passenger and commuter cars, rapid transit cars and cabooses?

(a) Should these requirements vary according to window location (front, side, and rear facing) and type of railroad equipment?

(b) What specific requirements should apply to the various windows, window glazing materials and types of railroad equipment?

(c) What tests should be required to determine that window glazing materials satisfy these requirements?

Communications should identify the docket number and notice number and be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before June 1, 1977, will be considered by FRA in the development of regulations that may be proposed in a future notice. Comments received after that date will be considered to the extent practicable. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

This notice is issued under the authority of Sec. 202, 84 Stat. 971 (45 U.S.C. 431), and §1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n)).

Issued in Washington, D.C. on March 4, 1977.

BRUCE M. FLOHR,
Deputy Administrator.

[FR Doc. 77-7066 Filed 3-9-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

MIGRATORY BIRD HUNTING

Notice of Proposed Rulemaking

Notice is hereby given that pursuant to authority contained in the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703–711), it is proposed to amend Part 20 of Title 50, Code of Federal Regulations. This document is confined to minor modifications in § 20.11 of Subpart B and the addition of a new § 20.40 in Subpart D of 50 CFR 20, and to establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K of 50 CFR 20.

"Migratory game birds" are those migratory birds included in the terms of conventions between the United States and any foreign nation for the protection of these birds. During the 1977–78 hunting season, regulations are proposed for certain designated members of the avian families Anatidae (wild ducks, geese, brant, and swans); Columbidae (wild doves and pigeons); Gruidae (cranes); Rallidae (rails, coots, and gallinules); and Scolopacidae (woodcock and snipe).

NOTICE OF INTENTION TO ESTABLISH OPEN SEASONS

This notice announces the intention of the Director, U.S. Fish and Wildlife Service to establish open hunting seasons, daily bag and possession limits, and shooting hours for all designated groups or species of migratory game birds for which hunting seasons are being considered for 1977–78 in the contiguous United States, Alaska, Hawaii, Puerto Rico and the Virgin Islands.

FACTORS AFFECTING REGULATIONS PROCESS

This is the first notice in a series of proposed and final rulemaking documents for migratory bird hunting regulations, and sets forth proposed season frameworks and shooting hours for the various groups of migratory game birds, as well as proposed daily bag and possession limits for certain groups or species for which these regulations ordinarily do not vary significantly from year to year. The proposals set forth here for certain species, as well as the schedule by which more detailed proposals for these and other species will be developed is dependent upon a number of factors including the conduct of various annual population and habitat surveys, the times when these surveys are conducted and results are available for analysis, times of migration and other biological considerations, and times during which hunting may be allowed. The regulatory process for migratory game birds is strongly influenced by the times when the best and latest information is available for the development of regulations. For these reasons, the overall regulations process for hunting seasons and bag limits is divided into the following segments: (1) Regulations for migratory game birds in the contiguous United States, Alaska, Hawaii, Puerto Rico and the Virgin Islands for which seasons prior to October 1 are proposed (early seasons); and (2) Regulations for migratory game birds in the contiguous United States for which seasons opening on October 1 or later are proposed (late seasons). Regulations development for each of the two categories will follow similar but independent lines. Proposals relating to the harvest of migratory game birds that may be initiated after publication of this proposed rulemaking will be made available for public review in a supplemental proposed rulemaking to be published in the FEDERAL REGISTER on or about May 16, 1977. Also, additional supplemental proposals will be published in the FEDERAL REGISTER as population, habitat, and harvest information becomes available, and public comment will be solicited. Because of the late dates when certain of these data become available, it is anticipated that comment periods on proposals dealing with specific hunting seasons, bag limits and certain other regulations pertaining to migratory shore and upland game birds and waterfowl will necessarily be abbreviated. Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on the one hand to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and, on the other hand, the lack before late July of specific, reliable data on this year's status of waterfowl.

Prior to finalization of the 1977–78 migratory game bird hunting regulations, consideration will be given to provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884; hereinafter the Act) to insure that hunting seasons do not jeopardize the continued existence of any species designated as endangered or threatened.

PUBLICATION OF REGULATORY DOCUMENTS

The process relating to the establishment of migratory bird hunting regulations in the United States involves a series of regulatory announcements published in the FEDERAL REGISTER in accordance with the Administrative Procedure Act. The publication of these documents is divided into three phases, as follows:

1. Proposed rulemakings—proposals to amend Subpart K (and, when necessary, other subparts) of Part 20, Subchapter B, Chapter I, Title 50, Code of Federal Regulations, including proposed migratory game bird hunting regulations, and/or regulations frameworks which prescribe season lengths, bag and possession limits, shooting hours, and outside dates within which States may make season selections.

2. Final rulemakings—final migratory game bird hunting regulations and/or final regulations frameworks which prescribe season lengths, bag and possession limits, shooting hours, and outside dates within which States may make season selections.

3. Final rulemakings—amendments to the various specific sections of Subpart K (and, when necessary, other subparts) of Part 20, Subchapter B, Chapter I Title 50, Code of Federal Regulations based on the final migratory game bird hunting regulations and the final regulations frameworks and on season selections made and communicated by the States to the Service.

Major steps in the 1977–78 regulatory cycle relating to public hearings and FEDERAL REGISTER notifications are illustrated in the accompanying diagram.

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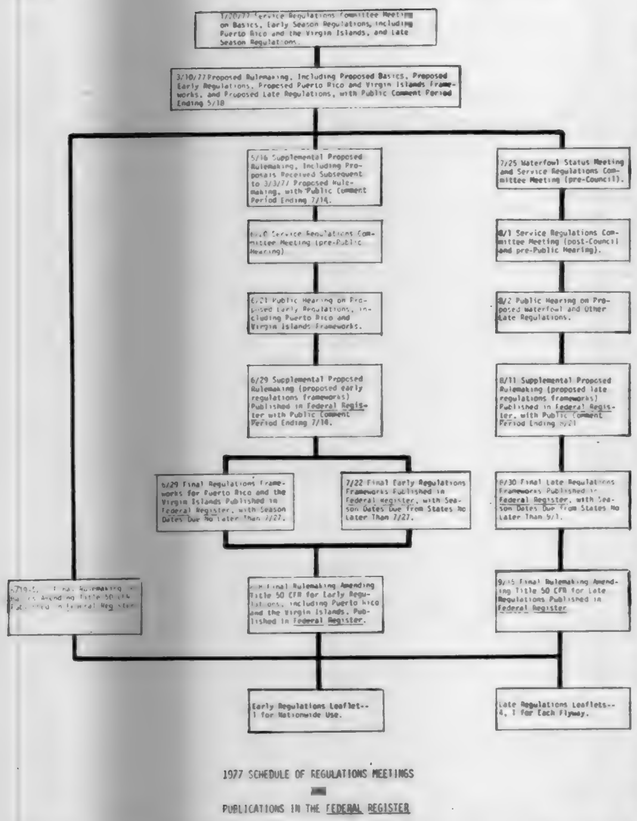

OBJECTIVES OF THE MIGRATORY BIRD HUNTING REGULATIONS

The objectives of these annual regulations are as follows:

(1) To provide an opportunity to hunt migratory birds, a traditional form of outdoor recreation, by establishing legal hunting seasons.

(2) To limit the harvest of migratory birds to levels compatible with the ability of the resource to maintain itself.

(3) To provide equitable hunting opportunity in various parts of the country within the limits imposed by the abundance, migration, and distribution patterns of migratory birds.

(4) To limit the taking of protected species where there is a reasonable possibility that hunting is likely to adversely affect their populations.

(5) To assist, at times and in specific locations, in the prevention of depredations of agricultural crops by migratory game birds.

The management of migratory birds in North America is international in scope, and involves other nations, notably Canada and Mexico. Within the United States, other federal agencies, State conservation agencies, national and regional conservation groups, and the public provide much support to the achievement of these objectives.

DATA USED IN REGULATORY DECISIONS

The establishment of hunting regulations for migratory game birds in the United States during the 1977–78 season will take into consideration available population information, data from harvest surveys, and information on habitat conditions. Consideration will be given to accumulated data and trends. The main sources of data result from operational survey conducted by the U.S. Fish and Wildlife Service and the Canadian Wildlife Service, with substantial cooperation of State and Provincial wildlife agencies, and others. The information from these sources will be analyzed by the U.S. Fish and Wildlife Service in cooperation with State wildlife agencies with an opportunity for the public to participate and provide comments on management rationales and proposed regulations, either in public hearings, by correspondence, or other communications. Comments from the public will be solicited.

Various surveys are used to ascertain the status, condition, and trends of migratory game bird populations. These include annual surveys of major wintering habitats in the United States and in portions of Mexico each January; aerial surveys of major waterfowl production areas in the contiguous United States, Alaska; and Canada in May and early June for breeding population data, and again in July for production information; nationwide surveys in the United States and Canada of waterfowl hunters and the waterfowl harvest, including its geographical and temporal distribution, and its species, age and sex composition; and band recovery information. Aerial breeding pair and production surveys also provide information on the abundance, persistence, and quality of water and other habitat conditions in major production areas. Information on waterfowl populations and habitat conditions outside the aerial survey area is furnished by cooperating State, Provincial and private agencies. Banding information provides insight into shooting pressures sustained by migratory game bird populations under different population levels and types of regulations. When viewed over many years, harvests and regulations can be useful for predicting approximate harvest levels which may be achieved with various regulation changes.

Many of the surveys conducted primarily for ducks also provide information on geese. In addition, satellite imagery is used to monitor the rate at which snow and ice disappear from subarctic and arctic breeding grounds traditionally used by most species, and the greatest numbers of North American geese. Field observations in the fall and winter of resting or feeding geese also provide information on the production success of the past breeding season. Special surveys are undertaken for many identifiable populations of geese during the summer, fall, winter, or spring.

The annual call-count survey conducted nationwide in the United States in late May and early June provides information on the breeding population index of mourning doves. Information from past years and the current year is used to establish population trends. The singing-ground survey is conducted throughout the breeding range of the woodcock in the eastern United States and Canada. Insight into production success the past year is provided by wing-collection surveys of woodcock hunters in the United States and Canada; data from these surveys indicate the age and sex composition of the harvest and its geographical and temporal distribution. Accumulated and current data are examined

for possible long-term trends in population size and productivity. Information on white-winged dove populations in Texas and the Southwest is provided by cooperating State agencies. Winter and spring surveys of sandhill cranes are conducted annually on major wintering areas and at the key staging area of the species along the Platte River in central Nebraska. No comprehensive population surveys of band-tailed pigeons, common (Wilson's) snipe, gallinules, or rails are undertaken in North America; however, harvest information is available from all Canadian hunters, and in the United States, from waterfowl hunters who also hunt these species. From all indications, the harvest levels for these species are comparatively low in relation to population sizes.

DEFINITIONS OF FLYWAYS

Flyways are biological-ecological units frequently used for reference in setting hunting regulations on many migratory game birds. These are defined as follows:

Atlantic Flyway. Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway. Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway. Colorado (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico (east of the Continental Divide and the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway. Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation; and in Montana, the Counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof.

HEARINGS

Two public hearings pertaining to migratory bird hunting regulations being considered for the 1977–78 hunting seasons are scheduled. Both meetings will be conducted in accordance with 455 DM 1. On June 21 a public hearing for reviewing proposed hunting regulations for species for which early (prior to October 1) seasons are set will be held at 9 o'clock in the Auditorium of the General Services Administration Building, F Street, between 18th and 19th Streets, NW., Washington, D.C. This hearing is scheduled primarily for the purpose of reviewing the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, and common snipe and discussing proposed hunting regulations for these species plus regulations governing migratory game birds in Alaska, Puerto Rico, the Virgin Islands, mourning doves in Hawaii, September teal seasons, and special sea duck seasons in the Atlantic Flyway. On August 2 a public hearing for reviewing the status of other waterfowl and consideration of proposed regulations for those waterfowl and other migratory game birds for which regulations were not previously formulated will be held at 9 o'clock in the Auditorium of the General Services Administration Building, F Street, between 18th and 19th Streets, NW., Washington, D.C. These delfberations will pertain to seasons commencing October 1 or later. The public is invited to participate in both hearings.

Persons wishing to participate in these hearings should notify the Director (FWS/MBM), United States Fish and Wildlife Service, Washington, D.C. 20240, or call AC 202–343–8827. Those wishing to have statements included in the record should file them in writing with the Director before or immediately after each hearing.

PUBLIC COMMENTS SOLICITED

Based on the results of migratory game bird studies now in progress and having due consideration for any data or views submitted by interested parties, the amendments resulting from these proposals would specify open seasons, shooting hours, and bag and possession limits for doves, pigeons, rails, gallinules, woodcock, common (Wilson's) snipe, coots, cranes, swans and other waterfowl; coots, cranes, common (Wilson's) snipe and waterfowl in Alaska; sea ducks in coastal waters of certain eastern States; migratory game birds in Puerto Rico and the Virgin Islands; and mourning doves in Hawaii; and would further clarify existing tagging requirements.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals.

Final promulgation of migratory bird hunting regulations for the continental United States, Puerto Rico, the Virgin Islands, and Hawaii for the 1977–78 season will take into consideration all comments received by the Director. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

In this connection, the "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" with filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 25241).

SUBMITTAL OF WRITTEN COMMENTS

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate in this rulemaking as follows:

Submit written comments on *"I. Proposed 1977–78 Migratory Game Bird Hunting Regulations (preliminary)"* to the Director (FWS/MBM), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 2257, Department of the Interior, C Street between 18th and 19th Streets NW., Washington, D.C.

Submit written comments on *"II. Proposed Clarification of Tagging Requirements."* to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. Comments received will be available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

All relevant comments received no later than May 18, 1977, will be considered. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

It is therefore proposed to amend 50 CFR Part 20 in the manner set forth below.

This proposed rulemaking was prepared in the Office of Migratory Bird Management under the direction of John P. Rogers, Chief.

Dated: March 1, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

I. PROPOSED 1977–78 MIGRATORY GAME BIRD HUNTING REGULATIONS (PRELIMINARY).

Under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703–711), the Fish and Wildlife Service proposes the following general frameworks and guidelines for hunting certain waterfowl, swans, cranes, mourning doves, white-winged doves, Zenaida doves, scaly-naped pigeons, band-tailed pigeons, gallinules, rails, coots, common (Wilson's) snipe and woodcock during the 1977–78 season. Changes or possible changes, when noted, are in comparison to 1976–77 regulations.

1. *Shooting hours.* (No change.) Basic shooting hours beginning one-half hours before sunrise and ending at sunset are proposed with the option that more restrictive shooting hours within this framework may be selected by the States or may be established for special seasons.

DISCUSSION OF SHOOTING HOURS

INTRODUCTION

During the past 3 years regulations that permit the hunting of migratory birds, particularly waterfowl, during the period one-half hour before sunrise have come under criticism from some quarters. It is claimed that during this period it is difficult, and often impossible, to identify the birds being shot because there is insufficient light. As a result, it is alleged

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that hunters frequently shoot birds they have incorrectly identified and this poses a threat to the welfare of some species.

Similar concerns have been expressed, also, about the periods one-half hour after sunrise and one-half hour before sunset. However, hunting before sunrise is judged to be the crux of the issue and it is that aspect of shooting hours that is specifically addressed here.

The Service has recently reviewed information relating to this issue. Recognizing that some misidentification and wrongful shooting of species is to be expected during the course of hunting because of human error, attention has been focused on the extent to which this is associated with the one-half hour period before sunrise. The hunting of waterfowl has been given primary consideration since that group of migratory birds has more different species bearing some resemblance to one another than other groups, and regulations are more complicated in terms of permitting fewer of some species than of others to be taken.

Since this issue is presently a matter of public interest, the information considered and the views of the Service on this subject are explained in the following discussion. This is a summary of more extensive and detailed information that is a part of the administrative record on shooting hours and is available for examination in the Office of Migratory Bird Management, Room 2243, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C.

OBJECTIVES OF REGULATIONS

The objectives of migratory bird hunting regulations were identified earlier and are repeated here for the convenience of the reader:

(1) To provide an opportunity to hunt migratory birds, a traditional form of outdoor recreation, by establishing legal hunting seasons.

(2) To limit the harvest of migratory birds to levels compatible with the ability of the resource to maintain itself.

(3) To provide equitable hunting opportunity in various parts of the country within the limits imposed by the abundance, migration and distribution patterns of migratory birds.

(4) To limit the taking of protected species where there is a reasonable possibility that hunting is likely to adversely affect their populations.

(5) To assist, at times and in specific locations, in the prevention of depredations of agricultural crops by migratory game birds. (41 FR 9177–9178 if 3/3/76; FES 75–54 at pp. 2–3.) These five objectives are balanced during the rulemaking process, with no one objective being considered to the exclusion of the others. Such full consideration ensures a regulatory program that maximizes the recreational hunting opportunity without adversely affecting the migratory bird resource.

ELEMENTS IN REGULATIONS

The specific elements of hunting regulations that can be adjusted to influence harvest include, in addition to shooting hours, framework dates, season lengths, split seasons, special seasons, zoning, opening days designations, bag limits, area and species closures, and harvest quotas. Thus, shooting hours are only one of a number of regulatory provisions available to the Service in balancing hunting opportunity with other resource considerations.

REVIEW OF SHOOTING HOURS

Shooting hours for most species of game birds in North America, both resident and migratory, are from one-half hour before sunrise to sunset. This has been the case for so long that it may be regarded as standard and traditional. Since 1918, these shooting hours have generally been in effect for waterfowl and other migratory birds in regulations developed under the Migratory Bird Treaty Act which implements the 1916 Migratory Bird Treaty with Canada. The same has been true in Canada under regulations established by the Canadian Government.

Under Federal regulations in the United States, there have been different shooting hours for waterfowl in 21 of the 59 years covered by the Treaty Act. In one year or another, these exceptions consisted of (a) opening at sunrise, or (b) closing one hour before sunset, or (c) both a and b, or (d) closing one-half hour after sunset. In most cases the exceptions were associated with general harvest restrictions and occurred in years when fall flights of waterfowl were judged to be very poor and the management objective was to reduce hunting opportunity.

VISIBILITY BEFORE SUNRISE

In examining the question of visibility during the period one-half hour before sunrise, the Service consulted with authorities at the U.S. Naval Observatory. It was found that this time falls into a period that is scientifically described as civil twilight. Civil twilight is defined as that period between the time when the upper edge of the sun is just visible at the horizon, and when the center of the sun is 6 degrees below the horizon.

According to Rosenberg (1966), Twilight, A Study in Atmospheric Optics, civil twilight is "The brightest portion of twilight when the natural light in an open place is enough to allow any task, including reading, to be carried on." It is recognized that at various times and places local weather conditions may modify the amount of natural light during civil twilight as well as at other times of the day.

The duration of civil twilight varies according to season and latitude (U.S. Naval Observatory). During the major portion of the waterfowl hunting season in the United States (October 1–January 31) it ranges from a minimum of 30 minutes at 49° (U.S.-Canadian border) to a minimum of 24 minutes at 30° latitude (New Orleans). The area lying between these latitudinal lines encompasses the vast majority of the migratory bird hunting in the United States.

The period one-half hour before sunrise is a close approximation of the period of civil twilight. The description of visibility conditions during that period is consistent with Service observations of hunting conditions during the period one-half hour before sunrise. The Service is of the view, therefore, that the amount of light available at that time is adequate for normal outdoor operations, including the hunting of waterfowl.

IDENTIFICATION PROBLEMS

Difficulty in identifying different species of ducks while hunting, particularly when the birds are in flight, is not simply a matter of reduced light or time of day. Rain, snow, fog, high winds, glare from the sun, background vegetation, and the need of the hunter to hide from the view of the birds are other factors commonly encountered in the field. They may hamper identification at any time of the day, often more effectively than reduced light. Under such circumstances, plumage coloration often cannot accurately be discerned. However, other identification clues are available such as differences in size, shape, dark and light plumage patterns, wing beat, flight patterns, and sounds. These are frequently more useful than color details, and hunters and others commonly depend on them for identification. Their use, particularly in combination with knowledge and experience about the different species present in an area, makes it possible to identify without reliance on color details.

Nevertheless, there are some species of waterfowl that appear sufficiently similar to other closely related species that the possibility of confusion is great. These species are difficult to distinguish regardless of the time of day that shooting is allowed. Sometimes they can be distinguished only by careful examination with optical aids, or in the hand. Where special protection is required for such species, the Service has found that the most practical and effective approach is not to restrict the available shooting hours but rather to close or restrict the season throughout their range or in specific areas. In the latter case, if circumstances warrant, the season may be closed or restricted for other similar appearing species in particular areas. Such an approach has long been used and is currently in effect for a number of species, including, for example, the Aleutian Canada goose, the Mexican duck, the canvasback, and the redhead.

HARVEST INFORMATION

Previous studies of harvest data show that the average daily duck bag per hunter in the four U.S. flyways is 0.8 in the Atlantic Flyway, 0.9 in the Mississippi, 1.1 in the Central, and 1.7 in the Pacific. Only in the Pacific Flyway is the average significantly greater than about 1 duck per day. Ten years of data from the nationwide waterfowl harvest survey, conducted annually by the Service, was examined further to obtain more information about the duck harvest before sunrise in comparison to other times of the day.

These data show than on the average about 12 percent of the daily harvest occurs before sunrise. The greatest proportion of the daily harvest—about 40 percent—occurs during the two hours immediately following sunrise, progressively declining thereafter. Little difference was noted in the species composition of the harvest at different times of the day except that: (1) Most diving ducks, including canvasbacks and redheads, appear to be harvested somewhat less before than after sunrise; and (2) Wood ducks are harvested more during the one hour before sunset than at any other time of day.

This information indicates that the period before sunrise is not necessarily the most important harvest period of the day. This appears to be due, at least in part, to the fact that the time involved (one-half hour) is short. In addition, the daily movement patterns of some species may, on the average, make them less available to hunters at that time than at other times of the day. Assuming, for example, that significant numbers of species such as canvasbacks, redheads, or wood ducks were being shot in excess of what was desirable, and additional protection was necessary, simply eliminating hunting before sunrise would be a relatively ineffective way of providing it. When related to the average daily bag per hunter, the harvest of these species, as well as waterfowl generally, is relatively low before sunrise in comparison to other times of the day.

Based on the information described above as well as long experience in regulating and evaluating the harvest of waterfowl and other migratory birds, it is the conclusion of the Service that regulations that permit hunting during the period one-half hour before sunrise do not pose any discernable threat to the populations of these birds, including those that are accorded special protection.

In establishing these and other hunting regulations, the Service is concerned with insuring that populations of the various species are not jeopardized because of hunting. In seeking this objective, it is recognized that individuals of species accorded special protection will occasionally be mistakenly killed. While this is undesirable, its frequency is considered to be insignificant as a source of mortality.

With hunting regulations as with other aspects of migratory bird management, the Service is continually seeking and evaluating additional information in order to better understand the factors involved and improve its management programs. While no adverse impact associated with shooting hours beginning one-half hour before sunrise has been identified for any species of migratory bird, a continuing public interest in this issue s recognized. Accordingly, the Service intends to make further investigations of this matter in the months ahead. Findings will be incorporated into the hunting regulations decision-making process and will be made available to the public through the public announcements and hearings that are part of the process.

2. *Framework dates for ducks and geese in the continental United States.* (No change.) To be generally the same as during the 1976–77 season. From October 1, 1977, to January 20, 1978, for the Atlantic and Mississippi Flyways, and from October 1, 1977, through January 22, 1978, for the Central and Pacific Flyways, with the following exceptions:

(a) Sea ducks: in designated sea duck hunting areas in the Atlantic Flyway—September 17, 1977, through January 20, 1978.

(b) September teal season framework: September 1 through September 30, 1977, in specified areas to be identified in consultation with the States.

(c) Special scaup season framework: October 1, 1977, through January 31, 1978, in specified areas to be identified in consultation with the States.

(d) Pacific Flyway brant season framework: October 22, 1977, through February 22, 1978.

(e) Alaska waterfowl: September 1, 1977, through January 26, 1978.

3. *Black ducks* (No change.) No regulatory changes relating specifically to the back duck are anticipated this year. A research and management program for this species is presently being developed by the Service in cooperation with States in the Atlantic and Mississipi Flyways. The first phase of this program calls for a three-year intensified winter banding program in these Flyways. The winter banding program is under way now. During this period, restrictive black duck bag limits similar to those in effect in 1976 are to be retained. The winter banding program will be supplemented by preseason banding of black ducks. In line with this effort, the Atlantic Flyway Council's Eastern Canada Cooperative Banding Program was renewed in 1976 for a 5-year period. Information from these banding programs, and from other sources, will be used to establish values for certain black duck population parameters. Future management programs will be evaluated by measuring the effect of such programs on black duck population parameters developed from the 1977–79 banding programs.

4. *Wood duck.* (Possible change.) The wood duck population in the eastern United States and Canada is estimated to be approximately 4 million birds, up from 2 million birds in the late 1960's. A recent analysis of banding and population data suggests that wood duck populations in the southeastern United States could sustain additional harvest without detriment to those populations. The Service has been requested to consider ways of providing for additional harvest of southeastern wood ducks which would not increase the harvest of wood ducks from breeding populations in the north. This matter is presently under consideration and will be discussed further at winter technical meetings of the Atlantic and Mississippi Flyway Councils in February and March 1977, and at annual Council meetings at Atlanta, Georgia, March 5 and 6, 1977, in conjunction with the North American Wildlife and Natural Resources Conference. These discussions will be conducted with a view to determining whether specific proposals can be developed. Any proposals resulting from these discussions will be published in the FEDERAL REGISTER as a supplemental proposed rulemaking on or about May 16, 1977.

5. *Sea ducks.* (No change.) A maximum open season of 107 days for taking scoter, eider, and oldsquaw ducks is prescribed during the period between September 17, 1977, and January 20, 1978, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of the State of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in the States of New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open waters from any shore, island, and emergent vegetation in the States of Delaware, Maryland, North Carolina, and Virginia: *Provided*, That any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

Shooting hours are ½ hour before sunrise until sunset daily.

Any State desiring its sea duck season to open in September must make its selection no later than July 27, 1977. Those States desiring their sea duck season to open after September may make their selection at the time they select their waterfowl seasons.

6. *September teal season.* (Minor change.) An open season on all species of teal may be selected by the States of Alabama, Arkansas, Colorado, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Ohio, Oklahoma, Tennessee, and Texas in areas delineated by State regulations.

Shooting hours are from sunrise to sunset daily. The season may not exceed

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9 consecutive days with a bag limit of 4 teal daily and 8 in possession. States must advise the Service of season dates and special provisions to protect nontarget species by July 27, 1977.

It is proposed that the regulatory language be modified to specify that this option applies only to the Central Flyway portions of Colorado, Montana, New Mexico, and Wyoming, as was originally intended.

7. Extra blue-winged teal option. (Minor change.) States in the Atlantic, Mississippi, and Central Flyways selecting neither a September teal season nor the point system may select an extra daily bag of 2 and possession limit of 4 blue-winged teal for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

It is proposed that the regulatory language be modified to specify that this option applies only to the Central Flyway portions of Colorado, Montana, New Mexico, and Wyoming.

8. Special scaup season. (No change.) States in the Atlantic, Mississippi and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with a daily bag limit of 5 and possession limit of 10 scaup subject to the following conditions:

1. The season must fall between October 1, 1977, and January 31, 1978.

2. The season must fall outside the open season for any other ducks except sea ducks.

3. The season must be limited to areas mutually agreed upon between the State and the Service prior to September 1, 1977, and

4. These areas must be described and delineated in State hunting regulations.

5. In lieu of a special scaup only season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate, and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to special scaup seasons elsewhere.

9. Extra scaup option. (No change.) As an alternative to a special scaup season, States in the Atlantic, Mississippi, and Central Flyways, except those selecting the point system, may select an extra daily bag of 2 and possession limit of 4 scaup during the regular duck hunting season, subject to conditions 3 and 4 listed for special scaup seasons. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

10. Mergansers. (No change.) States in the Atlantic and Pacific Flyways may select separate bag limits for mergansers in addition to the regular duck bag limits during the regular duck season. The bag limit is 5 daily and 10 in possession. Elsewhere, mergansers are included within the regular daily bag and possession limits for ducks. The nationwide restriction on hooded mergansers of 1 daily and 2 in possession is continued.

11. Canvasbacks and redhead ducks. (No change.) No changes in hunting regulations for these two species are proposed at this time.

12. Point system. (Possible change.) The study of possible wording changes in regulatory language for the point system to alleviate the problem of reordering bagged ducks is still underway. Any proposals for changes that may be developed will be announced in a supplemental FEDERAL REGISTER notification.

13. Zoning. (Change.) A number of states (6 in the Mississippi Flyway, 1 in the Atlantic Flyway) have expressed interest in being permitted to establish zones for the purpose of setting duck hunting seasons. Further information on these requests will be provided in a supplemental FEDERAL REGISTER publication. The Service proposes to allow separate goose seasons in the eastern and western zones of Louisiana, as is being permitted for duck hunting.

14. Goose and brant seasons. (Possible change.) The Canadian Wildlife Service, State conservation agencies, and the four waterfowl flyway councils traditionally provide population and harvest information useful in setting annual regulations for geese and brant. The midwinter survey, the past season's waterfowl harvest surveys, and satellite imagery for May and June of 1977 will provide additional information later. Consequently, the following proposed general regulations are subject to revision as additional information becomes available.

Atlantic Flyway. (Possible change.) Seasons and bag limits are to be generally the same as last year pending receipt of additional information and recommendations from the Flyway Council. That is, an open season on Canada geese of 70 days in Virginia (except Back Bay) and States to the north, with bag limits on Canada geese of 3 daily and 6 in possession; and of 50 days in States to the south of Virginia and in Back Bay, Virginia, with bag limits on Canada geese of 1 daily and 2 in possession, except no open season on geese in Georgia and Florida. Winter Inventory data show a steady increase in greater snow goose numbers, from 63,000 in 1971 to 109,000 in 1977. The 1976 May photo census of greater snow geese on the St. Lawrence River gave an estimated population of 185,000 birds. Consideration will be given to exending the snow goose season in the Atlantic Flyway in 1977 (including lesser snow geese and blue geese) from 30 days to 50 days provided that breeding ground conditions as determined later in the year by satellite imagery are favorable, and following an evaluation of breeding ground production reports provided by Canadian biologists in mid- to late June. The hunting season on Atlantic brant was closed in 1976 to protect a population of birds that will be composed largely of breeding adults in 1977. The severe winter conditions of 1976–77 along the Atlantic coast have caused an unknown loss of brant. No changes in Atlantic brant hunting regulations are proposed at this time. The feasibility of reopening the Atlantic Brant hunting season will be determined based on three data sources: (1) an aerial inventory of brant in February or March after ice disappearance along the Atlantic coast and the return of Atlantic brant to their traditional shallow bay wintering areas; (2) an evaluation of conditions on the breeding grounds as determined by satellite imagery; (3) an evaluation of breeding ground production data provided by Canadian biologists in mid- to late June. The seasons for greater snow geese and Atlantic brant must be within the regular waterfowl season. Environmental assessments made available to the public in 1975 articulate the management rationale being followed for these species.

Mississippi Flyway. (No change.) Seasons and bag limits to be generally the same as last year for Canada geese. That is, not to exceed 70 days and bag limits not to exceed 2 daily and 4 in possession pending additional information and Flyway Council recommendations. Seasons and bag limits for specific populations of Canada geese and for snow geese (including blue geese) and white-fronted geese are to be determined later when more information is available. See item 29. *Canada geese in Wisconsin.*

Central Flyway. (No change.) Seasons and bag limits on Canada and white-fronted geese to be generally the same as last year. That is, not to exceed 72 days with a daily bag and possession limit of 2 Canada and white-fronted geese singly or in the aggregate in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas east of U.S. Highway 81, and not to exceed 93 days with bag limits of 2 daily and 4 in possession for Canada and white-fronted geese singly or in the aggregate in the remainder of the Flyway. In all States in the Flyway, the bag and possession limits may not include more than 1 Ross' goose. Seasons and bag limits for specific populations of Canada geese, and for snow geese (including blue geese) are deferred pending additional information and Flyway Council recommendations.

Pacific Flyway. (Change.) Seasons and bag limits to be generally the same as last year. That is, not to exceed 93 days with bag limits not to exceed 6 daily and in possession, including no more than 3 dark geese daily nor more than 3 white geese daily, including not more than 1 Ross' goose daily and in possession. Seasons and bag limits for most specific populations of geese are deferred pending additional information and Flyway Council recommendations. There may be changes in those areas in California already restricted to the hunting of Canada geese in order to protect the Aleutian Canada goose. Changes in hunting closure dates for Canada geese in California are also being considered to provide greater protection to the Aleutian Canada goose. In the Sacramento Valley in 1976, the season for Canada geese was closed from the beginning of the regular waterfowl season to December 15. It is proposed to close the season from the beginning of the regular waterfowl season to December 20. In the San Joaquin Valley in 1976, the season for Canada geese was closed from December 15 to the end of the regular waterfowl season. It is proposed to close the season from December 1 to the end of the regular waterfowl season. In addition, pending evaluation of band return information, the San Joaquin closure may be expanded and a new closure area established in the Suisun Marsh. No changes are proposed in hunting regulations for black brant, pending receipt of recommendations from the Pacific Flyway Council which is evaluating available data for the species.

15. Whistling swans. (No change.) In Utah, Nevada, and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions: (a) The season must run concurrently with the duck season; (b) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (c) in Nevada, no more than 500 permits may be issued, authorizing each permittee to take 1 whistling swan in Churchill County; (d) in Montana, no more than 500 permits may be issued, authorizing each permittee to take 1 whistling swan in Teton County; (e) permit forms, and correspondingly numbered metal locking seals furnished by the Service, must be issued by the appropriate State conservation agency on an equitable basis without charge.

It is anticipated that the respective States will assume responsibility this year for printing the required permits. These would be distributed free and on an equitable basis as in the past. The Service would continue to provide the required metal locking seals.

16. Migratory game bird seasons in Alaska. (Change.) The Alaska Department of Fish and Game has proposed that consideration be given to stabilization of migratory game bird regulations in Alaska for the next five hunting seasons (1977 through 1981). The proposal includes ducks, sea ducks and mergansers, geese, brant, snipe, and lesser sandhill cranes. The regulations would be the same as during the 1976–77 hunting season except that the daily bag and possession limits for ducks would be increased from 7 and 21 to 10 and 30 in the North Zone, and to 8 and 24 in the Gulf Coast Zone. Also, hunting seasons for common snipe and sandhill cranes would be concurrent with the duck season. Regulations in effect during 1976–77 were as follows:

Between September 1, 1976, and January 26, 1977, Alaska could select seasons on waterfowl, coots, snipe, and cranes, subject to the following limitations:

1. Shooting hours on all species were ½ hour before sunrise until sunset daily.

2. Season lengths:

A. In the Pribilof and Aleutian Islands, except Unimak Island, an open season of 107 consecutive days for ducks, geese, brant, and coots. In the Kodiak (State game management unit 8) area, an open season of 107 days for ducks, geese, brant, and coots, and the season could be split without penalty.

B. Except: The season was closed on Canada geese from Unimak Pass westward in the Aleutian Island chain.

C. In the remainder of Alaska, including Unimak Island, and open season of 107 consecutive days for ducks, geese, brant, and coots.

D. An open season of 65 days for snipe.

E. An open season of 45 consecutive days for lesser sandhill (little brown) cranes.

3. Bag and possession limits:

A. Ducks.—A basic daily bag limit of 7 and a possession limit of 21 ducks. In addition to the basic limit, there was a daily bag limit of 15 and a possession of 30 scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers, singly or in the aggregate of these species.

B. Geese.—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession could be white-fronted or Canada geese, singly or in the aggregate of these species. In addition to the basic limit, there was a daily bag limit of 6 and a possession limit of 12 Emperor geese.

C. Brant.—A daily bag limit of 4 and a possession limit of 8.

D. Coots.—A daily bag and possession limit of 15.

E. Common (Wilson's) snipe.—A daily bag limit of 8 and a possession limit of 16.

F. Lesser sandhill (little brown) cranes.—A daily bag limit of 2 and a possession limit of 4.

The Service proposes to implement these changes with the concurrence of the Pacific Flyway Council and with the following provisions: (1) the changes are experimental in nature; (2) the results will be reported annually with an evaluation at the end of three years.

The changes proposed would have insignificant effects on harvest because of the departure of birds prior to or coincident with severe weather conditions. The stabilization of regulations would facilitate the regulatory process, result in small additional harvests, and provide limited additional recreational opportunity. Copies of the Alaska proposal may be examined in Room 2257 of the Office of Migratory Bird Management, Interior Building, C Street between 18th and 19th Streets, NW., Washington, D.C. 20240, during regular working hours, or obtained from the Alaska Department of Fish and Game, Subport Building, Juneau, Alaska 99801. The Service would retain the authority to alter regulations in event of unforeseen substantial changes in populations, harvest, or habitat conditions.

17. Migratory game bird seasons for falconers. The Service has been requested by the North American Falconers Association to consider allowing the take of migratory game birds by falconry for the full 107 days of hunting permitted under Treaty provisions. Federal regulations currently permit the taking of migratory game birds by falconry subject to the same seasons and bag limits provided for hunters generally, and further subject to State regulations which may or may not permit falconry. According to information available to the Service, about 35 States permit the taking of game birds by falconry and 8 States provide special falconry seasons. However, no special seasons are provided for taking migratory game birds. The Association provided three justifications in support of the request: (1) hawking and gunning simultaneously on the same areas are often incompatible; (2) a longer season would encourage greater utilization of the falconers' birds for hunting; and (3) the take of migratory game birds by falconry even under a longer season would be inconsequential. Copies of the full proposal may be viewed in Room 2257 of the Office of Migratory Bird Management, Interior Building, C Street between 18th and 19th Streets, NW., Washington, D.C. 20240, during regular working hours, or may be obtained from Mr. Stanley A. Marcus, Chairman, Technical Advisory Committee, North American Falconers Association, Route 1, Coleman, Michigan 48618.

The Service is of the view that an extended season for taking migratory game birds by falconry would provide additional recreation and likely would have a negligible impact on the resource. Considering that different States have different regulations governing the take of game birds by falconry and in order to provide for a maximum degree of coordination with existing State falconry regulations, the Service is of the view that any extended seasons for migratory game birds should be on a trial basis initially and limited to those States that currently provide for special falconry seasons. Accordingly, the Service will consider proposals from such States to establish extended seasons for taking migratory game birds by falconry with the following provisions: (1) such seasons should fall within the frameworks of dates currently provided for selecting hunting seasons for the various speices (e.g. October 1–January 20 for waterfowl); (2) bag limits should be not more than 2 daily and 4 in possession for waterfowl (ducks, geese, mergansers) and 4 daily and 8 in possession for other species (coots, gallinules, rails, snipe, woodcock, doves, pigeons—singly or in the aggregate); (3) States providing extended seasons shall evaluate and report the results to the Service.

18. Lesser sandhill (little brown) cranes. (No change.) Seasons for hunting lesser sandhill cranes may be selected within specified areas in Colorado, New Mexico/Texas, Texas/Oklahoma, North Dakota, South Dakota, Montana, and Wyoming, as defined in the 1975–76 Regulatory Announcement No. 96, with no substantial change in dates, with a daily bag limit of 3 and a possession limit of 6 lesser sandhill cranes. The provision for the Federal lesser sandhill crane hunting permit is continued.

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No changes in lesser sandhill crane hunting regulations in the Central Flyway are proposed at this time. Two States have expressed interest in having earlier hunting seasons but before such changes are contemplated, the Service feels it necessary to consider and evaluate the results of a three-year sandhill crane study which is scheduled for completion in 1977.

19. *Coot bag limit.* (No change.) Within the regular duck season, States in the Atlantic, Mississippi and Central Flyways may permit a daily bag limit of 15 and a possession limit of 30 coots, and States in the Pacific Flyway may permit 25 coots daily and in possession, singly or in the aggregate with gallinules.

20. *Gallinules.* (No change). States in the Altantic, Mississippi and Central Flyways may select hunting seasons between September 1, 1977, and January 20, 1978, of not more than 70 days, States in the Pacific Flyway must select their hunting seasons within the waterfowl seasons. States may split their seasons without penalty. Shooting hours may be selected between ½ hour before sunrise and sunset. The daily bag and possession limits may not exceed 15 and 30, respectively, except in the Pacific Flyway where the daily bag and possession limits may not exceed 25 coots and gallinules, singly or in the aggregate of the two species.

States may select their gallinules seasons at the time they select their waterfowl seasons. If the selection is deferred, daily bag and possession limits will remain the same, but shooting hours must conform with those for waterfowl, and the season length will be the same as that for waterfowl, or 70 days, whichever is the shorter period. Exception: A gallinule season selected by any State in the Pacific Flyway may not exceed its waterfowl season, and the daily bag and possession limits may not exceed 25 coots and gallinules, singly or in the aggregate of the two species.

21. *Rails.* (No change.) The States included herein many select seasons between September 1, 1977, and January 20, 1978, on clapper, king, sora, and Virginia rails as follows:

The season lengths for all species of rails may not exceed 70 days.

Shooting hours in all States for all species may be selected between ½ hour before sunrise and sunset.

CLAPPER AND KING RAILS

1. In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, the daily bag and possession limits may not exceed 10 and 20 clapper and king rails, respectively, singly or in aggregate of these two species.

2. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, the daily bag and possession limits may not exceed 15 and 30 clapper and king rails, respectively, singly or in the aggregate of the two species.

3. The season will remain closed on clapper and king rails in all other States.

SORA AND VIRGINIA RAILS

In addition to the prescribed limits for king and clapper rails, daily bag and possession limits not exceeding 25, singly or in the aggregate of sora and Virginia rails, are prescribed in States in the Atlantic, Mississippi, and Central Flyways.

22. *Common (Wilson's) snipe.* (No change.) States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1977, and February 28, 1978, not to exceed 107 days, except that in the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end no later than January 31. Seasons not to exceed 93 days may be selected in the Pacific Flyway portions of Montana, Wyoming, Colorado and New Mexico between September 1, 1977, and February 28, 1978.

All States in the Pacific Flyway, except those portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway, must select their snipe seasons to run concurrently with their regular duck seasons. In these Pacific Flyway States, except portions of the four States noted previously, it will be unlawful to take snipe when it is unlawful to take ducks.

Shooting hours may be selected between ½ hour before sunrise and sunset. Daily bag and possession limits may not exceed 8 and 16, respectively. Any State may split its snipe season without penalty.

States or portions thereof in the three easterly Flyways may defer selection of their snipe season and make their selection at the time they choose their waterfowl seasons in August. In that event, the daily bag and possession limits will remain the same but shooting hours must conform with those for waterfowl.

23. *Woodcock.* (Possible change.) No changes in regulations, except for the possibility described for New Jersey, are envisioned at this time but the following general proposals are conditioned upon results of the annual singing ground survey.

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1977, and February 28, 1978, of not more than 65 days, with daily bag and possession limits of and 10, respectively: *Provided*, That in the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end by January 31. Shooting hours may be selected between ½ hour before sunrise and sunset. Any State may split its woodcock season without penalty.

The Service has under consideration a request from New Jersey for dividing the State into north and south zones, divided by State Highway 70, for the purpose of setting woodcock seasons. This provision would better enable hunting seasons to be set in relation to woodcock abundance in each zone. Copies of the proposal are available for inspection in Room 2257 of the Office of Migratory Bird Management, Interior Building, C Street between 18th and 19th Streets, NW., Washington, D.C. 20240, during regular working hours, or may be obtained from the New Jersey Department of Environmental Protection, Division of Fish, Game and Shellfisheries, P.O. Box 1809, Trenton, N.J. 08625. The Service believes that if the proposal is accepted, the change should be regarded as experimental, subject to annual evaluation for a specified period of time, and involve appropriate adjustments in seasons to avoid increased statewide harvests. The Service is of the view that the proposal should be reviewed by appropriate technical committees in the Atlantic Flyway because many States derive some of their harvests from the same populations which migrate to or through New Jersey.

24. *Band-tailed pigeons.* (No change.)

West Coast States: California, Oregon, and Washington.

These States may select hunting seasons not to exceed 30 consecutive days between September 1, 1977, and January 15 1978. The shooting hours may be selected between ½ hour before sunrise and sunset. The daily bag and possession limits may not exceed 8 band-tailed pigeons.

California may select hunting seasons of 30 consecutive days for each of the following two zones:

1. In the Counties of Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity; and

2. The remainder of the State.

Four-Corners States: Arizona, Colorado, New Mexico, and Utah.

These States may select hunting seasons not to exceed 30 consecutive days between September 1 and November 30, 1977. The shooting hours may be selected between ½ hour before sunrise and sunset. The daily bag and possession limits may not exceed 5 and 10, respectively. These seasons shall be open only in the areas delineated by the respective States in their hunting regulations: *Provided*, That each hunter must have been issued and carry on his person while hunting band-tailed pigeons a valid band-tailed pigeon hunting permit issued by the respective State wildlife agency, and such permit will be valid in that State only.

New Mexico may divide its State into two zones, along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and along Interstate Highway 25 from Socorro to the Texas State line. Between September 1, 1977, and November 30, 1977, in the North Zone, and October 1, 1977, and November 30, 1977, in the South Zone, New Mexico may select hunting seasons not to exceed 20 consecutive days in each zone.

25. *Mourning Doves.* (Minor possible change.) Between September 1, 1977, and January 15, 1978, except as noted, States may select hunting seasons and bag limits as follows:

Eastern Management Unit: All States east of the Mississippi River and Louisiana.

1. Shooting hours between 12 o'clock noon and sunset daily;

2. Daily bag and possession limits not to exceed 12 and 24, respectively, in all States;

3. Hunting seasons of not more than 70 half-days which may run consecutively or be split into not more than three periods.

4. As an option to the above, Alabama, Georgia, Louisiana, and Mississippi may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

Alabama.—The South Zone consists of the Counties of Baldwin, Clarke, Coffee, Conecuh, Covington, Dale, Escambia, Geneva, Henry, Houston, Mobile, Monroe, and Washington. The North Zone consists of the remaining counties.

Georgia.—U.S. Highway 280.

Louisiana.—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi.—State Highway 12 from the Arkansas State line to Kosciusko, and State Highway 14 from Kosciusko to the Alabama State line.

B. Within each zone, these States may select a hunting season of not more than 70 half-days which may run consecutively or be split into not more than three periods.

C. The hunting seasons in the southern zones of these States may commence no earlier than September 20, 1977.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

1. Shooting hours between ½ hour before sunrise and sunset daily in all States except that in Texas during the white-winged dove season, the shooting hours may be between 12 o'clock noon and sunset in those counties where white-winged dove hunting is allowed;

2. Daily bag and possession limits not to exceed 10 and 20, respectively, in all States;

3. Hunting seasons in all States of not more than 60 full days which may run consecutively or be split into not more than three periods.

4. Texas may select hunting seasons for each of two previously established zones subject to the following conditions:

A. The hunting season may be split into not more than two periods.

B. The North Zone may have a season of not more than 60 days between September 1, 1977, and January 20, 1978.

C. The South Zone may have a season of not more than 60 days between September 20, 1977, and January 20, 1978. In the Counties of Cameron, Willacy, Hidalgo, Starr, Zapata, Webb, and Maverick, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves. However, the remainder of the season must be within the September 20, 1977–January 20, 1978, period (60 days less the number of days of the white-winged dove season).

5. In New Mexico, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, singly or in the aggregate of the two species.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

1. Shooting hours between ½ hour before sunrise and sunset daily;

2. Daily bag and possession limits not to exceed 10 and 20, respectively;

3. Hunting seasons of not more than 50 full days which may run consecutively or be split into not more than three periods.

In the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, respectively, singly or in the aggregate of the two species.

The only change being contemplated for mourning doves is providing South Carolina an option to set differential hunting seasons in two zones, as is allowed in four other southeastern States.

The Service's rationale for allowing dove hunting in September is provided in the following statement.

Rationale for September 1 opening of mourning dove season.—In recent years objections have been raised about long standing regulatory frameworks that permit mourning dove hunting during the month of September. The view has been expressed that hunting at that time is detrimental to the population because some nesting is still in progress. Information pertinent to this question has been evaluated and the following summary provides the views of the Service on this issue.

Although approximately 49 million birds are harvested annually, hunting in general has not been shown to have a significant impact upon the continental dove breeding population. This is attributed to the large continental population estimated at over 500 million, wide distribution (doves nest in the 48 contiguous States, the southern portions of the Canadian Provinces, the Greater Antilles, and Mexico), adaptability to diverse environments, high reproductive potential, and a low rate of harvest.

Based on a review of existing literature and field investigations, it is concluded that well under 10 percent of the total annual production of mourning doves results from September nesting efforts. Most nesting occurs between May and mid-August. The production of young resulting from September nesting is believed to be a small part of the total.

Young doves generally leave natal areas about two weeks after fledging and then congregate in large pre-migratory flocks. In both northern and southern States, the early hatched immatures and some adults normally begin their southward migration before September 1. Most doves have departed northern States by September 15. Delaying the season in northern States would likely focus added hunting pressure on the small, late nesting segment of the population.

The Service is of the view that hunting in September has less effect on breeding doves and their young than is commonly believed. Adults that may be nesting in September normally are not as vulnerable to hunting as doves that have completed nesting. Nesting adults do not join in large field-feeding flights which attract hunters. Nesting birds tend to feed solitarily and remain scattered, and thus are not exposed to intense hunting pressure. Observations show that one parent can usually rear young to the fledging stage. Thus, if one of a nesting pair of adults is lost from hunting or other causes, it does not necessarily follow that the young are lost also. These factors operate to markedly reduce the impact of September hunting upon the small proportion of the mourning dove population that may be engaged in nesting during that month.

A large-scale, nationwide survey is conducted annually to determine the status of the mourning dove breeding population in the United States. These data, supplemented by the results of recent research investigations, are used by the Service to monitor population fluctuations and serve as a basis for the development of annual hunting regulations. Considering the information presented above, the Service is of the view that September hunting does not constitute a threat to the continental mourning dove population.

26 *White-winged doves.* (Minor change possible.) Arizona, California, Nevada, New Mexico, and Texas may select hunting seasons between September 1, 1977, and December 31, 1977, and daily bag limits as stipulated below. Shooting hours may be selected between ½ hour before sunrise and sunset, except in Texas where shooting hours may be selected between 12 o'clock noon and sunset.

Arizona may select a hunting season for the entire State of not more than 25 consecutive days to run concurrently with the first period of the split mourning dove season. The daily bag and possession limits may not exceed 10 white-winged doves.

California may select a hunting season for the Counties of Imperial, Riverside, and San Bernardino only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Nevada may select a hunting season for the Counties of Clark and Nye only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates,

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limits, and hours are to conform with those for mourning doves.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than a number of half-days (yet to be determined) for the following Counties only: Brewster, Cameron, Culberson, El Paso, Hidalgo, Hudspeth, Jeff Davis, Kinney, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, Willacy, and Zapata. The daily bag and possession limits may not exceed 10 and 20 white-winged doves, respectively. The season may be split within the overall time frame.

The number of half days allowed in Texas will depend upon results of breeding population surveys conducted there.

27. *Hawaii mourning doves.* (Minor change.) The mourning dove is the only migratory game bird occurring in Hawaii in numbers to permit hunting. It is proposed that mourning doves may be taken in Hawaii in accordance with regulations set by the State of Hawaii as has been done in the past and subject to the applicable provisions of Part 20 of Title 50, Code of Federal Regulations. The changes this year relate to more explicit wording of the framework for Hawaii Such a season must be within the constraints of applicable migratory bird treaties and annual regulatory frameworks. These constraints provide that the season must be within the period of September 1, 1977, and January 15, 1978, the length may not exceed 60 full days, the daily bag and possession limits may not exceed 10 and 20 doves, respectively, and that hunting hours may not exceed one-half hour before sunrise and sunset. Other applicable federal regulations relating to migratory game birds shall also apply.

28. *Migratory game birds in Puerto Rico and doves and pigeons in the Virgin Islands.* (Change.)

PUERTO RICO

Doves and Pigeons. An open season of 60 days between September 1, 1977, and January 15, 1978, may be selected for hunting Zenaida, mourning, and white-winged doves, and scaly-naped pigeons in Puerto Rico.

Shooting hours may extend from one-half hour before sunrise until sunset daily.

The daily bag and possession limit for doves of the species named herein is 10 singly or in the aggregate.

The daily bag and possession limit for pigeons of the species named herein is 5 singly or in the aggregate.

No open season is prescribed for pigeons on Mona Island in order to give the reduced population of white-crowned pigeon (*Columba leucocephala*) a chance to recover.

No open season is prescribed for doves and pigeons on Culebra Island.

The Service proposes not to allow the hunting of white-crowned pigeons (*Columba leucocephala*) on the island of Puerto Rico during the 1977–78 hunting season. In past years, hunting of the species was permitted on mainland Puerto Rico but was prohibited on offshore islands in recognition of the unsatisfactory status of the species there. Recent studies indicate that the mainland population now numbers no more than 2,000 pairs, thus no hunting is proposed as a means of providing additional protection to the species.

SPECIAL CLOSURE FOR PROTECTION OF THE PUERTO RICAN PARROT

No season is prescribed for doves and pigeons in those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands lying east of Route 186 (from the town of El Verde in the north to the southernmost extent of Route 186) to the boundary of the Luquillo Experimental Forest; (2) all lands between Route 186 and Route 956 extending from an east-west line through the town of El Verde, south; (3) all lands lying west of Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south to the southernmost point on Route 186; and (4) all lands within the Caribbean National Forest boundary, whether private or public lands. The purpose of these closures is to afford protection to the Puerto Rican parrot (*Amazona vittata*), presently listed as an endangered species under the Endangered Species Act of 1973.

SPECIAL CLOSURE FOR PROTECTION OF THE PLAIN PIGEON

The hunting of doves and pigeons of any species is prohibited in the Municipality of Cidra, Puerto Rico, said Municipality being composed of the following Wards: Bayamon, Arenas, Monte Llano, Sud, Beatriz, Ceiba, Rio Abajo, Rincon, Toita, Honduras, Rabanel, and Salto. The purpose of this closure is to protect the Puerto Rican plain pigeon (*Columba inornata*), locally known as Paloma Sabanero, which is known to be present in the Cidra area in small numbers and which is listed presently as an endangered species under the Endangered Species Act of 1973.

Ducks, Coots, Gallinules, and Snipe. An open season of fifty-five (55) consecutive days between December 1, 1977, and January 31, 1978, may be selected for hunting ducks, coots, common gallinules and common (Wilson's) snipe.

Shooting hours may extend from one-half hour before sunrise until sunset daily.

The limits for ducks are 4 daily and 8 in possession except that the season is closed on ruddy ducks (*Oxyura jamaicensis*), and the Bahama pintail (*Anas bahamensis*), which is protected by the Commonwealth of Puerto Rico.

The limits for coots are 6 daily and 12 in possession.

The limits for common gallinules are 6 daily and 12 in possession. The season is closed on purple gallinules (*Porphyrula martinica*).

The limits for common (Wilson's) snipe are 6 daily and 12 in possession.

No open season for ducks, coots, gallinules, and snipe is prescribed on Culebra Island.

VIRGIN ISLANDS

Doves and pigeons. An open season of 60 days between September 1, 1977, and January 15, 1978, may be selected for hunting Zenaida doves throughout the Virgin Islands and scaly-naped pigeons on the island of St. Thomas only.

Shooting hours may extend from one-half hour before sunrise until sunset daily.

The daily bag and possession limits are 10 Zenaida doves and 5 scaly-naped pigeons.

No open season is prescribed for waterfowl, ground or quail doves, or other pigeons in the Virgin Islands.

LOCAL NAMES FOR CERTAIN BIRDS

Zenaida dove (*Zenaida aurita*)—mountain dove.

Bridied quail dove (*Geotrygon mystacea*)—Barbary dove, partridge (protected).

Ground dove (*Columbina passerina*)—stone dove, tobacco dove, rola, tortolita (protected).

Scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaly pigeon.

29. *Canada geese in Wisconin.* (Change.) It is proposed to delete paragraph (d) under § 20.105 relating to Canada geese in Wisconsin. This paragraph was originally needed to provide for a Canada goose quota in Wisconsin, to allocate the Wisconsin quota in the Horicon Zone, to define the Horicon Zone, and to provide for the issuance of permits to hunters and implement tagging requirements related to Canada geese harvested in this area. Wisconsin has assumed responsibilities for these regulations, thus it no longer is necessary for these provisions to be included within the federal regulations.

30. *Pacific Flyway seasons, limits, and shooting hours for waterfowl, coots, and gallinules.* It is proposed to delete the Pacific Flyway regulations from current § 20.105(f) and add them to current § 20.105(e), following the Atlantic, Mississippi, and Central Flyways, in order to simplify the regulations. Deletion of the Pacific Flyway regulations from current § 20.105(f) will also necessitate advancing the lettering of subsequent paragraphs under § 20.105.

31. *Relettering paragraphs (e) through (k) of § 20.105.* As a result of the proposals to delete Canada geese in Wisconsin from § 20.105(d) (see item 29), and to delete the Pacific Flyway regulations from § 20.105(f) and combine them with the Atlantic, Mississippi and Central Flyways under current § 20.105(e) (see item 30), it is proposed to reletter paragraphs (d) through (k) of § 20.105 as follows:

§ 20.105 [Amended]

Delete § 20.105(d) *Canada geese in Wisconsin.*

Combine and reletter § 20.105(e) *Atlantic, Mississippi and Central Flyways* and § 20.105(f) *Pacific Flyway* to read § 20.105(d) *Atlantic, Mississippi, Central and Pacific Flyways.*

Reletter § 20.105(g) *Point system—Ducks, mergansers and coots* to read § 20.105(e) *Point system—ducks, mergansers and coots.*

Reletter § 20.105(h) *Scaup only season* to read § 20.105(f) *Scaup only season.*

Reletter § 20.105(i) *Extra teal during regular season* to read § 20.105(g) *Extra teal during regular season.*

Reletter § 20.105(j) *Extra scaup during regular season* to read § 20.105(h) *Extra scaup during regular season.*

Reletter § 20.105(k) *Special scaup and goldeneye season* to read § 20.105(i) *Special scaup and goldeneye season.*

Delete § 20.105(j) and § 20.105(k).

II. PROPOSED CLARIFICATION OF TAGGING REQUIREMENTS

Under authority of the Migratory Bird Treaty Act (16 U.S.C. §§ 703–711), the U.S. Fish and Wildlife Service proposes to amend § 20.11 of Subpart B of Part 20, Subchapter B, Chapter I of Title 50, CFR, and to enact a new § 20.40 in Subpart D of Part 20 of the same subchapter. The amendment to § 20.11 would insert the word "taxidermist" in paragraph (ii) of the definition of Migratory Bird Preservation Facility in order to clarify the fact that taxidermist falls within the scope of that definition. The proposed new § 20.40 would require that any freshly killed migratory game birds which are received, possessed, or given as a gift, except at personal abodes, have a tag attached, giving the same information as is required by § 20.36 of the same Subpart. The regulations as they now exist allow a hunter possessing freshly killed migratory game birds to avoid possible charges of hunting without a permit or other authorization, or of exceeding the allowable limit of possession of such birds, by stating that another hunter gave him the birds; there are no further provisions of accountability. The proposed new section would reduce this loophole in the regulations by requiring that any freshly killed migratory game birds received, possessed, or given as a gift, except at personal abodes, have a tag attached identifying by name and address the hunter who took the birds, the total number taken, and the date such birds were taken.

Accordingly, it is hereby proposed to amend § 20.11 and to add § 20.40 as follows:

1. Add the word "taxidermist" to § 20.11 (ii) under Subpart B to read:

§ 20.11 Meaning of terms.

* * * * *

"Migratory bird preservation facility" means:

* * * * *

(ii) Any taxidermist, cold storage facility or locker plant which, for hire or other consideration; or

* * * * *

2. Add new § 20.40 to Subpart D to read:

§ 20.40 Gift of migratory game birds.

No person may receive, possess, or give to another, any freshly killed migratory game birds as a gift, except at the personal abodes of the donor or donee, unless such birds have a tag attached, signed by the hunter who took the birds, stating his address, the total number and species of birds, and the date such birds were taken.

[FR Doc.77-6969 Filed 3-9-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION

Meeting

Notice is hereby given in accordance with § 800.5(c) of the Advisory Council on Historic Preservation's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800) that on March 30, 1977, at 7:00 p.m., a public information meeting will be held at the Municipal Building Auditorium, Middlebury, Vermont. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations and interested citizens to receive information and express their views on the proposed widening of U.S. Route 7 in the Village of Middlebury, an undertaking assisted by the Federal Highway Administration, U.S. Department of Transportation, as it affects the Middlebury Village Historic District, Middlebury, Vermont, a property included in the National Register of Historic Places.

A summary of the agenda of the public information meeting follows:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. An explanation of the undertaking and an evaluation of its effects on the property by the Federal Highway Administration.

III. A statement by the Vermont State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statements to approximately 10 minutes.

Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 "K" Street, NW., Washington, D.C. 20005, at 202–254–3380.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc.77-7088 Filed 3-9-77;8:45 am]

PUBLIC INFORMATION

Meeting

Notice is hereby given in accordance with § 800.5(c) of the Advisory Council on Historic Preservation's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800) that on March 31, 1977, at 7:00 p.m., a public information meeting will be held at the Woodstock High School Auditorium, Woodstock, Vermont. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations and interested citizens to receive information and express their views on the proposed replacement of the Elm Street Bridge, Woodstock, Vermont, an undertaking assisted by the Federal Highway Administration, U.S. Department of Transportation, as it affects the Woodstock Village Historic District, Woodstock, Vermont, a property included in the National Register of Historic Places.

A summary of the agenda of the public information meeting follows:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. An explanation of the undertaking and an evaluation of its effects on the property by the Federal Highway Administration.

III. A statement by the Vermont State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statements to approximately 10 minutes.

Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 "K" Street, NW., Washington, D.C. 20005 (202–254–3380).

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc.77-7089 Filed 3-9-77;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Executed Memoranda of Agreement

Pursuant to section 800.6(a) of the Advisory Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800), notice is hereby given that the following Memoranda of Agreement were executed during the Month of January 1977. The Memoranda of Agreement were executed in fulfillment of Federal agencies' responsibilities for protection of properties on or eligible for inclusion in the National Register of Historic Places in Accordance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f, as amended, 90 Stat. 1320) and Executive Order 11593, May 13, 1971.

Kealakekua Bay Historical District, South Kona, Hawaii affected by construction of Puuhonua Road undertaken by the State of Hawaii Department of Transportation assisted by the Federal Highway Administration, U.S. Department of Transportation (1/3/77).

Roger Williams Park Historic District, Providence, Rhode Island, affected by the Park Avenue "Topics" Project undertaken by the Rhode Island Department of Transportation assisted by the Federal Administration, U.S. Department of Transportation (1/5/77).

Point of Pines Sites, Graham County, Arizona, affected by construction of 2.63 miles of San Carlos Indian Route #8 undertaken by the U.S. Department of the Interior (1/6/77).

Tibbee Creek Archeological Site, Mississippi, affected by construction activities at the Columbus Lock and Dam, Tennessee-Tombigbee Waterway undertaken by the Corps of Engineers, U.S. Department of the Army (1/14/77).

Lee County Courthouse, Peattyville, Kentucky, affected by the Local Public Works Program undertaken by the U.S. Department of Commerce (1/20/77).

South Side Market House, Pittsburgh, Pennsylvania, affected by restoration and adaptive use undertaken by the City of Pittsburgh assisted by the U.S. Department of Housing and Urban Development (1/20/77).

Finch Building, Scranton, Pennsylvania, affected by the Central-Tech Urban Renewal Project undertaken by the City of Scranton assisted by the U.S. Department of Housing and Urban Development (1/20/77).

Odd Fellows Hall (Chamblee Building), Gainesville, Georgia, affected by widening of S.R. 11 undertaken by the Federal Highway Administration, U.S. Department of Transportation (1/27/77).

Archaeological Sites, Jefferson County, Kentucky, affected by construction of Section II of the Southwest Jefferson County Local Flood Protection Project undertaken by the U.S. Department of the Army, Corps of Engineers (1/27/77).

The Memoranda are available for inspection at the Advisory Council offices, Suites 430 and 530, 1522 K Street, NW., Washington, D.C. 20005. Further information is available from the Director, Office of Review and Compliance, Advisory Council on Historic Preservation, at the above address.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc.77-7090 Filed 3-9-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation No. A453]

IDAHO

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Idaho Counties as a result of various adverse weather conditions shown in the following chart:

IDAHO

Canyon County—Damages caused by frost on June 26, 1976; and by extensive rains on August 4, August 10, and August 14 through September 10, 1976.

Cassia County—Damages caused by frost on June 24, 1976; below normal temperatures July 1 through August 31, 1976; and a freeze on September 9, 1976.

Jerome County—Damages caused by frost on June 13, June 27, and August 29, 1976.

Payette County—Damages caused by heavy rains from August 1 through September 30, 1976.

Washington County—Damages caused by severe frost on June 25 and 26, 1976.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor John V. Evans that such designation be made.

Applications for emergency loans must be received by this Department no later than April 25, 1977, for physical losses and November 22, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 4th day of March, 1977.

FRANK W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-7147 Filed 3-9-77;8:45 am]

[Designation No. A451]

NEW MEXICO

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Quay County, New Mexico, as a result of drought February 20, 1976, to January 1, 1977; dry winds May 1 to June 30, 1976; hail June 6 and September 13, 1976; and a killing frost October 7, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Jerry Apodaca that such designation be made.

Applications for emergency loans must be received by this Department no later than April 25, 1977, for physical losses and November 18, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 4th day of March, 1977.

FRANK W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-7148 Filed 3-9-77;8:45 am]

[Designation No. A445]

NORTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Morton County, North Dakota, as a result of drought May 1 through December 31, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Arthur A. Link that such designation be made.

Applications for emergency loans must be received by this Department no later than April 15, 1977, for physical losses and November 11, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 3rd day of March, 1977.

FRANK W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-7149 Filed 3-9-77;8:45 am]

Forest Service

OREGON DUNES NATIONAL RECREATION AREA ADVISORY COUNCIL

Meeting Cancellation

The Notice of meeting appearing in the FEDERAL REGISTER which set forth a Notice of Meeting for the Oregon Dunes National Recreation Area Advisory Council to meet on Friday, March 18, 1977, has been cancelled.

ROBERT L. SCHRENK,
Area Ranger.

MARCH 1, 1977.

[FR Doc.77-7085 Filed 3-9-77;8:45 am]

SAVAGE RUN UNIT OF THE MEDICINE BOW NATIONAL FOREST

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Savage Run Unit of the Medicine Bow National Forest. The Forest Service report number is USDA–FS–R2–FES(Adm.) FY–76–09.

The environmental statement concerns a proposal to implement a revised Land Use Plan (Multiple Use Plan) for the 18,900 acre Savage Run Unit of the Medicine Bow National Forest. The proposed Land Use Plan is needed to update management direction and land allocation in the Savage Run Unit to facilitate more responsive planning to meet public needs.

The draft environmental statement was transmitted to CEQ on April 29, 1976.

This final environmental statement was transmitted to CEQ on March 3, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA—Forest Service, So. Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.

USDA—Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colorado 80225.

USDA—Forest Service, Medicine Bow National Forest, 605 Skyline Drive, Laramie, Wyoming 82070.

A limited number of single copies are available upon request to D. L. Rollens, Forest Supervisor, Medicine Bow National Forest, 605 Skyline Drive, Laramie, Wyoming 82070.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

MARCH 3, 1977.

D. L. ROLLENS,
Forest Supervisor.

[FR Doc.77-7087 Filed 3-9-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 30578; Order 77–3–28]

CONTINENTAL AIR LINES, INC.

Order Regarding Mainland-Hawaii Fare Revisions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of March 1977.

By tariff revisions[1] marked to become effective March 6, 1977, Continental Air Lines, Inc. (Continental) proposes to make three major changes in its mainland-Hawaii fare structure. First, it proposes to eliminate its individual tour-basing fares and replace them with capacity-controlled coach and economy-class excursion fares. The new excursion

[1] Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 258.

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fares are set at varying lower amounts than the tour-basing fares they would replace. Overall, the coach excursion-fare yield would be 3.7 cents per mile versus 3.99 cents per mile for the present coach tour-basing fares (tour-basing fares are not now offered in economy service), and generally reflect discounts from normal coach and economy fares ranging from 4 to 11 percent. Continental proposes to limit space available for sale at these fares to 97 seats on any one DC–10 flight (47.5 percent of actual coach/economy capacity) and to 44 seats on any one B–727 flight (approximately 46 percent of capacity). This is the maximum allocation of seats for coach and economy excursion-fare traffic combined, whatever the particular seating configuration may be on any given flight. Other restrictions on use of the fare are virtually those applicable to the 48-state capacity-controlled "Freedom" fare—i.e., 7-day minimum stay, 14-day advance reservation and purchase, etc.

The second aspect of Continental's proposal is the addition of economy-class GIT–105 fares (groups of no less than 105 nor more than 133 passengers), which are set at $20.00 (round trip) below the currently effective coach-class GIT–105 fares. As in the case with the existing coach GIT–105 fares, Continental has placed a maximum limit of 133 passengers (one group) on any single flight.[2] During the peak summer period, group travel is restricted to off-peak hours of the day.

Third, Continental proposes to apply the higher peak-period fare level (Friday through Sunday) throughout the week during the summer season (May 30–September 8), and during the Christmas-New Year holiday period. This change will apply to all off-peak fares, both regular and discount, and amounts to an increase of $15.00 one way. It should be noted, however, that its impact upon the promotional-fare structure will be circumscribed by the capacity-control and off-peak restrictions noted above.

Continental states that it expects the changes described above to shift demand for the lowest-priced services to periods of light demand (whether by time of day, day of week, or season of the year), thereby freeing more seats on peak-demand flights for normal-fare passengers, and increasing both its load factor and yield.

Continental breaks its economic analysis of the proposed changes into two parts. First, it has redistributed the traffic volume it currently anticipates to reflect the change in the mix of traffic by fare category. It projects additional revenue of $826,000 alone from yield improvement resulting from a change in the mix at a constant traffic volume. In addition, it expects that the shift of some of the traffic now moving on the lowest-priced coach promotional fares into the least-costly service, (i.e. economy) will result in a cash saving of $519,000. This is computed by multiplying the number of passengers so shifting by $10.79, which it contends is the cash-cost difference between coach and economy service.[3] The overall benefit is thus estimated to be $1.3 million ($826,000 plus $519,000).

The second part of Continental's analysis consists of an estimate of the net benefit which it expects will flow from a three-percentage point improvement in load factor, caused by a shift of traffic due to its proposed capacity-control program for promotional fares (both individual and group). The three-point increase in load factor translates into approximately $2.4 million in additional revenue, which the carrier reduces by $348,000 to reflect the incremental cost of handling the 20,247 additional passengers entailed in the load-factor increase. The net benefit would therefore approximate $2.1 million. Inherent in the foregoing calculation is the premise that no additional capacity would be added.

Adding the two elements together (i.e., $1.3 million additional revenue stemming from yield improvement and the shifting of some traffic to economy service, plus the $2.1 million benefit related to load-factor improvement), Continental estimates that its operating income would be increased by $3.4 million annually.

Complaints requesting investigation and suspension have been filed by Northwest Airlines, Inc. (Northwest) and United Air Lines, Inc. (United), the latter focusing on the excursion fares. Both complainants allege that the proposed fares will dilute yields because they are lower than existing discount fares. Northwest attacks the restrictions applicable to the excursion fare, alleging that they would be ineffective in the Hawaii market, while United alleges that the yield improvement estimated by Continental relies on unfounded conclusions regarding traffic shifts. Both complainants also attack the capacity-control feature, Northwest alleging that it should not be extended as proposed until the evaluation of the carriers' experience with it in the 48-state market is completed, and United claiming that it should not be extended at all in the Hawaii market. Finally, Northwest alleges that the Board should prevent further proliferation of economy fares, since the U.S. Court of Appeals has remanded for review the differential between coach and economy fares determined by the Board in the Hawaii Fares Investigation.

Continental has answered, alleging that Northwest and United have misconstrued the purpose and the effect of its capacity-controlled excursion fares; that they are intended to replace existing tour-basing fares and enable better internal control over the extent of discount-fare usage in this market; that the central question is not the ability of the excursion fare to balance demand and restrict promotional traffic, per se, bue its ability to do so vis-a-vis existing tour-basing fares; and that its proposed fare is clearly more restrictive (except for the $45.00 tour add-on which is essentially meaningless in the Hawaii market), particularly with respect to the capacity-control and blackout provisions. Continental alleges that the claims of diversion are unsupported and meritless; and that its proposal has been justified, demonstrating peaking problems caused mostly by discount-fare traffic which its proposal wil help control. With respect to its economy GIT-fares, Continental alleges that no party in the Hawaii Fares Investigation challenged as too high, the $10.15 differential used by Continental in constructing its fares and that Northwest's argument that the economy GIT-fares undercut coach GIT fares is therefore without merit.

Upon consideration of the proposal, the complaints and answer thereto, and all other relevant matters, the Board concludes that the proposed increase in normal fares on Mondays through Thursdays during the summer season and year-end holiday period may be unjust, unreasonable, unjustly discriminatory, unduly prejudicial, unduly preferential, or otherwise unlawful, and should be investigated. The Board further concludes that the proposed fares should be suspended pending investigation. With respect to the proposed discount fares, however, the Board concludes that the complaints do not set forth sufficient facts to warrant investigation, and consequently the requests for suspension will be denied.

The complainants are correct in contending that Continental's justification is somewhat lacking since it provides no specific rationale for the particular shifts in traffic mix which it has estimated. Nevertheless, we believe the carrier has made a persuasive case for the promotional fares it proposes. As Continental points out, the industry's ROI in the Hawaiian entity has been well below the 12-percent standard due, to a considerable extent, to the high proportion of low-yield discount-fare traffic. Moreover, Continental has demonstrated a severe tendency toward weekday peaking caused essentially by discount-fare traffic. The complainants do not allege that this latter problem is peculiar to Continental, and we have reason to believe it is in fact a general problem for the industry. The capacity-controlled fares proposed by Continental appear well-suited to alleviate both problems, i.e., both volume and distribution of discount-fare traffic. The key, of course, is how conscientiously Continental will apply the capacity-control feature of its

[2] The 133-passenger maximum limitation is applicable to coach and economy group-fare passengers combined. As a practical matter, therefore, a particular flight will have either one coach group or one economy group, but not a combination of both, due to the 105-passenger minimum requirement for either class of group fare.

[3] Continental derives its figures of $10.79 by adding 64 cents in commission expense to the $10.15 figure used by the Board in its decision in the Hawaii Fares Investigation, Order 76–10–37.

fares. However, it seems only reasonable to expect that it will do so, since its proposed fares would otherwise only aggravate the problem it seeks to correct and reduce its profitability in the market.

In any event, aside from the capacity-control feature, Continental's proposed fares are not materially different from those now in effect on other carriers.[4] The group fares are slightly lower than those offered by other carriers for the same group-size, but are substantially higher than those now offered by other carriers for larger-sized groups (154 or more passengers). Moreover, while the proposed excursion fare is, in most instances, slightly lower than present ITX fares, the discounts from regular coach fares are only 5 to 10 percent.[5]

However, we reach a different conclusion with respect to Continental's proposal to increase normal weekday fares to the present weekend level. In the Hawaii Fares case, the weekday/weekend fare differential was created by subtracting $7.50 from the computed average fare to determine the weekday fare, and by adding $7.50 to determine the peak weekend fare. Continental's proposal would, in effect, introduce a seasonal surcharge of $15.00 (one way) on four days of the week, during three and one-half months of the year, which is tantamount to a general fare increase. If Continental's sole purpose in eliminating the midweek/weekend differential were to smooth traffic throughout the week, it could have followed the approach used in the formal proceeding. Moreover, it must be noted that Continental has provided no analysis of the impact the midweek normal-fare surcharge would have on its return on investment.

However, in the Board's opinion, the most important consideration raised on this aspect of the proposal is the effect on the quality of service for normal-fare passengers. The Board specifically addressed this potential problem in the Hawaii Fares Investigation (Order 76–10–37, pages eight and nine). Continental states that its load factors average in the mid-80's during the midweek period of the peak season. However, under its proposal it would impose an additional $15.00 charge (one way) on passengers traveling on flights which could fairly be characterized as providing a lesser quality of service than is available on weekend flights operating at lower load factors. This would clearly be contrary to the underlying rationale of the discussion on load factor in the Board's Hawaii Fares decision, which stresses that normal-fare passengers should not be burdened, economically, by excessively high load factors. Rather, the inference is that they should, if anything, be charged a lower fare if they are generally receiving a lesser quality of service as a result of load factors exceeding the 62-percent standard. This would seem all the more appropriate here, since the peaking problem Continental seeks to correct is caused mostly by discount-fare passengers. In these circumstances, we conclude that this aspect of Continental's proposal is not only inequitable but also at odds with the Board's expressed concern.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the provisions described in the Appendix attached hereto, and rules, regulations, and practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions described in the Appendix below are suspended and their use deferred to and including June 3, 1977, unless otherwise ordered by the Board; and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints in Dockets 30505 and 30506 are hereby dismissed;

4. The proceeding ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order be filed in the aforesaid tariff and be served upon Continental Air Lines, Inc., Northwest Airlines, Inc., and United Air Lines, Inc. which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

TARIFF C.A.B. NO. 255 ISSUED BY AIRLINE TARIFF PUBLISHING COMPANY, AGENT

On 4th Revised Page 79, the applications of "Coach Service" and "Economy Service" insofar as they apply to KW, KX, YW, and YX class fares.

[FR Doc.77-7111 Filed 3-9-77;8:45 am]

[Order 77-3-33; Docket 26772, Agreements C.A.B., 24673 A-1 and 24673 A-2]

HAWAII COMMON FARES

Order Regarding Agreement Filed

Adopted by the Civil Aeronautics Board at its offices in Washington, D.C., on the 4th day of March 1977.

By Order 77-2-3, dated February 1, 1977, the Board approved an agreement to eliminate the requirement that all Hawaiian interisland travel under the Hawaii common fares agreement be via Aloha Airlines, Inc. (Aloha) and/or Hawaiian Airlines, Inc. (Hawaiian), subject to the conditions that any procedures agreed upon for the implementation thereof also be filed with the Board for approval under section 412 of the Federal Aviation Act of 1958 (Act). At the same time, the Board also extended carrier discussion authority, as requested by Aloha, to permit further discussions of how to amend the Hawaiian common fares agreement to eliminate the closed loop restriction.[1]

A further meeting of carriers commenced on February 14, 1977, and, after consideration of various alternatives, it was determined to eliminate the closed loop restriction by implementing the agreement previously approved in Order 77–2–3. Accordingly, the carriers determined to file with the Board for approval, as required by Order 77–2–3, an agreement containing the procedures agreed upon for the implementation of the approved agreement. Executed counterparts of the procedures agreement[2] have been filed by the carriers, and the matter stands ready for Board action.[3]

Upon review of the procedures agreement, it appears that the procedures established thereby constitute a satisfactory method of implementing the agreement conditionally approved by Order 77–2–3. We do not find the procedures agreement to be adverse to the public interest or in violation of the Act, and said agreement will therefore be approved.

It appears that all necessary action has been taken with respect to intercarrier agreements to eliminate the closed loop provision from the Hawaii common fare tariffs. The Board will also grant the carriers special tariff permission to file the required tariff amendments implementing this change for effect on one day's notice. We expect such tariffs to be filed promptly.

Accordingly, it is ordered, That:

1. Agreements C.A.B. 24673 A–1 and C.A.B. 24673 A–2 be and they hereby are approved;

2. The parties to the Hawaii common fare tariffs be and they hereby are authorized to file on one day's notice tariffs reflecting the agreements approved in paragraph 1; and

3. This order shall be served upon Aloha Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Hawaiian Airlines, Inc.,

[4] We do not agree with Northwest's contention that the fares are, in the overall, materially less restrictive than present tour-basing fares.

[5] Present ITX fares, in most instances, offer very little discount from regular fares, apparently reflecting several instances when the carriers were permitted to increase their discount fares but not their regular fares.

[1] The discussion authority was further extended by Order 77–2–63.

[2] Agreement C.A.B. 24673 A–2.

[3] The carriers represented at the meeting also agreed to file with the Board an agreement providing, in essense, that they will review their experience under the modified common fare plan, and if they find that further amendments to the plan are desirable they will circulate their recommendations to other carriers and interested parties. We will deal with that agreement separately after it is filed.

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Northwest Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., Airline Tariff Publishers, Inc., the County of Hawaii, the State of Hawaii, Pacific Sea Transportation, Ltd., and the Department of Justice.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7112 Filed 3-9-77;8:45 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARDS TASK GROUP 15 COMPUTER SYSTEMS SECURITY

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 1 (Supp. V, 1975), notice is hereby given that the Federal Information Processing Standards Task Group 15 (FIPS TG-15), "Computer Systems Security," will hold a meeting from 9:00 a.m. to 4 p.m. on Wednesday, April 20, 1977, in Room B-27, Building 225 at the National Bureau of Standards in Gaithersburg, Maryland.

The purpose of this meeting will be to continue discussion of the development of guidelines in the management and technological areas of information processing security.

The meeting will be open to the public. To the extent that the meeting time and agenda permit, interested persons may make oral statements and participate in the discussions. Written statements or inquiries may be addressed to Miss Susan K. Reed, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (phone: 301-921-3861).

ERNEST AMBLER,
Acting Director.

MARCH 4, 1977.

[FR Doc.77-7051 Filed 3-9-77;8:45 am]

Office of the Secretary

NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Preliminary Finding of Need To Accredit Testing Laboratories That Test Thermal Insulation Materials

Introduction. In a notice published in the FEDERAL REGISTER on February 25, 1976 (41 FR 8163-8168), the Secretary of Commerce promulgated procedures for the operation of a National Voluntary Laboratory Accreditation Program (NVLAP). As announced in that notice, the goal of this program is to provide in cooperation with the private sector a national voluntary system to examine upon request the professional and technical competence of private and public testing laboratories that serve regulatory and non-regulatory product evaluation and certification needs. The program will accredit those laboratories that meet the qualifications established under the mentioned procedures. Section 7.4(b) of those procedures sets out the requirements to be met by those persons who seek to have the Secretary find that there is a need to accredit testing laboratories which render services regarding a specific product so that it may be ascertained whether such product meets the requirements of applicable standards.

Pursuant to the referenced procedures, the Thermal Insulation Manufacturers Association, Inc., Mount Kisco, New York; the National Mineral Wool Insulation Association, Inc., Summit, New Jersey; and the National Cellulose Insulation Manufacturers Association, Inc., Elk Grove Village, Illinois, filed with the Secretary of Commerce on December 1, 1976, a joint request that the Secretary find that there is a need to accredit testing laboratories which render services in the field of thermal insulation. The requestors state that they are trade associations which are users of testing laboratories that serve regulatory and nonregulatory product evaluation and certification needs.

Summary of request. The request identifies the product as measurement services associated with thermal insulation and classifies such services as measurement of the following properties of thermal insulation:

1. Thermal properties;
2. Dimensions, stability and density properties;
3. Strength properties;
4. Fire properties; and
5. Properties of vapor barriers.

For each classification of measurement service specified above, the request identifies a number of standard test methods, recommended practices, or definition of terms promulgated by the American Society for Testing and Materials (ASTM). The request contends that these standards can serve as a point of reference for ascertaining the technical competence and proficiency of testing laboratories that provide measurement services as classified by the request. Appendix 1 to this notice identifies these classes of measurement services and lists 51 related ASTM standards that were submitted with the request.

The request indicates that the measurement services for which it seeks to have testing laboratories accredited were selected on a priority basis with a view as to what is feasible and practical at this time. In support of its judgment in selecting the measurement services listed above, the request identifies in those measurement services several test methods or recommended practices (identified by asterisk (*) in Appendix 1) that can be served directly or indirectly through the use of existing competences or services of the National Bureau of Standards. In addition, the request states that such measurement services would satisfy the major provisions of 45 identified specifications for thermal insulation and that accreditation of testing laboratories offering such measurement services would serve the initial needs of users of the program. Appendix 2 to this notice lists the thermal insulation specifications contained in the request and illustrates their use of measurement services of the type classified and identified by the request. Appendix 3 to this notice lists the titles of these specifications. The request notes that a laboratory accreditation program for thermal insulation may eventually need to enlarge and expand its classification of measurement services to accommodate the large numbers of specifications, test methods and recommended practices that are applicable to thermal insulation. The request references 121 test methods or recommended practices and 113 specifications for thermal insulation that may eventually need coverage by an expanded accreditation program for thermal insulation.

The request furnishes numerous documents in support of its belief that a laboratory accreditation program in the field of thermal insulation would benefit the public interest. These documents consist of or otherwise identify policy statements, assessment reports, major standards and codes, surveys of regulations, impact studies, public laws, and consumer guidelines that stress the need for energy conservation and adequate thermal insulation. The request indicates that these attachments illustrate the importance of thermal insulation in energy conservation, demonstrate the involvement of government with the problem, and show the impact of energy conservation and thermal insulation actions upon the public sector and the consumer.

The requestors claim that without accredited testing laboratories to evaluate thermal insulation, conditions exist for product misrepresentation and restraint of trade. The request states that a laboratory accreditation program in the field of thermal insulation would facilitate commerce and benefit the consumer interest without undue intervention of the government in the marketplace. The requestors state that they know of no other existing or contemplated program in either the public or private sector to accredit laboratories that test thermal insulation.

The requestors estimate that between 25 to 40 laboratories would desire to be accredited for the testing of thermal insulation. In support of this estimate, the request reference laboratories listed in the ASTM Directory of Testing Laboratories, the Directory of the American Council of Independent Laboratories, and a report issued by the Energy Research and Development Administration, ERDA TID-27210, Industrial Thermal Insulation, An Assessment.

The request further states that the number of users that would desire services of accredited testing laboratories in the field of thermal insulation is difficult to estimate accurately but is believed to be in the thousands. The request claims that manufacturers, and purchasers of thermal insulation, building code jurisdictions and federal agencies concerned

with energy conservation and thermal insulation are all users that have a potential interest in the accreditation of laboratories that test thermal insulation.

Analysis of request. A careful analysis was made of the request which consisted of two volumes entitled, "An Application to the: Secretary of Commerce for a National Voluntary Laboratory Accreditation Program, 15 CFR, Part 7, for Thermal Insulation". The results of this analysis are contained in a report entitled, "Summary and Analysis Report, Thermal Insulation, February 1977", hereafter referred to as the Summary and Analysis Report.

Compliance of request to section 7.4(b) of NVLAP procedures. Any requests submitted under the NVLAP procedures must comply with subsections 7.4(b) (1), (2), (3), and (4). Specifically, these subsections are as follows:

(b) Such a request shall be in writing and will include the following:

(1) Identification of the product;

(2) Text of an applicable standard;

(3) Text of a test method, if not included in the applicable standard identified in paragraph (b) (2) of this section; and

(4) Basis of need for accrediting testing laboratories that serve the product identified in paragraph (b) (1) of this section. The basis will provide information relative to the items set out in § 7.5 and will include, where appropriate, documentary evidence on such items as:

(i) The number of testing laboratories that is believed will want to be accredited to serve the product identified in paragraph (b) (1) of this section; and

(ii) The number of users of testing laboratories that is believed will desire services of testing laboratories accredited to serve the product identified in paragraph (b) (1) of this section."

While the submitted request conforms to subsection 7.4(b) (4), it does not specifically identify a specific product as required by subsection 7.4(b) (1) for which testing laboratories render services. However, an analysis of the request discloses that in reality the specific product for which testing services would be provided is "thermal insulation materials." The submitted request is also in conformity with subsection 7.4(b) (2) as it identifies 45 specification standards applicable to thermal insulation materials" as set out in Appendix 3 to this notice. Finally, the request complies with subsection 7.4(b) (3) in that test methods are included which are applicable to these 45 specification standards.

The submitted request will, therefore, be accepted on the above basis.

Basis for preliminary finding of need. In accord with section 7.5 of the procedures of the National Voluntary Laboratory Accreditation Program the following information and comment are provided in support of the preliminary finding of need set out in this notice.

a. *Does the establishment of general or specific criteria and other conditions for accrediting testing laboratories that test thermal insulation materials benefit the public interest?*

After careful analysis of the request, and its attachments, it is concluded that the establishment of criteria and other conditions for accrediting such testing laboratories would benefit the public interest. This conclusion is based upon the following findings:

1. Conservation of energy is in the public interest;

2. Thermal insulation of industrial processes and commercial and residential buildings is generally recognized as an effective approach to conserving energy;

3. Standards and codes now contain or reference, and will increasingly utilize, specifications for thermal insulation materials that require testing of such insulation.

4. A number of acceptable methods exist for testing of thermal insulation, although such methods will need to be increased in number and/or further refined for testing of thermal insulation materials under conditions of realistic use.

5. Methods of testing thermal insulation materials are prone to errors in their application that may be reduced by programs for laboratory accreditation that are not now available.

Statements and opinions in support of these findings were derived from a careful reading and evaluation of the request and its attachments. These statements are contained in the Summary and Analysis Report.

b. *Is there a national need to accredit testing laboratories that test thermal insulation materials beyond that served by any existing laboratory accreditation programs in the public or private sector?*

There is no existing laboratory accreditation program, either public or private, in the field of thermal insulation materials.

The findings listed above point to the importance of adequate thermal insulation in the national energy conservation effort and the fact that test methods applicable to thermal insulation materials are subject to error in their application. As specifications frequently require application of such test methods to determine compliance of thermal insulation material to requirements, erroneous judgments deriving from erroneous test results can be made concerning the adequacy of thermal insulation material.

Laboratory accreditation under the NVLAP can assist in improving the reliability of test results regarding the properties of thermal insulation. This will enhance the ability of users of thermal insulation materials to plan and implement efficient energy-use systems, thereby helping to reduce costs and waste of fuel resources. With more reliable test results, producers will be encouraged to implement more effective quality control procedures to reduce variability of thermal insulation production. Further, certifiers, regulators, and code jurisdictions will have available better quality assurance capabilities.

c. *For thermal insulation materials is there in existence a standard that is deemed by the Secretary as being of importance to commerce, consumer well-being, or the public health and safety?*

In this preliminary finding of need, the specific product involved is thermal insulation material. The standards submitted by the requestors are the 45 specification standards set out in the Appendix 3 to this notice.

This listing of specifications includes Federal, military, maritime and ASTM specifications relating to various forms (blankets, boards, loose fill, etc.) of a wide range of materials used for thermal insulation. The list of specifications applies to both industrial and residential usage related to insulation for pipes, ducts, machinery, and structural panels (floors, walls, ceilings).

It is clearly evident that the listed specification standards as a body are vitally important to the conservation of energy, both commercially and residentially. It is therefore concluded that the listed specification standards are significantly important to commerce, consumer well-being, or the public health and safety.

d. *Is there in existence a valid testing methodology as determined by the Secretary for ascertaining conformity to the 45 specification standards for thermal insulation materials?*

Of the several test methods and recommended practices proposed in the request and shown by appendices 4 through 8 to this notice to be related to thermal insulation specifications, several are considered to be fundamental and/or known to be proven in practice and it is concluded that they are valid. These methods include ASTM standards C177, C518, C335, C236, C653, C687, C167, C302, C303, C519, C520, D1622, C165, C203, C209, C446, D1621, E84, E136, and E96. The titles of these methods are shown in Appendix 1 to this notice.

Other methods proposed by the request and shown to be referenced in thermal insulation specifications relate to definition of terms, sampling techniques or tests and practices used by laboratories to test thermal insulation materials for intended use. These methods include ASTM standards C390, C168, C585, C355, D2842, D2126, D591, C272, D756, C411, C450, D781, D828, C273, D2020, C445, and D777. Titles for these standards are also shown in Appendix 1 to this notice. After an examination of these latter methods it is concluded preliminarily that they are valid.

It should be noted that Appendices 4 through 8 to this notice identify several ASTM standard methods that are not referenced by those thermal insulation material specifications included in the request. As they are not specifically related to thermal insulation materials as defined by specifications listed in Appendix 3 to this notice, they are not demonstrated to be "associated services" as required by the NVLAP procedure's definition of the term "product."

Accordingly, ASTM methods C691, C550, D826, C447, C569, C589, C755, C686, D1623, C677, D1204, D882, D1790, and D1922 are deleted as test methods or recommended practices within the scope of this laboratory accreditation program.

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e. Is it feasible and practical to accredit testing laboratories that test thermal insulation materials?

In regard to technical considerations, the proposed laboratory accreditation program is both feasible and practical. As indicated by the requestors, a basis exists for ascertaining conformity of measurement services to several of the ASTM standard methods that would be applicable to the program. There also exists established and interested technical committees in the private sector that are active in the field and whose advice and assistance in establishing needed additional methodology will be invaluable. Several government agencies and industrial entities have programs involved with evaluation and effective utilization of thermal insulation materials and their competence could presumably be relied upon.

In regard to utilization of the program, the requestors estimate that 25 to 40 testing laboratories would desire to be accredited under the proposed program. A review of laboratory directories, surveys and other information described in the Summary and Analysis Report identifies 55 laboratories that are active in testing of thermal insulation. The information reviewed was somewhat limited and insufficiently detailed for the purpose of this review so this latter number may be conservative.

The 37 ASTM standard test methods, including recommmended practices, applicable to the proposed laboratory accreditation program will serve the major provisions of the 45 thermal insulation specifications listed in Appendix 3 to this notice. Many of these test methods and recommended practices will also serve the provisions of other thermal insulation specifications. The need for energy conservation and the importance of adequate thermal insulation materials in serving this need should encourage a large constituency of users to utilize the proposed laboratory accreditation program.

Based on the above described examination and analysis, it is hereby concluded that it is feasible and practical to accredit testing laboratories to test thermal insulation materials.

Preliminary finding of need. The request, including the 16 attachments which were submitted in support thereof, has been carefully examined and analyzed. Based on that examination and analysis, which are described above, it is hereby preliminarily found that a need exists to accredit testing laboratories that test thermal insulation materials as required by the 45 specification standards set out in Appendix 3 to this notice. The test methods, including recommended practices, that are included under this preliminary finding of need are those listed in Appendix 9 to this notice.

Request for comments. Interested persons desiring to comment on the preliminary finding of need set out above are invited to submit such comments, in four copies, on or before April 11, 1977, to the Assistant Secretary for Science and Technology, Department of Commerce, Room 3862, Main Commerce Building, Washington, D.C. 20230.

Any person desiring to express his or her views in an informal hearing relative to the mentioned preliminary finding of need shall do so by communicating that desire in writing on or before March 25, 1977, to the Assistant Secretary for Science and Technology at the address shown in the preceding paragraph. Upon receipt of such request, informal public hearings will be held so as to give all interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to the opportunity to make written submissions. If deemed appropriate, such hearings may be held at two locations, one of which shall be east of the Mississippi River and the other west thereof. Notice of such hearings will be published in the FEDERAL REGISTER at least twenty (20) days in advance thereof. A transcript will be made of any oral presentation.

Procedure following receipt of comments. Upon receipt of the comments submitted in response to this notice, including the testimony of any hearings that may be held in conjunction therewith, a full and complete evaluation of such comments and testimony will be undertaken. Upon completion of that evaluation, a notice will be published in the FEDERAL REGISTER announcing a final finding of need to accredit testing laboratories that test thermal insulation materials or withdrawing the preliminary finding of need announced in this notice. In either event, the notice will set out the basis for the final finding of need or for the withdrawal of the preliminary finding of need in accordance with sections 7.4 (g) and (h) of the NVLAP procedures.

As an integral part of the process of evaluating the comments received, close communication and consultation will be undertaken with those Federal agencies which are believed to have an interest in or may be impacted by this particular laboratory accreditation program. In this way an effective and meaningful cooperation with interested Federal agencies may be established.

The request submitted by the trade associations, identified earlier herein, to accredit testing laboratories that test thermal insulation materials, is not believed to affect an existing or developing testing laboratory examination or accreditation program of a Federal regulatory agency. Accordingly, no attempt is being made, pursuant to section 7.4(d) of the mentioned procedures to seek from the head of any Federal regulatory agency its views relative to the preliminary finding of need announced by this notice.

Before a final finding of need in this matter is announced, a determination will be made on whether the program to accredit testing laboratories that test thermal insulation materials would have a major inflationary impact under the criteria set out in Department Administrative Order 218-6, dated September 12, 1975, entitled "Inflationary Impact of Legislative and Regulatory Proposal."

Documents in public record. The documents which are part of the public record include the December 1, 1976 request filed by the trade association requestors and the 16 attachments submitted in support thereof, the Summary and Analysis Report and its appendices, which was referred to earlier in this notice, and the referenced Department Administrative Order 218-6. Such documents are available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 7068, Main Commerce Building, 14th Street between E Street and Constitution Avenue, N.W., Washington, D.C. 20230.

All written and oral comments furnished in response to the invitation made by this notice will also be made part of the public record: Such comments will be available for inspection and copying at the inspection facility referenced in the preceding paragraph.

Any person having questions or desiring further information relative to the matters covered in this notice may contact Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Department of Commerce, Room 3876, Main Commerce Building, Washington, D.C. 20230. Dr. Forman's telephone number is (202) 377-3221.

Issued: March 7, 1977.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

APPENDIX 1

CLASSIFICATION AND IDENTIFICATION OF MEASUREMENT SERVICES AS PROPOSED BY THE REQUEST

Classification 1: Measurement of Thermal Properties

ASTM Standard and Title

C177 [1]—Steady State Thermal Transmission Properties by means of the Guarded Hot Plate
C518 [1]—Steady State Thermal Transmission Properties by means of the Heat Flow Meter
C335 [1]—Thermal Conductivity of Pipe Insulation by Guarded End Apparatus
C236 [1]—Thermal Conductance and Transmittance of Built-up Sections by means of the Guarded Hot Box
C691 [1]—Thermal Transference of Non-Homogeneous Pipe Insulation at Temperatures Above Ambient
C653—Recommended Practice for Determination of Thermal Resistance of Low Density Mineral Fiber Blanket-Type Building Insulation
C687—Recommended Practice for Determination of Thermal Resistance of Low-Density Fibrous Loose Fill Type Building Insulation
C390—Preformed Thermal Insulation Sampling
C168—Definition of Terms Relating to Thermal Insulating Materials

Classification 2: Measurement of Dimension, Stability and Density Properties

ASTM Standard and Title

C167 [1]—Tests for Thickness and Density of Blanket or Batt Type Thermal Insulating Materials
C302 [1]—Tests for Density of Preformed Pipe Covering Type Thermal Insulation
C303 [1]—Test for Density of Preformed Block Type Thermal Insulation
C519 [1]—Test for Density of Fibrous Loose Fill Building Insulations
C520 [1]—Test for Density of Granular Loose Fill Insulations
C550 [1]—Tess for Trueness and Squareness of Block Thermal Insulations
D1622 [1]—Test for Apparent Density of Rigid Cellular Plastics
C585—Recommended Practice for Inner and Outer Diameters of Rigid Thermal Insulation for Nominal Sizes of Pipe and Tubing (NPS System)
C355—Test for Water Vapor Transmission of Thick Materials
D2842—Test for Water Absorption of Rigid Cellular Plastics
D2126—Test for Response of Rigid Cellular Plastics to Thermal and Humid Aging
D591—Test for Starch in Paper
C272—Test for Water Absorption of Core Materials for Structural Sandwich Constructions
D756—Tests for Resistance of Plastics to Accelerated Service Conditions
D826—Test for Degree of Wet Curl of Paper
D1204—Measuring Changes in Linear Dimensions of Non Rigid Thermoplastic Sheeting or Film
C411—Tests for Hot Surface Performance of High Temperature Thermal Insulation
C447—Recommended Practice for Estimating the Maximum Use of Temperature of Preformed Homogeneous Thermal Insulation
C450—Recommended Practice for Prefabrication and Field Fabrication of Thermal Insulating Fitting Covers for NPS Piping, Vessel Lagging, and Dished Head Segments

Classification 3: Measurement of Strength Properties

ASTM Standard and Title

C165 [1]—Test for Comprehensive Strength of Preformed Block Type Thermal Insulation
C203 [1]—Test for Breaking Load and Calculated Flexural Strength of Preformed Block Type Thermal Insulation
C446 [1]—Test for Breaking Load and Calculated Modulus of Rupture of Preformed Insulation for Pipes
C569 [1]—Test for Indentation Hardness of Preformed Thermal Insulation
C589 [1]—Test for Apparent Impact Strength of Preformed Block Type Insulating Materials
C686 [1]—Test for Parting Strength of Mineral Fiber Batt and Blanket Type Insulation
D1621 [1]—Test for Compressive Properties of Rigid Cellular Plastics
D1623 [1]—Test for Tensile Properties of Rigid Cellular Plastics
D781—Test for Puncture and Stiffness of Paperboard Corrugated and Solid Fiberboard
D828—Test for Tensile Breaking Strength of Paper and Paperboard
D1790—Test for Brittleness Temperature of Plastic Film by Impact
C209—Testing Insulating Board (Cellulosic Fiber) Structural and Decorative
C273—Shear Test in Flatwise Plane of Flat Sandwich Construction or Sandwich Cores
D1922—Test for Propagation Tear Resistance of Plastic Film and Thin Sheeting
D882—Test for Tensile Properties of Thin Plastic Sheeting

Classification 4: Measurement of Fire Properties

ASTM Standard and Title

E84 [1]—Standard Method of Test for Surface Burning Characteristics of Building Materials
E136 [1]—Tests for Noncombustibility of Elementary Materials

See footnotes at end of article.

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Classification 5: Measurement of Properties of Vapor Barriers

ASTM Standard and Title

C677 —Recommended Practice for Use of a Stndard Reference Sheet for the Measurement of the Time-Averaged Vapor Pressure in a Controlled Humidity Space

E96 —Tests for Water Vapor Transmission of Materials in Sheet Form

C755—Recommended Practice for Selection of Vapor Barriers for Thermal Insulation

D2020—Test for Mildew Resistance of Paper and Paperboard

C445—Test for Normal Total Emittance of Surfaces of Materials 0.01 inch or Less in Thickness at Approximately Room Temperature

D777—Test for Flammability of Treated Paper and Paperboard

APPENDIX 2

MEASUREMENT SERVICES REQUIRED BY SPECIFICATIONS LISTED IN ATTACHMENT 12B OF THE REQUEST

SPECIFICATIONS FOR THERMAL INSULATION, LISTED IN ATTACHMENT 12B	REFERENCES MEASUREMENT OF				
	Thermal Properties	Dimension Stability Density	Strength Properties	Vapor Barrier Properties	Fire Properties
HHB-00100			X	X	X
HHC-561			NONE		
HHI-521	X	X		X	X
HHI-515	X	X			X
HHI-545	X	X			X
HHI-558	X	X	X		X
HHI-574	X	X			
HHI-585	X	0			
HHI-578			NONE		
HHI-1030	X	X			X
HHI-1252	X	0		X	
MIL-STND-769F	0	0	0		
LLLI-535	X	X	X		0
MILI-742	X	X	X		
MILI-2781	X	X	X		
MILI-2818	X	X			
MILI-2819	X	X	X		
MILI-5475	X	X			
MILI-22023	X	X			
MILI-22344	X	X			
MILI-23128	X	X			
32-MA-1e	X	X			
32-MA-3c	X	X			
C-262	X	X			
C-391	X	X			
C-516	X	X			
C-517	X	X	X		
C-533	X	X	X		
C-549	X	X			
C-553	X	X			
C-592	X	X			
C-610	X	X	X		
C-640	X	X	X		
C-665	X	X		X	X
C-728	X	0	X		X
C-764	X	X			X
C-739	X	X			X
C-578	X	X	X		X
C-591	X	X	X		X
C-532	X	X	X		0
32-MA-4b	X	X	X		X
32-MA-8	X	X	X		X
HHI-524	X	X	X		X
HHI-530	X	X	X		X
HHI-550	X	X	X		X

NOTE: "X" Direct Reference
"0" Indirect Reference

APPENDIX 3

SPECIFICATIONS LISTED IN ATTACHMENT 12B OF REQUEST

H-H-B-00100—Barrier material vapor for fire retardant reinforced for pipe and duct insulation

H-H-C-561—Cork; compressed (corkboard) (for thermal insulation)

H-H-I-521—Insulation blankets, thermal (mineral fiber, for ambient temperatures)

H-H-I-515—Insulation blanket, thermal-acoustical, and insulation thermal, vegetable or wood fiber

H-H-I-545 [2]—Insulation, thermal and acoustical (mineral fiber, duct lining material)

H-H-I-558—Insulation, blocks, boards, blankets, felts, sleeving (pipe and tube covering), and pipe fitting covering, thermal (mineral fiber, industrial type)

H-H-I-574 [2]—Insulation, loose fill (Perlite)

H-H-I-585—Insulation, thermal (Vermiculite)

H-H-I-578—Insulation pipe covering and block (Vermiculite)

H-H-I-1030—Insulation, thermal (mineral fiber, for pneumatic or poured application)

H-H-I-1252—Insulation thermal, reflective (aluminum foil)

MIL-Stnd-769F—Thermal insulation requirements for machinery and piping

LLL-I-535—Insulation board and block, thermal

MIL-I-742 [2]—Insulation board, thermal, fibrous glass

MIL-I-2781 [2]—Insulation, pipe, thermal

MIL-I-2818—Insulation blanket, thermal, fibrous mineral

MIL-I-2819 [2]—Insulation block, thermal

MIL-I-15475—Insulation felt, thermal, fibrous glass semi-rigid

MIL-I-22023 [2]—Insulation felt, thermal and sound absorbing felt, fibrous glass, flexible

MIL-I-22344—Insulation, pipe, and thermal, fibrous glass

MIL-I-23128 [2]—Insulation blanket, thermal, refractory fiber, flexible

Maritime No. 32-MA-1e—Insulation: mineral fiber, blanket type (3-8 pounds per cubic foot)

Maritime No. 32-MA-3c—Insulation; felt, fibrous glass

C262—Mineral fiber batt insulation (industrial type)

C391 [2]—Amosite asbestos thermal insulation for pipes

C516—Vermiculite loose fill insulation

C517—Diatomaceous earth block and pipe thermal insulation

C533 [2]—Calcium silicate block and pipe thermal insulation

C549 [2]—Perlite loose fill insulation

C553—Mineral fiber blanket and felt insulation (industrial type)

C592—Mineral fiber blanket insulation and blanket type pipe insulation (metal mesh covered) (industrial type)

C610—Expanded perlite block and pipe thermal insulation

C640—Corkboard and cork pipe insulation for low temperature thermal insulation

C665—Mineral fiber blanket thermal insulation for wood frame and light construction buildings

C728 [2]—Perlite thermal insulation board

C764—Mineral fiber loose fill thermal insulation

C739—Cellulosic fiber (wood base) loose fill thermal insulation

C578—Preformed, block-type cellular polystyrene thermal insulation

C591—Rigid preformed cellular urethane thermal insulation

C532—Structural insulating formboard (cellulosic fiber)

Maritime No. 32-MA-4b—Plastic material: thermal, cellular, rigid (urethane)

Maritime No. 32-MA-8—Insulation: pipe covering, thermal, rigid (urethane)

H-H-I-524—Insulation board, thermal (polystyrene)

H-H-I-530—Insulation board, thermal (urethane)

H-H-I-550—Insulation sleeving, thermal (urethane)

See footnotes at end of article.

APPENDIX 4

THERMAL PROPERTY TEST METHODS REQUIRED BY SPECIFICATIONS LISTED IN ATTACHMENT 12B OF THE REQUEST

SPECIFICATIONS ATTACHMENT 12B	ASTM METHOD REFERENCED BY SPEC								Definitions
	C177	C518	C335	C236	C691	C653	C687	C390	C168
HHB-00100									
HHC-561									
HHI-521	X	X		X		X			
HHI-515	X								0
HHI-545	X								X
HHI-558	X		X						
HHI-574	X								
HHI-585	X								
HHI-578									
HHI-1030	X	0		X			X		X
HHI-1252	X								
MIL-STND-769F	0		0						0
LLLI-535	X	0							
MILI-742	X		X						
MILI-2781									
MILI-2818	X								
MILI-2819	X								
MILI-5475	X								X
MILI-22023	X								X
MILI-22344			X						
MILI-23128	X								
32-MA-1e	X								X
32-MA-3c	X								
C-262	X							X	
C-391			X						
C-516	X								
C-517	X		X						
C-533	X		X					X	X
C-549	X								
C-553	X								X
C-592	X							X	X
C-610	X		X						X
C-640	X		X					X	
C-665	X	X			X				X
C-728	X	X						X	X
C-764	X	X		X		X			X
C-739	X	X		X		X		X	X
C-578	X							X	X
C-591	X		X					X	
C-532	X	0							
32-MA-4b	X								
32-MA-8			X						
HHI-524	X							0	0
HHI-530	X								
HHI-550	X		X						

NOTE: "X" Direct Reference
"0" Indirect Reference

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APPENDIX 5

DIMENSION, STABILITY, DENSITY TEST METHODS REQUIRED BY SPECIFICATIONS LISTED IN ATTACHMENT 12B OF THE REQUEST

SPECIFICATION ATTACHMENT 12B	ASTM TEST METHOD REFERENCED BY SPEC																		
	C167	C302	C303	C519	C520	C550	D1622	C585	C355	D2842	D2126	D591	C272	D756	D826	D1204	C411	C447	C450
HHB-00100																			
HHC-561																			
HHI-521	X																		
HHI-515	X																		
HHI-545	X																		
HHI-558	X	X	X														X		
HHI-574	O				X														
HHI-585	O																		
HHI-578																			
HHI-1030	X																		
HHI-1252	O																		
MIL-STND-769F	O	O	O														O		
LLLI-535	O	O							X										
MILI-742	X																		
MILI-2781		X															X		
MILI-2818	X																		
MILI-2819	O		X														X		
MILI-5475	X																		
MILI-22023	X																		
MILI-22344		X																	
MILI-23128	X																		
32-MA-1e	X																		
32-MA-3c	X																		
C-262	X																		
C-391		X																	
C-516	O				X														
C-517	O	X	X																
C-533	O	X	X					X									X		
C-549	O				X														
C-553	X																		
C-592	X																		
C-610	O	X	X																
C-640	O	X	X																

APPENDIX 5, CONTINUED

DIMENSION, STABILITY, DENSITY TEST METHODS REQUIRED BY SPECIFICATIONS LISTED IN ATTACHMENT 12B OF THE REQUEST

SPECIFICATION ATTACHMENT 12B	ASTM TEST METHOD REFERENCED BY SPEC																		
	C167	C302	C303	C519	C520	C550	D1622	C585	C355	D2842	D2126	D591	C272	D756	D826	D1204	C411	C447	C450
C-665	X																		
C-728	O	O							O										
C-764	O			X															
C-739	O			X								X							
C-578	O		X						X				X						
C-591	O	X	X						X		X								
C-532	O	O							X										
32-MA-4b	O						X						X	X					
32-MA-8		O					X							X					
HHI-524	O						X		X		X		X						
HHI-530	O		O				X		X	X			O						
HHI-550	O	X							X					X					

NOTE: "X" Direct Reference
"O" Indirect Reference

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APPENDIX 6

STRENGTH PROPERTY TEST METHODS REQUIRED BY SPECIFICATIONS LISTED IN ATTACHMENT 12B OF THE REQUEST

SPECIFICATION ATTACHMENT 12B	ASTM METHODS REFERENCED BY SPEC														
	C165	C203	C446	C569	C589	C686	D1621	D1623	D781	D828	D882	D1790	C209	C273	C1922
HHB-00100									X	X					
HHC-561															
HHI-521															
HHI-515															
HHI-545															
HHI-558	X														
HHI-574															
HHI-585															
HHI-578															
HHI-1030															
HHI-1252															
MILI-STND-769F	O	O	O										X		
LLLI-535															
MILI-742									X						
MILI-2781			X												
MILI-2818															
MILI-2819	X	X													
MILI-5475															
MILI-22023															
MILI-22344															
MILI-23128															
32-MA-1e															
32-MA-3c															
C-262															
C-391															
C-516															
C-517	X	X	X												
C-533	X	X	X												
C-549															
C-553															
C-592															
C-610	X	X	X												
C-640		X													
C-665															
C-728	X	X											X		
C-764															
C-739															
C-578	X	X													
C-591	X		X												
C-532													X		
32-MA-4b		X						X							X
32-MA-8		X						X							X
HHI-524		X						X							
HHI-530	O	X						X							
HHI-550								X							

NOTE: "X" Direct Reference
"O" Indirect Reference

APPENDIX 7

FIRE PROPERTY TEST METHODS REQUIRED BY SPECIFICATIONS LISTED IN ATTACHMENT 12B OF THE REQUEST

SPECIFICATION ATTACHMENT 12B	ASTM TEST METHOD REFERENCED BY SPEC		
	E84	E136	Other
HHB-00100	X		
HHC-561			
HHI-521	X		
HHI-515			
HHI-545	X		
HHI-558	X		
HHI-574			
HHI-585			
HHI-578			
HHI-1030	X		
HHI-1252			
MIL-STND-769F			
LLLI-535	O		
MILI-742			
MILI-2781			
MILI-2818			
MILI-2819			
MILI-5475			
MILI-22023			
MILI-22344			
MILI-23128			
32-MA-1e			
32-MA-3c			
C-262			
C-391			
C-516			
C-517			
C-533			
C-549			
C-553			
C-592			
C-610			
C-640			
C-665	X		
C-728	X		
C-764	X		
C-739	X		
C-578			D1692*
C-591			D1692*
C-532	O		
32-MA-4b			D1692*
32-MA-8			D1692*
HHI-524			D1692*
HHI-530			D1692*
HHI-550			D1692*
ALL BUILDING CODES	X		
SEVERAL BUILDING CODES		X	

*Request proposes alternative use of E84.
NOTE: "X" Direct Reference
"O" Indirect Reference

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APPENDIX B

VAPOR BARRIER TEST METHODS REQUIRED BY SPECIFICATIONS LISTED IN ATTACHMENT 12B OF THE REQUEST

SPECIFICATIONS ATTACHMENT 12B	ASTM METHOD REFERENCED BY SPEC C677	E96	C755	D2020	C445	D777
HHB-00100				X		X
HHI-521	X				X	
HHI-1252	X				X	
C-665	X				X	

APPENDIX 9

ASTM TEST METHODS, AND RECOMMENDED PRACTICES APPLICABLE TO PRELIMINARY FINDING OF NEED

ASTM Designation and Title

C177 [1]—Steady State Thermal Transmission Properties by means of the Guarded Hot Plate

C518 [1]—Steady State Thermal Transmission Properties by means of the Heat Flow Meter

C335 [1]—Thermal Conductivity of Pipe Insulation by Guarded End Apparatus

C236 [1]—Thermal Conductance and Transmittance of Built up Sections by means of the Guarded Hot Box

C653—Recommended Practice for Determination of Thermal Resistance of Low Density Mineral Fiber Blanket-Type Building Insulation

C687—Recommended Practice for Determination of Thermal Resistance of Low-Density Fibrous Loose Fill Type Building Insulation

C390—Preformed Thermal Insulation Sampling

C168—Definition of Terms Relating to Thermal Insulating Materials

C167 [1]—Tests for Thickness and Density of Blanket or Batt Type Thermal Insulating Materials

C302 [1]—Test for Density of Preformed Pipe Covering Type Thermal Insulation

C303 [1]—Test for Density of Preformed Block Type Thermal Insulation

C519 [1]—Test for Density of Fibrous Loose Fill Building Insulations

C520 [1]—Test for Density of Granular Loose Fill Insulations

D1622 [1]—Test for Apparent Density of Rigid Cellular Plastics

C585—Recommended Practice for Inner and Outer Diameters of Rigid Thermal Insulation for Nominal Sizes of Pipe and Tubing (NPS system)

C355—Test for Water Vapor Transmission of Thick Materials

D2842—Test for Water Absorption of Rigid Cellular Plastics

D2126—Test for Response of Rigid Cellular Plastics to Thermal and Humid Aging

D591—Test for Starch in Paper

C272—Test for Water Absorption of Core Materials for Structural Sandwich Constructions

D756—Tests for Resistance of Plastics to Accelerated Service Conditions

C411—Tests for Hot Surface Performance of High Temperature Thermal Insulation

C450—Recommended Practice for Prefabrication and Field Fabrication of Thermal Insulating Fitting Covers for NPS Piping, Vessel Lagging, and Dished Head Segments

C165 [1]—Test for Compressive Strength of Preformed Block Type Thermal Insulation

C203 [1]—Test for Breaking Load and Calculated Flexural Strength of Preformed Block Type Thermal Insulation

C446 [1]—Test for Breaking Load and Calculated Modulus of Rupture of Preformed Insulation for Pipes

D1621 [1]—Test for Compressive Properties of Rigid Cellular Plastics

D781—Test for Puncture and Stiffness of Paperboard Corrugated and Solid Fiberboard

D828—Test for Tensile Breaking Strength of Paper and Paperboard

C209—Testing Insulating Board (Cellulosic Fiber) Structural and Decorative

C273—Shear Test in Flatwise Plane of Flat Sandwich Construction or Sandwich Cores

E84 [1]—Standard Method of Test for Surface Burning Characteristics of Building Materials

E136 [1]—Tests for Noncombustibility of Elementary Materials

E96 [1]—Tests for Water Vapor Transmission of Materials in Sheet Form

D2020—Test for Mildew Resistance of Paper and Paperboard

C445—Test for Normal Total Emittance of Surfaces of Materials 0.01 inch or less in Thickness at Approximately Room Temperature

D777—Test for Flammability of Treated Paper and Paperboard

FOOTNOTES

[1] Related to existing NBS Competence, Reference Sample or Calibration Services.

[2] Excluding requirements other than those related to testing of thermal, mechanical, fire, and vapor barrier properties.

[FR Doc.77-7060 Filed 3-7-77;11:10 am]

CONSUMER PRODUCT SAFETY COMMISSION

MEETINGS

Revised Agenda

This notice announces revised agendas for two meetings of the Consumer Product Safety Commission: the March 9 Commission briefing and the March 10 Commission meeting. The changes involve additions to the two agendas and changes in the time for considering certain items at the March 10 meeting. The Commission, on March 4, 1977, made the determination required by § 1012.4(b) (2) of its rules on meetings, that Agency business requires these changes in the agendas, and that no earlier announcement of the changes was possible. Previous notice of these meetings was published in the FEDERAL REGISTER.

Both meetings will begin at 9:30 a.m., in the 3rd floor hearing room, 111—18th St., N.W., Washington, D.C., and all matters will be considered in open session except for the final item on the March 10 agenda. For additional information, interested persons can contact Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111—18th Street, N.W., Washington, D.C. 20207, telephone (202) 634-7700.

REVISED AGENDA, MARCH 9, 1977, COMMISSION BRIEFING MEETING

All matters will be discussed in open session. Items for the morning session are unchanged from the previous announcement.

9:30 A.M., CONVENE MEETING

1. *Briefing on Bureau of Information and Education (BIE) Activities.* In this briefing, the staff will report on three information and education programs: (1) the 1976 Holiday Safety Program; (2) the Poison Prevention Program, which will focus on National Poison Prevention Week, March 20-26, 1977; and (3) the Outdoor Power Equipment Evaluation Project currently underway. The staff will also present a brief discussion of other programs planned for the year.

2. *Briefing on Generic Regulations for Toys and Other Children's Articles.* In December, 1976, the Commission gave guidance to the staff on completing work on generic regulations for toys and other children's articles under the Federal Hazardous Substances Act (FHSA). The regulations would deal with sharp points, sharp edges and small parts of these articles. The staff will brief the Commission on issues which have risen as a result of this guidance, and will discuss the staff proposal that the Commission consider issuing "technical guidelines" enforced by individual banning of hazardous articles, rather than self-executing banning regulations under the FHSA.

3. *Briefing on Consolidation of CPSC's Acts into an Amended Consumer Product Safety Act.* In this briefing, the Office of the General Counsel will brief the Commission on what it sees as major implications of consolidating into a single, amended Consumer Product Safety Act portions of the acts transferred to the administration of CPSC: the Federal Hazardous Substances Act (FHSA), the Poisoh Prevention Packaging Act (PPPA) and the Refrigerator Safety Act (RSA).

2:00 P.M., RECONVENE MEETING

4. *Briefing on Proposed Matchbook Standard.* The Commission proposed a safety standard for matchbooks in April, 1976; the current deadline for publishing a final standard or withdrawing the notice of proceeding is May 1, 1977. In this briefing, the staff will discuss with the Commission (1) issues related to possible burn-control requirements of the standard, (2) issues related to preparing a proposed certification standard for matchbooks, and (3) the need to extend the development period for the safety standard.

REVISED AGENDA MARCH 10, 1977, COMMISSION MEETING

All matters will be conducted in open session, with the exception of the final agenda item. Items 4, 5 and 7 were previously listed for consideration at this meeting; only the times have changed for these items.

9:30 A.M., CONVENE MEETING

1. *Request for Exemption from Bicycle Chainguard Requirements.* All American BMX, Inc., has requested an exemption from certain requirements of CPSC's bicycle regulations for three types of motorcross bicycles which it manufactures. The regulations become effective May 11, 1976, and the staff believes the round chainguards for which the firm seeks exemption do not comply with the regulation.

2. *Possible Substantial Product Hazard: Western Electric Co., Transformers (ID 77-3).* This matter involves possibly defective transformers for telephone dial lights which might overheat. Western Electric reported the defect to the Commission staff and has instituted a recall program. The staff has preliminarily determined that the products present less than a substantial risk. The Commission must decide whether to close the case, and if so, whether or not to endorse the company's corrective action.

3. *Possible Substantial Product Hazard: Cotton City Industries Ponchos (ID 77-10).* As with the above case, the Commission must decide whether to close this substantial product hazard case involving ponchos with flammable fringe, and if so, whether or not to endorse the corrective action plan which the firm has undertaken. The staff has preliminarily determined that the product presents less than a substantial product hazard.

4. *Non-Adjudicative Rules of Procedure Under the Flammable Fabrics Act.* The Commission will consider a draft regulation which would establish rules of procedure for investigations, inspections and inquiries pursuant to the Flammable Fabrics Act. The Commission proposed a version of these Rules in July, 1976.

5. *Certification Standards for Architectural Glazing.* In January, 1977, the Commission promulgated mandatory safety standards for architectural glazing materials (16 CFR Part 1201), which became effective July 6, 1977. At that time, the Commission stated that regulations for certifying compliance with the safety standard would also become effective July 6. The Commission will consider three alternatives for establishing certification standards: (1) to rely on the language of section 14 of the Consumer Product Safety Act, which requires manufacturers to issue a certificate based on an reasonable testing program; (2) to set limits for the testing programs which manufacturers must establish; and (3) to establish a detailed testing program which manufacturers must follow.

Break for lunch.

2:00 P.M., RECONVENE MEETING

6. *Draft Proposed Regulations for Financial Compensation.* These rules, presented as a draft FEDERAL REGISTER document, would implement the Commission's January 27, 1977 decision to propose regulations for financial compensation of certain participations in CPSC rulemaking proceedings.

3:45, break.

4:00, RECONVENE MEETING (CLOSED TO THE PUBLIC)

7. *Timeliness Cases Under Section 15 of the Consumer Product Safety Act.* (Closed). Section 15 of the Consumer Product Safety Act requires manufacturers (and others) to report immediately to the Commission any product which might pose a substantial product hazard because it does not meet any applicable safety standard or contains a defect which might pose a substantial hazard. The Commission will consider possible civil penalty action against two manufacturers which the staff believe did not make timely reports on possibly hazardous products.

Adjournment.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

MARCH 7, 1977.

[FR Doc.77-7084 Filed 3-9-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

REGIONAL DISCHARGE REVIEW SYSTEM

Modification of Hearing Locations

In FEDERAL REGISTER Document 76-23671, published on August 13, 1976, 41 FR 34328, the Department of the Army published notice that the Army Discharge Review Board (ADRB) had established in part time operation Regional Panels in Atlanta, Georgia; Colorado Springs, Colorado; San Francisco, California; and Indianapolis, Indiana. Further, that additional hearings in the form of ADRB Traveling Panels and Hearing Examiners would be conducted in other locations according to a tentative annual schedule.

MODIFICATION OF HEARING LOCATIONS

Notice is hereby given that approval has been granted for the Army Discharge Review Board (ADRB) to curtail or cease the operation of its part time Regional Panels and to increase the use of its Traveling Panels and Hearing Examiners. This modification will further facilitate personal appearances before the board; the goal is normally to schedule Hearing Examiners or Traveling Panels so that applicants will not have to travel in excess of 200 miles to be heard, or wait more than six months to be heard after receipt of an application by the ADRB.

Dated: March 1, 1977.

WILLIAM E. WEBER,
Colonel, Infantry, President, Army Discharge Review Board.

[FR Doc.77-7065 Filed 3-9-77;8:45 am]

Department of the Navy

ACADEMIC ADVISORY BOARD TO THE SUPERINTENDENT, UNITED STATES NAVAL ACADEMY

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Academic Advisory Board to the Superintendent, United States Naval Academy, will meet on March 28, 1977, at conference room 301 (Rickover Hall Conference Room), Rickover Hall, United States Naval Academy, Annapolis, Maryland. The meeting will commence at 8:00 a.m. and terminate at 3:00 p.m.

The purpose of the meeting is to advise and assist the Superintendent of the Naval Academy concerning the education of midshipmen. To accomplish this objective, the Board will review academic policies and practices of the Naval Academy and will submit their proposals to the Superintendent to aid him in improving educational standards and in solving academy problems.

For further information concerning this meeting contact:

Commander William A. Dougherty, Jr., U.S. Navy Military Secretary to the Academic Advisory Board.

Mathematics Department, United States Naval Academy, Annapolis, Md. 21402. Telephone No. 301-267-2795.

Dated: March 4, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistance Judge Advocate General (Administrative Law).

[FR Doc.77-7086 Filed 3-9-77;8:45 am]

SEAFARER ELF COMMUNICATIONS SYSTEM: NEVADA; SITE SELECTION AND PROPOSED TEST OPERATIONS

Public Hearing and Availability of Draft Environmental Impact Statement

Notice is hereby given that a public hearing will be held for the purpose of providing the public with relevant information on site selection and proposed test operations, at the Nellis Air Force Range, Nevada, for the Seafarer Extremely Low Frequency (ELF) Communications System, and to afford the public an opportunity to present their views on the Navy's proposed Seafarer project. The hearing will be held on Friday, April 1, 1977, at the Carson City Community Center, 851 East Williams Street, Carson City, Nevada. The hearing will commence at 7:00 p.m. and terminate at 11:00 p.m. The hearing will be conducted by Captain John Dobson, U.S. Navy, and will include a project presentation explaining the Navy's proposed action, a system description, a site-dependent environmental impact summary, alternatives, proposed navy recommendations, and the proposed program plan for the future.

This hearing is being held in Carson City, Nevada because the Nellis Air Force Range is one of three candidate areas considered for building a Seafarer test facility, conducting ELF communications experiments, and developing appropriate construction criteria and operational methods to ensure maximum environmental protection in the event an operational Seafarer system is built on the Nellis Air Force Range at some future time.

Seafarer is principally an unusually large transmitting antenna system consisting of many insulated cables buried in a grid pattern. The system's principal purpose is to facilitate communications with submerged submarines.

The following procedures will be followed during the public hearing. Individ-

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ual speakers will be limited to three minutes with five minutes for a group spokesman for each recognized group. There will be no relinquishing of time by one speaker to another. Written pre-registration is required by persons and organizations who wish to present their views, accompanied by the name and title of the expected speaker for each organization. Individuals and organizations who wish their statements to be included in their entirety in the hearing record are requested to provide written statements. The closing date for including written communications in the hearing record is April 11, 1977.

Anticipated environmental effects are available for review in the Seafarer ELF Communications System Draft Environmental Impact Statement for Site Selection and Test Operations (Naval Electronic System Command, February, 1977). Copies of this statement are available at the following locations:

Nevada State Library, Carson City, NV 89701.
Nobel H. Getchell Library, University of Nevada, Reno, NV 89507.
James R. Dickenson Library, University of Nevada, Las Vegas, NV 89154.
Western Nevada Community College Library, 813 North Carson, Carson City, NV 89701.
Clark County Community Colelge Library, 737 North Main, Carson City, NV 89101.
Clark County District Library, 1401 East Flamingo Road, Las Vegas, NV 89101.
North Las Vegas Municipal Library, 2300 Civic Center Drive, North Las Vegas, NV 89030.
Tonopah Public Library, Tonopah, NV 89049.
U.S. Atomic Energy Commission, Nevada Operations Tech Library, 2753 Highland, Box 14100, Las Vegas, NV 89114.
Nellis Air Force Base Library, FL 4852, Las Vegas, NV 89191.

For further information, contact Captain John Dobson, CEC, USN, Naval Electronics System Command, Code 011F, Washington, D.C. 20360, telephone number 202–692–8863.

Dated: March 7, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.77–7154 Filed 3–9–77;8:45 am]

SEAFARER ELF COMMUNICATIONS SYSTEM: NEVADA, SITE SELECTION AND PROPOSED TEST OPERATIONS

Public Hearing and Availability of Draft Environmental Impact Statement

Notice is hereby given that a public hearing will be held for the purpose of providing the public with relevant information on site selection and proposed test operations, at the Nellis Air Force Range, Nevada, for the Seafarer Extemely Low Frequency (ELF) Communications System, and to afford the public an opportunity to present their views on the Navy's proposed Seafarer project. The hearing will be held on March 28 and 29, 1977, at the Clark County School District Education Center (in the Board Room), 2832 East Flamingo Road, Las Vegas, Nevada. The hearing will commence at 7:00 p.m. and terminate at 11:00 p.m. The hearing will be conducted by Captain John Dobson, U.S. Navy, and will include a project presentation explaining the Navy's proposed action, a system description, a site-dependent environmental impact summary, alternatives, proposed Navy recommendations, and the proposed program plan for the future.

This hearing is being held in Las Vegas, Nevada because the Nellis Air Force Range is one of three candidate areas considered for building a Seafarer test facility, conducting ELF communications experiments, and developing appropriate construction criteria and operational methods to ensure maximum environmental protection in the event an operational Seafarer system is built on the Nellis Air Force Range at some future time.

Seafarer is principally an unusually large transmitting antenna system consisting of many insulated cables buried in a grid pattern. The system's principal purpose is to facilitate communications with submerged submarines.

The following procedures will be followed during the public hearing. Individual speakers will be limited to three minutes with five minutes for a group spokesman for each recognized group. There will be no relinquishing of time by one speaker to another. Written pre-registration is required by persons and organizations who wish to present their views, accompanied by the name and title of the expected speaker for each organization. Individuals and organizations who wish their statements to be included in their entirety in the hearing record are requested to provide written statements. The closing date for including written communications in the hearing record is April 8, 1977.

Anticipated environmental effects are available for review in the Seafarer Elf Communications System Draft Environmental Impact Statement for Site Selection and Test Operations (Naval Electronic System Command, February, 1977). Copies of this statement are available at the following locations:

Nevada State Library, Carson City, NV 89701.
Nobel H. Getchell Library, University of Nevada, Reno, NV 89507.
James R. Dickenson Library, University of Nevada, Las Vegas, NV 89154.
Western Nevada Community College Library, 813 North Carson, Carson City, NV 89701.
Clark County Community College Library, 737 North Main, Carson City, NV 89101.
Clark County District Library, 1401 East Flamingo Road, Las Vegas, NV 89101.
North Las Vegas Municipal Library 2300 Civic Center Drive, North Las Vegas, NV 89030.
Tonopah Public Library, Tonopah, NV 89049.
U.S. Atomic Energy Commission, Nevada Operations Tech Library, 2753 Highland, Box 14100, Las Vegas, NV 89114.
Nellis Air Force Base Library, FL 4852 Las Vegas, NV 89191.

For further information, contact Captain John Dobson, CEC, USN, Naval Electronics System Command, Code 011F, Washington, D.C. 20360, telephone number 202–692–8863.

Dated: March 7, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.77–7153 Filed 3–9–77;8:45 am]

Office of the Secretary

CHEMICAL PROPULSION ADVISORY COMMITTEE

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463) announcement is made of the following committee meeting:

Name: JANNAF Advisory Working Group on Safety and Environmental Protection.
Date: April 5–7, 1977.
Place: John F. Kennedy Space Center, VAB Bldg., Room 1055, Florida.
Time: Initial meeting 8:30 a.m., April 5th.
Proposed agenda: Presentations on current government programs on launch vehicle effects on the environment, occupational hazards of propellants, risk analysis methodology, and hazards evaluation. Committee meetings will also include review of waste disposal of propulsion related materials, atmospheric dispersion of hazardous products, new transportation regulations regarding hazardous materials and explosive material test criteria.
Purpose of the meeting: The working group endeavors to define the nature and extent of hasards to personnel and to the environment of all aspects of propulsion systems, from manufacture to launch; the goal is to provide guidelines for safe management of those activities and processes and for the prevention of catastrophic incidents, and also to identify needed research programs for environmental protection.

Meeting of the Advisory Working Group is open to the public. Public attendance, depending on available space, may be limited to those persons who have notified the Advisory Working Group chairman in writing at least three (3) days prior to the meeting, of their intention to attend.

Any member of the public may file a written statement with the Working Group chairman before, during, or after the meeting. To the extent that time permits, the committee chairman may allow public presentation of oral statements at the meeting.

All communication regarding this Advisory Working Group should be addressed to Dr. Harold J. Gryting, Code 3242, Naval Weapons Ctr., Applied Research & Processing Div., China Lake, CA 93555.

Dr. H. J. GRYTING,
Naval Weapons Center, Code 3242, Chairman, JANNAF Safety and Environmental Protection Working Group.

[FR Doc.77–7041 Filed 3–9–77;8:45 am]

Defense Logistics Agency

PRIVACY ACT OF 1974

Amendment to a Record System

In FR Doc. 76–22249 published in the FEDERAL REGISTER (41 FR 32249) of August 2, 1976 and also in Privacy Act Issuances, 1976 Comp, Vol. II, p. 316, the Defense Logistics Agency set forth a record system as prescribed by subsection 3(e) (4) and (11) of the Privacy Act of 1974 (Pub. L. 93–579, 5 U.S.C. 552a). This record system is identified as S155.53DCAS–NS, entitled "Industrial Personnel Security Clearance File."

Notice is hereby given that the Defense Logistics Agency is amending this record system. The proposed changes therein are not deemed to fall within the provisions of Office of Management and Budget (OMB) Circular No. A–108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974. This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

Following the brief identification code of the record system and the specific changes made therein, the complete revised record system, as amended, is published in its entirety.

Interested persons are invited to submit comments, including written data, views, or arguments concerning the proposed changes to the System Manager identified in the record system notice on or before April 11, 1977. The record system will be effective as proposed without further notice, April 11, 1977, unless comments are received which result in a contrary determination and requiring republication for further comments.

S155.53DCAS–NS

System name: S155.53 Industrial Personnel Security Clearance File.

Changes: Categories of records in the system: Insert "control records" after Overseas Security Eligibility and insert "adjudication suspense records"; after revocation or denial of security clearance. Authority for maintenance of the system: Add "as amended by Executive Order 10909."

Routine uses of records maintained in the system including categories of users and the purposes of such uses: Delete "The manual system also contains suspense records for cases in adjudication and Overseas Security Eligibility control records. Access to this record is permitted only to personnel of the Defense Industrial Security Office or authorized Federal Government investigative agency personnel during an official investigation," and insert "Disclosure of this record is permitted only to personnel of the Department of Defense involved in the industrial personnel security clearance process or to a legally constituted law enforcement activity within or under the control of the United States when (i) a violation of law, relative to the purpose of the security clearance program is suspected, or (ii) requested by the head of the law enforcement activity or his designated representative provided that the portion of the record desired is specified and the law enforcement activity identified. Disclosure of foreign travel information contained in the record will be permitted to Federal Government investigative agency personnel for a civil or criminal law enforcement activity.

Record access procedures: At the end of the paragraph add "A record may also be released by mail in those cases where the requester has provided an original notarized authorization for such release."

S155.53.DCAS–NS

System name:

155.53 Industrial Personnel Security Clearance File.

System location:

Defense Industrial Security Clearance Office, Defense Construction Supply Center, P.O. Box 2499, Columbus, Ohio 43216.

Categories of individuals covered by the system:

Employees of Government contractors who have been issued, now possess, or are in process for personnel security clearances, including Overseas Security Eligibilities.

Categories of records in the system:

Information contained in each record in the automated portion of the system may include: name of the individual; aliases; maiden name; date of birth, place of birth; Social Security Account number; name and address of employer; level of security clearance granted; date security clearance granted; type of investigation; date of investigation; identity of investigating agency; file or case number; location of file; record of Communication Security (COMSEC) security clearance and sequential record of security clearance terminations, transfers and reinstatements.

Information contained in each record in the manual portion of the system may contain the original application for, security clearance (Personnel Security Questionnaire); a copy of the personal security investigation; a record of security clearance; record of COMSEC security clearance; Overseas Security Eligibility; Control records; foreign travel reports; all correspondence concerning the processing of the initial clearance, termination, reinstatement, transfer, emergency suspension, revocation or denial of security clearance; adjudication suspense records; adverse information reports; security violation reports; and internal Government correspondence interoffice memoranda relative to the security clearance process.

Authority for maintenance of the system:

Presidential Executive Order 10865 as amended by Executive Order 10909, both titled, Safeguarding Classified Information Within Industry.

Routine uses of records maintained in the system, including categories of users and the purposes of such usese.

The automated portion of the system is retained as a central record of industrial security clearances granted. Access to this record is restricted to authorized Defense Logistics Agency employees. The Defense Industrial Security Clearance Office will verify Security clearance status only to cleared Department of Defense contractors and authorized Government agencies. Also on occasion, the clearance record may be used to reconcile security clearance records maintained by the individual's employer.

The manual portion of the system serves as a central repository for all hard copy material concerning an applicant for industrial security personnel clearance. All information contained in this record is used to back up the security clearance determination. Disclosure of this record is permitted only to personnel of the Department of Defense involved in the industrial personnel clearance process or to a legally constituted law enforcement activity within or under the control of the United States when (1) a violation of law relative to the purpose of the security clearance program is suspected, or (ii) requested by the head of the law enforcement activity or his designated representative provided that the portion of the record desired is specified and the law enforcement activity identified. Disclosure of foreign travel information contained in the record will be permitted to Federal Government investigative agency personnel responsible for civil or criminal law enforcement activity.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Automated Records are maintained in computer disc packs, magnetic tapes, and associated data processing files used to initially build or update the master file. The individual records in the manual part of the system are microfiche, 5 x 8 cards and hard copy paper records maintained in file folders.

Retrievability:

Automated records are accessed by individual Social Security Account number. Computerized indices are required to retrieve records from the system. Manual Records are accessed by Social Security Account number or alphabetically by name.

Safeguards:

In the automated part of the system special codes, available only to authorized Defense Logistics Agency personnel, are required to access records by means of cathode ray tube readers located only in the Defense Industrial Security Clearance office area. Access to the manual records is limited to authorized personnel

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of the Defense Industrial Security Clearance Office. The Defense Industrial Security Clearance Office area is on a military controlled installation and segregated from other Government operational areas. All visitors are badged and escorted. During nonworking hours the entire area is secured and protected by a perimeter alarm system and roving guard patrols, motorized and on foot.

Retention and disposal:

The automated records are retained for 25 months following the termination of a security clearance. A record concerning an individual is retained, following termination, until the individual would reach the chronological age of 80 years in those cases where adverse information is existent or the clearance is terminated because of the death of the holder. Destruction is accomplished through degaussing the disc pack entry or magnetic tape. Retention of the manual records is authorized for 30 years after the date of the last action; however, records are purged 10 years after the date of the last action. Destruction is by burning. Microfiche records are updated at approximately 30-day intervals and superseded records are burned.

System manager(s) and address:

The Official responsible for policies and procedures governing this system is the Chief, Office of Industrial Security, Defense Contracts Administration Services, Defense Supply Agency. Operational management of the system is exercised by the Chief, Defense Industrial Security Clearance Office.

Notification procedure:

An individual who wishes to be notified if the system contains a record about him or her should direct the request to the Chief, Defense Industrial Security Clearance Office, Defense Construction Supply Center, P.O. Box 2499, Columbus, Ohio 43216. Requests must contain the full name, date and place of birth and Social Security Account number. An individual may also visit the Defense Industrial Security Clearance Office to determine if the system contains a record pertaining to him or her. For visits to the Defense Industrial Security Clearance Office the individual must present proof of identity such as birth certificate, driver's license, or employee identification card, and proof of Social Security Account number.

Record access procedures:

An individual can obtain access to or a copy of any record pertaining to him or her, except for the personnel security investigation, by directing a request to the Chief, Defense Industrial Security Clearance Office, Defense Construction Supply Center, P.O. Box 2499, Columbus, Ohio 43216. Requests for personnel security investigations will be promptly referred to the appropriate investigative agency which is authorized to release the record. A record can be released at the Defense Industrial Security Clearance Office, Columbus, Ohio or through one of the 9 Regional Offices of Industrial Security or a Field Office of any Regional Office of Industrial Security. A release will take place at the Office of Industrial Security nearest the residence or place of employment of the requester. The 9 Regional Offices of Industrial Security are located in Atlanta, Boston, Chicago, Cleveland, Dallas, Los Angeles, New York, Philadelphia, and St. Louis. A record may also be released by mail in those cases where the requester was provided an original notarized authorization for such release.

Contesting record procedures:

The Agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the Systems Manager, the Chief, Office of Industrial Security.

Record source categories:

The sources of information contained in a record are the employer and the Defense Investigative Service which is responsible for conducting personnel security investigations.

Systems exempted from certain provisions of the act:

Information contained in records, which would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to 27 Sept. 1975, under an implied promise of confidentiality, is exempt from disclosure under the provisions of subsection (k) (5) of the Privacy Act of 1974. Also, information classified in the interest of national defense may be exempt from disclosure under the provisions of the aforementioned subsection.

Reason: Investigatory material is exempt to the extent that the disclosure of such material would reveal the identity of a source who furnished the information to the Government under an express promise that the identity of the source would be held in confidence, or prior to 27 Sept 1975, under an implied promise that the identity of the source would be held in confidence. This exemption will protect the identities of certain sources who would be otherwise unwilling to provide information to the Government.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MARCH 7, 1977.

[FR Doc.77-7056 Filed 3-9-77;8:45 am]

Office of the Secretary
DOD ADVISORY GROUP ON ELECTRON DEVICES
Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street, 9th Floor, New York, N.Y. 10014 on 5 April 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The AGED will review programs on microwave devices, night vision devices, lasers, infrared systems and microelectronics. The review will include classified program details throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MARCH 7, 1977.

[FR Doc.77-7058 Filed 3-9-77;8:45 am]

DOD ADVISORY GROUP ON ELECTRON DEVICES
Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at 201 Varick Street 9th Floor, New York, N.Y. 10014 on 30 and 31 March 1977.

The purpose of the Advisory Group is to provide the Director of Defense Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MARCH 7, 1977.

[FR Doc.77-7060 Filed 3-9-77;8:45 am]

DEPARTMENT OF DEFENSE WAGE COMMITTEE
Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, March 3, 1977; Tuesday, May 10, 1977; Tuesday, May 17, 1977; Tuesday, May 24, 1977; and Tuesday, May 31, 1977 at 9:45 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower and Reserve Affairs) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are concerned with matters listed in section 552b. of Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b.(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 U.S.C. 552b.(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meetings will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 522b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 522b.(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, The Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MARCH 7, 1977.

[FR Doc.77-7057 Filed 3-9-77;8:45 am]

Office of the Secretary
DDR&E HIGH ENERGY LASER REVIEW GROUP (HELRG)
Closed Meeting

Pursuant to the provisions of Section 10 of Appendix I, Title 5, United States Code, notice is hereby given that closed meetings of the DDR&E High Energy Laser Review Group will be held at 0830 on Monday and Tuesday, 18-19 April 1977, in Livermore, California. The purpose is to review matters pertaining to the Department of Defense high energy laser program.

The entire meeting will be devoted to a discussion of classified information as defined in subparagraph (1) of Section 552b(c) of Title 5 of the U.S. Code, and therefore will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MARCH 7, 1977.

[FR Doc.77-7103 Filed 3-9-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION
LIQUID METAL FAST BREEDER REACTOR (LMFBR) STEERING COMMITTEE
Meeting

MARCH 7, 1977.

Pursuant to provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the LMFBR Steering Committee will hold a meeting on March 25, 1977, at the Holiday Inn—Georgetown, 2505 Wisconsin Avenue NW., Washington, D.C., Room Palor A&B. The meeting will be open to the public and will begin at 10:00 a.m.

The following agenda items will be discussed:

10:00 to 10:15—Opening remarks by Robert D. Thorne, Acting Assistant Administrator for Nuclear Energy.

10:15 to 11:45—Briefing on Ford Foundation sponsored report.

NUCLEAR POWER ISSUES AND CHOICES

11:45 to 12:45—Recess for lunch.

STATUS OF ISSUES BEING EXAMINED

12:45 to 1:45—Breeder—Why and When; Role of Clinch River Demonstration Plant (CRBR) by Eric Beckjord, Director, Division of Reactor Development and Demonstration (RDD).

1:45 to 2:45—Alternative Concepts, Use of Foreign Technology and Alternative Programs by Lee Everett, President, Philadelphia Electric Company.

2:45 to 3:15—Resources, Fuels and Fuel Cycle; Proliferation Aspects by George W. Cunningham, Acting Deputy Assistant Administrator for Nuclear Energy.

3:15 to 3:30—CRBR Cost Estimate by Richard Passman, Deputy Director for Projects, RDD.

3:30 to 3:45—Facilities and R&D Support by Carl Backlund, Assistant Director, Facilities and Operations, RDD.

3:45 to 4:00—Financial Impacts and Economic Assessments by Kerry Dance, Planner, Office of the Assistant Administrator for Nuclear Energy.

4:00 to 5:00—General Discussion.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business. With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on March 24, 1977, to the Office of the Acting Assistant Administrator for Nuclear Energy (202) 376-4778 between 8:30 a.m. and 5:00 p.m., eastern time.

(b) Questions at the meeting may be propounded only by members of the Steering Committee and ERDA Officials assigned to participate with the Committee in its deliberations.

(c) Seating to the public will be made available on a first-come, first-serve basis.

(d) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(e) Copies of the minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77-7195 Filed 3-9-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY
[FRL 696-3; OPP-50268A]
DEPARTMENT OF THE INTERIOR
Issuance of Experimental Use Permit To Use Sodium Cyanide in M-44 Devices

On December 6, 1976, the Environmental Protection Agency (EPA) announced in the FEDERAL REGISTER (41 FR 53370) the receipt of an application from the Fish and Wildlife Service of the U.S. Department of the Interior (USDI) for an experimental use permit allowing for the use of approximately 443.9 grams of sodium cyanide in the M-44 device. The permit was requested to evaluate the response of coyote populations to

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scent-station lines before and after removal of known numbers of coyotes. The program was to be carried out in the States of Arizona, California, Nebraska, Texas, and Utah. Since the Administrator, EPA, determined that issuance of the permit might be of regional or national significance, interested parties were invited to submit written comments regarding the application. A total of six (6) comments were received, all of which supported the proposed experimental program. Five of the comments were from various Wool Growers Associations and the sixth was from a Sheep and Goat Raisers' Association.

Based on the comments received and other available information, an experimental use permit has been issued to the Fish and Wildlife Service of the USDI, Washington, DC 20240. Such permit is in accordance with, and subject to, the provisions of 40 CFR 172 (section 5) of the amended Federal Insecticide, Fungicide, and Rodenticide Act (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.); Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 6704-EUP-12) allows the use of 443.9 grams of the predacide sodium cyanide to determine the response of coyote populations to scent-station lines before and after removal of known numbers of coyotes, as stated previously, and to relate the scent-station index to absolute numbers of coyotes. A total of 200 stations will be involved. The program is authorized only in the States of Arizona, California, Nebraska, Texas, and Utah. The experimental use permit is effective from January 28, 1977, to December 31, 1977.

Interested parties wishing to review the experimental use permit are referred to Rm. E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. This file will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: March 1, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-7039 Filed 3-9-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 21090, 21131]

ALI HASSAN

Order of Consolidation Designating Hearing

Adopted: February 28, 1977.

Released: March 7, 1977.

In the matters of the application of Ali Hassan, 6043 Third Avenue, Los Angeles, California 90043, (Docket No. 21090); for amateur radio station and (Technician Class) operator licenses, and order to show cause why the license for Radio Station KFN-4952 in the citizens band radio service should not be revoked, (Docket No. 21131).

The Chief, Safety and Special Radio Services Bureau, pursuant to delegated authority, has under consideration an Order released February 8, 1977, designating the above-captioned application for hearing and also an Order to Show Cause (SS-146-77) released February 1, 1977, 42 FR 9207, directing Ali Hassan to show cause why the license for Citizens Band radio station KFN-4952 should not be revoked.

It appears, that respondent has stated in writing to the Commission that he desires a hearing on both the application and the Order to Show Cause.

It further appears, that the order designating the application for hearing and the Order to Show Cause involve the same respondent and substantially the same issues.

Accordingly, consolidation of these proceedings will be conducive to the proper dispatch of business and to the ends of justice.

It is ordered, Pursuant to § 1.227 of the Commission's rules, that the proceeding on the issues specified in the Commission's Order designating Hassan's application for hearing, released February 8, 1977, and the proceeding on the issues raised in the Order to Show Cause, released February 1, 1977, are consolidated for hearing.

It is further ordered, That with respect to the application the burden of proceeding with the introduction of evidence on issue (1) is on the Bureau and the burden of proof on all issues shall be upon the applicant.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof with respect to all issues raised in the Order to Show Cause shall be upon the Bureau; and

It is further ordered, That a copy of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to Hassan at his address of record as shown in the caption.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

[FR Doc.77-7107 Filed 3-9-77;8:45 am]

TELEPHONE COMPANY, INC., ET AL.

Closed Meeting

MARCH 7, 1977.

The Federal Communications Commission will hold a closed meeting on Tuesday, March 15, 1977, for the purpose of issuing instructions to the staff immediately following oral argument on the exceptions to the Initial Decision in The Telephone Company, Inc.—A. W. Brothers proceeding (Docket Nos. 20155-77, 20211). This proceeding involves applications, construction permits, licenses and activities of The Telephone Company, Inc., Arthur W. Brothers and The Silver Beehive Co. in eight categories of service.

Oral argument at which the public is invited is scheduled to start at 2 p.m. in Room 856, 1919 M Street NW., Washington, D.C. (see News Release of February 10, 1977, Report No. 12686). The closed meeting will take place in Room 814 at the same address after the oral argument is concluded.

This meeting is closed to the public because it concerns the disposition of a particular adjudicatory proceeding (see 47 CFR 0.603(j)).

The following persons are expected to attend this closed meeting:

Commissioners
Assistants to Commissioners
Messrs Bell, Deitrick, Branse and Warren of the Office of Opinions and Review
Mr. Christopher, Office of General Counsel
The Secretary
Court Reporter from CSA Reporting Corp.

If additional information is required concerning this closed meeting, it may be obtained from Samuel M. Sharkey, FCC Public Information Officer, telephone number (202) 632-7260.

Action by the Commission March 4, 1977. Commissioners Wiley (Chairman), Lee, Hooks, Quello, Washburn, Fogarty and White voting to hold a closed meeting.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-7108 Filed 3-9-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CONSTRUCTION ADVISORY COMMITTEE

Renewal

This notice is published in accordance with the provisions of section 7 of the Office of Management and Budget Circular No. A-63, as amended. Pursuant to section 14(a) (2) (A) of the Federal Advisory Committee Act (FACA) and following consultation with the Office of Management and Budget, notice is hereby given that it is in the public interest, in connection with the performance of the duties imposed on the Federal Energy Administration by law, to renew the Construction Advisory Committee.

A description of the nature and purpose of this Committee is contained in its Charter which is published below.

Dated: March 7, 1977.

JOHN F. O'LEARY,
Administrator.

CONSTRUCTION ADVISORY COMMITTEE CHARTER

A. *Establishment.* The Administrator, Federal Energy Administration (FEA), having determined, after consultation with the Director, Office of Management and Budget, that the establishment of an advisory committee to provide FEA with advice concerning the construction industry as it relates to accomplishment of established national energy objectives is in the public interest in conection with duties, imposed on the FEA by law hereby establishes the Construction Advisory Committee pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

B. *Duties, Functions, and Administrative Provisions.*—1. *Objectives and scope.* The objectives of the Construction Advisory Committee are to provide the Administrator, FEA, with advice concerning the design and implementation of FEA policies and programs affecting the construction industry and its impact on national energy objectives.

2. *Committee tenure.* In view of the goals and purposes of the Committee, it will be expected to continue for the duration of FEA.

3. *Official to whom Committee reports.* The Committee will report to the Administrator, FEA.

4. *Committee duties.* The duties of the Committee are solely advisory and are stated in Paragraph 1 above.

5. *Support activities.* Necessary support shall be furnished by the Federal Energy Administration.

6. *Estimated annual operating costs.* The estimated anual operating costs for the Committee are $19,400 and will involve approximately ½ man-years of staff support.

7. *Meetings.* The Committee will meet approximately 4 times a year.

8. *Effective date and duration.* The renewal of this Advisory Committee is effective upon filing the Charter with the standing committees of Congress having jurisdiction of the FEA. The Committee will terminate December 31, 1977.

9. *Subcommittees.* The Construction Advisory Committee shall have subcommittees as follows:

a. Energy Conservation Subcommittee
b. Oil and Gas Regulation Subcommittee
c. Construction Labor Availability Subcommittee
d. Construction Materials Allocation Subcommittee
e. Central Clearing House for Construction Projects Subcommittee

The objective of these Subcommittees is to make recommendations to the parent Committee with respect to matters concerning construction aspects of FEA policies and programs.

The Subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee.

All actions of the Subcommittees shall be consistent with the provisions of B-1 through B-11.

10. *Members.* Committee members shall be appointed by the Administrator of the Agency and that appointment shall be subject to review every 365 days, unless earlier terminated. Members may be reappointed to an additional term following review.

11. *Election of Chairman and/or Vice Chairman.* The Chairman and/or Vice Chairman shall be annually appointed by the Administrator or, upon the Administrator's request to the Committee, elected by the Committee members, subject to the approval of the Administrator.

[FR Doc.77-7125 Filed 3-7-77;3:59 pm]

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

Meeting

MARCH 4, 1977.

Pursuant to section 10(a) of Pub. L. 92-463, entitled the Federal Advisory Committee Act, notice is hereby given of the meeting of the Federal Savings and Loan Advisory Council on Sunday, Monday, Tuesday and Wednesday, April 17, 18, 19, and 20, 1977. The meeting will commence at 9 a.m. on April 18-20. The locations of the meetings are listed below.

SUNDAY, APRIL 17

5:30 p.m.—Indoctrination meeting for new members.

MONDAY, APRIL 18

9:30 a.m., Convention Level, Hyatt Regency Washington—Collateral pledged on advances; Membership in Federal Home Loan Bank System for financial institutions other than savings and loans; relationship of 5 percent averaging requirement to lending powers; FmHA 90-10 home loan program; Review of board response to recent urban lending regs.

2 p.m., Federal Home Loan Bank Building—Review of financial reporting requirements: a. Reverse repurchase agreements, b. Valuation reserves; Eliminate maximum maturities on certificate savings accounts. Study impact of taxation on mortgage lending programs; Membership in Federal Home Loan Bank System for financial institutions other than savings and loans; Savings account advertising; Loans to affiliated persons; amend non-installment mortgage loan regs.

TUESDAY, APRIL 19

9 a.m., Federal Home Loan Bank Building—Continued discussion of Monday afternoon topics.

2 p.m., Convention Level, Hyatt Regency Washington—General discussion.

WEDNESDAY, APRIL 20

9 a.m., Convention Level, Hyatt Regency Washington—General discussion.

The meeting of the Federal Savings and Loan Advisory Council is open to the public.

GARTH MARSTON,
Chairman.

[FR Doc.77-7105 Filed 3-9-77;8:45 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to 46 CFR Part 542 and Section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01011	Aktieselskabet Det Ostasiatiske Kompagni: *Samos, Bogota.*
01017	Westfal-Larsen & Co. A/S: *Star Fjellanger.*
01058	States Steamship Co.: *Oregon.*
01150	Chevron Transport Corp.: *George A. Davidson.*
01196	Vaboens Rederi A/S: *Herulv.*
01351	The Hadley Shipping Co., Ltd.: *Clyde Bridge.*
01362	Chevron Tankers (Nederland) N.V.: *Chevron Leiden.*
01453	Alden Shipping Co., Ltd.: *Volnay.*
01700	Roston Maritime Corp.: *Altis.*
01712	Nereide S.P.A. di Navigazione: *Kudu.*
01713	Egeria S.P.A.-Palermo: *Gherenuk.*
01715	Alcione S.P.A.-Palermo: *Amalfi.*
01818	Houston Line Ltd.: *Clan Robertson, Clan Ramsay.*
01886	Navigas, S.A.C.I.M.: *Lavoisier.*
01965	Astro Vallente Cia. Nov. S.A. of Panama: *Emmanuel Colocotronis.*
01995	Rederi AB Disa: *Korshamn.*
02043	Suomen Tankkilaiva Oy-Finska Tankfartyga AB: *Wilke.*
02317	Gotaas-Larsen A/S: *Golar Tryg.*
02597	Vergocean Steamship Co., Ltd.: *Sea Moon.*
02667	Transatlantic Reederei Schmidt & Co. K.G.: *Cassiopeia.*
02198	The Peninsular & Oriental Steam Navigation Co.: *Maloja, Mantua.*
02205	Compagnia Armatoriale Italiana: *Graziella Zeta.*
02442	Angfartygs Aktiebolaget Alfa: *Agneta, Margareta.*
02458	The China Navigation Co., Ltd.: *Shansi, Soochow.*
02877	Nippon Yusen K.K.: *Iwate Maru.*
02961	Kobe Kisen Kabushiki Kaisha: *Hozan Maru.*
03077	Bulk Food Carriers, Inc.: *Henry O.*
03137	Cunard Steamship Co. Ltd.: *Teeside Clipper, Glasgow Clipper.*
03214	Saleninvest AB: *Sea Sapphire.*
03245	Rederiaktieselskabet Dannebrog: *Fredensborg, Brattingsboro, Billesborg, Clasonsborg.*
03293	Maritime Fruit Carriers Co. Ltd.: *Guava.*
03315	Afran Transport Co.: *Gulf Finn.*
03319	Transocean Transport Corp.: *Transocean Transport.*
03320	Botelho Shipping Co.: *Maria Rosello.*
03357	Kirno Hill Corp.: *Simandou.*
03367	Compania De Navegacion "IRA" S.A.: *Integrity.*
03389	Shell Tankers, B.V.: *Philine, Kosicia, Kara.*
03614	A/S Kristian Jebsens Rediri: *Brooknes.*
03727	Continental Oil Co.: UM-901, UM-902.
03971	Korea Shipping Corp.: *Crystal Laurel.*
04235	Bollinger & Boyd Barge Service, Inc.: Z-62.
04357	Koninklijke Nedlloyd B.V.: *Wonodato, Balong.*
04398	Hapag-Lloyd Aktiengesellschaft: *Roland Bremen.*
04423	Marcona Carriers Ltd.: *Marcona Pathfinder.*
04647	South African Sugar Carriers (PTY) Ltd.: *Sugela.*

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Certificate No.	Owner, Operator and Vessels
04810---	Gotaas-Larson Argentina S.A.: *Gaucho Laruna, Gaucho Cruz.*
04842---	Universal Dredging Corp.: *Hydro-Pacific, MacLeod, Olympia.*
04870---	Windsor Co. Ltd.: *Windford.*
05098---	ESSO Tankers Inc.: *ESSO Punta Del Este.*
05204---	Steuart Transportation Co.: *Elizabeth S.*
05298---	Erich Drescher: *Wahehe.*
05320---	Madrigal Shipping Co. Inc.: *Slidre.*
05331---	Northland Shipping (1962) Co. Ltd.: *Skeena Prince.*
05441---	Compania De Navegacion Tornado S.A. Panama: *Tornado.*
05481---	Union Partenreederei MS Vegesack: *Vegesack.*
05483---	Union Partenreederei MS Wesermunde: *Wesermunde.*
05500---	Petroleos Mexicanos: *Pemex XXXI, Pemex XXXII, Pemex XXXIII, Pemex XXXIV, Pemex XXXV, Pemex 36, Pemex 37, Pemex XXXVIII, Pemex XXXIX, Pemex XL.*
05520---	Union Carbide Corp.: *CC-512.*
05778---	Sun Schiffahrtsgesellschaft MBH & Co. K.G.: *Southern Sun.*
05815---	Compania Argentina De Navegacion De Ultramar S.A.: *Progresso Argentina.*
05983---	Naviera Astro S.A.: *Angel.*
05998---	Navarino Shipping & Transport Co. Ltd.: *Velocity.*
06374---	Daiei Maritime Co., Ltd.: *Ta Chuan.*
06517---	Viassoil Shipping Co., Ltd.: *Teleniklis.*
06533---	Duro Shipping Co. Inc.: *Maritime Optimum.*
06859---	Tridente Galante Navegacion S.A.: *Santa Maja.*
06960---	Crystal Margaret Inc.: *Crystal Sharon.*
06996---	Akita Senpaku KK.: *Akifuji Maru.*
07004---	Livatho Maritime Corp.: *Eftychia.*
07151---	Sea Containers Chartering Ltd.: *Vento Di Scirocco, Londis, Swift Arrow, Vento Di Maestrale.*
07235---	A/S Songa: *Anja.*
07256---	Tiha Inc.: *Mediterranean Carrier.*
07552---	Partrederiet AF 23 December 1970: *Grete Nielsen.*
07574---	Georgian Shipping Co.: *Aksai.*
07663---	Molave Bulk Carriers, Inc.: *Don Salvador II.*
07694---	Auto Transportation Co. S.A. (Panama) R.P.: *Katrin.*
07772---	Great Eastern Maritime Co., Ltd.: *Monarch.*
07871---	Sdad. Anma. Eduardo Vieira: *Vieirasa Cuatro.*
07872---	Pesqueros Tabelrones, S.A.: *Zamanes.*
07902---	Geomar Shipping S.A.: *Ave Maria.*
07979---	Montenegro Costas, S.A.: *Benigno Montenegro.*
07980---	NEA Eftychia Maritime Co. Ltd. of Cyprus: *Eftychia C.*
08287---	Chandris Tankers Ltd.: *Rania Chandris.*
08328---	Corporacion Venezolana Del Petroleo: *Independencia I, Independencia II.*
08370---	Indiana & Michigan Electric Co.: *F. M. Baker, A. N. Prentice, G. L. Furr, Robert M. Kopper.*
08523---	Pesquera Cies, S.A.: *Perca.*
08530---	Prompt Shipping Corp. Ltd.: *Scotia Career.*
08555---	Universal Towing Co.-D.J. Marine Service, Inc.: *Dredge Flat.*
08599---	Kalamos Compania Naviera S.A. Panama: *Eptanissos.*
08621---	White Star Shipping Co.: *Hopewell.*
08685---	Nomura Kaiun Yugen Kaisha: *Taiyo Maru.*
08737---	Hamesi Maritime Co. Ltd.: *Cretan Flower.*
09243---	Calabria Shipping Co. Ltd.: *Athina.*
09393---	Hongkong Senpaku Co., Ltd. S.A.: *Mikami.*
09429---	Marquez, Alvarez, Gestoso, S.A.: *Tito Marquez.*
09566---	Houshin Kaiun K.K.: *Koshin Maru.*
10094---	Echo Marine, Inc.: *Star J.D. II.*
10107---	Scheepvaart-En Handelmaatschappij Oceaanhandel B.V.: *Arnhem.*
10213---	Val Maritime Ltd.: *Cretan Palm.*
10367---	Caminos y Puentes Federales De Ingresos y Servicios Conexos: *Guaycuru.*
10412---	Channel Bend Corp.: *Texan.*
10699---	Sagitario Internacional S.A.: *Tere.*
10825---	Good Mate Marine Co., Ltd.: *Good Mate.*
11124---	SC Deckships 2 Ltd.: *Khorramshahr.*
11321---	Maritime (Pte.) Ltd.: *Grecnville III.*
11331---	Compostela Islands Shipping Co. Ltd.: *Coral Islands.*
11751---	Tanjong Shipping Inc.: *Belem.*

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-7142 Filed 3-9-77;8:45 am]

LYKES BROS. STEAMSHIP CO., INC. AND TECOMAR, S.A.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 30, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to addue evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

R. J. Finnan, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10289, between the above named parties, is an equipment interchange agreement whereby the parties agree to interchange cargo containers and/or related equipment applicable to Lykes' services between the United States and ports in various overseas areas on the one hand; and Tecomar's services between the United States and ports in Mexico on the other hand.

By Order of the Federal Maritime Commission.

Dated: March 7, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-7141 Filed 3-9-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP77-262]

PANHANDLE EASTERN PIPE LINE CO.

Amendment to Application for Temporary Certificate

MARCH 4, 1977.

Take notice that on March 1, 1977, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, and P.O. Box 1348, Kansas City, Missouri 64141, filed in Docket No. CP77-262 an amendment to its application[1] filed in said docket pursuant to Section 7(c) of the Natural Gas Act by which amendment Applicant requests authorization to provide an alternate point of redelivery of certain volumes transported for the account of Wheeling-Pittsburgh Steel Corporation (Wheeling-Pittsburgh), all as more fully set forth in the amendment to the application which is on file with the Commission and open to public inspection.

In the initial application, Applicant proposes to receive up to 5,000 Mcf of natural gas per day from Northern Natural Gas Company in Kiowa County, Kansas, and redeliver such volumes, less fuel, to Columbia Gas Transmission Corporation, for the account of Wheeling-Pittsburgh, at an existing point of interconnection in Lucas County, Ohio.

Applicant states that it has been advised by Wheeling-Pittsburgh that an alternate point of redelivery is now required for the proposed transportation service. Applicant, therefore, proposes to provide an alternate point of redelivery, which would be accomplished by having Trunkline Gas Company (Trunkline) deliver a portion of the volumes transported, less fuel, to Columbia Gulf Transmission Corporation, for the account of Wheeling-Pittsburgh, at the Exxon Garden City, Louisiana, plant. It is stated that Applicant and Trunkline would exchange the volumes redelivered by Trunkline at an existing point of interconnection in Douglas County, Illinois. It is further stated that there would be no additional transportation charge to Wheeling-Pittsburgh for the volumes redelivered by Trunkline.

It is asserted that Applicant and Trunkline have sufficient capacity available to perform this transportation service, the implementation of which would not serve to diminish the volumes of gas available to their existing customers.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed petitions to intervene, notices of intervention, or protests need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7100 Filed 3-9-77;8:45 am]

[1] The instant application is a telegraphic request. Applicant indicates that it will file a formal application for a permanent certificate under Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79).

[Docket No. RI77-12]

C. A. HURST

Order Granting Petition for Special Relief

MARCH 2, 1977.

On November 22, 1976, C. A. Hurst (Hurst) filed in Docket No. RI77-12 a petition for special relief pursuant to Order Nos. 481 and 551 and Section 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76) with respect to a sale of natural gas to Texas Eastern Transmission Corporation (Texas Eastern) from four wells located in the Siloam Field, Clay County, Mississippi. Subsequently, on January 18, 1977, Hurst filed an amended petition for special relief.

Hurst was issued a small producer certificate on August 23, 1976, in Docket No. CS74-232. Pursuant to a gas sales agreement dated November 18, 1960, Hurst is currently entitled to collect a rate of 23 cents per Mcf plus tax reimbursement for the sale to Texas Eastern. Hurst's petition indicates that reservoir pressures in three of the wells have declined to the extent that additional compression equipment and facilities are required, while the fourth well, which is presently not producing gas, requires a workover and a recompletion operation. Hurst also proposes to perform general maintenance and repair work on the production equipment and the contract acreage. Consequently, Hurst requests that the Commission authorize it to collect 73.6 cents per Mcf for the sale. In a letter to Hurst dated November 15, 1976, Texas Eastern expressed its willingness to amend their contract to a rate authorized by the Commission.

Notice of Hurst's petition for special relief was issued on December 13, 1976, and appeared in the FEDERAL REGISTER on December 17, 1976, at 41 FR 55230. Notice of Hurst's amended petition for special relief was issued on January 28, 1977, and appeared in the FEDERAL REGISTER on February 8, 1977, at 42 FR 7989. Philadelphia Gas Works (PGW) filed a timely petition to intervene.

Based on its analysis of data submitted by Hurst, Staff estimates that 2,084,320 Mcf remain to be produced over a period of five years or more, and concludes that the requested special relief is warranted.[1] After a careful review of the costs to be incurred and the reserves to be recovered, we conclude that it is in the public interest to grant Hurst special relief.

The Commission orders: (A) The petition for special relief, as amended, of Hurst is hereby granted.

(B) Hurst is authorized to collect a rate of 73.6 cents per Mcf at 14.73 psia for gas sold to Texas Eastern from the four subject wells located in the Siloam Field, Clay County, Mississippi, effective on the date of issuance of this order or on the date when both the Cottrell No. 1 Well workover is completed and the new compression equipment and facilities applicable to the four subject wells are installed and made operative, whichever date is later. This authorization is contingent upon Hurst's filing within 30 days of the effective date a statement, signed by Texas Eastern, that the proposed workover has been completed and that the new compression equipment and facilities have been installed and made operative.

(C) PGW is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission; *Provided, however*, That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further*, That the admission of PGW in the manner provided shall not be construed as recognition by the Commission that PGW might be aggrieved because of any order or orders entered in this proceeding, and that PGW agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7109 Filed 3-9-77;8:45 am]

[1] See Appendix A, filed as part of the original document.

[Docket Nos. AB64-2, *et al.*, CI61-618, *et al.*, CI62-704, *et al.*]

AREA RATE PROCEEDING ET AL.

Order Granting Intervention and Rehearing, and Clarifying

MARCH 3, 1977.

Area Rate Proceeding, et al. (Texas Gulf Coast Area), Blanco Oil Company (Operator), *et al.*, and Exxon Corporation.

Shell Oil Company on September 28, 1976, filed an application for rehearing with respect to the Commission's order of September 3, 1976, in the above-entitled proceeding. The Estate of Mrs. James R. Dougherty, et al. (Dougherty) on October 1, 1976, filed a petition to intervene and an application for rehearing with respect to such order. Austral Oil Company on October 12, 1976, filed a petition for clarification. Marathon Oil Company on October 13, 1976, and Hunt Entities on October 22, 1976, filed applications for rehearing and motions for reconsideration, which will be treated as motions for reconsideration because they were not timely as applications for rehearing.

In its order the Commission determined that the appropriate method of computing refunds upon court remand in *Blanco Oil Company* v. *F.P.C.*, 485 F.2d 1036 (CADC 1973) as applied to Blanco and other producers was to use the just and reasonable rate for the period involved as a basis rather than the in-line price where the liability of the producers to make refunds was determined prior to the determination of just and reasonable rates. The Commission reasoned from the decided cases that the in-line prices were designed to fill a gap until just and reasonable prices were determined.

Shell states that on March 20, 1959, it contracted to sell gas from the East Bay Field in Texas Railroad Commission District No. 3 to Florida Gas Transmission Company. Deliveries commenced on October 30, 1959, pursuant to a temporary certificate at an initial rate of 17.5 cents, which was later raised to 18 cents. On September 22, 1965, (Docket No. G-18805) in Opinion No. 475, H. L. Hawkins, 34 FPC 897, the Commission determined the in-line price for Shell's sale to be 16.0 cents per Mcf and issued Shell a permanent certificate which was eventually affirmed in *F.P.C.* v. *Sunray DX Oil Company*, 391 U.S. 9 (1968).

Dougherty is a group of small producers operating under a small producer blanket certificate in Docket No. CS71-446. Dougherty, alleges that the order of September 3, 1976, has had an adverse impact upon it by increasing its refund liability by approximately $133,000 plus interest, and it is listed in Appendix A of the order as being required to make refunds. Under these conditions it is entirely appropriate to grant intervention.

Dougherty recites that on October 3, 1960, it contracted with Natural Gas Pipeline Company of America for the sale of certain gas owned by it at the rate of

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20.045 cents per Mcf. On September 20, 1976, the Commission issued it a temporary certificate at the rate of 18 cents per Mcf and deliveries commenced on March 19, 1961. It was eventually granted a permanent certificate in Opion No. 476, Sinclair Oil and Gas Co., et al., 34 FPC 930, on September 22, 1965, in Docket No. CI67–619 at the in-line price of 16 cents per Mcf, and this was affirmed in Sunray, supra.

Marathon says that the Commission's order of September 3, 1976, has increased its refund liability for the 1961 to 1965 period by approximately $43,000. It has a basic contract dated January 25, 1960, for the sale of gas from the Palacios Field in Texas Railroad District No. 3 at 18.5 cents per Mcf. Sales commenced on August 25, 1962, under a temporary certificate at 18 cents per Mcf. It was granted a permanent certificate in Docket No. CI60–497 at 16 cents per Mcf in the Hawkins case, supra Opinion No. 475.

The Hunt Entities likewise contend that the Commission's order of September 3, 1976, has increased their refund liability by approximately $250,000. They point out that they were all granted authorization which contained no refund conditions prior to the issuance of permanent certificates. They note that in Texas Railroad Commission District No. 2 Lamar Hunt (Operator), et al. in Docket No. CI61–1736 was issued a permanent certificate in Opinion No. 476, supra. Further, in Texas Railroad Commission District No. 3 H. L. Hunt, now the Estate of H. L. Hunt, in Docket Nos. CI61–1221 and CI61–1282, Hassie Hunt Trust, now Hassie Hunt, Inc., in Docket No. CI6–11283, Caroline Hunt Sands, now Caroline Hunt Schoellkopf, in Docket No. CI61–1343, N. B. Hunt in Docket No. CI61–1346, Lamar Hunt Trust Estate in Docket No. CI61–1345 and Caroline Hunt Trust Estate in Docket No. CI61–1344 were issued permanent certificates in opinion No. 475 supra. In Texas Railroad Commission District No. 4 Lamar Hunt in Docket No. CI61–730 was issued a permanent certificate in Opinion No. 422, Amerada Petroleum Corporation, et al., 31 FPC 623 (March 23, 1964).

On May 6, 1971, the Commission in Opinion No. 595 established just and reasonable rates for the Texas Gulf Coast Area[1] and this was affirmed on remand from the Supreme Court.[2] The just and reasonable area rate applicable to Shell, Dougherty and Marathon for periods before January 1, 1965, was 15 cents per Mcf, one cent less than the in-line price.

The applicants argue variously that the Commission's September 3, 1976, order, to the extent it operates to increase previously adjudicated refund obligations under in-line prices is inconsistent with Sunray DX, supra where the Court said 391 U.S. at p. 24, "We therefore consider and hold that an initial price which is authorized in a final, unconditioned permanent certificate is a lower limit below which a refund cannot be ordered under § 4(e)". Also they say that the orders determining the refunds based on the in-line rate were final and the September 3 order is barred by the doctrine of res judicata. Furthermore, they add, even if it is assumed that the Commission has the legal authority to lower the previously approved refund floor, equitable considerations are against the exercise of that authority.

The situation presented here by the applicants was not before the Commission when it issued its order of September 3, 1976. These applicants, like Blanco Oil Company and Exxon Corporation, were first granted temporary certificates and later permanent certificates conditioned so that they were required to sell gas at the in-line rate. They were later required to compute refunds on the basis of the in-line rates but to retain the amounts subject to further order of the Commission.[3] Still later in Opinion No. 595, just and reasonable rates were determined for the Texas Gulf Coast Area. On further consideration of this situation in our opinion the basis of the refunds should be the in-line rates. It is true that the in-line rates were an interim device pending determination of the just and reasonable rates, but the parties had every right to count on them as a refund floor. Any other result under these conditions would be contrary to Sunray DX, supra. Even where the just and reasonable rate is higher we must properly require the use of the in-line rate because we do not believe it equitable to allow producers to take their choice between the just and reasonable rate and the in-line price depending on which method is to their financial advantage.

However, where a permanent certificate has not been granted, the applicable just and reasonable area rate for a rate schedule as determined in the final area rate order is the proper floor for refunds for sales made under temporary certificates with or without refund conditions. But where the temporary certificate holders were subsequently granted permanent certificates at applicable in-line rates and a refund to the in-line rate was ordered, in these circumstances the in-line rate is the proper floor for the refund period involved. This is in accord with Sunray DX, supra, and also with *United Gas Co.* v. *Callery Properties*, 382 U.S. 223 (1965) where it was said "The fixing of an initial 'in-line' price fixes a firm price at which a producer may operate, pending determination of a just and reasonable rate, without any contingent obligation to make refunds should a just and reasonable rate turn out to be lower than the 'in-line' price". We recognize that in the Docket numbers before us, until the order of September 3, 1976, the refunds have not been ordered or paid, but for the periods the temporary certificates were in effect we have determined that the in-line price was to be charged and was to be the basis of refunds.

We are also aware that in the Blanco case, the court had difficulty in understanding why Blanco had not been given the advantage of using the just and reasonable rate as a basis of refunds as had other producers operating under temporary certificates during the same time as Branco. As discussed above, many producers, including Blanco and those directly involved in this order, were granted permanent certificates at in-line rates before just and reasonable rates were available. It was determined in Callery that the Commission could order refunds based on the in-line rates, and that it was in the public interest to do so rather than waiting. In our opinion the fact that the Commission did wait in other cases before granting permanent certificates until the just and reasonable rate was available does not make it discriminatory to include Blanco and others in the in-line based refund group.

Austral requests that the Commission clarify its order to indicate that the Commission intends producers making refunds to offset amounts collected in excess of the base rate in Opinion No. 595 by undercollections. Austral points out that the in-line price was an interim measure used by the Commission to plug the gap before just and reasonable rates were set, and there was no assurance that the in-line rate would bear any semblance to the just and reasonable rate. Further, Austral says, it was required to reduce its rates to the in-line price as the result of the time at which it made its filing for a certificate and the time at which the Commission acted on the filing. If it had not been required to reduce its rates, it says, it would not have done so and it would have been entitled to the Opinion No. 595 rates.

In the opinion of the Commission Austral's request should be denied. Before there was a just and reasonable rate Austral was granted a permanent certificate in Docket No. CI61–427 on September 30, 1965, at the in-line price of 15 cents per Mcf,[4] and on July 25, 1966, was required to make a refund report on amounts collected above the 15 cent price in the certificate.[5] Presumably, Austral continued to collect no more than 15 cents per Mcf until after Opinion No. 595 became effective in 1971. Opinion No. 595 provided, however, that the just and reasonable rate was 17.0 cents per Mcf from January 1, 1965, to September 30, 1968, and 19.0 cents from October 1, 1968, to September 30, 1973, so that Austral would have been collecting less than the just and reasonable rate determined in Opinion No. 595.

As explained in the order of September 3, 1976, the in-line rates were an interim method of regulating producer prices before it was possible to determine just and reasonable rates, and thus Austral was required and did reduce its rate to the in-line level. For the period before January 1, 1965, it happened that the in-line basis or the Opinion No. 595 basis was 15 cents per Mcf. After that date Austral could have charged more than 15 cents if Opinion No. 595 had been issued earlier, but, of course, was not authorized to do so until Opinion No. 595 was issued on May 6, 1971, when it could have started to charge 19 cents per Mcf. Nevertheless, before Opinion No. 595 was issued the 15 cent rate was the filed rate and the legal rate approved by the Commission in issuing the certificate.

While the Commission could excuse part of a refund it could not, in effect, assume that Austral should have charged more and give Austral such a higher charge by an offset against its refund. Not only is the Commission without authority to increase rates but, certainly cannot do it retroactively or permit Austral to file a retroactive increase (See Sections 4 and 5 of the Natural Gas Act; Continental Oil Co., 236 F.2d 839, 843 (CA5–1956), certiorari denied 352 U.S. 966 (1957)); *United Gas* v. *Callery Properties*, 382 U.S. 223, 229 (1965). This in our opinion, is the inevitable consequence of the in-line method of producer regulation, which was necessary before it was possible to prescribe just and reasonable rates. One consequence has been, as discussed above, that the in-line price has become a floor for refunds; it should not now be possible to adjust those rates upward by offsets.

The Commission further finds: (1) Good cause exists to permit Dougherty to intervene in these proceedings.

(2) It is necessary and appropriate that Shell and Dougherty be granted rehearing and that Marathon and the Hunt Entities be granted reconsideration.

The Commission orders: (A) Dougherty is permitted to intervene in this proceeding subject to the rules and regulatons of the Commission; *Provided however*, That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; *Provided further*, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding; and *Provided further*, That the record shall not be reopened for the purposes of this intervenor and Petitioner shall take the record as it finds it.

(B) For producers in the Texas Gulf Coast area with permanent certificates issued before May 6, 1971, the date of issuance of Opinion No. 595, in computing refunds for periods in which temporary certificates were in effect the appropriate in-line price as determined by the Commission shall be used as a basis. Refunds shall cover the period from initial delivery until in-line prices were made effective and collected under the permanent certificates. Interest shall be computed in accordance with the applicable orders and regulations of the Commission. Austral and other producers in computing refunds shall not offset undercollections during certain periods against liability for refunds during other periods.

(C) On or before June 1, 1977, the producers listed in Appendix A of the order of September 3, 1976, less those excluded by the order of October 26, 1976, shall file three copies of a final refund report based on paragraph (B) above unless they have already filed a report based on the order of September 3, 1976, and such report showed the same refund as a report filed under paragraph (B). The report shall show for each rate schedule and each docket separately the amounts required to be refunded with the interest thereon. At the same time the producer shall disburse the refunds, or any additional refunds to the purchaser made necessary by this order and file a copy of a release from the purchaser with respect to such refunds, all subject to the approval of the Commission.

(D) All refunds made pursuant to Ordering Paragraph (C) above shall be coordinated with and reported by the producers under whose rate schedule the sale was made.

(E) On or before August 1, 1977, each purchaser shall submit three copies of a plan for the flow-through of the refunds herein ordered to be disbursed and any refunds previously disbursed and presently being retained by the purchaser, applicabe to jurisdictional sales, indicating the amount payable to each jurisdictional customer, the basis used to compute the amount payable, the periods involved, and the applicable FPC docket numbers. Copies of the flow-through plans shall be served on each of the purchaser's jurisdictional customers and upon interested state regulatory commissions.

(F) Upon notification by the Commissions' Secretary and to the extent directed thereby, purchasers shall proceed with the distribution of refunds to their jurisdictional customers.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–7119 Filed 3–9–77;8:45 am]

[1] Area Rate Proceeding, et al., (Texas Gulf Coast Area), 43 FPC 674 (1971).

[2] *Shell Oil Co.* v. *F.P.S.C. of N.Y.*, 417 U.S. 904 (1974); *Public Service Commission of New York* v. *F.P.C.* 516 F. 2d 746 (CADC 1975).

[3] Shell—H. L. Hawkins, et al., Opinion No. 498, 36 FPC 149, (1966); Dougherty—Sinclair Oil & Gas Company, et al., Opinion No. 545 40 FOC 410, 422–423 (1968); Marathon—H. L. Hawkins et al., Opinion No. 489, supra. Lamar Hunt—Sinclair Oil & Gas Company et al., Opinion No. (CI61–1736) 545, supra; Lamar Hunt—Amerada Petroleum Corp., et al., Opinion No. 501 (CI61–730) 36 FPC 309 (1966); Other Hunt Entities—H. L. Hawkins et al., Opinion No. 498, supra.

[4] Turnbull & Zoch Drilling Co. (Operator), et al., Opinion No. 478, 34 FPC 1001, 1010, 1050 (1965).

[5] Turnbull & Zoch Drilling Co., et al., Opinion No. 499, 36 FPC 164, 167 (1966).

[Docket Nos. RP76–94 and RP76–95]

COLUMBIA GAS TRANSMISSION CORP. AND COLUMBIA GULF TRANSMISSION CO.

Settlement Conference

MARCH 3, 1977.

Take notice that a settlement conference in the above-captioned proceeding will be held on March 15, 1977, starting at 10:00 a.m. in Room 3200, North Building, Federal Power Commission, Washington, D.C. 20426, and on March 16, 1977, in Room 5200 of the Federal Power Commission.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceedings.

All parties will be expected to come fully prepared to discuss the merits of all issues concerning the lawfulness of the proposed rate increase and any procedural matters preparatory to a full evidentiary hearing or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–7116 Filed 3–9–77;8:45 am]

[Docket No. RP76–93]

KENTUCKY WEST VIRGINIA GAS CO.

Certification of Settlement Agreement

MARCH 3, 1977.

Take notice that on February 16, 1977, the Presiding Administrative Law Judge certified to the Commission a proposed Stipulation and Agreement in Settlement of Certain Rate Issues including two appendices filed by Kentucky West Virginia Gas Company on February 15, 1977. The proposed agreement disposes of all issues in the captioned proceeding with the exception of rate of return and related income tax.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before April 1, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–7114 Filed 3–9–77;8:45 am]

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[Docket No. E-9557]

LAC VIEUX DESERT RIPARIAN OWNERS ASSOCIATION, INC. V. WISCONSIN VALLEY IMPROVEMENT CO.

Postponing Public Session

MARCH 4, 1977.

On January 13, 1977, the Federal Power Commission issued notice that a public session would be held at the Court House in Eagle River, Wisconsin beginning at 10:00 a.m. on March 24, 1977, for the purpose of receiving statements of position from interested members of the public regarding matters raised in the April 23, 1976, complaint filed by the Lac Vieux Desert Riparian Owners Association, Inc. (Complainant) against the Wisconsin Valley Improvement Company, Licensee for the Lac Vieux Desert Reservoir, FPC Project No. 2113, said reservoir being located in Vilas County, Wisconsin and Gogebic County, Michigan and constituting the headwaters of the Wisconsin River.

Complainant, by motion filed February 14, 1977, has requested that the public session be postponed for a period of no less than 60 days. It contends that many of its members do not reside at the lake during the winter and early spring, and thus would be unable to attend the public session as now scheduled.

For the reasons advanced by Complainant, we hereby give public notice that the aforementioned public session has been rescheduled to convene at the Court House in Eagle River, Wisconsin beginning at 10:00 a.m. on May 25, 1977 and to continue thereafter until concluded. The issues to be addressed at the public session and the procedures to be followed are identical with those delineated in our aforementioned January 13, 1977 notice. If for any reason any party desiring to be heard is unable to attend this public session in person, he may submit a written statement to be received no later than June 6, 1977, by the Secretary, Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 and such statement will be made a part of the record of the public session.

In addition, Commission Staff will conduct an inspection of the project and those riparian lands allegedly damaged by its operation on the day following the conclusion of the public session. A report detailing the findings of a the staff inspection team shall be filed by July 1, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7118 Filed 3-9-77;8:45 am]

[Docket No. ER77-99]

NEW ENGLAND POWER CO.

Filing

MARCH 3, 1977.

Take notice that on December 7, 1976, New England Power Company (NEP) tendered for filing as an initial rate schedule a System Power—Unreserved Power Contract between NEP and Fitchburg Gas & Electric Company (Fitchburg) dated October 1, 1976.

Fitchburg and NEP have entered into a separate agreement dated as of June 16, 1976 under which, subject to approval of the Securities and Exchange Commission and the Massachusetts Department of Public Utilities, NEP will sell to Fitchburg certain transmission lines, substations and related facilities, and Fitchburg will assume responsibility for providing electric service to certain Industrial Customers which are presently served by NEP over certain of these facilities. The Power Contract being filed provides for the purchase by Fitchburg from NEP of System Power—Unreserved in an amount related to this new industrial load to be served by Fitchburg. The implementation of the Contract is contingent upon consummation of the transfer of the facilities, and the term of the Power Contract will commence on the date when Fitchburg commences supplying electric service to any one or more of the Industrial Customers and extends until October 31, 1980. "System Power—Unreserved" is defined to mean electric power supplied by NEP without specification as to the source of generation, without reserves, and various percentages of which are made available for delivery only at such times as, and to the extent that, specified NEP generating units are generating power on line or available for such generation.

It is possible that the consummation of the transfer of facilities will occur within 30 days of this filing. To the extent that this should be the case, NEP requests waiver of the notice requirements so as to permit the Power Contract to become effective in accordance with its terms.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve as to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7117 Filed 3-9-77;8:45 am]

[Docket No. CP77-243]

SOUTHERN NATURAL GAS CO.

Application for Certificate of Public Convenience and Necessity

MARCH 3, 1977.

Take notice that on February 18, 1977, Southern Natural Gas Company (Southern Natural), P.O. Box 2563, Birmingham, Alabama 35202, filed an application for a certificate of public convenience and necessity to sell gas to Sea Robin Pipeline Company (Sea Robin).

Under a joint venture agreement between Southern Natural and United Gas Pipe Line Company (United), Sea Robin was created for the mutual benefit of the two pipeline systems. The agreement provides that all supplies of gas acquired by Southern Natural and United from non-affiliated producers which lie within the "Area of Mutual Interest" shall be delivered to Sea Robin to be distributed equally to the two pipelines.

Southern Natural entered into a contract with Shell Oil Company (Shell) on August 18, 1976, for the purchase of gas reserves lying within the "Area of Mutual Interest" from Vermilion Block 22, offshore Louisiana. Pursuant to the joint venture agreement, this contract was tendered to and accepted by Sea Robin. Shell has informed the Commission that these reserves will be sold to Southern Natural in partial satisfaction of a warranty sale dated August 3, 1966, between Shell and Southern Natural which was certificated by the Commission in Docket No. CI67-808.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7113 Filed 3-9-77;8:45 am]

[Docket No. RP72-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Availability of Report of the Data Verification Committee and Questionnaire

MARCH 3, 1977

Take notice that on February 28, 1977, Transcontinental Gas Pipe Line Corporation (Transco) filed copies of the report of the Data Verification Committee containing recommendations to the Commission concerning certain data issues the committee has been directed to address by the Commission in Opinion No. 778-A, as modified by Commission orders dated January 14, 1977 and January 18, 1977. The filed report contains a draft of the data questionnaire to be sent to Transco's customers to secure the base period end-use revisions ordered in Opinion Nos. 778 and 778-A. In addition, the report addresses two issues the Commission did not specifically assign the committee: (1) the issue of classification of certain multifamily dwellings and (2) the methodology proposed by Columbia Gas Transmission Company for the preparation of its revised end-use data.

Copies of the report filed by Transco are available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., 20426. Any person desiring to be heard or to comment on the filed report, should file written comments with the Federal Power Commission, Washington, D.C., 20426 on or before March 14, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7115 Filed 3-9-77;8:45 am]

[Docket No. E77-20]

EASTERN SHORE NATURAL GAS CO., ET AL.

Supplemental Emergency Order Pursuant to Emergency Natural Gas Act of 1977

By orders issued February 21 and 26, 1977, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), I authorized Eastern Shore Natural Gas Company (Eastern Shore) to purchase up to 3,500 Mcfd of natural gas at a total price, inclusive of gathering and metering charges, of $2.25 per MMBtu from Clajon Gas Company (Clajon) and to have that gas transported by United Gas Pipe Line Company (United) and Transcontinental Gas Pipe Line Corporation (Transco).[1]

By letter filed March 4, 1977, Eastern Shore advised that McCormick Oil and Gas Corporation (McCormick) and Dow Chemical Company, U.S.A. (Dow), the owners of the Novie Shivers Davis Lease Well No. 1-X, have agreed to sell the production from the well (approximately 1,185 Mcfd) directly to Eastern Shore rather than to Clajon. The proposed price is $1.75 per MMBtu plus severance taxes. The gas will be delivered to Clajon at the wellhead, and Clajon will deliver the gas to United. Clajon will charge a gathering and metering fee of 4.0 cents per MMBtu plus 2.5 percent of the purchase price.

Eastern Shore advises and I find that the gas made available by McCormick and Dow and the transportation of such gas by Clajon will result in commingling of interstate natural gas with Clajon's normal intrastate system gas supply and with volumes of gas owned by other parties. The contractual provisions between Clajon and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supplies with gas moving in interstate commerce. The sale, transportation and delivery of gas for which Eastern Shore seeks approval may result in some commingling of interstate natural gas with Clajon's normal intrastate gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas. Under the provisions of § 9(b), (c) of Pub. L. 95-2 (91 Stat. at 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Clajon or such other parties or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts referred to above are not enforceable by reason of Section 9 of Pub. L. 95-2 since Dow, McCormick and Clajon are selling, delivering and transporting gas for Eastern Shore pursuant to Section 6(a) of that Act. Dow, McCormick and Clajon and any third person whose gas is commingled with Eastern Shore's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Clajon is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1)(A) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *" 91 Stat. at 8. In addition, § 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Dow and McCormick are natural gas companies within the meaning of the Natural Gas Act. Section 6(b)(1)(B) provides that the provisions of the Natural Gas Act shall not apply "to any natural gas company (within the meaning of the Natural Gas Act) solely by reason of any such sale or transportation." Thus, the sale, delivery and transportation of this gas will not subject Clajon, Dow, McCormick or any person supplying gas to Clajon, Dow, and McCormick to the provisions of the Natural Gas Act or to regulation as a common carrier under state law.

Pursuant to Section 6(a) of the Act, I hereby authorize Clajon, Dow and McCormick to sell natural gas to Eastern Shore on the terms and conditions set forth in Eastern Shore's filings in this proceeding. Pursuant to Section 6(c)(1) of the Act, I hereby authorize and order Clajon, United, and Transco to transport gas for Eastern Shore.

To the extent not inconsistent with the provisions of this order, the provisions of the February 21 and 26, 1977 orders in this proceeding remain in full force and effect.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Clajon, Dow, McCormick, United, Transco and Eastern Shore. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 7, 1977.

[FR Doc.77-7161 Filed 3-9-77;8:45 am]

[Docket No. E77-48]

NATURAL GAS PIPELINE CO. OF AMERICA

Emergency Order Pursuant to Emergency Natural Gas Act of 1977

On March 3, 1977, Natural Gas Pipeline Company of America (Natural) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2, (91 Stat. 4 (1977)), an application requesting a determination that Natural may purchase, under Order No. 6, those supplies for which an agreement to purchase had been reached but no formal contract had been executed by February 22, 1977. Natural states that in a number of cases Natural or the seller had expended substantial sums to install facilities in reliance on Order Nos. 2 and 5. For the reasons set forth below, I deny Natural's request subject to certain exceptions.

Order No. 6 specifies that, subsequent to February 22, 1977, no interstate pipeline or local distribution company may execute a contract for the purchase of gas pursuant to section 6 of the Act if, contemporaneously with the execution of the conract, the purchaser was serving directly or indirectly any uses specified in Priorities 4 through 9 (18 CFR 2.78(a)(1)(iv)-(ix)). Order No. 6 is based upon a defined set of priorities and uses rather than upon the priorities specified in the curtailment plans of various pipeline and permits an interstate pipeline or local distribution company to make new emergency purchases only if that company is not serving directly or indirectly certain uses as defined in that set of priorities. This set of priorities was adopted to determine the qualification to execute new contracts for purchases pursuant to section 6(a) of the Act to provide that available emergency supplies are utilized for only the higher priority uses for the near term. Because each of the pipeline curtailment plans approved by the FPC is based upon different priorities it is not practicable to base the qualifying criteria upon those plans. Likewise, qualification may not be based upon what uses would be served if the pipeline's plan were based upo nthe spec-

[1] The subject gas is sold to Eastern Shore by Clajon from the W. A. Cunningham Lease Well No. 1 and the Novie Shivers Davis Lease Well No. 1-X, both in Panola County, Texas.

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ified priorities. Instead qualification to make such purchases must be based upon those uses actually being served to insure the implementation of the policy of Order No. 6.

Natural argues that it and sellers from which it proposed to purchase gas under Section 6 of the Act have demonstrated a detrimental reliance on Orders No. 2 and 5 and that such purchases should be approved under *United Gas Pipe Line Company*, Docket No. E77–33 (March 2, 1977); Docket No. E77–28 (February 26, 1977); *Colorado Interstate Gas Company*, Docket No. E77–31 (February 28, 1977). This argument does not satisfy the criteria of these cases.

In *Colorado Interstate*, the constructed facilities coud have been used only to deliver gas to Colorado Interstate. Natural has not demonstrated that the facilities constructed by it or the seller are designed solely to permit the delivery of gas to Natural and are facilities that would have been constructed to permit sales to any purchaser. In those cases where Natural can demonstrate that expenditures were made to install facilities for the purpose of delivering gas to Natural, Natural has satisfied the *Colorado Interstate* criteria and may purchase such gas supplies notwithstanding Order No. 6.

Furthermore, the sale in *Colorado Interstate* was approved because of not only the construction of facilities which demonstrated that a binding contract had been entered into prior to February 22, 1977, but also a long-term dedication of the remaining reserves to Colorado Interstate at the applicable rate established by the Federal Power Commission. Natural has not stated whether any of its proposed purchases involve long-term sales subseqeunt to the emergency purchase under Order No. 2. If Natural has obtained any such long-term dedications, that gas may be purchased by Natural under the *Colorado Interstate* criteria. It may purchase such gas notwithstanding Order No. 6.

United, Docket E77–31, dealt with a situation where the proposed seller had obtained a formal written release of gas from an existing intrastate contract prior to February 22, 1977. Natural has not demonstrated that any of its proposed purchases involve the release of gas from existing intrastate contracts. Any such gas so released may be purchased by Natural.

Natural also requests that I approve the proposed transportation charges involved in a number of the proposed transactions. Natural's filing contains no information regarding the transportation services to be performed. In such circumstances, I lack the information necessary to determine whether the proposed charges are fair and equitable.

Based on the foregoing, I deny Natural's request that I approve the proposed purchases set forth in the appendix to its filing. Natural's filing lacks the information necessary to determine which of the proposed purchases satisfy the criteria of *Colorado Interstate* and the *United* cases. This denial is without prejudice to Natural's submission of specific information which demonstrates which of the proposed purchases satisfy the criteria of these cases. Natural should submit such information so that the facts relating to each purchase may be fully considered. This order shall remain in effect unless and until Order No. 6 is modified or rescinded.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Natural. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77–7163 Filed 3–9–77;8:45 am]

[Docket No. E77–49]

NORTHERN NATURAL GAS CO.

Emergency Order Pursuant to Emergency Natural Gas Act of 1977

On March 4, 1977, Northern Natural Gas Company (Northern) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application requesting a determination that Northern may purchase, under Order No. 6, those supplies for which the seller had executed formal written contracts prior to February 22, 1977, but Northern had received and executed such contracts prior to that date. Northern further states that it will purchase the subject gas volumes at a price of $2.25 per MMBtu, and thereafter at the applicable national rate under long-term contracts, and that it acquired rights-of-way for these sales.

Northern argues that the subject gas supplies were firmly contracted for prior to February 22, 1977, due to the producers' execution of formal written contracts and Northern's acquisition of rights-of-way. I find that such purchases satisfy the criteria of *United Gas Pipe Line Company*, Docket No. E77–33 (March 2, 1977), and *Colorado Interstate Gas Company*, Docket No. E77–31 (February 28, 1977). Therefore, Northern may make these five purchases notwithstanding Order No. 6. This authority to purchase is condition upon Northern's submission of the means of the producers from which it is purchasing.

Section 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or * * * to any natural gas company (within the meaning of the Natural Gas Act) solely by reason of any such sale * * *." 91 Stat. 4, 8. These provisions are applicable to these sales.

Northern shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Northern. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

March 7, 1977.

[FR Doc.77–7164 Filed 3–9–77;8:45 am]

[Docket No. E77–24]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Supplemental Emergency Order Pursuant to Emergency Natural Gas Act of 1977

On February 22, 1977, I authorized Transcontinental Gas Pipe Line Corporation (Transco), as agent for certain of its customers, to purchase pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), up to 100,000 Mcfd of natural gas from Texas Utilities Fuel Company (TUFCO) at a price not to exceed $3.049 per MMBtu plus transportation costs determined in accordance with the Order.[1] Subsequent to the issuance of that order, TUFCO had advised that all deliveries for the account of Transco will be made to Lone Star Gas Company (Lone Star) at the existing interconnections at Ennis, Texas, rather than at Waha, Gordon, and Ennis, Texas, as set forth in the original application. In addition, Lone Star's transportation charge will be $0.2025 per Mcf not $0.2000 per Mcf.

TUFCO proposes to charge a price of $3.288 based on the following items:

[Per million Btu]	
Oil cost	$2.690
Oil storage cost	.009
Carrying costs on fuel oil	.027
Loss of efficiency	.273
Increased operation and maintenance	.050
Gas system cost	.239
	3.288

I have previously found these items, with the exception of the Gas System Cost, to be fair and equitable. For the reasons set forth below, I find the Gas System Cost to be fair and equitable.

The unit Gas System Cost is the allocated cost per MMBtu of depreciation, amortization, debt service, general and administrative overhead, gas transportation expenses and other costs associated with TUFCO's entire Gas System. This gas system consists of a 36-inch main transmission line, jointly owned by TUFCO and LoVaca Gathering Company, that originates in the Permian Basin, near Waha, Pecos County, Texas, and terminates at Ennis, Texas, and an eastern portion consisting of numerous smaller pipelines originating in numerous fields in a large area of East Texas and connection with the 36-inch line near Ennis, Texas. In addition, TUFCO, or its affiliates, owns and operates gas storage facilities with a capacity of approximately 4,000 MMcf, and owns gas production in fields in West, Central, East and Southeastern Texas.

This Gas System makes the subject volumes available to Transco. The total cost of the Gas System is allocated on an MMBtu basis to all of the electric customers served by the Texas Utilities Company system. The charges to such customers are based solely upon the Btu's used to generate the electric energy consumed by the customers without regard to the distance that the gas is transported. Since this gas system will be used essentially in its entirety to facilitate this transaction and deliver volumes to Lone Star at Ennis for redelivery to Transco, I find it fair and equitable for the purchasers to pay an allocated share of the gas system costs as representative of value of the transportation services rendered through the TUFCO gas system. I find that TUFCO is authorized to recover from Transco for all volumes delivered, at Ennis, a transportation charge of $0.239 per MMBtu.

Inclusive of the Gas System Cost, TUFCO is hereby authorized to sell gas to Transco at a price of $3.288 per MMBtu. Such price is found to be fair and equitable.

The price authorized herein is applicable only to natural gas that is displaced by the burning of fuel oil in accordance with the proposal by TUFCO. By August 1, 1977, the Btu's of fuel oil burned in the facilities of the affiliates of TUFCO shall be compared to the total Btu's of natural gas sold to Transco. Any deficiency in burning of fuel oil as of August 1, 1977, shall be recognized by a refund of the difference between the price authorized herein and $2.25 per MMBtu of deficiency.

TUFCO, LoVaca and Lone Star have agreed to transport this gas and advised that the deliveries can be accomplished through existing intrastate pipeline facilities. Thus, there is no reason to require TUFCO and Lone Star to construct and operate facilities as permitted under Section 6(c)(1) of the Act. TUFCO and Lone Star shall advise the Administrator upon the commencement of deliveries that they have available capacity to transport up to 100,000 Mcf per day for Transco on a best efforts basis, subject to possible system requirements and force majeure.

TUFCO, Lone Star and LoVaca advise and I find that contractual provisions between these companies and their producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supply with gas moving in interstate commerce. The transportation of gas for which Transco seeks approval may result in some commingling of interstate natural gas with these companies' normal intrastate pipeline system gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas and, under the provisions of Pub. L. 95–2, the suppliers of such gas, which is so commingled, may not terminate existing contracts with TUFCO, Lone Star or LoVaca or such other parties, or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or termination provisions in any such contracts as referred to above are not enforceable by reason of Section 9 of Pub. L. 95–2 since TUFCO and Lone Star are selling and transporting gas for Transco pursuant to Section 6(a) of that Act. TUFCO and Lone Star and any third person whose gas is commingled with Transco's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

To the extent not inconsistent with the provisions of this order, the February 22, 1977 order in this proceeding remains in full force and effect.

TUFCO, LoVaca, and Lone Star are hereby authorized and ordered to deliver and transport gas for Transco on the above-stated terms and conditions.

The sale, delivery and transportation of this gas for Transco will not subject TUFCO, LoVaca, and Lone Star to the provisions of the Natural Gas Act or to regulation as a common carrier under state law. Section 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *" 91 Stat. at 8. In addition, section 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrie under any provision of state law.

These provisions are applicable to this sale.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Transco, TUFCO, LoVaca, and Lone Star. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 4, 1977.

[FR Doc.77–7162 Filed 3–9–77;8:45 am]

[1] The order specified that TUFCO's unit average gas system costs were to be apportioned to the volumes delivered to Transco on the basis of fraction equal to the miles transported divided by the total distance from the Waha Field, Pecos County, Texas, to Ennis, Texas.

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 8]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending February 19, 1977

Announcement by Board of Governors of the Federal Reserve System.

ACTIONS OF THE BOARD

Statement of policy concerning divestitures by bank holding companies.

Regulation Z, Board interpretations of Regulation Z—sample lease disclosure statements (Docket No. R–0070).

Monroe County Bank, Sweetwater, Tennessee, proposed merger with Bank of Madisonville, Madisonville, Tennessee, report to the Federal Deposit Insurance Corporation on competitive factors.

SWB Corporation, Oklahoma City, Oklahoma, extension of time to March 21, 1977, within which to consummate the acquisition of Southwestern Bank and Trust Company, Oklahoma City, Oklahoma.[1]

Termination of registration pursuant to Regulation G for Norfolk Production Credit Association, Norfolk, Virginia.[1]

Termination of registration pursuant to Regulation G for Arkansas Best Federal Credit Union, Fort Smith, Arkansas, and for Jackson Purchase Production Credit Association, Mayfield, Kentucky.[1]

Termination of registration pursuant to Regulation G for Holly Sugar Corporation, Colorado Springs, Colorado.[1]

Citizens Bank of Strasburg, Strasburg, Ohio, to make an investment in bank premises.[1]

Citizens Bank and Trust Company, Campbellsville, Kentucky, to make an additional investment in bank premises.[1]

Monroe County Bank, Monroeville, Alabama, to make an investment in bank premises.[1]

Parish Bank & Trust Company, Momence, Illinois, to make an investment in bank premises.[1]

Springfield Marine Bank, Springfield, Illinois, to make an investment in bank premises.[1]

Bank of Holiday, Holiday, Florida, extension of time to March 28, 1977, within which to open its Holiday Mall facility.[1]

Manufacturers Hanover Trust Company Central New York, Ontario, New York, extension of time to establish a branch in the immediate neighborhood of Dewey Avenue and Dobson Road, Town of Greece, New York.[1]

Union Trust Company of Maryland, Baltimore, Maryland, extension of time to February 19, 1978, within which to establish branches in Social Security Administration buildings at 1500 Woodlawn Drive, Woodlawn, and at the intersection of Pratt and Paca Streets, Baltimore, Maryland.[1]

Garden of the Gods Bank, Colorado Springs, Colorado, extension of time to June 3, 1977, within which to accomplish membership in the Federal Reserve System.[1]

Barnett Bank of Daytona Beach, Daytona Beach, Florida, proposed merger with Barnett Bank of Ormond Beach, Ormond Beach, Florida, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

First Forest Hill Bank of Palm Beach County, Palm Beach County, Florida, proposed merger with Citizens Bank of Palm Beach County, West Palm Beach, Florida, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

[1] Application processed on behalf of the Board of Governors under delegated authority.

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Hancock Bank, Hancock, Maryland, proposed merger with The First National Bank of Maryland, Baltimore, Maryland, report to the Comptroller of the Currency on competitive factors.[1]

Preston Road State Bank, Dallas, Texas, proposed merger with Preston State Bank, Dallas, Texas, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Subsidiaries of First Bankers Corporation of Florida, Pompano Beach, Florida, proposed merger with First National Bank of Pompano Beach, Pompano Beach, Florida, report to the Comptroller of the Currency on competitive factors.[1]

Sun First National Bank of Melborne, Melbourne, Florida, proposed merger with Sun First National Bank of Palm Bay, Palm Bay, Florida, report to the Comptroller of the Currency on competitive factors.[1]

To Establish a Domestic Branch Pursuant to section 9 of the Federal Reserve Act.

APPROVED

Endicott Trust Company, Endicott, New York. Branch to be established on Route 434, approximately five hundred feet East of Pennsylvania Avenue, Apalachin, Town of Owego, Tioga County.[2]

Tracy-Collins Bank & Trust, Salt Lake City, Utah. Branch to be established at 1090 North, 500 East, North Salt Lake, Davis County.[2]

To Establish an Overseas Branch of a Member Bank Pursuant to section 25 of the Federal Reserve Act.

APPROVED

Wells Fargo Bank N.A.: re—Branch—Singapore, Republic of Singapore.

To Organize or Invest in a Corporation doing Foreign Banking and other Foreign Financing Pursuant to section 25 or 25(a) of the Federal Reserve Act.

APPROVED

European-American Bank & Trust Company, New York: re—European-American (Chicago) Corporation to become an agreement corporation.

Chemical Bank: re—Issuance of a Final Permit to Chemco International, Inc. to commence business.

International Investments and Other Actions Pursuant to sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Chase Manhattan Overseas Banking Corporation: re—Investment—Additional in Chase Bank (C.I.) Limited, Jersey, Channel Islands.

First Pennsylvania Corporation: re—Investment to continue to hold indirectly the shares of Mataf Industrial and Financial Computing, Limited, Tel Aviv, Israel.

Continental International Finance Corporation:: re—Investment—Additional Shares of Commercial Continental Limited, Australia.

To Form a Bank Holding Company Pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

REACTIVATED

Sheldon Security Bancorporation, Inc., Sheldon, Iowa, for approval to acquire 27.70 percent of the voting shares of Security State Bank, Sheldon, Iowa.[2]

APPROVED

Sheldon Security Bancorporation, Inc., Sheldon, Iowa, for approval to acquire 27.70 percent of the voting shares of Security State Bank, Sheldon, Iowa.[2]

First Bancshares, Inc., Kansas City, Missouri, for approval to acquire 80 percent or more of the voting shares of The First State Bank of Kansas City, Kansas, Kansas City, Kansas.

To Expand a Bank Holding Company Pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956

REACTIVATED

TIC, Inc., Kansas City, Kansas, for approval to acquire an additional 52.82 percent of the voting shares of Tower State Bank, Kansas City, Kansas.

APPROVED

Banks of Iowa, Inc., Cedar Rapids, Iowa, for approval to acquire 80 percent or more of the voting shares of First Trust & Savings Bank, Davenport, Iowa.[2]

Byron B. Webb, Inc., Palmyra, Missouri, for approval to acquire 33.2 percent of the voting shares of Palmyra State Bank, Palmyra, Missouri and to retain an additional 15.8 percent of the voting shares of Palmyra State Bank, Palmyra, Missouri.

TIC, Inc., Kansas City, Kansas, for approval to acquire an additional 52.82 percent of the voting shares of Tower State Bank, Kansas, Kansas.

To Expand a Bank Holding Company Pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956

DELAYED

Sun Banks of Florida, Inc., Orlando, Florida, notification of intent to engage in de novo activities (providing bookkeeping or data processing services for the internal operations of the holding company and its subsidiaries and storing and processing other banking, financial, or related economic data such as performing payroll, accounts receivable or payable, or billing services) at 825 Broadway, Dunedin, Florida and 211 East Silver Springs Boulevard, Ocala, Florida, through a subsidiary, Sunbank Data Corporation (2/15/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (acting as agent or broker for the sale of credit related property insurance) at 5198 South Broadway, Englewood, Colorado, through its indirect subsidiary, FinanceAmerica Corporation (a Colorado Corporation) (2/14/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (acting as agent or broker for the sale of credit related property insurance) at 520 North Madison Avenue, Greenwood, Indiana, through its subsidiary, FinanceAmerica Corporation (an Indiana Corporation), a subsidiary of FinanceAmerica Corporation (2/14/77).[3]

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (acting as agent or broker for the sale of credit related property insurance) at 311 West Street, Tupelo, Mississippi, through its subsidiaries, FinanceAmerica Corporation and FinanceAmerica Industrial Plan, Inc. (Mississippi Corporations), subsidiaries of FinanceAmerica Corporation (2/14/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (acting as agent or broker for the sale of credit related property insurance) at 6910G Montgomery Boulevard N.E., Albuquerque, New Mexico, through its subsidiary, FinanceAmerica Corporation (a New Mexico Corporation), a subsidiary of FinanceAmerica Corporation (2 14 77).[3]

REACTIVATED

Citicorp, New York, New York, notification of intent to engage in de novo activities (consumer home equity lending secured by real estate, making loans for the account of others such as one-to-four family unit mortgage loans; and in regard to the new activities, acting as agent or broker for the sale of credit related life/accident and health insurance and credit related property and casualty insurance as follows: consumer credit related life/accident and health, decreasing of level (in the case of single payment loans) term life insurance to cover the outstanding balances to consumer credit transactions singly or jointly, with their spouses or co-signers in the case of life coverage in the event of death, or, to make the contractual monthly payments on the consumer credit transactions in the event of the obligator's disability to the extent permissible under applicable State insurance laws and regulations; property and casualty insurance coverage on property subject to security agreements and to include liability coverage in home or automobile owner "package" policies where such is the general practice) at 301 Grand Avenue, Laramie, Wyoming; Rock Springs Plaza, Dewar Drive, Rock Springs, Wyoming; 415 West Cedar Street, Rawlings, Wyoming; 227 North Main, Sheridan, Wyoming; 307 West 18th Street, Cheyenne, Wyoming; 690 Main Street, Lander, Wyoming; Market Square, East Second Street, Casper, Wyoming (to be relocated from 261 S. Center Street, Casper, Wyoming), through its subsidiary, Nationwide Financial Services Corporation and its subsidiary, Nationwide Financial Corporation of Wyoming (2/27/77).[3]

Sheldon Security Bancorporation, Inc., Sheldon, Iowa, for permission to acquire 70.63 percent of the Security Agency, Sheldon, Iowa and 100 percent of the Richard A. Schneider Agency, Sheldon, Iowa.[2]

PERMITTED

CBT Corporation, Hartford, Connecticut, notification of intent to engage in de novo activities (the financing of accounts receivable, inventories and imports for business customers) at Room No. 20, Gateway Suites, Suite 640, 1801 Avenue of the Stars, Los Angeles, California, through a subsidiary, Lazere Financial Corporation, a wholly-owned subsidiary of CBT Financial Corporation which is in turn a wholly-owned subsidiary of CBT Corporation (2/16/77).[3]

CBT Corporation, Hartford, Connecticut, notification of intent to engage in de novo activities (purchasing on a recourse basis residential second mortgage loans) at One Constitution Plaza, Hartford, Connecticut, through a subsidiary, Nutmeg Commercial Corporation; a wholly-owned subsidiary of CBT Financial Corporation which is in turn a wholly-owned subsidiary of CBT Corporation (2/16/77).[3]

First National Boston Corporation, Boston, Massachusetts, notification of intent to engage in de novo activities, making, acquiring and servicing for its own account loans and other extensions of credit including loans to individuals for property improvement, debt consolidation and other purposes; and offering credit life and credit accident and health insurance coverage to its borrowers through a master health insurance policy) at 4900 Veterans Boulevard, Metairie, Louisiana, through a subsidiary, FSC Corp., Boston, Massachusetts which is a wholly-owned subsidiary of First National Boston Corporation to be known as First Louisiana Acceptance Corporation (2/16/77).[3]

Chemical New York Corporation, New York, New York, notification of intent to engage in de novo activities (operating as an industrial bank in the manner authorized by the laws of the State of Colorado including: making direct loans and purchasing sales finance contracts and such other extensions of credit as would be made or acquired by an industrial bank; providing, at the election of debtors of said industrial bank, group credit life and group accident and health insurance directly related to such extensions of credit; and receiving time savings deposits) at 116 East Foothills Parkway, Fort Collins, Colorado and 1005 29th Avenue Court, Greeley, Colorado, through its subsidiary, Sunamerica Corporation and its subsidiary, Sun Finance and Loan Company (2/13/77).[3]

Citicorp, New York, New York, notification of intent to engage in de novo activities (consumer home equity lending secured by real estate, making loans for the account of others such as one-to-four family unit mortgage loans; and in regard to the new activities, acting as agent or broker for the sale of credit related life/accident and health insurance and credit related property and casualty insurance as follows: consumer credit related life/accident and health, decreasing of level (in the case of single payment loans) term life insurance to cover the outstanding balances to consumer credit transactions singly or jointly, with their spouses or co-signers in the case of life coverage in the event of death, or, to make the contractual monthly payments on the consumer credit transactions in the event of the obligator's disability to the extent permissible under applicable State insurance laws and regulations; property and casualty insurance coverage on property subject to security agreements and to include liability coverage in home or automobile owner "package" policies where such is the general practice) at 301 Grand Avenue, Laramie, Wyoming; Rock Springs Plaza, Dewar Drive, Rock Springs, Wyoming; 307 West 18th Street, Cheyenne, Wyoming; 690 Main Street, Lander, Wyoming; Market Square, East Second Street, Casper, Wyoming (to be relocated from 261 S. Center Street, Casper Wyoming), through its subsidiary, Nationwide Financial Services Corporation and its subsidiary, Nationwide Financial Corporation of Wyoming (2/16/77).[3]

Fidelity Union Bancorporation, Newark, New Jersey, notification of intent to engage in de novo activities (the business of making loans in the present maximum amount of $5,000.00 or less under the provisions of the Pennsylvania Consumer Discount Company Act; and making available to customers, credit life insurance and disability insurance covering the unpaid balance of loans outstanding) at 1505 Market Street, Camp Hill, Cumberland County, Pennsylvania through its subsidiary, Suburban Finance Company and its subsidiary, Sentry Consumer Discount Company (2/20/77).[3]

Fidelity Union Bancorporation, Newark, New Jersey, notification of intent to engage in de novo activities (the business of making loans in the present maximum amount of $5,000.00 or less under the provisions of the Pennsylvania Consumer Discount Company Act; and making available to customers, credit life insurance and disability insurance covering the unpaid balance of loans outstanding) at 616 Baltimore Pike, Springfield, Delaware County, Pennsylvania, through its subsidiary, Suburban Finance Company and its subsidiary, Sentry Consumer Discount Company (2/18/77).[3]

First Security Corporation, Salt Lake City, Utah, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as are normally made by a mortgage company and the servicing of such accounts for others; and to a limited extent through a subsidiary, acting as an insurance agent with respect to insurance directly related to said extensions of credit) at or near the intersection of Campus Commons Road and Commons Drive, Sacramento, California, through its subsidiary, Securities-Intermountain, Inc. (2/19/77).[3]

First Security Corporation, Salt Lake City, Utah, notification of intent to relocate de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as are normally made by a mortgage company and the servicing of such accounts for others; and to a limited extent through a subsidiary, acting as an insurance agent with respect to insurance directly related to said extensions of credit) from 2333 Camino Del Rio South to Suite 2550 Fifth Avenue, San Diego, California, through its subsidiary, Securities-Intermountain, Inc. (2/18/77).[3]

First Security Corporation, Salt Lake City, Utah, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as are normally made by a mortgage company and the servicing of such accounts for others; and to a limited extent through a subsidiary, acting as an insurance agent with respect to insurance directly related to said extensions of credit) at 32015—23rd Avenue South, Suite B, Federal Way, Washington, through its subsidiary, Securities-Intermountain, Inc. (2/18/77).[3]

Utah Bancorporation, Salt Lake City, Utah, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including issuance of letters of credit and accepting drafts such as would be made by a mortgage company; servicing loans and other extensions of credit for any person) at 1220 South State Street, Orem, Utah, through its subsidiary, Valley Mortgage Corporation (2/19/77).[3]

APPROVED

Sheldon Security Bancorporation, Inc., Sheldon, Iowa, for permission to acquire 70.63 percent of the Security Agency, Sheldon, Iowa and 100 percent of the Richard A Schneider Agency, Sheldon, Iowa.[2]

To Establish a Domestic Branch Pursuant to section 9 of the Federal Reserve Act

Seattle Trust and Savings Bank, Seattle, Washington. Branch to be established at South 180th and Andover Park West in Tukwila.

Bank of Florida in St. Petersburg, St. Petersburg, Florida. Branch to be established at 2350 34th Street, North.

Manufacturers Hanover Trust Company, Central New York, Ontario. Branch to be established in the Penn-Cann Mall, Store Number K-2, 5775 South Bay Road, Town of Cicero, Onodaga County.

The First State Bank of Decatur, Decatur, Indiana. Branch to be established at 1 Yorkshire Drive, Decatur, Adams County.

To Form a Bank Holding Company Pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956

Madelia Bancshares, Inc., Madelia, Minnesota, for approval to acquire 80 percent of the voting shares of Farmers State Bank of Madelia, Incorporated, Madelia, Minnesota.

To Expand a Bank Holding Company Pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956

Roger Billings, Inc., Delphos, Kansas, for approval to acquire an additional 50 percent of the voting shares of The State Bank of Delphos, Delphos, Kansas.

To expand a Bank Holding Company pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956

Colonial Bancorp, Inc., Waterbury, Connecticut, notification of intent to engage in de novo activities (making extensions of credit to individuals and corporations to finance payment of casualty, liability and other insurance premiums to process, service, collect, and provide other support services with respect to such extensions of credit to finance insurance premiums to carry on administrative activities with respect to the internal administration of said subsidiary other than those covered under the previous two) at 129 Church Street, New Haven, Connecticut, through a subsidiary, Policy Advancing Corp. (2/17/77).[3]

Northeast Bankshare Association, Lewiston, Maine, notification of intent to engage in de novo activities (the marketing of automated payroll accounting, correspondent banking accounting services, check reconciliation and receivables accounting as well as electronic funds transfer services, and incidental to these activities the sale of excess comptuer processing time) at 35 Ash Street, Lewiston, Maine and 2 State Street, Bangor, Maine, through a subsidiary, Northeast Data Processing Corp. (2/16/77).[3]

Midatlantic Banks, Inc., West Orange, New Jersey, notification of intent to relocate de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as a factoring company; leasing personal property and equipment on a full payment basis or acting as agent, broker, or adviser in the leasing thereof; and servicing loans and other extensions of credit for any person) from 2 Broad Street, Bloomfield, New Jersey to 400 Broad Acres Drive, Bloomfield, New Jersey, through its subsidiary, Midatlantic Commercial Co. (2/16/77).[3]

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New Jersey National Corporation, Trenton, New Jersey, notification of intent to engage in de novo activities (selling credit life/accident and health insurance related to the mortgage loan servicing and extensions of credit in connection with the mortgage loans made pursuant to Underwood Mortgage and Title Company's mortgage servicing and lending business) at 1150 Springfield Avenue, Irvington, New Jersey, through its subsidiary, Underwood Mortgage and Title Company ((2/10/77).[3]

Philadelphia National Corporation, Philadelphia, Pennsylvania, notification of intent to engage in de novo activities (making installment loans for personal, family, and household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family, and household goods or services; selling credit life insurance including joint life insurance and credit accident and health insurance in connection with certain installment loans made and sales finance contracts purchased and reinsuring such insurance through Patrick Henry Life Insurance Company and Patrick Henry Insurance Company, indirect subsidiaries of Philadelphia National Corporation; and generally engaging in the business of a consumer finance company) at Millcreek Shopping Center, 4565 Kirkwood Highway, Wilmington, Delaware, through a newly formed indirect subsidiary, Signal Finance of Wilmington, Inc. (2/10/77).[3]

First & Merchants Corporation, Richmond, Virginia, notification of intent to engage in de novo activities (leasing of personal property and equipment or acting as agent, broker, or adviser in leasing of such property; term financing using conditional sales contracts as security agreements; and making or acquiring, loans or participations in loans or other extensions of credit including construction loans and other mortgage loans on residential, multifamily and commercial real estate) in Raleigh and Durham, North Carolina, through its subsidiary, Equitable Leasing Corporation (2/14/77).[3]

First & Merchants Corporation, Richmond, Virginia, notification of intent to engage in de novo activities (making mortgage loans principally secured by second mortgages on residential and commercial real estate and such other incidental activities as may be necessary to the business of making such loans including acting as agent for the sale of credit life, credit disability, mortgage redemption and mortgage cancellation insurance in connection with the making of such loans) at 150 Tri-County Parkway, Suite 105, Cincinnati, Ohio, through its subsidiary, First Realty Mortgage Corporation, d.b.a. First & Merchants Mortgage Corporation (2/14/77).[3]

Citizens and Southern Holding Company, Atlanta, Georgia, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; servicing loans and other extensions of credit by any person and operation of a licensed small loan company and of an installment sales finance company) at 4701 Jonesboro Road, Forest Park, Georgia, through a subsidiary, Citizens and Southern Finance Company (2/18/77).[3]

Nortrust Corporation, Chicago, Illinois, notification of intent to engage in de novo activities (performing or carrying on any one or more functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency, or custodian nature and acting as investment or financial adviser in the manner authorized by State law but without power to accept deposits or make commercial loans) at 1390 Main Street, Sarasota, Florida, through its subsidiary, Security Trust Company of Sarasota, N.A. (2/14/77).[3]

Platte Valley Bancorp, Inc., Brighton, Colorado, notification of intent to engage in de novo activities (providing bookkeeping or data processing services for the internal operations of the holding company, its subsidiary banks, and other unaffiliated organizations such as commercial banks and credit unions) at 25 North Spruce Street, Colorado Springs, Colorado, through an interest in First Financial Services, Inc. (2/16/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making loans and extending credit and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company including, but not limited to, making consumer installment loans and purchasing installment sales finance contracts, and making loans to small businesses and extensions of credit secured by personal property; FinanceAmerica Mortgage Services, Inc. will engage in making loans secured by real property; both corporations will act as agent or broker for the sale of credit related life, credit related accident and disability insurance, and credit related property insurance in connection with extensions of credit by FinanceAmerica Corporation and FinanceAmerica Mortgage Services Inc.) from 144 Sunset Avenue to 1501 North Fayetteville Street, Asheboro, North Carolina, through its indirect subsidiaries, FinanceAmerica Corporation (a North Carolina Corporation) and FinanceAmerica Mortgage Services, Inc. (a New Hampshire Corporation), subsidiaries of FinanceAmerica Corporation (2/11/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in *de novo* activities (making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit, such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, and making loans and other extensions of credit to small businesses; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance) at Suite 352, 2525 Stemmons Freeway, Dallas, Texas, through its indirect subsidiary, FinanceAmerica Corporation (a Texas Corporation), a subsidiary of FinanceAmerica Corporation (2/9/77).[3]

Wells Fargo & Company, San Francisco, California, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit; servicing loans and other extensions of credit for other persons) at 1800 St. James Place, Houston, Texas and 600 Montgomery Street, San Francisco, California, through its indirect subsidiary, WF-BGM, Inc. (2/8/77).[3]

To Expand a Bank Holding Company Pursuant to section 4(c) (12) of the Bank Holding Company Act of 1956

Warner Communications Inc., New York, New York, notification of intent to acquire not less than 80 per cent and possibly up to 100 percent of the capital stock of the following three corporations: Real Estate Maintenance, Inc., Maintenance, Inc., and Imperial Elevator Company, all located in Philadelphia, Pennsylvania, through its subsidiary, National Kinney Corp. (2/15/77).[3]

Berkshire Hathaway, Inc., New Bedford, Massachusetts, notification of intent to indirectly acquire Buffalo Evenings News, Inc., Buffalo, New York, a newspaper publishing business, through its subsidiary, Blue Chip Stamps (2/17/77).[3]

Reports Received

CURRENT REPORT FILED PURSUANT TO SECTION 13 OF THE SECURITIES EXCHANGE ACT

Bank of Commonwealth, Detroit, Michigan. Wheeling Dollar Savings & Trust Co., Wheeling, West Virginia.

Petitions for Rulemaking

None.

Board of Governors of the Federal Reserve System, March 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-7071 Filed 3-9-77;8:45 am]

BANCORPORATION OF WISCONSIN, INC.

Order Approving Formation of a Bank Holding Company

Bancorporation of Wisconsin, Inc., West Allis, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)), of formation of a bank holding company through the acquisition of 80 percent or more of the voting shares of West Allis State Bank, West Allis, Wisconsin ("WASB") and Southwest Bank, New Berlin, Wisconsin ("SWB").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Federal Reserve Bank of Chicago has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a nonoperating corporation organized under the laws of Wisconsin for the purpose of becoming a bank holding company through the acquisition of WASB and SWB. Upon acquisition of WASB ($72.4 million in deposits) and SWB ($8.5 million in deposits), Applicant would control approximately 0.53 percent of the total commercial bank deposits in the State and would not rank among the State's fifteen largest banking organizations.[1]

Both of the proposed subsidiary banks are located within the Milwaukee Banking Market, the relevant market.[2] Within the relevant market are located a total of 69 banking organizations with combined deposits of aproximately $5.1 billion. WASB and SWB rank as the 10th and 46th, respectively, largest banking organizations in the market. WASB's sole office is located in the City of West Allis, approximately 6 road miles southwest of downtown Milwaukee. SWB is situated approximately 8 road miles southwest of WASB's location.

[1] All banking data are as of December 31, 1975.

The two proposed subsidiary banks have been closely associated since SWB was organized by principal officers and directors of WASB in 1971. WASB has assisted SWB during the entire period of SWB's operations. Presently, shareholders common to both banks control 50.1 percent of WASB and 54.2 percent of SWB. Additionally, both banks have a president, vice president and three directors in common. Because of this close relationship, no meaningful competition exists between the subject banks, and it appears likely that such relationships will continue regardless of the action on the present application. Moreover, although the two banks' service areas overlap slightly, the amount of competition eliminated, even assuming no prior affiliation, would not be substantial. Therefore, it is concluded that consummation of the proposed acquisition would not have a significantly adverse effect on either existing or future competition, nor would it significantly increase the concentration of banking resources in any relevant area. Competitive considerations are considered to be consistent with approval of the application.

The financial and managerial resources and future propects of Applicant will be dependent initially on those same factors in WASB and SWB, which are regarded as generally satisfactory and consistent with approval.

Area banking needs are believed adequately served at present, and Applicant has proposed no new or expanded services for either bank. Considerations relating to the convenience and needs of the community to be served are consistent with, but lend little weight toward, approval of the application. It is the judgment of this Reserve Bank that the acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective February 24, 1977.

ROBERT P. MAYO,
President.

[FR Doc.77-7072 Filed 3-9-77;8:45 am]

[2] The Milwaukee Banking Market is approximated by the Milwaukee RMA, which includes all of Milwaukee County and portions of six additional counties.

TRUST CO. OF GEORGIA

Order Approving Acquisition of Georgia Loan & Trust Co.

Trust Company of Georgia, Atlanta, Georgia, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2) (1976)), to acquire through its wholly-owned subsidiary, Adair Mortgage Company, Atlanta, Georgia ("Adair"),[1] loan servicing contracts and certain other assets (primarily shares of Federal National Mortgage Association) of Georgia Loan and Trust Company, Macon, Georgia ("GL&T"), a company that engages in the general business of mortgage banking.[2] Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(3) (1976)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (41 FR 54542 (1976)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, the third largest banking organization in Georgia, directly controls Trust Company Bank, Atlanta, Georgia (deposits of $796 million), and, through that bank's wholly-owned subsidiary, Trust Company of Georgia Associates, Atlanta, Georgia, indirectly controls five other banks (aggregate deposits of $400 million).[3] The aggregate deposits of Applicant's six subsidiary banks represent approximately 10 percent of the total deposits in commercial banks in the State. Through its banking subsidiaries, Applicant engages in residential mortgage lending as a part of its commercial banking business. Applicant, through Adair, also engages in mortgage banking activities.

GL&T engages in the general business of mortgage banking, including originating, warehousing, servicing, and selling mortgage loans.[4] GL&T currently operates in Macon from its only office [5] and competes with Applicant in a regional market for the servicing of mortgage loans. As of August 31, 1976, GL&T was servicing 5,025 loans with outstanding principal balances totaling approximately $64 million. As of the same date, Applicant was servicing mortgage loans with outstanding principal balances totaling approximately $281 million.[6] Although GL&T and Adair compete in the regional market for mortgage servicing business, Adair's total servicing portfolio is a very small fraction of that area's mortgage servicing while GL&T's total servicing portfolio is an even smaller fraction. Therefore, it does not appear that any significant existing competition would be eliminated as a result of the consummation of this proposal.

The possibility of competition developing in the future between Adair and GL&T would be eliminated by consummation of this proposal. However, such adverse competitive effects are mitigated by the large number of competitors in the relevant regional market, which includes numerous mortgage banking companies, savings and loan associations, and commercial banking organizations. In addition, GL&T has recently experienced financial adversities and would not be likely to continue as a competitor in the field of mortgage servicing. Therefore, the Board concludes the consummation of this proposal would not have significant adverse effects upon future competition. It is the Board's judgment that the benefits that can reasonably be expected to result from this proposal lend some weight toward approval of the application. There is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or material adverse effects upon the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. The determination is subject to the conditions set forth in § 225.4(c) of Regula-

[1] In a related matter, the Board today approved Applicant's application filed pursuant to section 4(c)(8) of the Act to acquire direct ownership of Adair from a wholly-owned subsidiary of Applicant's lead bank; to engage *de novo*, through Adair in mortgage banking activities in College Park, Georgia; and to relocate Adair's main office from Atlanta to Cobb County, Georgia.

[2] It is GL&T's intention to sell all of its marketable assets and to cease its operations as a mortgage company. However, GL&T will continue its insurance agency activities.

[3] All banking data are as of December 31, 1975, unless otherwise indicated. In addition to its six subsidiary banks, Applicant received the Board's approval on December 7, 1976, to acquire Security National Bank, Smyrna, Georgia (deposits of $17.4 million). [See 41 FR 54541 (1976); 1977 Federal Reserve *Bulletin* 77 (January).] Also, on January 3, 1977, Applicant received the Board's approval to acquire, through merger, Central Bankshares Corporation, Jonesboro, Georgia, that firm's sole subsidiary bank (deposits of $13.7 million), and two nonbanking activities. [See 42 FR 2354 (1977); 1977 Federal Reserve *Bulletin 161* (February).]

[4] GL&T also operates a property and casualty insurance agency; however, GL&T intends to retain this portion of its activities.

[5] A second office, located in Atlanta, engaged in originations of mortgage loans; however, it has been closed because of financial considerations.

[6] Adair accounted for $262 million.

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tion Y and to the Board's authority to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta, pursuant to authority hereby delegated.

By order of the Board of Governors,[1] effective March 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-7073 Filed 3-9-77;8:45 am]

TRUST CO. OF GEORGIA

Order Approving Acquisition of Adair Mortgage Co.

Trust Company of Georgia, Atlanta, Georgia, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act [12 U.S.C. 1843(c)(8)] and § 225.4(b)(2) of the Board's Regulation Y [12 CFR 225.4(b)(2) (1976)], to acquire direct ownership of 100 percent of the voting shares of Adair Mortgage Company, Atlanta, Georgia ("Adair"), from Trust Company of Georgia Associates, Atlanta, Georgia ("Associates"), a wholly-owned subsidiary of Applicant's lead bank.[1] Adair engages in the general activities of a mortgage banking company. Applicant has also applied to engage *de novo*, through Adair, in the activities of a mortgage banking company at an office to be located in College Park, Georgia, and to relocate the main office of Adair from Atlanta to Cobb County, Georgia.[2]

Each of the aforementioned activities has been determined by the Board to be closely related to banking [12 CFR 225.4(a)(1) and (3) (1976)].

Notice of the applications, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published [41 FR 54542 (1976)]. The time for filing comments and views has expired, and the Board has considered the applications and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act [12 U.S.C. 1843(c)(8)].

Applicant, the third largest banking organization in Georgia, directly controls Trust Company Bank, Atlanta, Georgia ("Atlanta Bank") (deposits of $796 million), and, through Associates, indirectly controls five other banks (aggregate deposits of $400 million).[3] The aggregate deposits of Applicant's six subsidiary banks represent approximately 10 percent of the total deposits in commercial banks in the State. Through its banking subsidiaries, Applicant engages in real estate mortgage lending as a part of its commercial banking business. Through Adair, Applicant also engages in mortgage banking activities including: origination of permanent mortgages secured by both one-to-four family and multi-unit residential properties; origination of permanent mortgages secured by commercial properties; origination of construction and development loans to facilitate Adair's permanent origination business; servicing of permanent loans; and origination of second mortgage loans.[4]

Applicant indirectly acquired Adair in 1971 pursuant to section 4(c)(5) of the Act and, through this application, seeks permission to operate Adair pursuant to section 4(c)(8) of the Act. The Board regards the standards of section 4(c)(8) for the retention of shares in a nonbanking company, previously operated by a bank holding company pursuant to section 4(c)(5), to be the same as the standards for a proposed acquisition under section 4(c)(8). Accordingly, the Board must find that neither the operation of the nonbanking company under section 4(c)(5) nor the Board's approval of the section 4(c)(8) application would result in an undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

Prior to its acquisition of Adair in 1971, Atlanta Bank competed with Adair in a regional market with respect to construction, commercial, and multi-family residential loans. Nevertheless, the Atlanta banking market[5] was, and remains, the principal geographic area in which both Adair and Atlanta Bank originate permanent mortgages secured by one-to-four unit residential property. In 1969, $637 million in all types of mortgages were recorded in the Atlanta area by the numerous competitors therein[6] with Adair accounting for $6.6 million and Atlanta Bank for $20.8 million. With respect to total originations of one-to-four family residential mortgages in the market, Atlanta Bank accounted for approximately 2 per cent and Adair for approximately 1.2 per cent of that total. By contrasts, in 1975, the numerous organizations[7] competing in the Atlanta area recorded $1,050 million in all types of mortgages in that area with Adair accounting for $7.9 million and Atlanta Bank for $6.4 million, both representing less than 1 per cent of the total. With respect to total recordings of one-to-four family residential mortgages in the market, Adair accounted for approximately 1 per cent and Atlanta Bank for approximately two-tenths of 1 per cent of that total.

While it appears that acquisition of Adair by Applicant did eliminate some direct competition in originations of mortgage loans, it appears that the effect of such elimination in the relevant market was not significantly adverse due to the large number of other competitors therein and the fact that neither Atlanta Bank nor Adair held substantial shares of the mortgage markets that are subject to definitive measurement prior to the time of acquisition. Therefore, it appears that the amount of existing competition that was eliminated was not substantial nor was any significant amount of competition foreclosed through Applicant's acquisition of Adair. The Board concludes that inasmuch as Applicant has continuously owned Adair since 1971 with limited adverse effects upon competition in the relevant market, Applicant's continued retention of Adair would not have any significant adverse effects upon either actual or potential competition. To the contrary, Adair's affiliation with Applicant has enabled the latter to provide funds to Adair, which financial assistance has maintained Adair's ability to both operate as a viable competitor and make construction and development and second mortgage loans. Accordingly, the Board regards these considerations as being in the public interest.

Applicant has also proposed, in connection with this application, that it engage *de novo*, in the southern portion of metropolitan Atlanta, through Adair, in the following activities pursuant to section 4(c)(8) of the Act: Making permanent residential and commercial mortgages for resale to investors; making loans for acquisition and development of real estate; making construction loans; servicing mortgages and acting as broker in placing permanent mortgages. Finally, Applicant has also proposed to relocate Adair's main office from its current location to an area wherein it will continue to serve the northern portion of metropolitan Atlanta. In that these latter two proposals are a part of Applicant's internal corporate restructuring, it does not appear that there would be any significant adverse effect upon either existing or potential competition as a result of Applicant's consummation of these two transactions.

It is the Board's judgment that the benefits that can reasonably be expected to result from each of these proposals are consistent with approval of the applications. There is no evidence in the record indicating that consummation of the proposed transactions would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices or other adverse effects upon the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the applications are hereby approved. This determination is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transactions shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta, pursuant to authority hereby delegated.

By order of the Board of Governors,[8] effective March 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-7074 Filed 3-9-77;8:45 am]

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[1] Voting for this action: Governors Wallich, Coldwell and Lilly. Voting against this action: Governor Jackson. Absent and not voting: Chairman Burns and Governors Gardner and Partee.

[1] Adair, and its wholly-owned subsidiary, Adair Mortgage Company of Florida, were acquired by Associates on January 29, 1971, pursuant to section 4(c)(5) of the Act [12 U.S.C. 1843(c)(5)]. Section 4(c)(5) of the Act generally permits a bank holding company to acquire, without Board approval, shares that are of the kinds and amounts explicitly eligible by statute for investment by national banking associations under the provisions of section 5136 of the Revised Statutes. Applicant's subject proposal contemplates its acquisition of Adair from Associates pursuant to section 4(c)(8) of the Act as an internal corporate reorganization to simplify Applicant's structure.

[2] In a related matter, the Board today approved Applicant's application filed pursuant to section 4(c)(8) of the Act and § 225.4(b)(2) of Regulation Y, to acquire, through Adair, loan servicing contracts and certain other assets (primarily shares of Federal National Mortgage Association) of Georgia Loan and Trust Company, Macon, Georgia.

[3] All banking data are as of December 31, 1975, unless otherwise indicated. In addition to its six subsidiary banks, Applicant received the Board's approval, on December 7, 1976, to acquire Security National Bank, Smyrna, Georgia (deposits of $17.4 million). [See 41 FR 54541 (1976); 1977 Federal Reserve *Bulletin* 77 (January).] Also, on January 3, 1977, Applicant received the Board's approval to acquire, through merger, Central Bankshares Corporation, Jonesboro, Georgia, that firm's sole subsidiary bank (deposits of $13.7 million), and its two non-banking activities. [See 42 FR 2354 (1977); *1977* Federal Reserve *Bulletin 161* (February).]

[4] Adair's wholly-owned subsidiary in Florida engages in the origination of commercial loans; however, its business did not and does not overlap with Applicant or its subsidiaries.

[5] The Atlanta banking market is approximated by Clayton, Cobb, DeKalb, Douglas, Fulton, Gwinett, Henry, and Rockdale Counties.

[6] These included 41 mortgage companies, 20 savings and loan associations, nine banking organizations, all with offices in the Atlanta Standard Metropolitan Statistical Area ("SMSA"), as well as 42 other lenders outside the SMSA. The nation's fourth, eighth, and ninth largest mortgage companies had offices in the market.

[7] In 1975, there were 36 mortgage companies, eight banking organizations, 20 savings and loan associations, nine insurance companies, all with offices in the market, as well as 76 other lenders with offices outside the market. The nation's first, second, fourth through seventh, and ninth largest mortgage companies had offices in the market.

[8] Voting for this action: Governors Wallich, Coldwell, Jackson and Lilly. Absent and not voting: Chairman Burns and Governors Gardner and Partee.

FEDERAL TRADE COMMISSION

MEETINGS

In accordance with 5 U.S.C. 552b(e)(3), the Federal Trade Commission announces the following meetings:

CLOSED MEETING: MARCH 15, 1977

The Commissioners will meet in a closed session at 10 a.m. on Tuesday, March 15, 1977 in Room 432 of the Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580. The agenda for the closed meeting consists of the following items:

NONADJUDICATIVE MATTERS

(1) Approval of Minutes of Nonadjudicative Matters Considered at Meeting of March 8, 1977.

(2) Consideration of Disposition of (Nonpublic) Part II Matter.

(3) Joint Consideration of Two Matters: Consent Order in Docket No. 9044, Gulf Oil Corporation; Disposition of (Nonpublic) Matter Involving Another Company.

(4) Consideration of Proposed Investigational Resolution in (Nonpublic) Part II Investigation.

ADJUDICATIVE MATTERS UNDER PART 3 OF THE RULES OF PRACTICE

The Commission has not yet scheduled any adjudicative items for discussion at this meeting.

OPEN MEETING: MARCH 16, 1977

The public is invited to attend the Commission's open meeting, which will begin at 2 p.m. on Wednesday, March 16, 1977, in Room 432 of the Federal Trade Commission Building. The agenda for the open meeting consists of the following items:

(1) Approval of Minutes of Meeting of March 9, 1977.

(2) Consideration of Staff Recommendations Concerning Certain Trade Practice Rules: (1) Blueprint and Diazotope Coaters Industry (16 CFR Part 28); (2) Electrical Contracting Industry (16 CFR Part 64); (3) Resistance Welder Manufacturing Industry (16 CFR Part 149); (4) Slide Fastener Industry (16 CFR Part 193); (5) Library Binding Industry (16 CFR Part 220).

(3) Report from General Counsel on Congressional Matters.

[8] Voting for this action: Governors Wallich, Coldwell, Jackson and Lilly. Absent and not voting: Chairman Burns and Governors Gardner and Partee.

GUIDELINES FOR PUBLIC OBSERVERS

Members of the public may observe but not participate in open meetings of the Commission. Accordingly, members of the public, while in the meeting room, shall maintain appropriate decorum and shall not engage in conduct that is distracting to other observers or to the meeting participants. Observers may be ejected from the meeting room for violating these guidelines:

Except for accredited members of the news media, observers are prohibited from taking photographs, motion pictures, or video recordings during a meeting or from using any sound recording device other than a small, portable self-contained device that can be operated unobtrusively from the observer's seat.

GUIDELINES FOR MEDIA

Open meetings of the Commission may be covered by the media subject to certain restrictions on the use of audio-visual equipment.

Audio-only tape recording of meetings is permitted, provided the recording devices and microphones are placed at the press table.

"Available light only" hand-held still and motion picture photography and hand-held videotaping cameras are permitted in the meeting room provided such use is unobtrusive. Tripods or other portable supports may be used, but flash bulbs and floodlights are not permitted.

ADDITIONAL INFORMATION

Questions concerning these meetings should be directed to the Office of Public Information, Room 496 of the Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580, Telephone Number (202) 523-3830. Any change in the time, place, or subject matter of these meetings will be posted at the earliest practicable time in Room 130 of the Federal Trade Commission Building and submitted to the FEDERAL REGISTER for publication. For recorded information on the current status of these meetings, call (202) 523-3806.

Issued: March 8, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-7246 Filed 3-9-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Meeting

AGENCY: National Advisory Council on Adult Education.

V42 47 MAR 10 77 UMI

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. The meeting shall be open to the public. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463, Section 10(a)(2)).

DATES: April 3, 1977, 7 p.m. to 10 p.m., Executive Committee Meeting; April 4, 1977, 8:30 a.m. to 10 p.m.; April 5, 1977, 9 a.m. to 4 p.m.

ADDRESS: Del Webb's Townehouse, 100 West Clarendon Avenue, Phoenix, Arizona 85007.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St. NW., Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

State and Local Adult Education Overview
ABE Commission Reports
Indian Adult Education
Adult Competency Tests
NCES Adult Education Handbook
Committee Reports
Military Adult Education

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004.

Signed at Washington, D.C., on March 4, 1977.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc.77–7091 Filed 3–9–77;8:45 am]

Office of the Secretary

REVIEW PANEL ON NEW DRUG REGULATION

Meeting

Notice is hereby given, pursuant to Public Law 92–463, that the Review Panel on New Drug Regulation, established pursuant to 42 U.S.C. 217 a. by the Secretary of Health, Education, and Welfare, on February 21, 1975, will meet on Monday, March 28, 1977, from 4:15 p.m. to 9:30 p.m., and on Tuesday, March 29, from 8:30 a.m. to 5:00 p.m. in Room 5559 of the Donahoe Building, 400 6th Street SW., Washington, D.C. The Review Panel will consider matters pertaining to its study of existing policies and procedures for the regulation of new drugs by the Food and Drug Administration and the investigation of allegations by certain employees of the Bureau of Drugs and Bureau of Veterinary Medicine, FDA. In accordance with the provisions of Section 10(d) of Public Law 92–463 and 5 U.S.C. 552(b)(6), the meeting will be closed to the public from 8:30 a.m. until 12:00 Noon on March 29 for the discussion of the investigation of FDA internal personnel matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

All other portions of the meeting will be open to the public. Further information on the Review Panel may be obtained from John D. Rust, Executive Secretary, Review Panel on New Drug Regulation, telephone (202) 472–3000. Mail should be addressed to: Room 1187, Donohoe Building, 330 Independence Avenue SW., Washington, D.C. 20203.

Dated: February 24, 1977.

JOHN D. RUST,
Executive Secretary, Review Panel on New Drug Regulation.

[FR Doc.77–7055 Filed 3–9–77;8:45 am]

National Institute of Education

PROGRAM OF RESEARCH GRANTS ON ORGANIZATION PROCESSES IN EDUCATION

Closing Dates for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e), applications are being accepted for grants under the Program of Research Grants on Organizational Processes in Education.

A. *Types of awards.* The program provides two types of grant funding opportunities. Small grants may be made for projects of up to twelve months' duration in amounts not to exceed $7,500 in direct costs. Grants (other than small grants) may be made in any amount for projects of up to three years' duration.

B. *Application procedures.* The application process for a grant (other than a small grant) includes a required preliminary proposal, which will be reviewed by the National Institute of Education (NIE). NIE will return to the applicant an indication of the relative standing of the preliminary proposal among those received, and information on any major strengths or weaknesses found in the review. A full proposal for a grant (other than a small grant) may be submitted only after review of a preliminary proposal.

The application process for a small grant includes a required proposal.

C. *Review cycles.* NIE will receive applications at any time between the date of this notice and September 30, 1977. (NIE intends to continue this program in future fiscal years, and will publish later in 1977 a schedule of closing dates for Fiscal Year 1978.)

Applications will be reviewed in batches at intervals by a peer review panel. Those received by April 15, 1977, will be reviewed in May; those received by July 15, 1977, will be reviewed in August. At the first deadline, only small grant and preliminary proposals will be accepted; at the second deadline, full proposals based on the preliminary proposals submitted earlier will be accepted, as well as new small grant and preliminary proposals. An application not received by the deadline date will be held for review in the subsquent cycle.

D. *Program information.* A program announcement may be obtained from the Research Staff, Group on School Capacity for Problem Solving, National Institute of Education, 1200 19th Street NW, (Mail Stop 4), Washington, D.C. 20208. Telephone 202–254–6090. The announcement includes all rules governing the program, as well as information on availability of funds, expected number of awards, eligibility and review criteria, and instructions on how to apply. Those interested in applying for research support under this program are strongly urged to obtain the program announcement.

E. *Estimated distribution of program funds.* Current estimates are that approximately $1.1 million will be available in Fiscal Year 1977 for projects selected for funding in this program. It is projected that approximately 25–35 grants will be made in Fiscal Year 1977, of which approximately 15 will be small grant awards. Approximately $100,000 of the $1.1 million will be reserved for small grants.

Only projects of the highest quality will be supported, whether or not the resources of the program are exhausted. Further, nothing in this announcement should be construed as committing NIE to award any specific amount. The actual total of funds awarded may change because of a need to reserve funds for continuation of projects begun in earlier years, for contract or in-house research, or because of budget or staffing restrictions.

F. *Applications sent by mail.* An application sent by mail should be addressed as follows: National Institute of Education, Proposal Clearinghouse, Washington, D.C. 20208, Attention: Organization Research. The outside of the package should also be marked to show whether it contains a preliminary, small grant, or full proposal. To be considered in the May review cycle, an application must be received at the Clearinghouse by 4:30 p.m. on April 15, 1977; for the August cycle, an application must be received by 4:30 p.m. on July 15. Materials must be received by the closing date; a predeadline postmark date will not be a criterion for acceptance.

G. *Hand delivered applications.* An application to be hand delivered must be brought to the Proposal Clearinghouse, Room 708, 1832 M Street, NW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 9:00 a.m. and 4:30 p.m., Washington, D.C. time, except Saturdays, Sundays, and Federal holidays. The Clearinghouse will close promptly on deadline dates (April 15 and July 15, 1977).

H. *Applicable regulations.* The regulations applicable to this program include the NIE General Provisions Regulaitons (45 CFR Chapter 14, Subchapter A) published in the FEDERAL REGISTER on November 4, 1974, at 39 FR 38992, and regulations for the Program of Research Grants on Organizational Processes in Education published in proposed form in the FEDERAL REGISTER on January 5, 1977, at 42 FR 1045.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development.)

Dated: March 7, 1977.

HAROLD L. HODGKINSON,
Director, National Institute of Education.

[FR Doc.77–7283 Filed 3–9–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[R 4611]

CALIFORNIA

Order Providing For Opening of Lands

MARCH 1, 1977.

Pursuant to the order of the Federal Power Commission issued August 3, 1972 (37 FR 22410), and by virtue of the authority contained in Section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818) (1970) as amended, and in accordance with the authority redelegated to me by the State Director, California State Office, Bureau of Land Management, issued January 12, 1972 (37 FR 491) as amended, it is ordered as follows:

1. The Commission finds that the withdrawal for Power Project No. 564, dated September 25, 1925, serves no useful purpose and has vacated the withdrawal insofar as it affects the following described lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 26 S., R. 34 E.,
Sec. 29, NW¼NE¼, NW¼.

The area described aggregates approximately 200 acres.

2. The State of California has waivered its preference right of application for highway rights-of-way or material sites afforded it by section 24 of said Act.

3. At 10 a.m. on April 11, 1977, the public lands shall be open to the operation of the public land laws generally subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on April 11, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands have been open to applications and offers under the mineral leasing laws and to location under the U.S. mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Federal Office Building, Room E–2841, 2800 Cottage Way, Sacramento, California 95825.

WALTER F. HOLMES,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–7040 Filed 3–9–77;8:45 am]

National Park Service

CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, April 1, 1977, at 1:30 pm, at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Massachusetts.

The Commission was established by Pub. L. 92–463 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The purpose of the meeting is to consider the following Agenda items: (1) Renewal of Certificates of Suspension for Commercial Properties, (2) Proposal for hang gliding, and (3) Consideration of public hunting in National Seashore. The Superintendent will give a progress report covering current problems and items of interest, which will be reviewed and discussed.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Lawrence C. Hadley, Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663 (telephone: 617–349–3785). Minutes of the meeting will be available for public information and copying four weeks after the meeting at the office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

JACK E. STARK,
Regional Director, North Atlantic Region.

[FR Doc.77–7120 Filed 3–9–77;8:45 am]

Office of the Secretary

WATER PROJECTS

Correction of Notice of Public Hearings

Notice is hereby given that a correction is to be made in the Notice of Public Hearings for Water Projects published in the FEDERAL REGISTER March 4, 1977, page 12484. The following is the revised schedule:

March 21—8 a.m. to 12 noon—Fruitland Mesa Project, Colorado; 1 p.m.–5 p.m.—Central Arizona Project, Arizona.
March 22—8 a.m.–12 noon—Savery-Pot Hook Project, Wyoming-Colorado; 1 p.m.–5 p.m.—Dolores Project, Colorado.
March 24—8 a.m.–12 noon—Oahe Unit, South Dakota; 1 p.m.–5 p.m.—Garrison Diversion Unit, North Dakota.
March 25—8 a.m.–12 noon—Auburn-Folsom South Unit, California; 1 p.m.–5 p.m.—Bonneville Unit (Central Utah Project), Utah.

Proponents of the projects will be allotted two hours of hearing time on each project. Coordination of that time should be arranged by appropriate Governors of States and Members of Congress. Proponents will register with Interior's Water Project Review Office through their appropriate Congressional or Gubernatorial office.

Opponents will also be allotted two hours of hearing time on each project. Opponents wishing to testify should notify the Water Projects Review Office, U.S. Department of the Interior, Room 6616, 19th and C Streets NW., Washington, D.C., 20240, no later than March 16. (Phone No. is (202) 343–5413 or 343–3211.)

Dated: March 7, 1977.

CHRIS FARRAND,
Acting Assistant Secretary of the Interior.

[FR Doc.77–7053 Filed 3–9–77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

PUBLIC PROGRAMS PANEL

Meeting

MARCH 3, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given that a meeting of the Public Programs Panel will meet at Washington, D.C., on April 6, 1977, commencing at 9:00 a.m., and April 7, 1977, commencing at 9:00 a.m., in Room 1025, at 806 15th Street, N.W., Washington, D.C.

V 42 47 MAR 10 77 UMI

The purpose of the meeting is to review Humanities Program Development Grant proposals that have been submitted to the Endowment for possible grant funding.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call Area Code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–7049 Filed 3–9–77;8:45 am]

PUBLIC PROGRAMS PANEL

Meeting

MARCH 4, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Public Programs Panel will meet at Washington, D.C. on April 4 and 5, 1977, commencing at 9:30 a.m. in the first floor Conference Room at 806 15th Street, N.W., Washington, D.C. 20506.

The purpose of the meeting is to review Humanities Media Grant proposals that have been submitted to the Endowment for possible grant funding.

Because the proposed meeting will consider financial information and personnel and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Declaration of Authority to Close Advisory Committee meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b), and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information, contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call Area Code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–7050 Filed 3–9–77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ENGINEERING MECHANICS

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Engineering Mechanics.
Dates and times: March 29 and 30, 1977—9 a.m.–5 p.m. each day.
Place: Room 540, National Science Foundation, 1800 G St. NW., Washington, D.C.
Type of meeting: Part Open—Open March 29, 9 a.m. to noon; and March 30, 9 a.m. to 12:30 p.m. Closed March 29, 1 p.m. to 5 p.m.; March 30, 12:30 p.m. to 5 p.m.
Contact person: Dr. George Lee, Section Head, Engineering Mechanics, Room 419, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–5787.
Summary minutes: May be obtained from the Committee Management Coordination Staff, Div. of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of panel: To provide advice and counsel concerning the status and new directions of Engineering Mechanics research.

AGENDA:

TUESDAY, MARCH 29

MORNING (OPEN SESSION)

9:00—Introduction—Section Head Engineering Division Status Report.
9:45—Question and Answer.
10:15—Briefing of Engineering Mechanics Program, Section Overview, Structural Materials and Geotechnical Engineering, Fluid Mechanics, Solid Mechanics, Water Resources, Urban and Environmental Engineering.
11:30—Question and Answer.
12:00—Recess.

AFTERNOON (CLOSED SESSION)

1:00—Review declinations containing the names of applicant institutions and prihcipal investigators and to reivew the peer review documentation pertaining to successful applicants.
Subpanels will be formed to review the four individuals programs within the Engineering Mechanics Section.

WEDNESDAY, MARCH 30

MORNING (OPEN SESSION)

9:00—Oral Reports from Subpanels; Panel discussion of Section-wide concerns.
11:30—Panel interaction with Assistant Director, MPE and Acting Division Director for Engineering.

AFTERNOON (CLOSED SESSION)

12:30—Further review of peer review process on individual grants and declinations.
5:00—Adjourn.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on Feb. 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 7, 1977.

[FR Doc.77–7146 Filed 3–9–77;8:45 am]

ISLAS ORCADAS GEOLOGY COORDINATING GROUP

Meeting

The Islas Orcadas Geology Coordinating Group will hold a meeting on March 18, 1977, in Room 628 at the National Science Foundation to discuss the geology, geophysics, and physical oceanography programs for the next series of cruises in the Circumantarctic Survey. For further information, contact Dr. Bernhard Lettau, Division of Polar Programs, National Science Foundation, (202) 632–4163.

BERNHARD LETTAU,
Program Associate, Polar Ocean Sciences.

MARCH 7, 1977.

[FR Doc.77–7145 Filed 3–9–77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR–26, issued to Consolidated Edison Company of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility), located in Buchanan, Westchester County, New York. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to allow operation of Indian Point Unit No. 2 with revised pressure-temperature limits during reactor heatup and cooldown. The revised limits allow operation up to three effective full power years.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment transmitted by letter dated April 26, 1976, (2) Amendment No. 28 to License No. DPR–26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 18th day of February 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77–6752 Filed 3–9–77;8:45 am]

[Docket No. 50–155]

CONSUMERS POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. DPR–6, issued to Consumers Power Company (the licensee), which revised Technical Specifications for operation of the Big Rock Point (the facility located in Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment authorized a one-time extension of the period specified in the Technical Specifications between certain control rod drive, liquid poison, core spray, and containment spray system tests.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 9, 1977, (2) Amendment No. 11 to License No. DPR–6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 23rd day of February, 1977.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77–6753 Filed 3–9–77;8:45 am]

[Docket Nos. 50–440, 50–441]

DUQUESNE LIGHT CO., ET AL.

Hearing

In the matter of Duquesne Light Company, Ohio Edison Company, the Cleveland Electric Illuminating Company, Pennsylvania Power Company, and the Toledo Edison Company (Perry Nuclear Power Plant, Units 1 and 2).

The hearing in the above-entitled matter previously set for March 16, 1977, will take place at 11:00 a.m., at the U.S. Court House, 201 Superior Street, Cleveland, Ohio 44114, in Room 226.

Dated this 28th day of February 1977 at Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

JOHN M. FRYSIAK,
Chairman.

[FR Doc.77–6754 Filed 3–9–77;8:45 am]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member states. The Senior Advisory Group then considers the member state comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide, SG–03, "Operational Limits and Conditions," has been developed. The Working Group draft of this Safety Guide was modified by the IAEA Technical Review Committee on Operation which met in January 1977, and we are soliciting public comments on this modified draft. Comments on this draft received by April 8, 1977 will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Rockville, Maryland this 23rd day of February 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77–6755 Filed 3–9–77;8:45 am]

[Docket Nos. 50–516, 50–517]

LONG ISLAND LIGHTING CO., (JAMESPORT NUCLEAR POWER STATION, UNITS 1 AND 2)

Amended Order Resuming the Evidentiary Hearing

In a separate order being filed today, the Board grants Suffolk County's request of February 18, 1977 wherein, in effect, the County requested changes in the hearing schedule set forth in our Order dated February 7, 1977. The Order of February 7, 1977 is hereby amended to the extent indicated hereinafter.

The evidentiary hearing will be resumed on March 29, 1977, at 9:00 a.m. in the Holiday Inn of Riverhead, Exit 72, Long Island Expressway, Riverhead, Long Island, New York, to receive evidence upon certain contentions and other matters as hereinafter specified. The hearing will proceed on successive week days, and will resume on April 5th and April 12, 1977.

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Any outstanding, previously unsubmitted written testimony must be served five days prior to the beginning of the hearing on March 29, 1977.

It is so ordered.

Dated at Bethesda, Md., this 2d day of March 1977.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE,
Chairman.

[FR Doc.77-6902 Filed 3-9-77;8:45 am]

[Docket No. 50-220]

NIAGARA MOHAWK POWER CORP.

Issuance of Facility License Amendment

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. DPR-63 to the Niagara Mohawk Power Corporation (the licensee) for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

This amendment identifies the currently approved industrial security plan and incorporates the plan as a condition of the operating license for the Nine Mile Point Nuclear Station, Unit No. 1.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration, or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

Pursuant to 10 CFR 2.790(d), the licensee's letter dated November 8, 1974 as modified by letters dated December 12, 1975 and October 4, 1976, and the security plan are being withheld from public disclosure because they are deemed to be commercial or financial information within the meaning of 10 CFR 9.5(a)(4). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment No. 13 to License No. DPR-63 and (2) the Commission's related letters to the licensee dated December 10, 1974 and April 12, 1976. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Oswego City Library, 120 E. Second Street, Oswego, New York 13126. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 24th day of February, 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-6756 Filed 3-9-77;8:45 am]

[Docket No. 50-336]

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 23 to Facility Operating License No. DPR-65, issued to Northeast Nuclear Energy Company, The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company, which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2 (the facility), located in the Town of Waterford, Connecticut. The amendment is effective as of the date of issuance.

The amendment authorized an increase in the facility's Peak Linear Heat Generation Rate (PLHGR) from 15.3 kw/ft to 16.3 kw/ft and removed the restriction of reduced PLHGR of 14.1 kw/ft imposed by the Commission's Order for Modification of License issued June 17, 1976.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on January 10, 1977 (42 FR 2139). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 7, 1976, (2) Amendment No. 23 to License No. DPR-65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut 06385.

A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 2nd day of March 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-6757 Filed 3-9-77;8:45 am]

[Docket Nos. 50-282, 50-306]

NORTHERN STATES POWER CO.

Hearing on Amendment of Facility Operating Licenses

In the matter of Northern States Power Company (Prairie Island Nuclear Generating Plant, Units 1 and 2); Amendment to License Nos. DPR-42 and DPR-60 (Increase Spent Fuel Storage Capacity).

Pursuant to the Atomic Energy Act of 1954, as amended, (the Act) and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection", and Part 2, "Rules of Practice", notice is hereby given that a hearing will be held before an Atomic Safety and Licensing Board (Board) to consider the application of Northern States Power Company (the licensee) for an amendment to each of Facility Operating License Nos. DPR-42 and DPR-60 which currently authorize Northern States Power Company to possess, use and operate the Prairie Island Nuclear Generating Plant, Units 1 and 2, (the facilities) located in Goodhue County, Minnesota, at power levels up to 1650 megawatts (thermal). The proposed amendment would allow modification to the spent fuel storage pool of such facilities involving replacement of the existing spent fuel storage racks having a capacity for 198 fuel assemblies with new storage racks with a capacity for 687 assemblies in accordance with the licensee's application for amendment dated November 24, 1976. Approval of the proposed modification would require concurrent issuance of an amendment to each of the above-identified licenses to revise the technical specifications for the facilities to reflect the increased spent fuel storage capacity.

The hearing which will be scheduled to begin in the vicinity of the site of the Prairie Island facilities, will be conducted by an Atomic Safety and Licensing Board which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel. The Board consists of Mr. Frederick J. Shon and Dr. Oscar H. Paris, Members, and Edward Luton, Esq., Chairman.

A notice of "Consideration of Proposed Modification to Facility Spent Fuel Storage Pool", was published by the Nuclear Regulatory Commission in the FEDERAL REGISTER on January 10, 1977 (42 FR 2140). The notice provided that any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the approval of the modification to the subject facilities spent fuel storage pool and the concurrent issuance of the license amendments. Such requests were to be filed by February 9, 1977. Timely petitions for leave to intervene were filed by the Minnesota Pollution Control Agency ("MPCA") an agency of the State of Minnesota, and by Thomas Galazen, Northern Thunder. Petitioner, MPCA was admitted as a party to the proceeding pursuant to the provisions of 10 CFR § 2.714.[1] The Board denied the petition of Thomas Galazen, Northern Thunder, but granted this petitioner leave to file an amended petition within fifteen (15) days from the date of service of the Board's order.

A prehearing conference or conferences will be held by the Board, at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's "Rules of Practice." The date and place of the hearing will be set by the Board at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER. The specific issues to be considered at the hearing will be determined by the Board.

For further details with respect to the matters under consideration see the application for amendment dated November 24, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene as noted above, may request permission to make a limited appearance pursuant to the provisions of 10 CFR § 2.715 of the Commission's "Rules of Practice." Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be determined by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, not later than April 11, 1977. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's "Rules of Practice", must be filed by the parties to this proceeding (other than the Regulatory Staff) not later than March 30, 1977.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Pending further order of the Hearing Board designated for this proceeding, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's "Rules of Practice", an original and twenty (20) conformed copies of each such paper with the Commission.

It is so ordered.

Dated at Bethesda, Maryland this 2nd day of March 1977.

For the Atomic Safety and Licensing Board designated to rule on petitions for leave to intervene.

ROBERT M. LAZO,
Chairman.

[FR Doc.77-6758 Filed 3-9-77;8:45 am]

[1] Memorandum and Order of the Atomic Safety and Licensing Board designated to rule on petitions for leave to intervene, dated March 2, 1977.

NUREG REPORT

Issuance and Availability

The Nuclear Regulatory Commission has issued a report that reviews six studies, sponsored by NRC, of radiation exposures to cargo workers at six major airports from shipments of radioactive material.

This report, NUREG-0154, "Exposure of Airport Workers to Radiation from Shipments of Radioactive Materials—A Review of Studies Conducted at Six Major Airports," is available for inspection in the Commission's Public Document Room at 1717 H Street N.W., Washington, D.C. Copies may be purchased at current rates from the National Technical Information Service, Springfield, Virginia 22161 (printed copy: $4.00; microfiche: $3.00).

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 28th day of February 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-6764 Filed 3-9-77;8:45 am]

[Docket Nos. STN 50-580 and STN 50-581]

OHIO EDISON COMPANY, ET AL. (ERIE NUCLEAR PLANT, UNITS 1 AND 2)

Receipt of Application for Construction Permits and Operating Licenses

The Ohio Edison Company, The Cleveland Electric Illuminating Company, Duquesne Light Company, Pennsylvania Power Company, and the Toledo Edison Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed a second portion of their application. This part, which consisted of the Safety Analysis Report and general and financial information was accepted for docketing on March 1, 1977 and assigned Docket Nos. STN 50-580 and STN 50-581. Notice of Receipt of the Partial Application for Construction Permits and Operating Licenses was published in the FEDERAL REGISTER under Docket No. P-512-A on March 8, 1976 (41 FR 9939). The application incorporates by reference the Babcock and Wilcox Company's standardized application, B-SAR-205, Docket No. STN 50-561. The remaining portion of the application is the Environmental Report.

The application is for authorization to construct and operate two pressurized water nuclear reactors designated as the Erie Nuclear Plant, Units 1 and 2 on the applicants' site in Erie County, Ohio. Each reactor is designed for an initial output of 3780 megawatts thermal, with an equivalent net electrical output of approximately 1260 megawatts.

A separate notice will be published on the availability of the environmental report and a Notice of Hearing will also be published separately, setting forth the radiological and environmental issues to be considered during the review. Information regarding submittal of Petitions for Leave to Intervene will be set forth in the Notice of Hearing.

Dated at Bethesda, Maryland, this 1st day of March 1977.

For the Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc.77-6759 Filed 3-9-77;8:45 am]

[Dockets Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC CO., ET AL.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 31 and 30 to Facility Operating Licenses Nos. DPR-44 and

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DPR–56, respectively, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, located in Peach Bottom, York County, Pennsylvania. The amendments are effective as of the date of issuance.

These amendments will permit an elevation in the temperature setpoint for isolation of the Reactor Water Cleanup System (RWCUS) upon the occurrence of high temperature downstream of the non-regenerative heat exchanger (NR HX).

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 9, 1976 and August 9, 1976, (2) Amendments Nos. 31 and 30 to Licenses Nos. DPR–44 and DPR–56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. and at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of February, 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77–6760 Filed 3–9–77;8:45 am]

[Dockets Nos. 50–277 and 50–278]

PHILADELPHIA ELECTRIC CO., ET AL.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 32 and 31 to Facility Operating Licenses Nos. DPR–44 and DPR–56, respectively, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, located in Peach Bottom, York County, Pennsylvania. The amendments are effective as of the date of issuance. These amendments will modify the Technical Specifications to require surveillance on the recirculation pumps discharge valves and bypass valves.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 25, 1976, (2) Amendments Nos. 32 and 31 to Licenses Nos. DPR–44 and DPR–56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of February, 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77–6761 Filed 3–9–77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 7.6, "Stress Allowables for the Design of Shipping Cask Containment Vessels," describes design criteria acceptable to the NRC staff for use in the structural analysis of shipping cask containment vessels used to transport Type B quantities (as defined in 10 CFR § 71.44(q)) of irradiated nuclear fuel.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 7.6 will, however, be particularly useful in evaluating the need for an early revision if received by May 6, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 1st day of March 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77–6765 Filed 3–9–77;8:45 am]

[Docket No. 50–296]

TENNESSEE VALLEY AUTHORITY

Exemptions From Regulations for Inservice Inspection and Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted an exemption to the Tennessee Valley Authority from certain requirements of Section 50.55a(g) of 10 CFR Part 50. The relief relates to the insevice inspection and testing program conforming to the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" for the Browns Ferry Nuclear Plant, Unit 3 located in Limestone County, Alabama. The exemption is effective as of its date of issuance.

The exemption consists of deferring the date for commencement of the inservice inspection and testing program conforming to the requirements of the ASME Sction Code XI Code for certain pumps and valves until July 31, 1977.

The exemption complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting the exemption. Prior public notice of this action was not required since the granting of this exemption deferring the starting date for the inservice inspection and testing program does not involve a significant hazards consideration.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee's letters dated October 20, 1976 and January 28, 1977 (2) the Commission's letters to the licensees dated September 15, 1976 and November 22, 1976.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 25th day of February, 1977.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors, Branch No. 1, Division of Project Management.

[FR Doc.77–6762 Filed 3–9–77;8:45 am]

[Dockets Nos. 50–266 and 50–301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 24 and 28 to Facility Operating Licenses Nos. DPR–24 and DPR–27 issued to Wisconsin Electric Power Company and Wisconsin Michigan Power Company, which revised Technical Specifications for operation of the Point Beach Nuclear Plant Units Nos. 1 and 2, located in the town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective as of the date of issuance.

These amendments consist of changes to the Technical Specifications that will modify the reactor coolant system pressure-temperature limits to account for neutron irradiation induced increases in reactor vessel metal nil ductility temperature (RT_{NDT}), and will add a new specification showing the reactor vessel surveillance capsule withdrawal schedule.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated October 1, 1976, (2) Amendment No. 24 to License No. DPR–24, (3) Amendment No. 28 to License No. DPR–27, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the University of Wisconsin —Stevens Point Library, Attention: Mr. Arthur M. Fish, Stevens Point, Wisconsin 54481.

A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24 day of February 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77–6763 Filed 3–9–77;8:45 am]

[FRM–50–19]

CONNECTICUT CITIZEN ACTION GROUP, ET AL.

Filing of Petition for Rulemaking

Notice is hereby given that Louis J. Sirico, Jr., Esquire, has filed with the Nuclear Regulatory Commission a petition for rulemaking dated January 21, 1977, on behalf of the Connecticut Citizen Action Group, the Public Interest Research Group, Free Environment, the Iowa Public Interest Research Group, Citizens United for Responsible Energy, Iowa Federation of Women's Clubs, and the Good News General Store Cooperative, requesting the Commission to amend its regulation "Licensing of Production and Utilization Facilities," 10 CFR Part 50.

The petitioners request the Commissioners to amend 10 CFR Part 50 to require that

1. Nuclear reactors be located below ground level;

2. Nuclear reactors be housed in sealed buildings in which permanent heavy vacuums are maintained; and

3. A full-time Federal employee, with full authority to shut down the plant in case of any operational abnormality, always be present in a reactor's control room.

The petitioners state that the requested amendments will conform to reactor safety proposals discussed in the recent presidential campaign, and that as an interim measure, the proposal set out in the petition would significantly increase the protection offered to the public.

In the exercise of its continuing responsibility to provide adequate protection for the health and safety of the public and to carry out its licensing and related regulatory functions in a manner which will assure that nuclear power plants are constructed and operated in accordance with strict safety standards, the Commission has work under way on two of the matters addressed in the petition. Since information on this work may be of interest to persons desiring to comment on the petition, a brief description of it is provided in this notice.

In the spring of 1975, the Commission contracted for a study on the underground siting of nuclear power reactors. A report on the results of this study is expected to be completed by mid-1977. This report will address a portion of the factors that must be considered in determining the overall utility of underground siting of nuclear power plants.

In November 1976, the Commission staff undertook an assessment of the feasibility of instituting a program of full-time inspection at operating reactors. This assessment, which contains an analysis of various alternatives for inspecting operating reactors, including as one of the alternatives the placement of a full-time NRC employee in the control room of each nuclear power plant, also is expected to be completed by mid-1977.

A copy of the petition for rule making is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All interested persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Sec-

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retary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by May 9, 1977.

Dated at Washington, D.C. this 7th day of March 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-7107 Filed 3-9-77;8:45 am]

LOW LEVEL WASTE DISPOSAL

Task Force Report

A Task Force from the staff of the Nuclear Regulatory Commission has completed a review of the NRC and State regulatory programs for the disposal of commercial low level radioactive waste. The Commission has under consideration Task Force recommendations for strengthening the regulatory programs. The recommendations of the Task Force are based on broad policy considerations and are not the result of a concern for safety of commercial disposal facilities as they are currently being operated. The Task Force found no evidence that the public health and safety is not being adequately protected. Representatives from the States and from other Federal agencies were consulted during the preparation of this report.

As part of its consideration process the Commission invites the views of the public. All interested persons who desire to submit written comments on the report and its recommendations should send them by May 9, 1977 (60 days) to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Copies of the complete report may be examined at the Commission's Public Document Room at 1717 H Street, Washington, D.C. and at the Commission's local Public Document Rooms. Copies of the comments received in response to this notice will be placed in the Commission's Public Document Room in Washington, as received. Single copies of the report may be obtained without charge, to the extent of supply, by writing to the Division of Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

After existing stock is exhausted, copies are available from the National Technical Information Service, Springfield, Virginia 22161, at current rates.

The body of the report is set forth below.

Dated at Washington, D.C., this 7th day of March 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

NRC TASK FORCE REPORT ON REVIEW OF THE FEDERAL/STATE PROGRAM FOR REGULATION OF THE COMMERCIAL LOW-LEVEL RADIOACTIVE WASTE BURIAL GROUNDS

U.S. NUCLEAR REGULATORY COMMISSION

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INTRODUCTION

This report is the result of a Nuclear Regulatory Commission (NRC) Task Force study of programs used by the NRC and State governments to regulate disposal of commercial low-level radioactive wastes.[1] The study is part of the NRC re-examination of the technical and regulatory bases for lowlevel waste management and also covers issues raised by the U.S. General Accounting Office (GAO), the Joint Committee on Atomic Energy (JCAE)) and the House Committee on Government Operations.

Following issuance of the January 12, 1976 GAO report to Congress on disposal of low-level waste, the Conservation, Energy, and Natural Resources Subcommittee of the House Committee on Government Operations held hearings on low-level waste during February, March and April. In their report, "Low-Level Nuclear Waste Disposal" (House Report No. 94-1320), the House Government Operations Committee recommended that the Federal government move promptly to develop a coordinated program for the safe management of low-level radioactive waste and consider assertion of Federal control over regulation and ownership of the commercial burial grounds. In testimony before the JCAE given on May 12, 1976 the NRC said that it would reassess the roles of the Federal and State governments in the regualtion and operation of the commercial burial grounds.

The Task Force, in the process of studying the issue of Federal versus State regulation of commercial burial grounds, expanded the scope of its study to include other related issues which currently affect commercial burial ground regulation and operation (i.e., the need for research and development, development of a comprehensive set of standards and criteria, development of a national plan for low-level waste disposal, and perpetual care funding). The report reviews these issues, describes the present status of NRC and State regulatory roles in waste management, and presents conclusions and recommendations directed toward improving low-level waste management programs.

There is a large body of information in Atomic Energy Commission (AEC) policy papers, testimony, reports, etc., that collectively describes how the present low-level waste-management program evolved and how the AEC and the Agreement States[2] performed during this evolution. The evolution involved complex interlocking relationships between several Federal and State agencies, and between these authorities and burial-ground operators. The Task Force has not attempted to reassess the validity of individual licensing actions, inspections, or studies undertaken by individuals or agencies in the past. Instead it attempted to determine where improvements might be made to the program.

Five of the six commercial burial grounds (Beatty, Nevada; Hanford, Washington; Barnwell, South Carolina; Maxey Flats, Kentucky; and West Valley, New York) are located in the Agreements States and are regulated by the States. However, at three sites (Beatty, Hanford and Barnwell), the NRC licenses special material because the quantities authorized for possession by the commercial operator exceed those which the Agreement States may license under their Agreements. The sixth burial ground (Sheffield, Illinois), located in a Non-Agreement State, is regulated by the NRC although the State licenses and controls activities at the site concerning naturally occurring and accelerator produced radioisotopes which are not subject to NRC control. The sites are all commercially operated. The Nuclear Engineering Company, Inc. operates four of the sites (Hanford, Beatty, Sheffield, and Maxey Flats), Nuclear Fuel Services, Inc. operates the West Valley site and Chem Nuclear Systems, Inc. operates the Barnwell site. All of the burial grounds are on State owned land with the exception of the Hanford site which is on Federally owned land leased to the State of Washington. For all sites the State has commitments for assuring long term care and maintenance of the site although responsibility for the Hanford site will eventually revert to the Federal government.

In developing this report, the Task Force reviewed current events and reports concerning low-level radioactive waste management. These are summarized in Appendix A.[2a] The history of the development of low-level waste management is summarized in Appendix B. To obtain first-hand information about current waste-disposal programs as conducted by the States, as well as to obtain their views about regulating commercial burial grounds, the Task Force visited Illinois, Kentucky, Nevada, New York, South Carolina, and Washington State. The Task Force met with senior management representatives from these States, and visited the radioactive waste burial grounds in each State except Washington. Issues reviewed during each State meeting are summarized in Appendix E.

[1] For the purposes of this report, low-level radioactive waste includes all waste except that defined as high level waste, spent fuel or mill tailings. Appendix F to 10 CFR Part 50 defines high level radioactive wastes as "those aqueous wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel."

[2] "Agreement States" are those States which, pursuant to section 274 of the Atomic Energy Act, have entered into an agreement with the NRC for assumption of regulatory control of byproduct, source and small quantities of special nuclear materials.

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSION I

The present system for low-level radioactive waste management lacks national organization and direction. The States, in discharging their regulatory duties, have operated under difficult circumstances but have adequately protected the public health and safety. The Task Force can find no compelling health or safety reason for reassertion of Federal control at this time. However, the States do not have the resources to provide the needed overall leadership or organization, nor do they have the obligation to find solutions to this national problem. The States will continue to have a vested interest in the protection of the health and safety of their citizens and in land use decisions. This vested interest can be satisfied by their participation in the site selection process and their monitoring of day-to-day operations. The development and implementation of a national waste management plan, which includes adequate capacity without site proliferation can be more readily achieved if the NRC assumes regulatory control (with State participation). The Federal government should assume responsibility for perpetual care of the sites which can be readily accomplished through Federal landownership.

RECOMMENDATION I

The NRC should initiate action in cooperation with appropriate Federal and State agencies to increase Federal control over the disposal of low-level waste by:

a. Requiring:

Joint Federal/State approval of new disposal sites;

NRC licensing, with State participation, of current and new disposal sites;

Federal ownership of land for all disposal sites.

b. Establishing a Federally administered perpetual care program.

CONCLUSION II

There is an urgent need to establish a comprehensive set of standards, criteria, and regulations governing low level waste management. An integration and acceleration of ongoing efforts to establish such a program is required. Emphasis should be placed on:

a. Developing operating, monitoring, decommissioning, post-operational maintenance and funding requirements for both existing and future burial sites.

b. Developing criteria for the acceptability of future proposed shallow land burial sites or alternative disposal methods.

c. Developing criteria for determining which wastes can be disposed of by shallow land burial.

[2a] Appendices filed as part of the original document.

RECOMMENDATION II

The NRC, in cooperation with appropriate Federal and State agencies, should accelerate development of the regulatory program for the disposal of low-level waste which includes regulation, standards, and criteria.

CONCLUSION III

National planning must assure adequate disposal capacity beyond 1990 while preventing an undisciplined proliferation of sites. While there have been other disposal methods used, the only currently practiced method is shallow land burial. Since the enactment of the National Environmental Policy Act (NEPA) a comprehensive Federal examination of alternative disposal methods has not been made. Such an examination is needed.

There is now sufficient burial capacity for the disposal of commercial low-level waste to the year 1990. Until extensive investigation of alternatives to shallow land burial is completed, the additional licensing of new shallow land burial sites should be avoided. That investigation may disclose better methods and practices. The undisciplined proliferation of low-level burial sites must be avoided.

RECOMMENDATION III

The NRC should initiate immediately the necessary studies to identify and evaluate the relative safety and impacts of alternative low-level waste disposal methods. No new disposal sites should be licensed until a full examination of alternative disposal methods has been completed or unless an urgent new need is identified. The NRC should assure effective use of existing commercial burial grounds.

DISCUSSION

The Task Force views the essential elements of a satisfactory national low level waste management program as one which provides for (a) adequate disposal capacity at the least environmental and social costs, (b) well defined standards and regulations for site selection, operation, and term care of disposal sites, and (c) capability of those governmental agencies having responsibility to implement the program.

The following discussion develops issues which are pertinent to the Task Force conclusions and recommendations and to the development of a national low-level waste management program. The issues which follow are not presented in the same order they are covered in the conclusions and recommendations but rather, are presented in a way which leads to the underlying issue of Federal vs. State control.

WASTE PROJECTIONS

A first step in dealing with the problem of exercising positive control over the timing and location of disposal sites is a projection of needed waste disposal capacity on a national and regional basis. Though there are several such projections dealing with wastes expected from the nuclear industry (principally fuel-cycle operations), they vary as to volume of wastes expected and the basic assumptions used in the projections. Further, the projections are based on national rather than regional needs and they differ regarding the types and forms of wastes expected, and they use differing waste classification schemes. Assumptions regarding waste-treatment systems to be used at various fuel-cycle facilities are different, and the number, types, and power levels of reactors generating wastes all differ.

A review of projected waste generation that takes these factors into consideration would place on public display the national requirements for low-level waste management, would enhance the quality of licensing decisions, and would provide a sound basis for future actions. A review of some projections and an analysis of site capacities based on these projections is contained at Appendix D. This preliminary analysis indicates that there is sufficient national capacity to accommodate wastes generated until 1990.

TECHNICAL ALTERNATIVES TO SHALLOW LAND BURIAL

Development of a sound policy regarding disposal of low-level wastes requires a sound analytical basis for the selection of specific methods among the alternative methods available. Shallow land burial is now conducted essentially as it was in the early days of the nuclear industry, while the apparent alternatives for disposing of wastes have been dismissed or ignored. For example, although the Energy Research and Development Administration (ERDA) now has a program to advance the technology of shallow land burial, an in-depth study of disposal alternatives has never been conducted. Such an analysis might be regional in character, based on cost and benefits, and should assess the feasibility, technologies, state of the art, safety and environmental risks, and projected capacities of other potential disposal methods.

Several alternatives to shallow land burial are presented in ERDA 76-43,[3] but they are not explored in sufficient depth to allow comparisons as to their respective merits. A partial list of alternatives and treatment options includes:

[3] Alternatives for Managing Wastes From Reactors And Post-Fission Operations In The LWR Fuel Cycle, Energy Research and Development Administration, May 1976.

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Placement in deep geologic formations.
Placement in existing salt mines (or other existing mines).
Placement in Nevada test-site cavities.
Disposal on ocean floors.
Hydrofracture injection of solidifying materials into geologic formations (e.g., grout into sale layers).
Special treatment (e.g., volume reduction, solidification, incineration, and containerization) at regional processing centers prior to disposal.
Disposal at generation site, (e.g., nuclear parks).
Retrievable engineered storage.

STANDARDS AND CRITERIA

Some standards and criteria have been developed for shallow land burial. Initially these were based on AEC experience during operation of its burial grounds. Additional guidelines, which for the most part are site specific, were developed through regulation of the commercial sites. A comprehensive set of standards and criteria based on national requirements covering all aspects of burial ground operation is lacking. Such standards which can withstand technical and public review should be developed.

The following general requirements, currently in use, were followed by the AEC and Agreement States in licensing existing commercial sites:

A written commitment must be obtained from a government body or a responsible official that a State or Federal agency would assume control over the burial site in the event of default or abandonment of the site by the commercial operator. The site must be located on land owned by either the Federal or State government.

The geological and hydrological characteristics of the site must be such that waste material is contained in a manner that will not endanger public health or safety and that migration of radioactivity from the site is unlikely.

The waste must be in solid form before burial. Liquid waste must be solidified or immobilized to minimize the potential for migration.

The burial-ground operator must establish and conduct an environmental monitoring program. To determine whether migration has occurred, operators are required to establish a baseline of radioactivity that existed in the environment before any waste was buried. The monitoring program must be continued by the operator to detect radioactivity increases beyond those original levels. Increases must be reported to the appropriate regulatory agency, which then analyzes the possible significance and develops corrective actions as appropriate.

The packages in which wastes are transported must comply with appropriate Federal standards. Packaging is designed to provide protection during transportation and handling. Although packaging would provide a primary barrier, it is not relied upon nor expected to provide waste containment after burial. The geology of the site is to be relied upon for containment.

In the past, site selection criteria required that migration of radioactivity from the site be unlikely. In effect, zero releases were expected. As recent water management problems at two of the sites have illustrated, these expectations were not realistic (see Appendix C). Few specific hydrogeology criteria existed until recently upon which potential sites could be evaluated or locations selected, and criteria developed to date are incomplete.

Practices and procedures at the sites vary on such matters as trench construction, waste placement, type and form of waste accepted, monitoring programs, water management, and contingency provisions. Some variations in operational practice among sites are necessary because of individual site characteristics. However, specific criteria for many aspects of site operation have not been developed. For example, criteria require that the site operator conduct an environmental monitoring program, but details on how such a program should be carried out are not well defined. Government policies require that radioactive wastes be solidified before disposal, but standards for evaluating solids, particularly with respect to liquid-waste solidifying agents, have not been developed. Although isotopic migration from burial trenches is not expected, national standards are needed to evaluate the significance of radioactivity migration should it occur and to evaluate proposed corrective action.

The application of criteria by individual States affects site utilization. From a national viewpoint, waste-disposal capacity is dictated both by the number and location of sites and by limitations on the type, form and specific activity of wastes accepted at each site. Some sites accept dewatered resins, whereas others require that such wastes be solidified in concrete or some other suitable solidification agent. One site limits the average activity per package to 1 curie/ft³.

The safe disposal of radioactive waste requires the availability of safe disposal sites or facilities as well as the development of the standards and criteria for safe disposal. Some States and certain elements of the public are reluctant to accept disposal facilities in their jurisdiction or vicinity. This reluctance may be based on parochial interest as well as genuine concerns about the perceived hazards. If this attitude becomes prevalent, there may not be a mechanism to ensure that suitable sites as identified by site selection criteria and environmental and economic analyses are, in fact, made available as they are needed.

Certain operational considerations have not been seriously evaluated. Packaging used for transporting waste does in fact provide a measure of containment for materials with short half-lives, but packaging is not considered to provide any containment for the waste. In evaluating the hydrogeology of the sites, the AEC utilized the expertise of the U.S. Geological Survey and this expertise was also made available to the Agreement States. These evaluations were based on the assumption that wastes buried in shipping containers, for practical purposes, were in direct contact with the earth. Packages should be evaluated as containment barriers.

Only in recent times has consideration been given to the segregation of long-lived material, and no national standards have been implemented in this area. In 1970, the AEC implemented policies limiting the burial of long-lived transuranium radionuclides at AEC operated sites (transuranium elements are elements having atomic numbers greater than 92 including plutonium). Such waste containing greater than 10 nanocuries per gram were sent to retrievable storage facilities. The AEC issued a proposed rule on September 12, 1974 which would have limited burial of transuranium wastes at commercial sites also. Following creation of the NRC and ERDA, ERDA withdrew the draft environmental statement needed to fulfill requirements of the National Environmental Policy Act (NEPA). Although the rule has not been implemented, all the commercial burial sites except the Hanford site presently limit the burial of transuranium nuclides. Development of a rule and supporting environmental statement is still being pursued by NRC in concert with other reviews such as this one.

Waste treatment and processing such as incineration and compaction, may be effective in increasing site capacities and decreasing waste mobility, but no standards and little experience are available with which to evaluate these operations insofar as waste management is concerned. In addition, guidance is needed for evaluation of the full range of environmental impacts associated with site operation. For example, acceptable uses of sites after decommissioning have not been determined. Revenue-producing activities following decommissioning could minimize land-use impacts.

State and Federal governments recognize the need for long-term control over land used for waste disposal. Associated with such control are requirements for effective site decommissioning, site care, and further uses of the site. No commercial or major ERDA site has been decommissioned to date. If the New York site is not reopened and if the 10 cents per pound excise tax in Kentucky results in an operator decision to close the site, decommissioning could become a reality in the near future rather than the late 1990's, as was planned when the sites were opened. While the need for decommissioning and long-term care standards is recognized, national standards for these aspects have not been developed.

LICENSING OF NEW SHALLOW LAND BURIAL SITES

The need to investigate alternative methods for the disposal of low-level waste and to develop standards and criteria has been identified. There is an additional need to better define capacity requirements on a regional basis. As Appendix D shows, there is sufficient capacity at the currently licensed sites to accommodate low-level waste until the year 1990. The continued licensing of shallow land burial sites prior to the evaluation of alternative methods of burial and regional planning could result in site proliferation of what may be a less than optimum disposal method. Until a need to expand capacity or a national low-level waste management program (including the evaluation of alternative methods of disposal) has been established, licensing of additional low-level waste disposal is unlikely to be in the best public interest.

LONG TERM CARE OF DISPOSAL SITES

As a matter of policy, the Federal government has never assumed long term responsibility for waste burial sites. The States have assumed ownership and commitment to long-term care of the sites, though responsibility for the Hanford site which is on land leased from the Federal government, will revert to the Federal government. Most States indicate that under present leases, burial-ground operators can abandon sites at any time without a continuing financial obligation for long-term care and maintenance.

In all States except Illinois, where disposal fees are paid into the general State fund, a specific fund has been established for perpetual care of the sites. The money is paid to the State by the operator and is based on per-cubic-foot burial charges, which range from 5¢/ft³ to 16¢/ft³. Sites that are closed, as in New York, will accrue no funds for perpetual care while they are shut down.

Available money for perpetual care thus varies from State to State, ranging from $40,000 in Washington to $251,000 in South Carolina. With the possible exception of the South Carolina site, neither the States nor the Task Force believe that funds are being accured at a rate sufficient to adequately care for the sites.

In a report on Bonding and Perpetual Care of Nuclear Licensed Activities (see Appendix A, Section 12), the National Conference of Radiation Control Program Directors (an organization of State representatives) recommends that annual interest from perpetual care trust funds should total between $50,000 and $250,000, depending on burial ground characteristics. This recommendation ignores devaluation of the dollar, and inflation of equipment, manpower, and technology costs. Even an analysis which includes inflation/deflation factors may ignore changes in other factors such as in profit margin, tax structure, and availability of monies. In a recent analysis of South Carolina site needs (see Appendix A, Section 12), Clemson University considered some of these factors and recommended a 14¢ per cubic foot charge to privide an adequate fund by 1995. Still, it is difficult to assess accurately what charge would be required to establish a perpetual maintenance fund.

Initially, the funds were established to provide money from interest for perpetual care of the sites. They were not considered as resources for corrective action, since major problems in site operations were not expected. However, with recent operational problems at several sites, the States have reevaluated use of the funds. It is evident that present funds are insufficient for major corrective actions. Furthermore, such use of the funds would deplete the principal, leaving little money for long-term care. All States indicated that they would need Federal financial and technical assistance if major deficiencies in site performance are found.

Some States have considered requiring bonds to assist in funding programs, but have found that these are not generally available for burial grounds except at high cost. It was suggested by the State of South Carolina, in testimony before the House Government Operations Committee, that an indemnification program similar to the Price-Anderson structure for nuclear facilities be developed for burial grounds.

No national standards are available by which States can evaluate the adequacy of existing perpetual-care funds or collection rates, evaluate proposed changes to perpetual-care charges, or evaluate amounts that might be needed for corrective actions if major problems develop in site operation. These standards should be developed.

The States have expressed the view that waste originators and site operators, not State citizens, should bear the cost of licensing, inspection, monitoring, and long-term care. At all sites except the one in Illinois, over half of the waste comes from out of State. In Nevada and Kentucky, only about 1 percent of the wastes buried are generated within the States. At the Sheffield, Illinois site, about 70 percent is generated in-State. Six States are providing a waste disposal capability for the nation and thus, have assumed liability for wastes generated nationally.

FEDERAL VS. STATE REGULATORY CONTROL

The underlying issue of this report is whether the NRC should exercise exclusive licensing and regulatory authority over commercial low-level waste management, or whether this authority should be shared with the States. Five of the six burial sites are licensed and regulated by States under an agreement with the NRC pursuant to section 274 of the Atomic Energy Act. Notwithstanding this delegation of authority, the NRC has a responsibility for assuring that the States conduct regulatory programs which are adequate to protect public health and safety. 10 CFR Part 150, which implements certain provisions of section 274, permits Federal reassertion of regulatory control over burial grounds. However, Part 150 requires that reassertion be based on a need to protect the public health and safety from nuclear waste hazards.

The NRC regularly reviews the Agreement State programs and has found their licensing and regulatory activities to be adequate to protect the public health and safety and compatible with the NRC regulatory program. The reviews include an independent assessment of licensing, inspection and monitoring activities involving the burial grounds. In addition, the NRC has conducted some special studies and investigations at the sites. For example, the NRC has conducted an independent assessment of the Maxey Flats site, participated in assessment of pilferage at the Nevada site, conducted precautionary inspections to check for further incidence of pilferage and has collected and analyzed independent environmental samples at all sites. In reviewing information about these routine reviews and special studies the Task Force found no evidence that the public health and safety is not being adequately protected (see Appendix C).

The JCAE has expressed concern that the NRC may not have adequate control over the activities of Agreement States in the management of low-level waste. However, the JCAE has not taken a specific position that the NRC should reassert regulatory jurisdiction over all burial grounds. The House Government Operations Committee in its June 30, 1976, report recommends that licensing and regulatory authority over low-level waste management be exercised by the NRC rather than the States. We conclude from our reading of that report that this recommendation is based not so much on a judgment by the Committee that the States are not doing an adequate job, as that low-level waste management is a national problem, requiring centralized control for standards development, environmental assessment, licensing, decommissioning, and long-term care and maintenance.

The States, on the other hand, believe they have an important role in the licensing of burial grounds within their own borders since they have traditional responsibility for assuring the health and safety of their citizens. They believe that they can fulfill this responsibility by participating in burial ground site selection, defining safety provisions for site operation, and inspections during operation, decommissioning, and long-term surveillance. Opinions among State officials vary as to how the State should fulfill its responsibility. These range from the view that State goals could best be accomplished through State licensing, inspection and monitoring under section 274 Agreements to views that the States could participate with NRC in a cooperative arrangement to accomplish their goals while NRC retains regulatory jurisdiction over the sites (see Appendix E).

The GAO, the House Government Operations Committee, and the States all appear to be in agreement that the NRC should take the lead in developing national standards necessary to put low-level waste management on a firm regu-

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latory basis. The NRC has in the past assumed this role in the development of radioisotope licensing criteria for its own program as well as for the Agreement State program. The Task Force believes that NRC responsibility for development of nationally applicable standards is beyond dispute.

An issue associated with Federal/State regulatory control over burial grounds is the undisciplined proliferation of burial sites. Federal and State regulatory authority, and to a degree the State's authority as landlords for the sites, has been expressed to date chiefly as a veto power. Sites were evaluated on their individual radiation-safety merits, and licenses were issued or denied on that basis. Siting and location were based mainly on initiatives by private operators. In most instances, little consideration was given during licensing reviews to the actual need for a burial ground in a specific region and at a specific time. In some cases, siting was promoted by a State to provide capabilities chiefly or exclusively for the State's nuclear industry (see Appendix E). With the advent of of NEPA the NRC is required to use a benefit analysis as a mechanism to consider the need for sites licensed by the NRC and to consider alternative licensing decisions. The States, under the terms of their agreements, are not required to comply with NEPA, but in 1974, the AEC sent a letter to Agreement States requesting that the national need for burial grounds be considered to minimize environmental impacts and to control site proliferation. The States have honored this request. New Mexico has agreed to take these considerations into account during current discussions with a burial-ground operator for opening a site within that State. It is impossible to predict how well or how long this spirit of cooperation will continue without specific commitments from the States to account for costs and benefits—on a national scale—in licensing actions.

The Task Force can find no compelling health or safety reason for reassertion of Federal control at this time. However, there is an urgent need for a comprehensive commercial low-level waste management plan. For coherent implementation of this plan the Federal government must assert leadership and control. The States will continue to have a vested interest in the protection of the health and safety of their citizens. This vested interest can be satisfied by their participation in the site selection process and their monitoring of day-to-day operations. The fulfillment of a national waste management plan, including having adequate capacity without site proliferation, is more readily achieved if the NRC performs the licensing (with State monitoring). Also, it appears desirable and equitable for the Federal government to assume responsibility for long-term care of the sites since the States generally do not have the resources to assure adequate care under a variety of contingencies, and the sites generally serve regional rather than State needs. This can be accomplished by the Federal government ownership of the land and administration of the perpetual care program.

NOTE: Appendices A–E filed as part of the

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NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 77–10]

ACCIDENT REPORT; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Aircraft Accident Report. The National Transportation Safety Board has made public the report of its investigation of the runway overrun crash of an American Airlines Boeing 727 last April 27 at Harry S. Truman Airport, Charlotte Amalie, St. Thomas, Virgin Islands. The report, No. NTSB–AAR–77–1, was released March 5.

The aircraft struck the instrument landing system localizer antenna, crashed through a chain link fence, and came to rest against a building located some 1,040 feet beyond the departure end of the runway. The aircraft was destroyed. Of the 88 persons aboard the aircraft, 35 passengers and 2 flight attendants were killed; 38 others received injuries, ranging from minor to serious, and one person on the ground was seriously injured.

Probable cause of the accident, as determined by the Safety Board, was the captain's actions and his judgment in initiating a go-around maneuver with insufficient runway remaining after a long touchdown. The long touchdown is attributed to a deviation from prescribed landing techniques and an encounter with an adverse wind condition, common at the airport. The nonavailability of information about the aircraft's go-around performance capabilities may have been a factor in the captain's abortive attempt to go-around after a long landing.

The captain stated that he did not know why he did not use all possible deceleration means. According to the Safety Board, it has been found that, "when danger appears imminent, man may undergo certain behavioral changes intended to extract him rapidly and impulsively from such a situation without having to go through the slower reasoning process." This so-called emergency mechanism can cancel "the reasoning function taught by experience and training," the Board said. In the St. Thomas accident, it may have been triggered when the captain realized that a go-around was impossible and that an accident was inevitable.

Investigation also showed that there had been no engine malfunction during the landing or the abortive go-around attempt, and that Truman Airport, although less than ideal, is safe with regard to B–727–100 operations provided that these operations are conducted within prescribed procedures. The Board did find, however, (1) a lack of close-in firefighting equipment aboard Truman Airport crash/fire/rescue vehicles, (2) airport-island fire department communications problems, and (3) outdated sections in the airport operations manual. The Board addressed corrective recommendations to the Federal Aviation Administration last December 9. (See 41 FR 55001, December 16, 1976; also, FAA's response, below.) The recommendations, Nos. A–76–138 through A–76–140, are reproduced in the accident report.

Aviation Safety Recommendation. To assure that corrective action is taken to prevent decompressions caused by floor beam failures, the Safety Board on March 3 recommended that the Federal Aviation Administration issue an Airworthiness Directive to require mandatory compliance with Boeing 727 Service Bulletin 53–134, Revision 2. This recommendation, No. A–77–11, was made after investigation of the sudden decompression of an Eastern Air Lines Boeing 727–100, occurring last November 2 while the aircraft was in level flight at 29,000 feet near Richmond, Virginia. The aircraft was en route from Raleigh-Durham, North Carolina, to Philadelphia, Pennsylvania. After the sudden decompression, all oxygen masks deployed normally and oxygen was available to the 46 passengers aboard the aircraft. No passengers or crewmembers were reported injured. The flight continued to Philadelphia International Airport, landing without further incident.

The Board's investigation of this incident revealed that the depressurization was caused by the failure of the lower forward flange on the left side of the floor beam at body station 910. The flange crack, which extended from left butt line 9.0 to left butt line 57.0 along the flange radius, allowed the landing gear ceiling pressure plate to deflect downward about 1 inch. Cabin pressure differential at the time of the incident was approximately 8.2 psig. The aircraft's total time was 36,267.35 hours accrued, during 29,941 flights.

Electron microscopic examination showed regions of fatigue striations adjacent to regions of intergranular fracture over all the fracture surfaces. The latter fracture is typical of stress corrosion cracking in aluminum alloys, the Board stated. Preliminary findings indicated that the crack progressed initially by relatively high-cycle fatigue; the mode of fracture changed to intergranular cracking in the latter stages of propagation before ultimate failure.

The Board noted that this aircraft experienced a similar failure on the right side forward flange at the same body station on November 1, 1975; while there was no sudden decompression, the aircraft did have pressurization problems for a time before the cause was determined. To alleviate the problem, The Boeing Company issued Service Bulletin 727–53–134, Revision 2, dated July 16, 1976, recommending inspection and reinforcement of the floor beam at body station 910; initial inspection is at 15,000 flights and reinspection at 2,000 flight

intervals until the aircraft is modified.

Responses to Safety Recommendations. Letters were received by the Safety Board within the past week from:

Federal Aviation Administration. Letter of February 15 addresses recommendations A–76–136 and A–76–137 which were issued last November 18 after the Board had investigated certain incidents where aircraft were unable to stop on runways which had not been maintained sufficiently to provide effective braking action. (See 41 FR 52115, November 26, 1976.)

In response to these recommendations, FAA has determined on a priority basis runways in the air carrier system where the potential for hydroplaning exists. According to the February 15 letter, FAA has identified 224 airports which have precision approach systems and serve turbojet airplanes but do not have any form of runway surface treatment. FAA has asked its Regional Directors to establish a high priority to enhance safety in this area; locations having the greatest potential for slippery conditions will be identified. FAA says that airport owners will be advised of the importance and urgency of accomplishing runway surface improvement, and FAA technical and financial assistance will be explained and additional guidance provided. FAA's objective is that within a 3-year period, at least one runway at each of the 224 airports will be treated.

FAA's February 15 letter also notes that a meeting with industry representatives and consumer groups was to be held February 23 to discuss ongoing programs, future programs and new approaches to reduce runway slipperiness. While FAA does not intend to make friction measurement a regulatory requirement at this time because of insufficient standards and authentic guidance material, if the programs now underway do not progress satisfactorily FAA will again consider the possibility of regulatory action.

FAA's letter to February 23 provides comments and actions in answer to recommendations A–76–138 through A–76–140, issued following investigation of the St. Thomas accident reported above.

In concurring with recommendation A–76–138, which asked FAA to insure that procedures in the operations manuals of airports certificated under 14 CFR Part 139 are current and applicable to the airport, FAA notes that under § 139.31(b) each certificate holder will keep his airport operations manual current at all times after it is approved and that FAA certification safety inspectors are responsible, through annual inspections, to insure that the manuals are current and reflect the actual operations at the airport. FAA states that violations are reported in Letters of Correction, with necessary followup from the region to insure compliance; also, through staff visits, letters and other direct contact with the certification inspectors, "very positive actions have been taken by our regional offices to assure the currency of the airport operations manuals." Further, as in response to recommendation A–76–139, a policy change is being taken by establishing an administrative review and reporting procedure on the airport operations manuals. For use in connection with the certification program, copies of the Safety Board's recommendations and this February 23 response will be forwarded to all FAA Regional Directors, according to FAA. A copy of the letter to Regional Directors is attached to the response.

FAA also concurs with recommendation A–76–139 which asked that FAA institute, through the regional offices of the Office of Airports Programs, a program to emphasize to airport management the importance of continual, critical review and update of airport operations manuals. In answer, FAA's Washington office will maintain close surveillance of the regional programs to insure complete compliance with the operations manual requirements as contained in FAR–139. Also, FAA is instituting a definitive program, "Special Operations Manual Review," the initial phase of which will be completed next September 30. This program, FAA states, will emphasize the currency and adequacy of airport operations manuals, not only during annual certification inspection but also during FAA's newly established semi-annual administrative review and when otherwise necessary. FAA notes that this will be an item for special attention during the periodic staff visits to the regions by Washington certification personnel.

Recommendation A–76–140 asked FAA to require that the Virgin Islands Port Authority (VIPA) revise its operating procedures at Harry S Truman Airport to insure that:

(a) All necessary CFR equipment, especially air packs and proximity suits, is brought to an accident site on the responding crash/fire/rescue (CFR) vehicles. FAA reports that immediately following the St. Thomas accident last April, the VIPA directed the fire department personnel to install and maintain protective clothing and breathing equipment on all CFR vehicles in readiness for use when responding to emergencies. During a routine annual certification inspection of the Truman Airport last December 13–14, FAA confirmed that two complete proximity suits and two Scott air packs are installed at all times on each of two 1,500 gallon water/foam vehicles, and one suit and one air pack is installed on the quick response vehicle.

(b) The direct emergency line is reinstalled to provide immediate communications between the airport and the Insular Fire Department (IFD). FAA reports that, due to the substantial cost of direct emergency line communications between the airport and IFD, the VIPA does not propose to reinstall this system. FAA concurs in their decision in that "there are other more practical means to obtain the desired results." FAA states, "We believe that adequate communications between the airport and IFD is provided through the following equipment: (1) Three-digit direct dial telephone system, (2) seven-digit commercial telephone system, and (3) four-channel radio transceivers in both the ATCT and the airport CFR station."

(c) The IFD be included on the VIPA radio frequency for accident notification and control purposes. FAA concurs, although the IFD response to an aircraft emergency is open to question for the following reasons: (1) Unless the crash scene was near the downtown area, the IFD would not likely reach the site within an acceptable time frame to provide effective rescue assistance, and (2) the IFD structural fire equipment is not suitable for combating aircraft fires. FAA also stated that the IFD could make a contribution in property protection and supportive rescue efforts.

(d) Procedures for proper continuity of airport command during emergencies be included in the Harry S Truman Airport Operations Manual. FAA, noting that these procedures are adequately covered in that manual, states, "To more clearly delineate respective roles of responsibility between airport management and FAA tower personnel, an addendum to the existing Letter of Agreement between those two agencies was executed on January 3, 1977."

United States Coast Guard. Letter of February 18 updates response to recommendation M–76–9, one of ten recommendations issued as a result of investigation into the collision between the SS *C. V. Sea Witch* and the SS *Esso Brussels* in New York harbor on June 2, 1973. The recommendation asked the Coast Guard to expedite implementation of the Safety Board's 1972 recommendation to prepare emergency contingency plans to respond to catastrophic accidents involving hazardous material for waterways which carry large quantities of such materials. The recommendation also asked that the contingency plan for New York harbor be given priority. (See 41 FR 10481, March 11, 1976.)

Coast Guard's response states, "Contingency plans for accidents involving hazardous materials are presently in various stages of development at Coast Guard field units. New York is currently developing their plan."

The aviation accident report and the safety recommendation letter are available to the general public; single copies may be obtained without charge. Copies of the letters concerning recommendations may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

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(Secs. 304(a)(2), 307, Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

MARCH 7, 1977.

[FR Doc.77-7135 Filed 3-9-77; 8:45 am]

POSTAL RATE COMMISSION

[Docket Nos. MC76-1, MC76-2, MC76-3, MC76-4]

MAIL CLASSIFICATION SCHEDULE, 1976

Hearing on Special Services Rescheduled

MARCH 4, 1977.

Notice is hereby given that pursuant to the Administrative Law Judge's "Notice and Order Rescheduling Certain Dates and Providing Miscellaneous Directions," dated March 4, 1977, the hearings on Special Services previously scheduled at the February 22, 1977 Prehearing Conference, for March 21-23, 1977, have been rescheduled for April 12-14, 1977. The date for filing Notice of Intent to File Rebuttal previously set for March 25, 1977, is changed to April 18, 1977. The briefing dates previously set for May 31 and June 21, 1977, remain unaffected.

The hearing on Special Services will commence at 9:30 a.m., on April 12, 1977, in the Commission's Hearing Room, Suite 500, 2000 L Street NW., Washington, D.C.

A copy of the Administrative Law Judge's "Notice and Order Rescheduling Certain Dates and Providing Miscellaneous Directions" is available to all interested parties in the Commission's Docket Room at the above-listed address or by calling the Docket Room, at Area Code 202-254-3804.

DAVID F. HARRIS,
Secretary.

[FR Doc.77-7092 Filed 3-9-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1295]

NEW YORK

Declaration of Disaster Loan Area

Correction

In FR Doc. 77-5866, appearing on page 11301 in the issue for Monday, February 28, 1977, the bracketed declaration number in the heading should read as set forth above.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 76-150]

NATIONAL PLAN FOR NAVIGATION

Implementation of Loran-C Radio Navigation System

Purpose. This notice describes plans that complete the implementation of the Secretary of Transportation's decision to provide Loran-C radio-navigation service throughout the Coastal Confluence Zone (CCZ) of the United States. These plans include the expansion of Loran-C service for the southeastern portion of the United States, including the Gulf of Mexico, and a partial expansion and reconfiguration of Loran-C service on the East Coast on or about July 1, 1978. Completion of the reconfiguration of Loran-C service on the East Coast will take place on or about 1 July 1979, and the expansion of service to cover all of the Great Lakes will follow on or about February 1, 1980.

HISTORY

The Department of Transportation National Plan for Navigation (NPN) is the official source of navigation policy and plans for the Department. In the April 1972 edition of the NPN, it was stated that the primary unresolved navigation issue was the designation of the government - provided radionavigation system for the CCZ. The NPN stated that a choice would be made among four systems which were in operation or appeared capable of being implemented within a reasonable time. These were Loran-A, Loran-C, differential Omega, and Decca. The Secretary of Transportation directed the U.S. Coast Guard, the agency given statutory responsibility for providing maritime navigation systems, to conduct a study and recommend a system. In the conduct of the study, factors considered were the capability to meet the technical and operational requirements. The cost of system installation, operating expenses, present investment, and user equipment needs were also considered. As part of the study, the average navigational accuracy requirements in the CCZ, as shown in the NPN, were refined to show the ranges of accuracy required in various parts of the zone. In addition to the general navigation requirements, the needs of commercial fishermen and the scientific community were considered.

The NPN defined the CCZ as the seaward approaches to land, considered to extend about 50 nautical miles (NM) from the coast, although the distance could vary from about 20 NM to 120 NM. The navigation system accuracy requirement was given as 1/4 NM rms. These were approximate definitions and served their purpose at the time the NPN was issued.

When the system comparision studies were initiated by the Coast Guard, it was necessary to define the requirements more precisely. The inner boundary of the CCZ is defined as the harbor entrance. The outer boundary is redefined as 50 NM offshore or the edge of the continental shelf (100 fathom curve), whichever is greater. The navigation system would provide 95 percent assurance that a vessel could fix its position to an accuracy of 1/4 NM. Existing lane widths vary from 1 NM at harbor entrances and in the Gulf of Mexico fairways to 5 NM at the outer limit of the CCZ.

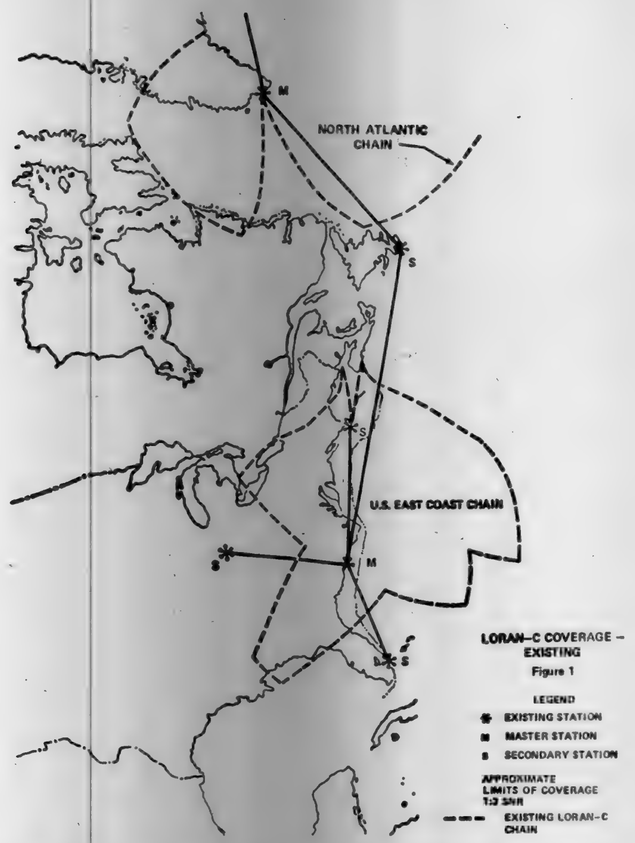
On May 16, 1974, the Secretary of Transportation announced publicly the selection of Loran-C as the government-provided radionavigation system for the CCZ and the Great Lakes. An Annex to the NPN dated July 1974 was published and was also published as a notice in the July 19, 1974 issue of the FEDERAL REGISTER (39 FR 26468). The Annex contains a list of planned dates for the operational certification of Loran-C chains and includes a scheduled reconfiguration of the East Coast Loran-C chain (rate 9930). This document provides details of the planned reconfiguration and expansion of Loran-C service over the Eastern portion of the United States.

EAST COAST LORAN-C CHAIN

The configuration of the existing East Coast Loran-C chain is designed to provide Loran-C service over a wide area at a signal-to-noise ratio (SNR) of 1 to 10 or greater. This ratio means that the Loran-C service is useful in locations where the transmitted signal is only 1/10 the strength of the atmospheric noise that is present. The master station, located at Carolina Beach, North Carolina, transmits a signal which is useful over a distance of about 1200 NM before its strength decreases to 1/10 the strength of the noise. A Loran-C receiver capable of detecting the signal from Carolina Beach at a distance of 1200 NM is complex and expensive. Today, these receivers are priced at about $10,000 to $15,000.

To simplify the design and manufacture of Loran-C receivers, and consequently reduce their cost to users, Loran-C service in the CCZ is designed to provide a SNR of 1 to 3 or greater. This means, for example, that the signal from Carolina Beach could be used by one of the less expensive automatic Loran-C receivers now available for a distance of about 750 NM. The more expensive receivers which operate at an SNR of 1 to 10 are still useful at the greater range.

Figure 1. Shows the approximate limits of the area over which the existing East Coast Loran-C chain provides Loran-C service at the SNR of 1 to 3 or greater. Obviously, it is necessary that this area be enlarged to provide complete coverage of the CCZ and the Great Lakes. It would be excessively costly to enlarge the service simply by adding to the existing East Coast Loran-C chain in its present configuration. Instead, six new stations will be combined with four of the existing stations in a configuration comprising three new Loran-C chains. Equipment to be installed will allow any station to transmit signals on two Loran-C rates. It is not practical, technically, to transmit on more than two rates from a single station. This dual transmission is known as "double-rating." The most cost-effective method of transmitting Loran-C signals, to provide the CCZ coverage, is to double-rate some stations and construct as few new stations as possible.



To minimize the impact upon users of the existing East Coast Loran-C chain and to allow them as much time as possible to change over from the present East Coast Loran-C service to the new service, the reconfiguration of Loran-C service on the East Coast will be implemented in two phases.

PHASE 1 OF RECONFIGURATION

On approximately July 1, 1978, Loran-C service will be available from three chains. The existing East Coast Loran-C chain will continue transmitting on rate 9930. Three new stations will become operational along the coastline of the Gulf of Mexico and the existing station at Jupiter, Florida will be double-rated. These stations will form a partial Southeast U.S. Loran-C chain. About the same time, two new stations will become operational in the Northeastern U.S., and existing stations at Carolina Beach, North Carolina and Nantucket, Massachusetts, will be double-rated. These four stations will form a partial Northeast U.S. Loran-C chain.

The three chains will embrace the following stations in 1978:

TABLE 1.—*Existing East Coast Loran-C chain (rate 9930)*

Station	*Function*
Carolina Beach, N.C	Master.
Jupiter, Fla	Secondary.
Nantucket, Mass	Do.
Dana, Ind	Do.
Cape Race,[1] Newfoundland	Do.

[1] This station is double-rated, transmitting on rate 7930 as part of the existing North Atlantic chain as well as on rate 9930 as part of the East Coast chain.

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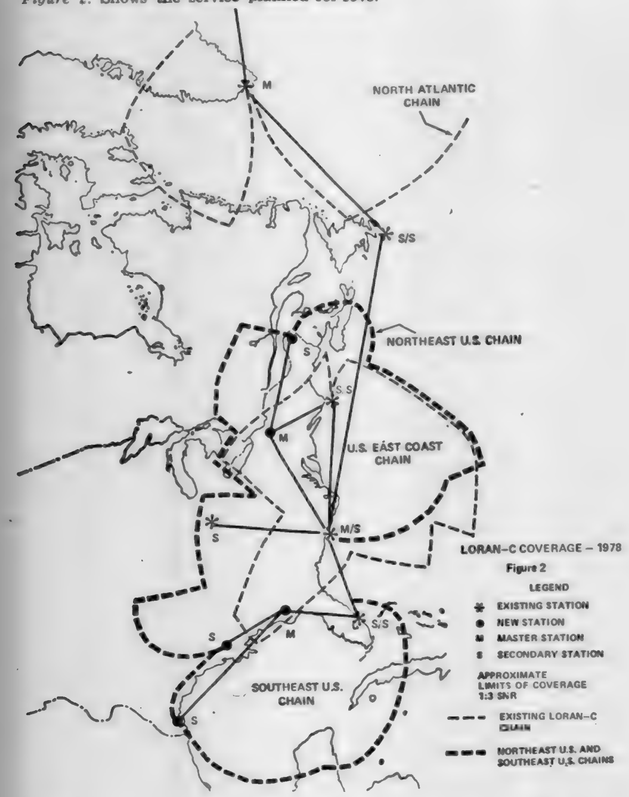
TABLE 2—*Partial Southeast U.S. Loran–C Chain*

Station	Function
Malone, Fla	Master.
Grangeville, La	Secondary.
Raymondville, Tex	Do.
Jupiter, Fla	Do.

TABLE 3—*Partial Northeast U.S. Loran–C Chain*

Station	Function
Seneca, N.Y	Master.
Caribou, Maine	Secondary.
Nantucket, Mass	Do.
Carolina Beach, N.C	Do.

Figure 2. Shows the service planned for 1978.



PHASE II OF THE RECONFIGURATION

On approximately July 1, 1979, the existing East Coast Loran-C chain will stop transmitting on rate 9930. Dana will go off-air for about two months to permit installation of additional equipment and then will join the Northeast U.S. chain. Cape Race, Newfoundland, will continue transmitting on rate 7930 as a part of the North Atlantic Loran–C chain. Seneca, Caribou, Nantucket, and Carolina Beach will continue transmitting on the Northeast U.S. rate and will begin double-rated operation, joining the Southeast U.S. chain in addition to the Northeast U.S. chain. Jupiter will continue transmitting on the Southeast U.S. rate.

On approximately February 1, 1980, the final configuration of Loran–C chains will be attained. One new station will become operational in Northern Minnesota. Seneca and Dana will begin double-rated operation. These three stations will form a new Great Lakes Loran–C chain.

Malone will be double-rated to join the Great Lakes Loran-C chain in addition to the Southeast U.S. chain. The Loran-C chains will embrace the following stations in 1980:

TABLE 4.—*Southeast U.S. Loran–C Chain*

Station	Function
Malone, Fla	Master.
Grangeville, La	Secondary.
Raymondville, Tex	Do.
Jupiter, Fla	Do.
Carolina Beach, N.C	Do.

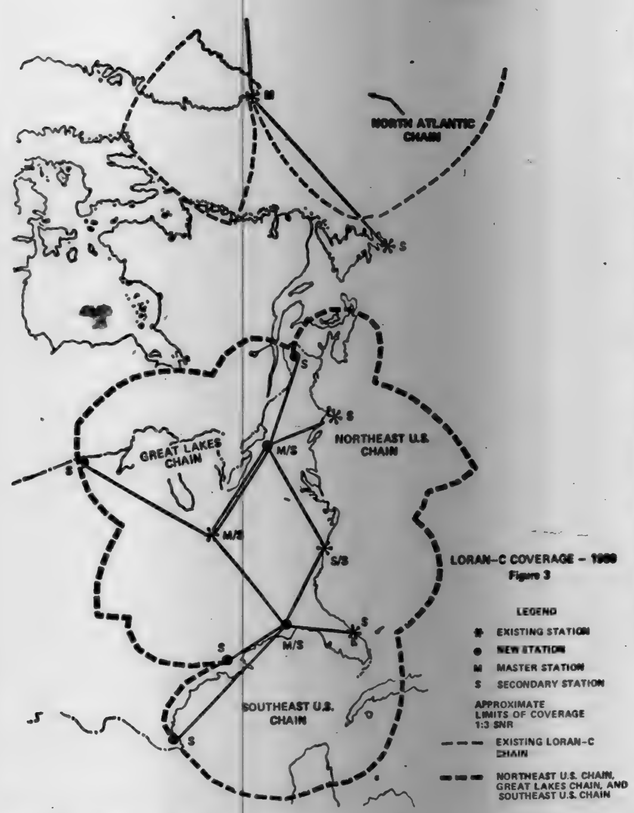


TABLE 5.—*Northeast U.S. Loran–C Chain*

Station	Function
Seneca, N.Y	Master.
Caribou, Maine	Secondary.
Nantucket, Mass	Do.
Carolina Beach, N.C	Do.
Dana, Ind	Do.

TABLE 6.—*Great Lakes Loran–C Chain*

Station	Function
Dana, Ind	Master.
Seneca, N.Y	Secondary.
Northern Minnesota (site to be selected)	Do.
Malone, Fla	Do.

Figure 3. Shows the service planned for 1980. All the coverage of the Atlantic and Gulf of Mexico shown on Figure 3, as well as coverage of the Great Lakes, East of Lake Huron, will be available when the Northeast and Southeast U.S. chains become fully operational in 1979. The remainder of the Great Lakes coverage will be available in 1980 as shown.

Dated: January 13, 1977.

A. F. FUGARO,
Chief, Office of Marine Environment and Systems.

[FR Doc 77-6663 Filed 3-4-77;8:45 am]

Coast Guard

[CGD 77-043]

RESEARCH ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-643, 5 U.S.C. App. I) notice is hereby given of a meeting of the Research Advisory Committee to be held at 0830 AM CDT on April 14, 1977 in the HU-16 Classroom at the U.S. Coast Guard Aviation Training Center, Mobile, Alabama, 36608. The agenda for this meeting is as follows:

(1) Welcome aboard and delineation of final agenda.

(2) Old committee business, including commandant's response to recommendations derived from the 14th meeting of the committee.

(3) Research and development highlights within the Coast Guard during the past seven months.

(4) Research challenges facing the Coast Guard in the marine environmental protection area and the technical response thereto.

(5) Research challenges facing the Coast Guard in the commercial vessel safety area and the technical response thereto.

(6) Any new committee business items.

(7) Date, time, and place of next committee meeting.

The Committee will continue its deliberations until 11:00 AM on April 16, 1977. Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from Mrs. Patricia Shenkle, Executive Secretary of the Research Advisory Committee, Office of Research and Development, U.S. Coast Guard (G-DST-TP53), Washington, D.C., 20590. Phone: 202-426-1037. Any member of the public may present a written statement to the Committee at any time.

A. H. SIEMENS,
Rear Admiral, Chief, Office of Research and Development.

[FR Doc.77-7122 Filed 3-9-77;8:45 am]

Federal Aviation Administration

AIRPORT TRAFFIC CONTROL TOWER AT CHEYENNE, WYOMING

Notice To Reduce Hours

Notice is hereby given that on or about April 10, 1977, the Airport Traffic Control Tower at Cheyenne, Wyoming, will be closed each day from midnight to 6 a.m. local time. This information will be reflected in forthcoming issues of the Airman Information Manual.

Issued in Aurora, Colorado, on February 23, 1977.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc 77-6923 Filed 3-9-77;8:45 am]

Federal Railroad Administration

[Docket No. RFA 505-77-3]

PURCHASE OF TRUSTEE'S CERTIFICATES

Receipt of Application

Project: Notice is hereby given that on February 8, 1977, William M. Gibbons

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("Trustee"), Trustee of the Chicago, Rock Island and Pacific Railroad Company, Debtor ("Rock Island"), 139 West Van Buren Street, Chicago, Illinois, 60605, submitted to the Federal Railroad Administration ("FRA") an application under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. 825, seeking financial assistance through the sale to the United States of trustee's certificates in the principal amount of $9,000,000. The Trustee proposes to pay the interest on the certificates "* * * 20 equal annual payments, beginning with the 11th anniversary of the original date such issuance, with interest to accrue commencing with the eleventh anniversary at the rate of 2.03 percent." The Trustee proposes to pay the entire principal on the 30th anniversary of the original date of issuance.

The proceeds of the sale of trustee's certificates are to be used by the applicant to rehabilitate and improve the Rock Island's track structure between Memphis, Tennessee, and Little Rock, Arkansas, to permit operation of trains having cars with gross weights of 263,000 pounds and moving at a maximum speed of 60 miles per hour. The application is in addition to a previous application [Docket No. RFA 511–76–3, formerly designated Finance Docket No. 4] by the Trustee for funding, under section 511 of the Act, of other rehabilitation and improvements on the Memphis to Little Rock main line. Major items contained in the instant application include installation of 51.59 track miles of new 115 pound continuous welded rail between MP 4.1 (Briark) and MP 9.40 (West Memphis) and between MP 22.91 (near Heath) and MP 69.2 (Brinkley); relay of 2.85 miles of curve worn rail; extension of four track sidings at Mounds, Wheatley, Mesa and Lonoke with rail recovered during the rail relay; installation of improved signalling devices on the extended sidings; rehabilitation of four bridges; and repair of yard tracks at West Memphis, Mesa, North Little Rock and Little Rock.

Justification for Project: The Trustee justifies the project on the same grounds as the rehabilitation and improvements proposed in Docket No. RFA 511–76–3. The Trustee states that improvements cited above will result in running time improvements of approximately 38 percent and enable the Rock Island to compete more effectively for high-value, service-sensitive traffic. The Trustee further states that the line to be improved constitutes a crucial link in a major connection between the South and West, and provides service to industry and agriculture in the Southwest and the upper Midwest.

Comments: Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, not later than the comment closing date shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor. To the extent permitted by law or regulation, the application will be made available for inspection during normal business hours in Room 5415 at the above address of the FRA.

The comments will be taken into consideration by the FRA in evaluating the application. However, formal acknowledgment of the comments will not be provided.

The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained therein.

(Sec. 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94–210), as amended.)

Dated: March 4, 1977.

Comment closing date: April 11, 1977.

CHARLES SWINBURN,
Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc.77–7067 Filed 3–9–77;8:45 am]

[Docket No. RFA 505–77–4]

PURCHASE OF TRUSTEE'S CERTIFICATES

Receipt of Application

Project: Notice is hereby given that on February 8, 1977, William M. Gibbons ("Trustee"), Trustee of the Chicago, Rock Island and Pacific Railroad Company, Debtor ("Rock Island"), 139 West Van Buren Street, Chicago, Illinois 60605, submitted to the Federal Railroad Administration ("FRA") and application under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. 825, seeking financial assistance through the sale to the United States of trustee's certificates in the principal amount of $8,000,000. The Trustee proposes to pay the interest on the certificates "* * * in 20 equal annual payments, beginning with the 11th anniversary of the original date of such issuance, with interest to accrue commencing with the 11th anniversary date at the rate of 2.03 percent." The Trustee proposes to pay the entire principal on the 30th anniversary of the original date of issuance.

The proceeds of the sale of trustee's certificates are to be used by the applicant to purchase and install a system of 107 electronic inspection devices, strategically located over the entire Rock Island system, which will alert train dispatchers at Des Moines, Iowa, or El Reno, Oklahoma, of overheated axles and dragging equipment. The project also anticipates installation of a dispatcher controlled radio system consisting of 160 base stations and equipping all locomotives and some mobile units with devices to initiate or receive calls.

Justification for Project: The Trustee states that the advance knowledge afforded by such a system will reduce train accidents and derailments, thereby improving safety and operation. The Trustee notes that other imporvements are currently being made to the Rock Island which will permit increased train speed. The Trustee states that because increased speed results in a greater number of and more severe accidents, detection of overheated axles and dragging equipment becomes increasingly important.

Comments: Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than the comment closing date shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor. To the extent permitted by law or regulation, the application will be made available for inspection during normal business hours in room 5415 at the above address of the FRA.

The comments will be taken into consideration by the FRA in evaluating the application. However, formal acknowledgement of the comments will not be provided.

The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained therein.

(Sec. 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94–210), as amended).

Dated: March 4, 1977.

Comment closing date: April 11, 1977.

CHARLES SWINBURN,
Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc.77–7068 Filed 3–9–77;8:45 am]

Office of Hazardous Materials Operations

HAZARDOUS MATERIALS REGULATIONS EXEMPTIONS

Grants and Denials of Applications

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted January 1977. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Renewals

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
868–X	DOT–E 868	The U.S. Department of Defense (DOD), Washington, D.C.	49 CFR 173.3(a), 173.7(a), 174.8, 174.10, 174.104(f), 177.801, 177.805(a).	To waive carrier inspection requirements for certain packages of class A and B explosives shipped by the DOD. (Modes 1 and 2.)
3004–X	DOT–E 3004	The U.S. Department of Defense, Washington, D.C.	49 CFR 173.302, 175.3	To ship certain compressed gases in non-DOT specification sampling bottles. (Modes 1, 2, 4, and 5.)
3307–P	DOT–E 3307	IMC Chemical Group, Allentown, Pa.; E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.; Monsanto Co., St. Louis, Mo.; Atlas Powder Co., Dallas, Tex.; Austin Powder Co., Cleveland, Ohio; Phillips Petroleum Co., Bartlesville, Ohio; Apache Powder Co., Benson, Ariz.	49 CFR 173.154, 173.192(c)	To become a party to exemption 3307. (See application No. 3307–X.) (Modes 1, 2, and 3.)
3439–X	DOT–E 3439	G. Frederick Smith Chemical Co., Columbus, Ohio.	49 CFR 173.269	To ship perchloric acid in DOT specification 6D cylindrical steel overpack with inside specification 2S polyethylene container. (Modes 1 and 2.)
3768–X	DOT–E 3768	Minerec Corp., Baltimore, Md.; Chemetron Corp., La Porte, Tex.; FMC Corp., Philadelphia, Pa.	49 CFR 173.288	To ship methyl chloroformate or ethyl chloroformate in an insulated DOT specification MC–304 or MC–307 cargo tank complying with § 178.342–5 or an MC–312 cargo tank. (Mode 1.)
4160–X	DOT–E 4160	Dow Chemical Co., Plaquemine, La.	49 CFR 173.314(c)	To ship anhydrous hydrogen chloride in DOT specification 105A600W tank car tanks with certain exceptions. (Mode 2.)
4282–X	DOT–E 4282	Hercules, Inc., Wilmington, Del.	49 CFR 173.53(n), 173.182(e).	To ship class B explosives and oxidizers in privately owned and specially designed cargo tanks. (Mode 1.)
4291–P	DOT–E 4291	Kerr-McGee Chemical Corp., Oklahoma City, Okla.	49 CFR 173. 220(a)(2)	To become a party to exemption 4291. (See application No. 76–58.) (Modes 1 and 2.)
4390–P	DOT–E 4390	Mallinckrodt, Inc., St. Louis, Mo.; Enthone, Inc., West Haven, Conn., G. Frederick Smith Chemical Co., Columbus, Ohio; Thompson-Hayward Chemical Co., Kansas City, Kans.	49 CFR Part 173	To become a party to exemption 4390. (See application No. 4390–X.) (Modes 1, 2, and 3.)
5243–X	DOT–E 5243	Hercules Inc., Wilmington, Del.	49 CFR 173.66(g)(1), 173.102(a), 177.835(g)).	To ship class C or class A explosive in accordance with 49 CFR 173.66(g)(1) for electric caps, with certain exceptions. (Modes 1, 2, and 3.)
5701–X	DOT–E 5701	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.268(a)(3)	To ship nitric acid in a cargo tank meeting the requirements of DOT specification MC–312 with certain exceptions. (Mode 1.)
5767–X	DOT–E 5767	Du Bois Chemicals, Cincinnati, Ohio	49 CFR 173.256	To ship a hydrofluoric acid liquid cleaning compound in a non-DOT specification steel portable tank. (Modes 1, and 2.)
76–56	DOT–E 5849	PPG Industries, Pittsburgh, Pa.	49 CFR 173.217(a)(5)	To ship a certain oxidizer in DOT specification 21C fiber drum. (Modes 1, 2, 3, and 4.)
5852–P	DOT–E 5852	Philadelphia Gas Works, Philadelphia, Pa.	49 CFR 173.101, 173.315(a)	To become a party to exemption 5852. (See application 5852–X.) (Mode 1.)
6016–X	DOT–E 6016	Airco Welding Products, Springfield, N.J.; Strate Welding Supply Co., Buffalo, N.Y.; Industrial Gas & Supply Co., Bluefield, Va.; O. E. Meyer & Sons, Inc., Sandusky, Ohio; Wilson Welding Supply, Inc., Warren, Mich.; Portland Welding Supply, Portland, Maine, Acety-Arc, Inc., Paducah, Ky.; Georgia Welding Supply, Inc., Jacksonville, Fla.; Harvey Co., Greensburg, Pa.; S. J. Smith Co., Davenport, Iowa.; Southern Welding Supply Co., Inc., Bowling Green, Ky.; Kessler Distributing Co., Fairfield, Iowa; Guttman Supply Co., Belle Vernon, Pa.	do	To ship certain nonflammable compressed gases (cryogenic liquids) in a non-DOT specification portable tank designed and constructed in accordance with sec. VIII of ASME code. (Mode 1.)
6113–P	DOT–E 6113	San Diego Gas & Electric Co., San Diego, Calif.; Western Gillette, Inc., Los Angeles, Calif.; Northwest Natural Gas Co., Portland, Ore.; City of Savannah Public Utilities, Savannah, Ga.; Northern Petrochemical Co., Des Plaines, Ill.; Utility Propane Co., Elizabeth, N.J.; El Paso Products Co., Odessa, Tex.; American LNG Co., Oak Brook, Ill.; Process Engineering, Inc., Plaistow, N.H.; Philadelphia Gas Works, Philadelphia, Pa.; Haverhill Gas Co., Amesbury, Mass.; Union Carbide Corp., Tarrytown, N.Y.; UGI Corp., Reading, Pa.; Hartford Electric Light Co., Conn.; Southern Connecticut Gas Co., New Haven, Conn.; Mobil Chemical Co., Beaumont, Tex.	do	To become a party to exemption 6113. (See application No. 6113–X.) (Mode 1.)
6124–X	DOT–E 6124	Hercules Inc., Wilmington, Del.	49 CFR 178.209–5, 178.209–10.	To ship class A, B, and C explosives in non-DOT specification fiberboard boxes complying with DOT specification 12H with certain exceptions. (Modes 1, 2, and 3.)
6205–X	DOT–E 6205	Northern Petrochemical Co., Des Plaines, Ill.; American LNG Co., Oak Brook, Ill.	49 CFR 173.315(a)(1), 172.101.	To ship certain flammable compressed gases (cryogenic liquid) in an inner aluminum cargo tank designed in accordance with the ASME code. (Mode 1.)
6228–X	DOT–E 6228	Air Products & Chemicals Inc., Allentown, Pa.; Airco Welding Products Co., Springfield, N.J.	49 CFR 173.301(d)(4)	To ship acetylene in a manifolded unit consisting of DOT specification 8 or DOT specification 8AL cylinders. (Mode 1.)
6253–P	DOT–E 6253	Contrans, Hamburg, Germany	49 CFR Part 173	To become a party to exemption 6253. (See application No. 76–202.) (Modes 1, 2, and 3.)
6263–X	DOT–E 6263	Amtrol, Inc., West Warwick, R.I.	49 CFR 173.302(a)(1)	To ship compressed air or nitrogen in a non-DOT welded cylindrical or spherical steel tank constructed in accordance with the ASME code. (Modes 1 and 2.)
6298–P	DOT–E 6298	Olin Chemicals Group, Stamford, Conn.	49 CFR 173.377(g)	To become a party to exemption 6298. (See application No. 76–222.) (Modes 1 and 2.)
6399–X	DOT–E 6399	Unitech Chemical, Inc., Chicago, Ill.	49 CFR 173.132(a)(2)	To ship nonviscous rubber cement in DOT specification 5B aluminum portable tanks. (Mode 1.)

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Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6530–P	DOT–E 6530	Chemetron Corp., Chicago, Ill.	49 CFR 173.302(c)	To become a party to exemption 6530. (See application Nos. 76–393 and 6530–X.) (Modes 1 and 2.)
6536–P	DOT–E 6536	Mobil Chemical Co., Beaumont, Tex.	49 CFR 172.101, 173.315	To become a party to exemption 6536. (See application No. 6536–X.) (Mode 1.)
6554–P	DOT–E 6554	King-Krantz Corp., Saint Peters, Mo.; Dearborn Chemical, Lake Zurich, Ill.; Betz Laboratories, Inc., Trevose, Pa.; Pennwalt Corp., Philadelphia, Pa.; Borg-Warner Chemicals, Parkersburg, W. Va.	49 CFR 173.154, 173.217	To become a party to exemption 6554. (See application No. 6554–X.) (Modes 1, 2, and 3.)
6563–X	DOT–E 6563	Mada Medical Products Inc., Garfield, N.J.	49 CFR 173.302(a)(1), 175.3	To ship certain nonliquefied, nonflammable compressed gases in a non-DOT specification steel cylinder in compliance with DOT specification 3E with certain exceptions. (Modes 1, 2, 3, 4, and 5.)
6652–X	DOT–E 6652	Airesearch Manufacturing Co. of Arizona, Phoenix, Ariz.	do	To manufacture, mark and sell non-DOT specification filament-wound fiberglass reinforced plastic cylinders for shipment of certain compressed gases. (Modes 1 and 4)
6671–X	DOT–E 6671	Dow Chemical Co., Midland, Mich.; Hercules Inc., Wilmington, Del.; Merck Chemical Manufacturing Co., Rahway, N.J.	49 CFR 173.1; Part 173, Subpart D, F and H; 177.854.	To ship certain damaged flammable liquid, corrosive liquid, or class B poisonous liquid packages overpacked in a DOT specification 17–C open head drum or a non-DOT 65-gal steel drum. (Modes 1 and 2)
6705–X	DOT–E 6705	MC/B Manufacturing Chemists, Norwood, Ohio.	49 CFR 178.205–17	To ship certain corrosive liquids in an inside container as specified in 49 CFR pt. 173 subpt. F and overpacked in a DOT specification 12B fiberboard box with certain exceptions. (Modes 1 and 2)
6757–P	DOT–E 6757	Degussa Central Transport Department, Frankfort, West Germany.	49 CFR 173.266(f)(2)	To become a party to exemption 6757. (See application No. 76–130.) (Modes 1, 2, and 3)
6793–X	DOT–E 6793	Sea Containers, Inc., New York, N.Y.	49 CFR 173.119, 173.125, 173.245, 173.247, 173.346; 46 CFR 90.05–35, 98.35–3.	To become a party to exemption 6793. (See application No. 75–199.) (Modes 1, 2, and 3)
6816–X	DOT–E 6816	The U.S. Department of Defense, Washington, D.C.	49 CFR 173.53(p)	To ship certain guided missiles containing liquid fuel described as "rocket ammunition with explosive projectile." (Modes 1 and 2.)
6864–X	DOT–E 6864	Bacardi International Ltd., Hamilton, Bermuda; Bacardi and Co., Ltd., Nassau, Bahamas; Contrans, Hamburg, West Germany.	49 CFR 173.119(b), 173.125	To ship flammable liquids in non-DOT specification stainless steel portable tank with certain exceptions. (Modes 1, 2, and 3.)
7015–X	DOT–E 7015	Linde Aktiengesellschaft, West Germany; Gardner Cryogenics, Bethlehem, Pa.	49 CFR 173.315(a), 172.101	To ship liquefied helium in a non-DOT specification insulated container-ized portable tank designed and constructed to meet the requirements of the ASME code. (Modes 1, 2, and 3.)
7020–X	DOT–E 7020	Kerr-McGee Chemical Corp., Oklahoma City, Okla.	49 CFR 173.154, 173.163(a)(7).	To ship an oxidizing material, n.o.s. in certain bulk rail cars or motor vehicles. (Modes 1 and 2.)
7042–X	DOT–E 7042	Walter Kidde and Co., Inc., Belleville, N.J.	49 CFR 173.302(a)(1), 173.304(a), 175.3.	To ship certain compressed gases in non-DOT specification seamless aluminum cylinders. (Modes 1, 2, 3, and 4.)
7052–X	DOT–E 7052	Tadiran-Israel Electronics Inc., Tel Aviv, Israel.	49 CFR 173.206(e)(1), 175.3	To become a party to exemption 7052. (See application No. 75–108.) (Modes 1, 2, 3, and 4.)
7064–X	DOT–E 7064	Hercules Inc., Wilmington, Del.	49 CFR 173.61	To ship slurry type high explosives in polyethylene casings overpacked in non-DOT fiberboard boxes. (Mode 1.)
7094–P	DOT–E 7094	Dow Chemical Co., Freeport, Tex.; Jefferson Chemical Co., Houston, Tex.; American Cyanamide Co., Wayne, N.J.; The Lubrizol Corp., Cleveland, Ohio; Union Carbide Corp., Round Brook, N.J.; Tennessee Eastman Co., Kingsport, Tenn.	49 CFR 172.101	To become a party to exemption 7094. (See applications 7094–X.) (Mode 3.)
7236–P	DOT–E 7236	Olin Chemicals Group, Stamford, Conn.	49 CFR 173.217(b)	To become a party to exemption 7236. (See application No. 76–9.) (Modes 1, 2, and 3.)
7260–X	DOT–E 7260	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 176.145(c)(1)	To handle bagged nitro carbo nitrate loaded in containers at nonisolated facilities. (Mode 3.)
7435–X	DOT–E 7435	Ross Aviation, Inc., Albuquerque, N. Mex.	49 CFR 172.101, 172.204(c)(3), 173.27, 173.30, 175.3.	To ship class A and B explosives that are not permitted for shipment by air in 49 CFR pts. 172 through 178. (Mode 4.)
7453–X	DOT–E 7453	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.93	To ship class B explosives in a 6 to 10 mil thick polyethylene bag overpacked in a DOT specification 12H fiberboard box or a DOT specification 14 wooden box. (Mode 3.)
7454–X	DOT–E 7454	do	49 CFR 176.83, 176.410(c)(2)	To stow nitro cargo nitrate in the same magazine with certain explosives without a separating bulkhead. (Mode 3.)
7457–X	DOT–E 7457	do	49 CFR 176.83	To stow high explosives, class A on deck adjacent to or over a hold containing cotton. (Mode 3.)
7565–X	DOT–E 7565	Fleeman Aviation, Monroe, La.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1).	To ship certain class A, B, and C explosives that are not permitted for shipment by air in 49 CFR pts., 172 through 178. (Mode 4.)
7567–X	DOT–E 7567	Conus, Inc., Jonesboro, Ark.	do	Do.
7468–X	DOT–E 7468	Suttons International Ltd., London, England.	46 CFR 90.05–35, 98.35	To ship combustible liquid, n.o.s. in a non-DOT specification insulated intermodal, portable, stainless steel tank designed to meet sec. VIII of the ASME code. (Mode 3.)
7482–N	DOT–E 7482	Monsanto Co., St. Louis, Mo.	49 CFR 173.245(a)(6)	To ship certain corrosive solid waste materials in a non-DOT specification removable head polyethylene drum. (Mode 1.)
7491–N	DOT–E 7491	Process Engineering, Inc., Plaistow, N.H.	49 CFR 173.314(c), 172.101	To manufacture, mark and sell a non-DOT specification vacuum insulated tank car designed and constructed to comply with Association of American Railroad proposed specification 113C120W for the shipment of liquefied ethylene. (Mode 2.)
7498–N	DOT–E 7498	Allied Chemical Corp., Morristown, N.J.	49 CFR 173.263(a)(15), 178.210.	To ship hydrochloric acid in polyethylene bottles overpacked in non-DOT polypropylene box. (Modes 1, 2, and 3)
7514–N	DOT–E 7514	Olin Corp., Stamford, Conn.	49 CFR 173.217(a)	To ship oxidizing material in accordance with 49 CFR 173.154(a)(14) except a larger polyethylene bottle is authorized. (Modes 1, 2, and 3)
7520–N	DOT–E 7520	Puerto Rico Maritime Shipping Authority, San Juan, Puerto Rico.	49 CFR pt. 173, subpt. D	To ship certain combustible and flammable liquids in a non-DOT specification steel portable tank. (Modes 1 and 3)

EMERGENCY EXEMPTIONS—APPLICATIONS RECEIVED AND GRANTED

EE7617–N	DOT–E 7617	White Pass and Yukon Route, North Vancouver, BC.	49 CFR 173.182(b), 176.415(c)(4).	To transport ammonium nitrate in sift-proof aluminum freight containers, and to moor vessel stern to seaward when discharging the cargo. (Mode 3.)
EE7627–N	DOT–E 7627	Kenai Air Service Inc., Kenai, Alaska.	49 CFR 172.101, 172.204(c), 172.300, 172.400, 173.86, 175.320, 175.3.	To transport blasting agents in a wooden box in an avalanche control air drop operation. (Mode 4.)
EE7628–N	DOT–E 7628	Chemtech Industries, Inc., St. Louis, Mo.	49 CFR 173.264(a)(11)	To ship 70 percent hydrofluoric acid in one DOT specification 111A100W–5 tank car equipped with a safety relief valve. (Mode 2.)
EE7636–N	DOT–E 7636	The Flying Tiger Line, Inc., Los Angeles, Calif.	49 CFR 172.101, 175.30	To transport various class A, B, and C explosives not permitted for shipment by air in 49 CFR 172.101. (Mode 4.)

DENIALS

5854–X Request by Sea-Land Service, Inc., Elizabeth, N.J. To amend E–5854 to allow additional commodities to be shipped in modified DOT Specification MC–306 portable tanks, denied January 31, 1977. (Application preempted.)

7238–P Request by Alcan Metals Powders, Elizabeth, N.J. To ship by water uncoated aluminum powder in steel barrels or drums not exceeding 650 lbs gross weight per barrel or drum, denied January 24, 1977. (Docket HM–112 obviates the need.)

7250–X Request by Intercontinental Transport BV, Rotterdam, Netherlands. To authorize stowage and segregation of hazardous materials on board vessels in accordance with the International Maritime Dangerous Goods Code, denied January 7, 1977. (Docket HM–112 obviates the need.)

7531–N Request by National Aeronautics and Space Administration, Marshall Space Flight Center, Alabama. To ship a Booster Separation Motor with igniter installed and in a propulsive state, denied January 7, 1977.

7560–N Request by Martin Marietta Aerospace, Orlando, Fla. To ship a 155 mm guided projectile containing certain explosive items, a battery and a charged compressed gas cylinder, as a nonregulated item, denied January 13, 1977.

WITHDRAWALS

7478–N Request by Du Bois Chemicals Corporation, Cincinnati, Ohio. To ship sodium or potassium hydroxide compound with other powdered chemicals and surfactants in a bulk fiberboard container with net contents not to exceed 2,000 pounds, withdrawn January 21, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc.77–6646 Filed 3–9–77;8:45 am]

National Highway Traffic Safety Administration

[Docket No. IP76–12; Notice 2]

SEBRING VANGUARD, INC.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

This notice denies the petition by Sebring Vanguard, Inc. to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.208, Motor Vehicle Safety Standard No. 208, Occupant Crash Protection. Sebring Vanguard had petitioned on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on December 2, 1976 (41 FR 52933) and an opportunity afforded for comment.

Standard No. 208 requires seat belt assemblies to adjust by means of an emergency-locking or automatic-locking retractor. Petitioner reported that it manufactured 1,576 CitiCar passenger cars between January 24, 1975, and August 7, 1976, with seat belt assemblies lacking the required retractors. In support of its petition Sebring Vanguard cited "the small number of vehicles in use by the public" and the adverse financial impact upon the company that a notification and remedy campaign would entail. Conforming assemblies, however, were said to be available and could be used in future production. Finally, the company argued that it is making a contribution to the development of a practical alternative to the internal combustion engine by marketing its electric vehicle.

Two comments were received in response to the notice, both "strongly" opposing the petition. Consumers Union, on the basis of its experience in testing two of petitioner's products, discussed the vehicle's "substandard crashworthiness" and the consequent importance of the required use of occupant restraints by passengers to prevent them from impacting interior components or being ejected from the vehicle in the event of a collision. Mr. R. H. Hommel of Dearborn, Michigan pointed out that locking retractors have been available for "at least 10 years" and expressed his opinion that "convenient usable restraint systems are especially important on small poorly constructed vehicles."

The National Highway Traffic Safety Administration concurs with these comments. The promotion of the use of restraint systems has been one of the primary concerns over the past decade in Federal efforts to reduce deaths and injuries resulting from traffic accidents. Features designed for ease of use and user comfort will encourage passengers to avail themselves of the protection that these systems offer. The agency has also weighed the views of Consumers Union, as expressed in the October 1976 issue of "Consumer Reports", commenting on the difficulty of normal adjustment of petitioner's nonconforming belt system. The NHTSA believes that the addition of the retractor features to Citicars that do not have them, through a notification and remedy campaign, will provide greater ease of adjustment and result in a higher incidence of use of a device with known and demonstrable safety potential.

Sebring Vanguard, Inc., has not met its burden of convincing this agency that noncompliance is inconsequential as it relates to motor vehicle safety and its petition is hereby denied.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on March 2, 1977.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.77–6766 Filed 3–9–77;8:45 am]

FAILURES OF POWER BRAKE VACUUM VALVES ON 1965–1970 GENERAL MOTORS VEHICLES

Termination of Safety Defect Proceedings

On May 22, 1975 the National Highway Traffic Safety Administration announced (40 FR 22297) its initial determination that a safety related defect existed in certain 1965–70 General Motors automobiles. Specifically, it appeared that power brake vacuum check valves were subject to failure, resulting in loss of power brake assist, property damage, or personal injury. The purpose of this notice is to announce the Administrator's decision that no defect exists and that the proceedings are terminated.

The Administrator has reviewed all relevant data including matters presented by industry and the general public at the public meeting convened on June 24, 1975 pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1412). The result of this investigation disclosed that check valve failure trends for each of the major American passenger car manufacturers are such that all manufacturers, within the years in question, had problems on a similar scale. To single out any segment of this vast vehicle population for recall appears unfair, and to recall the entire vehicle population appears to be an effort not contemplated by the Act. He has therefore concluded that no defect exists within the meaning of Section 102 (11) of the Act.

Accordingly the Section 152 proceeding directed against General Motors has been dismissed and the investigative file closed.

(Sec. 152, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1412); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on March 3, 1977.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.77–7075 Filed 3–9–77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

CHAINS AND PARTS THEREOF, OF IRON OR STEEL, FROM SPAIN

Receipt of Countervailing Duty Petition and Initiation of Investigation

A petition in satisfactory form was received on January 10, 1977, alleging that payments or bestowals conferred by the Government of Spain, upon the manufacture, production, or exportation of chains and parts thereof, of iron or steel, constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

The chains and parts are provided for in the Tariff Schedules of the United States under item numbers 652.24, 652.27, 652.30, 652.33, and 652.35.

Pursuant to section 303(a)(4), of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Department of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of the Countervailing Duty Law within 6 months of the receipt, in satisfactory

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form, of a petition alleging the payment or bestowal of a bounty or grant. A final decision must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than July 10, 1977, as to whether the alleged payments or bestowals conferred by the Government of Spain upon the manufacture, production, or exportation of the above-described merchandise constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than January 10, 1978.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c) of the Customs Regulations (19 CFR 159.47(c)).

VERNON D. ACREE,
Commissioner of Customs.

Approved: March 2, 1977.

JOHN H. HARPER,
Acting Assistant Secretary
of the Treasury.

[FR Doc.77-7102 Filed 3-9-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before April 11, 1977. Such protest shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 43716 (Sub-No. 31) (Notice of filing of petition to remove a limitation with respect to tacking) filed January 31, 1977. Petitioner: BIGGE DRAYAGE CO., a Corporation, 10700 Bigge Avenue, San Leandro, Calif. 94577. Petitioner's representative: Edwards J. Hegarty, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Petitioner holds a motor *common carrier* Certificate in NO. MC 43716 (Sub-No. 31), issued March 17, 1975, authorizing transportation over irregular routes, of (1)(a) *machinery, equipment, materials, and supplies* used in logging, mining, road building, and construction work, and (b) *replacement, additional, repair,* or *standby equipment* to the commodities authorized in (1)(a) above, (2)(a) *commodities,* the transportation of which, because of size or weight, require special handling or the use of special equipment, and (2)(b) *commodities* which do not require special handling or the use of special equipment when moving in mixed loads with the commodities in (2)(a) above, (3) *iron and steel articles* as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 (1952), and (4) *construction materials,* between points in Ventura, Kern, Inyo, San Bernadino, Orange, Los Angeles, Riverside, San Diego, and Imperial Counties, Calif. Restriction: The above grant of authority may be tacked by carrier with other of carrier's authority in existence on November 15, 1974, (but only to the extent such authority *does not* contain restrictions against tacking) to provide through operations with respect to service only within the state of California.

By the instant petition, petitioner seeks to modify the above Certificate by deleting from the tacking restriction the phrase: "with respect to service only within the state of California".

No. MC 95084 (Sub-Nos. 82 and 93) (Notice of filing of petition to remove restriction) filed February 15, 1977. Petitioner: HOVE TRUCK LINE, Stanhope, Iowa 50246. Petitioner's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Petitioner holds motor *common carrier* Certificates in No. MC 95084 (Sub-Nos. 82 and 93) issued November 7, 1972 and October 14, 1975, respectively, authorizing transportation (1) in No. MC 95084 (Sub-No. 82) as pertinent, over irregular routes, of *materials, equipment and supplies* used in the manufacture, processing, sale, and distribution of agricultural implement parts (except commodities in bulk), from points in Illinois, Indiana, Louisiana, Missouri, New York, Ohio, Pennsylvania, Texas, Virginia and Wisconsin, to Perry, Iowa, restricted to traffic which is destined to the plantsite and warehouse facilities of Osmundson Manufacturing Co., Inc., located at or near Perry, Iowa; and (2) in No. MC 95084 (Sub-No. 93) as pertinent, over irregular routes, of *materials, equipment and supplies* used in the manufacture, processing, sale and distribution of agricultural implement parts (except commodities in bulk), from points in Arkansas, Colorado, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Oklahoma and West Virginia to Perry, Iowa, restricted to traffic destined to the plantsite and warehouses of Osmundson Manufacturing Co., located at Perry, Iowa.

By the instant petition, petitioner seeks to delete the restriction "restricted to traffic which is destined to the plantsite and warehouse facilities of Osmundson Manufacturing Co., Inc., located at or near Perry, Iowa, from both of the above Certificates.

No. MC 116763 (Sub-No. 106) (Notice of filing of petition to modify origin point and restriction) filed February 7, 1977. Petitioner: CARL SUBLER TRUCKING, INC., P.O. Box 81, North West St., Versailles, Ohio 45380. Petitioner's representative: H. M. Richters (same as address as petitioner). Petitioner holds a motor *common carier* Certificate in No. MC 116763 (Sub-No. 106), issued January 23, 1968, authorizing transportation over irregular routes of *wood pulp dishes, plates; trays, and partitions,* from the plant site of the Keyes Fibre Company, located at Waterville, Maine, and from its warehouse located at Portland, Maine, to points in Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Tennessee, Illinois, Indiana Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, restricted to the transportation of shipments originating at the plant site located at Waterville and the warehouse located at Portland.

By the instant petition, petitioner seeks to modify the authority above by deleting Portland, Maine as the warehouse location of Keyes Fibre Company and substituting in lieu thereof, Lewiston, Maine in both the territorial description and the restriction above.

No. MC 135797 (Sub-No. 42) (Notice of filing a petition to modify a certificate) filed February 14, 1977. Petitioner: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, Ark. 72745. Petitioner's representative: L. C. Cypert, 204 Highway 71 North, Suite 3, Springdale, Ark. 72764. Petitioner holds a motor *common carrier* Certificate in No. MC 135797 (Sub-No. 42), issued November 15, 1976, authorizing transportation, over irregular routes, of *Pet foods,* from Chicago, Ill., and Hamilton, Mich., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and West Virginia, restricted to traffic originating at the plantsite and warehouse facilites of Hi-Life Packing Company.

By the instant petition, petitioner seeks to modify the origin point above to so as to read: "from the facilities utilized by Hi-Life Packing Company, located at or near Chicago, Ill., and Hamilton, Mich." and delete the above resrtiction. Or alternatively, modify the origin to read as follows: "From Chicago, Ill.; Hamilton and Holland, Mich." If the alternative is used petitioner seeks to leave the above restriction in tack.

No. MC 136342 (Sub-No. 5) (Notice of filing of petition to broaden commodity description) filed January 24, 1977. Petitioner: JACKSON AND JOHNSON, INC., Rte. 31, Box 327, Savannah, N.Y. 13146. Petitioner's representative: S. Michael Richards (same address as applicant). Petitioner holds a motor *contract carrier* Permit in No. MC 136342 (Sub-No. 5) issued June 18, 1976, authorizing transportation over irregular routes, of *cranberries and cranberry products* (except in bulk), from Hanson, Onset and Middleboro, Mass., and Bordentown, N.J., to points in New York, under a continuing contract, or contracts, with Ocean Spray Cranberries, Inc., subject to the right of the Commission to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure carrier's operations shall conform to the provisions of Section 210 of the Act.

By the instant petition, petitioner seeks to modify the above Permit by adding "*prune and prune products,* in containers (except in bulk)", to the above described commodity description.

No. MC 138335 and (Sub-No. 1) (Notice of filing of petition to modify permits) filed January 3, 1977. Petitioner: HARTLEY OIL COMPANY, INC., Route 2, South, Ravenswood, W. Va. 26164. Petitioner's representative: John M. Friedman, 2930 Putnam Ave., Hurricane, W. Va. 25526. Petitioner holds motor *contract carrier* Permits in No. MC 138335 and (Sub-No. 1), issued March 6, 1974, and June 15, 1976, respectively, authorizing transportation over irregular routes, (1) in No. MC 138335, of (a) *electric cable* on reels and in coils, from Newington (Fairfax County), Va., to points in West Virginia; and (b) *empty reels,* from points in West Virginia to Newington (Fairfax County), Va., and points in Arlington County, Va., under a continuing contract, or contracts, with Western Electric Company, Inc., of New York, N.Y., and Chesapeake and Potomac Telephone Company of West Virginia; and (2) in No. MC 138335 (Sub-No. 1), of (a) *electric cable,* on reels, from Baltimore, Md., to points in West Virginia; and (b) *empty reels,* from points in West Virginia to Baltimore, Md., under a continuing contract, or contracts, with Western Electric Company, Inc., of New York, N.Y.; (1) and (2) above are subject to the right of the Commission to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operation shall conform to the provisions of Section 210 of the Act.

By the instant petition, petitioner seeks to modify the Permits above as follows: (I) in No. MC 138335, (A) to broaden the commodity description in (1)(b) above through the addition of *surplus cable and junk cable* on reels or loose, as an additional commodity description; and (B) through the addition of an additional commodity and territorial description to read as follows: (3) *Electric cable* on reels and in coils, from the warehouse facilities of Hartley Oil Company, Inc., located at Ravenswood, W. Va., to points in West Virginia, under a continuing contract, or contracts, with Western Electric Company, Inc. of New York, N.Y., and Chesapeake & Potomac Telephone Company of West Virginia, restricted in (3) above to the transportation of traffic having a prior movement by rail and motor carrier; and (II) in No. MC 138335 (Sub-No. 1), (A) to broaden the commodity description in (2)(a) above through the addition of "and in coils" following the word "reels"; and (B) to broaden the commodity description in (2) (b) above through the addition of *surplus cable and junk cable,* on reels or loose, as an additional commodity description. Petitioner states that the purpose of this petition, in part, is to remove the possibility of objectionable dual operations in No. MC 133288 (Sub-No. 3), granted by order of the Operating Rights Board, service date August 22, 1975, with certain conditions relating to compliance with section 210 of the Interstate Commerce Act.

No. MC 140484 (Sub-No. 15) (Notice of filing of petition to modify certificate), filed December 23, 1976. Petitioner: LESTER COGGINS TRUCKING, INC., 2761 E. Edison, P.O. Box 69, Ft. Myers, Fla. 33901. Petitioner's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, N.W., Washington, D.C. 20005. Petitioner holds a motor *common carrier* Certificate in No. MC 140484 (Sub-No. 15), issued December 23, 1976, authorizing, as pertinent, transportation over irregular routes, of *Chinaware and stoneware,* from Sebring, Ohio, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, North Dakota and South Dakota.

By the instant petition, petitioner seeks to add the plantsite and storage facilities of Jeanette Corporation, located at Bedford Heights, Ohio as an origin point to the above authority.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of protests to the granting of the authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition shall not be tendered at this time. A copy of the protest shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 109397 (Sub-No. 337) (Republication) filed August 5, 1976, published in the FEDERAL REGISTER issue of September 23, 1976, and republished this issue. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs (same address as applicant). An Order of the Commission, Review Board Number 2, dated February 1, 1977, and served February 17, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *rock crushing equipment and parts* for rock crushing equipment, from the plantsite of Hewitt-Robins, Inc., located in Richland County, S.C., to points in the United States (except Alaska, Hawaii, and South Carolina); that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the broadening of the commodity description in applicant's grant of authority by the addition of parts for rock crushing equipment.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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publication in the Federal Register of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 720 (Sub-No. 24), filed January 24, 1977. Applicant: BIRD TRUCKING COMPANY, INC., Box 227, Waupun, Wis. 53968. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Fairwater and Beaver Dam, Wis., to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison or Milwaukee, Wis.

No. MC 966 (Sub-No. 26), filed January 17, 1977. Applicant: CAPITOL TRUCK LINES, INC., 200 West First Street, Topeka, Kans. 66603. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission and commodities in bulk), serving Wolf Creek Generating Station and construction site located approximately 3 miles west of New Strawn, Kans. as an off-route point in connection with applicant's regular route operation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with similar applications at Kansas City, Mo.

No. MC 1846 (Sub-No. 9), filed January 26, 1977. Applicant: W. D. KIBLER TRUCKING COMPANY, a Corporation, 60 South State Street, Indianapolis, Ind. 46201. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials and supplies*, used in the conduct of such business, between Columbus, Ohio, on the one hand, and, on the other, points in Iroquois, Ford Vermilion, Champaign, Edgar, Douglas, Cumberland, Clark and Coles Counties, Ill., points in Indiana, and those points in Kentucky within the Cincinnati, Ohio Commercial Zone, and Louisville, Ky., under contract with The Great Atlantic & Pacific Tea Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Indianapolis, Ind.

No. MC 1924 (Sub-No. 14), filed January 21, 1977. Applicant: WALLACE-COLVILLE MOTOR FREIGHT, INC., Ferry & 400 N. Sycamore, P.O. Box 3383, Spokane, Wash. 99220. Applicant's representative: Thomas R. Williams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (A) Regular route: Between Spokane, Wash., and Missoula, Mont.: From Spokane over U.S. Highway 10 (also Interstate Highway 90), to Missoula, and return over the same route, and; (B) Alternate route for operating convenience only: Between Missoula and Kalispell, Mont., serving no intermediate points: From Missoula over U.S. Highway 93 to Kalispell.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Spokane, Wash., or Missoula, Mont.

No. MC 1977 (Sub-No. 26), filed January 14, 1977. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe Street, Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fiberglass products*, (2) *materials, equipment and supplies* used in the construction, erection, operation, repair, servicing and maintenance of fiberglass products, and (3) *plastic pipe and fittings*, between Denver, Colo., on the one hand, and, on the other, points in Arizona, California, Idaho, Louisiana, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming.

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 2368 (Sub-No. 62), filed January 27, 1977. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, P.O. Box 495, Richmond, Va. 23204. Applicant's representative: William T. Marshburn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* in bulk, in tank vehicles, from Greensboro, N.C., and Richmond, Va., to points in Sullivan County, Tenn.

Note.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Richmond, Va.

No. MC 4405 (Sub-No. 546), filed January 24, 1977. Applicant: DEALERS TRANSIT, INC., 522 South Boston Avenue, Enterprise Building, Tulsa, Okla. 74103. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, semi-trailers and trailer chassis*, (except those designed to be drawn by passenger automobiles), in initial movements, in truckaway and driveaway service, from Murfreesboro, Tenn., to points in the United States (except Alaska and Hawaii); and (2) *tractors* in secondary movements, in driveaway service, when drawing trailers, semi-trailers and trailer chassis in initial movements, from Murfreesboro, Tenn., to points in Arizona, Nevada, Oregon, and Vermont.

Note.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Memphis, Tenn.

No. MC 6461 (Sub-No. 17), filed January 24, 1977. Applicant: B LINE TRANSPORT CO., INC., E 7100 Broadway, P.O. Box 13368, Spokane, Wash. 99213. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products*, including, but not limited to, panels, girders, beams and span-deck, from the plantside of Central Pre-Mix Concrete located in Spokane County, Wash., to those points in that part of Idaho, in and north of Idaho County; and, to points in Beaverhead, Broadwater, Cascade, Chouteau, Deer Lodge, Flathead, Gallatin, Glacier, Granite, Hill, Jefferson, Judith Basin, Lake, Lewis and Clark, Liberty, Lincoln, Madison, Meagher, Mineral, Missoula, Pondera, Powell, Ravalli, Sanders, Silver Bow, Teton, and Toole Counties, Mont.

Note.—If a hearing is deemed necessary, applicant requests it be held at Spokane, Wash.

No. MC 8964 (Sub-No. 33), filed January 17, 1977. Applicant: WITTE TRANSPORTATION COMPANY, a Corporation, P.O. Box 3564, St. Paul, Minn. 55165. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods): (1) Between Spring Valley, Minn. and Madison, Wis.: (a) From Spring Valley, Minn. over U.S. Highway 16 to its junction with Interstate Highway 90, thence over Interstate Highway 94, thence over Interstate Highway 94 (also portion Interstate Highway 90) to Madison, Wis., and return over the same route, serving all intermediate points; (b) From Spring Valley, Minn. over U.S. Highway 16 to LaCrosse, Wis., thence over U.S. Highway 16 to its junction with Interstate Highway 90 to its junction with Interstate Highway 94, thence over Interstate Highway 94 (also portion Interstate Highway 90), to Madison, Wis., and return over the same route, serving all intermediate points; (c) From Spring Valley, Minn. over U.S. Highway 63 to its junction with Interstate Highway 90, thence over Interstate Highway 90 to its junction with Interstate Highway 94, thence over Interstate Highway 94 (also portion Interstate Highway 90), to Madison, Wis., and return over the same route, serving all intermediate points; and (d) From Spring Valley, Minn. over U.S. Highway 63 to its junction with Minnesota Highway 60, thence over Minnesota Highway 60 to the Mississippi River, thence over the Mississippi River to Wisconsin Highway 25, thence over Wisconsin Highway 25 to its junction with U.S. Highway 10, thence over U.S. Highway 10 to its junction with Interstate Highway 94, thence over Interstate Highway 94 to its junction with Interstate Highway 90, thence over Interstate Highway 90 (also portion Interstate Highway 94), to Madison, Wis., and return over the same route, serving all intermediate points except South Troy, Zumbro Falls, West Albany, Dumfries and Wabasha, Minnesota.

(2) Between Spring Valley, Minn. and Stevens Point, Wis.: From Spring Valley, Minn., over U.S. Highway 63 to Rochester, Minn., thence over the Mississippi River to the junction with Wisconsin Highway 54, thence over Wisconsin Highway 54 to its junction with Wisconsin Highway 35, thence over Wisconsin Highway 35 to its junction with U.S. Highway 53, thence over U.S. Highway 53 to its junction with Wisconsin Highway 29, thence over Wisconsin Highway 29 to Wausau, Wis., thence over U.S. Highway 51 to Stevens Point, Wis., and return over the same route, serving all intermediate points (except Cadott, Boyd, Stanley, Thorp, Withee, Owen and Curtis, Wis.); (3) Between Spring Valley, Minn. and the junction of Interstate Highway 90 and Interstate Highway 94: From Spring Valley, Minn. over U.S. Highway 63 to its junction with Minnesota Highway 60, thence over Minnesota Highway 60 to the Mississippi River, thence over the Mississippi River to Wisconsin Highway 25, thence over Wisconsin Highway 25 to its junction with U.S. Highway 10, thence over U.S. Highway 10 to Stevens Point, Wis., thence over U.S. Highway 51 to its junction with Interstate Highway 90 (also portion Interstate Highway 94), and return over the same route, serving all intermediate points (except South Troy, Zumbro Falls, West Albany, Dumfries and Wabasha, Minn.); and (4) Serving as off-route points in connection with the above-described regular routes all points in Wisconsin on and west of U.S. Highway 51 and, unless excepted as intermediate points in the above-described route descriptions, on and south of a line created by U.S. Highway 12 and Wisconsin Highway 29 from Hudson, Wis., to Wausau, Wis., (except points in Vernon, Richland, Crawford, Grant, Iowa, Lafayette and Rock Counties, Wis.).

NOTE.—The purpose of this application is to convert irregular route authority to regular route authority. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Paul, Minn.

No. MC 16903 (Sub-No. 46), filed January 28, 1977. Applicant: MOON FREIGHT LINES, INC., 120 W. Grimes Street, P.O. Box 1275, Bloomington, Ind. 47401. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel pressure vessels*, not exceeding 240 gallons, from the plantsite of Brunner Engineering & Manufacturing, Inc., located in Lawrence County, Ind., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies*, used in the manufacture of steel pressure vessels, from points in the United States (except Alaska and Hawaii), to the plantsite of Brunner Engineering & Manufacturing, Inc., located in Lawrence County, Ind., restricted to traffic originating at and destined to the named origins and destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 19157 (Sub-No. 33), filed January 21, 1977. Applicant: McCORMACK'S HIGHWAY TRANSPORTATION, INC., R.D. 3, Box 4, Campbell Road, Schenectady, N.Y. 12306. Applicant's representative: Clem Tomlins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyurethane, polyurethane foam, synthetic fibers and compounds* (except in bulk), between Lynchburg, Miss., on the one hand, and, on the other, those points in the United States in and east of Alabama, Illinois, Kentucky, Tennessee and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Albany, N.Y., or Knoxville, Tenn.

No. MC 19157 (Sub-No. 36), filed January 21, 1977. Applicant: McCORMACK'S HIGHWAY TRANSPORTATION, INC., R.D. 3, Box 4, Campbell, Schenectady, N.Y. 12306. Applicant's representative: Clem Tomlins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber and plastic articles and truck parts* (except commodities in bulk and those which because of size or weight require the use of special equipment), between Slate Mills and Rousculp, Ohio, on the one hand, and, on the other, points in Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Albany, N.Y. or Washington, D.C.

No. MC 19157 (Sub-No. 37), filed January 27, 1977. Applicant: McCORMACK'S HIGHWAY TRANSPORTATION, INC., R.D. 3, Box 4, Campbell Road, Schenectady, N.Y. 12306. Applicant's representative: Clem Tomlins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Display units for* carpet samples, *store displays*, and *display racks and stands*, between Little Rock, Ark., on the one hand, and, on the other, points in Florida, Georgia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark. or Washington, D.C.

No. MC 19227 (Sub-No. 232), filed January 18, 1977. Applicant: LEONARD BROS. TRUCKING CO., INC., 2515 NW. 20th Street, Miami, Fla. 33152. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, *and machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof; *and earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe*, incidental to, used in, or in connection with (a) the transportation, installation, removal, operations, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) injection or removal of commodities into or from holes or wells, between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held on a consolidated record with similar applications at Houston, Tex., Tulsa, Okla., San Francisco, Calif., and St. Louis, Mo.

No. MC 25798 (Sub-No. 287), filed January 26, 1977. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 E. Bridgers Ave., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potatoes and protato products*, from Plover, Wis., to points in Florida, Georgia, North Carolina and South Carolina.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif. or Tampa, Fla.

No. MC 25869 (Sub-No. 130), filed January 10, 1977. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, P.O. Box 7184, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 7100 West Center Road, Univac Building, Suite 530, Omaha, Nebr. 68106.

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Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise*, as is used or distributed by wholesale, retail, chain grocery and food business houses (except commodities in bulk, in tank vehicles), from the plantsite and storage facilities utilized by Lever Brothers Company located within the Chicago, Ill., Commercial Zone to Omaha, Grand Island, Norfolk, and Lincoln, Nebr., and Denver, Colo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Newark, N.J.

No. MC 27817 (Sub-No. 127), filed January 14, 1977. Applicant: H. C. GABLER, INC., R.D. #3, P.O. Box 220, Chambersburg, Pa. 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail, wholesale and chain grocery and food business houses* (except commodities in bulk and frozen foods), from the facilities of Belt's Wharf Warehouses Incorporated, and its affiliates located at Elkridge, Md., to points in Delaware, New Jersey, New York and Pennsylvania, restricted to traffic originating at and destined to the above named points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa. or Washington, D.C.

No. MC 28060 (Sub-No. 331), filed January 17, 1977. Applicant: WILLERS, INC., doing business as WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, S. Dak. 57101. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road, NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, as described in Section A of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, hides and skins) in vehicles equipped with mechanical refrigeration, from the plantsite and facilities of Landy of Wisconsin, Inc., located at Eau Claire, Wis., to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis, Minn., or Chicago, Ill.

No. MC 29910 (Sub-No. 174), filed January 21, 1977. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. Applicant's representative: Don A. Smith, P.O. Box 43, 510 N. Greenwood Ave., Fort Smith, Ark. 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, equipment, supplies and building materials*, between the plantsite of Carolina Log Buildings, located in Polk County, Ark., on the one hand, and, on the other, points in that part of the United States in and east of Colorado, Montana, New Mexico and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Little Rock, Ark., or New Orleans, La.

No. MC 30000 (Sub-No. 2), filed January 27, 1977. Applicant: KENTUCKY TRANSPORT CORPORATION, 400 Sherburn Lane, Louisville, Ky. 40207. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, frit and pigment*, between Louisville, Ky., and Bethlehem, Pa., on the one hand, and, on the other, Atlanta, Ga.; Baltimore, Md.; Cincinnati, Ohio; Chicago and Joliet, Ill.; points in Pennsylvania on and east of U.S. Highway 220 and points in the New York, N.Y. Commercial Zone, under a continuing contract, or contracts, with SCM Corporation, on behalf of its Durkee Foods Division and Chemicals/Metallurgicals Division.

NOTE.—If a hearing is deemd necessary, the applicant requests that it be held at either Louisville, Ky. or Washington, D.C.

No. MC 30383 (Sub-No. 14), filed January 21, 1977. Applicant: JOSEPH F. WHELAN CO., INC., 439 West 54th Street, New York, N.Y. 10019. Applicant's representative: Arthur Liberstein, 1 Penn Plaza, Suite 1503, New York, N.Y. 10001.

Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soap products, stearic acid, vegetable stearine, glycerine, oils, cooking fats, soap, soap powder, cleaning and washing compounds, lard substitutes, toilet preparations, empty containers, kegs and drums, advertising matter and premiums*, and *such commodities* as are dealt in by retail food stores (except commodities in bulk), from the plantsites and warehouse facilities of Proctor & Gamble Manufacturing Company and Proctor & Gamble Distributing Company, located at Bayonne, N.J., and Port Ivory, Staten Island, N.Y., to the warehouse facilities of First National Stores, located at Windsor Locks, Conn., under a continuing contract or contracts with Proctor & Gamble Manufacturing Company and Proctor & Gamble Distributing Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 30844 (Sub-No. 576), filed January 21, 1977. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, 2125 Commercial Street, Waterloo, Iowa 50704. Applicant's representative: John P. Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medical and consumer care products* when transported in refrigerated or heated trailers, from the plantsite and facilities of Cutter Laboratories, Inc., located at or near Bensenville, Ill., to points in Colorado, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin, restricted to shipments originating at the above named origin and destined to the above named states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 40978 (Sub-No. 28), filed January 24, 1977. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, a corporation, 3321 Highway 141 South, P.O. Box 686, Sheboygan, Wis. 53081. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and cabinets*, from points in Minnesota to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul or Minneapolis, Minn.

No. MC 40978 (Sub-No. 29), filed January 24, 1977. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, a Corporation, 3321 Business 141 South, Sheboygan, Wis. 53081. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, (1) between points in Illinois: and (2) from Arthur, Ill., to points in the Upper Peninsula of Michigan, Minnesota and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 42011 (Sub-No. 31), filed January 18, 1977. Applicant: D. Q. WISE & CO., INC., P.O. Box 15125, Tulsa, Okla. 74115. Applicant's representative: Marvin J. McDonald (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof; and *earth drilling machinery and equipment, and machinery, equipment materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, (1) between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the on hand, and on the other, points in the United States (except Alaska and Hawaii); and (2) between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held on a consolidated record with similar applications at Houston, Tex.; Tulsa, Okla.; San Francisco, Calif.; or St. Louis, Mo.

No. MC 48221 (Sub-No. 6), filed February 17, 1977. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 7100 West Center Road, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Denver, Sterling and Ft. Morgan, Colo., to points in Illinois, Indiana, Iowa, Michigan, Missouri, Ohio and Wisconsin.

NOTE.—HEARING: Set for 8 days commencing April 20, 1977, at 9:30 a.m. at the TAX COURT HOUSE, 587 U.S. Federal Building, 19th & Stout Sts., Denver, Colo.

No. MC 49368 (Sub-No. 101), filed January 24, 1977. Applicant: COMPLETE AUTO TRANSIT, INC., E. 4111 Andover Road, Bloomfield Hills, Mich. 48013. Applicant's representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, in initial movements and in truckaway service (1) from the plantsites of General Motors Corporation, located at Tarrytown, N.Y. and Farmingham, Mass., to points in Alabama, Florida, Georgia, North Carolina, South Carolina and Tennessee; and (2) from the plantsites of General Motors Corporation, located at Atlanta and Doraville, Ga., to points in Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, under a continuing contract, or contracts in (1) and (2) above, with General Motors Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 61231 (Sub-No. 100), filed January 24, 1977. Applicant: ACE LINES, INC., 4143 East 43rd Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel bar joists, trusses metal roof deck, metal siding*, and *accessories* for the aforementioned commodities, from the plantsite of Vulcraft Division of Nucor Corporation, located at or near Norfolk, Nebr., to points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota and Wisconsin; and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), from points in the destination points named in (1) above, to the plantsite of Vulcraft Division of Nucor Corporation, located at or near Norfolk, Nebr.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 61619 (Sub-No. 10), filed January 13, 1977. Applicant: L & H TRUCKING COMPANY, INC., R. D. 3, Spring Grove, Pa. 17362. Applicant's representative: John E. Fullerton, 407 N. Front St., Harrisburg, Pa. 17101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Books*, from Orange and Berryville, Va., to Hanover, Pa., under a continuing contract with Doubleday & Company, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 66746 (Sub-No. 19) (Partial correction), filed November 22, 1976, published in the FEDERAL REGISTER issue of January 21, 1977, and republished in part, as corrected this issue. Applicant: JOHN L. KERR AND G. O. KEER, JR., a Partnership, doing business as SHIPPERS EXPRESS, 1651 Kerr Drive, Jackson, Miss. 39204. Applicant's representative: Harold D. Miller, Jr., P.O. Box 22567, 1700 Deposit Guaranty Plaza, Jackson, Miss. 39205. The purpose of this partial correction is to correct part (4) of the previous publication so as to read: (4) Between the junction of U.S. Highway 45 and U.S. Alternate 45 at or near Shannon and the junction of U.S. Highway 45 and U.S. Alternate 45 at or near Brooksville, Miss.: From the junction of U.S. Highway 45 and U.S. Alternate 45 at or near Shannon over U.S. Alternate 45 to its junction with U.S. Highway 45 at or near Brooksville, Miss., and return over the same route. Applicant also requests the inclusion of the following:

NOTE.—Applicant states it does not seek authority duplicative of that it now holds or that sought to be acquired by it, if acquired, in MC-F-12210, Shippers Express Purchase—Jones Truck Lines, Inc. The rest of the publication remains the same. If a hearing is deemed necessary, the applicant requests it be held at Tupelo, Miss. and New Orleans, La.

No. MC 69107 (Sub-No. 13), filed January 24, 1977. Applicant: ALL STATES ASPHALT, INC., Amherst Road, Route 116, P.O. Box 91, Sunderland, Mass. 01375. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heating oils*, in bulk, from Springfield and Holyoke, Mass., to points in New Hampshire and Vermont, (except points in Windham County, Vt.).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Springfield, Mass., Hartford, Conn., or Boston, Mass.

No. MC 69833 (Sub-No. 117), filed January 24, 1977. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, N.W., 6th Floor, Grand Rapids, Mich. 49503. Applicant's representative: Harry Pohlad (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, and commodities in bulk): Serving Fremont, Ind., as an off-route point in connection with carrier's presently authorized routes.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Indianapolis, Ind.

No. MC 72465 (Sub-No. 8), filed January 24, 1977. Applicant: DANIELS TRANSPORTATION CO., INC., 91 Mechanic St., Lebanon, N.H. 03766. Applicant's representative: Frederick T. O'Sullivan, 622 Lowell Street, P.O. Box 2184, Peabody, Mass. 01960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in New Hampshire and Vermont within 25 miles of Lebanon, N.H., on the one hand, and, on the other, points in South Carolina, North Carolina, Georgia, Florida, Tennessee, Mississippi, Louisiana, Alabama, and points in that part of Ohio north of a line beginning at the Ohio-Indiana State line and extending along Interstate Highway 80 to junction Ohio Highway 109, thence along Ohio Highway 109 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa. (2) between points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and New York within 150 miles of Lebanon, N.H. The purpose of this filing is to eliminate the gateway of Lebanon, N.H. (3) between points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and New York within 150 miles of Lebanon, N.H., on the one hand, and, on the other, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Lebanon, N.H. (4) between points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and New York, within 150 miles of

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Lebanon, N.H., on the one hand, and, on the other, points in South Carolina, North Carolina, Georgia, Florida, Tennessee, Mississippi, Illinois, Michigan, Ohio, Wisconsin, and Louisiana. The purpose of this filing is to eliminate the gateways of Lebanon, N.H., and Philadelphia, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Concord, N.H. or Montpelier, Vt.

No. MC 73165 (Sub-No. 398), filed January 26, 1977. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, 830 North 33rd Street, Birmingham, Ala. 35202. Applicant's representative: William P. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rail car moving equipment; overhead material handling equipment; foundry and steel melting equipment; railroad maintenance and operational equipment; heat exchangers, evaporators, crystalizers, filters, centrifuges, pulpwashers, and spray and rotary dryers, and parts and accessories* of the items listed above, between the plantsite of The Whiting Corp., located at or near Attalla, Ala., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Birmingham, Ala. or Atlanta, Ga.

No. MC 94350 (Sub-No. 376), filed January 24, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Double-wide mobile homes*, in initial movements, from points in Bossier, East Carroll, Franklin, and Lincoln Parishes, La., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 94350 (Sub-No. 377), filed January 24, 1977. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Single-wide and double-wide mobile homes*, in initial movements from points in Montgomery County, Tenn., to points in Illinois, Indiana, Kentucky, Missouri, North Carolina, Tennessee, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 95540 (Sub-No. 969), filed January 17, 1977. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, Fla. 33802. Applicant's representative: Benjy W. Fincher (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden pallets, wooden pallet parts, and lumber*, from Ellijay and Loganville, Ga., to Austin, Minn.; Fremont, Nebr.; Beloit, Wis.; and Fort Dodge and Ottumwa, Iowa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Atlanta, Ga.; Washington, D.C.; or Tampa, Fla.

No. MC 100666 (Sub-No. 340), filed January 24, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and construction materials*, (except commodities in bulk), from Houston, Tex., to points in Alabama, Florida, Georgia, and Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 105007 (Sub-No. 36), filed January 27, 1977. Applicant: MATSON TRUCK LINES, INC., 1407 St. John Avenue, Albert Lea, Minn. 56007. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laminated wood products, hardware and accessories therefor* (1) From Albert Lea, Minn., to the plantsites and storage facilities of Joslyn Manufacturing and Supply Co. and G. M. Stewart Lumber Co., Inc., located in the Minneapolis-St. Paul, Minn. Commercial Zone; and (2) from the plantsites and storage facilities in (1) above to points in Colorado and points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

NOTE.—Applicant states it presently holds authority from the origin point in (1) above to the destination territory in (2) above, except Louisiana and Mississippi. The purpose of this application is to allow applicant to deliver the named commodities to the plantsites named in (1) for further processing and then deliver the same to the destination territory named in (2). Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, Minn.

No. MC 106407 (Sub-No. 31), filed January 18, 1977. Applicant: T. E. MERCER TRUCKING CO., a Corporation, 920 North Main Street, P.O. Box 1809, Fort Worth, Tex. 76101. Applicant's representative: Clayte Binon, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials* and *supplies*, used in, or in connection with, the discovery, development, production, refining manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment* and *supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof; and (2) *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe*, incidental to used in, or in connection with (a) the transportation, installation, removal, operations, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled; (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, NewYork, North Carolina, Rhode Island, South Carolina and Virginia, on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex., Tulsa, Okla., San Francisco, Calif., Pittsburgh, Pa. and St. Louis, Mo.

No. MC 106603 (Sub-No. 152), filed January 28, 1977. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ventilators, ventilator parts, accessories and equipment*, used in the installation thereof, from Junction City, Ky., to points in the United States in and east of Kansas, Oklahoma, Nebraska, North Dakota, South Dakota and Texas; and (2) *materials and supplies*, used in the manufacture and installation of the commodities named in (1) above, from points in the United States in and east of Kansas, Oklahoma, Nebraska, North Dakota, South Dakota and Texas, to Junction City, Ky., restricted against shipments to or from the facilities of Mueller Brass Company, located at Fulton, Miss.; Port Huron, Mich.; Covington, Tenn.; and Middletown, Ohio.

NOTE.—Applicant holds contract carrier authority in MC 46240 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 106644 (Sub-No. 234), filed January 19, 1977. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road, NW., Atlanta, Ga. 30318. Applicant's representative: Hubert Johnson, P.O. Box 916, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof; and (2) *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidential to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or well drilled (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (b) the injecting or removal of commodities into or from holes or wells, between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina and Virginia, on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston, Tex. or Washington, D.C.

No. MC 106644 (Sub-No. 235), filed January 21, 1977. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road, NW., Atlanta, Ga. 30318. Applicant's representative: Hubert Johnson, P.O. Box 916, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aircraft loading, unloading and maintenance equipment*, from points in Santa Clara County, Calif., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Washington, D.C.

No. MC 107012 (Sub-No. 233), filed January 10, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet and carpet padding*, from Lyerly, Ga., and Greenville and Landrum, S.C., to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Charleston, S.C., or Atlanta,

No. Mc 107012 (Sub-No. 235), filed January 24, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway East and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and microwave ovens and such commodities* as are used in the manufacture of electric ranges and microwave ovens, *and materials, equipment and supplies* related thereto, (1) from the plantsite and storage facilities utilized by Litton Microwave Cooking Products, located at Sioux Falls, S. Dak., to points in Arizona, California, New Mexico, Oregon, Utah and Washington; and (2) from points in Alabama, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New York, North Carolina, Pennsylvania, South Carolina, Vermont, Virginia and Wisconsin, to the plantsite and storage facilities utilized by Litton Microwave Cooking Products, located at Sioux Falls, S. Dak., restricted to traffic originating at or destined the above named facilities, located at Sioux Falls, S. Dak.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis, Minn. or Washington, D.C.

No. MC 107460 (Sub-No. 62), filed January 24, 1977. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Road, Lancaster, Pa. 17601. Applicant's representative: Donald D. Shipley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum plate and sheet, aluminum foil and aluminum products* (except commodities in bulk) from the plantsite of Kaiser Aluminum & Chemical Corporation, located at or near Ravenswood, W. Va., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and the District of Columbia, under a continuing contract or contracts with Kaiser Aluminum & Chemical Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C. or San Francisco, Calif.

No. MC 107515 (Sub-No. 1050), filed January 28, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Campbell Soup Co., located at Napoleon, Ohio, to points in Kentucky.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Washington, D.C.

No. MC 107993 (Sub-No. 51), filed January 18, 1977. Applicant: J.J. WILLIS TRUCKING COMPANY, a Corporation, 2608 Electronic Lane, Dallas, Tex. 75223. Applicant's representative: Kenneth Weeks, P.O. Box 5328, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Machinery, equipment, materials and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof; and (B) *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, (1) between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia; and (2) between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina and Virginia, on the one hand, and, on the other, points in Arkansas, Arizona, California, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas, Utah and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex., Tulsa, Okla., San Francisco, Calif., and Pittsburgh, Pa. or St. Louis, Mo.

No. MC 108207 (Sub-No. 455), filed January 14, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic molding powder*, in packages, and requiring transportation in refrigerated equipment, from Military, Kans., to points in Arizona, Arkansas, California, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, Texas, Wisconsin, and Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Houston or Dallas, Tex.

No. MC 108207 (Sub-No. 456), filed January 14, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor

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vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, and hides), from points in Wichita, Kans., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Tennessee, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant rquests it be held at either Wichita, Kans. or Dallas, Tex.

No. MC 108341 (Sub-No. 57), filed January 21, 1977. Applicant: MOSS TRUCKING COMPANY, INC., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl and plastic covered plywood, gypsumboard, hardboard, composition board, fibreboard, particleboard*, and *materials, accessories, moldings, and supplies* used in the installation and distribution of the above named commodities (except in bulk), from the facilities of Textone, Inc., located at or near North Charleston, S.C., to points in that part of the United States in and east of Arkansas, Iowa, Louisiana, Minnesota and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109064 (Sub-No. 32), filed January 18, 1977. Applicant: TEX-O-KA-N TRANSPORTATION COMPANY, INC., P.O. Box 8367, 3301 E. Loop, 820 South, Fort Worth, Tex. 76112. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof; and (B) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities into or from holes or wells, (1) between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia; and (2) between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in Arkansas, California, Colorado, Kansas, Louisiana, Montana, New Mexico, Oklahoma, Utah, Texas, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be heard on a consolidated record with similar applications at either Houston, Tex., Tulsa, Okla., San Francisco, Calif. or St. Louis, Mo.

No. MC 109397 (Sub-No. 352), filed January 21, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., A Corporation, P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut buildings*, and *parts, attachments, materials, and supplies* when moving with pre-cut buildings, from Fletcher, N.C., to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Atlanta, Ga. or Memphis, Tenn.

No. MC 110420 (Sub-No. 764), filed January 24, 1977. Applicant: QUALITY CARRIERS, INC., I-94 & County Trunk C, Bristol, Wis. 53104. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol*, in bulk, from the plantsite and storage facilities of Archer Daniels Midland Company, located at or near Decatur, Ill., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C

No. MC 111274 (Sub-No. 18), filed January 24, 1977. Applicant: ELMER C. SCHMIDGALL AND BENJAMIN G. SCHMIDGALL doing business as SCHMIDGALL TRANSFER, Box 249, Tremont, Ill. 61568. Applicant's representative: Frederick C. Schmidgall, Rt. 98, Box 356, Morton, Ill. 61550. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials and components* used in the manufacture of grain elevators, (1) from points in Georgia, Iowa, Kentucky, Michigan, Missouri, Nebraska, New Jersey, and Texas, to the facilities of Hunter Mfg., Inc., located at or near Blair, Nebr., and Mackinaw, Ill.; and (2) between the facilities of Hunter Mfg., Inc., located at or near Blair, Nebr., and Mackinaw, Ill., under a continuing contract or contracts with Hunter Mfg., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Springfield, Chicago, Ill., or St. Louis, Mo.

No. MC 112184 (Sub-No. 51), filed January 24, 1977. Applicant: THE MANFREDI TRANSIT COMPANY, a Corporation, 11250 Kinsman Road, Newbury, Ohio 44065. Applicant's representative: John P. McMahn, 100 East Board Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Oil and gasoline additives*, in bulk, between East Liverpool, Ohio on the one hand, and, on the other, ports of entry on the International Boundary line between the United States and Canada located at Buffalo and Youngstown, N.Y. including Buffalo and Youngstown, N.Y., for furtherence to the Province of Ontario, Canada, under a continuing contract, or contracts, with PPG Industries, Harshaw Chemical Company, Division of Kewanee Oil Company, Cargill, Inc., Lubrizol Corporation, Benjamin Moore & Company and Georgia Pacific Corporation.

NOTE.—Applicant has common carrier authority in MC 128302 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 112223 (Sub-No. 104), filed January 24, 1977. Applicant: QUICKIE TRANSPORT COMPANY, a corporation, 1700 New Brighton Boulevard, Minneapolis, Minn. 55413. Applicant's representative: Earl Hacking (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, (1) from the facilities of Gulf Pipeline located at or near Spencer, Iowa to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota; (2) from the facilities of Gulf Central Pipeline located at or near Holstein, Iowa to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota; and (3) from the facilities of Gulf Central Pipeline located at or near David City, Nebr., to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, or St. Paul, Minn.

No. MC 113459 (Sub-No. 108), filed January 18, 1977. Applicant: H. J. JEFFRIES TRUCKING LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and

machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof; and (2) *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operations, repair, servicing, maintenance and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well of hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be heard on a consolidated record with similar applications at Houston, Tex., Tulsa, Okla., San Francisco, Calif., and St. Louis, Mo.

No. MC 113651 (Sub-No. 208), filed January 24, 1977. Applicant. INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, Ind. 47303. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, from Frankfort, Ind., to points in Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 114274 (Sub-No. 40), filed January 26, 1977. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th Street Place, P.O. Box 1703, Des Moines, Iowa 50306. Applicant's representative: William H. Towle, 180 North LaSalle Street, Suite 3520, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities, in bulk), from the facilities of Dubuque Packing Company, located at Denison, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of shipments originating at the above-described origin points and destined to points in the above-named states.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Omaha, Nebr.

No. MC 114457 (Sub-No. 287), filed January 7, 1977. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative James C. Hardman, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Containers, container closures, container components*, and *materials and supplies* used in the manufacture or distribution of containers, (a) from St. Louis, Mo.; Bedford Heights, Ohio; Omaha, Nebr.; Milwaukee, Wis.; Arden Hills, Minn.; Chicago and Peoria Heights, Ill., to points in Arkansas, Indiana, Kentucky, Michigan, Pennsylvania, Tennessee, and Wisconsin; (b) from Louisville, Ky., and Kansas City, Mo., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, Tennessee, and Wisconsin; (2) *materials and supplies* used in the manufacture and distribution of containers, between the plant and warehouse sites of Continental Can Company, U.S.A., a member of The Continental Group, Inc., located at Alsip, Bridgeview, Chicago, Danville, Itasca, and Peoria Heights, Ill.; Burns Harbor, Chesterton, Elwood and Portage, Ind.; Kansas City and Lenexa, Kans.; Louisville, Ky.; Shoreham, Mich.; Arden Hills, Mankato and St. Paul, Minn.; St. Joseph and St. Louis, Mo.; Omaha, Nebr.; Bedford Heights, Cincinnati, Cleveland, Columbus, Sharonville, and Worthington, Ohio.; Oil City and West Mifflin, Penn.; LaCrosse, Milwaukee and Racine, Wis.; and (3) *closures and materials* used in the manufacture of containers, (a) from Burns Harbor, Ind., to points in Arkansas, Illinois, Kentucky, Michigan, Nebraska, Ohio, Pennsylvania and Tennessee; (b) from Chesterton, Ind., to Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Pennsylvania, Tennessee, and Wisconsin; and (c) from Portage, Ind., to points in Arkansas, Kansas, Kentucky, Michigan, Ohio, Pennsylvania and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis or St. Paul, Minn., or Chicago, Ill.

No. MC 114457 (Sub-No. 289), filed January 26, 1977. Applicant: DART TRANSIT COMPANY, a Corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from Seelyville, Ind., to points in Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin; and (2) *materials and supplies* used in the manufacture, distribution and sale of the commodities named in (1) above (except commodities in bulk), for the destination states named in (1) above, to the plantsite of the Pillsbury Company located at or near Seelyville, Ind., restricted in (1) and (2) above to the transportation of traffic originating at the above named origin points and destined to the above named destination points.

NOTE.—If a hearing is deemed necessary, the applicant requests t be held at either St. Paul, Minn. or Chicago, Ill.

No. MC 114632 (Sub-No. 96), filed January 24, 1977. Applicant: APPLE LINES, INC., 212 S.W. Second St., Madison, S. Dak. 57042. Applicant's representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packing plants*, as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates* M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Dubuque Packing, located at or near Mankato, Kans., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Wisconsin, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City; Kans.

No. MC 114632 (Sub-No. 97), filed January 27, 1977. Applicant: APPLE LINES, INC., 212 S.W. Second St., Madison, S. Dak. 57042. Applicant's representative: Andrew Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, roof deck and siding*, painted, galvanized and undercoated, *open webbed steel bar joists, girders and accessories*, from the plantsite of Nucor Corporation located at or near Norfolk, Nebr., to points in Illinois, Iowa, Kansas, Minnesota, North Dakota, South Dakota, Wisconsin, and those points in that part of Missouri on and north of Interstate Highway 70. Note: Applicant holds contract carrier authority in No. MC 129706, therefore dual operations may be involved.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 114725 (Sub-No. 78), filed January 25, 1977. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, Nebr. 68110. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the pipeline terminals of Gulf Central Pipeline Company located at or near Spencer and Holstein, Iowa, and David City,

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Nebr., to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 114969 (Sub-No. 58), filed January 21, 1977. Applicant: PROPANE TRANSPORT, INC., P.O. Box 232, 1734 State Route 131, Milford, Ohio 45150. Applicant's representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solutions and phosphatic fertilizer solutions*, in bulk, in tank vehicles, and *dry fertilizers*, in bulk, from Prichton, Ind., to points in Illinois.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 115603 (Sub-No. 13), filed January 19, 1977. Applicant: TURNER BROS. TRUCKING COMPANY, INC., P.O. Box 94626, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof; *and earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenace, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, (1) between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia; and (2) between points in the states named in (1) above, on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary the applicant requests it be held on a consolidated record with similar applications at Houston, Tex.; Tulsa, Okla.; San Francisco, Calif.; or St. Louis, Mo.

No. MC 115730 (Sub-No. 24), filed January 3, 1977. Applicant: THE MICKOW CORP., 531 S.W. 6th Street, Des Moines, Iowa 50309. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Chicago, Alton, and Sterling, Ill.; and Kansas City and St. Louis, Mo., to Norfolk, Nebr.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 116254 (Sub-No. 176), filed January 25, 1977. Applicant: CHEMHAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick, brickettes, and bricketts mini-panels, and materials, equipment and supplies* used in the installation of such commodities, from Owensboro, Ky., to points in California, Colorado, Idaho, Kansas, Montana, Nebraska, Oklahoma, Oregon, Texas, Utah and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Louisville, Ky. or Washington, D.C.

No. MC 118159 (Sub-No. 196), filed January 24, 1977. Applicant NATIONAL REFRIGERATED TRANSPORT, INC., Dawson Station, P.O. Box 51366, Tulsa, Okla. 74151. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, fresh and frozen, meat products, and products* produced by packing houses, from the plantsite of Farmland Foods, Inc., located at or near Garden City, Kans., to points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachsetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 118202 (Sub-No. 70), filed January 27, 1977. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products and articles distributed by meat packinghouses* (except commodities in bulk and hides), from the plantsite and storage facilities of Landy of Wisconsin located at or near Eau Claire, Wis., to points in Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Vermont, Virginia, Washington, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in No. MC 134631 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. Mc 118776 (Sub-No. 20), filed January 13, 1977. Applicant: C. L. CONNORS, INC., 3820 Wisman Lane, Quincy, Ill. 62301. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground limestone, limestone products, trace minerals and trace mineral ingredients*, from Quincy, Ill., and Hannibal, Mo., to points in New Jersey, North Dakota, Pennsylvania, South Dakota, Texas and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 119668 (Sub-No. 6), filed January 18, 1977. Applicant: FORREST RATLIFF AND AUBURN RATLIFF, a Partnership doing business as RATLIFF TRUCKING SERVICE, P.O. Box 366, Oakwood, Va. 24631. Applicant's representative: Edward G. Villalon, Suite 1032 Pennsylvania Bldg., Pennsylvania Avenue and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock and poultry feed*, from Winchester, Ky., to Grundy, Oakwood, Haysi, Clintwood and Wise, Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Roanoke, Va., or Washington, D.C.

No. MC 119774 (Sub-No. 91), filed January 24, 1977. Applicant: EAGLE TRUCKING COMPANY, a Corporation, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof; and (2) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or inconnection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex., and New Orleans, La.

No. MC 119934 (Sub-No. 211), filed January 28, 1977. Applicant: ECOFF TRUCKING, INC., 625 E. Broadway, Fortville, Ind. 46040. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses*, edible, in bulk, in tank vehicles, from Edgard, La., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind., or Louisville, Ky.

No. MC 119974 (Sub-No. 64), filed January 24, 1977. Applicant: L.C.L. TRANSIT COMPANY, a Corporation, 949 Advance Street, Green Bay, Wis. 54305. Applicant's representative: L. F. Abel, P.O. Box 949, Green Bay, Wis. 54305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (1) from the plantsite and warehouse facilities of Swift & Company, located at Rochelle, Ill., to points in Indiana and Michigan, and; (2) from the plantsite and warehouse facilities of Landy of Wisconsin, Inc., located at Eau Claire, Wis., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, and Ohio, restricted in (1) and (2) above to traffic originating at the named origins and destined to the named states.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill. or Washington, D.C.

No. MC 123405 (Sub-No. 47), filed January 24, 1977. Applicant: FOOD TRANSPORT, INC., R.D. #1, Thomasville, Pa. 17364. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the plantsite and storage facilities of American Home Foods, Division of American Home Products Corp., Inc., located at or near Milton, Pa., to points in Alabama, Florida, Georgia, Louisiana, Mississippi and Texas, restricted to traffic originating at and destined to the above-named origins and destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Harrisburg, Pa., or Washington, D.C.

No. MC 123407 (Sub-No. 351), filed January 14, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material* (except in bulk), from the facilities of Fibreboard Corporation, located at or near Fruita, Colo., to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 123407 (Sub-No. 352), filed January 14, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from points in Wyoming to points in Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 123407 (Sub-No. 354), filed January 14, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry cleaning supplies and chemicals* (except in bulk), from points in Wisconsin, to points in Idaho, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Billings, or Helena, Mont.

No. MC 123475 (Sub-No. 7), filed January 27, 1977. Applicant: LIGHTNING SUPPLY, INC., R.R. #4, Route 50 West, Salem, Ill. 62881. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Lake County, Ohio, to points in Illinois, Indiana, Iowa Kentucky, Michigan, Minnesota, Pennsylvania, West Virginia and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 123819 (Sub-No. 41), filed January 24, 1977. Applicant: ACE FREIGHT LINE, INC., 3359 Cazassa Rd., P.O. Box 16589, Memphis, Tenn. 38116. Applicant's representative: Bill R. Davis, Suite 101-Emerson Center, 2814 New Spring Rd., Atlanta, Ga. 30339. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed supplements*, (except molasses), in bulk, from Memphis, Tenn., to points in Arkansas and Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 123872 (Sub-No. 65), filed January 21, 1977. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Box 2607, Hickory, N.C. 28601. Applicant's representative: Allen E. Bowman (same address as applicant). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Swift and Company, at Des Moines, Glenwood, Marshalltown, Sioux City, Iowa, and Omaha, Nebr., to those points in Georgia, on and north of U.S. Highway 80, and points in North Carolina, South Carolina, Tennessee (except Memphis), and Virginia, restricted to traffic originating at named origins and destined to named destinations.

Note.—If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 124692 (Sub-No. 170), filed January 28, 1977. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59806. Applicant's representative: J. David Douglas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe siding*, and *fittings and accessories*, used in the installation of plastic pipe and siding, from the plantsite and warehouse facilities of Certain Teed Corp., located at or near McPherson, Kans., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming, restricted to traffic originating at the facilities of Certain Teed Corp.

Note.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 126133 (Sub-No. 2), filed January 21, 1977. Applicant: GENERAL LEASING, INC., 1620 S. 15th St., Prairie du Chien, Wis. 53821. Applicant's representative: Michael S. Varda, 121 S. Pinckney St., Madison, Wis. 53701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, and related advertising materials*, from St. Paul, Minn., to Prairie du

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Chien, Wis., and; (2) *empty malt beverage containers and pallets*, from Prairie du Chien, Wis., to St. Paul, Minn., under a continuing contract or contracts with Quality Beverages of Wisconsin, Inc., located at Prairie du Chien, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison, Wis. or Chicago, Ill.

No. MC 128246 (Sub-No. 17), filed January 25, 1977. Applicant: SOUTHWEST TRUCK SERVICE, a Corporation, P.O. Box A.D., Watsonville, Calif. 95076. Applicant's representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, Va. 22312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses, and, in connection therewith, *equipment, materials and supplies* used in the conduct of such businesses (except commodities in bulk); and (2) *commodities* which are otherwise exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act, when moving in mixed loads with the commodities specified in (1) above, between points in Arizona, California, Oregon and Washington, on the one hand, and, on the other, Arkansas, Kansas, Missouri, Oklahoma and Texas, restricted to a transportation service to be performed under a continuing contract or contracts with Safeway Stores Incorporated at Oakland, California.

NOTE.—Applicant states the authority sought involves only the territorial expansion of the present contract carrier service being provided by applicant under continuing contracts with Safeway Stores Incorporated at Oakland, California. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 128273 (Sub-No. 248), filed January 27, 1977. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Elden Corban (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Willard, Ohio and Crawfordsville, Ind., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necesary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 128273 (Sub-No. 249), filed January 28, 1977. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Elden Corban (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pulpboard and paperboard, and pulpboard and paperboard articles*, from Plymouth, Ind., to points in the United States (except Alaska, Hawaii and Indiana); and (2) *scrap paper*, from Connecticut, Illinois, Kentucky, Ohio, Pennsylvania and Tennessee, to Plymouth, Ind.

NOTE.—If a hearing is deemed necesary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 128940 (Sub-No. 29), filed January 24, 1977. Applicant: RICHARD A. CRAWFORD, doing business as R. A. CRAWFORD TRUCKING SERVICE, P.O. Box 722, Adelphi, Md. 20783. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Laminated plastic sheets*, (b) *adhesives* used in the application of plastic sheets, and (c) *materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities named in (1) (a) and (b) above, between Odenton, Md., on the one hand, and, on the other, points in Arkansas, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of laminated plastic sheets and adhesives used in the application of plastic sheets, from points in Louisiana, to Odenton, Md., under a continuing contract or contracts with Exxon Chemical Co., U.S.A.

NOTE.—If a hearing is deemed necesary, applicant requests it be held at Washington, D.C.

No. MC 129086 (Sub-No. 23), filed January 21, 1977. Applicant: SPENCER TRUCKING CORPORATION, Route 2, Box 254A, Keyser, W. Va. 26726. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, from the plantsite and shipping facilities of FMC, located at or near South Heights, Pa. to Keyser, W. Va.

NOTE.—Common control may be involved. If a hearing is deemed necesary, applicant requests it be held at Chattanooga, Tenn.

No. MC 133095 (Sub-No. 145), filed January 31, 1977. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Stoves*, from Belleville, Ill., to Jacksonville, Fla., Salina, Kans., Owings Mills, Md., Jackson, Miss., Gastonia, N.C., Delaware, Ohio, and Temple, Tex.; and (2) *washers and dryers*, from Herrin, Ill., to Jacksonville, Fla., Salina, Kans., Owings Mills, Md., Jackson, Miss., Gastonia, N.C., Delaware, Ohio, and Temple, Tex., restricted to the transportation of traffic originating at the above points and destined to the retail stores of or the warehouse facilities of or those utilized by Western Auto Supply Company.

NOTE.—Applicant holds contract carrier authority in MC 136032 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necesary, the applicant requests it be held at either Dallas, Tex., or Chicago, Ill.

No. MC 133095 (Sub-No. 146), filed January 31, 1977. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, Tex. 76039. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawnmowers*, from Lawrenceburg, Tenn., to points in Alabama, Florida, Illinois, Indiana, Iowa, Georgia, Kentucky, Missouri, North Carolina, South Carolina, Virginia and West Virginia, restricted to the transportation of traffic destined to retail stores of or warehouse facilities of or those utilized by Western Auto Supply Company.

NOTE.—Applicant holds contract carrier authority in MC 136032 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necesary, the applicant requests it be held at either Dallas, Tex. or New Orleans, La.

No. MC 133439 (Sub-No. 1), filed January 14, 1977. Applicant: JIM NAGLE'S REBUILT TRUCK PARTS & SALES, INC., R.D. #3, Route 22-West, Duncansville, Pa. 16635. Applicant's representative: Frederick B. Gieg, Jr., 435 Central Trust Building, P.O. Box 245, Altoona, Pa. 16603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked disabled, replacement and repossessed motor vehicles*, between points in Blair, Huntingdon, Cambria, Somerset, Indiana, Clearfield, Centre, Cameron, Clinton, Elk, Jefferson, Mifflin, Lycoming, Montour, Bedford, Franklin, Union, Fulton and Northumberland Counties, Pa., and points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Altoona, Pittsburgh or Harrisburg, Pa.

No. MC 133485 (Sub-No. 19), filed January 27, 1977. Applicant: INTERNATIONAL DETECTIVE SERVICE, INC., 1828 Westminister St., Providence, R.I. 02909. Applicant's representative: Morris J. Levin, 1620 Eye Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bullion, coins and precious metals*, in armored vehicles escorted by armed guards, between ports of entry on the International Boundary Line between the United States and Canada located in Maine, New York and Vermont, on the one hand, and, on the other, Chicago, Ill., and points in Connecticut, New Jersey, New York, and Barnstable, Bristol, Middlesex, Norfolk, Plymouth, Suffolk and Worcester Counties, Mass.

NOTE.—The purpose of this filing is to eliminate the gateway at Providence, R.I. Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y. or Providence, R.I.

No. MC 133604 (Sub-No. 6), filed January 27, 1977. Applicant: LYNN'S POULTRY, INC., 712 South 11th Street, Oskaloosa, Iowa 52577. Applicant's representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses, and foodstuffs* (except hides and commodities in bulk), from the plantsites and warehouse facilities utilized by Geo. A. Hormel & Co., located at or near Algona and Fort Dodge, Iowa, to points in Georgia, restricted to traffic originating at named origins and destined to the named destination.

NOTE.—If a hearing is deemend necessary, applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 133614 (Sub-No. 8), filed January 14, 1977. Applicant: PAPPAS TRUCKING, INC., P.O. Box 8, Gering, Nebr. 69341. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Agricultural machinery and implements*, (b) *rock pickers*, (c) *liquid and solid waste recycling systems*, (d) *spraying equipment*, and (e) *parts and attachments* for the commodities described in (a), (b), (c) and (d) above, from the plantsite and storage facilities utilized by Lockwood Corp. located at or near Gering, Nebr., to points in Kansas, Oklahoma, South Dakota, and those points in the United States in and east of Arkansas, Iowa, Louisiana, Minnesota and Missouri; and (2) *materials, equipment and supplies* used in the manufacture, production and distribution of the commodities described in (1) above, from the destination points named in (1) above, to the plantsite and storage facilities utilized by Lockwood Corp. located at or near Gering, Nebr., restricted against the transportation of commodities in bulk, under a continuing contract, or contracts, with Lockwood Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 133689 (Sub-No. 103), filed January 24, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St. SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Wooden pallets and wooden pallet parts*, from the plantsites and storage facilities of Atlanta Southern Corporation, located at or near Loganville and Ellijay, Ga., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 133689 (Sub-No. 104), filed January 24, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First St. SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by farmers cooperative associations (except commodities in bulk and foodstuffs), from points in Alabama, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia and West Virginia, to points in Iowa, Minnesota, Nebraska, North Dakota, South Dakota and Wisconsin, restricted to the transportation of traffic destined to the facilities of Farmers Union Central Exchange, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134029 (Sub-No. 5), filed January 21, 1977. Applicant: SIGEL'S HAULING, INCORPORATED, P.O. Box 286, Cadiz, Ohio 43907. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used machinery, used equipment*, and *materials and supplies incidental thereto* (except commodities in bulk, and iron and steel and iron and steel articles), between points in Boyd, Carter and Greenup Counties, Ky.; Ashtabula, Ottawa, Columbiana, Coyahoga, Trumbull, Jackson, Jefferson, Scioto, Summit, Lawrence, Medina, Portage, Stark, and Pike Counties, Ohio; Beaver and Cambria Counties, Pa.; and Hancock County, W. Va., restricted (1) to the transportation of machinery and equipment that require dismantling or erection for purposes of transportation, and (2) to the transportation of shipments originating at or destined to the plantsite or facilities of The Standard Slag Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 134323 (Sub-No. 92), filed January 21, 1977. Applicant: JAY LINES, INC., 720 North Grand, Amarillo, Tex. 79107. Applicant's representative: Gailyn Larsen, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by retail department stores, and equipment, materials and supplies* used in the conduct of such business, from Atlanta, Ga., Charlotte, N.C., and New York, N.Y., to Kansas City, Kans., under a continuing contract or contracts with J. C. Penney Co., Inc. of New York, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y. or Washington, D.C.

No. MC 134323 (Sub-No. 93), filed January 24, 1977. Applicant: JAY LINES, INC., 720 North Grand, P.O. Box 4146, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larsen, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores, *and equipment, materials and supplies*, used in the conduct of such business (except commodities in bulk), from the facilities of J. C. Penney Co., at or near Atlanta, Ga., to Oklahoma City, Okla., and Albuquerque, N. Mex., under contract with J. C. Penney Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 134477 (Sub-No. 142), filed January 21, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 551188. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, washing, buffing and polishing compounds, textile softeners, lubricating grease and oil and deodorants and disinfectants*, (except commodities in bulk), from the facilities of Economics Laboratory, Inc., located at or near Avenel, N.J., to Joliet, Ill., restricted to the transportation of shipments originating at the above named shipper's facility and destined to the above named destination.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 134645 (Sub-No. 16), filed January 21, 1977. Applicant: LIVESTOCK SERVICE, INC., 1420 Second Ave., South St. Cloud, Minn. 56301. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk),

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from Eau Claire and Whitehall, Wis., to points in Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia and the District of Columbia, restricted to the transportation of shipments originating at the facilities of Whitehall Packing Company, Inc., located at or near Eau Claire and Whitehall, Wis., and destined to the above named destination states.

NOTE.—Applicant holds contract carrier authority in MC 124071 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134645 (Sub-No. 17), filed January 24, 1977. Applicant: LIVESTOCK SERVICE, INC., 1420 Second Ave., South, St. Cloud, Minn. 56301. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Eau Claire, Wis., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—Applicant hold contract carrier authority in MC 124071 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134875 (Sub-No. 9), filed January 24, 1977. Applicant: JOHN W. SMOOT, P.O. Box 445, Mount Jackson, Va. 22842. Applicant's representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, commodities in bulk, and those requiring special equipment), between the facilities of Aileen, Inc., located at Woodstock and Edinburg, Va., on the one hand, and, on the other, Baltimore, Md., and the District of Columbia, restricted to traffic having a prior or subsequent movement by air, water and rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 134922 (Sub-No. 222), filed January 14, 1977. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by wholesale and retail tire stores, (except commodities in bulk and those which because of size or weight require the use of special equipment), between Gadsden, Ala., Tyler, Tex., and Indiana, Pa., located in Indiana County, Pa., on the one hand, and, on the other, points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either San Francisco, Calif. or Little Rock, Ark.

No. MC 134922 (Sub-No. 227), filed January 27, 1977. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), in vehicles equipped with mechanical refrigeration, from Boonton, N.J., to points in the United States in and west of Kansas, Nebraska, North Dakota, Oklahoma, South Dakota and Texas, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Little Rock, Ark.

No. MC 135437 (Sub-No. 10), filed January 28, 1977. Applicant: TRI-NORTHEASTERN TRANSPORT, INC., South Main Street, Lyndonville, N.Y. 14098. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen mushrooms*, from Kennett Square, Pa., to Rochester, N.Y., Owensboro, Ky. and Evansville, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Rochester, or Buffalo, N.Y.

No. MC 136828 (Sub-No. 13), filed February 2, 1977. Applicant: COOK TRANSPORTS, INC., P.O. Drawer O, Pinson, Ala. 35126. Applicant's representative: Robert M. Pearce, P.O. Box 1111, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and plastic products, and materials, supplies and equipment* used in the manufacture thereof, between Marble Falls, Tex., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Mississippi, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala., or Nashville, Tenn.

No. MC 138274 (Sub-No. 42), filed January 27, 1977. Applicant: SHIPPERS BEST EXPRESS, INC., 2151 North Redwood Road, Salt Lake City, Utah 84116. Applicant's representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* (except commodities in bulk), as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsites and storage facilities of Flavorland Industries, Inc., located at or near Seattle and Toppenish, Wash., and the plantsite and storage facilities of Columbia Foods, Inc., located at or near Walluia, Wash., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant holds contract carrier authority in MC 138058 Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah.

No. MC 138308 (Sub-No. 17), filed January 14, 1977. Applicant: KLM, INC., 2102 Old Brandon Road, P.O. Box 6098, Jackson, Miss. 39205. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel junction boxes, circuit breakers and transformers*, (except commodities which by reason of size or weight require the use of special equipment), from the facilities of Zinsco Electrical Products of Mississippi, Inc., located at Jackson, Miss., to the facilities of GTE Sylvania, located at Dallas, Tex., Atlanta, Ga., Elk Grove, Ill., and Folcroft, Pa., restricted to the transportation of shipments originating at and destined to the above named points.

NOTE.—Applicant holds contract carrier authority in MC No. 128592, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Jackson, Miss. or Washington, D.C.

No. MC 138469 (Sub-No. 38), filed January 24, 1977. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, Okla. 73107. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Abrasive furnace ferrosilicon*, from Keokuk, Iowa to New Orleans, La.; Baltimore, Md.; and New York, N.Y., restricted to the transportation of traffic originating at the named origin and having a subsequent movement by water.

NOTE.—Applicant holds contract carrier authority in MC 136375 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 138861 (Sub-No. 4), filed January 21, 1977. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, R.I. 02814. Applicant's representative: Ronald N. Cobert, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in Rhode Island, and points in Bristol, Suffolk, Middlesex, Norfolk, Plymouth, Essex, and Worcester Counties, Mass., on the one hand, and, on the other, Wilmington, Del.; New York, N.Y.; Alexandria, Va.; Baltimore, Md., and points in Nassau, Westchester, and Rockland Counties, N.Y.; Passaic, Essex, Union, Hudson, Middlesex, Bergen, Camden and Gloucester Counties, N.J.; Philadelphia, Delaware, and Montgomery Counties, Pa.; Baltimore, Anne Arundel, Prince Georges, Montgomery and Howard Counties, Md.; Arlington and Fairfax Counties, Va.; and the District of Columbia, restricted to movements on bills of lading of freight forwarders.

NOTE.—Applicant holds contract carrier authority in MC 128343 Sub-No. 1 and others thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at either Providence, R.I., or Boston, Mass.

No. MC 138941 (Sub-No. 21), filed January 31, 1977. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir Street, Pomona, Calif. 91766. Applicant's representative: K. Edward Wolcott, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laminated plastics and liquid adhesives* (except in bulk), from the plantsite and storage facilities of General Electric Company, located at or near Coshocton, Ohio, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming, under contract with General Electric Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Los Angeles, Calif.

No. MC 139193 (Sub-No. 56), filed January 19, 1977. Applicant: ROBERTS & OAKE, INC., 527 East 52nd Street North, P.O. Box 1356, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billig, 2033 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, meat by-products*, and *articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles) from the plantsite and facilities utilized by John Morrell & Co., located at St. Paul, Minn., to points in Illinois and Wisconsin; and (2) *such commodities* as are used by meat packers in the conduct of their business (except hides and commodities in bulk, in tank vehicles) from points in Illinois and Wisconsin to St. Paul, Minn., under a continuing contract or contracts with John Morrell & Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Chicago, Ill.

No. MC 139495 (Sub-No. 193), filed January 11, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lawn and garden products* (except in bulk), from the plantsite and storage facilities of O. M. Scott & Sons located at or near Marysville, Ohio, to points in the United States in and east of Arkansas, Illinois, Iowa, Louisiana and Minnesota.

NOTE.—Applicant holds contract carrier authority in No. MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139637 (Sub-No. 6), filed January 24, 1977. Applicant: HERDIS E. GAMMON, doing business as HERDIS E. GAMMON TRUCKING, 140 West Lincoln, Chandler, Ind. 47610. Applicant's representative: Kirkwood Yockey, 300 Union Federal Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Webster, Henderson, Breckenridge, Ohio; Butler, Christian, Daviess, Hancock, Hopkins, McLean, Muhlenberg and Union Counties, Ky., to points in Pike, Spencer, Vanderburgh, Warrick, Gibson and Posey Counties, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Evansville, or Indianapolis, Ind.

No. MC 139663 (Sub-No. 3), filed January 21, 1977. Applicant: HASKINS & SON, INC., 815 Max Avenue, Lansing, Mich. 48915. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron and metal*, in bulk, in dump equipment, between points in Michigan and the International Boundary between the United States and Canada located at Detroit, Port Huron and Sault Ste. Marie, Mich.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lansing or Detroit, Mich.

No. MC 139754 (Sub-No. 3), filed January 19, 1977. Applicant: SOFT DRINK CARRIERS, INC., 5820 Centre Avenue, Pittsburgh, Pa. 15206. Applicant's representative: Robert R. Wertz, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soft drinks*, (except in bulk), (a) from Youngstown, Ohio, to points in and west of McKean, Cameron, Clearfield, Blair, Cambria and Somerset Counties, Pa. (b) from Twinsburg, Cleveland, Akron and Youngstown, Ohio, to points in and west of Orleans, Genesee, Wyoming, and Allegany Counties, N.Y.; points in the lower peninsula of Michigan; and points in and west of Monongalia, Marion, Harrison, Doddridge, Ritchie, Wirt, Jackson, Kanawha, Putnam, Cabell, and Wayne Counties, W. Va. (2) *materials, equipment and supplies* used in the production, sale, and distribution of soft drinks (except commodities in bulk), from the destination points described in (1) (a) and (b) above, to the origin points named in (1) (a) and (b) above under a continuing contract, or contracts, with The Youngstown Coca-Cola Bottling Co., Summit Supply Co., Inc.; Akron Coca-Cola Bottling Co., The Cleveland Coca-Cola Bottling Co., Great Lakes Canning, Inc., and Quake State Coca-Cola Bottling Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa.

No. MC M0786 (Sub-No. 2), filed January 21, 1977. Applicant: THE UNITED STATES CARGO AND COURIER SERVICE INCORPORATED, P.O. Box 1169, Columbus, Ohio 43216. Applicant's representative: Boyd B. Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mining machinery parts, and equipment and supplies*, used in the manufacture or repair of mining machinery, between Columbus, Ohio, and points in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Kentucky, Michigan, New Jersey, North Carolina, North Dakota, Pennsylvania, South Carolina, Tennessee, Utah, Virginia, West Virginia, and Wyoming, under a continuing contract or contracts with Jeffrey Mining Machinery Company, a division of Dresser Industries, Inc.

NOTE.—Applicant states it presently holds contract authority to provide the service sought in 11 states, and seeks herein only to add the states of Tennessee, Alabama, Georgia, Arkansas, South Carolina, and New Jersey. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 141033 (Sub-No. 19), filed January 26, 1977. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: R. A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed supplements, condimentals or medicinal feeding compounds and feed preparations* for animals, fish or poultry (except frozen and in bulk), from the plantsite of Hoffman-LaRoche located at or near Fort Worth, Tex., to points in Alabama, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, South Carolina, and Tennessee, restricted to traffic originating at the above named plantsite and destined to the above named states.

NOTE.—Applicant holds contract carrier authority in No. MC 124796 and subs there-

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under, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 141297 (Sub-No. 2), filed January 13, 1977. Applicant: UNITED INDUSTRIES, INC., 487 Parish Street, Houston, Miss. 38851. Applicant's representative: W. DeWayne Griffin (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture*, from the plantsites of Shannon Chair Company located at Houston, Miss., and Maben Manufacturing Company located at Maben, Miss., to points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia, under a continuing contract or contracts with Shannon Chair Compay and Maben Manufacturing, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jackson, Miss.

No. MC 141532 (Sub-No. 12), filed January 27, 1977. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, Wash. 98002. Applicant's representative: Henry C. Winters, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Marble, granite and building stone*, from Gardiner and Livingston, Mont., to points in Idaho, Oregon and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Seattle, Wash., or Billings, Mont.

No. MC 141990 (Sub-No. 2), filed January 17, 1977. Applicant: G&L TRUCKING & LEASING CO., a Corporation, Gibson Road, Camden, Ark. 71701. Applicant's representative: V. Benton Rollins, 139 Jackson Street, Camden, Ark. 71701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock, clay, dirt gravel, wash gravel and sand*, in bulk, from points in Calhoun, Ouachita and Columbia Counties, Ark., to East Carroll, West Carroll, Morehouse, Union, Claiborne, Webster, Bossier, Caddo, De Soto, Red River, Bienville, Lincoln, Ouachita, Richland, and Madison Parishes, La.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Little Rock, Ark.; Shreveport, La.; or Memphis, Tenn.

No. MC 142048 (Sub-No. 4), filed January 14, 1977. Applicant: PACIFIC TRANSPORTATION LINES, INC., 443 Delaware Avenue, Buffalo, N.Y. 14202. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from the facilities of Empire Freezers of Syracuse, Inc., located at Syracuse, N.Y., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, and; (2) *returned shipments*, from the destination points named in (1) above, to the facilities of Empire Freezers of Syracuse, Inc. located at Syracuse, N.Y.

NOTE.—Applicant has contract carrier authority pending in MC 13499 Sub-No. 7, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 142062 (Sub-No. 4), filed January 21, 1977. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., Post Office Box 62, Sellersburg, Ind. 47172. Applicant's representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool and mineral wool products* (except in bulk), from the facilities of Johns-Manville Sales Corporation located in Alexandria, Ind., to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington, under a continuing contract or contracts with Johns-Manville Sales Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 142125 (Sub-No. 2), filed January 28, 1977. Applicant: WESTERN WISCONSIN TRUCKING CO., INC., Route No. 1, Independence, Wis. 54747. Applicant's representative: Joseph E. Ludden, 309 State Bank Building, La Crosse, Wis. 54601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Batch concrete* in in-transit mixers, from Red Wing, Wabasha, and Winona, Minn., to points in Buffalo, Dunn, Eau Claire, Jackson, La Crosse, Pepin, Pierce, and Trempealeau Counties, Wis.; and (2) *sand, gravel, dirt, stone, cinders, ashes and asphalt mix* in dump trucks, from Wabasha, Minn., to the counties listed above.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Eau Claire, Wis. or St. Paul, Minn.

No. MC 142224 (Sub-No. 2), filed January 28, 1977. Applicant: CHARLES GAJDA AND CHESTER GAJDA, a Partnership doing business as GAJDA TRUCKING COMPANY, R.D. #3, Volant, Pa. 16156. Applicant's representative: John A. Pillar, 205 Ross Street, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mill scale, flue dust and swarf*, in bulk, in dump vehicles, between points in Pennsylvania on and west of U.S. Highway 219, on the one hand, and, on the other, points in New York, Ohio and West Virginia, under a continuing contract or contracts with P. Pettler Company located at Beaver Falls, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Pittsburgh, Pa. or Washington, D.C.

No. MC 142268 (Sub-No. 11), filed January 24, 1977. Applicant: GORSKI BULK TRANSPORT, INC., R.R. No. 4, Harrow, Ontario, Canada N0R 1G0. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, in bulk, in tank vehicles, from the port of entry on the International Boundary Line between the United States and Canada, located in Michigan and New York, to Cleveland, Ohio, restricted to traffic originating at Toronto, Ontario, Canada.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Cleveland, Ohio, or Buffalo, N.Y., or Detroit, Mich., or Washington, D.C.

No. MC 142456 (Sub-No. 4), filed January 17, 1977. Applicant: ED WALKER, doing business as PRESSONS DELIVERY SERVICE, 399 North Main Street, Mansfield, Ohio 44903. Applicant's representative: John L. Alden, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Books, bibles, and other printed matter, and bookcases*, when moving in mixed shipments, (a) from Chicago, Ill., and Willard and Mansfield, Ohio, to points in Indiana, Kentucky, Michigan, Ohio, Pennsylvania, and West Virginia; and (b) from Mansfield and Willard, Ohio, to Chicago, Ill., under a continuing contract, or contracts, with Encyclopedia Britannica, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus or Cleveland, Ohio.

No. MC 142610 (Sub-No. 2), filed January 26, 1977. Applicant: ACTION MOTOR EXPRESS, INC., P.O. Box 29102, 8303 Old Gentlly Road, New Orleans, La. 70189. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Cantonment, Fla., to points in California, Colorado, Connecticut, Maine, Massachusetts, Minnesota, New Hampshire, New Mexico, New York, Oregon, Rhode Island, Vermont, Washington and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Pensacola, Fla. or Birmingham, Ala.

No. MC 142649 (Sub-No. 3), filed January 10, 1977. Applicant: H. O. SMESTAD CO., a Corporation, P.O. Box 2904, Great Falls, Mont. 59403. Applicant's representative: G. Robert Crotty, Jr., 400 First National Bank Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt and carbonated beverages*, and *related advertising materials, equipment and supplies* from Minneapolis-St. Paul, Minn., to points in Colorado and Wyoming; and (2) *empty containers*, from points in Colorado and Wyoming, to Minneapolis-St. Paul, Minn.

NOTE.—Applicant holds contract carrier authority in No. MC 139402, therefore, dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Great Falls, Billings, or Helena, Mont.

No. MC 142667 (Sub-No. 1), filed January 14, 1977. Applicant: BILL MILLWOOD, P.O. Box 195, Nashville, Ark. 71852. Applicant's representative: Don Garrison, 204 Highway 71 North, Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel table slides; wooden table slides; and table hardware*, from the plantsite of B. Walter & Company, Inc., located at or near Jamestown, Tenn., to Fort Smith, Ark.; Phoenix, Ariz.; Clarksville and Houston, Tex.; and San Diego, Los Angeles and Sacramento, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Little Rock, Ark. or Indianapolis, Ind.

No. MC 142716 (Sub-No. 1), filed January 27, 1977. Applicant: C & L TRUCKING, INC., 1609-27th Street NW., Cedar Rapids, Iowa 52405. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, (1) from the facilities of Gulf Central Pipeline located at or near Spencer, Iowa, to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota; (2) from the facilities of Gulf Central Pipeline located at or near Holstein, Iowa, to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota; and (3) from the facilities of Gulf Central Pipeline located at or near David City, Nebr., to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 142753, filed January 10, 1977. Applicant: D.A.D. TRANSPORT CORP., New Cummings Road, P.O. Box 2056, Chattanooga, Tenn. 37049. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy, cookies, nuts and snack foods* (except frozen foods) (a) from the facilities of or utilized by Kitchen Fresh, Inc., located at or near Chattanooga, Tenn., to points in Alabama, Arkansas, Arizona, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Illinois, Maine, Maryland, Massachusetts, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Texas, Vermont, Virginia, West Virginia, and the District of Columbia; (b) from points in Alabama, Connecticut, Florida, Georgia, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Texas, and Virginia to the facilities of or utilized by Kitchen Fresh, Inc., located at or near Chattanooga, Tenn.; and (2) *frozen fruit concentrate*, from points in Florida to the facilities of or utilized by Kitchen Fresh, Inc., located at or near Chattanooga, Tenn., under a continuing contract or contracts with Kitchen Fresh, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chattanooga or Nashville, Tenn., or Atlanta, Ga.

No. MC 142774 (Sub-No. 1), filed January 4, 1977. Applicant: A NU TRANSFER, INC., 2929 NW., 73d Street, Miami, Fla. 33147. Applicant's representative: Richard B. Austin, 214 Palm Coast II Bldg., 5255 NW. 87th Avenue, Miami, Fla. 33178. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except household goods, as defined by the Commission, Classes A and B explosives, cement, motor vehicles, articles of unusual value, and articles which because of their size or weight require specialized handling and equipment); and (2) *empty trailers and containers*, between points in Miami, Fla., and its Commercial Zone, under a continuing contract, or contracts with Econocaribe, Inc., restricted to shipments having a prior or subsequent movement in interstate or foreign commerce by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC 142789, filed December 29, 1976. Applicant: WETCO, INCORPORATED, doing business as KEY LIMOUSINE, 3909 South Airport Road, Ogden, Utah 84403. Applicant's representative: Frank S. Warner, No. 9 Bank of Utah Plaza, Ogden, Utah 84401. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (1) *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); and (2) *commodities otherwise partially exempt* from regulation as provided by Section 203(b)(6) of the Interstate Commerce Act to be transported in mixed loads with said general commodities, (A) Between Salt Lake City and Richmond, Utah: From Salt Lake City, Utah over Interstate Highway 15 to junction U.S. Highways 89 and 91, thence over U.S. Highways 89 and 91 to Richmond, Utah and return over the same route, serving the intermediate points of Brigham City, Logan and Smithfield, Utah and serving the off-points of Hyrum and Providence, Utah; and (B) Between Salt Lake City and Provo, Utah: From Salt Lake City, Utah over Interstate Highway 15 to junction U.S. Highways 89 and 91 to Provo, Utah and return over the same route, restricted in (A) and (B) above to the transportation of packages or articles each weighing not more than 100 pounds; and restricted against the transportation of packages or articles weighing more than 200 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day; and further restricted to a prior or subsequent movement by aircraft.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Salt Lake City or Ogden, Utah.

No. MC 142802 (Sub.-No. 1) filed January 11, 1977. Applicant: W. C. BRILEY, doing business as BRILEY TRANSPORT, Box 348, San Antonio, Tex. 76901. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, green, salted*, between Tom Green County, Tex., on the one hand, and, on the other, points in Colorado, New Mexico and Texas.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 142804, filed January 10, 1977. Applicant: ORIOLE TRUCKING, INC., 8543 North Ottawa Avenue, Niles, Ill. 60648. Applicant's representative: Patrick H. Smyth, 19 South LaSalle Street, Suite 521, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel, steel products*, and *fabricated metal products*, and *parts, attachments, and accessories* for the commodities in (1) above, from the plant site of Global Steel, Inc., located at or near Bartlett, Ill., to points in Illinois, and to points in Wisconsin on and east of U.S. Highway 51 from the Illinois-Wisconsin State Line to U.S. Highway 151, thence on and east of U.S. Highway 151 to U.S. Highway 41, thence on and north of U.S. Highway 41 to U.S. Highway 45, thence on and south of U.S. Highway 45 to Wisconsin Highway 23, thence on and east of Wisconsin Highway 23 to Lake Michigan; and (2) *returned, rejected*, and *defective commodities* described in (1) above, and *materials, supplies* and *equipment* for the commodities described in (1) above, from points in Illinois and Wisconsin described in (1) above to the plant site of Global Steel, Inc., located at or near Bartlett, Ill., restricted against the transportation of commodities in bulk, under a continuing contract, or contracts, with Global Steel, Inc.

NOTE:—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 142842 (Sub-No. 1), filed January 24, 1977. Applicant: FLORIDA DISPATCH, INC., P.O. Box 480206, Miami, Fla. 33148. Applicant's representative: Richard B. Austin, 5255 N.W. 87th

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Avenue, Suite 214, Miami, Fla. 33178. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission, articles of unusual value, Classes A and B explosives, articles in bulk and articles which because of size and weight require specialized handling and equipment, cement and motor vehicles, including automobiles, trucks, buses and motor homes), *trailers and containers*, loaded or empty, between points in Dade County, Fla., restricted to traffic having a prior or subsequent movement by water in interstate or foreign commerce.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Miami, Fla.

No. MC 142861 (Sub-No. 1), filed January 18, 1977. Applicant: IRA GREER, 2204 A Street, Garden City, Kans. 67846. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., 700 Kansas Avenue, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Combines*, from the plantsite and storage facilities of Allis-Chalmers, located at or near Independence, Mo., to Arkansas City and Hutchinson, Kans.; and those points in that part of Kansas on and west of U.S. Highway 183; points in Baca, Prowers, Kiowa, Cheyenne, Kit Carson, Yuma, Washington, and Morgan Counties, Colo.; and those points in that part of Oklahoma on and north of U.S. Highway 60 and west of Interstate Highway 35.

NOTE.—If a hearing is deemed necessary, the applicant request it be held at Kansas City, Mo.

No. MC 142873, filed January 26, 1977. Applicant: DEWEY L. WILFONG, doing business as D & W TRUCK LINES, 209 First Street, Parsons, W. Va. 26287. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Barbour, Grant, Harrison, Preston, Randolph, Tucker and Upshur Counties, W. Va., to points in Delaware, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Charleston, W. Va.

No. MC 142874, filed January 21, 1977. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 216, Shullsburg, Wis. 53586. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, from points in Brown, Dunn, Grant, and Lafayette Counties, Wis., to points in Alameda, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, and Santa Barbara Counties, Calif., and to points in Clark and Washoe Counties, Nev., under a continuing contract, or contracts, with Normark & Associates.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif.

PASSENGER APPLICATIONS

No. MC 3647 (Sub-No. 464), filed January 21, 1977. Applicant: TRANSPORT OF NEW JERSEY, 180 Boyden Avenue, Maplewood, N.J. 07040. Applicant's representative: John F. Ward (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express, and newspapers*, in the same vehicle with passengers, (1) Between Philadelphia, Pa., and Mount Laurel Township, N.J.: From Philadelphia, Pa., over the Betsy Ross Bridge, to the junction of New Jersey Highway 90, thence over New Jersey Highway 90 to the junction of Interstate Highway 295, thence over Interstate Highway 295 to the junction of New Jersey Highway 73 to Mt. Laurel Township, N.J., and return over the same route, serving all intermediate points. (2) Between points in Middlesex County, N.J.: (a) Between East Brunswick and Milltown, N.J.: From the junction of New Jersey Highway 18 and Tices Lane, East Brunswick, N.J., thence over Tices Lane to junction of Washington Avenue at Ryders Lane, thence over Washington Avenue to junction of South Main Street, Milltown, N.J., and return over the same route, serving all intermediate points. (b) Between points in East Brunswick, N.J.: From the junction of New Jersey Highway 18 and Rues Lane, thence over Rues Lane to the junction of Ryders Lane at Cranbury-South River Road, and return over the same route, serving all intermediate points; and (c) Between Spotswood and East Brunswick, N.J.: From the junction of Main Street (Middlesex County Highway 5–R–1) and Snowhill Street, Spotswood, N.J., thence over Snowhill Street to the junction of Brunswick Avenue, thence over Brunswick Avenue to the junction of New Brunswick Avenue at the Spotswood-East Brunswick municipal boundary line, thence over New Brunswick Avenue to the junction of Rues Lane, East Brunswick, N.J., and return over the same route, serving all intermediate points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either New Brunswick or Newark, N.J.

No. MC 45626 (Sub-No. 69) (Correction), filed November 18, 1976, published in FEDERAL REGISTER issue of January 6, 1977, and republished as corrected this issue. Applicant: VERMONT TRANSIT CO., INC., 135 St. Paul Street, Burlington, Vt. 05401. Applicant's representative: J. J. Dwyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (I) Irregular Routes: *Passengers and their baggage*, in round-trip special operations, beginning and ending at points in Vermont, points in Cheshire and Sullivan Counties, N.H., and points in that part of Grafton County, N.H., west of U.S. Highway 3 and extending to race tracks located at Saratoga Springs, N.Y., and the ports of entry on the International Boundary line between the United States and Canada located in Vermont, for furtherance to Blue Bonnets Race Track located at Montreal, Quebec, Canada, and return; and (II) Regular Routes: *Passengers and their baggage, and express and newspapers in the same vehicle with passengers*, between the junction of New Hampshire Highways 103 and 114 east of Bradford, N.H. and Hopkinton, N.H., serving all intermediate points: From the junction of New Hampshire Highways 103 and 114 east of Bradford, N.H. over New Hampshire Highway 114 to its junction with U.S. Highway 202 at Henniker, N.H., thence over U.S. Highway 202 to its junction with New Hampshire Highway 103 at Hopkinton, and return over the same route.

NOTE.—The purpose of this republication is to indicate applicant's Canadian boundary located in Vermont in lieu of New York as was previously published. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Burlington, Montpelier or Rutland, Vt.

No. MC 116677 (Sub-No. 3), filed January 21, 1977. Applicant: SHERIDAN TRAVEL BUREAU, INC., 3466 Niagara Falls Boulevard, North Tonawanda, N.Y. 14120. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, in round-trip sightseeing and pleasure tours, between points in Erie and Niagara Counties, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Buffalo, N.Y.

No. MC 142475 (Sub-No. 1), filed January 27, 1977. Applicant: AUTOBUS ST. DENIS, INC., St-Denis-de-Brompton, Richmond P.Q. JOB 2PO Canada. Applicant's representative: Guy Poliquin, 580 east Grande-Allee, Quebec P.Q. G1R 2K3 Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special and charter operations, from points on the International Boundary line between the United States and Canada located in Maine, Michigan, New Hampshire, New York, and Vermont, to points in the United States (except Alaska and Hawaii), restricted to traffic originating at Sherbrooke in the province of Quebec, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Concord, N.H.

BROKER APPLICATIONS

No. MC 130434, filed January 7, 1977. Applicant: ROBERT M. WARE AND ANNA M. WARE, a Partnership doing business as BOB WARE TRAVEL AGENCY, P.O. Box 865, 416 North 24th Street, Quincy, Ill. 62301. Applicant's representative: Robert M. Ware (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Quincy, Ill., to sell or offer to sell the transportation of *Passengers and their baggage*, in round trip, all expense tours, in special and charter operations, beginning and ending at points in Adams, Brown, Hancock, McDonough, Pike, and Schuyler Counties, Ill. and extending to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Quincy or Springfield, Ill. or St. Louis, Mo.

No. MC 130439, filed January 18, 1977. Applicant: JOHN E. DESKIN AND JOAN R. DESKIN, doing business as, MAGIC CARPET TOUR AND TRAVEL AGENCY, 15492 Seventh Street, Victorville, Calif. 92392. Applicant's representative: Terrance Caldwell, 14250 Seventh Street, Suite 200, Victorville, Calif. 92392. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Victorville, Calif., to sell or offer to sell the transportation of *groups of passengers*, in all expense prepaid travel tours, by motor, rail, water and air carriers, between points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Victorville or Los Angeles, Calif.

No. MC 130440, filed January 21, 1977. Applicant: LAWRENCE J. LINER, 432 Hunting Ridge Road, Stamford, Conn. 06903. Applicant's representative: Larsh B. Mewhinney, 235 Mamaroneck Avenue, White Plains, N.Y. 10605. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Stamford, Conn., to sell or offer to sell the transportation of *passengers and their baggage*, in all-expense ski tours, in special and charter operations, by motor carriers, from points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and the District of Columbia, to points in Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, and Canada, and return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Stamford, Conn. or White Plains, N.Y.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC–F–13078. (Correction) (COLDWAY FOOD EXPRESS, INC.—Purchase—Foodway Express, Inc.), published in the January 27, 1977 issue of the FEDERAL REGISTER. Prior notice should have read as follows: Fresh processed, and canned fruits, produce, and food products, nuts, peanut oil, peanut butter, batteries, and battery parts, as a common carrier over *regular* routes instead of irregular routes, and Fresh Fruits and fresh vegetables, as a common carrier over irregular.

No. MC–F–13081. Authority sought for control by ARTHUR M. GOLDBERG P.O. Box 514, Edison, N.J., 08817, of A & B EXPRESS CO., INC., Riser Road, Little Ferry, N.J., 07643, of control of such rights through the transaction. Applicants' attorney: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J., 07006. Operating rights sought to be controlled: Under MC–141795 (Sub-No. 1) Pending, to transport wines and liquors (except in bulk, in tank vehicles) between Little Ferry, N.J., and Highland, N.Y., on the one hand, and, on the other, points in New York and New Jersey, under a continuing contract or contracts with Monsieur Henri Wines, Ltd., of Little Ferry, N.J., and Hudson Valley Wine Co. of Highland, N.Y. Arthur M. Goldberg, holds no authority from this Commission. However, has a controlling interest in four other motor contract carriers other than A & B Express Co., Inc. (A&B or the carrier to be controlled), which serve as contract motor carriers for separate divisions of the GREAT ATLANTIC & PACIFIC TEA COMPANY, INC., (hereinafter referred to as "A&P"). The four companies controlled by Arthur M. Goldberg are as follows: GROSS & HECHT TRUCKING INC., holds authority in Permit MC–59806 & subs thereunder. It operates over a broad area in New York, New Jersey, Connecticut and Pennsylvania, serving a number of the A&P divisions in these states particularly in the New York City metropolitan area. KEYSTONE TRUCKING CORP. is a recently formed company which holds authority in MC–140092 and subs thereunder. This carrier serves several divisions of the A&P in areas of New Jersey, New York, Pennsylvania, and also includes Baltimore, Maryland in its geographic scope. In MC–F–12833, MOUNTAINSIDE TRANSPORT INC. was recently granted temporary authority to lease the operating authority of GEORGE O. KRILL, INC., in Permit MC–13267 serving A&P in Delaware, Maryland, Virginia, West Virginia and the District of Columbia. The Section 5 application is pending. NEWPORT TRUCKING CORP. ("NEWPORT") acquired in MC–F–12223 the motor carrier properties of RELAY TRANSPORT INC. ("RELAY") including Permit No. MC–11309 and subs thereunder.

The stock of GROSS & HECHT is owned by TRANSCO GROUP, INC. ("TRANSCO") of Somerset, N.J., the majority stock of Transco is owned by the same Arthur M. Goldberg, President of Applicant, A&B Gross & Hecht, in turn, owns 80% of Keystone's stock. GARY GOLDBERG, brother of Arthur M. Goldberg, owns the balance of 20% of the Keystone stock. The control of Gross & Hecht and Keystone by Transco was authorized in Docket No. MC–F–12665. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–13102. (Correction) (MAIERS MOTOR FREIGHT COMPANY — Purchase (Portion) — GREAT LAKES EXPRESS CO., published in the February 10, 1977 issue of the FEDERAL REGISTER. Prior notice should include after reference to Rochester Rd., *(now known as Walton Boulevard)*.

No. MC–F–13114. Authority sought for merger by OKLAHOMA TRANSPORTATION COMPANY, 1206 Exchange Avenue, Oklahoma City, OK., 73108, of (B) SOUTHWEST COACHES, INC., and (BB) MID-CONTINENT COACHES, INC., both of 1206 Exchange Avenue, Oklahoma City, OK., 73108, and to merge the surviving corporation into Oklahoma Transportation Company, and in order to effect the initial merger, to acquire an outstanding minority stock interest in Southwest Coaches, Inc., and for acquisition by MISSOURI, KANSAS AND OKLAHOMA COACH LINES INC. and ROBERT W. ALLEN, both of 321 S. Cincinnati, Tulsa, OK., 74103, of control of such rights through the transaction. Applicants' attorneys: John L. Arrington, Jr., and Curtis M. Long, 510 Oklahoma Natural Building Tulsa, OK., 74119. Operating rights sought to be merged: (B) Passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers, as a common carrier over regular routes between Wichita Falls, Tex., and Abilene, Tex., serving all intermediate points: from Wichita Falls over U.S. Highway 277 to Abilene, and return over the same route, between Haskell, Tex., and Knox City, Tex., serving all intermediate points: from Haskell over U.S. Highway 380 to Rule, Tex., thence over Texas Highway 283 to Knox City, and return the same route, between Munday, Tex., and Knox City, Tex., over Texas Highway 222, serving all intermediate points. (BB) Passengers and their baggage, and express and newspapers in the same vehicle with passengers, as a common carrier over regular routes between Woodward, Okla., and Seiling, Okla., serving all intermediate points: from Woodward over U.S. Highway 183 to junction U.S. Highway 270, thence over U.S. Highway 270 to Seiling, and return over the same route, between Woodward, Okla., and Dodge City, Kans., serving all intermediate points: from Woodward over U.S. Highway 183 via Fort Supply and Buffalo, Okla., and Sitka, Kans., to

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junction U.S. Highway 160, thence over U.S. Highway 160 to junction U.S. Highway 160, thence over U.S. Highway 160 to junction U.S. Highway 283, and thence over U.S. Highway 283 to Dodge City, and return over the same route, between Watonga, Okla., and Selling, Okla., serving all intermediate points.

From Watonga over U.S. Highway 270 to Selling, and return over the same route, between Oklahoma City, Okla., and junction U.S. Highways 64 and 81, near Pond Creek, Okla., serving all intermediate points: from Oklahoma City over U.S. highway 66 to El Reno, Okla., thence over U.S. Highway 81 to junction U.S. Highway 64, and return over the same route, between Liberal, Kans., and junction U.S. Highways 64 and 81; serving all intermediate points: from Liberal over U.S. Highway 83 to junction U.S. Highway 64, thence over U.S. Highway 64 to junction U.S. Highway 81 near Pond Creek Okla., and return over the same route, between Oklahoma City, Okla., and Altus, Okla.; serving all intermediate points: from Oklahoma City over Oklahoma Highway 152 to Union City, Okla., thence over U.S. Highway 81 to Ninnekah, Okla., thence over U.S. Highway 277 via Cyril, Okla., to junction U.S. Highway 281, thence over U.S. Highway 281 to junction U.S. Highway 62, and thence over U.S. Highway 62 to Altus, and return over the same route, between El Reno, Okla., and Union City, Okla.; serving all intermediate points: from El Reno over U.S. Highway 81 to Union City and return over the same route, between Apache, Okla., and Lawton, Okla., serving all intermediate points: from Apache, Okla., over U.S. Highway 281 to Lawton, and return over the same route, between Apache, Okla., and junction U.S. Highway 281 and Interstate 40; serving all intermediate points: from Apache over U.S. Highway 281 via Anadarko, Okla., to junction Interstate 40 and return over the same route, between junction Oklahoma Highway 5 and 36, and Wichita Falls, Tex.; serving all intermediate points: from junction Oklahoma Highway 5 and 36, over Oklahoma Highway 36 to Grandfield, Okla., thence over U.S. Highway 70 via Devol, Okla., to junction Oklahoma Highway 36 approximately five miles east of Devol, thence over Oklahoma Highway 36 to Junction U.S. Highway 281 at a point approximately three miles north of the Oklahoma-Texas State line, and thence over U.S. Highway 281 to Whichita Falls, and return over the same route, between junction Oklahoma Highways 5 and 36, and Lawton, Okla.; serving all intermediate points: from junction Oklahoma Highways 5 and 36 over Oklahoma Highway 36 via Faxon, Okla., to junction U.S. Highway 281, and thence over U.S. Highway 281 to Lawton, and return over the same route, between Altus, Okla., and Mangum, Okla.; serving all intermediate points: from Altus, Okla., over U.S. Highway 283 to Mangum, and return over the same route, between El Reno, Okla., and Watonga, Okla.; serving the intermediate points of Calumet, Geary, and Greenfield, Okla.

From El Reno over U.S. Highway 270 to Geary, Okla., and thence over U.S. Highway 270 to Watonga, and return over the same route, between junction Oklahoma Highway 58 and U.S. Highway 270 and junction Oklahoma Highway 51 and U.S. Highway 270, serving the intermediate points of Eagle City, and Canton, Okla.: from junction Oklahoma Highway 58 and U.S. highway 270 over Oklahoma Highway 58 to Canton, Okla., and thence over Oklahoma Highway 51 to junction U.S. Highway 270, and return over the same route, between Hinton Junction Okla. (at the intersection of U.S. Highway 281 and Interstate 40), and Calumet Junction, Okla., (approximately five miles south of Calumet, Okla. at the intersection of U.S. Highways 270 and Interstate 40); serving no intermediate points: from Hinton Junction over Interstate 40 to Calumet Junction, and return over the same route; passengers and their baggage, and express in the same vehicle with passengers, between Garden City, Kans., and Liberal Kans.; serving all intermediate points; and the off route point of Sublette, Kan.: from Garden City over U.S. Highway 83 to the off-route point of Sublette, thence over U.S. Highway 83 to Liberal, and return over the same route; passengers and their baggage, and express and newspapers, in the same vehicle with passengers, between the north junction of Oklahoma Highway 36 and U.S. Highway 277, about two miles north of Geronimo, Okla., and the southern junction of Oklahoma Highway 36 and U.S. Highway 277, about five miles southwest of Randlett, Okla., as an alternate route for operating convenience only in connection with carrier's regular route operations over Oklahoma Highway 36 between the junctions specified herein, serving no intermediate points: from the northern junction of Oklahoma Highway 36 and U.S. Highway 277 over H.E. Bailey Turnpike to the southern junction of Oklahoma Highway 36, and return over the same route. Vendee is authorized to operate as a common carrier in Arkansas, Kansas, Oklahoma, and Texas. Application has not been filed for temporary authority under section 210a(b). The authority herein being sought has been modified pursuant to applicants' proposal.

NOTE.—For earlier Commission action authorizing common control of all entities involved herein see Commission Order in MC–F–10455 entered April 21, 1971, in proceeding involving lead docket No. MC–F–9102, et al., 109 M.C.C. 627, 643.

No. MC–F–13134. Authority sought for purchase by DILLIE MOTOR FREIGHT, INC., P.O. Box 4, Washington, Pa., 15301, of the operating rights of Charles W. Leasure, d.b.a. Leasure Transfer Company, 2104 Fourth Street, Moundsville, W. Va., 26041, and for acquisition by C. W. Dillie, P.O. Box 4, Washington, Pa., 15301, of control of such rights through the purchase. Applicants' attorney: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa., 15219. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC–98223 (Sub-No. 1), covering the transportation of commodities generally and household goods, as a *common carrier* in interstate commerce, within the State of West Virginia. Vendee is authorized to operate as a *common carrier* in Pennsylvania, West Virginia, and Ohio. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC–105458 (Sub-No. 6) is a directly related matter.

No. MC–F–13135. Authority sought for purchase by LANTER REFRIGERATED DISTRIBUTING CO., #3 Caine Drive, Madison, Ill. 62060, of the operating rights of Southwest Refrigerated Distributors, Inc., P.O. Box 747 Central Station, St. Louis, Mo. 63188, and for acquisition by Wayne Lanter, 7 Gardenia, Belleville, Ill., Gerald Eversgard, 129 Toulon Court, Belleville, Ill., David Lanter, 6508 Inland, Kansas City, 66110, and Robert Mueth, 28 Coachlight Drive, Masscoutah, Ill. 62258, of control of such rights through the purchase. Applicants' attorneys: Allan C. Zuckerman, 39 So. LaSalle Street, Chicago, Ill. 60603, and Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Operating rights sought to be transferred: *Meats, meat products, and meat by-products*, and *articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except abrasives, detergents, soap, soap stock, and soap products), as a *common carrier* over irregular routes from the facilities utilized by Southwest Refrigerated Dist., Inc., doing business as Refrigerated Alexander, Franklin, Schuyler, Adams, Brown, Cass, Morgan, Pike, Scott, Sangamon, Calhoun, Greene, Macoupin, Christian, Moultrie, Shelby, Montgomery, Jersey, Fayette, Effingham, Bond, Madison, Clinton, Marion, St. Clair, Washington, Jefferson, Monroe, Perry, Randolph, Hamilton, Jackson, Williamson, Saline, Union, and Johnson Counties, Ill., and Ralls, Pike, Monroe, Boone, Audrain, Lincoln, Montgomery, Warren, Callaway, Cole, St. Charles, St. Louis, Gasconade, Osage, Franklin, Jefferson, Crawford, Maries, Washington, Dent, Ste. Genevieve, Reynolds, Iron, Madison, Bollinger, Marion, Phelps, Perry, Cape Girardeau, and St. Francois Counties, Mo., and the city of St. Louis, Mo., with no transportation for compensation on return except as otherwise authorized. *meats, meat products, and meat by-products*, and *articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except in bulk, and except abrasives, detergents, soap, soap stock, and soap products), and (2) *frozen foods*, from East St. Louis, Ill., to points in that part of Missouri on, east and south of a line beginning at the

Missouri-Arkansas State line and extending along Missouri Highway 19 to junction Missouri Highway 72 near Salem, Mo., and thence along Missouri Highway 72 to the Missouri-Illinois State line, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a *common carrier* in Illinois and Missouri. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13137. Authority sought for purchase by EDWARD W. CHADDERTON, d.b.a. CHADDERTON TRUCKING, P.O. Box 687, Budd Street, Sharon, Pa., of the operating rights of Mooney Bros. Trucking Co., 133 Mahoning Avenue, New Castle, Pa., of control of such rights through the purchase. Applicants' attorneys: John A. Vuono, and Stanley E. Levine, 2310 Grant Building Pittsburgh, Pa. 15219, and Jerome Solomon, 3131 U.S. Steel Building, 600 Grant Street, Pittsburgh, Pa. 15219. Operating rights sought to be transferred: Scrap metals, building materials, contractors' equipment, and commodities, the transportation of which because of their size or weight requires the use of special equipment or special handling, as a common carrier over irregular routes between points in that part of Pennsylvania on and west of U.S. Highway 219, on the one hand, and, on the other, points in that part of Ohio and West Virginia on and east of U.S. Highway 23 and on and north of U.S. Highway 50; iron and steel articles and equipment and supplies used in connection with steel mills, between Sharon, New Castle, Brackenridge, West Leechburg, Apollo, and Carnegie, Pa., on the one hand, and, on the other, points in the Ohio and West Virginia territory specified above, between Follansbee, W. Va., and Youngstown, Ohio; pig lead, rags, and burlap, between New Castle, Pa., on the one hand, and, on the other, points in that part of Ohio on and east of U.S. Highway 21, with restrictions; household goods as defined by the Commission, between New Castle, Pa., on the one hand, and, on the other, points in Ohio; general commodities, with exceptions between New Castle, Pa., on the one hand, and, on the other, points within 5 miles of New Castle. Under a certificate of Registration in Docket No. MC–105008 (Sub-No. 24), vendee is authorized to operate as a *common carrier* within the State of Pennsylvania. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13139. Authority sought for purchase by ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309, of a portion of the operating rights of Red Line, Inc., 2310 Orange Ave., P.O. Box 151, Roanoke, Va. 24002, and for acquisition by the Roush Voting Trust, 1077 Gorge Blvd., Akron, Ohio, 44309, of control of such rights through the purchase. Applicants' attorneys: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014, and Wilmer B. Hill, Suite 805, 666 11th Street NW., Washington, D.C. 20004. Operating rights sought to be purchased: General commodities with exceptions, as a common carrier over regular routes (a) between Baltimore, Md., and Danville, Va.; from Baltimore over U.S. Highway 1 to Washington, D.C., thence over U.S. Highway 29 to Danville, and return over the same route; (b) between Baltimore, Md., and Roanoke, Va., from Baltimore over U.S. Highway 1 to Washington, D.C., thence over U.S. Highway 29 to Culpeper, Va., thence over U.S. Highway 15 to junction U.S. Highway 460, thence over U.S. Highway 460 to Roanoke, and return over the same route; also from Baltimore over U.S. Highway 1 to Washington, D.C., thence over U.S. Highway 50 to Boyce, Va., thence over Virginia Highway 12 to White Post, Va., thence over Virginia Highway 277 to Stephens City, Va., thence over U.S. Highway 11 to Roanoke, and return over the same route; also from Baltimore over U.S. Highway 1 to Washington, D.C., thence over U.S. Highway 29 to Warrenton, Va., thence over U.S. Highway 211 to New Market, Va., thence over U.S. Highway 11 to Lexington, Va., thence over U.S. Highway 60 to Clifton Forge, Va., thence over U.S. Highway 220 to Roanoke, Va., and return over the same route; (c) between Waldorp, Va., and Staunton, Va.; from Waldorp over Virginia Highway 22 to Shadwell, Va., thence over U.S. Highway 250 to Staunton, and return over the same route; (d) between Waynesboro, Va., and Greenville, Va.; from Waynesboro over Virginia Highway 12 to junction U.S. Highway 11, thence over U.S. Highway 11 to Greenville, and return over the same route; (e) between Sprowses, Va., and Appomattox, Va.; from Sprouses over U.S. Highway 60 to junction Virginia Highway 24, thence over Virginia Highway 24 to Appomattox, and return over the same route; (f) between Gainesville, Va., and Strasburg, Va., for operating convenience only; from Gainesville over Virginia Highway 55 to Strasburg, and return over the same route; (g) between Stephens City, Va., and Baltimore, Md., with no service to or from intermediate points; from Stephens City over U.S. Highway 11 to Wincester, Va., thence over U.S. Highway 340 to Frederick, Md., and thence over U.S. Highway 40 to Baltimore; and return over the same route; and other irregular routes; (h) between Lynchburg, Va., on the one hand, and, on the other, points and places in Virginia within ten miles of Lynchburg; and (i) between Baltimore, Md., on the one hand, and, on the other, points and places in Maryland within ten miles of Baltimore. Vendee is authorized to operate as a common carrier in all of the 48 contiguous states and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–13140. Authority sought for purchase by MARTY'S EXPRESS, INC., 2335 Wheatsheaf Lane, Philadelphia, Pa. 19137, of the operating of Kruse Trucking Co., 639 Ramsey Ave., Hillside, N.J. 07205. and for acquisition by Martin Marano, Sr., 2335 Wheatsheaf Lane, Philadelphia, Pa. 19137, of control of such rights through the purchase. Applicants' attorney: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Operating rights sought to be transferred: Boilers, radiators, and radiator pipes, as a common carrier over irregular routes from Harrison, N.J., to New York, N.Y., and points and places in Philadelphia, Northampton, Lehigh, Bucks, Delaware, and Chester Counties, Pa., and points and places in Westchester, Orange, Rockland, Nassau Counties, N.Y.; empty malt containers, from New York, N.Y., to Harrison, N.J.; malt and hops, from Harrison, N.J., to Allentown, Pa., and New York, N.Y., return, with no transportation for compensation except as otherwise authorized, to the above-specified origin points; tires and tubes, from Newark, N.J., to points and places in Middlesex, Morris, Somerset, Monmouth, Union, Essex, Hudson, Bergen and Passaic Counties, N.J., with no transportation for compensation on return except as otherwise authorized; slate and stone, from points in Northampton County, Pa., to points in Morris, Essex, and Union Counties, N.J., with no transportation for compensation on return except as otherwise authorized; building materials (except commodities in bulk), between the facilities of Symons Manufacturing Co., at Fairfield, N.J., on the one hand, and, on the other, King of Prussia, Pa., and points in Westchester, Nassau, Suffolk, Columbia, Dutchess, Greene, Orange, Putnam, Rockland, Sullivan, and Ulster Counties, N.Y.; general commodities, with exceptions between points in Morris, Union, and Essex Counties, N.J., on the one hand, and, on the other, points in that portion of the New York, N.Y., Commercial Zone, as defined in Commercial which local operations may be conducted pursuant to the partial exemption of section 203(b)(b) of the Interstate Commerce Act (the "exempt zone"), between the New York, N.Y., Commercial Zone, as defined in Commercial Zones and Terminal Areas, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt zone"), on the one hand, and, on the other, points in Monmouth, Middlesex, and Somerset Counties, N.J. Vendee is authorized to operate as a common carrier in Delaware, New Jersey, New York, and Pennsylvania. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC–39249 (Sub-No. 19) is a directly related matter.

ABANDONMENT APPLICATIONS; NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

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A Certificate of Abandonment will be issued to the applicant carriers 30 days after this Federal Register publication unless the instructions set forth in the notices are followed.

[Docket No. AB-6 (Sub-No. 18)]

BURLINGTON NORTHERN, INC.—ABANDONMENT BETWEEN LAMONI AND MOUNT AYR IN DECATUR AND RINGGOLD COUNTIES, IOWA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on January 11, 1977, a finding, which is administratively final, was made by the Commission, Division 3, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, the present and future public convenience and necessity permit the abandonment by the Burlington Northern, Inc. of its line of railroad between milepost 3.7 near Lamoni, Decatur County, Iowa, and milepost 23.4 near Mount Ayr, Ringgold County, Iowa, a distance of approximately 19.7 miles of railroad. A certificate of abandonment will be issued to the Burlington Northern, Inc. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-10 (Sub-No. 7)]

WABASH RAILROAD COMPANY AND NORFOLK AND WESTERN RAILWAY COMPANY ABANDONMENT BETWEEN BEMENT AND SULLIVAN IN PIATT AND MOULTIRE COUNTIES, ILLINOIS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on January 18, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Wabash Railroad Company and Norfolk and Western Railway Company extending from railroad milepost 152.946, Bement, Illinois, in a southerly direction to railroad milepost 175.550, Sullivan, Illinois, a distance of 22.8 miles, in Piatt and Moultire Counties, Illinois. A certificate of abandonment will be issued to the Wabash Railroad Company and Norfolk and Western Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-12 (Sub-No. 24)]

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT BETWEEN ALLA AND VENICE IN LOS ANGELES COUNTY, CALIFORNIA

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on January 18, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of its line of railroad extending from railroad milepost 498.017 near Alla in an easterly direction to the end of the branch at railroad milepost 495.385 near Venice, a distance of 2.632 miles in Los Angeles County, California. A certificate of abandonment will be issued to the Southern Pacific Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance

of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-43 (Sub-No. 22)]

ILLINOIS CENTRAL GULF RAILROAD COMPANY ABANDONMENT BETWEEN YAZOO JUNCTION AND BELZONI IN YAZOO AND HUMPHREYS COUNTIES, MISSISSIPPI

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on January 18, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Chicago, B. & Q. R. Co., Abandonment*, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of a line of railroad extending from milepost 179.-56 at Yazoo Junction, Mississippi, in a northerly direction to milepost 158.5 south at Belzoni, Mississippi, a distance of 21.06 miles, in Yazoo and Humphreys Counties, Mississippi. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating, agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notice to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC-108859 (Deviation No. 10); CLAIRMONT TRANSFER CO., P.O. Box 717, 1803 Seventh Avenue North, Escanaba, Mich. 49829, filed February 25, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Milwaukee, Wis., over U.S. Highway 41 to junction U.S. Highway 45 near Oshkosh, Wis., thence over U.S. Highway 45 to junction U.S. Highway 2 near Watersmeet, Mich., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Milwaukee, Wis., over Wisconsin Highway 57 to Green Bay, Wis., thence over U.S. Highway 141 to Iron Mountain, Mich., thence over U.S. Highway 2 to Watersmeet, Mich., and return over the same route.

No. MC-2229 (Deviation No. 26), RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., P.O. Box 47407, Dallas, Tex. 75247, filed February 28, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows. From Ville Platte, La., over Louisiana Highway 29 to junction Louisiana Highway 13, thence over Louisiana Highway 13 to junction U.S. Highway 190 near Eunice, La., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Ville Platte, La., over U.S. Highway 167 to Opelousas, La., thence over U.S. Highway 190 to junction Louisiana Highway 13 near Eunice, La., and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings; any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A57058, filed February 7, 1977. Applicant: MORRIS TRANSPORTATION, INC., 8300 Baldwin Street, Oakland, Calif. 94621. Applicant's representative: Randall M. Faccinto, 100 Pine Street, Suite 2500, San Francisco, Calif. 94111. Certificate of Public Convenience and Necessity sought to be issued in lieu and in expansion of its existing certificate authorizing operations as a highway common carrier as defined in Section 213 of the Public Utilities Code: *General commodities*: (I) Between all points and place in the San Francisco territory. (II) Between all points and places in the San Francisco territory, on the one hand, and, on the other hand, points and places in the San Francisco of points on the following routes: (1) U.S. Highway 101 between Calpella and San Lucas, inclusive; (2) Interstate Highway 5 between Redding and its intersection with State Highway 198; (3) California State Highway 99 between its junction with California State Highway 70 and its intersection with California State Highway 198, inclusive; (4) U.S. Highway 395 between Alturas and its junction with California State Highway 70, inclusive; (5) Interstate Highway 680 between its junction with Interstate Highway 80 and its intersection with Interstate Highway 580, inclusive; (6) California State Highway 299 between Redding and Alturas, inclusive; (7) California State Highway 70 between its junction with California State Highway 99 and its junction with U.S. Highway 395, inclusive; (8) California State Highway 89 between Blairsden and Truckee, inclusive; (9) California State

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Highway 20 between Calpella and Colusa, inclusive; (10) Interstate Highway 80 between Oakland and Truckee, inclusive; (11) Interstate Highway 580 between Oakland and its junction with Interstate Highway 5, inclusive; (12) California State Highway 198 between San Lucas and its intersection with California State Highway 99, inclusive.

(III) In performing the service herein authorized, the carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service; (except that, pursuant to the authority herein granted, carrier shall not transport the following: (1) Used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in accordance with the crated property requirements set forth in Item 5 of Minimum Rate Tariff 4–B. (2) Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. (3) Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles. (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks. (6) Commodities when transported in motor vehicle equipped for mechanical mixing in transit. (7) Portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicles. (8) Logs. (9) Articles of extraordinary value. (10) Fresh fruits and vegetables; and (11) Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper).

(IV) San Francisco territory: San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean: thence easterly along said County Line to a point one mile west of State Highway 82; southerly along an imaginary line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102 and should not be directed to the Interstate Commerce Commission.

California Docket No. A57084, filed February 16, 1977. Applicant: ADAMS DELIVERY SERVICE, INC., 23975 Carmelita Dr., Hayward, Calif. 94541. Applicant' representative: Franklin J. Blichfeldt (same address as applicant). Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Drugs and sundries of parcels* weighing from 1–100 pounds and *shipments* weighing from 101–500 pounds, to all cities located within 150 air miles of the city of Oakland, Calif. These shipments will be brought to applicant's terminal located in Oakland, Calif. for distribution in applicant's delivery area. Intrastate, interstate and foreign commerce authority sought. *HEARING:* Date, time and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102 and should not be directed to the Interstate Commerce Commission.

California Docket No. 57091, filed February 16, 1977. Applicant: JAMES WILLIAM LIVESAY and GEORGE HOXTER, a partnership, doing business as GOLDEN BAY FREIGHT LINES, 1097 Old County Road, San Carlos, Calif. 94070. Applicant's representative: Ann M. Pougiales, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *General commodities*, (1) Between all points and places in the San Francisco-East Bay Cartage Zone as described in Note A attached hereto. (2) Between all points and places on and within 10 miles of the following routes: (a) U.S. Highway 101 between Santa Rosa and Salinas, inclusive, (b) State Highway 17 between San Rafael and Santa Cruz, inclusive. (c) Interstate Highway 280 between San Francisco and San Jose, inclusive. (d) State Highway 82 between San Francisco and San Jose, inclusive. (e) State Highway 1 between San Francisco and Carmel, inclusive. (f) Interstate Highway 80 between San Francisco and Roseville, inclusive. (g) State Highway 99 between Sacramento and Fresno, inclusive (h) Interstate Highway 5 between Woodland and junction with State Highway 152, inclusive. (i) State Highway 152 between Watsonville and junction with State Highway 99, inclusive. (j) State Highway 24 between Oakland and Walnut Creek, inclusive. (k) State Highway 68 between Salinas and junction with State Highway 1, inclusive. (l) Interstate Highway 680 between Vallejo and Warm Springs, inclusive. (m) State Highway 238 and Interstate Highway 580 between San Lorenzo and junction of Interstate Highway 5, inclusive. (n) State Highway 120 and Interstate Highways 5 and 205 between Manteca and junction with Interstate Highway 580.

(o) U.S. Highway 50 and Folsom Boulevard between Sacramento and Rancho Cordova, inclusive. (p) State Highway 4 between Pinole and junction with State Highway 160, inclusive. (q) State Highway 160 and State Highway 12 between junction with State Highway 4 to junction with State Highway 99, inclusive. (r) State Highway 12 between Santa Rosa and junction with State Highway 160, inclusive. (s) State Highway 29 between Vallejo and Calistoga, inclusive; and (t) State Highway 37 between junction with U.S. Highway 101 and junction with Interstate Highway 80, inclusive. In performing the service herein authorized, carier may make use of any and all streets, roads, highways and bridges necessary or convenient for

the performance of said service, except that pursuant to the authority herein granted carrier shall not transport any shipments of: (1) Used household goods, personal effects and office, store, and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting). (2) Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. (3) Livestock, viz.: burrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers stags, swine or wethers. (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles. (5) Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers.

(6) Commodities when transported in motor vehicle equipped for mechanical mixing in transit. (7) Logs; and (8) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment). NOTE A.—San Francisco-East Bay Cartage Zone: The San Francisco-East Bay Cartage Zone includes the area embraced by the following boundary. Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard thence southerly along said Lake Merced Boulevard to South Mayfair Avenue; thence westerly along said South Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of State Hightway 82; thence southeasterly along an imaginary line one mile west of and paralleling State Highway 82 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence along said boundary line to U.S. Highway 101 (Bayshore Freeway); thence leaving said boundary line proceeding to the junction of Foster City Boulevard and Beach Park Road thence northerly and easterly along Beach Park Road to a point one mile south of State Highway 92; thence easterly along an imaginary line one mile southerly and paralleling State Highway 92 to its intersection with State Highway 17 (Nimitz Freeway); thence continuing northeasterly along an imaginary line one mile southerly of and paralleling State Highway 92 to its intersection with an imaginary line one mile easterly of and paralleling State Highway 238; thence northerly along said imaginary line one mile easterly of and paralleling State Highway 238 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to Somerset Avenue; thence westerly along Somerset Avenue and 168th Street to Foothill Boulevard; thence northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland.

Thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along said County Line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (State Highway 123); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue to its intersection with County Road 20 (Contra Costa County); thence westerly along County Road 20 to Broadway Avenue; thence northerly along Broadway Avenue to San Pablo Avenue (State Highway 123) to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right-of-way and continuing westerly along the prolongation of Morton Avenue to the shoreline of San Pablo Bay; thence southerly and westerly along the shoreline and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line to the San Francisco waterfront at the foot of Market Street; thence westerly along said waterfront and shoreline to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102 and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 23466 (Sub-No. 7), filed February 15, 1977. Applicant: CENTRAL OKLAHOMA FREIGHT LINES, INC., 2945 North Toledo, Tulsa, Okla. 74115. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23rd Street, Oklahoma City, Okla. 73107. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: *General commodities* (except Classes A and B explosives, commodities in bulk, articles of unusual value, household goods as defined by the Commission, and commodities requiring special equipment), over regular routes, (1) between Atoka, Okla. and Stringtown, Okla. over U.S. Highway 69, (2) between Shawnee, Okla. and Seminole, Okla. serving all intermediate points and the off-route points of Tecumseh, Earlsboro and Asher, Okla.; and (3) from Shawnee, Okla. over U.S. Highway 177 to junction Oklahoma State Highway 59, thence over Oklahoma State Highway 59 to junction Oklahoma State Highway 99, thence over Oklahoma State Highway 99 to Seminole, Okla. Note: Authority granted herein authorized service to, from, and between all points and places on and along all of the routes as a unitized authority. Intrastate, interstate and foreign commerce authority sought.

HEARING: Date, time and place scheduled for May 2, 1977, at 9 a.m., 2nd Floor Jim Thorpe Building, Oklahoma City, Okla. Requests for procedural information should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105 and should *not* be directed to the Interstate Commerce Commission.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7030 Filed 3-9-77;8:45 am]

[Notice No. 342]

ASSIGNMENT OF HEARINGS

MARCH 7, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 138295 (Sub-5), Cyclone Transport, Inc., now assigned March 29, 1977 at Washington, D.C., hearing canceled and the application is dismissed.

MC 125368 (Sub-14), Continental Coast Trucking Co., Inc., now being assigned May 3, 1977 (1 day) at Chicago, Illinois; in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 139381 (Sub-No. 5), Spirit of '76 Overland Express, Inc. application dismissed.

MC 80430 (Sub-No. 158), Gateway Transportation Co., Inc., now assigned May 16, 1977, at Tupelo, Miss., will be held at the Ramada Inn, 854 North Gloster.

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MC 80430 (Sub-No. 158), Gateway Transportation Co., Inc., now assigned May 23, 1977, at Atlanta, Ga., will be held at the Riverla Hyatt House, 1630 Peachtree Street, NW.

MC 94350 (Sub-No. 261), Transit, Inc., MC 103993 (Sub-No. 866), Morgan Drive-Away, Inc., and MC 106398 (Sub-No. 741), National Trailer Convoy, Inc., now assigned May 3, 1977, at Washington, D.C., is canceled.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7128 Filed 3-9-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 7, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before March 25, 1977.

FSA No. 43330—*Joint Water-Rail Container Rates—Nippon Yusen Kaisha.* Filed by Nippon Yusen Kaisha, (No. 11), for itself and interested rail carriers. Rates on general commodities, from ports in Malaysia and the Republic of Singapore, to rail stations on the U.S. Atlantic and Gulf Coast Seaboard.

Grounds for relief—Water competition.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7132 Filed 3-9-77;8:45 am]

[Notice No. 129]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before March 25, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76894, filed March 1, 1977. Transferee: WESTERN KENTUCKY TRUCKING, INC., 1245 R. Center Street, Henderson, Kentucky 42420. Transferor: Givens Brothers, Incorporated, P.O. Box 397, 415 Second Street, Henderson, Kentucky 42420. Applicant's representative: William M. Deep, Attorney at Law, King, Deep and Branaman, P.O. Box 298, Ohio Valley National Bank Building, Henderson, Kentucky 42420. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC-110825 Sub-No. 1, issued March 27, 1961, as follows: Petroleum and petroleum products from Henderson, Ky., and points within five miles thereof to points within a specified area of Tennessee and a specified portion of Illinois and Indiana. Transferee is presently authorized to operate as a common carrier under Certificate No. MC-140859 and Subs thereafter. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76907 (Republish), filed January 4, 1977. Transferee: C & D TRANSPORTATION CO., INC., 1747 West Main Road, Middletown, R.I. 02840. Transferor: John W. Deery, doing business as C O Transportation Co., 140 Kay St., Newport, R.I. 02840. Applicants' representative: Benjamin M. Gottlieb, Attorney at law, 84 N. Main St., Fall River, Ma. 02720 and Francis E. Barrett Jr., Attorney at Law, 10 Industrial Park Rd., Hingham, Ma. 02043. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-40073, issued July 21, 1937, as follows: General commodities (with exceptions) over regular routes between Newport, R.I. and Providence, R.I. serving the intermediate points of Jamestown, Middletown, Portsmouth, Bristol, Warren, Barrington, East Providence, and Tiverton, R.I. and Seehouk, and Fall River, Mass.; and the off-route points of Little Compton, R.I. and Somerset, Swansea and Rehoboth, Mass. Also between Providence, R.I. and New Bedford, Mass. serving the off-route points of Westport, Dartmough, Fairhaven, and Acushnet, Mass. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b). Replies will be due March 14, 1977.

No. MC-FC-76908, filed February 14, 1977. Transferee: TRADE SPECIALTIES TRUCKING, INC., 715 West Broadway, Mesa, Arizona 85202. Transferor: Buffalo Trucking, Inc., 411 East Frye, P.O. Box 640, Chandler, Ariz. 85724. Applicants' representative: Malcolm P. Strohson, Attorney-at-Law, 3216 North 3rd St., Suite 303, Phoenix, Ariz. 85012. Authority sought for purchase by transferee of the operating rights set forth in Permit No. MC-139947 (Sub-No. 1), issued January 6, 1976, to transferor, as follows: Asphalt roofing materials, and such commodities as are used in the construction and installation of roofs, from Barstow, Camarillo, Carona, Long Beach, Los Angeles, Oakland, Riverside, San Francisco, San Leandro, San Clara, South Gate, and Wilmington, Calif., to points in Arizona, limited to a transportation service to be performed under a continuing contract or contracts with Southwest Roofing Supply Co., of Phoenix, Ariz., and A & H Supply Co., Inc., both of Phoenix, Ariz. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7126 Filed 3-9-77;8:45 am]

[Notice No. 130]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 10, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212a(b) in connection with transfer application under Section 212a(b) and Transfer Rules, 49 C.F.R. Part 1132:

No. MC-FC 77005. By application filed March 2, 1977, EARLY RIVAL MOTOR EXPRESS, INC., 2545 Jonesboro Road, S.E., Atlanta, GA 30315, seeks temporary authority to transfer a portion of the operating rights of Stacey W. Cotton, trustee in bankruptcy for Meadors Freight Line, Inc., a corporation, d.b.a. Meadors Freight Line, Inc., 2545 Jonesboro Road, S.E., Atlanta, GA 30315, under section 210a(b). The transfer to Early Rival Motor Express, Inc., of the operating rights of Stacey W. Cotton, trustee in bankruptcy for Meadors Freight Line, Inc., a corporation, d.b.a. Meadors Freight Line, Inc., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7127 Filed 3-9-77;8:45 am]

[Notice No. 31]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 3, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the

provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 82063 (Sub-No. 74TA), filed February 22, 1977. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, St. Louis, Mo. 63127. Applicant's representative: E. Stephen Heisley, 666 11th St., N.W., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyester resin*, in bulk, in tank vehicles, from Jacksonville, Ark., to points in Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin and Wyoming, for 180 days. Supporting shipper: Grace Distribution Services, W. R. Grace and Company, P.O. Box 308, Duncan, S.C. 29334. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 95376 (Sub-No. 15TA), filed February 22, 1977. Applicant: McVEY TRUCKING, INC., Route No. 1, Oakwood, Ill. 61858. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed*, in bulk, and bags, from Danville, Ill., to points in Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Shur-Gain Feed Division of William Davies Co., Inc., W. L. Lavery, General Manager, 628 E. Fairchild St., Danville, Ill. 61832. Send protests to: Patricia A. Roscoe, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 109692 (Sub-No. 42TA), filed February 22, 1977. Applicant: GRAIN BELT TRANSPORTATION COMPANY, 340 N. James St., Kansas City, Kans. 66118. Applicant's representative: Warren H. Sapp, 910 Brookfield Bldg., 101 W. 11th St., Kansas City, Kans. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer spreaders*, with poles detached, *and agricultural implement parts*, from the plantsite and storage facilities of Lenox Division, Hoover Ball and Bearing Company, located at or near Lenox, Iowa, to points in Arkansas, Illinois, Indiana, Kansas, Missouri, Nebraska, Oklahoma and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lenox Division, Hoover Ball and Bearing Co., Dallas and Walnut Streets, Lenox, Iowa 50851. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Budg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 111302 (Sub-No. 102TA), filed February 18, 1977. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Road, Knoxville, Tenn. 37919. Applicant's representative: David A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flavoring compounds*, in bulk, in tank vehicles, from Crossville, Tenn., to Chicago, Ill.; Lithonia, Ga.; Union, N.J.; Portland, Oreg.; Los Angeles, San Francisco and Union City, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Griffith Laboratories, 12200 S. Central, Alsip, Ill. 60658. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 115092 (Sub-No. 57TA), filed February 22, 1977. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, Utah 84078. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden moldings*, from Reno, Nev., to Oklahoma City, Okla.; Colorado Springs, Denver and Grand Junction, Colo.; and Salt Lake City, Utah, for 180 days. Supporting shipper: Rocklin Forest Products, Co., P.O. Box 59, Roseville, Calif. 95678. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 85138.

No. MC 115311 (Sub-No. 210TA), filed February 16, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Kim G. Meyer, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising matter*, from Baltimore, Md., to points in Georgia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 1252 Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 116073 (Sub-No. 348TA), filed February 15, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Ave., P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except travel trailers), *and buildings*, complete or in sections, from the plantsites of Fleetwood Enterprises, and its subsidiaries located at or near Perris, Riverside, Rubidoux, Vacaville, Visalia and Woodland, Calif.; Haines City, Lakeland and Plant City, Fla.; Douglas, Ga.; Brazil, Ind.; Emporia, Kans.; Marshville, N.C.; Bowling Green and Greenwich, Ohio; Ringtown, Pa.; Sulfur Springs and Waco, Tex.; and Rocky Mount, Va., to points in the United States, including Alaska but excluding Hawaii, for 180 days. Supporting shipper: Fleetwood Enterprises, Inc., 3125 Myers St., Riverside, Calif. 92503. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 117686 (Sub-No. 165TA), filed February 16, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 S. Lewis Blvd., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cloth, and materials and supplies* used in the manufacture, sale and distribution of goods produced from cloth, when moving in mixed shipments with cloth; from (1) Sylacauga, Opelika and Lanett, Ala.; (2) Decatur, Columbus and At-

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lanta, Ga.; (3) Lawrenceburg and Louisville, Ky.; (4) Stonewall, Miss.; (5) St. Louis and Kansas City, Mo.; and (6) Memphis, Nashville and Knoxville, Tenn., to Lemars, Sheldon, Sioux City, Spencer and Storm Lake, Iowa; and (2) *Jeans and uniforms* when moving in mixes shipments with cloth and materials and supplies used in the manufacture, sale and distribution of goods produced from cloth, from LeMars, Sheldon, Sioux City, Spencer and Storm Lake, Iowa, to points in Iowa, for 180 days. Supporting shipper: John Aalfs, President, Aalfs Manufacturing Company, 1005 E. 4th St., P.O. Box 3038, Sioux City, Iowa 51102. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 119798 (Sub-No. 5TA), filed February 15, 1977. Applicant: SOUTHWEST SUPPLY, INC., 350 Roanoke St., P.O. Box 1404, Bluefield, W. Va. 24701. Applicant's representative: John M. Friedman, 2930 Putnam Ave., Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat products, meat by-products, articles distributed by meat packinghouses and foodstuffs* (except hides and commodities in bulk), from the plantsite of Geo. A. Hormel & Co., at Ottumwa, Iowa, to Richlands, and Tazewell, Va.; and Bluefield, Dunbar, English, Logan and Welch, W. Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mark E. Matthews, Distribution Analysj, Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 123379 (Sub-No. 10TA), filed February 22, 1977. Applicant: BRUBAKER TRANSFER, INC., 103 N. Major St., Eureka, Ill. 61530. Applicant's representative: Samuel G. Harrod, 107 E. Eureka Ave., Eureka, Ill. 61530. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New display cases and* store fixtures, in mixed loads of packaged and unpackaged goods, from the plantsite of Cedar City Products Co., a subsidiary of the Metamora Company, at Cedar City, Utah, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, North Dakota, South Dakota, Nebraska, Oklahoma and Texas, under a continuing contract with Cedar City Products Co., a subsidiary of the Metamora Company, for 180 days. Supporting shipper: Cedar City Products Co., a subsidiary of the Metamora Company, J. R. Blachek, Vice President, Metamora, Ill. 61548. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Everett McKinley, Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 123407 (Sub-No. 356TA), filed February 23, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy. 6, Valparaiso, Ind. 46383. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Lawrence County, S. Dak., to points in Arizona and New Mexico, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Whitewood Post & Pole Company, Inc., Box 97, Whitewood, S. Dak. 57793. Send protests to: J. H. Gary, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 126118 (Sub-No. 30TA), filed February 22, 1977. Applicant.: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Detroit, Mich., and Louisville, Ky., and their commercial zones, to Guildford County, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper.: James W. Hall, Vice-President, Brown Distributing, Inc., 7400 W. Friendly, Greensboro, N.C. 27410. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., and Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 129994 (Sub-No. 19TA), filed February 23, 1977. Applicant: RAY BETHERS TRUCKING, INC., 176 W. Central Ave., Salt Lake City, Utah 84107. Applicant's representative: Lon Rodney Kump, 333 E. Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation*, from points in Colorado, to points in Utah, for 180 days. Supporting shippers: Insulate America, 835 Mesa Court, Broomfield, Colo. 80020. Superior Northwest Corp., 309 Ord St., Laramie, Wyo. 82070. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 129994 (Sub-No. 20TA), filed February 23, 1977. Applicant: RAY BETHERS TRUCKING, INC., 176 W. Central Ave., Salt Lake City, Utah 84107. Applicant's representative: Lon Rodney Kump, 333 E. Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foam roofing insulation*, from Apache Foam Products, at or near North Salt Lake, Utah, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Washington and Wyoming, for 180 days. Supporting shipper: Apache Foam Products, P.O. Box 71, Linden, N.J. 07036. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 133095 (Sub-No. 147TA), filed February 16, 1977. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Applicant's representative: Kim G. Meyer, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel ball bearings, power transmission pillow blocks, unfinished machine housing castings and bearing parts;* (1) from the plantside of the Fafnir Bearing Company, in Newington, Conn., and Pulaski, Tenn., to points in Alabama, California, Georgia, Illinois, Nevada, North Carolina, South Carolina, Texas and Utah; and (2) between the plantsites of the Fafnir Bearing Company, in Newington, Conn., and Pulaski, Tenn., for 180 days. Supporting shipper: The Fafnir Bearing Company, Willard Ave., Newington, Conn. 06111. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 133095 (Sub-No. 148TA), filed February 23, 1977. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Applicant's representative: Rocky Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hair and skin care products and toilet preparations*, in mechanically refrigerated vehicles, from the facilities of Redken Laboratories, Inc., at or near West Memphis, Ark., to points in Illinois, Wisconsin, Indiana, Michigan, Tennessee, Kentucky, Ohio, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine and the District of Columbia, for 180 days. Supporting shipper: Redken Laboratories, Inc., 6625 Variel Ave., Canoga Park, Calif. 91303. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 133119 (Sub-No. 113TA), filed February 23, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Egg cartons and garden containers*, from the ports of entry on the International Boundary between the United States and Canada located at or near Noyes, Minn.; Pembina and Portal, N. Dak.; and Raymond, Mont.; to points in Minnesota, Iowa, Kansas, Ohio and California, and points in the commercial zones of West Monroe and Shreveport, La.; Palmer, Nebr.; Riverton, Utah; Franklin, Idaho; North Little Rock, Ark.; Madison, S. Dak.; St. Louis and Alma, Mo.; Reedsburg, Wis.; Mooresville and Raleigh, N.C., and Carlton and Detroit, Mich., restricted to traffic originating at Saskatchewan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Barney Habicht, Plant Manager, Fiber Foam Industries, Ltd., Box 1958, Tisdale, Saskatchewan. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 133591 (Sub-No. 32TA), filed February 22, 1977. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, Mo. 65712. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food seasoning or treating compounds, from* Agnew, San Jose and Santa Clara, Calif., to points in Arkansas and Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: G. S. Suppiger Company, 910 Spruce St., St. Louis, Mo. 63102. Send protests to: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 133708 (Sub-No. 28TA), filed February 16, 1977. Applicant: FIKSE BROS., INC., 12647 E. South St., Artesia, Calif. 90701. Applicant's representative: Carl H. Fritze, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from the distribution facilities of Kaiser Cement & Gypsum Corporation, at Phoenix, Ariz., to the plantsite of Kaiser Cement & Gypsum Corporation, at Cushenbury, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kaiser Cement & Gypsum Corporation, 600 S. Commonwealth Ave., Los Angeles, Calif. 90005. Send protests to: Mary A. Francy, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

No. MC 134022 (Sub-No. 23TA), filed February 23, 1977. Applicant: RICHARD A. ZIMZ, doing business as ZIPCO, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Richard A. Zima (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged butter and butter oil*, in mechanical temperature controlled vehicles and return of *materials and supplies* used in the manufacture of butter and butter oil and rejected, returned and/or damaged shipments, from the plantsite of Level Valley Dairy Co., at or near West Bend, Wis., to points in Maine, New York, Massachusetts, Connecticut, Pennsylvania, New Jersey, Delaware, Washington, D.C., Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, Michigan, Minnesota, Kentucky, Tennessee, Alabama, Georgia, Florida, Texas, Utah and Louisiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Level Valley Dairy Co., 807 Pleasant Valley Road, West Bend, Wis. 53095. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., & Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 134477 (Sub-No. 14GTA), filed February 18, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Huron, S. Dak., to points in Connecticut, Massachusetts, New Hampshire, Pennsylvania, Rhode Island, New Jersey and New York, restricted to traffic originating at the plantsite and storage facilities of Huron Dressed Beef, Inc., at or near Huron, S. Dak., and detined to points in the above-named states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Huron Dressed Beef, Huron, S. Dak. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 135936 (Sub-No. 20TA), filed February 18, 1977. Applicant: C & K TRANSPORT, INC., 503 Des Moines St., P.O. Box 205, Webster City, Iowa 50595. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Presque Isle and Caribou, Maine, to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, West Virginia, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Potato Service, Inc., P.O. Box 869, Presque Isle, Maine. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 138578 (Sub-No. 7TA), filed February 23, 1977. Applicant: L.C.W. TRUCKING, INC., P.O. Box 718, Edinburg, Tex. 78539. Applicant's representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated paper sheets*, from the plantsite of Crown Zellerbach Gaylord Container Div., Bogalusa, La., to the plantsite of Crown Zellerbach, Gaylord Container Div., Weslaco, Tex., under a continuing contract with Crown Zellerbach, Gaylord Container Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Crown Zellerbach, Gaylord Container Division, Box 73, Weslaco, Tex. 78596. Send protests to: Richard H. Dawkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room B-400 Federal Bldg., 727 E. Durango, San Antonio, Tex. 78206.

No. MC 138633 (Sub-No. 2TA), filed February 22, 1977. Applicant: STATEWIDE CARRIERS, INC., 237 W. 15th Place, Chicago Heights, Ill. 60411. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing felt*, in rolls, from Cornell, Wis., to Chicago Heights, Ill.; and (2) *Scrap or waste paper*, from Chicago and Chicago Heights, Ill., to Cornell, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Flintkote Company, D. M. Smith, Supr. Purchasing-Traffic, 17th & Wentworth Ave., Chicago Heights, Ill. 60411. Send protests to: Patricia A. Roscoe, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 138991 (Sub-No. 17TA), filed February 23, 1977. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, P.O. Box 9764, Rochester, N.Y. 14623. Applicant's representative: S. Michael Richards, 44 North Ave., Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry beverage preparations*, when moving in mixed loads with commodities presently authorized (Juices-Sub No. 11), from Hightstown, N.J., to points in New York (except New York City and those points in Delaware, Greene, Columbia, Sullivan, Ulster, Dutchess, Orange, Putnam, Rockland, Westchester, Nassau, and Suffolk Counties, N.Y.). Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract with Coca Cola Company Foods Division of Hightstown, N.J., for 180 days. Applicant has also filed an under-

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lying ETA seeking up to 90 days of operating authority. Supporting shipper: P. M. Persicano, Distribution Manager, The Coca-Cola Company, 480 Mercer St., Hightstown, N.J. 08520. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 S. Clinton St., Room 1259, Syracuse, N.Y. 13202.

No. MC 139495 (Sub-No. 196TA), filed February 22, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 E. 8th St., Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St., N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen french fried potatoes*, from the facilities of Rogers Walla Walla, Inc., located at or near Pasco, Wash., to points in Ohio, Pennsylvania, New Jersey and West Virginia, for 180 days. Supporting shipper: Rogers Walla Walla, Inc., P.O. Box 998, Walla Walla, Wash. 99362. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101, Litwin Bldg., 110 North Market, Wichita, Kans. 67202.

No. MC 139973 (Sub-No. 20TA), filed February 16, 1977. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins and commodities in bulk), from Sterling, Colo., to points in Maryland, Pennsylvania, New York, Massachusetts, New Jersey, Connecticut, Rhode Island, Maine, New Hampshire and Vermont, for 180 days. Supporting shipper: Mogan Colorado Beef Company, P.O. Box 487, Fort Morgan, Colo. 80701. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 142059 (Sub-No. 5TA), filed February 23, 1977. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, P.O. Box 911, Joliet, Ill. 60436. Applicant's representative: Jack Riley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum plate and sheet*, in trailers with mechanical protective units, from Alumax Mill Products, Inc., in Grundy County, Ill., to Casa Grande, Ariz.; Perris Valley, Riverside and Woodland, Calif., and Stayton, Oreg., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Alumax Mill Products, Inc., Ronald W. Krzysztofiak, Traffic Manager, P.O. Box 143, Morris, Ill. 60450. Send protests to: Patricia A. Roscoe, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 140849 (Sub-No. 7TA), filed February 16, 1977. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271, P.O. Drawer G, Poteau, Okla. 74953. Applicant's representative: Prentiss Shelley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fabrics, piece goods and materials and supplies* used in the manufacture of curtains, draperies and bedspreads, from points in Virginia, North Carolina, South Carolina and Georgia, to Pauls Valley, Idable, Frederick and Clinton, Okla., under a continuing contract with Kellwood Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kellwood Company, 200 Sears Road, Perry, Ga. 31069. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 142901 (Sub-No. 1TA), filed February 22, 1977. Applicant: TMI TRANSPORT CORP., 050 Third Ave., West, Dickinson, N. Dak. 58601. Applicant's representative: Gene P. Johnson, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bagged insulation*, from the plantsite of Diversified Insulation, Inc., at or near Dickinson, N. Dak., to points in South Dakota and Montana; and (2) *Scrap paper and waste products* used in the manufacture of cellulose insulation, from points in South Dakota, and Montana, to the plantsite of Diversified Insulation, Inc., at or near Dickinson, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Diversified Insulation, Inc., P.O. Box 1172, Dickinson, N. Dak. 48601. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 142911 (Sub-No. 1TA), filed February 22, 1977. Applicant: FRAWLEY BUREAU OF INVESTIGATION CORP., 182 Beach 114th St., Rockaway Park, N.Y. 11694. Applicant's representative: John M. Frawley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Documents, cash, checks and other valuables*, and to protect same en route, from the Metropolitan area New York City, including Suffolk and Westchester Counties, N.Y., to West Orange, N.J.; and from Macungie, Pa., to West Orange, N.J., under a continuing contract with Shell Oil Company, for 180 days. Applicant has also filed an underlying ETA seeking up 90 days of operating authority. Supporting shipper: Shell Oil Company, 100 Executive Drive, West Orange, N.J. 07052. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 142932TA, filed February 17, 1977. Applicant: A. M. RISHER TRUCKING, INC., State Road 54 West, Linton, Ind. 47441. Applicant's representative: Alki E. Scopelitis, 715 Merchants Bank Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nitro carbo nitrate, ammonium nitrate fertilizer*, in packages and in bulk, *and blasting accessories*, when in mixed shipments with nitro carbo nitrate or ammonium nitrate fertilizer, between Midland Ind., on the one hand, and, on the other, points in Illinois and Kentucky, under a continuing contract with Monsanto Company, for 180 days. Supporting shipper: Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, Mo. 63166. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg., and U.S. Courthouse, 46 E. Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 142933TA, filed February 18, 1977. Applicant: ROBERT L. MALM, doing business as MALM COMPANY, 908 Denargo Market, Denver, Colo. 80216. Applicant's representative: Steven E. Shinn, 10403 W. Colfax, Suite 620, Lakewood, Colo. 80215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats; inedible packing house products*, fresh or frozen, unfit for human consumption, in mechanical refrigeration, from Sterling, Denver and Greeley, Colo., to Los Angeles, Calif.; Hillsboro, Oreg.; Jefferson, Wis.; St. Joseph, Mo.; and Ft. Dodge, Kans., under a continuing contract with Valley Feed & Provision Company; and Landers and Sowers, Inc., for 180 days. Supporting shippers: Valley Feed & Provision Company, P.O. Box 958, Greeley, Colo. 80631. Landers and Sowers, Inc., 7290 Samuel Drive, Denver, Colo. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th St., Denver, Colo. 80202.

No. MC 142934TA, filed February 16, 1977. Applicant: THE UNITED STATES CARGO AND COURIER SERVICE INCORPORATED, 1362 Essex Ave., P.O. Box 1169, Columbus, Ohio 43216. Applicant's representative: Boyd B. Ferris, 50 W. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mining machinery parts, and equipment and supplies* used in the manufacture or repair of mining machinery, between Columbus, Ohio, on the one hand, and, on the other, mine site locations or facilities of subcontractors serving mine site locations at or near Oneida, Chattanooga, Jasper, Kells Creek, Kingsport, Lake City, Memphis, Morristown, Knoxville, and Cumberland Gap, Tenn.; Adger, Berry, Bessemer, Birmingham, Brookwood, Dempoolis, Dixiana, Graysville, Mulga, Parrish, and Quinton, Ala.; Acworth and Atlanta, Ga.; Fort Smith, Ark.; Belton and Woodruff, S.C.; and Edgewater, Newark and Oceanside, N.J., under a continuing contract with Jeffrey Mining Machinery Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., and U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215.

No. MC 142935TA, filed February 18, 1977. Applicant: RAY KURTZ AND LINDA FARLEY, doing business as PLASTIC EXPRESS, 11452 Exkhoff St., P.O. Box 5593, Orange, Calif. 92667. Applicant's representative: Jerry Solomon Berger, 433 N. Camden Drive, 6th Floor, Beverly Hills, Calif. 90210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, and related articles and materials* used in the installation of roofing (except in bulk), from the plantsite or storage facilities utilized by the GAF Corporation, Building Materials Division, located at or near Dallas, Tex., to points in California, restricted to the transportation of traffic originating at named origin and destined to points in the above destination state, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: GAF Corporation, 1361 Alps Road, Wayne, N.J. 07470. Send protests to: Mary A. Francy, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

No. MC 142936TA, filed February 15, 1977. Applicant: INTERMOUNTAIN TRANSPORT COMPANY, 220 E. 1600 North, P.O. Box 332, Springville, Utah 84663. Applicant's representative: Irene Warr, 430 Judge Bldg., Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude clay*, in bulk, in dump vehicles, from Pueblo, Colo., and Buehlar Mines, 20 miles southwest of Pueblo, Colo., to Lehi, Utah, for 180 days. Supporting shipper: General Refractories Company, 50 Monument Road, Bala Cynwyd, Pa. 19004. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State St., Salt Lake City, Utah 84138.

No. MC 142944TA, filed February 22, 1977. Applicant: CENTURY SERVICE SYSTEMS, INC., 851 DeVon Ave., Elk Grove Village, Ill. 60007. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new household appliances, and new household articles*, for the account of J. C. Penney Company, Inc., from Elk Grove Village, Ill., to points in Jasper, Lake, LaPorte, Porter, Stark, and St. Joseph Counties, Ind., and Berrien County, Mich., and Kenosha and Walworth Counties, Wis., under a continuing contract with J. C. Penney Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J.C. Penney Company, Inc., Ralph Austin, Distribution Center Manager, 851 Devon Ave., Elk Grove Village, Ill. 60007. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 142948TA, filed February 22, 1977. Applicant: THE GRADER LINE, INC., 1022 6th Ave., North, Nashville, Tenn. 37208. Applicant's representative: Edward C. Blank, II, P.O. Box 1004, Middle Tenn. Bank Bldg., Columbia, Tenn. 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New wood furniture*, from the manufacturing plant of Davis Cabinet Company, Nashville, Tenn., to points in Washington, Oregon, California, Texas, Oklahoma, Arizona, New Mexico, Nevada, and Utah, for 180 days. Supporting shipper: Davis Cabinet Company, P.O. Box 60444, Nashville, Tenn. 37206. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A–422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 142948TA, filed February 22, 1977. Applicant: THE GRADER LINE, INC., 1022 6th Ave., North, Nashville, Tenn. 37208. Applicant's representative: Edward C. Blank, II, P.O. Box 1004, Middle Tenn. Bank Bldg., Columbia, Tenn. 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New wood furniture*, from the manufacturing plant of Davis Cabinet Company, Nashville, Tenn., to points in Washington, Oregon, California, Texas, Oklahoma, Arizona, New Mexico, Nevada and Utah, for 180 days. Supporting shipper: Davis Cabinet Company, P.O. Box 60444, Nashville, Tenn. 37206. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A–422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7129 Filed 3-9-77;8:45 am]

[Notice No. 32]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 4, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 20861 (Sub-No. 5TA), letter requesting change of origin point of temporary authority, filed December 2, 1976. Applicant: FROZEN FOOD DELIVERY SERVICE, INC., 300 West St., Berlin, Mass. 01513. Applicant's Representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from Seabrook, N.J., to points in Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont, and Maine, under a continuing contract with Newton Acres, Inc., for 180 days. Supporting shipper: Newton Acres, Inc., 500 Turnpike St., Canton, Mass. 02021. Send protests to: J. D. Perry, Jr., District Supervisor, 436 Dwight St., Springfield, Mass. 01103. The above-described authority, but with the origin point of Bridgeton, N.J., has been granted by the Motor Carrier Board by order dated February 7, 1977. This republication is to show that applicant requests the origin point of Seabrook, N.J., in lieu of Bridgeton, N.J., contained in the said order of February 7, 1977.

No. MC 75320 (Sub-No. 189TA), filed February 27, 1977. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, Mo. 65801. Applicant's representative: Phineas Stevens, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over ir-

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regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment or refrigeration), between Kansas City, Mo., and points in the Kansas City, Mo., and Kansas City, Kans., Comercial Zone, on the one hand, and, on the other, points in Iowa. Restriction: Applicant shall not pursuant to the irregular-route authority sought herein, transport shipments moving between any points authorized herein which can be served by applicant in regular-route operations. Applicant intends to tack its existing authority with MC 75320. Applicant also intends to interline at Kansas City, Mo., and Des Moines, Iowa, for 180 days. Supporting shipper: None. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 102486 (Sub-No. 1TA), filed February 22, 1977. Applicant: MAC TRANSFER AND STORAGE COMPANY, P.O. Box 1678, 622 Power St., Corpus Christi, Tex. 78403. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household* goods, between Corpus Christi, Tex., on the one hand, and, on the other, points in Nueces, Jim Wells, Kenedy, San Patricio, Aransas, Kleberg, Live Oak, Bee, Refugio, Goliad, Starr, Hidalgo, Willacy, Cameron, Victoria, Calhoun and Matagorda Counties, Tex. Restriction: The operations authorized are restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization, or unpacking, uncrating and decontainerization of such traffic, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H. W. Owen, CWO3, SC, USN, Personal Property Officer, Naval Air Station (Code 1952), United States Navy, Corpus Christi, Tex. 78419. Send protests to: Richard H. Dawkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room B-400 Federal Bldg., 727 E. Durango Blvd., San Antonio, Tex. 78206.

No. MC 107515 (Sub-No. 1052TA), filed February 22, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coffee, coffee extract and tea and tea extract*, in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Standard Brands, Inc., at or near New Orleans, La., to points in Colorado, North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Wisconsin, Michigan, Indiana, Illinois, Kentucky, Ohio, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Standard Brands, Incorporated, 625 Madison Ave., New York, N.Y. 10022. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 111401 (Sub-No. 478TA), filed February 22, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Sacramento, Calif., to Brownsville, Tex., in foreign commerce only, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Proctor & Gamble Company, P.O. Box 599, Cincinnati, Ohio 45201. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 NW., Third St., Oklahoma City, Okla. 73102.

No. MC 111401 (Sub-No. 479TA), filed February 22, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hot melt wax*, in bulk, in tank vehicles, from West Lake Charles, La., to Ft. Smith, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cities Service Company, P.O. Box 300, Tulsa, Okla. 74102. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 NW. Third St., Oklahoma City, Okla. 73102.

No. MC 113678 (Sub-No. 652TA), filed February 22, 1977. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City (Denver), Colo. 80022. Applicant's representative: David L. Metzler, P.O. 16004 Stockyards Station, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pizza crusts*, from Jacksonville, Fla., to Denver, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nobel, Inc., 1101 W. 48th Ave., Denver, Colo. Send protests to: Herbert C. Ruoff, Interstate Commerce Commission, 721 19th St., Denver, Colo. 80202.

No. MC 113784 (Sub-No. 60TA), filed February 22, 1977. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise St., Hamilton, Ontario, Canada L8L 4M1. Applicant's representative: Douglas Ross Gowland, 2206—3 Brant St., Burlington, Ontario, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fine pneumatic lime*, in pneumatic tank vehicles, for and on behalf of Beachvi-Lime Limited, Ingersoll, Ontario, from ports of entry on the United States-Canada Boundary line located on the Niagara River, to the premises of Jones & Laughlin Steel Inc., located in Aliquippa, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Beachvilime Limited, P.O. Box 217, Ingersoll, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Bldg., 111 W. Huron St., Buffalo, N.Y.

No. MC 115730 (Sub-No. 27TA), filed February 23, 1977. Applicant: THE MICKOW CORP., P.O. Box 1774, 531 S.W. 6th St., Des Moines, Iowa 50309. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packing plants and foodstuffs* (except hides and commodities in bulk), from the plantsite and/or storage facilities of Geo. A. Hormel & Co., at or near Fremont, Nebr., to points in Ohio, Pennsylvania, New York, New Jersey, Connecticut, Maine, Massachusetts, Rhode Island, Vermont, Maryland, Delaware and the District of Columbia, restricted to product originating at named origin and destined to named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 123048 (Sub-No. 350TA), filed February 23, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., P.O. Box A, Racine, Wis. 53401. Applicant's representative: Paul L. Martinson (same address as applicant's). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper*, other than newsprint, from Rothschild, Wis., to points in Delaware, Maryland, Minnesota, New Jersey, New York, Ohio and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Weyerhaeuser Company, 100 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, U.S. Federal Bldg., and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 123329 (Sub-No. 29TA), filed February 22, 1977. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, 4056 Ogden Road S.E., Calgary, Alberta, Canada T2P 2P9. Applicant's representative: D. S. Vincent (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium chlorate*, in bulk, in tank vehicles, from Bellingham, Wash., to ports of entry on the United States-Canada International Boundary line at or near Blaine, Wash., restricted to shipments destined to the facilities of North Western Pulp & Power, Ltd., at Hinton, Alberta, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D. Plummer, Transportation Manager, North Western Pulp & Power, Ltd., Hinton, Alberta, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

No. MC 124554 (Sub-No. 16TA), filed February 22, 1977. Applicant: LANG CARTAGE CORPORATION, 338 S. 17th St., P.O. Box 2055, Milwaukee, Wis., 53201. Applicant's representative: Wm. C. Dineen, 710 N. Plankinton Ave., Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, equipment and supplies* used or distributed by a manufacturer of household products, from Milwaukee, Wis., to dealers of Fuller Brush Co., in Wisconsin, the Upper Peninsula of Michigan and in Winona, Wabasha, Goodhue, Dakota, Houston, Freeborn, Steele, Dodge, Mower, Olmstead, Fillmore, and Waseca Counties, Minn., under a continuing contract with Fuller Brush Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fuller Brush Company, P.O. Box 927, Great Bend, Kans. 67530. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 124947 (Sub-No. 53TA), filed February 22, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, P.O. Box 417, Stroud, Okla. 74079. Applicant's representative: T. M. Brown, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulated panels* (except those which because of size or weight require the use of special equipment), from the plantsite of Hussmann Insulated Panel Division, Inc., at Dallas, Tex., to points in the United States (except Alaska, Hawaii and Texas), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hussmann Insulated Panel Division, Inc., 2422 Butler St., Dallas, Tex. 75235. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102

No. MC 128375 (Sub-No. 152TA), filed February 22, 1977. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Those commodities* dealt in and used by manufacturers and distributors of automotive parts, accessories, equipment, materials and supplies (except in bulk), (1) between North Kansas City, Mo., and its commercial zone, on the one hand, and, on the other, points in Illinois; and (2) between Ft. Loramie, Ohio and its commercial zone, on the one hand, and, on the other, points in the United States (except Ohio, Alaska and Hawaii), restricted to transportation moving under a continuing contract with the Maremont Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Arthur L. Comeau, General Traffic Manager, Maremont Corporation, 200 E. Randolph Drive, Chicago, Ill. 60601. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., and Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 134002 (Sub-No. 22TA), filed February 23, 1977. Applicant: RICHARD A. ZIMA, doing business as ZIPCO, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Richard A. Zima (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese, cheese foods and cheese by-products* and return of returned and rejected shipments and import cheese, from the plantsite of Ino Foods, Inc., at or near Merrill, Wis., to Danbury, Conn.; Jersey City, N.J.; Fairfield, N.J.; Garden City, Long Island, N.Y.; and Washington, D.C., and return of returned and rejected shipments from these points to Ino Foods, at Merrill, Wis., plus imported cheese, from Fairfield, N.J., to Ino Foods, at or near Merrill, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ino Food Corp., Route 5, Merrill, Wis. 54452. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 134387 (Sub-No. 42TA), filed February 22, 1977. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, Calif. 90280. Applicant's representative: Lucy Kennard Bell, 606 S. Olive St., Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers*, from Los Angeles County, Calif., to points in Washoe County, Nev., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Glass Container Corporation, 505 N. Euclid St., Anaheim, Calif. 92801. Send protests to: Mary A. Francy, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 3121 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

No. MC 134405 (Sub-No. 33TA), filed February 22, 1977. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, Okla. 73401. Applicant's representative: O. G. Bacon III (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, in bulk, in tank vehicles, from Tulsa, Okla., and Cushing, Okla., to the facilities of Arkansas Kraft Corp., at or near Oppelo, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mid States Refining Co., P.O. Box 52593, Tulsa, Okla. 74152. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 134775 (Sub-No. 92TA), filed February 23, 1977. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner St., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Commercial Distribution Center, Inc., at or near Kansas City, Mo., to points in West Virginia, Virginia, Maryland, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Massachusetts, Vermont, New Hampshire, Rhode Island, Maine and the District of Columbia, for 180 days. Supporting shipper: Commercial Distribution Center, Inc., 16500 E. Truman Road, Independence, Mo. 64051. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 136008 (Sub-No. 82TA), filed February 22, 1977. Applicant: JOE BROWN CO., INC., P.O. Box 1669, 20 Third St., N.E., Ardmore, Okla. 73401. Applicant's representative: G. Timothy Armstrong, 6161 N. May Ave., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone* (in bulk), from points in Jasper County, Mo., to the facilities of Kerr Glass Manufacturing Corporation, at San Springs, Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kerr Glass Manufacturing Corp., P.O. Box 97, Sand

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Springs, Okla. 74063. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 136713 (Sub-No. 8TA), filed February 22, 1977. Applicant: AERO LIQUID TRANSIT, INC., 834 W. Main St., Lowell, Mich. 49331. Applicant's representative: Daniel J. Kozera, Jr., The McKay Tower, Suite 2–A, Grand Rapids, Mich. 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous* ammonia, in bulk, in tank vehicles, from Huntington, Ind., to points in Michigan and Ohio, for 180 days. Supporting shipper: Amoco Oil Co., 200 E. Randolph Drive, Chicago, Ill. 60601. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 139482 (Sub-No. 14TA), filed February 22, 1977. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, County Rd., No. 29 West, New Ulm, Minn. 56073. Applicant's representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Redwood furniture*, knocked-down, in cartons; *redwood furniture components*, knocked-down, in cartons; *and accessories and parts* intended for use therewith, between Eureka, Calif., on the one hand, and, on the other, Loveland, Colo.; Elkhart, Ind.; New Ulm, Minn.; points in the Minneapolis-St. Paul, Minn., Commercial Zone as defined by the Commission; Waco, Tex.; and Prairie du Chien and Spencer, Wis.; (2) *Upholstered furniture cushions*, between Spring City, Tenn., on the one hand, and, on the other, Loveland, Colo.; Elkhart, Ind.; New Ulm, Minn.; points in the Minneapolis-St. Paul, Minn., Commercial Zone as defined by the Commission; Waco, Tex.; and Prairie du Chien and Spencer, Wis., to points in the United States including Alaska but excluding Hawaii, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Canton Redwood Yard, Inc., 221 W. 78th St., Minneapolis, Minn. 55420. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 139973 (Sub-No. 19TA), filed February 18, 1977. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 900 Hubbel Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal and poultry feed* (except in bulk), from the plantsite of Doane Products Company, at Muscatine, Iowa, to points in Pennsylvania, New Jersey, New York, Maryland, Connecticut, Rhode Island, Delaware, Virginia, Massachusetts, Vermont, New Hampshire, Maine and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Doane Products Company, P.O. Box 879, Joplin, Mo. 64801. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 142672 (Sub-No. 1TA), filed February 23, 1977, Applicant: DAVID BENEUX PRODUCE & TRUCKING COMPANY, INC., P.O. Box 232, Mulberry, Ark. 72947. Applicant's representative: Don Garrison, 204 Highway 71 North, Suite 3, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, crated, from Fort Smith and Van Buren, Ark., to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah and the District of Columbia, for 180 days. Supporting shippers: There are approximately 8 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 142931 (Sub-No. 1TA), filed February 16, 1977. Applicant: RICHARD KISLING, P.O. Box 302, Cedarville, Ohio 45314. Applicant's representative: Boyd B. Ferris, 50 W. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, rough or surfaced, green or dry, from Bellamy, Braggs, Brent, Brewton, Centerville, Champion, Cordova, Evergreen, Fayette, Fulton, Grayson, Goodwater, Gordo, Hurtsboro, Hamilton, Jackson, Linden, McShan, Millport, Mobile, Monroeville, Opelika, Pine Hill, Reform, Russellville, Selma, Vendenburgh, Maplesville and Tuscumbia, Ala.; Amity, Bearden, Benton, Boonesville, Crosset, Dierks, Eldorado, Fordyce, Gordon, Hope, Hot Springs, Leola, Magnolia, Malvern, Mt. Pine, Murfreesboro, Norman, Ola, Pine Bluff, Prescott, Russelville, Sparkman, Stamps, Waldo and Warren, Ark.; Augusta, Blackshear, Camak, Claxton, Crawfordsville, Dalton, Dudley, East Dublin, Eason, Fitzgerald, Greensboro, Hazelhurst, Lumber City, Peachtree City, Pearson, Perry, Preston, Statesboro, Thomasville, Thompson, Trenton, Valdosta, Washington, Waynesboro and Greenville, Ga.; Alexandria, Amite, Bogalusa, Castor, Dodson, Joyce, Mansfield, Natalbany, Newellton, Pine Grove, Plain Bealing, Ponchatoula, Taylor and Zwolle, La.; Link Wood and Sharptown, Md.; Brookhaven, Crosby, Elliot, Hattiesburg, Hazelhurst, Hermanville, Laures, Meredian, Morton, Philadelphia, Port Gibson, Shugualak and Sturgis, Miss.; Charlotte, Clinton, Columbia, Creedmore, Lewiston, Littleton, Mt. Gilead, New Bern, Plymouth, Rieglewood, Scotland Neck, Weldon, Wilmington, Windsor and Nashville, N.C.; Bethesda, Hillsboro and Waverly, Ohio; Idabell and Wright City, Okla.; Conway, Florence, Georgetown, Holly Hill, Moncks Corner, Newberry, Pageland, Prosperity, Russelville, Sellers, Spartanburg, Summerville, Varnville and Walterboro, S.C.; Ondia and Sunbright, Tenn.; Camden, Diboll, Henderson, Livingston, Pineland and Splendora, Tex.; and Ashland, Avlett, Chatham, Drakes Branch, Franklin, Kinsale, Louisa, Mine Run, Pendleton, Spotsylvania, Wakefield and Waverly, Va., to points in Illinois, Indiana, Kentucky, Michigan, Missouri, New York, Ohio, Pennsylvania, Tennessee, Texas and Wisconsin. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract with Fireside Forest Industries, Inc., of Columbus, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fireside Forest Industries, Inc., 4601 N. High St., Columbus, Ohio 43214. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 142941TA, filed February 23, 1977. Applicant: SCARBOROUGH TRUCK LINES, 1313 N. 25th Ave., Phoenix, Ariz. 85009. Applicant's representative: Marshall G. Berol, 601 California St., San Francisco, Calif. 94108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tires and tubes*, from Bryan and Akron (and its commercial zone), Ohio; Mayfield, Ky.; Charlotte, N.C.; Mt. Vernon, Ill.; Muscatine, Iowa; and Waco, Tex., to points in Oregon, Washington, California, Idaho, Montana, Utah, Colorado, Wyoming, New Mexico, Arizona and Nevada; and from Bryan and Akron (and its commercial zone), Ohio, to Houston, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Redburn Tire Company, 3801 W. Clarendon Ave., Phoenix, Ariz. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427, Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 142942, filed February 22, 1977. Applicant: CORNHUSKER CARRIER, INC., Rural Route 2, Box 126, Grand Island, Nebr. 68801. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dehydrated alfalfa*, from Kearney, Grand Island and Lexington, Nebr., to points in California, Illinois, North Dakota, South Dakota, Texas and Missouri; (2) *Salt and salt products*, from Lyons and Hutchison, Kans., to points in Nebraska; (3) *Dry fertilizer*, from Carlsbad, N. Mex., to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Nebraska and South Dakota, and from Joplin, Mo., and Billings, Mont., to points in Nebraska; (4) *Bentonite*, from Belle Fourche, S. Dak., and Upton, Wyo., to points in Nebraska; (5) *Cottoncake*, from Pinal, Cochise, Graham and Maricopa Counties, Ariz.; El Paso, Tex., and Lubbock, Tex., to points in New Mexico, Nebraska, Wyoming, South Dakota, Texas, Colorado, Kansas, and Montana; and (6) *Soybean meal*, from points Nebraska; Sioux City, Iowa; Sioux Falls, S. Dak.; St. Paul and Austin, Minn., and Cherokee, Iowa, to points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Texas and Utah, under a continuing contract with Ag Service, Inc., for 180 days. Supporting shipper: Bob Wenzl, President, Ag Service, Inc., Route 2, Box 126, Grand Island, Nebr. 68801. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., & Courthouse, Lincoln, Nebr. 68508.

No. MC 142943TA, filed February 23, 1977. Applicant: MCGEGOR TRANSPORTATION, INC., 5271 Rome Beauty Park, Murray, Utah 84107. Applicant's representative: D. Michael Jorgensen, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick and clay tile*, from Boulder, Denver and Pueblo, Colo.; Brownwood and Malakoff, Tex.; and Sumas, Wash., to points in Utah, under a continuing contract with Miller Brick Sales, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Miller Brick Sales, 8100 S. 100 East, Sandy, Utah 84070. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 S. State. St., Salt Lake City, Utah 84138.

No. MC 142946TA, filed February 22, 1977. Applicant: MALLORY TRANSFER AND STORAGE CO., 301 S. Ault St., Moberly, Mo. 65270. Applicant's representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of traffic having prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization of unpacking, uncrating, and decontainerization of such traffic, between points in (a) Lafayette, Saline, Johnson, Pettis, Henry, Benton, St. Clair, and Hickary Counties, Mo.; (b) Vernon, Barton, Jasper, Newton, McDonald, Cedar, Dade, Lawrence, Barry, Polk, Greene, Christian, Stone, Taney, Webster, Douglas, Ozark, Howell, Dallas, Camden, LaClede, Pulaski, Phelps, Wright, Texas, Dent, Shannon, Miller, Maries and Oregon Counties, Mo.; (c) Hancock, MaDanough, Fulton, Adams, Schuyler, Brown, Cass, Pike, Morgan, Scott, Greene and Calhoun Counties, Ill.; (d) Putnam, Schuyler, Scotland, Clark, Sullivan, Adair, Knox, Lewis, Linn, Macon, Shelby, Marion, Chariton, Randolph, Monroe, Ralls, Howard, Cooper, Morgan, Monitiau, Cole, Osage, Boone, Audrain, Callaway, Pike, Montgomery, Lincoln, Warren, St. Charles, Gasconade, Franklin, Jefferson, St. Louis, Crawford, Washington, St. Francis and St. Genievieve Counties, Mo.; and Madison County, Ill.; and (e) North, Cerro Gordo, Franklin, Mitchell, Floyd, Butler, Howard, Chickasaw, Bremer, Winneshiek, Fayette, Allamakee, Clayton, Hardin, Grundy, Black Hawk, Buchanon, Marshall, Tama, Benton, Linn, Jasper, Poweshiek, Iowa, Johnson, Marion, Mahaska, Keokuk, Washington, Lucas, Monroe, Wapello, Wayne, Appanoose, Davis, Delaware, Dubuque, Jones, Jackson, Cedar, Clinton, Muscatine, Scott, Louisa, Jefferson, Henry, Des Moines, Van Buren and Lee Counties, Iowa; and Jo Daviess, Stephenson, Carroll, Whiteside, Rock Island, Henry, Mercer, Knox, Henderson and Warren Counties, Ill., for 180 days. Supporting shippers: Sunpak Movers, Inc., 100 W. Harrison Plaza, Seattle, Wash. 98119. Jet Forwarding, Inc., 2908 Oregon Court Bldg., G., Torrance, Calif. 90510. Imperial Van Lines Int'l, Inc., 2805 Columbia St., Torrance, Calif. 90503. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

PASSENGER APPLICATION

No. MC 142945TA, filed February 23, 1977. Applicant: KINGS TRANSPORTATION CO., INC., 176 Stanley St., Yonkers, N.Y. 10705. Applicant's representative: Sidney J. Leshin, 575 Madison Ave., New York, N.Y. 10022. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Passengers*, between the County of the Bronx and the City of Yonkers, on the one hand, and, the P.F. Labs, Totowa, N.J., on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 14 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Maria Bl Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7130 Filed 3-9-77;8:45 am]

[Notice No. 33]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 7, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completness and pertinence of the protestant's informtaion.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 16682 (Sub-No. 90TA), filed February 24, 1977. Applicant: MURAL TRANSPORT, INC., Black Horse Lane, South Brunswick, N.J. 08902. Applicant's representative: W. C. Mitchell, 370 Lexington Ave., New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soccer tables, billiard or pocket billiard (pool) tables, parts thereof, and equipment therefor*, between Bay City, Mich., on the one hand, and on the other, points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Valley Company, P.O. Box 656, 333 Morton St., Bay City, Mich. 48706. Send protests to: Robert S. H. Vance, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 35861 (Sub-No. 14TA), filed February 24, 1977. Applicant: LISA MOTOR LINES, INC., 2715 Ellis Ave., P.O. Box 4550, Fort Worth, Tex. 76106. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107.

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Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh frozen lambs and mutton*, from the plantsite and facilities of Swift Fresh Meats Company, at Brownwood, Tex., to Evansville, Ind. under a continuing contract with Swift Fresh Meats Company, for 180 days. Supporting shipper: Swift Fresh Meats Company, 115 W. Jackson Blvd., Chicago, Ill. 60604. Send protests to: Robert J. Kirspel, District Supervisor, Interstate Commerce Commission, Room 9A27 Federal Bldg., 819 Taylor St., Forth Worth, Tex. 76102.

No. MC 40978 (Sub-No. 30TA), filed February 24, 1977. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 Highway 141 South, P.O. Box 686, Sheboygan, Wis. 53081. Applicant's representative: William C. Dineen, 710 N. Plankinton Ave., Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doors*, from the plantsite of Curtis Corporation, at New London, Wis., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Massachusetts, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Curtis Corporation, 313 W. Wolf River Ave., New London, Wis. 54961. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., & Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 70903 (Sub-No. 4TA), filed February 24, 1977. Applicant: OKANOGAN-SEATTLE TRANSPORT COMPANY, INC., P.O. Box 747, Okanogan, Wash. 98840. Applicant's representative: Michael D. Duppenthaler, 607 3rd Ave., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diatomaceous earth*, in bags, barrels, boxes or packages, from points in Grant County, Wash., to points on the United States-Canada International Boundary Line located in Washington, destined to Kelowna and Vancouver, British Columbia, Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mackenzie & Feimann Limited, 970 Malkin Ave., Vancouver, B.C. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 103993 (Sub-No. 880TA), filed February 24, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: James B. Buda (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, trailer chassis*, (other than those designed to be drawn by passenger automobiles), *and cargo containers*, from the plantsite of Fruehauf Corporation, at or near Middletown, Pa., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Missouri, Minnesota, Nebraska, North Dakota, New Jersey, New York, North Carolina, Ohio, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fruehauf Corporation, 10900 Harper, Detroit, Mich. 48232. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 113545 (Sub-No. 17TA), filed February 24, 1977. Applicant: CORMETT FORWARDING CO., INC., P.O. Box 38, Jersey City, N.J. 07303. Applicant's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, radioactive drugs and medical isotopes*, from South Plainfield, N.J., to points in Cecil, Harford, Anne Arundel and Baltimore Counties, Md., and Baltimore City, Md., under a continuing contract with Medi+Physics, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Medi+Physics, Inc., 900 Durham Ave., S. Plainfield, N.J. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 115654 (Sub-No. 61TA), filed February 24, 1977. Applicant: TENNESSEE CARTAGE COMPANY, INC., Candy Lane, P.O. Box 1193, Nashville, Tenn. 37202. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise*, as is dealt in by department and variety stores, from the warehouse facilities of Kuhn's Big K Stores Corporation, at Nashville, Tenn., to its retail outlets at Booneville, Clarksdale, Corinth, Greenwood, Oxford, Pontotoc and Tupelo, Miss.; West Helena and Blytheville, Ark., and Poplar Bluff and Sikeston, Mo., for 180 days. Supporting shipper: Kuhn's Big K Stores Corp., 3040 Sidco Drive, Nashville, Tenn. 37204. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 115730 (Sub-No. 28TA), filed February 24, 1977. Applicant: THE MICKOW CORP., P.O. Box 1774, 531 S.W. 6th St., Des Moines, Iowa 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packing plants and foodstuffs* (except hides and commodities in bulk), from the facilities of Farmland Foods Inc., at or near Crete, Nebr., and Carroll, Denison and Iowa Falls, Iowa, to New York City, N.Y.; Philadelphia, Pa.; Baltimore, Md.; Boston, Mass.; and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmland Foods Inc., Industrial Drive, Denison, Iowa 51442. Send portests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 117119 (Sub-No. 614TA), filed February 24, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, in mechanically refrigerated equipment (except in bulk), from West Reading, Pa., to points in California, Colorado and Texas, restricted to traffic originating at West Reading and destined to the named states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R. M. Palmer Company, 77 Second Ave., West Reading, Pa. 19602. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 117119 (Sub-No. 615TA), filed February 24, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning and washing compounds*, dry or liquid, *oven cleaners, sodium bicarbonate and sal soda* (except in bulk), from Syracuse, N.Y.; Ft. Thomas, Ky.; and Cincinnati, Ohio, to points in Arkansas, Colorado, Iowa, Kansas, Idaho, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Texas, Utah, Wyoming, Tennessee, Louisiana and Mississippi, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Church & Dwight Co., Inc., P.O. Box 369, Piscataway, N.J. 08854. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 116263 (Sub-No. 66TA), filed February 24, 1977. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, State Hwy. 131, Clarksville, Ind. 47131. Applicant's representative: William P. Whitney, Jr., Suite 708, McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Kraft, Inc., at Champaign, Ill., to points in Maine, New Hampshire, Vermont, New York, Masssachusetts, Rhode Island, Delaware, Connecticut, Pennsylvania (except Sharon), New Jersey, Virginia, Maryland and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraft, Inc., 500 Peshtigo Court, Chicago, Ill. 60690. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg. & U.S. Courthouse, 46 E. Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 118989 (Sub-No. 154TA), filed February 28, 1977. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 N. LaSalle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures and ends, and components, and materials and supplies* used in the manufacturer and distribution of containers, container closures and ends, and components (except commodities in bulk), between the plantsites of American Can Company, located at Hoopeston, Ill., and Kansas City, Mo., and between the plantsites of American Can Company, located at Chicago, Ill., and St. Paul, Minn., and Omaha and Fremont, Nebr., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Can Company, 915 Harger Road, Oak Brook, Ill. 60521. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., & Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 123475 (Sub-No. 8TA), filed February 24, 1977. Applicant: LIGHTNING SUPPLY INC., General Ledger Dept., P.O. Box 1410, Long Beach, Calif. 90801. Applicant's representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, in tank vehicles, from Lake County, Ohio, to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Pennsylvania, West Virginia and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. M. Myers, General Manager, Petrolane, Inc., P.O. Box 410, St. Charles, Ill. 60174. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 124813 3(Sub-No. 167TA), filed February 24, 1977. Applicant: UMTHUN TRUCKING CO., 910 S. Jackson St., P.O. Box 166, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tubular steel*, from Green Bay, Wis., to the plantsite of Palco Manufacturing, at or near Clarion, Iowa, for 180 days. Supporting shipper: Palco Manufacturing, P.O. Box 92, Clarion, Iowa 50525. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 126844 (Sub-No. 35TA, filed February 24, 1977. Applicant: R.D.S. TRUCKING CO., INC., 1713 N. Main Road, Vineland, N.J. 08360. Applicant's representative: Terrence D. Jones, 2033 K St., N.W., Suite 300, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coffee, coffee extract, tea, and tea extract*, from the facilities of Standard Brands, Inc., at or near New Orleans, La., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia, Wisconsin and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Standard Brands, Inc., 625 Madison Ave., New York, N.Y. 10022. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 E. State St., Room 204, Trenton, N.J. 08608.

No. MC 133666 (Sub-No. 18TA), filed February 24, 1977. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Ave., South, P.O. Box 368, Wheaton, Minn. 56296. Applicant's representative: Samuel Rubenstein, 301 N. Fifth St., Minneapolis, Minn. 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the pipeline terminals of Gulf Central Pipeline Company, at or near Spencer, Iowa; Holstein, Iowa; and David City, Nebr., to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota, for 180 days. Supporting shipper: Land O'Lakes, Inc., 2827 8th Ave., South, Fort Dodge, Iowa 50501. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg. & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 135410 (Sub-No. 10TA), filed February 24, 1977. Applicant: COURTNEY J. MUNSON, doing business as MUNSON TRUCKING, 700 S. Main St., Monmouth, Ill. 61462. Applicant's representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* (except in bulk), from the facilities of Hardy Salt Company, located at or near Manistee, Mich., to points in Illinois, Indiana, points in Iowa on and east of U.S. Highway 169, and St. Louis, Mo., and Beloit, Darien, Hillsboro, Pewaukee and Spooner, Wis., including the commercial zones of the above-named cities, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hardy Salt Company, Eaph Lowe, Jr., General Transportation Manager, 800 S. Dandeventer St., St. Louis, Mo. 63166. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 135779 (Sub-No. 5TA), filed February 23, 1977. Applicant: BALDWIN TRUCKING, INC., 192 98th Ave., Oakland, Calif. 94603. Applicant's representative: M. C. Leiden, 1182 Market St., Suite 207, San Francisco, Calif. 94102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Palletized empty tin cans*, in specialized can trailer vans equipped with rollers for gravity load and unload of unitized shipments, return movement *empty pallets, fibre and separators* used in preparing cans for shipment, from the plants of Del Monte Corporation, located at Sacramento and Oakland, Calif., to Medford, Oreg.; from the plant of Del Monte Corporation, located at Sacramento, Calif., to Salem, Oreg., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Del Monte Corporation, 1 Market Plaza, Room 316, P.O. Box 3573, San Francisco, Calif. 94119. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main, Suite 500, San Francisco, Calif.

No. MC 136343 (Sub-No. 101TA), filed February 24, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, R.R. #1, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Egg cartons, egg cases, egg baskets, filler flats, and containers*, from the facilities of Bartlett's Egg Dispatch, Inc., at Lawrence, Mass., to points in Pennsylvania, restricted to the transportation of shipments originating at the above origin and destined to the above destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bartlett's Egg Dispatch, Inc., 360 Merrimack St., Lawrence, Mass. 01843. Send protests to:

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Robert P. Amerine, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 278 Walnut St., P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 138228 (Sub-No. 2TA), filed February 23, 1977. Applicant: OGALLALA TRANSFER, INC., 4902 Smith Road, Denver, Colo. 80216. Applicant's representative: Marshall E. Bernstein, P.O. Box 16412, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, from Denver, Colo., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, Ohio, Wisconsin, and Louisville and Covington, Ky.; from Sterling, Colo., to Algona and Fort Dodge, Iowa; Columbus, Ohio; Jefferson, Wis.; and Kankakee, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: United Packing Co., 5000 Clarkson St.; and Flavorland Industries, 5590 High St., P.O. Box 16345, Denver, Colo. 80216. Landers and Sowers, Inc., P.O. Box 21134, Denver, Colo. 80221. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 140879 (Sub-No. 2TA), filed February 23, 1977. Applicant: RALPH OWENS, P.O. Box 711, Hereford, Tex. 79045. Applicant's representative: Richard Hubbert, 1607 Broadway, P.O. Box 2976, Lubbock, Tex. 79401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and articles distributed by meat packinghouses*, to use the highways of New Mexico in conjunction with his intrastate moves, from Amarillo, Tex., to El Paso, Tex., for 180 days. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, Nebr. 68731. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 142049 (Sub-No. 2TA), filed February 23, 1977. Applicant: MOUNTAIN TRUCKING COMPANY, 1201 Greenbrier St., Charleston, W. Va. Applicant's representative: Dempsey D. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly-ash, cinders and road base material*, from Ohio Valley Electric Corp., Kyger Creek Plant, near Gallipolis, Ohio, to points in Boone, Clay, Kanawha, Mason and Putnam Counties, W. Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: L. S. Smith District Engineer, West Virginia Department of Highways, 1334 Smith St., Charleston, W. Va. 25311. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 142715 (Sub-No. 1TA), filed February 24, 1977. Applicant: LENERTZ, INC., 411 Northwestern National Bank Bldg., South St. Paul, Minn. 55075. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of G. Bartusch Packing Company, at St. Paul, Minn., to Chicago, Ill.; Detroit and Plainwell, Mich., for 180 days. Supporting shipper: G. Bartusch Packing Company, 567 N. Cleveland Ave., St. Paul, Minn. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 142715 (Sub-No. 2TA), filed February 24, 1977. Applicant: LENERTZ, INC., 411 Northwestern National Bank Bldg., South St. Paul, Minn. 55075. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at St. Paul, Minn., to points in Illinois and Wisconsin, for 180 days. Supporting shipper: John Morrell & Co., 208 S. LaSalle St., Chicago, Ill. 60604. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 142715 (Sub-No. 3TA), filed February 24, 1977. Applicant: LENERTZ, INC., 411 Northwestern National Bank Bldg., South St. Paul, Minn. 55075. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Morris Rifkin & Sons, Inc., at South St. Paul, Minn., to Chicago, Ill., for 180 days. Supporting shipper: Morris Rifkin & Sons, Inc., Union Stockyards, S. St. Paul, Minn. 55075. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 142947TA, filed February 23, 1977. Applicant: SCOTT D. WILLIAMS TRUCKING, INC., N1 W25824 Northview Road, Waukesha, Wis. 53186. Applicant's representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete blocks, and mortar, mortar coloring, and cement* used in connection with concrete blocks, in mixed loads with concrete blocks, from the plantsite of Best Block Company, at Butler, Wis.; the plantsite of Best Block South, Inc., at Milwaukee, Wis., and the plantsite of Best Block Racine, Inc., at Racine, Wis., to points in Illinois on and north of Interstate Highway I-74, under a continuing contract with Best Block Company, Best Block South, Inc., and Best Block Racine, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Best Block Company, Best Block South, Inc., and Best Block Racine, Inc., W140 N5998 Lilly Road, Butler, Wis. 53007. Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 142959TA, filed February 25, 1977. Applicant: DONALD L. AMENT AND ROBERT ROBBENNOLT doing business as, A & R TRANSPORT, 5 King Henry Place, Billings, Mont. 59101. Applicant's representative: Jerome Anderson, 100 Transwestern Bldg., 404 N. 31st St., Billings, Mont. 59101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay*, from points in Big Horn County, Wyo., to the plantsite of The Lovell Clay Products Co., near Billings, Mont.; (2) *Brick, building block, tile, sewer pipe and allied clay products*, from the plantsite of the Lovell Clay Products Co., near Billings, Mont., to points in Wyoming, and points in Colorado lying on and north of U.S. Highway 50; and (3) *Brick, building block, tile, sewer pipe and allied clay products*, from Denver, Lakewood and Pueblo, Colo., to points in Wyoming and Montana, under a continuing contract with The Lovell Clay Products, Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ralph Stewart, President and General Manager, The Lovell Clay Products Co., 1312 Lockwood Road, Billings, Mont. 59101. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

No. MC 142960TA, filed February 24, 1977. Applicant: HUGH & LAILA PIXLEY, doing business as PIXLEY TRANSPORTATION, Sheridan, Wyo. 82801. Applicant's representative: Hugh & Laila Pixley (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Railroad crews and their baggage* in the same vehicle with passengers, between Sheridan, Wyo., and points in Sheridan, Big Horn, Johnson and Campbell Counties, Wyo., and between Sheridan, Wyo., and points in Big Horn, Powder River, Yellowstone, Treasure and Stillwater Counties, Mont., under a continuing contract with Burlington Northern, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Burlington Northern, 310 N. Merrill, Glendive, Mont. Send protests to: Paul A. Naughton, District Supervisor, Room 105 Federal Bldg., and Courthouse, 111 S. Wilcott, Casper, Wyo. 82601.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7131 Filed 3-9-77;8:45 am]

[I.C.C. Order No. 20, Amdt. 3; S. O. No. 1252]

GRAND TRUNK WESTERN RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 20, (Grand Trunk Western Railroad Company) and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 20 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 21, 1977, unless otherwise modified, changed or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., February 28, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-7134 Filed 3-9-77;8:45 am]

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federal register

THURSDAY, MARCH 10, 1977

PART II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

■

FEDERAL DISASTER ASSISTANCE, TEMPORARY HOUSING ASSISTANCE

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[24 CFR Part 2205]

[Docket No. R-77-282]

FEDERAL DISASTER ASSISTANCE, TEMPORARY HOUSING ASSISTANCE

Proposed Rulemaking

The Department promulgated the Final Regulations for Federal Disaster Assistance under the Disaster Relief Act of 1974 (88 Stat. 143 et seq., 42 U.S.C. 5121 note et seq.) in the FEDERAL REGISTER (40 FR 23252) on May 28, 1975, as 24 CFR Part 2205.

Effective July 1, 1976, the Administrator, Federal Disaster Assistance Administration (FDAA) delegated certain of the responsibilities vested in him regarding temporary housing under Section 404 of the Act to the Assistant Secretary for Housing—Federal Housing Commissioner, subject to his notice to proceed and to rules and regulations published by FDAA. In each major disaster where the Administrator determines that temporary housing is required and issues a notice to proceed to the Department, the Assistant Secretary for Housing—Federal Housing Commissioner shall be known as the Administrator's "designee." In disasters where temporary housing may best be provided by another entity, the Administrator may appoint an appropriate "designee", e.g., the Secretary of a Federal agency, or the head of a State agency.

Accordingly, it is proposed that temporary housing regulations be adopted to replace those published as 24 CFR 2205.45 and 2205.46 and to update and clarify Departmental policy on the provision of temporary housing.

The Administrator, therefore, is seeking comments from interested parties on the proposed regulations until April 12, 1977. All comments should be submitted to the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, and should cite the docket number as above. The Administrator will evaluate all comments received until this date, and will appropriately revoke, adopt, or amend the regulation and publish it as final based on such comments. All comments shall be available for inspection at the Office of the Rules Docket Clerk at the above address, both before and after the comment period.

The major substantive areas on which comment is requested are the following:

1. DATE OF ELIGIBILITY FOR ASSISTANCE

It is proposed that temporary housing be provided as of the date of the occurrence of the incident for which a major disaster declaration is issued by the President, as described in the Federal Register Notice of a Major Disaster. The effective date of assistance for applicants determined eligible for temporary housing would be the date of provision of housing, or the date the applicant secures his own temporary housing, if this assistance has not already been provided from another source. Retroactive payments for temporary housing secured by an applicant on his own behalf, including costs for repairs to an owner-occupied dwelling otherwise eligible under the Minimal Repair Program described elsewhere in these regulations, shall be allowed.

2. APPLICATION PERIOD

It is proposed that a uniform application period for temporary housing of 60 days following the date of the major disaster declaration be established to conform with other agencies' policies, and of one year from date of declaration for mortgage and rental assistance.

3. APPLICANT ELIGIBILITY

The proposed eligibility requirements, which have been rearranged for grammatical structure, also include a new item—inaccessibility due to travel restrictions in a disaster area.

4. ORDER OF PROCESSING

A new provision is proposed that would provide for processing of applications in the order in which they are filed, except that extreme hardship cases (e.g., illness or handicap) may be processed on a priority basis; and it is further proposed that housing be provided to meet the particular needs of disaster victims.

5. SITES FOR MOBILE HOMES AND TRAVEL TRAILERS

Current regulations allow placement of a mobile home or other temporary housing unit on sites complete with utilities provided by the State or local government or provision of other sites when such action is deemed to be in the public interest. It is proposed by these regulations to identify and define private sites, group sites, and commercial sites, including appropriate arrangements for provision of utilities services and connection costs for each type of site. Paragraph (g) will also allow the Federal Government to assume utility costs where it has guaranteed such costs and there has been a failure to pay on the part of the occupant with no other recourse for payment.

6. THE MINIMAL REPAIR PROGRAM

It is proposed that a new definition and set of eligibility requirements for the Minimal Repair Program be adopted. The new guidelines would allow those portions of an owner-occupied dwelling to be restored, if those restorations would allow a family to quickly reoccupy the dwelling. Upgrading or enhancement, however, shall not be allowed. Eligibility for the minimal repair program will be limited to those eligible applicants, as described above, who elect this form of temporary housing, whose property can be restored in thirty days following the repair authorization, unless extended, and who agree to reimburse the Government if the proceeds of an insurance policy covering the same items becomes available. In addition, two program options have been added which can provide for the reimbursement to a homeowner otherwise eligible for minimal repair for the cost of materials for work performed by the homeowner, or for direct provision of materials to the homeowner who wishes to make his own repairs.

7. SCOPE OF WORK—MINIMAL REPAIR

Types of repair authorized under MRP have been defined, with the stipulation that items may be authorized only where they were a part of the dwelling prior to the disaster. Current regulations do not include a scope of work provision.

8. FURNITURE AND HOUSEHOLD ITEMS

Furniture and household items for occupants of unfurnished temporary housing units who cannot supply their own furniture traditionally have been provided under procedures consistent with these regulations and the needs of disaster victims. It is therefore proposed that these regulations cover such provisions, including the types of items authorized and eventual disposition of such items.

9. PERIOD OF ASSISTANCE

Subparagraphs dealing with commencement of temporary housing, recertification reviews, continued assistance requirements, rental policy, and termination have been grouped together for simplicity and clarity. Of particular significance in this paragraph are the conditions for continued temporary housing assistance, based on income, location and suitability of alternate housing.

10. INSURED INDIVIDUALS AND FAMILIES

The policy on provision of temporary housing to insured persons has been expanded for clarification. It is proposed that certain types of housing resources are suitable for insured persons, and that both those who have full coverage but who still may require housing and those who have partial coverage shall be able to secure temporary housing assistance.

11. DISPOSITION OF TEMPORARY HOUSING UNITS

Sale to disaster victims and transfer of units to States, local governments, or other organizations are combined into a single paragraph.

12. MORTGAGE AND RENTAL ASSISTANCE PAYMENTS

This section was contained in a separate section of the regulations (24 CFR 2205.46); however, since it is a type of temporary housing assistance, it is proposed that this section be included in this regulation.

13. APPEALS

A section on applicant appeals has been added.

14. FEDERAL RESPONSIBILITY

As recommended by the General Accounting Office, it is proposed that the Federal responsibility for the operation of a temporary housing program not exceed 18 months, after which time the Administrator may make available to a State or other governmental entity or voluntary organization resources for further management of the temporary housing program.

With the concurrence of the appropriate Departmental officials, the Administrator has issued a Finding of Inapplicability of Environmental Impact concerning this proposed rule, in accordance with § 102.6 of the National Environmental Policy Act of 1969 and the procedures set forth in HUD Handbook 1390.1 (38 FR 19182). It is the position of the signatories to that Finding that this regulation in itself has no significant impact on the human environment. Interested parties may inspect and obtain copies of this Finding of Inapplicability of Environmental Impact at the Office of the Rules Docket Clerk of the Department of Housing and Urban Development in Washington, D.C. 20410.

Accordingly, pursuant to the authority contained in Section 7(d) of the Department of HUD Act (79 Stat. 670; 42 U.S.C. 3543(d)) and Section 601 of the Disaster Relief Act of 1974 (88 Stat. 163; 42 U.S.C. 5201), it is proposed that §§ 2205.45 and 2205.46 be combined into one Section, § 2205.45, and be amended and reprinted in its entirety as follows:

§ 2205.45 Temporary housing assistance.

(a) *Purpose.* The purpose of this Section is to prescribe the policy, standards, and procedures to be followed in implementing the temporary housing assistance program authorized by Section 404 of the Act.

(b) *General program policies.* Assistance under this program is made available to eligible individuals and families who require temporary housing as a result of a major disaster. Such assistance may be provided as of the date of occurrence of the major disaster, if the individual or family is determined eligible for temporary housing. The period of assistance shall commence either with the date the eligible applicant is provided with temporary housing, or with the date the eligible applicant obtained his own temporary housing, if this assistance has not already been provided from another source. No rental shall be established for the first twelve months of occupancy in temporary housing. An eligible applicant is expected to accept the first offer of temporary housing; refusal to do so may result in forfeiture of temporary housing assistance. Temporary housing will not be provided to an individual or family for use as a vacation or recreational dwelling. Temporary housing will not be made available to individuals or families who are displaced as a consequence of a redevelopment program undertaken by a community.

(c) *Application period.* Applications for temporary housing will be accepted up to and including sixty (60) days following the date of the declaration of a major disaster, except when additional time for submission of applications is authorized by the Administrator or his designee for reasons including:

(1) Uniformity of application periods in contiguous States declared disaster areas as the result of the same or a similar incident;

(2) Extenuating circumstances including, but not limited to, hospitalization, illness, or inaccessibility which prevent an applicant from applying in a timely manner.

(d) *General eligibility guidelines.* (1) Temporary housing assistance may be made available to those disaster victims who, as a result of a major disaster, require temporary housing because:

(i) Their dwelling has been destroyed as a result of a major disaster;

(ii) Their dwelling has been damaged or utility service has been interrupted to such an extent as to constitute a health or safety hazard which did not exist prior to the disaster;

(iii) Their dwelling has been made inaccessible due to the disruption or destruction of transportation routes or facilities, or due to other impediments to access;

(iv) Their dwelling has been made inaccessible by restrictions on travel or movement imposed or recommended by a responsible source;

(v) Their dwelling is no longer available due to eviction or dispossession of the applicant by the owner because of the owner's personal need for that dwelling as a result of a major disaster; or

(vi) The Administrator or his designee determines that other circumstances resulting from a major disaster prevent an individual or family from occupying or reoccupying a dwelling which they occupied immediately prior to the major disaster.

(2) *Provision of temporary housing to eligible applicants.* Applications for temporary housing assistance shall be processed in the order in which they are filed, except that extreme hardship situations shall be recognized and such applications processed on a priority basis. Temporary housing shall be provided to meet the particular needs of eligible individuals and families.

(e) *Temporary housing resources.* The form of temporary housing provided should not exceed that which meets the eligible individual's or family's minimum temporary housing requirement.

(1) Housing units owned by the Veterans Administration, Farmers Home Administration, Department of Housing and Urban Development, or other Federal Agencies may be made available for use as temporary housing.

(2) Private or commercial rental properties whose owners/managers agree to make units available may be used as temporary housing. Such private rentals may include second homes or resort properties not normally available on the private market, and privately owned mobile homes ready for occupancy on existing sites. Owners/agents may be paid fair market rent for the type and size of the units made available.

(3) Mobile homes, travel trailers, or other readily fabricated dwellings owned or leased by the Government may be used as temporary housing when other resources are unavailable or insufficient.

(4) Motel, hotel or other similiar transient accommodations may be provided to eligible temporary housing applicants pending the availability of other temporary housing, or when the duration of the applicant's temporary housing requirement warrants placement in short-term accommodations. Transient accommodations may be provided for a period of thirty days unless this period is extended by the Administrator or his designee. The Federal responsibility for transient accommodations shall be limited to the rental cost of such temporary housing, exclusive of food, telephone or other similar services.

(f) *Mobile home and travel trailer use.* Mobile homes and travel trailers may be placed on private, group, or commercial sites under the following conditions:

(1) *Private sites.* A mobile home or travel trailer may be placed on a private site, which is a site provided or obtained by the temporary housing applicant at no cost to the Federal Government, if such site can satisfactorily accommodate a mobile home or travel trailer or other readily fabricated structure provided as temporary housing. The Administrator has determined that the installation or repair of essential utilities on private sites is in the public interest, and the cost of such installation and connection of necessary utilities to service the mobile home, travel trailer or readily fabricated structure on such a site may be authorized at Federal expense.

(2) *Group sites.* Mobile homes or travel trailers may be located on group sites, which are sites provided or obtained by a State or local government or other organization completely developed with all essential utilities at no cost to the Federal Government, except that the Administrator may authorize installation of essential utilities at Federal expense or elect to develop group sites at Federal expense when he determines such action to be in the public interest. Connection costs are authorized at Federal expense.

(3) *Commercial sites.* Mobile homes or travel trailers may be placed on commercial sites, which are sites customarily leased for a fee, at no cost to the Federal Government, except that such sites may be leased at Federal expense when the Administrator or his designee determines that such lease is in the public interest. Connection costs may be authorized at Federal expense. When the Administrator determines that upgrading of a commercial site or installation of utilities on such a site is in the public interest, he may authorize such action at Federal expense.

(g) *Utility use costs.* Utility use costs for all forms of temporary housing other than transient accommodations shall be the responsibility of the occupant, unless the Administrator waives this requirement when such action is in the public interest. In those cases where the Federal Government becomes the guarantor for utility services not metered separately, or where the utility costs are included in rental costs, each recipient will be assessed a monthly amount equivalent to the pro rata cost of utilities services.

(h) *Minimal repair program.* In lieu of providing other types of temporary housing except transient accommodations, minimal repairs may be authorized to repair or restore that portion of an

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owner-occupied dwelling which will allow the owner and his family to reoccupy the dwelling quickly. Installation of utilities or conveniences not available to the owner-occupant in that dwelling prior to the disaster shall not be provided under the Minimal Repair Program.

(1) *Feasibility.* The Minimal Repair Program may be offered to those temporary housing applicants:

(i) Who have been determined eligible for temporary housing;

(ii) Who are owner-occupants of the dwelling unit to be repaired;

(iii) Who elect this form of temporary housing, when offered, in lieu of other alternatives which may include rental accommodations, mobile homes, or other available forms of housing;

(iv) Whose property can be repaired within thirty days following the repair authorization, unless the Administrator or his designee extends this period throughout the designated disaster area because of local conditions; and

(v) Who agree to reimburse the government for the cost of the repairs or items replaced if they receive compensation for such repairs or items from the proceeds of any insurance settlement.

(2) *Minimal repair program options.* (i) Applicants subsequently approved for the Minimal Repair Program under paragraph (h)(1) of this section, who elected to perform their own repairs prior to election of the Minimal Repair Program, either by themselves or by contract, may be reimbursed for materials and contract labor for such repairs and for replacement items authorized in (h)(3) of this section.

(ii) Applicants approved for the Minimal Repair Program under paragraph (h)(1) of this section who elect to perform their own repairs may be provided with materials and replacement items authorized in (h)(3) of this section.

(3) *Scope of work.* The type of repair or replacement authorized may vary depending on the nature of the disaster, but will generally include the following, provided the items listed were a part of the dwelling prior to the disaster:

(i) Plumbing system including kitchen sink, lavatory, water closet, bath tub or shower, septic tank, well (repairs only), and the utility services carrying water, sewer, and gas;

(ii) Electrical system including wiring, weather head, panel box, overhead lights, switches, and receptacles; and

(iii) Heating system including furnace, controls, space heater, ducts, and venting (if permanent repair cannot be accomplished before the reason requiring heat);

(iv) Water heater and venting;

(v) The elimination of health and safety hazards existing to wells, floors, stairs, porch, walls, ceilings, and chimney;

(vi) Doors and windows, including screens;

(vii) Minor repairs to foundations, footings, piers, sills, and exterior walls;

(viii) Minor repairs to stove and refrigerator;

(ix) Temporary or weatherproofing repairs to roofs; and

(x) Mud and debris removal from the dwelling unit, if required.

(4) *Repair cost limitation.* The Minimal Repair Program shall not be made available in those instances where the cost of repairs exceeds the average fair market rental cost to house a family of similar size and composition in the area for a period of 12 months, unless waived by the Administrator when he determines that such waiver is in the best interest of the Government.

(i) *Furniture items.* (1) *Eligibility.* Furniture may be provided to eligible applicants for temporary housing if the individual or family is being placed in an unfurnished housing unit or has elected the Minimal Repair Program and requires furniture to reoccupy such temporary housing.

(2) *Items authorized.* Furniture may be leased, purchased or obtained from Federal stocks and will be of simple construction and functional quality and may include the following, adjusted according to family size and composition:

(i) Kitchen furniture to include table and chairs, stove and refrigerator;

(ii) Bedroom furniture to include bed (frame, mattress, spring), night table and lamp or floor lamp, dresser or chest; and

(iii) Living room furniture, including one sofa, one floor lamp, one living room chair, two end tables, and one coffee table.

(3) *Disposition of furniture items.* (i) Furniture made available to temporary housing occupants will be disposed of when temporary housing is no longer required, as determined through the recertification process prescribed in (k)(2) of this section.

(ii) Furniture will be disposed of in one of the following manners:

(A) Returned to the lessor;

(B) Sold to the occupant at a fair and equitable price based on the fair market value of the furniture and ajusted to take into consideration the reasonable ability of the purchaser to pay; or

(C) Disposed of in accordance with Federal property management procedures at 41 CFR 101-45.4, Abandonment or Destruction of Surplus Property.

(j) *Household items.* (1) *Eligibility.* Household items may be provided to those determined eligible for temporary housing if they are being placed in a temporary housing unit not already supplied with such items, and require household items to occupy the unit. Household items provided under this Section are expendable.

(2) *Items authorized.* Household items provided to occupants of temporary housing shall be of simple, functional quality and may include the following, adjusted according to family size and requirements:

(i) Sheets (2 per bed); (ii) Pillows (1 per person); (iii) Pillowcases (1 per person); (iv) Blankets (1 per bed); (v) Bath towels (2 per person); (vi) Hand towels (2 per person); (vii) Wash cloths (1 per person); (viii) Dish cloths (2 per family);

(ix) Dish towels (4 per family); (x) Dishes (service for 4); (xi) Flatware (service for 4); (xii) Glasses (2 per person); (xiii) Non-electric coffee pot (1 per family); (xiv) Saucepans (2 per family); (xv) Skillets (1 large, 1 small, per family);

(xvi) Baking and cooking utensils, one each of the following: (A) Baking pan; (B) Baking sheet; (C) Mechanical can opener; (D) Kitchen fork; (E) Kitchen spoon; (F) Paring knife; (G) Spatula; (H) Serving spoon;

(xvii) Mop (one); (xviii) Bucket (one); (xix) Broom (one); and (xx) Dustpan (one).

(k) *Period of assistance.* (1) *Commencement.* Temporary housing may be provided as of the date of the occurrence of the incident that resulted in the declaration of the major disaster, as determined by the Administrator. The assistance period shall commence either with the date the eligible applicant obtained his own temporary housing, or with the date the eligible applicant is provided with temporary housing.

(2) *Recertification.* Recertification is a periodic review of the status of each temporary housing occupant to determine eligibility for continued occupancy in temporary housing. The recertification process results in a notification to the occupant of his eligibility or ineligibility for continued assistance. The period of eligibility for continued occupancy in temporary housing shall be determined on the basis of need. Each occupant's eligibility for continued assistance shall be recertified no less frequently than every 90 days.

(3) *Criteria for continued eligibility.* A temporary housing occupant shall endeavor to place himself in alternate housing at the earliest possible time. A temporary housing occupant shall be eligible for continued assistance when:

(i) Alternate housing is unavailable to the occupant. Alternate housing is deemed available when it:

(A) Is within the financial means of the occupant, based on 25 percent of adjusted household income, taking into consideration his ability to pay. Occupants who qualify for available low-income or other government rent subsidies shall be considered able to assume financial responsibility for such alternate housing. For the purpose of this subparagraph, adjusted household income shall be computed using the total gross income of household members (excluding the earnings of persons under 18, except where such persons are head of the household or a spouse), with the following allowable deductions:

(*1*) $25 per month for each person under 18 or full-time student over 18 except when such an individual is a head of household;

(2) $25 per month for each elderly (over 62) or handicapped adult, except where they are head of the household; and

(3) Expenses resulting from unusual financial demands upon a household, as approved by the Administrator or his designee;

(B) Is located such that the occupants may commute to their place(s) of employment, schools, and other center of family activity within usual and customary commutation time periods effective in the area;

(C) Is sufficient in size to accommodate the family;

(D) Is free of health and safety hazards;

(E) Does not impose an undue burden upon the occupant in his plans to secure permanent housing.

(ii) The occupant is in compliance with the terms of the rental contract/agreement including:

(A) Prompt payment of utility, rent, and other appropriate charges;

(B) Reimbursement to the Government where all or a portion of the temporary housing assistance represents a duplication of benefits or for other charges as authorized by the Administrator or his designee;

(C) Maintenance of the temporary housing unit in a manner normally expected of a tenant; and

(D) Utilization of the unit for purposes of a family dwelling, solely for the occupant's household.

(4) *Rental policy.* No rental shall be established for the first twelve months of occupancy in temporary housing, including occupancy in transient accommodations. Thereafter, provided alternate housing resources are unavailable, rentals shall be established based on the fair market rent as established by the appropriate office of the Department of Housing and Urban Development (excluding utilities costs) for each type and size of temporary accommodation being furnished. Such rentals shall be adjusted to take into consideration the financial ability of the household as described in paragraph (k)3(i)(A) of this section. Based on a recertification review, occupants will be notified of the date and amount of the first rental payment 30 days before the expiration of the first twelve months of occupancy.

(5) *Termination of assistance.* (i) Temporary housing assistance may be terminated on a 30-day written notice after which 30 days the occupant may be liable for such additional charges as are deemed appropriate by the Administrator or his designee. Temporary housing assistance may be terminated for reasons including, but not limited to, the following:

(A) A determination has been made through the recertification process that alternate housing is available to the occupant, as described in (k)(3)(i) of this section.

(B) Failure on the part of the occupant to utilize or maintain the temporary housing provided in the manner normally expected of a tenant. Normal wear and tear excepted, the occupant shall be liable for all damages to the property.

(C) Failure on the part of the occupant to pay established rent, utilities, or other appropriate charges.

(D) Determination that the temporary housing assistance was obtained either through misrepresentation or fraud.

(ii) Termination of temporary housing may be in the form of eviction from temporary housing or termination of financial assistance. Any appeals by the occupant from a termination notice shall be processed and resolved pursuant to the temporary housing pretermination procedure (24 CFR Part 470).

(l) *Insured individuals and families.* (1) *Provision of temporary housing accommodations.* In order to avoid duplication of benefits, insured individuals and families may be provided temporary housing assistance when:

(i) There is uncertainty as to whether insurance benefits will be paid;

(ii) Payment of insurance benefits may be significantly delayed;

(iii) Insurance benefits have been exhausted;

(iv) Insurance benefits are inadequate to provide the full cost of housing on the private market; or

(v) Housing is not available on the private market.

Also, the insured individual or family shall agree to repay the Government from any insurance proceeds they receive in an amount equivalent to the fair market value of assistance provided or that portion of insurance proceeds received for such housing, whichever is less. MRP recipients shall repay the Government the cost of any repairs or replacements completed under the Minimal Repair Program which are covered by insurance, or the amount received from insurance proceeds for the damaged item repaired under this program, whichever is less.

(2) *Exhaustion of insurance benefits.* (i) Applicants who are determined eligible for temporary housing and who have received insurance benefits may be provided temporary housing upon presentation of proof that insurance has been exhausted and temporary housing remains a need. These applicants shall be eligible for rent free temporary housing assistance not to exceed twelve months following exhaustion of insurance benefits if the criteria for continued assistance, paragraph (k)(3) of this section, are met.

(ii) For applicants determined eligible for temporary housing and who receive partial insurance benefits, the period of temporary housing assistance shall commence with the first month of partial assistance.

(m) *Disposition of temporary housing units.* (1) *Sale.* The Administrator, or his designee, may sell any temporary housing unit acquired by purchase directly to occupants of temporary housing for their use as permanent housing. Such sales shall be at prices that are fair and equitable, adjusted to take into consideration the reasonable ability of the purchaser to pay. Such sales shall be made subject to the following conditions:

(i) The unit is to be used as a primary residence;

(ii) The unit is adequate for family size and composition;

(iii) The purchaser has sufficient resources to purchase and relocate the unit; and

(iv) The purchaser has a suitable site for placement of the unit. (A suitable site shall be defined as one that complies with local codes and standards.)

(2) *Transfer.* The Administrator may sell, lease, or donate temporary housing units purchased under Section 404(a) of the Act directly to States, other governmental entities, or voluntary organizations. As a condition of such transfer, the Administrator shall require that the recipient:

(i) Comply with the provision of § 2205.13 of these regulations requiring nondiscrimination in the distribution and occupancy of temporary housing; and

(ii) Utilize the units provided for the initial purpose of providing temporary housing for victims of major disasters or emergencies.

The Administrator may order returned any temporary housing unit made available under this Section which is not used in accordance with the terms of transfer cited above.

(n) *Mortgage and rental payments.* Temporary assistance in the form of mortgage or rental payments may be given to or provided on behalf of applicants who, as a result of a major disaster, have received written notice of dispossession or eviction from a dwelling by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to the disaster. Written notice, for the purpose of this paragraph, means a communication in writing by a landlord, mortgage holder, or other party authorized under State law to give such notice, the purpose of which is to notify an occupant of impending termination of a lease, foreclosure of a mortgage or lien, or cancellation of any contract of sale, which would result in the occupant's dispossession or eviction from his dwelling. Applications for this type of assistance may be filed up to one year following the date of declaration of the major disaster. This assistance may be provided for a period not to exceed one year or for the duration of the period of financial hardship, whichever is less. The location of the dwelling of an applicant for assistance under this Section shall not be a condition of eligibility.

(o) *Appeals.* (1) *Eligibility determination.* An applicant declared ineligible for temporary housing and whose application is not scheduled for reactivation at a later date, or an applicant whose application has been canceled for cause, shall have the right to appeal such a determination within 15 calendar days following notification of such action. The Administrator or his designee shall consider the appeal within two weeks after receipt of the appeal. The applicant shall receive written notice of the disposition of the appeal. The decision of the Administror or his designee is final.

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(2) *Termination.* An applicant who has been notified of his termination from temporary housing as described in paragraph (k)(5) of these regulations shall have the right to appeal the decision within five (5) business days after receipt of such notice. Such appeals shall be made and resolved in accordance with pretermination procedures contained in Federal regulations (24 CFR Part 470).

(p) *Receipts.* All monies received from rental charges, insurance proceeds, deposit refunds, proceeds of sale of units or furniture, and other receipts as appropriate, shall be deposited as general receipts in the U.S. Treasury under established procedures.

(q) *Reports.* The Administrator or the Federal Coordinating Officer may require such reports, plans and evaluations as they deem necessary to carry out their responsibilities under the Act and these regulations.

(r) *Federal Responsibility.* The Federal responsibility for the operation of a temporary housing program shall not exceed eighteen months, unless this period is extended by the Administrator based on his determination that such extension is in the public interest. The Administrator may provide government property or other resources to a State, other governmental entity, or voluntary organization for the management and operation of a temporary housing program.

§ 2205.46 [Reserved]

The Federal Disaster Assistance Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Section 404, Public Law 93-288, 88 Stat. 154 (42 U.S.C. 5174), Executive Order 11795 as amended by E.O. 11910, 39 FR 25939, Delegation of Authority, 29 FR 28227.)

Issued at Washington, D.C., March 2, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-7069 Filed 3-9-77;8:45 am]

federal register

THURSDAY, MARCH 10, 1977

PART III

ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF PESTICIDE PROGRAMS

National List of Priority Needs for Minor Use Registration of Pesticide Products

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ENVIRONMENTAL PROTECTION AGENCY

[OPP—00042; FRL–695–7]

OFFICE OF PESTICIDE PROGRAMS

National List of Priority Needs for Minor Use Registration of Pesticide Products

The availability of pesticides for so-called "minor uses" has long been a topic of concern to the agricultural community and ornamental growers. In general, a pesticide use is considered minor if its market potential is insufficient to economically justify the development of data required to:

1. Establish a tolerance limitation or obtain an exemption from the requirement of a tolerance for pesticide residues in or on raw agricultural commodities, food, and feed in accordance with the Federal Food, Drug and Cosmetic Act (FFDCA), as amended (21 U.S.C. 346a), administered by the Environmental Protection Agency (EPA), and

2. Register a pesticide in accordance with the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 95 Stat. 751; 7 U.S.C. 136(a) et seq.), also administered by the EPA.

BACKGROUND

For the most part, pesticide manufacturers direct their research efforts toward the development of pesticide products that will be useful in controlling pests affecting major crops, e.g., cotton, grains, soybeans, and livestock. Federal and State research programs also are oriented largely toward control of pest problems affecting such major crops. Although vital to the Nation's food supply, many fruit and vegetable crops are generally considered minor crops, as well as other commodities grown in small amounts in the United States.

Because the potential sales of pesticides for minor uses are limited, manufacturers cannot justify the expense of performing field testing and other work needed to assemble data for tolerance setting and pesticide registration. They are also concerned with possible liability for crop damage arising from minor uses, particularly because legal defense costs alone could be large in relation to revenue from sales of a pesticide product for use on a minor crop.

Most minor crop pest problems (as well as problems involving minor pests affecting major crops) can be adequately controlled with pesticide products already registered for other purposes. In such cases, the human and environmental hazard data required for registration already exist. However, it is the lack of efficacy and residue data that constitutes the principal obstacle to minor use registrations.

Briefly, efficacy data are required to demonstrate that a pesticide will effectively control the target pest without detriment to the host plant. Such data must also demonstrate efficacy under agricultural and environmental conditions representative of the areas where the pesticide will be used. Residue data are required for tolerance setting. Such data indicate the level of pesticide residue that can be expected as a result of the treatment of the crop with a particular pesticide. Here, too, geographically representative data must be submitted.

The minor use problem was less serious before FIFRA was amended in 1972. Before then, FIFRA did not require all uses to be Federally registered. Consequently, many minor uses were satisfied by State registration requirements. Furthermore, growers could follow the recommendations of the U.S. Department of Agriculture Extension Service agents when faced with a pesticide use problem, depending on them to provide a way to adequately serve their needs within the confines of the law. However, the 1972 amendments to FIFRA, in part, require that all pesticide products be registered whether they are intended for interstate or intrastate commerce. In addition, the amended FIFRA makes it unlawful to use any registered pesticide in a manner inconsistent with its labeling.

While Section 24(c) of the amended FIFRA permits States to register products for special local needs, which includes many minor uses, such registrations cannot be granted in the absence of a tolerance for residues resulting from pesticides use on raw agricultural commodities, food, and feed.

Consequently, the Federal system designed to protect the environment and human health from the adverse effects of pesticide use, as well as the position of pesticide manufacturers with regard to satisfying registration requirements, causes some problems for growers and contributes to the spiraling costs of consumer commodities.

FEDERAL COMMITMENT

In response to farmers' needs for pesticides for use in controlling insects and other pests affecting minor or speciality corps, the EPA, State Agriculture Experiment Stations (SAES), and the U.S. Department of Agriculture (USDA) are working together to facilitate the registration of pesticides for such uses. USDA has lead responsibility in this coordination effort. Solving the minor use registration problem requires this coordinated effort, as well as the cooperation of State agencies and private industry. To the extent possible within the confines of FIFRA, as amended, attempts at simplifying the data requirements for minor use registration are being made by the EPA; processing of applications for the registration of minor use pesticides is being expedited; and existing data that can be used in support of petitions for tolerance are being applied.

The USDA and SAES have significant responsibility for assisting farmers in the production of food, feed, and fiber crops. This responsibility encompasses the field of pest control. They necessarily give highest priority to research and other activities related to major crops. However, in 1964, with the establishment of the Interregional Project Number 4, (IR–4) at the New Jersey State Agricultural Experiment Station, Rutgers University, the SAES in cooperation with USDA initiated mechanisms for satisfying minor use problems.

The primary function of IR–4 is to identify clearance needs, define data gaps, and establish research programs through the cooperation of States' regional leader laboratories, SAES, and USDA to obtain the required data for establishing tolerances and registering pesticide products. IR–4 is now moving into the area of nonfood minor crop uses as well.

State universities and experiment stations have been and will continue to be major sources of residue and efficacy data needed for minor use tolerance setting and registration. Their activities in agricultural research are supported by both State appropriations and USDA funds. They set their own research priorities and cooperate with one another as they deem appropriate. IR–4 has assisted them in developing cooperative programs to obtain residue data.

The EPA maintains a close liaison with IR–4 which encourages pesticide manufacturers to seek registration of minor use pesticides based on data assembled by the SAES. Although tolerances covering food and feed uses of pesticides can be established at EPA's initiative, registrations cannot be issued unless there is a sponsor other than EPA.

PRIORITY LIST OF MINOR USES

The following list identifies the most important food-crop minor uses for which pesticide residue and/or efficacy data are needed to support tolerances and registration. The list also reflects priorities established by the regional committees of State liaison representatives to the IR–4 project. This list does not by any means represent all food-crop minor use registration needs. (Those pesticides which have had their registrations cancelled and those currently involved in litigation are not addressed in this list.) A nonfood crop list is also being prepared.

The Environmental Protection Agency is firmly committed to the minor use program. As a regulatory agency, EPA does not have lead responsibility in obtaining the data needed to support registration. Because of the difficulties in the minor use area, however, the Agency does attempt to facilitate the resolution of the problems as best it can. Since the minor use problem is not a private issue between the EPA, USDA, State agencies, and pesticide manufacturers, this notice and the priority list are being published in the FEDERAL REGISTER for public information and comment.

All comments concerning this notice and the priority list should be submitted in tripilcate to the Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. The comments should bear the identifying document control number OPP–00042 to facilitate the record-keeping process. Comments received by the Agency are available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. on normal business days.

Dated: March 3, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

STANDARDIZED INFORMATION RETRIEVAL SYSTEM; KEY TO PESTICIDE CLEARANCE REQUESTS

PR. NO.

(5 Digits and 1 Character, e.g. 1 Thru 99999)

Numbers assigned by IR–4. Numbers followed by an asterisk indicate a request for a nonfood use.

PESTICIDE

(52 Characters, 1 Line)

Ref: *Acceptable Common Names and Chemical Names for the Ingredient Statement on Pesticide Labels*, USEPA, OPP, CED (current edition).

COMMODITY

(50 Characters, 1 Line)

Ref: 40 CFR 180.34.

REASON FOR USE

(48 Characters, 3 Lines)

Ref: EPA, OPP, TSD standardized 7-letter code. Ex: Greenhouse whitefly—IRABANA

STATE

(9 Characters, 5 Lines)

All states requesting same use pattern. Ref: U.S. Post Office approved abbreviations for states. ARS before state abbreviation signifies request via USDA-ARS.

REGION

(2 Characters, 5 Lines)

USDA regions encompassing the interested states.

ACTIVITY

(1 Character, 5 Lines)

Activity of Pesticide.
A—Avicide.
I—Insecticide (incl. Miticides).
H—Herbicides.
F—Fungicides (incl. bactericides and viricides.
R—Rodenticide.
N—Nematicide.
M—Molluscicide.
D—Desiccant and/or defoliant.
P—Plant regulator.
B—Biocide.

CATEGORY

(2 digits, 1 line)

Status code assigned to that PR.

Action Category Codes

00—Amendment to existing registration.
01—Additional data not required for tolerance/registration.
02—Additional data required; date requirements are minor.
03—Additional data required; data requirements are major.
04—Cannot be registered at this time.
05—Manufacturer handling.
06—Undesignated.
07—Initially rejected by EPA, project still active.

Inactive Category Codes

10—Request deleated.
11—Manufacturer will not register.
12—Rejected by EPA.
13—Cancelled Pesticide.

Clearance Category Codes—Food Use

20—Petition submitted for tolerance.
21—Data package submitted to industry.
22—Tolerance or exemption established.
23—Registrant submission to EPA.
24—Use registered.

Clearance Category Codes—Nonfood Use

30—Data package submitted to industry.
31—Registrant submission to EPA.
32—Use registered.

DATA REQUIREMENTS

(1 character, 5 lines)

E—Efficiency data.
R—Residue data.
F—Phytotoxicity data.
V—Environmental data.

RESIDUE LAB

(9 characters, 5 lines)

Year: State, ARS (State), or Company responsible for residue analysis.
EX:76:PA or 76:ARS(PA) or 76:DUPONT.

COMPANY

(6 characters, 5 lines)

Six letter abbreviation of the manufacturer.

ABBOTT—Abbott Laboratories.
AGWAY—Agway, Inc.
AMCHEM—Amchem Products, Inc.
AMCY—American Cyanamid Co.
ANSUL—The Ansul Co.
BASF—BASF Wyandotte.
BORAX—United States Borax & Chemical Corp.
CHEMAG—Chemagro Ag. Chem. Div. Mobay Chemical Corp.
CHEMPR—Chempar Chemical Co., Inc.
CHEV—Chevron Chemical Co.
C–G—Ciba-Geigy Corp.
CLOROX—The Clorox Co.
D–S—Diamond Shamrock Chemical Co.
DOW—Dow Chemical Company.
DUPONT—E. I. DuPont De Nemours & Co., Inc.
ELANCO—Elanco Products Division Eli Lilly.
FMC—FMC Corp., Agricultural Chemicals Div.
FMC—FMC Corp., Agricultural Chemicals Div.
HERC—Hercules, Inc.
HOOKER—Hooker Chemical Corp.
ICI—ICI USA.
KOCIDE—Kocide Chemical Corp.
KUMIAI—Kumial Chemical Industry Co., Ltd.
LILLY—The Charles H. Lilly Co.
MALLIN—Mallinckrodt, Inc.
MERCK—Merck & Co., Inc.
MEYER—Wilson and Geo. Meyer Co.
MILLER—Miller Chemical & Fertilizer Corp.
MOBIL—Mobil Chemical Co.
MONS—Monsanto Commercial Products Co.
NORAM—Nor-Am Agricultural Products, Inc.
OLIN—Olin Corp.
PENICK—S. B. Penick and Co.
PFIZER—Pfizer, Inc.
PPG—PPG Industries Inc.
R+H—Rohm and Haas Co.
RALPUR—Ralston-Purina.
RHODIA—Chipman Div. of Rhodia, Inc.
SANDOZ—Sandoz, Inc.
SHELL—Shell Chemical Co.
SMC—Southern Mill Creek Products, Co., Inc.
STAUFF—Stauffer Chemical Co.
T–H—Thompson-Hayward Chemical Co.
TNCOOP—Tennessee Farm Coop., Inc.
UC—Union Carbide Corp.
UNIROY—Uniroyal Inc.
UPJOHN—The Upjohn Company.
VELSI—Velsicol Chemical Corp.
WARF—Warf Institute, Inc.
WOOL—Woolfolk Chem. Works, Inc.
ZOECON—Zoecon Corp.

COMMENTS

(26 characters, 5 lines)

Standardized comments about that PR

EX: 76 Project:IN.—A 1976 project in Indiana.

Submission:78.—Projected year (or quarter, year) that the data package will be submitted by IR–4.

ARS(MD)—Maryland ARS involved.

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00033	DINOSEB BLUEGRASS (SEED CROP)	MN	NC	D	00	E		DOW	24(C). MFG DELAYING REG FOR ENV DATA.
00040	FONOFOS SWEET POTATOES	MD,MS	NE S	I	00			STAUFF	MFG SUGGESTS 24(C):10/76.
00041	PHOSMET SWEET POTATOES	LA,MS,NC, FL	S	I	00			STAUFF	LABEL AMENDMENT OR 24(C).
00048	MSMA, DSMA COTTON	AZ	W	H	00			ANSUL	MSMA LABELLED. REQUEST NEW USE PATTERN:24(C).
00081	FENSULFOTHION PLANTAINS	PR	S	N	00	E		CHEMAG	LABEL FOR NEMATODE CONTROL. 24(C) FOR NEW PESTS. SEE PR 470,476.
00115	CARBARYL PECANS	MS,AR	S	I	00	E R		UC	LABEL AMEND OR 24(C).
00116	CARBARYL +/OR METHOMYL BEANS (SNAP + LIMA)	MS,WI,MI	NC S	I	00			UC DUPONT	LABEL AMEND OR 24(C).
00122	COPPER HYDROXIDE CRUCIFERS	MS,CT,PA, NC	NE S	F	00			KOCIDE	LABEL AMEND OR 24(C).
00124	CARBARYL CORN	MS,WI,MO, IA,MI,KS, IL,OH	NC S	I	00	E		UC	76 PROJECT:WI,MI,KS,IL, OH,IA. EFFICACY FOR LABEL AMEND OR 24(C).

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00125	CARBARYL SORGHUM	MS,WI,MI, KS,IL,OH, IA	S NC	I	00	E		UC	76 PROJECT:WI,MI,KS,IL,OH, IA. EFFICACY FOR LABEL AMEND OR 24(C).
00127	DIAZINON GRASS (PASTURE)	MS,WA	S W	I	00	E		C-G	EFFICACY FOR LABEL AMEND OR 24(C).
00128	DIAZINON SORGHUM	MS	S	I	00	E		C-G	EFFICACY FOR LABEL AMEND OR 24(C).
00129	DIAZINON CORN	MS	S	I	00	E		C-G	EFFICACY FOR LABEL AMEND OR 24(C).
00150*	HYAMINE POTATOES	ME,PA	NE	F	00	E		R+H	DISINFECTANT. NEED EFFICACY FOR LABEL AMEND OR 24(C).
00179	CARBARYL SOYBEANS	IA,IN	NC	I	00	E		UC	76 PROJECT FOR EFF DATA: IN,IA. POSSIBLE 24(C).
00180	MALATHION SOYBEANS	IA,IN	NC	I	00	E		AMCY	76 PROJECT FOR EFF DATA: IN,IA. POSSIBLE 24(C).
00183	THIRAM CELERY (SEED TREATMENT)	PA	NE	F	00	E		DUPONT	PA TO SUPPLY EXIST EFF DATA FOR LABEL AMEND.
00190	PARATHION SORGHUM	GA,AZ	S W	I	00	E		MONS	EFF FOR LABEL AMEND OR 24(C).

UMI

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00191	PARATHION CORN	GA	S	I	00	E		MONS	EFF FOR LABEL AMEND OR 24(C).
00192	PARATHION SOYBEANS	GA	S	I	00	E		MONS	EFF FOR LABEL AMEND OR 24(C).
00203*	SODIUM HYPOCHLORITE PEPPERS (SEED TREATMENT)	NJ,PA,VT, NC,NY	NE S	F	00			AGWAY CLOROX	PKG SUBMITTED TO AGWAY & CLOROX FOR LABEL REG:8/76.
00213	DIAZINON COFFEE	HI	W	I	00	E		C-G	EFFICACY NEEDED FOR LABEL AMEND OR 24(C).
00228*	HYDROCHLORIC ACID TOMATOES (SEED TREATMENT)	PA,NJ,NC	NE S	F	00			AGWAY	SCARIFICATION. 24(C).
00229*	HYDROCHLORIC ACID PEPPERS (SEED TREATMENT)	PA,NJ	NE	F	00			AGWAY	SCARIFICATION. 24(C).
00249	ETHEPHON BLUEBERRIES	PA,ME	NE	P	00	E		AMCHEM	USED TO CONC MATURITY. EFF DATA FOR LABEL AMEND OR 24(C).
00270	DIAZINON PEANUTS	TX	S	I	00	E		C-G	NEED EFF DATA FOR LABEL AMEND OR 24(C).
00280	METHOMYL SPINACH	AZ,NJ,WV	NE W	I	00	E		DUPONT	NEED EFF DATA FOR LABEL AMEND OR 24(C).

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00283	PARATHION (METHYL) COTTON	AZ	W	I	00	E		MONS	LABEL AMEND OR 24(C).
00287	SULFUR (WETTABLE) BEETS (GARDEN)	TX	S	F	00			SANDOZ	LABEL AMEND OR 24(C).
00314	ENDOSULFAN APPLES	NC	S	I	00	E		FMC	EFF DATA FOR LABEL AMEND OR 24(C).
00339	2,4-D (BUTOXYETHANOL ESTER) CRANBERRIES	MA,MA	NE W	H	00	E	76:MA	AMCHEM	TOL OF 0.5 PPM EST:3/76. 76 PROJECT FOR EFF DATA:MA. SEE PR 670.
00352	CAPTAN ONIONS, GARLIC	NC	S	F	00			CHEV	LABEL AMEND OR 24(C).
00354	CAPTAN BEANS (LIMA)	NC	S	F	00			CHEV	LABEL AMEND OR 24(C).
00355	CAPTAN LEEKS	NC	S	F	00			CHEV	LABEL AMEND OR 24(C).
00392	CHLOROTHALONIL LEEKS, GARLIC	NC,FL,NY, PA	NE S	F	00	E		D-S	TOL ON ONION INCL LEEK & GARLIC. NEED EFF & PYTOTOX DATA FOR REG. SEE EPA LETTER:6/76. POSSIBLE 24(C).
00396	CHLOROTHALONIL SQUASH	NC	S	F	00	E		D-S	EFF DATA FOR LABEL AMEND OR 24(C).

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00402	CARBARYL POTATOES	NC	S	I	00			UC	LABEL AMEND OR 24(C).
00408	METHOMYL CUCUMBERS	NC	S	I	00	E		DUPONT	24(C) FOR LEAFMINER.
00429*	DISULFOTON RADISHES (SEED CROP)	ID	W	I	00	E		CHEMAG	EFF DATA FOR 24(C).
00431*	METHAMIDOPHOS CARROTS (SEED CROP)	ID	W	I	00	E		CHEV	EFF DATA FOR 24(C).
00450	METHOMYL POTATOES	OR,VA	S W	I	00	F		DUPONT	EFF FOR LABEL AMEND OR 24(C).
00454	MALATHION GRASS (RANGE)	OR	W	I	00	E		AMCY	EFF DATA FOR LABEL AMEND OR 24(C).
00459	FONOFOS KOHLRABI (SEED CROP)	OR	W	I	00	E		STAUFF	EFF DATA FOR 24(C).
00460	DISULFOTON KOHLRABI (SEED CROP)	OR	W	I	00	E		CHEMAG	EFF DATA FOR 24(C).
00462	CARBOPHENOTHION ONIONS (SEED CROP)	OR	W	I	00	E		STAUFF	TOL OF 0.8 PPM EST. LABELLED IN NC + NE. 24(C).

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00466	ZINC ION + MANEB KOHLRABI (SEED TREATMENT)	OR	W	F	00	E		R+H DUPONT	EFF DATA FOR 24(C).
00469	CARBOFURAN SWEET POTATOES	PR	S	I	00	E R		FMC	TOL OF 2 PPM PENDING. REG DOES NOT INCLUDE THIS PEST. 24(C). NEED CONFIRM DATA FOR PROPOSED TOL.
00470	FENSULFOTHION BANANAS	PR	S	I	00	E		CHEMAG	TOL OF 0.02 PPM EST. 24(C) SEE PR 81, 476.
00476	ETHOPROP PLANTAINS	PR	S	I N	00	E		MOBIL	24(C) FOR NEW PEST. LABEL FOR NEMA CONTR ON BANANA. NEED TO ADD PLANTAIN. SEE PR 470, 81.
00478	BENOMYL SUGARCANE	PR	S	F	00	E R		DUPONT	LABELLED AS NON-FOOD IN HI. 24(C).
00488	AMETRYN PLANTAINS	PR	S	H	00			C-G	ADD PLANTAIN TO CURRENT HI, PR LABEL OR 24(C). SEE PR 483.
00496	DBCP PLANTAINS	PR	S	N	00			DOW	ADD PLANTAIN TO LABEL OR 24(C).
00497	FENAMIPHOS PLANTAINS	PR	S	N	00	E R		CHEMAG	TOL OF 0.1 PPM EST BASED ON HI DATA. NEED EFF + RES DATA FOR 24(C).
00500	DIURON PLANTAINS	PR	S	H	00			DUPONT	ADD PLANTAIN TO LABEL OR 24(C).

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00506	FENSULFOTHION SWEET POTATOES	PR	S	I N	00			CHEMAG	TOL OF 0.05 PPM EST. LABELLED IN SE STATES FOR NEMA + SWEET POTATO WIREWORM. 24(C).
00509	MANEB GRAPES	AR	S	F	00			DUPONT	TOL OF 8 PPM EST. LABELLED FOR BLACKROT IN GR LAKE STATES ONLY. POSSIBLE 24(C).
00513	FENAMINOSULF VEGETABLES	AR	S	F	00			CHEMAG	USE ON PLANTBED, GH, FIELD TRT. LABELLED FOR BEAN,PEA, BEET, SPINACH, CUCUMBER. VERIFY NON-FOOD USE FOR OTHER SEED TRTS.
00520	SIMAZINE AVOCADOS	FL	S	H	00			C-G	TOL OF 0.25 PPM EST. LABELLED IN CA. 24(C). SEE PR 524.
00529	CARBOXIN CORN	ID	W	F	00	E		UNIROY	LABELLED FOR SEED DECAY. 24(C) FOR HEAD-SMUT.
00530	AZINPHOS METHYL CRANBERRIES	MA	NE	I	00	E		CHEMAG	LABELLED FOR OTHER INSECTS. 24(C) FOR CRANBERRY WEEVIL. SEE PR 532.
00531	CARBARYL CRANBERRIES	MA	NE	I	00	E		UC	LABELLED FOR OTHER INSECTS. 24(C) FOR GREEN CRANBERRY SPANWORM.
00532	PARATHION (METHYL) CRANBERRIES	MA	NE	I	00	E		MONS	TOL OF 1 PPM EST. 24(C). SEE PR 530.
00535	MALATHION VEGETABLES (GH)	MA	NE	I	00			AMCY	POSSIBLE 24(C).

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00536	DIMETHOATE LETTUCE (GH)	MA	NE	I	00			AMCY	LABELLED FOR OUTDOOR USE ON APHID, LEAFHOPPER, LEAF MINER. 24(C) FOR OTHER PEST.
00537	DIAZINON CRANBERRIES	MA	NE	I	00	E		C-G	LABELLED FOR OTHER INSECTS 24(C) FOR CRANBERRY GIRDLE
00549	ALACHLOR BEANS (LIMA)	MD	NE	H	00			MONS	TOL OF 0.1 PPM. LABELLED FOR WEST OF MISS ONLY. 24(C). SEE PR 262.
00550	TRIFLURALIN EGGPLANT	MD	NE	H	00			ELANCO	TOL OF 0.05 PPM FOR FRUIT VEG. 24(C) FOR EGGPLANT.
00558	CARBARYL GRASS (HAY + PASTURE)	MI	NC	I	00	E		UC	ESSEX SKIPPER. TOL OF 100 PPM EST ON GRASS + HAY. 24(C). 1ST PREF. SEE PR 559,560,561.
00559	DIAZINON GRASS (HAY + PASTURE)	MI	NC	I	00	E		C-G	ESSEX SKIPPER. TOL OF 60 PPM ON GRASS, 20 PPM ON GRASS HAY. 24(C). 2ND PREF. SEE PR 558,560,561.
00560	MALATHION GRASS (HAY + PASTURE)	MI	NC	I	00	E		AMCY	ESSEX SKIPPER. TOL OF 135 PPM ON GRASS, GRASS HAY. 24(C). 3RD PREF. SEE PR 558,559,561.
00561	TRICHLOROFON GRASS (HAY + PASTURE)	MI	NC	I	00	E		CHEMAG	ESSEX SKIPPER. TOL OF 60 PPM ON PASTURE GRASS, 90 PPM ON PASTURE GRASS HAY. 24(C). 4TH PREF. SEE PR 558,559,560.
00564	GIBBERELLIC ACID LIMES	CA	W	P	00	E		ABBOTT	DELAY FRUIT MATURITY. TOL OF 0.15 PPM ON CIRTUS FRUIT. 24(C).

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00565	CARBARYL BEES (LEAFCUTTING)	UT	W	I	00	E		UC	PARASITES OF POLLIN BEE CELLS. TOL OF 100 PPM ON ALFALFA. REQUEST EPA COMMENT ON REG REQ.
00580	THIABENDAZOLE SWEET POTATOES	LA	S	F	00			MERCK	TOL OF 0.02 PPM. POSSIBLE 24(C) FOR NEW USE PATTERN.
00587	BENOMYL PEACHES	GA	S	F	00	E		DUPONT	TOL OF 15 PPM. NEW USE PATTERN. POSSIBLE 24(C).
00592	MALATHION ALFALFA (HAY)	CA	W	I	00	E		AMCY	TOL OF 135 PPM. NEW USE PATTERN.
00595	CARBARYL ALFALFA	NY	NE	I	00	E		UC	LABELLED. 24(C) FOR NEW PEST.
00596	AZINPHOS METHYL ALFALFA	NY	NE	I	00	E		CHEMAG	LABELLED. 24(C) FOR NEW PEST.
00597	MALATHION ALFALFA	NY	NE	I	00	E		AMCY	LABELLED. 24(C) FOR NEW PEST.
00607	DIAZINON CRUCIFERS	NY	NE	I	00			C-G	TOL OF 0.75 PPM. 24(C) FOR NEW USE PATTERN (SEED FURROW).
00621	2,4-D MACADAMIA NUTS	HI	W	H	00			DOW	PET IN PREP.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00628*	METHOMYL TOBACCO	NC	S	I	00	E		DUPONT	ADD NEW PEST TO LABEL. 24(C).
00629*	ACEPHATE TOBACCO	NC	S	I	00	E		CHEV	ADD NEW PEST TO LABEL. 24(C). SEE PR 582.
00634	BENOMYL CANTALOUPS, CUCUMBERS, WATERMELON, SQUASH	NC	S	F	00	E		DUPONT	TOL EST ON ALL CUCURBITS. NEW PESTS?
00635	BENOMYL BEANS, PEAS, OKRA	NC,NY	S NE	F	00	E		DUPONT	REC EFF DATA FROM NY; REC PERF DATA FROM NY; 11/76.
00655	BACILLUS THURINGIENSIS PECANS	TX	S	I	00	E		SANDOZ ABBOTT RHODIA	EXEMPT ON GROWING PLANTS.
00656	FONOFOS SUGARCANE	TX	S	I	00	E		STAUFF	NEW PEST.
00660	AZODRIN TOMATOES	TX	S	I	00			SHELL	TOL OF 0.5 PPM EST. LABELLED IN FL ONLY. 24(C).
00663	PICLORAM GRASS (RANGE)	TX	S	H	00	E		DOW	ADD PESTS TO LABEL. SEE PR 93.
00666	FONOFOS TOMATOES (GH)	IN	NC	I	00	E		STAUFF	TOL OF 0.1 PPM ADEQUATE FOR 24(C) REG. IN HAS CONTACTED MFG FOR 24(C).

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00667	FONOFOS LETTUCE (GH)	IN	NC	I	00	E		STAUFF	TOL OF 0.1 PPM ADEQUATE FOR 24(C) REG. IN HAS CONTACTED MFG FOR 24(C).
00673	MALATHION MANGOES	FL	[illegible]	I	00	E		AMCY	FL PREFERS PR 674, 675. TOL OF 8 PPM EST. LABELLED FOR FRUITFLY IN HI. 24(C) FOR FL AFTER EFF DATA.
00678	ENDOSULFAN SWEET POTATOES	FL	S	I	00	E R		FMC	TOL OF 0.2 PPM EST. NEW USE PATTERN. WILL REQ CONFIRM RES DATA.
00680	BENOMYL GRAPES	FL	S	F	00	E		DUPONT	TOL OF 10 PPM EST. 24(C) FOR FL AFTER EFF DATA.
00681	CAPTAN GRAPES	FL	S	F	00	E		CHEV	TOL OF 50 PPM EST. 24(C) FOR FL AFTER EFF DATA.
00682	SULFUR OKRA	FL	S	F	00	E		FMC MONS STAUFF	EXEMPT CHEM. 24(C) FOR FL AFTER EFF DATA.
00685	LINURON CARROTS (SEED CROP)	ID,WA	W	H	00	F		DUPONT	TOL OF 1 PPM EST AND LABELLED ON CARROT. WA GOING FOR 24(C) ON CARROT SEED. NEED PHYTOTOX DATA.
00691	ACEPHATE BEANS (SNAP + LIMA)	NJ	NE	I	00	E		CHEV	LABELLED IN VA. TOL OF 3 PPM EST. 24(C) FOR NJ AFTER EFF DATA.
00697	CHLORPYRIFOS NECTARINES	OH	NC	I	00			DOW	TOL OF 0.05 PPM EST ON PEACH. ADVISE OH OF WORK IN PROG WITH PEACH. SEE PR 85.

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00096	DIMETHOATE PEAS (SOUTHERN)	GA	S	I	01			AMCY	EPA AGREES TO REG AMEND. SUSPECT CHEM.
00159	DIMETHOATE BLACKBERRIES	NY,CT,VT, WV	NE	I	01			AMCY	SUBMISSION AWAITING STRAWBERRY PET. SUSPECT CHEM. SEE PR 32.
00241	TERRACIL SAINFOIN	MT	W	H	01			DUPONT	SUBMISSION AWAITING ALFALFA CLEARANCE. SEE PR 55.
00474	FENSULFOTHION TANIERS	PR	S	I	01			CHEMAG	POSSIBLE CAT 01 USING RUTABAGA. EFF DATA FOR 24(C).
00481	FENSULFOTHION YAMS	PR	S	I	01			CHEMAG	POSSIBLE CAT 01 USING SWEET POTATO. EFF DATA FOR 24(C).
00485	CARBOFURAN YAMS	PR	S	N	01			FMC	POSSIBLE CAT 01 USING SWEET POTATO. 24(C).
00499	METHOMYL PEAS (PIGEON)	PR	S	I	01	E		DUPONT	USE PEAS AS PILOT CROP. EFF DATA FOR 24(C).
00516	METHOXYCHLOR HORSERADISHES	IL	NC	I	01			DUPONT	USE CARROT AS PILOT CROP. SEE PR 515.
00524	SIMAZINE MANGOES	FL	S	H	01			C-G	USE AVOCADO AS PILOT CROP. SEE PR 520.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00527	BROMACIL + DIRUON LIMES (TAHITI)	FL	S	H	01			DUPONT	COMBINED PROD (KROVAR II). CLEARED ON ORANGE, GRAPEFRUIT, LEMON.
00538	DIAZINON RUTABAGA	MA	NE	I	01			C-G	USE TURNIP AS PILOT CROP.
00545	PEBULATE PEPPERS	MD	NE	H	01			STAUFF	USE TOMATO AS PILOT CROP.
00578	CARBOFURAN BLUEBERRIES	WA	W	I	01			FMC	USE STRAWBERRY AS PILOT CROP. 76 PROJECT:WA. OR POTENT REG:10/76. SEE PR 762.
00579	CARBOFURAN RASPBERRIES	WA	W	I	01	E		FMC	USE STRAWBERRY AS PILOT CROP. 76 PROJECT:WA. OR POTENT REG:10/76.
00600	CARBARYL BIRDSFOOT TREFOIL (SEED CROP)	NY	NE	I	01			UC	USE ALFALFA AS PILOT CROP.
00601	DIAZINON BIRDSFOOT TREFOIL (SEED CROP)	NY	NE	I	01			C-G	USE ALFALFA AS PILOT CROP.
00602	TRICHLOROFON BIRDSFOOT TREFOIL (SEED CROP)	NY	NE	I	01			CHEMAG	USE ALFALFA AS PILOT CROP.
00603	MALATHION BIRDSFOOT TREFOIL (SEED CROP)	NY	NE	I	01			AMCY	USE ALFALFA AS PILOT CROP.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00604	MEVINPHOS BIRDSFOOT TREFOIL (SEED CROP)	NY	NE	I	01			SHELL	USE ALFALFA AS PILOT CROP.
00605	PARATHION (METHYL) BIRDSFOOT TREFOIL (SEED CROP)	NY	NE	I	01			MONS	USE ALFALFA AS PILOT CROP.
00606	PARATHION BIRDSFOOT TREFOIL (SEED CORP)	NY	NE	I	01			MONS	USE ALFALFA AS PILOT CROP.
00609	DEMETON ENDIVE	NY	NE	I	01			CHEMAG	USE LETTUCE AS PILOT CROP.
00610	MEVINPHOS ENDIVE	NY	NE	I	01			SHELL	USE LETTUCE AS A PILOT CROP.
00611	OCNA ENDIVE	NY	NE	E	01			UPJOHN	USE LETTUCE AS A PILOT CROP.
00631	PCNB VEGETABLES (LEAFY)	NC	S	F	01			OLIN	USE CABBAGE, CAULIFOWER, BROCCOLI, BRUSSEL SPROUT AS PILOT CROPS.
00636	BENOMYL LETTUCE (FOLIAR)	NC,NJ	NE S	F	01	E R		DUPONT	PEND TOL ON LETTUCE. MFG OK:10/76. 77 PROJ:NJ. SEE PR 67,73,138. FOR CABBAGE.
00640	ALDICARB CUCUMBERS, CANTALOUPS, WATERMELON, SQUASH	NC	S	N I	01			UC	PREPLANT USE IN FIELD, PLANTBEDS, GH.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00641	ALDICARB BEANS, PEAS, OKRA	NC	S	N I	01			UC	PREPLANT USE IN FIELD, PLANTBEDS, GH. MFG PET TO EPA FOR TOL ON SOYBENAS (SUCC + DRY), SOYBEAN (STRAW).
00642	ALDICARB CABBAGE, GREENS, LETTUCE	NC	S	N I	01			UC	PREPLANT USE IN FIELD, PLANTBED, GH.
00643	ALDICARB EGGPLANT, PEPPERS, TOMATOES	NC	S	N I	01			UC	PREPLANT USE IN FIELD, PLANTBED, GH.
00644	ALDICARB CARROTS, POTATOES, SWEET POTATOES	NC	S	N I	01			UC	PREPLANT USE IN FIELD, PLANTBED, GH. TOL OF 1 PPM ON POTATO, 0.02 PPM ON SWEET POTATO.
00645	ALDICARB CORN	NC	S	N I	01			UC	PREPLANT USE IN FIELD, PLANTBED, GH.
00650	CHLORAMBEN PEAS (PIGEON)	PR	S	H	01	E		AMCHEM	PREEMERG CONTROL. USE BEAN (SNAP + LIMA) AS PILOT CROP. MATURE PEA HARVEST ABOUT 150 DAYS AFTER SEEDING.
00664	TRIFLURALIN RADISHES (SEED CROP)	ID	W	H	01			ELANCO	
00665	TRIFLURALIN ONIONS (SEED CROP)	ID	W	H	01			ELANCO	
00672	CARBOFURAN EGGPLANT	NJ	NE	I N	01			FMC	MFG OK:11/76. EFF + RES DATA AVAIL FROM RUTGERS. IF NEEDED, USE PEPPERS AS PILOT CROP.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00720	DCPA CRESS (UPLAND)	TN	S	H	01			D-S	EFF EXPT IN PROG. RES SAMPLES AVAIL:3/77. TOL OF 5 PPM EST ON MUSTARD AND TURNIP GREENS.
00721	TRIFLURALIN CRESS (UPLAND)	TN	S	H	01			ELANCO	EFF EXPT IN PROG. RES SAMPLES AVAIL:3/77. TOL OF 0.5 PPM EST ON LEAFY VEG.
00722	CDEC CRESS (UPLAND)	TN	S	H	01			MONS	EFF EXPT IN PROG. RES SAMPLES AVAIL:3/77. TOL OF 0.2 PPM EST ON MUSTARD AND TRUNIP GREENS.
00726	CARBARYL CHESTNUTS	ARS(SC)	S	I	01			UC	TOL OF 1 PPM EST ON FILBERT, ALMOND, WALNUT, PECAN. CAT 01 THEN 24(C).

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PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00005 BACILLUS THURINGIENSIS + CHLORDIMEFORM VEGETABLES (LEAFY)	MS,TN,NC,GA, ARS(SC)	S	I	02	E R	76:ARS-GA	SANDOZ	LAB DATA BEING COMPLETED. REC 75 ANAL DATA FROM FL:11/76. 76 PROJECT: ARS(SC). SEE PR 409.
00015 CHLOROTHALONIL BEANS (DRY)	GA,MN,FL, ARS(MI)	NC S	F	02	E R	76:MI	D-S	75 ANALYSIS COMPLETE. 76 PROJECT:ARS(MI). SUBMISSION:1ST,77. REC RES + EFF DATA FROM MFG:11/76. PET IN PREP:11/76.
00016 CHLOROTHALONIL PEAS (SOUTHERN)	MS,NC,GA, ARS(GA)	S	F	02	E R	76:ARS-GA	D-S	76 PROJECT:MS,GA, ARS(GA). SUBMISSION:3RD,77.
00017 CHLOROTHALONIL SAFFLOWER	ND	NC	F	02	E R	76:ND	D-S	76 PROJECT:ND. SUBMISSION:2ND,77.
00022 2,4-D MILLET (PROSO)	MN,CO,NB, ND	NC W	H	02	E R		DOW	PET FOR ALL RAC REJ:1/77. ANALYSIS IN PROGRESS.
00023 2,4-DB GRASS (PASTURE)	NY,VT,WI, ARS(MD)	NC NE	H	02	E R	76:ARS-MD	AMCHEM	76 PROJECT:ARS(MD). SUBMISSION:2ND,77.
00038 ENDOSULFAN RASPBERRIES	UT,CA, ARS(WA)	W	I	02	E R	76:CA	FMC	76 PROJECT:ARS(WA). SUBMISSION:2ND,77. REC PERF DATA FROM UT, RES DATA FROM CA:11/76. PET IN PREP: 12/76.
00043 METHOMYL COLLARDS, KALE, GREENS	GA,VA,AL, MS,TN,FL, ARS(SC), ARS(AZ)	S W	I	02	E R	76:VA 76:ARS-GA	DUPONT	76 PROJECT:GA,VA,AL, ARS(SC,AZ). RES DATA FROM MFG:11/76. PET IN PREP FOR LEAFY VEG. SUBMISSION:1ST,77. SEE PR 279.
00054 SIMAZINE BIRDSFOOT TREFOIL	MN,PA,NY	NC NE	H	02	E R	76:MI	C-G	76 PROJECT:MN. SUBMISSION:3RD,77.

PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00064 BROMOXYNIL GARLIC	CA,OR	W	H	02	E R		AMCHEM RHODIA	OR POTEN REQUSTRANT:10/76. REC EFF + RES DATA FROM CA:12/76. PET IN PREP: 12/76.
00067 BENOMYL CABBAGE (FOLIAR)	MS,NY,AZ, PA	NE S W	F	02	E R	76:NY	DUPONT	76 PROJECT:NY. SUBMISSION:2ND,77. SEE PR 73,138,636.
00069 CHLORPYRIFOS GRASS (PASTURE)	MS,GA,FL, TN,TX	S	I	02	E R	76:VA	DOW	76 PROJECT:TX. SUBMISSION:4TH,77. MFG WILL SUPPORT:1/77.
00070 SODIUM BORATE SWEET POTATOES	MS	S	F	02	E R	76:VA	BORAX	76 PROJECT:MS. SUBMISSION:1ST,77.
00073 BENOMYL TURNIPS (GREENS)	GA	S	F	02	E R	76:FL	DUPONT	76 PROJECT:GA. SUBMISSION:4TH,77. SEE PR 67,138,636.
00084 ACEPHATE CABBAGE, BROCCOLI, GREENS, SPINACH	NC,TN,MA, TX,AL,NY, GA,VA, ARS(SC)	NE S	I	02	E R	76:NY 76:ARS-GA	CHEV	76 PROJECT:AL,NY,VA,GA, ARS(SC). SUBMISSION:4TH, 77. MFG SUB PET FOR TOL OF 8 PPM ON CABBAGE: 12/76. SEE PR 622. EFF DATA FROM ARS(SC):1/77.
00085 CHLORPYRIFOS PEACHES	MI,AR,NJ, ARS(IN), ARS(GA)	NC NE S	I	02	E R	76:ARS-GA	DOW	76 PROJECT:ARS(GA,IN). SUBMISSION:3RD,77. REC 75 ANAL DATA FROM MI:11/76. SEE PR 697, 761. MFG WILL SUPPORT: 1/77.
00087 ACEPHATE TOMATOES (GH)	OH,NC,TN, IN	NC S	I	02	E R	76:MI	CHEV	76 PROJECT:IN,OH. WILL COOP WITH MFG. SUBMISSION: 3RD,77. SEE PR 401.
00092 LINURON ASPARAGUS	IN,MI,MD, ARS(MD), CA	NC NE W	H	02	R	76:DUPONT	DUPONT	PET SUB CA ONLY:3/76. 76 PROJECT FOR NAT LABEL: IN,MD,ARS(MD). REC EFF DATA FROM IN:1/77. SUBMISSION:4TH,77.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00109	PHORATE SORGHUM (GRAIN)	TX	S	I	02	E R	76:FL	AMCY	76 PROJECT:TX. REQUEST IS FOR 2 APPLICATIONS. SUBMISSION:3RD,77.
00120	CARBARYL GRASS (PASTURE)	MS,GA	S	I	02	E		UC	PR 69 PREFERRED.
00130	CAPTAFOL HORSERADISHES	IL	NC	F	02	R	77:CHEV	CHEV	76 PROJECT:IL.
00135	BENOMYL LETTUCE (GH)	NY,NJ,PA, AZ, ARS(MD)	NE W	F	02	E R F	76:PA	DUPONT	76 PROJECT:NY,NJ,ARS(MD). TOL OF 25 PPM PENDING: 11/76. SEE PR 67,73,636.
00144	CARBOFURAN BIRDSFOOT TREFOIL	NY,VT,WV	NE	I	02	E R	76:NJ	FMC	76 PROJECT:VT. SUBMISSION:2ND,77.
00145	CARBOFURAN CROWN VETCH	NY,WV, ARS(NY)	NE	I	02	E R	76:NJ	FMC	76 PROJECT:ARS(NY). SUBMISSION:2ND,77.
00158	DIMETHOATE RASPBERRIES	NY,CT,VT, WV	NE	I	02	E R		AMCY	ANALYSIS COMPLETED. AWAITING STRAWBERRY PET. SUSPECT CHEM. SEE PR 32.
00160	PYRETHRINS (ULV) LETTUCE (GH)	OH,IN, ARS(MD)	NC NE	I	02	E F		FMC	76 PROJECT:IN,ARS(MD). REC EFF, YLD, PHYTOTOX DATA FROM ARS(MD):10/76.
00161	PYRETHRINS (ULV) CUCUMBERS (GH)	OH,IN, ARS(MD)	NC NE	I	02	E F		FMC	76 PROJECT:IN,ARS(MD). REC EFF, YLD, PHYTOTOX DATA FROM ARS(MD):10/76.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00166	PYRETHRINS (ULV) TOMATOES (GH)	OH,IN, ARS(MD)	NC NE	I	02	E F		FMC	76 PROJECT:IN,ARS(MD). REC EFF, YLD, PHYTOTOX DATA FROM ARS(MD):10/76.
00177	NAA (PAINT) APPLES	ME	NE	P	02	E R		AMCHEM	INHIBITS SPROUTING OF DORM BUDS. TOL OF 0.1 PPM EST. EUP TO MFG:9/76. MFG EVAL 76 RESULTS. POSSIBLE CAT 01:1/77. 77 PROJ:ME.
00184	DICHLORVOS SHEEP	IA,KY	NC S	I	02	E R		SHELL	KY HAS EFF DATA.
00187	ATRAZINE MILLET (PHOSO)	MN,CO,NB, MI	NC W	H	02	E R	76:MI	C-G	76 PROJECT:MN,NB. SUBMISSION:1ST,77. REC RES DATA FROM MI:12/76.
00193	PARATHION PEACHES	SC,GA	S	I	02	E		MONS	
00200	PCNB CRUCIFERS (GH)	NJ,PA,WV	NE	F	02	E R		OLIN	TRANSPLANT WATER DRENCH. 76 PROJECT:NJ,PA. SUBMISSION:4TH,77.
00205	BENOMYL VEGETABLES (PLANTS)	NJ,NY	NE	F	02	E F	76:PA	DUPONT	76 PROJECT:NJ. SUBMISSION:7B. REC PERF DATA FROM NY:11/76.
00208	DIAZINON GINGER	HI	W	I	02	E R	76:MI	C-G	76 PROJECT:HI. HI DEVELOPING DATA. SUBMISSION:2ND,77.
00210	CARBARYL COFFEE	HI	W	I	02	E R		UC	

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00211	MALATHION TARO	HI	W	I	02	E R		AMCY	
00214	DIURON COFFEE	HI	W	H	02	E R		DUPONT	MFG REQUIRES PHYTOTOX DATA.
00218	DBCP PAPAYA	HI	W	N	02	E R		DOW	MFG WILL SUPPORT:1/77.
00230	FERBAM BLUEBERRIES	PA,NJ, ARS(NJ)	NE	F	02	E R	76:NJ	RHODIA FMC	SHORTER PHI. 76 PROJECT: ARS(NJ). SUBMISSION:2ND, 77. EFF DATA FROM ARS(NJ): 1/77.
00252	PARAQUAT VEGETABLES	PA,MD,IL, CA,OR,MI, FL,NY,NJ, ARS(GA)	NC NE S W	H	02	E R	76:CHEV 76:NJ 77:CHEV	CHEV	PREPLANT/PREEMERG CONTROL. 76 PROJECT:IL,CA,OR,MI,FL, NY,NJ,MD. COOP PROJ WITH MFG. 77 PROJ:ARS(GA),NJ. SUBMISSION:7TH.
00256	AZINPHOS METHYL PARSLEY	NJ	NE	I	02	E R	76:NJ	CHEMAG	76 PROJECT:NJ. SUBMISSION:1ST,77.
00259	AZINPHOS METHYL EGGPLANT	NJ	NE	I	02	E R		CHEMAG	ANALYSIS IN PROGRESS. SUBMISSION:1ST,77. 76 PROJECT:NJ.
00262	ALACHLOR BEANS (SNAP)	TN,AR	S	H	02	E R		MONS	PHYTOTOX DATA FROM NC:6/76. SEE PR 549.
00272	CARBOFURAN SUGARCANE	ARS(TX), TX	S	I	02	E		FMC	MFG REQ CLARIFICATION OF USE PATTERN. SEE PR 657 FOR PESTS. 77 PROJ:ARS(TX).

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00279	METHOMYL CHINESE CABBAGE	AZ	W	I	02	E R		DUPONT	PET IN PREP FOR LEAFY VEG. SUBMISSION: 1ST.77. SEE PR 43.
00281	METHOMYL RADISHES	AZ	W	I	02	E R		DUPONT	FOR ROOT CROP TOL MFG REQ EFF + RES DATA. 76 PROJECT:AZ. SUBMISSION:4TH. 77.
00282	METHOMYL BEETS (GARDEN)	AZ,OR,ID, WA	W	I	02	E R		DUPONT	FOR ROOT CROP TOL MFG REQ EFF + RES DATA. 76 PROJECT:AZ,OR. SUBMISSION: 4TH,77. OR APPR BUT NOT FUND FOR RES WORK:10/76.
00299	METHIDATHION SAFFLOWER	CA	W	I	02	E R		C-G	AWAITING RES DATA FROM CA. CAND 77 PROJ:CA.
00305	BENOMYL SWEET POTATOES	CA,NJ,MD	NE W	F	02	E R	76:PA	DUPONT	76 PROJECT:MD,CA. SUBMISSION:3RD,77. SEE PR 503.
00325	ACEPHATE COLLARDS	NC,VA,AL	S	I	02	E R	76:GA	CHEV	76 PROJECT:VA,AL. SUBMISSION:1ST,77.
00337	DESMEDIPHAM BEETS (GARDEN)	WI,OH,NY	NC NE	H	02	E R		NORAM	77 PROJ:NY,MI?
00338	ORYZALIN SWEET POTATOES	MS,NC,LA, MD,VA,SC, GA,AR,TN	NE S	H	02	E R	76:FL	ELANCO	76 PROJECT:VA,NC,MS. SUBMISSION:4TH,77. REC EFF DATA FROM TN:11/76
00343	DCPA CARROTS	MD,OH	NC NE	H	02	E R	76:NY	D-S	76 PROJECT:MD,OH. SUBMISSION:3RD,77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT.	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00348	DALAPON WALNUTS	OH	NC	H	02	E R		DOW	WAITING FOR USE PATTERN FROM FOREST SERVICE.
00366	PARAQUAT RHUBARB	OR	W	H	02	E R		CHEV	DORMANT WEED CONTROL. COOP PROJ WITH MFG. NO COOP IN 76. SHOULD THIS BE 77 PROJECT? PA WITHDRAWS REQUEST!1/77.
00377	CAPTAFOL CRANBERRIES	MA,RI,NJ	NC NE	F	02	E R	78:CHEV 77:CHEV	CHEV	76 PROJECT:NJ,MA. ADD AERIAL APPL TO EXIST LABEL. COOP PROJ WITH MFG. 77 PROJ:NJ. SUBMISSION:78.
00381	ATRAZINE GRASS (ORCHARD + FESCUE) (SEED CROP)	OR	W	H	.02	R		C-G	MFG OK:10/76. MFG SENT EFF DATA TO EPA:10/76.
00407	BACILLUS THURINGIENSIS + METHOMYL CULE CROPS	NC,VA	S	I	02	E R	76:VA	DUPONT	76 PROJECT:VA. SUBMISSION:1ST,77.
00416	ETHION BLUEBERRIES	NC	S	I	02	E R		FMC	NEEDS TOL.
00445	DIMETHOATE CORN (SWEET)	OR	W	I	02	E R		AMCY	CAND FOR ARS(WEST).
00448	DIMETHOATE GRASS (SEED CROP)	OR	W	I	02	E R		AMCY	CAND FOR ARS(WEST).
00471	THIABENDAZOLE COFFEE (NON BEARING, NURSERY)	PR	S	F	02	E		MERCK	NO REGISTERED FUNG. SAME DISEASE AS PR 82. PR PREFERS BENOMYL.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT.	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00480	ENDOSULFAN PAPAYA	PR	S	I	02	E R		FMC	POSSIBLE ADI PROB. MFG OK:10/76.
00489	AMETRYN TANIERS	PR	S	H	02	E R		C-G	PREEMERGENCE WEED CONTROL.
00490	AMETRYN YAMS	PR	S	H	02	E R		C-G	PREEMERGENT WEED CONTROL.
00493	PARAQUAT YAMS	PR	S	H	02	E R		CHEV	POSTEMERGENT DIRECT WEED CONTROL. MFG OK:10/76.
00494	PARAQUAT TANIERS	PR	S	H	02	E R		CHEV	POSTEMERGENT DIRECT WEED CONTROL. MFG OK:10/76.
00502	PARAQUAT PEAS (PIGEON)	PR	S	H	02	E R		CHEV	MFG OK:10/76.
00503	BENOMYL YAMS	PR	S	F	02	E R		DUPONT	PET TO INCLUDE PR 305. MFG OK:10/76.
00514	PARAQUAT ALFALFA	NJ	NE	H	02	E R F		CHEV	TOL OF 5 PPM. LABELLED FOR DORM ALFAL IN OR + WA. 90 DAY PHI. NEED CONFIRM DATA. 77 PROJ:NJ.
00515	METHOMYL HORSERADISHES	IL	NC	I	02	E R F		DUPONT	TOL OF 0.2 PPM EST ON ROOT CROP VEG. NEED CONFIRM DATA. MFG STILL INTERESTED:10/76. SEE PR 516.

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00525	DIURON MANGOES	FL	S	H	02	E R F		DUPONT	MFG OK. MFG TO PERFORM RES ANAL:9/76.
00539	DIAZINON ASPARAGUS	MA	NE	I	02	E R		C-G	77 PROJ:MA.
00547	DINOSEB BEANS (LIMA)	ARS(MD), MD	NE	H	02	E R		DOW	77 PROJ:ARS(MD).
00548	DCPA RHUBARB	ARS(MD), MD	NE	H	02	E R	77:NY	D-S	MFG OK IF NO PHYTOTOX: 10/76. 77 PROJ:ARS(MD), MD.
00566	METHOMYL AVOCADOS	CA	W	I	02	E R	76:DUPONT	DUPONT	MFG ANAL CA SAMPLES:10/76.
00567	ETHEPHON GRAPES (MUSCADINE)	NC	S	P	02	E R		AMCHEM	HARVEST AID. TEMP TOL OF 10 PPM EST. MFG PET TO EPA 9/76. MUSCADINE NOT ON LABEL.
00571	CHLOROTHALONIL PEPPERS	NJ	NE	F	02	E R		D-S	DATA AVAIL FROM MFG. 77 PROJ:NJ.
00574	CHLOROTHALONIL COLLARDS	NJ	NE	F	02	E R		D-S	DATA AVAIL FROM MFG. 77 PROJ:NJ. SEE PR 572,573.
00575	CHLOROTHALONIL KALE	NJ	NE	F	02	E R		D-S	DATA AVAIL FROM MFG. 77 PROJ:NJ. SEE PR 572,573.

NOTICES

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00577	CHLOROTHALONIL STRAWBERRIES	NJ,NH,CT	NE	F	02	E R		D-S	DATA AVAIL FROM MFG. 77 PROJ:NJ.
00594	ACEPHATE LETTUCE	NJ	NE	I	02	E R	77:NY	CHEV	TOL OF 10 PPM. LABELLED IN CA, AZ, FL ONLY. EFF + RES DATA ON CORN EARWORM REQ FOR 24(C). 77 PROJ:NJ.
00674	ETHION MANGOES	FL	S	I	02	E R		FMC	FL PREFERS THIS TO PH 673. MFG OK FOR 24(C):11/76. ADI PROB.
00677	PHORATE SWEET POTATOES	FL	S	I	02	E R		AMCY	FL PREFERS THIS TO PH 676.
00705	ALUMINUM PHOSPHIDE GRAPEFRUITS, PAPAYA, MANGOES, AVOCADOES	ARS(SC), FL,HI	S W	I	02	E R		PHOTOX	FUMIGANT. RESEARCH UNDER WAY IN FL, HI. REQ SOME DATA ON ALL 4 COMMOD.
00709	OXAMYL CELERY	OH	NC	M	02	E R		DUPONT	TOL OF 3PPM EST. LABELLED FOR LEAFMINER IN FL. HIGHER RATE + NEW USE PATTERN. 77 PROJ:OH?
00713*	SIMAZINE CABBAGE (SEED CROP)	ID	W	H	02	E F		C-G	SPRING ANN WEED.
00716	OXADIAZON ONIONS (SEED CROP)	ID	W	H	02	E F		RHODIA	
00717*	EPTAM RADISHES (SEED CROP)	ID	W	H	02	E F		STAUFF	TOL OF 0.1 PPM EST ON ROOT CROP VEG. POSSIBLE 24(C).

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00718*	TRIFLURALIN + EPTAM TURNIPS (SEED CROP)	ID	W	H	02	E F		BLANCO STAUFF	TOL OF 0.1 PPM EPTAM, 0.05 PPM TRIFLU ON ROOT VEG. POSSIBLE 2(C).

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00001	ALDICARB CUCUMBERS (GH)	OH,IN,MI	NC	I	03	E R F	76:MI 77:MI	UC	76 PROJECT:IN. SUBMISSION:78. 77 PROJECT:OH.
00003	ALDICARB TOMATOES (GH)	OH,NC,OR, IN,MI	NC S W	I	03	E R F	76:MI 77:MI	UC	76 PROJECT:IN,OH,NC. SUBMISSION:78. 77 PROJECT:OH?
00006	BENOMYL ONIONS, GARLIC	ARS(MD), PA,NJ,AR, NY,NC,WA, CA,OR	NE S W	F	03	E R	76:NY 77NY	DUPONT	76 PROJ:OR,ARS(MD),NJ,WA. DATA:ARS(MD),NJ(E): 11/76,CA(E+R):1/77. 77 PROJ:ARS(MD). CAND:CA,WA. SUBMISSION:78. FROM CA:1/77.
00014	CHLOROPHACINONE APPLES	VA,NC,WV	NE S	R	03	E V		CHEMPR	WAITING FOR ENV DATA FROM MFG.
00019	CARBOFURAN CRANBERRIES	WA,OR	W	I	03	E R	76:WA	FMC	NON-IRRIGATED CRANBERRIES ONLY. 76 PROJECT:WA. SUBMISSION:79. NJ,NY,WI,MA WITHDRAWS. REQUESTS:1/77.
00020	CHLORPYRIFOS CRUCIFERS	NY,WA,ID, MI,MI,WI	NC NE W	I	03	E R	76:MI	DOW	RES ANAL IN PROG:WA. DATA REC:MI(R),NY(E):1/77; NY(R):1/77. MFG OK: 1/77. SUBMISSION:2ND, 77. SEE PR 452,29.
00052	RONNEL HORSES	CO,AZ,UT, NV,WY,WA, ARS(TX), CA	S W	I	03	E R		DOW	76 PROJECT:ARS(TX). SUBMISSION:3RD,77.
00063	ALDICARB	GA,MS,SC,	S	I	03	E	76:FL	UC	76 PROJECT:SC,MS,GA,AL.

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00071	DIMETHOATE CUCUMBERS	GA,NC	S	I	03	E R		AMCY	SUSPECT CHEM.
00074	DINOCAP CUCUMBERS (GH)	GA	S	F	03	E R		R+H	ALREADY LABELLED. REQUESTED SHORTER PHI. PA WITHDRAWS REQUEST: 1/77.
00077	CARBOFURAN BLUEGRASS (SEED CROP)	WA,AZ,OR	W	I	03	E R		FMC	
00078	CHLORPYRIFOS BLUEGRASS (SEED CROP)	WA	W	I	03	E R	76:CA	DOW	76 PROJECT:WA. SUBMISSION:4TH,77.
00089	ACEPHATE CRANBERRIES	MA,CT,PA, NJ,WI,WA	NC NE W	I	03	E R	76:CHEV	CHEV	76 PROJECT:MA,NJ,WI,WA. WILL COOP WITH MFG. SUBMISSION:3RD,77.
00090	PARAQUAT MINT	WA,OR,ID, ARS(WA), WI	NC W	H	03	E R	76:CHEV	CHEV	76 PROJECT:WA,WI,OR. WILL COOP WITH MFG. SUBMISSION: 3RD,77. CAND FOR ARS(WEST) 10/76.
00091	GLYPHOSATE ASPARAGUS	ARS(MD), IN,MI,CA, MD,NJ,IL, ARS(WA)	NC NE W	H	03	E R	76:MONS 77:MONS	MONS	76 PROJ:IN MI,MD,NJ, ARS(MD). COOP PROJ WITH MFG. DATA:IN(E):1/77. 77 PROJ:ARS(MD,WA). SUBMISSION:79.
00095	DIMETHOATE SQUASH	ARS(SC), ARS(IN), GA	NC S	I	03	E R		AMCY	SUSPECT CHEM. 77 PROJ:ARS(SC,IN).
00103	FENSULFOTHION SPINACH	TX, ARS(TX)	S	I	03	E R	76:ARS-TX	CHEMAG	76 PROJECT:ARS(TX),TX. SUBMISSION:4TH,77.

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00104	FENSULFOTHION CABBAGE	TX, ARS(TX)	S	I	03	E R	76:ARS-TX	CHEMAG	76 PROJECT:ARS(TX),TX. SUBMISSION:4TH,77.
00105	FENSULFOTHION BEETS (GARDEN)	TX, ARS(TX)	S	I	03	E R	76:ARS-TX	CHEMAG	76 PROJECT:ARS(TX),TX. SUBMISSION:4TH,77.
00106	FENSULFOTHION CARROTS	TX, ARS(TX)	S	I	03	E R	76:ARS-TX	CHEMAG	76 PROJECT:ARS(TX),TX. SUBMISSION:4TH,77.
00117	RESMETHRIN CUCUMBERS (GH)	OH,MA	NC NE	I	03	E R F		PENICK	TOX STUD INITIATED BY MFG. MFG OK:10/76.
00134	BENOMYL BEETS (GARDEN)	NY,AR	NE S	F	03	E R	76:NY	DUPONT	76 PROJECT:NY. SUBMISSION: 4TH,77. REC PERF DATA FROM NY:11/76.
00135	BENOMYL BRUSSEL SPROUTS	NY,OR,AR	NE S W	F	03	E R	76:NY	DUPONT	76 PROJECT:NY. SUBMISSION:4TH,77.
00136	RESMETHRIN TOMATOES (GH)	OH,NC,NJ, MA,MI	NC NE S	I	03	E R		PENICK	TOX STUD INITIATED BY MFG. MFG OK:10/76. 77 PROJ:OH,MI?
00151	PHOSMET BLUEBERRIES	ME,NH,NJ	NE	I	03	E R		STAUFF	HELD IN 76 BY ME FOR MORE EFF DATA. 77 PROJ:ME.
00153	2,4-DB GRASS (FORAGE)	NY,CT,VT, WV, ARS(NY)	NE	H	03	E R	76:ARS-NY	AMCHEM	76 PROJECT:ARS(NY). SUBMISSION:1ST,77.

PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00156 DIMETHOATE CARROTS	NY,WV,OR	NE W	I	03	E R	76:NY	AMCY	76 PROJECT:NY. SUBMISSION: 3RD,77. SUSPECT CHEM. EFF + RES DATA FROM NY:11/77.
00157 RESMETHRIN LETTUCE (GH)	OH	NC S	I	03	E R		PENICK	TOX STUD INITIATED BY MFG. MFG OK:10/76.
00173 NEODECANOIC ACID ONIONS	NY,MD	NE	D	03	E R	76:NY	AGWAY	METHOD APPROVED BY EPA. 76 PROJECT:NY. SUBMISSION: 3RD,77.
00175 TERBACIL STRAWBERRIES	NY,AR,CT, PA,NC	NE S	H	03	E R	76:DUPONT	DUPONT	COOPERATIVE PROJECT WITH MFG. SUBMISSION:1ST,77. 76 PROJECT:NY,NC.
00189 PROPACHLOR PUMPKIN	IL	NC	H	03	E R		MONS	REC RES + EFF DATA FROM IL:11/76. PET IN PREP:11/76.
00198 GLYPHOSATE CRANBERRIES	NJ,MA,WI, ARS(NJ)	NC NE	H	03	E R	76:MONS	MONS	76 PROJECT:ARS(NJ). SUBMISSION:80. 77 PROJ:ARS(NJ). WI HAS DATA.
00199 TERBACIL CRANBERRIES	NJ,CT,WV, MA,WI,MA, ARS(NJ)	NC NE W	H	03	E R	76:DUPONT 77:DUPONT	DUPONT	76 PROJECT:MA,WI,MA; ARS(NJ). 77 PROJ: ARS(NJ). SUBMISSION:78.
00215 GLYPHOSATE PAPAYA	HI	W	H	03	E R		MONS	
00217 DICUFOL TARO	HI	W	I	03	E R		R+H	

PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00221 CHLORPROPHAM BIRDSFOOT TREFOIL	NY,CT,VT, WV, ARS(NY)	NE	H	03	E R	76:ARS-NY	PPG	76 PROJECT:ARS(NY). SUBMISSION:2ND,77.
00253 GLYPHOSATE VEGETABLES	PA,CT,MD, WV,MI	NC NE	H	03	E R		MONS	NEED TO KNOW COMMODITIES. 77 PROJ:MI,CT,PA.
00263 BENSULIDE BEANS (LIMA)	ARS(MD), TN	NE S	H	03	E R		STAUFF	77 PROJ:ARS(MD).
00265 METHIOCARB VEGETABLES (GH)	TN,IL	NC S	M	03	E R		CHEMAG	NEED TO KNOW COMMODITIES.
00266 METHOXYCHLOR PECANS, CHESTNUTS	ARS(GA), TN,AL	S	I	03	E R	76:VPI 76:GA	DUPONT	76 PROJECT:AL,TN,ARS(GA). 77 PROJ:ARS(GA). SUBMISSION:78.
00267 PCNB ALFALFA	TN	S	F	03	E R		OLIN	NO VEG TOLERANCES. HOLD FOR FULL TOL ON PEANUT, BEAN,MEAT,MILK.
00275 2,4-DB GUAR	TX	S	H	03	E R		RHODIA	POSSIBLE CAT 01 IF USE PATTERN SAME AS ALFALFA.
00284 NAA TANGARINES	AZ,CA	W	P	03	E R		AMCHEM	USED FOR FRUIT THINNING. PET IN PREP.
00285 PARAQUAT PLANTAGO	AZ	W	H	03	E R		CHEV	76 PROJECT:AZ. SUBMISSION:4TH,77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00286	NAA MANDARINS	AZ,CA	W	P	03	E R		AMCHEM	USED FOR FRUIT THINNING. PET IN PREP.
00289	PROPACHLOR WHEAT, BARLEY, OATS	ND,MN	NC	H	03	E R	76:MI	DOW	76 PROJECT:ND,MN. 77 PROJ:ND,MN. SUBMISSION:78.
00291	PROPACHLOR FLAX	ARS(IL), ND,MN	NC	H	03	E R	76:ND 77:ND	DOW	76 PROJECT:ND. 77 PROJ:ND,MN,ARS(IL). SUBMISSION:78.
00306	CHLOROTHALONIL FIGS	CA	W	F	03	E R		D-S	
00311	DICOFOL PEANUTS	NC	S	I	03	E R		R+H	SAME USE AS PR 310.
00313	ETHEPHON CUCUMBERS	NC,TX	S	P	03	E R	76:FL	AMCHEM	USED TO INC FRUIT SETS. 76 PROJECT:NC. SUBMISSION:2ND,77.
00316	CHLOROTHALONIL ARTICHOKES	NC	S	F	03	E R		D-S	INCLUDE HOME GARDEN USE.
00317	FENSULFOTHION CUCURBITS	NC	S	N	03	E R		CHEMAG	PR 335,336 PREFERRED.
00318	FENSULFOTHION VEGETABLES (FRUITING)	NC	S	N	03	E R		CHEMAG	PR 335 PREFERRED.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00319	CHLOROTHALONIL ASPARAGUS	NC	S	F	03	E R		D-S	NO INT IN 76. INCLUDE HOME GARDEN USE.
00322	FENSULFOTHION VEGETABLES (LEAFY, NON-CRUCIFER)	NC	S	N	03	E R		CHEMAG	PR 332 PREFERRED.
00323	FENSULFOTHION VEGETABLES (LEAFY, CRUCIFERS)	NC	S	N	03	E R		CHEMAG	PR 331 PREFERRED. SEE PR 617.
00324	ACEPHATE CUCUMBERS	ARS(SC), NC	S	I	03	E R		CHEV	77 PROJ:ARS(SC).
00326	FENSULFOTHION ROOT CROPS	NC	S	N	03	E R		CHEMAG	PR 329 PREFERRED. SEE PR 618.
00327	FENSULFOTHION VEGETABLES (SEED + POD)	NC	S	N	03	E R		CHEMAG	PR 334 PREFERRED.
00328	FENSULFOTHION ONIONS, GARLIC	NC	S	N	03	E R		CHEMAG	PR 330 PREFERRED. CLEARED FOR MAGGOT CONTROL SEE PR 242.
00329	ETHOPROP ROOT + TUBER CROPS	NC,VA,OK, ARS(MD)	NE S	N	03	E R	76:NC 76:ARS-MD	MOBIL	76 PROJECT:NC,VA,ARS(MD). 77 PROJ:ARS(MD). SUBMISSION:78.
00330	ETHOPROP BULB CROPS	NC,VA,OK, ARS(MD)	NE S	N	03	E R	76:NC	MOBIL	76 PROJECT:NC,VA. 77 PROJ:ARS(MD). SUBMISSION:78.

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PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00331 ETHOPROP VEGETABLES (LEAFY BRASSICA)	NC,VA,OK, ARS(MD)	NE S	N	03	E R	76:VA	MOBIL	76 PROJECT:VA. 77 PROJ:ARS(MD). SUBMISSION:78.
00332 ETHOPROP VEGETABLES (LEAFY)	NC,VA,OK, ARS(MD)	NE S	N	03	E R	76:NC 76:ARS-MD	MOBIL	76 PROJECT:NC,ARS(MD). 77 PROJ:ARS(MD). SUBMISSION:78.
00333 ETHOPROP VEGETABLES (STEM)	NC,VA,OK	S	N	03	E R		MOBIL	
00334 ETHOPROP VEGETABLES (LEGUMES)	NC,VA,OK, ARS(MD)	NE S	N	03	E R	76:NC	MOBIL	76 PROJECT:NC. 77 PROJ:ARS(MD). SUBMISSION:78.
00335 ETHOPROP VEGETABLES (BUSH + VINE, EDIBLE PEEL)	NC,VA,OK, ARS(MD)	NE S	N	03	E R	76:NC 76:ARS-MD	MOBIL	76 PROJECT:VA,NC,ARS(MD). 77 PROJ:ARS(MD). SUBMISSION:78.
00336 ETHOPROP VEGETABLES (BUSH + VINE, INEDIBLE PEEL)	NC,VA,OK	S	N	03	E R		MOBIL	NO 76 SAMPLES DUE TO DRY WEATHER.
00341 DIAZINON MUSHROOMS	ARS(MD), DE	NE	I	03	E R	76:CSCO	C-G	76 PROJECT:ARS(MD). SUBMISSION:4TH,77. EUP ISSUED TO DE:9/76.
00342 PCNB +TERRAZOLE CUCUMBERS	MS	S	F	03	E R		OLIN	
00344 CAPTAFOL CARROTS	OH,TX,WI, FL	NC S	F	03	E R	76:CHEV	CHEV	76 PROJECT:WI,OH,TX,FL. EUP TO MI. SUBMISSION:3RD, 77. REC EFF + RES DATA FROM MI:1/77.

PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00345 CARBOFURAN GRAPES	ARS(WA)	W	I	03	E R	76:ARS-WA	FMC	76 PROJECT:ARS(WA). SUBMISSION:78. CAND FOR ARS(WEST). REC EFF DATA FROM ARS(WA): 1/77.
00370 FENSULFOTHION JAPANESE RADISHES	ARS(WA), OR	W	I	03	E R		CHEMAG	77 PROJ:ARS(WA).
00372 ACEPHATE ASPARAGUS	WA,MI,DE, CA	NC NE W	I	03	E R	76:CHEV 77:CHEV	CHEV	76 PROJECT:WA,MI,CA. 77 PROJ:DE. COOP PROJ WITH MFG. SUBMISSION:78.
00373 ACEPHATE STRAWBERRIES	CA,NJ,WW	NE W	I	03	E R	76:CHEV	CHEV	76 PROJECT:CA,NJ. COOP PROJ WITH MFG. 77 PROJ: NJ. SUBMISSION:78.
00374 ACEPHATE BLUEBERRIES	NJ,WA	NE	I	03	E R	76:NY 77:NY	CHEV	76 PROJECT:NJ,WA. COOP PROJ WITH MFG. 77 PROJ: NJ. SUBMISSION:78.
00375 CAPTAFOL SUGAR BEETS	ND,MI,OH, TX,CO,NM	NC W S	F	03	E R	76:CHEV 77:CHEV	CHEV	76 PROJECT:OH,MI,TX,CO,NM. COOP PROJ WITH MFG. SUBMISSION:78.
00376 CAPTAFOL CHERRIES	MI	NC	F	03	E R	76:CHEV	CHEV	76 PROJECT:MI. COOP PROJ WITH MFG. SUBMISSION:78.
00378 PARAQUAT ONIONS	WA,PA,NJ, MI,NY	NC NE W	D	03	E R	76:CHEV	CHEV	HARVEST AID. 76 PROJECT: MI. COOP PROJ WITH MFG. 77 PROJ:NY. SUBMISSION:78.
00379 TERRAZOLE + THIOPHANATE METHYL VEGETABLES (BEDDING PLANTS) (GH)	NJ	NE	F	03	E R		MALLIN	WAITING FOR MFG COMMENTS:1/77.

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00380	BUTRALIN CUCUMBERS	NC,MD,GA, SC,AR,VA, CT	NE S	H	03	E R	76:FL	AMCHEM	76 PROJECT:NC,MD,GA,SC,AR, VA. SUBMISSION:78. 77 PROJ:MD.
00387	PRONAMIDE STRAWBERRIES	OR	W	H	03	E R		R+H	PET IN PREP. SUBMISSION: 1ST,77.
00395	CHLOROTHALONIL PEAS (ENGLISH)	NC	S	F	03	E R		D-S	NC ASKED TO HOLD IN 76.
00397	CHLOROTHALONIL SPINACH	NC,AR,TX	S	F	03	E R	76:FL	D-S	76 PROJECT:TX,NC. D-S HAS DATA. SUBMISSION:4TH,77. SEE PR 273.
00398	BENOMYL + CHLOROTHALONIL PAPAYA	HI,FL	S W	F	03	E R		DUPONT D-S	POSTHARVEST USE. TOL PEND FOR BOTH ON PREHARVEST USE: 6E1761, 6E1842.
00399	CHLOROTHALONIL MINT	WI,MI,IN, WA	NC W	F	03	E R	76:MI	D-S	76 PROJECT:IN. SUBMISSION:79. MI HAS DATA. 77 PROJ: WI?
00401	DIMETHOATE TOMATOES (GH)	NC	S	I	03	E R		AMCY	SUSPECT CHEM. SUBSTITUTE PR 87.
00417	CARBOFURAN CUCUMBERS, SQUASH	NC,AL	S	I	03	E R	76:FL	FMC	76 PROJECT:AL. SUBMISSION:78.
00418*	ZINC PHOSPHIDE SOYBEANS, TRUCK CROPS, GARDEN	TN	S	R	03	E V		HOOKER	

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00424	CARBOFURAN MINT	ID,OR,WA, ARS(WA)	W	I	03	E R	76:OR	FMC	76 PROJECT:OR,&RS(WA). SUBMISSION:79. 77 PROJ: ARS(WA).
00426	CARBOFURAN HOPS	ID,OR, ARS(WA)	W	I	03	E R	76:ARS-WA	FMC	76 PROJECT:ARS(WA),ID. SUBMISSION:79.
00427	METHOXYCHLOR WATER (CANALS)	ID	W	I	03			LILLY	ID STILL INTERESTED. NEW MFG SO NEEDS REEVALUATION: 10/76.
00430	ACEPHATE MINT	OR,ID,MI, WA,IN	W NC	I	03	E R	76:CHEV	CHEV	76 PROJECT:MI,OR,WA,ID,IN. WILL COOP WITH MFG. SUBMISSION:4TH,77. SEE PR 461.
00433	BENTAZON MINT	ARS(WA), OR,WI	NC W	H	03	E R	76:BASF	BASF	76 PROJECT:OR. WILL COOP WITH MFG. SUBMISSION:78. WI SENT SAMPLES TO MFG: 1/77.
00438	CARBOFURAN CHINESE CABBAGE	OR	W	I	03	E R		FMC	MFG ADVISES TO WAIT ON CRUCIFER REG.
00452	CHLORPYRIFOS ONIONS	OR,WA,WI, NY,MI, ARS(WA)	NC NE W	I	03	E R		DOW	RES ANAL IN PROG:WA. DATA REC:MI(R),NY(E):1/77; NY(R):1/77. 77 PROJ:MI,WI,NY,ARS(WA). SEE PR 20,29.
00453	CHLORPYRIFOS MINT	OR, ARS(WA)	W	I	03	E R	76:OR	DOW	76 PROJECT:OR,ARS(WA). SUBMISSION:79. MFG WILL SUPPORT:1/77.
00455	FONOFOS HOPS	OR	W	I	03	E R		STAUFF	

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NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00456	FENSULFOTHION CHINESE CABBAGE	ARS(WA), OH	M	I	03	E R		CHEMAG	77 PROJ:ARS(WA). 10/76.
00461	METHAMIDOPHOS MINT	OH	M	I	03	E R		CHEV	WORK IN PROGRESS ON PR 430.
00473	AMETHYN CASSAVA	PR	S	H	03	E R		C-G	
00475	FENSULFOTHION COFFEE	PR	S	N	03	E R		CHEMAG	
00482	PROMETRYN CASSAVA	PR	S	H	03	E R		C-G	
00483	PROMETRYN PLANTAINS	PR	S	H	03	E R		C-G	SEE PR 488.
00484	PROMETRYN YAMS	PR	S	H	03	E R		C-G	
00491	PROMETRYN TANIERS	PR	S	H	03	E R		C-G	
00492	PROMETRYN PEAS (PIGEON)	PR	S	H	03	E R		C-G.	

NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00498	FENAMIPHOS PINEAPPLE	PR	S	N	03	E R		CHEMAG	TWO DIFF USE PATTERNS. TEMP TOL FOR HI EXP:9/76. COMPLETE DATA PKG REQ FOR PR. MFG OK:11/76.
00501	DIURON YAMS	PR	S	H	03	E R F		DUPONT	
00504	PIRIMIPHOS-ETHYL BANANAS	PR	S	I	03	E R		ICI	TOL OF 0.2 PPM EST. MFG OK:11/76.
00505	PIRIMIPHOS-ETHYL PLANTAINS	PR	S	I	03	E R		ICI	TOL OF 0.2 PPM EST. MFG OK:11/76.
00521	GLYPHOSATE AVOCADOS	FL	S	H	03	E R		MONS	
00522	PARAQUAT CHERRIES (BARBADOS)	FL	S	H	03	E R F		CHEV	
00523	GLYPHOSATE MANGOES	FL	S	H	03	E R		MONS	
00528	GLYPHOSATE LIMES (TAHITI)	FL	S	H	03	E R		MONS	
00533	SILVEX CRANBERRIES	MA,NH	NE	H	03	E R		DOW AMCHEM	DIOXIN PROB. NEED AQUATIC DATA. MFG FEELS REG TO BE DIFFICULT. DEPENDS ON IR-4 SUCCESS. DOW WILL SUPPORT:1/77.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00534	MALEIC HYDRAZIDE CRANBERRIES	MA	NE	P	03	E R		UNIROY	1957-60 RES DATA AVAIL. NEED DATA ON AQUATIC ENV. MFG OK:10/76. 77 PROJ:MA.
00540	CHLORPYRIFOS CORN (SWEET)	ARS(SC), ARS(IN), MA,NH,NY, NJ	NC NE S	I	03	E R		DOW	TOL OF 0.1 PPM. NO CURRENT FOLIAR USES REQ ON CORN. 77 PROJ:ARS(SC,IN),MA,NJ. MFG WILL SUPPORT:1/77.
00551	GLYPHOSATE BLUEBERRIES	ARS(NJ), RI,CT,NJ, NH	NE	H	03	E R	77:NY	MONS	77 PROJ:ARS(NJ).
00554	BENTAZON BEANS (SNAP + LIMA)	ARS(GA), MD,WI	NE S	H	03	E R	77:NY	BASF	MFG WORKING ON TOL FOR LIMA:11/76. MFG OK ON SNAP:11/76. 77 PROJ:MD, ARS(GA). WAIT ON PEA TOL. SEE PR 555.
00562	CHLORPYRIFOS STRAWBERRIES	MI,NY	NC NE	I	03	E R	77:NY	DOW	PR 555. MFG WILL SUPPORT:1/77. 77 PROJ:NY,MI,WI.
00569	PIRIMICARB SPINACH	TX	S	I	03	E R		ICI	MFG OK:11/76.
00570	CHLORPYRIFOS PEANUTS	TX	S	I	03	E R		DOW	MFG WILL SUPPORT:1/77. REC EFF DATA FROM TX: 1/77.
00581	GLYPHOSATE PEPPERS (HOT)	LA	S	H	03	E R		MONS	PREPLANT USE. SEE PR 369.
00586	PROPACHLOR ONIONS	MI,IN,NY, OH	NC NE	H	03	E R	77:MSU 77:NY	DOW	MUCK SOILS. MFG WILL SUPPORT:1/77. 77 PROJ:NY,MI-IL?

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00588	CHLORPYRIFOS TOMATOES	ARS(SC)	S	I	03	E R		DOW	MFG WILL SUPPORT:1/77. 77 PROJ:ARS(SC).
00589	TERRAZOLE BEANS (SNAP) (SEED TREATMENT)	ARS(MD)	NE	F	03	E R		OLIN MALLIN	PROD LABELLED. REQUEST IS FOR ACETONE INFUSING TRT METH TO IMP CONTROL. 77 PROJ:ARS(MD).
00590	TERRAZOLE SOYBEANS (SEED TREATMENT)	ARS(MD)	NE	F	03	E R		OLIN MALLIN	PROD LABELLED. REQUEST IS FOR ACETONE INFUSING TRT METH TO IMP CONTROL. 77 PROJ:ARS(MD).
00593	TERRAZOLE TOMATOES	FL	S	F	03	E R		OLIN	AT PLANTING. PLUG MIX. MFG OK:9/76.
00598	PARATHION ASPARAGUS	NY	NE	I	03	E R		MONS	77 PROJ:NY.
00613	CROTOXYPHOS + DICHLOROVOS HORSES	NY	NE	I	03	E R		SHELL	CROTOXYPHOS TOL NEEDED ON HORSEMEAT. 77 PROJ:NY.
00615	NABUN POULTRY	NY,NH	NE	I	03	E R		SHELL	RES DATA NEEDED FOR CHICKEN AND EGGS. BARN TRT. 77 PROJ:NY.
00617	FENSULFOTHION CRUCIFERS	NY	NE	I	03	E R		CHEMAG	77 PROJ:NY. SEE PR 323.
00618	FENSULFOTHION ROOT CROPS	NY	NE	I	03	E R		CHEMAG	RUTABAGA ALREADY LABELLED. SEE PR 326. 77 PROJ:NY.

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PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00620	CYHEXATIN EGGPLANT	NJ	NE	I	03	E R	77:NY	DOW	MFG WILL SUPPORT:1/77. 1ST CHOICE OVER PR 690. 77 PROJ:NJ.
00630	CYHEXATIN WATERMELON	NC	S	I	03	E R		DOW	MFG WILL SUPPORT:1/77.
00632	PCNB RUTABAGA	NC	S	F	03	E R		OLIN	MFG OK:9/76.
00633	PCNB RADISHES	NC	S	F	03	E R		OLIN	MFG OK:9/76.
00637	BENOMYL EGGPLANT, PEPPERS, TOMATOES	NC	S	F	03	E R		DUPONT	TOL FOR TOMATO. MFG OK: 10/76.
00638	BENOMYL CARROTS, POTATOES, SWEET POTATOES	NC	S	F	03	E R		DUPONT	MFG OK:10/76.
00639	BENOMYL CORN (SWEET)	NC	S	F	03	E R		DUPONT	MFG OK:10/76.
00647	GLYPHOSATE GRASS (FORAGE)	PR	S	H	03	E R		MONS	
00648	OXAMYL PLANTAINS	PR	S	N	03	E R F		DUPONT	REQUEST GRAN SOIL + LIQ FOLIAR APPLICA. MFG WANTS TOL ON BANANA. THINKS PLANTAIN CAN BE ADDED: 10/76.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00649	METRIBUZIN PEAS (PIGEON)	PR	S	H	03	E R		CHEMAG	PREEMER CONTROL. MATURE PEA HARVEST ABOUT 150 DAYS AFTER SEEDING.
00651	OXAMYL PINEAPPLE	PR	S	I	03	E R		DUPONT	FOLIAR APPLICA. MFG REQU EUP + TEMP TOL FOR HI. MFG HAS SOME PR DATA + MAY INCLUDE PR IN TEMP TOL REQUEST:10/76.
00652	CARBOFURAN GRASS (PASTURE)	TX	S	I	03	E R		FMC	TOL EST ON ALFALFA.
00654	CHLORPYRIFOS SORGHUM (GRAIN)	TX,UT	S W	I	03	E R		DOW	TOL EST ON CORN. CAND 77 PROJ:UT.
00657	FENSULFOTHION SUGARCANE	TX	S	I	03	E R		CHEMAG	NEW PEST + POSSIBLY HIGHER TOL. SEE PR 272 FOR SAME PESTS.
00661	AZUDRIN CORN	TX	S	I	03	E R		SHELL	MFG SUB PET FOR TOL ON KERNEL, GRAIN, FORAGE, FODDER:11/76.
00662	PIRIMICARB GREENS	TX	S	I	03	E R		ICI	SEE PR 84 FOR SAME PEST.
00668	2,4-D SOYBEANS	LA	S	H	03	E R		DOW AMCHEM RHODIA	EPA ISSUED LA EXEMT TO USE 2,4-D:9/76. PET ON ALL RAC REJ:1/77.
00669	CHLORBROMURON CARROTS	WA	W	H	03	E R		C-G	

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00671	RESMETHRIN VEGETABLES	NJ	NE	I	03	E R		PENICK	FOR USE IN HOME VEG GARDENS. REG OK:10/76. NO TOL.
00675	METHIDATHION MANGOES	FL	S	I	03	E R		C-G	FL PREFERS THIS TO PR 673. METABOLITE PROB.
00676	TERBUFOS SWEET POTATOES	FL	S	I	03	E R		AMCY	FL PREFERS PR 677.
00684	DICOFOL PAPAYA	HI	W	I	04	E R		R+H	
00686	SODIUM CHLORATE CORN	TX	S	D	03	E R			REC PROTOCOL FROM TX: 10/76. NEED CATTLE FEED STUDIES.
00687	BENTAZON PEPPERS	NC,LA,TX	S	H	03	E R		BASF	POSTEMERG CONTROL.
00690	OXAMYL EGGPLANT	NJ	NE	I N	03	E R		DUPONT	NO. 2 CHOICE OVER PR 620.
00693	METHIOCARB STRAWBERRIES	OH	NC	A	03	E R		CHEMAG	BIRD REPELLENT. NEW USE. 77 PROJ:OH.
00694	METHIOCARB RASPBERRIES	OH	NC	A	03	E R		CHEMAG	BIRD REPELLENT. 77 PROJ:OH.

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00695	METHIOCARB GRAPES	OH	NC	A	03	E R		CHEMAG	BIRD REPELLENT. 77 PROJ:OH.
00696	METHIOCARB BLUEBERRIES	OH	NC	A	03	E R		CHEMAG	BIRD REPELLENT. 77 PROJ:OH.
00698	CHLORPYRIFOS CHERRIES (SWEET + TART)	OH	NC	I	03	E R		DOW	APPLICA TO TRUNK AND LIMBS. 77 PROJ:OH?
00707	ETHYLENE DICHLORIDE GRAPES	GA	S	I	03	E R F		MOOL	SOIL FUMIGANT.
00710	NORFLURAZON NUTS	ARS(WA), OR	W	H	03	E R		SANDOZ	77 PROJ:ARS(WA). CAND 77 PROJ:OR.
00719	FAMPHUR REINDEER	AK	NC	I	03	E R		AMCY	TOL OF 0.1 PPM EST ON CATTLE. ARS(NC REGION) PROJECT.
00724	CHLORPYRIFOS TREE FRUITS	ARS(MD)	NE	I	03	E R		DOW	NEW USE PATTERN. GROUND APPL. TOL OF 0.05 PPM EST ON PEACHES. PEND ON APPLE, PEAR PLUM. SEE PR 85,697,698, 699.
00725	GLYPHOSATE FILBERTS	ARS(OR)	W	H	03	E R		MONS	TEMP TOL OF 0.1 PPM PEND ON NUTS.
00728	CHLORPYRIFOS BLUEBERRIES	IN,OH	NC	I	03	E R		DOW	

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	PECANS	AL		N		R	76:ARS-GA 76:UC		SUBMISSION:3RD,77. SEE PR 563.
00088	CHLORPYRIFOS GRAPES	AR,SC,NC, GA	S	I	03	E R	78:VA	DOW	76 PROJECT:SC. SUBMISSION:78. MFG WILL SUPPORT:1/77.

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00011	CARBARYL SMALL GRAINS	OK,GA,TN, VA,WI	NC S	I	05			UC	MFG HANDLING.
00030	DIMETHOATE WHEAT, BARLEY	ND,NB	NC	I	05			AMCY	MFG HANDLING.
00032	DIMETHOATE STRAWBERRIES	NY,WV,VT, CT	NE	I	05			AMCY	REJECTED:12/75. NEED CHRONIC STUDIES. SEE PR 158, 159.
00050	CYHEXATIN CORN	UT,ID,WA, CO,NC,NJ	NE S W	I	05			DOW	MFG HANDLING. PROJ NEARLY COMPLETE:1/77.
00051	CYHEXATIN RASPBERRIES	UT,ID,WA, CO	W	I	05			DOW	MFG HANDLING:1/77. PROJ NEARLY COMPLETE:1/77. CAND 77 PROJ:UT.
00055	TERRACIL ALFALFA	WY	W	H	05			DUPONT	SUBMISSION UNDER REVIEW. SEE PR 241.
00056	TOXAPHENE SUNFLOWER	MN	NC	I	05			HERC	MFG HANDLING.
00068	NALED MUSHROOMS	PA	NE	I	05			CHEV	SHORTER PHI REQUESTED.
00080	FONOFOS BLUEGRASS (SEED CROP)	WA	W	I	05			STAUFF	MFG HANDLING.

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00082	BENOMYL COFFEE (NON-BEARING)	PR	S	F	05			DUPONT	MFG NEEDS MORE EFF DATA. SEE PR 471.
00086	ALACHLOR CABBAGE	NC,VA,FL, OH,MI	NC S	M	05			MONS	MFG HANDLING.
00097	METHIOCARB STRAWBERRIES	OH,IL	NC	M	05			CHEMAG	MFG HANDLING.
00098	LINDANE PECANS	GA,AR	S	I	05			WOOL	MFG HANDLING.
00101	ATRAZINE SUGARCANE	TX	S	H	05			C-G	MFG TO AMEND LABEL.
00102	PROMETRYN COTTON	TX	S	H	05			C-G	MFG TO AMEND LABEL.
00107	FENSULFOTHION SORGHUM (GRAIN)	TX	S	I	05			CHEMAG	MFG HANDLING.
00108	CARBOFURAN SORGHUM (GRAIN)	TX,NB	NC S	I	05			FMC	MFG HANDLING.
00121	CARBOFURAN CORN (SWEET)	NJ,KY	NE S	I	05			FMC	MFG HANDLING.

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00123	CARBOFURAN CORN (FIELD)	MS,FL,NC, NB	NC S	I	05			FMC	EFFICACY FOR LABEL AMEND OR 24(C).
00141	CARBOFURAN CRUCIFERS	NY,VT,WV, IL	NC NE	I	05			FMC	MFG HANDLING.
00142	CARBOFURAN POTATOES	NY,CT,WV, FL,NJ,PA	NE S	N F	05			FMC	ADDED NEMATODES TO LABEL. MFG HAS SUB PET TO EPA TO LOWER TOL FROM 2.0 PPM TO 1.3 PPM:11/76.
00171	COPPER PARSNIPS	NY	NE	F	05			KOCIDE	EFF DATA SENT TO MFG FOR LABEL REG.
00172	COPPER SPINACH	NY,NC	NE S	F	05			KOCIDE	EFF DATA SENT TO MFG FOR LABEL REG.
00201*	SODIUM HYPOCHLORITE ASPARAGUS (SEED TREATMENT)	NJ	NE	F	05			AGWAY CLOROX	PKG SUBMITTED TO AGWAY & CLOROX FOR LABEL REG:8/76.
00206	CARBARYL POULTRY	NY,NJ,VT	NE	I	05			UC	MFG HANDLING.
00257	CARBOFURAN TOMATOES	NJ,WV	NE	I N	05			FMC	MFG HANDLING.
00269	DBCP PEANUTS	TX	S	N	05			DOW	LABEL AMENDMENT FOR IRRIGATION USE:MFG CHECKING ON RESIDUES: 1/77.

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00278	METHOMYL TOMATOES (GH)	AZ,OH	NC	I	05			DUPONT	MFG HANDLING.
00290	PARAQUAT BEANS (DRY)	ND	NC	H	05			CHEV	MFG HANDLING.
00292	PARAQUAT WHEAT	ND	NC	D	05			CHEV	MFG HANDLING:1/77.
00293	TERRUFOS SUGAR BEETS	ND	NC	I	05			AMCY	MFG HANDLING.
00310	CYHEXATIN PEANUTS	NC	S	I	05			DOW	SAME USE AS PR 311.
00320	COPPER HYDROXIDE ASPARAGUS	NC	S	F	05			KOCIDE	EFF DATA TO MFG FOR LABEL AMEND.
00321	COPPER HYDORXIDE ARTICHOKES	NC	S	F	05			KOCIDE	EFF DATA TO MFG FOR LABEL AMEND.
00386	ATRAZINE GRASS	IA,MO	NC	H	05			C-G	MFG HANDLING.
00389	CHLOROTHALONIL BEANS (LIMA)	NC	S	F	05			D-S	MFG HANDLING.

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00541	CHLORPYRIFOS CRANBERRIES	MA,NJ,WI	NC NE	I	05			DOW	MFG HANDLING:1/77. HAS SAMPLES FOR RES ANAL:1/77.
00544	BENSULIDE CUCURBITS	MD	NE	H	05			STAUFF	DELETE ROTATIONAL RESTRIC. REFER TO MFG.
00546	NAPROPAMIDE TOMATOES (SEED TREATMENT)	MD	NE	H	05			STAUFF	TOL OF 0.1 PPM FOR FRUIT VEG. LABELLED IN CA ONLY. MFG TO EPA FOR NAT LABEL: 10/76.
00555	BENTAZON PEAS	MD	NE	H	05			BASF	SEE MFG LETTER OF 11/76.
00556	METHAZOLE ONIONS	MD	NE	H	05			VELSI	10/76:MFG EXPECTS FULL LABEL LATE 79.
00619	METRIBUZIN TOMATOES	NJ	NE	H	05			CHEMAG	TOL AND LABEL PENDING.
00679	COPPER SULFATE FIGS	FL	S	F	05			KOCIDE	
00692	METHIOCARB CHERRIES (SWEET + TART)	OH	NC	A	05			CHEMAG	TOL OF 25 PPM EST. LABELLED FOR MITE + CURCULIO. MFG PROJ FOR BIRD REPELLENT.
00700	GLYPHOSATE PEACHES	OH	NC	H	05			MONS	TEMP TOL AND EUP. CONTACT MFG.

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00701	GLYPHOSATE GRAPES	OH	NC	H	05			MONS	TEMP TOL AN EUP. CONTACT MFG.
00702	GLYPHOSATE RASPBERRIES (DORMANT)	OH	NC	H	05			MONS	CONTACT MFG.
00703	GLYPHOSATE BLACKBERRIES	OH	NC	H	05			MONS	CONTACT MFG.
00727	FENAMINOPHOS TOMATOES (TRANSPLANTS)	AMS(GA)	S	N	05			CHEMAG	TOL OF 0.5 PPM PEND.

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00131	PESTICIDES PINEAPPLE (BY-PRODUCTS)	HI	W	H	06			NO MFG	HI HANDLING.
00612	DIMETHOATE LIVESTOCK	NY	NE	I	06			AMCY	
00704	DIURON PEAS (WINTER)	ID	W	H	06			DUPONT	TOL OF 1 PPM EST. EFF DATA AVAIL FROM ID. CHECK WITH MFG.
00706	CARBOFURAN BARLEY, WHEAT	ND,SD,MN, MT	NC W	F	06			FMC	POSSIBLE 24(C).
00708	CARBOFURAN SAFFLOWER	ND,SD,MT, MN	NC W	F	06			FMC	POSSIBLE 24(C).
00712	GLYPHOSATE CORN (SEED CROP)	ID	W	H	06			MONS	TEMP TOL OF 0.1 PPM PEND. CONTACT MFG ON REGISTRATION OBJ.

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PP. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00088	OXYTETRACYCLINE PEACHES	ARS(MO), SC,MI	NC NE S	F	07			PFIZER	2 USE PATTERNS:TRUNK INJ + FOLIAR SPRAY.SPRAY PET SUB + REJECTED FOR INCOMPL RES DATA. INJ PET SUBMITTED: 11/76. EUP TO NY FOR INJ: 12/76.
00245	AZINPHOS METHYL GOOSEBERRIES	CO	W	I	07			CHEMAG	REJECT:8/76. 2ND ONCO STUDY REQUIRED. SCHEDULED BY MFG:10/76.
00255	AZINPHOS METHYL CARROTS	NY,NJ,MA, DE,MD,OH	NE NC	I	07			CHEMAG	ADD RES DATA AND 2ND ONCO STUDY REQ. 2ND ONCO STUDY SCHEDULED BY MFG:10/76. 76 PROJECT:DE,MD,OH. SUBMISSION:1ST,77. REC NJ RES DATA:12/76.

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PP. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00007	BENOMYL PEANUTS	NM	W	F	11			DUPONT	MFG WILL NOT REGISTER.
00009	CARBOFURAN PEPPERS	NJ,NC,MS, IL,KY,DE, WV	NC NE S	I	11			FMC	NEED NEW TOLERANCE OR PHI.
00013	CHLORDIMEFORM TOMATOES (GH)	OH	NC	I	11			C-G NORAM	WITHDRAWN FROM MKT BY MFG:9/76.
00018	CHLOROTHALONIL WILD RICE	MN	NC	F	11			D-S	MFG WILL NOT REGISTER.
00028	DIMETHOATE BLUEBERRIES	NV,NE	NE	I	11			AMCY	RESIDUES TOO HIGH FOR PHI REQUIRED.
00045	MCPB PEAS	MI,PA	NC NE	H	11			RHODIA	INACTIVE PROJECT. NEED ANIMAL FEED STUD. USE CLEARED FOR MCPA:10/76.
00111	PICLORAM SORGHUM	TX,NB,JR, KS	NC S W	H	11			DOW	LIABILITY.
00146	CHLORPROPHAM LETTUCE	NY,MD	NE	H	11			PPG	PHYTOTOX PROB. IPC REGISTERED ON LETTUCE: 11/76.
00147	CHLOROTHALONIL LETTUCE	NY,PA,AR, FL,NC,KY	NE S	F	11			D-S	MFG DECLINES DUE TO ADI PROBLEM.

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00148	CHLOROTHALONIL RADISHES	NY,PA,NC, AR	NE S	F	II			D-S	HIGH RESIDUE POTENTIAL.
00149	CHLOROTHALONIL RHUBARB	NY,PA	NE	F	II			D-S	LIABILITY.
00170	CHLORDIMEFORM CUCUMBERS (GH)	OH	NC	I	II			C-G NORAM	LIABILITY. WITHDRAWN FROM MKT BY MFG: 9/76.
00197	ETHEPHON PEACHES	NJ,PA	NE	P	II			AMCHEM	USED TO ADVANCE MATURITY. LIABILITY.
00212	ATRAZINE GUAVAS	HI	W	H	II			C-G	PRE + POST EMERGENCE CONTROL. LIABILITY.
00225	PARAQUAT POTATOES	ME,CT,VT, WV	NE	H	II			CHEV	VINE DESSICANT.
00237	CHLOROTHALONIL MUSHROOMS	PA,CA,MI, OH,IN,FL, TX,WA,MD, NJ,DE,NY	NE NC S W	F	II			D-S	LIABILITY.
00238	CHLOROTHALONIL BLUEBERRIES	PA,NJ,WV, NC	NE S	F	II			D-S	AQUATIC HAZARDS.
00246	LINURON CELERY	PA	NE	H	II			DUPONT	PHYTOTOX IN MINERAL SOILS.

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00250	ETHEPHON TOMATOES (GH)	PA,CA	NE W	P	II			AMCHEM	USED TO CONC MATURITY. LIABILITY.
00261	DINUSEB STRAWBERRIES	TN	S	H	II			DOW	LIABILITY. TOL OF 0.1 PPM EST: 12/74. LIMITED TO NW.
00288	PARAQUAT SUNFLOWER	ND	NC	D	II			CHEV	MFG WILL NOT REGISTER.
00294	ENDOSULFAN SESAME	CA	W	I	II			FMC	ADI PROBLEM.
00353	CHLOROTHALONIL OKRA	NC	S	F	II	E R		CHEV	ADI PROBLEM.
00393	CHLOROTHALONIL PARSLEY	NC	S	F	II			D-S	LIABILITY.
00400	DIAZINON TOMATOES (GH)	NC,VT,WV	NE S	I	II			C-G	LIABILITY.
00437	CARBOFURAN JAPANESE RADISHES	OR	W	I	II			FMC	RESIDUES + LIABILITY.
00446	DIMETHOATE CHERRIES	OR	W	I	II			AMCY	MFG WILL NOT REGISTER.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00495	JOCP YAMS	PR	S	N	11			DOW	MFG WILL NOT REGISTER: 1/77. PHYTOTOX PROB.
00519	TERBUFOS MALANGA (YAUTIA)	FL	S	I	11			AMCY	WITHDRAWN BY FL:8/76. MFG WITHDRAWS SUPPORT: 11/76.
00552	BENTAZON CUCUMBERS	MD	NE	H	11			BASF	NOTIFIED:11/76.
00553	BENTAZON WATERMELON	MD	NE	H	11			BASF	NOTIFIED:11/76.
00563	CARBOFURAN PECANS, CHESTNUTS	GA	S	I	11			FMC	NOTIFIED:10/76. SEE PR 63.
00583	CHLORTHALONIL TOMATOES (GH)	KY,IN	NC S	F	11			D-S	TOL OF 5 PPM. LABELLED FOR FIELD USE ONLY. SEE PR 584. MFG WILL NOT REG:10/76.
00715	LINURON ONIONS (SEED CROP)	ID	W	H	11			DUPONT	NOTIFIED:12/76.

PR. NO	PESTICIDE / COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00132	AMETRYN BEANS (LIMA)	NY	NE	D	12			C-G	REJECTED:11/75. LABEL RESTRICTIONS.
00176	CALCIUM CYANAMIDE BLUEBERRIES	PA,NJ	NE	F	12			MEYER	REJECTED:10/76. NOT A NON-FOOD USE.
00207	OXYTHIOQUINOX PAPAYA	HI	W	I	12			CHEMAG	REJECTED:1/77. HI. HAS SEC 18. WILL COLLECT RES SAMPLES: 1/77.
00247	NITROFEN COLLARDS, KALE, GREENS	PA,AR,NC	NE S	H	12			R-H	REJECTED:1/77.
00273	DODINE SPINACH	TX,AR,TN	S	F	12	E R		AMCY	REJECTED:8/74. ENV DATA LACKING. SEE PR 397.
00301	TEPP PEACHES	CA	W	I	12			MILLER	REJECTED:5/76. NEED:ONCO. CHRONIC TERATO.
00302	TEPP APRICOTS, NECTARINES	CA	W	I	12			MILLER	REJECTED:5/76. NEED: ONCO, CHRONIC TERATO.
00425	FORMETANATE HYDROCHLORIDE HOPS	ID,WA	W	I	12	E R		NORAM	REJECTED:2/75. METHODOLOGY.

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00202*	SODIUM HYPOCHLORITE TOMATOES (SEED TREATMENT)	NJ,PA,VT, NC	NE S	F	20			AGWAY CLOROX	PKG SUBMITTED TO AGWAY + CLOROX FOR LABEL REG:8/76.
00350	CAPTAN PARSLEY	NC,WV	NE S	F	20			CHEV	TO MFG FOR REVIEW:7/76.
00351	CAPTAN PARSNIPS	NC	S	F	20			CHEV	SUB TO MFG:9/76.
00356	CAPTAN COLLARDS, KALE, ENDIVE, ESCAROLE	NC	S	F	20			CHEV	SUBMITTED TO STAUFF:8/76.
00357	COPPER HYDROXIDE SQUASH, PUMPKIN	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00358	COPPER HYDROXIDE RADISHES	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00359	COPPER HYDROXIDE PEAS (ENGLISH)	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00360	COPPER HYDROXIDE ONIONS, LEEKS, GARLIC	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00361	COPPER HYDROXIDE OKRA	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00362	COPPER HYDROXIDE BEANS (LIMA)	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00363	COPPER HYDROXIDE KHOLRABI, TURNIP GREENS, KALE, MUSTARD GREENS, ESC	NC,AR	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00364	COPPER HYDROXIDE EGGPLANT	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00365	COPPER HYDROXIDE BEETS (GARDEN)	NC	S	F	20			KOCIDE	EFF DATA TO MFG. LABEL AMEND OR 24(C).
00403	CARBARYL SWEET POTATOES	NC	S	I	20			UC	SUBMITTED:8/76.
00405	METHOMYL BERMUDAGRASS (COASTAL)	NC,TX	S	I	20			DUPONT	SUB TO MFG:12/76.
00411	PYRETHRIN SWEET POTATOES (STORAGE)	NC	S	I	20			FMC	SUBMITTED TO MFG:8/76.
00422	CAPTAN KHOLRABI	NC	S	F	20			CHEV	PET TO MFG:8/76.
00463	BENOMYL BROCCOLI (SEED TREATMENT)	OR,WA	W	F	20			DUPONT	INCLUDED IN PR 385. SUBMITTED TO MFG:7/76. WA ISSUED SEC 18:1/77.

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00689	CARBARYL CELERY	NJ,FL,CA, MI,NY	NC NE S W	I	20			UC	SUBMITTED:11/76.
00733	BENOMYL + CAPTAFOL CORN (SWEET) (SEED TREATMENT)	FL	S	F	20			DUPONT CHEV	DATA SENT TO MFG:12/76.

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00042	MALATHION WILD RICE	MN	NC	I	21			AMCY	SUBMITTED:10/76. SEE PR 12.
00065	2,4-D (AMINE) WALNUTS, ALMONDS, FILBERTS	CA,OR	W	H P	21			DOW	OR PET TO EPA FOR FILBERTS:4/76 (PP 6E1776). PET FOR ALL RAC REJ:1/77. ALL RAC SUBMITTED:7/76.
00072	CHLOROTHALONIL TURNIPS (GREENS)	GA,NC,TN, MS	S	F	21			D-S	TURNIP GREENS PET TO EPA: 7/76. TURNIP ROOT PET TO EPA:11/76.
00112	2,4-D STONE FRUITS	WA	W	H	21		76:WA	LILLY DOW	76 PROJECT:WA. APRICOT PROPOSAL PUB:1/76. PET FOR ALL RAC REJ:1/77. MITTED:7/76.
00120	SODIUM CHLORATE SOYBEANS	MS,KS	NC S	D	21			AMODIA	PET SUBMITTED:7/76. REJECTED:9/76. NEED GRAZING RESTRICTIONS. PROP EXEMP FROM TOL IN FED REG:11/77.
00164	DINOSEB GRASS (FORAGE)	NY,VT,WV	NE	H	21			DOW	SUBMITTED:7/76.
00165	ENDOSULFAN ENDIVE	NY	NE	I	21			FMC	SUBMITTED:10/76.
00174	SILVEX APPLES	WV,NY,AR, VA,CT,MD, NJ,VT	NE S	H	21			AMCHEM	DROP CONTROL. SUBMITTED: 7/76. SEE PR 599.
00218	DICUFOL PASSION FRUIT	HI	W	I	21			H+H	SUBMITTED:5/76.

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA RESIDUE REQ	DATA RESIDUE LAB	CO.	COMMENTS
00244	DICOFOL GOOSEBERRIES	CO,NY	NE W	I	21			R&H	SUBMITTED:11/76.
00248	NITROFEN RAPE	PA	NE	H	21			R&H	TO MFG FOR REVIEW:8/76.
00295	OXYDEMETONMETHYL SESAME (SEED)	CA	W	I	21			CHEMAG	PET FOR OIL SEED CROPS SUBMITTED:8/76.
00296	OXYDEMETONMETHYL SESAME (SEED CROP)	CA	W	I	21			CHEMAG	PET FOR OIL SEED CROPS SUBMITTED:8/76.
00297	OXYDEMETONMETHYL TURNIPS	CA	W	I	21			CHEMAG	PET FOR OIL SEED CROPS SUBMITTED:8/76.
00298	OXYDEMETONMETHYL MUSTARD	CA	W	I	21			CHEMAG	PET FOR OIL SEED CROPS SUBMITTED:8/76.
00367	PARAQUAT STRAWBERRIES	FL,MD,TX, LA, ARS(MD)	NE S	H	21		76:CHEV	CHEV	POSTEMERGENT CONTROL. 76 PROJECT:ARS(MD). SUBMITTED:8/76.
00371	PARAQUAT ASPARAGUS	MI,NJ,IL, CA,WA,MD, MA,VA	NC NE S W	H	21			CHEV	SUBMITTED:7/76.
00383	MCPA LEGUMES	WI	NC	H	21			DOW	SUBMITTED:8/76.

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA RESIDUE REQ	DATA RESIDUE LAB	CO.	COMMENTS
00384	DINOSEB LENTILS	WA,ID	W	H	21			DOW	SUBMITTED:8/76. CAT 1 PET. WA HAS SAMPLES:10/76.
00385	BENOMYL BRASSICA CROPS (SEED TREATMENT)	WA,WI,NY, OR,CA	NC NE W	F	21			DUPONT	SUBMITTED:9/76. WA ISSUED SEC 18:1/77. SEE PR 463.
00391	CHLOROTHALONIL BEETS (GARDEN)	NC	S	F	21			D-S	SUBMITTED:11/76.
00394	CHLOROTHALONIL PARSNIPS	NC,SC	S	F	21			D-S	SUBMITTED:11/76.
00428	CARBARYL LENTILS	ID,WA, ARS(WA)	W	I	21		76:ARS-WA	UC	76 PROJECT FOR AIR APPLIC ARS(WA). SUBMITTED:7/76.
00432	PARATHION (METHYL) LENTILS	ID,WA, ARS(WA)	W	I	21		76:ARS-WA	MONS	76 PROJECT FOR AIR APPLIC ARS(WA). SUBMITTED:5/76.
00467	DINOCAP CURRANTS	OR	W	F	21			R&H	SUBMITTED:5/76. APPROV BUT NOT FUNDED FOR OR RES STUDIES:10/76.
00498	BENOMYL CURRANTS	OR	W	F	21			DUPONT	SUBMITTED:7/76.
00572	CHLOROTHALONIL ENDIVE	NJ	NE	F	21			D-S	SUBMITTED:7/76.

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PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00573	CHLOROTHALONIL ESCAROLE	NJ	NE	F	21			D-S	SUBMITTED:7/76.
00576	CHLOROTHALONIL MUSTARD	NJ	NE	F	21			D-S	SUBMITTED:7/76.
00683	PARAQUAT GRASS (HAY)	OR	W	D	21			CHEV	RETAIN NUTRIENTS OF GRASS. CHECK WITH MFG ON PEND PET.
00688	GLYPHOSATE APPLES (BEARING)	OH	NC	H	21			MONS	TOL OF 0.2 PPM PEND ON POME FRUIT. CHECK WITH MFG.
00699	CHLORPYRIFOS PLUMS	OH	NC	I	21			DOW	CONTACT MFG ON TOL PENDING.

PR. NO	PESTICIDE COMMODITY	STATE	REG	ACT	CAT	DATA REQ	RESIDUE LAB	CO.	COMMENTS
00167	COPPER BROCCOLI	NY,NC	NE S	F	23			KOCIDE	SUBMITTED:11/76.
00168	COPPER BRUSSEL SPROUTS	NY	NE	F	23			KOCIDE	SUBMITTED:11/76.
00169	COPPER CABBAGE	AR,WI,NY, NC	NC NE S	F	23			KOCIDE	SUBMITTED:11/76.
00170	COPPER CAULIFLOWER	NY	NE	F	23			KOCIDE	SUBMITTED:11/76.
00368	PARAQUAT TOMATOES	FL,TX,MD, LA	NE S	H	23			CHEV	POSTEMERGENT CONTROL. PET SUBMITTED TO EPA.
00369	PARAQUAT PEPPERS	FL,TX,MD, LA	NE W	H	23			CHEV	POSTEMERGENT CONTROL. PET SUBMITTED TO EPA. SEE PR 501.
00439	CARBOFURAN ONIONS	OR	W	I	23			FMC	MFG PET FOR ROOT MAGGOT.
00449	CHLOROTHALONIL CHERRIES	CA	W	F	23			D-S	MFG SUB PET TO EPA: 6/76.
00510	COPPER HYDROXIDE PEACHES	AR	S	F	23			KOCIDE	TO BE SUBMITTED:11/76.

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PR. NO	PESTICIDE / COMMODITY	DATA REQ ACT CAT	RESIDUE REQ LAB	STATE	CO.	COMMENTS
00542	ACEPHATE COMM (SAFET)	NE I 23		MA	CHEV	LABEL * PET SUBMITTED: 10/76.
00714*	ETHYLENE DIAMINE TETRAACETIC ACID (EDTA)	NE F 11		NJ, ANS(MD)	DC	MFG SENT PROP LABEL AMEND TO EPA:11/76.
00734*	ZINC PHOSPHIDE MONEY * BEESWAX	NE R 31		NY, ANS(MD)		HOOKER PET SUB FOR NON-FOOD RULING:11/77.

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federal register

THURSDAY, MARCH 10, 1977

PART IV

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

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EXPORT MONITORING REPORT FOR FERTILIZERS

April–September 1976

V4247 MAR 10 77 UMI

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

EXPORT MONITORING REPORT FOR FERTILIZERS

April–September 1976; Nitrogenous Fertilizer Exports Rise; Export Monitoring of Phosphatic Fertilizers Discontinued

Data collected during the period April through September 1976, comprising the last quarter of the 1976 crop year and the first quarter of the 1977 crop year, indicated a modest increase in exports and a modest decline in imports of nitrogenous fertilizers over the comparable period in 1975. During April through June 1976, nitrogenous fertilizer exports reached 287,166 content tons, as compared to 273,878 content tons exported during the same quarter of the preceding year. For the July through September period of 1976, 341,859 content tons were exported, as compared to 319,469 content tons exported in the comparable 1975 quarter.

Exports of nitrogenous fertilizer materials, in the second and third quarters of calendar 1976, were led by anhydrous ammonia and urea. Anhydrous ammonia exports during the six month period rose to 220,349 short tons, or 96,682 short tons more than in the same period of 1975. Urea exports during April through September 1976, dropped to 232,430 short tons, or 33,553 short tons less than in the comparable 1975 period.

Imports of nitrogenous fertilizers during the April through September 1976 period were 54,246 content tons less than in the same period a year earlier; 617,269 content tons being imported in 1976, compared to 671,515 content tons imported during April through September 1975. Both quarters covered in this report showed a decrease in imports. During April through June 1976, 359,404 content tons were imported, whereas 405,914 content tons had been imported in the same quarter the previous year. For the July through September quarter, 257,865 content tons were imported in 1976, compared to 265,601 content tons imported in 1975.

Imports of nitrogenous fertilizer materials in the second calendar quarter of 1976, were led by ammonium sulfate. During the April through September period 210,341 short tons of this commodity were imported, a dramatic increase over the 48,516 short tons of ammonium sulfate imported in 1975. During the first quarter of the 1977 crop year, anhydrous ammonia was the chief import among nitrogenous fertilizer materials. In this July through September period, however, anhydrous ammonia imports fell to 153,216 short tons, compared to 222,300 short tons imported in the same quarter of 1975.

Contracts for the export of nitrogenous fertilizer materials during the 1977 crop year, as reported to the Department's Office of Export Administration at the end of September, indicated a substantial decrease in exports. Reported export contracts for shipment during the second quarter of the 1977 crop year totaled 121,857 content tons, as compared with actual exports of 326,491 content tons made during the comparable period in 1975. According to information collected by the Bureau of the Census, production of anhydrous ammonia during July through September was 4,031,000 short tons, or 2.3 percent below the first quarter of crop year 1976. While producers' inventories of anhydrous ammonia in September 1976, were higher than in the preceding month, they were slightly lower than in September 1975.

Producers' prices for nitrogenous fertilizers, as reported in the trade press for this six-month period, showed little change. However, actual export transaction prices as reported to the Office of Export Administration were as much as 40 percent lower than the quoted prices.— In September, export prices both for current and future shipments, were reported to be less than $100 per short ton for both ammonia and urea.

Noting that the development of new plant and mining capacity during the preceding months had resulted in a significant improvement in the supply of phosphatic fertilizers, the Department announced the discontinuance of phosphatic fertilizer monitoring effective May 28. Mixed nitrogenous and phosphatic fertilizers continued to be monitored, however, for their nitrogen content.

During April—the last complete month in which exports of phosphatic fertilizers were monitored—231,680 content tons of ammonium phosphate were exported. This was 25,884 content tons, or 12.6 percent, more of this commodity than had been exported in April 1975. Phosphoric acid exports rose 39.5 percent over the previous April's, reaching 41,952 short tons, as compared to 30,072 short tons in the like 1975 month. Phosphate rock exports in April 1976 were 900 short tons, compared to 741 short tons in 1975—a 21.5 percent increase. Similarly, exports of concentrated superphosphate during this last month of phosphatic fertilizer monitoring, rose 27.9 percent, increasing from the 1975 level of 55,209 short tons to 70,650 short tons.

At the end of September, 1976, the worldwide fertilizer situation was one of generally lower prices and higher production than in 1975. Demand levels had again begun to increase, but were not expected to reach the record high level of 1974. Quoted prices, although up from the late 1975 lows, were still not inflationary. In the case of nitrogenous fertilizers, list prices were still above transaction prices and, therefore, not reflective of the actual price level.

Because of the discontinuance of monitoring of phosphatic fertilizers, contracts for the export of these commodities during the 1977 crop year, and export prices, are not available.

Tables of exports, imports, inventories, domestic production, and prices follow.[1]

[1] World supply and demand data are not available on a monthly basis. The most recent data on world supply and demand will be included in the Semi-Annual Report to Congress on operations under the Export Administration Act covering the period ending with the first quarter of 1977.

TABLE 1

U.S. Trade in Nitrogen and Phosphate Fertilizers

(In Content Tons)

Commodity	Jan-June 1975	July-Dec 1975	Jan-June 1976	Apr-Jun 1975	Apr-Jun 1976
Imports 1/					
N and P_2O_5 Content Tons					
Nitrogen Fertilizer	709,546	540,412	683,661 3/		
Phosphate Fertilizer	145,653	103,901	77,835 3/		
Exports					
N and P_2O_5 Content Tons					
Nitrogen Fertilizer	601,958	595,605	585,709 3/	273,878	287,166
Phosphate Fertilizer 2/	897,180	1,165,992	686,528 3/		

Commodity	April 1976	May 1976	June 1976	Jul-Sept 1975	Jul-Sept 1976
Imports 1/					
N and P_2O_5 Content Tons					
Nitrogen Fertilizer	150,375	96,802	104,227	405,914	359,404
Phosphate Fertilizer	36,068				
Exports					
N and P_2O_5 Content Tons					
Nitrogen Fertilizer	95,205	88,257	103,704	273,878	287,166
Phosphate Fertilizer 2/	180,510				

Commodity	July 1976	Aug 1976	Sept 1976	Jul-Sept 1975	Jul-Sept 1976
Imports 1/					
N and P_2O_5 Content Tons					
Nitrogen Fertilizer	68,519	65,101	124,244	265,601	257,865
Phosphate Fertilizer					
Exports					
N and P_2O_5 Content Tons					
Nitrogen Fertilizer	156,159	101,153	84,546	319,469	341,859
Phosphate Fertilizer 2/					

Footnotes: 1/N and P_2O_5 Content Tons includes items not listed in accompanying tables.
2/Does not include phosphate rock
3/Includes only Jan-Apr as export monitoring of pnosphate fertilizerm was terminated effective May 28, 1976.
Source: Bureau of the Census and Office of Export Administration.

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TABLE 2

Fertilizer Export Contracts for October 1976 - September 1977
(In Content Tons)

Commodity	Contracts Oct-Dec 1976	Contracts Jan-Mar. 1977	Contracts Apr-Jun 1977	Contracts Jul-Sept 1977
IMPORTS				
N and P_2O_5 Content Tons				
Nitrogen Fertilizer	---	---	---	---
Phosphate Fertilizer	---	---	---	---
EXPORTS				
N and P_2O_5 Content Tons				
Nitrogen Fertilizers	121,857	70,647	11,232	6,675
Phosphate Fertilizers	---	---	---	---

Source: Office of Export Administration

TABLE 3

Fertilizer Exports, January 1975--September 1976
January 1975 - September 1976
[Short Tons; except as noted]

Commodity	Jan-Jun 1975	July-Dec 1975	Jan-Jun 1976	April 1976	May 1976	June 1976	Apr-Jun 1975	Apr-Jun 1976
Nitrogenous: 1/								
Anhydrous ammonia	200,936	99,492	173,918	11,121	34,223	49,603	78,771	94,947
Urea	272,457	284,653	295,871	62,005	44,998	39,123	115,126	146,126
Ammonium nitrate	14,189	31,847	8,068	3,309	1,905	1,459	5,587	6,673
Ammonium sulphate	288,242	426,800	325,156	61,641	39,826	39,737	201,215	141,204
Phosphatic: 2/			3/					
Phosphoric Acid	141,158	171,383	131,781	41,952				
Phosphate Rock (000)			3/					
(Fla. only)	5,613	5,710	3,402	900				
Concentrated			3/					
Superphosphate	416,340	656,893	318,982	70,650				
Ammonium Phosphate	1,167,979	1,518,388	1,202,697	231,680	135,668	188,063	578,194	555,411
Mixed Fertilizer	245,055	79,257	138,918	14,429	40,296	17,073	58,775	81,798

Commodity	July 1976	Aug 1976	Sept 1976	Jul-Sep 1975	Jul-Sep 1976
Nitrogenous: 1/					
Anhydrous ammonia	87,138	15,013	23,251	44,896	125,402
Urea	7,475	40,588	38,241	150,857	86,304
Ammonium Nitrate	610	906	1,324	9,406	2,840
Ammonium sulfate	49,600	66,388	49,584	149,615	165,572
Phosphatic: 2/					
Phosphoric Acid					
Phosphate Rock (000)					
(Fla. only)					
Concentrated					
Superphosphate					
Ammonium phosphate	373,535	309,944	196,410	968,021	879,899
Mixed Fertilizer	25,997	4,741	13,081	40,469	43,819

1/ Includes fertilizer and other grades of anhydrous ammonia
2/ Includes phosphoric acid, fertilizer grade and N.E.C.
3/ Figures are for Jan-Apr only, as export monitoring of this commodity was terminated effective May 28, 1976.
Source: Bureau of the Census, and Office of Export Administration.

TABLE 4

Fertilizer Export Contracts as of September 1976 for October 1976 - September 1977
Short Tons; except as noted

Commodity	Contracts: Oct-Dec 1976	Contracts: Jan-Mar 1977	Contracts: Apr-Jun 1977	Contracts: July-Sept 1977
Nitrogenous				
Anhydrous Ammonia 1/	57,300	-	-	-
Urea	49,873	46,881	-	-
Ammonium Nitrate	724	-	-	-
Ammonium Sulfate	5	105,390	-	-
Phosphatic				
Phosphoric Acid 2/	-	-	-	-
Phosphate Rock (000)(Fla. only)	-	-	-	-
Concentrated Superphosphate	-	-	-	-
Ammonium Phosphate	281,073	150,343	63,100	37,500
Mixed Fertilizer	10,201	1,205	-	-

1/ Includes fertilizer and other grades of anhydrous ammonia
2/ Includes phosphoric acid, fertilizer grade and N.E.C.

Source: Office of Export Administration

TABLE 5
Fertilizer Imports, January 1975 - September 1976
(Short Tons)

Commodity	Jan-Jun 1975	Jul-Dec 1975	Jan-Jun 1976	Apr 1976	May 1976	June 1976	Apr-Jun 1975	Apr-Jun 1976
Nitrogenous:								
Anhydrous ammonia	415,936	391,003	375,758	71,255	42,300	51,272	255,628	166,827
Urea	434,525	219,677	307,925	66,339	45,209	54,280	212,672	165,828
Ammonium Nitrate	140,960	103,912	191,523	63,982	22,912	40,293	69,962	127,197
Ammonium sulphate	139,903	78,679	341,646	106,011	44,520	58,810	48,516	210,341
Ammonium nitrate Limestone	55,858	9,890	12,225	--	12,125	--	54,617	12,125
Phosphatic:			1/					
Phosphoric Acid	65,947	39,329	16,038	7,994				
Concentrated Superphosphate	32,669	8,974	6,308	5,680				
Ammonium phosphate	141,100	161,860	177,809	59,114	39,169	19,362	115,233	117,645

Commodity	July 1976	Aug 1976	Sept 1976	Jul-Sep 1975	Jul-Sep 1976
Nitrogenous:					
Anhydrous Ammonia	47,820	39,051	66,345	222,300	153,216
Urea	25,407	18,217	77,001	77,173	120,625
Ammonium Nitrate	24,319	15,960	17,045	43,473	57,324
Ammonium Sulfate	24,807	19,173	30,497	25,383	74,477
Ammonium Nitrate Limestone	--	--	22	--	22
Phosphatic:					
Phosphoric Acid					
Concentrated Superphosphate					
Ammonium Phosphate	12,899	41,148	55,879	41,944	109,926

1/ Includes only Jan-Apr as monitoring of this commodity was terminated effective May 28, 1976.

Source: Bureau of the Census

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TABLE 6

Fertilizer Production July 1974-September 1976
1,000 Short Tons

Commodity	July-June 1974-1975	July-June 1975-1976	% Change 76/75	April 1976	May 1976	June 1976	Apr-Jun 1975	Apr-Jun 1976
Nitrogenous:								
Anhydrous Ammonia	15,944	16,442	3.1	1,445	1,489	1,374	4,158	4,308
Urea	3,645	3,822	4.9	340	N.A.	354	956	694
Ammonium Nitrate	7,464	7,003	-6.2	624	675	614	1,767	1,913
Ammonium Sulfate 1/	2,505	N.A.	N.A.	N.A.	N.A.	N.A.	595	N.A.
Phosphatic:								
Phosphoric Acid 2/	7,597	8,404 4/		702				
Concentrated Superphosphate 2/	1,728	1,252 4/		127				
Ammonium Phosphate 3/	6,965	8,255	18.5	720	632	626	1,902	1,978

	July 1976	Aug 1976	Sept 1976	Jul-Sept 1975	July-Sept 1976
Nitrogenous:					
Anhydrous Ammonia	1,419	1,383	1,229	4,127	4,031
Urea	346	309	295	879	950
Ammonium Nitrate	589	587	547	1,612	1,722
Ammonium Sulfate 1/	173	194	N.A.	655	N.A.
Phosphatic:					
Phosphoric Acid 2/					
Concentrated Superphosphate 3/					
Ammonium Phosphate	754	867	823	1,967	2,444

N.A. - Not available

1/ Includes coke oven byproduct 2/ 100% APA 3/ Gross weight
4/ Includes only figures through April as monitoring of this commodity was terminated effective May 28, 1976.
Source: Bureau of the Census

TABLE 7
Producers' Inventories of Fertilizer Materials
(In Short Tons)

Commodity	June 1973	June 1974	June 1975	April 1976	May 1976	June 1976	July 1976	Aug 1976	Sept 1975	Sept 1976
Anhydrous Ammonia	622,318	615,376	1,131,500	1,513,056	1,478,808	1,427,269	1,627,578	1,576,432	1,665,384	1,613,509
Urea	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Ammonium Nitrate	90,811	90,491	214,326	169,411	105,625	86,442	169,847	220,900	325,894	249,609
Ammonium Sulphate	101,508	153,496	239,753	N.A.	N.A.	N.A.	N.A.	N.A.	332,002	N.A.
Phosphoric Acid	88,150	133,313	211,579	142,052	2/					
Concentrated Superphosphate	103,960	95,016	254,029	141,456	2/					
Ammonium Phosphate	135,048	95,773	263,300	241,541	285,966	305,002	237,583	205,942	327,770	194,911

1/Withheld to avoid disclosing figures for individual companies.
2/Monitoring of this commodity was terminated effective May 28, 1976.
N.A. - Not available

Source: Bureau of the Census

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TABLE 8
Producers' Prices of Fertilizer Materials
$ Per Short Ton

Commodity	Sept. 23, 1974	Sept. 15, 1975	Sept. 27, 1976 (low)	Sept. 27, 1976 (high)	% Change Sept. '74–Sept. '76 (low)	% Change Sept. '74–Sept. '76 (high)
Anhydrous Ammonia	155	190	180	190	16.1	22.6
Urea	175	175	160	175	-8.6	0
Ammonium Nitrate	115	115	91	115	20.9	0
Phosphoric Acid (52-54%)	157	173	173		10.2	-
Phosphate Rock (66-68%)	25	31	1/			
Concentrated Superphosphate	125	140	1/			
Ammonium Phosphate	165	155	125	140	-24.2	(-9.1)

1/ Monitoring of this commodity was terminated effective May 28, 1976.

Source: Chemical Marketing Reports
(low and high quote)

TABLE 9
Export Prices of Selected Fertilizer Products
September, 1976
$ Per Short Ton

Commodity	Low	High	Weighted Average
Phosphate Rock			
Shipments	--	--	--
Remaining Contracts	--	--	--
Ammonia			
Shipments	96	96	96
Remaining Contracts	90	90	90
Urea			
Shipments	68	145	77
Remaining Contracts	68	130	76
Triple Superphosphate			
Shipments	--	--	--
Remaining Contracts	--	--	--
Diammonium Phosphate			
Shipments	86	487	98
Remaining Contracts	97	228	114

Source: Office of Export Administration,
U.S. Department of Commerce

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TABLE 10
Exports and Anticipated Exports
September, 1976

Unit of Measure and Commodity Area of Destination	Actual July-Sept 1976	Unfilled Contracts Oct-Dec 1976	Jan-Mar 1977	Apr-Jun 1977	Jul-Sept 1977
In Content Tons					
Nitrogen (N)					
Western Hemisphere	173,530	71,041	35,672	2,065	1,335
Western Europe	121,600	36,149	15,800	9,167	5,340
Communist Areas in Europe	73	--	--	--	--
Asia	37,645	12,659	19,175	--	--
Australia and Oceania	988	51	--	--	--
Africa	8,022	1,958	--	--	--
Phosphate (P_2O_5)					
Western Hemisphere	290,897	--	--	--	--
Western Europe	271,759	--	--	--	--
Communist Areas in Europe	18,758	--	--	--	--
Asia	104,783	--	--	--	--
Australia and Oceania	2,558	--	--	--	--
Africa	14,418	--	--	--	--
In Short Tons 1/					
Ammonia					
Western Hemisphere	76,425	42,900	--	--	--
Western Europe	42,435	14,400	--	--	--
Communist Areas in Europe	89	--	--	--	--
Asia	56	--	--	--	--
Australia and Oceania	--	--	--	--	--
Africa	6,397	--	--	--	--
% Exported to Developing Countries July 1976-Sept. 1976	64.1%	--	--	--	--
Urea					
Western Hemisphere	65,542	49,783	17,992	--	--
Western Europe	--	--	--	--	--
Asia	20,615	--	28,889	--	--
Africa	147	--	--	--	--
% Exported to Developing Countries July 1976-Sept. 1976	99.0%	--	--	--	--
Ammonium Nitrate					
Western Hemisphere	1,765	572	--	--	--
Western Europe	14	--	--	--	--
Asia	--	--	--	--	--
Australia and Oceania	--	152	--	--	--
Africa	1,061	--	--	--	--
%Exported to Developing Countries July 1976-Sept. 1976	57.9%	--	--	--	--

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Exports and Anticipated Exports (Cont.)

Unit of Measure and Commodity Area of Destination	Actual Jul-Sept 1976	Unfilled Contracts Oct-Dec 1976	Jan-Mar 1977	Apr-Jun 1977	July-Sept. 1977
Ammonium Sulfate					
Western Hemisphere	160,920		5:105,390	--	--
Western Europe	4,617	--	--	--	--
Asia	30	--	--	--	--
Africa	5	--	--	--	--
% Exported to Developing Countries July 1976 - Sept. 1976	91.5%				
Phosphoric Acid 2/					
Western Hemisphere	81,400	--	--	--	--
Western Europe	2,867	--	--	--	--
Asia	30,014	--	--	--	--
Australia and Oceania	92	--	--	--	--
Africa	9	--	--	--	--
% Exported to Developing Countries July 1976-Sept. 1976	90.5%				
Phosphate Rock (000)					
Western Hemisphere	612	--	--	--	--
Western Europe	754	--	--	--	--
Communist Areas in Europe	174	--	--	--	--
Asia	777	--	--	--	--
% Exported to Developing Countries July 1976 - Sept. 1976	39.5%				
Triple Superphosphate					
Western Hemisphere	214,823	--	--	--	--
Western Europe	117,096	--	--	--	--
Communist Areas in Europe	40,779	--	--	--	--
Asia	17,256	--	--	--	--
Africa	18,515	--	--	--	--
% Exported to Developing Countries July 1976 - Sept. 1976	65.5%				
Diammonium Phosphate - and Other Ammonium Phosphate					
Western Hemisphere	237,982	67,954	29,572	11,600	7,500
Western Europe	480,339	135,992	87,702	51,500	30,000
Asia	142,897	66,127	33,069	--	--
Australia and Oceania	5,490	--	--	--	--
Africa	13,181	11,000	--	--	--
% Exported to Developing Countries July 1976 - Sept. 1976	30.5%				

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Exports and Anticipated Exports (Cont.)

Unit of Measure and Commodity Area of Destination	Actual Jul-Sept 1976	Unfilled Contracts Oct-Dec 1976	Jan-Mar 1977	Apr-Jun 1977	July-Sept 1977
Mixed Fertilizer					
Western Hemisphere	24,845	3,765	--	--	--
Western Europe	1,826	764	1,205	--	--
Asia	17,079	5,672	--	--	--
Australia and Oceania	69	--	--	--	--
Africa	--	--	--	--	--
% Exported to Developing Countries July 1976 - Sept. 1976	64.9%				

1/ Includes fertilizer and other grades of anhydrous ammonia.
2/ Includes fertilizer and other grades of phosphoric acid. (100% APA)
Source: Bureau of The Census and Office of Export Administration

ARTHUR T. DOWNEY,
Acting Assistant Secretary,
for Domestic and International Business.

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federal register

FRIDAY, MARCH 11, 1977

highlights

PART I:

COTTON, PEANUTS, RICE AND TOBACCO
USDA/ASCS eliminates closing dates for transfer, release and reapportionment; effective 3–10–77 13534

RURAL RENTAL HOUSING
USDA/FmHA amends regulations regarding credit sales for eligible applicants; effective 3–11–77 13535

NONDISCRIMINATION IN FEDERAL ASSISTANCE
SBA lists programs covered by regulations; effective 3–11–77 13537

PESTICIDES
EPA solicits comments by 4–11–77, on "Candidate Chemicals for Restricted Use", and announces intent to classify most restricted use chemicals without registration 13581

FOOD ADDITIVES
HEW/FDA stays effectiveness of certain regulations regarding acrylonitrile copolymer beverage containers; effective 3–11–77 13546
HEW/FDA proposes regulations regarding acrylonitrile copolymers for use in contact with food; comments by 6–9–77 13562

NEW ANIMAL DRUGS
HEW/FDA approves safe and effective use of cephalexin oral dosage and pyrilamine maleate injection (2 documents); effective 3–11–77 13549
HEW/FDA amends regulations regarding sulfadimethoxine with ormetoprim in chicken and turkey feed; effective 3–11–77 13550

INTERSTATE MOVEMENT OF CATTLE
USDA/APHIS provides for waiver of 30 day negative brucellosis testing requirement; effective 3–11–77 13536

PRIVACY ACT OF 1974
FEA proposes to add new system of records; comments by 4–11–77 13584

EMERGENCY NATURAL GAS ACT
FPC issues supplemental emergency order 13591

GOVERNMENT IN THE SUNSHINE ACT
The following agencies published rules, proposed rules or other documents implementing provisions:
Federal Trade Commission; effective 3–12–77 13538

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reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FCC—FM Broadcast station table of assignments; Marksville, La..... 6369; 2–2–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment extends the expiration date for new appointments of persons paid out of funds allocated under title X of the Public Works and Economic Development Act of 1965, as amended, from February 28, 1977, to February 28, 1978. This extension is granted in order to ensure that an adequate number of employees are available to complete projects already initiated by Federal agencies involved in the program.

EFFECTIVE DATE: March 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Bill Bohling, 202–632–4533

Accordingly, 5 CFR 213.3102(r) is amended to read as follows:

§ 212.3102 Entire Executive Civil Service.

* * * * *

(r) All positions of a project nature when filled by individuals the salaries of whom are paid out of (1) funds allocated by the President under authority of Pub. L. 87–658, approved September 14, 1962, the Public Works Acceleration Act of 1962, or (2) funds allocated by the Secretary of Commerce under authority of title X of the Public Works and Economic Development Act of 1965, as amended. Employment under this authority shall be for a temporary period not to exceed 1 year. No new appointments of persons paid out of funds allocated under title X of the Public Works and Economic Development Act of 1965, as amended, may be made after February 28, 1978.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–7298 Filed 3–10–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Part 213 is amended to show that one position of Personal Assistant to the Secretary (Special Activities) is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: March 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Bill Bohling, 202–632–4533

Accordingly, 5 CFR 213.3316 (a) (7) is added to read as follows:

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* * * *

(7) One Personal Assistant to the Secretary (Special Activities).

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–7300 Filed 3–10–77;8:45 am]

PART 213—EXCEPTED SERVICE

General Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Confidential Assistant to the Administrator because the position is confidential in nature.

EFFECTIVE DATE: March 11, 1977.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202–632–4533

Accordingly, 5 CFR 213.3337(a)(7) is added as follows:

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* * * *

(7) One Confidential Assistant to the Administrator.

* * * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–7299 Filed 3–10–77;8:45 am]

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Pink Bollworm; Miscellaneous Amendments to Regulated Areas

Purpose: To amend list of Federal Pink Bollworm Quarantine regulated areas (7 CFR 301.52–2a).

This document amends the supplemental regulation which lists regulated areas for purposes of the Federal Pink Bollworm Quarantine by—

1. removing from the suppressive regulated areas all or parts of the following previously regulated counties or parishes: Clay, Craighead, Crittenden, Greene, Independence, Jackson, Johnson, Lawrence, Poinsett, Pope, Randolph, and Woodruff Counties in Arkansas; and Bienville, Catahoula, Grant, and Webster Parishes in Louisiana;

2. extending the suppressive regulated area in the previously regulated counties of Greene and Lincoln in Arkansas; and extending the generally infested regulated area in the previously regulated counties of Inyo, Los Angeles, and San Bernardino in California;

3. adding previously nonregulated counties as follows: Orange County, California, to the generally infested regulated area, and Clark, Faulkner, and Hempstead Counties in Arkansas to the suppressive regulated area.

In regard to areas removed from regulations, the provisions of the regulations with respect to the interstate movement of regulated articles from regulated areas in quarantined States will not apply to the interstate movement of such articles from the specified areas, but the provisions with respect to the interstate movement of regulated articles from nonregulated areas in the quarantined States will be applicable.

Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), and § 301.52–2 of the Pink Bollworm Quarantine regulations, 7 CFR 301.52–2, as amended, a supplemental regulation designating regulated areas, 7 CFR 301.52–2a, is hereby amended to read as follows:

§ 301.52–2a Regulated areas; suppressive and generally infested areas.

The civil divisions and parts of civil divisions described below are designated as pink bollworm regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested

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areas or suppressive areas as indicated below.

ARIZONA

(1) *Generally infested area.* Entire State.
(2) *Suppressive area.* None.

ARKANSAS

(1) *Generally infested area.* None.
(2) *Suppressive area.*
Clark County. The entire county.
Conway County. The entire county.
Faulkner County. The entire county.
Franklin County. The entire county.
Greene County. That portion of the county lying south of State Highway 25.
Hempstead County. The entire county.
Jefferson County. The entire county.
Lafayette County. The entire county.
Lincoln County. The entire county.
Little Power County. The entire county.
Logan County. The entire county.
Lonoke County. The entire county.
Miller County. The entire county.
Mississippi County. That portion of the county lying north of State Highway 118, east of State Highway 77, south of State Highway 158, and west of the Mississippi River, and that portion of the county lying south of State Highway 118, and west of State Highway 77.
Pulaski County. The entire county.
Washington County. The entire county.
Yell County. The entire county.

CALIFORNIA

(1) *Generally infested area.*
Imperial County. The entire county.
Inyo County. The entire county.
Los Angeles County. The entire county.
Orange County. The entire county.
Riverside County. The entire county.
San Bernardino County. The entire county.
San Diego County. The entire county.
(2) *Suppressive area.*
Fresno County. The entire county.
Kern County. The entire county.
Kings County. The entire county.
Madera County. The entire county.
Merced County. The entire county.
San Benito County. The entire county.
Tulare County. The entire county.

LOUISIANA

(1) *Generally infested area.* None.
(2) *Suppressive area.*
Bossier Parish. The entire parish.
Caddo Parish. The entire parish.
De Soto Parish. The entire parish.
Natchitoches Parish. The entire parish.
Rapides Parish. The entire parish.
Red River Parish. The entire parish.

NEVADA

(1) *Generally infested area.*
Clark County. The entire county.
Nye County. The entire county.
(2) *Suppressive area.* None.

NEW MEXICO

(1) *Generally infested area.* Entire State.
(2) *Suppressive area.* None.

OKLAHOMA

(1) *Generally infested area.* Entire State.
(2) *Suppressive area.* None.

TEXAS

(1) *Generally infested area.* Entire State.
(2) *Suppressive area.* None.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477; 38 FR 19141; 7 CFR 301.52-2.)

The Deputy Administrator of the Plant Protection and Quarantine Programs has determined that the pink bollworm has been found or there is reason to believe it is present in the civil divisions and parts of civil divisions listed above as regulated areas, or that it is necessary to regulate such areas because of their proximity to pink bollworm infestation or their inseparability for quarantine enforcement purposes from pink bollworm infested localities. The Deputy Administrator has determined that the areas designated as suppressive and generally infested areas are eligible for such designation under § 301.52–1, as amended.

The Deputy Administrator has also determined that each of the quarantined States, wherein only portions of the State have been designated as regulated areas, has adopted and is enforcing a quarantine or regulation which imposes restrictions on intrastate movement of the regulated articles which are substantially the same as the restrictions on interstate movement of such articles imposed by the quarantine and regulations in this subpart, and that designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the pink bollworm. Therefore, such civil divisions and parts of civil divisions listed above are designated as pink bollworm regulated areas.

This document imposes restrictions that are necessary in order to prevent the spread of the pink bollworm and should be made effective promptly to accomplish its purpose in the public interest. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that further notice and other public procedure with respect to this revision are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date: This amendment will become effective upon publication in the FEDERAL REGISTER March 11, 1977.

The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Done at Washington, D.C., this 4th day of March 1977.

JAMES O. LEE, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.77–7150 Filed 3–10–77;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 7]

PART 731—CLOSING DATES FOR TRANSFER, AND FOR RELEASE AND REAPPORTIONMENT

Cotton, Peanuts, Rice, and Tobacco

This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). The purpose of this amendment is to delete 7 CFR Part 731 in order to eliminate closing dates for transfer and for release and reapportionment of cotton, peanuts, rice, and tobacco (except burley and flue-cured) effective as to the 1977 and subsequent crops. The applicable commodity regulations now provide that the State ASC committee shall set and publicize such dates. However, Part 731 shall remain effective with respect to the 1972 through 1976 crop years.

Since farmers and local State and county ASC committees need to know the provisions of the program for the 1977 crop as soon as possible, it is hereby found and determined that compliance with the notice, public participation procedure, and effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, this amendment shall become effective without compliance with such procedure.

The regulations for establishing closing dates for transfer and for release and reapportionment, 7 CFR Part 731, are hereby deleted.

(Secs. 313, 316, 318, 319, 344, 344a, 347, 352, 353, 358, 358a, 375, 378, 52 Stat. 47, as amended, 75 Stat. 469, as amended, 81 Stat. 120, as amended, 85 Stat. 23, 52 Stat. 57, as amended, 79 Stat. 1197, as amended, 52 Stat. 39, as amended, 52 Stat. 60, as amended, 52 Stat. 61, as amended, 55 Stat. 88, as amended, 81 Stat. 856, as amended, 52 Stat. 66, as amended, 72 Stat. 995, as amended; Sec. 101, 90 Stat. 181 (7 U.S.C. 1313, 1314b, 1314d, 1314e, 1344, 1344b, 1347, 1352, 1353, 1358, 1358a, 1375, 1378).)

Effective date: March 10, 1977.

Signed at Washington, D.C., on March 3, 1977.

VICTOR A. SENECHAL,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77–7076 Filed 3–10–77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 83]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period March 13–19, 1977. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.383 Lemon Regulation 83.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues steady this week.

Average f.o.b. price was $5.01 per carton the week ended March 5, 1977, compared to $5.00 per carton the previous week.

Track and rolling supplies at 120 cars were down 20 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on March 8, 1977.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period March 13, 1977, through March 19, 1977, is hereby fixed at 225,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: March 10, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77–7552 Filed 3–10–77;11:32 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—EXPORT PROGRAMS

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM–5)

CROSS REFERENCE: For a correction to the Proposed Rule which was published at 42 FR 3849, January 21, 1977, and subsequently adopted at 42 FR 10999, February 25, 1977, see the Proposed Rules Section of this issue.

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM–5)

Correction

In FR Doc. 77–5960, appearing at page 10999 in the issue of Friday, February 25, 1977, the following changes should be made:

1. In the middle column on page 11006, under "A. Additional Definitions", in paragraph 1.(c), in the fifth line, the word "asest" should read "as set".

2. In the middle column on page 11007, under the heading "Exhibit I to Supplement II", "1. Calf—(6 to 12 months)" should appear directly under the heading "Age".

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER K—PROPERTY MANAGEMENT

PART 1955—REAL ESTATE AND CHATTEL PROPERTIES

Subpart C—Disposal of Acquired Property

RRH CREDIT SALES TO ELIGIBLE APPLICANTS

Section 1955.117 (d) (1) of Subpart C of Part 1955, Title 7, Code of Federal Regulations (41 FR 32698) is amended to provide RRH credit sales to eligible applicants to be made for up to 100 percent of the current market value of the security less any prior lien. It is the general policy of the Department of Agriculture to allow time for interested parties to take part in the rulemaking process; However, since such notice would cause continued delays in the transfer of FmHA inventory properties, and therefore would delay the provision of housing for eligible tenants and would be contrary to the public interest, it is being published without notice of proposed rulemaking.

In accordance with the spirit of that policy, interested parties may submit written comments, suggestions, data or arguments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before April 11, 1977. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. However, this section of Subpart C of Part 1955, as amended, will remain effective until it is further amended. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, Farmers Home Administration, during regular business hours (8:15 a.m.–4:45 p.m.).

As amended, § 1955.117 (d) (1) reads as follows:

§ 1955.117 Sale of real estate that secured Rural Housing RH loans.

(d) • • •

• • • • • •

(1) The FmHA subpart pertaining to the type of loan being made will be followed in making credit sales to eligible applicants. All RRH credit sales may be made for up to 100 percent of the current market value of the security less any prior lien.

• • • • • •

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

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Effective date. This amendment shall become effective on March 11, 1977.

Dated: March 3, 1977.

FRANK W. NAYLOR, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-7310 Filed 3-10-77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Interstate Movement of Cattle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to provide for a waiver of the 30-day negative brucellosis testing requirement for cattle from herds not known to be affected with brucellosis moved interstate from Modified Certified Brucellosis Areas for other than immediate slaughter or to other than a quarantined feedlot if such herds are tested negative within 12 months prior to movement and no change of ownership of the herd is involved from the date when the herd has tested negative to the date when such interstate movement is completed.

This action is needed to provide herd owners whose normal ranching operations are conducted in more than one State, a means of moving their cattle interstate without undue hardship, and under controlled conditions which will still restrict the dissemination of brucellosis.

EFFECTIVE DATE: March 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, USDA, APHIS, Veterinary Services, Room 805, Federal Building, Hyattsville, MD 20782. (301-436-8711).

SUPPLEMENTARY INFORMATION: Because of improved transportation facilities, present day ranching operations often cover wide areas in more than one State. Also, the rotation or cropping of separate parcels of forage frequently results in the cattle owner moving his cattle interstate to his various grazing parcels. Additionally, in some range States, members of grazing associations lease pastures from the U.S. Department of Interior or the U.S. Department of Agriculture. Members of the grazing associations are allotted grazing rights on these pastures for a restricted number of cattle and for a specified time. Consequently, this results in the cattle having to be frequently moved. Since State lines often bisect such ranges, herd owners may be involved in the interstate movement of the same cattle several times each year.

Cattle in herds not known to be affected with brucellosis in Modified Certified Brucellosis Areas that have had an official test for brucellosis and were found negative within the 12 months before interstate movement and which do not change ownership from the date of such a negative test to the date of the completion of such movement will be allowed to move interstate in normal ranching operations. However, the waiver of the 30 day testing requirement for such cattle will not be applicable if such cattle are commingled with cattle described in § 78.9(b)(3)(ii) of the regulations, namely beef breeds under 24 months of age and other breeds under 20 months of age which are not parturient (springers) or postparturient, and if the other cattle have not been officially tested and found negative for brucellosis within 12 months prior to the date the cattle are commingled. The Animal and Plant Health Inspection Service has determined that the risk of the spread of brucellosis by movements of such cattle is no greater than that associated with cattle presently required to be tested individually within the 30 days immediately prior to their interstate movement. Further, where all the herds of a grazing association have passed a negative brucellosis herd test within 12 months of the date of the interstate movement the risk that brucellosis might be spread would be similar to that of a single herd.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is amended as follows:

In § 78.9, paragraph (b)(3)(iii) is amended to read:

§ 78.9 Cattle from herds not known to be affected with brucellosis.

* * * * *

(b) * * *

(3) * * *

(iii) Other such cattle may be so moved if they are accompanied by a certificate, are subjected to an official test for brucellosis and found negative within 30 days prior to such interstate movement and the certificate shows in addition to items required under § 78.1(u), the test dates and results of the official tests; except that cattle moved directly from a farm of origin to a specifically approved stockyard shall be accompanied by an owner's statement, or other document, and the shipper shall cause such cattle to be subjected to an official test for brucellosis upon arrival and prior to losing identity with the herd of origin; and except that, such cattle originating in herds which have been officially tested and found negative for brucellosis within the 12 months immediately preceding the date of the interstate movement and which have not changed ownership from the date of such a negative test to the date when such interstate movement has been completed, need not be so tested and found negative for brucellosis within the 30 days prior to such movement; *Provided, however,* That this exception shall not apply if any such cattle are commingled with any other cattle of the breeds described in paragraph (b)(3)(ii) of this section which have not been officially tested and found negative for brucellosis within 12 months prior to the date the cattle are commingled.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

The amendment relieves certain restrictions with respect to the movement of cattle interstate by modifying brucellosis testing requirements no longer deemed necessary for such cattle. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to this Department which would alter the decision in this matter. Further, the grazing season for cattle herds will begin shortly, and to be of maximum benefit to affected persons, this amendment should be made effective promptly.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found for such good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, DC, this 7th day of March 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

R. P. JONES,
Deputy Administrator,
Veterinary Services.

[FR Doc.77-7151 Filed 3-10-77;8:45 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Area Quarantined

This amendment quarantines a portion of Medina County in Ohio because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Ohio before the reference to "Virginia" and a new paragraph (a)(4) relating to the State of Ohio is added to read:

§ 82.3 Areas quarantined.

(a) * * *

* * * * *

(4) *Ohio.* The premises of Bill Saraniti, The Bird House, 27 West 130th Street, Hinckley, in Medina County.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

Effective date: The foregoing amendment shall become effective on March 4, 1977.

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, DC, this 4th day of March 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

G. V. PEACOCK,
Acting Deputy
Administrator, Veterinary Services.

[FR Doc.77-7152 Filed 3-10-77;8:45 am]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, MEAT AND POULTRY INSPECTION, DEPARTMENT OF AGRICULTURE

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Designation of the State of New York

AGENCY: Animal and Plant Health Inspection Service, Meat and Poultry Inspection, USDA.

ACTION: Final Rule.

SUMMARY: The Secretary of Agriculture hereby designates the State of New York as required under section 5(c)(3) of the Poultry Products Inspection Act. A representative of the Governor of the State of New York has advised this Department that the State of New York is no longer in a position to continue administering the State poultry inspection program after April 9, 1977.

EFFECTIVE DATE: March 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. James K. Payne, Director, Federal-State Relations, Field Operations, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202-447-6313).

SUPPLEMENTARY INFORMATION: A representative of the Governor of the State of New York has advised this Department that the State of New York is no longer in a position to continue administering the State poultry inspection program after April 9, 1977, and has requested the Department to assume the responsibility for carrying out the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act with respect to establishments within the State at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning products and other articles and animals subject to the Poultry Products Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of New York had developed and activated requirements at least equal to the requirements under sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. However, such sections contemplate continuous, ongoing programs, and in view of the termination date now applicable to the New York program, it is hereby determined that New York is not effectively enforcing requirements at least equal to those imposed under section 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 5(c)(3) of the Poultry Products Inspection Act.

On April 10, 1977, the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Poultry Products Inspection Act, and any establishment in the State of New York which conducts any slaughtering or processing of poultry or poultry products must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 15 or 5(c)(2) of the Poultry Products Inspection Act.

Therefore, the operator of each such establishment who desires to continue any such operations after April 9, 1977, should immediately communicate with the Regional Director for Meat and Poultry Inspection, as listed below, for information concerning the requirements and exemptions under the Act and application for inspection and survey of the establishment:

Dr. M. J. Hatter, Director, Northeastern Region, Meat and Poultry Inspection Program, Seventh Floor, 1421 Cherry Street, Philadelphia, PA 19102. (Telephone: 215-597-4219).

§ 381.221 [Amended]

Accordingly, the table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended as follows:

1. In the "State" column, "New York" is added immediately below "New Jersey."

2. In the "Effective date of application of Federal provisions" column, "April 10, 1977" is added on the line with "New York."

(Secs. 5(c) and 14, 71 Stat. 441, as amended. 21 U.S.C. 454(c), 463; 37 FR 28464, 28477.)

These amendments of the Federal poultry products inspection regulations are necessary to reflect the determination of the Secretary of Agriculture under section 5(c) of the Poultry Products Inspection Act. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

NOTE: The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C. on March 7, 1977.

F. J. MULHERN,
Administrator, Animal and
Plant Health Inspection Service.

[FR Doc.77-7213 Filed 3-9-77;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Amdt. 3]

PART 112—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF SMALL BUSINESS ADMINISTRATION—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Addition of an Appendix A to Part 112 Which Lists the Types of Federal Financial Assistance Which Are Covered by This Part

On January 12, 1977, there was published in the FEDERAL REGISTER a notice that the Small Business Administration proposed to change its procedures involving nondiscrimination in Financial Assistance Programs by amending 13 CFR Part 112. Interested parties were given until February 11, 1977, to submit comments, suggestions or objections regarding the proposed amendment. Following publication, a comment was received and the proposed amendment was changed accordingly. Part 112 of Chapter 1 of Title 13 CFR is hereby amended by:

§ 112.2 [Amended]

1. Changing § 112.2(a) to read:

(a) This part applies to all recipients of assistance under programs administered by the Small Business Administration. (See Appendix A)

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2. Delete § 112.2(a) (1), (2), (3), (4), (5), (6), and (7).

3. Changing § 112.2(b) to read:

§ 112.2 Application of this part.

* * * * *

(b) This part does not apply to financial assistance extended by way of insurance or guarantee.[1]

4. Adding an Appendix to the end of Part 112.

[1] See note at the end of Appendix

APPENDIX A

Name of program	Authority
Regular business loans	Small Business Act, section 7(a).
Economic opportunity loans	Small Business Act, section 7(i) (formerly title IV of the Economic Opportunity Act).
Revocable revolving line of credit	Small Business Act, section 7(a) and 7(i) (guaranty plan only not covered by title VI, but covered by 13 CFR 113).
Pool loans	Small Business Act, section 7(a)(5).
Displaced business loans	Small Business Act, section 7(b)(3).
Handicapped assistance loans	Small Business Act, section 7(h).
State development company loans (501)	Small Business Investment Act, section 501.
Local development company loans (502)	Small Business Investment Act, section 502.
Disaster loans (physical, including riot)	Small Business Act, section 7(b)(1), as amended by sections 231, 234, and 237 of the Disaster Relief Act of 1970, Public Law 92-385, Public Law 93-24, and Public Law 94-68.
Disaster loans (economic injury)	Small Business Act, section 7(b)(2) as amended by sections 231 and 234 of the Disaster Relief Act of 1970. Public Law 92-385, Public Law 93-24 and Public Law 94-68.
Disaster loans (product disaster)	Small Business Act, section 7(b)(4); Public Law 92-385, Public Law 93-24, and Public Law 94-68.
Disaster loans—coal mine health and safety loans	Small Business Act, section 7(b)(5).
Disaster loans—consumer protection	Small Business Act, section 7(b)(5).
Disaster loans—occupational safety and health	Small Business Act, section 7(b)(5).
Disaster loans—other regulatory	Small Business Act, section 7(b)(5).
Disaster loans—strategic arms economic injury loans.	Small Business Act, section 7(b)(6).
Air pollution control loans	Small Business Act, section 7(b)(5).
Disaster loans—base closing economic injury	Small Business Act, section 7(b)(7).
Water pollution control loans	Small Business Act, section 7(g)(1).
Emergency energy shortage economic injury	Small Business Act, section 7(b)(8).
Lease guarantees [1]	Small Business Investment Act, title IV.
Surety bond guarantees [1]	Small Business Act, title IV, part B.

[1] Not covered by this part, but covered by part 113 of title 13 of the Code of Federal Regulations as are all other programs involving financial assistance administered by the Small Business Administration. Part 113 prohibits discrimination based on race, color, religion, sex, marital status or national origin. In addition those matters covered by the Equal Credit Opportunity Act, beginning March 1977, will also prohibit such discrimination based on age, source of income, or because of complaints made under the Consumer Protection Act.

Effective date: March 11, 1977.

Dated: March 3, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-7188 Filed 3-10-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

IMPLEMENTATION OF GOVERNMENT IN THE SUNSHINE ACT

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: These rules implement the open meeting provisions of the Sunshine Act, Pub. L. 94-409.

EFFECTIVE DATE: March 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Jay C. Shaffer, Esquire, Office of the General Counsel, Federal Trade Commission, 6th St. & Pennsylvania Ave., N.W., Washington, D.C. 20580, (202) 523-3802

SUPPLEMENTARY INFORMATION:

The Government in the Sunshine Act, Pub. L. 94-409, requires certain agencies, including the Federal Trade Commission, to publish proposed regulations implementing the Act and to allow at least thirty days for comment by any person. See 5 U.S.C. 552b(g). Accordingly, the Commission published a notice of proposed rulemaking at 41 FR 55885 (December 23, 1976), followed by a notice of corrections at 42 FR 2079 (January 10, 1977). Comments were received from six individuals and organizations. The Commission is now promulgating its final rules, which incorporate some substantive changes suggested by the comments, as well as some changes in wording to improve clarity.

The principal differences between the final rules and the proposed rules are as follows:

Section 4.9(b) is amended by adding two new subsections providing that (a) meeting announcements required by the Sunshine Act and (b) summaries of matters to be considered at open meetings, are part of the public records of the Commission.

Proposed § 4.14 is amended by adding a sentence providing that no Commissioner may delegate the authority to determine his or her vote in any matter requiring Commission action, but that authority to report a Commissioner's vote on a particular matter resolved either by written circulation, or at a meeting held in the Commissioner's absence, may be vested in a member of the Commissioner's staff.

Proposed §§ 4.15 (a)(2), (a)(3), (b)(1) and (c) are revised for greater clarity.

Proposed § 4.15(a) is amended by adding a new subsection specifying the manner in which meeting announcements will be disseminated.

Proposed § 4.15(b)(2) is amended to provide that requests to close meetings shall be filed "at the earliest practicable time" rather than "promptly after the Commission's announcement of an open meeting."

Proposed § 4.15(c)(1) is amended to specify which members of the Commission's staff may attend non-adjudicative and adjudicative portions, respectively, of closed meetings.

DISCUSSION OF MAJOR COMMENTS

LIMIT THE USE OF WRITTEN CIRCULATIONS

Section 4.14(c) acknowledges the Commission's practice of resolving some of its business by written circulation. One comment expresses concern over the possibility that the Commission may use this method to avoid public observation of its deliberations, and therefore suggests that the use of written circulations be limited by rule to routine, non-controversial matters; public notice be given within five days of all matters disposed of by written circulation; and members of the public be permitted to request that such decisions be reconsidered at open meetings.

The Commission has determined not to adopt these suggestions. The possible disruption of business that could be caused by allowing challenges to the propriety of each use by the Commission of a written circulation procedure outweighs any advantages that such a rule might have. The Commission notes that, (a) as a practical matter, disposition of business by written circulation is in fact limited to non-controversial matters and matters discussed at prior meetings, (b) any Commissioner may direct that a matter presented for consideration be placed on the agenda of a Commission meeting (see § 4.14(a)), (c) the Commission's existing policy is to disclose determinations made by written circulation in the same manner and in the same circumstances as determinations made at meetings, through the Office of Public Information and the Office of Public Records, and this policy will be continued, and (d) Congress specifically recognized and approved the use of written circulations as an important tool in expediting agency business. See, e.g., S. Rep. No. 94-1178, 94th Cong., 2d Sess. 11 (1976); 122 Cong. Rec. H. 7863, 7871 (July 28, 1976).

WHY NOT RELEASE STAFF MEMORANDA RELATING TO ITEMS SCHEDULED FOR DISCUSSION AT AN OPEN MEETING?

One comment notes that the purpose of the Sunshine Act may be defeated if Commissioners speaking at open meetings refer to staff memoranda that are not available to the public. The Commission recognizes that this problem arises under the Act itself. Although routine duplication of all memoranda to the Commission is not justified, both because of cost and of certain remaining requirements of confidentiality, the Commission has determined to make available before open meetings summaries of matters on the agenda in order to facilitate the public's understanding of open discussions.

HOW WILL THE PUBLIC RECEIVE NOTICE OF COMMISSION MEETINGS?

The proposed rules provide for one week's advance notice of Commission meetings (with certain exceptions permitted by the Act). Comments were received suggesting that the rules specify the means by which announcements will be communicated to the public, and that they include posting the notices on an agency bulletin board, mailing notices to persons who express an interest in receiving them and to the media, and establishing a toll-free telephone message device.

The Commission agrees that a rule explaining how members of the general public can obtain announcements of Commission meetings would be helpful. Accordingly, the Commission has determined to include most of the above suggestions in its new rule § 4.15(a)(5). The suggestion that the telephone message device be "toll-free" has not been adopted because of potential cost.

As a related matter, one comment suggested that the Commission issue public announcements ten days before meetings rather than just one week. The Commission believes that one week's advance notice, as specified in the Sunshine Act, is adequate, and that increasing the amount of advance notice would result in more changes in announcements. The Commission therefore has determined not to alter its rules in this respect.

ALLOW REQUESTS TO OPEN MEETINGS

Section 4.15(b)(2) allows interested persons to request that scheduled meetings be closed. One comment suggested that we provide a rule permitting requests to open meetings as well. The Commission has determined not to adopt this suggestion because of the potential for delay. In addition, because decisions to close meetings will have been examined by the General Counsel and voted on by the Commission, and will be founded on specific expectations that exempt material will be discussed, it is unlikely that a meeting will ever be closed without full consideration.

DISCUSSION OF MISCELLANEOUS COMMENTS

(1) *Include names of Commission employees and consultants in lists of persons expected to attend closed meetings.* While the Commission remains convinced that its proposed rule § 4.15(c)(1) complies with the requirements of the Sunshine Act, the rule is being modified to provide affirmatively that any staff member may attend non-adjudicative meetings, and that certain specified staff members may attend adjudicative meetings, except to the extent that the notice of a particular closed meeting otherwise specifically provides.

(2) *Open all oral arguments in Commission adjudications.* Proposed § 3.52(f) states that oral arguments will be public "unless otherwise ordered by the Commission * * *." One comment suggested that since section (1) of the Sunshine Act (5 U.S.C. 552b(1)) does not authorize the closing of any meeting required by any other provision of law to be open, the proposed rule incorrectly implies that the Commission has the authority to close oral arguments. This argument apparently assumes that section 5 of the FTC Act requires oral arguments to be open. This is not the case. Nevertheless, the Commission has favored openness in its proceedings, see "H. P. Hood & Sons, Inc.," 58 F.T.C. 1184, 1186 (1961), and expects that oral arguments will rarely, if ever, be closed.

(3) *Deletions of information from transcripts of close meetings the disclosure of which "is likely to" have certain effects.* Proposed § 4.10(b) permits the agency to make deletions of information from transcripts where disclosure "is likely to" have any of the effects described in 5 U.S.C. 552b (c)(5), (c)(9), or (c)(10). One comment suggests that since the nature of the information disclosed in transcripts is certain, deletions should be made only where disclosure will have the enumerated effects, and not merely where it is "likely to." The commission believes this analysis is incorrect since it is never possible to know for certain in advance what effects will result from disclosure of information. The Commission therefore has determined that its rule need not be revised. Cf. 120 Cong. Rec. S 9337 (May 30, 1974) (letter of Senator Hart).

(4) *Certification of General Counsel required before meeting may be closed.* One comment suggests that proposed rule § 4.15(c)(1) be amended to make clear that the General Counsel's certification of the propriety of closing a scheduled meeting must be made before the meeting is closed. The Commission agrees that the determination regarding certification must be made in advance, and has appropriately amended the proposed rule.

Another comment states the opinion that the Commission is barred from holding a closed meeting if the General Counsel declines to certify. The Commission does not agree. Public disclosure of the General Counsel's refusal to certify should be sufficient to conform with Congressional intent. The legality of closing any given meeting depends on the matters to be discussed at the meeting, not on the procedures followed. While the Commission expects generally to follow the advice of its General Counsel as reflected in his decision whether or not to certify, the Commission does not believe that Congress intended the General Counsel, an advisor to the Commission, to have veto authority over the decisions of Presidential appointees who are ultimately accountable to Congress and the public.

(5) *The Commission should reconsider whether it may invoke the modified closing procedures under 5 U.S.C. 552b(d)(4) for meetings falling within exemption 10 of the Act, 5 U.S.C. 552b(c)(10).* One comment suggests that in determining whether a majority of the Commission's meetings would fall within sections (c)(4), (c)(8), (c)(9)(A) and (c)(10) of the Act (5 U.S.C. 552b (c)(4), (c)(8), (c)(9)(A), (c)(10)), we should consider each item of each meeting agenda as a separate meeting. The Commission has found nothing in the Act or its legislative history compelling that procedure and believe that each meeting of the Commission may be counted as one "meeting" for purposes of determining our eligibility to invoke subsection (d)(4).

(6) *Allow requests to close meetings prior to the meeting announcement.* Proposed § 4.15(b)(2) originally provided that requests to close meetings must be filed "promptly after the Commission's announcement of an open meeting." One comment suggests that this should be changed to allow requests to be filed even before the announcement. While the Commission does not expect that members of the public will normally know of scheduled open meetings before the announcements are disseminated, intended § 4.15(b)(2) has been revised to make it clear that requests may be filed even before meeting announcements, when that is the earliest practicable time.

COMMENTS BEYOND SCOPE OF THE NOTICE

A number of comments have been received that do not relate to matters covered by the rules. The Commission agrees in principle with the substance of some of these comments, and will bear them in mind in undertaking its responsibilities under the Act. They include:

1. Limiting delegations of the Commissioners' authority;

2. Opening budget discussions to the public;

3. Closing meetings concerning geological and geophysical information and data, including maps, concerning wells,

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only to the extent they concern trade secrets and confidential or privileged commercial or financial information;

4. Avoiding delay in issuing public announcements of Commission action;

5. Avoiding narrow interpretations of what constitutes a "meeting" under the Act;

6. Avoiding broad application of Sunshine Act exemptions;

7. Holding meetings for the convenience of the public;

8. Undertaking a public education program about the requirements of the Sunshine Act.

DISCUSSION OR OTHER REVISION

The Commission's final rule contains one significant revision not addressed in the public comments: Section 4.14(c) is amended to provide that no Commissioner may delegate the authority to determine his or her vote in any matter requiring Commission action, but that authority to report a Commissioner's vote on a particular matter resolved either by written circulation, or at a meeting held in the Commissioner's absence, may be vested in a member of the Commissioner's staff. This provision is added to emphasize that the Commission intends not only to comply with the "no proxies" requirement of section (d)(1) of the Sunshine Act (5 U.S.C. 552b(d)(1), but will continue to observe a "no proxies" rule with respect to all other matters as well. The allowance for votes to be reported pursuant to instructions does not conflict with the "no proxies" rule because it leaves each Commissioner ultimately responsible for determining his or her vote.

In consideration of the foregoing, 16 CFR Chapter I is amended as follows:

PART 0—ORGANIZATION

§§ 0.5 and 0.6 [Deleted]

1. By deleting §§ 0.5 and 0.6.

PART 2—NONADJUDICATIVE PROCEDURES

2. By revising § 2.14(c) to read as follows:

§ 2.14 Disposition.

* * * * *

(c) The Commission has delegated to the Directors, Deputy Directors, and Assistant Directors of the Bureaus of Competition and Consumer Protection, without power of redelegation, limited authority to close investigations. The closing action of a Bureau Director, Deputy Bureau Director or Assistant Bureau Director does not become effective until the files have been sent to the Secretary of the Commission and he shall have advised the Commission of the closing action and, within five (5) working days after receiving the notice to close from the Secretary, no Commissioner has directed that the matter be placed on a meeting agenda or otherwise stayed for further consideration. Thereupon, the Secretary shall enter upon the records of the Commission the closing of the matter and take such other action as is required.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

3. By adding the following sentence at the beginning of § 3.52(f).

§ 3.52 Appeal from initial decision.

* * * * *

(f) *Oral argument.* All oral arguments shall be public unless otherwise ordered by the Commission. * * *

4. By revising § 3.61(b) to read as follows:

§ 3.61 Reports of compliance.

* * * * *

(b) The Commission has delegated to the Directors of the Bureaus of Competition and Consumer Protection, without power of redelegation, the authority to approve compliance reports, reject compliance reports, and to close compliance investigations. This delegation does not apply to compliance with orders involving section 7 of the Clayton Act, to any matter which has received previous Commission consideration as to compliance or in which the Commission or any Commissioner has expressed an interest, any matter proposed to be closed by reason of expense of investigation or testing, or any matter involving substantial questions as to the public interest, Commission policy or statutory construction, in each of which type of case a report with recommendation will be made to the Commission. The approvals, rejections, and closings shall not be effective until the file relating to the subject matter has been transmitted to the Secretary and he shall have advised the Commission of the Bureau Director's determination and, within five (5) working days after receiving notice of the determination from the Secretary, no Commissioner has directed that the matter be placed on a meeting agenda or otherwise stayed for further consideration. Thereupon, the Secretary shall enter upon the records of the Commission the determination of the matter and take such other action as is required.

PART 4—MISCELLANEOUS RULES

5. By revising § 4.9(b)(4), and by renumbering §§ 4.9(b) (23), (24), and (25) as §§ 4.9(b) (26), (27) and (28), respectively, and by adding new §§ 4.9(b) (23), (24), and (25) to read as follows:

§ 4.9 Public records.

* * * * *

(b) * * *

(4) The pleadings and prehearing conferences (to the extent made available under § 3.21(c) of this chapter), motions, certifications, orders, and the transcripts of hearings, including public conferences, testimony, oral arguments, and other material made a part thereof, and exhibits and all documents received in evidence or made a part of the record in adjudicative proceedings (except matters heard or filed in camera).

* * * * *

(23) Portions of transcripts of closed meetings required to be made available under 5 U.S.C. 552b(f)(2);

(24) Announcements of Commission meetings required under 5 U.S.C. 552b;

(25) Summaries of matters to be considered at open meetings held pursuant to § 4.15(b);

(26) Every amendment, revision, or repeal of any of the foregoing;

(27) Releases from time to time through the Commission's Office of Public Information supplying additional information concerning the activities of the Commission, copies of which may be obtained upon request to the Office of Public Information or the Secretary of the Commission, and

(28) Reprints of the principal laws under which the Commission exercises enforcement or administrative responsibilities, which may be obtained upon request to the Secretary of the Commission.

* * * * *

6. By amending § 4.10(a) and revising § 4.10(b) to read as follows:

§ 4.10 Confidential information.

(a) Except as provided in paragraph (b) of this section, the following records of the Commission are exempt from availability for public inspection and copying pursuant to 5 U.S.C. 552; however, records exempt from disclosure by the provisions of this section may be made available to a requestor for inspection and copying upon request for records under the procedures set forth in § 4.11, or by the Commission upon its own motion: * * *

* * * * *

(b) With respect to information contained in transcripts of Commission meetings, the exemptions contained in paragraph (a) of this section, except for (a)(3) and (a)(7), shall apply; in addition, such information will not be made available if it is likely to have any of the effects described in 5 U.S.C. 552b (c)(5), (c)(9), or (c)(10).

* * * * *

7. By adding § 4.14 and § 4.15, to read as follows:

§ 4.14 Conduct of business.

(a) Matters before the Commission for consideration may be resolved either at a meeting under § 4.15 or by written circulation. Any Commissioner may direct that a matter presented for consideration be placed on the agenda of a Commission meeting.

(b) Quorum. A majority of the members of the Commission, duly appointed and confirmed, constitutes a quorum for the transaction of business.

(c) Any Commission action, either at a meeting or by written circulation, may be taken only with the affirmative concurrence of a majority of the participating Commissioners, except where a greater majority is required by statute or rule or where the action is taken pursuant to a valid delegation of authority. No Commissioner may delegate the authority to determine his or her vote in any matter requiring Commission action, but authority to report a Commissioner's vote on a particular matter resolved either by written circulation, or at a meeting held in the Commissioner's absence, may be vested in a member of the Commissioner's staff.

§ 4.15 Commission meetings.

(a) *In general.* (1) Meetings of the Commission, as defined in 5 U.S.C. 552b(a)(2), are held at the principal office of the Commission, unless otherwise directed.

(2) *Initial announcements of meetings.* For each meeting, the Commission shall announce: (i) The time, place and subject matter of the meeting, (ii) whether the meeting will be open or closed to the public, and (iii) the name and phone number of the official who will respond to requests for information about the meeting. Such announcement shall be made at least one week before the meeting except that where the agency determines pursuant to 5 U.S.C. 552b(e)(1) to call the meeting on less than one week's notice, or where the agency determines to close the meeting pursuant to paragraph (c)(2) of this section, the announcement shall be made at the earliest practicable time.

(3) *Announcements of changes in meetings.* Following the announcement of a meeting, any change in the time, place or subject matter will be announced at the earliest practicable time, and, except with respect to meetings closed under paragraph (c)(2) of this section, any change in the subject matter or decision to open or close a meeting shall be made only as provided in 5 U.S.C. 552(e)(2).

(4) *Deletions from announcements.* The requirements of paragraphs (a)(2) and (a)(3) of this section do not require the disclosure of any information pertaining to a portion of a closed meeting where such disclosure is likely to concern a matter within the scope of 5 U.S.C. 552b(c).

(5) *Dissemination of notices.* Notices required under paragraphs (a)(2) and (a)(3) of this section will be posted at the principal office of the Commission, recorded on a telephone message device, and, except as to notices of meetings closed under paragraph (c)(2) of this section, submitted to the FEDERAL REGISTER for publication. In addition, notices issued under paragraph (a)(2) of this section one week in advance of the meeting will be sent to all persons and organizations who have requested inclusion on a meeting notice mailing list, and will be issued as a press release to interested media.

(b) *Open meetings.* (1) Commission meetings shall be open to public observation unless the Commission determines that portions may be closed pursuant to 5 U.S.C. 552b(c).

(2) Any person whose interest may be directly affected if a portion of a meeting is open, may request that the Commission close that portion for any of the reasons described in 5 U.S.C. 552b(c). The Commission shall vote on such requests if at least one member desires to do so. Such requests shall be in writing, filed at the earliest practicable time, and describe how the matters to be discussed will have any of the effects enumerated in 5 U.S.C. 552b(c). Requests shall be addressed as follows:

Closed Meeting Request, Office of the General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue N.W., Washington, D.C. 20580.

(c) *Closed meetings.* (1) Whenever the Commission votes to close a meeting or series of meetings under these rules, it shall make publicly available within one day notices both of such vote and the General Counsel's determination regarding certification under 5 U.S.C. 552b(f)(1). Such determination by the General Counsel shall be made prior to the Commission vote to close a meeting or series of meetings. Further, except with respect to meetings closed under paragraph (c)(2) of this section, the Commission shall make publicly available within one day a full written explanation of its action in closing any meeting, and a list specifying the names and affiliations of all persons expected to attend, except Commission employees and consultants. All Commission employees and consultants may attend non-adjudicative portions of any closed meeting and members of Commissioners' personal staffs, the General Counsel and his staff, and the Secretary and his staff may attend the adjudicative portions of any closed meeting except to the extent the notice of a particular closed meeting otherwise specifically provides.

(2) If a Commission meeting, or portions thereof, may be closed pursuant to 5 U.S.C. 552(c)(10), the Commission may, by vote recorded at the beginning of the meeting, or portion thereof, close the portion or portions of the meeting so exempt.

(d) The presiding officer shall be responsible for preserving order and decorum at meetings and shall have all powers necessary to that end.

PART 14—ADMINISTRATIVE INTERPRETATIONS, GENERAL POLICY STATEMENTS, AND ENFORCEMENT POLICY STATEMENTS

§ 14.10 [Deleted]

9. By deleting § 14.10.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46); 90 Stat. 1244-45 (5 U.S.C. 552b).)

By direction of the Commission dated March 9, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-7373 Filed 3-10-77;8:45 am]

Title 18—Conservation of Power, Water Resources

CHAPTER III—DELAWARE RIVER BASIN COMMISSION

PART 415—BASIN REGULATIONS—FLOOD PLAIN REGULATIONS

Minimum Standards of Flood Plain Use on Non-Tidal Sections of Delaware River

On November 10, 1976, the Delaware River Basin Commission amended its Administrative Manual, Part III, Basin Regulations, by the addition thereto of a new Part 415, "Flood Plain Regulations," 18 CFR Part 415. The new regulations follow generally the recommendations of the Commission's Flood Plain Regulation Advisory Committee submitted and publicized in July 1975. The new regulations establish minimum standards of flood plain use on the non-tidal sections of the Delaware River and its major tributaries in New York, Pennsylvania, New Jersey and Delaware. The regulations contain definitions of various component lands, graded according to the severity of the damage threat, and suggested allowable and prohibited uses for each. The standards apply to projects subject to review by the Commission. Minimum basinwide standards can be supplemented by more stringent regulations by states and local units of government.

Public hearings on the proposed flood plain regulations were held by the Commission on July 7, 1976, in Trenton, New Jersey. The regulations became effective January 1, 1977.

GENERALLY

415.1 Short title.
415.2 Definitions.
415.3 Purpose and findings.

TYPES OF PROJECTS AND JURISDICTION

415.20 Class I Projects.
415.21 Class II Projects.

STANDARDS

415.30 Regulations generally.
415.31 Prohibited uses.
415.32 Permitted uses generally.
415.33 Uses by special permit.

ADMINISTRATION

415.40 Administrative agency.
415.41 Special permits.
415.42 Technical standards.
415.43 Mapped and unmapped delineations.

ENFORCEMENT

415.50 General conditions.
415.51 Prior non-confirming structures.
415.52 Violations.

AUTHORITY: Pub. L. 87-328 (75 Stat. 688).

GENERALLY

§ 415.1 Short title.

This Part shall be known and may be cited as the "Flood Plain Regulations."

§ 415.2 Definitions.

For the purposes of this Part, except as otherwise required by the context:

"Project" means the same word as defined by section 1.2(g) of the Delaware River Basin Compact.

"Floodway" means the channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regulatory flood. For this purpose the limit of the floodway shall be established by allowing not more than a one-foot rise of the water surface elevation of the regulatory flood as a result of encroachment. Wherever practical, equal conveyance reduction from each side of the flood plain shall be used. (See Figure 1)

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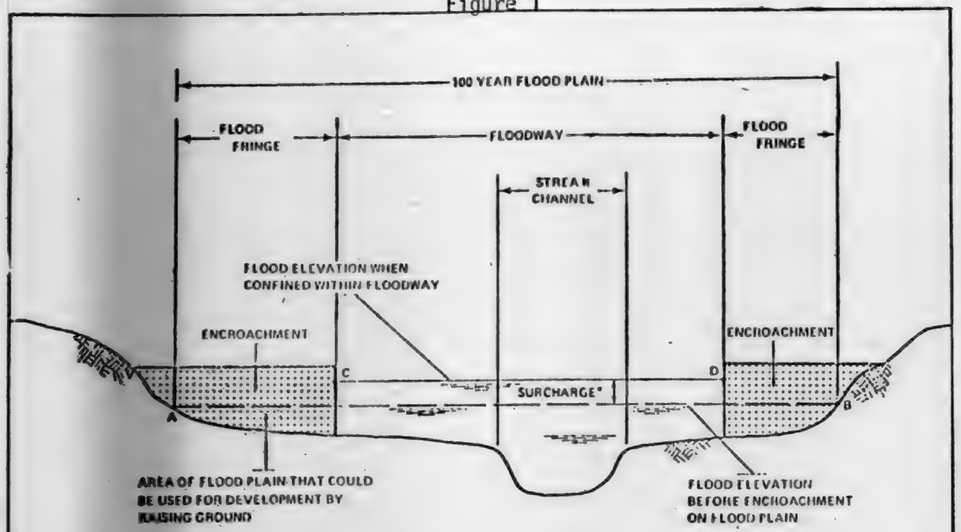
Figure 1



*SURCHARGE NOT TO EXCEED 1.0 FOOT (FIA REQUIREMENT) OR LESSER AMOUNT IF SPECIFIED BY STATE.

"Flood fringe" means that portion of the flood hazard area outside the floodway.

"Flood hazard area" means the area inundated by the regulatory flood.

"Flood plain" means the area adjoining the channel of a stream which has been or hereafter may be covered by flood water.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

"Flood protection elevation" means one foot above the elevation of the flood that has a one percent chance of occurring in any one year. (The 100-year flood.)

"Major tributary" means the mainstem of the following streams:

PENNSYLVANIA

Brandywine Creek	Lehigh
Brodhead Creek	Schuylkill
Big Bushkill Creek	Neshaminy
Lackawaxen	

DELAWARE

Brandywine Creek	Christina

NEW YORK

East Branch Mongaup	Neversink
	West Branch

NEW JERSEY

Assunpink	Rancocas
Musconetcong	Pequest
Paulins Kill	

"Official flood plain map" means a map showing the flood plain area of a community prepared pursuant to the National Flood Insurance Act, or a map recognized by the Executive Director as meeting equivalent hydraulic or engineering criteria.

"Regulatory flood" means the flood which has a one percent chance of occurring in any one year. (The 100-year flood).

"Structure" means any assembly of material above or below the surface of land or water, including but not limited to, buildings, dams, fills, levees, bulkheads, dikes, jetties, embankments, causeways, culverts, roads, railroads and bridges.

§ 415.3 Purpose and findings.

(a) The Commission hereby finds and determines that the use of flood plains is affected with a public interest due to:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept onto other lands or downstream to the injury of others.

(3) The requirements of a facility for a waterfront location.

(b) In order to protect the public interest, the following principles and goals have been determined:

(1) The overall goal is prudent land use within the physical and environmental constraints of the site.

(2) The principle of equal and uniform treatment shall apply to all flood plain users who are similarly situated.

(3) Flood plain use shall not result in nuisance to other properties.

(4) Flood plain use shall not threaten public safety, health and general welfare.

(5) Future land uses in private flood plains shall not result in public expense to protect the property and associated public services from flood damage.

(6) All future public and private flood plain users shall bear the full direct and indirect costs attributable to their use and actions.

(7) Restrictions on flood plain use, and flood hazard information shall be widely publicized.

(8) Land and water use regulations of responsible units of government shall not impair or conflict with the flood plain use standards duly adopted for the basin, except as provided for in Section 415.42(a) hereof.

(9) Plans for land and water use adopted by responsible agencies shall not impair or conflict with these flood plain use standards.

(10) No action of any unit of government shall impair or conflict with these flood plain use standards.

TYPES OF PROJECTS AND JURISDICTION

§ 415.20 Class I Projects.

Projects described in sub-paragraphs A and B below shall be subject to review by the Commission under standards provided by this Section and in accordance with the provisions of §§ 415.30 through 415.33 hereof, as follows:

(a) All projects subject to review by the Commission under Section 3.8 of the Compact and the regulations thereunder.

(b) State and local standards of flood plain regulation.

§ 415.21 Class II Projects.

Class II projects, subject to review in accordance with §§ 415.40 through 415.43 hereof, include all projects other than Class I projects, in non-tidal areas of the basin, which involve either:

(a) A development of land, either residential or non-residential within a flood hazard area which:

(1) Includes one or more structures covering a total land area in excess of 50,000 square feet; or

(2) Contains in excess of 25 residential building lots or 25 dwelling units as part of an integrated development plan whether or not such development is included in a single application; or

(b) A development of land in the flood hazard area to mine, manufacture, process, store or dispose of materials which, if flooded, would pollute the waters of the basin or threaten damage to off-site areas, including, without limitation thereto, materials which are poisonous, radioactive, biologically undesirable or floatable.

STANDARDS

§ 415.30 Regulations generally.

The uses of land within a flood hazard area shall be subject to regulation within one of the following categories:

(a) Prohibited uses;

(b) Permitted uses generally;

(c) Uses by special permit.

§ 415.31 Prohibited uses.

(a) Within the floodway, except as permitted by special permit, the following uses are prohibited:

(1) Erection of any structure for occupancy at any time by humans or animals.

(2) Placing, or depositing, or dumping any spoil, fill or solid waste.

(3) Stockpiling or disposal of pesticides, domestic or industrial waste, radioactive materials, petroleum products or hazardous material which, if if flooded, would pollute the waters of the basin.

(4) The storage of equipment or of buoyant materials, except for purposes of public safety.

(b) Within the flood fringe, except as permitted by special permit, the following uses are prohibited:

(1) Stockpiling or disposal of pesticides, domestic or industrial waste, radioactive materials, petroleum products or hazardous material which, if flooded, would pollute the waters of the basin.

(2) Any use which will adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility.

§ 415.32 Permitted uses generally.

(a) Within the floodway, the following uses are permitted to the extent that they do not require structures, fill or storage of materials or permanently installed equipment, and do not adversely affect the capacity of the floodway:

(1) Agricultural uses such as general farming, livestock and dairy farming, horticulture, truck farming, sod farming, forestry, wild crop harvesting, and normal operating practices associated therewith.

(2) Industrial-commercial uses such as loading areas, parking areas and airport landing strips.

(3) Private and public recreational uses such as golf courses, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

(4) Uses such as lawns, gardens, parking areas and play areas.

(b) Within the flood fringe, the following uses are permitted:

(1) Any use permitted in the floodway.

(2) Residences and other structures constructed so that the first floor, including basement, is above the Flood Protection Elevation. When fill is used the finished fill elevation shall be no lower than the Flood Protection Elevation for the particular area and shall extend at least 15 feet beyond the limits of any structure or building erected thereon.

§ 415.33 Uses by special permit.

(a) Within the floodway the following uses by special permit may be authorized under the standards hereinafter provided:

(1) Uses or structures accessory to open space use.

(2) Circuses, carnivals and similar transient enterprises.

(3) Drive-in theaters, signs and billboards.

(4) Extraction of sand, gravel and other non-toxic materials.

(5) Marinas, boat liveries, docks, piers, wharves and water control structures.

(6) Fish hatcheries.

(7) Railroads, streets, bridges, utility transmission lines and pipelines.

(b) Within the flood fringe the following uses by special permit may be authorized under standards hereinafter provided:

(1) *Non-residential uses generally.* Structures other than residences shall ordinarily be elevated as herein provided but may in special circumstances be otherwise flood proofed to a point above the Flood Protection Elevation.

(2) *Commercial uses.* Commercial structures shall be elevated so that no first floor or basement floor is below the Flood Protection Elevation; or such structures may be flood proofed to the Flood Protection Elevation. Accessory land uses, such as yards, railroad tracks and parking lots may be at lower elevations. However, a permit for such facilities to be used by the general public shall not be granted in the absence of a flood warning system, if the area is inundated to a depth greater than two feet or subject to flood velocities greater than four feet per second upon the occurrence of the Regulatory Flood.

(3) *Manufacturing and industrial uses.* Manufacturing and industrial buildings, structures, and appurtenant works shall be elevated so that no first floor or basement floor is below the Flood Protection Elevation; or such structures may be flood proofed to the Flood Protection Elevation. Measures shall be taken to minimize flood water interference with normal plant operations especially for streams having protracted flood durations. Certain accessory land uses as yards and parking lots may have lesser protection subject to the flood warning requirements set out in 2 above.

(4) *Utilities, railroad tracks, streets and bridges.* Public utility facilities, roads, railroad tracks and bridges shall be designed to minimize increases in flood elevations and shall be compatible with local comprehensive flood plain development plans to the extent applicable. Protection to the Flood Protection Elevation shall be provided where failure or interruption of these public facilities would result in danger to the public health or safety, or where such facilities are essential to the orderly functioning of the area. Where failure or interruption of service would not endanger life or health, a lesser degree of protection may be provided for minor or auxiliary roads, railroads or utilities.

(5) *Water supply and waste treatment.* No new construction, addition or modification of a water supply or waste treatment facility shall be permitted unless the lowest operating floor of such facility is above the Flood Protection Elevation, or the facility is flood proofed according to plans approved by the Commission, nor unless emergency plans and procedures for action to be taken in the event of flooding are prepared. Plans shall be filed with the Delaware River Basin Commission and the concerned state or states. The emergency plans and procedures shall provide for measures to prevent introduction of any pollutant or toxic material into the flood water or the introduction of flood waters into potable supplies.

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ADMINISTRATION

§ 415.40 Administrative agency.

(a) Class I projects as defined by § 415.20 hereof shall be subject to review and approval by the Commission.

(b) Class II projects as defined by § 415.21 shall be subject to review and approval by a duly empowered state or local agency; and if there be no such state or local agency at any time on and after January 1, 1978, and only during such time, the Commission may review any such project which has been identified by the Executive Director as having special flood hazards, and: (1) is located along the mainstem Delaware River or a major tributary thereof, or (2) an agency of a signatory party requests such review.

§ 415.41 Special permits.

A special permit may be granted, or granted on stated conditions, provided:

(a) There is a clear balance in favor of the public interest in terms of the following environmental criteria:

(1) The importance of a facility to the community.

(2) The availability of alternative locations not subject to flooding for the proposed use.

(3) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(4) The relationship of the proposed use to any applicable comprehensive plan or flood plain management program for the area.

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(6) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

(7) The degree to which the proposed activity would alter natural water flow or water temperature.

(8) The degree to which archaeological or historic sites and structures, endangered or rare species of animals or plants, high quality wildlife habitats, scarce vegetation types, and other irreplaceable land types would be degraded or destroyed.

(9) The degree to which the natural, scenic and aesthetic values at the proposed activity site could be retained.

(b) The project shall not:

(1) Endanger human life.

(2) Have high flood damage potential.

(3) Obstruct flood flows nor increase flood heights or velocities unduly whether acting alone or in combination with other uses.

(4) Degrade significantly the water carrying capacity of any delineated floodway or channel.

(5) Increase significantly the rate of local runoff, erosion, or sedimentation.

(6) Degrade significantly the quality of surface water or the quality or quantity of ground water.

(7) Be susceptible to flotation.

(8) Have service facilities installed below the elevation of the regulatory flood without being adequately flood proofed.

§ 415.42 Technical standards.

(a) Standards used by state and local governments shall conform in principle to Commission standards but may vary in detail provided that resulting flood plain use will not be less restrictive than would result from the application of Commission standards. The Commission will review proposed state and local flood plain regulations to determine their compliance with Commission standards.

(b) Because of the variety and diversity of presently recognized hydrologic procedures, no one procedure or method is prescribed for determining the peak flow in cubic feet per second for the 100-year storm (Q 100) on which profiles for the delineation of flood hazard areas are based. The following may be used:

(1) A uniform Technique for Determining Flood Flow Frequencies—Bulletin No. 15—Water Resources Council, December 1967.

(2) Basin-Wide Program for Flood Plain Delineation—Delaware River Basin Commission—Anderson-Nichols & Co., Inc., June 1973.

(3) Magnitude and Frequency of Floods in New Jersey with Effects of Urbanization—Special Report 38 U.S.G.S.—New Jersey Department of Environmental Protection, 1974.

(4) Guidelines for Determining Flood Flow Frequency—Bulletin No. 17—Water Resources Council, March 1976.

State and local agencies may use methods resulting in Q 100s which are in reasonable agreement with those of the Commission. Any significant difference shall be reviewed with and subject to approval by the Executive Director.

(c) Methods and procedures shall be uniform, so far as practicable, within sub-basins which have a major effect on the larger basins of which they are a part. To assist in achieving this objective the Commission staff will periodically provide to the various interested governmental agencies and others Q 100 data as developed by the Delaware River Basin Commission Hydrology Coordinating Committee for key locations in the Delaware River Basin. These will be based on a Log Pearson Type 3 analysis of data from the U.S.G.S. gaging stations using station skew, regional skew, or weighted skew, depending on the scope of data at each station.

§ 415.43 Mapped and unmapped delineations.

(a) Whenever an official flood plain map providing the pertinent information is available with respect to a given project, the map shall be used for the delineation of the flood hazard area, floodway, flood fringe and determination of flood protection elevation.

(b) Whenever an official flood plain map providing the required information is not available with respect to a given project, the administrative agency shall require the project landowner to submit details concerning the proposed uses as needed to determine the floodway and flood fringe limits at the proposed site, including: cross-sections of the stream channel and overbanks, stream profile, and factors involved in determining obstructions to flow. From the data submitted, soil surveys, historic flood maps, high water marks and other empirical data, the applicant, subject to verification by the administrative agency, shall calculate flood hazard areas and establish the flood protection elevation for the particular site.

(c) Pending the preparation and completion of flood plain mapping, a "general flood plain" area shall be prescribed by the administrative agency to delineate for public guidance the areal limits of site locations which are required to be submitted for review under this regulation.

ENFORCEMENT

§ 415.50 General conditions.

On and after January 1, 1978, where: (a) the flood hazard at the site is clear, present and significant, or the local government having jurisdiction has special flood hazard areas identified pursuant to the National Flood Insurance Act; and (b) the site is not subject to an approved state or municipal regulatory system having the same or similar effect on the flood hazard as this regulation, the Commission may condition its approval on any local governmental project under Section 3.8 of the Compact upon the adoption and enforcement of flood plain regulations, approved hereunder, by the state or local government having jurisdiction.

§ 415.51 Prior non-conforming structures.

A structure which was lawful before the adoption of this regulation but which is not in conformity with the provisions hereof, shall be subject to the following conditions (to be enforced by the appropriate authority as to Class I and Class II projects, respectively, under §§ 415.40 through 415.43 hereof):

(a) A non-conforming structure in the floodway may not be expanded, except that it may be modified, altered or repaired to incorporate flood proofing measures provided such measures do not raise the level of the 100-year flood.

(b) A non-conforming structure in the floodway which is destroyed or damaged by any means, including a flood, to the extent of 50 percent or more of its market value at that time may not be restored, repaired, reconstructed or improved except in conformity with the provisions of these regulations.

§ 415.52 Violations.

Any violation of this regulation shall be subject to penalties imposed by the Compact.

W. BRINTON WHITALL,
Secretary,
Delaware River Basin Commission.

[FR Doc.77-7043 Filed 3-10-77;8:45 am]

PART 420—BASIN REGULATIONS—WATER SUPPLY CHARGES

System of Charges for Certain Surface Water Withdrawals

On May 22, 1974, the Delaware River Basin Commission amended its Administrative Manual, Part III—Basin Regulations by the addition thereto of a new Part 420 "Water Supply Charges", 18 CFR, Part 420. The new Part 420 establishes a system of charges for certain surface water withdrawals in the Delaware River Basin region of New York, Pennsylvania, New Jersey and Delaware, to be used to reimburse the Federal Government for the cost of water supply storage space at federal reservoir projects. The water supply program implements the water pricing policy amendments to the Commission's Comprehensive Plan adopted in Resolution No. 71-4 on April 7, 1971.

Public hearings were held by the Commission on the proposed water supply charges regulations on February 28, 1973, and March 26, 1974, in Philadelphia, Pa. The regulations became effective upon adoption on May 22, 1974.

GENERAL

420.1 Definitions.

WATER SUPPLY POLICY

420.21 Policy.
420.22 Prohibition; sanctions.
420.23 Exempt uses under the Compact.
420.24 Effective use of rates.

ENTITLEMENT; MEASUREMENT; BILLING

420.31 Certificate of entitlement.
420.32 Measurement and billing of water taken.
420.33 Payment of bills.

CHARGES; EXEMPTIONS

420.41 Schedule of water charges.
420.42 Contracts; minimum charge.
420.43 Exempt use.
420.44 Cooling water.
420.45 Historical use.

AUTHORITY: Pub. L. 87-328 (75 Stat. 688).

GENERAL

§ 420.1 Definitions.

For the purposes of this Part 420, except as otherwise required by the context:

"Person" means any person, corporation, partnership, association, trust, or other entity, public or private.

"Water user" means any person who uses, takes, withdraws or diverts surface waters within the Delaware River Basin.

"Executive Director" means the Executive Director of the Delaware River Basin Commission.

"Consumptive use" means the water lost due to transpiration from vegetation in the building of plant tissue, incorporated into products during their manufacture, lost to the atmosphere from cooling devices, evaporated from water surfaces, exported from the Delaware River Basin, or any other water use for which the water withdrawn is not returned to the surface waters of the basin undiminished in quantity.

WATER SUPPLY POLICY

§ 420.21 Policy.

The provisions of this Part 420 implement Commission Resolution No. 71-4 (Comprehensive Plan) relating to water supply charges.

§ 420.22 Prohibition; Sanctions.

Any person, firm, corporation or other entity, including a public corporation, body or agency, who shall use, withdraw or divert surface waters of the basin, shall pay such charges therefor as may be required by this resolution. Any violation of this resolution shall be subject to penalty as prescribed under Article 14.17 of the Compact. The Commission may also recover the value (according to the established water pricing schedules of the Commission) of any such use, withdrawal or diversion, and invoke the jurisdiction of the courts to enjoin any further use, withdrawal or diversion, unless all charges under this resolution are paid in full when due.

§ 420.23 Exempt uses under the Compact.

(a) Section 15.1(b) of the Delaware River Basin Compact provides that "no provision of section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact; * * *" In compliance with this provision: There shall be no charge for water withdrawn or diverted in quantities not exceeding the legal entitlement of the user, determined as of October 27, 1961. Each water user may submit proof satisfactory to the Commission of the factors constituting legal entitlement, as defined in paragraph (b) hereof. In the absence of such proof of these conditions as of October 27, 1961, the quantity of water exempt from charge to each user will be the legal entitlement of the user determined as of March 31, 1971.

(b) For the purposes of paragraph (a) of this section:

(i) "Legal entitlement" means the quantity or volume of water expressed in million gallons per month determined by the lesser of the following conditions:

(i) a valid and subsisting permit, issued under the authority of one of the signatory parties, if such permit was required as of October 27, 1961, or thereafter;

(ii) physical capability as required for such taking; or

(iii) the total allocable flow without augmentation by the Commission, using a seven-day, ten-year, low-flow criterion measured at the point of withdrawal or diversion.

(2) "Physical capability" means the capacity of pumps, water lines and appurtenances installed and operable, determined according to sound engineering principles. The physical capability specifically includes plant facilities actually using water, but excludes facilities which may have been installed in anticipation of future plant expansion not yet realized.

(c) Whenever adequate records of legal entitlement for agricultural irrigation purposes are not available to the Commission, such legal entitlement shall be measured by the maximum number of acres under irrigation by the water user at any time during the year ending March 31, 1971, allowing one acre-foot of surface water annually per acre irrigated.

(d) Notwithstanding the provisions of (a), (b) and (c), there shall be no charge for water made available from storage where: (1) the cost of the storage facility has or will be otherwise paid for by the user, (2) such storage controls a drainage area, and (3) the use does not exceed the yield of such storage without augmentation from other surface water of the basin.

§ 420.24 Effective date of rates.

Rates and charges shall apply to all water users not exempt hereunder on and after the date of the first impoundment of water for water supply purposes at the Beltzville Reservoir (February 8, 1971), or the effective date hereof, whichever is later.

ENTITLEMENT; MEASUREMENT; BILLING

§ 420.31 Certificate of entitlement.

(a) The Executive Director will issue to each known water user a certificate of entitlement within 30 days after the effective date of these regulations subject to the provisions of paragraph (b). In addition, any other water user may apply for a certificate of entitlement at any time. A preliminary notice of entitlement shall be issued to each user. Such entitlement shall become final and take effect, unless the user shall file with the Commission, within 20 days after the service of the notice of entitlement, a request for hearing by the Commission. At such hearing the water user may show cause why the proposed entitlement shall not take effect.

(b) The Executive Director shall schedule a hearing to be held not less than ten days after receipt of a request for a hearing by the Commission. Hearings shall be conducted and the results thereof subject to review in accordance with Article 5 of the Commission's rules of practice and procedure.

(c) A final certificate of entitlement will be issued either upon expiration of the time to request a hearing, where there has been no request, or in accordance with the determination of a hearing where one is held.

(d) A certificate of entitlement is not transferable, except as provided in paragraphs (e) and (f) below.

(e) Whenever ownership or possession of land in agricultural use is transferred, a certificate of entitlement with respect to such land shall be deemed to run with the land, so long as the water use continues to be for agricultural irrigation. Upon any such land transfer, the Executive Director will reissue a certificate of entitlement to the new user.

(f) A certificate of entitlement may be transferred in connection with a corporate reorganization within any of the following categories:

(1) Whenever property is transferred to a corporation by one or more persons

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solely in exchange for stock or securities of the same corporation, provided that immediately after the exchange the same person or persons are in control of the transferee corporation, that is, they own 80 percent of the voting stock and 80 percent of all other stock of the corporation.

(2) Whenever the transfer is an incident of a statutory merger or consolidation pursuant to the corporation laws of any state, the District of Columbia or the United States.

(3) Whenever the transfer is included in a transfer by a corporate holder of a certificate of entitlement of all or a part of its assets to another corporation if immediately after the transfer, the transferor or one or more of its stockholders, or any combination thereof, are in control of the corporation to which the assets are transferred, and such transfer is in exchange solely for stocks or securities of the transferee corporation as a party to a reorganization within the meaning of section 354 or section 361 of the Internal Revenue Code.

(4) Where such transfer is required merely as a result of a change of the name, identity, form or place of organization of a corporate holder of a certificate of entitlement.

§ 420.32 Measurement and billing of water taken.

(a) The quantity and volume of waters used by each person shall be determined by meters, or other methods approved by the Commission, installed, maintained and read by or on behalf of the taker. Meters or other methods of measurement shall be subject to approval and inspection by the Commission as to installation, maintenance and reading.

(b) Each user of surface water who is not exceeding the quantity specified in his "certificate of entitlement" shall annually, on or before January 31, file with the Commission, on a form to be prescribed by the Executive Director, a report of the user's physical capability, as defined, permit limitations, and the volume of water used during the preceding year.

(c) Each user of surface water who is taking a quantity of water greater than the amount specified in his "certificate of entitlement" shall report his usage to the Commission on or before April 30, July 31, October 31 and January 31, of each year covering the next preceding calendar quarter, respectively, on forms to be prescribed by the Executive Director. The amount due for water usage in excess of the legal entitlement for each of the first three quarters of a calendar year shall be computed and paid by the user, together with the report.

(d) The Commission will render a statement of the net amount due based on the fourth quarter report, including a negative or positive adjustment, so that the net total billing and payment for four quarters will equal the total water used during the four quarters less the user's legal entitlement, if any.

§ 420.33 Payment of bills.

The amount due for each quarter shall bear interest at the rate of 1 percent per month for each day it is unpaid beginning 30 days after the due date of the quarterly report for the first three quarters and 30 days after the bill is rendered for the fourth quarter.

CHARGES; EXEMPTIONS

§ 420.41 Schedule of water charges.

The Commission will from time to time, after public notice and hearing, make, amend and revise a schedule of water charges. Until changed, the charge for water shall be as follows:

(a) Four cents per thousand gallons for consumptive use; and

(b) Four-tenths of a mill per thousand gallons for non-consumptive use.

§ 420.42 Contracts; minimum charge.

Subject to the exclusions for certificates of entitlement and exempt uses, the Executive Director may require contracts for any taking, use, withdrawal or diversion of waters of the basin. Each contract shall provide for a minimum annual payment in accordance with an estimated annual demand schedule, regardless of use, withdrawal or diversion. The failure of any person to execute a contract under this section shall not affect the application of other requirements of this resolution.

§ 420.43 Exempt use.

The following uses shall be exempt from charge:

(a) Non-consumptive uses of less than 1,000 gallons during any day, and less than 100,000 gallons during any quarter.

(b) Ballast water used for shipping purposes.

(c) Water taken, withdrawn or diverted from streams tributary to the river master's gauging station at Montague.

(d) Water taken, withdrawn or diverted below R.M. 38 (the mouth of the Cohansey River) and such proportion of waters taken, diverted or withdrawn above R.M. 38 and below R.M. 92.4 (the mouth of the Schuylkill River) as the Executive Director may determine, on the basis of hydrologic studies, would have no discernible effect upon the maintenance of the salt front below the mouth of the Schuylkill River.

§ 420.44 Cooling water.

Water used exclusively for cooling purposes which is returned to the stream in compliance with the effluent requirements of applicable water quality standards, shall be charged at the non-consumptive use rate except that losses due to in-stream evaporation caused by cooling uses will be charged as consumptive use.

§ 420.45 Historical use.

A person who or which could not for any reason use, take, withdraw or divert waters of the basin from the place in question on March 31, 1971, shall not be entitled to a certificate of entitlement.

W. BRINTON WHITALL,
Secretary,
Delaware River Basin Commission.

[FR Doc.77-7042 Filed 3-10-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 76N-0070]

PART 121—FOOD ADDITIVES

Acrylonitrile Copolymer Beverage Containers; Stay of Regulations

AGENCY: Food and Drug Administration, HEW.

ACTION: Stay of regulations.

SUMMARY: The Food and Drug Administration (FDA) is staying those food additive regulations or portions thereof that permit acrylonitrile copolymers to be used to fabricate beverage containers.

DATES: This stay is effective March 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Brown, Division of Food and Color Additives, (HFF-334), Bureau of Foods, Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs is staying those food additive regulations or portions thereof that permit acrylonitrile copolymers to be used to fabricate beverage containers. This stay will remain in effect until further notice.

Elsewhere in this issue of the FEDERAL REGISTER, FDA is proposing to amend the interim food additive regulation for those acrylonitrile copolymers (21 CFR 121.2010 and 121.4010) permitted for food-contact use to lower the amount of acrylonitrile monomer permitted to migrate from acrylonitrile copolymers from the currently permitted level of 0.3 part per million (ppm) to 0.05 ppm (50 parts per billion (ppb)).

Acrylonitrile copolymers have been used in a variety of food-contact applications for approximately 30 years. These uses include margarine tubs, food-packaging films, vegetable oil bottles and, most recently, beverage containers. Some uses of acrylonitrile copolymers in food-contact applications were sanctioned by FDA before 1958; these prior sanctions were based on analytical data available at that time which indicated that there was no significant migration of acrylonitrile monomer to food under ordinary conditions of use. Since 1958, FDA has approved additional food-contact uses of acrylonitrile copolymers through issuance of food additive regulations in 21 CFR Part 121. These include the following regulations which permit acrylonitrile copolymers to be used to fabricate beverage containers: 21 CFR 121.2614, 121.2625, 121.2627, 121.2629, and 121.2633.

In a petition (FAP 3B2926) filed by E. I. du Pont de Nemours & Co., Wilmington, DE 19898, notice of which was published in the FEDERAL REGISTER of September 7, 1973 (38 FR 24391), a delayed extraction problem with acrylonitrile copolymer bottles stored at elevated temperatures for an extended period of time was reported. As noted, prior sanctions and food additive regulations for acrylonitrile copolymers had been issued on the belief that there was no significant migration of acrylonitrile monomer to food. The recognition of delayed extraction problems, coupled with the development of improved analytical procedures for measuring acrylonitrile in food-simulating solvents, a process which continues today, led in 1974 to a complete review by FDA of all safety data available on acrylonitrile.

As migration into the contents of acrylonitrile containers seemed more probable, the safety issue loomed larger. The Commissioner thereupon concluded that additional toxicological studies should be conducted on acrylonitrile, that further restrictions should be imposed on the amount of acrylonitrile monomer that could be extracted to food-simulating solvents, and that continued use of acrylonitrile copolymers on an interim basis would be permitted only if the necessary toxicological studies were undertaken. To implement these conclusions, the Commissioner proposed in the FEDERAL REGISTER of November 4, 1974 (39 FR 38907) to establish an interim food additive regulation for acrylonitrile. The final interim food additive regulation (21 CFR 121.4010) was promulgated in the FEDERAL REGISTER of June 14, 1976 (41 FR 23940), and included a 0.3 ppm limit on the amount of acrylonitrile permitted to migrate from acrylonitrile copolymers to food-simulating solvents under the test conditions specified in 21 CFR 121.4010.

Toxicological studies, including mutagenicity tests, teratology tests, and short-term and chronic toxicity tests, have been undertaken in accordance with the requirements of the interim food additive regulation. Additionally, FDA, and others including the Monsanto Corporation, the manufacturer of the acrylonitrile copolymer beverage container being used by the Coca-Cola Company, have undertaken further extraction tests on acrylonitrile copolymers using food-simulating solvents and the best available analytical methodology.

Within the past few months, FDA has received reports—some preliminary and some final—on these toxicity studies and has continued to accumulate data on acrylonitrile monomer migration. These recently acquired data, and the additional considerations discussed below, form the basis for this stay. The results of the toxicity studies and the state-of-the-art with respect to the analytical methodology for measuring acrylonitrile monomer in food-simulating solvents are discussed in detail in the preamble to the proposed amendments to the interim food additive regulation for acrylonitrile copolymers, published elsewhere in this issue of the FEDERAL REGISTER. The significant aspects of those results are, however, also briefly summarized in this notice.

On November 9, 1976, the Manufacturing Chemists Association (MCA) submitted to FDA a final report of its testing of acrylonitrile monomer for teratogenic effects. These tests, performed by gavage introduction of acrylonitrile monomer into 4 groups of rats at dosages of 0, 10, 25, and 65 milligrams/kilogram (mg/kg) of body weight, showed some teratogenic responses at dose levels of 25 and 65 mg/kg of body weight of the test animals. The dose level of 10 mg/kg showed no evidence of teratogenicity to either the mother or her developing embryo or fetus. A copy of this report is on file with, and available to the public from, the Hearing Clerk, Food and Drug Administration.

On January 14, 1976, the MCA submitted to FDA a 13-month interim report on an ongoing 2-year study in which acrylonitrile monomer is incorporated into the drinking water of rats at concentrations of 0, 35, 100, and 300 ppm. This study began in November 1975 and will be completed in November 1977. The final report is expected in early 1978. The MCA reported that "administration of AN [acrylonitrile monomer] under the condition of this study has significantly lowered body weight, produced pathologic changes in the gastric epithelium, increased the incidence of masses of the ear duct and produced proliferative lesions in the central nervous system of rats." The MCA also reported a higher incidence of subcutaneous masses in the mammary region of the test animals. The interim report is also on file with, and available to the public from, the Hearing Clerk, Food and Drug Administration.

Since 1975, FDA has been actively involved in reviewing and refining the analytical methodology for acrylonitrile monomer. This methodology is used by FDA to measure the amount of acrylonitrile monomer that migrates from acrylonitrile copolymer to food-simulating solvents under specified test conditions.

The need for precise and sensitive analytical methodology to measure the amount of acrylonitrile monomer that may reasonably be expected to migrate from the acrylonitrile copolymer is derived from the definition of a "food additive" in section 201(s) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s)). Section 201(s) defines a food additive, in pertinent part, as:

> • • • any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food • • •.

Indirect food additives include those that "may reasonably be expected" to become a component of food through migration from the food-contact surface to food. The procedure ordinarily used to determine if migration may reasonably be expected to occur and, if so, to measure the amount of migration, is to place the food-contact surface (e.g., an acrylonitrile copolymer beverage container) into contact with food-simulating solvents. These food-simulating solvents—water, 3 percent acetic acid, 8 or 50 percent ethanol, and n-heptane or an appropriate oil or fat—are used to approximate the actual conditions of use of the food-contact surface with different categories of food (e.g., oils, acidic substances, alcoholic beverages).

Extraction studies with the food-contact article and the food-simulating solvents are ordinarily conducted until the equilibrium point—the point of maximum migration—is reached. The extraction studies are ordinarily conducted under conditions more extreme than ordinary conditions of use of the food-contact substance to ensure that an adequate margin of safety exists for consumers. Thus, the amount of a substance extracted during these tests represents the maximum amount likely to migrate during actual use.

The results of the toxicological studies have been evaluated by FDA scientists and, on the basis of those evaluations, the Commissioner concludes that the amount of acrylonitrile monomer permitted to migrate to food-simulating solvents should be substantially reduced for all acrylonitrile copolymer food-contact applications. A proposal to implement this conclusion is published elsewhere in this issue of the FEDERAL REGISTER. The preamble to that proposal discusses the basis for the Commissioner's determination that use of acrylonitrile copolymers can safely be continued with a 0.05 ppm (50ppb) limit on acrylonitrile monomer migration during this interim period until the studies are completed and evaluated.

This conclusion does not, however, apply to the use of acrylonitrile copolymers for beverage containers. The beverage containers, in the Commissioner's judgment, present a somewhat different set of considerations from those applicable to other food-contact applications; those considerations make necessary a stay of the food additive regulations or portions thereof permitting use of the beverage containers.

First, data generated during recent FDA extraction studies on acrylonitrile copolymer beverage containers establish that some migration of acrylonitrile monomer occurs. These data also indicate that the containers may not currently meet the proposed 0.05 ppm (50 ppb) limit on acrylonitrile monomer migration. Conclusive proof that the beverage containers do not meet the proposed limit is not possible at this time, in part because the analytical methodology for determining monomer migration to food-simulating solvents is still being developed. Nevertheless, the sophisticated analytical methodology employed by FDA in determining acrylonitrile monomer migration has every indication of being a reliable and accurate procedure. Furthermore, the Commissioner believes that it would be inappropriate to risk additional exposure of the public to acrylonitrile monomer from beverage containers, pending further refinement and validation of the analytical method. The failure of the beverage containers tested to meet the proposed limit increases the possibility that acrylonitrile monomer will migrate in significant amounts to the beverages. A report of FDA's extraction studies on the acrylo-

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nitrile beverage containers is on file with, and available to the public from, the Hearing Clerk, Food and Drug Administration.

Shortly after FDA announced in the FEDERAL REGISTER of February 15, 1977 (42 FR 9227) its intention to stay the food additive regulations that permit acrylonitrile copolymers to be used to fabricate beverage containers, the Monsanto Company requested, and was given, the opportunity to submit data to FDA regarding migration of acrylonitrile monomer from its acrylonitrile copolymer bottle. Those data were reviewed by FDA and, in the view of the agency, do not establish that the bottles can currently meet the proposed 0.05 ppm limit on acrylonitrile monomer migration. It is worth noting also that the methodology used by Monstanto to measure the migration is essentially identical to that used by FDA.

This stay is also made necessary by the magnitude of the anticipated exposure of consumers to acrylonitrile monomer from the beverage containers, if those containers were permitted to be introduced further into the marketplace. Recent reports indicate that, in those areas in which the beverage containers—particularly soft drink bottles—have been marketed, they are being accepted by consumers, and their share of the market is increasing and may be expected to continue to increase. A stay at this time will prevent further introduction into the market place of the containers while the safety of the acrylonitrile monomer is studied further and while the studies of acrylonitrile monomer migration continue. This stay applies to all food additive regulations that permit acrylonitrile copolymers to be used to fabricate beverage containers, although it should be noted that at least two of those regulations are not being used at present as authority to market acrylonitrile beverage containers.

The possibility of exposure of consumers to acrylonitrile monomer migrating from acrylonitrile copolymer beverage containers can reasonably be projected to be considerably greater than from other acrylonitrile copolymer food-contact uses. Consumers ingest beverages in much greater quantities and more frequently, than, for example, margarine or vegetable oils. The World Health Organization (WHO) reports that in 1973, the last year for which data are available, per capital consumption of soft drinks in the United States was 110.1 liters per year.[1] Obviously, no individual would consume an amount approaching that amount of margarine or vegetable oil. Thus, acrylonitrile copolymer beverage containers are a potentially significant source of acrylonitrile monomer migration, particularly if use of the containers were to increase, as present trends indicate. Suspending further use of the containers at this time is an effective way of minimizing the potential exposure.

To summarize, the Commissioner concludes that the food additive regulations for acrylonitrile copolymers should be stayed, effective immediately, insofar as they permit acrylonitrile copolymers to be used to fabricate beverage containers. The regulations are stayed pending full review of the objections and requests for hearing filed by the Natural Resources Defense Council (NRDC) on 21 CFR 121.2627 and 121.2633, and on the interim food additive regulation, 21 CFR 121.-4010. The NRDC objection to the interim food additive regulation, 21 CFR 121.-4010 (which is the current legal basis for all food contact uses of acrylonitrile), which explicitly seeks a stay of the food additive regulations permitting acrylonitrile copolymers to be used in contact with food, and the other objections received on the interim food additive regulation, are being reviewed in conjunction with the data from the recently completed and ongoing toxicity studies on acrylonitrile monomer.

The NRDC objections raise a number of issues regarding the safety of acrylonitrile copolymers in food-contact applications, and especially as beverage containers. The issues raised in the objections are substantial. The Commissioner anticipates, therefore, that when the chronic feeding study is complete or possibly sooner it will be appropriate to convene an evidentiary hearing under section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348) to resolve those factual issues. If the Commissioner decides that a hearing should be convened or, less likely, that the requests for hearing should be denied, a notice would be issued in the FEDERAL REGISTER setting forth the Commissioner's conclusions. However, the Commissioner concludes that the request of NRDC to stay certain acrylonitrile copolymer food additive regulations should be granted with respect to the use of acrylonitrile copolymers to fabricate beverage containers. The Commissioner concludes that it is in the public interest to act prudently, albeit not definitively, at this time on the acrylonitrile copolymer beverage containers.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 348, 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner hereby stays, pending completion of the studies required under 21 CFR 121.4010 and evaluation of the results of those studies, and until further notice, the following food additive regulations under Subpart F of Part 121:

1. In § 121.2614 *Nitrile rubber modified acrylonitrile-methyl acrylate copolymers* insofar as it permits a nitrile rubber modified acrylonitrile-methyl acrylate copolymer to be used to fabricate beverage containers;

2. In § 121.2625 *Acrylonitrile/styrene copolymer modified with butadiene/styrene elastomer* insofar as it permits an acrylonitrile/styrene copolymer modified with butadiene/styrene elastomer to be used to fabricate beverage containers;

3. In § 121.2627 *Acrylonitrile/butadiene/styrene/methyl methacrylate copolymer* insofar as it permits an acrylonitrile / butadiene / styrene / methyl methacrylate copolymer to be used to fabricate beverage containers;

4. In § 121.2629 *Acrylonitrile/styrene copolymer* insofar as it permits an acrylonitrile/styrene copolymer to be used to fabricate beverage containers; and

5. In § 121.2633 *Acrylonitrile/butadiene/styrene copolymer* insofar as it permits an acrylonitrile/butadiene/styrene copolymer to be used to fabricate beverage containers.

The Commissioner concludes that the protection of the public health does not require the recall from the market of beverages packaged in acrylonitrile copolymer containers. The bottles are currently on the market only in limited areas and because of this stay will not be introduced further into interstate commerce. Moreover, the potential exposure to the acrylonitrile monomer from beverage containers already on the market is limited; therefore, the Commissioner concludes that permitting the beverage containers already in interstate commerce to be sold will not present a hazard to the public health.

Effective date: This stay is effective March 11, 1977. No acrylonitrile copolymer beverage containers may be shipped in interstate commerce after March 11, 1977.

Dated: March 4, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-7046 Filed 3-7-77;10:30 am]

[1] Joint FAO/WHO Food Standards Programme, Codex Committee on Food Additives, 10th Sess., The Hague, 2–7 June 1975, "Food Additives in Soft Drinks."

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Sponsors of Approved Applications; General Provisions; Diamond Shamrock Corp.; Change of Firm Name and Address.

The Food and Drug Administration is amending the animal drug regulations to reflect a change in corporate name and address; effective March 11, 1977.

(Sec. 512(i), (82 Stat. 347 (21 U.S.C. 360(b)(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).)

Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended in paragraph (c)(1) by deleting the firm name and address for Diamond Shamrock Chemical Co. and inserting in its place the name and address for Diamond Shamrock Corp., and in paragraph (c)(2) in the entry No. 025001 by deleting the firm name and address for Diamond Shamrock Chemical Co., and inserting in its place the firm name and address for Diamond Shamrock Corp., as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

• • • • •

(c) • • •

(1) • • •

Firm name and address:	Drug Listing No.
• • • •	•
Diamond Shamrock Corp., Nutrition & Animal Health Div., 1100 Superior Ave., Cleveland, Ohio 44114.	025001
• • • •	•

(2) • • •

Drug Listing No.	*Firm name and address*
025001	Diamond Shamrock Corp., Nutrition & Animal Health Div., 1100 Superior Ave., Cleveland, Ohio 44114.

• • • • •

§ 558.15 [Amended]

2. In Part 558, § 558.15. *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* is amended in paragraph (g)(1) in the table, by changing "Diamond Shamrock Chemical Co." in the three places it appears to "Diamond Shamrock Corp."; and in paragraph (g)(2) in the table, by changing "Diamond Shamrock Chemical Co." to "Diamond Shamrock Corp." in the single entry therefor.

Effective date. This amendment becomes effective March 11, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: March 7, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-7374 Filed 3-10-77;8:45 am]

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Cephalexin Capsules and Powder for Oral Suspension

The Food and Drug Administration approves two new animal drug applications (NADA's 101–146V, 101–147V) filed by Elanco Products Co., Division of Eli Lilly & Co., P.O. Box 1750, Indianapolis, IN 46206, proposing the safe and effective use of cephalexin capsules for treating dogs and cats and cephalexin powder for oral suspension for treating dogs for bacterial infections of the respiratory, urogenital, and gastrointestinal tracts and soft tissue caused by cephalexin-sensitive organisms.

The approvals are effective March 11, 1977.

The Commissioner of Food and Drugs is amending Part 520 (21 CFR Part 520) to reflect these approvals.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, summaries of the safety and effectiveness data and information submitted to support the approvals of these applications are released publicly. The summaries are available for public examination at the office of the Hearing Clerk, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, Monday through Friday, from 9 a.m. to 4 p.m., except on Federal legal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i))), under authority delegated to the Commissioner (21 CFR 5.1), Part 520 is amended by adding new §§ 520.316, 520.316a, and 520.316b to read as follows:

§ 520.316 Cephalexin oral dosage forms.

§ 520.316a Cephalexin capsules.

(a) *Specifications.* Each capsule contains 250 or 500 milligrams of cephalexin as cephalexin monohydrate.

(b) *Sponsors.* See No. 000986 in § 510.-600(c) of this chapter.

(c) *Conditions of use.* (1) (i) Dogs: For the treatment of bacterial infection of the respiratory, urogenital, and gastrointestinal tracts and soft tissue caused by cephalexin-sensitive organisms.

(ii) Cats: For the treatment of bacterial infections of the respiratory, urinary, and gastrointestinal tracts and soft tissue caused by cephalexin-sensitive organisms.

(2) It is administered orally every 12 hours at a dosage level of 12 to 18 milligrams per pound of body weight. If no improvement is observed after 7 days, diagnosis and therapy should be reevaluated.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.316b Cephalexin for oral suspension.

(a) *Specifications.* Cephalexin (as cephalexin monohydrate) is a powder which when reconstituted with water contains 125 milligrams of cephalexin per 5 milliliters.

(b) *Sponsor.* See No. 000986 in § 510.-600(c) of this chapter.

(c) *Conditions of use.* (1) Dogs: For the treatment of bacterial infections of the respiratory, urogenital, and gastrointestinal tracts and soft tissue caused by cephalexin-sensitive organisms.

(2) After reconstitution with water to form a suspension, it is administered orally every 12 hours at a dosage of 12 to 18 milligrams per pound of body weight. If no improvement is observed after 7 days, diagnosis and therapy should be reevaluated.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: This regulation becomes effective March 11, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: March 4, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-7169 Filed 3-10-77;8:45 am]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Pyrilamine Maleate Injection

The Food and Drug Administration approves a new animal drug application (NADA 46–288V) filed by Burns-Biotec Laboratories Division, Chromalloy Pharmaceuticals, Inc., 7711 Oakport St., Oakland, CA 94621, proposing safe and effective use of pyrilamine maleate injection for the antihistaminic treatment of horses. The approval is effective March 11, 1977.

The Commissioner of Food and Drugs is amending Part 522 (21 CFR Part 522) to reflect this approval. In addition, the regulations are editorially revised to delete certain nonsubstantive information.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 522 is amended in § 522.2063 by revising paragraphs (b) and (c)(1) to read as follows:

§ 522.2063 Pyrilamine maleate injection.

• • • • • •

(b) *Sponsor.* See No. 000845 and 011519 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) It is intended for treating horses in conditions in which antihistaminic therapy may be expected to lead to alleviation of some signs of disease.

• • • • • •

Effective date: This amendment becomes effective March 11, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: March 4, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-7170 Filed 3-10-77;8:45 am]

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PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Ipronidazole, Sulfadimethoxine, and Ormetoprim

The Food and Drug Administration approves a supplemental new animal drug application (NADA 40–209V, 47–089V) filed by Hoffmann-LaRoche, Inc., 340 Kingsland St., Nutley, NJ 07110, proposing that the safe and effective use of sulfadimethoxine with ormetoprim in the feed of chickens and turkeys as an aid in the prevention of coccidiosis and certain other bacterial infections require a 5-day withdrawal period. The approval is effective March 11, 1977.

The firm has submitted a new and improved method of analysis for the detection of sulfadimethoxine residues in the tissues of chickens and turkeys. The new method has greater sensitivity than the one available when the application was originally approved. Residue data obtained using the new method have demonstrated that 4 days are required for the depletion of tissue residues to the neglible level of 0.1 part per million established in § 556.640 (21 CFR 556.640). Therefore, the labeling for use of the drug when used with ormetoprim or with ormetoprim in combination with ipronidazole is being amended to require a 5-day withdrawal period after use of these drugs. This will provide additional assurance that edible products of treated animals are safe for consumption.

Any labeling previously approved for use in the manufacture of sulfadimethoxine-containing medicated feeds and currently providing for less than 5-days withdrawal period must be revised to provide for a withdrawal period of 5 days. Such revised labeling shall be placed into effect at the earliest possible time, but in no case later than April 11, 1977. Supplemental applications that include copies of revised labeling shall be submitted to the Food and Drug Administration, HFV–16, at the time the revised labeling is placed into effect. The supplement will be filed with the original application, and the agency will issue no response unless the revised labeling is unsatisfactory.

The Commissioner of Food and Drugs is amending Part 558 (21 CFR Part 558) to reflect this approval. The Commissioner is also revising the regulations to provide reference to the tolerance for sulfadimethoxine and to correct the name of one of the Eimeria organisms.

Approval of this supplemental NADA has not required a reevaluation of the parent NADA and does not constitute a reaffirmation of the drug's safety and effectiveness.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 558 is amended as follows:

1. In § 558.305, by revising paragraph (f)(2)(ii) to read as follows:

§ 558.305 Ipronidazole.

* * * * * * *

(f) * * *

(2) * * *

(ii) *Limitations.* Withdraw 5 days before slaughter. Do not feed to turkeys producing eggs for food.

* * * * * * *

2. In § 558.575, by revising paragraphs (d), (e)(1)(i)(b), (e)(2)(iii), (e)(3)(i)(a) and (b), and (e)(3)(ii)(b) to read as follows:

§ 558.575 Sulfadimethoxine, ormetoprim.

* * * * * * *

(d) *Related tolerances.* See §§556.490 and 556.640 of this chapter.

(e) * * *

(1) * * *

(i) * * *

(*b*) *Limitations.* Feed as sole ration; withdraw 5 days before slaughter.

* * * * * * *

(2) * * *

(iii) *Limitations.* Feed as sole ration; do not feed to chickens over 16 weeks (112 days) of age; withdraw 5 days before slaughter.

(3) * * *

(i) * * *

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to turkeys, namely, *E. adenoeides, E. gallopavonis,* and *E. meleagrimitis* and bacterial infection due to *P. multocida* (fowl cholera).

(*b*) *Limitations.* Do not feed to turkeys producing eggs for food; withdraw 5 days before slaughter.

(ii) * * *

(*b*) *Limitations.* Do not feed to turkeys producing eggs for food; withdraw 5 days before slaughter.

Effective date: This amendment shall be effective March 11, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (i)).)

Dated: March 4, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77–7047 Filed 3–10–77;8:45 am]

Title 29—Labor

CHAPTER I—NATIONAL LABOR RELATIONS BOARD

PART 102—RULES AND REGULATIONS, SERIES 8

Subpart S—Open Meetings

AGENCY: National Labor Relations Board.

ACTION: Promulgation of Final Rules—Pursuant to its authority under section 6 of the National Labor Relations Act, as amended (49 Stat. 452; 29 U.S.C. 156) and in accordance with section 3(a) (section 552b(g)) of the Government in the Sunshine Act, Pub. L. 94–409, September 11, 1976, 5 U.S.C. 552b(g), the National Labor Relations Board hereby promulgates a new Subpart S of its rules and regulations, §§ 102.137 through 102.142, which reads as set forth below.

SUMMARY: Subpart S of the Rules and Regulations of the National Labor Relations Board implements the open meeting requirements of the Government in the Sunshine Act, Pub. L. 94–409, September 11, 1976. The rules were proposed and published in the FEDERAL REGISTER, 42 FR 5105, January 27, 1977 for public comment. They establish the circumstances under which Board meetings will be open to public observation, the Agency's procedures for public announcement of time, place and subject matter of Board meetings, and provisions for the maintenance of minutes, transcripts or recordings of such meetings.

DATES: These rules will become effective March 12, 1977.

FOR FURTHER INFORMATION CONTACT:

John C. Truesdale, Esquire, Executive Secretary, National Labor Relations Board, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

SUPPLEMENTAL INFORMATION: The rules in their final form as here published are the same as those proposed and published for comment, except for two minor revisions. Section 102.140 (a) and (b) have been modified to make clear that at each vote on whether to close a meeting the Board will separately consider whether there is a public interest which requires that a meeting which may properly be closed should nevertheless to open. Also, § 102.140(c) has been clarified to assure that the solicitor's certification concerning the propriety of closing the meeting is made prior to the closing of the meeting.

Subpart S—Open Meetings

102.137 Public observation of Board meetings.
102.138 Definition of meeting.
102.139 Closing of meetings; reasons therefor.
102.140 Action necessary to close meeting; record of votes.
102.141 Notice of meetings; public announcement and publication.
102.142 Transcripts, recordings or minutes of closed meetings; public availability; retention.

AUTHORITY: Sec. 6, National Labor Relations Act, as amended (49 Stat. 452; 29 U.S.C. 156) and sec. 3(a), Government in the Sunshine Act, Pub. L. 94–409, Sept. 13, 1976, 5 U.S.C. 552b(g).

Subpart S—Open Meetings

§ 102.137 Public observation of Board meetings.

Every portion of every meeting of the Board shall be open to public observation, except as provided in § 102.139 of these rules, and Board members shall not jointly conduct or dispose of agency business other than in accordance with the provisions of this subpart.

§ 102.138 Definition of meeting.

For purposes of this subpart, "meeting" shall mean the deliberations of at least three members of the full Board, or the deliberations of at least two members of any group of three Board members to whom the Board has delegated powers which it may itself exercise, where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations to determine whether a meeting should be closed to public observation in accordance with the provisions of this subpart.

§ 102.139 Closing of meetings; reasons therefor.

(a) Except where the Board determines that the public interest requires otherwise, meetings, or portions thereof, shall not be open to public observation where the deliberations concern the issuance of a subpoena, the Board's participation in a civil action or proceeding or an arbitration, or the initiation, conduct or disposition by the Board of particular representation or unfair labor practice proceedings under sections 8, 9, or 10 of the act, or any court proceedings collateral or ancillary thereto.

(b) Meetings, or portions thereof, may also be closed by the Board, except where it determines that the public interest requires otherwise, when the deliberations concern matters or information falling within the reasons for closing meetings specified in 5 U.S.C. section 552b (c)(1) (secret matters concerning national defense or foreign policy); (c)(2) (internal personnel rules and practices); (c)(3) (matters specifically exempted from disclosure by statute); (c)(4) (privileged or confidential trade secrets and commercial or financial information); (c)(5) (matters of alleged criminal conduct or formal censure); (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy); (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes); or (c)(9)(B) (disclosure would significantly frustrate implementation of a proposed agency action).

§ 102.140 Action necessary to close meeting; record of votes.

A meeting shall be closed to public observation under § 102.139, only when a majority of the members of the Board who will participate in the meeting vote to take such action.

(a) When the meeting deliberations concern matters specified in § 102.139 (a), the Board members shall vote at the beginning of the meeting, or portion thereof, on whether to close such meeting, or portion thereof, to public observation, and on whether the public interest requires that a meeting which may properly be closed should nevertheless be open to public observation. A record of such vote, reflecting the vote of each member of the Board, shall be kept and made available to the public at the earliest practicable time.

(b) When the meeting deliberations concern matters specified in § 102.139 (b), the Board shall vote on whether to close such meeting, or portion thereof, to public observation, and on whether there is a public interest which requires that a meeting which may properly be closed should nevertheless be open to public observation. The vote shall be taken at a time sufficient to permit inclusion of information concerning the open or closed status of the meeting in the public announcement thereof. A single vote may be taken with respect to a series of meetings at which the deliberations will concern the same particular matters where such subsequent meetings are scheduled to be held within thirty days after the initial meeting. A record of such vote, reflecting the vote of each member of the Board, shall be kept and made available to the public within one day after the vote is taken.

(c) Whenever any person whose interests may be directly affected by deliberations during a meeting, or a portion thereof, requests that the Board close that meeting, or portion thereof, to public observation for any of the reasons specified in 5 U.S.C. section 552b(c)(5) (matters of alleged criminal conduct or formal censure), (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy), or (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes), the Board members participating in the meeting, upon request of any one of its members, shall vote on whether to close such meeting, or a portion thereof, for that reason. A record of such vote, reflecting the vote of each member of the Board participating in the meeting shall be kept and made available to the public within one day after the vote is taken.

(d) After public announcement of a meeting as provided in § 102.141 of this part, a meeting, or portion thereof, announced as closed may be opened, or a meeting, or portion thereof, announced as open may be closed, only if a majority of the members of the Board who will participate in the meeting determine by a recorded vote that Board business so requires and that an earlier announcement of the change was not possible. The change made and the vote of each member on the change shall be announced publicly at the earliest practicable time.

(e) Before a meeting may be closed pursuant to § 102.139, the solicitor of the Board shall certify that in his or her opinion the meeting may properly be closed to public observation. The certification shall set forth each applicable exemptive provision for such closing. Such certification shall be retained by the agency and made publicly available as soon as practicable.

§ 102.141 Notice of meetings; public announcement and publication.

(a) A public announcement setting forth the time, place and subject matter of meetings or portions thereof closed to public observation pursuant to the provisions of § 102.139(a) of this part, shall be made at the earliest practicable time.

(b) Except for meetings closed to public observation pursuant to the provisions of § 102.139(a) of this part, the agency shall make public announcement of each meeting to be held at least 7 days before the scheduled date of the meeting. The announcement shall specify the time, place and subject matter of the meeting, whether it is to be open to public observation or closed, and the name, address, and phone number of an agency official designated to respond to requests for information about the meeting. The 7 day period for advance notice may be shortened only upon a determination by a majority of the members of the Board who will participate in the meeting that agency business requires that such meeting be called at an earlier date, in which event the public announcements shall be made at the earliest practicable time. A record of the vote to schedule a meeting at an earlier date shall be kept and made available to the public.

(c) Within one day after a vote to close a meeting, or any portion thereof, pursuant to the provisions of § 102.139 (b) of this part, the agency shall make publicly available a full written explanation of its action closing the meeting, or portion thereof, together with a list of all persons expected to attend the meeting and their affiliation.

(d) If after public announcement required by paragraph (b) of this section has been made, the time and place of the meeting are changed/ a public announcement shall be made at the earliest practicable time. The subject matter of the meeting may be changed after the public announcement only if a majority of the members of the Board who will participate in the meeting determine that agency business so requires and that no earlier announcement of the change was possible. When such a change in subject matter is approved a public announcement of the change shall be made at the earliest practicable time. A record

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of the vote to change the subject matter of the meeting shall be kept and made available to the public.

(e) All announcements or changes thereto issued pursuant to the provisions of paragraphs (b) and (d) of this section, or pursuant to the provisions of § 102.140(d), shall be submitted for publication in the FEDERAL REGISTER immediately following their release to the public.

(f) Announcements of meetings made pursuant to the provisions of this section shall be made publicly available by the executive secretary.

§ 102.142 Transcripts, recordings or minutes of closed meeting; public availability; retention.

(a) For every meeting or portion thereof closed under the provisions of § 102.139 of this part, the presiding officer shall prepare a statement setting forth the time and place of the meeting and the persons present, which statement shall be retained by the agency. For each such meeting or portion thereof there shall also be maintained a complete transcript or electronic recording of the proceedings, except that for meetings closed pursuant to § 102.139 (a) the Board may, in lieu of a transcript or electronic recording, maintain a set of minutes fully and accurately summarizing any action taken, the reasons therefor and views thereon, documents considered, and the members' vote on each roll call vote.

(b) The agency shall make promptly available to the public copies of transcripts, recordings or minutes maintained as provided in accordance with paragraph (a) of this section, except to the extent the items therein contain information which the agency determines may be withheld pursuant to the provisions of 5 U.S.C. section 552b(c). Copies of transcripts or minutes, or transcriptions of electronic recordings including the identification of speakers, shall, to the extent determined to be publicly available, be furnished to any person, subject to the payment of duplication costs in accordance with the schedule of fees set forth in § 102.117(c)(2)(iv), and the actual cost of transcription.

(c) The agency shall maintain a complete verbatim copy of the transcript, a complete electronic recording, or a complete set of the minutes for each meeting or portion thereof closed to the public, for a period of at least one year after the close of the agency proceeding of which the meeting was a part, but in no event for a period of less than two years after such meeting.

Dated, Washington, D.C., March 7, 1977.

By direction of the Board.

JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc.77-7156 Filed 3-10-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 51—COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PRIORITY FOR SERVICES

On November 29, 1976 notice was published in the FEDERAL REGISTER (41 FR 52323) proposing changes in the Committee Regulations (41 CFR Part 51), which were required by the termination on December 31, 1976, of the priority for services given to blind workshops. These changes delete reference to priority for blind workshops for services.

In addition, it was proposed to:

(1) Revise § 51-5.1-1(b) to clarify the procedures when a procuring agency with centralized procurement responsibility authorizes another agency to procure items on the Procurement List;

(2) Revise § 51-3.2(i) to require Committee authorization for a central nonprofit agency to enter into contracts with the Government for furnishing commodities or services under Pub. L. 92-28;

(3) Add paragraph (e) to § 51-5.2 to clarify the authority of the Committee to grant purchase exceptions; and

(4) Revise § 51-5.8 to clarify the procedures for resolving disputes between central nonprofit agencies and procuring agencies regarding performance under the Act.

Comments were received proposing clarification of wording and are incorporated below.

Additionally, § 51-3.3, on assignment of commodity or service has been revised. The revised wording has been coordinated with Federal Prison Industries, Inc., National Industries for the Severely Handicapped and National Industries for the Blind, the only agencies concerned.

In consideration of the foregoing, 41 CFR Chapter 51 is amended as follows.

Effective date: March 11, 1977.

By the Committee.

C. W. FLETCHER,
Executive Director.

PART 51-1—GENERAL

1. Section 51-1.3 is revised to read as follows:

§ 51-1.3 Priorities.

(a) The Federal Prison Industries, Inc. has priority, under the provisions of section 4124 of title 18, United States Code, over workshops for the blind and other severely handicapped in the production of commodities for sale to the Government. All or a portion of the Government's requirement for a commodity for which Federal Prison Industries, Inc. has exercised its priority may be added to the Procurement List. However, such addition is made with the understanding that procurement under the Act shall be limited to that portion of the Government's requirement for the commodity which is not available from the Federal Prison Industries, Inc.

(b) The Committee, in the assignment of commodities for procurement under the Act, shall accord priority to commodities, including military resale commodities, produced and offered for sale by workshops for the blind.

PART 51-2—COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

2. Paragraph (e) of § 51-2.3 is revised to read as follows:

§ 51-2.3 Duties and powers.

* * * * *

(e) To assure that workshops for the blind will have priority over workshops for the other severely handicapped in the production of commodities.

* * * * *

PART 51-3—CENTRAL NONPROFIT AGENCIES

3. Paragraph (i) of § 51-3.2 is revised to read as follows:

§ 51-3.2 Responsibilities.

* * * * *

(i) When authorized by the Committee, enter into contracts with Federal procuring activities for the furnishing of commodities and services provided by its workshops.

* * * * *

4. Section 51-3.3 is revised to read as follows:

§ 51-3.3 Assignment of commodity or service.

(a) The central nonprofit agency first proposing a service for possible addition to the Procurement List shall be assigned the service.

(b) Within 60 days after notification by the Committee that a commodity has been proposed for possible addition to the Procurement List, the Federal Prison Industries, Inc., and the National Industries for the Blind (for commodities proposed by the National Industries for the Severely Handicapped) shall notify the Committee of their decisions regarding the exercise or waiver of priority on the proposed commodity.

(c) When the Federal Prison Industries, Inc. exercises its priority for a commodity proposed by the National Industries for the Blind or the National Industries for the Severely Handicapped for possible addition to the Procurement List, the commodity may be assigned to the National Industries for the Blind or the National Industries for the Severely Handicapped in accordance with paragraph (d) or (e) of this section.

(d) When the National Industries for the Blind proposes a commodity for possible addition to the Procurement List, it shall be assigned to the National Industries for the Blind.

(e) When the National Industries for the Severely Handicapped proposes a commodity for possible addition to the Procurement List, it shall be assigned to the National Industries for the Severely Handicapped, unless the National Industries for the Blind exercises the priority accorded to the workshops for the blind, in which case the commodity shall be assigned to the National Industries for the Blind.

(f) When the National Industries for the Blind exercises the priority of the workshops for the blind for a commodity which was initially proposed by the National Industries for the Severely Handicapped, the National Industries for the Blind shall complete the essential steps to place the commodity on the Procurement List within nine months after assignment. If the National Industries for the Blind has not completed these steps within that time period, the Committee shall reassign the commodity to the National Industries for the Severely Handicapped. However, the nine-month period may be extended for a reasonable period of time when the National Industries for the Blind has been delayed by conditions beyond its control.

PART 51-5—PROCUREMENT REQUIREMENTS AND PROCEDURES

5. Paragraph (b) of § 51-5.1-1 is revised to read as follows:

§ 51-5.1-1 General.

* * * * *

(b) When a commodity is identified on the Procurement List as being available through DSA or from GSA supply distribution facilities, it shall be obtained in accordance with the requisitioning procedures of the supplying agency. If the supplying agency cannot supply such a commodity, it shall inform the ordering office that the commodity must be procured in accordance with the provisions of this part.

* * * * *

6. Section 51-5.2 is amended by adding paragraph (e):

§ 51-5.2 Purchase exceptions.

* * * * *

(e) The Committee shall grant a purchase exception when it deems such action is appropriate.

7. Section 51-5.8 is amended by adding the following sentence:

§ 51-5.8 Correspondence and inquiries.

* * * In those instances where the problem cannot be resolved by the central nonprofit agency and the procuring activity involved, the procuring activity or central nonprofit agency shall notify the Committee of the problem so that action can be taken by the Committee to resolve it.

[FR Doc.77-7257 Filed 3-10-77;8:45 am]

Title 45—Public Welfare

CHAPTER XVII—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

PART 1703—GOVERNMENT IN THE SUNSHINE ACT

Pursuant to provisions of the "Government in the Sunshine Act" (Pub. L. 94-409; 5 U.S.C. 552b, September 13, 1976) the Commission published in the FEDERAL REGISTER (42 FR 3667, January 19, 1977) it proposed regulations implementing the Act. Interested parties were encouraged to submit comments on these proposed regulations. In accordance with comments received, we have adopted appropriate modifications as follows:

(1) Subpart A, § 1703.102(a), we have amended to read:

"Meeting" means the deliberations of a majority of the Commission members who have been appointed by the President and confirmed by the Senate where such deliberations determine or result in the joint conduct of official Commission business.

(2) Section 1703.103, amending first sentence to read: "This part applies to deliberations of a majority of the Commission members who have been appointed by the President and confirmed by the Senate."

(3) Subpart B. § 1703.202(a)(9), amending to read: "Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except that this paragraph shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposals";

(4) Subpart B. § 1703.302(b), amending to add following after first sentence: "The Commission will determine whether the discussion comes within one of the specific exemptions. If the discussion is determined to be exempt, the Commission will consider and determine whether the public interest nevertheless requires that the meeting be open."

(5) Subpart B, § 1703.203 (a), amending the first two sentences to read: "Commission members may decide before the meeting to close to public observation a meeting or a portion or portions thereof, or to withhold information pertaining to such meeting, only if a majority of the members vote on the record to take such action. No proxy votes on this action shall be allowed."

(6) Subpart B, § 1703.206, amending to read: "Individuals or organizations interested in obtaining copies of information available in accordance with § 1703.204 may request same under provisions set forth in §§ 1703.402 and 1703.404. Individuals or organizations having a special interest in activities of the Commission may request the Executive Director to the Commissioners to place them on a mailing list for receipt of information available under § 1703.205. The Commission shall provide information to publications whose readers are likely to have a special interest in the work of the Commission."

(6) Section 1703.207 (b), delete.

(7) Subpart C, § 1703.301, amending to read: "Meetings will be held in meeting rooms designated in the public announcement. Whenever the number of observers is greater than can be accommodated in the meeting room designated, every reasonable effort will be made to provide alternative facilities."

(8) Subpart C, § 1703.302. Beginning with third sentence amending to read: "Such participation or attempted participation shall be cause for removal of any person so engaged at the discretion of the presiding member of the Commission. When meetings are partially closed, observers will leave the meeting room promptly upon request so that discussion, of matters exempt under provisions of Subpart B, § 1703.202, may take place expeditiously."

(9) Section D, § 1703.401, amending last sentence to read: "The record of any portion of a meeting closed to the public shall be a transcript or electronic recording."

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AUTHORITY: 5 U.S.C. 552b.

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Subpart A—General Provisions

§ 1703.101 Purpose.

This part sets forth the regulations under which the Commission shall engage in public decision-making processes, make public announcement of meetings at which a quorum of or all Commission members consider and determine official Commission action, and inform the public of which meetings they are entitled to observe.

§ 1703.102 Definitions.

In this part:

(a) "Meeting" means the deliberations of a majority of the Commission members who have been appointed by the President and confirmed by the Senate where such deliberations determine or result in the joint conduct of official Commission business.

(b) "Member" means one of the Commissioners of the National Commission on Libraries and Information Science (NCLIS) who is appointed to that position by the President with the advice and consent of the Senate.

§ 1703.103 Applicability and scope.

This part applies to deliberations of a majority of the Commission members who have been appointed by the President and confirmed by the Senate. Excluded from coverage of this part are deliberations of interagency committees whose composition includes Commission members and deliberations of Commission officials who are not members; individual member's consideration of official agency business circulated to the members in writing for disposition or notation; and deliberations by the agency in determining whether or not to close a portion or portions of a meeting or series of meetings as provided in § 1703.202.

§ 1703.104 Open meeting policy.

The public is entitled to the fullest practicable information regarding the decision-making processes of the Commission. Commission meetings involving deliberations which determine or result in the joint conduct or disposition of official Commission business are presumptively open to the public. It is the intent of these regulations to open such meetings to public observation while protecting individuals' rights and the Commission's ability to carry out its responsibilities. Meetings or portions of meetings may be closed to public observation only if closure can be justified under one of the provisions set forth in § 1703.202.

Subpart B—Procedures Governing Decisions About Meetings

§ 1703.201 Decision to hold meeting.

When Commission members make a decision to hold a meeting, the proposed meeting will ordinarily be scheduled for a date no earlier then eight days after the decision to allow sufficient time to give appropriate public notice. At the time a decision is made to hold a meeting, the time, place, and subject matter of the meeting will be determined, as well as whether the meeting is to be open or closed to the public.

§ 1703.202 Provisions under which a meeting may be closed.

(a) A meeting or portion thereof may be closed to public observation, and information pertaining to such meeting may be withheld from the public, where the Commission determines that such portion or portions of its meeting or disclosure of such information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of an agency;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of this title). Provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except this subparagraph shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the agency's issuance of a subpoena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

(b) The Commission may exercise its authority to open to public observation a meeting which could be closed under one of the provisions of § 1703.202(a), if it would be in the public interest to do so. The Commission will determine whether the discussion comes within one of the specific exemptions. If the discussion is determined to be exempt, the Commission will consider and determine whether the public interest nevertheless requires that the meeting be open.

§ 1703.203 Decision to close meeting.

(a) Commission members may decide before the meeting to close to public observation a meeting or portion or portions thereof, or to withhold information pertaining to such meeting, only if a majority of the members vote on the record to take such action. No proxy votes on this action shall be allowed. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. If a decision is made to close a portion or portions of a meeting or a series of meetings, the Commission shall prepare a full written explanation of the closure action together with a list naming all persons expected to attend the meeting and identifying their affiliation.

(b) For every meeting or portion thereof which Commission members have voted to close, the Chairman of NCLIS shall certify that, in his or her opinion, the meeting may properly be closed to the public. In addition, the Chairman shall state each relevant exemptive provision as set forth in § 1703.202(a). A copy of the Chairman's certification, together with a statement from the Chairman setting forth the time and place of the meeting and listing the persons present, shall be retained by the Commission.

(c) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in § 1703.-202(a), (5), (6), or (7), the Commission members, upon request of any of the Commissioners, shall decide by recorded vote whether to close such portion. If a closure decision is made, the Commission shall prepare a full written explanation of the closure action together with a list naming all persons expected to attend the meeting and identifying their affiliation.

§ 1703.204 Public availability of recorded vote to close meeting.

Within one day of any vote taken on a proposal to close a meeting, the Commission shall make publicly available a record reflecting the vote of each member on the question. In addition, within one day of any vote which closes a portion or portions of a meeting to the public, the Commission shall make publicly available a full written explanation of its closure action together with a list naming all persons expected to attend and identifying their affiliation, unless such disclosure would reveal the information that the meeting itself was closed to protect.

§ 1703.205 Public announcement of meeting.

(a) Except as provided in §§ 1703.207 and 1703.208, the Commission shall make a public announcement at least one week before the scheduled meeting, to include the following:

(1) Time, place, and subject matter of the meeting;

(2) Whether the meeting is to be open or closed; and

(3) Name and telephone number of agency official who will respond to requests for information about the meeting.

(b) If announcement of the subject matter of a closed meeting would reveal the information that the meeting was closed to protect, the subject matter shall not be announced.

§ 1703.206 Providing information to the public.

Individuals or organizations interested in obtaining copies of information available in accordance with § 1703.204 may request same under provisions set forth in §§ 1703.402 and 1704.404. Individuals or organizations having a special interest in activities of the Commission may request the Executive Director to the Commissioners to place them on a mailing list for receipt of information available under § 1703.205. The Commission shall provide information to publications whose readers are likely to have a special interest in the work of the Commission.

§ 1703.207 Change in meeting plans after public announcement.

(a) Following public announcement of a meeting, the time or place of a meeting may be changed only if the change is announced publicly at the earliest practicable time.

§ 1703.208 Meetings for extraordinary agency business.

Where agency business so requires, Commission members may decide by majority, recorded vote to schedule a meeting for a date earlier than eight days after the decision. Such a decision would obviate the general requirement for a public announcement at least one week before the scheduled meeting. At the earliest practicable time, however, the Commission will announce publicly the time, place, and subject matter of the meeting, whether the meeting is to be open or closed, and the name and telephone number of an agency official who will respond to requests for information about the meeting.

§ 1703.209 Notice of meeting in Federal Register.

Immediately following each public announcement required by this subpart, the following information, as applicable, shall be submitted for publication in the FEDERAL REGISTER:

(a) Notice of the time, place, and subject matter of a meeting;

(b) Whether the meeting is open or closed;

(c) Any change in one of the preceding; and

(d) The name and telephone number of an agency official who will respond to requests for information about the meeting.

Subpart C—Conduct of Meetings

§ 1703.301 Meeting place.

Meeting will be held in meeting rooms designated in the public announcement. Whenever the number of observers is greater than can be accommodated in the meeting room designated, every reasonable effort will be made to provide alternative facilities.

§ 1703.302 Role of observers.

The public may attend open meetings for the sole purpose of observation and may not record any of the discussions by means of electronic or other devices or cameras unless approved in advance by the Executive Committee of the Commission. Observers may not participate in meetings unless expressly invited or create distractions to interfere with the conduct and disposition of Commission business. Such participation or attempted participation shall be cause for removal of any person so engaged at the discretion of the presiding member of the Commission. When meetings are partially closed, observers will leave the meeting room promptly upon request so that discussion, of matters exempt under provisions of Subpart B of this part, § 1703.202, may take place expeditiously.

Subpart D—Maintenance of Meeting Records

§ 1703.401 Requirements for maintaining records of closed meetings.

(a) A record of each meeting or portion thereof which is closed to the public must be made and retained for two years or for one year after the conclusion of the Commission proceeding involved in the meeting. The record of any portion of a meeting closed to the public shall be a transcript or electronic recording.

(b) When minutes are produced, such minutes shall fully and clearly describe all matters discussed, and will provide a full and accurate summary of any actions taken and the reasons expressed therefor. The minutes must also reflect the vote of each member on any roll call vote taken during the proceedings and identify all documents produced at the meeting.

(c) The following documents produced under provisions of paragraph (b) of this section shall be retained by the agency as part of the minutes of the meeting:

(1) Certification by the Chairman that the meeting may properly be closed; and

(2) Statement from the presiding officer of the meeting setting forth the date, time and place of the meeting and listing the persons present.

§ 1703.402 Availability of records to the public.

(a) The Commission shall make promptly available to the public the minutes maintained as a record of a closed meeting, except for such information as may be withheld under one of the provisions of § 1703.202(a) of this report. Copies of such minutes, disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(b) The nonexempt part of the minutes shall be in the official custody of the Executive Director of the Commission. Appropriate facilities will be made available to any persons who makes a request to review these records.

(c) Requests for copies of nonexempt parts of minutes, shall be directed to the Executive Director of the Commission Such requests shall identify the records being sought and include a statement that whatever costs are involved in furnishing the records will be acceptable or, alternatively, that costs will be acceptable up to a specified amount.

§ 1703.403 Requests for records under Freedom of Information and Privacy Acts.

Requests to review or obtain copies of records other than the minutes of a meeting will be processed under the Freedom of Information Act (5 U.S.C 552) or, where applicable, the Privacy Act (5 U.S.C. 552a).

§ 1703.404 Copying and transcription charges.

(a) The Commission will charge fees for furnishing records at the rate of ten cents per page for photocopies and at the actual cost of transcription. When the anticipated charges exceed $50, a deposit of 20 percent of the amount anticipated must be made within 30 days. Requested information will not be released until the deposit is received. Fees shall be paid by check or money order made payable to the National Commission on Libraries and Information Science.

(b) The Executive Director of the Commission has the discretion to waive charges whenever release of the copies is determined to be in the public interest.

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Subpart E—Administrative Review

§ 1703.501 Administrative Review.

Any person who believes a Commission action governed by this part to be contrary to the provisions of this part may file an objection in writing with the Executive Director to the Commissioners. Wherever possible, the Executive Director will respond within two working days to objections concerning decisions to close meetings or portions thereof. Responses to objections concerning matters other than closed meetings will be made within ten working days.

Subpart F—Judicial Review

§ 1703.01 Judicial review.

Any person may bring an action in a United States District Court to challenge or enforce the provisions of this part or the manner of their implementation. Such action may be brought prior to or within sixty days after the meeting in question, except that if proper public announcement of the meeting is not made, the action may be instituted at any time within sixty days after such announcement is made. An action may be brought where the Commission meeting was or is to be held or in the District of Columbia.

Effective date: These regulations shall be effective as of March 12, 1977.

By the Commission.

ALPHONSE F. TREZZA,
Executive Director.

[FR Doc.77-7312 Filed 3-10-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 918]

[Docket No. AO-162-A5]

FRESH PEACHES GROWN IN GEORGIA

Recommended Decision and Opportunity To File Written Exceptions to Proposed Further Amendment of Marketing Agreement and Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed further amendment of the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918) regulating the handling of fresh peaches grown in Georgia, hereinafter referred to collectively as the "order".

Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by March 30, 1977. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Preliminary statement. This proposed amendment of the marketing agreement, as amended, and order, as amended, was formulated on the record of a public hearing held at Fort Valley, Georgia, on December 9, 1976. Notice of the hearing was published in the November 24, 1976, issue of the FEDERAL REGISTER (41 FR 51818). The proposals contained in the notice of hearing were submitted by the Industry Committee.

Material issues. The material issues of record are as follows:

(1) Redefine the term "Secretary".

(2) Update the section pertaining to districts.

(3) Provide for addition of a public member and alternate on the Industry Committee.

(4) Update the section pertaining to apportionment of committee members among districts.

(5) Delete provisions relating to selection of initial committee members.

(6) Delete the provision for compensating committee members for attending committee meetings.

(7) Delete all provisions relating to the Distributors' Advisory Committee.

(8) Change the provisions on expenses and assessments to conform with the language of the act.

(9) Provide that the committee may establish a reserve fund.

(10) Delete provisions providing for a biennial referendum and provide that a referendum be conducted upon request of growers meeting specified conditions.

(11) Make conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of the hearing:

1. The term "Secretary" contained in the order should be amended, as hereinafter set forth, to bring it into conformity with more recent definition of such term, and to recognize change in the titles of positions below that of Secretary. The current definition of "Secretary" in the order contains a reference to the "Under Secretary." The title of that position has been changed to "Deputy Secretary." Hence the definition of such term is incorrect. The term "Secretary" is defined in more recent orders in a manner which avoids the use of titles of position below that of Secretary such as "Secretary means the Secretary of the United States Department of Agriculture, or any officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead." Such definition avoids the necessity for redefinition each time the title of a delegatee is changed. Hence, the term "Secretary" should be revised as hereinafter set forth.

2. The order should be amended, as hereinafter set forth, to revise the term "District" to conform with the realignment previously effected in the rules and regulatiogs (§ 918.111) under the order. The districts subdivide Georgia into geographical areas for purposes of allocating membership on the committee. The districts hereinafter defined provide an appropriate basis for the allocation of committee representation.

3. The order should be amended, as hereinafter set forth, to provide for the nomination and selection of a public member and alternate to serve on the Industry Committee.

The public interest is to be observed in actions taken under marketing orders, hence, the interests of all groups including growers, handlers, and consumers should be considered. Although meetings of the committee are open to the public, there has been little participation by consumers.

Consumers have petitioned the government for a voice in actions which affect them. Both government agencies and private organizations now actively solicit the participation of consumers in their deliberations and decision-making processes. A public representative on the Industry Committee would be in a position to contribute the views of the public, other than that of the industry, to the development of recommendations for regulation designed to serve the interest of both the industry and the public generally. Therefore, it is concluded that the order should provide a position of public member on the Industry Committee with the provisions that persons filling such position shall have the same rights and privileges as other members of the committee. While the public member and alternate should not be involved in the growing and marketing of peaches or have a financial interest in the industry, such persons should reside within the production area so as to be in a position to gain an understanding of the industry's problems. This too would help assure that the travel and other expenses incurred in carrying out duties under the order could be kept within reasonable limits, and that such persons would be available when actions are being considered by the committee.

Provisions of member and alternate member positions on the Industry Committee would increase the number of positions for each from 8 to 9. Nominees to fill public member positions should be nominated by the 8 grower members selected to represent the districts. Such district grower representatives should meet as soon as practicable after their selection, make such nominations and promptly submit the names of such nominees, together with their qualifications, to the Secretary. The provisions of the order relative to term of office, selection, vacancies, qualification, alternates serving for members, reimbursement of expenses and similar provisions should apply to public members and alternates the same as to other members and alternates.

Criteria which the Industry Committee should use in considering nominees to fill the public member and alternate positions should include the following: The nominees should not grow or handle peaches; they should reside in Georgia; they should be interested in the peach industry; they should be able to devote sufficient time to committee activities; they should be willing to attend Industry

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Committee meetings; and they should indicate a willingness to familiarize themselves with the background, practices, and economics of the peach industry. Membership in consumer organizations, while desirable, should not be an absolute requirement for filling the public member position on the Industry Committee. Persons who should be eligible to serve as public members on the Industry Committee should include Agricultural and Home Economists and Consumer Specialists, as well as those involved in consumer groups.

4. Section 918.16 of the order should be amended, as hereinafter set forth, to bring the district representation of Industry Committee members specified in that section into conformity with the current representation by districts previously effected in the rules and regulations (§ 918.110) issued under the order. Such representation and districts currently are appropriate to the current situation in the peach industry.

5. The order should be amended, as hereinafter set forth, to delete § 918.17. The provisions of that section specify the manner in which the selection of the initial members of the Industry Committee were to be selected. The initial members were selected in 1942, and the section no longer serves any useful purpose. As a conforming change, in § 918.18 the words "after the year 1942" should be deleted from the first sentence and the title of that section revised to read: "Nomination of Members of Industry Committee". Likewise, the reference in § 918.26 to initial members and alternates should be deleted.

6. The order should be amended, as hereinafter set forth, to delete provisions in § 918.27 which allow the Industry Committee to compensate members and alternates up to $5.00 per day when attending committee meetings and other committee functions. This provision is no longer appropriate to program operation. Members and alternate members are concerned about the welfare of the peach industry and attend and participate at industry meetings in the interest of the industry as a whole. Hence compensation is not appropriate or necessary. Provisions of this section which provide for reimbursement of members and alternate members expenses should remain in effect.

7. The order should be amended, as hereinafter set forth, by deleting §§ 918.32, 918.33, 918.34, 918.35, 918.36, 918.37, and 918.38, all which pertain to the Distributors' Advisory Committee, and revising § 918.29 to eliminate provisions relating to such committee. The record indicates that the Distributors' Advisory Committee is no longer essential to the operation of the order and authority for its establishment should be deleted.

Provision for the Distributors' Advisory Committee which is composed of seven handlers and their alternates was included in the order to recognize that an Industry Committee made up of growers solely engaged in the production of peaches needed assistance in the development of recommendations for grade and size regulations. The advice of handlers who marketed the growers' peaches was then made available through a Distributors' Advisory Committee because these handlers could provide information in regard to the grade and size of peaches considered marketable. Since the order has been in effect, the peach industry has changed substantially. In recent years more and more members of the Industry Committee have been growers involved in marketing their own peaches and in some instances in the marketing of peaches of other growers. This development has brought to the Industry Committee a shipper experience and viewpoint. Hence, the need for the Distributors' Advisory Committee under the order has been reduced considerably if not eliminated. Abolishing the Distributors' Advisory Committee will not deprive the Industry Committee of needed information and it should facilitate more timely action in handling matters under the marketing order.

Moreover, the Industry Committee could continue to request advice from shippers, or such advice may be offered at Industry Committee meetings which are open to the public and in the past have been well attended by all segments of the industry, including shippers. Also, information is now available from agencies such as the Crop Reporting Board, the Market News Service, and the Agricultural Extension Service, and such information is readily available to the Industry Committee. In addition, Industry Committee meetings are open to the public as well as to growers and handlers. Notice of such meetings is well publicized throughout Georgia. All persons present at these meetings are invited to participate in the discussion. All views expressed at these meetings are considered by the Industry Committee when it makes decisions affecting the peach industry and the public.

8. The order should be amended, as hereinafter set forth, to conform the provisions contained in the section pertaining to expenses and assessments to the Agricultural Marketing Agreement Act of 1937, as amended. The current language in the Act pertaining to committee expenses and assessments uses the words "reasonable and likely" rather than "reasonable and necessary" in specifying expenses which may be incurred and it is appropriate whenever possible that provisions of the order use the language of the Act.

9. The order should be amended, as hereinafter set forth, to authorize the Industry Committee to carry over into subsequent fiscal periods excess assessment funds remaining at the end of any fiscal period as a reserve. Currently, assessments not used during a fiscal period are carried over into the next fiscal period as handler credits, which are available to finance marketing order operations early in the season prior to the collection of assessments. However, the order requires refund of such assessments on request of handlers, in which case the fund is not available to finance such early season operations.

Peaches grown in Georgia are not shipped in volume until the end of April or the beginning of May, about two months after the start of the fiscal period. The period prior to the shipping season is one of considerable activity. During such period the Industry Committee must survey the crop and market condition; develop a marketing policy and budget for the coming season; and hold meetings to consider regulations for the insuing season. Without an operating reserve, the committee may find it necessary to either borrow funds or bill assessments in advance of shipment of the peaches to cover expenses prior to the time assessment income is available for such purpose. In addition, if the peach crop is overestimated or the crop unexpectedly reduced, the committee assessment income may not be sufficient and this may necessitate a retroactive increase in the assessment rate to cover the deficit. This is objectionable and could be avoided through the establishment of a reserve fund.

Such a reserve fund should be available to the Industry Committee to defray expenses incurred early in the season before assessment income is received; to cover deficits incurred during any season when crop failure reduces assessment income; to cover expenses when assessment income for the fiscal period is insufficient; to defray expenses when a budget deficit is deliberately incurred to reduce the size of the reserve; to defray costs icurred during any period of suspension of part or all of the marketing order; to cover any expenses authorized by the order; and to cover expenses incurred in terminating the order.

The records indicate that the reserve fund should not exceed approximately $20,000, and the reserve should be accumulated in such manner that producers and handlers will not be unduly burdened. To keep the fund within the specified limit, if the amount approaches $20,000, the assessment rate for the next fiscal period should be fixed at a level which would likely result in a deficit. Reserve funds should be used to cover any such deficit.

Establishment of a reserve fund would be equitable to all concerned. Most growers and handlers under the order consider the growing and handling of peaches to be a lifetime pursuit, and production of peaches is a long term investment. Thus, there are few changes in the composition of the industry over time. Hence, those handlers whose assessments are transferred into the reserve fund should benefit from the later expenditure of these funds.

Establishing an adequate reserve fund should minimize the need to borrow funds, and enable the Industry Committee to avoid the expense of returning excess assessments. Also, such establishment should enable a more stable assessment rate from year to year as the rate would not need to reflect the size of the peach crop. The reserve fund should provide funds to defray the costs of liquidation should the order be terminated, and this would relieve handlers of the need to pay additional assessments to cover such liquidation costs. Similarly, the reserve fund could be used to cover necessary expenses in the event of a temporary suspension of the order.

If the order is terminated, reserve funds not needed for liquidation should be returned on a pro rata basis to those handlers who contributed such funds; used in a way which would benefit the Georgia peach industry, such as peach research; or disposed of in a manner deemed appropriate by the Secretary.

10. The order contains a provision which requires the conduct of a referendum every other year to ascertain if growers wish to continue the order in effect. This provision has been observed during the past 34 years and each time growers have favored retention of the order.

The conduct of referenda is time consuming and disrupts normal activities. It was advanced without opposition that unless conditions arise which indicate that growers are questioning the desirability of continuing the order that a referendum is unwarranted. It was indicated that growers will request a referendum if it is felt one should be held. It is therefore concluded that the provisions in the order which require a biennial referendum to ascertain grower sentiment with respect to continuance should be deleted. It is further concluded that it is undesirable to eliminate provision for a referendum altogether, and that an optional provision should be provided whereby growers can obtain a referendum upon request. To assure that such request is concurred in by a reasonable proportion of the industry, such a provision should require that the request be supported by at least 6 growers who produced 10 percent of the inspected peaches shipped in the previous season. Furthermore, it should require that such a request be tendered no later than December 1, so that the committee and the Department can take action on it and have the action completed before the start of the following season. Therefore, the order should be amended consistent with the foregoing, as hereinafter set forth.

11. A number of conforming changes were found to be necessary. Most changes were covered in the discussion of material issues numbered 1–10, and appropriate changes made in the affected sections of the order, as hereinafter specified. The following additional changes should be made to conform the order to the recommended amendment:

(a) In § 918.19 the first sentence thereof should be revised to read: "At each meeting held to elect nominees for grower member and alternate grower member positions on the Industry Committee, the growers eligible to participate therein shall select a chairman and secretary therefor". This will make it clear that the meetings alluded to are not applicable to the nomination of individuals for the public member positions.

(b) In § 918.21 the phrase "subsequent to the initial members and alternates" should be deleted, and the section number 918.38 appearing in the text changed to 918.26.

(c) In § 918.22 the section number 918.38 appearing in the text should be changed to 918.26.

Rulings on briefs of interested persons. At the conclusion of the hearing, the Administrative Law Judge fixed January 17, 1977, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing. No briefs were filed.

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereof. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of peaches grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;,

(5) The marketing agreement and order prescribe, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the difference in the production and marketing of peaches grown in the production area; and

(6) All handling of peaches grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended amendment of the marketing agreement and order. The following amendment of the marketing agreement and order, as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. Section 918.1 is revised to read as follows:

§ 918.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

2. Section 918.10 is revised to read as follows:

§ 918.10 District.

"District" means the applicable one of the following described geographical subdivisions of the area:

(a) "South Georgia District" shall include the counties of Quitman Coffee, Miller, Jeff Davis, Baker, Toombs, Terrell, Ware, Mitchell, Pierce, Worth, Evans, Brooks, Liberty, Turner, Glynn, Irwin, Echols, Atkinson, Early, Wheeler, Decatur, Montgomery, Randolph, Bacon, Dougherty, Wayne, Crisp, Charlton, Thomas, Bryan, Tift, McIntosh, Ben Hill, Berrien, Lanier, Clay, Telfair, Seminole, Clinch, Calhoun, Appling, Lee, Tattnall, Grady, Brantley, Colquitt, Long, Cook, Chatham, Wilcox, Camden Lowndes, Stewart, Pulaski, Webster, Dodge, Sumter and Dooly;

(b) "Central Georgia District" shall include the counties of Muscogee, Bleckley, Marion, Laurens, Schley, Johnson, Macon, Candler, Houston, Glascock, Bullock, Twiggs, Wilkinson, Taylor, Washington, Crawford, Emanuel, Peach, Jefferson, Burke, Effingham, Chattahoochee, Treutlen, Bibb, Jenkins, and Screven; and

(c) "North Georgia District" shall include the counties of Harris, Talbot, Upson, Monroe, Jones, Baldwin, Hancock, Warren, McDuffie, Polk, Troup, Gwinnett, Lamar, Jackson, Fayette, Forsyth, Jasper, Franklin, Douglas, Gordon, Henry, Dade, Greene, Whitfield, Lincoln, Haralson, Paulding, Cobb, De Kalb, Rockdale, Walton, Oconee, Oglethorpe, Floyd, Richmond, Cherokee, Pike, Clarke, Coweta, Elbert, Butts, Banks, Carroll, Chattooga, Clayton, Dawson, Morgan, Catoosa, Wilkes, Gilmer, Fannin, Lumpkin, Union, White, Towns, Haversham, Stephens, Rabun, Columbia, Bartow, Meriwether, Barrow, Heard, Madison, Spalding, Hall, Putnam, Hart, Fulton, Pickens, Newton, Walker, Taliaferro, and Murray.

3. Section 918.15 is revised to read as follows:

§ 918.15 Establishment of Industry Committee.

An Industry Committee, consisting of nine members, and alternates is hereby established to administer the terms and provisions of this part. Eight members and alternates shall be growers of peaches and one member and alternate shall be individuals who are neither growers nor handlers of peaches. The

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8 members who shall be growers shall be known as "grower members" and the remaining member shall be known as a "public member". The members of said Industry Committee, and their respective alternates, shall be selected in accordance with the provisions of this part.

4. Section 918.18 is revised to read as follows:

§ 918.18 Nomination of members of Industry Committee.

(a) The Industry Committee shall hold or cause to be held prior to January 31 of each year a meeting or meetings of growers in each of the districts designated in § 918.10, or as redesignated pursuant to § 918.29(k), for the purpose of designating nominees for grower member and alternate member positions on the Industry Committee. The committee shall give adequate notice of any such meeting or meetings to all growers in the respective district. (b) Members of the committee, selected pursuant to § 918.21, may nominate individuals for the public member and alternate member positions on the Industry Committee, and promptly send the names of these nominees, along with their qualifications, to the Secretary.

5. Section 918.25 is revised to read as follows:

§ 918.25 Eligibility for membership on Industry Committee.

Any person nominated or selected to serve as a member or as an alternate member of the Industry Committee, except for the public member and alternate, shall be an individual grower of peaches in the respective district for which selected, or an officer, employee, or agent of a corporate grower or corporate growers in such district. The public member and alternate shall reside in Georgia, but neither person shall be a grower or handler of peaches.

6. Section 918.16 is revised to read as follows:

§ 918.16 Representation by grower members by districts on Industry Committee.

(a) Two members of the Industry Committee shall be selected from among growers in the South Georgia District.

(b) Four members of the Industry Comittee shall be selected from among growers in the Central Georgia District.

(c) Two members of the Industry Committe shall be selected from among growers in the North Georgia District.

§ 918.17 [Deleted]

7. Section 918.17 is deleted.

8. Section 918.26 is revised to read as follows:

§ 918.26 Term of office.

The members of the Industry Committee and their respective alternates shall serve for the fiscal period for which they have been selected and if their successors have not been selected and qualified prior to the end of the respective fiscal period, each such member or alternate shall continue to serve until his respective successor shall have been selected and qualified.

9. Section 918.27 is revised to read as follows:

§ 918.27 Reimbursement for expense.

Each member of the Industry Committee and each alternate member when acting for a member or when designated by the committee to attend, may be reimbursed for expenses incurred while attending committee meetings; while attending to committee business authorized by the committee; and while attending each consultation or conference with any committee, or representatives thereof, established under any marketing agreement and order program pursuant to the act, with respect to the handling of peaches grown in Georgia or in any other State.

§ 918.29 [Amended]

10. In § 918.29 paragraph (q) is deleted; paragraph (h) is amended by deleting the words "and to authorize members and alternate members of the Distributors' Advisory Committee to attend such conferences and consultations;"; paragraph (r) is redesignated as paragraph (q).

§ 918.32 [Revoked]

§ 918.33 [Revoked]

§ 918.34 [Revoked]

§ 918.35 [Revoked]

§ 918.36 [Revoked]

§ 918.37 [Revoked]

§ 918.38 [Revoked]

11. Sections 918.32 through 918.38 are deleted.

12. Sections 918.40 and 918.41 are revised to read as follows:

§ 918.40 Expenses.

The Industry Committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments as prescribed in § 918.41.

§ 918.41 Assessments.

Each handler who first ships peaches shall pay upon demand, to the Industry Committee, such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning during each fiscal period: *Provided*, That no assessment shall be levied against peaches that are exempt from regulation pursuant to § 918.71 or against peaches that are exempt from inspection pursuant to § 918.64. Such handler's pro rata share of such expenses shall be equal to the ratio between the total assessable quantity of peaches shipped by such handler as the first shipper thereof, during the applicable fiscal period, and the total assessable quantity of peaches shipped by all handlers as the first shippers thereof during the same fiscal period.

13. Section 918.44 is revised to read as follows:

§ 918.44 Accounting.

If at the end of a fiscal period the assessments collected are in excess of expenses incurred, the Industry Committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve up to an amount of $20,000. Such reserve funds may be used to cover any expenses authorized by this part and to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period or be paid such refund. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That, to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

14. Section 918.81 is revised to read as follows:

§ 918.81 Termination.

(a) The Secretary shall terminate or suspend the operation of this part or any provision thereof whenever he finds that the part or any provision thereof does not tend to effectuate the declared policy of the act.

(b) The Secretary shall terminate the provisions of this part whenever he finds by referendum or otherwise that such termination is favored by the majority of the growers: *Provided*, That such majority has, during the current marketing season, produced more than 50 percent of the peaches which were produced for market within the area. Such termination shall become effective on the last day of February following the announcement thereof by the Secretary.

(c) The Secretary shall conduct a referendum among growers to ascertain whether continuance of this part is favored by growers, when requested to do so by the committee, or upon the request of 6 or more growers who produced 10 percent or more of the inspected peaches shipped during the then current fiscal period: *Provided*, That such request is received prior to December 1.

(d) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 918.19 Conduct of nomination meetings.

At each meeting held to elect nominees for grower member and alternate grower member positions on the Industry Committee, the growers eligible to participate therein shall select a chairman and secretary therefor. The chairman of each meeting shall announce at such meeting the name of each person for whom a vote has been cast, whether as member or alternate member, and the number of votes cast for each such person, and the chairman or the secretary of the meeting shall forthwith transmit such information to the Secretary or the designated representative of the Secretary. At each such meeting at least two nominees shall be designated for each position as member and at least two nominees shall be designated for each position as alternate member on the committee as representative or representatives of the respective district.

16. Section 918.21 is revised to read as follows:

§ 918.21 Selection of members of Industry Committee.

The Secretary may select the members of the Industry Committee and their respective alternates from nominations made by growers as provided in §§ 918.15 through 918.26 or the Secretary may select such members and alternates from among other persons.

17. Section 918.22 is revised to read as follows:

§ 918.22 Vacancies.

In the event nominations are not made for membership on the Industry Committee, pursuant to the provisions of §§ 918.15 through 918.26 by February 15 of the respective fiscal period, the Secretary may select such members and their respective alternates without waiting for nominees to be designated. To fill any vacancy occasioned by the failure of any person, selected as a member of the Industry Committee or as an alternate member thereof, to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term shall be selected by the Secretary.

Signed at Washington, D.C. on March 7, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.77-7214 Filed 3-10-77;8:45 am]

Commodity Credit Corporation

[7 CFR Part 1488]

FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM-5)

Correction

In FR Doc. 77-1841 appearing at page 3849 in the issue of Friday, January 21, 1977, in the first column on page 3853, the last sentence of paragraph (f) should read as follows:

"For the advised amount, CCC will not hold the U.S. bank or the branch bank liable for commercial or political risks. CCC will hold the foreign bank liable without regard to risks for all amounts not recovered from the U.S. or branch bank."

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

Notice of Proposed Rulemaking

AGENCY: Small Business Administration.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The major proposal deals with SBA control over increases in compensation to officers, directors, and employees of small business investment companies leveraged by SBA. It would modify the present requirement for SBA approval of individual salary increases (of persons receiving more than $10,000 per year) so that approval would be needed only if the aggregate increase for all SBIC personnel exceeded the overall amount previously fixed by SBA. Another proposal relates to the remuneration of persons employed by a corporation wholly owned by a section 301 (d) Licensee. Their compensation would be deemed paid by the parent Licensee. as in the case of similarly situated regular Licensees.

DATES: On or before April 11, 1977 for submission of written comments, in triplicate, to the Associate Administrator for Finance and Investment, Small Business Administration, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Peter McNeish, Office of Investment, Small Business Administration, Washington, D.C. 20416. 202-653-6584.

SUPPLEMENTARY INFORMATION: SBA proposes to amend its Regulation to modify the present restriction against increasing, without prior SBA approval, the compensation of individual officers, directors, and employees of a regular Licensee (§ 107.203(b)(3)(iii)) or a debtor section 301(d) Licensee (§ 107.205(b)) so that it would apply to the aggregate compensation of all officers, directors, and employees, as distinguished from increases affecting each such individual.

Section 107.203(b)(3)(iii) governing regular Licensees provides that the compensation of officers, directors, and employees of corporations wholly-owned by such Licensees shall be deemed paid by them. It is proposed to amend § 107.205 (b) to bring it into line with this provision so that the compensation of personnel employed by a corporation wholly-owned by a section 301(d) Licensee shall likewise be deemed paid by such Licensee.

Accordingly, notice is hereby given that pursuant to the authority contained in section 308 of the Small Business Investment Act of 1958, 15 U.S.C. 661, et seq., it is proposed to amend, as set forth below, §§ 107.203(b)(3)(iii) and 107.205 (b) of Part 107, Chapter I, Title 13 of the Code of Federal Regulations.

1. Section 107.203(b)(3)(iii) would be amended to read as follows:

§ 107.203 SBA purchase, sale, or guaranty of securities evidencing Leverage: events of default.

* * * * *

(b) * * * (3) Except with the prior written consent of SBA, Licensee will not:

* * * * *

(iii) Increase the aggregate amount of salaries or other compensation of officers, directors, or employees beyond the amount previously approved by SBA. In applying this provision, compensation to officers, directors, or employees of a wholly-owned corporation shall be deemed paid by the Licensee.

2. Section 107.205(b) would be amended to read as follows:

§ 107.205 Leverage for section 107.301 (d) Licensees.

* * * * *

(b) *SBA approval required to increase salaries.* Without prior written SBA approval, a Debtor Section 301(d) Licensee may not increase the aggregate amount of salaries or other compensation of officers, directors, or employees beyond the amount previously approved by SBA. In applying this provision, compensation to officers, directors, or employees of a wholly-owned corporation shall be deemed paid by Licensee.

(Catalog of Federal Domestic Assistance Program No. 59.0111 Small Business Investment Companies.)

Dated: March 3, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-7187 Filed 3-10-77;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 270]

[Docket No. RM77-9]

FEDERAL PROJECT RATES

Filing of Schedules; Proposed Rulemaking; Extension of Time

MARCH 7, 1977.

On February 4, 1977, the Commission issued a Notice of Proposed Rulemaking in Docket No. RM77-9 (published February 14, 1977, 42 FR 9032); calling for comments by March 4, 1977. On February 23, 1977, the Intercompany Pool member companies (Puget Sound Power and Light Company, Portland General Electric Company, Pacific Power and Light Company, the Washington Water Power Company, Utah Power and Light Company and The Montana Power Company) filed a motion for an extension of time within which comments may be filed.

Upon consideration, notice is hereby given that the time for filing comments

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in the above-designated rulemaking proceeding is extended to and including April 4, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7273 Filed 3-10-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

[Docket No. 77N-0078]

ACRYLONITRILE COPOLYMERS INTENDED FOR USE IN CONTACT WITH FOOD

Proposed Rule Making

AGENCY: Food and Drug Administration, HEW.

ACTION: Proposed rule making.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the interim food additive regulation for acrylonitrile copolymers (1) to reduce the amount of acrylonitrile monomer that may migrate from acrylonitrile copolymers from the currently permitted maximum level of 0.3 part per million (ppm) to a maximum level of 0.05 ppm, (2) to delete duplicative requirements for submission of extraction data on repeated-use articles, (3) to delete the surface-to-volume ratio criteria for single-use articles, (4) to require higher test temperatures if needed to simulate actual use conditions, and (5) to require additional teratogenic tests for acrylonitrile monomer.

DATES: Comments by June 9, 1977.

ADDRESS: Written comments on this proposal may be sent (preferably in quintuplicate) to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Division of Food and Color Additives (HFF-334), Bureau of Foods, Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, (202) 472-5690.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of February 15, 1977 (42 FR 9227), the Commissioner gave notice of his determination, upon consideration of the environmental impact of plastic bottles for carbonated beverages and beer, to take no action at this time based upon his authority under the National Environmental Policy Act, to limit or terminate their use. Elsewhere in this issue of the FEDERAL REGISTER, however, FDA is announcing a stay of certain acrylonitrile copolymer food additive regulations or portions thereof. The stay is limited to the use of acrylonitrile copolymers to fabricate beverage containers.

This is a proposal to amend an interim food additive regulation. Substances having a history of use in food or in food-contact surfaces may, at any time, have their safety brought into question by new information that in itself is not conclusive. Interim regulations are designed for those situations. The provisions of § 121.4000 (21 CFR 121.4000) permit the establishment of an interim food additive regulation for the use of a substance whose safety is brought into question, subject to whatever limitations are deemed appropriate under the circumstances, for a limited period of time while the questions raised are being resolved by further study. In the case of prior-sanctioned substances, § 121.2000(b) (21 CFR 121.2000(b)) provides that based on scientific data or information showing that use of a prior-sanctioned substance may be injurious to health, and thus in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), an applicable regulation will be established to impose whatever limitations or conditions are necessary for safe use of the substance or to prohibit its use.

In the FEDERAL REGISTER of November 4, 1974 (39 FR 38907), FDA proposed such an interim regulation (21 CFR 121.2010 and 121.4010) for acrylonitrile copolymers. The final interim regulation was published in the FEDERAL REGISTER of June 14, 1976 (41 CFR 23940).

Both prior sanctions and food additive regulations permitting the use of acrylonitrile copolymers had been issued on the belief that there was no significant migration of acrylonitrile to food. For situations involving insignificant migration of acrylonitrile monomer, the available toxicological studies were considered adequate. The development of improved analytical procedures for measuring acrylonitrile monomer in food-simulating solvents and the recognition of delayed extraction problems caused by the formation of reversible complexes in certain acrylonitrile formulations led, in 1974, to a complete review by FDA of all safety data then available on acrylonitrile. The review indicated that previous studies no longer formed an entirely adequate basis for determining the safety of acrylonitrile monomer and demonstrated the need for additional toxicologocial studies on acrylonitrile monomer.

The interim food additive regulation established safe conditions of use for acrylonitrile and specifically restricted the amount of acrylonitrile monomer that could be extracted by food-simulating solvents to 0.3 ppm. The interim regulation conditioned further use of acrylonitrile copolymers in all food-contact applications on the undertaking of specified scientific studies. Furthermore, the interim regulation specified in paragraph (e) that:

On or before September 13, 1976, any interested person shall satisfy the Commissioner of Food and Drugs that toxicological feeding studies adequate and appropriate to establish safe conditions for the use of acrylonitrile copolymers have been, or soon will be, undertaken. Toxicity studies of acrylonitrile monomer shall include (1) lifetime feeding studies with a mammalian species, preferably with animals exposed in utero to the chemical, (2) studies of multigeneration reproduction with oral administration of the test material, (3) assessment of teratogenic and mutagenic potentials, (4) subchronic oral administration in a nonrodent mammal, (5) tests to determine any synergistic toxic effects between acrylonitrile monomer and cyanide ion, and (6) a literature search on the effects of chronic ingestion of hydrogen cyanide. Data on levels of acrylamide extractable from acrylonitrile copolymers shall also be submitted. Protocols of testing should be submitted for review to the Food and Drug Administration * * *.

Before publication of the final interim regulation, toxicological studies were begun, and reports were and continue to be submitted on these studies and more recent studies. Also, analytical data have been submitted, and work continues by both manufacturers and FDA to establish analytical methodology for acrylonitrile monomer appropriate for regulatory purposes.

TOXICOLOGY

The reports of toxicity studies performed in response to the interim regulation requirements and submitted to FDA to date are summarized below. The full reports are on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

1. *A 6-month oral toxicity study incorporating acrylonitrile in the drinking water of purebred beagle dogs*, Toxicology Research Laboratory, Health and Environmental Research, Dow Chemical Co., dated June 6, 1975 and submitted December 15, 1975. Dogs in four groups were fed acrylonitrile at levels of 0, 100, 200, and 300 ppm in their drinking water over a period of 6 months. The resulting data indicate a no-effect level below 100 ppm. The effect at this level was a slight lag in growth, and microscopic changes in the esophagus, with increased thickening of the epithelium of the tongue. At higher doses, namely, 200 and 300 ppm, there were indications of dose-related effects in terms of lag in growth, mortality, hematology parameters, liver function, and possibly on the weight of testes of the male animals.

2. *A 90-day oral toxicity study incorporating acrylonitrile in the drinking water of rats*, Toxicology Research Laboratory, Health and Environmental Research, Dow Chemical U.S.A., dated January 1975 and submitted December 15, 1975. Rats were fed acrylonitrile via drinking water at levels of 0, 4, 10, 25, and 60 mg/kg of body weight/day for a period of 90 days. This study suggests that a level of 8 to 10 mg/kg/day (or 85 ppm in water) of acrylonitrile is a no-effect level. Effects noted at higher levels reflect a dose response and consisted of a lag in growth pattern, decreased water and food intake, increased blood urea nitrogen and alkaline phosphatase, and increased liver and kidney weights.

3. *Synergism between acrylonitrile and cyanide ion*, Younger Laboratories, dated May 27, 1975 and submitted April 19, 1976. Solutions of acrylonitrile and potassium cyanide were simultaneously administered to rats. The investigator concluded that there was no synergistic effect on acute toxicity.

Results of studies conducted by three different laboratories on the mutagenicity and cytogenicity of acrylonitrile monomer were submitted October 13, 1976:

4a. *In vitro microbial mutagenicity studies of acrylonitrile*, E. I. duPont de Nemours & Co.: Haskell Laboratory for Toxicology and Industrial Medicine, dated June 20, 1975. Acrylonitrile monomer was tested with various strains of *Salmeonella typhimurium* (Ames test). This report cited a small amount of mutagenic activity in one of several salmonella strains tested.

b. *In vitro microbiological mutagenicity studies of Dow Chemical Company compounds*, Stanford Research Institute, interim report dated January 1976. This report concluded there was no mutagenicity indicated in the salmonella strains tested.

c. *Mutagenic evaluation of Compound MCA 73 (acrylonitrile)*, Litton Bionetics, Inc., dated August 16, 1975. This report concluded there was no mutagenicity indicated in the salmonella nor in the yeast strains tested. This report was supplemented by another under the same title, dated February 19, 1976, which concluded there was no indication that acrylonitrile is mutagenic based upon an assay of mouse lymphoma.

5. *Teratogenic evaluation of acrylonitrile monomer given to rats by gavage*, Toxicology Research Laboratory, Health and Environmental Research, Dow Chemical Co., dated November 3, 1976, submitted November 9, 1976. This report assessed a study of the teratogenic effects of acrylonitrile monomer when administered by gavage into four groups of rats at dosages of 0, 10, 25, and 65 mg acrylonitrile/kg of body weight, on days 6 to 15 of gestation. The investigator found that administration of 65 mg/kg/day, a dose level which caused significant maternal toxicity, produced an increased incidence of fetal malformations; these included loss of or shortened tail, shortened trunk, missing vertebrae, and right-sided aortic arch. Other signs of embryotoxicity or fetotoxicity seen at this dose level were increased frequency of early resorption sites detected by sodium sulfide stain, decreased fetal body weight and crown-rump length, and increased incidences of some minor skeletal variants. At 25 mg acrylonitrile/kg/day, less maternal toxicity was noted, but a low incidence of the same anomalies seen at 65 mg/kg/day was observed, suggesting a possible effect on the incidence of malformations at this dose level also. No other evidence of embryotoxicity was noted at 25 mg/kg/day. At the lowest level, 10 mg acrylonitrile/kg/day, there was no evidence of toxicity to either the mother or her developing embryo or fetus.

6. *Status Report on the 2-Year Study Incorporating Acrylonitrile in the Drinking Water of Rats*, Toxicology Research Laboratory, Health and Environmental Research, Dow Chemical Co., dated January 12, 1977 and submitted January 14, 1977. This report was a 13-month progress report on an ongoing 2-year study incorporating acrylonitrile monomer in the drinking water of rats at concentrations of 0, 35, 100, and 300 ppm. This study was begun in November 1975 and will be completed in November 1977. A final report is expected in early 1978. The Manufacturing Chemists Association, which is conducting this study, reported the following:

As of thirteen months into the study, there is a higher incidence of subcutaneous masses in the mammary region of females at all concentrations of AN (acrylonitrile monomer), and masses of the ear canal among both sexes at the highest concentration, and among females, only, at the intermediate concentration.

Gross pathologic examination of some of the rats dying spontaneously and in those rats sacrificed after one year of administration of AN revealed focal areas of hyperplasia and/or polyp formation in the nonglandular portion of the stomach of a number of animals at the two higher concentrations. No gross pathologic changes were observed in the stomachs of the animals at the lowest concentration.

Microscopic examination of the brain of the animals sacrificed at the 12-month interim kill revealed proliferative lesions, not observed on gross examination, in rats on the 300 and 100 ppm concentrations. A similar lesion was seen in the spinal cord of one rat on the 100 ppm concentration.

It is concluded in the status report that administration of AN under the condition of this study has significantly lowered body weight, produced pathologic changes in the gastric epithelium, increased the incidence of masses of the ear duct and produced proliferative lesions in the central nervous system of rats. The significance of the higher incidence of subcutaneous masses in the mammary region of the rats is less clear, and its resolution will have to await further progress of the study.

CHEMISTRY

In 1975 FDA began a critical review of the analytical methodology for acrylonitrile submitted by the petitioners for the approval of food additive regulations for acrylonitrile copolymers. Most of the earlier methods were designed to determine acrylonitrile monomer at levels somewhat lower than 0.3 ppm; while the more recent methods are claimed to detect levels of 0.05 ppm and lower. The methods may be grouped into four categories: (1) Gas-liquid chromatography (GLC) with flame ionization detection, (2) polarography, (3) GLC with nitrogen-phosphorous detection, and (4) GLC with mass spectrometry detection.

None of the methods yet submitted meet FDA's requirements for a regulatory method for determination of acrylonitrile monomer. Such a method must be capable of accurate measurement of acrylonitrile monomer in various food simulants at the proposed tolerance level of 0.05 ppm, and a different physiochemical procedure than that used for the determinative analysis must be available to confirm it.

FDA's Indirect Additives Laboratory (IAL) is developing its own analytical methodology for acrylonitrile monomer. This method is a modification of a duPont GLC procedure utilizing a nitrogen-phosphorous detector. It appears capable of determining levels at least as low as 0.04 ppm. Results of testing with this method have been confirmed by mass spectometry and validated by repetition, and efforts are continuing to improve its detection capability. The IAL is working to refine the confirmatory procedure at 0.05 ppm and below.

The procedures for extraction testing utilized by the IAL have been those established in the present interim regulation. The Commissioner is aware that the testing criteria established, as for all indirect food additives, are rigorous and more exaggerated than ordinary conditions of use. In the case of acrylonitrile copolymers, testing at 120° F, as required by the interim regulation, is a more severe situation than would be encountered in normal actual use. The rate of acrylonitrile monomer migration, and degradation of the reversible acrylonitrile/mercaptan complexes where present, increases as the temperature increases. Testing at temperatures higher than would normally be encountered is required to determine the characteristics of the acrylonitrile complex and to provide data from which the migration expected under many use conditions can be extrapolated by use of Arrhenius statistical plots. The Commissioner concludes that a conservative judgment about acrylonitrile copolymers is appropriate at this time because of the safety questions and the rapidly expanding use of acrylonitrile copolymers.

The results of extraction tests on acrylonitrile copolymer carbonated beverage bottles are discussed in the stay for acrylonitrile copolymer beverage containers published elsewhere in this issue of the FEDERAL REGISTER.

A more detailed report on current acrylonitrile copolymer analytical methodology, including IAL's testing, is contained in a Bureau of Foods memorandum, Acrylonitrile Copolymer—Status Report, dated February 11, 1977. This memorandum is on file with the FDA Hearing Clerk.

CONCLUSIONS

The Food and Drug Administration has evaluated the toxicological studies discussed previously. The Commissioner concludes that they raise further questions about the safety of acrylonitrile copolymers used under various food-contact conditions and warrant further reductions in the amount of acrylonitrile monomer permitted to migrate to food. Specifically, the teratogenic testing indicates that a high level of intake of acry-

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lonitrile monomer has teratogenic effects on rats. In the ongoing 2-year study, similar levels ingested by rats over a longer period of time have resulted in some unusual masses and lesions in the rats which, although not yet classified pathologically, are cause for concern.

On the basis of these recent studies on acrylonitrile, the Commissioner proposes to lower the amount of acrylonitrile monomer permitted to migrate to food for all single-use or repeated-use acrylonitrile copolymer food-contact articles, under the proposed revision of §§ 121.2010(b) and 121.4010(a), from the current maximum level of 0.3 ppm to a level of 0.05 ppm, pending the final evaluation of all required testing.

The Commissioner has determined, on the basis of exposure potentials for various uses and other factors, that there is no longer an adequate basis for providing safe conditions of use for acrylonitrile copolymer beverage containers under the interim regulation. Elsewhere in this issue of the FEDERAL REGISTER is notice of the Commissioner's stay of the food additive regulations providing for that use of acrylonitrile copolymers. That notice discusses more fully the basis for the stay.

The Commissioner concludes further that the continued use of acrylonitrile copolymers, other than for beverage containers under the conditions prescribed in the interim regulation and for the limited period for the required tests to be completed, will not present a hazard to public health.

The Commissioner acknowledges that a regulatory method of measuring acrylonitrile monomer at levels of 0.05 ppm and below has not yet been established. However, interested persons outside FDA have advised the agency that they are reasonably close to establishing appropriate confirmed analytical testing procedures. The Commissioner is, therefore, providing until the end of the comment period for this proposal (90 days) for submission of detailed information on such procedures. If FDA's laboratories establish an appropriate analytical procedure before receipt of a submitted one, FDA's procedure will be used as the regulatory methodology.

The proposed amendment to the interim regulation to reduce the amount of acrylonitrile monomer that may migrate to food and the continued use of articles governed by it are dependent upon the development of analytical methodology capable of detecting acrylonitrile migration from those articles at or below 0.05 ppm under the test conditions prescribed. This method must be confirmed by a different physio-chemical method.

As cited in the preamble to the June 14, 1976 publication of the present interim regulation at 41 FR 23942, margarine tubs currently in use have been marketed on the assumption that they were exempt from treatment as food additives because they were sanctioned prior to the enactment of the Food Additives Amendment of 1958. The manufacturers of the margarine tub resins were given notice in the interim regulation that there were no documentable "prior sanctions" for these materials. The manufacturers were required to, and did submit food additive petitions for the use of these resins within the 180-day limitation set by § 121.4010. The proposed reduction of the tolerance level for acrylonitrile monomer to 0.05 ppm—which applies to the margarine tubs—may require revisions in the submitted petitions. The FDA will notify the petitioners if their petitions are inadequate under the changing requirements, and will set standard test conditions for these petitioners.

The Commissioner also proposes that § 121.2010(b), and § 121.4010(a), which are identical, be modified by deleting the surface-to-volume ratio distinction between single-use articles and providing a single paragraph (proposed paragraphs (b)(1) and (a)(1), respectively) covering all single-use articles. The surface-to-volume formula currently specified proved to be too difficult and complex for regulatory purposes. The proposed paragraphs will also require higher testing temperatures when necessary to ensure simulation of actual use conditions.

The Commissioner also proposes that § 121.4010(c) regarding repeated-use articles, be deleted because it is a duplicative and unnecessary provision; paragraph (a) contains provisions to ensure that repeated-use articles do not exhibit significant levels of acrylonitrile monomer migration. The Commissioner proposes that the reference to paragraph (c) in paragraph (d) be deleted, that paragraph (d) become new paragraph (c), and that new paragraph (d) recite the new requirement for additional teratological studies.

The Commissioner has received a number of objections to the acrylonitrile interim regulation. Some of those objections relate to changes proposed in this notice. The Commissioner's specific responses to the objections and his determination on the requests for a hearing will be the subject of a notice to be published in the FEDERAL REGISTER in the future.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required to supplement that made available on October 8, 1976 by notice published in the FEDERAL REGISTER of October 5, 1976 (41 FR 43944), relating to plastic bottles for carbonated beverages and beer. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 402, 409, and 701(a), 52 Stat. 1046–1047 as amended, 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371 (a))) and under authority delegated to him (21 CFR 5.1), the Commisioner proposes that Part 121 be amended as follows:

1. In § 121.2010 by revising paragraph (b) to read as follows:

§ 121.2010 Acrylonitrile copolymers and resins.

* * * * *

(b) Limitations for acrylonitrile monomer extraction for finished food-contact articles, determined by using methods of analysis available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives, 200 C St. SW., Washington, DC 20204, are as follows:

(1) In the case of single-use articles intended for food contact, 0.05 ppm acrylonitrile monomer in the extractant, calculated on the basis of the volume held by the container when extracted to equilibrium at 120° F. Where conditions of use involve filling or holding containers at temperatures above 120° F, the test containers should be filled with an appropriate food-simulating solvent and held at the higher temperature for the period of time equalling or slightly exceeding the maximum time of the actual filling or holding conditions. The containers are then to be extracted to equilibrium at 120° F. The articles shall be extracted with food-simulating solvents appropriate to the intended conditions of use.

(2) In the case of repeated-use articles, 0.05 ppm acrylonitrile monomer, to be determined from acrylonitrile monomer equilibrium extraction levels (using food-simulating solvents and temperatures appropriate to the use) as related to food volumes contacted during initial batch usage. The food-simulating solvents shall include, where applicable, distilled water, 8 percent or 50 percent ethanol, 3 percent acetic acid, and either n-heptane or an appropriate oil or fat.

* * * * *

2. In § 121.4010 by revising the introductory text, by revising paragraph (a), by deleting paragraph (c), by revising paragraph (d) and redesignating it paragraph (c), and by adding new paragraph (d) to read as follows:

§ 121.4010 Acrylonitrile copolymers.

Acrylonitrile copolymers may be safety used on an interim basis as articles or components of articles intended for use in contact with food in accordance with the following prescribed conditions:

(a) Limitations for acrylonitrile monomer extraction for finished food-contact articles, determined by using methods of analysis available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives, 200 C St. SW., Washington, DC 20204, are as follows:

(1) In the case of single-use articles intended for food contact, 0.05 ppm acrylonitrile monomer in the extractant calculated on the basis of the volume held by the container when extracted to equilibrium at 120° F. Where conditions of use involve filling or holding containers at temperatures above 120° F, the test containers should be filled with an appropriate food-simulating solvent and held at the higher temperature for the period of time equaling or slightly exceeding the maximum time of the actual

filling or holding conditions. The containers are then to be extracted to equilibrium at 120° F. The articles shall be extracted with food-simulating solvents appropriate to the intended conditions of use.

(2) In the case of repeated-use articles, 0.05 ppm acrylonitrile monomer, to be determined from acrylonitrile monomer equilibrium extraction levels (using food-simulating solvents and temperatures appropriate to the use) as related to food volumes contacted during initial batch usage. The food-simulating solvents shall include, where applicable, distilled water, 8 percent or 50 percent ethanol, 3 percent acetic acid, and either n-heptane or an appropriate oil or fat.

* * * * *

(c) Where acrylonitrile copolymers represent only a minor component of a polymer system, calculations based on 100 percent migration of the acrylonitrile component may be substituted in lieu of the requirements of paragraphs (a) and (b) of this section in support of the continued safe use of acrylonitrile copolymers.

(d) On or before June 9, 1977 any interested persons shall satisfy the Commissioner of Food and Drugs that studies will be undertaken to provide an assessment of the teratogenic potential of acrylonitrile monomer in at least one relevant species of animal other than the rat.

* * * * *

Interested persons may, on or before June 9, 1977, submit to the Hearing Clerk, Food and Drug Administration. Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: March 4, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77–7045 Filed 3–7–77;10:30 am]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 231]

GRAZING LIVESTOCK ON NATIONAL FOREST SYSTEM LANDS

Public Meeting

On December 27, 1976, the Forest Service published in the FEDERAL REGISTER an advance notice of proposed rulemaking, on page 56210. In this notice the public was advised that amendments to the grazing regulations were necessary to incorporate direction given to the Secretary of Agriculture in the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

In order to give interested individuals and organizations an opportunity to offer their views and suggestions on the proposed regulations, a meeting has been scheduled for April 8, 1977, at the Howard Johnson Motor Lodge, 122 West South Temple, Salt Lake City, Utah, at 9 a.m. A discussion draft proposal of regulations will be reviewed at the meeting. Areas to be covered during the meeting include:

1. Authorities and definitions.
2. Management of the range environment.
3. Issuance and reissuance of grazing permits:
   a. 10-year term permits;
   b. Compensation for permittee interest in authorized permanent improvements; and
   4. Rangeland betterment funds for range improvement.
   c. Cancellation of term grazing permits.
   5. Grazing advisory boards.

Rulemaking covering grazing fees and the use of helicopters and motor vehicles in the management of wild free-roaming horses and burros is being handled separately and will not be subjects of discussion at this meeting. Other notices have been published which invite comment and participation related to these areas of rulemaking.

The Bureau of Land Management of the Department of the Interior is cosponsoring the April 8 meeting with the Forest Service. The Bureau of Land Management is also in the process of amending regulations concerned with grazing administration. A document similar to this one is being issued by the Director of the Bureau of Land Management as their public notice of the meeting.

JOHN R. MCGUIRE,
Chief.

[FR Doc.77–7403 Filed 3–10–77;8:45 am]

POSTAL SERVICE

[39 CFR Part 111]

SPACE AVAILABLE AIRLIFT OF MAIL-ORDER CATALOGS

Proposed Ineligibility of Mail-Order Catalogs for Air Transportation to Military Post Offices Overseas as Space Available Mail

AGENCY: U.S. Postal Service.

ACTION: Proposed Rule.

SUMMARY: This proposed rule would change Postal Service regulations to make mail-order catalogs mailed to or from Armed Forces post offices overseas ineligible for carriage overseas by air as space available mail. The cost of airlift for such mail is presently paid by the Department of Defense. If this regulation change is adopted, mailers or mail-order catalogs desiring airlift of their publications would be required to pay for such air transportation.

DATES: Comments must be received on or before April 11, 1977.

ADDRESSES: Written comments should be directed to the Director, Office of Mail Classification. Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:
Roger P. Craig, (202)–245–4635.

SUPPLEMENTARY INFORMATION: Under the provisions of 39 CFR 111.3 the Postal Service is proposing to accomplish the above-described rule change by amending section 126.2 of the Postal Service Manual, Chapter I of which has been incorporated by reference in the FEDERAL REGISTER, see 39 CFR 111.1.

Existing law provides that certain correspondence, parcels, and publications mailed to or from Armed Forces post offices may be carried overseas by air on a space available basis. 39 U.S.C. 3401(b)(1). The cost of airlift for such space available mail is reimbursed to the Postal Service by the Department of Defense (DOD).

On July 2, 1976, the General Accounting Office (GAO) issued a report that concluded that the Postal Service "has not abused its discretion under 39 U.S.C. 3401(b)(1)(B) by issuing regulations pursuant thereto under which mail-order catalogs are not excluded from entitlement to the special service accorded parcels." By the same token, GAO found "a congressional intent to alleviate burdensome mailing costs for personal items and * * * substantial doubts that the purpose of the legislation was for the benefit of private firms." GAO concluded that "[t]he Postal Service should amend its regulations to exclude mail-order catalogs from the application of 39 U.S.C. 3401(b)(1)(B)."

It is proposed to amend section 126.2 of the Postal Service Manual so as to make clear that mail-order catalogs will no longer be entitled to the space available treatment accorded under 39 U.S.C. 3401(b), the so-called SAM statute that was the focus of the GAO report. We propose, moreover, as recommended by DOD, to exclude mail-order catalogs as well from the parcel air lift treatment accorded under 39 U.S.C. 3401(c), the so-called PAL statute, since the SAM and PAL statutes appear to have similar legislative purposes and each involves space available air lift overseas, for which DOD reimburses the Postal Service. (The Postal Service collects a special fee for PAL Service to the gateway.)

Accordingly, although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service hereby invites comment on the following proposed revision of the Postal Service Manual.

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PART 126—MAIL ADDRESSED TO MILITARY POST OFFICES OVERSEAS

126.2 [AMENDED]

In section 126.2 of the Postal Service Manual: add two asterisks immediately following the caption; and add a new footnote at the end of the footnotes provided in such section reading as follows: "** No mail-order catalogs may be mailed as SAM or PAL."

An appropriate amendment to 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-7192 Filed 3-10-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 55]

[FRL 607-2]

ENERGY-RELATED AUTHORITY

New Hampshire: Proposed Revocation of Compliance Date Extension

The purpose of this FEDERAL REGISTER notice is for the Environmental Protection Agency (EPA) to announce proposed revocation of its compliance date extension for the Public Service Company of New Hampshire, Schiller Station, Units 4 and 5, Portsmouth, New Hampshire ("Schiller Station"). The compliance date extension was promulgated by EPA under the authority of sections 110 and 119 of the Clean Air Act on September 1, 1976 (41 FR 36810).

On March 9, 1976, (41 FR 10071) pursuant to sections 119 and 309 of the Clean Air Act, as amended (42 U.S.C. 1857c-10 and 1857g) the Regional Administrator proposed the issuance of a compliance date extension to Schiller Station, Units 4 and 5. After appropriate public notice, a public hearing was held on April 22, 1976, in Portsmouth, New Hampshire. After responding to statements entered into the hearing record by interested parties, the Administrator promulgated a compliance date extension (CDE) for the Schiller Station on September 1, 1976 (41 FR 36810).

Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended by the Energy Policy and Conservation Act, authorizes the Administrator of the Federal Energy Administration (FEA) to issue orders to certain power plants and major fuel burning installations prohibiting such facilities from burning natural gas or petroleum products as their primary energy source. Section 3 of ESECA added a new Section 119 to the Clean Air Act which requires the Administrator of the EPA to issue compliance date extensions for meeting certain air pollution requirements to facilities issued FEA prohibition orders whenever certain eligibility criteria are satisfied.

One such eligibility criterion is the requirement of section 119(c)(2)(C) of the Clean Air Act that facilities receiving compliance date extensions must achieve the most stringent degree of emission reduction required under an applicable implementation plan as soon as practicable, but no later than December 31, 1978. In addition, section 2 of ESECA and section 119(d)(1)(B) of the Clean Air Act require the EPA Administrator to notify the FEA whether a facility that has been issued an FEA prohibition order will be able to burn coal and comply with all applicable air pollution requirements without an EPA compliance date extension.

If compliance without an extension is not possible, the prohibition on oil and natural gas use contained in an FEA prohibition order may not become effective any earlier than either:

(a) The date EPA certifies to FEA as the earliest date that certain conditions and limitations on the EPA compliance date extension can be met, or

(b) For facilities which are ineligible for compliance date extensions, the earliest date on which the facility will be able to burn coal in compliance with all applicable air pollution requirements. FEA plans to make its prohibition orders effective, after receipt of EPA's notifications or certification, by service of Notices of Effectiveness which will set forth the dates after which burning of natural gas or petroleum products as a primary energy source will be prohibited.

On June 30, 1975, FEA issued prohibition orders Nos. OFU-050, 051 to Schiller Station, Units 4 and 5. On March 9, 1976, at 41 FR 10071 EPA proposed to issue a compliance date extension under section 119 of the Clean Air Act to this facility. The CDE was promulgated September 1, 1976 (41 FR 36810). Issuance of the CDE reflected EPA's finding that final compliance with the New Hampshire State Implementation Plan requirements for control of particulate matter and sulfur dioxide emissions while burning coal at these Units will take 820 days from the date of service by FEA of the Notices of Effectiveness of its prohibition orders.

A schedule based on this time frame was set out as part of the compliance date extension promulgated by EPA September 1, 1976, for the subject facility. Since the date of EPA's promulgation of the compliance date extension, FEA became unable to issue its Notices of Effectiveness by a date 820 days before December 31, 1978. Consequently, the proposed EPA compliance schedule would extent past December 31, 1978, thereby making this facility ineligible for a compliance date extension under section 119 of the Clean Air Act.

Therefore, EPA is proposing to revoke its compliance date extension for Schiller Station, Units 4 and 5. To discharge its responsibilities under section 119(d)(1)(B) of the Clean Air Act, EPA will certify to FEA the earliest date at which this facility will be able to burn coal and comply with all applicable air pollution requirements. The prohibition contained in FEA's order may not become effective any earlier than the date so certified by EPA.

The FEA prohibition orders issued to Schiller Station, Units 4 and 5 are not affected by this action except insofar as the projected date of effectiveness of the prohibition contained in the FEA orders may be adjusted to take account of the time needed for achieving compliance with applicable air pollution requirements in connection with the FEA prohibition orders or Notices of Effectiveness to the facility in question.

The Regional Administrator hereby invites the public to comment on this proposal to revoke the CDE promulgated for Schiller Station on September 1, 1976. Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate to the Regional Administrator, U.S. E.P.A., JFK Federal Building, Room 2203, Boston, MA 02203. Relevant comments received on or before April 11, 1977 will be considered and acknowledged. Comments received will be available during normal working hours at the EPA, Region I office.

(Secs. 110, 119 and 301 of the Clean Air Act, as amended, (42 U.S.C. 1857c-5, 1857c-10 and 1857g).)

Dated: January 31, 1977.

JOHN A.S. MCGLENNON,
Regional Administrator.

Part 55 of Chapter 1, Title 40 of the Code of Federal Regulations is amended by adding a new Subpart EE as follows:

Subpart EE—New Hampshire

Section 55.1520 is revoked.

§ 55.1520 [Revoked]

Section 55.1520 Compliance Date Extension.

FR Doc.77-7157 Filed 3-10-77;8:45 am

[40 CFR Part 60]

[FRL 607-4]

GRAIN ELEVATORS

Standards of Performance for New Stationary Sources; Extension of Comment Period

On January 13, 1977, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking under section 111 of the Clean Air Act, as amended (42 FR 2842). The proposed regulation would establish standards of performance for new, modified or reconstructed grain elevators. The comment period for this proposed regulation ends March 14, 1977.

EPA has been requested by the Governor of Kansas to extend the comment period 60 days in order to allow the Kansas Secretary of Health and Environment, representatives of the State's grain industry, and other interested parties additional time to compile, assemble and submit comments. Since it appears that a number of persons would like additional time to submit comments, the comment period is being extended 60 days for all parties who may wish to participate in this rulemaking. All comments postmarked by May 14, 1977, will be considered and should be submitted (in triplicate) to the Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin.

Dated: March 7, 1977.

EDWARD P. TUERK,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc.77-7359 Filed 3-10-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3800]

SURFACE MANAGEMENT OF PUBLIC LAND UNDER U.S. MINING LAWS

Public Meetings

Notice is hereby given of a public meeting to obtain public comment pursuant to the publication of the proposed rulemaking on Surface Mining Regulations in the FEDERAL REGISTER, December 6, 1976, 41 FR 53428. The Secretary of the Interior has extended the public comment period to April 5, 1977 in an effort to allow additional public involvement and comment.

The public meeting is scheduled for March 24, 1977, 2 p.m. to 5 p.m., Maricopa County Board of Supervisors auditorium, 205 W. Jefferson, Phoenix, Arizona.

Comments from the public will be taken orally or in writing at the above address during the specified time period. In addition to the above meeting, written comments may be submitted to the Director (210), Bureau of Land Management, Washington, D.C. by April 5, 1977.

ROBERT O. BUFFINGTON,
State Director.

MARCH 4, 1977.

[FR Doc.77-7264 Filed 3-10-77;8:45 am]

[43 CFR Parts 4100, 4200, 4300, 4700, 9230]

RANGE MANAGEMENT AND TECHNICAL SERVICES

Grazing Administration and Trespass; Public Meeting

On July 26, 1976, the Bureau of Land Management (BLM) published proposed regulations concerned with the administration of grazing on the public lands (FR, Vol. 41, No. 146, 41 FR 31504). These proposed regulations must be further reviewed and amended to incorporate direction given to the Secretary of the Interior in the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

In order to give interested individuals and organizations an opportunity to offer their views and suggestions on the proposed regulations, a meeting has been scheduled for April 8, 1977, at the Howard Johnson Motor Lodge, 122 West South Temple, Salt Lake City, Utah, at 9 a.m. A discussion draft proposal of regulations will be reviewed at the meeting. Areas to be covered during the meeting include:

1. Multiple-use management of the public lands.
2. Base property.
3. Allotment management plans.
4. Term grazing permits and leases.
5. Cancellation of term permits and leases.
6. Range betterment funds for range improvements.
7. Compensation for permittee and lessee interest in authorized permanent improvements.
8. Grazing advisory boards.

Rulemaking covering grazing fees and the use of helicopters and motor vehicles in the management of wild free-roaming horses and burros is being handled separately and will not be subjects of discussion at this meeting. Other notices have been published which invite comment and participation related to these areas of rulemaking.

The Forest Service of the Department of Agriculture is cosponsoring the April 8 meeting with the Bureau of Land Management. The Forest Service is also in the process of amending regulations concerned with grazing livestock on National Forest System lands. A document similar to this one is being issued by the Chief, Forest Service, as their public notice of the meeting.

GEORGE L. TURCOTT,
Associate Director.

MARCH 8, 1977.

[FR Doc.77-7375 Filed 3-10-77;8:45 am]

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Threatened Status and Critical Habitat for the Black Toad

The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking, pursuant to sections 4 and 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543, 87 Stat. 884; hereinafter the Act), which would determine the black toad (*Bufo exsul*) to be a Threatened Species and which would determine Critical Habitat for that species. This species occurs only in Deep Springs Valley, Inyo County, California.

BACKGROUND

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

The black toad is endemic to Deep Springs Valley, Inyo County, California. Known only from the vicinity of Antelope Springs and Buckhorn Springs, the range of this species covers only 9300 square meters. Like other endemics of the desert Southwest, this toad is threatened primarily by man's need for water, on which it must rely.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of section 4(a) of the Act. These factors, and their application to the black toad are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The stream channels at Buckhorn Spring are periodically recanalized to provide water for livestock and irrigation. When stream modification occurs after oviposition, the marsh area dries before the tadpoles metamorphose to miniature toads, and recruitment to the adult population is seriously affected. In the past, livestock has been permitted to graze in the marshlands, thus resulting in some habitat destruction; this practice has been stopped by officials at Deep Springs College.

The lowering of water tables in the vicinity of Antelope and Buckhorn Springs by pumping could seriously alter the limited habitat of the black toad.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Because of its restricted range and attractive coloration, the black toad has been a favorite of amphibian collectors. between 1962 and 1971, the easternmost toad area of Buckhorn Springs, the area most accessible to collectors, experienced a noticeable decline in numbers of adults, ostensibly because of overcollecting. Deep Springs College now restricts access to the Buckhorn Springs toad areas; the Antelope Springs population is still readily accessible to collectors.

3. *Disease or predation.* Not applicable for this species.

4. *The inadequacy of existing regulatory mechanisms.* This species is protected by the state of California against take, possession, and sale. Addition to the Endangered and Threatened Wildlife list would provide additional discouragement to collectors.

5. *Other natural or manmade factors affecting its continued existence.* None.

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation", states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or re-

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sult in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term Critical Habitat was published by Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765).

The areas delineated below do not necessarily include the entire Critical Habitat of the black toad and modifications to Critical Habitat descriptions may be proposed in the future. In accordance with section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat of the black toad found within the areas delineated below.

Until the promulgation of section 7 regulations, all Federal departments and agencies should, in accordance with section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considered likely to affect Critical Habitat within the delineated areas. Consultation pursuant to section 7 should be carried out using the procedures contained in the "Guidelines to Assist the Federal Agencies in Complying with section 7 of the Endangered Species Act of 1973" which have been made available to the Federal agencies by the Service.

CRITICAL HABITAT DETERMINATION

Based upon literature reviews, Critical Habitat for the black toad includes the following areas (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species):

I. Section 4 T8SR36E Inyo County
II. Section 5 T8SR36E Inyo County
III. Section 8 T8SR36E Inyo County
IV. Section 9 T8SR36E Inyo County
V. SW¼ Section 3 T8SR36E Inyo County
VI. NW¼ Section 16 T8SR36E Inyo County
VII. Section 13 T7SR35E Inyo County

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered Species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered Species. All of those prohibitions and exceptions also apply to any Threatened Species unless a Special Rule pertaining to that Threatened Species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered Species, are found at § 17.21 of Title 50 and, for the convenience of the reader, are reprinted below.

§ 17.21 Prohibitions.

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.23 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c)(2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carriers a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

"(5) Nothwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days."

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412) provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened Species under certain circumstances. Such permits involving Endangered Species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of California with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any aspect of these proposed rules are hereby solicited. Comment particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the black toad;

(2) The location of and reasons why any habitat of the black toad should or should not be determined to be "Critical Habitat" as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of the black toad.

Final promulgation of the regulations on the black toad will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments and other documents, preferably in triplicate, to Director (FWS/WPO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. All relevant comments and materials received no later than May 13, 1977, will be considered. Comments and materials received will be available for public inspection during normal business hours at the Service's Office in Room 514, 1717 H Street NW., Washington, D.C.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

This proposed rulemaking was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species.

Dated: February 15, 1977.

LYNN G. GREENWALT,
Director,
Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend § 17.11:

1. By adding in alphabetical order the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered			
(a) AMPHIBIANS							
Toad, black	*Bufo exsul*	N/A	U.S.A. (California)	Entire	T		NA

2. By amending the table of sections for Subpart I of Part 17 to read as follows:

Subpart I—Interagency Cooperation

Sec. 17.95. Critical habitat.

3. By adding new § 17.95(d)(4) reading as follows:

• • • • •

(d) *Amphibians.*—

• • • • •

(4) *Black toad.* (1) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the black toad (*Bufo exsul*):

(A) *Section 4 T8SR36E.* Inyo County.

(B) *Section 5 T8SR36E.* Inyo County.

(C) *Section 8 T8SR36E.* Inyo County.

(D) *Section 9 T8SR36E.* Inyo County.

(E) *SW ¼ Section 3 T8SR36E.* Inyo County.

(F) *NW ¼ Section 16 T8SR36E.* Inyo County.

(G) *Section 13 T7SR35E.* Inyo County.

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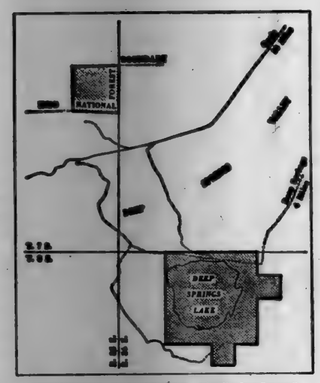

[FR Doc.77-7190 Filed 3-10-77;8:45 am]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for the Palila; Correction

In the FEDERAL REGISTER of December 22, 1976 (41 FR 55729–55732), the U.S. Fish and Wildlife Service proposed determination of Critical Habitat for the palila, an Endangered Hawaiian bird. On page 55730, column 3, under "Submittal of Written Comments," it was stated that the Service would consider comments received no later than April 18, 1977. The date should have read February 18, 1977, as it has been the policy of the Service to provide a public comment period of approximately 60 days for proposals of this nature. The Service must soon close the comment period to facilitate finalization of the Critical Habitat determination, but, because of any confusion resulting from this error, will continue to accept comments on the palila proposal until March 16, 1977.

Dated: March 3, 1977.

GEORGE W. MILIAS,
Acting Director,
Fish and Wildlife Service.

[FR Doc.77-7282 Filed 3-10-77;8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Illinois Grain Inspection Point

Statement of considerations. The Galesburg Grain Inspection Department, Galesburg, Illinois, has requested that, effective May 4, 1977, its designation under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official agency at Galesburg, Illinois, be canceled because of lack of sufficient demand for inspection services. Accordingly, the Federal Grain Inspection Service proposes to cancel the designation of Galesburg Grain Inspection Department to operate as an official agency at Galesburg.

Other interested persons are hereby given opportunity to make application for designation to operate as an official agency at Galesburg, Illinois, pursuant to the requirements in § 26.96 of the regulations (7 CFR 26.96) under the U.S. Grain Standards Act.

NOTE.—Section 7(f) of the Act (7 U.S.C. 79(f)) generally provides that not more than one official agency shall be operative at any one time for any one city, town, or other area.

Any interested persons who wish to submit views and comments are requested to include the name of the person or agency which they recommend to be designated to operate as an official agency at Galesburg, Illinois.

All such views and comments should be submitted in writing to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All materials should be in duplicate and mailed to the Hearing Clerk not later than April 11, 1977. All materials submitted pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C., on March 8, 1977.

WILLIAM T. MANLEY,
Interim Administrator.

[FR Doc.77-7309 Filed 3-10-77;8:45 am]

Forest Service

UMPQUA NATIONAL FOREST 10-YEAR TIMBER MANAGEMENT PLAN

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement on the 10-year Timber Management Plan for the Umpqua National Forest, USDA–FS–R6–DES(Adm)–77–8.

The environmental statement concerns a proposed ten-year Timber Management Plan to replace an extended 1961 plan which is currently in effect. The new plan proposal incorporates new data, sophisticated calculation methods, and policy changes, and deals with the intensity and type of timber management opportunities on the Umpqua National Forest, located in the southwestern portion of the State of Oregon.

The draft environmental statement was transmitted to CEQ on March 4, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. & Independence Ave., S.W., Washington, D.C. 20250.
USDA, Forest Service, Pacific Northwest Region, 319 S.W. Pine Street, Portland, Oregon 97204.
USDA, Forest Service, Umpqua National Forest, 704 S.E. Cass Street, Roseburg, Oregon 97470.

A limited number of single copies are available upon request to:

Forest Supervisor, Umpqua National Forest, 704 S.E. Cass Street, Roseburg, Oregon 97470.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Umpqua National Forest, 704 S.E. Cass Street, Roseburg, Oregon 97470. Comments must be received by June 2, 1977 in order to be considered in the preparation of the final environmental statement.

ROBERT R. TYRREL,
Director, Planning, Programing and Budgeting.

MARCH 4, 1977.

[FR Doc.77-7171 Filed 3-10-77;8:45 am]

[Region 2]

SPEARFISH DISTRICT GRAZING ADVISORY BOARD

Meeting

The Spearfish District Grazing Advisory Board will meet at 7:30 p.m., April 15, 1977 at the Hospitality Room, First National Bank, Spearfish, South Dakota. The purpose of this meeting is to discuss the following:

1. The National Forest Management Act of 1976
2. Federal Land Policy and Management Act of 1976
3. Northern Hills Land Management Plan
4. Public land grazing issues and concerns

The meeting will be open to the public. Persons who wish to attend should notify Oliver Swanson, RR 1, Spearfish, South Dakota, 605/642-2225. Written statements may be filed with the committee before or after the meeting.

Dated: February 28, 1977.

JAMES C. OVERBAY,
Forest Supervisor.

[FR Doc.77-7172 Filed 3-10-77;8:45 am]

BEAVER CREEK WILDERNESS; MINERAL PROSPECTING

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Mineral Prospecting in the Beaver Creek Wilderness, Daniel Boone National Forest, USDA–FS–R8–DES(ADM.) 77–03.

The Forest Service proposes to conditionally approve with prescribed modifications a prospecting plan submitted by the Greenwood Land and Mining Company of Parker's Lake, Kentucky. The concerns of the Forest Service are to resolve conflict between public and private rights in the management of the Beaver Creek Wilderness.

This draft environmental statement was transmitted to CEQ February 23, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3230, 12th St. & Independence Ave., S.W., Washington, D.C. 20250.
USDA, Forest Service, 1720 Peachtree Rd., N.W., Rm. 804, Atlanta, Georgia 30309.
U.S. Forest Service, Daniel Boone National Forest, 100 Vaught Road, Winchester, Kentucky 40391.

A limited number of single copies are available upon request to Forest Supervisor, Daniel Boone National Forest, 100 Vaught Road, Winchester, Kentucky 40391.

Comments are invited from the public, and from State and Local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Daniel Boone National Forest, 100 Vaught Road, Winchester, Kentucky 40391. Comments must be received by April 24, 1977 in order to be considered in the preparation of the final environmental statement.

Dated: February 23, 1977.

ROBERT F. WILLIAMS,
Regional Environmental Coordinator.

[FR Doc.77-7262 Filed 3-10-77;8:45 am]

CHEROKEE NATIONAL FOREST; TIMBER MANAGEMENT PLAN

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for a Timber Management Plan, Cherokee National Forest, Southern Region, USDA–FS–R8–FES (ADM.) 76–16.

The Cherokee National Forest is located in Carter, Cocke, Greene, Johnson, McMinn, Monroe, Polk, Sullivan, Unicoi, and Washington counties, Tennessee and Ashe county, North Carolina. The environmental statement concerns the implementation of a 10-year Timber Management Plan for the Cherokee National Forest. Major actions are commercial harvest and intermediate cuts, silvicultural treatments including site preparation measures, non-commercial thinning, release, planting and seeding.

The final environmental statement was transmitted to CEQ on March 3, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., S.W., Washington, D.C. 20250.
USDA, Forest Service, 1720 Peachtree Rd., N.W., Room 804, Atlanta, Georgia 30309.
USDA, Forest Service, Forest Supervisor, Cherokee National Forest, 2321 N. Ocoee Street, N.W., Box 400, Cleveland, Tennessee 37311.

A limited number of single copies are available upon request to Forest Supervisor, Cherokee National Forest, 2321 N. Ocoee Street, N.W., Box 400, Cleveland, Tennessee 37311.

Copies of the environmental statement have been sent to various Federal, State and Local agencies as outlined in the CEQ guidelines.

Dated: March 3, 1977.

ROBERT F. WILLIAMS,
Regional Environmental Coordinator.

[FR Doc.77-7263 Filed 3-10-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30549; Order 77-3-35]

BRITISH AIRWAYS

Order of Suspension and Investigation Regarding Transatlantic Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of February, 1977.

On February 4, 1977 British Airways filed tariff revisions proposing to reduce the specific commodity rates (SCR's) on Item 7119 (Books, N.E.S.) from the United Kingdom to the United States effective March 9, 1977.[1] The British Airways filing was made pursuant to a U.K. government order, and would reduce these rates from London, Manchester, or Glasgow, presently at 36 U.K. pence per kg. to New York and 37 pence per kg. to Philadelphia, to 27 pence and 28 pence per kg. respectively.

No justification has been offered for this proposal. Complaints requesting suspension pending investigation, however, have been filed by Seaboard World Airlines, Inc. (Seaboard), Trans World Airlines, Inc. (TWA), and Pan American World Airways, Inc. (Pan American). The complainants generally assert that the proposed rates are grossly uneconomic and would not even cover the U.S. carriers' cost per available ton-mile (ATM) much less the costs per revenue ton-mile (RTM);[2] that there has been no demonstration by British Airways that the proposed rate reductions are cost-related or would generate new traffic; that the rates are at or below the level of similar SCR's previously filed by British Airways and suspended by the Board in Order 77-1-6, December 23, 1976;[3] and that the British Airways filing is in opposition to the Board's long-standing policy of urging the carriers to reduce reliance on discounted SCR's.

Seaboard adds that the new filing flies directly in the face of the Board's admonition in Order 77-1-6 that rates at such low levels be accompanied by the most convincing economic justification; and that in any event British Airways is not likely to be dissuaded from implementing the rates regardless of whatever action the Board takes.

British Airways, in a consolidated answer to the complaints, alleges that the complainants fail to realize that the proposed rates, while stated in U.S. units, represent a conversion from the U.K. units and, at 27 and 28 U.K. pence to New York and Philadelphia, respectively, actually reflect an increase from the current rates of 25 and 26 U.K. pence "as expressed by the Civil Aviation Authority." The carrier contends further that a rate lower than the IATA-agreed rate approved by the Board is necessary given the unusually high density of this traffic.

Upon full consideration of the tariff filing, the complaints, the answer and all other relevant factors, the Board finds the proposed rates may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. The Board further concludes that the proposed rates should be suspended pending investigation. First, we cannot agree that the proposal actually represents an increase in terms of U.K. pounds over present rates; regardless of what the rates are "as expressed by the U.K. Civil Aviation Authority," the present rate from London to New York, for example, in British Airways' official tariff on file with the Board is 36 U.K. pence per kg., 33 percent higher than the proposed rate of 27 U.K. pence.[4] The proposed rates, like British Airways' similar SCR filing considered in Order 77-1-6, are so low as to appear uneconomic on their face (see fn. 2). Order 77-1-6 indicated that such low rates could be accepted only upon the most convincing showing that they offered a real potential for generating substantial new traffic with little possibility of diversion from existing rates. British Airway has offered no meaningful explanation or justification for the proposed reduction

[1] John M. Sampson, Agent, Tariff CAB No. 19.

[2] The yields under the proposed rates would range from about 12.07 to 13.20 cents per RTM using current rates of exchange, and Pan American indicates even lower yields after considering prorate dilution on carriage other than from London. The U.S. carriers' costs per ATM for North Atlantic freighter operations during the year ended June 30, 1976 ranged from 18.06 to 19.88 cents per ATM. Seaboard, with the best load factor at 65 percent, had a cost per RTM of 23.15 cents.

[3] Items 2102 (Cloth), 6807 (Plastic Foil and/or Sheets), and 7047 (Decals).

[4] Roughly equivalent to $0.5142 and $0.4606 per kg., respectively.

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in this rate. In fact, its sole support is a U.K. government order, which in turn carried no explanation or rationale.[5]

The British Airways' proposal runs directly counter to the Board's long-standing policy of encouraging a reduced reliance on discounted specific commodity rates to move so large a portion of international freight traffic. Considering this oft-repeated policy as well as the Board's recent suspension of similar U.K.-U.S. SCR's, British Airways and the U.K. government must have been aware that the proposed Item 7119 rates would surely be suspended, and we are frankly at a loss to understand what serious purpose was served by the instant filing.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a), 403, 404, 801, and 1002(j) thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the rates and provisions for (1) Item No. 7119, subject to Note "B", and the addition of Note "C" in connection with Item No. 7119 from Glasgow, Scotland, London, England, and Manchester, England, to New York, New York; and (2) Item No. 7119 from Glasgow, Scotland, London, England, and Manchester, England, to Philadelphia, Pa. on 18th Revised Page 130, 22nd Revised Page 134, 11th Revised Page 135, and 25th Revised Page 136–A of Tariff C.A.B. No. 19, issued by John M. Sampson, Agent, and rules, regulations, or practices affecting such rates and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to take appropriate action to prevent the use of such rates and provisions and rules, regulations, or practices;

2. Pending hearing and decision by the Board, the tariff rates and provisions specified in ordering paragraph 1 above are suspended and their use deferred from March 9, 1977, to and including March 8, 1978, unless otherwise ordered by the Board and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[6] and shall become effective on March 9, 1977;

4. The investigation ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated;

5. Except to the extent granted herein, the complaints of Pan American World Airways, Inc., Seaboard World Airlines, Inc., and Trans World Airlines, Inc., in Dockets 30500, 30473, and 30474, respectively, be and hereby are dismissed;

6. The motion of Pan American World Airways, Inc. to file an unauthorized document in Docket 30500 be and hereby is granted; and

7. Copies of this order be filed in the aforesaid tariff and be served upon British Airways, Pan American World Airways, Inc., Seaboard World Airlines, Inc., and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS F. KAYLOR,
Secretary.

[FR Doc.77-7292 Filed 3-10-77;8:45 am]

[5] We are not persuaded by British Airways' argument, in its answer, that the proposed rates are justified by the alleged "unusually high density" of this traffic. The IATA-agreed, Board-approved commodity rates for "Books, N.E.S." are already much lower than the general run of SCR's between London and New York. Further, similar goods such as Items 7103 (Books, Postcards, Calendars, etc.), 7107 (Daily Newspapers) and 7113 (Weekly Periodicals) which may be assumed to have densities comparable to Item 7119, have rates similar though slightly higher than Item 7119; yet British Airways did not feel compelled to propose a reduction from IATA-agreed levels for those items.

[6] This order was submitted to the President on February 25, 1977.

[Docket No. 30565]

DEUTSCHES REISEBURO GMBH (GERMANY) FOREIGN AIR CARRIER PERMIT

Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on April 4, 1977, at 9:30 a.m. (local time) in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Janet D. Saxon.

Dated at Washington, D.C., March 7, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-7295 Filed 3-10-77;8:45 am]

MEETING

The CAB will meet:

TIME AND DATE: 10 a.m.—March 15, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Docket 27530, Big Bear Cartage, Inc. Petition for Reconsideration of Board Order 76–6–116 which denied Big Bear's request that the Board issue a declaratory order or institute a rulemaking proceeding to resolve certain difficulties it was experiencing with the Interstate Commerce Commission.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, Office of the Secretary (202) 673–5068.

SUPPLEMENTARY INFORMATION: The Board has not yet issued final regulations implementing the open meeting provisions of the Government in the Sunshine Act.

However, so that the public will have the required notice for all meetings held after the effective date of the Sunshine Act (March 12, 1977), the Board will follow the announcement procedures set forth in § 310b.4 (PDR–44) of its proposed rules until final rules have been adopted.

[FR Doc.77-7296 Filed 3-10-77;8:45 am]

[Docket No. 30570]

SERVICE TO BRUNSWICK AND SAVANNAH CASE

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 26, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1825 Connecticut Ave. NW., Washington, D.C. before Administrative Law Judge Janet D. Saxon.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before April 11, 1977, and the other parties on or before April 19, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

HENRY M. SWITKAY,
Acting Chief,
Administrative Law Judge.

[FR Doc.77-7293 Filed 3-10-77;8:45 am]

[Docket No. 29606]

TRANSPORTES AEREOS AND PORTUGUESES S.A.R.L. (TAP)

Hearing

In the matter of Transportes Aereos Portugueses S.A.R.L. (TAP) proposed U.S.-Portugal nonaffinity group fares.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on April 12, 1977 at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, Washington, D.C. 20428, before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served February 3, 1977, the supplemental prehearing conference report served February 25, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 7, 1977.

BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc.77-7294 Filed 3-10-77;8:45 am]

COMMISSION OF FINE ARTS

MEETING

MARCH 2, 1977.

The Commission of Fine Arts will meet in open session on Tuesday, April 5, 1977, at 10:00 a.m. in the Commission offices at 708 Jackson Place, N.W., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington.

Inquiries about the agenda and/or requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

This notice amends the notice of meetings published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2337).

CHARLES H. ATHERTON,
Secretary.

[FR Doc.77-7173 Filed 3-10-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

ARIZONA ADVISORY COMMITTEE

Amendment to Notice of Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a press conference of the Arizona Advisory Committee (SAC) of the Commission scheduled for March 17, 1977, a notice previously published in the FEDERAL REGISTER on Thursday, March 3, 1977, on page 12230 (FR Doc. 77–6355) is hereby amended to change the address from 1800 W. 18th Avenue, Phoenix, Arizona to 1700 West Washington, Phoenix, Arizona. Time and date of the Conference will remain the same.

Dated at Washington, D.C., March 7, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-7174 Filed 3-10-77;8:45 am]

CONNECTICUT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and end at 11:00 p.m. on April 7, 1977, at 5 Long Lane, Middletown, Connecticut.

Persons wishing to attend this open meeting should contact the committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss next steps on domestic violence subcommittee and other matters of general interest.

This meeting will be conducted pursuant to the provisions of the Rules and Regulation of the Commission.

Dated at Washington, D.C., March 7, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-7175 Filed 3-10-77;8:45 am]

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a fact-finding meeting of the District of Columbia Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and end at 7:30 p.m., on March 31, 1977, at the Alcoholic Beverage Control Board, Room 201, District Building, 1350 E Street, N.W., Washington, D.C. 20001.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is a public hearing of the housing issue identified at the D.C. Forum on Civil Rights Issues, whether or to what extent citizens in the District of Columbia who are minority and poor are denied an opportunity to share in the revitalization of the center city.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 7, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-7176 Filed 3-10-77;8:45 am]

KENTUCKY ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kentucky Advisory Committee (SAC) of the Commission will convene at 3:00 and end at 5:00 p.m. on March 29, 1977, at the Hilton Inn, 1338, Stanton Way, Conference Room, Lexington, Kentucky 40505.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303.

The purpose of this meeting is to continue plans for the Kentucky State Police Study, review of background information and report on meeting held with State Police Commissioner Benndenburg.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 7, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-7177 Filed 3-10-77;8:45 am]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 12:00 noon and will end at 5:00 p.m. on April 12, 1977, at the Jewish Labor Committee, 27 School Street, Boston, Mass.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of thos meeting is to discuss Affirmative Action and State and Local Human Rights Agencies subcommittees and to discuss next steps to be undertaken.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 7, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-7178 Filed 3-10-77;8:45 am]

NEW HAMPSHIRE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and end at 11:00 p.m. on April 19, 1977, at the New Hampshire Highway Hotel, Concord, New Hampshire.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss status of subcommittee.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 7, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-7179 Filed 3-10-77;8:45 am]

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RHODE ISLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Rhode Island Advisory Committee (SAC) of the Commission will convene at 4:00 p.m. and end at 7:00 p.m. on April 26, 1977, at the Central Congregational Church, Providence, Rhode Island 02906.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss projects for the coming year.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 7, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-7181 Filed 3-10-77;8:45 am]

VERMONT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and end at 11:00 p.m. on April 18, 1977, at the Tavern Motor Inn, Montpelier, Vermont.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss program on all subcommittees.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 7, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-7182 Filed 3-10-77;8:45 am]

GOVERNMENT IN THE SUNSHINE ACT

Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: March 14 and 15, 1977, at 9:00 a.m.

PLACE: Patio Room, Los Angeles Hilton Hotel, Los Angeles, California.

STATUS: Open to public observation; after completion of the open portion of the meeting, the remainder of the meeting will be closed.

SUBJECT MATTER: Matters to be considered in open session on March 14, 1977:

1. Approval of Agenda.
2. Approval of Minutes of Last Meeting.
3. Staff Director's Report: (A) Status of Funds; (B) Personnel Report; (C) Correspondence; (D) Office Directors' Reports.
4. Decision regarding Interim Appointments to Iowa and Florida Advisory Committees.
5. Review of HR 3504, Civil Rights Amendments Act of 1977.
6. Review of Staff memorandum on Colorado Advisory Committee Report on Access to the Legal Profession.
7. Proposed Technical and Jurisdictional Amendments to the Commission's Statute (42 U.S.C. 1975).
8. Review of Fiscal Year 1977 Commission Program.
9. Monthly Review of Relevant News Articles.

Matters to be considered in closed session on March 14, 1977 and March 15, 1977, if necessary:

1. The issuance of enforcement of Commission subpenas arising out of the scheduled Commission hearing in Los Angeles, California on March 16, 1977.

CONTACT PERSON FOR FURTHER INFORMATION:

Barbara Brooks or Mimi Hartley, Public Affairs Unit, (202) 254-6697 or (213) 688-3437.

[FR Doc.77-7280 Filed 3-10-77;8:45 am]

GOVERNMENT IN THE SUNSHINE ACT

Notice of Meeting (Hearing)

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: March 16, 1977 at 9:00 a.m.

PLACE: Federal Building, Room 8544, 300 North Los Angeles Street, Los Angeles, California.

STATUS: Open to public observation; limited portions may be closed.

SUBJECT MATTER: The meeting is a hearing during which the Commission will question subpenaed witnesses regarding equal employment opportunities in the motion picture industry. Deliberations may occur during the hearing which concern the issuance or enforcement of the Commission's subpenas for the hearing, or the taking of testimony which may tend to defame, degrade or incriminate any persons. Such deliberations will be closed.

CONTACT PERSON FOR FURTHER INFORMATION:

Barbara Brooks or Mimi Hartley, Public Affairs Unit, (202) 254-6697 or (213) 688-3437.

[FR Doc.77-7261 Filed 3-10-77;8:45 am]

CIVIL SERVICE COMMISSION

ENVIRONMENTAL PROTECTION AGENCY

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Administrator, Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-7212 Filed 3-10-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

PORPOISE

Methodology for Estimation of Porpoise Mortality

On October 4, 1976, the National Marine Fisheries Service published in the FEDERAL REGISTER (41 FR 43726) the adopted methodology by which NMFS will determine the date for prohibiting further setting on the various species/stocks of porpoise if this become necessary to comply with quota regulations. The methodology has been reviewed us-stocks of porpoise if this become necessing 1976 observer data and revisions where determined necessary to avoid difficulties encountered with the adopted methodology. Comments on the revised methodology are hereby requested. All comments should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before March 31, 1977.

Methodology for Estimation of Porpoise Mortality and Projection of the Date when Porpoise Stock Quotas will be Reached.

I. *Definitions.* The following definitions are for terminology used in the methodology.

Area Under Consideration. The estimate is to be based on porpoise kill by stock in the course of tuna fishing only in the area bounded by 40° N. latitude, 40° S. latitude, 160° W. longitude and the coastline of the North and South American continents.

Days at sea. Days at sea are defined as the sum of the day of departure (or January 1 if departure occurred prior to that date), day of return and days in between, minus any days spent in foreign ports due to seizure by a foreign country. In the case of a vessel that is forced to spend time in a foreign port, the day the vessel was brought into port and the day that it left are counted as days at sea.

Vessel trips—Open trip.—(1) *Open season trip:* A U.S. vessel is on an open season trip if it departs prior to the closure of the open season as defined by the IATTC; (2) *Last free trip:* A U.S. vessel is on a last free trip if it was in port prior to the closure of the open season and left port within 30 days of closure.

Regulated trip. (1) *Regulated inside trip:* A U.S. vessel is on a regulated inside trip if it is fishing inside the IATTC regulatory area (CYRA) after the closure of the open season and does not qualify for a last free trip; (2) *Regulated outside trip:* A U.S. vessel is on a regulated outside trip if it is fishing west of the CYRA after the closure of the open season.

Week. A week starts on or after Monday and extends through the following Sunday.

II. *Data Sources.* Data on number of trips and days at sea for the U.S. purse-seine fleet will be compiled from the records maintained by the Southwest Regional Office of the National Marine Fisheries Service.

Data on porpoise kill-per-day-at-sea will be obtained from NMFS observer reports for completed trips. Data from trips at sea will be obtained through radio reporting from vessels with observers aboard. Porpoises of "unknown" status will be prorated on a species basis to the categories of live, dead, and injured based on the proportions of these categories among animals of known status for completed trips in 1977. For trips still at sea in 1977, only data involving known dead will be obtained by radio. A proration factor will be determined by the ratio-of-averages method from data of completed trips in 1977 and applied to data from trips at sea in 1977.

III. *Allocation of the Observed Vessels.* The observer program for the 1977 yellowfin tuna fishing season requires each of the vessels (400 tons carrying capacity or greater) to carry an observer on at least one trip. The allocation of the number of observed vessels on a monthly basis was determined based on the distribution of vessel trips and the variation of the kill through the year of 1976. For each month, a predetermined number of vessels will be randomly selected from the vessels in port. Any vessel which previously had an observer on board during the year will be eliminated from the selection.

The allocation by month may be modified as the season progresses, depending on the seasonal distribution of the fishing effort.

IV. *Statistical Methodology.* The statistical methodology is used to estimate the porpoise mortality by stock on a real-time basis. The proposed 1977 regulations require every purse seiner to be equipped with 1¼" mesh porpoise safety panels in 1977. Because not all the vessels will receive the 1¼" mesh webbing in time, some vessels will still use the conventional (2" mesh) gear. The vessels with fine mesh systems are expected to have lower kill rates. Thus the whole fleet will be classified into vessels with conventional gear and fine mesh gear. In each of these two gear categories, each of the vessels will be classified in one of the vessel classes: *Class I* (vessels with capacity ≤400 tons); *Class II* (vessels with carrying capacity >400 tons built before 1961); and *Class III* (vessels with carrying capacity >400 tons built after 1960). The porpoise mortality rate for each of the vessel classes is different. The kill contributed by Class I has decreased from 26% to 0.03% in 1976 of the total kill. Class II vessels are more variable with 28% in 1975 and 0.97% in 1976. Class III contributed about 99% of the total mortality in 1976.

In addition, the Class III vessel trips will be stratified according to the time of fishing and the locality of fishing (i.e., inside or outside the CYRA).

Trip 1: The trips with days at sea on or after January 1 through the end of the week containing the closure date set by IATTC.

Trip 2: The trips with days at sea on or after the first week following Trip 1 through July 3.

Trip 3: Trips with days at sea on or after July 4 through the rest of the year.

Within each trip type, the Class III vessels will be further stratified as open trips or regulated trips (Table 1).

Table 1

The layout of the strata for vessel trips (within a gear category) for 1977

Trip 1	Trip 2	Trip 3	
Jan 1 ~ the end of week containing the closure date by IATTC	The first week following Trip 1 ~ July 3rd.	July 4th ~ December 31	
◁	Class I (1)	▷	
◁	Class II (2)	▷	
	Class III		
Open (3)	Open (4)	Regulated (5)	Open (6) Regulated (7)

( ): Stratum Number

If a stratum has data missing, then strata will be pooled within vessel size class.

The mortality of each stock will be estimated by gear-type for each stratum using kill-per-day statistics from the observed vessels, multiplied by the total days at sea for all U.S. vessels with certificate holders aboard at the end of each week: For the ith stratum, $i=1, \ldots, 14$,

N_i=total number of vessel trips (completed or still at sea).

n_i=number of observed trips.

D_i=total number of days at sea for all U.S. vessels with certificate holders aboard.

X_{ijk}=the total kill for the jth stock by the kth observed vessel.

$d_{i\cdot k}$=the number of days at sea for the kth observed vessel $k=1, 2, \ldots, n_i$.

Y_{ij}=the sample kill-per-day for the jth stock.

$\hat{T}_{ij}$=the estimated total kill for the jth stock.

$\hat{T}_{\cdot j}$=the estimated total kill for the jth stock for the whole fleet.

We have:

$$Y_{ij}=\frac{\sum_{k=1}^{n_i} X_{ijk}}{\sum_{k=1}^{n_i} d_{i\cdot k}}$$

With variance

$$s^2 Y_{ij}=\frac{N_i-n_i}{N_i}\frac{Y^2_{ij}}{n_i}\left(\frac{s^2 X_{ij}}{\bar{X}^2_{ij}}+\frac{s^2 d_{i\cdot}}{\bar{d}^2_{i\cdot}}-2\frac{\mathrm{cov}\,(X_{ij}d_{i\cdot})}{\bar{X}_{ij}\,\bar{d}_{i\cdot}}\right)$$

Where

$$\bar{X}_{ij}=\frac{\sum_{k=1}^{n_i} X_{ijk}}{n_i}$$

$$\bar{d}_{i\cdot}=\frac{\sum_{k=1}^{n_i} d_{i\cdot k}}{n_i}$$

$$s^2 X_{ij}=\frac{\sum_k (X_{ijk}-\bar{X}_{ij})^2}{n_i-1}$$

$$s^2 d_{i\cdot}=\frac{\sum_k (d_{i\cdot k}-\bar{d}_{i\cdot})^2}{n_i-1}$$

and

$$\mathrm{cov}\,(X_{ij}, d_{i\cdot})=\frac{\sum_k (X_{ijk}\bar{X}_{i\cdot})(d_{i\cdot k}-\bar{d}_{i\cdot})}{n_i-1}$$

V 42 48 MAR 11 77 UMI

$$\hat{T}_{ij.} = D_i Y_{ij}$$

With variance

$$s^2\hat{T}_{ij.} = D^2_i s^2 Y_{ij}$$

and

$$\hat{T}_{.j.} = \sum_{i=1}^{11} \hat{T}_{ij.}$$

With variance

$$s^2\hat{T}_{.j.} = \sum_{i=1}^{14} s^2\hat{T}_{ij.}$$

The total mortality will be estimated weekly or by some other period depending on the amount of fishing on porpoise or on the number of porpoise killed relative to the level of the quota. At the end of each calculation period, the date on which the quota will be reached will be projected. The projection will be computed by multiplying the kill-per-ton of yellowfin tuna for each stock by the historical average monthly catch of yellowfin tuna taken in association with porpoise (from IATTC records 1972–1975 or 1972–1976 when 1976 data become available). The historical catch will be adjusted for the current regulations regarding the setting on porpoise school types (pure or mixed) of certain stocks. Interpolation will be used to estimate the day of the month when the quota for each stock will be reached.

Results of each calculation will be available to the public in the latter part of the following week. The effective date when the fishing on porpoise of certain stocks will be prohibited will be published in the FEDERAL REGISTER.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

MARCH 4, 1977.

[FR Doc.77-7200 Filed 3-10-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Additions

Notice is hereby given pursuant to Section 2(a)(2) of Public Law 92-28; 85 Stat. 77, of the proposed addition of the following commodities to Procurement List 1977, November 18, 1976 (41 FR 50975).

Class 7990

Pallet, Wood, 3990-00-555-0458, Sharpe Army Depot, Lathrop, California, Stockton, California, 3990-00-018-4214.

Military Resale Items and Numbers
Cellulose Sponges

#975—1 ea., 5½x3⅝x1⅛.
#976—1 ea., 7⅜x4x1⅛.
#977—2 ea., 5½x3⅝x1.
#978—4 ea., 5½x3⅝x⅝.
#971—Toilet Bowl Deodorizers.
#972—Room Air Fresheners.

If the Committee approves the proposed additions, all entities of the Government will be required to procure the above commodities from workshops for the blind or other severely handicapped.

Comments and views regarding the proposed additions may be filed with the Committee on or before April 14, 1977. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-7256 Filed 3-10-77;8:45 am]

PROCUREMENT LIST 1977

Proposed Addition; Amendment

The item appearing in F.R. Doc 77-6536 appearing on page 12456 in the FEDERAL REGISTER on Friday, March 4, 1977 is amended to read as follows:

Class 8115

Box Wood, Household Goods, 8115-00-537-6681 for GSA Depot, Edison, New Jersey; Naval Supply Depot, Williamsburg, Virginia and New Cumberland Army Depot, New Cumberland, Pennsylvania only.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-7255 Filed 3-10-77;8:45 am]

PROCUREMENT LIST 1977

Addition

Notice of proposed addition to Procurement List 1977, November 18, 1976 (41 F.R. 50975) of the military resale item listed below was published in the FEDERAL REGISTER on January 7, 1977 (42 F.R. 1501).

After consideration of all the relevant data presented, the Committee has determined that the military resale item listed below is suitable for procurement by the Government under Public Law 92-28, 85 Stat. 77. Accordingly, it is hereby added to the Procurement List.

Military Resale Item and Number

#901—Broom, Mixed Fiber.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-7254 Filed 3-10-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS RECEIVED FROM FEBRUARY 28 THROUGH MARCH 4, 1977

Environmental impact statements received by the Council on Environmental Quality from February 28 through March 4, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the *minimum* period for public review and comment on draft environmental impact statements in forty-five (45) days from this FEDERAL REGISTER notice of availability. (April 25, 1977) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Aquaculture Facilities, Hidden Falls Lake/Sandy Bay, Alaska, February 28: Proposed is the granting of two Special Use Permits that grant permission to use National Forest lands for salmon hatchery building sites. Both sites are located on Baranof Island, a major island in southeast Alaska. The Tlingit and Haida Fisheries Development Corporation has requested to build its hatchery in Sandy Bay; the Alaska Department of Fish and Game has requested the use of Kasnyku Bay. The hatcheries are expected to contribute to the rebuilding of Southeast Alaska salmon stocks, thereby increasing harvest by 5 to 10 percent. (ELR Order No. 70281.)

Beaver Creek Wilderness, Mineral Prospecting, McCreary County, Ky., February 28: Proposed is the conditional approval, with prescribed modifications, of a prospecting plan submitted by the Greenwood Land and Mining Company of Parkers Lake, Kentucky. The Company claims to own mineral rights beneath and around the Beaver Creek Wilderness, and proposes to use motorized equipment to prospect for coal at 22 sites. It also intends to deep and surface mine in the Wilderness, based on information gathered by prospecting. Approximately 11 acres of land surface will be cleared, excavated, regraded and revegetated at 17 prospecting sites within the Wilderness. (ELR Order No. 70274.)

Final

Warm Spring-Medicine Tree Unit, Bitterroot National Forest Ravalli County, Mont. March 3: Proposed is a revised land use plan for the Warm Springs-Medicine Tree Planning Unit, Sula Ranger District, Bitterroot, N.F. The 48,985-acre unit is divided into 6 management units of similar resource potential, use patterns, and management limitations. Adverse effects include air pollution due to site preparation, soil erosion as a result of road construction, and loss of 6,660 acres of roadless area to other uses. Comments made by: USDA, HEW, FPC, FEA, COE, EPA, DOI, State and local agencies, local groups and persons. (ELR Order No. 70268.)

Santa Rosa Unit, Humboldt National Forest Humboldt County, Nev., March 4: Proposed is a land use plan for the Santa Rosa Unit designed to improve management of the resources by constructing water developments and fences and by manipulating the vegetation so as to develop further the rangeland. Few major adverse effects are anticipated though some impact on soil, water quality, vegetation, and wildlife will result. Comments made by: AHP, EPA, USDA. (ELR Order No. 70292.)

SOIL CONSERVATION SERVICE

Draft

Dynne Creek Watershed Plan, Cleburne County, Ala., February 28: Proposed is the Dynne Creek Watershed Plan for watershed protection, flood prevention, municipal and industrial (M&I) water supply, and water-based recreation. Conservation land treatment practices are planned to provide watershed protection; two single-purpose structures and one multipurpose structure will provide M&I and recreational water storage. Basic recreational facilities are also planned at structure No. 4. Loss of 161 acres of wildlife habitat and the clearing of 47 acres of flood plain forest land will result from project installation. (ELR Order No. 70277.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202)-967-4335.

ECONOMIC DEVELOPMENT ADMINISTRATION

Final

1980 Olympic Games, Lake Placid, Essex County, N.Y., February 28: This statement relates to the 1980 Olympic Games, proposed to be conducted in February 1980 in the Village of Lake Placid and the towns of North Elba and Wilmington, and vicinity. The proposed action consists of two levels of activity attendant to the 1980 Olympics. The first level is the Overall Program, which includes scheduling of specific events, support activities, attendance estimates, and housing. The second level consists of the specific facilities to be constructed or utilized to accommodate Olympic-related activity. Facilities provided for the 1980 Winter Games will thereafter serve as a winter sports training center for U.S. athletes. Comments made by: USDA, HEW, HUD, DOI, DLAB, EPA, State and local agencies, concerned citizens. (ELR Order No. 70270.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Puerto Rico Aquatic Plant Control, March 4: Proposed is implementation of a program to control water hyacinth and other nuisance vegetation in the major watersheds of Puerto Rico. Methods of control will be chemical, biological and mechanical. The only chemical approved by EPA for aquatic use is 2,4-Dichlorophenoxy acetic acid (2,4-D) in the dimethylamine salt formulation. Biological agents will be employed after securing research results on relevant species, and mechanical harvesting will be used where economically practical. The killed plants will promote reduction of dissolved oxygen concentration in reservoirs. (Jacksonville District). (ELR Order No. 70291.)

Monoosnoc Brook, Leominster Protection Project, Worcester County, Mass., February 28: Proposed is the construction of a tunnel approximately 32,000 feet long and 12 feet in diameter, from Rockwell Pond to Monoosnoc Brook. In addition, the Monoosnoc Brook's channel will be modified and approximately 3 acres of stream bank will be graded to allow for better drainage. The action is designed to protect the downtown portion of Leominster, Massachusetts from severe flooding. Major impacts resulting from the building and maintaining of the diversion tunnel involve the disposing of excavated materials from the tunnel and the retaining of water in the tunnel between diversions. (New England Division). (ELR Order No. 70278.)

Final

Teche-Vermilion Basin Projects, O & M, St. Mary County, La., February 28: Proposed is the continued operation and maintenance dredging of the Bayou Teche, Vermilion River, and Freshwater Bayou, Louisiana projects. Continued dredging would have the following adverse effects: permanent changes in the composition of floodplain forest might occur; deposition of dredged material in existing forested areas would destroy both the trees and dependent fauna; and disturbance of some archeological or historical sites by dredging or deposition would occur. (New Orleans District.) Comments made by: DOI, EPA, DOC, USDA, DOT, HEW, FPC, AHP, State and local agencies, concerned groups and persons. (ELR Order No. 70273).

Calcasieu River Channels, O&M, several counties in Louisiana, February 28: The proposed navigation projects provide for maintenance of shipping channels in the Calcasieu River, including channels at Coon Island and Devel's Elbow. The action consists principally of maintenance dredging and clearing and snagging operations of the aforementioned waterways. In addition, the projects include the operation of a salt water barrier to prevent salt water intrusion into the Calcasieu River above Lake Charles, Louisiana. Adverse effects include destruction of benthic communities in the estimated 4,200 acres of channel bottom. (New Orleans District.) Comments made by: USDA, DOT, HUD, HEW, DOI, EPA, AHP, DOC, State and local agencies, concerned citizens. (ELR Order No. 70275.)

Flood Control Project at Point Place, Toledo, Lucas County, Ohio, February 28: The statement involves a local flood protection project for Point Place, a subdivision of Toledo, Ohio. The project consists of a system of levees and flood walls with necessary interior drainage works to prevent inundation. Protective structures along both Lake Erie and the Ottawa River will be built to an elevation which will protect the area against a ninety-year flood. Construction will produce noise, dust, disruption of traffic and in-water turbidity. Other adverse impacts are the taking of 9.5 acres of land for the structure and the impaired aesthetic value of nearby property. Comments made by: FPC, USCG, USDA, DOC, DOI, EPA, State and local agencies, concerned citizens. (ELR Order No. 70271.)

Supplement

Cedar River, Waterloo Local Protection Project, Black Hawk County, Iowa, February 28: Proposed is the remaining construction of approximately 5 miles of levee averaging 15 feet high, 1.8 miles of concrete floodwall, and a 375-acre storm water detention basin on Virden Creek. The completion of this system will provide 100-year flood protection to 4,200 acres of residential, commercial, and industrial property within Waterloo, Iowa. Borrow of approximately 1,500,000 cubic yards of material for levee and dam construction and the commitment of approximately 130 acres for construction and right-of-way purposes will result. (Rock Island District.) (ELR Order No. 70283.)

Three Rivers Local Flood Protection (S-2), Live Oak County, Tex., February 28: Proposed is the construction of a levee system to protect the city of Three Rivers, Texas, from flooding of the Frio and Nueces Rivers. The 4.6-mile long levee and three borrow areas will involve about 176.7 acres of land. Adverse effects include localized increases in air, water, and noise pollution during construction. Eight family units will be relocated. (Fort Worth District.) (ELR Order No. 70284.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

Grand Strand Region Wastewater System, Horry County, Ga., March 2: Proposed is the construction of regional wastewater facilities to service the Grand Strand 201 area in South Carolina. The project consists of 3 wastewater treatment facilities with accompanying outfall lines and interceptor systems. Plant A will be a 6.0 MGD facility discharging into the Intracoastal Waterway. Plants G and C will have capacities of 6.0 MGD and 2.4 MGD respectively discharging into the Waccama River. Adverse impacts include soil erosion and a decrease in biological productivity of the floodplain. (Region IV.) (ELR Order No. 70286.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

SECTION 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD).

Draft

Castleberry, Ala., water systems improvement, Conecuh County, Ala., March 1: Proposed is the granting of a HUD funds for replacement of an existing water system in the town of Castleberry. Project plans include construction of a new 250 gallon per minute well in the north-central section of town and an additional elevated water storage tank in the northwestern portion of the community. Short run impacts will be an increase in noise and dust, as well as the occurrence of soil erosion. (ELR Order No. 70285.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Richard I. Chais, Chief, Section of Energy and Environment, Interstate Commerce Commission, Rm. 3373, 12th and Constitution Ave. NW., Washington, D.C. 20423, 202-275-7692.

Final

South Bend-Chicago RR Abandonment, Indiana, Illinois, March 4: Proposed is the granting of authority to the Chicago, South Shore and South Bend Railroad (South Shore) to discontinue its passenger train service between South Bend, Indiana, and Chicago, Illinois, a distance of 88 miles. Authority is also requested to abandon trackage rights over a portion of the Illinois Central Gulf Railroad between Kensington Station and Randolph Street, a distance of approximately 14.2 miles in Chicago. Discontinuance of all passenger train service would cause approximately 6,200 weekday and 3,100 weekend riders to seek other modes of transportation. Comments made by: EPA, DOI,

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State and local agencies, and concerned groups. (ELR Order No. 70293.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Final

Rhinelander-Oneida Co. Airport, Oneida County, Wis., February 28: Proposed is the acquisition of 565 acres of land and easement and special use permits on 105 acres for the construction of a new runway, new taxiway, parking spaces, and terminal building for the Rhinelander-Oneida County Airport. Also included in the project would be the erection of security fences and the installation of an instrument landing system for the new runway. The project will result in the loss of approximately 565 acres of woods and wildlife habitat, relocation of eight households, increased noise pollution, and increased air pollution.

Comments made by: DOT, USDA, DOI, AHP, EPA, State and local agencies, and concerned citizens. (ELR Order No. 70282.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Arden Bar Park/C.M. Goethe Park Land Use, Sacramento County, Calif., March 4: Proposed is a land use plan for Goethe Park and Arden Bar Park in Sacramento's 5,400-acre American River Parkway, California. Project plans call for the construction of a trail system bridge to link the trails of the parks and to complete the 23-mile National Recreation Trail system. Recreation and support facilities will be upgraded in both parks and safety conditions will be improved. Short-term construction-related impacts will occur during implementation of the project. (ELR Order No. 70290.)

F.A. I-265 Interchange, I-265 and State St., Floyd County, Ind., February 28: Proposed is the construction of a complete 4-way interchange on I-265 at State St. (Old U.S. 150) in New Albany, Indiana. The facility will be designed in line with current standards to include single-lane, separated access and egress ramps, medians, and traffic control installations in two quadrants of the intersection with left-turns permitted at grade on State Street. Speed change lanes will be provided alongside traffic lanes at I-265. The proposed interchange will require the acquisition of some wooded land, wildlife habitat, and the relocation of some family residences. (Region 5) (ELR Order No. 70279.)

NC 24-27 (Albemarle Rd.), SR 3128-NC 51, Mecklenburg County, N.C., February 28: Proposed is the improvement of the existing two-lane NC 24-27 (Albemarle Road) to a multilane facility from SR 3128 (Lawyers Road) to NC 51 (Blair Road). The proposed project is approximately 6.3 miles in length. Subject to the alternate selected, project implementation will require the relocation of 8-32 families and 2-14 businesses, and the land uses which are presently within the 70 dBA contour will experience a 3 to 7 dBA increase from the projected traffic noise. (Region 4.) (ELR Order No. 70280.)

Dawson/McDowell/Cabarrus Sts.—U.S. 70-401, Wake County, N.C., March 2: The proposed action is the improvement of traffic service in the south central portion of the Raleigh, North Carolina urban area. The 3.4-mile project extends from the intersections of Dawson and McDowell Streets with Cabarrus Street south to U.S. 70-401, and between Saunders Street on the west and Wilmington Street on the east. Three alternatives are proposed to alleviate the existing traffic congestion and to accomodate traffic demand to the year 2000. Adverse impacts include increased noise and carbon monoxide levels, stream modification, and residential and business dislocation. (Region 4.) (ELR Order No. 70287.)

Vine St. Expressway, I-76—I-95, Philadelphia County, Pa., March 3: Proposed is the construction of the Vine Street Expressway (I-676), a 1.5-mile limited access, divided urban freeway with frontage roads located in Philadelphia's central business district. The project would serve as a link between the Schuylkill Expressway (I-76), and the intersection of I-95 and the Benjamin Franklin Bridge. Access ramps along the expressway would be located at 22d, 16th, 11th, 10th, 7th, 6th, and 4th Streets. Chinatown would be the area most affected by the expressway and community cohesion may be adversely impacted (Region 3.) ELR (Order No. 70289.)

Final

US 90, I-10 to SH 146, Harris and Liberty Counties, Tex., February 28: The proposed action is construction of a controlled access freeway in northeast Harris County and consists of the relocation and improvement of US Highway 90, with a total length of approximately 21.5 miles. Four main lanes in each direction are proposed between I.H. 10 and Beltway 8 East with a 28-ft. median and 2-lane, two frontage roads flanking the main lines in each direction. Adverse impacts include the taking of forest and grasslands for right-of-way, and the displacement of 89 families and 13 businesses. (Region 6.) Comments made by: EPA, DOT, HUD, USDA, DOI, COE, State and local agencies, and concerned citizens. (ELR Order No. 70276.)

S.T.H. 35, River Falls-Hudson Road, Pierce and St. Croix Counties, Wis., February 28: Proposed are two separate, but contiguous STH 35 projects, the River Falls Bypass, or Southern Section, and STH 65 to I-94 Road, or Northern Section. The Bypass or Southern Section consists of the relocation of STH 35 beginning 1.25 miles south of its intersection with STH 29, and proceeding northerly around the east side of the city of River Falls, rejoining existing STH 35 approximately 0.5 mile north of STH 65. The Northern Section consists of STH 35 being located along or adjacent to existing STH 35 from the north end of the Bypass to I-94. Adverse effects include displacement of 10 dwelling units and traversal through farmland, woodlands, and stream bottoms. Comments made by: DOT, DOI, EPA, State and local agencies, and concerned citizens. (ELR Order No. 70272.)

DAVID W. TUNDERMANN,
Acting General Counsel.

[FR Doc.77-7245 Filed 3-10-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

DEFENSE INTELLIGENCE SCHOOL BOARD OF VISITORS

Partially Closed Meeting: Correction

Pursuant to the provisions of Subsection (d) section 10 of Pub. L. 92-463, as amended by Public Law 94-409, this corrects the notice appearing in the FEDERAL REGISTER dated February 24, 1977, 42 FR 10886, that a partially closed meeting of the Defense Intelligence School Board of Visitors will be held on-site at the School in Washington, D.C. on 6, 7, and 8 April 1977.

Notice is hereby given that the morning sessions on 6, 7, and 8 April 1977 will be devoted to the discussion of classified information as defined in section 552(b)(1), Title 5 of the U.S. Code and will therefore be closed to the public. Subject matter will be concerned with specialized instructional requirements and related curricula content.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MARCH 8, 1977.

[FR Doc.77-7286 Filed 3-10-77;8:45 am]

MEDICAL CARE OF U.S. EMPLOYEES OVERSEAS AND THEIR DEPENDENTS

Chargeable Outpatient Visits

On November 19, 1976, the Office of the Secretary of Defense published in the FEDERAL REGISTER (41 FR 51061) notice on revised special reimbursement rates for medical care of U.S. employees overseas and their dependents.

The following detailed definitions regarding the charge for an outpatient visit have been developed in cooperation with the Surgeons General, and will be effective April 1, 1977.

The charge for an outpatient visit is basically a per diem charge rather than an individual charge for each procedure, examination, test, diagnosis, treatment, prescription, evaluation, or consultation. All services ancillary to a chargeable visit such as filling of prescriptions, injections of medicine, chest X-ray surveys and examinations are included in the single chargeable outpatient visit. Further, the charge is not dependent on the professional level or the number of the members of the health care team that provide the care.

For example, a patient seen in a primary care clinic and one or more specialty clinics on the same day will be charged for one visit. If, however, such patient cannot be seen in one day by the specialty clinics because of the time constraints of the medical facility, the patient will be charged for only one visit even though the patient must return on another day for treatment. Further, if a patient visits a clinic for a follow-up visit requiring services similar to those listed below, the patient will not be charged for another visit.

The following are not chargeable as separate outpatient visits:

Check-in at "sick call" to make an appointment for a visit on a subsequent day.
Prescription refills.
Consultation and advice on the results of tests, such as TINE tests and PAP smears, and vaccinations.
Physical therapy treatments.
Telephone discussions.
Weight checks.
Blood pressure checks when requested by the physician as a follow-up on treatment.
Checks of bandages, casts, etc.
Removal of sutures.
Preemployment physicals.
Vision tests for drivers' licenses.
Verification of physical profile series.

Dependent school children's visits to public health nurses who are located at the school and who are employees of the medical facility.

The following are special cases:

Dental care is generally not available except in emergencies, but when available, each sitting, not each procedure, is a chargeable visit. Patients should not be charged for follow-up visits when required solely for post operative treatment to include occlusal adjustments, denture adjustments, tissue conditioning treatments, and treatments following surgical, periodontal, and endodontic procedures to promote healing or to verify recovery.

When immunizations are the only service given, the immunization rate is $1.00 per dose or shot. When immunizations are given in conjunction with a chargeable outpatient visit, no extra charge will be made for each shot or dose. Smallpox and other vaccinations, therapeutic or desensitization (allergy) injections and TINE tests for tuberculosis are considered immunizations. Special determinations will be made for mass immunization programs.

Group treatments or evaluations in schools, community centers, isolated locations, or in the medical facility are not chargeable as individual outpatient visits. Such treatment or evaluations include:

School, sports, and other like examinations.
Group activity counseling such as prospective parents' classes, group instruction in first aid, dental/oral hygiene classes, etc.

(Group rates will be calculated to cover the actual costs of services rendered.)

Services provided under the Occupational Health Services Program for U.S. employees will be supported without charge to the individual employee.

Workers' compensation cases will be handled without charge to the worker.

MAURICE W. ROCHE,
Director, Correspondence and Directives Office of the Assistant Secretary of Defense (Comptroller).

MARCH 8, 1977.

[FR Doc.77-7287 Filed 3-10-77;8:45 am]

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES, BOARD OF REGENTS

Meeting

Interested members of the public are invited to attend and observe the meetings of the Board of Regents and the Education and Administrative Affairs Committees of the Board, Uniformed Services University of the Health Sciences, to be held on March 21, 1977, beginning at 8:15 a.m., in Meeting Rooms of Building 141, Naval School Health Care Administration, on the grounds of the National Naval Medical Center, Bethesda, Maryland. The Committees and the Board of Regents plan to consider the following agenda items in open session:

8:15 MEETING—EDUCATION AFFAIRS COMMITTEE, NSHCA AUDITORIUM

(PRESIDING: DR. ODEGAARD)

Chairman's Remarks: Dean's Report—Dr. Sanford; (1) Report: Faculty Status; (2) Action: Proposed New Faculty; (3) Report: Applications Process, Class 1981.
Discussion.
Adjourn Educational Affairs Committee Meeting for Board Meeting.

8:15 MEETING—ADMINISTRATIVE AFFAIRS COMMITTEE, NSHCA CLASSROOM

(PRESIDING: GENERAL HEATON)

Chairman's Remarks: (1) Report: USUHS MILCON Monthly Cost Summary: Mr. Reynolds; (2) Report: Construction Update: Mr. Reynolds; (3). Report: USUHS Funds Obligation Status FY77: Mr. Reynolds.
Discussions.
Adjourn Administrative Affairs Committee Meeting for Board Meeting.

MEETING—BOARD OF REGENTS, NSHCA AUDITORIUM

(PRESIDING: MR. PACKARD)

Chairman's Remarks: Educational Affairs Committee Report—Dr. Odegaard (Chairman).
Administrative Affairs Committee Report—General Heaton (Chairman).
President's (Acting) Report—Mr. Packard: (1) Information: USUHS School of Nursing Feasibility Committee; (2) PBD 333, dated 19 Feb. 1977: Termination of USUHS: (3) Student Placement Plan: Dr. Sanford; (4) Termination Plan: Mr. Reynolds.
New Business.
Scheduled Meeting: June 13, 1977.
Adjourn.

If you have any questions concerning the agenda for the above meeting, please contact the Executive Secretary of the Board, 301-227-1987. Public access to any documents considered by the Board at the meeting may be obtained under the provisions of Part 286 of this Chapter (32 CFR 286.1-286.14).

Any person who believes their privacy interests may be directly affected by holding a portion of the Board of Committee meetings in public may request that the Board or Committee close such portion to public observation. Such request should be communicated to the Executive Secretary of the Board.

By order of the Board of Regents.

Issued: March 7, 1977

STEPHEN BARCHET,
Captain, MC USN, Executive Secretary.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

MARCH 8, 1977.

[FR Doc.77-7285 Filed 3-10-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 697-1;OPP-66028]

PESTICIDE PROGRAMS

Cancellation of Registration of Pesticide Products Containing Sodium Arsenite

On February 8, 1977, Chapman Chemical Co., P.O. Box 9158, Memphis TN 38109 requested that the Environmental Protection Agency (EPA) cancel its registrations for Chapman Narsite 40 (EPA Registration No. 1022-109) and Chapman Narsite 60 (EPA Registration No. 1022-414) both of which contain the active ingredient sodium arsenite.

Cancellation shall be effective April 11, 1977, unless the registrant, or an interested person with the concurrence of the registrant, requests that the registrations be continued in effect.

Requests concurred in by the registrant that the registration of these products be continued, and any comments concerning this action, may be submitted in triplicate to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, East Tower, Rm. 401, 401 M St. SW., Washington, D.C. 20460. Any such submissions should bear a notation indicating both the subject and the OPP document control number (OPP-66028). Any comments or other documents filed regarding this notice of cancellation will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 6(a)(1), Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a) et seq.).)

Dated: March 7, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77-7159 Filed 3-10-77;8:45 am]

[FRL 687-7]

TOXIC SUBSTANCES CONTROL ACT

Notice of Intent To Develop Regulations and Guidance Regarding Records, Health and Safety Studies, and Notices of Substantial Risk

Sections 8(c) and 8(d) of the Toxic Substances Control Act (TSCA) authorize the Administrator to require manufacturers, processors, and distributors of chemical substances to keep records of significant adverse reactions to health or the environment ascribed to the chemical, and to submit health and safety studies as he may specify. Section 8(e), effective January 1, 1977, requires manufacturers, processors, and distributors of chemical substances to immediately notify the Administrator of any information, of which he is not already informed, indicating that the chemical may pose a substantial risk to health or the environment.

V4248 MAR 11 77 UMI

The importance of cost-effective acquisition of information on chemical risks to health or the environment suggest the importance of establishing rules and guidelines for complying with sections 8(c) through 8(e). Interim guidance will be provided by early April 1977 on the self-actuating notification requirements of section 8e(). Proposed regulations and guidance under 8(c) through 8(e) are expected to be published in the FEDERAL REGISTER in October 1977.

Issues to be addressed in the process, upon which opinion is solicited, include:

1. Which categories of health and safety studies should be submitted, and which should be exempt from submission requirements?

2. What studies (in addition to those conducted by, initiated by, or known to manufacturers, processors and distributors of chemical substances) are "reasonably ascertainable" and therefore must be submitted?

3. How can the requirement to keep records and submit health and safety studies be reconciled with individual privacy?

4. How can the Administrator's prior "actual knowledge" of information, under 8(e), be determined or verified?

The Project Officer for this rulemaking is Edward M. Brooks. Written views and comments should bear the document control number OTS–080002 and should be submitted by April 20, 1977 to the U.S. Environmental Protection Agency, Office of Toxic Substances (WH–557), 401 M Street, SW, Washington, DC 20460, Attention: Vickie Briggs.

Dated: March 4, 1977.

JOHN QUARLES,
Acting Administrator.

[FR Doc.77–7158 Filed 3–10–77;8:45 am]

[FRL 697–7; OPP–42027A]

DISTRICT OF COLUMBIA

Approval of District State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On August 27, 1976, notice was published in the FEDERAL REGISTER (41 FR 36249) of the intent of the Regional Administrator, Environmental Protection Agency (EPA) Region III, to approve, on a contingency basis, the District of Columbia State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (District of Columbia State Plan). Contingency approval was requested by the District of Columbia pending enactment of enabling legislation and the promulgation of implementing regulations. Complete copies of the District of Columbia State Plan were made available for public inspection at the District's Department of Environmental Services, Washington, D.C.; Pesticides Branch, Air and Hazardous Materials Division, EPA Region III, Philadelphia; and the Federal Register Section, Technical Services Division, Office of Pesticide Programs, EPA Headquarters, Washington, D.C.

Written comments were received from Orkin Exterminating Company, Inc., offices in Richmond, Virginia and Atlanta, Georgia. These comments were carefully reviewed and evaluated by EPA and by the District's Department of Environmental Services, which has been designated as the State lead agency responsible for implementing the District of Columbia State Plan.

Orkin Exterminating Company questioned the requirement that commercial applicators submit records for all pesticides used. Those commercial applicators who are defined in Section 3(25)(2) of the proposed Act will be required to keep records for restricted pesticide use only. These individuals include the owners or managers of commercial firms, businesses, corporations, or private institutions, who directly or through their employees use restricted use pesticides on property owned, managed, or leased by such commercial firms, businesses, corporations, or private institutions. The District of Columbia intends to require all other commercial applicators, including commercial applicators "for hire" such as Orkin, to keep records of all pesticides used.

Orkin also expressed concern over the District's proposal to inspect application equipment and observe routine application practices. EPA State plan regulations, 40 CFR 171.7, require that a State have certain basic legal authorities in place in order to receive State plan approval. One of these required authorities is a provision authorizing right-of-entry by appropriate State officials at reasonable times for sampling, inspection, and observation purposes. Thus, the District of Columbia's intent to observe routine application practices and inspect application equipment is consistent with Federal regulations.

Under the District of Columbia State Plan, Category VII, Industrial, Institutional, and Structural Pest Control has been divided into 5 subcategories. The Orkin Exterminating Company recommends that subcategory one (1) "General Pest Control" and subcategory five (5) "Rodent Control" be combined into one subcategory. In addition, Orkin Exterminating Company questions the term "practical" as pertains to practical examination for commercial applicators. Also, they disagree with the provision that the Mayor be able to restrict or prohibit the use of certain pesticides.

It is the Agency's position that Section 4 of the amended FIFRA establishes a coordinated State/Federal program for certifying applicators with Section 4(a)(1) making EPA responsible for prescribing applicator certification standards. Under Section 4 of FIFRA, the States are given a great deal of flexibility in developing their individual programs provided those programs meet the prescribed standards. The District of Columbia's intent to require records of all pesticides used by certain commercial applicators, the proposed subcategorization, the use of practical examinations, and the provision that the Mayor be able to restrict or prohibit the use of certain pesticides are matters of a discretionary nature which the District of Columbia may institute under their regulatory program. Since these comments were pertinent to the specifics of the District of Columbia State Plan, the Agency has forwarded the comments to the District's Department of Environmental Services for its consideration.

The District of Columbia State Plan will remain available for public inspection at Room 711, Department of Environmental Services, 801 N. Capitol Street NE., Washington, D.C.

It has been determined that the District of Columbia State Plan will satisfy the requirements of Section 4(a)(2) of the amended FIFRA and of 40 CFR Part 171 when necessary enabling legislation is enacted and implementing regulations are promulgated. Accordingly, the District of Columbia State Plan is approved contingent upon enactment of enabling legislation and upon promulgation of implementing regulations in accordance with and as prescribed in the District State plan.

This contingency approval shall expire on October 21, 1977 if these terms and conditions are not satisfied by that time. On or before the expiration of the period of contingency approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied and the approval status of the District of Columbia plan as a result thereof.

Effective date: Pursuant to Section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the contingency approval granted herein to the District of Columbia plan shall be effective immediately. Neither the District of Columbia plan itself nor the Agency's contingency approval of the plan create any direct or immediate obligations on pesticide applicators or other persons in the District of Columbia. Delays in starting the work necessary to implement the plan, such as may be occasioned by providing some later effective date for this contingency approval, are inconsistent with the public interest. Accordingly, this contingent approval shall become effective immediatley.

Dated: February 22, 1977.

A. R. MORRIS,
Acting Regional Administrator, U.S. Environmental Protection Agency—Region III.

[FR Doc.7–7362 Filed 3–10–77;8:45 am]

[FRL 698–3; PP–50280]

MOBIL CHEMICAL CO., ET AL.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 2224–EUP–14. Mobil Chemical Company, Richmond, Virginia 23261. This experimental use permit allows the use of 64 pounds of the herbicide bifenox on flue-cured and burley tobacco to evaluate control of broadleaf weeds. A total of 32 acres is involved; the program is authorized only in the States of Florida, Georgia, Kentucky, North Carolina, Ohio, Pennsylvania, Tennessee, and Virginia. The experimental use permit is effective from March 1, 1977, to March 1, 1978.

No. 476–EUP–80. Stauffer Chemical Company, Richmond, California 94804. This experimental use permit allows the use of 338 pounds of the insecticide *O,O*-dimethyl-O-(4 - nitro - m - tolyl) phosphorothioate on alfalfa to evaluate control of alfalfa weevils. Egyptian alfalfa weevil larvae and adults, pea aphids, potato leafhoppers, and meadow spittlebugs. A total of 389 acres is involved; the program is authorized only in the States of California, Idaho, Maryland, Michigan, Mississippi, Missouri, Montana, New Hampshire, New York, Ohio, Oregon, Pennsylvania, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming. The experimental use permit is effective from February 16, 1977, to February 16, 1978. This experimental use permit is issued under the conditions that all of the treated crop will be destroyed or used for research purposes only.

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: March 7, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77–7366 Filed 3–10–77;8:45 am]

Office of Water and Hazardous Materials

[FRL 697–6]

STATE-FEDERAL WATER PROGRAMS ADVISORY COMMITTEE

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following subcommittee meeting of the State-Federal Water Program Advisory Committee:

Name: Nonpoint Source Strategy Subcommittee.
Date: March 21 and 22, 1977.
Place: Environmental Protection Agency, Regional Office (Region VIII), 1860 Lincoln Street, Denver, Colorado.
Time: 8:30 a.m. each morning.
Agenda: Discussion of the major issues of the Nonpoint Source Strategy.

These meetings are open to the public. Any member of the public may file a written statement with the Committee before, during or after the meeting. All communication regarding these meetings should be addressed to: R. Taylor Adams, State-Federal Water Programs Advisory Committee, Office of Water and Hazardous Materials (WH–556), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 Anyone wishing to have their name placed on the mailing list for any Committee reports, meeting announcements, and minutes of all meetings should contact R. Taylor Adams, either in writing or by telephone—202–755–0405.

Dated: March 8, 1977.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77–7361 Filed 3–10–77;8:45 am]

[FRL 697–3; OPP–40003]

PESTICIDE PROGRAMS

Intent To Develop a Regulation Regarding the Classification of Restricted Use Pesticides

Section 4(c)(2) of the Federal Environmental Pesticide Control Act (FEPCA) requires the Administrator of EPA to classify and reregister all previously registered pesticides by October 21, 1977. The reregistration process has been delayed due to problems such as the validity of data and trade secrets. While resolution of these problems is underway, current projections for the completion of reregistration extend well beyond the October 1977 date.

This notice is to announce that EPA is considering promulgating a regulation that will enable EPA to classify most restricted use pesticides without reregistering the particular pesticide products by the October legislative mandate.

In Section 4(c)(4) FEPCA also set October 21, 1977 as the deadline for implementing the state certification of applicators program. Only certified applicators or persons under their direct supervision may apply restricted use pesticides. Thus, States have been actively pursuing approval of their state plans in order that there be certified applicators available to apply restricted use pesticides. However, the lack of restricted use pesticides on October 21, 1977 will seriously hamper the ability of the States to justify adequate legislative support for the continuation of their certification programs. It is vital to the exercise of EPA's responsibility to reduce hazard and to retain the confidence of pesticide users who have completed training or been certified that the actual classification of restricted use pesticides be accomplished reasonably near the October, 1977 date anticipated by FEPCA. In view of the extended time required for reregistration it would be in the interests of the Agency, the States, and the agricultural community alike to proceed with classification separate from the reregistration process, so that the benefits of the effort and resources expended for applicator certification can be realized in 1977.

This regulation will set forth a list of many restricted use pesticides. The most potentially hazardous pesticide uses will be considered first beginning with a list already identified by the Office of Pesticide Programs as "Candidate Chemicals for Restricted Use." This list was published in a news release dated December 21, 1976. The Agency requests comments on the suitability and completeness of this list. The list is available from and written comments should be addressed to: U.S. Environmental Protection Agency, Office of Pesticide Programs (WH–569), 401 M Street, SW., Washington, D.C. 20460. Attention: Federal Register Unit. Written comments should be submitted by (30 days from publication).

After careful consideration of the comments received, the criteria used to make the restricted use classification and draft lists which indicate the chemical uses and/or formulations to be restricted will then be published as a proposed regulation in the FEDERAL REGISTER. Following an appropriate comment period, a final regulation will be developed which will instruct manufacturers of products coming within the criterion established by regulation to label their products accordingly.

Those interested in participating in the classification process or for further information contact: Project Leader, U.S. Environmental Protection Agency, (WH–570) 401 M Street SW., Washington, D.C. 20460.

Dated: March 4, 1977.

JOHN QUARLES,
Acting Administrator.

[FR Doc.77–7367 Filed 3–10–77;8:45 am]

[FRL 696–2, OPP–5028]

STAUFFER CHEMICAL CO.

Issuance of Experimental Use Permits

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), experimental use permits have been issued to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect

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to the use of pesticides for experimental purposes.

No. 476–EUP–69. Stauffer Chemical Company, Richmond, California 94804. This experimental use permit allows the use of 204 pounds of the herbicide S-propyl butylethylthiocarbamate and 51 pounds of the herbicide 2-(alpha-naphthoxy) - N,N - diethylpropionamide on transplanted tobacco to evaluate control of annual grasses and broadleaf and perennial weeds. A total of 102 acres is involved; the program is authorized only in the States of Florida, Georgia, North Carolina, South Carolina, Tennessee, and Wisconsin. The experimental use permit is effective from February 11, 1977, to March 28, 1978.

No. 476–EUP–70. Stauffer Chemical Company, Richmond, California 94804. This experimental use permit allows the use of tank mixtures totaling 210 pounds of the herbicide S-propyl butylethylthiocarbamate and 51 pounds of the herbicide 2-(alpha-naphthoxy)-N,N-diethylpropionamide on tobacco to evaluate control of annual grasses and broadleaf and perennial weeds. A total of 102 acres is involved; the program is authorized only in the States of Florida, Georgia, North Carolina, South Carolina, Tennessee, and Wisconsin. The experimental use permit is effective from February 11, 1977, to March 28, 1978.

No. 476–EUP–83. Stauffer Chemical Company, Richmond, California 94804. This experimental use permit allows the use of a mixture totaling 92 pounds of the insecticide O-Ethyl S-phenyl ethylphosphonodithioate and petroleum hydrocarbon solvent on corn to evaluate control of mites and aphids. A total of 100 acres is involved; the program is authorized only in the States of Colorado, Kansas, and Nebraska. The experimental use permit is effective from February 11, 1977, to February 11, 1978. A permanent tolerance for residues of the active ingredient in or on corn has been established (40 CFR 180.221).

Interested parties wishing to review the experimental use permits are referred to Room E–315, Registration Division (WH–567), Office of Pesticide Programs, EPA, 401 M St, SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755–4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: March 7, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77–7365 Filed 3–10–77;8:45 am]

[FRL 607–5]

WASTEWATER TREATMENT FACILITIES FOR GRAND STRAND REGION SOUTH CAROLINA

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the Grand Strand Region, South Carolina Wastewater Treatment Facilities.

The proposed action is awarding grant funds to the Grand Strand Water and Sewer Authority for the purpose of developing a system to service the Grand Strand Region. The project consists of the necessary facilities to process and treat approximately 14.4 million gallons per day of wastewater.

To receive additional public comments, the Environmental Protection Agency, Region 4, will hold an open public hearing on this DEIS on April 11, 1977 at 7:30 p.m. at the South Carolina Public Service Authority Auditorium, Oak Street, Myrtle Beach, South Carolina. Registration will begin at 6:30 p.m. All interested persons are invited to express their views at this hearing. To ensure the accuracy of the record, oral statements should be accompanied by a written statement. Oral statements should summarize extensive written materials to allow time for all interested persons to be heard.

This DEIS was transmitted to the Council on Environmental Quality (CEQ) on March 3, 1977. In accordance with CEQ's notice of availability, comments are due on April 29, 1977. Copies of the DEIS are available for review and comment from:

Mr. John Hagan, III, Chief, EIS Branch, Environmental Protection Agency, Region 4, 345 Courtland Street NE., Atlanta, Georgia 30308. (Telephone 404–881–7458 or FTS 8–257–7458).

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308.

Chapin Memorial Library, Myrtle Beach, South Carolina.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

Horry County Memorial Library, Conway, South Carolina.

Horry Georgetown Technical College Library, Highway 501, Conway, South Carolina.

Information copies of the DEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036. Please reference ELR No. 70286.

Copies of the DEIS have been sent to various Federal, State, and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: March 8, 1977.

PETER L. COOK,
Acting Director,
Office of Federal Activities.

[FR Doc.77–7360 Filed 3–10–77;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[26400]

AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Federal Deposit Insurance Corporation will meet in open session at 11:00 a.m. on Tuesday, March 15, 1977, to consider the following matters:

REQUEST BY THE COMPTROLLER OF THE CURRENCY FOR A REPORT ON THE COMPETITIVE FACTORS INVOLVED IN A PROPOSED MERGER

The Russell National Bank, Lewistown, Mifflin County, Pennsylvania, and The Reedsville National Bank, Reedsville, Mifflin County, Pennsylvania.

RECOMMENDATIONS REGARDING LIQUIDATION OF A BANK'S ASSETS ACQUIRED BY THE CORPORATION IN ITS CAPACITY AS RECEIVER, LIQUIDATOR, OR LIQUIDATING AGENT OF THOSE ASSETS

Case No. 42,973–L—Bank of Woodmoor, Woodmoor (P.O. Mounment), Colorado, Asset Nos. S–37, S–38 and S–39, Woodmoor at Breckenridge Water and Sanitation District Co. Bonds

RECOMMENDATIONS WITH RESPECT TO PAYMENT FOR LEGAL SERVICES RENDERED AND EXPENSES INCURRED IN CONNECTION WITH RECEIVERSHIP AND LIQUIDATION ACTIVITIES

Epport & Delevie, Los Angeles, California, in connection with the receivership of the United States National Bank, San Diego, California.

Stone, Pigman, Walther, Wittman & Hutchinson, New Orleans, Louisiana, in connection with the liquidation of the International City Bank & Trust Company, New Orleans, Louisiana.

Schneider, Smeltz, Huston & Bissell, Cleveland, Ohio, in connection with the liquidation of the Northern Ohio Bank, Cleveland, Ohio.

RECOMMENDATIONS WITH RESPECT TO THE AMENDMENT OF REGULATIONS AND ADDITIONAL DELEGATIONS OF AUTHORITY

Memorandum and resolution proposing amendments to Part 309 of the Corporation's rules and regulations, entitled "Disclosure of Information," to simplify and update the procedures followed by the Corporation in disclosing the records it maintains and to provide greater authority at the divisional level for disclosures which presently require the authorization of the Chairman of the Corporation's Board of Directors.

Memorandum and resolution proposing the delegation to the Corporation's General Counsel or his designee of authority on behalf of the Board of Directors to select private attorneys or law firms to perform legal services for and provide legal counsel to the Corporation in connection with matters involving or affecting the Corporation or its personnel and in connection with the Corporation's activities as receiver or liquidator of closed insured banks.

RECOMMENDATION WITH RESPECT TO THE IMPOSITION OF FINES AGAINST CERTAIN INSURED STATE NONMEMBER BANKS FOR THE LATE SUBMISSION OF THEIR DECEMBER 31, 1976 REPORTS OF CONDITION OR REPORTS OF INCOME

REPORTS OF COMMITTEES AND OFFICERS

Reports of applications or requests approved by the Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Division of Liquidation with respect to the status of the Deposit Insurance National Bank of the Virgin Islands, Charlotte Amalie, St. Thomas, Virgin Islands, as of January 31, 1977.

Report of the Division of Liquidation with respect to funds disbursed in connection with the liquidation of the Franklin National Bank, New York, New York, pursuant to authority delegated by the Board of Directors.

Reports with respect to security transactions authorized by the Chairman.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C. 20429.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at (202) 389–4446.

By direction of the Board of Directors, March 8, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77–7268 Filed 3–10–77;8:45 am]

[26399]

AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:30 a.m. on Tuesday, March 15, 1977, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by unanimous vote of the Board of Directors pursuant to sections 552b(d)(1), 552b(c)(6), and 552b(c)(9)(B)(ii) of title 5, United States Code, to consider the following matters:

APPLICATIONS OR REQUESTS PURSUANT TO SECTION 19 OF THE FEDERAL DEPOSIT INSURANCE ACT FOR THE CORPORATION'S CONSENT TO SERVICE OF PERSONS CONVICTED OF OFFENSES INVOLVING DISHONESTY OR A BREACH OF TRUST AS DIRECTORS, OFFICERS, OR EMPLOYEES OF INSURED BANKS (3)

Names of persons and of banks authorized to be exempt from disclosure pursuant to the provisions of section 552(b)(c)(6) of title 5, United States Code.

RECOMMENDATIONS REGARDING LIQUIDATION OF A BANK'S ASSETS ACQUIRED BY THE CORPORATION IN ITS CAPACITY AS RECEIVER, LIQUIDATOR, OR LIQUIDATING AGENT OF THOSE ASSETS

Case No. 42,960–SR—Sharpstown State Bank, Houston, Texas.

Case No. 42,962–SR—American Bank & Trust Company, New York, New York.

Case No. 42,970–SR—Citizens State Bank, Carrizo Springs, Texas.

Case No. 42,975–NR—United States National Bank, San Diego, California.

REPORTS OF COMMITTEES AND OFFICERS

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

PERSONNEL ACTIONS REGARDING APPOINTMENTS, PROMOTIONS, ADMINISTRATIVE PAY INCREASES, REASSIGNMENTS, RETIREMENTS, SEPARATIONS, ETC.

Names of employees authorized to be exempt from disclosure pursuant to the provisions of section 552b(c)(6) of title 5, United States Code.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C. 20429.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at (202) 389–4446.

By direction of the Board of Directors, March 8, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77–7269 Filed 3–10–77;8:45 am]

[26398]

AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:45 a.m. on Tuesday, March 15, 1977, the Board of Directors of the Federal Deposit Insurance Corporation will meet in closed session, pursuant to sections 552b(d)(4) and 552b(c)(8), (9)(A)(ii), and (10) of title 5, United States Code, to consider the following matters:

APPLICATIONS FOR FEDERAL DEPOSIT INSURANCE

First Security Bank (proposed new bank), to be located at the north side of 175th Street, 133 feet west of Kedzie Avenue, Hazel Crest, Cook County, Illinois.

Family Bank (proposed new bank), to be located at 21 Harrisville Road, Ogden, Weber County, Utah.

Union Bank (proposed new bank), to be located at 505 South 700 East, Salt Lake City, Salt Lake County, Utah.

APPLICATIONS FOR CONSENT TO ESTABLISH BRANCHES

Jefferson Bank of Missouri, Jefferson City, Cole County, Missouri, on Highway 50, St. Martins, Cole County, Missouri.

Provident Savings Bank, Jersey City, Hudson County, New Jersey, at 636 Arnold Avenue, Point Pleasant Beach, Ocean County, New Jersey.

APPLICATION FOR CONSENT TO MOVE MAIN OFFICE

First State Bank, Hearne, Robertson County, Texas, from 215 Cedar Street, Hearne, Robertson County, Texas, to 1501 Texas Avenue, College Station, Brazos County, Texas.

REQUEST FOR AN EXTENSION OF TIME WITHIN WHICH TO ESTABLISH A BRANCH

Middletown Valley Bank, Middletown, Frederick County, Maryland, for an extension of time to February 17, 1978, within which to establish a branch in the proposed Middletown Valley Shopping Center, north side of U.S. Route 40A, east of the corporate limits of Middletown, Maryland.

REQUEST FOR CONSENT TO ADD SUBORDINATED CAPITAL DEBENTURES TO THE BANK'S CAPITAL STRUCTURE

First Security Bank of Deer Lodge, Deer Lodge, Powell County, Montana.

APPLICATION FOR CONSENT TO ACQUIRE ASSETS AND ASSUME LIABILITIES AND ESTABLISH ONE BRANCH

The State Central Savings Bank, Keokuk, Lee County, Iowa, an insured State nonmember bank, for consent to acquire the assets of and assume the liability to pay deposits made in the Iowa State Bank, Stockport, Van Buren County, Iowa, also an insured State nonmember bank, and for consent to establish the sole office of the Iowa State Bank as a branch of the resultant bank.

RECOMMENDATIONS REGARDING LIQUIDATION OF A BANK'S ASSETS ACQUIRED BY THE CORPORATION IN ITS CAPACITY AS RECEIVER, LIQUIDATING AGENT OF THOSE ASSETS

Case No. 42,961–L—International City Bank and Trust Company New Orleans, Louisiana.

Case No. 42,964–L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

RECOMMENDATIONS WITH RESPECT TO PAYMENT FOR LEGAL SERVICES RENDERED AND EXPENSES INCURRED IN CONNECTION WITH RECEIVERSHIP AND LIQUIDATION ACTIVITIES

Ross & Stevens, S.C., Madison, Wisconsin, in connection with the liquidation of the Algoma Bank, Algoma, Wisconsin.

RECOMMENDATIONS WITH RESPECT TO THE INITIATION OF CEASE-AND-DESIST PROCEEDINGS AGAINST TWO INSURED STATE NONMEMBER BANKS

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of sections 552b(c)(9)(A)(ii) and 552b(d)(4) of title 5, United States Code.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C. 20429.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at (202) 389–4446.

By direction of the Board of Directors, March 8, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77–7270 Filed 3–10–77;8:45 am]

MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:30 a.m. on Tuesday, March 15, 1977, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by unanimous vote of the Board of Directors pursuant to sections 552b(d)(1), 552b(c)(6), and 552b(c)(9)(B)(ii) of title 5, United States Code, to consider the following matters:

APPLICATIONS OR REQUESTS PURSUANT TO SECTION 19 OF THE FEDERAL DEPOSIT INSURANCE ACT FOR THE CORPORATION'S CONSENT TO SERVICE OF PERSONS CONVICTED OF OFFENSES INVOLVING DISHONESTY OR A BREACH OF TRUST AS DIRECTORS, OFFICERS, OR EMPLOYEES OF INSURED BANKS (3)

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Names of persons and of banks authorized to be exempt from disclosure pursuant to the provisions of section 552b(c)(6) of title 5, United States Code.

RECOMMENDATIONS REGARDING LIQUIDATION OF A BANK'S ASSETS ACQUIRED BY THE CORPORATION IN ITS CAPACITY AS RECEIVER, LIQUADATOR, OR LIQUIDATING AGENT OF THOSE ASSETS

Case No. 42,960–SR—Sharpstown State Bank, Houston, Texas.
Case No. 42,962–SR—American Bank & Trust Company, New York, New York.
Case No. 42,970–SR—Citizens State Bank, Carrizo Springs, Texas.
Case No. 42,975–NR—United States National Bank, San Diego, California.

REPORTS OF COMMITTEES AND OFFICERS

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

PERSONNEL ACTIONS REGARDING APPOINTMENTS, PROMOTIONS, ADMINISTRATIVE PAY INCREASES, REASSIGNMENTS, RETIREMENTS, SEPARATIONS, ETC.

Names of employees authorized to be exempt from disclosure pursuant to the provisions of section 552b(c)(6) of title 5, United States Code.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C. 20429.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at (202) 389–4446.

By direction of the Board of Directors, March 8, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77–7284 Filed 3–10–77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

PRIVACY ACT OF 1974

Proposed New System of Records

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires that all agencies publish in the FEDERAL REGISTER, at least annually, a notice of the existence and character of their systems of records. Accordingly, the Federal Energy Administration published a notice of its inventory of such personal records on September 16, 1976 (41 FR 40076). For identification purposes, those systems of records were and are designated as systems "FEA–1" through "FEA–20."

Notice is hereby given that the Federal Energy Administration is now proposing to add an additional system of records, to be designated as "FEA–21, Electric Rate Demonstration Data Base." In accordance with the provisions of 5 U.S.C. 552a(o) of the Privacy Act and the Office of Management and Budget Circular No. A–108 and the transmittal memoranda thereto, a report on this system of records has been filed, concurrent with this publication, with the Director of the Office of Management and Budget, the Speaker of the House of Representatives, the President of the Senate and the Privacy Protection Study Commission.

As provided by section 3(e)(11) of the Privacy Act of 1974 (5 U.S.C. 552a(e)(11)), interested persons are invited to submit written data, views or arguments related to this proposal, to Executive Communications, Federal Energy Administration, Box KW, Washington, D.C. 20461. Handcarried comments may be delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, except on legal public holidays

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Privacy Act System of Records/FEA–21." Ten copies should be submitted. All comments received on or before April 11, 1977, and all other relevant information, will be considered by FEA before the new system is adopted.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

It is the intent of the Federal Energy Administration to operate the proposed system of records at the expiration of the advance notice period if no comments to the contrary are received.

(Privacy Act of 1974 (5 U.S.C. 552a); Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 94–385; E.O. 11790 (39 FR 23185, June 27, 1974).)

Issued in Washington, D.C., March 8, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

NARRATIVE STATEMENT, AS REQUIRED BY THE PRIVACY ACT OF 1974 AND OMB CIRCULAR NO. A–108

ELECTRIC RATE DEMONSTRATION PROGRAM

Background. Electric utilities alone account for roughly 26 percent of the Nation's total consumption of fossil fuels. There are substantial energy inefficiencies in this sector, not only in the generation of electricity, but also in its transmission, local distribution and end use. Electric utilities and their customers are also being adversely affected by the rising costs of generator fuels and deteriorating load factors. (Load factor is the ratio of average demand load to peak demand load, and is one of several indices reflecting the relative efficiency of operation). The load factor problem is particularly important because capital requirements are determined by peak loads, whereas revenues are derived from total load. This situation forces utilities to retain older, inefficient generators to meet peak loads, or to acquire relatively inexpensive new peaking generators, typically simple cycle turbines, that use large quantities of scarce fossil fuels. It is belived that it would be valuable to develop and experiment with proposals for the improvement of electric utility rate design. In this way, rate structures could more equitably reflect energy use and, to a certain extent, encourage a more economical and efficient use of energy by consumers. At the same time, a working knowledge of electricity use under such rate structures would better enable utilities to implement more efficient load management techniques.

Program Overview. Pursuant to section 13 of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended by Pub. L. 94–385, Executive Order 11790 and section 204 of the Energy Conservation and Production Act (Pub. L. 94–385), the Federal Energy Administration's ("FEA") Office of Energy Conservation and Environment has undertaken fifteen electric power rate demonstration projects, in conjunction with State and local regulatory commissions and individual utility systems, to assess the consumer respone to innovative rate structures, to evaluate load management practices and technologies, and to promote the conservation of electricity. The FEA, the sponsoring local agencies, and the participating utilities will each bear a portion of the total cost burden involved in implementing these projects. The fifteen projects being funded by FEA are located in Arizona, Arkansas, California (two projects), Connecticut, New Jersey, New York, North Carolina, Ohio, Oklahoma, Puerto Rico, Rhode Island, Vermont, Washington, and Wisconsin.

NOTE.—There is an additional project in Michigan, with Detroit Edison as the participating utility, but all customers participating are industrial concerns, so that there are no consequences under the Privacy Act of 1974.

Each project involves a cooperative agreement between the FEA and a local sponsoring agency. The projects are funded by FEA through the sponsoring local agencies which in turn subcontract with the participating utilities. (In three instances, involving the Edmond (Oklahoma) Municipal Electric Company, the Los Angeles Department of Power and Water, and the Puerto Rico Water Resources Authority, the sponsoring local agencies are also the participating utilities.)

The participating utilities will charge certain of their customers in accordance with an experimental billing rate structure. The results of such billings are then to be analyzed by the utilities, the sponsoring local agencies, the FEA, and the Electric Power Research Institute.

The number of utility company customers participating in any project will vary depending on the design of the individual project. The State of California will provide the largest group of customers (approximately 7,500), followed by the City of Los Angeles (2,000) and New Jersey (1,000), while all other projects involve between 20 to 300 customers. The sponsoring local agencies and their participating utilities are:

Arizona—Solar Research Commission: Arizona Public Service Company.
Arkansas—Public Service Commission: Arkansas Power & Light Company.
California—Energy Resources Conservation & Development Commission and Public Utilities Commission: Pacific Gas & Electric Company; San Diego Gas & Electric Company; Southern California Edison Company; Sacramento Municipal Utility District.
Connecticut—Public Utilities Commission: Connecticut Light & Power Company.
New Jersey—State Energy Office: Jersey Central Power & Light Company.
New York—Public Service Commission: Consolidated Edison.
North Carolina—Utilities Commission: Carolina Power & Light Company; Blue Ridge Electric Membership Corporation.
Ohio—Public Utilities Commission: Dayton Power & Light Company; Toledo Edison Company; Buckey Power Company.
Rhode Island—Public Utilities Commission: Blackstone Valley Electric Company.
Vermont—Public Service Board: Green Mountain Power Company.
Washington—State Energy Office: Seattle City Light (Department of Lighting, City of Seattle); Clark County Public Utilities District; Puget Sound Power & Light Company.
Wisconsin—Public Service Commission: Wisconsin Public Service Corporation.
Puerto Rico—Commonwealth of Puerto Rico: Puerto Rico Water Resources Authority.
Edmond (Oklahoma)—City of Edmond: Edmond Municipal Electric Company.
Los Angeles—City of Los Angeles: Los Angeles Department of Water & Power.

The real value of the demonstration program involves the detailed assessment of customer response to non-traditional rate structures. Presently, only very limited data is available regarding electricity usage patterns under rate forms other than the declining block rate structures in common use today. Valid analysis of non-traditional rate forms requires the development of a body of empirical data. Without these data it is not possible to assess the implications of proposed rate reforms.

To perform these various analyses, demographic and related information concerning customer characteristics will be solicited from participating customers, in addition to simple usage data under the experimental rate structure. (See supporting documentation). This information will be in each instance collected by the participating utility, under the auspices of the local public agency sponsoring the study. No customer will be required to provide information other than voluntarily and any customer may refuse to answer specific questions. All customers will be advised of the purposes of the study and the routine uses to be made of the information collected.

ACCESS TO COLLECTED INFORMATION—ROUTINE USERS

The participating utilities.—The names of experimental rate users are known to the participating local utilities because, in the routine conduct of their business, customer name and address files are maintained for billing purposes.

Local utilities will continue to access their lists of experimental rate users for ordinary billing purposes. Further, the utilities will conduct their own studies and analyses based upon the empirical data generated. To prevent any potential abuse, the FEA will contractually prohibit all study sponsors and their subcontracting utilities from using any of the information gathered in the conduct of the projects for any purpose other than those explicitly stated in the project plans (i.e., the analysis of non-traditional rate forms and load management techniques).

The FEA. The FEA has requested each participating utility to provide FEA with the information collected about each consumer that is being sold electricity in accordance with an experimental rate, in order to enable the above-referenced analyses. The FEA has no need for, will not request, and will not receive from any project any data that would allow reference back to a participant as a specific individual. Names and addresses will not be present in any of the data requested or received by the FEA. Each participant will be identified by an access code known only to the participating utility, but unknown to the FEA. The agency's exclusive interest is in data analysis, which in turn, requires a means to correlate usage with customer characteristics, but does not require a specific identification of the customer beyond a code sufficient to enable differentiation between various participants in the study. (See supporting documentation for categories of records in the system.)

The Sponsoring Local Agencies. The sponsoring local agencies will have access to the records, including the name and addresses of individuals, of their respective subcontracting utilities. The local agencies require this access both to enable the above-referenced analyses regarding the results under the nontraditional rate structures and for the purpose of handling any complaints from participating individual customers.

The Electric Power Research Institute (EPRI). EPRI is an organization whose members are investor-owned, publicly-owned, and rural electric utilities. It is a technical organization, interested in research and development. Funding is derived from tariffs assessed on the member utilities; the size of any tariff is a function of the assessed utility's size. EPRI has requested that participating utilities provide it with information similar to that being provided the FEA, i.e., information not including individual customer names and addresses. Like FEA, EPRI's exclusive interest is in data analysis, as referenced above.

The Participating Utilities' Parent Companies. Although not all of the participating utilities have parent companies, as regards those that do, the parent companies have requested access to information similar to that being provided the FEA and the EPRI, i.e., information not including individual customer names and addresses. Like FEA and EPRI, the exclusive interest of the participating utilities' parent companies is in data analysis, as referenced above.

Safeguards. Additionally to minimise the risk of unauthorized access to the system of records, each cooperative agreement between the FEA and a participating state or locality stipulates that the provisions of the Privacy Act of 1974 will apply, that the participating utilities will exercise diligence in controlling access to their computer facilities and that only authorized members of the project team will be allowed to use the data.

The implementation of this system of records will not require any change to FEA's Privacy Act regulations (10 CFR Part 206) as published in the FEDERAL REGISTER on October 2, 1975 (40 FR 45609).

	A
FEA–21.	
	B
Electric rate demonstration data base.	
	C
Unclassified.	
	D

As broken out by project, the records will be located at the following participating utilities:

Participating locality and agency	*Participating utilities*
(a) Arizona—Solar Research Commission.	Arizona Public Service Co.
(b) Arkansas—Public Service Commission.	Arkansas Power & Light Co.
(c) California—Energy Resources Conservation and Development Commission and Public Utilities Commission.	Pacific Gas & Electric Co.; San Diego Gas & Electric Co.; Southern California Edison Co.; Sacramento Municipal Utility District.
(d) Connecticut—Public Utilities Commission.	Connecticut Light & Power Co.
(e) New Jersey—State Energy Office	Jersey Central Power & Light Co.
(f) New York—Public Service Commission.	Consolidated Edison.
(g) North Carolina—Utilities Commission.	Carolina Power & Light Co.; Blue Ridge Electric Membership Corp.
(h) Ohio—Public Utilities Commission	Dayton Power & Light Co.; Toledo Edison Co.; Buckey Power Co.
(i) Rhode Island—Public Utilities Commission.	Blackstone Valley Electric Co.

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(j) Vermont—Public Service Board	Green Mountain Power Co.
(k) Washington—State Energy Office	Seattle City Light (Department of Lighting, city of Seattle); Clark County Public Utilities District; Puget Sound Power & Light Co.
(l) Wisconsin—Public Service Commission.	Wisconsin Public Service Corp.
(m) Puerto Rico—Commonwealth of Puerto Rico.	Puerto Rico Water Resources Authority.
(n) Edmond, Okla.—city of Edmond	Edmond Municipal Electric Co.
(o) Los Angeles—city of Los Angeles	Los Angeles Department of Water & Power.

For the FEA National Office, the location of the records is Optimum Systems, Inc., 5615 Fishers Lane, Rockville, Maryland 20852. There are no records at any of the FEA regional offices.

E

All consumers of electricity participating in FEA-sponsored rate demonstration projects.

F

Consumer identification number, rate code, historical data on past year's energy consumption, hourly current electrical consumption, household information (including age distribution and income), dwelling characteristics, fuel use information, water heating characteristics, and appliance inventory. The records maintained by the FEA and the EPRI will not contain name or other identifying particulars.

G

Section 13 of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended by Pub. L. 94–385; Executive Order 11790; section 204 of the Energy Conservation and Production Act (Pub. L. 94–385).

H

The participating utilities will use the records maintained for the following purposes: Measurement of price elasticity under various non-traditional rate forms, correlation of demographic characteristics with demand and usage patterns, analysis of shifts in usage patterns under various rate forms and at different times of day and seasons of the year, and determination of changes in load and capacity factors attributable to experimental rates and/or load management techniques. The records maintained by the participating utilities will also be made available to the participating utilities' parent companies, the sponsoring state and local agencies, the FEA, and the Electric Power Research Institute, so that these parties can do analyses of the data similar to those contemplated by the utilities. As previously noted, the records made available to the participating utilities' parent companies, the FEA and to EPRI will not contain name or other identifying particulars. The sponsoring state and local agencies will also use the records to deal with any compliants brought by participating consumers of electricity.

I

J

Machine readable only.

K

Machine readable records are retrievable by any data element (except by name for EPRI and National Office FEA records).

L

The contracts with the utilities stipulate that the utility will exercise all diligence in controlling access to their computer facility and that only authorized members of the project team and other routine users will be allowed to use the data. At the FEA National Office, physical, technical and administrative security is maintained with all storage areas locked when not in use. Admittance when open, is restricted to authorized personnel only. All personnel that handle or process the data are instructed and cautioned as to the confidentiality of the data and its proper disposition. Remote terminal users need special access code.

M

At the participating utilities and the EPRI: three years after the completion of the test on the utility's system. At the FEA National Office: records will be destroyed within two years of completion of the last project.

N

FOR RECORDS AT THE PARTICIPATING UTILITIES

Utility	Address
(a) Arizona Public Service Co	411 North Central Ave., Phoenix, Ariz. 85004.
(b) Arkansas Power & Light Co	Box 551, Little Rock, Ark. 72203.
(c) Blackstone Valley Electric Co	Washington Highway, Box 1111, Lincoln, R.I. 02865.
(d) Blue Ridge Electric Membership Corp.	1216 Blowing Rock Blvd. NE., Lenoir, N.C. 28645.
(e) Buckeye Power Co	4302 Indianola Ave., Columbus, Ohio 43214.
(f) Carolina Power & Light	Box 551, Raleigh, N.C. 27602.
(g) Clark County Public Utilities District.	1200 Fort Vancouver Way, Box 1626, Vancouver, Wash. 98663.
(h) Connecticut Light & Power Co	P.O. Box 270, Hartford, Conn. 06101.
(i) Consolidated Edison	4 Irving Place, New York, N.Y. 10003.

Utility	Address
(j) Dayton Power and Light Co	25 North Main St., Dayton, Ohio 45401.
(k) Edmond Municipal Electric Co	Edmond, Okla. 73034.
(l) Green Mountain Power Co	1 Main St., Burlington, Vt. 05401.
(m) Jersey Central Power & Light Co	Madison Ave. and Punch Bowl Rd., Morristown, N.J. 07960.
(n) Los Angeles Department of Water and Power.	Box 111, Los Angeles, Calif. 90051.
(o) Pacific Gas & Electric Co	77 Beale St., San Francisco, Calif. 94106.
(p) Puerto Rico Water Resources Authority.	Planning and Engineering, San Juan, P.R.
(q) Puget Sound Power & Light Co	600 116th Street, NE., Bellvue, Wash. 98009.
(r) Sacramento Municipal Utility District.	6201 South St., P.O. Box 15830, Sacramento, Calif. 95813.
(s) San Diego Gas & Electric Co	P.O. Box 800, San Diego, Calif. 92112.
(t) Seattle City Light (department of lighting, city of Seattle).	1015 Third Ave., Seattle, Wash. 98104.
(u) Southern California Edison Co	P.O. Box 1831, Rosemead, Calif. 91770.
(v) Toledo Edison Co	300 Madison Ave., Toledo, Ohio 43652.
(w) Wisconsin Public Service Corp	700 North Adams Ave., Green Bay, Wis. 54301.

For records at the FEA National Office: Electricity Utility Demonstration Program Manager, Regulatory Institutions Programs, National Programs, Energy Conservation and Environment, Federal Energy Administration, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461.

O

Requests by an individual to determine if a system of records contains information about him should be directed to the Privacy Act Officer, Federal Energy Administration, Washington, D.C. 20461 in accordance with FEA's Privacy Act Regulations (10 CFR 206.2, 40 FR 45610 (October 10, 1975)). The requests will in turn be forwarded to the appropriate participating utility maintaining the complete record pertaining to the individual.

P

Requests by an individual for access to a system of records that contains information about him should be directed to the Privacy Act Officer, Federal Energy Administration, Washington, D.C. FEA's Privacy Act Regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975)). Requests will in turn be forwarded to the appropriate participating utility maintaining the complete record pertaining to the individual.

Q

Requests by an individual to correct or amend the content of a record containing information about him should be directed to the Privacy Act Officer, Federal Energy Administration, Washington, D.C. 20461 in accordance with FEA's Privacy Act Regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975)). Requests will in turn be forwarded to the appropriate participating utility maintaining the complete record pertaining to the individual.

R

Utilities participating in the electric rate demonstration project and individuals providing information.

S

None.

[FR Doc.77-7356 Filed 3-8-77;12:34 pm]

FEDERAL MARITIME COMMISSION

NORTH ATLANTIC WEST BOUND FREIGHT ASSOCIATION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before April 4, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 5850–34, among the members of the abovenamed association, amends Article 7 of the basic agreement by adding a new paragraph to articulate the authority of the NAWFA members to prepare relevant statistical data relating to rate applications, shipper requests and other Conference business.

By Order of the Federal Maritime Commission.

Dated: March 8, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-7314 Filed 3-10-77;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 382]

SOUTHERN CALIFORNIA EDISON CO.

Conference

MARCH 4, 1977.

Public notice is hereby given that a public conference will be held on April 7, 1977, at 10:00 a.m. in Room 5200 of the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, with the Commission Staff concerning Southern California Edison Company's Borel Project No. 382 located in Kern County, California. The conference is being held pursuant to the Commission's By Direction Letter of November 26, 1976, to Congressman William M. Ketchum concerning a number of inquiries respecting the operation of the Borel Project.

The conference will involve a discussion of the public safety considerations associated with the Borel Project No. 382, and any impacts the operation of the Borel Canal may have on recreation at Lake Isabella. The following entities have been notified regarding the pending conference: Southern California Edison Company, the U.S. Corps of Engineers and other interested Federal, State, and local entities.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7160 Filed 3-10-77;8:45 am]

[Docket No. CP77-268]

CNG TRANSMISSION CO.

Application

MARCH 7, 1977.

Take notice that on February 28, 1977, CNG Transmission Company (Applicant), 200 S. Third Street, Richmond, Virginia 23218, filed in Docket No. CP77-268 an application pursuant to Section 1(c) of the Natural Gas Act for exemption from the provisions of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is a Virginia public utility corporation and is successor, assignee and transferee through reorganization of the natural gas pipeline system, facilities, properties and related assets of Commonwealth Natural Gas Corporation which had been declared exempt from the provisions of the Natural Gas Act by Commission order issued September 7, 1954, in Docket No. G-2500 (13 FPC 1363). Applicant asserts that it buys approximately 75 percent of its natural gas supplies from Columbia Gas

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Transmission Corporation at a point near Stanardsville, Virginia, and 25 percent of its supplies from Transcontinental Gas Pipe Line Corporation at points near Lignum and Emporia, Virginia, and sells such gas to five distributor customers for resale in Virginia and to one direct industrial customer in Hopewell, Virginia. It is further asserted that all of the gas purchased by Applicant from its interstate suppliers is consumed within Virginia. Applicant also states that it operates a substitute natural gas plant and a liquefied natural gas storage facility both of which are located in Chesapeake, Virginia, and that all of the gas forthcoming from these facilities is also consumed within Virginia.

Applicant states that its natural gas rates, service and facilities are subject to the jurisdiction of the Virginia State Corporation Commission (SCC) and that the SCC is exercising such jurisdiction.

Any person desiring to be heard or to make any protest with reference to said application should be on before March 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7225 Filed 3-10-77;8:45 am]

[Docket No. ER77-216]

CENTRAL MAINE POWER CO.

Contract Filing

MARCH 7, 1977.

Take notice that February 28, 1977, Central Maine Power Company (Company) filed with the Commission six (6) copies of its Contract to provide wholesale electric service to Fox Islands Electric Cooperative (Customer) under the Company's Tariff Schedule W-1 as previously filed with the Commission. The Company stated that it began providing service to the Customer on January 11, 1977 under the Tariff Schedule W-1 and that a formal contract for service was entered into on August 11, 1976.

The Company is of the opinion that the information which the Commission's Regulations require to be submitted with the filing of this contract is contained in the Company's rate filing to revise Tariff Schedule W-1 (i.e. Docket No. ER77-217). To avoid unnecessary duplication of this information, the Company requests that the Commission waive any requirements of Section 35.12 with respect to the Customer's Contract.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before March 21, 1977, file with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and procedure (18 CFR 1.8 or 1.10). All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing and supporting documents are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7222 Filed 3-10-77;8:45 am]

[Docket No. ER77-217]

CENTRAL MAINE POWER CO.

Tariff Change

MARCH 7, 1977.

Take notice that Central Maine Power Company (Company), on February 28, 1977, tendered for filing proposed changes in its FPC Electric Tariff W-1.

The Company states that the proposed changes would increase revenues from jurisdictional sales and service by $338,-761 based on the 12 month period ending September 30, 1976. The wholesale customers affected by the proposed changes are:

1. Kennebunk Light and Power District (Kennebunk, Maine 04043).
2. Carrabassett Light and Power Company (North Anson, Maine 04958).
3. Madison Electric Works (Madison, Maine 04950).

According to the Company, the reason for this change is to raise the Rate of Return from this class of customers to a level that is just and reasonable. The Company has requested that the proposed rate changes become effective April 1, 1977.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before March 21, 1977, file with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing and supporting documents are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7229 Filed 3-10-77;8:45 am]

[Docket No. RP77-30]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FPC Gas Tariff

MARCH 7, 1977.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on February 25, 1977, tendered for filing as proposed changes to its FPC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Original Sheet No. 9-A
Original Sheet No. 24-A
Original Sheet No. 24-B
Original Sheet No. 24-C
Original Sheet No. 24-D
Original Sheet No. 57-A
Original Sheet No. 57-B
Original Sheet No. 57-C
Original Sheet No. 57-D

The above tariff sheets set forth initial rates and related terms and conditions under a new Rate Schedule T, together with a form of service agreement, required to implement the transportation of gas by Consolidated for industrial and commercial customer who are purchasers of natural gas from Consolidated's jurisdictional customers. The tendered sheets conform to the Commission's Policy set forth in its Order Nos. 533 and 533-A in Docket No. RM75-25 which encouraged the transportation of gas by pipeline companies for high-priority industrial and commercial customers of a pipeline company's jurisdictional customers who are being curtailed. The tariff sheets are proposed to become effective on February 12, 1977, the date on which the Commission issued a temporary certificate to Consolidated authorizing it to transport gas for American Cyanamid Company, Willow Island, West Virginia, at the rate and on the terms and conditions set forth in the proposed rate schedule.

Copies of the filing were served upon Consolidated's jurisdictional customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7220 Filed 3-10-77;8:45 am]

[Docket No. CP75-158]

CONSOLIDATED GAS SUPPLY CORP.

Petition To Amend

MARCH 4, 1977.

Take notice that on February 24, 1977, Consolidated Gas Supply Corporation (Petitioner), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP75-158 a petition to amend the Commission's order of May 29, 1975 (53 FPC ----), as amended on August 18, 1976 (56 FPC ----), issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize (1) the construction and operation of the facilities necessary to incorporate a portion of Line No. TL-265 into its wet-gas system, (2) the construction and operation of the Yellow Creek compressor station, and (3) the deferral, for one year, of the projects previously approved for the years 1977-1979, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it was authorized by the Commission's order issued May 29, 1975, to construct, during the years 1975 through 1979, and operate approximately 119 miles of pipeline and certain compressor facilities which were designed to replace effectively Petitioner's existing West Virginia wet gas transmission system.

Petitioner further states that it was authorized by the Commission's order issued August 18, 1976, to defer the completion of all 1976 projects for one year in order to determine the feasibility of reclassifying from dry-gas to wet-gas service approximately 24 miles of existing 20-inch Line No. TL-265.

It is stated that Petitioner has determined that this reclassification is feasible and estimates that the cost of the tie-in of TL-265 to the wet-gas system would be approximately $322,000 in lieu of constructing 24.4 miles of new 24-inch Line No. TL-418 at a cost of $5.4 million.

Petitioner states that as to projects originally scheduled for completion in 1977, it now proposes (1) to construct and operate an 880 horsepower compressor station near Yellow Creek in Calhoun County, West Virginia, in lieu of the 1,320 horsepower Burnt House station previously authorized, and (2) to defer all other projects scheduled for 1977-79 by one year, pending further studies of its West Virginia wet and dry gas transmission systems.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7243 Filed 3-10-77;8:45 am]

[Docket No. CP77-257]

CONSOLIDATED GAS SUPPLY CORP.

Application

MARCH 4, 1977.

Take notice that on February 24, 1977, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP77-257 an application pursuant to section 7 of the Natural Gas Act for permission and approval to abandon certain transmission facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 20.0 miles of 24-inch pipeline from near its Tonkin compressor station in Doddridge County to Hastings, Wetzel County, West Virginia, and to abandon equivalent lengths of its 12-inch Line No. H-192 and its 14-16-inch Line No. TL-264. Applicant states that this proposal represents the second year of a six-year plan to replace its West Virginia dry gas transmission system extending from its Cornwell compressor station in Kanawha County to Hastings. Applicant further states that the estimated cost of the proposed facilities, $5,059,296, would be financed from funds on hand and from funds to be obtained from Applicant's parent, Consolidated Natural Gas Company.

It is stated that Applicant has discovered extensive corrosion in a significant portion of Line Nos. H-192 and TL-264 which were constructed in 1936 and 1947-49, respectively. It is further stated that the pipeline has been utilized to transport approximately 235,000 Mcf of gas per day of 255,000 Mcf per day which Applicant purchases from Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., which amount represents a substantial portion of Applicant's total authorized pipeline supply of natural gas. It is asserted that the proposed pipeline would have sufficient capacity to permit Applicant to reclassify approximately 23.9 miles of its 20-inch Line No. TL-265 from dry gas transmission service to wet gas service which would obviate the necessity of constructing approximately 24.4 miles of 24-inch pipeline at an estimated cost of $5.4 million.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 28, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by section 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7232 Filed 3-10-77;8:45 am]

[Docket No. ER76-45]

CONSUMERS POWER CO.

Order Approving Settlement

MARCH 7, 1977.

On December 16, 1976, the Presiding Administrative Law Judge in this proceeding certified to the Commission a proposed Settlement Agreement together with the evidentiary record and certain exhibits and testimony not introduced in the formal proceedings. The Commission finds that the Settlement Agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

Proceedings were initiated on July 30, 1975 when Consumers Power Company (Consumers) submitted for filing proposed rate increases under eighteen FPC rate schedules totaling $5,065,568. By order issued August 29, 1975, the Commission accepted the proposed rate increases for filing, suspended them for one month, and permittel them to become effective September 30, 1975. The Commission instituted a separate proceeding under this docket designated as Phase II to investigate allegations by an intervenor, Publicly Owned Systems (Systems), of certain anti-competitive practices of Consumers concerning pooling and arrangements of interchange and coordination. Phase I concerned the law-

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fulness and reasonableness of the rates and charges proposed in the filing.

As a result of a formal settlement conference held on June 3, 1976 and other discussions between the parties, an uncontested settlement agreement was reached. The settlement is proposed to dispose of issues in both Phase I and Phase II of this proceeding. The settlement rate would provide a rate increase of $4.058 million.

Consumers is presently a party to antitrust proceedings at the Nuclear Regulatory Commission with regard to its application to construct Midland Nuclear Units 1 and 2 (Docket Nos. 50–329A and 330A). Under the proposed settlement, Consumers agrees not to request stay of a final order of the NRC in the Midland antitrust proceeding. Consumers so agrees subject to certain provisions, among them, that in the event that the NRC license conditions require Consumers to file new agreements with the FPC, these filings will contain provisions to automatically terminate should they be deemed unlawful on appeal.

Public notice of certification of the proposed agreement was issued on December 29, 1976 with responses due on or before January 12, 1977. Staff and Systems filed comments in support of the proposed settlement.

Based on our review of the record in these proceedings, including the settlement agreement itself, we conclude that the settlement agreement represents a reasonable resolution of the issues in the proceedings in the public interest. Accordingly, the settlement should be approved.

The Commission finds: The settlement agreement certified by the Presiding Judge to the Commission in this docket should be approved and made effective, as hereinafter ordered.

The Commission orders: (A) The settlement agreement certified by the Presiding Judge in this docket on December 16, 1976, is hereby approved and made effective, and is incorporated herein by reference.

(B) Within 30 days from the date of this order, Consumers shall file with the Commission revised tariff sheets in conformance with the settlement agreement.

(C) Within 30 days after the settlement tariff sheets are accepted for filing, Consumers shall refund amounts collected in excess of the settlement rates based on service rendered after September 20, 1975, together with simple interest computed at 9% per annum.

(D) Within 20 days after refunds have been made, Consumers shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and settlement rates; the monthly settlement rate increase; the monthly rate refund; and the monthly interest computation, together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

(E) Consumers shall file with the Commission increases to rates resulting from application of the tax adjustment provision of Rate "WR", together with computation showing the basis for the changes in rates, pursuant to appropriate Commission Regulations.

(F) In the event that filings are made with the Commission as a result of NRC orders arising from the Midland antitrust proceeding (Docket Nos. 50–329A and 330A) and that the automatic termination provisions of such filings are invoked, Consumers shall promptly notify the Commission as to the date on which the termination provisions of the filings became effective.

(G) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order in any proceedings now pending or hereafter instituted by or against Consumers or any other person or party.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7239 Filed 3-10-77;8:45 am]

[Project No. 2740]

DUKE POWER CO.; SOUTH CAROLINA (BAD CREEK PUMPED STORAGE PROJECT)

Availability of Environmental Impact Statement for Inspection

Notice is hereby given that on or about March 14, 1977, as required by the Commission Rules and Regulations under Order 415–C, issued December 18, 1972, a final environmental impact statement prepared by the Commission's staff pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91–100) was placed in the public files of the Federal Power Commission. This statement deals with the environmental impact of the issuance of a Federal Power Commission license to Duke Power Company which would authorize the construction of the proposed Bad Creek Pumped Storage Project. The proposed project would be located on Bad and West Bad Creeks in Oconee County, South Carolina. Essentially, the proposed project would consist of dams across Bad and West Bad Creeks which would impound a 318 acre upper reservoir, utilization of existing Lake Jocassee as a lower reservoir, a tunnel which would connect the two reservoirs, an underground powerhouse containing 4 reversible pumping-generating units totaling 1,000 MW of generating capacity, and a 525–kV transmission line approximately 18 miles in length using new and existing right-of-way. This statement is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426 and its Atlanta Regional Office located at 730 Peachtree Building, Room 500, Atlanta, Georgia 30308. Copies may be ordered from the Commission's Office of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-7216 Filed 3-10-77;8:45 am]

[Docket No. ES77-7]

EL PASO ELECTRIC CO.

Application

MARCH 4, 1977.

Take notice that on February 18, 1977, El Paso Electric Company (Applicant), filed an application with the Federal Power Commission (the "Commission") seeking authority pursuant to Section 204 of Federal Power Act to issue $25,000,000 principal amount of First Mortgage Bonds and $10,000,000 of Cumulative Preferred Stock, no par value.

The Applicant is incorporated under the laws of Texas with its principal business office at El Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico in an area in the Rio Grando Valley extending approximately 110 miles northwesterly from El Paso to the Caballo Dam in New Mexico and approximately 120 miles southeasterly from El Paso to Van Horn, Texas, with a population of approximately 480,000 of whom 365,000 reside in metropolitan El Paso.

The Applicant proposes to issue $25,000,000 principal amount of First Mortgage Bonds, ----% Series due 2007, which will be secured by the Applicant's Indenture of Mortgage dated as of October 1, 1946, with State Street Trust Company (now known as State Street Bank and Trust Company) of Boston, Massachusetts, as Trustee, as supplemented and modified and to be further supplemented by a Fourteenth Supplemental Indenture, and $10,000,000 of Cumulative Preferred Stock, no par value.

The Applicant proposes to sell the New Bonds and New Preferred Stock at competitive bidding in accordance with the Commission's Regulations. The Applicant expects to invite bids on or about April 12, 1977. The New Bonds which will mature on April 1, 2007, and prior to April 1, 1982, none of the New Bonds may be redeemed through certain refunding operations. The New Bonds will be dated April 1, 1977, and will bear interest at the rate determined by the competitive bidding. The New Preferred Stock has no maturity and prior to April 1, 1982, none of the shares of the New Preferred Stock may be redeemed through certain refunding operations. The New Preferred Stock will bear a dividend rate which is to be determined by the competitive bidding.

The proceeds from the sale of the New Bonds and New Preferred Stock will be used to reduce outstanding short-term debt incurred for construction purposes. The short-term debt is expected to aggregate $37,000,000 at the time of such sale and before the application of the proceeds. The Applicant's construction program during the period from 1977 through 1979 will require approximately $240,000,000 in cash expenditures.

Any person desiring to be heard or to make any protest with reference to said application should, on or before March 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7244 Filed 3-10-77;8:45 am]

[Docket No. E77–50]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order Pursuant to Section 6 of Pub. L. 95–2

On March 7, 1977, Texas Eastern Transmission Corporation (Texas Eastern) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to purchase up to 7 Bcf of natural gas at a rate not to exceed 50,000 Mcfd from Houston Pipe Line Company (Houston). For the reasons set forth below, I find the terms and conditions of the subject agreement between Houston and Texas Eastern to be fair and equitable and (i) authorize and approve the same, (ii) authorize, approve, and order the transportation and delivery of the subject gas to Texas Eastern, and (iii) authorize and approve the construction and operation of any facilities necessary to transport and deliver these gas supplies to Texas Eastern.

Texas Eastern will purchase these supplies at a price of $2.20 per MMBtu inclusive of all state and local taxes and other adjustments. I find this price to be fair and equitable in accordance with Order No. 2.

Houston will deliver this gas to Transcontinental Gas Pipe Line Corporation (Transco) at a mutually agreeable point in Fort Bend County, Texas. Transco will deliver the gas to Texas Eastern at an existing interconnection near St. Francisville, Louisiana, or at other mutually agreeable points of interconnection between the two pipelines. Transco may be required to construct or cause to be constructed certain measuring facilities in order to receive this gas from Houston.

Texas Eastern advises and I find that the gas made available by Houston will result in commingling of interstate natural gas with Houston's normal intrastate system gas supply and with volumes of gas owned by other parties. The contractual provisions between Houston and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supplies with gas moving in interstate commerce. The sale, transportation and delivery of gas for which Texas Eastern seeks approval may result in some commingling of interstate natural gas with Houston's normal intrastate gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas. Under the provisions of § 9(b), (c) of Pub. L. 95–2 (91 Stat. at 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Houston or such other parties or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts referred to above are not enforceable by reason of Section 9 of Public Law 95–2 since Houston is selling, delivering and transporting gas for Texas Eastern pursuant to Section 6(a) of that Act. Houston and any third person whose gas is commingled with Texas Eastern's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Houston is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1)(A) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *." 91 Stat. at 8. In addition, § 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the sale of this gas will not subject Houston or any person supplying gas to Houston to the provisions of the Natural Gas Act or to regulation as a common carrier under state law.

In its contract with Houston, Texas Eastern certified that it is (i) not serving directly or indirectly any natural gas for uses specified in Priorities 4 through 9 (18 CFR 2.78(a)(1)(iv)–(ix)) and (ii) eligible to purchase gas under Order Nos. 6 and 6–A. I find that Texas Eastern has complied with Order No. 6.

Texas Eastern shall submit weekly reports as required by Order No. 4 and shall also submit all relevant information regarding transportation charges to be paid to Transco.

Pursuant to Section 6(a) of the Act, I hereby authorize Houston to sell to Texas Eastern up to a total of 7 Bcf (at a rate not to exceed 50,000 Mcf/d) of natural gas on the terms and conditions set forth in Texas Eastern's filing in this proceeding and the March 4, 1977 agreement between Houston and Texas Eastern. Pursuant to Section 6(c)(1) of the Act, I hereby authorize and order (i) Transco to transport gas for Texas Eastern, (ii) Transco to construct, and recover the costs of such construction, any metering facilities necessary to receive this gas from Houston, and (iii) Texas Eastern to pay the agreed upon charges.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Eastern, Houston and Transco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 7, 1977.

[FR Doc.77-7215 Filed 3-10-77;8:45 am]

[Docket No. CP77–230]

FLORIDA GAS TRANSMISSION CO. AND UNITED GAS PIPE LINE CO.

Application

MARCH 4, 1977.

Take notice that on February 16, 1977, Florida Gas Transmission Company (Florida Gas), P.O. Box 44, Winter Park, Florida 32790, and United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP77–230 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas between Florida Gas and United and the construction and operation of a new and additional delivery point to effectuate such exchange, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an agreement dated December 14, 1976, Florida Gas proposes to deliver up to 750 Mcf of gas per day to United, and United proposes simultaneously to redeliver equivalent quantities to Florida Gas at presently authorized and existing interconnections between the two systems. It is stated that Florida Gas would cause such gas to be delivered to United at a new and additional delivery point located on United's 6-inch lateral in Sec. 108, T. 17S., R.15E., Terrebonne Parish, Louisiana. It is further stated that the required facilities would consist of a metering and regulation station and approximately 5,800 feet of 2½-inch pipeline, and that such facilities would be constructed by Florida Gas under its currently effective gas purchase budget-type certificate issued on March 8, 1976, in Docket No. CP76–289 (55 FPC ----).

It is asserted that such gas has been contracted for by Florida Gas from Perry R. Bass and is to be produced from the Wilson #1 Well in Terrebonne Parish, Louisiana.

United states that the above-described facilities would also be utilized by it to transport up to 1,000 Mcf of gas per day from the Wilson #1 Well for its own account.

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Florida Gas and United state that the proposed exchange of natural gas would provide added flexibility of operation and continuity of service in the event of an emergency, and further, that it is the most economical efficient means of delivering natural gas to their customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 28, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7231 Filed 3-10-77;8:45 am]

[Docket No. RI77-30]

KARIS OIL COMPANY, INC.

Petition for Special Relief

MARCH 4, 1977.

Take notice that on December 20, 1976, Karis Oil Company, Inc., 6607 Orchid Lane, Dallas, Texas 75230, filed a petition for special relief pursuant to Section 2.56a(g) of the Commission's General Policy and Interpretations (18 CFR 2.56a(g)).

Petitioner seeks authorization to charge $1.80 per Mcf for the sale of gas to Northwest Pipeline Company in consideration for the completion of remedial work on the Government No. 1 Well located in Rio Blanco, Colorado. The subject well was drilled and completed in 1972, but the gas produced therefrom has not as yet been sold in interstate commerce.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7240 Filed 3-10-77;8:45 am]

[Docket No. ER77-221]

KENTUCKY UTILITIES CO.

Tariff Change

MARCH 7, 1977.

Take notice that on March 1, 1977, Kentucky Utilities Company (KU) tendered for filing a change in the demand charge for Unit Power included in Service Schedule B of the Kentucky-Indiana Pool Planning and Operating Agreement, designated as KU's Rate Schedule FPC No. 89. The Agreement is between KU, East Kentucky Power Cooperative, Inc., Indianapolis Power & Light Company, and Public Service Company of Indiana.

The Unit Power Demand Charges are determined by using plant cost per kilowatt, fixed charge rate and annual plant O & M expense. The change in the demand charge results from recalculations of these three figures.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7221 Filed 3-10-77;8:45 am]

[Docket No. ER76-678]

MAINE ELECTRIC POWER COMPANY, INC.

Order Granting Late Intervention

MARCH 7, 1977.

On December 23, 1976, the Shrewsbury, Massachusetts ("Mass.") Light Plant, the Peabody, Mass. Municipal Light Plant, the Danvers, Mass. Electric Department, the Wakefield, Mass. Municipal Light Department, the Marblehead, Mass. Municipal Light Department, the Middleboro, Mass. Gas & Electric Department, the Municipal Lighting Plant of the Town of West Boylston, Mass. and the Middleton, Mass. Light Department (Municipal Systems), and the NEPCO Customer Rate Committee (Rate Committee), which is comprised of Representatives of the Municipal Systems, filed an untimely petition to intervene in the instant proceeding. For the reasons set forth hereinafter the Commission will grant the petition to intervene.

Municipal Systems state that they have entitlements in power purchased by Maine Electric Power Company, Inc. (MEPCO) from the New Brunswick Electric Power Commission (New Brunswick) pursuant to the Power Purchase and Transmission Agreement dated December 1, 1971, which has been filed by MEPCO in this docket, and thereby each has an interest in the outcome of this proceeding. Pursuant to the Power Purchase and Transmission Agreement, Municipal Systems and certain other New England Utilities has agreed to purchase from New Brunswick, pursuant to a Unit Participation Agreement dated November 15, 1971, which has also been filed in this docket.

By order issued September 15, 1976, the Commission, inter alia, instituted an investigation and hearing regarding the aforementioned agreements. By motion dated November 4, 1976, New England Power Company (NEP) requested that the Presiding Administrative Law Judge proceed to establish procedural dates regarding the aforementioned investigation and hearing to determine appropriate conditions, if any, to be imposed by the Commission upon the importation of MEPCO of power from New Brunswick and upon the resale of such power to purchasers under the Power Purchase and Transmission Agreement.

As purchasers under the Power Purchase and Transmission Agreement, Municipal Systems state that they may be adversely affected by the Commission's imposition of any condition upon the importation and resale by MEPCO of New Brunswick power. Furthermore, the Municipal Systems state that their interests cannot be adequately represented by any of the existing parties and that they may be bound by the Commission's action in this proceeding. The Municipal Systems also state that they became aware that an active effort had been undertaken to impose conditions on the importation of New Brunswick Power only upon receipt of NEP's November 4 motion.

Pursuant to a formal Prehearing Conference held on November 9, 1976, in this docket, the Presiding Administrative Law Judge issued a notice dated November 11, 1976, of the contents of NEP's motion to all the signatory parties to the Power Purchase and Transmission Agreement in order to give these parties the opportunity to take such action as they deemed appropriate. A similar notice was published by the Commission in the FEDERAL REGISTER on November 24, 1976.

In light of the foregoing, the Commission concludes that the Municipal Systems and the Rate Committee should be permitted to intervene in this proceeding.

The Commission finds: Participation in this proceeding by the Municipal Systems and the Rate Committee is in the public interest.

The Commission orders: (A) The Municipal Systems and the Rate Committee are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation of these parties shall be limited to matters affecting asserted rights and interests as specifically set forth in their petition to intervene; and *Provided, further,* That the admission of these parties shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7242 Filed 3-10-77;8:45 am]

[Docket No. CP76-511]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Order Providing Formal Hearing in Limited Term Transportation Application

MARCH 4, 1977.

On September 1, 1976, Natural Gas Pipeline Company of America (Natural) filed in Docket No. CP76-511 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited-term transportation and delivery of up to 50,000 Mcf per day of natural gas for United Gas Pipe Line Company (United), and the permanent retention and operation of facilities required to effectuate said transportation service.

Natural proposes to transport for one year gas received from Producer's Gas Company (Producer) for United's account from the points of delivery in Dewey and Woodward Counties, Oklahoma, to a point of interconnection of United's and Natural's lines in Vermilion Parish, Louisiana. Natural also seeks authority to retain in place facilities costing $24,950 installed to permit the 60-day emergency exchange of gas with United which was initiated on May 20, 1976, and expired on July 17, 1976, pursuant to Section 157.22 of the Commission's Regulations. The facilities consist of a tap connection at the Woodward County point and a tap connection and measuring facility at the Dewey County point and are to be financed from funds on hand. Natural's Limited Term Gas Transportation Agreement dated August 10, 1976, with United provides for deliveries by United to Natural of up to 50,000 Mcf per day. United has advised that it would deliver an average of 35,000 Mcf per day to Natural.

By order issued October 19, 1976, Producers was granted a limited term certificate in Docket No. CI76-597 authorizing the sale for resale of the aforementioned volumes of gas to United. By the same order, Natural was granted a temporary certificate of public convenience and necessity in the instant docket to transport for the account of United the gas to be purchased by United from Producers in Oklahoma to the point of interconnection of United's line with that of Natural in Vermilion Parish.

In the Commission order issued October 9, 1977, the issue presented herein was succinctly posed:

Natural proposes transportation charge of 15.0¢ per Mcf or 2.5¢ per 100 miles for the approximate 600 miles distance between the points of receipt of the gas in the Oklahoma Panhandle Area and the point of delivery in Southern Louisiana. However, the flow of gas in Natural's pipelines from Oklahoma is in a northerly direction to its markets in Chicago, Illinois, and the flow of gas in Natural's pipelines from Louisiana is also in a northerly direction to Chicago. Natural does not have any facilities connecting the point of receipt of the gas in Oklahoma with the point of delivery in Louisiana. Therefore, no gas is physically transported between the two points and it appears that Natural is merely charging 15.0¢ per Mcf for an exchange of gas. Additionally, during the 60-day emergency exchange of gas, the gas was exchanged on a gas for gas basis and no charges were made by Natural to United.

Our analysis indicates that Natural's proposed 2.5¢ rate per 100 miles appears to be related to the overall cost of transporting gas for its entire system based on actual cost figures and the actual cost of doing business.[1] Since no transportation service per se is rendered by Natural for United's account, and no costs other than the operation of the taps and metering facilities incident thereto are incurred by Natural, the charge herein may be inappropriate and not cost justified, as is well-established by W. C. Feazel, et al., Docket No. G-515 (4 FPC 323). Further, it would appear that in all the other exchange or transportation agreements with other pipelines, no charge has ever before been levied by Natural for displacement.

Despite a request by the Secretary's letter dated September 21, 1976, for cost data justifying the charge, none has been received. For such reasons, we therefore find that it would be most appropriate to set the matter for formal hearing.

After due notice of the application by publication in the FEDERAL REGISTER on September 29, 1976 (48 F.R. 42980), United filed a timely petition to intervene in support of the application. No interventions or petitions have been filed in opposition to Natural's application.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and the issues presented in these proceedings as hereinbefore described.

(2) Participation in these proceedings by aforementioned intervenor may be in the public interest.

The Commission orders: (A) The proceeding in Docket No. CP76-511 is hereby set for hearing and disposition.

(B) Pursuant to the Natural Gas Act, particularly Sections 4, 5, and 15 thereof, the Commission's Rules of Practice and Procedure (18 C.F.R. Part 1), and the Regulations under the Natural Gas Act (18 C.F.R. Chapter I, Subchapter E), and a prehearing conference shall be held on April 18, 1977, commencing at 10:00 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, to discuss procedural issues and the clarification of issues.

(C) An administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 C.F.R. § 3.5(d)), shall preside at the prehearing conference in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exceptions of petitions to intervene, motions to consolidate or sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(D) The direct case of Natural, including testimony on the issues raised by this order, shall be filed and served on all parties, the Presiding Administrative Law Judge, and the Commission Staff on or before March 28, 1977. All supporting intervenors shall file testimony and exhibits comprising their cases in chief on or before April 4, 1977. Similarly, opposing intervenors and Staff may file their testimony on or before April 11, 1977, and should said filing give rise to the need for Natural or supporting intervenors to file in rebuttal, the same shall be done on or before April 14, 1977.

(E) United is permitted to intervene in the instant proceeding subject to the rules and regulations of the Commission: *Provided,* however, that participation of such intervenor shall be united to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided,* further, That the admission of such intervenor shall not be construed as recognition by the Commission that they might be ag-

[1] Docket No. RP76-106.

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grieved because of any order of the Commission entered in the proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7237 Filed 3-10-77;8:45 am]

[Docket No. CP77-226]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Filing Initial Rate Schedule

MARCH 4, 1977.

Take notice that on February 24, 1977, Natural Gas Pipeline Company of America (Natural) tendered for filing initial Rate Schedule X-81 consisting of Original Sheet Nos. 861-876 to be part of Natural's FPC Gas Tariff, Second Revised Volume No. 2.

Rate Schedule X-81 relates to a Gas Exchange Agreement between Natural and United Gas Pipe Line Company (United), dated February 9, 1977. This agreement is the subject of a Joint Abbreviated Application for Certificate of Public Convenience and Necessity and Request for Temporary Certificate filed by Natural on February 16, 1977, at Docket No. CP77-226.

Natural asked for waiver of the regulations to the extent necessary to permit the filing to become effective on the date certificate authorization is granted by the Commission.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 22, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7234 Filed 3-10-77;8:45 am]

[Docket No. CP77-263]

NORTHWEST PIPELINE CORPORATION

Application

MARCH 4, 1977.

Take notice that on February 28, 1977, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP77-263 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale to and the exchange of natural gas with RMNG Gathering Company (RMNG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to a gas purchase contract dated January 25, 1977, between it and Palmer Oil and Gas Company (Palmer), it has acquired a new source of gas supply in the Bar-X Field area of Garfield County, Colorado, which is remote from Applicant's existing transmission system. Applicant further states that in order to make the volumes of gas to be purchased from Palmer available to its transmission system at the least possible investment, it has entered into a gas purchase, transportation and exchange agreement with RMNG dated February 2, 1977. It is stated that Applicant would deliver the volumes purchased from Palmer to RMNG at a mutually agreeable point on RMNG's gathering facilities in or near Sec. 23, T.7S., R.104W., Garfield County, Colorado, and RMNG would redeliver such volumes, subject to RMNG's right to purchase up to 25 percent of the volumes delivered for exchange, at an existing point of interconnection between the facilities of Applicant and RMNG in or near Sec. 29, T.8S., R.103W., Mesa County, Colorado.

It is asserted that the volumes to be delivered to RMNG would be gathered by Applicant and transported to the facilities of RMNG. It is further asserted that Applicant proposes to construct the necessary gathering facilities pursuant to its budget-type authorization issued on October 19, 1976, in Docket No. CP76-459 (56 FPC ____).

Applicant states that the agreement with RMNG is for a primary term of ten years commencing on the first day of the month following the initiation of deliveries thereunder and on a year to year basis thereafter. Applicant estimates that initially the total volumes of gas to be delivered to RMNG would be approximately 260 Mcf per day.

It is stated that RMNG has a continuing option to purchase from Applicant up to 25 percent of the volumes of natural gas delivered to RMNG for a price equal to the purchase gas cost paid by Applicant to Palmer, which cost is currently $1.44 per Mcf. It is further stated that Applicant has agreed to pay RMNG a transportation charge of 8.0 cents per Mcf, and RMNG reserves the right to change the transportation charge to reflect changes in its cost-of-service.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 29, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7227 Filed 3-10-77;8:45 am]

[Docket No. ER77-215]

OKLAHOMA GAS AND ELECTRIC CO.

Filing of Wholesale Electric Service Agreements

MARCH 4, 1977.

Take notice that Oklahoma Gas and Electric Company, on February 28, 1977, tendered for filing Electric Service Agreements for the Cities of Tecumseh and Wynnewood and the Towns of Manchester and Orlando, Oklahoma. The proposed Electric Service Agreements cancel and supersede contracts for Tecumseh, Wynnewood, Manchester and Orlando dated March 8, 1960, April 4, 1960, March 30, 1960, and April 18, 1960, respectively. The proposed effective dates are April 1, 1977 for Tecumseh and Manchester, April 4, 1977 for Wynnewood and April 18, 1977 for Orlando.

The proposed rates are identical to those presently on file and permitted to become effective on April 1, 1977, subject to refund, in Federal Power Commission Tariff, Original Volume No. 1—Municipalities.

OG&E states that copies of the proposed Electric Service Agreements have been mailed to Tecumseh, Wynnewood, Manchester and Orlando and to the Corporation Commission of the State of Oklahoma.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7230 Filed 3-10-77;8:45 am]

[Project No. 2781]

PACIFIC GAS AND ELECTRIC CO.

Application for Transmission Line License

MARCH 7, 1977.

Public notice is hereby given that an application for license was filed on October 22, 1976, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by Pacific Gas and Electric Company (Correspondence to: Mr. W. M. Gallavan, Vice President-Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, CA 94106) to construct, operate, and maintain a transmission line designated F.P.C. Project No. 2781, to be located in Calaveras, Tuolumne, and Stanislaus Counties, California, partially on lands of the United States administered by the Corps of Engineers, Department of the Army.

The proposed development consists of a 23-mile long 230-kV transmission line extending from the New Melones Switchyard to the Applicant's existing Bellota-Herndon 230-kV line in the vicinity of the Warnerville Substation. The proposed three-phase double circuit 230-kV line would be supported on steel lattice towers, and would carry power generated at the U.S. Bureau of Reclamation's New Melones Powerhouse.

Any person desiring to be heard or to make protest with reference to said application should on or before May 23, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.18 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, § 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b) (18 CFR § 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this matter if requested by the Applicant and if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice or hearing will be given. Under this shortened procedure, unless otherwise advised, it would be unnecessary for the Applicant to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7233 Filed 3-10-77;8:45 am]

[Project No. 2784]

PACIFIC GAS AND ELECTRIC CO.

Application for Transmission Line License

MARCH 4, 1977.

Public notice is hereby given that application was filed on December 6, 1976, under the Federal Power Act (16 U.S.C. 791a-825r) by Pacific Gas and Electric Company (Correspondence to: Mr. W. M. Gallavan, Vice President-Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106) for license to construct, operate, and maintain a 60-kV wood pole transmission line. The proposed Rollins Transmission Line would extend approximately 3,800 feet from Nevada Irrigation District's proposed Rollins Power Plant to Pacific Gas and Electric Company's existing Colfax Junction-Grass Valley 60-kV line. The proposed Rollins Power Plant would be located at the existing Rollins Dam (part of Yuba-Bear Project No. 2266) on the Bear River in Placer and Nevada Counties, California.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 15, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, § 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32 (b) (18 CFR 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of § 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure; further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7235 Filed 3-10-77;8:45 am]

[Docket No. ER76-820]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Order Establishing 206 Proceeding, Permitting Intervention, Denying Motion for Summary Disposition and Setting Procedural Dates

MARCH 7, 1977.

On July 30, 1976, the Public Service Company of Oklahoma (PSCO) tendered for filing a complaint requesting the Commission to institute an investigation under Section 206(a) of the Federal Power Act of the Company's present wholesale rate to Grand River Dam Authority (GRDA), known as the Markham Ferry Coordination Agreement[1] (Agreement). The Agreement is a fixed rate, long-term contract providing for limited contract rate adjustments with an initial term of 35 years ending May 1, 1969, or until final payment of the indebtedness represented by bonds issued by GRDA for construction of the Markham Ferry Project, with an additional term not to extend beyond 50 years from the effective date of the Agreement (2004) unless cancelled by two years' prior written notice by either party. PSCO's filing also included a proposed increase in rates which would produce additional revenue in the amount of $9,055,158 (46.5%) based on a test period consisting of twelve months ending December 31, 1976.

PSCO's complaint alleges that the presently effective contract rates are unjust, unreasonable, and contrary to the public interest in that the rates are confiscatory, impair PSCO's ability to serve all customers, grant an undue preference to GRDA, promote waste of natural gas and create an undue business risk affecting PSCO and its other customers. In support of the allegations, PSCO states that the intent of the Agreement was to provide mutual rights and obligations under which either party could from time to time be a buyer or a seller of power or energy. PSCO asserts that since

[1] Dated August 5, 1957 and filed with the Commission with an effective date of May 1, 1966, designated PSCO-FPC Rate Schedule No. 162.

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GRDA refused to install sufficient firm and peaking capacity to provide for its own system needs, GRDA is becoming only a buyer of capacity, and thus vitiating the Agreement's balance of benefits and burdens. PSCO contends that the present situation encourages waste of natural gas consumed in the operation of its facilities to provide substitute firm and peaking power to GRDA.

PSCO further supports its allegations by stating that the periodic rate adjustments provided for in the Agreement have a built-in lag of one year for energy rates and five years for demand rates, and are thus, wholly inadequate to reflect the cost of service to GRDA. The company's cost of service submitted with the complaint shows PSCO earning a negative 7.16 percent rate of return on sales to GRDA during 1975, and that absent the rate relief requested, the company will experience a negative 5.23 percent rate of return on such sales in 1976. Such a condition, PSCO claims, is against the public interest since PSCO would be forced either to forego construction necessary to meet service requirements, to obtain the necessary funds at substantially increased financing costs to all its customers or to seek to recoup the deficit on GRDA service from its other customers.

Notice of PSCO's complaint was issued on August 10, 1976, with a due date for comments on or before August 17, 1976. On August 16, 1976, GRDA filed a motion for extension of time to file responses and petition to intervene. On August 17, 1976, KAMO Electric Cooperative, Inc. (KAMO), the largest customer of GRDA, filed a petition to intervene. On August 23, 1976, a notice was issued extending the time within which to file protests and petitions to intervene to September 9, 1976. On August 27, 1976, PSCO filed a response to KAMO's petition to intervene stating that it had no objection to the intervention. On September 8, 1976, GRDA filed a protest, petition to intervene and a motion for summary disposition. On October 6, 1976, after PSCO filed a motion for extension of time to answer the protest, petition to intervene and motion for summary disposition filed by GRDA, PSCO filed its answer to GRDA's filing before the October 8 deadline. GRDA filed a reply to PSCO's answer on October 27, 1976, and PSCO filed an objection to consideration of GRDA's reply on November 4, 1976, followed by a response on November 10, 1976 by GRDA to PSCO's objection to consideration of GRDA's reply. Protests were filed by numerous GRDA customers. For the reasons hereinafter stated, the Commission shall institute a section 206(a) investigation, permit intervention by GRDA and KAMO, deny the motion for summary disposition and set procedural dates.

GRDA's initial answer to PSCO's complaint, entitled "Protest, Petition to Intervene and Motion for Summary Disposition", requested that the Commission dismiss the complaint of PSCO for failure to meet the burden of proof required in *Sierra Mobile* cases[2] citing in support of the motion, Carolina Power & Light Company,[3] Appalachian Power Company,[4] Metropolitan Edison Company,[5] and Transcontinental Gas Pipe Line Corp.[6] If the motion for summary disposition was not granted, GRDA requested in the alternative, to be allowed to intervene. PSCO completely denied the allegations by GRDA in its answer dated October 16, 1976, distinguishing the cases cited by GRDA for the proposition that summary disposition of PSCO's case-in-chief is proper, by noting that the cases cited by GRDA (discussed above) were summarily disposed of only after a full evidentiary hearings or as in Transcontinental Gas Pipe Line Corp. where the company as a matter of then current Commission policy could not possibly justify its position at a formal hearing.[7]

GRDA replied to PSCO's answer on October 27, reasserting the arguments used in its initial answer. On November 4, PSCO objected to GRDA's reply on the procedural basis that the Commission's Rules of Practice and procedure, Section 1.12, concerning motion practice, does not provide for filing of replies nor does Section 1.9, dealing with answers, unless the defendants seek affirmative relief,[8] which PSCO alleged, GRDA did not. GRDA responded to PSCO's allegations on November 10, 1976 by reasserting the allegations in its initial answer to PSCO and further asserting that the motion for summary disposition was a request for affirmative relief.

On January 26, 1977, PSCO tendered for filing a superseding supplement to its rate schedule, FPC No. 162, intended to revise energy rates pursuant to contractually allowed yearly adjustment. PSCO stated that the filing, designated FPC Docket No. ER77-170 would increase revenues to PSCO by $10,144,715.

Our review of the complaint, protests, petitions to intervene and the pleadings on the motion for summary disposition indicates that PSCO has raised issues which require development in an evidentiary proceeding. We need not rule on PSCO's objection to consideration of the reply of GRDA dated November 4, since GRDA's reply merely reasserts the arguments in the initial answer. Further, we determine that Grand River Dam Authority and KAMO Electric Cooperative Inc. have standing to intervene in this docket.

We conclude that a Section 206 investigation of PSCO's FPC Rate Schedule No. 162 is necessary to determine whether a sufficient showing can be made so as to satisfy the test enunciated by the Supreme Court in the *Sierra* case.[9]

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter into an investigation under Section 206 of the Federal Power Act concerning the lawfulness of PSCO's fixed rate contract with GRDA.

(2) Good cause exists to deny GRDA's motion for summary disposition.

(3) GRDA and KAMO should be allowed to intervene in the proceeding herein instituted.

(4) PSCO should amend its Cost of Service Study to reflect revenues from the annual rate change to GRDA in Docket No. ER77-170.

The Commission Orders: (A) Pursuant to the authority of the Federal Power Act particularly Section 206 thereof, and the Commission's Rules and Regulations and the Regulations under the Federal Power Act, a public hearing shall be held on August 8, 1977, at 10:00 a.m., in a public hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the lawfulness and reasonableness of PSCO's fixed rate contract with GRDA. A Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(B) GRDA & KAMO are hereby permitted to intervene in the proceeding herein instituted.

(C) GRDA's motion for summary disposition is hereby denied.

(D) Within 30 days of the issuance of this order, PSCO shall amend its Cost of Service Study filed with us in the present docket to reflect additional revenues that would be generated by the annual rate change to GRDA, filed in Docket No. ER77-170.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7228 Filed 3-10-77;8:45 am]

[Project No. 67]

SOUTHERN CALIFORNIA EDISON CO.

Issuance of Annual License

MARCH 4, 1977.

On February 12, 1970, Southern California Edison Company, Licensee for the Big Creek No. 2A and No. 8 Project No. 67, located in Fresno County, California, on the San Joaquin River, filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 67 was issued effective March 3, 1921, for a period ending March 2, 1971. Since expiration of the original license, the project has been maintained and operated under annual licenses, the most recent of which will expire on March 2, 1977. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the Southern California Edison Company.

Take notice that an annual license is issued to the Southern California Edison Company for the period March 3, 1977, to March 2, 1978, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Big Creek No. 2A and No. 8 Project No. 67 subject to the terms and conditions of the original license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before March 2, 1978, a new annual license will be issued each year thereafter, effective March 3 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7224 Filed 3-10-77;8:45 am]

[Docket No. ER76-20]

SUPERIOR WATER, LIGHT, AND POWER CO.

Filing of Settlement Agreement

(MARCH 7, 1977).

Take notice that on February 18, 1977, the Superior Water, Light and Power Company submitted a Settlement Agreement in the above named docket.

On February 25, 1977, the Presiding Administrative Law Judge certified the offer of settlement in this contested proceeding to the Commission for its consideration and ruling.

The proposed settlement provides for an increase in Superior's rates for service to Dahlberg Light and Power Company of $19,845, plus any increase in the cost of power purchased by Superior from Minnesota Power and Light Company under the rates finally approved by the Federal Power Commission in Docket No. E-9502. It also provides for a refund of sums collected by Superior, subject to refund, in excess of the amounts determined to be the appropriate rate.

The proposed settlement further provides that in the event the Commission, upon a final order in Docket No. E-8494, reduces the ratchet on demand contained in Minnesota Power and Light Company's proposed Rate Schedule No. 90, Superior will reduce the ratchet on demand contained in its proposed Rate Schedule W-4 (revised).

Any person wishing to do so may submit comments in writing concerning the proposed Settlement Agreement to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 11, 1977. The Settlement Agreement is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-7223 Filed 3-10-77;8:45 am]

TENNESSEE GAS TRANSMISSION CO. ET AL.

Proceeding for Disbursement of Escrowed Funds

MARCH 4, 1977.

Tennessee Gas Transmission Company, Continental Oil Company, Mobil Oil Corporation (successor to Magnolia Petroleum Company), Newmont Oil Company, Continental Oil Company, Atlantic Richfield Company (successor to Atlantic Refining Company), Cities Service Oil Company, Getty Oil Company (successor to Tidewater Oil Company).

Take Notice that: On September 30, 1976, the above-captioned producers Applicants) submitted a joint petition in the above-captioned dockets for orders directing disbursement of escrowed funds.

The petition states the following: By various orders heretofore entered in the above-referenced dockets the Commission issued permanent certificates of public convenience and necessity for the sale of natural gas by Applicants to Tennessee Gas Transmission Company (Tennessee). All the sales so certificated involved deliveries from properties situated in the Southern Louisiana Area as designated by the Commission and more particularly within the so-called "Disputed Zone." The afore-said orders approved settlement proposals filed in each of the referenced dockets. All of the settlements provided for a price of 20.625 cents per Mcf and for a moratorium on rate increases for a period of five years and for a term ending June 30, 1967. Each of the orders was without prejudice to the outcome of area rate proceedings under Section 5 of the Natural Gas Act.

In accordance with the settlement proposals, the Commission ordered 1.625 cent per Mcf escrowed by Tennessee in the case of the MCN certificate applications, *Mobil Oil Corporation*, Docket No. G-13827, *Continental Oil Company*, Docket No. G-13680, and *Newmont Oil Company*, Docket No. G-13948; and 1.0 cent per Mcf escrowed by Tennessee in the case of the CAGC certificate applications, Continental Oil Company, Docket No. G-19855, Atlantic Richfield Company, Docket No. G-19580, Getty Oil Company, Docket No. G-19900, and Cities Service Oil Company, Docket No. G-19851.

Tennessee entered into an Escrow Agreement dated September 24, 1965, with Tennessee Bank and Trust Company, Houston, Texas, relating to the MCN applications. Pursuant thereto 1.625 cents for each Mcf of gas delivered from the subject MCN properties was escrowed until December 1970, after which Tennessee stopped such Escrow payments.

Tennessee entered into an Escrow Agreement dated June 18, 1963, with Tennessee Bank and Trust Company relating to the CAGC applications. Pursuant thereto 1.0 cents for each Mcf of gas delivered from the subject CAGC properties was escrowed until December 1970, after which Tennessee stopped such escrow payments.

Tennessee further states that as of July 2, 1976, the invested funds in the MCN-Tennessee account was valued at $1,119,810.15 and the invested funds in the CAGC-TGT account was valued at $721,644.50.

APPLICANTS' REQUEST

Applicants' request: (1) That the Commission effect release of the escrowed funds and interest to Applicants severally in the amounts of their interest and (2) that the Commission authorize and order the disbursement of such escrow funds in a manner similar to that set forth in the Commission's Order Conditionally Accepting Settlement Proposal, issued October 29, 1974, in Kerr-McGee Corporation, et al., Docket No. CI67-1594, et al. The most salient feature of the Kerr-McGee settlement was that the escrowed funds (also relating to sales from the Disputed Zone in Southern Louisiana) were disbursed to the producers involved for utilization in an exploration and development program designed to obtain natural gas for the pipeline purchaser's system. It was provided that the program was to be funded by $3.00 of new money to be furnished by the producers for every $2.00 of the refund money.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Tennessee and Applicants are already parties to this proceeding and need not request intervention.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7241 Filed 3-10-77;8:45 am]

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[2] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332, and *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[3] Opinion No. 717, issued December 17, 1974.

[4] Docket No. E-7775, Order on Rehearing issued June 9, 1975; ALJ Decision on Rates, issued November 13, 1974.

[5] Docket No. E-8869, Opinion No. 764, issued June 1, 1976, Initial Decision issued September 2, 1975.

[6] Docket No. RP 75-75, Order Granting Staff Motion for Summary Disposition issued September 9, 1975, p. 3.

[7] Docket No. RP75-75 (September 29, 1975).

[8] 18 CFR Section 1.9(f).

[9] *Federal Power Commission* v. *Sierra Pacific Power Company* 350 U.S. 348 (1956).

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[Docket No. RP77-38]

TEXAS GAS TRANSMISSION CORP.

Filing Transportation Rate Schedule

MARCH 7, 1977.

Take notice that on February 24, 1977, Texas Gas Transmission Corporation (Texas Gas) submitted for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets proposed to be effective on February 24, 1977:

Original Sheet No. 7-A
Original Sheet Nos. 41 through 45
Original Sheet Nos. 133 through 140
First Revised Sheet No. 78

Texas Gas states the purpose of the filing is in response to the Federal Power Commission's (Commission) Administrative Order No. 164, wherein the Commission found it appropriate for a regulated pipeline to include a transportation rate schedule in its tariff on file with the Commission in order to help expedite the disposition of service requests for relief of existing or contemplated curtailment.

In view of the need for expedition, Texas Gas has requested waiver of the Commission's Regulations to the extent necessary so as to permit the tariff sheets to become effective on February 24, 1977.

Texas Gas states that copies of the filing have been mailed to each of its jurisdictional customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspections.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7219 Filed 3-10-77;8:45 am]

[Docket No. CP74-33]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition To Amend

MARCH 7, 1977.

Take notice that on March 1, 1977, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP74-33 a petition to amend the Commission's order issued pursuant to Section 7(c) of the Natural Gas Act on February 26, 1975 (53 FPC ____), as amended on August 31, 1976 (56 FPC ____), in the instant docket so as to authorize an increase in the top capacity of the Washington Storage Field and an additional storage service to its customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that on February 26, 1975, the Commission authorized Petitioner to acquire the Washington Field for gas storage purposes, to construct and operate facilities, and to render storage service from the field to customers which had subscribed for such service. Petitioner states that it was authorized to develop top storage capacity of 30,000,000 Mcf, which development was to be reached in three stages so that the full 30,000,000 Mcf of withdrawal inventory would be achieved by the 1978-79 winter season.

It is further stated that the Commission in its amending order issued August 31, 1976, authorized Petitioner to render additional storage service within the authorized top storage capacity of 30,000,000 Mcf, to increase permanent compression, and to modify field piping.

Petitioner proposes to amend further the Commission's order of February 26, 1975, by increasing the top capacity of the Washington Storage Field to 40,000,000 Mcf and by rendering additional storage service to its customers. Petitioner states that it has secured commitments from its customers for an additional 9,300,000 Mcf of top gas capacity, which level of service is to be reached by the 1977-78 withdrawal season. Petitioner further states that the remaining 700,000 Mcf of proposed top capacity would be subscribed in the near future.

It is asserted that the additional 10,000,000 Mcf of top storage capacity can be developed without the necessity for additional injected base gas in excess of the approximately 29,000,000 Mcf of injected base gas required for the 30,000,000 Mcf of top storage capacity presently authorized for the 1977-78 withdrawal season. It is further asserted that the only additional facilities required to effectuate the proposed expansion of storage capacity are an additional 200,000 Mcf per day gas dehydration train and appurtenant facilities, which are estimated to cost $785,000. Petitioner states that the proposed facilities would be financed initially from short-term loans and available cash, and permanent financing would be undertaken as a part of an overall financing program at a later date.

Petitioner states that the commitments secured from its customers for additional storage service are as follows:

Customer	Proposed additional quantity (in dekatherms)	Revised total allocated quantities (in dekatherms)
Atlanta Gas Light Co.		2,222,600
The Brooklyn Union Gas Co.	1,201,860	11,490,540
Carolina Pipeline Co.	489,375	1,000,000
Clinton-Newberry Natural Gas Authority		400,000
Consolidated Edison Co., of New York, Inc.		4,171,405
City of Danville, Va.	100,000	153,795
Delmarva Power & Light Co.	1,000,000	1,113,345
Eastern Shore Natural Gas Co.	22,600	70,000
Elizabethtown Gas Co.	451,810	1,807,235
City of Laurens, S.C.	25,000	41,200
Long Island Lighting Co.		1,308,425
North Carolina Gas Service		250,000
North Carolina Natural Gas Corp.	1,000,000	2,141,720
Owens-Corning Fiberglas Corp.	1,000,000	1,020,660
Pennsylvania Gas & Water Co.	720,000	720,000
Philadelphia Electric Co.		2,144,000
Philadelphia Gas Works	110,080	440,355
Piedmont Natural Gas Co., Inc.	1,000,000	3,424,550
Public Service Co. of North Carolina, Inc.	400,000	1,713,235
City of Shelby, N.C.		11,000
South Jersey Gas Co.	1,000,000	1,257,185
UGI Corp.		125,000
Union Gas Co.	259,505	300,000
United Cities Gas Co.—Georgia Division	50,000	216,755
United Cities Gas Co.—North Carolina and South Carolina Division	50,000	220,485
Virginia Pipe Line Co.	120,000	120,000
Washington Gas Light Co.	371,280	1,485,040
Total	9,371,500	39,371,500

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 28, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7217 Filed 3-10-77;8:45 am]

[Docket No. CP76-279]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Withdrawal and Cancellation of Hearing

MARCH 4, 1977.

On March 3, 1977, Transcontinental Gas Pipe Line Corporation (Transco) filed a withdrawal of its application filed February 3, 1977, to amend the initial application in the above-docketed proceeding to add Burlington, Industries' offices at Rockleigh, New Jersey to its transportation arrangement. Transco also filed a withdrawal of that portion of its February 11, 1977, application to further amend which sought to add, among others, Burlington's facilities in Stokesdale, North Carolina and Reidsville, North Carolina. Transco states that these facilities would utilize the gas to be transported for boiler fuel, contrary to Transco's policy with respect to Order No. 533 transportation services. The Commission's order of February 25, 1977 set the applications to amend for hearing on the issue of boiler fuel use in an application under Section 2.79 of the Commission's General Policy and Interpretations.

Notice is hereby given that pursuant to Section 1.11(d) of the Commission's Rules of Practice and Procedure, the withdrawals of the amended applications as described above shall become effective April 4, 1977. Since the hearing scheduled for March 7, 1977, would appear to be mooted by such withdrawals, said hearing is cancelled subject to further review by the Commission of Transco's amended applications.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7236 Filed 3-10-77;8:45 am]

[Docket No. ER77-218]

TUCSON GAS & ELECTRIC CO.

Filing of Sale Agreement

MARCH 7, 1977.

Take notice that Tucson Gas & Electric Company ("TGE") on February 28, 1977 tendered for filing a PNM-TGE 1978-1979 Power Sale Agreement (the "Agreement") dated February 15, 1977 between TGE and Public Service Company of New Mexico ("PNM"). TGE states that the rate schedule applicable to this Agreement is submitted for filing as an initial rate schedule between TGE and PNM.

TGE and PNM request, in accordance with Section 35.3(b) of the Commission's Regulations, that the Commission accept the Agreement for filing in advance of ninety days prior to the stated effective date of May 1, 1978.

TGE states that copies of the filing were served upon PNM.

Any person desiring to be heard or to protest said Agreement should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 21, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7226 Filed 3-10-77;8:45 am]

[Docket No. RP71-29, et al. (Phase II)]

UNITED GAS PIPE LINE CO.

Further Extension of Procedural Dates

MARCH 4, 1977.

On February 24, 1977, General Motors filed a motion to further extend the hearing date fixed by order issued January 25, 1977, as most recently modified by notice issued February 18, 1977, in the above-designated proceeding.

Upon consideration, notice is hereby given that the hearing date in the above proceeding is extended to March 30, 1977 (10:00, EST).

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7238 Filed 3-10-77;8:45 am]

[Docket No. RP71-122]

ARKANSAS LOUISIANA GAS CO.

Order Accepting Settlement Proposal on Storage Injection

MARCH 7, 1977.

On June 2, 1976, the Commission issued an order,[1] which directed inter alia, that hearings be held to determine the appropriate method of classifying storage injection gas under the Arkansas Louisiana Gas Company (Arkla) curtailment plan. A pre-hearing conference was commenced on July 13, 1976, before Administrative Law Judge Samuel Kanell whereupon Arkla requested a two week interval to prepare an offer of settlement. On July 27, 1976, an offer of settlement was tendered. Six (6) questions were posed by the Commission Staff (Staff) on the record, to clarify the proposal and answers were submitted on September 27, 1976. The offer of settlement was designated Exhibit A and the responses to the questions were designated Exhibit B. A letter dated September 28, 1976, from the Commission Staff was received as Exhibit C. The letter stated the answers contained in Exhibit B were satisfactory. On September 30, 1976, the Presiding Administrative Law Judge certified the transcript of the proceedings and the Exhibits to the Commission. None of the parties to this proceeding or the Commission Staff oppose the acceptance of the Settlement Proposal.

The evidence in this proceeding indicated Arkla makes only one large contract sale for resale. Cities Service Gas Company (Cities) is the only customer on Arkla's system making use of Arkla gas for storage injection requirements. Cities and Arkla are in agreement as to the treatment of storage and this agreement is contained in the three (3) revised tariff sheets to Arkla's EPC Gas Tariff, First Revised Volume No. 1, filed with the Commission on July 13, 1976.[2] The methodology reflected in Arkla's tariff sheets includes the concept of netting and averaging storage injections and withdrawals during the three year base period established by the Commission in Opinion Nos. 643 and 643-A, which net average requirements are then accorded Priority 2 status. A portion of Cities total net storage injection volumes is then assigned to Priority 2 under Arkla's curtailment plan. The factor used to arrive at the reduced volumes is the same 10 percent factor that the Commission determined was justified in assigning Cities' systemwide operational requirements to priority 1 under Arkla's Part, and Modifying in Part, the Initial Decision and Establishing procedures issued June 2, 1976, p. 19).

The Commission finds: (1) The presentation made and offer of settlement tendered by Arkla comply with the instructions of the Arkansas Power & Light Company,[3] and the Commission's order setting this matter for hearing.

(2) The settlement of this proceeding on the basis proposed and agreed to by the parties as summarized above and as more specifically set forth in the Offer of Settlement certified on September 30, 1976, is reasonable, proper and in the public interest and should be approved.

The Commission orders: The settlement of this proceeding on the basis of the terms contained in the Offer of Settlement certified on September 30, 1976 is approved.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7278 Filed 3-10-77;8:45 am]

[Docket No. E-7740]

INDIANA & MICHIGAN ELECTRIC CO.

Filing of Motion for Approval of a Negotiated Settlement and for Approval of an Offer of Settlement; Correction

MARCH 7, 1977.

There were certain errors in the notice issued February 9, 1977 and published in the FEDERAL REGISTER on February 16, 1977, 42 FR 9423 which are corrected by this notice.

Take notice that on January 14, 1977, the Indiana & Michigan Electric Company transmitted to the office of the Secretary of the Federal Power Commis-

[1] Order Affirming In Part, and Modifying In Part, The Initial Decision and Establishing Procedures.

[2] Third Revised Sheet No. 3A, Superseding Second Revised Sheet No. 3A; Third Revised Sheet No. 3B, Superseding Second Revised Sheet No. 3B; and Third Revised Sheet No. 3C Superseding Second Revised Sheet No. 3C and Superseding First Revised Sheet No. 3D.

[3] *Arkansas Power & Light Company, et al.* v. *F.P.C., et al.*, 517 F. 2d 1223 (D.C. Cir. 1975).

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sion a motion for approval of a Negotiated Settlement and for approval of an Offer of Settlement of the captioned docket. An opportunity is hereby provided for comments thereon by all interested persons.

The Negotiated Settlement now pending before the Commission would resolve the issues in the captioned docket as to twelve of Indiana & Michigan Electric Company's municipal wholesale customers, collectively known as the Indiana & Michigan Municipal Distributors Association (IMMDA), by providing for a refund of a portion of the amounts collected under the filing made by Indiana & Michigan Electric Company in the captioned docket. The Offer of Settlement would offer the same terms to the cities of Anderson, Auburn and Fort Wayne, Indiana. Copies of the Negotiated Settlement and Offer of Settlement are on file for the inspection of any interested persons.

Any person desiring to comment upon any of the matters contained in the Offer of Settlement above described should file such comments with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426 on or before March 24, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7276 Filed 3-10-77;8:45 am]

[Docket No. ER77-159]

IOWA PUBLIC SERVICE CO.

Termination of Agreement

MARCH 7, 1977.

Take notice that on January 18, 1977, the Iowa Public Service Company (Company) informed the Commission that, effective as of 12:00 noon on February 18, 1977, the Service Agreement (Iowa Public Service Company F.P.C. Electric Tariff Original Volume I) between the City of Dunkerton, Iowa and Iowa Service Company dated February 4, 1974, will be terminated.

The Company states that by Agreement dated January 12, 1977, the City of Dunkerton contracted to sell to the Company its distribution facilities, franchises, rights-of-way and inventory.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before March 28, 1977, file with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing and supporting documents are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7279 Filed 3-10-77;8:45 am]

[Docket No. ES77-17]

KENTUCKY UTILITIES CO.

Application for Acquisition of Securities

MARCH 7, 1977.

Take notice that Kentucky Utilities Company (Kentucky Utilities) on February 25, 1977, applied for authority pursuant to Section 203 of the Federal Power Act, to acquire from time to time during the year 1977 unsecured promissory notes of its wholly-owned subsidiary, Old Dominion Power Company (Old Dominion) (a) in amounts not to exceed $1,500,000, in the aggregate at any time upaid and (b) in such additional amounts not exceeding $1,750,000 upon the retirement of an outstanding note of Old Dominion.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 28, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7275 Filed 3-10-77;8:45 am]

[Docket No. ER77-161]

NEW ENGLAND POWER CO.

Notice of Filing

MARCH 7, 1977.

Take notice that on January 21, 1977, New England Power Company (NEP) tendered for filing as an initial rate schedule a Transmission Contract between NEP and Fitchburg Gas and Electric Light Company.

The Transmission Contract provides for NEP's transmission across its system of Fitchburg's purchase from Maine Electric Power Company (MEPCO) of an entitlement to the power MEPCO receives under a Unit Participation Agreement dated November 15, 1971 between the New Brunswick Electric Power Commission and MEPCO.

NEP requests waiver of the notice requirements so as to permit the Transmission Contract to become effective as of May 24, 1976 in accordance with its terms.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7274 Filed 3-10-77;8:45 am]

[Project No. 137]

PACIFIC GAS AND ELECTRIC CO.

Extension of Time

MARCH 7, 1977.

On February 28, 1977, Pacific Gas and Electric Company filed a motion requesting an extension of time for filing responses to comments filed upon its application for a new license.

Upon consideration, notice is hereby given that an extension of time is granted to and including June 1, 1977, within which responses to the comments shall be filed.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7277 Filed 3-10-77;8:45 am]

[Docket No. E77-5]

SOUTHERN NATURAL GAS CO.

Emergency Natural Gas Act of 1977; Supplemental Emergency Order

By order issued February 20, 1977, I authorized Southern Natural Gas Company (Southern) to purchase an average of 100,000 Mcfd of natural gas from Pacific Gas and Electric Company (PG&E) and approved the prices paid for such supplies and the transportation charges paid by Southern to receive such supplies. That order also approved Southern's purchase of approximately 50,000 Mcfd from PG&E for the period from February 2 through February 20, 1977. That order did not make any finding with respect to the transportation charges paid to receive such gas since Southern submitted no information regarding such charges. By application filed March 7, 1977 Southern submitted information regarding such transportation charges and requested approval of the same for the period from January 29 through February 20, 1977. For the reasons set forth below, I approve such charges for the period February 2 through February 20, 1977.

According to Southern, approximately 25,000 Mcfd of the 50,000 Mcfd was delivered to Southern by El Paso Natural Gas Company (El Paso) diverting deliveries from PG&E at the California-Arizona border and delivering the gas to Transwestern Pipeline Company (Transwestern) at an existing point of interconnection in Winkler County, Texas. Transwestern delivered such volumes to Natural Gas Pipeline Company (Natural) at an existing point of interconnection in Eddy County, New Mexico. Natural delivered the gas by displacement to Transcontinental Gas Pipe Line Corporation (Transco) at the LaGloria Plant in Brooks County, Texas. Transco then delivered said volumes to Atlanta Gas Light Company at the existing interconnection at Jonesboro, Georgia, for Southern's account. Southern incurred the following charges with respect to this transportation arrangement: El Paso—1 cent per Mcf; Transwestern—19.86 cents per Mcf plus 4 percent of the volumes transported for fuel and company use; Natural, 17.5 cents per Mcf plus 9 percent of the volumes transported for fuel and company use; Transco—26.6 cents per Mcf plus 2 percent of the volumes transported for fuel and company use pursuant to Transco's X-47 Rate Schedule.

The remaining 25,000 Mcfd was transported by El Paso by diverting deliveries from PG&E at the California-Arizona border and delivering the gas to Transwestern at the existing point of interconnection in Winkler County, Texas. Transwestern delivered the volumes of gas to Natural at an existing point of interconnection in Eddy County, New Mexico, and Natural delivered the gas by displacement to Texas Eastern Transmission Company (Texas Eastern) at an existing point of interconnection in Kennedy County, Texas. Texas Eastern then delivered the gas to United Gas Pipe Line Company (United) at Kosciusko, Mississippi for delivery by displacement to Southern at Kosciusko. Southern incurred the following charges as a result of this transportation arrangement: El Paso—1 cent per Mcf; Transwestern—19.86 cents per Mcf plus 4 percent of the volumes transported for fuel and company use; Natural—14 cents per Mcf plus 9 percent of the volumes transported for fuel and company use and Texas Eastern—22.58 cents per Mcf plus 3 percent of the volumes transported for fuel and company use. United has indicated that no transportation charges or reduction in volumes delivered for fuel and company use will be required.

Pursuant to section 6(c) of the Act, since the parties have agreed upon such matters, I find no basis to fix other transportation rates and charges and I hereby approve such transportation arrangement. This approval is limited to volumes delivered on and after February 2, 1977, the effective date of Pub. L. 95-2. Prior to that date, the terms and conditions of the transportation are subject to and governed by the Rules and Regulations of the Federal Power Commission.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Southern, PG&E, El Paso, United, Transco, Transwestern, Texas Eastern, Natural and all other persons listed in the February 20, 1977 order in this proceeding. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 8, 1977.

[FR Doc.77-7272 Filed 3-10-77;8:45 am]

[Docket No. ER77-204]

NEVADA POWER CO.

Interconnection Agreement

MARCH 8, 1977.

Take notice that on February 17, 1977, Nevada Power Company (Nevada) tendered for filing an Interconnection Agreement between it and the City of Burbank (Burbank) dated January 14, 1977. Nevada states the primary purpose of this Interconnection Agreement is to provide for the exchange of generating capacity and energy between the electric systems of the parties.

Nevada states that service may be provided under three Service Schedules:

1. Service Schedule A—Emergency Assistance
2. Service Schedule B—Economy Energy Interchange
3. Service Schedule C—Banked Energy

Nevada requests an effective date of January 14, 1977, for this Agreement with an initial term of one year.

Copies of this filing were served upon Nevada's jurisdictional customer, the California—Pacific Utilities Company, and upon the Public Service Commission of Nevada and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7455 Filed 3-11-77;8:45 am]

[Doc. No. ER77-207]

ARIZONA PUBLIC SERVICE CO.

Filing of Initial Rate Schedule

MARCH 7, 1977.

Take notice that on February 18, 1977, Arizona Public Service Company (APS) tendered for filing as an initial rate Schedule an Agreement for Sale and Interchange of Energy between The Department of Water and Power of the City of Los Angeles (Los Angeles) and Arizona Public Service Company dated November 24, 1976.

APS requested waiver of provisions of § 35.11 so that service could be commenced on February 16, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7523 Filed 3-10-77;10:09 am]

FEDERAL RESERVE SYSTEM

FIRST SECURITY CORP.

Proposed Retention of Simco Industrial Mortgage Company

First Security Corporation, Salt Lake City, Utah, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain, through its wholly-owned subsidary, Securities Intermountain, Inc., Portland, Oregon, voting shares of Simco Industrial Mortgage Company, San Jose, California.

Notice of the application was published on the following dates and in the following newspapers circulated in their respective communities in the State of California: on January 7, 1977, in the "Contra Costa Times", Contra Costa County; on January 10, 1977, in the "Daily Republic", Solano County, in "The Modesto Bee", Stanislaus County, in the "San Francisco Chronicle", San Francisco County, in "The Fresno Bee", "The Republican", Fresno County, in the "Oakland Tribune", Alameda County, in "The Sacramento Bee", Sacramento County, in the "San Jose Mercury, Santa Clara County, and in the "San Mateo Times and Daily News Leader", San Mateo County; on January 11, 1977, in "The Press Democrat", Sonoma County; on

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January 12, 1977, in the "San Diego Union," San Diego County, in "The Register", Orange County, in "The Sun-Telegram" and "The Evening Index", San Bernardino County, in "The Daily Enterprise", Riverside County; on January 21, 1977, in "The Stockton Record", San Joaquin County; and on February 21, 1977, in the "Los Angeles Times", Los Angeles County.

Applicant states that the proposed subsidiary would continue to engage in the activities of an industrial mortgage loan company in the manner authorized by the laws of the State of California. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 1, 1977.

Board of Governors of the Federal Reserve System, March 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-7259 Filed 3-10-77;8:45 am]

MANUFACTURERS NATIONAL CORP.

Acquisition of Bank

Manufacturers National Corporation, Detroit, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Manufacturers Bank of St. Clair Shores, St. Clair Shores, Michigan, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 4, 1977.

Board of Governors of the Federal Reserve System, March 7, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-7260 Filed 3-10-77;8:45 am]

VALLEY BANCORP.

Acquisition of Bank

Valley Bancorporation, Appleton, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more (less director's qualifying shares) of the voting shares of The Brownsville State Bank, Brownsville, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 4, 1977.

Board of Governors of the Federal Reserve System, March 7, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-7261 Filed 3-10-77;8:45 am]

FEDERAL TRADE COMMISSION

[File No. 712 3085]

RYDER SYSTEM, INC.

Consent Agreement With Analysis to Aid Public Comment

Correction

In FR Doc. 77-5090, appearing in the issue of Friday, February 18, 1977 on page 10047, the following corrections should be made:

1. On page 10049, in the 2nd paragraph, numbered (7), the 3rd line should read, "* * * if such acceptance is not subsequentially * * *".

2. On page 10055, the first column, the 2nd paragraph should be corrected as follows:

EARNINGS INFORMATION REPORTED BY GRADUATES FROM RYDER'S NATIONAL PROFESSIONAL TRUCK DRIVER TRAINING COURSE

	January/ June 1974
Graduates beginning at hourly rates between $3.00 and $3.99	3
Graduates beginning at hourly rates between $4.00 and $4.99	4
Graduates beginning at hourly rates between $5.00 and $5.99	7
Graduates responding to inquiry about employment but declining to disclose earnings	16

3. On page 10055, in the 1st column, the last paragraph should read as follows:

Please return the filled out, signed and notarized affidavit questionnaire in the enclosed stamped, self-addressed envelope. Mail it early enough to reach us by (the date set forth in part III, paragraph 9(f) of this order). If you should misplace the enclosed envelope, please mail the affidavit questionnaire to the (name and address on the return envelope).

Thank you for your cooperation.

Sincerely,

JAMES M. HERRON,
Vice President and Secretary, Ryder System, Inc.

Enclosure.

4. On page 10055, the 3rd column, paragraph 4 (b) and (c) should read:

(b) Did you then have a job in some other field?

------ ------
Yes No

What field? ----------
[Give the field in which you then had a job

What job did you hold? ----------
[Give the job which you held

(c) Were you employed?

------ ------
Yes No

5. On page 10058, in the middle column, paragraph 8A, the 3rd question should read:

Why did you get that refund or refunds?

[Give a full explanation of the refund or refunds.]

6. On page 10061, in the middle column, paragraph number III, the 19th line should read:

"* * * respondent is inconsistent with Part III, para- * * *".

7. On page 10062, in the 3rd column, after the signature, a notation was inadvertently omitted and should be corrected to read as follows:

JAMES M. HERRON,
Vice President and Secretary, Ryder System, Inc.

[This is the end of the appendices to the consent agreement.]

GOVERNMENT PRINTING OFFICE

DEPOSITORY LIBRARY COUNCIL TO THE PUBLIC PRINTER

Meeting

The Depository Library Council to the Public Printer will meet on April 25 and 26, 1977, at the College Inn, Conference Center, University of Colorado campus, 1729 Athens Street, Boulder, Colorado.

The purpose of this meeting is to discuss the Depository Library Program.

The meeting will be open to the public. Any member of the public who wishes to attend shall notify Mr. J. D. Livsey, Head, Library and Statutory Distribution Service, Government Printing Office, Washington, D.C. 20401 (Telephone Area Code 703-557-2050).

General participation by members of the public, or questioning of Council members or other participants, shall be permitted with approval of the Chairman.

Dated: March 1, 1977.

T. F. MCCORMICK,
Public Printer.

[FR Doc.77-7193 Filed 3-10-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 1; March 28, 1977, from 10:30 a.m. to 4:30 p.m.; and March 29, 1977, from 9:00 a.m. to 4:30 p.m.; Room 208, J. W. McCormack Post Office and Courthouse, Post Office Square, Boston, Massachusetts 02109.

The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the following proposed projects:

Feasibility Study—Energy Conservation Retrofit Analysis, J. F. Kennedy Federal Building, Boston, Massachusetts.
Basement Waterproofing and Marble Restoration, U.S. Custom House, Boston, Massachusetts.
Building Modernization, John E. Fogarty Federal Building, Providence, Rhode Island.

The meeting will be open to the public.

ALBERT A. GAMMAL, Jr.,
Regional Administrator.

[FR Doc.77-7510 Filed 3-10-77;10:24 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

MINORITY ADVISORY COMMITTEE, ADAMHA

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the Minority Advisory Committee, ADAMHA.

Authority for this committee will expire February 10, 1979, unless the Secretary formally determines that continuance is in the public interest.

Dated March 4, 1977.

FRANCIS N. WALDROP,
Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-7186 Filed 3-10-77;8:45 am]

National Institutes of Health

NATIONAL ADVISORY EYE COUNCIL

Meeting

Pursuant to Public Law 92-463 notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, on Tuesday, April 12, 1977, National Institutes of Health, Building 31, Conference Room No. 10, Bethesda, Maryland.

This meeting will convene at 9:00 a.m. and will be open to the public until adjournment, approximately 5:00 p.m. The meeting will be devoted to a review of the final draft version of the Council's report on program planning and vision research.

Mr. Julian Morris, Head, Scientific Reports and Program Planning Coordination, National Eye Institute, National Institutes of Health, Building 31, Room 6A-27, Bethesda, Maryland 20014, telephone (301) 496-5248, will furnish summary minutes of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. William F. Raub, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A-04, National Institutes of Health, Bethesda, Maryland 20014, telephone (301) 496-4903.

Dated: March 4, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-7252 Filed 3-10-77;8:45 am]

CARDIOLOGY ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, May 2-3, 1977, National Institutes of Health, Building 31, Conference Room 8.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. The main topic will be a discussion of possible initiatives for the forthcoming year, including such possible topics as Ischemic Heart Disease Specialized Centers of Research, Sudden Cardiac Death, Protecting Ischemic Myocardium, the Left Ventricular Assist Device, Afterload Reduction, Cardiomyopathies, and Biomaterials. Final action will probably be taken upon the Artificial Heart Report. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone 301-496-4236, will provide summaries of the meeting and rosters of the Committee members.

Peter L. Frommer, M.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Landow Building, Room A922, Bethesda, Maryland 20014, phone 301-496-5421, will furnish substantive program information.

Dated: March 4, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-7253 Filed 3-10-77;8:45 am]

ADVISORY COMMITTEES

Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

DRUG DEVELOPMENT COMMITTEE

Dates and time: April 6, 1977; 9 a.m.
Place: Building 31C, Conference Room 8, National Institutes of Health.
Type of meeting: Open: April 6, 9:00 a.m.-9:45 a.m.; Closed: April 6, 9:45 a.m.—adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Mrs. Naomi T. Fitz-Gibbon, Blair Building, Room 5A09, National Institutes of Health. Phone: 301-427-7263.
(Catalog of Federal Domestic Assistance Number 13.395, National Institutes of Health.)

COMMITTEE ON CYTOLOGY AUTOMATION

Dates and time: April 6-7, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Type of meeting: Open: April 6, 8:30 a.m.-9:30 a.m.; Closed: April 6, 9:30 a.m.-5 p.m.; Closed: April 7, 8:30 a.m.-adjournment.
Closure Reason: To review research contract proposals.

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Executive Secretary: Dr. Bill Bunnag, Building 10, Room 1A21, National Institutes of Health. Phone: 301-496-5382.
(Catalog of Federal Domestic Assistance Number 13.394, National Institutes of Health.)

BREAST CANCER EXPERIMENTAL BIOLOGY COMMITTEE

Date and time: April 11, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Type of meeting: Open: April 11, 8:30 a.m.–9:30 a.m.; Closed: April 11, 9:30 a.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Mr. Chester V. Piczak, Landow Building, Room A418, National Institutes of Health. Phone: 301-496-6718.
(Catalog of Federal Domestic Assistance Number 13.396, National Institutes of Health.)

COMMITTEE ON CANCER IMMUNODIAGNOSIS

Date: April 11, 1977; 1:00 p.m.
Place: Building 10, Room 4B14, National Institutes of Health.
Type of meeting: Open: April 11, 1 p.m.–1:30 p.m.; Closed: April 11, 1:30 p.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Mrs. Judith M. Whalen, Building 10, Room 4B17, National Institutes of Health. Phone: 301-496-1791.
(Catalog of Federal Domestic Assistance Number 13.394, National Institutes of Health.)

DIAGNOSTIC RESEARCH ADVISORY GROUP

Date: April 12, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Type of meeting: Open: April 12, 8:30 a.m.–10:30 a.m.; Agenda/Open portion: General business related to the diagnosis program; Closed: April 12, 10:30 a.m.–adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Mr. Louis P. Greenberg, Building 31, Room 3A10, National Institutes of Health. Phone: 301-496-1501.
(Catalog of Federal Domestic Assistance Number 13.394, National Institutes of Health.)

JOINT MEETING OF THE DIAGNOSTIC RESEARCH ADVISORY GROUP AND THE DIAGNOSTIC RADIOLOGY COMMITTEE

Date: April 13, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Type of meeting: Open: April 13, 8:30 a.m.–3:00 p.m.; Agenda/Open portion: Discussion of present contract research program and presentation of work by contractor; Closed: April 13, 3:00 p.m.–adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Mr. Louis P. Greenberg, Dr. R. Quentin Blackwell, Building 31A, Room 3A10, National Institutes of Health. Phone: 301-496-1501.
(Catalog of Federal Domestic Assistance Number 13.394, National Institutes of Health.)

CARCINOGENESIS PROGRAM SCIENTIFIC REVIEW COMMITTEE B

Date and time: April 13, 1977; 9:00 a.m.
Place: Marriott Hotel, Dulles International Airport, Chantilly, Virginia.
Type of meeting: Open April 13, 9:00 a.m.–9:30 a.m.; Closed April 13, 9:30 a.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. David G. Longfellow, Landow Building, Room A306, National Institutes of Health. Phone: 301-496-5471.
(Catalog of Federal Domestic Assistance Number 13.393, National Institutes of Health.)

VIRUS CANCER PROGRAM SCIENTIFIC REVIEW COMMITTEE B

Date and time: April 13–15, 1977; 8:30 a.m.
Place: Building 37, Room 1B04, National Institutes of Health.
Type of meeting: Open: April 13, 8:30 a.m.–9:00 a.m.; Closed: April 13, 9:00 a.m.–5:00 p.m.; Closed: April 14, 8:30 a.m.–5:00 p.m.; Closed: April 15, 8:30 a.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. Wilna A. Woods, Acting, Landow Building, Room C306, National Institutes of Health. Phone: 301-496-4533.
(Catalog of Federal Domestic Assistance Number 13.393, National Institutes of Health.)

COMMITTEE ON CANCER IMMUNOTHERAPY

Date and time: April 14, 1977; 1:15 p.m.
Place: Building 10, Room 4B14, National Institutes of Health.
Type of meeting: Open: April 14, 1:15 p.m.–1:45 p.m.; Closed: April 14, 1:45 p.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. George M. Steinberg, Building 10, Room 4B09, National Institutes of Health. Phone: 301-496-1791.
(Catalog of Federal Domestic Assistance Number 13.395, National Institutes of Health.)

DIAGNOSTIC RADIOLOGY COMMITTEE

Date and time: April 14, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Type of meeting: Open: April 14, 8:30 a.m.–9:00 a.m.; Closed: April 14, 9:00 a.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. R. Quentin Blackwell, Building 31, Room 3A10, National Institutes of Health. Phone: 301-496-1501.
(Catalog of Federal Domestic Assistance Number 13.394, National Institutes of Health.)

CARCINOGENESIS PROGRAM SCIENTIFIC REVIEW COMMITTEE A

Dates and time: April 14–15, 1977: 9:00 a.m.
Place: Marriott Hotel, Dulles International Airport, Chantilly, Virginia.
Type of meeting: Open: April 14, 9:00 a.m.–9:30 a.m.; Open: April 15, 9:00 a.m.–9:30 a.m.; Closed: April 14, 9:30 a.m.–5:00 p.m.; Closed: April 15, 9:30 a.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. Carl E. Smith, Landow Building, Room A306, National Institutes of Health. Phone: 301-496-5471.
(Catalog of Federal Domestic Assistance Number 13.393, National Institutes of Health.)

CLINICAL CANCER PROGRAM PROJECT REVIEW COMMITTEE

Dates and time: April 21–23, 1977; 9:00 a.m.
Place: Building 31C, Conference Room 8, National Institutes of Health.
Type of meeting: Open: April 21, 9:00 a.m.–10:30 a.m.; Closed: April 21, 10:30 a.m.–5:30 p.m.; Closed: April 22, 9:00 a.m.–5:30 p.m.; Closed: April 23, 8:30 a.m.–adjournment.
Closure reason: To review research grant applications.
Executive Secretary: Dr. Louise G. Thomson, Room 809, Westwood Building, National Institutes of Health. Phone: 301-496-7565.
(Catalog of Federal Domestic Assistance Number 13.397, National Institutes of Health.)

VIRUS CANCER PROGRAM SCIENTIFIC REVIEW COMMITTEE A

Date and time: April 25–26, 1977; 9:00 a.m.
Place: Building 37, Room 1B04, National Institutes of Health.
Types of meeting: Open: April 25, 9:00 a.m.–9:30 a.m.; Closed: April 25, 9:30 a.m.–5:00 p.m., Closed: April 26, 9:00 a.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. Clarice Gaylord, Acting, Landow Building, Room C306, National Institutes of Health. Phone: 301-496-4533.
(Catalog of Federal Domestic Assistance Number 13.393, National Institutes of Health.)

NATIONAL PANCREATIC CANCER PROJECT WORKING CADRE

Date and time: April 26–27, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 9, National Institutes of Health.
Type of meeting: Open: April 26, 9:00 a.m.–11:00 a.m.; Closed: April 26, 11:00 a.m.–5:00 p.m.; Closed: April 27, 9:00 a.m.–adjournment.
Closure reason: To review research grant applications.
Executive Secretary: Dr. William Straile, Westwood Building, Room 853, National Institutes of Health. Phone: 301-496-7194.
(Catalog of Federal Domestic Assistance Numbers 13.393, 13.394, 13.395, National Institutes of Health.)

DEVELOPMENTAL THERAPEUTICS COMMITTEE

Date and time: April 28, 1977; 9:00 a.m.
Place: Blair Building, Room 110, 8300 Colesville Road, Silver Spring, Maryland.
Type of meeting: Open: April 28, 9:00 a.m.–11:00 a.m.; Agenda/open portion: General discussion of ongoing contracts involving drug metabolism, toxicology, pharmacology and tumor cell biology; Closed: April 28, 11:00 a.m.–adjournment.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. J. A. R. Mead, Blair Building, Room 5A03A, National Institutes of Health. Phone: 301-427-7263.
(Catalog of Federal Domestic Assistance Number 13.395, National Institutes of Health.)

Dated: March 2, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-7251 Filed 3-10-77;8:45 am]

COMMITTEE ON CANCER IMMUNOTHERAPY

Amended Notice of Meeting

Notice is hereby given of a change in the meeting of March 17, 1977, 1:15 p.m. at the Clinical Center, Conference Room 4B–14, of the Committee on Cancer Immunotherapy, National Cancer Institute, which was published in the FEDERAL REGISTER on February 24, 1977 (42 FR 10898).

This committee was to have convened at 1:15 p.m. on March 17, 1977, but has been changed to 12 noon March 17, 1977 at the Clinical Center, Conference Room 4B–14.

The meeting will be open to the public on March 17, 1977 from 12 noon to 12:30 p.m. and closed from 12:30 p.m. to adjournment. Attendance by the public will be limited to space available.

Dated: March 2, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-7248 Filed 3-10-77;8:45 am]

4B–14, of the Committee on Cancer Immunotherapy, National Cancer Institute, which was published in the FEDERAL REGISTER on February 24, 1977 (42 FR 10898).

This committee was to have convened at 1:15 p.m. on March 17, 1977, but has been changed to 12 noon March 17, 1977 at the Clinical Center, Conference Room 4B–14.

The meeting will be open to the public on March 17, 1977 from 12 noon to 12:30 p.m. and closed from 12:30 p.m. to adjournment. Attendance by the public will be limited to space available.

Dated: March 2, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-7248 Filed 3-10-77;8:45 am]

COMMITTEE ON CANCER IMMUNOTHERAPY

Amended Notice of Meeting

Notice is hereby given of a change in the meeting of March 31, 1977, 1:15 p.m. at the Clinical Center, Conference Room 4B–14, of the Committee on Cancer Immunotherapy, National Cancer Institute, which was published in the FEDERAL REGISTER on February 24, 1977 (42 FR 10898).

This committee was to have convened at 1:15 p.m. on March 31, 1977, but has been changed to 12 noon March 31, 1977 at the Clinical Center, Conference Room 4B–14.

The meeting will be open to the public on March 31, 1977 from 12 noon to 12:30 p.m. and closed from 12:30 p.m. to adjournment. Attendance by the public will be limited to space available.

Dated: March 2, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-7250 Filed 3-10-77;8:45 am]

DENTAL RESEARCH INSTITUTES AND SPECIAL PROGRAMS ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Dental Research Institutes and Special Programs Advisory Committee, National Institute of Dental Research, on March 29, 1977, Conference Room 6, Building 31–C, National Institutes of Health, Bethesda, Md. This meeting will be open to the public to discuss administrative details relating to Committee business for one hour at the beginning of the meeting. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 10:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Dr. Emil L. Rigg, Special Assistant for Institutes and Centers, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 507, Bethesda, Maryland 20014 (Phone 301–496–7748) will provide summaries of meetings, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.845, National Institutes of Health.)

Dated: March 7, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-7249 Filed 3-10-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Meetings: April 6, 1977, from 9:00 a.m. to 5:00 p.m.; April 7, 1977, from 9:00 a.m. to 1:00 p.m., followed by site visitations.

ADDRESS: University of Houston Hotel, 4800 Calhoun Street, Houston, Texas 77004.

FOR FURTHER INFORMATION CONTACT:

James A. Turman, Executive Director, National Advisory Council on Extension and Continuing Education, 425 13th Street, NW.; Suite 529, Washington, D.C. 20004. (202) 376–8888.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89–329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and respect to policy matters arising in the administration of Part A of Title I (HEA), including policies and procedures governing the approval of State plans under section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all Federally supported extension and continuing education programs.

The meeting of the Council will be open to the public beginning at 9:00 a.m. on April 6, 1977, and ending 5:00 p.m.; and beginning at 9:00 a.m. on April 7, 1977, ending at 1:00 p.m. Site visitations will follow the meeting. This meeting will be held at the University of Houston Hotel, 4800 Calhoun Street, Houston, Texas 77004.

The proposed agenda includes:

(1) Executive Director's Report.
(2) Action on previous meeting minutes.
(3) Title I Report.
(4) Review of Congressional and Administration budget and appropriations actions regarding Title I program.
(5) Review of provisions for the new Lifelong Learning program.
(6) Testimony from administrators of Texas State Title I projects and from other persons within HEW Region VI.
(7) Committee discussions and reports.
(8) Review of draft document containing compilation and analysis of Federal programs of continuing education and lifelong learning.
(9) Review of Council's special analyses of successful Title I projects ("community service and continuing education").
(10) Review of final recommendations to be included in Council's eleventh annual report.

All records of Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 13th Street, NW., Washington, D.C.

Dated: March 4, 1977.

JAMES A. TURMAN,
Executive Director.

[FR Doc.77-7265 Filed 3-10-77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Meeting

AGENCY: National Advisory Council on Equality of Educational Opportunity.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of the forthcoming meeting of the Nonmajority/Minority Task Force. It also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATE OF MEETING: March 26, 1977.

ADDRESS: Old Town Holiday Inn, 480 King Street, Alexandria, Virginia, 22314. Phone: (703) 549–6080.

FOR FURTHER INFORMATION CONTACT:

Leo A. Lorenzo, 1325 G Street NW., Suite 710, Washington, D.C. 20005. Phone: (202) 382–7985.

The National Advisory Council on Equality of Educational Opportunity is established under Section 716 of the Emergency School Aid Act (Pub. L. 92–318, Title VII, as amended by Pub. L. 93–380 and Pub. L. 94–482). The Council is established to: (1) advise the Assistant

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Secretary for Education with respect to the operation of the program authorized under the Emergency School Aid Act (ESAA), including the preparation of regulations and the development of criteria for the approval of applications; and (2) review the operation of the program with respect to its effectiveness in achieving its purpose as stated in the Act and with respect to the Assistant Secretary's conduct in the administration of the program.

The meeting, which is open to the public, will convene at 10:00 a.m. until 4:00 p.m. It will be the first planning meeting of the Task Force on Nonmajority/Minority and the agenda will consist primarily of reviewing what data is available from the U.S. Office of Education concerning the number of minorities affected under the ESAA program, to develop a plan of action for further data gathering and analysis, and selection of possible regional site visitations. As this is a planning meeting, there is no set time for discussion on each of the particular topics nor will there be any formal presentations made. In the event that the tentative agenda is completed prior to the projected time, the Task Force will adjourn the meeting.

Records of all meetings are kept at NACEEO headquarters, 1325 G Street NW., Suite 710, Washington, D.C. 20005, and are available for public inspection.

Signed at Washington, D.C. on March 9, 1977.

LEO A. LORENZO,
Executive Director.

[FR Doc.77-7444 Filed 3-10-77;8:45 am]

Office of the Secretary

CONSULTING GROUP ON WELFARE REFORM

Meetings

Notice was given of the establishment of the Consulting Group on Welfare Reform and the dates for the Group's first six meetings in the February 8, 1977 Federal Register (Vol. 42, No. 26, Pages 8007–8008). The purpose of this notice is to announce two additional meetings and to provide information on the subjects to be discussed by the Group at those meetings.

The additional meetings will be held on March 25 and April 1, 1977, from 9 a.m. to 11 a.m. in the first floor Auditorium, South Portal Building, 200 Independence Avenue SW., Washington, D.C. The Group's discussions are now centering on alternative general approaches to welfare reform. General approaches remaining to be considered, and to be discussed at these meetings, are:

Curtailment approach: tighten eligibility, reduce benefits, improve administration, and reduce costs within the context of the existing programs.

Management approach: emphasize good management of existing programs; modest expansion in some programs, with some curtailment where judged appropriate.

Incremental approach: retain existing classification—primarily the aged, blind, and disabled, the single parent families, and the remainder of the population—but make some major structural changes in the ways these groups are assisted; possible changes include: addition of a universal housing allowance or a children's allowance; expansion of earnings supplements; wage subsidies, or public employment; initiation of guaranteed jobs.

Triple-track cash approach: replace current programs with three-part cash income support system; special extended unemployment benefits for those without jobs, expanded earnings supplement for the working poor, and a new cash assistance program for those households without an employable adult.

Revenue sharing approach: retain Federal responsibilities for the aged, blind, and disabled; collapse all other income assistance programs into a flexible block grant program.

Discussions of each general approach will include a description of the diversity of specific proposals within each classification, a general evaluation relative to the criteria discussed in previous Group papers, and estimates of likely impacts on costs and coverage.

Further information about these meetings and the proceedings of the Group may be obtained by writing to: Mr. Bob Heim, Executive Director, Room 410–E South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201.

Dated: March 7, 1977.

BOB HEIM,
Executive Director.

[FR Doc.77-7413 Filed 3-10-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 34079]

MONTANA

Application

MARCH 3, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 185 (1970 Supplement V), Kansas-Nebraska Natural Gas Company, Inc., has applied for a right-of-way for a natural gas gathering system across the following Federal lands:

PRINCIPAL MERIDIAN, MONTANA

T. 36 N., R. 30 E.,
Sec. 1, SW¼SW¼;
Sec. 2, Lots 3 and 4;
Sec. 12, SW¼NE¼, N½NW¼, SE¼NW¼, E½SW¼, NE¼SE¼, and S½SE¼;
Sec. 13, E½NE¼, E½NW¼, N½SE¼, and SW¼SE¼;
Sec. 14, N½SE¼ and SE¼SE¼;
Sec. 24, E½SW¼; and
Sec. 25, E½NW¼.
T. 37 N., R. 30 E.,
Sec. 25, S½NW¼ and W½SW¼;
Sec. 26, SE¼SE¼;
Sec. 32, SW¼NE¼, E½NW¼, and N½SE¼;
Sec. 33, N½SW¼, SE¼SW¼, and S½SE¼;
Sec. 34, SE¼NE¼; and
Sec. 35, N½NE¼; NE¼NW¼; and S½NW¼.
T. 34 N., R. 31 E.,
Sec. 13, SE¼SW¼;
Sec. 24, NW¼NE¼ and NE¼NW¼.
T. 35 N., R. 31 E.,
Sec. 3, Lots 3 and 4, and SE¼NW¼;
Sec. 4, Lot 3, SE¼NW¼, and NE¼SW¼;
Sec. 9, N½NE¼, SE¼NE¼, and SE¼SE¼;
Sec. 21, SW¼NE¼, SE¼NW¼, N½SE¼ and SE¼SE¼;
Sec. 22, NW¼NW¼;
Sec. 24, SE¼NE¼, NE¼NW¼, S½NW¼, W½SW¼, SE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 25, N½NW¼ and SE¼NW¼;
Sec. 26, SE¼NW¼, N½SW¼, and SW¼SW¼;
Sec. 27, SW¼NE¼, N½SE¼, and SE¼SE¼;
Sec. 34, N½NE¼ and E½NW¼; and
Sec. 35, NE¼SW¼.
T. 36 N., R. 31 E.,
Sec. 4, Lot 3 and E½SW¼;
Sec. 7, SE¼NW¼;
Sec. 8, E½SW¼;
Sec. 9, E½SW¼;
Sec. 15, NW¼;
Sec. 17, N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼, and E½SW¼;
Sec. 18, Lots 2 and 3, and E½W½;
Sec. 19, W½NE¼, SE¼NE¼, NE¼NW¼, and E½SE¼;
Sec. 20, E½NW¼ and SW¼SW¼;
Sec. 22, E½NW¼;
Sec. 25, S½NW¼ and E½SW¼;
Sec. 26, S½N½;
Sec. 27, SE¼NE¼ and E½SE¼;
Sec. 29, N½NW¼, SE¼NW¼, NE¼SW¼, and W½SE¼;
Sec. 33, SW¼NE¼ and SE¼;
Sec. 34, NE¼NE¼, S½N½, and W½SW¼; and
Sec. 35, N½NW¼ and SW¼NW¼.
T. 33 N., R. 32 E.,
Sec. 26, S½SW¼.
T. 34 N., R. 32 E.,
Sec. 31, S½SE¼.

The system will consist of pipe of various sizes, three compressor sites, and a delivery site. It will be used to gather natural gas from wells in Phillips County, Montana, and convey it to an existing transmission line.

The purpose of this notice is to inform the public that the Bureau will proceed with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, Drawer 1160, Lewistown, Montana 59457.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-7183 Filed 3-10-77;8:45 am]

[OR 9067]

OREGON

Order Providing for Opening of Public Lands

MARCH 3, 1977.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1970), the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 13 S., R. 43 E.,
Sec. 26, SW¼SW¼;
Sec. 27, SE¼SE¼;
Sec. 34, NE¼NE¼;
Sec. 35, W½NW¼, N½SW¼, and NW¼SE¼.
T. 14 S., R. 43 E.,
Sec. 1, NW¼SE¼.
T. 14 S., R. 44 E.,
Sec. 17, NW¼NE¼ and NE¼NW¼.
The areas described aggregate 440 acres in Baker County.

2. All the minerals in the NW¼NE¼ and NE¼NW¼ of Sec. 17, T. 14 S., R. 44 E., W.M., were and continue to be in United States ownership and open to operation of the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws.

3. The subject lands are located in the extreme southern part of Baker County approximately 35 miles southeast of the City of Baker. Elevation ranges from 3,200 to 4,700 feet above sea level, and the topography is generally rolling and moderately steep. Vegetation consists primarily of native grasses and sagebrush. In the past, the lands have been used for livestock grazing purposes, and they will be manager, together with adjoining natural resource land, for multiple use.

4. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open (except as already provided in paragraph 2 hereof) to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. April 8, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-7184 Filed 3-10-77;8:45 am]

[M 141]

SOUTH DAKOTA

Transfer of Submarginal Lands Rosebud Indian Reservation

MARCH 2, 1977.

1. Pursuant to Public Law 94–114 (89 Stat. 577) and Sec. 2 there of, the land described in paragraph 3 of this notice, together with all minerals underlying this land, whether acquired or otherwise owned by the United States, are hereby declared to be held by the United States in trust for the use and benefit of the Rosebud Sioux Tribe of South Dakota. The land shall be a part of the established Rosebud Indian Reservation. These lands were submarginal lands acquired under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and Sec. 55 of the Act of August 24, 1935 (49 Stat. 750, 781). This notice is issued under the authority delegated to me by Bureau Order No. 701, dated July 23, 1946, as amended.

2. All existing mineral leases, including oil and gas leases, which have been issued on this land will remain in force and effect in accordance the the terms and provisions of the Act under which the leases were issued. The lease files will be transferred to the Office of the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. Future rentals for these leases will be paid to and collected by that office. Jurisdiction of these mineral leases is transferred from the Bureau of Land Management to the Bureau of Indian Affairs in trust for the Rosebud Sioux Tribe.

3. SIXTH PRINCIPAL MERIDIAN, SOUTH DAKOTA

T. 36 N., R. 25 W.,
Sec. 12, NW¼; and
Sec. 19, Lots 2 and 3, SE¼NW¼, and E½SW¼.
T. 37 N., R. 25 W.,
Sec. 8, E½SE¼;
Sec. 15, E½; and
Sec. 18, All.
T. 38 N., R. 25 W.,
Sec. 3, Lots 3 and 4, and S½NW¼;
Sec. 13, NW¼SW¼, S½SW¼, and SW¼SE¼; and
Sec. 27, S½.
T. 39 N., R. 25 W.,
Sec. 6, Lot 6 and NE¼SW¼;
Sec. 13, NW¼;
Sec. 15, S½;
Sec. 25, NW¼; and
Sec. 28, W½.
T. 37 N., R. 26 W.,
Sec. 2, SW¼;
Sec. 12, NW¼;
Sec. 13, NW¼;
Sec. 14, SW¼; and
Sec. 36, S½NW¼ and N½SW¼.
T. 38 N., R. 26 W.,
Sec. 16, NE¼;
Sec. 22, NE¼; and
Sec. 29, NW¼.
T. 39 N., R. 26 W.,
Sec. 5, SW¼;
Sec. 17, NE¼; and
Sec. 23, NW¼.
T. 37 N., R. 27 W.,
Sec. 23, NE¼.
T. 38 N., R. 27 W.,
Sec. 21, NE¼.
T. 39 N., R. 27 W.,
Sec. 14, S½;
Sec. 27, SW¼; and
Sec. 28, S½.
T. 36 N., R. 28 W.,
Sec. 35, E½ and NW¼.
T. 37 N., R. 28 W.,
Sec. 16, NE¼; and
Sec. 20, NW¼.
T. 38 N., R. 28 W.,
Sec. 17, W½W½;
Sec. 21, NE¼;
Sec. 27, N½;
Sec. 34, NE¼; and
Sec. 35, NW¼.
T. 39 N., R. 28 W.,
Sec. 6, SW¼;
Sec. 6, SE¼;
Sec. 14, N½;
Sec. 19, SE¼; and
Sec. 20, NE¼.
T. 37 N., R. 29 W.,
Sec. 18, Lots 1, 2, 3, and 4, NE¼, and E½W½;
Sec. 24, NE¼; and
Sec. 30, Lots 3 and 4, and E½SW¼.
T. 38 N., R. 29 W.,
Sec. 2, Lots 1 and 2, and S½NE¼.
T. 39 N., R. 29 W.,
Sec. 11, NW¼;
Sec. 18, NE¼; and
Sec. 27, SE¼.
T. 36 N., R. 30 W.,
Sec. 17, S½.
T. 37 N., R. 30 W.,
Sec. 9, NE¼; and
Sec. 13, SE¼.
T. 38 N., R. 30 W.,
Sec. 2, SE¼;
Sec. 4, S½;
Sec. 8, N½;
Sec. 11, NE¼;
Sec. 12, NE¼ and S½S½;
Sec. 13, E½NE¼; and
Sec. 29, N½.
T. 39 N., R. 30 W.,
Sec. 30, S½;
Sec. 32, SE¼;
Sec. 37, NE¼; and
Sec. 33, S½.
T. 36 N., R. 31 W.,
Sec. 9, E½;
Sec. 16, NE¼;
Sec. 33, SE¼;
Sec. 36, NW¼;
Sec. 35, E½;
Sec. 29, W½;
Sec. 30, Lots 1 and 2, NE¼, and E½NW¼; and
Sec. 36, SE¼.
T. 37 N., R. 31 W.,
Sec. 10, W½SE¼;
Sec. 16, SW¼NE¼ and SE¼NW¼;
Sec. 25, W½;
Sec. 31, NE¼SE¼; and
Sec. 34, Lots 1, 2, 3, and 4, NE¼, and N½S½.
T. 38 N., R. 31 W.,
Sec. 6, NW¼;
Sec. 9, SW¼;
Sec. 15, All;
Sec. 17, NE¼;
Sec. 18, NW¼;
Sec. 10, S½;
Sec. 21, NW¼; and
Sec. 31, NE¼.
T. 39 N., R. 31 W.,
Sec. 5, Lots 1 and 2, S½NE¼, N½SE¼, and SW¼SE¼;
Sec. 9, NE¼NW¼, S½NW¼, and NE¼SW¼;
Sec. 17, E½;
Sec. 29, NW¼; and
Sec. 35, W½.
T. 36 N., R. 32 W.,
Sec. 19, SE¼;
Sec. 20, SE¼;
Sec. 29, N½; and
Sec. 30, NE¼.
T. 37 N., R. 32 W.,
Sec. 3, Lots 3 and 4, and S½NW¼;
Sec. 6, Lots 6 and 7, and E½SW¼;
Sec. 14, N½;
Sec. 15, SW¼;
Sec. 16, SW¼;
Sec. 18, Lots 3 and 4, and E½NW¼;
Sec. 21, W½;
Sec. 28, NE¼;
Sec. 30, Lots 1 and 2, and E½NW¼; and
Sec. 32, S½.
T. 38 N., R. 32 W.,
Sec. 3, SW¼;
Sec. 4, Lots 1 and 2, S½NE¼, and SE¼;
Sec. 8, SE¼;
Sec. 20, All; and
Sec. 23, NE¼.

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T. 39 N., R. 32 W.,
Sec. 2, SW¼;
Sec. 6, Lots 3, 4, 5, 6, and 7, SE¼NW¼, and E½SW¼;
Sec. 18, E½;
Sec. 19, Lots 1 and 2, NE¼, and E½NW¼;
Sec. 20, SW¼;
Sec. 21, SW¼;
Sec. 29, NW¼; and
Sec. 33, NE¼.
T. 37 N., R. 33 W.,
Sec. 3, Lots 3 and 4, and S½NW¼;
Sec. 9, Lots 5 and 8, and E½SE¼;
Sec. 10, SW¼;
Sec. 11, SW¼; and
Sec. 14, SE¼.
T. 38 N., R. 33 W.,
Sec. 10, N½;
Sec. 22, NW¼; and
Sec. 34, NE¼.
T. 39 N., R. 33 W.,
Sec. 2, SW¼;
Sec. 3, Lots 1 and 2, S½NE¼, and SE¼;
Sec. 15, SW¼;
Sec. 24, SW¼;
Sec. 26, NE¼;
Sec. 28, Lots 1, 4, 5, and 8, and E½E½; and
Sec. 36, NW¼ and S½.

The areas described aggregate 26,734.59 acres.

EDWIN ZAIDLICZ,
State Director.

[FR Doc.77-7191 Filed 3-10-77;8:45 am]

Office of the Secretary

COMMITTEE ON FUTURE ENERGY PROSPECTS, NATIONAL PETROLEUM COUNCIL

Meeting

Notice is hereby given for the following meeting:

The National Petroleum Council's Committee on Future Energy Prospects will meet on Monday, March 28, 1977, at 1:30 p.m., in the Ballroom of the Dulles-Marriott Hotel, Dulles International Airport, Virginia. The meeting will continue on the morning of Tuesday, March 29, and on the morning of Friday, April 1, if such continuances are necessary to complete the business of the meeting.

The agenda includes the following items for discussion:

1. Review and discuss progress on completion of individual discussion papers.
2. Discuss development of Summary Report covering the content of the individual discussion papers.
3. Discuss overall plans and timetable for completion of study.
4. Discuss any other matters pertinent to the overall assignment of the Committee.

The purpose of the National Petroleum Council is to provide to the Secretary of the Interior, upon request, advice, information, and recommendations upon any matter relating to petroleum or the petroleum industry.

The meeting will be open to the public to the extent that space and facilities permit. Any member of the public may file a written statement with the Council either before or after the meeting. Interested persons who wish to speak at the meeting must apply to the Council and obtain approval in accordance with its established procedures.

Further information about the meeting may be obtained from Ben Tafoya, Office of the Assistant Secretary—Energy and Minerals, Department of the Interior, Washington, D.C. (telephone: 343-6226).

Dated: March 8, 1977.

ROBERT L. PRESLEY,
Emergency Coordinator, Office of the Assistant Secretary—Energy and Minerals.

[FR Doc.77-7267 Filed 3-10-77;8:45 am]

OIL SHALE LEASE MAJOR MODIFICATION TO DETAILED DEVELOPMENT PLAN

Public Hearing

Pursuant to section 10(a) of the U.S. Department of the Interior Oil Shale Lease, the Department announces the availability of a major modification to the Detailed Development Plan submitted February 9, 1976 for Oil Shale Tract C-b, Serial No. Colorado 20341.

Prior to commencing any question under the Detailed Development Plan as modified, the lessee must obtain the approval of the Area Oil Shale Supervisor.

Notice is hereby given that public hearings will be held for the purpose of receiving comments relating to the major modification to the Tract C-b Detailed Development Plan on the following date and at the following location:

APRIL 19, 1977

Freeman Fairfield Square, 200 Block Main Street, Meeker, Colorado 81641.

The hearing will be held 1-5 p.m. and 7-10 p.m. Interested individuals, representatives of organizations and public officials wishing to appear at the hearings should contact the Office of the Area Oil Shale Supervisor, U.S. Geological Survey, 131 North 6th Street, Grand Junction, Colorado, no later than April 15, 1977. Written comments from those unable to attend and from those wishing to supplement their oral presentations at the hearing should be received by the Office of the Area Oil Shale Supervisor, 131 North 6th Street, Grand Junction, Colorado on or before April 29, 1977.

All written statements received pursuant to this notice will be included in the hearing record. Oral statements at the hearing will be limited to a period of ten minutes. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearings officer will give others present an opportunity to be heard.

Notice is also given that copies of the modification of the Tract C-b Detailed Development Plan and related reports are available for public inspection during regular business hours at the following locations:

Area Oil Shale Office, Mesa Federal Savings & Loan Bldg., Grand Junction, Colo.
U.S. Geological Survey, Conservation Division, Central Region, Villa Italia, Denver, Colo.
U.S. Geological Survey, Conservation Division, Reston, Va.
Oil Shale Environmental Advisory Panel, Bldg., 67, Denver, Federal Center, Denver, Colo.
Mesa College Library, Grand Junction, Colo.
Mesa County Public Library, Grand Junction, Colo.
Montrose Regional Library, Montrose, Colo.
Delta Library, Delta, Colo.
Library, Dept. of the Interior, Main Interior Bldg., Washington, D.C.
Rangely Public Library, Rangely, Colo.
Colorado Northwestern Community Library, Rangely, Colo.
Meeker Public Library, Meeker, Colo.
Moffat County Library, Craig, Colo.
Garfield County Library, New Castle, Colo.
Colorado Mountain College Library, Glenwood Springs, Colo.
Glenwood Springs Public Library, Glenwood Springs, Colo.
Uintah County Public Library, Vernal, Utah
Rifle Public Library, Rifle, Colo.
Denver Public Library, Conservation Library, Denver, Colo.
Bureau of Land Management, 455 Emerson Dr., Craig, Colo.
Bureau of Land Management, Colorado State Office, Colorado State Bank Bldg., 1600 Broadway, Denver, Colo.
Bureau of Land Management, Wyoming State Office, Federal Center, 2120 Capitol Avenue, Cheyenne, Wyo.
Bureau of Land Management, Utah State Office, University Club Bldg., 136 East South Temple, Salt Lake City, Utah 84111.
Salt Lake City Public Library, Salt Lake City, Utah.
Colorado State Library, 1326 Lincoln, Denver, Colo.

CHRIS FARRAND,
Acting Assistant.

MARCH 4, 1977.

[FR Doc.77-7266 Filed 3-10-77;8:45 am]

[Int. FES 77-6]

BONNEVILLE POWER ADMINISTRATION

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a final environmental statement covering its Fiscal Year 1978 Proposed Program.

Copies of the final environmental statement are available for inspection in the library of the Headquarters Office of BPA, 1002 N.E. Holladay Street, Portland, Oregon 97232; the Washington, D.C., Office in the Interior Building, Room 5600; and in the following area and district offices: Idaho Falls District Office, 531 Lomax Street, Idaho Falls, Idaho 83401; Portland Area Office, Lloyd Plaza Bldg., 919 N.E. 19th Avenue, Room 201, Portland, Oregon 97232; Seattle Area Office, 415-1st Avenue North, Room 250, Seattle, Washington 98109; Spokane Area Office, Room 561, U.S. Court House, W. 920 Riverside Avenue, Spokane, Washington 99201; Walla Walla Area Office, West 101 Poplar, Walla Walla, Washington 99362; Eugene District Office, U.S. Federal Bldg., Room 260, 211 East 7th Street, Eugene, Oregon 97401; Kalispell District Office (five miles east of Kalispell on Highway 2), P.O. Box 758, Kalispell, Montana 59901; and the Wenatchee District Office, Room 314, U.S. Federal Bldg., 301 Yakima Street, P.O. Drawer 741, Wenatchee, Washington 98801.

Copies are also available for inspection at the following Government Depository Libraries:

GOVERNMENT DEPOSITORY LIBRARIES

Boise Public Library, Reference Dept., 715 Capitol Blvd., Boise, ID 83706.
University of Idaho Library, U.S. Documents, Moscow, ID 83843.
Documents Division, Idaho State University Library, Pocatello, ID 83209.
Documents Librarian, Montana State University Library, Bozeman, MT 59715.
University of Montana Library, Documents Division, Missoula, MT 59801.
Southern Oregon State College Library, Documents Section, Ashland, OR 97520.
Documents Division, William Jasper Kerr Library, Oregon State University, Corvallis, OR 97331.
University of Oregon Library, Documents Section, Eugene, OR 97403.
Harvey W. Scott Memorial Library, Pacific University, Forest Grove, OR 97116.
Eastern Oregon State College Library, Eighth at K, La Grande, OR 97850.
Eric V. Hauser Memorial Library, Reed College, 3203 S.E. Woodstock, Portland, OR 97202.
Aubrey R. Watzek Library, Lewis and Clark College, ATTN: Reference Department, 0615 S.W. Palatine Hill Road, Portland, OR 97219.
Oregon State Library, State Library Building, Salem, OR 97301.
Willamette University Library, 900 State Street, Salem, OR 97301.
Documents Division, Mabel Zoe Wilson Library, Western Washington State College, 516 High Street, Bellingham, WA 98225.
Documents Department, Victor J. Bouillon Library, Central Washington State College, Ellensburg, WA 98926.
Everett Community College Library, 801 Wetmore Avenue, Everett, WA 98201.
Documents Center, Washington State Library, Olympia, WA 98504.
Washington State University Library, Serial-Record Section, Pullman, WA 99163.
Northus Library, Linfield College, McMinnville, OR 97128.
Library Association of Portland, 801 S.W. Tenth Avenue, Portland, OR 97205.
Documents Librarian, Portland State University Library, P.O. Box 1151, Portland, OR 97207.
Oregon College of Education, Library, Monmouth, OR 97361.
Boise State College Library, Boise, ID 83725.
Idaho State Library, 325 W. State Street, Boise, ID 83702.
Ricks Colelge, David O. McKay Library, Rexburg, ID 83440.
University of Pudget Sound, Everill S. Collins Memorial Library, Tacoma, WA 98416.
Eastern Washington State College Library, John F. Kennedy Memorial Library, Cheney, WA 99004.
Evergreen State College, Daniel J. Evans Library, Olympia, WA 98505.
Seattle Public Library, 1000 Fourth Ave., Seattle, WA 98104.
Fort Vancouver Regional Library, Attn.: Reference Librarian, 1007 E. Mill Plain Blvd., Vancouver, WA 98663.
Northwest Collection, Penrose Memorial Library, Whitman College, Walla Walla, WA 99362.
Henry Suzzallo Memorial Library, University of Washington, Seattle, WA 98195.
Oregon Supreme Court Library, 12th and State Streets, Salem, OR 97310.
Idaho State Law Library, Documents Librarian, Pocatello, ID 83201.
College of Idaho, Terteling Library, 2112 Cleveland Blvd., Caldwell, ID 83605.
College of Southern Idaho, Documents Library, Box 1238, 315 Falls Ave., Twin Falls, ID 83301.
Tacoma Public Library, 1102 Tacoma Ave. S., Tacoma, WA 98402.
Everett Public Library, 2702 Hoyt Ave., Everett, WA 98201.
North Olympic Library System, Library Service Center, 3210 S. Peabody, Port Angeles, WA 98362.
University of Washington, School of Law Library, 300 Condon Hall, Seattle, WA 98105.
Spokane Public Library, Comstock Bldg., W. 906 Main Ave., Spokane, WA 99201.

A limited number of single copies are available and may be obtained by writing to the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208, or to the area and district offices mentioned above.

Dated: March 8, 1977.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-7304 Filed 3-10-77;8:45 am]

[INT FES 77-5]

IMPROVEMENT OF SCOGGINS VALLEY ROAD, TUALATIN PROJECT, OREGON

Availability of Supplement to Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Supplement to the Final Environmental Statement on the Tualatin Project (FES 72-8). The Supplement concerns the improvement of approximately 3 miles of the Scoggins Valley Road which provides recreation access to Henry Hagg Lake, Tualatin Project, Oregon, and regular transportation access to local residents and businesses. Essentially, the actions covered are the completion of necessary road improvements and extensions to provide safe and adequate access. The impacts discussed are essentially of the same magnitude as those discussed in FES 72-8, so no official draft supplement will be circulated. The statement has been reviewed informally by the local agencies primarily concerned.

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240. Telephone 202-343-4991.
Office of Regional Director, Bureau of Reclamation, P.O. Box 043, 550 W. Fort Street, Boise, Idaho 83724. Telephone 208-384-1000.
Tualatin Project Office, Bureau of Reclamation, P.O. Box 98, Forest Grove, Oregon 97116. Telephone 503-357-3168.
Division of Engineering Support, Technical Services and Publications Branch, Engineering and Research Center, Denver Federal Center, Denver, Colorado 80225. Telephone 303-234-3000.

Single copies of the Supplement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Copies will also be available for inspection in libraries in western Oregon. Please refer to the statement number above.

Dated: March 8, 1977.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-7303 Filed 3-10-77;8:45 am]

[INT DES 77-9]

SALE OF FORT MOHAVE LANDS TO STATE OF NEVADA

Availability of Draft Supplement to Final Environmental Statement

In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a draft supplement to the final environmental statement on the proposed sale of Fort Mohave lands to the State of Nevada.

The draft supplement provides detailed and updated information in response to comments and concerns expressed by various groups reviewing the January 23, 1975, final environmental statement. Supplement information pertains primarily to: Existing habitat and limiting factors of possible endangered or threatened wildlife species, possible presence of endangered or threatened plants, flood hazard evaluation, and cultural resources on the Fort Mohave lands.

Written comments will be accepted by the Nevada State Director (N-911), Bureau of Land Management, 300 Booth Street, Reno, Nevada 89509 on or before April 11, 1977. While most environmental statements have a 45-day review period, 30 days of review time is being allowed, because it is a supplement.

Limited copies of the draft supplement to the environmental statement are available at the above address and at the Las Vegas District Office, P.O. Box 5400, 4765 Vegas Drive, Las Vegas, Nevada 89102. Copies may also be obtained by writing the Director (130), Bureau of Land Management, Department of the Interior, Washington, D.C. 20240.

In addition, reading copies are available at the Las Vegas City Library and at the University of Nevada libraries in Las Vegas and Reno.

Dated: March 8, 1977.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-7305 Filed 3-10-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[TA-201-20]

LOW CARBON FERROCHROMIUM

Date and Site of Public Hearing

Notice is hereby given that the public hearing in this matter will be held beginning on Tuesday, April 5, 1977, in Pittsburgh, Pennsylvania, at a time and place to be announced later.

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Notice of the investigation and hearing was published in the FEDERAL REGISTER of February 2, 1977 (42 FR 6432).

Issued: March 8, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-7372 Filed 3-10-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 76-11]

MORTON I. GERSHENFELD T/A SCHOOL PHARMACY

Denial of Application

On November 25, 1975, in the United States District Court for the Eastern District of Pennsylvania, Morton I. Gershenfeld pleaded guilty to four counts of knowingly and intentionally distributing Schedule II controlled substances in violation of Title 21, United States Code, Section 841. Gershenfeld also pleaded guilty to one count of conspiring with another to distribute Schedule II controlled substances illegally.

Following issuance by DEA of an order to show cause as to why the application for registration submitted on or about January 30, 1976, by Gershenfeld trading as School Pharmacy, Media, Pennsylvania, should not be denied, an administrative hearing was held on September 30, 1976.

The Administrator has reviewed the record of that hearing and has carefully considered the findings of fact, conclusions of law, and recommended ruling of the administrative law judge.

The record fully substantiates the conclusions of the administrative law judge that:

1. "There is no question but that Respondent flagrantly violated the controlled substances law. He willingly sold even Schedule II controlled substances in large quantities * * *"

2. "He (Gershenfeld) was more than willing to join in a scheme whereby, during the next ensuing summer, enormous quantities of controlled substances would be sold unlawfully to teenagers."

3. "Clearly in the instant case, Morton Gershenfeld knowingly and freely intended to sell controlled substances or dangerous drugs in large quantities contrary to law and with no apparent concern for the consequences of his acts."

There is no evidence in the record even tending to counter the facts upon which the conclusions of the administrative law judge are based. Counsel for Gershenfeld admitted "we do not contend that we have any legal basis for defense here" (transcript of hearing, page 6.). Rather, Gershenfeld contends that the application for registration should be granted because he supports his aged parents. The administrative law judge perceives some merit in this position. The Administrator finds none. Gershenfeld's appeal to compassion would be better aimed had Gershenfeld, himself, demonstrated even a scintilla of sympathy for the teenagers he was quite prepared to devastate with dangerous drugs or for their parents.

Nothing in this record indicates that Gershenfeld can be trusted to handle controlled substances. The basis for denial of the application herein rests on the federal conviction. The refusal to exercise discretion rests on the total record.

Accordingly, pursuant to the authority vested in the Administrator of the Drug Enforcement Administration, the Administrator orders that the application of Morton I. Gershenfeld trading as School Pharmacy be, and it hereby is, denied.

Dated: March 7, 1977.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.77-7258 Filed 3-10-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is caculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors.

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C. this Seventh day of March, 1977.

ROBERT J. MCCONNON,
Deputy Assistant Secretary for Employment and Training.

Applications received during the week ending March 4, 1977

Name of applicant	Location of enterprise	Principal product or activity
Samoset Associates	Rockport, Maine	Convention center, recreation facilities, and homes for retired vacationer.
Texapol Corp	Wescoesville, Pa	Manufacture of proprietary nylon products.
New River Venture	Webster County, W. Va.	Mining of metallurgical coal.
Robert O. Billmyre	Fort Ashby, W. Va	Nursing and personal care facilities.
Kaj'n Homes, Inc	Hamer, Tenn	Manufacture of mobile homes.
Whitley, Inc	Callaway, Fla	Retail and wholesale sales of sod and grass seeds.
Biloxi Freezing Co., Inc	Biloxi, Miss	Freezing and cold storage; shrimp processing packing and manufacturing of ice and sales of same and sale of diesel fuel on limited basis.
G. A. Funderburk Co., Inc	Jefferson, S.C	Dealer in farm products and supplies.
Watson Tire Co	Toccoa, Ga	Wholesale and retail tire sales.
Southern Chemicals, Inc	Sanford, Fla	Manufacture and distribution of agricultural chemicals and soluble fertilizers.
Barnum Storage Co	Rocky Mount, N.C	Process and market unmanufactured leaf tobacco.
Alpine Laboratories, Inc	Minette, Ala	Manufacture of chemical industries.
Plains Convalescent Home, Inc.	Plains, Ga	Health care services to the aged and infirm, and caring for those patients unable to care for themselves.
Baldwin Industries, Inc	Foley, Ala	Highway points, signs, and other marking products to include thermoplastics (100 percent solids).
Pitt Convalescent Center	Greenville, N.C	Nursing home.
Harvey B. Hole Mack, Inc	Versailles, Ohio	Sale of new Mack trucks and used trucks of all makes, and a service machine shop.
Charles R. Barcus, partner, Blossom Center.	Alliance, Ohio	Skilled nursing facility.

Name of applicant	Location of enterprise	Principal product of activity
Wood Design, Inc	French Lick, Ind	Manufacture of furniture, office wood desks, and related case goods.
Coastal Warehouse Division of Prairie Commodities.	Wharton, Tex	Grain storage.
Cockrell & Gibbs ENT, Inc	Temple, Tex	Construct and lease building to recreation enterprise.
Beico Bowlerama, Inc	do	Operate bowling alley and skating rink.
Chandler Expanded Metals Corp. (tenant to the city of Chandler).	Chandler, Okla	Manufacture of metal.
Littlefield Feeders, Inc	Littlefield, Tex	Custom cattle feeding operation.
Cassville Industrial Development Corp.	Cassville, Mo	Manufacture of aluminum extruded products and fabricated products.
Beaver Valley Canning Co. and its wholly owned subsidiaries.	Grimes, Iowa	Canned vegetables.

[FR Doc.77-7306 Filed 3-10-77;8:45 am]

FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Availability of Federal Supplemental Benefits in the State of New Mexico

This notice announces the beginning of a new Federal Supplemental Benefit Period in the State of New Mexico effective March 6, 1977.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Public Law 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals will be up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State.

There is a Federal Supplemental Benefit "on" indicator in a State for a week if the United States Secretary of Labor determines with respect to the State that, (a) there is a State or National "on" indicator for the week, as determined for the purposes of payment of extended benefits under the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and (b) the employment security agency of the State has determined that the average rate of insured unemployment in the State for the period consisting of that week and the immediately preceding twelve weeks equalled or exceeded 5.0 percent. The Federal Supplemental Benefit Period actually begins with the third week following the week for which there is an "on" indicator, and lasts for a minimum period of not less than 26 weeks.

Similarly, an "off" indicator ending a Federal Supplemental Benefit Period occurs in a week when the Secretary of Labor determines that the average rate of insured unemployment (as determined by the State employment security agency) for the period consisting of that week and the immediately preceding twelve weeks is less than 5.0 percent. The Federal Supplemental Benefit Period actually ends with the third week after the week in which there is an "off" indicator, but not earlier than the end of the twenty-sixth week of the period.

DETERMINATION OF "ON" INDICATOR

The Secretary of Labor has determined under section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and 20 CFR 615.13(a), (Title 20 of the Code of Federal Regulations, section 615.13(a)), that there is a National "on" indicator in effect which is applicable to every State, as announced in the notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 7722. The employment security agency of the State of New Mexico has determined under the Act and 20 CFR 618.19(a)(2) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on February 19, 1977, and the immediately preceding twelve weeks equalled or exceeded 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(a), and as authorized by the Secretary of Labor's Order 4-75, dated April 1, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "on" indicator in the State of New Mexico for the week ending on February 19, 1977, and that a Federal Supplemental Benefit Period therefore commenced in that State with the week beginning on March 6, 1977.

INFORMATION FOR CLAIMANTS

There will be a 5-per centum period in effect in the new Federal Supplemental Benefit Period, commencing at the beginning of the new period. During the 5-per centum period an individual who is eligible for Federal Supplemental Benefits will be entitled to a maximum amount of up to 13 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

In the event that a 6-per centum period subsequently takes effect in the new Federal Supplemental Benefit Period, because the rate of insured unemployment in the State has risen to an average of 6.0 percent or more over a period of thirteen weeks, the maximum amount of Federal Supplemental Benefits payable to an eligible individual will increase. In that event, as the Act now provides, an eligible individual will be entitled to a maximum amount of Federal Supplemental Benefits of up to 26 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

The State employment security agency will furnish a written notice of potential entitlement to Federal Supplemental Benefits to each individual who is an "exhaustee" (as defined in the Act and 20 CFR 618.5) of regular and extended benefits payable under State and Federal unemployment compensation laws, and to each individual who has a previously established Federal Supplemental Benefit Account in which there is any balance as of the beginning of the new Federal Supplemental Benefit Period. The State employment security agency also will furnish a written notice to each individual for whom a Federal Supplemental Benefit Account has been established, of the beginning or ending of a 6-per centum period in the new Federal Supplemental Benefit Period, and its effect on the individual's entitlement to Federal Supplemental Benefits.

The Act now provides that the program will expire with the last week which ends before April 1, 1977, at which time the Federal Supplemental Benefit Period will terminate. If the program is extended, individuals who may be entitled to Federal Supplemental Benefits will be notified by the State employment security agency.

Persons who believe they may be entitled to Federal Supplemental Benefits in the State of New Mexico, or who wish to inquire about their rights under this program, should contact the nearest State Employment Office of the New Mexico Employment Security Commission in their locality.

Signed at Washington, D.C. on March 7, 1977.

ROBERT J. MCCONNON,
Acting Assistant Secretary for Employment and Training.

[FR Doc.77-7316 Filed 3-10-77;8:45 am]

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH, SUBGROUP ON POLICY/BUDGET

Meeting

Notice is hereby given that the Subgroup on Policy/Budget of the National

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Advisory Committee on Occupational Safety and Health (NACOSH) will meet on April 6, 1977 in Room N–4437, Department of Labor Building, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act.

The meeting will begin at 9:00 a.m. The public is invited to attend. The Subgroup will continue its discussion of state plans, the OSHA–NIOSH interface, and economic impact assessments.

For additional information contact:

J. Goodell, Comittee Management Office, Occupational Safety and Health Administration, Department of Labor, Room N–3635, Third Street and Constitution Avenue NW., Washington, D.C. 20210, Phone 202–523–8024.

Any written data or views concerning these agenda items or suggestions for future agenda items which are received by the Committee Management Office before the meeting, preferably with 20 copies, will be presented to the Subgroup and included in the official record of the meeting.

Anyone wishing to make an oral presentation should notify the Committee Management Office before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the Subgroup Chairman, depending on the extent of which time permits.

Official records of the meeting will be available for public inspection at the above address.

Signed at Washington, D.C., this 8th day of March 1977.

J. Goodell,
Executive Secretary.

[FR Doc.77–7317 Filed 3–10–77;8:45 am]

CALIFORNIA STATE STANDARDS

Notice of Approval

I. Backgrouud. Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health, (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 1, 1973, a notice was published in the Federal Register (38 FR 10717) of the approval of the California plan and the adoption of Subpart K to Part 1952 containing the decision.

The California plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. State standards comparable to 29 CFR Part 1910 except for the temporary labor camp standards of § 1910.142, 29 CFR Parts 1915, 1916, 1917, 1918, 1919 and 1926 were approved on September 17, 1976 in the Federal Register (41 FR 40241). However, there have been changes to the Federal standards and some State initiated changes to revise and update the California code. Accordingly, California has revised these standards and promulgated them in accordance with applicable State procedures. By a letter dated January 7, 1977 from Steven A. Jablonsky, Program Manager, California Occupational Safety and Health Administration to Gabriel J. Gillotti, Regional Administrator, and incorporated as part of the plan, the State submitted proof documents concerning amendments to standards equivalent to Federal amendments to the storage and handling of liquified petroleum gas standards of 29 CFR 1910.110(b)(6), 1910.110(d)(4)(ii)(c), 1910.110(d)(7)(ii)(*a*) and 1910.110(h)(12), the storage and handling of anhydrous ammonia standard of 29 CFR 1910.111(c)(5)(ii), the overhead and gantry crane standard of 29 CFR 1910.179(a)(20), the steel erection flooring requirement standard of 29 CFR 1926.750(b)(1)(iii) and rollover protective structure standard of 29 CFR 1926.1000. These standards, which are contained in Title 8, Chapter 4 of the California Administrative Code, were promulgated by the State after public hearings which were held at various times between April 29, 1976 and November 18, 1976 and became effective on various dates between August 20, 1976 and December 20, 1976.

2. Decision. Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards. The State standards are more specific in several areas, particularly, with respect to Subpart H, 29 CFR 1910.110, Storage and Handling of Liquified Gases and Subpart W, 29 CFR 1926.1000 Rollover Protective Structure; Overhead Protection. The detailed standards comparison is available at the locations specified below.

3. Location of supplement for inspection and copying. A copy of the standards comparison supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 9470, San Francisco, California 94102; California Occupational Safety and Health Administration, Room 3052, 455 Golden Gate Avenue, San Francisco, California 94102; and the Technical Data Center, Occupational Safety and Health Administration, Room N–3620, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. Public participation. Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the California plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirement of State law which included public comment and further public participation would be repetitious.

This decision is effective March 11, 1977.

(Sec. 18, Pub. L. 91–956, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at San Francisco, California this 17th day of January 1977.

Gabriel J. Gillotti,
Regional Administrator, Occupational Safety and Health Administration.

[FR Doc.77–7318 Filed 3–10–77;8:45 am]

VIRGIN ISLANDS STANDARDS

Notice of Approval

1. Background. Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On September 11, 1974, notice was published in the Federal Register (38 FR 24896) of the approval of the Virgin Islands plan and adoption of Subpart S to Part 1952 containing the decision.

The Virgin Islands plan provides for the adoption of Federal standards as Virgin Island standards by reference without publishing such regulations in full, provided that such regulations shall be clearly identified in the adopting regulation, and that copies of the Federal Register containing such regulations shall be maintained in the Office of the Lieutenant Governor, available for inspection by the public. On November 5, 1974, notice was published in the Federal Register approving the adoption by reference on March 21, 1974 of Federal Standards 29 CFR Parts 1910, 1918 and 1926, as Virgin Islands rules and regulations, 24 V.I.R.R. 36(b) 1, 2, and 3.

The Virgin Islands approved plan excludes Subpart D of 29 CFR part 1926 (Occupational Health and Environmental Control), Subpart G of 29 CFR part 1910 (Occupational Health and Environmental Control) and §§ 1910.13 (Ship repairing), and 1910.14 (Shipbuilding), 1910.15 (Shipbreaking), and 1910.16 (Longshoring), which reference Parts 1915, 1916, 1917 and 1918 of 29 CFR. In addition, § 1910.19 (Asbestos Dust) of Part 1910 and Part 1919 (Gear Certification) are excluded by the scope of the Virgin Islands 18(b) plan. Notwithstanding the exclusion of Longshoring, 29 CFR part 1918 has been adopted by reference since § 1926.605 (Marine Operations and Equipment) references 29 CFR part 1918.

Section 1953.20 of 29 CFR provides that where "any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required." In response to Federal standards changes, the State has submitted by a letter dated December 15, 1976 from Mr. Jean D. Larsen, Assistant Commissioner of the Virgin Islands Department of Labor and Director of the Division of Occupational Safety and Health, to Mr. Alfred Barden, Regional Administrator, and incorporated as a part of the plan, State certification documenting promulgation of regulations (November 30, 1976) adopting 29 CFR part 1928 as V.I.R.R. 36(b)4, and all changes and additions to 29 CFR parts 1910, 1918, 1926, as 24 V.I.R.R. 36(b) 1, 2, 3, up to and including November 30, 1976.

The authority to adopt such standards is contained in Title 3, Section 940, of the Virgin Islands Code. The adopting regulations were issued by the Commissioner of Labor of the Virgin Islands Department of Labor and were approved and promulgated by the Governor of the Virgin Islands.

2. Decision. Having reviewed the Virgin Islands Regulations providing for the adoption of Federal standards by reference, it has been determined that Virgin Islands Regulations are identical to Federal standards and are hereby approved.

3. Location of supplement for inspection and copying. A copy of the standards supplement, along with the approved plan, may be inspected and copied during the normal business hours at the following locations: Office of the Regional Administrator, Region II, 1515 Broadway, Room 3445, New York, New York 10036; Office of the Director for Federal Compliance and State Programs, Room N–3605, 200 Constitution Avenue NW., Washington, D.C. 20210; Department of Labor, Government of the Virgin Islands, Dronigans Gade, Charlotte Amalie, St. Thomas, V.I. 00801, and at Hospital Street, Christiansted, St. Croix, V.I. 00820.

4. Public participation. Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Virgin Islands plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

(1) The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

(2) The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective March 11, 1977.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at New York, New York, this 16th day of February 1977.

Alfred Barden,
Regional Administrator, Occupational Safety and Health.

[FR Doc.77–7319 Filed 3–10–77;8:45 am]

Office of the Secretary

[TA–W–1,684]

PORT FISHERIES

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 10, 1977 the Department of Labor received a petition dated February 1, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Port Fisheries, Port Isabel, Texas (TA–W–1,684). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the providing of services for shrimp boats by Port Fisheries or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of February 1977.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77–7123 Filed 3–10–77;8:45 am]

[TA–W–1,676]

SPORN DRESS CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On February 17, 1977 the Department of Labor received a petition dated February 14, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Sporn Dress Company, Freehold, New Jersey (TA–W–1,676). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with women's dresses produced by Sporn Dress Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a

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substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-7124 Filed 3-10-77;8:45 am]

[TA-W-1284]

CRESCENDOE GLOVES, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1284: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1976 in response to a worker petition received on November 16, 1976 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers formerly producing ladies dress gloves at the Johnstown, New York plant of Crescendoe Gloves, Incorporated. The investigation revealed that the Johnstown, New York plant produced fabric dress gloves. The investigation was expanded to include workers at the St. Johnsbury, Vermont plant of Crescendoe Gloves.

The Notice of Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53086). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Crescendoe Gloves, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, the National Association of Glove Manufacturers and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of workers at the Johnstown plant declined 5.6 percent in the first eleven months of 1976 compared to the same period in 1975.

Average employment of workers at the St. Johnsbury plant declined 31.6 percent from 1974 to 1975 and 23.1 percent in the first ten months of 1976 compared to 1975. All workers were separated from the St. Johnsbury plant by the end of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of fabric dress gloves by quantity decreased 44.1 percent from 1974 to 1975 and 17.1 percent in the first eleven months of 1976 compared to the same period in 1975.

The quantity of fabric dress gloves produced declined 52.7 percent in 1975 compared to 1974 and 27.8 percent in the first two months of 1976 compared to the same period in 1975. All production of fabric dress gloves was phased out beginning in July, 1976. Since production was terminated, sales have been made from existing inventories.

INCREASED IMPORTS

Imports of fabric dress gloves increased every year from 1971 through 1975. In 1975, 2,680 thousand dozen pairs of fabric dress gloves were imported into the United States compared to 1,440 thousand dozen pairs in 1971, an increase over the period of 86.1 percent. In the first three quarters of 1976 imports were 2,084 thousand dozen pairs compared to 2,213 thousand dozen pairs in the same period of 1975, an increase of 39.4 percent. The ratio of imports to domestic production increased from 249.1 percent in 1971 to 516.4 percent in 1975 and then increased to 943.1 percent in the first three quarters of 1976.

CONTRIBUTED IMPORTANTLY

Crescendoe Gloves, Incorporated was engaged in the production of fabric dress gloves until July, 1976. Over 99 percent of the fabric dress gloves sold by Crescendoe were for women. Gloves were cut at the Johnstown plant, shipped to the St. Johnsbury plant for sewing and then shipped back to the Johnstown plant for packaging and sale to customers.

Customers of Crescendoe reduced their purchases of women's fabric dress gloves from Crescendoe in order to purchase a women's fabric dress glove imported by another domestic manufacturer.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with fabric dress gloves produced at the Johnstown, New York and St. Johnsbury, Vermont plants of Crescendoe Gloves, Incorporated contributed importantly to the total or partial separations of the workers of those plants. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers engaged in employment related to the production of fabric dress gloves at the Johnstown, New York and St. Johnsbury, Vermont plants of Crescendoe Gloves, Incorporated who became totally or partially separated from employment on or after November 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7335 Filed 3-10-77;8:45 am]

[TA-W-1597]

COVINGTON BROTHERS WHOLESALE GROCERIES

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1597: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 25, 1977 in response to a worker petition received on January 25, 1977 which was filed on behalf of workers and former workers performing wholesale grocery activities at Covington Brothers Wholesale Groceries, Mayfield, Kentucky.

The notice of investigation was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 8016). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from counsel representing Covington Brothers Wholesale Groceries and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

Covington Brothers operated one warehouse in Mayfield, Kentucky. The company's employees were engaged in employment related to the wholesale distribution of groceries and performed no production functions. The company became insolvent and discontinued its operations in March, 1976.

Covington Brothers does not produce an article within the meaning of Section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program. See Notice of Determination in Pan American World Airways, Incorporated (TA-W-153, 40 FR 54639). Covington Brothers performed a service, the wholesale distribution of groceries.

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by Covington Brothers Wholesale Groceries at Mayfield, Kentucky are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974. The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7334 Filed 3-10-77;8:45 am]

[TA-W-1195]

DEL LEE DRESS CO., PHILADELPHIA, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1195: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 19, 1976 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing dresses at the Philadelphia, Pennsylvania plant of Del Lee Dress Company.

Notice of the investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48806). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Del Lee Dress Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the the other criteria have been met, criteria (4) has not been met.

The Del Lee Dress Company started operations in Philadelphia, Pennsylvania in 1935. The company is a contractor producing dresses primarily for one manufacturer. The primary manufacturer has reduced the number of its contractors while its sales increased 15.0 and 7.9 when compared to the immediate previous years. Production for the primary manufacturer increased 24.1 and 3.2 percent in 1975 and 1976, respectively when compared to the immediate previous years.

Customers of the Primary manufacturer have not switched their purchases from the manufacturer to off-shore suppliers.

CONCLUSION

It is concluded that imports of articles like or directly competitive with misses' dresses produced at the Del Lee Dress Company in Philadelphia, Pennsylvania have not contributed importantly to the total or partial separations of workers at the plant as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7336 Filed 3-10-77;8:45 am]

[TA-W-1585]

DIXON VALVE AND COUPLING CO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1585: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing nipples, clamps, and valves at the Chestertown, Maryland plant of Dixon Valve and Coupling Company.

The notice of investigation was published in the FEDERAL REGISTER on February 4, 1977 (42 FR 6940). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dixon Valve and Coupling Company, its customers, the U.S. Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (1) has not been met.

Evidence developed by the Department's investigation reveals that no layoffs or reduced work weeks ever occurred at the Chestertown, Maryland plant.

The Chestertown, Maryland plant was opened in 1976 and employment increased there throughout the year. There

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have not been any employment declines at this plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Chestertown, Maryland plant of the Dixon Valve and Coupling Company have not become totally or partially separated as required in Section 222 of the Trade act of 1974.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7338 Filed 3-10-77;8:45 am]

[TA-W-1342]

DIXON VALVE AND COUPLING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1342: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing nipples, clamps and valves at the Philadelphia, Pennsylvania plant of Dixon Valve and Coupling Company.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 55603) on December 21, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dixon Valve and Coupling Company, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of production workers at the Philadelphia, Pennsylvania plant of Dixon Valve and Coupling Company declined 35 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Annual sales of the Dixon Valve and Coupling Company increased 10.9 percent in value in 1975 compared to 1974. Sales declined 7.2 percent in value in the first 9 months of 1976 compared to the first 9 months of 1975.

Production data was not available.

INCREASED IMPORTS

The absolute value of imports of valves and similar devices rose 192.2 percent from $56.5 million in 1971 to $165.1 million in 1975. They rose an additional 5.2 percent to $134.2 million in the first three quarters of 1976 compared to the first three quarters of 1975.

CONTRIBUTED IMPORTANTLY

Customers of the Dixon Valve and Coupling Company did not switch to imports. In a survey conducted by the Office of Trade Adjustment Assistance, none of the customers contacted indicated they purchased imports competitive with Dixon's products.

The evidence developed during the Department's investigation revealed that the reduction in employment at the Philadelphia plant resulted principally from a shift in production to the Chestertown, Maryland plant of Dixon Valve and Coupling Company. As a consequence of the shift a majority of the employees of the Philadelphia plant have been separated from employment while employment at the Chestertown plant has increased. The total workforce of the two plants increased about 12 percent in 1976 compared to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with nipples, clamps, and valves produced at the Philadelphia, Pennsylvania plant of the Dixon Valve and Coupling Company, did not contribute importantly to the total or partial separations of workers at that plant.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7337 Filed 3-10-77;8:45 am]

[TA-W-1507]

EMPIRE COKE CO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1507: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on December 15, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing coke at the Holt, Alabama plant of Empire Coke Company, a division of McWane Incorporated.

The notice of investigation was published in the Federal Register on January 11, 1977 (42 FR 2371). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Empire Coke Company, the United Steelworkers of America and U.S. Department of Commerce publications.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (3) has not been met.

Evidence developed by the Department's investigation reveals that imports of metallurgical coke have decreased absolutely and relative to domestic production from 1974 through November 1976, the latest date of published aggregate import statistics.

CONCLUSION

After careful review of the facts obtained in the investigation, I concluded that imports of metallurgical coke like or directly competitive with coke produced at the Holt, Alabama plant of Empire Coke Company have not increased as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7339 Filed 3-10-77;8:45 am]

[TA-W-1179]

FAIRCHILD CAMERA AND INSTRUMENT CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1179: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 19, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing digital integrated circuits at the South Portland, Maine plant of Fairchild Camera and Instrument Corporation.

The notice of investigation was published in the Federal Register on November 5, 1976 (41 FR 48807). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fairchild Camera and Instrument Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatening to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the South Portland, Maine plant of Fairchild increased 24 percent in 1974 from 1973 and decreased 41 percent in 1975 from 1974 and 16 percent in the first 9 months of 1976 from the first 9 months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by the DIC Division of Fairchild decreased 46 percent in value in 1975 from 1974 and increased 8 percent in the first 9 months of 1976 from the first 9 months of 1975.

INCREASED IMPORTS

Imports of monolithic integrated circuits increased in quantity in 1972, 1973 and 1974 from the previous year and decreased in 1975 from 1974. Imports increased 91 percent in the first 9 months of 1976 from the same period of 1975. Relative to domestic production, imports increased in 1972 from 1971, decreased in 1973 from 1972, and increased in 1974 and 1975. In the first 9 months of 1976 imports were 121.7 percent of domestic production compared to 70.2 percent in the first 9 months of 1975.

CONTRIBUTED IMPORTANTLY

Fairchild has shifted some of the production process from its South Portland plant to offshore facilities. In the first quarter of 1975, the total product cost at Fairchild's offshore facilities was 56 percent of the product cost at the South Portland plant. This percentage increased in each quarter of 1975 except the third and in each quarter of 1976. In the third quarter of 1976 the offshore product cost was 131 percent of the South Portland product cost.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with digital integrated circuit's produced at the South Portland Maine plant of Fairchild Camera and Instrument Corporation, contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the South Portland, Maine plant of Fairchild Cameera and Instrument Corporation who became totally or partially separated from employment on or after September 27, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7340 Filed 3-10-77;8:45 am]

[TA-W-1551]

HANSEN SEAWAY SERVICE LTD.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1551: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 2, 1977 in response to a worker petition received on January 2, 1977 was filed on behalf of workers and former workers of Hansen Seaway Service Limited, Milwaukee, Wisconsin.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5451). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hansen Seaway Service Limited and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

The Department of Labor has already determined that the performance of services is not included within the term "articles" as used in Section 222(3) of the Act. See Notice of Negative Determination in Pan American Airways, Incorporated (TA-W-153; 40 FR 54639).

Hansen Seaway Service Limited is a stevedore contractor and terminal operator engaged in the storage of products and the loading and unloading of products to and from trucks, railcars and ships. Hansen does not own any production facilities nor does it manufacture any of the products it handles. All items handled by Hansen Seaway are brought directly from manufacturers or their representatives to be loaded onto the appropriate means of transportation that will take them to their final destination. The company is not involved in the production of "articles" within the meaning of Section 222(3) of the Act.

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by Hansen Seaway Service Lim-

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ited, Milwaukee, Wisconsin are not "articles" within the meaning of Section 222 (3) of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7341 Filed 3-10-77;8:45 am]

[TA-W-1309]

THE IRON WOOD PRODUCTS CORP.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1309: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1976 in response to a worker petition received on November 29, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing prefinished paneling and hardwood plywood at the Bessemer, Michigan plant of the Iron Wood Products Corporation.

The notice of investigation was published in the FEDERAL REGISTER on December 14, 1976, (41 FR 54559). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of The Iron Wood Products Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met criterion (4) has not been met.

The Iron Wood Products Corporation located in Bessemer, Michigan is a one plant company producing prefinished paneling and hardwood plywood.

The Department's investigation revealed that sales of prefinished paneling increased 60.7 percent in 1976 compared to 1975. Production is equal to sales. Hardwood plywood accounted for seven percent of sales in 1976.

The Department's survey of customers of The Iron Wood Products Corporation indicated that their two major customers increased their purchases of prefinished paneling from The Iron Wood Products Corporation and did not import. The remaining customers increased their purchases of prefinished paneling from The Iron Wood Products Corporation while their import purchases of prefinished paneling either remained the same or declined.

CONCLUSION

It is concluded that imports of articles like or directly competitive with the prefinished paneling manufactured at the Bessemer, Michigan plant of The Iron Wood Products Corporation did not contribute importantly to the total or partial separations of the workers at The Iron Wood Products Corporation as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7342 Filed 3-10-77;8:45 am]

[TA-W-1374]

JENKINS BROTHERS

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1374: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing valves at the Bridgeport, Connecticut plant of Jenkins Brothers.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 886). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jenkins Brothers, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, criterion four (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly workers at the Bridgeport plant declined 11.8 percent in 1975 compared to 1974. In the first 11 months of 1976, the average number of hourly workers declined 11.9 percent compared to the first 11 months of 1975.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total sales by Jenkins Brothers declined 25.3 percent in value from 1974 to 1975. Sales declined 1.5 percent and 12.9 percent, respectively, in the first and second quarters of 1976 compared to the like periods in 1975.

Production of all valves by Jenkins Brothers declined 56.7 percent in quantity in 1975 compared to 1974. Production declined 14.4 percent in the first quarter of 1976 compared to the like period in 1975.

INCREASED IMPORTS

Imports of valves, hand-operated and check, made from copper including bronze increased from $10.4 million in 1971 to $16.6 million in 1972, then declined in 1973 to $15.0 million. Imports increased in 1974 to $18.4 million and declined in 1975 to $14.1 million. Imports increased 52.7 percent in value in the first nine months of 1976 compared to the like period in 1975, from $11.0 million to $16.8 million.

CONTRIBUTED IMPORTANTLY

The Department conducted a survey of customers of Jenkins Brothers. Most customers indicated that they did not purchase any imported valves. None of the customers contacted indicated that they had decreased purchases of valves from Jenkins Brothers and switched to imported valves.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with valves produced at the Bridgeport, Connecticut plant of Jenkins Brothers did not contribute importantly to the total or partial separation of workers at that plant.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7343 Filed 3-10-77;8:45 am]

[TA-W-1375]

JENKINS BROTHERS

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1371: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers handling valves at the Bridgeport, Connecticut warehouse of Jenkins Brothers.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 886). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jenkins Brothers, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although the first three criteria have been met, criterion four (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly workers at the Bridgeport plant declined 10.8 percent in 1976.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Jenkins Brothers produces valves at their Bridgeport, Connecticut plant. The Fairfield, Connecticut warehouse handles valves produced at Bridgeport.

Total sales by the Bridgeport plant declined 25.3 percent in value from 1974 to 1975. Sales declined 1.5 percent and 12.9 percent, respectively, in the first and second quarters of 1976 compared to the like periods in 1975.

Production of all valves by Jenkins Brothers declined 56.7 percent in quantity in 1975 compared to 1974. Production declined 14.4 percent in the first quarter of 1976 compared to the like period in 1975.

INCREASED IMPORTS

Imports of valves, hand-operated and check, made from copper including bronze increased from $10.4 million in 1971 to $16.6 million in 1972, then declined in 1973 to $15.0 million. Imports increased in 1974 to $18.4 million and declined in 1975 to $14.1 million. Imports increased 52.7 percent in value in the first nine months of 1976 compared to the like period in 1975, from $11.0 million to $16.8 million.

CONTRIBUTED IMPORTANTLY

The Department conducted a survey of customers of Jenkins Brothers. Most customers indicated that they did not purchase any imported valves. None of the customers contacted indicated that they had decreased purchases of valves from Jenkins Brothers and switched to imported valves.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with valves produced by Jenkins Brothers and handled at the Fairfield, Connecticut warehouse did not contribute importantly to the total or partial separation of workers at that plant.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7344 Filed 3-10-77;8:45 am]

[TA-W-103T]

KEYSTONE CARBON COMPANY

Notice of Revised Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223(d) of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-103T: investigation regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in Section 223(d) of the Act.

On September 29, 1975 workers engaged in employment related to the production of thermistors at the St. Marys, Pennsylvania plant of the Keystone Carbon Company were certified as eligible to apply for trade adjustment assistance. The Notice of Determination was published in the Federal Register on October 6, 1975 (40 FR 46166).

The investigation regarding termination of certification was initiated on May 27, 1976 to determine whether the group of workers specified above continue to meet the group eligibility requirements of Section 222 of the Act. The Notice of Investigation was published in the FEDERAL REGISTER (41 FR 26296) on June 25, 1976. No public hearing was requested and none was held.

During the course of the investigation information was obtained from officials of the Keystone Carbon Company, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met.

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Whenever it becomes evident that any of the above criteria are no longer met, the certification as issued must be revised to include a termination date. The termination date would apply only with respect to total or partial separations occurring after this date as specified in the revised certification.

Without regard as to whether the other criteria are satisfied, the investigation reveals that the first and second criteria are no longer met with respect to workers at the St. Marys, Pennsylvania plant of the Keystone Carbon Company.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Subsequent to the September 29, 1975 finding, the average number of production workers engaged in the manufac-

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ture of thermistors at the St. Marys, Pennsylvania plant of the Keystone Carbon Company decreased 42 percent from 1974 to 1975, and then increased 47 percent from 1975 to 1976. Employment increased in each quarter of 1976 when compared to the same quarter in 1975. Average hours worked increased 8 percent from 1974 to 1975, and increased 7 percent from 1975 to 1976.

Employment of salaried workers at the St. Marys, Pennsylvania plant of the Keystone Carbon Company remained constant from 1975 to 1976. Labor turnover data for the St. Marys, Pennsylvania plant of Keystone Carbon Company indicates that no layoffs occurred in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Subsequent to the September 29, 1975 finding, sales of thermistors at the St. Marys, Pennsylvania plant of the Keystone Carbon Company deceased 21 percent in value from 1974 to 1975, and then increased 38 percent in value from 1975 to 1976. Sales increased in each quarter of 1976 when compared to the same quarter of 1975.

Subsequent to the September 29, 1975 finding, production of thermistors at the St. Marys, Pennsylvania plant of the Keystone Carbon Company decreased 38 percent in quantity from 1974 to 1975, and then increased 84 percent in quantity from 1975 to 1976. Production increased in each quarter of 1976 compared to the same quarter in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers engaged in employment related to the production of thermistors at the St. Marys, Pennsylvania plant of the Keystone Carbon Company are no longer attributable to the conditions specified in Section 222 of the Trade Act of 1974. In accordance with the provisions of the Act, I hereby revise the certification of September 29, 1975 to read as follows:

That all workers of the St. Marys, Pennsylvania plant of the Keystone Carbon Company (TA-W-103) who became totally or partially separated from employment related to the production of thermistors on or after October 8, 1974 and before April 15, 1977 be certified eligible to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All employees who became or will become totally or partially separated from employment on or after April 15, 1977 are denied certification of eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 3rd day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7345 Filed 3-10-77;8:45 am]

[TA-W-1466]

KOPPERS COMPANY, INC., DIVISION OF ORGANIC MATERIALS

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1466: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on December 15, 1976 which was filed by the United Steelworkers of America on behalf of workers producing coke at the Woodward, Alabama plant of Organic Materials Division of Koppers Company, Incorporated.

The notice of investigation was published in the Federal Register on January 7, 1977 (42 FR 1536). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America, officials of Koppers Company, Incorporated and publications of the U.S Department of Commerce.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals that imports of metallurgical coke like or directly competitive with coke produced at the Woodward, Alabama plant of the Organic Materials Division of the Koppers Company, Incorporated have decreased from 1974 through November 1976, the latest date of published aggregate data.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of metallurgical coke like or directly competitive with coke produced at the Woodward, Alabama plant of the Organic Materials Division of the Koppers Company, Incorporated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7346 Filed 3-10-77;8:45 am]

[TA-W-1504]

LIGHT STEEL PRODUCTS PLANT, KAISER STEEL CORP.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1504: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 10, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing light steel products at the Fontana, California Light Steel Products plant of Kaiser Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on February 8, 1977 (42 FR 8022). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kaiser Steel Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met.

All production at the plant is to customer order, therefore production equals sales.

Sales at the plant increased 37 percent in value in the fourth quarter of 1975 from the third quarter of 1975 and 52 percent in the fourth quarter of 1975 from the fourth quarter of 1974. Sales at the plant increased 28 percent in the first 11 months of 1976 compared to the first 11 months of 1975.

Sales were higher in each of the first three quarters of 1976 than in the corresponding quarters of 1975 and sales were higher in October and November 1976 than the same months of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production at the Fontana, California Light Steel Products Plant of Kaiser Steel Corporation have not declined as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7347 Filed 3-10-77;8:45 am]

[TA-W-1274]

M. BELL CO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1274: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 15, 1976 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing dresses at the Philadelphia, Pennsylvania plant of M. Bell Company.

The Notice of Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53093). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of M. Bell Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criteria (2) and (4) have not been met.

The M. Bell Company started operations in Philadelphia, Pennsylvania in 1946. The company is a contractor producing misses' and juniors' dresses primarily for Bleeker Street, Incorporated of Philadelphia. Bleeker Street utilizes the production facilities of several contractors and since mid-1975 has been reducing the number of contractors they deal with in their operation. During the period in question, Bleeker Street sales increased 15.8 percent in quantity in 1975 compared to 1974 and increased 7.9 percent in quantity in 1976 compared to 1975. Production increased 24.1 percent in quantity in 1975 compared to 1974 and increased 3.2 percent in quantity in 1976 compared to 1975. Bleeker Street does not import the items produced by the contractors and a survey of their customers indicated that customers did not switch purchases from Bleeker Street to imports.

M. Bell sales are equal to production. Company sales increased 87.1 percent in quantity and 76.8 percent in value in 1975 over 1974 and further increased 1.2 percent in quantity and 2.3 percent in value in the first nine months of 1976 compared to the like period in 1975.

CONCLUSION

It is concluded that sales and production have not decreased and that imports of articles like or directly competitive with misses' and juniors' dresses produced at the M. Bell Company in Philadelphia, Pennsylvania have not contributed importantly to the total or partial separations of workers at that plant as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7348 Filed 3-10-77;8:45 am]

NONRUBBER FOOTWEAR

On February 8, 1977, the International Trade Commission determined that increased imports of nonrubber footwear are a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (42 FR 9065).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on nonrubber footwear. The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has issued determinations in 127 cases involving an estimated 21,941 workers in the nonrubber footwear industry. Of this total, 90 cases resulted in certification for approximately 16,061 workers to apply for trade adjustment assistance. As of January 31, 1977, there were 13 cases involving an estimated 841 workers pending a decision.

2. In spite of the upturn in production and employment in the nonrubber footwear industry in 1976, employment is still below the 1974 average level. If the tariff-rate quota remedy being recommended to the President is adopted, employment in the industry is likely to increase, and petitions for adjustment assistance will probably be filed at a slower rate than in the past. If no remedy is adopted, petitions will probably be filed at the same rate as in the past.

3. In spite of employment gains in the first three quarters of 1976 in most of the States which experienced declines in the 1974–75 period, employment in the nonrubber footwear industry is still below 1974 levels in most of them. These States include Massachusetts, New York, Pennsylvania, Illinois, Wisconsin and Missouri. The 1976 employment gains in both Maine and New Hampshire have more than offset the losses in 1975; however, the average employment level in both States for the first three quarters of 1976 was below the 1973 level for each State. Preliminary October 1976 production statistics for nonrubber footwear indicate declines in most categories, both from the previous month and from October of 1975. This may be indicative of a return to the historical declining trend beginning in the late 1960s. Employment opportunities both within the footwear industry and elsewhere appear favorable in most of the States which experienced employment declines in the 1974–5 period. In the first three quarters of 1976, recalls have exceeded layoffs by approximately 20 percent in this industry, indicating less need for training assistance than in the past. It does not seem likely that a large percentage of the displaced workers will be considering relocation, since many of the workers in this industry are not primary wage earners.

4. Most of the Comprehensive Employment and Training Act (CETA) programs in these States are operating within planned enroll-

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ment levels. It appears that most of the existing programs are capable of meeting the needs of the displaced workers. However, in terms of the funding available, it may be possible for many of them to operate with some overenrollment. In addition, The Employment and Training Administration, through its State Employment Service, has the authority to purchase additional training when CETA funs are not available.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210 (phone 202–523–7685).

Signed at Washington, D.C. this 7th day of March 1977.

HERBERT N. BLACKMAN,
Acting Deputy Under Secretary, International Affairs.

[FR Doc.77–7321 Filed 3–10–77;8:45 am]

[TA–W–1262]

PARK AVENUE INDUSTRIES, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1262: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 11, 1976 in response to a worker petition received on November 11, 1976 which was filed on behalf of workers formerly producing ladies' sweaters and knit tops at the Brooklyn, New York plant of Park Avenue Industries, Inc. The petition was expanded to include Pakmi Processing, Inc. and Better Fashions, Inc., wholly owned subsidiaries of Park Avenue Industries, Inc. Production is integrated among the three companies and they are located at the same address.

The notice of investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53094). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Park Avenue Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the Opportunity Development Association of New York, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment data was not available. All employment was terminated in September 1976 when the company closed.

SALES, PRODUCTION, OR BOTH DECREASED ABSOLUTELY

Production was integrated among Pakmi Processing, Better Fashions and Park Avenue Industries. Sales data represented sales of the finished garments.

Sales increased 8 percent in the first nine months of 1974 compared to the first nine months of 1973. Data was not available for the fourth quarter of 1974 or for the first nine months of 1975. Sales declined 47 percent in the first nine months of 1976 compared to the first nine months of 1974.

All sales and production at Park Avenue Industries including Pakmi Processing and Better Fashions ceased in September 1976.

INCREASED IMPORTS

Imports of women's misses', and children's sweaters declined absolutely and relatively from 1971 to 1972 and from 1972 to 1973. Imports increased absolutely and relatively from 1973 to 1974. Imports increased absolutely from 1974 to 1975, and in the first nine months of 1976 compared to the first nine months of 1975. The ratio of imports to domestic production declined from 104.9 percent in 1974 to 94.6 percent in 1975.

Imports of women's, misses', and children's knit blouses and shirts increased absolutely in each year from 1971 through 1975 and in the first nine months of 1975. The ratio of imports to domestic production increased from 69.6 percent in 1974 to 81.6 percent in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of Park Avenue Industries who were surveyed, also purchase imported ladies' sweaters and knit tops. Fifty percent of the customers surveyed increased purchases of imports and reduced purchases from Park Avenue Industries from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports like or directly competitive with ladies' sweaters and knit tops produced at the Brooklyn, New York plant of Park Avenue Industries, Inc. including Pakmi Processing Inc., and Better Fashions, Inc. contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Brooklyn, New York plant of Park Avenue Industries, Incorporated, including Pakmi Processing, Inc. and Better Fashions, Inc. who became totally or partially separated from employment on or after November 4, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–7349 Filed 3–10–77;8:45 am]

[TA–W–852]

RUSSELL, BURDSALL AND WARD, INC.

Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor issued a Notice of Negative Determination on August 24, 1976 and published in the Federal Register on September 3, 1976 (41 FR 37430) regarding eligibility to apply for adjustment assistance applicable to workers and former workers producing metal fasteners at the Rock Falls, Illinois plant of Russell, Burdsall, and Ward, Inc.

At the request of the United Steelworkers of America, a review investigation was instituted. The review investigation reexamined the case history and additional information submitted by the petitioners and officials of Russell, Burdsall, and Ward, Inc. (R.B. and W.), concerning the Rock Falls, Illinois plant of R.B. and W. and the Des Plaines, Illinois warehouse, which stores and distributes the metal fasteners produced at Rock Falls.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally of partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Due to a strike by production workers at the Rock Falls plant from May 1, 1975 to November 17, 1975, employment data for the plant in 1976 has been compared to data for pre-strike levels in 1974, as well as to data for 1975.

Employment of production workers at the Rock Falls, Illinois plant of Russell, Burdsall and Ward (R.B. and W.) increased 5 percent from 1973 to 1974 and then declined 32 percent from 1974 to 1975. A strike by production workers occurred from May 1, 1975 through November 17, 1975. Subsequent to the strike, workers engaged in employment related to standard nut production were laid off, as a result of a corporate decision to terminate production of standard nuts. Additionally, employment cutbacks occurred in the production of other types of standard metal fasteners. Numbers of production workers declined 37 percent in the first four months of 1976 from the same period in 1975. When compared to the first six months of 1974, employment dropped 48 percent in the first six months of 1976.

Average weekly hours worked declined one percent from 1973 to 1974 and fell 22 percent from 1974 to 1975. In the first four months of 1976, average weekly hours worked increased 12 percent when compared to the same period in 1975. When compared to the first six months of 1974, average weekly hours worked dropped 5 percent in the first six months of 1976.

Employment of hourly workers at the Des Plaines, Illinois warehouse of R.B. and W. remained constant from 1973 to 1974 and from 1974 to 1975. In the first six months of 1976, employment of hourly workers fell 33 percent from the same period in 1975.

Salaried employment increased one percent from 1973 to 1974 and increased two percent from 1974 to 1975. In the first six months of 1976, salaried employment fell 13 percent from the same period in 1975. Employment of salaried workers declined 21 percent in the first six months of 1976 when compared to the first six months of 1974.

Labor turnover data for the Rock Falls, Illinois plant indicates that layoffs occurred in January, February, March and December of 1975. Total layoffs in 1975 equalled 65 percent of average annual employment for production workers in 1975. Layoffs occurred at the Des Plaines, Illinois warehouse in February 1976.

SALES OR PRODUCTION OR BOTH HAVE DECREASED

Due to the above mentioned strike, sales and production data for the plant in 1976 have been compared to pre-strike levels in 1974 as well as to data for 1975.

Sales of metal fasteners, including both standard and specialty, by the Rock Falls, Illinois plant of Russell, Burdsall and Ward declined 13 percent in quantity from 1973 to 1974 and declined 60 percent from 1974 to 1975. In the first six months of 1976, sales declined eight percent from the same period in 1975. Sales declined 57 percent in the first six months of 1976, when compared to the first six months of 1974.

Sales of standard fasteners by the Rock Falls plant of R.B. and W. declined 6 percent in quantity from 1973 to 1974 and declined 61 percent from 1974 to 1975. In the first six months of 1976, sales of standard fasteners declined 18 percent compared to the same period in 1975. Sales declined 66 percent in the first six months of 1976 when compared to the first six months of 1974.

Production of all metal fasteners at the Rock Falls, Illinois plant of Russell, Burdsall and Ward, Inc. fell 2 percent in quantity from 1973 to 1974 and fell 68 percent from 1974 to 1975. All standard nut production was terminated on October 13, 1975. In the first six months of 1976, production increased 5 percent when compared to the same period in 1975. Production fell 55 percent in the first six months of 1976 when compared to the same period in 1974.

INCREASED IMPORTS

U.S. imports of bolts of iron and steel increased absolutely in each year from 1971 through 1974 and then fell absolutely from 1974 to 1975. Imports increased relative to domestic production from 1971 to 1972 and then fell realtively from 1972 to 1973. Imports increased relatively from 1973 to 1974 and then remained constant from 1974 to 1975. In the first nine months of 1976, imports of bolts increased absolutely and relatively when compared to the first nine months of 1975. The ratio of imports to domestic production and consumption increased from 19.3 percent and 17.9 percent, respectively, in the first nine months of 1975 to 19.9 percent and 18.1 percent, respectively, in the first nine months of 1976.

U.S. imports of nuts of iron or steel increased absolutely and relatively in each year from 1971 through 1974 and then declined absolutely and relatively from 1974 to 1975. In the first nine months of 1976, imports increased absolutely to 162,906,000 pounds from 160,823,000 pounds in the first nine months of 1975. The ratio of imports to domestic production and consumption declined from 95.1 percent and 54.2 percent, respectively, in the first nine months of 1975 to 74.0 percent and 46.6 percent, respectively, in the first nine months of 1976.

U.S. imports of screws of iron or steel increased absolutely in each year from 1971 through 1974 and then declined absolutely from 1974 to 1975. Imports increased relative to domestic production and consumption in each year from 1971 through 1975. In the first nine months of 1976, imports increased absolutely and relatively when compared to the same period in 1975. The ratio of imports to domestic production and consumption increased from 40.4 percent and 31.6 percent, respectively, in the first nine months of 1975 to 42.6 percent and 32.0 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

Evidence developed during the Department's investigation indicates that customers of the Rock Falls, Illinois plant of Russell, Burdsall, and Ward, Inc. decreased purchases of standard fasteners from the subject firm and increased purchases of imported fasteners. These customers cited the lower price of imports as the reason for the shift in purchasing patterns.

R.B. and W. officials stated that cutbacks in production and employment were planned for its Rock Falls plant and would have occurred regardless of the strike from May 1, 1975 to November 17, 1975. These officials stated that import competition forced the company to cut back production and employment. The company eliminated over 25 percent of its work force after the cessation of the strike because of the termination of nut production and the cutbacks in the production of other standard fasteners.

CONCLUSION

After careful review of the facts obtained in the reinvestigation of TA–W–852, Russell, Burdsall and Ward, Inc., Rock Falls, Illinois plant, I conclude that increases in imports of standard fasteners like or directly competitive with the standard fasteners produced at the Rock Falls, Illinois plant of Russell, Burdsall and Ward, Inc. contributed importantly to the total or partial separations of the workers of that firm. In accordance with the provisions of the Act, I hereby issue the following revised determination:

All workers at the Rock Falls, Illinois plant of Russell, Burdsall, and Ward, Inc. and the Des Plaines, Illinois warehouse of R.B. and W. who became totally or partially separated from employment related to the production of standard fasteners on or after November 17, 1975 are eligible to apply for adjustment assistance benefits under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–7350 Filed 3–10–77;8:45 am]

[TA–W–1369]

SARCO CO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1369: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steel workers of America on behalf of workers and former workers producing steam and

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hot water controls at the Allentown, Pennsylvania plant of the Sarco Company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 896). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Sarco Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that the first three criteria have been met but criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of production workers at the Sarco Company in Allentown, Pennsylvania declined 5.3 percent in the first 11 months of 1976 compared to the first 11 months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of steam and hot water controls at Sarco Company declined 18.2 percent in quantity in the 4th quarter of 1975 compared to the same quarter in 1974. Sales declined 6.5 percent in quantity in the 2nd quarter of 1976 compared to the same quarter of 1975. Sales increased 0.5 percent in the first eleven months of 1976 compared to the same period in 1975.

Production data was not made available.

INCREASED IMPORTS

Imports of valves and similar devices in terms of value increased each year from $56.5 million in 1971 to $165.1 million in 1975. Imports further increased from $127.6 million in the first nine months of 1975 to $134.2 million in the first nine months of 1976.

The ratio of imports to domestic production increased from 4.0 percent in the 1974 to 4.7 percent in 1975. The ratio of imports to production decreased from 4.9 percent in the first nine months of 1975 to 4.5 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of the Sarco Company did not switch purchases from Sarco to imported products. None of the customers surveyed purchased any imported steam and hot water controls.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with steam and hot water controls produced at the Allentown, Pennsylvania plant of Sarco Company did not contribute importantly to the total or partial separation of workers at the plant.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7351 Filed 3-10-77;8:45 am]

[TA-W-1370]

SARCO CO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-13703: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of clerical workers and former workers at the Allentown, Pennsylvania plant of the Sarco Company. The Allentown plant produces steam and hot water controls.

The Notice of Investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2362). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Sarco Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that the first three criteria have been met but criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of production workers at the Sarco Company in Allentown, Pennsylvania declined 5.3 percent in the first 11 months of 1976 compared to the first 11 months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of steam and hot water controls at Sarco Company declined 18.2 percent in quantity in the 4th quarter of 1975 compared to the same quarter in 1974. Sales declined 6.5 percent in quantity in the 2nd quarter of 1976 compared to the same quarter of 1975. Sales increased 0.5 percent in the first eleven months of 1976 compared to the same period in 1975.

Production data was not made available.

INCREASED IMPORTS

Imports of valves and similar devices in terms of value increased each year from $56.5 million in 1971 to $165.1 million in 1975. Imports further increased from $127.6 million in the first nine months of 1975 to $134.2 million in the first nine months of 1976.

The ratio of imports to domestic production increased from 4.0 percent in 1974 to 4.7 percent in 1975. The ratio of imports to production decreased from 4.9 percent in the first nine months of 1975 to 4.5 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of the Sarco Company did not switch purchases from Sarco to imported products. None of the customers surveyed purchased any imported steam and hot water controls.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with steam and hot water controls produced at the Allentown, Pennsylvania plant of Sarco Company did not contribute importantly to the total or partial separation of workers at the plant.

The investigation has revealed that the first three criteria have been met but criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of production workers at the Sarco Company in Allentown, Pennsylvania declined 5.3 percent in the first 11 months of 1976 compared to the first 11 months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of steam and hot water controls at Sarco Company declined 18.2 percent in quantity in the 4th quarter of 1975 compared to the same quarter in 1974. Sales declined 6.5 percent in quantity in the 2nd quarter of 1976 compared to the same quarter of 1975. Sales increased 0.5 percent in the first eleven months of 1976 compared to the same period in 1975.

Production data was not made available.

INCREASED IMPORTS

Imports of valves and similar devices in terms of value increased each year from $56.5 million in 1971 to $165.1 million in 1975. Imports further increased from $127.6 million in the first nine months of 1975 to $134.2 million in the first nine months of 1976.

The ratio of imports to domestic production increased from 4.0 percent in the 1974 to 4.7 percent in 1975. The ratio of imports to production decreased from 4.9 percent in the first nine months of 1975 to 4.5 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of the Sarco Company did not switch purchases from Sarco to imported products. None of the customers surveyed purchased any imported steam and hot water controls.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with steam and hot water controls produced at the Allentown, Pennsylvania plant of Sarco Company did not contribute importantly to the total or partial separation of workers at the plant.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7352 Filed 3-10-77;8:45 am]

[TA-W-102T and TA-W-150T]

STACKPOLE CARBON

Notice of Completion of Termination Investigation Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-102T and TA-W-150T: investigation regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in Section 223(d) of the Act.

On October 1, 1975, workers producing fixed composition resistors and ferrites at the St. Marys and Kane, Pennsylvania plants of the Stackpole Carbon Company were certified as eligible to apply for trade adjustment assistance. All workers engaged in employment related to the production of brushes and anodes at the St. Marys, Pennsylvania plant were denied certification of eligibility to apply for adjustment assistance. The Notice of Determination was published in the Federal Register on October 16, 1975 (40 FR 48559).

The investigation regarding termination of certification was initiated on May 27, 1976 to determine whether the group of workers specified above continue to meet the group eligibility requirements of Section 222 of the Trade Act. The Notice of Investigation was published in the Federal Register (41 FR 27803) on July 6, 1976. No public hearing was requested and none was held.

During the course of the investigation, information was obtained from officials of the Stackpole Carbon Company, its customers, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Whenever it becomes evident that any of the above criteria are no longer met, the certification as issued must be revised to include a termination date. The termination date would apply only with respect to total or partial separations occurring after this date as specified in the revised certification.

The investigation reveals that all four criteria continue to be met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Due to a strike by production workers at the St. Marys and Kane, Pennsylvania plants of Stackpole from March 21, 1975 through July 31, 1975, employment data for the two plants in 1976 has been compared to pre-strike levels in 1974 as well as to data for 1975.

Subsequent to the October 1, 1975 finding, the average number of production workers engaged in the manufacture of carbon composition resistors and ferrites at the St. Marys and Kane, Pennsylvania plants of the Stackpole Carbon Company decreased 65 percent from 1974 to 1975, and then increased 148 percent in the first 9 months of 1976 compared to the like period of 1975. The average number of production workers decreased 34 percent in the first 9 months of 1976 compared to the like period in 1974.

Employment of salaried workers at the Stackpole Carbon Company increased 9 percent from 1974 to 1975, and then decreased 12 percent in the first 9 months of 1976 compared to the like period of 1975. Employment of salaried workers decreased 2 percent in the first 9 months of 1976 compared to the like period in 1974.

Labor turnover data for the two plants of the Stackpole Carbon Company indicates that layoffs occurred in the first, third, and fourth quarters of 1975, and in the first, second, and third quarters of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Due to the above mentioned strike at the St. Marys and Kane, Pennsylvania plants of Stackpole, production data for the plants in 1976 has been compared to pre-strike levels in 1974, as well as to data for 1975.

Sales of fixed composition resistors and ferrites at the St. Marys and Kane, Pennsylvania plants of the Stackpole Carbon Company are approximately equivalent to production, because the company produces according to orders received.

Subsequent to the October 1, 1975 finding, production of fixed composition resistors at the St. Marys and Kane, Pennsylvania plants of the Stackpole Carbon Company decreased 63 percent in value from 1974 to 1975, and then increased 177 percent in value in the first 9 months of 1976 compared to the like period in 1975. Production of fixed composition resistors decreased 27 percent in value in the first 9 months of 1976 compared to the like period in 1974.

Production of ferrites at the St. Marys and Kane, Pennsylvania plants of the Stackpole Carbon Company decreased 50 percent in value from 1974 to 1975, and then increased 120 percent in value in the first 9 months of 1976 compared to the like period of 1975. Production of ferrites decreased 23 percent in value in the first 9 months of 1976 compared to the like period in 1974.

INCREASED IMPORTS

Subsequent to the October 1, 1975 finding, imports of ferrites decreased absolutely but increased relative to domestic production from 1974 to 1975. Imports of ferrites increased absolutely and relatively in the first 9 months of 1976 compared to the like period in 1975. The ratio of imports to domestic production and consumption increased from 20.2 percent and 22.7 percent, respectively, in the first 9 months of 1975 to 29.0 percent and 27.7 percent, respectively, in the first 9 months of 1976.

Imports of fixed resistors decreased both absolutely and relatively from 1974 to 1975. Imports of fixed resistors increased absolutely and relatively in the first 9 months of 1976 compared to the like period in 1975. The ratio of imports to domestic production and consumption increased from 49.7 percent and 34.3 percent, respectively, in the first 9 months of 1975 to 71.1 percent and 42.3 percent, respectively, in the first 9 months of 1976.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that customers of Stackpole increased their purchases of imported carbon composition resistors and decreased their purchases of carbon composition resistors produced at the St. Marys and Kane, Pennsylvania plants of the Stackpole Carbon Company in the first 9 months of 1976 compared to the same period of the previous year.

Customers for ferrites increased their purchases of imported ferrites and decreased their purchases of ferrites produced at the St. Marys and Kane, Pennsylvania plants of the Stackpole Carbon Company in the first 9 months of 1976 compared to the same period of the previous year. Additionally, Stackpole began importing ferrites in the third quarter of 1975. Imports of ferrites by the Stackpole Carbon Company increased in the third quarter of 1976 compared to the like period in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers engaged in employment related to the production of fixed composition resistors and ferrites at the St. Marys and Kane, Pennsylvania plants of the Stackpole Carbon Company continue to be attributable to the conditions specified in Section 222 of the Trade Act of 1974.

Therefore, the certification issued on October 1, 1975 for TA-W-102 and TA-

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W–150, the St. Marys and Kane, Pennsylvania plants of the Stackpole Carbon Company is not revised to include a termination date of eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 3rd day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–7353 Filed 3–10–77;8:45 am]

[TA–W–1286]

WINER MANUFACTURING COMPANY, INC.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1286: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing men's outerwear at Winer Manufacturing Company, Incorporated, Hammond, Indiana.

The Notice of Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53099). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Winer Manufacturing Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that with respect to leather outercoats, criterion (2) has not been met; with respect to cloth outercoats, criterion (1) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Winer Manufacturing Company, Incorporated declined 3 percent in 1975 from 1974 and increased 11 percent in 1976 from 1975. Employment of production workers at Winer increased compared to the same quarter of the previous year during each quarter from the fourth quarter of 1975 through the fourth quarter of 1976.

Average weekly hours for production workers increased or remained the same compared to the same quarter of the previous year in each quarter throughout 1975 and 1976.

Employment and weekly hours of workers producing leather outercoats at Winer both increased six percent in 1976 from 1975. Employment and weekly hours of workers producing cloth outercoats at Winer increased eight and nine percent respectively in 1976 from 1975. After declining less than two percent in the first quarter of 1976 compared to the first quarter of 1975, employment of workers producing cloth outercoats increased in the second, third, and fourth quarters of 1976 compared to the same quarters of 1975.

SALES OF PRODUCTION, OR BOTH, HAVE DECREASING ABSOLUTELY

Total sales by Winer Manufacturing Company, Incorporated increased 10 percent in quantity in 1975 from 1974 and increased 7 percent in 1976 from 1975. Total production at Winer declined 4 percent in 1975 from 1974 and increased 18 percent in 1976 from 1975.

Compared to the previous year, production of leather outercoats increased 60 percent in 1974, 31 percent in 1975, and 28 percent in 1976. Compared to the previous year, production of cloth outercoats declined 10 percent in 1975 and increased 16 percent in 1976. Compared to the same quarter of the previous year, production of cloth outercoats by Winer increased in the fourth quarter of 1975 and during each quarter of 1976.

INCREASED IMPORTS

Imports of leather outercoats increased from $59.1 million in 1971 to $154.3 million in 1975. Imports increased in the first three quarters of 1976 compared to the first three quarters of 1975. Imports relative to domestic production increased from 39.1 percent in 1971 to 67.1 percent in 1975.

Imports of men's and boys' textile outercoats and jackets increased from 15.8 million units in 1971 to 24.6 million units in 1973 and declined to 20.0 million units in 1975. Imports increased from 13.4 million units in the first nine months of 1975 to 16.1 million units in the first nine months of 1976. Imports increased relative to domestic production from 29.6 percent in 1971 to 36.0 percent in 1975.

CONTRIBUTED IMPORTANTLY

Production and sales of leather outercoats by Winer increased in both quantity and value in 1975 from 1974 and in 1976 from 1975. Employment of workers producing cloth outercoats increased in four of five quarters compared to the previous quarter from the third quarter of 1975 to the fourth quarter of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that production or sales of leather coats have not decreased and that employees engaged in production of leather and cloth outercoats have not become totally or partially separated at Winer Manufacturing Company, Incorporated, Hammond, Indiana as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–7354 Filed 3–10–77;8:45 am]

[TA–W–1350]

ZURN INDUSTRIES, INCORPORATED, HYDROMECHANICS DIVISION

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–1350: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing plumbing fixtures at the Erie, Pennsylvania plant of Zurn Industries, Hydromechanics Division.

The notice of investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55611). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Zurn Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Hydromechanics Division of Zurn Industries produces fixtures used in the plumbing systems of commercial and industrial establishments. These plumbing products are constructed of cast iron, brass, china, and metal alloys.

Pursuant to the requirements of 29 CFR 90.2 total separations must be the equivalent to a total unemployment of five percent or 50 workers, whichever is less. Evidence developed in the Department's investigation revealed that the total separations which occurred during the period of possible coverage amounted to less than five percent of the workforce employed at the Hydromechanics Division of Zurn. The total number of workers experiencing separations during the period November 1, 1975, one year prior to the signature date of the petition, to the present was less than 50 workers.

Pursuant to the requirements of 29 CFR 90.2, "partial separation" means, that the worker's hours of work have been reduced to 80 percent or less of the worker's average weekly hours at the firm or appropriate subdivision thereof. Evidence developed in the Department's investigation revealed that the worker's average weekly hours of work declined 14.3 percent in 1975 compared to 1974. The average weekly hours of work declined 10.7 percent in the first 10 months of 1976 compared to the like period in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of workers at the Hydromechanics Division of Zurn Industries Incorporated, Erie, Pa. have not become totally or partially separated as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77–7355 Filed 3–10–77;8:45 am]

AEGIS PRINT WORKS, ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 2nd day of March 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Aegis Print Works (Machine Printers & Engravers Association).	Woodridge, N.J.	Feb. 22, 1977	Feb. 17, 1977	TA–W–1,598	Textile printing on fabrics.
Beckerman Shoe Corp. (Boot & Shoe Workers Union).	Reading, Pa.	Feb. 3, 1977	Jan. 31, 1977	TA–W–1,604	Boy's shoes.
Faith Shoe Co. (company official).	Wilkes-Barre, Pa.	Feb. 22, 1977	Feb. 17, 1977	TA–W–1,605	Ladies' and children's shoes.
Miss Ruth Seafoods (workers).	Port Isabel, Tex.	do.	do.	TA–W–1,606	Catching and selling of shrimp.
Parra Print, Inc. (Machine Printers & Engravers Association).	Passaic, N.J.	do.	do.	TA–W–1,607	Textile printing on fabrics.

[FR Doc.77–7322 Filed 3–10–77;8:45 am]

AIRCO SPEER ELECTRONICS

Investigations Regarding Certifications of of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 1977.

The petitions filed in this case are available for inspection at the Office of

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the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 3rd day of March 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Airco Speer Electronics (workers).	Bradford, Pa.	Mar. 1, 1977	Feb. 28, 1977	TA-W-1,699	Fixed carbon composition and carbon film resistor components.
Airco Speer Electronics (workers).	St. Marys, Pa.	do	do	TA-W-1,700	Do.
Al Mae Co. (ILGWU)	Croyden, Pa.	Feb. 28, 1977	Feb. 24, 1977	TA-W-1,701	Dresses.
Alper-Schwarts Co. (ILGWU).	Philadelphia, Pa.	do	do	TA-W-1,702	Women's dresses.
Ann Michele (ILGWU)	do	do	do	TA-W-1,703	Dresses.
Beckley Manufacturing Corp. (IBEW).	Beckley, W. Va.	Mar. 3, 1977	Feb. 22, 1977	TA-W-1,704	Electronic components.
Belmont Manufacturing Co. (ILGWU).	Philadelphia, Pa.	Mar. 1, 1977	Feb. 28, 1977	TA-W-1,705	Blouses.
Birmingham Stove & Range Co. (U.S.A.).	Birmingham, Ala.	Mar. 2, 1977	Feb. 11, 1977	TA-W-1,706	Cast iron stoves and utilities and cast iron stove parts, fireplace gates.

[FR Doc.77-7324 Filed 3-10-77;8:45 am]

ALDONS, INC., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of March 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Aldons, Inc. (ACTWU)	San Antonio, Tex.	Feb. 15, 1977	Feb. 11, 1977	TA-W-1,698	Men's knit shirts and knit sweaters.
Brown Shoe Co.	Potosi, Mo.	Feb. 14, 1977	Feb. 6, 1977	TA-W-1,689	Women's shoes.
Coastal Fisheries, Inc. (workers).	Brownsville, Tex.	Feb. 15, 1977	Jan. 31, 1977	TA-W-1,692	Catching and selling of shrimp.
Denison Cotton Mill Co. (workers).	Denison, Tex.	Feb. 22, 1977	Feb. 18, 1977	TA-W-1,688	Cotton duck (cotton canvas).
Kenosha Auto Transport Corp. (workers).	Kenosha Wis.	Feb. 9, 1977	Feb. 8, 1977	TA-W-1,690	Receiving, inspecting, storing, and handling of American Motors products.
Medalist Sikeston (workers).	Sikeston, Mo.	Feb. 7, 1977	Feb. 1, 1977	TA-W-1,691	Headwear.

[FR Doc.77-7323 Filed 3-10-77;8:45 am]

[TA-W-1235]

ARMCO STEEL CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1235: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 31, 1976 in response to a worker petition received on that date which was filed by the Zanesville Armco Independent Organization, Inc. on behalf of workers and former workers producing silicon electrical steel, sheet and strip at the Zanesville, Ohio plant of the Armco Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51628). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Armco Steel Corporation, their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met criteria (3) and (4) have not been met.

The Zanesville, Ohio plant of Armco Steel Corporation receives hot rolled silicon strip from the Butler plant and cold rolls it to make cold rolled strip. Silicon steel sheet and strip is used in the manufacture of electrical equipment such as generators, motors and transformers.

U.S. imports of silicon electrical steel, sheet and strip, declined from 13.3 thousand tons in the fourth quarter of 1974 to 4.8 thousand tons in the fourth quarter of 1975. Imports of silicon electrical steel declined from 8.9 thousand tons in the first quarter of 1975 to 6.6 thousand tons in the first quarter of 1976. U.S. imports declined from 15.4 thousand tons and 12.9 thousand tons, respectively, in the second and third quarters of 1975 to 7.6 thousand tons and 11.7 thousand tons, respectively, in the second and third quarters of 1976.

The ratio of imports of silicon electrical steel, sheet and strip, to domestic shipments declined from 5.0 percent in the first quarter of 1975 to 4.5 percent in the first quarter of 1976 and declined from 11.9 percent and 10.7 percent, respectively, in the second and third quarters of 1975 to 4.8 percent and 8.0 percent, respectively, in the second and third quarters of 1976.

Armco's Zanesville plant processed silicon steel produced by the Butler, Pennsylvania plant. Processing capacity became available at the Butler plant and in June 1975, Armco shifted some of this processing from Zanesville to Butler.

Customers of Armco indicated that they did not shift to imported silicon electrical steel in 1975 or 1976. The customers felt that reduced construction of electric generating plants; lower levels of production of electric equipment and the substitution of domestically produced carbon steel for silicon in some product designs contributed to a reduced demand for silicon steel sheet and strip.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of silicon electrical steel, sheet and strip, have not increased as required by Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 3rd day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7325 Filed 3-10-77;8:45 am]

[TA-W-1200]

ASARCO, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1299: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 15, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing refined copper at the Perth Amboy, New Jersey plant of ASARCO, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53082). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of ASARCO, Inc., its customers, the U.S. Department of the Interior, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility from officials of ASARCO, Inc., ance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that although the first (3) criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Perth Amboy, New Jersey plant decreased 2 percent in 1974 compared to 1973 and decreased 21 percent in 1975 compared to 1974. Employment in the nine month January-September period in 1976 declined 56 percent compared to the like period in 1975.

SALES OR PRODUCTION OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales (all refineries) of refined copper decreased in quantity 30 percent in 1974 compared to 1973 and decreased 22 percent in 1975 compared to 1974. Company production (all refineries) of refined copper decreased in quantity 13 percent in 1974 compared to 1973 and decreased 14 percent in 1975 compared to 1974. Company production in 1976 increased 15 percent compared to 1975.

Production of refined copper at the Perth Amboy, New Jersey refinery decreased in quantity 17 percent in 1974 compared to 1973, decreased 9 percent in 1975 compared to 1974, and decreased 88 percent in 1976 compared to 1975. After July 1976, no production of refined copper was recorded for the Perth Amboy refinery.

INCREASED IMPORTS

Imports of refined copper increased absolutely and relative to domestic production each year from 1972 through 1974 compared to the previous year. These imports decreased 53 percent in 1975 compared to 1974, then increased 291 percent in the first 9 months of 1976 compared to the like period of 1975. The ratio of imports to domestic production decreased from 14.6 percent in 1974 to 8.2 percent in 1975, then increased from 6.0 percent in the first 9 months of 1975 to 22.6 percent in the like period of 1976.

CONTRIBUTED IMPORTANTLY

Customers who were surveyed stated that they have not switched purchases from ASARCO, Inc. to imports.

ASARCO, Inc. phased out production of refined copper at its Baltimore, Maryland refinery in 1975 and phased out production at its Perth Amboy, New Jersey refinery in 1976. Production at ASARCO's new refinery in Amarillo, Texas began in September, 1975. Total production at the Amarillo refinery in 1976 exceeded that of the Baltimore and Perth Amboy refineries combined in 1974, the last year before the phaseouts began. Total company production of refined copper in 1976 increased 15 percent compared to 1975, with the production at Amarillo accounting for 71 percent of the year's total.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports like or directly competitive with refined copper produced at the Perth Amboy, New Jersey plant of ASARCO, Inc., did not contribute importantly to the total or partial separations of the workers of that plant.

Signed at Washington, D.C., this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7326 Filed 3-10-77;8:45 am]

[TA-W-1,566]

ATWATER THROWING CO., INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance; Correction

In FR Doc. 77-2854 appearing on page 5447 in the FEDERAL REGISTER of January 28, 1977, the 3rd column, 1st paragraph, 5th and 6th lines are corrected to read "Amalgamated Clothing and Textile Workers Union" instead of "United Textile Workers of America".

Signed at Washington, D.C., this 22nd day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-7327 Filed 3-10-77;8:45 am]

[TA-W-1,567]

ATWATER THROWING CO., INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance; Correction

In FR Doc. 77-2855 appearing on page 5448 in the FEDERAL REGISTER of January 28, 1977, the 1st column, 1st paragraph, 5th and 6th lines are corrected to read "Amalgamated Clothing and

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Textile Workers Union" instead of "United Textile Workers of America".

Signed at Washington, D.C., this 22nd day of February 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-7328 Filed 3-10-77;8:45 am]

[TA-W-1201]

AUSZMANN, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1201: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 26, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing women's dresses at the Bridgeport and Pottstown, Pennsylvania plants of Auszmann, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51135). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Auszmann, Incorporated, its customers, the U.S. Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criterion four has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers at the Pottstown and Bridgeport, Pennsylvania plants of Auszmann, Incorporated increased 15.9 percent from 1974 to 1975 and declined 41.6 percent for the February through October period of 1976 compared to the same period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Company records for 1974 and prior were destroyed in a fire. Sales decreased 58.0 percent for the February through October period of 1976 compared to the same period in 1975.

Auszmann produces exclusively for one manufacturer. This manufacturer's sales of dresses increased 15.0 percent in quantity in 1975 compared to 1974 and 7.9 percent in quantity in 1976 compared to 1975.

INCREASED IMPORTS

Imports of women's, misses' and children's dresses declined in quantity from 2,524,000 dozens in 1971 to 1,578,000 dozens in 1974 before increasing to 1,655,000 dozens in 1975. Imports continued to increase from 1,186,000 dozens in the first three quarters of 1975 to 1,245,000 dozens in the like 1976 period.

CONTRIBUTED IMPORTANTLY

The only manufacturer for whom Auszmann, Incorporated produces dresses has reduced the number of its domestic manufacturers. Customers of dresses from this manufacturer report that they have not switched their purchases from the manufacturer to foreign suppliers.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that imports of articles like or directly competitive with the women's dresses produced at the Bridgeport and Pottstown, Pennsylvania plants of Auszmann, Incorporated have not contributed importantly to the separations and to the decrease in sales and production at the plant as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7325 Filed 3-10-77;8:45 am]

[TA-W-1314]

BERGER INDUSTRIES, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1314: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing welded steel tubing at the Metuchen, New Jersey plant of Berger Industries, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54553). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Berger Industries, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criteria (1) and (2) have not been met.

Average employment of production workers at the Metuchen, New Jersey plant of Berger Industries Inc., was 8 percent higher in the fourth quarter of 1975 than the third quarter of 1975 and 18 percent higher in the fourth quarter of 1975 than in the fourth quarter of 1974. Average employment at the plant was 29 percent higher in 1976 than in 1975.

Production at that plant increased 1 percent in quantity in the fourth quarter of 1975 from the third quarter of 1975 and 3 percent in the fourth quarter of 1975 from the fourth quarter of 1974. Production at the plant increased 29 percent in 1976 from 1975. Production was higher in each quarter of 1976 than in the corresponding quarter of 1975.

Sales at the plant increased 5 percent in quantity and 7 percent in value in the fourth quarter of 1975 from the third quarter of 1975 and 1 percent in quantity and value in the fourth quarter of 1975 from the fourth quarter of 1974. Sales increased 29 percent in quantity and 27 percent in value in 1976 from 1975. Sales were higher in each quarter of 1976 than the corresponding quarter of 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that employment, sales and production at the Metuchen, New Jersey plant of Berger Industries, Inc., have not declined as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7330 Filed 3-10-77;8:45 am]

[TA-W-1264]

BLOOMBERG LEATHER GOODS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1264: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 11, 1976 in response to a worker petition received on that date which was filed by the International Leather Goods, Plastics and Novelty Workers' Union on behalf of workers and former workers producing leather and leather/synthetic belts for men at Bloomberg Leather Goods, Menomonee Falls, Wisconsin. Bloomberg Leather Goods is operated by the Paris Division of Kayser-Roth Corporation.

The notice of investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53083). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Paris Division of Kayser-Roth Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at Bloomberg Leather Goods declined 57 percent in 1975 from 1974 and declined 30 percent in 1976 from 1975. Production-related employment was terminated by the end of December 1976. Officials of the Paris Division expect the plant to be completely closed by the end of March 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at Bloomberg Leather Goods declined in quantity and value 50 percent and 44 percent respectively in 1975 from 1974 and 28 percent and 14 percent respectively in 1976 from 1975. Production at the Bloomberg plant was discontinued in December 1976.

INCREASED IMPORTS

Imports of leather belts increased relative to domestic production each year from 1972 to 1975. The value of imported leather belts amounted to 7.9 percent of the value of domestic production of domestic production of leather belts in 1974 and 10.3 percent in 1975. Imports increased absolutely in value from $5.4 million during January–September 1975 to $10.6 million during January–September 1976.

CONTRIBUTED IMPORTANTLY

The Paris Division of Kayser-Roth Corporation purchases belts from other domestic and foreign sources. The Paris Division's purchases of belts from foreign sources have increased each year since 1973. The Division's purchases of imported belts increased 167 percent in 1976 from 1975. Purchases of imported leather belts by the Paris Division increased relative to the Division's domestic output from 11 percent in 1974 to 18 percent in 1975 and 44 percent in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with leather and combination leather/synthetic belts produced at the Bloomberg Leather Goods Plant of the Paris Division of Kayser-Roth Corporation contributed importantly to the total or partial separations of the workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of Bloomberg Leather Goods, Menomonee Falls, Wisconsin who became totally or partially separated from employment on or after October 20, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7331 Filed 3-10-77;8:45 am]

[TA-W-1393]

CABOT CORPORATION

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1393: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 13, 1976 in response to a worker petition received on December 13, 1976 which was filed by the United Steelworkers of America on behalf of workers producing super alloys at Cabot Corporation's Stellite Division in Kokomo, Indiana.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 873). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the United Steelworkers of America, Cabot Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard as to whether any of the other criteria have been met, criterion (3) has not been met.

Cabot Corporation's Stellite Division in Kokomo, Indiana manufactures high performance nickel-based, cobalt-based and iron-based alloys (super alloys) designed to withstand extreme conditions of cold, heat, corrosion and wear. They are used mainly in gas turbine engines and chemical process equipment.

Evidence developed in the Department's investigation reveals that there are no imports of super alloys known to industry sources. Foreign producers have not penetrated the U.S. market for super alloys due to limited domestic demand, rigid customer specifications, narrow tol-

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erance ranges, and high transportation costs.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with super alloys produced at Cabot Corporation's Stellite Division in Kokomo, Indiana are not being imported in increased quantities, either actual or relative to domestic production, as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7332 Filed 3-10-77;8:45 am]

[TA-W-1302]

JOSEPH P. CONROY, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1302: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 24, 1976 in response to a worker petition received on that date which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing leather dress gloves and leather ski gloves and mittens at the Johnstown, New York plant of Joseph P. Conroy, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55607). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Joseph P. Conroy, Inc., its customers, the National Association of Glove Manufacturers, the U.S. Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criteria (1) and (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average hourly employment increased 16.7 percent from 1974 to 1975 and 2.1 percent in the first ten months of 1976 compared to the same period in 1975.

Total hours worked increased 20.3 percent from 1974 to 1975 and 1.3 percent in the first ten months of 1976 compared to the same period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The value of sales of dress gloves and ski gloves and mittens increased 57.0 percent from 1974 to 1975 and increased 0.8 percent in the first three quarters of 1976 compared to the same period in 1975.

The estimated value of production of dress gloves and ski gloves and mittens increased 86.3 percent from 1974 to 1975 and decreased 16.8 percent in the first three quarters of 1976 compared to the same period in 1975.

INCREASED IMPORTS

Imports of leather dress gloves declined absolutely and relative to domestic production each year from 1971 through 1975. In 1975, 208,000 dozen pairs of leather dress gloves were imported into the United States compared to 579,000 dozen pairs in 1971. This represented a decline in absolute imports over the period of 64.1 percent. In the first three quarters of 1976, imports of leather dress gloves were 127,000 dozen pairs compared to 144,000 dozen pairs in the first three quarters of 1975, a decline of 11.8 percent. The ratio of imports to domestic production declined from 118.4 percent in 1971 to 62.3 percent in 1975 and then dropped to 45.2 percent in the first three quarters of 1976.

Imports of knit and knit/leather combination gloves increased absolutely from 2,293,000 dozen pairs in 1971 to 3,883,000 dozen pairs in 1973 and then declined to 2,842,000 dozen pairs in 1974. In 1975 imports fell to 1,786,000 dozen pairs, a decline of 54.0 percent compared to the 1973 peak. In the first three quarters of 1976, imports of knit and knit/leather combination gloves were 1,295,000 dozen pairs compared to 1,328,000 dozen pairs in the first three quarters of 1975, a decline of 2.5 percent. The ratio of imports to domestic production declined from 260.6 percent in 1973 to 185.1 percent in 1975 and then dropped to 159.7 percent in the first three quarters of 1976.

Imports of ski gloves and mittens increased 41.8 percent from 1971 through 1973, reaching a peak of 12.07 million dollars. Imports declined from 12.07 million dollars in 1973 to 8.44 million dollars in 1974 and then increased to 9.27 million dollars in 1975. In the first three quarters of 1976, imports were valued at 11.8 million dollars compared to 6.95 million dollars for the same period in 1975, an increase of 69.8 percent. The ratio of imports to domestic production increased from 1971 through 1973, declined to 251.9 percent in 1974 and increased to 272.6 percent in 1975. In the first three quarters of 1976, the ratio of imports to domestic production was 385.6 percent compared to 272.5 percent for the same period in 1975.

CONTRIBUTED IMPORTANTLY

Joseph P. Conroy, Incorporated is engaged in the manufacture of leather ski gloves and mittens and leather dress gloves. Sales of leather dress gloves represent approximately 25 percent of Joseph P. Conroy's total sales. Imports of leather dress gloves declined absolutely and relative to domestic production every year from 1971 through 1975 and in the first three quarters of 1976 compared to the same period in 1975.

The domestic all-leather dress glove industry has also been affected by trends in the knit and knit/leather combination dress glove industry. Imports of knit and knit/leather combination gloves declined absolutely and relative to domestic production every year from 1973 through 1975 and in the first three quarters of 1976 compared to the same period in 1975.

Imports of ski gloves and mittens, which constitute the remaining 75 percent of Joseph P. Conroy's sales increased absolutely and relative to domestic production since 1974.

Customers of ski gloves and mittens from Joseph P. Conroy who were interviewed increased their purchases from the firm in 1976 compared to 1975. At the same time, their purchases of imported ski gloves and mittens increased at a slower rate, remained stable, or declined.

Average employment of workers at Joseph P. Conroy increased from 1974 to 1975 and in the first ten months of 1976 compared to the same period in 1975. Total hours worked also increased from 1974 to 1975 and in the first ten months of 1976 compared to the same period in 1975. Average employment was above the same quarter in the previous year in six out of seven quarters from 1975 through the first three quarters of 1976.

Employment declines in the first quarter of 1976 occurred in conjunction with seasonal production cutbacks occurring in the first quarter every year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Johnstown, New York plant of Joseph P. Conroy, Inc., have not become totally or partially separated as required for certification under the Act.

Signed at Washington, D.C. this 28th day of February 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7333 Filed 3-10-77;8:45 am]

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 77-2]

EMPLOYEE BENEFIT PLANS

Exemption From Prohibitions Respecting a Transaction Involving the Iron Workers' Apprentice Fund

Notice is hereby given of the granting of an exemption under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 (the Act) relating to a proposed transaction involving the purchase by the Iron Workers' Apprentice Fund (the Plan) of one acre of unimproved real property from the Iron Workers' Local Union No. 84 (the Union).

Background. On December 28, 1976, notice was published in the FEDERAL REGISTER (41 FR 56412) of the pendency before the Department of Labor (the Department) of an exemption from the restrictions of sections 406(a) and 406 (b)(2) of the Act for a transaction described in an application submitted by the Plan. The notice set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application on file with the Department in Washington, D.C. for a complete statement of the facts and representations of the Plan. The notice also invited interested persons to submit comments on the requested exemption to be received on or before February 11, 1977 by the Department. In addition the notice stated that any interested person might submit a written request that a hearing be held relating to the exemption. Such written request had to be received by the Department on or before February 11, 1977. No public comments on the pending exemption and no request for a hearing relating to the exemption were received by the Department. Based upon the application filed by the Plan, the Department has decided to grant the requested exemption for the transaction described in the application. Notice of the pendency of an exemption as published in the FEDERAL REGISTER was given to the trustees of the Plan, to each of the associations of employers and employee representatives who created the Plan, and to all current participants in writing and delivered in person or by first class mail on December 30, 1976.

General information. (1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The exemption contained herein does not extend to transactions prohibited under sections 406(b) (1) and (3) of the Act;

(3) The exemption set forth herein is supplemental to, and not in derogation of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

Exemption. Pursuant to section 408 (a) of the Act, and in accordance with the procedure set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and based upon the facts and representations contained in the application for exemption submitted by the Plan, the Department finds that it is administratively feasible, in the interests of the Plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan to grant, and does hereby grant, an exemption effective this date, so that the restrictions of sections 406(a) and 406 (b)(2) of the Act shall not apply to the purchase by the Plan of one acre of unimproved real property from the Union, pursuant to the terms, conditions and representations set forth in the application.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 7th day of March 1977.

J. VERNON BALLARD,
Acting Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc.77-7308 Filed 3-10-77;8:45 am]

[Prohibited Transaction Exemption 77-1]

EMPLOYEE BENEFIT PLANS

Exemption From Prohibitions Respecting a Transaction Involving the Operating Engineers Journeyman and Apprentice Training Trust and Guy F. Atkinson Company

Notice is hereby given of the granting of an exemption under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 (the Act) relating to a proposed transaction involving the purchase by the Operating Engineers Journeyman and Apprentice Training Trust (the Plan) of approximately 609 acres of land from Guy F. Atkinson Company (Atkinson), a party in interest with respect to the Plan.

Background. On October 5, 1976, notice was published in the FEDERAL REGISTER (41 FR 43976) of the pendency before the Department of Labor (the Department) of an exemption from the restrictions of section 406(a) of the Act for a transaction described in an application submitted by the trustees of the Plan. The notice set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The notice stated that in order to receive consideration, comments from interested persons had to be received by the Department on or before November 19, 1976. However, at the request of the trustees of the Plan, the Department, in a notice published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53076), extended the date for submission of written comments regarding the proposed exemption until December 15, 1976. One letter of comment was received from a member of Operating Engineers Local Union No. 12. The letter objected to the granting of an exemption unless a reliable certification were obtained that no mortgage, option to purchase, or title of ownership on property adjoining the 643 acres owned by Atkinson is held by employees of the Plan, its administrator and/or Local Union No. 12 because the improvement of the land to be purchased by the Plan will enhance the value of adjoining property. The letter also objected on the grounds that Atkinson will benefit from the transaction as a result of retaining 34 acres at the entrance to the land which the Plan will purchase. The letter further objected because the transaction would contravene the requirements of section 404 regarding fiduciary duties. According to the letter, the transaction would not be for the exclusive purpose of providing benefits to participants and beneficiaries because it would disproportionately benefit Atkinson, and would not be prudent because the Plan already owns several other properties for this same purpose and there are apprentices who are unemployable because of high unemployment in the construction industry, particularly among operating engineers.

In response to the comment letter the trustees represented that, to their knowledge, no party in interest of the Plan, nor any relative of a party in interest, owns any mortgage, option to purchase, title of ownership, or any other interest in property adjoining the 643 acres owned by Atkinson. In addition, the trustees represented that the Plan presently owns no other land, either in the Riverside, California area or elsewhere. However, the Plan presently has a short-term lease on one training site in the Los Angeles area, and is negotiating for

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the purchase of a permanent training site in the Los Angeles area. In Bakersfield the Plan is using a training site free of costs, pursuant to a previously granted exemption by the Department, and is looking for a site in San Diego.

The application and the comment submitted with respect thereto have been available for public inspection at the Department in Washington, D.C. Based upon the application filed by the trustees of the Plan, the consideration of the public comment and the additional representations submitted by the applicant, the Department has decided to grant the requested exemption for the transaction described in the application. It should be noted that, as indicated below, the exemption granted herein does not cover transactions prohibited under section 406(b) of the Act nor does it relieve a fiduciary from any of the provisions of section 404 of the Act. Notice of pendency of an exemption was given by publication of the notice of pendency as published in the FEDERAL REGISTER in the Union newspaper. Engineers News-Record, which was mailed on November 19, 1976, to all members of the Union. A copy of the notice of pendency of an exemption was mailed on November 122, 1976, to the employer associations which are signatories to the trust agreement creating the Plan.

General information. (1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the Plan participants and beneficiaries and in a product fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The exemption contained herein does not extend to transactions prohibited under section 406(b) of the Act;

(3) The exemption set forth herein, is supplemental to, and not in derogation of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

Exemption. Pursuant to section 408(a) of the Act and in accordance with the procedure set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975) and based upon the facts and representations contained in the application for exemption submitted by the trustees of the Plan, the public comment received and the additional representations submitted by the trustees of the Plan, the Department finds that it is administratively feasible, in the interests of the Plan and of its participants and beneficiaries, and protective of the Plan, to grant, and does hereby grant, an exemption, effective this date so that the restrictions of sections 406(a) of the Act shall not apply to the purchase by the Plan of approximately 609 acres of land from Atkinson pursuant to the terms, conditions and representations set forth in the application.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 7th day of March, 1977.

J. VERNON BALLARD,
Acting Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc.77-7307 Filed 3-10-77;8:45 am]

Wage and Hour Division

ADVISORY COMMITTEE ON SHELTERED WORKSHOPS

Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Department of Labor's Advisory Committee to be held on March 29 and 30, 1977, beginning at 1:00 p.m. on March 29 and 8:30 a.m. on March 30 in Room S–5215 A & B of the New U.S. Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C.

The Advisory Committee on Sheltered Workshops advises the Department of Labor with respect to the application of the Federal minimum wage laws to nonprofit sheltered workshops, patient employment in hospitals and institutions and related matters.

The agenda for the meeting is as follows:

1. Report on outstanding recommendations made by the Advisory Committee on Sheltered Workshops at previous meetings.

2. Reconsideration of appeal from cancellation of a workshop certificate because of alleged failure to pay proper wages to the handicapped workers.

3. Consideration of the proposed criteria for determining employment relationship under the Fair Labor Standards Act of resident workers in group homes and other patient worker matters.

4. Report of the Subcommittee on Competitive Pricing and Other Matters:

a. Consideration of a cost estimating brochure to guide workshops in pricing competitively.

b. Recommendations on monitoring of workshops by peer groups to supplement the Wage and Hour Division's program.

c. Recommendations for interpreting the concepts of "in the vicinity" and "prevailing wage" as related to determination of workshop wage rates.

d. Recommendations on the Wage and Hour Division's guidelines for evaluating the adequacy of wage rates paid handicapped workers in workshops.

5. Consideration of the relevant recommendations of the General Accounting Office contained in its report on deinstitutionalization of the mentally disabled.

6. Consideration of the desirability of providing a limited exemption for sheltered workshops from Federal Service Contract Act wage determinations where the predecessor contractor operated under a collective bargaining agreement.

7. Report on the sheltered workshop study being conducted by the U.S. Department of Labor.

8. Miscellaneous items raised by members of the Advisory Committee and by the Wage and Hour Division Regional Offices.

The meetings are open to the public and a transcription will be made of the proceedings. Persons having questions about the meeting may contact Mr. Gordon Higgins, Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (telephone: 202–523–8727).

Signed at Washington, D.C., this 3rd day of March, 1977.

WARREN D. LANDIS,
Acting Administrator, Wage and Hour Division.

[FR Doc.77-7320 Filed 3-10-77;8:45 am]

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, the National Commission on Libraries and Information Science announces the following meeting:

Name: White House Conference on Library and Information Services Advisory Committee.

Date: March 20, 1977, from 8:30 p.m. to 10:00 p.m.; March 21, 1977, from 9:00 a.m. to 4:30 p.m.

Place: Sheraton National Hotel, Arlington, Virginia.

Type of meeting: Open.

Contact person: Mr. Alphonse F. Trezza, Executive Director, National Commission on Libraries and Information Science; Telephone (202) 653–6252.

Purpose of the Meeting: Dr. Frederick Burkhardt, Chairman of the National Commission on Libraries and Information Science, will preside over the initial meeting of the White House Conference on Library and Information Services Advisory Committee. The twenty-eight member Advisory Committee appointed jointly by the President, the Congress, and the Chairman of the National Commission will meet for a background briefing on the planned White House Conference and the preliminary state and territorial conferences. Areas of discussion will cover the overall planning schedule, support of the state conferences, and program content.

A total budget of $3.5 million for the three-year period necessary to plan, hold and report on the Conference is expected to receive Congressional approval before the end of March, with final Presidential action, hopefully, in April. The target date for starting official planning and activities for the White House Conference is June 1, 1977.

ALPHONSE F. TREZZA,
Executive Director.

MARCH 8, 1977.

[FR Doc.77-7313 Filed 3-10-77;8:45 am]

NATIONAL RAILROAD PASSENGER CORPORATION

GOVERNMENT IN THE SUNSHINE ACT

Rules Governing Open Meetings; Amendment to By-Laws

Notice is hereby given that the National Railroad Passenger Corporation (hereinafter "Corporation") is adding an Appendix A to its corporate By-laws in order to implement sections (b) through (f) of the Government in the Sunshine Act (5 U.S.C. 552b) (hereinafter "Sunshine Act"). The rules contained in Appendix A were the subject of a Notice of Proposed Amendment to the Corporation's By-laws which was published in the FEDERAL REGISTER on February 16, 1977 (42 FR 9456).

In that notice the corporation described its statutory basis as a for-profit corporation, not an agency or establishment of the government, and the nature of its business operations as a competitor with other private business companies whose board meetings are not open to attendance by the public. Compliance with the Sunshine Act under Appendix A will be conducted in a manner consistent with the goals of the Rail Passenger Service Act of 1970 and will avoid situations that might frustrate achievement of the company's commercial competitive activities and goals, insofar as they involve the Corporation's ability to generate increased revenues and reduce losses (and subsidies). The notice also discussed the risk that compliance with the Sunshine Act tends to assimilate the Corporation to the form, character, and mold of a government agency engaged in the performance of government functions and, in so doing, might lend support to the legal argument now pending in the courts that a condemnation has occurred with respect to certain rail properties acquired by the Corporation on April 1, 1976. No comments have been received to date that dispute these views. Minor changes have been made in the language of rules 1 and 3.

Without prejudice to the considerations identified in the preamble to the Notice of Proposed Amendment to the Corporation's By-laws, the Corporation adopts the following rules, effective March 12, 1977, for the purpose of implementing the open meeting provisions of the Sunshine Act to the extent the Corporation may be subject to them.

The rules as adopted will be reviewed in the light of any written comments received no later than March 18, 1977 in accordance with the original Notice published in the FEDERAL REGISTER on February 16, 1977. If the Corporation finds it necessary to amend the rules published herein because of any comments received, further publication will follow.

APPENDIX A (TO THE CORPORATION'S BY-LAWS)

RULES GOVERNING OPEN MEETINGS OF THE BOARD OF DIRECTORS OF THE CORPORATION PURSUANT TO 5 U.S.C. § 552b

Rule 1—The Purpose and Scope of this Appendix.
Rule 2—Definitions.
Rule 3—Preparation of Agenda in Advance of Meeting.
Rule 4—Public Announcements of Meetings; Subsequent Changes.
Rule 5—Open Meetings.
Rule 6—Closed Meetings.
Rule 7—Certification of General Counsel; Statement of Chairman.
Rule 8—Record of Meeting.
Rule 9—Report to Congress.

AUTHORITY. Subsection (g), Government in the Sunshine Act (5 U.S.C. 552b(g)); Article III of the Rail Passenger Service Act (45 U.S.C. 541–48); sections 29–904 and 29–909, District of Columbia Business Corporation Act; section 9.01 of Article IX, Corporation's By-laws.

THE RULES

RULE 1—THE PURPOSE AND SCOPE OF THIS APPENDIX

The Corporation fully endorses the principle of compliance with requirements of law regarding the availability to the public of information regarding the decision-making processes of the Board of Directors. It is the purpose of the rules contained in this Appendix to open the meetings of the Board of Directors to the public (except where such meetings may be closed by law and under these rules) while protecting the rights of individuals and the ability of the members of the Board of Directors to carry out their corporate and statutory responsibilities. The rules contained in this Appendix are promulgated as may be required pursuant to the provisions of subsection (g) of the Government in the Sunshine Act (5 U.S.C. 552b(g)) and specifically implement the spirit and intent of subsections (b) through (f) of that Act (5 U.S.C. 552b(b)–(f)). Public access to documents being considered at meetings of the Corporation's Board of Directors shall be obtained in the manner and to the extent as set forth in the Freedom of Information Act (5 U.S.C. 552).

RULE 2—DEFINITIONS

a. "Act" means the Government in the Sunshine Act (5 U.S.C. 552b).

b. "Chairman" and "Vice Chairman" means the Chairman or Vice Chairman of the Board of Directors or in their absence a chairman chosen by a majority of the members of the Board of Directors present to act as chairman of a meeting and to preside thereat;

c. "Corporation" means the National Railroad Passenger Corporation created under Title III of the Rail Passenger Service Act (45 U.S.C. 541–48) and incorporated pursuant to the District of Columbia Business Corporation Act (D.C. Code 29–901 et seq.);

d. "Meetings," or any portion thereof, means the deliberations of at least the number of members of the Board of Directors required to take action on behalf of the Corporation where such deliberations determine or result in the disposition of corporate business. The term includes both regular and special meetings of the Board of Directors.

The term "meeting," or any portion thereof, as used herein shall not include deliberations of a majority of the members of the Board of Directors for the purpose of (A) calling a meeting at a date earlier than the requisite public notice period, (B) determining whether to close a meeting or a series of meetings, or any portion thereof, to the public, or (C) changing the subject matter of a meeting which has already been publicly announced.

e. "Member of the Board of Directors" means an individual who has been selected as a member of the Corporation's Board of Directors pursuant to section 303 of the Rail Passenger Service Act (45 U.S.C. 543);

f. "Vote" means a poll taken at a meeting or by telephone (or by other means of communication), of which an immediate written record is made by the Secretary, indicating how each member of the Board of Directors voted with regard to a particular issue;

g. "Secretary" and "General Counsel" mean the Secretary and General Counsel of the Corporation and, in the absence or disability of any one or both of them, those duly authorized to act in such capacity, respectively, on behalf of the Corporation.

RULE 3—PREPARATION OF AGENDA IN ADVANCE OF MEETING

a. In order to assure that the public will receive proper advance notice of meetings and in order to facilitate the issuance by the Corporation of the public announcement of meetings required by law, the Secretary shall undertake to prepare the agenda for a meeting twelve days in advance of the scheduled meeting date.

b. The agenda for a future scheduled meeting shall be approved by the Chairman or Vice Chairman of the Board of Directors at least nine days prior to the future scheduled meeting date.

c. The Secretary shall respond to all inquiries concerning meeting agendas.

RULE 4—PUBLIC ANNOUNCEMENTS OF MEETINGS; SUBSEQUENT CHANGES

a. In the case of each meeting, the Corporation shall make an announcement to the public, at least one week before the meeting, which (A) states the time, place and date of the meeting, (B) sets forth the subject matter or agenda items to be discussed at the meeting, (C) states whether the meeting, or any portion thereof, is to be open or closed to the public, (D) gives the name and business telephone number of the Secretary.

b. The one week notice requirement contained in paragraph a. of this rule shall not apply where a majority of the members of the Board of Directors determines by a recorded vote that the business of the Corporation requires that such meeting be called at an earlier date, in which case the Corporation shall make an announcement to the public at the earliest practical time that contains the information required by paragraph a. of this rule.

c. The time or place of a meeting may be changed following the announcement to the public required by this rule only if the Corporation makes a subsequent announcement to the public at the earliest practical time that contains the information required by paragraph a. of this rule and that reflects the change in time or place.

d. The subject matter of a meeting, or the determination of the members of the Board of Directors to open or close a meeting, or any portion thereof, to the public, may be

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changed following the announcement to the public required by this rule only if (A) a majority of the members of the Board of Directors determines by a recorded vote that the business of the Corporation so requires and that no earlier announcement of the change was possible, and (B) the Corporation makes a subsequent announcement to the public at the earlier practicable time that (i) contains the information required by paragraph a., (ii) reflects the change of subject matter or the determination to open or close a meeting, or any portion thereof, to the public, and (iii) includes the recorded vote of each member of the Board of Directors upon such change.

e. Subject to the requirements of paragraph d. of this rule, the Board of Directors expressly reserves the right during the course of a meeting to discuss and to vote on a matter not previously announced as an agenda item if its relevance to the meeting was not previously known.

f. The Secretary shall issue each announcement to the public required by this rule by immediately (A) releasing each such announcement to the press, (B) posting each such announcement on a bulletin board located at the Corporation's principal office in Washington, D.C., (C) making and maintaining copies thereof for interested members of the public and the staff, and (D) submitting each such announcement for publication in the FEDERAL REGISTER.

RULE 5—OPEN MEETINGS

a. All meetings shall be conducted in accordance with the provisions of the rules contained in this Appendix. Except as provided in rule 6, every portion of every meeting shall be open to attendance by the public. Such attendance does not include participation, orally or otherwise, in discussions or any conduct or activity other than the opportunity to be present and persons who fail to honor this privilege as set forth will be removed from the meeting. No signs, placards, distribution of leaflets or similar conduct, or the use of electronic or other recording devices or cameras by the public will be permitted.

b. Members of the Board of Directors shall not jointly conduct or dispose of the business of the Corporation other than in accordance with the provisions of these rules.

c. The Secretary shall be responsible for seeing that adequate space, sufficient seating and adequate acoustics are provided for public attendance of meetings. If the space available for the public proves insufficient to accommodate all persons wishing to attend, the Board of Directors shall limit admission to representatives of those persons seeking admission to the meeting.

RULE 6—CLOSED MEETINGS

a. Except in a case where the members of the Board of Directors find that the public interest requires otherwise, the second sentence of paragraph a. of rule 5 shall not apply to a meeting, or any portion thereof, and the requirements of rule 4 and paragraphs b., c. and d. of this rule shall not apply to any information pertaining to such meeting, or any portion thereof, otherwise required by the Act or the rules contained in this Appendix to be disclosed to the public, where the members of the Board of Directors properly determine that such meeting, or any portion thereof, or the disclosure of such information is likely to—

(1) Disclose matters that are (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive Order;

(2) Relate solely to the internal personnel rules and practices of the Corporation;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. § 552), provided that such statute A requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action by the Corporation, except in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final corporate action on such proposal; or

(10) Specifically concern the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration.

b. Action to close a meeting, a series of meetings, or any portion thereof, shall be taken only when a majority of the members of the Board of Directors votes to take such action. A separate vote of the members of the Board of Directors shall be taken with respect to each meeting a portion or portions of which are proposed to be closed to the public pursuant to paragraph a. of this rule, or with respect to any information which is proposed to be withheld thereunder. A single vote may be taken with respect to a series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each member of the Board of Directors participating in such vote shall be recorded and no proxies shall be allowed.

c. Whenever any person whose interest may be directly affected by a portion of a meeting requests that the Board of Directors close such portion to the public for any of the reasons referred to in subparagraphs (5), (6), or (7) of paragraph a. of this rule, the Board of Directors, upon the request of any one of its members, shall vote by recorded vote whether to close such meeting.

d. Within one day of any vote taken pursuant to paragraphs b. and c. of this rule, the Corporation shall make publicly available a written copy of such vote reflecting the vote of each member of the Board of Directors on the question. If a portion of a meeting is to be closed to the public, the Corporation, shall, within one day of the vote taken pursuant to paragraphs b. and c. of this rule, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

e. Subject to the requirements of this rule, any meeting in progress may be closed forthwith and members of the public in attendance required to leave if the discussion begins to involve a matter exempted under subparagraphs (1) through (10) of paragraph a. of this rule and the discussion of the exempted matter was not anticipated in advance of the meeting.

RULE 7—CERTIFICATION OF GENERAL COUNSEL: STATEMENT OF CHAIRMAN

For every meeting closed pursuant to subparagraphs (1) through (10) of paragraph a. of rule 6, the General Counsel shall publicly certify that, his or her opinion the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the Chairman or Vice Chairman setting forth the time and place of the meeting, and the persons present, shall be retained by the Secretary.

RULE 8—RECORD OF MEETING

a. The Secretary shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or any portion thereof, closed to the public, except that in the case of a meeting, or any portion thereof, closed to the public pursuant to subparagraphs (8) or (10) of paragraph a. of rule 6, the Secretary shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any action taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member of the Board of Directors on the question). All documents considered in connection with any action shall be identified in such minutes.

b. With respect to any transcript, electronic recording, or minutes made pursuant to the requirements of paragraph a. of this rule, the Secretary shall make promptly available to the public, in a place easily accessible to the public, any portion thereof, including the discussion of any item on the agenda or the statement of any person attending the meeting, except for such item or items of such discussion or statement as the Secretary determines to contain information which may be withheld under rule 6.

c. The Secretary shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or any portion thereof, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any specific item of business of the Corporation with respect to which the meeting, or any portion thereof, was closed, whichever occurs later.

RULE 9—REPORT TO CONGRESS

The Secretary shall annually report to Congress regarding the Corporation's compliance with the requirements of the Act, including a tabulation of the total number of meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the Corporation pursuant to the Act or these rules, including any costs assessed against the Corporation in such litigation (whether or not paid by the Corporation).

Signed this 9th day of March, 1977.

ELYSE G. WANDER,
Secretary, National Railroad Passenger Corporation.

[FR Doc.77-7447 Filed 3-10-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR HUMAN GEOGRAPHY AND REGIONAL SCIENCE

Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the establishment of the Advisory Panel for Human Geography and Regional Science is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to Section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

1. *Name of Group:* Advisory Panel for Human Geography and Regional Science.

2. *Purpose:* The purpose of the panel will be to provide advice and recommendations in the support of research in human geography and regional science and advise the Foundation of the impact of the program's research support on the scientific community conducting human geography and regional science research.

3. *Effective Date of Establishment and Duration:* The Advisory Panel for Human Geography and Regional Science is effective upon filing the charter with the Director, NSF and with the standing committees of Congress that have legislative jurisdiction of the National Science Foundation. The Panel will continue for two calendar years from the effective date.

4. *Membership:* The panel will consist of from five to six members. Membership will include both geographers and regional scientists interested in research in such areas as location theory, spatial analysis, urban studies, diffusion, environmental perception, etc. Suggestions for nominees for appointment will be solicited from scholars interested in geographic and regional science research. The panel will be selected from this list of nominees with the purpose of obtaining the most qualified individuals with background in human geography and regional science with reasonable balanced representation of women and ethnic minorities.

5. *Advisory Panel Operation:* The Advisory Panel for Human Geography and Regional Science will operate in accordance with the provisions of the Federal Advisory Committee Act (P.L. 92-463), Foundation policy and procedures, OMB Circular No. A-63, Revised, and other directives and instructions issued in implementation of the Act.

RICHARD C. ATKINSON,
Acting Director

MARCH 8, 1977.

[FR Doc.77-7301 Filed 3-10-77;8:45 am]

REVIEW TEAM FOR ELEMENTARY PARTICLE PHYSICS

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Review Team for Elementary Particle Physics of the Advisory Panel for Physics.
Dates and times: March 30-31, 1977; 9 a.m. to 4 p.m. each day.
Place: Room 341, National Science Foundation, 1800 G St. NW., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Marcel Bardon, Deputy Division Director, Physics, Room 346, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4310.
Purpose of review team: To inspect program documentation on grants and declinations in the Elementary Particle Physics Program.
Agenda: To review declinations containing the names of applicant institutions and principal investigators and to review the peer review documentation pertaining to successful applicants. Further discussion of the information developed in this review will take place during the May meeting of the Advisory Panel for Physics.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 (U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on Feb. 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 8, 1977.

[FR Doc.77-7302 Filed 3-10-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-5286]

UNITED VENTURE CORPORATION, INC.

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that United Venture Corporation, Inc., (United) 495 Shrewsbury Street, Worcester, Massachusetts 01604 was licensed on October 29, 1976, to operate as a small business investment company pursuant to the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

On November 1, 1976, United provided financial assistance to Latin American Development Associates (LADA) 2341 Jefferson Davis Highway, Arlington, Virginia 22202 in the form of a 10-year Note in the principal amount of $150,000, and bearing interest at the rate 10 percent per year. Part of the proceeds of this financing amounting to $25,000 was contributed to Interamerican Marketing Association (IMA), a non-profit export-import association located at the same address as the small business concern. Mr. Antonio Sobral is associated with United as attorney-in-fact and is also associated with IMA as vice-president.

Mr. Edwin W. Baker is the principal stockholder and an officer and director of LADA. He was associated with IMA until August 27, 1976, when his resignation became effective. As the LADA financing was made on November 1, 1976, and the $25,000 contribution made to IMA within six months from the date of Mr. Baker's resignation from IMA, Mr. Baker is considered to have been a director and an associate of IMA at the time of the financing by United and the $25,000 contribution made by LADA under the provisions of § 107.3(g) of the SBA regulations. Accordingly, as a result of Mr. Sobral's association with United and with IMA, and Mr. Baker's association with LADA and IMA at the time these transactions took place, they fall within the purview of § 107.1004(b)(1) of the regulations.

Notice is hereby given that any person may submit to SBA written comments, no later than March 28, 1977, on this financing. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by the licensee in a newspaper of general circulation in Arlington, Virginia.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 7, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-7180 Filed 3-10-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on March 7, 1977 (44 U.S.C. 3509). The purpose of publishing this list

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in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

U.S. CIVIL SERVICE COMMISSION

Project Data Summary, IP-20, on occasion, Directors of IPA grant supported projects, Caywood, D. P., 395-3443.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Cast-Iron Cookware, Retailer's Questionnaire, single time, retailers, Laverne V. Collins, 395-5867.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration, Application and Promissory Note for Weatherization Loan, FMHA 444-20, on occasion, individuals, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Interview Log—Atlantic Bluefin Tuna Sport Fish survey, NOAA 88-917, on occasion, bluefin tuna sport fishermen, Maria Gonzales, 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, Hill-Burton Assurance Reporting Form, annually, federally-aided (Hill-Burton) medical facilities, budget review division, Lowry, R. L., 395-4775.

Food and Drug Administration, Survey on Systems for Post-Marketing Surveillance of Drugs, single time, knowledgeable in post-marketing surveillance of drugs, Caywood, D. P., 395-3443.

Center for Disease Control, Swine Flu Immunization Program—Survey of Estimated Costs, single time, State and local health agencies, Richard Eisinger, 395-6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary, Survey Form—Contractor, Survey Form—Indian/Alaska Native, single time, native workers on special HUD projects, authority directors, housing, veterans and labor division, C. Louis Kincannon, 395-3532.

Housing Management, Family and Financial Data to Support Special Forbearance or Request for Assignment of Mortgages, HUD-92068F, on occasion, delinquent mortgagors, housing, veterans and labor division, 395-3532.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Market Survey: Biomedical Manpower, NIH-OD-6, annually, employers and suppliers of biomedical scientists, Strasser, A. and Richard Eisinger, 395-5867.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration Trust Fund Agreement—Special Report (Livestock buyers and Sellers), PSA-5, on occasion, livestock marketing agencies, dealers and packers, Marsha Traynham, 395-4529.

Agricultural Stabilization and Conservation Service, Farm Storage and Drying Equipment Loan Program Regulations, on occasion, vendors of storage structures and drying equipment, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-7420 Filed 3-10-77;8:45 am]

[Circular No. A-63; Transmittal Memorandum No. 5]

REVIEW OF FEDERAL ADVISORY COMMITTEES

MARCH 7, 1977.

The President in his letter of February 25, 1977, expressed his concern about the number and usefulness of Federal advisory committees, and ordered a government-wide, zero-base review of all committees, with the presumption that all committees should be abolished except those (1) for which there is a compelling need; (2) which have truly balanced membership; and (3) which conduct their business as openly as possible consistent with the law and their mandate.

Section 7(b) of the Federal Advisory Committee Act (Pub. L. 92-463) requires the Director of the Office of Management and Budget (OMB) to conduct annually a comprehensive review of each advisory committee to determine:

a. whether such committee is carrying out its purpose;

b. whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

c. whether it should be merged with other advisory committees; or

d. whether it should be abolished.

To meet the President's objectives, and the requirements of the Act, the following instructions, and reporting format, are provided for the review of Federal advisory committees, and supersede Transmittal Memorandum No. 3, Circular No. A-63, September 3, 1975.

1. *Agency comprehensive review.* This review is to be a comprehensive, zero-base review of *each* advisory committee—regardless of the authority under which the committee was established, or when it was established or last renewed. The head of each agency, or a senior policy official designated by the agency head, should review the need for, and accomplishments of, even committee in terms of factors such as those enumerated in the attached review coversheet (Exhibit I), with particular attention to the "balance" of membership representation. The review should also take into consideration, and provide an opportunity for, public comments and recommendations concerning these advisory committees, to the maximum extent possible.

Based on this review, a determination should be made to continue, merge, terminate, or revise responsibilities of, as appropriate, each advisory committee established by the agency. Similar actions should be recommended for each committee established by statute or Presidential directive for which the agency has responsibility.

2. *Reports.* Following the agency's review, the following is to be submitted to the Committee Management Secretariat, OMB, not later than April 15, 1977, for OMB and Presidential review:

a. A review coversheet (Exhibit I) only, in duplicate, for each agency-established committee which is proposed to be terminated.

b. A review coversheet (Exhibit I) and brief explanatory statement, in duplicate, for each committee established by statute or Presidential directive, which is recommended for merger or termination.

c. A review coversheet (Exhibit I) and detailed justification, in duplicate, for each committee which is proposed to be continued.

d. A brief description of the process by which the agency provided an opportunity for public comment on the review, and recommendations for continuation, of advisory committees.

e. A letter of transittal for the coversheets and accompanying statements, constituting a determination that the continuation of the committees proposed to be continued is in the public interest, signed by the agency head.

Inquiries should be directed to the Committee Management Secretariat, OMB, telephone 395-5193 (code 103).

BERT LANCE,
Director.

CIRCULAR NO. A-63
Transmittal Memorandum No. 5
EXHIBIT I

FEDERAL ADVISORY COMMITTEE REVIEW COVERSHEET	1. Department or Agency:
2. Name of committee (and subcommittee, if appropriate):	
3. Was this committee established after January 1, 1977? ☐ Yes ☐ No	4. For closed or partially closed meetings, list for each meeting the date and number(s) of all FOIA exemptions used:

5. Agency recommendation for this committee:

a. ☐ Termination. If this is a committee established by statute, attach a brief explanatory statement for the recommendation and indicate whether legislation is required to carry out the recommendation and whether such legislation is contemplated or pending.

b. ☐ Continuation. Attach a justification statement describing what this committee does, why there is a compelling need for its continuation, and how it has a truly balanced membership. The statement should be on numbered bond sheets with the name of the agency and the committee on each. The justification should include details on the following and any other relevant factors:

(1) The number of times the committee has met in the past year and the relevance of that number to its continuation.

(2) The number of reports submitted by the committee in the past year.

(3) A description of how the committee's reports, recommendations, or advice have been used in agency policy formulation, program planning, decision-making, achieving economies, etc.

(4) An explanation of why the recommendations or information cannot be obtained from other sources, elsewhere within the agency, from other agencies or existing committees, public hearings, consultants, etc.

(5) An explanation of any degree of duplication of functions, purpose, etc., with other committees, or within the agency, or with other agencies.

(6) The relationship of the cost of the committee to the reports, recommendations, or information provided.

(7) In consideration of (a) the functions to be performed and (b) the points of view to be represented, specifically how the membership is balanced--the views, areas of expertise, etc., included.

AS A ZERO BASE REVIEW, THE JUSTIFICATION SHOULD BE BASED ON THE PREMISE THAT THE COMMITTEE IS NOT GOING TO BE CONTINUED.

[FR Doc.77-7446 Filed 3-10-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

GOVERNMENT IN THE SUNSHINE ACT

Notice of Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week beginning March 14, 1977 in Room 825, 500 North Capitol Street, Washington, D.C., except that the open meeting scheduled for 2:00 p.m. on March 17, 1977 will be held in Room 776.

CLOSED MEETING—TUESDAY, MARCH 15, 1977—10 A.M.

The subject matter of this closed meeting will be:

1. Formal Orders of Investigation
2. Settlement of Injunctive Actions
3. Institution of Administrative Proceedings
4. Settlement of Administrative Proceedings
5. Simultaneous institution and settlement of injunctive actions and/or Administrative Proceedings
6. Contempt proceedings
7. Subpoena Enforcement ation
8. Opinion
9. Freedom of Information Act Appeal
10. Other litigation matters

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission has certified that the above items may be considered at a closed meeting pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4) (8) (9)A, and (10) and 17 CFR 200.402(a) (4) (8) (9) (i) and (10).

Chairman Hills, Commissioners Loomis, Evans and Pollack voted to hold the meeting in closed session.

CLOSED MEETING—WEDNESDAY, MARCH 16, 1977—10 A.M.

The subject matter of this closed meeting will be:

1. Institution of Injunctive Actions
2. Freedom of Information Act Appeals
3. Decisions in Administrative Proceedings
4. Institution of Administrative Proceedings

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission has certified that the above items may be considered at a closed meeting pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4) (8) (9)A, and (10 and 17 CFR 200.402 (a) (4) (8) (9) (i) and 10).

Chairman Hills, Commissioners Loomis, Evans and Pollack voted to hold the meeting in closed session.

OPEN MEETINGS—THURSDAY, MARCH 17, 1977—10 A.M. AND 2 P.M.

1. Consideration of solicitations of public comments on certain proposed amendments to subparagraph (e)(3) of Rule 16b-3 under the Exchange Act to clarify the applicability of the conditions in subparagraph (e)(3) to the exercise of stock appreciation rights.

2. National Association of Securities Dealers request to postpone until October, 1977 its initial reporting of last sale options information to Option Price Reporting Authority in connection with the proposed listing of standardized options in the NASDAQ system.

3. Pacific Stock Exchange applications to delist its call options on NCR Corporation and United States Steel Corporation common stock.

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4. Section 11(a) of the Securities Exchange Act of 1934 relating to transactions by members of national securities exchanges; Commission rulemaking authority under Section 11(a).

5. Banner Redi-Resources Trust—Review of staff's denial of a no-action position with respect to a proposal whereby 50% of the advisory fee paid by a mutual fund would be reallocated to dealers who distribute shares of the fund.

6. G. T. Pacific Fund, Inc.—application by open-end investment company investing primarily in Japanese securities for an order which would permit it to (1) determine its net asset value for pricing purposes, as of the close of the Tokyo Stock Exchange rather than the New York Stock Exchange (2) suspend the right of redemption and to postpone payment upon redemption for more than seven days from any period during which the Tokyo Stock Exchange is closed or when trading on that exchange is restricted.

7. United States Guaranteed Assets, Inc.—requested exemption from the Investment Company Act to permit applicant to act as a warehousing bank for affiliated persons of it by loaning its assets, at the prime interest rate, to such persons.

8. Kansas Venture Capital, Inc.—Application for exemption from all the provisions of the Investment Company Act.

9. Montgomery Street Securities, Inc.—Application for exemption from Section 18(c) of Investment Company Act to permit lending of portfolio securities by investment company subject to enumerated conditions.

10. Freedom of Information Act Appeal of I. Walton Bader.

11. American Electric Power Company—Memorandum Opinion explaining Commission order on a dividend reinvestment plan.

2 p.m. Meeting Re "Dual Trading of Options" (Room 776).

Requests for information concerning the meetings should be directed to Vernon I Zvoleff (202—755–1387).

Dated: March 10, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–7550 Filed 3–10–77;11:06 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 343]

ASSIGNMENT OF HEARINGS

MARCH 8, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 109324 (Sub-No. 34), Garrison Motor Freight, Inc., now being assigned for continued hearing on May 10, 1977 (2 days), at Memphis, Tenn., Executive Plaza Inn, 1471 E. Brooks Road.

MC 142362, Hogan Trucking Co., Inc., now assigned March 9, 1977 at Washington, D.C., is cancelled, application dismissed.

MC 53965 (Sub-No. 122), Graves Truck Line, Inc., now assigned March 28, 1977, at Denver, Colo., is postponed to April 20, 1977 (6 days), at Denver, Colo., Tax Court, Room 567, U.S. Federal Building, 19th and Stout Streets.

MC 141172 (Sub-1), Retta Trucking Co., Inc., now assigned March 28, 1977 at New York, New York, has been postponed indefinitely.

MC 107295 (Sub 838), Pre-Fab Transit Co. now assigned March 22, 1977 at Denver, Colorado is cancelled, application dismissed.

No. 36467, Passenger Fare Increase, November 1976, Rockland Coaches, Inc., now being assigned May 2, 1977 (3 days), for continued hearing at New York, New York in a hearing room to be later designated.

MC 113678 (Sub-637), Curtis, Inc., now being assigned May 5, 1977 (2 days), at New York, New York in a hearing room to be later designated.

MC 138875 (Sub-37), Shoemaker Trucking Co., now being assigned June 15, 1977 (3 days), at Portland, Oregon, in a hearing room to be later designated.

MC 128527 (Sub-70), May Trucking Co., now being assigned June 13, 1977 (2 days) at Portland, Oregon, in a hearing room to be later designated.

MC 141867 (Sub-1, Specialized Trucking Service, Inc., now being assigned June 9, 1977 (3 days), for continued hearing at Seattle, Washington, in a hearing room to be later designated.

MC 138875 (Sub-32), Shoemaker Trucking Co., now being assigned June 7, 1977 (2 days), at Seattle, Washington, in a hearing room to be later designated.

MC 113678 (Sub-632), Curtis, Inc., now being assigned June 6, 1977 (1 day), at Seattle, Washington, in a hearing room to be later designated.

MC 107452 (Sub-7), R. D. Brown, d.b.a. Dan Brown Trucking now being assigned June k, 1977 (3 days), at Billings, Montana, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–7371 Filed 3–10–77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 8, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43331—*Joint Water-Rail Container Rates—American President Lines, Ltd.* Filed by American President Lines, Ltd., (No. 25), for itself and interested rail carriers. Rates on general commodities, from rail stations on the U.S. Atlantic and Gulf Seaboard, to Middle East ports west of Karachi and northeast of Aden (excluding Aden and Karachi).

Grounds for relief—Water competition.

Tariff—*American President Lines*, Ltd., westbound tariff No. 18, I.C.C. No. 18, F.M.C. No. 72. Rates are published to become effective on April 3, 1977.

FSA No. 43332—*Joint Water-Rail Container Rates—Pacific Far East Lines, Inc.* Filed by Pacific Far East Lines, Inc. (No. 12), for itself and interested rail carriers. Rates on general commodities, from ports in the Republic of the Philippines to rail stations on the U.S. Atlantic and Gulf Seaboard.

Grounds for relief—Water competition.

FSA No. 43333—*Barley and Wheat from Points in Montana on the Soo Line Railroad Company.* Filed by Trans-Continental Freight Bureau, Agent (No. 517), for interested rail carriers. Rates on barley and wheat, in carloads, as described in the application, from specified points in Montana on the Soo Line Railroad Company, to points in California, Idaho, Montana, Oregon and Washington, also Alberta and British Columbia, Canada, on the BN, MILW, and UP RR, on domestic and export traffic.

Grounds for relief—Market competition.

Tariffs—Supplements 385 and 261 to Trans-Continental Freight Bureau, Agent, tariffs 29–O and 45–N, I.C.C. Nos. 1805 and 1850, respectively. Rates are published to become effective on April 3, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–7368 Filed 3–10–77;8:45 am]

REROUTING TRAFFIC

I.C.C. Order No. 25 Under Service Order No. 1252

MARCH 8, 1977.

To: The Chesapeake and Ohio Railway Company.

In the opinion of Joel E. Burns, Agent, The Chesapeake and Ohio Railway Company is unable to transport through traffic over its line between Chicago, Illinois, and Detroit, Michigan, via Grand Rapids, Michigan, because of congestion and car accumulation in its yards at Grand Rapids, Michigan, and New Buffalo, Michigan.

It is ordered, that:

(a) *Rerouting traffic.* The Chesapeake and Ohio Railway Company, being unable to transport through traffic over its line between Chicago, Illinois, and Detroit, Michigan, via Grand Rapids, Michigan, because of congestion and car accumulation in its yards at Grand Rapids, Michigan, and New Buffalo, Michigan, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving road to be obtained.* The Chesapeake and Ohio Railway Company, in rerouting cars in accordance with this order, shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* The Chesapeake and Ohio Railway Company, when rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 3:00 p.m., February 25, 1977.

(g) Expiration date: This order shall expire at 11:59 p.m., March 4, 1977, unless otherwise modified, changed or suspended.

It is further ordered, that this order shall be served upon the Association of American Railroads, Car Service Division, as Agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement; and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77–7370 Filed 3–10–77;8:45 am]

[AB 16 (SDM)]

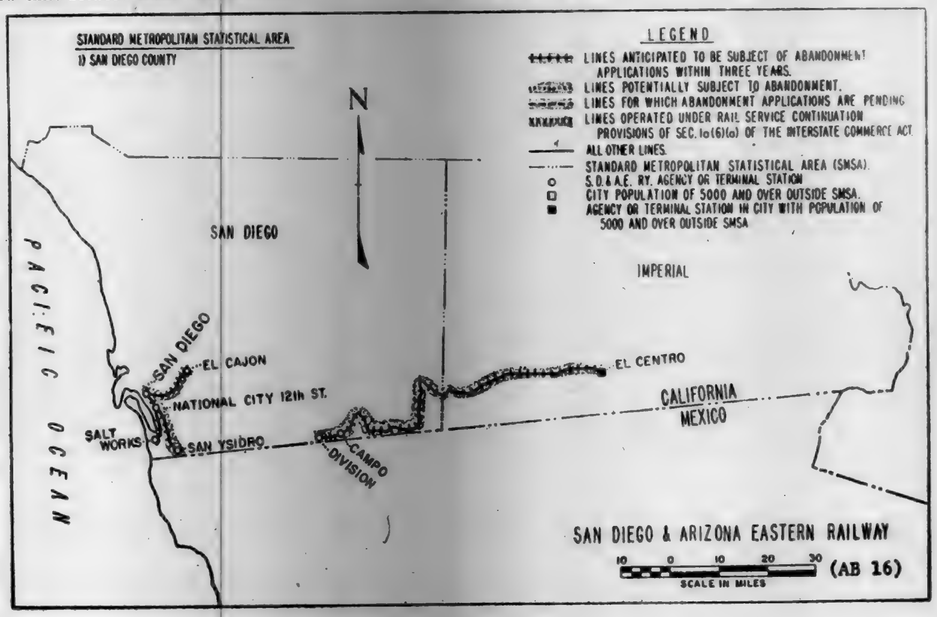
SAN DIEGO AND ARIZONA EASTERN RAILWAY COMPANY

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the San Diego and Arizona Eastern Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB–16 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on February 28, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 16 (SDM).

ROBERT L. OSWALD,
Secretary.



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SAN DIEGO AND ARIZONA EASTERN RAILWAY COMPANY

DESCRIPTION OF LINES

Pursuant to the regulations of the Interstate Commerce Commission (49 CFR 1121.-21), the following is a description of lines of the San Diego and Arizona Eastern Railway Company as shown on the system diagram map:

Lines Anticipated To Be Subject of Abandonment Applications Within Three Years in the State of California

(1) (a) Designation of line: Maine Line.
(b) States in which located: California.
(c) Counties in which located: San Diego, Imperial.
(d) Milepost locations: 0.454 at or near San Diego to 15.566 at or near San Ysidro; and 59.94 at or near Division to 147.84 at or near El Centro.
(e) Agency or terminal stations: San Diego (milepost 1.1), San Ysidro (milepost 15.5), Division (milepost 60.3), Campo (milepost 65.8), El Centro (milepost 148.1).
(2) (a) Designation of line: La Mesa Branch.
(b) States in which located: California.
(c) Counties in which located: San Diego.
(d) Milepost locations: 1.12 at or near San Diego to 17.22 at or near El Cajon.
(e) Agency or terminal stations: San Diego (milepost 1.1), El Cajon (milepost 16.8).
(3) (a) Designation of line: Coronado Branch.
(b) States in which located: California.
(c) Counties in which located: San Diego.
(d) Milepost locations: 4.75 at or near National City 12th Street to 12.0 at or near Salt Works.
(e) Agency or terminal stations: National City 12th Street (milepost 4.8), Salt Works (milepost 9.9).

[FR Doc.77-7133 Filed 3-10-77;8:45 am]

TEXAS AND PACIFIC RAILWAY CO. ET AL.

Abandonment of Railroad Services

JANUARY 31, 1977.

AB 20 (Sub-No. 1), Texas and Pacific Railway Company abandonment between Barnsdall and Pawhuska, in Osage County, Oklahoma. AB 52 (Sub-No. 7), Atchison, Topeka and Santa Fe Railway Company abandonment between Cushing and Shawnee in Payne, Lincoln, and Pottawatomie Counties, Oklahoma. AB 102, Missouri-Kansas-Texas Railroad Company abandonment between Barlesville and Oklahoma City, in Osage, Pawnee, Payne, Lincoln, Logan and Oklahoma. FD 28210, Missouri-Kansas-Texas Railroad Company Trackage Rights over Chicago, Rock Island, and Pacific Railroad Company between McAlester and Oklahoma City, Oklahoma.

SERVICE DATE: March 8, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceedings has not caused the Commission's Section of Energy and Environment to modify its previous conclusion that these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7369 Filed 3-10-77;8:45 am]

MEETING

The Commission's regular meeting, scheduled for Tuesday, March 15, 1977, will be held at 9:30 a.m.

On March 9, 1977, the Commission voted unanimously (Commissioners Gresham and MacFarland not participating, and Commissioner Brown absent and not participating) to hold conference on less than one week's notice to discuss implementation of the Sunshine procedures.

The meeting will be held at the Interstate Commerce Commission Building at the northwest corner of 12th and Constitution Avenue NW.

The Public Information Officer (telephone number 202–275–7252) is available to answer requests for information about the meeting.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7560 Filed 3-10-77;11:58 am]

federal register

FRIDAY, MARCH 11, 1977

PART II

DEPARTMENT OF LABOR

Employment and Training Administration

■

FEDERAL ASSISTANCE UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Financial Assistance and Request For Preapplication

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DEPARTMENT OF LABOR

Employment and Training Administration

FEDERAL ASSISTANCE UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Financial Assistance and Request for Preapplication

Title I. Pursuant to Title I of the Comprehensive Employment and Training Act of 1973 (hereafter referred to as the Act), the Secretary of Labor provides comprehensive manpower services throughout the United States with Fiscal Year 1978 funds. The program includes the development and creation of job opportunities and the training, education, and other services needed to enable individuals to secure and retain employment at their maximum capacity. This comprehensive manpower program will be carried out by qualified prime sponsors through financial assistance to be made available by the Secretary of Labor. Although many prime sponsors were designated in Fiscal Year 1977, each year eligible existing prime sponsors and those wishing to become prime sponsors must submit a preapplication for Federal assistance to be considered for the subsequent fiscal year funds. Eligibility criteria and procedures for preapplication are described below:

Prime Sponsors. In order to be eligible to receive financial assistance under Title I of the Act, a prime sponsor must be:

(a) A State;

(b) A unit of a general local government which has a population of 100,000 or more on the basis of the most satisfactory current data available to the Secretary;

(c) Any combination of units of general local government which includes any units of general local government qualifying under paragraph (b) above;

(d) Any unit of general local government or any combination of such units, without regard to population, which, in exceptional circumstances, is determined by the Secretary of Labor;

(1) (i) To serve a substantial portion of a functioning labor market area, or

(ii) to be a rural area having a high level of unemployment; and

(2) To have demonstrated (i) that it has the capability for adequately carrying out programs under this Act, and (ii) that there is a special need for services within the area to be served, and (iii) that it will carry out such programs and services in such areas as effectively as the State; or

(e) A limited number of existing concentrated employment program grantees serving rural areas having a high level of unemployment which the Secretary determines have demonstrated special capabilities for carrying out programs in such areas and are designated by him for that purpose.

Procedures for applying for prime sponsorship. In accordance with section 102(c)(1) of the Act, and in order to be considered eligible for prime sponsorship under Title I, the Secretary of Labor hereby informs all potentially eligible applicants that they must submit a preapplication for Federal assistance no later than April 1, 1977.

The preapplication must be submitted to the appropriate Regional Administrator, Employment and Training Administration (ETA), the Governor, and appropriate State and areawide clearinghouses (see OMB Circular A-95 as revised and published in the FEDERAL REGISTER on January 13, 1976).

The preapplication will consist of Standard Form SF 424, prescribed by Federal Management Circular No. 74-7, as revised and published in the FEDERAL REGISTER on November 21, 1975, with an attachment giving the following information:

(a) Population of area(s) to be served;

(b) Certification that prime sponsor applicant, except for CEP and consortia prime sponsor applicants, has the required general government authority, as defined in § 94.4 of the June 25, 1976, regulations;

(c) Name of any ineligible unit of general local government, located within the prime sponsor applicant's jurisdiction, that has informed the prime sponsor applicant that it will not be participating in the prime sponsor applicant's plan;

(d) Certification that the development of the applicant's plan will be in accordance with the requirements of the Act and regulations;

(e) The signature of the chief elected official(s) or chief executive officer(s), as appropriate, of each applicant. For a newly formed consortium, and for a consortium in which one or more members have joined or withdrawn, the signature of the chief elected official or chief executive officer of each consortium member is required. In the case of an established consortium with no membership changes, the preapplication may, with the consent of all consortium members, be signed by the consortium's chief executive officer.

Special procedures for (a) *Independently eligible applicants.* Attachment 1 is a list of those jurisdictions which the Secretary, on the basis of the most satisfactory current data, has determined may be eligible to be prime sponsors under section 102(a) (1) and (2), and section 103(a) (2) (D) of the Act. The list includes:

(1) All units of general local government which have a population of 100,000 or more according to a 1975 update of the 1970 official census as published by the U.S. Bureau of the Census; (2) those units of general local government which had a population of 100,000 or more according to the 1974 census update but which have fallen below 100,000 as of the latest census estimates; (3) all States; and, (4) Guam, the Virgin Islands, American Samoa and the Trust Territory of the Pacific Islands.

It is the intent of the Secretary that, effective with Fiscal Year 1978, a unit of general local government must fall below 100,000 in population for three years consecutively, or below 90,000 in population for any one year, before being eliminated from the list of independently eligible applicants. This provision will be published as a proposed amendment to the CETA Title I regulations pursuant to appropriate rulemaking procedures including a period for public comment prior to the start of FY 1978.

(b) *Units of government which have less than 100,000 population desiring to be prime sponsors because of exceptional circumstances.* Any unit of general local government which does not have a population of 100,000, but wishes to be named a prime sponsor because of exceptional circumstances under the provisions of section 102(a)(4) should submit a preapplication according to procedures set forth above. In addition, the preapplication should include information relative to:

(1) The labor market area(s) in which the unit of general local government is located;

(2) The proportion of the labor market area population which resides within the jurisdiction of the unit of general local government;

(3) The Unit of general local government's administrative and organizational capability for adequately carrying out programs under the Act;

(4) The unit of general local government's ability to carry out the program as effectively as the State, e.g., past experience in operating multicomponent employment and training programs, effective linkages with community-based organizations and programs, administrative efficiency in terms of costs, and existence and effective operation of an Operational Planning Grant, a public service employment program or other employment and training related services; and

(5) The special need for services within the area to be served, e.g., a high proportion of groups within the population such as disadvantaged youth, offenders, high school dropouts, a high unemployment rate, substantial outmigration, or unique commuting problems.

(c) *Rural concentrated employment program grantees.* Any of the existing four Concentrated Employment Program (CEP) prime sponsors serving a rural area having a high level of unemployment and desiring to serve as a prime sponsor again should submit a preapplication according to the procedures set forth above. In addition, such a CEP must cite whatever special capabilities it has demonstrated in carrying out employment and training programs.

(d) *Constortia.* Combinationas of units of general local government may form a consortium to plan and operate a comprehensive manpower program. The nature of consortia arrangements is set forth in detail in § 95.3(a)(3) of the regulations for Titles I and II of the Act, published in the FEDERAL REGISTER on June 25, 1976.

In order to encourage consortia which comprise substantial portions (e.g., 75 percent) of labor market areas, the Secretary may use up to 5 percent of the funds available for Title I of the Act to provide additional funding for such consortia.

Consortia which do not serve such areas shall not be eligible for additional funds. Prior to making decisions concerning these funds, the Regional Administrator, ETA, shall consult with the Governors of the appropriate States and afford them an opportunity to make recommendations.

A consortium must submit a preapplication according to the procedures set forth above. In addition, each consortium shall submit a formal agreement including all items required by § 95.11(b) of the June 25, 1976, regulations to the Act to the appropriate Regional Administrator, ETA, by May 11, 1977. An established consortium which submitted a formal written agreement last year may attest in writing that the agreement is the same or specify amendments to the agreement. The formal agreement or attestation must be signed by the chief elected official or chief executive officer of each consortium member.

(e) *States applying for Special Grants to Governors.* In accordance with § 95.52 (b)(1) of the June 25, 1976, regulations to the Act, preapplication is required for Special Grants to Governors. Governors should submit a separate preapplication using the same procedures as for independently eligible applicants.

List of manpower regional offices. All preapplication information and consortia agreements (described above) must be submitted to the appropriate Regional Administrator, ETA. The names, addresses and areas of responsibility of the Regional Administrators are listed on Attachment No. 2.

Title II. Eligible Applicants. In order to be eligible to receive financial assistance under Title II of the Act, eligible applicants must be prime sponsors under Title I of the Act or Indian tribes on Federal and State reservations and must include areas of substantial unemployment, as defined in § 94.4(d) of the June 25, 1976, CETA regulations. All potentially eligible Title I prime sponsors which currently have Title II programs as well as those which believe they contain areas which should qualify them for Title II funds in Fiscal Year 1978 should submit a preapplication.

Procedures for submitting preapplications. In accordance with § 96.11 of the June 25, 1976, regulations, all potentially eligible applicants, including consortia formed under § 95.11(i) of the regulations, are hereby informed that they must submit a preapplication for Federal assistance no later than April 1, 1977. All eligible applicants, with the exception of Indian eligible applicants, shall follow all the procedures detailed herein for Title I prime sponsors.

Indians. Indian tribes on Federal and State reservations which contain areas of substantial unemployment, as specified in §§ 94.4(c)(2) and 94.4(c) and 96.41(c) of the June 25, 1976, regulations, are eligible for funding under Title II. Eligible tribes which are currently Title II prime sponsors or feel they will be eligible for Title II funds in Fiscal Year 1978 should submit their preapplications to the Director, Division of Indian and Native American Programs, 601 D Street NW., Washington, D.C. 20213, in accordance with the procedures found in § 97.111 of the regulations published in the FEDERAL REGISTER on October 9, 1975, titled Special Federal Programs and Responsibilities under the Comprehensive Employment and Training Act (CETA) of 1973, as amended, Indian Manpower Programs.

Consortia. Consortia formed under Title I must also operate any Title II programs within the consortia's boundaries. Consortia may submit one agreement (see the consortia section under Title I procedures herein) covering programs funded under Titles I and II. As indicated in the Title I procedures for consortia, this agreement shall be submitted to the appropriate Regional Administrator by May 11, 1977.

IMPLEMENTATION SCHEDULE

Titles I and II grants for Fiscal Year 1978 will be executed by October 1, 1977. Revised Titles I and II regulations will be published initially about April 1, 1977, and in final form about June 1, 1977. Planning estimates will be released about June 1, 1977, for title I and about August 1, 1977, for title II. Prime sponsors will be expected to submit their final grant applications to the appropriate Regional Administrator by September 1, 1977. A more detailed CETA grant cycle schedule for Fiscal Year 1978 is found in the FEDERAL REGISTER of January 4, 1977.

LISTING OF JURISDICTIONS OF 100,000 OR MORE POPULATION FOR COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973

ALABAMA

Birmingham	Jefferson County
Huntsville	Mobile County
Mobile	Tuscaloosa County
Montgomery	Balance Alabama
Calhoun County	

ALASKA

Municipality of Anchorage	Balance Alaska

ARIZONA

Phoenix	Maricopa County
Tucson	Balance Arizona

ARKANSAS

Little Rock	Balance Arkansas
Pulaski County	

CALIFORNIA

Anaheim	San Francisco City/County
Berkeley	San Jose
Fremont	Santa Ana
Fresno	Stockton
Garden Grove	Sunnyvale
Glendale	Torrance
Huntington Beach	Alameda County
Long Beach	Butte County
Los Angeles	Contra Costa County
Oakland	Fresno County
Pasadena	Humboldt County
Riverside	Kern County
Sacramento	Los Angeles County
San Bernardino	Marin County
San Diego	Merced County
Monterey County	Santa Barbara County
Orange County	Santa Clara County
Riverside County	Santa Cruz County
Sacramento County	Solano County
San Bernardino County	Sonoma County
San Diego County	Stanislaus County
San Joaquin County	Tulare County
San Luis Obispo County	Ventura County
San Mateo County	Yolo County
	Balance California

COLORADO

Aurora	Boulder County
Colorado Springs	El Paso County
Denver City/County	Jefferson County
Lakewood	Larimer County
Pueblo	Weld County
Adams County	Balance Colorado
Arapahoe County	

CONNECTICUT

Bridgeport	Stamford City
Hartford City	Waterbury City
New Haven City	Balance Connecticut

DELAWARE

New Castle County	Balance Delaware

DISTRICT OF COLUMBIA

FLORIDA

Ft. Lauderdale	Hillsborough County
Hialeah	Lee County
Hollywood	Leon County
Jacksonville City/ Duval County	Manatee County
Miami	Okaloosa County
Orlando	Orange County
St. Petersburg	Palm Beach County
Tampa	Pasco County
Alachua County	Pinellas County
Brevard County	Polk County
Broward County	Sarasota County
Dade County	Seminole County
Escambia County	Volusia County
	Balance Florida

GEORGIA

Atlanta	Cobb County
Columbus City/ Muscogee County	De Kalb County
Macon	Fulton County
Savannah	Gwinnett County
Clayton County	Richmond County
	Balance Georgia

HAWAII

Honolulu City/ Honolulu County	Balance Hawaii

IDAHO

Ada County	Balance Idaho

ILLINOIS

Chicago	La Salle County
Peoria	Lake County
Rockford	Macon County
Champaign County	Madison County
Cook County	McHenry County
Du Page County	McLean County
Kane County	Rock Island County
Sangamon County	Will County
St. Clair County	Balance Illinois
Tazewell County	

INDIANA

Evansville	Indianapolis City/ Marion County
Ft. Wayne	South Bend
Gary	St. Joseph County
Hammond	Madison County
Allen County	Tippecanoe County
Delaware County	Vigo County
Elkhart County	Balance Indiana
LaPorte County	
Lake County	

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IOWA

Cedar Rapids	Scott County
Des Moines	Woodbury County
Black Hawk County	Balance Iowa

KANSAS

Kansas City	Johnson County
Topeka	Balance Kansas
Wichita	

KENTUCKY

Lexington City/ Fayette County	Jefferson County
	Kenton County
Louisville	Balance Kentucky

LOUISIANA

Baton Rouge City/ E. Baton Rouge Parish	Calcasieu Parish
	Jefferson Parish
	Lafayette Parish
New Orleans City/ Parish	Ouachita Parish
	Rapides Parish
Shreveport	Balance Louisiana

MAINE

Cumberland County	York County
Kennebec County	Balance Maine
Penobscot County	

MARYLAND

Baltimore	Montgomery County
Anne Arundel County	Prince Georges County
Baltimore County	Washington County
Hartford County	Balance Maryland

MASSACHUSETTS

Boston City	Springfield
Cambridge	Worcester
Fall River	Balance Massachusetts
New Bedford	

MICHIGAN

Ann Arbor	Calhoun County
Detroit	Genesee County
Flint	Ingham County
Grand Rapids	Jackson County
Lansing	Kalamazoo County
Livonia	Kent County
Warren	Macomb County
Bay County	Monroe County
Berrien County	Muskegon County
Oakland County	Washtenaw County
Ottawa County	Wayne County
Saginaw County	Balance Michigan
St. Clair County	

MINNESOTA

Minneapolis	Ramsey County
St. Paul	St. Louis County
Anoka County	Sterns County
Dakota County	Washington County
Hennepin County	Balance Minnesota

MISSISSIPPI

Jackson	Jackson County
Harrison County	Balance Mississippi

MISSOURI

Independence City	Jefferson County
Kansas City	St. Charles County
Springfield City	St. Louis County
St. Louis City	Balance Missouri
Jackson County	

MONTANA

NEBRASKA

Lincoln City	Balance Nebraska
Omaha City	

NEVADA

Las Vegas City	Washoe County
Clark County	Balance Nevada

NEW HAMPSHIRE

Hillsborough County	Balance New Hampshire
Rockingham County	

NEW JERSEY

Elizabeth City	Gloucester County
Jersey City	Hudson County
Newark City	Mercer County
Paterson City	Middlesex County
Trenton City	Monmouth County
Atlantic County	Morris County
Bergen County	Ocean County
Burlington County	Passaic County
Camden County	Somerset County
Cumberland County	Union County
Essex County	Balance New Jersey

NEW MEXICO

Albuquerque City	Balance New Mexico

NEW YORK

Albany City	Chautauqua County
Buffalo City	Chemung County
New York City	Dutchess County
Rochester City	Erie County
Syracuse City	Monroe County
Town of Amherst	Niagara County
Town of Cheektowaga	Oneida County
	Onondaga County
Town of Tonawanda	Orange County
Yonkers City	Oswego County
Town of Babylon	Rensselaer County
Town of Brookhaven	Rockland County
Town of Huntington	Saratoga County
Town of Islip	Schenectady County
Town of Smithtown	St. Lawarence County
Town of Hempstead	Steuben County
North Hempstead Township	Ulster County
	Westchester County
Oyster Bay Township	Balance New York
Albany County	
Broome County	

NORTH CAROLINA

Charlotte City	Cumberland County
Greensboro	Gaston County
Davidson County	Guilford County
Durham City	Onslow County
Raleigh City	Wake County
Winston-Salem City	Balance North Carolina
Buncombe County	

NORTH DAKOTA

OHIO

Akron City	Franklin County
Canton City	Greene County
Cincinnati City	Hamilton County
Cleveland City	Lake County
Columbus City	Licking County
Dayton City	Lorain County
Parma City [1]	Lucas County
Toledo City	Mahoning County
Youngstown City	Montgomery County
Allen County	Portage County
Ashtabula County	Richland County
Butler County	Stark County
Clark County	Summitt County
Clermont County	Trumbull County
Columbiana County	Wood County
Cuyahoga County	Balance Ohio

OKLAHOMA

Oklahoma City	Comanche County
Tulsa City	Oklahoma County
Cleveland County [1]	Balance Oklahoma

OREGON

Portland City	Marion County
Clackamas County	Multnomah County
Jackson County	Washington County
Lane County	Balance Oregon

PENNSYLVANIA

Allentown City	Pittsburgh City
Erie City	Allegheny County
Philadelphia City/ County	Beaver County
	Berks County

PENNSYLVANIA—Continued

Blair County	Lehigh County
Bucks County	Luserne County
Butler County	Lycoming County
Cambria County	Mercer County
Centre County	Montgomery County
Chester County	Northampton County
Cumberland County	Northumberland County
Dauphin County	
Delaware County	Schuylkill County
Erie County	Washington County
Fayette County	Westmoreland County
Franklin County	
Lackawanna County	York County
Lancaster County	Balance Pennsylvania
Lawrence County	
Lebanon County	

PUERTO RICO

Bayamon Mun.	Ponce Municipio
Caguas Mun.	San Juan Mun.
Carolina Mun.	Balance Puerto Rico

RHODE ISLAND

Providence City	Balance Rhode Island

SOUTH CAROLINA

Columbia City	Richland County
Anderson County	Spartanburg County
Charleston County	Balance South Carolina
Greenville County	
Lexington County	

SOUTH DAKOTA

TENNESSEE

Chattanooga City	Hamilton County
Knoxville City	Knox County
Memphis City	Sullivan County
Nashville City/ Davidson County	Balance Tennessee

TEXAS

Amarillo City	Bexar County
Arlington	Brasoria County
Austin City	Cameron County
Beaumont City	Dallas County
Corpus Christi City	Galveston County
Dallas City	Harris County
El Paso City	Hidalgo County
Fort Worth City	Jefferson County
Garland	McLennan County
Houston City	Smith County
Irving	Tarrant County
Lubbock City	Taylor County
Pasadena [1]	Wichita County
San Antonio City	Balance Texas
Bell County	

UTAH

Salt Lake City	Utah County
Davis County	Weber County
Salt Lake County	Balance Utah

VERMONT

Chittenden County	Balance Vermont

VIRGINIA

Alexandria City	Virginia Beach City
Chesapeake City	Arlington County
Hampton City	Chesterfield County
Newport News City	Fairfax County
Norfolk City	Henrico County
Portsmouth City	Prince William County
Richmond City	
Roanoke City	Balance Virginia

WASHINGTON

Seattle City	Pierce County
Spokane City	Snohomish County
Tacoma City	Spokane County
Clark County	Yakima County
King County	Balance Washington
Kitsap County	

[1] Population below 100,000 for the first time.

WEST VIRGINIA

Cabell County	Balance West Virginia
Kanawha County	

WISCONSIN

Madison City	Outagamie County
Milwaukee City	Racine County
Brown County	Rock County
Dane County	Sheboygan County
Kenosha County	Waukesha County
Marathon County	Winnebago County
Milwaukee County	Balance Wisconsin

WYOMING

VIRGIN ISLANDS

AMERICAN SAMOA

GUAM

TRUST TERRITORIES

NOTE.—Any jurisdiction whose name does not appear on this list which has documentation to support the fact that its population has increased to 100,000 should submit such documentation, along with a preapplication, according to the procedures contained herein.

REGIONAL ADMINISTRATORS—EMPLOYMENT AND TRAINING ADMINISTRATION

Location	States in region
REGION I. BOSTON	
Luis Sepulveda, Regional Administrator, ETA, U.S. Department of Labor, J. F. Kennedy Bldg., room 1703, Boston, Mass. 02203.	Connecticut, Maine, Massachusetts, Vermont, Rhode Island, New Hampshire.
REGION II. NEW YORK	
Lawrence W. Rogers, Regional Administrator, ETA, U.S. Department of Labor, 1515 Broadway, room 3713, New York, N.Y. 10036.	New York, Puerto Rico, New Jersey, Virgin Islands, Canal Zone.
REGION III. PHILADELPHIA	
J. Terrell Whitsitt, Regional Administrator, ETA, U.S. Department of Labor, P.O. Box 8796, Philadephia, Pa. 19101.	Delaware, Virginia, Maryland, Pennsylvania, West Virginia, District of Columbia.
REGION IV. ATLANTA	
Julian O. Colquitt, Regional Administrator, ETA, U.S. Department of Labor, 1371 Peachtree St. NE., room 405, Atlanta, Ga. 30309.	Alabama, Florida, Georgia, Mississippi, Kentucky, North Carolina, South Carolina, Tennessee.
REGION V. CHICAGO	
Richard C. Gilliland, Regional Administrator, ETA, U.S. Department of Labor, 230 South Dearborn St., 6th floor, Chicago, Ill. 60604.	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
REGION VI. DALLAS	
William S. Harris, Regional Administrator, ETA, U.S. Department of Labor, 555 Griffin Square Bldg., room 316, Dallas, Tex. 75202.	Arkansas, Oklahoma, Texas, Louisiana, New Mexico.
REGION VII, KANSAS CITY	
Richard G. Miskimins, Regional Administrator, ETA, U.S. Department of Labor, 911 Walnut St., Federal Bldg., Kansas City, Mo. 64106.	Iowa, Missouri, Nebraska, Kansas.
REGION VIII. DENVER	
Robert J. Brown, Regional Administrator, ETA, U.S. Department of Labor, 16122 Federal Office Bldg., 1961 Stout St., Denver, Colo. 80202.	Colorado, Utah, South Dakota, North Dakota, Montana, Wyoming.
REGION IX, SAN FRANCISCO	
William J. Haltigan, Regional Administrator, ETA, U.S. Department of Labor, Box 36084, San Francisco, Calif. 94102.	Arizona, California, Hawaii, Nevada, Guam, American Samoa, Trust Territory of the Pacific Islands.
REGION X, SEATTLE	
Jess C. Ramaker, Regional Administrator, ETA, U.S. Department of Labor, Federal Office Bldg., room 1145, 909 1st Avenue, Seattle, Wash. 98174.	Alaska, Idaho, Oregon, Washington.

Signed at Washington, D.C. this 3d day of March 1977.

PIERCE A. QUINLAN,
Administrator, Office of Comprehensive Employment Development.

[FR Doc.77-7315 Filed 3-10-77;8:45 am]

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federal register

FRIDAY, MARCH 11, 1977
PART III

COMMODITY FUTURES TRADING COMMISSION

■

OPEN COMMISSION MEETINGS AND EX PARTE COMMUNICATIONS

Implementation of the Requirements of the Government in the Sunshine Act

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Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

OPEN COMMISSION MEETINGS, EX PARTE COMMUNICATIONS

Implementation of the Requirements of the Government in the Sunshine Act

The Commodity Futures Trading Commission has adopted regulations to implement the open meeting requirements and prohibitions against ex parte communications contained in the Government in the Sunshine Act, Pub. L. No. 94-409, which becomes effective on March 12, 1977. On February 2, 1977, the Commission published in the FEDERAL REGISTER, 42 FR 6558-6565, notice that it was considering adopting these rules and, in accordance with the requirement of Section 3(a) of the Government in the Sunshine Act, 5 U.S.C. 552b(g), afforded interested persons a thirty-day opportunity in which to submit written comments on them.

One letter of comment was received which contained two suggested amendments to the proposed open meeting rules, one of which has been adopted and is reflected in these rules. The other suggested amendment, however, has not been adopted for reasons that are discussed below.

With the exception of the one amendment in the proposed open meeting rules just noted, and one amendment made by the Commission to its proposed rules prohibiting ex parte communications, the Commission is aware of no reason why any of the rules as originally proposed should be modified. Accordingly, the rules have been adopted, with these two exceptions, in the form proposed to become effective on March 12, 1977. They comprise a new Part 147 of Title 17 of the Code of Federal Regulations to implement the open meeting requirements, and a revision of certain sections of the Commission's Rules of Practice, which comprise Part 10 of Title 17, and the Commission's Rules Relating to Reparation Proceedings, which comprise Part 12 of Title 17, to implement the prohibitions against ex parte communications.

A section-by-section explanation and the text of the Commission's rules are set forth below:

EX PARTE COMMUNICATIONS

Currently, the Commission has in effect a general prohibition against ex parte communications in proceedings conducted pursuant to its Rules of Practice, 17 CFR 10.10, and in reparation proceedings, 17 CFR 12.9. These rules have been revised in order to implement the specific prohibitions and sanctions against ex parte communications now contained in section 4 of the Government in the Sunshine Act. Therefore, each of these two rules has been superseded in a substantially identical manner by a new rule which prohibits and provides sanctions for the making of ex parte communications between certain persons outside the Commission and Commission decisional employees, in accordance with the requirements of the Government in the Sunshine Act.

Subsection (a) of the rule defines various terms used in the rule, including "Interested person" which includes parties and others who may have an interest in a proceeding. The definition of "Commission decisional employee" as proposed included all employees of the Commission who are or may reasonably be expected to be involved in the decision-making process in any proceeding including the Commission's General Counsel. The Commission has decided, however, to delete its General Counsel from this definition in recognition of the fact that individual cases may arise in which the General Counsel may not be involved in the Commission's decision-making process. In such cases, the Commission feels it may place an unnecessary burden on private counsel to prohibit communications with the General Counsel.

Subsection (b) states the general rule against ex parte communications by prohibiting any interested person outside the Commission from making or knowingly causing to be made to any Commissioner, Administrative Law Judge or Commission decisional employee an ex parte communication relevant to the merits of a proceeding. Commissioners, Administrative Law Judges and Commission decisional employees are likewise prohibited from making or knowingly causing to be made such ex parte communications to any interested person.

Subsection (c) of the rule establishes the procedure for handling ex parte communications that are made in violation of subsection (b). Any Commissioner, Administrative Law Judge or Commission decisional employee who receives, or makes or knowingly causes to be made, an ex parte communication shall place on the public record of the proceeding all such written communications, and memoranda summarizing the substance of all such oral communications, and all written responses and memoranda summarizing the substance of all oral responses thereto. In addition, written notice of all such communications and the responses thereto shall be given to all parties to the proceedings to which the communications or responses relate.

The sanctions for violating the prohibition against ex parte communications contained in subsection (b) are set forth in subsection (d) of the rule. Upon receipt of an ex parte communication knowingly made or knowingly caused to be made by a party to a proceeding, the Commission, Administrative Law Judge or Commission decisional employee presiding at the hearing is empowered, to the extent consistent with the interests of justice and the policy of the Commodity Exchange Act, as amended, 7 U.S.C. 1, et seq. (Supp. V, 1975), to require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied or otherwise adversely affected on account of the making of the ex parte communication. Further, any attorney or accountant who knowingly makes or knowingly causes to be made, or who knowingly solicits or knowingly causes the solicitation of, an ex parte communication prohibited by subsection (b) of the rule may be deemed to have violated, and be subject to discipline under, the Commission's Rules Relating to Suspension or Disbarment from Appearance and Practice, 17 CFR Part 14. In addition, any Commissioner, Administrative Law Judge or Commission decisional employee who knowingly makes or knowingly causes to be made, or who knowingly solicits or knowingly causes the solicitation of, an ex parte communication prohibited by subsection (b) of the rule may be deemed to have violated, and be subject to discipline under, the Commission's Code of Conduct for Commission members and employees, 17 CFR Part 140, Subpart C.

Finally, subpart (e) of the rule prescribes that the prohibitions of the rule shall apply to any person who has actual knowledge that a Commission proceeding has been or will be commenced and to all persons after public notice has been given that a proceeding has been or will be commenced. The prohibitions of the rule shall remain in effect until a final Commission order has been entered in the proceeding which is no longer subject to review or reconsideration by the Commission or any court. Subpart (e) also notes that nothing in the rule constitutes authority to withhold information from Congress.

Accordingly, 17 CFR 10.10 and 17 CFR 12.9 are hereby revised to read as follows:

PART 10—RULES OF PRACTICE

§ 10.10 Ex parte communications.

(a) *Definitions.* For purposes of this section:

(1) "Commission decisional employee" means employees of the Commission who are or may reasonably be expected to be involved in the decisionmaking process in any proceeding, including, but not limited to:

(i) Members of the personal staffs of the Commissioners;

(ii) Members of the staffs of the Administrative Law Judges;

(iii) The Chief and members of the Opinions section;

(iv) Members of the staff of the Office of Hearings and Appeals; and

(v) Other Commission employees who may be assigned to hear or to participate in the decision of a particular matter;

(2) "Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but does not include requests for status reports on any matter or proceeding covered by this part;

(3) "Interested person" includes parties and other persons who might be adversely affected or aggrieved by the outcome of a proceeding; their officers, agents, employees, associates, affiliates, attorneys, accountants or other representatives; and any other person having a direct or indirect pecuniary or other interest in the outcome of a proceeding;

(4) "Party" includes a person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, to a proceeding, and a person or agency permitted limited participation or to state views in a proceeding by the Commission.

(b) *Prohibitions against ex parte communications.*—(1) No interested person outside the Commission shall make or knowingly cause to be made to any Commissioner, Administrative Law Judge or Commission decisional employee an ex parte communication relevant to the merits of a proceeding.

(2) No Commissioner, Administrative Law Judge or Commission decisional employee shall make or knowingly cause to be made to any interested person outside the Commission an ex parte communication relevant to the merits of a proceeding.

(c) *Procedures for handling ex parte communications.* A Commissioner, Administrative Law Judge or Commission decisional employee who receives, or who makes or knowingly causes to be made, an ex parte communication prohibited by paragraph (b) of this section shall:

(1) Place on the public record of the proceeding:

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications; and

(iii) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraphs (1)(i) and (1)(ii) of this subsection (c); and

(2) Promptly give written notice of such communication and responses thereto to all parties to the proceedings to which the communication or responses relate.

(d) *Sanctions.*—(1) Upon receipt of an ex parte communication knowingly made or knowingly caused to be made by a party in violation of the prohibition contained in paragraph (b)(1) of this section, the Commission, Administrative Law Judge or other Commission employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the Act, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(2) Any attorney or accountant who knowingly makes or knowingly causes to be made, or who knowingly solicits or knowingly causes the solicitation of, an ex parte communication which violates the prohibitions contained in paragraph (b) of this section may, on that basis alone, be deemed to have engaged in unprofessional conduct of the type proscribed by 17 CFR 14.8(c).

(3) Any Commissioner, Administrative Law Judge or Commission decisional employee who knowingly makes or knowingly cause to be made, or who knowingly solicits or knowingly causes the solicitation of, an ex parte communication which violates the prohibitions contained in paragraph (b) of this section may, on that basis alone, be deemed to have engaged in conduct of the type proscribed by 17 CFR 140.735-3(b)(3).

(e) *Applicability of prohibitions and sanctions against ex parte communications.*—(1) The prohibitions of this section shall apply—

(i) To any person who has actual knowledge that a proceeding has been or will be commenced by order of the Commission; and

(ii) To all persons after public notice has been given that a proceeding has been or will be commenced by order of the Commission.

(2) The prohibitions of this section shall remain in effect until a final order has been entered in the proceeding which is no longer subject to review or reconsideration by the Commission or to review by any court.

(3) Nothing in this section shall constitute authority to withhold information from Congress.

PART 12—RULES RELATING TO REPARATION PROCEEDINGS

§ 12.9 Ex parte communications in reparation proceedings.

(a) *Definitions.* For purposes of this section:

(1) "Commission decisional employee" means employees of the Commission who are or may reasonably be expected to be involved in the decisionmaking process in any proceeding, including, but not limited to:

(i) Members of the personal staffs of the Commissioners;

(ii) Members of the staffs of the Administrative Law Judges;

(iii) The Chief and members of the Opinions section;

(iv) Members of the staff of the Office of Hearings and Appeals; and

(v) Other Commission employees who may be assigned to hear or to participate in the decision of a particular matter;

(2) "Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but does not include requests for status reports on any matter or proceeding covered by this part;

(3) "Interested person" includes parties and other persons who might be adversely affected or aggrieved by the outcome of a proceeding; their officers, agents, employees, associates, affiliates, attorneys, accountants or other representatives; and any other person having a direct or indirect pecuniary or other interest in the outcome of a proceeding;

(4) "Party" includes a complainant, respondent and any other person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, to a reparation proceeding, and a person or agency permitted limited participation or to state views in a reparation proceeding by the Commission.

(b) *Prohibitions against ex parte communications.* (1) No interested person outside the Commission shall make or knowingly cause to be made to any Commissioner, Administrative Law Judge or Commission decisional employee an ex parte communication relevant to the merits of a proceeding.

(2) No Commissioner, Administrative Law Judge or Commission decisional employee shall make or knowingly cause to be made to any interested person outside the Commission an ex parte communication relevant to the merits of a proceeding.

(c) *Procedures for handling ex parte communications.* A Commissioner, Administrative Law Judge or Commission decisional employee who receives, or who makes or knowingly causes to be made, an ex parte communication prohibited by paragraph (b) of this section shall:

(1) Place on the public record of the proceeding:

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications; and

(iii) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraphs (1)(i) and (1)(ii) of this subsection (c); and

(2) Promptly give written notice of such communication and responses thereto to all parties to the proceedings to which the communication or responses relate.

(d) *Sanctions.* (1) Upon receipt of an ex parte communication knowingly made or knowingly caused to be made by a party in violation of the prohibition contained in paragraph (b)(1) of this section, the Commission, Administrative Law Judge or other Commission employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the Act, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(2) Any attorney or accountant who knowingly makes or knowingly causes to be made, or who knowingly solicits or knowingly causes the solicitation of, an ex parte communication which violates the prohibitions contained in paragraph (b) of this section may, on that basis alone, be deemed to have engaged in unprofessional conduct of the type proscribed by 17 CFR 14.8(c).

(3) Any Commissioner, Administrative Law Judge or Commission decisional employee who knowingly makes or knowingly causes to be made, or who knowingly solicits or knowingly causes the solicitation of, an ex parte communication which violates the prohibitions contained in paragraph (b) of this section may, on that basis alone, be deemed to have engaged in conduct of the type proscribed by 17 CFR 140.735-3(b)(3).

(e) *Applicability of prohibitions and sanctions against ex parte communications.* (1) The prohibitions of this section shall apply:

(i) To any person who has actual knowledge that a proceeding has been or will be commenced by order of the Commission; and

(ii) To all persons after public notice has been given that a proceeding has been or will be commenced by order of the Commission.

(2) The prohibitions of this section shall remain in effect until a final order

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has been entered in the proceeding which is no longer subject to review or reconsideration by the Commission or to review by any court;

(3) Nothing in this section shall constitute authority to withhold information from Congress.

OPEN COMMISSION MEETINGS

GENERAL POLICY CONSIDERATIONS, PURPOSE AND SCOPE OF RULES; DEFINITIONS

Section 147.1 of Part 147 generally describes the purpose and scope of the rules and states the Commission's desire to inform the public of its activities and to conduct its business in an open manner to the fullest possible extent pursuant to the rules of Part 147. Section 147.2 defines various terms used in Part 147. Consistent with the Government in the Sunshine Act, the term "meeting" is broadly defined to mean the deliberations of a quorum of Commissioners that *determine* or result in the joint conduct or disposition of official Commission business. The Commission intends broadly to construe this definition to treat as a meeting subject to these regulations all deliberations by any group of Commissioners constituting a quorum that relate to the business of the Commission, whether or not any official action is taken or formal decision made as a result of those deliberations.

GENERAL REQUIREMENT OF OPEN MEETINGS; GROUNDS UPON WHICH MEETINGS MAY BE CLOSED

Section 147.3(a) states the general requirement that every portion of every meeting of the Commission shall be open to the public, and generally prohibits Commissioners from conducting or disposing of Commission business other than in accordance with the rules of Part 147. Meetings are also prohibited from being held in places which discriminate on the basis of race, color, creed, national origin, ancestry, religion or sex. So long as the orderly conduct of Commission business and effective operation of the Commission permit, the Commission will attempt to hold open meetings at times and in locations which maximize public convenience, and will allow persons in attendance at open meetings electronically to record or otherwise transcribe the proceedings. Of course, persons seeking to attend open meetings will not be burdened by any precondition to admittance; thus the Commission will not require that they identify themselves or whom they represent or disclose their purposes for wishing to attend.

Certain types of meetings or portions of meetings and certain information pertaining thereto are permitted to be treated as non-public pursuant to exemptions contained in section 3(a) of the Government in the Sunshine Act. Section 147.3(b) of the rules sets forth in detail these ten exemptions pursuant to which meetings may be closed to the public. It further states that the requirements of §§ 147.4, 147.5 and 147.6—which generally set forth the procedures for announcing and for closing meetings—shall not apply to any information pertaining to closed meetings that would otherwise be required to be made public by the open meeting rules. The introductory language of § 147.3(b) emphasizes, however, that the Commission may determine that the public interest requires that any meeting or portion thereof, or any information related thereto, which the Commission might lawfully treat as non-public pursuant to § 147.3(b), should nevertheless be opened and made available to the public.

The first exemption from the general open meeting requirement is embodied in § 147.3(b)(1) and relates to matters the disclosure of which are specifically authorized by Executive order to be kept secret in the interests of national defense or foreign policy and which in fact have been properly classified under such an Executive order. The second exemption, contained in § 147.3(b)(2), encompasses matters that relate solely to internal personnel rules and practices of the Commission or any other Federal agency. Under the rules, the application of this exemption will expressly be limited to specific types of matters affecting agency personnel rules and practices; it will not be invoked to close meetings that concern the general operations of the Commission, including, for example, general Commission budgetary matters.[1]

Section 147.3(b)(3) protects against disclosure of matters specifically exempted from disclosure by statute. This includes, but is not necessarily limited to, data and information obtained by the Commission pursuant to sections 8 and 16 of the Commodity Exchange Act, as amended, 7 U.S.C. 12 to 12–3 and 20. Meetings concerning or involving discussions of trade secrets and commercial or financial information obtained from a person and privileged or confidential are protected under § 147.3(b)(4).

The fifth exemption, § 147.3(b)(5), permits the Commission to discuss in confidence matters that involve accusing any person of a crime, or formally censuring any person. As subsection 147.3(b)(5)(ii) indicates, such matters would include consideration by the Commission of any administrative proceeding instituted or to be instituted against any person for a violation of the Commodity Exchange Act, as amended, or any rule, regulation or order thereunder.

It was suggested in a letter of comment that the Government in the Sunshine Act's fifth exemption to the general open meeting requirement upon which § 147.3(b)(5) is based can serve as a basis for closing meetings or portions thereof only when the violation of law in question may lead to the imposition of criminal sanctions. Therefore, the commenter suggested, proposed § 147.3(b)(5)(ii) must be limited accordingly.

The Commission, however, can find no support for this interpretation of the fifth exemption in either the Government in the Sunshine Act or its legislative history. Indeed, the Senate Report on the Government in the Sunshine Act in its explanation of the application of this exemption notes that it could properly be applied to closed meetings involving discussions of such non-criminal sanctions as the censure by "[a]n agency regulating financial or security matters" of "a firm for failing to live up to its professional responsibilities," or the formal censure of "an attorney for his conduct in an agency proceeding."[2] Accordingly, the Commission has determined to adopt § 147.3(b)(5) as proposed.

Section 147.3(b)(6), the sixth exemption from the general open meeting requirement, encompasses matters involving information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Discussions involving certain investigatory records compiled for law enforcement purposes, or information which, if written, would be contained in such records are the subject of the seventh exemption, contained in § 147.3(b)(7). Section 147.3(b)(8) permits the Commission to hold a non-public meeting concerning information contained in or related to certain reports prepared by, on behalf of, or for the use of the Commission or any other agency responsible for regulating or supervising financial institutions, but only to the extent that premature disclosure of such information would be likely to have an adverse effect on commodities market conditions.

Exemption nine, § 147.3(b)(9), pertains to matters involving information the premature disclosure of which would be likely to lead to significant financial speculation in currencies, securities, or commodities, significantly endanger the stability of any financial institution, or, in general, frustrate significantly the implementation of a proposed Commission action. Finally, the tenth exemption, as set forth in § 147.3(b)(10), relates to matters which specifically concern the Commission's involvement in federal or state civil actions or similar legal proceedings, or formal adjudications by the Commission.

The Commission intends to construe these exemptions narrowly in light of the broad remedial purposes to be served by the open meeting requirements, although not so narrowly as to defeat the important competing policy considerations that Congress recognized by the adoption of the exemptive provisions. Thus, for example, the seventh and tenth exemptions, as incorporated in § 147.3(b)(7) and § 147.3(b)(10) respectively, will normally be invoked only to close meetings relating to specific investigative, enforcement or litigation matters (either existent or proposed); they will not be invoked as a basis for closing meetings which involve no more than generalized legal discussions or at which the Commission receives legal or other advice of a general nature.

[1] Of course, when meetings concerning Commission operating priorities or budgetary considerations focus on certain specific kinds of problems, the Commission may find it necessary and appropriate to close a portion of a meeting to the public as permitted by other exemptions contained in § 147.3(b).

[2] S. Rep. No. 94–354, 94th Cong., 1st Sess. 22 (1975).

PROCEDURE FOR ANNOUNCING MEETINGS

Advance notice of all Commission meetings is required to be provided to the public by § 147.4(a). Generally, the advance notice must be made by a public announcement at least one week before the meeting. The notice will generally indicate the date, time, place and subject matter of the meeting, including which portions of the meeting shall be open or closed to the public, and designate an official of the Commission who may be contacted for further information about the meeting. However, when a majority of Commissioners determines by a recorded vote that Commission business requires the holding of a meeting upon less than a week's public notice, § 147.4(b) allows the Commission to make the public announcement required by § 147.4(a) at the earliest practicable time.

Section 147.4(c) provides that necessary changes in the time or place of a meeting for which a public announcement has previously been made shall be publicly announced at the earliest practicable time. A change in the subject matter of a previously announced meeting, or a change concerning which portion or portions of a previously announced meeting will be open or closed to the public, must be authorized by majority of Commissioners, determined by a recorded vote, and publicly announced at the earliest practicable time.

The methods by which meetings are to be publicly announced—as required by § 147.4 (a), (b) and (c)—are set forth in sections 147.4 (d) and (e), and include a public calendar to be printed and regularly distributed to interested persons, publication in the FEDERAL REGISTER of the public announcements, and direct public access to the Commission's Office of the Secretariat, which may be contacted during normal business hours for information about meetings.

GENERAL PROCEDURE FOR CLOSING MEETINGS

In accordance with the provisions of § 147.5, a Commission determination to close a meeting, as authorized pursuant to § 147.3(b), shall be made only upon the majority vote of all Commissioners. The vote of each Commissioner must be recorded and no proxies shall be allowed. While a separate recorded vote must be taken with respect to each meeting or portion of a meeting to be closed or with respect to any related information to be withheld, a single vote may be taken with respect to a series of meetings or with respect to related information when all meetings in the series involve the same matters and are scheduled to be held within a 30-day period.

To the extent that his interests may be directly affected, § 147.5(d) permits any person to petition the Commission in writing to close a portion of a meeting pursuant to any of three specific exemptive provisions contained in § 147.3(b). Upon request of any Commissioner, the Commission shall cast a recorded vote whether to close that portion of the meeting.

Section 147.5(e) will permit any Commission employee to petition the Commission in writing to open a meeting or portion thereof which might otherwise be closed if that employee's appointment, employment or dismissal is the subject of the meeting or portion of the meeting. Upon receipt of a petition from such an employee, the Commission shall open the meeting or portion of the meeting to the public.

Within one day after any vote has been taken pursuant to § 147.5, the Commission is required by § 147.5(f) to make publicly available a written copy of the vote, as well as a full written explanation of the Commission's action closing any portion of any meeting—including a list of persons expected to attend the meeting and their affiliations.

As proposed, § 147.5(g) required that for every meeting or portion of a meeting closed to the public, the Commission's General Counsel certify publicly that, in his or her opinion, the meeting or portion thereof may be closed, stating each relevant exemptive provision contained in § 147.3(b).

Pursuant to a suggestion made in a letter of comment, and in keeping with the Congressional intent that this certification procedure be completed before a closed meeting or closed portion of a meeting may be held,[3] § 147.5(g) has been adopted in a form different from that proposed in order to make clear that the Commission's General Counsel will render his certification prior to the closed meeting or closed portion thereof for which the certification has been given.

Sections 147.5(h) and 147.5(i) require that the following shall be made available for public inspection in the Commission's Public Reference room: written copies of votes to close meetings; written explanations, pursuant to § 147.5(f), of the Commission's action in closing portions of meetings; certifications of the Commission's General Counsel required by § 147.5(g); and a statement from the presiding officer at every meeting which is closed, in whole or in part, setting forth the time and place of the meeting and the persons present.

SPECIAL PROCEDURE FOR CLOSING CERTAIN MEETINGS

A special procedure for closing Commission meetings or portions of meetings that may properly be closed pursuant to any one or more of five specific exemptions found in § 147.3(b) is set forth in § 147.6.[4] Section 147.6(a) provides that any meeting or portion of a meeting may be closed pursuant to any of these five exemptions upon a majority vote of Commissioners cast at the beginning of a meeting or portion of a meeting. Section 147.6(b) states that the provisions of § 147.4 (relating to the announcement of meetings) and certain provisions of § 147.5 (relating to the general procedure for closing meetings) shall not apply to meetings or portions thereof to which § 147.6(a) is applied.

A written copy of all votes taken pursuant to § 147.6(a) is required by § 147.6(c) to be made publicly available in the Commission's Public Reference Room and the Commission is required to make the earliest practicable public announcement of the time, place and subject matter of any portion of a meeting to which § 147.6(a) is applied.

MAINTENANCE OF TRANSCRIPTS, RECORDINGS AND MINUTES OF CLOSED MEETINGS

As a general rule, § 147.7(a) requires the Commission to make a complete transcript or electronic recording of each meeting or portion of a meeting closed to the public. However, in the case of meetings or portions of meetings that may be closed pursuant to any one or more of four specific exemptions found in § 147.3(b),[5] § 147.7(b) allows the Commission merely to keep a set of minutes fully describing and summarizing all matters discussed and all actions taken.

PUBLIC AVAILABILITY OF AND REQUESTS FOR COPIES OF TRANSCRIPTS, RECORDINGS AND MINUTES OF CLOSED MEETINGS

The Commission is required by § 147.8(a) promptly to make available in its Public Reference Room the transcript, electronic recording or set of minutes that § 147.7 requires to be kept with respect to each closed meeting or portion of a meeting, except that the Commission is not required to disclose any items of discussion or testimony that are determined to contain information which may be withheld under § 147.3(b). Pursuant to § 147.8(b), this determination will be made by the Director of the Commission's Office of Public Information after consultation with the Commission's General Counsel and the Director of any affected staff division; any person objecting to a determination may, by written petition, seek Commission review of that determination.

Under the provisions of § 147.8(c), the Commission is required to keep the transcript, electronic recording or set of minutes required to be made of a closed meeting or closed portion of a meeting for at least two years after the meeting, or until one year after the conclusion of

[3] S. Rep. No. 94–1178, 94th Cong., 2d Sess. 19 (1976).

[4] Section 3(a) of the Government in the Sunshine Act, 5 U.S.C. 552b(d)(4), provides that any agency, a majority of whose meetings may properly be closed to the public pursuant to one or another of these five exemptions, may adopt regulations implementing special procedures for closing meetings pursuant to these exemptions. In reviewing the agendas for Commission meetings held since the creation of the Commission in April 1975, the Commission has found that well in excess of a majority of agenda items comprise, and well in excess of a majority of Commission meeting time has been devoted to, matters that are encompassed by these five exemptions. Accordingly, the Commission has adopted § 147.6 to implement the special procedures set forth in 5 U.S.C. 552b(d)(4).

[5] These exemptions can also serve as a basis for invoking the special procedure for closing meetings pursuant to § 147.6.

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any Commission proceeding with respect to which the meeting or portion was held, whichever is longer.

Copies of transcripts, transcriptions of electronic recordings or sets of minutes publicly available under § 147.8(a), which disclose the identity of each speaker, are required by § 147.9 to be furnished upon request to any person at the actual cost of duplication or transcription. These costs shall be determined by reference to the schedule of fees incorporated in the Commission's rules implementing the Freedom of Information Act, 17 CFR 145b.

INTERPRETATION OF PART 147 WITH OTHER PROVISIONS OF LAW

Finally, § 147.10 makes clear that nothing in Part 147 shall otherwise expand or limit the present rights of any person under the Commission's rules implementing the Freedom of Information Act as set forth in Part 145 of Title 17, except that the exemptions to the general open meeting requirement that are set forth in § 147.3(b) shall apply to any request made under the Commission's Freedom of Information Act Rules (Part 145) for access to transcripts, recordings or sets of minutes described in Part 147. Further, § 147.10 notes that Part 147 does not authorize the Commission to withhold any record (including transcripts, recordings or sets of minutes required by Part 147) from any person which is otherwise available under the Commission's rules implementing the Privacy Act as set forth in Part 146 of Title 17, and that the provisions of Chapter 33 of Title 44 of the United States Code regarding the disposal of records shall not apply to the transcripts, recordings or sets of minutes described in Part 147.

Accordingly, Chapter I of Title 17 of the Code of Federal Regulations is amended by adding a new Part 147, reading as follows:

PART 147—OPEN COMMISSION MEETINGS

Sec.

147.1 General policy considerations, purpose and scope of rules relating to open Commission meetings.
147.2 Definitions.
147.3 General requirement of open meetings; grounds upon which meetings may be closed.
147.4 Procedure for announcing meetings.
147.5 General procedure for closing meetings.
147.6 Special procedure for closing certain meetings.
147.7 Maintenance of transcripts, recordings and minutes of closed meetings.
147.8 Public availability of transcripts, recordings and minutes of closed meetings.
147.9 Requests for copies of transcripts, recordings or minutes of closed meetings.
147.10 Interpretation of this part with other provisions.

AUTHORITY: Sec. 3(a), Pub. L. 94-409, 90 Stat. 1241 (5 U.S.C. 552b); sec. 101(a)(11), Pub. L. 93-463, 88 Stat. 1391 (7 U.S.C. 4a(j). (Supp. V, 1975)).

§ 147.1 General policy considerations, purpose and scope of rules relating to open Commission meetings.

(a) This part contains the rules of the Commodity Futures Trading Commission implementing the open meeting requirements of the Government in the Sunshine Act (Pub. L. 94-409, 90 Stat. 1241, 5 U.S.C. 552b). These rules apply to all deliberations of a quorum of the Commission which determine or result in the conduct or disposition of official Commission business, with the exception of deliberations required or permitted by § 147.4, § 147.5 or § 147.6.

(b) Among the primary purposes of these rules is the Commission's desire to inform the public to the fullest extent possible of its activities as an aid to its properly carrying out its responsibility for administrating and enforcing the Commodity Exchange Act, as amended, 7 U.S.C. 1, et. seq., and the Commission's belief that, in order to guarantee public confidence in the integrity of its decision-making, it must, to the fullest possible extent, conduct its business in an open manner.

§ 147.2 Definitions.

For purposes of this part:

(a) "Agency" includes the Commodity Futures Trading Commission;

(b) "Commission" means the Commodity Futures Trading Commission;

(c) "Commissioner" means a member of the Commodity Futures Trading Commission duly appointed as a Commissioner in accordance with section 2(a)(2) of the Commodity Exchange Act, as amended, 7 U.S.C. 4a(a);

(d) "Meeting" means the deliberations of a quorum of Commissioners that determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by §147.4, § 147.5 or § 147.6;

(e) "Person" includes an individual, partnership, corporation, association, exchange or other entity or organization;

(f) "Quorum" means at least the minimum number of Commissioners required to take action on behalf of the Commission.

§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.

(a) Commissioners shall not jointly conduct or dispose of agency business other than in accordance with the rules of this part, and meetings shall not be held in places which restrict membership or attendance or otherwise discriminate on the basis of race, color, creed, national origin, ancestry, religion or sex. Except as provided in paragraph (b) of this section, every portion of every meeting of the Commission shall be open to public observation.

(b) Except where the Commission finds that the public interest requires otherwise, meetings or portions of meetings shall not be open to public observation, and the requirements of § 147.4, § 147.5 and § 147.6 shall not apply to any information pertaining to such meetings or portions of meetings otherwise required by the rules of this part to be publicly disclosed, where the Commission determines that such meetings or portions of meetings or the disclosure of such information is likely to:

(1) Disclose matters that (i) are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy, and (ii) are in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and personnel practices of the Commission or any other agency of the Government of the United States, including, but not limited to, operational rules, guidelines, and manuals of procedure for investigators, auditors, and other employees (other than those rules and practices which establish legal requirements to which members of the public are expected to conform);

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, as amended, 5 U.S.C. 552), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld. This includes, but is not limited to, data and information which would separately disclose the business transactions of any person and trade secrets or names of customers that have been obtained by the Commission in an investigation conducted pursuant to section 8 or section 16 of the Commodity Exchange Act, as amended, 7 U.S.C. 12 to 12-3 and 20, for the efficient execution of the provisions of that Act or in order to provide information for the use of Congress;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential including, but not limited to:

(i) Information contained in any document submitted to or required to be filed with the Commission where the Commission has undertaken formally or informally to receive such submission or filing for its use or the use of specified persons only, and the information is of a kind not normally disclosed by the person from whom it was obtained including, but not limited to:

(A) Certain information on Form 1-FR required filed pursuant to 17 CFR 1.10 and schedules 1, 2, 4, 5, 6, 7, 8, and 9 thereto;

(B) Reports of stocks of grain, such as Forms 38, 38C, 38M and 38T, required to be filed pursuant to 17 CFR 1.44;

(C) Statements of reporting traders on Form 40 required to be filed pursuant to 17 CFR 18.04;

(D) Statements concerning special calls on positions required to be filed pursuant to 17 CFR 21.00;

(E) Statements concerning identification of special account on Form 102 required to be filed pursuant to 17 CFR 17.01; and

(F) Reports filed on forms in the 01, 03 and 04 series required to be filed pursuant to 17 CFR 17.00, 18.00 and 19.00;

(ii) Information contained in reports, summaries, analyses, transcripts, letters or memoranda arising out of, in anticipation of or in connection with an examination or inspection of the books and records of any person or any other formal or informal inquiry or investigation; and

(iii) Information for which confidential treatment has been requested and granted in accordance with 17 CFR 145.9;

(5) Involve accusing any person of a crime, or formally censuring any person, including but not limited to:

(i) Requests by the Commission that the Attorney General of the United States institute a criminal action against any person believed to have violated any provision of the Commodity Exchange Act, as amended, 7 U.S.C. 1, et seq., or any rule, regulation or order thereunder;

(ii) The consideration of any administrative proceeding instituted or to be instituted by the Commission against any person for a violation of the Commodity Exchange Act, as amended, 7 U.S.C. 1, et seq., or any rule, regulation or order thereunder;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, including, but not limited to, information of that character contained in:

(i) Files concerning employees of the Commission;

(ii) Files concerning persons subject to regulation by the Commission, including files with respect to applications for registration as a futures commission merchant, an association person, a floor broker, a commodity pool operator, a commodity trading advisor, and biographical data forms submitted with such applications. Examples of the information on the applications or forms which may be protected are a person's home address, social security number, date and place of birth and, in appropriate cases, some of the information concerning prior arrests, indictments, criminal convictions or other sanctions imposed by state or federal courts or regulatory authorities; and

(iii) Files containing information for which confidential treatment has been requested and granted in accordance with 17 C.F.R. 145.9;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, to the extent that production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel. Investigatory records and information include all documents, records, transcripts, correspondence and related memoranda and work-product concerning examinations and other inquiries or investigations and related litigation as authorized by law, which pertain to or may disclose the possible violations by any person of any provision of law, including the Commodity Exchange Act, as amended, or of any rule or regulation adopted by the Commission or which pertain to the qualifications of any person registered or seeking registration under that Act or of any person affiliated with such person; and all written communications from or to any person who has confidentially complained or otherwise furnished information respecting such possible violations, as well as all correspondence and memoranda in connection with such confidential complaints or information;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Commission or any other agency responsible for the regulation or supervision of financial institutions when the premature disclosure of such information would be likely to have an adverse effect on commodities market conditions;

(9) Disclose information the premature disclosure of which would be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, (ii) significantly endanger the stability of any financial institution, or (iii) frustrate significantly the implementation of a proposed Commission action, except where the Commission has already disclosed to the public the content or nature of its proposed action, or where the Commission is required by law to make such disclosure on its own initiative prior to taking final Commission action on such proposal; or

(10) Specifically concern the Commission's issuance of a subpena, or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Commission of a particular case of formal agency ajudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 147.4 Procedure for announcing meetings.

(a) Advance notice of all meetings of the Commission shall be provided to the public. In the case of each meeting, except as provided in paragraph (b) of this section and in § 147.6, the Commission shall, except to the extent that such information is exempt from disclosure under the provisions of § 147.3(b), make a public announcement, at least one week before the date of the meeting of the time, place and subject matter of the meeting and which portions of the meeting shall be open or closed to the public, and shall indicate an official of the Commission who may be contacted at a designated telephone number for information about the meeting.

(b) When a majority of Commissioners determines by a recorded vote that Commission business requires a meeting be held upon public notice of less than one week as required by paragraph (a) of this section, the Commission shall, except to the extent that such information is exempt from disclosure under the provisions of § 147.3(b), make a public announcement, at the earliest practicable time, of the time, place and subject matter of the meeting and which portions of the meeting shall be open or closed to the public, and indicate an official of the Commission who may be contacted at a designated telephone number for information about the meeting.

(c)(1) When it becomes necessary to change the time or place of a meeting for which a public announcement has been made pursuant to paragraphs (a) or (b) of this section, the Commission shall publicly announce such change at the earliest practicable time.

(2) When it becomes necessary with respect to a meeting for which a public announcement has already been made pursuant to paragraphs (a), (b) or (c)(1) of this section to change the subject matter of a meeting, or change the Commission's determination as to which portions of a meeting shall be open or closed to the public, a majority of all Commissioners shall determine by a recorded vote that Commission business requires such a change and that no earlier announcement of the charge was possible, and the Commission shall publicly announce such change and the vote of each Commissioner upon such change at the earliest practicable time.

(d) Public announcement of meetings, as required by this section, shall be provided as follows:

(1) A public calendar shall be printed and distributed by the Commission on a regular basis to interested persons to provide advance public notice of meetings as required by paragraph (a) of this section, and, to the extent practicable, as required by paragraphs (b) and (c) of this section. Upon request in writing to the Office of Public Information, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, any person or organization will be sent the public calendar on a regular basis free of charge. Copies of the public calendar also will be publicly available in the Commission's Office of Public Information.

(2) Interested persons may contact the Commission's Office of the Secretariat during normal business hours to obtain information concerning future meetings.

(e) Immediately following each public announcement required by this section, the Commission shall submit for publication in the FEDERAL REGISTER, except to the extent that such information is exempt from disclosure under the provisions of § 147.3(b), notice of the time, place, and subject matter of a meeting, which portions of the meeting shall be open or closed to the public, any change in one of the preceding, and the name

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and telephone number of an official of the Commission who may be contacted for information about the meeting.

§ 147.5 General procedure for closing meetings.

(a) The Commission shall determine that a meeting or portion of a meeting will be closed to public observation pursuant to § 147.3(b) only upon the majority vote of all Commissioners. The vote of each Commissioner shall be recorded, and the use of proxies shall be prohibited.

(b) A separate vote of Commissioners shall be taken with respect to each meeting a portion or portions of which are proposed to be closed to the public pursuant to § 147.3(b), or with respect to any information which is proposed to be withheld under § 147.3(b).

(c) A single vote of Commissioners may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, when each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series.

(d) Whenever any person whose interests may be directly affected by a portion of a meeting requests in writing to the Commission that the Commission close such portion to the public for any of the reasons set forth in § 147.3(b)(5), § 147.3(b)(6) or § 147.3(b)(7), the Commission, upon the request of any Commissioner, shall vote by recorded vote whether to close that portion of the meeting.

(e) Whenever any Commission employee whose appointment, employment or dismissal is to be the subject of a meeting or portion of meeting closed to the public pursuant to § 147.3(b) requests in writing to the Commission that the Commission open that meeting or portion of meeting, the Commission shall open that meeting or portion of meeting to the public.

(f) Within one day of any vote taken pursuant to paragraphs (b), (c) or (d) of this section, the Commission shall make publicly available a written copy of that vote reflecting the vote of each Commissioner on the question. If the Commission determines by a vote taken pursuant to paragraphs (b), (c) or (d) of this section that a portion of a meeting is to be closed to the public, the Commission shall, within one day of such vote, make publicly available a full written explanation of its action closing the portion of the meeting together with a list of all persons expected to attend the meeting and their affiliations, except to the extent that such information is exempt from disclosure under the provisions of § 147.3(b).

(g) Before any meeting or portion of a meeting may be closed pursuant to § 147.3(b), the Commission's General Counsel shall publicly certify that, in his or her opinion, the meeting or portion of meeting may be closed to the public, and shall state each relevant exemptive provision.

(h) Written copies of votes to close meetings and written explanations of Commission actions closing portions of meetings to the public required to be made publicly available by paragraph (f) of this section shall be available for public inspection in the Commission's Public Reference Room, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

(i) A copy of the certification of the Commission's General Counsel required by paragraph (g) of this section, together with a statement from the presiding officer at any meeting closed, in whole or in part, pursuant to § 147.3(b), setting forth the time and place of the meeting, and the persons present, shall be retained by the Commission and, except to the extent that such information is exempt from disclosure under the provisions of § 147.3(b), shall be available for public inspection in the Commission's Public Reference Room, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

§ 147.6 Special procedure for closing certain meetings.

(a) Any meeting or portion of meeting that may properly be closed to the public pursuant to § 147.3(b)(4), § 147.3(b)(8), § 147.3(b)(9)(i), § 147.3(b)(9)(ii) or § 147.3(b)(10), or any combination thereof, may be closed if a majority of Commissioners votes by recorded vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting.

(b) The provisions of § 147.4, and of § 147.5(a), § 147.5(b), § 147.5(c), § 147.5(d), § 147.5(e), § 147.5(f) and § 147.5(h) shall not apply to any portion of a meeting to which paragraph (a) of this section is applied. The provisions of § 147.5(g) and § 147.5(i) shall apply to any such portions of meetings.

(c) A written copy of all votes taken pursuant to paragraph (a) of this section reflecting the vote of each Commissioner on the question shall be made available for public inspection in the Commission's Public Reference Room, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

(d) The Commission shall, except to the extent that such information is exempt from disclosure under the provisions of § 147.3(b), make public announcement at the earliest practicable time of the time, place, and subject matter of any portion of a meeting to which paragraph (a) of this section is applied. Such public announcement shall be provided, to the extent practicable, through the Commission's public calendar as described in § 147.4(d)(1), and by the Commission's Office of the Secretariat as set forth in § 147.4(d)(2).

§ 147.7 Maintenance of transcripts, recordings and minutes of closed meetings.

(a) The Commission shall make and maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting or portion of meeting closed to the public, except as provided in paragraph (b) of this section.

(b)(1) In the case of each meeting or portion of meeting closed to the public pursuant to § 147.3(b)(8), § 147.3(b)(9)(i), § 147.3(b)(9)(ii) or § 147.3(b)(10), or any combination thereof, the Commission shall make and maintain either a complete transcript or recording as described in paragraph (a) of this section, or a set of minutes.

(2) When the Commission elects to keep minutes under paragraph (b)(1) of this section, the minutes shall fully and clearly describe all matters discussed at the closed meeting or closed portion thereof, and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item, and a record of any roll call vote taken which reflects the vote of each Commissioner on the question. All documents considered in connection with any actions taken shall be identified in such minutes.

§ 147.8 Public availability of transcripts, recordings and minutes of closed meetings.

(a) The Commission shall make promptly available to the public, in its Public Reference Room, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, the transcript, electronic recording or set of minutes of the discussion of any item on the agenda of any closed meeting or closed portion thereof (as required by § 147.7), or of any item of the testimony of any witness received at such meeting or portion thereof, except for such item or items of such discussion or testimony that are determined, in accordance with the procedure set forth in paragraph (b) of this section, to contain information which may be withheld under § 147.3(b).

(b)(1) All determinations made pursuant to paragraph (a) of this section that items of discussion or testimony reflected in transcripts, recordings or sets of minutes of closed meetings or closed portions thereof are exempt from disclosure pursuant to § 147.3(b), shall be made by the Director of the Commission's Office of Public Information after due consultation with the Office of the Commission's General Counsel and the Director of any affected staff division.

(2) Any person who objects to any determination made pursuant to paragraph (b)(1) of this section may seek Commission review of that determination by filing with the Commission's Office of the Secretariat a brief written statement that review is sought which contains a concise statement of the reasons why the determination should be set aside.

(c) The Commission shall maintain a complete verbatim copy of the transcript, a complete electronic recording or a complete copy of the minutes of each meeting or portion of a meeting closed to

the public, which are made in accordance with § 147.7(a) or §147.7(b), for a period of at least two years after such meeting or portion of meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

§ 147.9 Requests for copies of transcripts, recordings or minutes of closed meetings.

(a) Copies of a transcript transcription of an electronic recording or set of minutes disclosing the identity of each speaker, which are publicly available pursuant to § 147.8(a), shall be furnished to any person at the actual cost of duplication or transcription pursuant to the schedule of fees set forth in 17 CFR 145b (a)(3), (a)(4), (a)(5), (a)(7), (d) and (e).

(b) Requests for copies of transcripts, transcriptions of electronic recordings or sets of minutes as described in paragraph (a) of this section may be made either in person at, or by mail addressed to, the Commission's Office of Public Information, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

§ 147.10 Interpretation of this part with other provisions.

(a) Nothing in this part shall be interpreted as: (1) Expanding or limiting the present rights of any person under Part 145 of this Title (implementing the provisions of the Freedom of Information Act, 5 U.S.C. 552), except that the exemptions set forth in §147.3(b) of this part shall govern in the case of any request made pursuant to Part 145 to copy or inspect the transcripts, recordings or sets of minutes described in this part; or

(2) Authorizing the Commission to withhold from any person any record, including transcripts, recordings or sets of minutes required by this part, which is otherwise accessible to such individual under Part 146 of this Title (implementing the provisions of the Privacy Act, 5 U.S.C. 552a).

(b) The requirements of Chapter 33 of Title 44, United States Code (with respect to the disposal of records), shall not apply to the transcripts, recordings and minutes described in this part.

(Sec. 4, Pub. L. 94-409, 90 Stat. 1246, 1247 (5 U.S.C. 551(14), 556(d) and 557(d)); sec. 101(a)(11), Pub. L. 93-463, 88 Stat. 1391 (7 U.S.C. 4a(j) (Supp. V, 1975)).)

The foregoing adoption by the Commission of Part 147 and of the revisions of 17 CFR 10.10 and 17 CFR 12.9 shall be effective March 12, 1977.

Following the close of the comment period on these rules, the Commission received several letters of comment. Because of the requirement of the Government in the Sunshine Act that rules implementing its open meeting requirements be promulgated in final form on or prior to March 12, 1977, the Commission was unable to consider these comments before issuance of these rules. However, consistent with its customary policy, the Commission is now reviewing these comments with a view toward possible amendment.

Issued in Washington, D.C., on March 8, 1977.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-7297 Filed 3-10-77;8:45 am]

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federal register

FRIDAY, MARCH 11, 1977

PART IV

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders, 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:	
AR76–4129; AR76–4133	July 13, 1976.
AR77–4018	Feb. 4, 1977.
California:	
CA76–5101; CA76–5102	Nov. 19, 1976.
CA76–5116; CA76–5117	Dec. 10, 1976.
CA76–5120; CA76–5121	Dec. 28, 1976.
Florida:	
FL77–1021	Feb. 18, 1977.
FL77–1023	Apr. 16, 1976.
Idaho:	
ID77–5023	Feb. 25, 1977.
Iowa:	
IA76–4145	Sept. 10, 1976.
IA76–4172; IA77–4173	Oct. 15, 1976.
Maryland:	
MD77–3017; MD77–3020	Jan. 14, 1977.
Massachusetts:	
MA76–2098	Aug. 13, 1976.
MA76–2102	Sept. 3, 1976.
Missouri:	
MO77–4033	Feb. 18, 1977.
Montana:	
MT76–5100	Oct. 29, 1976.
North Dakota:	
ND75–5109	Aug. 29, 1975.
ND77–5020	Feb. 18, 1977.
Oklahoma:	
OK76–4137	July 30, 1976.
OK76–4186	Nov. 19, 1976.
OK76–4189	Nov. 26, 1976.
Virginia:	
MD76–3285	Nov. 19, 1976.
Washington:	
WA76–5119	Dec. 10, 1976.
Washington, D.C.:	
DC76–3284	Nov. 19, 1976.
West Virginia:	
WV77–3024; WV77–3027	Feb. 18, 1977.
Wyoming:	
WY76–5070	Aug. 6, 1976.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Arizona:	
AZ75–5003 (AZ77–5024)	Jan. 24, 1975.
Arkansas:	
AR76–4130 (AR77–4061)	July 23, 1976.
Colorado:	
CO76–5067 (CO77–5014)	July 30, 1976.
CO76–5104 (CO77–5015); CO76–5105 (CO77–5016); CO76–5106 (CO77–5017).	Nov. 26, 1976.
CO76–5107 (CO77–5018)	Dec. 3, 1976.
Florida:	
FL76–5024 (GA77–5035)	Mar. 26, 1976.
GA77–5005 (GA77–5035)	Jan. 4, 1977.
Georgia:	
FL76–5024 (GA77–5035)	Mar. 26, 1976.
GA77–5005 (GA77–5035)	Jan. 4, 1977.
Guam:	
AR–1029 (GU77–5026)	Sept. 6, 1974.
Illinois:	
IL76–5026 (IL77–5036)	Mar. 26, 1976.
Indiana:	
IL76–5026 (IL77–5036)	Do.
Kentucky:	
IL76–5026 (IL77–5036)	Do.
Missouri:	
IL76–5026 (IL77–5036)	Do.
MO76–4107 (MO77–4059); MO76–4108 (MO77–4058).	July 2, 1976.
Montana:	
MT76–5099 (MT77–5034)	Oct. 29, 1976.
New Mexico:	
NM75–5004 (NM77–5025)	Jan. 24, 1975.
New York:	
NY76–3281 (NY77–3002)	Nov. 12, 1976.
North Carolina:	
FL76–5024 (GA77–5035)	Mar. 26, 1976.
GA77–5005 (GA77–5035)	Jan. 7, 1977.
Ohio:	
IL76–5026 (IL77–5036)	Mar. 26, 1976.
OH76–2089 (OH77–2037)	June 11, 1976.
OH76–2089 (OH77–2037)	July 23, 1976.
OH76–2090, OH76–2091 (OH77–2037).	July 30, 1976.
Oklahoma:	
OK76–4002 (OK77–4060)	Jan. 16, 1976.
OK76–4139 (OK77–4063)	July 30, 1976.
OK77–4002 (OK77–4063)	Jan. 14, 1977.
OK77–4035 (OK77–4060)	Feb. 18, 1977.
South Carolina:	
FL76–5024 (GA77–5035)	Mar. 26, 1976.
GA77–5005 (GA77–5035)	Jan. 4, 1977.
Tennessee:	
TN76–1061 (TN77–1016)	Aug. 16, 1976.
Virginia:	
FL76–5024 (GA77–5035)	Mar. 26, 1976.
GA77–5005 (GA77–5035)	Jan. 4, 1977.
Washington, D.C.:	
FL76–5024 (GA77–5035)	Mar. 26, 1976.
GA76–5005 (GA77–5035)	Jan. 4, 1977.
West Virginia:	
IL76–5026 (IL77–5036)	Mar. 26, 1976.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISION

General Wage Determination decision No. MD77–3019, Anne Arundel County, Maryland, is cancelled. Agencies with building construction projects (excluding single family houses and garden type apartments up to and including 4-stories) and heavy construction projects (excluding sewer and water lines construction) pending in this location should utilize General Wage Determination decision No. MD77–3017. Projects pending at the D.C. Training School should utilize General Wage Determination decision No. MD76–3285. Contracts for which bids have been opened should not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision No. MD77–3019 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 4th day of March 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA76-5101 - Mod. #2 (41 FR 51225-November 19, 1976) Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California					
Change:					
Boilermakers	12.80	.75	$1.00	.50	.02
Bricklayers; Stonemasons: Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Sutter, Tehama, Yolo and Yuba Cos.	11.90	.80	1.05		.25
Electricians: Lake, Marin, Mendocino and Sonoma Counties	12.65	.82	1%+.30		.02
Electricians	13.91	.82	1%+.30		.02
Cable Splicers			.45		
Lathers: Fresno, Kings, Madera and Tulare Counties	12.03	.35			
Line Construction: Butte, Glenn, Lassen, Plumas, Shasta, Tehama and Trinity Counties					
Groundmen	9.58	.87	1%+.705		.02
Linemen; Equipment Operators	11.98	.87	1%+.705		.02
Cable Splicers	13.18	.87	1%+.705		.02
Sheet Metal Workers: San Mateo County	12.62	.66	1.81		.12
Soft Floor Layers: Solano and Sonoma Counties	11.30	.60	1.00	c	.10

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AR77-4018 - Mod. #2 (42 FR 7040 - February 4, 1977) Crawford, Sebastian and Washington Counties, Arkansas					
CHANGE: ELECTRICIANS: Electricians	$ 9.90	.35	1%+5.5%		1/4%
Cable splicers	10.15	.35	1%+5.5%		1/4%
DECISION NO. AR76-4129 - Mod. #3 (41 FR 30507 - July 23, 1976) Union & Ouachita Counties, Arkansas					
CHANGE: SHEET METAL WORKERS	$9.65	3%+.40a	.25		.07b
DECISION NO. AR76-4133 - Mod. #5 (41 FR 30515 - July 13, 1976) Garland, Hot Springs and Clark Counties, Arkansas					
CHANGE: PLASTERERS	$8.60				.02

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MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA76-5116 - Mod. #2 (41 FR 54115-December 10, 1976) San Diego County, California					
Change:					
Asbestos Workers	$13.10	.80	$1.17		.06
Boilermakers	12.80	.75	1.00	.50	.02
Glaziers	10.90	.67	.60		
Painters:					
Brush; Paint Burner	10.99	.99	1.18	.75	.07
Swing Stage, brush; Spray; Iron, steel and bridge painter (ground work)	11.24	.99	1.18	.75	.07
Paperhanger; Spray, swing stage; Sandblaster; Iron, steel and bridge, swing stage; Iron, steel and bridge, spray (ground); Riggers, climbing steel; Brush, climbing steel and bridge	11.49	.99	1.18	.75	.07
Sandblaster, swing stage; Iron, steel and bridge, spray swing stage; Spray, climbing steel and bridge	11.74	.99	1.18	.75	.07
Steeplejack	12.39	.99	1.18	.75	.07
DECISION NO. CA76-5117 - Mod. #2 (41 FR 54122-December 10, 1976) San Diego County, California					
Change:					
Asbestos Workers	$13.10	.80	$1.17		.06
Boilermakers	12.80	.75	1.00	.50	.02
Glaziers	10.90	.67	.60		
Painters:					
Brush	10.99	.99	1.18	.75	.07
Spray; Swing Stage, Brush	11.24	.99	1.18	.75	.07
Paperhangers; Spray, swing stage; Sandblaster	11.49	.99	1.18	.75	.07

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA76-5102 - Mod. #2 (41 FR 51272-November 19,1976) Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties California					
Change:					
Boilermakers	$12.80	.75	$1.00	.50	.02
Bricklayers; Stonemasons: Eldorado, Nevada, Placer, Sacramento, Sutter, Tehama, Yolo and Yuba Counties	11.90	.80	1.05		.05
Electricians:					
Marin and Sonoma Counties	12.65	.01	1a+.30		.02
Electricians	13.91	.01	1a+.30		.02
Cable Splicers				b	.12
Latheres:	12.62	.66	1.81		
Fresno County					.10
Plumbers:	11.43	.35	.45		
Alameda County	13.19	1.25	2.29		.12
Del Norte and Humboldt Cos.	11.33	.71	1.12		.05
Sheet Metal Workers:					
San Mateo County	12.62	.66	1.81		.12
Soft Floor Layers:				b	
Solano and Sonoma Counties	11.30	.60	1.00		.10

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA76-5120 (Cont'd)					
Sheet Metal Workers:					
Riverside and San Bernardino Counties	$10.10	$1.04	$1.00		.08
Kern County (China Lake Naval Ordnance Test Station and Edwards AFB)	11.67	1.04	1.00		.02
Kern County (Remainder of County & all of Inyo & Mono Counties; Los Angeles County (That portion North of a straight line drawn between Gorman and Big Pines)	11.17	1.04	1.00		.02
Soft Floor Layers:					
Los Angeles, Orange, Riverside, Santa Barbara, San Luis Obispo, San Bernardino and Ventura Counties	10.32	.70	.60	.70	.07
Kern County Including that portion lying East of the Los Angeles Aqueduct and that portion of Inyo County included within the Inyo-Kern Naval Reservation	9.72	.70	.60	.70	.07
Addi:					
Line Construction:					
Inyo, Mono and San Bernardino Counties	$8.87	.96	1a+1.65		
Groundmen	11.02	.96	1a+1.65		
Linemen	12.10	.96	1a+1.65		
Cable Splicers					

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA76-5120 - Mod. #3 (41 FR 56556-December 28, 9176) Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Change:					
Asbestos Workers	$13.10	.80	$1.17		.06
Boilermakers	12.80	.75	1.00	.50	.02
Glaziers:					
Imperial County	10.90	.67	.90		
Painters:					
Imperial, Orange, Riverside, Los Angeles (Pomona Area), San Bernardino (excluding Western portion)	10.99	.99	1.18	.75	.07
Brush; Paint Burners Paperhangers; Iron, steel and bridge (swing stage); Sheet rock Taper	11.49	.99	1.18	.75	.07
Brush (swing stage); Spray	11.24	.99	1.18	.75	.07
Steeplejack	12.39	.99	1.81	.75	.07
San Luis Obispo, Santa Barbara, and Ventura Counties	11.51	.75	.60		.03
Iron and steel; Paperhangers; Fence Machine Operator; Sandblaster	11.76	.75	.60		.03
Sprayman	12.01	.75	.60		.03
Steeplejack	12.76	.75	.60		.03
Taper, sheet rock	12.11	.75	.60		.03
Refrigeration & Air Conditioning:					
Riverside and San Bernardino Counties	9.85	.96	.70	.90	.05
Roofers:					
Inyo, Kern and Mono Counties	9.70	.60	.60		
San Luis Obispo and Santa Barbara Counties	10.43	.535	.34		.0025

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MODIFICATIONS P. 7

DECISION #CA76-5121 - Mod. #3
(41 FR 56566-December 28, 1976)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$13.10	.80	$1.17		.06
Boilermakers	12.80	.75	1.00	.50	.02
Glaziers:					
Imperial County	10.90	.67	.90		
Paintors:					
Imperial, Orange, Riverside, Los Angeles (Pomona Area); San Bernardino (excluding Western portion)					
Brush; Paint Burners	10.99	.99	1.18	.75	.07
Paperhangers; Iron, steel and bridge (swing stage); Sheet Rock Tapers	11.49	.99	1.18	.75	.07
Brush (swing stage); Spray	11.24	.99	1.18	.75	.07
Steeplejack	12.39	.99	1.18	.75	.07
San Luis Obispo, Santa Barbara and Ventura Counties					
Brush	11.51	.75	.60		.03
Iron and steel; Paperhangers; Paste Machine Operator; Sandblaster	11.76	.75	.60		.03
Tapers, Sheetrock	12.11	.75	.60		.03
Sprayman	12.01	.75	.60		.03
Steeplejack	12.76	.75	.60		.03
Refrigeration & Air Conditioning:					
Riverside and San Bernardino Counties	9.85	.96	.70	.90	.05
Roofers:					
Kern County	9.70	.60	.60		
San Luis Obispo and Santa Barbara Counties	10.43	.535	.34		.0025

MODIFICATIONS P. 8

DECISION NO. CA76-5121 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet Metal Workers:					
Riverside and San Bernardino Counties	$10.10	$1.04	$1.80		.02
Kern County (China Lake Naval Ordnance Test Station and Edwards AFB)	13.67	1.04	1.80		.02
Kern County (Remainder of County and Los Angeles County (That portion North of a straight line drawn between Gorman and Big Pines)	11.17	1.04	1.80		.02
Soft Floor Layers:					
Los Angeles, Orange, Riverside, Santa Barbara, San Luis Obispo, San Bernardino and Ventura Counties	10.32	.70	.60	.78	.07
Kern County	9.72	.70	.60	.78	.07

MODIFICATIONS P. 9

Decision No. FL77-1021 - Mod. #1
(41 FR-10227 - February 18, 1977)
Duval County, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	10.76	.45	.55		.04

Decision # FL77-1023 - Mod. # 1
(41 FR-16360 - April 16, 1976)
Brevard and Volusia (Cape Kennedy, Kennedy Space Flight Center, Patrick AFB, & Melabar Radar Site only), Counties Florida.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Plumbers, pipefitters, steamfitters Industrial	10.52	.57	.56	.60	.05

MODIFICATIONS P. 10

DECISION #ID77-5023 - Mod. #1
(42 FR 11195 - February 25, 1977)
Statewide Idaho

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	$9.85	.55	$1.10		
Glaziers: Benewah, Clearwater, Idaho County (north of 46th Parallel), Latah, Lewis, Nez Perce Counties	8.03	.40	.25	b+.28	
Marble Setters: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	9.00	.55	1.10		
Soft Floor Layers: Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	9.05	.40	.60		
Terrazzo Workers & Tile Setters: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties	9.00	.55	1.10		
Add:					
Plasterers' Tenders: Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	8.60	.65	.70		.02

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IA76-4148 - Mod. #5 (41 FR 38711 - Sept. 10, 1976) Clinton County (City of Clinton and abutting municipalities), Iowa					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction:					
Marble Setters	$ 9.70	.35	.50		
Terrazzo Workers	9.70	.35	.50		
Tile Setters	9.70	.35	.50		
DECISION NO. IA76-4172 - Mod. #3 (41 FR 45802 - Oct. 15, 1976) Scott County, Iowa					
Change: Building Construction:					
Bricklayers & Stonemasons	$10.25	.35	.50		.03
Marble Setters	9.70	.35	.50		
Terrazzo Workers	9.70	.35	.50		
Tile Setters	9.70	.35	.50		
DECISION NO. IA76-4173 - Mod. #2 (41 FR 45805 - Oct. 15, 1976) Story County (City of Ames & abutting municipalities), Iowa					
Change: Building, Water Treatment Plants & Sewage Disposal Plants Construction: Carpenters:					
Carpenters; Piledrivermen	$8.85		.50		
Millwrights	9.20		.50		

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MD77-3017 - Mod. #3 (42 FR 3142 - January 14, 1977) Counties of Baltimore, Harford, Howard and Baltimore City, Maryland					
Add: To Counties the County of Anne Arundel (excluding the D. C. Training School), Maryland					
Change: Carpenters, Soft Floor Layers, Millwrights, & Pile Drivers: Anne Arundel (the City of Annapolis and that portion of the county south and east of the following line: beginning at Rte. 3 and the Patuxent River, north on Rte. 3 to the junction of Benfield Rd., then right on Benfield Rd. to the junction of Jumpers Hole Rd., left on Jumpers Hole Rd. to the junction of Ritchie Hwy., left on Ritchie Hwy. to the junction of Rte. 100, right on Rte. 100 to Rte. 177 and continuing in an easterly direction on Rte. 177 to Gibson Island), County:					
Carpenters & soft floor layers	$10.00	.65	.53		.07
Millwrights	10.46	.65	.53		.07
Pile drivers	10.21	.65	.53		.07

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MD77-3017 (Cont'd)					
Carpenters etc. (Cont'd)					
Anne Arundel (remainder of county), Baltimore, Baltimore City, Harford & Howard Counties:					
Carpenters, soft floor layers & resilient floor layers, & pile drivers	$ 9.80	.65	.59		.05
Millwrights	9.90	.65	.59		.05
DECISION #MD77-3020 - Mod. #1 (42 FR 3151 - January 14, 1977) Alleghany & Garrett Counties, Maryland					
Change: Marble Masons	9.79		.40		

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
DECISION NO. MA76-2098- Mod 45 (41 FR 34514- August 13, 1976) Essex County, Massachusetts					
Change: Plumbers & Steamfitters: Remainder of County	$10.15	1.35	.52		.05
Add: All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Bricklayers: Andover, Boxford, Danvers, Lawrence, Lynn, Lynnfield, Marblehead, Methuen, Middleton, Nahant, N.Andover, Peabody, Salem, Saugus, Swampscott, & Topsfield	8.42	.70	.75		.06
Carpenters: Andover, Lawrence, Methuen, N.Andover, & W.Andover	8.67	.60	1.00		.02
Electricians: Andover, Lawrence, Methuen, and North Andover	9.03	.75	13+.40		.02
Laborers	6.38	.60	.70		.10
Plasterers: Amesbury, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, N. Andover, Salisbury, W.Salisbury	8.24	.70	.75		
Plumbers: Andover, Georgetown, Groveland, Lawrence, Methuen, and No. Andover	8.70	.73	.65		.05

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MODIFICATIONS P. 15

DECISION NO. 1476-2102- Mod 4
(41 FR 37479- September 3, 1976)
Middlesex County, Massachusetts

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Appr. Tr.
Change:					
Carpenters & Soft floor layers	$10.20	.60	1.00		.07
Electricians:					
Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford, & Wilmington	10.60	.70	1%+.25		.02
Add:					
All work, including demolition, repair and alteration of any existing structure which is intended for predominatly residential use:					
Bricklayers:					
Belmont, Burlington, Concord, Lexington, Lincoln, Stonehnam, Sudbury, Waltham, Wayland, Weston, Winchester, & Woburn	8.76	.75	1.00		.06
Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Ft. Devens, Groton, Littleton, Lowell, W.Acton, Pepperell, Shirley, S. Acton, Tewksbury, Townsend, Tyngsboro, W.Acton, Westford, & Wilmington	8.71	.90	.70		.06
Carpenters:					
Bedford, Concord, Dover, Lincoln, Natick, Newton, Sudbury, Waltham, Watertown, Wayland, Weston	8.76	.50	1.00		.07
Acton, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford	8.50	.60	1.00		.07
Electricians:					
Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford, & Wilmington	8.84	.70	1%+.35		.02
Remainder of County (excluding Ashby, Ayer, Ft. Devens, Groton, Pepperell, Shirley, Townsend, Ashland, Hopkinton, Hudson, Marlboro, Stow, N.Reading)	9.56	.75	1%+.55		.05
Laborers	6.38	.60	.70		.10
Painters:					
All the Newtons, Acton, Ashland, Boxboro, Concord, Framingham, Holliston, Hopkington, Hudson, Lexington, Lincoln, Marlboro, Maynard, Natic Sherborn, Stow, Sudbury, Waltham, Watertown, Wayland, Westboro, & Weston	8.50	.65	.55		.06

MODIFICATIONS P. 16

DECISION NO. 1476-2102- Mod 4 (cont.)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Appr. Tr.
Painters (cont.):					
Bedford, Billerica, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Little, Lowell, Tewksbury, Tyngsboro, Westford, and Wilmington:					
Brush	$7.48	.98	.60		.04
Spray	8.12	.98	.60		.04
Plasterers: Bedford, Burlington, Lowell, Tyngsboro, & Westford	7.31	.55			
Plumbers:					
Ashland, Belmont, Concord, Framingham, Holliston, Hopkinton, Lexington, Lincoln, Marlboro, Maynard, Natick, Sherborn, Stow, Sudbury, Waltham, Wayland, and Weston	9.54	.98	.85		.05
Acton, Ayer (except portion lying west of the Greenville Branch of the Boston & Maine RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Granitevill, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westford, & Wilmington	8.94	1.10	.60		.02

DECISION #MO77-4033 - Mod. #1
(42 FR 10240 - February 18, 1977)
Jasper, McDonald and Newton Counties, Missouri

Change:					
Laborers:					
Group 1	$6.10	.40	.40		.10
Group 2	6.35	.40	.40		.10
Group 3	6.40	.40	.40		.10
Group 4	6.45	.40	.40		.10
Plumbers	9.775	.35	.55		.02

MODIFICATIONS P. 17

DECISION NO. MT76-5100 - Mod. #3
(41 FR 47798 - October 29, 1976)
Cascade, Deer Lodge, Gallatin, Glacier, Hill, Missoula, Silver Bow and Valley Counties, Montana

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
CEMENT MASONS:					
Cascade, Hill and Valley Cos.	$8.35	.44			
ELECTRICIANS:					
Cascade and Glacier Counties:					
Electricians	11.13	.42	1%+.50		4%
Cable Splicers	11.38	.42	1%+.50		4%
MARBLE MASONS:					
Missoula Co.	9.50	.40	.25		
Gallatin Co.	10.05				
Hill and Valley Counties	9.80	.45	.55		
PAINTERS:					
Cascade, Glacier and Valley Counties:					
Brush	8.09	.49	.30		4%
Paperhanger	10.34	.49	.30		4%
Brush on steel	8.59	.49	.30		4%
Spraying and sandblasting	10.34	.49	.30		4%
Gallatin County:					
Brush	8.44	.25	.20		.03
Silver Bow County:					
Brush	8.95	.50	.25		
PLASTERERS:					
Cascade and Hill Counties	8.35	.44			
Missoula County	7.85	.40	.25		
PLUMBERS:					
Missoula County	10.53	.35	.70		.05
TERRAZZO AND TILE SETTERS:					
Gallatin County	10.05				

MODIFICATIONS P. 18

DECISION #ND75-5109 - Mod. #1
(40 FR 40022 - August 29, 1975)
Statewide, North Dakota

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
ELECTRICIANS:					
Minot (Ward County)	$9.25	.40	1%	6%	1½%

DECISION #ND77-5020 - Mod. #2
(42 FR 10255 - February 18, 1977)
Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Walsh and Ward Counties, North Dakota

Change:					
Decision number of page 2 (original decision), and modification #1 to read: DECISION #ND77-5020					
CARPENTERS:					
Ward County:					
Millwrights	$9.21	.50	.50	.50	.02
PAINTERS:					
Ward County:					
Brush	7.25				
Spray	7.60				
Add:					
CARPENTERS:					
Grand Forks, Steele (Northern Area) and Walsh Counties:					
Millwrights	9.21	.50	.50	.50	.02

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MODIFICATIONS P. 19

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. OK76-4137 - Mod. #4 (41 FR 31180 - July 30, 1976) McIntosh County, Oklahoma					
CHANGE:					
ASBESTOS WORKERS	$10.80	.35	.60		.015
CEMENT MASONS	8.55				
LABORERS:					
GROUP I	6.10	.25	.30		
GROUP II	6.40	.25	.30		
GROUP III	6.60	.25	.30		
DECISION NO. OK76-4186 - Mod. #2 (41 FR 51359 - November 19, 1976) Tulsa, Creek, Craig, Ottawa, Delaware, Mayes, Rogers Counties, Oklahoma					
CHANGE:					
ASBESTOS WORKERS	$10.80	.35	.60		.015
LABORERS:					
GROUP I	6.90	.25	.30		
GROUP II	7.20	.25	.30		
GROUP III	7.30	.25	.30		
GROUP IV	7.75	.25	.30		
DECISION NO. OK76-4189 - Mod. #2 (41 FR 52278 - November 26, 1976) Wagoner County, Oklahoma					
CHANGE:					
ASBESTOS WORKERS	$10.80	.35	.60		.015
CEMENT MASONS:					
ZONE I	8.55				
ZONE II	9.28		.40		.10
LABORERS:					
GROUP I	6.10	.25	.30		
GROUP II	6.40	.25	.30		
GROUP III	6.60	.25	.30		

MODIFICATIONS P. 20

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MD76-3285 - Mod. # 4 (41 FR 51308 - November 19, 1976) Montgomery and Prince Georges Counties, Maryland; Arlington and Fairfax Counties, Virginia; and for WMATA - Rapid Rail Transit System Projects Only, Alexandria, Virginia					
Change:					
Electricians	$11.10	.65	1%+.80		.13
Plumbers	10.59	.92	.91		.27
Add:					
To Counties:					
The D. C. Training School					
Omit:					
Fairfax County					

MODIFICATIONS P. 21

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #WA76-5119 - Mod. #1 (41 FR 54148 - December 10, 1976) Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific(north of Wahkiakum Co. north boundary extended due west to the Pacific Ocean), Pierce, Skagit, Snohomish, Thurston, and Whatcom Counties, Washington.					
Change:					
Plumbers:					
Clallam, Jefferson, and King Counties	$12.11	.72	1.35	1.10	.07
Soft Floor Layers:					
King, Kitsap, and Snohomish Counties	9.86	.46	.75		.05
DECISION #DC76-3284 - Mod. # 5 (41 FR 51368 - Nov., 19, 1976) Washington, D. C.					
Change:					
Building and Heavy Construction, (Including WMATA)					
Electricians	$11.10	.65	1%+.80		.13
Plumbers	10.59	.92	.91		.27

MODIFICATIONS P. 22

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #WV77-3024 - Mod. #1 (42 FR 10272 - February 18, 1977) Statewide, West Virginia					
Change:					
Line Construction:					
Area 11					
Linemen, cable splicers & equipment operators	$12.11	.45	1%		½ of 1%
Truck with winch	7.43	.45	1%		½ of 1%
Truck, pole or steel handling	7.43	.45	1%		½ of 1%
Groundmen	7.17	.45	1%		½ of 1%
DECISION #WV77-3027 - Mod. #1 (42 FR 10281 - February 18, 1977) State of West Virginia excluding the Counties of Berkeley, Jefferson, Morgan, Nicholas, & Preston					
Change:					
Cement Masons & Plasterers:					
Area 9					
Cement masons	$10.32	.70			
Plasterers	10.32	.70			.01
Line Construction					
Hardy & Pendleton Counties					
Linemen, cable splicers & equipment operators	12.11	.45	1%		½ of 1%
Truck with winch	7.43	.45	1%		½ of 1%
Truck, pole or steel handling	7.43	.45	1%		½ of 1%
Groundmen	7.17	.45	1%		½ of 1%
Add:					
Painters:					
Area 8					
Brush & Roller:					
Commercial repaint	6.75				
New Commercial	7.25				
Area Covered by Area 8:					
Monongalia County					

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SUPERSEDEAS DECISION

STATE: Arizona

COUNTIES: Navajo and Hopi Indian Reservations in Apache, Coconino and Navajo Counties

DECISION NUMBER: AR77-5024
Supersedes Decision No. AR75-5003 dated January 24, 1975, in 40 FR 3848
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	@ 8.98	.50	.65		.01
BRICKLAYERS	11.79	.50	.45		.03
CARPENTERS	8.25	.40	.60		.025
CEMENT MASONS	7.985	.50	.60		.025
ELECTRICIANS	8.82	.25	16		1½
LABORERS, Unskilled	5.00				
PLUMBERS	9.85	.50	1.07	1.00	.10
ROOFERS	7.35	.40	.20		.02
SHEET METAL WORKERS	9.56	.27	.32		.02
TILE LAYER, Ceramic	8.30	.50	.30		.01
TRUCK DRIVERS	5.50				
POWER EQUIPMENT OPERATORS: Grader, Bulldozer, Backhoe, Trencher	8.01				

MODIFICATIONS P. 23

DECISION NO. WY76-5070 - Mod. #3 (41 FR 33187 - August 6, 1976)
Counties: Goshen, Laramie, Natrona, Niobrara and Platte Counties, Wyoming

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
SHEET METAL WORKERS: Goshen, Laramie and Platte Cos.	$10.30	.60	.90		.08

DECISION NO. AR77-4061 Page 2

LABORERS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP III
Steelform setters, curb and gutters, grout and cement muckers
GROUP IV
Swinging scaffold, Barco, 90 lb pavement breaker, and burners
GROUP V
Nozzleman (Cunite, Grout, and sandblasterer; concrete pump (nozzle placer)
GROUP VI
Powderman & blasterers
GROUP VII
Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$8.60				.02
LINE CONSTRUCTION:					
Linemen	10.85		1%		3/8%
Cable splicers	10.975		1%		3/8%
Operator	10.85		1%		3/8%
Groundmen (advanced)	65%JR		1%		3/8%
Groundmen (1st 6 months)	49%JR		1%		3/8%
Winch equipment	73%JR		1%		3/8%
MARBLE, TILE AND TERRAZZO WORKERS	7.40				
MARBLE, TILE & TERRAZZO HELPERS	5.35				
PAINTERS:					
Painters, paperhangers and steam cleaners, sheet rock finishers and wall cover hangers	7.25	.30			
Spray gun operators and sand blasterers	7.85	.30			
All skelton steel and all work on stages, structural steel over 30 feet high	7.50	.30			.02
PLASTERERS	7.80				
PLUMBERS & PIPEFITTERS:					
Within 10 mile radius of Pulaski County Courthouse	9.85	.45	.55		.02
Over 10 mile from Pulaski County Courthouse	10.15	.45	.55		.02
POWER EQUIPMENT OPERATORS:					
GROUP I	9.20	.35	.35		
GROUP II	8.36	.35	.35		
GROUP II'	7.98	.35	.35		
GROUP IV	6.60	.35	.35		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

SUPERSEDEAS DECISION

STATE: Arkansas

COUNTY: Conway, Faulkner, Van Buren, Cleburne & Perry

DECISION NO. AR76-4130 dated July 23, 1976 in 41 FR 30509
SUPERSEDES DECISION NO. AR76-4061
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.10	.40	.50		.02
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	8.55	.40	.35		.04
CARPENTERS:					
Cleburne, Van Buren, Faulkner, County and the Eastern half of Conway and Perry Counties:					
Carpenters	8.23	.45	.35		.05
Millwrights & piledrivermen	8.73	.45	.35		.05
Western half of Conway and Perry Counties:					
Carpenters	7.63	.40	.30		.04
Millwrights & Piledrivermen	8.13	.40	.30		.04
CEMENT MASONS	8.27	.25			.03
ELECTRICIANS:					
Electricians	9.95	.40	1%		1/4%
Line erectors	10.075	.40	1%		1/4%
ELEVATOR CONSTRUCTORS:					
Elevatorman	8.88	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers - Probationary	50%JR				
GLAZIERS	7.60		.25		.01
IRONWORKERS	9.06	.45	.40		.01
LABORERS:					
Group I	5.82	.25	.35		.04
Group II	6.07	.25	.35		.04
Group III	6.22	.25	.35		.04
Group IV	6.32	.25	.35		.04
Group V	6.47	.25	.35		.04
Group VI	6.72	.25	.35		.04
Group VII	6.62	.25	.35		.04

LABORERS CLASSIFICATION DEFINITIONS

GROUP I
Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer

GROUP II
Semi-skilled laborers; pipelayers, concrete-clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP II
Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradealls, all above equipment irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS:
All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS:
Oiler driver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$7.60		.10		
SHEET METAL WORKERS	9.65	.40	.40		.02
SPRINKLER FITTERS	9.87	.60	.90		.08

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Paid Holidays - A through F
b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employees who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

SUPERSEDEAS DECISIONS

STATE: Colorado COUNTY: Statewide
DECISION NUMBER: CO77-5014 Date : Date of Publication
Supersedes Decision No. CO76-5067 dated July 30, 1976, in 41 FR 32115
DESCRIPTION OF WORK: Heavy and Highway Construction

HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education* and/or Appr. Tr.
ELECTRICIANS:					
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Gilpin, Grand, Jefferson, Lake, Larimer, Logan, Morgan, Phillips, Sedgwick, Summit, Washington, Weld and Yuma Counties					
Electricians	$ 10.94	.70	18+.50		
Cable Splicers	11.19	.70	18+.50		
Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, San Juan and San Miguel Counties					
Electricians	11.25	.52	18+.25		1½%
Cable Splicers	11.50	.52	18+.25		1½%
Archuleta, Baca, Bent, Chaffee, Crowley, Custer, Fremont, Alamosa, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, and Rio Grande Counties					
Zone I (Within 12 miles from Pueblo Main Post Office)					
Electricians	10.70	.52	18+.65		1%
Cable Splicers	11.77	.52	18+.65		1%
Zone II (12 to 20 miles from Pueblo Main Post Office) and (0 to 12 miles from Post Office in Canon City)					
Electricians	11.10	.52	18+.65		1%
Cable Splicers	12.17	.52	18+.65		1%

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HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Zone 3 (30 to 40 miles from Pueblo Main Post Office)					
Electricians	$ 11.45	.52	18+.85		1%
Cable Splicers	12.52	.52	18+.85		1%
Zone 4 (40 miles and over from Pueblo Main Post Office)					
Electricians	12.58	.52	18+.85		1%
Cable Splicers	13.65	.52	18+.85		1%
Electricians on electrical contracts less than $20,000 in Zones 3 and 4	10.28	.52	18+.85		1%
Cheyenne, Elbert, El Paso, Kit Carson, Lincoln, Park, and Teller Counties					
Electricians	10.95	.42	18+.50		.015
IRONWORKERS	9.75	.71	1.15		.10
PAINTERS:					
Adams, Arapahoe, Boulder, Clear Creek, Delta, Denver, Douglas, Eagle, Elbert, Garfield, Gilpin, Grand, Gunnison, Jackson, Jefferson, Lake, Larimer, Logan, Mesa, Moffat, Montrose, Morgan, Park (Northern half), Phillips, Pitkin, Rio Blanco, Routt, Sedgwick, Summit, Washington, and Weld Counties					
Brush	9.70	.65	.70		.07
Spray, Swing Stage	10.36	.65	.70		.07
Baca, Bent, Crowley, Custer, Huerfano, Kiowa, Las Animas, Otero, Prowers and Pueblo Cos.					
Brush	7.87	.50			.04
Steel Painters	8.37	.50			.04
Spray Painters	8.87	.50			.04
Steel Spray	9.37	.50			.04

HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Archuleta, Chaffee, Cheyenne, Dolores, El Paso, Fremont, Hinsdale, Kit Carson, La Plata, Lincoln, Mineral, Montezuma, Ouray, Park (Northern Half), Rio Grande, Saguache, San Juan, San Miguel and Teller Counties					
Brush	$ 8.49	.60	.30		.04
Spray	9.24	.60	.30		.04
Steel	8.99	.60	.30		.04
Steel Spray	9.74	.60	.30		.04

Heavy and Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters					
*Zone I	$ 8.54	.68	.75	.55	.06
*Zone II	9.04	.68	.75	.55	.06
Underground Carpenters					
*Zone I	8.74	.68	.75	.55	.06
*Zone II	9.24	.68	.75	.55	.06
Working on Creosoted material, High work 40' above ground or floor on exposed scaffold or boatswains chair; Piledriving; Sawmen continuously assigned to 14 HP saw at jobsite					
*Zone I	8.84	.68	.75	.55	.06
*Zone II	9.34	.68	.75	.55	.06
CEMENT MASONS:					
*Zone I	7.91	.47	1.15	.30	.09
*Zone II	8.41	.47	1.15	.30	.09

LABORERS (Heavy and Highway Construction)	Basic Hourly Rates *Zone I	Basic Hourly Rates *Zone II	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 6.20	$ 6.70	.47	.52		.05
Group 2	6.30	6.80	.47	.52		.05
Group 3	6.60	7.10	.47	.52		.05
Group 4	6.75	7.25	.47	.52		.05
Group 5	6.95	7.45	.47	.52		.05
LABORERS (Tunnels)						
Group 1	6.20	6.70	.47	.52		.05
Group 2	7.10	7.60	.47	.52		.05
Group 3	7.20	7.70	.47	.52		.05
Group 4	7.28	7.78	.47	.52		.05
Group 5	7.35	7.85	.47	.52		.05
Group 6	7.50	8.00	.47	.52		.05
(Shafts, Raises, Missile Silos and all underground work other than Tunnels)						
Group 1	7.20	7.70	.47	.52		.05
Group 2	7.35	7.85	.47	.52		.05
Group 3	7.45	7.95	.47	.52		.05
Group 4	7.63	8.13	.47	.52		.05
Group 5	7.73	8.23	.47	.52		.05
Group 6	7.78	8.28	.47	.52		.05

LABORERS
(Heavy and Highway Construction)

Group 1: Minimum Labor, including Caissons to 8'; Carrying Reinforcing Rods; Work on Cross Culverts, connections and side drains in connection with highway work, whether corrugated metal or concrete pipe; Fence Erectors; Metal Mesh; Dowel Bars; Tie Bars and Chairs in concrete paving; Flagman directing traffic; Nursery Man including seeding, mulching and planting of trees, shrubs and flowers; Stake chaser; Gabion Baskets and Reno Mattresses; Pipe plants and yards, stringing of pipe or skids, handling and signaling on pipe line work

Group 2: Chuck Tenders, Nippers, Core and Diamond Drill Helpers, Powdermen Helpers; Hot Asphalt Labor, Rakers, Boxtenders, Asphalt Curb Machines, Potmen (not mechanical); Multi-plate Culvert Pipe; Air, gas and electrical tool operators; Barco Hammers; Spaders, electric hammers; Air Tampers; Cutting Torches on demolition work; Caissons 8' to 12'; Cofferdams; Power operated Concrete Buggies; Operators of concrete saws on pavement (other than gang saws); Timber and Chain Saws; Stresser or Stretcherman on Post Tension or Prestressed Concrete on or off jobsite; Tool Room Man and Checkers; Cement Finisher Helper; Sand Blaster; Sand Blaster Helper; Concrete processing material; Monitor; Spotters; Signalmen; Dumpmen; Transverse Concrete Conveyor Operator; Mechanical Grouters; Boring Machine (air hydraulic); Automatic Concrete Power Curbing Machine; Jack Hammer; Vibrators; Paving Breakers; Frostproofing; Any laborer performing bridge work over 40' above the ground or above a floor and working from a Bos'n Chair; Swing Stage, Life Belt or Block and Tackle as safety requirement. (All lines and safety belts used shall be of a type approved by State and Federal laws;) Gunniting and Shotcrete Helpers; Caissons over 12'; Scalers; Timbermen, underpinning and shoring; Form-setters and/or stringmen on roads, highways, streets and airport runways; Distribution, placing and hooking of landing mats; Bull Float (hand operated) and Center Expansion Machines; Grade Checkers if required by employer; Pipe Wrappers; Dopers; Jeep Holiday Detector Men, Bandage Makers; Laborers working in trenches on all pipe lines, sewer, water, gas, oil, telephone conduit, Pen Stock, Siphons, drainage lines, Caulkers, Yarners, Fine Graders, air, gas, electric and hydraulic tools, Boring Machines, Hydraulic Jacks, Drills, Tampers, and similar operated tools; Wiping of Joint Concrete Pipe, inside and out; Labor, applicable to pipe coating or wrapping, plants and yards; Enamelers of pipe, inside and out

LABORERS (Cont'd)
(Heavy and Highway Construction)

Group 3: Powdermen and Blasters; Gunnite Nozzlemen; Shotcrete Operator; Pipe Layer on truck pipe lines in connection with highway work; Relining Pipe; Mixer Man; Pipelayer; Hydro-broom

Group 4: Wagon Drills and Air Tracks; Jack Hammer Operators in Caissons over 12'; Bellers and Stemmen; Licensed Powdermen; Diamond and Core Drills powered by air

Group 5: Any work, other than on bridges, performed by Laborers working from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. All lines and safety belts used shall be of a type approved by State and Federal laws; Plugs and Galleys in Dams

LABORERS
(Tunnels)

Group 1: Outside Labor

Group 2: Minimum Tunnel Labor, Dry Houseman

Group 3: Cable or Hose Tenders, Chuck Tenders, Concrete Laborers, Dumpmen, Whirley Pump Operators

Group 4: Helpers on Shotcrete, Gunniting and Sand Blasting; Helpers, Core and Diamond Drills; Pot Tenders

Group 5: Cement Finisher Helper, applying or concrete processing materials

Group 6: Collapsible form movers and setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Tunnel Liner Plate Setters; Vibrator Man, internal and external; Unloading, stopping and starting of Moran Agitator Cars; Diamond and Core Drill Operators; Cement Finisher (underground); Shotcrete Operator; Gunnite Nozzlemen, Sand Blasters, Pump Concrete placement Men

LABORERS (Cont'd)
(Shafts, Raises, Missile Silos and all Underground Work other than Tunnels)

Group 1: Laborers, Topmen, Bottommen and Cagers

Group 2: Chucktenders, Concrete Laborers, Whirley Pump Operators

Group 3: Helpers in Shotcrete Gunniting and Sand Blasting; Helpers on Core and Diamond Drills; Pot Tenders; Cement Finisher Helpers; Applying of concrete processing material

Group 4: Collapsible form movers and setters, Miners, Machine Men and Bit Grinders, Nippers, Powdermen and Blasters, Reinforcing Steel Setters, Timbermen (steel or wood tunnel support, including the placement of sheeting when required) and all cutting and welding that is incidental to the Miner's work; Liner Plate Setters; Vibrator Man, internal and external

Group 5: Diamond and Core drill Operators; Cement Finisher (underground); Gunnite Nozzlemen; Shotcrete Operators; Sand Blasters and Pump Concrete Placement Men

Group 6: Any employee performing work underground from a Bos'n Chair, Swinging Stage, Life Belt or Block and Tackle as a safety requirement. (All lines and safety belts used shall be of a type approved by State and Federal laws)

Heavy and Highway Construction POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates *Zone 1	Basic Hourly Rates *Zone 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 7.50	$ 8.25	.45	.79	.30	.06
Group 2	7.85	8.60	.45	.79	.30	.06
Group 3	8.20	8.95	.45	.79	.30	.06
Group 4	8.35	9.10	.45	.79	.30	.06
Group 5	8.50	9.25	.45	.79	.30	.06
Group 6	8.65	9.40	.45	.79	.30	.06
(For work in Tunnels, Shafts, and Raises)						
Group 1	7.65	8.40	.45	.79	.30	.06
Group 2	8.00	8.75	.45	.79	.30	.06
Group 3	8.10	8.60	.45	.79	.30	.06
Group 4	8.35	9.10	.45	.79	.30	.06
Group 5	8.50	9.25	.45	.79	.30	.06
Group 6	8.90	9.65	.45	.79	.30	.06

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, rotary, churn, or cable tool; Elevating Graders, Equipment Lubricating and Service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

POWER EQUIPMENT OPERATORS (Cont'd)
(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

Heavy and Highway Construction TRUCK DRIVERS	Basic Hourly Rates *Zone 1	Basic Hourly Rates *Zone 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 7.15	$ 7.65	.45	.30	.30	
DUMP TRUCKS, to and including 6 cu. yds.; Sweeper; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance Drivers	7.25	7.75	.45	.30	.30	
DUMP TRUCKS, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Helpers; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus	7.35	7.85	.45	.30	.30	
STRADDLE TRUCK; Lumber Carrier; Liquid and Bulk Tankers, tandem axle	7.40	7.90	.45	.30	.30	
FORK LIFT DRIVER; Fuel Truck; Grease Truck; Combination, fuel and grease	7.45	7.95	.45	.30	.30	
DISTRIBUTOR TRUCK DRIVER; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination	7.50	8.00	.45	.30	.30	
MULTI-PURPOSE TRUCK; Speciality and Hoisting	7.55	8.05	.45	.30	.30	

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates *Zone 1	Basic Hourly Rates *Zone 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment	$ 7.60	$ 8.10	.45	.30	.30	
TRUCK DRIVER, Snow Plow	7.70	8.20	.45	.30	.30	
CEMENT MIXER, Agitator Truck over 10 cu. yds., to and including 15 cu. yds.	7.75	8.25	.45	.30	.30	
DUMP TRUCKS, over 29 cu. yds. to and including 39 cu. yds.	7.85	8.35	.45	.30	.30	
CEMENT MIXER, Agitator Truck over 15 cu. yds.	8.00	8.50	.45	.30	.30	
DUMP TRUCKS, over 39 cu. yds. to and including 54 cu. yds.; Tireman	8.05	8.55	.45	.30	.30	
MECHANIC	8.15	8.65	.45	.30	.30	
DUMP TRUCKS, over 54 cu. yds. to and including 79 cu. yds.	8.25	8.75	.45	.30	.30	
HEAVY DUTY DIESEL, Mechanics, Body Men, Welders or Combination Men	8.35	8.85	.45	.30	.30	
DUMP TRUCKS, over 75 cu. yds. to and including 104 cu. yds.	8.45	8.95	.45	.30	.30	
DUMP TRUCKS, over 104 cu. yds.	8.65	9.15	.45	.30	.30	

LINE CONSTRUCTION Heavy Construction	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cable Splicer	$11.73	.45	10		3/40
Lineman Cableman	11.00	.45	10		3/40
Lineman (Journeyman)	10.93	.45	10		3/40
Line Equipment Operator	9.30	.45	10		3/40
Line Equipment Maintenance Man	9.30	.45	10		3/40
Groundman, Experienced	7.67	.45	10		3/40
Groundman, Inexperienced	6.96	.45	10		3/40

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*ZONE DESCRIPTIONS
Carpenters, Cement Masons, Laborers
Power Equipment Operators and Truck Drivers

A. Counties entirely within Zone 1:

Alamosa	Custer	Huerfano	Otero
Archuleta	Delta	Jefferson	Phillips
Bent	Denver	La Plata	Prowers
Boulder	Douglas	Larimer	Pueblo
Chaffee	El Paso	Las Animas	Rio Grande
Clear Creek	Fremont	Morgan	Sedgwick
Conejos	Garfield	Montezuma	Teller
Costilla	Gilpin	Morgan	Weld
Crowley			

B. Counties entirely within Zone 2:

Baca	Jackson	Moffat	Saguache
Cheyenne	Kiowa	Ouray	San Juan
Dolores	Kit Carson	Park	San Miguel
Grand	Lake	Pitkin	Summit
Gunnison	Lincoln	Rio Blanco	Yuma
Hinsdale	Mineral	Routt	

C. Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose and Washington Counties which are included within Zone 1, as follows:

All of Adams, Arapahoe, Elbert and Las Animas Counties lying west of the Township line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township line between R80W and R81W of the 10th Guide Meridian West and all of Montrose County lying Northerly of the North line of Ouray County and said North line extended West of the Township line between R11W and R12W, said part lying East of said Township line of the New Mexico Principal Meridian, and all of Washington County lying North of the 40°00'00" Latitude Base Line.

D. Legal description of the portions of Adams, Arapahoe, Eagle, Elbert, Las Animas, Montrose and Washington Counties which are included with Zone 2, as follows:

All of Adams, Arapahoe, Elbert and Las Animas lying East of the Township line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township line between R80W and R81W of the 9th Guide Meridian West and all of Montrose County except that part lying Northerly of the North line of Ouray County and said North line extended West of said Township line between R11W and R12W, said point being East of said Township line of the New Mexico Principal Meridian and all of Washington County lying South of the 40°00'00" Latitude Base Line.

DECISION NO. CO77-5015 Page 2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Larimer(Remainder of County), Eagle, Lake, Park (South 40 miles), and Summit Counties					
Zone I (0-30 miles from P.O. in Leadville or Fort Collins)	$ 7.54	.48	.60	.40	.05
Zone II (30-60 miles from P.O. in Leadville or Fort Collins)	7.79	.48	.60	.40	.05
Zone III (All work outside of the 60 mile radius from P.O. in Leadville or Fort Collins)	8.04	.48	.60	.40	.05
CEMENT MASONS:	8.45	.47	1.15	.60	.09
Cement Masons	8.95	.47	1.15	.60	.09
Working with composition materials and color					
Working on scaffold, swing stage, or temporary platform over 25'	8.70	.47	1.15	.60	.09
DRYWALL INSTALLERS	8.94	.68	.75	.55	.06
ELECTRICIANS:					.015
Electricians (Elbert and Park Counties)	10.55	.42	18+.50		2/100
Electricians (Remaining Cos.)	10.94	.70	18+.50		
Cable Splicers (Remaining Counties)	11.19	.70	18+.50	4%+a	.02
ELEVATOR CONSTRUCTORS	10.64	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.08JR	.545	.35		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.08JR				
GLAZIERS	10.06	.71	1.15	.10	.01
IRONWORKERS	9.75				
LATHERS	10.14				

SUPERSEDEAS DECISION

STATE: Colorado

COUNTIES: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan Park, Summit, and Weld

DECISION NUMBER: CO77-5015 DATE: Date of Publication

Supersedes Decision No. CO76-5104 dated November 26, 1976, in 41 FR 52209

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.76	.38	$ 1.17		.02
BOILERMAKERS	10.30	.85	1.00		
BRICKLAYERS; Stonemasons:					
Eagle County	9.70	.60	.70	.25	.05
Boulder and Grand Counties	9.10	.60	.70		.05
Elbert, Lake and Park Counties	9.85	.50	.60		.04
Larimer County	9.85	.60	.70		.05
Remaining Counties	9.70	.60	.70	.25	.05
CARPENTERS:					
Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Elbert, Grand, Gilpin, Jefferson and Park (Northern Area) Counties					
Area (a) Denver Metropolitan Area including Louisville, Golden, Boulder and Longmont; basing points	9.085	.68	.75	.55	.06
Zone I (0 to 20 miles)	10.22	.68	.75	.55	.06
Zone II (20 to 50 miles)	11.36	.68	.75	.55	.06
Zone III (50 miles and over)					
Morgan and Weld Counties:					
Area (b) Denver Northeastern Area of Colorado including Greeley, Loveland and Fort Morgan basing points	8.635	.53	.70	.50	.055
Zone I (0 to 20 miles)	9.71	.53	.70	.50	.055
Zone II (20 to 50 miles)	10.79	.53	.70	.50	.055
Zone III (50 miles and over)					
Larimer County (S.E. portion within Loveland basing point, Zone 1)	8.135	.48	.60	.40	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS:					
Elbert, Lake and Park Cos.	$ 9.11	.50	.50		
Remaining Counties	9.75	.71	.70		.04
MILLWRIGHTS	9.48	.68	.75		.06
PAINTERS:					
Park County (Southern half)					
Brush, Roller, Taper, hand texture	8.49	.60	.30		.04
Steel and Paperhanger	8.99	.60	.30		.04
Spray	9.24	.60	.30		.04
Steel Spray	9.74	.60	.30		.04
Remaining Counties including N½ of Park County*					
Brush, Roller and Drywall Finisher	9.76	.65	.70		.07
Spray; Swing Stage, Paperhangers	10.36	.65	.70		.07
PLASTERERS	10.14				.01
PLUMBERS; Steamfitters:					
Southern portions of Douglas, Elbert and Park Counties*	9.05	.60	.75	1.17	.08
Boulder County	10.30	.60	.65	.50	.10
Remaining Counties (including Northern portions of Douglas, Elbert and Park Counties)	10.15	.65	.80	.50	.05
ROOFERS:					
Eagle and Southern portions of Lake, Jefferson, Park, Douglas and Elbert Counties**	7.91	.42	.10		
Remaining Counties including Northern portions of Lake, Park, Jefferson, Douglas and Elbert Counties	9.41	.70	.25		.08
SHEET METAL WORKERS	11.06	3[illegible].40	1.16		.07
SOFT FLOOR LAYERS	9.04	.40	.75	.30	.05
SPRINKLER FITTERS	11.40	.60	.90		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS	$ 9.75	.71	.70		.04
TILE LAYERS:					
Elbert, Lake and Park Cos.	9.11	.50	.50		
Remaining Counties	9.75	.71	.70		.04
TILE, MARBLE & TERRAZZO HELPERS:					
Helpers	7.44	.71	.70	.40	
Floor Grinders	7.59	.71	.70	.40	
Base Grinders	8.14	.71	.70	.40	

*Park County dividing Line:
Line from the S.W. corner of Jefferson County to the S.E. corner of Lake County

**Area South of Lake County to a point 2 miles north of the City of Leadville to a point 1/2 mile north of the City of Limon at the west border of Lincoln County

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

LABORERS	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
	Zone 1	Zone 2	Zone 3				
Area A							
Group 1	$ 4.80	$ 5.25	$5.70	.47	.52		.05
Group 2	6.30	6.75	7.20	.47	.52		.05
Group 3	6.58	7.03	7.48	.47	.52		.05
Group 4	6.80	7.25	7.70	.47	.52		.05
Group 5	6.85	7.30	7.75	.47	.52		.05
Group 6	7.00	7.45	7.90	.47	.52		.05
Area B							
Group 1	$ 4.80	$ 5.25	$ 5.70	.47	.52		.05
Group 2	6.20	6.65	7.10	.47	.52		.05
Group 3	6.48	6.93	7.38	.47	.52		.05
Group 4	6.68	7.13	7.58	.47	.52		.05
Group 5	6.52	6.97	7.42	.47	.52		.05
Group 6	7.00	7.45	7.90	.47	.52		.05

LABORERS (Cont'd)

AREA A
Adams, Arapahoe, Boulder, Denver, Lake, Larimer and Summit Counties. Douglas and Jefferson Counties lying north of the south line of Township 7 south; Elbert County lying West of the east line of Range 65 West and North of the south line of Township 7 south. Weld County lying south and west of the following described line: Beginning at the northwest corner of Township 4 North, Range 68 West of the 6th p.m.; thence east along the north line of said Township six (6) miles, more or less, to the east line of said Township; thence south along the east line of said Township three (3) miles, more or less, to the southeast corner of Section 13, Township 4 North, Range 68 West; thence east along the eastwest center line of Township 4 North, Range 67 West, six (6) miles, more or less, to the east line of said Township; thence south along the east line of Range 67 West, being the east lines of Township 4 North, 3 North, 2 North, and 1 North, Range 67 West, sixteen (16) miles to the southeast corner of Section 1, Township 1 North, Range 67 West; thence east and parallel to the Base Line twelve (12) miles, more or less, to the southeast corner of Section 1, Township 1 North, Range 65 West; thence south along the east line of Range 65 West, five (5) miles, more or less, to the Base Line being the south line of Weld County.

Zone 1: That area encompassed by 0 to 30 driving miles from the main Post Office in each of the following Cities: Boulder, Denver, Dillon, Englewood, Fort Collins, Golden, Greeley and Leadville

Zone 2: That area encompassed by 30 to 70 driving miles from the main Post Office of above named Cities

Zone 3: That area encompassed by 70 driving miles and over from the main Post Office of above named Cities.

AREA B
Douglas, Elbert, Jefferson, and Weld Counties lying outside of the area as described in Area A, and all of Clear Creek, Eagle, Gilpin, Grand, Morgan and Park Counties

Zone 1: That area encompassed by 0 to 30 driving miles from the main Post Office in each of the following Cities: Eagle, Fort Morgan, Golden Grandby, Greeley and Vail.

Zone 2: That area encompassed by 30 to 70 driving miles from main Post Office of above named Cities.

Zone 3: That area encompassed by 70 driving miles and over from the main Post Office in above named Cities.

LABORERS (Cont'd)

GROUP DESCRIPTION For ALL COUNTIES

Group 1: Handyman tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power Tool Operators of all mechanical, air, gas and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other Aggregate in sand bed to be used as exposed face of tilt-up panels.
Burners on Demolition and Welders, Gunnite Nozzlemen and Sandblasters.

Group 4: Pipelayers on Building Construction

Group 5: Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.

Group 6: Tender, Mason and Plaster

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	*Zone I	*Zone II				
Group 1	$ 7.50	$ 8.25	.45	.79	.30	.06
Group 2	7.85	8.60	.45	.79	.30	.06
Group 3	8.20	8.95	.45	.79	.30	.06
Group 4	8.35	9.10	.45	.79	.30	.06
Group 5	8.50	9.25	.45	.79	.30	.06
Group 6	8.65	9.40	.45	.79	.30	.06
(For work in Tunnels, Shafts, and Raises)						
Group 1	7.65	8.40	.45	.79	.30	.06
Group 2	8.00	8.75	.45	.79	.30	.06
Group 3	8.10	8.60	.45	.79	.30	.06
Group 4	8.35	9.10	.45	.79	.30	.06
Group 5	8.50	9.25	.45	.79	.30	.06
Group 6	8.90	9.65	.45	.79	.30	.06

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, rotary, churn, or cable tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tnnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

POWER EQUIPMENT OPERATORS (Cont'd)
(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

NOTICES 13736
NOTICES 13737

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	*Zone 1	*Zone 2				
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 7.15	$ 7.65	.45	.30	.30	
DUMP TRUCKS, to and including 6 cu. yds.; Sweeper; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance Drivers	7.25	7.75	.45	.30	.30	
DUMP TRUCKS, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Helpers; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus	7.35	7.85	.45	.30	.30	
STRADDLE TRUCK; Lumber Carrier; Liquid and Bulk Tankers, tandem axle	7.40	7.90	.45	.30	.30	
FORK LIFT DRIVER; Fuel Truck; Grease Truck; Combination fuel and grease	7.45	7.95	.45	.30	.30	
DISTRIBUTOR TRUCK DRIVER; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination	7.50	8.00	.45	.30	.30	
MULTI-PURPOSE TRUCK; Speciality and Hoisting	7.55	8.05	.45	.30	.30	

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	*Zone 1	*Zone 2				
DUMP TRUCKS, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment	$ 7.60	$ 8.10	.45	.30	.30	
TRUCK DRIVER, Snow Plow	7.70	8.20	.45	.30	.30	
CEMENT MIXER, Agitator Truck over 10 cu. yds., to and including 15 cu. yds.	7.75	8.25	.45	.30	.30	
DUMP TRUCKS, over 29 cu. yds. to and including 39 cu. yds.	7.85	8.35	.45	.30	.30	
CEMENT MIXER, Agitator Truck over 15 cu. yds.	8.00	8.50	.45	.30	.30	
DUMP TRUCKS, over 39 cu. yds. to and including 54 cu. yds.; Tireman	8.05	8.55	.45	.30	.30	
MECHANIC	8.15	8.65	.45	.30	.30	
DUMP TRUCKS, over 54 cu. yds. to and including 79 cu. yds.	8.25	8.75	.45	.30	.30	
HEAVY DUTY DIESEL, Mechanics, Body Men, Welders or Combination Men	8.35	8.85	.45	.30	.30	
DUMP TRUCKS, over 75 cu. yds. to and including 104 cu. yds.	8.45	8.95	.45	.30	.30	
DUMP TRUCKS, over 104 cu. yds.	8.65	9.15	.45	.30	.30	

*ZONE DESCRIPTIONS
Power Equipment Operators and Truck Drivers

A. Counties entirely within Zone 1:

Boulder	Douglas	Larimer
Clear Creek	Gilpin	Morgan
Denver	Jefferson	Weld

B. Counties entirely within Zone 2:

Grand	Lake	Park	Summit

C. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 1, as follows:
All of Adams, Arapahoe, Elbert Counties lying west of the Township line between R59W and R60W of the 7th Guide Meridian West; and all of Eagle County lying west of the Township line between R80W and R81W of the 10th Guide Meridian West

D. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 2, as follows:
All of Adams, Arapahoe, Elbert Counties lying East of the Township line between R59W and R60W of the 7th Guide Meridian West, and all of Eagle County lying East of the Township line between R80W and R81W of the 9th Guide Meridian West

SUPERSEDEAS DECISION

STATE: Colorado
COUNTY: El Paso
DECISION NUMBER: C077-5016
DATE: Date of Publication
Supersedes Decision No. C076-5105 dated November 26, 1976, in 41 FR 52219
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.76	.38	1.17		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS; Stonemasons	9.85	.50	.60		.04
CARPENTERS:					
Zone I (0-30 miles from Post Office in Colorado Springs)	8.34	.68	.75	.55	.06
Zone 2 (30 miles and over from Post Office in Colorado Springs)	8.59	.68	.75	.55	.06
CEMENT MASONS:					
Cement Masons	8.25	.47	1.15	.60	.09
Working with Composition materials and color	8.75	.47	1.15	.60	.09
Working on scaffold, swing stage or temporary platform over 25'	8.50	.47	1.15	.60	.09
DRYWALL INSTALLERS	8.94	.68	.75	.55	.06
ELECTRICIANS	10.95	.42	1%+.50		.015
ELEVATOR CONSTRUCTORS	10.64	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.06				
IRONWORKERS	9.75	.71	1.15		.10
LATHERS	9.75				.01
MARBLE SETTERS	9.11	.50	.50		
MILLWRIGHTS	9.48	.68	.75		.06
PAINTERS:					
Brush and Roller; Tapers, hand texture	8.49	.60	.30		.04
Paperhangers; Steel	8.99	.60	.30		.04
Spray	9.24	.60	.30		.04
Steel Spray	9.74	.60	.30		.04
PLASTERERS	10.14				.01
PLUMBERS; Pipefitters	9.05	.68	.75	2.27	.08
ROOFERS	8.91	.52	.40		
SHEET METAL WORKERS	11.06	3%+.40	1.16		.07
SOFT FLOOR LAYERS	9.04	.40	.75	.30	.05
SPRINKLER FITTERS	11.40	.60	.90		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS	$ 9.75	.71	.70		.08
TILE SETTERS	9.11	.50	.50		.04

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service; 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

LABORERS	Basic Hourly Rates ZONE I	Basic Hourly Rates ZONE II	Basic Hourly Rates ZONE III	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 4.80	$ 5.25	$5.70	.47	.52		.05
Group 2	6.30	6.75	7.20	.47	.52		.05
Group 3	6.58	7.03	7.48	.47	.52		.05
Group 4	6.80	7.25	7.70	.47	.52		.05
Group 5	6.85	7.30	7.75	.47.	.52		.05
Group 6	7.00	7.45	7.90	.47	.52		.05

ZONE 1: That area encompassed by 0 to 30 driving miles from the main Post Office in each of the following Cities: Pueblo and Trinidad.

ZONE 2: That area encompassed by 30 to 70 driving miles from the main Post Office in the above named Cities.

ZONE 3: That area encompassed by 70 driving miles and over from the main Post Office in the above named Cities.

LABORERS (Cont'd)

GROUP DESCRIPTION For ALL COUNTIES

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power Tool Operators of all mechanical, air, gas and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other Aggregate in sand bed to be used as exposed face of tilt-up panels.
Burners on Demolition and Welders, Gunnite Nozzlemen and Sandblasters.

Group 4: Pipelayers on Building Construction

Group 5: Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.

Group 6: Tender, Mason and Plaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)					
Group 1	$ 7.50	.45	.79	.30	.06
Group 2	8.85	.45	.79	.30	.06
Group 3	8.20	.45	.79	.30	.06
Group 4	8.35	.45	.79	.30	.06
Group 5	8.50	.45	.79	.30	.06
Group 6	8.65	.45	.79	.30	.06
(For work in Tunnels, Shafts, and Raises)					
Group 1	7.65	.45	.79	.30	.06
Group 2	8.00	.45	.79	.30	.06
Group 3	8.10	.45	.79	.30	.06
Group 4	8.35	.45	.79	.30	.06
Group 5	8.50	.45	.79	.30	.06
Group 6	8.90	.45	.79	.30	.06

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments

Group 2: Conveyor, handling building materials; Ditch,Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, rotary, churn, or cable tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

POWER EQUIPMENT OPERATORS (Cont'd)
(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 7.15	.45	.30	.30	
DUMP TRUCKS, to and including 6 cu. yds.; Sweeper; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance Drivers	7.25	.45	.30	.30	
DUMP TRUCKS, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Helpers; Material Checkers; Cardex Manv Expeditors; Man Haul Shuttle Truck or Bus	7.35	.45	.30	.30	
STRADDLE TRUCK; Lumber Carrier; Liquid and Bulk Tankers, tandem axle	7.40	.45	.30	.30	
FORK LIFT DRIVER; Fuel Truck; Grease Truck; Combination fuel and grease	7.45	.45	.30	.30	
DISTRIBUTOR TRUCK DRIVER; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination	7.50	.45	.30	.30	
MULTI-PURPOSE TRUCK; Speciality and Hoisting	7.55	.45	.30	.30	

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cb operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment	$ 7.60	.45	.30	.30	
TRUCK DRIVER, Snow Plow	7.70	.45	.30	.30	
CEMENT MIXER, Agitator Truck over 10 cu. yds., to and including 15 cu. yds.	7.75	.45	.30	.30	
DUMP TRUCKS, over 29 cu. yds. to and incuding 39 cu. yds.	7.85	.45	.30	.30	
CEMENT MIXER, Agitator Truck over 15 cu. yds.	8.00	.45	.30	.30	
DUMP TRUCKS, over 39 cu. yds. to and including 54 cu. yds.; Fireman	8.05	.45	.30	.30	
MECHANIC	8.15	.45	.30	.30	
DUMP TRUCES, over 54 cu. yds. to and including 79 cu. yds.	8.25	.45	.30	.30	
HEAVY DUTY DIESEL, Mechanics, Body Men, Welders or Combination Men	8.35	.45	.30	.30	
DUMP TRUCKS, over 75 cu. yds. to and including 104 cu. yds.	8.45	.45	.30	.30	
DUMP TRUCKS, over 104 cu. yds.	8.65	.45	.30		

SUPERSEDEAS DECISION

STATE: Colorado COUNTIES: Las Animas, Otero and Pueblo

DECISION NUMBER: CO77-5017 DATE: Date of Publication

Supersedes Decision No. CO76-5106 dated November 26, 1976, in 41 FR 52225

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.76	.38	$ 1.17		.02
BOILERMAKERS	10.30	.85	1.00		.04
BRICKLAYERS	9.77	.60	.70		.04
CARPENTERS	8.34	.68	.75	.55	.06
CEMENT MASONS:					
Cement Masons	8.20	.47	1.15	.60	.09
Working with composition material and color	8.70	.47	1.15	.60	.09
Working on scaffold, swing stage or temporaty platform over 25'	8.55	.47	1.15	.60	.09
DRYWALL INSTALLERS	8.94	.68	.75	.55	.06
ELECTRICIANS:					
Zone I (0-12 miles from P. O.)					
Electricians	10.70	.52	1%+.65		1%
Cable Splicers	11.77	.52	1%+.65		1%
Zone II (12-20 miles from P.O.)					
Electricians	11.10	.52	1%+.65		1%
Cable Splicers	12.17	.52	1%+.65		1%
Zone III (20-40 miles from P.O.)					
Electricians	11.45	.52	1%+.65		1%
Cable Splicers	12.52	.52	1%+.65		1%
Zone IV (Over 40 miles from P.O.					
Electricians	12.58	.52	1%+.65		1%
Cable Splicers	13.85	.52	1%+.65		1%
Electrical contracts under $20,000 in Zones III and IV	10.20	.52	1%+.65		1%
ELEVATOR CONSTRUCTORS	10.64	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.06				
IRONWORKERS:					
Structural; Ornamental and Reinforcing	9.75	.71	1.15		.10
LATHERS	9.56				.01

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE & TILE SETTERS, TERRAZZO WORKERS	$ 9.75	.71	.70		.04
MILLWRIGHTS	9.48	.68	.75		.06
PAINTERS:					
Brush, roller, tapers, hand texture	7.87	.50			.04
Steel; Paperhangers	8.37	.50			.04
Spray, Tapers using Automatic tools	8.87	.50			.04
Spray Steel	9.37	.50			.04
PLASTERERS	10.14				.01
PLUMBERS:					
Zone I (0-15 miles from P.O.)	10.97	.60	.85		.08
Zone II (15-20 miles from P.O.)	11.54	.60	.85		.08
Zone III (20-40 miles from P.O.)	11.97	.60	.85		.08
Zone IV (Over 40 miles firmm P.O.)	12.995	.60	.85		.08
ROOFERS	8.91	.52	.40		
SHEET METAL WORKERS	11.06	3%+.40	1.16		.07
SOFT FLOOR LAYERS:					
Las Animas and Otero Countims	9.04	.40	.75	.30	.05
Pueblo County	7.70	.40	.65	.30	.05
SPRINKLER FITTERS	11.40	.60	.90		.08

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

LABORERS	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE I	ZONE II	ZONE III				
Group 1	$ 4.80	$ 5.25	$5.70	.47	.52		.05
Group 2	6.30	6.75	7.20	.47	.52		.05
Group 3	6.58	7.03	7.48	.47	.52		.05
Group 4	6.80	7.25	7.70	.47	.52		.05
Group 5	6.85	7.30	7.75	.47	.52		.05
Group 6	7.00	7.45	7.90	.47.	.52		.05

ZONE 1: That area encompassed by 0 to 30 driving miles from the main Post Office in each of the following Cities: Pueblo and Trinidad.

ZONE 2: That area encompassed by 30 to 70 driving miles from the main Post Office in the above named Cities

ZONE 3: That area encompassed by 70 driving miles and over from the main Post Office in the above named Cities.

LABORERS (Cont'd)

GROUP DESCRIPTION For ALL COUNTIES

Group 1: Watchmen tending Heaters and Pumps

Group 2: Building Constructimn Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power Tool Operators of all mechanical, air, gas and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other Aggregate in sand bed to be used as exposed face of tilt-up panels.
Burners on Demolition and Welders, Gunnite Nozzlemen and Sandblasters.

Group 4: Pipelayers on Building Construction

Group 5: Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.

Group 6: Tender, Mason and Plaster

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	*Zone I	*Zone II				
Group 1	$ 7.50	$ 8.25	.45	.79	.30	.06
Group 2	7.85	8.60	.45	.79	.30	.06
Group 3	8.20	8.95	.45	.79	.30	.06
Group 4	8.35	9.10	.45	.79	.30	.06
Group 5	8.50	9.25	.45	.79	.30	.06
Group 6	8.65	9.40	.45	.79	.30	.06
(For work in Tunnels, Shafts, and Raises)						
Group 1	7.65	8.40	.45	.79	.30	.06
Group 2	8.00	8.75	.45	.79	.30	.06
Group 3	8.10	8.60	.45	.79	.30	.06
Group 4	8.35	9.10	.45	.79	.30	.06
Group 5	8.50	9.25	.45	.79	.30	.06
Group 6	8.90	9.69	.45	.79	.30	.06

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, rotary, churn, or cable tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator; Tower Crane, truck type

POWER EQUIPMENT OPERATORS (Cont'd)
(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

TRUCK DRIVERS	Basic Hourly Rates *Zone I	Basic Hourly Rates *Zone II	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 7.15	$ 7.65	.45	.30	.30	
DUMP TRUCKS, to and including 6 cu. yds.; Sweeper; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance Drivers	7.25	7.75	.45	.30	.30	
DUMP TRUCKS, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Helpers; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus	7.35	7.85	.45	.30	.30	
STRADDLE TRUCK; Lumber Carrier; Liquid and Bulk Tankers, tandem axle	7.45	7.95	.45	.30	.30	
FORK LIFT DRIVER; Fuel Truck; Grease Truck; Combination fuel and grease	7.45	7.95	.45	.30	.30	
DISTRIBUTOR TRUCK DRIVER; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination	7.50	8.00	.45	.30	.30	
MULTI-PURPOSE TRUCK; Speciality and Hoisting	7.55	8.05	.45	.30	.30	

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates *Zone I	Basic Hourly Rates *Zone II	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment	$ 7.60	$ 8.10	.45	.30	.30	
TRUCK DRIVER, Snow Plow	7.70	8.20	.45	.30	.30	
CEMENT MIXER, Agitator Truck over 10 cu. yds., to and including 15 cu. yds.	7.75	8.25	.45	.30	.30	
DUMP TRUCKS, over 29 cu. yds. to and including 39 cu. yds.	7.85	8.35	.45	.30	.30	
CEMENT MIXER, Agitator Truck over 15 cu. yds.	8.00	8.50	.45	.30	.30	
DUMP TRUCKS, over 39 cu. yds. to and including 54 cu. yds.; Fireman	8.05	8.55	.45	.30	.30	
MECHANIC	8.15	8.65	.45	.30	.30	
DUMP TRUCKS, over 54 cu. yds. to and including 79 cu. yds.	8.25	8.75	.45	.30	.30	
HEAVY DUTY DIESEL, Mechanics, Body Men, Welders or Combination Men	8.35	8.85	.45	.30	.30	
DUMP TRUCKS, over 79 cu. yds. to and including 104 cu. yds.	8.45	8.95	.45	.30	.30	
DUMP TRUCKS, over 104 cu. yds.	8.65	9.15	.45	.30	.30	

*ZONE DESCRIPTIONS
Power Equipment Operators and Truck Drivers

A. Counties entirely within Zone 1:
Otero Pueblo

B. Portions of Las Animas County which are included within Zone 1, as follows:
All of Las Animas County lying west of the Township line between R59W and R60W of the 7th Guide Meridian West.

C. Portions of Las Animas County which are included within Zone 2, as follows:
All of Las Animas County lying East of the Township line between R59W and R60W of the 7th Guide Meridian West.

SUPERSEDEAS DECISION

STATE: Colorado

COUNTIES: Delta, Garfield, Gunnison, Mesa, Montrose and Pitkin

DECISION NUMBER: CO77-5018

DATE: Date of Publication

Supersedes Decision No. CO76-5107 dated December 3, 1976, in 41 FR 53242

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.76	.38	$ 1.17		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS; Stonemasons:					
Pitkin County	9.70	.60	.70	.25	.05
Remaining Counties	9.60	.60	.70		.05
CARPENTERS:					
Post Office basing points in the Cities of Leadville, Fort Collins, Glenwood Springs, Grand Junction, Gunnison and Montrose					
Zone I (0-30 miles from nearest basing point)	8.34	.68	.75	.55	.06
Zone II (30-60 miles from nearest basing point)	8.59	.68	.75	.55	.06
Zone III (60 miles and over from nearest basing point)	8.84	.68	.75	.55	.06
CEMENT MASONS:					
Cement Masons	8.45	.47	1.15	.60	.09
Working with composition materials and color	8.95	.47	1.15	.60	.09
Working on scaffold, swing stage or temporary platform over 25'	8.70	.47	1.15	.60	.09
DRYWALL INSTALLERS	8.94	.68	.75	.55	.06
ELECTRICIANS:					
Electricians	11.25	.52	1%+.25		1%
Cable Splicers	11.50	.52	1%+.25		1%
ELEVATOR CONSTRUCTORS	10.64	.545	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELEPRS (PROB.)	50%JR				
GLAZIERS	10.06				
IRONWORKERS:					
Structural, Ornamental and Reinforcing	9.75	.71	1.15		.10
LATHERS	10.14				.01
MARBLE & TILE SETTERS, TERRAZZO WORKERS	9.75	.71	.70		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS	$ 9.48	.68	.75		.06
PAINTERS:					
Brush, Roller and Drywall Finishers	9.76	.65	.70		.07
Paperhangers, Spray, Swing Stage	10.36	.65	.70		.07
PLASTERERS	10.14				.01
PLUMBERS	9.50	.60	.85	1.50	.10
ROOFERS	8.91	.52	.40		
SHEET METAL WORKERS	11.06	3%+.40	1.16		.07
SOFT FLOOR LAYERS	9.04	.40	.75	.30	.05
SPRINKLER FITTERS	11.40	.60	.90		.08

FOOTNOTE:

a. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.
6 Paid Holidays: A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

LABORERS	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
Garfield and Pitkin Counties	ZONE 1*	ZONE 2*	ZONE 3*				
Group 1	$ 4.80	$ 5.25	$5.70	.47	.52		.05
Group 2	6.30	6.75	7.20	.47	.52		.05
Group 3	6.58	7.03	7.48	.47	.52		.05
Group 4	6.80	7.25	7.70	.47	.52		.05
Group 5	6.85	7.30	7.75	.47	.52		.05
Group 6	7.00	7.45	7.90	.47	.52		.05

*ZONE 1: That area encompassed by 0 to 30 driving miles from the main Post Office in each of the following Cities: Aspen, Glenwood Springs and Rifle.

*ZONE 2: That area encompassed by 20 to 70 driving miles from the main Post Office of above named Cities.

*ZONE 3: That area encompassed by 70 driving miles and over from the main Post Office of above named Cities.

LABORERS	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
				H & W	Pensions	Vacation	Education and/or Appr. Tr.
Delta, Gunnison, Mesa and Montrose Counties	ZONE 1**	ZONE 2**	ZONE 3**				
Group 1	$ 4.80	$ 5.25	$5.70	.47	.52		.05
Group 2	6.30	6.75	7.20	.47	.52		.05
Group 3	6.58	7.03	7.48	.47	.52		.05
Group 4	6.80	7.25	7.70	.47	.52		.05
Group 5	6.85	7.30	7.75	.47	.52		.05
Group 6	7.00	7.45	7.90	.47	.52		.05

**ZONE 1: That area encompassed by 0 to 30 driving miles from the main Post Office in each of the following Cities: Grand Junction, Gunnison, Montrose, and Naturita.

**ZONE 2: That area encompassed by 30 to 70 driving miles from the main Post Office of above named Cities.

**ZONE 3: That area encompassed by 70 driving miles and over from the main Post Office of above named Cities.

LABORERS (Cont'd)

GROUP DESCRIPTION For ALL COUNTIES

Group 1: Batchman Handling Heaters and Pumps

Group 2: Building Construction Laborer

Group 3: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power Tool Operators of all mechanical, air, gas and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other Aggregate in sand bed to be used as exposed face of tilt-up panels.
Burners on Demolition and Welders, Gunnite Nozzlemen and Sandblasters.

Group 4: Pipelayers on Building Construction

Group 5: Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Stemmers on Caisson Work.

Group 6: Tender, Mason and Plaster

POWER EQUIPMENT OPERATORS (Other than for work in Tunnels, Shafts and Raises)	Basic Hourly Rates *Zone I	Basic Hourly Rates *Zone II	Fringe Benefits Payments [illegible]	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 7.50	$ 8.25	.45	.79	.30	.06
Group 2	7.85	8.60	.45	.79	.30	.06
Group 3	8.20	8.95	.45	.79	.30	.06
Group 4	8.35	9.10	.45	.79	.30	.06
Group 5	8.50	9.25	.45	.79	.30	.06
Group 6	8.65	9.40	.45	.79	.30	.06
(For work in Tunnels, Shafts, and Raises)						
Group 1	7.65	8.40	.45	.79	.30	.06
Group 2	8.00	8.75	.45	.79	.30	.06
Group 3	8.10	8.60	.45	.79	.30	.06
Group 4	8.35	9.10	.45	.79	.30	.06
Group 5	8.50	9.25	.45	.79	.30	.06
Group 6	8.90	9.65	.45	.79	.30	.06

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Helper to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, rotary, churn, or cable tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc. Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers - single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

POWER EQUIPMENT OPERATORS (Cont'd)
(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tracmers; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mechanic-Welder, heavy duty; Mucking Machines and Front End Loaders, underground; Slusher; Mine Hoist Operator

Group 6: Mole

TRUCK DRIVERS	Basic Hourly Rates *Zone I	Basic Hourly Rates *Zone II	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PICKUPS; Helpers; Scalemen; Checkers; Spotters; Dumpmen	$ 7.15	$ 7.65	.45	.30	.30	
DUMP TRUCKS, to and including 6 cu. yds.; Sweeper; Flat Rack, single axle; Liquid and Bulk Tankers, single axle; Warehousemen; Washers; Greasemen; Servicemen; Ambulance Drivers	7.25	7.75	.45	.30	.30	
DUMP TRUCKS, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Man; Mechanics' Helpers; Material Checkers; Cardex Men; Expeditors; Man Haul Shuttle Truck or Bus	7.35	7.85	.45	.30	.30	
STRADDLE TRUCK; Lumber Carrier; Liquid and Bulk Tankers, tandem axle	7.40	7.90	.45	.30	.30	
FORK LIFT DRIVER; Fuel Truck; Grease Truck; Combination fuel and grease	7.45	7.95	.45	.30	.30	
DISTRIBUTOR TRUCK DRIVER; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination	7.50	8.00	.45	.30	.30	
MULTI-PURPOSE TRUCK; Speciality and Hoisting	7.55	8.05	.45	.30	.30	

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates *Zone I	Basic Hourly Rates Zone II	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment	$ 7.60	$ 8.10	.45	.30	.30	
TRUCK DRIVER, Snow Plow	7.70	8.20	.45	.30	.30	
CEMENT MIXER, Agitator Truck over 10 cu. yds., to and including 15 cu. yds.	7.75	8.25	.45	.30	.30	
DUMP TRUCKS, over 29 cu. yds. to and including 39 cu. yds.	7.85	8.35	.45	.30	.30	
CEMENT MIXER, Agitator Truck over 15 cu. yds.	8.00	8.50	.45	.30	.30	
DUMP TRUCKS, over 39 cu. yds. to and including 54 cu. yds.; Fireman	8.05	8.55	.45	.30	.30	
MECHANIC	8.15	8.65	.45	.30	.30	
DUMP TRUCKS, over 54 cu. yds. to and including 79 cu. yds.	8.25	8.75	.45	.30	.30	
HEAVY DUTY DIESEL, Mechanics, Body Men, Welders or Combination Men	8.35	8.85	.45	.30	.30	
DUMP TRUCKS, over 75 cu. yds. to and including 104 cu. yds.	8.45	8.95	.45	.30	.30	
DUMP TRUCKS, over 104 cu. yds.	8.65	9.15	.45	.30	.30	

*ZONE DESCRIPTIONS
Power Equipment Operators and Truck Drivers

A. Counties entirely within Zone 1:
Delta Garfield Mesa

B. Counties entirely within Zone 2:
Gunnison Pitkin

C. Legal description of the portion of Montrose County which is included within Zone 1, as follows:
All of Montrose County lying north of the North line of Ouray County and said North Line extended West to the Township line between R11W and R12W, said part lying East of said Township line of the New Mexico Principal Meridian

D. Legal description of the portion of Montrose County which is included within Zone 2, as follows:
All of Montrose County except that part lying north of the North Linm of Ouray County and said North Line extended West of said Township line between R11W and R12W, said point being East of said Township lime of the New Mexico Principal Meridian

SUPERSEDEAS DECISION

STATES: Georgia, North Carolina, South Carolina, Virginia, and Washington, D. C., and in Florida, all counties on the Atlantic coast and the Gulf coast west to the Aucilla River and all tributary waterways.
DECISION NUMBER: GA77-5035 DATE: Date of Publication
SUPERSEDES DECISION NO. GA77-5005 dated January 4, 1977 in 42 FR 1015, and FL76-5024 dated March 26, 1976 in 41 FR 12856
DESCRIPTION OF WORK: Dredging

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HYDRAULIC DREDGES 20" AND OVER:					
Leverman	$7.22	.50	.43	a	
Engineer	7.17	.50	.43	a	
Mate	6.38	.50	.43	a	
Welder	6.61	.50	.43	a	
Derrick Operator	6.88	.50	.43	a	
Spill barge operator	6.72	.50	.43	a	
Spider barge operator	6.72	.50	.43	a	
Tug master	6.32	.50	.43	a	
Carpenter	6.84	.50	.43	a	
Tug mate	6.00	.50	.43	a	
Electrician	7.01	.50	.43	a	
Machinist	6.77	.50	.43	a	
Steward	5.42	.50	.43	a	
Oiler & fireman	5.23	.50	.43	a	
Deckhand & tug deckhand	4.84	.50	.43	a	
Shoreman	4.73	.50	.43	a	
Second cook	4.84	.50	.43	a	
Messman	4.73	.50	.43	a	
HYDRAULIC DREDGES UNDER 20":					
Leverman	6.57	.50	.43	a	
Engineer	6.20	.50	.43	a	
Welder	6.32	.50	.43	a	
Mate	5.54	.50	.43	a	
Oiler & fireman	5.16	.50	.43	a	
Deckhand	4.84	.50	.43	a	
Launchman	5.23	.50	.43	a	
Shoreman	4.73	.50	.43	a	
Spill barge operator	5.70	.50	.43	a	
Spider barge operator	5.70	.50	.43	a	
CLAMSHELL DREDGES:					
Operator	7.11	.50	.43	a	
Engineer	6.38	.50	.43	a	
Welder	6.42	.50	.43	a	
Mate	6.08	.50	.43	a	
Fireman & Oiler	5.23	.50	.43	a	
Deckhand	4.84	.50	.43	a	
Launchman	5.23	.50	.43	a	
Scowman	4.93	.50	.43	a	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DIPPER DREDGES:					
Operator	$7.29	.50	.43	a	
Craneman	6.91	.50	.43	a	
Engineer	7.09	.50	.43	a	
Welder	6.61	.50	.43	a	
Mate	6.38	.50	.43	a	
Fireman & oiler	5.23	.50	.43	a	
Deckhand	4.84	.50	.43	a	
Tug master	6.32	.50	.43	a	
Tug mate	6.00	.50	.43	a	
Scowman	4.93	.50	.43	a	
TUGS (TENDING DIPPER & CLAMSHELL DREDGES):					
Tug master	6.46	.50	.43	a	
Tug mate	6.07	.50	.43	a	
Engineer	6.46	.50	.43	a	
Assistant engineer	5.92	.50	.43	a	
Deckhand	4.76	.50	.43	a	
Cook	4.93	.50	.43	a	
STEWARD DEPARTMENT - ON DIPPER AND CLAMSHELL DREDGES AND ON HYDRAULIC DREDGES 20" AND UNDER:					
Cook	5.16	.50	.43	a	
Mess cook	4.90	.50	.43	a	
Messman & janitor	4.70	.50	.43	a	
DRILLBOATS:					
Driller	7.17	.50	.43	a	
Blaster	7.17	.50	.43	a	
Operator engineer	7.17	.50	.43	a	
Helper	5.23	.50	.43	a	

FOOTNOTE:
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

a. Six paid holidays, A through F, plus vacation contribution of 7% of straight time pay.

SUPERSEDEAS DECISION

STATE: Guam
DECISION NUMBER: GU77-5026 DATE: Date of Publication
Supersedes Decision No. AR-1029 dated September 6, 1974, in 39 FR 32448
DESCRIPTION OF WORK: Building, Residential, Heavy and Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Refrigeration and Air Conditioning	$ 3.70				
Machinist	3.36				
Heavy Equipment Repairman	3.31				
Heavy Equipment Operator	3.24				
Electrician	3.22				
Plumber	3.20				
Welders	3.16				
Sheet Metal Worker	3.12				
Mason	3.05				
Lt. Equipment and General Truck Driver	3.03				
Carpenter	3.03				
Painter	2.94				
Structural Ironworker	2.90				

SUPERSEDEAS DECISION

STATES: Illinois, Indiana, Kentucky, Missouri, Ohio, & West Virginia
DECISION NUMBER: IL77-5036 DATE: Date of Publication
SUPERSEDES DECISION NO. IL76-5026 dated March 26, 1976 in 41 FR 12858
DESCRIPTION OF WORK: Dredging on the Illinois River between Miles 0.0 and 80.0; the Ohio River between Miles 950.0 and 172.2; the Upper Mississippi River between Miles 0.0 and 195.0; and the Kaskaskia River from the mouth to Fayetteville, Illinois.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I					
Within the geographical jurisdiction of the St. Louis District, Corps of Engineers.					
Leverman, Engineer, Mechanic, and Boatman	$9.83	.46	1.51		
Oiler and Helper	8.47	.46	1.51		
AREA II					
Within the geographical jurisdiction of the Louisville District, Corps of Engineers					
Leverman, Engineer, Mechanic, and Boatman	9.44	.46	1.51		
Oiler and Helper	7.13	.46	1.51		
AREA III					
Within the geographical jurisdiction of the Huntington District, Corps of Engineers					
Leverman, Engineer, Mechanic, and Boatman	9.10	.46	1.51		
Oiler and Helper	6.57	.46	1.51		

SUPERSEDEAS DECISION

STATE: Missouri

COUNTIES: Franklin, Jefferson, Lincoln, St. Charles, Warren & City & County of St. Louis

DECISION NO.: MO77-4058

DATE: Date of Publication

Supersedes Decision No. MO76-4108 dated July 2, 1976 in 41 FR 27624

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Asbestos workers	$11.85	.50	.90		
Swing stage of bosun's chair	12.10	.50	.90		
Asbestos workers requiring spray in application	12.10	.50	.90		
BOILERMAKERS	10.45	.85	1.00		.02
BRICKLAYERS; STONEMASONS	9.40	.52	.70	.90	.03
CARPENTERS; MILLWRIGHTS; PILE-DRIVERMEN:					
ZONE 1 - St. Louis City & County	10.46	.50	.70		
CARPENTERS:					
ZONE 2 - Franklin County:					
Contracts $200,000.00 & under	8.20	.50	.70		
Contracts over $200,000.00	10.46	.50	.70		
ZONE 3 - Jefferson County:					
Contracts $25,000.00 & under	9.96	.50	.70		
Contracts over $25,000.00	10.46	.50	.70		
ZONE 4 - St. Charles County:					
Contracts under $200,000.00	9.70	.50	.70		
Contracts $200,000.00 or more	10.46	.50	.70		
ZONE 5 - Lincoln & Warren Counties:					
Contracts $200,000.00 & under	9.15	.50	.70		
Contracts over $200,000.00	10.46	.50	.70		
CEMENT MASONS:					
ZONE 1 - Jefferson & St. Charles Counties and St. Louis City & County	10.15	1.00	.95		
ZONE 2 - Franklin, Lincoln & Warren Counties:					
Project less than $100,000.00	9.50	1.00	.95		
Project $100,000.00 & over	10.15	1.00	.95		
ELECTRICIANS	10.30	.55	18+5%a	15%a	.10
ELEVATOR CONSTRUCTORS	10.05	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS HELPERS	70%JR	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS HELPERS' (PROB)	50%JR				

FOOTNOTES:

a-Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years as Vacation Pay Credit.

b-Paid Holidays; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday After Thanksgiving Day; Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS	10.73	.45	1.13	8%+c	.31

FOOTNOTE: c-Paid Holidays; New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans Day; Thanksgiving Day; Friday After Thanksgiving Day; Christmas Day; Employees Birthday.

IRONWORKERS	10.625	.55	.70		.05
LABORERS:					
ZONE 1 - City & County of St. Louis					
General laborer	9.425	.40	.90		.03
Wrecking	9.30	.40	.90		.03
Plumber laborer	9.80	.40	.90		.03
Dynamiter or powderman	9.925	.40	.90		.03
Mason tenders (hod carriers)	9.00	.40	.60		
ZONE 2 - Franklin County:					
Contracts $250,000.00 or less:					
General laborer	6.75	.50	.40		
Mason tenders, plumber laborer, plaster tender	6.95	.50	.40		
Contracts over $250,000.00:					
General laborer	8.25	.50	.40		
Mason tenders, plumber laborer, plaster tender	8.45	.50	.40		
ZONE 3 - Jefferson County:					
Laborers	7.85	.50	.30		
Powderman, mason tenders, plaster tender	8.35	.50	.30		
ZONE 4 - St. Charles County:					
General laborer	9.575	.50	.50		
Dynamiter or powdermen	10.075	.50	.50		
Plumbers laborer	10.05	.50	.50		
ZONE 5 - Lincoln & Warren Counties:					
General laborer	9.075	.50	.50		
Dynamiter or powdermen	9.575	.50	.50		
Plumber laborer	9.55	.50	.50		
LATHERS	10.975	.30			.015
MARBLE SETTERS	10.39	.325	.50		
MARBLE SETTERS HELPERS	10.08				
PAINTERS:					
ZONE 1 - Lincoln County:					
Brush	6.80				
Spray	7.20				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (contd):					
ZONE 2 - Franklin, Jefferson, St. Charles, Warren Counties, & City & County of St. Louis					
Brush	10.08	.42	.30		.04
Spray	11.58	.42	.30		.04
PIPEFITTERS:					
ZONE 1 - Light commercial work & on jobs within the boundaries of the City of St. Louis & St. Louis County	10.45	2.775	.90		
ZONE 2 - Other construction & jobs within twenty miles beyond the boundary line of St. Louis County	10.83	2.775	.90		
ZONE 3 - Other construction & jobs more than twenty miles beyond the boundary line of St. Louis County	11.01	2.775	.90		
PLASTERERS	10.29%	.48	.80		.03
PLUMBERS	10.35%	.70	.70	.80	.20
PLUMBERS (Lincoln County)	11.01	2.775	.90		
POWER EQUIPMENT OPERATORS:					
ZONE 1 - St. Louis County:					
Group 1	10.17	.50	1.00		
Group 2	9.62	.50	1.00		
Group 3	9.17	.50	1.00		
Group 4:					
(a)	10.97	.50	1.00		
(b)	11.72	.50	1.00		
(c)	12.17	.50	1.00		
(d)	12.92	.50	1.00		
(e)	10.67	.50	1.00		
(f)	9.17	.50	1.00		

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (ZONE 1)

Group 1 - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or cruiser mounted-16 tons & over; crane, locomotive; derrick; steam; derrick car & derrick boat; dragline; dredge; gradall, crawler or tire mounted; locomotive, gas, steam & other power; pile driver, land or floating; scoop, skimmer; shovel, power (steam, gas electric or other powers); switch boat; whirley; air tugger w/air compressor; anchor placing barge; asphalt spreader; athey force feed loader (self-propelled); backfilling machine; boat operator-push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bullfloat; cherry picker, combination concrete hoist & mixer such as mixermobile; compressors, two, not more than 20 ft. apart; compressors, not more than 5 ft. apart; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pumpcrete machine; concrete spreader; conveyor, large (not self-propelled) hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers, jack-hammers and barco equipment no engineer required); elevating grader; engine man, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift; hoist, concrete and brick (brick cages on concrete skips operating in or on tower, towermobile, or similar equipment); hoist, stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-greene); mixer-mobile,mucking machine, pipe cleaning machine; pipe wrapping machine; plant, asphalt; plant, concrete producing or ready-mix-job site; plant, heating-job site; plant-mixing-job site; plant, power generating-job site; pump, self-powered, over 2" (one operator will operate two); pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or subgrade; scoop tractor drawn; spreader box; subgrader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine, tunnel boring machine; vibrating maching, automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine.

Group 2 - Air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor, air (mounted on truck); concrete saw, self-propelled; conveyor, large (not self-propelled); conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 KW or any number developing over 30 KW; greaser; hoist, one drum regardless of size (except brick or concrete); lad-a-vator, other hoising; manlift; mixer, asphalt, over 8 cu. ft. capacity; mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; mixer, without side loader, 2 bag capacity or more; mixer with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, pump-self-powered; automatic controller over 2" during use in connection with construction work; sweeper, street; welding machine, one over 400 amp.; winch operating from truck.

Group 3 - Boat operator-outboard motor (job site); conveyor (such as con-vay-it), regardless of how used, oiler, sweeper, floor

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (CONTD.):
Group 4 - (a)Air pressure; oiler engineer operating under ten pounds. (b)Air pressure, oiler engineer operating over ten pounds. (c)Air pressure engineer operating under ten pounds. (d)Air pressure engineer operating over ten pounds. (e)Crane-pile driving with leads, crane using rock socket tool, dragline-7 cu. yds. & over, shovel, power-7 cu. yds. and over, crane, climbing (such as linden), derrick, diesel, gas, electric hoisting material and erecting steel 150' or more above ground, hoist, three or more drums, scoop, tandem, tractor, tandem crawler. (f)Heater

Crane, with boom (including jib) over 100' from pin to pin (add 1¢ per foot to maximum of 75¢) above basic rate for cranes.

Work in tunnel or tunnel shaft, .25¢ above base rate.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
ZONE 2 - Franklin, Jefferson, Lincoln, St. Charles and Warren Counties:					
Group 1	10.15	.50	1.00		.02
Group 2	9.95	.50	1.00		.02
Group 3	9.75	.50	1.00		.02
Group 4:					
(a)	9.15	.50	1.00		.02
(b)	9.40	.50	1.00		.02
(c)	10.90	.50	1.00		.02

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (ZONE 2):
Group 1 - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; autograder; automatic slipform paver; backhoe; blade operator-all types; boat operator-tow; boiler-2; central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; derrick, or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine; rotary, self-propelled; highloader; hoisting engine-2 active drums; lauchhammer wheel; locomotive operator-standard gauge; mechanics and welders; mucking machine; piledriver operator; pitman crane operator; push cat operator; quad trac; scoop operator-all types; shovel operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane.

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (ZONE 2 CONTD.):
Group 2 - A-frame; asphalt hot-mix silo; asphalt plant fireman (drum or boiler); asphalt plant man; asphalt plant mixer operator; asphalt roller operator; backfiller operator; barber-greene loader; boat operator (bridges & dams); chip spreader; compressor maintenance operator-2; concrete mixer operator-skip loader; concrete plant operator; concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine-1; locomotive operator narrow gauge; multiple compactor; pavement breaker; powerbroom, self-propelled; power shield; rooter; side discharge concrete spreader; slip form finishing machine; stumpcutter machine; throttle man; tractor operator (over 50 hp); welding machine maintenance operator-2; winch truck.
Group 3 - Boilers-1; chip spreader (front man); churn drill operator; clef plant operator; compressor maintenance operator-1; concrete saw operator (self-propelled); conveyor operator; curb finishing machine; distributor operator; finishing machine operator; fireman-rig; flex plane operator; float operator; form grader operator; generator-maintenance operator; light plant-maintenance operator; maintenance operator; oiler driver; pugmill operator; pump maintenance operator (other than dredge); roller operator, other than high type asphalt; screening & washing plant operator; siphons & jets; sub-grading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator (combination boiler & booster); tractor operator (50 hp or less); ulmac, ulric or similar spreader; vibrating machine operator, not hand; welding machine maintenance operator-1.
Group 4 - (a)Oiler. (b)Clamshells, 3 yds. capacity or over; crane, rigs or piledrivers 100 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; hoists each additional active drum over 2 drums; shovels, 3 yds. capacity or over (c)crane, rigs or piledrivers 200 ft of boom or over (including jib)

Work in tunnel or tunnel shafts (not air shafts or coffar dams) of 25 ft. or more in length or depth 50¢ per hour above basic rate.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition; slate and tile	8.65	.47	.45	1.00	.03
Kettlemen	6.45	.47	.45	1.00	.03
SHEET METAL WORKERS	10.29	.51+3%	.71	.82	.04
SOFT FLOOR LAYERS	8.74	.58	.35	.50	.14
SPRINKLER FITTERS	12.21	.60	.90		.08
STONE DERRICKMAN (Jefferson, St. Charles & St. Louis Counties)	7.35	.50	.65		
TERRAZZO WORKERS	11.05				
TILE SETTERS	9.58	.555	1.00		
TILE SETTERS HELPERS	8.58	.325	.40		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Truck or trailers of a water level capacity of 11.99 cu. yds. or less fork lift trucks, job site ambulances, pick-up trucks, flat bed trucks	6.99	d	e	f&g	
Truck or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace & similar equipment of same capacity	7.19	d	e	f&g	
Truck or trailers of a water level of 22.0 cu. yds. & over including euclids, speedace & all floats, flat bed trailers & boom trucks & similar equipment of same capacity	7.29	d	e	f&g	

FOOTNOTES: d-Employer contribution of $12.50 per week; e-Employer contribution of $12.00 per week; F-Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday After ThanksgivingDay, Christmas Day; g-Paid vacation of 3 days for 600 hours of service in any one contract year, 4 days paid vacation for 800 hours of service in any one contract year, 5 days paid vacation for 1,000 hours of service in any one contract year.

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

STATE: Missouri

COUNTIES: Franklin, Jefferson, Lincoln, St. Charles, and Warren and St.Louis City and County

DECISION NO.: MO77-4059 DATE: Date of Publication

Supersedes Decision No. MO76-4107 dated July 2, 1976, in 41 FR 27621

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.85	.50	.90		
BRICKLAYERS & STONEMASONS	9.40	.52	.70	.90	.03
CARPENTERS:					
Zone 1 - St. Louis City & County	10.46	.50	.70		
Zone 2 - St. Charles County	9.70	.50	.70		
Zone 3 - Lincoln and Warren Counties	9.15	.50	.70		
Zone 4 - Jefferson County	9.25	.50	.70		
Zone 5 - Franklin County	8.20	.50	.70		
CEMENT MASONS:					
Zone 1 - Franklin, Lincoln & Warren Counties	8.25	.50	.80		
Projects less than $100,000.00	9.50	1.00	.95		
Projects $100,000.00 or over	10.15	1.00	.95		.10
Zone 2 - Jefferson, St. Charles Counties and St. Louis City & County	10.15	1.00	.95		
ELECTRICIANS:					
Zone 1 - Franklin, Jefferson Lincoln and Warren Counties	9.64	.55	10+5%b	15%b	.10
Zone 2 - St. Charles County & St. Louis City & County	10.30	.55	10+5%b	15%b	.10
ELEVATOR CONSTRUCTORS	10.05	.445	.29	3b+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.20	3b+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

FOOTNOTES: a-Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basichourly rate for 6 months to 5 years as vacation Pay Credit; b-Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

GLAZIERS	10.04	.45	1.03	8b+c	.01

FOOTNOTES: c-Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans Day; Thanksgiving Day; Friday After Thanksgiving Day; Christmas Day.

IRONWORKERS	10.625	.55	.70		.05
LABORERS:					
Zone 1 - 3 and 4 stories (St. Louis City and County):	9.425	.40	.90		.03
General Laborer	9.30	.40	.90		.03
Wrecking	9.80	.40	.90		.03
Plumber Laborers	9.925	.40	.90		.03
Dynamiter or powderman					

DECISION NO.: MO77-4059

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (ZONE 1 CONTD):

crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including elevating grader; engine hammers and barco equipment no engineer required); finishing machine, self-propelled man, dredge; excavator or powershovel machine, with power blade; highlift; hoist, oscillating screed; forklift; grader, crete skips operating in or on tower; concrete and brick (brick cages on hoist; stack; hydro-hammer; lad-a-vator, towermobile, or similar equipment); machine (such as barber-greene); mixer-hoisting brick or concrete; loading machine; pipe wrapping machine; plant, mobile,mucking machine, pipecoating ready-mix-job site; plant, heating-asphalt; plant, concrete-producing ready-mix-job site; plant, power generating-job site; pump; job site; plant-mixing job operator will operate two); pumps, electric self-powered, over 2"; quad-track, roller, asphalt, top or submersible; scoop, tractor drawn; spreader box; subgrader; tie tamper; tractor-crawler, as regardless of size; trenching machine; tunnel boring machine; vibrating machine; automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine.

Group 2 - Air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor, air (mounted on truck); concrete saw, self-propelled; conveyor, large (not self-propelled); conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grinder; generator, one over 30 KW or any number developing over 30 KW; greaser, hoist, one drum regardless of size (except brick or concrete); lad-a-vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity; mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; mixer, without side loader, 2 bag capacity or more; mixer with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, pump-self-propeled, automatic controller over 2" during use in connection with construction work; sweeper, street; welding machine, one over 400 amp.; winch operating from truck.

Group 3 - Boat operator-outboard motor (job site); conveyor (such as con-vay-it), regardless of how used, oiler, sweeper, floor

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Group A - (a)Air pressure; oiler engineer operating under ten pounds. (b)Air pressure, oiler engineer operating over ten pounds. (c)Air pressure engineer operating under ten pounds. (d)Air pressure engineer operating over ten pounds. (e)Crane-pile driving with leads, crane using rock socket tool, dragline-7 cu. yds. & over, shovel, power-7 cu. yds. and over, crane, climbing (such as linden), derrick, diesel, gas, electric hoisting material and erecting steel 150' or more above ground, hoist, three or more drums, scoop, tandem, tractor, tandem crawler. (f)Heater

Crane, with boom (including jib) over 100' from pin to pin (add 1¢ per foot to maximum of 75¢) above basic rate for cranes.

Work in tunnel or tunnel shaft, .25¢ above base rate.

DECISION NO.: MO77-4059

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPEFITTERS (CONTD.):					
Zone 2 - Other construction and jobs within twenty miles beyond the boundary line of St. Louis County	10.83	2.775	.90		
Zone 3 - Other construction and jobs more than twenty miles beyond the boundary line of St. Louis County	11.01	2.775	.90		.03
PLASTERERS	10.295	.48	.80		.20
PLUMBERS	10.335	.70	.70	.80	
PLUMBERS (Lincoln County)	11.01	2.775	.90		
POWER EQUIPMENT OPERATORS:					
Zone 1 - St. Louis County:					
Group 1	10.17	.50	1.00		
Group 2	9.62	.50	1.00		
Group 3	9.17	.50	1.00		
Group 4:					
(a)	10.97	.50	1.00		
(b)	11.72	.50	1.00		
(c)	12.17	.50	1.00		
(d)	12.92	.50	1.00		
(e)	10.67	.50	1.00		
(f)	9.17	.50	1.00		

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (ZONE 1)

Group 1 - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or cruiser mounted-16 tons & over; crane, locomotive; derrick; steam; derrick car & derrick boat; dragline; dredge; gradall, crawler or tire mounted; locomotive, gas, steam & other power; pile driver, land or floating; scoop, skimmer; shovel, power (steam, gas electric or other powers); switch boat; whirley; air tugger w/air compressor; anchor placing barge; asphalt spreader; athey force feed loader (self-propelled); backfilling machine; boat operator-push boat or tow boat (job site); boiler, high pressure breaking in period; boom-truck, placing or erecting; boring machine, footing foundation; bullfloat; cherry picker, combination concrete hoist & mixer such as mixermobile; compressors, two, not more than 20 St. apart; compressor, not more than 5 St. apart; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pumpcrete machine; concrete spreader; conveyor, large (not self-propelled) hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled;

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Decision NO. MO77-4059

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
ZONE 2 - Franklin, Jefferson, Lincoln, St. Charles and Warren Counties:					
Group 1	10.15	.50	1.00		.02
Group 2	9.95	.50	1.00		.02
Group 3	9.75	.50	1.00		.02
Group 4:					
(a)	9.15	.50	1.00		.02
(b)	9.40	.50	1.00		.02
(c)	10.90	.50	1.00		.02

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (ZONE 2):

Group 1 - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; autograder; automatic slipform paver; backhoe; blade operator-all types; boat operator-tow; boiler-2; central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; derrick, or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine; rotary, self-propelled; highloader; hoisting engine-2 active drums; launchhammer wheel; locomotive operator-standard gauge; mechanics and welders; mucking machine; piledriver operator; pitman crane operator; push cat operator; quad trac; scoop operator-all types; shovel operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane.

Group 2 - A-frame; asphalt hot-mix silo; asphalt plant fireman (drum or boiler); asphalt plant man; asphalt plant mixer operator; asphalt roller operator; backfiller operator; barber-greene loader; boat operator (bridges & dams); chip spreader; compressor maintenance operator-2; concrete mixer operator-skip loader; concrete plant operator; concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine-1; locomotive operator narrow gauge; multiple compactor; pavement breaker; powerbroom, self-propelled; power shield; rooter; side discharge concrete spreader; slip form finishing machine; stumpcutter machine; throttle man; tractor operator (over 50 hp); welding machine maintenance operator-2; winch truck.

Group 3 - Boilers-1; chip spreader (front man); churn drill operator; clef plant operator; compressor maintenance operator-1; concrete saw operator (self-propelled); conveyor operator; curb finishing machine; distributor operator; finishing machine operator; fireman-rig; flex plane operator; float operator; form grader operator; generator-maintenance operator; light plant-maintenance operator; maintenance operator; oiler driver; pugmill operator; pump maintenance operator (other than dredge); roller operator, other than high type asphalt; screening & washing plant operator; siphons & jets; sub-grading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator (combination boiler & booster); tractor operator (50 hp or less); ulmac, ulric or similar spreader; vibrating machine operator, not hand; welding machine maintenance operator-1.

Group 4 - (a)Oiler. (b)Clamshells, 3 yds. capacity or over; crane, rigs or piledrivers 100 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; hoists each additional active drum over 2 drums; shovels, 3 yds. capacity or over (c)crane, rigs or piledrivers 200 ft of boom or over (including jib)

Work in tunnel or tunnel shafts (not air shafts or coffer dams) of 25 ft. or more in length or depth 50¢ per hour above basic rate.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition; slate and tile	8.65	.47	.45	1.00	.03
Kettlemen	6.45	.47	.45	1.00	.03
SHEET METAL WORKERS	10.29	.51+3%	.71	.82	.04
SOFT FLOOR LAYERS	8.74	.58	.35	.50	.14
SPRINKLER FITTERS	12.21	.60	.90		.08
TERRAZZO WORKERS	11.05				
TILE SETTERS	9.58	.555	1.00		
TILE SETTERS HELPERS	8.58	.325	.48		
TRUCK DRIVERS:					
Truck or trailers of a water level capacity of 11.99 cu. yds. or less fork lift trucks, job site ambulances, pick-up trucks, flat bed trucks	6.99	d	e	f&g	
Truck or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace & similar equipment of same capacity	7.19	d	e	f&g	
Truck or trailers of a water level of 22.0 cu. yds. & over including euclids, speedace & all floats, flat bed trailers & boom trucks & similar equipment of same capacity	7.29	d	e	f&g	

FOOTNOTES: d-Employer contribution of $12.50 per week; e-Employer contribution of $12.00 per week; F-Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday After ThanksgivingDay, Christmas Day; g-Paid vacation of 3 days for 600 hours of service in any one contract year, 4 days paid vacation for 800 hours of service in any one contract year, 5 days paid vacation for 1,000 hours of service in any one contract year.

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

SUPERSEDEAS DECISION

STATE: Montana COUNTIES: Statewide
DECISION NUMBER: MT77-5034 DATE: Date of Publication
Supersedes Decision No. MT76-5099 dated October 29, 1976 in 41 FR 47789
DESCRIPTION OF WORK: Heavy and Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters	$8.43	.43	.75		.02
~~Piledrivermen; Sawfilers,~~ Carpenters on charred and creosote wood	8.58	.45	.75		.02
CEMENT MASONS:					
Cement Masons	8.37	.65	.25		
Grinder, Bush hammer and clipping fan preparing finished surface; Epoxy	8.52	.65	.25		
ELECTRICIANS:					
Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Silver Bow and Powell Counties	9.00	.50	1%+.35		
Gallatin County	9.33	.30	1%		1/2%
Broadwater, Lewis and Clark and Meagher Counties					
Electricians	8.98	.42	1%		1/2%
Blaine, Hill, Liberty and Phillips Counties					
Electricians	9.85		1%		1/2%
Cascade, Chouteau, Glacier, Judith-Basin, Pondera, Teton and Toole Counties					
Electricians	11.13	.42	1%+.50		1/2%
Cable Splicers	11.38	.42	1%+.50		1/2%
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties					
Electricians	9.68	.42	1%		1/2%
Cable Splicers	10.18	.42	1%		1/2%
Big Horn, Carbon, Golden Valley, Musselshell, Powder River, Rosebud, Stillwater, Treasure and Yellowstone Counties					
Electricians	10.07	.30	1%+.50		1/2%
Cable Splicers	10.52	.30	1%+.50		1/2%

DECISION NO. MT77-5034

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Fergus, Petroleum and Wheatland Counties					
(Electrical contracts less than $30,000)	7.65	.40	1%		1/2%
(Electrical contracts $30,000 or more)	8.75	.40	1%+.50		1/2%
Park and Sweetgrass Counties	9.05	.30	1%+.50		1/2%
Carter, Daniels, Dawson, Fallon, McCone, Prairie, Richland, Roosevelt, Sheridan, Valley and Wibaux Counties	8.70	.30	1%+.50		1/2%
Custer and Garfield Counties	8.48		1%		1/2%
IRONWORKERS:					
Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark (Southern half including Wolf Creek), Madison, Park, Powell, Ravalli and Silverbow Counties	10.11	.55	1.00		.05
Flathead, Glacier, Lake, Lincoln, Mineral, Missoula and Sanders Counties	11.15	.58	1.00		.05
Remaining Counties (including Northern half of Lewis and Clark County)	10.11	.55	1.00		.05
PAINTERS:					
Beaverhead, Jefferson (Southern area, south of the City of Boulder), Madison (west of a line running north-south through the west limits of Harrison and Silver Bow Counties					
Brush	7.60	.25	.10		
Spray	10.40	.25	.10		

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DECISION NO. MT77-5034

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, Wheatland (south of the City of Harlowtown), Wibaux and Yellowstone Counties					
Brush	$8.13	.49	.20		
Steel	8.38	.49	.20		
Spray	9.36	.49	.20		
Cascade, Chouteau (south of a line running East and West through the southern limits of Big Sandy), Daniels, Fergus, Glacier, (excluding Glacier National Park), Garfield, Judith-Basin, Lewis and Clark, (Northern portion from a line running East and West through the northern limits of Craig), McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, Valley and Wheatland (northern area from a line running East and West through the southern limits of Harlowtown) Counties:					
Painters, brush, preparatory work; Pot tender; Parking lot striping and relate work; Roller up to 9 inches	8.09	.49	.30		1/2%
Paperhanger; Brush or steel	8.59	.49	.30		1/2%
Water and sandblasting; Application of cold tar products, epoxies, polyurethanes, acid resistant paints spraying and airless spray	10.34	.49	.30		1/2 %
Roller over 9 inches long	11.69	.49	.30		1/2 %

DECISION NO. MT77-5034

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Broadwater, Gallatin, Jefferson, (northern area from a line running East and West five miles south of the southern City limits of Boulder), Lewis and Clark (southern portion from a line running East and West through the southern limits of Craig), Madison (east of the West City limits of Harrison), Meagher, Park, Powell (northern area from a line running East and West through the southern City limits of Helmsville)					
Brush	$8.44	.25	.20		.03
Spray; Steel brush	9.44	.25	.20		.03
Structural steel brush	9.44	.25	.20		.03
Steel spray	10.44	.25	.20		.03
Structural steel spray	10.94	.25	.20		.03
Blaine, Hill, Liberty and Chouteau (north of the southern limits of the City of Big Sandy) Counties	6.76				
Flathead, Granite (northern area north limits of Phillipsburg), Lake (southern area including the City of Ronan), Lincoln, Mineral, Missoula, Powell (northern area through south limits of Helmsville), Ravalli and Sanders Counties	8.60	.34	.30		.04
PLUMBERS:					
Flathead, Lake, Lincoln, Mineral, Missoula and Sanders Counties	10.53	.35	.70		.05
Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith-Basin, Liberty, McCone, Meagher, Phillips, Pondera, Roosevelt, Teton, Toole and Valley Counties	10.60	.50	.85		1%

DECISION NO. MT77-5034

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS: (Cont'd)					
Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Park, Powell, Silver Bow and Sweetgrass Counties	$10.65	.50	.65		.10
Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Richland, Rosebud, Sheridan, Stillwater, Treasure, Wheatland, Wibaux and Yellowstone Counties	11.25	.40	.80		.10
SHEET METAL WORKERS:					
Broadwater, Jefferson (including north 1/2 of the City of Boulder), Lewis and Clark and Meagher Counties	9.81	.77	.25		.10
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	9.73	.82	.25		.10
Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Phillips, Powder River, Park, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland, Wibaux, Treasure and Yellowstone Counties	8.91	.37	3%+.25		.02
Blaine, Cascade, Chouteau, Glacier, Hill, Judith-Basin, Liberty, Pondera, Teton and Toole Counties	9.56	.62	.25		.07
Beaverhead, Deer Lodge, Granite, Jefferson (Southern 1/2), Madison, Powell and Silver Bow Counties	9.15	.37	.40	1.00	.02

DECISION NO. MT77-5034

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Raker	$7.77	.50	.40		.03
Axeman	7.52	.50	.40		.03
Burning Bar	7.68	.50	.40		.03
Car and Truck Loaders, Scissorman	7.52	.50	.40		.03
Caisson Workers (free air)	7.68	.50	.40		.03
Carpenter Tender	7.52	.50	.40		.03
Cement Handlers	7.68	.50	.40		.03
Cement Mason Tender	7.68	.50	.40		.03
Choker Setter	7.68	.50	.40		.03
Chuck Tender and Nipper (above ground)	7.72	.50	.40		.03
Concrete Laborers (wet or dry); Bucketman and Signalman	7.68	.50	.40		.03
Concrete or Asphalt Saw	7.62	.50	.40		.03
Concrete Vibrator (5" and over)	7.82	.50	.40		.03
Cosmoline applying and removing	7.52	.50	.40		.03
Core Drill	8.12	.50	.40		.03
Curb Machine	7.62	.50	.40		.03
Drills, Air-tract, self-propelled, Cat, or Truck mounted air operated	7.78	.50	.40		.03
Drills, Air-tract, with Dual Masts	7.88	.50	.40		.03
Drills, Air-tract, self-propelled, Mustang type or similar	7.83	.50	.40		.03
Dumpman (Spotter)	7.52	.50	.40		.03
Dumpman (Grademan)	7.68	.50	.40		.03
Fence Erector and Installer (including Installation and Erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers)	7.52	.50	.40		.03
Form stripper	7.52	.50	.40		.03
Form Setter	7.62	.50	.40		.03
Grade Setter	7.87	.50	.40		.03
General Laborer	7.52	.50	.40		.03
Hand Faller	7.60	.50	.40		.03
High Scaler	7.88	.50	.40		.03
High Pressure Machine Nozzleman	7.72	.50	.40		.03
Heater Tender	7.52	.50	.40		.03

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Jackhammer, Pavement Breaker, Wagon Drills, Concrete Vibrator, Mechanic Tamper, Vibrating Roller, hand steered and other Power Tools	$7.68	.50	.40		.03
Landscape Laborers	7.52	.50	.40		.03
Nozzleman-Air and Water, Gunite and Place Maching	7.62	.50	.40		.03
Pipe Layer (all types)	7.68	.50	.40		.03
Pipe Wrapper	7.68	.50	.40		.03
Post Hole Digger (power Auger)	7.62	.50	.40		.03
Power Saw, Bucking	7.68	.50	.40		.03
Power Saw, Falling	7.78	.50	.40		.03
Powderman Helper	7.62	.50	.40		.03
Powderman	8.08	.50	.40		.03
Power Driven Wheelbarrow	7.62	.50	.40		.03
Riprapper	7.68	.50	.40		.03
Riprap Helper	7.52	.50	.40		.03
Scaleman	7.68	.50	.40		.03
Sandblaster	7.72	.50	.40		.03
Sandblaster Tail Hoseman, Pot Tender	7.52	.50	.40		.03
Sodcutter-hand operated	7.52	.50	.40		.03
Spike Driver, single or dual or hand	7.68	.50	.40		.03
Stake Jumper for Equipment	7.52	.50	.40		.03
Switchman	7.68	.50	.40		.03
Tar Pot	7.62	.50	.40		.03
Tool Checker, Toolhouseman	7.52	.50	.40		.03
Welder	8.52	.50	.40		.03

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck Crane, Winch Truck and similar	$9.20	.50	.50	.25	.05
Air Compressor, single	8.89	.50	.50	.25	.05
Air Compressor, two or more	9.06	.50	.50	.25	.05
Air Doctor	9.36	.50	.50	.25	05
Asphalt Paving Machine	9.36	.50	.50	.25	.05
Asphalt Paving Machine Screed	9.36	.50	.50	.25	.05
Automatic Finegrade, Gurries and other similar types	9.49	.50	.50	.25	.05
Belt Finish Machine	9.06	.50	.50	.25	.05
Bit Grinder	9.36	.50	.50	.25	.05
Bituminous Mixer Paving, Travel Plant	9.36	.50	.50	.25	.05
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	8.95	.50	.50	.25	.05
Boring Machine (large)	9.36	.50	.50	.25	.05
Broom, Self-propelled	9.03	.50	.50	.25	.05
Cableway Highline	9.07	.50	.50	.25	.05
Cement Silo	9.15	.50	.50	.25	.05
Central Mixing Plants, Concrete dam and stationary	9.61	.50	.50	.25	.05
Chain Bucket Loader	9.08	.50	.50	.25	.05
Chip or Gravel Spreader, self-propelled	9.08	.50	.50	.25	.05
Concrete Batch Plant, one and two Mixers	9.36	.50	.50	.25	.05
Concrete Batch Plant, three and four Mixers	9.56	.50	.50	.25	.05
Concrete Batch Plant, five Mixers and over	9.76	.50	.50	.25	.05
Concrete Batch Plant Oiler, up to and including two Mixers	8.88	.50	.50	.25	.05
Concrete Batch Plant Oiler, three Mixers and over	9.19	.50	.50	.25	.05
Concrete Bucket Dispatcher	9.36	.50	.50	.25	.05
Concrete Curing Machine	9.36	.50	.50	.25	.05
Concrete Finish Machine Paving	9.36	.50	.50	.25	.05
Concrete Float-Spreader	9.36	.50	.50	.25	.05
Concrete Mixer, three bags and under	8.95	.50	.50	.25	.05
Concrete Mixer, four bags and over	9.12	.50	.50	.25	.05

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Power Saw, Self-propelled	$9.36	.50	.50	.25	.05
Concrete Travel Batcher	9.36	.50	.50	.25	.05
Concrete Conveyor under 40 feet	8.94	.50	.50	.25	.05
Concrete Conveyor over 40 feet	9.69	.50	.50	.25	.05
Concrete Pump	9.69	.50	.50	.25	.05
Crane, to and including 80' boom	9.52	.50	.50	.25	.05
Crane, 81' to 130' boom	9.67	.50	.50	.25	.05
Crane, 131' to 150' boom	9.72	.50	.50	.25	.05
Crane, 151' boom and over	9.77	.50	.50	.25	.05
Crane Oiler	8.93	.50	.50	.25	.05
Crusher	9.36	.50	.50	.25	.05
Crusher Oiler and Helpers	8.85	.50	.50	.25	.05
Crusher Conveyor, when required	8.82	.50	.50	.25	.05
Distributor	9.36	.50	.50	.25	.05
DW 10, 15 or 20 Tractor pulling Roller	9.08	.50	.50	.25	.05
Electric Overhead Cranes	9.54	.50	.50	.25	.05
Elevating Grader	9.36	.50	.50	.25	.05
Farm Type Tractor, up to and including 50 HP Engine	8.82	.50	.50	.25	.05
Farm Type Tractor, over 50 HP Engine	8.90	.50	.50	.25	.05
Field Equipment Serviceman	9.28	.50	.50	.25	.05
Field Equipment Serviceman Helper	8.85	.50	.50	.25	.05
Fireman	8.95	.50	.50	.25	.05
Forklift, on construction job site	9.17	.50	.50	.25	.05
Form Grader	9.13	.50	.50	.25	.05
Gradall	9.36	.50	.50	.25	.05
Grade Setter	8.82	.50	.50	.25	.05
Heavy Duty Drill, all types	9.36	.50	.50	.25	.05
Heavy Duty Driller Helper	8.95	.50	.50	.25	.05
Herman-Nelson Heaters and similar type	8.90	.50	.50	.25	.05
Hoist, single drum	9.13	.50	.50	.25	.05
Hoist, two or more drums	9.36	.50	.50	.25	.05
Helicopter Hoist	9.86	.50	.50	.25	.05
Hot Plant	9.36	.50	.50	.25	.05
Hot Plant Fireman, when in operation	9.36	.50	.50	.25	.05
Hot Plant Oiler, 150 ton per Hour or over	8.85	.50	.50	.25	.05

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Hydra Lift and similar types	$9.26	.50	.50	.25	.05
Industrial Locomotive all classes	9.36	.50	.50	.25	.05
Mechanic and/or Welder on job	9.46	.50	.50	.25	.05
Mechanic and/or Welder Helper on job	8.85	.50	.50	.25	.05
Mixermobile	9.44	.50	.50	.25	.05
Motor Patrol	9.49	.50	.50	.25	.05
Mountain Logger or similar type	9.36	.50	.50	.25	.05
Mucking Machine	9.36	.50	.50	.25	.05
Oiler-Driver, Rubber-tired Cranes	8.93	.50	.50	.25	.05
Oilers, other than Shovels and Cranes	8.88	.50	.50	.25	.05
Oiler, Hoist House, Dams	9.36	.50	.50	.25	.05
Pavement Breaker, Essco and similar	9.36	.50	.50	.25	.05
Paving and Mixing Machine	9.49	.50	.50	.25	.05
Power Auger, Large Truck or Tractor mounted	9.36	.50	.50	.25	.05
Power Mixer, single or double Drum	9.36	.50	.50	.25	.05
Power Saw, multiple cut, self-propelled	9.36	.50	.50	.25	.05
Pumpcrete or Grout Machine	9.36	.50	.50	.25	.05
Pumpman	8.89	.50	.50	.25	.05
Push Tractor	9.36	.50	.50	.25	.05
Quad Cat	9.66	.50	.50	.25	.05
Quad Loader and similar type	9.94	.50	.50	.25	.05
Raygo Giant	9.94	.50	.50	.25	.05
Refrigeration Plant	9.36	.50	.50	.25	.05
Retort	8.95	.50	.50	.25	.05
Roller, on blade or hot mix oil paving	9.36	.50	.50	.25	.05
Roller, on other blade or hot mix paving	9.06	.50	.50	.25	.05
Roller, 25 ton or over	9.36	.50	.50	.25	.05
Ross and similar type carriers, on construction site	9.36	.50	.50	.25	.05
Rubber-tired Dozer	9.36	.50	.50	.25	.05
Rubber-tired Front End Loader, 1 yard and under	9.07	.50	.50	.25	.05

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rubber-tired Front End Loader, 1 yard to and including 3 yards	$9.36	.50	.50	.25	.05
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	9.48	.50	.50	.25	.05
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	9.58	.50	.50	.25	.05
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	9.68	.50	.50	.25	.05
Rubber-tired Front End Loader, over 15 yards	9.78	.50	.50	.25	.05
Scraper, DW 15, 20, 21 and similar type if power unit is not used	9.36	.50	.50	.25	.05
Scraper, single or twin engine pulling belly dump trailer	9.74	.50	.50	.25	.05
Scraper, single engine	9.49	.50	.50	.25	.05
Scraper, twin engine	9.59	.50	.50	.25	.05
Scraper, tandem engine	9.85	.50	.50	.25	.05
Self-propelled Sheepfoot and similar type	9.36	.50	.50	.25	.05
Shovels, including all attachments, under 1 cu. yd.	9.36	.50	.50	.25	.05
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	9.54	.50	.50	.25	.05
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	9.81	.50	.50	.25	.05
Shovels, including all attachments, over 5 cu. yds.	9.94	.50	.50	.25	.05
Shovel Oiler, 3 yards and under	8.85	.50	.50	.25	.05
Shovel Oiler, over 3 cu. yds.	9.06	.50	.50	.25	.05
Slip Form Paver	9.49	.50	.50	.25	.05
Stiff Leg Derrick and Guy Derrick	9.81	.50	.50	.25	.05
Track-type Front End Loaders; up to and including 5 cu. yds.	9.36	.50	.50	.25	.05
Track-type Front End Loaders; over 5 cu. yds. to and including 10 cu. yds.	9.59	.50	.50	.25	.05

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	$9.69	.50	.50	.25	.05
Track-type Front End Loaders, over 15 cu. yds.	9.79	.50	.50	.25	.05
Track-type Tractor w/wo attachments	9.36	.50	.50	.25	.05
Track-type Tractor, on Euclid Loader	9.54	.50	.50	.25	.05
Trenching Machine	9.36	.50	.50	.25	.05
Turnhead Conveyor, or Head Tower on Batch Plant	9.36	.50	.50	.25	.05
Wagner Roller and similar type	9.36	.50	.50	.25	.05
Whirley Crane	9.89	.50	.50	.25	.05
Whirley Crane Oiler	9.26	.50	.50	.25	.05
Water Pull when used for compaction	9.36	.50	.50	.25	.05
Washing and Screening Plant	9.36	.50	.50	.25	.05
Washing and Screening Plant Oiler	8.85	.50	.50	.25	.05

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMBINATION Truck; Concrete Mixer and Transit Mixer:					
To and including 4 cu. yds.	$8.26	.60	.50		
Over 4 cu. yds. to and including 6 cu. yds.	8.34	.60	.50		
Over 6 cu. yds. to and including 8 cu. yds.	8.42	.60	.50		
Over 8 cu. yds. to and including 10 cu. yds.	8.50	.60	.50		
Over 10 cu. yds. - additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER and HELPER	8.19	.60	.50		
DRY BATCH TRUCKS:					
3 Batch or under	8.01	.60	.50		
Over 3 Batch to and including 5 Batch	8.14	.60	.50		
Over 5 Batch to and including 10 Batch	8.30	.60	.50		
Over 10 Batch to and including 15 Batch	8.46	.60	.50		
Over 15 Batch - additional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	8.11	.60	.50		
DUMPMAN, GRAVEL SPREADER BOX; Pilot Car Driver, Teamsters and Helpers	8.01	.60	.50		
Warehousemen, Partsmen, Cardex Men, Warehouse Expediter	8.21	.60	.50		

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS AND SIMILAR EQUIPMENT WATER LEVEL CAPACITY, INCLUDING SIDEBOARDS:					
7 cu. yds. or less	$8.01	.60	.50		
Over 7 cu. yds. to and including 10 cu. yds.	8.14	.60	.50		
Over 10 cu. yds. to and including 15 cu. yds.	8.30	.60	.50		
Over 15 cu. yds. to and including 20 cu. yds,	8.44	.60	.50		
Over 20 cu. yds. to and including 25 cu. yds.	8.50	.60	.50		
Over 25 cu. yds. to and including 30 cu. yds.	8.56	.60	.50		
Over 30 cu. yds. to and including 35 cu. yds.	8.62	.60	.50		
Over 35 cu. yds. to and including 40 cu. yds.	8.68	.60	.50		
Over 40 cu. yds. to and including 45 cu. yds.	8.74	.60	.50		
Over 45 cu. yds. - additional (.06 per hour each additional 5 cu. yds. increment					
DUMPSTERS	8.14	.60	.50		
DW 20, DW 21, or EUCLID TRACTORS, PULLING P.R. 21 OR SIMILAR DUMP WAGONS:					
To and including 25 cu. yds.	8.50	.60	.50		
Over 25 cu. yds. to and including 30 cu. yds.	8.56	.60	.50		
Over 30 cu. yds. - additional $.06 per hour each additional 5 cu. yds. increment					
SERVICEMEN	8.75	.60	.50		
POWER TRUCK DRIVER (bulk unloader type)	8.19	.60	.50		

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
FLAT TRUCKS:					
To and including 3 tons	$8.11	.60	.50		
Over 3 tons Factory rating	8.36	.60	.50		
SERVICE TRUCK DRIVERS; FUEL TRUCK DRIVERS; TIREMEN	8.55	.60	.50		
LOWBOYS, FOUR-WHEEL-TRAILER, FLOAT SEMI-TRAILER	8.36	.60	.50		
LUMBER CARRIERS, LIFT TRUCKS	8.26	.60	.50		
POWER BROOM	8.10	.60	.50		
WATER TRANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	8.01	.60	.50		
Over 2,500 gallons to and including 4,500 gallons	8.30	.60	.50		
Over 4,500 gallons to and including 6,000 gallons	8.50	.60	.50		
Over 6,000 gallons to and including 8,000 gallons	8.56	.60	.50		
Over 8,000 gallons to and including 10,000 gallons	8.64	.60	.50		
Over 10,000 gallons - additional $.08 per hour each additional 2,000 gallons increment					
TRUCKS WITH POWER EQUIPMENT IF UNDER TRAMSTERS JURISDICTION, SUCH AS:					
Winch, A-frame, Swedish Crane, Hydra-lift, Groutcrete, and Combination mulching, seeding and fertilizing	8.26	.60	.50		
TRUCK MECHANIC	8.75	.60	.50		

DECISION NO. MT77-5034

MONTANA, LINE CONSTRUCTION

(Flathead, Lake and Lincoln Cos.)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
All construction of "H" fixtures and steel tower transmission lines with capacity of 69 K.V. voltages and over, Switch yard and substation rated at 5000 K.V.A. andall work not covered by schedule "B".					
Schedule "A"					
Lineman	$10.29	.45	1%		1/2%
Cable Splicer	11.44	.45	1%		1/2%
Powderman, Jackhammer, Compressorman	7.60	.45	1%		1/2%
Line Equipment Operators	8.76	.45	1%		1/2%
Groundman	6.15	.45	1%		1/2%
Groundman (Experienced)	7.13	.45	1%		1/2%
All work for power utilities except work covered under Schedule "A", all highway lighting, street lighting and motor traffic controlling.					
Schedule "B"					
Lineman	9.19	.45	1%		1/2%
Cable Splicers	10.22	.45	1%		1/2%
Pole Sprayer	9.08	.45	1%		1/2%
Line Equipment Operators	7.97	.45	1%		1/2%
Powderman, Jackhammer, Compressorman	6.94	.45	1%		1/2%
Groundman	6.52	.45	1%		1/2%
Tree Trimmer	9.44	.45	1%		1/2%

DECISION NO. MT77-5034

MONTANA LINE CONSTRUCTION

REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Jobs over 69,000 Volts:					
Lineman, Pole Sprayer	$9.31	.35	1%		1/2%
Cable Splicer	9.80	.35	1%		1/2%
Line Equipment Operator; Powderman	8.53	.35	1%		1/2%
Groundman	7.04	.35	1%		1/2%
Jobs 69,000 Volts or less:					
Lineman	8.65	.35	1%		1/2%
Cable Splicer	9.56	.35	1%		1/2%
Line Equipment Operators; Powderman	8.47	.35	1%		1/2%
Groundman	5.93	.35	1%		1/2%
Experienced Groundman (1000 hours); Truck Drivers	6.68	.35	1%		1/2%

DECISION NO. MT77-5034

MONTANA DREDGING

DREDGING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Assistant Mate (Deckhand)	$10.04	.60	1.05		.11
Fireman	10.14	.60	1.05		.11
Oiler	10.14	.60	1.05		.11
Assistant Engineer (Electric, Diesel, Steam or Booster Pump)	10.48	.60	1.05		.11
Mates and Boatman	10.48	.60	1.05		.11
Engineer Welder	10.53	.60	1.05		.11
Crewmen	10.53	.60	1.05		.11
Assistant Engineer (Electric, Generator Operator for Primary Pump, Power Barge or Dredge)	10.88	.60	1.05		.11
Leverman, Dipper: (a) 5 Yards and Under	11.29	.60	1.05		.11
(b) Over 5 Yards	11.84	.60	1.05		.11
Leverman, Hydraulic	10.80	.60	1.05		.11

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SUPERSEDEAS DECISION

STATE: New Mexico

COUNTIES: Navajo Indian Reservation in San Juan and McKinley Counties

DECISION NUMBER: NM77-5025

DATE: Date of Publication

Supersedes Decision No. NM75-5004 dated January 24, 1975, in 40 FR 3921

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 7.50	.50	.72		.03
BRICKLAYERS	8.52	.38	.40		.02
CARPENTERS:					
Dwelling houses and apartments not to exceed 2 stories Carpenters	7.44	.47	.45		.12
Dwelling houses and apartments over 2 stories Carpenters	7.94	.47	.45		.12
CEMENT MASONS:					
Dwelling houses and apartments not to exceed 2 stories Cement Masons	5.62	.38	.20		
Dwelling houses and apartments over 2 stories Cement Masons	5.82	.38	.20		
ELECTRICIANS:					
Electricians	9.18	.25	10%		.01
Cable Splicers	9.95	.25	10%		.01
LABORERS:					
Dwelling houses and apartments not to exceed 2 stories Laborers, unskilled	4.12	.26	.20		
Dwelling houses and apartments over 2 stories Laborers, unskilled	4.57	.26	.20		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush; Roller	$ 5.67	.30	.20		.01
PLASTERERS	6.50	.38	.20		.06
PLUMBERS	9.50	.42	.75		.09
ROOFERS	5.70				
SHEET METAL WORKERS	7.11	.31	.25		.02
SOFT FLOOR LAYERS	5.75	.30			.02
TRUCK DRIVERS:					
Dwelling houses and apartments not to exceed 2 stories Pickup 3/4 ton and under	4.30	.38	.15		
Dwelling houses and apartments over 2 stories Pickup 3/4 tons and under	4.60	.38	.15		
POWER EQUIPMENT OPERATORS:					
Tractor, under 50 HP (w/o attachments)	5.18	.25	.20		.06
Air Compressor (300 CFM and over)	5.72	.25	.20		.06
Motor Graders	5.80	.25	.20		.06
Backhoes	6.30	.25	.20		.06

SUPERSEDEAS DECISION

STATE: NEW YORK

COUNTY: WESTCHESTER

DECISION NO. NY77-3002

DATE: DATE OF PUBLICATION

Supersedes Decision No. NY76-3281 dated November 12, 1976 in 41 FR 50181

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.18	5%	10%	20%	
BOILERMAKERS	12.33	5%	15%	7%	.02
BRICKLAYERS	9.00	1.00	2.25	1.25+f+j	.07
BRICKLAYERS, MASONS AND PLASTERERS:					
(Rehabilitation of Hi-Rise buildings over 4 stories)	5.46	1.00	2.25	1.25	.07
CARPENTERS AND INSULATORS	9.08	1.20	.95	1.07	.085
CARPENTERS:					
(Rehabilitation of Hi-Rise buildings over 4 stories)	6.105	1.20	.95	1.07	.085
CEMENT MASONS	9.00	1.00	2.25	1.25+k	.05
DRYWALL TAPERS:					
(Rehabilitation of Hi-Rise buildings over 4 stories)	6.78	.50	.93	.40	
ELECTRICIANS	11.18	5%%+h	7%%+1.50	10%	%%+.02
ELECTRICIANS:					
(Rehabilitation of Hi-Rise buildings over 4 stories)	6.70	5.25%+h	7%%+1.50	10%	%%+.02
ELEVATOR CONSTRUCTORS	10.76	.545	.35+e	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.59	.545	.35+e	a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB)	5.06				
ELEVATOR CONSTRUCTOR MODERNIZATION	9.35	.495	.32+e	a+b	.02
ELEVATOR CONSTRUCTOR MODERN. HELPERS	7.81	.495	.32+e	a+b	.02
ELEVATOR CONSTRUCTOR REPAIR	8.50	.495	.32+e	a+b	.02
ELEVATOR CONSTRUCTOR REPAIR HELPER	6.38	.495	.32+e	a+b	.02
GLAZIERS	10.70	.66	1.66	.47	.01
IRONWORKERS, STRUCTURAL	11.65	1.10	2.45	1.35+g	.07
IRONWORKERS, ORNAMENTAL FINISHER	10.33	1.06	2.44	.78	.04
IRONWORKERS, REINFORCING	10.10	.785	1.765	.75+i	.01
LABORERS, (BUILDING):					
Laborers, manon, plasterers, bricklayers, tenders, concrete laborers & pipelayers	7.40	.95	.85	.75	
Jackhammer, vibrators, power buggies, fork lifts, all pneumatic equipment	7.65	.95	.85	.75	

DECISION NO. NY77-3002	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
(Rehabilitation of Hi-Rise buildings over 4 stories)	5.12	.85	.75		
LATHERS:					
Nail on	12.00				
Metal	10.41	.945	1.985	.75+i	.03
LEAD BURNERS	10.75	.40	.2%	c	.01
LINE CONSTRUCTION:					
Linemen	9.54	11 3/4%	1%+.61	.93	4%
Cable splicer	9.54	11 3/4%	1%+.61	.93	4%
Boring machine operator	8.33				
Groundman	7.27	11 3/4%	1%+.61	.93	4%
Driver groundman	7.27	11 3/4%	1%+.61	.93	4%
Dynamite man	8.49	11 3/4%	1%+.61	.93	4%
MARBLE SETTERS, MARBLE CUTTERS	10.00	1.13	1.19	g	
MARBLE SETTERS' HELPERS, CRANE OP	7.33	.63	1.41	g	
MARBLE CARVERS	10.15	1.13	1.19	g	
DERRICKMEN	8.28	1.13	1.19	g	
MARBLE SAWERS, RUBBERS, POLISHERS	7.57	1.13	1.19	g	
MILLWRIGHTS	9.36	.90	1.53		
PAINTERS:					
Brush	%.40	.50	.93	.40	
Structural steel, swing stage	%.65	.50	.93	.40	
Spray	%.40	.50	.93	.40	
PAINTERS:					
(Rehabilitation of Hi-Rise buildings over 4 stories)	5.12	.95	.85	.75	
PILEDRIVERMEN & DOCK BUILDERS	10.92	1.25	1.73	.71	.04
PLASTERERS	9.00	1.00	2.25	1.25+f+j	.07
PLUMBERS	10.08	8%+d	9%%+.71	10%	2%%
PLUMBERS:					
(Rehabilitation of Hi-Rise buildings over 4 stories)	6.61	8%	9%%+.71	10%	2%%
ROOFERS:					
Composition, damp & water-proofing	9.25	2.24	2.45		.10
Slate and tile	10.82	.55	1.20	1.75	
Slate and tile helpers	7.90	.50	1.00	1.20	
ROOFERS:					
(Rehabilitation of Hi-Rise buildings over 4 stories)	5.66	2.24	2.45		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	10.24	10%	17%	10%	.02
SOFT FLOOR LAYERS	9.08	1.20	.95	1.07	.085
STEAMFITTERS	10.00	10%+d	8%	11%	4%
STONE MASONS	9.00	1.00	2.25	1.25+f+j	.07
TERRAZZO MACHINE OPERATOR	8.99	1.21	1.50		
TERRAZZO WORKERS	9.10	.62	1.95		
TERRAZZO WORKERS' HELPERS	9.14	1.21	1.50		
TILE SETTERS	8.50	.80	2.05		
TILE SETTERS' HELPERS	7.90	.50	1.27		
SPRINKLER FITTERS	11.61	.60	.90		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Armistice Day and Election Day.

b. Employer contributes 6.4% of basic hourly rate for 5 years or more of service of 4% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F; Washington's Birthday, Good Friday, Christmas Eve, providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regularly schedule work days immediately preceding and following the holiday.

d. Employer contributes $7.70 per day to Security Benefit Fund, providing the employee works 3½ hours or more during the working day.

e. Employer contributes $8.00 per day to Annuity Fund.

f. Holidays: Columbus Day, Presidential Election Day 1 hour off with pay.

g. Holidays: New Years Eve and Christmas Eve, providing the employee works a full half day preceeding the holiday.

h. Employer contributes $3.50 per day workman to Security Benefit Fund.

i. Work on Christmas and New Year's Eve will terminate at noon, but employees will receive a full day's pay.

j. Holidays: (Highway Construction Only) A thru F, Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, Election Day and Veteran's Day.

k. Holidays: Labor Day, Armistice Day, Columbus Day, Presidential Election Day or Election Day for Governor of New York.

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EXCAVATION, HEAVY AND ROAD CONSTRUCTION (OPEN CUT)

DECISION NO. NY77-3002

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GROUP I	9.02	8%	8%	a+.75	
GROUP II	8.43	8%	8%	a+.75	
GROUP III	8.37	8%	8%	a+.75	
GROUP IV	8.22	8%	8%	a+.75	
GROUP V	8.12	8%	8%	a+.75	
A	8.62	8%	8%	a+.75	
B	8.47	8%	8%	a+.75	
GROUP VII					
A	9.27	8%	8%	a+.75	
B	9.47	8%	8%	a+.75	
C	8.97	8%	8%	a+.75	
D	8.77	8%	8%	a+.75	
GROUP VIII	8.72	8%	8%	a+.75	
GROUP IX	8.62	8%	8%	a+.75	
GROUP X	8.37	8%	8%	a+.75	
GROUP XI	8.32	8%	8%	a+.75	
GROUP XII	8.27	8%	8%	a+.75	
GROUP XIII	8.22	8%	8%	a+.75	

LABORERS DEFINITIONS

GROUP I
Blasters, blaster (quarry master)

GROUP II
Joy drillers, wagon drillers, air track drillers, concrete form aligner, concrete form and curb form highway (steel), and deck winches on scows, jumbo driller

GROUP III
Asphalt curb machine operator, jeeper operator, pavement breaker operator, rock scalers, power saw operator, bit grinder or grinders, barco rammer operator, air tamper and all type powered tampers not covered by any other classification, steel kings, power buggy operator, jack hammer drillers, all type pneumatic tool and gasoline drillers, concrete saw or saws, asphalt screeder on barbergreen, form pin puller railroad spike puller, pumps and their operation, and pneumatic tools and service of air power, gunniting

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LABORERS DEFINITIONS (CONT'D)

GROUP IV
General concrete laborers or anything pertaining to concrete which means any men handling aggregate or concrete materials and carpenters tender and steel handling, pipe layers, puddlers, asphalt worker, fine grade men between forms, epoxy and waterproofing

GROUP V
Joy driller's helper wagon driller helper, air track driller helper, air track drillers helper, common laborers, signal men and pitman, truck spotters, powdermen, landscape and nursery men and dump men

GROUP VI
Wrecking:
A. Barmen and burner
B. Barmen helpers and laborers

GROUP VII
Shaft and tunnel in free air:
A. Blasters
B. Concrete setters
C. Form setters
D. Miners, drill runners, air tuggers, chippers, pneumatic tools and source of air-power pumps and their operations, and vibrator operators

GROUP VIII
Puddlers

GROUP IX
Chuck tenders, nippers, concrete laborers, tunnel sewer and water pipe reliners

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LABORERS DEFINITIONS (CONT'D)

GROUP X
Laborers

GROUP XI
Power carriers, signalmen

GROUP XII
Brakemen

GROUP XIII
Outside laborers

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E- Thanksgiving Day and F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F, Lincoln's Birthday; Washington's Birthday; Columbus Day; November Election Day; Veteran's Day and Good Friday, provided employee works (2) two or more days in the calendar week in which the holiday falls.

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FEDERAL REGISTER, VOL. 42, NO. 48—FRIDAY, MARCH 11, 1977

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS, BUILDING:					
GROUP I	12.855	6%+1.00	10%+b	a	1½%
GROUP II	11.94	6%+1.00	10%+b	a	1½%
GROUP III	11.795	6%+1.00	10%+b	a	1½%
GROUP IV	11.655	6%+1.00	10%+b	a	1½%
GROUP V	10.5125	6%+1.00	10%+b	a	1½%
GROUP VI					
A	14.51	6%+1.00	10%+b	a	1½%
B	13.3675	6%+1.00	10%+b	a	1½%
C	9.5675	6%+1.00	10%+b	a	1½%
D	12.3675	6%+1.00	10%+b	a	1½%
E	11.0875	6%+1.00	10%+b	a	1½%
F	11.94	6%+1.00	10%+b	a	1½%
G	17.0825	6%+1.00	10%+b	a	1½%
H	10.5125	6%+1.00	10%+b	a	1½%
I	16.7975	6%+1.00	10%+b	a	1½%
J	15.0825	6%+1.00	10%+b	a	1½%
K	16.0825	6%+1.00	10%+b	a	1½%
L	13.355	6%+1.00	10%+b	a	1½%
M	13.855	6%+1.00	10%+b	a	1½%
GROUP VII	13.0825	6%+1.00	10%+b	a	1½%

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION

GROUP I

Backhoe Oliver 88, Fordson, dynahoe, dual purpose & similar machine, Barber Green loader-euclid loader or similar type, cherry picker (cableway), compressor (steel erection), conway or similar mucking machines, dragline, gradall, shovel, backhoe, etc., (crawler or truck), front end loaders, hydraulic boom, Jersey spreader, Letourneau or Tournapull (scrapers over 20 yds. struck), mucking machines, pavement breaker (air ram), paver (concrete), pulsometer, push button (buzz box) elevator, road boring machine, road mix machines, Ross carrier & similar machines, post hole digger, shovel (tunnels), side boom, spreader (asphalt), scoopmobile-tractor-shovel over 1-½ yds., trenching machines, tractor type demolition equipment, winch truck "A" Frame

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POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (CONT'D)

GROUP II

Compactor self-propelled, grader, Hullhmer H7 & similar tractors with a draw bar horsepower of 100 & over maintenance engineer, mechanic (outside) all types, welder, scraper-20 yds. struck & under, machine pulling shemp's foot roller, etc., roller 4 ton and over, vib. roller

GROUP III

Asphalt plant, boiler (high pressure), bulldozer D6 & similar tractors with a draw bar horsepower less than 100, compressor, compressor plant, concrete mixing plants, concrete pump, conveyor belt machine-irrespective of motor size, fireman, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1-¼ yds., & under, lighting unit (portable & generator), locomotive (all sizes), mixer concrete-21E & over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, welding machine (steel erection excavation), well drilling machine, well point system

GROUP IV

Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine concrete, material hooper-sand-stone-cement, mixer-concrete-under 21E, Muching grass spreader, heater-all types, pump, pump station (water & sewer), pump-gypsum, etc., concrete, pump-plasterer roller under 4 ton, spreading & fine grading machine, steam Jenny, steel Jenny, steel cuting machine, sweeper, syphon pump air steam, tar joint machine, Turbo jet burner or similar equipment vibrator (1 to 5) fine grading machine

GROUP V

Concrete saw, mechanic's helper, oiler (fuel truck), oiler (grease truck), paint compressor, welder's helper

GROUP VI

A. Master mechanic
B. Helicopter hoist op.
C. Oiler, asphalt paver, utility man
D. Welder - certified
E. SEcond engineer on cranes 30 ton and over
F. Cable splicer
G. Helicopter pilot
H. Helicopter signalman
I. Engineer, all tower cranes, all climbing cranes and all cranes of 100 ton and regardless of how the same is rigged (except for pile rigs)

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POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (CONT'D)

GROUP VI (CONT'D)

J. Cranes (crawlers or truck) 100 ft. but less than 149 ft
K. Cranes (crawlers or truck) 149 ft. and over
L. Loaders op. (over 5 yd. capacity)
M. Shovel op. (over 4 yd. capacity)

GROUP VII

Concrete-portable hoist, crane & hoist engineer-steel (concrete, material, super structure, sub-structure), derrick (stone-steel), elevator & cage, engineer-pile driver, overheadcrane, power house plant, telephies, whirly, hoist (single, double or triple drum), hoist (portable mobile unit), hoist engineer-concrete (crane, derrick, mine hoist), hoist engineer material

FOOTNOTES:

a. Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, November Election Day, Veteran's Day, Thanksgiving Day and X-Mas Day.

b. Employer contributes $2.00 per day to an Annuity Fund.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS, HEAVY & HIGHWAY					
GROUP I	11.25	6%+1.00	9½%+.25	a	1½%
GROUP II	10.45	6%+1.00	9½%+.25	a	1½%
GROUP III	10.325	6%+1.00	9½%+.25	a	1½%
GROUP IV	10.20	6%+1.00	9½%+.25	a	1½%
GROUP V	8.20	6%+1.00	9½%+.25	a	1½%
GROUP VI	11.45	6%+1.00	9½%+.25	a	1½%
GROUP VII	10.825	6%+1.00	9½%+.25	a	1½%
GROUP VIII	9.20	6%+1.00	9½%+.25	a	1½%
GROUP IX	11.25	6%+1.00	9½%+.25	a	1½%
GROUP X	10.325	6%+1.00	9½%+.25	a	1½%
GROUP XI	10.20	6%+1.00	9½%+.25	a	1½%
GROUP XII					
A	10.2875	6%+1.00	9½%+.25	a	1½%
B	9.20	6%+1.00	9½%+.25	a	1½%
C	8.375	6%+1.00	9½%+.25	a	1½%
D	14.95	6%+1.00	9½%+.25	a	1½%
E	11.70	6%+1.00	9½%+.25	a	1½%
F	14.70	6%+1.00	9½%+.25	a	1½%
G	12.45	6%+1.00	9½%+.25	a	1½%

POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY

GROUP I

Auger, auto grader, backhoe Oliver 88, Fordson, dynahoe, dual purpose and similar machines, barber green loader-euclid loader or similar type, central mix plant operator, cherry picker (cableway), compactor with blade, concrete portable hoist, C.M.I. or similar Conway or similar mucking machines, crane (crawler or truck) dragline, gradall, shovel backhoe, etc., derrick (stone-steel), elevator & cage, front end loaders, hoist single, double, triple drum, hoist portable mobile unit, hoist engineer-concrete (crane-derrick-mine hoist), hoist engineer-material, hydraulic boom, LeTourneau or Tournapull (scrapers over 20 yards struck), mucking machines, overhead crane, paver (concrete), power house plant, pulsometer, push button (buzz box) elevator, road mix machines, Ross carrier and similar machines, shovel (tunnels), side boom, spreader (Asphalt), scoopmobile-tractor-shovel over 1¼ yards, trenching machines, telephies, tractor type demolition equipment, whirly, winch truck "A" Frame

DECISION NO. NY77-3002

POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY (CONT'D)

GROUP II
Compactor self-propelled, grader, bulldozer D7 and similar tractors with a draw bar horsepower of 100 and over, maintenance engineer, mechanic (outside) all types, welder, scrapers 20 yards struck and under, shop foreman, vibratory roller, etc., roller 4 ton and over

GROUP III
Asphalt plant, boiler (high pressure), bulldozer D6 and similar tractors with a draw bar horsepower less than 100, compressor plant, concrete pump, conveyor belt machine-irrespective of motor size, firemen, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1¼ yds. and under, locomotive (all sizes), machine pulling sheeps foot roller, mixer concrete-21E and over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, well drilling machine, well point system

GROUP IV
Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, curb cutter machine, farm tractor (all types), finishing machine-concrete, material hopper-sand-stone-cement, mulching grass spreader, roller under 4 ton, shop mechanic (not employed on job site), spreading & fine grading machine, steel cutting machine, sweeper, syphon pump-air-steam, tar joint machine, turbo jet burner or similar equipment, fine grading machine

GROUP V
Concrete saw, mechanic's helper, oiler, oiler (fuel truck), oiler (grease truck)

GROUP VI
Hoist engineer-steel, sub-struct., engineer-pile driver

GROUP VII
Welder-certified crawlers or truck: 100 ft. but less than 149 ft. $2.00 per hour additional crawlers or truck: 149 ft. and over $3.00 per hour additional loader operators: Over 5 cu. yd. capacity $.50 per hour additional shovel operators: Over 4 cu. yd. capacity $1.00 per hour additional

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POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY (CONT'D)

GROUP VIII
Stockroom or stockroom attendant, paint compressor, pump under 4" or any combination not equal to 4" roller motorized (walk behind, welder's helper

GROUP IX
Compressor (steel erection)

GROUP X
Compressor, lighting unit (portable and generator), welding machine (steel erection excavation)

GROUP XI
Compressor to 125 cu. ft., dust collector, mixer-concrete under 21E, heater-all types, pump 4" and over, pump station (water and sewer), pump-gypsum, etc., pump-plasterer, steam jenny syphon pump-air-steam, tar-joint machine, vibrator (1 to 5)

GROUP XII
A. Jersey spreader, pavement breaker (air ram), post hole digger
B. Safety man 60 ton crane & over, helicopter signalman
C. Oiler asphalt paver, utility man
D. Helicopter pilot
E. Helicopter hoist operator
F. Engineer, tower crane, 3900 monitowac or over or similar (rail, truck, or crawler mounted
G. Master mechanic

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday; Columbus Day; November Election Day and Veteran's Day.

DECISION NO. NY77-3002	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS, BUILDING & HEAVY CONSTRUCTION:					
GROUP I	7.675	.40	.65	a+b	
GROUP II	7.80	.40	.65	a+b	
GROUP III	7.925	.40	.65	a+b	
GROUP IV					
A	8.05	.40	.65	a+b	
B	8.425	.40	.65	a+b	
C	8.675	.40	.65	a+b	
D	8.125	.40	.65	a+b	
E	7.90	.40	.65	a+b	
F	17.65	.40	.65	a+b	
G	7.55	.40	.65	a+b	
H	7.425	.40	.65	a+b	
I	9.175	.40	.65	a+b	
J	9.55	.40	.65	a+b	

TRUCK DRIVERS - BUILDING & HEAVY CONSTRUCTION

GROUP I
Straight jobs, A-Frame (inside cab), winch (inside cab), two, dynamite, seeding, mulching, agitator, water, welding on pipelines, post hole diggers mortar mixing, suburbans, oil distributors, pick-up, hopper men & crusher op. concrete mixer, lift (in garage, yards and on job site)

GROUP II
Tractor trailers (all types), 3 axle trucks (physically loaded and unloaded), mixer men, high pressure boiler in asphalt and batch plants

GROUP III
Tractor trailers (carrying equipment) weighmasters

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TRUCK DRIVERS - BUILDING & HEAVY CONSTRUCTION (CONT'D)

GROUP IV
A. Euclid
B. Euclids, athey wagons, trailer wagons, belly dumps (under 40 tons)
C. Athey wagons, trailer wagons, belly dumps (over 40 tons)
D. Dual purpose grease & fuel trucks, fuel trucks, tire trucks
E. Welders, maintenance men, mechanic
F. Helicopter operator
G. Mechanic helpers, stock room men
H. Yardmen and helpers
I. Darts (up to 100 tons)
J. RXS

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E- Thanksgiving Day and F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, Election Day, Veteran's Day (provided employee works one day of the work week in which the holiday occurs).

b. One week vacation after 90 days of employment in calendar year, plus one additional day for each additional 18 days of employment, not exceeding 10 days in any one calendar year; two weeks after 130 days of employment in a calendar year. However, an employee with 5 years of seniority service shall receive 2 weeks' paid vacation provided he works 90 days in a calendar year; three weeks and one day after 16 years of seniority service - plus 1 additional day for each year up to 19 years of seniority service; four weeks after 20 years of seniority service.

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NUMBER: OH77-2037
COUNTIES: *See below
DATE: Date of Publication
Supersedes Decision Nos. OH76-2069, dated June 11, 1976 in 41 FR 23909; OH76-2089, dated July 23, 1976 in 41 FR 30569; OH76-2090, dated July 30, 1976 in 41 FR 32171; & OH76-2091, dated July 30, 1976 in 41 FR 32173
DESCRIPTION OF WORK: Building & Residential Construction

*Cuyahoga, Lake, Portage, Stark, & Summit Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Cuyahoga & Lake Cos.	$13.08				
Remaining Cos.	11.335	.50	.80		.02
BOILERMAKERS	11.48	.60	1.00		.03
BRICKLAYERS; Stonemasons:					
Cuyahoga Co.	11.25	.95	1.00		.01
Lake Co.	11.57	.50	.80		$40.00p/yr
Portage & Summit Cos.	10.97	.57	.50		.02
Stark Co.	10.40	.70	.45		.01
CARPENTERS; Millwrights; Piledrivermen; Soft floor layers:					
Cuyahoga & Lake Cos.:					
Carpenters; & Soft floor layers	11.60	.67	1.00		.03
Millwrights; & Piledrivermen	11.45	.67	1.15		.03
Portage & Summit Cos.:					
Carpenters	11.00	.40	.50		.02
Millwrights; Piledrivermen	11.45	.67	1.15		.03
Soft floor layers	10.40	.40	.70		
Stark Co.:					
Carpenters	9.89	.40	.30		.02
Millwrights; Piledrivermen	10.35	.40	.30		.02
Soft floor layers	9.73	.40	.30		.02
CEMENT MASONS:					
Cuyahoga Co.	12.88				
Lake Co.	11.57	.50	.80		$40.00p/yr
Portage, Stark, & Summit Cos.	10.09	.50	.60		.02
ELECTRICIANS:					
Cuyahoga Co.	12.15	.50	1%+.43		.02
Lake Co.	12.08	.50	1%+.50		.3%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shelbyville, Streetsboro, & Suffield), & Summit Cos.	11.48	.47	1%+.50		.2%
Portage (Remainder of Co.) Co.	11.76	.60	5%		.7%
Stark Co.:					
Commercial building	11.20	.40	1%+.25		.3%
Residential building	7.25	.30	1%+.10		.3%

DECISION NO. OH77-2037

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Cuyahoga & Lake Cos.:					
Elevator constructors	$11.955	.545	.35	4%+4b	.02
Helpers	70%JR	.545	.35	4%+4b	.02
Helpers (Prob.)	50%JR				
Portage, Stark, & Summit Cos.:					
Elevator constructors	11.305	.545	.35	4%+4b	.02
Helpers	70%JR	.545	.35	4%+4b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Cuyahoga, Lake, & Portage Cos.	11.98	.55	.65		.01
Stark & Summit Cos.	9.49	.70	.77		.03
IRONWORKERS:					
Cuyahoga, Lake, Portage (excluding Ravenna Ordnance Depot), & Summit Cos.	11.87	.60	.95		.03
Portage (Ravenna Ordnance Depot) Co.:					
Ornamental; Reinforcing; & Structural	11.08	.40	1.00		.07
Bunker-up	11.205	.40	1.00		.07
Blueter	11.58	.40	1.00		.07
Stark Co.:					
Ornamental; Reinforcing; & Structural	10.62	.60	.60		.03
Bucker-up	10.745	.60	.60		.03
Sheeter-side	10.87	.60	.60		.03
Sheeter-roof	11.12	.60	.60		.03
LATHERS:					
Cuyahoga, Lake, & Summit (No. part of Co.) Cos.	11.88		.75		.01
Portage & Summit (So. part of Co.) Cos.	11.01	.57	.15		.01
LEADBURNERS	10.75	.40		c	.01
LINE CONSTRUCTION:					
Cuyahoga Co.:					
Cable splicers; Equipment ops.; Linemen; & Welders	12.73	.35	1%		½%

DECISION NO. OH77-2037

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Lake Co.:					
Equipment ops.; Linemen	$11.83	.50	1%+.50		½%
Portage (Twps. of Atwater, Aurora, Brimfield, Deerfield, Franklin, Mantua, Randolph, Ravenna, Rootstown, Shalersville, Streetsboro, & Suffield), & Summit Cos.:					
Linemen	11.48	.47	1%+.50		.2%
Portage (Remainder of Co.) Co.:					
Cable splicer; Linemen; Pole digging equipment	12.37	.45	1%		
Stark Co.:					
Linemen; Cable splicers	11.20	.40	1%+.25		.25%
Truck drivers	7.95	.40	1%+.25		.25%
Groundmen:					
Over 1 yr's experience	7.50	.40	1%+.25		.25%
Under 1 yr's experience	7.05	.40	1%+.25		.25%
Line equipment operators	10.60	.40	1%+.25		.25%
MARBLE SETTERS:					
Cuyahoga Co.	11.25	.95	1.00		.01
Lake Co.	11.57	.50	.80		$40.00p/yr
Portage & Summit Cos.	10.11	.52	.25		
Stark Co.	9.10	.70	.45		
MARBLE SETTERS' HELPERS:					
Cuyahoga & Lake Cos.	11.06		.50		
Portage & Summit Cos.	9.61	.52	.25		
PAINTERS:					
Cuyahoga, Lake, Portage (No. of East West Turnpike), & Summit (No. of East West Turnpike) Cos.:					
Brush; Rollers; Paperhangers	10.81	.63	.74		.05
Swing stage; Window jack Tapers	11.11	.63	.74		.05
	11.51	.63	.74		.05
Portage (Remainder of Co.), & Summit (Remainder of Co.) Cos.:					
Brush; Rollers; Paperhangers	9.40	.62	.60		
Drywall finisher & taper; Spray Structural steel	9.90	.62	.60		
	9.65	.62	.60		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
Stark Co.:					
Brush; Roller	$9.17	.55	.50		.02
Paperhangers	9.27	.55	.50		.02
Drywall	9.57	.55	.50		.02
Spray	9.67	.55	.50		.02
Drywall with machines	9.92	.55	.50		.02
PIPEFITTERS; Sprinkler fitters:					
Cuyahoga	11.42	1.05	.80		.05
PLASTERERS:					
Cuyahoga Co.	13.18				.01
Lake Co.	11.57	.50	.80		$40.00p/yr
Portage, Stark, & Summit Cos.	10.11	.45	.50		.01
PLUMBERS:					
Cuyahoga, Lake, & Summit (No. of Rte. #303) Cos.	11.43	.75	1.00		.02
Portage & Summit (So. of Rte. #303) Cos.	10.61	.79	.90		.04
Stark Co.	10.77	.45	.55		.05
ROOFERS:					
Cuyahoga & Lake Cos.	12.38	.28	.50		
Portage, Stark, & Summit Cos.:					
Roofers	10.74	.57	.40		.02
Helpers:					
1st yr.	60%JR	.57	.40		.02
2nd yr.	70%JR	.57	.40		.02
3rd yr.	80%JR	.57	.40		.02
SHEET METAL WORKERS:					
Cuyahoga & Lake Cos.	11.38	.60	1.10		.02
Portage, Stark, & Summit Cos.	10.46	.45	.60		.02
SPRINKLER FITTERS:					
Lake, Portage, Stark, & Summit Cos.	12.05	.60	.90		.08
TERRAZZO WORKERS:					
Cuyahoga Co.	11.25	.95	1.00		.01
Lake Co.	11.57	.50	.80		$40.00p/yr
Portage & Summit Cos.	10.11	.52	.25		
Stark Co.:					
Terrazzo workers	9.05	.70	.45		
Terrazzo grinders	8.52	.70	.45		
TERRAZZO WORKERS' HELPERS:					
Cuyahoga & Lake Cos.	11.62		.50		
Portage & Summit Cos.	9.61	.52	.25		
Stark Co.	8.09	.70	.45		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:					
Cuyahoga Co.	$10.495	1.36			
Lake Co.	11.57	.50	.80		$40.00p/y
Portage & Summit Cos.	10.11	.52	.25		
Stark Co.	8.94	.70	.45		
TILE SETTERS' HELPERS:					
Cuyahoga & Lake Cos.	11.59		.50		
Portage & Summit Cos.	9.61	.52	.25		
Stark Co.	8.09	.70	.45		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

TOOTNOTES:
a. Six paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. Nine paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
d. One paid holiday: D providing the employee has worked 5 consecutive days before and after the holiday.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Cuyahoga County):					
Construction	$9.42	1.17	1.00		
Sewer & Utility; Power driven tools & vibrators	9.57	1.17	1.00		
Jackhammer; Acetylene burners; Muckers	9.62	1.17	1.00		
Swinging scaffolds	9.67	1.17	1.00		
Gunnite ops.; Blasters; Shooters; Caisson; Well cylinders; Mine workers w/o air; & Cofferdams	9.74	1.17	1.00		
Tapman on free standing radial stack	9.92	1.17	1.00		
LABORERS (Lake County):					
Building & Construction	8.95	.55	.40		
Gunite op.; Blasters & shooters; Caissons; Wells; Cylinder cofferdams; Mine workers w/o air; Swing scaffolds; Acetylene burners; Vibrators; Top man on free standing radial stacks; Slip forms higher than 30'; Fire brick tenders	9.20	.55	.40		
LABORERS (Portage & Summit Cos.):					
Common laborers; Welders' helpers; Carpenters' tenders; Landscape laborers; Mason tender; Concrete bucket tender	9.25	.50	.30		.02
Air driven boring machine; Tamper ops.; Asphalt raker; Paving bed maker; Material mixer; Wire mesh handler; Hook-up man on demolition work; Scaffold erector; Structural precast erector; Power tools-air, gas, or electric	9.40	.50	.30		.02
Pipe layers; Rock drillers; Muckers--Tunnel; Burners; Form setters; Power saws; Jackhammer; Barco type tampers; Bottom man; Hod carrier; Power buggy or Power wheelbarrow	9.45	.50	.30		.02

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DECISION NO. OH77-2037

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Gunite nozzlemen; Tunnel miners; Water line caulkers; Dynamite men; Pump hose nozzlemen	$9.73	.50	.30		.02
LABORERS (Stark County):					
Building & construction; Signalmen; Flagmen; Tool cribman; Carpenters' tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guard rail erector	7.96	.55	.40		.05
Bottom men; Scaffold builder; Tunnel laborers; Pipe layers; Air & power driven tools; Burner on demolition; Swinging scaffold; Mucker; Caisson worker; Cofferdam worker; Powder men & dynamite blaster; Creosote workers; Mortar mixers; Form setter; Mason tender; Plasterers' tenders; Hod carrier; Laser beam set-up men	8.16	.55	.40		.05
Gunnite operator	8.56	.55	.40		.05
POWER EQUIPMENT OPERATORS:					
Cuyahoga & Lake Cos.:					
GROUP A	11.67	.46	1.00		.11
GROUP B	11.52	.46	1.00		.11
GROUP C	11.17	.46	1.00		.11
GROUP D	10.39	.46	1.00		.11
GROUP E	10.07	.46	1.00		.11
GROUP F	8.64	.46	1.00		.11
Portage, Stark, & Summit Cos.:					
GROUP A	11.39	.46	1.00		.11
GROUP B	11.23	.46	1.00		.11
GROUP C	10.88	.46	1.00		.11
GROUP D	10.07	.46	1.00		.11
GROUP E	9.74	.46	1.00		.11
GROUP F	8.28	.46	1.00		.11

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GROUP A - A-Frames; Air compressor on steel erection; All rotary drills used on caisson work for foundations & sub-structure work; Boiler op. or compressor op. when compressor or boiler is mounted on crane (piggyback operation); Boom trucks (all types); Cableways; cherry pickers; Combination concrete mixer & tower; Concrete pumps; Cranes (all types); Derricks (all types); Draglines; Elevating grader or Euclid loader; Floating equipment; Gradalls; Helicopter op. (hoisting builders materials); Helicopter winch op.;(hoisting builders materials); Hoes (all types); Hoisting engines (two or more drums); Lift slab or panel jack ops.; Locomotives (all types); Maintenance engineer (mechanic or welder); Mixer paving (multiple drum); Mobile concrete pumps with boom; Panelboard (all types on site); Pile driver; Power shovels; Side booms; Slip form pavers; Straddle carriers (building construction site); Tower derricks; Trench machines (over 24" wide)

GROUP B - Asphalt paver; Bulldozer; CMI type equipment; Endloaders; Kohlman type loaders (dirt loading); Mucking machines; Power graders; Power scoops; Power scrapers; Push cats

GROUP C - Air compressor (pressurizing shafts or tunnels); All asphalt rollers; Fork lifts; Hoist (one drum); House elevators; Man lift; Power boiler (over 15 lbs., pressure); Pump op. installing or operating well points or other type of dewatering system; Pumps (4" & over discharge); Submersible pumps (4" & over discharge); Trenchers (24" & under)

GROUP D - Compressors on building construction; Conveyors (building material); Gunite machines; Mixers (cap., more than one bag); Mixers (one bag cap., side loader); Post driver; Post hole digger; Pavement breaker (hydraulic or cable); Road widening trencher; Rollers; Welder operator

GROUP E - Backfillers and tampers; Batch plant; Bar & joint installing machine; Bull floats; Burlap & curing machines; Cleiplanes; Concrete spreading machines; Crushers; Drum fireman (asphalt); Farm type tractors (pulling attachments); Finishing machines; Form trenchers; High pressure pumps (over 4" discharge); Hydro seeders; Self-propelled power spreader; Self-propelled subgrader; Tractors (pulling sheep foot roller or grader); Tire repairman; Vibratory compactors (with integral power)

GROUP F - Oiler; Helpers; Signalman; Light plant op.; Power driven heaters (oil fired); Power boilers (less than 15 lbs. pressure); Submersible pumps (under 4" discharge); Pumps (under 4" discharge)

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SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Comanche
DECISION NO. OK77-4060 DATE: Date of Publication
Supersedes Decision Nos. OK76-4002 dated January 16, 1976 in 41 FR 2604 and OK77-4035 dated February 18, 1977 in 42 FR 10161.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$6.65				
CARPENTERS	5.85				
CEMENT MASONS	7.00				
ELECTRICIANS	8.45	.20	1%		1/4%
LABORERS:					
Laborers	3.00				
Mason tenders	3.55				
PAINTERS, BRUSH	5.00				
PLUMBERS & PIPEFITTERS	6.16				
ROOFERS	5.15				
SHEET METAL WORKERS	5.52				
TILE SETTERS	5.60				
TRUCK DRIVERS	2.30				
POWER EQUIPMENT OPERATORS:					
Front end loaders	3.25				
Motor graders	3.50				
Scrapers	3.00				

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LABORERS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP II
All machine tool operators that come under the jurisdiction of the laborers, all sewer and drain tile layers and handling at the ditch, excluding distribution, operators of water pumps up to four inches and slip form jacks, and plasterers, mortar mixers, hod carriers and dry mixers, high work over 30 feet from the ground or floors, cement finisher helper, work on swinging scaffold, all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope, mortar and plaster mixing machine, pump-crete machines, and gunite mixing machine, including placing of concrete, handling creosoted or treated materials, liquid acids, or like materials when injurious to health, eye and skin or clothes, all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers, all scale men on batch plants, all laborers screening sand, running sand drier, and feeding operating sand blaster, except nozzle, Bitmal men and carring torch operators in connection with laborers' work, concrete grader
GROUP III
Wagon drill operator and powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 7.65				.01
LINE CONSTRUCTION					
Lineman	9.35		1%		1/2%
Cable splicers	9.91		1%		1/2%
Hole digger operator	8.49		1%		1/2%
Heavy Equipment operator (or pole cat equivalent)	8.49		1%		1/2%
Line truck driver (winch operator)	7.68		1%		1/2%
Jackhammerman	7.00		1%		1/2%
Powderman	8.49		1%		1/2%
Groundman	6.24		1%		1/2%
Truck driver (flat bed, ton and half and under)	6.66		1%		1/2%
PAINTERS:					
Commercial Brush and roller	6.25		.25	.20	.02
Spray, glove or dipping, sandblasterers, spray or sand pot tenders (maximum two pots, guns or nozzles), power rollers, power equipment operators, bituminastic and like materials applicators and kettle tenders	8.00		.25	.20	.02
Spray or sand pot tender (maximum one pot, one nozzle or gun	7.10		.25	.20	.02

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Muskogee, Adair & Cherokee
DECISION NO: OK77-4062 DATE: Date of Publication
Supersedes Decision No. OK76-4139 dated July 30, 1976 in 41 FR 32184
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), and heavy construction within the City of Muskogee.

	Basic Hourly Rates	Fringe Benefits Payments			
		H&W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.80	.35	.60		.015
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS-STONEMASONS	9.36	.45	.40		.04
CARPENTERS:					
Carpenters	8.25	.35	.25		.06
Millwright-Piledrivermen	8.75	.35	.25		.06
CEMENT MASONS:					
Cement masons	8.55				
Power equipment operator	8.80				
ELECTRICIANS:					
ZONE I - A 20 mile radius from Post Office of City of Muskogee					
ZONE II - Area outside zone I					
Zone I					
Electricians	9.93	.40	1%		1/2%
Cable splicers	10.33	.40	1%		1/2%
Zone II					
Electricians	10.23	.40	1%		1/2%
Cable splicers	10.63	.40	1%		1/2%
ELEVATOR CONSTRUCTORS	9.66	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (Probationary 6 months)	50%JR				
GLAZIERS	8.42	.40	.30		.01
IRONWORKERS	9.60	.45	.65		.12
LABORERS:					
Group 1	6.10	.25	.30		
Group 2	6.40	.25	.30		
Group 3	6.60	.25	.30		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I
All digging and dirt work, firing of salamanders and smudge pots, loading and unloading of materials and equipment, loading and unloading of materials to and from hoist or cages for stock piling only, wheeling and placing of concrete, handling of lumber, steel cement and distribution of materials, all cleaning, including cleaning of windows, wrecking and razing of building and all structures, cleaning and clearing of debris, loading and unloading of materials, hoist or cages, except when the man is directly/ tending laborers, masons, or plasterers, water boys, when used, carpenter tenders, and common laborers

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Hazardous work	$10.65		.25	.20	.02
Cooning steel, stage bosun chair spiders, jack, roof work, skates, rolling scaffolds and like equipment - fifty cents above basic rate.					
POWER EQUIPMENT OPERATORS:					
Group 1	10.10	.45	.50		.12
Group 2	9.85	.45	.50		.12
Group 3	9.60	.45	.50		.12
Group 4	9.35	.45	.50		.12
Group 5	9.10	.45	.50		.12
Group 6	8.85	.45	.50		.12
Group 7	8.65	.45	.50		.12
Group 8	8.35	.45	.50		.12
Group 9	8.15	.45	.50		.12
Group 10	7.85	.45	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 200' of boom or over (including jib)

GROUP II
All crane type equipment with 150-200' of boom (including jib)

GROUP III
All crane type equipment with 100-150' of boom (including jib); all tower cranes and all crane type equipment of 3 cu. yd. or more (as rates by mfg.), sideboom (booms 30' and over), guy derrick

GROUP IV
Heavy duty mechanic welder, crane-hook and overhead monorail, whirley, panel board batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe, sideboom (under 30'), gradall, hydro crane, cherry picker, hoists while operating 2 or more drums, hoists while doing stack and chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP V
Motor patrol (blade), fork lift (35' and over), dozer (engine h.p. 65 or over), fordson tractor or like equipment with bug or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 & similar rubber-tired equipment, Euclid, TS-24 and similar, loader operator or Hi-lift (Engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, power driven hole digger with less than 30' mast, trenching machine, concrete pump - boom type

ENGINEERS for machines not listed under the above classifications shall receive the scale comparable to these classifications.

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VI
Locomotive engineer, baring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 500 cu. ft. and under, air compressor, over 500 cu. ft., (1) pumps, battery, 3 to 6, fork lift, bobcat and similar equipment, generator plant engineers, diesel elec., winch truck with a frame, rollers, all types, outside elevator or building type of personnel hoist, concrete buster or tamper, heaters under jurisdiction of operating engineers, fireman, boiler operator, crushing plants, oiler distributor, pulverizer, farmer tractor-with or without attachments, batch plant operator - dual, continuous or belt bulk handling, screed operator, concrete pump, farm grader, screening plant, well point pump operator, signal man on large wherleys when and if required, operator for rotary drilling machines when operated from console or machines

ENGINEERS for machines not listed under the above classifications shall receive the scale comparable to these classifications.

GROUP VII
Greaser, tilt top trailer operator

GROUP VIII
Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft. and under (1 or 2) welding machine (1 or 2), pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP IX
Asphalt lay machine back end man, helpers

GROUP X
Truck crane oiler driver or truck crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS-STEAMFITTERS	$10.60	.40	.80		.15
ROOFERS	8.40	.45	.25		.04
SHEET METAL WORKERS	9.53	.50	.66		.10
SPRINKLER FITTERS	10.90	.50	.90		.08
TERRAZZO WORKERS	9.29		.30		
TERRAZZO WORKERS HELPER	7.70				
TERRAZZO WORKERS FLOOR OPERATOR	7.80				
TERRAZZO WORKERS BASE MACHINE OP.	8.00				
TILE LAYERS	9.29		.30		
TRUCK DRIVERS:					
Group 1	8.03				
Group 2	8.13				
Group 3	8.23				
Group 4	8.18				
Group 5	8.33				

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I
Pick-up 1½ tons, or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses

GROUP II
3 tons or 4 yards and up to but not including 4 tons or 6 yards.

GROUP III
5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment, tractor trailer drivers and similar equipment, such as tractors, ten wheelers

GROUP IV
Ready-mix concrete trucks up to but not including 3 yards

GROUP V
Ready-mix concrete trucks 3 yards and over

FOOTNOTES:
a. 1st 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b. Paid Holidays - A through F

PAID HOLIDAYS:
A-New Years Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

SUPERSEDEAS DECISION

STATE: Oklahoma

COUNTIES: Oklahoma, Cleveland, Caddo, Canadian, Grady, Kingfisher, Logan, Lincoln, McClain, Seminole & Pottawatomie

DECISION NO: OK77-4063

DATE: Date of Publication

SUPERSEDES DECISION NO. OK77-4002 dated January 14, 1977 in FR 3155.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.70	.40	.60		.02
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS-STONEMASONS:					
Oklahoma, Cleveland, Canadian and McClain Counties	9.67	.45	.50		.05
Lincoln, Pottawatomie and Seminole Counties	9.25	.45	.30		
Kingfisher County	8.45				
Logan County	8.90	.45	.50		.05
Caddo and Grady Counties	8.70	.50	.30		.10
CARPENTERS - ZONE I					
Carpenters	7.95	.35	.25		.05
Power saw operator	8.20	.35	.25		.05
Millwrights-Piledrivermen	9.35	.30	.25		.04
CARPENTERS - ZONE II					
Carpenters	9.10	.40	.25		.04
Millwrights-Piledrivermen	9.35	.40	.25		.04
Power saw operator	9.35	.40	.25		.04
CARPENTERS - ZONE III					
Carpenters	8.56	.30	.25		.04
Power saw operator	8.81	.30	.25		.04
Millwrights-Piledrivermen	8.81	.30	.25		.04
CARPENTERS - ZONE IV					
Carpenters	7.85	.30	.25		.02
Millwrights-Piledrivermen	8.675	.30	.25		.02
CARPENTERS - ZONE V					
Carpenters	7.25				
Millwrights-Piledrivermen	9.35	.40	.25		.04

CARPENTERS AREA DEFINITION

ZONE I - Northern 1/2 of Lincoln County bound on the South by Interstate 35 on the East of Highway 99

ZONE II - Pottawatomie County and part of Lincoln County south of Turner Turnpike; the City limits of Moore in Cleveland County; all of Oklahoma, Canadian, Kingfisher and Logan Counties.

ZONE III - McClain County and Cleveland County (except that area covered by the City limits of Moore)

ZONE IV - Seminole County

ZONE V - Caddo and Grady Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Lincoln, Oklahoma, McClain, Caddo, Grady, Cleveland, Canadian, Logan, and Kingfisher Counties	$ 8.78	.40			
ELECTRICIANS:					
Zone I	9.30	.50	1%+.50		1/2%
Zone II	9.55	.50	1%+.50		1/2%
Zone III	9.80	.50	1%+.50		1/2%
CABLE SPLICERS:					
Zone I	9.55	.50	1%+.50		1/2%
Zone II	9.80	.50	1%+.50		1/2%
Zone III	10.05	.50	1%+.50		1/2%

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITION

ZONE I - the area within the twelve mile radius of the main Post Office located in one of the cities listed as follows: El Reno, Moore, Norman, and Oklahoma City.

ZONE II - the area between the twelve mile zone 1 radius to thirty mile radius of the zone 1 post office, except where zone 2 intercepts another zone 1 area.

ZONE III - the area outside zones 1 and 2 and within the local union area.

ELEVATOR CONSTRUCTORS	8.855	.495	.32	2½%+a+b	.02
ELEVATOR CONSTRUCTORS HELPER	70%JR	.495	.32	2½%+a+b	.02
ELEVATOR CONSTRUCTORS HELPER(PROB.)	50%JR				
GLAZIERS	8.25				
IRONWORKERS	9.60	.45	.65		.12
LABORERS:					
ZONE I					
Group I	6.90	.25	.30		
Group II	7.10	.25	.30		
ZONE II					
Group I	5.65	.25	.30		
Group II	5.90	.25	.30		
ZONE III					
Group I	5.85	.25	.30		
Group II	6.15	.25	.30		
ZONE IV					
Group I	5.50	.25	.30		
Group II	5.70	.25	.30		

LABORERS CLASSIFICATION DEFINITION

GROUP I - Unskilled laborers

GROUP II - Air tool operator (jackhammer-vibrator), mason tenders, mortar mixers, pipelayers (concrete and clay), plasterers tenders

AREA COVERED BY LABORERS ZONES

ZONE I - Oklahoma, Canadian, Logan, Pottawatomie, Lincoln and Cleveland Counties.

ZONE II - McClain, Caddo and Grady Counties

ZONE III - Seminole County

ZONE IV - Kingfisher County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$9.00				.01
LINE CONSTRUCTION:					
Linemen	9.35		1%		1/2%
Cable splicers	9.91		1%		1/2%
Hole digger operator	8.49		1%		1/2%
Heavy Equipment operators (or pole cat equivalent)	8.49		1%		1/2%
Line truck driver (winch op.)	7.68		1%		1/2%
Jack hammerman	7.00		1%		1/2%
Powderman	8.49		1%		1/2%
Groundman (1st year)	4.86		1%		1/2%
Groundman	6.24		1%		1/2%
Truck driver (flat bed, ton and half and under)	6.66		1%		1/2%
MARBLE MASONS	9.40		.30		
PAINTERS:					
Brush	7.95	.45	.35	.30	.03
Spray under 30 feet	8.45	.45	.35	.30	.03
Spray over 30 feet	8.95	.45	.35	.30	.03
Sandblasting under 30 feet	8.45	.45	.35	.30	.03
Sandblasting over 30 feet	8.95	.45	.35	.30	.03
Hazardous work	8.45	.45	.35	.30	.03
Paperhanging	8.95	.45	.35	.30	.03
Tapers using machine tools	8.45	.45	.35	.30	.03
PLASTERERS	9.30				.01
PLUMBERS-PIPEFITTERS	10.27	.60	.75		.10
POWER EQUIPMENT OPERATORS:					
Group I	10.10	.45	.50		.12
Group II	9.85	.45	.50		.12
Group III	9.60	.45	.50		.12
Group IV	9.35	.45	.50		.12
Group V	9.10	.45	.50		.12
Group VI	8.85	.45	.50		.12
Group VII	8.45	.45	.50		.12
Group VIII	8.35	.45	.50		.12
Group IX	8.15	.45	.50		.12
Group X	7.85	.45	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 200' of boom or over (including jib)

GROUP II - All crane type equipment with 150-200' of boom (including jib)

GROUP III - All crane type equipment with 100-150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rates by mfg.), sideboom (booms 30' and over), guy derrick

GROUP IV - Heavy duty mechanic welder, crane-hook and overhead monorail, whirley, panel board batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe, sideboom (under 30'), gradall, hydro crane, cherry picker, hoists while operating 2 or more drums, hoists while doing stack & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP V - Motor patrol (blade), fork lift (35' and over), dozer (engine h.p. 69 or over), fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber-tired equipment, Euclid, TS-24 and similar, loader operator or Hi-lift (Engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, power driven hole digger with less than 30' mast trenching machine, concrete pump-boom type

GROUP VI - Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. and under, air compressor, over 500 cu. ft., (1) pump battery, 3 to 6, fork lift, bobcat and similar equipment, generator plant engineers, diesel electric, winch truck with a frame, roller, all types, outside elevator or building type of personnel hoist, concrete buster or tamper, heaters under jurisdiction of op., engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor-with or without attachments, batch plant operator - duel, continous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines

ENGINEERS FOR MACHINES NOT LISTED UNDER THE ABOVE CLASSIFICATIONS SHALL RECEIVE THE SCALE COMPARABLE TO THESE CLASSIFICATIONS.

GROUP VII - Greaser, tilt top trailer operator

GROUP VIII - Permanent elevator - building type (automatic, concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft. and under (1 or 2) welding machine (1 or 2), pump (1 or 2), fuelman, conveyor operator-single continuous belt bulk handling

GROUP IX - Asphalt lay machine back end man, helpers

GROUP X - Truck crane oiler driver or truck crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$8.80	.45	.25		.04
SHEET METAL WORKERS	10.38	.45	.40		.05
SOFT FLOOR LAYERS:					
Resilient floor layers and carpet layers	8.85	.50			
SPRINKLER FITTERS	10.90	.50	.90		.08

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS	$9.40		.30		
TERRAZZO WORKERS' HELPERS	6.98				
TERRAZZO FLOOR MACHINE MAN	7.08				
TERRAZZO BASE MACHINE MAN	7.28				
TILE SETTERS	9.40		.30		
TILE & MARBLE HELPERS:					
Experienced helpers	6.65				
TRUCK DRIVERS:					
Group I	6.92				
Group II	6.92				
Group III	6.62				

TRUCK DRIVERS CLASSIFICATION DEFINITION

GROUP I - Truck drivers for heavy equipment such as lowboys, heavy winch and floats

GROUP II - Heavy earth moving equipment such as dump trucks and Euclids.

GROUP III - Truck drivers and swampers, such as dump trucks, flat beds, stake bodies, and 3/4, and 1/2 ton pick-up trucks.

WELDERS - received rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

A. 1st 6 mos. - none; 6 mos. to 5 yrs. 2%; over 5 yrs. - 4% of basic hourly rate.

B. Paid Holidays A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

SUPERSEDEAS DECISION

STATE: Tennessee COUNTY: Knox

DECISION NUMBER: TN77-1016 DATE: Date of Publication

Supersedeas Decision No.: TN76-1081 dated August 16, 1976 in 41 FR-33178

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	8.73	.45	.20		.01
Boilermakers	9.50	.90	1.00		.02
Bricklayers & stonemasons	9.45				
Carpenters	7.92		.40		.02
Cement masons	7.37				
Electricians and Line Construction:					
Electricians & linemen	8.65	.40	18+.20		.5%
Cable splicers	9.05	.40	18+.20		.5%
Elevator constructors	8.09	.495	.32	4%+a&b	.02
Elevator constructors' helpers	70%JR	.495	.32	4%+a&b	.02
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	5.75		.28		.005
Ironworkers:					
Structural & ornamental	8.01	.50	.30		
Reinforcing	7.87	.50	.30		
Fence erector	8.01	.50	.30		
Lathers	8.19		.20		.01
Leadburners	10.50	.40		c	.01
Marble masons	9.45				
Millwrights	8.52		.40		
Painters:					
Commercial	7.70		.35		.03
Industrial	8.05		.35		.03
Piledrivermen	8.17		.40		.02
Plasterers	8.40				
Plumbers & Steamfitters	8.50	.40	.70	.30+d	.05
Roofers, composition	7.18		.25		
Roofers, slate & tile	7.18		.25		
Sheet metal workers	8.91	.35	.50		.02
Soft floor layers	7.97		.35		
Sprinkler fitters	10.10	.60	.90		.08
Terrazzo workers & tile setters	9.45				
Truck drivers:					
3 tons, & inc., 6 yd., dump truck	5.10	.25	e		
3 to 5 tons, & inc. 6 yds., dump truck	5.34	.25	e		
5 tons, & over inc. dump truck over 6 yds, ready mix conc, truck, tank trucks, floats, & lowboys, winch truck & semi-					

TN77-1016 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck drivers - (Cont'd):					
trailer, any type trucks pulling or towing equip.	5.45	.25	"		
Welders - rec'd rate for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:

A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. 9 Paid Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holidays, and the regular scheduled work days immediately preceding and following the holidays.

d. $.05 holiday pay.

e. $14.00 per week for each employee.

TN77-1016 - (Cont'd)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GROUP A	5.14	.15	.15		.01
GROUP B	5.29	.15	.15		.01
GROUP C	5.29	.15	.15		.01
GROUP D	5.32	.15	.15		.01
GROUP E	5.14	.15	.15		.01
GROUP F	5.94	.15	.15		.01
GROUP G	5.64	.15	.15		.01
Tunnel Construction:					
GROUP H	5.14	.15	.15		.01
GROUP I	5.54	.15	.15		.01
GROUP J	5.69	.15	.15		.01
GROUP K	5.84	.15	.15		.01
GROUP L	5.94	.15	.15		.01

GROUP A: Construction Laborer

GROUP B: Mortar mixers, plasterer tender

GROUP C: Hod carriers, power buggies, yarner, potman, grademan, snake man, form setter & strippers, pipelayers, asphalt raker, jackhammer op., air tool op., vibrator op., chain saw op., barco tamp op., all power driven tool op.

GROUP D: Acetlyene burner

GROUP E: Wagon drill operator

GROUP F: Caisson hole man

GROUP G: Powderman

GROUP H: Outside laborer

GROUP I: Tunnel laborer

GROUP J: Chuck tender

GROUP K: Concrete gun op., nozzleman

GROUP L: Tunnel miner

TN77-1016 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	7.79	.30	.20		.02
GROUP B	7.24	.30	.20		.02
GROUP C	6.06	.30	.20		.02
GROUP D	5.57	.30	.20		.02

GROUP A: Backhoes; cable ways; ross carrier; clamshells; cranes; derricks; draglines; tournapulls; pans; scrapers; scoops, etc.; head tower machines; locomotives (over 20 tons); shovels; mechanics & welders; winch trucks with A-frame; skimmer scoops; locomotive cranes; over-head cranes; pile drivers; skid rigs; side boom tractors; euclid loaders; hoist (any size handling steel or stone); derrick boats; dredge boats; engines used in connection with hoist material with an attached device on tower or engine; mucking machines; hi-lifts or end loaders; finish graders; cherry-pickers; tower cranes; skylift & gradall; dozers; earth augers and pole machine operators; core drill & foundation drills

GROUP B: Tractors, farm type tractors with attachments; central compressor plants; elevators, used for hoisting building material, central mixing plants; hoist; pump crete machines; concrete pumps; trenching machines; backfillers (other than cranes); crushing plant operators; elevating graders; paving machines (black top); fork-lift; paving machines, concrete; boat operator or engineer (30 tons or over); tracmobile; maintainers; blacktop roller; switchman; locomotive under 20 tons

GROUP C: Asphalt plant operators; barber green type loaders; engine tender other than steam; mixers, over 2 bags not include central plants; pumps, 2 not more than 3; scarifiers; spreader box (bituminous); asphalt mixers; portable compressors, 2 not more than 3; rollers; sub-grader machine; tractors, farm type without attachments; cable head tower engineman; dredge booster pump operators; boat operator or engine, under 30 tons; finishing machine; fireman & oiler (combination); motor crane oiler & driver; welding machine, 2 not more than 3; heaters, stationary or portable (to 5); compressors (portable 2 not more than 3); greaser or fuel trucks

GROUP D: Air compressor (1 portable); firemen; portable crushers; welding machine (1); conveyors; pumps (1); oiler; heater (1)

[FR Doc.77-6969 Filed 3-10-77;8:45 am]

federal register

FRIDAY, MARCH 11, 1977

PART V

INTERSTATE COMMERCE COMMISSION

MEETINGS OF THE COMMISSION

Government in the Sunshine Act; Implementation

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

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Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1012—MEETINGS OF THE COMMISSION

[Ex Parte No. 833]

Government in the Sunshine Act; Implementation

Final regulations Implementing the Requirements of the "Government in the Sunshine Act," 5 U. S. C. 552b.

AGENCY: Interstate Commerce Commission

ACTION: Final regulations

SUMMARY: These regulations detail opportunities made available to the public to observe meetings of the Interstate Commerce Commission (Commission), and include (1) a description of affected meetings, (2) provision for the giving of public notice concerning meetings, (3) procedures by which a meeting or portion thereof may be closed to the public, (4) means of obtaining transcripts, recordings, or minutes of those meetings or portions thereof closed to the public which are not exempt from disclosure, and (5) grievance procedures for those who believe that the opening or closing of a meeting or portions thereof will impinge upon their legal rights

EFFECTIVE DATE: March 12, 1977

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423. (202–275–7292).

SUPPLEMENTARY INFORMATION.

On December 28, 1976, the Commission published in the FEDERAL REGISTER (41 FR 56340) proposed regulations implementing the requirements of the "Government in the Sunshine Act." (Act) 5 U.S.C. 552b. Interested members of the public were invited to submit written comments concerning the proposed regulations, particularly with respect to (1) section 1012.3(d) of the proposed regulations providing for the convening of meetings which involve matters requiring accelerated disposition on less-than one week's notice (the statutory period), and (2) the Commission's decision not to adopt regulations under section 552b(d)(4) of title 5 providing for the closing of meetings or portions thereof involving specific financial, commercial, and legal matters.

Comments were received from a railway association, a trucking association conference, a public interest institute, and a private citizen. These submissions contain many significant questions, criticisms, and suggestions, some of which have prompted changes in the regulations as proposed.

DISCUSSION OF SIGNIFICANT COMMENTS MEETINGS GOVERNED BY THE REGULATIONS

As proposed, the regulations apply to oral arguments and deliberative conferences (a "conference" being synonymous with "meeting" as defined by the Act) of either the full Commission or Divisions and committees where the Division or committee is empowered to act on behalf of the Commission. Where, however, a Division or committee is meeting only to formulate an internal recommendation to the Commission, the regulations would not apply. Despite forceful arguments that neither the express language of the Act nor its legislative history supports the exclusion of Division or committee meetings called to formulate internal recommendations, the Commission is not pursuaded that the provisions of the Act contemplate inclusion of the type of formulative Division or committee meetings envisioned in the proposed regulations.

Section 552b(a)(1) of title 5 provides, in relevant part, that the term "agency" means "any subdivision thereof authorized to act on behalf of the agency." While each of the Commission's Divisions and committees admittedly comprises a statutory "subdivision," and notwithstanding the fact that action taken on behalf of the Commission need not be final in nature, the Divisions and committees nevertheless must be "authorized" to take such action. In the vast majority of cases, such as those described in § 1012.2 of the proposed regulations, Divisions and committees meet pursuant to some form of authorization. These meetings, irrespective of the nature of the deliberations involved (i.e., whether formulative or determinative) fall within the ambit of the regulations. Infrequently, however, Divisions and committees consider informally matters which they are neither expressly authorized nor required to pursue. Consideration of such matters is generally unstructured, often impromptu, and frequently accomplished by means of memoranda. It is this type of "meeting" at which the exception described in § 1012.1 of the proposed regulations is directed and which, the Commission believes, properly may be excluded from the regulatory provisions.

The regulations also do not apply to deliberations of members of boards of employees of the Commission. Although no one contends that the Act requires that deliberations of employee board members be open for public observation, "the wisdom of any policy closing all such meetings, regardless of the subject of discussion and the membership of the committee" has been questioned. Any anxiety caused by the blanket exclusion may be attributed to a misconception of the nature of deliberations engaged in by employee boards. Virtually all employee board deliberations are effected without meetings or circulation of formal memoranda votes. On rare occasions only will employee boards meet as a body.

A somewhat related issue involves "notation voting," a form of deliberation which properly is excepted from the regulatory provisions. Section 1012.1(c) of the proposed regulations provides, as pertinent, that "[c]opies of votes or statements of position of all Commissioners eligible to participate in action taken by notation voting will be made available, upon written request to the Secretary of the Commission, as soon as possible after the date upon which the action taken is made public or any decision or order adopted is served." It has been argued, however, that since nothing in the Act is intended to expand or limit the present rights of any person under the Freedom of Information Act (5 U.S.C. § 552), the above-quoted provision is deficient in three respects: (1) non-exempt material should be made available pursuant to any request, whether written or oral; (2) such material should be made available within 10 working days of the request and not "as soon as possible;" and (3) all non-exempt material also should be made available in a public reading room or other easily accessible place for public inspection and copying.

Section 1012.1(c) of the regulations is not intended to circumvent the provisions of the Freedom of Information Act. It does appear, however, that, as proposed, this section may be somewhat misleading by failing to provide that copies of votes or statements of position of all Commissioners eligible to participate in action taken by notation voting will be made available in a public reading room or other place easily accessible to the public. Accordingly, the final regulations will be modified to include such a provision. The Commission believes that, as so modified, § 1012.1(c) of the regulations, which does not negate our regulations in 49 CFR § 1001.4 is neither overly restrictvie nor out of tune with the prescriptions of the Freedom of Information Act.

Section 552(a)(3) of title 5 provides, as pertinent, that "each agency, upon any request for records which * * * is made in accordance with published rules stating * * * procedures to be followed, shall make the records promptly available to any person." It is readily apparent from the quoted passage that agencies (1) may adopt regulations governing the procedure to be followed in requesting non-exempt materials, and (2) must make "promptly" available materials so requested. In testing the validity of procedural regulations, the touchstone is always their reasonable ness. It is not unreasonable to require that requests for copies of agency material be written. The inconvenience, if any, caused by such requirement is outweighed by the reliability of written words which, in subsequent proceedings, may be of immeasurable value to the writer. Insofar as timeliness of compliance with requests for agency material is concerned, the regulatory phrase "as soon as possible" seems compatible with the statutory language. The true measure of the timeliness of compliance in a given case necessarily depends upon the particular circumstances attending the request.

PUBLIC NOTICE OF MEETINGS

The provision for comprehensive public notice of agency meetings is the keystone to fulfillment of the Congressional

policy expressed in the Act. Although § 1012.3 of the proposed regulations gives full effect to this provision, it has been suggested that certain language contained in subparts (a) and (b) of that section could be construed to allow the withholding of announcements of meetings and explanations of action taken in closed meetings not otherwise exempt under the Act. The Commission believes that only a strained reading of those subparts could lead to such conclusion. In the notice of proposed rulemaking, the Commission indicated that it anticipates giving effect to the exceptions delineated in 5 U.S.C. 552b(c) only in unusual cases. This policy, from which the Commission does not intend to deviate, is wholly inconsistent with the suggested construction of its regulatory provisions.

Section 1012.3(a) of the proposed regulations also sets forth means through which public announcement of Commission meetings will be made and includes posting a notice on a bulletin board in the Commission's Public Information Office, filing a copy of the notice with the Secretary of the Commission for posting and for service upon all parties of record in any proceeding which is the subject of the meeting, and submitting a copy of the notice for publication in the FEDERAL REGISTER. Additional methods of disseminating notice of Commission meetings have been recommended. These include publishing announcements of forthcoming Commission meetings in trade journals and periodicals and establishing a mailing list for those who desire to receive such announcements. While the Commission is favorably impressed with both recommendations, it appears that a number of industry journals already include in their publications all significant Commission notices and there is no reason to believe that they will depart from this practice in the future. The recommendation that the Commission establish a mailing list for those who desire to receive announcements of Commission meetings will, however, be adopted, and incorporated into the final regulations.

Section 1012.3(f) of the proposed regulations provides, in part, that "[i]n the absence of objection by another Commissioner, an item may be removed from a conference agenda, or a conference cancelled, at the request of the Commissioner at whose request the item was listed or the conference called." It has been argued that the above-quoted provision conflicts with section 552b(e)(2)(A) of title 5 which provides that the subject matter of a meeting may be changed only if "a majority of the entire membership of the agency determines by a recorded vote that agency business so requires * * *" Although the assailed regulatory provision was included only for the purpose of expediting otherwise perfunctory determinations, the Commission agrees that its is inconsistent with the statutory prescription and, for this reason, it will be deleted from the final regulations.

In its notice of proposed rulemaking, the Commission invited comment with respect to the question whether it is empowered to adopt a regulation such as that proposed in § 1012.3(d). This question was addressed specifically in only one comment. There, speaking from experience, the author observed that "[b]ecause of the inherent structure of (the involved statutory provisions) prompt action by the Commission is essential. Rather than observe the formality of voting a shorter notice period whenever action pursuant to those provisions is contemplated, the practice is best incorporated into a regulation.* * * The predictability of reducing the necessary practice to a regulation will better serve the goal of alerting the public to forthcoming Commission meetings than a perfunctory vote relative to each gathering to consider such matters." The Commission appreciates this expression of support, in which it fully concurs.

TRANSCRIPTS AND MINUTES OF CLOSED MEETINGS

Some of the more salient criticisms of § 1012.5 of the proposed regulations pertaining to transcripts, sound recordings, and minutes of closed meetings include its failure to provide specifically (1) for public access to the non-exempt transcripts, recordings, and minutes of meetings free of charge, (2) for a schedule of uniform fees to be charged for copies of transcripts, minutes, and the like, and (3) for a statement of each relevant exemptive provision to be included in the certification of the General Counsel. Section 1012.5(b) provides, as a pertinent, that "[t]he Commission will make available, upon request, the minutes, transcript or recording of all portions of the meeting except those which it finds to be properly exempt from disclosure under the Act." Although it was understood in formulating the above-quoted provision that the involved material would be made available, free of charge, in a public reading room or some other easily accessible place within the Commission, it appears that the intent of the provision, as proposed, is not sufficiently clear. The final regulations will clarify this point.

Section 552b(f)(2) of title 5 provides, in part, that "[c]opies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription." Echoing this prescription, § 1012.5 of the proposed regulations provides that "[a] copy of such minutes, transcript or recording will be provided, upon request, upon payment of the actual cost of duplication or transcription." Mindful of the legislative admonition that fees for duplication and transcription must reflect actual costs, the Commission was hesitant to establish a separate fixed schedule of fees for copies of material requested pursuant to the Act since "actual cost" has reference to numerous variables which fluctuate constantly. Viewing the legislative history of the Act, however, it appears that both Houses of Congress contemplated the establishment of a fee schedule. The Commission's current regulations (49 CFR 1002) establish a schedule of fees applicable to, among other matter, copies of material requested pursuant to the Freedom of Information Act. The Commission believes that this schedule is equally appropriate for copies of material requested under the Government in the Sunshine Act. Accordingly, the fee schedule established in 49 CFR 1002 will be incorporated by reference into the final regulations.

Section 1012.5(c) of the proposed regulations provides that in the case of all meetings closed to the public, the presiding officer shall cause to be made, and the Commission shall retain, a statement setting forth "* * * [a] copy of the certification issued by the General Counsel that, in his or her opinion, the meeting was one that might properly be closed to the public." The "copy of the certification" referred to in the quoted passage obviously has reference to § 1012.7(c) which requires the General Counsel to state each relevant exemptive provision in the certification. The Commission believes that no further clarification is necessary.

GRIEVANCE PROCEDURES

It has been suggested that § 1012.6 of the proposed regulations be amended to include provision for the consideration of petitions to close a meeting proposed to be open where such meeting could disclose information, the premature disclosure of which could lead to significant financial speculation in carrier securities. It might appear at first blush that such a petition could be entertained only if the exemption contained in section 552b(c)(9)(A) of title 5 were found to be applicable to meetings of this Commission. Admittedly, the Commission's statutory responsibilities do not extend to securities regulation as comprehended by the Sunshine Act, and the Commission has determined that the (9)(A) exemption is inapplicable.

Even though the Commission could not properly close a meeting under section 552b(c)(9)(A), it might consider closing a meeting which fell within the "formal agency adjudication" exemption of paragraph (c)(10) on the grounds that premature disclosure of the Commission's deliberations might lead to speculation in securities. This could be the case, for example where disposition of a major carrier merger proposal were the subject matter of the meeting. The Commission believes that this suggestion has merit, and § 1012.6(c) of the regulations will be modified accordingly.

It has also been suggested that the number of copies of a petition to be submitted to open or close a Commission meeting be reduced from 15 to no more than 5. While this reduction will not be made in our regulations, a liberal waiver policy will be followed to accommodate anyone who would be unduly burdened by the requirements.

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MEETINGS WHICH MAY BE CLOSED TO THE PUBLIC

Section 1012.7(b) of the proposed regulations provides that "[a] single vote may be taken to close a series of meetings on the same or related subjects held within 30 days of the initial meeting in the series." It has been suggested that since this provision appears to be somewhat inconsistent with 5 U.S.C. 552b(d)(1) providing that a single vote may be taken with respect to a series of meetings involving "the same particular matters," the statutory language should be substituted for the regulatory phrase "the same or related subjects." The Commission agrees; substitution will be effected in the final regulations.

MISCELLANEOUS

In our notice of proposed rulemaking, the Commission invited comment with respect to its decision not to adopt regulations under section 552b(d)(4) of title 5 providing for the closing of meetings or portions thereof involving specific financial, commercial, and legal matters. The comments received in this regard support the Commission's previous decision, to which it will adhere in the final regulations.

The Commission wishes to emphasize that it subscribes wholeheartedly to the Congressional policy expressed in the Act.

By the Commission.

ROBERT L. OSWALD,
Secretary.

VICE CHAIRMAN CLAPP, CONCURRING IN PART

The action taken here represents a commendable major step forward in public accountability. The clear intent is to satisfy fully the spirit as well as the formal requirements of the "Sunshine Act." As with other effected agencies, the Commission must watch very closely our early experience with the procedures adopted here and move to modify those provisions which relate to unanticipated overly restrictive results. My primary difference with the report is that it is too restrictive with respect to meetings of committees or divisions to formulate internal recommendations to the Commission. Such meetings in my opinion should be open rather than closed.

COMMISSIONER O'NEAL, CONCURRING IN PART

The regulations adopted in most respects represent a great deal more than tentative first steps to reflect a new National policy favorable to government in the view of the public. Yet, they do not seem to me to permit as full a view of agency activities as possible. And perhaps, not as full a view as mandated by the "Government in the Sunshine Act."

For instance, I am persuaded by the argument of the Institute for Public Interest Representation that the meetings of divisions of the Commission and standing committees of the Commission should be opened to the public regardless of whether they are empowered to act upon the Commission's behalf or only formulating recommendations. Certainly this would at least be in the spirit of the Sunshine Act and give greater confidence to the public in any action that might later be taken as a result of such meeting.

Regarding provisions that provide for the possible closing of meetings to avoid the premature disclosure of actions or deliberations which could lead to significant financial speculation in securities, I must also respectfully disagree with the majority. Such closings are probably lawful and, if so, the adopted regulations satisfactorily accommodate them.

But should there be meeting closings for this reason? It seems to me that secrecy is not easily kept and closed meetings may very well heighten one-sided financial speculation. At least when actions or deliberations that can have an impact on financial speculation take place in the open, all members of the public—buyers and sellers alike—have a better chance of obtaining the correct information necessary to making an informed judgment.

Overall these regulations further the purposes, if they do not fully radiate the spirit of the "Government in the Sunshine Act." There remain areas where the majority could have and, I think, should have gone further. It is my hope that with enough experience under the new regulations, all the latent and other deficiencies will become evident and every last vestige of unnecessary secrecy will be removed from all ICC activities.

Accordingly, 49 CFR is amended by the addition of part 1012, which will become effective on March 12, 1977, and reads as follows:

Sec.
1012.1 General provisions.
1012.2 Time and place of meetings.
1012.3 Public notice.
1012.4 Public participation.
1012.5 Transcripts; minutes.
1012.6 Petitions seeking to open or close a meeting.
1012.7 Meetings which may be closed to the public.

AUTHORITY: 5 U.S.C. 552b(g), as amended by Pub. L. 94-409, 90 Stat. 1241; 49 U.S.C. 17(3), 24 Stat. 385, as amended.

§ 1012.1 General provisions.

(a) The regulations contained in this part are issued pursuant to the provisions of 5 U.S.C. 552b(g), added by section 3(a) of the Government in the Sunshine Act, Pub. L. 94-409 (Act), and section 17(3) of the Interstate Commerce Act. They establish procedures under which meetings of the Interstate Commerce Commission (Commission), Divisions of the Commission (Division), and standing committees of the Commission are held. They apply to oral arguments as well as to deliberative conferences. They apply to meetings of the Commission and of Divisions and committees of the Commission where the Division or committee is empowered to act on the Commission's behalf, but not where a Division or committee is meeting only to formulate an internal recommendation to the Commission. They include provisions for giving advance public notice of meetings, for holding meetings which may lawfully be closed to the public, and for issuing minutes and transcripts of meetings.

(b) The words "meeting" and "conference" are used interchangeably in this part to mean the deliberations of at least a majority of the members of the Commission, a Division, or a committee of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business. They do not include meetings held to determine whether some future meeting should be open or closed to the public. They do not include the deliberations of members of boards of employees of the Commission.

(c) These regulations are not intended to govern situations in which members of the Commission consider individually and vote by notation upon matters which are circulated to them in writing. Copies of the votes or statements of position of all Commissioners eligible to participate in action taken by notation voting will be made available, as soon as possible after the date upon which the action taken is made public or any decision or order adopted is served, in a public reading room or other easily accessible place within the Commission, or upon written request to the Secretary of the Commission.

§ 1012.2 Time and place of meetings.

(a) Conferences, oral arguments, and other meetings are held at the Commission's headquarters building at the northwest corner of 12th Street and Constitution Avenue in Washington, DC, unless advance notice of an alternative site is given. Room assignments for meetings will be posted on the day of the meeting at the Constitution Avenue entrance to the Interstate Commerce Commission building and at the Commission's Public Information Office (room 1211).

(b) Regular Commission conferences are held on the first and third Tuesdays of each month, or on the following day if the regular conference day is a holiday. Oral arguments before the Commission are normally scheduled on the first or third Wednesday of each month. Regular Commission conferences and oral arguments before the Commission or a Division normally begin at 9:30 a.m. A luncheon recess is taken at approximately noon, and other recesses may be called by the presiding officer. Times for reconvening following a recess, or on subsequent days if a conference or oral argument lasts more than one day, are set by the presiding officer at the time the recess is announced.

(c) Special Commission conferences, Division conferences, oral arguments before a Division, and meetings of committees of the Commission are scheduled by the Chairman of the Commission or of the respective Division or committee.

(d) If one or more portions of the same meeting are open to the public while another portion or other portions are closed, all those portions of the meeting which are open to the public are scheduled at the beginning of the meeting agenda, and are followed by those portions which are closed.

§ 1012.3 Public notice.

(a) Unless a majority of the Commission determines that such information is exempt from disclosure under the Act, public notice of the scheduling of a meeting will be given by posting a notice on the bulletin board in the Commission's Public Information Office, by filing a copy of the notice with the Secretary of the Commission for posting and for service on all parties of record in any proceeding which is the subject of the meeting or any other person who has requested notice with respect to meetings of the Commission, and by submitting a copy of the notice for publication in the FEDERAL REGISTER.

(b) Public notice of a scheduled meeting will contain—

(1) The date, time, place, and subject matter of the meeting.

(2) Whether it is open to the public.

(3) If the meeting or any portion of the meeting is not open to the public, an explanation of the action taken in closing the meeting or portion of the meeting, together with a list of those expected to attend the meeting and their affiliations.

(4) If a vote is taken on the question whether to close a meeting or a portion of a meeting to the public, a statement of the vote or position of each Commissioner eligible to participate in that vote. If such a vote is taken, public notice of its result will be posted within one working day following completion of the voting. If the result of the vote is to close the meeting or a portion of the meeting, an exolanation of that action will be included in the notice to be issued within one working day following completion of the voting. The public notice otherwise required by this subparagraph may be withheld if the Commission finds that such information is exempt from disclosure under the Act.

(5) The name and telephone number of the Commission official designated to respond to requests for information about the meeting. Unless otherwise specified, that official will be the Commission's Public Information Officer, whose telephone number is (202) 275-7252.

(c) Except as provided in paragraphs (d) and (e) of this section, public notice will be given at least one week before the date upon which a meeting is scheduled.

(d) Due and timely execution of the Commission's functions will not normally permit the giving of one week's public notice of meetings called to consider or determine whether to suspend or investigate a tariff or schedule under sections 15(7), 15(8), 215(g), 218(c), 307(g), 307(i), or 406(e) of the Interstate Commerce Act (49 U.S.C. 15(7), 15(8), 316(g), 318(e), 907(g), 907(i), 1006(e)); to consider whether to grant special permission to deviate from tariff filing requirements under section 6(3), 217(c), 218(a), 306(d), 306(e), or 405(d) of the Interstate Commerce Act (49 U.S.C. 6(3), 317(c), 318(a), 906(d), 906(e), or 1005(d)); or to consider or dispose of an application for temporary authority under section 210a(a) or 311(a) of the Interstate Commerce Act (49 U.S.C. 310a(a) or 911(a)). Such meetings will normally be called on less than one week's notice, and public notice will be posted and published at the earliest practicable time.

(e) If a majority of the Commissioners eligible to participate in the conduct or disposition of the matter which is the subject of a meeting determines, by recorded vote, that Commission business requires that a meeting be called on less than one week's notice, the meeting may be called on short notice, and public notice will be posted and published at the earliest practicable time.

(f) Changes in the scheduling of a meeting which has been the subject of a public notice will also be made the subject of a public notice, which will be posted at the earliest practicable time. Changes in, or additions to, a conference agenda or in the open or closed status of a meeting will be made only if a majority of the Commissioners eligible to participate in the conduct or disposition of the matter which is the subject of the meeting determines, by recorded vote, that the Commission's business requires such change and that no earlier announcement of the change was possible. In such a case, the public notice of the change, will show the vote of each Commissioner on the change.

§ 1012.4 Public participation.

(a) In the case of Commission or Division conferences or meetings of committees of the Commission which are open to the public, members of the public will be admitted as observers only. Active public participation, as by asking questions or attempting to participate in the discussion, will not be permitted, and anyone violating this proscription may be required to leave the meeting by the presiding officer.

(b) Oral arguments are always open to the public. The scheduling of participants in the arguments and the allotment of time is governed by the Commission's General Rules of Practice, 49 CFR 1100.98.

§ 1012.5 Transcripts; minutes.

(a) A verbatim transcript, sound recording or minutes will be made of all meetings closed to the public under these regulations, and will be retained by the Commission for two years following the date upon which the meeting ended, or until one year after the conclusion of any proceeding with respect to which the meeting was held, whichever occurs later. In the case of meetings closed to the public under § 1012.7(d) (1) through (7) and (9) of this part, a transcript or recording rather than minutes will be made and retained.

(b) The Commission will make available free of charge, upon request, in a public reading room or some other easily accessible place, the minutes, transcript or recording of all portions of any meeting which was closed to the public except those portions which it finds to be properly exempt from disclosure under the Act. A copy of such minutes, transcript or recording will be provided, upon request, upon payment of fees as provided in Part 1002 of this chapter.

(c) In the case of all meetings closed to the public, the presiding officer shall cause to be made, and the Commission shall retain, a statement setting forth—

(1) The date, time, and place of the meeting.

(2) The names and affiliations of those attending.

(3) The subject matter.

(4) The action taken.

(5) A copy of the certification issued by the General Counsel that, in his or her opinion, the meeting was one that might properly be closed to the public.

§ 1012.6 Petitions seeking to open or close a meeting.

(a) The Commission will entertain petitions requesting either the opening of a meeting proposed to be closed to the public or the closing of a meeting proposed to be open to the public. In the case of a meeting of the Commission, the original and 15 copies of such a petition shall be filed, and in the case of a meeting of a Division or committee of the Commission, an original and five copies shall be filed.

(b) A petition to open a meeting proposed to be closed, filed by any interested person, will be entertained.

(c) A petition to close a meeting proposed to be open will be entertained only in cases in which the subject at the meeting would—

(1) Involve accusing a person of a crime or formally censuring a person.

(2) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(3) Disclose trade secrets or commercial or financial information obtained on a privileged or confidential basis.

(4) Disclose investigatory records or information, compiled for law enforcement purposes, to the extent that the production of such records or information would (i) interfere with enforcement proceedings being conducted or under consideration by an agency other than the Commission; (ii) deprive a person of a right to a fair trial or an impartial adjudication; (iii) constitute an unwarranted invasion of personal privacy; (iv) disclose the identity of a confidential investigation agency or a national security intelligence agency; (v) disclose investigative techniques and procedures of an agency other than the Commission; or (vi) endanger the life or physical safety of law enforcement personnel.

(5) Disclose information the premature disclosure of which could lead to significant financial speculation in securities.

(d) Every effort will be made to dispose of petitions to open or close a meeting in advance of the meeting date. However, if such a petition is received less than three working days prior to the date of the meeting, it may be disposed of as the first order of business at the

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meeting, in which case the decision will be communicated to the petitioner orally through the Commission's Public Information Officer or other spokesperson.

§ 1012.7 Meetings which may be closed to the public.

(a) A meeting may be closed pursuant to this section only if a majority of the Commissioners eligible to participate in the conduct or disposition of the matter which is the subject of the meeting votes to close the meeting.

(b) A single vote may be taken to close a series of meetings on the same particular matters held within 30 days of the initial meeting in the series.

(c) With respect to any meeting closed to the public under this section, the General Counsel of the Commission will issue his or her certification that, in his opinion, the meeting is one which may properly be closed pursuant to one or more of the provisions of paragraph (d) of this section.

(d) Meetings or portions of meetings may be closed to the public if the meeting or portion thereof is likely to—

(1) Disclose matters (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order.

(2) Relate solely to the internal personnel rules and practices of the Commission.

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Disclose trade secrets or commercial information obtained from a person and privileged or confidential.

(5) Involve accusing any person of a crime, or formally censuring any person.

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and (in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation) disclose confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel.

(8) Disclose information the premature disclosure of which could (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution.

(9) Disclose information, the premature disclosure of which would be likely significantly to frustrate implementation of a proposed Commission action, except that this subparagraph shall not apply in any instance after the content or nature of the proposed Commission action has already been disclosed to the public by the Commission, or where the Commission is required by law to make such disclosure prior to the taking of final Commission action on such proposal.

(10) Specifically concern the issuance of a subpoena.

(11) Specifically concern the Commission's participation in a civil action or proceeding or an arbitration.

(12) Specifically concern the initiation, conduct, or disposition of a particular case or formal adjudication conducted pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after an opportunity for hearing.

[FR Doc.77-7561 Filed 3-10-77;11:59 a.m.]

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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presidential documents

Title 3—The President

Memorandum of March 10, 1977

Decision on Mushrooms Under Section 202(b) of the Trade Act of 1974

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
Washington, March 10, 1977.

Pursuant to Section 202(b) of the Trade Act of 1974 (P.L. 93-618, 88 Stat. 1978), I have determined the action I will take with respect to the report of the U.S. International Trade Commission (USITC), dated January 10, 1977, concerning the results of an investigation on mushrooms. This investigation was undertaken at the request of the Special Representative for Trade Negotiations.

I have determined that import relief for canned mushrooms is not in the national economic interest. The principal reasons for that determination include: (1) recent improvements in the domestic mushroom industry, including higher sales, production, and profits as a result of strong demand for mushrooms; (2) the high cost to U.S. consumers of the import relief recommended by the USITC and the relatively limited number of additional jobs such relief might create; (3) the existing availability of expedited adjustment assistance for workers and firms in the industry; (4) the potential retaliation against our own exports which import relief might engender, as well as the adverse foreign policy repercussions; (5) the existing voluntary export restraints agreed to by the principal foreign suppliers of canned mushrooms (the Republics of China and Korea); and (6) my intention to monitor canned mushroom imports and consult with the principal exporters, with a view toward avoiding disruptive impacts on the U.S. market.

You should convey to the Governments of the Republic of China (Taiwan) and the Republic of Korea that their assurances with respect to mushroom exports to the United States during the 1976/77 marketing year should be maintained.

I have asked the U.S. International Trade Commission to publish quarterly reports on mushroom imports; domestic producers' production, sales and stocks; and U.S. consumption. The STR should continue to monitor imports of canned mushrooms on a weekly basis. In the event that imports become a disruptive factor in the U.S. market, you should request consultations with the government(s) involved.

This determination is to be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc.77-7697 Filed 3-11-77;12:56 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Miscellaneous Amendments

Correction

In FR Doc. 76-31419 appearing at page 47021 of the issue for Wednesday, October 27, 1976, in § 907.110(e), page 47022, insert the following between the third and fourth lines: "allocation of general maturity allotments".

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

Uranium Fuel Cycle Impacts From Spent Fuel Reprocessing and Radioactive Waste Management

AGENCY: Nuclear Regulatory Commission

ACTION: Effective interim rule.

SUMMARY: The Commission has previously identified environmental impact values for the uranium fuel cycle which are to be included in environmental reports and environmental impact statements for individual light water nuclear power reactors. This rule amends the prior regulations so as to incorporate revised values, based on a new study of the available information, for the nuclear waste management and nuclear fuel reprocessing portions of the fuel cycle.

EFFECTIVE DATE: March 14, 1977.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: On October 18, 1976, the Nuclear Regulatory Commission (hereafter Commission or NRC) gave notice in the FEDERAL REGISTER (41 FR 45849) that it contemplated promulgating an interim rule which would revise Table S-3 of 10 CFR Part 51 to include new specific impact values derived in light of its "Environmental Survey of the Reprocessing and Waste Management Portions of the LWR Fuel Cycle" NUREG-0116 (Supplement 1 to WASH-1248) (hereinafter referred to as "Supplement"). Interested persons were invited to submit written comments on the Supplement and proposed interim rule by December 2, 1976, copies of which are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555. After careful consideration of the comments received and within the context of the following discussion, the Commission has adopted the values set forth in the interim rule which will remain effective for eighteen months unless good cause is shown to extend the period of effectiveness.

BACKGROUND

Pursuant to the National Environmental Policy Act of 1969 (NEPA), an environmental impact statement must be prepared by the Commission in connection with issuance of a construction permit or operating license for each light water nuclear power reactor. These statements should contain a detailed evaluation of the environmental impacts of construction and operation of the plant and a discussion of reasonable alternatives, as well as an overall assessment of the costs and benefits of the licensing action.

In November 1972, a document entitled "Environmental Survey of the Nuclear Fuel Cycle" (hereinafter referred to as "Survey") was published by the Directorate of Licensing of the Atomic Energy Commission (AEC). Comments on the Survey were solicited, and an informal rulemaking hearing was held on February 1 and 2, 1973. The purpose of the hearing was to consider possible amendments to Appendix D of 10 CFR Part 50 which would, by rule, specify the environmental effects of the uranium fuel cycle to be factored into the assessment of costs and benefits in environmental impact statements for individual light water nuclear power reactors (LWR's). Written comments were received in response to the FEDERAL REGISTER notice, and recommendations for improvement were offered during the hearings. After consideration of the written comments and the hearing record, the AEC promulgated the final fuel cycle rule (the so-called Table S-3) on April 22, 1974 (39 FR 14188). It was intended that, with the inclusion of environmental impacts from Table S-3, the environmental impact statements for individual LWR's would set forth a full and candid assessment of costs and benefits consistent with the legal requirements and spirit of NEPA. The AEC indicated in its decision that the rule and Survey would be reexamined from time to time to accommodate new information. The same Table S-3 was included in 10 CFR Part 51.

On January 19, 1975, the Atomic Energy Commission was abolished and its licensing and regulatory responsibilities transferred to the Nuclear Regulatory Commission. On July 21, 1976, the United States Court of Appeals for the District of Columbia Circuit decided *Natural Resources Defense Council* v. *NRC*,[1] a case involving judicial review of the fuel-cycle rule, and *Aeschliman* v. *NRC*,[2] a related case involving the exclusion of fuel cycle issues from an individual power reactor licensing proceeding. The court approved the overall approach and methodology of the fuel cycle rule and found that, regarding most phases of the fuel cycle, the underlying Environmental Survey represented an adequate job of describing the impacts involved.[3] However, the court found that the rule was inadequately supported by the record insofar as it treated two particular aspects of the fuel cycle—the impacts from reprocessing of spent fuel and the impacts from radioactive waste management.

In response to the court decision, the Commission issued a General Statement of Policy (41 FR 34707, August 16, 1976) announcing its intention to reopen the rulmaking proceeding on the environmental effects of the fuel cycle to supplement the existing record on waste management and reprocessing impacts to determine whether the rule should be amended and, if so, in what respect.[4] The Commission thus indicated its intent to handle the question of the environmental impacts

[1] ____ F. 2d ____ (D.C. Cir. 1976), 9 ERC 1149, *cert. granted sub nom., Vermont Yankee Nuclear Power Corp.* v. *Natural Resources Defense Council*, 45 U.S.L.W. 3570 (U.S. Feb. 22, 1977) (No. 76-419). No action has as yet been taken by the Supreme Court on a related petition for certiorari filed in *Baltimore Gas and Electric Co.* v. *Natural Resources Defense Council*, No. 76-458.

[2] ____ F. 2d ____ (D.C. Cir. 1976), 9 ERC 1289, cert granted, 45 U.S.L.W. 3570 (U.S. Feb. 22, 1977) (No. 76-528).

[3] Note 1, supra, at 1159.

[4] The Court of Appeals stayed its mandate in the proceedings which gave rise to the General Statement of Policy, and the Supreme Court's grant of certiorari has the legal effect of continuing the stay of mandate in effect.

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of waste management and reprocessing generically rather than in individual licensing proceedings, a decision supported by language of the court in the *Vermont Yankee* case.[6] The Commission directed the Staff to prepare on an expedited basis a well-documented supplement (NUREG–0116) to the Survey (WASH–1248) to establish a basis for identifying environmental impacts associated with fuel reprocessing and waste management activities that are attributable to the licensing of a model light-water reactor.

The revised survey was completed in October, 1976, and the Commission issued the October 18, 1976 notice regarding the proposed interim rule. The comments received in response to that notice and the Commission's responses to those comments comprise NUREG–0216, Supplement 2 to WASH–1248 (hereinafter "Supplement 2").

The Commission indicated in that notice that the values proposed therein were to be considered as a proposed interim substitute for the values originally set forth in Table S–3A of WASH–1248. After receipt and analysis of comments received, a final interim rule was to be promulagated for use in LWR licensing. The interim rule was to be made permanent only after a public hearing had been held to further facilitate effective public participation. Under a Supplemental Statement of Policy published in the FEDERAL REGISTER on November 11, 1976 (41 FR 49898) licensing of individual LWR's was resumed on a conditional basis pending promulgation of the final interim rule provided that the old values for reprocessing and waste management contained in Table S–3A were compared with the values in the proposed interim rule to determine if application of the new values would tilt the cost/benefit balance in individual cases. All values in the table except those relating to waste management and reprocessing were to remain the same.

The Commission has decided to pattern the final interim rule after the original Table S–3. Supplements 1 and 2 provide detailed narrative explanation of the new values in Table S–3 and give greater illumination to the background and context of the revised values.

SCOPE AND PURPOSE OF SUPPLEMENTS AND RULE

At the outset the Commission wishes to make clear that its purpose in preparing Supplements 1 and 2 and the interim rule was quite limited. The sole purpose of preparation of Supplement 1 and the rule was to identify and quantify environmental impacts attributable to the reprocessing and waste management portions of the LWR fuel cycle. The environmental impacts so identified are to be used only in the preparation of environmental impact statements for individual light water reactors. Supplement 1 and the rule have fulfilled this purpose. It was not the purpose of this proceeding to decide which of the various waste management alternatives should or will be employed in practice, or to develop site selection criteria or to define parameters for licensing of any of the Energy Research and Development Administration's (ERDA) waste management facilities. A separate and comprehensive series of programs has been undertaken to serve these broader purposes. ERDA has several programs in progress including a program for the preparation of a generic environmental impact statement on high-level waste management, a program to evaluate geologic formations and specific sites for repositories, programs in research and development of waste solidification methods and development of interim storage sites. NRC's ongoing programs include the preparation of regulations for the licensing of ERDA waste management facilities and activities, the development of performance criteria for solidified high-level waste and the development of site suitability criteria for high-level waste repositories.

These programs are described in greater detail in Appendices B and C to Supplement 1 and other agency programs are described in Appendix F to Supplement 2. Supplement 1 itself and the S–3 rule are only a very small part of these ongoing activities.

In addition to these ongoing programs the Commission has undertaken the preparation of two generic environmental impact statements on fuel cycle issues. One, the Generic Environmental Statement on Mixed Oxide Fuels, "GESMO," is in the legislative hearing stage of a rulemaking proceeding. Work has commenced on the other, the Generic Environmental Impact Statement on Uranium Milling, and a draft statement is expected in mid-1978.

The Commission has used some of the information in the GESMO document, NUREG–0002, in its preparation of Supplement 1 and the interim rule in much the same manner as it has used other available literature. While the Commission realizes that additional information may be generated during the GESMO proceeding, all of the information used in the Supplement, including the relevant information from NUREG–0002, will be re-examined during preparation of the final fuel cycle rule and will be subjected to close scrutiny during public hearings on the final rule along with other available information. To the extent that comments in this proceeding have raised issues related to the material in the GESMO document, the Commission has independently evaluated the comments and taken them into account in this proceeding.

SUFFICIENCY OF INFORMATION AND ASSESSMENT

In order to fulfill its purpose of identifying in a generic proceeding the environmental impacts attributable to the reprocessing and waste management portions of the LWR fuel cycle, the Commission had to decide whether the information produced by Supplements 1 and 2 provided a sufficient basis for proceeding with an interim rule. The Commission addressed the question whether the risks of proceeding on the basis of information which may later be called into question in a final rulemaking proceeding outweigh the costs which would certainly flow from a hiatus in LWR licensing. See *National Air Carrier Association* v. *CAB*, 436 F. 2d 185, 191 (D.C. Cir. 1970). The costs attributable to a hiatus in licensing were explored by the Commission's Staff in a paper entitled "Impacts of Adopting or Not Adopting an Interim Rule Permitting Construction or Operation of Nuclear Power Plants" which was cited by the Commission in its Supplemental Statement of Policy (41 FR 49898) and placed in the Public Document Room along with NUREG–0116. The paper concluded that the environmental and economic costs attributable to a twelve-month delay in the licensing of reactors were substantial.

A number of comments on the Supplement and the proposed interim rule also dealt with the adequacy of this study. These comments are dicussed in detail in the document entitled "Response to Comments on a Staff paper entitled 'Impacts of Adopting or Not Adopting an Interim Rule Permitting Construction or Operation of Nuclear Power Plants' ". In the Commission's view, the study was adequate to fulfill its limited purpose of highlighting for the Commission and others the costs of a hiatus in licensing that would be caused by the failure to promulgate an interim rule. Even if environmental costs of a delay in licensing were excluded from consideration, the economic costs of a twelve-month delay would be high. Thus, the costs which would flow from a hiatus in licensing were explored by the Commission and the Commission has concluded that they would be substantial. However, as was noted above, costs alone could not determine the Commission's resolution of the question whether to proceed by interim rule. Against these costs must be weighed the risks of proceeding by interim rule where the sufficiency of the information supporting the rule might be later called into question during the final rulemaking proceeding on the permanent rule. Accordingly, the Commission critically examined the Supplement and, in light of some comments questioning its adequacy attempted to judge its quality.

The Supplement supporting the new interim rule (NUREG–0116) was the product of extensive effort by a Task Force comprised of a number of highly qualified individuals with years of experience in the field. Since a great deal of work in the field had already been completed when the Task Force began its analysis, the Task Force was not required to start completely fresh in its consideration of the issues. Supplement 1 is not merely an uncritical description of the available literature on the subject of reprocessing and waste management. Rather, the Task Force carefully examined voluminous amounts of information in the field, selected from those sources the best possible information available and then critically analyzed the information and, where warranted, rechecked calculations and performed independent analysis. Further, the Staff performed a detailed analysis of the comments received on the Supplement. The responses to every substantive comment received are contained in Supplement 2, NUREG–0216. Supplements 1 and 2 contain a detailed analysis of the impacts of waste management and reprocessing and provide a sufficient informational basis for the interim rule promulgated herein.

The Commission has observed that there are gaps in the information needed for detailed assessment of waste management and disposal technology. While there is the need to obtain additional data and to consider from time to time any new findings that would have a bearing upon the values set forth in Table S–3, the lack of some relevant data in certain areas by no means excuses the Commission from making an informed and reasoned judgment now regarding the environmental impacts which may flow from waste management and reprocessing activities.

The situation is analogous to the Atomic Energy Commission's issuance of interim acceptance criteria for emergency core cooling systems, as reviewed in *Union of Concerned Scientists* v. *AEC*, 499 F. 2d 1069 (D.C. Cir. 1974). As the AEC did in that instance, the Commission recognizes that "analytical methods capable of realistic prediction of all phenomena known or suspected to occur" in the course of waste management and disposal are not available and agrees that definitive experiments have not been carried out. However, the Commission's position, which is reflected in the Task Force Report as revised, is the same as the one that was given judicial acceptance in Union of Concerned Scientists:

> In the absence of such perfection, adequate assurance of safety can be obtained from an appropriately conservative analysis based on available experimental information. In areas of incomplete knowledge, conservative assumptions or procedures must be applied. When further experimental information or improved calculational techniques become available, the conservatisms presently imposed will be reevaluated and a more realistic approach will be taken. 499 F. 2d 1069, at 1086.

It should be noted that the interim rule does not deal with a safety question as did the emergency core cooling system but rather attempts to quantify the environmental impacts of reprocessing and waste management. "[C]onservative analysis based on available experimental information" is even more appropriate in such a case where the goal is not to reach a conclusion whether a level of safety has been met, but rather to develop values for use in environmental cost benefit analyses.

The Task Force Report (NUREG–0116) and the Comments and Responses (NUREG–0216) contain and document numerous conservatisms applied to the analysis of environmental impacts from waste management and reprocessing activities. In those few cases where detailed estimates could not be made, the Task Force exercised its expert judgment to reach a best estimate. Since a calculation could not be made, the conservatism of these few judgments cannot absolutely be established. However, it is the Commission's view that the impacts estimated on expert judgments are quite small in any case and that adequate conservatism has been applied.

The Commission would be reluctant to proceed if it believed the values in Table S–3, and the information from which they are derived, were called into question to any significant degree by substantial evidence, but this is not the case. *Union of Concerned Scientists*, 499 F. 2d at 1085. To some extent, as noted above, the setting of values in Table S–3 involved making "policy judgments where no factual certainties exist or where facts alone do not provide the answer." *Industrial Union Department, AFL–CIO* v. *Hodgson*, 499 F. 2d 467, 476 (D.C. Cir. 1974). In such cases—especially where the evidence is "difficult to come by, uncertain, or conflicting because it is on the frontiers of scientific knowledge"—it is appropriate for the Commission to proceed to apply its expertise; its conclusions must be rationally justified, not based on hunches or wild guesses, but conclusions may be drawn "from theoretical projections from imperfect data, from probative preliminary data not yet certifiable as 'fact', and the like." *Ethyl Corp.* v. *EPA*, 541 F. 2d 1, 28 (D.C. Cir. 1976); see also *Amoco Oil Co.* v. *EPA*, 501 F. 2d 722 (D.C. Cir. 1974). The Commission may, as to some extent it has done here, make probabilistic assessments that must suffice until data becomes "sufficiently quantifiable to yield to meaningful analysis." *Union of Concerned Scientists, supra*, 499 F. 2d at 1093.

The Commission has also been mindful of its obligation to identify the particular findings in the literature that it deems significant, *Portland Cement Association* v. *Ruckelshaus*, 486 F. 2d 375, 400 (D.C. Cir. 1973), cert. denied 417 U.S. 921 (1974), and to examine the reasons for mistakes in prior assessments in order that its assessment may be complete. In this regard, the Commission has examined past experiences in the waste management field. There, in several instances, past scientific judgments were shown to have been in error. However, one cannot look at those mistakes without recognizing that developments in technology have since occurred which make repetition of past mistakes less likely. Past experience has provided an indication of the types of impacts that are possible. Furthermore, the Supplement is based on very conservative assumptions regarding levels of releases. The Supplement has included in its model only technologies which are presently available and the Commission has made every effort to make the most thorough evaluation of the associated environmental impacts that the present state of available knowledge will permit.

In summary, the Commission has decided to proceed with promulgation of the interim rule. It has looked at the uncertainties and unknowns identified in the Supplement. It has weighed the risks of proceeding with licensing on the basis of the interim rule against the costs of not proceeding. The Commission has found that the costs of not proceeding outweigh the risks of proceeding by interim rule especially given the fact that a relatively short period of time, eighteen months, may pass before a more thorough discussion of the issues will be completed in the final rulemaking proceeding. There is no perceived need for the Commission to wait for site specific information or to wait for ERDA's generic environmental impact statement on high-level waste management. In some areas—including critical areas where a substantial measure of expert judgment had to be applied—it is unlikely that substantial new information of a quantitative nature will be available for years. As the Court said in *Citizens for Safe Power* v. *NRC*, 524 F. 2d 1291, 1297 (D.C. Cir. 1975):

> Absolute or perfect assurances are not required by (the Atomic Energy Act), and neither present technology nor public policy admit of such a standard. It was for the Commission to arrive at a rational, practical and principled conclusion upon the basis of reasonably available evidence.

INTERIM RULEMAKING

Some of the comments have raised the question whether an interim rule, without the benefit of oral hearings, is an appropriate mechanism for establishing the impacts presented in Table S–3. The Commission continues to believe that such action is fully warranted, in the light of the competing factors identified above.

The fixing of values under an interim rule is consistent with the opinion of the court in *NRDC* v. *NRC*, as well as settled case and statutory law. Indeed, interim rules may be adopted without any prior notice and opportunity for public comment if public procedures would be impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. § 553(b). The AEC's adoption of interim acceptance criteria for emergency core cooling systems was found to be a valid exercise of this authority, for example, in Union of Concerned Scientists, supra, 499 F. 2d at 1085.

Furthermore, the quality of the comments and of the Task Force responses to those comments as well as the additional information provided in the course of this interchange give the Commission confidence that no major issues lie hidden as a result of this procedure. While the Commission has chosen to use notice and comment procedures for this interim rulemaking, it intends to hold public hearings in connection with the final rulemaking to facilitate additional effective public participation. The time, place, and format for the hearing will be set forth in a separate FEDERAL REGIS-

[6] Note 1, supra, n. 17, at 1154–1155.

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TER notice. Such public hearings are, however, not required to satisfy any constitutional or statutory mandate and, therefore, the use of notice and comment procedures will suffice for interim rulemaking. In *NRDC* v. *NRC*, supra, the Court of Appeals for the District of Columbia Circuit referred neither to the Constitution nor to the Administrative Procedure Act when it set for itself the task "to decide whether the procedures provided by the agency were sufficient to ventilate the issues." 9 ERC at 1156. Rather, the court's analysis of asserted procedural inadequacies in the earlier S-3 proceedings apparently rests on judicial notions, fundamentally common-law in character, concerning what is required to produce a record that will facilitate judicial review.* The same court has stated, "Although we have recognized that provision of oral hearings may be wise in some instances, we have never held that due process requires oral presentation of views as a matter of course," *Pickus* v. *U.S. Board of Parole*, 543 F. 2d 240, 246 (D.C. Cir. 1976). In circumstances calling for prompt action it follows that use of notice and comment procedures for interim rulemaking is sufficient. The Commission has made every effort to present a full statement of available information, and to explain the reasons which persuade it to adopt, for a relatively short period, the values set forth in revised Table S-3.

In order to reflect its interim character, the rule that is presently being adopted will be made effective for the limited period of eighteen months. The Commission believes that final rulemaking proceedings can be completed within this period and wishes to stress that the present rule is only a temporary measure pending completion of the final rulemaking proceedings which will reflect additional public participation. However, if good cause is shown, the period of effectiveness of the interim rule can be extended.

The amended rule incorporating revised Table S-3 is being made effective immediately because the Commission has determined that it has good cause for doing so: the revised Table S-3 provides a more current and comprehensive basis for evaluation than does the original Table S-3; there is a need to base licensing decisions on the best available information; and the values in the interim rule are not substantially different from the values in the proposed interim rule upon which interested persons had the opportunity to comment. (Supplemental General Statement of Policy, 41 FR 49898, November 11, 1976; see also 5 U.S.C. 553(d)(3)).

Accordingly, any operating license, construction permit, or limited work authorization (LWA) that may hereafter be issued must take into account the revised values contained in this rule. Licenses, permits, or limited work authorizations issued before July 21, 1976 in which the originally effective chemical reprocessing and waste storage values of Table S-3 were utilized will remain effective, principally because the values in the new interim rule are not sufficiently different from the values in the original Table S-3 to warrant revocation or suspension on cost-benefit grounds. Any show cause or similar proceedings initiated in these cases pursuant to the August 16, 1976 General Statement of Policy will be terminated.

Operating licenses, construction permits, or limited work authorizations granted after July 21, 1976 and which therefore were subject to the outcome of the proceedings in *NRDC* v. *NRC*, will also remain in effect, and any show cause or similar proceedings initiated in response to the August 16, 1976 General Statement of Policy in these cases are also to be terminated. The values in the interim rule are not substantially different from those which, under the Commission's Supplemental General Statement of Policy, were required to be considered by Atomic Safety and Licensing Boards in connection with the issuance of such licenses. Where the Boards have found that the cost-benefit balance would not be tilted by the values in the proposed interim rule, no further proceedings are necessary since the values in the final interim rule are not substantially different from the values in the proposed rule. Similarly, cases now pending before the Boards in which the evidentiary record on fuel cycle impact issues has been compiled are to be decided on the basis of the existing record; since the interim rule values are not substantially different from those in the previously proposed rule, the reopening of the record to receive additional testimony would not appear to be justified.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the National Environmental Policy Act of 1969, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to 10 CFR Part 51 is published as a document subject to codification, to be effective on March 14, 1977.

10 CFR Part 51 is amended by revising § 51.20(e) to read as follows:

§ 51.20 Applicant's Environmental Report—Construction Permit Stage.

• • • • •

(e) In the Environmental Report required by paragraph (a) for light-water-cooled nuclear power reactors, the contribution of the environmental effects of uranium mining and milling, the production of uranium hexafluoride, isotopic enrichment, fuel fabrication, reprocessing of irradiated fuel, transportation of radioactive materials and management of low level wastes and high level wastes related to uranium fuel cycle activities to the environmental costs of licensing the nuclear power reactor, shall be as set forth in Table S-3, Summary of environmental considerations for uranium fuel cycle. No further discussion of such environmental effects shall be required. This paragraph does not apply to any applicant's environmental report submitted prior to June 6, 1974. The values set forth in Table S-3 in this paragraph will not be applied in any proceeding as of September 14, 1978.

TABLE S-3.—*Summary of environmental considerations for uranium fuel cycle*[1]

[Normalized to model LWR annual fuel requirement (WASH-1248) or reference reactor year (NUREG-0116)]

Natural resource use	Total	Maximum effect per annual fuel requirement or reference reactor year of model 1,000 MWe LWR
Land (acres):		
Temporarily committed[2]	94	
Undisturbed area	72	
Disturbed area	22	Equivalent to 110 MWe coal-fired powerplant.
Permanently committed	7.1	
Overburden moved (millions of MT).	2.8	Equivalent to 95 MWe coal-fired powerplant.
Water (millions of gallons):		
Discharged to air	180	≈3 pct of model 1,000 MWe LWR with cooling tower.
Discharged to water bodies	11,090	
Discharged to ground	134	
Total	11,378	<4 pct of model 1,000 MWe LWR with once-through cooling.
Fossil fuel:		
Electrical energy (thousands of megawatt hours).	321	<5 pct of model 1,000 MWe LWR output.
Equivalent coal (thousands of MT).	117	Equivalent to the consumption of a 45 MWe coal-fired powerplant.
Natural gas (millions of scf)	134	<0.3 pct of model 1,000 MWe energy output.
Effluents—chemical (MT):		
Gases (including entrainment):[3]		
SO_x	4,400	
NO_x[4]	1,190	Equivalent to emissions from 45 MWe coal-fired plant for a year.
Hydrocarbons	14	
CO	29.6	
Particulates	1,154	

See footnotes at end of table.

* As earlier indicated in note 1, supra, the Supreme Court has granted certiorari in *NRDC* v. *NRC*.

Natural resource use	Total	Maximum effect per annual fuel requirement or reference reactor year of model 1,000 MWe LWR
Other gases:		
F	.67	Principally from UF_6 production, enrichment, and reprocessing. Concentration within range of state standards—below level that has effects on human health.
HCl	.014	
Liquids:		
SO_4^{2-}	9.9	From enrichment, fuel fabrication, and reprocessing steps. Components that constitute a potential for adverse environmental effect are present in dilute concentrations and receive additional dilution by receiving bodies of water to levels below permissible standards. The constituents that require dilution and the flow of dilution water are: NH₃—600 ft³/s. NO₃—20 ft³/s. Fluoride—70 ft³/s.
NO_3^-	25.8	
Fluoride	12.9	
Ca^{++}	5.4	
Cl^-	5.5	
Na^+	12.1	
NH_3	10.0	
Fe	.4	
Tailings solutions (thousands of MT).	240	From mills only—no significant effluents to environment.
Solids	91,000	Principally from mills—no significant effluents to environment.
Effluents—radiological (curies):		
Gases (including entrainment):[4]		
Rn-222	74.5	Principally from milling operations and excludes contributions from mining.
Ra-226	.02	
Th-230	.02	
Uranium	.034	
Tritium (thousands)	18.1	
C-14	24	
Kr-85 (thousands)	400	
Ru-106	.14	Principally from fuel reprocessing plants.
I-129	1.3	
I-131	.83	
Fission products and transuranics.	.023	
Liquids:[5]		
Uranium and daughters	2.1	Principally from milling—included in tailings liquor and returned to ground—no effluents; therefore, no effect on environment.
Ra-226	.0034	From UF_6 production.
Th-230	.0015	
Th-234	.01	From fuel fabrication plants—concentration 10 pct of 10 CFR 20 for total processing 26 annual fuel requirements for model LWR.
Fission and activation products.	5.9×10^{-6}	
Solids (buried on site):		
Other than high level (shallow).	11,300	9,100 Ci comes from low-level reactor wastes and 1,500 Ci comes from reactor decontamination and decommissioning—buried at land burial facilities. 600 Ci comes from mills—included in tailings returned to ground—60 Ci comes from conversion and spent fuel storge. No significant effluent to the environment.
TRU and HLW (deep)	1.1×10^{7}	Buried at Federal repository.
Effluents—thermal (billions of British thermal units).	3,462	<4 pct of model 1,000 MWe LWR.
Transportation (person-rem): Exposure of workers and general public.	2.5	
Occupational exposure (person-rem).	22.6	From reprocessing and waste management.

[1] Data supporting this table are given in the "Environmental Survey of the Uranium Fuel Cycle," WASH-1248, April 1974; the "Environmental Survey of the Reprocessing and Waste Management Portions of the LWR Fuel Cycle," NUREG-0116 (Supp. 1 to WASH-1248); and the "Discussion of Comments Regarding the Environmental Survey of the Reprocessing and Waste Management Portions of the LWR Fuel Cycle," NUREG-0216 (Supp. 2 to WASH-1248). The contributions from reprocessing, waste management and transportation of wastes are maximized for either of the 2 fuel cycles (uranium only and no recycle). The contribution from transportation excludes transportation of cold fuel to a reactor and of irradiated fuel and radioactive wastes from a reactor which are considered in table S-4 of sec. 51.20(g). The contributions from the other steps of the fuel cycle are given in columns A-E of table S-3A of WASH-1248.

[2] The contributions to temporarily committed land from reprocessing are not prorated over 30 years, since the complete temporary impact accrues regardless of whether the plant services 1 reactor for 1 yr or 57 reactors for 30 yr.

[3] Estimated effluents based upon combustion of equivalent coal for power generation.

[4] 1.2 pct from natural gas use and process.

[5] Gaseous effluents from waste management contribute about 9 person-rem (total body) to offsite U.S. population per annual fuel requirement or reference reactor year for the uranium only recycle option. This contribution for the no recycle option is 170 person-rem. For comparison, all radiological gaseous effluents from fuel cycle operations contribute about 370 person-rem (total body) to offsite U.S. population per annual fuel requirement or reference reactor year. This dose is <0.002 pct of the average natural background radiation dose to this population. Fuel reprocessing contributes about 330 person-rem (total body) of the total of 370 person-rem to offsite U.S. population. Person-rem is an expression for the summation of whole body doses to individuals in a group. Thus, if each member of a population group of 1,000 people were to receive a dose of 0.001 rem (1 millirem), or if 2 people were to receive a dose of 0.5 rem (500 millirem) each, the total person-rem dose in each case would be 1 person-rem. The dose to the offsite U.S. population due to average natural background radiation is about 2×10^{6} person-rem per year. The Commission's final environmental statement on use of mixed-oxide fuel in LWR's (NUREG-0002) indicates a maximum release of about 4800 Ci of Rn-222 when contributions from mining are included. NUREG-0002 also indicates that mining contributes about 500 person-rem (total body) and that milling contributes about 100 person-rem (total body) of a total of about 610 person-rem (total body) to offsite U.S. population per annual fuel requirement.

[6] Liquid radiological effluents from reprocessing and waste management activities in the fuel cycle contribute 1.4×10^{-4} person-rem (total body) to offsite U.S. population per annual fuel requirement or reference reactor year. For comparison all radiological liquid effluents from fuel cycle operations contribute about 100 person-rem (total body) to offsite U.S. population per annual fuel requirement or reference reactor year. This dose is <0.0005 pct of the average natural background radiation dose to this population.

Effective date: The foregoing amendments take effect on March 14, 1977.

(Sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended, Pub. L. 94-83, 89 Stat. 424 (42 U.S.C. 4332); Sec. 161, as amended, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 202, Pub. L. 93-438, 88 Stat. 1244 (42 U.S.C. 5842))

Dated at Washington, D.C., this 7th day of March 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-7199 Filed 3-8-77;2:36 p.m.]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. FE 76-3; Notice 3]

PART 533—AVERAGE FUEL ECONOMY STANDARDS FOR NONPASSENGER AUTOMOBILES

Final Rule

AGENCY: National Highway Traffic Safety Administration.

ACTION: Final rule.

SUMMARY: This notice establishes average fuel economy standards for nonpassenger automobiles which are rated at 6,000 pounds gross vehicle weight or less and are manufactured in model year 1979. Vehicles affected by these standards include pickup trucks, vans, and four-wheel drive, jeep-type vehicles which are rated within that weight range. The standard for four-wheel drive nonpassenger automobiles which are jeep-type vehicles is 15.8 mpg. The standard for all other nonpassenger automobiles is 17.2 mpg. The purpose of these standards is to conserve gasoline by improving the fuel economy of the Nation's fleet of nonpassenger automobiles. The agency estimates that 102,500,000 gallons of gasoline will be saved annually by the 1979 nonpassenger automobile fleet, over 1976 levels. The decreasing world petroleum supply and the uncertain availability to this Nation of existing foreign petroleum, combined with the importance of petroleum to the national economy and standard of living have made these fuel economy standards necessary.

DATES: These standards will apply to the 1979 model year.

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SUPPLEMENTARY INFORMATION: The National Highway Traffic Safety Administration (NHTSA) is establishing average fuel economy standards for nonpassenger automobiles manufactured in model year 1979. These standards will appear in a new Part 533, added to NHTSA regulations by this action. The average fuel economy standards are issued pursuant to section 502(b) of Title V of the Motor Vehicle Information and Cost Savings Act, as amended. This final rule was preceded by a questionnaire last summer and a notice of proposed rulemaking (NPRM), 41 FR 52087, November 26, 1976. The rule proposed in the NPRM placed all nonpassenger automobiles 6,000 pounds gross vehicle weight rating (GVWR) or less in a single class, and established an average fuel economy standard of 18.7 mpg for that class. The NPRM specified that this proposed standard would be reduced in light of any effects of 1979 emissions standards and testing procedures established by the EPA.

Comments to the NPRM were received by NHTSA and were carefully evaluated in the process of developing the final rule. Most of the comments were submitted by automobile manufacturers. There were no comments received from consumer groups, or other public interest organizations.

A number of issues were raised by the comments received in response to the NPRM. The resolution of several of those issues has resulted in changes to the final rule. The major issues which have been raised, and their resolution, along with specific changes to the final rule, are described in the following discussion.

Summary of changes in the rule and its rationale. The final rule, which is still limited to nonpassenger automobiles 6,000 pounds GVWR or less, provides for two classes of nonpassenger automobiles, and a separate average fuel economy standard for nonpassenger automobiles in each class. The average fuel economy standard for four wheel drive, jeep-type vehicles is 15.8 mpg. The average fuel economy standard for all other nonpassenger automobiles is 17.2 mpg.

Comments received from the manufacturers indicated that a separate class of nonpassenger automobiles, with a separate average fuel economy standard, was appropriate for four-wheel drive jeep-type vehicles. Therefore, the agency is establishing two average fuel economy standards for nonpassenger automobiles manufactured in model year 1979, one for the jeep-type vehicles, and one for the remainder of nonpassenger automobiles. However, manufacturers of jeep-type vehicles will have the option of counting their vehicles in the special class for those vehicles, or in the general class of other nonpassenger automobiles.

As described fully in the NPRM, the proposed standard was based primarily on the domestic manufacturers' production plans for 1979. In brief, this approach was taken to avoid market shifts to heavier, less fuel economical vehicles, which could be precipitated, or aggravated by requiring manufacturers to take drastic measures to improve fuel economy on short notice. Also, the agency believes that the short leadtime before model year 1979 precluded major changes from current 1979 product plans. Both final standards are based primarily on the manufacturer's product plans for 1979. The agency continues to believe that the approach taken in the NPRM is appropriate, for the reasons stated therein.

For the general class of nonpassenger automobiles that excludes four-wheel drive jeep-type vehicles, the domestic manufacturers indicated in their comments to the NPRM that an average fuel economy in the range of 18.7 mpg to 19.0 mpg was attainable for model year 1979, assuming both 1976 Federal emissions standards and testing procedures. Chrysler projected an average fuel economy of 16.5 mpg for 1979, assuming 1979 Federal testing procedures and the 1979 emissions standards; if Chrysler's estimated fuel economy reduction of 13 percent for emissions and testing procedures is taken out of the 16.5 projection, Chrysler in effect projected an average fuel economy of 19 mpg under 1976 emissions standards and testing procedures.

As described below, the agency does not believe that the manufacturers fleet of 1979 nonpassenger automobiles will experience a fuel economy penalty from the 1979 Federal emissions standards. However, based on its own analysis and the comments received, the agency concludes that the change in the fuel economy testing procedures in model year 1979 will result in a reduction in measured fuel economy of 8 percent. Therefore, in the final rule, the proposed standard of 18.7 mpg is lowered to 17.2 mpg.

The standard for four-wheel drive jeep-type nonpassenger automobiles, like the standard for the balance of nonpassenger automobiles, is based on the projected fuel economy of the manufacturers, on an industry or market wide basis. American Motors Corporation (AMC), Toyota and Chrysler are the only manufacturers of vehicles in this subclassification of nonpassenger automobiles. The agency's analysis of Toyota's fuel economy potential indicates an average fuel economy for Toyota approximately 15 percent lower than AMC. Chrysler has been achieving higher fuel economy than Toyota, but not as high as AMC. Because AMC is the major manufacturer of the vehicles and is projecting the highest fuel economy, the standard was based on the fuel economy projections of AMC. AMC indicated in their comments that 17 mpg was an attainable average fuel economy for model year 1979. Based on its consideration of AMC's product plans, the agency believes that AMC can make some additional improvement in fuel economy by model year 1979. Therefore, the agency has concluded that a level of 17.2 mpg is attainable for AMC under 1976 emissions standards and fuel economy testing procedures. By applying the reduction in measured fuel economy resulting from changes in the testing procedures, the final 1979 standard for general utility, jeep-type vehicles is 15.8 mpg.

A number of comments criticized NHTSA's consideration of technology available to improve fuel economy. Notwithstanding their criticisms all manufacturers indicated that 18.7 mpg to 19.0 mpg, assuming 1976 Federal emissions and testing procedures, was achievable for model year 1979. Therefore, the agency does not believe a full discussion of the criticisms of its technological assessment is necessary at this time, but will consider those criticisms in future rulemaking.

Scope of the average fuel economy standard. International Harvester commented that, although the preamble to the NPRM indicated that only vehicles 6,000 pounds or less, GVWR, were intended to be subject to the standard, the tended to be subject to the standard, the proposed standard as drafted includes in its scope vehicles less than 10,000 pounds GVWR. International Harvester bases its comment on its interpretation of proposed Part 523, Vehicle Classification, which was published in the FEDERAL REGISTER on December 20, 1976 (41 FR 55371).

The agency believes that International Harvester has misinterpreted proposed Part 523. Under that proposed regulation, the only vehicles with a GVWR in excess of 6,000 pounds which would be determined to be "automobiles" within the meaning of Title V are vehicles which are manufactured primarily for use in transporting not more than 10 individuals, and which do not meet the criteria for automobiles capable of off-highway operation. If International Harvester's vehicles with a GVWR in excess of 6,000 pounds are not manufactured primarily for that use, those vehicles are not automobiles and, therefore, cannot be nonpassenger automobiles under the Vehicle Classification NPRM. If those vehicles are primarily manufactured for this use, but do not meet those criteria, the vehicles are passenger automobiles.

Off-road vehicles. AMC contends in its comment to the NPRM that its Jeep CJ vehicle is not an automobile within the meaning of section 501(1) of Title V. AMC contends that the Jeep CJ is designed, manufactured, and marketed primarily for off-highway operation. Under section 501(1), only vehicles which are "manufactured primarily for use on the public streets, roads, and highways" can be "automobiles". Since the title authorizes the setting of average fuel economy standards only for "automobiles", AMC is in effect contending that its Jeep CJ vehicle cannot be subject to a fuel economy standard under the title.

Although AMC in its comment to the NPRM for nonpassenger automobiles did not indicate why it believes that its Jeep CJ vehicle is manufactured primarily for off-road use, AMC did submit a fuller expression of its views on that subject in a comment to the Vehicle Classification NPRM. In addition, the Ford Motor Company submitted a comment to the Vehicle Classification NPRM which made a similar argument to the one made by AMC, that is, that certain vehicles, because of features making them capable of off highway operation, are not automobiles within the meaning of Title V because they are not manufactured primarily for use on the highways. AMC stated that Jeeps are manufactured primarily for off-road use because they are "built with low and medium speed capability and accommodate many off-road work-performing equipment accessories." Ford indicated that vehicles characterized by all five of the following features are not manufactured primarily for use on the highways: (1) Four-wheel drive, (2) high ground clearance in terms of approach, breakover, and departure angles, and running and axle clearance, (3) engine oil systems capable of operation at inclines up to a 60 percent grade, (4) relatively high axle ratios and heavy duty axle and suspension components, and (5) relatively high frontal area.

NHTSA has concluded that there is no merit in the claims of AMC and Ford that vehicles with the characteristics set out above are not subject to fuel economy standards because their off-road characteristics place them outside the scope of Title V. The characteristics set out by the manufacturers are merely characteristics of vehicles which are capable of off-highway operation. Neither manufacturer claimed that the vehicles referred to were not intended, or expected, to spend a substantial portion of their operating lives on the public streets, roads, or highways. Therefore, NHTSA believes that Congress intended these vehicles to be automobiles within the meaning of section 501 of Title V, and subject to fuel economy standards as nonpassenger automobiles. NHTSA bases its perception of Congressional intent upon the plain language of section 501, the uses of language identical to that used in other statutes where the vehicles referred to by Ford and AMC are clearly within the scope of those statutes, the legislative history of Title V, and the purpose from which the Title was enacted.

Congress clearly intended that vehicles capable of off-highway operation be subject to fuel economy standards as nonpassenger automobiles. The term "automobile capable of off-highway operation" is defined in section 501(3) of Title V. While such automobiles cannot be passenger automobiles, they can be subject to an average fuel economy standard under section 502(b) as "automobiles which are not passenger automobiles." Thus, a manufacturer must show more than an off-highway capability in order to show that a vehicle is beyond the scope of Title V.

In addition, a vehicle may be manufactured for more than one "primary" use. This interpretation of "primarily" is supported by the Supreme Court in *Board of Governors of the Federal Reserve System* v. *Agnew*, 329 U.S. 441 (1947). In "Agnew," the Supreme Court had to decide whether a securities firm which earned approximately two thirds of its revenue from brokerage, and less than one third from underwriting was "primarily engaged" in underwriting under the Banking Act of 1933. The Court believed that "primary" does not always mean "first," and stated, "An activity may be primary • • • if it is substantial." 329 U.S. at 426. Thus, under "Agnew," even if a vehicle was manufactured primarily for off-highway use, if highway use was a substantial use of the vehicle, it would be manufactured primarily for highway use also, and would therefore be subject to Title V.

The phrase "manufactured primarily for use on the public streets, roads, and highways," which is found in the definition of "automobile" in section 501(1) of Title V, and which is the key to the claims of Ford and AMC, is also found in the definitions of "motor vehicle" in section 102(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391(1)) and section 2(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901(15)). "Automobile" under Title V, and "motor vehicle" under both the Vehicle Safety Act and the Cost Savings Act, do not completely overlap (for instance, "automobiles" are limited to four wheeled vehicles, while "motor vehicles" are not so limited). However, with respect to a vehicle's identity as an on-road or an off-road vehicle, the terms "motor vehicle" and "automobile" seem to refer to the same vehicles. Looking at the experience with these vehicles under the Motor Vehicle Safety Act and the Cost Savings Act, it is clear that the vehicles referred to by AMC and Ford are on-road vehicles, with a capability for off-highway operation.

After more than a decade of regulation under the Vehicle Safety Act, both Ford and AMC have acted consistently with the view that vehicles referred to here were "motor vehicles". Indeed, AMC admits that the vehicles are designed to meet the Federal safety standards applicable to motor vehicles. Moreover, the legislative history of the Cost Savings Act specifically contemplates that jeeps are subject to that Act. S. Rept. No. 92-413, 92d Cong., 1st Sess., at 20. Congress must be assumed to have been aware of this long, unchallenged regulatory practice which covered the vehicles at issue here when drafting the language found in section 501 of Title V.

NHTSA also notes that these vehicles are considered by the Environmental Protection Agency (EPA) to be subject to the emissions standards, under the Clean Air Act, which apply only to vehicles "designed for transporting persons or property on a street or highway."

There is nothing in the legislative history of Title V which indicates that the intent of Congress was that the Title have a more narrow scope than that given by the NHTSA's interpretation. In its comment to the Vehicle Classification NPRM, Ford quotes the following passage from the legislative history of Title V, in support of its claim that vehicles with all the features which Ford discussed are not manufactured primarily for on-road use:

> The effect of the definitional scheme of the bill is to exclude entirely vehicles not manufactured primarily for highway use (e.g., agricultural and construction equipment, *and vehicles manufactured primarily for off-road rather than highway use*). (Emphasis supplied by Ford.)

The quoted language adds nothing to Ford's argument. Although this language gives some examples of the kinds of vehicles which Congress intended not to be subject to fuel economy standards under the title, e.g., agricultural equipment and construction equipment, those vehicles are not characterized by the features which are claimed by the manufacturers to establish that a vehicle was not manufactured for highway use. Furthermore, the language which Ford underscored by no means referred necessarily to the vehicles which Ford seeks to have excluded from the title. Other vehicles, such as racing cars, fork-lifts, and airport fire apparatus are just some of the other vehicles which are not manufactured primarily for on-road use.

Indeed, if anything, the quoted language supports NHTSA's position that its interpretation of the "manufactured primarily" language is correct, since the two examples of vehicles which were given have long been considered by the NHTSA to be off-road vehicles. Therefore, Congress seems to be adopting the NHTSA interpretation. Moreover, it should be noted that the quoted material referred to the definitional scheme as it existed in HR 7014. In that earlier version of Title V, there was no specific recognition of automobiles which are capable of off-road operation. Therefore, the House report referred to a definitional scheme that less clearly included off-road vehicles than the scheme enacted into law.

Moreover, Ford did not discuss the legislative history of Title V in the Senate. The bill originally passed by the Senate dealing with automotive fuel economy standards was S.1883. Section 503(7) of S. 1883 read:

> "Light duty truck" means any motor vehicle rated at 6,000 pounds gross vehicle weight or less which (A) is designed primarily for purpose of transportation of property including a derivative of such a vehicle, or (B) *has special features modifying such vehicle for predominant offstreet or offhighway operation and use.* (emphasis added).

Hence, the vehicles AMC and Ford seek to have excluded from the title were specifically included in the original Senate bill.

The text of S. 1883 was incorporated verbatim into the Senate version of S. 622; 41 Cong. Rec. S-16957 (daily ed., September 26, 1975). The conference report for S. 622, states that "average fuel economy standards shall apply to all new 4-wheeled motor vehicles (referred to as "automobiles") manufactured or

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imported into the United States which are rated at 6,000 pounds gross vehicle weight (GVW) or less", S. Rep. 94-516, at 153. In light of the express provisions of the Senate bill and the broadly inclusive statement in the conference report, the agency believes that the legislative history supports the NHTSA interpretation of the scope of Title V.

Finally, the purpose of the title dictates that its provisions, especially regarding the scope of its applicability, be given a liberal construction. Congress enacted Title V in response to the energy shortage and the pressing national need to reduce the consumption of gasoline. In light of the importance of energy conservation to the Nation's economic health and standard of living, NHTSA believes that Congress intended the title to have broad application, and that any interpretation of the Title that would have the effect of exempting an entire class of vehicles from regulation under the title must be firmly based in the language of the title or its legislative history. Neither AMC nor Ford has shown a clear expression of Congressional intent that the vehicles with the characteristics they described, making them suitable for off-road operation, should be exempt from fuel economy standards established under the Title. Indeed, as has been demonstrated, the intent of Congress would have those vehicles subject to the Title.

The agency realizes that the term "primarily", as used in the definition of passenger automobile in section 501(2) ("manufactured primarily for use in the transportation of not more than 10 individuals") is given a different meaning than when it is used in section 501(1) ("manufactured primarily for use on the public streets, roads and highways"). However, the agency believes that Congress did not intend that the word be used in the same sense in those two definitional sections. As discussed above, the use of the term "primarily" in the definition of "automobile" must be considered against a legislative backdrop of other statutes using the identical phrase, and the remedial purposes of Title V justifying a broad interpretation of those definitions which delineate the scope of its applicability. However, the use of the term "primarily" in the definition of "passenger automobile" brings other considerations into play. First, the need to give the term so broad a meaning is less compelling when the effect is not to include a vehicle in the scope of the Title, but only to place a vehicle into one of the categories clearly within the scope of the Title. Second, the definition of "passenger automobile", unlike the definition of "automobile" is not identical to existing definitions in other statutes with established interpretations. Third, since all automobiles carry at least one passenger, interpreting primarily to mean "substantial" would result in no automobile being classified as a nonpassenger automobile. Since Congress clearly intended that nonpassenger automobiles be considered apart from passenger automobiles, such an interpretation would defeat a clear Congressional intent.

Captive Imports. In the NPRM, the NHTSA indicated its tentative intent to calculate a single average fuel economy figure for domestic manufacturers which have captive imports by combining the captive imports with the domestically produced vehicles of those manufacturers. Captive imports are vehicles, such as the Chevrolet LUV and the Ford Courier pickup trucks, which are marketed by a domestic manufacturer but fabricated by a foreign manufacturer. It is anticipated that approximately 50,000 1979 LUV's and 50,000 1979 Couriers will be imported into this country. The agency noted that there were some questions about the propriety of this inclusion, including one relating to the meaning of the term "control" as used in section 503(c) of Title V and whether General Motors and Ford import these vehicles within the meaning of section 501(9) of Title V. Comments and information were requested from interested parties.

Comments were received from Chrysler, General Motors and Ford supporting the inclusion of the captive imports, and from the United Auto Workers (UAW) and AMC opposing the inclusion. Chrysler supported the inclusion of the captive imports because it believed this would allow the manufacturer to adopt the most cost-effective strategy for maximizing fleet fuel economy. General Motors supported the inclusion of the captive imports because it believed its ownership of 34 percent of the common stock of Isuzu (the producer of the LUV) plus its contractual control over the design, manufacture, and importing of the LUV vehicles makes General Motors the manufacturer under section 503(c) of Title V. Ford supported the inclusion of the captive imports because it believed Title V requires the separation of domestic and imported vehicles only for passenger automobiles, and because it believes its contractual arrangements with Toyo-Kogyo (the producer of the Courier) make Ford the importer of the Courier and hence the manufacturer under section 501(9). Ford also believes its contractual control over the design and manufacture of the Courier constitutes sufficient control to make it the manufacturer under section 503(c) of Title V. The UAW's opposition was based on its belief that the intent of the Title is to treat all imported and domestic vehicles separately, although it conceded that the language of the title mandates this separate treatment only for passenger automobiles. AMC objected because it believes the net effect of the inclusion of the captive imports would be to discriminate against non-importers and stimulate foreign production at the expense of domestic production.

The NHTSA has concluded that the inclusion of the captive imports in the model year (MY) 1979 fleet is proper. First, it is clear that Ford and General Motors are the statutory manufacturers of their captive imports. Under section 503(c), the term "manufacturer" includes anyone who "controls" the manufacture of the vehicle. The NHTSA believes that control is not limited to majority stock ownership. Rather, control may consist of either the ownership of a large enough block of common stock in a producer to constitute effective voting control of the firm, as we believe is true of General Motors' ownership of Isuzu stock, or contractual restrictions on the design and manufacture of the vehicle which essentially eliminate the producer's freedom to alter the production of the vehicle, which we believe is true of the contracts between General Motors and Isuzu and between Ford and Toyo-Kogyo. Therefore, we believe that General Motors' and Ford's relationships with the Japanese producers of these vehicles is sufficient to make General Motors and Ford the statutory manufacturers of these vehicles.

In addition, section 501(9) defines the importer of a vehicle to be its manufacturer. The NHTSA believes that acceptance of delivery in the foreign country and assumption of full responsibility for the shipment and import duties on the vehicles by a domestic firm, as is the case for Ford, is sufficient to make the domestic firm the importer of the vehicle, and hence its manufacturer.

Further, the NHTSA believes that separate treatment of domestic and imported NPA's is not required by the title. Section 503(b)(1) of Title V requires the separate treatment of domestic and captive import vehicles for passenger automobiles only. Section 503(a)(2) leaves open the question of whether to establish administrative requirements for separate treatment of domestic and captive import nonpassenger automobiles. The House report provides that procedures for calculating nonpassenger automobile average fuel economy are to be similar, although not necessarily identical to the procedures used for passenger automobiles. See H. Rept. No. 340, 94th Cong., 1st Sess. 91 (1975).

The provision in section 503(b)(1) for counting most captive import passenger automobiles together with the domestically-produced passenger automobiles in model years 1978 and 1979 provides the affected manufacturers with an opportunity to adjust to the separate treatment requirement. Most domestic manufacturers which have captive import passenger automobiles have comparable domestically-produced passenger automobiles also. The agency believes that if there is to be complete separate treatment of captive import and domestically-produced nonpassenger automobiles, there should be a similar adjustment period first. One factor in determining the nature of such an adjustment period is the absence of any domestically-produced nonpassenger automobiles that are comparable to the captive import nonpassenger automobiles.

The practical effect of not placing a limitation on counting the captive import nonpassenger automobiles in 1979 should be very small. The small, imported pickup truck market in this country, and Ford's and General Motors' share of it, have been fairly stable over

the past several years. The agency believes that this stability will continue through 1979. Therefore, the chances seem minimal of there being any significant increase in the number of captive import nonpassenger automobiles that could be attributed to the absence of a limitation. However, since the manufacturers believe that inclusion of captive imports will help them market a more fuel economical fleet of nonpassenger automobiles, the agency is willing to allow inclusion for model year 1979. Allowing such inclusion may result in some small fuel economy benefits. If it can be demonstrated in a petition for reconsideration that the absence of a limitation on the inclusion of captive imports would have a significant effect on the captive import market, the agency would consider amending the standard.

As to AMC's discrimination argument, it should be noted that while the inclusion of the imports may give a manufacturer importing nonpassenger automobiles with high fuel economy some added flexibility in achieving the standard, this flexibility is no greater than the flexibility that would be enjoyed by a manufacturer which domestically manufactures a number of nonpassenger automobiles with high fuel economy.

Finally, the agency wishes to emphasize again that the decision to include all captive import nonpassenger automobiles in the fleets of the domestic manufacturers which import them applies to model year 1979 only. As part of the rulemaking to begin this summer regarding nonpassenger automobile standards for after 1979, the agency is considering establishing a limitation similar to the one for captive import passenger automobiles in 1978 and 1979 and providing for completely separate treatment beginning in the early 1980's. In this connection, the agency will be gathering information regarding the desirability of this approach, and an appropriate base period, similar to the one specified in section 503(b)(2)(B) of the Act, for the purpose of calculating the limitation.

Classes of nonpassenger automobiles. In the NPRM, the agency proposed establishing a standard for nonpassenger automobiles as a single class. The agency stated that it did not have sufficient information to assess the desirability or other implications of a multiple class system, nor had it fully assessed the potential criteria for differentiating between or among classes, or the effect that a multiple classification system would have on the ability of a manufacturer to balance vehicles with high and low fuel economy.

Several comments discussed the classification issues which were raised in the NPRM. General Motors favored a single class for all nonpassenger automobiles, because such a system would allow a manufacturer maximum flexibility in meeting a standard. General Motors pointed out that a single class would enable the manufacturer to concentrate efforts for fuel economy improvement on its high volume products, while still being able to produce low volume, low fuel economy vehicles. General Motors indicated that a manufacturer might stop producing low volume, low fuel economy nonpassenger automobiles if those nonpassenger automobiles could not be balanced against other, more fuel economical nonpassenger automobiles. AMC argued that a single classification system favored large volume manufacturers with a broad product line which could balance low fuel economy vehicles against high fuel economy vehicles. AMC also argued that the vehicles which it produces, four-wheel drive, general utility jeep-type vehicles should be placed in a separate class because these vehicles were inherently less fuel economical than nonpassenger automobiles in general.

After considering these comments, as well as comments from International Harvester and Ford relating to separate classification, the agency has decided to establish a separate class for four-wheel drive, jeep-type vehicles. Because the agency intends that only four-wheel drive jeep-type vehicles, and not other four-wheel drive vehicles, such as some pickup trucks, be eligible for the separate class, the agency will allow only vehicles with wheelbases less than 110 inches to be eligible for the separate class. Each manufacturer of jeep-type vehicles will have the option of including those vehicles in the separate class, or including those vehicles in the general class of nonpassenger automobiles. In this way, the problems of both the manufacturer with a broad product line and the manufacturer with a narrow product line can be accommodated consistent with the purposes of Title V.

The basis for this decision is described below. The agency wishes to emphasize that the approach taken to the classification issue in this instance will not necessarily be used in the future when considering other manifestations of the classification issue.

Considering whether to establish a separate class for four-wheel drive, jeep-type vehicles brought into focus a problem in the analytical basis of the nonpassenger automobile fuel economy program. On one hand, section 502(b) clearly gives the agency the authority to establish separate classes of nonpassenger automobiles with each class having a separate standard. This grant of authority recognizes that there are some vehicles which have characteristics in some way related to fuel economy making them either very fuel economical or very fuel uneconomical, which may justify their being subject to a special standard. On the other hand, the fact that standards must be average fuel economy standards indicates that the manufacturers should be given some opportunity to balance vehicles with differing fuel economies to ensure, consistent with the need to conserve energy, that a reasonable variety of vehicle types can be produced to satisfy consumer demand.

In consideration of this problem, the agency made the following analysis. In the case of four-wheel drive, jeep-type vehicles, the agency considered whether the vehicles were necessarily low performers (in terms of fuel economy) as compared to nonpassenger automobiles as a group. After considering the relevant comments and other information concerning these vehicles, the agency determined that these vehicles were inherently low fuel performing vehicles in comparison with nonpassenger automobiles in general, due to characteristics such as four-wheel drive and high drive ratios.

After determining that the general utility vehicles had special characteristics relating to fuel economy which could justify a separate standard, the agency next considered the manufacturers of, the vehicles to determine whether all nonpassenger automobile manufacturers produce vehicles against which the low performing vehicles could be balanced. A single average fuel economy standard based on the performance of a variety of nonpassenger automobiles of both inherently high and inherently low fuel economy may not be feasible for a manufacturer of only the inherently low fuel economy nonpassenger automobiles. The manufacturer of only inherently low fuel economy vehicles would not be able to perform the balancing that was assumed in developing the standard, and would therefore be unable to meet the standard. The conference report admonishes the Administrator to weigh the benefits to the Nation of a given fuel economy standard against the difficulties of individual manufacturers in meeting the standard. In doing so, he is cautioned to consider the competitive and national economic implications of the standards that might severely strain any manufacturer. (S. Rept. No. 516, 94th Cong., 1st Sess. 154-155 (1975).)

AMC is a manufacturer of four-wheel drive, jeep-type vehicles which does not produce a significant number of high fuel economy vehicles against which its Jeep CJ could be balanced. Therefore, in light of the considerations discussed above, the agency deems the four-wheel drive, jeep-type vehicle to be an appropriate candidate for separate classification.

The agency also considered the effect of a separate classification on Toyota, another manufacturer of a general utility, jeep-type vehicle. Toyota produces mostly very high fuel economy nonpassenger automobiles, against which their Land Cruiser, which makes up approximately 17 percent of their total nonpassenger automobile production, can be balanced. In addition, the Land Cruiser is much heavier and has substantially lower fuel economy than the AMC Jeep CJ. Because the Jeep CJ represents a much larger part of the four-wheel drive, jeep-type vehicle market, the maximum feasible level of fuel economy would be influenced more by the Jeep CJ than the Land Cruiser. The agency believes that Toyota would be unlikely to spend substantial resources to improve the fuel economy of the Land Cruiser to the level

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where it could comply with the standard because that vehicle represents such a small portion of the Toyota fleet. Therefore, the agency believes it likely that Toyota would abandon the general utility, jeep-type vehicle market in this country rather than improve the fuel economy of the Land Cruiser, or pay a substantial civil penalty. The effect of Toyota's leaving the market would be to improve total average fuel economy of the nonpassenger automobile industry only slightly, but reduce competition in the general utility, jeep-type market under 6000 GVWR from two significant competitors to one. (Although Chrysler produces a four-wheel drive, general utility vehicle, Chrysler is not considered a significant competitive force since only 1700 of their vehicles were sold in model year 1976. Moreover, Chrysler's response to a standard for jeep-type vehicles is very difficult to gauge. Chrysler would have to improve fuel economy less than Toyota, but the Chrysler fleet of jeep-type vehicles is very small.) The agency believes that this lessening of competition should be avoided if possible, consistent with the need to conserve energy.

Therefore, the agency has given the manufacturers the option of including their four-wheel drive, jeep-type vehicles in the special class for such vehicles, or in the overall nonpassenger automobile class. In this way, AMC could meet a standard that was appropriate for its Jeep CJ, and Toyota would be able to balance the fuel economy of its Land Cruiser against the fuel economies of its highly fuel economical other nonpassenger automobiles if it chose to do so. By so doing, Toyota would be more likely to stay in the market.

The agency wishes to point out that the analysis leading to the decision to treat four-wheel drive, jeep-type vehicles, as a separate class is closely tied to the language and purpose of Title V. Thus, the agency expresses no opinion as to whether such vehicles should be treated separately for other regulatory purposes, such as safety or emissions control.

A final point must be made. Although the agency has determined that certain characteristics of four-wheel drive, jeep-type vehicles, result in those vehicles having an inherently lower fuel economy and therefore a lower fuel economy standard than more numerous nonpassenger automobiles, such as pickup trucks and vans, the jeep-type vehicles will still be expected to have improved fuel economy. The agency believes that these vehicles can improve fuel economy through weight reduction, technological improvements, and performance reductions consistent with their intended use.

Responsibility for compliance. Each manufacturer is responsible for the fuel economy of the complete automobiles that it produces in a single stage. With respect to automobiles manufactured by two or more manufacturers, the agency has issued a proposed rule that would, in most circumstances, place the responsibility for their fuel economy on the manufacturer of the incomplete automobile (frame and chassis structure, power train, steering system, suspension system, and braking system). (Notice of Proposed Rulemaking, Manufacture of Multistage Automobiles, 42 FR 9040, February 14, 1977). Under the contemplated scheme, such a manufacturer must determine the fuel economy of the automobiles it manufactures and include those automobiles in its fleet in calculating its average fuel economy. The incomplete vehicle manufacturer must also specify a maximum curb weight and a maximum frontal area with which the vehicle is to be completed. If the final stage manufacturer completes the automobile so as to exceed either maximum or if it sells the automobile as one manufactured in a model year subsequent to the model year during which the incomplete vehicle manufacturer produced the incomplete vehicle, that final stage manufacturer would then become the manufacturer of the automobile for purposes of Title V.

Measures to improve fuel economy. In the NPRM, the NHTSA discussed several methods which could be used by manufacturers of nonpassenger automobiles to improve the average fuel economy of their nonpassenger automobile fleets. These methods included such techniques as technological improvements, weight reduction, and performance reductions. Many comments directed at these discussions of fuel economy improvement techniques were received from manufacturers of nonpassenger automobiles. Virtually all these comments made the point that the NHTSA, in one way or another, had overstated the potential for fuel economy improvement in nonpassenger automobiles.

It is important to put the assessment of fuel economy improvement contained in the NPRM in the proper perspective. The NPRM proposed an average fuel economy standard of 18.7 mpg. This proposed standard was intended to be set at a level that all manufacturers could meet without substantially modifying their product plans for model year 1979. The 18.7 mpg standard also assumed that there would be no adverse fuel economy effects resulting from the emissions standard and fuel economy testing procedures established by the EPA for model year 1979. In developing the proposed standard, NHTSA performed an engineering analysis to determine the appropriate level at which to set the standard consistent with that intention and assumption. This engineering analysis, which contained the discussion of the fuel economy improvement measures that were criticized by the commenters, concluded that those manufacturers that did not indicate a planned level of fuel economy of 18.7 mpg for model year 1979, could achieve that level without a substantial modification of their product plans (41 FR 52092). The NPRM made it clear that the NHTSA analysis of fuel economy potential did not depend on manufacturers' employing any particular method or methods of fuel economy improvement. The NPRM clearly stated

> The agency wishes to emphasize that the proposed standard is a performance standard and, therefore, that the manufacturers would not be required to take any particular step discussed below. It is anticipated, however, that each manufacturer would take one or more of the steps and place its own unique emphasis on each of those steps. Thus, the fuel economy improvements derived from those steps by a particular manufacturer would vary from the percentage fuel economy improvements as calculated by the agency.

Thus, the discussion of methods by which fuel economy could be improved was only a general discussion of how some manufacturers of nonpassenger automobiles could modify their product plans slightly to achieve an average fuel economy of 18.7 mpg by model year 1979. Although, in general, weight reduction, performance, reduction, technological improvements, and aerodynamic improvements are the basic methods to improve automotive fuel economy, the discussion in the NPRM was clearly not an exhaustive list of the details of fuel economy improvement possibilities, nor a directive to manufacturers instructing them on how to improve fuel economy. The agency anticipated that each manufacturer would achieve 18.7 mpg as it determined was best for itself.

The comments by the manufacturers to the NPRM indicate that the manufacturers will be able to achieve an average fuel economy of at least 18.7 mpg, assuming no fuel economy consequences due to emissions standards and testing procedures. Ford and General Motors each recommended a standard which they derived by reducing the proposed 18.7 mpg standard by the claimed effects of EPA's actions regarding emissions and testing procedures for model year 1979. Thus, both Ford and General Motors appear to assume that they will be able to achieve an average fuel economy of at least 18.7 mpg, excluding the possible effects of the 1979 emissions standard and test procedures. An analysis of Chrysler's comments leads to the same apparent assumption that at least 18.7 pmg is achievable by 1979. Chrysler projected an average fuel economy standard for model year 1979 of 16.5 mpg, assuming 1979 emissions standards and testing procedures. Chrysler stated that the change in emissions standards from 1976 to 1979 would result in a fuel economy loss of approximately 5 percent, and the change in testing procedures would result in a measured fuel economy loss of 8 percent. If those fuel economy losses, totalling 13 percent, are taken out of the Chrysler projection, their projection would be 19 mpg in 1979, under 1976 emissions standards and test procedures.

Thus, although Ford, General Motors, and Chrysler all criticized the NHTSA analysis of fuel economy improvement potential, those companies did not claim that they were incapable of reaching at least 18.7 mpg. Indeed, they tacitly

agreed that 18.7 mpg, under 1976 emissions standards and test procedures is achievable. Therefore, there is no need for the NHTSA to change the final standard for model year 1979 in light of those comments. The proper level of the standard will depend on whether changes in the emissions standards or testing procedures result in reductions in fuel economy, not whether the NHTSA has correctly evaluated the fuel economy improvement potential through a particular combination of a variety of specified measures. However, the agency still believes, based on its analysis and considering the comments, that an average fuel economy level of 18.7 mpg, under 1976 emissions standards and testing procedures, is achievable without significant changes in product plans.

It is important to note that many of the comments received in this area are relevant to fuel economy standards for model years beyond 1979. They will be considered in connection with the development of those standards.

Effect of Federal emissions standards and testing procedures. EPA has established more stringent emission standards for model year 1979. EPA has also modified the testing procedures for measuring emissions for nonpassenger automobiles in model year 1979 (December 28, 1976, FR 56316). The test procedure changes establish a higher road load horse power requirement for test vehicles than the previous year. On the basis of various studies, EPA has concluded that the revised road load horsepower requirement is a more accurate description of conditions which an in-use vehicle experiences. Aside from a small increase in NOx any affect that the test procedure change has on fuel economy is a "measured" effect only; it has no impact on real, in-use fuel consumption of a vehicle.

The standard proposed by the NHTSA was based on the assumption that changes made by the EPA in the MY 1979 emissions standard and testing procedures applicable to nonpassenger automobiles would impose no fuel economy penalty or testing effect on vehicles of the manufacturers. NHTSA recognized, however, that this assumption was subject to some doubt, and indicated a willingness to revise the standard to take into account any such penalty or effect actually shown to exist. Comments and information on the existence and magnitude of these penalties were requested from all interested parties.

Comments were received from General Motors, Ford, Chrysler, AMC and International Harvester. Every manufacturer challenged the assumption that the revised EPA emissions standard and testing procedures would have no effect on average fuel economy. International Harvester believes the penalty due to the emission standard will be 10–15 percent. AMC estimated the combined penalty to be greater than 10 percent. The estimated fuel economy penalty due to the emission standard, including the effect of increased NOx emissions resulting from higher engine loading due to the revised test procedures, was 5 percent for General Motors, 3 percent for Ford, and 7 percent for Chrysler. General Motors estimates the fuel economy effect for revised testing to be 6.2 percent. Ford estimates the testing effect to be 9 percent. Chrysler estimates the testing effect at 6 percent. General Motors, Ford and Chrysler also submitted to the NHTSA the data upon which these estimates were made.

After a consideration of technology that will be available in model year 1979, and the ability to optimize engine calibration, and a careful analysis of the data supplied by the manufacturers, the NHTSA has concluded that the manufacturers have failed to show that there will be any penalty due to the tighter emissions standard. However, they have shown an effect of 8 percent due to the revised testing procedures.

The change in the EPA emissions standard that affects fuel economy is the lowering of the standard for NOx from 3.1 grams per mile (gpm) to 2.3 gpm. It is not disputed that meeting a more stringent NOx standard can result in taking product actions would cause a degradation of fuel economy from levels achieved by a vehicle meeting a less stringent standard. However, it is also true that a number of product actions related to emissions control can be taken to restore the lost fuel economy. For example, where NOx is reduced through engine recalibration which can result in lost fuel economy, the recalibration can be optimized to eliminate, or at least reduce, the fuel economy penalty. This optimization, or fine tuning, has occurred in the past as manufacturers have accumulated experience with the engine recalibration. Also, emissions control systems improve as the manufacturers gain experience with them, which can result in improved NOx control without a loss of fuel economy. Moreover, the use of existing emissions control systems, such as back pressure or proportional exhaust gas recirculation (EGR) systems can be expanded for nonpassenger automobiles. Finally, advance emission control systems, such as three way catalysts or electronic EGR exist and could be used for nonpassenger automobiles, although the agency recognizes that such advanced systems may not be cost effective in controlling NOx to meet a standard of 2.3 gpm.

In light of these possibilities for achieving increased emissions control while maintaining fuel economy, the agency assumed that by model year 1979, manufacturers would be able to meet the 2.3 gpm NOx standard without a degradation in fuel economy from the level achievable when the NOx standard was 3.1 gpm. The NPRM solicited comments on this assumption of no fuel economy loss due to a tightened NOx standard. Although manufacturers submitted a significant amount of information on the issue, the manufacturers failed to show that a NOx standard of 2.3 gpm would necessarily result in a loss of fuel economy.

General Motors tested five different vehicles to establish the magnitude of the fuel economy penalty due to the revised emission standard. The vehicles were tested before and after recalibration to reduce NOx from the level required to meet the 3.1 gpm NOx standard to the level required to meet the 2.3 gpm NOx standard. The recalibration consisted of increased EGR flow rates and/or spark retard. General Motors' test data is inconsistent with regard to the relationship between reduction in NOx and fuel economy. One vehicle met the new NOx standard as delivered and was not recalibrated from the calibrations used to meet the 3.1 gpm standard. Two vehicles of the same engine family showed small reductions in fuel economy and one vehicle showed a large reduction in fuel economy. General Motors averaged the data with no weighting to reflect sales mix and extrapolated the results to the percent NOx reduction for the MY 1979 emission standard level since the arithmetic averaged NOx reductions in their test did not meet a level required for the 2.3 gpm standard. The General Motors testing methodology was unsatisfactory because the sample tested did not adequately represent General Motors' fleet and no replicate tests and only one replicate vehicle configuration were included. Additionally, using a nonweighted average is improper unless the results from one engine family are representative of all engine families. This was not shown to be the case for General Motors data which indicated a wide range of results. In addition to the inconsistency of the test results, and the flaws in methodology, the other serious deficiencies in General Motors test program were that it considered no improved emission control technology, especially improved EGR systems, and the recalibrations were not optimized.

Ford tested five nonpassenger automobiles in three engine families with one replicate vehicle configuration in two of the engine families. Ford data were the best submitted by a manufacturer since they had replicate vehicles and repeat tests (from two to four of each). Again, however, not all vehicle configurations were represented. Ford's vehicle recalibration was successful in meeting target emission levels although one vehicle met the revised emission standard by a sufficient margin without recalibration. However, the recalibrations were performed on current emission control systems and no mention was made of improved EGR systems. Also, there was no evidence that the calibrations were optimized. For the replicate vehicles, there was considerable variability in the effect of the recalibrations. It was concluded that Ford data, like the GM data, demonstrated an inconsistent effect on fuel economy of meeting a NOx standard of 2.3 gpm and demonstrated wide vehicle variability. It was also noted that in one case a recalibration to reduce NOx emissions improved fuel economy. This is evidence that other calibrations were not optimized. Ford arrived at its claimed fuel economy penalty by arithmetically

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averaging the results of its tests. This is improper unless the same results are expected for each engine family. In addition to its test data, Ford supplied supplemental data on the effects of the tighter California emission standard on fuel economy. The NHTSA believes the data are of limited usefulness because they rely on existing emission control technology for the California fleet, which is a small portion of the total fleet. Needs of the California fleet may not justify major changes in control techniques from those applied to the 49 state fleet. Moreover, the Ford data regarding California vehicles is inconsistent. Ford indicated that going from an engineering goal to meet a NOx standard of 3.1 gpm to a goal to meet a standard of 2.0 gpm in California resulted in a 10 percent reduction in fuel economy. However, Ford stated that the penalty from going from 3.1 to 2.3 for the 49 state fleet would result in a penalty of only 2 percent. In light of this discrepency, the agency believes that comparisons with California vehicles are not particularly compelling.

Chrysler recalibrated three MY 1979 passenger cars from a 2.0 gpm NOx standard level to a 3.1 gpm NOx standard level and interpolated the resulting fuel economy penalty for a reduction in NOx from 3.1 gpm to 2.3 gpm. All vehicles were tested twice, but no identical vehicles or additional configurations were included. The results showed considerable variability in the claimed effect on fuel economy of the MY 1979 emission standard. The most serious deficiency, in NHTSA's opinion, is the fact that they tested passenger automobiles rather than nonpassenger automobiles. Besides the differences in attributes such as axle ratios between nonpassenger automobiles and passenger automobiles, the recalibration of model year 1977 vehicles ignores the improvements in the emission control systems and calibrations between MY 1976 and MY 1977 for passenger automobiles. Also, no allowance is made for similar improvements in nonpassenger automobiles emission control systems and calibration optimization by MY 1979. Chrysler also supplied a comparison of 49-State and California fleets of nonpassenger automobiles. This comparison is subject to the same criticism as for that of Ford.

NHTSA performed a statistical analysis of the data submitted by the manufacturers to assess the reliability of the data for estimating the level of penalty they claimed. A 95 percent confidence interval (i.e., the range of values within which the true level of any penalty lies with a 0.95 probability) was calculated for the claimed fuel economy penalty for each manufacturer and for the total fleet. The results of this analysis showed that even if the analysis considered improvements in emissions control technology and optimization of recalibration, and even if the vehicles tested were representative of the manufacturers' fleets, the claims of the manufacturers are not supported by the data because of the wide range of the confidence interval.

In conclusion, NHTSA considers the manufacturers' claims of a fuel economy penalty resulting from the need to reduce NOx emissions in MY 1979 to be unsupported by their submissions. NHTSA considers the results of a proper recalibration program more compelling than any other means of supporting a claim. The recalibration programs undertaken by the manufacturers were in some cases unsuccessful in reducing NOx emission to the levels desired. More importantly, the recalibrations performed neither demonstrate nor anticipate optimization of calibration nor new technology. Given the fact that the recalibration programs were inconsistent and inconclusive, NHTSA must rely on recognizing past accomplishments and on anticipating new technology. EPA has stated in their rulemaking action for the MY 1979 emission standard that there does not have to be a fuel economy penalty associated wih its standard if the manufacturers have enough leadtime to optimize calibrations and control system designs. NHTSA agrees that there doesn't have to be a penalty if leadtime exists for recalibration optimization. Past performance indicates sufficient leadtime exists. However, NHTSA does not say there will be no penalty. Rather, the agency believes that the manufacturers have not demonstrated a penalty. The average fuel economy standard for model year 1979 has been set with no reduction included for the MY 1979 emission standard. However, the agency is open to submissions of further test data and leadtime information that will support the manufacturer's claims.

Unlike the situation with the change in emissions standards, the change in testing procedures, which include an increase in the roadload horsepower setting of approximately 30 percent, will definitely result in a decrease in measured fuel economy. Manufacturers submitted data to show the effect of the revised testing procedure on measured fuel economy. The agency performed an analysis of the data submitted by the manufacturers.

The agency believes that the data submitted by Ford are the most meaningful because of the large number of vehicles tested (96 vehicles) in 550 separate tests, the testing of many identical vehicles, and because many of the tests were repeated. This amount of data enabled the NHTSA to use a statistical analysis procedure to show that if a 95 percent confidence interval for the effect on fuel economy for the entire fleet of Ford nonpassenger automobiles were computed, this fleet average effect would have a narrow confidence interval range, and would be considered to be highly reliable. The General Motors data are considered less reliable because of the fewer number of vehicles tested, the fact that there were no tests on identical vehicles, no tests were duplicated, and the data are highly variable. Chrysler's data are considered less reliable than Ford's because only 2 of 3 engine families were tested, and there were no tests of all vehicle configurations or duplicate tests. After a careful analysis of these results, the NHTSA believes the manufacturers have demonstrated an 8 percent fuel economy effect and the average fuel economy standard has been reduced to reflect this effect. This effect reflects primarily the results of the Ford analysis. However, for use on an industry wide basis, the effect demonstrated by Ford has been reduced slightly in light of differences between the Ford fleet, and the industry fleet. For example, Ford produces a greater percentage of 6 cylinder engines than the industry average. In addition, Ford's average frontal area is larger than the industry average, which would cause a higher percentage of increase in road load. Both of these facts would result in a greater fuel economy effect. Also Ford produces a higher percentage of 4,000 pound inertia weight nonpassenger automobiles than the industry as a whole does. The percent increase in road load horsepower is greater for these lighter vehicles. Thus, the effect of the testing procedures on the industry average fuel economy would be slightly less than on Ford's average fuel economy.

Although the NHTSA is applying this correction for model year 1979, it will be revised in future model years if further data or analysis indicate that is appropriate.

Effect of California emissions standards. Ford stated that the 1979 emissions standards for California, which are more stringent than the 1979 Federal standards, will result in its California fleet of nonpassenger automobiles having an average fuel economy approximately 6 percent lower than its Federal fleet. Ford stated that the effect of the California fleet would be to lower the average fuel economy of its 50 state fleet by 0.1 mpg. Chrysler provided information showing that its California fleet will lower the average fuel economy of its 50 state fleet by 0.3 mpg. The NHTSA recognizes that emissions requirements for vehicles sold in California, and the different mix of vehicles sold in California may have the effect of lowering the 50 state average fuel economy of a manufacturer of nonpassenger automobiles. However, neither Ford nor Chrysler made an adequate case for lowering the proposed standard because of the effect of the California vehicles. Ford, in information provided to the NHTSA in response to the agency's questionnaire circulated last summer, projected an average fuel economy for its nonpassenger automobiles manufactured in model year 1979 in excess of 19 mpg, without considering the effects of the 1979 Federal emissions standards and testing procedures. Although Ford's California vehicles may lower its 50 state average fuel economy by 0.1 mpg., Ford will still be capable of achieving a level of fuel economy under 1976 Federal emissions standards and testing procedures that is higher than the 18.7 proposed in the NPRM. Likewise, although Chrysler indicated some effect of the California standards on its average fuel economy,

Chrysler still projected an average fuel economy for 1979 of 16.5 mpg, based on 1979 Federal testing procedures and emissions standards. If the fuel economy penalty and testing penalty estimated by Chrysler for emissions and testing procedures of 13 percent is taken out, Chrysler in effect projects a fuel economy of 19.0 mpg for 1979. Therefore, although California standards may make achievement of the level of 18.7 mpg, under 1976 Federal emissions standards and testing procedures, more difficult, there is no showing by Chrysler or Ford that the California standards make achievement of the level 18.7 mpg infeasible.

Comparison of proposed standard for nonpassenger automobiles with standard established for passenger automobiles. In section 502(a)(1) of Title V, Congress established an average fuel economy standard for passenger automobiles manufactured in model year 1979 of 19.0 mpg. Congress established no standards for nonpassenger automobiles. Several commenters have argued that the proposed average fuel economy standard for nonpassenger automobiles of 18.7 mpg was too high, based on a comparison between the proposed nonpassenger automobile standard and the passenger automobile standard established by Congress. General Motors stated that there was an average difference in inertia weight of 500 pounds between passenger automobiles and nonpassenger automobiles and if the fuel economy costs of the extra 500 pounds were considered, the fuel economy standard for nonpassenger automobiles should be no more than 16.9 mpg to be consistent with the standard for passenger automobiles. Chrysler argued that an average fuel economy standard for nonpassenger automobiles which was only 0.3 mpg below that set for passenger automobiles failed to take into account the differences between passenger and nonpassenger automobiles. In particular, Chrysler stated that if the nonpassenger automobile standard remained at 18.7 mpg, after considering the effect of emissions standards and testing procedures that will be in effect in model year 1979, that standard would be equivalent to a standard of 21 mpg calculated under the emissions standards and testing procedures which Chrysler stated were used by Congress in establishing the passenger automobile standard of 19.0 mpg.

The NHTSA believes that these comments do not contain a legitimate reason for lowering the proposed fuel economy standard for nonpassenger automobiles. Title V does not require, or even hint, that the fuel economy standard which the agency establishes for nonpassenger automobiles must be comparable to the standard which Congress set for passenger automobiles. What Title V requires is that average fuel economy standards established by the agency for nonpassenger automobiles be set at the level of maximum feasible fuel economy. This is what the agency has done. In addition, because the agency is analyzing fuel economy potential on the basis of data that are current now, rather than data that were current in 1975 when Title V was drafted, the agency believes that its own analysis of the proper level of fuel economy is deserving of greater weight than the earlier analysis of Congress.

Cost and benefit analysis. The NPRM contained a summary of costs and benefits concerning the proposed average fuel economy standard for nonpassenger automobiles. Ford stated that the NHTSA overstated the benefits and understated the costs of the proposed standard. Specifically, Ford stated that (1) the value of the gasoline saved was overstated because the price of gasoline assumed by NHTSA, $.65 per gallon, included an excise tax of $.13 per gallon, (2) the mileage used for calculating fuel savings should reflect the fact that annual vehicle mileage decreases as the vehicle grows older, and that the assumed vehicle life should reflect vehicle mortality statistics rather than an average life of ten years, (3) performance reductions in vehicles are not "virtually cost free", as stated in the NPRM, but have increased costs to consumers through reduced carrying capacity and increased trip time, (4) the cost of meeting the standard, if the proposed standard of 18.7 mpg is not reduced because of the penalties from 1979 emissions standards and testing procedures, will be at least $100.00, rather than the $12.00 assumed by NHTSA, (5) the cost increase due to meeting the 1979 emissions standards is higher than assumed by the NHTSA, and (6) the weight reduction which NHTSA speculated might be necessary for General Motors to meet the standard can not necessarily be achieved for the cost estimated by NHTSA ($10.00–15.00 variable cost per vehicle and $500,000 investment), and that there is little correlation among particular weight reduction, variable costs, and investment levels associated with different components.

With respect to Ford's comment on the proper value of gasoline, it should be noted that the benefit and cost summary that was contained in the NPRM related to benefits and costs to consumers. Therefore, since consumers pay the excise tax on gasoline, it is proper to include that tax in a computation of the value of saved gasoline to the consumer. It is also important to note that the NHTSA considers $.65 per gallon to be a conservative estimate of the value of gasoline. The diminishing gasoline resources, and the uncertainty of the the availability of petroleum for manufacturing gasoline, which led Congress to establish the mandatory fuel economy program, give the agency reason to believe that the current pump price of gasoline is not an adequate indicator of its true social value.

The annual mileage figure used by the agency to calculate fuel savings was found in the Census of Transportation, 1972 Truck Inventory and Use Survey, published by the United States Bureau of the Census. Although annual vehicle mileage decreases with the age of the vehicle, assuming constant 11,000 miles per year for the vehicles life does not result in an inaccurate evaluation of total costs. It is the consideration of the total costs of the standard which the agency must consider.

The summary of costs and benefits of the proposed standard considered only quantifiable expenditures and savings relating to the standard. Although Ford is correct that there may be some additional costs of the improved fuel economy in terms of reduced utility, these nonquantifiable costs were not contained in the summary of costs and benefits. Since the final rule, like the proposed rule, is based upon the manufacturers' product plans for model year 1979, these performance costs are not expected to be great.

Ford contended that meeting the average fuel economy standards would result in an average retail price equivalent increase of at least $100.00 per vehicle, if the proposed standard of 18.7 mpg were not reduced for emissions and testing penalties. Since the final standard reflects a substantial reduction from the proposed standard of 8 percent, due to the change in the fuel economy testing procedures, the agency assumes that the estimated price increase of $100.00 is no longer applicable. Although some price increase may be likely to meet the final standard, there is nothing in the Ford comment to indicate that the NHTSA estimate of $24.00 per vehicle retail price increase ($12 cost to the manufacturer, with a markup of 100 percent) is an incorrect estimate of that increase.

With respect to the costs of fuel economy testing and compliance with emissions requirements, the figures assumed were supplied to NHTSA by the EPA, and represent its estimate of the average industry costs. The EPA estimate includes allowances for reuse of the vehicle. The Ford comment does not seem to recognize that an entirely new vehicle is not necessary to test each base level. Changes in recalibration and axle ratios can be made to vehicles, and allow some of the testing costs to be spread over a number of tests. Therefore, Ford's estimate of testing costs seems high. However, even assuming that Ford's estimates of the cost of testing are correct, that higher testing cost is not a basis for modifying the standard; or deciding not to establish a standard. The agency is required by section 502(b) of Title V to establish an average fuel economy standard for nonpassenger automobiles manufactured in model year 1979. Therefore, even assuming that Ford's estimate of testing costs represents a legitimate upper limit of the range of reasonable estimates of testing costs, the agency would not modify its decisions on the basis of the Ford cost figures.

With respect to Ford's contention that there is little correlation between particular weight reduction, variable cost, and investment level, the agency realized that some ways of taking weight out

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of a nonpassenger automobile are more expensive than others. In evaluating the costs of weight reduction, the agency assumed that the manufacturer would attempt to use less expensive techniques of weight reduction.

In light of the foregoing, Title 49, Code of Federal Regulations, is amended by adding a new Part 533, Average Fuel Economy Standards for Nonpassenger Automobiles, to read as set forth below.

Issued on March 8, 1977.

JOHN W. SNOW,
Administrator, National Highway Traffic Safety Administration.

Sec.
533.1 Scope.
533.2 Purpose.
533.3 Applicability.
533.4 Definitions.
533.5 Requirements.
533.6 Measurement and calculations procedures.

AUTHORITY: Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976.

§ 533.1 Scope.

This part establishes average fuel economy standards pursuant to section 502(b) of the Motor Vehicle Information and Cost Savings Act, as amended, for nonpassenger automobiles.

§ 533.2 Purpose.

The purpose of this part is to increase the fuel economy of nonpassenger automobiles by establishing minimum levels of average fuel economy for those vehicles.

§ 533.3 Applicability.

This part applies to manufacturers of nonpassenger automobiles.

§ 533.4 Definitions.

(a) *Statutory terms.* (1) The terms "average fuel economy," "average fuel economy standard," "manufacture," "manufacturer," and "model year" are used as defined in section 501 of the Act.

(2) The term "automobile," is used as defined in section 501 of the Act and in accordance with the determinations in Part 523 of this chapter.

(b) *Other terms.* As used in this part, unless otherwise required by the context—

"Act" means the Motor Vehicle Information Cost Savings Act, as amended by Pub. L. 94-163.

"Nonpassenger automobile" is used in accordance with the determinations in Part 523 of this chapter.

"Jeep-type vehicle" means a 4-wheel drive, general purpose automobile capable of off-highway operation that has a wheelbase not more than 110 inches, and that has a jeep-type configuration.

§ 533.5 Requirements.

(a) Each manufacturer of nonpassenger automobiles shall comply with the requirement in paragraph (b) of this section, or, at the option of the manufacturer, shall comply with the requirements of paragraph (c) of this section.

(b) The average fuel economy of all nonpassenger automobiles manufactured in model year 1979 by a manufacturer described in paragraph (a) of this section, shall be not less than 17.2 mpg, as determined under § 533.6.

(c) (1) The average fuel economy of all nonpassenger automobiles, except jeep-type vehicles, manufactured in model year 1979 by a manufacturer described in paragraph (a) of this section, shall be not less than 17.2 mpg, and

(2) The average fuel economy of all jeep-type vehicles manufactured in model year 1979 by a manufacturer, described in paragraph (a) of this section, shall be not less than 15.8 mpg, as determine under § 533.6.

§ 533.6 Measurement and calculation procedures.

(a) Any reference to a class of nonpassenger automobiles manufactured by a manufacturer shall be deemed—

(1) To include all nonpassenger automobiles in that class manufactured by persons who control, are controlled by, or are under common control with, such manufacturer; and

(2) To exclude all nonpassenger automobiles in that class manufactured (within the meaning of paragraph (a) (1) of this section) during a model year by such manufacturer which are exported prior to the expiration of 30 days following the end of such model year.

(b) The average fuel economy of all nonpassenger automobiles that are manufactured by a manufacturer and are subject to § 533.5(b) or to § 533.5(c) shall be determined in accordance with procedures established by the Administrator of the Environmental Protection Agency under section 503(a)(2) of the Act.

[FR Doc.77-7271 Filed 3-8-77;2:37 pm]

CHAPTER VI—URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[OST Docket No. 51; Notice 77-8]

PART 609—TRANSPORTATION FOR ELDERLY AND HANDICAPPED PERSONS

Transit Bus Requirements

AGENCY: Urban Mass Transportation Administration, Department of Transportation.

ACTION: 1. Final rule; 2. Adoption of interim procurement procedures for advanced design buses.

SUMMARY: One purpose of this document is to amend further the regulations on transportation for elderly and handicapped persons (see 41 FR 45842, Oct. 18, 1976). By notice published in the FEDERAL REGISTER of February 16, 1977 (42 FR 9654) those regulations were amended to postpone until May 27 a requirement that where a recipient of Urban Mass Transportation Administration ("UMTA") funds issues a bid solicitation for new standard, full size, urban transit buses, such buses must have a 24" effective floor height and an 8" high front door step. Today's amendment postpones those requirements pending further action and also makes a technical correction in the February 16 FEDERAL REGISTER Notice which inadvertently used a May 27, 1977 date when May 31, 1976 was intended. The February 16 Notice also announced that the Department of Transportation (DOT) would hold a public hearing on March 15, 1977 to obtain advice concerning advanced design bus development and the Transbus program. A decision on that issue was promised by May 27, 1977. The final rule which incorporates these amendments and which appears at the end of this document is effective immediately; it will remain in effect at least until the decision promised by May 27, 1977 is made and implemented. Adequate time will be allowed if the decision requires bus manufacturers to retool or undertake similar activities.

The second purpose of this document is to adopt procedures to implement a policy, announced by DOT in the February 16 Notice, to permit UMTA grantees, at their option, to acquire either current or advanced design buses ("ADBs"). The procedures adopted today provide for an adjusted low bid format for procurement of advanced design buses. Existing UMTA low bid procedures will remain in effect for the acquisition of current buses.

FOR FURTHER INFORMATION CONTACT:

David A. Jewell, Director of Public Affairs, Office of the Secretary of Transportation, 400 7th Street SW., Washington, D.C. 20590. (202) 426-4570.

SUPPLEMENTARY INFORMATION:

1. *Introduction.* In the February 16 Notice, DOT stated that it recognized the need for transit bus policies and procedures that are designed to promote a viable and competitive bus manufacturing industry, to ensure a predictable and consistent federal policy that permits transit operators and manufacturers to make informed business decisions, to encourage development of new technology, and meet the needs of the elderly and handicapped and all other persons. Consistent with that need the February 16 Notice announced the March 15 public hearings and specified those issues on which the Secretary wished to receive comments. Requests to testify at the March 15 hearing have been received and acted upon.

The February 16 Notice also indicated that the Secretary wished to develop interim bus procurement procedures to remain in effect until his decision following the March 15 hearing is implemented. The Notice, therefore, requested the submission, on or before February 24, 1977, of written comments suggesting what interim procurement procedures should be adopted. Comments were received, read and evaluated, and DOT staff met with representatives of bus manufacturers, a trade association and elderly and handicapped groups to receive their suggestions. Minutes and tapes of these

meetings and copies of all written comments are available for public inspection from the Docket Clerk, Office of the General Counsel, Department of Transportation, 400 7th Street SW., Washington, D.C.

2. *The Adopted Procurement Procedure.* In approving the interim bus procurement procedure, the Secretary's objectives are: (1) To promote a viable and competitive bus manufacturing industry from which no manufacturer is precluded from participation (although Federal policy should not be directed in favor of any particular manufacturer); (2) not to prejudge the issues that are the subject of the March 15 hearing; and (3) to ensure the development of new technology buses that meet the needs of all segments of the public including those special requirements of elderly and handicapped persons.

The interim procurement procedure adopted today provides for existing low bid procedures for acquisition of current design buses and an adjusted low bid procedure for acquiring ADBs.

The procedure requires UMTA to establish a specification for a baseline ADB (one which indicates the basic features that every ADB must contain) and a series of price offsets for optional features offered on each manufacturer's ADB. A price offset is a monetary value established by UMTA for certain features, or a method for calculating that value for features subject to local variations (e.g., local maintenance costs which may vary according to local wage rates). Bidders (manufacturers) must meet the baseline specification and must offer a price for the total vehicle, including such optional features as the manufacturer chooses to include. The amount of the price offset for each optional feature would be made public and known to manufacturers before they decide which features to include in a given bus. The manufacturer's total price will be adjusted by subtracting the established value of the options included in that price. Awards will be made to the responsive and responsible bidder with the lowest adjusted bid price.

While the UMTA-established price offsets will be the norm, an important feature of this procurement procedure is that grantees may request review of any price offset in light of their own unique transportation conditions or needs. If a grantee can show that a change is warranted by local conditions or needs, UMTA will change the price offset for that particular locality. UMTA will announce the minimum baseline specification and the price offsets for use in procuring ADBs within three weeks of the date this announcement appears in the FEDERAL REGISTER. After that time grantees may begin the procurement process including seeking reviews of price offsets as necessary. Manufacturers may seek review of price offsets once the grantee's review process is completed and price offsets for a particular procurement have been established by UMTA.

3. *Other procurement procedures considered.* (1) Use of UMTA section 5 funds (those which a grantee may use, at its option, for either capital improvements or operating assistance) to pay for any advanced features beyond those contained in current generation buses. This option was rejected as unfair to cities which had already made plans for those funds and as possibly resulting in a deterrent to the manufacture of ADBs and a penalty to those cities which wish to buy them.

(2) A market allocation system that would assure the three existing domestic manufacturers of standard size transit buses a guaranteed share of the market. This option was rejected because it would preclude other manufacturers from entering the market and because it represents an excessive degree of federal control over a previously competitive market.

(3) A federally negotiated procurement process by which the Federal government would issue a solicitation for a volume bus purchase specifying a baseline advanced design bus and inviting additional features which would provide for greater safety, ease of maintenance, improved operating performance, styling, etc., but not assigning dollar values to such features. The proposal which offered the best value (but not necessarily the best price) would win the contract. As suboptions, state or local negotiated procurements to be conducted along the same lines were considered. This entire option was rejected because of our concern that the necessity for volume purchases might delay bus acquisitions and preclude some small grantees from purchasing buses suited to their unique needs. Principally, however, the option was rejected because it "federalizes" the market to an unnecessary degree.

(4) The fourth option considered was the creation of supply schedules (catalogs). Under this process, UMTA would negotiate a price with each manufacturer for a basic bus and for each available optional feature and would publish a price list for the basic bus and for each available option. The price list would remain in effect for a specified period of time. Grantees would then be authorized to purchase, for the published price, any of the buses with any of the options. A grantee selecting other than the lowest price bus would have to justify its selection to UMTA. This option was rejected because DOT preferred to continue, insofar as possible, a procurement procedure based on a competitive bid process.

4. *Reasons for selecting the adopted procedure.* The option providing for an adjusted low bid format for acquiring ADBs was selected because the Secretary believes that it accomplishes all of the goals enunciated in this document and in the February 16 Notice in the following ways:

(1) It retains to the greatest degree possible a competitive low bid market; (2) consistent with federal responsibilities, it provides maximum flexibility to grantees; (3) it enables all existing bus manufacturers to continue to offer their buses at competitive prices (both current design and ADBs); (4) it encourages the continued development of new technology and features on transit buses since, as new optional features are offered, UMTA will establish price offsets for such features. Importantly, it allows the Secretary to meet his statutory responsibilities to "assist in the development of improved mass transportation facilities (and) equipment" (49 U.S.C. 1601(b)(1)).

Additionally, the Secretary has a statutory responsibility (49 U.S.C. 1612) to ensure that his decisions reflect the special requirements of elderly and handicapped mass transit passengers. Representatives of elderly and handicapped groups made clear their position that the interim procedures should meet certain goals: (1) They should not prejudice the prompt mandate of a Transbus with an access ramp; (2) those manufacturers already pledged to the production of Transbus should not be competitively harmed; and (3) the policy should be certain, and in effect for as short a time as possible considering its effects on them and on the manufacturers. Additionally, the elderly and handicapped representatives stressed that features currently included in ADBs met their needs only marginally. The Secretary has concluded that the regulations and the interim procurement procedure adopted today meet the concerns expressed by the elderly and handicapped groups who expressed their opinions on these procurement issues. Additionally, the Secetary has concluded that this interim procedure does not prejudge the issues to be addressed in the March 15 hearing.

The 24" effective floor and step height requirements are not today being required because such a requirement could cause some manufacturers to engage in substantial retooling which, in turn, could prejudge the issues to be addressed at the March 15 hearing. Similarly, elderly and handicapped groups argued that any retooling would give manufacturers an incentive to delay the introduction of Transbus, if Transbus were to be mandated.

We are not requiring that any manufacturer meet a specific floor height requirement at this time, but will, of necessity, consider that issue in connection with the decision promised by May 27, 1977.

Accordingly, 49 CFR Part 609 is amended by revising § 609.15(a) to read as set forth below, effective March 8, 1977.

(Urban Mass Transportation Act of 1964, as amended, 49 U.S.C. 1601 et seq.)

Issued in Washington, D.C., on March 8, 1977.

BROCK ADAMS,
Secretary of Transportation.

49 CFR 609.15(a) is revised to read as follows:

§ 609.15 Buses.

(a) Paragraph (b) of this section applies to new, standard, full-size urban transit buses (of current or advanced design) for which an UMTA grantee is-

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sues a procurement solicitation containing UMTA-approved vehicle specifications after February 15, 1977. Paragraph (c) of this section applies to new, standard, full-size urban transit buses (of current or advanced design) for which an UMTA grantee issues a procurement solicitation containing UMTA-approved vehicle specifications after (date reserved for later completion). The remaining paragraphs of this section apply to these and all other new transit buses exceeding 22 feet in length for which an UMTA grantee issues a procurement solicitation containing UMTA-approved vehicle specifications on or after May 31, 1976. For any new transit buses exceeding 22 feet in length but not otherwise described above, any requirements concerning wheelchair accessibility, floor height, or step height will be handled on a case-by-case basis as part of the project approval process.

[FR Doc.77-7311 Filed 3-11-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S.O. No. 1260]

PART 1033—CAR SERVICE

Substitution of Refrigerator Cars for Boxcars

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 9th day of March, 1977.

It appearing, That an acute shortage of boxcars for transporting shipments of cotton exists on The Atchison, Topeka and Santa Fe Railway Company (ATSF) at stations on its lines in Texas and New Mexico; that the ATSF has an available supply of certain refrigerator cars that may be substituted for this traffic at the ratio of two refrigerator cars for each boxcar; that use of these refrigerator cars for the transportation of cotton is precluded by certain tariff provisions, thus curtailing shipments of cotton; and that there is need for the use of these refrigerator cars to supplement the supplies of plain boxcars for transporting shipments of cotton; that it is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1260 **Substitution of refrigerator cars for boxcars.**

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Substitution of cars.* The Atchison, Topeka and Santa Fe Railway Company (ATSF) may substitute two refrigerator cars as described in paragraph (2) herein for each boxcar ordered for shipments of cotton from any station on the ATSF in Texas or New Mexico and destined to any other station on the ATSF, subject to the conditions provided in paragraphs (2) thru (6), inclusive of this order.

(2) *List of refrigerator cars to be applied:* SFRC 1000–1899, SFRC 2300–2799, SFRC 50000–50199.

(3) *Concurrence of shipper required.* The concurrence of the shipper must be obtained before two refrigerator cars are substituted for each boxcar ordered.

(4) *Exclusive ATSF movement required.* Shipments of cotton for which two refrigerator cars are substituted for one boxcar must originate and terminate at stations on the ATSF and must not be routed over any other carrier; except that shipments may originate or terminate in terminal switching service on connecting lines which do not participate in the line-haul.

(5) *Minimum weights.*[1] The minimum weight per shipment of cotton for which two refrigerator cards have been substituted for one boxcar shall be that specified in the applicable tariff for the car ordered.

(6) *Endorsement of billing.* Bills of lading and waybills covering movements authorized by this order shall contain a notation that shipment is moving under authority of Revised Service Order No. 1260.

(b) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., March 10, 1977.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board, members Joel E. Burns and Lewis R. Teeple.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7468 Filed 3-11-77;8:45 am]

[1] Change.

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 72-WE-22-AD; Amdt. 39-2850]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9-10 Series Airplanes

Amendment 39-1628 (38 FR 10253), AD 73-9-2, as amended by Amendments 39-1926 (39 FR 30108) and 39-2004 (39 FR 39433), requires repetitive inspections and/or repair or replacement of certain fuselage overwing frames on McDonnell Douglas Model DC-9-10 Series airplanes. Subsequent to issuing the AD as amended, and after evaluating the results of the operators inspections and past service experience, the Federal Aviation Administration has determined that the repetitive inspection intervals specified in paragraph A.1. of the AD can be increased to 1700 hours time in service without adversely affecting safety. Therefore, the AD is being further amended to provide for an increase in the repetitive inspection intervals.

Since this amendment provides relief and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), section 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1628 (38 FR 10253), AD 73-9-2, as amended by Amendment 39-1926 (39 FR 30108) and Amendment 39-2004 (39 FR 39433), is further amended by amending paragraph A.1. to read in pertinent part as follows:

• • • 1700 hours • • •.

This amendment is effective March 20, 1977.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California, on March 3, 1977.

ROBERT H. STANTON,
Director, Federal Aviation Administration, Western Region.

[FR Doc.77-7399 Filed 3-11-77;8:45 am]

[Airspace Docket No. 76-SW-64]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Dallas-Fort Worth, Tex., transition area.

On January 24, 1977, a notice of proposed rule making was published in the FEDERAL REGISTER (42 FR 4132) stating the Federal Aviation Administration proposed to alter the Dallas-Fort Worth, Tex., transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Except for the comment from Air Transport Association of America (ATA) all comments received were favorable. Air Transport Association of America expressed concern that the change of the Hudson Airport from VFR to IFR may result in a derogation of airspace and air traffic control services being provided by the Dallas-Fort Worth Airport Traffic Control (ATC) Tower at the primary and approved secondary IFR airports in the area. Flight Standards Division and the Dallas-Fort Worth ATC Tower were contacted regarding the matter. The flight Standards Division review of the proposed instrument approach procedure, initial approach altitude, missed approach altitude, and missed approach procedure indicates vertical and lateral seperation from the Dallas-Fort Worth ATC Tower voiced no objections to the proposal and expected no derogation to air traffic control services as a result of the proposed procedure.

In view of the above, we are satisfied that the proposed action will not derogate the airspace and air traffic control procedures provided by the Dallas-Fort Worth ATC Tower.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, June 16, 1977, as hereinafter set forth.

§ 71.181 [Amended]

In Section 71.181 (42 FR 440), the Dallas-Fort Worth, Tex., transition area is amended to read, in part, by deleting: "to latitude 32°44'00" N., longitude 96°-26'00" W.; to latitude 32°34'00" N., longitude 96°37'00" W.;" and substituting therefor: "to latitude 32°44'00" N., longitude 96°26'00" W.; to latitude 32°41'00" N., longitude 96°29'30" W.; to latitude 32°37'30" N., longitude 96°30'-15" W.; to latitude 32°37'45" N., longitude 96°32'45" W.; to latitude 32°34'00" N., longitude 96°37'00" W.;".

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Fort Worth, Tex., on March 3, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc.77-7395 Filed 3-11-77;8:45 am]

[Airspace Docket No. 76-SO-104]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On December 8, 1976, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (41 FR 55890), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Andrews, S.C., transition area.

Interested persons were afforded an opportunity to participate in the rulemaking through the submission of comments. All comments received were favorable except those submitted by the United States Air Force (USAF) and the United States Navy (USN). Their basic concern was that the proposal would create a severe impact upon aircrew training and operational readiness due to impact upon Gamecock "C" MOA, VFR Low Altitude Training Routes and an Olive Branch All Weather Low Level Route.

A review of the proposal in light of the comments received, disclosed the following:

1. The review disclosed that with exception to the Gamecock "C" MOA and the Olive Branch Route, all other operations are conducted in accordance with VFR. Military aircraft operating VFR on Low Level Training Routes and Olive Branch Routes are required to have at least a ceiling of 3,000 feet and visibility of five miles. With these weather minimums, both military and civil aircraft will be operating on a "see and be seen" basis, in accordance with Federal Aviation Regulations.

2. Military aircraft operating IFR in MOAs and on Olive Branch Routes are provided separation by ATC. However these aircraft will be separated from nonparticipating IFR aircraft by ATC utilizing IFR separation standards.

Therefore, the objections by the USAF and USN to the Andrews, S.C., transition area lack substance and demonstrate no serious adverse impact upon military training or operational readiness.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, April 21, 1977, as hereinafter set forth.

In § 71.181 (42 FR 440), the following transition area is added:

ANDREWS, S.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Andrews Municipal Airport (Lat. 33°27'30" N., Long. 79°31'57" W.); within 3 miles each side of the 171° bearing from the Punch RBN (Lat. 33°27'29" N., Long. 79°32'00" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in East Point, Ga., on March 3, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.77-7396 Filed 3-11-77;8:45 am]

[Airspace Docket No. 76-WE-25]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On January 21, 1977, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 3862) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would provide additional controlled airspace to accommodate an instrument approach procedure for Catalina Airport, Avalon, Calif. (Santa Catalina Island).

The establishment of this transition area is required to coincide with and accommodate the instrument approach procedure for Catalina Airport.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

As this designation is in the public interest, it may be made effective without regard to the 30-day notification requirements.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, March 10, 1977, as hereinafter set forth.

In § 71.181 (42 FR 440) Santa Catalina, Calif., is amended as follows:

"That" is deleted and "That airspace extending upward from 700 feet above the surface within 5 miles each side of the Santa Catalina 229°T (214°M) and 012°T (357°M) radials extending from 6 miles north to 12 miles southwest of the Santa Catalina VORTAC; that" is substituted therefor.

(Sec. 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a), and 1510), Executive Order 10854 (24 FR 9565) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on March 4, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-7400 Filed 3-11-77;8:45 am]

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Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—ORGANIZATION, PROCEDURES AND RULES OF PRACTICE

PART 4—MISCELLANEOUS RULES

Requests for Disclosure of Records

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This rule delegates to the Commission's General Counsel the final authority to decide Freedom of Information Act appeals. The General Counsel will also be empowered to authorize testimony or the production of records in response to a subpoena. This change is designed to speed up the processing of FOIA appeals and free the individual Commissioners from this task.

EFFECTIVE DATE: March 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Barry R. Rubin, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202–523–3865

Accordingly, 16 CFR Part 4, is amended to read as follows:

§ 4.11 Requests for disclosure of records.

(a) (1) (i) • • •

(E) The letter of request should indicate whether any waiver of fees is requested. The Secretary shall make a determination on any such request in accordance with § 4.8(c) and notify the requester accordingly. A denial may be appealed to the General Counsel. If a waiver is requested, and the requester has not provided the indication required by subsection (C) above, unless the Secretary determines that the estimated fees will not exceed $25.00, the access request will be deemed not to have been received until the waiver is granted.

• • • • • •

(iii) • • •

(D) If a request is not granted within the time limits set forth in subsections (A) and (B), the request shall be deemed to be denied and the requesting party may appeal such denial to the General Counsel in accordance with subsection (a)(2).

(iv) *Initial Determination.*—(A) The Secretary shall grant access to requested records, or any portion thereof, that must be made available under the Freedom of Information Act. He shall deny access to records that are exempt under the Freedom of Information Act (5 U.S.C. 552 (b)), unless he determines that such records fall within a category the Commission or the General Counsel has previously authorized to be made available to the public as a matter of policy. Denials shall set forth the reasons therefor and advise the requester that this determination can be appealed to the General Counsel either because the requester believes the records are not exempt, or because the requester believes the General Counsel should exercise his discretion to release such records notwithstanding their exempt status.

• • • • •

(2) *Appeals to the General Counsel from initial denials.* (i) *Form and contents; time of receipt.*—(A) If the Secretary denies an initial request for records in its entirety, the requester may, within 30 days of the date of the Secretary's determination, appeal such denial to the General Counsel. If the Secretary denies an initial request in part, the time for appeal shall not expire until 30 days after the date of the letter notifying the requester that all records to which access has been granted have been made available. The appeal shall be in writing and should include a copy of the initial request and a copy of the Secretary's response, if any. The appeal shall be addressed as follows:

Freedom of Information Act Appeal, Office of the General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

• • • • • •

(C) Each appeal to the General Counsel which requests him to exercise his discretion to release exempt records shall set forth the interest of the requester in the subject matter and the purpose for which the records will be used if the request is granted.

(ii) *Time limit for appeal.* (A) The General Counsel shall, within twenty (20) working days of the receipt of an appeal, either grant or deny the appeal, in whole or in part.

• • • • • •

(iii) *Determination of appeal.* (A) The General Counsel shall have the authority to grant or deny all appeals and to release as an exercise of discretion records exempt from mandatory disclosure under 5 U.S.C. § 552(b). In unusual or difficult cases he may, in his sole discretion, refer an appeal to the Commission for determination. A denial of an appeal in whole or in part shall set forth the basis for the denial, and shall advise the requester that judicial review of the decision is available either in the district in which the requester resides or has a principal place of business, in the district in which the agency records are situated, or in the District of Columbia.

(B) The General Counsel shall be deemed solely responsible for all denials of appeals, except where an appeal is denied by the Commission. In such instances, the Commission shall be deemed solely responsible for the denial.

(b) *Requests from government agencies and Congressional Committees.* (1) Requests from Congressional Committees and Subcommittees shall be referred to the General Counsel for presentation to the Commission, subject to the provisions in 5 U.S.C. § 552(c) that that section is not authority to withhold information from Congress.

(2) Requests from agencies of the Federal Government should be addressed to the liaison officer for the requesting agency, or if there is none, to the General Counsel for determination. Requests from nonfederal agencies should be addressed to the General Counsel. The appropriate liaison officer or the General Counsel may grant the request or refer it to the Commission for determination.

(c) *Information requested by subpoena.*—Any employee of the Commission who is served with a subpoena or other compulsory process, except a subpoena issued within the scope of § 3.36 of this chapter, requiring the production of any document or record or the disclosure of any information which under § 4.10 is exempt from availability for public inspection and copying, shall promptly advise the General Counsel of the service of such subpoena or other compulsory process, the nature of the documents or information sought, and all relevant facts and circumstances. If the employee so served has not received instructions from the General Counsel authorizing disclosure of the information prior to the return date of the subpoena or other compulsory process, he shall appear in response thereto and respectfully decline to produce the documents or records or to disclose the information called for, basing his refusal upon this paragraph. The General Counsel will consider and act upon compulsory process under this section with due regard for statutory restrictions, the Commission's rules and the public interest, and the established legal standards for determining whether justification exists for the disclosure of the confidential information and records.

(5 U.S.C. 552; 15 U.S.C. 46(g).)

By direction of the Commission dated March 4, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77–7445 Filed 3–11–77;8:45 am]

[Docket No. 9035–0]

PART 13—PROHIBITED TRADE PRACTICES

Kraftco Corp., et al.

Correction

In FR Doc. 77–5762 appearing on page 10979 of the issue for Friday, February 25, 1977, the following corrections should be made:

1. Page 10979, center column, immediately following the paragraph "The order to cease and desist, • • •, is as follows:", the following should appear:

"FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondent from the initial decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission, for the reasons stated in the accompanying Opinion having determined to deny the appeal:

It is ordered, That the initial decision of the administrative law judge, pages 1–18, be adopted as the Findings of Fact and Conclusions of Law of the Commission.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order to Cease and Desist be, and it hereby is, entered:"

2. Page 10980, left column, after numbered paragraph 4., the folowing should appear:

"Chairman Collier filed a concurring statement."

3. Page 10979, center column, the footnote should also state that a concurring statement by Chairman Collier was filed with the original document.

Dated: March 4, 1977.

JOHN F. DUGAN,
Secretary.

[FR Doc.77–7411 Filed 3–11–77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Rel. Nos. 33–5813, 34–13323, 35–19913, AS–211]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS (ACCOUNTING SERIES RELEASES)

Accounting Series Release No. 132; Rescission

AGENCY: Securities and Exchange Commission.

ACTION: Rescission of an Accounting Series Release.

SUMMARY: Accounting Series Release No. 132 (37 FR 26516, Dec. 13, 1972), Reporting of Leases in Financial Statements of Lessees, is being rescinded because the interpretation contained therein is no longer pertinent or necessary in the administration of the Commission's current rules. Reference is made to Release No. 33–5812 (34–13322, 35–19912), published under the securities and Exchange Commission in the Proposed Rules section of this FEDERAL REGISTER, for additional details.

EFFECTIVE DATE: March 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Walter K. Rush III, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 376–8019.

The Commission hereby rescinds Accounting Series Release No. 132 (33–5333, 34–9867, 35–17772), Part 211 of Title 17, Chapter II, of the Code of Federal Regulations.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 2, 1977.

[FR Doc.77–7426 Filed 3–11–77;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER U—ELECTRIC POWER SYSTEM

PART 233—SAN CARLOS INDIAN IRRIGATION, ARIZONA

Revision and Rates

MARCH 7, 1977.

This notice is published in the exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by DM 230.21.

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 (1970 ed.), Section 5 of the Act of June 7, 1924 (43 Stat. 475, 476), and the Act of March 7, 1928 (45 Stat. 200, 210–211).

Beginning on page 55212 of the December 17, 1976 FEDERAL REGISTER, there was published a notice of proposed rulemaking to revise §§ 233.5, 233.6, 233.7, 233.9, 233.10, 233.12, 233.16, 233.17, 233.20, 233.21, 233.25, 233.26, 233.51, 233.52, and § 233.53 of Part 233, Subchapter U, Chapter I, of Title 25, Code of Federal Regulations, dealing with power rates.

Interested persons were given 30 days to submit written comments, suggestions, or objections to the proposed changes. After full consideration of comments and objections received the proposed revisions are hereby adopted without change, as set forth below.

Effective date: These regulations become effective on April 13, 1977.

JOSE A. ZUNI,
Acting Deputy Commissioner of Indian Affairs.

Part 233 of Title 25 is amended as follows:

1. By revising the table of contents as follows:

Sec.
233.1 Effective date; changes.
233.2 Authority of Project Engineer.
233.3 Disputes.
233.4 Applications; contracts.
233.5 Deposits.
233.6 Extensions.
233.7 Installation or extension financed by consumer.
233.8 Temporary service.
233.9 Type of service.
233.10 Service connections.
233.11 Connection methods.
233.12 Metering.
233.13 Consumer responsibility.
233.14 Change of equipment.
233.15 Apparatus detrimental to service.
233.16 Motor starting equipment.
233.17 Service discontinued.
233.18 Bills for service.
233.19 Special bills.
233.20 Connect, reconnect, and accounting charges.
233.21 Delinquent bills.
233.22 Discontinuance by consumer.
233.23 Fraud; Tampering.
233.24 Compensation of employees.
233.25 Hardship cases.
233.26 Interruptions to service.
233.27 Contingent upon appropriations.
233.51 Rate Schedule No. 1—Residential Rate.
233.52 Rate Schedule No. 2—General Rate.
233.53 Rate Schedule No. 3—Street and Area Lighting.

AUTHORITY: The provisions of this Part 233 issued under Sec. 5, 43 Stat. 476, 45 Stat. 210, 211; U.S.C. 301.

2. By revising § 233.5 to read as follows:

§ 233.5 Deposits.

A cash deposit in an amount equal to twice the estimated monthly bill, but in no case less than $30.00 will be required from each applicant. The Project Engineer may require an additional deposit should it become apparent that the estimated amount is insufficient to cover two months bills. Any cash deposit, less the amount of any unpaid bills, shall be refunded after the termination of service. Before extensions are constructed each applicant may be required to deposit an amount sufficient to cover his portion of the required minimum charges for a period of not less than one year, and must otherwise establish his credit and satisfy the Project Engineer of his intention to take service and his ability to meet the guarantee.

3. By revising § 233.6 to read as follows:

§ 233.6 Extensions.

(a) The length of an extension constructed at the expense of the Project shall not exceed 500 feet.

(b) The length of an extension shall include the horizontal length of the primary and secondary circuits and the service drop. Insofar as practicable, all extensions shall be constructed along established highways. The prospective consumer, or consumers, shall furnish or procure satisfactory rights-of-way necessary for the lines and other facilities of the Project incidental to the furnishing of service. The Project Engineer may decline to construct any extension which, in his opinion, will be excessive in cost, or detrimental to the best interest of the Project, or for which funds are not available.

4. By revising § 233.7 to read as follows:

§ 233.7 Installation or extension financed by consumer.

If funds, material or labor are not otherwise available for an installation or extension, or if an extension to a prospective consumer will require new construction beyond the distance specified in § 233.6, the consumer or prospective consumer may, after executing an appropriate contract satisfactory to the Project Engineer, construct the needed installation or extension, or deposit funds estimated to be sufficient to pay for he construction. Such installations or extensions shall be built in accordance with suitable plans and specifications approved by the Project Engineer. All extensions when constructed shall be and remain the property of the United States.

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5. By revising § 233.9 to read as follows:

§ 233.9 Type of service.

Service for lights and the usual domestic and other appliances, including motors and less than seven and one-half horsepower shall be single phase, nominally 120/240 volts, three wire, except when special approval for another type of service has been obtained from the Project Engineer. Three-phase service at suitable voltage may be furnished for motor installations of seven and one-half horsepower and over, provided a three-phase circuit of the required voltage and capacity is available where the service is desired. All service will be sixty cycle.

6. By revising § 233.10 to read as follows:

§ 233.10 Service connections.

On each new service the consumer shall provide and maintain a service entrance at a location convenient to the lines of the Project, and all connections from the service entrance to the meter base and from the meter base to the main line circuit breaker or distribution center. The meter will be furnished by the United States. The meter socket will be furnished and installed by the consumer and in a suitable location preferably on the outside of the building, or service pole, where the meter will be accessible to the meter reader at all times. Except for underground service installations, the meter socket shall not be more than 6 feet nor less than 5 feet above the ground or floor. For underground service installations, the meter shall be mounted a minmum of 3 feet above the ground or floor. The entire service installation must be satisfactory to the Project Engineer and must conform to the provisions then in force of the National Electrical Code of the National Board of Fire Underwriters for Electric Wiring and Apparatus. When alternations of a consumer's premises make it necessary to move an existing meter loop, the consumer may be required to install a meter socket in the new loop, located in conformity with the stipulations of this section. When an inspection is required by municipal ordinance, the Project Engineer shall require a certificate of inspection and approval by the municpal inspector before connecting a new service.

7. By revising § 233.12 to read as follows:

§ 233.12 Metering.

(a) The Project shall furnish the meter, and the customer shall provide and maintain free of expense to the Project an unobstructed location satisfactory to the Project in accordance with § 233.11 above. In the case of new installations in multiple-occupancy buildings such as apartment houses in connection with which more than one meter in a building is required, the meters shall be assembled at one central location, or in such other areas and with such other arrangements as may be approved by the Project Engineer. Each meter shall be clearly marked so as to make it possible to identify the consumer.

(b) Customer's responsibility. The customer shall exercise reasonable care in protecting the Project's meter and other Project-owned equipment located on his premises. Only Project employees or agents, or persons authorized by law are permitted to inspect or handle same.

(c) Final connection. Final conection of the meter shall in all cases be made by the Project.

(d) Meters sealed. All meters shall be sealed by the Project. The breaking of a seal by unauthorized persons or tampering with a meter or meter wiring is prohibited by law and is subject to summarily discontinuance of service.

(e) Regularly scheduled meter tests shall be in accordance with the American National Standards Institute (ANSI) Code for electricity metering.

(f) Special meter tests. On request of a customer, the Project shall, within 10 days after receipt of such request, make special meter tests. The customer shall bear the cost of such tests, including meter removal and replacement when the meter is found to be within the limits of acceptable accuracy as defined in section (h). In all other cases the Project will bear the cost of the test.

(g) Replacement of meter. Whenever a customer requests the replacement of the service meter because of accuracy, such request shall be treated as a request for a test of such meter and, as such, shall fall under the provision of special meter tests.

(h) Standard of meter accuracy. The Project shall not place in service or knowingly allow to remain in service without adjustment any meter that has known error in registration of more than plus or minus two percent at light or at full load and unity power factor, or more than plus or minus three percent at full load and fifty percent power factor.

(i) Adjustment for inaccurate meter registration. Whenever a tested meter in service is found to be fast or slow beyond the limit of accepted accuracy as defined, the Project shall make an adjustment, based on the corrected registration for the period in which the meter was registering incorrectly, if such period is known, and if not known for a period of not exceeding six months, but in no event for a period longer than the present customer's occupancy. Whenever any bill or bills have been adjusted or corrected as provided above and whenever such adjustment amounts to $1.00 or more. The Project shall credit to the customer any amount found to have been collected in excess of the proper amount, or the Project may require the customer to pay any additional amount due, as the case may be.

(j) Incorrect meter installation. Whenever any customer shall have been over-charged or under-charged as a result of incorrect installation of a meter or the use of an incorrect meter multiplier in billing the account, the amount of the over-charge shall be adjusted and credited to the customer if in excess of $1.00 or the amount of the under-charge may be adjusted and billed to the customer if in excess of $5.00, provided that in no event shall such period of adjustment exceed the length of time the service has been supplied to the customer through the incorrect metering installation at the present location.

(k) Non-registering meter. When a meter fails to register for any period, for reasons beyond the reasonable control of the Project, the Project may estimate the charge for service during such period, such estimate to be based on the best available data.

8. By revising § 233.16 to read as follows:

§ 233.16 Motor starting equipment.

Motors having a rated capacity of three horsepower or more shall be provided with such starting and overload equipment as may be required by the Project Engineer. In no case will the Project Engineer approve "across the line starting" of motors larger than 150 horsepower.

9. By revising § 233.17 to read as follows:

§ 233.17 Service discontinued.

The Project Engineer may discontinue electric service to any consumer who shall continue to use appliances or apparatus detrimental to the Electric Power System after he has been notified to correct the condition and has failed to do so within a reasonable time. The Project Engineer may also discontinue service for failure of the consumer to comply with any of the provisions of this part.

10. By revising § 233.20 to read as follows:

§ 233.20 Connect, reconnect and accounting charges.

A non-refundable service establishment fee of $10.00 will be charged each time the Project is requested to establish or re-establish electric service to the customer's delivery point. The charge will be included in and rendered with the first month's bill for electricity after connection or reconnection service. An accounting charge of $5.00 will be made when a check is returned unpaid by a bank because of insufficient funds or other reasons. This charge will be in addition to any other applicable charges and will appear on the next month's bill for electricity.

11. By revising § 233.21 to read as follows:

§ 233.21 Delinquent bills.

Bills for electric service will be delinquent if not paid on or before the tenth day following the date of issue of a bill showing arrears. When such delinquency occurs, the Project Engineer shall discontinue service and service shall not be restored until the consumer has paid all bills then due plus a collection charge of $12.50 and has made the deposit required under § 233.5. (Discontinuance of service for delinquency shall not relieve the consumer of liability for minimum monthly payments guaranteed by him under his contract.)

12. By revising § 233.25 to read as follows:

§ 233.25 Hardship cases.

The Project Engineer may relax temporarily strict enforcement of a regulation when in his judgment such enforcement would work undue hardship upon a consumer.

13. By revising § 233.26 to read as follows:

§ 233.26 Interruptions to service.

(a) The United States will furnish energy continuously so far as reasonable diligence will permit. But the United States, its officers, agents or employees, assume no liability for damage due to interruptions of service to the consumer.

(b) If the customer's service fails, he shall endeavor to determine if he has blown fuses, tripped breaker, or his equipment is at fault before calling the Project. The customer may be charged the cost of the service call if the trouble is found to be caused by his equipment or actions.

14. By revising § 233.51 to read as follows:

§ 233.51 Rate Schedule No. 1—Residential Rate.

(a) Application of schedule. This schedule is applicable to single-phase or three-phase service for residences and small non-commercial users. Unless specifically permitted by the contract, use must be limited to the consumer's own premises and power supplied must not be resold. If more than one meter is required by the customer's installation or for the customer's convenience, bills will be independently calculated for each meter.

(b) Monthly rate.

(1) $5.50, which includes the use of 50 kilowatt hours.

(2) 6.1 cents per kilowatt hour for the next 100 kilowatt hours.

(3) 3.7 cents per kilowatt hour for the next 350 kilowatt hours.

(4) 1.8 cents per kilowatt hour for all additional kilowatt hours.

(c) Minimum bill. The minimum bill shall be $5.50 per month except when a higher minimum bill is stipulated in the contract.

(d) Purchased power adjustment. An adjustment shall be added to each KWH chased power adjustment (rounded to used equal to the estimated average pur- the nearest $.0001) paid by the Project to the Project's power suppliers.

15. By revising § 233.52 to read as follows:

§ 233.52 Rate Schedule No. 2—General Rate.

(a) This schedule is applicable to single-phase or three-phase electric service for all purposes except residences and small non-commercial users. Unless specifically permitted by the contract, use must be limited to the consumer's premises and the power supplied must not be resold. If more than one meter is required by the customer's installation, or for the customer's convenience, bills will be independently calculated for each meter.

(b) Monthly rate.

(1) First 50 kilowatt hours, five dollars and fifty cents.

(2) 6.1 cents per kilowatt hour for the next 350 kilowatt hours.

(3) 3.7 cents per kilowatt hour for the next 600 kilowatt hours.

(4) 2.0 cents per kilowatt hour for the next 9000 kilowatt hours.

(5) When use is 10,000 kilowatt hours or more: First 10,000 kilowatt hours $229.05.

(6) Additional kilowatt hours at 2.0 cents per kilowatt hour, less a credit of 0.4 cents per kilowatt hour for each kilowatt hour above 200 times the billing demand (50 KW min.).

(c) Minimum bill. The minimum bill shall be $1.00 per month per kilowatt of billing demand, except where the customer's requirements are of a distinctly recurring seasonal nature. Then the minimum monthly bill shall not be more than an amount sufficient to make the total charges for the twelve (12) months ending with the current month, equal to twelve times the highest monthly minimum computed for the same twelve month period. However, no monthly billing shall be less than $5.50.

(d) Contract demand. Each contract for 50 KW or over shall state the number of kilowatts which the customer expects to require and desires to have reserved for his service. This quantity is called the contract demand.

(e) Actual demand. The actual demand for any month shall be the average amount of power used during the period of 15 consecutive minutes when such average is the greatest for the month as determined by suitable meters, or if meters are unavailable, the actual demand shall be connected load or such portion of the connected load as the Project Engineer may determine to be appropriate based on available information as to the customer's use of connected lights, appliances, and equipment, or from check metering.

(f) Billing demand. The billing demand for a month shall be the contract demand or the actual demand for the month, whichever is greater.

(g) Purchased power adjustment. An adjustment shall be added to each KWH used equal to the estimated average purchased power adjustment (rounded to the nearest $.0001) paid by the Project to the Project's power suppliers.

16. By revising § 233.53 to read as follows:

§ 233.53 Rate Schedule No. 3—Street and Area Lighting.

(a) Application. This rate schedule applies to service for yard lighting, lighting streets, alleys, thoroughfares, parks, schoolyards, industrial areas, parking lots, and similar area where dusk-to-dawn service is desired. The Project will own and operate the lighting system and provide normal lamp replacements. Other maintenance shall be at customer's expense.

(b) Monthly rate. (1) Lamps:

	Each		
	1	2 to 5	5 or more
200 W or less, incandescent (2,800 lm or less)	3.70	3.70	3.70
175 W mercury vapor (approximately 6,500 lm)	6.10	5.50	4.90
250 W mercury vapor (approximately 10,000 lm)	7.40	6.80	6.10
400 W mercury vapor (approximately 18,000 lm)	9.80	8.60	7.40

The minimum term of a service contract will be 12 months, payable in advance. The advance payment may be waived in special cases by the Project Engineer. Installation charges, the cost of wood poles or special steel, aluminum, or other supports, special fixtures, and the cost of underground service, will be charged as determined by the Project Engineer.

[FR Doc.77-7414 Filed 3-11-77;8:45 am]

CHAPTER III—INDIAN CLAIMS COMMISSION

PART 504—PUBLIC OBSERVATION OF COMMISSION MEETINGS; PROHIBITION OF EX PARTE COMMUNICATIONS RELEVANT TO MERITS OF PENDING COMMISSION PROCEEDINGS

Notice is hereby given that the Indian Claims Commission is promulgating an amendment to Title 25, Chapter III of the Code of Federal Regulations by the addition of a Part 504 thereto.

The purpose of Part 504 is to implement the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b, 557 (d), which provides for opening agency meetings to public observation and prohibits *ex parte* communications between members or employees of an agency and interested persons outside the agency relevant to the merits of any proceeding before the agency.

This amendment to Title 25, Chapter III of the Code of Federal Regulations is made under the authority of section 3 of the Government in the Sunshine Act, 5 U.S.C. 552b(g) and sections 8 and 9 of the Indian Claims Commission Act, 60 Stat. 1051 (25 U.S.C. 70g, 70h).

The rules contained in Part 504 were the subject of a notice of proposed rulemaking which was published in the FEDERAL REGISTER on January 21, 1977 (42 FR 3864). The period for the submission of written comments on the proposal expired on February 28, 1977. As a result of the comments received certain modifications have been made in the proposal.

Section 504.7(b) has been modified to state expressly that in each instance where the Commission considers whether a meeting should be closed under one of the exemptions set forth in 5 U.S.C. 552b (c)(1) through (c)(10), the Commission will separately consider whether the public interest requires that the meeting be open, notwithstanding the availability of the statutory exemptions.

Section 504.9(b) has been modified by reversing the order of the last two

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sentences to clarify that with respect to any vote described therein, no proxies are allowed and the vote of each participating Commissioner must be recorded.

Section 504.11 has been modified to set forth explicitly the legislative intent that the Chief Counsel's certification must be made before a meeting takes place and that, absent the certification, that meeting may not be closed to the public.

As so modified the Commission adopts these regulations, which are set forth in their final, revised form below, to be effective March 12, 1977.

Sec.

504.1 Scope and purpose.
504.2 Definitions.
504.3 Public observation of Commission hearings.
504.4 Public inspection of records in dockets.
504.5 Conduct of Commission business.
504.6 Public observation of meetings.
504.7 Closing of exempt meetings or portions thereof.
504.8 Procedure for announcing meetings.
504.9 Procedures for closing certain meetings or portions thereof.
504.10 Procedure for closing exempt meetings described in § 504.7(a)(2).
504.11 Chief Counsel's certification of closed meetings.
504.12 Maintenance of transcripts, recordings, or minutes.
504.13 Annual report to Congress.
504.14 *Ex Parte* Communications.

AUTHORITY: 5 U.S.C. 552b(g), unless otherwise noted.

§ 504.1 Scope and purpose.

It is hereby declared to be the policy of the Indian Claims Commission that the public is entitled to the fullest practicable information regarding its decision-making processes. It is the purpose of this part to provide the public with such information while protecting the rights of individuals and the ability of the Indian Claims Commission to carry out its responsibilities.

§ 504.2 Definitions.

For purposes of this part,

(a) "Commission" means the Indian Claims Commission, which is a collegial body composed of five members appointed by the President with the advice and consent of the Senate. The President designates one member as Chairman.

(b) "Commissioner" means a member of the Commission, including the Chairman.

(c) "Meeting" means the deliberations of at least three Commissioners where such deliberations determine or result in the joint conduct or disposition of the Commission's business, but does not include deliberations required or permitted by §§ 504.8 and 504.9.

(d) "Earliest practicable time" means as soon as possible, including after the commencement of the meeting or portion thereof in question.

§ 504.3 Public observation of Commission hearings.

All hearings before the Commission shall be open to public observation. (Sec. 9, 60 Stat. 1051 (25 U.S.C. 70h).)

§ 504.4 Public inspection of records in dockets.

The complete record in each docket before the Commission shall be available for public inspection at the office of the Clerk of the Commission between 8:00 a.m. and 4:00 p.m. on normal Federal business days. (Sec. 8, 60 Stat. 1051 (25 U.S.C. 70g).)

§ 504.5 Conduct of Commission business.

Commissioners shall not jointly conduct or dispose of Commission business other than in accordance with this part.

§ 504.6 Public observation of meetings.

Every portion of every Commission meeting shall, except as otherwise provided in § 504.7, be open to public observation.

§ 504.7 Closing of exempt meetings or portions thereof.

(a) Notwithstanding the requirements of § 504.6, the Commission's meetings may be closed to the public, and information concerning said meetings may be withheld from the public, when the Commission determines that the meeting is likely to:

(1) Relate solely to the internal personnel rules and practices of the Commission, or

(2) Concern the Commission's participation in a civil action or proceeding, or the conduct or disposition by the Commission of a particular case of formal adjudication involving a determination on the record after the opportunity for a hearing under § 503.22 of this chapter (section 22 of the Commission's general rules of procedure), or

(3) Involve any deliberations which fall within the exemptions contained in 5 U.S.C. 552b (c)(1) or (c)(3) through (c)(9).

(b) Notwithstanding the exemptions provided in paragraph (a) of this section, the Commission shall consider in each separate instance whether the public interest nevertheless requires that the meeting be open.

§ 504.8 Procedure for announcing meetings.

(a) Except with respect to meetings or positions thereof which may be closed to public observation under § 504.7(a)(2), announcement of which is described in § 504.10(d), the Commission shall publicly announce its meetings as described in paragraphs (b), (c), (d), and (e) of this section.

(b) The Commission shall issue a public notice at least ten (10) days before each Commission meeting which notice shall (1) state the date, time, and place of the meeting, (2) list the subjects or agenda items to be discussed at such meeting, (3) state whether the meeting is to be open or closed to public observation, and (4) give the name and business telephone number of the Executive Director of the Commission to whom requests for information about the meeting should be directed. In the event that a majority of the full membership of the Commission determined by a recorded vote that Commission business requires that a meeting be held within ten (10) days of such determination, the public notice described in the immediately preceding sentence shall be issued at the earliest practicable time.

(c) The date, time or place of a Commission meeting may be changed after issuance of the public notice described in paragraph (b) of this section only if the Commission gives public notice of any such change at the earliest practicable time. Subjects or agenda items to be discussed at a meeting or determinations by the Commission to open or close a meeting, or a portion of a meeting, to the public, after issuance of the public notice described in paragraph (b) of this section may be changed only if (1) a majority of the full membership of the Commission determine by a recorded vote that Commission business so requires and that no earlier public notice of the change or changes was possible, and (2) the Commission gives public notice of the change and the vote of each Commissioner upon such change or changes at the earliest practicable time.

(d) Immediately following the issuance of each public notice described in paragraphs (b) and (c) of this section, notice of the date, time, place, subjects or agenda items, whether the meeting or any portions thereof will be open or closed to public observation, any change in any of the preceding facts, and the name and business telephone number of the Executive Director of the Commission, shall be submitted for publication in the FEDERAL REGISTER.

(e) The Commission shall also promptly post all public notices described in paragraphs (b) and (c) of this section on a bulletin board maintained for this purpose at the offices of the Commission and shall mail copies to those who request that the Commission's Executive Director place their names on the Commission's general mailing list.

§ 504.9 Procedures for closing certain meetings or portions thereof.

(a) Except with respect to meetings or portions thereof which may be closed to public observation under § 504.7(a)(2), with respect to which the procedure described in § 504.10 applies, action by the Commission to close any meeting or portion thereof shall be governed by the procedures described in paragraphs (b), (c), and (d) of this section.

(b) Action to close a meeting or any portion thereof pursuant to paragraphs (a)(1) or (a)(3) of § 504.7 shall be taken only when a majority of the full membership of the Commission vote to do so. A separate vote of the Commissioners shall be taken with respect to each meeting a portion or portions of which are so proposed to be closed to public observation or with respect to anyi nformation which is proposed to be so withheld. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to public observation, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty (30) days after the initial meeting in the series. Each meeting in the series shall be subject to the requirements as to notice to the public described in § 504.8. For each vote taken under this paragraph, the vote of each participating Commissioner will be recorded and no proxies will be allowed.

(c) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to public observation for any of the reasons referred to in paragraphs (5), (6), or (7) of 5 U.S.C. 552b(c), any one Commissioner may request that a recorded vote of the Commissioners be taken to close such meeting.

(d) Within one day of any vote taken pursuant to paragraphs (b) or (c) of § 504.9, the Executive Director of the Commission shall make available to the public a written copy thereof showing the vote of each Commissioner. If all or a portion of the meeting is to be closed to public observation, the Executive Director shall, within one day of the vote taken pursuant to paragraphs (b) or (c) of this section, make available to the public a full written explanation of the Commission's action closing the meeting or portion thereof, together with a list of all persons who are to attend the meeting and their affiliation. This information shall be made available in the same manner as described in paragraph (e) of § 504.8 to the extent that it is not exempt from disclosure under § 504.7.

§ 504.10 Procedure for closing exempt meetings described in § 504.7(a)(2).

(a) The Commission purposes are exclusively adjudicatory. They consist of trying claims permitted to the filed on behalf of Indian tribes, bands, and groups against the United States pursuant to section 2 of the Indian Claims Commission Act, 60 Stat. 1050 (25 U.S.C. 70a). The Commission has no regulatory or rulemaking functions, nor is it charged with administering any substantive legislation. To protect the integrity of its adjudicatory deliberations, Commission meetings have historically been closed to public observation. For these reasons the Commission has determined that a majority of its meetings may properly be closed to public observation pursuant to § 504.7(a)(2).

(b) In the case of any meeting, or portion thereof, which may be closed to public observation for the reasons described in paragraph (a) of this section, the Commission shall, by a recorded vote at the beginning of said meeting or portion thereof, vote on whether to close the meeting or portion thereof. If a majority of the full membership of the Commission vote to close the meeting or portion thereof, it shall be so closed. A copy of the vote, reflecting the vote of each Commissioner on the question, shall be made available to the public.

(c) In the case of meetings or portions thereof to which this section applies, the provisions of §§ 504.8 and 504.9 shall not apply.

(d) Except to the extent that such information is exempt from disclosure under § 504.7, public announcement of the date, time, place, and subject matters and agenda items of a meeting, or portion thereof, to which this § 504.10 applies, shall be posted at the earliest practicable time on the bulletin board maintained for this purpose at the offices of the Commission.

§ 504.11 Chief Counsel's certification of closed meetings.

For every meeting closed pursuant to § 504.7, the Chief Counsel of the Commission shall, before the commencement of the meeting, publicly certify that the meeting may be closed to the public and shall state which exemptions as set out in 5 U.S.C. 552b(c) are applicable. Absent such certification, the meeting may not be closed to the public. A copy of this certification, together with a statement from the presiding Commissioner setting forth the date, time, and place of the meeting, and the persons present shall be retained by the Commission.

§ 504.12 Maintenance of transcripts, recordings, or minutes.

(a) The Commission shall maintain a complete transcript, or electronic recording, adequate to record fully the proceedings, of each meeting or portion of a meeting closed to the public, except that, in the case of a meeting or portion thereof closed to the public under § 504.7(a)(2), the Commission may instead maintain a set of minutes.

(b) The minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any action taken, and the reasons, including a description of each of the views expressed on any items and the record of any roll call vote, reflecting the vote of each Commissioner on the question. All documents considered in connection with any action shall be identified in the minutes.

(c) The Commission shall make promptly available to the public in the office of the Executive Director of the Commission, the transcript, electronic recording, or minutes of the discussion of any item on the agenda, except for those items or discussion which the Commission determines to contain information which may be withheld under § 504.7.

(d) Subject to the exemptions in § 504.7, copies of the transcript, minutes, or the transcription of a recording disclosing the identity of each speaker, will be furnished to any person at the actual cost of duplication or transcription.

(e) The Chief Counsel shall be responsible for determining what information may be withheld and what standards are to be applied in making that determination. Should an individual be denied access to information by a decision of the Chief Counsel, that individual may file a written appeal with the Commission. The Commission shall issue an order granting or denying the petitioner's appeal. No hearing will be permitted under this appeal. (Sec. 9, 60 Stat. 1051 (25 U.S.C. 70h).)

(f) The Commission shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion thereof, closed to the public, for at least two years after the meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion thereof, was held, whichever occurs later.

§ 504.13 Annual report to Congress.

The Commission shall annually report to Congress regarding its compliance with the Government in the Sunshine Act, 5 U.S.C. 552b. The report must include a tabulation of the total number of Commission meetings open to the public, the total number of meetings closed to the public, the reasons for closing the meetings, and a description of any litigation brought against the Commission under the Act, including any costs assessed against the Commission in such litigation.

§ 504.14 Ex parte communications.

(a) No person outside the Commission shall make or knowingly cause to be made to any Commissioner, Chief Counsel, staff attorney, or other employee of the Commission, an ex parte communication relevant to the merits of any proceeding before the Commission.

(b) No Commissioner, Chief Counsel, staff attorney, or other employee of the Commission shall make or knowingly cause to be made to any person outside the Commission, an ex parte communication relevant to the merits of any proceeding before he Commission.

(c) Any Commissioner, Chief Counsel, staff attorney, or other employee of the Commission who receives, or who makes or knowingly causes to be made a communication prohibited by this section, shall place on the public record of the proceeding:

(1) All such written communications;

(2) Memoranda stating the substance of all such oral communications; and

(3) All written responses, and memoranda stating the substance of all oral responses, to such communications.

(d) Upon receipt of a communication knowingly made or knowingly caused to be made by a party to the proceeding, or by counsel, in violation of this section, the Commission may, to the extent consistent with the interests of justice, require the offending party to show cause why its claim or interest in the proceeding should not be dismissed, denied, or otherwise adversely affected on account of such violation.

(e) A request for a status report on any matter currently before the Commission is not an ex parte communication within the meaning of this section. Questions regarding the status of a case shall be directed to the Clerk of the Commis-

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sion. (Sec. 9, 60 Stat. 1051 (25 U.S.C. 70h).)

By order of the Commission dated March 9, 1977.

DAVID H. BIGELOW,
Executive Director.

[FR Doc.77-7449 Filed 3-11-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNATIONAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7470]

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Change of Annual Accounting Period for Foreign Corporations

Correction

In FR Doc. 6443, appearing at page 12178, in the issue of Thursday, March 3, 1977, in the heading, the headings should read as set forth above.

Title 39—Postal Service

CHAPTER III—POSTAL RATE COMMISSION

[Order No. 152; Docket No. RM 77-1]

PART 3001—RULES OF PRACTICE

Rules Governing Procedures in Appeals of Postal Service Determinations To Close or Consolidate Post Offices; Correction

ORDER OF THE COMMISSION AMENDING RULES OF PRACTICE AND PROCEDURE

FEBRUARY 18, 1977.

In FR Doc. 77-5759 appearing at 42 FR 10989, Friday, February 25, 1977, the following changes should be made:

1. On page 10992, column 2, the amendatory language to § 3001.5 is corrected to read as follows:

"1. Amend § 3001.5(g) and add § 3001.5 (m) to read as follows:"

2. On page 10992, column 3, the amendatory language to § 3001.17 is corrected to read as follows:

"3. Add § 3001.17(a-1) and amend § 3001.17(b) and § 3001.17(c) to read as follows:"

3. On page 10992, column 3, the paragraph designations under § 3001.17 are corrected as follows:

(i) Change "(b) *Appellate proceedings under* 39 U.S.C. 404(b)." to read "(a-1) *Appellate proceedings under 39 U.S.C. 404*(b).";

(ii) Change "(c) *Publication and service of notice.*" to read "(b) *Publication and service of notice.*"; and

(iii) Change "(d) *Contents of notice.*" to read "(c) *Contents of notice.*".

DAVID F. HARRIS,
Secretary.

[FR Doc.77-6199 Filed 3-11-77;8:45 am]

Title 40—Protection of Environment

[FRL 694-3]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

New Jersey Employer Carpool and Mass Transit Incentive Program Approvals

As a part of the air pollution control plan for the State of New Jersey, 40 CFR 52.1590, "Employer's provisions for mass transit priority incentives," requires certain emloyers who maintain 400 or more parking spaces available for use by their employees to submit to the Environmental Protection Agency (EPA) an adequate transit incentive program designed to encourage the use by their employees of mass transit, carpools, vanpools and other low polluting transportation. Submitted programs are subject to EPA review and approval. To date 141 programs have been approved and 135 are still active.

40 CFR 52.1590(f) requires that, "Notice of such approval or disapproval will be published in Part 52 of Title 40, Code of Federal Regulations." The purpose of this FEDERAL REGISTER notice is to amend 40 CFR 52.1590 so as to incorporate into the regulation a current listing of 135 employer programs previously approved by EPA. All programs which are being incorporated at this time were approved by EPA only after an adequate opportunity for public comment. Final action approving these programs appeared in the FEDERAL REGISTER as follows: April 21, 1975 at 40 FR 17633; April 30, 1976 at 41 FR 18079; and, January 21, 1977 at 42 FR 3841.

The Administrator hereby finds for good cause that it would be unnecessary and impractical to subject this amendment to notice and public comment procedures or to delay its effectiveness since adequate opportunity for public comment was provided at the time of each program's original approval and since the amendment merely clarifies existing requirements and imposes no additional substantive requirements.

(Secs. 110 and 301, Clean Air Act as amended (42 U.S.C. 1857c?5, 1857g).)

Dated: March 4, 1977.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart FF—New Jersey

1. In § 52.1590 paragraph (o) is added as follows:

§ 52.1590 Employer's provision for mass transit priority incentives.

* * * * *

(o) The Administrator has approved transit incentive programs for the following employers under the provisions of paragraph (f) of this regulation:

(1) On April 21, 1975:

Addressograph Multigraph Corp., 11 Mt. Pleasant Avenue, East Hanover, New Jersey 07936.
Airco Welding Products, Div. of Airco, Inc., P.O. Box 281, Clermont Terrace, Union, New Jersey 07083.
Allied Chemical Corporation, P.O. Box 2245R, Morristown, New Jersey 07960.
Amax-U.S. Metals Refining Company, 400 Middlesex Avenue, Carteret, New Jersey 07008.
American Can Company, 600 North Union Avenue, Union, New Jersey 07205.
American Cyanamid Company, Agricultural Division, P.O. Box 400, Princeton, New Jersey 08540.
American Cyanamid Company, Wayne, New Jersey 07470.
American Hoechst Corporation, Route 202-206 North, Somerville, New Jersey 08876.
Anchor Hocking Corporation, P.O. Box 80, Salem, New Jersey 08079.
Anheuser-Busch, Inc., 200 U.S. Highway 1, Newark, New Jersey 07101.
Becton, Dickinson, and Company, Rutherford, New Jersey 07070.
Bell Laboratories, 600 Mountain Avenue, Murray Hill, New Jersey 07974.
Bendix Corporation, Electric Power Division, Eatontown, New Jersey 07724.
Bendix Navigation & Control Div., Teterboro, New Jersey 07608.
Boy Scouts of America, North Brunswick, New Jersey 08902.
Bristol-Myers Products, Division of Bristol-Myers Company, 225 Long Avenue, Hillside, New Jersey 07207.
Campbell Soup Company, Camden, New Jersey 08101.
Carter-Wallace, Inc., Half Acre Road, Cranbury, New Jersey 08512.
Chubb & Son, Inc., 51 John F. Kennedy Parkway, Short Hills, New Jersey 07078.
Ciba-Geigy Corporation, Pharmaceuticals Div., 556 Morris Avenue, Summit, New Jersey 07901.
CPC International, Inc., International Plaza, Englewood Cliffs, New Jersey 07632.
Crum & Foster Insurance Company, Madison Avenue at Canfield Road, P.O. Box 2387, Morristown, New Jersey 07960.
Curtiss-Wright Corporation, One Passaic Street, Woodridge, New Jersey 07075.
Delco-Remy, Division of General Motors, New Brunswick, New Jersey 08903.
Department of the Air Force, McGuire Air Force Base, New Jersey 08641.
Department of the Army, Fort Dix, New Jersey 08640.
Department of the Army, Military Ocean Terminal, Bayonne, New Jersey 07002.
DuPont Chambers Works, Deepwater, New Jersey 08023.
DuPont, Inc., Photo Products Department, Parlin, New Jersey 08859.
Eastern Airlines Incorporated, Woodbridge Township, Iselin, New Jersey 08830.
Educational Testing Service, Princeton, New Jersey 08540.
Exxon Chemical Company, P.O. Box 222, Linden, New Jersey 07036.
Exxon Research and Eng. Co., P.O. Box 101, Florham Park, New Jersey 07932.
Ford Motor Company, Mahwah Assembly Plant, State Highway No. 17, Mahwah, New Jersey 07430.
General Motors, Fisher Body Division, Trenton Plant, Parkway Avenue, Trenton, New Jersey 08605.

General Motors Corporation, Linden Plant, 1016 West Edgar Road, Linden, New Jersey 07036.
Givaudan Corporation, 100 Delawanna Avenue, Clifton, New Jersey 07014.
GTE Information Systems, Inc., East Park Drive, Mt. Laurel, New Jersey 08057.
Hackensack Hospital, 22 Hospital Place, Hackensack, New Jersey 07601.
Hoffmann-Laroche, Inc., 340 Kingsland Street, Nutley, New Jersey 07110.
Holly Stores, Inc., 7373 West Side Avenue, North Bergen, New Jersey 07047.
I.B.M. Corporation, P.O. Box 218, Dayton, New Jersey 08810.
I.B.M. Corporation, Parson's Pond Drive, Franklin Lakes, New Jersey 07417.
Insurance Company of North America, Pacific Employers Group, 1600 Arch Street, Philadelphia, Pennsylvania 19101 (Somerdale, New Jersey facility).
ITT, Avionics Div., 390 Washington Avenue, Nutley, New Jersey 07110.
Johnson & Johnson, New Brunswick, New Jersey 08903.
Lehn & Fink Products, Co., 225 Summit Avenue, Montvale, New Jersey 07645.
Thomas J. Lipton, Inc., 800 Sylvan Avenue, Englewood Cliffs, New Jersey 07632.
Lockheed Electronics Co., Inc., U.S. Highway No. 22, Plainfield, New Jersey 07061.
The Lummus Company, 1515 Broad Street, Bloomfield, New Jersey 07003.
The Mennen Company, Hanover Road, Morristown, New Jersey 07960.
Merk & Company, In., Rahway Site, Rahway, New Jersey 07065.
Mobil Oil Corporation, Paulsboro, New Jersey 08066.
Mobil Research and Development Corporation, Paulsboro Laboratory, Paulsboro, New Jersey 08066.
Mobil Research and Development Corporation, Engineering Department, P.O. Box 1026, Princeton, New Jersey 08540.
Monroe, The Calculator Company, The American Road, Morris Plains, New Jersey 07950.
Naval Weapons Station Earle, Colts Neck, New Jersey 07722.
New Jersey Bank, N.A., P.O. Box 2177, West Paterson, New Jersey 07509.
New Jersey State Department of the Treasury, State House, 125 West State St., Trenton, New Jersey 08625.
N.L. Industries, Inc., Titanium Pigment Div., P.O. Box 58, South Amboy, New Jersey 08879.
Owens-Corning Fiberglas Corporation, Shreve & Davis Roads, Barrington, New Jersey 08007.
Prentice-Hall, Inc., Englewood Cliffs, New Jersey 07632.
The Prudential Insurance Company of America, Prudential Plaza, Newark, New Jersey 07101.
RCA, Front & Cooper Streets, Camden, New Jersey 08102.
Rowe International, Inc., 75 Troy Hills Road, Whippany, New Jersey 07981.
Sandoz Wander, Inc., Route 10, East Hanover, New Jersey 07936.
Scharing Corporation, Galloping Hill Road, Kenilworth, New Jersey 07033.
Sea-Land Service, Inc., Fleet Street, P.O. Box 2000, Elizabeth, New Jersey 07207.
Shulton, Incorporated, 697 Route No. 46, Clifton, New Jersey 07015.
Siemens Corporation, 186 Wood Avenue, South, Iselin, New Jersey 08830.
Silver Burdett Company, 250 James St., Morristown, New Jersey 07960 (formerly General Learning Corp.).
Simmons Company, Brunswick Avenue and Allen St., Elizabeth, New Jersey 07207.
Singer Company, Kearfott Division, 1150 McBride Avenue, Little Falls, New Jersey 07424.
E. R. Squibb & Sons, Inc., Georges Road, New Brunswick, New Jersey 08903.
E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, New Jersey 08540.
State Farm Insurance Companies, 1750 Route 23, Wayne, New Jersey 07470.
Stone & Webster Engineering Co., 2500 Mc-Clellan Avenue, Pennsauken, New Jersey 08100.
Supermarkets General Corporation, 301 Blair Road, Woodbridge, New Jersey 07095.
Texaco Petroleum Products, Inc., P.O. Box 98, Westville, New Jersey 08093.
Wakefern Food Corporation, 600 York Street, Elizabeth, New Jersey 07207.
Warner-Lambert Company, 201 Tabor Road, Morris Plains, New Jersey 07950.
Western Electric Company, 100 Central Avenue, Kearny, New Jersey 07032.
Western Electric, P.O. Box 900, Princeton, New Jersey 08540.
Western Electric-N.J., Service Center, 650 Liberty Avenue, Union, New Jersey 07083.
Western Union, 1 Lake Street, Upper Saddle River, New Jersey 07458.
Veterans Administration Hospital, East Orange, New Jersey 07019.
195 Broadway Corporation, P.O. Box 2017, New Brunswick, New Jersey 08903 (Raritan River & Basking Ridge facilities).

(2) On April 30, 1976:

Ameraoe Corporation, Esna Division, 2330 Vauxhall Road, Union, New Jersey 07083.
American Cyanamid Company, Bound Brook, New Jersey 08805.
Automatic Switch Company, Florham Park, New Jersey 07932.
Burroughs Corporation, 141 Mt. Bethel Road, Warren, New Jersey 07060.
CBS Records, Lambs and Woodbury Roads, Pitman, New Jersey 08071.
Cessna Aircraft Company, Aircraft Radio and Control Division, P.O. Box 150, Boonton, New Jersey 07005.
Chevron Oil Company, Eastern Division, 1200 State Street, Perth Amboy, New Jersey 08561.
Colgate-Palmolive Company, 105 Hudson Street, Jersey City, New Jersey 07302.
Department of the Army, Headquarters, Picatinny Arsenal, Dover, New Jersey 07801.
Department of the Navy, Naval Air Propulsion Test Center, Trenton, New Jersey 08520.
Department of Transportation, State of New Jersey, 1035 Parkway Avenue, Trenton, New Jersey 08625.
Electronic Associates, West Long Branch, New Jersey 07764.
Essex County Hospital Center, 125 Fairview Avenue, Cedar Grove, New Jersey 07009.
Fabergé Incorporated, 65 Railroad Avenue, Ridgefield, New Jersey 07657.
GAF Corporation, 1361 Alps Road, Wayne, New Jersey 07470.
Glassboro State College, U.S. Route 322, Glassboro, New Jersey 08028.
Amerada Hess Corporation, 1 Hess Plaza, Woodbridge, New Jersey 07095.
Hill Refrigeration Division, Emhart Corporation, P.O. Box 61, Trenton, New Jersey 08601.
Interdata Incorporated, 2 Crescent Place, Oceanport, New Jersey 07757.
Johns-Manville Products Corporation, 200 North Main Street, Manville, New Jersey 08835.
John F. Kennedy Medical Center, Edison, New Jersey 08817.
Walter Kidde & Company, Inc., 675 Main Street, Belleville, New Jersey 07109.
Kimberly-Clark Corporation, Schweitzer Division, Spotswood, New Jersey 08884.
McGraw-Hill, Incorporated, Princeton Road, Hightstown, New Jersey 08520.
Monmouth Medical Center, Second Avenue, Long Branch, New Jersey 07740.
Morristown Memorial Hospital, 100 Madison Avenue, Morristown, New Jersey 07960.
National Starch & Chemical Corporation, 10 Finderne Avenue, P.O. Box 6500, Bridgewater, New Jersey 08807.
New Jersey Institute of Technology, 323 High Street, Newark, New Jersey 07102.
New Jersey Manufacturers Insurance Company, Sullivan Way, Trenton, New Jersey 08607.
New Jersey Neuropsychiatric Institute, State of New Jersey, P.O. Box 1000, Princeton, New Jersey 08540.
William Paterson College of New Jersey, 300 Pompton Road, Wayne, New Jersey 07470.
Princeton University, Office of Administrative Services, P.O. Box 32, Princeton, New Jersey 08540.
Research Cottrell, P.O. Box 750, Bound Brook, New Jersey 08805.
Revlon, Route 27 and Talmadge Road, Edison, New Jersey 08817.
Rutgers University, New Brunswick, New Jersey 08903.
Saint Barnabas Medical Center, Old Short Hills Road, Livingston, New Jersey 07032.
Saint Josephs Hospital and Medical Center, 703 Main Street, Paterson, New Jersey 07503.
Scholastics Magazines, Inc., 900 Sylvan Avenue, Englewood Cliffs, New Jersey 07632.
Sunshine Biscuits, Bordentown Avenue and Jernee Mill Road, P.O. Box 7, Sayreville, New Jersey 08872.
The Thomas & Betts Company, 36 Butler Street, Elizabeth, New Jersey 07207.
Trenton State College, Pennington Road, Trenton, New Jersey 08625.
Wallace & Tiernan Division, 25 Main Street, Belleville, New Jersey 07109.
Westinghouse Electric Corporation, One Westinghouse Plaza, Bloomfield, New Jersey 07003.
Weston Instrument Division, 614 Frelinghuysen Avenue, Newark, New Jersey 07114.
The J.B. Williams Company, Incorporated, 750 Walnut Avenue, Cranford, New Jersey 07016.
Union Carbide Corporation, Chemical and Plastics Division, P.O. Box 670, River Road, Bound Brook, New Jersey 08805.

(3) On January 21, 1977:

BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, New Jersey 07054.
Nabisco, Incorporated, East Hanover, New Jersey 07936.

[FR Doc.77-7501 Filed 3-11-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 8—VETERANS ADMINISTRATION

PART 8-1—GENERAL

Designation of Contracting Officers

Section 8-1.404-2, Chapter 8, Title 41, Code of Federal Regulations provides for designation of a contracting officer by issuance of VA Form 07-2267, Certificate of Designation (Contracting Officer). Paragraph (a) of this section is revised to clarify the issuance of the certificate of designation and to clarify who signs the certificate.

V4249 MAR 14 77 UMI

It is the general policy of the Veterans Administration to allow time for interested parties to participate in the rule making process (§ 1.12, Title 38, Code of Federal Regulations). However, the public rulemaking process is deemed unnecessary in this instance as the amendments concern agency practice and procedures.

NOTE.—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

In § 8-1.404-2, paragraph (a) is revised to read as follows:

§ 8-1.404-2 Designation.

(a) When an employee's qualifications are established by his/her supervisor and the individual is to be designated as a contracting officer in accordance with § 8-75.101(b), VA Form 07-2267, Certificate of Designation (Contracting Officer), will be issued for display in the employee's working area. The certificate will be signed by the next higher superior who fills one of the postions listed under § 8-75.101(a). (Existing designations will be confirmed by issuance of VA Form 07-2267.)

* * * * *

(72 Stat. 1114, sec. 205(c), 63 Stat. 390; (38 U.S.C. 210, 40 U.S.C. 486(c)).)

This regulation is effective March 14, 1977.

Approved: March 8, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc.77-7448 Filed 3-11-77;8:45 am]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-204]

PART 101-29—FEDERAL SPECIFICATIONS AND STANDARDS

Federal Standardization Documents

This regulation provides updated policy and procedures concerning the development, use, and issuance of Federal specifications, interim Federal specifications, and associated Qualified Products Lists and Federal standards.

1. The table of contents for Part 101-29 is amended to revise the following entries:

Sec.
101-29.201-1 Federal specifications.
101-29.201-2 Interim Federal specifications.
101-29.204 Exceptions to mandatory use of Federal specifications.
101-29.205 Deviations from Federal specifications.
101-29.205-1 Agency responsibility relative to deviations from Federal specifications.
101-29.207 Use of Federal specifications and interim Federal specifications in Federal construction contracts.
101-29.301-2 Interim Federal standards.
101-29.302 Mandatory use of Federal standards.

2. Section 101-29.000 is revised to read as follows:

§ 101-29.000 Scope of part.

This part sets forth the policy and procedures for the development and use of Federal specifications and associated Qualified Products Lists and Federal standards.

3. Sections 101-29.101 and 101-29.102 are revised to read as follows:

§ 101-29.101 Federal standardization documents.

Federal specifications, Federal Qualified Products Lists, and Federal standards are referred to collectively as Federal standardization documents. They are developed by GSA or other Federal agencies under the Assigned Agency Plan described in the "Federal Standardization Handbook" issued by the Commissioner, Federal Supply Service, GSA. Federal standardization documents are coordinated with other Federal agencies having technical, statutory, or regulatory interest in the commodity or other subject matter covered. Before these are issued, Federal specifications are reviewed by technical societies and organizations representing industrial producers and consumers.

§ 101-29.102 Procedures for development of Federal standardization documents.

The Commissioner, Federal Supply Service, will issue and maintain on a current basis a "Federal Standardization Handbook." The Federal Standardization Handbook sets forth operating procedures and applicable definitions used in the development of Federal standardization documents under the Assigned Agency Plan described therein. Federal agencies shall adhere to the provisions of the handbook in the development and coordination of Federal standardization documents.

4. Sections 101-29.201-1, 101-29.201-2, and 101-29.201-3 are revised to read as follows:

§ 101-29.201-1 Federal specifications.

"Federal specification" means a Government specification which covers those materials, products, or services used by two or more Federal agencies (at least one of which is a civil agency). Federal specifications are promulgated by GSA and are mandatory for use by all Federal agencies.

§ 101-29.201-2 Interim Federal specifications.

An "interim Federal specification" is a potential Federal specification issued in interim form for optional use by all Federal agencies. Interim amendments to Federal specifications and amendments to interim Federal specifications are included in this definition.

§ 101-29.201-3 Military specifications.

"Military specification" means a specification issued by the Department of Defense that is used solely or predominantly by and is mandatory for military activities. (This definition includes fully coordinated and limited coordination.)

5. Section 101-29.202 is revised to read as follows:

§ 101-29.202 Federal Qualified Products Lists.

"Federal Qualified Products Lists" (QPL's) means lists of products tested and approved under qualification tests set forth in certain Federal specifications. The qualification test requirement is included in the specification only when the Government requires this assurance of requisite quality of the product before the award of the contract. For procurement purposes, a qualified product is one which has been tested and approved for inclusion in the Federal QPL, whether or not the product has actually been so listed, before the bid opening date or award of a negotiated contract.

6. Section 101-29.204 is amended to read as follows:

§ 101-29.204 Exceptions to mandatory use of Federal specifications.

(a) Federal specifications need not be used under any of the following circumstances:

* * * * *

(2) The total amount of the purchase does not exceed $10,000. Multiple small purchases of the same item shall not be made for the purpose of avoiding the intent of this exception. Further, this exception in no way affects the requirements for the procurement of items available from GSA supply distribution facilities, Federal Supply Schedule contracts, GSA procurement programs, and certain procurement sources other than GSA, that have been assigned supply responsibility for Federal agencies as provided in Subparts 101-26.3, 101-26.4, 101-26.5, and 101-26.6.

* * * * *

(4) An interim Federal specification is used by an agency in lieu of the Federal specification.

* * * * *

(b) If the purchase involves the following, Federal specifications need not be used except to the extent that they are applicable, in whole or in part:

* * * * *

7. Section 101-29.205 is revised to read as follows:

§ 101-29.205 Deviations from Federal specifications.

When the essential needs of an agency are not adequately covered by an existing Federal specification and the proposed purchase does not come within the exceptions described in § 101-29.204, the agency may authorize deviations from the Federal specification. However, requirements of existing Federal specifications shall be used to the maximum extent practicable.

8. Section 101-29.205-1 is amended to read as follows:

§ 101-29.205-1 Agency responsibility relative to deviations from Federal specifications.

Each agency taking deviations shall establish procedures whereby a designated official having substantial procurement responsibility shall be responsible for ensuring that:

(a) Federal specifications are used, and provisions for exceptions and deviations are complied with.

* * * * *

(d) Notification of deviation or recommendation for change in the specification is sent promptly in duplicate to the General Services Administration (FM), Washington, D.C. 20406. A statement of the deviations with a justification and, where applicable, recommendation for revision or amendment of the specification shall be included. A notification is required for major deviations such as those that will result in the introduction of a new item of supply as evidenced by the development of a new item identification, or when a deviation is taken repeatedly.

9. Sections 101-29.207 and 101-29.208 are revised to read as follows:

§ 101-29.207 Use of Federal specifications and interim Federal specifications in Federal construction contracts.

When material, equipment, or services covered by an available Federal specification or interim Federal specification are specified in connection with Federal construction, the Federal specification or interim Federal specification shall be made a part of the specification for the construction contract, subject to the provisions in §§ 101-29.204, 101-29.205, and 101-29.206.

§ 101-29.208 Military and departmental specifications.

When a Federal specification is not available, existing interim Federal, military, and departmental specifications should be used by all agencies consistent with each agency's procedures for establishing priority for use of such specifications.

10. Section 101-29.301-2 is revised to read as follows:

§ 101-29.301-2 Interim Federal standards.

"Interim Federal standard" means a standard issued in interim form for optional use by all Federal agencies and intended for final processing as a new or revised Federal standard. GSA has discontinued the issuance of interim Federal standards in all but the most unusual circumstances. In most instances a military or departmental standard will serve as the coordination draft for a Federal standard, and the interim issuance will not be needed.

11. Section 101-29.302 is revised to read as follows:

§ 101-29.302 Mandatory use of Federal standards.

Federal standards shall be used by all Federal agencies, including the Department of Defense. The exceptions in § 101-29.204 relating to the mandatory use of Federal specifications are applicable to the use of Federal standards. A Federal agency may be granted an exception by GSA only upon submission of adequate justification to the General Services Administration (FM), Washington, DC 20406.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Effective date: This regulation is effective March 14, 1977.

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 1, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-7412 Filed 3-11-77;8:45 am]

CHAPTER 114—DEPARTMENT OF THE INTERIOR

Nomenclature Amendments; Correction

In FR Doc. 77-5047 appearing at page 10002 in the FEDERAL REGISTER of February 18, 1977, the chapter title number was erroneously shown as Chapter 14. The title is corrected to read "Chapter 114—Department of the Interior."

RICHARD R. HITE,
Acting Assistant Secretary of the Interior.

MARCH 7, 1977.

[FR Doc.77-7416 Filed 3-11-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Lacreek National Wildlife Refuge, South Dakota

The following special regulation is issued and is effective on March 14, 1977.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

SOUTH DAKOTA

LACREEK NATIONAL WILDLIFE REFUGE

Public sport fishing by rod and reel or pole on Lacreek National Wildlife Refuge is permitted on Cedar Creek Ponds Nos. 1, 2, and 3 where designated by signs as open to fishing in accordance with applicable State regulations subject to the following special conditions;

(1) The season for fishing on Cedar Creek Ponds, 1, 2, and 3 extends from April 1 through October 15, 1977, daylight hours only.

(2) The use of boats and the use of live minnows as bait, on the Refuge portion of Cedar Creek are prohibited.

(3) Public fishing on Lacreek National Wildlife Refuge may be closed by the manager whenever access roads are impassable, refuge wildlife need further protection from disturbance, or good refuge management dictates that the area be closed to the public.

The open fishing areas are shown on maps available at Lacreek National Wildlife Refuge Headquarters, Martin, SD 57551 or Area Office, U.S. Fish and Wildlife Service, Federal Building, Pierre, SD 57501.

The provisions of this special regulation supplement the regulations which govern fishing on national wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations Part 33, and are effective through October 15, 1977.

HAROLD H. BURGESS,
Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak.

MARCH 7, 1977.

[FR Doc.77-7415 Filed 3-11-77;8:45 am]

PART 33—SPORT FISHING

Tamarac National Wildlife Refuge, Minnesota

The following special regulations are issued and are effective on March 14, 1977.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

MINNESOTA

TAMARAC NATIONAL WILDLIFE REFUGE

Sport fishing on the Tamarac National Wildlife Refuge, Rochert, Minnesota, is permitted from January 1, 1977, through December 31, 1977, and shall be in accordance with all applicable State fishing laws and refuge regulations. Areas open for fishing comprise 13,675 acres and are designated on a map available at the Refuge headquarters and from the office of the Regional Director, United States Fish & Wildlife Service, Federal Building, Ft. Snelling, Twin Cities, Minnesota 55111.

Refuge waters open to fishing during all State seasons include North Tamarac Lake and 50 yards either side of Ottertail River bridges on County Roads No. 26 and No. 126. Refuge waters open to fishing from State opening day in May through Labor Day include Upper Egg, Wauboose, Two Island, Lost, and Blackbird Lakes.

The provisions of this special regulations supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Part 33, and are effective through December 31, 1977.

OMER N. SWENSON,
Refuge Manager, Tamarac National Wildlife Refuge, Rochert, Minn.

MARCH 3, 1977.

[FR Doc.77-7451 Filed 3-11-77;8:45 am]

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Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1612—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final Rule.

SUMMARY: The purpose of these rules is to implement within the Equal Employment Opportunity Commission the requirements of the Government in the Sunshine Act of 1976, 5 U.S.C. 552b (Pub. L. 94-409). The rules set forth the basic responsibilities of the Commission with regard to compliance with the Act, and offer guidance to members of the public who wish to exercise any of the rights established by the Act.

EFFECTIVE DATE: March 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: At 42 FR 7162 (February 7, 1977) the Commission published for public comment a Notice of Proposed Rulemaking. The thirty-day period for the submission of written comments on the proposed regulations to the Associate General Counsel of the Legal Counsel Division expired at the close of business on March 9, 1977. The Commission received no comments during the thirty-day period. However, the Commission made several changes in its proposed regulations most of which are editorial revisions and minor clarifications. Substantive changes are treated in the following discussion.

SIGNIFICANT DIFFERENCES BETWEEN FINAL AND PROPOSED RULES

1. A new section which did not appear in the proposed rules has been added to the final rules—§ 1612.6 closed meeting procedures: request initiated by an interested person. Subsequent sections have been renumbered accordingly.

2. Section 1612.3 of the proposed rules (open meeting policy) has been amended by the addition of two paragraphs. Paragraph (c) merely clarifies the "observation" rights of persons in attendance at Commission meetings by imposing upon the Commission an obligation to ensure that adequate space, visibility and acoustical equipment be provided.

Paragraph (d) provides that observers may use recording equipment and take photographs at Commission meetings. This provision enhances the right of those in attendance at meetings. However, paragraph (d) makes it clear that such equipment may be used only in a manner which does not interfere with or disrupt the meeting.

3. Section 1612.5 of the proposed rules has been revised. This section of the final rules deals only with the procedure for closing meetings where the request to close generates within the agency. The revised § 1612.5 at paragraphs (f) and (g) incorporates the provisions of § 1612.6 (c) and (d) of the proposed rules dealing with the information which must be made publicly available after a vote has been taken by the agency to open or close a meeting or to withhold information pertaining to a meeting.

4. Section 1612.6 of the proposed regulations has been renumbered and is now § 1612.7 of the final rules. The new § 1612.6 sets forth the procedures to be followed by a person requesting the closing of a meeting whose interest may be directly affected by a meeting or portion of a meeting in that the discussion is likely to:

(1) Involve accusing any person of a crime or formally censuring any person;

(2) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy; or

(3) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source, and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel.

Section 1612.6 also specifies the procedures to be followed by the Commission in handling such requests.

5. Section 1612.12 of the proposed rules—meetings closed by regulation—has been renumbered and is now § 1612.13 of the final rules.

Paragraph (a) of this section constitutes the Commission's regulation promulgated pursuant to subsection (d)(4) of the Government in the Sunshine Act. This paragraph may be invoked by the Commission in closing meetings or portions of meetings where the subject matter to be discussed falls within the tenth exemption of the Sunshine Act, 5 U.S.C. 552b(c)(10).

Since proposed litigation against Title VII respondents has routinely been an agenda item for Commission meetings, the Commission has determined that a portion of the majority of its meetings is likely to be exempt from the open meeting requirements of the Sunshine Act, and that therefore, the Commission's regulation is appropriately promulgated.

6. References to "transcripts" in the proposed rules have been deleted, and the term "electronic recordings," substituted therefor. These changes merely reflect the Commission's decision to utilize the electronic recordings and not make transcripts of meetings due to the prohibitive expense of the latter procedure.

In consideration of the foregoing, the regulations which constitute Part 1612 of Chapter XIV, Title 29 of the Code of Federal Regulations are set forth in their final, revised form as follows:

Sec.
1612.1 Purpose and scope.
1612.2 Definitions.
1612.3 Open meeting policy.
1612.4 Exemptions to open meeting policy.
1612.5 Closed meeting procedures: agency initiated requests.
1612.6 Closed meeting procedures: request initiated by an interested person.
1612.7 Public announcement of agency meetings.
1612.8 Public announcement of changes in meetings.
1612.9 General Counsel's certification in closing a meeting.
1612.10 Recordkeeping requirements.
1612.11 Public access to records.
1612.12 Fees.
1612.13 Meetings closed by regulation.
1612.14 Judicial Review.

AUTHORITY: 5 U.S.C. 552b, sec. 713, 78 Stat. 265; 42 U.S.C. 2000e-12.

§ 1612.1 Purpose and scope.

This part contains the regulations of the Equal Employment Opportunity Commission (hereinafter, the Commission) implementing the Government In The Sunshine Act of 1976, 5 U.S.C. 552b, which entitles the public to the fullest practicable information regarding the decision-making processes of the Commission. The provisions of this Part set forth the basic responsibilities of the Commission with regard to the Commission's compliance with the requirements of the Sunshine Act and offers guidance to members of the public who wish to exercise any of the rights established by the Act.

§ 1612.2 Definitions.

The following definitions apply for purposes of this Part:

(a) The term "agency" means the Equal Employment Opportunity Commission and any subdivision thereof authorized to act on its behalf.

(b) The term "meeting" means the deliberations of at least three of the members of the agency, which is a quorum of Commissioners, where such deliberations determine or result in the joint conduct or disposition of official agency business (including conference calls), but does not include:

(1) Individual members' consideration of official agency business circulated to the members in writing for disposition by notation or other separate, sequential consideration of Commission business by Commissioners,

(2) Deliberations to decide whether a meeting or portion(s) of a meeting or series of meetings should be open or closed,

(3) Deliberations to decide whether to withhold from disclosure information pertaining to a meeting or portions of a meeting or a series of meetings, or

(4) Deliberations pertaining to any change in any meeting or to changes in the public annoucement of such meeting.

(c) The term "member" means each Commissioner of the agency.

(d) The term "entire membership" means the number of members holding office at the time of the meeting in question.

(e) The term "person" means any individual, partnership, corporation, association, or public or private organization.

(f) The term "public observation" means attendance at any meeting open to the public but does not include participation, or attempted participation, in such meeting in any manner.

§ 1612.3 Open meeting policy.

(a) All meetings of the Commission shall be conducted in accordance with the provisions of this Part.

(b) Except as otherwise provided in § 1612.4, every portion of every meeting shall be open to public observation. Public observation does not include participation or disruptive conduct by observers. Any attempted participation or disruptive conduct by observers shall be cause for removal of persons so engaged at the discretion of the presiding member of the agency.

(c) When holding open meetings, the Commission shall provide ample space, sufficient visibility, and adequate acoustics for persons in attendance at the meeting.

(d) Observers may take still photographs and use portable sound recorders which do not require electrical outlets. Persons may take pictures only at the beginning of a meeting and may not use flash equipment. Permission to use non-battery operated sound recorders and visual recorders must be sought reasonably in advance of a meeting. Such request must be made in writing to the Commission through the Office of the Executive Secretariat. The Commission may permit such activities to be conducted under specified limitations which insure proper decorum and minimum interference with the meeting. In all cases, audio or visual recording shall not disrupt or otherwise impede the meeting.

§ 1612.4 Exemptions to open meeting policy.

Except in a case where the agency finds that the public interest requires otherwise, the provisions of § 1612.3 shall not apply to any meeting or portion of a meeting where the agency determines that an open meeting or the disclosure of information from such meeting or portions of a meeting is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (2) in fact properly classified pursuant to such Executive Order;

(b) Relate solely to the internal personnel rules and practices of the agency;

(c) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552), provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a persons of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source, and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except where the agency has already disclosed to the public the content or nature of the disclosed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the agency's issuance of a subpoena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures specified in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 1612.5 Closed meeting procedures: agency initiated requests.

(a) Any member of the agency, the Executive Director, the General Counsel, or any other Commission official submitting an agenda item for the subject meeting may request that any meeting or portion thereof be closed to public observation for any of the reasons provided in § 1612.4 of this Part by submitting a request in writing to the Commission through the Office of the Executive Secretariat no later than fourteen (14) calendar days prior to the meeting.

(b) Upon receipt of any request made under paragraph (a) of this section, the Executive Secretary shall submit the request to the General Counsel for certification in accordance with § 1612.9 of this Part.

(c) No later than seven (7) calendar days prior to the scheduled meeting the members of the agency shall, upon consideration of the request submitted and consideration of the certified opinion of the General Counsel, determine by recorded vote whether to close the meeting or portion of the meeting to public observation. The members may vote less than seven days prior to the scheduled meeting where:

(1) A majority of the members of the Commission determines by recorded vote that agency business requires that any such meeting or series of meetings be held at an earlier date.

(2) A meeting is closed under the Commission's regulation as set forth in § 1612.13(a) of this Part.

(3) A meeting is closed pursuant to a request made under § 1612.6 of this Part and submitted less than seven days prior to the meeting.

(4) There is a need to change the subject matter or the determination to open or close a meeting previously announced.

(d) The Commission shall, at the same time, vote on whether to withhold any information pertaining to the meeting and otherwise required to be announced (§ 1612.7(a)(3)) or made publicly available (paragraphs (f) (2) and (3) of this section).

(e) A meeting, portion of a meeting, or series of meetings may be closed to public observation only when a majority of the entire agency membership votes to take such action. Information pertaining to a meeting, portion of a meeting or series of meetings otherwise required to be announced (§ 1612.7(a)(3)) or made publicly available (paragraphs (f) (2) and (3) of this section) shall be withheld only when a majority of the entire agency membership votes to take such action.

(f) With respect to each vote taken on whether a meeting should be open or closed, the agency shall, within one day of such vote, make publicly available the following information:

(1) A written copy of the vote of each participating Commission member on the question.

(2) A written explanation of Commission action closing a meeting or portions thereof, and

(3) The name and affiliation of any persons who are expected to attend a closed meeting.

(g) The agency shall, within one day, make publicly available the vote of each Commission member on whether or not to withhold any of the information de-

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scribed in paragraphs (f) (2) or (3) of this section.

(h) A separate vote shall be taken for each meeting proposed to be closed to the public and with respect to any information proposed to be withheld from the public. However, a single vote may be taken with respect to a series of meetings proposed to be closed to the public, and with respect to information concerning such series of meetings, if each meeting involves the same particular matters and is scheduled to be held no later than thirty (30) calendar days after the first meeting in the series.

§ 1612.6 Closed meeting procedures: request initiated by an interested person.

(a) Any person as defined in § 1612.2 of this Part whose interest may be directly affected by a portion of a meeting may request that the agency close that portion of the meeting to the public for any of the reasons listed in § 1612.4(e), (f) or (g).

(b) Any person described in paragraph (a) of this section who submits a request that a portion of a meeting be closed, shall submit such request to the Chairman of the agency at the following address: the Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C., 20506. Such person shall state with particularity that portion of a meeting sought to be closed and the reasons for such request.

(c) The Chairman, upon receipt of any request made under paragraph (a) of this section, shall furnish a copy of the request to:

(1) Each member of the agency.

(2) The General Counsel for certification in accordance with § 1612.9 of this Part.

(d) Any member of the agency may request agency action upon such request.

(e) The Commission shall, upon the request of any one of its members and consideration of the certified opinion of the General Counsel, determine by recorded vote whether to close such meeting or portion thereof.

(f) The Chairman of the Commission shall promptly communicate to any person making a request to close a meeting or portion of a meeting under this section the agency's final disposition of such request.

§ 1612.7 Public announcement of agency meetings.

(a) Public announcement of each meeting by the agency shall be accomplished by recorded telephone message at telephone number 202–634–6748 (between the hours of 9 a.m. and 5 p.m. e.t.), and by posting such announcement on the agency's bulletin board located near the entrance of the 2nd Floor of the Columbia Plaza Building at 2401 E Street NW., Washington, D.C., 20506, not later than one week prior to commencement of a meeting or the commencement of the first meeting in a series of meetings, except as otherwise provided in this section, and shall disclose:

(1) The time of the meeting.

(2) The place of the meeting.

(3) The subject matter of each portion of each meeting or series of meetings.

(4) Whether any portion(s) of a meeting will be open or closed to public observation.

(5) The name and telephone number of an official designated to respond to requests for information about the meeting.

(b) Where a meeting is closed to the public, the agency may withhold and not announce the information specified in paragraph (a)(3) of this section, if and to the extent that it finds that such action is justified under § 1612.4. Information shall be withheld only by a recorded vote of a majority of the entire membership of the agency.

(c) The announcement described in paragraph (a) of this section may be accomplished less than one week prior to the commencement of any meeting or series of meetings where:

(1) A majority of the members of the Commission determines by recorded vote that agency business requires that any such meeting or series of meetings be held at an earlier date.

(2) A meeting is closed under the Commission's regulation as set forth in § 1612.13(a) of this Part.

(3) A meeting is closed pursuant to a request made under § 1612.6 of this Part and submitted less than seven days prior to the meeting.

(4) There has been a change in the subject matter or determination to open or close a meeting previously announced.

In these instances, the agency shall make public announcement at the earliest practicable time.

(d) Immediately following any public announcement accomplished under the provisions of this section, the agency shall submit a notice for publication in the FEDERAL REGISTER disclosing:

(1) The time of the meeting.

(2) The place of the meeting.

(3) The subject matter of each portion of each meeting or series of meetings.

(4) Whether any portion(s) of a meeting will be open or closed to public observation.

(5) The name and telephone number of an official designated to respond to requests for information about the meeting.

§ 1612.8 Public announcement of changes in meetings.

(a) The agency is required to make a public announcement of any changes in its meeting or portion(s) thereof. If, after the announcement provided for in § 1612.7, the time or place of a meeting is changed or the meeting is cancelled, the agency will announce the change at the earliest practicable time. The subject matter or the determination to open or close the meeting may be changed only if (1) a majority of the entire membership of the agency determines by recorded vote that agency business so requires and that no earlier announcement of the change was possible and (2) the agency publicly announces the change and the vote of each member upon such change at the earliest practicable time.

(b) Immediately following any public announcement of any change accomplished under the provisions of this section, the agency shall submit a notice for publication in the FEDERAL REGISTER disclosing:

(1) The time of the meeting.

(2) The place of the meeting.

(3) The subject matter of each portion of each meeting or series of meetings.

(4) Whether any portion(s) of a meeting is open or closed to public observation.

(5) Any change in (1), (2), (3), or (4) of this paragraph.

(6) The name and telephone number of the official designated to respond to requests for information about any meeting.

§ 1612.9 General Counsel's certification in closing a meeting.

(a) Upon any proper request made pursuant to this Part, that the agency close a meeting or portion(s) thereof, the General Counsel shall certify in writing to the agency, whether in his or her opinion the closing of a meeting or portion(s) thereof is proper under the provisions of this Part and the terms of the Government in the Sunshine Act (5 U.S.C. 552b). If, in the opinion of the General Counsel, a meeting or portion(s) thereof is proper for closing under this Part and the terms of the Government in the Sunshine Act, his or her certification of that opinion shall cite each applicable particular exemption of that Act and provision of this Part.

(b) A copy of the certification of the General Counsel as described in paragraph (a) of this section together with a statement of the presiding officer of the meeting setting forth the time and place of the relevant meeting or meetings, and the persons present, shall be maintained by the agency in a public file.

§ 1612.10 Recordkeeping requirements.

(a) In the case of any meeting or portion(s) thereof to be closed to public observation under the provisions of this Part, the following records shall be maintained by the Executive Secretary of the agency:

(1) The certification of the General Counsel pursuant to § 1612.9 of this Part;

(2) A statement from the presiding officer of the meeting or portion(s) thereof setting forth the time and place of the meeting, and the persons present;

(3) A complete electronic recording adequate to record fully the proceedings of each meeting closed to the public observation, except that in a meeting closed pursuant to paragraph (h) or (j) of § 1612.4, the agency may maintain minutes in lieu of a recording. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any item shall be identified in the minutes.

(b) If the agency has determined that the meeting or portion(s) thereof may properly be closed to the public, the electronic recording or minutes shall not be made available to the public until such future time, if any, as it is determined by the Commission upon request, that the reasons for closing the meeting no longer pertain: Provided, however, that any separable portion of a recording or minutes will be made promptly available to the public if that portion does not contain information properly withheld under § 1612.4.

(c) The agency shall maintain a copy of the electronic recording or minutes for a period of two years after the meeting, or until one year after the conclusion of the proceeding to which the meeting relates, whichever occurs later.

§ 1612.11 Public access to records.

All requests for information shall be submitted in writing to the Chairman of the agency. Requests to inspect or copy the electronic recordings or minutes of agency meetings or portions thereof will be considered under the provisions of § 1612.4 of this Part.

§ 1612.12 Fees.

(a) Records provided to the public under this Part shall be furnished at the expense of the party requesting copies of the recording or minutes, upon payment of the actual cost of duplication.

(b) All required fees shall be paid in full prior to issuance of requested copies of records. Fees are payable to the "Treasurer of the United States."

§ 1612.13 Meetings closed by regulation.

(a) This paragraph constitutes the Commission's regulation promulgated pursuant to paragraph (d)(4) of the Government in the Sunshine Act and may be invoked by the agency to close meetings or portions thereof where the subject matter of such meeting or portion of a meeting is likely to involve:

(1) Matters pertaining to the issuance of subpoenas;

(2) Subpoena modification and revocation requests, and

(3) The Agency's participation in civil actions or proceedings pertaining thereto.

(b) When closing a meeting or portion thereof under the Commission's regulation set forth in paragraph (a) of this section, a majority of the Commission membership shall vote at or before the beginning of such meeting or portion thereof to do so. The vote to close a meeting by regulation shall be recorded and made publicly available.

(c) The Commission's determination to promulgate the regulation in paragraph (a) of this section is based upon a review of the agenda of Commission meetings for the two years prior to the promulgation of these regulations.

(1) Since the Commission's practice of conducting weekly meetings began in 1975, proposed litigation against Title VII respondents has been a regular agenda item. The tenth exemption of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(10), exempts the discussion of these matters from the open meeting requirements of the Act.

(2) Thus, the Commission has determined that a majority of its meetings or portions thereof may properly be closed to the public under the tenth exemption of the Sunshine Act, and that paragraph (d)(4) of the Sunshine Act is properly relied upon in promulgating the Commission's regulation in paragraph (a).

§ 1612.14 Judicial review.

Any person may bring an action in a United States District Court to challenge or enforce the provisions of this Part. Such action may be brought prior to or within sixty (60) calendar days after the meeting in question, except that if proper public announcement of the meeting is not made, the action may be instituted at any time within sixty (60) days after such announcement is made. An action may be brought where the agency meeting was held or in the District of Columbia.

By order of the Commission.

Signed this the 10th day of March, 1977.

ETHEL BENT WALSH,
Vice Chairman.

[FR Doc.77-7551 Filed 3-11-77;8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 70]

SPECIAL NUCLEAR MATERIAL

Proposed General License for Routine Use of Plutonium-238 Powered Cardiac Pacemakers

The U.S. Nuclear Regulatory Commission has under consideration amendments to its regulations in 10 CFR Part 70, "Special Nuclear Material," that would establish (a) general licenses for the implantation, routine use and recovery of plutonium-238 powered cardiac pacemakers that have been proved reliable and safe under investigational programs of actual use and (b) the requirements for issuance of specific licenses authorizing distribution of pacemakers for routine use under the general license.

Plutonium-238 powered cardiac pacemakers have been used since 1972 in the United States under specific licenses for investigational programs. Before any plutonium-238 powered pacemaker is approved for implantation in a patient, prototype plutonium-238 sources, batteries and pacemakers are required to be tested under more severe conditions than would be expected in the normal use of pacemakers or in any postulated accidents to which pacemaker patients or pacemakers might be exposed, including tests for impact, crush, fire, cremation and corrosion. The manufacturer is also required to provide and implement a quality control program to assure that each production unit is a replica of units that have successfully passed the required safety tests and will completely contain the plutonium-238. The safety tests are set out in the proposed new Appendix A to 10 CFR Part 70. Details of the test requirements are set forth in the Commission's "Interim Safety Guide for the Design and Testing of Nuclear-Powered Cardiac Pacemakers." (Single copies of the Guide may be obtained from the Division of Document Control, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.) These tests are consistent with the internationally accepted standards of the Nuclear Energy Agency of the Organization for Economic Cooperation and Development.

Under the proposed amendments, experience acquired through the controlled investigational programs would be used in the issuance of specific licenses that authorize the distribution of plutonium-238 powered pacemakers for routine use under a new general license. In order to qualify a pacemaker for routine use under the general license, a distributor (manufacturer) would, among other things, be required to demonstrate with 90 percent confidence that the random failure rate of the pacemaker is less than 0.15 percent per month. This failure rate is comparable to that of non-nuclear powered pacemakers when the expected wearout from battery depletion is excluded. For purposes of this evaluation, a pacemaker is considered to fail if, for any reason, the pacemaker needs to be removed or replaced because of failure to provide satisfactory pacing to the patient. A discussion of the statistical evaluation of the performance of nuclear-powered cardiac pacemakers is presented in Appendix E of the final environmental statement on the routine use of plutonium-powered cardiac pacemakers (Document No. NUREG–0060).

Physicians implanting pacemakers under the investigational programs are required to follow a standard research protocol designed to determine the pacemaker's reliability under conditions of actual use in people and to follow procedures leading to recovery of the pacemaker for controlled disposal or reuse when it is no longer needed by the patient. Details on licensing requirements for these programs are set forth in the Commission's "Guide for Licensing the Investigational Use of Nuclear-powered Cardiac Pacemakers." (Single copies of the Guide may be obtained from the Commission's Division of Document Control.)

Under the proposed amendments, the Commission would simplify the requirements it imposes on the medical community for implantation of pacemakers after successful completion of the investigational program for a particular model pacemaker. No longer would a physician implanting that model pacemaker be required to follow a standard research protocol. Also, the hospital would not be required by the Commission to maintain contact with the patient following the implant operation.

Under the proposed general license for the routine use of plutonium-238 powered cardiac pacemakers, the patient would be required to register with the Commission information such as his address, his consent to return of the pacemaker for controlled disposal, and the address of someone who is likely to keep informed of the patient's location. The patient also would be required to keep current the information he filed with the Commission. This would be accomplished by periodic re-registration and by reporting of changes in the registered information. This requirement for re-registration and reporting of changes is intended to assist the Commission in accounting for the pacemakers. If a patient did not comply with this requirement, he would not be forced to discontinue use of his pacemaker.

In addition to establishing a general license for the routine use of plutonium-238 powered cardiac pacemakers, the proposed amendments would establish a general license for hospitals implanting the pacemakers and a general license for possession of such pacemakers during activities related to recovery for controlled disposal. Under the latter general license, possession incidental to recovery and transfer of the pacemakers for purposes of disposal would be authorized. Morticians and physicians removing pacemakers are expected to be the most frequent users of this general license.

Both Agreement States (now 25 in number) and the Commission issue specific licenses for the investigational use of plutonium-238 powered cardiac pacemakers. Although the Commission does not intend to effect any change in Agreement State licensing jurisdiction over investigational use, the Commission is proposing that plutonium-238 powered cardiac pacemakers in routine use should not be disposed of without a license from the Commission. To effectively implement this determination, under the proposed amendments the Commission would regulate the distribution, implantation, use and recovery for disposal of such pacemakers. Although the pacemakers would be manufactured to rigid safety specifications which would make it highly unlikely that the plutonium-238 in the pacemakers would be released, regardless of the method of disposal, their recovery for controlled disposal would further assure little or no potential hazard to the public health and safety or to the environment from widescale distribution of such pacemakers.

The determination that the Commission should be the sole regulator of the disposal of plutonium-238 powered cardiac pacemakers in routine use would be made pursuant to § 274c.(4) of the Atomic Energy Act of 1954, as amended, and § 150.15(a)(5) of 10 CFR Part 150, "Exemption and Continued Regulatory Authority in Agreement States Under section 274," (of the Atomic Energy Act of 1954, as amended). This determination would not affect an Agreement State's licensing of investigational use or regulation of radiation safety at manufacturing or distributing plants. Concurrently with publication of these proposed amendments the Commission is publishing proposed amendments to 10 CFR Part 150 that would reflect this determination.

An alternative to regulation of the routine distribution and use of the pacemakers exclusively by the Commission would be regulation of distributors and users by the Agreement States and the Commission. This alternative would provide less assurance of recovery of pacemakers since the users could be expected to move, either temporarily or permanently, from State to State; further, the problems in accounting for the pacemakers could be compounded if many agencies were involved.

Under the proposed amendments responsibilities for accounting for the pacemakers would be imposed on the distributors and the hospitals in which pacemarkers were implanted. In evaluating the distributor's application for a license, the Commission would determine, pursuant to § 70.23(a)(5) of 10 CFR Part 70, whether the applicant is financially qualified to account for the pacemakers he distributes and to provide reasonable assurance of eventual return of the pacemakers to him for controlled storage and disposal or reuse. The licensee will be expected to maintain his financial qualifications during the term of the license and to assure his ability to conduct his recovery program by such means as bonding, insurance, or creation of an appropriately established separate fund for that purpose.

Under the proposed amendments there would be few safety requirements imposed on hospitals where pacemakers are implanted since the activities conducted at the hospitals should cause only minimal radiation exposures. However, the hospitals would be regulated solely by the Commission in order to assure that information important to accounting for the pacemakers and to their recovery for disposal will be supplied to the distributors of the pacemakers.

The proposed amendments do not apply to a person who has a plutonium-238 powered cardiac pacemaker implanted outside the U.S. and who then enters the U.S. Such persons are relatively few and are now specifically licensed on a case-by-case basis. In the event they become significantly more numerous, consideration will be given to revision of the proposed amendments.

Pursuant to the National Environmental Policy Act of 1969, and the Commission's regulations in 10 CFR Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," the Commission's Office of Nuclear Material Safety and Safeguards prepared a draft and later a final environmental impact statement in connection with the routine use of plutonium powered cardiac pacemakers. The final statement concludes that, based on a balancing of the benefits and risks involved, plutonium-238 powered pacemakers should be authorized for routine use. Copies of the Final Environmental Statement (Document No. NUEG–0060) are available for examination in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies may be purchased for $9.25 for a printed text or for $2.25 for a microfiche from National Technical Information Service, Springfield, Virginia 22161.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 70 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them by May 13, 1977, to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. Sections 70.18 through 70.20 are redesignated §§ 70.15 through 70.17 and new §§ 70.18 through 70.20 are added to read as follows:

§ 70.18 General license for possession and use of plutonium-238 powered cardiac pacemakers by hospitals.

(a) A general license is hereby issued to any hospital to possess and use plutonium-238 powered cardiac pacemakers in implantation programs in accordance with the provisions of paragraphs (b) through (e) of this section.

(b) The general license in paragraph (a) of this section applies only to plutonium-238 powered cardiac pacemakers that have been distributed in accordance with a specific license issued by the Commission pursuant to § 70.38.

(c) No hospital shall possess and use plutonium-238 powered cardiac pacemakers pursuant to the general license established by paragraph (a) of this section until it has filed Form NRC–____ "Registration Certificate—Implantation of Plutonium-238 Powered Cardiac Pacemakers Under General License," with the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and received from the Commission a validated copy of Form NRC–____ with registration number assigned. The registrant shall furnish on Form NRC–____ the following information and such other information as may be required by that form:

(1) Name and address of the registrant;

(2) Identification of an individual by name and position who will represent hospital management and will constitute a point of contact between the Commission and the general licensee.

(d) A registrant who possesses and uses plutonium-238 powered cardiac pacemakers pursuant to the general license established in paragraph (a) of this section shall:

(1) Implement effective procedures for accountability and protection against loss or theft of plutonium-238 powered cardiac pacemakers before implantation and after removal from patients,

(2) Maintain records of receipt and disposition of each plutonium-238 pursuant to a license issued by the Commission or by an Agreement State,

(3) Assure that implanting physicians have specialized training in the therapeutic use of cardiac pacemakers or experience equivalent to such training,

(4) Prior to the implant operation, obtain from the patient or his representative a signed copy of Form NRC– ____, "Registration Certificate: Plutonium-238 Powered Cardiac Pacemaker," and maintain a file of all such signed copies.

(5) Promptly after each implantation, report to the manufacturer of the pacemaker information pertinent to assisting the manufacturer in conducting an accountability and recovery system, such as identification of the pacemaker by model and serial number, name and address of the patient, and name and address of the hospital and responsible physician, and

(6) Comply with the provisions of §§ 20.402 and 20.403 of this chapter for reporting radiation incidents, theft, or loss of licensed material, but shall be exempt from the other requirements of Parts 19 and 20 of this chapter.

(e) A registrant who possesses or uses plutonium-238 under the general license of paragraph (a) of this section shall report to the Director of Nuclear Material Safety and Safeguards any changes in the information furnished by him in the Form NRC– ____, "Registration Certificate-Implantation of Plutonium-238 Powered Cardiac Pacemakers Under General License." The report shall be submitted within 30 days after the effective date of such change.

§ 70.19 General license for routine use of plutonium-238 powered cardiac pacemakers.

(a) A general license is hereby issued to any individual to possess and use, in accordance with the provisions of paragraphs (b) through (d) of this section, plutonium-238 in the form of an implanted plutonium-238 powered cardiac pacemaker that has been distributed in accordance with a specific license issued by the Commission pursuant to § 70.38.

(b) Prior to implant of the pacemaker, an individual who will possess and use plutonium-238 contained in an implanted cardiac pacemaker pursuant to the general license in paragraph (a) of this section or his representative shall:

(1) Complete Form NRC ____ "Registration Certificate: Plutonium-238 Powered Cardiac Pacemaker,"

(2) Furnish one copy of the completed form to the hospital that implants the pacemaker, and

(3) Within ten (10) days following the implant operation send one copy of the completed form to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(c) An individual who possesses and uses plutonium-238 contained in an implanted cardiac pacemaker pursuant to the general license in paragraph (a) of this section shall:

(manufacturer) would, among other things, be required to demonstrate with 90 percent confidence that the random failure rate of the pacemaker is less than 0.15 percent per month. This failure rate is comparable to that of non-nuclear powered pacemakers when the expected wearout from battery depletion is excluded. For purposes of this evaluation, a pacemaker is considered to fail if, for any reason, the pacemaker needs to be removed or replaced because of failure to provide satisfactory pacing to the patient. A discussion of the statistical evaluation of the performance of nuclear-powered cardiac pacemakers is presented in Appendix E of the final environmental statement on the routine use of plutonium-powered cardiac pacemakers (Document No. NUREG–0060).

Physicians implanting pacemakers under the investigational programs are required to follow a standard research protocol designed to determine the pacemaker's reliability under conditions of actual use in people and to follow procedures leading to recovery of the pacemaker for controlled disposal or reuse when it is no longer needed by the patient. Details on licensing requirements for these programs are set forth in the Commission's "Guide for Licensing the Investigational Use of Nuclear-powered Cardiac Pacemakers." (Single copies of the Guide may be obtained from the Commission's Division of Document Control.)

Under the proposed amendments, the Commission would simplify the requirements it imposes on the medical community for implantation of pacemakers after successful completion of the investigational program for a particular model pacemaker. No longer would a physician implanting that model pacemaker be required to follow a standard research protocol. Also, the hospital would not be required by the Commission to maintain contact with the patient following the implant operation.

Under the proposed general license for the routine use of plutonium-238 powered cardiac pacemakers, the patient would be required to register with the Commission information such as his address, his consent to return of the pacemaker for controlled disposal, and the address of someone who is likely to keep informed of the patient's location. The patient also would be required to keep current the information he filed with the Commission. This would be accomplished by periodic re-registration and by reporting of changes in the registered information. This requirement for re-registration and reporting of changes is intended to assist the Commission in accounting for the pacemakers. If a patient did not comply with this requirement, he would not be forced to discontinue use of his pacemaker.

In addition to establishing a general license for the routine use of plutonium-238 powered cardiac pacemakers, the proposed amendments would establish a general license for hospitals implanting the pacemakers and a general license for possession of such pacemakers during activities related to recovery for controlled disposal. Under the latter general license, possession incidental to recovery and transfer of the pacemakers for purposes of disposal would be authorized. Morticians and physicians removing pacemakers are expected to be the most frequent users of this general license.

Both Agreement States (now 25 in number) and the Commission issue specific licenses for the investigational use of plutonium-238 powered cardiac pacemakers. Although the Commission does not intend to effect any change in Agreement State licensing jurisdiction over investigational use, the Commission is proposing that plutonium-238 powered cardiac pacemakers in routine use should not be disposed of without a license from the Commission. To effectively implement this determination, under the proposed amendments the Commission would regulate the distribution, implantation, use and recovery for disposal of such pacemakers. Although the pacemakers would be manufactured to rigid safety specifications which would make it highly unlikely that the plutonium-238 in the pacemakers would be released, regardless of the method of disposal, their recovery for controlled disposal would further assure little or no potential hazard to the public health and safety or to the environment from widescale distribution of such pacemakers.

The determination that the Commission should be the sole regulator of the disposal of plutonium-238 powered cardiac pacemakers in routine use would be made pursuant to § 274c.(4) of the Atomic Energy Act of 1954, as amended, and § 150.15(a)(5) of 10 CFR Part 150, "Exemption and Continued Regulatory Authority in Agreement States Under section 274," (of the Atomic Energy Act of 1954, as amended). This determination would not affect an Agreement State's licensing of investigational use or regulation of radiation safety at manufacturing or distributing plants. Concurrently with publication of these proposed amendments the Commission is publishing proposed amendments to 10 CFR Part 150 that would reflect this determination.

An alternative to regulation of the routine distribution and use of the pacemakers exclusively by the Commission would be regulation of distributors and users by the Agreement States and the Commission. This alternative would provide less assurance of recovery of pacemakers since the users could be expected to move, either temporarily or permanently, from State to State; further, the problems in accounting for the pacemakers could be compounded if many agencies were involved.

Under the proposed amendments responsibilities for accounting for the pacemakers would be imposed on the distributors and the hospitals in which pacemarkers were implanted. In evaluating the distributor's application for a license, the Commission would determine, pursuant to § 70.23(a)(5) of 10 CFR Part 70, whether the applicant is financially qualified to account for the pacemakers he distributes and to provide reasonable assurance of eventual return of the pacemakers to him for controlled storage and disposal or reuse. The licensee will be expected to maintain his financial qualifications during the term of the license and to assure his ability to conduct his recovery program by such means as bonding, insurance, or creation of an appropriately established separate fund for that purpose.

Under the proposed amendments there would be few safety requirements imposed on hospitals where pacemakers are implanted since the activities conducted at the hospitals should cause only minimal radiation exposures. However, the hospitals would be regulated solely by the Commission in order to assure that information important to accounting for the pacemakers and to their recovery for disposal will be supplied to the distributors of the pacemakers.

The proposed amendments do not apply to a person who has a plutonium-238 powered cardiac pacemaker implanted outside the U.S. and who then enters the U.S. Such persons are relatively few and are now specifically licensed on a case-by-case basis. In the event they become significantly more numerous, consideration will be given to revision of the proposed amendments.

Pursuant to the National Environmental Policy Act of 1969, and the Commission's regulations in 10 CFR Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," the Commission's Office of Nuclear Material Safety and Safeguards prepared a draft and later a final environmental impact statement in connection with the routine use of plutonium powered cardiac pacemakers. The final statement concludes that, based on a balancing of the benefits and risks involved, plutonium-238 powered pacemakers should be authorized for routine use. Copies of the Final Environmental Statement (Document No. NUEG–0060) are available for examination in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies may be purchased for $9.25 for a printed text or for $2.25 for a microfiche from National Technical Information Service, Springfield, Virginia 22161.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 70 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them by May 13, 1977, to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. Sections 70.18 through 70.20 are redesignated §§ 70.15 through 70.17 and new §§ 70.18 through 70.20 are added to read as follows:

§ 70.18 General license for possession and use of plutonium-238 powered cardiac pacemakers by hospitals.

(a) A general license is hereby issued to any hospital to possess and use plutonium-238 powered cardiac pacemakers in implantation programs in accordance with the provisions of paragraphs (b) through (e) of this section.

(b) The general license in paragraph (a) of this section applies only to plutonium-238 powered cardiac pacemakers that have been distributed in accordance with a specific license issued by the Commission pursuant to § 70.38.

(c) No hospital shall possess and use plutonium-238 powered cardiac pacemakers pursuant to the general license established by paragraph (a) of this section until it has filed Form NRC–____ "Registration Certificate—Implantation of Plutonium-238 Powered Cardiac Pacemakers Under General License," with the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and received from the Commission a validated copy of Form NRC–____ with registration number assigned. The registrant shall furnish on Form NRC–____ the following information and such other information as may be required by that form:

(1) Name and address of the registrant;

(2) Identification of an individual by name and position who will represent hospital management and will constitute a point of contact between the Commission and the general licensee.

(d) A registrant who possesses and uses plutonium-238 powered cardiac pacemakers pursuant to the general license established in paragraph (a) of this section shall:

(1) Implement effective procedures for accountability and protection against loss or theft of plutonium-238 powered cardiac pacemakers before implantation and after removal from patients,

(2) Maintain records of receipt and disposition of each plutonium-238 pursuant to a license issued by the Commission or by an Agreement State,

(3) Assure that implanting physicians have specialized training in the therapeutic use of cardiac pacemakers or experience equivalent to such training,

(4) Prior to the implant operation, obtain from the patient or his representative a signed copy of Form NRC– ____, "Registration Certificate: Plutonium-238 Powered Cardiac Pacemaker," and maintain a file of all such signed copies.

(5) Promptly after each implantation, report to the manufacturer of the pacemaker information pertinent to assisting the manufacturer in conducting an accountability and recovery system, such as identification of the pacemaker by model and serial number, name and address of the patient, and name and address of the hospital and responsible physician, and

(6) Comply with the provisions of §§ 20.402 and 20.403 of this chapter for reporting radiation incidents, theft, or loss of licensed material, but shall be exempt from the other requirements of Parts 19 and 20 of this chapter.

(e) A registrant who possesses or uses plutonium-238 under the general license of paragraph (a) of this section shall report to the Director of Nuclear Material Safety and Safeguards any changes in the information furnished by him in the Form NRC– ____, "Registration Certificate-Implantation of Plutonium-238 Powered Cardiac Pacemakers Under General License." The report shall be submitted within 30 days after the effective date of such change.

§ 70.19 General license for routine use of plutonium-238 powered cardiac pacemakers.

(a) A general license is hereby issued to any individual to possess and use, in accordance with the provisions of paragraphs (b) through (d) of this section, plutonium-238 in the form of an implanted plutonium-238 powered cardiac pacemaker that has been distributed in accordance with a specific license issued by the Commission pursuant to § 70.38.

(b) Prior to implant of the pacemaker, an individual who will possess and use plutonium-238 contained in an implanted cardiac pacemaker pursuant to the general license in paragraph (a) of this section or his representative shall:

(1) Complete Form NRC ____ "Registration Certificate: Plutonium-238 Powered Cardiac Pacemaker,"

(2) Furnish one copy of the completed form to the hospital that implants the pacemaker, and

(3) Within ten (10) days following the implant operation send one copy of the completed form to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(c) An individual who possesses and uses plutonium-238 contained in an implanted cardiac pacemaker pursuant to the general license in paragraph (a) of this section shall:

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(1) Report in writing any changes to the information on Form NRC _____ within 30 days after the effective date of such change, and

(2) Subsequent to 6 months after the implant operation, re-register in January of each year by sending a completed Form NRC _____ to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(d) An individual who possesses and uses plutonium-238 pursuant to the general license in paragraph (a) of this section is exempt from the requirements of Parts 19 and 20 of this chapter with respect to the plutonium-238 contained in the pacemaker.

§ 70.20 General license for possession of plutonium-238 powered cardiac pacemarkers incidental to disposal.

A general license is hereby issued to any individual who removes an implanted plutonium-238 powered cardiac pacemaker, or otherwise receives such a pacemaker, to possess the pacemaker. *Provided, however,* That such pacemaker shall be expeditiously transferred to the manufacturer or distributor or to another person authorized to receive the plutonium-238. Such individual shall comply with the provisions of § 20.301 of this chapter but is otherwise exempt from the requirements of Parts 19 and 20 of this chapter with respect to the plutonium-238 contained in the pacemaker.

2. New §§ 70.38 and 70.38a are added to read as follows:

§ 70.38 Specific licenses for distribution of plutonium-238 powered pacemakers for use under general license.

An application for a specific license to manufacture or import plutonium-238 powered cardiac pacemakers for distribution for use by persons generally licensed under § 70.19 will be approved if:

(a) The applicant has satisfied the general requirements of § 70.23 and the requirements of paragraphs (b) through (d) of this section: *Provided, however,* That the requirements of §§ 70.23(a) (2), (3) and (4) do not apply to an applicant located in an Agreement State and specifically licensed by that State to manufacture, process or produce plutonium-238 powered cardiac pacemakers;

(b) The application contains sufficient information regarding each model pacemaker to demonstrate that (1) the pacemakers are designed, manufactured, tested, labeled and subjected to adequate quality control to provide reasonable assurance that radiation levels from the pacemakers will not cause unnecessary radiation exposures to patients or significant radiation exposures to the public, (2) the plutonium-238 will be contained in the pacemakers in normal use and under conditions of accidents or loss, (3) the physical and chemical form of the plutonium-238 is as nondispersible (in the environment) and nontransportable (in the body) as is practicable, and (4) the plutonium-238 containment system will allow no release of plutonium-238 when subjected to the safety performance tests set out in Appendix A of this part;

(c) The applicant has been authorized to distribute the pacemaker for investigational use and submits sufficient information acquired through an investigational implantation program to demonstrate that the pacemaker has satisfied with 90 percent confidence a reliability standard of not more than 0.15 percent per month random failures; [1] and

(d) The applicant submits sufficient information regarding his program to account for pacemakers used under general license and to provide reasonable assurance of eventual return of the pacemakers to the applicant for controlled storage and disposal or reuse.

§ 70.38a Same: Conditions of licenses.

Each person licensed under § 70.38 shall:

(a) Maintain complete records of all tests, audits and actions relating to quality control of plutonium-238 powered pacemakers or component parts and make such records available to the Commission for a period of 25 years from the date of manufacture of each pacemaker and component parts.

(b) Assure that the labeling of each pacemaker satisfies the following requirements:

(1) The plutonium-238 fuel capsule (or battery housing in the case where the fuel capsule is permanently sealed within the battery housing) shall be conspicuously and legibly marked by means resistant to fire and corrosion, and without compromising the reliability of the containment, with the following:

(i) The radiation symbol prescribed by § 20.203(a) of this chapter;

(ii) The words "Radioactive Material" or substantially similar wording;

(iii) Identity and activity of the principal radioisotope and year of sealing of the fuel capsule;

(iv) The name of the manufacturer and serial number of the plutonium-238 battery (or fuel capsule);

(v) The words "Notify Health Authorities for Disposal" or substantially similar wording.

(2) Except as provided in paragraph (b)(3) of this section, the pacemaker housing shall be conspicuously and legibly marked by means resistant to fire and corrosion with the following:

(i) The radiation symbol prescribed by § 20.203(a) of this chapter;

(ii) The words "Radioactive Pacemaker" or substantially similar wording;

(iii) Identity and activity of the principal radioisotope and year of sealing of the pacemaker;

(iv) The name of the manufacturer and serial number of the pacemaker;

(v) The words "Notify Health Authorities for Disposal" or substantially similar wording.

(3) If the pacemaker housing is essentially composed of epoxy resin, it shall bear a label meeting all the requirements of paragraph (b)(2) of this section except resistance to fire. Following exposure to fire that will consume the epoxy resin and the protective covering, the markings on the fuel capsule or battery housing shall become visible.

(c) Keep records showing the name and address of each patient receiving a pacemaker for use under the general license in § 70.19. The records also shall show for each patient the date of the implant operation, quantity of plutonium-238 contained in the pacemaker, model number, serial number, and date of return of the pacemaker to the licensee or other disposal upon removal from the patient.

(d) Submit a semiannual summary report in January and in July of each year to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, indicating the number of pacemakers implanted during the preceding six (6) months and the total number of pacemakers outstanding (i.e., implanted, at hospitals, in transit, or otherwise outside of the licensee's facility).

(e) Take reasonable measures to assure recovery, including assumption of all costs incidental to removal and return of pacemakers and provision for packaging, labeling and instructions for transport of pacemakers after removal.

(f) Immediately report to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, any known or suspected: (1) Theft or loss of a plutonium-238 powered cardiac pacemaker, (2) release of plutonium-238 from a pacemaker, (3) production defect, or (4) statistically significant increase in failure rate under routine use when that rate is compared with the failure rate established under the investigational program.

(g) Within ten (10) days report to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C., any failure of a pacemaker to provide satisfactory pacing to a patient.

3. A new Appendix "A" is added to 10 CFR Part 70 to read as follows:

APPENDIX A—SAFETY PERFORMANCE TESTS FOR PLUTONIUM-238 POWERED CARDIAC PACEMAKERS

The safety performance qualification tests described below shall be performed for plutonium-238 powered cardiac pacemakers. Following each of the safety performance tests the ability of the fuel containment system to prevent release of plutonium-238 shall be established by analyses and tests capable of detecting any breach of containment down to an ultimate limit of sensitivity equivalent to 10^{-3} cm³/sec of helium at a temperature of 0° Centigrade and a pressure of 760 mm of mercury. A more complete description of the tests is provided in Appendix B of the U.S. NRC's publication NUREG–0060.

1. *Mechanical.* The fuel capsule shall be caused to impact at a velocity of 50 meters per second onto a flat essentially unyielding surface. The fuel capsule shall be subjected to a static stress (crush) load of 1000 kilograms between roughened steel jaws.

2. *Thermal.* The battery shall be subjected to a temperature of 800° C in air for a period of 30 minutes followed by immersion in water at room temperature and the 1000 kilograms static stress (crush) test specified in paragraph 1. The pacemaker shall be subjected to a cremation cycle of two hours in an oxidizing atmosphere with a minimum temperature of 800° C and a sustained temperature of 1300° C for at least 90 minutes.

3. *Corrosion.* It shall be established by corrosion tests and engineering analyses that, when corrosion in sea water of the encapsulating material for the plutonium-238 is extrapolated to a time corresponding to 10 half-lives for plutonium-238, the plutonium-238 will be contained by the encapsulating material. Possible pressure buildup inside the encapsulating material shall be considered in this evaluation.

(Secs. 53, 161, Pub. L. 83–703, 68 Stat. 930, 948; sec. 201, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 2073, 2201, 5841).)

Dated at Washington, D.C., this 7th day of March 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-7290 Filed 3-11-77;8:45 am]

[1] For the purpose of this evaluation, a pacemaker is considered to fail if, for any reason, the pulse generator fails to provide satisfactory pacing to the patient. A discussion of the statistical evaluation of the performance of nuclear-powered cardiac pacemakers is contained in Appendix E of U.S. NRC's publication NUREG–0060.

[10 CFR Part 150]

PLUTONIUM-238 POWERED CARDIAC PACEMAKERS

Exemptions and Continued Regulatory Authority in Agreement States

The U.S. Nuclear Regulatory Commission is considering an amendment to its regulations in 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States Under section 274" (of the Atomic Energy Act of 1954, as amended), which would make the Commission the sole agency regulating the routine use under general license of plutonium-238 powered cardiac pacemakers and the distribution under specific license of pacemakers used under such general license.

Section 274 of the Atomic Energy Act of 1954, as amended, and § 150.15 of 10 CFR Part 150 state that persons in Agreement States are not exempt from the Commission's licensing and regulatory requirements with respect to the disposal of such byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be disposed of without a license from the Commission. Section 274 and § 150.15 further provide that within Agreement States the Commission may by rule, regulation, or order require that the manufacturer, processor or producer of any product containing byproduct, source, or special nuclear material shall not transfer possession or control of such product except pursuant to a license issued by the Commission.

The Commission is publishing concurrently with this notice proposed amendments of 10 CFR Part 70 that would establish (a) a general license to hospitals for implantation of plutonium-238 powered cardiac pacemakers approved by the Commission for routine use, (b) a general license to patients to use such pacemakers, (c) a general license to persons possessing such pacemakers incidental to recovery and disposal, and (d) requirements for issuance of specific licenses authorizing distribution of pacemakers for possession and use under the general licenses. The pacemakers would be manufactured to rigid safety specifications which make it highly unlikely that the plutonium contained in the pacemakers would be released to the environment. However, in order to further assure that there would be little or no potential hazard to the public health and safety or to the environment resulting from the wide-scale distribution of pacemakers, the patient (a general licensee of the Commission) would be required to register with the Commission and to return the pacemaker to the distributor or manufacturer (a specific licensee of the Commission) for controlled storage and disposal or reuse when it is no longer of use to the patient.

An alternative to regulation of the routine distribution and use of the pacemakers exclusively by the Commission would be regulation of distributors and users by each of the Agreement States and the Commission. This alternative would provide less assurance of recovery since the users could be expected to move from State to State; further, the problems of accounting for the pacemakers could be compounded if many agencies were involved.

The Commission is considering a determination that, because of the potential hazards associated with disposal of large numbers of plutonium-238 powered cardiac pacemakers under routine use, they should not be disposed of without a license from the Commission. In implementing this determination the Commission would assert its authority in Agreement States over routine implantation, use and recovery of such pacemakers under general license and over the specifically licensed distribution of pacemakers used under the general license. The Commission's exercise of authority in the Agreement States together with its exercise of authority in non-Agreement States would result in only the Commission regulating the distribution, implantation, and recovery of pacemakers used under the general license. The proposed amendment to § 150.15 of Part 150 which follows would reflect the proposed determination. The proposed amendment would not affect an Agreement State's authority to license the use of nuclear powered cardiac pacemakers in investigational programs or to regulate radiation safety at installations at which such pacemakers are manufactured or distributed.

Accordingly, concurrent with adoption in final form of the proposed amendments of 10 CFR Part 70, the amendment of 10 CFR Part 150 which follows would be promulgated.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 150 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them by May 13, 1977, to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch. Copies of comments on the proposed amendment may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

New paragraphs (a)(8) and (a)(9) are added to § 150.15 to read as follows:

§ 150.15 Persons not exempt.

(a) Persons in Agreement States are not exempt from the Commission's licensing and regulatory requirements with respect to the following activities:

* * * * * *

(8) The transfer of possession or control by the manufacturer or distributor of cardiac pacemakers containing plutonium-238 and intended for routine use under the general license in § 70.19 of this chapter.

(9) The possession, use and disposal of plutonium-238 powered cardiac pacemakers under the general licenses in §§ 70.18, 70.19 and 70.20 of this chapter.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, Pub. L. 93–438, 88 Stat. 1243 (42 U.SC 5841).)

Dated at Washington, D.C., this 7th day of March, 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-7289 Filed 3-11-77; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-CE-2-AD]

AIRWORTHINESS DIRECTIVES

Beech Model 278 Propellers

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an Airworthiness Directive (AD) applicable to Beech Model 278 propellers installed on Beech Models H35, J35, K35, M35, N35, P35, A45 (T34A), B45 and D45 (T34B) airplanes. Amendment 39-897

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(34 FR 20266), as revised by Amendment 39-967 (35 FR 5680), AD 69-26-4, is an AD applicable to Beech Model 278 propellers installed on the aforementioned airplanes. AD 69-26-4 requires, prior to further flight, replacement of the pitch control bolts on this propeller that cannot be identified as P/N 278-336 bolts. AD 69-26-4 also requires 100 hour repetitive dye penetrant inspections of the P/N 278-336 bolts until Beech Kit No. 278-0002S, incorporating P/N 27-3688-1 or -3 pitch control bolts, is installed. The installation of the Beech Kit per AD 69-26-4 is optional. Subsequent to the issuance of AD 69-26-4, failures of P/N 278-336 pitch control bolts continue to be reported. Because of these failures, the FAA concludes that the P/N 278-336 bolts should be removed from service and installation of Beech Kit No. 278-0002S made mandatory. Accordingly, an AD is being proposde to this effect. This proposal would supersede AD 69-26-4.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, 1558 Federal Building, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before May 13, 1977, will be considered before action is taken upon the proposed Rule. The proposals contained in this Notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rules Docket for examination by interested persons.

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and of sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

BEECH. Applies to Model 278 propellers installed on Models H35, J35, K35, M35, N35, P35, A45 (T34A), B45 and D45 (T34B) Airplanes.

Compliance: Required as indicated, unless previously accomplished.

To prevent loss of propeller control, accomplish the following:

(A) Within 100 hours' time in service after the last inspection accomplished per AD 69-26-4, using dye penetrant procedures, inspect Beech P/N 278-336 pitch control bolts for evidence of cracks in the exposed thread runout area between the hex flats and the aft pitch setting nut. If a crack is detected, install Beech Kit No. 278-0002 S incorporating Beech P/N 278-368-1 or -3 pitch control bolts and steel pitch control yoke, in accordance with Beechcraft Service Instructions 0302-348, or later approved revisions.

(B) Within 100 hours' time in service after the effective date of this AD, install Beech Kit No. 278-0002 S incorporating P/N 278-368-1 or -3 pitch control bolts and steel pitch control yoke, in accordance with Beechcraft Service Instructions 0302-348, or later approved revisions.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This AD supersedes AD 69-26-4 (Amendments 39-897 and 39-967).

Issued in Kansas City, Missouri, on February 28, 1977.

C. R. MELUGIN, JR.,
Director, Central Region.

[FR Doc.77-7397 Filed 3-11-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-CE-3]

VOR AIRWAY SEGMENT

Revocation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would revoke V-74N between Anthony, Kans., and Ponca City, Okla.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before April 13, 1977 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

Request for copies of this notice of proposed rulemaking should be addressed to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591. The FAA has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

The proposed amendment would revoke V-74N between Anthony, Kans., and Ponca City, Okla. This segment of V-74N is not utilized sufficiently to justify its continued designation as an airway alternate.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on March 7, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-7398 Filed 3-11-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 210, 211]

[Rel. Nos. 33-5812, 34-13322, 35-19912]

LEASE DISCLOSURE REQUIREMENTS

Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing adopting certain new rules and modifying existing rules to (1) conform its lease accounting and disclosure rules to those recently adopted by the Financial Accounting Standards Board ("FASB"); (2) require certain lease disclosures of public utilities and other rate regulated enterprises that are not required to conform their lease accounting and disclosures to those recommended by the FASB; and (3) require, in specific instances, early application of the lease accounting and disclosure requirements of the FASB.

DATE: Comments should be submitted on or before May 31, 1977.

ADDRESS: Comments should refer to File S7-680 and should be submmitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Walter K. Rush III, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-376-8019).

SUPPLEMENTAL INFORMATION:

On October 5, 1973, the Securities and Exchange Commission stated in Accounting Series Release No. 147 (38 FR 29215, Oct. 23, 1973) (Securities Act Release No. 5428, Securities Exchange Act Release No. 10421, Public Utility Holding Company Act Release No. 18111) that at the time the Financial Accounting Standards Board develops improved standards of accounting for leases the Commission would reconsider its lease disclosure requirements.

In November 1976 the FASB issued Statement of Financial Accounting Standards No. 13, "Accounting for Leases," (SFAS No. 13). The Commission believes SFAS No. 13 provides improved standards of accounting and disclosure for leases and is therefore proposing changes to its existing lease rules relating to leases.

EXISTING REQUIREMENTS

Accounting Series Release No. 132. In Accounting Series Release No. 132 (37 FR 26516, Dec. 13, 1972) (Securities Act Release No. 5333, Securities Exchange Act Release No. 9867, Public Utility Holding Company Release No. 17772) dated November 17, 1972, the Commission stated its opinion "* * * that when lease transactions are entered into with

lessors without material independent economic substance, the transaction should be accounted for as a purchase in accordance with the procedures described in Accounting Principles Board Opinion No. 5.

ASR No. 132 was an interpretation by the Commission of what it believed generally accepted accounting principles (as represented by APB Opinion No. 5) required. APB Opinion No. 5 has been superseded by SFAS No. 13. In paragraph 7 of SFAS No. 13, four criteria are listed which define a lease which must be capitalized by the lessee; in paragraph 82 of SFAS No. 13 the FASB explains why it did not select the criterion of "lessor lacks independent economic substance":

> The Board considered the argument advanced by some that, if the lessor has no economic substance, the lessor serves merely as a conduit in that the lender looks to the lessee for payment and thus, it is asserted, the lessee is, in fact, the real debtor and purchaser. Whether the lessee is judged to be a debtor does not, in the Board's view, constitute a suitable criterion for determining lease classification for the reasons expressed in paragraph 71. The Board finds unpersuasive the argument that the lessee's accounting for a leasing transaction should be determined by the economic condition of an unrelated lessor. If a lease qualifies as an operating lease because it does not meet the criteria in paragraph 7, the Board finds no justification for requiring that it be accounted for as a capital lease by the lessee simply because an unrelated lessor lacks independent economic substance. In such a case, it probably means that someone else, presumably the lender, is in substance the lessor, but this circumstance, per se, should not alter the lessee's accounting. Accordingly, the Board rejected this criterion.

Since the Commission believes the criteria specified in paragraph 7 of SFAS No. 13 are satisfactory, Accounting Series Release No. 132 is being withdrawn. Reference is made to Accounting Series Release No. 211 (33-5813, 34-13323, 35-19913) published under Title 17 in the Rules and Regulations section of this FEDERAL REGISTER, for notice of the rescission of this release.

Disclosure requirements. The Commission's disclosure requirements for leases are contained in §§ 210.3-16 and 210.12-16 of Regulation S-X. The Commission has considered the disclosures required by SFAS No. 13 and believes that they are generally sufficient and is proposing to conform the requirements of Regulation S-X to SFAS No. 13 except as described below.

Paragraph 3 of SFAS No. 13 states: This Statement (SFAS No. 13) applies to regulated enterprises in accordance with the provisions of the Addendum to APB Opinion No. 2, "Accounting for the 'Investment Credit'." The effect of Addendum to APB Opinion No. 2 on accounting for or disclosure of capital leases under SFAS No. 13 is not clear. For example: Some believe the Addendum to APB Opinion No. 2 relates solely to the income statement and therefore regulated enterprises should be required to capitalize capital leases on their balance sheet and reduce the asset and liability in a fashion that results in the same charge to income as the charging to expense of rental payments when made. Others believe the Addendum applies to all financial statements and therefore capitalization is not required; however, some form of footnote disclosure is appropriate. And still others believe neither capitalization nor disclosure beyond that required for operating leases is required. In their view, unless the regulatory agencies recognize the concept of a capital lease in the rate-making process, disclosure of information related to capital leases is irrelevant.

The Commission has requested that the FASB reconsider or interpret the Addendum to APB Opinion No. 2 to eliminate the confusion which currently exists. However, until the confusion is eliminated, the Commission is proposing to require disclosure of the following information from regulated enterprises for leases which meet SFAS No. 13's definition of a capital lease but which are accounted for as operating leases:

(a) The amounts of the assets and liabilities which would have been included in the balance sheet had such leases been accounted for as capital leases; and

(b) The effect on net income (loss) and net income (loss) per share which would have resulted had such leases been accounted for as capital leases.

The Commission specifically invites comments on its proposal to require the above leasing disclosures from regulated enterprises. The Commission would also like the views of commentators as to whether such disclosures are appropriate (some believe in a rate-regulated enterprise that a change in the pattern of recognizing expenses will be met with a corresponding change in allowable revenues and there will be no effect on net income) or excessive (some advocate that SFAS No. 13 disclosures related to operating leases are sufficient or that disclosure only of the discounted lease liability is sufficient).

RETROACTIVE APPLICATION OF SFAS No. 13

Retroactive application of SFAS No. 13 is required for financial statements for calendar or fiscal years beginning after December 31, 1980. In paragraphs 115-120 of SFAS No. 13, the FASB explains that it adopted this long transition period so that companies would have sufficient time to accumulate the data necessary to accomplish restatement and to resolve problems arising from restrictive clauses in loan indentures or other agreements.

The Commission believes that retroactive application of SFAS No. 13 and the interperiod and intercompany comparability which results is highly desirable and should be accomplished as soon as practicable. The Commission notes that substantial data accumulation must be completed in 1977 in order to meet the disclosure requirements of paragraph 50 of SFAS No. 13 which requires certain disclosures for balance sheets as of December 31, 1977, and thereafter and for income statements for periods beginning after December 31, 1976. The Commission also notes that as of December 31, 1977, lessees will have accumulated at least five years of lease data in order to have met their current and prior disclosure requirements under § 210.3-16 and that the definition of a financing lease in § 210.3-16 does not differ significantly from a capital lease in paragraph 7 of SFAS No. 13.

For the reasons described above the Commission does not presently believe that at December 31, 1977 data accumulation will constitute a significant problem for public companies in accomplishing a restatement in accordance with the provisions of SFAS No. 13. Therefore, unless a registrant has been unable to resolve problems in connection with restrictive clauses in loan indentures or other agreements, the Commission is proposing that financial statements filed with the Commission for fiscal years ending on or after December 25, 1977, be restated in accordance with the provisions of SFAS No. 13. In addition, the Commission is proposing that if retroactive application of SFAS No. 13 would result in a violation of restrictive classes in loan indentures or other agreements, such fact be disclosed.

PROPOSED AMENDMENTS

COMMISSION ACTION

The Commission hereby proposes (1) issuance of an accounting series release (17 CFR Part 211) to require retroactive capitalization and restatement in financial statements for fiscal years ending on or after December 25, 1977 for all capital leases, unless a registrant has been unable to resolve problems in connection with restrictive clauses in loan indentures or other agreements. If current application would result in a problem under such a restrictive clause, disclosure of that fact will be required; and (2) revisions to paragraph (q) of § 210.3-16 of 17 CFR Part 210 as given below:

§ 210.3-16 General notes to financial statements. (See Release No. AS-4.)

* * * * *

(q) *Leased assets and lease commitments of regulated enterprises subject to the rate-making process.* (1) This rule is applicable to all regulated enterprises subject to the rate-making process that do not record capital leases as assets with associated liabilities. For purposes of this rule, a lease is defined as an agreement conveying the right to use property, plant, or equipment (land and/or depreciable assets) usually for a stated period of time. It includes agreements that, although not nominally identified as leases, meet the above definition, such as a "heat supply contract" for nuclear fuel. This definition does not include agreements that are contracts for services that do not transfer the right to use property, plant, or equipment from one contracting party to the other. On the

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other hand, agreements that do transfer the right to use property, plant, or equipment meet the definition of a lease for purposes of this rule even though substantial services by the contractor (lessor) may be called for in connection with the operation or maintenance of such assets. This rule does not apply to lease agreements concerning the right to explore for or to exploit natural resources such as oil, gas, minerals, and timber. Nor does it apply to licensing agreements for items such as motion picture films, plays, manuscripts, patents, and copyrights. A lease is a capital lease if at its inception it meets one or more of the following four criteria:

(i) The lease transfers ownership of the property to the lessee by the end of the lease term.

(ii) The lease contains a bargain purchase option.

(iii) The lease term is equal to 75 percent or more of the estimated economic life of the leased property. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease.

(iv) The present value at the beginning of the lease term of the minimum lease payments excluding that portion of the payments representing executory costs such as insurance, maintenance, and taxes to be paid by the lessor, including any profit thereon, equals or exceeds 90 percent of the excess of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by the lessor and expected to be realized by him. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion shall not be used for purposes of classifying the lease. A lessee shall compute the present value of the minimum lease payments using his incremental borrowing rate, unless (A) it is practicable for him to learn the implicit rate computed by the lessor and (B) the implicit rate computed by the lessor is less than the lessee's incremental borrowing rate. If both of those conditions are met, the lessee shall use the implicit rate.

(2) The following information shall be provided for capital leases covered by this rule:

(i) As of the date for each required balance sheet, the aggregate amounts of the assets and liabilities that would have been recorded in the accounts had all leases meeting the definition of a capital lease been recorded as assets and liabilities.

(ii) For each period for which an income statement is required, the aggregate effect on net income (loss) and net income (loss) per share that would have been recorded had all leases meeting the definition of a capital lease been recorded as assets and liabilities.

* * * * *

These amendments are proposed to be adopted pursuant to authority in sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; Sections 12, 13, 15(d), and 23(a) (15 U.S.C. 78l, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934; and sections 5(b), 14, and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935. Pursuant to section 23(a)(2) of the Exchange Act the Commission has considered the impact of these proposals on competition and is not aware, at this time, of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 2, 1977.

[FR Doc.77-7427 Filed 3-11-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 48]

SPECIAL PROVISIONS APPLICABLE TO MANUFACTURERS AND RETAILERS EXCISE TAXES

Public Hearing on Proposed Regulations

Proposed regulations under sections 4054 through 4068, 4216, 4217, 4218 and 4221 through 4227 of the Internal Revenue Code of 1954 appear in the FEDERAL REGISTER for November 3, 1976 (41 FR 48346). These statutory provisions relate, inter alia, to special provisions applicable to retailers excise tax; definition of price for purposes of manufacturers tax; leases; and exemptions and registration requirements applicable to manufacturers excise tax. Correction notices were published in the FEDERAL REGISTER for November 10, 1976 (41 FR 49656) and November 12, 1976 (41 FR 50004).

A public hearing on the provisions of such proposed regulations will be held on April 22, 1977, beginning at 10 a.m. in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Ave. N.W., Washington D.C. 20224.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-566-3935. Under such § 601.601(a)(3) persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who desire to present oral comments at the hearing on such proposed regulations, should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by April 13, 1977. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. Under § 601.601(a)(3) (26 CFR Part 601) each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers, and copies of the agenda will be available free of charge at the hearing. Further information with respect to the hearing may be obtained from Mr. George H. Bradley, who may be contacted by telephone at (Washington, D.C.) 202-566-3935, or by mail as follows: Chief, Technical Section (CC:LR:T), 1111 Constitution Avenue, N.W., Room 4317, Washington, D.C. 20224.

ROBERT A. BLEY,
Acting Director, Legislation and Regulations Division.

[FR Doc.77-7500 Filed 3-11-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

[30 CFR Parts 55, 56, and 57]

NEW AND REVISED HEALTH AND SAFETY STANDARDS

Extension of Comment Period

On Friday, January 28, 1977, a notice of proposed rulemaking was published as Part II of the FEDERAL REGISTER (42 FR 5546-5565) pursuant to section 6 of the Federal Metal and Nonmetallic Mine Safety Act, as amended (30 U.S.C. 725). Portions of column three on page 5560 were unreadable. For the convenience of the readers, all of column three on page 5560 was republished in the FEDERAL REGISTER on Tuesday, February 8, 1977 (42 FR 7968). Also, corrections to certain pages were published in the FEDERAL REGISTER on Wednesday, March 2, 1977 (42 FR 12068), and Friday, March 4, 1977 (42 FR 12442-12443).

The notice invited interested persons to submit written data, views, and arguments concerning the proposed miscellaneous amendments to Parts 55, 56, and 57, Subchapter N, Chapter I, Title 30, Code of Federal Regulations, and informed interested persons who may be adversely affected by a proposed health and safety standard, which is designated as a mandatory standard and which is not recommended to the Secretary of the Interior as a mandatory standard by the Federal Metal and Nonmetal Mine Safety Advisory Committee, of their right to timely file written objections and to request a public hearing on the proposed standard (30 U.S.C. 725 (b), (c), and (d)).

The American Mining Congress on behalf of its member companies, including mine equipment manufacturers and mine operators, indicated that additional time is necessary in order to compile relevant information and to respond to the proposed new and revised health and safety

definitions and standards. In view of this request, the period for submitting comments, filing objections, and requesting a public hearing is hereby extended from Monday, March 14, 1977, to and including Thursday, April 28, 1977, only for those mandatory standards NOT designated "MNMSAC".

We concur with the American Mining Congress that the initial comment period of 45 days is too brief a period of time to provide adequate time for organizations and other interested persons to prepare, compile, and submit their comments and objections on those mandatory standards not designated "MNMSAC". However, the 45 days provided in the FEDERAL REGISTER on January 28, 1977, is adequate for the submission of suggestions, comments, and arguments on mandatory standards designated "MNMSAC" because they are recommended for promulgation by the Federal Metal and Nonmetal Mine Safety Advisory Committee after the Advisory Committee held public meetings that were announced in the FEDERAL REGISTER with full public participation, including the submission of both oral and written comment, at such meetings. Accordingly, the public meetings of the Advisory Committee together with the 45 days provided in the FEDERAL REGISTER on January 28, 1977, have afforded ample time for the formulation and submission of written comments, suggestions, and arguments on these standards.

Comments, objections, and requests for public hearing should be addressed to the Administrator, Mining Enforcement and Safety Administration, Department of the Interior, Room 618, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: March 10, 1977.

WILLIAM D. BETTENBERG,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc.77-7632 Filed 3-11-77;9:48 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 128]

[CGD 76-235]

KITTERY, MAINE

Proposed Regulated Navigation Area

The Coast Guard is considering amending the regulated navigation areas regulations by establishing a regulated navigation area adjacent to the Portsmouth Naval Shipyard on Seavey Island, Kittery, Maine. The need for this proposal is to provide a safe area for floating crane operations by restricting the speed of transiting vessels to 5 mph. Although the crane is a wide beamed stable platform in itself, it can be significantly moved by the wake of pleasure craft traveling a moderate to high rate of speed. Some of the lifts the crane is required to make from drydocked vessels include nuclear reactor component parts.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments concerning the proposal to Commander, First Coast Guard District 150 Causeway St., Boston, Massachusetts 02114. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD 76-235), and give reasons for any recommended change in the proposal. Copies of all written comments will be available for examination by interested persons at the Office of the Commander, First Coast Guard District.

The Commander, First Coast Guard District will forward all comments received before April 28, 1977, and recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on the proposal. The proposed regulations may be changed in light of comments received.

In consideration of the foregoing, it is proposed that a new § 128.101 be added to Part 128 of Title 33 of the Code of Federal Regulations to read as follows:

§ 128.101 Kittery, Maine.

(a) The following is a Regulated Navigation Area—Waters within the boundary of a line beginning at 43°04'50" N., 70°44'52" W.; thence to 43°04'52" N., 70°44'53" W.; thence to 43°04'59" N., 70°44'46" W.; thence to 43°05'05" N., 70°44'32" W.; thence to 43°05'03" N., 70°44'30" W.; thence to the beginning point.

(b) Regulations—No vessel may operate in this area at speed in excess of five miles per hour.

(Sec. 104 Pub. L. 92-340, 86 Stat. 424 (33 U.S.C. 1224); 40 FR 43901, 49 CFR 1.46 (n)(4).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 7, 1977.

O. W. SILER,
Admiral, United States Coast Guard Commandant.

[FR Doc.77-7457 Filed 3-11-77;8:45 am]

POSTAL RATE COMMISSION

[39 CFR Part 3001]

[Docket No. RM77-8]

RULES OF PRACTICE

Rules Governing Public Attendance at Meetings and Ex Parte Communications; Intent To Establish Service List

MARCH 4, 1977.

The Postal Rate Commission gives notice that it proposes to establish and maintain a service list under 39 CFR 3001.43(e)(4)(ii) for the purpose of distributing copies of public announcements of Commission meetings made pursuant to § 3001.43(e)(1).

Section 3001.43(e)(1) provides that the Commission shall make public announcement of each meeting, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting.

Section 3001.43(e)(4) provides that one of the means by which the Commission's Secretary will disseminate the prescribed public announcement is by maintaining a service list and mailing copies of the meeting announcements to persons whose names and addresses appear thereon.

Accordingly, the Commission invites persons who desire to receive a copy of public announcements of Commission meetings to submit their names and addresses with such requests to the Secretary of the Commission at the offices of the Postal Rate Commission, 2000 L Street NW, Washington, D.C. 20268.

By the Commission.

DAVID F. HARRIS,
Secretary.

[FR Doc.77-7495 Filed 3-11-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 698-1; PP0E1742/P46]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Exemption From Requirement of a Tolerance for Pesticide Bacillus Thuringiensis, Berliner

AGENCY: Environmental Protection Agency, Office of Pesticide Programs.

ACTION: Proposed amendment to 40 CFR 180.1011.

SUMMARY: This notice proposes that the current exemption from the requirement of a tolerance for residues of *Bacillus thuringiensis*, Berliner be extended to include all raw agricultural commodities when the pesticide product is applied after harvest.

DATE: Comments must be received on or before April 13, 1977.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, East Tower Rm. 401, 401 M St. SW, Washington DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles Mitchell, Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency (202/426-9425).

SUPPLEMENTARY INFORMATION: On June 21, 1976, the Environmental Protection Agency (EPA) published a pesticide regulation in the FEDERAL REGISTER (41 FR 24885) which amended 40 CFR 180.1011 by exempting residues of

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the microbial insecticide *Bacillus thuringiensis*, Berliner from the requirement of a tolerance in or on all raw agricultural commodities when the pesticide is applied to growing crops. This action was taken in response to a pesticide petition (PP 6E1742) submitted to the Agency by Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, N.J. 08903.

In a letter sent to the EPA dated August 27, 1976, Abbott Laboratories, Agricultural and Veterinary Products Div., North Chicago, IL 60064, has requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose that the exemption from the requirement of a tolerance for residues of *Bacillus Thuringiensis*, Berliner be extended to include all raw agricultural commodities when the pesticide is applied after harvest.

The information submitted and all other relevant material have been evaluated. As noted in the notice of proposed rulemaking which preceded the promulgation of the June 21, 1976, regulation (41 FR 17945), *Bacillus thuringiensis*, Berliner is not a pathogenic organism, nor is it likely to become one, even under such extreme conditions as debilitation of a mammalian organism. The microorganism, additionally, is incapable of sporulation and multiplication under conditions existing in or on the vertebrate body, and consequently there is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3). In addition, since this pesticide has properties fundamentally different from the factors considered by the Agency in requiring the assessment of oncogenic, mutagenic, teratogenic, reproductive, and metabolic effects, it has been determined that the data requirements for the assessment of these effects can be waived.

Therefore, it is concluded that the exemption should be extended to include residues in or on all raw agricultural commodities resulting from postharvest application of the insecticide. It is further concluded that such amendment to the regulations will protect the public health, and it is proposed, therefore, that 40 CFR 180.1011(b) be amended as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which contains any of the ingredients listed herein may request, on or before April 13, 1977, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject matter and the petition/document control number "PP6E1742/P46". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: March 7, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart D, § 180.1011(b) be revised to exempt residues *Bacillus thuringiensis*, Berliner from the requirement of a tolerance for residues in or on all raw agricultural commodities when applied after harvest, to read as follows:

§ 180.1011 Viable spores of the microorganism Bacillus thuringiensis, Berliner; exemption from the requirement of a tolerance.

* * * * *

(b) Exemption from the requirement of a tolerance is established for residues of the microbial insecticide *Bacillus thuringiensis*, Berliner, as specified in paragraph (a) of this section, in or on all raw agricultural commodities when it is applied either to growing crops or when it is applied after harvest in accordance with good agricultural practice.

* * * * *

[FR Doc.77-7364 Filed 3-11-77;8:45 am]

[40 CFR Part 180]

[FRL 697-8, OPP-300011]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Certain Inert Ingredients in Pesticide Formulations

At the request of several interested persons, the Administrator, Environmental Protection Agency (EPA), is proposing pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, to amend 40 CFR Part 180.1001 by exempting certain additional pesticide chemicals which are inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements.

The inert (or occasionally active) ingredients concerned, the firms requesting that the Administrator propose exemptions with respect to them, and the basis for the determination of their safety are as follows:

Inert ingredient	Firm	Determination of safety
Alpha-alkyl (C_{16}-C_{18})-omega-hydroxypoly(oxyethylene) poly(oxypropylene) copolymer; poly(oxyethylene) content is 11-15 moles; poly(oxypropylene) content is 1-3 moles.	BASF Wyandotte Corp., Wyandotte, Mich. 48192.	No significant effects based on various long-term studies. Breakdown products will pose no hazard.
1,2-Benzisothiazolin-3-one	ICI United States, Inc., Wilmington, Del. 19897.	Lack of mammalian toxicity based on subacute rat and dog-feeding studies.
Monoammonium phosphate	Research Products Co., box 1057, Salina, Kans. 67401.	Generally recognized as safe (GRAS) by the Food and Drug Administration as a miscellaneous food additive.
[Phthalocyaninato(2-) copper; (C.I. pigment blue No. 15).	Dow Chemical Co., P.O. Box 1706, Midland, Mich. 48640.	No reasonable expectation of residues on the raw agricultural commodities.
Polyoxyethylated primary amine (C_{16}-C_{18}), the fatty amine is derived from an animal source and contains 3 pct water; the poly(oxyethylene) content averages 20 moles. (This compound is currently cleared under 180.1001(d); this request proposes that the limits be changed.)	ICI United States, Wilmington, Del. 19897.	No significant effects based on 90-d dog and rat-feeding studies.
Sodium alpha-olefin sulfonate (Sodium (C_{15}-C_{18}) olefin sulfonate).	Lakeway Chemicals, Inc., Muskegon, Mich. 49443.	No significant effects based on 2-yr rat-feeding studies. The sulfonate constituent was previously cleared.

Based on the above information, available information on the chemistry of these substances, and a review of their use, it has been found that, when used in accordance with good agricultural practice, these substances are useful and do not pose a hazard. It is concluded, therefore, that the proposed amendments to 40 CFR Part 180.1001 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before April 13, 1977, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation to the Federal Register Section, Technical Services Division (WN-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before April 13, 1977, and should bear a notation indicating both the subject matter and the OPP document control number "OPP-300011". All written comments filed in response to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: March 7, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart D, § 180.1001 be amended by (1) revising the entry "Polyoxyethylated primary (C_{16}-C_{18}) * * * in paragraph (d) by amending the limits and (2) alphabetically inserting new items in paragraphs (c) and (d), to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * * * *

(c) * * *

Inert ingredient	Limits	Uses
* * * * * * *		
Monoammonium phosphate	No more than 3.75 pct by weight in formulation.	Postharvest fumigation in formulation with aluminum phosphide.
* * * * * * *		
Sodium alpha-olefin sulfonate (sodium (C_{15}-C_{18}) olefin sulfonate).		Surfactants, related adjuvants of surfactants.
* * * * * * *		

(d) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Alpha-alkyl (C_{16}-C_{18})-omegahydroxypoly(oxyethylene) poly(oxypropylene) copolymer; poly(oxyethylene) content is 11-15 moles; poly(oxypropylene) content is 1-3 moles.		Surfactants, related adjuvants of surfactants.
* * * * * * *		
1,2-benzisothiazolin-3-one	1 pct in formulation	Preservative.
* * * * * * *		
(Phthalocyaninato(2-)) copper; (C.I. pigment blue No. 15).	When used as a colorant in low-density plastic films.	Coloring agent, pigment.
* * * * * * *		
Polyoxyethylated primary amine (C_{16}-C_{18}), the fatty amine is derived from an animal source and contains 3 pct water; the poly(oxyethylene) content averages 20 moles.	Applied prior to planting of any crop, or as directed spray around the base of any crop.	Surfactant.
* * * * * * *		

[FR Doc.77-7363 Filed 3-11-77;8:45 am]

[40 CFR Part 403]

[FRL 698-7]

GENERAL PRETREATMENT REGULATIONS

Public Hearings and Meetings

On February 2, 1977, the Environmental Protection Agency (EPA) proposed in the FEDERAL REGISTER new general pretreatment regulations pursuant to Sections 208, 301, 307, 308, 402, and 501 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 86 Stat. 816 et seq, Pub. L. 92-500 or "the Act"). The new proposed general pretreatment regulations 40 CFR Part 403, would replace the existing general pretreatment regulation, 40 CFR Part 128. The proposed regulations would establish standards, mechanisms and procedures for controlling the introduction of industrial wastes into publicly-owned treatment works. The proposal also sets forth four alternative pretreatment strategies reflecting various approaches to establishing and enforcing pretreatment requirements.

In order to afford an opportunity for individuals to participate to the fullest in the EPA's rulemaking activity, the proposal published on February 2 announced that the EPA will conduct four hearings to receive public comment on the proposed regulations.

Meetings, open to the public, will be held on:

April 7, 1977—Hyatt Regency, 5 Embarcadero Center, San Francisco, California, 9:00 a.m. (Change from initial April 5, 1977 date contained in February 2 FEDERAL REGISTER notice.)

Those wishing to testify contact: Richard O'Connell (415) 556-0102, Enforcement Division, EPA, Region IX, 100 California Street, San Francisco, California 94111.

April 14, 1977—Park Plaza (Boston Statler Hilton), Park Square, Boston, Massachusetts, 9:00 a.m.

Those wishing to testify contact: Mr. Frank Clavattieri (617) 223-5017, Enforcement Division, EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

April 19, 1977—Pick Congress Hotel, Gold Room, 520 S. Michigan Avenue, Chicago, Illinois, 9:00 a.m.

Those wishing to testify contact: Ms. Sue Walker (312) 353-2000, Office of the Regional Administrator, EPA, Region V, 230 S. Dearborn, Chicago, Illinois 60604.

April 21, 1977—Civil Service Commission Auditorium, 1900 E Street NW., Washington, D.C., 9:00 a.m.

Those wishing to testify contact: Ms. Ginger Patterson (202) 755-2117, Water Planning Division (WH-554), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

There are several major issues on which EPA is particularly interested in receiving public comments and relevant data. These fundamental issues are essentially the major differences between the four proposed strategies. These major issues are summarized below and are discussed more fully in the preamble to the proposed general pretreatment regulations (40 CFR Part 403) published in the FEDERAL REGISTER on February 2, 1977.

One of the most important issues involves the basis for establishing and applying the pretreatment standards. In the absence of specific statutory guidance, this issue concerns the extent to which EPA should recognize and consider the need for flexibility to adjust the national pretreatment program to local conditions, including water quality conditions.

Other questions on which public comment and relevant data are particularly requested include:

(1) Whether the pretreatment compliance program should primarily rely upon Federal and State enforcement directly against industry or place the major responsibility for achieving industry compliance on local authorities; and

(2) The adequacy and appropriateness of the coverage of industries and pollutants by Federal pretreatment standards in each of the four strategies.

The hearings will be of the informal, "legislative" type. Each speaker will present comments orally to the Agency officials (a presiding officer and other members of the hearing panel) for the record. While members of the hearing panel may ask questions in order to seek clarification or amplification of a speaker's comments, there will be no sworn testimony or cross-examination. The presiding officer may at his discretion limit irrelevant or repetitious oral presentations, and may set time limits for each presentation. If a substantial number of parties request to testify, the EPA is contemplating establishing a time limit of ten minutes per presentation. Oral statements should summarize any extensive written material so that there will be time for all interested parties to be heard.

In order to assist the Agency in scheduling presentations, persons desiring to speak are encouraged to notify the appropriate EPA office (as indicated above) by mail or phone no later than ten days prior to the applicable hearing date. The notification should identify the group or corporation (if any) on whose behalf the person wishes to speak.

A verbatim transcript will be made of the proceedings. Speakers are nevertheless encouraged to bring extra copies of their presentations for the convenience of the hearing reporter, the press, the hearing panel, and other participants. Speakers will be permitted to enter into the record any additional written comments or material they do not present orally.

Expenses incurred by individuals in attending this public meeting are the responsibility of the individual and not the EPA.

As indicated in the February 2 FEDERAL REGISTER notice, EPA has also asked for written comments on the proposed regulations (preferably in triplicate) to be submitted no later than May 3, 1977. Comments should be addressed to Environmental Protection Agency, Office of Analysis and Evaluation (WH-586), 401 M Street SW., Washington, D.C. 20460 (Attention: Mr. Stephen Heare).

Any member of the public wishing to obtain further information on this aspect of the Environmental Protection Agency rulemaking process should con-

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tact Mr. Stephen Heare at the above address or by telephone at (202) 755–6885.

Dated: March 8, 1977.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77-7502 Filed 3-11-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

[46 CFR Parts 157, 176, 186]

[CGD 75-178]

MANNING OF VESSELS

Proposed Rulemaking

The Coast Guard is considering amending manning regulations in subchapters P and T of Title 46 of the Code of Federal Regulations to permit ocean operators to serve as pilots on vessels less than 65 feet in length inspected under the provisions of Subchapter T while carrying freight for hire. The proposal would also clarify the number of hours a licensed operator may perform duties and define the responsibilities of the licensed operator when a vessel is underway.

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council, U.S. Coast Guard, Room 8117, 400 7th Street SW., Washington, D.C. 20590. Each person or organization submitting a comment include a name and address, identify this notice (CGD 75–178), and give reasons for any recommendations made.

Comments received before April 28, 1977, will be considered befoer final action is taken on this proposal. Copies of all written comments received will be available for examination in room 8117, Department of Transportation, Nassif Building, 400 Seventh St. SW., Washington, D.C. This proposal may be changed in light of comments received.

No hearing is contemplated, but one may be held at a time and place set in a later notice in the FEDERAL REGISTER, if requested by a person or organization desiring to comment orally at a public hearing and raising a genuine issue.

NOTE.—This proposal has been reviewed for economic and inflationary effects under Executive Order 11821, OMB Circular A107, and DOT Order 2050.4 of February 2, 1976. This proposal is not major and does not require an Inflationary Impact Statement.

In consideration of the foregoing, it is proposed that Parts 157, 176, and 186 of Title 46 of the Code of Federal Regulations be amended as follows:

PART 157—MANNING REQUIREMENTS

§ 157.30–35 [Amended]

1. In § 157.30–35(a), by striking the words "of over 65 feet in length and" after the words "steam or motor vessel"; and by inserting the word "inspected" before the words "steam or motor vessel".

PART 176—INSPECTION AND CERTIFICATION

2. By amending § 176.01–1 by amending paragraphs (b) and (c) and by adding paragraphs (d), (e), and (f) to read as follows:

§ 176.01–1 When required—S.

* * * * *

(b) Each mechanically propelled vessel of 15 gross tons or greater that is inspected and certificated under this subchapter must be in compliance with the terms of the certificate when carrying freight for hire.

(c) For the purposes of this section—

(1) Voyage is the period from a vessel's departure to sea from a port or place to the vessel's return from sea to a port or place; and

(2) Port or place does not include an "artificial island", or "fixed structure" as defined in 33 CFR 140.10–5, or a "deepwater port" as defined in 33 U.S.C. 1502.

(d) A vessel subject to the provisions of this subchapter and required to be in compliance with its certificate of inspection at the outset of a voyage, or at any time during a voyage, must remain in compliance with the certificate until the completion of the voyage.

(e) When a vessel inspected and certificated under the provisions of this subchapter is operating under conditions not requiring compliance with its certificate of inspection, it is subject only to the laws, rules, and regulations governing the type of operation in which it is engaged.

(f) A temporary certificate of inspection, Form CG–854, is issued pending the issuance and delivery of the regular certificate of inspection if its issuance is necessary to prevent delaying a vessel. The temporary certificate must be carried in the same manner as the regular certificate.

PART 186—MANNING

3. By adding § 186.05–1 (b), (c) and (d) to read as follows:

§ 186.05–1 Manning requirements.

* * * * *

(b) For the purposes of this section—

(1) Voyage is the period from a vessel's departure to sea from a port or place to the vessel's return from sea to a port or place; and

(2) Port or place does not include an "artificial island", or "fixed structure" as defined in 33 CFR 140.10–5, or a "deepwater port" as defined in 33 U.S.C. 1502.

(c) No person holding a license which authorizes service on a vessel subject to the provisions of this subchapter may work on a vessel in excess of 12 hours in any consecutive twenty-four hour period during a voyage except in case of emergency.

(d) Vessels subject to the provisions of this subchapter must, while on a voyage, be under the actual direction and control of a person licensed by the Coast Guard to operate a vessel in the geographic area in which the vessel is operating.

4. By adding a new § 168.10–1(e) to read as follows:

§ 186.10–1 Licenses required.

* * * * *

(e) A license as ocean operator or operator of mechanically propelled passenger-carrying vessels authorizes the holder of the license to serve as master, pilot, or person in charge of any steam or motor vessel of less than 100 gross tons subject to the regulations in this Subchapter to the same extent that the license auhorizes the holder to operate passenger-carrying vessels of not more than 65 feet in length and less than 100 gross tons.

(R.S. 4462, as amended (46 U.S.C. 416); R.S. 4438, as amended (46 U.S.C. 224); R.S. 4463, as amended (46 U.S.C. 222); R.S. 4421, as amended (46 U.S.C. 399); 46 U.S.C. 526p, 673; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).)

Dated: March 3, 1977.

O. W. SILER,
Admiral, United States Coast Guard Commandant.

[FR Doc.77-7458 Filed 3-11-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION

Meeting

Notice is hereby given in accordance with § 800.5(c) of the Advisory Council on Historic Preservation's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800) that on March 24, 1977, at 7 p.m., a public information meeting will be held at the Woonsocket City Hall, 169 Main Street, Woonsocket, Rhode Island. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations and interested citizens to receive information and express their views on the proposed widening of Cumberland Avenue, an undertaking of the City of Woonsocket, Rhode Island as it affects the Club Marquette Building-Saint Anne's Gymnasium, a property determined eligible for inclusion in the National Register of Historic Places.

A summary of the agenda of the public information meeting follows:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Advisory Council.

II. An explanation of the undertaking and an evaluation of its effects on the property by the City of Woonsocket, Rhode Island.

III. A statement by the Rhode Island State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statements to approximately 10 minutes.

Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 "K" Street, NW., Washington, D.C. 20005 (202–254–3380).

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc.77-7405 Filed 3-11-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

MILL CREEK WATERSHED, ILLINOIS

Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mill Creek Watershed, Clark and Edgar Counties, Illinois.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Daniel E. Holmes, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, flood prevention, and recreation. The remaining planned works of improvement, as described in the negative declaration, include conservation land treatment supplemented by two floodwater retarding structures, one floodwater retarding-recreation structure, the associated recreation facilities, replacement of the Clarksville Bridge, and removal of major stream obstruction of the Mill Creek Channel.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 200 West Church Street, Champaign, Illinois 61820. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation on the proposal will be taken until 15 days after the date of this publication (March 29, 1977).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83–566, 16 USC 1001–1008.)

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Conservation Service.

[FR Doc.77-7406 Filed 3-11-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

BUCKNELL UNIVERSITY GEISINGER MEDICAL CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230. Docket Number: 76–00544. Applicant: Bucknell University and Geisinger Medical Center, Lewisburg, PA 17837 and Danville, PA 17821. Article: Electron Microscope, Model EM 201 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in the following research projects:

(a) The morphology of isolated membrane and organelle fractions from rat testis.

(b) Alterations in testicular ultrastructure following vitamin A depletion or administration of THC and other cannabinoids.

(c) Ultrastructural changes induced in liver and brain tissues following administration or THC or other cannabis derivatives.

(d) The distribution of ferritin labeled plant lectins and antibodies on lymphocyte plasma membranes of normal and cystic fibrosis patients.

(e) Ultrastructure of renal biopsy material.

(f) Ultrastructure of cardiac muscle obtained via biopsy prior to cardiac surgery.

(g) Submit structure of lipoamide dehydrogenase and other macromolecular complexes.

(h) Ultrastructure of *Golenkinia* and other algal cultures.

(i) Ultrastructure of the *y*-gland in crustaceans.

(j) Ultrastructure of *Drosophila* chromosomes.

The article will also be used for educational purposes in the following courses:

(1) Molecular Cytology (Biology 351)—emphasizes the basic structure of biological membranes and systematically surveys the various membrane systems and organelles which comprise the eucaryotic cell.

(2) Techniques in Electron Microscopy (Biology 353)—provides actual instruction in the use of the various instruments associated with electron microscopy and also provides the student with the theoretical background necessary for independent work in an electron microscopy laboratory.

(3) Independent Research (Biology 350, 360)—allows for individual student

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research in an area of their own interest.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (July 26, 1976). Reasons: The description of the applicant's research purposes establishes the fact that a conventional transmission electron microscope comparable to the foreign article is pertinent to the purposes for which the article is intended to be used. We know of no conventional transmission electron microscope which was being manufactured in the United States at the time the foreign article was ordered ("Conventional transmission electron microscopes" are not to be confused with "scanning electron microscopes" which were manufactured domestically at the time the foreign article was ordered and are still being manufactured in the United States.)

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-7383 Filed 3-11-77;8:45 am]

DUKE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00015. Applicant: Duke University, Durham, North Carolina 27706. Article: Electron Microscope, Model JEM 100S and accessories. Manufacturer: JEOL, Japan. Intended use of article: The article is intended to be used for the study of lung tissues taken from appropriate experimental animals exposed to a variety of oxidants, such as oxygen, NO_2 andozone and human patients with a variety of carcinomas or various interstitial lung diseases. The specimens will be thin, plastic-embedded sections which have been cut on an ultramicrotome and stained and prepared for electron microscopy. The experiments to be conducted will involve sophisticated forms of stereology in which the lung structure is quantified by taking a large number of low magnification and high magnification electron miscrographs in random fashion, then subjecting these micrographs to a detailed computer analysis which will yield data about the various cells that make up the lung, including the number, size, average thickness and average surface area of every major lung cell type.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (September 29, 1976).

Reasons: The foreign article provides distortion free micrographs over a magnification range of 100 to 200,000X without a pole-piece change. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated January 21, 1977 that the article's low distortion in the low magnification range is pertinent to the applicant's intended use. HEW further advises that it knows of no domestic instrument which provided the pertinent feature at the time of order.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-7385 Filed 3-11-77;8:45 am]

INDIANA UNIVERSITY AND PURDUE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00003. Applicant: Indiana University-Purdue University at Indianapolis, 630 West New York Street, Indianapolis, Indiana 46202. Article: MG 4 Universal Diaferometer complete with air pump, D.C. stabilizer and accessories. Manufacturer: Kipp & Zonen, The Netherlands. Intended use of article: The article is intended to be used for the investigation of oxygen consumption and carbon dioxide production for a variety of sick newborn patients to gain a better understanding of the pathophysiology involved so that new intervention techniques can be developed and old ones improved upon.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a non-invasive system for accurate measurement of oxygen consumption and carbon dioxide production of newborn infants. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated January 21, 1977 that the capability of the article described above is pertinent to the applicant's intended use. HEW also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-7387 Filed 3-11-77;8:45 am]

SMITHSONIAN INSTITUTION, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00012. Applicant: Smithsonian Institution, Department of Invertebrate Zoology, National Museum of Natural History, 10th & Constitution Ave. N.W., Washington, D.C. 20560. Article: Electron Microscope, Model EM 9S-2 and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the examination of the tissues of vertebrate animals, tissues and whole specimens of invertebrate animals, and various plant tissues. The objectives to be attained through use of the article include the following:

(a) A study of the structure and function of choanocyte chambers and their relation to higher sponge taxa,

(b) A study of the symbiotic algae in sponge tissue,

(c) A study to identify and quantify the nanoplankton and particulate organic matter in the watter column over the Carrie Bow Cay (Belize) Reef Tract,

(d) A study of the various sensory receptors of nematodes to determine to what changes in their environment (stimuli) they are sensitive, and what role they place in the animals' biology,

(e) To study the ultrastructure of nematode muscle to determine if there are certain structural correlations with fast and slow contracting muscle,

(f) To compare the muscles and cuticle of nematodes to determine if they reveal evolutionary relationships between major taxa,

(g) To study the glandular cells of certain plants that secrete oils used by bees as larval food,

(h) To study the peculiarities of the digestive system of the bee larvae that feed upon the secreted oils of plants,

(i) To determine phylogenetic relationships between plant taxa by examining the ultrastructure of pollen walls, and

(j) A study of the scales from butterfly wings to determine how their ultrastructure produces certain birefringent patterns of light.

The article will also be used by postdoctoral fellows conducting their research the most of which will involve the serial sectioning of their whole organisms, or their parts to obtain ultrastructural data for the purpose of better understanding evolutionary relationships. Application received by Commissioner of Customs: October 15, 1976. Advice submitted by the Department of Health, Education, and Welfare on: January 21, 1977. Article ordered: September 27, 1976.

Docket Number: 77-00017. Applicant: Penrose Hospital, 2215 N. Cascade Avenue, Colorado Springs, Co. 80907. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for ultrastructural studies of tissue for surgical biopsies of patients with various types of cancer, particularly of the hematopoietic and lymphopoietic systems, biopsies of cardiac muscle taken at the time of angiographic studies, needle biopsies of kidney and of bone marrow. Tissues from the same patients who later succumb and are studied at postmortem examination will be fixed and prepared for ultrastructural studies. The article will provide means for the study of the cytologic phenomenon at an ultrastructural level that may help to understand both the chemotherapeutic effects of these agents upon the above mentioned neoplastic diseases but also the non inconsiderable cytotoxic effects of the same agents which impede further use of the therapy. In addition, the article will be used in the following educational applications:

(a) A course in "Basic Techniques in the Preparation of Surgical and Autopsy Tissue for Electron Microscopic Study" in which the various procedures of fixation dehydration, embedding, thick and thin sectioning on the ultramicrotime as well as preparation of specimen grids and the staining of such sections will be taught.

(b) A course in "Use of Electron Microscope in the Study of the Ultrastructure of Tissue from Surgical and Autopsy Material" in which students will take the materials which they themselves have prepared and study those materials under the electron microscope preparing photographs of their observations.

(c) A course on the "Interpretation and Appliaction Thereof of Ultrastructure in the Routine Diagnosis of Pathologic Conditions" in which students will be expected to utilize the electron photomicrographs which they have prepared under (b) from the very tissues which they have prepared under (a) to make correlations between the light microscopic material available on the same cases with ultrastructural changes.

(d) A course on "Application of Ultrastructural Studies of Cells in Diagnostic Cytology" in which cytotechnologists are expected to prepare the grids using cytologic material rather than tissues and will be instructed in the use of the electron microscope in the study of the ultrastructural changes found in cytologic material from patients with disease.

(e) A course for medical students in "Correlations of Ultrastructural Changes" with light microscopic abnormalities in disease.

(f) An intensive post-graduate education program for practicing physicians of the medical staff of the Hospital.

Application received by Commissioner of Customs: October 19, 1976. Advice submitted by the Department of Health, Education, and Welfare on: January 21, 1977. Article ordered: September 17, 1976.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time each foreign article was ordered.

Reasons: Each of the foreign articles to which the foregoing applications relate is a relatively simple, easy to operate, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. Each article provides 7 Angstroms point to point resolution, an accelerating voltage of 60 kilovolts (KV), and low distortion magnifications from 140-60,000X (Magnifications of 140 to 1000X are within the normal, light microscopic range). Thus each article covers the range of light and electron microscopy. The Department of Health, Education, and Welfare (HEW) advises in its respectively cited memoranda that the low distortion, low magnification capabilities available specifically in the optical range at 140X, as well as, simplicity and ease of operation are pertinent to the purposes for which each foreign article is intended to be used.

HEW also advises that it knows of no domestic instrument or apparatus which provided the pertinent features of the article at the time each foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time each foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-7389 Filed 3-11-77;8:45 am]

UNIVERSITY OF CALIFORNIA—SAN DIEGO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00550. Applicant: University of California, San Diego, M-013, La Jolla, Calif. 92093. Article: Optical Monitoring System for a Fluorescence Temperature-Jump Spectrophotometer. Manufacturer: Herr Hermann Brundl, West Germany. Intended use of article: The article will be coupled with existing instrumentation in order to examine fast reaction kinetics between pharmacological ligands and macromolecules by the technique of temperature-jump kinetics in conjunction with absorption and fluorescence monitoring. The article will also be used in the education of graduate students and postdoctoral fellows in the courses Medicine 298 and 299. Students specializing in molecular pharmacology will become acquainted with the instrument and techniques.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended

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to be used, is being manufactured in the United States.

Reasons: The foreign article is able to measure temperature-jump fluorescent reaction kinetics. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated January 21, 1977 that the capability described above is pertinent to the applicant's intended uses. HEW also advises that domestic instruments do not provide this pertinent capability.

The Department of Commerce knows of not other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-7384 Filed 3-11-77;8:45 am]

UNIVERSITY OF CHICAGO

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6 (c) of the Educational Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77–00006. Applicant: University of Chicago, 5801 S. Ellis Ave., Chicago, Ill. 60637. Article: 2 (Two) Electron Microscopes, Model, Elmiskop 102. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article is intended to be used for studies of the ultrastructure of two groups of viruses involved in human cancer. The experiments will involve analysis of thin sections and of negatively stained preparation. In addition, the article will be used in the training of scientists at the predoctoral and postdoctoral levels in cancer research, part of which involves research work.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (September 21, 1976).

Reasons: The foreign article has a specified resolving capability of 3 Angstroms. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated January 21, 1976 that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. HEW further advises that it knows of no domestic instrument which provided the pertinent feature at the time of order.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-7386 Filed 3-11-77;8:45 am]

UNIVERSITY OF RICHMOND ET AL.

Application for Duty-Free Entry of Scientific Articles

In the Notice of Application for Duty-Free Entry of Scientific Articles appearing at page 36678 in the FEDERAL REGISTER of Tuesday, August 31, 1976, the following amendment is hereby made to reflect more fully the intended uses of the article:

Docket Number: 76–00500. Applicant: Lovelace Foundation for Medical Education and Research, 5200 Gibson Blvd. SE., Albuquerque, New Mexico 87112. Article: Scanning Electron Microscope, Model JSM–35U and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article. The article is intended to be used in studies of the health effects of inhaled effluents from powerplants which us a variety of fuels, such as nuclear fuels or coal in the following three general areas:

(1) Characterization of aerosol particles, both those naturally occurring and those used in the experimental studies.

(2) The characterization of normal anatomic structures of the respiratory tract, particularly those that can be correlated with physical and computer models of the lung.

(3) The characterization of lesions induced by inhalation of powerplant effluents.

The article will also be available for special research projects, primarily for students at the graduate level. Application received by Commissioner of Customs: July 29, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-7388 Filed 3-11-77;8:45 am]

Economic Development Administration

PROSPECTS FOR ADJUSTMENT ASSISTANCE FOR FIRMS IN THE FOOTWEAR INDUSTRY

Summary

The Department of Commerce has conducted a study of the firms in the footwear industry pursuant to Section 264 of the Trade Act of 1974. Such a study is required whenever the U.S. International Trade Commission makes an industry investigation under section 201 of the Act. The Department published a section 264 report of the footwear industry last year on March 5.

In its report on February 8, 1977, the Commission determined (by a 6 to 0 vote) that increased footwear imports are causing or threatening to cause serious injury to the domestic industry. Four of the Commissioners recommended the imposition of a tariff-rate quota system for a 5-year period as import relief for the U.S. footwear industry, one Commissioner recommended higher tariffs and one recommended trade adjustment assistance as the appropriate remedy. According to section 202 of the Trade Act, the President shall determine whether to provide import relief and what method and amount of import relief will be provided.

The Commission estimates that in 1975 approximately 376 companies produced nonrubber footwear in 36 states, a significant decline from the 597 producing firms in 1969. The Middle Atlantic and New England States are the leading producing areas. The 21 larger companies each producing over four million pairs of shoes annually account for about one-half of total output. Three-fourths of the firms in the industry, however, annually produce less than one percent of overall production.

Total average employment in the nonrubber footwear industry increased during the first eleven months of 1976, reversing a trend of falling employment which had characterized the industry for many years. For the period January–September 1976, domestic production increased by more than 15 percent to 348 million pairs, while imports amounted to 290 million pairs, an increase of almost 36 percent.

To be certified eligible to apply for trade adjustment assistance, a firm must petition the Department of Commerce and demonstrate that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in sales or production, or both, and to the separation, or threat of separation, of a significant number or proportion of the firm's workers. A trade-impacted producing firm may petition the Department for certification at any time regardless of a prospective Commission finding or its results. For firms in the footwear industry that are considering petitioning for certification, the first requirement of the qualifying criteria has been met, since U.S. imports of footwear increased in both 1975 and 1976.

As of the date of this report, 13 firms in the footwear industry have applied for and are receiving financial and technical assistance equal to almost $17.5 million under provisions of either the Trade Expansion Act of 1962 or the Trade Act of 1974. An additional 14 firms have been certified eligible to apply for assistance, a few of which may be developing their recovery plans and preparing their applications.

During its most recent investigation of the footwear industry, the Commission identified approximately 376 firms and mailed questionnaires to a sample of 179 of those firms. Questionnaires were returned by 94 of those companies and made available to the Department. Based upon that data, which only covered the first nine months of 1975 and 1976, 21 of those 94 firms appear to meet the Trade Act criteria for certification of an absolute decline in either total sales or total production and employment. Of those 21 firms, five have already been certified. If current data were available for the responding firms and for the firms which were not surveyed or did not respond, the estimated number of firms meeting the criteria would change.

However, even in those instances where data are available and firms have experienced the requisite declines, without an investigation of each individual firm there is no basis for determining whether imports contributed importantly to those declines. Under such circumstances, the Department is unable to determine the number of firms that are "likely to be certified as eligible" until the firms have actually submitted acceptable petitions.

Under the program of trade adjustment assistance for firms authorized by the Trade Act and administered by the Economic Development Administration ("EDA") in the Department of Commerce, a certified firm may apply for adjustment assistance to carry out its recovery plan. However, the fact that a firm is certified does not imply that such assistance will be furnished. That decision will depend upon whether the firm's adjustment proposal meets all of the statutory criteria essential for approval. Adjustment assistance may consist of financial assistance, technical assistance, or both. Financial assistance, in the form of direct loans or loan guarantees, may be used for the acquisition, construction, installation, modernization, expansion or conversion of fixed assets, or for working capital necessary for a firm to implement its adjustment plan. Technical assistance may be used for management and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

The Trade Act also provides for certification of communities located in trade-impacted areas or in areas where a firm or subdivision has transferred to a foreign country. Certified communities are eligible for public works grants, loans, and loan guarantees—all of which can be directed towards assisting affected firms. Under the Public Work and Economic Development Act of 1965 ("PWEDA"), as amended, direct and indirect assistance to firms is available without Trade Act certification. Firms located in EDA-designated "redevelopment areas" and "economic development centers" can benefit indirectly from grants to the designated places and related entities for financing public works, and directly from business development loans and guarantees.

Under PWEDA, neither loans nor guarantees can be used to assist firms relocating from one area to another or to expand production in an industry found to have long-term overcapacity. However, even though the footwear industry is characterized by long-term overcapacity, firms could obtain assistance under PWEDA for purposes of assuring the retention of existing capacity and employment. Moreover, PWEDA does authorize technical assistance to firms regardless of location and grants of loanable funds to communities with actual or threatened unemployment.

The Small Business Administration ("SBA") administers three programs of potential assistance to footwear firms: A management assistance program for small business; a loan program for local development companies; and a business loan program of direct, participating, and guaranteed loans. Eligibility is limited to independently owned and operated firms that are not dominant in their field and do not have over 500 average employment. The amount of the guaranteed loan, however, cannot exceed $500,000, and participating and direct loans have even lower limits.

The Farmers Home Administration ("FmHA") of the Department of Agriculture has two programs that could benefit firms in the footwear industry. Some companies may be able to participate in a program of loan guarantees to businesses located in areas other than cities of over 50,000 population. As with EDA business loans, however, these guarantees are not available to firms in industries found to have long-term overcapacity. FmHA also can make grants and loans to public bodies, such as local development organizations and governments, in areas other than cities of over 10,000 population. These funds can be used for public works projects, such as utility extensions and access roads, that would benefit industry.

Additional information about the adjustment assistance program and copies of the report *Prospects for Adjustment Assistance for Firms in the Footwear Industry*, are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202/377–5113).

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-7382 Filed 3-11-77;8:45 am]

National Oceanic and Atmospheric Administration

FISHERY MANAGEMENT PLANS

Report of the Secretary of Commerce

Section 305(f) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.) states that "The Secretary shall report to the Congress and the President, not later than March 1 of each year, on all activities of the Councils and the Secretary with respect to fishery management plans, regulations to implement such plans, and all other activities relating to the conservation and management of fishery resources that were undertaken during the preceding calendar year."

Accordingly, there is published herewith the report of the Secretary of Commerce for the calendar year of 1976 as required by the Act.

Issued at Washington, D.C., and dated March 1, 1977.

Dated: March 1, 1977.

JUANITA M. KREPS,
Secretary of Commerce.

MARCH 1, 1977.

The PRESIDENT,
President of the Senate,
Speaker of the House of Representatives.

SIRS: I have the honor to submit herewith, as required by section 305(f) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.), the first report on activities of the Regional Fishery Management Councils and the Department of Commerce with respect to fishery management plans, regulations to implement such plans, and other activities relating to the conservation and management of fishery resources that were undertaken during 1976 pursuant to the Act.

Respectfully,

JUANITA M. KREPS,
Secretary of Commerce.

Enclosure.

SUMMARY

The enactment on April 13, 1976, of the Fishery Conservation and Management Act of 1976 offers, for the first time, a rational means to assure the growth and vitality of the U.S. marine fisheries resources and their enlightened use for the greatest overall benefit to the nation. Government, industry, and the public have joined efforts with determination and enthusiasm to seize the opportunity offered by the Act, and the process of putting it into effect is well under way.

The first step was to establish the Regional Fishery Management Councils. Charters for the Councils, required by the Federal Advisory Committee Act, were filed on July 21 and 138 members were appointed or designated by the Secretary to the eight Councils by August 11.

With the support of the Department, the Councils were able to start operations shortly after their formation. An Orientation Conference for Council members was held on September 13–17, in Arlington, Virginia, to provide an opportunity for all those involved with implementing the Act to meet and discuss procedures. During the Conference, Councils made necessary arrangements to hold their initial organizational meetings in their respective geographical areas. At the same time, an Operations Manual developed for Councils' use was issued to provide information and guidance to them during their formative phase. In addition, Interim Regulations were published to establish standards for Council operations and guidelines for developing fishery management plans.

Councils started to meet regularly in late September and early October. By the end of 1976, they had become operating entities. During the short period the Councils have been in operation, they have:

Elected officers and selected, or were in the final stages of selecting, Executive Directors.

Selected administrative headquarters. (Six were selected and final selection of the remaining two had been narrowed to a few cities).

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Established two Scientific and Statistical Committees and identified potential members.

Started to evaluate the fishery resources in their jurisdictional area, and for the most part, identified fishery management units for which they would be preparing plans.

Prepared budgets and submitted grant-in-aid applications for the first six months of operation.

Four Councils adopted bookkeeping systems, and all Councils have made progress in establishing their organization and operating practices and procedures.

Reviewed and provided comments on a host of matters, including Interim Regulations and various documents associated with management of foreign fishing. Included were draft environmental impact statements (required by the National Environmental Policy Act) which incorporated preliminary management plans, draft fishery regulations, fee schedules, etc.

The Department of Commerce initiated actions to bring foreign fishing within the fishery conservation zone under control in accordance with the Act. In anticipation of receiving foreign fishing permit applications before March 1, 1977, and recognizing that Councils may not be fully organized and capable of preparing fishery management plans necessary to control foreign fishing before that time, the Department prepared preliminary management plans. Work on this was begun in July 1976. By the end of the year, plans for 16 fisheries had been prepared. The plans identify that portion of the optimum yield for fishery resources which will not be harvested by domestic fishermen and accordingly constitutes the total allowable catch by foreign fishermen. Public hearings were held on the plans. Draft foreign fishing regulations were published delineating conditions for issuance of permits, catch quotas, vessel identification procedures, and reporting requirements.

Concurrently with plan development, several other major actions were undertaken which necessitated close cooperation between the Department of State, the U.S. Coast Guard, and the Department of Commerce. As a result:

Six governing international fishery agreements were signed and others were under negotiation at year's end.

Foreign permit and permit application forms were developed and transmitted to interested foreign nations.

A proposed fee schedule was prepared and published. (It establishes certain charges for foreign fishermen based on vessel size and value of the nation's fishery allocation from the U.S. fishery conservation zone.)

Enforcement and surveillance requirements were assessed and both short- and long-term strategies developed to ensure compliance with the Act beginning March 1, 1977.

The actions taken in 1976 were geared to organizing for the future. The foundation has been laid and 1977 should bring the Nation closer to attaining the purposes of the Fishery Conservation and Management Act.

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INTRODUCTION

On April 13, 1976, the Fishery Conservation and Management Act of 1976 (FCMA), P.L. 94-265, was signed by the President. This Act provides for an exclusive U.S. fishery conservation zone that extends 200 nautical miles from the baseline from which the territorial sea is measured, and provides for the establishment of eight Regional Fishery Management Councils to serve as the instruments of Federal-State-private interaction in the conduct of fisheries management in the conservation zone.

The major responsibilities assigned to the Secretary of Commerce by the Act are to:

Appoint Council members based on nominations by State Governors
Promulgate uniform standards for Council operations
Provide administrative support to Councils
Ensure that Councils and their entities are legally organized
Include Council funding requirements in the Department's budget request
Review and approve Council-prepared fishery management plans
Prepare, if necessary, fishery management plans and amendments
Hold public hearings on plans and regulations and amendments
Promulgate regulations and implement plans
Assist the Secretary of State in governing international fishery agreement negotiations
Develop, in cooperation with the Secretary of State and U.S. Coast Guard, foreign permit applications and permit forms
Establish fees for foreign fishing in consultation with the Secretary of State, and collect such fees
Cooperate with the Secretary of State in determining foreign fishing allocations
Review foreign permit applications submitted, establish conditions and restrictions and issue permits
Maintain a comprehensive program of fisheries research
Provide Councils with scientific information and statistical data
Cooperate with the U.S. Coast Guard in detection, surveillance, and compliance activities, and
Report to the President and the Congress on activities of the Secretary and the Councils.

The eight Councils established by the Act are (1) New England, (2) Mid-Atlantic, (3) South Atlantic, (4) Gulf of Mexico, (5) Caribbean, (6) Pacific, (7) North Pacific, and (8) Western Pacific. The major responsibilities assigned to the Councils are to:

Prepare fishery management plans and amendments thereto for each fishery within their geographic area of authority.
Comment on plans prepared by the Secretary,
Comment on foreign permit applications,
Hold public hearings,
Report to the Secretary, before February 1 of each year, on Council activities for the preceding year,
Submit reports the Councils deem appropriate,
Submit other relevant reports which may be requested by the Secretary,
Assess continually the optimum yield and total foreign allowable catch levels, and
Conduct other activities necessary and appropriate to the foregoing functions.

This report is submitted in accordance with the Secretary's obligation under the Act and is divided into two sections, (1) actions taken by the Secretary to implement the Act and (2) actions by the Councils to ensure implementation of the Act.

SECRETARIAL ACTION

The following actions were taken by the Secretary in 1976 in fulfilling his responsibilities under the Act: the establishment of the eight Councils and maintenance of full strength membership; the promulgation of Interim Regulations on Council operations; the provision of program and staff support to Councils; fishery management activities; the fulfillment of inter-agency responsibilities with regard to foreign fishing agreements, the processing of applications, and in enforcement and surveillance actions.

COUNCIL FORMATION

The number of members and the composition of the Councils are established in Section 302 of the Act. Of a total of 108 voting members on the eight Councils, 68 were appointed from a list of 461 nominations received from the appropriate Governors. Forty voting members were named from appropriate State and Federal offices as designated by the Act. In addition, an aggregate of 30 nonvoting members is designated by various Federal and State entities, pursuant to the Act.

APPOINTMENTS

After the Act was signed, the Secretary immediately requested from the affected Governors nominations for memberships on the Councils and the name of the appropriate designated State official. The Secretary, through the Administrator, National Oceanic and Atmospheric Administration (NOAA), made the appointments, as required by the Act, on August 11, 1976.

CHARTERS

To fulfill the requirements of Section 9(c) of the Federal Advisory Committee Act (FACA), the Secretary prepared charters for the Fishery Management Councils and filed them, as required, on July 21, 1976. The charters delineate the geographic area of authority, outline the objectives and duties, define the membership, state the administrative requirements, and describe the duration of the Council and the filing requirements for charters for each 2-year period following the date of enactment of the FCMA.

The Act requires each Council to establish a Scientific and Statistical Committee. The Councils are authorized to establish Advisory Panels, if necessary. For the Committee or any Advisory Panels established, the Council must obtain charters, pursuant to FACA.

NATIONAL CONFERENCE

During the period of September 13-17, 1976, the Secretary of Commerce held the National Orientation Conference in Arlington, Virginia for the new Council members. Nearly all the voting and nonvoting members attended the entire five days of the Conference.

The Council members were briefed by some members of Congress who had a significant role in the passage of the FCMA, the Secretary of Commerce, representatives of the Department of State and the United States Coast Guard (USCG), the Administrator of NOAA, and the Director of National Marine Fisheries Service (NMFS) and appropriate members of his staff.

The members were briefed on the legislative history of the Act, some of the organization, administrative, and budgetary problems facing the Councils, the interrelationship and legal impact of other relevant statutes, a review of the international responsibilities involved, and the enforcement problems anticipated. The Councils met informally following these presentations to evaluate and discuss the material presented. Spokespersons from each Council later presented the Councils' views regarding the policies and procedures presented by NMFS with a view to future adjustments where appropriate and feasible.

OPERATIONS MANUAL

Before the actual establishment of the Council's, NMFS developed an Operations Manual to serve as a technical guide for the Councils in their initial stages of operation. The Manual suggests uniform standards for Council organization, practices, and procedures, and offers guidelines for the preparation, review, and promulgation of Fishery Management Plans (FMPs). Other information relating to FMPs is also presented.

The Manual also reviews the applicability of the FACA, the Administrative Procedures Act, the Freedom of Information Act, the Privacy Act, and other applicable legislation.

The Councils and various members of the public have been requested to submit any comments, recommendations, or changes in the Manual that they feel are desirable.

REGULATIONS

The Act directs the Secretary to prescribe rules and regulations which deal with the national fishery management program and the responsibilities and functions of the eight Regional Fishery Management Councils in the development of FMPs.

Accordingly, on September 15, 1976, Interim Final Regulations were published in the FEDERAL REGISTER addressing those requirements of the Act. They established uniform standards for organization, practices and procedures for Councils and suggested guidelines for development of FMPs. The Interim Regulations took effect when published.

Interested persons, Councils, and governmental agencies were encouraged to submit written comments, views, or other data concerning the Regulations, and all such submissions will be considered before the publication of the Final Regulations in April 1977.

DELEGATION OF AUTHORITY

On September 30, 1976, by Amendment 4 of DOO[1] 25-5A the Secretary delegated authority for many Secretarial actions to the Administrator, NOAA. However, the Secretary reserved the authority to provide general policy guidance; to submit annual reports to the Congress and the President; to make final findings and notifications regarding regulation of fishing within State boundaries other than internal waters under subsection 306(b) of the Act; in particular instances, to issue Preliminary Management Plans (PMPs) and implementing regulations when the Secretary determines such action is appropriate; and in particular instances, to approve, disapprove, or partially approve Council FMPs, issue FMPs or amendments and implementing regulations.

The Administrator, NOAA, on December 1, 1976, in NOAA Directives Manual 05-57, further delegated certain authority to the Associate Administrator for Marine Resources (Associate Administrator). The Administrator reserved the authority to provide general policy guidance to the Associate Administrator, to consult with the Associate Administrator concerning functions delegated, and to appoint members of the Regional Fishery Management Councils.

The December delegation included authority for the Director, NMFS, (acting under the policy guidance of the Associate Administrator) to take all actions preliminary to, necessary for, or in further implementation of the exercise of functions of the Associate Administrator, those reserved to the Administrator, or those functions reserved to the Secretary.

COUNCIL SUPPORT

As the principal agency within NOAA to interact with Councils, NMFS provides interim support staff until the Councils are able to hire their own staffs and organize. Most assistance in 1976 was of an administrative or logistical nature associated with the scheduling and conduct of Council meetings, e.g., publishing notices in the FEDERAL REGISTER, coordinating travel and space arrangements, procurement, processing vouchers and compensation, preparation and distribution of minutes, etc. Also provided were other services such as overview presentations on fishery resources, data availability, technical support capabilities, and policy and legal interpretation. Some NMFS personnel are detailed to Councils on a full-time basis to provide the necessary support until such time as the Councils become organized and acquire their own administrative staffs.

BUDGET PREPARATION

The Congress provided an appropriation for the transition quarter, July-September 1976, of $2 million, and $22 million (Appendix I) to NOAA for FY 1977 for the purpose of implementing the extended jurisdiction program established under the Act. Of the $22 million, $3.1 million was allocated for operation of the Fishery Management Councils for the fiscal year.

To help the Councils obtain their first grants from the allocated funds to establish their operations, NMFS prepared budgets for each Council to cover the first six months of the fiscal year. The following list indicates the proposed sums for each Council:

New England	$171,300
Mid-Atlantic	176,800
South Atlantic	142,300
Caribbean	123,100
Gulf of Mexico	158,700
Pacific	141,200
Western Pacific	160,400
North Pacific	182,800

The total six-month proposed budget was $1,258,600. The sum of $1,858,400 remains available for the rest of the fiscal year for Council related activities.

At the National Conference, the Councils were requested informally to submit by January 1977 any proposed changes in the initial budget and to submit new budgets for the last six months of the fiscal year as well as for fiscal years 1978 and 1979. The Council budgets will be part of the NOAA budget and will come under the review process with the NOAA budget.

COUNCIL STAFF

NMFS assisted the Councils in their hiring procedures. Draft position descriptions for four positions, including the Executive Director, were prepared at the time the Councils were established and this material was provided to the Councils. All of the Councils made use of the information and requested further assistance in the preparation of vacancy announcements for the position of Executive Director. Through the efforts of NMFS and the Councils, a broad distribution of the announcements was possible, and almost 500 applications were made for the eight Executive Director positions for consideration by the Councils. By the end of the year, one Executive Director was hired, and three others were selected but had not reported for duty.

The hiring of any additional personnel by the Councils has, in general, been left by the Councils to the discretion of the Executive Directors when they report for duty.

FISHERY MANAGEMENT ACTIVITIES

DRAFT ENVIRONMENTAL IMPACT STATEMENTS/ PRELIMINARY MANAGEMENT PLANS

The FCMA specified two type of plans: (1) PMPs (Section 201(g) and (2) FMPs (Section 303). NOAA/NMFS initially prepared the PMPs to provide fishery management over those fisheries for which there was a foreign application to fish, but no management plan could be prepared by a Council and implemented by the Secretary by March 1, 1977. The PMPs deal only with foreign fishing. In contrast, FMPs are prepared by the Councils for the purpose of providing fisheries management for both domestic and foreign fishermen. The FMPs, when approved and implemented by the Secretary of Commerce, replace the PMPs.

In June 1976, it became apparent that the Councils would not be organized in time to prepare FMPs and have the Secretary implement them by March 1, 1977. The Act states that the Secretary must prepare a PMP in such an event after applications for permits are received. However, mindful of the need to permit foreign fishing after February 28, and the requirements of the National Environmental Policy Act, NMFS proceeded to draft PMPs for those fisheries within the fishery conservation zone on which there is or has been recent foreign fishing. The thrust of the plans is to identify that portion of the optimum yield that will be harvested by U.S. fishermen. The remainder will constitute the surplus available for foreign fishermen.

Because no fishing permit application had been received from foreign governments at the time, the draft PMPs were distributed as draft environmental impact statements (DEISs). This distribution was for the purpose of complying with the requirements of the National Environmental Policy Act of 1969, which meant wide dissemination to the general public (including the newly formed Councils) so the public could participate as fully as possible in the final decisions these plans entailed. This action was intended to expedite later processing of permit applications when received. (The proposed plan for snails of the Eastern Bering Sea was the only plan that did not enter the DEIS process. It was determined that the environ-

[1] Department Organizational Order.

Fishery Management Activities:
  Draft Environmental Impact Statements/ Preliminary Management Plans
  Foreign Fishing Permits
  Fees and Fee Schedules
  Fishery Regulations
Inter-Agency Activities:
  Governing International Fishery Agreements
  Enforcement and Surveillance
Regional Fishery Management Council Action
North Pacific Council Activities and Accomplishments
Pacific Council Activities and Accomplishments
Western Pacific Council Activities and Accomplishments
New England Council Activities and Accomplishments
Mid-Atlantic Council Activities and Accomplishments
South Atlantic Council Activities and Accomplishments
Caribbean Council Activities and Accomplishments
Gulf of Mexico Council Activities and Accomplishments
APPENDIX I, FY 1977 Extended Jurisdiction Budget
APPENDIX II, Data on Council Locations, Officers, Administrative Staff, Members, Committees and Panels

INTRODUCTION

On April 13, 1976, the Fishery Conservation and Management Act of 1976 (FCMA), P.L. 94-265, was signed by the President. This Act provides for an exclusive U.S. fishery conservation zone that extends 200 nautical miles from the baseline from which the territorial sea is measured, and provides for the establishment of eight Regional Fishery Management Councils to serve as the instruments of Federal-State-private interaction in the conduct of fisheries management in the conservation zone.

The major responsibilities assigned to the Secretary of Commerce by the Act are to:

Appoint Council members based on nominations by State Governors
Promulgate uniform standards for Council operations
Provide administrative support to Councils
Ensure that Councils and their entities are legally organized
Include Council funding requirements in the Department's budget request
Review and approve Council-prepared fishery management plans
Prepare, if necessary, fishery management plans and amendments
Hold public hearings on plans and regulations and amendments
Promulgate regulations and implement plans
Assist the Secretary of State in governing international fishery agreement negotiations
Develop, in cooperation with the Secretary of State and U.S. Coast Guard, foreign permit applications and permit forms
Establish fees for foreign fishing in consultation with the Secretary of State, and collect such fees
Cooperate with the Secretary of State in determining foreign fishing allocations
Review foreign permit applications submitted, establish conditions and restrictions and issue permits
Maintain a comprehensive program of fisheries research
Provide Councils with scientific information and statistical data
Cooperate with the U.S. Coast Guard in detection, surveillance, and compliance activities, and
Report to the President and the Congress on activities of the Secretary and the Councils.

The eight Councils established by the Act are (1) New England, (2) Mid-Atlantic, (3) South Atlantic, (4) Gulf of Mexico, (5) Caribbean, (6) Pacific, (7) North Pacific, and (8) Western Pacific. The major responsibilities assigned to the Councils are to:

Prepare fishery management plans and amendments thereto for each fishery within their geographic area of authority.
Comment on plans prepared by the Secretary,
Comment on foreign permit applications,
Hold public hearings,
Report to the Secretary, before February 1 of each year, on Council activities for the preceding year,
Submit reports the Councils deem appropriate,
Submit other relevant reports which may be requested by the Secretary,
Assess continually the optimum yield and total foreign allowable catch levels, and
Conduct other activities necessary and appropriate to the foregoing functions.

This report is submitted in accordance with the Secretary's obligation under the Act and is divided into two sections, (1) actions taken by the Secretary to implement the Act and (2) actions by the Councils to ensure implementation of the Act.

SECRETARIAL ACTION

The following actions were taken by the Secretary in 1976 in fulfilling his responsibilities under the Act: the establishment of the eight Councils and maintenance of full strength membership; the promulgation of Interim Regulations on Council operations; the provision of program and staff support to Councils; fishery management activities; the fulfillment of inter-agency responsibilities with regard to foreign fishing agreements, the processing of applications, and in enforcement and surveillance actions.

COUNCIL FORMATION

The number of members and the composition of the Councils are established in Section 302 of the Act. Of a total of 108 voting members on the eight Councils, 68 were appointed from a list of 461 nominations received from the appropriate Governors. Forty voting members were named from appropriate State and Federal offices as designated by the Act. In addition, an aggregate of 30 nonvoting members is designated by various Federal and State entities, pursuant to the Act.

APPOINTMENTS

After the Act was signed, the Secretary immediately requested from the affected Governors nominations for memberships on the Councils and the name of the appropriate designated State official. The Secretary, through the Administrator, National Oceanic and Atmospheric Administration (NOAA), made the appointments, as required by the Act, on August 11, 1976.

CHARTERS

To fulfill the requirements of Section 9(c) of the Federal Advisory Committee Act (FACA), the Secretary prepared charters for the Fishery Management Councils and filed them, as required, on July 21, 1976. The charters delineate the geographic area of authority, outline the objectives and duties, define the membership, state the administrative requirements, and describe the duration of the Council and the filing requirements for charters for each 2-year period following the date of enactment of the FCMA.

The Act requires each Council to establish a Scientific and Statistical Committee. The Councils are authorized to establish Advisory Panels, if necessary. For the Committee or

the tanner crab FMPs. No plans were com-

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mental consequences of preparing and implementing this plan were so insignificant that a "negative determination" under the Environmental Protection Act was considered appropriate.)

The following DEISs were developed:

Troll Salmon Fishery of the Pacific
Trawl Fishery of Washington, Oregon, and California
Sablefish of the Bering Sea and the Northeastern Pacific
High Seas Salmon Fishery of the Eastern Bering Sea and Northeast Pacific
Trawl Fishery of the Gulf of Alaska
Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Aleutian Islands
Shrimp Fishery of the Eastern Bering Sea and the Gulf of Alaska
King and Tanner Crab Fisheries of the Eastern Bering Sea
Seamount Groundfish Fishery of the Pacific
Precious Coral Fishery of the Pacific
Hake Fisheries of the Northwestern Atlantic
Squid Fisheries of the Northwestern Atlantic
Atlantic Herring Fishery of the Nothwestern Atlantic
Finfish Caught Incidental to the Trawl Fisheries of the Northwestern Atlantic
Atlantic Mackerel Fishery of the Northwestern Atlantic

Public hearings on the DEISs were held by NMFS in November and early December. Comments were received, and a review process completed. The DEISs were then appropriately revised into final environmental impact statements (FEISs). After appropriate foreign fishing permit applications are received, these FEISs will provide the basis for PMPs and implementing regulations. Resource allocations among foreign nations by the Department of State and the issuance of fishing permits by the Department of Commerce can only be accomplished after the adoption of these plans and the promulgation of regulations.

Draft PMPs for billfish and pelagic species other than tuna taken in foreign longline fisheries have been prepared and are being reviewed by the Councils and the Department of State. These documents may then be prepared to enter the DEIS review process on a later schedule.

FOREIGN FISHING PERMITS

In response to the FCMA permit requirements, the NMFS, in coordination with the USCG and the Department of State, developed foreign fishing permit applications for dissemination by the Department of State to those countries desiring to fish within the U.S. fisheries conservation zone. Permit forms were developed, printed, and made ready for use when applications are approved, and the necessary fees are paid.

FEES AND FEE SCHEDULES

The Director, NMFS, published in the FEDERAL REGISTER on December 23, 1976, a draft fee schedule for foreign vessels operating in fisheries subject to the jurisdiction of the United States and requested public comments. The schedule was based upon the guidance provided in Section 204(b)(10) of the Act, which states "• • • reasonable fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection." The criteria used in establishing the fee schedule included reasonableness, recovery of management costs attributed to foreign fishing, non-discrimination, simplicity in computation and collection, and size and function of the vessel.

The computation of the fees will be based upon the vessel size and value of the foreign nation's allocation. The value of the allocation was based on the value of the 1975 ex-vessel price received by the U.S. fishermen for species that have a fishery, and on the average foreign ex-vessel price for species that have no U.S. fishery. In addition, the foreign nations will be required to reimburse the U.S. for the cost of observers placed on-board their vessels.

Public comments were requested by January 13, 1977, for review prior to establishing the final fee schedule. The fees should be determined early enough to enable foreign governments to pay those fees prior to March 1, 1977.

FISHERY REGULATIONS

On December 23, 1976, an "Invitation for Public Comment on Draft Foreign Fishing Regulations" was published in the FEDERAL REGISTER. These draft regulations were based upon the DEISs that the Secretary had prepared in anticipation of the preparation of PMPs. The DEISs contain all of the essential elements of PMPs. The regulations include the conditions for issuance of permits to foreign fishing vessels, catch quotas, vessel reporting requirements, vessel identification procedures, enforcement procedures, observer acceptance, and reports and record-keeping.

The allowable surpluses available to foreign nations are listed in the draft regulations by species, ocean area, and quantity available in metric tons. In addition, there is a detailed discussion of each fishery including species, catch quota or effort limitations, open seasons and areas, closed seasons and areas, gear restrictions, statistical reporting, and incidental catch.

These regulations were made available for public comment, with such comments due on or before January 23, 1977. The Secretary will adopt final fishery regulations on or about February 7, 1977.

INTERAGENCY ACTIVITIES

In certain areas, the Secretary is directed to work in conjunction with other Agency heads to implement sections of the Act. Two areas of cooperation are clearly called for: first, the negotiation of governing international fishery agreements (GIFAs) is the primary responsibility of the Secretary of State and second, the enforcement of fishery regulations is the joint responsibility of the USCG and NMFS.

GOVERNING INTERNATIONAL FISHERY AGREEMENTS

One of the conditions for foreign fishing to be conducted after February 28, 1977, within the fishery conservation zone of the U.S., or for anadromous species or continental shelf fishery resources over which the U.S. asserts exclusive fishery management authority beyond the zone, is an effective GIFA between the U.S. and the foreign nation and the issuance of permits to the fishing vessels of that nation pursuant to that agreement. Exceptions to this requirement may apply in cases where (1) an existing international fishery agreement that was in effect on the date of enactment of the FCMA has not expired, been renegotiated, or otherwise ceased to be in force with respect to the United States, and a registration permit has been issued to such vessels by the Secretary of State; or (2) the foreign fishery is for tuna, including longline fisheries for tuna in which billfish are taken incidentally.

Negotiations on GIFAs were formally initiated in June 1976. The following list shows the GIFAs that had been signed as of December 31, 1976:

Country	*Date signed*
Polish People's Republic	Aug. 3, 1976.
Republic of China	Sept. 15, 1976.
East Germany	Oct. 5, 1976.
Romania	Nov. 23, 1976.
U.S.S.R.	Nov. 26, 1976.
Bulgaria	Dec. 17, 1976.

Each of the agreements includes articles by which a commitment is made, by the foreign nation and its fishing vessels, to comply with the terms and conditions set down in the Act. In addition, each has one Annex outlining procedures for permit applications, and another Annex outlining data collection and reporting requirements for vessels of the foreign nation. Some agreements also contain an Annex on Claims Boards and Agreed Minutes that note matters of particular concern to the Parties.

Negotiations on GIFAs with Spain, Republic of Korea, Japan, and the European Economic Community, which were initiated in August 1976, had not resulted in agreement by the end of the year.

As fishing relations with Canada involve special problems, the U.S. entered into other than GIFA negotiations with that country. The U.S. is presently involved in negotiating a new Pacific salmon agreement and a new comprehensive bilateral fisheries agreement. These negotiations have proceeded separately with the objective of concluding two long-term agreements that together will establish the basis for the full range of United States/Canada fishery relations when both countries extend fisheries jurisdiction to 200 miles. It became apparent during 1976, however, that neither agreement would be concluded before the two countries extend their fisheries jurisdiction. It was therefore agreed to negotiate a short-term fisheries agreement to allow time to finish the long-term agreements and to avoid confrontation and possible conflict. The date for the negotiations was set for January 17–31, 1977.

The Act also requires examination of all treaties that pertain to fishing for resources over which the U.S. will exercise exclusive fishery management authority to determine whether they are in conformity with the Act. As a result, U.S. membership in the 18-nation International Convention for the Northwest Atlantic Fisheries (ICNAF) and the three-nation International Convention for the High Seas Fisheries of the North Pacific Ocean (INPFC) was addressed. A decision was made to withdraw from ICNAF and notice of such intent was given in June 1976. Because no further action was taken on the notice of intent, the withdrawal became effective December 31, 1976. The U.S. also decided to give notice of the intention to withdraw from the INPFC, but notice had not been given as of December 31, 1976.

Pursuant to the Act, once a GIFA is signed with another nation, that nation may apply for permits for its fishing vessels. Although such agreements had not been signed with all nations by the end of the year, applications and permit forms were provided to those with whom negotiations were in progress so the foreign nation could have them ready for submission by the time the agreements were signed.

ENFORCEMENT AND SURVEILLANCE

A joint NMFS/USCG task force was formed to assess the initial requirements for foreign compliance under extended jurisdiction. Review and approval of the task force report are expected early in calendar year 1977.

A thorough exposition of the enforcement program will be included in the first semi-annual report as required under Section 311 (a) of the Act. This report will be submitted

to Congress and the Councils to keep them apprised of all significant aspects of enforcement.

REGIONAL FISHERY MANAGEMENT COUNCIL ACTION

As was noted earlier the eight Councils established under provisions of the FCMA are responsible for the preparation of fishery management plans and amendments thereto for each fishery within their geographical area of authority; preparing comments on plans prepared by the Secretary; commenting on foreign permit applications; conducting public hearings; continually assessing optimum yield and total foreign allowable catch levels and submitting reports to the Secretary. The Act calls for each Council to appoint an administrative staff to assist it in carrying out its functions; as well as a Scientific and Statistical Committee to assist it in the development, collection, and evaluation of scientific information relevent to plan preparation and amendments thereto. In addition, the Act permits the establishment of Advisory Panels to assist in carrying out Council functions. Councils are required to determine their own organization, practices and procedures for conducting business. In this section of the annual report, basic information is provided relative to their staffs, committees, panels, and significant accomplishments during their initial period of operation. As also noted earlier, Council members were appointed on August 11, 1976, and an orientation meeting was held September 13–17. Councils generally began holding their first meetings in October, and accordingly Council activities generally cover a 3-month period.

The locations, staff, officers, committees, panels and members of the Councils are listed in Appendix II.

NORTH PACIFIC COUNCIL ACTIVITIES AND ACCOMPLISHMENTS

The North Pacific Council is responsible for management actions specified in FCMA for those fisheries in the fishery conservation zone off the State of Alaska.

COUNCIL MEETINGS

The North Pacific Council held two meetings in 1976.

October 5, 6, 7, and 8. This meeting was held in Juneau, Alaska, and the subjects discussed were (1) election of officers; (2) organization, including office location; (3) practices and procedures; (4) discussion of PMPs; and (5) discussion of priorities on FMPs.

December 2, 3, and 4. This meeting was held in Anchorage, Alaska. The meeting from 8:30 a.m. to 12:00 noon on December 2 was a closed meeting in accordance with a finding under the provisions of 5 U.S.C., 552(b)(1), signed by the Assistant Secretary for Administration of the Department of Commerce on November 11, 1976. The items discussed were (1) closed session to discuss classified material; (2) selection of an Executive Director; (3) organization and the budget; (4) discussion of FMPs under preparation by the Council; (5) joint meeting with the Alaska Board of Fisheries; (6) public hearing on management plans; and (7) action, if appropriate, on FMPs.

SCIENTIFIC AND STATISTICAL COMMITTEE MEETINGS

The North Pacific Fishery Management Council's Scientific and Statistical Committee was chartered on November 24, 1976. It held its first official meeting November 29–December 1, 1976. The items discussed at the first meeting were (1) election of officers and organization of the Committee; (2) practices and procedures; and (3) discussion of FMPs and their preparation.

ADVISORY PANEL

The North Pacific Fishery Management Council's Advisory Panel was chartered December 1, 1976, and held its first meeting December 2–December 5, 1976. The items considered were (1) election of officers and organization and (2) meetings in conjunction with the North Pacific Fishery Management Council.

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL PUBLIC HEARINGS

One public hearing was held by the Council on the afternoon of December 4, 1976, in Anchorage, Alaska. Public comments were accepted on DEIS/PMP's and Council FMPs under development. Public comment was also invited at the October meeting and most of one morning was devoted to receiving such comments.

CLOSED MEETINGS

One closed meeting of the Council was held on December 2, 1976. The matters discussed related to on-going negotiations with the nations whose fleets fish in the conservation zone adjacent to the State of Alaska. Representatives of the Department of State and NMFS reviewed these negotiations and the prospects for reaching agreement with the concerned nations.

OTHER ACCOMPLISHMENTS

The Council selected Anchorage, Alaska, as the site for its permanent headquarters.

The Council reviewed the draft grant applications provided by NMFS and amended those applications. Budgets for fiscal years 1978 and 1979 were also reviewed.

Five DEIS/PMP's were reviewed by the North Pacific Council. With respect to the trawl fishery of the Gulf of Alaska, the Council recommended a reduction of the total allowable catch for Pacific Ocean perch to permit the stocks to rebuild, and a reduction in the total allowable catch for flounder that would provide for a slower expansion of the fishery. The Council proposed a change in the DEIS/PMP for the Trawl Fisheries and Herring Gilinet Fishery of the Eastern Bering Sea and Aleutian Islands that would eliminate the foreign gilinet fishery for herring and reduce the total allowable catch to 11,000 metric tons. It was recommended that the total allowable catch for Pacific Ocean perch be reviewed and revised downward if warranted. With respect to the Sablefish of the Bering Sea and the Northeastern Pacific Ocean DEIS/PMP, the Council requested that the drafting office review the total allowable catch and revise it downward, if possible, since the recommended total allowable catch is little different than the equilibrium yield and may be too high to rebuild the stocks, especially in the Bering Sea.

The Council expressed a desire for a review of the King and Tanner Crab Fisheries of the Eastern Bering Sea DEIS/PMP for the purpose of devising a method of separating the foreign and domestic fleets.

The North Pacific Council noted that the DEIS/PMP for the Troll Salmon Fishery of the Pacific assigned to the Pacific Fishery Management Council the responsibility of preparing a FMP for troll salmon. On December 5 a letter was sent to the Secretary stating that the North Pacific Council wished to be assigned a joint planning responsibility for this fishery.

The North Pacific Council, at the December 2, through 5, 1976, meeting, requested the Scientific and Statistical Committee to expedite the development of the trawl and the tanner crab FMPs. No plans were completed in 1976.

REPORTS

No formal reports were received from the Secretary of Commerce and no formal reports were submitted to the Secretary. The Council did request, on December 5, 1976, an extension of the public comment period on the Interim Final Regulations. On December 17, 1976, the Council requested that it be represented on an international negotiating team when a fishery resource within the Council's area of responsibility may be affected.

On December 23, 1976, the Council wrote a letter to the Director, NMFS, requesting fisheries development funding.

MAN-YEARS OF STAFF SUPPORT

It is estimated that approximately two and one-half man-years of support were provided by the NMFS, two and one-third man-years by the Alaska Department of Fish and Game, and one-half man-year by private sources.

COSTS

The Council expenditures for 1976 were $27,400. The Council did not receive a grant for its operations, and all costs were covered by the NMFS, to be reimbursed upon receipt of the Council's grant.

PACIFIC COUNCIL ACTIVITIES AND ACCOMPLISHMENTS

The Pacific Fishery Management Council is responsible for management actions specified in FCMA for those fisheries in the fishery conservation zone off the States of California, Oregon, and Washington.

COUNCIL MEETINGS

The Pacific Fishery Management Council held three open meetings during 1976.

October 12, 13, 14, and 15. This meeting was held in Seattle, Washington, and the subjects discussed were (1) election of officers; (2) organizational and administrative matters, e.g., headquarters location, staff, and composition of the Scientific and Statistical Committee and the Salmon Advisory Panel; and (3) budget matters.

November 22 and 23. This meeting was held in San Francisco, California, and the matters considered were (1) location of the headquarters, with Portland, Oregon, selected; (2) membership of the Scientific and Statistical Committee; (3) membership on the Salmon Advisory Panel; (4) review of the available PMPs; and (5) review of the Polish GIFA.

December 14, 15, and 16. This meeting was held in Portland, Oregon, and the matters considered were (1) selection of the Executive Director; (2) review of the work completed by the Salmon Advisory Panel; (3) consideration of establishment of a Trawl and Sablefish Advisory Panel; (4) announcement of membership of the Anchovy Advisory Panel, with expansion of this panel to include jack mackerel management; and (5) the designation of groundfish, sablefish, dungeness crab, and pink shrimp as fishery management units.

SCIENTIFIC AND STATISTICAL COMMITTEE MEETINGS

The Pacific Council's Scientific and Statistical Committee was chartered on November 19, 1976. After its establishment, it held two open meetings.

November 22 and 23. This meeting was held in San Francisco, California, and the matters discussed were (1) selection of officers; (2) review of DEIS/PMP's for sablefish, troll salmon and trawl fisheries; (3) membership on the Salmon Management Plan Development Team; and (4) review of approaches to developing salmon management plans.

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December 13, 14, 15, and 16. This meeting was held in Portland, Oregon, and the matters discussed were (1) review of the Committee's charter; (2) review of the Interim Final Regulations; and (3) consideration of jack mackerel as a separate management unit.

ADVISORY PANEL MEETINGS

The Pacific Council's Salmon Advisory Panel was chartered on December 14, 1976, and met one time.

December 14, 15, and 16. This meeting was held in Portland, Oregon, and the matters discussed were (1) election of officers and (2) consideration of the DEIS/PMP for the Troll Salmon Fishery of the Pacific.

CLOSED MEETINGS

The Pacific Council had no closed meetings under provisions of FACA during 1976.

OTHER ACCOMPLISHMENTS

The Council reviewed the following DEIS/FMP's prepared by the NMFS:
Troll Salmon Fishery of the Pacific
Trawl Fishery of Washington, Oregon, and California.
Sablefish of the Bering Sea and Northeastern Pacific

The Council supported the conclusions reached in the DEIS/PMPs for the troll salmon and sablefish fisheries. With regard to the trawl fishery DEIS/PMP, the Council recommended that the incidental catches by foreign fishing involved in the hake fishery be reduced as follows: Pacific Ocean perch/rockfish from 2% of the hake catch to 1%; sole or flounder-type fish from 1% to 0.5%; and blackcod from 0.5% to 0.25%, and that the mesh sizes be strictly enforced. The Council also recommended that the 35,000 mertic tons of foreign allocation for jack mackerel in the DEIS/PMP be reduced to 4,000; that this 4,000 not be part of the 55,000 metric tons of total allowable catch; and that jack mackerel incidentally caught in foreign fisheries apply toward the 4,000-metric-ton limit.

REPORTS

The Pacific Fishery Management Council did not receive any formal reports from the Secretary of Commerce or submit any such reports to the Secretary. However, the Council communicated to the Director, NMFS, informing him (1) of suggested changes in the Interim Final Regulations under FCM; (2) the Council's concern regarding the timing and processing requirements under FCMA with respect to foreign fishing after March 1, 1977; and (3) the Council's inability to develop FMPs by March 1, 1977.

MAN-YEARS OF STAFF SUPPORT

It is estimated that NMFS provided about two and a half man-years of support to the Council.

COSTS

The Council expenditures for 1976 were $44,500. The Council did not receive a grant for its operations, and all costs were covered by NMFS, to be reimbursed upon receipt of the Council's grant.

WESTERN PACIFIC COUNCIL ACTIVITIES AND ACCOMPLISHMENTS

The Western Pacific Council is responsible for management actions specified in FCMA for those fisheries in the fisheries conservation zone off the State of Hawaii and the Territories of Guam and American Samoa.

COUNCIL MEETINGS

The Western Pacific Fishery Management Council held two meetings during 1976.

October 19, 20, and 21. This meeting was held in Honolulu, Hawaii, and the items under discussion were (1) election of officers; (2) organization, practices and procedures; (3) status of fisheries in the Western Pacific area; (4) preparation and implementation of FMPs; and (5) coordination of Council, State, and Federal programs.

December 15 and 16. This meeting was held in Honolulu, Hawaii, and the items under discussion were (1) organization, practices, and procedures; (2) budget matters; (3) acquisition of baseline information; (4) development of FMPs; and (5) role of the Council in fishery development.

MEETINGS OF COMMITTEES AND PANELS

On December 14, 1976, the charter for the Scientific and Statistical Committee was formally filed. Prior to December 31, 1976, no members were named to the Committee and no meetings were held. No Advisory Panels were established during 1976.

CLOSED MEETINGS

The Western Pacific Council had no closed meetings during 1976.

OTHER ACCOMPLISHMENTS

The Council decided to invite an official observer from the Northern Mariana Islands to their meetings in anticipation of the change in official status of those Islands. Joaquin P. Villagomez of Saipan has attended both meetings of the Council as an official observer.

The Council contacted several State and Federal officials to express its concern over a variety of matters. The Attorney General of Hawaii was presented with the Council's concern over the ill-defined status of the boundary between State and Federal jurisdiction in the waters around the Leeward Hawaiian Islands. The Council expressed its concern to the Commandant of the U.S. Coast Guard over the adequacy of enforcement capabilities assigned to the Council's vast geographical area of responsibility and asked him to give special attention to this problem. The Council asked the Secretary of the Navy to consider permitting U.S. fishing vessels to use Midway Island as an operating base in order to stimulate and support the development of American fisheries in the Hawaii area.

The Council expressed to NMFS its strong conviction that the important recreational and commercial billfish fisheries of Hawaii and Guam should be afforded a degree of protection from foreign competition no less than that proposed for other regions of the country. The Council also requested the Director, NMFS, to amend its Seamount Groundfish Fishery of the Pacific DEIS/PMP to prohibit trawling within 50 miles of Guam, thereby affording the same degree of protection for those resources as contemplated for the Hawaiian and Samoan areas.

The Council also passed a resolution for a one-time amendment to the statutory procedures required for implementing PMPs for foreign fishing in March 1977.

REPORTS

No formal reports were received from the Secretary of Commerce. The Council forwarded to the Secretary a resolution calling for amendment to the FCMA to extend the Council's jurisdiction to the fishery conservation zones around certain U.S. island possessions in the central Pacific Ocean.

MAN-YEARS OF STAFF SUPPORT

It is estimated that NMFS provided about one man-year of support to the Council.

COSTS

The Council expenditures for 1976 were $23,000. The Council did not receive a grant for its operations, and all costs were covered by the NMFS, to be reimbursed upon receipt of the Council's grant.

NEW ENGLAND COUNCIL ACTIVITIES AND ACCOMPLISHMENTS

The New England Council is responsible for management actions specified in FCMA for those fisheries in the fisheries conservation zone off the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut.

COUNCIL MEETINGS

The New England Council held seven meetings during 1976.

October 1, 1976. This meeting was held in Boston, Massachusetts, and the primary items discussed were (1) election of officers; (2) organization of the Council and the location of its permanent headquarters; and (3) initial discussions of the Council's practices and procedures.

October 12 and 13, 1976. This meeting was held in Boston, Massachusetts, and the items for discussion were (1) organization and operation practices and procedures; (2) a review of the DEIS/FMPs involving Atlantic herring, red and silver hake, Atlantic mackerel, squid and other finfish; and (3) other management activities.

October 26, 27, and 28. This meeting was also held in Boston, Massachusetts. Discussions were on (1) organizational and operational practices and procedures; (2) a review of ongoing State and Federal fishery research and management activities; and (3) other management activities.

November 8, 9, and 10. This meeting was held in Waltham, Massachusetts. Discussions were on (1) review of applicants for the position of Executive Director; (2) the status of negotiations with Canada; (3) the new United States relationship to the ICNAF; and (4) a preliminary review of the Interim Final Regulations.

November 22 and 23. This meeting was held in Boston, Massachusetts. Discussions were on (1) coordination of Council activities with ongoing State/Federal programs; (2) identifying those fisheries for which the New England Council will prepare fishery management plans; (3) progress made on GIFAs; and (4) progress on negotiations with Canada.

December 15 and 16. This meeting was held in conjunction with the Mid-Atlantic Fishery Management Council at Governors Island, New York, and the items for joint consideration were (1) selection of species to be managed by the Councils and development of coordinating procedures between the Councils and (2) other management problems.

December 28, 29, and 30. This meeting was held in Peabody, Massachusetts, and the items under consideration were (1) final review of DEIS/PMPs; (2) development of operational and organisational procedures, including the annual report content and format; (3) personnel matters; and (4) other matters relating to fishery management.

MEETINGS OF COMMITTEES AND PANELS

Prior to December 31, 1976, the New England Council did not name members to a Scientific and Statistical Committee or establish any Advisory Panels.

CLOSED MEETINGS

The New England Council had no closed meetings during 1976.

OTHER ACCOMPLISHMENTS

The Council reviewed the following DEIS/PMPs prepared by the NMFS:

Squid Fisheries of the Northwestern Atlantic.
Finfish Caught Incidental to the Trawl Fisheries of the Northwestern Atlantic.
Atlantic Herring Fishery of the Northwestern Atlantic.
Hake Fisheries of the Northwestern Atlantic.
Atlantic Mackerel Fishery of the Northwestern Atlantic.

The Council approved the DEIS/PMPs with minor modifications.

In addition, the Council recommended to the appropriate Congressional representatives that measures be implemented to prevent future oil spills off the U.S. coasts. The Council reviewed a report on continental shelf oil exploration, and recommended support for a State/Federal fisheries management program for development of FMPS for Gulf of Maine northern shrimp and Atlantic sea clam. Finally, Peabody, Massachusetts, was selected as the permanent headquarters of the Council.

REPORTS

No reports were received from the Secretary of Commerce and no reports were submitted to the Secretary.

MAN-YEARS OF STAFF SUPPORT

It is estimated that NMFS provided about two and one-half man-years of support to the Council.

COSTS

The Council expenditures for 1976 were $34,900. The Council did not receive a grant for its operations, and all costs were covered by NMFS, to be reimbursed upon receipt of the Council's grant.

MID-ATLANTIC COUNCIL ACTIVITIES AND ACCOMPLISHMENTS

The Mid-Atlantic Fishery Management Council is responsible for management actions specified in FCMA for those fisheries in the fishery conservation zone off the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia.

COUNCIL MEETINGS

The Mid-Atlantic Council held five meetings in 1976.

September 28. This meeting was held in Baltimore, Maryland, and the subjects under consideration were (1) election of officers; (2) organization including office location; (3) practices and procedures; and (4) fishery management activities.

October 19, 20, and 21. This meeting was held in Philadelphia, Pennsylvania. Discussions were on (1) development of organisational practices and procedures; (2) review of fishery resource status; and (3) other fishery conservation and management related business.

November 18 and 19. This meeting was held in Arlington, Virginia. Discussions were on (1) a review of the Interim Final Regulations and operating procedures; (2) analysis of the fisheries of the Mid-Atlantic area; and (3) other management activities.

December 2. This meeting was held in Centereach, New York. Discussions were on (1) a further review of the Interim Final Regulations; (2) budget; (3) a review of the Polish GIFA; (4) staff selection; and (5) other management problems.

December 15 and 16. This meeting was held in conjunction with the New England Fishery Management Council at Governors Island, New York. Discussions were on (1) the selection of species to be managed by the Councils and development of coordinating procedures between Councils and (2) other management problems.

MEETINGS OF COMMITTEES AND PANELS

Prior to December 31, 1976, the Mid-Atlantic Council did not name members to a Scientific and Statistical Committee or establish any Advisory Panels.

CLOSED MEETINGS

The Mid-Atlantic Council had no closed meetings during 1976.

OTHER ACCOMPLISHMENTS

The Council reviewed and approved with minor modifications the following DEIS/PMPs prepared by NMFS:
Squid Fisheries of the Northwestern Atlantic.
Finfish Caught Incidental to the Trawl Fisheries of the Northwestern Atlantic.
Atlantic Herring Fishery of the Northwestern Atlantic.
Hake Fisheries of the Northwestern Atlantic.

The Council decided to form a pollution committee and has requested input on the Environmental Protection Agency's consideration of moving the New York Bight sludge dumpsite. In addition, the Council recommended a fish passage facility at the Conowingo Dam on the Susquehanna River, recommended support for State/Federal fisheries management program for development of FMPs for the Gulf of Maine northern shrimp and Atlantic sea clam, endorsed State funding for liaison support to the Council, and agreed with the New England Council on future needs for FMP development.

REPORTS

No reports were received from the Secretary of Commerce and no reports were submitted to the Secretary.

MAN-YEARS OF STAFF REPORT

It is estimated that NMFS provided about one man-year of support to the Council.

COSTS

The Council expenditures for 1976 were $31,000. The Council did not receive a grant for its operations, and all costs were covered by NMFS, to be reimbursed upon receipt of the Council's grant.

SOUTH ATLANTIC COUNCIL ACTIVITIES AND ACCOMPLISHMENTS

The South Atlantic Fishery Management Council is responsible for management actions specified in FCMA for those fisheries in the fishery conservation zone off of the States of North Carolina, South Carolina, Georgia, and the east coast of Florida.

COUNCIL MEETINGS

The South Atlantic Fishery Management Council held six open meetings during 1976.

October 18 and 19. This meeting was held in Charleston, South Carolina, and the subjects discussed were (1) election of officers; (2) Council organization; (3) practices and procedures; and (4) fishery management activities. Several informal organizational committees were formed to review the headquarters location, screen applications for the position of Executive Director, review and revise the budget, and develop a statement of organization practices and procedures.

November 2, 4, and 5. The meeting was held in Jacksonville, Florida, coincident with a meeting of the Gulf of Mexico Fishery Management Council, and the subjects discussed were (1) Council organization and administrative procedures and (2) technical procedures for FMP development. The Council reviewed in detail the Interim Final Regulations and submitted comments to the Director, NMFS, for incorporation in the Final Regulations.

November 18 and 19. This meeting was held in Savannah, Georgia, and discussed were (1) Council organization and administrative procedures and (2) technical procedures, including FMP development. At this meeting, Charleston, South Carolina, was selected as the headquarters site of the Council.

November 30. This meeting was held in Atlanta, Georgia, and the subject for discussion was Council organization and administrative procedures. Proposed benefit packages for prospective Council employees were discussed in detail.

December 6 and 7. This meeting was held in Morehead City, North Carolina, and discussed were (1) Council organization and administrative procedures; (2) technical procedures, including FMP development; and (3) the fee schedule for foreign fishing vessels. The budget was reviewed, and the Chairman was given authority to sign grant applications for the first- and second-half budgets of fiscal year 1977, and for fiscal years 1978 and 1979.

December 16. This meeting was held in Atlanta, Georgia, and discussed were (1) Council organization and administrative procedures; (2) Council budgets for fiscal years 1977, 1978, and 1979; and (3) technical procedures, including FMP development. At this meeting, Ernest D. Premetz was selected as the Executive Director. In addition, a task force was named to coordinate multiple Council preparation of a billfish FMP.

MEETINGS OF COMMITTEES AND PANELS

Prior to December 31, 1976, the South Atlantic Council did not name members to a Scientific and Statistical Committee or establish any Advisory Panels.

CLOSED MEETINGS

The South Atlantic Council had no closed meetings during 1976.

OTHER ACCOMPLISHMENTS

The Council reviewed a proposed DEIS/PMP for the Atlantic Pelagic Longline Fishery with the Gulf of Mexico Fishery Management Council. The Council also resolved not to fund other Agencies that would use Council contract money as a substitute for programs on-going prior to passage of FCMA, or to fund contracts with States that act to shift funding from State to Federal funding through the Council.

REPORTS

The Council did not receive any formal reports from the Secretary of Commerce. The Council did submit to the Secretary its comments on the Interim Final Regulations on November 23, 1976; a Joint Resolution regarding the coordination of Fishery Management Council FMP development for billfish; a resolution requesting affirmative action by Congress on the GIFAs, and a second resolution for legislative relief in the processing of foreign fishing permit applications to permit interim fishing in the conservation zone by foreign vessels.

The Secretary assigned to the South Atlantic Council responsibility for development of a management plan for Atlantic billfish in coordination with the other four Councils on the East Coast and Gulf of Mexico.

MAN-YEARS OF STAFF SUPPORT

It is estimated that NMFS provided about on and a half man-years of support to the Council. States provided about one man-year, and private sources about two man-years.

COSTS

The Council expenditures for 1976 were $54,300. The Council did not receive a grant for its operations, and all costs were covered by NMFS, to be reimbursed upon receipt of the Council's grant.

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CARIBBEAN COUNCIL ACTIVITIES AND ACCOMPLISHMENTS

The Caribbean Fishery Management Council is responsible for management actions specified in FCMA for those fisheries in the fishery conservation zone off Puerto Rico and the U.S. Virgin Islands.

COUNCIL MEETINGS

The Caribbean Fishery Management Council held three open meetings during 1976.

September 28, 29, and 30. This meeting was held at St. Thomas, Virgin Islands. Discussions were on (1) election of officers; (2) organization; (3) practices and procedures; and (4) fishery management activities.

October 21 and 22. This meeting was held at San Juan, Puerto Rico. Discussions were on (1) Council organization and administrative procedures and (2) technical procedures including FMP development.

November 29, 30, December 1 and 2. This meeting was held at St. Croix, Virgin Islands Discussions were on (1) Council organization and administrative procedures; (2) technical procedures including FMP development; and (3) consideration of inter-island fishing problems.

MEETINGS OF COMMITTEES AND PANELS

Prior to December 31, 1976, the Caribbean Council did not name members to a Scientific and Statistical Committee or establish any Advisory Panels.

OTHER ACCOMPLISHMENTS

CLOSED MEETINGS

The Caribbean Council had no closed meetings during 1976.

The Council selected San Juan, Puerto Rico, as the location of the Council's headquarters. The position of Executive Director was advertised but no final decision on the position was made during 1976.

The Council approved the budget for the first six months of fiscal year 1977, and amended the budget proposals for the second six months of fiscal year 1977 and for the full fiscal year of 1978. Grant proposals were prepared and submitted for approval in mid-December 1976. These proposals had not been approved prior to December 31. The Council also developed and approved charters for its Scientific and Statistical Committee and its Advisory Panel. These charters were forwarded for formal filing in mid-December 1976.

The Council also initiated talks with the British Virgin Islands regarding interisland cooperation in the management of Caribbean fishery resources.

REPORTS

No formal reports were received from the Secretary of Commerce and no reports were submitted to the Secretary.

MAN-YEARS OF STAFF SUPPORT

It is estimated that NMFS provided about two and one-half man-years of support to the Council; about one-third man-year was provided by Puerto Rico and the Virgin Islands; and about one man-year by private sources.

COSTS

The Council expenditures for 1976 were $36,500. The Council did not receive a grant for its operations, and all costs were covered by NMFS, to be reimbursed upon receipt of the Council's grant.

GULF OF MEXICO COUNCIL ACTIVITIES AND ACCOMPLISHMENTS

The Gulf of Mexico Fishery Management Council is responsible for management actions specified in FCMA for those fisheries in the fishery conservation zone off the States of Texas, Louisiana, Mississippi, Alabama, and the west coast of Florida.

COUNCIL MEETINGS

The Gulf of Mexico Council held three open meetings during 1976.

October 12 and 13. This meeting was held in New Orleans, Louisiana. Discussions were on (1) election of officers; (2) organization; (3) practices and procedures; and (4) fishery management activities.

November 3, 4, and 5. This meeting was held in Jacksonville, Florida. Discussions were on (1) Council organization and administration procedures and (2) technical procedures including FMP development.

December 8, 9, and 10. This meeting was held in Houston, Texas. Discussions were on (1) Council organization and administration procedures; (2) budget and financial management plans; (3) FMP development and procedures; and (4) FMPs.

MEETINGS OF COMMITTEES AND PANELS

Prior to December 31, 1976, the Gulf of Mexico Council did not name members to a Scientific and Statistical Committee or establish any Advisory Panels.

CLOSED MEETINGS

The Gulf of Mexico Council had no closed meetings during 1976.

OTHER ACCOMPLISHMENTS

No other matters were considered.

REPORTS

No formal reports were received from the Secretary of Commerce or transmitted to the Secretary.

The Council did submit to the Secretary a resolution concerning coordination of the Fishery Management Councils on the billfish FMP development, dated November 4, 1976; and a resolution dated November 5, 1976, concerning environmental assessment, the taking of billfish in the conservation zone by foreign vessels, and conformation with the FCMA of all international treaties that may be developed. On December 10, 1976, the Council forwarded to the Director, NMFS, resolutions dealing with (1) relief from FCMA regarding continued fishing by foreign fleets after March 1, 1977, and (2) urging the preparation of a billfish DEIS/FMP, expressing concern over the fishery resources, and supporting the inclusion of zonal restrictions in the DEIS/PMP.

MAN-YEARS OF STAFF SUPPORT

It is estimated that NMFS contributed approximately one and a half man-years of support, State sources two-thirds of a man-year, and private sources one and one-third man-years.

COSTS

The Council expenditures for 1976 were $53,000. The Council did not receive a grant for its operations and the costs were covered by NMFS, to be reimbursed upon receipt of the Council's grants.

APPENDIX I.—*Fiscal year 1977 extended jurisdiction funding by NOAA component*

	Positions	Thousands of dollars
National Marine Fisheries Service (NMFS):		
Data analysis—analysis of data on fishery stocks	36	1,994
Coastal zone management support—strengthen regional input into State CZM planning	5	280
International fisheries management—increase staff to review and update all international agreements	7	275
State/Federal fisheries management—regional fisheries management staff to handle Council generated responsibilities	25	515
National review of operations—plan review and policy guidance	15	403
Permit system—develop and operate system to issue foreign fishing permits	6	52
Regional council operations—administrative and contractual start-up requirements		3,111
Enforcement/surveillance—increase NMFS staff to ensure foreign compliance	31	1,107
Economic/commercial fisheries statistics—regional data management system	18	715
Bioeconomic data bases—strengthen capability to analyze nonbioeconomic aspects of fisheries	28	1,024
Recreational fisheries—expand contract collection of statistics	2	515
NMFS subtotal	176	9,991
National Ocean Survey (NOS):		
Boundary surveys—establish baseline for enforcement of 200-mile zone	6	1,500
Vessel construction/support—increase vessel operations and construct 2 new vessels	31	9,512
NOS subtotal	37	11,012
Sea Grant—strengthen studies and advisory services relative to extended jurisdiction		500
Executive Administration—strengthen legal and administrative staffs in the regional offices	33	497
Total	246	22,000

APPENDIX II

LOCATIONS OF COUNCIL ADMINISTRATIVE HEADQUARTERS

North Pacific—Anchorage, Alaska.
Pacific—Portland, Oregon.
Western Pacific—Honolulu, Hawaii.
New England—Peabody, Massachusetts.
Mid-Atlantic—(Not determined).
South Atlantic—Charleston, South Carolina.
Caribbean—San Juan, Puerto Rico.
Gulf of Mexico—(Not determined).

Council officers and date elected

Council	Name and office	Date elected
North Pacific	Elmer Rasmuson, chairman.	Oct. 5, 1976
Do	Harold E. Lokken, vice chairman.	Do.
Pacific	John W. McKean, chairman.	Oct. 12, 1976
Do	E. Charles Fullerton, vice chairman.	Do.
Western Pacific	Wadsworth Y. H. Yee, chairman.	Do.
Do	Paul J. Bordallo, vice chairman.	Do.
Do	Peter E. Reid, vice chairman.	Do.
New England	Henry Lyman, chairman.	Oct. 1, 1976
Do	Thomas A. Norris, vice chairman.	Do.
Mid-Atlantic	David H. Hart, chairman.	Sept. 28, 1976
Do	Elliot J. Goldman, vice chairman.	Do.
South Atlantic	Bruce A. Lentz, chairman.	Oct. 18, 1976
Do	Edwin B. Joseph, vice chairman.	Do.
Caribbean	Omar Munoz-Roure, chairman.	Sept. 28, 1976
Do	Virdin C. Brown, vice chairman.	Do.
Gulf of Mexico	John A. Mebos, chairman.	Oct. 12, 1976
Do	Theodore B. Ford, III, vice chairman.	Do.

ADMINISTRATIVE STAFF APPOINTED

North Pacific: (Executive Director not selected); Florence Mynarski (temporary); Norma Jean McCorkle (temporary).
Pacific: Lorry Nakatzu—Executive Director.
Western Pacific: Wilvan Van Campen—Executive Director; Edward K. W. Lee—Administrative Officer; Rose B. Simonds—Secretary.
New England: (Executive Director not selected).
Mid-Atlantic: John C. Bryson—Executive Director.
South Atlantic: Ernest D. Premetz—Executive Director.
Caribbean: (Executive Director not selected).
Gulf of Mexico: (Executive Director not selected).

NORTH PACIFIC COUNCIL MEMBERS

VOTING MEMBERS

Douglas B. Eaton, Commercial fisherman, Kodiak, Alaska.
Henry P. Eaton, Koniag Native Corporation, Kodiak, Alaska.
Harold E. Lokken, Seattle Fishing Vessel Owners' Association, Seattle, Washington.
Donald L. McKernan, University of Washington, Seattle, Washington.
Charles H. Meacham, Office of the Governor of Alaska, Juneau, Alaska.
Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska.
Elmer Rasmuson, National Bank of Alaska, Anchorage, Alaska.
Clem Tillion, Commercial fisherman, Halibut Cove, Alaska.
James W. Brooks, Alaska Department of Fish and Game, Juneau, Alaska.
John R. Donaldson, Oregon Department of Fish and Wildlife, Portland, Oregon.
Donald W. Moos, Washington Department of Fisheries, Olympia, Washington.

NONVOTING MEMBERS

John P. Harville, Pacific Marine Fisheries Commission, Portland, Oregon.
Jan E. Riffe, U.S. Fish and Wildlife Service, Anchorage, Alaska.
Rear Admiral J. B. Hayes, U.S. Coast Guard, Juneau, Alaska.
Lorry M. Nakatsu, U.S. Department of State, Washington, D.C.

PACIFIC COUNCIL MEMBERS

VOTING MEMBERS

James A. Crutchfield, Department of Economics, University of Washington, Seattle, Washington.
George J. Easley, Commercial fisherman, Coos Bay, Oregon.
Joseph C. Greenley, Idaho Department of Fish and Game, Boise, Idaho.
Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, Seattle, Washington.
Herman J. McDevitt, McDevitt, McDevitt and Meyers, Pocatello, Idaho.
Donald W. Moos, Department of Fisheries, Olympia, Washington.
Vernon J. Smith, Building Operations Division, General Services Agency, San Jose, California.

NONVOTING MEMBERS

Kathryn Clark-Bourne, Office of Fisheries, Department of State, Washington, D.C.
John R. Donaldson, Oregon Department of Fish and Wildlife, Portland, Oregon.
E. Charles Fullerton, Department of Fish and Game, Sacramento, California.
Gilbert A. Hunter, Eureka Fisheries, Inc., Fields Landings, California.
John A. Martinis, Member, Washington State House of Representatives, Everett, Washington.
John W. McKean, Oregon Fish and Wildlife Dept. (Retired), Portland, Oregon.
John J. Royal, Fishermen and Allied Workers' Union, San Pedro, California.
John P. Harville, Pacific Marine Fisheries Commission, Portland, Oregon.
William T. Davoren, U.S. Fish and Wildlife Service, San Francisco, California.
Charles H. Meacham, Office of the Governor, Juneau, Alaska.
Vice Admiral A. C. Wagner, USCG, Commander Pacific Area, San Francisco, California.

WESTERN PACIFIC COUNCIL MEMBERS

VOTING MEMBERS

Louis K. Agard, Commercial fisherman, Honolulu, Hawaii.
Paul J. Bordallo, Marinanas Boat and Motors, Inc., Agana, Guam.
Peter S. Fithian, Chairman, Hawaii International Billfish Association, Honolulu, Hawaii.
Frank K. Goto, Manager, United Fishing Agency, Ltd., Honolulu, Hawaii.
Michio Takata, Director, Div. of Fish and Game, Dept. of Land and Natural Resources, Honolulu, Hawaii.
Gerald V. Howard, Director, Southeast Region, National Marine Fisheries Service, Terminal Island, California
Issac I. Ikehara, Agent, Van Camp Seafood Company, Agana, Guam.
Peter E. Reid, Manager, GHC Reid and Company, Inc., Pago Pago, American Samoa.
Wadsworth Y. H. Yee, President, Grand Pacific Life Ins. Co., Honolulu, Hawaii.
Francisco B. Aguon, Director, Department of Agriculture, Government of Guam, Agana, Guam.
Richard C. Wass, Fishery biologist, Government of American Samoa, Pago Pago, American Samoa.

NONVOTING MEMBERS

Eugene Kridler, Endangered Species Coordinator, U.S. Fish and Wildlife Service, Honolulu, Hawaii.
Lorry M. Nakatsu, Office of Fisheries, Department of State, Washington, D.C.
Rear Admiral James W. Moreau, USCG, Commander, Fourteenth Coast Guard District, Honolulu, Hawaii.

NEW ENGLAND COUNCIL MEMBERS

VOTING MEMBERS

John Burt, Secretary-Treasurer, New Bedford Fisherman's Union, New Bedford, Massachusetts.
Jacob J. Dykstra, President, Point Judith Fishermen's Cooperative Association, Point Judith, Rhode Island.
Erwin H. Jacobs (Resigned 9/30/76), Noank Marine Exchange, Stonington, Connecticut.
Henry Lyman, Publisher, The Saltwater Sportsman, Boston, Massachusetts.
Edward J. MacLeod, General Manager, Lipman Marine Products, Gloucester, Massachusetts.
Thomas A. Norris, Vice President, Old Colony Trawling Corp., Boston, Massachusetts.
Vinal O. Look, Commissioner, Department of Marine Resources, Augusta, Maine.
Dennis J. Murphy, Director, Department of Natural Resources, Providence, Rhode Island.
Lee Wulff, Chairman, New Hampshire Fish and Game Commission, Concord, New Hampshire.
Virgil J. Norton, Professor, Department of Food and Resource Economics, Kingston, Rhode Island.
Lester B. Orcutt (Deceased 11/3/76), Commercial fisherman, Biddeford Pool, Maine.
Thomas P. Ricci, Block Island Bluefish Invitational Tournament, West Warwick, Rhode Island.
Charles B. Stinson, President, Stinson Canning Company, Prospect Harbor, Maine.
Richard F. Wadleigh, Winnisquam Boat & Trailer Sales, Winnisquam, New Hampshire.
Theodore B. Bampton, Deputy Commissioner, Department of Environmental Protection, Hartford, Connecticut.
Allen E. Peterson, Jr., Director, Division of Marine Fisheries, Department of Fisheries, Wildlife and Recreational Vehicles, Boston, Massachusetts.
William G. Gordon, Director, Northeast Region, National Marine Fisheries Service, Gloucester, Massachusetts.

NONVOTING MEMBERS

Irwin M. Alperin, Executive Director, Atlantic State Marine Fisheries Commission, Washington, D.C.
Vice Admiral W. F. Rea, III, USCG, Commander, Atlantic Area, Governors Island, N.Y.
Harry Bishop, Assistant Regional Director, U.S. Fish and Wildlife Service, Boston, Massachusetts.
Larry Snead, Office of Fisheries, Department of State, Washington, D.C.

MID-ATLANTIC COUNCIL MEMBERS

VOTING MEMBERS

John H. Burger, Jr., President, Breakwater Construction Company, Dover, Delaware.
L. Eugene Cronin, Associate Director for Research, Center for Environmental and Estuarine Studies, University of Maryland, Cambridge, Maryland.
William M. Feinberg, Attorney at Law, Feinberg, Dee, and Feinberg, Bayonne, New Jersey.
Nancy E. Goell, Executive Director, Group for America's South Fork, Inc., Bridgehampton, New York.
Elliot J. Goldman, Member, Atlantic States Marine Fisheries Commission, Lafayette Hill, Pennsylvania.
William J. Hargis, Jr., Director, Virginia Institute of Marine Science, Gloucester Point, Virginia.
David H. Hart, Marine Fisheries Consultant, Cape May, New Jersey.

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Allen W. Haynie, Chairman, Zapata-Haynie Corp., Reedville, Virginia.
John L. McHugh, Professor of Marine Resources, State University of New York, Stony Brook, New York.
William R. Pell, III, Pell's Fish Market, Greenport, New York.
Allan J. Ristori, Director of Field Testing, Garcia Corporation, Teaneck, New Jersey.
Ralph W. Abele, Executive Director, Pennsylvania Fish Commission, Harrisburg, Pennsylvania.
Peter A. A. Berle, Commissioner, Department of Environmental Conservation, Albany, New York.
James E. Douglas, Jr., Commissioner, Marine Resources Commission, Newport News, Virginia.
Ricks E. Savage, Commercial fisherman, Berlin, Maryland.
Robert J. Rubelman, Administrator, Fisheries Administration, Department of Natural Resources, Annapolis, Maryland.
Russell A. Cookingham, Director, Division of Fish, Game and Shellfisheries, Department of Environmental Protection, Trenton, New Jersey.
Charles A. Lesser, Manager of Fisheries, Division of Fish and Wildlife, Dept. of Natural Resources and Environmental Control, Dover, Delaware.
William G. Gordon, Director, Northeast Region, National Marine Fisheries Service, Gloucester, Massachusetts.

NONVOTING MEMBERS

Irwin M. Alperin, Executive Director, Atlantic States Marine Fisheries Commission, Washington, D.C.
Vice Admiral W. F. Rea, III, USCG, Commander, Atlantic Area, Governors Island, New York.
James H. Shaw, Assistant Regional Director, U.S. Fish and Wildlife Service, Boston, Massachusetts.
Larry Snead, Office of Fisheries, Department of State, Washington, D.C.

SOUTH ATLANTIC COUNCIL MEMBERS

VOTING MEMBERS

Norman B. Angel, Executive Secretary, North Carolina Fisheries Assoc., Inc., New Bern, North Carolina.
Gertrude Whetzel Bernhard, President, Skylight Studios, Inc., Jupiter-Tequesta, Florida.
Allen F. Branch, Retired, Midway, Georgia.
J. Roy Duggan, President, King Shrimp Co., Inc., St. Simons Island, Georgia.
Edgar C. Glenn, Jr., Retired, Beaufort, South Carolina.
Benjamin T. Hardesty, Vice President, Public Relations, Shakespeare Company, Columbia, South Carolina.
Edwin B. Joseph, Director, Marine Resources Division, Charleston, South Carolina.
George B. Gross, Corporate Fisheries Adviser, Red Lobster Inns of America, Orlando, Florida.
David H. Gould, Coastal Fisheries Office, Department of Natural Resources, Brunswick, Georgia.
Bruce A. Lents, N.C. Department of Administration, Raleigh, North Carolina.
Edward G. McCoy, Director, Division of Marine Fisheries, N.C. Department of Natural and Economics Resources, Morehead City, North Carolina.
Harmon W. Shields, Executive Director, Florida Department of Natural Resources, Tallahassee, Florida.
William H. Stevenson, Director, Southeast Region, National Marine Fisheries Service, St. Petersburg, Florida.

NONVOTING MEMBERS

Irwin M. Alperin, Executive Director, Atlantic States Marine Fisheries Commission, Washington, D.C.
Rear Admiral R. W. Durfey, Commander, Seventh Coast Guard District, Miami, Florida.
Larry Snead, Office of Fisheries, Department of State, Washington, D.C.
Robert W. Thoesen, Assistant Regional Director, U.S. Fish and Wildlife Service, Atlanta, Georgia.

CARIBBEAN COUNCIL MEMBERS

VOTING MEMBERS

Anthony Chioromitaro, St. Croix Fishermen's Cooperative, St. Croix, Virgin Islands.
John A. Harms, Lagoon Marine, St. Thomas, Virgin Islands.
Virdin C. Brown, Commissioner, Dept. of Conservation and Cultural Affairs, St. Thomas, Virgin Islands.
William H. Stevenson, Director, Southeast Region, National Marine Fisheries Service, St. Petersburg, Florida.
Jose A. Suarez-Caabro, Director of Commercial Fisheries Laboratory, Dept. of Agriculture, Mayagues, Puerto Rico.
Hector M. Vega-Morera, Vega Associates, Salinas, Peurto Rico.
Antonio Gonzales-Chapel, Secretary of Agriculture, San Juan, Peurto Rico.

NONVOTING MEMBERS

Kenneth E. Black, Regional Director, U.S. Fish and Wildlife Service, Atlanta, Georgia.
Brian Hallman, Office of Fisheries, Department of State, Washington, D.C.
Rear Admiral R. W. Durfey, USCG, Commander, Seventh Coast Guard District, Miami, Florida.

GULF OF MEXICO COUNCIL MEMBERS

VOTING MEMBERS

Theodore B. Ford, III, Associate Director, Office of Sea Grant Development and Professor of Marine Sciences, Louisiana State University, Center for Wetlands Resources, Baton Rouge, Louisiana.
Edward W. Swindell, Jr., Chief Engineer, Wallace Menhaden Products, Inc., New Orleans, Louisiana.
Robert Phillip Jones, Executive Director, Southeastern Fisheries Association, Tallahassee, Florida.
Charles (Walton) Kraver, Secretary/Treasurer, Seafood Haven, Inc., Bayou La Batre, Alhama.
Robert G. Mauermann, Executive Director, Texas Shrimp Association and Shrimp Association of the Americas, Brownsville, Texas.
John A. Mehos, Vice President, Liberty Fish and Oyster Company, Galveston, Texas.
Thomas H. Clark, Owner-Sun Circle Resort, Orange Beach, Alabama.
Nicholas A. Mavar, Jr., Secretary/Counsel, Mavar Shrimp & Oyster Company, Biloxi, Mississippi.
Harmon W. Shields, Executive Director, Florida Dept. of Natural Resources, Tallahassee, Florida.
William H. Stevenson, Director, Southeast Region, National Marine Fisheries Service, St. Petersburg, Florida.
George A. Brumfield, Manager, Mississippi Operations, Zapata-Haynie Corporation, Moss Point, Mississippi.
John M. Green, President, Miller-Vidor Land Company, Beaumont, Texas.
Billy J. Putnam, President, Bay Point Marina, Inc., Panama City, Florida.
J. Pearce Johnson, Attorney At Law, Austin, Texas.
J. Burton Angelle, Director, Louisiana Wildlife & Fisheries Commission, New Orleans, Louisiana.
Charles H. Lyles, Director, Mississippi Marine Conservation Commission, New Orleans, Louisiana
John W. Hodnett, Commissioner, Alabama Department of Conservation and Natural Resources, Montgomery, Alabama.

NONVOTING MEMBERS

Rear Admiral W. W. Barrow, USCG, Commander, Eighth Coast Guard District, New Orleans, Louisiana.
Carlton Jackson, Acting Executive Director, Gulf State Marine Fisheries Commission, Tallahassee, Florida.
Brian Hallman, Office of Fisheries, Department of State, Washington, D.C.
Robert W. Thoesen, Assitant Regional Directors, U.S. Fish and Wildlife Service, Atlanta, Georgia.

NORTH PACIFIC COUNCIL SCIENTIFIC AND STATISTICAL COMMITTEE MEMBERS

Dayton L. Alverson, Center Director, National Marine Fiseries Service, Seattle, Washington.
Donald Bevan, College of Fisheries, University of Washington, Seattle, Washington.
Robert Loeffel, Oregon Dept. of Fish and Wildlife, Portland, Oregon.
Edward Miles, University of Washington, Seattle, Washington.
Bernard Skud, Director, International Pacific Halibut Commission, Seattle, Washington.
Steven Pennoyer, Alaska Department of Fish and Game, Juneau, Alaska.
George Rogers, University of Alaska, Juneau, Alaska.
Donald H. Rosenberg, University of Alaska, Fairbanks, Alaska.
Carl Roeler, Alaska Department of Fish and Game, Juneau, Alaska.
Charles Woelke, Washington Department of Fisheries, Olympia, Washington.

PACIFIC COUNCIL SCIENTIFIC AND STATISTICAL COMMITTEE MEMBERS

Dayton L. Alverson, Center Director, National Marine Fisheries Service, Seattle, Washington. Alternate: H. A. Larkins.
Izadore Barrett, Acting Center Director, National Marine Fisheries Service, La Jolla, California, Alternate: Daniel D. Huppert.
J. Carl Mundt, Attorney at Law, Mundt, MacGregor, Happel and Falconer, Seattle, Washington.
John Radovich (Vice Chairman), Chief, Operational Research Branch, California Department of Fish and Game, Sacramento, California.
Donald E. Bevan (Chairman), College of Fisheries, University of Washington, Seattle, Washington.
Gordon C. Broadhead, Living Marine Resources, Inc., San Diego, California.
Stacy Gebhards, Chief, Bureau of Fisheries, Idaho Department of Fish and Game, Boise, Idaho.
Robert E. Loeffel, Laboratory Director, Oregon Department of Fish and Wildlife, Research Laboratory, Newport, Oregon.
R. Bruce Rettig, Associate Professor of Agriculture & Research Economics, Oregon State University, Corvallis, Oregon.
Richard R. Whitney, College of Fisheries, University of Washington, Seattle, Washington.
Charles E. Woelke, Washington Department of Fisheries, Olympia, Washington, Alternate for Salmon Matters: Peter K. Bergman.

NORTH PACIFIC COUNCIL ADVISORY PANEL MEMBERS

Jack B. Cotant, Commercial fisherman, Ketchikan, Alaska.
Nick Szabo, Commercial fisherman, Kodiak, Alaska.
Robert Alverson, Fishing Vessel Owner's Association, Seattle, Washington.
Judith Ayers, National Park Service, Anchorage, Alaska.
James E. Beaton, State of Alaska Board of Fisheries, Juneau, Alaska.
A. W. "Bud" Boddy, Territorial Sportsmen, Inc., Juneau, Alaska.
William Burke, University of Washington, Seattle, Washington.
Truman Emberg, Western Alaska Cooperative Marketing Association, Dillingham, Alaska.
Jay S. Gage, Peter Pan Seafoods, Inc., Seattle, Washington.
Paul Guy, United Fishermen of the Kuskokwim Area, Nunam, Kitlutsisti Native Corporation, Napaiskak, Alaska.
Oral Burch, Commercial fisherman, Kodiak, Alaska.
Sigfryed Jaeger, North Pacific Fishing Vessel Owners' Assoc., Seattle, Washington.
Charles L. Jensen, Pacific Pearl Seafoods, Kodiak, Alaska.
Knute Johnson, United Fisherman of Alaska, Cordova, Alaska.
Joseph A. Kurtz, Commercial fisherman, Seldovia, Alaska.
Richard B. Lauber, Association of Pacific Fisheries, Juneau, Alaska.
Raymond F. Lewis, Alaska Packers Association, Inc., Bellevue, Washington.
Harry Wilde, Sr., Nunam Kitlutsisti Native Corporation, Mountain Village, Alaska.
Sidney C. Huntington, State of Alaska Board of Game, Galena, Alaska.
Robert Moss, Commercial fisherman, Homer, Alaska.
Daniel J. O'Hara, Commercial fisherman, Naknek, Alaska.
Kenneth O. Olsen, Alaska Fishermen's Union, Seattle, Washington.
Al Otness, Icicle Seafoods, Inc., Petersburg, Alaska.
Keith Specking, Master guide, Hope, Alaska.
Robert Starck, Commercial fisherman, Unalaska, Alaska.

PACIFIC COUNCIL SALMON ADVISORY PANEL MEMBERS

Clifford Allen, Nez Perce Tribal Office, Lapwai, Idaho.
Paul L. Anderson, Purse Seine Vessel Owners' Assoc., Seattle, Washington.
Robert Christensen, Commercial fisherman, Bellingham, Washington.
Richard L. Hubbard, Pacific S.W. Forest Experiment Station, U.S. Forest Service, Berkeley, California.
Robert Hudson, All-Coast Fishermen's Marketing Assoc., Charleston, Oregon.
Joseph H. Kahle, Family and Child Care Service of Metropolitan Seattle, Seattle, Washington.
D. A. Christenson, Oregon Coast Charterboat Association, Newport, Oregon.
Lester Clark, Commercial fisherman, Chinook, Washington.
Charles S. Collins, Recreational Resource Development, Roseburg, Oregon.
Jack B. Cotant, Commercial fisherman, Ketchikan, Alaska.
Robert F. Gay, Halibut Producers Corp., Bellingham, Washington.
Bernard Gobin (named at December Meeting), Fisheries Manager of Tulalip Tribes, Marysville, Washington.
W. F. Grader (Chairman), Manager, Pacific Coast Federation of Fishermen's Association, Inc., Sausalito, California.
Norman H. Guth, Bill Guth and Sons, Licensed, Outfitters and Guides, Salmon, Idaho.
Lawrence G. Lasio, Tom Lasio Fish Co., Inc., Euerka, California.
Edward P. Manary, Washington State Commercial Passenger Fishing Vessel Association, Olympia, Washington.
Guy R. McMinds, Quinault Tribal Office, Taholah, Washington.
Thomas A. Peterson, Peterson Seafoods, Inc., Charleston, Oregon.
Ted A. Smits, Association of Pacific Fisheries, Seattle, Washington.
Roger Thomas, Golden Gate Sportfisheries, Inc., San Jose, California.
Charles Voss, Trout Unlimited, Woodland, Washington.
Ray E. Welch, Salmon Unlimited, Fort Bragg, California.

PACIFIC COUNCIL ANCHOVY AND JACK MACKEREL ADVISORY PANEL MEMBERS

Cedric Bunten, Harbor Trading Company, San Pedro, California.
Herbert R. Kameon, National Coalition of Marine Conservation, Los Angeles, California.
Joseph Monti, Fishermen's Union, I.L.W.U. Local 33, San Pedro, California.
Sandy Vernand, Bait hauler, Ventura, California.
John P. Mulligan, Tuna Research Foundation, Inc., Terminal Island, California.
William A. Nott, Sportfishing Association of California, Long Beach, California.
Anthony Pisano, Fishermen's Cooperative Association of San Pedro, San Pedro, California.

[FR Doc.77-7462 Filed 3-11-77;8:45 am]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL, SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting

Notice is hereby given of a meeting of the Gulf of Mexico Fishery Management Council and its Scientific and Statistical Committee established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). In conjunction with the Council meeting the following Council ad hoc committees will meet: (1) Budget, (2) Personnel, (3) Advisory Panel Screening, (4) Shrimp Management and (5) Billfish.

The Gulf of Mexico Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the west coast of Florida, Alabama, Louisiana, Mississippi and Texas. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

These meetings will be held Tuesday, Wednesday, Thursday, and Friday, April 5, 6, 7, and 8, 1977, in the Dunes Room and Executive Suite of the Biloxi Hilton Hotel, Biloxi Beach (US 90), Biloxi, Mississippi. The Council meeting will convene at 1:30 p.m. on April 6, 1977, and adjourn at about noon on April 8, 1977. The daily sessions will start at 8:30 a.m. and adjourn at 5:00 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda. The Scientific and Statistical Committee meeting will convene at 1:30 p.m. on Tuesday, April 5, 1977, and adjourn at about 5:00 p.m., April 7, 1977. The ad hoc committees will convene at 8:00 a.m. and adjourn approximately noon, April 6, 1977.

PROPOSED AGENDAS

A. COUNCIL

1. Management Plans.
2. Personnel and Administration Categories.
3. Other Business.

B. AD HOC COMMITTEES

1. Review of unfinished business and/or management plans.
2. Other Business.

C. SCIENTIFIC AND STATISTICAL COMMITTEE

1. Orientation.
2. Management Plans and Research.
3. Other Business.

These meetings are open to the public and there will be seating for a limited number of public members available on a first come, first served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about April 1, 1977:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, c/o National Marine Fisheries Service, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by addressing the Executive Director at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: March 9, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-7461 Filed 3-11-77;8:45 am]

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Mid-Atlantic Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Mid-Atlantic Fishery Management Council has authority, effective March 1, 1977, over fisheries within the

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fishery conservation zone adjacent to the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This meeting of the Council will be held on April 13 and 14, 1977, from 10 a.m. to 5 p.m., and 9 a.m. to 3 p.m., respectively, at the Holiday Inn, Baltimore-Washington International Airport, 6500 Elkridge Landing Road, North Linthicum, Maryland.

PROPOSED AGENDA

1. Progress on the Surf Clam/Ocean Quahog Management Plan.
2. Report of foreign fishing activity.
3. Status of fishery management plans.
4. Other management business.

This meeting is open to the public and there will be seating for approximately 30 public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. Interested members of the public should contact on or about 10 days before the meeting to receive information on changes in the agenda, if any:

Mr. Donald G. Birkholz, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, State Fish Pier, Gloucester, Massachusetts 01930.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to provide written comments should do so by submitting them to Mr. Birkholz at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: March 7, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-7459 Filed 3-11-77;8:45 am]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the New England Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The New England Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings.

This meeting of the Council will be held on April 13 and 14, 1977, from 10:00 a.m. to 5:00 p.m. and 9:00 a.m. to 3:00 p.m., respectively, at the Holiday Inn, Junction of Routes 1 and 128, Peabody, Massachusetts.

PROPOSED AGENDA

1. Review of New England Fishery Management Council/Mid-Atlantic Fishery Management Council Surf Clam Fishery Management Plan.
2. Review of New England Fishery Management Council Herring Fishery Management Plan and possible red crab Fishery Management Plan.
3. Review of final status of New England Fishery Management Council Groundfish Fishery Management Plan.
4. Review of foreign permit applications if any.
5. Other business.

This meeting is open to the public and there will be seating for approximately 30 public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. Interested members of the public should contact on or about 10 days before the meeting to receive information on changes in the agenda, if any:

Mr. Spencer Apollonio, Executive Director, New England Fishery Management Council, c/o National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to provide written comments should do so by submitting them to Mr. Apollonio at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

Dated: March 3, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-7460 Filed 3-11-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

AIR UNIVERSITY BOARD OF VISITORS

Amended Notice

MARCH 1, 1977.

Notice was given in the FEDERAL REGISTER, Volume 42, Number 20, FR Doc. 77-2922, January 31, 1977, of an Air University Board of Visitors meeting to be held on March 15, 1977 at 1:00 in the Air University Conference Room, Austin Hall (Bldg. 800), Maxwell Air Force Base, Alabama.

The notice is amended by deleting the last sentence in the second paragraph. The meeting will be open to the public.

For further information, contact Dorothy D. Reed, Coordinator, Air University Board of Visitors, Office of the Deputy Chief of Staff, Education, Headquarters Air University, telephone (205) 293-7423.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison, Directorate of Administration.

[FR Doc.77-7407 Filed 3-11-77;8:45 am]

Office of the Secretary

ARMED FORCES EPIDEMIOLOGICAL BOARD

Open Meeting

1. In accordance with section 10(a) (2) of the Federal Advisory Committee Act (P.L. 92-463) announcement is made of the following committee meeting:

Name of committee: Subcommittee on Health Maintenance Systems of the Armed Forces Epidemiological Board.
Date of meeting: 1 April 77.
Place: Conference Room 3092, Walter Reed Army Institute of Research, Washington, D.C.
Time: 0930-1700.
Proposed agenda: The proposed agenda includes an examination of various aspects of periodic physical examinations in the Armed Forces. This will include matters pertaining to the administration, purpose, scope, frequency, and use and value of these physicals.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: March 3, 1977.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

[FR Doc.77-7408 Filed 3-11-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 698-6; OPP-50282]

DIAMOND SHAMROCK CORP.

Issuance of an Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.), an experimental use permit has been issued to the following applicant. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 677-EUP-9. Diamond Shamrock Corporation, Cleveland, Ohio 44114. This experimental use permit allows the use of 330 pounds of the fungicide chlorothalonil on citrus to evaluate control of Melanose and scab. A total of 20 acres is involved; the program is authorized only in the State of Florida. The experimental use permit is issued with the condition that any crops treated will be destroyed or used for research purposes only.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: March 7, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-7505 Filed 3-11-77;8:45 am]

[FRL 695-8]

MARINE SANITATION DEVICE STANDARD: MISSISSIPPI AND ST. CROIX RIVERS, AND LAKE SUPERIOR WATERS WITHIN MINNESOTA AND WISCONSIN

Petition; Extension of Time for Comments

Correction

In FR Doc. 77-6905, appearing on page 13148, in the issue of Wednesday, March 9, 1977, in the second column: (1) In the sixteenth line, the word "moating" should be changed to "boating"; and (2) following the twentieth line, and before the words "above-mentioned" in the twenty-first line, insert the words "for submission of comments on the".

[FRL 698-4; OPP-42037A]

STATE OF COLORADO

Approval of State Plan For Certification of Pesticide Applicators

Section 4(a) (2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan to EPA for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On January 4, 1977, notice was published in the FEDERAL REGISTER (42 FR 839) of the intent of the Regional Administrator, EPA Region VIII, to approve, on a contingency basis, the Colorado State Plan for Certification of Pesticide Applicators (Colorado State Plan). Contingency approval was requested by the State of Colorado pending enactment of appropriate legislation and promulgation of implementing regulations. Copies of the Colorado State Plan were made available for public inspection at the Colorado Department of Agriculture office in Denver, Colorado, the EPA Region VIII office in Denver, Colorado, and the Office of Pesticide Programs, EPA Headquarters, Washington, D.C.

The Colorado State Plan will remain available for public inspection at the Colorado Department of Agriculture, 1525 Sherman Street, Denver, Colorado.

No comments were received concerning the Colorado State Plan during the allowed comment period. Therefore, it has been determined that the Colorado State Plan will satisfy the requirements of the amended FIFRA and of 40 CFR Part 171, if the proposed legislation and regulations described in the State Plan, which are necessary for its implementation, are enacted by the Colorado State Legislature and the Colorado Department of Agriculture.

This contingency approval shall expire May 1, 1977 if these terms and conditions are not satisfied by that time. On or before the expiration of the period of contingency approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied, and the approval status of the Colorado State Plan as a result thereof.

EFFECTIVE DATE

Pursuant to section 4(d) of the Administrative Procedures Act, 5 U.S.C. 553 (d), the Agency finds that there is good cause for providing that the contingency approval granted herein to the Colorado State Plan shall be effective upon signature of this notice. Neither the Colorado State Plan itself nor this Agency's contingency approval of the Plan creates any direct or immediate obligation on pesticide applicators or other persons in the State of Colorado. Delays in starting the work necessary to implement the Plan such as may be occasioned by providing some later effective date for this contingency approval are inconsistent with the public interest. Accordingly, this contingent approval shall become effective immediately.

Dated: March 3, 1977.

JOHN A. GREEN,
Regional Administrator,
Region VIII.

[FR Doc.77-7503 Filed 3-11-77;8:45 am]

[FRL 698-5; OPP-50272A]

STAUFFER CHEMICAL CO.

Issuance of Experimental Use Permit; Correction

In FR Doc. 77-3303 appearing at page 6620 in the issue of February 3, 1977, the following corrections should be made in the center section describing the experimental use permit granted to Stauffer Chemical Company, Richmond, California 94804.

The fourth line of the description should read:

"* * * pounds of the herbicide S-ethyl dipropylthiocarbamate and 661 * * *."

The last line of the description should read:

"* * * established (40 CFR 180.117 and 40 CFR * * *."

Dated: March 7, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-7504 Filed 3-11-77;8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 76-14]

EXTENSION OF POOLING AGREEMENT IN THE EASTBOUND AND WESTBOUND TRADES

Japanese Ports and Ports in California, Oregon, and Washington; Supplemental Order

This is an investigation, commenced by Commission Order of March 5, 1976, the purpose of which is to determine whether Agreement No. 10116 shall continue in force and effect through December 31, 1978. The six lines party to the Agreement were named Respondents in the proceeding.[1] The Marine Cooks and Stewards Union was named Petitioner. The investigation was limited to the submission of affidavits of fact and memoranda of law, unless the Commission determined that an evidentiary hearing was required.

Respondents filed an affidavit and a memorandum of law. After resolution of an interlocutory dispute regarding Respondents' unsuccessful attempt to prevent the disclosure of some of the financial data contained in Respondents' affidavit, Petitioner filed an affidavit and a memorandum of law; and Hearing Counsel filed a memorandum of law. Respondents also moved for permission to file a rebuttal to Petitioner's and Hearing Counsel's affidavits. Petitioner opposed that motion, and Hearing Counsel supported Respondents. None of the parties to the proceeding requested oral argument.

Agreement No. 10116 was made in Tokyo, Japan, on January 30, 1974, and filed with the Commission in Washington the next day. By that Agreement, the six Respondents pool the revenue derived by each Respondent from the carriage of cargo eastbound and westbound between ports in Japan and ports in the States of California, Oregon, and Washington, including overland common point cargo.

As originally filed, the Agreement provided for a term of three years from the date of approval. Sea-Land Service, Inc., filed comments with the Commission

[1] Japan Line, Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; Showa Line, Ltd.; and Yamashita-Shinnihon Steamship Co., Ltd.

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urging the Commission to limit the Agreement to a term of one year, so that the effect of the Agreement could be monitored. Instead of approving the Agreement, the Commission determined to subject it to investigation, and commenced a formal proceeding to that end, Agreement No. 10116—Pooling Agreement in the Eastbound and Westbound Trades Between Japanese Ports and Parts in California, Oregon and Washington, Docket No. 74–47. Respondents petitioned the Commission to reconsider the investigation. No one replied to that petition. Thereupon, the Commission discontinued the formal investigation, and approved the Agreement for a term of one year, through March 6, 1976.

Respondents filed Agreement No. 10116–1 on January 20, 1976. By that amendment, Agreement No. 10116 would continue in effect through December 31, 1978. Petitioner protested the approval of that amendment, and asserted that it was unjustly discriminatory and unfair as between carriers, and contrary to the public interest. Petitioner's objections to Agreement No. 10116 were that the Agreement permitted the strongest Respondent to sustain the weakest Respondent, thereby eliminating all competition among Respondents, which would permit Respondents to concentrate their economic power upon the other carriers in the trans-Pacific trades.

Because Petitioner's protest was somewhat vague, and time was short, the Commission granted interim approval to Agreement No. 10116–1, through March 6, 1977, and ordered an investigation into the approvability of the Agreement for the full term.

The evidence of record in this proceeding consists of a joint affidavit executed by six high executive officials of Respondents, an affidavit executed by Petitioner's counsel, the record in Agreements Nos. 9718–3 and 9731–5, Docket No. 75–30, decided by the Commission on November 1, 1976, and those matters noticed by the Commission.

Respondents are six steamship companies flying the flag of Japan. Among other enterprises, Respondents engage in the carriage of goods between the Pacific Coast of the United States and Japan. The trade between those two nations is carried by vessels flying many flags in addition to the flag of Japan, including the flag of the United States. This Agreement, among the only Japanese flag liner carriers in those trades, might have ramifications affecting the many nation states engaged in the trans-Pacific trades.

Petitioner asserted that Agreement No. 10116–1 is unjustly discriminatory and unfair as between carriers because it permits Respondents to perpetuate the monopoly of the U.S. Pacific-Japan trades achieved by reason of Respondents' several other agreements, to wit: their terminal agreements, and Agreement Nos. 9718, 9731, and 9835. Argued Petitioner, Agreement No. 10116–1 is unjustly discriminatory and unfair because those other agreements are unjustly discriminatory and unfair.

On November 1, 1976 the Commission held that Petitioner had failed to prove that Agreement Nos. 9718, 9731, and 9835 were unjustly discriminatory or unfair as between carriers, and had failed to prove that Respondents had a monopoly of the trades between Japan and the Pacific Coast of the United States. Agreements Nos. 9718–3 and 9731–5, Docket No. 75–30 (November 1, 1976); "Agreement No. 9835–3, Order of Approval" (November 1, 1976). Petitioner has not adduced in the instant proceeding any further evidence bearing upon monopoly or unfairness. Since the Commission has already rejected the premise upon which Petitioner bases its conclusion in this proceeding, it follows that, there being no other premise offered, the conclusion has not been established. Consequently, the Commission finds that Petitioner has failed to prove that Agreement No. 10116–1 is unjustly discriminatory or unfair as between carriers.

Petitioner also argued that the pool, Agreement No. 10116, provides the cushion which keeps each Respondent participating in the space sharing, sailing rationalization, and terminal operation consortia, and that the pool permits the strongest Respondent to sustain the weakest. Respondents denied this, and argued that each Respondent carries so many revenue tons in the trades that they wouldn't think of leaving such a lucrative venture. In 1975, Showa Line, which carried the fewest number of revenue tons in the trades, carried 436,000 revenue tons. Kawasaki Kisen Kaisha carried the greatest number of revenue tons, 646,000. Even so, Nippon Yusen Kaisha received $1,024,176 from the pool and Kawasaki Kisen Kaisha received $553,610.00 in the final accounting for the period March 7, 1975 through March 6, 1976. In that period the other four carriers each contributed monies to the pool, ranging from $118,000 for Japan Line to $694,000 for Showa Line.[2] The word "sustain" means supporting a carrier which would otherwise fail. Petitioner has not proved its allegation that the strongest Respondent sustains the weakest. Even though Nippon Yusen Kaisha received over a million dollars from the pool, it nevertheless grossed in excess of $33,000,000 and had net pool revenue in excess of $23,000,000, in the year ending March 6, 1976, more than any other Respondent.[3] The line which contributed the most money to the pool, Showa Line, carried the least amount of cargo.

Petitioner also argued that, after Respondents' pool went into effect, Respondents' market share rose at a steady pace, and, by January 1976, was 65.5 percent, higher than at any time during the preceding 22 months. Respondents argued that it has been the experience of Respondents to have higher cargo movements at the end of the year than at the beginning of the year, and point to the figures for 1974 to demonstrate that. Petitioner further replied that 1974 cannot be a proper measure as Respondents added three vessels to the trade between March and May of 1974, and that the increased cargo carryings in 1974 merely reflected the additional cargo attracted to Respondents by reason of the added vessels.

In fact, Respondents added the *Yamashin Maru* to the trades in March of 1974, the *Lions Gate Bridge* in April, the *Hakawa Maru* in May, and the *Beishu Maru* in October of 1974. As those vessels were placed in service older vessels were withdrawn from the trade. An examination of the data in this record shows that the percentage of each year's carryings, carried by each Respondent in each month in 1974 and 1975, when compared with similar data for all other carriers in the Trans-Pacific Freight Conference of Japan/Korea as a group, does not show that Respondents' experience in cargo carrying patterns is significantly different from all other conference carriers as a group. The data shows that in both 1974 and 1975 Respondents generally carried approximately 45 percent of each year's cargo in the first six months of that year. The other conference carriers, as a group, experienced approximately 51 percent of their cargo carryings in the first half of 1974 and about 46 percent in 1975.

Further, Petitioner neglected to mention that, although Respondents' share of the eastbound conference trade was 65.5 percent in January of 1976, it dropped to 60.4 percent in February of that year. Respondents carried approximately 62.4 perecnt of the Trans-Pacific Freight Conference of Korea cargo in each of the months of January and February of 1975. The data in the record does not demonstrate any consistent pattern of cargo carryings by or conference shares of Respondents. Respondents' share of the conference carryings in the years 1974 through 1976 are as follows:

Percentage of trans-Pacific freight conference of Japan/Korea cargo carried by respondents

Year	January and February	First half of year	Whole year
1974	55.55	54.63	58.72
1975	62.45	56.49	58.18
1976	62.72	(?)	(?)

That data will not support an inference that Respondents increased their share of conference cargo for all of 1976. Consequently, Petitioner has not established that Respondents have acquired a greater share of the conference trades as a result of Agreement No. 10116.

Petitioner has not proven that it has actually been injured by the Agreement. However the record in this proceeding does not illuminate the full reach of all of the possible ramifications of the Agreement. So that the Commission may be assured that its decision will most fully serve the public interest, the Commission will conduct further inquiry into the subject matter of this investigation. In order to maximize the quantity of the pertinent information which the Commission will acquire by reason of this further inquiry, it will be conducted as a full scale evidentiary hearing under the supervision of an Administrative Law Judge of the Commission's Office of Administrative Law Judges. To further ensure a complete and useful record at the conclusion of this further inquiry, Hearing Counsel is adjured to use the processes of the Commission to the fullest extent so as to investigate the subject of this proceeding, and to lay on the record the kind of detailed, reliable and probative evidence which will assist the Commission in making a proper disposition of this proceeding.

Because the Commission's concern with this Agreement has continued for some time now, this further inquiry shall, consistent with the fullest development of the facts, proceed with the utmost expedition. That expedition is particularly necessary in this case because, in order to maintain the existing situation pending the completion of this further inquiry, the interim approval of Agreement No. 10116–1, heretofore granted, will be continued pending the completion of that further inquiry.

Since the Commission has herein ordered a further inquiry into this matter, Respondents' "Motion for Modification of Order of Investigation", wherein Respondents requested permission to file a rebuttal to the affidavits of Petitioner and Hearing Counsel, is moot, and will be denied as such.

In the further inquiry herein ordered the parties shall address themselves, evidentially and with specificity, to, among other things: overtonnaging in the trans-Pacific trades, and the effect of overtonnaging on stability in those trades; the existence of malpractices in those trades; the quantitative and qualitative effect of Agreement No. 10116, either alone or in connection with Respondents' terminal agreements and Agreement Nos. 9718, 9731, and 9835, upon overtonnaging and malpractices by members of the conferences in the trades, and by carriers not members of a conference in the trades; and how, why, and to what extent the self-policing provisions of those agreements creating the conferences in the trans-Pacific trades have not been effective to prevent the commission of malpractices in those trades. In addition to the matters referred to above, the parties to this proceeding are encouraged to develop that probative, reliable, and relevant evidence which will establish facts which will support the approval, modification or disapproval of Agreement No. 10116–1.

The evidence offered and accepted into the record in this further inquiry shall not be argumentative. Evidence offered by a party shall be internally consistent, or the inconsistencies shall be explained by a witness with personal knowledge of the explanatory facts. Statistics, and numerical data in general, shall be offered in such a way as to permit comparison. Where data is presented in different forms or is measured by different scales, evidence providing a method of conversion will be offered. Opinion evidence on matters within the expertise of the Commission is not desired, although the argument of counsel on those matters, in the brief, is encouraged.

THEREFORE, *it is ordered*, That the investigation herein, commenced by Commission Order of March 5, 1976, is referred to the Office of Administrative Law Judges of the Federal Maritime Commission for further inquiry and Initial Decision;

It is further ordered, That the affidavits and memoranda Respondents and Petitioner and the record in Docket No. 75–30 shall continue to be part of the record of this proceeding;

It is further ordered, That the public hearings conducted pursuant to this order shall be held at a date and place to be determined and announced by the President Administrative Law Judge, but in no event shall that hearing commence later than September 1, 1977;

It is further ordered, That the Federal Maritime Commission Order, dated March 5, 1976, entitled, Agreement No. 10116–1—Extension of Pooling Agreement in the Eastbound and Westbound Trades Between Japanese Ports and Ports in California, Oregon and Washington, "Order of Investigation", is modified by deleting, in the first ordering paragraph thereof, the words and numbers, "• • • for a term of one year, to and including March 6, 1977 • • •", and substituting therefor the words, "• • • pending the final order of the Commission in the proceeding instituted herein • • •";

It is further ordered, That Respondents' "Motion for Modification of Order of Investigation" is denied; and

It is further ordered, That this order be published in the FEDERAL REGISTER.

By the Commission.[4]

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77–7466 Filed 3–11–77;8:45 am]

[2] The pool report of Respondents quoted was not offered by the parties to this proceeding, but is found in the files of the Commission, and is officially noticed.

[3] Nippon Yusen Kaisha received a distribution because it has a larger share than any other Respondent.

[4] Commissioner Casey dissents. Opinion will follow.

FEDERAL POWER COMMISSION

[Docket Nos. CP75–96 et al.; RM77–6]

EL PASO ALASKA CO., ET AL.

Order Providing for Suspension of Proceedings, et al.; Genera' Environmental and Technical Terms and Conditions for Alaskan Natural Gas Transportation System

MARCH 9, 1977.

Take notice that on March 10, 1977, the Federal Power Commission released a report prepared by the Federal Power Commission staff with assistance from the U.S. Department of the Interior on proposed general environmental and technical terms and conditions for an Alaskan natural gas transportation system. These proposed terms and conditions would be applicable to any system which may be selected through the procedure established by Public Law 94–586, the Alaska Natural Gas Transportation Act of 1976. These general terms and conditions are not the official position of the Commission or any other Federal agency; they are presented to all interested parties for comment prior to the Commission's recommendation to the President. More specific terms and conditions will be prepared following final selection of the project. Because of the provisions and intent of P.L. 94–586 and the implied Federal responsibility created by actions on the three pending applications, the proposed terms and conditions incorporate a mechanism for their administration and enforcement.

These proposed terms and conditions have been developed by the Federal Power Commission with assistance from the U.S. Department of the Interior and reflect experience gained from construction of the Alyeska oil pipeline in Alaska. Comments on the initial draft terms and conditions were solicited from 22 Federal agencies. Responses have been received from the following: U.S. Department of Commerce, U.S. Department of Justice, U.S. Department of Transportation, U.S. Department of Labor, U.S. Department of the Interior, U.S. Forest Service, Federal Communications Commission, Federal Maritime Commission, and the Environmental Protection Agency.

Many of these comments are reflected in modifications of the original terms and conditions. Several agencies—specifically, the DOI, the FCC, the EPA, and the U.S. Forest Service—requested that their particular regulations be incorporated into the body of the terms and conditions. However, the Commission staff believes that such regulations are included by reference in General Items 2, 3, and 9 and that such a lengthy listing is therefore not required at this time.

These terms and conditions have been sent to the agencies and persons who received copies of the Alaska Natural Gas Transportation System: Final Environmental Impact Statement and to all parties to the proceeding. The terms and conditions as well as the comments from Federal agencies are on file with the Commission and are available for public inspection at its Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426. Limited qualities are also available from the Commission's Office of Public Information.

Any person wishing to file comments on the terms and conditions should file an original and seven copies of such comments on or before March 31, 1977. Please address comments to:

V4249 MAR 14 77 UMI

FPC Alaskan Delegates, Office of the Delegates, Room 9100, 825 North Capitol Street NE., Washington, D.C. 20426.

Comments received will be available for public inspection in the Commission's Office of Public Information.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7524 Filed 3-10-77;10:12 am]

[Docket No. E77-21]

EMERGENCY NATURAL GAS ACT OF 1977

Supplemental Emergency Order

By orders issued February 18 and 24, 1977, pursuant to Section 6 of the Emergency Natural Gas Act of 1977, Pub. L. 95-2 (91 Stat. 4 (1977)), I authorized Columbia Gas Transmission Corporation (Columbia), on behalf of itself and UGI Corporation (UGI), to purchase up to 100,000 Mcfd of natural gas from Pacific Gas & Electric Company (PG&E). One condition of that sale was the payment of a carrying charge of 1.8 cents per Mcf delivered by PG&E consistent with such charges approved in Southern Natural Gas Company, Docket No. E77-5 (February 20, 1977).

By letter filed March 7, 1977, PG&E requested further clarification of the February 18 and 24 orders to state that the carrying charge of 1.8 cents per Mcf is computed monthly on the outstanding balance of gas delivered to Columbia and not repaid to PG&E commencing April 1, 1977, and the first of each month thereafter until repayment is complete. Southern Natural, supra, correctly stated that the carrying charge of 1.8 cents per Mcf was to be computed monthly. The February 24, 1977 order in this proceeding is hereby modified to state that the carrying charge is 1.8 cents per Mcf per month on the outstanding volumes to be repaid to PG&E on April 1, 1977, and the first of each month thereafter until repayment is complete. To the extent not inconsistent with the provisions of this order, the provisions of the February 18 and 24, 1977 orders remain in full force and effect.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Columbia, UGI, PG&E, El Paso, Oasis, Bronco-Tenngasco, Tennessee, and Columbia Gulf.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 9, 1977.

[FR Doc.77-7525 Filed 3-11-77;8:45 am]

[Docket No. E77-40]

EMERGENCY NATURAL GAS ACT OF 1977

Supplemental Emergency Order

By order issued March 4, 1977, pursuant to Section 6 of the Emergency Natural Gas Act of 1977, Pub. L. 95-2 (91 Stat. 4 (1977)), I denied, without prejudice, the request of Natural Gas Pipeline Company of America (Natural) to make certain emergency purchases. The order further stated that, where expenditures were made prior to February 22, 1977, for the purpose of delivering such gas supplies to Natural, Natural could make such purchases consistent with the doctrine of Colorado Interstate Gas Company, Docket No. E77-31 (February 28, 1977).

On March 8, 1977, Natural submitted a supplemental petition in which it set forth information indicating that TUCO, Inc. (TUCO), Western Oil Producers (Western), H. L. Brown, Jr. (Brown), Yates Petroleum Company (Yates) and Clajon Gas Company (Clajon), and, in some cases, Natural, had made expenditures prior to February 22, 1977, for the purpose of delivery of the subject gas supplies to Natural. Natural also indicates that it is negotiating, or has obtained, contracts for the sale of gas by TUCO and Western under the Natural Gas Act (15 U.S.C. 717, et seq.) following the emergency purchase. Based upon the information submitted by Natural, I find that the proposed purchases from TUCO, Western, Brown, Yates and Clajon satisfy the Colorado Interstate criteria. Therefore, I authorize Natural to make such purchases notwithstanding Order No. 6.

Natural shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Natural, TUCO, Western, Brown, Yates and Clajon. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under P.L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 9, 1977.

[FR Doc.77-7526 Filed 3-11-77;8:45 am]

[Docket No. E77-37]

ADMINISTRATOR, EMERGENCY NATURAL GAS ACT OF 1977

Supplemental Emergency Order

In response to an application filed with the Administrator on February 28, 1977, Tennessee Gas Pipeline Company (Tennessee) was authorized on March 1, 1977 to purchase pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), up to 32,000 Mcf per day of natural gas from Channel Industries Gas Company (Channel). On March 4, 1977, Tenneco, Inc., the parent corporation of Tennessee and Channel, filed with the Securities and Exchange Commission a statement that:

It has come to the attention of counsel for Tenneco that certain volumes of natural gas purchased by Channel have been produced from acreage or reservoirs at one time dedicated to interstate commerce under contracts between various producers and the Company's interstate pipeline division. It appears that such gas was released from dedication to interstate commerce under a variety of procedures, some of which involve transactions which may have failed to meet all regulatory requirements therefor under the Natural Gas Act.

On February 28, 1977, Tenneco, Inc. filed with the Federal Power Commission a petition for a declaratory order respecting the certificate status of certain reserves from which gas presently is being sold to Channel. That petition sets forth additional facts relating to the transactions.

Section 6(a)(1) of the Act precludes a "producer of natural gas" from selling under the Act natural gas that is "certificated under the Natural Gas Act." The sale of such certificated reserves shall not be permitted directly or indirectly. To the extent that a person is purchasing or receiving natural gas contrary to the terms of an outstanding certificate issued by the Federal Power Commission under the Natural Gas Act, such person should not be entitled to make sales under the Emergency Natural Gas Act.

If Channel is purchasing natural gas that is certificated to Tennessee, the sale by Channel to Tennessee would not be authorized under section 6. The ultimate issue of whether Channel is receiving certificated natural gas must be decided by the Federal Power Commission. However, the evidence before the Administrator raises a substantial question whether the sale from Channel to Tennessee is proper under the Act. Under such circumstances I find that the Order issued on March 1, 1977 in Docket No. E77-37 authorizing the transaction should be, and hereby is, stayed pending further order under the Act.

If such transaction is found to be ineligible under the Act, the natural gas delivered under the Order of March 1, 1977 shall be subject to appropriate refunds.

Tenneco hereby is directed to file with the Administrator on or before March 14, 1977 a complete statement under oath of all facts concerning the issues of whether Channel is receiving natural gas that is certificated under the Natural Gas Act and whether the Channel-Tennessee transaction is proper under section 6 of the Act.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Tennessee, Channel and Tenneco, Inc. This order shall also be published in the FEDERAL REGISTER.

This order is subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 8, 1977.

[FR Doc.77-7454 Filed 3-11-77;8:45 am]

[Docket No. E77-49]

NORTHERN NATURAL GAS CO.

Emergency Order Pursuant to Emergency Natural Gas Act of 1977; Correction

Please insert the word "not" after the words "Northern had" on the tenth line of the first paragraph of the order issued March 7, 1977 and published in the FEDERAL REGISTER of March 10, 1977 (42 FR 13350).

RICHARD L. DUNHAM,
Administrator.

MARCH 9, 1977.

[FR Doc. 77-7527 Filed 3-11-77;8:45 am]

[Docket No. CS77-341, etc.]

GATEWOOD NEWBERRY, ET AL.

Applications for "Small Producer" Certificates[1]

MARCH 4, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS77-341	Feb. 14, 1977	Gatewood Newberry, 3407 Monte Vista, Austin, Tex. 78731.
CS77-342	....do.....	Aaron & Taylor Farry, Route 4, 165A, Camerow, Wis. 26038.
CS77-343	Feb. 16, 1977	Oil, Gas & Minerals Development Corp., P.O. Box 12443, Fort Worth, Tex. 76116.
CS77-344	Feb. 14, 1977	Ann Algeagh Cox, P.O. Box 604, Duncan, Okla. 73533.
CS77-345	....do.....	A. L. Payne, 902 13th St., Bridgeport, Tex.
CS77-346	Feb. 16, 1977	Bruce Lowrie, 711 Southwest Loop 820, Fort Worth, Tex. 76134.
CS77-347	....do.....	Elk County Gas Gathering Co., P.O. Box 60649 Oklahoma City, Okla. 73106.
CS77-348	Feb. 17, 1977	Shawnee Oil & Gas Co., Inc., 11 Woodside Rd., Greenwich, Conn. 06830.
CS77-349	Feb. 18, 1977	Specil 342, 1973 drilling venture I, P.O. Box 1341, Corpus Christi, Tex. 78403.
CS77-350	....do.....	Special 329 drilling venture.
CS77-351	....do.....	Special Gulf 1973 drilling venture.
CS77-352	....do.....	Special 342 drilling venture II.
CS77-353	....do.....	Special Mitmes 1973 drilling venture.
CS77-354	....do.....	Martin F. Sullivan Trust No. 1, dated Jan. 1, 1974, 2445 Southeast 8th St., Fort Lauderdale, Fla. 33062.
CS77-355	....do.....	Oscar Cox, Jr., P.O. Box 476, Decatur, Tex.
CS77-356	Feb. 22, 1977	Parket E. Bloomer, Solon L. Bloomer, Paul Clements, 3000 United Founders Blvd., suite 106G, Ciudad Bldg., Oklahoma City, Okla. 73112.
CS77-357	....do.....	Henry B. Kelsey, 79 Wall St., New York, N.Y. 10005.
CS77-358	....do.....	American Petroleum Energy, Co., Inc., 5830 Marina Dr., Garland, Tex. 75043.
CS77-359	....do.....	ConVest Ehergy Corp., 4605 Post Oak Place Dr., No. 200, Houston, Tex. 77027.
CS77-360	....do.....	Gene Woodfin, P.O. Box 61598, Houston, Tex. 77208.
CS77-361	....do.....	Robert O. Hall, 1400 United Founders Life Tower, Oklahoma City, Okla. 73112.
CS77-362	Feb. 24, 1977	D. Frederick Gloia, 6005 Park Avenue., suite 908, Memphis, Tenn. 38138.
CS77-363	Feb. 23, 1977	Petroleum Energy, Inc., suite 701, One Twenty Bldg., Wichita, Kans. 67202.
CS77-364	....do.....	George J. Abiah d.b.a. Little George, 680 4th Financial Center, Wichita, Kans. 67202

[FR Doc.77-7218 Filed 3-11-77;8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

FEDERAL RESERVE SYSTEM

BOARD OF GOVERNORS

Meeting

On Wednesday, March 16, 1977, at 10 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

1. Consideration of the appointment of a Federal Reserve Bank president.
2. Consideration of the appointment of a Federal Reserve Bank director.
3. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System, March 8, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-7380 Filed 3-11-77;8:45 am]

FIRST CITY BANCORPORATION OF TEXAS, INC.

Order Approving Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares, less directors' qualifying shares, of the successor by merger to East Dallas Bank, Dallas, Texas ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest banking organization in Texas, controls 26 banks with aggregate deposits of approximately $3.5 billion, representing 7.3 percent of total commercial bank deposits in Texas.[1] Acquisition of Bank (approximately $26 million in deposits) would increase Applicant's share of Statewide commercial bank deposits by less than 0.1 percent and would have no appreciable effect upon the concentration of banking resources in the State.

Bank is the 45th largest of 132 banks in the Dallas banking market, which is the relevant banking market,[2] and controls approximately 0.3 percent of the total deposits in commercial banks in the

[1] All banking data are as of December 31, 1975, and reflect bank holding company formations and acquisition approved as of January 31, 1977.

[2] The Dallas banking market is approximated by the Dallas RMA, which includes Dallas County and portions of six adjacent counties.

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market. Applicant is the fourth largest banking organization in the Dallas market, controlling six banking subsidiaries therein with aggregate deposits of approximately $436 million, which represent 4.7 percent of market deposits. Applicant's nearest subsidiary bank is approximately 9 miles southwest of Bank. While there is some existing competition between Applicant's subsidiary banks and Bank, the amount of such competition that would be eliminated as a result of the proposed acquisition does not appear to be significant. Moreover, it appears that acquisition of Bank would not have any significant adverse effects upon potential competition, since the anticipated increase in Applicant's share of market deposits would be minimal, the banking market would remain attractive to de novo entry, and numerous banks would remain in the market as potential entry vehicles. Accordingly, on the basis of the above and other facts of record, it is concluded that consummation of the proposal would have only slightly adverse competitive effects.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank are regarded as generally satisfactory and consistent with approval. Affiliation with Applicant would enable Bank to draw upon Applicant's greater financial resources and expertise and thereby offer new and improved services to its customers. In this regard, Applicant has indicated that it intends to offer a variety of additional banking services through Bank and that reduced credit insurance rates will be made available at Bank for its loan customers. Considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application and outweigh any slight adverse competitive effects that might result from consummation of the proposal. Accordingly, it has been determined that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made: (a) before the thirtieth calendar day following the effective date of this Order or, (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective March 7, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-7409 Filed 3-11-77;8:45 am]

RAMAPO FINANCIAL CORP.

Correction

In FR Doc. 77-5624 appearing at page 12924 of the issue for Monday, March 7, 1977, the fifth sentence of the fourth paragraph should read:

However, this extension of time is conditioned upon (1) Applicant's refraining from further increases in dividends and (2) Applicant's submission of quarterly progress reports on its efforts to meet the capital commitment to the Federal Reserve Bank of New York beginning March 31, 1977, and continuing until the capital commitment is met. Accordingly, the Board's Order of February 25, 1974, is hereby so amended for the reasons summarized above.

Board of Governors of the Federal Reserve System, March 8, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-7410 Filed 3-11-77;8:45 am]

FEDERAL TRADE COMMISSION

SUNSHINE ACT

Meeting

AGENCY HOLDING THE MEETING: Federal Election Commission.

PLACE: 1325 K Street NW. (Fifth Floor Conference Room), Washington, D.C.

DATE AND TIME: Wednesday, March 16, 1977—10:00 a.m.

SUBJECT MATTER:

Portions open to the public:

I. Future meetings.

II. Correction and approval of minutes—March 8, 1977.

III. Advisory opinions—AO 1977-7.

IV. Report on FEC computer contract: Portion closed to the public:

V. Executive session: (A) Compliance; (B) Personnel.

PERSON TO CONTACT REGARDING INFORMATION:

Mr. David Fiske, Press Officer: Telephone: 202-382-4112.

MARJORIE W. EMMONS,
Secretary to the Commission.

[FR Doc.77-7418 3-11-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Public Law 92-463, notice is hereby given a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, March 29, 30, 31 and April 1, 1977, from 9:30 a.m. to 4 p.m., Room 3B1, 1776 Peachtree Street NW., Atlanta, Georgia 30309. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed eight one-year term fixed price contracts, one for each of the eight states in Region 4. The meeting will be open to the public.

Dated: March 8, 1977.

L. D. STROM,
Regional Administrator.

[FR Doc.77-7508 Filed 3-11-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

COOPERATIVE EDUCATION PROGRAMS

Closing Date for Receipt of Applications Fiscal Year 1977

Notice is hereby given that pursuant to the authority contained in section 801 of Title VIII of the Higher Education Act of 1965 (20 U.S.C. 1133), applications are being accepted from institutions of higher education for cooperative education program grants, and from institutions of higher education and other public or nonprofit private agencies for grants for training and research projects.

Applications must be received by the U.S. Office of Education Application Control Center on or before April 26, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue S.W., Washington, D.C. 20202, Attention: 13:510. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than April 21, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Bureau of Postsecondary Education, Division of Training and Facilities, Cooperative Education Branch, Room 3063, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202.

D. *Estimated Distribution of Program Funds.* The appropriation available for Cooperative Education is $10,750,000, the same amount as last year. Of this, $10,000,000 is to support the administrative costs of planning, establishing, and implementing cooperative education programs, and $750,000 is for research, training, and demonstration projects. It is expected that twelve training grants, and five research and demonstration grants will be made, and 250 to 275 administration grants, averaging $35,000 to $40,000 each.

The above statement with regard to the distribution of funds is basically for informational purposes and does not bind the Office of Education except as may be required by the applicable statute and regulation.

E. *Applicable regulations.* Awards made pursuant to this notice will be subject to:

(1) The Office of Education General Provisions Regulations (45 CFR Part 100 and 100a), and

(2) The regulations governing the Cooperative Education Program, 45 CFR Part 182.

(20 U.S.C. 1133-1133b.)

(Catalog of Federal Domestic Assistance Number 13:510; Cooperative Education.)

Dated: February 16, 1977.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

[FR Doc.77-7381 Filed 3-11-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[USITC SE-77-21]

GOVERNMENT IN THE SUNSHINE

Meeting

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on Monday, March 14, 1977, beginning at 10 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436. Except as hereinafter specified, the Commission plans to consider the following agenda item in open session:

1. Further discussion and vote on remedy in Investigation TA-201-19 (Television Receivers).

Commissioners Minchew, Parker, Leonard, Moore, Bedell, and Ablondi determined by recorded vote that Commission business requires that the meeting of March 14, 1977, be called with less than ten days' prior notice and directed the issuance of this notice at the earliest practicable time.

If you have any questions concerning the agenda for the March 14, 1977, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Access to documents to be considered by the Commission at the meeting is provided for by access to the public files of the Commission, or when such documents are not in such files, as provided for in Subpart C of the Commission's rules (19 CFR 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with 19 CFR 201.38(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

Issued: March 10, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-7589 Filed 3-11-77;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. GOODPASTURE, INC.

Written Comments Upon Consent Judgment and Department of Justice Responses Thereto

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, the following written comments on the proposed judgment filed with the United States District Court in the Southern District of Texas, Civil Action No. 73-H-1765, *United States of America* v. *Goodpasture, Inc.*, were received by the Department of Justice and are published herewith, together with Justice's responses to the comments.

Dated: March 3, 1977.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section.

DECEMBER 2, 1976.

Re: Proposed Consent Judgment, *United States* v. *Goodpasture, Inc.*, C.A. No. 73-H-1765.

MR. JOSEPH J. SAUNDERS,
Chief, Public Counsel and Legislative Section, Department of Justice, Antitrust Division, Washington, D.C. 20530.

DEAR SIR: Please Advise Me Of The Possible Monetary Relief Provided For In The Above Mentioned Judgment. Specifically, As It Appears To Me As A United States Citizen And/Or A Past Dock Worker At The Houston Ship Channel.

Your Reply Involving This Matter Is Most Appreciated.

Sincerely Yours,

JEROME C. BELL.

DECEMBER 27, 1976.

MR. JEROME C. BELL,
5425 Westbrook Street, Houston, Texas 77016

DEAR MR. BELL: Thank you for your letter of December 2, 1976, inquiring about the proposed consent judgment in *United States* v. *Goodpasture, Inc.* As I understand your inquiry, you wished to know whether the proposed judgment affords you, as a United States citizen and former dockworker at the Houston ship channel, any monetary relief.

In litigating antitrust cases, the Department of Justice ordinarily seeks to preserve and promote competition for the benefit of the public generally, rather than for specific persons or categories of persons. For that reason, and because they would otherwise be difficult to obtain, consent judgments, including the one proposed for this case, normally do not address the question of providing monetary damages for private persons and instead focus on terminating the practices or conduct giving rise to those damages.

As noted in Part IV of the competitive impact statement, anyone who claims damages as a result of the violations of the antitrust laws made the subject of the consent judgment may bring his own action against the defendants as if there were no consent judgment and seek treble damages if an antitrust violation is proved. The existence of the consent judgment would neither help nor hinder such private litigation.

Sincerely yours,

DAVID W. BROWN,
Attorney, Antitrust Division.

JANUARY 26, 1977.

Re: Proposed Consent Judgment, *United States* v. *Goodpasture, Inc.* (S.D. Tex., C.A. No. 73-H-1765).

JOSEPH J. SAUNDERS, Esquire,
Chief, Public Counsel and Legislative Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

DEAR MR. SAUNDERS: These comments are submitted in behalf of Continental Grain Company ("Continental") in response to notice of the proposed consent judgment in this case (41 Fed. Reg. 52552 (Nov. 30, 1976)). Continental operates export grain elevators including an elevator at Beaumont, Texas, which is a direct competitor of Goodpasture's grain elevator at Houston, Texas, subject of the proposed consent judgment. Continental is party to a similar consent judgment concerning stevedoring at its elevators, entered July 21, 1970, in United States v. Continental Grain Company, Civil Action No. 6733, S.D. Texas, Beaumont Div.

Section IV of the proposed consent judgment, forbidding Goodpasture to restrict vessels' free choice of stevedores to load grain at its elevator, contains a proviso that allows Goodpasture to select its wholly owned subsidiary stevedore when Goodpasture must assume the risk of delay in loading or is subject to economic penalty for such delay. The judgment also allows Goodpasture to select the stevedore where Goodpasture supplies the vessel (i.e., is charterer) (sections IV(A), (B)). The consent judgment entered into by Continental allows it to select the stevedore where it is charterer but not where, although the purchaser supplies the vessel, the purchaser requires Continental to bear the risk of or incur penalties for delay in loading.

On the basis of its recent experience, more fully described below, Continental believes that the proviso in the proposed Goodpasture consent judgment is necessary and appropriate in light of present commercial practices in the grain export industry, and therefore supports the proposed judgment. Continental further believes, however, that competitors of Goodpasture, including Continental, should also be permitted to designate the stevedore whenever required to assume the risk for loading delay, and that the absence of such a provision in Continental's consent judgment may injure competition in the industry by affording a competitive advantage to Goodpasture. Continental therefore intends to request that the Department of Justice concur in a motion to modify Continental's existing consent judgment to add a proviso identical to that following section IV(C) of the proposed Goodpasture judgment, permitting Continental to select a stevedore when (although not supplying a vessel) it is required to bear risks or penalties for delay in loading. If, however, the Department should not concur, then the proposed Goodpasture judgment should be modified to eliminate the aforementioned exception.

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According to the competitive impact statement, Goodpasture requested the exception in its consent judgment because it does not own or charter vessels and often must assume the risk of delay in loading to compete with other grain elevators who are charterers or vessel suppliers and select their own stevedore. The purpose for selection of the stevedore in such circumstances is to permit direct control over its activities, to insure the expeditious loading of the vessel. Although Continental sometimes supplies vessels in connection with the sale of grain, nevertheless a substantial proportion of its grain sales have been f.o.b elevator and thus accord the purchaser the right to provide the vessel. In a significant proportion of the latter sales, moreover, to meet the competition of Goodpasture and others, Continental has had to agree to contract terms which place the risk for delay in loading on Continental or penalize Continental for failure to load grain at a specified hourly rate. Continental is attempting to compile statistics on the percentage of its transactions on which it does not charter or supply vessels and the percentage in which Continental has agreed to a contractual provision for penalties for delay in loading. We have been prevented by the pressure of time from including such statistics in these comments, but we hope to provide the information as a supplement to these comments as soon as it becomes available. Continental believes that the statistics will evidence an increase over the past few years in the proportion of sales f.o.b. elevator where it is subject to penalty for delay in loading.

The proviso in section IV of Goodpasture's proposed consent judgment thus reflects the present economics of the grain industry as exemplified by Continental's recent experience, and Continental believes that these economic conditions warrant modification of its consent judgment consistently with those conditions. The absence of a similar provision in Continental's consent judgment may, under current industry practices, place it at a competitive disadvantage vis-a-vis Goodpasture, should its proposed consent judgment become final. Where Continental does not supply the vessel and where competitive pressure requires it to bear the risk of delay in delivery to the vessel, it should not be disadvantaged merely because its consent judgment was entered at a time when business practices were different.

The Department of Justice can avoid disturbing the competitive balance and recognise current conditions in the marketing of grain by agreeing to a modification of Continental's consent judgment to permit Continental to select the stevedore where, in order to obtain business, it must agree to bear the risk of delay in loading. If, however, the Department should not so agree, then, as a less desirable alternative, the balance could be preserved by deleting the proviso in section IV from the proposed judgment against Goodpasture.

Sincerely,

T. S. L. PEARLMAN,
Attorney for Continental Grain Company.

Re: Proposed Consent Judgment, *United States* v. *Goodpasture, Inc.* (S.D. Tex., C.A. No. 73-H-1765).

T. S. PEARLMAN, Esq.,
Kominers, Fort, Schlefer & Boyer, 1776 F Street, N.W., Washington, D.C. 20006.

DEAR MR. PEARLMAN: This is in response to your letter of January 26, 1977, in which Continental Grain Company commented favorably upon the proviso in section IV of the proposed consent judgment in the above-captioned case permitting Goodpasture to select the stevedore in circumstances where it bears the risk of a loading delay. Your letter also requests that the same proviso be added to the consent judgment in *United States* v. *Continental Grain Company*, Civil Action No. 6733, E.D. Texas (Beaumont Div., July 21, 1970), in order to avoid a competitive imbalance in the industry.

In light of your views on the merits of the proviso in question, we do not view your position as one seriously objecting to the entering of the proposed Goodpasture judgment as now written. The fact that Goodpasture is the first grain elevator to obtain the privilege reserved by the subject proviso is, as you have noted, readily explainable in terms of the historical development of the grain shipping industry. That, in our view, provides insufficient grounds to question the merits of the proposed Goodpasture judgment.

As your letter recognizes, the real question is not whether the Goodpasture judgment should be entered but rather whether the Continental consent judgment should be modified in a similar fashion. On that question, we have preliminarily indicated that we are not opposed in principle to such a modification, but we would require a formal application for modification, including whatever evidentiary showing you deem appropriate. In particular, statistics of the type that you have indicated are now being compiled would be very helpful.

In view of the foregoing, and in conformity with our desire not to unnecessarily delay the entry of the Goodpasture judgment, we will shortly be asking the district court to enter the proposed consent judgment in that case. Unless we hear from you to the contrary rather promptly, we shall assume that the foregoing establishes an adequate basis upon which to proceed in addressing your client's needs without further delay in the Goodpasture case.

Very truly yours,

DAVID W. BROWN,
Attorney, Antitrust Division.

[FR Doc.77-7417 Filed 3-11-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Federal Graphics Evaluation Advisory Panel to the National Council on the Arts will be held on April 6, 1977, from 9:30 a.m. to 4:30 p.m., in Room 1125, Columbia Plaza Building, 2401 E. Street NW., Washington, D.C.

A portion of this meeting will be open to the public on April 6, from 9:30 a.m. to 12:30 p.m. and 2:30 p.m. to 4:30 p.m., on a space available basis. Interested persons may submit written statements with the committee. The agenda for these sessions will include discussions of graphic materials and related items of the National Endowment for the Humanities.

The remaining sessions of this meeting on April 6, from 1:30 p.m. to 2:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on Federal Graphics under the National Foundation on the Arts and the Humanities Act of 1965, as amended in accordance with the President's Directives of May 16, 1972, August 23, 1974, and June 26, 1975, on Improvement of Federal Graphics. In accordance with the determination of the Chairman published in the Federal Register of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provision of the Freedom of Information Act (5 U.S.C. 552(b)(5), will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

Dated: March 8, 1977.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-7394 Filed 3-11-77;8:45 am]

MUSIC ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Music Advisory Panel (Jazz/Folk/Ethnic Section) to the National Council on the Arts will be held on March 29-30, 1977, from 9:00 a.m. to 6:00 p.m., in Rooms 1420 and 1422, Columbia Plaza Building, 2401 E. Street NW., Washington, D.C.

This meeting will be open to the public. Accommodations are limited. The agenda for this meeting will include long-range planning discussions.

Further information concerning this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

Dated: March 8, 1977.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-7391 Filed 3-11-77;8:45 am]

THEATRE ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Theatre Advisory Panel to the National Council on the Arts will be held on April 1-3, 1977, from 9:30 a.m. to 5:30 p.m., in Room 1422, Columbia Plaza Building, 2401 E. Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

Dated: March 8, 1977.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-7393 Filed 3-11-77;8:45 am]

VISUAL ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Visual Arts Advisory Panel (Craftsmen Fellowships) to the National Council on the Arts will be held on March 28-30, 1977, from 9:30 a.m. to 6 p.m., in Room 1115, Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

Dated: March 8, 1977.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-7390 Filed 3-11-77;8:45 am]

VISUAL ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Visual Arts Advisory Panel (Visual Arts in the Performing Arts) to the National Council on the Arts will be held on April 5, 1977, from 9:30 a.m. to 6 p.m., in Room 1115, Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

Dated: March 8, 1977.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts, and the Humanities.

[FR Doc.77-7392 Filed 3-11-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

SUBPANEL ON THE PRE-COLLEGE TEACHER DEVELOPMENT IN SCIENCE PROGRAM OF THE ADVISORY PANEL ON SCIENCE EDUCATION PROJECTS

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on the Pre-College Teacher Development in Science Program of the Advisory Panel on Science Education Projects.

Date and time: March 31, 1977; 7:30 a.m.-9:00 p.m.; April 1, 1977; 8:00 a.m.-5:00 p.m.; April 2, 1977; 8:00 a.m.-5:00 p.m.

Place: Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Theodore L. Reid, Program Manager, Room W-456, National Science Foundation, Washington, D.C. 20550, Tel.: 202-282-7795.

Purpose: To provide advice and recommendations concerning support for the Pre-College Teacher Development in Science Program.

Agenda: To review and evaluate specific science education proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 9, 1977.

[FR Doc.77-7423 Filed 3-11-77;8:45 am]

SUBPANEL ON THE INSTRUCTIONAL SCIENTIFIC EQUIPMENT PROGRAM (ISEP) OF THE ADVISORY PANEL ON SCIENCE EDUCATION PROJECTS

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on the Instructional Scientific Equipment Program (ISEP) of the Advisory Panel on Science Education Projects.

Date and time: March 30, 1977, 7:30 a.m.-10:00 p.m.; March 31, 1977, 8:00 a.m.-5:00 p.m.; April 1, 1977, 8:00 a.m.-5:00 p.m.; April 2, 1977, 8:00 a.m.-4:00 p.m.

Place: Biltmore Hotel, 515 South Olive Street, Los Angeles, California.

Type of meeting: Closed.

Contact person: Dr. Charles S. Quarels, Program Manager, ISEP, Room W-454, National Science Foundation, Washington, D.C. 20550, Tel.: 202-282-7751.

Purpose: To provide advice and recommendations concerning support for the ISEP Program.

Agenda: To review and evaluate specific science education proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 9, 1977.

[FR Doc.77-7422 Filed 3-11-77;8:45 am]

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SCIENCE APPLICATIONS TASK FORCE

Open Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, the National Science Foundation announces the following meeting:

Name: Science Applications Task Force.
Date: 30–31 March 1977.
Time: March 30: 9:00 a.m.–5:00 p.m.; March 31: 9:00 a.m.–4:00 p.m.
Place: March 30: Room 543, March 31: Room 338, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Open.
Contact person: Gilbert B. Devey, Executive Secretary, Science Applications Task Force, 1730 K Street, N.W., Washington, D.C. Telephone: (202) 634–6006.

Persons interested in attending the meeting should inform the Executive Secretary before 5 p.m. on March 23, 1977.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of advisory group: The purpose of NSF Task Force on Science Applications is to provide advice and assessments and make recommendations to the NSF Director on science applications programs and related organization and management issues.
Agenda: March 30, 1977, 9:00 a.m.–noon. General Discussion of RANN Program Objectives and Project Management (project selection criteria; coordination mechanisms; program/project transfer criteria; utilization plans). Dr. Albert J. Eggers, Jr., Assistant Director for Research Applications, and RANN staff members will respond to questions from members of the Task Force.
Special Topics Moderated by Dr. John R. Whinnery
NSF and Industry: Dr. J. Bliss, Telesensory Systems, Inc.; Dr. A. Buechе, General Electric Co.; Dr. B. Hannay, Bell Telephone Laboratories; Dr. S. Lukasik, McLean, VA.
Mechanism for Transfer of Research in Industry: Drs. Bliss, Buechе, Hannay and Lukasik.
Problems of Applied Environmental Research: Dr. E. Murphy, Environmental Resources; Dr. J. Neuhold, Utah State University.
Relationship of R&D to Local Governments: Dr. E. Murphy, Environmental Resources; Ms. C. Rubin, International City Management Assoc.
Applications of Social Science Research: Dr. W. Bevan, Duke University; Ms. C. Rubin, International City Management Assoc.; Dr. E. Sheldon, Social Science Research Council.

MARCH 31, 1977

9:00 a.m.–11:00 a.m.—Relations with other Government Agencies, Dr. F. Willenbrock, Chairman, Task Force on Science Information Activities; Dr. W. P. Raney, Office of Science and Technology Policy Research and Applications in USDA; Dr. S. Wittwer, Michigan State Univ.
11:00–noon—Committee discussion led by Dr. John R. Whinnery.
Noon–1:30 p.m.—Lunch.
1:30–3:00 p.m.—Role of Science Education, Dr. H. Averch, Assistant Director, Directorate for Science Education, NSF.
3:00–4:00 p.m.—Critique of Discussions and Assignment of Tasks, Dr. John R. Whinnery.
4:00 p.m.—Adjourn.

M. REBECCA WINKLER,
Acting Committee Management Officer.

MARCH 9, 1977.

[FR Doc.77-7421 Filed 3-11-77;8:45 am]

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

OPEN MEETING

In accordance with subsection 10(a) of the Federal Advisory Committee Act, Pub. L. 92–463, the National Transportation Policy Study Commission announces the following meeting:

Name: Meeting of the Commission.
Date: March 29, 1977.
Time: 9:30 a.m.
Place: 2167 Rayburn House Office Building, Washington, D.C. 20515.
Type of meeting: Open.
Contact person: Beth Singley, National Transportation Policy Study Comm., 1111 20th Street NW., Suite 308, Washington, D.C. 20036, telephone: 202–634–7600.

Purpose of the Commission. The National Transportation Policy Study Commission was established under section 154 of the Federal-Aid Highway Act of 1976 (Pub. L. 94–280) to report findings and recommendations with respect to the Nation's transportation needs, both national and regional, through the year 2000.

Tentative Agenda. Review Commission budget and schedule. Review Commission work plan. Discussion of elements of national transportation policy.

Dated: March 10, 1977.

EDWARD R. HAMBERGER,
Special Counsel.

[FR Doc.77-7560 Filed 3-11-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-326]

CAROLINA POWER & LIGHT CO.

Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–71 issued to Carolina Power & Light Company (the licensee) for operation of the Brunswick Steam Electric Plant, Unit No. 1 (the facility) located in Brunswick County, North Carolina.

The amendment would eliminate the requirement to inert the primary containment atmosphere with nitrogen during reactor power operation. The amendment is proposed by the licensee's application for amendment dated January 17, 1977.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By April 13, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of this amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing actions. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Richard E. Jones, Esquire, Carolina Power & Light Company, 336 Fayetteville Street, Raleigh, North Carolina 27602, attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated January 17, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H. Street NW., Washington, D.C.

and at the Southport-Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Dated at Bethesda, Md., this 3d day of March 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-7201 Filed 3-11-77;8:45 am]

[Docket No. 50-213]

CONNECTICUT YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. DPR–61, issued to Connecticut Yankee Atomic Power Company for operation of the Haddam Neck Plant, located in Middlesex County, Connecticut. The amendment is effective as of the date of issuance.

This amendment revises the allowable in-core axial offset vs. Power by applying a reduction 1.2 Kw/ft to Maximum Allowable Peak Linear Heat Generation Rate (MAPLHGR) to account for a higher upperhead fluid temperature (UHFT) than was assumed in the ECCS analysis. The imposition of this interim penalty of 1.2 Kw/ft to MAPLHGR conservatively accounts for the incorrect input asumption for UHGT in the Westinghous Electric Corporation IAC ECCS evaluation model.

The application for the amendment complies with the standards and requirement of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Comission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 29, 1976, (2) Amendment No. 12 to License No. DPR–61, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Russell Library, 119 Broad Street, Middletown, Connecticut 06457. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 23d day of February 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1 Division of Operating Reactors.

[FR Doc.77-7208 Filed 3-11-77;8:45 am]

[Docket No. 50-213]

CONNECTICUT YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. DPR–61, issued to Connecticut Yankee Atomic Power Company (the licensee), which revised Technical Specifications for operation of the Haddam Neck Plant (the facility), located in Middlesex County, Connecticut. The amendment is effective as of its date of issuance.

The amendment revises Technical Specification 4.9, Main Steam Isolation Valve, periodic testing frequency to be consistent with 10 CFR 50.55a(g) requirements and to be consistent with the Standard Technical Specifications for Westinghouse Pressurized Water Reactors dated May 15, 1976.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and enviromental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 14, 1977, (2) Amendment No. 13 to License No. DPR–61, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and the Russell Library, 119 Broad Street, Middletown, Connecticut 06457. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 25th day of February 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-7204 Filed 3-11-77;8:45 am]

[Dockets Nos. 50-269, 50-270, and 50-287]

DUKE POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 38, 38 and 35 to Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, issued to Duke Power Company which revised the Technical Specifications for operation of the Oconee Nuclear Station Units Nos. 1, 2, and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments revise the common Oconee Station Technical Specifications to incorporate changes to the Oconee Unit 1 pressurization, heatup and cooldown limitations.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Cr. I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated October 1, 1975, (2) Amendments Nos. 38, 38 and 35 to Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina 29691. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

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Dated at Bethesda, Md., this 23d day of February 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-7205 Filed 3-11-77;8:45 am]

[Docket No. 50-321]

GEORGIA POWER CO., OGLETHORPE ELECTRIC MEMBERSHIP CORP., AND MUNICIPAL ELECTRIC ASSOCIATION OF GEORGIA, CITY OF DALTON, GEORGIA

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-57, issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia (the licensees), for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Georgia.

The amendment would revise the provisions of the Technical Specifications to authorize cycle 2 operation (a) with up to 92 GE 8 x 8 reload fuel assemblies and (b) with holes drilled in the lower tie plate of up to 468 first cycle 7 x 7 fuel assemblies, in accordance with the licensees' applications for amendment, dated February 8, 1977, as supplemented by letter dated February 22, 1977.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By April 13, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.71 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, the attorney for the licensees.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the applications for amendment dated February 8, 1977, as supplemented by letter dated February 22, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Appling County Library, Parker Street, Baxley, Georgia 31513.

Dated at Bethesda, Md., this 4th day of March, 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-7202 Filed 3-11-77;8:45 am]

[Docket No. 50-289]

METROPOLITAN EDISON CO., JERSEY CENTRAL POWER AND LIGHT CO. AND PENNSYLVANIA ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

This amendment changes the provisions of the Technical Specifications relating to the method for checking radiation monitors and the interval between calibrations for certain radiation monitors.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 12, 1975, (2) Amendment No. 24 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3d day of March 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-7201 Filed 3-11-77;8:45 am]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has issued amendment No. 35 to Operating License No. DPR-46, issued to the Nebraska Public Power District (the licensee), which revised Technical Specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebraska. The amendment becomes effective 30 days after its date of issuance.

This amendment incorporated spent fuel cask handling Technical Specifications and approved the overhead crane handling system for Cooper Nuclear Station.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 6, 1976, and related filings by the licensee dated March 23, 1973 and May 3, 1974, (2) Amendment No. 35 to License No. DPR-46, and (3) the Commission's concurrently issued Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305. A single copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 28th day of February, 1977.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-7206 Filed 3-11-77;8:45 am]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO., CITY OF EUGENE, OREGON AND PACIFIC POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. NPF-1 issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company which revised Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon. The amendment is effective as of its date of issuance.

This amendment revises the off-site corporate organization for facility management and technical support, and makes several editorial changes to the administrative sections of the Technical Specifications to reflect the revised organization.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 17, 1976, (2) Amendment No. 12 to License No. NPF-1 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon, 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 25th day of February 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-7207 Filed 3-11-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 10.7, "Guide for the Preparation of Applications for Licenses for Laboratory Use of Small Quantities of Byproduct Material," describes the type of information needed by the NRC staff to evaluate an application for a specific license for laboratories using millicurie quantities of byproduct material (reactor-produced radionuclides).

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 10.7 will however, be particularly useful in evaluating the need for an early revision if received by May 9, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 2d day of March 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-7211 Filed 3-11-77;8:45 am]

[Dockets Nos. 50-259, 50-260]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR-33 and Amendment No. 25 to Facility Operating License No. DPR-52 issued to Tennessee Valley Authority (the licensee), which Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1 and 2, (the facility) located in Limestone County, Alabama. The Amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to add containment isolation valves associated with the drywell to torus differential pressure control system to the valve listing (Table 3.7.D) for the limiting condition for operation and surveillance requirements of primary containment. A clarification in the wording of the temperature surveillance requirement for the torus water has also been made. In addition, the allowable operating time with two inoperable Automatic Depressurization System (ADS) valves has been reduced from

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thirty days to seven days to reflect the fact that the ECCS Appendix K analysis was performed with five of the six ADS valves operable rather than four as stated previously.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated September 1, October 1and October 12, 1976, (2) Amendment No. 28 to License No. DPR–33 and Amendment No. 25 to License No. DPR–52, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 15th day of February 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1 Division of Operating Reactors.

[FR Doc.77-7208 Filed 3-11-77;8:45 am]

[Dockets Nos. 50-259, 50-260, 50-296]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 29, 26 and 4 to Facility Operating Licenses Nos. DPR–33, DPR–52 and DPR–68, respectively, issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3 (the facility) located in Limestone County, Alabama. The amendments are effective February 7, 1977.

These amendments change the Technical Specifications to decrease the main steam line isolation pressure setpoint.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated January 26, 1977 as supplemented February 7, 1977, (2) Amendments Nos. 29, 26 and 4 to Licenses Nos. DPR–33, DPR–52 and DPR–68, respectively and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 24th day of February 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-7209 Filed 3-11-77;8:45 am]

[PRM 40-21]

URANIUM MILLING

Proposed Scope and Outline for Generic Environmental Impact Statement

BACKGROUND

On June 3, 1976, the Nuclear Regulatory Commission (NRC) published in the FEDERAL REGISTER (41 FR 22430) a notice of intent to prepare a generic environmental impact statement on uranium milling (GEIS). As stated in that notice, the "purpose of the GEIS will be to assess the environmental impact of uranium milling operations including the management of uranium mill tailings, and to provide an opportunity for public participation in decisions concerning any proposed changes in NRC regulations or regulatory authority based on this assessment." The purpose of this notice is to present a proposed scope and outline for the statement.

SCOPE

The GEIS will address conventional uranium milling operations in both Agreement and Non-Agreement States covering a time period to the year 2000. The statement will emphasize the waste management of mill tailings, since the Commission believes that these tailings represent the major environmental issue associated with uranium milling operations. Conventional uranium milling as used here refers to the milling of ores mined primarily for the recovery of uranium and involving processes of crushing, grinding and leaching of the ore followed by chemical separation and concentration of uranium. Heap leaching of low-grade uranium ores is also included within the concept of conventional milling as used here.

Information on future uranium requirements by the nuclear power industry indicates a major growth in the uranium milling industry during the next 10–20 years. Likewise, information on the availability and location of uranium resources to be utilized during that period indicates that most of this uranium will be produced by conventional uranium milling in the Western States. Therefore, in order to adequately assess the environmental impacts resulting from this growth in the uranium milling industry, the GEIS will cover the period up to the year 2000. The location of uranium resources and the technology which will be used to recover uranium during time periods significantly beyond the year 2000 are highly speculative and therefore these uncertainties preclude extending the period covered by the statement beyond the time period indicated.

Non-conventional recovery processes produce only relatively small quantities of uranium at the present time. Methods used include in situ leaching, and uranium recovery from mine water and wet process phosphoric acid. During 1976, it was estimated that these processes accounted for only about four (4) percent of the uranium produced in the United States. Although future production of uranium by these non-conventional processes is expected to increase significantly, these processes, at the present time, are still in the development stage. Therefore a detailed analysis of their environmental impacts, equivalent to that for the impacts of conventional milling, is not presently feasible. However, the statement will address the amount of uranium and the environmental impact expected to be produced by these processes to the extent necessary to determine their potential as alternatives to conventional uranium milling.

The Nuclear Regulatory Commission staff is presently in the process of initiating studies which will assess the environmental impacts associated with these non-conventional uranium recovery processes with the major emphasis on in situ leaching. The U.S. Bureau of Mines is also conducting an environmental assessment of in situ leaching.[1] The Commission will evaluate the results of these studies when they become available and determine the need for a generic environmental impact statement on these recovery processes at that time.

CONTENTS

An outline of the proposed contents of the draft statement is presented as an Appendix to this notice. The subject matter to be emphasized in the statement is summarized below:

(1) The Need for Uranium Milling including: (a) Amounts of uranium required; (b) Current methods of production; and (c) Assessment of alternative methods of production.

(2) Tailings at Inactive Uranium Mill Sites including: (a) History of the uranium mill tailings problem; (b) Present status of remedial action programs; and (c) Relationship of GEIS to remedial actions at inactive mill sites.

(3) Environmental Impacts of Uranium Milling including: (a) Construction, operation, decommissioning and long-term tailings management; and (b) Local, regional and national impacts.

(4) Alternatives and Costs for Mitigating Environmental Impacts including: (a) Siting alternatives; (b) Process alternatives; (c) Alternatives for control of effluent releases; and (d) Alternatives for short and long-term management of tailings.

(5) Procedures for Obtaining Financial Commitments From Mill Operators to Cover the Cost of Tailings Waste Management including: (a) Land reclamation; and (b) Long-term care and surveillance.

(6) Monitoring and Surveillance Programs as Appropriate for the Various Management Alternatives with Emphasis on the Long-Term Requirements for Mill Tailings.

(7) Regulatory Programs for Uranium Mills and Mill Tailings including: (a) NRC and Agreement State programs; and (b) Need for additional regulations.

Public comment on the scope and outline of the GEIS as proposed above is invited. Comments should be sent to the Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 by April 13, 1977.

Dated at Washington, D.C., this 7th day of March 1977.

For the U.S. Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[1] The Twin Cities Mining Research Center, U.S. Bureau of Mines, Minneapolis, Minnesota is currently engaged in a development program for in situ leaching of uranium ore deposits and this program includes an environmental assessment of this process.

APPENDIX

PROPOSED CONTENTS

Generic Environmental Impact Statement on Uranium Milling

Summary and Recommendations

1.0 Introduction
- 1.1 Purpose of Statement.
- 1.2 Scope of Statement.
- 1.3 Relationship of Generic Statement to Specific Environmental Impact Statements.

2.0 History of Uranium Milling
- 2.1 Past Production and Methods.
- 2.2 Problems of Mill Tailings at Inactive Mill Sites.
- 2.3 Summary of ERDA-EPA Studies at Inactive Mill Sites.
- 2.4 Present Status of Remedial Action Programs at Inactive Mill Sites.
- 2.5 Relationship of Generic Statement to Remedial Action Programs at Inactive Mill Sites.

3.0 Production of Uranium
- 3.1 Need for Uranium.
- 3.2 Current Conventional Uranium Industry.
- 3.3 Projected Future Conventional Uranium Milling Industry.
- 3.4 Other Methods of Uranium Production.
- 3.5 Assessment of Alternatives to Conventional Uranium Milling.

4.0 The Regional Environment [1]
- 4.1 Typical Mill Sites.
- 4.2 Climate.
- 4.3 Topography.
- 4.4 Land Resources and Use.
- 4.5 Water Resources and Use.
- 4.6 Geology and Seismicity.
- 4.7 Mineral Resources and Use.
- 4.8 Soils and Vegetation.
- 4.9 Wildlife.
- 4.10 Social Profile.
- 4.11 Archaeological, Historical, and Esthetic Resources.
- 4.12 Radiological Background.

5.0 Uranium Milling Operations
- 5.1 Typical Mills.
- 5.2 Description of Mining Operations.
- 5.3 Description of Milling Operations.
- 5.4 Acid Processes.
- 5.5 Alkaline Processes.
- 5.6 Mill Wastes and Effluents.
- 5.7 Mill Tailings Management.
- 5.8 Decommissioning.

6.0 Environmental Impacts of Uranium Milling
- 6.1 On Air Quality.
- 6.2 On Topography and Land Use.
- 6.3 On Hydrology and Water Use.
- 6.4 On Mineral Resources.
- 6.5 On Soils and Vegetation.
- 6.6 On Wildlife.
- 6.7 On the Community (Sociological and Economic).
- 6.8 Radiological.
- 6.9 Cumulative Impacts (Local, Regional, National).

[1] A number of sites will be characterized to represent the different regional environments which will be involved in uranium milling. In subsequent chapters, the subject matter where applicable will also be subdivided to address differences in site or mill characteristics.

7.0 Environmental Impacts of Accidents
- 7.1 Not Involving Radioactivity
- 7.2 Involving Radioactivity.

8.0 Monitoring Programs and Other Mitigative Measures
- 8.1 On Air Quality.
- 8.2 On Topography and Land Use.
- 8.3 On Hydrology and Water Use.
- 8.4 On Mineral Resources.
- 8.5 On Soils and Vegetation.
- 8.6 On Wildlife.
- 8.7 On the Community.
- 8.8 Radiological.
- 8.9 Cumulative Impacts.

9.0 Alternatives for Mitigating Impacts of Milling Operations
- 9.1 Siting Options.
- 9.2 Process Options.
- 9.3 Control System Options.
- 9.4 Mill Tailings Waste Management Options.
- 9.5 Decommissioning Options.

10.0 Environmental Impacts of Alternatives
- 10.1 Siting Options.
- 10.2 Process Options.
- 10.3 Control System Options.
- 10.4 Mill Tailings Waste Management Options.
- 10.5 Decommissioning Options.

11.0 Benefit-Cost Analysis of Alternatives
- 11.1 Siting Options.
- 11.2 Process Options.
- 11.3 Control System Options.
- 11.4 Mill Tailings Waste Management Options.
- 11.5 Decommissioning Options.

12.0 Legal and Financial Aspects of Mill Tailings Waste Management
- 12.1 Current Practices.
- 12.2 Alternative Practices.

13.0 Regulatory Programs for Uranium Mills and Mill Tailings
- 13.1 Current NRC Programs.
- 13.2 Agreement State Programs.
- 13.3 Interrelationship Between NRC and Agreement State Programs.
- 13.4 Interrelationship Between NRC and other Federal Agencies.

14.0 Conclusions
- 14.1 Unavoidable Adverse Environmental Effects.
- 14.2 Relationship Between Short-Term Usage and Long-Term Productivity.
- 14.3 Irreversible and Irretrievable Commitments of Resources.
- 14.4 Benefit-Cost Summary.
- 14.5 Recommendations for Regulatory Actions.

[FR Doc.77-7288 Filed 3-11-77;8:45 am]

[Docket No. 50-305]

WISCONSIN PUBLIC SERVICE CORP., WISCONSIN POWER AND LIGHT CO. AND MADISON GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to facility Operating License No. DPR–43, issued to Wisconsin Public Service Corporation, Wisconsin Power & Light Company, and Madison Gas & Electric Company (the licensees), which revised Technical Specifications for operation of the Kewaunee Nuclear Power Plant, located in Kewaunee, Wisconsin. The amendment is effective as of its date of issuance.

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The operation of shock suppressors is required to protect the reactor coolant system and all other safety related systems and components and was assumed in the Staff Safety Evaluation Report. Operating history of other plants have indicated that shock suppressors were not always operable. Accordingly, this amendment requires the operability and surveillance of safety related shock suppressors.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 19, 1976, (2) Amendment No. 14 to License No. DPR-43, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wisconsin 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 1st day of March 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-7210 Filed 3-10-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/38]

ADVISORY PANEL ON MUSIC

Meeting

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Music has scheduled a two day meeting to be held on Tuesday, April 12 and Wednesday, April 13, 1977, in Room 507 at the Department of State, Annex 2, 515 22nd Street NW., Washington, D.C. The meeting hours will be from 9:45 a.m. to 12:30 p.m. and from 2:00 p.m. to 5:00 p.m. on both days.

The sessions will be open to the public. The agenda is:

(1) Review of program policies and guidelines;

(2) Review of recent overseas tours in the music field sponsored by the Department of State;

(3) Evaluation of tapes and records of performing arts groups which are planning tours abroad, and other music groups which wish to be considered as candidates for grants, sponsorship or other assistance in connection with overseas tours.

Members of the public in attendance who wish to comment on the agenda items may do so, subject to restrictions of time and direction of the Chair.

For the purpose of fulfilling building security requirements, it is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before April 11; the telephone number is (area code 202) 632-2846.

The meeting room has a seating capacity of 30, so the public will be admitted on a first-come, first-served basis.

Dated: March 7, 1977.

PAUL E. WHEELER,
Director, Office of International Arts Affairs.

[FR Doc.77-7441 Filed 3-11-77;8:45 am]

[Public Notice CM-7/39]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 2:00 p.m. on Thursday, April 21, 1977, in Room 7426, of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of this meeting is to prepare position documents for the 18th Session of the Subcommittee on Radiocommunications of the Intergovernmental, Maritime Consultative Organization (IMCO), to be held in London September 12-16, 1977. In particular, the working group will discuss the following topics:

Promulgation of navigational warnings to shipping;

Operational standards for shipboard radio equipment;

Operational requirements for emergency position-indicating radio beacons and portable radio apparatus for survival craft;

Matters resulting from the World Maritime Administrative Radio Conference, 1974, and the work of the International Radio Consultative Committee.

Requests for further information on the meeting should be directed to LT F. N. Wilder, United States Coast Guard. He may be reached by telephone on (area code 202) 426-1345.

The Chairman will entertain comments from the public as time permits.

Dated: March 4, 1977.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

[FR Doc.77-7442 Filed 3-11-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on March 3, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Census (part of 1980 Decennial Census of Population and Housing), special census prelist address register—1977 census of Oakland, California, DH-140A, single-time, housing units in places where mailing list is not available, Maria Gonzalez, 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics, survey of teachers' language skills, NCES-2397, single time, approx. 4 teachers in no more than 3,000 schools, Kathy Wallman, 395-6140.

Office of Education, Questionnaire Interview for Physical Education Directors, OE-548, single time, LEA physical education directors, Kathy Wallman, 395-6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary), Citizen Participation Survey Questionnaire, single time, grant recipients and involved citizens, Sunderhauf, M. B., 395-6140.

DEPARTMENT OF TRANSPORTATION

Departmental and other, Minority Business Enterprise Information Sheet, on occasion, officers of minority owned businesses—major urban cities, Strasser, A., 395-5867.

REVISIONS

VETERANS ADMINISTRATION

Request for information concerning medical, legal or other expenses, 21-8416, on occasion, veterans, Caywood, D. P., 395-3443.

DEPARTMENT OF DEFENSE

Department of the Army (excluding Defense Civil Preparedness Agency), Army Advertising Awareness and Attitude Survey, fiscal year 1977, television evaluation, target group, single time, nonprior service males age 17-21, Richard Eisinger, 395-6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Consumer Affairs Regulatory Functions, certification page for settlement statement, HUD-1, on occasion, closing agents hired by HUD, Housing, Veterans and Labor Division, 395-3532.

EXTENSIONS

DEPARTMENT OF DEFENSE

Department of the Air Force, report on receipt, availability and shipment of overhaul repair and inspection/repair items, other (see SF-83), contractors repairing scars items, Warren Topelius, 395-5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-7565 Filed 3-11-77;8:45 am]

PRIVACY ACT OF 1974

Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period February 21, through March 5, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

SMALL BUSINESS ADMINISTRATION

System names:

(1) Federal Personnel Career Administration; (2) Executive Inventory Record; (3) Executive Development Records; (4) Documentation of Supervisory Training.

Report date:

February 24, 1977.

Point of contact:

Mr. Nicholas Kalcounos, FOIA and Privacy Act Officer, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

UNITED STATES POSTAL SERVICE

System names:

(1) EEO Administrative Litigation Case Files; (2) Arbitration Case Files; (3) Adverse Action Appeals; (4) Garnishment Case Files; (5) Monetary Claims Involving Present or Former Employees; (6) Civil Action Case Files.

Report date:

February 25, 1977.

Point of contact:

Mr. John E. Finlay, General Manager, Information Control Division, U.S. Postal Service, Washington, D.C. 20260.

SECURITIES AND EXCHANGE COMMISSION

System name:

Investigative files.

Report date:

March 3, 1977.

Point of contact:

Mrs. Kathryn B. McGrath, Assistant General Counsel, Securities and Exchange Commission, Washington, D.C. 20549.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-7419 Filed 3-11-77;8:45 am]

POSTAL RATE COMMISSION

[Docket No. MC76-5]

BASIC MAIL CLASSIFICATION REFORM SCHEDULE, 1976

Redesignation of Presiding Officer

MARCH 7, 1977.

Notice is hereby given that Chairman Clyde S. DuPont is designated as Presiding Officer in Docket No. MC76-5. Such designation will become effective March 8, 1977.

The Commission will continue to sit en banc in this proceeding.

By the Chairman.[1]

DAVID F. HARRIS,
Secretary.

[FR Doc.77-7424 Filed 3-11-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19917; 70-5634]

ALABAMA POWER CO.

Post-Effective Amendment Regarding Proposed Transactions Related to Financing of Pollution Control Facilities

Notice is hereby given that Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary company of The Southern Company, a registered holding company, has filed with this Commission a post-effective amendment to the application in this proceeding pursuant to sections 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to said application, which is summarized below, for a complete statement of the proposed transactions.

Pursuant to prior authorization in this proceeding (HCAR No. 18908 (April 3, 1975) and HCAR No. 18918 (April 7, 1975)), Alabama entered into an Installment Sale Agreement dated as of April 1, 1975 ("Agreement") with the Industrial Development Board of the Town of Parrish ("Board") to finance certain pollution control facilities at Alabama's Gorgas Steam Plant (such facilities at such point referred to hereafter as the "Project"). The pollution control facilities are necessary to comply with prescribed environmental standards of the State of Alabama. The post-effective amendment relates to certain transactions of Alabama related to additional financing of such facilities.

In accordance with the Agreement, the Board purchased from Alabama the then existing portions of the Project and undertook to complete its construction and to sell the completed Project to Alabama for a purchase price payable in semi-annual installments over a term of years. To secure its obligations under the Agreement, Alabama granted to the Board a security interest in the Project subordinate to the lien of the Indenture dated as of January 1, 1942, between Alabama and Chemical Bank, as Trustee, as supplemented and amended. The Board issued its pollution control revenue bonds ("Original Bonds") pursuant to a Trust Indenture dated as of April 1, 1975 ("Indenture") in the aggregate principal amount of $28,850,000. The Board assigned all its right, title, and interest in the Agreement, including such subordinate security interest, to the Revenue Bond Trustee as security for the pollution control revenue bonds, including the Original Bonds, to be issued under the Indenture. The proceeds of the sale of the Original Bonds were deposited by the Board with the trustee under the Indenture ("Revenue Bond Trustee"). Such proceeds have been applied to payment of the Cost of Construction (as defined in the Agreement) of the Project.

The total Cost of Construction of the Project will exceed the proceeds of the Original Bonds. Consequently, Alabama proposes to request that the Board issue up to $14,400,000 in additional revenue bonds ("Additional Bonds"). Upon issuance of the Additional Bonds, Alabama's obligation under the Agreement to make semi-annual purchase price payments will, as provided in the Agreement be increased to require additional payments sufficient (together with other moneys held by the Revenue Bond Trustee under the Indenture for that purpose) to pay the principal of and interest on the Additional Bonds as they become due and payable. The Board and the Revenue Bond Trustee will enter into a supplement ("Supplement") to the Indenture providing for the Additional Bonds. The Supplement will provide for redemption provisions for the Additional Bonds comparable to those provided for the Original Bonds. As in the Original Bonds, it is intended that the Additional Bonds will mature not more than 30 years from the first day of the month in which they are initially issued and will be entitled to the benefit of serial maturities and/or a mandatory redemption sinking fund calculated to retire not less than 25 percent of the aggregate principal amount of the Additional Bonds prior to maturity. Alabama and the Board will execute and deliver to the Revenue Bond Trustee, as required by the Indenture, a supplement to the Agreement providing for the payment of all expenses and costs incurred or to be incurred by virtue of the issuance of the Additional Bonds.

It is contemplated that arrangements will be made by the Board with one or more investment bankers providing for the placement or underwriting of the

[1] See 39 U.S.C. 3604(a)(3).

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Additional Bonds. Alabama will not be party to such arrangements. In accordance with the laws of the State of Alabama, the interest rate to be borne by the Additional Bonds will be fixed by the Board. A request for a ruling that interest on the Additional Bonds presently is exempt from Federal income taxation has been filed with the Internal Revenue Service. Alabama has been advised that the annual interest rates on obligations, the interest on which is tax exempt, historically have been and can be expected at the time of issue of the Additional Bonds to be 1½ percent to 2½ percent lower than the rates of obligations of like tenor and comparable quality, interest on which is full subject to Federal income taxation.

The fees and expenses to be paid or incurred, directly or indirectly, in connection with the transactions proposed in the post-effective amendment (as distinguished from and excluding fees and expenses incurred or to be incurred in connection with the sale of the Additional Bonds by the Board payable out of the proceeds of such sale and in connection with the determination of the tax exempt status of the Additional Bonds) will be filed by amendment. It is stated that the incurring of the obligations under the Agreement by Alabama has been authorized by the Alabama Public Service Commission. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 31, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address; and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-7429 Filed 3-11-77;8:45 am]

[Release No. 34-13334; File No. SR-Amex-77-2]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 24, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

THE EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. (Amex) proposes to revise the fee schedule applicable to Amex bid/ask information distributed to news services and, through vendors, to subscribe of interrogation devices through the Amex's low speed service. (New material is italicized. Material deleted is bracketed.)

Bid/ask information monthly charge

	Previous rate	New rate
(i) New services	[0]	0
(ii) Vendors	[$7.00]	$5.85
(iii) Subscribers of bid/ask interrogation device service. Per unit in an office	[7.00]	5.85

AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The Exchange states that the purpose of the rate adjustment is to help defray a portion of the cost of operating the bid/ask service which has been made available to news services and, through vendors, to subscribers of interrogation devices.

The Amex relies on section 6(b)(4) of the Act as the statutory basis for the proposed revision of its fee schedule for bid/ask information. That section requires that an exchange, through its rules, provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities. In this connection, the Amex notes that the fee changes set forth herein will apply equally to all vendors, members, non-members and others who subscribe to Amex bid/ask low speed information service.

The Amex has not formally solicited comments regarding this proposed change, nor has the Amex received unsolicited written comments from members or other interested parties.

The Amex concludes that the revised fee schedule will not impose any burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principale office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 4, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 4, 1977.

[FR Doc.77-7438 Filed 3-11-77;8:45 am]

[Release No. 34-13326; File No. 4-88]

AMERICAN STOCK EXCHANGE, INC., AND NEW YORK STOCK EXCHANGE, INC.

Filing of Plan for Program for Allocation of Regulatory Responsibilities

The American Stock Exchange, Inc. (the "AMEX") and the New York Stock Exchange, Inc. (the "NYSE") filed with the Commission a plan for allocation of regulatory responsibilities pursuant to Rule 17d-2 (17 CFR 240.17d-2) ("§ 240.17d-2") on January 10, 1977.

The proposed plan provides that the NYSE will be responsible for processing and acting on certain applications submitted by dual members. The AMEX will, however, continue to be responsible, subject to further allocation pursuant to § 240.17d-2, for applications for AMEX floor members or options principal members, AMEX associate memberships, registered options principals, and notification of registered representatives certified as qualified to handle accounts involving options transactions.

In addition, under the proposed plan, the NYSE will be responsible for reviewing advertisements, market letters, research reports, sales literature, radio, television and writing and speaking activities of dual members except in relation to AMEX listed options. The NYSE will also be responsible for taking appropriate action on all inquiries and complaints involving dual members.

The NYSE will be responsible for conducting examinations for compliance with financial, operational and sales supervision by dual members, except in the area of options sales practices as well as all special examinations except that both AMEX and NYSE reserve the right to participate in any special examination. It will be responsible for review of and subsequent action on or in respect of dual members' Financial and Operational Combined Uniform Single (FOCUS) Report and any generally applicable financial reporting requirements. It will also be responsible for review, approval and retention of all partnership agreements, corporate certificates, by-laws, subordinated loan agreements and related agreements and amendments including clearing agreements.

Further, the NYSE will be responsible for disciplinary investigations and proceedings involving dual members except insofar that AMEX may assume jurisdiction in investigations relating to a transaction on AMEX affecting an AMEX-listed security or any other activity having a unique reference to AMEX.

In order to assist the Commission in determining whether to approve this plan and relieve the party not designated to the specified responsibilities, interested persons are invited to submit written data, views and arguments concerning the submission on or before April 13, 1977. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 4-188.

Copies of the submission and of all written comments will be available for inspection of the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 3, 1977.

[FR Doc.77-7440 Filed 3-11-77;8:45 am]

[Release No. 9005; 812-4089]

JOHN HANCOCK INVESTORS, INC., AND JOHN HANCOCK MUTUAL LIFE INSURANCE CO.

Filing of Application for Order

Notice is hereby given that John Hancock Investors, Inc. ("Investors"), a closed-end diversified management investment company registered under the Investment Company Act of 1940 ("Act") and John Hancock Mutual Life Insurance Company (the "Life Company"), John Hancock Place, P.O. Box 111, Boston, Massachusetts 02117, a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts (collectively "Applicants"), filed an application on February 10, 1977, pursuant to section 17(d) of the Act and Rule 17d-1 thereunder, for an order of the Commission permitting (1) the Life Company to purchase in a private placement $10,000,000 principal amount (out of a total offering of $45,000,000) of a new issue of 8¾ percent Promissory Notes due February 1, 1981-1995 (the "New Notes") of Harnischfeger Corporation ("Harnischfeger"), and (2) Investors, as one of the holders of Harnischfeger 9 percent Promissory Notes due December 1, 1991 (the "9 percent Notes"; together with the 9⅞ percent Notes referred to below and certain other institutional indebtedness of Harnischfeger, the "Old Notes"), to execute an instrument (the "Waiver"), (a) consenting to the issuance of the New Notes, and (b) approving the amendment of certain of the financial covenants contained in the Old Notes as more fully described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Life Company presently holds $7,000,000 principal amount (out of a total principal amount presently outstanding of $50,000,000) of 9⅞ percent Promissory Notes due March 1, 1992, of Harnischfeger, purchased in a private placement transaction on April 16, 1976. Investors presently holds $2,500,000 principal amount (out of a total principal amount presently outstanding of $25,000,000) of 9 percent Promissory Notes due December 1, 1991, of Harnischfeger, purchased in a private placement transaction on December 1, 1971. The $7,000,000 principal amount of Old Notes held by the Life Company and the $2,500,000 principal amount of Old Notes held by Investors are the only investments in Harnischfeger held by Investors, the Life Company or any affiliated person thereof.

Under the terms of the Old Notes, Harnischfeger is prohibited from incurring additional indebtedness such as that which would result from the issuance of the New Notes. Harnischfeger has, therefore, asked Investors and the other holders of the Old Notes to execute a Waiver permitting the issuance and sale of the New Notes. The officers of Investors believe that the issuance and sale of the New Notes will strengthen the financial position, and thus the credit worthiness of Harnischfeger by enabling it to convert needed capital presently represented by bank loans into long-term indebtedness, and to increase its capital plant, thereby enhancing its earnings capacity.

The Old Notes also contain a provision requiring that Harnischfeger maintain consolidated current assets at not less than 200 percent of consolidated current indebtedness. The New Notes contain an analogous requirement, but the percentage requirement is only put at 175 percent. Since Harnischfeger could not obtain the benefit of the lower asset coverage requirement in the New Notes so long as it was still subject to a more stringent requirement in the Old Notes, the Waiver also includes a provision pursuant to which the holders of the Old Notes will waive the old asset coverage requirement to the extent necessary to allow Harnischfeger to only be required to maintain consolidated current assets at not less than 175 percent of consolidated current indebtedness. The officers of Investors have determined that Investors, as a holder of the Old Notes, will still be afforded sufficient protection if the percentage requirement is reduced from 200 percent to 175 percent.

The Old Notes contain another provision requiring that certain excess proceeds from the disposition of certain assets be applied pro rata to the prepayment of the Old Notes. The New Notes contain an analogous provision which includes the New Notes within the class of indebtedness that is to be prepaid from such excess proceeds. The Waiver, therefore, contains a specific provision whereby the holders of the Old Notes will consent to the application of any such excess proceeds to the prepayment of both the Old Notes and New Notes. The officers of Investors believe that extension of the benefits of the excess-proceeds prepayment provision to the holders of the New Notes is an appropriate accommodation to new institutional lenders of Harnischfeger that should be approved by Investors in the general interest of aiding Harnischfeger's ability to deal with and obtain additional funds from institutional lenders.

Execution of the Waiver by holders of 66⅔ percent in principal amount of each issue of the Old Notes outstanding is required for consent to the issuance of the New Notes, and to require Harnischfeger to maintain consolidated current assets at not less than 175 percent, rather than 200 percent, of consolidated current indebtedness. Other holders of Old Notes (including the Life Company) holding in excess of 66⅔ percent in principal amount of each issue of the Old Notes outstanding have already executed the Waiver. Therefore, irrespective of whether Investors actually waives such requirements, the Waiver of such requirements is binding upon all holders of Old Notes, including Investors. However, any waiver or amendment under the Old Notes that affects the prepayment thereof requires 100 percent approval to be effective. Therefore, the provisions of the Waiver dealing with the application of certain excess proceeds to prepayments of indebtedness cannot be effective with respect to the issue of Old Notes held by Investors until Investors executes the Waiver. It

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should be noted that counsel for Applicants has advised the Commission staff that extension of the excess-proceeds prepayment provision to holders of the New Notes is not a condition precedent to the issuance and sale of the New Notes.

Rule 17d–1, adopted by the Commission pursuant to section 17(d) of the Act, provides, in pertinent part, that no affiliated person of any registered investment company and no affiliated person of such a person acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Comission and has been granted by an order. A joint enterprise or other joint arrangement as used in this Rule is any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of such registered investment company, or any affiliated person of such a person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commisssion will consider whether the participation of such registered company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Under section 2(a)(3) of the Act, an investment adviser to an investment company is an affiliated person of such investment company, and anyone owning more than 5 percent of the adviser's outstanding voting securities is an affiliated person of the adviser. Accordingly, since John Hancock Advisers, Inc. ("Advisers") is the investment adviser to Investors, and a wholly-owned subsidiary of the Life Company, the Life Company is an affiliated person of an affiliated person of Investors, and its proposed purchase of Harnischfeger New Notes could constitute a joint transaction with Investors due to either the continuing ownership by Investors of the Old Notes or the execution of the Waiver.

Applicants submit that the proposed investment by the Life Company in the New Notes would not be disadvantageous to Investors because Investors has independently determined not to participate in this investment pursuant to criteria unrelated to the Life Company's proposed participation. The Life Company further submits that to make available to it the investment opportunity presented by the New Notes is consistent with the provisions, policies and purposes of the Act, and not disadvantageous to Investors.

For the reasons outlined above, the officers of Investors have determined that approving the Waiver is in the best interests of Investors. Furthermore, the Waiver has been approved by the Board of Directors of Investors, including a majority of those directors who are not "interested persons" (as defined in the Act) of Investors or Advisers.

Accordingly, Applicants request an order from the Commission pursuant to section 17(d) of the Act and Rule 17d–1 thereunder permitting the Life Company to purchase the New Notes, and Investors to execute the requested Waiver.

Notice is further given that any interested person may, not later than March 28, 1977, at 12:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address set forth above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-7430 Filed 3-11-77;8:45 am]

[Release No. 9069; 812-4080]

MASSACHUSETTS MUTUAL LIFE INSURANCE CO. AND MASS MUTUAL INCOME INVESTORS, INC.

Filing of Application for Order

Notice is hereby given that Massachusetts Mutual Life Insurance Company ("Insurance Company"), a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts, and Mass Mutual Income Investors, Inc. ("Fund"), 1295 State Street, Springfield, Massachusetts 01111, registered under the Investment Company Act of 1940 (the "Act") as diversified, closed-end, management investment company (collectively, "Applicants"), filed an application on January 24, 1977, and an amendment thereto on February 24, 1977, for an order (1) pursuant to section 17(d) of the Act and Rule 17d–1 thereunder permitting the Insurance Company to purchase $3,000,000 principal amount of a new issue of 10.25 percent Senior Notes due 1988 of Victoria Station, Inc. ("Victoria"), at 100 percent of the principal amount thereof, and (2) pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act the sale by the Insurance Company to the Fund of $1,500,000 principal amount of such notes immediately thereafter, at 100 percent of the principal amount thereof.

Applicants state that the Insurance Company, which serves as investment adviser to the Fund, also is investment adviser to MassMutual Corporate Investors, Inc. ("Corporate Investors"), registered under the Act as a non-diversified, closed-end, management investment company, and that, in accordance with an order of the Commission pursuant to section 17(d) of the Act and Rule 17d–1 thereunder (Investment Company Act of 1940 Release No. 6690, August 19, 1971) ("Original Corporate Investors Order"), the Insurance Company is permitted to invest concurrently for its general account in each issue of securities purchased by Corporate Investors in private placement. Two of the conditions of the Original Corporate Investors Order are that (i) purchases in private placements which would be consistent with the investment policies of Corporate Investors be shared equally by the Insurance Company and Corporate Investors, and (ii) once the Insurance Company and Corporate Investors have acquired interests in an issuer, neither may acquire any further interest in such issuer other than interests identical in all respects, unless permitted by further order of the Commission.

Applicants provide the following information with respect to previous investments in Victoria. In May, 1972, the Insurance Company and Corporate Investors, pursuant to the terms of the Original Corporate Investors Order, each purchased $750,000 of Victoria's 9¾ percent Notes and 22,250 shares of Victoria common stock; however, in August, 1972, those notes were repaid from the proceeds of Victoria's first public offering of common stock. In March, 1974, the Insurance Company and Corporate Investors each purchased $1,000,000 principal amount of 9.25 percent Subordinated Notes due 1986 of Victoria ("Old Notes"), together with 24,000 shares each of Victoria common stock. In July, 1975, all Victoria common stock held by the Insurance Company and Corporate Investors was sold in an underwritten public offering. The Insurance Company, on December 21, 1976, purchased $4,000,000 principal amount of a new issue of 10.25 percent Notes due 1988 of Victoria ("New Notes"). Such purchase, which under the terms of the Original Corporate Investors Order required an order of the Commission because Corporate Investors did not also purchase such notes, was permitted by order of the Commission (Investment Company Act Release No. 9292, May 19, 1976).

Applicants state that at the time of such order the interest rate to be carried by the New Notes was expected to

be 9.95 percent, and that Victoria was seeking one or more investors to purchase additional principal amounts of New Notes. They also state that, after the issuance of such order, Victoria obtained two such investors who were to purchase $500,000 principal amount and $3,000,000 principal amount, respectively, and that Victoria agreed to increase the interest rate on the New Notes to 10.25 percent. According to the application, on July 26, 1976, upon the request of the Insurance Company, the Division of Investment Management advised it that the Division would not recommend that the Commission take action against the Insurance Company under the Act if the New Notes were purchased at the higher interest rate without a new application being filed. Applicants state that prior to the Insurance Company's purchase of the $4,000,000 of New Notes, one of the other investors decided not to purchase $3,000,000 principal amount of New Notes because it was informed of a general policy of Touche Ross & Co., Victoria's independent auditors, not to supply a certain annual certificate to institutional investors. The Insurance Company states its belief that this policy is consistent with the practices of a number of other major accounting firms.

The Insurance Company proposes to purchase this additional $3,000,000 principal amount of New Notes on March 31, 1977, and to sell, immediately thereafter, $1,500,000 principal amount of such New Notes to the Fund. According to the application, the Insurance Company will pay Victoria 100 percent of the face amount of the New Notes to be acquired and the Fund will pay the Insurance Company 100 percent of the face amount of the New Notes to be transferred. Applicants state that the proceeds from the sale of New Notes have been, and will be, used by Victoria to repay bank debt and to finance the construction of restaurant facilities.

As noted above, the Insurance Company is investment adviser to both the Fund and Corporate Investors. Section 2(a)(3) of the Act defines an "affiliated person" of an investment company to include the investment adviser thereof. Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which such registered investment company is a joint participant, without the permission of the Commission. Rule 17d–1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants request an order of the Commission pursuant to the requirements of the Original Corporate Investors Order, and section 17(d) of the Act and Rule 17d–1 thereunder, permitting the Insurance Company to acquire the $3,000,000 principal amount of New Notes. They state that under the Original Corporate Investors Order, absent further order of the Commission, the Insurance Company could not acquire these New Notes because the further interest in Victoria so acquired would not be in all respects identical to the interest of Corporate Investors in Victoria. According to the application, the investment policies of Corporate Investors confine its investments in long-term debt obligations to those that have equity features such as accompanying shares of common stock or rights to acquire, or to convert such obligations into, common stock, and that, lacking such equity features, the New Notes would not be an appropriate or permissible investment for Corporate Investors. Applicants represent that the board of directors of Corporate Investors, including a majority of those directors who are not interested persons of the Insurance Company, have concluded that the New Notes would not be an appropriate investment for Corporate Investors and that they have no objection to the acquisition of the New Notes by the Insurance Company and the Fund. Applicants state that (i) the absence of any equity feature accompanying the New Notes is attributable to Victoria's stronger present financial position as compared to its financial position at the time the Old Notes were purchased by the Insurance Company and Corporate Investors; (ii) during the negotiations with respect to the purchase of the Old Notes, the Insurance Company did not contemplate any investment in the New Notes, nor was the purchase of the Old Notes tied to, or induced by, any discussion with respect to the possible purchase of New Notes or any similar securities; and (iii) the interests of Corporate Investors will in no way be affected by the purchase of New Notes by Applicants, and Corporate Investors will not be disadvantaged by such purchase.

Although the Old Notes are subordinate to the New Notes, Applicants assert that the subordinated nature of the Old Notes was established when they were issued for the very purpose of making later senior debt financing easier to obtain. They further assert that the purchase of the New Notes will not be disadvantageous to Corporate Investors because (i) Victoria will receive significant value in consideration for the issuance of the New Notes; (ii) in view of Victoria's financial strength, events such as default under Senior Debt, insolvency, or bankruptcy are unlikely to occur; and (iii) if the Insurance Company does not purchase the New Notes, Victoria will not be restricted from selling such notes to other financial institutions, and the Old Notes held by Corporate Investors would continue to be subordinate to the New Notes sold to such other institutions.

Applicants also request an order of the Commission pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act the acquisition by the Fund from the Insurance Company of $1,500,000 in principal amount of the New Notes for a cash payment of $1,500,000. Section 17(a) provides, in part, that it is unlawful for any affiliated person of a registered investment company, acting as principal, knowingly to sell any security to such registered investment company. Section 17(b) of the Act generally provides that, upon application, the Commission shall exempt a proposed transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

Applicants state that the Fund's purchase of New Notes has been approved by the unanimous vote of the Executive Committee of the Board of Directors of the Fund, including a majority of all directors of the Fund who are not interested persons of the Insurance Company. They also state that the terms of purchase by the Fund are the same as those on which the Insurance Company purchased the first $4,000,000 of New Notes, which purchase was the result of arm's length bargaining. According to the application, up to 25 percent of the Fund's assets may consist of, among other things, debt securities purchased directly from issuers in private placements and that under such policy the Fund may invest an additional $23,500,000 in debt private placements. Applicants state that in light of these reasons and in view of the fact that long-term interest rates have been declining, coupled with the increase in the interest rate on the New Notes from 9.95 percent to 10.25 percent, the Insurance Company has concluded that the New Notes represent an attractive investment for the Fund. Applicants assert that, although the Insurance Company holds securities of Victoria and the Fund does not, this discrepancy in interests has had no material effect on the independence of the investment advice of the Insurance Company with respect to the New Notes. The Insurance Company represents that if the Commission permits it to purchase the $3,000,000 principal amount of New Notes, but does not permit their sale to the Fund, the Insurance Company would, nevertheless, purchase the New Notes.

Notice is further given that any interested person may, not later than March 25, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Ex-

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change Commission, Washington, D.C. 20649. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–7431 Filed 3–11–77;8:45 am]

[Release No. 13324; File Nos. SR–MCC–76–4, SR–MSTC–76–13]

MIDWEST CLEARING CORP. AND MIDWEST SECURITIES TRUST CO.

Order Approving Rule Change Relating to Collateralizing Options

On December 22, 1976, the Midwest Clearing Corporation ("MCC") and the Midwest Securities Trust Company ("MSTC"), 120 South LaSalle Street, Chicago, Illinois 60603, submitted, pursuant to Rule 19b–4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change which would establish, and set fees for, a service that allows institutional participants to collateralize short option positions via book-entry pledge.

In accordance with section 19(b) of the Act and Rule 19b–4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 3385, January 18, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34–13152, January 11, 1977. No letters of comment were received.

In connection with its review of the submissions, the Commission requested representations from MCC and MSTC regarding the operation of the options collateralizing service. The representations were made in a letter dated February 25, 1977, which was incorporated in the MCC and MSTC submissions and included in the public files.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File Nos. SR–MCC–76–4 and SR–MSTC–76–13 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–7432 Filed 3–11–77;8:45 am]

[Release No. 34–13333; File No. SR–MSE–77–3]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1) (the "Act"), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on February 23, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE BY THE MIDWEST STOCK EXCHANGE, INC. (THE "MSE")

ARTICLE XVII—TRANSACTIONS OFF THE FLOOR

Principal transactions. Rule 9.(a) No member or member organization or any partner, officer, director or registered employee of a member organization shall effect transactions as principal off the Floor of the Exchange in securities listed or admitted to unlisted trading privileges on the Exchange with anyone other than a third market maker or non-member block positioner. Any such transactions require the permission of an officer of the Exchange. *Provided, however*, That no such permission need be obtained if such transactions are made on another national securities exchange where the member or member organization is also a member, or the securities are on the unrestricted list of the Exchange, or the transaction is approved by another exchange on which the securities are traded and which is the designated examining authority for the member or member organization.

Agency transactions. (b) No member, member organization or any partner, officer, director or registered employee of a member organization may cross agency orders in their offices.

MSE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change (Article XVII, Rule 9) is to reflect the elimination of wording which could be interpreted as implying that certain restrictions on off board agency transactions exist within the Rule. New wording under Agency Transactions has been added to make clear the continued prohibition against "in house" agency crosses.

Deletion of Article XXII, Rule 6, is proposed since it is duplicative in nature relative to Article XVII, Rule 9. The permission requirements of Article XXII, Rule 6 will be covered under the guidelines set forth in Article XVII, Rule 9(a).

The Rule as it now exists contains language indicating that all prohibitions on agency transactions are to be removed effective January 2, 1977. The proposed rule change deletes language no longer necessary and adds other language which reflects the present intrpretation of the Exchange and its intention to continue to prohibit "in house" agency crosses until such time that it can be demonstrated that removal of such a restriction is consistent with the objectives of the Act, the preservation of auction agency principles and development of the national market system. In addition, the proposed rule change continues the prohibition on off board principal transactions. Again, this is an area requiring additional study and thought, and the MSE believes that the prohibitions should not be lifted until it is demonstrated that the public would benefit from such a change.

The MSE points to section 6(b)(5) of the Act as the statutory basis for the proposal.

Comments have neither been solicited nor received.

The MSE believes that no burdens have been placed on competition.

On or before April 18, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street N W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before April 4, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

MARCH 4, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–7439 Filed 3–11–77;8:45 am]

[Release No. 19919; 70–5980]

NEW ENGLAND ELECTRIC SYSTEM, ET AL.

Proposed Short Term Bank Borrowings by Operating Subsidiaries of Holding Company and of Proposed Loans by Holding Company to Subsidiaries and of Proposed Sale of Commercial Paper by Subsidiary; Request for Exemption From Competitive Bidding

Notice is hereby given that New England Electric System ("NEES"), a registered holding company, and Granite State Electric Company ("Granite") and New England Power Company ("NEPCO"), 20 Turnpike Road, Westborough, Massachusetts 01581, operating subsidiaries of NEES, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10 and 12 of the Act and Rules 43, 45(a) and 50, promulgated thereunder, as applicable to the proposed transaction. All interested persons are referred to the application-declaration, summarized below, for a complete statement of the proposed transaction.

Granite and NEPCO propose during the period from the date of the Commission's Order hereunder through March 31, 1978 to issue notes to the below listed banks and/or to NEES, and NEPCO also proposes to issue notes to dealers in commercial paper.

The amounts shown below are the maximum face amounts of notes of each borrowing company to be held by the lenders at any one time pursuant to authority requested hereunder. The maximum amounts of short-term borrowings authorized to be outstanding at any one time by NEPCO ($96,000,000) from banks and NEES will be reduced by the amount of its commercial paper outstanding at that time.

PROPOSED MAXIMUM SHORT-TERM DEBT TO BE OUTSTANDING AT ANY ONE TIME DURING PERIOD. (BANKS OR NEES[1])

	Borrowing company	Thousands
Granite:	The First National Bank of Boston, Boston, Mass	$1,500
NEPCO:	Bank of America, North America Division, New York, N.Y.	2,000
	Baybank Newton-Waltham Trust Co., Waltham, Mass	2,000
	Brown Brothers Harriman & Co., Boston, Mass	2,000
	Chase Manhattan Bank, N.A., New York, N.Y.	10,000
	Chemical Bank, New York, N.Y.	3,500
	Citibank, N.A., New York, N.Y.	15,000
	Continental Illinois National Bank & Trust Co., Chicago, Ill.	2,000
	The First National Bank of Boston, Boston, Mass	19,500
	The First National Bank of Chicago, Chicago, Ill	2,000
	Irving Trust Co., New York, N.Y.	8,000
	Manufacturers Hanover Trust, New York, N.Y.	10,000
	Morgan Guaranty Trust Co., New York, N.Y.	5,000
	New England Merchants National Bank, Boston, Mass	5,000
	Shawmut Bank of Boston, N.A., Boston, Mass	4,500
	State Street Bank & Trust Co., Boston, Mass	3,000
	Worcester County National Bank, Worcester, Mass	2,500
	Total NEPCO	96,000

[1] Or commercial paper in the case of NEPCO.

The proceeds of such proposed borrowings are to be used to pay then outstanding notes initially issued to banks, dealers in commercial paper and/or to NEES at or prior to maturity and to provide new money for capitalizable expenditures or to reimburse the treasury therefore. Granite as of December 31, 1976, has no outstanding short-term debt and estimates its construction expenditures through March 31, 1978 at $2,140,000. NEPCO, as of December 31, 1976, has $50,100,000 in outstanding short-term debt and estimates its construction expenditures through March 31, 1978 at $112,000,000.

The proposed borrowings from banks and/or NEES will be evidenced by notes payable maturing in less than one year from the date of issuance, and will provide for prior payment in whole or in part without premium. The borrowing companies will maintain funds in the banks which represent compensating balances or in lieu thereof will pay fees to the banks equivalent to such compensating balance requirements. The notes to banks will bear interest at not in excess of the prime rate in effect at the time borrowings are made (not including any fees in lieu of compensating balances). The notes to NEES will bear interest at not in excess of the prime rate in effect at the time borrowings are made. Based on compensating balance requirements of about 10 to 20 percent, or fees equivalent thereto, the effective interest cost of bank borrowing would be approximately 6.9 percent to 7.8 percent per annum, based on the current prime rate of 6¼ percent.

The effective interest cost of borrowings from NEES would be the prime rate.

It is proposed that Granite and NEPCO may prepay their notes to NEES, in whole or in part, with borrowings from banks or from the sale of commercial paper, or that their borrowings from banks may be prepaid, in whole or in part, with borrowings from NEES or from the sale of commercial paper. In the event of borrowings from banks at a higher interest rate or the sale of commercial paper at a higher effective interest cost, to prepay notes to NEES, NEES will credit the borrowers for any excess interest from the date of issuance of the new notes or commercial paper to the normal maturity date of the notes to NEES being prepaid. Conversely, in the event of borrowings from NEES to prepay notes to banks, the interest rate of the notes issued to NEES will be the lower of (1) the interest rate on the notes being prepaid or (2) the prime interest rate in effect, but with respect to (1) only to the maturity date of the notes so prepaid, and thereafter at the prime interest rate in effect at the time the new notes are issued.

NEPCO proposes to issue and sell commercial paper during the period through March 31, 1978, directly to Lehman Commercial Paper Incorporated ("Lehman") and/or A. G. Becker & Co., Incorporated ("Becker"), dealers in commercial paper. Lehman and Becker, as principals, will reoffer such commercial paper to not more than 100 of their respective customers whose names appear on non-public lists prepared in advance by Lehmas and Becker. No additions will be made to such lists of customers. It is expected that such commercial paper will be held to maturity by the purchasers from the dealers, but, if any such purchaser wishes to resell prior to maturity, Lehman or Becker, as the case may be, pursuant to an oral repurchase agreement will repurchase the paper for resale to others on said lists of customers.

The commercial paper so issued and sold by NEPCO will be in the form of unsecured promissory notes having varying maturities of not in excess of 270 days. Actual maturities will be determined by market conditions, the effective interest cost to the issuer, and the issuer's cash requirements at the time of issuance. The commercial paper will be in denominations of not less than $50,000 and not more than $1,000,000. The terms of the commercial paper do not provide for prepayment prior to maturity. The commercial paper will be purchased by Lehman and Becker from the issuer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for the particular maturity at which prime commercial paper of comparable quality is sold by public utility issuers to commercial paper dealers. Lehman and Becker will initially reoffer the commercial paper at a discount rate not more than ⅛ of 1 percent per annum less than the prevailing discount rate to the issuer.

The effective interest cost to the issuer on such paper will not exceed the effective interest costs at the time of issue for borrowings from The First National Bank of Boston, except that, in order to obtain maximum flexibility, commercial paper may be issued with a maturity of not more than 90 days from the date of issue with an effective cost in excess of such effective interest cost from The National Bank of Boston.

There are no fees or commissions to be paid in connection with proposed transactions; incidental services will be performed by New England Power Service at the actual cost thereof.

NEPCO states that, with respect to the issue and sale of notes by it to Lehman and Becker, NEPCO requests an exemption from the competitive bidding requirements of Rule 50 pursuant to subparagraph (a)(5) of said Rule.

Granite and NEP have sought authorization from the New Hampshire Public Utilities Commission which has jurisdiction over the proposed issuance of short-term promissory notes by Granite and NEP. It is stated that no other state commission and no federal commission, other than this Commission, has juris-

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diction over the proposed transactions.

Notice is further given that any interested person may, not later than March 28, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-7433 Filed 3-11-77;8:45 am]

[Release No. 19918; 70-5979]

OHIO EDISON CO. AND PENNSYLVANIA POWER CO.

Proposed Sale of Utility Asset

Notice is hereby given that Ohio Edison Company ("Edison"), 76 South Main Street, Akron, Ohio 44308, a registered holding company and Pennsylvania Power Company ("Penn Power"), 1 East Washington Street, New Castle, Pennsylvania 16103, its electric utility subsidiary, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 9(a)(1), 10, 12(b) and 12(d) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as summarized below, for a complete statement of the proposed transaction.

In September 1967, Edison, Penn Power, Duquesne Light Company ("Duquesne"), The Cleveland Electric Illuminating Company and The Toledo Edison Company, known as the Central Area Power Coordination Group ("CAPCO"), announced a program for the joint development of power generation and transmission facilities. Among other units, the program currently contemplates two nuclear generating units (each having an expected ultimate capability of 885,000 KW) at the Beaver Valley Station near Shippingport, Pennsylvania. The first of these units ("Unit No. 1") went into limited commercial operation in September 1976. The other unit ("Unit No. 2") is now under construction and is currently expected to begin commercial operation in 1982. Edison, Penn Power and Duquesne own Unit No. 1 as tenants in common with Edison's and Penn Power's undivided interests being 35 percent and 17.5 percent, respectively.

Pursuant to a Construction Agreement dated December 5, 1975 among the CAPCO companies, Unit No. 2 is being designed and installed by Duquesne, as agent, and is currently owned by all the CAPCO Companies as tenants in common with undivided interests, Edison owning 35.60 percent and Penn Power owning 6.28 percent of the unit. Construction, administrative, and other costs related to the construction of Unit No. 2 have been and are to be paid by the CAPCO companies in proportion to their respective ownership interests.

Edison proposes to acquire Penn Power's ownership interest in Unit No. 2, thereby resulting in its owning an undivided 41.88 percent interest in the unit. It is stated that the proposed transaction will result in a distribution of generating capacity more in keeping with forecasts of Edison's and Penn Power's respective future load demands prepared more recently than those upon which the initial Construction Agreement was based.

As promptly as possible after the receipt of all necessary regulatory approval, Edison proposes that (1) Penn Power will convey to Edison all of Penn Power's right, title and interest in Unit No. 2, including Penn Power's interest in nuclear fuel purchased for Unit No. 2 and Penn Power's interest allocable to Unit No. 2 in facilities common to Unit No. 2 and one or more units at the site and (2) Edison will pay Penn Power an amount equal to all book costs, including the allowance for funds used during construction, which Penn Power has then incurred with respect to the property conveyed (estimated to be approximately $13,750,000 at December 31, 1976). It is stated that, in order to effect the proposed transaction, the CAPCO companies will execute amendments to construtions and operation agreements among them relating to Unit No. 2, and Edison will assume all future obligations with respect to the entire 41.88 percent undivided interest.

Penn Power expects to apply the proceeds of the sale to continue its ongoing construction program, to reduce short-term debt incurred to meet requirements of such program, and to reimburse its treasury in part for monies expended for the construction of new facilities and the betterments of existing facilities.

In connection with the construction of Unit No. 1 and Unit No. 2, certain equipment was or is being installed for pollution control purposes. In order to help finance Penn Power's share of the cost of such equipment, the Beaver County Industrial Development Authority issued pollution control revenue bonds (the "Revenue Bonds") in an aggregate principal amount of $4,500,000. The proceeds of the Revenue Bonds (the "Proceeds") were deposited in an escrow account and may be used only for costs related to the construction of, and financing for, such pollution control equipment. Penn Power has delivered its secured note (the "Series A Note") to the trustee under the indenture pursuant to which the Revenue Bonds were issued, and payments under the Series A Note are designed to provide sufficient funds in the hands of such trustee so as to permit payments of principal, interest and premium, if any, to be made on the Revenue Bonds when due.

It is stated that as of December 31, 1976, $442,000 of the Proceeds had not been spent, and it may be that at the time of the transfer of Penn Power's interest in Unit No. 2 to Edison there will still be Proceeds remaining. If this is the case and if Penn Power does not have sufficient unpaid expense relating to pollution control facilities for Unit No. 1 to exhaust such Proceeds, it is proposed that the remaining Proceeds will be applied toward the cost of the completion of the pollution facilities related to the interest in Unit No. 2 which Edison is acquiring from Penn Power. In such case, Edison would agree to provide Penn Power with funds equal to a portion of the amounts Penn Power is obligated to pay under the Series A Note, such portion being based upon the ratio of the remaining Proceeds to $4,500,000 (i.e., the aggregate principal amount of the Revenue Bonds). It is stated that such payments would be made in such amount and at such times as would enable Penn Power to make the related payments under the Series A Note.

It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed sale by Penn Power and that the change in ownership may require amendment of the construction permit for Unit 2 issued by the United States Nuclear Regulatory Commission. It is stated that no other state Commission and no federal commission, other than this Commission has jurisdiction over the proposed transaction. Fees and expenses to be incurred by Edison and Penn Power will be supplied by amendment.

Notice is further given that any interested person may, not later than March 28, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-7434 Filed 3-11-77;8:45 am]

[Release No. 13331; File No. SR-OCC-76-11]

OPTIONS CLEARING CORP.

Order Approving Proposed Rule Changes

On December 22, 1976, the Options Clearing Corporation ("OCC"), 6150 Sears Tower, Chicago, Illinois 60606, submitted proposed changes to OCC Rule 602(c) pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act").

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule changes was published in the FEDERAL REGISTER (42 FR 6866, February 4, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34-13217, January 28, 1977. No letters of comment were received.

The amendments to OCC Rule 602(c) effect technical changes in that rule to delete reference to an obsolete rule and to reflect that settlement with respect to exercised option contracts may be made through more than one correspondent clearing corporation under the rule changes approved by the Commission and contained in File No. SR-OCC-76-7.

The Commission has reviewed the proposed rule changes and finds that they are consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule changes contained in File No. SR-OCC-76-11 be, and hereby are, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-7435 Filed 3-11-77;8:45 am]

[Release No. 13327]

PACIFIC STOCK EXCHANGE

Proposal To Commence So-Called "Multiple Cycle Trading"

The Commission today sent a letter to the Pacific Stock Exchange regarding that Exchange's proposal to commence so-called "multiple cycle trading."[1] The text of the letter is as follows:

The Commission has made a preliminary review of your Exchange's proposal to commence so-called "multiple cycle trading," i.e., to list options of the same classes currently traded on other exchanges but having different expiration cycles (File No. SR-PSE-76-11). In that connection, the Commission has considered experience to date with your Exchange's options trading program as well as the possibility of substantial impact on options trading as a whole if programs for exchange trading of put options and over-the-counter trading of standardized options are implemented in the near future. In addition, the Commission is aware that the potential effect of recent tax legislation on the options markets may not yet have been fully appreciated and that representatives of the securities industry have expressed grave concern about the potential impact of multiple cycle trading on broker-dealers, public customers and The Options Clearing Corporation.

Based on the foregoing, the Commission is of the view that multiple cycle trading may not now be consistent with the requirements of the Securities Exchange Act of 1934 applicable to exchange option pilot programs. Nevertheless, since the possible effect of multiple cycle trading cannot be sufficiently analyzed at this time, the Commission would not now wish to rule out experiments with multiple cycle trading at a future date and under appropriate circumstances. Therefore, the Commission would prefer to consider your proposal, or some modification thereof, after observation of the effects of the developments referred to above. In light of prior experience concerning the time necessary to make meaningful observations and evaluations of important developments in the options sector, the Commission does not now anticipate that it would be in a position to consider approving any such proposal this year.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-7428 Filed 3-11-77;8:45 am]

[1] In addition, the Philadelphia Stock Exchange, which has submitted a proposal to commence multiple cycle trading (File No. SR-PHLX-76-8) with the proviso that it is philosophically opposed to such trading but would like its proposal to remain on file with the Commission so as to place it in a competitive position to implement such trading in the event the Commission approves a similar filing by another exchange, has been advised of the Commission's communication with the Pacific Stock Exchange.

[Release No. 19915; 70-5978]

SOUTHERN CO. ET AL.

Proposed Issuance and Sale of Short-Term Notes to Banks and Dealers in Commercial Paper, Capital Contributions to Subsidiaries, and Exception From Competitive Bidding

In the matter of the Southern Company, PO Box 720071, Atlanta, Georgia 30346; Alabama Power Company, PO Box 2641, Birmingham, Alabama 35291, Gulf Power Company, PO Box 1151, Pensacola, Florida 32520; Mississippi Power Company, PO Box 4079, Gulfport, Mississippi 39501.

Notice is hereby given that The Southern Company ("Southern"), a registered holding company, and three of its wholly-owned electric utility subsidiary companies, Alabama Power Company ("Alabama"), Gulf Power Company ("Gulf"), and Mississippi Power Company ("Mississippi") have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, and 12 of the Act and Rules 45 and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Southern, Alabama, Gulf, and Mississippi propose to borrow from banks and to issue and sell commercial paper from time to time on or before March 31, 1978, in the following maximum aggregate principal amounts outstanding at any one time: Southern—$100,000,000; Alabama—$495,000,000; Gulf—$45,000,000; and Mississippi—$39,000,000.

Pursuant to Commission authorization (File No. 70-5801), Alabama, Gulf, and Mississippi have authority to effect short-term borrowings on or before March 31, 1977. The amount of short-term debt estimated to be outstanding at March 31, 1977, is $310,000,000 for Alabama and $3,900,000 for Mississippi. Neither Southern nor Gulf expects to have any short-term debt outstanding on that date.

The bank borrowings will be evidenced by notes to be dated the date of the borrowing and to mature not more than one year after the date of issue in the case of Southern and not more than nine months after the date of issue in the case of Alabama, Gulf, and Mississippi. Alabama has entered into an arrangement with a group of banks located outside the State of Alabama which provides for a revolving line of credit in the amount of $350,000,000. Each note evidencing bank borrowing (except those included in Alabama's revolving credit agreement) will bear interest at an effective rate per annum in effect at the lending bank customary for similar companies and will be prepayable, in whole or in part, without penalty or premium. Except for commitments or lines of credit to the applicants-declarants from certain local banks and in the case of Alabama from those banks

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under the revolving credit agreement, no commitments have been made to the companies by the proposed lending banks.

Alabama, Gulf, and Mississippi each maintain with the local banks from which borrowings will be made average daily operating balances adequate to meet the requirements of such banks in respect of certain services to such companies. Except in the case of Alabama under the revolving credit agreement, it may reasonably be expected that banks may require the maintenance of balances and/or fees in lieu of balances in respect of any such borrowings. If balances were to be maintained solely for the purpose of satisfying a compensating balance requirement generally not in excess of 20 percent, the effective interest cost of the related borrowings, based on a prime rate of 6.25 percent, would be 7.813 percent per annum.

Southern Alabama, Gulf, and Mississippi also propose from time to time through March 31, 1978, to issue and sell commercial paper in the form of short-term promissory notes to dealers in commercial paper. The commercial paper notes will have varying maturities of not more than 270 days after the date of issue, will be sold in varying denominations of not less than $50,000 and not more than $5,000,000, and will not by their terms be prepayable prior to maturity. The commercial paper will be sold directly to or through the dealers at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and like maturity. No commercial paper note will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which the issues could borrow from banks.

Except for a commission not to exceed ⅛ of 1 percent per annum payable to the dealer in respect of commercial paper sold through the dealer as agent, no commission or fee will be payable in connection with the issuance and sale of commercial paper. The dealer will reoffer such commercial paper at a discount rate of ⅛ of 1 percent per annum less than the prevailing interest rate to the issuer. The commercial paper will be offered by each dealer to not more than 200 customers of the dealer identified and designated in a nonpublic list prepared in advance by the dealer. No additions will be made to such list of customers. It is expected that the commercial paper will be held by customers to maturity, but, if they wish to resell prior thereto, the dealer, pursuant to a verbal repurchase agreement, will repurchase the commercial paper and reoffer the same to others on the customer list.

Southern intends to use proceeds of the bank notes and commercial paper notes to the extent necessary, together with treasury funds and the proceeds from the sale of additional common stock (the subject of a separate filing), to make, from time to time, additional equity investments in the form of capital contributions in Alabama, Georgia Power Company, ("Georgia"), Gulf, and Mississippi, to make loans to Southern Company Services, Inc., to pay such notes when due, and for other corporate purposes. Southern proposes herein to make capital contributions through March 31, 1978, as follows: $158,000,000 in Alabama; $72,000,000 in Georgia; $24,000,000 in Gulf; and $4,000,000 in Mississippi.

The proceeds from the bank notes and commercial paper notes will be used by Alabama, Gulf, and Mississippi, respectively, to reimburse their treasuries for part of the expenditures in connection with their construction programs and to finance in part their future construction programs, to pay at maturity from time to time outstanding bank notes and commercial paper notes incurred for such purpose, and for other lawful purposes. Construction expenditures for 1977 are estimated at $477,792,000 for Alabama, $74,538,000 for Gulf, and $33,235,000 for Mississippi.

The applicants-declarants request exception from the competitive bidding requirement of Rule 50 in connection with the sale of commercial paper notes pursuant to clause (a)(5) thereof. It is stated, in this connection, that (a) all commercial paper which they propose to issue and sell will have a maturity not in excess of 270 days, (b) current rates for commercial paper for prime borrowers, such as applicants-declarants, are published daily in financial publications, and (c) it is not practical to invite invitations for bids for commercial paper. It is also requested that authorization be granted to file certificates of notification under Rule 24 on a quarterly basis.

Fees and expenses to be incurred by Southern in connection with the proposed transactions are estimated at $3,400, including legal fees of $2,500; Alabama's expenses are estimated at $4,900, including legal fees of $4,000; Gulf's expenses are estimated at $1,400, including legal fees of $500; and Mississippi's expenses are estimated at $1,400, including legal fees of $500.

The Alabama Public Service Commission has authorized the issuance of notes to banks and the issuance of commercial paper by Alabama. The Florida Public Service Commission has jurisdiction over the issuance of notes to banks and the issuance of commercial paper by Gulf. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 28, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-7436 Filed 3-11-77;8:45 am]

[Release No. 19920; 70-5971]

WEST TEXAS UTILITIES CO.

Proposed Amendments to Articles of Incorporation Increasing Authorized Unsecured Debt; Modifying Earnings Coverage Calculation for Purposes of Issuing Preferred Stock and for Purposes of Issuing Common Stock Dividend; Redefining Net Income Available for Dividends; Redefining Total Capitalization; and Order Authorizing Solicitation of Proxies in Connection Therewith

Notice is hereby given that West Texas Utilities ("WTU"), PO Box 841, Abilene, Texas 79604, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7 and 12(e) of the Act and Rules 62 and 45, promulgated thereunder, as applicable to the following proposed transactions. All interested persons are referred to the declaration which is summarized below, for a complete statement of the proposed transaction.

WTU proposes that its Articles of Incorporation ("Articles") be amended to allow it to incur unsecured obligations maturing in less than 10 years ("short-term debt") up to an amount not to exceed 20 percent of its total secured debt, capital and retained earnings ("total capitalization"): *Provided*, That short-term debt in excess of 10 percent of total capitalization mature not later than November 1, 1982. Currently, the Articles do not allow the Company to incur short-term debt in an amount in excess of 10 percent of total capitalization without the approval of the holders of a majority of outstanding Preferred Stock. WTU states that the purpose of this change is to permit it to delay the refunding of short-term debt with First Mortgage Bonds so that it can sell larger issues of

Bonds at less frequent intervals with resulting lower estimated costs.

WTU estimates its capital expenditures for the years 1977–1979 at $122,740,000. WTU states that its total capitalization on December 31, 1976 was $161,993,605, with Common Stock equity comprising 52 percent, First Mortgage Bonds 44 percent and Preferred Stock 4 percent. WTU states that presently it can incur up to $16,200,000 in short-term debt. WTU states that it presently has $9,000,000 in short-term debt outstanding. The proposed amendment would allow it to incur short-term debt up to approximately $32,000,000.

WTU further proposes that the Articles be amended to change the earnings test that must be satisfied as a precondition for the issuance of additional Preferred Stock without the approval of the holders of a majority of the Preferred Stock then outstanding. The earnings test presently requires that WTU's gross income for a period of 12 consecutive calendar months ending within the 15 calendar months immediately preceding the date of issuance of the additional Preferred Stock must be 1½ times the sum of the annual interest charges on all of its securities representing indebtedness and the annual dividend requirement on all shares of its Preferred Stock or any prior or parity stock, in each case to be outstanding immediately after the issuance of the additional Preferred Stock. Gross income for these purposes is presently computed under the Articles after deducting all taxes, including income taxes, and the greater of (a) the aggregate amount charged by WTU on its books to income or earned surplus for maintenance, repairs and depreciation of its property or (b) an amount in each calendar year aggregating not less than 15 percent of its gross operating revenues derived from the operation of its utility properties, less costs of power purchased for exchange or resale.

WTU states that all of its rate schedules include fuel adjustment provisions and that the recent increases in fuel costs have resulted in large recoveries under those provisions thus substantially inflating their gross revenues. WTU states that the increases of revenues resulting from recovery of higher fuel costs have been sharply out of proportion to increases in other areas of WTU's business, notably its utility plant, operating income and net income. Therefore, WTU feels that deductions based on gross revenues are inappropriate for determining earnings test coverage ratios. WTU states that the proposed amendment to the Articles would, accordingly, change the earnings test to require that, in determining gross income for the applicable period, the amounts to be deducted from gross income as charges or provisions for depreciation, retirements, renewals, and replacements and/or amortization, shall not be less in the aggregate than an amount equal to 2.9 percent of the arithmetical average of the amount of its depreciable bondable property at the beginning and the amount thereof at the end of such period in its plant accounts on its books determined in accordance with generally accepted accounting practices. The 2.9 percent rate is approximately equivalent to the average depreciation rate on depreciable bondable property used by WTU for general accounting purposes for 1972 through 1976. WTU states that it should be noted that the provision for a minimum deduction would, under the proposed amendment, relate solely to depreciation, rather than to maintenance, repairs and depreciation.

WTU states that although it has no Preferred Stock, if future fuel cost levels meet its projections the earnings deduction under the present terms of the Articles is likely to increase sufficiently to make it difficult to satisfy the earnings test for issuance of additional Preferred Stock when it is necessary to do so in the future. WTU states that under the proposed formulation, its earnings coverage ratio for 1976 would be 3.69 whereas, as presently computed, it is 2.42.

WTU further proposes to change the minimum deductions required in computing "Common Stock Equity" for purposes of determining the amount available for payment as common stock dividends.

For this purpose "Common Stock equity" is defined generally as the stated capital and retained earnings subject to certain deductions, one of which is the excess, if any, for the period beginning January 1, 1954, and ending at the end of a month within 90 days of the date of which Comon Stock equity is being determined, of an amount equal to 15 percent of gross operating revenues over the aggregate amount charged or provided on WTU's books for maintenance, repairs and depreciation for such period.

WTU proposes that the Articles be amended to provide that the foregoing deduction remain in effect for the period through December 31, 1976, but that for all periods after that date there be required to be deducted instead, the excess, if any, of an amount equal to 2.9 percent of the arithmetical average of the amount of depreciable bondable property under its First Mortgage Indenture at January 1, 1977, and the amount at the end of the period for which the calculation is being made, over the aggregate amount charged or provided on its books for depreciation, retirements, renewals, and replacements and/or amortization for such period. As with the preceding proposed amendment, it should be noted that the provision for the minimum deduction for periods after December 31, 1976, would relate solely to depreciation, rather than to maintenance, repairs and depreciation. WTU states that this amendment is motivated by the same consideration with respect to inflated gross revenue figures due to fuel recovery provisions, as discussed above.

WTU further states that the Articles presently prohibit, without the approval of holders of a majority of Preferred Stock outstanding, the issuance of additional Preferred Stock unless the aggregate of WTU's Common Stock capital and surplus is not less than the aggregate amount payable upon liquidation in respect of all shares of outstanding Preferred Stock. Furthermore, if surplus is considered to determine that the liquidation amount for issuing Preferred Stock is sufficient, then WTU can not pay any dividends on Common Stock which would result in reducing Common Stock equity to an amount less than the aggregate amount payable upon liquidation in respect of all outstanding Preferred Stock. WTU proposes that, for the reasons stated above in conjunction with the other proposed amendments and to maintain a consistent terminology throughout the Articles, that the proposed amended definition of Common stock equity, discussed above, apply equally for purposes of limitations on common stock dividends if earned surplus is used as a basis for issuing additional preferred stock.

WTU further states that dividends on its Common Stock are limited to certain percentages of its net income available for dividends on Common Stock if its ratio of Common Stock equity to total capitalization is, or would by the payment of such dividends become less than 25 percent of total capitalization. Currently, the Articles require that there be deducted, in determining net income available for Common Stock dividends, for the purposes of computing such limitations, an amount equal to 15 percent of gross operating revenues from January 1, 1954, for the 12-month period as to which net income is being calculated, less the aggregate amount charged during such period by WTU on its books for maintenance, repairs and depreciation. WTU proposes to delete the reference to 15 percent of gross operating revenues and, instead, to provide that "net income available for Common Stock dividends" should be determined in accordance with applicable regulations or generally accepted accounting practices. Net income available for Common Stock dividends would then be the same as "net income" reported in WTU's Statement of Operations included in its 1976 Annual Report. WTU states that the increase in gross revenues due to fuel recovery provisions, discussed above, motivates this proposal as well.

WTU further proposes to delete Common Stock equity as a component of "total capitalization" for purposes of the limitation on common stock dividends and to add a new definition of "total capitalization". WTU states that the Articles currently define "total capitalization" for the purpose of determining if Common Stock equity has fallen below 20 percent or 25 percent of total capitalization, as the sum of (a) Common Stock equity, as defined, (b) the excess, if any, of the aggregate amount payable on liquidation in respect of all outstanding Preferred Stock over the aggregate par value of such Preferred Stock and any premiums thereon, (c) the par value of or any premium on outstanding stock of WTU not included in Common Stock equity and (d) the principal amount of all outstanding First Mortgage Bonds and other securities representing indebtedness of WTU maturing more than 12

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months after the date of the determination.

WTU states that the definition of Common Stock equity for these purposes requires it to deduct from "total capitalization" the excess, if any, from January 1, 1954, to the date of determination, of an amount equal to 15 percent of gross operating revenues (less certain deductions) over the aggregate amount charged or provided on its books for maintenance, repairs and depreciation of property for such period. WTU proposes to delete this 15 percent deduction, being of the opinion that such a deduction is essentially redundant in view of the fact that dividends are already limited to stated percentages of net income if Common Stock equity as otherwise determined falls below given percentages of total capitalization, and is therefore not appropriate for the protection of the Preferred Stockholders.

WTU proposes to call a special meeting of all its Preferred and Common shareholders to be held on or about April 19, 1977 to vote upon the proposal amendments. WTU proposes to solicit proxies through the use of proposed proxy soliciting material. Each share of stock, Preferred or Common, is entitled to one vote per amendment and each amendment requires the approval of at least two-thirds of the outstanding shares of Preferred Stock, voting as a class and at least two-thirds of the outstanding shares of Preferred Stock and Common Stock, voting together, for acceptance. Central and South West Corporation is the holder of all 2,475,000 outstanding shares of WTU's Common Stock and has indicated its intention to vote such shares in favor of all the proproposed amendments.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with the proposed transaction are estimated at $10,000, including $5,000 in legal fees.

Notice is further given that any interested person may, not later than March 28, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed, or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes to solicitation of proxies from WTU's stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration, regarding the proposed solicitation of proxies of WTU's stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-7427 Filed 3-11-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

U.S. ADVISORY COMMITTEE ON VISUAL AIDS TO APPROACH AND LANDING

Reestablishment

Notice is hereby given that the U.S. Advisory Committee on Visual Aids to Approach and Landing is being reestablished, effective April 15, 1977. The Office of Airports Programs is the sponsor of the Committee which consists of a group of 13 experts on airport ground visual aids. The Committee develops information and data in support of proposals to be submitted by the United States to the ICAO Visual Aids Panel for consideration and/or positions to be taken by the United States relating to proposed international standards and recommended practices for airport ground visual aids. The Committee's activity is limited to those visual aids matters which have international implications.

The Secretary of Transportation has determined that the formation and use of the U.S. Committee on Visual Aids to Approach and Landing are necessary in the public interest in connection with the performance of duties imposed on the Federal Aviation Administration by law. Meetings of the Committee will be open to the public.

Issued in Washington, D.C. on March 4, 1977.

ROBERT HATES,
Chief, Visual Aids Standards Branch, Office of Airports Programs.

[FR Doc.77-7401 Filed 3-11-77;8:45 am]

Federal Railroad Administration

[Docket No. RFA 511-77-1]

GUARANTEE OF OBLIGATIONS

Receipt of Application

Project: Notice is hereby given that the Chicago and North Western Transportation Company ("applicant"), 400 West Madison Street, Chicago, Illinois 60606, has filed an application with the Federal Railroad Administration ("FRA") under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. 831, to secure a commitment by the United States to guarantee obligations or other evidence of indebtedness to be issued by the applicant in the principal amount of $16,000,000. Loan arrangements have not been completed at this time.

The proceeds of the loan are to be used by the applicant to refurbish and improve 3,516 freight train cars. More specifically, the following types of freight cars will be refurbished and improved:

Car type:	Number of cars
Open top hopper	280
Box (50 ft and 60 ft)	420
Insulated box	36
Covered hopper (less than 4,000 cu ft capacity)	
Covered hopper (4,000 ft³ capacity or more)	872
Gondola (53 ft or less)	555
Gondola (65 ft)	34
Flat	11
Ore	480
Mechanical refrigeration	93
Other	155
Total	3,516

Justification for Project: The applicant states that the refurbishment and improvement project will permit more efficient service and additional traffic by increasing the supply of freight cars to present and potential customers because of improved freight car availability and utilization. In addiion, the applicant states that the project will reduce its dependence on foreign cars, thereby reducing car rental expense.

Comments: Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than the comment closing date shown below. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

The application will be made available for inspection during normal business hours in Room 5415 at the above address of the FRA, subject to the regulations of the Office of the Secretary of Transportation set forth in Part 7 of Title 49 of the Code of Federal Regulations.

The comments will be taken into consideration by the FRA in evaluating the application. However, formal acknowledgment of the comments will not be provided.

The FRA has not approved or disapproved this application, nor has it passed upon the accuracy or adequacy of the information contained therein.

(Sec. 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended.)

Dated: March 4, 1977.

Comment closing date: April 14, 1977.

CHARLES SWINBURN,
Associate Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc.77-7443 Filed 3-11-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. PRM-70-5]

NEW YORK PUBLIC INTEREST RESEARCH GROUP, INC.

Filing of Petition for Rule Making

Notice is hereby given that Paul S. Hudson, Esq., has filed with the Nuclear Regulatory Commission as a petition for rule making dated January 26, 1977, on behalf of the New York Public Interest Research Group, Inc.

The petitioner requests that the Commission determine, after making appropriate findings in accordance with section 51 of the Atomic Energy Act of 1954, as amended, that neptunium-237 is a special nuclear material.

The petitioner requests that contemporaneously with the above determination the Commission revise its regulations governing the classification of nuclear materials, their safeguards, and packaging detailed in 10 CFR Parts 50, 70, 71, and 73. Given the classification of neptunium-237 as a "special nuclear material" the petitioner requests that the Commission make the following specific changes in its regulations:

1. Under 10 CFR 50.2(q) and 10 CFR 70.4(m), the definition of special nuclear material include neptunium-237, or that the determination under Section 51 of the Act be deemed sufficient to re-classify neptunium-237 as a special nuclear material. Notice to this effect should be promulgated to NRC licensees, ERDA and the general public.

2. Under 10 CFR 73.1(b) (1), (2) and (3), the Commission specify the minimum quantities of neptunium-237 above which Part 73, concerning the physical protection of plants, transportation, transportation by air, and materials, applies.

3. Under 10 CFR 73.30(a), the Commission specify the minimum quantities of neptunium-237 above which § 73.30, concerning the physical protection of special nuclear material in transit, applies.

4. Under 10 CFR 73.50, the Commission specify the minimum quantities of neptunium-237 above which § 73.50, concerning requirements for physical protection of licensed activities, particularly, fuel reprocessing facilities, applies.

5. Under 10 CFR 73.60, the Commission specify the minimum quantities of neptunium-237 above which § 73.60 concerning additional requirements for the physical protection of special nuclear material at fixed sites, applies.

6. Under 10 CFR 70.51(e), the Commission specify the limit of error for neptunium material unaccounted for, § 70.51(e)(5), determine the maximum time period for physical inventories of neptunium, § 70.51(e)(3), require licensees to keep records of all fissile materials, including neptunium, § 70.51(e)(4), and require licensees to keep records of all internal transfers of fissile materials, including neptunium, § 70.51(e)(1).

7. Under 10 CFR Part 71, Packaging of Radioactive Material for Transport and Transportation of Radioactive Material under Certain Conditions, the Commission classify neptunium-237 as a "fissile material," along with uranium-233, uranium-235, plutonium-238, plutonium-239 and plutonium-241, § 71.4(e), and designate a "fissile classification" of fissile Class III for neptunium-237, § 71.4(d).

8. Under 10 CFR 71.9, exemption for fissile material, the Commission designate a maximum amount of neptunium, below which the requirements of §§ 71.33, 71.35(b), 71.36(b), 71.37, 71.38, 71.39, and 71.40, do not apply.

9. Under 10 CFR Part 71.11, general license for shipment of licensed material, the Commission designate a maximum amount of neptunium, below which a carrier can transport neptunium without complying with the package standards of subpart C, 10 CFR Part 71, Package Standards.

The petitioner states that the basis for the petition is that neptunium-237 has a critical mass and, therefore, nuclear criticality can be achieved accidentially or purposely. Attached to the petition is an article prepared by Marvin Resnikoff, Ph.D. and NYPIRG scientist entitled, "Neptunium: An Element Overlooked." The petitioner states that this article, the documents referenced therein, and the supplementary comments set out in the petition, provide the principal support for an elaboration of the petition.

It is the view of the petitioner that the requested action represents immediate action which must be taken to protect the health and safety of the public from accidental criticality, and the common defense and security of the nation from the diversion and use of neptunium in atomic weapons, and that the Commission should also examine the remaining transuranics for possible inclusion as special nuclear materials.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

A copy of the petition for rule making may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All interested persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by May 13, 1977.

Dated at Washington, D.C. this 8th day of March, 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-7651 Filed 3-11-77;10:48 am]

MEETINGS

Week of March 14, 1977

In accordance with the requirements of the Government in the Sunshine Act and the Commission's Rules implementing the Act, this Notice identifies the Commission meetings for the Week of March 14, 1977 and, for each meeting, the subject matter and whether all or part of the meeting is closed. The meetings will be held on Friday, March 18, 1977. The public is invited to attend the section marked "Public Meetings."

SECTION I—PUBLIC MEETINGS

10:00 a.m.—Briefing on Reactor Licensing Schedules

11:00 a.m.—Affirmation of Licensee Contractor and Vendor Inspection Program
Affirmation of Statement of Organization and Functions for the Office of Nuclear Reactor Regulation

(The Affirmations will consist of votes on matters previously reviewed individually by the Commissioners, and are expected to take no more than five minutes.)

SECTION II—CLOSED MEETINGS

1:30 p.m.—Discussion of the Seabrook Opinion

(Authority to Close: 5 U.S.C. 552b(d)(1) and 5 U.S.C. 552b(c)(10) and §§ 9.105(a) and 9.104(a)(10) of the Commission's Rules.)

This meeting will involve discussion of the drafting of an opinion in a particular case of formal agency adjudication pursuant to 5 U.S.C. 554.

2:30 p.m.—Briefing on South Africa Export Intervention Petition and

3:30 p.m.—Briefing on West Germany (Burgeraktion) Intervention Petition

(Authority to Close: 5 U.S.C. 552b(d)(1) and 5 U.S.C. 552b(c)(9) and (c)(10) and §§ 9.105(a) and 9.104(a)(9) and (a)(10) of the Commission's Rules.)

The General Counsel will present legal and policy advice to the Commission, the premature disclosure of which might be harmful to and significantly frustrate the Commission's action in a matter which it is reasonable to anticipate will result in litigation, as well as being harmful to and significantly frustrating to the Commission's action in a pending case; the briefings will also involve discussion of the Commission's participation in pending civil action and its participation in other civil action which could reasonably be anticipated.

The meetings will be held in the Commissioner's Conference Room, 1717 H Street, N.W., Washington, D.C. For further information, contact Walter Magee, Office of the Secretary, telephone: (202) 634-1410.

Dated this 11th day of March 1977, at Washington, D.C.

For the Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-7669 Filed 3-11-77;12:03 pm]

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1299]

ARIZONA

Declaration of Disaster Loan Area

Mohave and adjacent counties within the State of Arizona constitute a disaster area because of damage resulting from flooding on September 10–11, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 3, 1977 and for economic injury until the close of business on December 5, 1977 at:

Small Business Administration, Disaster Branch Office, 45–541 Oasis Street, Indio, California 92201, and
Small Business Administration, District Office, 112 North Central Avenue, Phoenix, Arizona 85004.

or other locally announced locations.

Dated: March 4, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-7377 Filed 3-11-77;8:45 am]

BOISE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Boise District Advisory Council will hold a public meeting at 9:30 a.m., Monday, April 4, 1977, at the Royal Restaurant, 1112 Main Street in Boise, Idaho, to discuss such business as may be presented by members, staff of the Small Business Administration, and other present. For further information, write or call Oliver T. Davis, District Director, U.S. Small Business Administration, P.O. Box 2618, Boise, Idaho 83701, (208) 554–1096.

Dated: March 8, 1977.

ANTHONY E. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-7376 Filed 3-11-77;8:45 am]

[Proposed License No. 06/06-0189]

GREATER NEW ORLEANS SMALL BUSINESS INVESTMENT CO.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1976)) under the name of Greater New Orleans Small Business Investment Company (Applicant), 210 Baronne Street, Suite 1140, New Orleans, Louisiana 70112, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The Applicant will be a wholly owned subsidiary of Greater New Orleans Investment Company (GNO), a venture capital company, located at 210 Baronne Street, Suite 1140, New Orleans, Louisiana 70112. The two companies will operate for the foreseeable future as a "two tier" venture investment group.

A new corporation is being formed whose name has been registered as "GNO Holding Corporation", 210 Baronne Street, Suite 1140, New Orleans, Louisiana 70112. This corporation will initially own all of the issued and outstanding stock of GNO. In addition, this corporation will not be an operating company, but merely a holding company to assure permanent and continuous United States (U.S.) voting control and management control of GNO and its subsidiary SBIC. As GNO raises additional capital through the sale of its stock to potential U.S. investors, GNO Holding Corporation's percentage of ownership of GNO will be reduced to possibly 30 percent. This proposed sale of additional GNO stock should be sufficiently diluted so that no single shareholder, with the exception of the holding company, will own more than three or four percent of GNO. Therefore, GNO Holding Corporation would continue to have the effective control block of GNO stock.

The Applicant will conduct its operations principally in Metropolitan New Orleans and the State of Louisiana and in other areas within the United States of America and its territories and possessions as may from time to time be approved by SBA.

Initially, the proposed officers, directors and shareholders are as follows:

Thomas E. Smith, Jr., President and Director, 1938 Octavia Street, New Orleans, Louisiana 70115.
Benjamin T. Brown, Jr., Director, 1668 Joseph Street, New Orleans Louisiana 70115.
Edward Wayne Tschirn, Vice President, Secretary, and Director, 3329 Nashville Avenue, New Orleans, Louisiana 70115.
Maurice John Hartsom III, Director, 5411 St. Charles Avenue, New Orleans, Louisiana 70115.
Thomas E. McGaha, Director, 1609 Shoal Creek Blvd., Austin, Texas 78701.
Robert Warren Sullivan, Director, 3321 White Oak, New Orleans, Louisiana 70115.
Lee Kay Voriack, Director, 6329 Canal Blvd., New Orleans, Louisiana 70115.
Gilbert Thomas White, Director, No. 15 Waverly Place, Metairie, Louisiana 70001.
Greater New Orleans Investment Company (GNO), 100 percent ownership, 210 Baronne Street, Suite 1140, New Orleans, Louisiana 70112.

There is only one class of stock. The Applicant corporation has authority to issue an aggregate of 20,000 shares of common stock, each with a par value of $1.00. It is proposed that initially 1,500 shares of the Applicant's common stock will be issued at $1,000 per share. The ultimate goal is to issue 6,700 shares to reach a paid-in capital and paid-in surplus of $6,700,000. SBA will not approve the issuance of a license to operate until such time as the Applicant's initial capital is at least $500,000.

Management advisory and consulting services will be rendered to client companies and other small business concerns. Such services will be performed by the officers, directors and employees of the Applicant.

GNO Holding Corporation is to be owned 95.5 percent by the potential U.S. investors (consisting of 2,100 shares of voting preferred stock) and 4.5 percent (consisting of 100 shares of voting common stock) by Equities Bank Limited. Each share of preferred stock will have full and unrestricted voting power equal to that of one share of common stock. The preferred stock has preference to 90 percent of GNO Holding Corporation's income, as such income is defined by the Internal Revenue Service.

Mr. Thomas E. Smith, Jr., proposed president of the Applicant Licensee is to own 1,400 shares of the 2,100 shares of GNO Holding Corporation preferred stock. As such, and upon the completion of the proposed initial corporate structure, Mr. Smith by attribution will own approximately 63.9 percent of GNO Holding Corporation, GNO, and the Applicant Licensee.

Equities Bank Limited is a privately held, foreign controlled company headquartered in New Hebrides. It is owned 38 percent by the aforementioned potential U.S. investors and 62 percent by several foreign investors.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operations of the new company in accordance with the Act and Regulations.

Notice is further given that any interested person may, not later than (fifteen days from the date of publication of this notice), submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the proposed Licensee in a newspaper of general circulation in New Orleans, Louisiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 7, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-7379 Filed 3-11-77;8:45 am]

[Proposal No. 06/06-0116]

TAMCO INVESTORS (SBIC), INC.

Application for a License as a Small Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102 (1976)) by Tamco Investors (SBIC), Inc., 375 Victoria Road, Youngstown, Ohio 44515 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors; and sole shareholder are:

Name and address	Title and relationship	Percent of ownership
Nathan H. Monus, 1380 Virginia Trail, Youngstown, Ohio 44505.	President, director, and general manager.	0
Jack B. Tamarkin, 6235 Sodom-Hutchings, Girard, Ohio 44420.	Vice president and director	0
Jerry P. Tamarkin, 3553 5th Ave., Youngstown, Ohio	Treasurer and director	0
Bertram Tamarkin, 926 Ravine Dr., Youngstown, Ohio 44505.	Secretary and director	0
Michael I. Monus, 5341 Logan Arms Dr., Girard, Ohio 44420.	Assistant treasurer, assistant secretary, and director.	0
Tamarkin Co., P.O. Box 1508, 375 Victoria Rd., Youngstown, Ohio 44501.	Sole shareholder	100

The Tamarkin Company (Tamarkin) is a wholesale grocery company engaged principally in the sale of food and allied products to retail supermarkets, supermettes, and convenience type food stores.

The Applicant will begin operations with a capitalization of $300,000 and will be a source of equity capital and long term loan funds for qualified small business concerns in the independent retail food industry. In addition, the Applicant may render financial advisory services to qualified small business concerns.

Prospective borrowers will not be required, as a condition of the Applicant's financing, to purchase goods and services from Tamarkin or any associate of Tamarkin. However, Tamarkin will benefit indirectly from the SBIC financing of independent food merchants that are also customers of Tamarkin. These customers will be procuring food and allied products from Tamarkin, but they are not compelled by contract or other agreement to purchase their products or services from Tamarkin. Customers buy from Tamarkin solely at their option and are not required to concentrate their purchases as a condition of utilizing the programs offered by Tamarkin.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Youngstown, Ohio.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 7, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-7378 Filed 3-11-77;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 77-4; Reference: ATF O 1100.77]

REGIONAL REGULATORY ADMINISTRATORS, ET AL.

Delegation of Authority To Affix Seal of Department of the Treasury

1. *Purpose.* This order sets forth delegation of authority to affix the seal of the Department of the Treasury.

2. *Delegation.* a. Pursuant to the authority delegated to the Director, Bureau of Alcohol, Tobacco and Firearms by Treasury Department Order 107 (Revision 20) dated December 21, 1976 (41 FR 56739, December 29, 1976), those officials listed below are hereby redelegated authority to affix the seal of the Department of the Treasury in the authentication of originals and copies of books, records, papers, writings, and documents of the Bureau, for all purposes, including the purposes authorized by 28 U.S.C. 1733(b):

(1) Regional regulatory administrators; (2) Regional administrative officers; (3) Assistant Director (Technical and Scientific Services); (4) Assistant Director (Administration); (5) Chief, Technical Services Division; (6) Chief, Information Management Division.

b. This authority may not be redelegated.

Effective date. This order becomes effective on March 2, 1977.

Signed: March 2, 1977.

JOHN G. KROGMAN,
Acting Director.

[FR Doc.77-7452 Filed 3-11-77;8:45 am]

Internal Revenue Service

WRITTEN DETERMINATIONS SUBJECT TO PENDING LITIGATION

Disclosure of Written Determinations and Related Background File Documents

Section 1201(b) of the Tax Reform Act of 1976 provides that any written determination (letter ruling, technical advice memorandum, or determination letter) or related background file document that has been requested in a proceeding under the Freedom of Information Act, must be made available to the complainant if the proceeding was commenced before January 1, 1976. Accordingly, the Internal Revenue Service is preparing to make available to the complainant in *Cosmos Broadcasting Corp. v. Donald C. Alexander et al.*, Civil Action No. 75–1991 (D.D.C., filed November 26, 1975) the categories of documents described by the complainant as follows:

Letter rulings issued under section 1071 of the Internal Revenue Code of 1954 relating to the type of properties the purchase of which would qualify for tax deferral, and more specifically whether proceeds from the sale of cable television systems could be reinvested in a radio or television broadcasting station and vice versa.

The Internal Revenue Service is also preparing to make available to the complainant in *Robert A. Klayman v. Internal Revenue Service et al.*, Civil Action No. 75–1584 (D.D.C., filed September 26, 1975) the categories of documents described by the complainant as follows:

1. All unpublished letter rulings originating in the Mining and Timber Section or Oil and Gas Section of the Engineering and Valuation Branch of the office of the Assistant Commissioner (Technical), Internal Revenue Service, (including any predecessors of those Sections) issued under section 612 or 613 of the Internal Revenue Code of 1954 or Treas. Reg. § 1.612–3 or § 1.613–2 thereunder, to lessees or lessors (or prospective lessees or lessors) of mineral rights (including oil and gas and hard mineral rights) or timber rights on or after July 4, 1967, which discuss or determine any or all of the following:

a. Whether a payment or payments made by a lessee to a lessor of mineral or timber rights constitute a "bonus" as defined in Treas. Reg. § 1.612–3(a), "advanced royalties" as defined in Treas. Reg. § 1.612–3(b), or "delay rental" as defined in Treas. Reg. § 1.612–3(c);

b. The proper tax treatment by the lessee of an advance payment made by a lessee to a lessor of mineral or timber rights where such payment is recoverable by the lessee out of royalties on mineral or timber subsequently extracted or cut;

c. The distinctions between bonuses and advanced royalties in mineral or timber lease transactions.

2. All unpublished letter rulings originating in the Internal Revenue Service Sections referred to in (1) above issued on or after August 16, 1954, and before July 4, 1967, discussing or determining any matter or issue described in paragraphs 1 (a), (b) or (c) above.

3. The portions intended for issuance to taxpayers of all responses to technical advice requests originating in the Internal Revenue Service Sections referred to in (1) above issued on or after July 4, 1967, discussing or determining any matter or issue described in paragraphs 1 (a), (b) or (c) above.

4. The portions intended for issuance to taxpayers of all responses to technical advice requests originating in the Internal Revenue Service Sections referred to in (1) above issued on or after August 16, 1954, and before July 4, 1967, discussing or determining any matter or issue described in paragraphs 1 (a), (b) or (c) above.

The Internal Revenue Service is also preparing to make available to the complainant in *Shakespeare of Arkansas, Inc. v. Internal Revenue Service et al.*, Civil Action No. P–75–41–C (W.D. Ark., filed June 23, 1975) the categories of documents, determined by the Internal Revenue Service to have significant reference value, that were described by the complainant as follows:

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Requests for rulings (together with all communications relating thereto) and the private rulings or technical advice memoranda issued by the Excise Tax Branch which rulings relate to the taxability or nontaxability of items of fishing tackle and the actual or constructive selling price at which fishing tackle is to be taxed, under section 4161 and 4216 of the Code.

Section 6110(c) of the Internal Revenue Code of 1954 requires the Internal Revenue Service to delete certain information from the documents described in this notice. The Internal Revenue Service intends to delete names and addresses, and will also attempt to recognize and delete other identifying details, trade secrets, and the other information described in section 6110(c), before making the documents available to the complainants.

Person who have received written determinations described in this notice may contact the Internal Revenue Service to ascertain whether their particular written determinations or related background file documents will be made available to the complainants. These persons may also submit comments with respect to the information that the Internal Revenue Service intends to delete under section 6110(c). Questions and comments should be sent before April 13, 1977.

Assistant Director, Tax Forms and Publications Division, 1111 Constitution Avenue, NW., Room 5577, Washington, D.C. 20224. (202) 566-6150.

If no questions or comments concerning a particular document are received by the Internal Revenue Service before April 13, 1977, that document will be made available to the complainants. If a timely comment is received concerning a particular document, the Internal Revenue Service will consider it before that document is made available to the complainants.

Comments with respect to information deleted under section 6110(c) must be in writing. Those comments made by authorized representatives on behalf of their clients must be accompanied by an appropriate power of attorney.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc.77-7451 Filed 3-11-77;8:45 am]

Office of the Secretary

PRESSURE SENSITIVE PLASTIC TAPE FROM WEST GERMANY

Antidumping; Withholding of Appraisement

Correction

In FR Doc. 77-6396, appearing at 12285, in the issue of Thursday, March 3, 1977, on page 12286, second column, paragraph (f) the twelfth line now reading "tively found ranging from 3 to 7 percent" should read "tively found ranging from 3 to 27 percent".

Office of Revenue Sharing

[Administrative Ruling No. 77-1]

GOVERNMENTS ELIGIBLE FOR ANTIRECESSION FISCAL ASSISTANCE PAYMENTS

Final Date for Filing of Statement of Assurances for Calendar Quarters Beginning April 1, 1977 and July 1, 1977

Administrative Ruling 76-4, published December 15, 1976 in the FEDERAL REGISTER (41 FR 54828), provided that eligible State and local governments that had not filed a statement of assurances with the Director of the Office of Revenue Sharing on or before March 11, 1977 will be deemed to have waived antirecession fiscal assistance funds payable pursuant to Title II of the Public Works Employment Act of 1976 (Pub. L. 94-369) for the calendar quarters beginning July and October, 1976, and January and April, 1977.

The provision of Administrative Ruling 76-4, with respect to the waiver of antirecession fiscal assistance payments for the calendar quarter beginning April 1, 1977, is hereby amended as follows: Payments for the calendar quarter beginning April 1, 1977 will be deemed to have been waived unless a State or local government submits a statement of assurances to the Director of the Office of Revenue Sharing on or before June 1, 1977.

Payments for the calendar quarter beginning July 1, 1977 will be deemed to have been waived unless a State or local government submits a statement of assurances to the Director of the Office of Revenue Sharing on or before August 31, 1977.

Dated: March 9, 1977.

JEANNA D. TULLY,
Director,
Office of Revenue Sharing.

[FR Doc.77-7404 Filed 3-9-77;11:44 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 344]

ASSIGNMENT OF HEARINGS

MARCH 9, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 128988 (Sub-No. 88), Jo/Kel, Inc., now assigned March 28, 1977, at Denver, Colo., is cancelled and application dismissed.

MC 135062 (Sub-No. 30), Burech Trucking, Inc., d./b./a. Roadrunner Trucking, Inc., now assigned March 22, 1977 (4 days), at Albuquerque, New Mexico, in the Bernalillo County Courthouse Juvenile Court Room, 415 Tijeras Avenue, N.W.

MC 141943 (Sub-No. 2) Bowman Company, now assigned May 3, 1977, at Louisville, Ky. is canceled and reassigned for May 3, 1977, at Lexington, Ky., location of hearing room to be later designated.

MC 116915 (Sub-No. 27), Eck Miller Transportation Corp., now assigned May 4, 1977, at Louisville, Ky. is cancelled and reassigned for May 4, 1977 (1 day) at Lexington, Ky., location of hearing room will be later designated.

MC-C-8685, J. Francis McCarthy, d./b./a. Mac Transport Lines—Revocation of Permit, now assigned April 18, 1977 at Boston, Massachusetts, is canceled.

MC 141844, Grady County Farms, Inc., now assigned May 5, 1977 at Louisville, Ky., is cancelled and reassigned for May 5, 1977 (2 days), Lexington, Ky., location of hearing room will be later designated.

MC 138157 (Sub-No. 30), Southwest Equipment Rental, Inc. d./b./a. Southwest Motor Freight application dismissed.

MC 111302 Sub 93, Highway Transport, Inc., and MC 112801 Sub 186, Transport Service Co., now assigned April 14, 1977, at Chicago, Ill., will be held in Room 350, 230 S. Dearborn St.

MC-F-12873, Motor Dispatch Inc.—Investigation of Control—Loudon Lines, Inc., and Lincoln Express and Freight Lines, Inc., and MC-C-9130, Loudon Lines, Inc., Lincoln Express and Freight Lines, Inc., and Motor Dispatch Inc.—Investigation and Revocation of Certificates and Certificates of Registration, now assigned April 12, 1977, at Chicago, Ill., will be held in Room 350, 230 S. Dearborn Street.

MC 130409, Charlotte Visitours, Inc., now being assigned April 18, 1977 (3 days) at Charlotte, N.C., in a hearing room to be later designated.

MC 113678 Sub 631, Curtis, Inc., MC 115331 Sub 413, Truck Transport, Inc., MC 116763 Sub 346, Carl Subler Trucking Inc., MC 118989, Sub 141, Container Transit, Inc., MC 123048 Sub 343, Diamond Transportation System, Inc., MC 124211 Sub 281, Hitt Truck Line, Inc., MC 128273 Sub 240, Midwestern Distribution, Inc., and MC 135732 Sub 25, Aubrey Freight Lines, Inc., now assigned March 28, 1977, at Milwaukee, Wis., will be held in the State Room, Milwaukee Inn, 916 East State Street.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7472 Filed 3-11-77;8:45 am]

[AB 77 (Sub-No. 1); Service Date Mar. 9, 1977]

BANGOR AND AROOSTOOK RAILROAD CO.

Abandonment Between South LaGrange and Packard in Penobscot and Piscataquis Counties, Maine

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served January 10, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7474 Filed 3-11-77;8:45 am]

[AB 19 (Sub-No. 31; Service Date Mar. 9, 1977]

BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY CO.

Abandonment and Abandonment of Operation by the Baltimore and Ohio Railway Company Between Guthrie Spur Junction and Tidedale in Indiana County, Pennsylvania

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Buffalo, Rochester and Pittsburgh Railway Company and the Baltimore and Ohio Railroad Company of the Guthrie Mine Spur, between Guthrie Mine Junction and Tidedale, a distance of 1.33 miles, in Indiana County, Pa., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4312, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that because there has been no traffic over the subject line in the past five years, abandonment will not result in adverse impacts to existing transportation systems or energy consumption. There are no economic development plans in tributary territory which would conflict with the abandonment. Furthermore, no significant adverse effects on air or water quality, terrestrial ecology or historic sites have been identified. Although there is some mining of coal along Yellow Creek, transportation is currently provided by motor carrier and conveyor belt. Interest has been expressed by one coal company in possibly acquiring this line for rail transportation purposes. Consequently a condition has been recommended which would facilitate acquisition of this line for continued rail use.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before April 13, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7480 Filed 3-11-77;8:45 am]

[AB6 (Sub-No. 45); Service Date: Mar. 9, 1977]

BURLINGTON NORTHERN INC.

Abandonment Between Sterling and New Raymer in Logan and Weld Counties, Colorado

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served January 19, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7485 Filed 3-11-77;8:45 am]

[AB 1 (Sub-No. 49); Service Date Mar. 9, 1977]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Abandonment Between Elkhorn Junction and Irvington, in Douglas County, Nebraska

FEBRUARY 23, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served January 6, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7496 Filed 3-11-77;8:45 am]

[AB 101 (Sub-No. 2); Service Date: Mar. 9, 1977.]

DULUTH, MISSABE AND IRON RANGE RAILWAY CO.

Abandonment Between Sawbill Landing and Forest Center in Lake County, Minnesota; Correction

FEBRUARY 25, 1977.

By notice dated January 31, 1977, the public was informed that no substantive comments in opposition, of an environmental nature, had been received in response to the environmental threshold assessment survey prepared in the above-docketed proceeding. The notice also indicated that the proceeding was ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate. Through an inadvertance, the incorrect title was given in the previous notice, although the docket

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number was correct. The correct title should have been as indicated below.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7491 Filed 3-11-77;8:45 am]

[AB 119 (Sub-No. 1); Service Date Mar. 9, 1977]

FORTH WORTH AND DENVER RAILWAY CO.

Abandonment Between Sterley and Silverton in Floyd and Biscoe Counties, Texas

FEBRUARY 25, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Fort Worth and Denver Railway Company of its line between Sterley and Silverton, a distance of 19.71 miles, in Floyd and Biscoe Counties, Texas, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that no definitive plans for economic development which would be dependent on the continuation of rail service have been identified in the subject region. The land surrounding this line is primarily used for agricultural purposes, and no scenic features are involved. Furthermore, no interest has been expressed in utilizing this line for other public purposes following abandonment, Given the low volume of traffic handled on this line, no significant impacts on fuel consumption or air quality will result.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 13, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the preceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7481 Filed 3-11-77;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 9, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before March 29, 1977.

FSA No. 43334—*Iron or Steel Articles to Beaumont, Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B–662), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from Alton and Federal, Illinois, to Beaumont, Texas.

Grounds for relief—Rate relationship and market competition.

Tariff—Supplement 257 to Southwestern Freight Bureau, Agent, tariff 301–F, I.C.C. No. 5098.

Rates are published to become effective on April 9, 1977.

FSA No. 43335—*Salt to Taylorsville, Mississippi.* Filed by Southwestern Freight Bureau, Agent, (No. B–659), for interested rail carriers. Rates on salt, in carloads, as described in the application, from points in southwestern territory, to Taylorsville, Mississippi.

Grounds for relief—Rate relationship.

Tariff—Supplement 155 to Southwestern Freight Bureau, Agent, tariff SW/S–2007–H, I.C.C. No. 5042.

Rates are published to become effective on April 10, 1977.

By the Commission

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7473 Filed 3-11-77;8:45 am]

[AB 2 (Sub-No. 12); Service Date Mar. 9, 1977]

LOUISVILLE AND NASHVILLE RAILROAD CO.

Abandonment Between Otter Creek Junction and Brazil, in Vigo and Clay Counties, Indiana

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served January 17, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7484 Filed 3-11-77;8:45 am]

[AB 10 (Sub-No. 8)]

NORFOLK AND WESTERN RAILWAY CO.

Abandonment in the City of Radford, Montgomery County, Virginia

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Norfolk and Western Railway Company in the City of Radford, a distance of 2.4 miles, all in Montgomery County, Va., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because traffic on the line has been non-existent for 4 years and the only shipper has not requested service during the period. The city of Cadford has recently annexed that portion of Montgomery County, effective January 1, 1977, from the present city limits south to Interstate Highway 81. A segment of the railroad proposed for abandonment lies within the annexed area. The city intends to establish an industrial park in this newly annexed area along the northern end of the right-of-way. Consequently the city of Radford and the railroad have agreed to leave in place the right-of-way track, and bridges from the beginning of the proposed abandonment at Forest Street south to Route 611, as an industrial spur. This agreement will remain in effect for 2 years after abandonment. The right-of-way has been determined to be suitable for other public uses following abandonment.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 13, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceedings and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7479 Filed 3-11-77;8:45 am]

[AB 10 (Sub-No. 9)]

NORFOLK AND WESTERN RAILWAY CO.

Abandonment Between Boaz and Jarratt, in Isle of Wight, Southampton and Sussex Counties, Virginia

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Norfolk and Western Railway Company between Boaz and Jarratt, a distance of 40 miles, in Isle of Wight, Southampton and Sussex Counties, Va., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because traffic on the line has been very low for a number of years. Also, no land use plans of an economic or industrial importance exist which would necessitate the continued operation of the line. The right-of-way is not considered suitable for alternate public use.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 13, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7490 Filed 3-11-77;8:45 am]

[AB 55 (Sub-No. 9)]

SEABOARD COAST LINE RAILROAD CO.

Abandonment Between Red Level Junction and Crystal River, Florida

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Seaboard Coast Line Railroad Company of its line extending from Milepost ARD 785.71, near Red Level Junction, in a southerly direction to Milepost ARD 790.90, near Crystal River, a distance of 5.19 miles, in Citrus County, Fla., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because the traffic volume exhibited on the portion of the branch proposed for abandonment is low. A shift of rail traffic to motor carriers would cause no substantial alterations in existing air quality, fuel consumption, highway traffic, and noise instrusions to the area. No

land use plans of an economic or industrial importance exist which would necessitate the continued operation of the line. Consequently, there is no indication that this action will have a serious adverse impact on rural or community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 13, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7477 Filed 3-11-77;8:45 am]

[AB 126 (Sub-No. 1)]

NORFOLK SOUTHERN RAILWAY CO.

Abandonment Between Diamond Springs and Shelton, in Virginia Beach, Virginia

FEBRUARY 23, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served January 10, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7495 Filed 3-11-77;8:45 am]

[AB 57 (Sub-No. 4)]

SOO LINE RAILROAD CO.

Abandonment Near a Point in Duluth, St. Louis County, Minnesota

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notices that its Section of Energy and Environment has concluded that the proposed abandonment by the Soo Line Railroad Company of its line of railroad between Milepost 467.93 and the end of the line at Milepost 468.20, a distance of .27 miles, in St. Louis County, Minn., if approved by the Commission, does not constitute a major Federal action- significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA) U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because the traffic volume exhibited on the portion of the branch proposed for abandonment is low. The shift of rail traffic to motor carriers would cause no substantial alterations in existing air quality, fuel consumption, highway traffic and noise intrusions to the area. There are no historic or ecological impacts associated with the proposed action.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings,

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Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 13, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7482 Filed 3-11-77;8:45 am]

[AB 12 (Sub-No. 46)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Hamilton and Ordbend in Glenn County, California

FEBRUARY 23, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served January 6, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7495 Filed 3-11-77;8:45 am]

[AB 12 (Sub-No. 31)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Westwood Siding and Beverly Hills in Los Angeles County, California

FEBRUARY 23, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served January 6, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7496 Filed 3-11-77;8:45 am]

[AB 12 (Sub-No. 49)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Redlands, 2nd Street and Crafton in San Bernardino County, California

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Southern Pacific Transportation Company of its line between Redlands, 2nd Street and Crafton, a distance of 3.71 miles, in San Bernardino County, Calif., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that no significant environmental impacts would result from abandonment because the line has handled a minimal volume of traffic, and an alternate line of the Atchison, Topeka and Santa Fe parallels the line to be abandoned. Interest has been expressed in acquiring the right-of-way for use in a flood control project, and an appropriate public use condition has been recommended. The line to be abandoned closely parallels and crosses the Mill Creek "Zanja", an historic irrigation canal which has been nominated for inclusion on the National Register of Historic Places. It has been determined that abandonment will enhance the aesthetic and historic character of the "Zanja", by removal of the rail line. However, a mitigating measure has been recommended to ensure that salvage operations are conducted in a manner consistent with the historic character of the "Zanja."

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before May 6, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abondonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7493 Filed 3-11-77;8:45 am]

[AB 12 (Sub-No. 50)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Burrell and Riverdale in Fresno County, California

FEBRUARY 23, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served December 23, 1976, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7487 Filed 3-11-77;8:25 am]

[AB 12 (Sub-No. 34); Service date March 2, 1977]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Fall Creek Junction and Fall Creek in Lane County, Oregon

FEBRUARY 23, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served January 10, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7489 Filed 3-11-77;8:45 am]

[AB 20 (Sub-No. 8)]

TEXAS AND PACIFIC CO.

Abandonment Between San Martine and Rock House, in Culberson County, Texas

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Texas and Pacific Railway Company of its line of railroad extending from Milepost 686.3 near San Martine to Milepost 713.5 at Rock House, a distance of 27.2 miles in Culberson County, Tex., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because of the light density of traffic involved and the absence of any major historic, safety, or ecological consequences associated with the proposed abandonment. The local highway in the area of the subject line is able to accommodate the resultant slight diversion to truck transportation. Also, no definitive land use plans of an economic importance exist which are dependent upon the continued operation of the line. Although there are several major oil companies which are presently exploring the area near the subject line for oil, gas, and additional mineral deposits, no industries have located in the area. Therefore, the proposed abandonment should not have a serious adverse impact on rural and community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 13, 1977.

It should be emphasized that the environmental threshold assessment survey represent an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7483 Filed 3-11-77;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulation (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC–85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before April 4, 1977. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence on or before April 13, 1977, subject to its tariff publication effective date.

P–2–77 (Special Certificate—Waste products), filed February 14, 1977. Applicant: CARDINAL FREIGHTWAYS, a Limited Partnership, 3308 Bandini Boulevard, Los Angeles, Calif. 90023. Applicant's representative: David P. Christianson, 606 South Olive Street, Suite 825, Los Angeles, Calif. 90014. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *aluminum and steel (tin) containers, glass bottles,* and *aluminum household scraps,* from points in Arizona, to points in California, in furtherance of a recognized pollution control program sponsored by Beverage Industry Recycling Program located in Phoenix, Ariz., for the purpose of collecting and transmitting waste scraps for recycling.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7470 Filed 3-11-77;8:45 am]

[AB 33 (Sub-No. 13)]

UNION PACIFIC RAILROAD CO.

Abandonment of its "Sears Branch" Between Sears and Janise in Scotts Bluff County, Nebraska

FEBRUARY 25, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Union Pacific Railroad Company of its Sears Branch from Milepost 0.00 near Sears to Milepost 2.59 near Janise, a distance of 2.59 miles, in Scotts Bluff, County, Nebr., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the only environmental impacts associated with this abandonment will result from line dismantlement. There will be no diversion of traffic to motor carrier since the line has been devoid of traffic since 1973. Because of this fact and the lack of developmental plans dependent on the subject rail line, there will be no adverse effect on rural and community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 13, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7488 Filed 3-11-77;8:46 am]

[AB 33 (Sub-No. 14)]

UNION PACIFIC RAILROAD CO.

Abandonment Portion-Encampment Branch Between Saratoga and Cow Creek in Carbon County, Wyoming

FEBRUARY 25, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of

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Energy and Environment has concluded that the proposed abandonment by the Union Pacific Railroad Company of a portion of the Encampment Branch extending 9.11 miles from Cow Creek to Saratoga in Carbon County, Wyo., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that traffic on the line is low and declining and the division to motor carriers should the abandonment be approved, would only minimally affect the existing environment. Moreover, alternative rail transportation exists in the area and the highway system is adequate to handle the small increase in traffic. No projects of economic consequence are occurring or planned for the area. Considering the lack of activities in the area dependent on rail service from this line, the subject action would not have a serious adverse impact on rural and community development. It was determined that the right-of-way would not be suitable for public use.

The line crosses the North Platte River, a blue ribbon trout stream. Salvaging operations on the bridge spanning this river could create a serious adverse effect on a portion of the trout population during spawning. However, a condition is recommended in the TAS which would mitigate this effect.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 13, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7497 Filed 3-11-77;8:45 am]

[AB 126]

WELLSVILLE, ADDISON & CALETON RAILROAD CORP.

Abandonment of Entire Line in Potter and Tioga Counties, Pa.

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7486 Filed 3-11-77;8:45 a.m.]

[AB 131]

YAKIMA VALLEY TRANSPORTATION COMPANY

Abandonment in Selah, Yakima County, Washington

FEBRUARY 23, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq. 2. A notice setting forth this conclusion was served January 11, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice. 3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7478 Filed 3-11-77;8:45 am]

[Notice No. 131]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before April 13, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC–FC–76840, filed December 17, 1976. Transferee: I. L. GEER, MADOLYN A. GEER, GARRY W. GEER, and GILBERT I. GEER, a partnership, doing business as I. L. GEER & SONS, 211 Terrace Street, Warren, Pennsylvania 16365. Transferor: Irving L. Geer, doing business as I. L. Geer, 211 Terrace Street, Warren, Pennsylvania 16365. Applicant's representative: Kenneth T. Johnson & Ronald W. Malin, Attorneys at Law, Bankers Trust Building, Jamestown, New York 14701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 129311, issued June 11, 1968, as follows: Crude oil from points in the Townships of Busti and Kiantone in Chautauqua County, N.Y., to points in Mead Township, Warren County, Pa. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76947, filed February 2, 1977. Transferee: CHARLES D. SHUPE & SIBYL SHUPE, doing business as Ravalli Motor Freight, Rt. 2, Box 2381, Hamilton, Montana 59840. Transferor: Norman W. Foster, doing business as Ravalli Motor Freight, P.O. Box 976, Hamilton, Montana 59840. Applicant's representative: Gail H. Goheen, Attorney at Law, Koch & McKenna, P.O. Box 389, Hamilton, Montana 59840. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration No. MC 121623 issued July 30, 1973, as follows: Commercial freight between Victor, Corvallis, Grantsdale, Stevensville, Thrifty Grocery Store, Casey's Store and Wayside Grocery Store, Hamilton and Darby on the one hand, and Butte and Anaconda on the other hand over a specified regular route. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76966, filed February 4, 1977. Transferee: Elich Company, a corporation, doing business as ELICH BUTTE-DEER LODGE MOTOR FREIGHT, 3430 South Hillcrest Drive, Butte, Montana 59701. Transferee: Melvin M. Mooney and Lorraine E. Mooney, a partnership, doing business as Mooney's Butte-Deer Lodge Motor Freight, 107 Rocky Mountain Lane, Butte, Montana 59701. Applicant's representative: Keith P. Johnson, Attorney at Law, 6–10 First National Bank Bldg., Butte, Montana 59701. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 140357 issued February 11, 1976, in the name of David E. Fetters and Virginia S. Fetters, doing business as Fetters Butte-Deer Lodge Motor Freight and authorized to be transferred to Melvin M. Mooney and Lorraine E. Mooney, a partnership, doing business as Mooney's Butte-Deer Lodge Motor Freight pursuant to No. MC–FC–76811 approved January 26, 1977, as follows: General commodities with the usual exceptions over a specified regular route between Butte and Deer Lodge, Mont., serving all intermediate points. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76973, filed February 8, 1977. Transferee: JOE CROCKER MOVING & STORAGE, INC., P.O. Box 7558, Corpus Christi, Texas 78415. Transferor: Joe Crocker (Martha Leona Crocker, Independent Executrix), doing business as Joe Crocker Trucking Co., P.O. Box 7558, Corpus Christi, Texas 78415 and Joe Crocker (Martha Leona Crocker, Independent Executrix), doing business as Joe Crocker Moving & Storage, P.O. Box 7558, Corpus Christi, Texas 78415. Applicant's representative: Philip Robinson, Attorney at Law, 1806 Rio Grande, P.O. Box 2207, Austin, Texas 78768. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 113175 (Sub-No. 3) and No. MC 113175 (Sub-No. 6) issued August 18, 1969 and October 11, 1974 respectively and Certificate of Registration No. MC 121669 issued April 14, 1971, as follows: Used household goods between Corpus Christi, Tex., on the one hand, and, on the other, specified counties in Texas, and between points in specified counties in Texas, and household goods and used office furniture and equipment from all points within a 50 mile radius of Fredericksburg, Texas, to all points in Texas and vice versa. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76975, filed February 10, 1977. Transferee: VIRGIL KATHOL, RR No. 3, Hartington, Neb. 68739. Transferor: Ivo Kathol, RR No. 3, Hartington, Neb. 68739. Applicant's representative: George L. Hirschbalh, Attorney at Law, P.O. Box 417, 5000 South Lewis Blvd., Sioux City, Iowa 51102. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 93134, issued August 3, 1960, as follows: Livestock, From Hartington, Nebr., and points within 25 miles thereof, to Sioux City, Iowa, and Yankton, S. Dak., and from O'Neill and Plainview, Neb., to Sioux City, Iowa, also Livestock, coal, sand, twine, feed, sugar, lumber, building materials, flour, potatoes, seed, agricutural implements and parts, furniture, fencing, grain, groceries, and petroleum products in containers, from Sioux City, Iowa, to Hartington, Nebr., and points within 25 miles of Hartington, and Grain, fruits, and vegetables, from Hartington, Nebr., and points within 25 miles thereof, to Sioux City, Iowa. Livestock, feed, and seed, from Yankton, S. Dak., to Hartington, Nebr., and points within 25 miles of Hartington, with no Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7469 Filed 3-11-77;8:45 am]

[AB 37 (Sub-No. 6)]

OREGON-WASHINGTON RAILROAD AND NAVIGATION COMPANY

Abandonment and Abandonment of Operation—By Union Pacific Railroad Company of "Umatilla Branch" Between Umatilla and Irrigon in Umatilla and Morrow Counties, Oregon

FEBRUARY 25, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Oregon-Washington Railroad and Navigation Company and the proposed abandonment of operations by the Union Pacific Railroad Company of the Umatilla Branch extending 7.5 miles from Umatilla to Irrigon in Umatilla and Morrow Counties, Oreg., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Enviromental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq., and that preparation of a detailed environment impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that no traffic has been generated on the branch for at least five years and no industries which would be dependent on the line for rail service are located in or planned for the adjacent area. Moreover alternative transportation is available over the UP main line and the navigable Columbia River. Inasmuch as the line would be reclassified to a sidetrack if the abandonment is approved and continue in use for the storage of cars, the proposed abandonment is not expected to adversely affect the existing environment nor have a serious adverse effect on rural and community development. Because ownership would be retained by the railroad, the right-of-way would not be suitable for public use.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 13, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7476 Filed 3-11-77;8:45 am]

[AB 12 (Sub-No. 47)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment of Its San Bruno Branch Between Daly City and Baden, in San Mateo County, California

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment of a 3.41 mile portion of the San Bruno Branch Line in San Mateo County, Calif. by the Southern Pacific Transportation Company, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that diversion of rail traffic to motor carrier would add approximately three trucks to the area highways daily. This additional traffic would not significantly affect ambient environmental conditions, fuel consumption, or safety conditions. Approval of the proposed action would not affect any historic site, or structure, or any endangered or threatened species. There are no definitive development plans that require the continuation of rail service on this corridor. Consequently, abandonment would not affect rural and community development.

It has been determined that the right-of-way would be suitable for public use. Various alternative public uses have been proposed for the property. Consequently, an appropriate public-use condition has been suggested in the TAS.

V 4249 MAR 14 77 UMI

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 13, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–7475 Filed 3–11–77;8:45 am]

[AB 12; Sub-No. 20; Finance Docket Nos. 28024 and 28078]

SOUTHERN PACIFIC TRANSPORTATION CO., ET AL.

Abandonment of Railroad Services, etc.

FEBRUARY 28, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceedings has not caused the Commission's Section of Energy and Environment to modify its previous conclusion that these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202–275–7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–7499 Filed 3–11–77;8:45 am]

federal register

MONDAY, MARCH 14, 1977

PART II

DEPARTMENT OF STATE

PERMITS TO FISH OFF U.S. COASTS

Applications

V 42 49 MAR 14 77 UMI

DEPARTMENT OF STATE

[Public Notice 529]

PERMITS TO FISH OFF THE COASTS OF THE UNITED STATES

Applications

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Additional applications for fishing beginning March 1, 1977, have been received from the Government of Japan, and are published herewith.

Dated: March 3, 1977.

ALBERT L. ZUCCA,
Director, Office of Fisheries Affairs.

JA-77-0051

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application No. JA-77-0051 For Use of Issuing Office

State: JAPAN

1. Name of Vessel HOKUYO MARU NO. 1
2. Vessel No.: Hull No. [illegible] (TOSHIKI 387) Registration No. [illegible]
3. Name and Address of Owner — Name and Address of Charterer
   Name [illegible] SUISAN CO., LTD. — NIPPON SUISAN KAISHA, LTD.
   Address [illegible], TAKASHIMA, OTARU-SHI, HOKKAIDO, JAPAN — [illegible], OTEMACHI, CHIYODA-KU, TOKYO, JAPAN
   Cable Address — — [illegible] TOKYO
4. Homeport and State of Registry: OTARU, JAPAN
5. Type of Vessel STERN TRAWLER, APPLIATED TO FACTORY MOTHER SHIP SHIKISHIMA MARU
6. Tonnage (Gross) [illegible] M.T. (Net) 137.98 M.T.
7. Length [illegible] M. 8. Breadth [illegible] M. 9. Draft [illegible] M.
10. Horsepower [illegible] shp. 11. Maximum Speed 12.0 kt.
11. Propulsion: Diesel (o), Steam ( ), Diesel/Electric ( ). Other —
13. Date Built [illegible]
14. Number and Nationality of Personnel [illegible], JAPAN
    Officers [illegible] Crew [illegible] Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice (o), Telegraphy (o). Other —
    International Radio Call Sign JPBD
    Radio Frequencies Monitored A1 2146.5 KHZ. (VIA FACTORY [illegible])
    Other Working Frequencies A3 [illegible] KHZ (VIA FACTORY MOTHER SHIP)
    Schedule WATCH TIME: 20:00 TO 04:00 GMT. (BERING SEA & ALEUTIAN ISLANDS)

JA-77-0051

16. Navigation Equipment: Loran C (o), Loran A (o), Omega ( ), Decca ( ), Navsat ( ), Radar (o), Fathometer (o). Other —
17. Cargo Capacity (MT)
    Salted Fish —
    Fresh Fish [illegible]
    Frozen Fish —
    Fish Meal —
    Other —
18. Cargo Space — Number — Name
    Freezer — —
    Dry Hold I, II (FRESH FISH HOLD) SEE ATTACHED I
    Tanks — —
    Other — —
19. Processing Equipment (Indicate daily capacity, MT) —
20. Fisheries for which Permit is Requested:

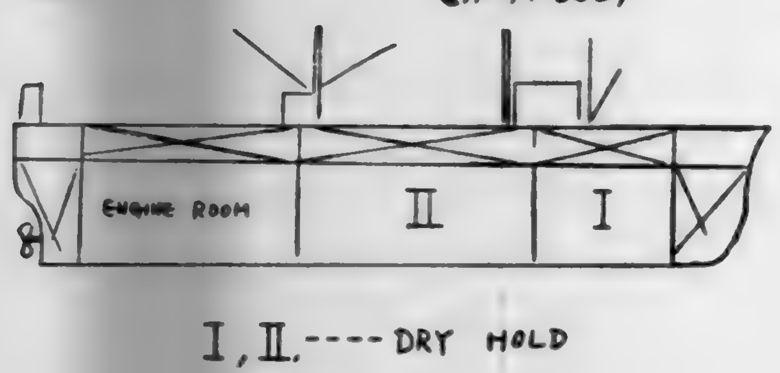
Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
BERING SEA & ALEUTIAN ISLANDS	MAY — OCT.	SEE ATTACHED II		[illegible] TRAWL, BOTTOM TRAWL.

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

[illegible]

ATTACHED I

JA-77-0051



I, II.---- DRY HOLD

ATTACHED II

JA-77-0051

[illegible]

BERING SEA AND ALEUTIAN ISLANDS

MAY — OCTOBER

POLLOCK	[illegible] M.T.	
[illegible]	[illegible]	[illegible]
BLACK COD	7,000	
FLOUNDERS	130,000	
PACIFIC COD	[illegible]	
[illegible]	[illegible]	
[illegible]	[illegible]	
[illegible]	[illegible]	

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application No. JA-77-1000 For Use of Issuing Office

State: JAPAN

1. Name of Vessel DAIKO MARU
2. Vessel No.: Hull No. — Registration No. TKY-623
3. Name and Address of Owner — Name and Address of Charterer
   Name TOKUMARU KAIUN CO., LTD.
   Address SHOEI-BLDG, NO. 7,3-CHOME KYOBASHI, CHUO-KU, TOKYO, JAPAN
   Cable Address TOKUMARU KAIUN TOKYO
4. Homeport and State of Registry: AKASHI, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1963.06 M.T. (Net) 1059.91 M.T.
7. Length 93.20 M. 8. Breadth 13.00 M. 9. Draft 5.691 M.
10. Horsepower 3600 shp. 11. Maximum Speed [illegible] kt.
11. Propulsion: Diesel (o), Steam ( ), Diesel/Electric ( ). Other —
13. Date Built APRIL, 1965
14. Number and Nationality of Personnel 19, JAPAN
    Officers 9 Crew 10 Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (o). Other —
    International Radio Call Sign [illegible]
    Radio Frequencies Monitored 500 KHZ [illegible]
    Other Working Frequencies 410 425 432 454 468 480KHZ
    Schedule WATCH TIME: ATLANTIC.GULF OF ALASKA, BERING SEA AND ALEUTIAN ISLANDS, OREGON WASHINGTON AND CALIFORNIA, CENTRAL PACIFIC.

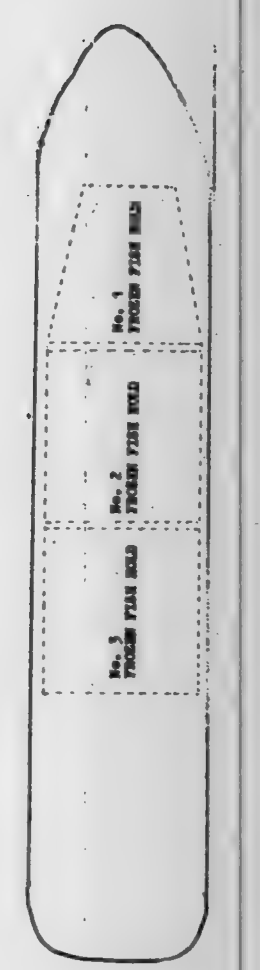
JA-77-1000

16. Navigation Equipment: Loran C (o), Loran A (o), Omega ( ), Decca ( ), Navsat ( ), Radar (o), Fathometer (o). Other —
17. Cargo Capacity (MT)
    Salted Fish —
    Fresh Fish
    Frozen Fish 1650 M.T.
    Fish Meal
    Other
18. Cargo Space — Number — Name
    Freezer SEE THE ATTACHED PAPER 1 — I II III — FROZEN FISH HOLD
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity, MT) —
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC			MARCH TO DECEMBER	
GULF OF ALASKA			MARCH TO DECEMBER	
BERING SEA AND ALEUTIAN ISLANDS			MARCH TO DECEMBER	
OREGON WASHINGTON AND CALIFORNIA			MARCH TO DECEMBER	
CENTRAL PACIFIC			MARCH TO DECEMBER	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-1000



ATTACHED PAPER NO. 1
DAIKO MARU
PLAN OF FROZEN FISH HOLD

1001

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application No. JA-77-1001 For Use of Issuing Office

State: JAPAN

1. Name of Vessel SAKURA MARU
2. Vessel No.: Hull No. — Registration No. HS 1-1
3. Name and Address of Owner — Name and Address of Charterer
   Name SATO STEAMSHIP CO., LTD.
   Address 6-15-1 SHINHAMA ONOMICHI HIROSHIMA JAPAN
   Cable Address SATOKISEN ONOMICHI
4. Homeport and State of Registry: ONOMICHI, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2877.55 M.T. (Net) 1496.03 M.T.
7. Length 105.03 M. 8. Breadth 14.80 M. 9. Draft 6.10 M.
10. Horsepower 3750 shp. 11. Maximum Speed 17 kt.
11. Propulsion: Diesel (o), Steam ( ), Diesel/Electric ( ). Other -
13. Date Built JANUARY 1973
14. Number and Nationality of Personnel 21 JAPAN
    Officers 9 Crew 12 Other (Specify) -
15. Communications: VHF-FM (o), AM/SSB, Voice ( ), Telegraphy (o). Other -
    International Radio Call Sign J I A G
    Radio Frequencies Monitored [illegible]
    Other Working Frequencies A1: 410 432 468 500 KHZ
    Schedule WATCH TIME: ATLANTIC.GULF OF ALASKA, BERING SEA AND ALEUTIAN ISLANDS

V 42 49 MAR 14 77 UMI

JA-77-1001

16. Navigation Equipment: Loran C (o), Loran A ( ), Omega ( ),
Decca ( ), Navaid ( ), Radar (o), Fathometer (o),
Other

17. Cargo Capacity (MT) 18. Cargo Space Number Name
Salted Fish — Freezer SEE THE ATTACHED PAPER 1
Fresh Fish — Dry Hold I II III IV/FROZEN FISH HOLD
Frozen Fish 2050 M.T. Tanks
Fish Meal — Other
Other —

19. Processing Equipment (Indicate daily capacity,MT):

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC				
GULF OF ALASKA	MARCH TO DECEMBER			
BERING SEA AND ALEUTIAN ISLANDS	MARCH TO DECEMBER			
OREGON WASHINGTON AND CALIFORNIA	MARCH TO DECEMBER			
CENTRAL PACIFIC	MARCH TO DECEMBER			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

ATTACHED PAPER NO.1
DAIYUO MARU
MAP OF FROZEN FISH HOLD

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1, 1977 to DECEMBER 31, 1977 Applied Port — Application No. JA-77-1002 For Use of Issuing Office
State: JAPAN

1. Name of Vessel DAIYUO MARU
2. Vessel Nat. Hull No. — Registration No. TKI-695
3. Name and Address of Owner — Name and Address of Charterer
Name MASUNORI SHIPPING CO., LTD.
Address 1-8-8
NAIKAKU AKASHICHI KIYOOO JAPAN
Cable Address
MASUNORI AKASHI
4. Homeport and State of Registry: AKASHI, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2955.99 M.T. (Net) 1538.40 M.T.
7. Length 108 M., B., Breadth 15.20 M., D., Draft 6.30 M.
8. Horsepower 5,400 shp. 11. Maximum Speed 17.92 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
Other
13. Date Built SEPTEMBER 5, 1973
14. Number and Nationality of Personnel 23, JAPAN
Officers 9 Crew 14 Other (Specify) —
15. Communications: VHF-FM (*), AM/SSB, Voice (*), Telegraphy (*),
Other
International Radio Call Sign JCBA
Radio Frequencies Monitored 500 KHZ 2182 KHZ
Other Working Frequencies A1: 6222, 6333, 8444, 12666, 16888 KHZ
ATLANTIC, GULF OF ALASKA
Schedule WATCH TYPE : BERING SEA AND ALEUTIAN ISLANDS
OREGON WASHINGTON AND CALIFORNIA

JA-77-1002

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
Decca ( ), Navaid ( ), Radar (*), Fathometer (*),
Other

17. Cargo Capacity (MT) 18. Cargo Space Number Name
Salted Fish — Freezer SEE THE ATTACHED PAPER 1
Fresh Fish — Dry Hold I II III IV/FROZEN FISH HOLD
Frozen Fish 1125 M.T. Tanks
Fish Meal — Other
Other —

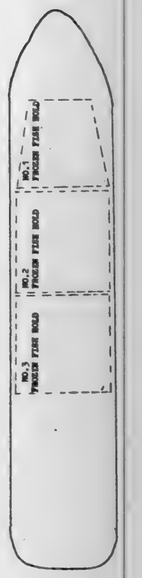
19. Processing Equipment (Indicate daily capacity,MT):

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC				
GULF OF ALASKA	MARCH TO DECEMBER			
BERING SEA AND ALEUTIAN ISLANDS	MARCH TO DECEMBER			
OREGON WASHINGTON AND CALIFORNIA	MARCH TO DECEMBER			
CENTRAL PACIFIC	MARCH TO DECEMBER			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-1002



ATTACHED PAPER NO.1
DAIYUO MARU
MAP OF FROZEN FISH HOLD

1003

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1, 1977 to DECEMBER 31, 1977 Applied Port — Application No. JA-77-1003 For Use of Issuing Office
State: JAPAN

1. Name of Vessel DAIYUO MARU NO. 16
2. Vessel Nat. Hull No. — Registration No. EN 1-302
3. Name and Address of Owner — Name and Address of Charterer
Name YUKIMARU FATOH CO., LTD.
Address 7-1 KYOBASHI CHUO-KU
TOKYO JAPAN
Cable Address
YUKIMARU FATOH TOKYO
4. Homeport and State of Registry: TOKYO JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1548.75 (Net) 892.77
7. Length 88.00 M., B., Breadth 12.50 M., D., Draft 5.10 M.
8. Horsepower 3800 shp. 11. Maximum Speed 17.9 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
Other
13. Date Built MARCH 1973
14. Number and Nationality of Personnel 2 JAPAN 22 KOREA
Officers 14 (JAPAN) 8 (KOREA) Crew 15 (KOREA) Other (Specify) —
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*),
Other
International Radio Call Sign JDWA
Radio Frequencies Monitored 500 KHZ 2182 KHZ
Other Working Frequencies A1: 410 425 454 KHZ
ATLANTIC, GULF OF ALASKA
Schedule WATCH TYPE : BERING SEA AND ALEUTIAN ISLANDS

JA-77-1003

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
Decca ( ), Navaid ( ), Radar (*), Fathometer (*),
Other

17. Cargo Capacity (MT) 18. Cargo Space Number Name
Salted Fish — Freezer SEE THE ATTACHED PAPER 1
Fresh Fish — Dry Hold I II III IV/FROZEN FISH HOLD
Frozen Fish 1250 M.T. Tanks
Fish Meal — Other
Other —

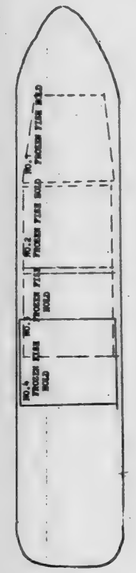
19. Processing Equipment (Indicate daily capacity,MT):

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC				
GULF OF ALASKA	MARCH TO DECEMBER			
BERING SEA AND ALEUTIAN ISLANDS	MARCH TO DECEMBER			
OREGON WASHINGTON AND CALIFORNIA	MARCH TO DECEMBER			
CENTRAL PACIFIC	MARCH TO DECEMBER			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-1003



ATTACHED PAPER NO.1
DAIYUO MARU NO.16
MAP OF FROZEN FISH HOLD

V4249 MAR 14 77 UMI

1004

IA-77-1004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application For Use of Issuing Office: IA-77-1004

State: JAPAN

1. Name of Vessel: SATSUKI MARU
2. Vessel Nat. Hull Mg. ___ Registration No. YKI-883
3. Name and Address of Owner / Name and Address of Charterer
   Name: KYOKUYO CO., LTD.
   Address: CHIYODA-BLDG, 2-1-2 MARUNOUCHI CHIYODA-KU, TOKYO, JAPAN
   Cable Address: CHIYOKAIYOKYO TOKYO
4. Homeport and State of Registry: TOKYO JAPAN
5. Type of Vessel: REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 4352.23 M/T (Net) 2376.46 M/T
7. Length 122.80 M., B. Breadth 16.60 M., D. Draft 6.768 M.
8. Horsepower 8000 shp. 11. Maximum Speed 19.235 kt.
11. Propulsion: Diesel (+), Steam ( ), Diesel/Electric ( ), Other
13. Date Built: APRIL 5, 1973
14. Number and Nationality of Personnel: 23, JAPAN
    Officers 10 Crew 13 Other (Specify)
15. Communications: VHF-FM (+), AM/SSB, Voice (+), Telegraphy (+), Other
    International Radio Call Sign: JGMF
    Radio Frequencies Monitored: 500 KHZ 2182 KHZ
    Other Working Frequencies: 410KHZ, 425KHZ, 442KHZ, 454KHZ, 468KHZ
    ATLANTIC, GULF OF ALASKA
    Schedule: WATCH TIME : BERING SEA AND ALEUTIAN ISLANDS
16. Navigation Equipment: Loran C (+), Loran A ( ), Omega ( ), Decca ( ), Navsat (+), Radar (+), Fathometer (+), Other
17. Cargo Capacity (MT): Salted Fish ___, Fresh Fish ___, Frozen Fish 2990 M.T., Fish Meal ___, Other ___
    Freezer, Dry Hold, Tanks, Other
18. Cargo Space Number / Name: SEE THE ATTACHED PAPER 1 — I II III IV — FROZEN FISH HOLD
19. Processing Equipment (Indicate daily capacity, MT):
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC				
GULF OF ALASKA	MARCH TO DECEMBER			
BERING SEA AND ALEUTIAN ISLANDS	MARCH TO DECEMBER			
OREGON WASHINGTON AND CALIFORNIA	MARCH TO DECEMBER			
CENTRAL PACIFIC	MARCH TO DECEMBER			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

ATTACHED PAPER NO.1
SATSUKI MARU
PLAN OF FROZEN FISH HOLD

IA-77-1004

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application For Use of Issuing Office: IA-77-1005

State: JAPAN

1. Name of Vessel: MARUTATSU MARU No. 28
2. Vessel Nat. Hull Mg. ___ Registration No. YKI-209
3. Name and Address of Owner / Name and Address of Charterer
   Name: MARUTATSU KAIUN CO., LTD.
   Address: 2-11-38-3CH, SHINYAMASHITA, NAKA-KU, YOKOHAMA
   Cable Address:
4. Homeport and State of Registry: YOKOHAMA JAPAN
5. Type of Vessel: REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1043.54 M.T. (Net) 638.82 M.T.
7. Length 63.8 M., B. Breadth 12.00, D. Draft 4.6 M.
8. Horsepower 1500 shp. 11. Maximum Speed 11.0 kt.
11. Propulsion: Diesel (+), Steam ( ), Diesel/Electric ( ), Other
13. Date Built: SEPTEMBER 28, 1960
14. Number and Nationality of Personnel: 30 JAPAN
    Officers 9 Crew 20 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (+), Other
    International Radio Call Sign: JPZN
    Radio Frequencies Monitored: 500 KHZ 2182 KHZ
    Other Working Frequencies: A1 425 454 468 480 500 KHZ
    ATLANTIC, GULF OF ALASKA
    Schedule: WATCH TIME : BERING SEA AND ALEUTIAN ISLANDS
    OREGON WASHINGTON AND CALIFORNIA
16. Navigation Equipment: Loran C ( ), Loran A (+), Omega ( ), Decca ( ), Navsat (+), Radar (+), Fathometer (+), Other
17. Cargo Capacity (MT): Salted Fish ___, Fresh Fish ___, Frozen Fish 800 M.T., Fish Meal ___, Other ___
    Freezer, Dry Hold, Tanks, Other
18. Cargo Space Number / Name: SEE THE ATTACHED PAPER 1 — I II III — FROZEN FISH HOLD
19. Processing Equipment (Indicate daily capacity, MT):
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC				
GULF OF ALASKA	MARCH TO DECEMBER			
BERING SEA AND ALEUTIAN ISLANDS	MARCH TO DECEMBER			
OREGON WASHINGTON AND CALIFORNIA	MARCH TO DECEMBER			
CENTRAL PACIFIC	MARCH TO DECEMBER			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

IA-77-1006

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application For Use of Issuing Office: IA-77-1006

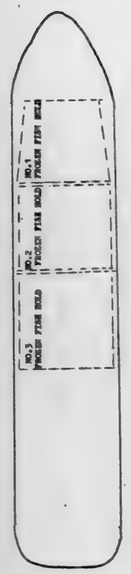
State: JAPAN

1. Name of Vessel: DAIEI MARU NO. 52
2. Vessel Nat. Hull Mg. ___ Registration No. ___
3. Name and Address of Owner / Name and Address of Charterer
   Name: DAIEI GYOGYO CO., LTD.
   Address: ISHAMA OBITSUCHO HAKUSUGUN ISHIKAWAKEN
   Cable Address:
4. Homeport and State of Registry: OBITSUCHI JAPAN
5. Type of Vessel: REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1,929.40 M/T (Net) 846.61 M/T
7. Length 85.63 M., B. Breadth 14.50 M., D. Draft 5.815 M.
8. Horsepower 6,000 shp. 11. Maximum Speed 17.0 kt.
11. Propulsion: Diesel (+), Steam ( ), Diesel/Electric ( ), Other
13. Date Built: Dec. 1973
14. Number and Nationality of Personnel: 21 KOREA
    Officers 9 Crew 12 Other (Specify)
15. Communications: VHF-FM (+), AM/SSB, Voice ( ), Telegraphy ( ), Other
    International Radio Call Sign: 6MYB
    Radio Frequencies Monitored: 500 KHZ 2182 KHZ
    Other Working Frequencies: A1 480 490 425 454 468 480 500 512KHZ
    ATLANTIC, GULF OF ALASKA
    Schedule: WATCH TIME : BERING SEA AND ALEUTIAN ISLANDS
    OREGON WASHINGTON AND CALIFORNIA
    CENTRAL PACIFIC
16. Navigation Equipment: Loran C ( ), Loran A (+), Omega ( ), Decca ( ), Navsat (+), Radar (+), Fathometer (+), Other
17. Cargo Capacity (MT): Salted Fish ___, Fresh Fish ___, Frozen Fish 1717 M/T, Fish Meal ___, Other ___
    Freezer, Dry Hold, Tanks, Other
18. Cargo Space Number / Name: SEE THE ATTACHED PAPER 1
19. Processing Equipment (Indicate daily capacity, MT):
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC				
GULF OF ALASKA	MARCH TO DECEMBER			
BERING SEA AND ALEUTIAN ISLANDS	MARCH TO DECEMBER			
OREGON WASHINGTON AND CALIFORNIA	MARCH TO DECEMBER			
CENTRAL PACIFIC	MARCH TO DECEMBER			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

IA-77-1005



ATTACHED PAPER NO.1
MARUYASU MARU NO.28
PLAN OF FROZEN FISH HOLD

V4249 MAR 14 77 UMI

1007

IA-77-1006

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 to DECEMBER 31, 1977 — Application For Use of Issuing Office

State: JAPAN

1. Name of Vessel [OCEAN GREEN]
2. Vessel No.: Hull No. — Registration No. —
3. Name and Address of Owner — Name and Address of Charterer
   Name PESQUERA ROMER CARRIERS S.A.
   Address CONCHA BUILDING AVENIDAS SAMUEL LEWIS AND MANUEL M ICAZA PANAMA CITY, PANAMA
   Cable Address —
4. Homeport and State of Registry: KINGS
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 4032.42 M.T. (Net) 2077.60 M.T.
7. Length 113.87 M., B. Breadth 16.50 M. D. Draft 7.11 M.
8. Horsepower 4200 shp. 11. Maximum Speed 13 kts.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ), Other —
13. Date Built FEBRUARY, 1965
14. Number and Nationality of Personnel 29, KOREA
   Officers 10 Crew 19 Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (•), Other —
   International Radio Call Sign H3OO
   Radio Frequencies Monitored 500 KHZ 2182 KHZ
   Other Working Frequencies 410 422 468 500KHZ ATLANTIC, GULF OF ALASKA
   Schedule WATCH TIME : BERING SEA AND ALEUTIAN ISLANDS OREGON WASHINGTON AND CALIFORNIA

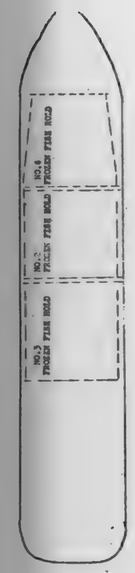
IA-77-1007

16. Navigation Equipment: Loran C (•), Loran A ( ), Omega (•), Decca ( ), Navsat (•), Radar (•), Fathometer (•), Other —
17. Cargo Capacity (MT) — 18. Cargo Sp. Number — Name
   Salted Fish — Freezer — SEE THE ATTACHED PAPER 1 I II III FROZEN FISH HOLD
   Fresh Fish — Dry Hold
   Frozen Fish — M.T. Tanks
   Fish Meal — Other
   Other —
19. Processing Equipment (Indicate daily capacity in M.T.)
20. Fisheries for which Permit is Requested:

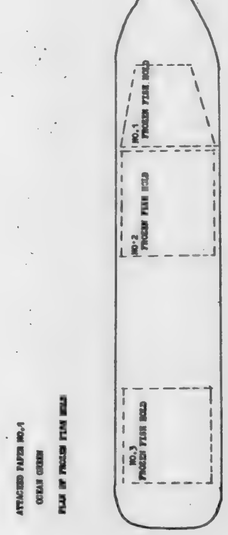
Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC				
GULF OF ALASKA				
BERING SEA AND ALEUTIAN ISLANDS				
OREGON WASHINGTON AND CALIFORNIA				
CENTRAL PACIFIC				

MARCH TO DECEMBER
MARCH TO DECEMBER
MARCH TO DECEMBER
MARCH TO DECEMBER
MARCH TO DECEMBER

21. Name and Address of Agent appointed to receive any legal process issued in the United States:



ATTACHED PAPER NO.1
DAIYOMARU No. 58
PLAN OF FROZEN FISH HOLD



ATTACHED PAPER NO.1
OCEAN GREEN
PLAN OF FROZEN FISH HOLD

1008

IA-77-1005

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 to DECEMBER 31, 1977 — Application For Use of Issuing Office

State: JAPAN

1. Name of Vessel SHINTOKU MARU
2. Vessel No.: Hull No. — Registration No. TKI -956
3. Name and Address of Owner — Name and Address of Charterer
   Name TOKUMARU KAIUN CO., LTD.
   Address SHOKI-BLDG. NO. 7, 3-CHOME KYOBASHI, CHUO-KU, TOKYO, JAPAN
   Cable Address — TOKUMARU KAIUN TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2546.01 M.T. (Net) 794.06 M.T.
7. Length 82.71 M., B. Breadth 12.80m. D. Draft 5.4 M.
8. Horsepower 3800 shp. 11. Maximum Speed 15.0 kt.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ), Other —
13. Date Built DECEMBER 6, 1972
14. Number and Nationality of Personnel 19, JAPAN (1) KOREA (18)
   Officers 9 Crew 10 Other (Specify) —
15. Communications: VHF-FM (•), AM/SSB, Voice ( ), Telegraphy (•), Other —
   International Radio Call Sign JFPP
   Radio Frequencies Monitored 500 KHZ 2182 KHZ
   Other Working Frequencies AI, 8075 2091 A1,A2, 410 425 454 KHZ ATLANTIC, GULF OF ALASKA
   Schedule WATCH TIME : BERING SEA AND ALEUTIAN ISLANDS OREGON WASHINGTON

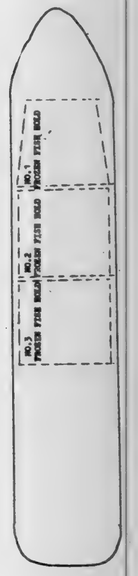
IA-77-1003

16. Navigation Equipment: Loran C (•), Loran A ( ), Omega ( ), Decca ( ), Navsat (•), Radar (•), Fathometer (•), Other —
17. Cargo Capacity (MT) — 18. Cargo Sp. Number — Name
   Salted Fish — Freezer — SEE THE ATTACHED PAPER 1 I II III FROZEN FISH HOLD
   Fresh Fish — Dry Hold
   Frozen Fish 1250 M.T. Tanks
   Fish Meal — Other
   Other —
19. Processing Equipment (Indicate daily capacity in M.T.)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC				
GULF OF ALASKA				
BERING SEA AND ALEUTIAN ISLANDS				
OREGON WASHINGTON AND CALIFORNIA				
CENTRAL PACIFIC				

MARCH TO DECEMBER
MARCH TO DECEMBER
MARCH TO DECEMBER
MARCH TO DECEMBER
MARCH TO DECEMBER

21. Name and Address of Agent appointed to receive any legal process issued in the United States:



ATTACHED PAPER NO.1
SHINTOKU MARU
PLAN OF FROZEN FISH HOLD

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 to DECEMBER 31, 1977 — Application For Use of Issuing Office

State: JAPAN

1. Name of Vessel CHOKEY ISLAND
2. Vessel No.: Hull No. — Regist. [illegible] No. —
3. Name and Address of Owner — Name and Address of Charterer
   Name ISLAND KEEPER CARRIERS LTD. S.A.
   Address EDIFICIO CONCHA AVE SAMUEL LEWIS Y MANUEL MARIA YCAZA PANAMA-CITY, PANAMA CABLE ADDRESS —
4. Homeport and State of Registry: R.O. PANAMA
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2661.92M.T. (Net) 983.41 M.T.
7. Length 109.50 M., B. Breadth 14.90 M. D. Draft 5.80 M.
8. Horsepower 3520 shp. 11. Maximum Speed 16.50 kts.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ), Other —
13. Date Built [illegible] 1967
14. Number and Nationality of Personnel 29, JAPAN
   Officers 9 Crew 19 Other (Specify) —
15. Communications: VHF-FM (•), AM/SSB, Voice ( ), Telegraphy (•), Other —
   International Radio Call Sign KWF
   Radio Frequencies Monitored 500 KHZ 2182 KHZ
   Other Working Frequencies 410 425 432 454 [illegible] 468 500KHZ ATLANTIC, GULF OF ALASKA
   Schedule WATCH TIME : BERING SEA AND ALEUTIAN ISLANDS OREGON WASHINGTON AND CALIFORNIA CENTRAL PACIFIC

V42 I49 MAR 14 77 UMI

IA-77-1009

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
Decca ( ), Navsat ( ), Radar (*), Fathometer
Other

17. Cargo Capacity (MT)

Salted Fish		Freezer
Fresh Fish		Dry Hold
Frozen Fish	9950 M.T.	Tanks
Fish Meal		Other
Other		

18. Cargo Space

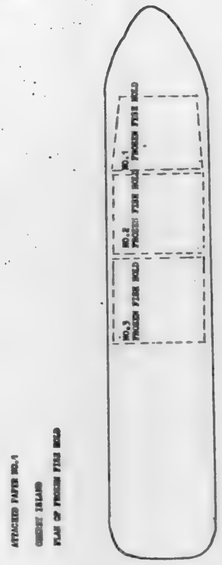
Number	Name
1, 2, III	SEE THE ATTACHED PAPER I FROZEN FISH HOLD

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
ATLANTIC				MARCH TO DECEMBER
GULF OF ALASKA				MARCH TO DECEMBER
BERING SEA AND ALEUTIAN ISLANDS				MARCH TO DECEMBER
OREGON WASHINGTON AND CALIFORNIA				MARCH TO DECEMBER
CENTRAL PACIFIC				MARCH TO DECEMBER

21. Name and Address of Agent appointed to receive any legal process issued in the United States:



IA-77-1009

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1010

Permit Period Applied For: MARCH 1 TO DECEMBER 31, 1977 State: JAPAN

Application No. IA-77-1010 For Use of Issuing Office

1. Name of Vessel SETA MARU
2. Vessel No.: Hull No. ____ Registration No. 199309
3. Name and Address of Owner / Name and Address of Charterer
Name HOKO SHIPPING CO., LTD.
Address 2-4, 1-CHOME, TSUKIJI,
CHUOKU, TOKYO, JAPAN
Cable Address HOKUSHIP TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATED TRANSPORT
6. Tonnage (Gross) 2,884.88 M.T. (Net) 1,517.70 M.T.
7. Length 109.65 M. 8. Breadth 15.00 M. 9. Draft 6.466 M.
10. Horsepower 5,580 ehp. 11. Maximum Speed 19.226 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
Other
13. Date Built MARCH 17, 1967
14. Number and Nationality of Personnel 24 (ALL JAPANESE)
Officers 9 Crew 15 Other (Specify)
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*),
Other
International Radio Call Sign JDMT
Radio Frequencies Monitored 500KHZ
Other Working Frequencies SEE THE ATTACHED PAPER I
Schedule WATCH TIME : SEE THE ATACHED PAPER II

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ),
Decca ( ), Navsat ( ), Radar (*), Fathometer ( ),
Other

17. Cargo Capacity (MT)

Salted Fish		Freezer
Fresh Fish		Dry Hold
Frozen Fish	2,169.05 MT	Tanks
Fish Meal		Other
Other		

18. Cargo Space

Number	Name
SEE THE ATTACHED PAPER III 1, II, III.	FROZEN FISH HOLD

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

IA-77-1010

PAPER I

OTHER WORKING FREQUENCIES

1) 4197.5 6296.25 8395 12592.5 16790 22295 KHZ
2) 4209.5 6314.25 8419 12628.5 16838 22255 KHZ
3) 410 425 432 468 480 500 KHZ

PAPER II

IA-77-1010

SCHEDULE

1) BERING SEA AND ALEUTIAN ISLAND	21:00 TO 23:00 03:00 TO 05:00 G.M.T.
2) GULF OF ALASKA	20:00 TO 22:00 01:00 TO 03:00 G.M.T.
3) WASHINGTON OREGON CALIFORNIA	16:00 TO 18:00 21:00 TO 23:00 G.M.T.
4) CENTRAL PACIFIC	17:00 TO 20:00 23:00 TO 01:00 G.M.T.
5) ATLANTIC	13:00 TO 16:00 19:00 TO 21:00 G.M.T.

PAPER III

IA-77-1010

SETA MARU CARGO SPACE

No III	No II	No I
FROZEN FISH HOLD	FROZEN FISH HOLD	FROZEN FISH HOLD
FROZEN FISH HOLD	FROZEN FISH HOLD	FROZEN FISH HOLD

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1011

Permit Period Applied For: MARCH 1 TO DECEMBER 31, 1977 State: JAPAN

Application No. IA-77-1011 For Use of Issuing Office

1. Name of Vessel KARASAKI MARU
2. Vessel No.: Hull No. ____ Registration No. 011-8
3. Name and Address of Owner / Name and Address of Charterer
Name TAMAKA INDUSTRY LTD.
Address 796 ICHIHAMA,
USUKISHI, OKITAGUN, JAPAN
Cable Address ____
4. Homeport and State of Registry: USUKI, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 995.95 M.T. (Net) 521.13 M.T.
7. Length 73.30 M. 8. Breadth 10.80 M. 9. Draft 4.80 M.
10. Horsepower 1,800 ehp. 11. Maximum Speed 14.383 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
Other
13. Date Built NOVEMBER 23, 1972
14. Number and Nationality of Personnel 21 (ALL JAPANESE)
Officers 7 Crew 14 Other (Specify)
15. Communications: VHF-FM (*), AM/SSB, Voice (*), Telegraphy (*),
Other
International Radio Call Sign JJOK
Radio Frequencies Monitored 500KHZ
Other Working Frequencies SEE THE ATTACHED PAPER I
Schedule WATCH TIME : SEE THE ATACHED PAPER II

V4249 MAR 14 77 UMI

JA-77-1011

16. Navigation Equipment: Loran C (*), Loran A (o), Omega ( ), Decca ( ), Navsat ( ), Radar (o), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name — SEE THE ATTACHED PAPER III

Salted Fish — Freezer I. II. — FROZEN FISH HOLD
Fresh Fish — Dry Hold
Frozen Fish 700 M.T. — Tanks
Fish Meal — Other
Other

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-1011

PAPER II

SCHEDULE

1) BERING SEA AND ALEUTIAN ISLAND	21:00 TO 23:00 03:00 TO 05:00 G.M.T.
2) GULF OF ALASKA	20:00 TO 22:00 01:00 TO 03:00 G.M.T.
3) WASHINGTON OREGON CALIFORNIA	16:00 TO 18:00 21:00 TO 23:00 G.M.T.
4) CENTRAL PACIFIC	17:00 TO 20:00 23:00 TO 01:00 G.M.T.
5) ATLANTIC	13:00 TO 16:00 19:00 TO 21:00 G.M.T.

JA-77-1011

PAPER I

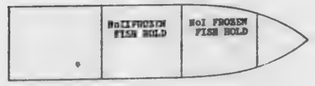
OTHER WORKING FREQUENCIES

1) 4197.5 6296.25 8395 12592.5 16790 22295 KHZ
2) 4209.5 6314.25 8419 12628.5 16838 22255 KHZ
3) 410 425 432 468 480 500 KHZ

JA-77-1011

PAPER III

KARASAKI MARU CARGO SPACE



1012

JA-77-1012

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1 TO DECEMBER 31, 1977 — Application No. For Use of Issuing Office — State: JAPAN

1. Name of Vessel SHIGA MARU
2. Vessel No.: Hull-No. ——— Registration No. 118070
3. Name and Address of Owner: Name TANAKA INDUSTRY LTD. Address 796 ICHINOMIA, USUKISHI, OHITAKEN, JAPAN Cable Address ——— — Name and Address of Charterer
4. Homeport and State of Registry: USUKI, JAPAN
5. Type of Vessel REFRIGERATER TRANSPORT
6. Tonnage (Gross) 3,616.44 M.T. (Net) 1,852.51 M.T.
7. Length 112.50 M. 8. Breadth 16.60 M. 9. Draft 6.666 M.
10. Horsepower 6,000 shp. 11. Maximum Speed 17.95 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other
13. Date Built SEPTEMBER 27, 1975
14. Number and Nationality of Personnel 26 (JAPANESE 1, KOREAN 25) Officers 10 Crew 16 Other (Specify)
15. Communications: VHF-FM (*), AM/SSB, Voice (*), Telegraphy (*), Other
International Radio Call Sign JJQQ
Radio Frequencies Monitored 500 KHZ
Other Working Frequencies SEE THE ATTACHED PAPER I
Schedule WATCH TIME : SEE THE ATTACHED PAPER II

JA-77-1012

PAPER I

OTHER WORKING FREQUENCIES

1) 4197.5 6296.25 8395 12592.5 16790 22295 KHZ
2) 4209.5 6314.25 8419 12628.5 16838 22255 KHZ
3) 410 425 432 468 480 500 KHZ

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega (*), Decca ( ), Navsat ( ), Radar (*), Fathometer ( ), Other

17. Cargo Capacity (MT) — 18. Cargo Space Number / Name — SEE THE ATTACHED PAPER III

Salted Fish — Freezer I. II. III. — FROZEN FISH HOLD
Fresh Fish — Dry Hold
Frozen Fish 2,352.86 MT — Tanks
Fish Meal — Other
Other

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-1012

PAPER II

SCHEDULE

1) BERING SEA AND ALEUTIAN ISLAND	21:00 TO 23:00-03:00 TO 05:00 G.M.T.
2) GULF OF ALASKA	20:00 TO 22:00 01:00 TO 03:00 G.M.T.
3) WASHINGTON OREGON CALIFORNIA	16:00 TO 18:00 21:00 TO 23:00 G.M.T.
4) CENTRAL PACIFIC	17:00 TO 20:00 23:00 TO 01:00 G.M.T.
5) ATLANTIC	13:00 TO 16:00 19:00 TO 21:00 G.M.T.

V42 I49 MAR 14 77 UMI

PAPER III

SHIGA MARU CARGO SPACE

No III	No II	No I
FROZEN FISH HOLD	FROZEN FISH HOLD	FROZEN FISH HOLD
FROZEN FISH HOLD	FROZEN FISH HOLD	FROZEN FISH HOLD

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1013

Permit Period MARCH 1, 1977 TO
Applied For: DECEMBER 31, 1977

Application No. For Use of Issuing Office

State: JAPAN

1. Name of Vessel HAKASHIO MARU
2. Vessel No.: Hull No. - Registration No. TKJ-366
3. Name and Address of Owner / Name and Address of Charterer
   Name: KYOEI GAIGN KABUSHIKI KAISHA
   Address: KYODO BLDG. 18-6, GINZA
   1-CHOME CHUO-KU TOKYO. 104, JAPAN
   Cable Address:
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel: REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2180.34 M.T. (Net) 1300.41 M.T.
7. Length 89.60 M. 8. Breadth 12.80 M. 9. Draft 5.80 M.
10. Horsepower 2000 shp. 11. Maximum Speed 15.0 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other: -
13. Date Built OCTOBER, 1960
14. Number and Nationality of Personnel 18 JAPAN
    Officers 9 Crew 9 Other (Specify) -
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*),
    Other
    International Radio Call Sign JFMD
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule SEE THE ATTACHED PAPER I

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
    Other -
17. Cargo Capacity (MT)

Salted Fish		Freezer	
Fresh Fish		Dry Hold	
Frozen Fish	1260 M.T.	Tanks	
Fish Meal		Other	
Other			

18. Cargo Space

Number	Name
SEE THE ATTACHED PAPER II	
I II III	FROZEN FISH HOLD

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

PAPER I

HAKASHIOMARU

OTHER WORKING FREQUENCIES

A1 A2 410,425,432,454,468,480,500KHZ

A1 4187,4186,4199.5,4206,4227,6280.5,6279,6299.5KHZ
6309,6340.5,8374,8372,8399,8412,8454,12561,12558KHZ
12598.5,12618,12681,16748,16744,16798,16824KHZ
16908,22346,22827.5,22899,22279,22367.5KHZ

F) CH 01 - 28

SCHEDULE

WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	01.00 TO 04.00(GMT) 20.00 TO 23.00(GMT)
GULF OF ALASKA	18.00 TO 21.00(GMT) 23.00 TO 02.00(GMT)
ATLANTIC	12.00 TO 15.00(GMT) 17.00 TO 20.00(GMT)

PAPER II WAKASHIO MARU

AFT. FORE

III II I

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1014

Permit Period MARCH 1,1977 TO
Applied For: DECEMBER 31,1977

Application No. For Use of Issuing Office

State: JAPAN

1. Name of Vessel KEIVA MARU
2. Vessel No.: Hull No. - Registration No. TKJ-935
3. Name and Address of Owner / Name and Address of Charterer
   Name: KABUSHIKI KAISHA KIYOFUJIKAIUN
   Address: 5-1,MINATO-CHO, 2-CHOME, SHIMIZU,SHIZUOKA-KEN, 424, JAPAN
   Cable Address:
4. Homeport and State of Registry: SHIMIZU, JAPAN
5. Type of Vessel: REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 991.15 M.T. (Net) 501.85 M.T.
7. Length 70.34 M. 8. Breadth 11.20 M. 9. Draft 4.60 M.
10. Horsepower 1,800 shp. 11. Maximum Speed 13.47 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other: -
13. Date Built OCTOBER, 1969
14. Number and Nationality of Personnel: 15 JAPAN
    Officers 7 Crew 8 Other (Specify) -
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*)
    Other -
    International Radio Call Sign JSBC
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule SEE THE ATTACHED PAPER I

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
    Other -
17. Cargo Capacity (MT)

Salted Fish		Freezer	I,II,III
Fresh Fish		Dry Hold	
Frozen Fish	620 M.T.	Tanks	
Fish Meal		Other	
Other			

18. Cargo Space

Number	Name
SEE THE ATTACHED PAPER II	
I,II,III	FROZEN FISH HOLD

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
BERING SEA AND ALEUTIAN ISLANDS	MARCH 1,1977 TO DECEMBER 31, 1977			
GULF OF ALASKA	- DITTO -			

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

OTHER WORKING FREQUENCIES

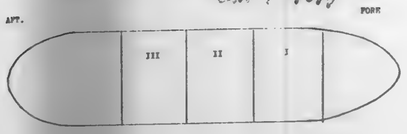
A1
A2 410, 425, 432, 460, 480, 500, 512 KHZ
A1 4182.2, 6275.3, 8364.4, 12546.6, 16728.8, 22234
A1 4187, 6280.5, 8374, 12561, 16748, 22246
A1 4192, 6288, 8384, 12576, 16768, 22282.5
A1 4205.5, 6308.25, 8411, 12616.5, 16822, 22304
A1 4226.5, 6339.75, 8453, 12679.5, 16906, 22567.5

SCHEDULE

WATCH TIME	
BERING SEA AND ALEUTIAN ISLANDS	01.00 TO 04.00(GMT) 20.00 TO 23.00(GMT)
GULF OF ALASKA	18.00 TO 21.00(GMT) 23.00 TO 02.00(GMT)
ATLANTIC	12.00 TO 15.00(GMT) 17.00 TO 20.00(GMT)

V42 I49 MAR 14 77 UMI

PAPER II SHIVA MARU



1016

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1,1977 TO DECEMBER 31,1977
Applied For:

Application No.
For Use of Issuing Office

State: JAPAN

1. Name of Vessel KAISEI MARU NO.5
2. Vessel No.: Hull No. — Registration No. YK1-967
3. Name and Address of Owner Name and Address of Charterer
   Name MASAMORI MORO
   Address 47-63,TOTAFA-CHO, SHINJUKU-KU, TOKYO, 162 JAPAN
   Cable Address
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 924.76 M.T. (Net) 492.76 M.T.
7. Length 67.01 M. B. Breadth 11.30 M. D. Draft 4.786 M.
10. Horsepower 1,800 shp. 11. Maximum Speed 13.92 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other —
13. Date Built SEPTEMBER, 1959
14. Number and Nationality of Personnel 14 JAPAN
    Officers 7 Crew 7 Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*),
    Other —
    International Radio Call Sign JHOO
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule SEE THE ATTACHED PAPER I

16. Navigation Equipment: Loran C ( ), Loran A (*), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
    Other —
17. Cargo Capacity (MT)

Salted Fish		Freezer	I,II,III
Fresh Fish		Dry Hold	
Frozen Fish	530 M.T.	Tanks	
Fish Meal		Other	
Other			

18. Cargo Space Number: SEE THE ATTACHED PAPER II; Name: FROZEN FISH HOLD
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

PAPER I KAISEI MARU NO.5

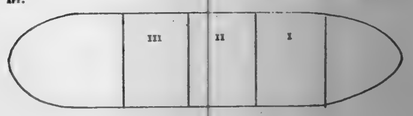
OTHER WORKING FREQUENCIES

A1 A2	410, 425, 432, 460, 480, 500 KHZ
A2	4182.2, 6273.3, 8364.4, 12546.6, 16728.8, 22234
A2	4186.6, 6279.9, 8373.2, 12559.8, 16746.4, 22240
A1	4202, 6303, 8404, 12606, 16808, 22307.5
A2	4210.5, 6315.75, 8421, 12631.5, 16842, 22286.5
A1	4223, 6334.5, 8446, 12669, 16892, 22340

SCHEDULE

WATCH TIME	01.00 TO 04.00(GMT)
BERING SEA AND ALEUTIAN ISLANDS	20.00 TO 23.00(GMT)
GULF OF ALASKA	18.00 TO 21.00(GMT) 23.00 TO 02.00(GMT)
ATLANTIC	12.00 TO 15.00(GMT) 17.00 TO 20.00(GMT)

PAPER II KAISEI MARU NO.5



FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

1016

Permit Period MARCH 1,1977 TO DECEMBER 31,1977
Applied For:

Application No.
For Use of Issuing Office

State: JAPAN

1. Name of Vessel DAITOKUMARU NO.17
2. Vessel No.: Hull No. — Registration No. 191-970
3. Name and Address of Owner Name and Address of Charterer
   Name THE SUMITOMO TRUST AND BANKING CO., LTD.
   Address 5-15,KITAHAMA,HIGASHIKU, OSAKA,541,JAPAN
   Cable Address SUMITRUSTBK.OSAKA
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1,529.55 M.T. (Net) 832.51 M.T.
7. Length 89.15 M. B. Breadth 12.80 M. D. Draft 5.51 M.
10. Horsepower 3,800 shp. 11. Maximum Speed 17.94 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other —
13. Date Built MARCH 8, 1973
14. Number and Nationality of Personnel 18 JAPAN
    Officers 9 Crew 9 Other (Specify) —
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*),
    Other
    International Radio Call Sign JG3J
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule SEE THE ATTACHED PAPER I

16. Navigation Equipment: Loran C ( ), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer ( ),
    Other —
17. Cargo Capacity (MT)

Salted Fish		Freezer	I,II,III
Fresh Fish		Dry Hold	
Frozen Fish	1,140 M.T.	Tanks	
Fish Meal		Other	
Other			

18. Cargo Space Number: SEE THE ATTACHED PAPER II; Name: FROZEN FISH HOLD
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

PAPER I DAITOKUMARU NO.17

OTHER WORKING FREQUENCIES

A1 A2	410,425,454,468,480,500KHZ
A1	4184,4201,4204,4204.5,4222,4225.5,6276,6301.5KHZ 6306,6306.75,6333,6338.25,8368,8402,8408,8409KHZ 8444,8451,12552,12603,12612,12613.5,12646KHZ 12676.5,16736,16804,16816,16818,16888,16902KHZ 22355,22305,22312.5,22315,22357.5,22367.5KHZ
F3	CH 06,12,14,16,18,19,20

SCHEDULE

WATCH TIME	
BERING SEA AND ALEUTIAN ISLANDS	01.00 TO 04.00(GMT.) 20.00 TO 23.00(GMT.)
GULF OF ALASKA	18.00 TO 21.00(GMT.) 23.00 TO 02.00(GMT.)
ATLANTIC	12.00 TO 15.00(GMT.) 17.00 TO 20.00(GMT.)

V42149 MAR 14 77 UMI

PAPER II DAITORU MARU NO.17

AFT. FORE

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1017

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977
Applied For:

Application No. For Use of Issuing Office

Issued by JAPAN

1. Name of Vessel HAKADATE MARU NO. 2
2. Vessel No.: Hull No. - Registration No. HKI-185
3. Name and Address of Owner / Name and Address of Charterer

Name HAKODATE SHOSEN KABUSHIKI KAISHA
Address 5-7, ASAMO-CHO,
HAKODATE, 040, JAPAN
Cable Address

4. Homeport and State of Registry: HAKODATE, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1,910.89 M.T. (Net) 997.18 M.T.
7. Length 86.49 M. 8. Breadth 12.70 M. 9. Draft 6.03 M.
10. Horsepower 2,800 shp. 11. Maximum Speed 15.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
Other -
13. Date Built JANUARY 22, 1965
14. Number and Nationality of Personnel 24 JAPAN
Officers 10 Crew 14 Other (Specify) -
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*),
Other
International Radio Call Sign 8 LNW
Radio Frequencies Monitored 500 KHZ
Other Working Frequencies SEE THE ATTACHED PAPER I
Schedule SEE THE ATTACHED PAPER I

16. Navigation Equipment: Loran C ( ), Loran A (*), Omega ( ),
Decca ( ), Navsat ( ), Radar (*), Fathometer (*)
Other -
17. Cargo Capacity (MT)

Salted Fish	Freezer	1 II III IV
Fresh Fish	Dry Hold	
Frozen Fish 1,270 M.T.	Tanks	
Fish Meal	Other	
Other		

18. Cargo Space Number / Name: SEE THE ATTACHED PAPER II / FROZEN FISH HOLD
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

PAPER I

OTHER WORKING FREQUENCIES

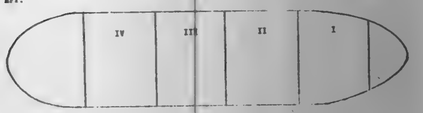
A_1
A_2 410,425,432,454,468,480,500,512 KHZ
A_3 4179,6268.5,8358,12537,16716,22250
* 4192.5,6288.75,8385,12577.5,16770,22282.5
* 4213.5,6320.25,8427,12640.5,16854,22506.5
F_3 CH 6, 8, 10, 12, 16

SCHEDULE

WATCH TIME	01.00 TO 04.00(GMT)
BERING SEA AND ALEUTIAN TOWARDS	20.00 TO 23.00(GMT)
GULF OF ALASKA	18.00 TO 21.00(GMT) 23.00 TO 02.00(GMT)
ATLANTIC	12.00 TO 15.00(GMT) 17.00 TO 20.00 GMT)

PAPER II
HAKODATE MARU NO.2

AFT. FORE



FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1016

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977
Applied For:

Application No. For Use of Issuing Office

Issued by JAPAN

1. Name of Vessel YONO MARU
2. Vessel No.: Hull No. Registration No. TKI-659
3. Name and Address of Owner / Name and Address of Charterer

Name HAKADATE SHOSEN KABUSHIKI KAISHA
Address 5-7, ASAMO-CHO,
HAKADATE, 040, JAPAN
Cable Address

4. Homeport and State of Registry: HAKADATE, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1,955.01 M.T. (Net) 1,035.99 M.T.
7. Length 86.58 M. 8. Breadth 12.70 M. 9. Draft 6.04 M.
10. Horsepower 3,000 shp. 11. Maximum Speed 15.9 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
Other -
13. Date Built AUGUST 1, 1968
14. Number and Nationality of Personnel 23 JAPAN
Officers 10 Crew 13 Other (Specify) -
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*)
Other
International Radio Call Sign JHHW
Radio Frequencies Monitored 500 KHZ
Other Working Frequencies SEE THE ATTACHED PAPER I
Schedule SEE THE ATTACHED PAPER I

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ),
Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
Other
17. Cargo Capacity (MT)

Salted Fish	Freezer	1 II III IV
Fresh Fish	Dry Hold	
Frozen Fish 1240 M.T.	Tanks	
Fish Meal	Other	
Other		

18. Cargo Space Number / Name: SEE THE ATTACHED PAPER II / FROZEN FISH HOLD
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

PAPER I YONO MARU

OTHER WORKING FREQUENCIES

A_1
A_2 410,425,432,454,468,480,500,512 KHZ
A_3 4179,6268.5,8358,12537,16716,22250
* 4192.5,6288.75,8385,12577.5,16770,22282.5
* 4213.5,6320.25,8427,12640.5,16854,22506.5
F_3 06-16 CH

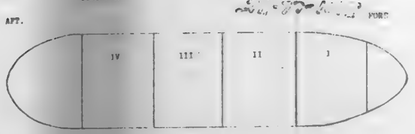
SCHEDULE

WATCH TIME	01.00 TO 04.00(GMT)
BERING SEA AND ALEUTIAN ISLANDS	20.00 TO 23.00(GMT)
GULF OF ALASKA	18.00 TO 21.00(GMT) 23.00 TO 02.00(GMT)
ATLANTIC	12.00 TO 15.00(GMT) 17.00 TO 20.00(GMT)

V42 49 MAR 14 77 UM1

PAPER II

TOHO MARU



FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

1019

Permit Period MARCH 1,1977 TO DECEMBER 31,1977
Application No. For Use of Issuing Office

State: JAPAN

1. Name of Vessel KAIKO MARU
2. Vessel No.: Hull No. - Registration No. TK1-072
3. Name and Address of Owner / Name and Address of Charterer

Name: ZOSHIN GOSEN KABUSHIKI KAISHA
Address: SHINYURAKUCHO BLDG. 12-1,YURAKU-CHO 1-CHOME, CHIYODA-KU, TOKYO, 100, JAPAN
Cable Address:

4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 3,932.17 M.T. (Net) 2,117.25 M.T.
7. Length 116.62 M. 8. Breadth 17.00 M. 9. Draft 6.81 M.
10. Horsepower 7,200 shp. 11. Maximum Speed 18.17 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
Other -
13. Date Built MARCH, 1973
14. Number and Nationality of Personnel 26 JAPAN
Officers 10 Crew 16 Other (Specify) -
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*)
Other -
International Radio Call Sign JGBD
Radio Frequencies Monitored 500 KHZ
Other Working Frequencies SEE THE ATTACHED PAPER I
Schedule SEE THE ATTACHED PAPER I

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega (*), Decca ( ), Navsat ( ), Radar (*), Fathometer.
Other -

17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	2,180 M.T.
Fish Meal	
Other	

18. Cargo Space Number / Name: SEE THE ATTACHED PAPER II

Freezer	I,II,III,IV
Dry Hold	
Tanks	
Other	

FROZEN FISH HOLD

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

PAPER I KAIKO MARU

OTHER WORKING FREQUENCIES:

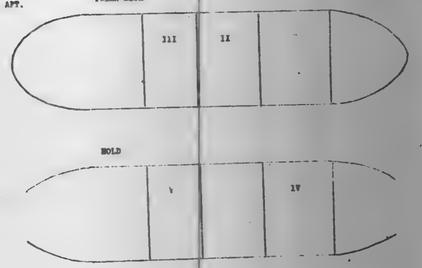
A_1	
A_2	430,425,432,454,468,480,500,512 KHZ
A_1	4181.8,6272.7,8363.6,12545.4,16727.2,22 ?
A_1	4185.8,6278.7, 8371.6,12557.4,16743.2,22 ?4
A_1	4192.5,6288.75,8385,12577.5,16770,22282.5,
A_1	4213.5,6320.25,8427,12640.5,16854,22306.5
F_3	CH 01 - 28

SCHEDULE

WATCH TIME	
BERING SEA AND ALEUTIAN ISLANDS	01.00 TO 04.00(GMT) 20.00 TO 23.00(GMT)
GULF OF ALASKA	18.00 TO 21.00(GMT) 23.00 TO 02.00(GMT)
ATLANTIC	12.00 TO 15.00(GMT) 17.00 TO 20.00(GMT)

PAPER II KAIKO MARU

TYESH ROCK



FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

1020

Permit Period MARCH 1,1977 TO DECEMBER 31,1977
Application No. For Use of Issuing Office

State: JAPAN

1. Name of Vessel ADEN MARU
2. Vessel No.: Hull No. Registration No. TK1-002
3. Name and Address of Owner / Name and Address of Charterer

Name: TOKYO TAIYO SENPAKU KABUSHIKI KAISHA
Address: 1-42, KONAN 5-CHOME MINATOKU, TOKYO, 108, JAPAN
Cable Address

4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 3,601.27 M.T. (Net) 2,080.74 M.T.
7. Length 131.45 M. 8. Breadth 18.0 M. 9. Draft 6.90 M.
10. Horsepower 9,300 shp. 11. Maximum Speed 20.9 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
Other -
13. Date Built JULY, 1973
14. Number and Nationality of Personnel 23 JAPAN
Officers 9 Crew 14 Other (Specify)
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*),
Other -
International Radio Call Sign JACK
Radio Frequencies Monitored 500 KHZ
Other Working Frequencies SEE THE ATTACHED PAPER I
Schedule SEE THE ATTACHED PAPER I

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navsat (.), Radar (*), Fathometer (*),
Other -

17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	3,500 M.T.
Fish Meal	
Other	

18. Cargo Space Number / Name: SEE THE ATTACHED PAPER II

Freezer	I TO XII
Dry Hold	
Tanks	
Other	

FROZEN FISH HOLD

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

PAPER I ADEN MARU

OTHER WORKING FREQUENCIES

A1	
A2	430, 425, 432, 454, 468, 480, 500 KHZ
A1	4179, 6268.5, 8355, 12537, 16716, 22250 KHZ
A1	4181.8, 6272.7, 8363.6, 12545.4, 16727.2, 22252 KHZ
A1	4185.8, 6278.7, 8371.6, 12557.4, 16743.2, 22244 KHZ
A1	4192.5, 6288.75, 8385, 12577.5, 16770, 22282.5 KHZ
A1	4213.5, 6320.25, 8427, 12640.5, 16854, 22306.5 KHZ
F3	01 TO 14,16,18 TO 28 ch

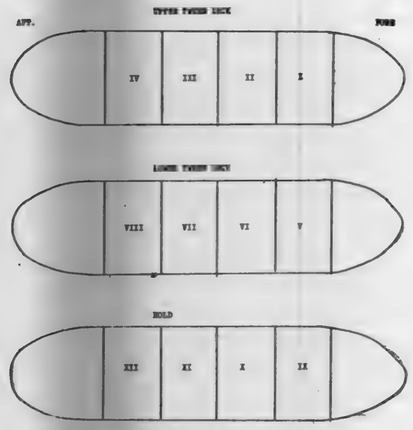
SCHEDULE

WATCH TIME	
BERING SEA AND ALEUTIAN ISLANDS	01.00 TO 04.00(GMT) 20.00 TO 23.00(GMT)
GULF OF ALASKA	18.00 TO 21.00(GMT) 23.00 TO 02.00(GMT)
ATLANTIC	12.00 TO 15.00(GMT) 17.00 TO 20.00(GMT)

V 42 49 MAR 14 77 UMI

JA-77-1020

PAPER II


UPPER TWEEN DECK
APP.
FORE
IV
III
II
I
LOWER TWEEN DECK
VIII
VII
VI
V
HOLD
XII
XI
X
IX

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1021

Permit Period MARCH 1, 1977 TO
Applied For: DECEMBER 31, 1977

Application No. JA-77-1021
For Use of Issuing Office

State: JAPAN

1. Name of Vessel HOKUYO MARU
2. Vessel No.: Hull No. _____ Registration No. TK1-905
3. Name and Address of Owner / Name and Address of Charterer
   Name: THE HOKURIKU TRUST AND BANKING CORPORATION / _____
   Address: HOKARI BUILDING 20, 3-3, 1-CHOME, MARUNOUCHI, CHIYODA-KU, TOKYO, JAPAN / _____
   Cable Address: _____ / _____
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 932.98 (Net) 486.43
7. Length 76.80 M. 8. Breadth 10.09 M. 9. Draft 4.75 M.
10. Horsepower 2,700 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other _____
13. Date Built OCTOBER 5, 1973
14. Number and Nationality of Personnel 16, JAPANESE
    Officers 7 Crew 9 Other (Specify) _____
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*).
    Other _____
    International Radio Call Sign JGLN
    Radio Frequencies Monitored 500 KHz
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule SEE THE ATTACHED PAPER I

JA-77-1021

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer ( ),
    Other _____
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name
    Salted Fish _____ / SEE THE ATTACHED PAPER II
    Fresh Fish _____ / Freezer I II III IV FROZEN FISH HOLD
    Frozen Fish 8,050 / Dry Hold
    Fish Meal _____ / Tanks
    Other _____ / Other
19. Processing Equipment (Indicate daily capacity,MT)
    _____
    _____
    _____
    _____
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    _____
    _____
    _____

ATTACHED PAPER I

JA-77-1021

OTHER WORKING FREQUENCIES

A1 A2 410 425 438 454 468 480 500 518
A1 6184 6304.5 6385.5 6201 6322 6476 6306.75 6338.85 6301.5
6333 8368 8409 8451 8408 8444 12553 12613.5 12603
12666 16736 16818 16902 16804 16888 22955 22515 22567.5
22305 22357.5 22305 22357.5 KHz

F3 156.30 156.60 156.65 156.70 156.80 157.00 157.80 157.85
157.30 157.35 MHz

SCHEDULE

WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS

01:00 TO 04:00 (GMT)
20:00 TO 23:00 (GMT)

GULF OF ALASKA

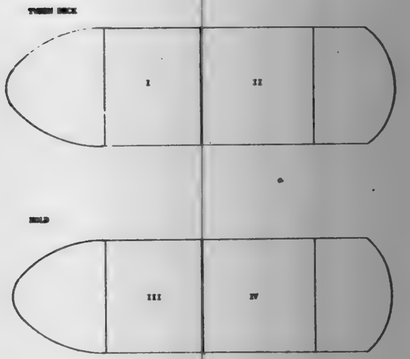
18:00 TO 21:00 (GMT)
23:00 TO 02:00 (GMT)

ATLANTIC

12:00 TO 15:00 (GMT)
17:00 TO 20:00 (GMT)

JA-77-1021

ATTACHED PAPER II


CARGO SPACE
TWEEN DECK
I
II
HOLD
III
IV

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1022

Permit Period MARCH 1, 1977 TO
Applied For: DECEMBER 31, 1977

Application No. JA-77-1022
For Use of Issuing Office

State: JAPAN

1. Name of Vessel YUYODAMARU No.2
2. Vessel No.: Hull No. _____ Registration No. HK 1-529
3. Name and Address of Owner / Name and Address of Charterer
   Name: TAKAHIRO YOSHIMURA / _____
   Address: 18-24 HONCHO-CHO / _____
   HAKODATE, HOKKAIDO 040 JAPAN / _____
   Cable Address _____ / _____
4. Homeport and State of Registry: HAKODATE, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1991.20 M.T (Net) 737.73 M.T
7. Length 79.0 M. 8. Breadth 11.50 M. 9. Draft 5.90 M.
10. Horsepower 3550 shp. 11. Maximum Speed 11.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other _____
13. Date Built DECEMBER 1960
14. Number and Nationality of Personnel 16 JAPAN
    Officers 9 Crew 7 Other (Specify) _____
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*).
    Other _____
    International Radio Call Sign JJTA
    Radio Frequencies Monitored 500 KHz
    Other Working Frequencies SEE THE ATTACHED PAPER 2
    Schedule SEE THE ATTACHED PAPER 2

JA-77-1022

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
    Other _____
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name
    Salted Fish _____ / Freezer SEE THE ATTACHED PAPER 2
    Fresh Fish _____ / I, II, III, IV FROZEN FISH HOLD
    Frozen Fish 871 M/T / Dry Hold
    Fish Meal _____ / Tanks
    Other _____ / Other
19. Processing Equipment (Indicate daily capacity,MT)
    _____
    _____
    _____
    _____
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:
    _____
    _____
    _____

PAPER 2

JA-77-1022

YUYODAMARU No.2

OTHER WORKING FREQUENCIES

A1 2075, 2091

A2 410, 425, 432, 404 , 468, 480, 500

A3 4186.6, 4183, 4202, 4204, 4210.5, 4182.2 KHz
12546.6, 4214, 12642, 6279.9, 6274.5, 6303 KHz
6305, 6312.75, 6273.5, 10708.8, 6321, 16856 KHz
8373.2, 8364, 84 04, 8408, 8417, 83644, 22234 KHz
8428, 22262.5, 4210.5, 12631.5, 12085, 6315.75 KHz

SCHEDULE

WATCH TIME

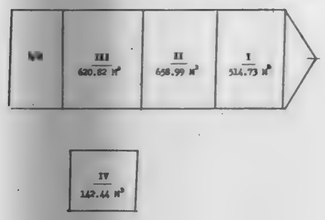
BERING SEA AND ALEUTIAN ISLANDS	01.00 TO 04.00 (GMT) 20.00 TO 23.00 (GMT)
GULF OF ALASKA	18.00 TO 21.00 (GMT) 23.00 TO 02.00 (GMT)
ATLANTIC	12.00 TO 15.00 (GMT) 17.00 TO 20.00 (GMT)

V 42 49 MAR 14 77 UMI

IA-77-1022

PAPER 2 YUKOLAHO No.2

FORE



AFT

1023

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: DECEMBER 31, 1977 TO

Application No. IA-77-1023 For Use of Issuing Office

State: JAPAN

1. Name of Vessel YUKOLAHO No.2
2. Vessel No./Hull No. ——— Registration No. YKL-301
3. Name and Address of Owner Name and Address of Charterer
   Name YASHIMA SHIPPING CO., LTD.
   Address SHIN-YAESU BLDG. 3-5-12
   NIHONBASHI, CHUO-KU, TOKYO, 103, JAPAN
   Cable Address YASHIMA SHIPPING
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2,604.88 M.T. (Net) 1,470.16 M.T.
7. Length 104.90 M. 8. Breadth 14.50 M. 9. Draft 5.80 M.
10. Horsepower 4,400 shp. 11. Maximum Speed 16.50 kn.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other ———
13. Date Built: 18.DEC. 1968
14. Number and Nationality of Personnel 30 JAPAN
    Officers 9 Crew 11 Other (Specify) ———
15. Communications: VHF-FM (o), AM/SSB, Voice (o), Telegraphy (o
    Other ———
    International Radio Call Sign JKYU
    Radio Frequencies Monitored A1,A2 500KHZ
    Other Working Frequencies A1,A2 425 468 KHZ
    Schedule WATCH TIME; ATLANTIC: 1300-1600, 1800-2100, 2300-0100 G.M.T.

IA-77-1023

16. Navigation Equipment: Loran C (o), Loran A (o), Omega ( ),
    Decca ( ), Navaat ( ), Radar (o), Fathometer (o),
    Other ———
17. Cargo Capacity (MT) 18. Cargo Space
    Number Name
    SEE THE ATTACHED PAPER-I
    Salted Fish ——— Freezer
    Fresh Fish ——— Dry Hold
    Frozen Fish 2,850 M.T. Tanks
    Fish Meal ——— Other
    Other ———
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

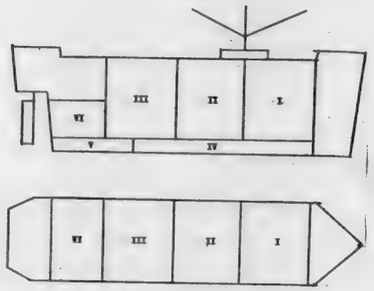
Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

PAPER - I

IA-77-1023

MISHIMA MARU



I, II, III; FROZEN FISH HOLD
IV; FUEL OIL TANK
V; FRESH WATER TANK
VI; ENGINE ROOM

1024

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: DECEMBER 31, 1977 TO

Application No. IA-77-1024 For Use of Issuing Office

State: JAPAN

1. Name of Vessel KYUYO MARU
2. Vessel No./Hull No. ——— Registration No. YKL-836
3. Name and Address of Owner Name and Address of Charterer
   Name TOKYO SHOSEN KATSUA LTD.
   Address NO.12 WAKO BLDG., 4-10,
   7 CHOME, KIYOMIGASHI, SUMI-KU, TOKYO, 103, JAPAN
   Cable Address KATSUAKYOK TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2,604.95 M.T. (Net) 1,613.41 M.T.
7. Length 104.90 M. 8. Breadth 14.50 M. 9. Draft 6.51 M.
10. Horsepower 4500 shp. 11. Maximum Speed 15.26 kn.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other ———
13. Date Built APRIL, 1972
14. Number and Nationality of Personnel 28, JAPAN
    Officers 9 Crew 19 Other (Specify) ———
15. Communications: VHF-FM (o), AM/SSB, Voice ( ), Telegraphy (o)
    Other ———
    International Radio Call Sign JKSC
    Radio Frequencies Monitored A1, A2, 500 KHZ
    Other Working Frequencies A1, A2, 425 KHZ, 480 KHZ
    Schedule SEE THE ATTACHED PAPER -I

IA-77-1024

PAPER I
WATER TYPE

BERING SEA AND ALEUTIAN ISLAND	2100-2200, 0300-0400 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0400 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0400 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0400 (G.M.T.)

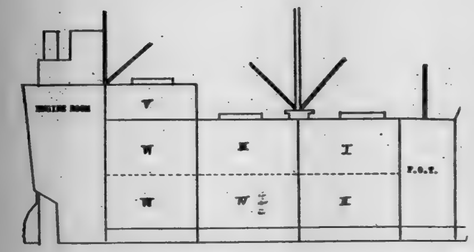
16. Navigation Equipment: Loran C (o), Loran A (o), Omega ( ),
    Decca ( ), Navaat ( ), Radar (o), Fathometer (o),
    Other ———

IA-77-1024

17. Cargo Capacity (MT) 18. Cargo Space
    Number Name
    Salted Fish ——— Freezer SEE THE ATTACHED PAPER - II
    Fresh Fish ——— Dry Hold
    Frozen Fish 1700 M.T. Tanks
    Fish Meal 170 M.T. Other
    Other ———
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:



CARGO SPACE

	Number	Name
FREEZER	I, X, X, X, W, W	FROZEN FISH HOLD
DRY HOLD	V	FISH MEAL HOLD

V42N49 MAR 14 1977 UMI

1025

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977
Applied For:

Application No. IA-77-1025
For Use of Issuing Office

State: JAPAN

1. Name of Vessel FUKUYU MARU
2. Vessel No.: Hull No. ——— Registration No. KOCHI-201
3. Name and Address of Owner / Name and Address of Charterer
   Name: FUKUSHIN KISEN KAISHA LTD.
   Address: 3-2525, NAKINAYARO, NAZA, NAKINATA-CHO, OCHI-GUN, KOCHI-KEN, 799-21, JAPAN
   Cable Address: ———
4. Homeport and State of Registry: NAKINATA-CHO, OCHI-GUN, KOCHI, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2593.02 M.T. (Net) 1127.23 M.T.
7. Length 308.95 ft. 8. Breadth 15.00 M. 9. Draft 6.61 M.
10. Horsepower 4500 ehp. 11. Maximum Speed 15.25 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other ———
13. Date Built DECEMBER/1972
14. Number and Nationality of Personnel 22, JAPAN
    Officers 9 Crew 13 Other (Specify) ———
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*), Other ———
    International Radio Call Sign JRSW
    Radio Frequencies Monitored A1, A2 500 KHZ
    Other Working Frequencies A1, A2 425 KHZ, 480 KHZ
    Schedule SEE THE ATTACHED PAPER -I
16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navaid ( ), Radar (*), Fathometer (*), Other ———
17. Cargo Capacity (MT)

		18. Cargo Space	Number	Name
Salted Fish	———	Freezer	SEE THE ATTACHED PAPER -II	
Fresh Fish	———	Dry Hold		
Frozen Fish	1800 M.T.	Tanks		
Fish Meal	———	Other		
Other	———			

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

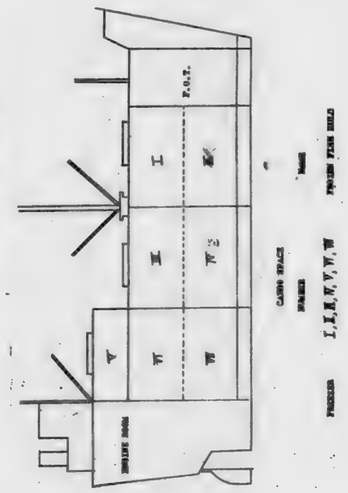
Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

IA-77-1025

PAPER I
MATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0300 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)



1026

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977
Applied For:

Application No. IA-77-1026
For Use of Issuing Office

State: JAPAN

1. Name of Vessel KYUO MARU
2. Vessel No.: Hull No. ——— Registration No. HKI-32
3. Name and Address of Owner / Name and Address of Charterer
   Name: HOKUYO KAIYUU GYOGYO KAISHA
   Address: 24-5, 2 CHOME, ICHIBANCHO, HATSUKAMI-SHI, HOKKAIDO, 060, JAPAN
   Cable Address: ———
4. Homeport and State of Registry: HATSUKAMI, HOKKAIDO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2,015.70 MT, (Net) 1,137.09 MT
7. Length 100.34 M. 8. Breadth 14.00 M. 9. Draft 6.00 M.
10. Horsepower 4500 ehp. 11. Maximum Speed 15.25 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other ———
13. Date Built DECEMBER, 1972
14. Number and Nationality of Personnel 23, JAPAN
    Officers 9 Crew 14 Other (Specify) ———
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*), Other ———
    International Radio Call Sign JHTT
    Radio Frequencies Monitored A1, A2 500 KHZ
    Other Working Frequencies A1, A2 425 KHZ, 480 KHZ
    Schedule SEE THE ATTACHED PAPER - I
16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navaid ( ), Radar (*), Fathometer (*), Other ———
17. Cargo Capacity (MT)

		18. Cargo Space	Number	Name
Salted Fish	———	Freezer	SEE THE ATTACHED PAPER-II	
Fresh Fish	———	Dry Hold		
Frozen Fish	1500 MT	Tanks		
Fish Meal	———	Other		
Other	———			

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

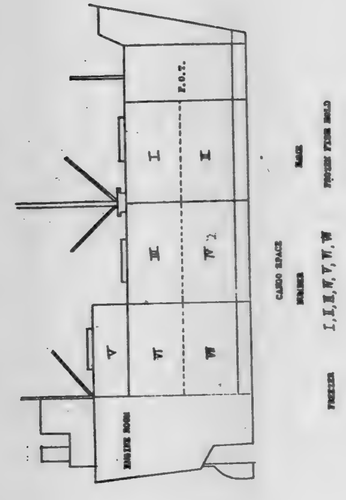
Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

IA-77-1026

PAPER I
MATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0300 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)



V42149 MAR 14 77 UMI

1027

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

IN-77-1027

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977
Applied For:

Application No. IN-77-1027
For Use of Issuing Office

State: JAPAN

1. Name of Vessel HAKUTAKA MARU
2. Vessel No.: Hull No. ——— Registration No. TKI-446
3. Name and Address of Owner — Name and Address of Charterer
   Name SAGAMI SHINPAKU KOGYO KAISHA LTD.
   Address 10-13, 2-CHOME KITA-SHINAGAWA, SHINAGAWA-KU, TOKYO, 170, JAPAN
   Cable Address ———
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2107.07 MT (Net) 1170.23 MT
7. Length 100.13 M. 8. Breadth 14.00 M. 9. Draft 6.01 M.
10. Horsepower 4500 shp. 11. Maximum Speed 15.50 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other ———
13. Date Built AUGUST, 1973
14. Number and Nationality of Personnel 29, JAPAN
    Officers 9 Crew 13 Other (Specify) ———
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*),
    Other ———
    International Radio Call Sign JAKB
    Radio Frequencies Monitored A1, A2, 500 KHZ
    Other Working Frequencies A1, A2, 425 KHZ, 480 KHZ
    Schedule SEE THE ATTACHED PAPER - I
16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
    Other ———
17. Cargo Capacity (MT) — 18. Cargo Space Number — Name
    Salted Fish ——— Freezer SEE THE ATTACHED PAPER - II
    Fresh Fish ——— Dry Hold
    Frozen Fish 1500 MT Tanks
    Fish Meal ——— Other
    Other ———
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

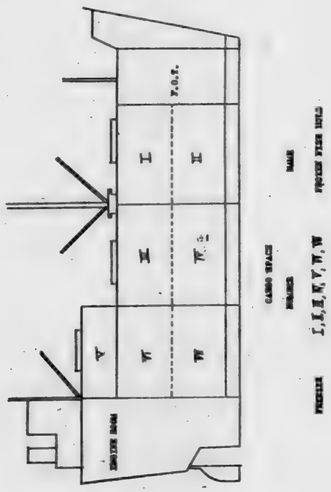
21. Name and Address of Agent appointed to receive any legal process issued in the United States:

IN-77-1027

PAPER I
WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)

IN-77-1027



1028

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

IA-77-1028

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977
Applied For:

Application No. IA-77-1028
For Use of Issuing Office

State: JAPAN

1. Name of Vessel SHUYO MARU
1. Vessel No.: Hull No. ——— Registration No. TKI-592
3. Name and Address of Owner — Name and Address of Charterer
   Name TOKYO SHOSEN KAISHA LTD.
   Address NO.12 MAKO BLDG., 4-10, 2 CHOME, NIHONBASHI, CHUO-KU, TOKYO, 103, JAPAN
   Cable Address MAIN MARINE TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1934.69 M.T. (Net) 984.19 M.T.
7. Length 89.40 M. 8. Breadth 13.40 M. 9. Draft 5.31 M.
10. Horsepower 1300 shp. 11. Maximum Speed 14.0 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other ———
13. Date Built MARCH 11, 1967
14. Number and Nationality of Personnel 23, JAPAN
    Officers 9 Crew 14 Other (Specify) ———
13. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*),
    Other ———
    International Radio Call Sign JHYD
    Radio Frequencies Monitored A1, A2 500 KHZ
    Other Working Frequencies A1, A2 425 KHZ, 480 KHZ
    Schedule SEE THE ATTACHED PAPER - I
16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
    Other ———
17. Cargo Capacity (MT) — 18. Cargo Space Number — Name
    Salted Fish ——— Freezer SEE THE ATTACHED PAPER
    Fresh Fish ——— Dry Hold
    Frozen Fish 1200 MT Tanks
    Fish Meal ——— Other
    Other ———
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

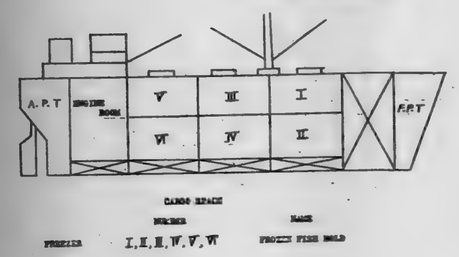
21. Name and Address of Agent appointed to receive any legal process issued in the United States:

IA-77-1028

PAPER I
WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)

IA-77-1028



V42 I49 MAR 14 77 UMI

1029

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1,1977 TO DECEMBER 31,1977 Applied For:

Application No. IA-77-1029 For Use of Issuing Office

State: JAPAN

1. Name of Vessel MIRU MARU
2. Vessel No.: Hull No. — Registration No. TKI-438
3. Name and Address of Owner / Name and Address of Charterer
   Name TOKYO SHOSEN KAISHA LTD.
   Address NO.12 MAKO BLDG.,4-10,
   2 CHOME,NIHONBASHI,CHUO-KU,TOKYO,103,JAPAN
   Cable Address BLUE MARINE TOKYO
4. Homeport and State of Registry: TOKYO,JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1,944.14 M.T. (Net) 980.00 M.T.
7. Length 80.40 M. 8. Breadth 13.00 M. 9. Draft 5.44 M.
10. Horsepower 3,520 shp. 11. Maximum Speed 14.0 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other —
13. Date Built JULY,1967
14. Number and Nationality of Personnel 23,JAPAN
    Officers 9 Crew 14 Other (Specify) —
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*)
    Other
    International Radio Call Sign JDRG
    Radio Frequencies Monitored A1,A2 500KHZ
    Other Working Frequencies A1,A2 425KHZ,480KHZ
    Schedule SEE THE ATTACHED PAPER-I

IA-77-1029

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
    Other
17. Cargo Capacity (MT) 18. Cargo Space — Bunker / Hans

Salted Fish	—	Freezer	
Fresh Fish	—	Dry Hold	
Frozen Fish	1,200 M.T.	Tanks	SEE THE ATTACHED PAPER-II
Fish Meal	—	Other	
Other	—		

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

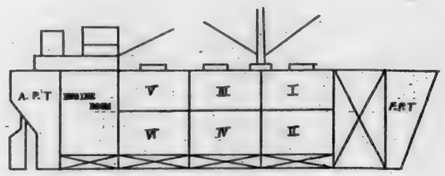
ATTACHED PAPER I

IA-77-1029

PAPER I

WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)



CARGO SPACE

	BUNKER	HOLD
FORWARD	I, II, III, IV, V, W	FROZEN FISH HOLD

1030

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1,1977 TO DECEMBER 31,1977 Applied For:

Application No. IA-77-1030 For Use of Issuing Office

State: JAPAN

1. Name of Vessel TAMAGAWA MARU
2. Vessel No.: Hull No. — Registration No. TKI-787
3. Name and Address of Owner / Name and Address of Charterer
   Name TAIYO FISHERY CO. LTD.
   Address 1-5-1, MARUNOUCHI
   CHIYODA-KU, TOKYO 100, JAPAN
   Cable Address OCEANTIDE TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1804.86 M.T. (Net) 993.04 M.T.
7. Length 88.30 M. 8. Breadth 12.60 M. 9. Draft 5.46 M.
10. Horsepower 5190 shp. 11. Maximum Speed 13.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other —
13. Date Built NOVE 1964
14. Number and Nationality of Personnel 25, JAPAN
    Officers 9 Crew 16 Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*),
    Other
    International Radio Call Sign JAJM
    Radio Frequencies Monitored A1, A2, 500KHz
    Other Working Frequencies A1, A2, 425KHz, 480KHz
    Schedule SEE THE ATTACHED PAPER-I

IA-77-1030

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
    Other
17. Cargo Capacity (MT) 18. Cargo Space — Bunker / Hans

Salted Fish	—	Freezer	
Fresh Fish	—	Dry Hold	
Frozen Fish	1150 M.T.	Tanks	SEE THE ATTACHED PAPER-II
Fish Meal	—	Other	
Other	—		

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

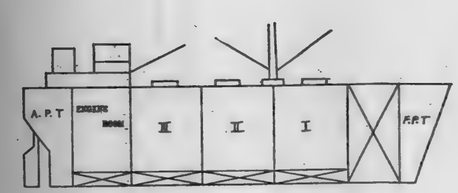
21. Name and Address of Agent appointed to receive any legal process issued in the United States:

IA-77-1030

PAPER I

WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)



CARGO SPACE

	BUNKER	HOLD
FORWARD	I, II, III	FROZEN FISH HOLD

V42149 MAR 14 77 UMI

1031

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977
Applied For:

Application No. IA-77-1031
For Use of Issuing Office

State: JAPAN

1. Name of Vessel KANEGAWA MARU
2. Vessel No.: Hull No. — Registration No. YKI-786
3. Name and Address of Owner
   Name TAIYO FISHERY CO., LTD.
   Address 1-5-1, MARUNOUCHI
   CHIYODA-KU, TOKYO 100, JAPAN
   Cable Address OCEANFISH TOKYO
   Name and Address of Charterer
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1804.55 M.T. (Net) 995.33 M.T.
7. Length 88.70 M. 8. Breadth 12.60 M. 9. Draft 5.46 M.
10. Horsepower 3150 shp. 11. Maximum Speed 13.2 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built NOVEMBER, 1964
14. Number and Nationality of Personnel 25, JAPAN
    Officers 9 Crew 16 Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*),
    Other
    International Radio Call Sign JAHD
    Radio Frequencies Monitored A1, A2, 500 KHZ
    Other Working Frequencies A1, A2, 425 KHZ, 500 KHZ
    Schedule SEE THE ATTACHED PAPER - I
16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ), Decca ( ), Navaat ( ), Radar (*), Fathometer (*),
    Other
17. Cargo Capacity (MT)

Salted Fish	—	Freezer	
Fresh Fish	—	Dry Hold	
Frozen Fish	1100 M.T.	Tanks	
Fish Meal	—	Other	
Other	—		

18. Cargo Space Number / Name — SEE THE ATTACHED PAPER -
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

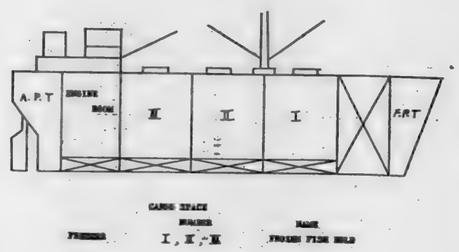
21. Name and Address of Agent appointed to receive any legal process issued in the United States:

IA-77-1031

IA-77-1031

PAPER I
MATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)



CARGO SPACE NUMBER — I, II, III
FREEZER — MAIN FROZEN FISH HOLD

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

1032

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977
Applied For:

Application No. IA-77-1032
For Use of Issuing Office

State: JAPAN

1. Name of Vessel AKEGAWA MARU
2. Vessel No.: Hull No. — Registration No. YKI-784
3. Name and Address of Owner
   Name TAIYO FISHERY CO., LTD.
   Address 1-5-1, MARUNOUCHI,
   CHIYODA-KU, TOKYO 100, JAPAN
   Cable Address OCEANFISH TOKYO
   Name and Address of Charterer
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1782.38 M.T. (Net) 917.51 M.T.
7. Length 88.5 M. 8. Breadth 12.6 M. 9. Draft 5.48 M.
10. Horsepower 3150 shp. 11. Maximum Speed 13.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other
13. Date Built NOVEMBER, 1964
14. Number and Nationality of Personnel 25, Japan
    Officers 9 Crew 16 Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*),
    Other
    International Radio Call Sign JAHV
    Radio Frequencies Monitored A1, A2, 500 KHZ
    Other Working Frequencies A1, A2, 425 KHZ, 500 KHZ
    Schedule SEE THE ATTACHED PAPER - I
16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ), Decca ( ), Navaat ( ), Radar (*), Fathometer (*),
    Other
17. Cargo Capacity (MT)

Salted Fish	—	Freezer	
Fresh Fish	—	Dry Hold	
Frozen Fish	1100 M.T.	Tanks	
Fish Meal	—	Other	
Other	—		

18. Cargo Space Number / Name — SEE THE ATTACHED PAPER
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

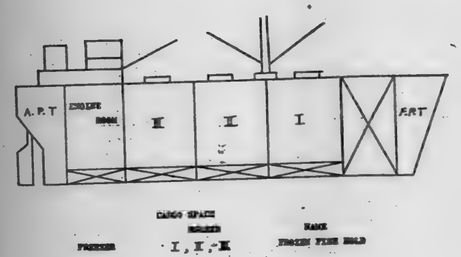
IA-77-1032

ATTACHED PAPER I

IA-77-1032

PAPER I
MATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)



CARGO SPACE NUMBER — I, II, III
FREEZER — MAIN FROZEN FISH HOLD

V42 I49 MAR 14 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1033

Permit Period Applied For: MARCH 1,1977 TO DECEMBER 31,1977

Application No. JA-77-1033 For Use of Issuing Office

State: JAPAN

1. Name of Vessel YUYO MARU
2. Vessel No.: Hull No. — Registration No. —
3. Name and Address of Owner / Name and Address of Charterer

Name TAIYO KYOEN KABUSHIKI KAISHA

Address 5F.HIBIYA-BLDG., 1-1,1 CHOME SHINBASHI,MINATO-KU TOKYO,105,JAPAN

Cable Address —

4. Homeport and State of Registry: TOKYO,JAPAN
5. Type of Vessel CARGO VESSEL
6. Tonnage (Gross) 2,343.73 M.T. (Net) 1,345.63 M.T.
7. Length 91.35 M. 8. Breadth 13.4 M. 9. Draft 5.68 M.
10. Horsepower 2,400 shp. 11. Maximum Speed 12.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ).

Other —

13. Date Built AUGUST,1966
14. Number and Nationality of Personnel 35,JAPAN

Officers 9 Crew 13 Other (Specify) —

15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*),

Other —

International Radio Call Sign JMAE

Radio Frequencies Monitored A1,A2 500KHZ

Other Working Frequencies A1, A2, 425 KHZ, 480 KHZ

Schedule SEE THE ATTACHED PAPER- I

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ), Decca ( ), Navcat ( ), Radar (*), Fathometer (*), Other —

JA-77-1033

17. Cargo Capacity (MT)

Salted Fish —
Fresh Fish —
Frozen Fish 1,600 M.T.
Fish Meal —
Other —

18. Cargo Space Number / Name

Freezer
Dry Hold
Tanks. SEE THE ATTACHED PAPER- I
Other

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-1033

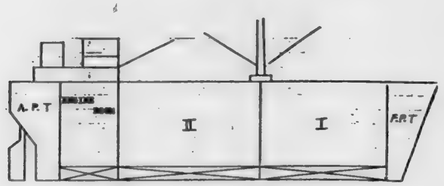
ATTACHED PAPER I

JA-77-1033

PAPER I

WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)



CARGO SPACE

NUMBER	NAME
DRY HOLD I, II	FISH MEAL HOLD

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) 1034

Permit Period Applied For: MARCH 1,1977 TO DECEMBER 31,1977

Application No. JA-77-1034 For Use of Issuing Office

State: JAPAN

1. Name of Vessel KYOKO MARU
2. Vessel No.: Hull No. — Registration No. —
3. Name and Address of Owner / Name and Address of Charterer

Name FUJITA KAIUN KABUSHIKI KAISHA

Address 24, OAZA SAIWAIMACHIDORI, YOSHIUMI-CHO,OCHI-GUN EHIME-KEN,JAPAN

Cable Address —

4. Homeport and State of Registry: YOSHIUMI-CHO,OCHI-GUN,EHIME,JAPAN
5. Type of Vessel CARGO VESSEL
6. Tonnage (Gross) 1,998.43 M.T. (Net) 1,247.41 M.T.
7. Length 91.90 M. 8. Breadth 14.00 M. 9. Draft 5.73 M.
10. Horsepower 2,400 shp. 11. Maximum Speed 13.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ).

Other —

13. Date Built FEBRUARY,1971
14. Number and Nationality of Personnel 22,JAPAN

Officers 9 Crew 13 Other (Specify) —

15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*),

Other —

International Radio Call Sign JPAA

Radio Frequencies Monitored A1,A2 500KHZ

Other Working Frequencies A1, A2, 425 KHZ, 480 KHZ

Schedule SEE THE ATTACHED PAPER- I

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navcat ( ), Radar (*), Fathometer (*), Other —

JA-77-1034

17. Cargo Capacity (MT)

Salted Fish —
Fresh Fish —
Frozen Fish —
Fish Meal 1,500M.T.
Other —

18. Cargo Space Number / Name

Freezer
Dry Hold
Tanks. SEE THE ATTACHED PAPER- I
Other

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-1034

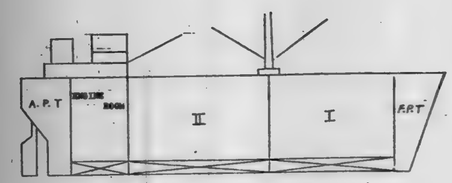
ATTACHED PAPER I

JA-77-1034

PAPER I

WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)



CARGO SPACE

NUMBER	NAME
DRY HOLD I, II	FISH MEAL HOLD

V4249 MAR 14 77 UMI

1035

JA-77-1035

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1,1977 TO DECEMBER 31,1977
Applied For: —
Application No. JA-77-1035
For Use of Issuing Office

State: JAPAN

1. Name of Vessel HAYUKI MARU
2. Vessel No.: Hull No. — Registration No. —
3. Name and Address of Owner / Name and Address of Charterer
   Name SHINKO KAIUN KAISHA LTD.
   Address SHOWA BLDG., 18-3, NIHONBASHI, 1-CHOME, CHUO-KU, TOKYO, 103, JAPAN
   Cable Address SHINKOLINE TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel CARGO VESSEL
6. Tonnage (Gross) 2,501.21 M.T. (Net) 1,344.49 M.T.
7. Length 86.70 M. 8. Breadth 13.60 M. 9. Draft 6.70 M.
10. Horsepower 3,000 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other —
13. Date Built JUNE, 1968
14. Number and Nationality of Personnel 31, JAPAN
    Officers 9 Crew 12 Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (X),
    Other —
    International Radio Call Sign JOKN
    Radio Frequencies Monitored A1, A2 500 KHZ,
    Other Working Frequencies A1, A2 425 KHZ, 480 KHZ
    Schedule SEE THE ATTACHED PAPER 1
16. Navigation Equipment: Loran C (X), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other —
17. Cargo Capacity (HT)
    Salted Fish —
    Fresh Fish —
    Frozen Fish —
    Fish Meal 1,900 M.T.
    Other —
18. Cargo Space Number / Name
    Freezer
    Dry Hold
    Tanks
    Other
    SEE THE ATTACHED PAPER II
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-1035

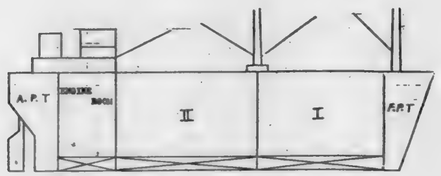
ATTACHED PAPER II

JA-77-1035

PAPER I

WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)



CARGO SPACE NUMBER	NAME
DRY HOLD I, II	FISH MEAL HOLD

1036

JA-77-1036

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977
Applied For:
Application No. JA-77-1036
For Use of Issuing Office

State: JAPAN

1. Name of Vessel BUSAN MARU
2. Vessel No.: Hull No. — Registration No. —
3. Name and Address of Owner / Name and Address of Charterer
   Name YAMAKA INDUSTRY CO., LTD.
   Address 794, OAZA ICHIHAMA, USUKI-SHI, OITA-KEN, JAPAN
   Cable Address —
4. Homeport and State of Registry: OITA, USUKI, JAPAN
5. Type of Vessel CARGO VESSEL
6. Tonnage (Gross) 999.49 M.T. (Net) 582.39 M.T.
7. Length 82.60 M. 8. Breadth 77.00 M. 9. Draft 5.31 M.
10. Horsepower 3,000 shp. 11. Maximum Speed 14.08 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
    Other —
13. Date Built APRIL 30, 1976
14. Number and Nationality of Personnel 15, JAPAN
    Officers 7 Crew 8 Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (X),
    Other —
    International Radio Call Sign JHQI
    Radio Frequencies Monitored A1, A2, 500 KHZ
    Other Working Frequencies A1, A2, 425 KHZ, 480 KHZ
    Schedule SEE THE ATTACHED PAPER-I
16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ),
    Decca ( ), Navsat ( ), Radar (X), Fathometer ( ),
    Other —
17. Cargo Capacity (HT)
    Salted Fish —
    Fresh Fish —
    Frozen Fish —
    Fish Meal 1709 M.T.
    Other —
18. Cargo Space Number / Name
    Freezer
    Dry Hold
    Tanks
    Other
    SEE THE ATTACHED PAPER-I
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (HT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-1036

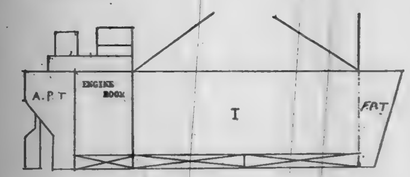
JA-77-1036

PAPER I

WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)

ATTACHED PAPER I



CARGO SPACE NUMBER	NAME
DRY HOLD 1	FISH MEAL HOLD

V42N49 MAR 14 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1037

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977

Application No. For Use of Issuing Office JA-77-1037

State: JAPAN

1. Name of Vessel HAYATSUKI MARU
2. Vessel No.: Hull No. ——— Registration No. TKI-858
3. Name and Address of Owner
   Name: KYOEI MARUH CO., LTD.
   Address: 3-19-6, GINZA,
   CHUO-KU, TOKYO, JAPAN
   Cable Address: ———
   Name and Address of Charterer
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2957.69 M.T. (Net) 1577.41 M.T.
7. Length 103.57 M. 8. Breadth 15.00 M. 9. Draft 8.00 M.
10. Horsepower 5800 shp. 11. Maximum Speed 16.0 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ).
    Other ———
12. Date Built MARCH 1973
13. Number and Nationality of Personnel 23, JAPAN
    Officers 9 Crew 11 Other (Specify) ———
14. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*).
    Other ———
    International Radio Call Sign JGPI
    Radio Frequencies Monitored 500 KHz
    2182, 6259 KHz
    Other Working Frequencies ———
    Schedule WATCH TIMES: 20:30 TO 04:00 GMT.
    (OCEAN AREA SEE ATTACHED I)

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navaat ( ), Radar (*), Fathometer (*),
    Other ———
17. Cargo Capacity (MT)

		Cargo Space Number	Name
Salted Fish	———	Freezer	I II III. SEE ATTACHED I
Fresh Fish	———	Dry Hold	
Frozen Fish	2065 M.T.	Tanks	
Fish Meal	———	Other	
Other	———		

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

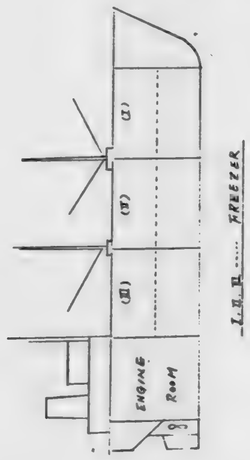
JA-77-1037

ATTACHED I

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

JA-77-1037

M.S. HAYATSUKI-MARU



ATTACHED II

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1038

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977

Application No. For Use of Issuing Office JA-77-1038

State: JAPAN

1. Name of Vessel ISOKAZE MARU
2. Vessel No.: Hull No. ——— Registration No. TKI-861
3. Name and Address of Owner
   Name: NISSEI SHIPPING CORPORATION
   Address: 3-6-2, OTEMACHI,
   CHIYODA-KU, TOKYO, JAPAN
   Cable Address: NISSEISHIP TOKYO
   Name and Address of Charterer
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 3730.58 M.T. (Net) 2068.43 M.T.
7. Length 107.52 M. 8. Breadth 16.00 M. 9. Draft 8.80 M.
10. Horsepower 5600 shp. 11. Maximum Speed 16.80 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ).
    Other ———
12. Date Built JUNE 1973
13. Number and Nationality of Personnel 28, JAPAN
    Officers 10 Crew 18 Other (Specify) ———
14. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*).
    Other ———
    International Radio Call Sign JGIP
    Radio Frequencies Monitored 500 KHz
    410, 425 KHz
    Other Working Frequencies ———
    Schedule WATCH TIMES: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT.
    (OCEAN AREA SEE ATTACHED I)

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navaat ( ), Radar (*), Fathometer (*),
    Other ———
17. Cargo Capacity (MT)

		Cargo Space Number	Name
Salted Fish	———	Freezer	I II III. SEE ATTACHED I
Fresh Fish	———	Dry Hold	
Frozen Fish	2811 M.T.	Tanks	
Fish Meal	———	Other	
Other	———		

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

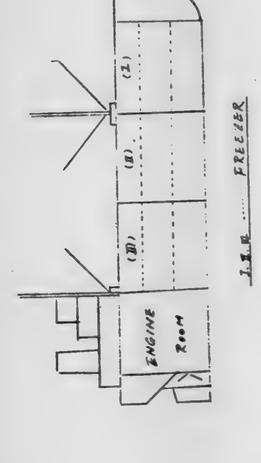
JA-77-1038

ATTACHED I

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

JA-77-1038

M.S. ISOKAZE-MARU



ATTACHED II

V42 I49 MAR 14 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1039

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977

Application No. JA-77-1039 For Use of Issuing Office

State: JAPAN

1. Name of Vessel EIHEI MARU
2. Vessel No.: Hull No. ——— Registration No. TK1-441
3. Name and Address of Owner: Name: HOKUHO MARINE PRODUCTS CO., LTD. Address: 7-9-13, TSUKIJI, CHUO-KU, TOKYO, JAPAN. Cable Address: ———
   Name and Address of Charterer: ———
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1428.91 M.T. (Net) 714.72 M.T.
7. Length 73.15 M. B. Breadth 12.80 M. D. Draft 5.79 M.
10. Horsepower 2100 shp. 11. Maximum Speed 12.0 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other ———
13. Date Built JUNE 1962
14. Number and Nationality of Personnel 35, JAPAN
    Officers 10 Crew 25 Other (Specify) ———
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*), Other ———
    International Radio Call Sign 7LSX
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies 4186—22227.5 KHZ
    Schedule WATCH TIME: 24:00 TO 02:00, 04:00 TO 07:00, 08:00 TO 11:00 (OCEAN AREA See ATTACHED I) GMT.
16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ), Decca ( ), Navaid ( ), Radar (*), Fathometer (*), Other ———
17. Cargo Capacity (MT)
    Salted Fish ———
    Fresh Fish ———
    Frozen Fish 1112 M.T.
    Fish Meal ———
    Other ———
18. Cargo Space Number: I. II. III. Hans: SEE ATTACHED II
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT) ———
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

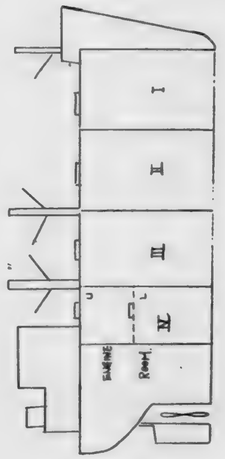
21. Name and Address of Agent appointed to receive any legal process issued in the United States: ———

ATTACHED I — JA-77-1039

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

JA-77-1039

ATTACHED II — M.S. EIHEI MARU



FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1040

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977

Application No. JA-77-1040 For Use of Issuing Office

State: JAPAN

1. Name of Vessel SOYOKAZE MARU
2. Vessel No.: Hull No. ——— Registration No. TK1-531
3. Name and Address of Owner: Name: NIPPON SUISAN KAISHA, LTD. Address: 2-6-7, OTEMACHI, CHIYODA-KU, TOKYO, JAPAN. Cable Address: NISSUI TOKYO
   Name and Address of Charterer: ———
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2907.71 M.T. (Net) 1564.81 M.T.
7. Length 91.32 M. B. Breadth 14.80 M. D. Draft 7.60 M.
10. Horsepower 5600 shp. 11. Maximum Speed 14.8 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other ———
13. Date Built JUNE 1972
14. Number and Nationality of Personnel 23, JAPAN
    Officers 10 Crew 13 Other (Specify) ———
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*), Other ———
    International Radio Call Sign JKSY
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies 410, 425 KHZ
    Schedule WATCH TIME 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 (OCEAN AREA See ATTACHED I) GMT.
16. Navigation Equipment: Loran C (*) Loran A (*), Omega ( ), Decca ( ), Navaid ( ), Radar (*), Fathometer (*), Other ———
17. Cargo Capacity (MT)
    Salted Fish ———
    Fresh Fish ———
    Frozen Fish 1589 M.T.
    Fish Meal ———
    Other ———
18. Cargo Space Number: I. II. III. Hans: SEE ATTACHED II
    Freezer
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT) ———
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

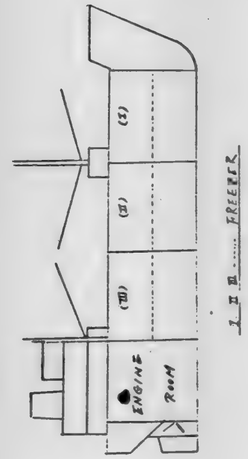
21. Name and Address of Agent appointed to receive any legal process issued in the United States: ———

ATTACHED I — JA-77-1040

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

JA-77-1040

ATTACHED II — M.S. SOYOKAZE-MARU



V42N49 MAR 14 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1041

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application No. JA-77-1041 For Use of Issuing Office

State: JAPAN

1. Name of Vessel KAMEI MARU
2. Vessel No.: Hull No. ——— Registration No. WH-385
3. Name and Address of Owner / Name and Address of Charterer
   Name: NIPPON SUISAN KAISHA, LTD.
   Address: 2-6-2, OTEMACHI,
   CHIYODA-KU, TOKYO, JAPAN
   Cable Address: NISSUI TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1696.75 M.T. (Net) 868.45 M.T.
7. Length 76.42 M. 8. Breadth 12.60 M. 9. Draft 6.30 M.
10. Horsepower 2400 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ),
    Other ———
13. Date Built JULY 1961
14. Number and Nationality of Personnel 23, JAPAN
    Officers 9 Crew 14 Other (Specify) ———
15. Communications: VHF-FM (•), AM/SSB, Voice ( ), Telegraphy (•),
    Other ———
    International Radio Call Sign JGMC
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies 410, 425 KHZ
    Schedule WATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT.
    (OCEAN AREA SEE ATTACHED I)
16. Navigation Equipment: Loran C (•), Loran A (•), Omega ( ), Decca ( ), Navaat ( ), Radar (•), Fathometer (•), Other ———
17. Cargo Capacity (MT) 18. Cargo Space Number / Name
    Salted Fish ——— Freezer I, II, III SEE ATTACHED II
    Fresh Fish ——— Dry Hold
    Frozen Fish 1104 M.T. Tanks
    Fish Meal ——— Other
    Other ———
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

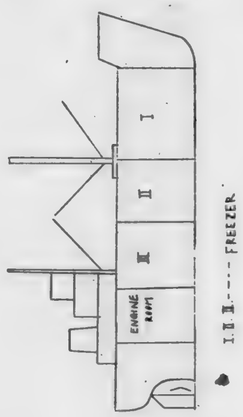
ATTACHED I — JA-77-1041

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

JA-77-1041

M.S. NANKO MARU

ATTACHED II



FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1042

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application No. JA-77-1042 For Use of Issuing Office

State: JAPAN

1. Name of Vessel TOKO MARU
2. Vessel No.: Hull No. ——— Registration No. WH-415
3. Name and Address of Owner / Name and Address of Charterer
   Name: NISSUI SHIPPING CORPORATION,
   Address: 2-6-2, OTEMACHI,
   CHIYODA-KU, TOKYO, JAPAN
   Cable Address: SHIPPING NISSUI
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1696.56 M.T. (Net) 875.85 M.T.
7. Length 76.21 M. 8. Breadth 12.66 M. 9. Draft 6.30 M.
10. Horsepower 2400 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (•), Steam ( ) Diesel/Electric ( ),
    Other ———
13. Date Built NOVEMBER 1961
14. Number and Nationality of Personnel 23, JAPAN
    Officers 9 Crew 14 Other (Specify) ———
15. Communications: VHF-FM (•), AM/SSB, Voice ( ), Telegraphy (•),
    Other ———
    International Radio Call Sign JMKA
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies 410, 425 KHZ
    Schedule WATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT.
    (OCEAN AREA SEE ATTACHED I)
16. Navigation Equipment: Loran C (•), Loran A (•), Omega ( ), Decca ( ), Navaat ( ), Radar (•), Fathometer (•), Other ———
17. Cargo Capacity (MT) 18. Cargo Space Number / Name
    Salted Fish ——— Freezer I, II, III SEE ATTACHED II
    Fresh Fish ——— Dry Hold
    Frozen Fish 1101 M.T. Tanks
    Fish Meal ——— Other
    Other ———
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

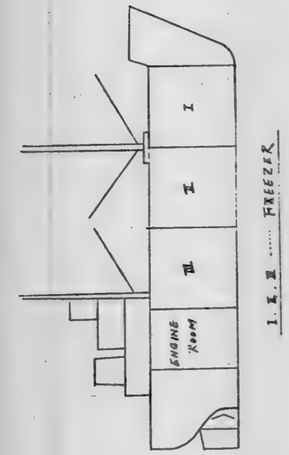
ATTACHED I — JA-77-1042

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

JA-77-1042

M.S. TOKO-MARU

ATTACHED II



FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1043

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application No. JA-77-1043 For Use of Issuing Office

State: JAPAN

1. Name of Vessel KOKUYO MARU
2. Vessel No.: Hull No. ——— Registration No. WH-416
3. Name and Address of Owner / Name and Address of Charterer
   Name: NIPPON SUISAN KAISHA, LTD.
   Address: 2-6-2, OTEMACHI,
   CHIYODA-KU, TOKYO, JAPAN
   Cable Address: NISSUI TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1696.75 M.T. (Net) 868.45 M.T.
7. Length 76.42 M. 8. Breadth 12.60 M. 9. Draft 6.30 M.
10. Horsepower 2400 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ),
    Other ———
13. Date Built JULY 1961
14. Number and Nationality of Personnel 23, JAPAN
    Officers 9 Crew 14 Other (Specify) ———
15. Communications: VHF-FM (•), AM/SSB, Voice ( ), Telegraphy (•),
    Other ———
    International Radio Call Sign JGMC
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies 410, 425 KHZ
    Schedule WATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT.
    (OCEAN AREA SEE ATTACHED I)
16. Navigation Equipment: Loran C (•), Loran A (•), Omega ( ), Decca ( ), Navaat ( ), Radar (•), Fathometer (•), Other ———
17. Cargo Capacity (MT) 18. Cargo Space Number / Name
    Salted Fish ——— Freezer I, II, III SEE ATTACHED II
    Fresh Fish ——— Dry Hold
    Frozen Fish 1104 M.T. Tanks
    Fish Meal ——— Other
    Other ———
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

ATTACHED I — JA-77-1043

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

JA-77-1043

M.S. KOKUYO MARU

ATTACHED II

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1044

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application No. JA-77-1044 For Use of Issuing Office

State: JAPAN

1. Name of Vessel KOKUYO MARU
2. Vessel No.: Hull No. ——— Registration No. WH-416
3. Name and Address of Owner / Name and Address of Charterer
   Name: NISSUI SHIPPING CORPORATION,
   Address: 2-6-2, OTEMACHI,
   CHIYODA-KU, TOKYO, JAPAN
   Cable Address: SHIPPING NISSUI
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1696.56 M.T. (Net) 875.85 M.T.
7. Length 76.21 M. 8. Breadth 12.66 M. 9. Draft 6.30 M.
10. Horsepower 2400 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (•), Steam ( ) Diesel/Electric ( ),
    Other ———
13. Date Built NOVEMBER 1961
14. Number and Nationality of Personnel 23, JAPAN
    Officers 9 Crew 14 Other (Specify) ———
15. Communications: VHF-FM (•), AM/SSB, Voice ( ), Telegraphy (•),
    Other ———
    International Radio Call Sign JMKA
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies 410, 425 KHZ
    Schedule WATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT.
    (OCEAN AREA SEE ATTACHED I)
16. Navigation Equipment: Loran C (•), Loran A (•), Omega ( ), Decca ( ), Navaat ( ), Radar (•), Fathometer (•), Other ———
17. Cargo Capacity (MT) 18. Cargo Space Number / Name
    Salted Fish ——— Freezer I, II, III SEE ATTACHED II
    Fresh Fish ——— Dry Hold
    Frozen Fish 1101 M.T. Tanks
    Fish Meal ——— Other
    Other ———
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

ATTACHED I — JA-77-1044

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

JA-77-1044

M.S. KOKUYO MARU

ATTACHED II

V42 I49 MAR 14 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1043

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application No. JA-77-1043 For Use of Issuing Office

State: JAPAN

1. Name of Vessel SEIKO MARU
2. Vessel No.: Hull No. ——— Registration No. TK1-418
3. Name and Address of Owner / Name and Address of Charterer
   Name: NISSUI SHIPPING CORPORATION,
   Address: 2-6-2, OTEMACHI,
   CHIYODA-KU, TOKYO, JAPAN
   Cable Address:
   SHIPPING NISSUI TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1692.88 M.T. (Net) 858.80 M.T.
7. Length 76.21 M. B. Breadth 12.60 M. D. Draft 6.30 M.
10. Horsepower 2400 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ).
    Other ———
13. Date Built DECEMBER 1961
14. Number and Nationality of Personnel 23, JAPAN
    Officers 9 Crew 14 Other (Specify) ———
15. Communications: VHF-FM (a), AM/SSB, Voice ( ), Telegraphy (a).
    Other ———
    International Radio Call Sign JACP
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies 410, 425 KHZ
    Schedule WATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT. (OCEAN AREA — SEE ATTACHED I)
16. Navigation Equipment: Loran C (a), Loran A (a), Omega ( ), Decca ( ), Sawnat ( ), Radar (*), Fathometer (*), Other ———
17. Cargo Capacity (MT) / 18. Cargo Space Rubber / Nane
    Salted Fish ——— Freezer I I I. ATTACHED II
    Fresh Fish ——— Dry Hold
    Frozen Fish 1101 M.T. Tanks
    Fish Meal ——— Other
    Other ———
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

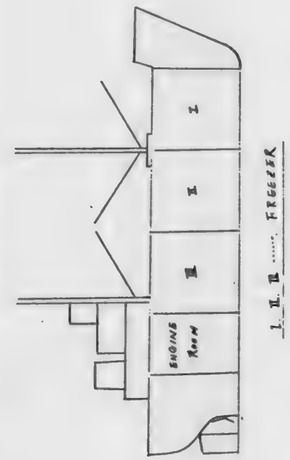
21. Name and Address of Agent appointed to receive any legal process issued in the United States:

ATTACHED I

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

ATTACHED II

M.S. SEIKO-MARU



FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1044

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application No. JA-77-1044 For Use of Issuing Office

State: JAPAN

1. Name of Vessel HOKKO MARU
2. Vessel No.: Hull No. ——— Registration No. TK1-396
3. Name and Address of Owner / Name and Address of Charterer
   Name: NIPPON SUISAN KAISHA, LTD.
   Address: 2-6-2, OTEMACHI,
   CHIYODA-KU, TOKYO, JAPAN
   Cable Address
   NISSUI TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1697.12 M.T. (Net) 869.16 M.T.
7. Length 76.42 M. B. Breadth 12.60 M. D. Draft 6.30 M.
10. Horsepower 2600 shp. 11. Maximum Speed 13.0 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ).
    Other ———
13. Date Built JULY 1961
14. Number and Nationality of Personnel 23, JAPAN
    Officers 9 Crew 14 Other (Specify) ———
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*).
    Other ———
    International Radio Call Sign JGOU
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies 410, 425 KHZ
    Schedule WATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT. (OCEAN AREA — SEE ATTACHED I)
16. Navigation Equipment: Loran C (a), Loran A (a), Omega ( ), Decca ( ), Sawnat ( ), Radar (a), Fathometer (a), Other ———
17. Cargo Capacity (MT) / 18. Cargo Space Rubber / Nane
    Salted Fish ——— Freezer I. I. I. SEE ATTACHED II
    Fresh Fish ——— Dry Hold
    Frozen Fish 1104 M.T. Tanks
    Fish Meal ——— Other
    Other ———
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

ATTACHED I

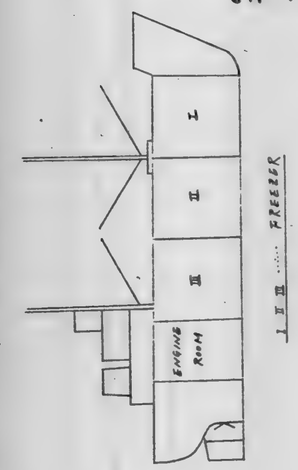
JA-77-1044

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

ATTACHED II

JA-77-1044

M.S. HOKKO-MARU



V42N49 MAR 14 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1045

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application No. JA-77-1045 For Use of Issuing Office

State: JAPAN

1. Name of Vessel MATSUKAZE MARU
2. Vessel Nat. Hull No. ——— Registration No. YC1-761
3. Name and Address of Owner: Name: NIPPON SUISAN KAISHA, LTD. Address: 2-6-2, OTEMACHI, CHIYODA-KU, TOKYO, JAPAN Cable Address: NISSUI TOKYO
   Name and Address of Charterer: ———
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2899.92 M.T. (Net) 1542.32 M.T.
7. Length 91.32 M. B. Breadth 14.80 M. D. Draft 7.60 M.
10. Horsepower 5600 shp. 11. Maximum Speed 14.8 kt.
11. Propulsion: Diesel (e), Steam ( ), Diesel/Electric ( ), Other ———
13. Date Built MARCH 1973
14. Number and Nationality of Personnel 24, JAPAN
    Officers 10 Crew 14 Other (Specify) ———
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*). Other ———
    International Radio Call Sign JDYK
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies 410, 425 KHZ
    Schedule MATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT. (OCEAN AREA SEE ATTACHED I)
16. Navigation Equipment: Loran C (e), Loran A (e), Omega ( ), Decca ( ), Navsat ( ), Radar (e), Fathometer (e). Other ———
17. Cargo Capacity (MT)
    Salted Fish ———
    Fresh Fish ———
    Frozen Fish 1899 M.T.
    Fish Meal ———
    Other ———
18. Cargo Space Number / Name
    Freezer I. II. III. SEE ATTACHED II
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT) ———
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States: ———

ATTACHED I — JA-77-1045

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

JA-77-1045

M.S. MATSUKAZE MARU

(I) (II) (III) ENGINE ROOM

I. II. III ..... FREEZER

ATTACHED II

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1046

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application No. JA-77-1046 For Use of Issuing Office

State: JAPAN

1. Name of Vessel KAZUSHIMA MARU
2. Vessel Nat. Hull No. ——— Registration No. YC1-437
3. Name and Address of Owner: Name: NIPPON SUISAN KAISHA, LTD. Address: 2-6-2, OTEMACHI, CHIYODA-KU, TOKYO, JAPAN Cable Address: NISSUI TOKYO
   Name and Address of Charterer: ———
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 3738.16 M.T. (Net) 1804.76 M.T.
7. Length 107.2 M. B. Breadth 15.6 M. D. Draft 9.04 M.
10. Horsepower 3230 shp. 11. Maximum Speed 13.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other ———
13. Date Built MAY 1962
14. Number and Nationality of Personnel 30, JAPAN
    Officers 10 Crew 20 Other (Specify) ———
15. Communications: VHF-FM (e), AM/SSB, Voice ( ), Telegraphy (e). Other ———
    International Radio Call Sign JDYK
    Radio Frequencies Monitored 500 KHZ
    Other Working Frequencies 410, 425 KHZ
    Schedule MATCH TIME: 20:00 TO 12:00 GMT. (OCEAN AREA SEE ATTACHED I)
16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (*). Other ———
17. Cargo Capacity (MT)
    Salted Fish ———
    Fresh Fish ———
    Frozen Fish 2124 M.T.
    Fish Meal ———
    Other ———
18. Cargo Space Number / Name
    Freezer I. II. III. SEE ATTACHED II
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT) ———
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States: ———

ATTACHED I — JA-77-1046

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

JA-77-1046

KAZUSHIMA MARU

I II III IV — ENGINE ROOM

I. II. III ..... FREEZER HOLD

SEE ATTACHED II

V 42 49 MAR 14 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1047

Permit Period MARCH 1, 1977 TO
Applied For: DECEMBER 31, 1977

Application No. JA-77-1047
For Use of Issuing Office

State: JAPAN

1. Name of Vessel KASHIMA MARU
2. Vessel Nat. Boat No. ——— Registration No. WKI-181
3. Name and Address of Owner: Name NIPPON SUISAN KAISHA, LTD. Address 2-6-2, OTEMACHI, CHIYODA-KU, TOKYO, JAPAN Cable Address [illegible] TOKYO
   Name and Address of Charterer
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 6317.57 M.T. (Net) 3198.58 M.T.
7. Length 135.13 M. B. Breadth 17.60 M. D. Draft 7.98 M.
10. Horsepower 4600 shp. 11. Maximum Speed 13.78 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ). Other ———
13. Date Built APRIL 1956
14. Number and Nationality of Personnel 51, JAPAN
    Officers 17 Crew 44 Other (Specify) ———
15. Communications: VHF-FM (o), AM-SSB, Voice (o), Telegraph ( ). Other ———
    International Radio Call Sign JPBH
    Radio Frequencies Monitored 500 KHZ
    Other Radio Frequencies 4214.5, 2135 KHZ
    Schedule WATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT.
    (OCEAN AREA SEE ATTACHED I)
16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (o). Other ———
17. Cargo Capacity (MT)
    Salted Fish ———
    Fresh Fish ———
    Frozen Fish 1400 M.T.
    Fish Meal ———
    Other ———
18. Cargo Space Number / Name
    Freezer I, II, III, IV, V, VI, SEE ATTACHED II
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT) ———
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States: ———

JA-77-1047

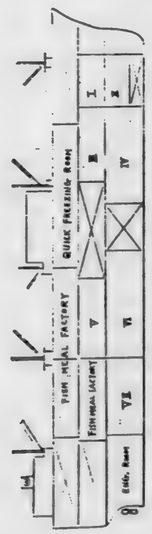
ATTACHED I

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

JA-77-1047

ATTACHED II

KASHIMA MARU



I, II, III, IV, VI, ... FREEZER
V, VII, ----- FISH MEAL HOLD

JA-77-1047

THIS VESSEL "KASHIMA MARU" IS SCHEDULED TO BE USED AS A REFRIGERATOR TRANSPORT FOR OTHER FACTORY BASE SHIPS OPERATING IN BERING SEA AND ALEUTIAN ISLANDS AREA DURING THE PERIOD FROM MARCH TO AUGUST 1977, and IS ALSO SCHEDULED TO OPERATE AS A FACTORY BASE SHIP (DRAGNET FISHERY) IN BERING SEA AND ALEUTIAN ISLANDS AREA DURING THE PERIOD FROM SEPTEMBER TO DECEMBER 1977.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1048

Permit Period MARCH 1, 1977 TO
Applied For: DECEMBER 31, 1977

Application No. JA-77-1048
For Use of Issuing Office

State: JAPAN

1. Name of Vessel KOEI MARU
2. Vessel Nat. Boat No. ——— Registration No. WKI-157
3. Name and Address of Owner: Name NIPPON SUISAN KAISHA, LTD. Address 2-6-2, OTEMACHI, CHIYODA-KU, TOKYO, JAPAN Cable Address, KISUIT TOKYO
   Name and Address of Charterer
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 7519.43 M.T. (Net) 3531.80 M.T.
7. Length 135.35 M. B. Breadth 17.80 M. D. Draft 8.42 M.
10. Horsepower 3650 shp. 11. Maximum Speed 12.0 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ). Other ———
13. Date Built OCTOBER 1950
14. Number and Nationality of Personnel 41, JAPAN
    Officers 14 Crew 27 Other (Specify) ———
15. Communications: VHF-FM (o), AM-SSB, Voice (o), Telegraph ( ). Other ———
    International Radio Call Sign JNAP
    Radio Frequencies Monitored 500 KHZ
    Other Radio Frequencies 2061.5, 2060 KHZ
    Schedule WATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT.
    (OCEAN AREA SEE ATTACHED I)
16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (o). Other ———
17. Cargo Capacity (MT)
    Salted Fish ———
    Fresh Fish ———
    Frozen Fish 1430 M.T.
    Fish Meal ———
    Other ———
18. Cargo Space Number / Name
    Freezer I, II SEE ATTACHED II
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity,MT) ———
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States: ———

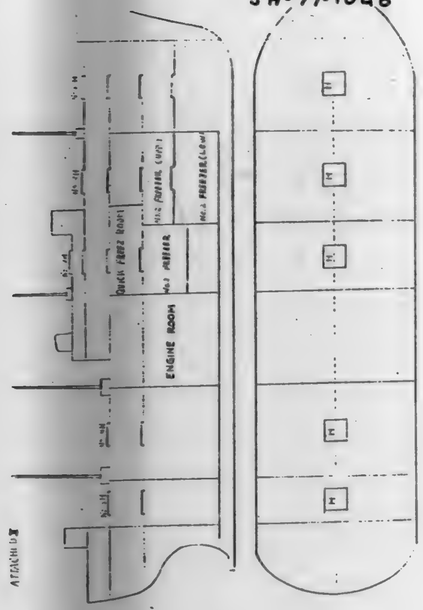
JA-77-1048

ATTACHED I

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

V42149 MAR 14 77 UMI

JA-77-1048



ATTACHED II

JA-77-1048

THIS VESSEL "KEIKO MARU" IS SCHEDULED TO OPERATE AS A FACTORY BASE SHIP (CRAB) IN BERING SEA DURING THE PERIOD FROM MARCH TO JULY 1977, AND ALSO SCHEDULED TO BE USED AS A REFRIGERATOR TRANSPORT FOR OTHER FACTORY BASE SHIP, OPERATING IN BERING SEA AND ALEUTIAN ISLANDS AREA DURING THE PERIOD FROM AUGUST TO DECEMBER 1977.

JA-77-1049

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1, 1977 TO
Applied For: DECEMBER 31, 1977

Application No. JA-77-1049
For Use of Issuing Office

State: JAPAN

1. Name of Vessel KEIKO MARU
2. Vessel No.: Doll No. ——— Registration No. TK1-653
3. Name and Address of Owner / Name and Address of Charterer
   Name NIPPON SUISAN KAISHA, LTD.
   Address 2-6-2, OTEMACHI, CHIYODA-KU, TOKYO, JAPAN
   Cable Address NISSUI TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 2854.91 M.T. (Net) 1485.06 M.T.
7. Length 97.85 M. 8. Breadth 14.80 M. 9. Draft 7.60 M.
10. Horsepower 4400 shp. 11. Maximum Speed 15.7 kt.
12. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other ———
13. Date Built FEBRUARY 1968
14. Number and Nationality of Personnel 23, JAPAN
    Officers 9 Crew 14 Other (Specify) ———
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*),
    Other ———
    International Radio Call Sign JFMH
    Radio Frequencies Monitored 500 KHz
    Other Working Frequencies 410, 425 KHz
    Schedule WATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 (GMT) (OCEAN AREA: SEE ATTACHED I)

JA-77-1049

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar (*), Fathometer (*),
    Other ———
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name
    Salted Fish ———
    Fresh Fish ———
    Frozen Fish 1821 M.T.
    Fish Meal ———
    Other ———
    Freezer I I L. SEE ATTACHED X
    Dry Hold
    Tanks
    Other
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

ATTACHED I

JA-77-1049

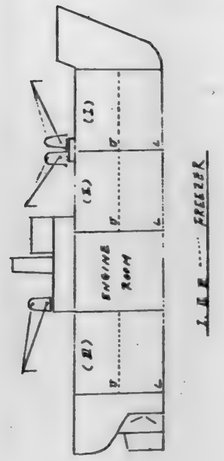
OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

Permit Period MARCH 1,1977 TO
Applied For: DECEMBER 31,1977

Application No. JA-77-1050
For Use of Issuing Office

State: JAPAN

1. Name of Vessel FUKUJU MARU NO.57
2. Vessel No.: Hull No. ——— Registration No. 301-766
3. Name and Address of Owner / Name and Address of Charterer
   Name FUKUJUMARU KAIUN CO.,LTD.
   Address 78-2,SHIMASAKICHO
   SHIMIZU-CITY,SHIZUOKA-KEN,JAPAN
   Cable Address ———
4. Homeport and State of Registry: SHIMIZU,JAPAN
5. Type of Vessel REFRIGERATOR MOTHERSHIP
6. Tonnage (Gross) 986.68M.T. (Net) 547.92M.T.
7. Length 71.19 M. 8. Breadth 10.80M. 9. Draft 5.25 M.
10. Horsepower 1650 shp. 11. Maximum Speed 12.0 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other ———
13. Date Built JULY 22,1965
14. Number and Nationality of Personnel 22,JAPAN
    Officers 7 Crew 15 Other (Specify) ———
15. Communications: VHF-FM ( ), AM/SSB, Voice (*), Telegraphy ( ),
    Other ———
    International Radio Call Sign JLOI
    Radio Frequencies Monitored 500KHz,2091KHz
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule
    BERING SEA ALEUTIAN ISLANDS.
    GULF OF ALASKA.
    WASHINGTON,OREGON, AND CALIFORNIA.
    WATCH TIME : (G.M.T.)
    01:00 TO 04:00
    06:00 TO 09:00
    20:00 TO 23:00



ATTACHED II

JA-77-1050

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navaid ( ), Radar (*), Fathometer ( ),
    Other ———
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name
    Salted Fish ———
    Fresh Fish ———
    Frozen Fish BOOM.2.
    Fish Meal ———
    Other ———
    Freezer I,II SEE THE ATTACHED PAPER II FROZEN FISH HOLD
    Dry Hold ———
    Tanks ———
    Other. ———
19. Processing Equipment (Indicate daily capacity, MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

V42 I49 MAR 14 77 UMI

JA-77-1050

OTHER VESSEL PARTICULARS

ATTACHED PAPER I

A1	A2	410	425	432	454	468	480	500	512 KHz
A1		1695	2075	2091					
		[illegible]	6274.5	8566		12549		16732	22250
		[illegible]	6292.5	8590		[illegible]		16790	[illegible]
		4224.5	6330.75	8649		12673.5		[illegible]	22365
		[illegible]	6340.5	8654		[illegible]		[illegible]	22367.5
		[illegible]	6309	8612		12618		16824	22317.5
		[illegible]	6273.3	8564.4		12546.6		16728.8	22234
		4210	6315	8620		12630		16840	22302.5
		[illegible]	6299.25	8599		12598.5		[illegible]	22299
		[illegible]	6278.1	8570.8		12556.2		16741.6	22242 KHz
A3J		272745 KHz							
X1	A2	410	425	468	500	KHz			
A1		2075	2091	KHz					
		4183	6274.5	8566		12549	16732		
		4182.2	6273.3	8564.4		12546.6	16728.8		
		4199.5	6299.25	8599		12598.5	16798		
		4206	6309	8612		12618	16824	KHz	

HOLD ARRANGEMENT
ATTACHED PAPER II

FUKUJU MARU NO.57

JA-77-1051

Permit Period MARCH 1,1977 TO DECEMBER 31,1977 Applied For:

Application No. JA-77-1051
For Use of Issuing Office

State: JAPAN

1. Name of Vessel TAISEI MARU NO.39
2. Vessel No.: Hull No. — Registration No. HEI-327
3. Name and Address of Owner / Name and Address of Charterer
   Name TAISEIMARU NAVIGATION CO., LTD.
   Address 5-5 NOMACHI,
   ISE-CITY, MIE-KEN, JAPAN
   Cable Address
   TAISEIMARUNAVIGATION ISEMIE
4. Homeport and State of Registry: ISE, JAPAN
5. Type of Vessel REFRIGERATOR TRANSHIP
6. Tonnage (Gross) 1487.08M.T. (Net) 892.07M.T.
7. Length 86.74 M. 8. Breadth 12.80 M. 9. Draft 5.10 M.
10. Horsepower 1800 shp. 11. Maximum Speed 13.5 kt.
11. Propulsion: Diesel (●), Steam ( ), Diesel/Electric ( ).
    Other —
13. Date Built JULY 29,1968
14. Number and Nationality of Personnel: 24, JAPAN
    Officers 9 Crew 15 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice (●), Telegraphy ( ).
    Other —
    International Radio Call Sign JINB
    Radio Frequencies Monitored 500KHZ, 2091KHZ
    Other Working Frequencies SEE THE ATTACHED PAPER V
    Schedule
    BERING SEA AND ALEUTIAN ISLANDS.
    GULF OF ALASKA.
    WASHINGTON, OREGON, AND CALIFORNIA
    WATCH TIME (G.M.T.)
    01:00 TO 04:00
    09:00 TO 08:00
    20:00 TO 23:00

JA-77-1051

16. Navigation Equipment: Loran C (●), Loran A ( ), Omega ( ), Decca ( ), Navaat ( ), Radar (●), Fathometer ( ),
    Other —
17. Cargo Capacity (MT)
    Salted Fish —
    Fresh Fish —
    Frozen Fish 1180M.T.
    Fish Meal —
    Other FISH OIL 70M.T.
18. Cargo Space Number / Name
    SEE THE ATTACHED PAPER II
    Freezer: I,II,III FROZEN FISH HOLD
    Dry Hold —
    Tanks II FISH OIL TANK
    Other —
19. Processing Equipment (Indicate daily capacity,MT)
    —
    —
    —
    —
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

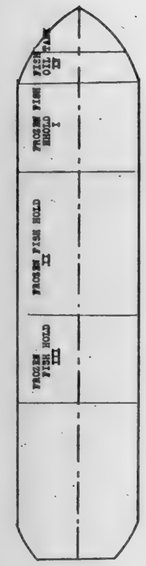
JA-77-1051

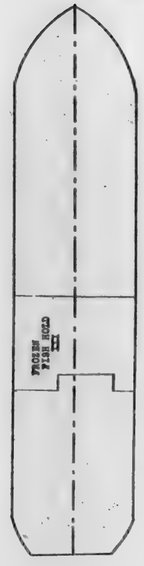
OTHER VESSEL PARTICULARS

ATTACHED PAPER I

A1	A2	410	425	432	454	468	480	500	KHz
A1		2081							
		4182.2	6273.3	8564.4		12546.6	16728.8	22234	
		4187	6280.5	8574		12561	16748	22246	
		4185.4	6278.1	8570.8		12556.2	16741.6	22242	
		4186	6279	8572		12558	16744	22227.5	
		4199.5	6299.25	8599		12598.5	16798	22299	
		4206	6309	8412		12618	16824	22279	
		4201	6301.5	8602		[illegible]	[illegible]	KHz	
A3J		27054.5	27274.5	27376.5	KHz				
A1	A2	410	425	432	454	468	480	500	KHz
A1		4186	6279	8572		12598	16744	22227.5	
		4182.2	6273.3	8564.4		12546.6	16728.8	22234	
		4187	6280.5	8574		12561	16748	22246	
		4199.5	6299.25	8599		12598.5	16798	22299	
		4206	6309	8412		12618	16824	22279	KHz

HOLD ARRANGEMENT
ATTACHED PAPER II





TAISEI MARU NO.39

JA-77-1052

Permit Period MARCH 1,1977 TO DECEMBER 31,1977 Applied For:

Application No. JA-77-1052
For Use of Issuing Office

State: JAPAN

1. Name of Vessel TAISEI MARU NO.16
2. Vessel No.: Hull No. — Registration No. HEI-261
3. Name and Address of Owner / Name and Address of Charterer
   Name TAISEIMARU NAVIGATION CO.,LTD.
   Address 5-5,NOMACHI,
   ISE-CITY,MIE-KEN,JAPAN
   Cable Address
   TAISEIMARUNAVIGATION ISEMIE
4. Homeport and State of Registry: ISE,JAPAN
5. Type of Vessel REFRIGERATOR TRANSHIP
6. Tonnage (Gross) 1094.67M.T. (Net) 1146.48M.T.
7. Length 97.20 M. 8. Breadth 13.40 M. 9. Draft 5.715 M.
10. Horsepower 4400 shp. 11. Maximum Speed 16.2 kt.
11. Propulsion: Diesel (●), Steam ( ), Diesel/Electric ( ).
    Other —
13. Date Built FEBRUARY 7,1970
14. Number and Nationality of Personnel: 27,JAPAN
    Officers 9 Crew 18 Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice (●), Telegraphy ( ).
    Other —
    International Radio Call Sign JHPA
    Radio Frequencies Monitored 500KHZ,2091KHZ
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule
    BERING SEA AND ALEUTIAN ISLANDS.
    GULF OF ALASKA.
    WASHINGTON,OREGON, AND CALIFORNIA
    WATCH TIME (G.M.T.)
    01:00 TO 04:00
    09:00 TO 08:00
    20:00 TO 23:00

JA-77-1052

16. Navigation Equipment: Loran C (●), Loran A ( ), Omega ( ), Decca ( ), Navaat ( ), Radar (●), Fathometer ( ),
    Other —
17. Cargo Capacity (MT)
    Salted Fish —
    Fresh Fish —
    Frozen Fish 1439M.T.
    Fish Meal —
    Other —
18. Cargo Space Number / Name
    SEE THE ATTACHED PAPER II
    Freezer: I,II,III FROZEN FISH HOLD
    Dry Hold —
    Tanks —
    Other —
19. Processing Equipment (Indicate daily capacity,MT)
    —
    —
    —
    —
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

V42I49 MAR 14 77 UMI

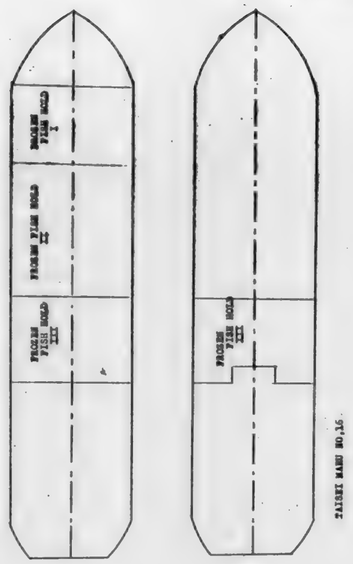
JA-77-1052

FISH HOLDING ARRANGEMENT

ATTACHED PAPER I

A1	A2	410	425	432	454	468	500	KKS
A3	1	1660	7981					
		4186	6279	8572	12558	16744	22227.5	
		4182.2	6273.3	8564.4	12546.6	16728.8	22234	
		4187	6280.5	8574	12561	16748	22248	
		4186.4	6278.1	8570.8	12556.2	16741.6	22240	
		4199.5	6299.25	8599	12598.5	16798	22298	
		4206	6309	8612	12618	16824	22329	
		4210	6315	8620	12630	16840	22350.5	
		4208	6301.5	8602	12605	16806	22295	KKS
A3J		27854.5	27274.5	27374.5	KKS			
KKS		27524	KKS					
A1	A2	410	425	432	454	468	500	
A1		4186	6279	8572	12558	16744	22227.5	
		4182.2	6273.3	8564.4	12546.6	16728.8	22234	
		4187	6280.5	8574	12561	16748	22248	
		4186.4						KKS
		LOCK						

JA-77-1053



HOLD ARRANGEMENT

ATTACHED PAPER II

Permit Period MARCH 1,1977 TO
Applied For: DECEMBER 31,1977

Application No. JA-77-1053
For Use of Issuing Office

State: JAPAN

1. Name of Vessel TAISEI MARU NO.87
2. Vessel No.: Hull No. — Registration No. PEI-560
3. Name and Address of Owner / Name and Address of Charterer
   Name TAISEIMARU NAVIGATION CO.,LTD.
   Address 5-5,HONMACHI,
   ISE-CITY,MIE-KEN,JAPAN
   Cable Address
   TAISEIMARULINE ISEMIE
4. Homeport and State of Registry: ISE,JAPAN
5. Type of Vessel REFRIGERATOR TRANSHIP
6. Tonnage (Gross) 2999.67M.T. (Net) 1585.35M.T.
7. Length 114.20 M. 8. Breadth 15.80 M. 9. Draft 6.716 M.
10. Horsepower 7200 shp. 11. Maximum Speed 17.9 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other —
13. Date Built FEBRUARY 17,1973
14. Number and Nationality of Personnel 28,JAPAN
    Officers 9 Crew 28 Other (Specify)
15. Communications: VHF-FM (*), AM/SSB, Voice (*), Telegraphy ( ),
    Other —
    International Radio Call Sign 6JLD
    Radio Frequencies Monitored 500KHZ,2091KHZ
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule
    BERING SEA AND ALEUTIAN ISLANDS.
    GULF OF ALASKA.
    WASHINGTON,OREGON, AND CALIFORNIA.
    WATCH TIME : (G.M.T.)
    01:00 TO 04:00
    06:00 TO 09:00
    20:00 TO 23:00

JA-77-1053

16. Navigation Equipments: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer ( ),
    Other —

17. Cargo Capacity (MT)

Salted Fish	—	Freezer	
Fresh Fish	—	Dry Hold	—
Frozen Fish	2470M.T.	Tanks	VI : FISH OIL TANK
Fish Meal	—	Other	—
Other	FISH OIL 200M.T.		

18. Cargo Space

Number	Name
SEE THE ATTACHED PAPER II	
I,II,III	FROZEN FISH HOLD

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-1053

FISH HOLDING ARRANGEMENT

ATTACHED PAPER I

A1	A2	410	425	432	454	468	500	512 KKS
A3		2075	2956					
	1	4187	6280.5	8574	12561	16748	[illegible]	
		4186	6279	8572	12558	16744	22227.5	
		4182.2	6273.3	8564.4	12546.6	16728.8	22234	
		4199.5	6299.25	8599	12598.5	16795	[illegible]	
		4206	6309	8612	12618	16824	[illegible]	
		4210	6315	8620	12630	16840	22562.5	
		4211	6301.5	8602	12605	16806	[illegible]	
		4208.5	6312.75	8617	12685.5	16834	22281.5	KKS
A3J		27054.5	27190.5	27274.5	27374.5	KKS		
AM3		27524	KKS					
A1	A2	410	425	432	454	468	500	512 KKS
A1		4186	6279	8572	12558	16744	22227.5	
		4182.2	6273.3	8564.4	12546.6	16728.8	[illegible]	
		4199.5	6299.25	8599	12598.5	16795	[illegible]	
		4206	6309	8612	12618	16824	22279	
		4211	6301.5	8602	12603	16804	[illegible]	KKS

JA-77-1054

Permit Period MARCH 1,1977 TO
Applied For: DECEMBER 31,1977

Application No. JA-77-1054
For Use of Issuing Office

State: JAPAN

1. Name of Vessel TAISEI MARU NO.98
2. Vessel No.: Hull No. — Registration No. PEI-
3. Name and Address of Owner / Name and Address of Charterer
   Name TAISEIMARU NAVIGATION CO.,LTD.
   Address 5-5,HONMACHI,
   ISE-CITY,MIE-KEN,JAPAN
   Cable Address
   TAISEIMARULINE ISEMIE
4. Homeport and State of Registry: ISE,JAPAN
5. Type of Vessel OIL AND REFRIGERATOR TRANSHIP
6. Tonnage (Gross) (Net)
7. Length 155.60 M. 8. Breadth 21.60 M. 9. Draft 8.00 M.
10. Horsepower 15200 shp. 11. Maximum Speed kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
    Other —
13. Date Built JANUARY 16,1977
14. Number and Nationality of Personnel 35,JAPAN
    Officers 11 Crew 24 Other (Specify)
15. Communications: VHF-FM (*), AM/SSB, Voice (*), Telegraphy ( ),
    Other —
    International Radio Call Sign JHKE
    Radio Frequencies Monitored 500KHZ,2091KHZ
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule
    BERING SEA AND ALEUTIAN ISLANDS.
    GULF OF ALASKA.
    WASHINGTON,OREGON, AND CALIFORNIA.
    WATCH TIME : (G.M.T.)
    01:00 TO 04:00
    06:00 TO 09:00
    20:00 TO 23:00

JA-77-1054

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer ( ),
    Other —

17. Cargo Capacity (MT)

Salted Fish	—	Freezer	
Fresh Fish	—	Dry Hold	—
Frozen Fish	6400M.T.	Tanks	V : FISH OIL TANK
Fish Meal	—	Other	VI : FUEL OIL TANK
	FISH OIL 800M.T.		
Other	FUEL OIL 2490M.T.		

18. Cargo Space

Number	Name
SEE THE ATTACHED PAPER II	
I,II,III,IV	FROZEN FISH HOLD

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

V42 I49 MAR 14 77 UMI

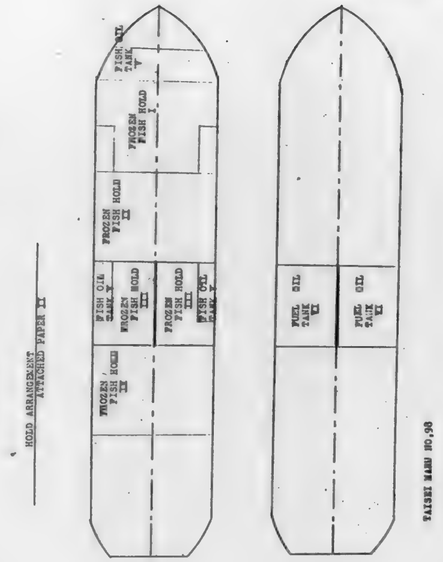
JA-77-1054

OTHER WORKING FREQUENCIES

ATTACHED PAPER I

A1	A2	410	425	432	454	468	480	500	512	480	KHz
A1		1660	2075	2091							
		4184.4	6272.1	8362.8	12544.2	16725.6	22230				
		[illegible]	6273.3	8364.4	12546.6	16728.8	22234				
		4183.8	6275.7	8367.6	12553.4	16735.2	22230				
		4185.4	6278.1	8370.8	12556.2	16741.6	22242				
		[illegible]	6280.5	12561	22246						
		4199.5	6299.25	8399	12598.5	[illegible]	22299				
		[illegible]	6309	8412	12618	[illegible]	22279				
		4210	6315	8420	12630	[illegible]	22302.5				
		4201	6301.5	8402	12603	[illegible]	22305				
		[illegible]	6312.75	8417	12625.5	[illegible]	22281.5	[illegible]			
A3J		[illegible]	2150	2182	2394.5	KHz					
A3A	A3J	4094.8		[illegible]	12351	16481	22035				
		[illegible]		8230	12354.5	16484.5	22038.5				
		4136.3	6204	8268.4	12403.5	16539.5	22073.5	[illegible]			
A3H		2182	KHz								
A1	A2	410	425	432	454	468	480	500	512	KHz	
A1		[illegible]	6280.5	8374	12561						
		[illegible]	6273.3	8364.4	12546.6	16728.8	[illegible]				
		4199.5	6299.25	8399	12598.5	[illegible]	[illegible]				
		[illegible]	6309	8412	12618	[illegible]	22279				
		[illegible]	6301.5	8402	[illegible]	[illegible]	[illegible]	KHz			

JA-77-1054



HOLD ARRANGEMENT
ATTACHED PAPER II

JA-77-1055

Permit Period MARCH 1,1977 TO DECEMBER 31,1977
Applied For:

Application No. JA-77-1055
For Use of Issuing Office

State: JAPAN

1. Name of Vessel TAISEI MARU NO.98
2. Vessel No.: Hull No. —— Registration No. FEI-537
3. Name and Address of Owner / Name and Address of Charterer
   Name TAISEIMARU NAVIGATION CO.,LTD.
   Address 5-5,HONMACHI, / ISE-CITY,MIE-KEN,JAPAN
   Cable Address / TAISEIMARUISE ISEMIE
4. Homeport and State of Registry: ISE,JAPAN
5. Type of Vessel OIL,CARGO AND REFRIGERATOR TRANSHIP
6. Tonnage (Gross) 4414.92M.T. (Net) 2774.57M.T.
7. Length 125.06 M. 8. Breadth 17.90 M. 9. Draft 7.0 M.
10. Horsepower 6200 shp. 11. Maximum Speed 14.0 kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ),
    Other ——
13. Date Built AUGUST 25,1972
14. Number and Nationality of Personnel 39,JAPAN
    Officers 10 Crew 19 Other (Specify) ——
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy ( ),
    Other ——
    International Radio Call Sign [illegible]
    Radio Frequencies Monitored [illegible]
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule
    BERING SEA ALEUTIAN ISLANDS.
    GULF OF ALASKA.
    WASHINGTON,OREGON, AND CALIFORNIA.
    WATCH TIME : (G.M.T.)
    [illegible] TO 04:00
    [illegible] TO [illegible]
    [illegible] TO 23:00

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer ( ),
    Other ——
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish ——	Freezer	SEE THE ATTACHED PAPER II	
Fresh Fish ——	Dry Hold	II,III	FROZEN FISH HOLD
Frozen Fish 2250M.T.	Tanks	I,II	FISH MEAL HOLD
Fish Meal 1670M.T.	Other	V	FUEL OIL TANK
Other FISH OIL 3101.T. FUEL OIL 2560M.T.		——	FISH OIL TANK

19. Processing Equipment (Indicate daily capacity,MT)
    ——
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-1056

OTHER WORKING FREQUENCIES

ATTACHED PAPER I

A1	A2	410	425	432	454	468	480	500	512	KHz
A1		1660	2091							
		4152.2	6273.3	8364.4	12548.6	16728.8	22234			
		4187	6280.5	8374	12561	16748	[illegible]			
		4185.4	6278.1	8370.8	12556.2	16741.6	22242			
		4186	6279	8372	12558	16744	22227.5			
		4199.5	6299.25	8399	12598.5	[illegible]	[illegible]			
		4206	6309	8412	12618	16824	[illegible]			
		4210	6315	8420	[illegible]	16840	22302.5			
		[illegible]	6301.5	8402	[illegible]	[illegible]	22305			
		4208.5	6312.75	8417	12625.5	[illegible]	22281.5	KHz		
A3J		27954.5	2719.05	27274.5	27378.5	KHz				
A3H		27524	KHz							
A1	A2	410	425	432	454	468	480	500	512	KHz
A1		4182.2	6273.3	8364.4	12546.6	16728.8	[illegible]			
		4186	6279	8372	12558	16744	22227.5			
		4199.5	6299.25	8399	12598.5	16798	22299			
		4206	6309	8412	12618	16824	22279			
		4210	6315	8420	12630	16840	22302.5	KHz		

JA-77-1056

Permit Period MARCH 1,1977 TO DECEMBER 31,1977
Applied For:

Application No. JA-77-1056
For Use of Issuing Office

State: JAPAN

1. Name of Vessel TAISEI MARU NO.41
2. Vessel No.: Hull No. —— Registration No. MEI-372
3. Name and Address of Owner / Name and Address of Charterer
   Name TAISEI-MARU NAVIGATION CO. LTD.
   Address 5-5,HONMACHI, / ISE-CITY,MIE-KEN,JAPAN
   Cable Address / TAISEIMARUISE ISEMIE
4. Homeport and State of Registry: ISE,JAPAN
5. Type of Vessel OIL,CARGO AND REFRIGERATOR TRANSHIP
6. Tonnage (Gross) 1490.61M.T. (Net) 784.55M.T.
7. Length 80.32 M. 8. Breadth 13.40 M. 9. Draft 5.746 M.
10. Horsepower 1000 shp. 11. Maximum Speed 11.6 kt.
11. Propulsion: Diesel ( ), Steam ( ), Diesel/Electric ( ),
    Other ——
13. Date Built APRIL8,1970
14. Number and Nationality of Personnel 27,JAPAN
    Officers 9 Crew 18 Other (Specify) ——
15. Communications: VHF-FM ( ), AM/SSB, Voice (*), Telegraphy ( ),
    Other ——
    International Radio Call Sign JEGK
    Radio Frequencies Monitored 500KHz,2091KHz
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule
    BERING SEA AND ALEUTIAN ISLANDS.
    GULF OF ALASKA.
    WASHINGTON,OREGON, AND CALIFORNIA.
    WATCH TIME : (G.M.T.)
    01:00 TO 04:00
    06:00 TO 08:00
    20:00 TO 23:00

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ),
    Decca ( ), Navsat ( ), Radar (*), Fathometer ( ),
    Other ——
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name

Salted Fish ——	Freezer	I,II	SEE THE ATTACHED PAPER II FROZEN FISH HOLD
Fresh Fish ——	Dry Hold	III,IV	FISH MEAL HOLD
Frozen Fish 640M.T.	Tanks	II,III,IV	FUEL OIL TANK
Fish Meal 920M.T.		V	FISH OIL TANK
Other FISH OIL 200M.T. FUEL OIL 1350M.T.	Other	——	

19. Processing Equipment (Indicate daily capacity,MT)
    ——
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

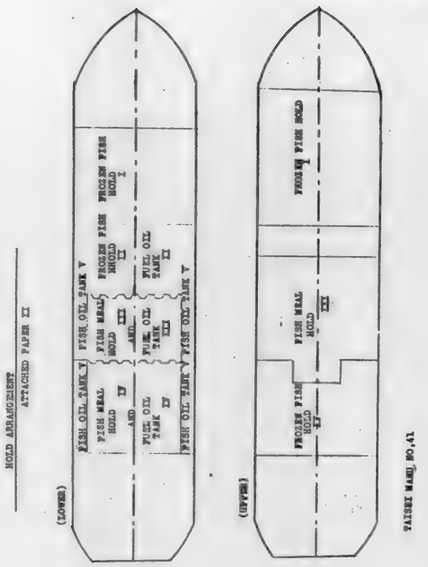
V4249 MAR 14 77 UMI

JA-77-1056

ATTACHED PAPER I

A1	A2	410	425	454	468	480	500	KHZ
A1		[illegible]						
		4182.2	6273.3	8364.4	12546.6	16728.8	22234	
		[illegible]	6278.1	8370.8	12556.2	16741.6	22262	
		[illegible]	6279	8372	12558	16744	22227.5	
		4199.5	[illegible]	8379	12598.5	16798	22279	
		[illegible]	6309	8412	12618	16824	22279	
		[illegible]	6315	8420	12630	16840	22302.5	
		4201	6301.5	8402	12625	16834	22281.5	KHZ
		[illegible]	6312.75	8417	12625.5	16834	22281.5	KHZ
A37		27050.3	27054.5	27274.5	27374.5	KHZ		
A38		[illegible]	KHZ					
A1	A2	410	425	454	468	480	500	KHZ
A1		[illegible]	6273.3	8364.4	12546.6	16728.8	[illegible]	
		[illegible]	6280.5	8374	12561	16748	22246	
		[illegible]	6279	8372	12558	16744	22227.5	
		4199.5	[illegible]	8379	12598.5	16798	22279	
		[illegible]	6309	8412	12618	16824	22279	
		[illegible]	6315	8420	12630	16840	22302.5	KHZ

JA-77-1056



JA-77-1057

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1057

Permit Period MARCH 1, 1977 TO
Applied For: DECEMBER 31, 1977

Application No. JA-77-1057
For Use of Issuing Office

State: JAPAN

1. Name of Vessel SACHIKAZE MARU
2. Vessel Nat. Hull No. [illegible] Registration No. TK1-591
3. Name and Address of Owner
   Name NIPPON SUISAN KAISHA, LTD.
   Address 2-6-2, OTEMACHI,
   CHIYODA-KU, TOKYO, JAPAN
   Cable Address NIS UI TOKYO
   Name and Address of Charterer
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel CARGO VESSEL & OIL TANKER
6. Tonnage (Gross) 2907.42 M.T. (Net) 1527.19 M.T.
7. Length 91.28 M. B. Breadth 14.80 M. D. Draft 7.50 M.
8. Horsepower 3529 shp. 11. Maximum Speed 13.1 kt.
9. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
   Other ---
13. Date Built MARCH 1969
14. Number and Nationality of Personnel 25, JAPAN
   Officers 10 Crew 15 Other (Specify) ---
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*).
   Other ---
   International Radio Call Sign JEST
   Radio Frequencies Monitored 500 KHZ
   Other Working Frequencies 410, 425 KHZ
   Schedule MATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT.
   (OCEAN AREA SEE ATTACHED I)

16. Navigation Equipment: Loran C (*), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (*), Other ---
17. Cargo Capacity (MT)

		18. Cargo Space Number	Cargo
Salted Fish	Freezer		
Fresh Fish	Dry Hold	I I I I V.	SEE ATTACHED II
Frozen Fish	Tanks		
Fish Meal 2236 M.T.	Other		
Other 303 M.T. (FISH OIL)			

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

ATTACHED I

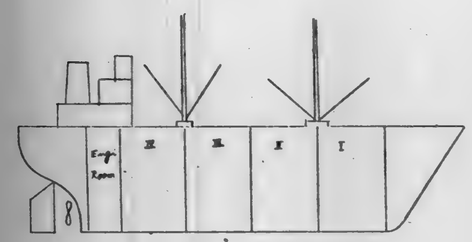
JA-77-1057

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

ATTACHED II

JA-77-1057

M.S. SACHIKAZE-MARU



I I I I ..... MEAL OR OIL

JA-77-1058

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1058

Permit Period MARCH 1, 1977 TO
Applied For: DECEMBER 31, 1977

Application No. JA-77-1058
For Use of Issuing Office

State: JAPAN

1. Name of Vessel SHOKUEI MARU
2. Vessel Nat. Hull No. --- Registration No. TK1-721
3. Name and Address of Owner
   Name NIPPON SUISAN KAISHA, LTD.
   Address 2-6-2, OTEMACHI,
   CHIYODA-KU, TOKYO, JAPAN
   Cable Address NISSUI TOKYO
   Name and Address of Charterer
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel CARGO VESSEL & OIL TANKER
6. Tonnage (Gross) 2930.60 M.T. (Net) 1562.38 M.T.
7. Length 91.28 M. B. Breadth 14.80 M. D. Draft 7.50 M.
8. Horsepower 3520 shp. 11. Maximum Speed 13.4 kt.
9. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),
   Other ---
13. Date Built APRIL 1970
14. Number and Nationality of Personnel 25, JAPAN
   Officers 10 Crew 15 Other (Specify) ---
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (*).
   Other ---
   International Radio Call Sign JPBK
   Radio Frequencies Monitored 500 KHZ
   Other Working Frequencies 410, 425 KHZ
   Schedule MATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT.
   (OCEAN AREA SEE ATTACHED I)

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (*), Other ---
17. Cargo Capacity (MT)

		18. Cargo Space Number	Cargo
Salted Fish	Freezer		
Fresh Fish	Dry Hold	I I I I V.	SEE ATTACHED II
Frozen Fish	Tanks		
Fish Meal 2177 M.T.	Other		
Other 4113 M.T. (FISH OIL)			

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

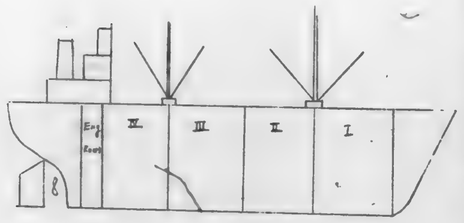
V4249 MAR 14 77 UMI

ATTACHED I JA-77-1058

OCEAN AREA 1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

ATTACHED II JA-77-1058

M.S SUZUKAZE-MARU



I. II. III. IV ..... MEAL OR OIL

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 Application No. For Use of Issuing Office JA-77-1059

State: JAPAN

1. Name of Vessel KASHIWASHIMA MARU
2. Vessel No.: Hull No. — Registration No. HS1-2
3. Name and Address of Owner / Name and Address of Charterer
Name SATO RISEN CO., LTD.
Address 1-6-15, NIHAMA, ONOMICHI-SHI, HIROSHIMA-KEN, JAPAN
Cable Address
4. Homeport and State of Registry: ONOMICHI, JAPAN
5. Type of Vessel FISH FACTOR
6. Tonnage (Gross) 1976.80 M.T. (Net) 1089.77 M.T.
7. Length 80.90 M. Breadth 12.40 M. Draft 6.40 M.
10. Horsepower 1500 shp. 11. Maximum Speed 11.4 kt.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ), Other —
13. Date Built OCTOBER 1961
14. Number and Nationality of Personnel 27, JAPAN
Officers 9 Crew 18 Other (Specify)
15. Communications: VHF-FM (•), AM/SSB, Voice ( ), Telegraphy (•).
Other —
International Radio Call Sign JHBJ
Radio Frequencies Monitored 500 KHZ
Other Working Frequencies 4181.5 KHZ
Schedule WATCH TIME: 20:00 TO 23:00, 05:00 TO 08:00, 01:00 TO 04:00 GMT
(OCEAN AREA See ATTACHED I)

JA-77-1059

16. Navigation Equipment: Loran C (•), Loran A (•), Omega ( ), Decca ( ), Navaat ( ), Radar (•), Fathometer (•), Other —
17. Cargo Capacity (MT) 18. Cargo Space Number Name
Salted Fish — Freezer
Fresh Fish — Dry Hold I. II. III. See ATTACHED II
Frozen Fish — Tanks
Fish Meal 1636 M.T. Other
Other —
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

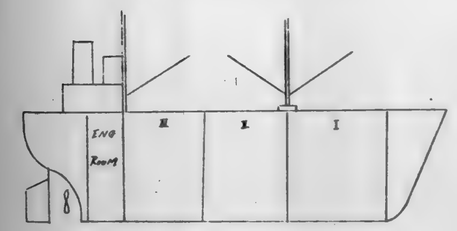
21. Name and Address of Agent appointed to receive any legal process issued in the United States:

ATTACHED I JA-77-1059

OCEAN AREA 1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

ATTACHED II JA-77-1059

M.S KASHIWASHIMA-MARU



I. II. III ..... MEAL

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 Application No. For Use of Issuing Office JA-77-1060

State: JAPAN

1. Name of Vessel KASHIWA MARU
2. Vessel No.: Hull No. — Registration No. OYI-11
3. Name and Address of Owner / Name and Address of Charterer
Name YAMAMOTO KISEN CO., LTD.
Address 12376-1, HINODE-CHO, HAKUKI-SHI, OITA-KEN, JAPAN
Cable Address
4. Homeport and State of Registry: SAKAKI, JAPAN
5. Type of Vessel CARGO VESSEL
6. Tonnage (Gross) 2615.25 M.T. (Net) 1575.09 M.T.
7. Length 88.69 M. Breadth 15.20 M. Draft 7.00 M.
10. Horsepower 3200 shp. 11. Maximum Speed 11.2 kt.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ), Other —
13. Date Built AUGUST 1970
14. Number and Nationality of Personnel 21, JAPAN
Officers 9 Crew 12 Other (Specify)
15. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (•).
Other —
International Radio Call Sign JKBB
Radio Frequencies Monitored [illegible]
Other Working Frequencies —
Schedule WATCH TIME: 20:00 TO 23:00, 05:00 TO 08:00, 01:00 TO 04:00 GMT
(OCEAN AREA See ATTACHED I)

JA-77-1060

16. Navigation Equipment: Loran C (•), Loran A (•), Omega ( ), Decca ( ), Navaat ( ), Radar (•), Fathometer (•), Other —
17. Cargo Capacity (MT) 18. Cargo Space Number Name
Salted Fish — Freezer
Fresh Fish — Dry Hold I. II. See ATTACHED II
Frozen Fish — Tanks
Fish Meal 2585 M.T. Other
Other —
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal proc ss issued in the United States:

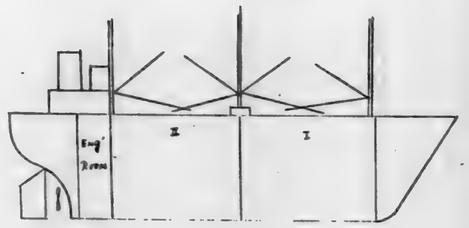
V42 49 MAR 14 77 UMI

ATTACHED I JA-77-1060

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

ATTACHED II JA-77-1060

M.S. AWASHIMA-MARU



I. II ..... MEAL

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977 Application No. JA-77-1061 For Use of Issuing Office

State: JAPAN

1. Name of Vessel AWASHIMA MARU
2. Vessel Nat. Hull No. ——— Registration No. TK1-826
3. Name and Address of Owner: Name HOKUTO SUISAN CO., LTD. Address 7-9-13, TSUKIJI, CHUO-KU, TOKYO, JAPAN Cable Address ———
   Name and Address of Charterer: ———
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel CARGO VESSEL
6. Tonnage (Gross) 2576.58 M.T. (Net) 1340.67 M.T.
7. Length 90.25 M. 8. Breadth 13.30 M. 9. Draft 6.85 M.
10. Horsepower 3200 shp. 11. Maximum Speed 12.0 kt.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ). Other ———
13. Date Built JUNE 1960
14. Number and Nationality of Personnel 38, JAPAN
    Officers 10 Crew 28 Other (Specify) ———
15. Communications: VHF-FM (o), AM/SSB, Voice ( ), Telegraphy (•). Other ———
    International Radio Call Sign JJLX
    Radio Frequencies Monitored 156 KHz
    Other Working Frequencies 410, 425 KHz
    Schedule WATCH TIME 22:30 TO 02:00, 04:00 TO 07:00, 08:30 TO 11:00 GMT. (OCEAN AREA See ATTACHED I)

16. Navigation Equipment: Loran C (•), Loran A (o), Omega ( ), Decca ( ), Navsat ( ), Radar (o), Fathometer (•). Other ———
17. Cargo Capacity (MT) 18. Cargo Space Number Bale

Salted Fish	———	Freezer	
Fresh Fish	———	Dry Hold	I, II, III SEE ATTACHED II
Frozen Fish	———	Tanks	
Fish Meal	2399 M.T.	Other	
Other	———		

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

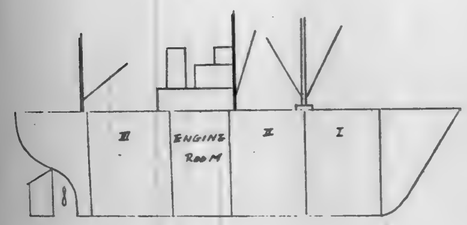
21. Name and Address of Agent appointed to receive any legal process issued in the United States:

ATTACHED I JA-77-1060

OCEAN AREA
1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

ATTACHED II JA-77-1060

M.S. NAGISAMARU



I. II III ----- MEAL

1062

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period JAN 1, 1977 TO DECEMBER 31, 1977 Application No. JA-77-1062 For Use of Issuing Office

State: JAPAN

1. Name of Vessel KUMI MARU
2. Vessel Nat. Hull No. ——— Registration No. T1-1355
3. Name and Address of Owner: Name HOKOKU MARINE PRODUCTS CO., LTD. Address 9-13 TSUKIJI 7 CHOME, CHUO-KU, TOKYO, JAPAN Cable Address HKP. CO. LTD. TOKYO
   Name and Address of Charterer: ———
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1,153.39 M.T. (Net) 596.24 M.T.
7. Length 67.52 M. 8. Breadth 11.50 M. 9. Draft 5.30 M.
10. Horsepower 1,800 shp. 11. Maximum Speed 11.0 kt.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ). Other ———
13. Date Built SEPTEMBER 7, 1960.
14. Number and Nationality of Personnel 24 JAPAN
    Officers 9 Crew 15 Other (Specify) ———
15. Communications: VHF-FM ( ), AM/SSB, Voice (•), Telegraphy ( ). Other ———
    International Radio Call Sign JPKN
    Radio Frequencies Monitored 500 KHz, 2091KHz
    Other Working Frequencies SEE THE ATTACHED PAGE 1.
    Schedule WATCH TIME 00:00 TO 08:00(G.M.T.) BERING SEA AND ALEUTIAN ISLANDS GULF OF ALASKA WASHINGTON, OREGON AND CALIFORNIA

16. Navigation Equipment: Loran C ( ), Loran A (•), Omega ( ), Decca ( ), Navsat ( ), Radar (•), Fathometer (•). Other ———
17. Cargo Capacity (MT) 18. Cargo Space Number Bale

Salted Fish	———	Freezer	1,2 3. SEE THE ATTACHED PAGE II.
Fresh Fish	———	Dry Hold	FROZEN FISH HOLD
Frozen Fish	940 M.T.	Tanks	FREEZING ROOM
Fish Meal	———	Other	
Other	———		

19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States: ———

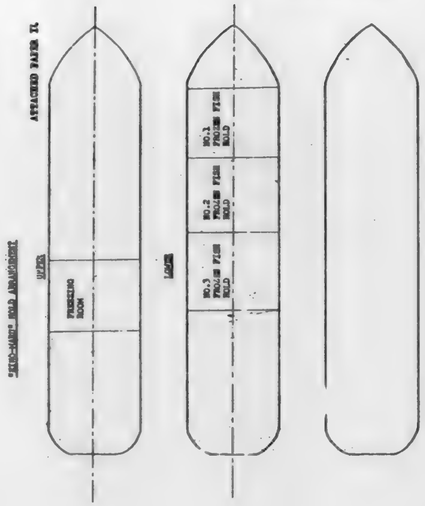
V 42 49 MAR 14 77 UMI

JA-77-1062

ATTACHED PAPER I

A1 A2	410 425 468 500 KHZ
A1	2075 2091 2115 4182.2 6273.3 8364.4 12546.6 16728.8 22234 4187 6280.5 8374 12561 16748 22246 4199.5 6299.25 8399 12598.5 16798 22299 4206 6309 8412 12618 16824 22279 4204 6306 8408 12612 16816 22257.5 4214.5 6321.75 8429 12643.5 16858 22252.5 4201 6301.5 8402 12603 16804 22305 4208.5 6312.75 8417 12625.5 16834 22281.5 4206 6306 8408 12612 16816 22297.5 KHZ
F1	4168.5 6250.5 8334 12488 16645 22169 KHZ
A3H	2182 27524 KHZ
A3J	1685 1793.5 2133.5 2182 2255 2394.5 2523.5 3233.5 4085.2 8262 12382.5 16498.5 22014 27030.5 27056.5 27150.5 27190.5 27238.5 27274.5 27374.5 KHZ
F3	156.30 156.40 156.45 156.50 156.55 156.60 156.65 156.70 156.80 157.30 157.35 159.21 MHZ
A1 A2	410 425 468 500 KHZ
A1	1795 2075 2091 2135 2256.5 2457 KHZ

JA-77-1062



1063

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-1063

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977 — Application No. JA-77-1063 For Use of Issuing Office

State: JAPAN

1. Name of Vessel SEIKO MARU
2. Vessel No.: Hull No. - Registration No. MK-1-336
3. Name and Address of Owner: HOKKAI MARINE PRODUCTS CO., LTD. — Name and Address of Charterer
   Address 9-13 TSUKIJI 7 CHOME, CHUO-KU, TOKYO, JAPAN
   Cable Address: MLP. CO. LTD. TOKYO
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel: REFRIGERATOR TRANSPORT
6. Tonnage (Gross) 1,125.58 M.T. (Net) 610.36 M.T.
7. Length 65.81 M. 8. Breadth 11.50 M. 9. Draft 5.30 M.
10. Horsepower 1,800 shp. 11. Maximum Speed 10.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other -
13. Date Built: MARCH 19, 1960.
14. Number and Nationality of Personnel: 24 JAPAN
    Officers 9 Crew 15 Other (Specify) -
15. Communications: VHF-FM ( ), AM/SSB, Voice (*), Telegraphy ( ), Other -
    International Radio Call Sign: JKGH
    Radio Frequencies Monitored: 500KHZ 2091KHZ
    Other Working Frequencies: SEE ATTACHED PAPER 1.
    Schedule: WATCH TIME 00:00 TO 08:00(G.C.T.) RADIO STA. AND ...

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer ( ), Other -
17. Cargo Capacity (MT) — 18. Cargo Space Number / Name
    Salted Fish ____ Freezer 1,2,3,4. FROZEN FISH HOLD
    Fresh Fish ____ Dry Hold
    Frozen Fish 880 M.T. Tanks
    Fish Meal ____ Other 7,8. FISH OIL TANK
    Other FISH OIL TANK 110 M.T.
    SEE THE ATTACHED PAPER II
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

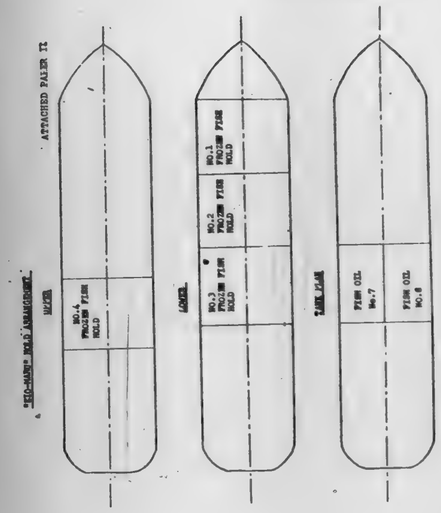
JA-77-1063

OTHER WORKING FREQUENCIES

ATTACHED PAPER I.

A1 A2	410 425 454 468 480 500 KHZ
A1	2075 2091 2115 4182.2 6273.3 8364.4 12546.6 16728.8 22234 4187 6280.5 8374 12561 16748 22246 4199.5 6299.25 8399 12598.5 16798 22299 4206 6309 8412 12618 16824 22279 4204 6306 8408 12612 16816 22257.5 4214.5 6321.75 8429 12643.5 16858 22252.5 4201 6301.5 8402 12603 16804 22305 4208.5 6312.75 8417 12625.5 16834 22281.5 KHZ
A3H	2182 KHZ
A3J	2182 2394.5 2785 27030.5 27054.5 27062.5 27158.5 27190.5 27274.5 KHZ
A1 A2	410 425 468 500 KHZ
A1	2075 2091 KHZ

JA-77-1063



JA-77-1064

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: 1 MARCH TO DECEMBER 31, 1977 — Application No. JA-77-1064 For Use of Issuing Office

State: JAPAN

1. Name of Vessel TAKASHINOMARU NO.28
2. Vessel No.: Hull No. - Registration No. MK1-657
3. Name and Address of Owner: TAKASHINOMARU KAIUN KABUSHIKI KAISHA, Address 719-5, ODAKASHOZAN, MAMIKI-CHO, MIYAZAKI-GUN, MIE-PREF. JAPAN, Cable Address TAKASHINOMARU ACO — Name and Address of Charterer
4. Homeport and State of Registry: MANSEICHO, JAPAN
5. Type of Vessel: REFRIGERATER TRANSPORT
6. Tonnage (Gross) 969.45 M.T. (Net) 503.58 M.T.
7. Length 61.75 M. 8. Breadth 11.30 M. 9. Draft 5.10 M.
10. Horsepower 1800 shp. 11. Maximum Speed 12.5 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ), Other -
13. Date Built: FEBUARY 1969
14. Number and Nationality of Personnel: 34 (ALL JAPANESE)
    Officers 7 Crew 11 Other (Specify) -
15. Communications: VHF-FM ( ), AM/SSB, Voice (*), Telegraphy (*), Other -
    International Radio Call Sign: JMJR
    Radio Frequencies Monitored: 500 KHZ
    Other Working Frequencies: SEE THE ATTACHED PAPER 1.
    Schedule: WATCH TIME : SEE THE ATTACHED PAPER 2.

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer ( ), Other -
17. Cargo Capacity (MT) — 18. Cargo Space Number / Name
    Salted Fish ____ Freezer 1.2.3. FROZEN FISH HOLD
    Fresh Fish ____ Dry Hold (SEE THE ATTACHED PAPER 3)
    Frozen Fish 700 MT Tanks
    Fish Meal ____ Other
    Other ____
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

V42N49 MAR 14 77 UMI

JA-77-1064

PAPER 1.
(1) [illegible] 6209, [illegible] 8632 12618 16024 [illegible] KHz

(2) 4006 6209 8632 12618 16024 22279 KHz

(3) 410 425 432 468 480 KHz

JA-77-1064

PAPER 2.
(1) BERING SEA AND ALEUTIAN ISLANDS. 0000-0900 1200-1500 G.M.T.

(2) GULF OF ALASKA. - " - - " -

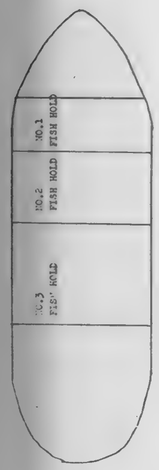
(3) WASHINGTON OREGON CALIFORNIA. - " - - " -

(4) CENTRAL PACIFIC. - " - - " -

(5) ATLANTIC. - " - - " -

JA-77-1064

PAPER 3.



FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-2000

Permit Period
Applied For: MARCH 1ST 1977
TO DECEMBER 31TH 1977

Application For Use of Issuing Office
State: JAPAN

1. Name of Vessel TENKAI MARU
2. Vessel No.: Hull No. — Registration No. —
3. Name and Address of Owner
Name HAGIMORI KAIUN CO., LTD.
Address 1478, YAHATAHAMA,
EHIME, JAPAN
Cable Address —
Name and Address of Charterer
4. Homeport and State of Registry: EHIME, JAPAN
5. Type of Vessel OIL TANKER
6. Tonnage (Gross) 2,064.98M.T. (Net) 1,219.45M.T.
7. Length 88.90 M. 8. Breadth 13.60 M. 9. Draft 5.80 M.
10. Horsepower 2,100 shp. 11. Maximum Speed 12.0 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),
Other —
13. Date Built AUGUST, 1965
14. Number and Nationality of Personnel 22 (JAPAN 22)
Officers 9 Crew 13 Other (Specify) —
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy (X),
Other —
International Radio Call Sign 8 KHW
Radio Frequencies Monitored 500 KC
Other Working Frequencies SEE THE ATTACHED PAPER (1)
Schedule SEE THE ATTACHED PAPER (2)

JA-77-2000

16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ),
Decca ( ), Navsat ( ), Radar (X), Fathometer (X),
Other —

17. Cargo Capacity (MT)

Salted Fish	—
Fresh Fish	—
Frozen Fish	—
Fish Meal	—
Other	FUEL OIL 1,642 M.T.

18. Cargo Space

Number	Name
SEE THE ATTACHED PAPER (3)	
Freezer	
Dry Hold	
Tanks	1,2,3,4
Other	

19. Processing Equipment (Indicate daily capacity,MT)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

JA-77-2000

ATTACHMENT (1)

410 KC	425 KC	432 KC	434 KC
468 KC	480 KC	500 KC	512 KC
2,233[5] KC	2,222[2] KC		
4,180 KC	4,192 KC	4,213 KC	4,185[8] KC
4,181[8] KC	6,270 KC	6,278[7] KC	8,258 KC
6,319[5] KC	6,272[7] KC	8,360 KC	8,371[6] KC
8,384 KC	8,426 KC	8,363[6] KC	12,560 KC
12,553[4] KC	12,576 KC	12,639 KC	12,565[4] KC
15,852 KC	16,730 KC	16,743[2] KC	16,768 KC
16,727[2] KC	22,295 KC	22,261[5] KC	22,244 KC
22,287[5] KC			

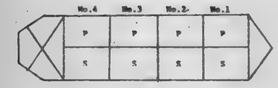
JA-77-2000

PAPER (2)
WATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0400 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0400 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0400 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0400 (G.M.T.)

JA-77-2000

ATTACHMENT (3)



No.1	PORT	451 MT
	STARBOARD	450 MT
No.2	PORT	463 MT
	STARBOARD	462 MT
No.3	PORT	457 MT
	STARBOARD	456 MT
No.4	PORT	452 MT
	STARBOARD	451 MT
TOTAL		3,642 MT

V4249 MAR 14 77 UMI

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

IA-77-2001

Permit Period Applied For: MARCH 1ST 1977 TO DECEMBER 31TH 1977 — Application Serial No. for Use of Issuing Office

State: JAPAN

1. Name of Vessel: INKO MARU
2. Vessel No.: Hull No. — Registration No. —
3. Name and Address of Owner: Name: AKITA SENPAKU CO., LTD. Address: 3 CHOCHO KITAKU, OSAKA JAPAN. Cable Address: —
   Name and Address of Charterer: —
4. Homeport and State of Registry: OSAKA, JAPAN
5. Type of Vessel: OIL TANKER
6. Tonnage (Gross): 1,997.01 M.T. (Net): 1,226.47 M.T.
7. Length: 82.75 M. 8. Breadth: 12.60 M. 9. Draft: 5.25 M.
10. Horsepower: 2,400 shp. 11. Maximum Speed: 12.0 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other: —
13. Date Built: FEBRUARY, 1960
14. Number and Nationality of Personnel: 20 (JAPAN 20) Officers: 9 Crew: 11 Other (Specify): —
15. Communications: VHF-FM ( ), AM/SSB, Voice (X), Telegraphy (X), Other: —
    International Radio Call Sign: J P J P
    Radio Frequencies Monitored: 500 KC
    Other Working Frequencies: SEE THE ATTACHED PAPER (1)
    Schedule: SEE THE ATTACHED PAPER (2)
16. Navigation Equipment: Loran C (X), Loran A (X), Omega ( ), Decca ( ), Navaid ( ), Radar (X), Fathometer (X), Other: —
17. Cargo Capacity (MT): Salted Fish —, Fresh Fish —, Frozen Fish —, Fish Meal —, Other: FUEL OIL 3,512 M.T.
18. Cargo Space Number: Name: SEE THE ATTACHED PAPER (3). Freezer, Dry Hold, Tanks 1,2,3,4, Other
19. Processing Equipment (Indicate daily capacity,MT): —
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States: —

IA-77-2001

ATTACHMENT (1)

410 KC	425 KC	432 KC	454 KC	[illegible] KC
[illegible] KC	500 KC	512 KC		
2,150 KC	2,182 KC	2,438 KC		
4,181 KC	4,181[8] KC	4,186[2] KC	4,196[3] KC	4,207[3] KC
6,271[5] KC	6,272[7] KC	6,279[3] KC	6,294[75] KC	6,311[25] KC
8,362 KC	8,363[6] KC	8,372[4] KC	8,393 KC	8,415 KC
12,543 KC	12,545[4] KC	12,558[6] KC	12,589[5] KC	12,622[5] KC
16,724 KC	16,727[2] KC	16,744[8] KC	16,786 KC	16,830 KC
22,260 KC	22,232 KC	22,244 KC	22,295 KC	22,256[5] KC

IA-77-2001

PAPER (2)

WATCH TIME

[illegible] SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)

ATTACHMENT (3)

IA-77-2001

No.1	TWIN	434 MT
	STARBOARD	434 MT
No.2	TWIN	457 MT
	STARBOARD	457 MT
No.3	TWIN	447 MT
	STARBOARD	447 MT
No.4	TWIN	428 MT
	STARBOARD	428 MT
TOTAL		3,512 MT

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

IA-77-2002

Permit Period Applied For: MARCH 1ST 1977 TO DECEMBER 31TH 1977 — Application Serial No. for Use of Issuing Office

State: JAPAN

1. Name of Vessel: CHIYODA MARU
2. Vessel No.: Hull No. — Registration No. —
3. Name and Address of Owner: Name: TAIYO FISHERY CO., LTD. Address: 2-1, 1-CHOME, MARUNOUCHI, CHIYODA-KU, TOKYO, JAPAN. Cable Address: OCEAN FISH TOKYO
   Name and Address of Charterer: —
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel: OIL TANKER
6. Tonnage (Gross): 4,244.22 M.T. (Net): 2,353.47 M.T.
7. Length: 100.11 M. 8. Breadth: 16.40 M. 9. Draft: 7.45 M.
10. Horsepower: 4,500 shp. 11. Maximum Speed: 13.0 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ), Other: —
13. Date Built: DECEMBER, 1973
14. Number and Nationality of Personnel: 26 (JAPAN 26) Officers: 10 Crew: 16 Other (Specify): —
15. Communications: VHF-FM (X), AM/SSB, Voice ( ), Telegraphy (X), Other: —
    International Radio Call Sign: J F B C
    Radio Frequencies Monitored: 500 KC, VHF 13 OR 16 CHN
    Other Working Frequencies: SEE THE ATTACHED PAPER (1)
    Schedule: SEE THE ATTACHED PAPER (2)
16. Navigation Equipment: Loran C (X), Loran A (X), Omega (X), Decca ( ), Navaid ( ), Radar (X), Fathometer (X), Other: —
17. Cargo Capacity (MT): Salted Fish —, Fresh Fish —, Frozen Fish —, Fish Meal —, Other: FUEL OIL 6,602 M.T.
18. Cargo Space Number: Name: SEE THE ATTACHED PAPER (3). Freezer, Dry Hold, Tanks 1,2,3,4, Other
19. Processing Equipment (Indicate daily capacity,MT): —
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States: —

IA-77-2002

ATTACHMENT (1)

448 KC

VHF 13-28 CHANNEL (EXCLUDING: 15 & 17 CHANNEL)

V42 I49 MAR 14 77 UMI

PAPER (2)

IA-77-2002

MATCH TIME

BERING SEA AND ALEUTIAN ISLANDS	2100-2200, 0300-0600 (G.M.T.)
GULF OF ALASKA	2100-2200, 0300-0600 (G.M.T.)
CENTRAL PACIFIC	2100-2200, 0300-0600 (G.M.T.)
ATLANTIC	1700-1800, 0000-0100 (G.M.T.)
WASHINGTON OREGON AND CALIFORNIA	2100-2200, 0300-0600 (G.M.T.)

ATTACHMENT (3)

IA-77-2002

	No.4	No.3	No.2	No.1
	P	P	P	P
	C	C	C	C
	S	S	S	S

No.1	PORT	353 MT
	STARBOARD	353 MT
	CENTER	827 MT
No.2	PORT	413 MT
	STARBOARD	413 MT
	CENTER	831 MT
No.3	PORT	413 MT
	STARBOARD	413 MT
	CENTER	830 MT
No.4	PORT	[illegible] MT
	STARBOARD	389 MT
	CENTER	996 MT
TOTAL		6,602 MT

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977

Application No. IA-77-2003 For Use of Issuing Office

State: JAPAN

1. Name of Vessel TENRYO MARU
2. Vessel Nos: Full No. ——— Registration No. ———
3. Name and Address of Owner / Name and Address of Charterer
   Name HACHINOHE KAIUN CO., LTD.
   Address 14?8, YAMATAMBA-CHI,
   HACHINOHE-SHI, JAPAN
   Cable Address ———
4. Homeport and State of Registry: YAMATAMBA, JAPAN
5. Type of Vessel OIL TANKER
6. Tonnage (Gross) 3430.67 M.T. (Net) 2162.14 M.T.
7. Length 97.33 M. B. Breadth 15.00 M. D. Draft 7.00 M.
8. Horsepower 3200 shp. 11. Maximum Speed 13.0 kt.
9. Propulsion: Diesel (●), Steam ( ), Diesel/Electric ( ).
   Other ———
10. Date Built DECEMBER 1967
11. Number and Nationality of Personnel 25, JAPAN
    Officers 10 Crew 15 Other (Specify) ———
12. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (●).
    Other ———
    International Radio Call Sign JJTV
    Radio Frequencies Monitored 410 KHZ
    Other Working Frequencies 4186 KHZ
    Schedule MATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT.
    (OCEAN AREA SEE ATTACHED I)

IA-77-2003

16. Navigation Equipment: Loran C (●), Loran A ( ), Omega ( ), Decca ( ), Navsat ( ), Radar (●), Fathometer (●), Other ———
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name
    Salted Fish ——— Freezer
    Fresh Fish ——— Dry Hold
    Frozen Fish ——— Tanks I II III IV V. SEE ATTACHED K
    Fish Meal ——— Other
    Other 5652 M.T. (FISH OIL)
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

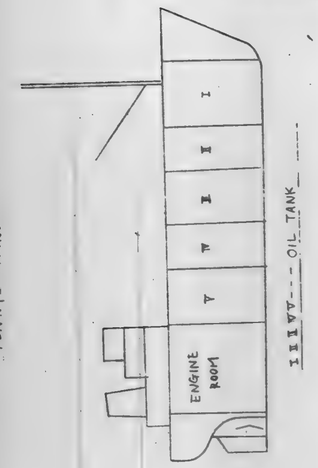
ATTACHED I

IA-77-2003

OCEAN AREA

1) BERING SEA AND ALEUTIAN ISLANDS
2) GULF OF ALASKA
3) WASHINGTON, OREGON AND CALIFORNIA

IA-77-2003



FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977

Application No. IA-77-2004 For Use of Issuing Office

State: JAPAN

1. Name of Vessel KANAZUKU MARU
2. Vessel Nos: Full No. ——— Registration No. ———
3. Name and Address of Owner / Name and Address of Charterer
   Name KANAKANI SHOUN CO., LTD.
   Address 376, YANO-MACHI,
   YAMATO-SHI, KUMO-KEN, JAPAN
   Cable Address ———
4. Homeport and State of Registry: YAMATAMBA, JAPAN
5. Type of Vessel OIL TANKER
6. Tonnage (Gross) 1987.06 M.T. (Net) 1297.92 M.T.
7. Length 86.50 M. B. Breadth 13.70 M. D. Draft 7.00 M.
8. Horsepower 3000 shp. 11. Maximum Speed 12.5 kt.
9. Propulsion: Diesel (●), Steam ( ), Diesel/Electric ( ).
   Other ———
10. Date Built NOVEMBER 1971
11. Number and Nationality of Personnel 18, JAPAN
    Officers 8 Crew 10 Other (Specify) ———
12. Communications: VHF-FM ( ), AM/SSB, Voice ( ), Telegraphy (●).
    Other ———
    International Radio Call Sign JFVV
    Radio Frequencies Monitored 410 KHZ
    Other Working Frequencies 4186 KHZ
    Schedule MATCH TIME: 03:00 TO 04:00, 20:00 TO 24:00, 07:00 TO 11:00 GMT.
    (OCEAN AREA SEE ATTACHED I)

IA-77-2004

16. Navigation Equipment: Loran C (●), Loran A (●), Omega ( ), Decca ( ), Navsat ( ), Radar (●), Fathometer (●), Other ———
17. Cargo Capacity (MT) / 18. Cargo Space Number / Name
    Salted Fish ——— Freezer
    Fresh Fish ——— Dry Hold
    Frozen Fish ——— Tanks I II III IV V SEE ATTACHED K
    Fish Meal ——— Other
    Other 3695 M.T. (FISH OIL)
19. Processing Equipment (Indicate daily capacity,MT)
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

V4249 MAR 14 1977 UMI

ATTACHED I

IA-77-2004

OCEAN AREA

1) BERING SEA AND ALEUTIAN ISLANDS

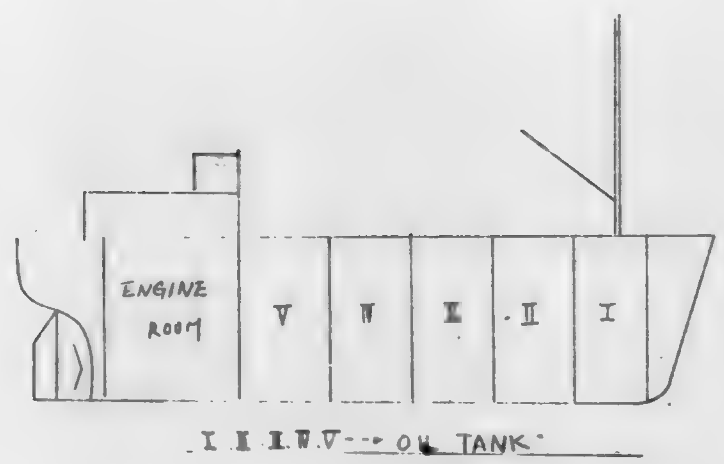
2) GULF OF ALASKA

3) WASHINGTON, OREGON AND CALIFORNIA

HFD X

IA-77-2004

KANAZURU-MARU



[FR Doc.77-7101 Filed 3-11-77; 8:45 am]

federal register

MONDAY, MARCH 14, 1977

PART III

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Marine Fisheries Service

■

ATLANTIC FISHERIES

Atlantic Groundfish Plan, Notice of Approval, Implementation, and Emergency Regulation

V 42 49 MAR 14 77 UMI

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 651—HADDOCK, COD, YELLOWTAIL FLOUNDER

Atlantic Fisheries: Atlantic Groundfish Plan, Notice of Approval, Implementation, and Emergency Regulations

The Fishery Conservation and Management Act of 1976 (Pub. L. 94–265, 16 U.S.C. 1801 et seq.) (The "Act"), among other things; authorizes the Secretary of Commerce (The "Secretary"), to promulgate regulations which implement a fishery management plan (FMP) prepared by a Regional Fishery Management Council, in the 200-mile fishery conservation zone (FCZ). If an emergency exists with respect to any fishery resource, the Secretary may, pursuant to the Act, promulgate emergency regulations which shall remain in effect for not more than 45 days, and which may be repromulgated for one additional period of not more than 45 days.

By delegations of authority in Department of Commerce Organization Order 25–5A, Section 3.01dd, Amendment 4 (dated September 30, 1976) and NOAA Directives Manual 05–57 (dated December 1, 1976), the Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration (Associate Administrator) and the Director of the National Marine Fisheries Service (Director) have been delegated certain responsibilities pertaining to the administration of the Fishery Conservation and Management Act of 1976. Approving and implementing a Fishery Management Plan, and making a finding and determination of an emergency, are within the scope of that delegation.

Pursuant to Title III of the Act, the New England Management Council, in consultation with the Mid-Atlantic Fishery Management Council, has prepared and submitted to the Secretary a FMP for selected groundfish. This FMP covers haddock, cod, and yellowtail flounder. In addition, a Draft Environmental Impact Statement (DEIS) has been prepared concerning the FMP.

The Secretary of Commerce, by authority of section 305 of the Act, wishes to advise the public of the approval of the above mentioned Atlantic Groundfish Plan for cod, haddock, and yellowtail flounder, and of the promulgation of regulations implementing the Plan. This Plan, published in its entirety below, is intended to provide the basis for the conservation and management of cod, haddock, and yellowtail flounder found in waters of the Northwest Atlantic Ocean within the Fishery Conservation Zone created by Section 101 of the Act. Regulations implementing the Atlantic Groundfish Plan are set out below in their entirety immediately following the Plan.

The FMP calls for the following regulatory measures:

1. Commercial and recreational catch quotas for haddock, cod, and yellowtail flounder (categorized according to geographic area, for cod and yellowtail flounder).
2. A minimum size restriction on haddock and cod (certain exceptions are provided in the regulations).
3. Mesh size restrictions on trawl nets in the directed fisheries for cod and yellowtail flounder (certain exceptions are provided in the regulations).
4. Closure of two spawning areas to fishing vessels using bottom gear during the months of March, April, and May. The areas are set forth in the regulations.
5. Landing restrictions on the amount of yellowtail flounder that can be caught east of 69° W. Long. and landed, per trip, in the directed fishery.

The Secretary of Commerce has found and determined that an emergency exists in the cod, haddock, and yellowtail flounder fisheries of the Northwest Atlantic Ocean because of the demonstrated fishing capability of the U.S. fleet. Notwithstanding the severe winter weather conditions of 1977, that fleet has increased landings of haddock, a severely depressed stock, by 41 percent during the month of January. The Secretary also finds and determines that an emergency exists because, as of March 1, 1977, section 4 of the Fishery Conservation Zone Transition Act of 1977, Pub. L. 95–6, repealed the Northwest Atlantic Fisheries Act of 1950, 16 U.S.C. 981 et seq., which has previously provided the authority for domestic regulation of the cod, haddock, and yellowtail flounder fisheries within the Northwest Atlantic. Those regulations appeared in 50 CFR 240.

As a consequence of that finding and determination that an emergency exists in the cod, haddock, and yellowtail flounder fisheries of the Northwest Atlantic, the Secretary of Commerce hereby invokes the emergency procedures authorized by section 305(e) of the Fishery Conservation and Management Act of 1976, and section 553(b) of the Administrative Procedures Act of 1946, 60 Stat. 237, as amended. Section 553(b) provides that an agency need not give formal notice of proposed rulemaking when the agency for good cause finds "• • • that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

The Secretary finds that formal notice of proposed rulemaking is impractical, unnecessary and contrary to the public interest for two reasons. The first, and most compelling reason, is that uncontrolled and unmanaged fishing activities in the cod, haddock and yellowtail flounder fisheries of the Northwest Atlantic Ocean by domestic fishermen would, according to virtually unanimous scientific opinion, result in further long term depletion of these already depleted stocks of highly valuable fish. The scientific basis for this conclusion is stated in detail in the Groundfish Management Plan set out below.

The second reason that the Secretary believes that formal notice of proposed rulemaking is impracticable, unnecessary and contrary to the public interest is because these regulations are not significantly different from pre-existing regulations promulgated under authority of the Northwest Atlantic Fisheries Act of 1950 which may be found in 50 CFR 240.

NOTE.—NOAA has determined that this document contains a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107, and certifies that an Economic Impact Statement has been prepared.

The regulations adopted herein are made effective at 12:01 a.m., March 15, 1977, and shall continue in effect for 45 days thereafter unless sooner amended, repealed, or extended by appropriate public notice.

Dated this eighth day of March 1977 at Washington, D.C.

ROBERT W. SCHONING,
Director.

Sec.
651.1 Purpose.
651.2 Definitions.
651.3 Catch quota.
651.4 Size restrictions.
651.5 Closed areas.
651.6 Gear restrictions.
651.7 Landing restrictions.
651.8 Closed seasons.
651.9 Reports and records.
651.10 Licensing provisions.
651.11 Special exemptions.

AUTHORITY: 16 U.S.C. 1801–1882.

§ 651.1 Purpose.

Regulations of this section shall apply to domestic fishermen that take haddock (*Melanogrammus aeglefinus*), cod (*Gadus morhua*) and yellowtail flounder (*Limanda ferruginea*) beginning March 1, 1977, in that portion of the Atlantic Ocean in which the United States exercises exclusive fishery management authority.

§ 651.2 Definitions.

Act—Means the Fishery Conservation and Management Act of 1976, Pub. L. 94–265, 16 U.S.C. 1801–1882.

By-catch—Means any catch of fish that is not a primary species being fished for, irrespective of the amount actually caught.

Closed-season—Means that time during which species shall not be taken in quantities exceeding the amounts authorized as a by-catch.

Cod end—Means the bag-like extension attached to the after end of the belly end of the trawl net and used to retain the catch.

Commercial catch—Means fish caught by any methods other than rod and reel.

Directed fishing—Means the primary species fished for.

Director—Means the Director, National Marine Fisheries Service or his designee.

Domestic fisherman—Means a person fishing from a vessel of the United States.

Fish—Mean finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds and highly migratory species.

Fishery conservation zone (FCZ)—Means the zone contiguous to the territorial sea of the United States, the inner boundary of which is a line coterminous with the seaward boundary of each of the coastal states and the outer boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

Fishing means—(a) The catching, taking or harvesting of fish;

(b) The attempted catching, taking or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish or;

(d) Any operations at sea in support of, or in preparation for, any activity described above.

The term "fishing" does not include any scientific research activity which is conducted by a scientific research vessel.

Fishing vessel—Means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for;

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Foreign fishing—Means fishing by a vessel other than a vessel of the United States.

Foreign fishing vessel—Means any vessel other than a vessel of the United States.

Gulf of Maine—means that portion of the fishery conservation zone north of 42°20′ North latitude.

Mesh Size—Means any part of the net, the average of the measurements of any 20 consecutive meshes in any row located at least 10 meshes from lacings measured when wet after use.

Open season—Means that time during which species may lawfully be harvested and taken on board a fishing vessel without limitation of the quantity permitted to be retained during each fishing voyage.

Recreational catch—Means fish caught by rod and reel.

Regional director—Means the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, MA 01930. Telephone 617–281–3600.

Secretary—Means the Secretary of Commerce or his designee.

Trawl net—Means any large bag net dragged in the sea by a vessel or vessels for the purpose of fishing.

Trip—Means a departure from port, transit to the fishing grounds; fishing, including any by-catch fishing; and discharge of any part of the catch on board.

Vessel of the United States—Means any vessel documented under the laws of the United States or registered under the laws of any State.

§ 651.3 Catch quota.

(a) Catch quotas for 1977 for licensed vessels under the jurisdiction of the United States for haddock, cod, and yellowtail flounder are as follows:

(1) *Haddock.* Commercial and recreational catch—6,200 [1] (13,700,000) [2].

This quota is a by-catch quota which may be taken by domestic fishermen.

There will be no directed fishery for haddock.

	Gulf of Maine	Area other than Gulf of Maine
(2) *Cod:*		
Commercial catch..	5,000 (11,000,000)	20,000 (44,100,000)
Recreational catch..	2,300 (5,100,000)	10,000 (22,000,000)

This quota is a directed fishery quota.

	East of 69° W. long.	West of 69° W. long.
(3) *Yellowtail Flounder:*		
Commercial and recreational catch	10,000 (22,000,000)	4,000 (8,820,000)

There will be no directed fishery for yellowtail flounder west of 69°00′ W. long. The specified yellowtail flounder quota for the area west of 69°00′ W. long. is a by-catch quota that may be taken by domestic fishermen as provided in § 651.7(b). A directed fishery may be conducted for yellowtail flounder in the area east of 69°00′ W. long.

§ 651.4 Size restriction.

It shall be unlawful to take or possess haddock in a length less than 16.0 inches (406 mm) or cod in a length less than 16.0 inches (406 mm) both measured from the tip of the snout to the end of the tail. Provided, however, commercial fishing vessels may have on board up to a maximum of 10 percent by weight of each species aboard of fish that are less than the minimum size.

§ 651.5 Closed areas.

(a) It shall be unlawful to use fishing gear other than pelagic fishing gear (i.e. purse seines or true midwater trawls using midwater trawl doors incapable of being fished on the bottom) during March, April, and May in areas bounded by straight lines connecting the following coordinates in the order listed.

(1) 69°55′ W., 42°10′ N.; 69°10′ W., 41°10′ N.; 68°30′ W., 41°35′ N.; 68°45′ W., 41°50′ N.; 69°00′ W., 41°50′ N.

(2) 67°00′ W., 42°20′ N.; 67°00′ W., 41°15′ N.; 65°40′ W., 41°15′ N.; 65°40′ W., 42°00′ N.; 66°00′ W., 42°20′ N.

(b) The provisions of paragraph (a) of this section shall not apply:

(1) To vessels that fish in area (1) with hooks having a gape of not less than 1.18 inches (3 cm.);

(2) To vessels that fish in either area (1) or (2) or both with:

(i) Pot gear designed to take lobster, or

(ii) Dredges designed to take scallops.

(c) It shall be unlawful for any person fishing in the above areas to attach any protective device to pelagic fishing gear or to employing any means that would, in effect, make it possible to fish for demersal species.

§ 651.6 Gear restrictions.

(a) For directed fisheries for cod and yellowtail flounder, a mesh size restriction for trawl nets is applicable. It shall be unlawful to take these species in nets having, in any part of the net other than the cod end, meshes of dimensions less than 4½ inches (114 mm), and having, in the cod end of the nets, meshes of dimensions less than 5½ inches (130 mm). These mesh sizes relate to netting when measured wet after use.

(b) This mesh size regulation will not apply to vessels taking haddock, cod or yellowtail flounder as by-catch so long as such vessels do not have on board (either at sea or at the time of offloading) cod, haddock, or yellowtail flounder in amounts in excess of 5,510 pounds (2.5 metric tons) for each species or 10 percent by weight of all fish on board such vessel for each species, whichever is greater.

(c) It shall be unlawful for any person to attach any device or use any method that would diminish the effect of the mesh sizes authorized in paragraph (a) of this section.

§ 651.7 Landing restrictions.

(a) It shall be unlawful for any person or vessel to land more than 30,000 pounds (13.608 metric tons) of yellowtail flounder, per trip, from the waters east of 69°00′ W. long.

(b) It shall be unlawful for any person or vessel to land more than 5,510 pounds (2.5 metric tons) of yellowtail flounder or 10 percent by weight of all other fish on board, per trip, whichever is greater from the waters west of 69°00′ W. long.

(c) It shall be unlawful for any person or vessel to land more than 5,510 pounds (2.5 metric tons) of haddock or 10 percent by weight of all other fish on board, per trip, whichever is greater.

(d) When the accumulative and estimated by-catch of yellowtail flounder (in the area west of 69°00′ W. long.) or haddock reaches 80 percent of the allowable by-catch quota, the Secretary may reduce the authorized landing restriction of 5,510 pounds (2.5 metric tons) for that species so that the allowable by-catch quota for that species is not exceeded.

§ 651.8 Closed seasons.

(a) The Director shall announce the closure of the season for any species by publication of a notice in the FEDERAL REGISTER specifying the time and date for the termination of a directed fishery for any species. The closure is determined in the following manner:

(1) The National Marine Fisheries Service maintains records of the catches of each species during the open season by vessels participating in the fishery.

[1] Metric tons.

[2] Figures in parenthesis are quotas expressed in pounds rounded to the nearest one hundred thousandth.

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(2) When the accumulative and estimated prospective catch of cod, or yellowtail flounder, making allowance for the incidental catch for the remainder of the year equals 100 percent of the quota for that species the Director shall publish a notice in the FEDERAL REGISTER terminating the directed fishery for that species.

§ 651.9 Reports and records.

(a) *Dealers.* (1) All persons, individuals, firms or corporations, at any port or place within the United States, that buy from U.S. flag vessels or from a carrier licensed as a common carrier engaged in either interstate or intrastate commerce, any haddock, cod, or yellowtail flounder taken by any fishing vessel, shall make and shall furnish to an authorized officer of the National Marine Fisheries Service, within 72 hours after buying or receiving, or upon the vessel's return to any port of the United States, a complete record of each purchase, on forms supplied by the National Marine Fisheries Service.

(2) All persons purchasing or receiving any haddock, cod, or yellowtail flounder for transport to any port of the United States must maintain records identical to those required under paragraph (a) (1) of this section.

(3) The possession by any person, firm or corporation of haddock, cod, or yellowtail flounder which such person, firm, or corporation knows to have been taken by a vessel of the United States without a valid license, is prohibited.

(b) *Owner or master.* (1) In the case of a vessel licensed under § 651.10 and taking for any of the haddock, cod, yellowtail flounder, the owner or master of vessels of 100 gross tons or more must maintain an accurate log of fishing operations showing date, type and size of gear used, locality fished, duration of fishing time or tow, and the estimated weight in pounds of each species taken at 12-hour intervals. Such logbooks shall be available for inspection by an authorized official. The logbook shall be presented for examination and subsequent return to the master or owner of the vessel upon proper demand by an authorized official at any time during or at the completion of a fishing trip. Such required documentation will be maintained by the owner or master of the vessel for one year subsequent to the date of the last entry in the logbook.

(2) In the case of vessels of less than 100 gross tons licensed under § 651.10 taking haddock, cod, or yellowtail flounder, the owner or master may be required to maintain the logbook for sampling purposes at the option of an appropriate official of the United States.

(c) In the case of vessels desiring to fish for species other than cod, or yellowtail flounder on a trip basis, no reports are required of the owner or master.

§ 651.10 Licensing provisions.

(a) Any person or vessel desiring to:

(1) Take any haddock, cod, or yellowtail flounder within the FCZ, or

(2) Transport, or deliver for sale, any haddock, cod, or yellowtail flounder taken within the FCZ must obtain a license for that purpose.

(b) The owner or operator of a vessel may obtain the appropriate license by furnishing on the registration form provided by the National Marine Fisheries Service information specifying the names and addresses of the vessel owner and master, the name of the vessel, official number, directed fishery or fisheries, fish hold capacity (to the nearest 100 pounds), and the homeport of the vessel. The registration form shall be submitted, in duplicate, to the Regional Director, National Marine Fisheries Service, Gloucester, Massachusetts 01930, who shall issue the requested license, without fee, for an indefinite term, such term to include the calendar year in which the license is issued. New licenses will be issued to replace lost or mutilated licenses. A license shall expire whenever vessel ownership changes, or when the owner or the master of the vessel changes the directed fishery or fisheries of such vessel. Application for new license, because of a change in vessel ownership (which shall include the names and addresses of both the purchaser and seller and be submitted by the purchaser), a change in the directed fishery or fisheries of the vessel, or the removal of a vessel from the directed fisheries for cod or yellowtail flounder must be filed with the Regional Director no later than 10 days following the change on a form provided by the Regional Director.

(c) The owner or operator of any licensed vessel which is proposed to be used in fishing outside the FCZ may obtain a temporary suspension of the license until such time that the vessel returns to fish within the FCZ.

(d) The temporary suspension or modification of the license shall be granted upon a written request, specifying the period of suspension or modification desired by an authorized State official or by an authorized official of the National Marine Fisheries Service. Such official shall make appropriate endorsement on the license evidencing the duration of its suspension or modification.

(e) The license issued by the National Marine Fisheries Service must be carried, at all times, on board the vessel for which it is issued and such license, the vessel, its gear and equipment and catch shall be subject to inspection, at reasonable times, by authorized officials.

(f) Licenses issued under this part may be revoked by the Regional Director for violations of this part.

§ 651.11 Special exemptions.

Notwithstanding § 651.6(2), a person may enter into an optional settlement agreement with the Regional Director setting forth an additional method computing the amount of haddock, cod, or yellowtail flounder that can be in possession as a by-catch. A form of such agreement is attached to these regulations as Appendix A.

APPENDIX A

OPTIONAL SETTLEMENT AGREEMENT FORM

This agreement is entered into between the United States Government and _____ _____ (hereinafter "the owner"), owner of vessel _____, official number _____ (hereinafter "the vessel"), operating in the groundfisheries in that part of the Atlantic Ocean over which the United States exercises exclusive fishery management authority (hereinafter "settlement area"). This agreement covers the following species: _____ (hereinafter "settlement fish").

The purpose of this agreement is to provide for the settlement of cases involving violations of the Fishery Conservation and Management Act of 1976, and in particular violations set forth in 50 CFR _____ regarding regulations governing the taking of settlement fish in the settlement area. The purpose of this settlement agreement is also to assure compliance with the principles of the Fishery Conservation and Management Act of 1976 to take required steps for the development, advancement, management, conservation, and protection of the fisheries resources of the United States. The parties to this agreement agree as follows:

1. This agreement shall cover the period commencing on _____ and continuing for a period of ____ days and terminating on _____. Settlement under the provisions of _____ _____ shall take place within ten (10) days of the conclusion of each quarter or period if otherwise stated.

2. The owner agrees that the master or other person in charge of the vessel shall maintain an accurate log of the fishing operations of the vessel, showing the date, type and size of gear used, locality fished, duration of fishing, time of tow, and the estimated weight of each species taken at 12-hour intervals. For the purpose of providing information useful in the implementation of the agreement, the log book shall be made available for inspection and copying by an authorized official of the National Marine Fisheries Service within 48 hours of completion of each fishing voyage conducted by the vessel during the period set forth in paragraph 1.

3. The owner shall also notify the Regional Director in writing, within 48 hours of the sale of the catch of the vessel, of the total quantity of fish landed and the gross sales price and the quantity of settlement fish landed and the total price received for such settlement sheet which accurately reflects the selling price of the catch and each species (to the extent species are separately sold) and the distribution thereof.

4. (a) In the event that the quantity of settlement fish taken on a trip exceeds 10 percent (the quantity permitted), the owner shall deposit with the Regional Director a sum representing 20 percent of the value to the owner of the excess settlement fish over that amount permitted.

(b) The value to the owner of excess settlement fish on each voyage during the period shall be computed by determining the value of the _____ taken in excess of the amount permitted by paragraph 4 on the basis of the average price received for all settlement fish on the trip.

5. The Regional Director shall maintain a record of the quantity of all fish including settlement fish taken by the vessel, and the maximum amount of settlement fish permitted by the regulations for each trip completed during the period set forth in paragraph 1. At the end of such period, the Regional Director shall compute the total quantity of settlement fish taken during the period and the total amount of settlement fish permitted by regulation during that period, which is the sum of the maximum quantities of settlement fish permitted by paragraph 4 for each trip during the period.

6. If the total quantity of settlement fish taken during the period is equal to or less than the total amount permitted, the entire amount deposited shall be returned to the owner.

7. (a) If the total quantity of settlement fish taken during the period exceeds the total amount permitted during the period, the Regional Director shall retain from the amounts deposited during the period a sum representing the net value to the owner of the total net quantity of excess settlement fish for the period and shall return the remainder to the owner.

(b) The amount retained by the Regional Director shall be determined by:

(1) Subtracting the total quantity of settlement fish permitted during the period from the total quantity of settlement fish actually taken during the period.

(2) Multiplying the quantity of excess settlement fish by the average unit price actually received by the vessel for settlement fish on a trip for which a deposit was made pursuant to paragraph 4(a).

8. (a) Fishing voyages of a duration of four days or less shall be excluded from the computations provided herein unless the Regional Director determines that the trip is a bona fide fishing trip.

(b) A fishing voyage in respect of which the settlement fish on board exceeds ____ percent by weight of all fish on board caught in the settlement area shall not be included in the calculations as provided in paragraphs 6 and 7 of this agreement, but the owner agrees to forfeit to the Regional Director the value to the owner of the excess quantity of settlement fish with respect to that vessel. The amount of the forfeiture shall be computed as in paragraph 4.

9. If this Agreement relates to yellowtail flounder, the following is applicable.

Notwithstanding any by-catch limitations a vessel may possess and land up to 11,000 pounds of yellowtail flounder taken as a by-catch in the settlement area, provided, that no more than 11,000 pounds of such yellowtail flounder may be landed during any 14-day period.

_____
(Vessel owner)

_____
(Date)

UNITED STATES OF AMERICA, SECRETARY OF COMMERCE, ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

By _____
Regional Director, Northeast Region, National Marine Fisheries Service.

_____
Date

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FISHERY MANAGEMENT PLAN FOR ATLANTIC GROUNDFISH

HADDOCK (Melanogrammus aeglefinus)

COD (Gadus morhua)

YELLOWTAIL FLOUNDER (Limanda ferruginea)

Prepared
by
THE NEW ENGLAND REGIONAL FISHERIES MANAGEMENT
COUNCIL
in consultation with
THE MID-ATLANTIC REGIONAL FISHERIES MANAGEMENT
COUNCIL

February 1977

FISHERY MANAGEMENT PLAN
FOR
ATLANTIC GROUNDFISH

HADDOCK, COD, AND YELLOWTAIL FLOUNDER

Domestic harvesting of haddock (Melanogrammus aeglefinus), cod (Gadus morhua), and yellowtail flounder (Limanda ferruginea) off the Northeastern United States was regulated under terms of the 18-member International Commission for the Northwest Atlantic Fisheries (ICNAF), as amended, until December 31, 1976, when the United States formally withdrew from the Convention. The Fishery Conservation and Management Act of 1976 (P.L. 94-265), enacted and signed into law April 13, 1976, provides for exclusive U.S. regulation of a 200-mile fishery conservation zone and for anadromous and Continental Shelf fishery resources beyond the 200-mile zone, effective March 1, 1977. United States management in the former ICNAF Subarea 5 and Statistical Area 6 will be formulated to attain optimum yield from the various species through specific management plans prepared by the New England Regional Fisheries Management Council, a regulatory body also provided for by P.L. 94-265.

This management plan proposes regulatory measures, for the species indicated, which take into account optimum yield relative to the present status of the stocks.

The species under consideration are presently at critically low levels, though some recent improvement has resulted from recent regulatory measures under ICNAF. The regulatory measures recommended in this plan, which are based upon the best scientific evidence available, would lead to rebuilding the stocks within 3 to 7 years, if applied yearly. Alternately, the absence of conservation controls would lead to continued severe overfishing, perhaps to an irreversible degree, in time. Thus, the measures proposed are totally beneficial in effect.

The recommended U.S. catch levels of cod in ICNAF areas 5Z and 6A and of haddock in area 5Z are larger than in recent years and could result in gross revenue increases for the affected vessels. The recommended levels of Gulf of Main cod were set somewhat higher for 1977 than MSY in order to ameliorate short-term adverse impacts in that inshore fishery.

The catch levels for yellowtail flounder in the inshore fishery is based on the projected incidental harvest of yellowtail flounder in fisheries directed at other species i.e., blackback, grey sole, incidental harvest of fisheries directed at tilefish. Stock rebuilding could offset short-term losses through ensured stock stability and long-term increased future benefits.

The recommended catch levels for recreational fishermen are similar to the catches in recent years and thus should cause no adverse impacts. Stricter conservation measures could be implemented, but would cause severe hardships to the industry. For the most part, the proposed action is similar to controls imposed upon U.S. fishermen under ICNAF.

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I. Introduction

The Fishery Conservation and Management Act of 1976 (P.L. 94-265) provides for the conservation and management of fishery resources of the United States by establishing a fishery conservation zone of 200 nautical miles, within which the United States has exclusive management authority over all fishery resources except highly migratory species. The Act calls for the preparation and implementation of fishery management plans to meet the objectives of a National Fishery Management Program.

This fishery management plan, prepared under authority of the Fishery Conservation and Management Act of 1976 (FCMA), addresses only haddock, cod, and yellowtail flounder. Other demersal species will be evaluated in the future.

Harvesting of haddock, cod, and yellowtail flounder off the Northeastern United States was, until December 31, 1976, regulated under terms of the International Commission for the Northwest Atlantic Fisheries (ICNAF), and subsequent agreements between the 18 signatory nations. The FCMA, enacted and signed into law on April 13, 1976, is effective March 1, 1977. Management of nationally displaced New England stocks, such as are addressed in this plan, is not provided for in the interim. Management plans for offshore New England waters are to be formulated by the New England Regional Fisheries Management Council, one of eight such Councils provided for by the FCMA.

The management plan proposes management measures for the groundfish fisheries for haddock, cod, and yellowtail flounder. Since the stocks in question have substantially declined as a result of overfishing and other factors, quotas, areas, mesh size restrictions, and minimum size regulations are recommended for implementation.

II. Description of the Proposed Action

A. Fisheries Management Under Extended Jurisdiction

A fishery management plan must describe the fishery, provide an estimate of the maximum sustainable yield (MSY), optimum yield (OY) the needs of U.S. interests, and determine the total allowable level of foreign fishing, if any. In addition, the plan should identify those measures that would be applicable to U.S. and foreign nationals so that the ultimate benefits to the United States are maximized.

II.B. Environmental Setting

II.B.1. Geophysical Setting

Climatic, physiographic, and hydrographic differences distinguish the region from the Gulf of Maine to Cape Hatteras into two areas with the dividing line at Nantucket Shoals off Cape Cod. At Cape Hatteras the Continental Shelf extends seaward only 20 miles, but it widens to about 70 miles off New Jersey and 100 miles off Cape Cod. The Gulf of Maine is a cold water bight with a deep central basin nearly sealed off from the open Atlantic by Georges and Brown Banks. The bank boundaries fall off sharply into the continental slope.

From Nantucket Shoals to Cape Hatteras, the bottom out to about 200 meters in depth, is chiefly sand interspersed with large pockets of sand-gravel and sand-shell. From 200 to 2000 meters in depth the bottom is a mixture of silt, silty-sand, and clay. Beyond this depth range, clay predominates over silt as the chief substrate. Surface circulation is generally southwesterly during all seasons, interrupted by coastal indrafting and some reversal of flow at the northern and southern extremities of the area. Water temperatures range from less than 2°C to over 24°C depending upon season and depth. Salinities close to the coast are about 32°/oo, increase to 34-35°/oo near the edge of the Shelf, and exceed 36.5°/oo along the main flow lines of the Gulf Stream.

Bottom sediments in the northern portion of this region (Nantucket Shoals to the Gulf of Maine and its boundary banks) vary from rock to silt.

Sediments of the inner coast from Cape Ann to southwestern Nova Scotia are typically rock or rock-gravel. Most of the deeper central Gulf of Maine sediments are some form of silt, and those of Georges and Browns Banks are chiefly sand and sand-gravel, respectively. Circulation within the Gulf of Maine is generally counterclockwise. Cold Nova Scotian waters enter through the Eastern Channel and move across Browns Bank and slope waters enter through the Northeast (Lindian) Channel. Gulf of Maine waters spill out over Georges Bank and through the Great South Channel onto Nantucket Shoals. The anticyclonic eddy over Georges Bank that develops in the spring breaks down into a westerly and southerly drift by autumn. Water temperatures in this area range from 2 to 17°C at the surface and over the banks, and 4 to 8°C at 200 meters in the inner Gulf of Maine. Both the southern boundary of Georges Bank and the deep basins of the inner Gulf of Maine are influenced by intrusion of slope water. Average salinities vary from about 32 to 35‰. The lower salinity values are close to shore, but they vary with depth depending upon the influence of slope water intrusion.

II.B.2. Biological Systems

II.B.2. a. Introduction

The ecosystem can be divided into the following fundamental groups which are necessary for the system to continue indefinitely: abiotic (nonliving) substances; autotrophic organisms (primary producers) which are able to use abiotic material to store solar energy in the form of organic matter; and decomposers, which break down organic matter, using its stored energy to create inorganic constituents. Most ecosystems also have consumers which convert organic material to another form, using some of the stored energy of the organic material for maintenance. The rate of transfer of material and energy between parts of the ecosystems is affected by the amount, type, or condition of biotic and abiotic material (factors) in the system.

II.B.2.b. Annual Cycle of the Plankton Community

The annual cycle of the plankton community of the region is typical of the temperate zone. During the winter, phytoplankton and zooplankton abundances are low. Nutrients are available, but production is suppressed by low levels of solar radiation and temperature. As spring approaches and the level of solar radiation increases, an intense diatom bloom occurs. As the bloom progresses, concentrations of inorganic nutrients decrease.

As water temperatures increase during late spring and summer, phytoplankton, zooplankton, and meroplankton become increasingly abundant because of the more rapid development of early life stages, the spawning of fish and benthos, and the abundant food supply. Zooplankton feeds predominantly, but not exclusively, on phytoplankton. Fish larvae commonly feed on copepods (Sherman and Honey 1971; Sherman and Perkins 1971; Marak 1965; Marak 1974; all cited by Cohen 1975). Some zooplankters, particularly Sagitta and ctenophores, prey upon fish larvae (Lillelund and Lasker 1971; Theilacker and Lasker 1974; Bigelow 1926; all cited by Cohen 1975).

During summer, zooplankton reaches maximum abundance while phytoplankton declines to nearly as low a level as during the winter minimum. Dinoflagellates and other forms apparently better suited than diatoms to warm, nutrient-poor waters become more abundant during summer. Bacteria in the sediment actively regenerate nutrients, but because of vertical temperature and salinity gradients, the water column is stable and nutrients are not returned to the euphotic zone (where solar radiation and nutrients are "fixed" into organic matter). On Georges Bank, nutrients regenerated by sedimentary bacteria are immediately available to phytoplankton because of mixing. Thus, diatoms dominate throughout the year on Georges Bank (Cohen 1975).

During autumn, as water temperatures decrease, the water column becomes unstable and nutrients are renewed to the euphotic zone. This stimulates another phytoplankton bloom which is cut short by low levels of solar radiation. Phytoplankton and zooplankton levels then decline to their winter minimum while nutrient levels increase to their winter maximum.

Anomalous conditions within the generalized annual cycles described above are probably common. The stability of the water column which affects nutrient availability may be disrupted by severe storms. Anomalies in temperature may disturb the timing between the annual cycles of interacting species.

II.B.2.c. Nekton

The nekton (swimming organisms as opposed to plankton which are drifting organisms) is predominantly fish, although there are nektonic mammals (whales and porpoises) and molluscs (squids).

The feeding habits of nekton vary by species, the size of the individual, and probably with season and food availability. Small fish, including the young of some large species, often feed on plankton. There are also some large species (various whales, basking sharks, and ocean sunfish) which are plankton feeders throughout life. Other fish, squid, and small benthic invertebrates, are also common food of nektonic species. Maurer's (1975) work indicates that many commercially important species of the Northwest Atlantic Continental Shelf of the United States can be classified as either fish or invertebrate feeders, but such a classification is not likely to be valid for younger individuals of the species.

Nektonic organisms are distinguished from other biotic components of the ecosystem by their ability to distribute themselves over the Continental Shelf independent of the circulation of the region (although some species may use currents for transportation or orientation). This ability to migrate between

locations or to maintain a desired location allows groups of individuals of a particular species to obtain a desired breeding location with some consistency year after year. Such groups are called stocks, and although they mix with other stocks some of the time, they are generally isolated from other members of their species during the breeding season (usually once each year).

II.B.2.d. Benthos

Benthic organisms are those living on the bottom or within the bottom sediment. They are distinguished from demersal nekton by the latter's ability to move from one location to another by freely swimming in the water column.

Numerous factors determine the distribution and abundance of benthic species. Among the most important factors are the composition of the sediment and the stability of the physical environment (associated with water depth).

Except in shallow water where autotrophic macroalgae are common, the primary source of food for benthos is sinking organic matter (phytoplankton, detritus). Among the deposit feeders are polychaetes and some amphipods. There are also benthic predators and scavengers including shrimp, crabs, lobsters, and snails. Ultimately, most of the energy and nutrients stored in organic material is released by the bacteria of the sediments. There are marine bacteria in the water column also, but these are of lesser importance in the recycling process (Russell-Hunter 1970).

While benthos is dependent on sinking organic matter for food, many benthic species interact with the plankton and nekton in the water column. These benthic species (lobsters, sea scallops, surf clams) have planktonic larvae and therefore the abundance of their benthic stages depends upon the interaction of their larvae with planktonic and nektonic predators and prey, and upon the transport of their larvae by currents to a suitable benthic environment.

[illegible] The biology of the Atlantic Cod (Gadus morhua)

II.B.2.c.(1). Distribution and Seasonal Movement

The range of Atlantic cod extends northward along the American coast from North Carolina to Baffin Island, southern Greenland and Iceland, continuing on on the northern Barents Sea, Bay of Biscay and the coastal European waters including the Baltic. Throughout its range, the cod can be divided into subpopulations or stocks associated with geographically separated habitats. Off New England and the Mid-Atlantic coasts the cod stocks are proposed to be managed as two distinct units: (1) Gulf of Maine north of Race Point, Massachusetts and (2) Georges Bank and areas to the south and west.

Favoring water temperatures between 0-10°C, a component of the Mid-Atlantic stock migrates to the north and east in summer and fall months, reaching Nantucket Shoals when the shoal waters of the New York Bight exceed 20°C, then ranges back southwestward to the coastal New York, New Jersey, and Chesapeake Bay regions during the winter and spring months where some spawning is believed to occur. This seasonal movement can be partially seen in the distribution of catches in spring and fall surveys. Migrational patterns are much less pronounced for the Gulf of Maine stock. Throughout their range of habitats cod can be found from depths exceeding 200 fathoms to the nearshore surf areas. The full implications of the relationship of cod to the nearshore waters is not yet understood.

II.B.2.c.(2). Reproduction - Cod prefer the more shoal areas for spawning and seve major spawning grounds are known to exist in the Gulf of Maine and on Georges Bank.

region, both eggs and larvae have been observed throughout the entire area from Block Island to Cape Hatteras.

Optimum spawning and hatching temperatures for cod are in the range of 5-7°C spawning takes place near the bottom, the eggs and larvae are pelagic and may be greatly affected by hydrographic conditions (Wise, 1961). Hatching occurs within two to four weeks and larvae grow to a length of 40 mm in 120 days. Cod are extremely fecund with a single female producing anywhere from 3 to more than 9 million eggs (Wise, 1961).

II.B.2.c.(3). Food Habits - The feeding habits of cod are extremely variable depending upon their age, the time of year, and their geographic distribution. The pelagic larvae feed entirely on plankton but as they reach a size of 7-10 cm they actively seek a bottom habitat where their diet gradually switches to invertebrates (clams, crabs, mussels, molluscs) and fish (Wise, 1961; Bowman, 197 Largely an opportunistic omnivore, adult cod may change their patterns of distribution in relation to food availability. At times, fish may provide the major food source, but cod frequently feed on benthic invertebrates (Maurer, 1975.

The most serious predators of adult cod are large sharks, spiny dogfish, and larger adult cod, while smaller juveniles fall prey to a host of predatory fish species (e.g. pollock).

II.B.2.c.(4). Age and Growth - Growth rates have been estimated for the Georges Bank and Gulf of Maine areas (Penttila and Gifford, 1975). While the rates are somewhat different with Georges Bank growing faster than the Gulf of Maine, growth occurs in steady increments to ages in excess of 15 years. Individuals may reach weights greater than 90 kg; however, the average sized fish would fall in the 5-10 kg range.

II.B.2.f. Biology of Yellowtail Flounder

The yellowtail flounder (Limanda ferruginea) is a relatively broad flounder with its width nearly half its body length. It is named for the yellowish tinge of its caudal fin. Yellowtail flounder feed chiefly on small crustaceans such as amphipods, shrimp and mysids. They prefer a sandy bottom at a depth of 20 to 70 m. They spawn in New England waters from March through June with peak spawning occurring during May. Both sexes begin to mature at age II and by age IV all fish are mature. Yellowtail flounder do not appear to feed during the spawning season (Bigelow and Schroeder, 1953; Royce et al., 1959).

The fecundity of yellowtail flounder from New England waters has not been reported, but Pitt (1971) reported length and age-fecundity functions for the species on the Grand Bank, Newfoundland. Fecundity of these northern yellowtail flounder is very variable ranging from 350,000 to 4,750,000 eggs per female.

Yellowtail flounder eggs, which average about 0.9 mm in diameter, hatch in about five days at 10-11°C. Both eggs and larvae are pelagic. The larvae metamorphose and take to the bottom at 12-19 mm in length (Bigelow and Schroeder, 1953).

Lux and Nichy (1969) applied the von Bertalanffy growth equation to data for the New England yellowtail flounder. These fish grow to about 30 cm total length in 2-3 years, and reach a maximum length of about 50 cm. Their life span is about 10-12 years. Mature female yellowtail flounder are generally larger than mature males. Like most fish, yellowtail flounder growth slows during the coldest part of the year, except for age I individuals which grow rapidly throughout the year. No extensive seasonal migrations of the yellowtail flounder have been documented, although the possibility of some eastward movement was indicated by tagging studies.

The plan proposes that the yellowtail flounder be managed as two distinct units within the U.S. zone: (1) East of 69°W, and (2) West of 69°W.

II.B.2.g. The Biology of Haddock

Adult haddock are demersal in habit and appear to be rather localized in their distribution (Bigelow and Schroeder, 1953) although Schroeder (1972) did find evidence for some coastwise movement to the northward for specimens tagged from Nantucket Shoals to Boothbay Harbor. Most of the wanderings of haddock in the Gulf of Maine, however, appear to be of short extent (Bigelow and Schroeder, 1953); furthermore, haddock tagged on Georges Bank have tended to remain there as a resident population (Grosslein 1968). There is evidence that adult haddock make seasonal movements in response to changes in bottom temperature and tend to avoid water temperatures as cold as 0°C or as warm as 11°C.

In the Georges Bank-Gulf of Maine area, haddock spawning grounds have been identified both on the northeast portion of Georges Bank and east of Nantucket Shoals with the former area being of primary importance.

Results of recent fecundity studies for Subarea 5, haddock (Livingston and Berry, unpublished) have been similar to results of earlier studies reported by Hodder (1963) from Grand Banks haddock indicating a range of 0.1 - 3.0 x 10^6 eggs per female for females ranging from 36-79 cm in length and from 3-12 years of age. Spawning occurs from January to June with peak activity in late March through April (Bigelow and Schroeder 1953). The eggs are planktonic and appear to drift near the surface; incubation requires 13-15 days and larvae are 4 mm in length at hatching. After metamorphosis, the pelagic phase continues for 3-4 months (Bigelow and Schroeder 1953) after which the juvenile haddock settle to the bottom for the remainder of their lives.

Haddock year-class strength has fluctuated widely in recent years, but the reasons for this variation are not well understood. Studies by Colton and Temple (1961) suggest that annual variations in water current patterns may be, at least, partially responsible; these authors noted that the prevailing current patterns are generally unfavorable for haddock and should sweep developing eggs and larvae away from shelf areas. More recently, Lawrence and Rogers (1976) have found that haddock embryos and newly hatched larvae appear to be less tolerant of variations in temperature and salinity than cod, with temperature being somewhat more critical. Accordingly, temperature conditions during spawning could also be of significance in determining year-class strength. Whatever the reason, the problem is a critical one, considering the present status of the Subarea 5 haddock stock.

Growth is rapid during the first few years of life. Georges Bank haddock currently attain an average length of 36-40 cm at 2-3 years of age (when sexual maturity occurs) but subsequently growth tapers off sharply. Very old individuals seldom exceed 80 cm in length (Clark and Palmer, unpublished). Haddock recruit to the groundfish fishery as "scrod" at 2-3 years of age; the maximum age observed in recent studies conducted at Woods Hole (Livingstone, unpublished) has been 18 years.

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[illegible] the pelagic stages of their life history). Young haddock feed primarily on copepods (Blacker, 1971). After becoming demersal in distribution, haddock feed primarily on invertebrates, notably crustaceans, annelids, molluscs, and echinoderms (Bigelow and Schroeder 1953; Rigley and Theroux 1965).

II.B.3 SOCIAL AND ECONOMIC SETTING

II.B.3.a. Principal Ports

The principal ports where these species are landed include Eastport, Rockland, Portland, and other ports in Maine; Gloucester, Boston, and New Bedford, Massachusetts; Newport and Point Judith, Rhode Island; Greenport and Montague, New York; and Atlantic City and Cape May, New Jersey. In addition these species support fisheries (commercial and recreational) from the various small harbors and inlets throughout the area. Descriptions for some of these ports are below. Descr of the other ports will be added in Part B, as the data become available. In general sociologic information on the fishermen themselves is very limited and such data should be generated in the near future.

Eastport is located at the extreme eastern end of Maine in Washington Co This county (fifth largest in Maine) contains 1.7 million acres of land of which 1.5 million acres are forested. Most of the county's population is concentrated in coastal areas which include the communities of Calais, Eastport, Lubec, and Machias.

As recorded in the 1970 census, the county's population declined 9.3% between 1960 and 1970, primarily due to out-migration of high school graduates and younger workers. Limited jobs and wages below average as compared to other New England states have encouraged people to leave. Because of a limited number of employers and little prospect for industrial development, this trend is not

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likely to reverse itself for any extended period unless new industry is attracted to the area. However, an interim population estimate developed by the US Bureau of Census for Washington County showed a population increase of 4.5% to 31,200 in July 1973. During this period the states' population increased by 3.5%.

Washington County's median family income was $6,137, or the lowest median family income for all 16 counties in the State. The per capita income for Washington County was $2,069, which is considerably below the Statewide figure of $2,550. According to the 1970 census, 19%, or 1,481 families, were below poverty level compared with 10.3% Statewide. Mean public welfare income in Washington County was $1,198 compared with a Statewide average of $1,188.

According to the Census of persons age 25 and older, Washington County had 5,700 high school graduates and 777 college graduates. Approximately 42% of the males and 49.4% of the females 25 years of age and older graduated from high school. The median school years completed for all persons 25 years of age and older was 11 years for males and 11.9 years for females.

During calendar year 1975, Washington County's civilian labor force averaged 12,880. Based on 1970 census ratios, males accounted for 65.2% of the total labor force, while females accounted for 34.8%. Using 1970 census ratios, it is estimated that during 1975 the civilian labor force was composed of 8,400 males and 4,480 females.

Unemployment increased sharply from 5% to 13% in 1975, averaging 1,680 individuals in 1975 versus 1,180 in 1974. Unemployment generally follows normal seasonal patterns with the rate of unemployment reaching a high in the first quarter of the

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year, and dropping to a low usually in August or September. The seasonal employment patterns were expected to hold true in 1977. Table 1 contains data on employment by industrial sector.

The port of Rockland, Maine, is located in Knox County, 41 miles east of Augusta, Maine.

The population increased 2.6% from 1950 to 1960. The 1960 population of 29,575 increased 1.5% to 29,013 in 1970.

According to the 1970 census, one half of the families in the area had an annual income under $7,321. Approximately 11% of all families received less than the poverty level income, while 8.4% received more than $15,000. Median family income equaled $7,372, while families below poverty level received a mean income of $1,899.

Preliminary figures for 1975 indicate that unemployment increased substantially in Knox County from an annual mean of 6.2% in 1974, to 10.2% in this last year. In January and February 1976, unemployment reached levels of 12.9% and 13.3% of the labor force, respectively. Table 2 contains data on employment by industrial sector.

The fishing port of Portland is located in Cumberland County, Maine. The county is the focal point of rail, highway, and ocean transportation, and is also the homesite of many of the State's major banking and financial institutions.

Cumberland has the highest percentages of males and females 25 years of age and older who are high school graduates with males at 61.8% and females at 66.1%. The median school years

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Table 1. Employment by Industry in Washington County, Maine, First Quarter, 1974-1975[a]

Industry	Number of Firms First Quarter 1975	Average Monthly Employment for January-February-March 1975	1974	Net Change
Manufacturing	75	2,183	2,619	-436
Food and Kindred Products	27	370	574	-104
Textile Mill Products	3	81	210	-127
Lumber and Wood Products, except Furniture	27	372	473	-101
Printing, Publishing, and Allied Industries	4	20	18	+ 2
Chemicals and Allied Products	3	76	121	- 45
Transportation Equipment	3	2	6	- 4
Other Manufacturing[b]	8	1,242	1,217	+ 25
Non-manufacturing	553	2,966	2,683	+283
Contract Construction	73	493	493	+ 0
Transportation, Communication, Electric, Gas, and Sanitary Services	46	234	255	- 21
Wholesale Trade	41	262	242	+ 20
Building Materials, Hardware, and Farm Equipment Dealers	18	64	67	- 3
Retail Trade - General Merchandise	25	165	160	+ 5
Food Stores	49	241	279	- 38
Automotive Dealers and Gasoline Service Stations	65	198	166	+ 32
Apparel and Accessory Stores	9	30	36	- 6
Furniture, Home Furnishings, and Equipment Stores	13	34	32	+ 2
Eating and Drinking Places	35	186	120	+ 66
Miscellaneous Retail Stores	49	155	151	+ 4
Banking	8	59	57	+ 2
Insurance Agents, Brokers, and Service	7	41	28	+ 13
Real Estate	17	15	14	+ 1
Motels, Rooming Houses, Camps, and Other Lodging Places	25	34	26	+ 8
Personal Services	9	24	35	- 11
Automobile Repair, Automobile Services, and Garages	12	19	23	- 4
Miscellaneous Repair Services	3	3	2	+ 1
Amusement and Recreation Services, except Motion Pictures	4	9	7	+ 2
Medical and Other Health Services	37	700	594	+ 46
Legal Services	11	35	24	+ 12
Nonprofit Membership Organizations	9	112	62	+ 50
Other Non-manufacturing[c]	11	49	56	- 7

[a] Data relate to payroll periods which include the 12th of the month, and to private establishments in industries covered by the Maine Employment Security Law.

[b] Other Manufacturing consists of Apparel and other Finished Products; Paper and Allied Products; Fabricated Metal Products; and Miscellaneous Manufacturing Industries.

[c] Other Non-manufacturing consists of Mining; Credit Agencies Other than Banks; Combinations of Real Estate, Insurance, Loans, Law Offices; Holding and other Investment Companies; Miscellaneous Business Services; Motion Pictures; and Miscellaneous Services.

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Table 2. Employment by Industry in [illegible] County, Maine, First Quarter, 1974-1975[a]

Industry	Number of Firms First Quarter 1975	Average Monthly Employment for January-February-March 1975	1974	Net Change
Manufacturing	73	2,150	2,455	-305
Food and Kindred Products	12	407	607	-200
Textile Mill Products and Apparel and Other Finished Products	6	522	567	- 45
Printing, Publishing, and Allied Industries	10	222	146	+ 76
Machinery, except Electrical	6	122	128	- 6
Transportation Equipment	13	158	183	- 25
Other Manufacturing[b]	26	699	784	- 85
Non-manufacturing	747	4,625	4,677	- 52
Building Construction - General Contractors and Construction other than Building Construction - General Contractors	45	212	261	- 49
Construction - Special Trade Contractors	62	199	208	- 9
Water Transportation	14	87	69	+ 18
Communication and Electric, Gas, and Sanitary Service	9	203	210	- 7
Other Transportation and Transportation Services	15	72	71	+ 1
Wholesale Trade	46	230	204	+ 26
Building Materials, Hardware, and Farm Equipment Dealers	22	138	132	+ 6
Retail Trade - General Merchandise	17	207	233	- 26
Food Stores	56	341	324	+ 17
Automotive Dealers and Gasoline Service Stations	44	241	248	- 7
Apparel and Accessory Stores	13	90	76	+ 14
Furniture, Home Furnishings, and Equipment Stores	14	50	54	- 4
Eating and Drinking Places	31	153	160	- 7
Miscellaneous Retail Stores	48	241	250	- 9
Banking	5	141	139	+ 2
Other Finance, Insurance, and Real Estate	35	121	122	- 1
Agriculture, Forestry, Fisheries, and Mining[c]	45	87	147	- 60
Motels, Rooming Houses, Camps, and Other Lodging Places	36	208	170	+ 38
Personal Services	24	85	87	- 2
Business, Repair, and Amusement Services	51	123	124	- 1
Medical and Other Health Services[d]	67	647	553	+ 94
Nonprofit Membership Organizations	13	69	109	- 40
Legal, Educational, and Miscellaneous Services, Museums, and Private Households	36	141	119	+ 22

[a] Data relate to payroll periods which include the 12th of the month, and to private establishments in industries covered by the Maine Employment Security Law.

[b] Other Manufacturing consists of: Lumber and Wood Products; Furniture and Fixtures; Chemicals and Allied Products; Rubber and miscellaneous Plastics Products; Leather and Leather Products; Stone, Clay, Glass, and Concrete Products; Fabricated Metal Products; Transportation Equipment; Professional, Scientific, and Controlling Instruments; and Miscellaneous Manufacturing Industries.

[c] Fisheries employed about two-thirds of the total employment in these industries in 1974 and a half of it in 1975.

[d] Hospitals accounted for practically all the increase in employment in these industries between 1974 [illegible]

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completed for all persons age 25 and older is also the highest in the State, 12.4 years, with 12.3 years for males and 12.4 for females.

Cumberland County's annual average civilian labor force in 1975 was 87,630. Based on 1970 census ratios it is estimated that of this total, 52,052 were male and 35,578 were female. Census data indicate that the labor force participation rates (the labor force participation rate is the percent of males and females 16 years of age and older in the labor force, divided by the total number of males and females 16 years of age and older) for persons in all age groups, with the exception of males aged 25 through 34 years, were higher in Cumberland County than Statewide. For males, the labor force participation rate was highest (95.6%) in the age 25 through 34 category, while the highest participation rate for females was in the age 20 through 21 category. The current estimated rate of unemployment is 7.5%. Table 3 contains data on employment by industrial sector.

The City of Gloucester is located in Essex County in northeastern Massachusetts (31 miles northeast of Boston) on Cape Ann. It is bordered by Manchester and Essex on the west, the Atlantic Ocean on the north, Rockport on the east, and the Atlantic Ocean on the south. Gloucester was established as a town in 1642 and incorporated as a city in 1873. The population in 1970 was 27,941. Table 4 contains information on racial composition, age and educational background of the inhabitants.

Gloucester is an industrial city, with fishing as one of its important industries. The most important industry as measured by

Table 3. Estimate of non-farm employment in the Portland, Maine Standard Metropolitan Statistical Area in 1975[a]

Compiled by the Maine Department of Manpower Affairs in cooperation with the United States Bureau of Labor Statistics

Industry	Annual Average	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Total	75.6	76.2	74.7	74.8	74.9	75.6	75.9	75.6	[illegible]	75.9	75.6	[illegible]	[illegible]
Total Manufacturing	15.4	15.0	15.4	15.1	15.2	15.1	15.3	[illegible]	15.3	15.0	15.5	15.5	[illegible]
Durable Goods	6.2	6.4	6.2	6.1	6.1	6.0	6.2	[illegible]	[illegible]	6.4	6.4	[illegible]	[illegible]
Lumber and Furniture	0.6	0.6	0.5	0.6	0.6	0.6	0.6	0.5	0.7	0.6	0.7	[illegible]	[illegible]
Materials and Machinery	4.0	4.2	4.1	4.0	4.0	3.9	3.9	3.8	[illegible]	4.1	4.1	[illegible]	4.1
Other Durable Goods	1.6	1.6	1.6	1.5	1.5	1.5	1.7	1.5	1.7	1.7	1.6	1.6	[illegible]
Nondurable Goods	9.2	9.4	9.2	9.0	9.1	9.1	9.1	[illegible]	[illegible]	9.4	[illegible]	[illegible]	[illegible]
Food and Kindred Products	2.0	2.0	2.0	2.0	2.0	2.1	2.0	2.3	2.1	2.0	2.0	[illegible]	[illegible]
Leather and Leather Products	2.7	2.6	2.6	2.6	2.6	2.6	2.7	1.7	2.0	2.9	2.9	2.5	[illegible]
Other Nondurable Goods	4.5	4.8	4.6	4.4	4.5	4.4	4.4	4.6	4.5	4.5	4.5	4.3	4.6
Total Nonmanufacturing	60.2	60.4	59.3	59.7	59.7	60.5	60.6	60.4	[illegible]	60.1	[illegible]	[illegible]	[illegible]
Contract Construction	3.0	3.0	2.7	2.7	2.7	3.2	3.1	3.1	3.2	3.3	3.3	[illegible]	[illegible]
Transportation and Public Utilities	4.7	4.7	4.7	4.7	4.6	4.7	4.7	5.0	4.9	4.3	4.7	[illegible]	4.5
Wholesale and Retail Trade	19.3	19.4	19.0	19.0	18.9	19.1	19.4	19.9	19.9	19.5	19.4	[illegible]	[illegible]
Finance, Insurance, and Real Estate	6.0	6.1	6.0	6.0	6.0	6.0	6.1	6.1	6.1	6.0	6.0	[illegible]	[illegible]
Services and Other Nonmanufacturing	14.5	14.4	14.1	14.3	14.5	14.6	14.7	14.5	14.6	14.4	14.5	[illegible]	[illegible]
Government	12.7	12.8	13.0	13.0	13.0	12.9	12.6	12.0	[illegible]	12.2	13.0	[illegible]	[illegible]
Federal	1.4	1.4	1.4	1.4	1.4	1.4	1.4	1.5	1.5	1.4	1.4	[illegible]	1.4
State and Local	11.3	11.4	11.6	11.6	11.6	11.5	11.2	10.5	10.3	10.8	11.6	11.7	11.5

[a] Data presented exclude domestics in private households, proprietors, self-employed and unpaid family workers. Employment figures relate to full- and part-time wage and salary workers in pay periods including the 12th of the month. Figures are rounded to the nearest hundred.

[b] Regular teachers are included in the summer months whether or not specifically paid in these months.

Note: The Portland, Maine Standard Metropolitan Statistical Area includes Portland, Westbrook, Cape Elizabeth, Falmouth, Cumberland, Gorham, Scarborough, South Portland, Yarmouth, Windham, Freeport, Saco, and Old Orchard Beach. Estimates [illegible] in this table, correcting those previously issued, are based upon

employment in manufacturing, dominated by fish processing (Table 5). Second in importance is wholesale and retail trade which caters to the large number of tourists who visit Cape Ann annually, and this is followed by services and then fishing. The port of Gloucester handled 260,286 tons of cargo in 1971, consisting mainly of fish and petroleum products.

Due to the seasonal nature of the tourist and fishing industries and an absence of any significant year-round industry, unemployment has been a persistent problem. The most recent estimate of the unemployment rate is about 11%.

The New Bedford, Massachusetts, Standard Metropolitan Statistical Area (SMSA) includes the City of New Bedford; the Towns of Acushnet, Dartmouth, and Fairhaven in Bristol County, Massachusetts; and the Towns of Marion and Mattapoisett in Plymouth County, Massachusetts.

The New Bedford SMSA is located in the southeastern section of Massachusetts. Its southern border is Buzzards Bay. The City of New Bedford is 53 mi. south of Boston, 36 mi. south-by-southwest of Plymouth, and 33 mi. south-by-southeast of Providence, Rhode Island.

Table 6 indicates the population change that has occurred within the SMSA from 1960 to 1970. Current information, which is incomplete, suggests that the population of the City of New Bedford has decreased slightly. However, the balance of the SMSA is still rapidly increasing in population. In 1970, the total population of the SMSA was 152,642.

Table 4. Racial, ethnic, and educational background of residents of Gloucester and Essex County in 1970.

Category	Number	Percent of total: Gloucester	Percent of total: Essex County
Racial composition			
White	27,815	99.6	99.0
Negro	19	0.1	0.3
Other	42	0.1	0.3
Foreign stock	9,325	33.4	32.6
Foreign-born	2,164	7.7	7.9
Age composition			
0-5	2,144	7.7	8.2
6-14	5,390	19.3	19.7
15-19	2,382	8.5	8.6
20-64	14,332	51.3	51.6
65+	3,693	13.2	11.9
0-13	9,127	32.7	33.4
21+	17,651	63.2	62.1
Median age		31.8	30.6
Educational background (persons 25 years old and over)			
Median number of school years completed		12.0	12.3
Percent completing less than five grades		5.0	3.7
Percent completing high school		34.2	36.3
Percent completing college		8.0	11.3

Table 5. Employment by industry in Gloucester during 1975.

Item	Number of workers: September 1975	August 1975	March 1975	September 1974	Net change to September 1975: August 1975	March 1974	September 1974
Nonagricultural wage & salary[a]	11,170	11,640	9,980	11,430	-470	+1,190	-260
Percent change		-4.0	+11.9	-2.3			
Manufacturing - Total	2,960	3,010	3,060	3,270	-50	-100	-310
Percent change		-1.7	- 3.3	-9.5			
Food & kindred products	1,260	1,250	1,260	1,270	+10	0	-10
Apparel & finished products	190	210	200	220	-20	-10	-30
Paper & allied products	130	140	140	150	-10	-10	-20
Printing & publishing	220	230	240	240	-10	-20	-20
Primary metal products	210	210	250	240	0	-40	-30
Transportation equipment	150	150	130	160	0	+20	-10
All other manufacturing	800	820	840	970	-20	-40	-170
Nonmanufacturing - Total	8,210	8,630	6,920	8,160	-420	+1,290	+50
Fishing	620	680	550	650	-60	+30	-30
Contract Construction	370	380	360	440	-10	+10	-70
Transportation, communications & utilities	380	370	280	380	+10	+100	- 0
Wholesale & retail trade	3,380	3,510	2,440	3,270	-210	+860	+30
Finance, insurance & real estate	300	310	300	300	-10	0	0
Service (excluding domestic) & miscellaneous	1,910	1,990	1,550	1,880	-80	+360	+30
Government	1,330	1,390	1,400	1,230	-60	-70	+100
Persons involved in labor disputes	0	0	0	0	0	0	0

[a]Source: Establishment data, Joint Federal-State Current Employment Series.

Table 6. 1960-1970 population movements of New Bedford, Massachusetts, SMSA

SMSA[1] components	Population: 1970	1960	Change	Percent change	Balance of births to deaths	Net in-or out-migration
SMSA[1]	152,642	143,176	+ 9,466	+ 6.6	+6,675	+2,791
New Bedford City	101,777	102,477	- 700	- 0.7	+4,242	-4,942
Balance of SMSA	50,865	40,699	+10,166	+25.0	+2,433	+7,733
Acushnet	7,767	5,755	+ 2,012	+35.0	+ 587	+1,425
Dartmouth	18,800	14,607	+ 4,193	+28.7	+ 666	+3,527
Fairhaven	16,332	14,339	+ 1,993	+13.9	+ 708	+1,285
Marion	3,466	2,881	+ 585	+20.3	+ 102	+ 483
Mattapoisett	4,500	3,117	+ 1,383	+44.4	+ 370	+1,013

[1]Standard Metropolitan Statistical Area.

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Table 7 contains information on the employment in New Bedford by industry. Manufacturing is the most important industrial sector in terms of total employment. Employment in the fishing industry is contained in the "agriculture, forestry, and fisheries" and "food and kindred products" categories, which are within the general manufacturing sectors.

In mid-September 1975, there were approximately 9,100 residents of the labor area filing claims for total unemployment under all programs. In mid-August 1975, there were about 9,500; and in mid-September 1974, nearly 4,400. The peak was reached in mid-March 1975 when 13,100 residents were filing claims for total unemployment. There is no information available on unemployment of those previously involved in the fishing industry.

Table 8 presents characteristics of residents of the New Bedford Labor Area who are in need of employment-related assistance. During 1975, one of the most noticeable changes was in the number who were economically disadvantaged. The increase was not due to larger numbers of disadvantaged workers becoming unemployed. Rather, it was due to more unemployed workers becoming classified as disadvantaged because their income was below poverty level.

The port of Pt. Judith (Town of Narragansett) is located about 30 mi. south of Providence, Rhode Island. It is bounded by Narragansett Bay and the Atlantic Ocean on the east, by the Atlantic Ocean on the south, by the Town of South Kingston on the west, and by the Town of North Kingston on the north. Data are currently available only on the entire Town of Narragansett.

Table 7. Industry of employed persons in New Bedford 16 years of age and older.

Category	Number of persons
Total	41,[illegible]
Agriculture, forestry, and fisheries	[illegible]
Mining	[illegible]
Construction	2,[illegible]
Manufacturing	18,[illegible]
Furniture and lumber and wood products	[illegible]
Primary metal industries	[illegible]
Fabricated metal industries (including not specified metal)	[illegible]
Machinery, except electrical	[illegible]
Electrical machinery, equipment, and supplies	2,[illegible]
Motor vehicles and other transportation equipment	[illegible]
Other durable goods	1,[illegible]
Food and kindred products	[illegible]
Textile mill and other fabricated textile products	7,[illegible]
Printing, publishing, and allied industries	[illegible]
Chemical and allied products	[illegible]
Other nondurable goods (incl. not specified mfg. indus.)	3,[illegible]
Railroads and railway express service	[illegible]
Trucking service and warehousing	[illegible]
Other transportation	[illegible]
Communications	[illegible]
Utilities and sanitary services	[illegible]
Wholesale trade	1,[illegible]
Food, bakery, and dairy stores	1,[illegible]
Eating and drinking places	1,[illegible]
General merchandise retailing	[illegible]
Motor vehicles retailing and service stations	[illegible]
Other retail trade	2,[illegible]
Banking and credit agencies	[illegible]
Insurance, real estate, and other finance	[illegible]
Business services	[illegible]
Repair services	[illegible]
Private households	[illegible]
Other personal services	[illegible]
Entertainment and recreation services	[illegible]
Hospitals	[illegible]
Health services, except hospitals	[illegible]
Elementary and secondary schools and colleges	[illegible]
Government	[illegible]
Private	[illegible]
Other education and kindred services	[illegible]
Welfare, religious, and nonprofit membership organizations	[illegible]
Legal, engineering, and miscellaneous professional services	[illegible]
Public administration	[illegible]

Table 8. Characteristics of residents in need of employment-related assistance in the New Bedford, Massachusetts labor area during September 1975.

Characteristics	September[a] 1975	August 1975	September 1974
Sex			
Male	7,295	7,988	3,979
Female	4,029	4,515	1,852
Minority status			
Black	638	867	221
Other nonwhite	388	371	255
Spanish American	300	376	217
Handicapped	686	738	382
Economically disadvantaged	5,156	5,712	1,642
Veterans	3,194	3,009	1,356
Vietnam era	1,864	1,750	872
Years of age			
0-20	1,341	1,932	
20-21	1,373	1,543	1,937[b]
22-24	1,779	1,955	
25-29	2,142	2,224	
30-39	1,862	1,965	3,035[c]
40-44	673	698	
45-54	1,247	1,272	
55-64	804	813	
65+	98	99	859[d]
Residence			
Urban	10,116	11,167	5,218
Rural	1,208	1,334	623
Total	11,324	12,501	5,841

[a]Preliminary.
[b]Includes those under 22 years of age.
[c]Includes those 22 to 44 years of age.
[d]Includes those 45 years of age or more.

Established in 1670 and incorporated in 1901, the town occupies 163 square miles of which 44 square miles are inland waters. Town government consists of a town manager and a five-member town council.

The 1970 population was 7,183, up 52% since 1960. The 1975 population estimate was 9,500. The 1970 population was 48% female and 52% male. The major portion of the population in 1970 was under 35 years of age.

According to the 1970 U.S. Census, Narragansett had a total resident civilian labor force of 2,934, an increase of 1,716, or 138.6%, since 1960. In 1970, employed male residents totaled 1,843 and employed female residents totaled 1,111. Of the employed civilian labor force in 1970, 5.8% were operatives and kindred workers, 20.4% were sales and clerical workers, 10.9% were craftsmen and foremen, and 28.3% were professional and technical workers.

In 1975, the Rhode Island Department of Economic Development estimated the Narragansett civilian labor force at 4,000, consisting of 2,500 male workers and 1,500 female workers. The current estimated unemployment rate in Narragansett is 11.5%. According to the U.S. Census, the median family income for Narragansett was $9,919 in 1969, as compared to $5,442 in 1959.

II.B.3.b. The Fisherman's Setting and Some Socioeconomic Characteristics

New England fishing port communities, notably Eastport and Rockland, Maine, and Gloucester and New Bedford, Massachusetts, have had persistent or substantially persistent unemployment

problems for at least 9 to 12 years in the period 1960-71 (Table 9). Employment in the fishing industry has declined since 1960, but only on fishing vessels. Age composition and educational background data for fishermen located in Boston, New Bedford, Pt. Judith, and in Maine is presented in Table 10. As can be seen in this table, the majority of fishermen in the New Bedford, Boston, and Maine areas have attained less than a high school education. In Boston and New Bedford, the majority of fishermen are over 45 years old. In Maine, the age distribution comes more closely the general population, but the average age is still high and the educational levels are low. These factors tend to make the fishermen less mobile and more bound to market conditions than other participants in the labor force. These facts, combined with high unemployment rates in fishing communities, create obvious problems in terms of alternative employment possibilities and alternative training possibilities.

Table 9. Current unemployment levels for selected New England fishing ports.

Maine	Massachusetts	Rhode Island
Eastport - 13%	Gloucester - 11%	Pt. Judith - 11.5%
Rockland - 13%	Boston - 7.8%	(Narragansett)
Portland - 7.5%	New Bedford - 12.3%	

While all available sociological data has been included, it is recognized that much more sociological work on the affected fishing communities need to be done in the future to estimate the impacts of management actions.

Table 10 Age composition and educational background data for fishermen in selected New England ports.

Category	Pt. Judith	Maine	New Bedford	Boston	Overall Boston Male Labor Force
	Percent Age Distribution				
Age group					
0-25	10.3	19.6	2	2	20
26-35	31.3	16.6	11	10	21
36-45	24.1	16.7	20	9	22
46-55	27.8	19.6	39	17	20
56-65	3.4	12.3	28	41	13
65+	3.4	15.2	—	21	4
Total	100.0	100.0	100	100	100
	Percent Educational Achievement				
Years of schooling					
1-6			15		
4-8	10.3	31.2		57	
7-9			47		
9-11	20.6	35.4		18	
10-11			16		
12	48.3	33.3	20	19	
13-15	13.7	8.0	2	6	
16	3.4	1.4			
17+	3.4	.7	—	—	
Total	100.0	100.0	100	100	

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II.C. Biological Description of the Fishery

II.C.1. Recreational Fishery

Fishing for recreation has been carried on along the shore of the Northeast Atlantic coast ever since its settlement nearly four centuries ago. Even though necessity compelled the early settlers to work long hours, many fished for recreation as well as food when they found the time. Then, most fishing was from shore, though some was carried on from boats in bays and sounds along protected areas of the coast. This remained the general situation until about the late 1940's. At that time there was a dramatic rise in recreational fishing caused in part by the mass movement of people from the interior rural areas to coastal cities; the increase in affluence as well as in leisure time with the consequent growing demand for recreational opportunities; and improved transportation, especially the expansion of our highway system affording greater access to coastal resort areas.

During the next 20 years recreational fishing continued to grow rapidly. As technology improved in the manufacture of fishing tackle and of small boats and motors, more and more people took up angling, and they ventured farther offshore seeking better fishing opportunities. Still, until the beginning of the 1960's, recreational fishing was almost exclusively confined to within 25 miles of shore, even for bluefin tuna and swordfish. Encouraged by reports of large numbers of tunas and billfishes far offshore, a few recreational anglers undertook extensive, up to 200 mile round trips, to the offshore grounds. Increasing numbers of large boats now make these offshore trips each year.

II.C.1. Preliminary Description of the Fishery

II.C.1.a. Cod

II.C.1.a.(1) Areas and Stocks Involved

Wise (1958, 1962) proposed three or possibly four separate groups of cod in the waters off the eastern U.S. coast. The areas inhabited by these groups were defined as (1) Georges Bank, east of the 68th meridian; (2) the Gulf of Maine, north of Provincetown, Massachusetts; (3) southern New England, south and west of Nantucket Shoals, and (4) the New Jersey coast (this group spends part of the year mingled with a group in the southern New England area). For management purposes the cod stocks have been grouped as the Gulf of Maine ICNAF Div. 5Y and Georges Bank and southward ICNAF Div. 5Z and Statistical Area 6 (see. Fig. 1). Historically, the majority of the commercial landings have come from Georges Bank.

Similar groupings can be identified in waters east of Georges Bank but the degree of interchange between these areas and Subarea 5 appears to be minimal.

II.C.1.a.(2) Statistical History of Exploitation

Cod have been exploited off the eastern U.S. seaboard since the 17th Century. They have been fished both commercially and for recreation throughout their range.

In the Middle Atlantic-New York Bight area the commercial fishery has been seasonal, with peak catches taken from December through February. The fishery at one time extended as far south as the Chesapeake Bay region, with pound nets, longlines, and trawls being used, but catches were never large in comparison with the more northerly stocks, i.e., in the New York Bight area, peak catches in 1930 approached 5,000 metric tons (m.t.) and the Chesapeake Bay region yielded a maximum catch of only 450 m.t. (1962). In contrast, cod landings from New England waters have exceeded 50,000 m.t. several times since 1900.

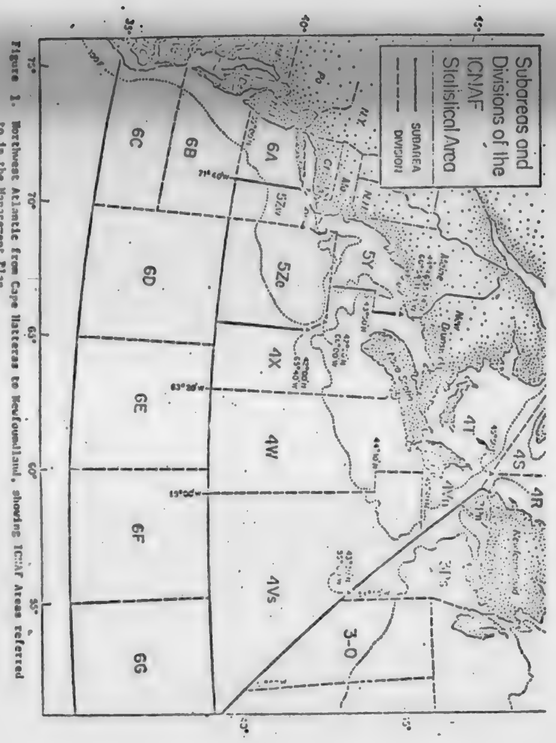

Figure 1. Northwest Atlantic from Cape Hatteras to Newfoundland, showing ICNAF Areas referred to in the Management Plan.

Shifts in fishing practices have resulted in the current harvest of cod from southern states mainly as an incidental catch in other groundfish fisheries. Commercial landings from the New York Bight area in 1970 approximated only 260 m.t. However, with the increasing trend in the number of saltwater anglers and the growing popularity of winter sportfishing in recent years, the cod has taken on a new importance, particularly in the New York area.

Marine recreational surveys conducted in 1960, 1965, 1970, and 1974 estimated the recreational catches of cod from New Jersey to Maine to be 14,016, 15,503, 16,281, and 12,381 m.t., respectively. The U.S. commercial landings of cod in 1970 for this same area, totalled 22,347 m.t. with the greatest share of the catch coming from offshore waters not generally fished by the recreational fishermen.

Landings statistics for the major offshore commercial fisheries for cod are available since 1893. Up until 1960, the stocks were exploited almost exclusively by U.S. fishing vessels, but following 1960, exploitation by foreign nations increased the total landings of cod two-to-three fold. Historically, the cod fishery may be separated into three periods: (1) an early period from 1893-1910 in which years of record high landings in 1895 and 1907 were followed by much reduced catches; (2) a middle period from 1910-1950 during which landings remained fairly steady; and (3) the latest period from 1950-1975 when landings rose to near record high levels and then returned to the long-term average levels (fig. 2, table 11). The mean annual catch for the total fishery since 1893 is 32,000 m.t. Approximately 80 percent of the catch comes from Georges Bank.

Nominal catches for the Gulf of Maine have fluctuated between 2,700 and 14,500 m.t. since 1952 and have averaged 7,100 m.t. over the past 10 years (1966-1975); almost all of this catch has been taken by the U.S. In 1975, the total nominal catch approximated 9,400 m.t. (table 11). In addition, this stock has supported undetermined, but apparently increasing, levels of

recreational fishing for some time.

During the period 1932-1969, nominal U.S. commercial catches for the Georges Bank stock complex fluctuated between 8,100 and 32,300 m.t. (table 11). With increased Canadian fishing and the advent of distant water fleets, landings rose sharply to 52,900 m.t. in 1966. Landings declined sharply thereafter and then stabilized around 26,000 m.t. annually during 1970-75. In 1975, nominal catch approximated 24,000 m.t.

Table 11. Historical cod landings, (MT x 10^{-3}) in the US Zone

	Gulf of Maine (5Y)		Georges Bank & Southward (5Z)
	US	Others	US
1932	5.9		25.1
1933	7.0		25.2
1934	11.6		16.0
1935	9.7		21.2
1936	7.4		25.3
1937	7.4		32.3
1938	7.5		24.9
1939	5.5		22.0
1940	5.8		18.4
1941	6.1		25.5
1942	6.7		18.3
1943	9.4		17.3
1944	10.5		17.6
1945	14.5		14.3
1946	9.2		20.5
1947	7.9		16.6
1948	7.5		17.6
1949	7.2		17.7
1950	5.1		15.4
1951	3.6		14.8
1952	3.0		10.9
1953	3.1		8.1
1954	3.4		8.8
1955	3.2		9.3
1956	2.7	*	10.5
1957	2.6	*	10.4
1958	4.7	*	11.1
1959	3.8	0.1	12.1

*Less than 100 metric tons.

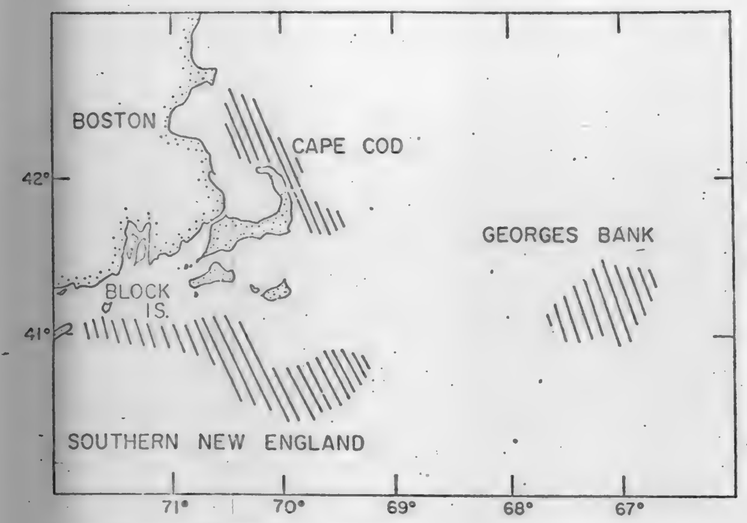

Figure 3. Yellowtail Flounder Fishing Grounds.

Table 11 (continued)

Year		US 5Y	US 5Z	Canada 5Y	Canada 5Z	Spain 5Y	Spain 5Z	USSR 5Y	USSR 5Z	England 5Y	England 5Z	Other 5Y	Other 5Z	Total 5Y	Total 5Z
1952		3.4	10.8	0.1	-	-	-	-	-	-	-	-	-	3.6	10.4
1953		3.2	13.9	-	0.2	-	-	-	-	-	-	-	-	3.2	14.3
1954		3.0	15.2	-	2.4	-	-	-	5.3	-	0.1	-	-	3.1	23.1
1955		2.5	11.3	-	7.8	-	-	0.1	5.7	-	-	-	-	2.7	27.0
1956		3.2	12.3	-	7.1	-	-	-	5.1	-	-	-	0.2	3.3	25.2
1957		3.8	11.3	0.1	10.6	-	-	-	14.4	-	1.9	-	-	3.9	38.3
1958		4.0	11.9	0.4	15.6	-	8.4	-	16.8	-	0.3	-	0.1	4.4	52.9
1959		5.7	17.7	0.3	8.2	-	14.7	-	0.5	-	-	-	-	6.0	41.1
1960		6.4	11.9	0.1	9.1	-	14.6	-	1.5	-	2.6	-	-	6.6	42.8
	(52c)		(11.9)		(7.1)		(14.5)		(1.4)		(2.3)		(-)		(49.3)
	(52w)		(-)		(-)		(0.1)		(0.1)		(0.3)		(-)		(0.5)
1961		8.2	11.1	0.1	6.0	0.2	13.6	-	0.7	-	0.7	-	0.1	8.5	37.3
	(52c)		(11.0)		(5.0)		(13.6)		(0.3)		(0.4)		(0.1)		(35.3)
	(52w)		(0.1)		(-)		(-)		(0.4)		(0.3)		(-)		(2.0)
1962		7.8	11.6	-	2.5	0.4	6.8	-	0.3	-	0.7	-	0.1	8.2	25.1
	(52c)		(11.3)		(2.5)		(6.8)		(0.2)		(0.6)		(0.1)		(21.7)
	(52w)		(0.3)		(-)		(-)		(0.1)		(0.1)		(-)		(3.4)
1963		7.4	11.2	0.1	3.0	0.2	7.5	-	1.2	-	0.1	-	-	7.7	27.3
	(52c)		(10.9)		(3.0)		(6.4)		(1.1)		(0.1)		(-)		(22.0)
	(52w)		(0.3)		(-)		(1.1)		(0.1)		(-)		(-)		(1.9)
1964		6.8	11.7	0.1	2.5	-	6.7	-	1.9	-	0.2	0.1	0.2	6.9	21.6
	(52c)		(11.5)		(2.5)		(6.7)		(1.8)		(0.2)		(0.2)		(22.0)
	(52w)		(0.2)		(-)		(-)		(0.1)		(-)		(-)		(0.8)
1965		6.1	10.7	0.1	3.2	-	5.9	-	2.9	-	0.4	-	0.1	6.2	23.5
	(52c)		(10.5)		(3.2)		(5.5)		(2.9)		(-)		(0.1)		(21.7)
	(52w)		(0.2)		(-)		(0.4)		(0.9)		(0.4)		(-)		(2.0)
1966		7.8	12.4	0.1	1.3	-	6.4	-	0.5	-	0.5	-	0.1	7.9	20.6
	(52c)		(11.6)				(6.4)		(0.1)		(0.3)				(24.7)
	(52w)		(0.5)						(0.4)		(0.2)				(1.0)
1975			15.2	0.1	1.8	-	3.4	-	2.3	-	0.3	-	-	9.4	23.0
	(52c)	9.3	(13.8)		(1.8)		(3.4)		(2.3)		(0.3)				(22.4)
	(52w)		(1.4)												(0.6)

II.C.1.b. Yellowtail

II.C.1.b.(1) Area and Stocks Involved

Prior to the 1970's, yellowtail flounder were primarily sought on three fishing grounds along the Atlantic coast of the United States. They are the Southern New England, Georges Bank and Cape Cod grounds (Figure 3). Tagging experiments and parasite studies performed by Lux (1963) indicate that there is relatively little mixing between yellowtail flounder from the three New England grounds. In general, the Southern New England ground has been the most productive although in recent years, catches from the Georges Bank ground have been higher than from Southern New England. During the 1970's significant catches of yellowtail flounder have been reported from Subarea 6 south of the Southern New England ground. The degree of intermixing between this most recent fishing area and the population of the Southern New England ground is unknown. In practice, the yellowtail flounder west of 69°W and Subarea 6 (including the Cape Cod and Southern New England grounds) have been managed as a unit. Yellowtail flounder east of 69°W (including Georges Bank) are also managed as a unit.

II.C.1.b.(2) Statistical History of Exploitation

The yellowtail flounder, Limanda ferruginea, is an important food fish. It is sought primarily by Massachusetts and Rhode Island otter trawlers from the ports of New Bedford, Provincetown, and Point Judith. The species is also landed in Connecticut.

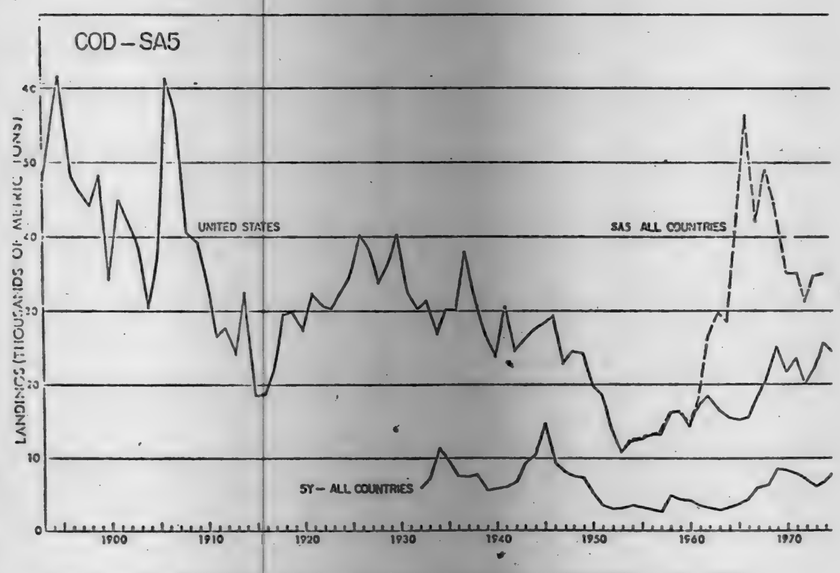

Figure 2. Landings of cod since 1893 for Subarea 5, US and all countries, and for Division 5Y, all countries. Prior to 1956 US landings represented all landings in Division 5Y.

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New York, and in the past by foreign fishing fleets.

Yellowtail flounder were unexploited prior to 1935. With the decline in abundance of the thicker-bodied winter flounder, the yellowtail flounder fishery in Subarea 5 west of 69°W developed rapidly. The fishery prospered through the 1940's, declined during the 1950's, then recovered during the 1960's and has once again declined in the 1970's. The fishery for yellowtail flounder in Georges Bank (east of 69°W) developed more slowly than the Southern New England fishery. The Georges Bank fishery did not yield more than 10,000 m.t. prior to the 1960's while the yield from the Southern New England fishery exceeded this level during the 1930's. The annual catch of yellowtail flounder for each area from 1935 to the present is given in Table 12. Catch data include discard estimates of small fish by domestic vessels. These are based on samples taken at sea and on interviews with vessel captains. In the past, discards have comprised as much as 1/3 of the total catch, although the percentage of discards appears much lower at present. Few, if any, yellowtail flounder are taken by marine recreational fishermen.

Table 12. Yellowtail flounder catch and effort data, 1935-1975. Catches for [illegible] west of 69°W [illegible] in metric tons.

	West of 69°W			SAS		East of 69°W		
	Domestic Catch m.t.x10-3	Domestic Days Fished	Foreign Catch m.t.x10-3	Domestic Catch m.t.x10-3	Foreign Catch m.t.x10-3	Domestic Catch m.t.x10-3	Domestic Days Fished	Foreign Catch m.t.x10-3
1935	8.9					0.4		
6	10.0					0.4		
7	11.3					0.4		
8	11.5					0.4		
9	14.1					0.5		
40	22.1					0.8		
1	28.7					1.2		
2	40.3					2.1		
3	27.0	6280				1.7	20[illegible]	
4	16.9	5140				2.2	22[illegible]	
5	16.2	3470				1.9	26[illegible]	
6	16.8	4260				1.2	23[illegible]	
7	18.4	5340				3.1	40[illegible]	
8	14.8	5610				7.7	3127	
9	8.4	4080				9.8	2452	
50	8.5	4180				5.3	1077	
1	5.0	2790				5.8	1612	
2	5.4	3200				5.0	1663	
3	4.1	2410				3.9	1243	
4	3.7	2240				3.9	1350	
5	5.1	2700				3.9	1230	
6	7.3	3950				2.1	790	
7	11.5	4060				3.1	820	
8	15.2	4770				6.1	1400	
9	13.3	5890				5.5	1975	
60	13.5	5720				5.9	2020	
1	19.4	5760				5.7	1625	
2	21.1	5050				10.3	2355	
3	32.3	6470	0.2			16.6	2420	0.1
4	31.4	5800	---	1.8		19.8	3530	---
5	28.4	7310	1.4	2.1		18.4	4680	0.[illegible]
6	25.0	9790	0.7	2.2		13.4	5710	0.[illegible]
7	25.3	8260	2.8	5.3		13.9	4130	1.[illegible]
8	26.7	7650	3.5	3.3		16.4	4650	1.[illegible]
9	19.6	11460	17.6	3.9	0.7	18.5	6710	2.[illegible]
70	21.6	6913	2.5	4.1	0.1	21.0	6275	0.[illegible]
1	14.5	4558	0.3	6.9	0.9	15.0	6142	0.[illegible]
2	11.9	5458	3.0	8.8	0.1	15.3	8099	2.[illegible]
3	9.3	4954	0.2	1.8	---	16.5	6833	0.[illegible]
4	9.3	5325	0.1	4.9	0.2	15.6	8584	1.[illegible]
5	5.5	3769	---	0.7	---	14.5	8670	0.[illegible]

II.C.1.c. Haddock

II.C.1.c.(1) Areas and Stocks Involved

Biological data and tagging studies indicate that haddock on Georges Bank east of the Great South Channel constitute a relatively localized and distinct population. This population is largely separated from stocks in ICNAF Subarea 4 by the Fundian Channel and the Gulf of Maine, although some interchange has been documented between this area and areas to the west (Grosslein, 1962). In addition, two small inshore populations appear to exist; a southern group resident to the Nantucket Shoals and Jeffreys Ledge area, and a more northerly group which spawns along the Maine coast and migrates north and as far as Passamaquoddy Bay in summertime. Movements of haddock tagged in the Nantucket Shoals and Jeffreys Ledge areas on to Georges Bank have also been documented but do not appear to be extensive. In view of the relatively small size of these coastal groups and the uncertainty relative to the interchange between these groups and the population on Georges Bank, haddock in Subarea 5 have been managed as a unit since 1940, recognizing that the bulk of the population is concentrated on Georges Bank (ICNAF Sub Division 5Ze).

II.C.1.c.(1) Statistical History of Exploitation

The decline in market for salt fish early in the century coupled with increased demand for fresh (iced) fish and technological innovations (otter trawling, and adoption of diesel engines) contributed to rapid growth of the Georges Bank (ICNAF Div. 5Z) haddock fishery during the 1920's. Landings rose steadily to a peak of 115,500 m.t. in 1929, dropped to 59,500 m.t. in 1931, and subsequently fluctuated around 47,000 m.t. annually from 1935-1960 (Hennemuth, 1969). During this period, this was almost exclusively a U.S. fishery, although small catches were taken by Canada in the 1950's. In the 1960's, however, foreign nationals (primarily the USSR and Canada) intensified their fishing effort upon this stock. Recruitment of the outstanding 1963 year-class in 1965 attracted greatly increased effort by these two countries (while U.S. effort remained relatively constant) and as a result landings from this stock rose dramatically to an all-time high of 150,000 m.t. in that year. Landings have since declined drastically and in 1969 totalled 22,100 m.t. (the final year of unrestricted fishing). Since 1970, annual landings for Division 5Z have averaged 7,100 m.t. under quota management.

Historical statistics for the New England fishery are given in table 13; landings by nation since 1960 are given in table 14. It can be seen that the USSR, Canada, and Spain have accounted for most of the catch by foreign nationals in recent years.

Recreational catches for Subarea 5 appear to have been significant only during the mid-1960's; salt water angling surveys indicated catches of 500, 9,700, 1,100, and 200 m.t. for 1960, 1965, 1970, and 1974, respectively. Almost all of the above catches were taken in Subarea 5. The bulk of the recreational catch of haddock appears to have been taken in ICNAF Division 5Y.

Table 13. Historical catch data (thousands of metric tons) for the New England haddock fishery, 1917-1959.

Year	Georges Bank (ICNAF Division 5Z)	Total[2]
1917	14.1	-[3]
1918	24.8	-[3]
1919	39.4	40.8
1920	40.6	-[3]
1921	29.7	-[3]
1922	30.8	-[3]
1923	32.9	-[3]
1924	36.9	42.4
1925	41.4	-[3]
1926	51.3	-[3]
1927	73.9	-[3]
1928	98.6	107.8
1929	115.5	116.0
1930	95.0	120.0
1931	59.5	82.1
1932	54.5	68.2
1933	42.2	72.6
1934	25.8	-[3]
1935	41.0	88.3
1936	43.4	-[3]
1937	49.4	76.9
1938	47.8	71.6
1939	54.0	71.6
1940	47.9	64.0
1941	62.9	-[3]
1942	55.4	62.3
1943	46.3	53.2
1944	49.6	60.3
1945	40.5	66.8
1946	53.7	66.8
1947	54.4	73.5
1948	48.3	70.1
1949	42.2	60.7
1950	41.3	71.6
1951	47.3	69.5
1952	43.2	73.2
1953	35.9	63.2
1954	46.4	70.3
1955	40.8	61.2
1956	48.9	69.0
1957	46.2	60.5
1958	35.5	54.2
1959	35.9	51.1

1. Source: ICNAF Res. Doc. 60/90.
2. Total New England Fisheries (including Subarea 4) as reported in Fishery Statistics of the U.S. (historical summary for 1965).
3. Not reported.

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Table 14. Commercial landings of haddock (metric tons) from Subarea 5 and Statistical Area 6 by country, 1960-1975.

Year	Country								
	Canada	Poland	Romania	Spain	UK	USSR	USA	Other[4]	Total
	Div. 5Y[2]								
1960	313	-	-	-	-	-	4,541	-	4,854
1961	99	--	-	-	-	-	5,257	-	5,356
1962	107	--	-	-	-	-	5,003	-	5,110
1963	3	--	-	-	-	44	4,742	-	4,789
1964	70	--	-	-	-	-	5,383	-	5,453
1965	219	-	-	-	-	-	4,284	-	4,503
1966	1,125	-	-	-	-	-	4,579	-	5,704
1967	809	-	-	-	-	-	4,697	-	5,506
1968	179	-	-	-	-	-	3,457	-	3,657
1969	93	-	-	230	-	-	2,423	-	2,712
1970	33	-	-	63	-	-	1,457	-	1,556
1971	85	-	-	26	-	-	1,194	1	1,306
1972	23	-	-	-	-	4	909	-	936
1973	49	-	-	-	-	-	509	-	558
1974	198	-	-	-	9	-	622	-	829
1975[4]	78	-	-	-	-	-	1,183	-	1,261
	Div. 5Z								
1960[3]	177	-	-	-	-	-	40,800[5]	-	40,877
1961[3]	183	-	-	-	-	-	46,334[5]	-	46,517
1962[3]	3,461	-	-	-	-	1,134	49,409[5]	-	54,004
1963[3]	6,379	-	-	-	-	2,317	44,150[5]	-	54,846
1964[3]	11,625	-	-	2	464	5,483	46,512	-	64,086
1965[3]	14,859	23	-	10	-	81,882	52,823	730	150,362
1966[3]	18,292	29	-	1,111	29	48,409	52,918	486	121,274
1967[3]	13,040	-	12	1,355	3	2,316	35,728	4	51,458
1968	9,262	1,145	-	2,845	-	1,308	25,157	29	39,816
1969	3,990	458	-	1,201	-	51	16,443	4	22,147
1970	1,978	15	-	782	-	98	8,400	1	11,274
1971	1,630	1	225	1,240	-	292	7,301	16	10,705
1972	609	1	14	1,098	-	126	3,666	5	5,719
1973	1,553	-	-	386	-	574	2,776	3	5,302
1974	462	-	-	764	426	97	2,396	-	4,145
1975[4]	1,353	-	-	-	-	8	3,985	-	5,346

Table 14, (Cont'd) Commercial landings of haddock (MT, live) from Subarea 5 and Statistical Area 6 by country, 1960-1975

	COUNTRY								
	Canada	Poland	Romania	Spain	UK	USSR	USA	Other[1]	Total
	(Total) Subarea 5 and Statistical Area 6								
1960[6]	490	-	-	-	-	-	45341	-	45831
1961[6]	282	-	-	-	-	-	51681	-	51963
1962[6]	3568	-	-	-	-	1134	54412	-	59114
1963[6]	6382	-	-	-	-	2361	49892	-	58635
1964[6]	11695	-	-	2	464	5483	52895	-	70539
1965[6]	15048	23	-	10	-	81882	52827	730	150520
1966	19417	29	-	1111	29	48516	57810	486	127398
1967	13628	-	12	1355	3	2316	35889	15	53218
1968	9403	1327	402	3014	-	1397	28814	33	44390
1969	4049	458	66	1431	-	65	18892	16	24977
1970	2016	15	-	845	-	103	9874	11	12864
1971	1715	1	225	1336	-	374	8508	17	12176
1972	632	1	14	1098	-	141	4779	5	6670
1973	1612	-	-	386	-	602	3289	3	5892
1974[4]	660	-	-	764	568	111	3018	-	5121
1975[4]	1431	-	-	-	-	8	5168	-	6607

1. Includes data for Bulgaria, France, FRG, GDR, Japan and non-members.
2. From ICNAF Statistical Bulletins 10-24.
3. Division 5Ze only.
4. From provisional ICNAF Statistics for 1976 (incomplete).
5. Includes Subarea 5 MK landings for USA.
6. No statistical area 6 landings data available prior to 1966.

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II.C.1.d. Significance of the Historical Domestic Fisheries*

II.C.1.d.(1) Introduction

The FMP is designed to address haddock, cod, and yellowtail flounder. However, other species are also landed by the same vessels that land the subject species. Since the available performance data relate to the groundfish fishery in general, the discussion below also relates to the entire groundfish sector, with particular reference to the subject species. Further, the bulk of the catch of these species is landed in New England ports. Therefore, the discussion below is focused essentially on the New England groundfish industry (harvesting level). The following sections discuss the industry chronologically, with particular reference to trends in the commercial harvesting sectors. The significance of the recreational fisheries is not addressed due to lack of adequate data. Assessments of the recreational fisheries will be included in future plans as the necessary studies are completed.

II.C.1.d.(2) The Industry 1950-1962

II.C.1.d.(2)(a) Overview

The New England groundfish fleet (mostly otter trawlers) is usually considered a separate segment of the entire New England fishing industry. These vessels land haddock, ocean perch, flounder, cod, whiting, pollock, hake and cusk. The groundfish fleet reached its peak of 795 vessels in 1951. By 1962 this fleet had dwindled to 592 vessels, a decline of 25.5%. During the same period, the number of fishermen employed on these vessels dropped from 5,298 to 3,189. This represented a considerable attrition of both capital and labor from one of the largest segments of the New England fishing industry. With this loss of factors of production, the groundfish catch declined from 681.3 million pounds in 1951

*Portions of this section are based on Bell (1966) and Vondruska (1972). Historical published information on the fresh fish processing sector for these species with respect to a series of performance indicators (output, employment, earnings, etc.) is very limited. Therefore, this section deals principally with the harvesting sector

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to 515.8 million pounds in 1962 - a decline of 24.3%. It should be pointed out that although the groundfish segment comprised 81.4% of the capital in the industry (using the number of vessels as a rough indicator) it employed only 14.8% of the industry's fishermen. This is due presumably to the high capital/labor ratio in groundfishing compared to lobstering and shell fishing. In addition, employment in fisheries other than groundfish is somewhat overstated since it includes more part-time workers. The movement of both capital and labor from the industry prompted investigations by the United States Tariff Commission which revealed that under the competitive pressure of increased imports of groundfish fillets, the size of the New England groundfish fleet had been reduced significantly. The Tariff Commission's recommendation to increase import duties in each case was turned down because it was felt that such an increase might lead to retaliation and thus jeopardize our relations with Canada and Iceland. Although not leading to any specific action, the Tariff Commission studies did provide a great deal of data useful in assessing the financial returns in the groundfish industry at that time. It should be pointed out that the increased imports were partially the results of the rebuilding of foreign fishing fleets under the Marshall Plan and other subsidies that were made by foreign governments to their fleets. Such benefits were not made available to the domestic fisheries.

II.C.1.d.(2)(b) Returns to the Factors of Production

From the Tariff Commission's investigations, other studies of the groundfish industry and the government sources, series on returns to capital and labor were constructed. In 1951, data from a sample of groundfish vessels revealed that profits (before taxes) per trawler in New England averaged $13,069.46. By 1953, another sample of vessels revealed that the average New England trawler was experiencing an operating loss (before taxes) which continued throughout the 1953-57 period. With this decline in vessel earnings, it is no wonder that the groundfish fleet dwindled from its peak of 795 vessels in 1951.

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In 1951, the average share (or annual earnings) per groundfishermen was 5% above those in all U.S. industry. By 1953, however, groundfishermen's earnings were 25% below those received in all U.S. industry. Table 15 indicates the slow but steady deterioration of the earnings position of both capital and labor in the groundfish segment of the New England industry during this period.

II.C.1.d.(2)(c) Prices, Productivity, and Costs

Although New England groundfish prices fluctuated from year to year, during the 1952-60 period they exhibited no pronounced secular trend over the postwar period. Because of the withdrawal of factors or production, the decline in groundfish landings would lead (cet. par.) to higher ex-vessel prices (i.e, prices received by fishermen for their landed catch). However, the industry would experience lower total revenue since the demand curve for most groundfish species is highly elastic at the primary market level.[a] This highly elastic nature of the demand curve is due to the existence of foreign substitutes and competing products such as meat and poultry. On the other hand, increases in consumer demand (i.e. expansion in population, etc.) will result in a shift in the demand curve, a rise in ex-vessel prices, and consequently total revenue. Even though U.S. population or consumer demand expanded rapidly in the postwar period there was no secular increase in ex-vessel prices as foreign imports supplied an increasing share of the market for groundfish. In fact, both revenue and output in the New England groundfish industry declined by the same percentage over the 1951-62 period, thereby resulting in constant prices during that decade. It may be concluded that the secularly constant New Engand ex-vessel price was partially produced by the increased pressure of foreign imports even though consumer demand increased and domestic landings fell.

[a]Bell estimated that elasticity for haddock, cod, and yellowtail to be -3.22, -3.30, and -2.283, respectively.

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The groundfish industry had apparently experienced some technological advance which raised labor productivity (hence money wages). The data revealed that output and revenue declined by 24% while employment dropped 40% over the 1951-62 period. However, fishermen's wages failed to keep pace with the rest of the economy and this deterioration resulted in an attrition of labor from the industry. Figure 4 shows the course of groundfish output per fisherman on an annual basis over the 1950-62 period. From 1950-53 labor productivity actually declined and did not re-establish its 1950 level until 1955. The slow growth of labor productivity is certainly not surprising since groundfish vessels and their equipment had not changed greatly over the postwar period. The side trawling fishing technique has been used for years in the industry.

Figure 5 shows the change in labor productivity, average ex-vessel prices for groundfish and fishermen's money wages. Upward movements in labor productivity seem to have produced a rising wage in the fishing industry. However, labor left the fishing industry due to the steadily deteriorating relative wage levels and because of the flight of capital (or decline in the fleet).

Profits in the groundfish industry were greatly influenced by rising fixed costs. Landings per vessel (or firm) changed little over the postwar period. Over the 1951-62 period, the number of groundfish vessels and pounds landed decreased by approximately the same percentage. As indicated before, ex-vessel prices failed to increase; therefore, revenue per vessel did not

Table 15

Returns to Capital and Labor in New England Groundfishing

	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962
Capital:													
Vessels (number)	672	795	[illegible]	775	[illegible]	666	675	649	657	679	663	587	592
Average Profit per Vessel[1] (in dollars before taxes)	+5,000	+13,069	+ 4,603	- 1,706	- 2,288	- 2,631	- 3,523	- 8,300	n.a.	n.a.	n.a.	n.a.	n.a.
Labor:													
Fishermen (number)	4,512	5,198	4,732	4,716	4,361	[illegible]	3,995	3,639	3,658	3,557	3,478	3,163	3,179
Average Share per Fisherman (in dollars)	3,161	[illegible]	3,142	2,941	2,765	2,840	3,042	3,376	3,875	3,772	3,137	3,378	3,868
Crew Per Vessel	6.71	[illegible]	6.15	6.07	[illegible]	[illegible]	5.77	5.6?	5.57	6.01	5.42	5.55	5.39
Average Annual Earnings per Employee in United States[2]	3,078	3,231	3,416	3,388	3,670	3,867	4,052	4,231	4,346	4,520	4,712	4,837	5,016
Ratio of Fishermen's Earnings to Annual Earnings per Employee in United States	1.03	[illegible]	[illegible]	0.71	0.75	0.73	0.7?	0.67	0.??	0.83	[illegible]	0.73	0.7?

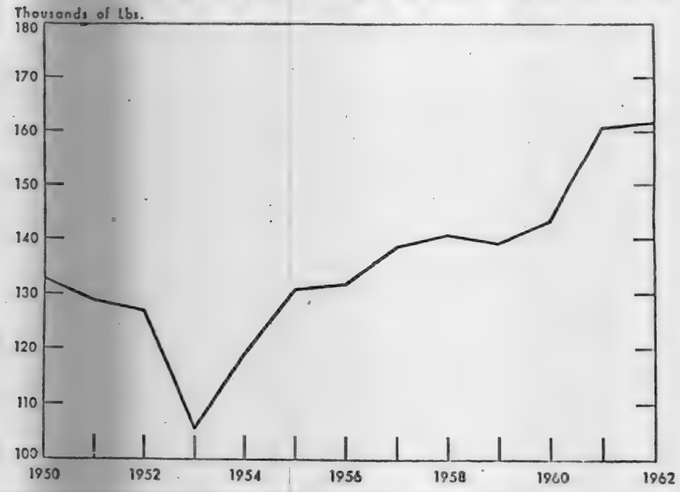
Sources:

[1]1950-56: U. S. Tariff Commission, Groundfish Fillets (1956 and 1955): Report to the President on Escape Clause Investigation No. 25, 47. 1957-58: E. J. Lynch, R. M. Doherty, and G. P. Draheim, The Groundfish Industries of New England and Canada, (U. S. Fish and Wildlife Service, Circular 121, Washington, D. C., 1961).

[2]U. S. Department of Commerce, Survey of Current Business, 1950-62.

Figure 4

GROUNDFISH OUTPUT PER FISHERMAN IN NEW ENGLAND, 1950 – 1962

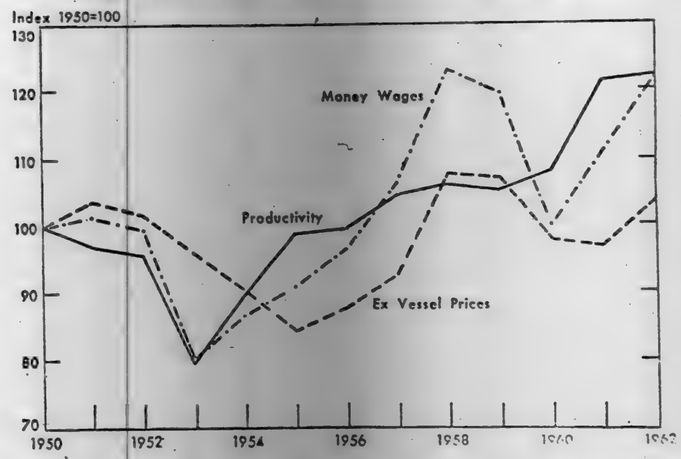


Source: Fishery Statistics of the United States and special report by the Bureau of Commercial Fisheries.

increase from 1951-62. On the other hand, such fixed costs as repair and maintenance, insurance, and administrative expenses increased over this period. A rough fixed cost index was constructed from these components. Results show that the index increased from more rapidly than value of the landings per vessel (or firm) (Figure 6). As a result, returns on capital declined as did new investment in the industry.

Figure 5

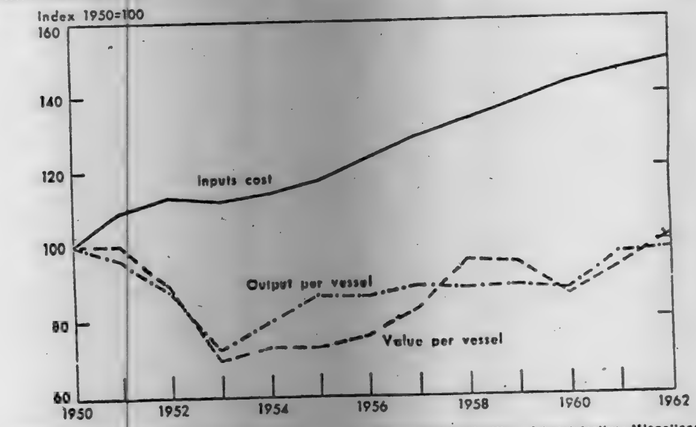
AVERAGE EX VESSEL PRICES, LABOR PRODUCTIVIVITY, AND MONEY WAGES IN THE NEW ENGLAND GROUNDFISH INDUSTRY, 1950–1962



Source: Fishery Statistics of the United States and special report from the Bureau of Commercial Fisheries.

Figure 6

LANDINGS AND REVENUE PER VESSEL AND COST INDEX OF INSURANCE, REPAIR, AND MAINTERANCE IN THE NEW ENGLAND GROUNDFISH INDUSTRY, 1950 – 1962



Source: (i) Cost Index - Shipbuilding, Construction and Repair—U.S. Maritime Administration; Miscellaneous Textile Products-Fish Gear—Bureau of Labor Statistics; Insurance and Administration Expense—Prices and Costs in American Industries, C.E.D. Publication; (ii) Output and Value Indices—Fishery Statistics of the United States.

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The basic conclusion is that ex-vessel prices were an important factor in the postwar decline of groundfishing in New England. The secular constancy of ex-vessel prices resulted partly from an increasing supply of foreign imports which offset rising demand for groundfish products. The secularly constant ex-vessel prices coupled with rising costs for repair, insurance and maintenance produced a pressure on profits as revenue per vessel remained the same throughout the period. The adverse profit position created disinvestment (a decline in the fleet). Money wages in groundfishing increased slowly, presumably due to rising labor productivity. The deterioration of relative wages and the attrition of capital resulted in a contraction in employment. Again the increase in imports was partially the results of subsidies being made available to foreign vessels that were not made available to U.S. fishermen.

II.C.1.d.(2)(d) Selected Data for Haddock, Cod and Yellowtail Flounder, 1950-62

Haddock

Table 16 contains data on total U.S. Haddock landings in thousands of pounds and thousands of dollars for the 1950-62 period. Tables 17 and 18 contain data on New England landings of haddock for selected years during the 1952-62 period. Clearly, New England landings constitute essentially all of the U.S. haddock landings, and Massachusetts landings account for almost all of the New England landings. While landings declined during the 1950's, there was an upturn during the early 1960's. The actual value of the haddock landings in 1962 was essentially the same as in the

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Table 16. U. S. Landings and Ex-Vessel Value of Haddock 1950 - 1962

	Haddock	
	Quantity	Value
	Thousand pounds	Thousand dollars
1950	[illegible]	[illegible]
1951	[illegible]	[illegible]
1952	[illegible]	[illegible]
1953	[illegible]	[illegible]
1954	[illegible]	10,0[illegible]
1955	[illegible]	[illegible]
1956	152,246	9,587
1957	[illegible]	[illegible]
1958	[illegible]	[illegible]
1959	[illegible]	[illegible]
1960	[illegible]	[illegible]
1961	[illegible]	[illegible]
1962	134,250	10,913

Table 17 --New England haddock landings.

Year	Maine	New Hampshire	Massachusetts	Rhode Island	Connecticut
	- - - - - - - -	Thousands of Pounds	- - - - - - - -		
1950	7,442	1	150,025	242	54
1955	4,566	--	130,093	320	50
1960	3,834	20	114,643	98	20
1961	2,940	35	130,478	64	19
1962	2,545	30	131,558	29	7

Table 18 --Value of New England haddock landings.

Year	Maine	New Hampshire	Massachusetts	Rhode Island	Connecticut
	- - - - - - - -	Thousands of Dollars	- - - - - - - -		
1950	524	nil	11,228	15	4
1955	276	--	7,805	17	2
1960	290	2	9,091	7	1
1961	227	3	9,666	4	1
1962	196	3	10,701	2	1

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early 1950's Thus, the deflated value (while not presented here) was less in 1962 than in the early 1950's.

Yellowtail

Table 19 contains data on U.S. landings of yellowtail flounder during the 1950-62 period. Landings during this period more than doubled between 1950 and 1962. Massachusetts again was the dominant state for yellowtail landings. Within Massachusetts, New Bedford was the dominant port.

Cod

Table 20 contains data on U.S. landings of cod in thousands of pounds and thousands of dollars. Table 21 contains data on cod landings by state in New England. Again, New England accounted for essentially all of the U.S. landings and Massachusetts accounted for essentially all of New England landings. Cod landings declined by 30% between 1950 and 1960, however, there was some increase during the 1961 and 1962. Here too, with the actual value of the catch in 1962 and 1952 being equal, the value in real terms had declined.

Prices

Table 22 presents the actual ex-vessel prices for cod, haddock, and flounders during the 1950-62 period in Massachusetts. As stated previously, prices for all groundfish were essentially constant despite the decline in landings and increases in consumer demand (yellowtail landings increased, however, during this period). These data reflect the overall trend. The role of foreign supply and its impact on prices was discussed previously.

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Table 19. Annual U.S. Landings of Yellowtail Flounder in New England States, New York & New Jersey; 1938-1971

(in 000 pounds)

Year	Maine	Mass.	R. I.	Conn.	Total New England	New York & New Jersey	Total
1950	145	21399	1029	302	22875	1241	[illegible]
1951	82	16735	723	100	17640	774	[illegible]
1952	55	15306	1334	49	16744	234	[illegible]
1953	58	12627	1014	24	13723	50	[illegible]
1954	24	10972	1621	30	12707	56	[illegible]
1955	30	12661	1448	60	14199	174	[illegible]
1956	52	11756	2444	161	14413	230	[illegible]
1957	41	19910	2230	91	22272	179	[illegible]
1958	64	29519	2984	226	32793	532	[illegible]
1959	113	25932	3022	139	29196	615	[illegible]
1960	65	27701	2110	160	30036	1171	[illegible]
1961	34	34667	2337	107	37146	2082	[illegible]
1962	17	50835	5730	29	56661	3929	[illegible]

Table 20. U. S. Landings and Ex-Value of Cod 1950-1962

Year	Cod	
	Quantity	Value
	Thousand pounds	Thousand dollars
1950	57,490	3,623
1951	50,023	3,635
1952	43,686	3,138
1953	37,660	2,206
1954	36,824	2,183
1955	35,582	2,156
1956	35,127	2,225
1957	34,068	2,178
1958	41,362	3,042
1959	46,481	3,312
1960	40,382	2,696
1961	46,592	2,993
1962	46,910	3,294

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Table 21. New England Landings of Cod, 1950-1962

(THOUSANDS OF POUNDS)

YEAR	MAINE	NEW HAMPSHIRE	MASSACHUSETTS	RHODE ISLAND	CONNECTICUT	TOTAL
1950	6,613	4	45,860	1,227	216	[illegible]
1951	5,293	12	40,711	1,161	302	47,479
1952	4,614	16	39,679	673	[illegible]	[illegible]
1953	3,768	-	27,445	637	[illegible]	[illegible]
1954	[illegible]	-	26,[illegible]	1,220	[illegible]	[illegible]
1955	2,153	-	23,176	794	[illegible]	[illegible]
1956	2,746	-	29,127	733	154	[illegible]
1957	2,312	-	[illegible]	649	[illegible]	[illegible]
1958	2,735	-	[illegible]	1,247	[illegible]	[illegible]
1959	2,694	-	36,576	1,246	[illegible]	[illegible]
1960	2,657	20	31,266	692	250	35,285
1961	2,507	30	38,166	1,046	400	42,169
1962	2,260	80	40,647	199	290	43,946

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Table 22 Actual Ex-vessel Price Data for Cod, Haddock and Flounder (¢/lb.)

MASSACHUSETTS

Year	Cod	Haddock	Flounder*
1950	6.2	7.5	11.1
1951	7.0	7.7	13.6
1952	7.2	7.6	13.6
1953	6.7	7.5	12.4
1954	5.9	6.4	12.0
1955	5.8	6.0	12.6
1956	6.1	6.3	12.8
1957	6.0	7.3	13.0
1958	7.5	9.8	11.8
1959	7.0	9.7	12.8
1960	6.5	7.9	12.2
1961	6.2	7.4	10.6
1962	6.8	8.2	9.7

Source: Prices Received by Fishermen, 1939-1974, Current Fishery Statistics, No. 6600, 1975

*These are the prices for all flounder

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II.C.1.d.(3) The Industry During the Early 1960's-70's with Massachusetts

II.C.1.d.(3)(a) Overview

Declines continued to occur in the New England landings of several major fish species between 1960 and 1971, namely: herring, ocean perch, sea scallops, haddock, and whiting.

Despite the decline in landings, the total number of fishermen in New England was virtually the same in 1960 and 1970, although the number of fishermen on vessels followed a downward trend, from 5,927 in 1950 to 3,236 in 1970 (table 23).

Data is not available to determine the alternative occupations that fishermen entered upon leaving the fisheries, their earnings, unemployment rates, etc. Such information needs to be developed in the future.

The New England fishing fleet declined by 56 vessels, 1960-70. At least 92 vessels were added to the fleet and at least 125 were lost at sea. Scrapping, retirement, and shifts to other regions or to nonfishing activities account for other parts of the decline.

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Table 23—New England Fishermen and Fishing Craft, 1950-70.

	Fishermen				Motor Vessels		Boats 2/	
	On	On boats and shore						
Year	Vessels	Regular	Casual	Total	Number	Gross Tonnage 1/	Motor	Other
1950	5,927	8,724	8,783	23,434	665	28,827	8,659	4,766
1951	6,100	7,886	9,653	23,639	678	29,563	8,792	4,249
1952	6,124	7,484	9,889	23,497	715	30,957	9,052	3,717
1953	7,081	7,777	11,614	26,382	1,071	36,748	10,491	2,938
1954	5,344	6,032	9,772	21,348	865	30,138	11,711	2,305
1955	5,226	7,267	10,673	22,366	866	38,661	11,846	1,676
1956	5,151	7,924	8,322	21,376	831	28,850	[illegible]	1,375
1957	[illegible]	7,551	6,623	[illegible]	799	[illegible]	[illegible]	828
1958	4,517	7,112	10,165	21,789	773	26,473	[illegible]	921
1959	4,501	7,204	9,346	21,051	758	36,282	10,763	674
1960	4,349	7,510	10,341	22,200	742	44,814	11,276	572
1961	4,231	7,044	10,462	21,737	738	44,242	11,155	709
1962	4,169	6,640	10,727	21,536	727	45,476	10,434	699
1963	4,202	5,766	11,440	21,428	733	47,582	10,570	676
1964	4,058	5,599	10,537	20,194	721	47,084	10,128	465
1965	3,952	5,399	10,084	19,435	703	46,829	10,432	485
1966	3,874	5,057	9,587	18,518	704	46,416	9,333	344
1967	3,847	4,919	9,279	18,043	714	44,350	9,224	354
1968	3,689	5,164	9,327	18,180	695	44,433	9,423	297
1969	3,537	5,501	10,911	19,949	695	46,655	10,349	281
1970	3,236	6,985	12,097	22,318	696	43,798	11,723	252

1/Net tonnage, 1950-59.
2/Excludes accessory boats.

Source: BCF (now NMFS) Fishery Statistics of the U.S., annual editions, and NMFS Statistics and Market News Division.

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Massachusetts fish otter trawling operations account for about 50-60% of the number of New England vessel fishermen, vessels and vessel tons, and largely explain declines in the numbers. Haddock was the leading species caught by Massachusetts otter trawl fishermen, and haddock landings declined from 114 million pounds, valued at $9 million in 1960 to 35 million pounds in 1970, valued at $6 million. The deflated average ex-vessel price of Massachusetts otter trawl landings of haddock increased from 8.9 cents to 19.4 cents per pound between 1960 and 1970.

Despite the decline in fishermen and vessels, the deflated value of catch was higher in 1970 than in 1960, although not as high as in 1965. Also, the average tonnage of vessels increased, and the total tonnage decreased far less than is suggested by the decline in vessel numbers, comparing 1960 and 1970.

Expressed in 1967 dollars, the value of output per full-time equivalent fisherman was $12,413 in 1970, compared to $9,894 in 1960, but below that in 1965.

Data presented in Table 24 are for all Massachusetts fish otter trawlers and do not reveal the species emphasized by vessels operating out of different ports. Boston vessels have emphasized cod and haddock landings; New Bedford, flounder, especially yellowtail; and Gloucester, whiting and haddock. The weight of landings of these species declined since 1960, but ex-vessel prices increased. Among these species, foreign landings surpassed U.S. landings in 1965-66 for haddock in ICNAF Subarea 5. Canada, U.S.S.R. and Spain were the leading countries besides the United States. A similar story applies to cod. For yellowtail flounder, however, the United States has been the leading harvests in all years, with substantial secondary harvests by U.S.S.R. vessels only in 1968.

Table 24.--Massachusetts fish otter trawl vessel and boat fishery.

	1960	1965	1970
Catch quantity, pounds			
haddock	112,440,000	128,568,600	23,517,500
other catch	283,962,400	203,682,100	203,892,600
total	396,402,400	332,250,700	227,410,100
Catch value, current dollars			
haddock	8,875,945	13,007,680	5,317,995
other catch	14,126,945	16,743,674	22,124,996
total	23,002,888	29,751,354	27,442,991
Fishermen			
on vessels	2,609	2,486	1,887
on boats & shore			
regular	12	-	14
casual	-	7	-
total	2,621	2,493	1,901
Vessels			
number	422	399	343
tonnage	28,664	30,556	26,666
average tonnage	68	77	78
Boats, motor	7	6	7
Gear (trawls)	429	405	350
Productivity (pounds)			
catch per man	151,341	157,522	119,627
catch per craft	924,015	968,273	649,744
catch per trawl	924,013	968,273	649,744
Deflated value of catch, dollars			
per man	9,894	12,646	12,413
per craft	60,451	77,736	67,418

Source: Fishery Statistics of the U.S., annual editions, and NMFS Statistics and Market News Division.

Note: Catch and deflated value of catch per man are for full-time fisherman equivalents (the sum of vessel fisherman, regular boat and shore fisherman, and one-half casual boat and shore fisherman).

II.C.1.d.(3)(b) Vessel Earnings

Table 25 contains data on the vessel earnings in the Boston fleet during the mid-1960's and Table 26 presents data on the New Bedford vessel earnings during the mid-1960's. For both ports, the net return on sales was extremely low, and even negative for the New Bedford vessels in 1967. However, this represented a considerable improvement as compared to the performance during the 1950's. The performance of the Boston based vessels was considerably better than the New Bedford vessels in terms of net return (although the years are not exactly comparable). In general, the Boston vessels were larger, spent more days at sea, had larger crews, and had greater landings.

II.C.1.d.(3)(c) Fisherman's Earnings

Tables 27 and 28 presents data on fishermen's earnings during the mid-1960's in Boston and New Bedford. In both ports, earnings of the fishermen were above the real wage in Massachusetts manufacturing. Again this was a considerable improvement over the 1950's performance.

Table 46.—Average costs and earnings of Boston large trawlers, 1964-66

Item	Unit	1964	1965	1966
Vessels	Number	23	23	15
Length of vessels	Feet	100	103	111
Trips	Number	212	181	144.6
Average length of trip	Days	9.3	9.1	10.0
Crew size	Number	15.7	15.7	16.3
Man days at sea	Days	253	238	258
Landings	Pounds	2,524,000	2,348,000	2,556,000
Average price	Cents per pound	9.5	10.8	11.5
Gross receipts	Dollars	239,854	253,279	294,502
Trip expenditures				
Food	do	14,668	13,897	15,717
Fuel & lube	do	21,241	19,653	22,939
Ice & icing	do	6,192	6,109	6,527
Other	do	9,352	8,810	8,245
Subtotal	do	51,500	48,979	53,728
Repair & maintenance				
Gear	do	13,965	13,965	14,653
Hull & engine	do	17,518	17,518	18,100
Subtotal	do	31,483	31,483	32,753
Fixed charges				
Interest	do	—	—	—
Insurance	do	15,403	15,403	16,351
Taxes (employer)	do	7,446	7,446	7,804
Administrative	do	8,915	8,915	9,281
Subtotal	do	31,764	31,764	33,439
TOTAL CASH EXPENDITURES	do	114,747	112,226	119,920
Share to labor & capital				
Wages	do	100,329	111,180	130,466
Captain's commission	do	9,100	9,624	11,240
Owner's share (before depreciation)	do	15,708	20,249	32,876
TOTAL SHARE EXPENDITURE	do	125,137	141,053	174,582
Depreciation	do	11,354	11,364	12,280
Net return before taxes	do	4,344	8,885	20,596

Table 46.—Average costs and earnings of New Bedford trawlers, 1967-68

Item	Unit	1967	1968
Vessels	Number	31	33
Length of vessels	Feet	69.3	69.7
Trips	Number	253.7	240.0
Average length of trip	Days	8.2	9.2
Crew size	Number	5.8	5.9
Man days at sea	Days	211	221
Landings	Pounds	710,843	816,411
Average price	Cents per pound	12.69	12.67
Gross receipts	Dollars (00)	90,206	103,233
Trip expenditures			
Food	do	5,582	5,952
Fuel & lube	do	7,441	7,610
Ice & icing	do	2,875	3,121
Other	do	3,018	3,223
Subtotal	do	16,916	18,399
Repair & maintenance			
Gear	do	4,077	4,169
Hull & engine	do	8,595	8,122
Subtotal	do	12,672	12,291
Fixed charges			
Interest	do	1,213	1,312
Insurance	do	3,369	4,811
Taxes (employer)	do	3,607	3,977
Administrative	do	3,071	3,133
Subtotal	do	11,260	13,333
TOTAL CASH EXPENDITURES	do	40,848	44,223
Share to labor & capital			
Wages	do	44,901	52,252
Captain's commission	do	2,889	3,434
Owner's share (before depreciation)	do	1,568	5,214
TOTAL SHARE EXPENDITURES	do	49,358	60,900
Depreciation	do	4,637	4,834
Net return before taxes	do	(-3,069)	385

Table 46.—Average costs and earnings of Boston large trawlers, 1964-66

Item	Unit	1964	1965	1966
Vessels	Number	23	23	15
Length of vessels	Feet	100	103	111
Trips	Number	212	181	144.6
Average length of trip	Days	9.3	9.1	10.0
Crew size	Number	15.7	15.7	16.3
Man days at sea	Days	253	238	258
Landings	Pounds	2,524,000	2,348,000	2,556,000
Average price	Cents per pound	9.5	10.8	11.5
Gross receipts	Dollars (00)	239,854	253,279	294,502
Trip expenditures				
Food	do	14,668	13,897	15,717
Fuel & lube	do	21,241	19,653	22,939
Ice & icing	do	6,192	6,109	6,527
Other	do	9,352	8,810	8,245
Subtotal	do	51,500	48,979	53,728
Repair & maintenance				
Gear	do	13,965	13,965	14,653
Hull & engine	do	17,518	17,518	18,100
Subtotal	do	31,483	31,483	32,753
Fixed charges				
Interest	do	—	—	—
Insurance	do	15,403	15,403	16,351
Taxes (employer)	do	7,446	7,446	7,804
Administrative	do	8,915	8,915	9,281
Subtotal	do	31,764	31,764	33,439
TOTAL CASH EXPENDITURES	do	114,747	112,226	119,920
Share to labor & capital				
Wages	do	100,329	111,180	130,466
Captain's commission	do	9,100	9,624	11,240
Owner's share (before depreciation)	do	15,708	20,249	32,876
TOTAL SHARE EXPENDITURES	do	125,137	141,053	174,582
Depreciation	do	11,354	11,364	12,280
Net return before taxes	do	4,344	8,885	20,596

Table 47.—Earnings of fishermen in the Boston trawler fleet, 1964-66

Item	1964	1965	1966
Vessels	23	23	15
Average crew size	15.7	15.7	16.3
Gross receipts per vessel	239,854	253,279	294,502
Share to labor per vessel	109,429	120,604	141,706
Average share per man	6,970	7,694	8,694
Food expenditures per man	934	885	964
Average share per man including food	7,904	8,579	9,658
Real average share per man including food1/	8,508	9,078	9,936
Wage in Massachusetts manufacturing	5,741	5,913	6,235
Real wage in Massachusetts manufacturing1/	6,180	6,257	6,415

1/ Divided by consumer price index, 1967=100.

II.C.1.d.(3)(d) Catch and Price Trends by Species

Haddock

Tables 29 and 30 show the weight and value of haddock landings during the 1963-1970 period. A drastic decline in haddock landings occurred during the period with the 1970 catch being only about 20% of the 1963 catch. The value of the haddock landings also declined to about 50% of the 1963 level.

Yellowtail

Tables 31 and 32 contain data on the weight and value of yellowtail flounder landings. The decline in the catches of this species was not nearly as severe as the decline in the haddock catch during the 1963-1970 period. The drastic decline in yellowtail flounder landings occured during the 1970's. Yet, the smaller catch had a greater value than in 1963.

Cod

Table 33 presents data on the weight and value of cod landings during the 1963-71 period. Overall, cod landings increased both in weight and value during this period.

Table 34/ --Earnings of fishermen in the New Bedford otterboat fleet, 1967-68

Item	1967	1968
	Number	
Vessels	31	33
Average crew size	5.8	5.9
	Dollars	
Gross receipts per vessel	90,206	105,223
Share to labor per vessel	47,790	55,686
Average share per man	8,240	9,438
Food expenditures per man	892	2,009
Average share per man including food	9,202	10,447
Real average share per man including food/	9,202	10,026
Wage in Massachusetts manufacturing	6,314	6,944
Real wage in Massachusetts manufacturing/	6,314	6,661

1/ Divided by consumer price index, 1967=100.

Table 29. --New England haddock landings.

Year	Maine	New Hampshire	Massachusetts	Rhode Island	Connecticut	Total
	Thousands of Pounds					
1963	2,877	40	120,940	21	3	123,881
1964	2,948	55	130,373	68	6	133,450
1965	1,881	60	131,863	74	--	133,878
1966	1,773	55	130,182	252	2	132,264
1967	2,351	64	95,840	187	--	98,442
1968	1,790	12	68,478	348	--	70,628
1969	903	9	44,421	396	--	45,909
1970	1,013	7	25,308	553	--	26,881
1971						

Source: Fishery Statistics of the U.S., annual editions. BCF (now NMFS).

Table 30 --Value of New England haddock landings.

Year	Maine	New Hampshire	Massachusetts	Rhode Island	Connecticut	Total
	Thousands of Dollars					
1963	245	4	11,444	2	nil	11,695
1964	260	6	11,568	5	nil	11,839
1965	184	7	13,430	7	--	13,628
1966	174	7	13,735	24	nil	13,940
1967	215	6	10,055	16	--	11,092
1968	190	2	9,021	37	--	9,250
1969	139	2	7,561	61	--	7,763
1970	184	2	5,745	113	--	6,044
1971						

Source: Fishery Statistics of the U.S., annual editions. BCF (now NMFS)

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Table 31.--New England Yellowtail Flounder Landings.

Year	Maine	New Hampshire	Massachusetts	Rhode Island	Connecticut	Total
			Thousands of Pounds			
1963	-		68,875	8,998	136	78,009
1964	5		70,974	8,249	49	79,277
1965	7	n.a.	70,920	5,602	38	76,567
1966	22		57,471	5,885	53	63,401
1967	78		46,449	5,791	67	52,387
1968	13		57,761	6,533	81	64,388
1969	76	5	56,282	8,375	65	64,807
1970	155	48	57,462	8,925	747	67,337
1971						54,274

Source: Fishery Statistics of the U.S., annual editions. BCF (now NMFS).

Table 32.--Value of New England Yellowtail Flounder Landings.

Year	Maine	New Hampshire	Massachusetts	Rhode Island	Connecticut	Total
			Thousands of Dollars			
1963	-		4,576	472	7	5,055
1964	1		4,879	471	3	5,353
1965	1	n.a.	6,716	412	3	7,133
1966	2		7,157	607	5	7,771
1967	6		4,961	407	6	5,380
1968	1		5,999	574	3	6,577
1969	8	1	7,501	954	8	8,552
1970	13	5	8,659	1,115	93	9,885
1971						8,403

Source: Fishery Statistics of the U.S., annual editions. BCF (now NMFS).

U.S. Ex-Vessel Prices, 1963-71

Table 34 presents data on prices during the 1963 to 1971 period. As can be seen, the decline in landings for haddock and yellowtail coupled with increasing consumer demand during this period led to almost tripling the price of haddock and a doubling the price of yellowtail. The price of cod also increased, in spite of increased supplies, clearly, the demand situation for cod improved during the period.

[illegible] Summary

While the number of vessels and fishermen continued to decline during the 1960's, the average profit and the average real earnings of the vessels and fishermen that remained in the fishery improved in the mid-1960's compared to mid-1950's. The productivity of those vessels was higher in 1965 than in 1960 but declined by 1970. In spite of increasing imports throughout the decade, the ex-vessel prices of the principal groundfish species (haddock, cod, and yellowtail flounder) increased considerably, reflecting apparent increases in demand (and also domestic supply conditions). By 1970, the production of the remaining vessels and crew decreased, but the rising prices resulted in increases in the real value of the catch per vessel and per fisherman. No information on the net revenue of the vessels in 1970 is available. No information on the success of those fishermen who left the fishery for alternative occupations is available either.

Finally, while haddock landings underwent a tremendous decline during the 1960's, the decline in yellowtail flounder landings was moderate; cod landings even increased.

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Table 33 . U.S. Landings of Cod during the 1963-1971 Period

Year	Maine (1,000 lbs)	Massachusetts (1,000 lbs)
1963	3,106	42,177
1964	2,669	38,746
1965	2,877	36,043
1966	3,196	37,756
1967	3,573	44,400
1968	3,463	49,211
1969	4,838	57,593
1970	5,742	53,225
1971	6,345	52,824

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Table 34. Ex-vessel Prices for Cod, Haddock and Flounders in Massachusetts (¢/lb)

Year	Cod	Haddock	Flounders*
1963	7.1	9.5	8.4
1964	7.6	8.9	8.0
1965	8.0	8.9	9.5
1966	9.0	9.2	12.7
1967	8.2	11.3	11.5
1968	7.3	13.2	11.4
1969	8.6	17.0	13.7
1970	11.2	22.7	15.3
1971	12.4	26.1	16.7

*This is for all flounders

II.C.1.d.(4) Recent Trends--1971-75

II.C.1.d.(4)(a) Overview

The decline in the number of vessels and fishermen in the New England groundfish fishery continued during the 1971-1975 period. In Massachusetts, the number of otter trawls (vessels) declined 8% from 343 in 1970 to 315 in 1975 (Table 35). The number of fishermen on these vessels declined by 19% from 1887 to 1533.

Total landings of all fish species by these vessels declined by 24% from 227 to 172 million pounds. However the prices of the principal species increased considerably during the period. The ex-vessel value of this reduced level of landings was approximately $43 million in 1975 compared to $27 million in 1970, an increase of about 60%.

While the productivity of the remaining units declined, the increase in prices resulted in the deflated value of the catch per fisherman increasing by 39% and the deflated value of the catch per vessel increasing by 20% compared to 1970. Regretably there are no data available to determine the performance of these units in terms of profits, return on sales, return on assets, fishermen's real earnings, etc.

Table 35. Massachusetts fish otter trawl vessel and boat fishery(1).

Catch quantity, pounds	
haddock	14,219,600
other catch	158,256,400
total	172,476,000
Catch value, current dollars	
haddock	4,591,267
other catch	37,732,808
total	42,324,075
Fishermen	
on vessels	1,533
on boats & shore	
regular	32
casual	--
total	1,565
Vessels	
numbers	315
tonnage	23,395
average tonnage	74
Boats, motor	17
Gear (trawls)	322
Productivity (pounds)	
catch per man	110,208
catch per craft	519,506
catch per trawl	519,506
Deflated value of catch, dollars	
per man	17,214
per craft	81,146

Source: NMFS Statistics and Market News Division

Note: Catch and deflated value of catch per man are for full-time fishermen equivalents (the sum of vessel fisherman, regular boat and shore fishermen, and one-half casual boat and shore fisherman).

II.C.1.d.(4)(b) Catch and Price Trends by Species

Haddock

Haddock landings in New England continued to decline from 21 million pounds worth $5.6 million in 1971 to 8 million pounds worth $3.0 million in 1974 (Table 36). However, New England landings in 1975 increased to 16.2 million pounds valued at $5.3 million. Catch restrictions on haddock were in place during most of this period due to the condition of the haddock stocks.

Cod

Landings of cod in New England remained above the 50 million pound mark during most of the period (Table 37). By 1975 the value of the cod catch was approximately 2 1/2 times greater than the value of the haddock catch.

Table 36 New England haddock landings

	MAINE		NEW HAMPSHIRE		MASSACHUSETTS		RHODE ISLAND		CONNECTICUT		TOTAL	
	1000 lbs	$1000	1000 lbs	$1000	1000 lbs	$1000	1000 lbs	$1000	1000 lbs	$1000	1000 lbs	$1000
1971	321	180	19	5	20,345	5,324	358	98	-	-	21,543	5,607
1972	491	165	15	8	10,931	4,018	314	112	-	-	11,751	4,303
1973	352	124	10	10	7,707	2,940	231	85	-	-	8,308	3,159
1974	229	87	40	15	7,684	2,838	272	83	-	-	8,225	3,023
1975	776	276	50	16	14,728	4,832	656	174	-	-	16,210	5,298

Table 37 New England cod landings

	MAINE		NEW HAMPSHIRE		MASSACHUSETTS		RHODE ISLAND		CONNECTICUT		TOTAL	
	1000 lbs	$1000	1000 lbs	$1000	1000 lbs	$1000	1000 lbs	$1000	1000 lbs	$1000	1000 lbs	$1000
1971	4,379	335	201	30	46,554	5,729	2,309	296	180	23	53,623	6,413
1973	4,432	437	254	40	39,226	6,947	2,396	461	35	7	46,343	7,872
1973	4,035	498	472	85	42,411	7,847	2,976	491	106	18	50,000	8,939
1974	4,003	542			49,582	9,690	3,245	655			(56,830)	(10,887)
1975	5,596	911			46,385	11,188	1,889	475			(53,870)	(12,574)

Yellowtail Flounder

During the 1971 to 1975 period, yellowtail landings peaked at 54 million pounds in 1972 (Table 35). By 1975, they had declined to about 16½ to 42 million pounds. A significant price increase resulted in the value of this reduced catch being worth about $14.7 million, the most for the entire period and was the largest value for any flatfish in New England.

While the data in Tables 36, 37, and 38 are for all catching methods and the data in Table 35 are for otter trawls alone, it is clear that cod, haddock and yellowtail flounder constitute the resource base for the groundfish fleet. In 1972 for example, the value of the catch of these three species alone comprised about two-thirds of the total value of the catch for Massachusetts otter trawls. In 1973, these species accounted for approximately 60% of the total value of the Massachusetts otter trawl catch.

Fish Processing*

The domestic landings of groundfish are generally processed by the fresh fish processing sector. By and large frozen fish processors rely on imports for their fish material.

The methods, equipment, and labor used for processing fresh fish are totally different from those used for frozen fish. Fresh fish processing plants are usually small, family-run businesses while frozen fish processing plants are bigger and more automated. The variety in size and shape of fresh fish limits automation as each fish requires different cutting and handling. Frozen fish blocks are uniform as are their products, sticks and portions, so they may be processed by repetitive, automated methods.

New England Fish Processing*

Fish processing, especially in Massachusetts is an active industry. Besides the traditional processors of fresh fish, New England has seen a growing number of ready-to-cook food processors.

The production of sticks and portions has been growing continuously with a recent slight reduction in fish stick production, but continued growth in the somewhat more popular fish portions.

Fresh processors have been sustained in recent years by the growing imports of fresh fish. Although many of the processors only repackage imported fillets, imports have allowed them to maintain their markets under fluctuating and diminishing domestic landings. Unfortunately, this has resulted in gradually decreasing fresh processing employment.

It can be seen in Table 38A that Massachusetts is by far the leader in New England fish processing. New Bedford's processing of fresh yellowtail and scallops, Boston's processing of haddock, and Gloucester's processing of ocean perch have each led the nation. The excellent supply of frozen fish to

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Table 35 New England yellowtail flounder landings

	MAINE		NEW HAMPSHIRE		MASSACHUSETTS		RHODE ISLAND		CONNECTICUT		TOTAL	
	1000 lbs	$1000	1000 lbs	$1000	1000 lbs	$1000	1000 lbs	$1000	1000 lbs	$1000	1000 lbs	$1000
1971	87	9	53	6	41,940	6,889	11,810	1,499	474	47	54,634	8,450
1972	276	47	65	12	43,647	8,796	19,960	2,891	—	—	63,948	11,746
1973	120	23	4	1	40,338	19,186	18,882	3,593	765	40	59,612	12,843
1974	197	45	3	1	38,926	10,215	13,936	3,144	9	2	52,971	13,407
1975	324	104	4	2	33,221	11,971	7,938	2,622	7	2	41,494	14,701

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those ports (mostly through Gloucester) has also encouraged frozen fish processing and distribution. All in all the investment in New England fish processing is significant and due to frozen products, it is growing.

The Recreational Fisheries

The recreational fisheries for cod are important economically to the various coastal communities from the sale of fishing equipment, boats, fuel, etc. Recreational fisheries for cod are of considerable importance in some locales in that they provide a source of activity during the winter months when other coastal recreational activity is minimal. Also, the user benefits to the recreational fishermen in terms of the recreational experience are important. There are no published studies on the valuation of these recreational fisheries.

Table 38A
Processed Fishery Products, 1970

	Massachusetts		Maine		R.I. and Conn.	
	1000 lbs.	$1000	1000 lbs	$1000	1000 lbs.	$1000
Cod:						
Fillets						
Fresh and Frozen	10052	5316				
Breaded, frozen	10421	6120	157	64		
Specialties, frozen	6898	3688				
Flounder						
Fillets						
Fresh and Frozen	27675	18099	148	83	1033	530
Breaded, frozen	4007					
Specialties, frozen						
Haddock						
Fillets						
Fresh and Frozen	8241	6490				
Breaded	2589	1861	373	319		
Specialties	749	419				
Cakes	6466	2572				
Dinners	10680	7488				
Sticks, breaded						
Raw	970	421			ref.11	
Cooked	43135	21146				
Portions						
Raw						
Not breaded	1287	622				
Breaded	50981	21295				
Breaded and Cooked	18181	8416				

II.C.1.c.(1) Cod

Table 39 gives the number of vessels in 1965, 1970, and 1975, which landed some cod and the number whose catch for the year consisted of 50% or more cod (by weight). There has been a consistent increase in the numbers of vessels landing some cod from 1965-1975 as well as an increase in the number of vessels whose total catch for the year was 50% or more cod.

Table 40 contains data on the number of trips (by all gears), days fished, and catch per day fished for those New England trips where 50% or more of the trip catch consisted of cod for the years 1965, 1970, and 1975. These data emphasize even more the general shift toward a directed fishery for cod in the groundfish fishery. Between 1965 and 1975 the number of trips directed toward cod doubled and the number of days fished increased three-fold.

The number of recreational fishermen seeking cod in 1970 was estimated to be about 260,000. This suggests that the recreational fisheries may be of considerable importance in the total harvest of cod, particularly for those components of the cod stocks most closely related to nearshore areas and in the mid-Atlantic winter fishery. It is estimated that there are a total of 911 charter and party boats working out of ports from Maine to North Carolina which land some cod. The distribution of these boats is summarized in Table 40A.

Foreign Vessels - In 1961, Soviet fleets made their appearance on Georges Bank, 150 miles east of Boston. The maximum number of vessels observed on the grounds at any one time was around 50, but for the year the Soviet expedition included 100 individual vessels. In subsequent years, 300-400 different Soviet vessels fished seasonally on Georges Bank, primarily for herring. By 1965, during peak fishing seasons (summer and fall), 200-250 Soviet vessels were fishing for herring, red and silver hake, haddock, and cod on Georges Bank and in southern New England. Throughout that year more than 450 individual vessels were sighted. Soviet fleets were joined each year, beginning in 1966 and continuing into the early 1970's, by numbers of vessels from Poland and Romania, followed closely by vessels from East

Table 39 Number of vessels in the cod fishery, 1965, 1970, and 1975.

Year	Vessels landing some cod	Vessels whose total catch was 50% or more of cod
1965	492	16
1970	560	41
1975	595	47

Table 40 Performance data on vessel trips where landings consisted of 50 percent or more cod.

Year	Trips	Days fished	Catch/day fished (1,000 lb.)
1965	579	2253.5	2.96
1970	1651	4105.3	4.63
1975	1987	6272.6	3.57

Table 40 A: Number of Charter and Party Boats which Land Some Cod

State	Charter Boats	Party Boats	Total
Maine	21	24	45
New Hampshire	8	6	14
Massachusetts	101	36	137
Rhode Island	34	5	39
Connecticut	18	2	20
New York	128	56	184
New Jersey	239	106	345
Delaware	14	8	22
Maryland	30	4	34
Virginia	43	5	48
North Carolina	22	1	23
	658	253	911

Table 41 Numbers of foreign fishing vessels sighted in SA 5 and 6 by type, 1971-1975[a].

Year	Type								
1971	Stern	153	40	20	15	17	4	11	a
	Side	393	57	32		18	34		
	Support	104	20	8	7			2	
	Total	650	117	60	33	35	38	13	8
1972	Stern	211	50	10	13	19	7	11	7
	Side	379	59	28		24	47		
	Support	50	14	9	4	1		2	1
	Total	620	123	68	22	44	54	13	8
1973	Stern	207	50	32	19	18	36	11	7
	Side	234	10	29		22	25/52		
	Support	67	18	7		1		2	1
	Total	508	87	68	19	41	113	13	8
1974	Stern	218	46	23	17	21	57	13	4
	Side	144	14	29		30	28/58		
	Support	81	16	7	4	2		4	2
	Total	443	76	59	21	53	143	17	6
1975	Stern	252	37	22	18	15	38	16	2
	Side	145	12	20		6	12/70		
	Support	81	16	6	6	5	-	3	
	Total	478	65	47	23	26	120	19	2

[a] In addition, small numbers (<10) of stern trawlers belong to France, Cuba, South Korea, Ireland, and Greece have been observed in SA 5 and 6 in recent years.

and West Germany and Japan. Other nations followed, including Bulgaria, Spain, France, Greece, and Italy. Recently, nations such as Cuba, South Korea, and Ireland have been represented. During this period, 900-1000 foreign vessels annually fished in international waters off the U.S. east coast from the southern tip of Nova Scotia to Cape Hatteras. Depending on the season, 250-300 vessels were observed at one time or another, whether it be off North Carolina-Virginia in winter or on Georges Bank during the summer.

Between 1971 and 1975 the annual number of foreign vessels declined from 956 to under 600 (Table 41). It can be reasonably be assumed that foreign fleets have dwindled even more during 1976 in response to greatly reduced fish stocks and increasingly more stringent restrictions, such as, low quotas, closed areas, etc. Despite these restrictions, at the peak seasons (winter and spring, 1975-1976), 200-250 vessels were observed at one time on the fishing grounds. However, during other times of the year activity has been at its lowest level in many years.

It is difficult to make an accurate evaluation of actual numbers and types of foreign vessels involved in the yellowtail flounder fishery, as such evaluations must be based on surveillance data collected for approximate numbers of vessels fishing a variety of species. Foreign fishing for yellowtail flounder peaked in 1969 when 33% of the total catch was taken by foreign vessels. However, since 1972, foreign fleets have caught only about 2% of the total yellowtail flounder catch in Subarea 5 and Statistical Area 6. Table 42 indicates the relative amount of fishing pressure exerted by foreign nationals and the U.S. (note that these data do not take fishing power into account) for 1974. Note that almost all of the fishing pressure exerted on flounder was by the United States.

II.C.1.e(2) Yellowtail Flounder

Domestic.- Table 43 contains data on the number of U.S. vessels which recorded some yellowtail flounder landings in 1965, 1970, and 1975, and those vessels whose yellowtail flounder catch was 50% or more of their total catch.

Foreign Vessels - See II.C.1.e.(1) Cod for details.

Table 43. Number of vessels in the yellowtail flounder fishery.

Year	Number of vessels landing some yellowtail flounder	Number of vessels whose total catch was 50% or more yellowtail flounder
1965	426	133
1970	397	132
1975	501	126

II.C.1.e.(3) Haddock

Domestic - Prior to the entrance of Canada and the U.S.S.R. to the fishery, the bulk of the U.S. catch was taken by otter trawlers ranging in size from 51-150 gross registered tons, which spent 5 to 7 days at sea. Smaller amounts were also taken by vessels of from 0-50 tons making trips of shorter duration in inshore waters (off Cape Cod, long-liners have been of local importance). In recent years, the number of larger vessels in the U.S. fishery has declined steadily.

Table 44 shows the number of U.S. vessels in 1965, 1970, and 1975 which landed some haddock and also gives the numbers for 1965 and 1970 whose catch for the year was composed of 50% or more of haddock (by weight). It can be seen that during this ten year period there was a drastic decline in the number of U.S. vessels involved in directed fisheries for this species. Performance data for vessels pursuing directed fisheries for haddock (1965 and 1970) reveal essentially the same trend (Table 45).

Foreign Vessels - See II.C.1.e.(1) Cod for details.

Table 42 1974 days fished as reported to ICNAF.

Country	Cod	Haddock	Redfish	Silver hake	Red hake	Pollock	Flounder	Ground-fish	Herring	Mackerel	Pelagic	Other fish	Squid	Total
Bulgaria				55						712				767
Canada	310	91	13			553		140	0				9	1,124
Denmark														
France	3								65					68
FRG									616					615
Iceland														
Italy[a]													0	
Japan								3	147		382		1,502	2,033
Norway														
Poland	6								1,241	3,500		8	423	5,175
Portugal														
Romania									178	345				523
Spain	419												2,378	2,727
USSR				6,804	2,412		10	304	3,012	4,015		1,317	435	18,337
UK		11												11
USA	5,898	77	770	321	106	1,148	13,365	7,051	222	541	574	1,276	1,255	33,734
GDR	2								936	1,352	8	458		2,757
Other														

[a]No reporting of effort units.

Table 44. Number of vessels in the haddock fishery.

Year	Vessels landing some haddock	Vessels whose total catch was 50% or more of haddock
1965	443	111
1970	437	11
1975	425	-[1]

[1]Under incidental catch limitation; vessels prohibited from directed fishery for haddock.

Table 45. Performance data for trips in which the total catch consisted of 50% or more of haddock.[1]

Year	Trips	Days fished	Catch/Day (000 lbs)
1965	3,676	11,387	8.69
1970	538	1,411	6.61

[1]Directed fishing was not permitted for this species in 1975.

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II.C.1.f. Types of Gear

The traditional U.S. fisheries for these species were prosecuted primarily by means of otter trawls, and the bulk of the catch is still taken by otter trawling. In addition, small amounts of these species are taken in the course of line trawling, hand lining, and gillnetting.

The U.S. recreational fisheries for these species employ hook and line gear fished by anglers from shore, small boats, and chartered party boats.

II.C.1.g Historical Impacts of Foreign Fishing on Domestic Fishery

II.C.1.g(1) Cod

U.S. and foreign landings of cod for the period 1960-1975 are given in Table 46 for Division 5Y and 5Z. For the Gulf of Maine stock (Division 5Y), competition has been minimal with foreign landings exceeding five percent of the total only once (1966) since 1960. For the Division 5Z stock, however, major shifts in the distribution of the total catch are evident throughout the 16 year period. With the advent of the distant-water fleets in the early 1960's, the percentage contribution of the U.S. domestic fishery decreased steadily from virtually 100% (1960) to a low of only 22 percent (1966). Following 1966, the U.S. portion of the total landings began to increase again reaching 64 percent by 1975. During this period total landings increased from 10,400 tons (1960) to 52,900 tons (1966) and then decreased to 24,000 tons (1975). In the area south of Division 5Z the reported landings of cod are a consequence of by-catch in other directed groundfish fisheries.

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Table 46 USA, foreign, and total landings (metric tons) for the Division 5Y and 5Z cod stocks expressed as relative percentages of the total catch, 1960-1975.

Year	USA Landings	USA Percent of total	Foreign Landings	Foreign Percent of total	Total
			Division 5Y		
1960	3,400	99	29	1	3,4[illegible]
1961	3,200	99	18	1	3,2[illegible]
1962	3,000	97	83	3	3,0[illegible]
1963	2,600	96	103	4	2,7[illegible]
1964	3,200	99	25	1	3,2[illegible]
1965	3,760	96	148	4	3,9[illegible]
1966	4,008	91	384	9	4,3[illegible]
1967	5,676	95	297	5	5,9[illegible]
1968	6,360	99	61	1	6,42[illegible]
1969	8,157	96	327	4	8,4[illegible]
1970	7,812	95	449	5	8,2[illegible]
1971	7,380	96	282	4	7,66[illegible]
1972	6,776	98	141	2	6,91[illegible]
1973	6,069	99	77	1	6,14[illegible]
1974	7,639	98	125	2	7,76[illegible]
1975[1]	9,252	99	110	1	9,36[illegible]
			Division 5Z		
1960	10,390	100	20	0	10,41[illegible]
1961	13,996	98	280	2	14,27[illegible]
1962	15,231	66	7,850	34	23,08[illegible]
1963	13,903	52	13,050	48	26,95[illegible]
1964	12,324	49	12,841	51	25,16[illegible]
1965	11,410	30	26,923	70	38,33[illegible]
1966	11,794	22	41,069	78	52,86[illegible]
1967	12,742	35	23,592	65	36,33[illegible]
1968	14,967	35	27,790	65	42,75[illegible]
1969	16,356	44	21,068	56	37,42[illegible]
1970	14,535	58	10,674	42	25,20[illegible]
1971	15,795	57	11,900	43	27,69[illegible]
1972	13,140	53	11,490	47	24,63[illegible]
1973	15,933	56	12,607	44	28,54[illegible]
1974	17,870	67	8,822	33	26,69[illegible]
1975[1]	15,329	64	8,667	36	23,99[illegible]

[1]Provisional

II.C.1.g.(2) Yellowtail Flounder

U.S. and foreign landing data for yellowtail flounder in Subarea 5 and Statistical Area 6 are given in Table 12. Competition between the U.S. and foreign fishing fleets (particularly of the USSR) for yellowtail flounder was most intensive during 1969 on the southern New England ground and was reflected in the sharp increase in the percentage landed by foreign nationals for that year. Since 1969, the percentage of the total catch landed by foreign nationals has declined but the total catch of yellowtail flounder has declined as well.

II.C.1.g.(3) Haddock

U.S. and foreign landings from 1960-75 for haddock in Subarea 5 and Statistical Area 6 are given in Table 48. During the mid-1960's, the U.S. share of the total catch declined from approximately 100% in 1960 to 37% in 1965; since that year, the relative percentage harvested by the U.S. has increased although the overall volume of landings has declined.

Table 14 shows the magnitude of Canadian and USSR landings during the mid-1960's. There can be little doubt that greatly increased levels of fishing by foreign nationals at this time resulted in a significant reduction in stock abundance and in long-term productivity and yield.

Table 47. USA, foreign, and total landings (metric tons) of yellowtail in Subarea 5 and Statistical Area 6 expressed as relative percentages of the total catch, 1960-1975

Year	USA Landings	% of Total	Foreign Landings	% of Total	Grand Total
1960	19.4	100	-	0	
1961	25.1	100	-	0	
1962	31.4	100	-	0	
1963	48.9	99	0.3	1	49.2
1964	53.0	100	-	0	53.0
1965	48.9	96	2.2	4	51.0
1966	40.6	98	1.0	2	41.6
1967	44.5	91	4.2	9	48.7
1968	46.4	90	5.3	10	51.7
1969	42.0	67	20.7	33	62.7
1970	46.7	94	2.9	6	49.6
1971	36.4	96	1.7	4	38.1
1972	36.0	87	5.3	13	41.3
1973	27.6	98	0.5	2	28.1
1974	30.0	96	1.3	4	31.3
1975	20.7	99.5	0.05	0	20.8

Table 48 USA and foreign landings (metric tons) for haddock in Subarea 5 and Statistical Area 6 expressed as relative percentages of the total catch, 1960-1975

ar	USA Landings	% of Total	Foreign Landings	% of total	Grand Total
60	45341	99	460	1	45801
61	51681	100	189	0	51876
62	54412	92	4702	8	59118
63	48892	82	10743	18	59635
64	51695	75	17644	25	69339
65	57027	37	97698	63	154725
66	57510	45	69588	55	127098
67	39659	70	17330	30	56989
68	28914	65	15616	35	44530
69	18892	76	6005	24	24977
70	9874	77	2990	23	12864
71	8808	70	3668	30	12476
72	4779	72	1891	28	6670
73	3209	56	2603	44	5892
74	3018	59	2103	41	5121
75	5168	78	1439	22	6607

II.C.2. Status of the Fishery Stocks

II.C.2.a. Cod

II.C.2.a.(1) Distribution of Exploited Stocks

Cod are distributed generally throughout the entire region of their involvement off the U.S. coast showing a more southerly extension in distribution and a tendency to inhabit shallower waters of the area during the spring months of the year. As the waters warm during the spring and summer the cod move toward deeper waters. For the stock in Division 5Z the cooler waters of the Great South Channel provide a favorable habitat while the stock in the Gulf of Maine are found between the 10 and 140 meter contours, summer or winter. Differences in growth rates between these two stocks of cod and the results of tagging studies (Wise, 1958; 1962) would suggest that the amount of intermingling is minimal. However, the extent to which these are nearshore localized cod stocks which support nearshore recreational fisheries with minimal interaction with the more offshore cod stocks is unknown.

II.C.2.a.(2) Abundance of Exploited Stocks

Equilibrium Yield Curves - Surplus production analyses has been completed for the Div. 5Z and 5A6 stock with (a) commercial data only and (b) with both commercial and recreational data. Estimates of MSY range from 33,000 m.t. (based on commercial data only) to 50,000 m.t. (based on both commercial and recreational landings). While the equilibrium yield analyses are not considered wholly satisfactory, the MSY estimates do indicate the general range of yeild that can be expected from this stock. The inclusion of recreational catches in the Div. 5Z and 5A6 surplus production analysis

(MSY = 50,000 m.t.) differs from previous assessments where recreational mortality was combined with natural mortality and considered in total catch size changes, but was not included in the fishery catch statistics due to the poor quality of the recreational data. Hence, the present 50,000 m.t. MSY estimate is less reliable than previous estimates.

The TAC for the commercial fishery has been set at 35,000 m.t. since 1973. Nominal landings for the Gulf of Maine stock have fluctuated between 2,700 and 14,500 m.t. since 1952; on this basis, a TAC for 10,000 m.t. was established as a provisional estimate of the MSY although the nominal landings for this stock have only averaged 7,100 m.t. over the past 10-year period, 1966-1975. This TAC was reduced to 8,000 m.t. for 1976 based on (1) a decline in the relative abundance of the stock as observed in the U.S. research autumn bottom trawl surveys, (2) the average historical catch levels with the implication of an expanding recreational fishery component on this stock, and (3) estimates of current rates of fishing mortality above those considered to give maximum yield per recruit.

Yield Per Recruit (YPR) - The yield from a cohort of fish of the same age (year-class) reflects the age at first capture (t_c) and the instantaneous fishing mortality rate (F). For cod YPR values (KG) for various combinations of t_c and F (M=0.2) is given in Table 49.

Table 49

Instantaneous rate of fishing (F)	Age at first capture (years) and corresponding length (cm)							
	2.0 (39.5)	3.0 (52.0)	4.0 (62.5)	5.0 (72.5)	6.0 (81.0)	7.0 (88.5)	8.0 (95.5)	9.0 (101.5)
0.1	2.6	2.8	3.0	3.1	3.1	3.1	3.0	2.8
0.2	2.7	3.1	3.5	3.8	4.0	4.1	4.2	4.1
0.3	2.3	2.9	3.4	3.9	4.2	4.5	4.6	4.6
0.4	2.0	2.6	3.2	3.8	4.2	4.5	4.8	4.9
0.5	1.7	2.4	3.0	3.6	4.1	4.5	4.8	5.0
0.6	1.5	2.2	2.9	3.5	4.0	4.5	4.8	5.0
0.7	1.4	2.0	2.7	3.4	4.0	4.4	4.8	5.0
0.8	1.3	1.9	2.6	3.3	3.9	4.4	4.8	5.0
0.9	1.2	1.8	2.5	3.2	3.8	4.3	4.7	5.0
1.0	1.1	1.7	2.5	3.2	3.8	4.3	4.7	5.0
1.5	.9	1.5	2.2	3.0	3.6	4.2	4.6	4.9

If the age at first capture (t_c) is assumed to be 2 years (395 mm), the age at which cod begin to be captured in large amounts at present, and the present level of F in Subdivision 5Z is assumed to be 0.4, then increasing the age at entry to 3 (520 mm) and reducing F to 0.3 results in a 45% gain. If F is assumed to be 0.50 for the 5Y (Gulf of Maine) cod fishery, a 71% gain is achieved by increasing the age at entry to 3 and reducing F to 0.3. The corresponding gains from a reduction in effort alone would be 15% for the Division 5Z cod stock and 35% for the 5Y cod stock. Clearly, for cod, an increase in age of first exploitation and a reduction in the level of F will result in YPR. This would also allow more fish to reach the age of fish spawning and possibly improve future recruitment. Yield per recruit increases from 8 to 47% between age 2 and 3 and F increases from 0.1 to 0.6. Maximum yield per recruit occurs at $F = 0.30$ (F_{max}).

McCracken (1963; ICNAF Spec. Publ. No. 5) found a mesh selection factor for cod ranging from 3.4-3.8. The 50% retention length of a net is calculated by multiplying the mesh selection factor times the mesh of the net being considered. Therefore the range of mesh sizes that are associated with various 50% retention length for cod were estimated as follows:

50% retention length	Range of mesh sizes
30 cm	77 mm - 88 mm
40 cm	103 mm - 118 mm
50 cm	128 mm - 147 mm
60 cm	154 mm - 176 mm
70 cm	180 mm - 206 mm
80 cm	205 mm - 235 mm

Most of the experiments reported by McCracken used nets with a mesh size of less than 130 mm; consequently, the 50% retention estimates for larger mesh sizes should be viewed with caution.

Since fishing at F_{max} ignores the need to allow an adequate spawning stock to assure future recruitment to the fishery, $F_{0.1}$ has been proposed as a level of fishing mortality more appropriate as a management goal. $F_{0.1}$ is the level of fishing mortality at which one additional unit of effort results in 10% of the increased YPR that results from the first unit of effort. $F_{0.1}$ usually results in nearly as high a YPR as F_{max} at a considerably lower level of effort with less reduction in stock size. $F_{0.1}$ for cod is 0.18.

Cohort Analysis, Stock Recruitment Relationship, and Related Studies - Detailed cohort and stock recruitment relationship analyses are not currently available for these cod stocks.

II.C.2.a.(3) Current Fishing Status

An update of the survey data for the Gulf of Maine stock suggests that the stock has stabilized since 1973. Current estimates of fishing mortality suggest that the average commercial and recreational catch of approximately 9,900 m.t. in 1970-74 generated an average F of 0.48 (assuming M = 0.2). If recruitment remains stable, fishing at $F_{max} = 0.30$ would result in a commercial and recreational catch of approximately 5,700 m.t. and fishing at $F_{0.1} = 0.18$ would produce a commercial and recreational catch of about 4,300 m.t.

For the Division 5Z - Area 6 stock, catch data from U.S. autumn bottom trawl surveys indicate a stable level of abundance since 1965, with good recruitment since 1970. A strong 1971 year-class became fully recruited to the fishery by 1974 and the 1975 year-class appears to be about equal in size to that of 1971. Although an analytical assessment (virtual population analysis) has not yet been completed for the stock, preliminary analyses suggest that the very high catches in the late 1960's may have generated F-values in the range of 0.55

and 0.65, which are considerably above the calculated value of $F_{max} = 0.3$, with $M = 0.2$. The combined commercial and recreational catches which averaged about 38,000 m.t. during 1970-74 generated F-values averaging 0.36 (assuming $M = 0.2$).

If recruitment remains stable, fishing at a level associated with F_{max} would result in a commercial and recreational catch of about 53,000 m.t. If fishing is conducted at $F_{0.1} = 0.18$, the corresponding commercial and recreational catch would be approximately 21,000 m.t.

II.C.2.b. Yellowtail Flounder

II.C.2.b.(1) Abundance of Exploited Stocks

Yellowtail flounder in Subarea 5 (west of 69°W) and Statistical Area 6 - Three yellowtail populations are located in this management area. The Cape Cod and the Southern New England stocks have been under a collective TAC regulation since 1971 and the Statistical Area 6 stock has been included since 1973. The provisional nominal catch from all three stocks was slightly less than 6,000 m.t. in 1975.

i. Cape Cod Stock. The 1975 catch was about 2,000 m.t., which is similar to the long-term average and is also the best current estimate of MSY. However, catch rates of U.S. commercial vessels declined from 1.9 tons per day in 1974 to 1.6 tons per day in 1975, indicating a possible decrease in stock size.

ii. Southern New England stock. Although TAC regulations greatly decreased total catches since 1970, U.S. commercial fishery catch rates continued to decline during the period. Abundance indices (Brown and Hennemuth 1971a) from autumn surveys indicate a drastic decrease (80% since 1969) in pre-recruits (age I), with

the catch per tow in 1974 being among the lowest values observed during the entire series of years for which data are available (Table 50). Assuming that the 1976 pre-recruit index is equal to that for 1975, the stock size index will have decreased by about 87% between 1970 and 1977, and it is obvious that the current stock is extremely low. The catch per day fished by U.S. vessels has declined from well over 3.0 tons an each year during 1971-72 to 1.9 tons in 1974 and to 1.4 tons in 1975.

iii. Statistical Area 6 stock. Abundance indices indicate a 93% decrease in stock size between 1970 and 1975 (Table 50). If the 1976 year-class is assumed to be about the same size as that of 1975, the stock size in 1977 is projected to be extremely low in contrast to earlier levels.

Yellowtail flounder in Subarea 5 (east of 69°W) - Provisional statistics indicate a nominal catch of 14,500 m.t. in 1973, in contrast with 15,800 m.t. in 1974. Stock abundance, as measured by autumn bottom trawl surveys and by catch rates of U.S. commercial vessels, seemed to stabilize after 1971-73 with a total allowable catch of 16,000 m.t. The catch per day fished was 1.7 tons in 1975 and 2.0 tons in 1974 in contrast to an average of 2.6 tons per day in the 1970-73 period. The bottom trawl survey indices in 1974-75 averaged 8.8, compared with 14.5 for 1970-73. Abundance indices of age I fish, estimated from the autumn bottom trawl surveys in terms of the stratified mean number caught per tow, are as follows:

Table 50. Catch per tow (age 1+) of pre-recruits and associated stock abundance indices for yellowtail in southern New England and Statistical Area 6 from USA autumn surveys.

Year	Southern New England		Statistical Area 6	
	No. per tow (age 1+)	Abundance index	No. per tow (age 1+)	Abundance index
1963	16.3		11.1	
1964	18.6		5.3	
1965	11.5		19.2	
1966	35.5		14.2	
1967	20.0	102.5	12.5	64.4
1968	10.0	119.2	11.6	67.3
1969	12.8	92.6	0.6	59.0
1970	7.3	71.9	1.9	36.8
1971	6.3	53.6	11.0	11.7
1972	4.3	40.0	0.6	22.4
1973	1.9	30.8	0.7	21.6
1974	1.1	20.1	0.04	7.5
1975	1.7	11.9	0.46	2.7
1976		8.1		1.2
1977		7.8		1.6

Year-Class	1962	1963	1964	1965	1966	1967	1968	1969
No./tow	11.60	2.64	1.29	9.76	6.96	10.59	7.64	4.75
$\log_e$(No./tow +1)	1.774	0.760	0.536	1.344	1.492	1.451	1.322	1.074
Year-Class	1970	1971	1972	1973	1974			
No./tow	3.82	2.42	2.71	3.50	4.05			
$\log_e$(No./tow +1)	0.970	0.841	0.670	0.839	0.617			

These data indicate that the year-classes which will support the fishery in 1976-77 are less abundant than those which supported the fishery in 1970-75. Age compositions of 1975 catches indicate a large contribution of age II fish, although survey data did not show the increased abundance of this year-class. In view of the abundance of this age-group in the catches, it can be assumed that fishing mortality on it approximately doubled. If higher yields are desired from this fishery, the fishing mortality on 2-year-old fish must be reduced because yellowtail flounder double their weight between 2 and 3 years of age.

Equilibrium Yield Curves - Equilibrium yield curves were estimated by Brown and Hennemuth (1971b) using a generalized production model (Pella and Tomlinson 1969). Although the generalized production model allows skewed equilibrium yield curves, the symmetric logistic model was found to best describe the data for yellowtail flounder of the Southern New England grounds. Both symmetric and skewed equilibrium yield curves were calculated for the Georges Bank stock. Equilibrium yield curves

[illegible] estimated for the smaller Cape Cod and Subarea 6 stocks.

The maximum sustainable yield (MSY) for the Southern New England stock was estimated at about 30,000 m.t. at a fishing intensity of 5,400 standard days/year. Based on historical catch data, the MSYs for the Cape Cod and SA6 stocks have been estimated at 2,000 m.t. and 5,000 m.t., respectively. Hence, the total MSY for the entire Subarea 52 and SA6 stock (west of 69°W) is estimated to be 37,000 m.t. The Georges Bank estimates MSY figures were 17,200 m.t. with 5,420 standard days/year and 18,500 m.t. with 6,780 days/year fished for the symmetric and skewed curves, respectively. Data in Table 12 indicate that the catches and number of days fished exceeded these levels annually during the late 1960's and early 1970's. More recently the total MSY for Subarea 52 east of 69° has been estimated at 16,000 m.t.

There is evidence that production of yellowtail flounder on the Southern New England ground is highly correlated with annual anomalies of temperature (Sissenwine 1974). Because of environmentally-related fluctuations in yellowtail flounder production, management of this species on a year-to-year basis should not be founded on equilibrium yield considerations.

II.C.2.b.(2) Yield Per Recruit (YPR)

The yield from a cohort of fish of the same age (year-class) reflects the age at first capture (t_c) and the instantaneous fishing mortality rate (F). For the yellowtail flounder, yield per recruit (KG) for various combinations of t_c and F (and M = 0.2) is given in Table 51. By increasing the age at first capture from 2 years (265 mm) to 2.5 years (302 mm) or to 3.0 years (332 mm), the yield per recruit increases by 8 to 18% or 12 to 32%, respectively as F increases from 0.5 to 1.5. Obviously, increasing the age at first capture also increases the size of the spawning stock and may favorable affect future recruitment.

Table 51 Yield per 1000 recruits in kg for M = 0.2.

Instantaneous rate of fishing (F)	Age at first capture (years) and length (mm). 1.75 (245)	2.00 (265)	2.25 (284)	2.50 (302)	2.75 (318)	3.00 (332)
0.5	230	240	248	253	263	268
0.6	255	273	283	300	309	317
0.7	250	269	285	299	311	320
0.8	244	264	282	297	310	32.
0.9	238	259	278	294	308	320
1.0	232	254	274	291	306	319
1.1	227	250	270	288	304	317
1.2	222	245	267	285	302	316
1.3	218	242	263	283	300	314
1.4	214	238	260	280	298	313
1.5	210	235	258	278	296	311

If t_c is assumed to be 2 years (265 mm), the age at which yellowtail flounder begin to be captured in large amounts at present, and the present level of F is assumed to be 1.0, then raising the age at entry to 3 (332 mm) and reducing F to 0.8 results in a 26% gain. If the present F is assumed to be 1.1 the gain would be 28%; corresponding at F = 1.2 and 1.3 would be 31% and 33%, respectively. The corresponding gains from a reduction in effort alone would be 4, 6, 8, and 9% in catch.

Increasing the age of entry to 2½ years would reduce discards by about 25% under the current culling practice. An increase to age III would reduced discards by about 45%.

It is estimated from curves given by Hennemuth and Lux (1970) that 120 mm synthetic mesh would retain approximately 66% of the 2.5 year-olds and 77% of the 3 year-olds relative to the presently used 114 mm mesh. The 145 mm mesh would retain 33% of the 2.5 year-olds and 50% of the 3 year-olds.

Since fishing at F_{max} ignores the need to allow an adequate spawning stock to assure future recruitment to the fishery, $F_{0.1}$ has been proposed as a level of fishing mortality more appropriate as a management goal. $F_{0.1}$ is the level of fishing mortality at which one additional unit of effort results in 10% of the increased YPR that results from the first unit of effort. $F_{0.1}$ usually results in nearly as high a YPR as F_{max} at a considerably lower level of effort with less reduction in stock size. $F_{0.1}$ for yellowtail flounder is 0.4.

Cohort Analysis - Management of yellowtail flounder in SA 5+6 has been based on stock abundance estimates from USA bottom trawl surveys. Therefore, virtual population analysis (See Cohort Analysis in Ricker 1975) is not applied routinely to yellowtail flounder data. Brown and Hennemuth (1971b) report estimates of population size and fishing mortality rate based on virtual populatio analysis for the 1956-1962 year-classes.

Stock-Recruitment Relationship - The relationship between spawning stock size and recruitment for yellowtail flounder is unknown. However, it should be noted that the very low spawning stock size has consistently produced poor year-classes in recent years.

II.C.2.b.(3) Current Fishery Status and Outlook for 1977

Subarea 5 west of 69° and Statistical Area 6 - As indicated above, yellowtail flounder stocks of Subarea 5 west of 69° and Statistical Area 6 are severely depressed. At present, almost the entire catch of yellowtail flounder in Subarea 5+6 is taken by domestic fishermen. Fishing in Subarea 5 west of 69° longitude and Subarea 6 is restricted to by-catch only to minimize fishing mortality. Even with this restriction, stock abundance indices for recent years indicate that fishing mortality is higher than 1.0, whereas F_{max} is about 0.7 and $F_{0.1}$ is about 0.4. Because of the depressed conditions of yellowtail flounder stocks in Subarea 5 west of 69° and Statistical Area 6, a total allowable catch of zero is necessary for 1977 (with knowledge that the unavoidable catch may approach 4,000 m.t.) if further declines are to be avoided. Even if the by-catch is held to only 4,000 m.t. in 1977, no recovery of the stock is expected without improved recruitment. While recruitment of yellowtail flounder may be strongly related to temperature, further declines in stock could threaten recovery of the fishery when more favorable conditions do occur.

Subarea 5 east of 69° - As indicated above, indices of abundance for yellowtailflounder of Subarea 5E of 69° have declined substantially since 1970-73.

Utilizing available data on age composition and estimated mortality for 1975, catch and stock size projections were made for 1976 and 1977 (Table 54). Using F = 0.8 for fish age III and older in the 1975 fishery and F = 0.4 for age II fish (based on fishing mortality for 1965-69 as calculated by Pentilla and Brown 1973), stock sizes in 1976 and 1976 were estimated. Using the same F-values for 1976, a catch of 12,500 m.t. is predicted. This catch probably approximates that which will actually be taken in 1976, based on the experience of the 1975 fishery and provisional figures for the 1976 catch. Increased fishing effort directed towards younger fish in 1976 would result in higher catch. The level of recruitment assumed for 1976 and 1977 (42 million fish at age II) is equal to the lowest level since 1962, as estimated from preliminary virtual population analysis and indicated by recent trends in survey indices.

If fishing is conducted at the level of F_{max} in 1977 for a predicted yield of 12,400 m.t., the stock size will be maintained at about the relatively low level existing in 1975 and 1976. Fishing at $F_{0.1}$ = 0.4 for a projected catch of 7,000 m.t. would result in increasing the stock size by about 10%. If fishing is continued in future years at the $F_{0.1}$ level and recruitment remains at about the current level, annual yields should increase to about 12,000 m.t. in 3-6 years and the stock size (age III fish and older) should increase to about 61 million fish, a level similar to that which prevailed in the 1962-73 period.

Table 52 Yellowtail in Subarea 5 (east of 69°W): catch and stock size projections, 1975-77.

Year	Age	Stock numbers[1]	F	Catch		Residual stock[2]
				Numbers	Weight	
		(10^{-3})		(10^{-3})	(tons)	(10^{-3})
1975	2	40,100	0.4	12,030		
	3	20,500	0.8	10,459		
	4	12,198	0.8	6,059		
	5	4,150	0.8	2,125		
	6	1,060	0.8	530		
	7	542	0.8	271		
	8+	212	0.8	106		
	Total	79,162		31,611		
1976	2	42,000	0.4	12,600	3,037	
	3	21,979	0.8	10,987	4,582	
	4	7,689	0.8	3,845	2,284	
	5	4,487	0.8	2,243	1,671	
	6	1,527	0.8	763	658	
	7	392	0.8	196	188	
	8+	277	0.8	139	140	(age 3 and older)
	Total	78,341		30,773	12,558	
1977	2	42,000	0.4	12,600	3,034	-
	3	23,100	0.8	11,505	4,797	23,100
	4	8,084	0.8	4,042	2,400	8,489
	5	2,829	0.8	1,415	1,054	2,974
	6	1,660	0.8	830	716	1,040
	7	565	0.8	282	270	611
	8+	248	0.8	186	187	301
	Total	88,486		30,860	12,458	36,515
1977	2	42,000	0.2	7,140	1,721	-
	3	23,100	0.4	6,576	2,742	28,153
	4	8,084	0.4	2,425	1,440	12,678
	5	2,829	0.4	849	504	4,610
	6	1,660	0.4	498	430	1,552
	7	565	0.4	170	163	911
	8+	248	0.4	166	167	446
	Total	88,486		17,824	7,176	42,050

[1]Stock numbers refer to beginning of the indicated year.
[2]Residual stock (age 3 and older) at the start of the following year.

II.C.2.c. Haddock

II.C.2.c.(1) Distribution of Exploited Stocks

As pointed out under Biology of the Regulated Species above, haddock on Georges Bank (ICNAF Subdivision 5Ze) appear to be relatively sedentary, although some degree of interchange may occur with populations to the west. However, seasonal shifts in distribution in response to temperature changes have been documented; further, spawning aggregations also form on the northeastern portion of the Bank, and (at least in some years) in the Nantucket Shoals - Great South Channel area as well. Assessment studies have focused primarily on haddock in Div. 5Z, as groups in Division 5Y have not been of sufficient magnitude to warrent separate consideration.

II.C.2.c.(2) Abundance and Current Status

Prior to 1965, haddock groups in Division 5Z were in a relatively stable condition; surplus production model studies (Hennemuth 1969) indicate an MSY of 47,000 m.t. based on an average stock size estimate of 145 x 10^6 fish during the 1935-1964 period.

Both commercial catch/effort data and U.S. spring and autumn bottom trawl survey data, however, indicate a pronounced decline in abundance since 1967. Recruitment has been generally poor since 1963. The 1975 year-class appears to have been strongest since 1963, although the estimated strength of this year-class is based only on one research survey and additional data will be required for a more definitive estimate. Both stock size estimates (Table 53) and survey data indicate a decline in abundance in the late 1960's to an all-time low in the early 1970's, followed by a modest increase.

Projections for 1976 and 1977 (Clark, 1976) indicate that, if recruitment continues at the average level observed during 1972-75 (approximately 15 million fish), maintaining the existing TAC level of 6,000 mt. would lead only to a stabilization of stock size in the late 1970's at about one half of the pre-1960 level, while an increased TAC could lead to a substantial reduction in abundance. Even with better than average recruitment, by-catches would be expected to increase, thereby delaying somewhat the projected improvement in stock size. The problem is further complicated by increased growth rates in recent years (Clark, 1975), thus indicating recruitment at a progressively earlier age.

Hennemuth (1969) was unable to demonstrate a relationship between stock size and recruitment for this stock, but recent studies on other gadoid stocks have demonstrated a tendency for reduced recruitment at low levels of stock abundance and the fact that almost all year-classes since 1963 have been very weak (Hennemuth 1969; Grosslein, 1969; Clark, 1976) is suggestive of a similar tendency for haddock. In any event, recruitment prospects are certainly not promising in view of declines occurring in older elements of the stock and the increased tendency for recruitment at an earlier age.

Table 53. Stock abundance, removals and recruitment estimates for Georges Bank haddock, 1960-77.

	Yearly estimates in millions of fish										
	1935-60[1]	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
Stock size (age 2+)	145	70[2]	36	21	24	16	27	55	50	48	68
Removals											
-total	63	35	16	8	9	5	8	12	12	12	14
-fishing[3]	41	25	11	5	5	2	3	3	3	4	4
-natural[3]	22	10	5	3	4	3	5	9	9	8	10
Recruits (age 2)	54	15	1	1	11	1	16	36	7	10	30

[1] Average of yearly estimates during this period.

[2] Estimated assuming F = 0.5 and M = 0.2 during 1968.

[3] Values computed on the basis of mean weight at age in USA data.

Table 53 A. Yield per recruit (g) for different rates of instantaneous fishing mortality (F) and different ages at first capture (t_c) for Div. 5Z haddock.

Value of F	Value of t_c (years) with corresponding lengths (cm) and weights (g)					
	2.0	3.0	4.0	5.0	6.0	7.0	8.0
	36,0.51	48,1.10	54,1.51	58,1.83	62,2.19	65,2.49	68,2.81
0.1	528	523	490	440	380	319	259
0.2	710	700	719	661	588	504	419
0.3	765	832	833	785	708	617	502
0.4	773	871	892	855	787	699	583
0.5	762	885	925	897	827	735	635
0.6	745	880	944	925	859	768	667
0.7	725	869	955	944	882	791	691
0.8	707	857	962	956	899	809	707
1.0	674	873	969	975	921	833	734

Yield Per Recruit (YPR) - The yield from a cohort of fish of the same age (year-class) reflects that age at first capture (t_c) and the instantaneous fishing mortality rate (F). For SASZ haddock, yield per recruit values for various combinations of F and t_c (M = 0.2) are given in Table 53A.

Those figures must be considered preliminary in that the underlying growth assumptions on which calculations are based have not been completely tested. Nevertheless, substantial benefits from increasing age at first capture are indicated; for example, yield per recruit increases from 4 to 25% between age 2 and 3 as F increases from 0.2 to 0.8. When fishing is limited to fish older than 3 years of age (>48 cm), maximum yield appears to occur with F≥1.0, but the increase in yield as F is increased above 0.5 is minor. The reduction in spawning stock size that would accompany high values of F would certainly threaten future recruitment.

Graham (1952; ICNAF Second Annual Report, Part 3, p. 23) reported a 50% selection length of about 39 cm for haddock using a 114 mm mesh net. Larger mesh nets will be required if fishing mortality to haddock less than 48 cm in length is to be reduced.

Clark (1963) reported the results of several mesh selection experiments for haddock (Table 53B). These results indicate that a mesh size of approximately 150 mm would be necessary to achieve a 50% selection length (l_c) of 48 cm. The l_c value for a mesh size of 130 mm (in present use in groundfish trawl cod-ends) is estimated at 42 cm (t_c = 2.5 years).

U.S. Optimum Yield and U.S. Capacity

P.L. 94-265 defines "optimum" yield as that: "A) which will provide the greatest overall benefit to the nation, with particular reference to food production and recreational opportunities; and B) which is prescribed on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social or ecological factor" (Section 3, Para. 18). At present there are no comprehensive models of cod, haddock or yellowtail flounder fisheries that allow us to define "optimum" yields in a totally objective fashion. Rather, we must start with the best estimate of maximum sustainable yield from each fishery and then determine optimum yield by applying various social, economic and ecological factors in a somewhat subjective manner. The projected U.S. Capacity for commercial and recreational fleets has been determined from NMFS historical fleet catch data and advice from ICNAF industry advisors. Individual species capacity is not a meaningful operational concept in the New England Groundfish Fishery. There is a general (unknown) physical capacity to catch a large variety of species. The particular species that the fleet will direct its effort towards in any particular time period is largely a function of price - cost conditions for the particular fishery. Therefore, the approach that was taken in estimating the U.S. "capacity" was to examine the historic catch data and modify any conclusion drawn from the data based on advice from industry representatives. If, for example, a fishery had been operating under severe catch restrictions in a particular region, the catches in the years immediately prior to the imposition of restrictions were used as a basis for capacity estimates. Table 54 provides the results of this analysis, described in detail below. The process of determining optimum yield, and its application to fishery management under P.L. 94-265, is shown in Figure 6A.

Table 538. Summary of Haddock Escapement Experience.

Twine type	Experimental method	Experiment	Twine weight	Mesh size mm	50% point cm	Selection factor
Double manila	Paired tows	Pairtows I	45/4	119	39.5	3.3
" "	Cover	Michigan	50/4	91	30.0	3.3
" "	"		50/4	98	31.4	3.2
" "	"	"	50/4	105	32.3	3.1
" "	"	Wisconsin	50/4	109	36.1	3.1
" "	"	"		112	36.7	3.3
" "	"	"		114	36.6	3.2
" "	"	"		121	39.9	3.3
" "	" 20 min. tows	Alb. No. 49	50/4	113	33.8	3.0
" "	" 40 " "	" " "			35.2	3.2
" "	" 60 " "	" " "			37.2	3.3
" "	" 80 " "	" " "			33.6	3.4
" "	" 40 " "	" " "	45/4	123	36.8	3.0
" "	" 60 " "	" " "			39.7	3.8
" "	" 80 " "	" " "			41.2	3.3
" "	" 40 " "	" " "	75/4	73	24.8	3.4
" "	" 60 " "	" " "			25.8	3.5
" "	" 80 " "	" " "			24.8	3.4
" "	"	Alb. No. 51	45.4	107	31.8	3.0
" "	"	" " "	75/4	75	24.5	3.3
" "	"	Alb. No. 52	45/4	113	36.3	3.3
" "	"	Alb. No. 59	45/4	140	49.1	3.5
" "	"	" " "	45/4	154	52.8	3.4
" "	"	" " "	45/4	167	54.7	3.3
Single cotton	Paired tows	Pairtows I	120th	144	52.4	3.6
" "	" "	"	120th	106	37.2	3.5
" "	" "	"	120th	111	37.8	3.4
" "	Cover	"	120th	138	49.6	3.6
" "	"	"	120th	114	42.4	3.7
" "	"	"	84th	86	25.8	3.0
" "	"	Priscilla V	72th	73	20.8	2.5
Single dacron(Br.)	Cover	Alb. No. 74		127	39.8	2.1

Table 54 - Summary of harvest, yields, U.S. capacity, and foreign surplus (metric tons).

Species	Fishing Area	MSY 1/	O.Y. 2/	U.S. 2/ Capacity	Foreign Surplus (DAP/F)	U.S. Recreat. 3/ Catch 1974	U.S. Commer. Harvest 1975	Foreign Harvest
Haddock	ICNAF 5	47,000	6,200	20,000(a) 200(b)	0	200	5,168	1,[illegible]
Cod	ICNAF 5Y	10,000	7,300	10,000(a) 2,300(b)	0	2,300	9,250	[illegible]
	ICNAF 5Z and 6	50,000	30,000	20,000 (a) 10,000 (b)	0	10,100	15,300	8,700
Yellowtail Flounder	ICNAF 5Ze	16,000	10,000	20,000	0		14,500	100
	ICNAF 5Zw and 6	23,000	4,000	20,000	0	Trace	5,500	0

1/ Fishing mortality from commercial data only.

2/ (a) Commercial -
(b) Recreational

3/ The 1974 recreational catch is from Maine to and including New Jersey.

three measures of fishing mortality (F_{max} and $F_{0.1}$) have been identified as reference points on which to base regulations for optimizing the biological yield. F_{max} refers to the fishing mortality rate at which the average catch per recruit to a fishery is at a maximum. It is a function of the growth and natural mortality processes within the fish stock and of the size (age) at harvest, and it is therefore independent of changes in recruitment. F_{MSY}, on the other hand, refers to the fishing mortality rate at which the average long-term catch from the fish stock as a whole is highest and is therefore a function of the total production processes within the fish stock, including recruitment. Where the average level of recruitment does not change directly in response to changes in stock size, F_{max} and F_{MSY} will correspond. In the absence of detailed knowledge of the relationship between stock size and recruitment for particular stocks, this correspondence was assumed by ICNAF in the presentation of scientific advice on management.

Principal features of the F_{max} reference point are identified as follows with regard to a basis for management actions:

(a) The form of the relationship between catch per recruit and fishing mortality (f) differs markedly for the various fish stocks according to their growth and natural mortality characteristics. For some stocks, F_{max} occurs at a relatively high level of fishing mortality and it may not be clearly defined. Furthermore, its value for each stock is dependent upon the age and pattern of recruitment to the fishery.

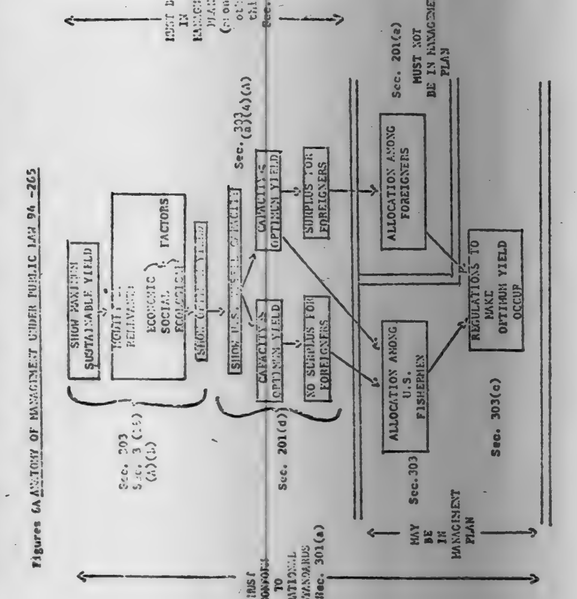

Figure 6A ANATOMY OF MANAGEMENT UNDER PUBLIC LAW 94-265

(b) Although F_{max} defines the fishing mortality rate at which the greatest catch will be obtained from each recruit entering the fishery by taking no account of the relationship between the size of the spawning stock and recruitment, it does not necessarily correspond with that giving the highest average catch (MSY) for the fish stock as a whole (although, as indicated above, it does so if average recruitment does not change with changes in stock size).

(c) Because F_{max} takes no account of the stock and recruitment relationship, management measures based on this reference point do not guarantee the maintenance of an optimum average level of recruitment.

(d) The F_{max} level of fishing takes no account of possible economic objectives and factors.

This indicates that the F_{max} reference point has potential limitations which have to be recognized and evaluated in the provision of scientific advice on management action. They are obviously greatest with respect to fish stocks for which the relationship between yield per recruit and fishing mortality has no clearly defined maximum or, if present, occurs at a relatively high value of fishing mortality rate. In these situations the setting of catch quotas at the F_{max} level may lead to a severe reduction in the stock size, reduction in the number of age groups in the exploited stock, large short-term changes in catch (and hence in the magnitude of the short-term quota changes), and possible recruitment failures due to the generation of too low a spawning stock size.

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of F_{max} as a basis for management action in the recruitment process, both the variability due to environmental factors and the relationship between recruitment levels and spawning stock size. At present, little is known about the latter relationship, so that the evaluation has usually been made on a generally qualitative basis using all available information on the size and composition of the stock and the observed variability in recruitment together with the relationship to other components of the exploited ecosystem. However, the relationship is taken into account empirically in some assessment models.

For fish stocks in which the relationship between catch per recruit and fishing mortality is a relatively flat-topped curve, a lower fishing mortality rate than Fmax can be set which would result in only a small loss in average catch but would achieve a substantially higher average stock biomass, greater stock stability due to the presence of a larger number of age groups in the exploited phase, higher average catch per unit of effort, and increased economic efficiency. The F0.1 level, defined as the level at which the change in yield per recruit with respect to change in mortality rate is one-tenth of that of the fishery beginning on the virgin stock, has been specified as another possible reference point below Fmax. It results in an increased catch per unit of effort, but it does not have the unique merit in necessarily achieving the desired stability of stock size and recruitment. This level of F was used as a basis for the 1977 TACs established for several stocks.

In view of the possible substantial adverse consequences of setting the fishing mortality rate too high in cases where there is doubt about its adequacy, a more restrictive management system (other than controlling the size (age) of recruitment to the fishery through mesh regulation), might comprise either, or a combination, of the following elements: (i) fixing the fishing mortality rate at a level somewhat lower than F_{max}, and (ii) setting a target spawning stock size.

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Two groups of cod are considered as stocks for management purposes: (a) the Georges Bank - Southern New England stock (ICNAF areas 5Z and 6), and (b) the Gulf of Maine stock (ICNAF area 5Y). Maximum sustainable yields for commercial and recreational fisheries in these areas are 32,000 metric tons and 10,000 metric tons respectively. Recreational landings from both stocks were estimated as 16,300 m.t. in 1970 and 12,400 m.t. in 1974. The estimated 1974 recreational catch was 800 m.t. from Maine and New Hampshire and 3,030 m.t. from Massachusetts. Applying half of the Massachusetts landings and all of the Maine and New Hampshire landings to area 5Y, it appears that 1974 recreational catches were about 10,100 m.t. from area 5Z-6 and 2,300 m.t. from area 5Y. Assuming that the same relative amounts were taken in the two areas in 1970, recreational landings were about 13,300 m.t. from area 5Z-6 and 3,000 m.t. from area 5Y. Since U.S. and Foreign commercial catches have averaged (1970-74) 20,500 m.t. and 7,400 m.t. in the two areas, it appears that combined commercial-recreational removals have been about 37,000-40,000 m.t. from the 5Z-6 stock and around 10,000 m.t. from the 5Y stock in recent years.

While catch levels have apparently been at or below the MSY levels in 5Y and 5Z-6, the levels of F have been greater than F_{max} and the stock abundance needs to increase in order to provide the MSY. ICNAF scientists recommended that the 1977 commercial catches be set at the $F_{0.1}$ levels of 3,200 m.t. for 5Y and 15,000 m.t. for 5Z-6. Considering the concern raised by the U.S. industry advisors at ICNAF, with respect to the potential adverse economic impacts on the harvesting sector if the recommended quotas were implemented, these figures were raised to 5,000 m.t. for 5Y and 20,000 m.t. for 5Z-6. Expected catches by recreational fishermen in 1977 would probably amount to no more than 2,300 m.t. in 5Y and 10,000 m.t. in 5Z-6 bringing the optimum yields for 1977 to 7,300 m.t. for 5Y and 30,000 m.t. for 5Z-6.

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he recommend the optimum yield be set at 7,300 m.t. for 5Y and 30,000 m.t. for 5Z and 6. The projected commercial harvest for the respective areas is 5,000 m.t. and 20,000 m.t. A projected total 1977 recreational catch of 12,300 m.t. was estimated; 2,300 m.t. for 5Y and 10,000 for 5Z and 6.

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The proposed total level of U.S. commercial cod landings (27,000 m.t.) is slightly larger than in recent years. In 1975 the commercial cod catch was estimated to be about 24,000 m.t. As previously stated (Bell 1969) estimated the demand curve for cod to be elastic (-3.3). If elimination of foreign fishing and/or other factors result in U.S. fleets experiencing higher catch per unit of effort and if the cost of effort does not increase, there could be a downward shift of the supply curve with resulting price decreases, and total gross revenue increases. However, it should be pointed out that while the overall quota is higher than the catch in recent years, the geographic distibution of the quota (i.e., a reduction in the 5Y quota vis-a-vis U.S. catch but an increase in the 5Z quota vis-a-vis US catches) could result in overall increased fleet operating cost per trip. Therefore, whether or not the costs per unit of output increases or decreases depends on the relative increases in factor costs and factor productivity.

On the other hand, there are some small vessels that fish the 5Y cod stocks that may not be able to transfer their effort to the offshore areas, and thus may experience some short-term financial difficulties if there are limited alternatives. Therefore, the OY for 1977 exceeds Fmax because estimating the extent of this adverse impact is not possible at the present time since it is not known how many of the smaller operating units can transfer their effort to the offshore areas, or the percentage of the total gross revenues which was derived from the cod fishery and FCMA requires social and economic factors be taken into account. Conceivably those vessels which cannot transfer their effort could increase their catches of alternative such as cusk and hakes in inshore areas. However, it should be pointed out that some of these vessels operate from ports in Maine and Massachusetts that currently have high unemployment rates. Since this is the case, if some of these vessels are eliminated from the fishery the affected fishermen may experience difficulty in securing alternative employment.

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While elimination of foreign fishing from the US EEZ will have only the slightest impact on the total foreign cod supply (Table 53), the action of Canada and others (with respect to their FCZ and potential reduced foreign allocations of cod) could have an impact on the demand in the US for cod, i.e., a shift in the demand curve to the right by foreign countries seeking imports. It is also possible that a reduction of exports to the US of foreign cod blocks could result due to changing trade patterns. These factors could conceivably result in some price increases being experienced at the vessel level.

In summary while reduced foreign fishing would result in increased factor productivity (i.e., increased catch per trip) being experienced by the US fleets, the geographic distribution of the quota could increase the factor costs (i.e., trip costs). If the supply curve does shift downward, the potential price decreases could be passed on to consumers (this depends upon the structure of the processing sector). Changing world trade patterns as a result of actions by other countries could offset the potential price decrease due to the increased domestic supply by a shift in either the demand curve for US caught cod by foreigners and/or a decrease in the export supply to the US of cod. Depending upon the relative magnitude of these factors, prices in the US could either increase or decrease. If current (March) prices are assumed to be in effect during all of 1977, the total gross revenues which would result from landing the entire quota of cod would be approximately $28 million.

Again, there may be some smaller vessels that fish the 5Y area for cod that may not be able to transfer their effort to the offshore areas. They may experience some short-term difficulties if their alternatives are limited.

While we have included all the available sociological information on these communities that we currently have available, it is recognized that more work is needed in the future on "linking up" the sociological impacts with the management plans.

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Table 53:

Total Northwest and Northeast Atlantic cod catches, total Area 5 & 6 catches, and the percent of total catches from 1973 Area 5 & 6

	1973* Total cod catches (1,000 m.t.)	ICNAF Area 5 & 6 (1,000 m.t.)	1973 cod catch in Area 5 & 6 as a % of Total Atlantic catch
Belgium	14	-	-
Canada	177	3	2%
Denmark	136	-	-
Faeroe Is.	54	-	-
France	75	-	-
German Dem. Rep.	40	-	-
German Fed.	121	-	-
Greenland	19	-	-
Iceland	236	-	-
Mexico	1	-	-
Ireland	5	-	-
Norway	334	-	-
Netherlands	25	-	-
Poland	81	.40	-
Portugal	124	-	-
Romania	3	-	-
Spain	160	6	4%
Sweden	23	-	-
USSR	550	3	(1)%
UK	7	-	-
USA	23	22	99%

*Source FAO, ICNAF Documents, 1973

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II.C.3.b. Yellowtail Flounder

As noted above (Section II.C.2.b) there are two groups of yellowtail flounder considered as stocks for management purposes. There are the Georges Bank stock (ICNAF area 5Ze) and the Southern New England and Mid-Atlantic stock (ICNAF area 5Zw and 6). Maximum sustainable yields have been estimated at 16,000 m.t. and 23,000 m.t., respectively. Recreational fishermen do not take appreciable amounts of yellowtail flounders. Resource surveys and catch effort statistics indicate that that abundance of the 5Zw-6 stocks is declining and that the 5Ze stock was stable is is now below the level required to produce MSY. From an ecological viewpoint catch from both stocks should be reduced as much as possible in order to increase the spawning biomass and provide a buffer against recruitment failures. However, this would cause undue economic hardship for the harvesting sector and coastal communities. Accordingly, we recommend optimum yields of 10 000 m.t. for area 5Ze and 4,000 m.t. (as by-catch) for areas 5Zw-6.

The published estimates of the elasticity of the demand curve for yellowtail flounder indicated that it is relatively elastic;* therefore, the reduction in catches due to the quota would be expected to result in decreases in total gross and, presumably net revenues from this fishery and increases in ex-vessel prices. Specifically, the 1977 recommended catch level of 14,000 m.t. represents a 16% reduction from the estimated 1976 catch of about 16,500 m.t. Using Gator's estimate of the price flexibility of -.6346, this action would be expected to result in a lesser percentage increase in prices than the percentage declines in volume, with resultant decrease in total revenues. However, in recent years, increasesin revenue at the vessel level have occurred despite declining catches. Increases in competing product prices, increasing consumer incomes, etc. have probably partially accounted for this.

*Bell (1969) estimated the elasticity to be -2.28, Gates (1974) estimated the flexibility to be -.6346.

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Therefore, it is difficult to forecast if gross revenues will actually decrease as a result of the forced reduction in landings. If current prices (March) are assumed to be in effect during all of 1977, the total gross revenues resulting from landing the entire yellowtail flounder quota would be approximately $17.5 million.

If revenues did actually decline as a result of this action, the extent of the impact on the affected fleets (principally the New Bedford fleet and to a lesser extent the Pt. Judith fleet) depends upon the alternative species that these fleets have available. These alternative species include blackback, fluke, tilefish, grey sole, and offshore cod. Reduced foreign fishing in the Fisheries Conservation Zone could reduce the foreign by-catch of these species, resulting in a higher level of abundance and catch per unit of effort for domestic fishermen.

Over the long run, if this action permits higher catch levels in the yellowtail fishery, total revenue gains could offset short-term losses (although those domestic fishermen incurring the short-term losses would not necessarily be the same domestic fishermen securing the future benefits due to the time pattern of future quotas). The increased catches in future years, ceteribus paribus, could conceivably lead to a reduction in consumer prices. While processors of yellowtail flounder could experience some short-term cutback in fresh raw material supplies, transfers of effort by the fleet to the other species stated above would probably mitigate this impact somewhat.

II.C.3.c. Haddock

Removals should be kept at the lowest possible level to allow for rapid recovery of the haddock stock to the MSY level. We recommend the optimum yield be set at 6,300 m.t., which would include both recreational and commercial catch as by-catch only. It is estimated there would be an unavoidable by-catch of about 6,000 m.t. in other Northwest Atlantic trawl fisheries, which may be taken only as undirected by-catch.

The proposed haddock quota would represent a slight increase vis-a-vis the US haddock catches of recent years (which have also been limited to by-catch only). The increased haddock landings should result in some increase in total gross revenues from haddock, since the demand for haddock has been estimated to be elastic. Bell (1969) estimated the elasticity to be about -3.22.

Since the importance of the haddock catches in the FCZ for other countries is minor (except for Canada), the impact of this action with regard to increased demand by foreign countries for imports would be negligible. On the other hand, the policies of other countries with respect to foreign fishery within their own respective FCZ could have an effect on world trade patterns for haddock. At this time it is unclear as to the impact of such actions on the demand and prices for haddock in the U.S. Reduced foreign exports to the U.S. as a result of these changing trade patterns (due to actions by other countries) are also a possible factor which could affect ex-vessel price and consumer price. If current prices (March) prevail during all of 1977, the total gross revenues from landing the entire quota of haddock would be approximately $6.5 million dollars.

II.C.4 Suggested Management Measures

Due to the condition of the stocks of these three species, it is recommended that the following management measures be adopted as applicable to domestic fishermen.

(A) Quotas

(1) Cod

(a) It is recommended that the landings of cod from the Gulf of Maine be limited to 5,000 m.t. commercial and 2,300 m.t. recreational.

(b) It is recommended that the landings of cod from Georges Bank be limited to 20,000 m.t. commercial and 10,000 m.t. recreational.

(2) Yellowtail Flounder

(a) It is recommended that the landings of yellowtail flounder from Georges Bank east of 69° west longitude be limited to 10,000 MT.

(b) It is recommended that the landings of yellowtail flounder from the area west of 69° west longitude, which are made up entirely of incidental catches by U.S. vessels, be limited to 4,000 mt.

It is recommended that the landings of haddock from the Gulf of Maine and Georges Bank be limited to 6,300 MT.

(b) Mesh Size Regulation

That the taking of cod, haddock, and yellowtail flounder be prohibited from an area formally designated as ICNAF SA5 with trawl nets having in any part of the net other than the codend, meshes of dimensions less than 114 mm or 4-½ inches, and having in the codend of the nets, meshes of dimensions less than 130 mm or 5-1/8 inches. These mesh sizes relate to manila twine netting when measured wet after use or the equivalent thereof when measured dry before use. The Council may, on the basis of scientific advice as to selectivity equivalents, determine the appropriate mesh sizes when trawl nets made of materials other than manila are used or when seine nets are used.

It is expected that there will be minimal bycatches of haddock and yellowtail flounder in the directed foreign fisheries for the hakes, mackerel, squid, and herring. The "windows" were designed in such a way as to prevent such bycatches, and the actual foreign catches will be monitored by on board U.S. observers.

(1) Mesh sizes are measured by a flat wedge-shaped gauge having a taper of 2 centimeters in 8 centimeters and a thickness of 2.3 millimeters, inserted into the meshes under a pressure or pull of 5 kilograms. The mesh size of a net shall be taken to be the average of the measurements of any series of twenty consecutive meshes, at least ten meshes from the landings, and when measured in the codend of the net beginning at the after end and running parallel to the long axis.

(2) In order to avoid impairment of fisheries conducted primarily for other species and which take small quantities of cod, haddock, and yellowtail flounder incidentally, persons permitted to fish may take cod, haddock, and yellowtail flounder with nets having a mesh [35]

size less than that specified in the preceding paragraph, so long as persons on board a vessel fishing primarily for other species do not have in possession (either at sea or at the time of offloading) cod, haddock, or yellowtail flounder in amounts in excess of 2,500 kg (5,510 lbs) for each species or 10% by weight of all fish on board such vessel for such species, whichever is greater.

(3) Any means or device is prohibited, other than those described in paragraph 4, which would obstruct the meshes of the nets or which would otherwise diminish the size of the meshes of the nets. Devices may be attached to the upper side of the codend in such a manner that they will not obstruct the meshes of the codend. Any such device must have the approval of the Council based on scientific advice that the attached devices do not obstruct the meshes or reduce significantly the selectivity of the codend.

(4) Canvas, netting, or other material may be attached to the underside only of the codend of a net to reduce and prevent damage. The mesh size restriction proposed is a continuation of current regulations, thus this action should have no substantitive adverse impact vis-a-vis current conditions.

(C) Area and Season Restrictions

(1) Commercial

It is prohibited to use fishing gear other than pelagic fishing gear (purse seines or true midwater trawls using midwater trawl doors incapable of being fished on the bottom) and to attach any protective device to pelagic fishing gear or employ any means which would in effect make it possible to fish for demersal species during March, April, and May in areas bounded by straight lines connecting the following coordinates in the order listed:

(1) 69°55'W, 42°10'N	(2) 67°00'W, 42°20'N
69°10'W, 41°10'N	67°00'W, 41°15'N
68°30'W, 41°35'N	65°40'W, 41°15'N
68°45'W, 41°50'N	65°40'W, 42°00'N
69°00'W, 41°50'N	66°00'W, 42°20'N

The provisions of this paragraph shall not apply to vessels that fish in area (2) with hooks having a gape of not less than 3 cm, or to vessels that fish in areas (1) and (2) with gear designed to fish for crustaceans and scallops (see Figure 7).

II. D. The plan recommends minimum size limits for haddock and cod be imposed.

Haddock

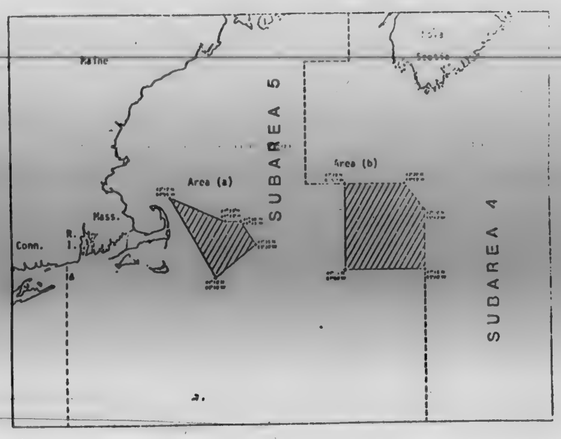
(1) Calendar Year 1977 - A minimum size of 406 mm is recommended, representing the appropriate average length of a 2½ year old fish. (The average weight of such a fish would be about 0.7 kilgram.)

Cod

(1) Calendar Year 1977 - A minimum size of 406 mm is recommended (representing the approximate average length of a 2 year old fish) for commercial fishing. (The average weight of such a fish would be about 0.6 kilogram.) Depending upon the allowable tolerance, this action could conceivably result in a short-term decrease in available legal supply of cod and haddock (although it is believed that it will not). Again over the long run this should increase the average size of the fish landed, increase processing yield, and could result in price premiums being paid to fishermen.

Figure 7

Chart illustrating the areas affected by Recommendation C for Regulation of the Fishery for Haddock in the area formerly known as Subarea 5.



III. Summary and Alternatives

Alternatives to this Plan include: (1) no action, (2) changes in allowable harvest levels, (3) changes in mesh size restrictions, (4) elimination of closure areas, and (5) elimination of minimum size restrictions.

1.) No action

The best scientific information available indicates the species under consideration are in a severely depleted state, apparently resulting from overfishing and other factors. Imposed conservation measures under the auspices of ICNAF have been responsible for measurable, positive results in terms of increases in stock abundance. In spite of possible short-term economic losses, it is essential to continue conservation measures to a point where stock abundance is maximized. To remove such controls would, in effect, represent an irresponsible action relative to the health and potential productivity of an important public resource. Furthermore, to take no action is tantamount to not complying with the intent of Congress in passing P.L. 94-265, which mandates responsible management of resources under U.S. jurisdiction relative to the concept of optimizing the yield of all species. In essence, the alternative of taking no action is unjustified.

2.) Changes in allowable harvest levels.

The management plan proposes harvest levels based upon two factors: (1) best scientific evidence currently available, and

(2) economic impact to the US fishing industry. Thus, the total amounts of haddock and cod recommended for US harvest in 1977 are somewhat greater than in 1976, while that for yellowtail flounder is somewhat lower. While slight changes are possible without inducing significant damage to the stocks, substantial changes in harvest levels would negate the positive impacts indicated previously. On the other hand, lowering harvest levels substantially, while perhaps leading to quicker stock rebuilding, would impose severe economic hardship to U.S. fishermen. The harvest levels recommended represent the optimum yield for 1977, given the present state of the species under consideration. Major harvest changes are not justified.

3.) Elimination of areas closures.

The two proposed closure areas have been identified as primary haddock spawning areas. If fishing were allowed during this critical portion of the annual life cycle (when these fish are concentrated) severe damage to the spawning stock would undoubtedly result. This, in turn, could lead to poor recruitment to the fishery in future years causing substantial adverse economic and ecological impact. Elimination of closure areas is not justifiable environmentally, nor in terms of long term, sustained, economic return to U.S. fishermen.

4.) Changes in mesh size restrictions.

The mesh sizes proposed are designed to allow escapement of pre-recruits composed primarily of fishes too young to spawn. Additionally, small fishes are generally less valuable in the market place. The mesh regulations will allow rebuilding of the spawning stock, while providing for the gainful employment of groundfish fishermen.

Elimination of the mesh size restrictions would result in the harvesting of an inordinate amount of the prespawning stock and subsequent long-term adverse impacts on the fishery stocks and fishing community economies. In the interest of responsible fisheries management practices, mesh size regulations are necessary for the foreseeable future.

Since the U.S. fishermen have been fishing with essentially the same mesh size restriction under ICNF, this Plan represents no change from current practices in this respect and no adverse impacts are foreseen. The minimum size restriction could have a short term adverse impact due to the limited availability of legal size fish. However, over the long run, the recommended size limits should lead to an increase in the average size of the fish landed. This would lead to increases in the processing yield per pound of fish landed which could lead to higher prices being paid to fishermen.

5.) Changing minimum size restrictions.

The minimum size restrictions, much like the mesh size restrictions, are designed to allow escapement of immature fish by discouraging their capture. Presumably fishing in areas where immature fish are concentrated would be discouraged, since their capture would be uneconomical. To increase the mesh size over that proposed would cause a severe short-term economic hardship to U.S. fishermen since the availability of large fish is limited. Alternatively, reducing minimum sizes would result in increased mortality of the pre-spawning stock, in turn reducing future reproductive potential.

Ideally, progressively larger minimum mesh sizes, phased in through annual increases, would allow recruitment and subsequent spawning stock strength to be maximized without unduly taxing the economic well being of the fishing community.

In view of the present depleted state of the fishery stocks of species under consideration, harvesting at any level could be construed as having adverse environmental effect. On the other hand, any restriction imposed upon harvesting these species could be interpreted as having adverse effect in terms of short-term economic gains to the fishing industry. This apparent conflict, however, is alleviated by the proposed conservation measures which provide for somewhat slower stock rebuilding coupled with long-term economic stability.

Short-term price increases would be expected from reduced availability of yellowtail. This would result from the smaller harvests, initially due to the imposed regulations. Thus a slight short-term adverse impact on the consuming public and the industry would be expected.

It is not expected that there will be any substantial adverse impact on the recreation sector due to the fact that the recommended recreational catch is essentially unchanged over that of the last few years.

The probable relationship of the proposed action relative to recent oil spills in, and adjacent to, fishery areas treated in this document is unmeasurable at this time. All available evidence, including oil-slick trajectories, suggest that no serious impairment of the fishery will result. However, the longer-term effects of oil in the region of fishing activity are, as yet, undetermined. This is particularly true of the oil no longer visible on the surface.

At present fish are being sampled on a continuous basis by the National Marine Fisheries Service and analyses for oil contamination are being carried out by the Food and Drug Administration of the State of Massachusetts. To date there has been no evidence of any such contamination. Further, cleaning facilities for fishermen's nets have been established at Portland, Maine; Boston, Massachusetts; Yarmouth, Massachusetts; and Providence, Rhode Island in the event that fishing gear becomes fouled with oil. Also, fishermen are being interviewed on a continuous basis as to any impact of the oil spill they may have detected.

Should the oil spills adversely affect the fisheries under consideration, the harvest levels recommended in this plan may require revision. However, this will remain a topic of speculation until precise data become available.

The measures proposed herein are designed to accomplish two goals relative to long-term productivity: (1) provide for a sustained optimum yield of biomass based on increased and stable stock levels, and (2) provide long-term economic stability in the fishing community harvesting groundfish species. The process, if successful, will require short-term, local sacrifices in terms of harvesting yellowtail and the SY commercial cod catch at a level below full fishing capacity. The relationship between the short-term use of the environment and the promise of long-term viability through stock stability at higher levels is, we believe, a strong bond and a necessary one. Prudent and responsible utilization of the resource base requires no less.

The resources in question are, in fact, public resources, and therefore, belong to no one particular interest group. The concept envisioned by Congress in passing PL 94-265 is to maximize the benefits of these resources to all Americans. The species considered herein are treated much like any other natural resource of the public domain. Given these circumstances, and the fact that regulatory measures provided by ICNAF will no longer be effective in providing resource protection, the conservation measures proposed are examples of direct and responsible federal actions to ensure resource availability at adequate levels for the foreseeable future. While short-term economic losses are possible to a segment of the fishing industry (yellowtail flounder fishery), and those vessels not capable of transferring their effort from the 5Y cod fishery), the overall benefits to be provided clearly favor plan implementation. In view of the long-term benefits to be derived, it is believed adverse impacts, if any, will be clearly of secondary importance.

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To rescind certain budget authority recommended in the message of the President of September 22, 1976 (H. Doc. 94–620), transmitted pursuant to the Impoundment Control Act of 1974. (Mar. 10, 1977; 91 Stat. 20). Price: $.35

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NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Title 3—The President

Executive Order 11976 • March 11, 1977

Amending Executive Order No. 11861, as Amended, Placing Certain Positions in Levels IV and V of the Executive Schedule

By virtue of the authority vested in me by Section 5317 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Section 1 of Executive Order No. 11861, as amended, placing certain positions in level IV of the Executive Schedule, is further amended by adding thereto "(17) Director of Agricultural Economics, Department of Agriculture." and "(18) Assistant to the Secretary for Legislative Affairs, Department of Defense.".

SEC. 2. Section 2 of Executive Order No. 11861, as amended, placing certain positions in level V of the Executive Schedule, is further amended by deleting "(1) Defense Representative, Iran, Department of Defense." and "(9) Deputy Assistant Secretary for Housing, Department of Housing and Urban Development.".

Jimmy Carter

THE WHITE HOUSE,
March 11, 1977.

[FR Doc.77-7762 Filed 3-11-77;4:24 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Executive Office of the President

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment excepts from the competitive service all positions on the staff of the Office of Drug Abuse Policy with the provision that no one may serve under this authority after September 30, 1978. This exception is granted because it is impracticable to examine for these positions.

EFFECTIVE DATE: March 15, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3103(f)(1) is added to read as follows:

§ 213.3103 Executive Office of the President.

• • • • • •

(f) *Office of Drug Abuse Policy.* (1) All positions on the staff of the Office of Drug Abuse Policy. No one may serve under this authority after September 30, 1978.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77–7572 Filed 3–14–77;8:45 am]

PART 295—PUBLIC OBSERVATION OF COMMISSION MEETINGS

Final Regulations; Correction

The following changes should be made in the document appearing in the FEDERAL REGISTER of Tuesday, March 8, 1977, 42 FR 13099, (FR Doc. 72–6949):

(1) On page 13010 in § 295.202(a)(3). The material in parentheses on the third line should read "(other than section 552 of Title 5 United States Code)"

(2) On page 13011 in § 295.208. Delete the word "eight" and insert "seven" in the fourth line.

(3) On page 13011 in § 295.401(a). Add, at the end of the first sentence, the words, "whichever occurs later".

DONALD J. BIGLIN,
Director, Bureau of Management Services.

[FR Doc.77–7747 Filed 3–14–77;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—FOOD STAMP PROGRAM

[Amdt. No. 104]

PART 270—GENERAL INFORMATION AND DEFINITIONS

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Fiscal Year and Public Assistance Withholding (PAW)

Pursuant to the authority contained in the Food Stamp Act of 1964, as amended, (78 Stat. 703, as amended; 7 U.S.C. 2011–2026), regulations governing the operation of the Food Stamp Program are hereby amended. Section 270.2, "Definitions", and § 271.6, "Methods of distributing, issuing, and accounting for coupons and receipts", are revised to comply with legislative changes concerning the definition of Federal fiscal year and the implementation of Public Assistance Withholding (PAW).

The definition of a Federal fiscal year was modified to cover the period from October 1 through September 30, instead of July 1 through June 30, by Pub. L. 93–344, which mandated the change be effective in 1976. Section 270.2(u) is revised accordingly as set forth below.

Pub. L. 94–585 permanently made adoption of PAW optional for State agencies. PAW is a method for recipients of Public Assistance payments under Title IV of the Social Security Act to have their food stamp purchase requirements deducted from their payments and to receive their coupons through the mail. Section 271.6(d)(2) is revised accordingly as set forth below.

Pub. L. 94–585 also provides that costs States incur in administering PAW be paid from Food Stamp Program funds. PAW costs are currently considered operating costs of the program and fall under the cost-sharing provisions of the Food Stamp Act. States are reimbursed for 50 percentum of these costs by the Department. Based on the legislative history of Pub. L. 94–585 the current cost-sharing provisions remain in effect. (See Senate Report No. 94–1345, at 3.)

Due to the need for immediate revision of the affected provisions to comply with the legislative directives it is unnecessary and contrary to the public interest to give notice of proposed rulemaking.

Accordingly, Parts 270 and 271 of Chapter II, Title 7 of the Code of Federal Regulations are hereby amended as follows:

(1) In § 270.2, paragraph (u) is amended to read:

§ 270.2 Definitions.

• • • • • •

(u) "Federal fiscal year" means a period of 12 calendar months beginning with October 1 of any calendar year and ending with September 30 of the following calendar year.

• • • • • •

(2) In § 271.6, paragraph (d)(2) is amended to read:

§ 271.6 Methods of distributing, issuing, and accounting for coupons and receipts.

• • • • • •

(d) • • •

(2) The State agency may permit any household participating in the program, if it so elects, to have the cost of its full monthly coupon allotment deducted from any grant or payment such household may be entitled to receive under Title IV of the Social Security Act, and have its full monthly coupon allotment distributed to it.

• • • • • •

(78 Stat. 703, as amended; (7 U.S.C. 2011–2026).)

Effective date. This amendment is effective October 1, 1976.

(Catalog of Federal Domestic Assistance Programs No. 10,551, Food Stamps.)

Dated: March 11, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77–7679 Filed 3–14–77;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 82, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period March 6–12, 1977. The quantity that may be shipped is increased due to improved market conditions for California-Arizona lemons. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recom-

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mendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of lemons available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lemon Regulation 82 (42 F.R. 12411). The marketing picture now indicates that there is a greater demand for lemons than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of lemons to fill the current market demand thereby making a greater quantity of lemons available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* Paragraph (b) (1) of § 910.382 (Lemon Regulation 82 (42 F.R. 12411)) is hereby amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period March 6, 1977 through March 12, 1977, is hereby fixed at 230,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: March 9, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-7559 Filed 3-14-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Amendments to the Refiner Price Regulations—Increased Non-Product Costs and Allocation of Increased Costs to Exempt Products; Correction

In FR Doc. 77-2432 appearing at 5023 in the FEDERAL REGISTER of January 27, 1977, the following correction is made:

On page 5028, column 3, at lines 80 and 83, § 212.83(c)(2)(iii)(E) is corrected in the definitions of "C_n'" and "C_n'" by deleting the word "increased."

ERIC J. FYGI,
Acting General Counsel.

MARCH 9, 1977.

[FR Doc.77-7806 Filed 3-10-77;9:16 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 77-170]

PART 545—OPERATIONS

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Liberalizing State Housing Corporation Investment

MARCH 9, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: By these rules, the Board is adding a new paragraph (c) to § 545.6-25 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) and to § 563.9-5 of the rules and regulations for Insurance of Accounts (12 CFR Part 563) to allow Federally-chartered savings and loan associations and State-chartered associations insured by the Federal Savings and Loan Corporation to apply to the Board for a waiver of the 5 percent of net worth limitation on loans and loan commitments which such associations may make to state housing corporations. The Board anticipates that the effect of this provision will be greater participation by such institutions in innovative programs designed to stimulate improved low and moderate income housing in their communities.

EFFECTIVE DATE: March 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Regulations Division, Office of the General Counsel, Federal Home Loan Bank Board, Washington, D.C. 20552 (202–376–3556).

SUPPLEMENTARY INFORMATION: By companion Resolutions No. 74-312 and No. 74-313, dated April 17, 1974, the Board adopted amendments to Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) and to Part 563 of the rules and regulations for Insurance of Accounts (12 CFR Part 563) to implement sections 5(b) and 5(d)(1) of Pub. L. 93-100 (87 Stat. 342; August 16, 1973), which authorized the Board to allow and regulate investment in state housing corporations by Federally-chartered and Federally-insured, State-chartered savings and loan associations. In imposing restrictions and limitations upon investment in state housing corporations, the Board considered that the nature of their activities could involve higher than normal risk for associations investing in them.

Since 1973, when such investment was first allowed, the Board has observed that a number of new State programs have evolved which would encourage greater lending involvement by thrift institutions in community low and moderate income housing programs without undue investment risk. The Board therefore believes it appropriate to accept for consideration on a case-by-case basis requests of individual institutions for waiver of the 5-percent-of-net-worth limitation in these regulations.

Since these amendments relieve restriction, and it is in the public interest that they become effective without delay, the Board hereby finds that notice and public procedure with respect to such amendments are contrary to the public interest and unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of such amendments for the period of time specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of such amendments would, in the opinion of the Board, likewise be unnecessary for the same reasons, the Board hereby provides that such amendments shall become effective as stated below.

Accordingly, the Board hereby amends Parts 545 and 563 by adding thereto new §§ 545.6-25(c) and 563.9-5(c) to read as set forth below, effective March 9, 1977.

1. Add new paragraph (c) to § 545.6-25 as follows:

§ 545.6-25 Investment in state housing corporations.

* * * * *

(c) The Board will consider, and where justified may approve, on a case-by-case basis, a written request by a Federal association for waiver of the 5 percentum of net worth loan limitation in paragraph (a) of this section.

2. Add new paragraph (c) to § 563.9-5 as follows:

§ 563.9-5 Investment in state housing corporations.

* * * * *

(c) The Board will consider, and where justified may approve, on a case-by-case basis, a written request by an insured institution for waiver of the 5 percentum of net worth loan limitation in paragraph (a) of this section.

(Secs. 5, 402, 406, 48 Stat. 132, 1256, 1257, as amended (12 U.S.C. 1464, 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-7467 Filed 3-14-77;8:45 am]

SUBCHAPTER D—RULES AND REGULATIONS FOR INSURANCE OF ACCOUNTS

[No. 77-173]

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

Offers for and Sale of Securities of Converting Associations

SUMMARY

MARCH 9, 1977.

The following summary of the amendment adopted by this Resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the regulation.

I. PRESENT SITUATION—TEMPORARY § 563b.9

A. Prohibits exercise of conversion subscription rights pursuant to an agreement or understanding prior to completion of conversion to transfer such rights or the underlying securities to the account of another.

B. Prohibits any offer or announcement of an offer for a converting institution's conversion securities prior to completion of conversion.

C. Prohibits any offer by any person for a converted institution's securities after completion of conversion if the effect is that such person would be the beneficial owner of more than 10 percent of any class of the converted institution's stock, unless such offer receives prior written approval of the Federal Savings and Loan Insurance Corporation. The prohibition remains in effect for a period of 3 years from the date of completion of the conversion.

D. Excepts from such prohibition offers directly to the association or underwriters acting on its behalf.

E. Prescribes civil penalties for any violation of the regulation involving persons connected with the association.

F. Prescribes criteria for denial of the prior written approval required by the regulation.

G. Expires on April 30, 1977, unless extended or made permanent.

II. NEW ACTION

A. The expiration date is revoked, and the regulation thus made permanent, except as later amended or revoked.

B. Additional exceptions are provided, but the regulation otherwise remains unchanged.

III. REASONS FOR THE REGULATION

A. To clarify the meaning of existing Board regulations prohibiting transfer of subscription rights.

B. To protect the integrity of the Board's conversion process and lessen the vulnerability of newly converted institutions to attempts to take unfair advantage of the results of conversion.

By Resolution No. 76-848 of November 10, 1976, the Federal Home Loan Bank Board adopted a new § 563b.9 to its conversion regulations (12 CFR Part 563b) to clarify that certain actions relating to transfer of subscription rights in insured institutions converting from mutual to stock form are prohibited by those regulations and for other purposes described in the preamble of that Resolution. The new amendments, published in the FEDERAL REGISTER on November 16, 1976, were adopted as temporary regulations effective on that date to expire on April 30, 1977, unless extended or made permanent. Interested persons were invited to submit written data, views, and arguments to the Office of the Secretary of the Federal Home Loan Bank Board by December 17, 1976, as to whether the amendments should be modified, made permanent, or revoked.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available to it, the Board deems it advisable to modify § 563b.9 as described below and to revoke the April 30, 1977, expiration date, thus making the regulation permanent unless it is later amended or revoked by the Board.

The prohibitions clarified or established by § 563b.9 are stated in paragraphs (b), (c), and (d) thereof. Their scope and effect were explained in the preamble to Board Resolution No. 76-848 as follows:

Paragraph (b) applies to transfer of subscription rights or the underlying securities during a conversion and clarifies the prohibition already inherent in § 563b.3 of the existing regulations. It prohibits, prior to completion of a conversion, any agreement or understanding of any kind to transfer the legal or beneficial ownership of conversion securities to the account of another. The prohibition is not intended to prohibit any hypothecation of securities validly purchased.

Paragraph (c) prohibits any offer for a converting or converted association's securities prior to completion of the conversion. It also prohibits an announcement of intent to make such an offer, because such an announcement would create an atmosphere calculated to induce the exercise of subscription rights for the account of the offerors. As with paragraph (b), this prohibition is intended to clarify the existing regulatory provisions (§ 563b.3).

Paragraph (d) is new. It prohibits, without prior written approval of the Federal Savings and Loan Insurance Corporation, any offer or announcement of an offer for any equity security of a converted association if the effect of consummation would be that the offeror would hold more than 10 percent of such class of security. The prohibition is applicable for a period of three years following the date of completion of the conversion. The language as to equity security and 10 percent beneficial owner is modeled after language in the Securities Exchange Act (15 U.S.C. 78m) and is intended to have a similar meaning.

These prohibitory provisions are made permanent without modification by the Board's present action, as are the definitions in paragraph (a), the criteria in paragraph (f) for denial of applications made under paragraph (d), and the provisions in paragraph (g) for penalties for willful violations of § 563b.9. Paragraph (e) is modified to include three categories of exceptions from the prohibitions of § 563b.9 as follows:

The exception in paragraph (e)(1) is new, and reflects the Board's experience that certain agreements may be necessary to effect private distribution, under § 563b.3(d)(4), of stock not taken down by account holders and other members with subscription rights in a converting institution, and by management under the management set aside provision. Paragraph (e)(1) will permit such agreements with prior written approval of the Corporation.

Paragraph (e)(2) is the same as paragraph (e) of the temporary regulation. It provides an exception from paragraphs (c) and (d) for any offer made exclusively to the association or underwriters or selling group acting on its behalf.

Paragraph (e)(3) contains a limited exception from the prohibition of paragraph (d): Paragraph (e)(3) is modeled after section 13(d)(8) of the Securities Exchange Act of 1934, but unlike that Act, which excepts acquisitions not exceeding two percent per year, subparagraph (e)(3) only excepts offers which would if consummated effect acquisition by a person of not more than one percent of any class of equity security of a converting institution. However, the prohibition of paragraph (d) would apply, even to an annual acquisition of one percent or less, if such prohibition is made applicable by prior advice in writing by the Corporation.

As hereby made permanent, § 563b.9 will, in the Board's view, protect the integrity of the Board's conversion process and lessen the vulnerability of newly converted institutions to attempts to take unfair advantage of the results of conversion.

Accordingly, the Board hereby makes permanent said § 563b.9 by revoking paragraph (h) thereof and amends paragraph (e) thereof to read as set forth below, effective April 29, 1977.

§ 563b.9 Offers for and sale of securities of converted associations.

* * * * *

(e) Exceptions. * * *

(1) Paragraphs (b) and (c) of this section shall not apply to a transfer, agreement or understanding to transfer, offer, or announcement of an offer or intent to make an offer which (i) pertains only to securities to be purchased pursuant to § 563b.3(d)(3) or (4); and (ii) has prior written approval of the Corporation.

(2) Paragraphs (c) and (d) of this section shall not apply to any offer made exclusively to the association or underwriters or selling group acting on its behalf.

(3) Unless made applicable by the Corporation by prior advice in writing, the prohibition contained in paragraph (d) of this section shall not apply to any offer or announcement of an offer which if consummated would result in acquisition by a person, together with all other

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acquisitions by such person of the same class of securities during the preceding 12-month period, of more than one percent of the same class of securities.

* * * * *

(h) [Revoked]

Effective April 29, 1977.

(Sec. 105, Pub. L. 93-495, October 28, 1974; secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; sec. 5, 48 Stat. 132, as amended; (12 U.S.C. 1464), Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc.77-7586 Filed 3-14-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 77-WA-1]

PART 73—SPECIAL USE AIRSPACE

Designation of Prohibited Area

Correction

In FR Doc. 77-6233, appearing on page 11826 in the issue for Tuesday, March 1, 1977, the third line under the paragraph headed "P-77 Plains, Ga." should read, "32°02'00" N., longitude 84°23'38" W.; to".

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-989, Amdt. 58]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Increase in Level of Compensation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., March 7, 1977.

In accordance with established procedure and methodology, the Board has completed its monthly review of fuel prices reported on C.A.B. Form 41, Schedule P-12(a) for foreign and overseas MAC air transportation services for the month of January 1977, and is herein amending the surcharge provisions in Part 288 of its Economic Regulations (14 CFR Part 288) applicable to the rates established for those services.[1] The basis for issuing this surcharge amendment is the increase in average fuel price for the participating MAC carriers by 1.23 cents per gallon—from 39.35 cents per gallon reflected in the currently-effective fuel surcharge rate [2] to the currently reported average price of 40.58 cents per gallon.

The Appendix [3] sets forth the results of the surcharge rate computation for the reported fuel price changes for commercial and military fuels consumed in military charter service for the month of January 1977, as reported on Schedule P-12(a); and the rate impact for the changes in current average fuel prices from those reflected in the base rates. Accordingly, we will revise the fuel surcharge rates effective March 7, 1977, to increase the long-range Category B and Category A rate from 1.95 to 2.72 percent.

In view of the continuing need for a fuel surcharge to the minimum rates set forth in Part 288, we find good cause exists to make the within amendments effective on less than thirty (30) days' notice.

In consideration of the foregoing, the Board hereby amends Part 288 of its Economic Regulations (14 CFR Part 288) effective March 7, 1977, as follows:

1. Amend § 288.7(a)(2) by amending the third proviso following the table to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(a) * * *

(2) * * * *Provided, however,* That effective March 7, 1977, the total minimum compensation pursuant to the rates set forth in paragraph (a)(1) of this section for (i) services performed with regular jet, wide-bodied jet, and DC-8F-61/63 aircraft, (ii) Pacific interisland services performed with B-727 aircraft, and (iii) all other services performed with B-727 aircraft shall be increased by surcharges of 2.72 percent, 3.57 percent, and 3.57 percent, respectively.[1]

b. By amending the proviso to paragraph (d) (1) and (2) of this section to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(d) For Category A transportation * * *

(2) * * *

Provided, That effective March 7, 1977, the total minimum compensation pursuant to the rates specified in paragraphs (d)(1) and (2) of this section shall be increased by a surcharge of 2.72 percent.

* * * * *

(Secs. 204, 403 and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758 and 771, as amended; 49 USC 1324, 1373 and 1386.)

Effective: March 7, 1977.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7585 Filed 3-11-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER II—TENNESSEE VALLEY AUTHORITY

PART 301—PROCEDURES

Government in the Sunshine Act Regulations

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final regulations.

SUMMARY: As required by the Government in the Sunshine Act, these regulations require all meetings of the TVA Board of Directors to be open to public observation, except in certain specified instances when the Board by recorded vote may decide to close a meeting. TVA shall make public announcement of each Board meeting at least one week in advance, unless TVA business requires otherwise.

EFFECTIVE DATE: March 12, 1977.

FOR FURTHER INFORMATION CONTACT:

John Van Mol, Director of Information, Tennessee Valley Authority, Room E12A4 Knoxville Office Complex, 400 Commerce Avenue, Knoxville, Tennessee 37902. (615-632-3257). Information is also available at TVA's Washington Office. (202-343-4537).

SUPPLEMENTARY INFORMATION: On January 26, 1977, there was published in the FEDERAL REGISTER (42 FR 4859) the TVA Board of Directors' notice that it proposed to amend 18 CFR Part 301 by adding a new Subpart C, entitled "Government in the Sunshine Act," to implement the requirements of that act with respect to TVA.

In accordance with the Government in the Sunshine Act and TVA's practice over the past two years, TVA proposed that all meetings of the TVA Board be open to public observation, except in certain specified instances when the Board by recorded vote may decide to close a meeting. TVA proposed to make public announcement, at least one week in advance, of the time, place, and subject matter of each Board meeting, unless the Board determines that TVA business requires otherwise. If the meeting, or any portion thereof, is to be closed to the public, that fact will also be announced.

As required by the Government in the Sunshine Act, TVA has allowed at least 30 days for written comments by any person on the proposed regulations. One letter of comment was received and has been given due consideration.

As a result of the comment received, the first word "For" in § 301.45(d) is deleted and the words "Prior to" are inserted in its place. This change makes it clear that the General Counsel's certification stating whether, in his or her opinion, a meeting may be closed, is to be made prior to the meeting.

The comment received also suggested that § 301.46(1)(1) and the language at the beginning of § 301.46 be revised. However, those two sections are substantially the same as comparable sections of the act and a change would not add anything to them. Of course, in any particular instance, TVA will not rely on any provision which is not applicable.

Accordingly, with the change mentioned above, the proposed regulations are adopted as set out below, effective as of March 12, 1977.

NOTE.—TVA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: March 3, 1977.

LYNN SEIBER,
General Manager.

18 CFR Part 301 is amended by adding a new Subpart C to read as follows:

Subpart C—Government in the Sunshine Act

Sec.
301.41 Purpose and scope.
301.42 Definitions.
301.43 Open meetings.
301.44 Notice of meetings.
301.45 Procedure for closing meetings.
301.46 Criteria for closing meetings.
301.47 Transcripts of closed meetings.
301.48 Public availability of transcripts and other documents.

AUTHORITY: Sec. 3(a), Pub. L. No. 94-409, 90 Stat. 1241 (5 U.S.C. 552b), and 48 Stat. 58, as amended (16 U.S.C. 831-831dd).

Subpart C—Government in the Sunshine Act

§ 301.41 Purpose and scope.

(a) The provisions of this Subpart are intended to implement the requirements of section 3(a) of the Government in the Sunshine Act, 5 U.S.C. 552b, consistent with the purposes and provisions of the Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.

(b) Nothing in this subpart expands or limits the present rights of any person under the Freedom of Information Act (5 U.S.C. 552) and the provisions of Subpart A of this part, except that the exemptions set forth in § 301.46 shall govern in the case of any request made pursuant to the Freedom of Information Act and Subpart A to copy or inspect the transcripts, recordings, or minutes described in § 301.47.

(c) Nothing in this subpart authorizes TVA to withhold from any individual any record, including transcripts, recordings, or minutes required by this Subpart, which is otherwise accessible to such individual under the Privacy Act (5 U.S.C. 552a) and the provisions of Subpart B.

(d) The requirements of Chapter 33 of Title 44 of the United States Code shall not apply to the transcripts, recordings, and minutes described in § 301.47.

§ 301.42 Definitions.

For the purposes of this Subpart:

(a) The term "Board" means the Board of Directors of the Tennessee Valley Authority;

(b) The term "meeting" means the deliberations of two or more members of the TVA Board where such deliberations determine or result in the joint conduct or disposition of official TVA business, but the term does not include deliberations required or permitted by § 301.44 or § 301.45;

(c) The term "member" means an individual who is a member of the TVA Board; and

(d) The term "TVA" means the Tennessee Valley Authority.

§ 301.43 Open meetings.

Members shall not jointly conduct or dispose of TVA business other than in accordance with this Subpart. Except as provided in § 301.46, every portion of every meeting of the agency shall be open to public observation, and TVA shall provide suitable facilities therefor, but participation in the deliberations at such meetings shall be limited to members and certain TVA personnel. Public observation does not include the recording of any deliberations or actions by means of electronic or other devices or cameras.

§ 301.44 Notice of meetings.

(a) TVA shall make a public announcement of the time, place, and subject matter of each meeting, whether it is to be open or closed to the public, and the name and telephone number of a TVA official who can respond to requests for information about the meeting.

(b) Such public announcement shall be made at least one week before the meeting unless two or more members determine by a recorded vote that TVA business requires that such meeting be called at an earlier date. If an earlier date is so established, TVA shall make such public announcement at the earliest practicable time.

(c) Following a public announcement required by paragraph (a) of this section, the time or place of the meeting may be changed only if TVA publicly announces the change at the earliest practicable time. The subject matter of a meeting or the determination to open or close a meeting or portion of a meeting to the public may be changed following the public announcement required by paragraph (a) of this section only if two or more members determine by a recorded vote that TVA business so requires and that no earlier announcement of the change was possible and if TVA publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(d) Immediately following each public announcement required by this section, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the TVA official designated to respond to requests for information about the meeting shall be submitted for publication in the FEDERAL REGISTER.

§ 301.45 Procedure for closing meetings.

(a) Action under § 301.46 to close a meeting shall be taken only when two or more members vote to take such action. A separate vote shall be taken with respect to each meeting a portion or portions of which are proposed to be closed to the public pursuant to § 301.46 or with respect to any information which is proposed to be withheld under § 301.46. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in such series. The vote of each member participating in such vote shall be recorded and no proxies shall be allowed.

(b) Notwithstanding that the members may have already voted not to close a meeting, whenever any person whose interests may be directly affected by a portion of a meeting requests that the agency close such portion to the public for any of the reasons referred to in paragraphs (c), (f), or (g) of § 301.46, the Board, upon request of any one of its members made prior to the commencement of such portion, shall vote by recorded vote whether to close such portion of the meeting.

(c) Within one day of any vote taken pursuant to this section, TVA shall make publicly available in accordance with § 301.48 a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, TVA shall, within one day of the vote taken pursuant to this section, make publicly available in accordance with § 301.48 a full written explanation of this action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(d) Prior to every meeting closed pursuant to § 301.46, there shall be a certification by the General Counsel of TVA stating whether, in his or her opinion, the meeting may be closed to the public and each relevant exemptive provision. A copy of such certification shall be retained by TVA and shall be made publicly available in accordance with § 301.48.

§ 301.46 Criteria for closing meetings.

Except in a case where the Board finds that the public interest requires otherwise, the second sentence of § 301.43 shall not apply to any portion of a meeting and such portion may be closed to the public, and the requirements of § 301.44 and § 301.45 (a), (b), and (c) shall not apply to any information pertaining to such meeting otherwise required by this subpart to be disclosed to the public, where the Board properly determines that such portion or portions of its meeting or the disclosure of such information is likely to—

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (2) in fact properly classified pursuant to such Executive order;

(b) Relate solely to the internal personnel rules and practices of an agency;

(c) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. § 552), provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for

[1] ER-962, effective July 27, 1976.
[2] ER-981, effective January 11, 1977.
[3] Appendix filed as part of the original.

[1] The surcharge provisions for services performed with B-727 aircraft will be applied to all other common-rated aircraft types.

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withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would—

(1) In the case of any agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

(2) In the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except that this provision shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(j) Specifically concern an agency's issuance of a subpena, or its participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by an agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 301.47 Transcripts of closed meetings.

(a) For every meeting closed pursuant to § 301.46, the presiding officer of the meeting shall prepare a statement setting forth the time and place of the meeting, and the persons present, and such statement shall be retained by TVA.

(b) TVA shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraphs (h), (i) (1), or (j) of § 301.46, TVA shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(c) TVA shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any TVA proceeding with respect to which the meeting or portion was held, whichever occurs later.

§ 301.48 Public availability of transcripts and other documents.

(a) Public announcements of meetings made pursuant to § 301.44, written copies of votes to change the subject matter of meetings made pursuant to § 301.44(c), written copies of votes to close meetings and explanations of such closings made pursuant to § 301.45(c), and certifications of the General Counsel made pursuant to § 301.45(d) shall be available for public inspection during regular business hours in the TVA Technical Library, room E2B7, 400 Commerce Avenue, Knoxville, Tennessee.

(b) TVA shall make promptly available to the public at the location described in paragraph (a) of this section the transcript, electronic recording, or minutes (as required by § 301.47 (b)) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as TVA determines to contain information which may be withheld under § 301.46. Each request for such material shall be made to the Director of Information, Tennessee Valley Authority, Knoxville, Tennessee 37902; state that it is a request for records pursuant to the Government in the Sunshine Act and this Subpart; and reasonably describe the discussion or item of testimony, and the date of the meeting, with sufficient specificity to permit TVA to identify the item requested.

(c) In the event the person making a request under paragraph (b) of this section has reason to believe that all transcripts, electronic recordings, or minutes or portions thereof requested by that person and required to be made available under paragraph (b) of this section were not made available, the person shall make a written request to the Director of Information for such additional transcripts, electronic recordings, or minutes or portions thereof as that person believes should have been made available under paragraph (b) of this section and shall set forth in the request the reasons why such additional material is required to be made available with sufficient particularity for the Director of Information to determine the validity of such request. Promptly after a request pursuant to this paragraph is received, the Director of Information or his designee shall make a determination as to whether to comply with the request, and shall immediately give written notice of the determination to the person making the request. If the determination is to deny the request, the notice to the person making the request shall include a statement of the reasons for the denial, a notice of the right of the person making the request to appeal the denial to TVA's General Manager, and the time limits therefor.

(d) If the determination pursuant to paragraph (c) of this section is to deny the request, the person making the request may appeal such denial to TVA's General Manager. Such an appeal must be taken within 30 days after the person's receipt of the determination by the Director of Information and is taken by delivering a written notice of appeal to the General Manager, Tennessee Valley Authority, Knoxville, Tennessee 37902. Such notice shall include a statement that it is an appeal from a denial of a request under § 301.48(c) and the Government in the Sunshine Act and shall indicate the date on which the denial was issued and the date on which the denial was received by the person making the request. Promptly after such an appeal is received, TVA's General Manager or his designee shall make a final determination on the appeal. In making such a determination, TVA will consider whether or not to waive the provisions of any exemption contained in § 301.46. TVA shall immediately give written notice of the final determination to the person making the request. If the final determination on the appeal is to deny the request, the notice to the person making the request shall include a statement of the reasons for the denial and a notice of the person's right to judicial review of the denial.

(e) Copies of materials available for public inspection under this section shall be furnished to any person at the actual cost of duplication or transcription.

[FR Doc.77-7546 Filed 3-14-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-87]

PART 159—LIQUIDATION OF DUTIES

Cotton Yarn From Brazil; Countervailing Duties

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final Countervailing Duty Order.

SUMMARY: This notice is to advise the public that an investigation has been completed which determined that the Government of Brazil has given subsidies considered to be bounties or grants within the law to manufacturers who export cotton yarn to the United States. Consequently, additional duties in the amount of these subsidies will be collected along with regular Customs duties on shipments of cotton yarn from Brazil.

FOR FURTHER INFORMATION CONTACT:

Edward F. Haley, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On September 14, 1976, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (41 F.R. 39053). The notice stated that it preliminarily had been determined that benefits had been received by the Brazilian manufacturers/exporters of cotton yarn which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

The cotton yarn is provided for in the Tariff Schedules of the United States under item numbers 300.60 through 302.98.

The notice stated that the programs under which these benefits were conferred included the granting to manufacturers/exporters of tax credits upon export, income tax reductions, and preferential financing; one other program concerning alleged regional incentives was being investigated which could constitute a bounty or grant within the meaning of the Act. Programs preliminarily determined not to be bounties or grants within the meaning of the Act included the exemption from certain indirect taxes upon exportation of the cotton yarn under consideration and the exemption from import duties and certain indirect taxes upon the importation of raw materials used in the production of cotton yarn to be exported. The notice provided interested parties 30 days from the date of publication to submit relevant data, views, or arguments, in writing, with respect to the preliminary determination.

After consideration of all information received, it is determined that exports of cotton yarn from Brazil are subject to bounties or grants within the meaning of section 303 of the Act. All conclusions reached in the preliminary determination remain unchanged and are adopted in this final determination. With respect to alleged regional incentives, cotton yarn exporters have not benefitted from these incentives available under Brazilian Decree Law No. 1426.

In accordance with section 303 of the Act, the amount of such bounties or grants has been estimated and declared to be 21.4 percent of the f.o.b. or ex-works price for export to the United States of cotton yarn from Brazil.

Effective on or after March 15, 1977, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable cotton yarn imported directly or indirectly from Brazil, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of cotton yarn from Brazil are subject to a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

To be eligible to establish that a particular firm receives a bounty or grant smaller than that estimated in the above declaration, such firm or any importer of cotton yarn produced by such firm must request, on or before April 14, 1977, that liquidation of all entries for consumption or withdrawal from warehouse for consumption of such dutiable cotton yarn from Brazil be suspended pending declarations of the net amounts of the bounties or grants paid. Only pursuant to such a request will liquidation be suspended.

Any merchandise subject to the terms of this order shall be deemed to have benefitted from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production, or exportation of cotton yarn manufactured in Brazil.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry for Brazil the words "Cotton Yarn," in the column headed "Commodity," the number of this Treasury decision in the column headed "Treasury Decision," and the words "Bounty Declared-Rate" in the column headed "Action."

(R. S. 251, as amended, secs. 303, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624).)

VERNON D. ACREE,
Commissioner of Customs.

Approved: March 10, 1977.

JOHN H. HARPER,
Assistant Secretary of the Treasury.

[FR Doc.77-7592 Filed 3-14-77;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 76N-0501]

RECODIFICATION AND EDITORIAL AMENDMENTS

The Food and Drug Administration is in the process of recodifying all of Chapter I of Title 21 of the Code of Federal Regulations, for the purposes of providing orderly development of such regulations, furnishing ample room for expansion in the years ahead, and providing the public and affected industries with regulations that are easy to find, read and understand.

The fifteenth in a series of recodification documents, which reorganizes and recodifies general regulations applicable to human food formerly under Subchapter A into the newly organized Subchapter B, is published elsewhere in this issue of the FEDERAL REGISTER.

To provide uniformity and continuity during the recodification, the Commissioner concludes that the cross-references to the recodified material should be amended at this time.

Due to the complexity and volume of cross-references involved in the recodification of these regulations, if necessary, supplemental documents will be issued at a later date.

Therefore, Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

1. Section 1.1 is amended by revising paragraph (c) to read as follows:

§ 1.1 General.

. . . . . .

(c) The definition of "package" in § 1.1b and of "principal display panel" in §§ 101.1, 201.60, 501.1, 701.10 and 801.60 of this chapter; and the requirements pertaining to uniform location, lack of qualification, and separation of the net quantity declaration in §§ 101.105(f), 201.62(e), 501.105(f), 701.13(f) and 801.62(e) of this chapter to type size requirements for net quantity declaration in §§ 101.105(i), 201.62(h), 501.105(i), 701.13(i) and 801.62(h) of this chapter, to initial statement of ounces in the dual declaration of net quantity in §§ 101.105 (j) and (m), 201.62 (i) and (k), 501.105 (j) and (m), 701.13 (j) and (m) and 801.62 (i) and (k) of this chapter, to initial statement of inches in declaration of net quantity in §§ 201.62 (m), 701.13(o) and 801.62(m) of this chapter, to initial statement of square inches in declaration of net quantity in §§ 201.62(n), 701.13(p) and 801.62(n) of this chapter, to prohibition of certain supplemental net quantity statements in §§ 101.105(o), 201.62(o), 501.105(o), 701.13(q) and 801.62(o) of this chapter, and to servings representations in §§ 101.8 and 501.3 are provided for solely

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by the Fair Packaging and Labeling Act. The other requirements of this part are issued under both the Fair Packaging and Labeling Act and the Federal Food, Drug, and Cosmetic Act, or by the latter act solely, and are not limited in their application by section 10 of the Fair Packaging and Labeling Act.

* * * * *

§ 1.1b [Amended]

2. Section 1.1b(e) is amended by changing the reference to "§ 1.8b(f)" to read "§ 101.105(f) of this chapter".

§ 1.1c [Amended]

3. Section 1.1c is amended as follows:

a. In paragraph (a)(2) the references to "§ 1.8b(j)" and "§ 1.8b" are changed to read "§ 101.105(j) of this chapter" and "§ 101.105 of this chapter", respectively.

b. In paragraph (a)(5)(i) the references to "§ 1.8 (a) and (d)" and "§ 1.8" are changed to read "§ 101.3 (a) and (d) of this chapter" and "§ 101.3 of this chapter", respectively.

c. In paragraph (a)(5)(ii) the references to "§ 1.8a" are changed to read "§ 101.5 of this chapter".

d. In paragraph (a)(5)(ii) the reference to "§ 1.8b(f)" is changed to read "§ 101.105(f) of this chapter".

e. In paragraph (a)(5)(iv) the reference to "§ 1.8(d)" is changed to read "§ 101.3(d) of this chapter".

f. In paragraph (a)(6)(i) the reference to "§ 1.8b(b)(2)" is changed to read "§ 101.105(b)(2) of this chapter".

g. In paragraph (a)(6)(ii) the reference to "§ 1.8b(j)" is changed to read "§ 101.105(j) of this chapter".

h. In paragraph (a)(6)(iii) the reference to "§ 1.8b(f)" is changed to read "§ 101.105(f) of this chapter".

i. In paragraph (a)(7)(i) the reference to "§ 1.8b(b)(2)" is changed to read "§ 101.105(b)(2) of this chapter".

j. In paragraph (a)(7)(ii) the reference to "§ 1.8b(f)" is changed to read "§ 101.105(f) of this chapter".

k. In paragraph (a)(7)(iii) the reference to "§ 1.8b(j)" is changed to read "§ 101.105(j) of this chapter".

l. In paragraph (a)(9) the references to "§§ 15.1, 15.10, 15.20, 15.30, 15.50, 15.60, 15.70, 15.75, 15.80, and 15.90" are changed to read "§§ 137.105, 137.155, 137.160, 137.165, 137.170, 137.175, 137.180, 137.185, 137.200, and 137.205".

m. In paragraph (a)(8)(i) the reference to "§1.8b(f)" is changed to read "§ 101.105(f) of this chapter".

n. In paragraph (a)(8)(ii) the reference to "§ 1.8b(j)" is changed to read "§ 101.105(j) of this chapter".

o. In paragraph (a)(9)(ii) the reference to "§ 1.8b(f)" is changed to read "§ 101.105(f) of this chapter".

p. In paragraph (a)(10)(i) the reference to "§ 1.8b(f)" is changed to read "§ 101.105(f) of this chapter".

q. In paragraph (a)(10)(ii) the reference to "§ 1.8b(j)(1)" is changed to read "§ 101.105(j)(1) of this chapter".

r. In paragraph (a)(10)(iii) the reference to "§§ 1.8(d) and 1.8b(f)" is changed to read "§§ 101.3(d) and 101.105(f) of this chapter".

s. In paragraph (a)(11) the references to "§ 45.1", "§ 1.8b(f)", and "§ 1.8b(j)(1)" are changed to read "§ 166.110", "§ 101.105(f) of this chapter", and "§ 101.105(j)(1) of this chapter", respectively.

t. In paragraph (a)(12) the references to "§§ 15.500 through 15.514" and "§ 1.8b(f)" are changed to read "§§ 137.211, 137.215, and 137.230 through 137.290" and "§ 101.105(f) of this chapter", respectively.

u. In paragraph (a)(13)(i) the reference to "§ 1.8b(f)" is changed to read "§ 101.105(f) of this chapter".

v. In paragraph (a)(13)(ii) the reference to "§ 1.8b(j)" is changed to read "§ 101.105(j) of this chapter".

w. In paragraph (a)(13)(iii) the reference to "§ 1.8b(b)(2)" is changed to read "§ 101.105(b)(2) of this chapter".

x. In paragraph (a)(14) the reference to "§ 1.8b" is changed to read "§ 101.105 of this chapter".

PART 2—ADMINISTRATIVE PRACTICES AND PROCEDURES

§ 2.110 [Amended]

4. Section 2.110 is amended as follows:

a. In paragraph (a)(1) the reference to "§ 121.72" is changed to read "§ 170.15 of this chapter".

b. In paragraph (b)(2) the reference "§§ 8.4, 8.5 and 121.51 through 121.53" is changed to read "§§ 8.4, 8.5, 171.1, 171.6, 171.7 and 171.100".

§ 2.500 [Amended]

5. Section 2.500 is amended as follows:

a. In paragraph (b)(5) the reference to "§ 10.5(1)" is changed to read "§ 130.17(l)".

b. In paragraph (b)(6) the reference to "§ 121.75(b)" is changed to read "§ 170.17(b)".

§ 2.501 [Amended]

6. Section 2.501(b) is amended by changing the reference to "Subpart A of Part 90" to read "Subpart A of Part 108".

PART 4—PUBLIC INFORMATION

§ 4.100 [Amended]

7. Section 4.100 is amended as follows:

a. In paragraph (c)(2) the reference to "§ 1.12(l)(4)(iv)" is changed to read "§ 101.22(l)(4)(iv)".

b. In paragraph (c)(5) the reference to "§ 10.5(k)" is changed to read "§ 130.17(k)".

c. In paragraph (c)(6) the reference to "§ 90.20(c)(4)" is changed to read "§ 108.35(c)(4)".

d. In paragraph (c)(7) the reference to "§ 121.51(h)" is changed to read "§ 171.1(h)".

e. In paragraph (c)(8) the reference to "§ 128.10(e)" is changed to read "§ 110.99(e)".

§ 4.104 [Amended]

8. Section 4.104(b) is amended by changing the reference to "§ 121.51(h)(3)" to read "§ 171.1(h)(3)".

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

§ 5.41 [Amended]

9. Section 5.41 is amended by changing the reference to "§ 128b.10" to read "§ 113.10".

PART 8—COLOR ADDITIVES

§ 8.3 [Amended]

10. Paragraph (a)(1) and (3) of § 8.3 is amended by changing the references to "§ 10.5" to read "§ 130.17".

§ 8.31 [Amended]

11. Section 8.31 is amended by changing the reference to "Part 121" to read "Parts 170 through 189".

§ 8.201 [Amended]

12. Section 8.201(a)(2)(iii) is amended by changing the reference to "§ 121.1071" to read "§ 172.863".

§ 8.300 [Amended]

13. Section 8.300 is amended as follows:

a. In paragraph (a)(2) the reference to "Part 121" is changed to read "Subchapter B".

b. In the table in paragraph (a)(3), the entry for "Dioctyl sodium sulfosuccinate" is amended by changing the reference to "§ 121.1137" to read "§ 172.810".

c. The table in paragraph (b)(1)(i) is amended as follows:

i. In the entry for "Ethyl cellulose" by changing the reference to "§ 121.1087" to read "§ 172.868".

ii. In the entry for "Polyoxyethylene sorbitan monooleate (polysorbate 80)" by changing the reference to "§ 121.1009" to read "§ 172.840".

iii. In the entry for "Polyvinylpyrrolidone" by changing the reference to "§ 121.1139" to read "§ 173.55".

iv. In the entry for "Rosin and rosin derivatives" by changing the reference to "§ 121.1059" to read "§ 172.615".

d. The table in paragraph (b)(1)(ii) is amended as follows:

i. In the entry for "Ethyl cellulose" by changing the reference to "§ 121.1087" to read "§ 172.868".

ii. In the entry for "Polyvinylpyrrolidone" by changing the reference to "§ 121.1139" to read "§ 173.55".

iii. In the entry for "Rosin and rosin derivatives" by changing the reference to "§ 121.1059" to read "§ 172.615".

iv. In the entry for "Silico dioxide" by correcting "Silico" to read "Silicon" and by changing the reference to "§ 121.1058" to read "§ 172.480".

v. In the entry for "Terpene resins, natural" by changing the reference to "§ 121.1059" to read "§ 172.615".

e. Paragraph (b)(2) is amended as follows:

i. In the entry for "Ethyl cellulose" by changing the reference to "§ 121.1087" to read "§ 172.868".

ii. In the entry for "Polyethylene glycol 6000" by changing the reference to "§ 121.1185" to read "§ 172.820".

iii. In the entry for "Rosin and rosin derivatives" by changing the reference to "§ 121.1185" to read "§ 172.820".

f. In the table in paragraph (b)(3) in the entry for "Polyvinylpyrrolidone" by changing the reference to "§ 121.1139" to read "§ 173.55".

§ 8.303 [Amended]

14. Section 8.303(a)(3) is amended by changing the reference to "§ 121.1120" to read "§ 172.854".

§ 8.305 [Amended]

15. Section 8.305(b)(2) is amended by changing the reference to "Part 121" to read "Parts 170 through 189".

§ 8.308 [Amended]

16. Section 8.308(b) is amended by changing the reference to "Part 121" to read "Parts 170 through 189".

§ 8.310 [Amended]

17. Section 8.310(b) is amended by changing the reference to "Part 121" to read "Parts 170 through 189".

§ 8.6000 [Amended]

18. Section 8.6000 is amended as follows:

a. The table in paragraph (a)(1) is amended as follows:

i. In the entry for "Polyoxyethylene (20) sorbitan monostearate (Polysorbate 60)" by changing the reference to "§ 121.1030" to read "§ 172.836".

ii. In the entry for "Polyoxyethylene (20) sorbitan tristearate (Polysorbate 65)" by changing the reference to "§ 121.1008" to read "§ 172.838".

iii. In the entry for "Polysorbate 80" by changing the reference to "§121.1009" to read "§ 172.840".

iv. In the entry for "Polyvinylpyrrolidone" by changing the reference to "§ 121.1139" to read "§173.55".

v. In the entry for "Sorbitan monostearate" by changing the reference to "§ 121.1029" to read "§ 172.842".

b. Paragraph (b) is amended as follows:

i. In the entry for "Ethyl cellulose" by changing the reference to "§ 121.1087" to read "§ 172.868."

ii. In the entry for "Hydroxypropyl cellulose" by changing the reference to "§ 121.1160" to read "§ 172.870".

§ 8.8004 [Amended]

19. Section 8.8004(b)(2) is amended as follows:

a. In the entry for "Artificial sweeteners" by changing the reference to "Part 121" to read "Subchapter B".

b. In the entry for "Flavors that are generally recognized as safe" by changing the reference to "Part 121" to read "Subchapter B".

c. In the entry for "Preservatives that are generally recognized as safe" by changing the reference to "Part 121" to read "Subchapter B".

PART 201—LABELING

§ 201.19 [Amended]

20. Section 201.19 is amended by changing the reference to "§ 125.1(d)" to read "§ 105.3(d)".

PART 501—ANIMAL FOOD LABELING

§ 501.3 [Amended]

21. Section 501.3 is amended as follows:

a. In paragraph (e)(2)(ii) the reference to "§ 503.20" is changed to read "§ 502.5".

b. In paragraph (e)(3) the reference to "Part 503" is changed to read "Part 502".

c. In paragraph (f) the reference to "Part 503" is changed to read "Part 502".

§ 501.4 [Amended]

21a. Section 501.4(b)(15) is amended by changing the reference to "§§ 15.1, 15.40, 15.80 and 15.100" to read "§§ 137.105, 137.200, 137.220, 137.225".

§ 501.22 [Amended]

22. Section 501.22 is amended as follows:

a. In paragraph (a)(1) the reference to "§§ 582.60 and 121.1164(b)" is changed to read "§§ 172.515(b) and 582.60".

b. In paragraph (a)(3) the reference to "§ 121.1163" is changed to read "§ 172.510".

PART 502—COMMON OR USUAL NAMES FOR NONSTANDARDIZED ANIMAL FOODS

23. The heading for Part 503 (recodified and published in the FEDERAL REGISTER of September 10, 1976 (41 FR 38618)) is renumbered as set out above.

§ 502.5 General principles.

24. The heading for § 503.20 is amended by renumbering the section to read § 502.5 as set out above.

§ 502.19 Petitions.

25. The heading for § 503.22 is amended by renumbering the section to read as § 502.19 as set out above.

PART 510—NEW ANIMAL DRUGS

§ 510.6 [Amended]

26. Section 510.6 *New animal drugs; transitional provisions re section 512 of the act* is amended by deleting paragraph (g).

PART 582—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 582.6625 Potassium citrate.

28. The heading for § 582.6540 is amended by renumbering the section to read § 582.6625 as set out above.

§ 582.6751 Sodium citrate.

29. The heading for § 582.6651 is amended by renumbering the section to read § 582.6751 as set out above.

PART 1210—REGULATIONS UNDER THE FEDERAL IMPORT MILK ACT

§ 1210.3 [Amended]

30. Section 1210.3 is amended as follows:

a. In paragraph (e) the reference to "§ 18.530" is changed to read "§ 131.120".

b. In paragraph (f) the reference to "§ 18.520" is changed to read "§ 131.130".

c. In paragraph (g) the reference to "§§ 18.500 to 18.515" is changed to read "§§ 131.150 through 131.157".

The changes being made are nonsubstantive in nature and for this reason notice and public procedure are not prerequisites to this promulgation.

Dated: March 4, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-7044 Filed 3-14-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Recodification Docket No. 16, Docket No. 77N-0082]

PART 570—FOOD ADDITIVES

Reorganization and Republication

In the fifteenth recodification document, appearing elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs is recodifying the regulations relating to food for human consumption, including, in the newly reorganized Subchapter B, the republication of Subparts E and F of former Part 121 regarding prior sanctioned food additives and food packaging materials solely as they relate to food for human consumption.

This sixteenth recodification document incorporates by reference the subject regulations as they are applicable to animal feed and pet food.

Therefore, Part 570 is amended by adding new §§ 570.13 and 570.14 to read as follows:

§ 570.13 Indirect food additives resulting from packaging materials prior sanctioned for animal feed and pet food.

Regulations providing for the use of food packaging materials as prior sanctioned in Part 181 of this chapter are incorporated in Subchapter E as applicable to packaging materials used for animal feed and pet food.

§ 570.14 Indirect food additives resulting from packaging materials for animal feed and pet food.

Regulations providing for the use of food packaging materials in Parts 174 through 179 of this chapter are incorporated in Subchapter E as applicable to packaging materials used for animal feed and pet food.

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This promulgation is nonsubstantive and for this reason, notice and public procedure are not required.

Dated: March 8, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-7168 Filed 3-14-77;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0506]

STERILE TICARCILLIN DISODIUM

The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the certification of sterile ticarcillin disodium. This amendment shall be effective March 15, 1977.

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 357), with respect to providing for the certification of a new semisynthetic penicillin, sterile ticarcillin disodium. He concludes that the data supplied by the manufacturer concerning the subject antibiotic drug product are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for its certification.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. Part 430 is amended as follows:

a. In § 430.5 by adding new paragraphs (a)(61) and (b)(61) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) • • •

(61) *Ticarcillin.* The term "ticarcillin master standard" means a specific lot of ticarcillin designated by the Commissioner as the standard of comparison in determining the potency of the ticarcillin working standard.

(b) • • •

(61) *Ticarcillin.* The term "ticarcillin working standard" means a specific lot of a homogeneous preparation of ticarcillin.

b. In § 430.6 by adding new paragraph (b)(63) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

(b) • • •

(63) *Ticarcillin.* The term "microgram" applied to ticarcillin means the ticarcillin activity (potency) contained in 1.136 micrograms of the ticarcillin master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended as follows:

a. In § 436.33(b) by alphabetically inserting a new item in the table, as follows:

§ 436.33 Safety test.

(b) • • •

Antibiotic drug	Diluent (diluent number as listed in sec. 436.31)	Test dose: Concentration in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Route of administration as described in paragraph (c) of this section
•	•	•	•	•
Ticarcillin disodium		3 40 mg	0.5	Intravenous.
•	•	•	•	•

b. In § 436.102 by adding new paragraph (b) (37) and (38) to read as follows:

§ 436.102 Culture media.

(b) • • •

(37) *Medium 37.*

Pancreatic digest of casein: 17.0 gm.
Soybean peptone: 3.0 gm.
Dextrose: 2.5 gm.
Sodium chloride: 5.0 gm.
Dipotassium phosphate: 2.5 gm.
Distilled water, q.s.: 1,000.0 ml.
pH 7.3 after sterilization.

(38) *Medium 38.*

Peptone: 15.0 gm.
Papaic digest of soybean meal: 5.0 gm.
Sodium chloride: 4.0 gm.
Sodium sulfite: 0.2 gm.
L-cystine: 0.7 gm.
Dextrose: 5.5 gm.
Agar: 15.0 gm.
Distilled water, q.s.: 1,000.0 ml.
pH 7.0 after sterilization.

c. In § 436.103 by alphabetically inserting a new item in the table in paragraph (a) and by adding new paragraph (b)(9), as follows:

§ 436.103 Test organisms.

(a) • • •

Test organism	Method used	Medium used for the—: Slants	Medium used for the—: Roux bottles	Incubation period of Roux bottle	Suggested dilution factor	Suggested storge period of suspensions under refrigeration
•	•	•	•	•	•	•
Test organism Y—*Pseudomonas aeruginosa* (ATCC 25336).[3]	9	25	36	24 h	1:50	1 week.
•	•	•	•	•	•	•

(b) • • •

(9) *Method 9.* Proceed as directed in paragraph (b)(1) of this section, except incubate the slant and Roux bottle at 37° C and wash the resulting growth from the agar surface with 50 milliliters of Medium 37 as described in § 436.102 (b)(37).

d. In § 436.105 (a) and (b) by alphabetically inserting a new item in the respective tables, as follows:

§ 436.105 Microbiological agar diffusion assay.

(a) • • •

Antibiotic	Media to be used (as listed by medium number in sec. 436.102(b)): Base layer	Media to be used (as listed by medium number in sec. 436.102(b)): Seed layer	Milliliters of media to be used in the base and seed layers: Base layer	Milliliters of media to be used in the base and seed layers: Seed layer	Test organism	Suggested volume of standardized inoculum to be added to each 100 ml of seed agar	Incubation temperature for the plates
•	•	•	•	•	•	•	•
Ticarcillin	35	36	21	4	Y	1.5	37
•	•	•	•	•	•	•	•

(b) • • •

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in sec. 436.200)	Initial solvent	Diluent (solvent number as listed in sec. 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigertion	Standard reponse line concentrations: Diluent	Final concentrations, units or micrograms of antibiotic activity per milliliter
•	•	•	•	•	•	•	•
Ticarcillin	Not dried		1 1 mg	1 d		1	3.20, 4.00, 5.00, 6.25, 7.81 mcg.
•	•	•	•	•	•	•	•
•	•	•	•	•	•	•	•

PART 440—PENICILLIN ANTIBIOTIC DRUGS

2. Part 440 is amended as follows:

a. By adding new § 440.90a to Subpart A, to read as follows:

§ 440.90a Sterile ticarcillin disodium.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Sterile ticarcillin disodium is 6-[(carboxy-3-thienylacetyl)] amino] - 3,3-dimethyl - 7-oxo-4-thia-1-azabicyclo[3.2.0]heptane - 2 - carboxylic acid disodium salt. It is so purified and dried that:

(i) It contains not less than 800 micrograms of ticarcillin per milligram on an anhydrous basis. If it is packaged for dispensing, its ticarcillin content is not less than 90 percent and not more than 115 percent of the number of milligrams of ticarcillin that it is represented to contain.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) Its moisture content is not more than 6.0 percent.

(vi) Its pH in an aqueous solution containing 10 milligrams of ticarcillin per milliliter (or if packaged for dispensing after reconstitution as directed in the labeling) is not less than 6.0 and not more than 8.0.

(vii) It gives a positive identity test for ticarcillin.

(viii) Its ticarcillin content is not less than 80 percent and not more than 94 percent on an anhydrous basis.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, moisture, pH, identity, and ticarcillin content.

(ii) Samples required:

(*a*) If it is packaged for repacking or for use in the manufacture of another drug.

(*1*) For all tests except sterility: 10 packages, each containing approximately 300 milligrams; and 5 packages, each containing approximately 1 gram.

(*2*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(*b*) If it is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 15 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1.0 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration; and also, if it is packaged for dispensing, reconstitute as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all the withdrawable contents if it is represented as a single dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. If it is a single dose container, use a separate needle and syringe for each container. Dilute with sufficient solution 1 to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 5.0 micrograms of ticarcillin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 100 milligrams of ticarcillin per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(6) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 milligrams of ticarcillin per milliliter (or if packaged for dispensing, use a solution prepared as directed for reconstitution in the labeling).

(7) *Identity and ticarcillin content.* Transfer an accurately weighed portion of approximately 40 milligrams of the sample to a 100-milliliter volumetric flask. Dissolve and dilute to volume with distilled water. Transfer 5.0 milliliters of this solution to another 100-milliliter volumetric flask and dilute to volume with 0.1*N* methanolic hydrochloric acid

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(prepared by diluting 0.8 milliliter of 12*N* hydrochloric acid to 100 milliliters with methyl alcohol). Treat a portion of the ticarcillin standard in the same manner. Using a suitable spectrophotometer equipped with a 1.0-centimeter quartz cell and 0.1*N* methanolic acid as a blank, scan the absorption spectrum of the methanolic solution of the sample and the standard between the wavelengths of 300 and 200 nanometers. Determine the absorbance of each solution at the maxima, at approximately 230 nanometers. The spectrum of the samples should compare qualitatively with that of the ticarcillin working standard. Determine the percent ticarcillin as follows:

$$\text{Percent ticarcillin} = \frac{\text{Absorbance of sample}}{\text{Absorbance of standard}} \times \frac{\text{Weight in milligrams of standard}}{\text{Weight in milligrams} \times (100-m)} \times \frac{\text{Potency of standard in micrograms per milligram}}{\text{of sample}} \times 10$$

where: m = Percent moisture in the sample.

b. By adding new § 440.290 to Subpart C, to read as follows:

§ 440.290 Sterile ticarcillin sodium.

The requirements for certification and the tests and methods of assay for sterile ticarcillin sodium packaged for dispensing are described in § 440.90a.

Because the conditions prerequisite to providing for certification of this drug have been complied with and the matter is noncontroversial, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date: This order shall be effective March 15, 1977.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: March 10, 1977.

MARY A. MCENIRYS,
Associate Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.77-7517 Filed 3-14-77;8:45 am]

[Docket No. 76N-0177]

PART 440—PENICILLIN ANTIBIOTIC DRUGS

Benzylpenicilloyl-Polylysine Injection; Minimum Shelf-Life Potency

The Food and Drug Administration is amending the antibiotic drug regulations to provide for a minimum shelf-life potency for benzylpenicilloyl-polylysine injection; effective April 14, 1977.

The commissioner of Food and Drugs proposed, in the FEDERAL REGISTER of July 1, 1976 (41 FR 27082), that § 440.210(a)(1) (21 CFR 440.210(a)(1)) be amended to clarify that the minimum potency throughout the storage period of the drug product is 5.4×10^{-3} *M*, which is equivalent to 90 percent of the labeled content of the drug product. The maximum potency limit that is allowable for the issuance of a certificate is also specified in § 440.210(a)(1), and this limit would also apply for the maximum shelf-life potency. Sixty days were allowed for public comment on the proposal. No comments were received. Therefore, the Commissioner finds that the amendment should be adopted as proposed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 440 is amended in § 440.210 by revising paragraph (a)(1) to read as follows:

The originator of these procedures is Carol Shull, National Park Service.

§ 440.210 Benzylpenicilloyl-polylysine injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Benzylpenicilloyl-polylysine injection is an aqueous solution of benzylpenicilloyl-polylysine. It contains one or more suitable and harmless buffers. Its benzylpenicilloyl content is satisfactory if it is not less than 5.4×10^{-3} *M* and not more than 7.0×10^{-3} *M*, except that for the issuance of a certificate for a batch, the benzylpenicilloyl content must be not less than 6.4×10^{-3} *M*. It is sterile. It is nonpyrogenic. It passes the safety test. Its pH is not less than 6.5 and not more than 8.5. The benzylpenicilloyl-polylysine concentrate used conforms to the standards prescribed by § 440.10(a)(1).

* * * * * *

Effective date: This amendment shall become effective April 14, 1977.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: March 10, 1977.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.77-7516 Filed 3-14-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 77N-0083]

PART 509—UNAVOIDABLE CONTAMINANTS IN ANIMAL FOOD AND FOOD-PACKAGING MATERIAL

Polychlorinated Biphenyls (PCB's)

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: This regulation amends § 509.30 *Temporary tolerances for polychlorinated biphenyls (PCB's)* (21 CFR 509.30) to limit its provisions to animal feeds and related products.

DATES: Effective date: March 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-6243.

SUPPLEMENTARY INFORMATION: In a regulation published in the FEDERAL REGISTER of September 10, 1976 (41 FR 38618), the Commissioner of Food and Drugs reorganized and republished certain sections of the general regulations under Subchapter A and the general food regulations under Subchapter B into Subchapter E—Animal Drugs, Feeds, and Related Products. As part of this reorganization and republication, § 109.30 *Temporary tolerances for polychlorinated biphenyls (PCB's)* (21 CFR 109.30 (formerly § 122.10, prior to recodification published elsewhere in this issue of the FEDERAL REGISTER)) was republished in Subchapter E as new § 509.30, while being retained in Subchapter B because of its provisions for food for human use.

It has come to the attention of the Commissioner that certain of the temporary tolerances for PCB's in foods intended for human use were inadvertently republished in § 509.30 when that regulation was issued September 10, 1976. Therefore the Commissioner is amending § 509.30 as set forth below to limit its provisions to animal feed and related products as was originally intended. Temporary tolerances for PCB's in food intended for human use will continue to appear in § 109.30.

Therefore under the Federal Food, Drug, and Cosmetic Act (secs. 402(a), 406, 409, 701, 52 Stat. 1046 as amended, 1049, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948, 72 Stat. 1784–1788 as amended (21 U.S.C. 342(a), 346, 348, 371) and under authority delegated to the Commissioner (21 CFR 5.1), § 509.30 is revised by deleting paragraphs (a)(1), (2), (3), (4), (7) and (8) and by redesignating paragraphs (a)(5), (6), and (9) as paragraphs (a)(1), (2), and (3) respectively, to read as follows:

§ 509.30 Temporary tolerances for polychlorinated biphenyls (PCB's).

(a) Polychlorinated biphenyls (PCB's) are toxic, industrial chemicals. Because of their widespread, uncontrolled industrial applications, PCB's have become a persistent and ubiquitous contaminant in the environment. As a result, certain foods and animal feeds, principally those of animal and marine origin, contain PCB's as unavoidable, environmental contaminants. PCB's are transmitted to the food portion (meat, milk, and eggs) of food producing animals ingesting PCB contaminated animal feed. In addition, a significant percentage of paper food-packaging materials contain PCB's which may migrate to the packaged food. The source of PCB's in paper food-packaging materials is primarily of certain types of carbonless copy paper (containing 3 to 5 percent PCB's) in waste paper stocks used for manufacturing recycled paper. Therefore, temporary tolerances for residues of PCB's as unavoidable environmental or industrial contaminants are established for a sufficient period of time following the effective date of this paragraph to permit the elimination of such contaminants at the earliest practicable time. For the purposes of this paragraph, the term "polychlorinated biphenyls (PCB's)" is applicable to mixtures of chlorinated biphenyl compounds, irrespective of which mixture of PCB's is present as the residue. The temporary tolerances for residues of PCB's are as follows:

(1) 0.2 part per million in finished animal feed for food-producing animals (except the following finished animal feeds: feed concentrates, feed supplements, and feed premixes).

(2) 2 parts per million in animal feed components of animal origin, including fishmeal and other by-products of marine origin and in finished animal feed concentrates, supplements, and premixes intended for food-producing animals.

(3) 10 parts per million in paper food-packaging material intended for or used with finished animal feed and any components intended for animal feeds. The tolerance shall not apply to paper food-packaging material separated from the food therein by a functional barrier which is impermeable to migration of PCB's.

(b) A compilation entitled "Analytical Methodology for Polychlorinated Biphenyls, February 1973" for determining compliance with the tolerances established in this section is available from the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, MD 20352.

NOTE.—At 38 FR 22794, Aug. 24, 1973, the following appeared concerning § 509.30(a)(9):

* * * § 509.30(a)(9) is hereby stayed pending full review of the objections and requests for hearing.* * *

In the interim, as stated in the final order (38 FR 18098) the Food and Drug Administration will enforce the temporary tolerance level established by § 509.30(a)(9) by seizing any paper food-packaging material shipped in interstate commerce after September 4, 1973 containing higher than the specified level of PCB's as adulterated in violation of sec. 402 of the act.

The changes being made are nonsubstantive, and for this reason notice and public procedure are not prerequisites to this promulgation.

Effective date: This regulation is effective March 15, 1977.

Dated: March 9, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-7519 Filed 3-14-77;8:45 am]

SUBCHAPTER F—BIOLOGICS

[Docket No. 76N-0008]

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

Dating Period for Collagenase; Correction

In FR Doc. 76-27237 appearing at page 40101 in the FEDERAL REGISTER for Friday, September 17, 1976, § 610.53 is corrected by changing the listing for "collagenase" to read as follows:

§ 610.53 Dating periods for specific products.

* * * * * *

Collagenase	Four years, provided labeling recommends storage at no warmer than 37° C. § 610.51 does not apply.

* * * * * *

Dated: March 8, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-7518 Filed 3-14-77;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 76N-0070]

PART 121—FOOD ADDITIVES

Acrylonitrile Copolymer Beverage Containers

AGENCY: Food and Drug Administration (FDA).

ACTION: Temporary stay of stay of regulations.

SUMMARY: An order of the U.S. Court of Appeals for the District of Columbia has temporarily stayed the FDA administrative order staying those food additive regulations or portions thereof that permit acrylonitrile copolymers to be used to fabricate beverage containers.

DATES: Effective date March 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Brown, Division of Food and Color Additives, (HFF-334), Bureau of Foods, Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of March 11, 1977 (42 FR 13546), FDA published an order staying certain food additive regulations or portions thereof that permit acrylonitrile copolymers to be used to fabricate beverage containers. On March 7, 1977, the Monsanto Company filed, in the United States Court of Appeals for the District of Columbia Circuit, a motion for stay of FDA's order insofar as it stays one of those regulations, § 121.2629 (21 CFR 121.2629). On March 11, 1977, the Court of Appeals ordered that FDA's administrative order staying § 121.2629 be stayed pending action on the merits of Monsanto's motion, oral argument on which is scheduled for 2 p.m., March 16, 1977.

Dated: March 11, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-7755 Filed 3-11-77;3:56 pm]

PART 510—NEW ANIMAL DRUGS

Sponsors of Approved Applications; Zoecon Industries; Change of Sponsor Name

The Food and Drug Administration approves two supplemental new animal drug applications (NADA's 41-587, 94-777V) filed by Zoecon Industries, Inc., 12200 Denton Drive, Dallas, TX 75234, providing for revised labeling to reflect the change in sponsor's name from Thuron Industries, Inc., to Zoecon Industries. The approval is effective March 15, 1977.

The Commissioner of Food and Drugs is amending Part 510 (21 CFR Part 510) to reflect this approval. This independent action to approve the corporate change of name has not required a reevaluation of the safety and effectiveness date underlying the original NADA's and does not constitute a reaffirmation of the drug's safety and effectiveness.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published 41 FR 24262).)

Part 510 is amended in § 510.600(c)(1) to delete the entry for Thuron Industries, Inc., and to alphabetically add a new entry for Zoecon Industries, Inc., and in paragraph (c)(2) in the entry for No. 011536 to delete the company name Thuron Industries, Inc., and to insert in its place the new company name Zoecon Industries, Inc., to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

* * * * * *

(c) * * *

(1) * * *

Firm name and address:	*Drug listing No.*
Zoecon Industries, Inc., 12200 Denton Dr., Dallas, Tex. 75234.	011536

* * * * * *

(2) * * *

Drug listing No.:	*Firm name and address*
011536	Zoecon Industries, Inc., 12200 Denton Dr., Dallas, Tex. 75234.

* * * * * *

Effective date: This amendment shall be effective March 15, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: March 10, 1977.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.77-7633 Filed 3-14-77;8:45 am]

PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE

Oral Dosage Forms; Chloramphenicol Tablets

The Food and Drug Administration approves a new animal drug application (NADA 65-461V) filed by Philips-Roxane, Inc., 2621 North Belt Highway, St. Joseph, MO 64502, proposing the safe and effective use of chloramphenicol tablets for dogs for treating bacterial pulmonary infections, bacterial infections of the urinary tract, bacterial enteritis, and

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bacterial infections associated with canine distemper, caused by susceptible organisms. The approval is effective March 15, 1977.

The Commissioner is amending § 555.110a (21 CFR 555.110a) to reflect this approval.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

(Sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360 (i) and (n), and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).)

Part 555 is amended in § 555.110a by revising paragraphs (a)(1) and (c)(1) (i) and (ii) to read as follows:

§ 555.110a Chloramphenicol tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol tablets are composed of chloramphenicol with or without one or more suitable diluents, lubricants, binders, colorings, and coating substances. Each tablet contains 100, 250, or 500 milligrams or 1 gram of chloramphenicol. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of chloramphenicol that it is represented to contain. Tablets shall disintegrate within 1 hour. The chloramphenicol used conforms to the standards prescribed by § 455.10(a)(1) of this chapter.

* * * * *

(c) *Conditions of marketing*—(1)(i) *Specifications.* Chloramphenicol tablets conform to the certification requirements of paragraph (a) of this section.

(ii) *Sponsor.* No. 017030 in § 510.600 (c) of this chapter for 100 milligram tablet; No. 000010 in § 510.600(c) of this chapter for 100, 250, or 500 milligram or 1 gram tablets.

* * * * *

Effective date: This regulation shall be effective March 15, 1977.

(Sec. 512(i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b(i) and (n)).)

Dated: March 10, 1977.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.77-7631 Filed 3-14-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-398]

PART 841—PUBLIC HOUSING PROGRAM; DEVELOPMENT PHASE

Appendix A—Prototype Cost Limits for Low-Income Housing

In the FEDERAL REGISTER issued June 9, 1976, (41 FR 23302), prototype per unit cost schedules were published pursuant to section 6(b) of the United States Housing Act of 1937. Subsequently, consideration was given to factual cost data and other information received from the Chicago Area Office Field Staff which showed that the cost limits imposed by the schedule now in effect are unrealistically low. The publishing of these revised prototype per unit cost schedules will permit housing to be built that otherwise could not, with cost limits that are now in effect. The cost data and other information submitted indicated that the prototype per unit cost schedule for Chicago should be revised and retained under the City of Chicago designation. The contiguous areas currently included under the Chicago designation will remain unchanged and are republished with the designation of Aurora.

Prototype cost limits were previously published as an appendix to 24 CFR Part 275. Effective February 7, 1977, this appendix has been redesignated Appendix A, "Prototype Cost Limits for Low-Income Housing," to 24 CFR Part 841. This change was made in connection with publication of the final regulations for the Public Housing Program—Development Phase, 24 CFR Part 841.

Section 6(b) of the U.S. Housing Act provides that prototype costs be effective on March 15, 1977. However, written data, views or statements may be filed with the Director, Office of Technical Support, HUD Central Office, 451 7th Street, SW., Room 6160, Washington, D.C. 20410, and a copy should be sent to the HUD Area Office, 1 North Dearborn Street, Chicago, Illinois 60602.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969, has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C.

Accordingly, the prototype per unit cost schedule, pursuant to 24 CFR Part 841 is amended as follows:

1. At 41 FR 23329, substitute the revised prototype per unit cost schedule for Chicago, shown on the table set forth hereinafter entitled "Prototype Per Unit Cost Schedule—Region V."

2. At 41 FR 23329, add the prototype per unit cost schedule for Aurora, shown on the table set forth hereinafter entitled "Prototype Per Unit Cost Schedule—Region V."

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

NOTE.—It is hereby certified that the economic and inflationary impacts of the amendment to Part 841 have been carefully evaluated in accordance with Executive Order No. 11821.

Effective date: This amendment is effective on March 15, 1977.

MORTON A. BARUCH,
Acting Deputy Assistant Secretary for Housing, Federal Housing Commissioner.

PROTOTYPE PER UNIT COST SCHEDULE

REGION V

	Number of bedrooms						
	0	1	2	3	4	5	6
Chicago, Ill.:							
Detached and semidetached	14,400	17,550	21,600	26,600	30,800	34,350	35,900
Row dwellings	13,910	16,800	20,650	24,640	29,640	32,950	34,560
Walk-up	13,640	16,900	21,250	26,360	27,380	32,300	[illegible]
Elevator-structure	16,850	19,600	24,800				
Aurora, Ill.:							
Detached and semidetached	13,450	16,690	20,100	[illegible]	[illegible]	32,100	[illegible]
Row dwellings	13,000	15,700	19,900	[illegible]	27,700	[illegible]	[illegible]
Walk-up	12,750	15,800	19,950	[illegible]	[illegible]	30,300	[illegible]
Elevator-structure	16,350	19,300	24,300				

[FR Doc.77-7568 Filed 3-14-77;8:45 am]

Title 34—Government Management

CHAPTER II—GENERAL SERVICES ADMINISTRATION

SUBCHAPTER C—PROPERTY MANAGEMENT

PART 233—GUIDELINES FOR AGENCY IMPLEMENTATION OF THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, PUBLIC LAW 91-646

Regulations formerly appearing in 34 CFR Part 233 are transferred to 41 CFR Chapter 101 and redesignated as Subpart 6.1 of that chapter. Accordingly, Part 233 of Title 34 is hereby vacated and reserved.

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); EO 11893.)

Effective date: This regulation is effective March 15, 1977.

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 7, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77-7541 Filed 3-14-77;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 60—NATIONAL REGISTER OF HISTORIC PLACES

Procedures for Nominations by State Agencies

On January 9, 1976, Part 60, National Register of Historic Places, was added to 36 CFR by publication in the FEDERAL REGISTER (40 FR 1590). Section 60.12 thereof sets forth certain notification requirements with respect to a State's nomination of properties to the National Register. However, due to the historic preservation incentives included in section 2124 of the Tax Reform Act of 1976, 90 Stat. 1519, Federal income tax consequences now attach to certain categories of properties listed in the National Register. In order to apprise property owners of these new consequences of National Register listing and to give property owners a full opportunity to comment on the proposed nominations, certain amendments to §§ 60.12 and 60.13 are set forth below. It is the Department's general policy to publish all regulations for public comment before making them effective. However, in this situation, the following amendments are made effective March 15, 1977, because the tax consequences of the Tax Reform Act of 1976 are currently in effect. These regulations provide for greater public participation and comment in the nomination process. Any comments on the amendments may be addressed to the Chief, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240.

The originator of these procedures is Carol Shull, National Park Service.

Accordingly, §§ 60.12 (c), (d), (e), and (f) and § 60.13 of Part 60 of Chapter I of Title 36 of the Code of Federal Regulations are hereby amended, and a new § 60.12(g) added, effective as of this date of publication, to read as follows:

§ 60.12 Notification.

* * * * *

(c) The identification and nomination of historic and cultural resources, as a function that has been assumed by the various States, is essentially a State action. The nomination of a property is a proposal to the National Park Service and does not constitute listing. However, nominations received from the various States are, in the vast majority of situations, accepted by the National Park Service. Listing in the National Register is a Department of the Interior decision. As a part of the nomination process, each State is required to notify property owners in writing except as specified in paragraph (d) of this section of the State's intent to nominate a property and to allow a reasonable opportunity for the presentation of written comments concerning the property's significance prior to review board consideration. The required notice shall advise the property owner that certain Federal tax consequences may result from listing in the National Register and refer to section 2124 of the Tax Reform Act of 1976. The States are also strongly encouraged to notify appropriate State, county, or municipal authorities and to allow them a reasonable opportunity to present written comments concerning the property's significance prior to review board consideration.

(d) In the event of a nomination of a historic district of multiple ownerships where notice to individual property owners is not practicable, each State is required to notify appropriate State, county, or municipal authorities; to provide other means of general notice concerning the State's intent to nominate the district; and to allow a reasonable opportunity for the presentation of written comments concerning the district's significance prior to review board consideration. Such notice must point out that certain Federal tax consequences may result from listing of the district in the National Register and must refer to section 2124 of the Tax Reform Act of 1976 in this respect.

(e) State Historic Preservation Officers are required to obtain and submit to the National Park Service at the time of nomination the names and addresses of the owners of record of all properties nominated to the National Register by the State, including all owners of properties in historic districts. When the State Historic Preservation Officer signs the nomination and forwards it to the National Park Service, he is certifying that the owners of record have been obtained from the most current list available as of the date of the nomination.

(f) State Historic Preservation Officers are required to inform property owners or appropriate local authorities when properties are added to the National Register.

(g) In consultation with the State's Attorney General, each State should adopt general notification procedures consistent with the considerations of this section and provide the National Park Service with a copy of these procedures when completed, and thereafter include them in the annual State historic preservation plan or whenever changes are made.

§ 60.13 Notification of owners of record and publication in the "Federal Register."

(a) When a nomination from a State is received, the National Park Service shall notify in writing each owner of record submitted by the State that the property (or proposed historic district within which it is located) has been nominated to the National Register and shall allow a reasonable opportunity for the presentation of written comments concerning the property's significance prior to listing the property in the National Register. Such notice shall advise property owners that certain Federal tax consequences may result from listing of the property in the National Register and refer to section 2124 of the Tax Reform Act of 1976 in this respect. The notice shall also advise the owner of the National Register criteria of evaluation as set forth herein.

(b) When a nomination is received, the National Park Service shall publish notice in the FEDERAL REGISTER that the property is being considered for listing and shall receive additional written comments concerning the significance of the property under the National Register criteria for evaluation to the extent practicable.

(c) The National Park Service shall notify the State Historic Preservation Officer of the listing of the property and publish notice of listing in the FEDERAL REGISTER on a regular basis and in a cumulative edition which shall appear once a year, usually in February.

Dated: February 23, 1977.

Approved:

ERNEST A. CONNALLY,
Acting Director,
National Park Service.

[FR Doc.77-7575 Filed 3-14-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER A—GENERAL

[FPMR Amdt. A-26]

PART 101-6—MISCELLANEOUS REGULATIONS

Recodification of Guidelines for Agency Implementation of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

Executive Order 11893, dated December 31, 1975, transferred certain functions of the General Services Administration (GSA) to the Office of Management and Budget (OMB) and resulted in the abolishment of the Office of Federal

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Management Policy in GSA. One function that was not transferred to OMB is the responsibility for implementing Pub. L. 91-646. The regulations implementing this law were codified in 34 CFR Part 233. GSA has determined that these regulations should be transferred to 41 CFR Chapter 101. Therefore, the regulations formerly found in 34 CFR Part 233 are revised as set forth below and redesignated as Subpart 6.1 of Chapter 101 of Title 41.

The table of contents for Part 101–6 is amended by the addition of Subpart 101–6.1 as follows:

Subpart 101–6.1—Guidelines for Agency Implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91–646

Sec.

101–6.100 Scope of subpart.
101–6.101 General.
101–6.101–1 Relocation Assistance Implementation Committee (RAIC).
101–6.101–2 Federal Regional Council (FRC) Uniform Relocation and Real Property Acquisition Coordination.
101–6.101–3 General considerations.
101–6.101–4 Applicability.
101–6.102 Definitions.
101–6.102–1 Applicability.
101–6.102–2 Comparable replacement dwelling.
101–6.102–3 Decent, safe, and sanitary housing.
101–6.102–4 Economic rent.
101–6.102–5 Incidental expenses.
101–6.102–6 Initiation of negotiations.
101–6.102–7 Interest payment.
101–6.102–8 Net earnings.
101–6.102–9 The Act.
101–6.102–10 Displacing agency.
101–6.102–11 Dwelling.
101–6.102–12 Family.
101–6.102–13 Financial means.
101–6.102–14 Owner.
101–6.103 Assurance of adequate replacement housing prior to displacement.
101–6.103–1 Assurance of availability.
101–6.103–2 Housing provided as a last resort.
101–6.103–3 Loans for planning and preliminary expenses.
101–6.104 Moving and related expenses.
101–6.104–1 Eligibility.
101–6.104–2 Actual reasonable expenses in moving.
101–6.104–3 Nonallowable moving expenses and losses.
101–6.104–4 Expenses in searching for replacement business or farm.
101–6.104–5 Actual direct losses by business or farm operation.
101–6.105 Payments in lieu of moving and related expenses.
101–6.105–1 Dwellings—schedules.
101–6.105–2 Businesses—eligibility.
101–6.105–3 Farms.
101–6.105–4 Nonprofit organizations.
101–6.105–5 Net earnings.
101–6.105–6 Amount of business fixed payment.
101–6.106 Replacement housing payment for homeowners.
101–6.106–1 Eligibility.
101–6.106–2 Comparable replacement dwelling.
101–6.106–3 Computation of replacement housing payment.
101–6.106–4 Mortgage insurance.
101–6.106–5 Format for computation of interest payment; development of monthly payment figures.
101–6.107 Replacement housing payments for tenants and certain others.
101–6.107–1 Eligibility.
101–6.107–2 Computation of replacement housing payments for displaced tenants.
101–6.107–3 Computation of replacement housing payments for certain others.
101–6.108 Relocation assistance advisory services.
101–6.108–1 Relocation assistance advisory program.
101–6.108–2 Coordination of planned relocation activities.
101–6.108–3 Contracting for relocation services.
101–6.108–4 General contacts.
101–6.109 Federally assisted programs.
101–6.109–1 Assurances.
101–6.109–2 Administration of relocation assistance programs.
101–6.110 Annual report [Reserved].
101–6.111 Uniform real property acquisition policy.
101–6.111–1 Applicability.
101–6.111–2 Acquisition procedures.
101–6.111–3 Appraisal standards.
101–6.111–4 Notice to move.
101–6.111–5 Federally assisted programs.
101–6.112 Administrative review.
101–6.112–1 Procedures.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Executive Order 11717 and President's Memorandum of September 6, 1973, to the heads of departments and agencies, Subject: The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Subpart 101–6.1 is added as follows:

Subpart 101–6.1—Guidelines for Agency Implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91–646

§ 101–6.100 Scope of subpart.

This subpart applies to all programs or projects of a Federal agency which involve the acquisition of real property or the displacement of people, businesses, or farm operations. The subpart also applies to those federally assisted programs or projects conducted by a State agency, as the term is defined in the Act, which involve the acquisition of real property or cause the displacement of people, businesses, or farm operations. The geographical coverage includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territorial possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

§ 101–6.101 General.

(a) The guidelines in this subpart are to assist Federal agencies in developing regulations and procedures to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, hereinafter referred to as the Act, and to ensure uniform, fair, and equitable policies for the acquisition of real property and treatment of persons displaced by Federal and federally assisted programs.

(b) The guidelines in this subpart are limited to those provisions of the Act identified by the interagency task force appointed in accordance with the President's memorandum of January 4, 1971. They also address those problem areas considered by the Relocation Assistance Implementation Committee (RAIC) since the issuance of OMB Circular A–103, May 1, 1972. In the event of any conflict between these guidelines and the provisions of the Act, or any other applicable law, the statutory provisions are controlling.

§ 101–6.101–1 Relocation Assistance Implementation Committee (RAIC).

(a) *Background.* (1) To promote the uniform and effective administration of relocation assistance and real property acquisition programs, the Act authorizes and directs the heads of Federal agencies to consult together on the establishment of regulations and procedures for the administration of such programs.

(2) To achieve the uniformity required by the Act, the President, by memorandum of January 4, 1971, directed the Office of Management and Budget to form a Relocation Assistance Advisory Committee. The Relocation Assistance Advisory Committee was composed of representatives of the major Federal agencies responsible for the administration of programs involving the displacement of individuals, businesses, and farms.

(3) Following its initial establishment within the Office of Management and Budget, the name of the Relocation Assistance Advisory Committee was changed to Relocation Assistance Implementation Committee. The Committee name change fore appropriately reflects its role.

(4) Pursuant to Executive Order 11717 and the President's statement of September 6, 1973, the functions and chairmanship of the Relocation Assistance Implementation Committee were transferred from the Office of Management and Budget to the General Services Administration.

(b) *Membership and functions.* (1) RAIC serves as the official forum at the national level where duly appointed representatives of several major Federal departments consult together on the Government's real property acquisition and relocation programs. Represented on RAIC are the Departments of Agriculture; Defense; Health, Education, and Welfare; Housing and Urban Development; Interior; Justice; Transportation; and the General Services Administration. The United States Postal Service also participates in activities of the RAIC. The Administrator of General Services or his designee is the Chairman of the RAIC and he may invite other Federal agencies to participate as appropriate.

(2) RAIC is responsible for promoting the underlying purposes of the Act and for ensuring national uniformity, to the extent practicable, among Federal agencies with respect to real property acquisition and relocation assistance programs. The guidelines in this subpart were prepared by RAIC and reflect the collective experience of the member agencies.

(3) In carrying out its responsibilities RAIC makes recommendations to the General Services Administration regarding:

(i) Revisions Federal agencies should make in their regulations and procedures to ensure national uniformity;

(ii) Revisions to be made to the guidelines to assure compliance with the intent and spirit of the Act; and

(iii) Need for new legislation.

(c) *Liaison official for agencies not represented on the committee.* Each agency that is responsible for the acquisition of real property or displacement of persons, businesses, or farm operations, and is not represented on the Committee shall designate an individual to serve as liaison to coordinate the agency's relocation activities with the General Services Administration. The name of the designee and any changes in designations shall be submitted to the Office of Space Planning and Management, General Services Administration (PR), Washington, DC 20405.

§ 101–6.101–2 Federal Regional Council (FRC) Uniform Relocation Assistance and Real Property Acquisition Coordination.

(a) *Formation and organization.* (1) The chairmen of the Federal Regional Councils have been requested to ask council members to designate an agency representative who will be responsible for coordination of the agency's activities in the region for the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Agencies such as GSA and others having relocation assistance and real property acquisition programs, but who are not represented on the Federal Regional Councils, should be asked to provide designees also.

(2) The specific organization, structure, and procedures governing regional coordinating mechanisms (e.g., task force) shall be determined by each FRC but shall be consistent with normal FRC guidelines on supervision of interagency coordinating committees as promulgated by the Office of Management and Budget. Each FRC should, however, designate a lead staff member to ensure continuity and a focal point for coordination with agencies in the field and in Washington, D.C. Copies of periodic reports to the FRC Chairman should also be forwarded to the Chairman of the RAIC Working Group, Office of Space Planning and Management, General Services Administration, in Washington, D.C., for information. (Mailing address: General Services Administration (PR), Washington, D.C. 20405.)

(b) *Objectives and responsibilities.* The prime objective of the FRC will be to provide an umbrella for regional coordination of relocation assistance and real property acquisition programs among concerned Federal and federally assisted agencies. The FRC should undertake such programs as necessary to ensure continuing coordination and information sharing among the various Federal, State, and local agencies concerned with relocation assistance and should:

(1) Ensure effective coordination among Federal agencies in implementing real property acquisition and relocation assistance policies and programs within the region on a consistent and uniform basis.

(2) Ensure effective coordination between Federal agencies and State and local Government officials concerned with relocation assistance and real property acquisition.

(3) Provide appropriate training/orientation programs for Federal, State, and local officials responsible for relocation assistance and real property acquisition as needed.

(4) Resolve in the field to the extent feasible and practical, conflicts and inconsistencies identified in the implementation of the guidelines and related relocation assistance and real property acquisition policies. Those concerning agency policy matters which cannot be resolved in the field will be referred to GSA through its Under Secretaries' Group Representative for appropriate RAIC action by the Chairman with a copy to OMB.

§ 101–6.101–3 General considerations.

(a) In developing regulations and procedures under the Act and this subpart, agencies should consider:

(1) House Report No. 91–1656 of December 2, 1970, a report to accompany S.1, Committee on Public Works, House of Representatives, 91st Congress, 2nd Session; and

(2) Provisions of other applicable law, including Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and good faith and reasonableness.

(b) The Act shall be applied and administered to promote its underlying purposes and policies.

(c) Agencies shall instruct officials responsible for programs under this Act that:

(1) A written notice of displacement must be given to each individual, family business, or farm operation to be displaced. The notice shall be served personally or by certified (or registered) first-class mail;

(2) In order to qualify for benefits under Title II of the Act as a displaced person, either of two conditions must be fulfilled.

(i) The person must have moved (or moved his personal property) as a result of the receipt of a written notice to vacate which may have been given before or after initiation of negotiations for acquisition of the property as prescribed by regulations issued by the head of the Federal agency (When negotiations are initiated prior to issuance of a written notice, all persons contacted by the negotiating agency should be advised that the benefits of the Act are available only when the person moves subsequent to receipt of a written notice.); or

(ii) The subject real property must in fact have been acquired, and the person must have moved as a result of its acquisition (except in those instances covered by sections 217 and 219 of the Act);

(3) Certain of the benefits provided by Title II of the Act are available as follows:

(i) Whenever the acquisition of, or notice to move from, real property used for a business or farm operation causes any person to move from other real property used for his dwelling or to move his personal property from such other real property, such person may receive the benefits provided by sections 202 (a) and (b) and 205 of the Act; and

(ii) If the head of the displacing agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under section 205(c) of the Act;

(4) For real property acquisitions under Federal law, contracts or options to purchase real property shall not incorporate provisions for making payments for relocation costs and related items in Title II of the Act (Appraisers shall not give consideration to or include in their real property appraisals any allowances for the benefits provided by Title II. In the event of condemnation with a declaration of taking, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under Title II of the Act.);

(5) Agency regulations shall provide that applications for benefits under the Act are to be made within 16 months from the date on which the displaced person moves from the real property acquired or to be acquired; or the date on which the displacing agency makes final payment of all costs of that real property, whichever is the later date (The head of an agency may extend this period upon a proper showing of good cause.); and

(6) The provisions of the Act apply to the acquisition of all real property for, and the relocation of all persons displaced by, Federal programs and projects and programs and projects undertaken by State agencies which receive Federal financial assistance for all or part of the cost. It is immaterial whether the real property is acquired by a Federal or State agency or whether Federal funds contribute to the cost of the real property.

§ 101–6.101–4 Applicability.

(a) Departments and agencies with programs that will result in the acquisition of real property, the displacement of persons, or both, are urged to promptly revise or amend their regulations and procedures consistent with the guidelines in this subpart. A copy of the revised regulations and a copy of each agency's procedures pertaining to Title II and III of the Act shall be furnished to the Office of Space Planning and Management, General Services Administration, when

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they are issued. Copies of subsequent revisions to each agency's regulations and procedures shall also be furnished. (Mailing address: General Services Administration (PR), Washington, D.C. 20405.)

(b) The head of each Federal agency shall provide for periodic review of all Federal and federally assisted programs to ensure compliance with the provisions of Titles II and III of the Act.

(c) The head of each Federal agency shall make available to the public full information concerning the agency's relocation programs. He shall ensure that persons to be displaced are fully informed at the earliest possible time of such matters as available relocation payments and assistance; the specific plans and procedures for ensuring that suitable replacement housing will be available for homeowners and tenants in advance of displacement; the eligibility requirements and procedures for obtaining such payments and assistance; and the right of administrative review by the head of the agency concerned, as provided by § 101–6.112.

§ 101–6.102 Definitions.

§ 101–6.102–1 Applicability.

The regulations of all Federal agencies should conform with the definitions contained in the Act and this subpart. These definitions are limited to the implementation of the Act. The head of a Federal agency may expand these definitions to ensure greater clarity and the successful implementation of his programs; however, such modifications shall not result in a deviation in concept from these definitions.

§ 101–6.102–2 Comparable replacement dwelling.

A comparable replacement dwelling is one which is decent, safe, and sanitary, and:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing;

(b) Adequate in size to meet the needs of the displaced family or individual. (However, at the option of the displaced person, a replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.);

(c) Open to all persons regardless of race, color, religion, or national origin, consistent with the requirement of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968;

(d) Located in an area not generally less desirable than the one in which the acquired dwelling is located with respect to:

(1) Neighborhood conditions, including but not limited to municipal services and other environmental factors;

(2) Public utilities; and

(3) Public and commercial facilities;

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment;

(f) Within the financial means of the displaced family or individual; and

(g) Available on the market to the displaced person. (See § 101–6.106–2.)

§ 101–6.102–3 Decent, safe, and sanitary housing.

A decent, safe, and sanitary dwelling is one which is found to be in sound, clean and weather-tight condition, and which meets local housing codes. The following criteria should be used in determining if a dwelling unit is decent, safe, and sanitary. Adjustments may be made only in the cases of unusual circumstances or in unique geographic areas, as determined by the head of the Federal agency.

(a) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a cooking stove, or connections for same; a separate complete bathroom; hot and cold running water in both the bathroom and kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(b) *Nonhousekeeping unit.* A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards will be subject to the approval of the head of the Federal agency.

(c) *Occupancy stanards.* Occupancy standards for replacement housing shall comply with Federal agency approved occupancy requirements or shall comply with local codes.

(d) *Absence or inadequacy of local standards.* In those instances in which there is no local housing code, a local housing code does not contain certain minimum standards, or the standards are inadequate, the head of the Federal agency may establish the standards.

§ 101–6.102–4 Economic rent.

For purposes of this subpart, economic rent is defined as the amount of rent the displaced tenant would have had to pay for a comparable dwelling unit in an area similar to the neighborhood in which the dwelling unit to be acquired is located. (See § 101–6.107–2.)

§ 101–6.102–5 Incidental expenses.

(a) The amount, if any, necessary to reimburse a displaced person for reasonable costs incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(1) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation;

(2) Lenders', FHA, or VA, appraisal fees;

(3) FHA application fee;

(4) Certification of structural soundness when required by lender, FHA, or VA;

(5) Credit report;

(6) Title policies or abstracts of title;

(7) Escrow agent's fee; and

(8) State revenue stamps or sale or transfer taxes.

(b) No fee, cost, charge, or expense is reimbursable as an incidental expense which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Pub. L. 90–321, and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System. (See § 101–6.106–3.)

§ 101–6.102–6 Initiation of negotiations.

The term "initiation of negotiations" means the day on which the acquiring agency makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property. (See §§ 101–6.106–1 and 101–6.107–1.)

§ 101–6.102–7 Interest payment.

The amount, if any, necessary to compensate a displaced person for any increased interest costs, including points paid by the purchaser, if the acquired dwelling was encumbered by a bona fide mortgage. (See § 101–6.106–3.)

§ 101–6.102–8 Net earnings.

The term "average annual net earnings" as used in subsection 202(c) of the Act means one-half of any net earnings of the business or farm operation before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of the displacing agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. (See § 101–6.105–5.)

§ 101–6.102–9 The Act.

"The Act" means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646), approved January 2, 1971.

§ 101–6.102–10 Displacing agency.

"Displacing agency" means a Federal agency in the case of a direct Federal project, or a State agency, as defined in the Act, in the case of a project receiving Federal financial assistance whose project is causing the displacement of a person, business, or a farm operation.

§ 101–6.102–11 Dwelling.

"Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single-family building; a one-family unit in a multifamily building; a unit of a condominium or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under State law or cannot be moved without substantial damage or unreasonable cost or is not a decent, safe, and sanitary dwelling.

§ 101–6.102–12 Family.

A "family" means two or more individuals who are related by blood, adoption, marriage, or legal guardianship who live together as a family unit. However, upon appropriate determination by the head of the Federal agency, others who live together as a family unit may be treated as if they were a family for the purpose of determining benefits under Title II of the Act.

§ 101–6.102–13 Financial means.

For the purpose of determining financial means of families and individuals in accordance with section 205(c)(3) of the Act, a financial means test (ability to pay) must be made to satisfy the requirements set forth in § 101–6.106–2(f). In order to meet a financial means test, a determination should be made as to the displaced person's ability to afford the replacement dwelling. In making this determination, the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payments to the income of the displaced family or individual, including supplemental payments made by public agencies. The regulation of each Federal agency may provide for determinations that 25 percent of monthly gross income for housing costs or the present ratio of housing payment to the individual income is or is not excessive to the other needs of the displaced family or individual, such as food, clothing, childcare, medical expenses, etc. In these cases, the head of the Federal agency shall establish criteria for determining the financial means of the displaced family or individual.

§ 101–6.102–14 Owner.

"Owner" means a person who holds fee title, a life estate, a 99 year lease, or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estate or interest, or who is possessed of such other proprietary interest in the property acquired as, in the judgment of the head of the Federal agency, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance, or operation of law, the tenure of ownership, but not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

§ 101–6.103 Assurance of adequate replacement housing prior to displacement.

§ 101–6.103–1 Assurance of availability.

(a) *Availability.* No Federal agency should proceed with any phase of a project or authorize a State agency to proceed with any phase of a project which will cause the displacement of any person until the Federal agency has determined, or received satisfactory assurances from the displacing State agency, that within a reasonable period of time prior to a displacement, there will be available on a basis consistent with the requirements of Title VIII of the Civil Rights Act of 1968 (P.L. 90–284), in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as described in § 101–6.102–3, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

(b) *Support.* The determination or assurances shall be based on a current survey and analysis of available replacement housing by the displacing agency. The survey and analysis must take into account the competing demands on available housing. (See § 101–6.108.)

(c) *Waiver.* Pursuant to section 205(c)(3) of the Act, the head of a Federal agency may prescribe by regulations those situations in which the assurances described in this § 101–6.103–1 may be waived. These waivers shall be limited only to emergency or other extraordinary situations in which immediate possession of real property is of crucial importance. Each waiver of assurance of replacement housing shall be supported by appropriate findings and a determination of the necessity for the waiver.

§ 101–6.103–2 Housing provided as a last resort.

When it is determined that adequate replacement housing is not available and cannot otherwise be made available, the head of the Federal agency may take action or approve action by a State agency to develop replacement housing. Federal agencies taking or approving such action for replacement housing will be guided by the criteria and procedures issued by the Secretary of Housing and Urban Development (24 CFR Part 43, Subpart A) in accordance with the provision concerning section 206(a) of the Act in the President's memorandum of January 4, 1971. A State agency taking such action shall comply with the requirements and procedures of the Federal agency which provides the Federal financial assistance.

§ 101–6.103–3 Loans for planning and preliminary expenses.

Federal agencies will be guided by the criteria and procedures developed by the Secretary of Housing and Urban Development (24 CFR Part 43, Subpart B) when providing loans to eligible borrowers for planning and other preliminary expenses authorized under section 215 of the Act. A State agency providing such loans shall comply with the requirements and procedures of the Federal agency which provides the Federal financial assistance in accordance with the President's memorandum of January 4, 1971.

§ 101–6.104 Moving and related expenses.

§ 101–6.104–1 Eligibility.

(a) Any displaced person (including one who conducts a business or farm operation) is eligible to receive a payment for moving expenses. A person who lives on his business or farm property may be eligible for both moving and related expenses as a dwelling occupant in addition to being eligible for payments with respect to displacement from a business or farm operation.

(b) Any person who moves from real property or moves his personal property from real property, as a result of the acquisition of such real property in whole or part, or as a result of a written notice of the acquiring agency to vacate real property, or solely for the purposes of section 202 (a) and (b) of the Act as a result of the acquisition of, or a written notice of the acquiring agency to vacate, other real property on which such person conducts a farm or business, is eligible to receive a payment for moving expenses.

§ 101–6.104–2 Actual reasonable expenses in moving.

(a) *Allowable moving expenses.* (1) Transportation of individuals, families, and personal property from the acquired site to the replacement site, not to exceed a distance of 50 miles except where the displacing agency determines that relocation beyond this 50-mile area is justified;

(2) Packing and unpacking, crating and uncrating of personal property;

(3) Advertising for packing, crating, and transportation when the displacing agency determines that it is necessary;

(4) Storage of personal property for a period generally not to exceed 12 months when the displacing agency determines that storage is necessary in connection with relocation;

(5) Insurance premiums covering loss and damage of personal property while in storage or transit;

(6) Removal, reinstallation, reestablishment, including such modification as deemed necessary by the Federal agency of, and reconnection of utilities for, machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and that the displacing agency is released from any payment for the property;

(7) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agent or employees), in the process of moving, where insurance to cover such loss or damage is not available; and

(8) Other reasonable expenses determined to be allowable under regulations issued by the head of the Federal agency.

(b) *Limitations.* (1) If the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially, unless the head of the responsible

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Federal agency determines a greater amount is justified.

(2) If an item of personal property that is used in connection with any business or farm operation is not moved but is sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost minus the proceeds received from the sale, or the estimated cost of moving, whichever is less.

(3) If personal property that is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value in the judgment of the head of the Federal agency responsible for the program or project causing the displacement, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the cases of moving of junk yards, stockpiled sand, gravel, minerals, metals, and similar items of personal property.

(4) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration should be given to acquiring the display or displays as a part of the real property, unless such an acquisition is prohibited by State law.

§ 101–6.104–3 Nonallowable moving expenses and losses.

(a) Additional expenses incurred because of living in a new location;

(b) Cost of moving structures or other improvements in which the displaced person reserved ownership except as otherwise provided by law;

(c) Improvements to the replacement site, except when required by law;

(d) Interest on loans to cover moving expenses.

(e) Loss of good-will;

(f) Loss of profits;

(g) Loss of trained employees;

(h) Personal injury;

(i) Cost of preparing the application for moving and related expenses;

(j) Payment of search cost in connection with locating a replacement dwelling; and

(k) Such other items as the head of the Federal agency determines should be excluded.

§ 101–6.104–4 Expenses in searching for replacement business or farm.

(a) *Allowable.* (1) Actual travel costs;

(2) Extra costs for meals and lodging;

(3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour; and

(4) In the discretion of the displacing agency, necessary broker, real estate, or other professional fees to locate a replacement business or farm operation under circumstances prescribed in Federal agency regulations.

(b) *Limitation.* The total amount a displaced person may be paid for searching expenses may not exceed $500 unless the head of the Federal agency determines that a greater amount is justified because of the circumstances involved.

§ 101–6.104–5 Actual direct losses by business or farm operation.

If the displaced person does not move personal property, he shall be required to make a bona fide effort to sell it, and shall be reimbursed for the reasonable costs incurred.

(a) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, or the estimated costs of moving 50 miles, whichever is less.

(b) When the personal property is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement or the estimated cost of moving 50 miles, whichever is less.

(c) The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

§ 101–6.105 Payments in lieu of moving and related expenses.

§ 101–6.105–1 Dwellings—schedules.

(a) Subsection 202(b) of the Act provides that at the option of the displaced person he may receive a moving expense allowance not to exceed $300 based on schedules established by each agency head. Moving allowance schedules maintained by the respective State highway departments shall be used as the basis for the agency's schedules. These schedules should provide for adequate reimbursement in every locality. The Federal Highway Administration will approve all such schedules on a current basis, and will make them available to displacing agencies upon request.

(b) Where there are no highway department schedules, the heads of the Federal agencies undertaking or providing Federal financial assistance to a project causing displacement in such areas shall cooperate in the development of a single moving expense schedule for the use of all displacing agencies.

(c) A displaced person who elects to receive a payment based on a schedule shall be paid under the schedule used in the jurisdiction in which the displacement occurs regardless of where he relocates.

§ 101–6.105–2 Businesses—eligibility.

(a) A person displaced from his business, as defined in subsection 101(7) (A), (B), and (C) of the Act, is eligible under subsection 202(c) of the Act to receive a fixed payment in lieu of moving and related expenses. Care must be exercised in each instance, however, to ensure that such payments are made only in connection with a bona fide business.

(b) A payment in lieu of actual reasonable moving expenses may be made under section 202(c) of the Act to the displaced owner of a business only if the local agency determines that, during the two taxable years prior to displacement, or during such other period as the head of the Federal agency determines to be more equitable, the business:

(1) Had average annual gross receipts of at least $2,000 in value; or

(2) Had average annual net earnings of at least $1,000 in value; or

(3) Contributed at least 33⅓ percent of the average gross annual income of the owner(s), including income from all sources, such as welfare.

If the application of the above criteria obviously creates an inequity in a given case, the head of the Federal agency may approve the use of other criteria as determined appropriate.

(c) Those businesses, described in subsection 101(7) (D) of the Act are not eligible under subsection 202(c) of the Act for a payment in lieu of moving and related expenses.

(d) Where a displaced person is displaced from his place of business, no payment shall be made under subsection 202(c) of the Act until after the head of the displacing agency determines (1) that the business is not part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and (2) that the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the displacing agency only after consideration of all pertinent circumstances, including but not limited to the following factors:

(1) Type of business conducted by the displaced concern;

(2) Nature of the clientele of the displaced concern; and

(3) Relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person.

§ 101–6.105–3 Farms.

(a) *Eligibility.* A payment in lieu of actual reasonable moving expenses may be made to the displaced owner of a farm operation according to the criteria established for displaced owners of businesses. (See § 101–6.105–2.) Such a payment may be made to the displaced operator of a farm operation only if the acquiring agency determines that the farm operator has discontinued his entire farm operation at the present location or has relocated the entire farm operation.

(b) *Partial taking.* In the case of a partial taking, the operator will be considered to have been displaced from a farm operation if:

(1) The part taken met the definition of a farm operation prior to the taking; or

(2) The taking caused the operator to be displaced from the farm operation on the remaining land; or

(3) The taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.

If the use of the above criteria obviously creates an inequity in a given case, the head of the Federal agency may approve the use of other criteria as determined appropriate.

§ 101–6.105–4 Nonprofit organizations.

If a nonprofit organization is displaced, no payment shall be made under subsection 202(c) of the Act until after the head of the Federal agency determines:

(a) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage (The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization.); and

(b) That the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

§ 101–6.105–5 Net earnings.

The term "average annual net earnings" as used in subsection 202(c) of the Act means one-half of any net earnings of the business or farm operation before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of the displacing agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. If a business or farm operation has no net earnings or has suffered losses during the period used to compute "average annual net earnings" it may nevertheless receive the $2,500 minimum payment authorized by § 101–6.105–6

§ 101–6.105–6 Amount of business fixed payment.

The fixed payment to a person displaced from a farm operation or from his place of business, including nonprofit organizations, shall be in an amount equal to the average annual net earnings of the business or farm operation, except that such a payment shall not be less than $2,500 nor more than $10,000.

§ 101–6.106 Replacement housing payment for homeowners.

§ 101–6.106–1 Eligibility.

(a) A displaced owner-occupant is eligible for a replacement housing payment authorized by section 203(a) of the Act; not to exceed $15,000 if he meets both of the following requirements:

(1) Actually owned and occupied the acquired dwelling from which displaced for not less than 180 days prior to the initiation of negotiations for the property, or owned and occupied the property covered or qualified under section 217 of the Act for not less than 180 days prior to displacement (The term "initiation of negotiations" means the day on which the acquiring agency makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property.); and

(2) Purchases and occupies a replacement dwelling, which is decent, safe, and sanitary, not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(b) If a displaced owner-occupant of a dwelling is determined to be ineligible under this section, he may be eligible for a replacement housing payment under § 101–6.107.

§ 101–6.106–2 Comparable replacement dwelling.

For the purposes of rendering relocation assistance by making referrals for replacement housing and for computing the replacement housing payment, a comparable replacement dwelling is one which is decent, safe, and sanitary, and:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing;

(b) Adequate in size to meet the needs of the displaced family or individual. (However, at the option of the displaced person, a replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.);

(c) Open to all persons regardless of race, color, religion, or national origin, consistent with the requirement of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968;

(d) Located in an area not generally less desirable than the one in which the acquired dwelling is located with respect to:

(1) Neighborhood conditions, including but not limited to municipal services and other environmental factors;

(2) Public utilities; and

(3) Public and commercial facilities;

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment;

(f) Within the financial means of the displaced family or individual; and

(g) Available on the market to the displaced person.

If housing meeting the requirmeent of this section is not available on the market, the head of a displacing agency may, upon a proper finding of the need therefor, consider available housing exceeding these basic criteria.

§ 101–6.106–3 Computation of replacement housing payment.

The replacement housing payment of not more than $15,000 comprises the following:

(a) *Differential payment for replacement housing.* The head of the Federal agency may determine the amount which, if any, when added to the acquisition cost of the dwelling acquired by the displacing agency, is necessary to purchase a comparable replacement dwelling by either establishing a schedule or by using a comparative method. The relocatee is bound to the method selected for use by the displacing agency.

(1) *Schedule method.* The agency may establish a schedule of reasonable acquisition costs for comparable replacement dwellings of the various types of dwellings to be acquired and available on the private market. The schedule shall be based on a current market analysis sufficient to support determinations of the amount for each type of dwelling to be acquired. When more than one Federal agency is causing displacement in a community or an area, the heads of the agencies concerned shall coordinate the establishment of the schedule for replacement housing payments.

(2) *Comparative method.* The agency may determine the price of a comparable replacement dwelling by selecting a dwelling or dwellings that are most representative of the dwelling unit acquired, are available to the displaced person, and meet the definition of comparable replacement dwellings. A single dwelling shall be used only when additional comparable dwellings are not available.

(3) *Alternate method.* The head of the displacing agency may develop criteria for computing replacement housing payments when neither the schedule method nor the comparative method is feasible. An alternate method proposed by a State agency should be subject to prior concurrence of the appropriate Federal agency.

(4) *Limitations.* The amount established as the differential payment for the replacement housing sets the upper limit of this payment.

(i) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the above, the comparable replacement housing payment shall be reduced to the amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(ii) If the disolaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment shall be made.

(b) *Interest payment.* The head of the Federal agency shall determine the amount, if any, necessary to compensate a displaced person for any increased interest costs, including points paid by the purchaser. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage. The following shall be considered:

(1) The payment shall be equal to the excess in the aggregate interest and other debt service costs of the amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at the time of acquisition, over the remaining term of the mortgage on the acquired dwelling, reduced to discounted present value.

(2) The discount rate shall be the prevailing interest rate paid on savings

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deposits by commercial banks in the general area in which the replacement dwelling is located.

(3) A "bona fide mortgage" is one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations. All bona fide mortgages on the dwelling acquired by the displacing agency will be used to compute the increased interest cost portion of the replacement housing payment.

(4) The computation of the payment for increased interest costs will be based on the actual term of the new mortgage or the remaining term of the old mortgage, whichever is the lesser, and the computation will be based on the actual amount of the new mortgage or the amount of the old mortgage, whichever is the lesser.

(i) Seller's points are not to be included in the interest computation.

(ii) The actual interest rate of the new mortgage will be used in the computation.

(iii) Purchaser's points and/or loan origination fees will be added to the computed interest payment.

(5) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount of the unpaid debt on the acquired dwelling for its remaining term.

(6) See Format for computation of interest payment at § 101–6.106–5.

(c) *Incidental expenses.* (1) The head of the Federal agency shall determine the amount, if any, necessary to reimburse a displaced person for reasonable costs incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(i) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation;

(ii) Lenders', FHA, or VA, appraisal fees;

(iii) FHA application fee;

(iv) Certification of structural soundness when required by lender, FHA, or VA;

(v) Credit report;

(vi) Title policies or abstracts of title;

(vii) Escrow agent's fee; and

(viii) State revenue stamps or sale or transfer taxes.

(2) No fee, cost, charge, or expense is reimbursable as an incidental expense which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Pub. L. 90–321, and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System.

(d) *Case going through condemnation.* No property owner should be deprived of the earliest possible payment of the replacement housing amounts to which he is rightfully due. The following procedure shall be used on cases involving condemnation:

(1) An advance replacement housing payment can be computed and paid to a property owner if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. The agency may make a provisional replacement housing payment to the displaced homeowner based on the agency's maximum offer for the property, providing the homeowner enters into an agreement with the agency that:

(i) Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined necessary to acquire a comparable, decent, safe, and sanitary dwelling; and

(ii) If the amount awarded in the condemnation proceedings as the fair market value of the property acquired plus the amount of the recomputed replacement housing payment exceeds the price paid for, or the acquiring agency's determined cost of a comparable dwelling, he will refund to the acquiring agency an amount equal to the amount of the excess. However, in no event shall he be required to refund more than the amount of the replacement housing payment advanced.

(2) If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination, using the award as the acquisition price.

§ 101–6.106–4 Mortgage insurance.

The head of any Federal agency administering Federal mortgage insurance programs may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, if the mortgage is eligible for insurance under any Federal law administered by the agency notwithstanding any requirements under the law relating to age, physical condition, or other personal characteristics of eligible mortgagors and may make commitments for the insurance of the mortgage prior to the date of execution of the mortgage.

§ 101–6.106–5 Format for computation of interest payment: Development of Monthly Payment Figures.

REQUIRED INFORMATION

1. Outstanding balance of mortgage on acquired dwelling	$------
2. Outstanding balance of mortgage on replacement dwelling	$------
3. Lesser of line 1 or line 2	$------
4. Number of months remaining until last payment is due for mortgage on acquired dwelling	------
5. Number of months remaining until last payment is due for mortgage on replacement dwelling	------
6. Lesser of line 4 or line 5	------
7. Annual interest rate of mortgage on acquired dwelling (percent)	------
8. Annual interest rate of mortgage on replacement dwelling (or, if it is lower, the prevailing annual interest rate currently charged by mortgage lending institutions in the general area in which the replacement dwelling is located) (percent)	------
9. Prevailing annual interest rate paid on standard passbook savings accounts by commercial banks (percent)	------
10. If applicable, any debt service costs on the loan on the replacement dwelling, such as points paid by the purchaser which are not reimbursable as an incidental expense	$------

DEVELOPMENT OF MONTHLY PAYMENT FIGURES

A. Monthly payment required to amortize a loan of $------ (Line 3) in ------ (Line 6) months at an annual interest rate of ------ (Line 7) percent	$------
B. Monthly payment required to amortize a loan of $------ (Line 3) in ------ (Line 6) months at an annual interest rate of ------ (Line 8) percent	$------
C. Monthly payment required to amortize a loan of $------ (Line 3) in ------ (Line 6) months at an annual interest rate of ------ (Line 9) percent	$------

CALCULATION OF INTEREST PAYMENT

Step 1 Subtract A from B:	
Monthly payment based on rate for replacement dwelling (B)	$------
Monthly payment based on rate for acquired dwelling (A)	—$------
Result (difference)	$------
Step 2 Divide result (difference) of step 1 by C (carry to 6 decimal places):	
Result (difference) from step 1	$------
Monthly payment based on savings rate (C)	÷$------
Result (quotient)	------
Step 3 Multiply outstanding balance of mortgage on acquired dwelling by result (quotient) of step 2:	
Outstanding Balance (from Line 3)	$------
Result (quotient) of step 2	× ------
Result (product)	$------

Step 4 Add to result (product) of step 3 any debt service costs on the loan on the replacement dwelling:	
Result (product) of step 3, first mortgage	$------
Result (product) of step 3, second mortgage[1]	$------
Sum or difference, as applicable[1]	$------
Add debt service costs on loan on replacement dwelling (Line 10)	$------
Amount of interest payment	$------

[1] If there is more than one outstanding mortgage on an acquired dwelling, the discounted value of each mortgage must be determined. To do this, a separate computation is made to each mortgage through step 3. A consolidated step 4 is then completed.

§ 101–6.107 Replacement housing payments for tenants and certain others.

§ 101–6.107–1 Eligibility.

(a) A displaced tenant or owner-occupant of a dwelling for less than 180 days is eligible for a replacement housing payment not to exceed $4,000, as authorized by section 204 of the Act if he actually occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property or actually occupied the property covered or qualified under section 217 of the Act for not less than 90 days prior to displacement. The term "initiation of negotiations" means the day on which the acquiring agency makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property. Agencies' regulations shall provide that tenants and other persons occupying the property shall be advised when negotiations for the property are initiated with the owner thereof.

(b) An owner-occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for a replacement housing payment as a tenant, as authorized by section 204 of the Act, when he rents a decent, safe, and sanitary replacement dwelling instead of purchasing and occupying a replacement decent, safe, and sanitary dwelling not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency final payment for all costs for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

§ 101–6.107–2 Computation of replacement housing payments for displaced tenants.

A displaced tenant is eligible for a rental replacement housing payment; or, if he purchases replacement housing within 1 year from displacement, he is eligible for a down payment, including expenses incidental to closing, not to exceed $4,000.

(a) *Rental replacement housing payment.* The head of the Federal agency involved may determine the amount necessary to rent a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* The agency may establish a rental schedule for renting comparable replacement dwellings as described in § 101–6.106–2 and which are available in the private market for the various types of dwellings to be acquired. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (the average monthly cost from the schedule) and subtracting from that amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiation, if such rent was reasonable. Agency regulations may prescribe circumstances which may dictate the use of economic rent rather than actual rent paid by the displaced tenant. For purposes of this subpart, economic rent is defined as the amount of rent the displaced tenant would have had to pay for a comparable dwelling unit in an area similar to the neighborhood in which the dwelling unit to be acquired is located. The schedule should be based on current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area, the agency heads shall cooperate in choosing the method for computing the replacement housing payment and may use uniform schedules of average rental housing in the community or area.

(2) *Comparative method.* The agency may determine the average month's rent by selecting one or more dwellings most representative of the dwelling unit acquired, which are available to the displaced person and meet the definition of comparable replacement dwellings as described in § 101–6.106–2. The payment should be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations if the rent was reasonable. Agency regulations may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant.

(3) *Exceptions.* The head of the Federal agency may establish the average month's rent paid by the displaced person by using more than 3 months if he deems it advisable. If rent is being paid to the displacing agency, economic rent shall be used in determining the amount of the payment to which the displaced tenant is entitled.

(4) *Alternate to (1) and (2), above.* When neither method is feasible, the head of the Federal agency shall develop criteria for computing the payment.

(5) *Limitation.* The amount of the rental replacement housing payment shall be computed by subtracting the economic rent of the acquired dwelling from the lesser of:

(i) The amount of rent actually paid for the replacement dwelling; or

(ii) The amount determined by the displacing agency as necessary to rent a comparable replacement dwelling.

(6) *Disbursement of rental replacement housing payment.* The head of the Federal agency shall develop procedures to implement section 204 of the Act to provide, within the $4,000 and 4-year limitations of that section, a rental replacement housing payment that will enable the displacee to rent comparable, decent, safe, and sanitary housing. The amount of the rental payment under section 204(1) of the Act shall be determined and paid in a lump sum, except it shall be paid in installments if the displaced person so requests.

(b) *Purchases—replacement housing payment.* If the tenant elects to purchase instead or renting, the payment shall be computed by determining the amount necessary to enable him to make a down payment and to cover incidental expenses on the purchase of replacement housing, as follows:

(1) The amount of the down payment shall be the lesser of:

(i) The amount that would be required as a down payment for financing a conventional loan on a comparable dwelling; or

(ii) The amount required as a down payment for financing a conventional loan on the replacement dwelling actually purchased. The amount determined shall be added to the amount required to be paid by the purchaser as points and/or origination or loan services fee if such fees are normal to real estate transactions in the area on the comparable dwelling or the replacement dwelling, whichever is the lesser.

(2) Incidental expenses of closing the transaction are those as described in § 101–6.106–3(c).

(3) The maximum payment shall not exceed $4,000, except that if more than $2,000 is required, the tenant must match any amount in excess of $2,000 by an equal amount in making the down payment.

(4) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement.

§ 101–6.107–3 Computation of replacement housing payments for certain others.

(a) A displaced owner-occupant who does not qualify for a replacement housing payment under § 101–6.106 because of the 180 days occupancy requirement and elects to rent is eligible for a rental replacement housing payment not to exceed $4,000. The payment shall be computed in the same manner as that shown in § 101–6.107–2(a), except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

(b) A displaced owner-occupant who does not qualify for a replacement housing payment under § 101–6.106 because of the 180 day occupancy requirement and elects to purchase a replacement dwelling is eligible for a replacement housing down payment and closing costs not to exceed $4,000. The payment shall be computed in the same manner as that shown in § 101–6.107–2(b).

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§ 101–6.108 Relocation Assistance Advisory Services.

§ 101–6.108–1 Relocation assistance advisory program.

Under section 205 of the Act, the head of a Federal agency shall require a relocation assistance advisory program for persons displaced as a result of Federal or federally assisted programs or projects. Federal agencies shall provide the advisory program where Federal projects are involved; State agencies shall provide the advisory program when federally assisted projects are involved. Each relocation assistance advisory program shall include such measures, facilities, or services as may be necessary or appropriate to perform all of the tasks detailed in section 205(c) of the Act.

§ 101–6.108–2 Coordination of planned relocation activities.

(a) *Federal coordination*. When two or more Federal agencies contemplate displacement activities in a given community or area, the heads of the respective agencies reponsible for the planned activities shall require that appropriate channels of communication be established between the agencies for the purpose of planning relocation activities and coordinating available housing resources. The agencies involved shall consult with the appropriate Housing and Urban Development Regional/Area Office within the jurisdictional area concerning the availability of housing. "HUD Field Office Jurisdictions," a directory of regional area offices, is maintained on a current basis by the Department of Housing and Urban Development and will be furnished to agencies upon request. The agencies causing the displacement shall designate at least one representative who will meet periodically with the representatives of other Federal agencies to review the impact of their respective programs on the community or area.

(b) *Local coordination*. To further ensure maximum coordination of relocation activities in a given community or area, each Federal agency's regulations shall require that the displacing agency consult appropriate local officials before approving any proposed project in the community, consistent with the requirements of the procedures promulgated by the Office of Management and Budget Circular A–95 (Revised). That circular provides a central point for identifying local officials.

§ 101–6.108–3 Contracting for relocation services.

(a) *Contracting with central relocation agency*. The head of a displacing agency contemplating the initiation of displacement activities shall consider contracting with the central relocation agency in a community or area for carrying out its relocation activities. Federal agency regulations and procedures shall require specific performance standards for these services. The appropriate Housing and Urban Development Regional/Area Office shall provide information and assistance, on request from other Federal agencies, concerning these services.

(b) *Contracting with others*. When a centralized relocation agency is not available in a community or if in the judgment of the displacing agency the centralized agency does not have the capacity to provide the necessary services within the time required by the agency's program, the displacing agency may contract with another public agency or a private contractor who can provide the necessary relocation services.

§ 101–6.108–4 General contracts.

(a) *Veterans Administration (VA)*. The Veteran's Administration maintains a housing counseling service and a displaced persons priority program for providing VA-owned housing to displaced persons. These services may be made available to persons displaced by Federal and federally assisted programs, and the local VA Loan Guarantee Office should be contacted.

(b) *Small Business Administration*. The Small Business Administration provides technical and loan counseling services for small businesses. A displaced businessman should be advised of these services.

(c) *Department of Agriculture*. The Department of Agriculture provides many services through its direct action farmer assistance programs, activities in rural nonfarm communities, and also urban communities of under 10,000 population. Coordination with the Farmers Home Administration, Department of Agriculture, is recommended when a farm operation is displaced.

(d) *Local governmental organizations*. Local governmental organizations and agencies may have rent supplement, public housing, or related relocation assistance programs which may be utilized to provide housing for the occupants displaced from a project, Local programs should be utilized where they exist. Local non-governmental associations may also be used in helping a displaced person. Local real estate boards, apartment owners associations, home builders associations, and other organizations may provide information and services that will help obtain comparable replacement housing for displaced persons and suitable replacement sites for displaced businesses. Also many States have veterans' organizations which offer services to veterans. The availability of such State organizations should be ascertained and used.

§ 101–6.109 Federally assisted programs.

§ 101–6.109–1 Assurances.

(a) *Information*. The assurances required of State agencies by sections 210 and 305 of the Act shall include a statement that the affected persons will be adequately informed of the benefits, policies, and procedures described in the assurances.

(b) *Inability to provide assurances*. The head of a Federal agency shall not approve or authorize any action by a State agency which will result in the displacement of any person or the acquisition of any real property except in accordance with the following requirements:

(1) A state agency has provided satisfactory assurances as required by sections 210 and 305 of the Act; or

(2) A State agency's assurances are accompanied by a statement in which it identifies any of the assurances required by section 305 of the Act which it is unable to provide, in whole or in part, under its laws. The statement should be supported by an opinion of the chief legal officer of the State agency or other appropriate legal officer. Federal agencies administering federally assisted programs may adopt procedures setting forth the conditions under which projects will be approved when State agencies cannot fully comply with section 305 of the Act. In all cases there must be full compliance with all assurances required by section 210 of the Act.

(c) *Compliance with sections 301 and 302 of the Act*. A State agency, as part of the assurances required by section 305 of the Act, shall provide a statement indicating the extent to which it can comply with the provisions of sections 301 and 302 of the Act. If the State agency indicates that it is unable to comply fully with any of these policies, its statement shall be supported by an opinion of the chief legal officer of the State agency or other appropriate legal officer. State agencies should comply with sections 301 and 302 of the Act if, under State law, compliance is legally possible.

(d) *Monitoring assurances*. The heads of Federal agencies shall take continuing action to ensure that State agencies are acting in accordance with the assurances they have provided.

§ 101–6.109–2 Administration of relocation assistance programs.

(a) *Approval*. A State agency electing to contract for services pursuant to section 212 of the Act shall enter into a written contract consistent with the regulations of the Federal agency administering the project or program causing the displacement. The head of the Federal agency shall take affirmative action to ensure that the contract is so administered as to provide uniform and effective relocation for all displaced persons, consistent with these guidelines.

(b) *Contract for services by State agencies*. Contracts shall include, as a minimum, the following provisions:

(1) That payments and assistance shall be provided in accordance with Federal agency regulations implementing the guidelines in this subpart;

(2) That records required by Federal agency regulations shall be retained for a period of at least 3 years and shall be available for inspection by representatives of the Federal agency involved and the General Accounting Office;

(3) Clauses required by Federal agency regulations implementing Title VI of the Civil Rights Act of 1964 (Public Law 88–353); and

(4) Any other provision approved by the head of the Federal agency administering the federally assisted program or project.

§ 101–6.110 Annual report [Reserved]

§ 101–6.111 Uniform real property acquisition policy.

§ 101–6.111–1 Applicability.

The provisions of Title III of the Act apply to the acquisition of real property for Federal and federally assisted programs or projects.

§ 101–6.111–2 Acquisition procedures.

(a) *Just compensation*. Section 301 (3) of the Act establishes the policy that before initiation of negotiations for the acquisition of real property the head of the Federal agency concerned shall establish an amount which he believes to be just compensation therefor. In no event shall that amount be less than the agency's approved appraisal of the fair market value of the property.

(b) *Initiation of negotiations*.—(1) *Statement to be furnished to the owner*. When negotiations for the acquisition of real property are initiated, the owner shall be provided with a written statement concerning the proposed acquisition. This statement shall include, as a minimum, the following:

(i) Identification of the real property and the estate or interest therein to be acquired, including the buildings, structures, and other improvements on the land and the fixtures considered to be a part of the real property; and

(ii) The amount of the estimated just compensation for the property to be acquired as determined by the acquiring agency and a statement of the basis therefor. In the case of a partial taking, damages, if any, to the remaining real property shall be separately stated.

(2) *Offer to purchase*. The head of the Federal agency shall make a prompt offer to purchase the property for the amount in the statement.

§ 101–6.111–3 Appraisal standards.

For the purpose of promoting uniformity under section 301(3) of the Act, the head of each Federal agency shall establish for all Federal or federally assisted programs under his jurisdiction standards for appraisals used in such programs, criteria for determining the qualifications of appraisers and a system of review by qualified appraisers, consistent with the current issue of the Uniform Appraisal Standards for Federal Land Acquisition published by the Interagency Land Acquisition Conference.

§ 101–6.111–4 Notice to move.

Subsection 301(5) of the Act provides that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move his business or farm operation without at least 90 days written notice from the head of the displacing agency of the date by which such move is required. This subsection applies only in those instances in which actual displacement of persons, businesses, or farm operations occurs.

§ 101–6.111–5 Federally assisted programs.

The head of each Federal agency administering Federal financially assisted programs carried out by State agencies should require that State agencies reimburse owners for necessary expenses as specified in sections 303 and 304 of the Act. The head of each Federal agency also should require that all State agencies comply with the provisions of sections 301 and 302 of the Act if compliance is legally possible under State law.

§ 101–6.112 Administrative review.

§ 101–6.112–1 Procedures.

(a) In connection with a direct Federal program or project, the head of a Federal agency should establish procedures for any person aggrieved by a determination as to eligibility for a payment authorized by the Act or the amount of a payment to have his application reviewed by the head of the Federal agency. In the case of a State program or project receiving Federal financial assistance, the regulations of the Federal agency administering the program or project should require an administrative review by the head of the State agency.

(b) The procedures pertaining to administrative review shall ensure the following:

(1) Prompt consideration of all requests for administrative review;

(2) Prompt written notice to the claimant of any determination made in connection with his application. This written notice must include a full explanation concerning any amount claimed which has been disallowed; and

(3) Prompt payment of any amounts which are determined to be due the claimant.

Effective date: This regulation is effective March 15, 1977.

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: March 7, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc.77–7842 Filed 3–14–77;8:45 am]

Title 45—Public Welfare

CHAPTER VII—COMMISSION ON CIVIL RIGHTS

PART 702—RULES ON HEARINGS, REPORTS AND MEETINGS OF THE COMMISSION

Government in the Sunshine Act; Final Rules

AGENCY: U.S. Commission on Civil Rights.

ACTION: Final rules.

SUMMARY: These rules establish procedures for the conduct of meetings of the Commissioners of the U.S. Commission on Civil Rights in accordance with the Government in the Sunshine Act, U.S.C. 552b, Pub. L. No. 94–409, 90 Stat. 1241 Required by 5 USC 552b(g) of that Act, these rules open to public observation the decisionmaking processes of the Commission to the fullest extent practicable without sacrificing the rights of individuals, or the ability of the Commission to carry out its statutorily mandated responsibilities.

EFFECTIVE DATE: March 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Lawrence B. Glick, Solicitor, U.S. Commission on Civil Rights, 1121 Vermont Avenue, N.W., Washington, D.C. 20425, (202) 254–6611.

SUPPLEMENTARY INFORMATION: On January 31, 1977, the Commission on Civil Rights published its proposed Government in the Sunshine Act rules (42 FR 5705). The final rules are the same as the proposed rules except for some minor changes noted below.

These rules govern all Commission meetings. After defining in § 702.51 the terms used, § 702.52 of these rules requires that all Commission meetings be open to the public, except when they involve the few carefully defined situations outlined in § 702.53. Meetings concerning such information may be closed. Section 702.54 relates the procedures the Commission must follow if it wishes to close all or part of a meeting or withhold information pertaining to a closed meeting. Section 702.55 assures public knowledge of Commission meetings by requiring timely public announcements of the time, place and subject matter of Commission meetings, and whether they will be open or closed. Section 702.56 lists the records which the Commission will retain to indicate its conformity with the requirements of these rules. Section 702.57 provides a means for persons questioning Commission compliance with these rules to have their concerns answered promptly by the Commission.

These rules also change the title of Part 702 to "Rules on Hearings, Reports and Meetings of the Commission." The rules presently contained in Part 702 become "subpart A" and a new "subpart B" contains the Government in the Sunshine rules described in this preamble.

One substantive comment on the proposed rules was received, which suggested deleting § 702.53(a)9(i) from the rules because the Commission lacks authority to regulate "currencies, securities, commodities or financial institutions." This exemption is not being deleted because, although the Commission lacks such regulatory authority, it is empowered to investigate such agencies (42 U.S.C. 1975c(a)(3)). In the event (albeit unlikely) that the Commission must discuss information which it has received from such agencies which they could discuss in closed session, the Commission has reserved the option to discuss the information received in closed session.

The following additions, inadvertently omitted from the proposed rules, are made:

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1. In § 702.54(c)(2), the phrase "a written copy of such vote reflecting the vote of each Commissioner, and:" is added after the word "public."

2. A new § 702.54(d)(2) is added to read: "A copy of the certification of the General Counsel, together with a statement from the presiding officer of the closed meeting setting forth the time and place of the meeting and the persons present, shall be retained by the Commission."

3. In § 702.54(f), exemption (7) is added to the reference to § 702.53(a) (5) or (6) so that it reads "§ 702.53(a) (5), (6) or (7)."

In addition, the word "advanced" in § 702.55(c)(2) becomes the word "changed" in the final rules to include situations where meetings are postponed.

Accordingly, the proposed rules as so changed are adopted and 45 C.F.R. Part 702 is amended to read as follows:

Signed at Washington, D.C. on March 10, 1977.

ARTHUR S. FLEMMING,
Chairman.

1. The heading of Part 702 of Title 45 as amended to read as set forth above.

2. Section 702.1–702.18 presently existing in Part 702 are designated "Subpart A—Hearings and Reports."

3. A new "Subpart B—Meetings" is added to Part 702 of Title 45, which is as follows:

Subpart B—Meetings

Sec.
702.50 Purpose and scope.
702.51 Definitions.
702.52 Open meeting requirements.
702.53 Closed meetings.
702.54 Closed meeting procedures.
702.55 Public announcement of meetings.
702.56 Records.
702.57 Administrative review.

AUTHORITY: 5 U.S.C. 552b, Pub. L. 94-409, 90 Stat. 1241.

Subpart B—Meetings

§ 702.50 Purpose and scope.

This section contains the regulations of the U.S. Commission on Civil Rights implementing sections (a)–(f) of 5 U.S.C. 552b, the "Government in the Sunshine Act." They are adopted to further the principle that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Commission. They open to public observation meetings of the Commissioners of the U.S. Commission on Civil Rights except where the rights of individuals are involved or the ability of the Commission to carry out its responsibilities requires confidentiality.

§ 702.51 Definitions.

(a) *Commission* means the U.S. Commission on Civil Rights and any Subcommittee of the Commission authorized under 42 U.S.C. 1975d(f).

(b) *Commissioner* means a member of the U.S. Commission on Civil Rights appointed by the President under 42 U.S.C. 1975(b).

(c) *General Counsel* means the General Counsel of the U.S. Commission on Civil Rights.

(d) *Meeting* means the deliberations of at least the number of Commissioners required to take action on behalf of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business.

(1) The number of Commissioners required to take action on behalf of the Commission is four, except that such number is two when the Commissioners are a Subcommittee of the Commission authorized under 42 U.S.C. 1975d(f).

(2) Deliberations among Commissioners regarding the setting of the time, place or subject matter of a meeting, whether the meeting is open or closed, whether to withhold information discussed at a closed meeting, and any other deliberations required or permitted by 5 U.S.C. § 552b (d) and (e) and § 702.54 and § 702.55 of this subpart, are not meetings for the purposes of this subpart.

(3) The consideration by Commissioners of Commission business which is not discussed through conference calls or a series of two party calls by the number of Commissioners required to take action on behalf of the Commission is not a meeting for the purposes of this subpart.

(e) *Public announcement* or *publicly announce* means the use of reasonable methods, such as the posting on Commission public notice bulletin boards and the issuing of press releases, to communicate information to the public regarding Commission meetings.

(f) *Staff Director* means the Staff Director of the U.S. Commission on Civil Rights.

§ 702.52 Open meeting requirements.

(a) Every portion of every Commission meeting shall be open to public observation, except as provided in § 702.53 of this subpart. Commissioners shall not jointly conduct or dispose of agency business other than in accordance with this subpart.

(b) This subpart gives the public the right to attend and observe Commission open meetings; it confers no right to participate in any way in such meetings.

(c) The Staff Director shall be responsible for making physical arrangements for Commission open meetings which provide ample space, sufficient visibility and adequate acoustics for public observation.

(d) The presiding Commissioner at an open meeting may exclude persons from a meeting and shall take all steps necessary to preserve order and decorum.

§ 702.53 Closed meetings.

(a) The Commission may close a portion or portions of a meeting and withhold information pertaining to such meeting when it determines that the public interest does not require otherwise and when such portion or portions of a meeting or the disclosure of such information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive Order;

(2) Disclose information relating solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided, that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record received by the Commission from a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information received by the Commission and contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would (i) In the case of information received by the Commission from an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or (ii) be likely to significantly frustrate implementation of a proposed action, except that paragraph (ii) shall not apply in any instance where the Commission has already disclosed to the public the content or nature of its proposed action, or where the Commission is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the Commission's issuance of a subpena, or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration.

§ 702.54 Closed meeting procedures.

(a) A meeting or portion thereof will be closed, and information pertaining to a closed meeting will be withheld, only after four Commissioners when no Commissioner's position is vacant, or three Commissioners when there is such a vacancy, or two Commissioners on a subcommittee authorized under 42 U.S.C. 1975d(f), vote to take such action.

(b) A separate vote shall be taken with respect to each meeting a portion or portions of which is proposed to be closed to the public under § 702.53, and with respect to any information to be withheld under § 702.53.

(1) A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as:

(i) Each meeting in such series involves the same particular matters, and

(ii) Is scheduled to be held no more than thirty (30) days after the initial meeting in such series.

(c) The Commission will vote on the question of closing a meeting or portion thereof and withholding information under paragraph 702.54(b) if one Commissioner calls for such a vote. The vote of each Commissioner participating in a vote to close a meeting shall be recorded and no proxies shall be allowed.

(1) If such vote is against closing a meeting and withholding information, the Staff Director, within one working day of such vote, shall make publicly available by putting in a place easily accessible to the public a written copy of such vote reflecting the vote of each Commissioner.

(2) If such vote is for closing a meeting and withholding information, the Staff Director, within one working day of such vote, shall make publicly available by putting in a place easily accessible to the public a written copy of such vote reflecting the vote of each Commissioner, and:

(i) A full written explanation of the decision to close the meeting or portions thereof (such explanation will be as detailed as possible without revealing the exempt information);

(ii) A list of all persons other than staff members expected to attend the meeting and their affiliation (the identity of persons expected to attend such meeting will be withheld only if revealing their identity would reveal the exempt information which is the subject of the closed meeting).

(d) Prior to any vote to close a meeting or portion thereof under § 702.54(c) the Commissioners shall obtain from the General Counsel his or her opinion as to whether the closing of a meeting or portions thereof is in accordance with paragraphs (1)–(10) of § 702.53(a).

(1) For every meeting closed in accordance with paragraphs (1)–(10) of § 702.53(a), the General Counsel shall publicly certify in writing that, in his or her opinion, the meeting may be closed to the public and shall cite each relevant exemptive provision.

(2) A copy of certification by the General Counsel, together with a statement from the presiding officer of the closed meeting setting forth the time and place of the meeting and the persons present, shall be retained by the Commission.

(e) For all meetings closed to the public, the Commission shall maintain a complete verbatim transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting which sets forth the time and place of the meeting and the persons present.

(1) In the case of a meeting, a portion of a meeting, closed to the public pursuant to paragraphs (8), (9)(i)(A), or (10) of § 702.53(a), the Commission may retain a set of minutes;

(i) such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(f) Any person whose interests may be directly affected by a portion of a meeting may request that such portion be closed to the public under § 702.53 or that it be open to the public if the Commission has voted to close the meeting pursuant to § 702.53(a) to § 702.53(a)(5), (6) or (7). The Commission will vote on the request if one Commissioner asks that a vote be taken.

(1) Such requests shall be made to the Staff Director within a reasonable amount of time after the meeting or vote in question is publicly announced.

§ 702.55 Public announcement of meetings.

(a) *Agenda:* The Staff Director shall set as early as possible but in any event at least eight calendar days before a meeting, the time, place and subject matter for the meeting.

(1) Agenda items will be identified in detail adequate to inform the general public of the specific business to be discussed at the meeting.

(b) *Notice:* The Staff Director, as early as possible but in any event at least eight calendar days before a meeting, shall make public announcement of:

(1) The time of the meeting;

(2) Its place;

(3) Its subject matter;

(4) Whether it is open or closed to the public; and

(5) The name and phone number of a Commission staff member who will respond to requests for information about the meeting.

(c) *Changes:* (1) The time of day or place of a meeting may be changed following the public announcement required by § 702.55(b) of this subpart, if the Staff Director publicly announces such change at the earliest practicable time subsequent to the decision to change the time of day or place of the meeting.

(2) The date of a meeting may be changed following the public announcement required by § 702.55(b), or a meeting may be scheduled less than eight calendar days in advance, if:

(i) Four Commissioners when no Commissioner's position is vacant, or three Commissioners when there is such a vacancy, or two Commissioners on a Subcommittee authorized under 42 U.S.C. 1975d(f), determine by recorded vote that Commission business requires such a meeting at an earlier date; and

(ii) The Staff Director, at the earliest practicable time following such vote, makes public announcement of the time, place and subject matter of such meeting, and whether it is open or closed to the public.

(3) The subject matter of a meeting or the determination to open or close a meeting or a portion of a meeting to the public, may be changed following the public announcement required by 702.-55(b) of this subpart if:

(i) Four Commissioners when no Commissioner's position is vacant, or three Commissioners when there is such a vacancy, or two Commissioners on a Subcommittee authorized under 42 U.S.C. 1975d(f), determine by recorded vote that Commission business so requires; and

(ii) The Staff Director publicly announces such change and the vote of each Commissioner upon such change at the earliest practicable time subsequent to the decision to make such change.

(d) *Federal Register:* Immediately following all public announcements required by § 702.55(b) and (c) of this subpart, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed to the public, any change in one of the preceding, and the name and phone number of the official designated by the Commission to respond to requests for information about meeting, shall be submitted for publication in the FEDERAL REGISTER.

(1) Notice of a meeting will be published in the FEDERAL REGISTER even after the meeting which is the subject of the notice has occurred in order to provide a public record of all Commission meetings.

§ 702.56 Records.

(a) The Commission shall promptly make available to the public in an easily accessible place at Commission headquarters the following materials:

(1) A copy of the certification by the General Counsel required by § 702.54(e)(1);

(2) A copy of all recorded votes required to be taken by these rules.

(3) A copy of all announcements published in the FEDERAL REGISTER pursuant to this subpart.

(4) Transcripts, electronic recordings and minutes of closed meetings determined not to contain items of discussion or information which may be withheld under § 702.53.

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(1) Copies of such material will be furnished to any person at the actual cost of transcription or duplication.

(b) Requests to review or obtain copies of records compiled under this Act, other than transcripts, electronic recordings or minutes of a closed meeting, will be processed under the Freedom of Information Act and, where applicable, the Privacy Act regulations of the Commission (Parts 704 and 706, respectively, of this title). Nothing in this subpart expands or limits the present rights of any person under these rules with respect to such requests.

(1) Requests to review or obtain copies of transcripts, electronic recordings or minutes of meetings of a closed meeting maintained under § 702.54(c) and not released under § 702.56(a)(4) shall be directed to the Staff Director who shall respond to such requests within ten (10) working days.

(c) The Commission shall maintain a complete verbatim copy of the transcript, a complete copy of minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of two years after such meeting, or until one year after the conclusion of any agency proceeding with respect to which the meeting or portion was held, whichever occurs later.

§ 702.57 Administrative review.

(a) Any person who believes a Commission action governed by this subpart to be contrary to the provisions of this subpart shall file in writing with the Staff Director an objection specifying the violation and suggesting corrective action. Whenever possible, the Staff Director shall respond within ten (10) working days of the receipt of such objections.

[FR Doc.77-7549 Filed 3-14-77;8:45 am]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER A—GENERAL PROVISIONS

[General Order 16, Amdt. 17, Docket No. 76-66]

PART 502—RULES OF PRACTICE AND PROCEDURE

Extraneous and Ex Parte Communications

This proceeding was instituted by notice of proposed rulemaking published in the FEDERAL REGISTER of January 4, 1977 (42 FR 817). The purpose of the proceeding was to amend those sections of the Commission's rules of practice relating to ex parte communications in order to conform them to the requirements set forth in section 4 of the "Government in the Sunshine Act" (Pub. L. 94-409, September 13, 1976) (the Act), which amended the Administrative Procedure Act (5 U.S.C. 551 et seq.) in the area of ex parte communications.[1]

Comments were submitted by Mr. Leonard G. James of the law firm of Graham and James and by Mr. Wade S. Hooker, Jr., of the law firm of Casey, Lane & Mittendorf. Mr. James essentially asks for clarification of the proposed rules with respect to the role of the Commission's Bureau of Hearing Counsel in Commission proceedings. He states that the proposed rules do not clearly establish that Hearing Counsel will be treated like any other party as regards the prohibitions against making ex parte communications and that some confusion exists because Hearing Counsel are employees of the Commission as well as parties to proceedings. The comments submitted by Mr. Hooker also deal mainly with suggested clarifications. Mr. Hooker believes that the rules should make clear that they apply only to proceedings subject to 5 U.S.C. 557(a), that only ex parte communications prohibited by paragraph (b) of the proposed rules are forbidden, that reference to a person who is a "party" or "agent of a party" is superfluous as a result of the Act and furthermore confusing in certain respects, and other matters. We have carefully considered these comments and, as discussed below, have adopted one suggestion contained therein. Our discussion follows.

We do not believe that the comments submitted by Mr. James require any change to the proposed rules. Mr. James expresses apprehensions that the Commission's Bureau of Hearing Counsel may be given special treatment so as to engage in the type of activity prohibited by the Act and the proposed rules. There is nothing in the proposed rules which should cause any such apprehension. Under the present rules, Hearing Counsel is designated as a party to a proceeding and is given no special treatment by virtue of the fact that they may be employees of the Commission. See Rule 3(b), 46 CFR 502.42. Furthermore, in the type of proceeding with which the Act and proposed rules deal, Hearing Counsel is not an "employee who is or may reasonably be expected to be involved in the decisional process." There is therefore absolutely no cause for concern that the rules will somehow authorize Hearing Counsel to engage in forbidden ex parte practices and consequently there is no need to add clarifying language to them. Our present remarks in this regard should furthermore suffice to allay any possible concern.[2]

The comments submitted by Mr. Hooker, as noted, also deal with suggestions for clarifying language. After carefully considering them, however, we are of the opinion that for the most part they are unnecessary and in certain respects may even contravene the purposes of the Act.

Mr. Hooker suggests that the rules should make clear that they are applicable only to proceedings which are subject to 5 U.S.C. 557(a) rather than to any proceeding as defined in section 502.61 (Rule 5(a)), as presently proposed. Mr. Hooker fears that the rule's prohibitions might be applied to proceedings other than adjudicatory or certain formal rulemaking which was not intended by Congress, citing Senate Report 94-1176, 94th Cong., 2d Sess., p. 29. We are not adopting this suggestion. The proposed limitation is too narrow and could permit ex parte activity in proceedings intended to be covered. The legislative history cited by Mr. Hooker is not clear because it defines the applicability of the prohibitions to "formal adjudicatory" proceedings and "a few formal rulemaking proceedings." Whatever the intended scope of the Act, it clearly goes beyond proceedings covered by 5 U.S.C. 557(a).

Mr. Hooker suggests that the proposed rules delete reference to a "person who is a party to or agent of a party to any proceeding" or "who directly participates in any such proceeding", i.e., to delete any reference to a "party", his "agent", or "direct participant in a proceeding" in the proposed rules. He asserts that the language in question is "made superfluous as a result of the Act." Alternatively, he suggests that reference to any "agent" be deleted. He asserts that reference to "agents" leads to confusion and is merely a carryover from the present Commission rule.

In our opinion the deletion of specific references to parties, their agents, or participants in proceedings would not only be unhelpful but more confusing. It is certainly not the intention of the Act to permit any of these persons to engage in ex parte activity. Our present rules which we are proposing to amend have long specified that the prohibitions apply to parties and their agents. Furthermore, as we stated in the notice of proposed rulemaking, cited above, specific reference to "parties", their "agents", "interested persons outside the Commission", and direct participants in proceedings will insure that previous law on the subject as well as the amendments contained in the Act will be encompassed.

The remainder of Mr. Hooker's comments consist of further suggestions for clarification. For example, he suggests that reference to ex parte communications in paragraphs (b) (4) and (6) specify that the type of communication in mind is that prohibited by paragraph (b) of the rule. We see no need for such additional clarification and believe that it is self-evident as to the type of ex parte communication which is intended to be prohibited.

A final suggestion, however, has merit. Mr. Hooker suggests that reference to a violation of the rule which could lead to sanctions against a party specify that the violation must occur with respect to paragraph (b) of the rule. Since the rule also contains a paragraph (a) which does not deal with ex parte communications but rather with other pleadings or documents which are objectionable for reasons having nothing to do with ex parte activity, we agree that the rule should be clarified as suggested.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), sections 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 821, 841a), and section 4 of the "Government in the Sunshine Act" (5 U.S.C. 557(d)), Part 502 of Title 46, Code of Federal Regulations, is amended as set forth below.

§ 502.10 [Amended]

1. Section 502.10 is amended by inserting the following language between the words "except" and "§ 502.153": § 502.11 (Rule 1(k)) and

2. A new § 502.11 is added as follows:

§ 502.11 Disposition of Improperly Filed Documents and Ex Parte Communications.

(a) *Documents not conforming to rules.* Any pleading, document, writing or other paper submitted for filing which is rejected because it does not conform to the rules in this part shall be returned to the sender;

(b) *Ex parte communications.* (1) No person who is a party to or an agent of a party to any proceeding as defined in § 502.61 (Rule 5(a)) or who directly participates in any such proceeding and no interested person outside the Commission shall make or knowingly cause to be made to any Commission member, administrative law judge, or Commission employee who is or may reasonably be expected to be involved in the decisional process of any such proceeding an ex parte communication relevant to the merits of the proceeding;

(2) No Commission member, administrative law judge, or Commission employee who is or may reasonably be expected to be involved in the decisional process of any agency proceeding, shall make or knowingly cause to be made to any interested person outside the Commission or to any party to the proceeding or his agent or to any direct participant in a proceeding an ex parte communication relevant to the merits of the proceeding. This prohibition shall not be construed to prevent any action authorized by paragraphs (b) (5), (6), and (7) of this section;

(3) Ex parte communication means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports or communications regarding purely procedural matters or matters which the Commission or member thereof, administrative law judge, or Commission employee is authorized by law or these rules to dispose of on an ex parte basis;

(4) Any Commission member, administrative law judge, or Commission employee who is or may reasonably be expected to be involved in the decisional process of any proceeding who receives, or who makes or knowingly causes to be made, an ex parte communication shall promptly transmit to the Secretary of the Commission:

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications; and

(iii) All written responses and memoranda stating the substance of all oral responses to the materials described in subdivisions (i) and (ii) of this subparagraph;

(5) The Secretary shall place the materials described in the preceding subparagraph in the correspondence part of the public docket of the proceeding and may take such other action as may be appropriate under the circumstances;

(6) Upon receipt of an ex parte communication knowingly made or knowingly caused to be made by a party to a proceeding, the Commission or the presiding officer may, to the extent consistent with the interests of justice and the policy of the statutes administered by the Commission, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of the making of such communication;

(7) An ex parte communication shall not constitute a part of the record for decision. The Commission or the presiding officer may, to the extent consistent with the interests of justice and the policy of the statutes administered by the Commission, consider a violation of paragraph (b) of this section sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur and may take such other action as may be appropriate under the circumstances. [Rule 1(k)]

§ 502.170 [Deleted]

3. Section 502.170 is deleted in its entirety.

Effective date. Inasmuch as the expeditious adoption of these rules is desirable and inasmuch as they are essentially procedural in nature, they shall be effective on March 15, 1977 and shall be applicable to all ex parte activities occurring on or after the effective date.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-7716 Filed 3-14-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20777; RM-1429; RM-2163; RM-2170; RM-2330; RM-2429; RM-2507; RM-2545; RM-2550; FCC 77-157]

PART 97—AMATEUR RADIO SERVICE

Purity of Emissions; Authorized Emissions

Adopted: March 2, 1977.

Released: March 10, 1977.

First report and order. In the matter of deregulation of Part 97 of the Commission's rules regarding emissions authorized in the Amateur Radio Service, Docket No. 20777, RM-1429, RM-2163, RM-2170, RM-2330, RM-2429, RM-2507, RM-2545, RM-2550.

1. A notice of proposed rulemaking in the above-captioned matter was released April 22, 1976, and published in the FEDERAL REGISTER on April 28, 1976 (41 FR 17789). The deadline for submission of comments by the public was June 23, 1976. Reply comments were due by July 23, 1976. In response to a petition by the American Radio Relay League, the time for filing comments and reply comments was extended to August 4, 1976 and September 3, 1976, respectively (41 FR 23723, June 11, 1976).

2. Docket 20777 proposed to revise the amateur rules regarding authorized emissions. Rather than attempt piecemeal reform, the Notice proposed to delete all references to specific emission types and to replace them with limitations on the permissible bandwidth an amateur signal may occupy in the various bands. Additionally, the Notice proposed a purity of emissions standard which would replace the present regulations.

3. A total of 333 persons and 8 clubs filed individual comments. In addition, 23 petitions were filed as comments, adding 625 names. All of these comments are being carefully reviewed. This First Report and Order will address the problem of purity of emissions only. A future Report and Order will deal with the major issue of authorized bandwidths.

4. The present statement of Commission policy regarding emission purity in the Amateur Radio Service is found in § 97.73 of the Commission's rules. Section 97.73 states in part that "[s]purious radiation from amateur station being operated with a carrier frequency below 144 megahertz shall be reduced or eliminated in accordance with good engineering practice * * *" The United States, as a signatory to the International Telecommunications Convention (Geneva, 1959) is bound to the international standards of emission purity. Article 12, Appendix 4 of the Radio Regulations of the I.T.U. requires an attenuation of 40 dB for spurious emissions below 30 MHz, and 60 dB[1] for emissions between 30MHz and 235 MHz.

By this Report and Order, the Commission brings amateur rules into conformity with international standards.

5. Standards for emission purity in the Safety and Special Radio Services are based on the nature of the signal transmitted. The modulation of the transmitted signal produces sidebands needed to carry information to the receiver, plus additional products caused by the modulation and amplification process. It is difficult to suppress completely the undesired emission products without causing unacceptable suppression of the sidebands carrying the information being transmitted. A reasonable degree, however, of suppression of the undesired emissions is needed. This is achieved by

[1] For a fuller explanation of the purpose of the proposed amendments, see the notice of proposed rulemaking cited above.

[2] A good deal of the comments of Mr. James consist of unsubstantiated remarks to the effect that Hearing Counsel have customarily engaged in ex parte activity. Moreover, Mr. James appears to complain over the fact that Hearing Counsel have communicated with interested persons outside the Commission. Not only are these remarks unsubstantiated but in certain respects they are based upon an erroneous understanding of the law with respect to ex parte communications. Since Hearing Counsel are not involved in the decisional process, there is no prohibition against their communicating with persons outside the Commission. Indeed, in the conduct of their duties Hearing Counsel often contact shippers and other persons outside the Commission in order to obtain relevant evidence necessary for the development of a full and complete record.

[1] 40 dB for transmitters having mean power of 25 watts or less.

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a three-step approach. For example, the Land Transportation Services require that for spurious emissions removed from the authorized bandwidth by more than 50 percent but less than 100 percent of the authorized bandwidth, the mean power must be attenuated at least 25 decibels below the mean power (P_m) of the emission. For emissions removed by more than 100 percent but less than 250 percent of the authorized bandwidth, attenuation must be at least 35 decibels below P_m. Beyond 250 percent, attenuation must be either $43dB+10\log_{10} P_m$ or 80 dB below P_m, whichever is less attenuation. This three-step attenuation is what can most likely be obtained with the usual tuned circuitry of RF amplifiers. Beyond 250 percent is considered a reasonable point to have other additional circuitry which will provide the attenuation we wish for the other spurious and harmonic emissions.

6. The standard proposed for amateur radio in our Notice in Docket 20777 was at least 40 dB for emissions removed from the authorized bandwidth by 250 percent or more of the authorized bandwidth. In determining a level of emission purity for the amateur service, the 25dB and 35dB steps were not proposed since it was intended to have this rule remain simple. The adjacent channels which the first two steps might affect would generally be within the amateur bands and the maintenance of non-interference would be handled on a self-enforcing basis among amateurs. However, beyond 250 percent there exists an entire range of spurious and harmonic emissions which could create problems outside the amateur bands, and would not be as obvious to the operator until a case of interference occurred.

7. The 40dB specification was proposed as a first step toward the problem of purity of emission. 40dB represents an attenuation of spurious and harmonic emissions to a level of 1/10,000th that of the fundamental. This means that for an amateur station which has a 200 watt output, spurious emissions may be no more than 0.02 watts. Therefore, 40dB should provide a degree of protection to operations which would not be affected by interfering signals of 0.02 watts or less. The effects will vary from location to location, from band to band, and for different emission modes. It is a level of attenuation which the Commission believes can be readily met by most equipment on the market today, and would not require expensive re-modeling of equipment by the amateur. It will, however, restrict the use of linear amplifiers which are not meeting what the Commission regards as minimal standards of purity. In a memorandum to the Office of Chief Engineer written November 26, 1976, FCC/OCE LAB Projects 82-025, 82-026, 82-027, 82-028, the Laboratory Division detailed the results of tests of linear amplifiers purportedly sold for use in the Amateur Radio Service which indicate that many such amplifiers achieve harmonic suppression far less than 40dB, especially in the second and third harmonics.

8. The new rule, as adopted, is a modification of the rule proposed in the notice of proposed rulemaking. Because there has been no decision regarding Docket 20777's proposed bandwidth rules, we are unable to enact the rule as proposed. Section 553(a)(3) of the Administrative Procedures Act requires that general notice of a rule contain either the terms or substance of the proposed rule or a description of the subjects and issues involved. Therefore, in keeping with the scope of this rulemaking, we are adopting the international standards of emission purity which generally relate to the 40dB level of attenuation proposed by Docket 20777.

9. The International Telecommunications Convention of 1959 requires that all spurious emissions be attenuated by 40dB when transmitting on frequencies below 30 MHz. When utilizing frequencies between 30 and 235 MHz, transmitters with power output below 25 watts will be required to attenuate their spurious emissions by 40dB; transmitters with power output of 25 watts or more will be required to attenuate their spurious emissions by 60dB. Amateurs operating near the edges of amateur bands should give due consideration to these attenuation requirements. We consider these international standards to be a minimal level of purity, but to have required higher levels of attenuation would not have been within the scope of this proceeding. The Commission will be instituting a rulemaking to investigate the need for higher levels of spurious emission attenuation in the Amateur Radio Service. Additionally, upon the disposition of Docket 20777, § 97.73 will be modified to reflect the Docket's final outcome.

10. We received 12 comments specifically addressing the proposed change in emission standards. Of the 12, 2 supported the rule change fully, 2 supported some definite standards, but offered a different standard of emission than the one proposed by the Commission, 5 expressed misgivings over the expense to the amateur and the enforcement of such a standard and 3 expressly preferred the present standard. Of those who either expressed misgivings or opposed the change entirely, the comments of John V. Durant of Albuquerque, New Mexico, are typical, "From a pure technical standpoint, determination that the emission is at least 40dB below the peak output power on any frequency removed from the upper and lower limits by more than 250 percent is a controversial (subject to several interpretations) and a very sophisticated measurement. I do not believe that even 1 percent of the presently licensed amateur radio operators have the capability or will attempt to acquire the capability to make such a measurement. Further, I doubt that from an enforcement standpoint (presumably FCC monitors) that such a regulation is enforceable." Other comments raised similar issues: the expense of obtaining equipment to monitor the spurious emissions; the resultant lack of adherence to the new rule by the bulk of amateurs; and the difficulty of enforcing the rule.

11. The problem of enforcement mentioned by several comments, would be no greater than enforcing any of the standards of §§ 97.61 through 97.73. Investigation of interference complaints and normal FCC monitoring will bring the obvious violations to light. However, establishment of a readily measured standard will provide a clearly defined measurement by which to determine compliance. "Good engineering practices", the present standard, has proved to be too indefinite a regulation to enforce effectively. The change, rather than hampering enforcement, should aid it.

12. Finally, we note that two of the comments offering technical criticism of the emission standards as proposed make valid arguments. James E. McShane of Omaha, Nebraska states, "The proposed §§ 97.65 and 97.73 bandwidth limitation standards do not take into consideration the range of amateur power usages, from 1/10th of a watt to the proposed 2.0 kW spread * * * Different regulations should be adopted for low power operation and equipment, or in the alternative, the regulation should be based on a minimum specified power, or actual power, whichever is greater." Gordon Schlesinger of San Diego, California comments, "I propose that the Commission bring the stated purity standard of 40 decibels of attenuation below peak carrier power more closely into line with the standards existing in the Land Mobile service. A standard of 40 dB+$10\log_{10}$ (peak carrier power, in watts) would establish an absolute standard for attenuation of spurious emissions. Since power delivered to the input terminals of a receiver is proportional to the absolute (not relative) output power level of the transmitter whose emissions are being received, it makes sense to require maximum absolute limits to spurious radiation in the Amateur Service."

13. The above comments are well-taken. As Mr. McShane proposed, we have adopted the ITU regulations with respect to certain low power transmitters. Moreover, the Commission would like to note that the notice of proposed rulemaking, Docket 21000, which proposes increased attenuation for spurious emissions in the Personal Radio Services, contains a statement of Commission policy which promises future notices addressing the matter of harmonic and spurious attenuation for all other services below 1 GHz, including Amateur radio. We would like to reaffirm that statement here and suggest that the above comments are excellent examples of the ideas the Commission will be seeking. Adoption of these present emission standards will not end the Commission's interest in purity of emissions, and we solicit noteworthy comments such as the above in future proceedings.

14. Additionally, the Commission has recently proposed in Docket 21117, 42 FR 12204, March 3, 1977, type acceptance for commercially marketed amateur equipment. The type acceptance standards proposed would require a 43+10 log (mean power in watts) decibel suppression of spurious emissions, a standard similar to the one suggested above by Mr. Schlesinger. As stated in the notice of proposed rulemaking, this degree of attenuation would apply only to amateur equipment which would be commercially marketed. Home-made equipment would be exempt from this standard and therefore adoption of Docket 20777's proposed standards is necessary to bring the entire amateur community into conformity with existing international standards. Until adoption of a Report and Order in Docket 21117, the standards herein specified shall apply to both home constructed and commercially marketed amateur equipment.

15. In view of the foregoing, we are of the opinion that the amended rule as discussed above is in the public interest, convenience, and necessity. Authority for this Amendment is contained in section 4(i) and 303 of the Communications Act of 1934, as amended.

16. *Accordingly, it is ordered*, Effective April 15, 1977, that Part 97 of the Commission's rules is amended as set out below. *It is further ordered*, That this proceeding is continued.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 97.73, the headnote and text are revised, as follows:

§ 97.73 Purity of emissions.

(a) The mean power of any spurious emission or radiation from any amateur transmitter or external radio frequency power amplifier being operated with a carrier frequency below 30 MHz shall be at least 40 decibels below the mean power of the fundamental without exceeding the power of 50 milliwatts. For equipment of mean power less than 5 watts, the attenuation shall be at least 30 decibels.

(b) The mean power of any spurious emission or radiation from any amateur transmitter or external radio frequency power amplifier being operated with a carrier frequency above 30 MHz but below 235 MHz shall be at least 60 decibels below the mean power of the fundamental. For transmitters having mean power of 25 watts or less, the mean power of any spurious radiation supplied to the antenna transmission line shall be at least 40 decibels below the mean power of the fundamental without exceeding the power of 25 microwatts, but, in any event, need not be reduced below the power of 10 microwatts.

(c) Spurious emission or radiation from an amateur transmitter or external radio frequency power amplifier being operated with a carrier frequency above 235 MHz shall be reduced or eliminated in accordance with good engineering practice.

(d) For the purposes of this section, a spurious emission or radiation is any emission or radiation from a transmitter or any external radio frequency power amplifier which is outside of the authorized Amateur Radio Service frequency band being used.

(e) The above notwithstanding, should any spurious radiation, including chassis or power line radiation, cause harmful interference to the reception of other radio stations, the licensee may be required to take such further steps as may be necessary to eliminate the interference in accordance with good engineering practices.

[FR Doc.77-7598 Filed 3-14-77;8:45 am]

Title 49—Transportation

CHAPTER IX—UNITED STATES RAILWAY ASSOCIATION

PART 903—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

Open Meeting Requirement

AGENCY: United States Railway Association.

ACTION: Final Rule.

SUMMARY: This rule sets forth the procedures which will be followed by the Association in compliance with the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b).

FOR FURTHER INFORMATION CONTACT:

Donald C. Cole, Vice President and Secretary, United States Railway Association, 2100 Second Street SW., Washington, D.C. 20595.

EFFECTIVE DATE: March 12, 1977.

SUPPLEMENTARY INFORMATION: On February 3, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 6614), stating that the United States Railway Association ("the Association") was considering the issuance of regulations to implement the Government in the Sunshine Act which, *inter alia*, requires the Association to open its meetings to public observation unless the Association decides to close its meetings pursuant to a Sunshine Act exemption. The proposal would add a new part 903 to Chapter IX of Title 49 of the Code of Federal Regulations.

Interested persons were afforded an opportunity to participate in the rulemaking through the submission of comments. Two persons provided comments, which were considered.

In consideration of the foregoing and on the basis of further staff review, 49 CFR, Chapter IX is amended by adding a new Part 903, as set forth below.

Issued in Washington, D.C., on March 9, 1977.

ARTHUR D. LEWIS,
Chairman of the Board,
United States Railway Association.

Sec.
903.1 Purpose and Scope.
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AUTHORITY: Subsec. (g) of the Government in the Sunshine Act (5 U.S.C. § 552b(g); Subsec. 202(a)(4) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. § 712(a)(4)).

§ 903.1 Purpose and scope.

(a) Section 552b of Title 5, United States Code, the Government in the Sunshine Act ("the Act") requires each agency to open every portion of every meeting to public observation and to make available to the public any information pertaining to such meetings required by section 552b to be disclosed to the public, except where the agency properly determines that such portion or portions of its meeting or the disclosure of such information is exempt under section 552b(c) of the Act.

(b) This part sets forth the Association's procedures for implementing the Act with respect to meetings of its Board of Directors, Executive Committee, or other committees of the Board of Directors, except the Finance Committee which, as authorized by section 201 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 711), issues separate regulations to permit public attendance at open meetings (See 49 CFR Part 905).

§ 903.2 Definitions.

Unless otherwise required by the context, the following definitions apply in this part:

"Act" means the Government in the Sunshine Act (5 U.S.C. 552b).

"Association" means the United States Railway Association.

"Board of Directors" means the Board of Directors of the Association, established by section 201 of the Regional Rail Reorganization Act of 1973, as amended, 45 U.S.C. 711, and includes the Executive Committee established thereunder, and any other Committee of the Board of Directors except the Finance Committee.

"Meeting" means the deliberation of at least the number of individual members of the Board of Directors whose deliberations determine or result in the joint conduct or disposition of official Association business, but does not include deliberations required or permitted by section 552b (d) or (e) of the Act.

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§ 903.3 Open meeting policy.

It is the policy of the Association that meetings are presumptively open to public observation to the fullest extent consistent with the protection of individual rights and the Association's obligation to carry out its responsibilities and duties. A meeting, portion of a meeting, or series of meetings will not be closed to public observation unless the Board of Directors determines specifically, pursuant to § 903.7, both that the subject matter is exempt from the open meeting requirements of the Act and that the public interest does not require opening. No information pertaining to the meeting shall be withheld unless the Board of Directors determines specifically pursuant to § 903.7, both that the information is exempt from disclosure and that the public interest does not require disclosure.

§ 903.4 Scheduling and public announcement of meetings.

(a) Except as provided in §§ 903.5 and 903.6 of this part, the Board of Directors will make a public announcement at least one week before a meeting it has scheduled. The announcement will include a statement of:

(1) The time, place, and subject matter of the meeting;

(2) Whether the meeting is open or closed to the public; and

(3) The name and telephone number of the Association official who will respond to requests for information about the meeting.

(b) If announcement of the subject matter of a closed meeting would reveal the information that the meeting itself was closed to protect, the subject matter of the meeting will not be announced.

§ 903.5 Public announcement of changes in meetings.

(a) After public announcement of a meeting, the time and place of the meeting will be changed only if the change is publicly announced at the earliest practicable time.

(b) After public announcement of a meeting, the subject matter of a meeting or the determination to open or close a meeting or portion of a meeting to the public will be changed only:

(1) Upon the recorded vote of a majority of the membership of the Board of Directors that Association business required the change and that no earlier announcement was possible; and

(2) Upon a public announcement at the earliest practicable time of the change and of the vote of each member.

§ 903.6 Public announcement of emergency meetings

When an emergency or extraordinary Association business so requires, the Board of Directors may decide, upon a recorded vote of a majority of its members, to schedule a meeting for a date earlier than provided in paragraph (a) of § 903.4 and shall, at the earliest practicable time, make a public announcement pursuant to the procedures in § 903.4.

§ 903.7 Cases in which a meeting may be closed and information may be withheld

(a) A meeting, portion or portions of a meeting, or series of meetings may be closed to public observation and information pertaining to such meeting or meetings may be withheld from the public when the Board of Directors determines that the meeting or disclosure of that information, is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive Order;

(2) Relate solely to the internal personnel rules and practices of the Association;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of Title 5, United States Code), *Provided* That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would:

(i) In the case of an action by the Association involving regulation of currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or,

(ii) Be likely significantly to frustrate implementation of a proposed Association action, except that subparagraph (ii) hereof shall not apply in any instance where the Association has already disclosed to the public the content or nature of its proposed action, or where the Association is required by law to make such disclosure on its own initiative prior to taking final Association action on such proposal; or,

(10) Specifically concern the Association's issuance of a subpoena, or its participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by it of a particular case of formal adjudication pursuant to the procedures in section 554 of Title 5, United States Code or otherwise involving a determination on the record after opportunity for a hearing.

(b) Where the Board of Directors has determined that a meeting, portion or portions thereof or a series of meetings may be closed or that any information related thereto may be withheld pursuant to § 903.7(a) of these regulations, the Board of Directors shall also determine whether the public interest nevertheless requires that the meeting be open or the information be disclosed to the public.

§ 903.8 Procedures for closing meetings and withholding information; public availability of recorded vote to close meetings and other information.

(a) The Board of Directors may decide to close a meeting, or a portion thereof, or to withhold information pertaining thereto, only upon the affirmative vote of a majority of its entire membership. A separate vote of the members will be taken with respect to each Association meeting, a portion or portions of which are proposed to be closed or with respect to any information which is proposed to be withheld under § 903.7.

(b) A single vote may be taken with respect to a series of meetings, all or portion of which are proposed to be closed to public observation, or with respect to any information concerning the series of meetings, if each meeting in the series involves the same matters and is scheduled to be held not more than 30 days after the first meeting in the series.

(c) Proxy votes are not allowed under this section.

(d) A written copy of any vote taken pursuant to § 903.7 to close a meeting, or portion thereof, reflecting the vote of each member of the Board of Directors on the question, shall be made publicly available within one day of such vote. The vote of each member of the Board of Directors to close a meeting, or portion thereof, must be made publicly available whether or not the vote results in closing the meeting.

(e) If a decision is made to close a meeting, portion of a meeting, or series of meetings, the Association will prepare a full written explanation of the closure action together with a list of the names of persons expected to attend and stating the affiliation of each of those persons, and shall make such explanation publicly available within one day of that decision.

(f) If the disclosure of information required in § 903.8 (d) or (e) or in § 903.10 (b) would reveal the information that the meeting was closed to protect, such information will not be disclosed.

§ 903.9 Certification by General Counsel.

(a) In each case that the Board of Directors has voted to close a meeting, portion of a meeting, or series of meetings, the General Counsel of the Association shall, before the meeting or portion of meeting is closed, publicly certify that, in his opinion, the meeting may be closed to the public and the relevant provision of § 903.7(a) under which it may be closed.

(b) The Secretary of the Association will retain a copy of each certification under this section, together with a statement of the presiding officer of the meeting setting forth the time and place of the meeting and listing the persons present.

§ 903.10 Requests by affected persons for closed meetings.

(a) Whenever a person whose interests may be directly affected by a meeting, portion of a meeting, or series of meetings requests closure for a reason stated in § 903.7(a) (5), (6), or (7), the Board of Directors shall upon the motion of any of its members, decide by recorded vote whether to grant that request.

(b) If a closure decision is made, the Association shall prepare a full written explanation of the action, a list of the persons expected to attend the meeting or meetings, and a statement of the affiliation of each of those persons and shall make such explanation and a copy of the recorded vote publicly available within one day of that decision.

§ 903.11 Providing information to the public.

(a) Information available to the public in accordance with this part will be posted in the Office of Public Information, Room 2212, 2100 2nd Street, S.W., Washington, D.C. Such information may also be made available through a list maintained for members of the public desiring to receive such information.

(b) A person or organization may obtain copies of information from the Office of Public Information, Room 2212, 2100 2nd Street, S.W., Washington, D.C. 20595.

§ 903.12 Publication of notice in the Federal Register.

Immediately after each public announcement required by this part, the Association will submit the substance of that announcement for publication in the FEDERAL REGISTER provided, however, that this section shall not apply to public explanations issued pursuant to §§ 903.8 (d)–(e) and 903.10(b).

§ 903.13 Meeting places.

Each meeting to which this part applies will be held in a meeting room designated in the public announcement of that meeting.

§ 903.14 Procedures for open meetings.

(a) A member of the public may attend an open meeting for the purpose of observation. The opening of a portion or portions of a meeting to public observation shall not be construed to include any participation by the public in any matter at the meeting.

(b) When a meeting is partly closed, each observer shall leave the meeting, upon request, when the time for the discussion of the exempted matter arrives.

§ 903.15 Records of closed meetings.

(a) The Secretary of the Association shall retain a record of each meeting or portion thereof that is closed pursuant to this part for two years or until one year after the conclusion of the proceeding with respect to which such meeting or portion thereof was held, whichever occurs later. The record may be a recording or a transcript, or in the case of a closure pursuant to § 903.7(a) (8), (9)(A), or (10), minutes, a recording or transcript.

(b) In a case where minutes are used, the minutes will fully and clearly describe all matters discussed and a full and accurate summary of the actions taken, with the reasons therefor, including a description of each view expressed on any item and a record of each rollcall vote, reflecting the vote of each member. The minutes shall identify all documents considered in connection with any action.

§ 903.16 Availability of records to the public.

(a) The Association will promptly make available to the public, the transcript, recording, or minutes of each closed meeting, portion of a meeting, or series of meetings, except for information that may be withheld under § 903.7 (a), at the actual cost of the duplication or transcription.

(b) The nonexempt parts of transcripts, recordings or minutes are retained in the custody of the Secretary of the Association. Facilities are available for the review of those records.

(c) Each request for copy of a non-exempt part of a transcript, recording or minutes must be made to the Secretary of the Association, Room 2212, 2100 2nd Street SW., Washington, D.C. 20595. The request must:

(1) Identify the record sought; and

(2) Include a statement that the costs involved will be accepted by the requester or set forth the amount up to which the requester will accept the costs.

[FR Doc.77-7567 Filed 3-14-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Percentage To Be Used by Foreign Life Insurance Companies in Computing Income Tax for Taxable Year 1976 and Estimated Tax for Taxable Year 1977

AGENCY: Department of the Treasury.

ACTION: Proclamation.

SUMMARY: This proclamation announces the percentage to be used to compute to income tax liability of foreign corporations carrying on life insurance business in the United States.

EFFECTIVE DATE: Immediate.

FOR FURTHER INFORMATION, CONTACT:

Mr. Seymour Fiekowsky, Office of Tax Analysis, U.S. Treasury Department, Washington, D.C. 20220. (202-566-8282).

Proclamation: For purposes of computing the 1976 income tax of foreign corporations carrying on a life insurance business, a percentage of 14.3 shall be used in determining the "minimum figure" under section 819. The same percentage shall be used for purposes of computing the estimated tax and the installment payments of estimated tax for the taxable year 1977. No additions to tax shall be made because of any underpayment of estimated tax for the taxable year 1977 which results solely from the use of this percentage.

This proclamation is issued without notice and public procedure because the public cannot effectively participate in the determination of the percentage. It is computed from information contained in income tax returns that are not open to the public. The proclamation was not published prior to its effective date because the percentage is computed on the basis of data which was not then available.

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-7801 Filed 3-14-77;9:12 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1823]

[FmHA Instruction 442.1]

ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Community Facility Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) of the Department of Agriculture proposes amendments which will permit joint financing with other lenders to supply funds required by one applicant for a project. One reason for this proposal is the willingness on the part of certain commercial lenders to supply funds in certain cases on a joint basis. For this reason, this amendment will make more funds available for a greater number of projects.

DATES: Comments must be received on or before April 14, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Allen L. Turnbull—202-447-5717.

SUPPLEMENTARY INFORMATION: The proposed amendments will change §§ 1823.5, 1823.6, 1823.13, and 1823.47 of Subpart A of Part 1823, Title 7, Code of Federal Regulations (38 FR 29026, and as amended at 42 FR 6825) as follows:

1. Section 1823.5 is amended by revising paragraph (b) (1) to provide that the FmHA payments should approximate amortized installments in jointly financed projects.

NOTE.—Paragraph (b) of this section was amended and published as a proposed rule in the FEDERAL REGISTER dated August 17, 1976. This proposal has not yet been adopted.

2. The text of § 1823.6 is amended to provided that FmHA will obtain at least a parity position with the other lender in cases involving joint financing.

3. A new paragraph (e) under § 1823.13 is added to require evidence that other funds will be available and to also provide for the disbursement of such other funds.

NOTE.—The present paragraphs (e) through (i) of this section are to be redesignated as (f) through (j) as a result of the proposed new paragraph (e).

4. Section 1823.47 is amended by adding paragraph (i) to provide for the scheduling of FmHA loan payments when joint financing is involved.

Accordingly it is proposed to amend §§ 1823.5(b)(1), 1823.6, and to add §§ 1823.13(e), and 1823.47(i) to read as follows:

§ 1823.5 Rates and terms.

* * * * * * *

(b) * * *

(1) If the borrower will be retiring other debts represented by bonds or notes, the repayment on such bonds may be considered in developing the repayment schedule for the FmHA loan. In all cases in which the FmHA is jointly financing with another lender, the FmHA payments of principal and interest should result in approximately equal installments over the repayment period.

* * * * * * *

§ 1823.6 Security.

Loans will be secured by the best security position available. When processing a loan utilizing joint financing, FmHA will obtain at least a parity position with the other lender. A parity position is to insure that in a joint financing venture each lender's security position will not be subordinated to that of the other, and in the event of default, such as a deficit in revenues available for debt servicing and in cases involving foreclosures or other actions, each lender will be affected on a proportionate basis. Loans will be secured in a manner which will adequately protect the interest of FmHA during the repayment period of the loan. Specific requirements for security for each loan will be included in a letter of conditions.

§ 1823.13 Closing loans and fund delivery.

* * * * * * *

(e) *Evidence of and disbursement of other funds.* Applicants expecting funds from other sources for use in completing project being partially financed with FmHA funds will present evidence that funds from such other sources will be available before loan closing, or the commencement of construction, whichever occurs first. Ordinarily, the funds provided by the applicant or from other sources will be disbursed prior to the use of FmHA loan funds. If this is not possible, funds will be disbursed on a pro rata basis.

§ 1823.47 Minimum bond specifications.

* * * * * * *

(i) *Scheduling of FmHA payments when joint financing is involved.* In all cases in which FmHA is participating with another lender in the joint financing of a project to supply funds required by one applicant, the FmHA payments of principal and interest should result in approximately equal installments over the repayment period.

* * * * * * *

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: March 9, 1977.

DENTON E. SPRAGUE,
Acting Administrator.

[FR Doc.77-7594 Filed 3-14-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 214]

MANDATORY CANADIAN CRUDE OIL ALLOCATION REGULATIONS

Proposed Rulemaking and Public Hearing

The Federal Energy Administration ("FEA") hereby gives notice that it will hold a public hearing and receive written comments on three alternative proposals to amend the Mandatory Canadian Crude Oil Allocation Regulations to take into account changes in Canada's crude oil export program resulting in separate licensing of Canadian light and heavy crude oils and an increased export volume for the heavy crude oils.

I. BACKGROUND

The Canadian Allocation Program ("CAP") was adopted by FEA in response to the Canadian National Energy Board's ("NEB") decision in 1974 gradually to phase out exports of crude oil to the United States in the early 1980's. The program was intended to give the refiners that are most dependent on Canadian crude oil additional time to arrange for alternative crude oil delivery systems.

The current CAP regulations, issued on January 30, 1976, provide for the allocation on a preferential basis of crude oil and plant condensate imported from Canada to priority classes of refiners and other firms for six months allocation periods, beginning January 1, 1976. For each allocation period, FEA issues a number of Canadian crude oil rights based on the volume of Canadian crude oil included in a refiner's runs to still or otherwise used by the particular firm during the base period of November 1, 1974, through October 31, 1975.

The classes of firms dependent upon Canadian crude sources and thereby eligible for allocations are distinguished by their current capability to replace Canadian crude oil with crude oil from other sources. First priority refineries are those which processed Canadian crude oil that constituted at least 25 percent of their base period crude oil runs to stills and that possess no current capability of replacing that Canadian crude oil due to a demonstrated lack of access to domestic pipelines or port facilities. The first priority category also includes all industrial facilities or utilities with no replacement capability, without regard to the 25 percent test. Second priority refineries are those industrial facilities, utilities and refineries that used Canadian crude oil during the base period but were not designated first priority.

The allocation program provides that when the total allocable supply of crude oil available from Canada during a six-month allocation period is less than the total base period volumes of all priority refineries, all first priority refineries are entitled to receive their full amounts and shortages will be shared by second priority refineries on a pro-rata basis. When the allocable supply is less than the total of the base period volumes of all first priority refineries, second priority refineries receive no allocations and first priority refineries share any shortfall on a pro-rata basis. The number of Canadian oil rights issued to the priority refineries is adjusted semi-annually to conform to the declining Canadian crude oil exportable surplus ceiling, as determined by the NEB.

Each refiner or other eligible firm is required to report to FEA its estimated Canadian crude oil nominations for each allocation period at least 50 days prior to the beginning of the allocation period. Canadian crude oil rights for an allocation period are issued by FEA in an allocation notice as specified in § 214.32 approximately 30 days prior to the allocation period. FEA transmits a copy of each allocation notice to the NEB promptly after its issuance to provide the NEB with ongoing information related to the operation of the CAP and to enable Canadian export licenses to conform to the rights issuances under the program.

Based on the number of Canadian crude oil rights issued for the 6-month allocation period, each refiner or other eligible firm submits nominations to the NEB on the first day of each month for the volumes of Canadian crude oil that it desires to import during the succeeding month. Approximately nine days after the nominations are received, the NEM issues and transmits to FEA a list of the nominations and the volume of Canadian crude oil actually licensed for export to each priority refiner or other eligible firm for the forthcoming month.

The current regulations prohibit the disposition by first priority refineries of Canadian crude oil except pursuant to barrel-for-barrel exchanges for other Canadian crude oil, in which only quality and location differentials are given effect in the calculation of the exchange ratio, or by matching purchase and sale transactions having the same effect as such an exchange. Second priority refineries, however, are not prohibited from exchanging away Canadian crude oil subject to the program in return for non-Canadian source crude in exchanges of the type described above. The current regulations also prohibit the sale or transfer of Canadian crude oil rights except pursuant to a permitted exchange. Thus, the regulations do not provide a great deal of flexibility for first priority refineries to exchange away or sell Canadian crude oil because they are, by definition, the most dependent upon Canadian crude sources. Moreover, it was expected that the demand among first priority refineries for all types of Canadian crude oil would eventually exceed the supply and that there was no need to provide for dispositions or reallocations of Candian imports.

Most of the priority refineries historically processed principally Canadian light crude oil. Only three of the 11 first priority refineries and five of the 50 second priority refineries processed any Canadian heavy crude oil during the base period. Until the recent change in its crude oil export program, Canada determined its exportable surplus of crude oil on an aggregate basis, without regard to the type and grade of crude oil, and U.S. refiners were able to nominate for the type and grade of Canadian crude oil they desired. Since the CAP became operational on January 1, 1976, the NEB has attempted to match monthly nominations of priority refiners with the crude oil types available for that month by taking into account the priority refiners' historical usage patterns.

II. CHANGES IN CANADIAN CRUDE OIL EXPORT PROGRAM

In late November 1976, the NEB advised FEA that, effective January 1, 1977, the export of Canadian heavy crude oil would be licensed separately from light crude oil and that the volume of heavy crude oil available for export in the allocation period beginning January 1, 1977, would exceed the volume lifted in the previous allocation periods. The NEB also has indicated that it expects that the export level for heavy crude oil will decrease at a much slower rate than will be the case for light crude oil. In this regard, on February 17, 1977, FEA published a notice in the FEDERAL REGISTER, 42 FR 9703, advising refiners of the availability for nomination of 800,000 barrels of heavy Canadian crude oil outside of Canada's exportable surplus.

FEA projects that, without any change in the current provisions of the CAP, a significant portion of Canada's increased export volume of heavy crude oil may not be imported into the United States in 1977 due to the fact that the priority refineries that have sufficient rights to import the heavy crude oil do not have the capability either to receive or run that type of crude oil, while, at the same time, the priority refineries that have the capability to receive and run this crude oil will not be issued a sufficient number of rights under the CAP. In addition, the refiners that do not have the capability either to receive or run the heavy crude oil will not be able to use all of their rights issuances in 1977 because of the diminishing supply of Canadian light crude oil.

Thus, as a result of the NEB's decision to increase the export level for heavy crude oil in relation to light crude oil, FEA's initial determination is that the CAP may require modification to permit the rights issuances under the CAP to conform to Canada's export licenses, thereby assuring that, to the maximum extent possible, the program facilitates lifting of the increased volume of heavy crude oil.

III. ALTERNATIVE AMENDMENTS PROPOSED

Therefore, FEA is proposing for public comment in this notice alternative amendments to the CAP that are intended to remove any impediments to importing into the U.S. the full volume of Canadian heavy crude oil available, while continuing the allocation of Canadian light oil to those refineries adversely affected by the diminishing supply of light crude oil. The proposed modifications to the CAP are presented in three alternative proposals, each of which contemplates a quarterly allocation period instead of the present six-month allocation period and changing the present base period. (November 1, 1974 through October 31, 1975) to the calendar year 1975.

Under Alternatives No. 1 and No. 2, described in greater detail below, FEA would continue to allocate the exportable surplus of Canadian crude oil in accordance with the allocation scheme provided for under the current regulations. Under Alternative No. 1, FEA would remove from the coverage of the CAP any surplus Canadian heavy crude oil which it determines will not be imported by priority refiners in a particular allocation period. Alternative No. 2 provides for removal of the restrictions on transfers of Canadian crude oil rights currently set forth in § 214.32(e). Firms that have been issued Canadian crude oil rights for a particular allocation period would be permitted to sell to another firm that owns a priority refinery any such rights that will not be used due to the inability of the seller's priority refinery to receive or process Canadian heavy crude oil. Alternative No. 3 provides for allocation by FEA of the Canadian light and heavy crude oil streams separately to priority refineries according to their use of each crude oil type in the calendar quarter of 1975 corresponding to the quarter for which the allocation is made.

FEA wishes to emphasize that it is seeking comments from interested parties on all three of the alternative proposals set forth below, since it has not yet made any final determination on whether the CAP should be amended in this regard or on the form that any such revision should take. It may be that the most desirable approach would involve

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a variation of one of the three alternatives, or a combination of facets of several of the alternatives, and FEA specifically invites comments as to whether any such variation or combination would be a more appropriate regulatory solution.

MODIFICATIONS COMMON TO ALL ALTERNATIVES

Allocation period. FEA is proposing to change the allocation period from a six-month calendar period to a calendar quarter to facilitate adjustments in the issuances of rights in response to variations which may occur periodically in the export levels of Canadian crude oil and to enable the program to be more responsive to seasonality factors. As indicated in the Allocation Notice for the six-month allocation period commencing January 1, 1977, the NEB established different export levels for Canadian crude oil for the first and second quarters of 1977. FEA therefore set forth the allocations in that notice separately for the first and last three months of the allocation period. However, the NEB recently advised FEA that the export level announced for the first quarter of 1977 will be maintained through the second quarter, thus requiring the issuance of a supplemental allocation notice. Based on this experience and on discussions with the NEB, FEA believes that a quarterly allocation period would help to assure that the issuance of rights under the CAP would conform more precisely to changes of this nature in Canada's crude oil export program.

Base period. FEA is proposing to change the base period (November 1, 1974, through October 31, 1975) to calendar year 1975. FEA believes that the calendar year 1975 will provide a slightly more recent, and thus more accurate, measure of the historical usage of Canadian light and heavy crude oils by priority refineries. In addition, it is believed that the current base period would not be compatible with the proposed quarterly allocation period, in that the current base period consists of two months in one calendar year and ten months in another calendar year. FEA has determined, on the basis of its analysis of the data contained in the reports submitted by priority refineries pursuant to Subpart D of Part 214, that the adoption of calendar year 1975 as the base period will not result in a change in priority designation of any refinery or other facility.

ALTERNATIVE No. 1

Alternative No. 1 would retain the basic allocation plan provided for under the current regulations. Within 14 days following the issuance of an allocation notice, FEA would determine, on the basis of NEB's list of licensed exports, the volume of Canadian heavy crude oil which exceeds the rights issuances of the priority refineries that have the capability to receive and run the heavy oil and thus would not be imported in the allocation period. As soon as practicable thereafter, FEA would issue a notice advising refiners that this volume of heavy crude oil constitutes surplus under the CAP and would therefore not be subject to the regulations under Part 214. That volume would then be available for nominations by any domestic refiner, regardless of whether it owned a priority refinery.

In view of the fact that the demand among priority refineries for Canadian heavy crude oil may at times exceed Canada's exportable surplus of that type of crude oil, a variation on Alternative No. 1 providing essentially for redistribution of unused Canadian crude oil rights, rather than exempting the heavy crude oil from the CAP, may be a more appropriate regulatory modification. Under this variation, any Canadian crude oil rights that FEA determines will not be used in an allocation period would expire, and FEA would redistribute the unused rights to first and second priority refineries that have the capability to receive and process heavy crude oil. FEA would determine the number of rights that will not be used in the allocation period by comparing the rights issuances with the NEB's list of licensed exports. As soon as practicable thereafter, FEA would issue a supplemental allocation notice specifying the rights that have expired as to particular priority refineries and redistributing those rights among the priority refineries that advised FEA of their heavy crude oil needs.

Effective operation of both Alternative No. 1 and the variation thereon are predicated on the NEB's adoption of a quarterly nominations period in conformity with the proposed quarterly allocation period. If the NEB retains the monthly nominations period, it would be impossible for FEA to determine the number of unused rights at the beginning of the allocation period since rights not used in the first month of the allocation period could be used in the second or third month.

FEA is not presenting in this notice proposed regulations pertaining to the variation on Alternative No. 1 described above. However, FEA specifically invites comments on both options. With respect to the variation, FEA particularly wishes to receive comments as to the appropriate criteria to be utilized in any redistribution of the expired rights.

ALTERNATIVE No. 2

This alternative, as is the case with Alternative No. 1, would leave unchanged the basic allocation plan provided for under the CAP. However, the current restrictions on transfers of Canadian crude oil rights set forth in § 214.32(e) would be revised to permit a firm that owns or controls a priority refinery or other facility to sell, exchange or otherwise transfer to another firm that owns or controls a priority refinery or other facility Canadian crude oil rights that will not be used in an allocation period due to the inability of the transferor's priority refinery or facility to receive or process heavy Canadian crude oil. The current provisions set forth in § 214.31 (g) pertaining to exchanges and sales of Canadian crude oil also would be amended to permit sales or exchanges of the Canadian crude oil associated with the rights sold or otherwise transferred. All such sales or transfers of Canadian crude oil or the related rights would be required to be reported to FEA. Resales of Canadian crude oil and the related rights would be prohibited.

If this alternative is adopted, the Mandatory Petroleum Price Regulations would be amended to require refiners selling and purchasing rights to account for the costs and revenues incident to such transactions as increases or decreases, respectively, in their crude costs.

ALTERNATIVE No. 3

The third proposal provides for the allocation of Canadian light and heavy crude oil streams to priority refineries according to their base period usage of these different types of crude oils, and employs essentially the current allocation plan and procedures set forth in §§ 214.31–214.32. Definitions of heavy and light Canadian crude oil would be added. Under this alternative, FEA does not propose to redetermine the priority designations with reference to the quarterly variations in the volume of Canadian light or heavy crude oil in a refinery's runs to stills in the base period.

As is the case under the current regulations, FEA would, for each allocation period, commencing with the April 1, 1977 allocation period, issue Canadian crude oil rights to each firm that owns or controls a first or second priority refinery. The allocation notice for each quarter would specify the number of rights for heavy crude oil and the number of rights for light crude oil, respectively, issued to each refiner or other firm, and the specific first or second priority refineries for which such rights have been issued. Each such right would entitle the firm owning the right to process, consume, or otherwise utilize one barrel of Canadian light or heavy crude oil, as specified in the allocation notice. The number of rights for light or heavy crude oil issued to each firm would equal (1) the number of barrels of Canadian light or heavy crude oil, respectively, included in that refiner's volume of Canadian crude oil runs to stills for the calendar quarter of the base period corresponding to the quarter for which the allocation is made, or (2) the number of barrels of Canadian light or heavy crude oil, respectively, consumed or otherwise utilized by a firm other than a refiner in the corresponding calendar quarter of the base period, subject to adjustments for the reduction in Canadian export levels and decreases in utilization relative to the base period. Apportioning the number of rights among firms due to reductions in Canadian export levels would be accomplished according to the current procedures specified in § 214.31(b).

In the event that the allocable supply of Canadian heavy crue oil for a particular allocation period is greater than the total number of barrels of Canadian heavy crude processed in the corresponding calendar quarter of the base period by all first and second priority refineries, the number of rights for heavy crude oil issuable to all first and second priority refineries would be increased on a pro-rata basis.

For the first allocation period under this alternative, FEA proposes to use the NEB stream data on the volume of Canadian light and heavy crude oil exported to each priority refinery or other facility by month during the base period. Use of the NEB data would eliminate the necessity of imposing a potentially burdensome reporting requirement on refiners. However, FEA is interested in receiving comments on the industry's views as to the reliability of the NEB data and, specifically, on whether FEA should require refiners to report the necessary data with respect to their priority refineries for use in future allocation periods.

IV. WRITTEN COMMENT AND PUBLIC HEARING PROCEDURES

A public hearing on the subject matter of this notice will be held beginning at 9:30 a.m., e.s.t., on March 29, 1977, in Room 2105, 2000 M Street NW., Washington, D.C., to receive comments from interested persons.

Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class of persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Requests to testify at the public hearing should be directed to Executive Communications, FEA, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t., March 22, 1977. Such requests may be hand-delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. Persons submitting such requests should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be reached through March 28, 1977. Persons selected to be heard at the public hearing will be notified by FEA before 5:30 p.m., e.s.t., March 23, 1977, and must submit 50 copies of his or her statement to Regulatory Programs, FEA, Room 2214, 2000 M Street, NW., Washington, D.C., before 5:30 p.m., e.s.t., March 28, 1977.

FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., e.s.t., Friday, March 25, 1977.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for public inspection at the FEA, Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit data, views, or arguments with respect to this proposal to Executive Communications, Federal Energy Administration, Box KZ, Washington, D.C. 20461. Comments should be identified on the outside envelope and on documents submitted to Executive Communications, FEA, with the designation "Amendments to Canadian Allocation Program." Fifteen copies should be submitted. All comments received by 4:30 p.m., e.s.t., March 25, 1977, and all relevant information, will be considered by FEA.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in accordance with the procedures stated in 10 CFR 205.9(f). FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In accordance with Executive Order 11821 and OMB Circular A–107, FEA is considering the inflationary impact of this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–332 and Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641).

In consideration of the foregoing, Part 214 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., March 10, 1977.

ERIC J. FYGI,
Acting General Counsel.

ALTERNATIVE No. 1

1. Section 214.1 is amended by revising paragraph (b) to read as follows:

§ 214.1 Scope.

* * * * * *

(b) *Applicability.* This part applies to all Canadian crude oil imported after December 31, 1975, except for (1) crude oil authorized for export by Canada for the period ending December 31, 1975, that was not actually imported into the United States by that date, (2) Canadian crude oil the export of which is not a factor in the calculations for the maximum export levels fixed by Canada, and (3) Canadian crude oil which FEA determines pursuant to § 214.31(h) will not be imported in an allocation period.

2. Section 214.21 is amended by revising the definitions of "allocation period" and "base period" and by adding in proper alphabetical order the definitions of "heavy crude oil" and "light crude oil" to read as follows:

§ 214.21 Definitions.

* * * * * *

"Allocation period" means a calendar quarter. The first allocation period shall be the calendar quarter commencing April 1, 1977.

"Base period" means the twelve-month period in calendar year 1975.

* * * * * *

"Heavy crude oil" means crude oil licensed for export as heavy crude oil by the Canadian National Energy Board.

* * * * * *

"Light crude oil" means crude oil licensed for export as light crude oil by the Canadian National Energy Board.

* * * * * *

3. Section 214.31 is amended by adding a new paragraph (h) as follows:

§ 214.31 Allocation of Canadian crude oil.

* * * * * *

(h) *Surplus Canadian heavy crude oil.* Within 14 days following the issuance of an allocation notice pursuant to § 214.32(a), FEA shall determine the volumes of Canadian heavy crude oil that will not be imported in the allocation period. As soon as practicable thereafter, FEA shall issue a supplemental allocation notice pursuant to § 214.32(c) advising refiners that such volumes are

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surplus for that allocation period and are not subject to the provisions of this part.

ALTERNATIVE No. 2

1. Section 214.21 is amended by revising the definitions of "allocation period" and "base period" and by adding in the proper alphabetical order the definitions of "heavy crude oil" and "light crude oil" to read as follows:

§ 214.21 Definitions.

• • • • •

"Allocation period" means a calendar quarter. The first allocation period shall be the calendar quarter commencing April 1, 1977.

"Base period" means the twelve-month period in calendar year 1975.

• • • • •

"Heavy crude oil" means crude oil licensed for export as heavy crude oil by the Canadian National Energy Board.

• • • • •

"Light crude oil" means crude oil licensed for export as light crude oil by the Canadian National Energy Board.

• • • • •

2. Section 214.31 is amended by revising subparagraph (2) of paragraph (a), paragraph (e) and subparagraph (1) and (2) of paragraph (g) to read as follows:

§ 214.31 Allocation of Canadian crude oil.

• • • • •

(a) *Basis for issuance of Canadian crude oil rights.* • • •

(2) Rights issued for an allocation period to a refiner or other firm shall (i) be applicable only for Canadian crude oil subject to this part imported in that allocation period, and (ii) authorize Canadian crude oil to be processed, consumed or otherwise utilized, as the case may be, only at (and in the volumes specified for) each of that firm's priority refineries listed in the allocation notice for that allocation period: *Provided,* That clause (ii) of this subparagraph (2) shall not apply to any volumes of Canadian crude oil associated with Canadian crude oil rights transferred pursuant to § 214.32(e).

• • • • •

(e) *Canadian crude oil rights required for processing or consumption of Canadian crude oil.* No refiner or other firm shall process, consume or otherwise utilize Canadian crude oil subject to this part imported into the United States in any allocation period at any refinery or other facility other than a priority refinery. Canadian crude oil subject to this part shall not be processed, consumed or otherwise utilized by a refiner or other firm unless (1) that refiner or other firm has been issued or has purchased pursuant to § 214.32(e) one Canadian crude oil right for each barrel of Canadian crude oil so processed, consumed or otherwise utilized, and (2) that volume of Canadian crude oil is processed, consumed or otherwise utilized at its priority refinery or refineries listed in the allocation notice for the allocation period involved and in the volumes specified in that allocation notice for the particular priority refinery or refineries: *Provided,* That subparagraph (2) of this paragraph shall not apply to any volumes of Canadian crude oil associated with Canadian crude oil rights transferred pursuant to § 214.32(e).

(g) *Permitted exchanges and sales of Canadian crude oil.* (1) Except for Canadian crude oil associated with rights sold or otherwise transferred pursuant to § 214.32(e), no volumes of Canadian crude oil subject to this part shall be sold or otherwise disposed of by refiners or other firms with respect to first priority refineries that they own or control except pursuant to (i) crude oil exchanges which involve only (directly or indirectly) Canadian crude oil and in which only quality and location differentials are given effect in the calculation of the exchange ratio, or (ii) matching purchase and sale transactions which involve only (directly or indirectly) Canadian crude oil and which have the same effect as an exchange described in subdivision (i) of this subparagraph (1).

(2) Except for Canadian crude oil associated with rights sold or otherwise transferred pursuant to § 214.32(e), no volumes of Canadian crude oil subject to this part shall be sold or otherwise disposed of by refiners or other firms with respect to second priority refineries that they own or control except pursuant to (i) exchanges of Canadian crude oil subject to this part for other crude oil in which only quality and location differentials are given effect in the calculation of the exchange ratio; (ii) matching purchase and sale transactions which involve Canadian crude oil subject to this part and other crude oil and which have the same effect as an exchange described in subdivision (i) of this subparagraph (2); or (iii) sales, exchanges or other transfers between priority refineries owned by the same refiner or other firm, except that this shall not permit any sales, exchanges or other transfers that would result in a net transfer of Canadian crude oil subject to this part from a first priority refinery to a second priority refinery owned by the same refiner or other firm.

• • • • •

3. Section 214.32 is amended by revising paragraph (e) to read as follows:

§ 214.32 Issuance of Canadian crude oil rights.

• • • • •

(e) *Permitted transfers of Canadian crude oil rights.* Refiners and other firms that have been issued Canadian crude oil rights for a particular allocation period may sell or otherwise transfer to another refiner or firm that owns a priority refinery or other facility any such rights that will not be used in an allocation period due to the inability of the transferor's priority refinery or facility to receive or process heavy Canadian crude oil. No rights sold or transferred pursuant to this paragraph may be resold. Refiners or other firms involved in sales permitted under this paragraph (e) shall immediately certify in writing the details thereof FEA upon the completion of arrangements therefor.

ALTERNATIVE No. 3

1. Section 214.21 is amended by revising the definitions of "allocation period," "base period" and "Canadian crude oil right" and by adding in the proper alphabetical order the definitions of "heavy crude oil," and "light crude oil" to read as follows:

§ 214.21 Definitions.

• • • • •

"Allocation period" means a calendar quarter. The first allocation period shall be the calendar quarter commencing April 1, 1977.

"Base period" means the twelve-month period in calendar year 1975.

• • • • •

"Canadian crude oil right" or "right" means the right of the refiner or other firm owning the right to process, consume or otherwise utilize one barrel of (A) Canadian light crude oil or (B) Canadian heavy crude oil, as specified in an allocation notice issued under § 214.32 imported in a specified allocation period at a specified domestic refinery or other facility. The issuance and transfer of Canadian crude oil rights shall be evidenced on records maintained by the FEA.

• • • • •

"Heavy crude oil" means crude oil licensed for export as heavy crude oil by the Canadian National Energy Board.

• • • • •

"Light crude oil" means crude oil licensed for export as light crude oil by the Canadian National Energy Board.

• • • • •

2. Section 214.31 is amended by revising subparagraphs (1) and (3) of paragraph (a) and by revising paragraph (b) to read as follows:

§ 214.31 Allocation of Canadian crude oil.

(a) *Basis for issuance of Canadian crude oil rights.* (1) For each allocation period commencing after March 31, 1977, subject to the adjustments provided for by paragraphs (b), (c) and (d) of this section and by § 214.35 the FEA shall allocate Canadian light and heavy crude oil subject to this part separately by issuing to each refiner or other firm that owns or controls a first or second priority refinery a number of Canadian crude oil rights equal to (i) the number of barrels of Canadian light crude oil or heavy crude oil, respectively, included in that refiner's volume of crude oil runs to stills for the calendar quarter of the base period corresponding to the allocation period, or (ii) the number of barrels of Canadian light crude oil or heavy crude oil, respectively, consumed or otherwise utilized by that other firm in the calendar quarter of the base period corresponding to the allocation period.

• • • • •

(3) Notwithstanding the provisions of subparagraph (1) of this paragraph (a), in its calculations for the allocation period commencing April 1, 1977 the FEA shall give effect to the export licenses issued by the Canadian National Energy Board for the months April through June 1977. For the allocation period commencing April 1, 1977, FEA will determine separately the number of barrels of Canadian light and heavy crude oil included in each refiner's volume of crude oil runs to stills during the base period on the basis of light and heavy crude oil stream data obtained from the Canadian National Energy Board.

(b) *Adjustments for increases and reductions in export levels of Canadian crude oil*—(1) *Reductions in export levels of Canadian crude oil.* In the event that the allocable supply of Canadian light or heavy crude oil for a particular allocation period is greater than the total number of barrels of Canadian light or heavy crude oil (as adjusted under the provisions of paragraphs (c) and (d) of this section), respectively, processed in the corresponding calendar quarter of the base period by all first priority refineries, but less than the total number of barrels of Canadian light or heavy crude oil (as so adjusted), respectively, processed, consumed or otherwise utilized in the corresponding calendar quarter of the base period by all first and second priority refineries combined, no adjustment shall be made under this paragraph to the number of Canadian crude oil rights issuable to first priority refineries, and the number of rights issuable for second priority refineries shall be reduced on a pro-rata basis, with reference to their respective base period volumes (as adjusted under paragraph (d) of this section) of Canadian light or heavy crude oil. In the event that the allocable supply of Canadian light or heavy crude oil for a particular allocation period is less than the total number of barrels of Canadian light or heavy crude oil (as so adjusted), respectively, processed in the corresponding calendar quarter of the base period by all first priority refineries, no rights shall be issuable for second priority refineries and first priority refineries shall bear any such deficiency on a pro-rata basis, with reference to their respective base period volumes (as adjusted under paragraph (d) of this section) of Canadian light or heavy crude oil.

(2) *Increases in export levels of Canadian heavy crude oil.* In the event that the allocable supply of Canadia heavy crude oil for a particular allocation period is greater than the total number of barrels of Canadian heavy crude oil (as adjusted under paragraphs (c) and (d) of this section) processed in the corresponding quarter of the base period by all first and second priority refineries, the number of rights for heavy crude oil issuable to both first and second priority refineries shall be increased on a pro-rata basis, with reference to their respective base period volumes (as adjusted under paragraph (d) of this section) of Canadian heavy crude oil.

• • • • •

3. Section 214.32 is amended by revising paragraph (b) to read as follows:

§ 214.32 Issuance of Canadian crude oil rights.

• • • • •

(b) *Content of notice.* Each allocation notice under this section shall specify for a particular allocation period the allocable supply of Canadian light and heavy crude oil for that allocation period; the name of each refiner and other firm to which rights have been issued; the number of Canadian crude oil rights for light crude oil and the number of Canadian crude oil rights for heavy crude oil, respectively, issued to each such refiner or other firm; and the specific first or second priority refineries for which such rights have been issued.

[FR Doc.77-7619 Filed 3-11-77;9:33 am]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. RM77-1]

JUST AND REASONABLE RATE OF RETURN ON EQUITY FOR NATURAL GAS PIPELINE COMPANIES AND PUBLIC UTILITIES

Acceptance of Late Filing

MARCH 7, 1977.

On October 15, 1976, the Commission issued a Notice of Proposed Rulemaking in Docket No. RM77-1 (published October 22, 1976, 41 FR 46618), calling for comments by December 14, 1976. By Notice issued December 9, 1976, the date for filing was extended to February 28, 1977. On March 1, 1977, the Public Agency Group filed a motion to accept their late-filed comments.

Upon consideration, notice is hereby given that the comments are accepted as timely filed.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7530 Filed 3-14-77;8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 67]

HISTORIC PRESERVATION CERTIFICATIONS PURSUANT TO THE TAX REFORM ACT OF 1976

Proposed Rulemaking

The Tax Reform Act of 1976, Pub. L. 94-455, 90 Stat. 1519, included among its many provisions section 2124, "Tax Incentives to Encourage the Preservation of Historic Structures," under which the Secretary of the Interior is required to make certain certifications with respect to the historic character of buildings and structures, the rehabilitation of historic buildings and structures, and the preservation criteria of State and local statutes. The regulations proposed hereafter are to regularize procedures, standards, and criteria for the making of such certifications. The Internal Revenue Service, pursuant to its regulatory authorities, will issue all regulations necessary for implementation of section 2124 of the TAX Reform Act of 1976 with respect to Federal income tax consequences, requirements, and procedures. However, the section 2124 tax incentive provisions are generally described as follows so as to permit a public understanding of the certifications required to be made by the Secretary:

1. *Section 2124*(a). (Section 191 of the Internal Revenue Code of 1954). Permits a 60-month amortization of certain rehabilitation expenses made in connection with qualified depreciable properties;

2. *Section 2124*(b). (Section 280B of the Internal Revenue Code of 1954). Disallows a deduction for demolition of qualified depreciable properties;

3. *Section 2124*(c). (Section 167(n) of the Internal Revenue Code of 1954). Generally precludes accelerated depreciation for structures built on the site of qualified depreciable properties;

4. *Section 2124*(d). (Section 167(o) of the Internal Revenue Code of 1954). Provides special depreciation rules for qualified rehabilitated property;

5. *Section 2124*(e). (Sections 170(f)(3), 2055(e)(2) and 2522(c)(2) of Internal Revenue Code of 1954). Amends charitable contribution deductions on income, estate, and gift taxes to liberalize deductions for conservation purposes (including historic preservation).

The term "depreciable properties" as used above generally means those properties subject to the allowance for depreciation under section 167 of the Internal Revenue Code of 1954 and generally excludes owner-occupied homes.

Sections (a)-(d) of section 2124 as briefly described above require the Secretary of the Interior to make the following classes of certifications:

a. *Certified Historic Structures.* All the tax provisions described above (except subsection 2124(e)) are related to so-called "Certified Historic Structures," which, generally, are defined as qualified depreciable properties of historic character which are either listed in the National Register, or are located within a historic district listed in the National Register or created by or pursuant to a certified State or local statute. The Secretary, as a general rule, must certify that such structures are in fact "Certified Historic Structures" before the described tax consequences accrue. The procedures for such certifications are set forth below as § 67.4.

b. *Certified rehabilitation.* In order for the tax consequences described above relating to rehabilitation to accrue, the Secretary must determine not only that the rehabilitation was done to a certified historic structure but also that it meets certain standards with respect to the historic integrity of the rehabilitation work. The procedures and standards for "cer-

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tified rehabilitation" are set forth below as §§ 67.6 and 67.7.

c. *Certified statutes.* Qualified historic structures located in historic districts designated under a statute of the appropriate State or local government are subject to the tax consequences discussed above if located within a historic district created by or pursuant to a statute of local or State government certified by the Secretary as containing criteria which will substantially achieve the purposes of preserving and rehabilitating buildings of historic significance. The Department of the Interior has not yet established procedures to certify State and local statutes but expects to do so shortly. State and local governments desiring to qualify historic districts for the tax incentives described above should, until regulations in this area have been promulgated, follow the procedures for nomination to the National Register set forth in Part 60 hereof.

In order to provide full opportunity for taxpayers to review and comment upon the certification procedures described above, the proposed regulations in § 67.8 include appeal procedures for appeals of the Secretary's certification decisions. In addition, by a rulemaking to be published contemporaneously with this notice, 36 CFR Part 60 is to be amended to establish new notice requirements for nominations of properties to the National Register by States.

It is the policy of the Department of the Interior, whenever practicable, to offer the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed procedures to the Chief, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240, on or before April 14, 1977. However, inasmuch as taxpayers are already requesting that certifications be made under the Tax Reform Act, the procedures set forth below will be utilized as interim procedures until such time as the proposed regulations, as they may be amended, are finalized.

This rulemaking is developed under the authority of section 101(a)(1) of the National Historic Preservation Act of 1966, 16 U.S.C. 470a–1(a) (1970 ed.), as amended, and section 2124 of the Tax Reform Act of 1976, 90 Stat. 1519. In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331, et seq.) the National Park Service has prepared an environmental assessment of these proposed regulations. Based on this assessment, it is determined that implementation of the proposed regulations is not a major Federal action that would have a significant effect on the quality of the human environment and that an environmental impact statement is not required. The assessment is on file in the office of the Chief, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240, is available for public inspection, and will be available for public comment for a period running concurrently with the comment period for these proposed regulations.

The originators of these proposed regulations are Carol Shull, Ward Jahdl, and Catherine Cole, National Park Service.

In consideration of the foregoing, it is hereby proposed that Chapter I of Title 36 of the Code of Federal Regulations will be amended by adding a new Part 67, reading as follows:

PART 67—HISTORIC PRESERVATION CERTIFICATIONS PURSUANT TO THE TAX REFORM ACT OF 1976

Sec.
67.1 The Tax Reform Act of 1976.
67.2 Definitions.
67.3 Who may apply and when.
67.4 Certifications of historic significance.
67.5 Standards for evaluating structures within Registered Historic Districts.
67.6 Certification of rehabilitation.
67.7 Standards for rehabilitation.
67.8 Appeals.

AUTHORITY: Sec. 101(a)(1), 80 Stat. 915 as amended, (16 U.S.C. 470a–1(a)); Sec. 2124, 90 Stat. 1519.

§ 67.1 The Tax Reform Act of 1976.

The Tax Reform Act of 1976, 90 Stat. 1519, requires the Secretary to make certifications of historic significance and certifications of rehabilitation in connection with certain tax incentives involving historic preservation. The procedures for obtaining such certifications are set forth below. The Internal Revenue Service is responsible for all procedures, legal determinations and rules and regulations concerning the tax consequences of the historic preservation incentives of the Tax Reform Act of 1976. Any certifications made by the Secretary pursuant to this part shall not be considered as binding upon the Internal Revenue Service with respect to tax consequences or interpretations of the Internal Revenue Code of 1954, nor do certifications that a property is a "certified historic structure" or that a rehabilitation project constitute determinations that a stucture is of the type subject to the allowance for depreciation under section 167 of the Internal Revenue Code of 1954.

§ 67.2 Definitions.

As used in these procedures:

(a) "Certified Historic Structure" means a structure which is of a character subject to the allowance for depreciation provided in section 167 of the Internal Revenue Code of 1954 which is either (1) listed in the National Register; or (2) located in a Registered Historic District and certified by the Secretary of the Interior as being of historic significance to the district, (including Registered Historic Districts designated under a statute of the appropriate State or local government if such statute is certified by the Secretary to the Secretary of the Treasury as containing criteria which will substantially achieve the purpose of preserving an drehabilitating buildings of historic significance to the district.)

(b) "Certified Rehabilitation" means any rehabilitation of a certified historic structure occurring after June 14, 1976, and prior to June 15, 1981, which the Secretary has certified to the Secretary of the Treasury as being consistent with the historic character of such property or the district in which such property is located.

(c) "Historic District" means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects which are united by past events or aesthetically by plan or physical development.

(d) "Inspection" means a visit by an authorized representative of the Secretary of the Interior to a certified historic structure for the purposes of reviewing and evaluating the significance of the structures and the completed rehabilitation work.

(e) "National Register" means the national register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture that the Secretary is authorized to expand and maintain pursuant to section 101(a)(1) of the National Historic Preservation Act of 1966.

(f) "National Register Program" means the survey, planning, and registration program that has evolved under the Secretary's authority pursuant to section 101(a)(1) of the National Historic Preservation Act of 1966. The procedures of the National Register program appear in 36 CFR Part 60.

(g) "Registered Historic District" means any district listed in the National Register or any district designated under a State or local statute which has been certified by the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district.

(h) "Rehabilitation" means the process of returning a property to a state of utility, through repair or alteration, which makes possible an effecient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

(i) "Secretary" means the Secretary of the Interior or the designee authorized to carry out his responsibilities.

(j) "Standards for Rehabilitation" mean the Secretary of the Interior's "Standards for Rehabilitation" as set forth in § 67.7 hereof.

(k) "State Historic Preservation Officer" means the official within each State, or his designated representative, authorized by the State at the request of the Secretary to act as liaison for purposes of implementing the requirements of the National Historic Preservation Act of 1966.

(l) "Structure" means a specific piece of real estate, including building(s) and other site improvements.

§ 67.3 Who may apply and when.

(a) Only the record owner of the property in question may apply for the certifications described in §§ 67.4 and 67.6 hereof. However, upon request of a State Historic Preservation Officer, the Secretary may indicate to such officers whether or not a particular structure located within a Registered Historic District is of historic significance to such district The Secretary shall do so, however, only after notifying the property owner of record of the request, informing such owner of the possible tax consequences of such decision, and permitting the property owner to submit written comments to the Secretary prior to decision.

(b) Requests for certifications pursuant to this part may be made only with respect to properties listed in the National Register or located within a Registered Historic District.

§ 67.4 Certifications of historic significance.

(a) Requests for evaluation of historic significance as required by sections 2124 (a), (b), (c), and (d) of the Tax Reform Act of 1976 should be made by the owner in accordance with the respective procedures for the following categories of certifications: (1) That a structure is listed in the National Register; (2) that a structure is located within a Registered Historic District but is or is not of historic significance to such district.

(b) If the property is individually listed in the National Register:

(1) To determine whether or not a property is individually listed in the National Register, the owner should consult the listing of National Register properties in the FEDERAL REGISTER (found in most large libraries). This listing generally appears the first Tuesday of February each year, with regular monthly updates. If access to the FEDERAL REGISTER is difficult, the owner shall contact the appropriate State Historic Preservation Officer for this information. The owner may make a written request to the Secretary for confirmation that his property is listed in the National Register and is therefore a "Certified Historic Structure." The Secretary shall send confirmation to the owner by letter.

(2) If the property is individually listed in the National Register and the owner believes it has lost the characteristics which caused it to be nominated and therefore wishes it delisted, the owner should refer to the procedures outlined in 36 CFR 60.17.

(c) If the property is located within the boundaries of a Registered Historic District listed in the National Register and the owner wishes the Secretary to certify as to whether the structure is of historic significance to the district, the owner must make written application to the appropriate State Historic Preservation Officer and provide the following minimum documentation to the State Historic Preservation Officer, upon his request.

(1) Name of owner; (2) name and address of structure; (3) name of historic district; (4) current photographs of structure; (5) brief description of appearance including alterations, distinctive features and spaces; and date(s) of construction; (6) brief statement of significance (architectural and/or historical); and (7) signature of property owner requesting the evaluation.

(d) The State Historic Preservation Officer will forward the information listed in paragraph (c) of this section, along with his written recommendation as to the significance of the structure, to the Keeper of the National Register, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240. An "Application for Evaluation of Significance" shall be used in requesting an evaluation from the Secretary. Application forms are supplied to the State Historic Preservation Officers by the Keeper of the National Register at the address given above.

(e) The State Historic Preservation Officer shall forward the "Application for Evaluation of Significance" to the Keeper of the National Register within 45 days after the owner has submitted the required information. If this period has expired without such actions being taken the owner may request an evaluation of significance directly from the Keeper of the National Register by completing an "Application for Evaluation of Significance" which includes the information listed in paragraph (c) of this section.

(f) Structures within Registered Historic Districts listed in the National Register will be evaluated for conformance with the Secretary's "Standards for Evaluating Structures within Historic Districts" as set forth in § 67.5 hereof, based on National Register Criteria as set forth in 36 CFR 60.6. Once the significance of the structure has been determined by the Secretary, written notification will be sent directly to the property owner in the form of a Certification of Significance or as a notice that the structure does not contribute to the historic significance of the district. Written notification will be made within 45 days of receipt of the "Application for Evaluation of Significance."

§ 67.5 Standards for evaluating structures within Registered Historic Districts.

Structures located within Registered Historic Districts are reviewed by the Secretary for conformance to the following "Standards for Evaluating Structures within Historic Districts." These standards shall be used by the State Historic Preservation Officer in making recommendations to the Secretary.

(a) A structure contributing to the historic significance of a district is one which by location, design, setting, materials, workmanship, feeling, and association adds to the district's sense of time and place and historical development.

(b) A structure not contributing to the historic significance of a district is one which detracts from the district's sense of time and place and historical development intrinsically; or when the integrity or the original design or individual architectural features or spaces have been irretrievably lost.

(c) Ordinarily structures that have been built within the past 50 years shall not be considered eligible unless a strong justification concerning their historical or architectural merit is given or the historic attributes of the district are considered to be less than 50 years old.

§ 67.6 Certification of rehabilitation.

Property owners desirous of having rehabilitations of certified historic structures certified by the Secretary as "certified rehabilitation" within the meaning of section 2124 of the Tax Reform Act of 1976 shall comply with the following procedures:

(a) Obtain from the appropriate State Historic Preservation Officer or from the Technical Preservation Services Division, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240, an "Application for Certified Rehabilitation" and a "Request for Inspection of Certified Rehabilitation."

(b) Complete the "Application for Certified Rehabilitation" form and submit it to the State Historic Preservation Officer. The application may be for proposed rehabilitation or completed rehabilitation. In the latter case, a "Request for Inspection of Certified Rehabilitation" should be submitted along with the "Application for Certified Rehabilitation."

(c) If the work described in the "Application for Certified Rehabilitation" has not commenced, the appropriate State Historic Preservation Officer shall review the proposed project as to whether or not the project is likely to meet the Secretary of the Interior's "Standards for Rehabilitation" and forward the application and recommendation to the Secretary within 45 days of receipt of the application and any additional information the State Historic Preservation Officer may request.

(d) Upon request of the application describing the proposed project and the recommendation from the State Historic Preservation Officer, the Secretary shall determine if the proposed project is consistent with the "Standards for Rehabilitation." The owner shall be notified in writing usually within 45 days whether the proposed project, as described in the application, is consistent with the "Standards for Rehabilitation." If the proposed project does not meet the "Standards for Rehabilitation," the owner shall be advised directly or through the State Historic Preservation Officer of necessary revisions to meet such standards.

(e) Upon completion of the rehabilitation project, the owner shall submit the "Request for Inspection of Certified Rehabilitation" to the Secretary through the State Historic Preservation Officer. The completed project shall then be inspected by an authorized representative of the Secretary to determine that the work meets the "Standards for Rehabilitation" and, if so, the Secretary shall certify the project, if otherwise qualified, as "certified rehabilitation." Inspections will normally be made within 30 days of receipt by the State Historic Preservation Officer of the "Request for Inspection of Certified Rehabilitation" form. Notification as to certification shall be in writing and will normally be made within 45 days of the inspection.

(f) In the event that the completed rehabilitation project does not meet the

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"Standards for Rehabilitation," an explanatory letter will be sent to the owner. An appeal from this decision may be made by the owner pursuant to section 67.8 hereof.

§ 67.7 Standards for rehabilitation.

(a) The following "Standards for Rehabilitation" shall be used by the Secretary when determining if a rehabilitation project qualifies as "certified rehabilitation."

(1) Every reasonable effort shall be made to use a structure for its originally intended purpose or to provide a compatible use which will require minimum alteration to the structure and its environment.

(2) Rehabilitation work shall not destroy the distinguishing qualities or character of the structure and its environment. The removal or alteration of any historic material or architectural features should be held to a minimum.

(3) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in the composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of original features, substantiated by physical or pictorial evidence rather than on conjectural designs or the availability of different architectural features from other buildings.

(4) Distinctive stylistic features or examples of skilled craftsmanship which characterize historic structures and often predate the mass production of building materials shall be treated with sensitivity.

(5) Changes which may have taken place in the course of time are evidence of the history and development of the structure and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(6) All structures shall be recognized as products of their own time. Alterations to create an earlier appearance shall be discouraged.

(7) Contemporary design for additions to existing structures or landscaping shall not be discouraged if such design is compatible with the size, scale, color, material, and character of the neighborhood, structures, or its environment.

(8) Wherever possible, new additions or alterations to structures shall be done in such a manner that if they were to be removed in the future, the essential form and integrity of the original structure would be unimpaired.

(b) Guidelines to help property owners formulate plans for the rehabilitation, preservation, and continued use of historic properties consistent with the intent of the Secretary's "Standards for Rehabilitation," are available from the Technical Preservation Services Division, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240.

§ 67.8 Appeals.

An appeal may be made from any of the certifications or denials of certifications made pursuant to this part. Such appeals must be in writing and received by the Chief, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240 within 30 days of receipt by the appellant of the decision which is the subject of the appeal. The Chief, Office of Archeology and Historic Preservation, will review such appeals and the written record of the decision in question and shall advise the appellant of his determination on the appeal within 30 days of its receipt unless the appellant is required to submit additional information. The decision of the Chief, Office of Archeology and Historic Preservation, shall be the final administrative decision on the matter. Appeals pursuant hereto should be mailed to the address noted above.

Dated: February 23, 1977.

Approved:

ERNEST A. CONNALLY,
Acting Director,
National Park Service.

[FR Doc.77-7574 Filed 3-14-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 698-8]

STAGE II VAPOR RECOVERY REGULATIONS AND TEST PROCEDURES

Hearing on Reproposal of Amendments

On November 1, 1976, a notice of Proposed Rulemaking was published (41 FR 48044) that described a proposal to adopt regulations pursuant to Section 110(a)(1) of the Clean Air Act, as amended, 42 U.S.C. 1957 C-5(a)(1), designed to reduce ambient levels of certain automobile related pollutants including hydrocarbons and photochemical oxidants. The proposed rulemaking addressed the propriety of promulgating regulations for the recovery of gasoline vapors from the motor vehicle refueling process (Stage II Vapor Recovery).

In the notice of proposed rulemaking published November 1, 1976, it was announced that hearings would be held, in addition to the hearing therein announced, in each state in which the rules will apply to the extent that there is an expressed interest. Such an interest has been expressed in the State of California and therefore a hearing will be held as hereafter announced.

A hearing will be held by the Environmental Protection Agency on April 14, 1977, beginning at 9:00 a.m. in the Conference Rooms of EPA, Region IX, Second Floor, 100 California Street, San Francisco, California.

The hearing may be continued from time to time, or to a different place, after its commencement, to accommodate the needs of witnesses or the EPA.

All interested parties are invited to express their views at this hearing. Persons wishing to make comments may submit same in writing and/or appear at the hearing. Written comments should be submitted, in triplicate, to:

U.S. Environmental Protection Agency, Attn: Hearing Office, HE 134, Region IX, 100 California Street, San Francisco, CA 94111.

Oral statements will be received and considered, but, for accuracy of the record, all important testimony should be submitted in writing. Oral statements should summarize extensive written materials so that there will be time for all interested persons to be heard. Enough copies of written materials should be produced so that other interested persons may receive a copy and there will not be a necessity for written materials to be read at length.

Dated: March 8, 1977.

R. L. O'CONNELL,
Acting Regional Administrator.

[FR Doc.77-7617 Filed 3-14-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 89, 91, 93, 95]

[Docket No. 21137; FCC 77-168]

VARIOUS PRIVATE LAND MOBILE RADIO SERVICES

Permissibility of Use of Automatic Morse Code Identification Equipment

Adopted: March 4, 1977.

Released: March 9, 1977.

In the matter of amendment of Parts 89, 91, 93, and 95 of the Commission's rules and regulations to permit the use of automatic Morse Code identification equipment, Docket No. 21137; FCC 77-168.

1. Over the past several years the Commission has received numerous inquiries regarding the permissibility of the use of automatic Morse Code indentification equipment in the various private land mobile radio services, including the CB Service. Proponents point out that the use of such a device would insure that the station identification requirements specified in the rules are satisfied, and, particularly in highly active communications systems, relieve the control operator of the burden of either "watching the clock" to make sure the required time interval does not pass, or else transmitting the station's call sign much more often than is necessary. Automatic Morse Code identifiers would also be preferred from the cost-advantage standpoint, since, in general, their cost is about one fourth of that of an automatic voice identifier. In the CB Service, such devices could result in station identification by licensees who now identify infrequently, or not at all.

2. Except for a special provision allowing the use of automatic Morse Code identification in trunked systems operating in the 806–866 MHz band [1] the use of this technique has been prohibited because it would require the use of an emission (A2 or F2) not authorized to licensees solely engaged in voice communications [2] and would require the supervision of a licensed radiotelegraph operator.[2] In fact, even in the case of non-voice operations involving the use of A2 or F2 emission, the rules presently require that station identification be given by voice.[4]

3. In addition to the restraints imposed by the rules, our policy against widespread use of automatic Morse Code identification resulted, in part, from several uncertainties associated with the technical operation of these devices. For example, in a number of demonstrations of automatic Morse Code identification equipment, the identification was transmitted simultaneously with ongoing voice communications and was of insufficient amplitude to be readable by even the most expert observers. This problem could be overcome by our requiring that the identification be transmitted either independently (interrupting voice communictions) or subsequent to voice communications. Under these circumstances the modulation level is not critical. We recognize, however, that such an approach is not satisfactory because of the potential of interruption of vital communications. Accordingly, we are proposing simultaneous transmission of Morse code identification with voice, provided that the level of Morse code modulation is 40 percent, ±10 percent, with the modulating tone to be at the frequency 750 Hz±10 Hz. We solicit specific comments on the feasibility of attaching a filter to the receiver which could reduce or eliminate the tone.

4. Another issue requiring consideration is the anticipated impact of Morse Code identification on licensees unfamiliar with it and, especially in the CB Service, their ability to identify co-channel users causing them interference. It is our belief that while Morse Code identification may not be immediately decipherable by the untrained, it should be possible for such persons either to tape the signal or to transcribe the dots and dashes into the proper grouping for delayed interpretation. Accordingly, we propose a Morse Code fixed transmission rate of 25 words per minute. We also have under consideration the necessity for frequent transmission of a station's call sign during a series of brief transmissions and the impact this could have in a service utilizing congested channels, such as the CB Service. We have proposed to amend Part 95 to relax somewhat the present ID interval requirements.

5. It is noted that the Commission presently has under consideration Docket 20351,[5] which concerns the implementation of an Automatic Tranmitter Identification System (ATIS) for stations in the private land mobile radio services. While ATIS is regarded as the ideal long-term solution to the various station identification problems, the implementation of such a system has raised a number of complicated questions which are still in the process of being resolved. This automatic Morse Code proposal is set forth as in interim measure affording licensees a convenient means of resolving their station identification problems until an acceptable form of ATIS can be developed.

6. In view of the above-mentioned consideration, we propose to amend Parts 89, 91, 93, and 95 of the Commission's rules to permit the use of automatic Morse Code identification equipment in the services governed by those parts. Authority for the proposed amendments is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before May 17, 1977 and reply comments on or before June 16, 1977. Relevant comments and reply comments will be considered by the Commission before taking final action in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and five copies of all statements, briefs, or comments shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

A. Part 89 of the Commission's rules is proposed to be amended as follows: (Parts 91 and 93 would be similarly amended).

1. In § 89.105, Paragraphs (d) and (d)(5) are amended to read as follows:

§ 89.105 Types of emission.

* * * * *

(d) Except for automatic station identification, tone paging, telemetry, radioteleprinter, radiofacsimile, and automatic vehicle location systems, and except as otherwise provided in this part, the use of A2, A9, F2, or F9 emission (audio frequency tone shift or phase shift) by stations in these services may be authorized only in accordance with the following limitations and requirements:

* * * * *

(5) Required station identification for non-voice operations must be made by either F2, F3, A2, or A3 emission and may be given by the base station for a base-mobile system.

2. A new paragraph (l) is added to § 89.153:

§ 89.153 Station identification.

* * * * *

(l) Automaticaly activated equipment may be used to transmit station identification in international Morse code: *Providing*, That the modulating tone is 750 Hz±10 Hz, and that the level of modulation of the identification signal is maintained at 40 percent±10 percent.

B. Part 95 of the Commission's rules is proposed to be amended, as follows:

1. In § 95.59, paragraph (a) is amended to read, as follows:

§ 95.59 Emission types authorized.

(a) Transmitters used at stations in this service will normally be authorized to transmit radiotelephony only. Radiotelephony includes the use of A2 or F2 emissions for the purpose of transmitting station identification in international Morse code.

* * * * *

2. In § 95.71, paragraph (e) is deleted, and paragraphs (a), (b), (c) and (d) are amended to read as follows:

§ 95.71 Station identification.

(a) Except as provided in paragraph (c) of this section, all communications shall be identified by the call sign of the transmitting station during each series of transmissions but at least at intervals not to exceed 15 minutes during a continuous exchange of communications.

(b) Except as provided in paragraph (d) of this section, the call sign shall be clearly transmitted in the English language. A phonetic alphabet may be used as an aid for identification. A unit designator or special identifier may be used in addition to, but not instead of, the station call sign.

(c) A station need not identify its transmissions if:

(1) The station automatically retransmits another station which identifies properly; or

(2) The station is not being used for telephony emissions.

(d) In lieu of the station identification required by paragraph (b) of this section, automatically activated equipment may be used to transmit station identification in international Morse code, if:

(1) The modulating tone is 750 Hz±10 Hz and the level of modulation of the identification signal is maintained at 40 percent±10 percent; and

(2) The code speed is maintained at 25 words per minute.

3. In § 95.459, paragraph (b) is amended to read, as follows:

§ 95.459 Telephony only.

* * * * *

(b) Tone signals or signalling devices shall not be used, except for stations identification purposes or for functions such as tone operated squelch or selective calling circuits used primarily to establish or maintain voice contact. Signals shall not be used solely to attract attention or to control remote objects or devices.

* * * * *

[1] See § 89.605.

[2] See §§ 89.105, 91.103, 93.103, 95.59, 95.459, and 95.611(d)(2)(i).

[3] See §§ 89.163(b), 91.154(b), and 93.154(b).

[4] Sections 89.105(d)(5), 91.103(b)(5), 93.-

[5] Notice of proposed rulemaking released February 13, 1975 (FCC 75-145, 40 FR 7678).

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4. In § 95.471, paragraphs (a), (b) and (c) are amended to read as follows:

§ 95.471 Station identification.

(a) All communications must be identified by the station call sign during each series of transmissions, but at least at intervals not to exceed 10 minutes.

(b) Except as provided in paragraph (c) of this section, the CB station call sign must be clearly given in the English language. A phonetic alphabet may be used as an aid for identification. A "Handle," unit designator, or special identifier may be used in addition to, but not instead of, the station call sign.

(c) In lieu of the station identification required by paragraph (b) of this section, automatically activated equipment may be used to transmit station station identification in international Morse code, if:

(1) The modulating tone is 750 Hz±10 Hz and the level of modulation of the identification signal is maintained at 40 percent ±10 percent; and

(2) The code speed is maintained at 25 words per minute.

5. In §95.513, a new paragarph (c) is added, as follows:

§ 95.513 Modification of transmitters.

• • • • • •

(c) Notwithstanding paragraphs (a) and (b) of this section, automatically activated equipment used only to transmit station identification in international Morse code may be connected or attached to a transmitter if:

(1) All attachments or connections are made by or under the immediate supervision and responsibility of a person holding a first or second class commercial radio telephony or telegraphy license; and

(2) The automatically activated equipment does not affect the proper operation of the transmitter to which it is attached or connected; and

(3) The code speed of the automatic equipment is maintained at 25 words per minute; and

(4) The modulating tone is 750 Hz± 10 Hz and the level of modulation of the identification signal is maintained at 40 percent±10 percent.

6. In § 95.611, paragraph (d) (2) (i) is amended to read, as follows:

§ 95.611 Availability of frequencies.

• • • • • •

(d) • • •

(2) • • •

(i) The frequencies listed above are available for use with radiotelephony (voice) transmissions only. Radiotelephony include the use of A2 or F2 emissions for the purpose of transmitting station identification in international Morse code.

• • • • • •

7. In § 95.645, a new paragraph (d) (12) is added, as follows:

§ 95.645 Additional requirements for type acceptance.

• • • • • •

(d) • • •

(12) Automatically activated equipment used only to transmit station identification in international Morse code if:

(i) The modulating tone is 750 Hz±10 Hz and the level of modulation of the identification signal is maintained at 40 percent±10 percent; and

(ii) The code speed is maintained at 25 words per minute.

[FR Doc.77-7599 Filed 3-14-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Parts 1 and 2]

ANIMAL WELFARE

Notice of Proposed Rulemaking

• *Purpose:* The purpose of this document is to propose new and revised regulations under the Animal Welfare Act with respect to health certification, C.O.D. transactions, minimum age, recordkeeping, annual reports required of research facilities and certain other governmental instrumentalities and other requirements for certain animals, to conform to the Animal Welfare Act Amendments of 1976 (Pub. L–94–279) enacted on April 22, 1976. •

Notice is hereby given in accordance with the administrative provisions in 5 U.S.C. 553, that, pursuant to the provisions of the Animal Welfare Act (7 U.S.C. 2131 et seq.), as amended by the Animal Welfare Act Amendments of 1976 (Public Law 94–279), the Animal and Plant Health Inspection Service is proposing to amend Parts 1 and 2 of Subchapter A, Chapter 1, Title 9, Code of Federal Regulations, to (1) require persons required to be licensed or registered under the Act and Federal, State and local governmental agencies or instrumentalities to provide a health certificate by a licensed veterinarian for live dogs, cats, or nonhuman primates presented to any carrier or intermediate handler for transportation in commerce, (2) require a minimum age of eight (8) weeks be established for dogs and cats presented by any person to any carrier or intermediate handler for transportation, in commerce, except to registered research facilities, (3) require all C.O.D. type arrangements for shipping animals in commerce by any intermediate handler or carrier to be prohibited unless, the consignor guarantees in writing, payment of all transportation costs, including any return transportation and any other incidental or out-of-pocket expense for any animal shipped in commerce by any intermediate handler or carrier, (4) change recordkeeping requirements for dealers, exhibitors, research facilities, and operators of auction sales to allow the flexibility of using their systems of recordkeeping, (5) to change and clarify the annual reporting requirements for research facilities and certain governmental instrumentalities and the responsibilities of the institutional committee and attending veterinarian, (6) amend definitions in the regulations to conform with the Animal Welfare Act Amendments of 1976, (7) add certain new definitions, and (8) rearrange the definitions in an appropriate order of associated subjects.

Statement of considerations. The Animal Welfare Act Amendments of 1976, enacted on April 22, 1976, extensively amended the Act of August 24, 1966 (Pub. L. 89–544), as amended by the Animal Welfare Act of 1970 (Pub. L. 9–579) (7 U.S.C. 2131 et seq.). Provisions of the recent legislation require that certain regulations promulgated under the previous Acts be amended and new regulations adopted, concerning, among other things, health certification, minimum age requirements, and C.O.D. requirements.

On May 14, 1976, the Department published in the FEDERAL REGISTER (41 FR 19994) a notice of public meetings to be held to obtain views, comments, arguments, and other input from the public in order to propose reasonable and effective regulations relating to health certification, minimum age requirements, and C.O.D. provisions. These meetings were held in College Park, Maryland, on May 25, 26, 27, 1976, and were attended by representatives of animal welfare organization, gamecock breeder organizations, the pet industry, the transportation industry, other Federal departments and agencies, and by interested members of the general public.

Comments voiced at the public meetings indicated that for the present time health certification requirements should be made applicable to dogs, cats, and nonhuman primates delivered by any dealer, research facility, exhibitor, or operator of an auction sale, or Federal or State governmental agency or instrumentality, to any intermediate handler or carrier for shipment in commerce, and that USDA should provide a form for such certification by a licensed veterinarian. The participants indicated that a minimum requirement of eight weeks of age for dogs and cats should be established provided such animals have been weaned for a sufficient period of time to take solid food and water on their own. Discussions involving C.O.D. requirements indicated a need by the parties attending the meetings for a better understanding of the law rather than providing input into the proposed rulemaking.

The proposal would provide for a health certification, as required by the Act, as amended, for certain live dogs, cats, and nonhuman primates which are delivered to an intermediate handler or carrier for transportation in commerce, by any dealer, research facility, exhibitor, operator of an auction sale, or any department, agency, or instrumentality

of the United States or of any State or local government. A form is proposed which may be used for such health certification, as well as for identification of animals and recordkeeping by persons subject to the Act. Such certification would be made by a doctor of veterinary medicine licensed to practice veterinary medicine in any State of the United States or the Commonwealth of Puerto Rico, within 10 days prior to delivery of such live dog, cat, or nonhuman primate to the intermediate handler or carrier.

The Department proposes that any live dog or cat delivered by any person (including private owners) to any carrier or intermediate handler for transportation in commerce shall be at least eight weeks of age and have been weaned for a period of at least five days. Certain exceptions are proposed for specified animals which are shipped to research facilities for both the health certification and minimum age requirements. The authority for these exceptions are provided by the Act, as amended.

As required by the Act, as amended, the Department proposes that no C.O.D. type arrangement will be used in the transportation of animals by intermediate handlers or carriers in commerce unless the consignor guarantees in writing the payment of all transportation costs, including any return transportation, and any other incidental or out-of-pocket expenses involved for the care, feeding and storage or housing of the animal if the consignee fails to accept delivery of the shipment within 48 hours of notification.

Under the proposed regulations, the intermediate handler or carrier must return to the consignor, or to his designee, any C.O.D. animal shipment not claimed within 48 hours after notice to the consignee of the animal's arrival at destination. In order to eliminate possible lengthy storage of such animals upon arrival at destination, it is believed necessary that definite periods of time for notification of consignees by carriers and intermediate handlers should be established. A maximum period of 24 hours is proposed for consignee notification. This would make a maximum period of 72 hours an animal would have to wait for pickup by the consignee or be returned to the consignor. It is also proposed that the intermediate handler or carrier at destination be required to attempt to notify the consignee of C.O.D. shipments at least every 6 hours after their arrival at destination for a maximum period of 24 hours. Thereafter, if the consignee cannot be located, the animal or animals involved would be required to be returned to the consignor or such other person designated by the consignor. These proposed regulations would not prohibit any carrier or intermediate handler from requiring any additional guarantee for the payment of the cost of transportation, incidental or out-of-pocket expenses connected with such shipments.

Pursuant to the Act, as amended, the Department proposed recordkeeping requirements for carriers and intermediate handlers relating to health certifications and C.O.D. shipments in which they are involved. Present regulations require a two year recordkeeping period for dealers, exhibitors, operators of auction sales and research facilities. Documentation of alleged violation cases involving persons subject to the Act very often requires inspection of records which were made over a year previous. Therefore, the same two year recordkeeping period is proposed for carriers and intermediate handlers as is required for other persons subject to the Act.

Since the amendments to the Act have deleted the requirement that records be maintained on forms supplied by the Secretary, it is proposed that records for dealers, exhibitors, research facilities, and operators of auction sales be kept by one of three alternative methods: The first would be to utilize records created and used by such dealer, exhibitor, research facility, or operator of an auction sale unless disapproved by the Veterinarian in Chicago for not containing the information required by the regulations; the second would allow any such person who handles dogs and cats to continue using current forms which are supplied by the Secretary; and the third would provide for the use of a new form which is also being developed for health certification purposes.

The proposed amendments to the regulations cite specific information, similar to that required on VS Forms 18–5 and 18–6, revised, for dogs and cats and similar to that required on VS Forms 18–19 and 18–20, for animals other than dogs and cats, to be maintained by dealers, exhibitors, research facilities, and operators of auction sales. Such persons would be authorized to keep such information on their own forms and utilize their own recordkeeping system. Such methods of recordkeeping and forms would be required to contain the requisite information in a manner easily understood and not in any code such as a computer might use.

This proposed form of recordkeeping, (1) eliminates costly duplication of information and records. (2) provides the pertinent information necessary to trace stolen animals, and (3) satisfies the requirements of breed registries for transfer of ownership of dogs and cats without the use of additional forms.

There has been some misunderstanding concerning the circumstances under which records must be kept for animals as provided in the regulations (9 CFR 2.75–2.79). The regulations specifically require certain records to be kept with respect to each animal "purchased or otherwise acquired, held, transported, or sold, or otherwise disposed of" by a dealer, exhibitor, research facility, or operator of an auction sale. The Animal and Plant Health Inspection Service has interpreted these provisions as requiring such persons to identify in their records all animals in their possession or under their control. Otherwise, there is no way to be sure that persons subject to the Act are complying with the identification and recordkeeping requirements of the Act. Therefore, in order to clarify this matter, it is proposed that the regulations be amended to specify that records must be kept by all dealers, exhibitors, research facilities, and operators of auction sales with respect to animals covered by the Act which are purchased, acquired, owned, held, or otherwise in their possession or under their control, including any offspring born of such animals while in their possession or under their control, transported, or sold, or otherwise disposed of by such persons.

The proposed amendments to the regulations would change the definition of the terms "commerce", "State", "dealer", "animal", "Act", and "registrant", and the definition of "affecting commerce" would be deleted and the term "in commerce" substituted throughout the regulations, to conform to the recent amendments to the Act. The proposed amendments to the regulations would also add new defintions for the terms "licensed veterinarian", "intermediate handler", "carrier", "attending veterinarian", and "weaned". It is also proposed that Part 1 of the regulations (9 CFR 1.1 et. seq.) be revised to rearrange the definitions in an appropriate order of associated subjects and to make certain other technical, nonsubstantive changes.

Prior to the recent amendments, the Act required any department, agency, or instrumentality of the United States having laboratory animal facilities to comply with the standards promulgated by the Secretary for research facilities, but did not require such department, agency, or instrumentality of the United States to submit an annual report showing that it follows professionally acceptable standards governing care, treatment and use of animals. The recent amendments to the Act require the submission of an annual report by such departments, agencies, or instrumentalities of the United States, and the regulations would be amended to require such reports.

The Animal and Plant Health Inspection Service proposes to add the term "testing" to the phrase "animals used in research or experimentation" in proposed § 2.28 of the regulations concerning what animals used by a research facility must be reported on its annual report. This proposal is intended to clarify the ambiguity created by using only the terms "research" and "experimentation" in present § 2.28 of the regulations (9 CFR 2.28) and the terms "research", "testing", and "experimentation" in other sections of the regulations. The addition of the term "testing" in proposed § 2.28 of the regulations would not change the meaning of that regulation since an "experiment" includes a "test".

Since many registered research facilities are, in fact, either University systems composed of several colleges located throughout a State or commercial companies with many research sites often located in several States, as are many departments, agencies, or instrumentalities of the United States, designation of the facility required to submit an annual report is changed in the proposed regula-

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tion. It is proposed that each segment of a research facility or department, agency, or instrumentality of the United States using or intending to use live animals in research, testing, or experimentation under the control of an attending veterinarian or institutional committee be required to submit an annual report. The proposed required certification of the annual report by such attending veterinarian or institutional committee for the reporting facility, would thus be based on personal knowledge of the research, testing, or experimentation performed at the individual facility. This would appear to be an improvement over the present regulations which provide for certification by an attending veterinarian or institutional committee representing many facilities about which there may be neither personal knowledge nor personal attendance by such committee or veterinarian.

Present § 2.28 of the regulations (9 CFR 2.28) requires a research facility to state on its annual report the name and approximate numbers of animals used in research and the number of experiments conducted involving necessary pain or distress to the subject animals without the use of pain-relieving drugs. It has been the practice of research facilities in their annual reports to list the number of animals used in experiments without pain or distress, the number of animals used in experiments involving pain or distress for which pain-relieving drugs were used and the number of animals used in experiments involving pain or distress for which pain-relieving drugs were not used. Proposed § 2.28 of the regulations would reflect this practice, in accordance with the form used for such annual reports. Such information as required by proposed § 2.28 would also provide meaningful information concerning research involving animals to be included in the Annual Report to Congress required under the Act.

The Department proposes to change the time period covered by the annual report of research facilities to that of the Federal fiscal year of October 1, through the following September 30. This change would accommodate the Federal Departments, agencies, and instrumentalities whose financial and operational records are aligned with this particular 12 month period. Since the annual report is an indication of the kind and number of animals used and the type of research occurring in a 12 month period, changing the reporting period for the present registered research facilities would not create undue hardship in reporting.

In response to complaints of insufficient time to collect data, prepare the annual report, and obtain appropriate signatures by research facilities, the Department proposes a new submission date for annual reports of December 1, which would allow research facilities and Federal Departments, agencies, and instrumentalities two months to prepare and submit the annual report of research facilities for the previous Federal fiscal year. This proposal extends the period for preparation and submission of the annual report by 30 days. The proposed submission date of December 1, will also allow this Department sufficient time for compilation of data, preparation, administrative clearance, printing, and submission of its annual report to Congress during March of each year, as required by law.

ECONOMIC IMPACT SUMMARY STATEMENT

1. Proposed action: Proposed rulemaking to amend the Animal Welfare regulations relative to a health certificate, minimum age requirements, and C.O.D. requirements for certain warmblooded animals transported in commerce; the annual reporting of research by registered research facilities and government agencies.

2. Duration: This is a Notice of Proposed Rulemaking with not less than a 30-day public comment period. The final rulemaking will not become effective until actual publication in the FEDERAL REGISTER.

3. Authority: The Animal Welfare Act (7 U.S.C. 2131 et seq.).

4. Agency: Animal and Plant Health Inspection Service, Veterinary Service, USDA.

5. Contact: Dr. D. F. Schwindaman, (301) 436-8271.

6. Date: February 11, 1977.

7. Impact Analysis Summary:

a. Cost impact effects: This proposed rulemaking is not considered to be inflationary according to the criteria established by the Department relative to the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107. The proposed amendments to the Animal Welfare regulations deal with four areas as discussed in detail in Attachment A. Price-quantity effects are summarized from each appropriate attachment as follows:

(1) Veterinary health certification (Attachment B)—The cost impact on USDA licensees and registrants, governmental agencies, and carriers and intermediate handlers is estimated to total $3,135,000.

(2) Minimum age requirements (Attachment C)—Since major producers of dogs and cats have already established the 8 week minimum age within their industry, the cost impact of the proposal is believed negligible.

(3) C.O.D. requirements (Attachment D)—It is estimated that there will be no additional costs created by the guaranteed C.O.D. arrangement for animals shipped in commerce. The guaranteed C.O.D. arrangement will affect the consignor of animals only in cases where shipment is not accepted by the consignee.

(4) Submission of an Annual Report for certain animals used in research (Attachment E)—Cost impact is directed to Federal agencies which are required by law to submit an annual report showing compliance with acceptable standards for care, treatment, and use of animals. Estimated additional manpower (5,000 man-hours or 2.4 man-years) and monies ($20,000), annually, will be required of Federal agencies.

Projected costs and manpower needs required by Veterinary Services to implement the veterinary health certification, minimum age requirements, C.O.D. requirements and annual reporting of Federal agencies for FY 1977 would total $520,000 and 18.6 man-years.

b. Effect on productivity: No known effect on the productivity of wage-earners, businesses, or government.

c. Effect on competition: Veterinary health certification, C.O.D., and minimum age requirements are applicable only to transportation in commerce by carriers and intermediate handlers. Since the proposals affect all carriers and intermediate handlers, there is no limitation, concentration, or other unfair restriction placed on competition. Those individuals transporting warmblooded animals covered by the Act in personally owned vehicles are not subject to these requirements.

d. Supply of important materials: No known effect on materials or products. Services performed by carriers or intermediate handlers should not be affected by the proposed rulemaking.

e. Effect on employment: Certain requirements of the proposed rulemaking will require the employment of additional personnel by the carriers and intermediate handlers. Additional employees may be needed by some Federal agencies to meet the requirement of the annual report of research. None of the proposals will be cause for significant changes in employment.

f. Effect on energy supply—demand: No known significant requirements for energy to meet the proposed regulations.

g. Benefits: The estimated total additional costs of $3,675,000 for this proposed rulemaking is offset by expected measurable benefits and intangible benefits.

The proposed requirement for veterinary health certification will result in lowered morbidity and mortality rates among puppies and kittens shipped in commerce. Many instances have been reported by humane organization personnel at airports whereby puppies and kittens were in poor general health and often sick when offered for transportation. A reduction in infectious diseases spread from animal to animal and from animal to man should result when animals infected with infectious diseases are not shipped with other healthy animals.

The guaranteed C.O.D. arrangement should effectively end the situation in which an animal is not accepted by the consignee and is left on a terminal dock without care or destination.

A required minimum age for puppies and kittens offered for transportation in commerce will prevent the very young and often unweaned animal from being subjected to the stress and physical trauma of such long trips.

These proposals are only a part of the 1976 Amendments to the Animal Welfare Act which will establish standards designed to assure the safe transportation and humane treatment of animals shipped in commerce. The effect will be an increased support for humane care of animals and a substantial monetary saving to American consumer through reduced cost for pet replacement.

AN ANALYSIS OF THE ECONOMIC IMPACT OF AMENDMENTS TO ANIMAL WELFARE REGULATIONS

This statement is an examination of the economic impact of a proposed rulemaking amending the Animal Welfare regulations as mandated by certain provisions of the Animal Welfare Act Amendments of 1976 (Public Law 94-279).

With the passage of the Laboratory Animal Welfare Act of 1966 (Public Law 89-544), as amended by the Animal Welfare Act of 1970 (Public Law 91-579), Congress provided Federal statutory authority to ensure the humane treatment of animals. However, the 1966 Act and the 1970 amendments did not give the Secretary of Agriculture similar authority to regulate the treatment of animals shipped in commerce by commercial carriers and intermediate handlers. In recent years, as the number of animals shipped has increased, the number of deaths and injuries to such animals has increased as well. In response to this situation, Congress initiated legislation which resulted in the enactment of the Animal Welfare Act Amendments of 1976 (Public Law 94-279) on April 22, 1976.

The 1976 amendments bring carriers and intermediate handlers within the class of persons regulated under the statute and require them to adhere to humane standards promulgated by the Secretary with respect to the transportation affecting commerce of all animals protected by the Act. Provisions of the amendments prohibit delivery to an intermediate handler or carrier for transportation in commerce of any dog, cat or other animal designated by the Secretary without a licensed veterinarian's certificate. C.O.D. shipment of animals is prohibited unless the consignor guarantees the payment of round-trip transportation charges and expenses incurred in their care. Acceptance of any dog, cat, or animal designated by the Secretary at an age less than that prescribed by the Secretary for transportation in commerce by an intermediate handler or carrier is prohibited. Also included was a provision requiring that Federal agencies report at least annually to the Secretary that professionally acceptable standards governing the care, treatment, and use of animals are being followed.

For easier presentation, the health certificate, minimum age requirement, C.O.D. requirement, and changes in the annual reporting of research by registered research facilities and government agencies are discussed separately (Attachments B, C, D, and E, respectively).

ATTACHMENT B

VETERINARY HEALTH CERTIFICATION

The 1976 Amendments direct the Secretary of Agriculture to require that prior to shipment in comerce, dogs, cats, and any other designated animals be examined by a licensed veterinarian to ensure that they are free of infectious disease or physical abnormalities. The animal is then to be accompanied by a certificate issued by the examining veterinarian who certifies that he inspected the animal on a specified date which shall not be more than ten days before delivery to a carrier or intermediate handler. A form is proposed which may be used for such health certification, as well as for identification of animals and recordkeeping by persons subject to the Act.

COMPLIANCE COSTS

Proposed amendments to Parts 1 and 2 of Title 9, CFR, would require USDA licensees and registrants (dealers, research facilities, exhibitors, and operators of an auction sale), and any department, agency, or instrumentality of the United States or any State or local governments to provide a health certificate for live dogs, cats and nonhuman primates presented to a carrier or an intermediate handler for transportation in commerce. Other persons are not required by law to obtain a health certificate for privately owned dogs, cats or nonhuman primates transported in commerce by carriers or intermediate handlers.

Information obtained from Veterinary Services' computerized central records which are based on a required annual report submitted by USDA licensees would appear to be a reliable indication of animals transported in commerce. All USDA licensees must report the kind and number of animals handled in a twelve month period as a requirement of the Act and regulations (9 CFR, Part 2) for renewal of their license. A total of 399,176 dogs, 93,473 cats, and 17,151 nonhuman primates were shipped commercially in calendar year 1976; therfore, indicating a grand total of almost 409,000 of these particular animals transported by carriers and intermediate handlers.

A survey which included USDA, Extension Service veterinarians, State regulatory veterinarians, veterinary science professors, and veterinary association presidents was used to determine the average cost of veterinary health certification. Veterinary health certification includes examination of an animal and completion of a health certificate by a licensed veterinarian. Average cost of an individual veterinary health certificate was determined to be $8.00 ($6.00 minimum to a $11.00 maximum) in Eastern USA and $5.00 ($3.00 minimumum to an $8.00 maximum) in the "Midwest" of this country. The survey indicated that some veterinarians located in Kansas charged as little as $1.25 per dog and cat when at least 30 such animals were examined and certification completed during one office or field call. It should be noted that the midwestern region is the largest supplier of puppies and kittens for retail sales.

Cost of veterinary health certification to USDA licensees and registrants is calculated to be $3,660,000 ($8.50 average cost of health certification X 409,000 dogs, cats, and nonhuman primates transported in commerce), annually. It is projected that this expense will be passed along to the consumer in the form of a commensurate price increase for dogs, cats, and nonhuman primates supplied to retailers of pet animals.

Costs to the carriers and intermediate handlers for the veterinary health certification requirements is projected in the additional expense of employee time required to answer inquiries and process the accepted delivery of dogs, cats, and nonhuman primates from USDA licensees and registrants for transportation in commerce. Based on Department records for 1976, there is an estimated 409,000 shipments, annually, of dogs, cats, and nonhuman primates in commerce. Processing an individual animal shipment requires a maximum of five minutes (labor costs—$13.95 per hour average hourly wage rate—air carriers) creates a projected annual cost of approximately $475,000 to the carriers and intermediate handlers. Information regarding the "average hourly wage rate, all inclusive USA" for carriers was provided by the Air Transportation of America.

Additional costs to the carriers and intermediate handlers created by the required storage of the records, i.e., health certificate filed with transportation way bills is expected to be negligible.

Calculation of the cost impact of the proposed rulemaking relating to veterinary health certification is based on those estimated costs which will be over and above the normal operating costs now being incurred by the affected industries. The cost impact of veterinary health certification is estimated to total $3,135,000.

ATTACHMENT C

MINIMUM AGE REQUIREMENTS

Proposed changes to Parts 1 and 2 (9 CFR) would require that a minimum age of 8 weeks be established for dogs and cats presented by any person (including private owners) to a carrier or intermediate handler. The Department also proposes that such dogs and cats be weaned for a period of at least five days. Certain exceptions are proposed for specified animals which are shipped to research facilities and are less than 8 weeks of age. The exception is provided for in the Act, as amended.

COMPLIANCE COSTS

Scientific information indicates that the 8 week old puppy or kitten which is weaned is able to tolerate the rigor of commercial transportation. Information obtained from producers of puppies and kittens indicates that the 8 week old puppy or kitten can be and is presently being produced at a reasonable cost to the consumer. It is therefore projected that the proposed requirement of an 8 week minimum age for dogs and cats will not create additional costs to the producer.

Alternatives considered for a minimum age limit on shipping dogs and cats in commerce included setting the minimum age limit at 6 weeks. The lower minimum age offers the producer the opportunity to ship younger animals at lower production costs. Information from producers indicates that production costs for puppies and kittens is $.50 per day for each animal. However, increased morbidity and mortality occurs when such puppies and kittens (approximately 390,000 puppies and kittens shipped in commerce in 1976 according to USDA Animal Care computerized records) are shipped in commerce. These losses would offset a substantial portion of the reduction in production costs.

An additional alternative considered setting the minimum age at 10 weeks for shipping dogs and cats. The American Dog Owners Association and several humane organizations have provided information which shows that minimum mortality and morbidity occurs when older puppies and kittens are shipped in commerce. However, puppies and kittens which are 10 weeks old or older have lost their consumer appeal resulting in reduced sales, and increased production costs to the producer. An added production cost of $7.00 per puppy and kitten is estimated. A total increased cost of $2,730,000 ($7.00X390,000) annually would be created and passed along to the purchaser of puppies and kittens.

The cost impact of the proposed 8 week minimum age requirements for shipping puppies and kittens is believed negligible. Major producers of such animals have already established the 8 week minimum age within their industry.

ATTACHMENT D

C.O.D. REQUIREMENTS

As required by the Act, as amended, the Department proposes that no C.O.D. type arrangement will be used in the transportation of animals by intermediate handlers or carriers in commerce unless the consignor guarantees in writing the payment of all transportation costs, including any return transportation, and any other incidental or

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out-of-pocket expenses involved for the care, feeding, and storage or housing of the animal if the consignee fails to accept delivery of the shipment within 48 hours of notification.

COMPLIANCE COSTS

There will be no additional costs to the present established C.O.D. arrangement unless the consignee fails to claim the animal at destination. However, there is no way to estimate the cost of return transportation and other incidental expenses to the individual consignor should the animal shipment not be claimed. Such additional costs will be dependent upon the distance to be transported and number of animals involved in the return trip.

It is estimated that there will be no additional costs to the carrier and intermediate handlers to process the "guaranteed C.O.D." arrangement since the guarantee statement signed by the consignor will be incorporated in the way bill or transportation document.

The cost impact of the mandated guaranteed C.O.D. arrangement for animals shipped in commerce is believed to be negligible in that it affects the consignor of animals only in cases where shipment is not accepted by consignee.

ATTACHMENT E

SUBMISSION OF AN ANNUAL REPORT FOR CERTAIN ANIMALS USED IN RESEARCH

Prior to the recent amendments, the Act required any department, agency, or instrumentality of the United States having laboratory animal facilities, to comply with the standards promulgated by the Secretary for research facilities, but did not require such department, agency, or instrumentality of the United States to submit an annual report showing it follows professionally acceptable standards governing care, treatment, and use of animals. The recent amendments to the Act require the submission of an annual report by Federal agencies and the regulations would be amended to require such reports.

The Department proposes to change the time period covered by the annual report of research facilities to that of the Federal fiscal year of October 1, through the following September 30. This change accommodates the Federal agencies; allows the present registered research facilities additional time to prepare and submit the annual report; and allows the Department sufficient time for compilation of data, preparation, administrative clearance, printing, and submission of its annual report to Congress during March of each year.

COMPLIANCE COSTS

There is no additional costs to the present registered research facilities associated with the proposed change in the reporting period and date that the report is due.

It is estimated that additional personnel time will be required by Federal agencies to compile data, prepare and submit the report mandated by the law. Preliminary information indicates that approximately 125 Federal facilities will each require an estimated 40 hours annually to gather information and complete the annual report. A total annual cost of $20,000 (125 facilities×40 hours ×$4.00 per hour (GS-4)=$20,000) and 5,000 man-hours (2.4 man-years) is estimated for Federal agencies to comply with the law.

Accordingly, Parts 1 and 2 of Title 9, CFR, would be amended in the following respects:

1. Section 1.1 would be revised to read as follows:

§ 1.1 Definitions.

For the purpose of this subchapter, the following terms shall be construed, respectively, to mean:

(a) "Act" means the Act of August 24, 1966 (Pub. L. 89-544), commonly known as the Laboratory Animal Welfare Act, as amended by the Act of December 24, 1970 (Pub. L. 91-579), the Animal Welfare Act of 1970, and the Act of April 22, 1976 (Pub. L. 94-279), The Animal Welfare Act Amendments of 1976.

(b) "Department" means the U.S. Department of Agriculture.

(c) "Secretary" means the Secretary of Agriculture of the United States or his representative who shall be an employee of the Department.

(d) "Administrator" means Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other official of the Animal and Plant Health Inspection Service to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(e) "Veterinary Services" means the office of the Animal and Plant Health Inspection Service to which is assigned responsibility for performance of functions under the Act.

(f) "Deputy Administrator" means the Deputy Administrator for Veterinary Services or any other official of Veterinary Services to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(g) "Veterinarian in Charge" means a veterinarian of Veterinary Services who is assigned by the Deputy Administrator to supervise and perform the official work of Veterinary Services in a given State or States. As used in Part 2 of this subchapter, the Veterinarian in Charge shall be deemed to be the one in charge of the official work of Veterinary Services in the State in which the dealer, exhibitor, research facility, intermediate handler, carrier, or operator of an auction sale has his principal place of business.[2]

(h) "Veterinary Services representative" means any inspector or other person employed full time by the Department who is responsible for the performance of the function involved.

(i) "Licensed veterinarian" means a doctor of veterinary medicine who has a valid license to practice veterinary medicine in any State.

(j) "State" means a State of the United States, the District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Somoa, or any other territory or possession of the United States.

(k) "Person" means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.

(l) "Dog" means any live or dead dog (*Canis familiaris*).

(m) "Cat" means any live or dead cat (*Felis catus*).

(n) "Animal" means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or any other warmblooded animal, which is domesticated or raised in captivity or which normally can be found in the wild state, and is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes or as a pet. Such term excludes birds, aquatic animals, rats and mice, and horses and other farm animals, such as, but not limited to, livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management of production efficiency, or for improving the quality of food or fiber. With respect to a dog, the term means all dogs, including those used for hunting, security, or breeding purposes.

(o) "Farm animal" means any warmblooded animal (other than a dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, or rabbit) normally raised on farms in the United States and used or intended for use as food or fiber.

(p) "Wild state" means living in its original, natural condition; not domesticated.

(q) "Nonhuman primate" means any nonhuman member of the highest order of mammals, including prosimians, monkeys, and apes.

(r) "Commerce" means trade, traffic, transportation, or other commerce—(1) between a place in a State and any place outside of such State, or between points within the same State but through any place outside thereof, or within any territory, possession, or the District of Columbia; or (2) which affects trade, traffic, transportation or other commerce described in paragraph (r) (1) of this section.

(s) "Research Facility" means any school (except an elementary or secondary school), institution, organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals in commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments: *Provided, however*, That a "research facility" shall not include any such school, institution, organization, or person that does not use or intend to use live dogs or cats and which is exempted by the Administrator, upon application to him in specific cases and upon his determination that such exemption does not vitiate the purpose of the Act, except that the Administrator will not exempt any school, institution, organization, or person that uses substantial numbers of live animals—the principal function of which school, institution, organization, or person is biomedical research or testing.[3]

(t) "Dealer" means any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of, (1) any dog or other animal whether alive or dead for research, teaching, exhibition, or use as a pet, or (2) any dog for hunting, security, or breeding purposes, except that this term does not include—

(i) A retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer; or

(ii) Any person who does not sell or negotiate the purchase or sale of any wild animal, dog, or cat, and who derives no more than $500 gross income from the sale of other animals during any calendar year.

(u) "Retail pet store" means any retail outlet where animals are sold only as pets at retail. Those species from the wild state (e.g. primates, anteaters, and ocelots) and which as adults in captivity require special conditions to provide safety in handling to either humans or the subject animals shall not be considered as pet animals.

(v) "Operator of an auction sale" means any person who is engaged in operating an auction at which animals are purchased or sold, in commerce.

(w) "Exhibitor" means any person (public or private) exhibiting any animals, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce, to the public for compensation, as determined by the Secretary in specific instances, and such term includes carnivals, circuses, animal acts, and zoos exhibiting such animals whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in State and county fairs, livestock shows, rodeos, purebred dog and cat shows, and any other fairs or exhibitions intended to advance agricultural arts and sciences, as may be determined by the Secretary in specific instances.

(x) "Licensee" means any person licensed pursuant to the provisions of the Act and the regulations in Part 2 of this subchapter.

(y) "Class 'A' dealer" means a dealer whose business involving animals includes only those animals that he breeds and raises as a closed or stable colony and those animals that he acquires for the sole purpose of maintaining or enhancing his breeding colony.

(z) "Class 'B' dealer" means any dealer who does not meet the definition of a Class "A" dealer.

(aa) "Class 'C' licensee" means any exhibitor subject to the licensing requirements.

(bb) "Intermediate handler" means any person including a department, agency, or instrumentality of the United States or of any State or local government (other than a dealer, research facility, exhibitor, or any person excluded from the definition of a dealer, research facility, exhibitor, an operator of an auction sale, or a carrier) who is engaged in any business in which he receives custody of animals in connection with their transportation in commerce.

[2] The name and address of the Veterinarian in Charge in the State concerned can be obtained by writing to the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, Md. 20782.

[3] A list of such exempted schools, institutions, organizations, or persons shall be published periodically by Veterinary Services in the FEDERAL REGISTER. Such lists may also be obtained upon request from the Veterinarian in Charge.

(cc) "Carrier" means the operator of any airline, railroad, motor carrier, shipping line, or other enterprise which is engaged in the business of transporting any animals for hire.

(dd) "Registrant" means any research facility, carrier, intermediate handler, or exhibitor registered pursuant to the provisions of the Act and the regulations in Part 2 of this subchapter.

(ee) "Attending veterinarian" means a person who has graduated from a veterinary school accredited by the American Veterinary Medical Association's Council on Education or has a certificate issued by the American Veterinary Medical Association's Education Commission for Foreign Veterinary Graduates and who is responsible for evaluating the type and amount of anesthetic, analgesics and tranquilizing drugs used on animals during actual research, testing, or experimentation where appropriate to relieve all unnecessary pain and distress in the subject animals.

(ff) "Standards" means the requirements with respect to the humane handling, care, treatment, and transportation of animals by dealers, exhibitors, research facilities, carriers, intermediate handlers, and operators of auction sales as set forth in Part 3 of this subchapter.

(gg) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, or hutch.

(hh) "Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.

(ii) "Sanitize" means to make physically clean and to remove and destroy, to the maximum degree that is practical, agents injurious to health.

(jj) "Ambient temperature" means the temperature surrounding the animal.

(kk) "Euthanasia" means the humane destruction of an animal accomplished by a method which produces instantaneous unconsciousness and immediate death without visible evidence of pain or distress, or a method that utilizes anesthesia produced by an agent which causes painless loss of consciousness, and death following such loss of consciousness.

(ll) "Nonconditioned animals" means animals which have not been subjected to special care and treatment for sufficient time to stabilize and, where necessary, to improve their health to make them more suitable for research purposes.

(mm) "Weaned" means that an animal has become accustomed to take solid food, and has so done, without nursing, for a period of at least five (5) days.

(nn) "Dwarf hamster" means any species of hamster, such as the Chinese and Armenian species, whose adult body size is substantially less than that attained by the Syrian or Golden species of hamsters.

(oo) "Handling" means petting, feeding, manipulation, crating, shifting, transferring, immobilizing, restraining, treating, training, working or performing any similar activity with respect to any animal.

(pp) "Business year" means a 12-month period during which business is conducted, either on a calendar or fiscal year basis.

2. The Table of Contents cited in Part 2—Regulations would be revised as follows:

PART 2—REGULATIONS LICENSING

Sec.
2.1 Application.
2.2 Acknowledgment of standards.
2.3 Demonstration of compliance with standards.
2.4 Issuance of licenses.
2.5 Duration of license.
2.6 Annual fees; and termination of licenses.
2.7 Annual report by licensees.
2.8 Notification of change of name, address, control, or ownership of business.
2.9 Officers, agents, and employees of licensees, whose licenses have been suspended or revoked.
2.10 Licensees whose licenses have been suspended or revoked.
2.11 Denial of license.

REGISTRATION

2.25 Requirements and procedures.
2.26 Acknowledgement of standards.
2.27 Notification of change of operation.
2.28 Annual report of research facilities.

IDENTIFICATION OF ANIMALS

2.50 Time and method of identification.
2.51 Form of official tag.
2.52 How to obtain tags.
2.53 Use of tags.
2.54 Lost tags.
2.55 Removal of tag.

RECORDS

2.75 Records, dealers (except operators of auction sales) and exhibitors.
2.76 Records, research facilities.
2.77 Records, operators of auction sales.
2.78 Records, carriers and intermediate handlers.
2.79 Health certification and identification.
2.80 C.O.D. shipments.
2.81 Records, disposition.

COMPLIANCE WITH STANDARDS AND HOLDING PERIOD

2.100 Compliance with standards.
2.101 Holding period.

MISCELLANEOUS

2.125 Information as to business: Furnishing of by dealers, exhibitors, operators of auction sales, and research facilities.
2.126 Access and inspection of records and property.
2.127 Publication of names of persons subject to the provisions of this part.

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Sec.
2.126 Inspection for missing animals.
2.129 Confiscation and destruction of animals.
2.130 Minimum age requirements.

AUTHORITY: The provisions of this Part 2 issued under secs. 3, 5, 6, 10, 11, 12, 13, 14, 16, 17, 21; 80 Stat. 351, 352, 353, 84 Stat. 1561, 1562, 1563, 1564, 90 Stat. 418, 419, 420, 423; 7 U.S.C. 2133, 2135, 2136, 2140, 2141, 2142, 2143, 2144, 2146, 2147, 2151; 37 FR 28464, 28477, 38 FR 19141.

3. Throughout Part 2 of the regulations (9 CFR, Part 2) wherever the term "affecting commerce" appears, the term "in commerce" would be substituted in lieu thereof.

4. Section 2.25 (9 CFR 2.25) would be revised to read as follows:

§ 2.25 Requirements and procedures.

Each research facility, carrier, and intermediate handler and each exhibitor, not required to be licensed under section 3 of the Act and the regulations of this subchapter, shall register with the Secretary by completing and filing a properly executed form which will be furnished, upon request, by the Veterinarian in Charge. Such registration form shall be filed with the Veterinarian in Charge for the State in which the registrant has his principal place of business. Where a school or department of a university or college uses or intends to use animals for research, tests, or experiments, the university or college rather than the school or department will generally be considered the research facility and be required to register with the Secretary. In any situation in which a school or department of a university or college is a separate legal entity and its operations and administration are independent of those of the university or college, upon a proper showing thereof to the Secretary, the school or department will be registered rather than the university or college. A subsidiary of a business corporation, rather than a parent corporation, will be registered as a research facility or exhibitor unless the subsidiary is under such direct control of the parent corporation that to effectuate the purposes of the Act the Secretary determines that it is necessary that the parent corporation be registered.

5. Section 2.28 (9 CFR 2.28) would be revised to read as follows:

§ 2.28 Annual report of research facilities.

(a) The reporting facility shall be that segment of the research facility, or that department, agency, or instrumentality of the United States, that uses or intends to use live animals in research, tests, or experiments and for which an attending veterinarian has responsibility. Each reporting facility shall submit on or before December 1 of each calendar year to the Veterinarian in Charge for the State where the reporting facility is located, an annual report signed by a legally responsible official covering the previous Federal fiscal year of October 1 through September 30. Such report shall show that professionally acceptable standards governing the care, treatment, and use of animals, including appropriate use of anesthetic, analygesic, and tranquilizing drugs, during actual research, testing, or experimentation, were followed by the research facility, department, agency, or instrumentality of the United States. Such report shall include:

(1) The location of the facility or facilities where animals were used in actual research, testing, or experimentation;

(2) The common names and approximate numbers of animals upon which research experiments or tests were conducted involving no pain, distress, or use of pain relieving drugs: *Provided, however,* That routine procedures (e.g. injections, tattooing, and blood sampling) do not need to be reported;

(3) The common names and approximate numbers of animals upon which experiments or tests were conducted involving accompanying pain or distress to the animals and for which appropriate anesthetic, analygesic, or tranquilizing drugs were used: *Provided, however,* That routine procedures (e.g. injections, tattooing, and blood sampling) do not need to be reported;

(4) The common names and approximate numbers of animals upon which experiments or tests were conducted involving accompanying pain or distress to the animals and for which the use of appropriate anesthetic, analygesic, or tranquilizing drugs would adversely affect the procedures, results, or interpretation of the research, experiments, or tests and a brief statement explaining the reasons for the same: *Provided, however,* That routine procedures (e.g. injections, tattooing, and blood sampling) do not need to be reported; and

(5) Certification by the attending veterinarian of the research facility, or the department, agency, or instrumentality of the United States having laboratory animal facilities, or by an institutional committee of at least three members, one of whom is a Doctor of Veterinary Medicine, established for the purpose of evaluating the care, treatment, and use of all warmblooded animals held or used for research, testing, or experimentation, that the type and amount of anesthetic, analygesic, and tranquilizing drugs used on animals during actual research, testing, or experimentation was appropriate to relieve pain and distress for the subject animals.

§ 2.50 [Amended]

6. In § 2.50(f) subparagraph (3) would be amended by deleting the words "a form [2]" and substituting the phrase "on a record, as required by § 2.75," therefor, and footnote [2] would be deleted.

§ 2.52 [Amended]

7. In § 2.52 the reference to footnote [3] and footnote [3] would be redesignated as footnote.[2]

8. Section 2.75 (9 CFR 2.75) would be revised to read as follows:

§ 2.75 Records, dealers and exhibitors.

(a) (1) Every dealer and exhibitor shall make, keep, and maintain systems of records or forms which fully and correctly disclose the following information concerning each dog or cat purchased or otherwise acquired, owned, held or otherwise in his possession or under his control, including any offspring born of such animal while in his possession or under his control, transported, or sold or otherwise disposed of:

(i) The name and address of the person, whether or not required to be licensed or registered under the Act, from whom such dog or cat was purchased or otherwise acquired, and his license number, if licensed under the Act, and when sold or otherwise disposed of, the person to whom sold or otherwise disposed of, and his license number, if licensed under the Act;

(ii) The dates of acquisition or birth and disposition of such dog or cat;

(iii) The official USDA tag number or tattoo assigned to such dog or cat pursuant to § 2.50 and § 2.54;

(iv) A description of each dog or cat which shall include:

(A) The species;

(B) The sex;

(C) The date of birth or approximate age;

(D) The color and any distinctive markings; and

(E) The breed or type.

(v) The method of transportation including the name of the commercial carrier or intermediate handler or privately owned conveyance used to transport the dog or cat;

(vi) The date and method of disposition of such dog or cat, e.g. sale, death, euthanasia, or donation.

(2) Record of Dogs and Cats on Hand (VS Form 18–5) and Record of Disposition of Dogs and Cats (VS Form 18–6) are forms which may be used by dealers and exhibitors upon which to make, keep, and maintain the information required by paragraph (a)(1) of this section concerning dogs and cats except as provided in § 2.79.

(3) Part A of the USDA Individual Health Certificate and Identification Form (VS Form 18–1) is a form which may be used by dealers and exhibitors upon which to make, keep, and maintain the information required by paragraph (a)(1) of this section except as provided in § 2.79.

(4) One copy of the record containing the information required by paragraph (a)(1) of this section shall accompany each shipment of any dog or cat purchased or otherwise acquired by a dealer or exhibitor. One copy of the record containing the information required by paragraph (a)(1) of this section shall accompany each shipment of any dog or cat sold or otherwise disposed of by a dealer or exhibitor. One copy of the record containing the information required by paragraph (a)(1) of this section shall be retained by the dealer or exhibitor.

(b)(1) Every dealer and exhibitor shall make, keep, and maintain systems of records or forms which fully and correctly disclose the following information concerning animals other than dogs and cats, purchased or otherwise acquired, owned, held or otherwise in his possession or under his control, including any offspring born of such animals while in his possession or under his control, transported, or sold or otherwise disposed of:

(i) The name and address of the person, whether or not required to be licensed or registered under the Act, from whom such animals other than dogs or cats, were purchased or otherwise acquired, and his license number, if licensed under the Act, and when sold or otherwise disposed of, the person to whom sold or otherwise disposed of, and his license number, if licensed under the Act;

(ii) The species of such animals other than dogs and cats, and

(iii) The number of such animals other than dogs and cats.

(2) Record of Animals on Hand (Other Than Dogs and Cats) (VS Form 18–19) and Record of Acquisition, Disposition or Transport of Animals (Other Than Dogs and Cats) (VS Form 18–20) are forms which may be used by dealers, and exhibitors upon which to keep and maintain the information required by paragraph (b)(1) of this Section concerning animals other than dogs and cats except as provided in § 2.79.

(3) One copy of the record containing the information required by paragraph (b)(1) of this section shall accompany each shipment of any animal other than a dog or cat purchased or otherwise acquired by a dealer or exhibitor. One copy of the record containing the information required by paragraph (b)(1) of this section shall accompany each shipment of any animal other than a dog or cat sold or otherwise disposed of by a dealer or exhibitor: One copy of the record containing the information required by paragraph (b)(1) of this section shall be retained by the dealer or exhibitor.

9. Section 2.76 (9 CFR 2.76) would be revised to read as follows:

§ 2.76 Records, research facilities.

(a) Every research facility shall make, keep, and maintain systems of records or forms which fully and correctly disclose the following information concerning each live dog or cat purchased or otherwise acquired, owned, held or otherwise in its possession or under its control, including any offspring born of such live dog or cat while in its possession or under its control:

(1) The name and address of the person, whether or not required to be licensed or registered under the Act, from whom such live dog or cat was purchased or otherwise acquired and his license number, if licensed under the Act;

(2) The date of acquisition or birth of each live dog or cat;

(3) The official USDA tag number or tattoo assigned to each live dog or cat pursuant to § 2.50 and §2.54;

(4) A description of each live dog or cat which shall include:

(i) The species;

(ii) The sex;

(iii) Date of birth or approximate age;

(iv) The color and any distinctive markings; and

(v) The breed or type.

(5) Any identification number or mark assigned to each live dog or cat by such research facility.

(b) In addition to the information required to be kept and maintained by every research facility concerning each live dog or cat, pursuant to paragraph (a) of this section, every research facility transporting, selling, or otherwise disposing of any live dog or cat to another person, shall make, keep, and maintain systems of records or forms which fully and correctly disclose the following information:

(1) The name and address of the receiver to whom such live dog or cat is transported, sold or otherwise disposed of;

(2) The date of such transportation, sale, or other disposition, and

(3) The method of transportation including the name of the commercial carrier or intermediate handler or privately owned conveyance used to transport the dog or cat.

(c) Part A of the USDA Individual Health Certificate and Identification Form (VS Form 18–1) and Record of Dogs and Cats on Hand (VS Form 18–5) are forms which may be used by research facilities upon which to keep and maintain the information required by paragraph (a) of this section. Part A of the USDA Individual Health Certificate and Identification form (VS Form 18–1) and Record of Disposition of Dogs and Cats (VS Form 18–6) are forms which may be used by research facilities upon which to keep and maintain the information required by paragraph (b) of this section.

(d) One copy of the record containing the information required by paragraphs (a) and (b) of this section shall accompany each shipment of any live dog or cat sold, or otherwise disposed of by a research facility, and one copy of the record shall be retained by the research facility.

10. Section 2.77 (9 CFR 2.77) would be revised to read as follows:

§ 2.77 Records, operators of auction sales.

(a) Every operator of an auction sale shall make, keep, and maintain systems of records or forms which fully and correctly disclose the following information concerning each animal consigned for auction, whether or not a fee or commission is charged:

(1) The name and address of the person who owned or consigned the animal for sale and his USDA license number, if licensed under the Act;

(2) The date of the consignment;

(3) The official USDA tag number or tatoo assigned to the animal pursuant to § 2.50 and § 2.54;

(4) A description of the animal which shall include:

(i) The species of the animal;

(ii) The sex of the animal;

(iii) The color and any distinctive markings on the animal;

(iv) The breed or type of the animals, if a dog or cat.

(5) The auction sales number assigned to the animal;

(6) The name and address of the buyer of the animal and his license number if licensed under the Act.

(b) One copy of the record containing the information required by paragraph (a) of this section shall be given to the consignor of each animal, one copy of the record shall be given to the purchaser of each animal, and one copy of the record shall be retained by the operator of such auction sale for each animal sold by the auction sale.

11. Section 2.78 would be revised to read as follows:

§ 2.78 Records, carriers and intermediate handlers.

(a) In connection with all live animals accepted for shipment on a C.O.D. basis or other arrangement or practice under which the cost of such animal or the cost of the transportation of such animal is to be paid and collected upon delivery of the animal to the consignee, the accepting carrier and intermediate handler, if any, shall keep and maintain a copy of the guarantee in writing of the consignor of such shipment for the payment of transportation charged for any animal not claimed, as provided in § 2.80, including, where necessary, both the return transportation charges and an amount sufficient to reimburse the carrier for all out-of-pocket expenses incurred for the care, feeding, and storage of such animal.

(b) In connection with all live dogs, cats, or nonhuman primates delivered for transportation, in commerce, to any carrier or intermediate handler, by any dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government, the accepting carrier and intermediate handler if any shall keep and maintain a copy of the health certification completed as required by § 2.79, tendered with each such live dog, cat, or nonhuman primate.

12. Section 2.79 (9 CFR 2.79) would be revised to read as follows:

§ 2.79 Health certification and identification.

(a) No dealer, research facility, exhibitor, operator of an auction sale, or department, agency, or instrumentality of the United States or of any State or local government shall deliver to any intermediate handler or carrier for transportation, in commerce, any dog, cat, or nonhuman primate unless such dog, cat, or nonhuman primate shall be accompanied by a health certificate executed and issued by a licensed veterinarian. Such health certificate shall state that (1) the licensed veterinarian inspected such dog, cat, or nonhuman primate on a specified date which shall not be more than 10 days prior to the delivery of such dog, cat, or nonhuman primate for transportation, in commerce, and (2) when so inspected that such dog, cat, or nonhuman primate appeared to the licensed veterinarian to be free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals or endanger public health.

(b) No intermediate handler or carrier to whom any live dog, cat, or nonhuman primate is delivered for transportation, in commerce, by any dealer,

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research facility, exhibitor, operator of an auction sale, or department, agency or instrumentality of the United States or any State or local government shall receive such live dog, cat, or nonhuman primate for transportation, in commerce, unless and until it is accompanied by a health certificate issued by a licensed veterinarian pursuant to paragraph (a) of this section.

(c) Part (D) of the USDA Individual Health Certificate and Identification Form (VS Form 18–1) is a form which may be used for Health Certification by a licensed veterinarian as required by this section.

13. A new § 2.80 (9 CFR 2.80) would be added as follows:

§ 2.80 C.O.D. shipments.

(a) No carrier or intermediate handler shall accept any animal for transportation, in commerce, upon any C.O.D. or other basis where the cost of the animal or the cost for any such transportation or any other incidental or out-of-pocket expense is to be paid and collected upon delivery of such animal to the consignee, unless the consignor guarantees in writing the payment of all transportation, including any return transportation, if such shipment is unclaimed or the consignee cannot be notified in accordance with paragraphs (b) and (c) of this section, including reimbursing the carrier or intermediate handler for all out-of-pocket expenses incurred for the care, feeding, and storage or housing of such animal.

(b) Any carrier or intermediate handler receiving any animal at destination on a C.O.D. or other basis where the cost of the animal or the cost for any transportation or other incidental or out-of-pocket expense is to be paid and collected upon delivery of such animal to the consignee shall attempt to notify such consignee for a period of 24 hours after arrival of the animal at destination, at least once every 6 hours during that period. The time, date, and method of each notification to the consignee and the person notifying the consignee shall be noted on the form accompanying the C.O.D. shipment. If the consignee cannot be notified of the C.O.D. shipment within 24 hours after arrival of the shipment, the carrier or intermediate handler shall return the animal to the consignor, or to whomever the consignor has designated, on the next practical available transportation, in accordance with the written agreement required in paragraph (a) of this section and so notify the consignor. Any carrier or intermediate handler which has notified a consignee of the arrival of a C.O.D. or other shipment of an animal where the cost of the animal or the cost for any transportation or other incidental or out-of-pocket expense is to be paid and collected upon delivery of such animal to the consignee, which is not claimed by such consignee within 48 hours from the time of such notification, shall return the animal to the consignor or to whomever the consignor has designated, on the next practical available transportation, in accordance with the written agreement required in paragraph (a) of this section and so notify the consignor.

(c) It shall be the responsibility of any carrier or intermediate handler to provide proper care, feeding, and storage or housing for any animal accepted for transportation, in commerce, under a C.O.D. or other arrangement where the cost of the animal or the cost for any transportation or other incidental or out-of-pocket expense is to be paid and collected upon delivery of such animal until the consignee accepts shipment at destination or until returned to the consignor or his designee should the consignee fail to accept delivery of the animal or the consignee could not be notified as prescribed in paragraph (b) of this section.

(d) Nothing in this section shall be construed as prohibiting any carrier or intermediate handler from requiring any additional guarantee than that required in paragraph (a) of this section for the payment of the cost of any transportation or out-of-pocket or other incidental expenses incurred in the transportation of any animal in commerce.

14. A new § 2.81 would be added as follows:

§ 2.81 Records, disposition.

(a) No dealer, exhibitor, operator of an auction sale, research facility, carrier or intermediate handler shall, within a period of 2 years from the making thereof, destroy or dispose of, without the consent in writing of the Deputy Administrator, any books, records, documents, or other papers required to be kept and maintained under this part.

(b) The records required to be kept and maintained under this part shall be held for such period in excess of the period specified in paragraph (a) of this section as necessary to comply with any other Federal, State, or local law. Whenever the Deputy Administrator notifies a dealer, exhibitor, operator of an auction sale, research facility, carrier, or intermediate handler in writing that specified records shall be retained pending completion of an investigation or proceeding under the Act, such dealer, exhibitor, operator of an auction sale, research facility, carrier, or intermediate handler shall hold such records until their dispostion is authorized by the Deputy Administrator.

15. A new § 2.130 would be added as follows:

§ 2.130 Minimum age requirements.

No dog or cat shall be delivered by any person to any carrier or intermediate handler for transportation, in commerce, except to a registered research facility, unless such dog or cat is at least eight (8) weeks of age and has been weaned.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Maryland 20782, before April 18, 1977.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 769, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of March 1976.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

PIERRE A. CHALOUX,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77–7681 Filed 3–14–77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Parts 1910, 1928]

[Docket No. H–052]

PROPOSED STANDARD FOR EXPOSURE TO COTTON DUST

Scheduling of Informal Public Hearings; Additional Locations

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of Additional Locations for Informal Hearings; (2) Notice of Recess of Washington Hearing from April 11 until April 18, 1977.

SUMMARY: This notice schedules two regional hearings concerning the proposed standard for occupational exposure to cotton dust. The previously announced Washington hearing will begin on April 5, 1977, and will be recessed from April 11 until April 18, 1977, when it will resume.

The purpose of holding these regional hearings is to permit persons who are unable to attend the Washington hearing, particularly small businesses and individual employees, the opportunity to orally present their views to the Agency.

DATES: All notices of intention to appear at these two regional hearings must be filed by April 1, 1977.

Dates on which regional hearings will begin, locations and times are as follows:

April 12, 1977: 9:30 a.m., Downtown Motor Inn, Plantation Room, 218 Washington Avenue, Greenville, Mississippi.

May 10, 1977: 9:30 a.m., South Park Inn, Patio West Room, 3201 S. Loop 289, Lubbock, Texas.

ADDRESS: Send notices of intention to appear to: OSHA Office of Committee Management Docket No. H–052, Room N–3633 U.S. Department of Labor 3rd and Constitution Avenue, NW., Washington, D.C. 20210

FOR FURTHER INFORMATION CONTACT:

Tom Hall, address as above, (202) 523–8025.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 28, 1976, OSHA published in the FEDERAL REGISTER (41 FR 56498) a proposed standard for occupational exposure to cotton dust together with a notice of an informal hearing to commence on April 5, 1977, at 9:30 a.m., in the Departmental Auditorium on Constitution Avenue between 12th and 14th Streets NW., Washington, D.C. The deadline for submitting written comments and notices of intention to appear at the Washington hearing was March 4, 1977. The notice of proposed rulemaking published on December 28, 1976, discusses the issues that are involved in these proceedings.

PUBLIC PARTICIPATION AT REGIONAL HEARINGS

OSHA is now scheduling two regional hearings on the cotton dust proposal, at the times and places stated above, to provide interested persons who are unable to attend the Washington hearing the opportunity to make brief oral presentations to the Agency on any of the issues involved in these proceedings. These hearings are particularly designed to provide an opportunity for small businesses and employees who may not have the resources to appear at the hearing in Washington to more fully participate in the cotton dust rulemaking proceeding. In order to allow as many people as possible to participate in these informal hearings, presentations will generally be limited to 15 minutes. We will attempt, however, within the time available, to accommodate any requests for additional time which are made necessary by special circumstances.

In view of the brief duration of these regional hearings, OSHA requests interested persons who are able to attend the Washington hearing to present their testimony in Washington. OSHA will make its presentation and will be available for questioning only at the beginning of the hearing in Washington. In addition, the expert witnesses who have been asked by OSHA to testify are scheduled to appear only in Washington.

REQUESTS TO PARTICIPATE

All persons who want to participate in either of these informal regional hearings should file a notice of intention to appear, postmarked on or before April 1, 1977, with Tom Hall at the above address. The notice must contain the following information:

(1) The hearing location—Greenville or Lubbock—at which you wish to testify;

(2) The name, address, and telephone number of each person to appear;

(3) The organization, if any, which the person represents;

(4) The issues that will be addressed and a brief statement of your views; and

(5) Complete copies of any studies, scientific or economic data, or any other documentary materials which you will be presenting for the record or discussing at the hearing.

All persons giving advance notice as above will have time reserved for oral presentation. Persons wishing to testify who have not submitted advance notice, will be allowed to make oral presentations if time permits; however, priority will be given to those who have submitted notices of appearance.

All written submissions will become part of the record of this proceeding and will be available for inspection and copying at the above address.

Any person who has already filed a notice of intention to appear, or who files a timely notice of intention to appear at any of the hearing locations may ask appropriate questions of any other participant at any of the hearing locations. In addition, any person who has filed a notice of intention to appear at the Washington hearing, but now wishes to make a brief presentation of the type permitted at one of the regional hearings, rather than Washington, may do so by notifying Tom Hall at the above address as soon as possible.

CONDUCT OF HEARING

The hearing will be conducted in accordance with 29 CFR Part 1911, and will commence with the resolution of any procedural matters. It will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing, including the powers:

(1) To regulate the course of the proceedings;

(2) To dispose of procedural requests, objections, and comparable matters;

(3) To confine the presentations to matters pertinent to the proposed standard;

(4) To regulate the conduct of those present at the hearing by appropriate means;

(5) In the judge's discretion, to question and permit questioning of any witness; and

(6) In the judge's discretion, to keep the record open for a reasonable, stated time to receive written information and additional data, views and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record thereof to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a final standard will be issued based on the entire record in this proceeding.

BRIEF RECESS IN WASHINGTON HEARING

As noted, the Washington hearing will commence on April 5, 1977, in the Departmental Auditorium on Constitution Avenue between 12th and 14th Streets NW., Washington, D.C. During the comment period, OSHA received a request from the American Textile Manufacturers Institute for a recess in the Washington hearing from April 11 through April 15 because of an annual meeting which will be attended by many parties to this proceeding and was planned over three years ago. OSHA has granted this request in order to prevent undue hardship to them while not significantly delaying this proceeding. It is anticipated that the testimony by all expert witnesses testifying at the request of OSHA will be completed during the week of April 5th. The hearing in Washington will be recessed from April 11 until it resumes on April 18, 1977.

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911.)

Signed at Washington, D.C. this 11th day of March, 1977.

B. M. CONCKLIN,
Deputy Assistant
Secretary of Labor.

[FR Doc.77–7809 Filed 3–14–77;11:00 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE MEETING

Public Meeting

Pursuant to the provisions of § 10(a)(2) of the Federal Advisory Committee Act (86 Stat. 770), notice is hereby given of meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The committee will hold a meeting on March 29, 1977, at 10:30 a.m. in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of each meeting includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, and other information pertaining to the meeting may be obtained from Franklin D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813–682–3103.

Dated: March 11, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.77–7749 Filed 3–14–77;8:45 am]

Animal and Plant Health Inspection Service

PSEUDORABIES CONFERENCE

Meeting

• Purpose. The purpose of this document is to give notice of a fact-finding conference on pseudorabies, a contagious disease of swine and other livestock. •

A fact-finding conference on pseudorabies will be held at the C. Y. Stephens Auditorium, Iowa State University, Ames, Iowa, April 4–5, 1977, at 8:00 a.m. to 4:30 p.m., each day. This conference is sponsored by the Department of Agriculture and various other organizations for the purpose of exchanging views among leading scientific authorities, producers, and other interested groups related to the swine industry of the United States, on pseudorabies. The conference is open to the public.

Written statements concerning these matters may be filed with the Department on or before April 5, 1977. Participants are urged to prepare their statements in writing to be read and discussed during the conference.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 755, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Further information may be obtained from and written statements may be submitted to Dr. H. A. McDaniel, Conference Chairman, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Federal Building, Room 755, Hyattsville, Maryland, (301–436–8085).

Dated: March 9, 1977.

PIERRE A. CHALOUX,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77–7553 Filed 3–14–77;8:45 am]

EXPERT PANEL ON NITRITES AND NITROSAMINES

Meeting and Agenda

Notice is heregy given of a meeting of the Expert Panel on Nitrites and Nitrosamines to be held in Room 218A (Conference Room), Administration Building, 14th and Independence Avenue SW., Washington, D.C., March 29, 1977, at 9:30 a.m. This is the tenth scheduled meeting of the Panel.

In attendance for the first time will be two new members representing the public, Ms. Carole Sundberg-Werner of Menomonie, Wisconsin, and Ms. Ellen Zawel of Harrington Park, New Jersey.

The meeting' agenda is (1) Update curent studies, (2) Discussion of Panel's position paper, and (3) New business as appropriate. Discussion will be primarily limited to Panel participation; however. where appropriate, public comment and questions will be solicited during the course of the meeting.

The meeting will be open to the public and under the direction of the Panel Chairman or his designee. Written statements may be filed with the Panel before or after the meeting. Any member of the public who wishes to attend or who has further questions should contact the Issuance Coordination Staff, Technical Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 4905, South Agriculture Building, Washington, D.C. 20250, Area Code (202) 447–6189. Any person who wishes to file a statement may send such statement to the Issuance Coordination Staff at the above address.

Dated: March 11, 1977.

F. J. MULHERN,
Administrator, Animal and Plant
Health Inspection Service.

[FR Doc.77–7810 Filed 3–14–77;10:59 am]

Farmers Home Administration

[Designation No. A449]

IOWA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Iowa Counties as a result of drought May 1 through December 1, 1976, in Butler County; and drought May 1 through November 19, 1976, in Osceola County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Robert D. Ray that such designation be made.

Applications for emergency loans must be received by this Department no later than April 25, 1977, for physical losses and November 18, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 7th day of March, 1977.

FRANK W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–7555 Filed 3–14–77;8:45 am]

[Designation No. A448]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Louisiana Parishes as a result of drought during the last of May through October 1, hail, wind and rain August 26, and a freeze November 29, 1976, in Iberville Parish; drought from mid-July until October 30, a freese November 29, 1976, in addition to severe cold weather through January 24, 1977, in Pointe Coupee Parish; and a freese November 29, 1976, in West Baton Rouge, Parish.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.-3(b) including the recommendation of Governor Edwin Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than April 19, 1977, for physical losses and November 17, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 7th day of March, 1977.

FRANK W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–7556 Filed 3–14–77;8:45 am]

[Designation No. A450]

MISSISSIPPI

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Pike County, Mississippi, as a result of drought August 15 through November 1, 1976; early freeze October 21, 1976; and subsequent frost November 1 through December 31, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–63, and the provisions of 7 CFR 1832.-3(b) including the recommendation of Governor Cliff Finch that such designation be made.

Applications for emergency loans must be received by this Department no later than April 25, 1977, for physical losses and November 18, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 7th day of March, 1977.

FRANK W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–7557 Filed 3–14–77;8:45 am]

[Designation No. A454]

TENNESSEE

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Tennessee Counties as a result of various adverse weather conditions shown in the following chart:

TENNESSEE

Crockett County: Heavy rains April 20 through May 25, 1976; cool weather June 1 through June 30, 1976; drought July 5 through September 30, 1976; frost on October 10, 1976, and freese on October 12, 1976.

Fayette County: Cold wet spring, late frost and below normal temperatures April 20 through June 1, 1976; below normal temperatures and drought August 20 through September 10, 1976; and early freeze September 11 through October 25, 1976.

Haywood County: Cool weather April 24 through May 10, 1976, and August 1 through September 30, 1976; dry weather August 1 through August 30, 1976; hailstorms August 24, 1976; early freeze October 9, 1976; and frost September 11, 12 and 22, 1976.

Lauderdale County: Low soil temperature April 25 through June 1, 1976; frost October 12, 1973; frost and freeze October 19, 1976; and drought August 1 through September 30, 1976.

Madison County: Cool and wet April 15 through April 30, 1976; very cool May 1 through May 30, 1976; frost June 6, 12 and 19, 1976; and early freeze October 18 and 19, 1976.

Shelby County: Very cool May 1 through May 30, 1976; frost May 4, 1976; drought July 1 through August 30, 1976; cold and wet September 1 through September 30, 1976; and frost October 21, 1976.

Tipton County: Below normal temperatures April 1 through June 1, 1976; frost April 10 and May 4, 1976; heavy rainfall June 1 through June 30, 1976; erratic temperatures September 1 through September 30, 1976; and early frost October 9 and October 18, 1976.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Ray Blanton that such designation be made.

Applications for emergency loans must be received by this Department no later than April 25, 1977, for physical losses and November 22, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 7th day of March, 1977.

FRANK W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77–7558 Filed 3–14–77;8:45 am]

Food and Nutrition Service

CASH IN LIEU OF COMMODITIES

Value of Donated Commodities for Fiscal Year 1977

Under section 6(b) of the National School Lunch Act, as amended (7 U.S.C. 1755(b)), and the regulations governing cash in lieu of commodities (7 CFR Part 240) the Food and Nutrition Service (FNS) is required to make an estimate as of February 15 of each fiscal year of the value of agricultural commodities and other foods that will be delivered during that fiscal year to States for school food service programs. These foods are made available under sections 6(a), 9(c), and 14 of the National School Lunch Act, as amended, section 8 of the Child Nutrition Act of 1966, as amended, section 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1431), and section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c). If the estimated value is less than 90 per centum of the value of deliveries initially programmed for the fiscal year, FNS is required to pay to State educational agencies an amount of funds equal to the difference between the value of food deliveries initially programmed and the estimated value, as of February 15, of commodities and other foods to be delivered during the fiscal year. If payments are required they must be made by March 15 of the same fiscal year.

In accordance with these requirements, notice is hereby given that FNS has completed the estimate required under section 6(b) and the regulations and has determined that the value of commodities and other foods that will be delivered to school food service programs during fiscal year 1977 is not less than 90 per centum of the value of the deliveries initially programmed for this year. Therefore, there will be no cash payment under section 6(b) on March 15 for fiscal year 1977.

Section 6(e) of the National School Lunch Act, as amended (7 U.S.C. 1755(e)), requires a minimum national average value per lunch of donated foods, or payment of cash in lieu thereof. For fiscal year 1977, this national average value has been established at 11.75 cents per lunch (41 FR 29693) and, as provided in § 240.3(c) of the regulations, a determination will be made as of August 1,

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1977, whether a cash payment will be necessary to meet this requirement.

Dated: March 11, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-7750 Filed 3-14-77;8:45 am]

[Docket No. 24869; Order 77-3-36]

OVERSEAS AND FOREIGN AIR TRANSPORTATION

Baggage Allowance Tariff Rules

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of March, 1977.

The Board's decision in the above-captioned case, Order 76-3-81, effective March 13, 1976, ordered the cancellation of all tariff rules applicable to overseas and foreign air transportation which provide free-baggage allowances of 30 kilograms (66 pounds) for first-class passengers and 20 kilograms (44 pounds) for economy-class passengers within one year from the effective date of that order. The Board's decision also disapproved IATA Resolution 310, effective the same date, to the extent that it provides for such free-baggage allowances.

It is the Board's understanding that the carriers have recently concluded a new IATA agreement on this issue which will be submitted shortly for Board action. In view of this development, we will postpone the effective date set forth in Order 76-3-81 for the cancellation of the subject tariff rules and for disapproval of IATA Resolution 310, until May 1, 1977 or such earlier date as the Board may direct. If found acceptable, our action here will facilitate an orderly transition from one baggage-allowance system to another.

Accordingly, *it is ordered*, that: That portion of the Board's decision in the *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation* case, Docket 24869, set forth in ordering paragraphs 1 and 2 of Order 76-3-81, effective March 13, 1976 be and hereby is stayed until May 1, 1977 or such earlier date as the Board may direct.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7583 Filed 3-14-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 30447; Order 77-3-37]

BUSINESS AIR SERVICES LTD.

Statement of Tentative Findings and Conclusions and Order to Show Cause Regarding Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of March 1977.

By application filed February 8, 1977,[1] Business Air Services Limited (Business Air Services) requests a foreign air carrier permit to engage in charter foreign air transportation with respect to persons and their accompanying baggage, and planeload charter foreign air transportation with respect to property, between any point or points in Canada and any point or points in the United States, utilizing "small aircraft"[2] pursuant to the Nonscheduled Air Service Agreement executed on May 8, 1974, by the Governments of the United States and Canada.

[1] A copy of the application has been transmitted to the President of the United States in accordance with the requirements of section 801 of the Act.

FITNESS OF APPLICANT FOR A FOREIGN AIR CARRIER PERMIT

Business Air Services was incorporated under the Business Corporations Act of Ontario on September 10, 1976. The Air Transport Committee of the Canadian Transport Commission has issued the company license No. A.T.C. 560/76 (CF), a class 9-4 license which authorizes the holder to operate international charter commercial air services from a base at Goderich, Ontario. The licensee is restricted in its operations to the use of Group C aircraft.[3] The Canadian Department of Transport, Civil Aviation Branch, has issued Business Air Services Operating Certificate Number 3756 which certifies that the carrier is adequately equipped and able to conduct a safe operation.

Business Air Services was issued its Operating Certificate by the Canadian Department of Transport on January 13, 1977 and has therefore not had sufficient revenue experience to produce a profit and loss statement. The carrier estimates that during its first year of operations it will have total operating revenues of $557,500, and total operating expenses of $532,613 resulting in an operating income of $24,887.

In its application, the carrier states that it proposes to make two aircraft available for charters to the United States: (1) A Learjet 25B, seating capacity of eight, and a maximum authorized takeoff weight of 15,000 pounds, and (2) a Beechcraft C-90, seating capacity of six, and a maximum authorized takeoff weight of 9,650 pounds. The applicant has had no safety or tariff violations.

"PUBLIC INTEREST" IN AWARD OF THE AUTHORITY SOUGHT

The applicant relies upon the Nonscheduled Air Service Agreement signed by the Governments of Canada and the United States on May 8, 1974, as the basis for the grant of the requested authority. By diplomatic note No. 58, dated February 8, 1977,[4] the Government of Canada designated the applicant under the Agreement to perform charter services with small aircraft.

OWNERSHIP AND CONTROL OF THE APPLICANT

The officers of the corporation are Mr. B. A. Sully, President and Director; Mr. J. C. Freeman, Secretary, Treasurer, and Director; Mr. E. G. Squires, Vice President and Director; and Mr. J. McKeown, Vice President and Director. All of the officers are Canadian citizens. The sole shareholder of Business Air Services is Mr. B. A. Sully who is also President of the company. The carrier's debt is held entirely by the Bank of Montreal, a Canadian charter bank with its head office in Montreal, Quebec, Canada.

The applicant states that no officer, director, or stockholder of the carrier holds stock, or any other interest in any U.S. air carrier, any Canadian or foreign air carrier, any person engaged in a phase of aeronautics, any common carrier, or in any person whose principal business is the holding of stock in, or control of any such entities.

In view of the foregoing and all the facts of record, the Board tentatively finds and concludes:

1. That Business Air Services Limited is substantially owned and effectively controlled by nationals of Canada;

2. That it is in the public interest to issue a foreign air carrier permit for small aircraft operations to Business Air Services Limited authorizing it to engage in charter foreign air transportation with small aircraft with respect to persons and their accompanied baggage and planeload charters of property between any point or points in Canada and any point or points in the United States;

3. That the public interest requires that the exercise of the privileges granted by said permit shall be subject to the terms, conditions, and limitations contained in the specimen form of permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

4. That Business Air Services Limited is fit, willing, and able properly to perform the above-described foreign air transportation and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

5. That except to the extent granted herein, the application of Business Air Services Limited in Docket 30447 should be denied; and

6. That an evidentiary hearing is not required in the public interest.

Accordingly, it is ordered, That: 1. All interested persons be and they hereby are directed to show cause why the Board should not make final the tentative findings and conclusions stated herein, and why a foreign air carrier permit in the form of the specimen permit attached to this order should not, subject to the approval of the President pursuant to section 801 of the Act, be issued to Business Air Services Limited;

2. Any interested person having objection to the issuance, without hearing, of an order making final the tentative findings and conclusions stated herein shall file a statement of objections supported by evidence within 21 days after the service of this order. If an evidentiary hearing is requested, the objection should state in detail why such hearing is considered necessary and what relevant and material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;[5]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. Copies of this order shall be served upon Business Air Services Limited and the Ambassador of Canada in Washington, D.C.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

SPECIMEN PERMIT

PERMIT TO FOREIGN AIR CARRIER FOR SMALL AIRCRAFT OPERATIONS

Business Air Services Limited is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958 and the orders, rules, and regulations issued thereunder, to engage in charter foreign air transportation as follows:

Charter flights with respect to persons and their accompanied baggage, and planeload charter flights with respect to property, between any point or points in Canada and any point or points in the United States.

The holder shall be authorized to perform those types of charters originating in Canada as are now, or may hereafter be, prescribed for carriage by small aircraft in Annex B(III)(B) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974, including any amendments, supplements, reservations, or supersessions to that Agreement: *Provided*, That any such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft, and the authority of the holder to perform such charters shall be subject to those Regulations.[1] The authority of the holder to perform United States-originating charters shall, in accordance with Annex B(III)(A) of such Nonscheduled Air Service Agreement, be limited to commercial air transportation of passengers and their accompanied baggage, and property, on a time, mileage or trip basis, where the entire planeload capacity of one or more aircraft has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such groups, or such small aircraft operations as may be authorized pursuant to any amendment, supplement, reservation or supersession to that Agreement.

This permit shall be subject to the following terms, conditions, and limitations:

(1) In the performance of the charter operations authorized by this permit, the holder shall not use "large aircraft" as defined in Annex A(I)(A) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement.

(2) The holder shall not engage in foreign air transportation between the United States and any point or points, other than a point or points in Canada, or transport any property or persons whose journey, includes a prior, subsequent, or intervening movement by air (except for the movement of passengers independently of any group) to or from a point not in the United States or Canada: *Provided*, That the Board may, upon application by the holder, or by regulation, authorise the performance of charters where such movements are involved.

(3) The holder shall not perform United States-originating charter flights which at the end of any calendar quarter would result in the aggregate number of all United States-originating charter flights performed by the holder on or after May 8, 1974 exceeding by more than one-third the aggregate number of all Canadian-originating charter flights performed by the holder on or after May 8, 1974: *Provided*, That the Board may authorize the performance of charters not meeting the requirements set forth. For the purpose of making such computation the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter be one-way, round-trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (i) "small aircraft" flights of persons; and (ii) "small aircraft" flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the holder is the lessee, and shall not be included if the holder is the lessor.

(d) There shall be excluded from the computation:

(i) Flights utilizing aircraft having a maximum authorized takeoff weight on wheels (as determined by Canadian Transport Commission Regulations) not greater than 18,000 pounds; and

(ii) Flights originating at a United States terminal point of a route authorized pursuant to the Air Transport Services Agreement between the United States and Canada, signed January 17, 1966, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder (if, pursuant to any such agreement, the holder also holds a foreign air carrier permit authorizing individually ticketed or individually waybilled service over such route, and provides some scheduled service on any route pursuant to any such agreement), when such flights serve either (a) a Canadian terminal point on such route, or (b) any Canadian intermediate point authorized for service on such route by such foreign air carrier permit.

(4) The holder may grant stopover privileges at any point or points in the United States only to passengers and their accompanied baggage moving on a Canadian-originating flight operating under a contract for round-trip charter transportation to be provided solely by the holder and as to which the same aircraft stays with the passengers throughout the journey: *Provided*, That the Board may authorize the performance of charters not meeting the requirements set forth.

(5) The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required in the public interest.

(6) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

(7) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Canada shall be parties.

(8) This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(9) The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

(10) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall become effective on ---------- Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the charter foreign air transportation hereby authorized from the transportation which may be operated by carriers designated by

[2] "Small aircraft" are defined by the Nonscheduled Air Service Agreement as aircraft which are not "large aircraft." "Large aircraft" are defined as aircraft having both (a) a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds, and (b) a maximum authorised takeoff weight on wheels greater than 35,000 pounds.

[3] Under Canadian Air Transport Committee regulations, Group C consists of aircraft having a maximum authorized takeoff weight on wheels over 7,000 pounds but not greater than 18,000 pounds.

[4] See Docket 26473.

[5] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[1] Annex B(III)(B) presently authorizes Canadian-originating small aircraft charters of the types prescribed in section (II)(B); but only to the extent applicable to small aircraft pursuant to Canadian Transport Commission Regulations. The applicable types of charters presently authorized are: Single Entity Passenger, Single Entity Property, Pro Rata Common Purpose, and Inclusive Tour. (In some instances split passenger charters are authorized.)

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the Government of Canada (or in the event of the elimination of part of the charter foreign air transportation hereby authorized, the authority granted herein shall be terminated to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the government of Canada in lieu of the holder hereof, or (3) upon the termination or expiration of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974: *Provided, however,* That clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and Canada are or shall become parties.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the_____.

_____
Secretary.

Issuance of this permit to the holder approved by the President of the United States on _____
in _____

[FR Doc.77-7584 Filed 3-14-77;8:45 am]

[Docket No. 27573, Agreement C.A.B. 26467 R-1 and R-2; Order 77-3-20]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates; Agreement Adopted

Issued under delegated authority March 4, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names an additional specific commodity rate reflecting reductions from general cargo rates, and cancels another specific commodity rate as set forth below; and was adopted pursuant to unprotested notice to the carriers and promulgated in an IATA letter dated February 16, 1977.

Agreement C.A.B.	Specific commodity Item No.	Description and rate
R-1.....	1024	Fish, live, inedible, including aquarium articles such as coral, weed, fish food—excluding aquariums and aquarium appliances 357 c/kg, minimum weight 200 kg. from Singapore to Los Angeles, cancellation.
R-2.....	8307	Musical instruments, 276c/kg, minimum weight 100 kg.; 227c/kg, minimum weight 200 kg. From Delhi to New York.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered, that:

Agreement C.A.B. 26467, R–1 and R–2, is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
Chief, Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7579 Filed 3-14-77;8:45 am]

[Docket No. 27573 Agreement C.A.B. 26482 R–1 through R–4; Order 77-3-49]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates; Agreement

Issued under delegated authority March 8, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

As set forth in the attachment, the agreement adds two specific commodity rates under existing specific commodity descriptions, and adds two new rates with two new specific commodity descriptions, all reflecting reductions from general cargo rates. The agreement was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated February 24, 1977.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, *it is ordered,* That: Agreement C.A.B. 26482, R–1 through R–4, is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
Chief, Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. TAYLOR,
Secretary.

Agreement C.A.B.	Specific commodity Item No.	Description and rate
26482		
R-1.....	1408	Cut flowers, foliage and cuttings, 187c/kg, minimum weight 500 kg. From Miami to Tokyo.
R-2.....	2865	Carpets and rugs, 185c/kg,[1] minimum weight 500 kg; 174c/kg,[2] minimum weight 1,000 kg. From Tehran to New York.
R-3.....	8370	Lenses, frames and sun glasses, 200c/kg, minimum weight 500 kg. From Mauritius to New York.
R-4.....	9516	Handicraft products, namely textiles, metal, wood, straw, leather, clay, wicker, onyx, mother-of-pearl and glass articles, 251c/kg, minimum weight 300 kg. From Manila to Los Angeles.

[1] Expires June 30, 1977.
[2] To continue in effect after July 1, 1977.

[FR Doc.77-7580 Filed 3-14-77;8:45 am]

[Docket No. 29123, Agreement C.A.B. 26484, Docket 27569, Docket 29122, Agreement C.A.B. 26485; Order 77-3-48]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Passenger Fares and Currency Matters; Agreement Adopted

Issued under delegated authority March 8, 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). Agreement C.A.B. 26484 was adopted by mail vote; Agreement C.A.B. 26485 was adopted at the Composite Traffic Conference held in Cannes, France during February 1977.

Agreement C.A.B. 26484 would amend various resolutions of the TC2 Limited Agreement (Middle East-Africa) to extend the limited agreement to include Ethiopia. Agreement C.A.B. 26485 would establish reduction factors on local selling fares between points within Europe, and is intended to relate local currency selling fares more closely to fluctuating foreign exchange values.

We will approve the agreements insofar as they affect fares that are combinable with fares to/from the United States and thus have indirect application in air transportation as defined by the Act.

Pursuant to authority duly delegated by the Board's Regulations, 14 CFR 385.14, it is not found that Agreements C.A.B. 26484 and C.A.B. 26485 are adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously applied by the Board.

Accordingly, *it is ordered* That: Agreements C.A.B. 26484 and C.A.B. 26485 be and hereby are approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
Chief, Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7581 Filed 3-14-77;8:45 am]

[Docket No. 27573, Agreement C.A.B. 25719, R–7; Order 77-3-39]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement on Cargo Rates; Order on Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D. C. on the 7th day of March, 1977.

By Order 76–9–13, September 2, 1976, the Board generally approved an agreement among the carrier members of the International Air Transport Association (IATA) to establish North/Central Pacific cargo rates through September 30, 1977. Included in the subject IATA resolutions was Resolution 501a ("Small Package Service") establishing rates for expedited service on small packages satisfying certain characteristics (total weight not to exceed 15 kgs., total value not to exceed $250 and total size not to exceed the sum of 56 inches). The Board conditioned its approval of the resolution by stipulating that "the maximum value of such shipments shall not be less than $300," in order to insure compliance with the standards of carrier liability under the Warsaw Convention i.e., $20.00/kg. ($9.07/lb.). It was evident that under certain circumstances, such as a 15 kg. shipment, Resolution 501a may have been interpreted as limiting liability to only $16.67/kg.

Pan American World Airways, Inc. (Pan American) has filed a petition for reconsideration of the Board's order, requesting that the condition placed on Resolution 501a be removed. In support of its petition, Pan American submits that the $250 value limit was not intended to limit liability, but rather to restrict the type of traffic which would be transported on small package service to insure its expedited handling and carriage; that U.S. Customs regulations are considerably more onerous for shipments valued over $250 and cause considerable delay in transit;[1] and that the Board's condition is not necessary to insure compliance with the Warsaw Convention which has the force of law in any event and prescribes a minimum liability without regard to Board or carrier action.

The Board has concluded to deny the petition. We believe Pan American has misread the intent of our condition on the resolution. In stipulating that "the maximum value of such shipments shall not be less than $300" we were referring to the value for purposes of carrier liability to avoid situations where the maximum value a carrier imposed for purposes of determining acceptability for carriage might be interpreted as excusing him from the usual liability under Warsaw. By our condition we intended only to remove any potential discord between Warsaw and tariff provisions which were based on Resolution 501a, and to clarify the continued application of Warsaw.

The standard airway bill has separate boxes for "declared value for carriage" and "declared value for customs." The shipper commonly declares different values for carriage as opposed to customs, due to inclusion of transportation charges and such ancillary items as agents and brokers' fees, destination charges and cartage, and valuation charges. If for some technical reason such as Customs Regulations Pan American wishes to limit carriage under its small package tariff to shipments valued for U.S. Customs at no more than $250, it is free to do so.[2]

Accordingly, *it is ordered,* That: The petition of Pan American World Airways, Inc. for reconsideration of Order 76–9–13 be and hereby is denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7582 Filed 3-14-77;8:45 am]

[1] Pan American states that shippers need not secure an export license for shipments valued under $250; and that imports valued under $250 are permitted "informal" clearance which takes only minutes.

[2] We would expect any tariffs filed to implement the resolution to indicate that the $250 limitation is for Customs purposes.

[Docket No. 29123; Order 77-3-54]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding North and Mid-Atlantic Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of March 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements adopted at conferences held in Miami in September/October 1976 and in Geneva in December 1976, would establish air fares over the Mid and North Atlantic for the period from April 1, 1977 through March 31, 1978. The North Atlantic-Europe agreement was filed with the Board on January 14, 1977.

THE AGREEMENTS

As set forth in more detail in Appendices I and II, fares from New York to London would be increased in varying amounts ranging up to 17 percent; and fares from Miami to London would be increased in amounts ranging up to 25 percent. Fares from New York to Paris would be increased in varying amounts up to 19 percent; fares to Rome would be increased up to 14 percent. The pres-

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ent three-season structure, which has been applicable to a number of fares for many years, would be revised to a two-season structure, with the peak season extended by one month.[1] The one exception to the two-season structure relates to the advance-purchase excursion fares (APEX), which would be subject to a peak-of-peak surcharge of $20 (one-way) for eastbound travel in July and for westbound travel in August. Existing weekend surcharges would continue to apply, as would various conditions imposed on travel at the various discount fares, with the exception of APEX and group inclusive-tour fares. The carriers propose that the advance-purchase requirement of the APEX fare for U.S.-originating traffic be reduced from the present 60 days to 45 days prior to travel. In addition, effective October 1, 1977, the present 22–45-day length-of-stay requirement would be extended to 14–45 days. As for the group inclusive-tour fares, the carriers propose that their availability be extended by reducing the minimum group size from 10 or more passengers to groups of five or more. Fares over the Mid-Atlantic between San Juan, Puerto Rico and Europe would be increased in amounts ranging from five to nine percent.

By Order 77–1–11, January 4, 1977, the Board directed the three U.S. carriers providing North Atlantic passenger air service to submit detailed economic justification in support of the agreements. In addition to the customary economic justification, the Board ordered that they specifically address the proposed first-class fares which would reflect a very high level relative to the proposed normal economy fares, and to demonstrate why approval of first-class fare increases is warranted in view of the unresolved matter of the excess-baggage charge. The carriers were also directed to provide full economic support for any increase in normal economy fares which, the Board has noted, are already excessive in relation to cost and are therefore cross-subsidizing low-rated fares at the other end of the spectrum; a detailed explanation of the proposed change in conditions applicable to the APEX fares and the proposed reduction in the minimum size of groups eligible for travel on the group inclusive-tour fare; and the rationale behind the proposed increase in Miami fares in light of the earnings position of National Airlines, Inc. (National). A summary of the carriers' justifications with respect to each of these issues is set forth below.

SCHEDULED PASSENGER SERVICES
(000)

	Year Ending 9/30/76	Year Ending March 31, 1978 at present fares	Year Ending March 31, 1978 at proposed fares
NATIONAL			
Revenues	$ 19,259	$ 32,841	$ 34,478
Expenses	16,684	26,310	26,310
Operating Profit	2,575	6,531	8,179
ROI % 1/	5.1	9.5	11.6
RPM 2/	316,692	528,314	528,314
ASM 3/	542,531	1,034,613	1,034,613
Passenger Load Factor	58.4 %	51.1 %	51.1 %
PAN AMERICAN			
Revenues	$ 445,696	$ 513,047	$ 525,856
Expenses	439,366	404,319	494,988
Operating Profit	11,330	18,728	30,868
ROI %	4.5	5.6	7.7
RPM	6,059,011	6,901,600	6,799,699
ASM	10,777,842	12,205,500	12,205,500
Passenger Load Factor	56.2 %	56.5 %	55.7 %
TWA			
Revenues	$ 516,830	$ 557,229	$ 598,399
Expenses	456,131	543,856	545,595
Operating Profit	60,699	33,373	52,804
ROI %	20.0	11.2	16.8
RPM	6,919,000	7,440,000	7,420,000
ASM	11,760,000	13,055,000	13,055,000
Passenger Load Factor	58.8 %	57.0 %	56.8 %

1/ Rate of Return on Investment
2/ Revenue passenger-miles
3/ Available seat-miles

Carrier Justification

Overall Economic Results

The carriers' present and forecast economic results, both with and without the proposed increases, are set forth in detail in Appendix III, with the highlights summarized below.

National notes that, during the strike-affected year ending September 30, 1976, its earnings were considerably below the Board's 12-percent guideline and that, even with the proposed increases, it anticipates a return on investment (ROI) of 11.6 percent. National contends that its traffic estimate is based upon a strike-adjusted trend line increase and a regaining of market share in the forecast period, in addition to normal market growth.

Pan American World Airlines, Inc. (Pan American) projects, for the forecast year ending March 31, 1978, an improvement in its return on investment from 4.48 percent to 5.57 percent under present fares, and to 7.73 percent under the proposed fares. The latter projection reflects some traffic loss resulting from its application of a factor for the price elasticity of demand which it alleges would result from the fare increases. The carrier projects a slight improvement in passenger load factor, from 56.2 to 56.5 percent with continuation of present fare levels, and a decline to 55.7 percent under the proposed fares.

In recognition of its historical ROI of 20.0 percent, Trans World Airlines, Inc. (TWA) points out that consideration must be given to the composition of its current fleet in terms of age and ownership versus lease, bearing in mind the impending need to replace aircraft and the large capital requirement this will entail. TWA notes that its B–707 aircraft average 11 years in age and are becoming relatively uneconomic operationally, and increasingly so, due to their relatively high cost per available seat-mile, their lower fuel efficiency, and the increasing cost of their maintenance. TWA also notes that a very high portion of its fleet operated in international service is leased, that its recent success in transatlantic service follows a period of losses and a totally unsatisfactory ROI, and that no fair and reasonable ROI guideline has been determined for international service. TWA alleges that use of the 12-percent domestic ROI standard for evaluation of international services is not economically sound as a ratemaking approach.

All three carriers allege that the proposed package, aside from the increased revenue which it would produce, comports with the Board's views toward simplification of the fare structure by generally reducing the present three-season structure toa two-season structure. All also contend that the increases in operating expenses projected for the forecast period reflect increases actually contracted for. However, TWA has anticipated expenses for aircraft fuel to reflect the impact of OPEC's assumed price increases. Pan American's projection, on the other hand, assumes price levels as of December 1976.[2]

First-Class Fares

National contends that the Board's concern with the inter-relationship between an increase in first-class fares and the yet-to-be-resolved excess-baggage charge is unwarranted. It argues that the U.S.-flag carriers have complied with the Board's Order, Order 76–6–72, on excess-baggage charges, and that the first-class passenger is receiving a value of service far in excess of that provided an economy-class passenger, with meal costs alone almost four times in excess of those for economy-fare passengers.

Pan American states that the cost ratio between first-class and economy service, based on the average area available per seat, is 2.10, and that the food and beverage relationship per passenger is about five times greater in first-class than in economy-class service. Pan American also calls attention to a recently-agreed IATA resolution prohibiting the use of any increased first-class fare in connection with determining excess-baggage charges.[3] Pan American further states that each of the U.S. carriers has revised its tariffs so that excess-baggage charges are no longer predicated upon first-class fares. The fact that some foreign carriers have not similarly adjusted their charges simply demonstrates the Board's inability to deal with the matter on a diplomatic inter-governmental basis. According to Pan American this shortcoming should not be used as a basis for penalizing the U.S. carriers by foreclosing an increase in first-class fares, particularly when they have complied to the best of their ability.

TWA states that cost allocation based on floor space devoted to the first-class and economy sections produces a first-class economy cost ratio of 2.18. This compares with a first-class/normal economy fare ratio of 1.87 for the year ended September 1976, and of 1.94 for the year beginning April 1977, under the proposed fares. In this connection, TWA also cites Order 76–10–108, October 15, 1976:

> The Board has historically left the pricing of this first class service to the judgment of the carriers as to what the traffic will bear, recognizing that, as a practical matter, the fare level does not cover total economic cost.

With reference to the question of excess-baggage charges, TWA states that this is a highly complicated and controversial issue which it has been making a concerted effort to resolve within IATA. Like Pan American, TWA cites the agreement reached by IATA on January 21, 1977 in Geneva, which provides that the first-class fares proposed for April 1, 1977 shall not be used as a basis for assessing excess-baggage charges on any routes to/from the United States. TWA holds the view that the proposed increase in first-class fares in justifiable and should not be jeopardized by a controversy not of its making.

Normal Economy Fares

In response to the Board's specific request for full economic support for any change in normal economy fares, National merely states that the fares were increased with much reluctance on the part of some carriers in view of the Board's known opinion. However, the negotiating process inherent in the IATA mechanism necessitated a small increase if agreement among all carriers was to be attained.

Pan American points out that discussion at the conference on this matter was very strained. Many of the foreign carriers are alleged to have held that they would not be dictated to by the Board and that, if every carrier was in need of additional revenue, it should come from all types of fares. Pan American has provided its methodology for assigning passenger and baggage costs between normal and promotional-fare traffic, using "weightings" intended to reflect the varying restrictions and/or conditions under which space is available, as well as the added privileges/amenities (e.g. stopovers) permitted certain passenger categories. These weightings for allocation of total costs are 2.00 for first-class travel, 1.00 for normal economy-fare travel, 0.75 for excursion-fare traffic, and 0.50 for all other fare categories. Pan American contends that this is a reasonable approach to evaluation of the fares under review, although it admittedly embodies an element of judgment.

Excluding their espoused approach, Pan American alleges that, based on its overall average cost, its average yield of 7.77 cents is reasonably related to cost plus a return element designed to produce a 12-percent ROI after taxes. The yield of 7.77 cents represents a composite of 7.63 cents for Europe/Middle East service and 9.33 cents for its service to Africa. The differential between its Africa and Europe/Middle East yields is allegedly justified by the higher unit cost sustained by operation of B–707 equipment which is used in African services, compared with the predominantly B–747 services provided to the Europe/Middle East area. Pan American contends that the seat factor most reasonably related to normal-fare traffic, and the one which should therefore be applied, is 50 percent. Using the revenue-offset method for treatment of cargo, the unit cost per revenue passenger-mile at a 50 percent seat factor is 8.42 cents compared with the yield of 7.77 cents at the proposed fares, resulting in a shortfall of 7.7 percent. At a 55 percent load factor, overall yield would exceed cost by 1.6 percent. On this basis, the carrier contends that the normal economy fares proposed are cost-related and should be approved.

TWA suggests that a detailed economic justification of normal economy fares and their proper relationship to promotional fares cannot be accomplished in the time-frame available prior to introduction of the April 1977 "package", and must await the detailed information to be furnished in the "Transatlantic Fare Investigation," Docket 27918. TWA contends that the modest increases in the interim (the first in 2½ years) will in no way upset the basic balance among the various fares, and that the differential between normal economy fares and promotional fares will be further reduced if the "package" is approved.

APEX Fares

All three carriers allege that the relaxed conditions applicable to travel on the APEX fare are warranted by the amalagamation of the competitive problems caused by corresponding fares available from Canada and by charters, particularly in view of the recent introduction of liberalized ABC charter rules for travel originating in the United States. TWA states that the proposed changes will more firmly establish the APEX fare as the primary promotional fare on the Atlantic, and will assist the industry in achieving a more economic operation.

Group Inclusive-Tour Fares

All three carriers contend that the reduction from 10 to five passengers in the minimum group size represents progress toward an individual inclusive-tour fare, which has been sought by some carriers for some time. Pan American states that, in the absence of any total restructuring, the issue became difficult to resolve, since an individual inclusive-tour fare should significantly exceed the level of a similar fare for group travel in order not to undercut other elements of the structure. The scale of the increase necessary, however, was not acceptable to many carriers. TWA states that the proposed change would give it greater flexibility in routing and consolidating tour groups, noting that it has frequently been forced to route passengers through the New York gateway because 10 passengers could not be consolidated at smaller cities on a given day. Approval of a reduced group size will smooth out the movement of groups over more flights and thereby reduce the load factor peaking that frequently occurs at the present time.

Comments

The National Air Carrier Association (NACA) (on behalf of Overseas National Airways, Inc., Trans International Airlines, Inc., and World Airways, Inc.) contends that the fare agreement is adverse to the public interest and should not be approved by the Board. At the very least, the proposed increase in normal economy fares, and the below-cost APEX and group inclusive-tour fares, should be disapproved.

NACA notes that, despite many and repeated comments by the Board, the agreement proposes no reduction in the number of discount-fare categories, and that the undue spread between above-cost normal economy fares and below-

[1] The peak season for U.S.-originating traffic is presently June through August. The agreement contemplates a peak season running from May 15 to September 15.

[2] A mail vote is presently being circulated within IATA which would increase passenger fares worldwide because of increased fuel prices.

[3] Agreement C.A.B. 26434 was filed February 4, 1977.

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cost discount fares at the lowest end of the spectrum has not been substantially reduced. As a result, normal economy passengers would continue to be unfairly burdened by being asked to cross-subsidize discount-fare travel, and would often pay fares which exceed fully-allocated cost by as much as 50 percent. Conversely, the level of the charter-competitive discount fares would continue to be far below cost, and would unfairly injure the supplemental carriers which must base their fares on fully-allocated cost if they are to survive.

NACA points out that, as a consequence of the court action which precluded a reversion to previous winter-season fares upon the Board's disapproval of those fares proposed for the 1976/1977 winter season, the carriers have reaped a windfall. To raise economy-class fares still further would clearly be at odds with the Board's determination to maintain a lid on normal economy fares—a determination which it contends is still valid. NACA also contends that, despite the Board's past admonishment that the economics of full planeload charters simply cannot be equated with those of scheduled service, the APEX and GIT fares continue to be set at levels far below cost, with only small increases proposed which are barely sufficient to keep pace with increased operating costs. Finally, NACA states that the proposed liberalized conditions applicable to travel on the APEX and GIT fares would broaden their availability and have an increasingly adverse impact on the charter carriers in view of the steadily declining transatlantic market and poor overall financial results of the industry.

Donald L. Pevsner, Esquire, has filed comments in which he objects to the proposed expansion of the peak-season period, citing the fact that the recent court action has already created a two-season structure and that, consequently, winter-season fares no longer exist. Any attempt to expand application of the highest-season fare level must not be tolerated; nor can the proposed extensions of May 15–31 and September 1–15 be construed as a reasonable definition of the peak period. Mr. Pevsner contends that the proposed increase in the 22/45 day excursion fare is excessive, unjust and unreasonable; that the "peak-of-peak" surcharge proposed for the APEX fare is not required in view of the proposed increase in the peak-season fare, which should be considered ample; that no increase should be permitted in the Miami-London market since National's return on investment is already excessive; and that the proposed increase in first-class fares should be disapproved because of their relationship to the excess-baggage charge impasse.

REPLY COMMENTS

NACA, in its response to the justifications of Pan American and TWA, maintains that the proposed normal economy fares are excessive in relation to cost, while the APEX and GIT fares are below cost and would have a singificant adverse impact upon charter services.

NACA alleges that Pan American's forecast yield for normal economy-class service—7.63 cents for U.S.-Europe/Middle East service—is subject to question considering TWA's forecast of 8.81 cents for the same traffic. NACA further questions the veracity of Pan American's forecast by referring to the carrier's earlier justification in support of proposed 1976–77 winter fares which, albeit involving lower fares than proposed herein, assumed a yield of 8.30 cents. Pan American, NACA contends, has failed to explain the substantial decrease in its economy-fare yield in the face of the higher fares here proposed. NACA alleges that Pan American's forecast yield from normal economy fares is much too low and that its yield (as well as TWA's) would actually far exceed the cost of providing this service.

With respect to the APEX and GIT fares, NACA alleges that they are substantially below Pan American's forecast cost of service, and fail to provide an adequate differential over charter fares. NACA cites a recent survey of APEX passengers (U.S. residents), conducted by IATA and the European Travel Commission, which shows that 23 percent of the APEX passengers would have traveled by charter if that fare had not been available. It is evident, NACA concludes, that a relaxation of the existing APEX rules would increase the impact on charters beyond than that reflected in the survey.

Pan American, in its response to NACA, maintains that the proposed normal economy fares are not above cost and that the proposed fare structure does not provide the scheduled-service carriers with excessive revenues, that the level of the APEX and GIT fares provides a reasonable differential over charter rates and thus does not adversely affect the supplemental carriers; and finally that TWA's forecast of its operating results under the proposed fare structure appears to understate costs significantly and mask an increasingly dangerous condition created by the Board's treatment of investment for ratemaking purposes.

Pan American states that NACA's allegation that normal economy fares are excessive and above costs rests on a comparison of undiluted fares per-mile *versus* costs, which is not a proper basis for demonstrating the relationship. A proper determination, Pan American contends, must be made in terms of yield, the revenue received by the carrier, not in terms of fares as set forth in the tariff. Pan American alleges that its normal economy-fare yield under the proposed fares will be 7.63 cents, which is 102.1 percent of the cost per revenue passenger-mile of 7.47 cited in the IATA 1976 Cost Committee Report. Further, Pan American alleges that the proposed increases in normal economy fares are miniscule and do not begin to offset the impact of inflation; that grant of all increases proposed would still provide the three carriers with less than a 12-percent ROI; and that it is equitable that the carriers' need for additional revenue be spread among all categories of traffic. It is pointed out that most of the needed additional revenue has been met by relatively larger increases in the level of promotional fares, consistent with the Board's objective of reducing the spread between promotional fares and normal economy fares.

With reference to the level of the APEX and GIT fares, Pan American alleges that price differentials between charter services and the proposed APEX fares range from $50 to $140, more than enough to attract traffic away from schedule service to charter transportation. Pan American further alleges that, despite NACA's contentions to the contrary, traffic carried by the supplemental carriers has increased at a far more rapid rate than that carried on scheduled services, and that the supplemental carriers have not demonstrated injury to themselves as a result of the level of promotional fares on scheduled service. The fact that the supplemental carriers have shown a decline in operating profits and continuing losses in the face of large growth in traffic illustrates, according to Pan American, that they have continued to engage in selling their services below cost.

Pan American expresses serious concern that carrier costs, in the case of both TWA and National, have been seriously understated and that even larger increases are warranted. Its concern with understatement of costs was first raised by the substantial difference in TWA's Atlantic *versus* domestic operating results. On the basis of Pan American's evaluation, it is not reasonable that TWA's Atlantic costs should decline 1.5 percent while the total volume of its Atlantic operation increases and particularly when its total domestic costs increase 10.1 percent as a result of a similar increase in the volume of the domestic service. Pan American alleges that this, in itself, suggests an improper allocation of costs between its Atlantic and domestic operations. An examination of TWA's various elements of cost (such as flight-crew costs, flight-equipment maintenance, passenger service, aircraft and traffic servicing, and general and administrative expenses) indicates that less than a fair share has been allocated by TWA to its Atlantic services. For example, Pan American states there can be no reasonable explanation for an increase of 64 percent (1976 over 1975) in TWA's domestic B–747 flight-crew costs, while its Atlantic B–747 flight-crew costs increased by only nine percent. Pan American further suggests that National likewise has understated its costs.

Lastly, Pan American alleges that the Board's measure of the carriers' revenue need—return on investment—has become meaningless in the face of current inflation, and cannot be relied upon in assessing the reasonableness of proposed fares. Under normal circumstances, real value and market value, as

well as original acquisition cost and replacement cost, are sufficiently similar to avert major distortions. By setting aside an amount equivalent to annual depreciation, a carrier should approximate replacement assets at the end of the aircraft's useful life. The situation, Pan American contends, is radically different in times of rapid inflation, since the real worth of aging assets does not increase unless measured, as it is, in terms of inflated dollars. Given the long life of aircraft, replacement cost at the recent rate of inflation could be two to three times the initial acquisition cost. This means that, if a 12-precent ROI enables a carrier to replace assets at the end of their useful life in times of stable prices, the same 12 percent covers only a fraction of the returned assets in inflationary times. The Board's ratemaking policy ensures that the carriers will be unable to replace aircraft and, accordingly, measuring revenue need on this traditional basis, which involves an ever-shrinking investment base with no allowance for the impact of inflation, is unrealistic and damaging to the industry.

British Airways (BA) argues that the pending agreement is an historic agreement providing an opportunity for an historic upturn in the fortunes of North Atlantic civil aviation. It is the first *limited* agreement, reached under new Traffic Conference procedures, which permits a sensible agreement to be reached in good times for fares between the United States and most European countries. As a result, for the first time in many years, agreement has been reached in sufficient time to allow orderly marketing of and preparation for April 1 effectiveness, and prompt regulatory approval should be forthcoming.

In addressing the various concerns expressed by the Board in its procedural order, British Airways alleges that there is no cross-subsidization among the various fares available in economy-class service and, specifically, that the normal economy fare is not subsidizing lower-rated fares. In asserting this conclusion, British Airways cites differences between "controlled fares" and "uncontrolled fares", the former being the APEX and GIT fares which produce higher load factors because they are "controlled by" stringent conditions, while the "uncontrolled" fares (*i.e.*, normal economy fares and excursion fares, the former with unlimited stopovers) result in somewhat lower load factors.

As for first-class fares, British Airways contends that they should be evaluated on their own merits, since excess-baggage charges are no longer pegged to the proposed first-class fare level. As demonstrated by the U.S.-flag carriers, first-class fares are indisputably cost justified.

Finally, with reference to the proposed Miami fares, British Airways suggests that isolation of Miami from all other North Atlantic gateways for ratemaking purposes is economically unsound and fundamentally destructive of international accord on fares. This is so whether or not such isolated consideration produces higher or lower fares at Miami in relation to other transatlantic gateways. In support of this conclusion, British Airways states that the Board has not similarly isolated any other North Atlantic city-pair route. To the contrary, the Board has traditionally combined the operating results of the principal U.S.-flag carriers to test the overall economic impact of a fare package. Isolated treatment of Miami fares, in consideration of the earnings position of National alone, risks destruction of an internationally agreed North Atlantic fare structure based upon transitory conditions, or even eccentricities in reporting by a single carrier which lacks substantial transatlantic operations. British Airways alleges that this is neither sound nor even consitent policy, and that the Board cannot reasonably expect its international acceptance.

National's recently reported international results are atypical at this time by reason of transitory conditions, and influenced by the fact that its DC–10 operation is optimum for the current size of the market. On the other hand, when National finds it necessary to add capacity, there will be a shift in its economic results. Consequently, it is manifestly unreasonable to peg the North Atlantic fare structure to such transitory shifts in the fortunes of any one carrier. In addition, British Airways raises the question as to whether reporting eccentricities may affect the carrier's results; that there is some room for reasonable difference of opinion regarding all cost allocations; and that it is unreasonable that the entire North Atlantic fare structure should hinge upon National's untested allocations from the pool of its largely domestic costs to its relative small transatlantic service.

In addition to the above, British Airways is critical of the Board's treatment of elasticity, the Board's refusal to consider the effects of inflationary cost increases not now mandated by firm contracts; and the lack of a standard return on investment for international services. Lastly, British Airways notes that, despite the fact that new free baggage provisions and excess-baggage charges will shortly be filed by a U.S. carrier which would largely eliminate excess-baggage revenues, all three U.S. carriers have continued to forecast unchanged revenue from this source.[4]

Contemporary Tours, a Division of Travel Center of Manhasset, Inc., has formally commented in opposition to the proposed changes in the 7/8-day group inclusive-tour fare.[5] Contemporary Tours alleges that it specializes in the handling of student and senior-citizen tours and that a very heavy program is built around the Easter vacation period. The bulk of its groups, numbering nearly 1,000 persons, are scheduled to depart New York between April 1 and April 10.

[4] TWA did in fact alter its forecast to account for a revision in its tariffs.

[5] A great number of similar complaints have been received and placed in the correspondence section of the Docket.

Although it is generally acknowledged that, effective April 1 of each year there is a possibility of a fare increase, and that it allegedly did advise its clients accordingly, the airlines not only propose to increase the fare but change its seasonal application as well. As a result, an increased shoulder-season fare would apply to what was previously the winter season. Approval of the carriers' agreement could result in increases of as low as $60 and as high as $90. Consequently, Contemporary Tours alleges that, if approval is granted, it would be faced with the alternative of either confronting its clients with significant increases or cancelling programs which will no longer be tenable under the new fares.

FINDINGS

ECONOMIC RESULTS

In the year ended September 1976, Pan American realised an ROI of 4.5 percent, contrasting sharply with TWA's experienced return of 20.0 percent. Both carriers experienced comparable traffic volume and load factors, although Pan American's unit costs were noticeably higher than those of TWA. The primary circumstance contributing to this disparity, however, was the fact that Pan American's investment base exceeded TWA's by more than 50 percent.

The difference is largely attributable to the fact that Pan American owns much of its North Atlantic fleet, whereas a large part of TWA's fleet consisted of leased aircraft and that portion owned was largely depreciated.[6] However, TWA has adjusted its investment base consistent with § 399.43 of the Board's regulations, to reflect the impact of its leased aircraft. We will accept its adjustment, notwithstanding the fact that TWA contends that this adjustment does not adequately compensate for the risk and capital cost which would otherwise be incurred. Nor do we consider convincing TWA's argument with respect to its owned aircraft. On the one hand, it contends that it must eliminate its relatively old B–707 aircraft from its fleet because of their high operating cost *versus* newer aircraft types. By the same token, the carrier argues that its investment base is atypically low and its ROI not representative since the aircraft are about fully-depreciated. Again, these two factors would tend to off-set one another, and TWA has made no showing that its total economic cost of operation is significantly distorted *vis-a-vis* Pan American's B–747 operation.

Accordingly, and consistent with the Board's traditional approach in evaluating the carriers' revenue need, our disposition of the agreement is based on composite results for the North Atlantic ratemaking entity. On this basis, the historically ROI for Pan American and TWA is 10.6 percent, at an experienced

[6] Pan American has raised questions as to the appropriateness of TWA's allocation of system costs to its North American service which may also contribute to the disparity in their respective investment bases, as will be discussed subsequently.

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load factor of 57.6 percent. Although falling short of the Board's 12-percent guideline, this nevertheless reflects an improvement resulting from resumption in traffic growth coupled with the beneficial impact of economy measures which have been implemented by both carriers. However, it seems apparent that some additional revenue is needed if the carriers are to have an opportunity to achieve a combined ROI of 12 percent.

Assuming continuation of present fares, the two-carrier composite ROI is expected to decline to 7.7 percent in the forecast period, despite estimates of significant traffic growth (14 percent and eight percent projected by Pan American and TWA, respectively). It is anticipated that gross revenues will increase by 14 percent for Pan American and 12 percent for TWA, both assuming a continuation of load factors at their approximate historical level. The decline in ROI, therefore, stems from projected increases in cost—13 percent for Pan American and 19 percent for TWA. It must be noted, however, that TWA's projected cost increase reflects, to a significant extent, increases in payroll expense designed to compensate for the freeze on salaries in 1976, a factor not present in the case of Pan American. As a result of this "catch up" in cost, TWA projects a significant decline in ROI, whereas Pan American expects an improvement even at *status quo* fares, stemming from a strong traffic rebound.

Under the proposed "package" the carriers anticipate a composite return of 11.2 percent which, when the impact of demand elasticity built in by Pan American is eliminated, increases to 11.9 percent.[7] It is apparent, therefore, that some revenue increase is appropriate. However, this estimated ROI, together with the high earnings achieved by TWA in the historical period and the improvement which Pan American itself anticipates even were present fares continued, indicates that an overall increase in the magnitude proposed is not necessary to achievement of an adequate return on investment.

As discussed more fully in the following sections of this order which deal with specific matters raised previously by the Board, we are prepared to approve the package as proposed with two exceptions.[8] In our opinion, Pan American and TWA will realize additional revenue in an amount which we have concluded is warranted. The first exception is our decision to disapprove the proposed increased in economy-class fares. The second is our conclusion that a general increase in fares to/from Miami cannot be justified.[9]

[7] See Order 77-2-82 (February 4, 1977) for a detailed discussion of the Board's approach to this issue.

[8] We are disapproving one other aspect of the agreement for the reason later discussed. However, disapproval of this provision can in no way be considered as materially affecting the basic overall package. See p. 20.

[9] A summary of the carriers' justifications and adjustments made by the Board is contained in Appendices III and IV.

National, severely affected by a long strike in 1976, earned a substandard return of 5.1 percent in the historical period. However, it projects a substantial resurgence in the forecast year, with an ROI of 9.5 percent at status quo fares and 11.6 percent at those proposed. However, this projection must be critically evaluated in the face of the unaccountable fact that it assumes a 51.1 percent load factor—compared with experienced load factors of 60.1 percent in calendar year 1975 and 56.8 percent in the year ended September 1976. Since there appears no reason to anticipate such a precipitous decline, we have adjusted National's forecast load factor upward to the level of its most recent experience. This adjustment increases the carrier's projected ROI to 13.5 percent with continuation of present fares, and to 15.9 percent were the proposed Miami fare increases to be approved.

We recognize that disapproval of the proposed Miami fares will have the technical effect of retaining the present three-season structure from this transatlantic gateway. We also recognize that differing seasonal fare patterns from the various east-coast gateways would cause confusing and inequitable fare anomalies, particularly for travel from interior points in the United States. For this reason, the Board is prepared to except, effective June 1, 1977, adjustment in Miami-London fares to the extent necessary to bring them into a consistent structural relationship with other fares to Europe which we are herein approving. This reversion to a two-season structure will, of course, provide National with some revenue benefit (although we are unable to quantify it on the basis of available data), which we would not otherwise consider justified. This result, although considered necessary in the particular circumstances, reinforces our conclusion that all increases proposed in the level of fares to/from Miami must be disapproved.

British Airways would have us consider National's data in conjunction with that provided by Pan American and TWA, and treat the three carriers on a composite basis. The Board does typically evaluate the industry's need on an overall entity basis. However, because of the similarity of operations provided by Pan American and TWA across the North Atlantic, it is not feasible to attempt isolation of specific routes for the purpose of assessing the reasonableness of the overall fare package. National, on the other hand, is in a different position, being the only U.S. carrier operating exclusively on a route between Miami and London. This being the case, we see no reason to require that the public using this service pay excessive fares and provide National with excessive profits, merely because other carriers flying different routes across the Atlantic are in need of revenue improvement. To the extent that any route can be isolated in order to test the reasonableness of fares for that service, the Board will do so.[10]

[10] See Orders 75-2-102, February 26, 1975, and 75-3-96, March 26, 1975.

FIRST-CLASS FARES

All three carriers allege that the proposed increase in first-class fares is reasonable, cost-related, and should be approved. They also contend that an increase in these fares will produce needed revenues and should not be denied on the ground that excess-baggage charges have in the past been predicated upon the first-class fare level. It is pointed out that IATA has reached an agreement which would prohibit use of the proposed first-class fares to compute excess-baggage charges, and that the U.S. carriers have complied with the Board's order to the best of their ability and have filed tariffs for excess baggage significantly below the IATA level. In addition, TWA cites the fact that the Board has historically left the pricing of first-class service to the judgment of the carriers, based upon their assessment of what the traffic will bear.

In the fall of 1976 (Order 76-10-108, October 15, 1976), the Board disapproved any increase in first-class fares. The Board was explicit in stating that its action was not taken out of a dispute with their level per se. Rather, we were specific in explaining that our decision rested on the fact that, at that time, most IATA carriers were continuing to use the first-class fare level as the basis for determining charges for excess baggage—in direct contravention of the Board's decision in the "Baggage Allowance Tariff Rules in Overseas and Foreign Aid Transportation Case", Docket 24869. Today, the situation is changed. All U.S. IATA carriers now charge the rate prescribed by the Board as reasonable for outbound travel from the United States. On the other hand, the extent to which they are unable to do likewise for inbound travel can only be considered a situation beyond their control. In this circumstance, and in light of our long-held position that carriers should be provided maximum flexibility in marketing this limited volume of service, and their general need for additional revenues, we will approve the increased first-class fares contained in the agreement.

NORMAL ECONOMY FARES

As might be expected, the one aspect of the proposed package which the Board finds itself most unable to accept is the proposed increase in normal economy-class fares. The Board has, on frequent occasions in the recent past, expressed the view that normal economy fares have set substantially in excess of the cost of providing this service and that, as a result, have created a trend which permits the offering of fares well below cost in an effort to tap the charter market. Indeed, our concern has been sufficient to prompt the institution of a formal proceeding to examine this, among other issues, in depth on the basis of a fully-developed factual record.[11] Pending a full exploration in that proceeding, we accept for the moment the fact that the present highly differentiated structure of fares on the North

[11] Order 76-6-42, June 9, 1976.

Atlantic makes it difficult if not impossible to insist that normal economy fares be pegged to the average cost of providing economy service. The basic determination here, therefore, reduces to the question of whether or not the proposed economy-class fares would so exceed the cost of service that approval could not be granted. Our evaluation of the data provided by the U.S. carriers, in conjunction with that recurrently provided in their Form 41 reports, indicates that this is, in fact, the case.

TWA has provided no economic information in support of the proposed normal economy fares, indicating only that this matter can best be resolved in the pending formal investigation. Pan American, on the other hand, alleges that, at the proposed normal economy fares, it would receive a yield of 7.63 cents per-mile during the forecast period. Based on aweighted average normal economy fare of $689 (New York to London), this yield would produce $527 in revenue reflecting a dilution of 24 percent. TWA, by contrast, anticipates a yield of 8.81 cents per-mile, which reflects a 12-percent dilution. While Pan American's lack of domestic route authority would tend to increase its revenue dilution, the 24 percent which it estimates appears unreasonably high. Moreover, the carrier has made no effort to explain its derivation of this figure.

Pan American's and TWA's composite experience over the North Atlantic in calendar year 1976, at a 50 percent passenger load factor, produced a total economic cost (including a return element) of $433 (roundtrip New York-London).[12] Accepting the carriers' composite dilution in yield of 18 percent, which seems to us somewhat excessive, and their composite cost escalation factor of six percent in the forecast period, their combined total economic cost for the forecast year is $560. This comparison ($689, the proposed average fare, versus $560, the economic fare at a 50 percent load factor) reveals a disparity between full cost and diluted revenue in excess of 20 percent and, on this basis, we can only conclude that the proposed normal economy-fare increase would impose an excessive and unwarranted burden on passengers traveling at these fares—at least until a more exhaustive inquiry can be undertaken in the pending investigation.

As indicated, Pan American has come forward with a new approach which it contends should be used in evaluating the various fares which together comprise North Atlantic economy-class service. Essentially, it would assign varying "weightings" to the spectrum of fares, determined according to the applicable travel conditions and restrictions, and what would seem to be a factor to reflect differing value of service. The approach, or more specifically the particular "weightings" assigned, appears to us to be largely arbitrary, arrived at essentially on the basis of unsubstantiated judgment. Indeed, Pan American itself concedes that its approach needs revision and refinement, although nevertheless urging that the general concept should not be ignored. Simply stated, the Board is not prepared, on the basis of the analysis so far provided and in light of the time constraints involved, to accept this approach as a decisional factor in disposing of the agreement before us. We do not mean by this that it does or does not have a practical potential for the future. However, that potential, and its degree, can be adequately determined only after a full airing in the formal proceeding now under way. We are of the same opinion with respect to BA's proposed distinctive criteria vis-a-vis "controlled" and "uncontrolled" fares.

[12] The carriers' costs were developed according to the Board's DPFI methodology, based upon reported data for the year ended September 1976.

GROUP INCLUSIVE-TOUR FARES

The U.S. carriers generally allege that an attempt was made to substitute an individual inclusive-tour fare for the present group inclusive-tour fare, in the belief that the former is a more rational and effective fare from the standpoint of marketing to the public. This is an opinion with which the Board has stated general agreement on several occasions, although subject to the caveat that the fare level should be significantly increased if travel is to be so liberalized. The U.S. carriers contend that it proved impossible to reach agreement on an appropriately increased fare level, and that the proposed reduction from a minimum of 10 to five reflects a compromise which is allegedly interim in nature between the two opposing marketing approaches.

The Board is not without mixed feelings on this change. We can perceive little benefit for the scheduled carriers from so reducing an already small-sized group requirement, nor do we perceive a significant marketing benefit. On the other hand, NACA contends that this liberalization of the GIT fare will materially affect the market for charter service. Neither are we persuaded by this contention.

Admittedly, the increase proposed in the winter 7/8-day GIT fare (a fare which seems to have become entrenched in the structure but is, in our opinion, unique and atypical of the overall pattern of North Atlantic service) is modest. On the other hand, the year-round 14/21-day GIT fare has been increased for peak-season travel by $45 and $48 (New York to London and Rome, respectively), a fact which should lessen its impact upon charter services—particularly in light of the liberalized arena in which these latter services are now being provided. It is the Board's opinion that the scheduled-service carriers must be held to their primary responsibility to provide adequate service at reasonable prices for those who must fly, do not always have the luxury of choosing their departure date, and are more often than not unable to meet the conditions required for travel at the reduced fare. On the other hand, we believe it equitable that the scheduled-service carriers be afforded maximum flexibility to price their services at the lower end of the fare spectrum, as long as the fare level is not patently uneconomic or patently designed to inhibit the development of charter service. For these reasons, we will approve the liberalization proposed for GIT-fare travel.

APEX FARES

In seeking to justify these fares, the carriers contend that certain relaxations in their applicability are necessary to meet competition from ABC charters and the super-APEX fares available from Canada. NACA would have us disapprove the fare on the ground that the proposed level is below cost and predatory in nature. These carriers further contend that the proposed liberalization in conditions can only exacerbate the problem which the supplemental carriers face in remaining competitive, and that the inherent economic relationship between charter and scheduled service would thus be destroyed.

The Board has decided to approve the APEX fares as proposed. We reach this conclusion for essentially those reasons discussed above in connection with the GIT fares; namely, that we have not been convinced by the information provided that these fares, at the materially increased level proposed from the United States, are unduly low, given the capacity control and other conditions to which they are subject. Nor are we persuaded that they will unduly affect development of the charter market which, as indicated by our recent actions in this area, is one of the Board's more important objectives.

The carriers propose a general increase of approximately seven percent in the APEX-fare level, with a further increase for the "peak-of-peak" travel period which is, in fact, quite significant. We have undertaken an evaluation of the proposed APEX fares in relation to charter prices already published for the forthcoming travel season. This evaluation indicates that a significant differential will exist between charter prices and those for APEX service; the former ranging from $60 to $209 (New York-London/Frankfurt/Paris/Rome) below the proposed APEX-fare level. We can only conclude that such a range of price is significant and should have little material adverse impact upon charter service, despite some liberalization in the APEX rules.

It should be noted, however, that APEX fares to/from Canada have not yet been agreed upon, and that their ultimate level may for competitive reasons influence the degree to which the carriers can maintain the level to/from the United States which we are herein approving. For this reason, the IATA agreement would give the carriers carte blanche to effectuate a downward revision in APEX fares between the United States and Europe if necessary, in their judgment, to maintain a competitive relationship vis-a-vis fares to/from Canada. The Board is fully aware of the competitive interrelationship between the Canadian and United States markets and the possibility that APEX fares in

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the latter may require some future adjustment. Nevertheless, we are not convinced that such an adjustment, if proven necessary in some degree, should be left wholly to the discretion of the carriers. It should be noted that Canada-Europe APEX fares, though different in level from those from the United States, can be conditioned so as to limit diversion of traffic flow from the United States. We will expect that to be done. Furthermore, any potential diversion will depend, of course, on the degree of disparity between the fares in the two markets. Accordingly, we will disapprove this provision of the agreement.

SEASONAL DIFFERENTIATION

All of the scheduled carriers contend that the move from a three-season to a two-season fare structure represents a significant step toward the long-sought objective of simplification. While on its face this might see true, the Board does not perceive it as a significant step in this direction. It is inescapable that "simplification" of this sort results in a fare increase by eliminating the low winter-season fares. Those fares have already been increased to the previously designated "shoulder" period level, and it is now proposed that they be further increased. By the same token, extension of the peak-season period will also provide access to additional revenue.

A three-season structure was agreed upon by the carriers and approved by the Board a number of years ago, in an effort to resolve the problem of severe traffic peaking and to attract discretionary travel away from a very contracted period of travel. From data accumulated on a recurring basis by IATA and furnished to the Board, it would appear that creation of the so-called "shoulder" season has had the effect of accomplishing this objective, although the shift in travel away from the traditional peak season has admittedly concentrated on the several weeks immediately preceding and following that period. However, this shift in the pattern of transatlantic travel, clearly caused by the fare differential, does not in our opinion justify per se a corresponding extension of the peak season period.

Nevertheless, while we do not accept the carriers' contention that a shift to a two-tier seasonal structure accomplishes significant simplification of the fare structure, we will approve this aspect of the agreement. Our approval is premised essentially upon the belief that this change represents a marketing judgment more properly left to the discretion of carrier managements, and the fact that it will contribute in some degree to additional revenue for the industry which we have concluded is warranted.

By eliminating the customary lower fares for the "winter-season" in 1977–78 and extending "peak period" (with its higher fares), the carriers will achieve an increase in normal economy fares over the total year period notwithstanding the Board's frequent admonition that these fares are already unjustifiably in excess of costs plus return and notwithstanding the Board's disapproval of the proposed increase in normal economy fares. However, there is no practical way, in our judgment, of forcing the international carriers at this date to reinstate the winter period fares over their agreement (and that of the governments which have approved this package) not to do so without a prolonged series of individual tariff suspensions. Such a course of action is undesirable because it would at a minimum exacerbate international aviation relationships and lead to prolonged and wholly undesirable uncertainties as to the air fares during the year ahead.

However, there remains the fact that implementation of this seasonal readjustment on April 1, as proposed, may have a significant impact upon passengers who have already booked for 7/8-day GIT travel in April at the lower fare level now in effect, as well as upon bookings at other fares for the period between May 15 and May 30, which is currently designated as the "shoulder" period. While fare increases may generally be expected at this time of year and travel plans made in this light, potential travelers do not anticipate the double impact which stems from redesignation of seasonal periods. Accordingly, the Board will approve the seasonal redesignation effective June 1, 1977, so as to protect those travel plans which have already been firmed-up for this spring.

SUMMARY

Our disposition of the North Atlantic agreements before us reflects the Board's fundamental rate-making philosophy that "on-demand" travelers should not be required to pay a fare set at a level substantially above the economic cost of providing such a service, and so set to provide the scheduled carriers a means of competing with charter service by offering fares which are manifestly below the cost of their service.[13] Equally, it reflects the Board's disposition to provide carriers the maximum opportunity to experiment with fares on scheduled service in an effor to maintain a reasonable competitive posture in relation to growing charter activity. We rely upon the carriers' managerial judgment in this regard, unless the fare level proposed is patently uneconomic and approaches what might be termed a predatory range. We are also, as indicated earlier, disposed to rely upon the carriers' judgment insofar as changing travel patterns indicate on alteration in seasonal structure. I is against this basic approach, that we have reached our decision with respect to the overall IATA-fare package.[14]

One other matter of a general and longer-term nature has been raised by Pan American and deserves comment. Pan American questions various aspects of TWA's allocation of cost to its North Atlantic services. There may, indeed, be a valid explanation of these apparent anomalies. However, TWA has not seen fit to respond to Pan American's allegations, although we must concede that the time-frame established with respect to the agreement before us (Order 77–1–11) would have made it difficult for the carrier to do so with any degree of fullness. However, our evaluation of the data provided does raise a number of significant questions which require an answer. For example, TWA's data for the 12-month period ending September 1976 (compared with calendar year 1975) reflect an increase in flight-equipment maintenance per block-hour of 95 percent in its B–747 domestic operations, compared with only one percent in its international operations. In addition, TWA's alleged food expenses in domestic service exceed by 45 percent those claimed in its international service. We intend to pursue the answer to these and other questions relating to cost allocation promptly. Nevertheless, this particular issued would not, in our opinion, alter in any way our disposition of the agreements before us.[15]

Finally, Pan American again argues that the Board's 12-percent ROI guideline is not only inappropriate in evaluating international versus domestic service, but also loses its validity in the context of an inflationary economy. The short fact of the matter is that the Board continues to be of the opinion that a policy which provides carriers with the opportunity to earn a 12-percent return on their investment is adequate to provide them a reasonable opportunity to obtain new equity and debt capital.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolutions, set forth in the agreements indicated, are adverse to the public interest or in violation of the Act: *Provided*, That approval is subject, where applicable, to conditions previously imposed by the Board:

[13] These considerations are not raised by the Mid-Atlantic agreement which will accordingly be approved.

[14] We except our disposition of Miami fares from this statement for the reasons heretofore discussed.

[15] With the exception of fares to/from Miami and the proposed general increase in normal economy fares we are approving the agreements in all respects. Our evaluation of Pan American's operations over the North Atlantic with B–747 aircraft, the prevalent aircraft used by this carrier, indicates that its costs are significantly less than those incurred by TWA. Accordingly, to the extent that questions relating to TWA's allocation of various costs are raised, their resolution would not alter our decision to disapprove normal economy fares.

Agreement CAB	IATA No.	Title	Application
26239:			
R-1	001h	Mid-Atlantic Special Effectiveness Resolution (Tie-in)	JT12, Mid-Atlantic-Europe/Middle East.
R-2	001e	Mid-Atlantic Escape for Normal and Special Fares	JT12, Mid-Atlantic.
R-3	001r	Special Escape for JT12/123 (Mid-Atlantic) Agreement (New)	JT12/JT123, Mid-Atlantic.
R-4	001s	Special Effectiveness Resolution (New)	JT12, Mid-Atlantic-Europe/Middle East.
R-5	001x	Mid-Atlantic Special Adjustment Resolution (New)	JT12, Mid-Atlantic.
R-6	001xx	Mid-Atlantic Escape for Normal and Special Fares	Do.
R-7	001yy	Special Mid-Atlantic Escape Resolution	Do.
R-8	002	Standard Revalidation Resolution	JT12, Mid-Atlantic-Europe/Middle East.
R-9	005h	General Increases in Passenger Fares (New)	JT123, Mid-Atlantic.
R-12	054b	Mid-Atlantic First-Class Fares	JT12, Mid-Atlantic.
R-13	064b	Mid-Atlantic Economy Class Fares	Do.
R-14	070ff	Mid-Atlantic 14- to 45-Day Excursion Fares (Revalidating and Amending).	Do.
R-20	076n	Mid-Atlantic Affinity Group Bulk Travel Prices—San Juan-Portugal/Spain (Revalidating and Amending).	Do.
R-21	080cc	Delayed Effectiveness Inclusive Tours From Federal Republic of Germany and West Berlin to Points in TC1 via the Mid-Atlantic (New).	Do.
R-23	084f	Mid-Atlantic 10- to 28-Day Group Inclusive Tour Fares to TC1 (Revalidating and Amending).	Do.
26357:			
R-1	LA1	North Atlantic Limited Agreement U.S.A.-Europe (New)	JT12, North Atlantic.
R-2	001b	North Atlantic Special Effectiveness Resolution (Tie-in)	JT12, North Atlantic-Europe.
R-3	001dd	North Atlantic Escape for Normal and Special Fares	Do.
R-4	002	Special Readoption Resolution	Do.
R-5	014a	Construction Rule for Passenger Fares	Do.
R-6	015	North Atlantic Proportional Fares North American	Do.
R-7	022g	JT12/JT123 (North Atlantic) Adjustment Factors for Sales of Passenger Air Transportation (New).	Do.
26385			
R-1	001b	North Atlantic Special Effectiveness Resolution (Tie-in)	JT12, North Atlantic-Africa.
R-2	001dd	North Atlantic Escape for Normal and Special Fares	Do.
R-3	001ee	Special Effectiveness Resolution	Do.
R-4	002	Standard Revalidation Resolution	Do.
R-5	014a	Construction Rule for Passenger Fares	Do.
R-6	015	North Atlantic Proportional Fares North American	Do.
R-7	022g	JT12/JT123 (North Atlantic) Adjustment Factors for Sales of Passenger Air Transportation (New).	JT12/JT123, North Atlantic-Africa.
R-9	054f	North Atlantic-Africa Supersonic Fares	JT12, North Atlantic-Africa.
26386			
R-1	001b	North Atlantic Special Effectiveness Resolution (Tie-in)	JT12, North Atlantic-Middle East.
R-2	001dd	North Atlantic Escape for Normal and Special Fares	Do.
R-3	001zz	Special Effectiveness Resolution	Do.
R-4	002	Special Readoption Resolution	Do.
R-5	014a	Construction Rule for Passenger Fares	Do.
R-6	015	North Atlantic Proportional Fares North American	Do.
R-7	022g	JT12/JT123 (North Atlantic) Adjustment Factors for Sales of Passenger Air Transportation (New).	Do.
26387	002	Special Readoption Resolution	JT123, North Atlantic.
26388	250	Sleeper Surcharge	JT12, North Atlantic.
26389	022g	JT12/JT123 (North Atlantic) Adjustment Factors for Sales of Passenger Air Transportation (New).	JT123, Mexico/U.S.A.—TC3.
26419	002t	Special Amending Resolution—North Atlantic Limited Agreement (New).	JT12, North Atlantic.

2. It is not found that the following resolutions, set forth in the agreements indicated, are adverse to the public interest or in violation of the Act except insofar as New York-London fares would be used to construct through fares to and from points in Florida, provided that approval is subject, where applicable, to conditions previously imposed by the Board and in addition, to the condition stated below:

Agreement CAB	IATA No.	Title	Application
26382:			
R-8	054a	North Atlantic First Class Fares	JT12, North Atlantic-Europe.
R-10	070bf	North Atlantic 14- to 21-Day and 14- to 45-Day Excursion Fares.	Do.
R-11	071p	North Atlantic Advance Purchase Excursion Fares	Do.
R-12	071q	North Atlantic 22- to 45-Day Excursion Fares	Do.
R-13	076e	North Atlantic Affinity Group Fares	Do.
R-14	976p	North Atlantic 14-Day Incentive Group Fares	Do.
R-15	084a	North Atlantic 21-, 28-, and 30-Day Group Inclusive Tour Fares.	Do.
R-16	084p	North Atlantic 7- to 8-, 7- to 16-, and 7- to 13-Day Group Inclusive Tour Fares—Europe.	Do.
R-17	084r	Travel at Group Fares Within Scandinavia	Do.
R-19	090ff	North Atlantic Individual Youth Fares	Do.
26383:			
R-8	054n	North Atlantic First Class Fares	JT12, North Atlantic-Africa.
R-11	070d	North Atlantic 14- to 21-day and 14- to 45-Day Excursion Fares.	Do.
R-13	076e	North Atlantic Affinity Group Fares	Do.
R-14	076p	North Atlantic 14-Day Incentive Group Fares	Do.
R-15	084a	North Atlantic 21-, 28-, and 30-Day Group Inclusive Tour Fares.	Do.
R-16	084pp	North Atlantic 6- to 16-Day Winter Group Inclusive Tour Fares—Africa.	Do.

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Agreement CAB	IATA No.	Title	Application
26386:			
R-8	054a	North Atlantic First Class Fares	JT12, North Atlantic-Middle East.
R-10	070d	North Atlantic 14- to 21-day and 14- to 45-day Excursion Fares	Do.
R-11	070t	North Atlantic 14- to 21-Day Excursion Fares—Amman, Baghdad, Beirut, Cairo, Damascus, Jerusalem, Kuwait, Nicosia, and Tehran.	Do.
R-12	070x	do	Do.
R-13	071q	North Atlantic 22- to 45-Day Excursion Fares	Do.
R-14	073i	North Atlantic Group Fares—Israel	Do.
R-15	075r	North Atlantic 8- to 21-Day Group Fares—Israel	Do.
R-16	075rr	North Atlantic 8- to 21-Day Group Fares—Amman, Baghdad, Beirut, Cairo, Damascus, Jerusalem, and Nicosia.	Do.
R-17	076e	North Atlantic Affinity Group Fares	Do.
R-18	076h	North Atlantic 4- to 9-Day Incentive Group Fares to Israel	Do.
R-19	076p	North Atlantic 14-Day Incentive Group Fares	Do.
R-20	084a	North Atlantic 21-, 28-, and 30-Day Group Inclusive Tour Fares.	Do.
R-21	084c	North Atlantic Winter Group Inclusive Tour Fares to Israel	Do.
R-22	084cc	North Atlantic Winter Group Inclusive Tour Fares to Middle East.	Do.
R-24	092ff	North Atlantic Individual Youth Fares	Do.
R-26	092gg	North Atlantic Group Youth Fares, U.S.A.-Israel	Do.

Subject to the condition that proposed changes in the seasonality shall not become effective prior to June 1, 1977.

3. It is not found that the following resolution, set forth in Agreement C.A.B. 26386 as indicated, is adverse to the public interest or in violation of the Act except insofar as New York-London fares would be used to construct through fares to and from points in Florida, provided that approval is subject to the conditions stated below:

Agreement CAB	IATA No.	Title	Application
26382:			
R-12	071r	North Atlantic-Africa Advance Purchase Excursion Fares (New).	JT12, North Atlantic-Africa.

(1) In the event a passenger discontinues his journey en route for any reason, the amount of the fare paid may be applied as a credit toward the purchase of transportation at the applicable fare calculated from the original point of origin.

(2) Full refund shall be made in the event of death or illness of the passenger or of a member of the passenger's immediate family prior to travel.

(3) In the event that, after issuance of the ticket, schedule changes by the carrier(s) create alterations to the ticketed itinerary which are not satisfactory to the passenger, the passenger will have the option either to cancel without incurring a penalty or to have his ticket reissued with the same origin and destination points, in accordance with the tariffs on file with the Board, without incurring a penalty.

4. It is not found that the following resolution, set forth in Agreement C.A.B. 26259, is adverse to the public interest or in violation of the Act except insofar as it would apply to fares from Guam.

Agreement CAB	IATA No.	Title	Application
26259:			
R-10	022h	JT12/JT123 (Mid-Atlantic) Adjustment Factors for Sales of Passenger Air Transportation (New)—Except From Guam.	JT12/JT123, Mid-Atlantic.

5. It is not found that the following resolution, incorporated in Agreement C.A.B. 26259, and which has indirect application in air transportation as defined by the Act, is adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
26259:			
R-15	070gg	Mid Atlantic Excursion Fares Between Bermuda/Bahamas and TC2 (Revalidating and Amending).	JT12, Mid-Atlantic.

6. It is found that the following resolutions, set forth in the agreements indicated, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
26355	001vv	JT12 (North Atlantic) Special Escape Resolution (New).	JT12, North Atlantic.
26259:			
R-10	022h	JT12/JT123 (Mid-Atlantic) Adjustment Factors for Sales of Passenger Air Transportation (New)—From Guam.	JT12/JT123, Mid-Atlantic.
R-11	045	Passenger Charters (Revalidating and Amending)	JT12, Mid-Atlantic.
26382:			
R-9	054a	North Atlantic Economy Class Fares	JT12, North Atlantic-Europe.
26385:			
R-10	054a	do	JT12, North Atlantic-Africa.
26386:			
R-9	054a	do	JT12, North Atlantic-Middle East.

7. It is found that the following resolutions, set forth in the agreements indicated, are adverse to the public interest and in violation of the Act insofar as New York-London fares would be used to construct through fares to and from points in Florida:

Agreement CAB	IATA No.	Title	Application
26382			
R-8	054a	North Atlantic First Class Fares	JT12, North Atlantic-Europe.
R-10	070d	North Atlantic 14- to 21-Day and 14- to 45-Day Excursion Fares.	Do.
R-11	071p	North Atlantic Advance Purchase Excursion Fares	Do.
R-12	071q	North Atlantic 22- to 45-Day Excursion Fares	Do.
R-13	076e	North Atlantic Affinity Group Fares	Do.
R-14	076p	North Atlantic 14-Day Incentive Group Fares	Do.
R-15	084a	North Atlantic 21-, 28-, and 30-Day Group Inclusive Tour Fares.	Do.
R-16	084p	North Atlantic 7- to 8-, 7- to 10-, and 7- to 13-Day Group Inclusive Tour Fares—Europe.	Do.
R-17	084x	Travel at Group Fares Within Scandinavia	Do.
R-19	092ff	North Atlantic Individual Youth Fares	Do.
26385:			
R-8	054a	North Atlantic First Class Fares	JT12, North Atlantic-Africa.
R-11	070d	North Atlantic 14- to 21-Day and 14- to 45-Day Excursion Fares.	Do.
R-12	071r	North Atlantic-Africa Advance Purchase Excursion Fares (New).	Do.
R-13	076e	North Atlantic Affinity Group Fares	Do.
R-14	076p	North Atlantic 14-Day Incentive Group Fares	Do.
R-15	084a	North Atlantic 21-, 28-, and 30-Day Group Inclusive Tour Fares.	Do.
R-16	084pp	North Atlantic 6- to 16-Day Winter Group Inclusive Tour Fares—Africa.	Do.
26386:			
R-8	054a	North Atlantic First Class Fares	JT12, North Atlantic-Middle East.
R-10	070d	North Atlantic 14- to 21-Day and 14- to 45-Day Excursion Fares.	Do.
R-11	070t	North Atlantic 14- to 21-Day Excursion Fares—Amman, Baghdad, Beirut, Cairo, Damascus, Jerusalem, Kuwait, Nicosia, and Tehran.	Do.
R-12	070x	do	Do.
R-13	071q	North Atlantic 22- to 45-Day Excursion Fares	Do.
R-14	073i	North Atlantic Group Fares—Israel	Do.
R-15	075r	North Atlantic 8- to 21-Day Group Fares—Israel	Do.
R-16	075rr	North Atlantic 8- to 21-Day Group Fares—Amman, Baghdad, Beirut, Cairo, Damascus, Jerusalem, and Nicosia.	Do.
R-17	076e	North Atlantic Affinity Group Fares	Do.
R-18	076h	North Atlantic 4- to 9-Day Incentive Group Fares to Israel	Do.
R-19	076p	North Atlantic 14-Day Incentive Group Fares	Do.
R-20	084a	North Atlantic 21-, 28-, and 30-Day Group Inclusive Tour Fares.	Do.
R-21	084c	North Atlantic Winter Group Inclusive Tour Fares to Israel	Do.
R-22	084cc	do	Do.
R-24	092ff	North Atlantic Individual Youth Fares	Do.
R-26	092gg	North Atlantic Group Youth Fares U.S.A.-Israel	Do.

8. It is not found that the following resolutions, set forth in the agreements indicated, affect air transportation within the meaning of the Act:

Agreement CAB	IATA No.	Title	Application
26259:			
R-16	070v	Mid Atlantic 14- to 30-day Excursion Fares—Havana (Revalidating and Amending).	JT12, Mid-Atlantic.
R-17	071e	Mid-Atlantic 22- to 30-Day Excursion Fares—Colombia (Revalidating and Amending).	Do.
R-18	071k	Mid-Atlantic 22- to 35-Day Excursion Fares—Central America/Panama (New).	Do.
R-19	071o	Mid-Atlantic Special Excursion Fares—U.K.-Caribbean (Revalidating and Amending).	Do.
R-22	063d	Mid-Atlantic 10- to 30-Day Individual Inclusive Tour Fares—Germany/Belgium-Bahamas (Revalidating and Amending).	Do.
R-24	064n	Mid-Atlantic 7- to 30-Day Group Inclusive Tour Fares—Germany/Belgium-Bahamas (Revalidating and Amending).	Do.
R-25	064o	Mid-Atlantic Special Group Inclusive Tour Fares, U.K. to Caribbean (Revalidating and Amending).	Do.
R-26	064q	Group Inclusive Tour Fares, Scandinavia-Barbados Trinidad/Tobago (Revalidating and Amending).	Do.

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Agreement CAB	IATA No.	Title	Application
R-27	0s1qq	Mid-Atlantic 10- to 28-Day Group Inclusive Tour Fares Cuba to Eastern European Countries (Revalidating and Amending).	Do.
R-28	0s1rr	Mid-Atlantic Special Group Resolution (Revalidating and Amending).	Do.
R-29	0s1vv	Mid-Atlantic 10- to 28-Day Group Inclusive Tour Fares from Central America to Spain (Revalidating and Amending).	Do.
26382:			
R-18	0s2f	North Atlantic Individual Youth Fares	JT12, North Atlantic-Europe.
26386:			
R-23	0s2f	do	JT12, North Atlantic-Middle East.
R-25	0s2r	North Atlantic Group Youth Fares Canada/Mexico-Israel.	Do.

Accordingly, it is ordered, that:

1. Those portions of Agreements C.A.B. 26259, C.A.B. 26382, C.A.B. 26385, C.A.B. 26386, C.A.B. 26387, C.A.B. 26388, C.A.B. 26389, and C.A.B. 26419, set forth in finding paragraphs 1 and 5 above, be and hereby are approved subject, where applicable, to conditions previously imposed by the Board;

2. Those portions of Agreements C.A.B. 26259, C.A.B. 26382, C.A.B. 26385, and C.A.B. 26386, set forth in finding paragraphs 2, 3 and 4 above be and hereby are approved subject to conditions previously imposed by the Board and in addition to the conditions stated therein;

3. Those portions of Agreements C.A.B. 26259, C.A.B. 26355, C.A.B. 26382, C.A.B. 26385 and C.A.B. 26386 set forth in finding paragraphs 6 and 7 above, be and hereby are disapproved;

4. Jurisdiction be and hereby is disclaimed with respect to those portions of Agreements C.A.B. 26259, C.A.B. 26382 and C.A.B. 26386 set forth in finding paragraph 8 above;

5. The carriers are hereby authorized to file tariffs implementing the approved IATA resolutions on not less than one day's notice for effectiveness not earlier than April 1, 1977. The authority granted in this paragraph expires April 30, 1977;

6. Tariffs implementing the approvals contained in the above finding paragraphs shall be marked to expire March 31, 1978; and

7. Copies of this order shall be served on all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

Appendix I

Present versus Proposed North Atlantic Air Fares

		New York-London Round Trip			Miami-London Round Trip		
		Present Board Approved Fares	Proposed Fares	% Increase	Present Board Approved Fares	Proposed Fares	% Increase
First Class		$1,250	$1,312	5.0	$1,350	$1,412	4.6
Economy	Winter	584 (626) 1/	646	10.6 (3.2)	684	746	9.1
	Shoulder	626	646	3.2	726	746	2.8
	Peak	764	774	1.3	864	874	1.2
14/21-Day Excursion	Basic	541	541	-0-	579	606	4.7
	Peak	631	631	-0-	664	696	4.8
22/45-Day Excursion	Winter	400 (432) 1/	467	16.8 (8.1)	434	512	18.0
	Shoulder	432	467	8.1	466	512	9.9
	Peak	527	587	11.4	566	632	11.7
Advance Purchase Excursion	Winter	325	350	7.7	380	405	6.6
	Shoulder	325	350	7.7	392	405	3.3
	Peak	410	440	7.3	477	495	3.8
Youth	Winter	441	473	7.3	562	635	13.0
	Shoulder	441	473	7.3	603	635	5.3
	Peak	500	536	7.2	662	698	5.4
14/21-Day Group Inclusive Tour	Basic	388	424	9.3	456	492	7.9
	Peak	490	535	9.2	558	603	8.1
7/8 Winter Group Inclusive Tour	Winter	356	382	7.3	426	457	7.3
	Shoulder	412	424	2.9	487	499	2.5
Affinity/Group	Winter	399	467	17.0	410	512	24.9
	Shoulder	399	467	17.0	447	512	14.5
	Peak	508	Discontinued		556	Discontinued	

1/ As a result of court action, shoulder season fares were retained for winter travel.

Appendix II

Present versus Proposed North Atlantic Air Fares

		New York-Paris Round Trip			New York-Rome Round Trip		
		Present Board Approved Fares	Proposed Fares	% Increase	Present Board Approved Fares	Proposed Fares	% Increase
First Class		$1,302	$1,368	5.1	$1,514	$1,594	5.3
Economy	Winter	612 (652) 1/	672	9.8 (3.1)	794 (828) 1/	852	7.3 (2.9)
	Shoulder	652	672	3.1	828	852	2.9
	Peak	824	834	1.2	968	982	1.4
14/21-Day Excursion	Basic	568	587	(0.2.	714	717	0.4
	Peak	681	681	-0-	804	807	0.4
22/45-Day Excursion	Winter	374 (451) 1/	487	30.2 (8.0)	430 (522) 1/	565	25.6 (8.2)
	Shoulder	451	487	8.0	522	565	8.2
	Peak	541	601	11.1	678	689	9.7
Advance Purchase Excursion	Winter	350	376	7.4	433	459	6.0
	Shoulder	350	376	7.4	433	459	6.0
	Peak	446	477	7.0	544	571	5.0
Youth	Winter	457	490	7.2	477	513	8.0
	Shoulder	457	490	7.2	477	515	8.0
	Peak	508	546	7.5	526	568	8.0
14/21-Day Group Inclusive Tour	Basic	420	456	8.6	554	593	7.0
	Peak	521	566	8.6	656	704	7.3
7/8 Winter Group Inclusive Tour	Winter	368	395	7.3	430	463	7.7
	Shoulder	400	438	9.5	462	506	9.5
Affinity/Group	Winter	410	487	18.8	497	565	13.7
	Shoulder	410	487	18.8	497	565	13.7
	Peak	519	601	15.8	615	689	12.0

1/ As a result of court action, shoulder season fares were retained for winter travel.

Appendix III

North Atlantic Scheduled Passenger Service
Per Carrier Justifications
(000)

	Historical Y.E. 9/30/76			Forecast Y.E. 9/31/78					
				Present Fares			Proposed Fares		
	National	Pan American	TWA	National	Pan American	TWA	National	Pan American	TWA
Revenue Passenger-Miles	314,692	6,859,011	6,919,000	528,514	8,301,600	7,440,000	528,514	6,799,699	7,420,000
Available Seat-Miles	542,531	10,777,842	11,760,000	1,034,613	12,205,500	13,055,000	1,034,613	12,205,500	13,055,000
Load Factor	58.4%	56.2%	58.8%	51.1%	56.5%	57.0%	51.1%	55.7%	56.8%
Total Operating Revenues	$ 19,259	$ 443,996	$ 314,830	$ 32,841	$ 511,067	$ 577,229	$ 34,489	$ 525,856	$ 598,399
Operating Expense	16,484	434,366	456,131	26,310	474,675	543,856	26,310	479,186	543,393
Cost Escalation	-	-	-	-	19,644	-	-	19,586	-
Total Operating Expense	16,484	434,366	456,131	26,310	494,319	543,856	26,310	498,772	543,393
Operating Profit (Loss)	2,575	11,330	60,699	6,531	18,728	33,373	8,179	30,868	32,806
Non-op. Income & Expense, Net	(954)	(12,435)	(6,164)	(893)	(13,782)	(5,891)	(893)	(13,782)	(5,891)
Net Income Before Taxes	1,621	(1,105)	54,535	5,638	4,946	27,482	7,286	17,086	44,913
Income Tax (Cr.) @ 48%	(778)	(530)	(26,177)	(2,706)	(2,374)	(13,191)	(3,497)	(8,201)	(22,158)
Income After Tax	843	(575)	28,358	2,932	2,572	14,291	3,789	8,885	24,395
Add: Interest Expense	956	12,435	6,164	893	13,782	5,891	893	13,782	5,891
Return Element	1,797	11,860	34,522	3,825	16,354	20,182	4,682	22,667	30,286
Investment	35,521	264,695	173,031	40,418	293,188	180,559	40,418	293,188	180,559
R. O. I.	5.06%	4.48%	19.95%	9.46%	5.57%	11.18%	11.24%	7.73%	16.78%

Finally, we will deny Airwest's request

ACTION: Announcing changes in: (1)

COMMITTEE FOR THE IMPLEMENTATION OF

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Appendix IV

North Atlantic Scheduled Passenger Service
As Adjusted
(000)

	Adjusted Forecast Y.E. 3/31/78			
	Present Fares 1/	Proposed Fares		
	National 2/	National 2/	Pan American 3/	TWA 3/
Revenue Passenger-Miles	528,314	528,314	6,799,699	7,420,000
Available Seat-Miles	905,112	905,112	12,034,865	13,017,543
Load Factor	58.4%	58.4%	56.5%	57.0%
Total Operating Revenues	$32,841	$34,489	$525,856	$598,399
Operating Expense	24,071	24,071	470,763	544,432
Cost Escalations	-	-	19,422	-
Total Operating Expense	24,071	24,071	490,185	544,432
Operating Profit (Loss)	8,770	10,418	35,671	53,967
Non-op. Income & Expense, Net	(809)	(809)	(13,637)	(5,878)
Net Income Before Taxes	7,961	9,609	22,034	48,089
Income Tax (Cr.) @ 48%	(3,821)	(4,612)	(10,576)	(23,083)
Income After Tax	4,140	4,997	11,458	25,006
Add: Interest Expense	809	809	13,637	5,878
Return Element	4,949	5,806	25,095	30,884
Investment	36,623	36,623	290,308	180,489
R. O. I.	13.51%	15.85%	8.64%	17.11%

1/ Pan American and TWA were not adjusted in this instance.
2/ Capacity adjusted to achieve historical load factor.
3/ Capacity adjusted to achieve forecast load factor under present fare.

[FR Doc.77-7577 Filed 3-14-77;8:45 am]

[Docket No. 30055; Order 77-3-53]

TRANS WORLD AIRLINES, ET AL.

Phoenix-Las Vegas-Reno Competitive Nonstop Service Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of March, 1977.

By Order 76-11-67, November 12, 1976, the Board instituted the Las Vegas-Reno Competitive Nonstop Service Proceeding, Docket 30055, to determine whether the public convenience and necessity require additional nonstop service in the Las Vegas-Reno market.[1]

Applications have been filed by Trans World Airlines, Docket 30219 and Delta Air Lines, Docket 30216. Both carriers have moved to consolidate their applications in this docket. However, Delta's application and motion to consolidate were filed concurrently with a petition for reconsideration of Order 76-11-67 wherein Delta requests that the scope of this proceeding be expanded to include the Las Vegas-Phoenix market.

Hughes Airwest has filed a petition for reconsideration requesting that further action be deferred until other pending applications, which the carrier contends propose more important public service benefits, have been heard.

Answers opposing Delta's request for expansion and Airwest's request for deferral have been filed by the Bureau of Operating Rights and Western Air Lines. The Las Vegas Parties have filed an answer opposing deferral of the proceeding but offer no objection to the inclusion of Phoenix. Airwest filed an answer opposing Delta's requested expansion.

Subsequently, Airwest filed a supplemental petition for reconsideration and answer to TWA's motion to consolidate accompanied by a motion to file an otherwise unauthorized document. We will grant the motion. Airwest, in this pleading, requests that the Board expand the scope of the proceeding to include Albuquerque or, in the alternative, impose a prehearing restriction against TWA prohibiting through-plane service between Albuquerque and Reno. Answers in opposition have been filed by the Bureau and TWA. These answers are accompanied by motions to file otherwise unauthorized documents and the motions will be granted.

On consideration of the petitions and responses thereto the Board has determined to expand the scope of this proceeding to include the Las Vegas-Phoenix market. A reasonably close relationship between the Las Vegas-Reno and Las Vegas-Phoenix markets exists so as to justify their consideration in the same proceeding. In calendar year 1975, Las Vegas-Phoenix generated 132,730 O&D plus interline connecting passengers as compared to 129,840 such passengers in the Las Vegas-Reno market. The two markets are almost identical in size, quite similar in length and there exists a significant traffic flow of 16,270 O&D plus interline connecting passengers between Reno and Phoenix who do not now receive nonstop service and who could help support service in both the Las Vegas-Reno and Las Vegas-Phoenix markets.

However, we have determined not to expand this proceeding further so as to include Las Vegas-Albuquerque. The reasons for the inclusion of Phoenix do not obtain as to Albuquerque.[2] As to deferral of the proceedings, Airwest has presented no new facts or arguments of which the Board was unaware when it issued Order 76-11-67 instituting this proceeding.

[1] Hughes Airwest is the only carrier currently authorized to provide nonstop service in this market.

[2] Among other factors, the Reno-Albuquerque market is very small and would afford little traffic support for either Las Vegas-Reno or Las Vegas-Albuquerque air service.

Finally, we will deny Airwest's request for a prehearing restriction on TWA in the Reno-Albuquerque market. The imposition of such restrictions would limit the Board's flexibility to impose only those restrictions which are found necessary on the basis of an evidentiary record. If there is, in fact, a need for such restrictions, it can be shown at the hearing.

Accordingly, it is ordered That: 1. The petition for reconsideration of Order 76-11-67 of Delta Air Lines be and hereby is granted;

2. This proceeding shall hereafter be known as the Phoenix-Las Vegas-Reno Competitive Nonstop Service Proceeding, Docket 30055;

3. The petition for reconsideration of Hughes Airwest be and hereby is denied;

4. The proceeding shall include consideration of the following issues:

a. Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in additional nonstop air transportation between Las Vegas and Reno, Nevada, and Las Vegas, Nevada, and Phoenix, Arizona?

b. If the answer to (a) is in the affirmative, which air carrier(s) should be authorized to engage in such service?

c. What conditions, if any, should be placed on the operation of such carrier(s)?;

5. The application of Delta Air Lines, Inc., in Docket 30216 be and it hereby is consolidated in Docket 30055;

6. The application of Trans World Airlines, Inc., in Docket 30219 be and it hereby is consolidated in Docket 30055;

7. Applications within the expanded scope of this proceeding and motions to consolidate shall be filed ten (10) days from the date of service of this order and answers thereto shall be filed ten (10) days thereafter;

8. Except to the extent granted herein, all motions, petitions and requests for relief be and they are hereby denied;

9. This order shall be served upon Hughes Airwest, Western Airlines, Trans World Airlines, Delta Air Lines, the Las Vegas Parties and the Reno Parties, the Governor of Arizona, the Mayor of Phoenix, and the Arizona Department of Transportation, Aeronautics Division.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

NOTE.—Minetti and West, Members, filed a concurrence and dissent, which is part of the original document.

[FR Doc.77-7578 Filed 3-14-77;8:45 am]

COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS

REPUBLIC OF CHINA

Visa Requirements for Certain Cotton, Wool and Manmade Fiber Textile Products

MARCH 9, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing changes in: (1) the red seal required to be affixed to visas for certain cotton, wool and man-made fiber textile products exported to the United States from the Republic of China; and (2) the name of the official authorized by the Government of the Republic of China to issue visas.

SUMMARY: The Government of the Republic of China has informed the Government of the United States of its intention to begin using a new red seal on its export visas for cotton, wool and man-made fiber textile products which are subject to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 21, 1975, as amended. The new official authorized to issue the visas is Mr. Chiu-Yeh Liu of the Taiwan Textile Federation.

EFFECTIVE DATE: The Government of the Republic of China will begin using the new visa stamp and signature on April 1, 1977. Shipments of textile products exported from the Republic of China to the United States before April 1, 1977 will not be denied entry, provided they are visaed in accordance with previously established procedures. Shipments exported to the United States from the Republic of China after March 31, 1977 that are not accompanied by visas bearing the new stamp and signature but are visaed in accordance with previously established procedures will not be denied entry until July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Judith L. McConahy, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230. (202-377-5423)

SUPPLEMENTARY INFORMATION: On October 3, 1972, a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the FEDERAL REGISTER (37 FR 20745), which established an export visa requirement for cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of China and exported to the United States. The letter published below transmits to the Commissioner of Customs facsimiles of the new stamp and signature which will be affixed to export visas for textile products from the Republic of China, effective from April 1, 1977. Further, it directs the Commissioner to permit entry until July 1, 1977 of shipments of cotton, wool and man-made fiber textile products exported from the Republic of China after April 1, 1977, provided they are visaed in accordance with previously established procedures.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C. 20229

MARCH 9, 1977.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive of September 27, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1-64; wool textile products in Categories 101-152; and man-made fiber textile products in Categories 200-243; produced or manufactured in the Republic of China, for which the Republic of China Government had not issued a visa.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 21, 1975, as amended, between the Governments of the United States and the Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, the directive of September 27, 1972 is hereby further amended to require that, effective on April 1, 1977, visas accompanying shipments of cotton, wool and/or man-made fiber textile products from the Republic of China will have a new red stamp superimposed on the visa and will be signed by Mr. Chiu-Yeh Liu. A facsimile of the stamp and signature is enclosed.

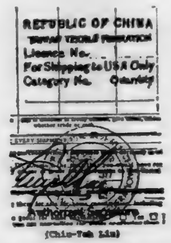
Shipments of textile products exported before April 1, 1977 may be permitted entry without the new stamp and signature until July 1, 1977 provided they are otherwise visaed in accordance with previous directives.

The actions taken with respect to the Government of the Republic of China and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

VISA MATERIALS FOR
COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS
EXPORTED TO THE UNITED STATES FROM THE REPUBLIC OF CHINA



(Chiu-Yeh Liu)

[FR Doc.77-7453 Filed 3-14-77;8:45 am]

V4250 MAR 15 77 UMI

COMMODITY FUTURES TRADING COMMISSION

EXTENSION OF NO-ACTION POSITION FOR CERTAIN APPLICANTS FOR REGISTRATION AS ASSOCIATED PERSONS

The Commodity Futures Trading Commission ("Commission") has taken two "no-action" positions with respect to certain persons who applied for registration as associated persons ("AP's") under the Commission's interim commodity option regulations but whose applications were not received in time to permit processing before the January 17, 1977 effective date of the registration requirement. The first "no-action" position was announced on January 13, 1977, and covered those AP applicants whose applications were filed on or before December 27, 1976 and met certain other requirements.[1] This "no-action" position was originally to be effective only through February 21, 1977, but was extended by the Commission until March 7, 1977.[2] The second "no-action" position announced on February 4, 1977 covered applicants whose applications were received on or before January 17, 1977, and who requested the "no-action" position by means of an affidavit attesting to specific facts.[3] That "no-action" position also expired March 7, 1977. Because a few applications remain to be processed the Commission has determined to extend the two earlier "no-action" positions until March 18, 1977.

Issued in Washington, D.C. on March 9, 1977.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-7512 Filed 3-14-77;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

MEETING

A meeting of the Equal Employment Opportunity Commission will be held on Tuesday, March 15, 1977, beginning at 9:30 AM, in the Chairman's Conference Room No. 2, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506. The Commission plans to consider the following agenda item in closed session:

Freedom of Information Act Appeal 77-1-FOIA-4 which involves a request for a Commission Presentation Memorandum recommending Commission intervention in the case of *Sobel* v. *Yeshiva University et al.* The 10th exemption to the Government in the Sunshine Act (5 U.S.C. 552b(c)(10)) permits the Commission to close the meeting since the subject matter involves the Commission's participation in a civil act.

There are no other agenda items scheduled for the March 15, 1977, meeting.

If you have any questions concerning the agenda for the March 15, 1977 Commission meeting, please contact the Office of the Executive Secretariat at (202) 634-6748 (9-5 e.t.).

Issued: March 8, 1977.

By Order of the Commission.

ETHEL BENT WALSH,
Vice Chairman.

[FR Doc.77-7746 Filed 3-14-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21108; File No. BPCT-4847]

NITTANY COMMUNICATIONS, INC.

Construction Permit for a New Television Broadcast Station

Adopted: February 3, 1977.

Released: March 9, 1977.

1. The Commission has before it the application of Nittany Communications, Inc. (hereafter Nittany or NCI), State College, Pennsylvania, for a construction permit, BPCT-4847) for a new commercial television broadcast station on cannel 29, at State College, Pennsylvania; a timely Petition to Deny the application, filed by State College Communications Corporation (hereafter SCCC); and other related pleadings filed by the two parties.[1] SCCC is the licensee of standard broadcast station WRSC and FM broadcast station WQWK, both licensed to State College, and claims standing under the doctrine of *FCC* v. *Sanders Brothers Radio Station*, 309 U.S. 470, 60 S. Ct. 693, 84 L. Ed. 869 (1940), alleging that Nittany's proposed station would compete with SCCC's stations for broadcast advertising in the State College area. We find that SCCC has standing to oppose Nittany's application.

2. In its Petition to Deny, SCCC alleges that Nittany's ascertainment is deficient in the following respects: Nittany's demographic study is inadequate; Nittany fails to identify the principals who conducted its community leader surveys; at least some of the personnel who interviewed community leaders and members of the general public were not qualified to do so; some leaders were consulted outside the permissible time period, if they were consulted at all; many of the persons alleged by Nittany to be leaders either do not qualify as such, or Nittany has not submitted sufficient information to demonstrate that they are leaders within the meaning of the Primer;[2] the applicant omitted several significant groups from its survey of leaders and failed generally to consult with leaders from its proposed secondary service area; Nittany did not assure that the leaders surveyed were representative of the comunity (for example, among the alleged leaders interviewed, there are several close acquaintances of principals of Nittany, many of whom are not in fact community leaders); and Nittany did not take care to assure randomness of the general public survey. Approximately two weeks after SCCC filed its Petition, Nittany filed with the Commission an amendment to its application and an Opposition to SCCC's Petition. The amendment revises, inter alia, (a) demographic data, (b) the listing of community leaders surveyed, (c) the general public survey, (d) the listing of significant problems and needs, and (e) the proposed typical and illustrative programming.

3. Nittany concedes that its general public. Nittany represents that it will was "inconsistent with case law" in that two Pennsylvania State University students made the interviews. To remedy this deficiency, Henry Forker, a principal, conducted some 150 interviews in a "supplementary" survey of the general public. Nittany represents that it will rely on the later survey "for the purposes of its application." This later survey was conducted in a manner (systematic selection from a telephone directory) which provides sufficient guarantees of randomness. Nittany has also added by amendment, the names of leaders from Blair, Clinton, Centre, Huntingdon and Mifflin counties, which Nittany has described from the outset as its secondary service area.

4. In its assertion that "the Commission will look to the bona fides of the original survey," SCCC implies that we cannot or should not consider the corrections made by Nittany in its amendments.[3] The petitioner overlooks Section 1.522 of our Rules, which permits amendment of an application as a matter of right, subject to certain limita-

[1] Among the pleadings is a Motion by SCCC for an additional extension of time in which to file a Reply to Nittany's Opposition to the Petition to Deny. A motion filed July 15, 1975, for a ten-day extension was not opposed by Nittany, but a further motion filed July 25 for an additional one-week extension is opposed, on the ground that good cause for the extension, required by Section 1.46(a) of the Rules, has not been shown. SCCC contends that good cause can be found in the length and complexity of Nittany's Opposition pleading, the press of other business on SCCC's counsel, and the forty-day extension utilized by Nittany to prepare its Opposition to the Petition to Deny. We do not believe good cause has been established for a second extension of time. On the other hand, it is clear that no one has been prejudiced by the additional delay (Nittany subsequently initiated a second pleading cycle with an unauthorized but unopposed supplemental pleading), and there seems to be a possibility that SCCC may have been misled into believing its second motion would not be contested. Therefore, we will waive the requirement of good cause and grant the requested extension.

[2] Primer on the Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971).

[3] It is possible that SCCC refers in the statement to the alleged misrepresentations by Nittany, discussed below, although the context would indicate that SCCC believes that Nittany's ascertainment must be judged on the merits of the original survey. If SCCC is, in fact, referring to the alleged misrepresentations, which we believe call for further inquiry (see discussion beginning at paragraph 11), we are obliged to point out that we see no other reason for calling into question the "good faith" of Nittany's ascertainment efforts.

[1] 42 FR 3699 (January 19, 1977).
[2] 42 FR 11033 (February 25, 1977).
[3] 42 FR 9141 (February 14, 1977).

tions not relevant here, until an order designating the application for hearing has been adopted.[4]

5. We agree that there are shortcomings in Nittany's ascertainment effort, but conclude that, on the whole, it satisfies the requirements of our Primer. To begin with, the compositional survey does not fully reflect the demographic breakdown of the community. Nittany has omitted students at Pennsylvania State University who reside off-campus in State College because "inclusion of a number of students would cause distortion of the figures vis-a-vis the actual permanent population of the residential community of State College." * * *"[5]

6. Similarly, while the applicant has claimed that blacks constitute 0.5 percent of the population, the U.S. Census for 1970 indicates that blacks are 3 percent of the population. The applicant explains the discrepancy by stating that it has included in the base population figure several townships surrounding the borough of State College. This results in blacks appearing to be a much less significant segment of the community.

7. The Primer requires that an applicant's compositional showing include all "significant groups" as well as the "minority * * * breakdown" of the community of license.[6] We note, however, that these shortcomings in the compositional data supplied by the applicant have not resulted in an omission of either students or blacks from the community leader survey. Nittany did interview student leaders and university officials who deal regularly with students and student concerns, and also interviewed a number of black leaders in the community.

8. SCCC has not shown any other significant omissions in Nittany's demographic data, and Nittany appears to have interviewed at least one representative of every significant group or organizational category identified by its description of the community. In view of the above, we do not believe a hearing on this issue is warranted.

9. SCCC further alleges that many of the persons listed in Nittany's survey of community leaders (probably on the order of 25% of those from the community of State College itself) cannot be properly classified as community leaders on the basis of the information supplied by Nittany in its application and related pleadings. Under the Primer, an applicant must make "at least a minimal showing" that the interviewee is a leader of a particular group or organization or the community as a whole. St. Cross Broadcasting, Inc., 39 FCC 2d 1067, 1068 (Rev. Bd. 1973).

[4] *Stone* v. *FCC*, 466 F. 2d 316 (D.C. Cir. 1972). Although Stone concerns a renewal applicant, no distinction is made in Section 1.522 between the amendment rights of new applicants and renewal applicants.

[5] The University is not within the corporate limits of State College, but it is instead a municipality unto itself, known as University Park, wholly surrounded by the borough of State College.

[6] Primer, supra at 683.

10. In this regard, we note that Nittany's exhibits describing the community leaders interviewed carefully set forth the problems mentioned by each leader. Thus, it is possible to segregate the responses of those persons clearly demonstrated to be leaders from those whose qualifications are questionable. Such a segregated list would show problems mentioned which would permit an applicant, well within its good faith judgment and discretion, to arrive at the list of problems which Nittany has determined to deal with in its programming. We are reluctant to attempt to review the applicant's evaluative processes in constructing a programming proposal. Primer, supra, at 672. The applicant could rightfully rely in its evaluation on the responses of persons whose credentials as community leaders might be in doubt, as much as the responses of members of the general public who also were surveyed. In summary, we find that the applicant has adequately fulfilled the requirements of the Primer.

11. A problem does exist, however, concerning the manner in which Nittany contacted community leaders. SCCC has claimed that "[a]t least 21 community leader contacts were not made as represented by the applicant." The allegation, so far as the majority of the twenty-one leaders is concerned, is based on affidavits which are essentially hearsay of third-parties with no direct knowledge of the facts. Nittany has supplied countering affidavits which establish, at least, that all of the twenty-one named persons, with the exception of one, have been contacted or "recontacted" by a Nittany principal not more than six months prior to the filing of the application.

12. The fact that one person listed in the survey may not have been contacted may be dismissed as an aberration not affecting the good faith of the applicant's survey report. E.g., CBS, Inc., 49 FCC 2d 1214, 1217 (Rev. Bd. 1974). However, it is not disputed that some of the interviews reported in Nittany's application as originally filed were not made by principals of the applicant. According to Nittany, "at least one" of its principals misconstrued the Primer's instructions in this regard. Nittany identifies only one principal to whom this statement may apply, Dr. Reid Allison, who explains in an affidavit that "in using my secretary to make the initial contacts I had no idea that the action would in anyway (sic) be unacceptable." It is not clear how many community leaders were originally contacted in this manner, although it now appears that, subsequent to the filing of the application, all leaders originally contacted by Dr. Allison's secretary have been contacted personally by him.

13. Although for the purpose of conformity with the *Primer's* requirements, the defective interviews appear to have been "cured," a further matter to be considered is the possibility that Nittany's statement that "community leaders were contacted by principals of Nittany Communications, Inc.," amounted to a willful misrepresentation to the Commission. Post-Newsweek Stations of Florida, Inc., 46 FCC 2d 647 (1974); The Thom's Broadcasting Cos., Inc., 52 FCC 2d 376 (Rev. Bd. 1975). The importance of "person-to-person interview[s]" to establish a "dialogue * * * between the community and the decision-making personnel of the applicant" is clearly enunciated in the Primer, supra, at 664. Considering the experience of one of Nittany's principals[7] as a broadcaster and in making community surveys, to which Nittany has itself called attention; the reference in that principal's instructions to other Nittany principals to "person-to-person" interviews, and his admonishment to other principals to "read the FCC Primer * * * thoroughly," we do not believe that Nittany's present claim of misinterpretation and lack of intention to mislead the Commission is sufficient to put the matter to rest. The Thom's Broadcasting Cos. Inc., supra, at 381, 382. Accordingly, an issue will be specified to inquire into the facts and circumstances surrounding the interviews of community leaders by person's other than principals of the applicant, and whether, in connection with those interviews, misrepresentations were made to the commission and, if so, the impact on Nittany's qualifications to be a licensee of the Commission.

14. A further question is raised whether Charles Aikens, publisher of the daily newspaper at State College, was or is an undisclosed stockholder and principal of Nittany. If this were found to be the case, not only would the applicant's misrepresentations and lack of candor call its qualifications to be a licensee into question, but grant of this application would also be barred by Section 73.636(a) of the Commission's Rules, which prohibits formation of new television-newspaper combinations in the same community.

15. It is agreed that Aikens was, prior to the filing of the application on March 12, 1975, a shareholder and director of Nittany. As filed, the application makes no reference to Aikens. According to Aikens' affidavit, on being informed of the prohibition in the Rules, "[s]o not as to do anything which might slow down the Commission's action on Nittany's application, I withdrew from the corporation" by an unnotarized agreement dated March 10, 1975. This agreement does not appear to be self-executing. Rather, it appears to have required action on Aikens' part to transfer his shares back to the corporation, and the return of his investment ($8,000 for 80 shares of stock) by the corporation. Again according to Aikens, "[m]y original investment was returned to me during the last few days of June 1975."

16. In an amendment dated May 12, 1975, Nittany disclosed for the first time that Aikens had been a principal prior to the filing of the application and that some of the community leaders listed in the applicant's survey were contacted

[7] This principal, Wolfram J. Dochterman, is Nittany's Executive Vice-President, a Director, and a 20 percent stockholder.

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by him. Nittany stated unequivocally that "Mr. Aikens withdrew from the applicant corporation prior to the filing of the application." SCCC attaches special significance to this disclosure as the product of its local investigations in State College leading to the filing of its Petition to Deny on May 15, 1975. We believe, however, that it is not necessary to connect these events to conclude that there is a substantial and material question as to Nittany's candor with the Commission in this matter and, therefore, as to its qualifications to be a Commission licensee.

17. Nittany's balance sheet for March 12, 1975, submitted with the application, contains no clue as to the status of Aikens' transactions with the corporation. Eight hundred shares are shown as issued, thereby accounting for those shares listed in Exhibit 9 of the application as owned by the various stockholders in the corporation.[9] Yet, until Aikens' shares were transferred to the corporation and cancelled, they were surely "issued" shares of the corporation and should have been reflected as such in the corporation's financial statement. As recited in Exhibit 9, Attachment D to the application, eight individuals held eighty shares of stock apiece, while Wolfram J. Dochterman, at the time the application was filed, held 160 shares. An option agreement between Dochterman and the corporation indicates that his shares were purchased at par value ($0.01 per share), while other investors paid $100 per share. If this is the case, then, although the capital stock account indicates 800 shares of stock issued and outstanding, the balance ($71,992) in the account styled "Capital contributed in excess of par value," can be explained only by the issuance of an additional 80 shares not reported in Exhibit 9, Attachment D. This belies the later statement by Nittany that Aiken's $8,000, after execution of the March 10 agreement, was treated as a loan. Not only was that amount apparently treated as stockholder equity in the initial balance sheet, but no subsequent balance sheet eliminates the discrepancy. A revised balance sheet (as of March 12, 1975), submitted May 12, 1975, does not change any of the above figures. A later balance sheet, submitted July 9, 1975, appears to correct the capital accounts, but the date of the balance sheet ("as of June 17, 1975") appears significant in view of Aikens' statement that his investment was returned "in the last few days of June 1975." While the June 17 balance sheet cleared Aikens' $8,000 from the capital accounts, it does not show the $8,000 as a current liability, although the recited chronology would indicate the funds had not yet been returned.

18. Nittany's answer to SCCC's question why the arrangement was not shown on the financial statements is that it was "inadvertently omitted." However, as shown above, the March 12, 1975, balance sheet, both as originally submitted and as revised by the May 12, 1975, amendment, clearly indicates the existence of an unreported ownership interest. As such, the question is less one of omission than one of concealment. Nittany further claims that "[t]he arrangement was not considered significant * * * with relation to Nittany's financial status, because repayment was considered a fait accompli."

19. It is fatuous to contend that the matter relates only to Nittany's financial qualifications. Any ownership interest which might have prohibited a grant of Nittany's application[9] can hardly be so restricted in its implications. So long as the necessary events to the termination of Aikens' interests, i.e., transfer of the shares and refund of the $8,000, did not take place, we believe it was an interest which was required to be fully disclosed to the Commission. The facts, as they presently appear from the pleadings and the application, indicate that Aikens' interest continued until sometime in late June 1975. Therefore, an issue will be specified to determine the facts and circumstances surrounding the disposition of Aikens' investment in Nittany; whether Nittany has made misrepresentations or has violated Section 1.514 of the Commission's Rules;[10] whether Nittany has been less than fully candid with the Commission, and any consequential impact on Nittany's qualifications to be a licensee of the Commission.

20. While we will inquire into the quality of Nittany's representations to the Commission, we do not believe there is sufficient basis for a further inquiry into Aikens' alleged status as an undisclosed principal of Nittany. For a certainty, Aikens' ownership interest is now terminated, although Nittany does disclose his interest in subsequently obtaining a waiver of the cross-ownership rule in the event Nittany's application is granted. SCCC's further allegations in this regard concern primarily Aikens' efforts in 1975 to determine by telephone calls whether persons listed in Nittany's survey of community leaders had, in fact, been contacted by Nittany principals; and efforts by Nittany to obtain zoning approval for use of property owned by Aikens as its main studio location, after an option contract to purchase the property from Aikens had expired. The former incidents are of no continuing significance in view of the formal termination of Aikens' ownership interest in late June. As to the latter activity, while SCCC suggests that there is an indication that Aikens' dealings with Nittany subsequent to the termination of his ownership interest were on a less-than-arms-length basis, we believe there is no blanket requirement that all of an applicant's business dealings be conducted on a basis of legal formalities, i.e., that renewal or extension of the option contract was required.[11]

21. SCCC alleges that Nittany has failed to demonstrate the requisite financial qualifications to build and operate its proposed station for one year. Some of SCCC's factual charges are now moot because Nittany has submitted clarifying amendments; other charges appear to be mere surplusage, without factual basis. For example, SCCC disputes Nittany's estimates for equipment, building and staffing expenses. However, in our view, Nittany has made reasonable business judgments well within an applicant's discretion. Thunder Bay Broadcasting Corporation, 49 FCC 2d 1023 (1974). At the least, Nittany's proposal is not so far below "average" to conclude that the station cannot be operated as proposed with the budgeted funds. Midwestern Broadcasting Company, Inc., 15 FCC 2d 720 (1968). However, for reasons outlined below, it will be necessary to set Nittany's application for hearing on the question of whether sufficient funds will be available to construct the station and operate for one year on the basis of the estimates contained in Nittany's financial proposal.

22. Based on information contained in the application, Nittany will require an estimated $868,355, to construct and operate its proposed facility for a period of one year, itemized as follows:

Down payment on equipment	$150,000
13 monthly payments on equipment balance	121,875
13-mo. interest on equipment balance	39,000
Land and buildings	20,480
Miscellaneous	35,000
Items not covered by manufacturer's letter of credit	3,000
Working capital requirement	449,000
Total	[1] 868,355

[1] Our estimate of dollar requirements is considerably lower than Nittany's because we do not include debts to be paid by Nittany after one year in our analysis. Nittany includes this debt as part of its requirement, and offsets it with a deferred credit balance. Our figures are based on the applicant's credit documents, which take into consideration the amount of deferred credit available. SCCC has disputed Nittany's assumption that an ABC network affiliation will be

[9] SCCC has suggested that Henry Forker, listed as a 10 percent stockholder, and Aikens' son-in-law, is Aikens' alter ego in the corporation. A letter guaranteeing Forker's subscription agreement, signed by trustees of the trust of which Forker is the beneficiary, and other documents, suggest instead that the money which went into his investment is his own. We are not willing, without more, to endorse the thought that sons-in-law have no identity of their own.

[9] See paragraph 14, above, concerning § 73.636(a) of the Rules.

[10] Section 1.514 requires the applicant to supply all information called for by the required form, in this case FCC Form 301. Portions of the form for which, in our opinion, the applicant's submissions may not have been completely responsive include Paragraphs 10 and/or 13, Section II, FCC Form 301, and Paragraph 4, Section III, FCC Form 301.

[11] SCCC alleges that Nittany has attempted to deceive the Commission by suggesting that Aikens' property is one of many sites under consideration for the proposed station's studio. According to SCCC, "detailed arrangements and plans have been negotiated with Mr. Aikens." No facts have been submitted which would sustain this allegation. In any event, we would imagine that, when its option on the property expired, Nittany was required to at least contemplate the acquisition of alternative locations.

available. Any judgment we might make in this regard would be entirely speculative. Cf., Thunder Bay Broadcasting Corporation, 47 FCC 2d 1227 (1974). We note however, that Nittany has submitted a proposal for non-network operation, in the event no network affiliation is available, in which its estimated expenses would be slightly less than those listed above. In disputing virtually every individual estimated expense submitted by Nittany, the petitioner has also contended that Nittany's "vague responses or half-truths . . ., when taken together, are as deceptive in their ultimate effect as outright misrepresentation." For example, SCCC alleges that Nittany has attempted to hide the potential cost of delivering a network signal. Nittany reasonably responds that it has assumed that the cost of delivering the network signal will be borne by the network, if Nittany is a primary network affiliate. If that is not to be the case, Nittany has explained how the cost will be met from funds budgeted for program acquisition. SCCC seems to believe that because some of Nittany's estimated expenses changed, while the total requirement remained relatively constant, some of the dollar estimates were manufactured to remain within a predetermined amount. We have previously recognized an applicant's discretion "to apply ingenuity and flexibility to devise the best practicable service," Thunder Bay Broadcasting Corporation, 49 FCC 2d 1023, 1028, (1974), within the resources available to it. With nothing more than SCCC's speculation to go on, and in view of our conclusion that Nittany's estimates are reasonable, paragraph 21, above, no question of misrepresentation is involved: we can only assume that revisions in Nittany's estimates represented actual projected expenses of operation.

To meet this requirement, Nittany relies on (1) existing capital, (2) new capital, and (3) a bank loan.[12]

23. Nittany's amended page two of Section III, FCC Form 301, as of September 1, 1975, shows existing capital of $67,000. This is at odds with a showing on the last submitted balance sheet, dated June 17, 1975, which indicates cash on hand and in banks of $77,150. No new balance sheet has been submitted indicating a change in Nittany's financial position, but we will utilize the more recent figure.[13] Nittany's last balance sheet also indicated "prepaid organizational expenses" amounting to $43,050. This entry has not been further itemized and, in the absence of a showing how such expenses are related to the cost of operation and construction, will not be considered a source of funds.

24. Additionally, Nittany claims subscriptions receivable of $364,800. Bank letters of credit to assist two subscribers—Houser and Magnani—in fulfilling their subscription commitments have expired by their own terms. However, since Houser's personal balance sheet shows adequate liquidity to meet his subscription obligation, we shall discount only the amount of Magnani's subscription—$33,600. Thus, total subscriptions receivable and available are $331,200.

25. The Bank loan, for $500,000, provides for a moratorium on principal payments for the first year, leaving only interest payments, at one-half percent above prime (now approximately six and one quarter percent) due during the first twelve months. However, a draft agreement between the bank and Nittany, submitted with the letter of commitment, indicates that a condition of the loan is that Nittany maintain a compensating balance of at least twenty percent of the outstanding credit extended by the bank. If such a balance is maintained, the maximum "real" credit available would be $400,000. If the required compensating balance is not maintained, the memorandum provides for an additional one quarter percent per month interest charge, computed on the full amount of the letter of credit. Arithmetically, the assumption most favorable to Nittany (and the most realistic, considering the size of its financial requirements) is that the compensating balance requirement will not be met. Thus, we are required to add, effectively, an additional three percent per annum to the cost of Nittany's bank loan, for total interest payments required in the first year of $48,750. The net proceeds of the bank loan, therefore, will be at most $451,250.

26. Thus, total funds available to Nittany will be only $849,450, to meet a requirement of $868,355. An issue, therefore, will be required to determine the availability of additional funds to Nittany for construction and operation of the station and, in light of the evidence on that point, whether Nittany is financially qualified.

27. Wolfram J. Dochterman, referred to above in footnote 13, is listed by Nittany as its Executive Vice President, one of its Directors, and a twenty percent stockholder. Although SCCC characterizes its allegations pertaining to Dochterman as "bearing upon the financial viability of Nittany," it also charges that "[t]he facts detailed . . . strongly suggest that the NCI application was the product of a promoter's scheme for private enrichment . . . at the expense of stockholders and lenders who were naive concerning the realities of broadcasting in general and UHF television in particular." This charge relates to the character of a principal (and, hence, the applicant), and must, therefore, be discussed separately.

28. SCCC alleges that two enterprises in which Dochterman was previously involved were demonstrable failures. Since both ventures concerned proposed UHF stations (one was to operate on the channel herein applied for), SCCC implies that Dochterman and other Nittany principals had a duty to disclose these alleged past failures of the promoter to potential principals and creditors. Moreover, SCCC concludes that there may have been misrepresentation or omission of the essential information in the Nittany "proposal" to investors with respect to the chances of obtaining ABC affiliation and the risks inherent in an investment in a UHF station.

29. It may be that the proposal published by Nittany omitted information which would be important to prospective investors, and it may be that Nittany, through Dochterman, "puffed" the possibility of an ABC affiliation and its consequences. However, we believe that virtually any investors with their eyes open will take their own notice of the risks concomitant with an investment in a new UHF broadcast station. We will not get into the business of inferring misrepresentation from the standard hyperbole of the marketplace.[14]

30. SCCC's charge that the Nittany application for Dochterman's private enrichment is not substantiated by its allegations. SCCC implies that Dochterman's contract with Nittany is extraordinarily generous, and that this agreement is further evidence of Dochterman's scheme to loot the corporation. Like Nittany's decision to hire Dochterman in the first place, the salary question is a matter of discretion on the part of the applicant. Moreover, as a shareholder, and through advertising commissions, Dochterman's financial success is contingent upon the proposed station's success. In view of the foregoing, with respect to the question of whether or not the Nittany application is a scheme for Dochterman's private enrichment, we hold that there are no substantial and material questions of fact, and that based upon the pleadings before us, the application is not such a scheme.

31. In its Petition to Deny, SCCC alleges that Nittany's proposed tower and transmitter site on State Forest Land will be inadequate for the stated purpose because the right-of-way, as proposed, will be too small. This charge has been overtaken by events, inasmuch as Nittany has obtained a license for a right-of-way, which is adequate to house Nittany's tower, transmitter, guying lines and guy anchors. This license, dated July 15, 1975, further provides that Nittany may build a service building and access

[12] Inasmuch as NCI states that it does not rely on revenues, and we find that it has not complied with our requirements for documentation, we omit consideration of NCI's projected revenues. See Erwin O'Connor Broadcasting Co., 37 FCC 2d 983, 25 RR 2d 732 (Rev. Bd., 1972).

[13] SCCC claims that Nittany's cash position should be reduced by cumulative cash payments or accrued liability to Wolfram J. Dochterman under his contract to serve as general manager for $3,000 a month. A reading of Dochterman's contract clearly indicates it is for services as a general manager of an operating station, and nothing therein requires a conclusion that Dochterman is entitled to compensation at this point, prior to construction and operation. SCCC also alleges that Dochterman's expenses in the preparation and prosecution of the application are being paid or reimbursed by the corporation. It does not, however, even "guesstimate" the amount of these expenses, and none of its allegations in this meritless claim are supported by an affidavit by any person with personal knowledge of the facts. As to a salesman SCCC alleges is on the Nittany payroll, it is completely possible this individual is being compensated by commission, and in any event, there is no basis for believing that the total compensation is substantial or significant for Nittany's financial qualifications.

[14] If an investor feels he was misled to his detriment by the Nittany proposal, a civil forum is always available, which should have the first opportunity to interpret and enforce the applicable law. State of Oregon, 58 FCC 2d 332, 333 (1976).

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road. SCCC has not contested the validity or sufficiency of the agreement between Nittany and the State of Pennsylvania, apparently because, on its face, it meets the petitioner's own engineering requirements. Therefore, we find that Nittany's proposed site is available and suitable.[15]

32. SCCC alleges that a grant of Nittany's application "* * * would * * * threaten the existence of a new UHF facility which does have a chance to offer service in the area." In the text of its Petition to Deny, SCCC outlines none of the specifics of this contention. Rather, it submits as an exhibit the unsworn statement of Mr. John R. Powley, licensee of television broadcast station WOPC, Channel 38, Altoona, Pennsylvania, wherein Mr. Powley characterizes the alleged threat of the Nittany application. Powley states his belief that "* * * the Johnstown-Altoona market, which includes State College, cannot possibly support two UHF stations." He represents that his station is already in debt, and that a competing station "* * * particularly if it somehow gained a network affiliation, would put Station WOPC * * * in a marginal financial position."

33. Although SCCC is imprecise in labeling the issue under discussion, it appears that the petitioner is attempting to show that a Carroll issue is warranted.[16] The Carroll issue requirements are set forth in WLVA, Inc., FCC 459 F. 2d 1286 (D. C. Cir., 1972):

> * * * a petitioner seeking a hearing on the Carroll issue must plead specific factual data sufficient to make out a prima facie case that the economic consequences that a grant of the challenged application will lead to an overall derogation of service to the public. Specifically, the petitioner must raise substantial material questions of fact as to whether: (1) the revenue potential of the market is such that a grant will cause a significant loss of income; (2) the effect of this loss will be to compel the petitioner to eliminate some or all of its public service programming; and (3) this loss of programming will not be offset by the increased non-network programming proposed to be offered by the applicant.

Id., at 1297.[17] SCCC falls short of the stringent requirement of specific factual pleading to substantiate the need for a hearing on a Carroll issue. Indeed, in Powley's statement, there are no factual data to support his predictions of dire economic consequences in the event of a grant of Nittany's application. Nor does SCCC submit any such information in the text of any of its pleadings. Therefore, we find that SCCC has failed to plead specific factual data sufficient to raise a substantial and material question of fact as to the likelihood that a grant of Nittany's application would: (1) cause WOPC to suffer a significant loss of income or (2) force WOPC to eliminate any of its public service programming. Since SCCC has not satisfied the two threshhold requirements for a Carroll issue, it would be superfluous to address the third.

34. On June 26, 1976, Nittany filed a timely Petition to Deny SCCC's renewal application [18] for Radio Stations WRSC and WQWK(FM) State College, Pennsylvania. SCCC charges, in a pleading filed October 31, 1975, that Nittany's petition was filed ". . . in order to scare SCCC and cover up the deficiencies in its own application." SCCC relies upon our decision in Radio Carrollton, 52 FCC 2d 1173 (1975), and contends, that like the applicant in Carrollton, "NCI was more interested in fending off a well-grounded protest than in bringing public interest information to the Commission's attention."

35. In February 1976, we released a Memorandum Opinion and Order designating SCCC's two renewal applications for hearing on the following issues:

> To determine whether State College Communications Corporation, its principals or agents, filed a petition to deny the application of Nittany * * * for a construction permit for a UHF station, channel 29 in State College, Pennsylvania, for the purposes of impeding, obstructing, or otherwise delaying grant of that application.
>
> State College Communications Corporation, 58 FCC 2d 462 (1976). Nittany, petitioner in that proceeding, submitted four affidavits purporting to show that SCCC, in petitioning to deny Nittany's application, intended to delay the grant thereof. For example, a principal of SCCC was quoted as saying ". . . that he was sure that he could not stop the television station from coming into State College, but that he would try to slow its progress down." In ordering a hearing, we made no findings as to the merits of Nittany's application or SCCC's petition, which are herein under consideration. We did find that there was extrinsic evidence of SCCC's intent to impede Nittany's application, raising a question which was required to be resolved in a hearing.

36. SCCC's argument may be seen in three steps: (1) SCCC raised questions in its Petition to Deny which Nittany knew to be meritorious; (2) Nittany, therefore, has no legitimate grounds for claiming that SCCC filed a "strike" petition; (3) Nittany, by petitioning to deny SCCC's renewal applications, can only be seeking to retaliate against SCCC. We reject this logic. As we held in State College Communications Corporation and Radio Carrollton, *supra*, and in Asheboro Broadcasting Company, 20 FCC 2d 1 (1969), even if only one purpose of a party is to obstruct, impede, or delay the grant of an application, then that party may be found to have submitted a "strike" application (or petition)—regardless of the merits of the other issues. There was ample, albeit disputed, evidence from which it could be inferred that SCCC had submitted its Petition to Deny with the foregoing motive in mind and for that reason we designated its renewal applications for hearing.

37. Although we do not accept SCCC's reasoning, we have carefully reviewed the pleadings to determine whether there is a substantial and material question of fact as to whether there was an improper motive underlying Nittany's Petition to Deny SCCC's renewal applications. There is no extrinsic evidence before us which would warrant an abuse of process issue. We cannot call an applicant to task on the basis of surmise and speculation.

38. With the exception of the matters discussed above which are the basis of the issues specified below, we find Nittany qualified to construct, own and operate the proposed television station. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned application is designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine the facts and circumstances surrounding interviews of community leaders by persons not principals of Nittany Communications, Inc., and whether, in connection with such interviews, Nittany Communications, Inc., has made misrepresentations to the Commission in its application, and

(2) To determine the facts and circumstances surrounding the withdrawal of Charles T. Aikens from Nittany Communications, Inc., and whether in connection with Aikens' interest in and withdrawal from the corporation, Nittany has made misrepresentations to the Commission or shown a lack of candor with the Commission, or has violated Section 1.514 of the Commission's Rules, and

(3) To determine, in the light of the evidence on the above issues, whether Nittany Communications, Inc., should be disqualified from becoming a licensee of the Commission.

(4) To determine whether, and in what amount, funds in addition to those shown in its application [19] will be available to Nittany Communications, Inc., for construction and operation of the proposed station, and

(5) To determine, in the light of the evidence on the above issue (4), whether Nittany Communications, Inc., is financially qualified, and

(6) To determine whether, in the light of the evidence on the above issues, a grant of the application would serve the public interest, convenience and necessity.

39. *It is further ordered*, That the Petition to Deny, the above-captioned application, filed by State College Communications Corporation, IS GRANTED, to the extent indicated above, and IS DENIED in all other respects.

40. *It is further ordered*, That the motion of State College Communications Corporation of July 25, 1975, for an extension of time in which to file a Reply to the Opposition to the Petition to Deny, IS GRANTED.

41. *It is further ordered*, That State College Communications Corporation is made a party to the hearing ordered herein.

42. *It is further ordered*, That in accordance with Section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence shall be on State College Communications Corporation as to issues (1) through (3). The burden of proceeding with respect to issues (4) through (6) and the burden of proof with respect to all of the issues herein shall be upon Nittany Communications, Inc.

43. *It is further ordered*, That to avail themselves of the opportunity to be heard, the parties herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall, within twenty days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

44. *It is further ordered*, That, the applicant herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, give notice of the hearing, within the time and manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by Section 1.594 (g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-7601 Filed 3-14-77;8:45 am]

[15] SCCC has submitted an engineering study which purports to show that, from the proposed location, Nittany will encounter shadowing problems in the direction of the communities of Johnstown and Altoona. This study was apparently submitted for the purpose of showing that Nittany is condemned to a secondary position in the "Johnstown-Altoona" television market. Thus, the merits of the study, which do not appear, in any event, to be substantial, are irrelevant to the question of the technical suitability of Nittany's transmitter site, from which the proposed station will provide State College with a principal city signal and minimal shadowing will result.

[16] *Carroll Broadcasting Co.* v. *FCC*, 258 F. 2d 440 (D.C. Cir., 1958).

[17] We note that Powley has not sought the status of a party in this case. However, we recognize the right of the petitioner to raise the question of adverse economic consequences on another station, in order to vindicate the public interest. Cf., *Scripps-Howard Radio, Inc.* v. *FCC*, 316 U.S. 4 (1942).

[18] File Nos. BR-4041 and BRH-1688.

[19] See paragraph 26, *supra*.

UNITED VIDEO INC.

[Docket No. 20198]

Memorandum Opinion and Order

Adopted: February 23, 1977.

Released: March 9, 1977.

In the matter of United Video, Inc., Revised Rates for Microwave Service; Tariff F.C.C. No. 4, Transmittal No. 91 and United Video, Inc., Revised Rates for Microwave Service; Tariff F.C.C. No. 4, Transmittal Nos. 44 and 45.

1. On November 30, 1976, United Video, Inc. filed revisions to its Tariff F.C.C. No. 4 under Transmittal No. 91 to become effective February 28, 1977. United Video provides point-to-point microwave services to cable television systems in Illinois and Iowa. Part of its primary service is the delivery of signals of seven Chicago, Illinois television stations. The tariff revisions under Transmittal No. 91 provide for the addition of charges for this service to customers at Pekin and Dixon, Illinois. The tariff revisions also establish charges for a new late-night programming service offering option. This service provides customers with television signals which otherwise are not provided by the carrier to the cable television systems but which provide programming during the period from the sign-off of the last station which the cable systems must carry to the sign-on of the first station which the cable systems must carry. This carriage by the cable systems is generally permitted pursuant to Sections 76.57(c), 76.59(d)(3) and 76.61(e)(3) of the Commission's Rules.

2. United Video's rate structure for its primary television transmission service is already under investigation in United Video, Inc., Docket No. 20198, 49 F.C.C. 2d 878 (1974); recon. denied, 55 F.C.C. 2d 516 (1975). That rate structure is based on geographic zones and the population of the areas being served. The charges for service to cable systems in Pekin and Dixon, Illinois are based on this same rate structure under investigation. Therefore, we are including these charges in our investigation in Docket No. 20198.

3. United Video's late-night programming rate structure is similar to its rate structure already under investigation. The carrier proposes to provide late-night service to its customers at the monthly rate of "$25.00 plus .5¢ per adjusted home." This rate structure reflects a charge based on the number of homes in the community served by the cable system. Inasmuch as its late-night service will be provided over existing facilities, United Video's additional capital investment will be minimal. United Video claims that because the late-night service is incremental, it cannot adequately forecast the demand or revenues to be generated. However, despite a lack of cost data, United Video states it does not anticipate that the revenues from this service will increase its rate of return significantly.

4. Upon consideration of United Video's revised tariff structure and its accompanying material filed pursuant to Section 61.38 of the Commission's Rules, we find that substantial questions are raised as to whether United Video's latest proposed tariff revisions are lawful within the meaning of Section 201(b) and 202(a) of the Communications Act, 47 U.S.C. §§ 201(b) and 202(a). Such a rate structure appears to establish a value of service arrangement based upon what the traffic will bear. Whether and if such a departure from cost of service rate making principles can be a just and reasonable practice within the meaning of Section 201(b) of the Act is being considered in American Television Relay, Inc., Docket No. 19609, 37 F.C.C. 2d 751 (1972). The "adjusted homes per community" factor results in cable systems operating in communities with large populations paying a higher rate than smaller communities for the same communications service. Whether such a discrimination can be considered just and reasonable under Section 202(a) of the Act or justifiable for other public interest reasons is also under consideration in Docket No. 19609. In addition, since United Video's cost support data does not include a study of the costs associated with the late-night programming, the question of whether United Video's filing satisfies the requirements of Section 61.38 of the Rules is raised. These issues are substantially the same as those currently under investigation in Docket No. 20198. Therefore, we are consolidating the issues above with the pending investigation and hearing in Docket No. 20198. We are also suspending United Video's proposed tariff revisions for a one-day period and imposing an accounting order. To suspend the filing for the full statutory period could have the effect of denying the services involved to United Video's customers.

5. Accordingly, *it is ordered*, That pursuant to Sections 4(i), 4(j), 201, 202, 204, 205 and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff schedules filed by United Video, Inc. with Transmittal No. 91 including any cancellations, amendments or re-issues thereof;

6. *It is further ordered*, That pursuant to the provisions of Section 204 of the Act, the revised tariff schedules filed by United Video, Inc. with Transmittal No. 91 ARE HEREBY SUSPENDED until March 1, 1977 and that United Video, Inc. as to the operation of such tariff schedules shall, in the case of all increased charges and until further order of the Commission, keep accurate account of all amounts received by reason of such increases, specifying by whom and in whose behalf such amounts were paid, and upon completion of the hearing and decision herein, the Commission may by further order require the refund thereof, with interest, pursuant to Section 204 of the Act, and the carrier shall file such reports on the amounts accounted for as the Chief, Common Carrier Bureau shall require;

7. *It is further ordered*, That the unresolved issues raised herein regarding the above-captioned tariff revision are included in Docket No. 20198.

8. *It is further ordered*, That the Secretary shall send a copy of this order by certified mail, return receipt requested, to United Video, Inc. and shall cause a copy to be published in the FEDERAL REGISTER.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-7600 Filed 3-14-77;8:45 am]

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: March 2, 1977.

Released: March 10, 1977.

Notice is hereby given, pursuant to Section 1.573(d) of the Commission's

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Rules, that on April 26, 1977, the FM broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to Section 1.227(b)(1) and Section 1.591(b) of the Commission's Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on April 25, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on April 25, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to Section 1.573(d) of the Commission's Rules.

The attention of any party in interest desiring to file pleadings concerning any pending FM broadcast applications, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX

BPH-9970 (new), Dubuque, Iowa, Future Broadcasting, Inc. Req: 102.3 mHz; Channel No. 272A. ERP: 3 kW; HAAT: 300 ft.

BPH-9983 (new), Alliance, Nebr., Fortner-Hill Broadcasting, Inc. Req: 92.1 mHz; Channel No. 221A. ERP: 3 kw; HAAT: 300 ft.

BPH-9984 (new), Starkville, Miss., Southern Broadcasting Corp. Req: 92.1 mHz; Channel No. 221A. ERP: 3 kw; HAAT: 282 ft.

BPH-10005 (new), Morehead City, N.C., Grace Missionary Baptist Church, Inc. Req: 103.3 mHz; Channel No. 277C. ERP: 100 kw; HAAT: 459 ft. (Allocated to Moorehead-Beaufort, N.C.)

BPH-10032 (new), Red Bluff, Calif., John E. & Diane M. Bryngelson. Req: 102.3 mHz; Channel No. 272A. ERP: 2.83 kw; HAAT: 46 ft.

BPH-10039 (new), Aurora, Nebr., KAFKA/KAFKA. Req: 103.1 mHz; Channel No. 276A. ERP: 3 kw; HAAT: 128 ft.

BPH-10056 KDAB-FM, Ogden, Utah, D & B Broadcasting Company, Inc. Has: 101.1 mHz; Channel No. 266c, ERP: 100 kW; HAAT; 700 ft. (Lic). Req: 101.1 mHz; Channel No. 266c, ERC: 25 kW; HAAT; 3742 ft.

BPH-10073 (new), Monett, Mo., Monett Broadcasting Co. Req: 95.9 mHz; Channel No. 240A. ERP: 3 kW; HAAT; 370 ft.

BPH-10212 (new), Woodstock, N.Y. Woodstock Radio, Inc. Req: 100.1 mHz; Channel No. 261A. ERP: 1.29 kW; HAAT: 463 ft.

BPH-10275 (new), Redding, Calif., Redding FM Communications, Inc. Req: 104.3 mHz; Channel No. 282r, ERP: 25 kW; HAAT; 3580 ft.

BPH-10330 (new), Carthage, Miss., Central Mississippi Broadcasting Co., Inc. Req: 98.3 mHz; Channel No. 252A. ERP: 3 kW; HAAT; 291 ft.

BPH-10331 (new), Manlius, N.Y. AGK Communications, Inc. Req: 96.3 mHz; Channel No. 237A. ERP: 410 kW; HAAT: 704 ft. (Allocated to Canenovia, N.Y.)

BPH-10335 (new), Chandler, Ariz., Chandler Communications Co., Inc. Req: 107.9 mHz; Channel No. 300C. ERP: 100 kW; HAAT; 877.8 ft.

BPH-10336 (new), Phoenix, Ariz., Radio Phoenix, Inc. Req: 99.9 mHz; Channel No. 260C. ERP: 100 kW; HAAT; 1671 ft.

BPH-10337 (new), Avon Park, Fla., Highlands Ridge, Inc. Req: 106.3 mHz; Channel No. 292A. ERP: 2.95 kW; HAAT; 310 ft.

BPH-10338 (new), Blackshear, Ga., JDC Broadcasters, Inc. Req: 104.9 mHz; Channel No. 285A. ERP: 3 kW; HAAT: 300 ft.

BPH-10339 (new), Fowler, Calif., Edward G. Atsinger, III. Req: 96.7 mHz; Channel No. 244A. ERP: 3 kW; HAAT; 300 ft.

BPH-10346 (new), Cleveland, Tenn., Bradley Enterprises, Inc. Req: 98.3 mHz; Channel No. 252A. ERP: 3 kW; HAAT; 300 ft.

BPH-10347 (new), Tucson, Ariz., Tucson FM Broadcasting Corp. Req: 107.5 mHz; Channel No. 298C. ERP; 95 kW; HAAT; 2,000 ft.

BPH-10349 (new), Phoenix, Ariz., Herbert W. Owens, Jr. Req: 99.9 mHz; Channel No. 260C. ERP: 100 kW; HAAT: 1,674 ft.

BPH-10350 (new), Greenport, N.Y. Twin Forks Broadcasting, Inc. Req: 101.7 mHz; Channel No. 269A. ERP: 3 kW; HAAT; 300 ft. (Allocated to Southhold, N.Y.)

BPH-10351 (new), Baldwyn, Miss., Town and Country Broadcasting Co. of Tupelo. Req: 95.9 mHz; Channel No. 240A. ERP: 3 kW; HAAT; 300 ft.

BPH-10352 (new), Taos, N. Mex., Taos Communications Corp. Req: 101.7mHz; Channel No. 269A. ERP: 3 kW; HAAT; —455 ft.

BPED-2201 KERS, Sacramento, Calif., California State University, Sacramento. HAS: 90.7 mHz; Channel No. 214B. ERP: 5.4 kW; HAAT; 69 ft. (Lic). Req: 88.9 mHz; Channel No. 206B. ERP: 22.9 kW; HAAT; 680 ft.

BPED-2263 (new), Elsie, Mich., Ovid-Elsie Area Schools. Req: 91.3 mHz; Channel No. 217D. TPO: .01 kW.

BPED-2274 WFCI, Franklin, Ind., Franklin College of Indiana. Has: 89.3 mHz; Channel No. 207D. TPO: .01 kW. (Lic). Req: 89.5 mHz; Channel No. 206B. ERP: 3.98 kW; HAAT: 82 ft.

BPED-2304 (new), Yakima, Wash., Northwest Chicano Radio Network. Req: 91.9 mHz; Channel No. 220C. ERP: 18.6 kW; HAAT: 924 ft.

BPED-2306 (new), Gresham, Oreg., E. Side Area Education District, Mt. Hood. Req: 88.5 mHz; Channel No. 203A. ERP: 7.5 kW; HAAT: 882 ft.

BPED-2313 KZSC, Santa Cruz, Calif., The Regents of University of California. Has: 88.1 mHz; Channel No. 201D. TPO: .01 kW. (Lic). Req: 88.1 mHz; Channel No. 201A. ERP: 1.25 kW; HAAT: 457 ft.

BPED-2314 (new), Morgantown, W. Va., Educational Broadcasting Authority. Req: 90.9 mHz; Channel No. 215B. ERP: 3.98 kW; HAAT: 1,440 ft.

BPED-2326 KWBI, Morrison, Colo., Western Bible College. Has: 91.1 mHz; Channel No. 216C. ERP: 26 kW; HAAT: —250 ft. (Lic). Req: 91.1 mHz; Channel No. 216C. ERP: 6 kW; HAAT: 1,184 ft.

BPED-2337 (new), Monticello, Maine. Monticello Community Broadcasting, Inc., Req: 89.5 mHz; Channel No. 208D. TPO: .01 kW.

BPED-2391 (new), Honolulu, Hawaii. Hawaiian Islands Public Radio. Req: 88.1 mHz; Channel No. 201C. ERP: 26.6 kW; HAAT: 2,123 ft.

[FR Doc.77-7602 Filed 3-14-77;8:45 am]

INTERNATIONAL AND SATELLITE RADIO

Applications Accepted for Filing

MARCH 7, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

3-DSS-MP-77 RCA American Communications, Inc. Spare-on-the-Ground Modification of construction permit for its third satellite space station, RCA SATCOM Model F3, to provide optional uplink access in the 14 GHz satellite bands (14.0 to 14.5 GHz). Proposed modification to the spacecraft payload includes the antennas, receivers and switches necessary to receive signals in the 14.0 to 14.5 GHz band and amplify and retransmit those signals to earth in the 4 GHz band, as presently authorized.

156-DSE-MP-77 RCA Alaska Communications, Inc. (KD50) Eagle River, Alaska. Modification of construction permit to allow simultaneous construction for a second 15 meter antenna immediately adjacent to the first.

162-DSE-P-77 RCA Alaska Communications, Inc., Russian Mission, Alaska. For authority to construct a communications satellite earth station at this location for operation with a domestic communications satellite system. Lat. 61°47'11", Long. 161°19'11". Rec. freq: 3.7-4.2 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

163-DSE-P-77 RCA Alaska Communications, Inc., Crooked Creek, Alaska. For authority to construct a communications satellite earth station at this location for operation with a domestic communications satellite system. Lat. 61°52'16", Long. 158°06'06". Rec. freq: 3.7-4.2 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

164-DSE-P-77 RCA Alaska Communications, Inc., Red Devil, Alaska. For authority to construct a communications satellite earth station at this location for operation with a domestic communications satellite system. Lat. 61°47'04", Long. 157°20'00". Rec. freq: 3.7-4.2 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

165-DSE-P-77 Board of Trustees, Southern Illinois University, Carbondale, Illinois. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 37°42'54", Long. 89°13'33". Rec. freq: 3.7-4.2 MHz. Emission 36000F9. With a 10 meter antenna.

166-DSE-P-77 Delta College, University Center, Michigan. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 43°33'43", Long. 83°58'55". Rec. freq: 3.7-4.2 MHz. Emission 36000F9. With a 10 meter antenna.

167-DSE-P-77 Fresno County Board of Education, Fresno, California. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 36°49'39", Long. 119°51'42". Rec. freq: 3.7-4.2 MHz. Emission 36000F9. With a 10 meter antenna.

168-DSE-P-77 Kentucky State Board of Education, Lexington, Kentucky. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 38°01'25", Long. 119°51'41". Rec. freq: 3.7-4.2 MHz. Emission 36000F9. With a 10 meter antenna.

169-DSE-P-77 Michiana Public Broadcasting Corporation, Elkhart, Indiana. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 41°41'46", Long. 86°00'29". Rec. freq: 3.7-4.2 MHz. Emission 36000F9. With a 10 meter antenna.

173-DSE-P-77 Communications Services, Inc., Winfield, Kansas. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 37°15'05", Long. 96°58'16". Rec. freq: 3.7-4.2 MHz. Emission 36000F9. With a 4.5 meter antenna.

174-DSE-P-77 Communications Services, Inc., Hutchinson, Kansas. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 38°03'22", Long. 97°57'54". Rec. freq: 3.7-4.2 MHz. Emission 36000F9. With a 4.5 meter antenna.

175-DSE-P/L-77 Cox Cable Communications, Inc., Pensacola, Florida. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat 30°26'18", Long. 87°14'45". Rec. freq: 3.7-4.2 MHz. Emission (None listed). With a 10 meter antenna.

176-DSE-P/L-77 Spanish International Communications Corporation, Miami, Florida. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 25°57'27". Long. 80°12'45". Rec. freq: 3.7-4.2 MHz. Emission 36000F9. With a 10 meter antenna.

177-DSE-ML-77 Frontier Broadcasting Co. (KB61), Cheyenne, Wyoming. Modification of license to permit the reception of signals of Channel 17, Station WTCG-TV, Atlanta, Georgia.

178-DSE-R-77 General Electric Radio Services Corporation (WB22), Valley Forge, Pennsylvania. Renewal of license for a developmental fixed satellite earth station, from: April 8, 1977 to: April 8, 1978.

[FR Doc.77-7603 Filed 3-14-77;8:45 am]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MARCH 7, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20858-CD-AL-(5)-77 William T. Peacock, Jr., dba Peacock Radio Service. Consent to Assignment of License from Peacock Radio Service, Assignor to Mobilfone, Inc., Assignee. Stations: KIJ357, Clearwater, Florida; KIY511 and KLF662, St. Petersburg, Florida; KYT844, Brooksville, Florida; and KWT860, New Port Richey, Florida.

20859-CD-AL-77 Mathews Telephone Answering Service, Inc. Consent to Assignment of License from Mathews Telephone Answering Service, Inc., assignor to Bertha C. Mathews dba Mathews Telephone Answering Service, assignee. Station: KGH274, Great Falls, Montana.

20860-CD-P-(2)-77 Williamsport Mobile Telephone Company (KUS265). C.P. to change antenna system operating on 454.175 and 454.200 MHz located 2.0 miles SE of South Williamsport, Pennsylvania.

20861-CD-AL-(3)-77 Southeast Mobilphone, Inc. Consent to Assignment of License from Southeast Mobilphone, Inc., assignor to Telpage of Tennessee, Inc., assignee. Stations: KIK580, Chattanooga, Tennessee; and KFL916 and KLF619, Lookout Mountain, Tennessee.

20862-CD-AL-77 Radio Dalton, Inc. Consent to Assignment of License from Radio Dalton, Inc., assignor to Telpage of Tennessee, Inc., assignee. Station: KIM900, Dalton, Georgia.

20863-CD-AL-77 Baker's Ambulance Service, Inc. tr/ as Everett Ambulance Consent to Assignment of License from Everett Ambulance, assignor to Kelley's Radio Telephone, Inc., assignee. Station: KLF598, Everett, Washington.

20864-CD-P-77 Charles R. Crawford (new). C.P. for a new 1-way station to operate on 158.70 MHz to be located at Santa Ynez Peak, Los Padres National Forest, Santa Ynez Peak, California.

20865-CD-P-77 James L. Adams, Jr. (new). C.P. for a new station to operate on 454.050 MHz to be located 1 mile south of Junction Highway 90 and 71 on Highway 71, Marianna, Florida.

20866-CD-P-(2)-77 General Telephone Company of the Southwest (KKQ966). C.P. to replace transmitter operating on 152.51 and 152.75 MHz located at 301 South Amherst, Perryton, Texas.

20867-CD-P-(6)-77 South Central Bell Telephone Company (KIB532). C.P. to change antenna system operating on 152.51, 152.66, 152.72, 152.81, 152.63, and 152.69 MHz located at Sharps Ridge Memorial Park, Knoxville, Tennessee.

20868-CD-P-77 Cal-Autofone (KMD684). C.P. to replace transmitter, change antenna system, change frequency from 35.56 MHz to 152.24 MHz, and relocate facilities to be located at End of Humboldt Road, 4 miles South of Eureka, California.

20869-CD-P-77 Northern Illinois Radio Phone & Paging Systems, Inc. (KSD316). C.P. for additional facilities to operate on 35.22 MHz to be located at a new site described as Loc. No. 2: IBM Building, State and Kinzie, Chicago, Illinois.

20870-CD-P-(2)-77 James H. Stevens dba Stevens Radio Communications (KLF491). C.P. for additional facilities to operate on 454.100 and 454.125 MHz located at 1865 Jacksonville Road, Ocala, Florida.

20872-CD-P-77 Southeastern Paging, Inc. (new). C.P. for a new 1-way station to operate on 35.56 MHz to be located at 4650 West U.S. 223, Adrian, Michigan.

20873-CD-P-77 James H. Stevens dba Stevens Radio Communications (new). C.P. for a new 1-way station to operate on 35.22 MHz to be located at 1865 Jacksonville Road, Ocala, Florida.

20874-CD-P-(4)-77 South Central Bell Telephone Company (KKD292). C.P. to change antenna system operating on 152.51, 152.63, and 152.81 MHz, base and 157.77 and 157.89 MHz, test facilities at Loc. No. 1: 320 Poydras Street, New Orleans, Louisiana.

20875-CD-P-(2)-77 Clear Lake Independent Telephone Company (KFL913). C.P. to replace transmitter, change antenna system and relocate facilities operating on 152.66 MHz and for additional facilities to operate on 152.69 MHz all to be located at 504 8th Avenue, North, Clear Lake, Iowa.

20876-CD-P-77 DPRS, Inc. dba Zipcall (KCB890). C.P. to change antenna system and relocate facilities operating on 43.56 MHz at Loc. No. 4 to be located at 10 York Avenue, Randolph, Massachusetts.

20877-CD-P-77 The Farmers Telephone Company (new). C.P. for a new 1-way station to operate on 35.22 MHz to be located at RFD No. 3, Lancaster, Wisconsin.

20878-CD-P-77 Telpage of South Carolina (new). C.P. for a new 1-way station to operate on 152.24 MHz to be located 3.8 miles NE of city center, Summerville, South Carolina.

20879-CD-P-(3)-77 W. L. Anderson dba Western Communication Service (KKG-416). C.P. for additional facilities to operate on 152.15 MHz, base, and 459.200 MHz, repeater, at a new site described as Loc. No. 8 to be located at Fawcett Ranch, 8 miles West of Sonora, Texas; and for additional facilities to operate on 454.200 MHz, control, at Loc. No. 1: 320 West 26th Street, San Angelo, Texas.

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20880–CD–P–(2)–77 RAM Broadcasting of Texas, Inc. (KWT348) (air-ground). C.P. to change antenna system and relocate facilities operating on 454.800 and 454.675 MHz to be located at 1601 Dragon Street, Dallas, Texas.

20881–CD–P–(4)–77 New Jersey Bell Telephone Company (KEK270) (developmental). C.P. to change frequency from 416.125, 416.175, 416.925, and 416.975 MHz to 416.8625, 416.9625, 416.8875, and 416.9875 MHz located at 445 Georges Road, North Brunswick, New Jersey.

20882–CD–P–(4)–77 New Jersey Bell Telephone Company (KEK271) (developmental). C.P. to change frequency from 416.125, 416.225, 416.925 and 416.975 MHz to 416.8625, 416.9625, 416.9125, and 416.9875 MHz located at 540 Broad Street, Newark, New Jersey.

20883–CD–P–(4)–77 New Jersey Bell Telephone Company (KEK272) (developmental). C.P. to change frequency from 416.125, 416.175, 416.875, and 416.975 MHz to 416.8625, 416.9375, 416.8875, and 416.9875 MHz located 216 East State Street, Trenton, New Jersey.

20884–CD–P–(3)–77 The Bell Telephone Company of Pennsylvania (KGI268) (developmental). C.P. to change frequency from 416.175, 416.875, 416.975, MHz to 416.8875, 416.9375, and 416.9875 located at 12 South 12th Street, Philadelphia, Pennsylvania.

20885–CD–P–(3)–77 The Diamond State Telephone Company (KGI269) (developmental). C.P. to change frequency from 416.175, 416.225, and 416.875, MHz to 416.8875, 416.9125, and 416.9375 MHz located at 919 Market Street, Wilmington, Delaware.

20886–CD–P–(3)–77 The Chesapeake and Potomac Telephone Company of Maryland (KGI270) (developmental). C.P. to change frequency from 416.225, 416.875, and 416.925, MHz to 416.9125, 416.9375, and 416.9625 MHz located at 2.7 miles SSE of North East, Maryland.

20888–CD–P–(3)–77 The Chesapeake and Potomac Telephone Company of Maryland (KGI272) (developmental). C.P. to change frequency from 416.125, 416.225, and 416.925 MHz to 416.8625, 416.9125, 416.9625 MHz located at Cedar Drive, Edgewood, Maryland.

20889–CD–P–(4)–77 The Chesapeake and Potomac Telephone Company of Maryland (KGI273) (developmental). C.P. to change frequency from 416.125, 416.175, 416.925, and 416.975 MHz to 416.8625, 416.8875, 416.9625, and 416.9875 MHz located at 7781 Landover Road, Landover, Maryland.

20890–CD–AP–77 Herndon Y. Robinson, Jr., dba Robinson Enterprises. Consent to Assignment of C.P. from Robinson Enterprises, assignor to Answer, Inc. of Houston, Assignee. Station: KUD221, Huntsville, Texas.

20891–CD–P/L–77 Airsignal International, Inc. (KWU448) (developmental). C.P. to change antenna system operating on 72.96 MHz, control located at 125 East 31st Street, Kansas City, Missouri.

20892–CD–P–77 M M Answering Service, Inc. (new). C.P. for a new station to operate on 152.21 MHz to be located approx. 1.5 mile West of Bradford, Pennsylvania.

20893–CD–P–77 (KLF659), Dee Wetmore dba Westside Answering Service (KLF659). C.P. for additional facilities to operate on 158.70 MHz to be located at a new site described as Loc. 2: 4 miles SSE of Dover, Florida.

20894–CD–P–77 Lane Paging, Inc. (KUS-383). C.P. to relocate facilities operating on 158.70 MHz to be located on Blanton Heights SW of Eugene, Oregon.

CORRECTIONS

20763–CD–P–(2)–77 Tel-Page Corporation. Correct to read: C.P. for a new 1-way facility. All other particulars to remain as reported on PN No. 845 dated February 14, 1977.

MAJOR AMENDMENTS

20665–CD–P–77 Message Center, Inc. (new). Hartford, Connecticut. Amend base frequency 43.58 MHz to read 43.22 MHz. All other particulars are to remain as reported on PN No. 843 dated January 31, 1977.

INFORMATIVE

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding ex parte presentations, by reasons of potential electrical interference.

CONNECTICUT

Hofmann, Telephone Answering Service, Inc. (New), 20035–CD–P–(2)–77.

Phone Depots of Connecticut, Inc. (KKC485), 22577–CD–P–76, 22758–CD–P–76.

RURAL RADIO SERVICE

602l5–CR–P/L–77 United Telephone Company of Florida (New), C.P. and License for a new rural subscriber station to operate on 157.83, 157.89, and 157.95 MHz to be located 3 miles West of Pinsland, Useppa Island, Florida.

60216–CR–P/L–77 The Mountain States Telephone and Telegraph Company (New). C.P. and License for a new rural subscriber station to operate on 157.86 MHz to be located 10.8 miles SSE of Levan, Utah.

60217–CR–P–77 The Mountain States Telephone and Telegraph Company (New), C.P. for a new rural subscriber station to operate on 157.80 and 157.52 MHz to be located at Saline, Utah.

1612–CF–P–77 The Pacific Telephone and Telegraph Company (KMA37), Oat Mtn., 5.5 miles SW. of Newhall, California, Lat. 34°19'47" N.—Long. 118°36'00" W. C.P. to change emission designator from 20000F9 to 33000F9 on frequencies 11305V, 11625V, 11225V, 11465V MHz toward Los Angeles, California.

1613–CF–P–77 Same (KMA36), 420 S. Grand Ave., Los Angeles, California, Lat. 34°03'02" N.—Long. 118°15'02" W. C.P. to change emission designator from 20000F9 to 33000F9 on frequencies 10895V, 10735V, 10815V, 11055V MHz toward Oat Mtn., California.

1634–CF–P–77 American Telephone and Telegraph Company (KAC71), 5.5 miles West of Worden, Kansas, Lat. 38°47'07" N.—Long. 95°26'00" W. C.P. to add frequency 4190V MHz toward Paola, Kansas.

1625–CF–P–77 Same (KAR83), 6.8 miles NW. of Paola, Kansas, Lat. 38°37'21" N.—Long. 94°59'14" W. C.P. to add frequencies 4198V MHz toward Worden and 4190V MHz toward Cygne.

1626–CF–P–77 Same (KAR84), 6 miles NE. of Cygne, Kansas, Lat. 38°24'14" N.—Long. 94°40'26" W. C.P. to add frequencies 4190V MHz toward Paola, Kansas, and 4190V MHz toward Dayton, Missouri.

1627–CF–P–77 Same (KAR85), 0.5 mile SSE. of Dayton, Missouri, Lat. 38°28'54" N.—Long. 94°11'29" W. C.P. to add frequencies 4198V MHz toward La Cygne, Kansas, and 4190V MHz toward Holden, Missouri.

1628–CF–P–77 Same (KAR86), 3.2 miles E. of Holden, Missouri, Lat. 38°42'26" N.—Long. 93°55'30 W. C.P. to add frequencies 4190V MHz toward Dayton and 4190V MHz toward Aullville, Missouri.

1629–CF–P–77 Same (KAR87), 2 miles S. of Aullville, Missouri, Lat. 38°59'30" N.—Long. 93°40'59" W. C.P. to add frequencies 4198V MHz toward Holden and 4198V MHz toward Dover, Missouri.

1630–CF–P–77 Same (KAH92), 3.4 miles E. of Dover, Missouri, Lat. 39°11'34" N.—Long. 93°37'31" W. C.P. to add antenna and frequencies 4190V MHz toward Aullville and 2129H MHz toward Knoxville, Missouri.

1631–CF–P–77 Same (KAW74), 2 miles NW. of Knoxville, Missouri, Lat. 39°27'45" N.—Long. 94°03'02" W. C.P. to add antenna and frequencies 2179H MHz toward Dover and 4190H MHz toward Cameron, Missouri.

1632–CF–P–77 Same (KAW75), 7 miles NNE. of Cameron, Missouri, Lat. 39°50'04" N.—Long. 94°11'15" W. C.P. to add frequencies 4198H MHz toward Knoxville and 4198H MHz toward Helena, Missouri.

1633–CF–P–77 Same (KAR60), 1.9 miles ENE. of Helena, Missouri, Lat. 49°55'21" N.—Long. 94°37'05" W. C.P. to add frequency 4190H MHz toward Cameron, Missouri.

1655–CF–P–77 Southwestern Bell Telephone Company (KSW32), 1702 Gore Street, Lawton, Oklahoma, Lat. 34°36'30" N.—Long. 98°24'48" W. C.P. to add frequency 5945.2V MHz toward Letitia, Oklahoma.

1656–CF–P–77 Same (WAU213), 0.5 mile ESE. of Letitia, Oklahoma, Lat. 34°34'44" N.—Long. 98°12'13" W. C.P. to add frequency 6197.2H MHz toward Lawton, Oklahoma, and add a new point of communication on frequency 6197.2H MHz toward Duncan, Oklahoma, on azimuth 111.2 degrees.

1657–CF–P–77 Same (New), 201 South 8th, Duncan, Oklahoma, Lat. 34°29'58" N.—Long. 97°57'26" W. C.P. for a new station on frequency 5945.2V MHz toward Letitia, Oklahoma on azimuth 291.4 degrees.

1674–CF–P–77 General Telephone Company of the Northwest, Inc. (New), CRNR of 9 Street and N. Lake Ave., Lakeside, Oregon, Lat. 43°34'34" N.—Long. 124°10'17" W. C.P. for a new station 2169.4H MHz toward Lakeside PR on azimuth 75.6 degrees and from passive reflector to Hauser, Oregon, on azimuth 206.9 degrees.

1675–CF–P–77 Same (KON76), 3 miles S. of Lakeside, Oregon, Lat. 43°31'59" N.—Long. 124°10'32" W. C.P. to add a new point of communication on frequency 2112.4H MHz toward Lakeside, Oregon, passive reflector on azimuth 26.9 degrees.

1681–CF–P–77 Indiana Bell Telephone Company, Incorporated (WHT92), 2.2 miles ESE. of Vincennes, Indiana, C.P. to change polarization from horizontal to vertical on frequencies 11285, 11635 MHz toward Monroe City, Indiana.

1682–CF–P–77 Same (KTQ47), 0.6 mile W. of Monroe City, Indiana, C.P. to change polarization from horizontal to vertical 10795, 11115 MHz toward Vincennes, Indiana.

1690–CF–P–77 United Inter-Mountain Telephone Company (KJH26), 175 South First Street, Wytheville, Virginia, Lat. 36°57'00" N.—Long. 81°04'58" W. C.P. to increase antenna structure height and move antenna on frequency 6219.5H MHz toward Sand Mtn., Virginia.

1695–CF–P–77 General Telephone Company of Wisconsin (New), 1.5 miles SW. of Ellison Bay, Wisconsin, Lat. 45°14'19" N.—Long. 87°05'38" W. C.P. for a new station on frequency 2118.4 MHz toward Washington Island, Wisconsin, on azimuth 40.8 degrees.

1696–CF–P–77 Same (New), 0.8 mile N. of Washington, Island, Wisconsin, Lat. 45°22'11" N.—Long. 86°55'48" W. C.P. for a new station on frequency 2169.4V MHz toward Ellison Bay, Wisconsin on azimuth 220.9 degrees.

1561–CF–P/L–77 Northwestern Bell Telephone Company (New), temporary fixed within the territory of the Grantee. Construction permit and license for new station—3700–4200 MHz frequency band.

1591–CF–P–77 American Television Relay (KNK 67), Toro Peak, 14.1 miles SSW. of Palm Springs, California, at 33°31'22" N.—Long. 116°25'30" W.: Construction permit to add 6419.6H MHz toward Borrego Springs, California, via power split.

1592–CF–P–77 Eastern Microwave, Inc. (WAU 206), Wood Hill, 2.2 miles SW. of Lawrence, Massachusetts, Lat. 42°39'17" N.—Long. 71°13'05" W.: Construction permit to add 11225.0V MHz toward Boston, PB., Massachusetts, via power split, on azimuth 161.9 degrees.

1601–CF–P–77 Eastern Microwave, Inc. (KOA 73), State Route 206, 3 miles SE. of Walton, New York, Lat. 42°06'10" N.—Long. 75°05'47" W.: Construction permit to add 11345.0V MHz toward Dehli, New York, an azimuth 226.2 degrees.

1602–CF–P–77 American Television & Communications Corporation (New), 3 miles NW. of Gastonia, North Carolina, Lat. 35°-17'39" N.—Long. 81°12'28" W.: Construction permit for new station—6212.0H MHz and 6271.4H MHz toward Little Pisgah, North Carolina, on azimuth 283.1 degrees.

1603–CF–P–77 American Television & Communications Corporation (New), Little Pisgah, 1.7 mile NE. of Gerton, North Carolina, Lat. 35°30'02" N.—Long. 82°19'58" W.: Construction permit for new station—5960.0V and 6019.3V MHz toward Asheville and 5960.0H MHz toward Hendersonville, both in North Carolina, via power split, on azimuths 310.6 and 217.5 degrees, respectively.

1604–CF–P–77 Tower Communications Systems Corporation (WQR 58), 9 miles North of Ironton, Ohio, Lat. 38°32'51" N.—Long. 82°49'48" W.: Construction permit to add 11545.0H and 11225.0E MHz toward Kenova, West Virginia, via power split, on azimuth 154.3 degrees.

1605–CF–P–77 Mid-Kansas, Inc. (KZA 43), 0.6 mile East of Lyons, Kansas, Lat. 38°-20'48" N.—Long. 98°10'23" W.: Construction permit to add 6271.4V MHz toward Ellinwood and Ellsworth, both in Kansas, via power split, on azimuths 270.3 and 351.6 degrees, respectively.

1606–CF–P–77 Eastern Microwave, Inc. (KCL 96), Rutland, 3 miles NW. of West Rutland, Vermont, Lat. 40°37'27" N.—Long. 73°05'08" W.: Construction permit to change transmit station name and change frequency to 6241.7V MHz toward Mount Pritchard, Vermont, on azimuth 358.9 degrees.

1611–CF–P–77 Western Tele-Communications, Inc. (KBP 65), Cooper Mtn., 12.3 miles NW. of Bonneville, Wyoming, Lat. 43°26'15" N.—Long 107°59'47" W.: Construction permit to add 6352.9H MHz toward Thermopolis and to change existing frequencies to above frequency toward Worland, Riverton, and Lander, all in Wyoming, via power split.

1650–CF–P–77 Eastern Microwave, Inc. (New), Spectrum, Pattison Avenue, Philadelphia, Pennsylvania, Lat. 39°54'16" N.—Long. 75°10'16" W.: Construction permit for new station—10715.0H MHz toward Roxborough, Pennsylvania, on azimuth 339.1 degrees.

1651–CF–P–77 Eastern Microwave, Inc. (WDD 67), Roxborough, Domino Lane, Roxborough, Pennsylvania, Lat. 40°02'30" N.—Long. 75°14'24" W.: Construction permit to add 6152.8V MHz toward W. Rockhill, Pennsylvania, on azimuth 346.1 degrees.

1680–CF–P/L–77 American Television & Communications (New), Temporary fixed within the territory of the grantee. Construction permit and license for new station on frequency bands—5925–6425 MHz and 10700–11700 MHz.

1683–CF–P–77 Cablecom-General, Inc. (WHT 90), 1 mile ESE. of Sinton, Texas, Lat. 28°01'28" N.—Long. 97°29'21" W.: Construction permit to correct transmit station coordinates and to add 6390.0H MHz toward Corpus Christi, Texas, via power split, on azimuth 158.4 degrees.

1570–CF–MP–77 Microband Corporation of America (WPF 47), West Osbourne Road, Phoenix, Arizona, Lat. 33°29'14'5" N.—Long. 112°07'18" W.: Construction permit to change transmit station location—6167.-6H MHz toward Southern Mtn., Arizona, on azimuth 342.9 degrees.

1306–CF–TC(25)–77 Microwave Transmission Corporation. Application for transfer of control of point to point microwave radio authorizations of Microwave Transmission Corporation, from Wyly Corporation (before recapitalisation), Transferor, to Wyly Corporation (after recapitalisation), Transferee, for the following stations:

KNK 60—Cuesta Ridge, California.
KNL 46—Mt. Chual, California.
KPR 3—Ravens Roost, Washington.
KPZ 25—Joe Butte, Washington.
KTR 46—Frazier Mtn., California.
KVU 78—Broadcast Peak, California.
WAN 96—Pomerey, Washington.
WBO 66—Seattle, Washington.
WQR 42—Tacoma, Washington.
KNL 31—Fremont Peak, California.
KNL 77—Williams Hill, California.
KPR 33—Mission Ridge, Washington.
KTR 45—Bakersfield, California.
KVH 57—San Bruno, California.
WAH 469—Bald Butte, Washington.
WBO 58—Squak Mtn, California.
WDD 52—San Antonio Hill, California.
WAU 216—Ojai, California.
WBB 352—Tecoa, Washington.
WPG 27—Bald Ridge, California.
WBA 777—Salinas, California.
WQR 44—Palo Escrito, California.
WBB 351—Spokane, Washington.
WPF 96—Monument Pk., California.
WBA771—Wahatis Pk., Washington.

[FR Doc.77–7604 Filed 3–14–77;8:45 am]

FEDERAL ELECTION COMMISSION

SUNSHINE ACT

Meeting

Correction

On page 12866 of the FEDERAL REGISTER of Monday, March 14, 1977, FR Doc. 77–7418 announcing a meeting of the Federal Energy Commission was incorrectly labeled as Federal Trade Commission. The headings, therefore, should read as set forth above.

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by Section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No. Sec.	Owner/operator and vessels
01067	Schlussel Reederei KG (GmbH & Co.): *Bischofstor, Linzertor, Wienertor, Hahnentor, Buntentor, Stephanitor.*
01318	Aug. Bolten, Wm. Miller's Nachfolger: *William, Sinoe.*
01383	Rederiaktiebolaget Gustaf Erikson: *Gripo.*
01426	Kuwait Shipping Co. (S.A.K.): *Ibn Hazm, Ibn Shuhaid.*
01533	Henry Nielsen OY/AB: *Pampero.*
01761	Union Steamship Co. of New Zealand Ltd: *Union Lyttleton.*
02013	Granges AB: *Saggat.*
02032	D. B. Deniz Nakliyati T.A.S.: *29 Ekim, 30 Agustos.*
02152	A. F. Klaveness & Co. A.S.: *Sommerstad.*
02209	Flota Mercante Grancolombiana S.A.: *Ciudad de Neiva.*
02259	Neste Oy: *Sotka.*
02295	The Great Eastern Shipping Co. Ltd.: *Jag Jyoti.*
02473	Irish Shipping Ltd: *Irish Cedar.*
02500	Collier Carbon and Chemical Corp.: *Columbia.*
02585	Koch Refining Co.: *N.M.S. 1904.*
02715	Allied Towing Corp.: *Hot Oil 17, STC–410.*
02949	Valley Towing Service, Inc.: BU–40, BU–41, BU–42, BU–43.
03187	Cunard Steamship Co., Ltd.: *Andria, Andania.*
03139	Offshore Marine Ltd.: *Mercia Shore.*
03315	Afran Transport Co.: *Afran Tide.*
03471	Nippo Kisen Kabushiki Kaisha: *Hoyo Maru.*
03476	Nitta Kisen K.K.: *USA Maru.*
03503	Shofuku Kisen K.K.: *Iwate Maru.*
03690	The Harbor Tug & Barge Co.: *St. John, St. Maarten.*
03730	Brown & Root, Inc.: *Bar–374.*
04012	Lib-Ore Steamship Co., Inc.: *Marlin.*
04052	Ugland Shipping Co. A/S: *Bonita.*
04113	Mon River Towing Inc.: *Mary, Maggie, Roman.*
04124	Gulf Oil Canada Ltd.: *Gulf Mackenzie.*
04136	Thomas Marine Co.: *GW–100.*
04172	Eklof Marine Corp.: *Great Lakes.*
04357	Koninklijke Nedlloyd B.V.: *Nedlloyd Rockanje.*
04413	Leif Hoegh & Co. A/S: *Hoegh Mallard.*
04481	Shinzomaru Gyogyo Kabushiki Kaisha: *Shinzo Maru No. 3.*
04510	Nikko Suisan Kabushiki Kaisha: *Nikko Maru No. 11, Nikko Maru No. 1, Nikko Maru No. 31.*
04544	Mr. Yosuke Kawaguchi: *Seishumaru No. 35.*
04771	Texaco Canada Ltd.: *Texaco Brave.*
04802	Logan Charter Service Inc.: *Lucy Logan.*
05047	PPG Industries Inc.: *PPG–226, PPG–227.*
05089	H. F. Eimskipafelag Islands: *Kljafoss, Skeidsfoss.*
05232	Diamond M Drilling Co.: *Diamond M Epoch.*
05437	The Dow Chemical Co.: *H 1806.*
05549	Polska Zegluga Morska: *Turoszow.*
05743	Reederei Barthold Richters: *Bari.*
06019	Field Tanks Steamship Co. Ltd.: *Derwentfield, Tyne Bridge.*
06037	Niigata Rinko Kairiku Unso Co. Ltd.: *Eastern Highway.*
06130	Northern Shipping Co.: *Pioneer Severodvinska.*
06949	Mickie B. Jones: *Yo 140.*
07019	Allied Shipping International Corp.: *Golden Spray.*
07151	Sea Containers Chartering Ltd.: *Lahneck.*
07244	Three Rivers Shipping Co., Ltd.: *Sofia T.*
07374	Georgian Shipping Co.: *Aksay.*

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Certificate No.	Owner/operator and vessels
07624	Joseph Roth Reederei: *Franz Xaver Kogel, Georg Kurz.*
08094	Sanwa Reito Kabushiki Kaisha: *Seishumaru No. 37, Seishumaru No. 38.*
08366	Pesquerias Espanolas de Bacalao S.A.: *Santa Paula, Santa Elvira.*
08507	Thai Ocean Transportation Co. Ltd.: *Mena.*
08557	P.M. International Inc.: *Adina.*
08948	Veb Deutfracht/Seereederei: *Goerlitz.*
09172	Vania Compania Naviera S.A.: *Grace.*
09436	Daerim Fishery Co. Ltd.: *Chun Yong No. 6, Chung Yong No. 7.*
10260	Hollywood Marine Inc.: *Star J. D. II.*
10273	Namyangsa Co. Ltd.: *Acacia No. 1.*
10280	Kuwait Oil Tanker Co. (U.K.) Ltd.: *Al Rawdatain, Al Rekkah.*
10365	Farley Augustsson A/S: *Balder Trader.*
10379	RKS, Blaes Tramp: *Atlas Scan Unit Scan, Hercules Scan.*
10422	Garza Naviera S.A.: *Garza Star.*
11124	SC Deckships 2 Ltd.: *Tarek.*
11225	Cancer Shipping Corp.: *Sunny Danielle.*
11283	Odeco (U.K.) Inc.; *Ocean Bounty.*
11515	Palmer Barge Line Inc.: *Wasson 1, Wasson 5*
11676	Longan Shipping Pte. Ltd.: *Ivory Tellus.*
11700	Energy Cooperative, Inc.: *Gary.*
11628	Kosmos Bulkschiffahrt GMBH: *Fern.*
11833	Cormoran Steamship Co. (Pte.) Ltd.: *Iran Cremona, Cormoran.*
11697	Padre Compania Naviera S.A.: *Spetsai.*
11929	Chestnut Shipping Co.: *Kittanning.*
11931	Mackinnon Mackenzie & Co. Ltd.: *Teesta.*
12000	Vitacarrier S.A.: *Vitacarrier.*
12007	Argyle Shipping Co., S.A.: *Argyle.*
12017	Silver Navigation S.A.: *Snow Peak.*
12026	Faith Transocean Corp.: *Aquafaith.*
12032	Golden City Maritime Corp. S.A.: *Nanhua.*
12077	Dina D. Shipping Co.: *Mastromanolis.*
12085	Tetuan Shipping Corp.: *Atlantic Current.*
12107	Red Sea Navigation S.A.: *Thorvaldsen.*
12134	Arcom Shipping Management Ltd.: *Dana Frio.*
12136	Camrose Maritime Inc.: *Al Rahim.*
12141	Evidream Maritime Co. S.A.: *Star K.*
12148	Poseidon Compania Naviera S.A.: *Atticos.*
12160	Seacoast Shipping Corp.: *Doric Express.*
12179	Cerrahgil Denizcilik Nakliyat Ve Ticaret A.S.: *C. Mehmet.*
12181	K/S Petter K. Saevik & Sonner A/S & Co.: *Kings River.*
12189	Norrona Shipping Co. (Pte.) Ltd.: *Cherry Baron.*
12202	Atwood Oceanics International S.A.: *Chancellorsville.*
12207	Tidewater Marine Service, Inc. (U.K.) Ltd.: *Spartan Tide.*
12210	Midstream Fuel Service, Inc.: M-609, B-11.
12212	Pontones Machos S.A.: *Bold Turtle.*
12215	Hamlet Maritime Investment, Ltd.: *Hamlet Beatrice.*
12218	Korea Chemical Carriers, Ltd.: *Young Chemicarry.*
12219	Peerless Corp. Inc.: *Anthony III.*
12220	Varna Shipping S.A. Panama: *Antonis Gianis.*
12221	Kirkconnell Marine Shipping Inc.: *Mik Trader, Reubens, Kirk Dale.*
12222	Golden Breeze Co., Ltd. S.A.: *Golden Breeze.*
12227	Steuart Tankers Co.: *Elizabeth S.*
12228	F. Lli Mascaretti S.N.C.: *Mascaretti Primo.*
12229	Melrose Maritime, Inc.: *Al Rahman.*
12231	Toro Bravo Fishing, Ltd.: *Toro Bravo.*
12232	Compania Kifissia S.A.: *Dapo Sailor.*
12233	Nea Smyrni S.A.: *Dapo Sky.*
12234	Salivan Shipping S.A.: *Crown Rose.*
12235	Trico Corp.: *Ormos.*
12236	Nishi Maritime Co., Ltd. S.A.: *Golden Star.*
12237	Kiyoshi Kawamoto: *No. 8 Ancimaru.*
12239	Partsrederiet for M.S. Pauline Lonborg: *Pauline Lonborg.*
12240	Lonborg Line 15: *Tobias Lonborg.*
12241	United Pacific Maritime Corp., Inc.: *Pacific Seatrade.*
12242	Leader Shipping Co. Ltd.: *Atlantic Horizon.*
12243	Alexmar Maritime Corp.: *Samos Sky.*
12244	Ninfeo Shipping Corp.: *Fanari.*
12245	Panous Shipping Co. Inc.: *Virginia M.*
12248	Pronos Compania Naviera S.A.: *Aminona.*
12249	Happy Ocean, Ltd.: *Keiyo Maru.*
12254	Sagar Shipping Co. Ltd.: *APJ Karan.*
12256	Capricorn Tankers, Inc.: *Ariela G.*
12258	Proaibe Maritime Corp.: *John Alexakis.*
12260	Deborah Maritime Corp.: *Sanko Crest, Sanko Stresa.*
12262	Galleon Traders Navigation S.A.: *St. Claire.*
12264	Five Ocean Shipping Co. S.A.: *Sun Gerbera.*
12265	Cosy Navigation S.A.: *Maestro.*
12269	P.T. Bogasari Flour Mills: *Bogasari Satu.*
12273	Hasikin Shipping (Pte.) Ltd.: *Hasikin No. 11.*
12276	Gulf and Oceanic Transport Ltd.: *Messiniaki Filia.*
12277	International Tankers Incorporated, Liberia: *Intermar Progress.*
12278	Vinava Shipping Co. Ltd.: *Chrysalis.*
12279	Compania Nida S.A.: *Dapo Star.*
12284	Honma Gyogyo Kabushiki Kaisha: *Seitoku Maru No. 105.*
12285	Shioyama Kohatsu K.K.: *Aden Maru.*
12286	Shima Suisan Kabushiki Kaisha: *Yahatamaru No. 53, Yahatamaru No. 56.*
12287	Senkon Gyogyo Kabushiki Kaisha: *Koryomaru No. 186, Koryomaru No. 108.*

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-7610 Filed 3-14-77;8:45 am]

DOMINION NAVIGATION CO., LTD.

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-110; Order of Revocation

In the matter of Dominion Navigation Company Limited, c/o Kerr Steamship Company, Inc., 753 Boulevard, Kenilworth, New Jersey 07033.

Whereas, Dominion Navigation Company Limited has ceased to embark passengers on the *Marco Polo* at United States ports; and

Whereas, Certificate (Performance) No. P-110 issued to Dominion Navigation Company Limited has been returned for revocation.

It is ordered, That Certificate (Performance) No. P-110 covering the *Marco Polo* be and is hereby revoked effective March 8, 1977.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served on certificant.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

MARCH 8, 1977.

[FR Doc.77-7607 Filed 3-14-77;8:45 am]

[Independent Ocean Freight Forwarder License]

EVANS INTERNATIONAL ET AL.

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to Section 44(a) of the Shipping Act, 1916, (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Evans International (Peter H. Evans, d.b.a), 9-11 Maiden Lane, New York, N.Y. 10038.

Kadon Freight Forwarders, Inc., 170-22 130th Avenue, Jamaica, N.Y. 11434; officers, Karen James, President; Donald Sandler, Vice President.

Jar Forwarding, Ltd., 198 Broadway, New York, N.Y. 10038; officer, John Rodriguez, President and Secretary.

Avio International Forwarders Corp., 714 West Broadway, Woodmere, N.Y. 11598; officers, George F. Collins, President; Juliana Collins, Secretary.

Front Express, Inc., 8647 Aviation Blvd., Inglewood, Calif 90301; officers, Yong Mok Kim, President; E. G. Jun Machica, Vice President.

Geza Steiner, 636 Washington Street, New Orleans, La. 70124.

Juan Navarrete, Sr., 6510 Canal Blvd., New Orleans, La. 70124.

P. John Hanrahan, Inc., 9-11 Maiden Lane, New York, N.Y. 10038; officer, Edward Hanrahan, President/Sole Director.

Owen Fred Monfils, 127 South Washington Street, Green Bay, Wis. 54301.

Century Moving & Storage, Inc., 18420 South Santa Fe Avenue, Long Beach, Calif 90801; officers, John H. Tillotson, Jr., President/Treasurer; Marshall Lundgren, Vice President; Haydee Tillotson, Vice President/Secretary.

International Forwarding Specialist, Inc., 61 Hutton Road, Clifton, N.J. 07012; officer, Charles James Arnold, President.

Joseph A. Andrel, Front & Erickson Street, Essington, Pa. 19029.

By the Federal Maritime Commission,

Dated: March 10, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-7611 Filed 3-14-77;8:45 am]

MARFUERZA COMPANIA MARITIMA S.A. AND AUSTRALIA LINE S.A.

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-70; Order of Revocation

In the matter of Marfuerza Compania Maritima S.A., and Australia Line S.A., c/o Chandris Incorporated, 666 Fifth Avenue, New York, New York 10019.

Whereas, Marfuerza Compania Maritima S.A. and Australia Line S.A. have ceased to operate the passenger vessel R.H.M.S. *Elinis* to and from United States ports; and

Whereas, Certificate (Performance) No. P-70 has been returned for revocation.

It is ordered, That Certificate (Performance) No. P-70 issued to Marfuerza Compania Maritima S.A. and Australia Line S.A. covering the R.H.M.S. *Elinis* be and is hereby revoked effective March 7, 1977

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served on the certificants.

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

MARCH 7, 1977.

[FR Doc.77-7606 Filed 3-14-77;8:45 am]

WESTOURS, INC.

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-84; Order of Revocation

In the matter of Westours, Inc., 100 West Harrison Plasa, Seattle, Washington 98119.

Whereas, Westours, Inc. has ceased to operate the passenger vessel *Orpheus;* and

Whereas, Certificate (Performance) No. P-84 issued to Westours, Inc. has been returned for revocation.

It is ordered, That Certificate (Performance) No. P-74 covering the *Orpheus* be and is hereby revoked effective March 7, 1977.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served on certificant.

By the Commission,

JOSEPH C. POLKING,
Acting Secretary.

MARCH 7, 1977.

[FR Doc.77-7609 Filed 3-14-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ES77-18]

DELMARVA POWER & LIGHT CO.

Application for Authority to Acquire Securities

MARCH 3, 1977.

Take notice that Delmarva Power & Light Company on February 24, 1977 filed its Application for authority to acquire certain long-term unsecured promissory notes of Delmarva Power & Light Company of Virginia, its wholly-owned subsidiary.

Under the Application, Delmarva asks authority from the Commission, under Section 203 of the Federal Power Act, to purchase and acquire, from time to time during the period ending December 31, 1978, the aggregate amount of $3,600,000 in 30-year promissory notes of its Virginia subsidiary, together with additional notes in the aggregate amount of $400,000 to be issued by the Virginia subsidiary in refinancing certain 30-year promissory notes of the subsidiary maturing on various dates between April 1, 1977 and December 1, 1978. All such notes shall be purchased for cash, at face value plus accrued interest, except that notes being refinanced shall be exchanged for new notes. The Virginia subsidiary will use the proceeds to provide funds for necessary facilities for the rendition of electric service within the territory served by the Virginia subsidiary, and to refinance outstanding obligations.

An Application has been filed with the State Corporation Commission of Virginia for authority to Delmarva of Virginia to issue and sell the promissory notes described above, at a rate of interest to be established by the Commission, and for Delmarva to purchase and acquire such notes and to pledge them, when purchased, under its Deed of Trust with Chemical Bank, dated as of October 1, 1943.

Any person desiring to be heard, or to protest the above Application, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. Such petition or protest should be filed on or before March 28, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this Application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7592 Filed 3-14-77;8:45 am]

[Docket No. CP77-187]

NIAGARA MOHAWK POWER CORP.

Order Approving Amendment to Importation Authority and Granting Petition to Intervene

MARCH 7, 1977.

By order issued February 5, 1977, the Commission authorized the importation of natural gas by Niagara Mohawk Power Corporation (Niagara Mohawk) and certain members[1] of the New York Gas Group (NYGG). This order permitted the importation of 50,000 Mcf of natural gas per day for the period through February 28, 1977, from the Ontario Hydro-electric Power Commission (Ontario Hydro). In return, Niagara Mohawk, in agreement with the New York Power Pool, transmitted 600 megawatts of electric energy to Ontario Hydro. Niagara Mohawk filed on March 3, 1977, a proposal to amend original importation application to provide for the import of additional amounts of gas from Ontario Hydro to Niagara Mohawk and the NYGG members through March 31, 1977. For the reasons stated, the Commission shall approve the proposed amendment. On February 25, 1977, Tennessee Gas Pipeline Company (Tennessee) filed a petition to intervene; this petition shall be granted.

Niagara Mohawk, in its March 3, filing, states that Ontario Hydro has made an additional 2 Bcf of natural gas available to Niagara Mohawk and the named NYGG members through March 31, 1977. Under the new arrangement, 1.2 Bcf would be available to National Fuel and .8 Bcf would be available for the other applicants. Niagara Mohawk states that this additional gas wil be made available "under the same pricing, and transportation arrangements utilizing the same facilities as are reflected in Niagara Mohawk's original February 5, 1977, filing". The additional gas will be taken on an as needed basis by the applicants "to enable them to serve their high priority loads will lesser degrees of curtailment than would otherwise be the case". Niagara Mohawk indicates that the additional gas would not be used to displace alternate fuel capability or cause other gas to displace alternate fuel capability.

As was noted in the Commission's February 5, 1977, order in this docket, the charge at the international border for this gas is $2.28 per Mcf plus transportation charges. Niagara Mohawk states that "the ability to transport the gas on both the part of TransCanada and Tennessee is a function of the operating ability of TransCanada to send and Tennessee to receive the gas". For transportation of the natural gas from the American side of the international border to the applicants' systems, Tennessee proposes to charge a rate of 30 cents per Mcf.

Attached to the pleading are the Canadian National Energy Board's (NEB) order authorizing the exportation of 1.3 Bcf from Canada to Niagara Mohawk and the NEB's amendment authorizing the export of additional gas up to 2 Bcf. The Commission takes administrative notice of the severe winter conditions which affected upstate New York this winter, especially in the Buffalo, New York area served by National Fuel. This additional available natural gas provides security against further curtailment of high priority loads in this area. The arrangement assures, at the same time, by the transfer of electric energy to Ontario Hydro, that the electric energy capacity in Canada will not be impaired by the sale of natural gas for use by United States consumers. The Commission found in its earlier order in this docket that "both aspects of this application are consistent with the public interest." The Commission believes that the NEB's approval of the exportation of additional volumes of natural gas indicates that this arrangement is consistent also with the Canadian public interest. Because of the possible need

[1] New York State Electric and Gas Company, National Fuel Gas Supply Corporation (National Fuel), Orange and Rockland Utilities, Inc., Columbia Gas Distribution of New York, and Rochester Gas and Electric Corporation.

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for additional gas supplies by the applicants and because of the NEB's approval of exportation of additional gas, the Commission shall approve the amendment to the original filing to permit the importation of additional gas supplies from Ontario Hydro by the applicants and to permit the concurrent exportation of electric energy to Ontario Hydro. In view of the possible immediate need for this additional gas, the Commission shall grant waiver of Part 153 of the Commission's regulations under the Natural Gas Act and sections 35.30 et seq. of the regulations under the Federal Power Act.

In Niagara Mohawk's March 3 filing, National Fuel requests advance authorization to recover through the operation of its purchased gas adjustment clause (PGA) the purchase price of the imported gas plus transportation charges. No supporting cost data was filed by National Fuel to show the amount of costs it will seek to recover through the PGA. In the absence of such evidence, prior approval for as yet undetermined increases, not supported by any evidence is inappropriate and, therefore, the Commission declines to give the requested approval. When National Fuel makes its next PGA filing, the Commission shall review the supporting cost evidence to determine the propriety of the PGA increase.

On February 25, 1977, Tennessee filed a petition to intervene in this docket. Tennessee states because it "is performing a transportation service which is an integral part of Niagara's above described arrangement, Tennessee has a direct interest in this proceeding, which interest is not and cannot be adequately represented by any other party". The Commission believes Tennessee's intervention should be granted.

The Commission finds: (1) The proposed amendment for the importation of additional natural gas and exportation of additional electric energy is not inconsistent with the public interest.

(2) Good cause exists to waive the pertinent filing regulations at this time, subject to the conditions ordered herein.

(3) Good cause exists to deny advance approval of inclusion of these charges in National Fuel's PGA.

(4) Good cause to grant Tennessee's petition to intervene.

The Commission orders: (A) Pursuant to Section 3 of the Natural Gas Act and the Regulations thereunder, the applicants are hereby permitted to import additional volumes of natural gas up to 2 Bcf from Ontario Hydro through March 31, 1977.

(B) The natural gas imported under this order shall not be used to displace alternate full capability or cause other gas to displace alternate fuel capability.

(C) Niagara Mohawk shall file within 10 days of the issuance of this order, copies of all contracts relating to the importation, transportation and sale of natural gas to the applicants authorized by this order, all contracts relating to the exportation of electric energy authorized herein, and all contracts under which Niagara Mohawk may act as agent for any party involved in these arrangements. Also, Niagara Mohawk shall file a report showing the accounting and billing procedures by which the transactions between the Canadian and United States systems will be completed, and how the U.S. Systems will account for the transactions among themselves. This report shall have final NEB approval and the costs basis which the NEB sets forth for Canadian gas involved.

(D) Waiver of Part of 153 of the Commission's Regulations under the Natural Gas Act and Sections 35.30 et seq. is hereby granted.

(E) Tennessee, Columbia, and Consolidated are hereby authorized to perform transportation services required under the proposals approved by this order.

(F) National Fuel's request for prior approval of inclusion of the price of the imported natural gas plus the transportation charges is hereby denied.

(G) Tennessee's petition to intervene is hereby granted.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7536 Filed 3-14-77;8:45 am]

[Docket No. CI75-110, CI75-145]

PHILLIPS PETROLEUM CO.; KERR-McGEE CORP.

Filing of Offer of Settlement

MARCH 7, 1977.

Take notice that on February 25, 1977, Michigan Wisconsin Pipe Line Company (Mich Wis) a party in this proceeding, filed in Docket Nos. CI75-110 and CI75-145, an Offer of Settlement, pursuant to Section 1.18(e) of the Commission's Rules of Practice and Procedure. Mich Wis requests the Commission to authorize its Offer of Settlement, all as more fully set forth in the Offer of Settlement which is on file with the Commission and open to public inspection.

HISTORIC BACKGROUND

Mich Wis states that pursuant to existing Commission certificates, Phillips Petroleum Company (Phillips) and Kerr-McGee Corporation (Kerr-McGee) are obligated to sell the natural gas being produced from reservoirs above 10,000 feet below sea level (Shallow reserves) underlying State Lease No. 1170-1, Cameron Parish, Louisiana (Hog Bayou), to both Michigan Wisconsin and Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee):

1. Tennessee's rights to purchase the gas exist by virtue of certificates covering 1953 contracts in which Phillips and Kerr-McGee committed that production of Tennessee's predecessor-in-interest for a period of 20 years to the extent that the producers were unable to deliver 60,700 Mcf per day from the Rollover Field under a separate contract. It is stated that those rights expired on November 1, 1976.

2. Michigan Wisconsin's rights to purchase the gas are evidenced by certificates covering 1965 contracts wherein Phillips and Kerr-McGee committed all of their interest in the shallow reserves for 25 years to Michigan Wisconsin, subject only to the reservation of the quantities of gas necessary to satisfy their prior commitment, if any, to Tennessee, it is stated.

The Offer of Settlement states that Phillips and Kerr-McGee filed Section 7(b) applications to discontinue sales to Tennessee from the Hog Bayou shallow reservoirs on August 16, 1974 and September 9, 1974, respectively. Mich Wis alleges that the stated purpose of these applications was to fulfill the producers' contractual obligation to deliver all of the remaining shallow reserves to Mich Wis upon the expiration of Tennessee's rights on November 1, 1974. By its order of August 19, 1975, the Commission consolidated the proceedings and permitted Mich. Wis, Tennessee and others to intervene and set the applications for hearing. Hearings have been concluded. The initial decision was issued November 5, 1976 and Briefs on Exceptions have been filed. The case is now before the Commission for decision.

It is stated that during the period 1966-1974, prior to the expiration of Tennessee's rights, Phillips and Kerr-McGee sold approximately 45 percent of the gas produced from the shallow reservoirs to Mich Wis and 55 percent of the total production to Tennessee. During the 1975-1976 period, after Tennessee's contract with producers had expired, Tennessee purchased virtually all of the natural gas produced from the shallow reservoirs.

I. PARTIAL ABANDONMENT OF SERVICE

The Offer of Settlement proposes that Phillips and Kerr-McGee will receive Commission permission and authorization pursuant to Section 7(b) of the Natural Gas Act, to partially abandon service to Tennessee by reducing sales to Tennessee from the Cameron Parish, Louisiana (Hog Bayou Field) reservoirs to a maximum of 55 percent of the total production from said reservoirs during each calendar month subsequent to the issuance of the Commission's order approving this Offer of Settlement.

II. REPAYMENT OBLIGATION

It is stated that Tennessee shall have no obligation to restore Mich Wis the volumes of natural gas purchased by Tennessee from the Hog Bayou shallow reservoirs after Tennessee's contractual rights terminated on November 1, 1974. It is proposed that in its order approving this Offer of Settlement, the Commission shall dismiss with prejudice Mich Wis' request for an order imposing such obligation upon Tennessee.

Any person desiring to be heard or to make any protest with reference to said Offer of Settlement should file with the Commission on or before April 4, 1977. Any replies thereto may be filed on or before April 19, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7537 Filed 3-14-77;8:45 am]

[Docket No. E-9305; Project No. 796]

PHOENIX, ARIZONA, SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

Filing of Offer of Settlement and Settlement Agreement

MARCH 7, 1977.

Take notice that on February 8, 1977, pursuant to § 1.18(e) of the Commission's Rules of Practice and Procedure, the Salt River Pima-Maricopa Indian Community (the Indian Community) tendered for filing in the captioned consolidated proceedings an Offer of Settlement together with a Settlement Agreement entered into as of December 22, 1976, among the Indian Community, the Salt River Valley Water Users' Association and the Salt River Project Agricultural Improvement and Power District, which Settlement Agreement, if accepted and approved by the Commission, would effect a settlement and termination of the captioned consolidated proceedings and certain other matters not before the Commission.

Any person desiring to be heard or to protest the said Settlement Agreement should file comments with the Federal Power Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, on or before March 28, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the Settlement Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7536 Filed 3-14-77; 8:45 am]

[Docket No. ER77-219]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Tariff Change

MARCH 8, 1977.

Take notice that Public Service Electric and Gas Company of New Jersey (PSE&G), on March 1, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff No. 57. PSE&G states that the proposed changes would increase revenues from jurisdictional sales and service by $179,821 based on the twelve month period ending September 30, 1976. In addition, PSE&G states that the proposed filing also slightly modifies its existing fuel adjustment clause in the above tariff to conform to Section 35.14 of the Commission's Regulations.

PSE&G states that despite all efforts by it to combat increased costs, the continuing inflationary trend has affected practically all of its operations. Due to these increased costs, PSE&G states that it is becoming increasingly difficult for it to provide adequate and reliable service for the growing needs of its customers. PSE&G also contends that the rate increases are necessary to assure continued confidence in its financial integrity to provide earnings which will attract additional capital at reasonable cost to enable it to finance its electrical construction program.

PSE&G states that copies of the filing were served upon the public utility's jurisdictional customers, the Boroughs of Milltown and South River, and the New Jersey Board of Public Utility Commissioners.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7528 Filed 3-14-77;8:45 am]

[Docket No. ER77-209]

PUGET SOUND POWER & LIGHT CO.

Filing

MARCH 8, 1977.

Take notice that on February 22, 1977, Puget Sound Power and Light Company (Puget) tendered for filing as an initial rate schedule a transfer agreement between Puget and the City of Tacoma (Tacoma).

Puget states that the Agreement provides terms and conditions under which Puget has agreed to transfer electric power and energy to Tacoma's North Fork Well Complex over its 230 kv Rocky Reach—White River transmission line and determines the amount Tacoma will pay Puget for the service. Puget also states that the Agreement provides for the construction, operation and maintenance of certain non-jurisdictional facilities necessary to tap the subject transmission line to provide service to Tacoma's North Fork Well Complex.

Puget states that the parties expect service to commence on April 30, 1977, and that construction of additional facilities has already begun.

Puget states that a copy of the filing has been sent to the City of Tacoma.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7533 Filed 3-14-77;8:45 am]

[Project No. 559]

SAN DIEGO GAS & ELECTRIC CO.

Issuance of Annual License(s)

MARCH 7, 1977.

On March 4, 1974, San Diego Gas & Electric Company, Licensee for Project No. 559, located in San Diego County, California, filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 559 was issued effective March 5, 1925, for a period ending March 4, 1975. Since expiration of the original license, the project has been maintained and operated under annual licenses, the most recent of which will expire on March 4, 1977. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the San Diego Gas & Electric Company.

Take notice that an annual license is issued to the San Diego Gas & Electric Company for the period, March 5, 1977, to March 4, 1978, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 559 subject to the terms and conditions of the original license. Take further notice that if issuance of a new license does not take place on or before March 4, 1978, a new annual license will be issued each year thereafter, effective March 5 of each year, until such time as a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7534 Filed 3-14-77;8:45 am]

[Project No. 120]

SOUTHERN CALIFORNIA EDISON CO.

Issuance of Annual License(s)

MARCH 7, 1977.

On February 12, 1970, Southern California Edison Company, Licensee for the Big Creek No. 3 Project No. 120, located in the vicinity of Fresno, Kern, Madera, Los Angeles and Tulare Counties, California, on the San Joaquin River, filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 120 was issued effective June 5, 1922, for a period ending March 3, 1971. Since expiration of the original license, the project has been maintained and operated under annual licenses, the most recent of which will expire on March 3, 1977. In order to

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authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the Southern California Edison Company.

Take notice that an annual license is issued to the Southern California Edison Company for the period March 4, 1977, to March 3, 1978, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Big Creek No. 3 Project No. 120 subject to the terms and conditions of the original license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before March 3, 1978, a new annual license will be issued each year thereafter, effective March 4 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7538 Filed 3-14-77;8:45 am]

[Docket Nos. CP77-21, CP77-69]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Tariff Filing

MARCH 7, 1977.

Take notice that on February 28, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing Original Sheet Nos. 257 through 257B and Original Sheet Nos. 258 through 258C to Sixth Revised Volume No. 2 of its FPC Gas Tariff.

Tennessee states that the purpose of the tariff sheets is to constitute its Rate Schedules T-36 and T-37 covering transportation services which Tennessee was authorized to rendered by the Commission's January 14, 1977 letter order in Docket No. CP77-21 and the Commission's February 2, 1977 order in Docket No. CP77-69.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 28, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7531 Filed 3-14-77;8:45 am]

[Docket No. E77-33]

EMERGENCY NATURAL GAS ACT OF 1977

Supplemental Emergency Order

By order issued March 2, 1977, pursuant to section 6 of the Emergency Natural Gas Act of 1977, Pub. L. 95-2 (91 Stat. 4 (1977), I denied, without prejudice, the request of United Gas Pipe Line Company (United) to make certain emergency purchases. The order further stated that, where expenditures were made prior to February 22, 1977, for the purpose of delivering such gas supplies to United or the seller had obtained a formal written release of gas from an existing intrastate contract prior to that date in order to make sale in interstate commerce, United could make such purchases consistent with the doctrine of "Colorado Interstate Gas Company" Docket No. E77-31 (February 28, 1977).

On March 4, 1977, United submitted a supplemental filing in which it set forth information indicating that Basin Petroleum Corporation (Basin) and Exxon Company, U.S.A. (Exxon), Davis Oil Company (Davis), Delhi Gas Pipeline Corporation (Delhi), Goldking Production Company (Goldking), Monterrey Producing Company (Monterrey), Peltex, Inc. (Peltex), South Louisiana Production Company (South Lousiana), The Superior Oil Company, Inc. (Superior), Systems Fuels, Inc. (System Fuels), and Tenneco Oil Company (Tenneco) had made expenditures prior to February 22, 1977, for the purpose of delivery of the subject gas supplies to United. Based upon the information submitted by United, I deny United's request that I approve the proposed purchases set forth in the appendix to its filing. United's filing lacks the information necessary to determine which of the proposed purchases satisfy the criteria of "Colorado Interstate". This denial is without prejudice to United's submission of specific information which demonstrates which of the proposed purchases satisfy the criteria of these cases. United should submit such information so that the facts relating to each purchase may be fully considered. This order shall remain in effect unless and until Order No. 6 is modified or rescinded.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon United, Basin, Exxon, Davis, Dehli, Goldking, Monterrey, Peltex, South Louisiana, Superior, Systems Fuels, and Tenneco. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 9, 1977.

[FR Doc.77-7680 Filed 3-14-77;8:45 am]

FEDERAL RESERVE SYSTEM

CHEMICAL FINANCIAL CORP.

Acquisition of Bank

Chemical Financial Corporation, Midland, Michigan, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 per cent of the voting shares of The Au Gres State Bank, Au Gres, Michigan. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 1, 1977.

Board of Governors of the Federal Reserve System, March 8, 1977.

THEODORE E. ALLISSON,
Secretary of the Board.

[FR Doc.77-7471 Filed 3-14-77;8:45 am]

FARMERS BANCSHARES, INC., HARDINSBURG, KY.

Order Approving Formation of Bank Holding Company and Engagement in Insurance Agency Activities

Farmers Bancshares, Inc., Hardinsburg, Kentucky ("Applicant"), has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisiton of 80 percent of the voting shares of The Farmers Bank, Hardinsburg, Kentucky ("Bank"). At the same time, Applicant has applied, pursuant to section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire Bennett Insurance Agency, Hardinsburg, Kentucky ("Company"), and thereby engage as an agency in the sale of credit life, credit accident and health, and hazard insurance directly related to extensions of credit by Bank. Such activities have been determined by the Board, in §225.4(a)(9)(ii)(a) of Regulation Y, to be permissible for bank holding companies subject to Board approval of individual proposals in accordance with the procedure of § 225.4(b) of Regulation Y.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with sections 3 and 4 of the Act (FR, Vol. 42, No. 14). The time for filing comments and views has expired, and the applications and comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and considerations specified in section 4(c)(8) of the Act.

Applicant is a nonoperating corporation formed for the express purpose of becoming a bank holding company through the acquisition of Bank, and engaging in the sale of credit life, credit accident and health, and hazard insurance. The proposed transaction involves the transfer of control of Bank and Company[1] from individuals to a corporation owned by the same individuals. Upon acquisition of Bank (deposits of $11.1 million), Applicant would control the 207th largest of 342 banks in Kentucky, holding .11 per cent of the total deposits in commercial banks in the State.[2] Bank is the second largest of three banks in the relevant banking market (approximated by Breckinridge County), and holds 32.3 percent of total bank deposits in the market. Since Applicant has no present subsidiaries or business activity, consummation of the proposal would not adversely affect existing or potential competition.

The financial and managerial resources and future prospects of Applicant, which are primarily dependent upon Bank, are regarded as satisfactory. Incident to this proposal, Applicant will incur acquisition debt, which is projected to be retired over a twelve year period with funds generated from operations of Bank and Company. Based upon Bank's present capital position, its proposed capital increase,[3] and its projected future growth and earnings, it appears that Applicant will be able to meet its debt servicing requirements while maintaining the capital adequacy of Bank. Considerations relating to the convenience and needs of the Community to be served are consistent with approval. Applicant proposes to increase the effective interest rate on certificates of deposit by compounding rates of interest on such deposits. Therefore, this Reserve Bank concludes that the proposed acquisition of Bank would be in the public interest and that the application to become a bank holding company should be approved.

As part of the reorganization of Bank's ownership, Applicant proposes to acquire the business activities of Company and thereby engage as an agency in the sale of credit life, credit accident and health, and hazard insurance directly related to extensions of credit by Bank. Company presently engages in these activities on the premises of Bank. Thus, it does not appear that the acquisition of Company's activities by Applicant would have any significant effect on existing or potential competition. Approval of the application would assure community residents of a convenient source of insurance services that for some time has been associated with Bank.[4] Further, evidence in the record does not indicate that consummation of the proposal would lead to any undue concentration of resources, conflicts of interests, unsound banking practices, or any other adverse effects upon public interest.

Based on the foregoing and other considerations reflected in the record, this Reserve Bank has determined, in accordance with the provisions of § 4(c)(8) of the Act, that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects and that the application to engage in credit-related insurance activities should be approved.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not be made before the thirtieth calendar day following the effective date of this Order. The acquisition of Bank and the commencement of permissible insurance agency activities shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority. The determination as to Applicant's insurance activities is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Federal Reserve Bank of St. Louis, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective March 2, 1977.

HAROLD E. UTHOFF,
Senior Vice President.

[FR Doc.77-7606 Filed 3-14-77;8:45 am]

[1] Company is presently owned by two of Applicant's eight Principals.

[2] All banking data as of December 31, 1975.

[3] Coincidental with Applicant's acquisition, Bank's capital is to be increased by $400M through the issuance of additional shares of common stock.

[4] Company has been operated upon Bank's premises for more than five years.

GENERAL SERVICES ADMINISTRATION

PRIVACY ACT OF 1974

Changes to Systems of Records

On September 8, 1976, there was published in the FEDERAL REGISTER (41 FR 38088 through 38145) annual notices of systems of records pursuant to the provisions of the Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a. This notice deletes two systems of records and amends two systems of records.

The system of records identified as "Intergovernmental Management Trainee Association Records GSA/OAD-21," system identification number 23-00-0021, 41 FR 38098, is deleted. The records are no longer being maintained.

The system of records identified as "Special Personnel Studies and Reports GSA/OAD-16," system identification number 23-00-0016, 41 FR 38095, is deleted. With the exception of allegations of merit system violation records, none of the other record categories is retrievable by individual name or other personal identifier.

The allegations of merit system violation records are being made part of the system of records identified as "Records Relating to Staffing Activities GSA/OAD-10," system identification number 23-00-0010, 41 FR 38092.

The system of records identified as "Office Personnel Files GSA/OAD-19," system identification 23-00-0019, 41 FR 38097, is amended to delete position descriptions from the categories of records in the system.

The full text of the amended notices of the systems of records "Records Relating to Staffing Activities" and "Office Personnel Files" is as follows:

23-000-0010 (GSA/OAD-10)

System name:

Records Relating to Staffing Activities GSA/OAD.

System location:

This system is maintained in the personnel offices of GSA at the addresses listed in the appendix following the notice GSA/OAD-22 and in the Central Office, Office of Personnel, 18th and F Streets NW., Washington, DC 20405.

Categories of individuals covered by the system:

Current and former GSA employees and applicants for GSA employment.

Categories of records in the system:

The following categories of records are maintained for the purpose of making decisions relating to the hiring, maintaining, utilizing, promoting, reassigning, and terminating of employees:

1. Recruitment, qualification, and employment.
2. Merit promotion.
3. Separation.
4. Allegations of merit system violations.

Authority for maintenance of the system:

1. Recruitment, qualification, and employment: 5 U.S.C. 3104, 3109, 3321, 3582, 4301 through 4308, 7153, and 7512; Executive Order 11521; Federal Personnel Manual (FPM) Chapters 300, 301, 302, 307, 315, and 337; and Vietnam Veterans Assistance Act, Public Law 93-508.

2. Merit promotion: 5 U.S.C. 4301 through 4308; FPM Chapter 335.

3. Separation: 5 U.S.C. 3501 through 3504; FPM Chapters 302 and 752.

4. Allegations of merit system violations; Executive Order 9830.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The routine uses of these records are described in the appendix following the GSA notices.

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

All records within this system are maintained on paper.

Retrievability:

Records are retrieved by name.

Safeguards:

When not in use by an authorized person, these records are stored in lockable metal file cabinets or in secured rooms.

Retention and disposal:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager and address:

The Director of Personnel, 18th and F Streets NW., Washington, DC 20405. Mailing address: General Services Administration (BP), Washington, DC 20405.

Notification procedure:

Current employees may obtain information about whether they are part of this system of records from their supervisor, from their personnel officer at the address following the notice GSA/OAD–22, or from the Director of Personnel at the above address, whichever is applicable. Former employees may obtain information from their former personnel office. Applicants for GSA employment may obtain information from the personnel officer responsible for the position for which they applied.

Record access procedures:

Current employees should direct requests to access records to their supervisor, to the appropriate personnel officer at the address listed in the appendix following the notice GSA/OAD–22, or to the Director of Personnel at the address listed above. Former employees should direct requests to access records to their former personnel office. Applicants for GSA employment may obtain information from the personnel officer responsible for the position for which they applied. For identification requirements refer to the agency regulations as outlined in 41 CFR 105–64.

Contesting record procedures:

GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR 105–64 published in the FEDERAL REGISTER.

Record source categories:

The individuals themselves, other employees, and supervisors.

23–00–0019 (GSA/OAD–19)

System name:

Office Personnel Files GSA/OAD.

System location:

This system may be maintained at the supervisory or administrative office level throughout the Office of Administration nationwide.

Categories of individuals covered by the system:

Former and current GSA employees.

Categories of records in the system:

This system consists of a variety of employee related records maintained by operating officials for the purpose of administering personnel matters affecting their employees. Examples of records contained in this system include:

1. Statements of personal history.
2. Employee performance ratings and assessments relevant to promotion potential.
3. Suggestions.
4. Counseling reports.
5. Supervisory assessments of employees' ability to meet career goals.
6. Assessments of supervisory potential.
7. Employment inquiries from other agencies.
8. Military service separations.
9. Developmental needs.
10. Miscellaneous training.
11. Placement followup checklists.
12. Staffing patterns and rosters.
13. Leave and attendance information.
14. Employee addresses and telephone numbers.
15. Military reserve lists.
16. Assignment rosters.
17. Affirmative action plan files.
18. Accession and separation information.
19. Performance and work measurement records.
20. Employee parking permit applications and related information.

Authority for maintenance of the system:

Executive Order 9830.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The routine uses of these records are described in the appendix following the GSA notices.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders and card files.

Retrievability:

The records within this system are primarily retrieved by name.

Safeguards:

When not in use by an authorized person, these records are stored in lockable metal file cabinets or in secured rooms.

Retention and disposal:

Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager and address:

The Executive Officer, Office of Administration, 18th and F Streets NW., Washington, D.C. 20405. Mailing address: General Services Administration (BA), Washington, D.C. 20405.

Notification procedures:

Current employees may obtain information about whether they are part of this system of records from their supervisor. Former employees may obtain information from the appropriate personnel officer at the address listed in the appendix following the notice GSA/OAD–22.

Record access procedures:

Current employees should direct requests to access records to their supervisor. Former employees should direct requests to the appropriate personnel officer at the address listed in the appendix following the notice GSA/OAD–22. For identification requirements, refer to the agency regulations as outlined in 41 CFR 105–64.

Contesting record procedures:

GSA rules for access to records and for contesting the contents and appealing initial determinations are promulgated in 41 CFR 105–64, published in the FEDERAL REGISTER.

Record source categories:

The individuals themselves, other employees, supervisors, and personnel records.

C. L. MORRISON, Jr.,
Acting Director of Administration.

Dated at Washington, D.C. on March 1, 1977.

[FR Doc.77–7540 Filed 3–14–77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 1; March 30, 1977, from 9:00 A.M. to 4:30 P.M.; Room 208, J. W. McCormack Post Office and Courthouse, Post Office Square, Boston, Massachusetts 02109.

The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the following proposed projects:

Downspout Replacement, Flooring, A/C and Misc. Alterations U.S. Custom House—Portland, Maine
Energy Conservation Alterations, Federal Building and U.S. Post Office—Augusta, Maine
Building Extension, U.S. Border Station—Derby Line, Vermont

The meeting will be open to the public.

ALBERT A. GAMMAL, Jr.,
Regional Administrator.

[FR Doc.77–7509 Filed 3–14–77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 10, April 1, 1977, at 9:00 a.m., Main Auditorium, Northwest and Alaska Fisheries Center, 2725 Montlake Boulevard East, Seattle, Washington. The meeting will be concerned with the review of the conceptual design for the NOAA Western Regional Center, Seattle, Washington. The meeting will be open to the public.

DAVID L. HEAD,
Regional Administrator.

[FR Doc.77–7511 Filed 3–14–77;8:45 am]

Public Buildings Service

[Wildlife Order 152; A–6D–491]

FORMER FOREST SERVICE WORK CENTER, HOT SPRINGS, S. DAK.

Transfer of Property

Pursuant to Section 2 of Public Law 537, Eightieth Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the United States of America dated January 27, 1977, the property comprising 20,954 square feet of land improved with six buildings identified as the former Forest Service Work Center, Hot Springs, South Dakota, has been conveyed to the State of South Dakota.

2. The above described property was conveyed for wildlife conservation purposes in accordance with the provisions of Section 1 of said Public Law 80–537 (16 U.S.C. 667b), as amended by Public Law 92–432.

Dated: February 25, 1977.

THOMAS PEYTON,
Acting Commissioner,
Public Buildings Service.

[FR Doc.77–7539 Filed 3–14–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

OCCUPATIONAL SAFETY AND HEALTH

Request for Information on Glycidyl Ethers

Section 20(a)(3) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(3)) provides that the Secretary of Health, Education, and Welfare, on the basis of information available to him, shall develop criteria dealing with toxic materials which will describe exposure levels that are safe for various periods of employment. Section 22(c) of the Act authorizes the National Institute for Occupational Safety and Health (NIOSH) to develop recommended occupational safety and health standards and to perform all functions of the Secretary of Health, Education, and Welfare, under sections 20 and 21 of the Act. NIOSH is proposing to develop a criteria document containing recommended occupational health standards for glycidyl ethers.

The criteria document will include among other items an evaluation of available information relative to the areas listed below.

Any person having information or data in any of the areas listed below, or in other areas considered relevant to the establishment of a safe and healthful occupational environment involving this substance is requested to submit such information, with accompanying documentation to Director, Division of Criteria Documentation and Standards Development, NIOSH, 5600 Fishers Lane, Park Building, Room 3–28, Rockville, Maryland 20857 within 90 days.

1. Establishment of safe occupational environmental levels for this agent including levels for acute and chronic exposure to airborne concentrations of the chemical agent as well as safe practices concerning direct contact with such agent.

2. Establishment of biologic standards i.e., the levels of such agents, metabolites, or other effects of exposure which may be present within man without his suffering ill effects taking into consideration (a) the correlation of airborne concentrations of, and extent of exposure to such substance with effects on specific biologic systems of man such as the circulatory, respiratory, urinary, and nervous system, and (b) the analytical method for determining the amount of the substance which may be present within man.

3. Engineering controls, including ventilation, environmental temperature, humidity, and housekeeping and sanitation procedures, with attention to the technological feasibility of such controls.

4. Specifications for the conditions under which personal protective devices should be required.

5. Methods, including instruments, for air sampling and sample analysis of the chemical agent and methods of measuring levels of exposure to the physical agent.

6. The need for medical examinations for workers exposed to such an agent, the frequency of such examinations, and the specific diagnostic tests which should be used and the rationale of their selection.

7. Work practices or procedures which may be instituted for control of the workplace environment in normal operations and those which may be instituted when occupational environmental levels are temporarily exceeded or where peak concentrations of chemical agents in man are reached.

8. The types of records concerning occupational exposure to such an agent that employers should be required to maintain.

9. Warning devices and labels which should be required for the prevention of occupational diseases and hazards caused by such an agent.

All information received concerning this substance, except that information which is trade secret and protected by section 15 of the Act, will be available for public inspection at the foregoing address.

Dated: March 8, 1977.

EDWARD J. BAIER,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc.77–7515 Filed 3–14–77;8:45 am]

Food and Drug Administration

ADVISORY COMMITTEE

Meeting

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: This notice announces a meeting of a public advisory committee, with a closed portion, of the Food and Drug Administration (FDA). It also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committee. And it is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations, 21 CFR Part 2, Subpart D, relating to advisory committees.

SUPPLEMENTARY INFORMATION: The following meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Allergenic extracts panel.....	Apr. 15 and 16, 9 a.m., room 130, 6110 Executive Blvd., Rockville, Md.	Open public hearing, Apr. 15, 9 a.m. to 10 a.m.; open committee discussion, Apr. 15, 10 a.m. to 5:30 p.m., Apr. 16, 8:30 a.m. to 10 a.m.; closed committee deliberations, Apr. 16, 10 a.m. to adjournment; Clay Siak (HFB–5), 8800 Rockville Pike, Bethesda, Md. 20014, 301–443–5455.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearings. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the recommendations for further clinical testing; standardization of allergenic extracts; revision of several draft generic statements on epidermal, pollen, food, and miscellaneous inhalent extracts; and draft label recommendations.

Closed committee deliberations. Review of data submissions from allergenic extract producers on the subject of manufacturing techniques for epidermal allergenic extracts and food allergenic extracts. This portion of the meeting will be closed to permit discussion of trade secret information (5 U.S.C. 552(b) (4)).

Each public advisory committee listed above may have as many as four separable portions: (1) An open public hear-

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ing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC–18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 2, Subpart D, published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52148).

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate device and recommendations to the agency on matters that do not independently justify closing.

The Commissioner approves the scheduling of meetings at locations outside of the Washington, D.C., area on the basis of the criteria of § 2.307 (21 CFR 2.307) of FDA's regulations relating to public advisory committees.

Dated: March 8, 1977.

SHERWIN GARDNER,
Acting Director, Food and Drugs.

[FR Doc.77–7520 Filed 3–14–77;8:45 am]

ADVISORY COMMITTEE

Meeting

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: This notice announces a meeting of a public advisory committee of the Food and Drug Administration (FDA). It also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committee and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations, 21 CFR Part 2, Subpart D, relating to advisory committees.

SUPPLEMENTARY INFORMATION: The following meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Dental Device Classification Panel.	Apr. 4 and 5, 9 a.m., room 1409, FB–8, 200 C St. SW., Washington, D.C.	Open public hearing, Apr. 4, 9 a.m. to 10 a.m.; open committee discussion, Apr. 4, 10 a.m. to 4 p.m., Apr. 5, 9 a.m. to 4 p.m.; D. Gregory Singleton, D.D.S. (HFK–460), 8757 Georgia Ave., Silver Spring, Md. 20910, 301–427–7289.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for the regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the dental devices listed below to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by April 1, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Dental Device Classification Panel will review and classify the following dental devices: Mechanical denture cleanser; oral irrigating unit; toothbrush, electrode gel for pulp tester; x-ray beam aligner; collimator; film cassette; intraoral x-ray dental film; AC-powered dental amalgamtor; dental capsule; dressing forceps; dental furnace; dental oven; hand piece accessories; investment material; metal casting and soldering blow pipe; alcohol blow torch; amalgamator dispenser; mortar; pestle; amalgamator tray accessory; anesthetic tube warmer; applicator; instrument and supply cabinet; operative chair. All remaining devices initially placed in general controls will be classified.

FDA public advisory committee meetings may have as many as four separable portions: (1) an open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC–18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 2, Subpart D, published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52148).

Dated: March 9, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–7521 Filed 3–14–77;8:45 am]

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration, HEW.

ACTION: Notice.

SUMMARY: This notice announces April meetings of public advisory committees of the Food and Drug Administration (FDA). It also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees. And it is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations, 21 CFR Part 2, Subpart D, relating to advisory committees.

SUPPLEMENTARY INFORMATION: The following meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Miscellaneous External Drug Products Panel.	Apr. 3 and 4; Holiday Inn, Bethesda, Md. on Apr. 3; Conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. on Apr. 4.	Open committee discussion, Apr. 3, 1 p.m. to 4:30 p.m.; open public hearing, Apr. 4, 9 a.m. to 10 a.m.; open committee discussion, Apr. 4, 10 a.m. to 4:30 p.m.; Michael D. Kennedy (HFD–510), 5600 Fishers Lane, Rockville, Md. 20857, 301–443–4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
2. Miscellaneous External Drug Products Panel.	Apr. 3 and 4; Holiday Inn, Bethesda, Md. on Apr. 3; Conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. on Apr. 4.	Open committee discussion, Apr. 3, 9 a.m. to 4:30 p.m.; open public hearing, Apr. 4, 9 a.m. to 10 a.m.; open committee discussion, Apr. 4, 10 a.m. to 4:30 p.m.; Armond M. Welch (HFD–510), 5600 Fishers Lane, Rockville, Md. 20857, 301–443–4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) reviews' call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

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Committee name	Date, time, and place	Type of meeting and contact person
3. Cardiovascular Device Classification Panel.	Apr. 4, 9 a.m., room 1127, HEW-N., 330 Independence Ave. SW., Washington, D.C.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; Glenn A. Rahmoeller (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the tentative classification findings. Persons desiring to make formal presentations should notify the executive secretary by March 28, 1977, and submit a brief statement about the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and the approximate time required to make their comments.

Open committee discussion. The panel will make classification recommendations for the following devices: Apex cardiographs; ballistocardiographs; blood pressure cuffs; blood pressure microphones; dye injectors (used with a densiometer); ear oximeters; echocardiographs; flow probes; heart sound signal conditioners and amplifiers; magnetocardiographs; oximeters; phlebographs (impedance); phonocradiographs; stethoscopes; syringe actuaters; A–V oxygen difference computers; blood volume computers; oxygen consumption analyzers; spectrophonocardiographs; stroke volume computers; acoustic catheters; blood sampling catheters; cannulas; catheter fittings; catheter tip occluders; PH catheter probes; stylets; trocars; vascular puncture needles; ECG telephone systems; RF telemetry systems; ECG lead switching adapters; on-line blood gas monitors; oscillometers; alphanumeric displays; analog displays (e.g., panel meters) computer display consoles; direct writing recorders; light beam recorders; magnetic tape recorders; event recorders; trend recorders; connectors; intravenous catheters; left ventricular vent catheters; saw blades; medical support stockings; thoracic drains; biopsy needles; dilators; external vein strippers; extravascular biopsy devices; femoral tunnelers; forceps; infundibular punches; intraluminal vein strippers; retractors; valvulotomes; automatic rotating tourniquets; plethysmographs (photoelectric, pneumatic, and hydraulic); pulsatile assist device; pacemaker leads; pacemaker service kits; electrosurgical electrodes.

The panel will make its final classification recommendations, including specific justifications when necessary, for the following implants, life-supporting, and life-sustaining devices: pacemaker electrodes, pacemaker batteries, vascular graft prostheses, long-term vascular catheters, and defibrillators.

Committee name	Date, time, and place	Type of meeting and contact person
4. Anti-Infective Agents Advisory Committee.	Apr. 4 and 5, Conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Apr. 4, 9 a.m. to 10 a.m.; open committee discussion, Apr. 4, 10 a.m. to 4:30 p.m., Apr. 5, 9 a.m. to 12:30 p.m.; Mary K. Bruch (HFD-140), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in infectious diseases.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the definition and distinction in the meaning of bacteremia and speticemia as related to label claims; risk associated with parenteral use of neomycin sulfate; safety and effectiveness of intrathecal injection of gentamicin; need for a label warning against intra-articular injection of irrigation with penicillin solutions; proposed guidelines for in vitro (virological) testing of antiviral drugs; and update of FDA actions.

Committee name	Date, time, and place	Type of meeting and contact person
5. Oral Cavity Panel.....	Apr. 12 and 13, Conference room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Apr. 12, 9 a.m. to 10 a.m.; open committee discussion, Apr. 12, 10 a.m. to 4:30 p.m., Apr. 13, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
6. National Advisory Food and Drug Committee.	Apr. 14 and 15, 9 a.m., Conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Apr. 14, 9 a.m. to 10 a.m. open committee discussion, Apr. 14, 10 a.m. to 4 p.m. Apr. 15, 9 a.m. to 1 p.m.; William V. Whitehorn, M.D. (HFG-1), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1547.

General function of the committee. Reviews and evaluates agency programs and advises on policy matters of national significance as they relate to the statutory mission of the Food and Drug Administration in the areas of foods, drugs, cosmetics, medical devices, biological products, and electronic products. Reviews and makes recommendations on applications for grants-in-aid for research projects relevant to the mission of the Food and Drug Administration as required by law.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Agenda items to be announced.

Committee name	Date, time, and place	Type of meeting and contact person
7. Orthopedic Device Classification Panel.	Apr. 14 and 15, 9 a.m., Kenilworth Room, Hyatt-Regency Hotel, New Orleans, La.	Open public hearing, Apr. 14, 9 a.m. to 10 a.m.; open committee discussion, Apr. 14, 10 a.m. to 5 p.m., open public hearing, Apr. 15, 9 a.m. to 10 a.m.; open committee discussion, Apr. 15, 10 a.m. to 2 p.m.; James G. Dillon, Ph.D. (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7236.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present to the executive secretary, information pertinent to classification of orthopedic devices. Submission of data relative to tentative classification findings is also invited. Persons desiring to make formal presentations should notify the executive secretary by April 1, 1977, and submit a brief statement about the evidence or arguments they wish to present, the the names and addresses of proposed participants, references to any data to be relied on, and the approximate time required to make their comments.

Open committee discussion. On April 14: In accordance with the Medical Device Amendments of 1976, the Orthopedic Device Classification Panel will review the available information and classify the following devices: elbow prosthesis; spinal fixation devices, ligament implant; carpal prosthesis (partial wrist prosthesis); cement mixer; cement hood; hemiarthroplasties; diaphyseal substitution (custom); shoulder prosthesis; upper humerus replacement prosthesis; total hip prosthesis; interpositional device (acetabular components); implants for total bone replacement; bone nails; cerclages, staples; threaded pins; wire; condylar plates; humeral head and neck nail plates; proximal femoral fixation devices; pneumatic hand instrument; air pressure tourniquet (includes cuffs, regulators, hoses, etc.); A-C powered instrument system; pneumatic instrument system; UV-cured cast material; surgical table with orthopedic accessories; internal extremity stimulator; prosthesis storage case; traction carts; measuring devices and accessories: (calipers; depth gauges; goniometers; protractors; dynamometers; scales and measuring tapes; calibrated guide pins; femoral head gauges; angle guides; templates); nonpowered penetrating traction devices and accessories.

On April 15: In accordance with the Medical Device Amendments or 1976, the Orthopedic Device Classification Panel will review the available information and classify ceramic orthopedic appliances.

Anyone interested in presenting scientific data or information pertinent to the panel's classification activities should contact the executive secretary.

Committee name	Date, time, and place	Type of meeting and contact person
8. Radiopharmaceutical Advisory Committee.	Apr. 14 and 15, 9 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open committee discussion, Apr. 14, 9 a.m. to 12 m.; open public hearing, Apr. 14, 1 p.m. to 2 p.m.; open committee discussion, Apr. 14, 2 p.m. to 4 p.m.; Apr. 15, 9 a.m. to 1 p.m.; C. H. Maxwell, M.D. (HFD-150), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5197.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of nuclear medicine.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Report on actions on committee recommendations; discussion of the major responsibilities of the Bureau of Radiological Health; report of the Bureau of Radiological Health Task Force on Short Lived Radionuclides; report of the Pediatric Nuclear Medicine Subcommittee; discussion of drug advertising; status report of the Medical Oriented Data System (MODS) program; status of investigational new drugs (IND's), new drug applications (NDA's) and the Radioactive Drug Research Committee; reporting requirements for the Radioactive Drug Research Committee; discussion of specific IND and NDA problems.

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Committee name	Date, time, and place	Type of meeting and contact person
9. Neurological Device Classification Panel.	Apr. 15, 9 a.m., Room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; James R. Veale (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommenations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the tentative classification of any of the devices classified by the panel to the executive secretary, and particularly those devices to be considered at this meeting. Submission of data relative to tentative classification findings is also invited. Persons desiring to make formal presentations should notify the executive secretary by April 6, 1977, and submit a brief statement about the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and the approximate time required to make their comments.

Open committee discussion. Review and classify CAT brain scanners and ultrasonic cutting tools; review all prior classifications; update 18-question logic scheme.

Committee name	Date, time, and place	Type of meeting and contact person
10. Antimicrobial Panel.....	Apr. 15 and 16, Conference room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Apr. 15, 9 a.m. to 10 a.m.; open committee discussion, Apr. 15, 10 a.m. to 4:30 p.m., Apr. 16, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
11. General Hospital and Personal Use Device Classification Panel.	Apr. 18 and 19, room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, Apr. 18, 8:30 a.m. to 9:30 a.m.; open committee discussion, Apr. 18, 9:30 a.m. to 4:30 p.m., Apr. 19, 8:30 a.m. to 4:30 p.m.; William C. Dierksheide, Ph. D. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of general hospital and personal use devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Persons desiring to make formal presentations should notify the executive secretary by April 11, 1977, and submit a brief statement about the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and the approximate time required to make their comments.

Open committee discussion. The purpose of this meeting is to classify the following devices: blood-drawing chair; blood lancet; plastic bowl specimen collector; examination cape; modesty drape; patient examination glove; examination gown; tongue depressor; cuff inflator; battery-powered stethoscope; mechanical stethoscope; room air purifier; ultrasonic cleaner; bedpan sanitizer; biological sterilization indicator; physical sterilization indicator; solution warmer stand; kick bucket; foot stool; elastic bandage; abdominal binder; perineal binder; elastic stocking; scrotal support; spine board; adhesive strip skin closure; liquid adhesive (collodian) skin closure; staple skin closure; chemical cold pack; chemical hot pack; sponge scale; surgical scissors; sterile burn sheet; lower extremity traction hinged half-ring splint; inflatable splint, rigid splint; hand carried stretcher; wheeled stretcher; suction tip; general tubing for fluid delivery systems; hot water bottle; intravascular pneumatic feed administration set; infusion apparatus ceiling mount; infusion gravity chamber; intravascular filter; intravascular fluid infusion set; infusion apparatus pole; pump holder; heat lamp; ultraviolet air purifier.

Committee name	Date, time, and place	Type of meeting and contact person
12. Hematology Device Classification Panel.	Apr. 18 and 19, 9 a.m., room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, Apr. 18, 9 a.m. to 10 a.m.; open committee discussion, Apr. 18, 10 a.m. to 5 p.m., Apr. 19, 9 a.m. to 5 p.m.; Kaiser Aziz, Ph. D., (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7230.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present to the executive secretary, information pertinent to the classification of hematology devices. Submission of data relative to classification findings is also invited. Persons desiring to make formal presentations should notify the executive secretary by April 8, 1977, and submit a brief statement about the information they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and the approximate time required to make their comments.

Open committee discussion. On April 18: The Hematology Device Classification Panel will classify the following products used in clinical hematology laboratories: blood cell stains; hemoglobin; abnormal hemoglobins; particle counters used for evaluation of blood cells (cell counting); peripheral blood cell analyzers for WBC, platelets, and RBC characteristics; red cell indices; hematocrit; erythrocyte sedimentation rate; bleeding-time devices; red blood cell and white blood cell enzyme reagents and systems.

On April 19: The Hematology Device Classification Panel will classify the following: prothrombin time; partial thromboplastin time; fibrinogen; systems and reagents for coagulation; activated whole blood clot time; thrombin time; fibrin/fibrinogen degradation products; platelet count and platelet aggregation systems and reagents; thromboplastin generation test; factor deficiency tests; euglobulin lysis test; stypven time; reptilase time; para-coagulation test.

Committee name	Date, time, and place	Type of meeting and contact person
13. Immunology Device Classification Panel.	Apr. 18 and 19, 9 a.m., room 1137, HEW-N., 330 Independence Ave. SW., Washington, D.C.	Open public hearing, Apr. 18, 9 a.m. to 10 a.m.; open committee discussion, Apr. 18, 10 a.m. to 5 p.m., Apr. 19, 9 a.m. to 5 p.m.; S. K. Vadlamudi, Ph. D., D.V.M. (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present to the executive secretary, information pertinent to classification of immunology devices. Submission of data relative to tentative classification findings is also invited. Persons desiring to make formal presentations should notify the executive secretary by April 10, 1977, and submit a brief statement about the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and the approximate time required to make their comments.

Open committee discussion. The panel will classify the following antiserum to: C_{1q}-factor B; ceruloplasmin; fibrinogen; ferritin; total immunoglobulins; complement protein; IG_{G1}; I_gG_3; I_gG_2; I_gG_4; albumin; Alpha-1-acid glycoprotein; alpha-1-antichymotrypsin; alpha-1-lipoprotein; alpha-2-macroglobulin; low density lipoprotein (qualitative); C-reactive protein (qualitative); factor XIII-A and S; free secretory component; hemoglobin; lipoprotein X; myoglobin; whole human serum; whole human plasma; hemolytic systems; rheumatoid factor.

Committee name	Date, time, and place	Type of meeting and contact person
14. Dentifrice and Dental Care Panel.	Apr. 21 and 22, conference room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Apr. 21, 9 a.m. to 10 a.m.; open committee discussion, Apr. 21, 10 a.m. to 4:30 p.m., Apr. 22, 9 a.m. to 4:30 p.m.; Michael D. Kennedy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner of Food and Drugs.

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Committee name	Date, time, and place	Type of meeting and contact person
15. Obstetrics and Gynecology Advisory Committee.	Apr. 22, 9 a.m., conference rooms G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 3 p.m.; A. T. Gregoire, Ph. D. (HFD-130), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2310.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of obstetrics and gynecology.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of Sandoz's new drug application (NDA) 17-962 (Bromocriptine); discussion of estriol and breast cancer; report to the committee on the clinical guidelines for evaluating drugs for osteoporosis (workshop); report to the committee on clinical guidelines for testing of systemic contraceptives (subcommittee); and discussion of FDA action report.

Committee name	Date, time, and place	Type of meeting and contact person
16. Contraceptive and other Vaginal Drug Products Panel.	Apr. 22 and 23, conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Apr. 22, 9 a.m. to 10 a.m.; open committee discussion, Apr. 22, 10 a.m. to 4:30 p.m., Apr. 23, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4000.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
17. Clinical Chemistry Device Classification Panel.	Apr. 25 and 26, room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, Apr. 25, 9 a.m. to 10 a.m.; open committee discussion, Apr. 25, 10 a.m. to 5 p.m., Apr. 26, 9 a.m. to 5 p.m.; Kaiser Aziz, Ph. D., (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7220.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to the classification of clinical chemistry devices to the executive secretary. Submission of data relative to tentative classification findings is also invited.

Open committee discussion. On April 25: The panel will classify the following in vitro diagnostic products: adrenocorticotropin, aldosterone, androstenedione, androsterone, cortisol, corticosterone, estradiol, estriol, estrone, angiotensin/renin, gastrin, insulin, glucagon, growth hormone, 5-hydroxyindole acetic acid, luteinizing hormone, follicle-stimulating hormone, thyroid stimulating hormone, testosterone, parathyroid hormone, pregnanediol, progesterone, prostaglandins.

On April 26: The panel will classify the following in vitro diagnostic products: aldolase, blood gases, calcium (by flame photometry), amino acids, ascorbic acid, glucuronidase, dehyrogenase (isocitric), cyclic AMP, cyclic GMP, hydroxybutyric dehydrogenase, leucine aminopeptidase, mucopolysaccharides, porphyrins, pyruvic acid, instruments for general purpose.

Committee name	Date, time, and place	Type of meeting and contact person
18. Hemorrhoidal Panel.....	Apr. 29 and 30, conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Apr. 29, 9 a.m. to 10 a.m.; open committee discussion, Apr. 29, 10 a.m. to 4:30 p.m., Apr. 30, 9 a.m. to 4:30 p.m.; Thomas D. DeCillis (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 2, Subpart D, published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52148).

The Commissioner approves the scheduling of meetings at locations outside of the Washington, DC, area on the basis of the criteria of § 2.307 (21 CFR 2.307) of FDA's regulations relating to public advisory committees.

Dated: March 9, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-7522 Filed 3-14-77;8:45 am]

National Institutes of Health

REPORT ON CARCINOGENESIS BIOASSAY OF 1,1,1-TRICHLOROETHANE

Availability

1,1,1-Trichloroethane has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: The carcinogenesis bioassay of technical grade 1,1,1-trichloroethane was conducted using Osborne-Mendel rats and B6C3F1 mice. 1,1,1-Trichloroethane was administered orally by gavage in corn oil to 50 animals of each sex and species at two dose levels 5 days per week for 78 weeks.

Rats: The experiment was originally started using doses of 3,000 and 1,500 mg/kg of body weight. After a few weeks the study was terminated, and the animals discarded because of marked signs of intoxication. The experiment was restarted with rats 7 weeks of age that were put on doses of 1,500 and 750 mg/kg. There was a moderate depression of body weight in the first year of study. During the second year a yellow discoloration of the fur of the lower abdomen and increased eye and nasal discharge and dyspnea were noted. Both males and females given the test chemical exhibited early mortality when compared with the untreated controls, and the statistical test for dose-related trend was significant ($P<0.04$). All surviving animals were killed at 117 weeks of age.

Mice: Male and female weanlings were started on test at 5 weeks of age and killed at 96 weeks of age. Initially, the doses for male and female mice were 4,000 and 2,000 mg/g body weight. During the 10th week of the study, doses were increased to 5,000 and 2,500 mg/kg, since the animals apparently could tolerate a higher dose. Doses were again increased at week 20 to 6,000 and 3,000 mg/kg and maintained at these levels to the end of the study. Time-weighted average doses for the high- and low-dose mice were, respectively, 5,615 and 2,807 mg/kg. There was a moderate depression of body weight throughout the study in both sexes of mice, and the survival was significantly decreased. In the female mice, there was a positive dose-related trend ($P=0.002$) in the proportions surviving.

A variety of neoplasms were represented in both 1,1,1-trichloroethane-treated and matched-control rats and mice. However, each type of neoplasm has been encountered previously as a lesion in untreated rats or mice. The neoplasms observed are not believed attributable to 1,1,1-trichloroethane exposure, since no relationship was established between the dosage groups, the species, sex, type of neoplasm, or the site of occurrence. Even if such a relationship were inferred, it would be inappropriate to make an assessment of carcinogenicity of 1,1,1-trichloroethane on the basis of this test, because of the abbreviated life spans of both the rats and the mice.

Single copies of the 70-page report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: February 28, 1977.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc.77-7347 Filed 3-14-77;8:45 am]

Office of Education

TITLE I AUDIT APPEAL

Acceptance of Application for Appeal

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972, as amended by 41 FR 28568, July 12, 1976), an application for an appeal before the Board has been received from the State of Michigan and it has met the jurisdictional requirements of Section 5 of the Notice establishing the Board.

The appeal involves the allowability of specified expenditures of funds for programs under Title I of the ESEA during the period April 3, 1967, through August 31, 1970. The U.S. Office of Education seeks recovery of $55,557 based on audit exceptions taken to Migrant Education expenditures in the Traverse Bay School District. The Audit Control Number is 05-10403, Docket 9-(24)-76.

The Prehearing Conference will be held at 10:30 a.m. on April 14, 1977, in Room 4173, 400 Maryland Avenue S.W., Washington, D.C.

Section 7 (c) of the Notice setting up the board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervener has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall

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be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before March 31, 1977.

(20 U.S.C. 241a, 1232c.)

Dated: March 9, 1977.

(Catalog of Federal Domestic Assistance Number 13.429, Educationally Deprived Children—Migrants.)

WILLIAM F. PIERCE,
Acting United States Commissioner of Education.

[FR Doc.77-7570 Filed 3-14-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 50442]

WYOMING

Application

MARCH 7, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Montana-Dakota Utilities Company of Bismarck, North Dakota, filed an application for a right-of-way to construct a 4-inch pipeline for the purpose of transporting natural gas across the following described National Resource Lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 54 N., R. 95 W.,
Sec. 26, S½NW¼, NW¼SW¼;
Sec. 27, S½SW¼, N½SE¼, SW¼SE¼;
Sec. 28, S½SE¼;
Sec. 31, N½SE¼;
Sec. 32, E½NE¼, SW¼NE¼, S½NW¼, NW¼SW¼;
Sec. 33, NW¼NE¼, N½NW¼.

The pipeline will transport natural gas from the True-Spear Federal Well No. 33-31 in sec. 31, T. 54 N., R. 95 W., to a point of connection into Montana-Dakota's existing pipeline in sec. 26, T. 54 N., R. 95 W., Big Horn County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-7566 Filed 3-14-77;8:45 am]

Bureau of Reclamation

BUMPING LAKE ENLARGEMENT, YAKIMA PROJECT, WASHINGTON

Public Hearing on Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Bumping Lake Enlargement, Yakima Project, Washington. This statement (INT DES 77-5, dated February 10, 1977) was made available to the public on February 14, 1977.

The draft environmental statement describes the nature and extent of the environmental impact of the proposed project. Principal features of the project would be the construction of a new dam, just downstream from the existing structure, to enlarge Bumping Lake's active storage capacity from 33,700 acre-feet to 458,000 acre-feet. The new storage would be used primarily for increasing streamflow to enhance habitat for salmon, steelhead trout, and resident fish species. Other project functions would be supplemental irrigation water supply, increased flood control capabilities and improved recreational opportunities compatible with the natural values of the area.

Public hearing sessions will be held in Yakima, Washington, in the Yakima Center on Monday, April 18, at 1:00 p.m., and 7:30 p.m., and in Seattle, Washington, in the University of Washington, Student Union Building Auditorium, on Tuesday, April 19, at 7:30 p.m. These hearing sessions are provided to receive views and comments from interested organizations and individuals relating to the environmental impacts of the proposed action. Oral statements at the hearing will be limited to a 10-minute period for each individual. Speakers will be encouraged not to trade their time to obtain a longer oral presentation, however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comments after all persons desiring to comment have been heard. The speaking order at the hearing will be determined by the order in which the letter requests are received by the Bureau of Reclamation. Requests for scheduled presentation will be accepted up until 5:00 p.m., on April 15, 1977. Requests to make oral statements will also be accepted during each session of the hearing, and persons making those requests will be permitted to speak for 10 minutes on a first-come-first-served basis after each person who submitted a letter request has been permitted to make an initial presentation.

Organizations or individuals desiring to present their statements at the hearing should write to the Regional Director, Attention Code 160, Pacific Northwest Region, Bureau of Reclamation, Department of the Interior, Box 043, 550 West Fort Street, Boise, Idaho 83724, or telephone 208-384-1208 and announce their intention to participate. Written comments for those unable to attend and from those wishing to supplement their oral presentation at the hearing should be received by April 25, 1977.

Dated: March 11, 1977.

D. D. ANDERSON,
Acting Commissioner.

[FR Doc.77-7784 Filed 3-14-77;9:11 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 7, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by March 25, 1977.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

INDIANA

Monroe County

Bloomington, *Seminary Square Park*, College Ave. and E. 2nd St.

IOWA

Muscatine County

Muscatine, *Ogilvie-Asthalter Building*, 221-223 Iowa Ave.

Polk County

Des Moines, *Salisbury House*, 4025 Tonawanda Dr.

MAINE

Cumberland County

Portland, *Westbrook College Historic District*, 716 Stevens Ave.

MINNESOTA

Goodhue County

Red Wing, *St. James Hotel*, Bush and Main Sts.

Hennepin County

Minneapolis, *Advance Thresher/Emerson-Newton Plow Co. Buildings*, 700-704 S. 3rd St.
Minneapolis, *Bennett-McBride House*, 3116 3rd Ave. S.
Minneapolis, *Carpenter, Elbert L., House*, 314 Clifton Ave.
Minneapolis, *Carpenter, Eugene J. House*, 300 Clifton Ave.
Minneapolis, *Flour Exchange Building*, 310 4th Ave. S.
Minneapolis, *Grain Exchange Building*, 4th Ave. S. and 4th St.

Minneapolis, *Newell, George R., House*, 1918 LaSalle Ave.
Minneapolis, *Pittsburgh Plate Glass Company Building*, 616 S. 3rd St.

Itasca County

Grand Rapids, *Central School*, N. Pokegama and 4th St.

Mille Lacs County

Princeton, *Great Northern Railroad Depot*, 1st St. and MN 95W.

Rice County

Faribault, *Congregational Church of Faribault*, 227 N.W. 3rd St.

Winona County

Winona, *Winona Savings Bank Building*, 204 5th St.
Winona, *Winona Free Public Library*, 151 W. Main St.

NEW YORK

Albany, *Elk-Columbia Streets Historic District*, roughly bounded by Washington Ave., Hawk, Spruce, and Chapel Sts.

Bronx County

Bronx, *Dodge, William E., House*, 690 W. 247th St.

Jefferson County

Mannsville vicinity, *Pierrepont, William Constable, House*, N of Mannsville on Ellisburg St.

Nassau County

Manhasset, *Valley Road Historic District*, Community Dr.

New York County

New York, *House at 51 Market Street*, 51 Market St.

PENNSYLVANIA

Berks County

Womelsdorf vicinity, *Charming Forge*, 3.5 mi. N of Womelsdorf on SR 06050.

Bucks County

Newtown, *Newtown Friends Meetinghouse and Cemetery*, Court St.

Chester County

Coatesville, *Huston, Abram, House and Carriage House*, 53 S. 1st Ave.
Kimberton vicinity, *Strickland-Roberts Homestead*, 3 mi. S of Kimberton on St. Matthews Rd.
Valley Forge vicinity, *Walker, Thomas, Barn*, S of Valley Forge on Yellow Springs Rd.

Cumberland County

New Cumberland, *Black, William, Homestead*, Drexel Hill Park Rd.

Fulton County

McConnellsburg, *Fulton House*, 112-116 Lincoln Way E.

Lancaster County

Safe Harbor vicinity, *Big and Little Indian Rock Petroglyphs*, S of Safe Harbor in Susquehanna River.

Northumberland County

Milton, *Pennsylvania Railroad Station*, Broadway and Filbert Sts.

Snyder County

Beavertown vicinity, *Gross' Bridge*, 3 mi. W of Beavertown on SR 974.

Tioga County

Wellsboro, *Robinson House*, 120 Main St.

RHODE ISLAND

Providence County

Providence, *First Universalist Church*, 250 Washington St.
Providence, *Swan Point Cemetery*, 585 Blackstone Blvd.

TENNESSEE

Davidson County

Nashville, *Riverwood*, 1338 Welcome La.

Decatur County

Decaturville vicinity, *Brownsport Furnace*, SE of Decaturville at Furnace Hollow.

Hamilton County

Signal Mountain vicinity, *Connor Toll House*, 4212 Anderson Pike.

Washington County

Johnson City vicinity, *DeVault, Valentine, House*, 5 mi. N of Johnson City off U.S. 11E on DeVault La.

VERMONT

Addison County

Shoreham vicinity, *District Six Schoolhouse*, N of Shoreham on Worcester Rd.

Windsor County

North Springfield vicinity, *Stellafane Observatory*, S of North Springfield off Breezy Hill Rd.

[FR Doc.77-7121 Filed 3-14-77;8:45 am]

GATEWAY NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Gateway National Recreation Area Advisory Commission will be held commencing at 10 a.m., Monday, April 4, 1977, at the Prudential Building, 2 Plaza, 745 Broad Street, Room 203, Newark, New Jersey. The Commission was established by Pub. L. 92-592 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway National Recreation Area.

The members of the Commission are:

Marian Heiskell, Chairman, New York, New York
Archibald S. Alexander, Bernardsville, New Jersey
John F. Haggerty, Forest Hills, New York
Orin Lehman, New York, New York
Gordon N. Litwin, Little Silver, New Jersey
Terrence D. Moore, Newark, New Jersey
Sheldon Pollack, New York, New York
Barbara Reach, New York, New York
Richard J. Sullivan, Hoboken, New Jersey
Nathaniel Washington, Newark, New Jersey
Joseph B. Williams, Brooklyn, New York

The matters to be discussed at this meeting include:

1. Old Business
2. Planning status report
3. Operations status report
4. Sub-Committee report presentations

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any members of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Superintendent, Gateway National Recreation Area, Headquarters Building 69, Floyd Bennett Field, Brooklyn, New York, 11234, Area Code 212-252-6160.

Minutes of the meeting will be available for inspection four (4) weeks after the meeting at the Gateway National Recreation Area Headquarters Building.

Dated: March 7, 1977.

HERBERT OLSEN,
Acting Superintendent.

[FR Doc.77-7576 Filed 3-14-77;8:45 am]

Office of the Secretary

[INT FES 77-7]

PROPOSED EMERY POWER PLANT IN EMERY COUNTY, IOWA

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for a proposed power plant in Emery County, Utah. The Emery proposal involves construction of a 860 MW power complex, transportation systems, transmission lines, coal mine, and employment of approximately 800 people.

The environmental statement considers the impact of this proposal should it proceed to completion.

Public reading copies are available for inspection at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Street, N.W., Washington, D.C. 20240, Telephone: 202-343-5717.
Richfield District Office, 950 North Main Street, Richfield, Utah 84701, Telephone: 801-896-5401.
College of Eastern Utah—Library, 451 East 400 North, Price, Utah 84501, Telephone: 801-637-2943.
Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, Telephone: 801-896-5401.
Price Area Office, 900 North 700 East, Price, Utah 84501, Telephone: 801-637-4584.
Emery County Library, Castle Dale, Utah, 84513, Telephone: 801-748-2554.
Harold B. Lee Library, Brigham Young University, Provo, Utah 84602, Telephone: 801-374-1211 Ext. 2926.

A limited number of copies are available upon request to the District Manager, Richfield District Office, Bureau of Land Management, 950 North Main Street, Richfield, Utah 84701.

Dated: March 10, 1977.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-7545 Filed 3-14-77;8:45 am]

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OUTER CONTINENTAL SHELF OFFICE, NEW ORLEANS

Approval of Outer Continental Shelf Official Protraction Diagrams

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagrams, last approved or revised on the dates indicated, are available, for information only, in the New Orleans Outer Continental Shelf Office, Bureau of Land Management, New Orleans, Louisiana. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic areas they represent.

2. For the benefit of interested parties and in the public interest, and for their convenience, this publication constitutes a composite list of all official protraction diagrams now covering the Atlantic OCS off the coasts of North Carolina, South Carolina, Georgia and Florida. Prior purchasers of any of these diagrams should determine if they are current by comparing their respective approval or revision dates with the approval or dates listed herein.

Outer Continental Shelf official protraction diagrams

Description		Latest approval or revision date [1]
NG 17-2	Fort Pierce	Feb. 3, 1977
NG 17-5	West Palm Beach	Feb. 3, 1977
NH 17-2	Brunswick	Apr. 29, 1975
NH 17-3		June 11, 1975
NH 17-5	Jacksonville	Apr. 29, 1975
NH 17-6		June 11, 1975
NH 17-8	Daytona Beach	Apr. 29, 1975
NH 17-9		July 21, 1975
NH 17-11	Orlando	June 11, 1975
NH 17-12		July 21, 1975
NH 18-1		July 21, 1975
NI 17-9	Georgetown	June 11, 1975
NI 17-11	Savannah	June 11, 1975
NI 17-12	James Island	June 11, 1975
NI 18-2	Manteo	Oct. 31, 1974
NI 18-3		Oct. 31, 1974
NI 18-4	Beaufort	Aug. 1, 1975
NI 18-5		Aug. 1, 1975
NI 18-7	Cape Fear	June 3, 1976
NI 18-8		Aug. 1, 1975
NI 18-10		June 11, 1975
NJ 18-11	Virginia Beach	Dec. 6, 1976
NJ 18-12		Oct. 31, 1974

[1] Changes in CFR notations are not considered as revisions.

3. Copies of these protraction diagrams may be purchased for $2.00 each from the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Suite 841, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130. Checks or money orders should be made payable to the Bureau of Land Management.

JOHN L. RANKIN,
Manager, New Orleans, Outer Continental Shelf Office.

[FR Doc.77-7544 Filed 3-14-77;8:45 am]

Office of the Assistant Secretary Land and Water Resources

OIL SHALE ENVIRONMENTAL ADVISORY PANEL

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Oil Shale Environmental Advisory Panel will be held on April 6, 1977, at the Denver Airport Hilton Inn at I-70 and Peoria Street in Denver, Colorado. The meeting will begin at 9 a.m. on Wednesday, April 6, in Conference Rooms A, B, and C and conclude at 5 p.m. that afternoon.

The Panel was established to assist the Department of the Interior in the performance of its functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program. The purpose of this meeting is to review the Modifications to Detailed Development Plan for Lease Tract C-b document, review the ninth quarterly summary data reports for lease tracts C-a and for the U-a and U-b tracts (combined), to receive reports from Interior officials and to consider any other matters which have come before the Panel.

The meeting is open to the public. It is expected that space will permit at least 100 persons to attend the meeting in addition to the panel members. Interested persons may make brief presentations to the panel or file written statements. Requests should be made to Mr. Henry O. Ash, Acting Chairman, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 690, Building 67, Denver Federal Center, Denver, Colorado 80225, telephone No. (303) 234-3275.

Further information concerning this meeting may also be obtained from Mr. Ash's office. Minutes of the meeting will be available for public inspection 30 days after the meeting at the panel office.

CHRIS FARRAND,
Acting Assistant Secretary of the Interior.

MARCH 10, 1977.

[FR Doc.77-7593 Filed 3-14-77;8:45 am]

WATER PROJECTS

Public Hearings for Review; Correction

Notice is hereby given that a correction is to be made in the Notice of Public Hearings for Water Projects published in the FEDERAL REGISTER both March 4, 1977, on page 12484, and March 10, 1977, on page 13359. The schedule of hearings will be revised as follows:

Project	Hearing location	Date and time
Fruitland Mesa	Ramada Inn Convention Center, 718 Horizon Dr., Grand Junction, Colo.	Mar. 21, 1977, 8 a.m. to 12 m.
Dolores	do	Mar. 21, 1977, 1 to 5 p.m.
Savory-Pot Hook	do	Mar. 22, 1977, 8 a.m. to 12 m.
Bonneville Unit, Central Utah.	Salt Palace (Little Theater), 100 South West Temple, Salt Lake City, Utah.	Mar. 23, 1977, 9 a.m. to 12 m.; 2 to 5 p.m.
Central Arizona	U.S. Department of Interior auditorium, 19th and C Sts., NW., Washington, D.C.	Mar. 21, 1977, 9 a.m. to 12 m., 2 to 5 p.m.
Oahe	State Capitol Bldg., House Chambers, Pierre, S. Dak.	Mar. 21, 1977, 9 a.m. to 12 m.; 2 to 5 p.m.
Garrison Diversion	Civic Auditorium, Jamestown, N. Dak.	Mar. 22, 1977, 9 a.m. to 12 m.; 2 to 5 p.m.
Auburn-Folsom	Woodlake Quality Inn., 500 Leisure Lane, Sacramento, Calif. (tentative).	Mar. 21, 1977, 9 a.m. to 12 m.; 2 to 5 p.m.

Opponents and proponents will each be allotted separate blocks of equal time in which to present their comments, and, if necessary, additional time to present rebuttals. Proponents of the projects should register with either the appropriate Governor or Member of Congress. Opponents and others wishing to make oral comments should notify the Water Projects Review Office, U.S. Department of the Interior, Room 6628, 19th and C Streets, NW., Washington, D.C. 20240, no later than March 17. (The phone number is: Area Code 202 343-5413 or 343-5676.)

Persons wishing to extend their remarks or those not able to attend the hearings may submit written comments to the Water Projects Review Office on or before April 1, 1977.

CHRIS FARRAND,
Acting Assistant Secretary of the Interior.

MARCH 11, 1977.

[FR Doc.77-7674 Filed 3-14-77;8:45 am]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

Correction

In the FEDERAL REGISTER for Friday, March 4, 1977, the cover sheet for the "Part III" documents, inadvertently stated that the index contained in this part was as of "November 4, 1977", the index was actually as of "February 4, 1977".

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH, SUBGROUPS ON STANDARDS AND POLICY/BUDGET

Meeting

Notice is hereby given that the Subgroups on Standards and Policy/Budget of the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on April 5, 1977 in Room N-4437, Department of Labor Building, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act.

The meeting will begin at 9 a.m. The public is invited to attend. The Subgroups will continue discussion on the identification, classification and regulation of potential carcinogens.

For additional information contact:

Ken Hunt, Committee Management Office, Occupational Safety and Health Administration, Department of Labor, Room N-3635, Third Street and Constitution Avenue, NW., Washington, D.C. 20210, phone: (202) 523-8024.

Any written data or views concerning this agenda item or suggestions for future agenda items which are received by the Committee Management Office before the meeting, preferably with 20 copies, will be presented to the Subgroups and included in the official record of the meeting.

Anyone wishing to make an oral presentation should notify the Committee Management Office before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the Subgroup Chairmen, depending on the extent to which time permits.

Official records of the meeting will be available for public inspection at the above address.

Signed at Washington, D.C., this 8th day of March 1977.

J. GOODELL,
Executive Secretary.

[FR Doc.77-7567 Filed 3-14-77;8:45 am]

BOB LEE MFG. CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 25, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 25, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 3rd day of March 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bob Lee Manufacturing Co. (ILGWU).	Inglewood, Calif	Mar. 1, 1977	Feb. 14, 1977	TA-W-1,707	Ladies' coats and suits.
Bridgeport Brass Co.	Bridgeport, Conn	do	Feb. 25, 1977	TA-W-1,708	Copper and brass water tubing.
C. & P. Coat, Inc. (ILGWU).	Hammonton, N.J.	Feb. 29, 1977	Feb. 16, 1977	TA-W-1,709	Children's and preteen coats.
Capitol Garter Co. (Corset & Brassiere Workers Union).	New York, N.Y.	Feb. 25, 1977	Feb. 17, 1977	TA-W-1,710	Brassieres, bikinis, garter belts.
Capri Coats (ILGWU)	Panorama City, Calif.	Mar. 1, 1977	Feb. 14, 1977	TA-W-1,711	Ladies' coats and suits.
Carmen Garcia, Inc. (ILGWU).	Cidra, P.R	Feb. 28, 1977	Feb. 24, 1977	TA-W-1,712	Brassieres and girdles.
Crest Shoe Co. (Lewiston & Auburn Shoeworkers Protective Association).	Lewiston, Maine	do	Feb. 23, 1977	TA-W-1,713	Children's shoes and dance shoes.
Crestline Clothes, Inc. (company).	New York, N.Y.	Feb. 23, 1977	Feb. 17, 1977	TA-W-1,714	Men's suits and sportcoats.
Criterion Marble & Mosaic Ltd.	Brooklyn, N.Y	Feb. 24, 1977	Feb. 18, 1977	TA-W-1,715	Furniture marble tops, vanities, flooring, marble church appointments and altars.
Dumas & Canez (ILGWU).	Palmdale, Calif.	Mar. 1, 1977	Feb. 14, 1977	TA-W-1,716	Ladies' coats and suits.
El Comanche (company).	Port Isabel, Tex.	Feb. 17, 1977	Feb. 11, 1977	TA-W-1,717	Catching and selling of shrimp.
Fabien Corp. (Machine Printers & Engravers Association).	Lodi, N.J.	Feb. 22, 1977	Feb. 17, 1977	TA-W-1,718	Textile printing on fabrics.
Garren Ingram (company).	Port Isabel, Tex.	Feb. 22, 1977	Feb. 7, 1977	TA-W-1,719	Catching and selling of shrimp.
Goodmade Manufacturing Co. (ILGWU).	Philadelphia, Pa.	Feb. 28, 1977	Feb. 24, 1977	TA-W-1,720	Sportswear.
Harris Structural Steel Co., Inc. (workers).	Piscataway, N.J.	do	Feb. 28, 1977	TA-W-1,721	Structural steel shapes, girders for bridges and buildings.
Hawaiian Tug & Barge Co. (workers).	Honolulu, Hawaii	Feb. 23, 1977	Feb. 19, 1977	TA-W-1,722	Tug and barge transportation service of pineapple, grain and wheat, and fertilizer.
Hawaiian Sugar Planters' Association (workers).	Aiea, Hawaii	Mar. 1, 1977	Feb. 22, 1977	TA-W-1,723	Scientific research and marketing of raw sugar.
Henry Garcia Industrial Co. (ILGWU).	Las Piedras, P.R.	Feb. 28, 1977	Feb. 24, 1977	TA-W-1, 724	Brassieres and girdles.
Herman Segall Co. (ILGWU).	Philadelphia, Pa.	do	do	TA-W-1,725	Blouses.
Hilo Coast Processing Co. (ILWU).	Pepeekeo, Hawaii	do	Feb. 28, 1977	TA-W-1,726	Raw sugar.
Holly Sugar Corp. American Federation of Grain Millers).	Delta Colo.	Feb. 22, 1977	Feb. 18, 1977	TA-W-1,727	Refined and granulated sugar.
I.J. Weiler Coats (ILGWU).	Los Angeles, Calif.	Feb. 28, 1977	do	TA-W-1,728	Ladies' coats and suits.
Isella Manufacturing Co. (ILGWU).	Philadelphia Pa.	Feb. 28, 1977	Feb. 24, 1977	TA-W-1,729	Sportswear.
Ivan Fredericks (ILGWU).	Los Angeles, Calif.	Mar. 1, 1977	Feb. 14, 1977	TA-W-1,730	Ladies' sportswear.
Jersey Dye & Finishing Co. (Machine Printers and Engravers Association).	Paterson, N.J.	Feb. 22, 1977	Feb. 17, 1977	TA-W-1,731	Textile printing on fabrics.
Jo-L Fashions (ILGWU)	San Grabriel, Calif.	Mar. 1, 1977	Feb. 14, 1977	TA-W-1,732	Ladies' coats and suits.
Jude Trawlers, Inc. (workers).	Brownsville, Tex.	Feb. 17, 1977	Feb. 11, 1977	TA-W-1,733	Catching and selling shrimp.

[FR Doc.77-7568 Filed 3-14-77;8:45 am]

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[TA-W-1276]

GENERAL LAST MANUFACTURING CO., ST. LOUIS, MISSOURI

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1276: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 15, 1976 in response to a worker petition received on that date which was filed by the Teamsters Union on behalf of former workers producing shoe lasts at General Last Manufacturing Company, St. Louis, Missouri, a subsidiary of Brown Group, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53089). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Brown Shoe Company, and Brown Group, Inc. the U.S. Department of Commerce, the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criteria (3) and (4) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

All workers were separated from employment at General Last Manufacturing Company in March 1976 when the firm closed.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Production by General Last increased one percent in 1975 from 1974. Production was terminated in March 1976 when General Last closed.

INCREASED IMPORTS

Imports of lasts are negligible. Only two firms are known to import lasts, and those firms import solely for their own shoe manufacturing operations in the United States.

CONTRIBUTED IMPORTANTLY

The Department's investigation reveals that since 1974 General Last Manufacturing Company produced solely for one domestic footwear manufacturing firm. Sales to that firm increased in 1975 from 1974. Total purchases of lasts by General Last Company, St. Louis, Missapproximately the same before and after the closure of General Last. Following that closure, the customer increased purchases from its other domestic suppliers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports or articles like or directly competitive with shoe lasts produced by General Last Company, St. Louis, Missouri did not contribute importantly to the separation of workers of that firm.

Signed at Washington, D.C. this 4th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-7465 Filed 3-14-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

EDITING COMMITTEE

Meeting Change

Notice is hereby given, pursuant to Pub. L. 92-463, that the meeting of the Editing Committee of the National Advisory Council on the Education of Disadvantaged Children scheduled to be held on March 18, 1977 has been rescheduled to March 16. The meeting will be held from 10 a.m. to 4 p.m., at 425 Thirteenth Street NW., Suite 1012, Washington, D.C. 20004.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the education attainment of disadvantaged children.

Signed at Washington, D.C., on March 11, 1977.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.77-7700 Filed 3-14-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ADVISORY COMMITTTE PUBLIC PROGRAMS PANEL

Meeting

MARCH 3, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the Public Programs Panel will meet at the National Endowment for the Humanities, Room 1130, 806 15th Street, N.W., Washington, D.C. on March 31 and April 1, 1977, commencing at 9:30 a.m.

The purpose of the meeting is to review Humanities Museums and Historical Organizations Grant proposals that have been submitted to the Endowment for possible grant funding.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee, Management Officer.

[FR Doc.77-7618 Filed 3-14-77;8:45 am]

OVERSEAS PRIVATE INVESTMENT CORPORATION

BOARD OF DIRECTORS

Meeting

Notice is hereby given that the Board of Directors will meet on Tuesday, March 22, 1977 in the Board Room on the 7th floor of the Corporation headquarters at 1129 20th Street, NW., Washington, D.C. Pursuant to OPIC's Sunshine Regulations, interested members of the public are invited to attend the open session of such meeting will commence at 10:30 a.m. and cover the following agenda items:

(1) Minutes of the January meeting.
(2) Future meetings.
(3) Reorganization.
(4) War risk insurance reciprocal.
(5) Renewal of OPIC legislation.
(6) Status of oil policy.
(7) Minerals policy.
(8) Reports of the treasurer.
(9) Country concentration policy.
(10) Report on insurance issued.
(11) Country status report.

Preceding the open session, the Board will meet in closed session at 9:00 a.m. The following Agenda items will be discussed:

(1) Personnel matters.
(2) Litigation.
(3) Rescheduling of a loan.
(4) Proposed loan to an agricultural project.
(5) Proposed insurance of an agricultural project.
(6)-(8) Reports on claims.
(9) Reports on applications rejected and proposed major projects.
(10) Proposed amendment of a loan.

Members of the public who wish additional information about the meeting should contact the Corporate Secretary of OPIC at 202-632-1839.

ELIZABETH A. BURTON,
Corporate Secretary.

[FR Doc.77-7507 Filed 3-14-77;8:45 am]

RENEGOTIATION BOARD

MEETING; CHANGE IN PUBLIC ANNOUNCEMENT

Pursuant to RBR 1482.3(b) of its regulations, the Renegotiation Board hereby announces that the date of its meeting announced in the FEDERAL REGISTER of March 9, 1977 (42 FR 13167-8) has been changed from March 15, 1977 to March 22, 1977. In all other respects the original announcement remains correct.

Dated: March 10, 1977.

GOODWIN CHASE,
Chairman.

[FR Doc.77-7573 Filed 3-14-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 9668]

AFFILIATED FUND, INC., ET AL.

Application Pursuant to Section 6(c) of the Act for Exemption From Section 2(a)(19) of the Act

MARCH 9, 1977.

In the matter of Affiliated Fund, Inc., Lord Abbett Income Fund, Inc., Lord Abbett Bond-Debenture Fund, Inc., Lord Abbett Developing Growth Fund, Inc., 63 Wall Street, New York, New York 10005. Paul M. Fye, Woods Hole Oceanographic Institute, Woods Hole, Massachusetts 02543. (812-3871).

Notice is herey given that Affiliated Fund, Inc., and Lord Abbett Bond-Debenture Fund., Inc., Delaware corporations, and Lord Abbett Income Fund, Inc., and Lord Abbett Developing Growth Fund, Inc., Maryland corporations (collectively, the "Funds"), registered under the Investment Company Act of 1940 ("Act") as open-end, management companies, filed an application and an amendment thereto on September 27, 1976, pursuant to Section 6(c) of the Act for an order of the Commission declaring that Paul M. Fye ("Fye") shall not be deemed to be an interested person, within the meaning of Section 2(a)(19) of the Act, of the Funds or of the Funds' investment adviser and principal underwriter, Lord Abbett & Co. ("Lord Abbett"), solely by reason of Fye's position as a director of Arthur D. Little, Inc. ("ADL"), which wholly owns Impact Securities Corp. ("Impact"), a broker-dealer registered under the Securities Exchange Act of 1934 ("Exchange Act"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Fye, a director of each of the Funds is a director of ADL, and owns 420 shares of its common stock. ADL is a research and consulting organization serving industry, commerce, local, state and federal government entities, and foreign governments. ADL's work for its clients includes research, development, and engineering in the physical and life sciences and management consulting sciences and economic services.

Impact is a New York Stock Exchange member, and while its facilities are available to the general public without special restrictions, most of Impact's business consists of orders by clients of ADL who wish to pay for ADL's services through brokerage. Impact does not sell mutual fund shares.

In 1975 Impact had gross revenues of about $750,000 out of total ADL gross revenues of $80,827,000. The net after tax income of Impact was about $25,000 compared to ADL's net after tax income of $3,142,000.

To the extent relevant, Section 10(a) of the Act prohibits each Fund from having a Board of Directors more than 60% of the members of which are interested persons of such Fund and Section 10(b)(2) of the Act requires that a majority of the members of each Fund's Board of Directors be persons who are neither principal underwriters for the Fund, nor interested persons of any such principal underwriter. Under Section 2(a)(19) of the Act, an "interested person" of an investment company or its principal underwriter would include any broker or dealer registered under the Exchange Act or any affiliated person of such broker or dealer. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include any director of such other person.

If Impact, because of its close ties with ADL is regarded as the equivalent of an operating division of, or "collapsed" into ADL, Fye would be an affiliated person of a registered broker-dealer and consequently, an interested person of the Funds and Lord Abbett.

Applicants represent that in his capacity as a director of ADL, Fye has no authority over or any responsibility for the operations of Impact and will have no direct voice in its management. They assert that there is no basis for regarding Fye as an affiliated person of Impact solely by reason of his position as an independent director of ADL. Applicants believe that Fye's connection with ADL will not impair his independence in acting on behalf of the Funds and their shareholders.

The Funds state that they have no interest in or relationship with ADL or Impact and that no portfolio brokerage on behalf of the Funds will be placed with Impact. Lord Abbett does not presently subscribe to or purchase any services from ADL and has represented to the Funds that any research or statistical services purchased from ADL will be paid for in cash by Lord Abbett.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 4, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at their respective addresses stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-7562 Filed 3-14-77;8:45 am]

[File Nos. 3-5184, 81-257]

GORDON & CO.

Application and Opportunity for Hearing

MARCH 9, 1977.

Notice is hereby given that Gordon & Co. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 ("Exchange Act") requesting that Applicant be granted an exemption from the provisions of Section 15(d) of the Exchange Act. Section 15(d) provides that each issuer who has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to Section 13 of the 1934 Act in respect of a security registered pursuant to Section 12 of the 1934 Act.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting and proxy solicitation provisions and to grant exemptions from the insider reporting and trading provisions of the 1934 Exchange

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Act if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states in part:

1. Applicant is a broker-dealer registered under the Exchange Act and is subject to such Act and the regulatory jurisdiction of the Commission. Applicant was organized in 1937 in Massachusetts as a common law partnership under the name Beacon Finance Co. On December 15, 1971, Beacon registered with the Commission as a broker-dealer and subsequently changed its name to Gordon & Co.

2. Applicant has been engaged in the business of writing limiting price put and call options ("Gordon Limited Price Options") for five years. Under its current practices Gordon is always the issuer and endorser of Gordon Limited Price Options and may act as an issuer, endorser and writer. In every case Applicant is primarily obligated to carry out the obligations of the options it issues in accordance with the terms thereof.

3. Applicant registered its Gordon Limited Price Option contracts in a registration statement made effective May 26, 1976, and thereby became subject to the continuous reporting provisions of Section 15(d).

Applicant argues that the exemptive order requested is not inconsistent with the public interest or the protection of investors in view of the following:

(1) The Limited Price Put and Call Options issued by Gordon are options to purchase or sell securities issued by persons other than Gordon. The Options do not create any equity interest in Gordon in either the purchaser or the writer of the Options.

(2) Gordon commenced the issue of its Options pursuant to its registration statement on July 26, 1976. At no time since that date have Options been outstanding in the hands of more than thirty-four (34) separate holders or buyers of Options. No one other than Gordon itself has written a Gordon Option. All sales of Gordon Options have been entirely unsolicited and all Options have been sold only to sophisticated investors who met the requirements of Gordon described in its Prospectus.

(3) Gordon Options are generally exercised, expire or are repurchased by Gordon within one month from the date on which they are issued. It is extremely rare that an option is outstanding for as long as three months.

(4) Gordon has undertaken to and does furnish the holder of every outstanding Option a balance sheet and a detailed computation of its net capital on a semi-annual basis in July of each year. In January of each year Gordon furnishes the holder of each outstanding Option with a certified audit report of its financial condition.

(5) Gordon & Co., as a broker-dealer registered under Section 15 of the Act, is subject to and complies with the reporting requirements of Section 17 of the Act including, but not limited to the filing of monthly, quarterly and annual reports under Rule 17A–5. These reports contain all of the detailed information required by the reports called for under Section 15(d) and it would appear unnecessary to require Gordon & Co. to file reports under both 17(a) and 15(d).

(6) Gordon & Co. issues Options only if it has net capital of not less than $500,000 or 8 percent of its aggregate indebtedness, whichever is greater. This limitation is set forth on page 30 of the prospectus.

For a more detailed statement of the information presented, all persons are referred to said application and amendments which are on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given that any interested person not later than April 4, 1977 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be raised upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–7563 Filed 3–14–77;8:45 am]

[Rel. No. 19025]

OHIO POWER CO.

Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

MARCH 9, 1977.

In the matter of Ohio Power Company, 301 Cleveland Avenue, S.W., Canton, Ohio 44701 (70–5984).

Notice is hereby given that Ohio Power Company ("Ohio"), an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Ohio proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to $40,000,000 principal amount of First Mortgage Bonds, due 2007. The interest rate (which will be expressed in a multiple of ⅛ of 1 percent) and the price to be paid to Ohio for the Bonds (which shall not be less than 100 percent unless Ohio shall authorize a lower percentage not less than 99 percent, and shall not exceed 102.75 percent) will be determined by competitive bidding. The terms of the Bonds preclude Ohio from redeeming any such Bonds prior to April 1, 1982, if such redemption is for the purpose of refunding such Bonds with proceeds of funds borrowed at a lower effective interest cost. The Bonds will be issued under and secured by the Mortgage and Deed of Trust, dated as of October 1, 1938, to Manufacturers Hanover Trust Company and Donald B. Herterich, Trustees, and a new Indenture Supplemental thereto which will be dated as of the first day of the month in which the Bonds are to be issued.

The proceeds realized from the sale of the Bonds are to be used to retire unsecured short-term debt of Ohio, much of which will have been incurred in connection with the maturity of $40,000,000 principal amount of Ohio's First Mortgage Bonds, 6½ percent series due April 1, 1977. As of February 10, 1977, there were notes payable to banks in the amount of $29,831,000; and it is expected that Ohio will have short-term debt outstanding not to exceed $100,000,000 at the time of the issue and sale of the Bonds.

The estimated cost of Ohio's construction program for 1977 is approximately $195,000,000, exclusive of construction costs in connection with the completion of the General James M. Gavin Plant by Ohio's wholly owned subsidiary, Ohio Electric Company.

Expenses of Ohio in connection with the proposed transactions will be filed by amendment. It is stated that the proposed issuance and sale of the Bonds is subject to the jurisdiction of the Public Utilities Commission of Ohio and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 4, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above stated address, and proof of service (by

affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–7564 Filed 3–14–77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 77–84]

INSTRUMENTS OF INTERNATIONAL TRAFFIC

Certain Wooden Bins Use for the Transportation of Apples Designated as Instruments of International Traffic

MARCH 8, 1977.

It has been established to the satisfaction of the U.S. Customs Service that bins constructed of plywood sides and bottoms reinforced with lumber, or wholly of lumber of a slatted design, approximately 46 inches long, 46 inches wide, and 32 to 36 inches high, with a capacity of approximately 25 bushels, and permanently marked with company initials or trade names, used for the transportation of apples, are substantial, suitable for and capable of repeated use, and used in significant numbers in international traffic.

Under the authority of section 10.41a (a)(1), Customs Regulations (19 CFR 10.41a(a)(1)), I hereby designate the above-described wooden bins as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended (19 U.S.C. 1322(a)). These bins may be released under the procedures set forth in section 10.41a, Customs Regulations (19 CFR 10.41a).

(102556)

(BOR–7–07)

J. P. TEBEAU,
Director, Carriers, Drawback and Bonds Division.

[FR Doc.77–7548 Filed 3–14–77;8:45 am]

Internal Revenue Service

[Order No. 161]

ASSISTANT COMMISSIONER FOR

Delegation of Authority

MARCH 14, 1977.

1. Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 107 (Revision 20) dated December 21, 1976, authority is delegated to the following officials o fthe Internal Revenue Service to fix the Seal of the Department of the Treasury in the authentication of originals and copies of books, records, papers, writings, and documents of the Department, for all purposes, including the purposes authorized by 28 U.S.C. 1733(b).

a. Assistant Commissioner (Compliance)

b. Deputy Assistant Commissioner (Compliance)

c. Director, Disclosure Operations Division

d. Assistant Director, Disclosure Operations Division

2. The Director, Disclosure Operations Division, is authorized to maintain custody of the die of the Treasury Seal for the Internal Revenue Service.

3. This authority may not be redelegated.

Effective date: March 14, 1977.

WILLIAM E. WILLIAMS,
Acting Commissioner.

[FR Doc.77–7596 Filed 3–14–77;8:45 am]

TAX FORMS COORDINATING COMMITTEE

Request for Forms Suggestions

The Internal Revenue Service will soon begin its 1977 Forms Review Program.

As part of its annual review process, the Service is interested in receiving written comments and suggestions for improving its tax return forms, instructions and related schedules. The public, practitioner groups, and other interested parties or organizations are invited to participate.

Since the Service does not plan to hold meetings or hearings on these written submissions, they should be self-explanatory and insufficient detail to communicate clearly what is being suggested. Careful consideration will be given to all comments and suggestions received. However, individual responses to the submissions will not be made because of the volume of correspondence involved.

In order to meet our work schedule and early printing deadlines, it is requested that recommendations be submitted on or before May 16, 1977.

Comments and suggestions should be sent to the Chairman, Tax Forms Coordinating Committee, Room 5569, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, D.C. 20224. Further information concerning this notice may be obtained by calling 202–566–6253.

Approved: March 10, 1977.

JOHN L. WITHERS,
Assistant Commissioner, (Technical).

[FR Doc.77–7595 Filed 3–14–77;8:45 am]

Office of the Secretary

IMPRESSION FABRIC OF MAN-MADE FIBER FROM JAPAN

Antidumping Proceeding Notice

AGENCY: United States Customs Service

ACTION: Initiation of Antidumping Investigation

SUMMARY: This notice is to advise the public that an antidumping investigation has been started for the purpose of determining whether or not exports of impression fabric of man-made fiber from Japan to the United States are being sold, or are likely to be sold, at less than fair value (sales at less than fair value usually means that the prices of the merchandise sold for export to the U.S. are less than the prices in the home market). Because there is substantial doubt that an industry is being or is likely to be injured as a result of those imports, this case is being referred to the United States International Trade Commission for a determination as to whether or not there is a reasonable indication of injury. If the Commission should find within 30 days that there is no reasonable indication of injury, this investigation will be terminated at that time. Otherwise the investigation will continue to a conclusion.

EFFECTIVE DATE: This investigation will begin on March 15, 1977.

FOR FURTHER INFORMATION CONTACT:

David Chapman, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202–566–5492).

SUPPLEMENTARY INFORMATION: On February 7, 1977, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Bomont Industries; Totowa, New Jersey; Schwarzenbach Huber, a company of Carisbrook Ind., Inc., New York, New York; and Standard Products Corporation, New Rochelle, New York, indicating a possibility that impression fabric of man-made fiber from Japan is being, or is

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likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

For purposes of this notice, the term "impression fabric of man-made fiber" means finished impression fabric, slit or uncut, and not inked.

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. This evidence indicates that although imports of impression fabric of man-made fiber from Japan increased during the period 1973–75 in both absolute terms and in terms of market share, those imports declined during 1976. The decline appears to have been partly due to the restraint agreement entered into between the governments of the United States and Japan during 1976 on certain of the imports subject to this investigation. That agreement places a fixed ceiling upon imports of the subject merchandise from Japan which enter under two of the three tariff items subject to this investigation —items 338.3014 and 338.3016 of the Tariff Schedules of the United States Annotated (TSUSA). The imports that are subject to restraint accounted for roughly three-quarters of the imports of impression fabric of man-made fiber from Japan during 1976. Furthermore, imports of the subject merchandise from Japan under the sole tariff item not currently subject to restraint—TSUSA item 347.6020—could become so if those imports exceed a certain level.

In addition, the available data indicate that domestic producers' U.S. shipments of impression fabric of man-made fiber increased in both actual and relative terms during the past year.

On the basis of such evidence, it has been concluded that there is substantial doubt of injury to, likelihood of injury to, or prevention of establishment of an industry in the United States by reason of such importations from Japan. Accordingly, the United States International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for doing so, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. Should the United States International Trade Commission, within 30 days of receipt of information cited in the preceding paragraphs, advise the Secretary that there is no reasonable indication that an industry is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, the Department will publish promptly in the FEDERAL REGISTER a notice terminating the investigation. Otherwise, the investigation will continue to a conclusion.

A summary of price information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 CFR 153.30).

JOHN H. HARPER,
Acting Assistant Secretary of the Treasury.

MARCH 9, 1977.

[FR Doc.77-7660 Filed 3-14-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

Office of Hearings

[Notice No. 345]

ASSIGNMENT OF HEARINGS

MARCH 10, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 118730 Sub 17, The Mickow Corp., now assigned April 14, 1977 at Chicago, Ill., will be held in Room 286, 219 S. Dearborn Street, Everett McKinley Dirksen Bldg.

MC 123476 Sub 25, Curtis Transport, Inc., now assigned April 12, 1977, at Chicago, Ill., will be held in Room 2044 S. Dearborn Street, Everett McKinley Dirksen Bldg.

MC 71459 Sub 55, O.N.C. Freight Systems, now assigned April 12, 1977, at San Francisco, Calif., will be held in the Sir Francis Drake Hotel, Cypress Room. Powell and Sutter Streets.

MC 133095 Sub 115, Texas Continental Express, Inc., now assigned March 29, 1977 at Washington, D.C. is cancelled, application dismissed.

MC 3381 Sub 7, Powell Truck Line, Inc., now assigned April 19, 1977 at Memphis, Tenn., will be held in Executive Plaza Inn, 1417 East Brooks Road.

MC 136315 Sub 13, Olen Burrage Trucking, Inc., now assigned April 20, 1977, at Jackson, Miss., will be held in the Grand Jury Room, U.S. Post and Court House Bldg., Corner of Capitol and S.W. Street.

MC 127634 Sub 115, Cherokee Hauling & Rigging, Inc., now assigned April 12, 1977, at Memphis, Tenn., will be held in Room 978, Federal Office Bldg., 167 N. Main Street.

MC 115654 Sub 56, Tennessee Cartage Co., Inc., now assigned April 18, 1977, at Memphis, Tenn., will be held in Room 978, Federal Office Bldg., 167 N. Main Street.

MC-F-12903, Overnite Transportation Company Purchase Southern Forwarding Company, and MC-FC 76677, Elizabeth C. Barnes, Ann Marie Torti and Melissa C. Barnes, Transferees, dba Southern Forwarding Company, Transferor, now assigned April 13, 1977, at Memphis, Tenn., in Room 978, Federal Office Bldg., 167 N. Main Street.

MC 136343 (Sub-No. 94), Milton Transportation, Inc., now being assigned April 18, 1977 (1 day) at Boston, Massachusetts, in a hearing room to be later designated.

MC 138018 Sub 31, Refrigerated Foods, Inc., MC 113658 Sub 11, Scott Truck Line, Inc., MC 114273 Sub 269, Crst, Inc., and MC 124679 Sub 71, now assigned April 20, 1977, at Denver, Colo., will be held in the Tax Court Room 567, U.S. Federal Bldg., 19th and Stout Streets.

MC-C-8974, Mrs Charles Hodgens, Individual, d/b/a Tour of the Month Club and Greyhound World Tours, Inc., v. S & C Corporation, d/b/a Piedmont Tours, now assigned March 30, 1977 at Columbia, South Carolina, has been postponed indefinitely.

F.D. 27972, Louisville & Nashville Railroad Company—Trackage Rights Over Grand Trunk Western Railroad Company South Bend Subdivision Between Munster, Lake County Indiana and Thornton Junction Cook County Illinois, now assigned April 4, 1977, at Chicago, Ill. will be held in Room 2503, Everett McKinley Dirksen Building, 219 South Dearborn Street, instead of Room 1319.

MC 134286 (Sub-16), Illini Express, Inc., now being assigned March 17, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 133170, Jersey Best, Inc., now assigned April 18, 1977, at New York, N.Y., will be held in Room 2206, Federal Bldg., 26 Federal Plaza.

MC 136343 Sub 93, Milton Transportation, Inc., now assigned April 19, 1977, at New York, N.Y., will be held in Room 2306, Federal Bldg., 26 Federal Plaza.

MC 138387 Sub 2, Poore Transport, Inc., now assigned April 20, 1977, at New York, N.Y., will be held in Room 2206, 26 Federal Plaza.

MC 142006 Sub 2, William C. Thomas, now assigned April 21, 1977 at New York, N.Y., will be held in Room 2306, Federal Bldg., 26 Federal Plaza.

MC 60430 Sub 22, Friedman's Express, Inc., now assigned April 22, 1977, at New York, N.Y., will be held in Room 2206 Federal Bldg., 26 Federal Plaza.

MC 142497 Sub 1, Atlanta, Charter Bus Service, Inc., now assigned April 18, 1977, at Norfolk, Va., will be held in the Main Court Room No. 304, U.S. District Courthouse, Federal Bldg.

MC 107563 Sub 59, Salem Transportation Co., Inc., now assigned April 4, 1977, at Philadelphia, Pa., will be held in Room 3240 William J. Green, Jr., Federal Bldg., 600 Arch St.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7612 Filed 3-14-77;8:45 am]

[Notice No. 346]

ASSIGNMENT OF HEARINGS

MARCH 10, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 136343 (Sub-No. 94), Milton Transportation, Inc., now being assigned April 18, 1977 (1 day) at Boston, Massachusetts, in a hearing room to be later designated.

MC 138018 Sub 31, Refrigerated Foods, Inc., MC 113658 Sub 11, Scott Truck Line, Inc., MC 114273 Sub 269, Crst, Inc., and MC 124679 Sub 71, now assigned April 20, 1977, at Denver, Colo., will be held in the Tax Court Room 567, U.S. Federal Bldg., 19th and Stout Streets.

MC-C-8974, Mrs Charles Hodgens, Individual, d/b/a Tour of the Month Club and Greyhound World Tours, Inc., v. S & C Corporation, d/b/a Piedmont Tours, now assigned March 30, 1977 at Columbia, South Carolina, has been postponed indefinitely.

F.D. 27972, Louisville & Nashville Railroad Company—Trackage Rights Over Grand Trunk Western Railroad Company South Bend Subdivision Between Munster, Lake County Indiana and Thornton Junction Cook County Illinois, now assigned April 4, 1977, at Chicago, Ill. will be held in Room 2503, Everett McKinley Dirksen Building, 219 South Dearborn Street, instead of Room 1319.

MC 134286 (Sub-16), Illini Express, Inc., now being assigned March 17, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 133170, Jersey Best, Inc., now assigned April 18, 1977, at New York, N.Y., will be held in Room 2206, Federal Bldg., 26 Federal Plaza.

MC 136343 Sub 93, Milton Transportation, Inc., now assigned April 19, 1977, at New York, N.Y., will be held in Room 2306, Federal Bldg., 26 Federal Plaza.

MC 138387 Sub 2, Poore Transport, Inc., now assigned April 20, 1977, at New York, N.Y., will be held in Room 2206, 26 Federal Plaza.

MC 142006 Sub 2, William C. Thomas, now assigned April 21, 1977 at New York, N.Y., will be held in Room 2306, Federal Bldg., 26 Federal Plaza.

MC 60430 Sub 22, Friedman's Express, Inc., now assigned April 22, 1977, at New York, N.Y., will be held in Room 2206 Federal Bldg., 26 Federal Plaza.

MC 142497 Sub 1, Atlanta, Charter Bus Service, Inc., now assigned April 18, 1977, at Norfolk, Va., will be held in the Main Court Room No. 304, U.S. District Courthouse, Federal Bldg.

MC 107563 Sub 59, Salem Transportation Co., Inc., now assigned April 4, 1977, at Philadelphia, Pa., will be held in Room 3240 William J. Green, Jr., Federal Bldg., 600 Arch St.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7613 Filed 3-14-77;8:45 am]

of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction

MC 141867 Sub 1, Specialized Trucking Service, Inc. now being assigned June 9, 1977 (2 days) at Seattle, Washington in a hearing room to be later designated instead of 3 days.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7613 Filed 3-14-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 10, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common Carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the Federal Register.

FSA No. 43336—*Bakery Refuse or Sweepings Between Points in Southwestern and Southern Territories.* Filed by Southwestern Freight Bureau, Agent (No. B-664), for interested rail carriers. Rates on bakery refuse or sweepings, in bulk or in bags or in boxes, in carloads, as described in the application, between points in southwestern territory, including Mississippi River crossings, Memphis, Tennessee and south thereof.

Grounds for relief—Short-line distance formula and grouping.

Tariff—Supplement 99 to Southwestern Freight Bureau, Agent, tariff SW-2004-J, I.C.C. No. 5160.

Rates are published to become effective on April 10, 1977.

By the Commission,

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7614 Filed 3-14-77;8:45 am]

[Notice No. 34]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 10, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 403TA), filed February 28, 1977. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay St., P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid plastic*, in bulk, in tank vehicles, from Oxnard, Calif., to Swansboro, N.C., for 180 days. Supporting shipper: Diamond Shamrock Corporation, 617 Veterans Blvd., Redwood City, Calif. 94063. Send protests to: A. J. Rodrigues, District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 11720 (Sub-No. 12TA), filed February 28, 1977. Applicant: WILLIAMS TRUCK SERVICE, 1812 K Ave., P.O. Box 40, Sioux Falls, S. Dak. 57101. Applicant's representative: Lyle A. Clemetson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packing plants and foodstuffs* (except hides and commodities in bulk, from the plantsites and/or warehouse facilities of Geo. A. Hormel & Co., at or near Fremont, Nebr., and Ottumwa, Iowa, to Logan, W. Va.; Dunbar, W. Va.; Bluefield, W. Va.; Victoria, Va., and Ahoskie, N.C., under a continuing contract with George A. Hormel & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: George A. Hormel & Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 51146 (Sub-No. 488TA), filed February 28, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Meats, meat products, meat by-products and articles* distributed by meat packing firms as described in Sections A, B and C of Appendix I to the report in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles); and (B) *Foodstuffs*, when moving with the commodities described in A above, from Madison, Wis., to points in Delaware, Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., 910 Mayer Ave., Madison, Wis., 53704. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 107403 (Sub-No. 1002TA), filed February 28, 1977. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: Martin C. Haynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and rubber compounds*, dry, in bulk, in tank vehicles, from Dyersburg, Tenn., to Aurora, Ohio; Advance, Mo.; Bentonville, Ark.; Big Spring, Tex.; Carlyle, Ill.; Fort Worth, Tex.; Gainesville, Tex.; Hot Springs, Ark.; Hudson, N.H.; La Grange, Ga.; Midland, Tex.; North Conway, N.H.; Sullivan, Mo., and St. Louis, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dayco Corporation, 333 W. First St., Dayton, Ohio 45402. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 107515 (Sub-No. 1055TA), filed February 24, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road SE., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30329. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766; in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities utilized by Monfort Packing Co., a subsidiary of Monfort of Colorado, at or near Greeley, Colo., to points in Arkansas, Tennessee,

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Louisiana, Mississippi, Alabama, Georgia, North Carolina, South Carolina, Florida and Kentucky, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Monfort Packing Co., a subsidiary of Monfort of Colorado, Box G, Greeley, Colo. 80631. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Room 546, Atlanta, Ga. 30309.

No. MC 110563 (Sub-No. 197TA) filed February 28, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, 113 N. Ohio Ave., Ohio Bldg., Sidney, Ohio 45365. Applicant's representative: John L. Maurer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquetts and related advertising materials*, from Marion, Ohio, to points in Alabama, Arkansas, Connecticut, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Great Lakes Carbon Corporation, 229 Park Ave., New York 10017. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 114457 (Sub-No. 291TA), filed February 23, 1977. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 N. LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from Danville, Ill., to Franklin, Ky., and Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Continental Group, Inc., 150 W. Wacker Drive, Chicago, Ill. 60606. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 114457 (Sub-No. 292TA), filed February 25, 1977. Applicant: DART TRANSIT COMPANY, 2102 University Ave., St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the plantsites and warehouse facilities of Jeno's, Inc., at Duluth, Minn., and Superior, Wis., to points in Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, restricted to the traffic originating at and destined to the abovenamed points, for 180 days. Supporting shipper: Jeno's, Inc., 525 Lake Ave., South, Duluth, Minn. 55802. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 114632 (Sub.-No. 101TA), filed February 25, 1977. Applicant: APPLE LINES, INC., 212 S.W. Second St., P.O. Box 287, Madison, S. Dak. 47042. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products and articles* distributed by *meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and facilities of Spencer Foods, Inc., at or near Schuyler, Nebr., to Chicago, Ill., and its Commercial Zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Spencer Foods, Inc., P.O. Box 1228, Spencer, Iowa 51301. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 116159 (Sub-No. 199TA), filed February 28, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A, B and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Sterling, Colo., to points in Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sterling Colorado Beef Company, P.O. Box 1728, Sterling, Colo. 80751. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 118989 (Sub-No. 153TA), filed February 28, 1977. Applicant: CONTAINER TRANSIT, INC., 5233 S. 9th St., Milwaukee, Wis. 53221. Applicant's representative: Albert A. Andrin, 180 N. LaSalle St., Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drums, iron or steel, S.U.* with plastic liners, drums, *fibreboard S.U.*, with plastic liners, from Addison, Ill., to Morenci and Romulus, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Container Corporation of America, 500 E. North Ave., Carol Stream, Ill. 60187. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., and Courthouse, 417 E. Wisconsin Ave., Room 619, Milwaukee, Wis 53202.

No. MC 119741 (Sub-No. 63TA), filed February 25, 1977. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, RFD No. 2, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and warehouse facilities of Del Pero-Mondon Meat Company, Sunflower Beef Division, at or near Wichita, Kans., to points in North Dakota, South Dakota, Nebraska, Minnesota, Missouri, Iowa, Wisconsin, Illinois, Michigan, Indiana, Kentucky, Ohio, New York and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Del Pero-Mondon Meat Company, Sunflower Beef Division, P.O. Box 8183, Wichita, Kans. 67207. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 123407 (Sub-No. 357TA), filed February 28, 1977. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb, Suite 1606, 33 N. LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, in trailers with metal "A" frames, from the plantsite of Fourco Glass Co., Jerry Run Division, located in Taylor County, W. Va., to points in the United States in and east of Colorado, Montana, New Mexico and Wyoming (except Florida, Georgia, North Carolina, South Carolina, Tennessee and Virginia), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Fourco Glass Co., Jerry Run Division, P.O. Box 2230, Clarksburg, W. Va. 26301. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 128256 (Sub-No. 31TA), filed February 28, 1977. Applicant: O. W. BLOSSER, doing business as BLOSSER TRUCKING, 215 N. Main St., Middlebury, Ind. 46540. Applicant's representative: Lippman and Sulverman, Suite 550 Federal Bar Bldg., 1819 H. St., NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic moldings*, from Middlebury, Ind., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Abitibi Corporation, Middlebury, Ind. 46540. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 128273 (Sub-No. 251TA), filed February 24, 1977. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, 121 Humboldt St., Fort Scott, Kans. 66701. Applicant's representative: Elden Corban (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet food*, from the plantsite and storage facilities of the Van Camp Seafood Company, at San Diego, Calif., to the plantsites and storage facilities of Ralston Purina Co., at Denver, Colo., Clinton and Davenport, Iowa, and Milan and Rock Island, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ralston Purina Co., Checkerboard Square, St. Louis, Mo. 63188. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., 110 N. Market, Wichita, Kans. 67202.

No. MC 129615 (Sub-No. 25TA), filed February 28, 1977. Applicant: AMERICAN INTERNATIONAL DRIVEAWAY, P.O. Box 545, 123 N. First St., Decatur, Ind. 46733. Applicant's representative: E. Drayson Helmer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Truck campers*, in motor carrier service, between points in Elkhart County, Ind., on the one hand, and, on the other, points in the United States, including Alaska and Hawaii, for 180 days. Supporting shippers: Amerigo, Inc., P.O. Box 578, Bristol, Ind. 46507. Fleetwing Travelers, Inc., P.O. Box 84, Nappanee, Ind. 46550. Honey Recreational Vehicles, Inc., 1809 W. Hively, Elkhart, Ind. 46514. Travel Equipment Corporation, Box 512, Goshen, Ind. 46526. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 135263 (Sub-No. 19TA), filed February 25, 1977. Applicant: GRAND ISLAND MOVING AND STORAGE CO., INC., P.O. Box 1665, East Hwy. 30, Grand Island, Nebr. 68801. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, from the plantsite and storage facilities of Minden Beef Company, at or near Minden, Nebr., to points in Connecticut and New York, for 180 days. Supporting shipper: Michael Smith, Office Manager, Minden Beef Company, P.O. Box 70, Minden, Nebr. 68959. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., & Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 136981 (Sub-No. 4TA), filed February 28, 1977. Applicant: BLAIR CARTAGE, INC., 13656 Auburn Road, P.O. Box 52, Newbury, Ohio 44065. Applicant's representative: Lewis S. Witherspoon, 88 E. Broad St., Suite 930, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Litharge, nepheline syenite, soda ash, glass, bulbs, glass rods and tubing, glassware, K. D. etal acks, cullet, electric lamps, batteries and battery chargers, lighting fixtures, holiday decorations, K. D. packaging materials, steel nestainers and propane gas*, for the General Electric Company, between points in Illinois, Indiana, Ohio, Michigan, Buffalo, N.Y.; points in Pennsylvania west of Interstate Highway 76; (Penna. Turnpike) and north of Interstate Highway 70; and points of entry at the International Border between the United States and Canada, at Buffalo, N.Y., and Detroit, Mich.; also propane movements between points in Ohio, Lexington, Ky., and Bridgeville, Pa., and between Hutchinson, Kans., and points in Ohio, Lexington, Ky., and Bridgeville Pa. under a continuing contract with General Electric Company for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Electric Company, Comp. No. 4504, Nela Park, Cleveland, Ohio 44112. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 E. Minth St., Cleveland, Ohio 44199.

No. MC 138235 (Sub-No. 10TA), filed February 23, 1977. Applicant: DECKER TRANSPORT CO., INC., 412 Route 23, Pompton Plains, N.J. 07444. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicles, hardware, conveyors and conveyor equipment, furniture, lawn mowers, power equipment, wheel goods, and bicycles;* (2) *Parts, attachments and accessories* for the commodities in (1) above; and (3) *Materials, equipment and supplies* (except commodities in bulk), used in the manufacture or sale of the commodities in (1) and (2) above, from the facilities of MTD Products, Inc., at Cleveland and Willard, Ohio, to the facilities of MTD Products, Inc., at Indianola, Miss.; from the facilities of MTD Products, Inc. at Indianola, Miss., to points in Illinois, Indiana, Kentucky, Ohio and points in the commercial Zones of St. Louis, Mo., and Detroit, Mich., under a continuing contract with MTD Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: MTD Products, Inc., 979 S. Conwell, P.O. Box 329, Willard, Ohio 44890. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 138627 (Sub-No. 18TA), filed February 28, 1977. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Route 4, Fort Dodge, Iowa 50501. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast and prestressed concrete products; casting forms and components*, used in the manufacture of precast and prestressed concrete products; and equipment used in the handling of precast and prestressed concrete products, from the facilities of Rocky Mountain Pre-Stress Group, at Kansas City, Kans., to points in Colorado, Illinois, Iowa, Missouri, Nebraska and Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rocky Mountain Pre-Stress Group, P.O. Box 11307, Kansas City, Kans. 66111. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 139193 (Sub-No. 58TA), filed February 24, 1977. Applicant: ROBERTS & OAKE, INC., 527 E. 52nd St., North, P.O. Box 1356, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob Billig, Suite 300, 2033 K St. N.W., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products* (except hides and commodities in bulk, in tank vehicles), as described in Appendix I of *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities of Royal Packing Company, at or near National Stockyards, Ill., and St. Louis, Mo., to points in Connecticut, Maryland, Massachusetts, Pennsylvania, New Jersey, New York, and Washington, D. C., under a continuing contract with Royal Packing Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Royal Packing Company, St. Clair Ave. & Ice Plant Road, P.O. Box 156, National Stockyards, Ill. 62071. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 139495 (Sub-No. 197TA), filed February 25, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 E. 8th St., Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St. NW., Suite 1030, Wash-

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ington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aquariums and aquarium supplies and* (2) *Materials and supplies* used in the manufacture of aquariums, (1) from Canton, Ga., to points in Washington, Oregon, California, Nevada, Arizona, Utah and Idaho; and (2) from points in Washington, Oregon, California, Nevada, Arizona, Utah and Idaho, to Canton, Ga., restricted to the transportation of shipments originating at or destined to the facilities of Triton Industries, Inc., at Canton, Ga., for 180 days. Supporting shipper: O'Dell Manufacturing, Inc., Triton Industries, Inc., P.O. Box 1242 Univeter Road, Canton, Ga. 30114. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., 110 N. Market, Wichita, Kans. 67202.

No. MC 140166 (Sub-No. 5TA), filed February 25, 1977. Applicant: JOHN L. SMITH, P.O. Box 196, Moreland, Idaho 83256. Applicant's representative: Jerold G. Oldroyd, 485 "E" St., Idaho Falls, Idaho 83401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feeds and feed ingredients*, from Pocatello, Idaho, to points in Cascade, Carbon, Chouteau, Fergus, Glacier, Judith, Basin, Lewis and Clark, Liberty, Missoula, Phillips, Pondera, Powell, Teton and Toole Counties, Mont., for 180 days. Supporting shipper: Ralston Purina, P.O. Box 2025, Pocatello, Idaho 83201. Send protest to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort St., P.O. Box 07, Boise, Idaho 83724.

No. MC 142463 (Sub-No. 1TA), filed February 25, 1977. Applicant: SPECIALIZED HAULING, INC., 1500 Omaha St., P.O. Box 567, Sioux City, Iowa 51102. Applicant's representative: Stewart A. Huff, 314 Security Bank Bldg., Sioux City, Iowa 51101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, from the plantsite and storage facilities of Great Plains Processing, a joint venture, located within the commercial zone of Sioux City, Iowa, to points in Saco, South Paris and Hartland, Maine; Williamsport, Md.; Danvers, Peabody, Salem, Woburn and Lynn, Mass.; Manchester, Nashua and Penacook, N.H.; Newark, N.J.; Gloversville and Gowanda, N.Y.; Coudersport, Curwensville, Westfield, Reading and Westover, Pa.; Luray and Richmond, Va.; and Frank, W. Va., and to points in the Commercial Zones of the cities named above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Marvin Phillips, Traffic Manager, Great Plains Processing, 1100 Cunningham Drive, Sioux City, Iowa 51107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 142463 (Sub-No. 2TA), filed February 25, 1977. Applicant: SPECIALIZED HAULING, INC., 1500 Omaha St., P.O. Box 567, Sioux City, Iowa 51102. Applicant's representative: Jack H. Blanshan, 205 W. Touhy Ave., Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, from the plantsite and storage facilities of Spencer Foods, Inc., located at or near Spencer, Iowa, to points in Saco, South Paris, and Hartland, Maine; Williamsport, Md.; Danvers, Peabody, Salem and Woburn, Mass.; Dover, Manchester and Nashua, N.H.; Newark, N.J.; Gloversville and Gowanda, N.Y.; Coudersport, Curwensville, Westfield and Westover, Pa., and Luray, Va., and to points in the commercial zones of the cities named above, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kent Eggleston, Corporate Traffic Manager, Spencer Foods, Inc., 225 W. 21st St., Spencer, Iowa 51301. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 142956TA, filed February 25, 1977. Applicant: M & S TRUCKING CO., INC., 1430 N. Clarence, Wichita, Kans. 67202. Applicant's representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, Mo. 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hanging fresh beef meat carcasses*, from the Dubuque Packing Co., at Wichita, Kans., to the Hickman Packing Co., Inc., at Newark, N.J., under a continuing contract with Hickman Packing Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hickman Packing Company, Inc., 1 Lackawanna Ave., Newark, N.J. Send protest to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., 110 N. Market, Wichita, Kans. 67202.

No. MC 142957TA, filed February 25, 1977. Applicant: NETWORK TRANSPORTATION SYSTEMS, INC., 35 Brown St., Washington, N.J. 07882. Applicant's representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Audio visual equipment, and materials and supplies* used in connection therewith (except in bulk), between points in the United States (except Alaska and Hawaii), under a continuing contract with Caribiner, Inc., for 180 days. Supporting shipper: Caribiner, Inc., 16 W. 61st St., New York, N.Y. 10023. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 142958TA, filed February 25, 1977. Applicant: EMERGENCY MEDICAL DELIVERIES, INCORPORATED, 3135 Copeland Blvd., Toledo, Ohio 43614. Applicant's representative: Michael M. Briley, 300 Madison Ave., Toledo, Ohio 43603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medicinal intravenous solutions and dialysis patient treatment kits and materials and supplies* used in connection therewith including mineral water and liquid formaldehyde, between Toledo, Ohio, on the one hand, and, points located in the lower peninsula of Michigan and Indiana on the other, restricted against transporttaion in bulk, in tank vehicles, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Systema East, 3623 Marine Road, Toledo, Ohio 43609. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

By the Commission,

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7615 Filed 3-14-77;8:45 am]

[No. 36053 (Sub-No. 1)]

DEPARTMENT OF AGRICULTURE, STATE OF MONTANA

Petition for a Declaratory Order—Applicable Level of Rates on Montana Intrastate Traffic

MARCH 10, 1977.

Upon consideration of the record in No. 36053, Montana Intrastate Rail Freight Rates and Charges, 1974, the petition of the Department of Agriculture—State of Montana, for a declaratory order filed November 29, 1976, and the reply in opposition thereto by the Montana Railroads filed December 8, 1976; and

It appearing, that by order of the Commission served November 21, 1974, an investigation proceeding was instituted pursuant to section 13(3) and 13(4) of the Interstate Commerce Act, that an initial decision was served December 19, 1975, and a report and order of the Commission, Division 2, was served on July 26, 1976, finding Montana intrastate freight rates and charges the cause of unjust discrimination against, and an undue burden on, interstate commerce and prescribing a basis for removal;

It further appearing, that (1) a further petition for reconsideration was filed on August 13, 1976, by the Consumer Counsel for the State of Montana, (2) a petition to stay the effective date of the Commission's order served July 26, 1976, was filed on August 16, 1976 by the Department of Agriculture—State of Montana, and (3) the Montana Railroads published tariff supplements making the increased rates and charges on

Montana intrastate traffic effective on August 19, 1976, pursuant to the Commission's order served July 26, 1976;

It further appearing, that by notice to the parties, served August 30, 1976, the Commission stated that its order served July 28, 1976, had not yet become effective, and that pursuant to section 17(8) of the Act it was stayed pending disposition of an appropriate petition for reconsideration filed August 13, 1976;

It further appearing, that by order served October 27, 1976, the Commission denied reconsideration and permitted the disputed increases to become effective forthwith but not later than November 11, 1976;

And it further appearing that under section 17(7) and 17(8) of the Act and Rule 101 of the Commission's General Rules of Practice, 49 CFR § 1100.101, any decision, order, or requirement made after reconsideration, reversing, changing, or modifying the original determination, is itself subject to reconsideration and the decision, order, or requirement is stayed pending disposition, but that the enactment of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, on February 5, 1976, altered the above sections of the act and Commission procedures applicable thereto, and that such alteration may affect rail proceedings instituted both before and after its date of enactment;

Wherefore, and for good cause:

It is ordered, That pursuant to section 554(e) of the Administrative Procedure Act, 5 U.S.C. § 554(e), and in the exercise of the Commission's sound discretion thereunder, this petition for a declaratory order be, and it is hereby, granted.

It is further ordered, That this proceeding be, and it is hereby, instituted to clarify the matters herein including the effect of the new legislation on the proper effective date of the increased rates and charges in Montana intrastate traffic and whether refunds are due;

It is further ordered, That petitioner and the Montana Railroads be, and they are hereby, required to participate in this proceeding and that all other parties desiring to participate shall make such fact known by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before April 4, 1977, and that as soon as practicable, after the date of indicating a desire to participate, the Commission will serve a list of the names and addresses of all persons whom service of an opening and reply statement shall be made;

And it is further ordered, That a copy of this order be served upon petitioner and all parties to No. 36053, that a copy be deposited in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and that a copy of this order be given to the public by delivery of a copy thereof to the Director, Office of the Federal Register for publication therein.

Dated at Washington, D.C., this 4th day of March, 1977.

By the Commission,

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7616 Filed 3-16-77;8:45 am]

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federal register

TUESDAY, MARCH 15, 1977

PART II

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

■

RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Summary Plan Description Requirements and Deferral of Summary Plan Description Reporting and Disclosure Requirements

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Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Summary Plan Description Requirements; Interim Regulations

AGENCY: Department of Labor.

ACTION: Final rules, plus interim rules that are effective only through the latter of July 15, 1977 or 120 days after a plan becomes subject to Title I of the Act 1974. The interim rules are also proposals; comments on the final form they should take are invited.

SUMMARY: These regulations give rules on what must be in the summary plan description (SPD), the basic information package that employee benefit plans must give to participants and beneficiaries. The regulations also say when SPDs must be given out and filed with the Secretary of Labor, and set many other standards—for example, that SPDs must be simple and clear.

EFFECTIVE DATE: March 15, 1977.

ADDRESSES: Interested persons are invited to submit written data, views or arguments by April 15, 1977 concerning the following interim and proposed sections: § 2520.102–3(m), 2520.102–3(t), 2520.104–26, 2520.104–27, 2520.104b–2(d)(2), 2520.104b–2(e)(2) and 2520.104b–3(f). Such data, views and arguments should be submitted to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, Washington, D.C. 20216. Attention: SPD Regs. All comments should be clearly referenced to the section to which they are directed.

FOR FURTHER INFORMATION CONTACT: Robert Doyle, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. Area Code 202–523–8665.

SUPPLEMENTARY INFORMATION:

The supplementary information on these rules is divided into two parts. Part I, "Description of the Rules", is a general, nontechnical description of what the rules require. It is written for the reader who is not a professional or an expert in the field of employee benefit plans. Part II, "Technical Explanation of the Regulation", contains discussions of the background and major issues involved, of significant differences between the proposed sections published in the FEDERAL REGISTER on June 9, 1975 and the final sections published here, and of substantive public comments on the proposals, as well as findings required by the Act and detailed explanations of certain technical requirements.

Part I is designed to help readers to find the sections of the regulation or of the Part II technical explanations that they need for more detailed information. Part I starts with a general description of what the regulations are about. Next there is a list of the major subjects covered by the regulations, and the sections of the regulation and technical explanation that apply to each.

PART I—DESCRIPTION OF THE REGULATIONS

GENERAL

Under the Employee Retirement Income Security Act of 1974 (ERISA), the SPD is the basic document which informs a participant or beneficiary of the terms of his or her plan. It gives the participant or beneficiary an understanding of how the plan works, what benefits it provides and how to get them. It also provides basic information for making decisions on things like changing jobs or retiring. In order to carry out this purpose, the Act says in some detail what kinds of information must be in the SPD, what kind of language to use (clear and simple), and the group of people who must be given an SPD. The Act also contains requirements which insure that this information is kept current. If the plan is changed in an important way during a year, the participants and beneficiaries must receive a summary of that change. The Act requires that every five or ten years the participants and beneficiaries must be given a whole new SPD that includes all the changes that have been made during that period.

Almost all pension and welfare plans maintained by private employers must have an SPD. Welfare plans include medical and hospitalization plans, disability plans, life insurance plans and others. The SPD must be filed with the Department of Labor and a copy must be given to each person who is a participant in the plan or who is receiving benefits from a pension plan. The dates by which this must be done are described below.

There are much different rules for different groups of plans. The different rules are discussed below under the heading "Classes of Plans"; the groups are as follows:

Plans which furnished an ERISA Notice to participants, and new plans established after December 2, 1976.

Plans which filed a Form EBS–1 Plan Description with the Department and furnished copies of it to participants before June 16, 1975.

Plans which filed an SPD with the Department and furnished copies of it to participants on or before May 30, 1976, and relied on the proposed regulations concerning SPDs.

All other plans which filed a copy of the SPD with the Department and furnished copies of it to participants before March 15, 1977.

There are also some optional rules which may be used for certain special situations. These are discussed below under the heading "Special Cases".

STYLE AND FORMAT

In view of the fact that the SPD is a document which is intended for use by participants in a plan, the regulations require that it be written in such a way that it can be understood by the average participant in the plan. In most cases this will mean that technical and legal jargon shoud be eliminated, examples and illustrations should be provided, and additional aids such as a table of contents should be used. Furthermore, the SPD must not be slanted in a way that emphasizes the benefits that a plan provides and plays down the plan terms which may cause a participant to lose benefits or fail to qualify for them. For example, provisions which might cause an employee to lose benefits may not be in fine print. In short, the description of the plan must be fair and even-handed.

There is a special provision in the regulation dealing with plans where substantial numbers of participants are not literate in English, but are literate in a foreign language. The regulation provides that if the group that is literate in the foreign language is a large enough portion of plan participants, there must be a notice in the SPD, in that language, which offers help to them. The help does not have to be given in writing, but it must be in the foreign language.

CONTENT

The regulation contains a list of items that must be included in the SPD. All plans must include information which identifies the plan and the kinds of benefits it provides. The names and addresses of the persons responsible for operating the plan must be included, as well as the name of the person who is authorized to receive service of process if the plan is sued. If the plan is maintained under a labor agreement, this must be stated and the agreement must be made available to participants.

The SPD must describe plan benefits and the conditions a participant must meet to get them. There must also be a description of any terms of the plan which could result in a participant losing benefits.

The SPD for a pension plan must state whether the benefits of the plan are covered by plan termination insurance under Title IV of ERISA. If they are not, the SPD must explain why. If the benefits are insured, the SPD must give a summary of the insurance coverage, and state that further information can be obtained from the plan administrator or from the Pension Benefit Guaranty Corporation. The address of the Corporation must be included. To make compliance easier, the regulations include a standard statement which may be used to satisfy these requirements.

All SPDs must contain a description of the plan's claims procedure. These are the steps that a participant must take to file a claim for benefits, the steps that a plan must take to handle the claim, and the rules concerning how a participant may make an appeal if his claim is denied. The Department will be issuing regulations on this subject in a very short time.

The items listed above describe the terms of the plan or concern the operation of the plan. This information should be as recent as possible. The regulations require that the information in the summary plan description may not be more than four months old.

One last item must be included in the SPD: a statement of the rights of a participant or beneficiary under ERISA. The statement must describe the right to get more information about the plan, the right to be free of any retaliation for exercising legal rights, and the right to bring lawsuits. Lawsuits may be brought to remedy violations of the disclosure, fiduciary or antidiscrimination provisions of ERISA, and to obtain benefits that have been denied improperly. The statement of rights must also notify a participant that he or she may contact the local office of the Department of Labor for help.

DISCLOSURE TO PARTICIPANTS

The final regulations published here contain the general rules for when the SPD must be distributed to participants and beneficiaries. Regulations published earlier deferred the date for distribution, described the people to whom a copy must be furnished, and prescribed the methods which could be used to make the distribution.

Most employee benefit plans took advantage of the opportunity to distribute an ERISA Notice on May 30, 1976 and are therefore eligible for a deferred distribution date. The date for distribution that will be applicable to most welfare plans is July 15, 1977. For most pension plans, the date will depend on when the plan is notified as to whether it is tax qualified for 1976: the SPD must be distributed 90 days after that notification is received. For a pension plan which does not file a request for tax qualification, the SPD must be distributed on or before the last day on which it could have filed for tax qualification. However, a pension plan is not required to distribute an SPD until July 15, 1977 even if the rules described above would result in an earlier date.

There are some employee benefit plans which have already filed a copy of the SPD with the Department of Labor and distributed copies of it to participants and beneficiaries. The rules for those plans are discussed under the heading Classes of Plans, below.

These regulations establish two more general rules. First, some employees may become participants, or some beneficiaries may start receiving benefits, after the general distribution of the SPD. The regulations require that an SPD be given to these people within 90 days after they become participants or start receiving benefits. Second, new plans may be established. These plans must distribute an SPD within 120 days of the time they become subject to ERISA. Most plans will be subject to ERISA at the time that they are established.

These regulations also require notice to participants and beneficiaries when significant changes are made to the plan, and require periodic distribution of updated SPDs. The notice to participants, called a "summary of material modifications", must describe the change in a way which meets the style and format requirements discussed above, and must be distributed to participants and beneficiaries within seven months after the end of the year in which the change is made. ERISA requires that the summary plan description must be updated every five or ten years. The Department will issue regulations on this in the future.

The earlier regulations which describe the class of people to whom SPDs and summaries of material modifications must be given are somewhat technical. As a rule of thumb, they require distribution to anyone who may be considered "covered" by a plan and to anyone receiving benefits from a pension plan. Of course, a plan does not have to wait until a person starts receiving benefits or becomes covered to give that person a copy of the SPD. For example, it may be given when a person applies for retirement benefits, or when a new employee begins employment. If there have been any summaries of material modifications distributed since the last SPD, a copy of these must be furnished along with the SPD.

Earlier regulations also provide for various ways in which the SPD and a summary of material modifications may be distributed. The general rule is that the plan administrator must use a method or a combination of methods which are reasonably designed to get the information into the hands of the people who are supposed to have it. These methods may include handing a copy to the person directly, making it an insert in a newsletter, or mailing it.

FILING WITH THE DEPARTMENT

The filing requirements for the SPD may be simply stated: it must be filed with the Department no later than the time by which it must be distributed to participants and beneficiaries. The rules about deadlines under the "Disclosure to Participants" heading apply to filing with the Department as well. Mailing and hand-delivery addresses for the Department are included in the regulations.

CLASSES OF PLANS

A number of plans have already filed SPDs with the Department and distributed them to participants and beneficiaries. These plans may be grouped into three classes, based on when they filed and disclosed and under what rules. The regulations provide a different treatment for each class.

The first class of plans which has already filed and distributed an SPD includes those which filed an old Form EBS–1 Plan Description with the Department before June 16, 1975 and furnished a copy of the form to participants and beneficiaries. The Department said in earlier regulations that this method of compliance was permissible. The next SPD will, of course, have to meet the requirements of these final regulations (or any amendments that have been made to them by the deadline). These plans will also be required to furnish a summary of material modifications within seven months of the close of this plan year which includes any information which is required by these regulations but which was not in the old Form EBS–1.

The second class of plans which filed and disclosed an SPD before these regulations includes those which did not furnish an ERISA Notice, but instead filed and distributed an SPD by May 30, 1976 which was based on the proposed regulations. The next SPD for these plans must also meet the requirements of these final regulations just like the plan which used the old EBS–1. It is likely that these plans will have to furnish a summary of material modifications within seven months of the close of this plan year.

The third class of plans which filed and disclosed prior to these regulations includes those which did so, not in reliance on any of the earlier regulations as in the previous two categories, but on the basis of their interpretation of the Act. Many of these plans did so for valid business or employee relations reasons. In view of this fact, such plans should not be required to prepare a whole new SPD. On the other hand, the format of these SPDs may not comply with these final regulations, and they may have omitted some required items of information. These plans may meet their SPD obligation by preparing a supplement which corrects any errors or omissions such that the earlier SPD and the supplement, taken together, meet the requirements of these final regulations. The supplement must be filed with the Department and distributed to participants and beneficiaries by July 15, 1977.

These regulations also include a definition of a "terminated plan" which no longer has to file or distribute an SPD. A pension plan is considered terminated if all participants and beneficiaries have received what they are entitled to. A welfare plan is considered terminated if the plan cannot be required to pay any benefits for events which happen after the termination. For example, a medical insurance plan is terminated if the plan is no longer required to pay claims for illnesses contracted or injuries suffered.

SPECIAL CASES

Special circumstances may occur which require some special rules to avoid putting plans to unnecessary expense, or to carry out the purposes of the Act more effectively. Three such cases are dealt with in these regulations.

The first case involves the SPD for a plan after it has merged with another plan. In many cases, some participants may have the right to continue to have their benefits calculated on the basis of the provisions of the plan before it was merged, for example where this would result in a higher level of benefits for a time. In such cases, it would be confusing for the participants generally to receive an SPD which described both the old plan and the new plan; it would look like two SPDs under one cover. To avoid this, the regulations provide an optional way to comply under which the plan can give participants who continue to be eligible under the old plan a copy of the SPD of the new plan and a description of how the merger affects these participants. Also, updated SPDs of the new plan must identify this class of participants and inform them of their

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right to inspect and get copies of old plan documents.

The second special case concerns plans maintained by labor organizations for their members which pay their benefits out of the general assets of the organization. These organizations are already required by another federal law to file plan information with the Department. The regulation therefore excuses them from filing the same information with the Department as an SPD filing. An SPD must be distributed to participants and beneficiaries. However, the terms of many of these plans are contained in the constitution or by-laws of the labor organization. The regulation provides that the constitution or by-laws may be used as the SPD if a supplement is also furnished which contains any information required by these regulations which is not in the constitution or by-laws. Only the supplement needs to be filed with the Department.

The third special case includes retirees under a pension plan, beneficiaries receiving benefits from a pension plan, and employees who separated from employment with a vested right to pension benefits at a later time. All three groups have their rights under the plan fixed; relatively few changes which the plan makes will affect their situations. It would be expensive and wasteful to provide these people routinely with updated SPDs and summaries of material modifications which do not concern them in any way, and which might in fact mislead them about their rights under the plan. The regulation therefore provides that a plan need only furnish these people a copy of the SPD which was current at the time their rights were fixed and with those summaries of material modifications that have information they need to know. The regulation does not deprive these people of a chance to see plan documents if they want to, however. In addition, when an updated SPD is distributed, these people must be notified and must be informed that they will be sent a copy if they request. The plan must also send these people who request it a copy of any summary of material modifications that was not furnished to them.

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PART II—TECHNICAL EXPLANATION OF THE REGULATION

On December 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 42334) of proposed regulations concerning reporting and disclosure under the Act. On May 5, 1975, a regulation was published (40 FR 19469; see also 40 FR 20628, May 12, 1975) deferring until August 31, 1975 the requirement that plan administrators file with the Secretary of Labor, and furnish to plan participants and beneficiaries, copies of a summary plan description.

On May 6, 1975, a notice was published (40 FR 19715) announcing that certain final regulations concerning summary plan descriptions would appear in the FEDERAL REGISTER.

On May 12, 1975, a final rule (40 FR 20629) and proposed rule (40 FR 20653) redesignating both final and proposed subchapters, parts and sections were published in the FEDERAL REGISTER. Under this redesignation system, the section numbers of proposed and adopted regulations promulgated under Chapter XXV are based on the section numbers of the Act to which each regulation relates. The December 4, 1974, proposed regulations have been redesignated in accordance with this system.

On June 9, 1975, notice was published in the FEDERAL REGISTER (40 FR 24642) of proposed regulations concerning reporting and disclosure under the Act. These proposed regulations covered, among other items, the content, style and format of the summary plan description, general reporting and disclosure requirements and further deferral of certain initial reporting and disclosure requirements, including the plan description and summary plan description.

On August 15, 1975 final rules (40 FR 34526) were issued by the Department deferring until May 30, 1976 the reporting and disclosure of summary plan descriptions for pension and welfare plans.

On March 18, 1976 the Department issued a news release indicating that employee benefit plans would be given an alternative to the requirement that summary plan descriptions be furnished on or before May 30, 1976. Instead, both pension and welfare plans could provide an ERISA Notice to plan participants and beneficiaries. On April 23, 1976 final rules (41 FR 16957) were issued implementing the alternative referred to in the March 18, 1976 news release and making final proposed regulations §§ 2520.101–1, 2520.102–1, 2520.104–1, 2520.104a–1, 2520.104a–2, 2520.104a–4, 2520.104b–1, and 2520.104b–30.

On January 25, 1977 the Department issued a press release (USDL 77–80) which indicated that summary plan description filing and disclosure dates would be extended from March 31, 1977 to May 31, 1977.

The regulations published here are the final version of the remaining proposed sections published in the FEDERAL REGISTER on June 9, 1975. These sections are §§ 2520.102–2, 2520.102–3, 2520.102–4, 2520.104–4, 2520.104a–3, 2520.104b–2, 2520.104b–3, and 2520.104b–4. Section 2520.102–3(m) includes a standard statement which may be used to satisfy the requirement of describing the provisions of Title IV of the Act. Section 2520.102–3(t) includes a statement of the general rights of plan participant and beneficiaries under ERISA. Sections 2520.104–26 and 2520.104–27, based on proposed § 2520.102–3(s) and comments submitted to the Department, provide a limited exemption and an alternative method of compliance for unfunded dues financed pension and welfare plans maintained by employee organizations.

Sections 2520.102–3(m), 2520.102–3(t), 2520.104–26, 2520.104–27, 2520.104b–(2)(d)(2), 2520.104b–2(e)(2), and 2520.–104b–2(f) are interim regulations proposed for final adoption. Interested persons are invited to submit written data, views or arguments concerning those sections by April 15, 1977. Such data, views and arguments should be submitted to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, Washington, D.C. 20216, Attn: SPD Regs. All comments should be clearly referenced to the section to which they are directed.

The sections listed in the paragraph immediately above have not previously been proposed and are promulgated as interim and proposed rules under the authority of 5 U.S.C. § 553(a)(3)(B) of the Administrative Procedure Act, which permits an agency for good cause to issue an interim rule without notice and opportunity for comment if "notice and public procedure thereon are impractical, unnecessary, or contrary to the public interest". Pursuant to the requirements of 5 U.S.C. 553(a)(3)(B), a brief statement of reasons supporting a finding of good cause by an agency must accompany the issuance of an interim rule without public notice and comment under this section. The following findings are made pursuant to 5 U.S.C. 553(a)(3)(B):

Issuance of proposals with regard to those sections would delay and impede those plans which either have already printed and distributed, or have printed and are about to distribute, summary plan descriptions. The delay inherent in the proposal, comment and revision process would in some cases deny timely

information to participants and beneficiaries. Such delay would be contrary to the public interest in prompt and complete disclosure.

Consequently, these regulations are issued in interim and proposed form to permit compliance and reliance thereon at the earliest possible date while also providing for necessary comments before issuance of final regulations.

Section 2520.102–2. Final regulation § 2520.102–2, which describes the style and format of the summary plan description, modifies the proposed regulation in three areas: general format, termination insurance references, and foreign language requirements.

In paragraph (b), general format, the example contained in the proposal has been replaced with general language requiring that restrictive provisions in the plan not be minimized in the summary plan description. Language has also been added requiring in general that plan advantages and disadvantages are to be presented without exaggerating the former or minimizing the latter. Last, there is a new statement to the effect that restrictive plan provisions need not be disclosed in close conjunction with benefit provisions; they may be placed in different pages of the summary plan description, provided that adjacent to the benefit description there is a reference to the page on which the restrictions are described.

Pursuant to public comments, proposed paragraph (c) regarding references to termination insurance has been deleted. The substantive references to termination insurance have been placed in § 2520.102–3, where they are properly addressed as a "content" item, as opposed to a style and format item. In addition, the requirement of the proposed rule that termination insurance information must be placed on the first page of the summary plan description has been eliminated. Comments indicated that the first page would become too cluttered with print if the termination insurance statement had to be on that page.

Finally, the foreign language requirements in proposed paragraph (d) have been modified to conform with those for the summary annual report (§2520.104b–10). An example has been added to clarify how the test operates.

Section 2520.102–3. Final regulation § 2520.102–3 sets forth the information that must be included in the summary plan description furnished to plan participants and beneficiaries. The content provisions of proposed § 2520.102–3 have been modified pursuant to comments.

A new statement has been inserted at the beginning of the section to clarify which plan provisions must be reflected in the summary plan description. The summary plan description must reflect the plan provisions as of a date not earlier than 120 days prior to the date the summary is disclosed. It would be unreasonable to require that the summary reflect the plan as of the date it is disclosed; it would be difficult if not impossible to include a description of provisions which were amended shortly before the disclosure date. However, a summary may reflect plan amendments made within the 120 day period before it is disclosed. See §2520.104b–3(b). A second new statement has been inserted at the beginning of the section to make it clear that the content provisions apply to both pension and welfare plans unless otherwise specified.

Paragraph (b), regarding the name and address of the plan sponsor, has been rephrased for clarity. A new requirement has been added for multiple employer plans, whether collectively bargained or not. To enable participants in these plans to know whether their employer participates in the plan, the summary plan description must provide not only the name and address of the association or committee maintaining the plan, but also a statement informing them of their right to obtain a list of all the participating employers and employee organizations (if any) in the plan.

Paragraph (g), information regarding the agent for service of legal process, contains a new requirement for a statement that service of legal process may be made upon a plan trustee or the plan administrator. Section 502(d)(1) of the Act provides that the plan is properly served if a plan trustee or administrator is served.

The requirement of proposed paragraph (h) that the summary plan description contain the name, title, and "business address" of each plan trustee has been altered slightly and clarified by requiring instead the name, title, and "address of the principal place of business" of each trustee.

Proposed paragraph (i) required the listing of any collective bargaining agreements relating to the plan, with a specification of the sections relevant to the plan. If the number of agreements exceeded ten, the proposed rule did not require such listing and relevant section information if the subject matter of the relevant provisions was summarized and if the parties to the agreements were listed. Many comments were received from collectively bargained plans objecting to the burdensome consequences of this rule to both small and large plans. Accordingly, the requirements of paragraph (i) have been changed to lessen that burden by merely requiring a statement to the effect that the plan is maintained pursuant to one or several agreements and that copies of the agreements are available for examination as provided by §§ 2520.104b–1 and 2520.104b–30. A new provision has been added to paragraph (i) which defines "maintenance of a plan pursuant to a collective bargaining agreement" for purposes of disclosure in the summary plan description. Generally, a plan is so maintained if a provision of any past or present collective bargaining agreement is determinative of or controlling upon any duties, rights or benefits under the plan.

Paragraph (m), relating to termination insurance, was included in paragraph (1) of the proposal and is now a separate paragraph. The substance of the paragraph remains as proposed except for the addition of an optional standard statement generally describing the insurance provisions of Title IV of the Act which plans may use to satisfy the requirements of this paragraph. A standard statement was suggested by the Pension Benefit Guaranty Corporation and in comments on the proposed regulation. Descriptions of plans not eligible for insurance must so state. Because of the addition of the standard statement section 2520.102–3(m) is an interim regulation, proposed for final adoption but also effective immediately. A final regulation is expected to be published on May 3, 1977. A plan which is in existence prior to the date on which the final version of paragraph (m) is published may use the interim version of paragraph (m) in its initial summary plan description if it is filed and disclosed before the later of July 15, 1977 or 120 days after the plan becomes subject to Title I of the Act.

Such a summary plan description will be deemed to have complied with the requirement to include Title IV information even if the final version of paragraph (m) is different and is in effect before the date when the summary plan description is filed and disclosed. Of course, if interim paragraph (m) is modified in the final version pursuant to comments, a summary of a change in information required to be included in the summary plan description (see § 2520.–104b–3) may be required from a plan that uses the interim version in a summary plan description filed and disclosed after the final regulation is in effect.

For example, a plan in existence before the date of publication of this interim regulation may file and distribute an initial summary plan description on July 15, 1977 which complies with the requirements of interim and proposed § 2520.102–3(m). A plan that comes into existence on March 20, 1977 may also follow the interim and proposed regulation for an initial summary plan description filed and disclosed not later than July 18, 1977. However, assuming that the final version of paragraph (m) is published on May 3, 1977, a plan that comes into existence on June 15, 1977 must follow the final regulation for its initial summary plan description due on October 13, 1977.

Paragraph (n) (previously paragraph (m)), which required a description of plan provisions for crediting service for eligibility, vesting, benefit accrual and breaks in service, has been modified to account for the use of equivalencies or elapsed time. See regulations concerning minimum standards (Chapter XXV, Part 2530), published on September 8, 1975, 40 FR 41654 et. seq., and on December 28, 1976, 41 FR 56462 et. seq. Because of the many possible combinations of hours counting, equivalencies and elapsed time, the final paragraph has been phrased more generally than the proposal.

Because the time for filing and disclosing the summary plan description has been extended to after the expiration of the time for making retroactive

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amendments under section 401(b) of the Internal Revenue Code of 1954 (Code), proposed paragraph (n) is no longer relevant. Proposed paragraph (n) has been replaced with a new paragraph (o) requiring a warning to participants and beneficiaries of pension plans using the interim provisions/"cutback" rule (set forth by the Internal Revenue Service in Revenue Ruling 76–378) that certain provisions of the plan are subject to potential modification, and requiring the identification of such plan provisions.

Paragraph (p) (previously paragraph (o)), regarding sources of contributions to the plan and the method by which the amount of contribution is calculated, has been modified pursuant to public comments to make it clear that defined benefit plans may simply state that the annual contribution is actuarially determined.

Proposed paragraph (s), regarding union dues plans, has been deleted. Union dues plans are treated in §§ 2520.104–26 and 2520.104–27.

Paragraph (t), a new interim and proposed paragraph added pursuant to comments, requires a statement of the general rights of plan participants and beneficiaries under ERISA. The comments pointed out that while the proposed regulation required that the content of the summary plan description cover important information concerning the plan, it did not require the inclusion of information regarding important rights participants and beneficiaries have under the Act. The comments urged that the Secretary use his authority under section 104(c) of the Act to require by regulation the furnishing of a statement of such rights as a content item of the summary plan description.

The summary plan description provides an appropriate vehicle for the dissemination of information concerning ERISA rights to participants and beneficiaries because it is the document which contains basic information on plan rights and obligations and is required to be distributed to all plan participants and beneficiaries. The point made in the comments was well taken, and paragraph (t) has therefore been added to the regulation.

In general terms, the regulation requires that the statement include a description of the rights of participants to secure information concerning the provisions of the plan, its operation, and the participant's benefit status, if applicable. The statement must also include information concerning the prohibition of retaliatory action of section 510 of the Act, and information concerning a participant's remedies under the law. The regulation also requires that this information be presented in language the average plan participant can understand. For ease of compliance, the regulation includes a standard statement which plans may use to satisfy this requirement.

Because the requirement of paragraph (t) was not proposed, § 2520.102–3(t) is an interim regulation proposed for final adoption but also effective immediately. A final regulation is expected to be published on May 3, 1977. A plan which is in existence prior to the date on which the final version of paragraph (t) is published may use the interim version of paragraph (t) in its initial summary plan description if it is filed and disclosed before the later of July 15, 1977 or 120 days after the plan becomes subject to Title I of the Act. Such a summary plan description will be deemed to have complied with the requirement to include a statement of ERISA rights even if the final version of paragraph (t) is different and is in effect before the date when the summary plan description is filed and disclosed. Of course, if interim paragraph (t) is modified in the final version pursuant to comments, a summary of a change in information required to be included in the summary plan description (see § 2520.104b–3) be required from a plan that uses the interim version in a summary plan description filed and disclosed after the final regulation is in effect. See the example following the explanation of § 2520.102–3(m).

Section 2520.102–4. Final § 2520.102–4, which provides an option to prepare different summary plan descriptions for different classes of participants and beneficiaries, is essentially unchanged from the proposed regulation (40 FR 24655). On the basis of comments received regarding this section, the requirement to list all other covered classes on the first page of the text has been modified to allow such information to be included in other pages of the summary if classes are too numerous to be listed on the first page.

Some comments suggested deleting the requirement to list other covered classes of participants and beneficiaries. These suggestions were not adopted. Such information will be used to participants in a variety of ways. For example, a participant may have changed classifications in the past or may do so in the future, thereby affecting his or her benefit rights. Participants may also find such information useful in conjunction with the financial reporting under the Act (that is, who has an interest in plan assets besides the participant's own class).

Section 2520.104–4. Final § 2520.104–4 provides an alternative method of compliance with the summary plan description requirements for pension plans which have absorbed other pension plans through a merger or other acquisition.

Proposed paragraph (b) established two sets of requirements for merged plants wishing to use the alternative:

(1) At the time of the merger: Furnish descriptions of the successor plan, the merger agreement and transitional benefit provisions; and

Make available on request, without charge, a copy of the merged plan description to each participant covered under the merged plan, each beneficiary receiving benefits under the merged plan, and any former employee who terminated employment with a right to a deferred vested benefit under the merged plan, and

(2) After the merger: Prepare all subsequent summary plan descriptions so that they (i) identify the merged plan participants on the first page and (ii) state that summary plan descriptions of the merged plan will be furnished upon request.

Comments received on the above requirements generally objected to them. The comments on proposed § 2520.104–4(b)(1) objected to the requirement of disclosure "at the time of the merger." It was argued that plans should be allowed a reasonable period of time to report and disclose merger details (e.g., within ninety days from the date of the merger). There were also objections to requiring disclosure of a description or a copy of the merger agreement on the grounds that the agreement would be incomprehensible to most participants (e.g., such agreements usually contain technical actuarial and accounting language). The comments on § 2520.104–4(b)(2) objected to the first-page listing requirement as cumbersome.

Merged plan participants should have, as a minimum, a copy of the summary plan description and any summaries of material modifications of the successor plan, and information concerning whether and how the merger affects merged plan provisions and benefits as well as how the successor plan applies to merged plan participants. The regulation therefore substitutes a requirement for a separate summary statement describing the effects of the merger for the requirement in the proposed regulations that a copy of the merger agreement be furnished. Merged plan participants should also be informed that copies of the merged plan documents, the merger documents, and the successor plan documents are available upon request (for a duplication charge) or for inspection pursuant to §§ 2520.104b–1 and 2520.104b–30.

The successor plan summary plan description, summaries of material modifications to such plan, and the statement should be disclosed to merged plan participants reasonably quickly. The draft adopts the summary plan description deadline in section 104(b)(1)(A), i.e., ninety days. Merged plan participants are therefore treated in the same manner as new participants in the successor plan.

The requirement in the proposed regulation that updated summary plan descriptions of the successor plan identify the classes of merged plan participants on the first page has been eliminated. Such a listing could be long, and therefore confusing. However, the regulation retains the requirement that all subsequent updated summary plan descriptions of the successor plan contain a list of the classes of participants to which old plan provisions apply.

It should be noted that because these regulations are prospectively effective, the alternative provided in this section, in response to comments, is applicable only to plan mergers which occur after the issuance of the initial summary plan description under the Act.

The following findings are made with respect to the promulgation of § 2520.–104–4 as an alternative method of compliance under section 110 of the Act:

1. The use of such alternative method is consistent with the purposes of Title I of the Act, and provides adequate disclosure to plan participants and beneficiaries and adequate reporting to the Secretary. Participants and beneficiaries of the merged plan will have received a summary plan description for that plan. Section 2520–104–4 requires the reporting and disclosure of the most recent summary plan description of the successor plan to the merged plan participants and beneficiaries, along with the appropriate summaries of material modifications. These documents will also be filed with the Secretary. It also requires the disclosure to such predecessor plan participants and beneficiaries of additional information detailing the effects of the merger on their rights and benefits under both the predecessor and successor plans. In addition, the alternative requires that such participants and beneficiaries be informed of their right to examine and obtain copies of documents related to both plans and to the merger. Participants and beneficiaries of the merged plan thus receive comprehensive information concerning the plan provisions applicable to them.

2. The application of the statutory requirements in the absence of this alternative, would increase the costs to the successor plan by requiring an updated summary plan description earlier than might otherwise be required and by requiring lengthy descriptions of merged plan provisions which could apply to relatively few participants.

3. The application of the statutory requirements in the absence of this alternative, would be adverse to the interests of plan participants in the aggregate. The increased cost which would be incurred in the absence of the alternative would dissipate plan assets without returning a material benefit to participants. In addition, if the summary plan description of the successor plan were required to describe the provisions of merged plans separately and fully, the document could confuse participants and beneficiaries because of the several descriptions, and could result in a very large document where several mergers had occurred.

Sections 2520.104–26 and 2520.104–27. Sections 2520.104–26 and 2520.104–27 are new sections replacing § 2520.102–3(s), issued pursuant to sections 104(a)(3) and 110 of the Act, to carry out the aims announced in ERISA Technical Release No. 1000 (July 21, 1976), and are interim regulations proposed for final adoption, but also effective immediately. These two sections simplify the reporting and disclosure requirements for unfunded dues financed-plans maintained by employee organizations. Unfunded dues financed plans are those which pay benefits out of the employee organization's general assets, which are derived wholly or partly from membership dues. The limited exemption and alternative method of compliance established by these two sections respond to comments received from employee organizations with such plans which are already subject to reporting and disclosure obligations similar to ERISA's under the Labor-Management Reporting and Disclosure Act (LMRDA). These regulations prevent duplicative reporting and disclosure which would otherwise be the consequence of ERISA and the LMRDA.

Unfunded dues financed plans maintained by employee organizations are exempted under the authority of sections 104(a)(3) and 110 of the Act from the requirements to file the following with the Secretary of Labor: plan description, Form EBS–1; a complete copy of the summary plan description; the annual report, Form 5500. In addition, unfunded dues financed plans are exempted from the requirement to furnish summary annual reports to plan participants and beneficiaries. These reporting and disclosure requirements are inappropriate as to dues financed plans in view of the pre-existing reporting and disclosure requirements of the LMRDA.

These plans must meet the requirements to furnish the information required for summary plan descriptions set forth in sections 102 and 104 of the Act. Paragraph (a)(3) of each regulation section provides that these plans will be treated, with certain exceptions, in the same manner as plans which previously filed and disclosed the summary plan description without reliance on guidance of the Department (see §§ 2520.104a–3(a) and 2520.104b–2(f)). In brief, a union dues financed plan may comply with the summary plan description requirements by preparing a supplement which, when combined with the earlier document, results in a package which meets the style, format and content requirements of these regulations. These plans do not have to meet the requirement of § 2520.104b–2(f)(1) that a copy of the summary plan description has been furnished before the date of publication of those regulations. For purposes of clarity, these paragraphs state that the summary plan description information may be furnished in various forms, including the employee organization constitution or by-laws.

However, §§ 2520.104–26 and 2520.104–27 make an exception to the rules in § 2520.104b–2(f) for those plans which are part of an employee organization's constitution or by-laws and are thus subject to the organization's procedures for amendment of those documents. The exception is that the constitution or by-laws may be used, under certain conditions, even if they indicate that a certain portion of members' dues or a certain portion of the employee organization's assets will be used only for the payment of benefits, although such dues or assets may in fact be used for general employee organization purposes, or are subject to the claims of general creditors of the employee organization. The conditions for use of such constitutions or by-laws are (1) that the supplement must clearly state that such dues or assets may be legally used for general employee organization purposes, or are subject to the claims of general creditors of the employee organization, and (2) that not later than the first opportunity to amend the constitution or by-laws (e.g., at the next regularly scheduled convention of the union), such constitution or by-laws accurately reflect the funded or unfunded status of the plan at that time.

The following findings are made with respect to the promulgation of § 2520.–104–26 as an exemption under section 104(a)(3) of the Act, and of § 2520.104–27 as an alternative method of compliance under section 110 of the Act:

1. The alternative is consistent with the purposes of Title I of the Act, and provides adequate disclosure to plan participants and beneficiaries and adequate reporting to the Secretary. Employee organizations maintaining unfunded dues financed plans are presently required to file with the Secretary Report Form LM–1 or LM–1A, together with copies of the employee organization constitution or by-laws, pursuant to the LMRDA, thus substantially duplicating the reporting requirements of ERISA regarding plan descriptions and summary plan descriptions. Likewise, the ERISA requirements regarding annual reporting and summary annual reporting are substantially duplicated by the LMRDA requirements relating to the reporting of Form LM–2 or LM–3 to the Secretary. Disclosure of a summary plan description to participants and beneficiaries under ERISA is required of such plans by disclosing and supplementing the employee organization's constitution or by-laws describing such plan.

2. Requiring such plans to meet the requirements of Part 1 of Title I of the Act would subject them to increased costs and to unreasonable administrative burdens with respect to their operation, since the Act imposes upon them reporting and disclosure requirements already required in substance by the LMRDA.

3. Applying Part 1 of Title I of the Act to such plans would be adverse to the interests of its participants and beneficiaries in the aggregate because costs associated with duplicative reporting and disclosure dissipate plan assets without material benefit to participants and beneficiaries. Therefore, these requirements of the Act are inappropriate as applied to dues financed welfare plans, and an alternative method of compliance for dues financed pension plans is warranted.

Section 2520.104a–3. Under paragraph (a) of this section, a plan administrator is required to file a copy of the summary plan description with the Secretary of Labor. The general rule is that a copy of the summary plan description must be filed on or before the last day for furnishing copies of it to plan participants and beneficiaries. Thus, this section merely incorporates by reference the various dates for different classes of plans found in § 2520.104b–2.

The rules for filing copies of multiple summary plan descriptions appear in this section (paragraph (b)). If a plan administrator prepares different summary plan descriptions for different classes of participants within the plan, then a copy of each such summary, plus a list identifying each summary plan description, must be filed with the Secretary.

A new paragraph (c) has been added to the regulation in response to many public requests for a clarification of the application of the summary plan description reporting requirements to "terminated" plans. Whether there is a plan

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so as to require reporting or there is no plan to be reported because of a termination prior to the reporting date must be determined, for reporting and disclosure purposes, on the basis of whether there is a sufficiently active entity remaining after the termination so as to raise the concerns which underlie the reporting and disclosure provisions of the Act. Based on these principles, paragraph (c) establishes separate tests for pension and for welfare plans. For pension plans, the test is whether all participants and beneficiaries have received their appropriate distributions from the plan. So long as there is a concern with the commencement or continuation of benefits to participants or beneficiaries, summary plan description reporting is appropriate. Thus "frozen plans," for example, are required to file summary plan descriptions with the Secretary of Labor. The test for welfare plans is whether an event can occur which will result in a liability of the plan to pay benefits. Under the regulation, the discovery of a claim does not constitute an event.

Section 2520.104b–2. Under paragraph (a) of this section, plan administrators are required to furnish the summary plan description to plan participants and beneficiaries as provided under section 104(b)(1) of the Act. Plan administrators of plans subject to Part 1 of Title I of the Act must furnish a copy of the summary plan description and a statement of ERISA rights as provided in § 2520.102–3(t) to each participant covered under the plan and each pension plan beneficiary receiving benefits under the plan, within 90 days after he or she becomes a participant or a beneficiary receiving benefits, or, if later, within 120 days after the plan becomes subject to Part 1 of Title I.

This section does not carry forward the alternative method of distribution for multiemployer plans of § 2520.104b–2 (b) of the June 9, 1975 proposed regulations. Adequate alternative methods of compliance available to multiemployer plans are provided under § 2520.104b–1 (41 FR 15957, April 23, 1976). That final regulation provides several alternative methods of distribution to participants and beneficiaries (e.g., special insert in a periodical, in-hand delivery at the worksite, third class mail with return requested and forwarding postage guaranteed).

Paragraph (c) provides the deferred disclosure date for plans which comply with the requirements of § 2520.–104–5 and 2520.104–6 (the ERISA Notice procedure).

Of the various comments received regarding paragraph (d), most were directed at the inability of plans to continue to use the Form EBS–1 as the summary plan description, as had been provided under an earlier proposed version of this section. Because the Form EBS–1 has been completely revamped since the earlier proposal, the EBS–1 will no longer serve as a summary plan description device for participants and beneficiaries.

However, because of the deferral of initial reporting and disclosure to May 30, 1976 (under proposed § 2520.104–3), and the reliance provided under the preamble and proposed regulation § 2520.–104a–3 issued on June 9, 1975 (40 FR 25642), some plans have filed an FBS–1 (print date 4/75) as a summary plan description with the Secretary, and have furnished such completed EBS–1's to plan participants and beneficiaries. Paragraph (d) of this regulation therefore provides that if a plan has filed with the Department and disclosed to participants and beneficiaries a Form EBS–1, in reliance upon the proposed regulations of June 9, 1975, such a filing and disclosure will satisfy this regulation.

Under paragraph (e) a second category of plans, those which filed with the Secretary and disclosed to participants and beneficiaries a summary plan description on or before May 30, 1976 and relied upon the filing and disclosure method described in the preamble to the final regulations published in the FEDERAL REGISTER on April 23, 1976 (41 FR 16957) and announced in Departmental press release USDL–76–706, published April 21, 1976, are deemed to have satisfied the requirements for the initial disclosure of the summary plan description under section 104(b)(1)(B) of the Act and § 2520.104b–2 of the final regulations.

A separate requirement to furnish the statement of ERISA rights to participants and beneficiaries is included in subparagraphs (d)(2) and (e)(2). These subparagraphs were not previously proposed and are interim regulations pending adoption of a final rule. Although these plans are deemed to have satisfied the initial summary plan description requirements, they have not furnished a statement of ERISA rights, which is a separate requirement under the Act. There would appear to be no reason why participants in these plans could not be furnished with the statement relatively soon, and early notification of these rights is clearly in the interest of participants. Subparagraphs (d)(2) and (e)(2) establish July 15, 1977 as the date by which the statement must be furnished.

A third category of plans is described in paragraph (f): those which filed with the Secretary and disclosed to participants and beneficiaries a summary plan description on or after September 2, 1974 and before the date of publication of these regulations without reliance upon regulations or other documents issued by the Department but based upon the provisions of the Act (sections 102 and 104 of Title I). Such plans shall be deemed to have satisfied the requirements for disclosure of the initial summary plan description, provided that the plan administrator on or before July 15, 1977 files with the Secretary a supplement to the previously filed summary plan description containing any items of information required by § 2520.102–3 which were not included in the summary plan description. The plan administrator must also furnish copies of such supplement to participants covered under the plan and pension plan beneficiaries receiving benefits under the plan on or before July 15, 1977. The earlier filing and the supplement, viewed together as a unit, must meet the style and format requirements of § 2520.102–2.

Paragraph (f) was not previously proposed and is issued as an interim regulation that will remain in effect, for plans in existence before publication of a final regulation, through July 15, 1977. This regulation is proposed in recognition that a certain number of plans, for valid business and employee relations reasons, have made a good faith effort to comply with the statutory filing and disclosure obligation regarding the summary plan description. Plans which made such filings and disclosure did so in the absence of any assurances by the Department. However, because these plans attempted to comply with the Act and in doing so provided earlier disclosure of summary plan description information to plan participants and beneficiaries, such plans should not be required to incur the costs of duplicating their earlier effort. On the other hand, those summary plan descriptions may not have included all of the information required to be included by these regulations. Paragraph (f) therefore requires these plans to come into full compliance by filing a supplement with the Secretary and disclosing it to plan participants and beneficiaries. The style and format requirements of § 2520.–102–2, except the requirement that benefit restrictions, or a cross-reference to them, must be placed adjacent to the description of benefits may be satisfied by placing a statement in the supplement which references participants to descriptions of benefits and benefit restrictions and describes their relationship.

Several comments indicated that plans should be able to satisfy the filing and disclosure obligations for the summary plan description by updating inserts in a looseleaf binder for those plans which use such systems for disclosure to their participants and beneficiaries. It is the position of the Department that the Act requires the issuance of a complete, new ERISA summary plan description by all plans, notwithstanding the fact that plans have engaged in some form of disclosure before the signing date of ERISA. Therefore, a wholly new set of materials containing the information required by these final regulations must be furnished to plan participants and beneficiaries, even by those plans which use a binder or looseleaf system, in order to meet the summary plan disclosure obligation. Plans that meet the post-ERISA filing and disclosure requirements of paragraph (f) need not reissue and entire set of materials.

A new paragraph (g) is included in this section which parallels § 2520.104a–3(c). The same tests are applied for determining whether a plan has terminated for the purpose of disclosure of the summary plan description, for the same reasons described in the preamble to § 2520.104a–3(c).

Section 2520.104b–3. This section describes the procedures for furnishing participants under the plan and certain beneficiaries receiving benefits under the plan with summaries of material modifications to the plan and changes in information required to be included in the summary plan description.

Paragraph (a) of the regulation generally follows the statutory language of sections 102 and 104b(1) of the Act. The regulation states the requirement that a plan administrator furnish a summary of any material modifications to the plan or change in information required to be included in the summary plan description within 210 days of the close of the plan year in which the modification or change is adopted. This summary must be comprehensive, accurate and written in a manner calculated to be understood by the average plan participant. It should be noted that to the extent that these final regulations effect a material modification or change in information required under section 102 of the Act, a summary of this material modification or change in information must be disclosed within the appropriate period.

The effect of a retroactive material modification is explained. That is, the modification or change is deemed to be adopted on the date made, irrespective of when it is applied.

A new sentence and example have been added to clarify the operation of these rules with respect to amendments which are adopted and which take effect on some future date. Such "prospective" amendments are not uncommon and should be specifically addressed. The rule contained in the new sentence requires disclosure 210 days after the close of the plan year in which the amendment is adopted. However, a material modification or change may be rescinded by the plan before its effective date or otherwise may not take effect. To relieve plans from a requirement that prospective amendments or material modifications which do not take effect be disclosed to plan participants or beneficiaries under section 102(a) of the Act, an exemption is provided for welfare plans under the authority of section 104(a)(3) of the Act, and an alternative method of compliance is provided for pension plans under the authority of section 110 of the Act. The following findings are made under section 110 of the Act with respect to § 2520.104b–3(a) as an alternative method of compliance for pension plans:

1. The alternative is consistent with the purposes of Title I of the Act, and provides adequate disclosure to participants and beneficiaries. Plan participants and beneficiaries will receive all information concerning modifications and changes to the plan which may affect their rights and obligations under the plan.

2. Requiring pension plans to disclose a summary of an amendment or material modification which does not take effect, would result in increased costs to the plan and also subject the plan to an unreasonable administrative burden. In the absence of an alternative, plans would be required to prepare and disclose a summary of material modifications when the plan was prospectively amended, and would be required to prepare and disclose a second summary if the amendment were rescinded or did not take effect for some other reason. Such duplication would be wasteful of plan assets.

3. Requiring pension plans to disclose a summary of an amendment or material modification which does not take effect would be adverse to the interests of plan participants and beneficiaries in the aggregate. The disclosure of a summary of a prospective amendment, and a subsequent disclosure of a withdrawal of that amendment could unnecessarily confuse or mislead some participants.

The regulation also clarifies in paragraph (b) the effect of timely publication of a summary plan description upon the requirement to furnish summaries of material modifications and changes in information required to be in the summary plan description. No separate disclosure is required for modification or changes in plan information which are incorporated in the initial summary plan description. Modifications and changes in plan information which are incorporated in an updated summary plan description are not required to be disclosed separately if the updated summary plan description is furnished prior to the expiration of the disclosure period for the summary of modifications and changes.

In response to comments on the June 9, 1975, proposed regulations, a new subparagraph (c) has been added to enable new plan participants and new beneficiaries receiving benefits to receive previously issued summaries of material modifications to the plan. The furnishing of these previously issued summaries will inform the new participant or beneficiary receiving benefits of material modifications and changes made prior to his or her entrance into the plan, where such changes have not yet been incorporated into a summary plan description or updated summary plan description.

Also, other comments pointed out that plan participants and beneficiaries need not make a request to receive the summary of material modifications. Rather, the plan administrator, under the authority of section 104(b)(1) of the Act, must furnish the summary within 210 days of the close of the plan year in which the modification or change was made. The ambiguous request language was removed from this section.

Section 2520.104b–4 Comments received by the Department of Labor on § 2523.20 of the December 4, 1974 proposed regulations, relating to the obligation to furnish the summary plan description, suggested that the plan administrator of a pension plan should not be required to furnish detailed current information about a plan to retired participants. Specifically, it was suggested that copies of summary plan descriptions, updated summary plan descriptions, and summaries of modifications and changes described in section 102(a)(1) of the Act which do not affect the retiree should not be required if the retiree has previously been furnished a copy of a document describing his or her benefits. The comments pointed out that to require furnishing superfluous and irrelevant plan documents to retirees would not only be wasteful to plans, but also might result in confusion, misunderstandings and uncertainty on the part of the retirees. Since many retirees would seek clarification of these documents from the plan staff, plan administrative burdens and costs would be increased with little or no countervailing benefit to the retirees. Pursuant to these comments, § 2520.104b–4 was included in the proposed regulations published on June 9, 1975.

In response to public comments on the June 9, 1975 proposal, this section has been modified to include participants who separated with a deferred vested benefit ("vested separated participants"). As the comments pointed out, the considerations which led to the establishment of this alternative for retired participants and beneficiaries apply equally to vested separated participants. As a general rule, their rights under the plan are fixed at the time of separation. Also the same problems and potential for confusion exist for this class of participants as for retirees and beneficiaries.

Under the authority of section 110 of the Act, § 2520.104b–4 provides an alternative method of compliance for pension plans in dealing with such participants and beneficiaries. The alternative removes the requirement to furnish to members of the following classes—retired participants, beneficiaries receiving benefits under the plan, and vested separated participants—providing that they have already received copies of the following documents satisfying the summary plan description style, format, and (with certain exceptions) content requirements of §§ 2520.–102–2 and 2520.102–3—copies of summary plan descriptions, updated summary plan descriptions, and summaries of certain material modifications to the plan and certain changes in the information required by section 102 of the Act to be included in the summary plan descriptions. The plan is, however, required to furnish such participants and beneficiaries, on or before July 15, 1977, with a supplement that contains those parts of the information required in a summary plan description that they had not already received.

Under the alternative method, each time the summary plan description or updated summary plan description is published, the retiree, vested separated participant or beneficiary must receive a notice stating that he or she may obtain a copy of it without charge upon request from the plan administrator. The notice must also state that benefit rights of retirees, vested separated participants or beneficiaries are set forth in a summary plan description which was furnished earlier. In addition, if the plan administrator has not furnished the retiree, vested separated participant or beneficiary receiving benefits with information about his or her rights under the Act, whether as a supplementary statement or as a part of a summary plan description, the notice must provide such information. If a person in one of these classes requests a copy of the current summary plan description, the plan administrator must provide it, without charge.

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Summaries of material modifications in the terms of the plan and changes in the information required by section 102(b) of the Act to be included in the summary plan description need not be furnished to retirees, vested separated participants and beneficiaries if these modifications or changes in no way affect the rights of retirees, vested separated participants, or beneficiaries under the plan. As with summary plan descriptions, retirees, vested separated participants, or beneficiaries are entitled to receive copies of material modifications and changes in information, without charge on request.

Pursuant to the requirements of section 110 of the Act, the Secretary makes the following findings with respect to the alternative method of compliance for furnishing pension plan documents to retired participants, vested separated participants and beneficiaries:

(1) The use of this alternative method of compliance is consistent with the purposes of Title I of the Act and provides adequate disclosure to participants and beneficiaries with respect to whom the alternative method may be used. Under the alternative method, only information which is superfluous or irrelevant to such participants and beneficiaries will not be furnished to them, and in any case, they may obtain copies of this information, without charge, upon request.

(2) The application of the requirements of section 104(b)(1) of the Act, relating to the time for furnishing copies of the summary plan description, updated summary plan description, and summary descriptions of material modifications and changes in the information required to be contained in the summary plan descriptions, would increase costs to pension plans and impose unreasonable administrative burdens with respect to the operation of such plans, unnecessary costs associated with printing, handling and mailing superfluous and irrelevant information, and would create unnecessary administrative burdens by causing plan staff to devote time and effort to clearing up the confusion and misunderstanding which this information would occasion.

(3) The application of the provisions of Part 1 of Title I the Act to which an alternative is here provided would be adverse to the interests of plan participants in the aggregate. For retired participants and beneficiaries with respect to whom this alternative method is available, application of Part 1 would engender confusion, misunderstanding and uncertainty.

Accordingly, 29 CFR Part 2520 is amended by adding §§ 2520.102–2, 2520.102–3, 2520.102–4, 2520.104–4, 2520.104–26, 2520.104–27, 2520.104a–3, 2520.104b–2, 2520.104b–3, and 2520.104b–4 to read as follows:

Subpart B—Contents of Plan Descriptions and Summary Plan Descriptions

Sec.
2520.102–2 Style and format of summary plan description.
2520.102–3 Contents of summary plan description.
2520.102–4 Option for different summary plan descriptions.

Subpart D—Provisions Applicable to Both Reporting and Disclosure Requirements

2520.104–4 Alternative method of compliance for certain successor pension plans.
2520.104–26 Limited exemption for certain unfunded dues financed welfare plans maintained by employee organizations.
2520.104–27 Alternative method of compliance for certain unfunded dues financed pension plans maintained by employee organizations.

Subpart E—Reporting Requirements

2520.104a–3 Summary plan description.

Subpart F—Disclosure Requirements

2520.104b–2 Summary plan description.
2520.104b–3 Summary of material modifications to the plan and changes in the information required to be included in the summary plan description.
2520.104b–4 Alternative method of compliance for furnishing pension plan documents to retired participants and their beneficiaries and separated participants with vested benefits.

AUTHORITY: Secs. 101, 102, 104, 105, 109, 110, 111(b)(2), 111(c), 808, Pub. L. 93–406, 88 Stat. 840–1, 847–52, 894 (29 U.S.C. 1021–2, 1024–5, 1029–31, 1135); Secretary of Labor's Order No. 13–76.

Subpart B—Contents of Plan Descriptions and Summary Plan Descriptions

§ 2520.102–2 Style and format of summary plan description.

(a) *Method of presentation.* The summary plan description shall be written in a manner calculated to be understood by the average plan participant and shall be sufficiently comprehensive to apprise the plan's participants and beneficiaries of their rights and obligations under the plan. In fulfilling these requirements, the plan administrator shall exercise considered judgment and discretion by taking into account such factors as the level of comprehension and education of typical participants in the plan and the complexity of the terms of the plan. Consideration of these factors will usually require the limitation or elimination of technical jargon and of long, complex sentences, the use of clarifying examples and illustrations, the use of clear cross-references and a table of contents.

(b) *General format.* The format of the summary plan description must not have the effect of misleading, misinforming or failing to inform participants and beneficiaries. Any description of exception, limitations, reductions, and other restrictions of plan benefits shall not be minimized, rendered obscure or otherwise made to appear unimportant. Such exceptions, limitations, reductions, or restrictions of plan benefits shall be described or summarized in a manner not less prominent than the style, captions, printing type, and prominence used to describe or summarize plan benefits. The advantages and disadvantages of the plan shall be presented without either exaggerating the benefits or minimizing the limitations. The description or summary of restrictive plan provisions need not be disclosed in the summary plan description in close conjunction with the description or summary of benefits, provided that adjacent to the benefit description the page on which the restrictions are described is noted.

(c) *Foreign languages.* In the case of either—

(1) A plan that covers fewer than 100 participants at the beginning of a plan year, and in which 25 percent or more of all plan participants are literate only in the same non-English langauge, or

(2) A plan which covers 100 or more participants at the beginning of the plan year, and in which the lesser of (A) 500 or more participants, or (B) 10% or more of all plan participants are literate only in the same non-English language, so that a summary plan description in English would fail to inform these participants adequately of their rights and obligations under the plan, the plan administrator for such plan shall provide these participants with an English-language summary plan description which prominently displays a notice, in the non-English language common to these participants, offering them assistance. The assistance provided need not involve written materials, but shall be given in the non-English language common to these participants and shall be calculated to provide them with a reasonable opportunity to become informed as to their rights and obligations under the plan. The notice offering assistance contained in the summary plan description shall clearly set forth in the non-English language common to such participants the procedures they must follow in order to obtain such assistance.

Example. Employer A maintains a pension plan which covers 1000 participants. At the beginning of a plan year five hundred of Employer A's covered employees are literate only in Spanish, 101 are literate only in Vietnamese, and the remaining 399 are literate in English. Each of the 1000 employees receives a summary plan description in English, containing an assistance notice in both Spanish and Vietnamese stating the following:

"This booklet contains a summary in English of your plan rights and benefits under Employer A Pension Plan. If you have difficulty understanding any part of this booklet, contact Mr. John Doe, the plan administrator, at his office in Room 122, 456 Main St., Anywhere City, State 20001. Office hours are from 9:30 A.M. to 5:00 P.M. Monday through Friday. You may also call the plan administrator's office at (202) 555–2345 for assistance."

§ 2520.102–3 Contents of summary plan description.

Section 102 of the Act specifies information that must be included in the summary plan description. The summary plan description must accurately reflect the contents of the plans as of a date not earlier than 120 days prior to the date such summary plan description

is disclosed. The following information shall be included in the summary plan description of both employee welfare benefit plans and employee pension benefit plans, except as stated otherwise in paragraph (j) through (n):

(a) The name of the plan, and, if different, the name by which the plan is commonly known by its participants and beneficiaries;

(b) The name and address of—

(1) In the case of a single employer plan, the employer whose employees are covered by the plan,

(2) In the case of a plan maintained by an employee organization for its members, the employee organization that maintains the plan,

(3) In the case of a collectively-bargained plan established or maintained by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, parent or most significant employer of a group of employers all of which contribute to the same plan, or other similar representative of the parties who established or maintain the plan, as well as a statement that a complete list of the employers and employee organizations sponsoring the plan may be obtained by participants and beneficiaries upon written request to the plan administrator, and is available for examination by participants and beneficiaries, as required by §§ 2520.104b–1 and 2520.104b–30; or

(4) In the case of a plan established or maintained by two or more employers, the association, committee, joint board of trustees, parent or most significant employer of a group of employers all of which contribute to the same plan, or other similar representative of the parties who established or maintain the plan, as well as a statement that a complete list of the employers sponsoring the plan may be obtained by participants and beneficiaries upon written request to the plan administrator, and is available for examination by participants and beneficiaries, as required by §§ 2520.104b–1 and 2520.104b–30.

(c) The employer identification number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the plan number assigned by the plan sponsor. (For further detailed explanation, see the instructions to the plan description Form EBS–1 and "Identification Numbers Under ERISA" (Publ. 1004), published jointly by DOL, IRS, and PBGC);

(d) The type of pension or welfare plan, e.g., for pension plans—defined benefit, money purchase, profit sharing, etc., and for welfare plans—hospitalization, disability, pre-paid legal service, etc.;

(e) The type of administration of the plan, e.g., contract administration, insurer administration, etc.;

(f) The name, business address and business telephone number of the plan administrator as that term is defined by section 3(16) of the Act;

(g) The name of the person designated as agent for service of legal process, and the address at which process may be served on such person, and in addition, a statement that service of legal process may be made upon a plan trustee or the plan administrator;

(h) The name, title and address of the principal place of business of each trustee of the plan;

(i) If a plan is maintained pursuant to one or more collective bargaining agreements, a statement that the plan is so maintained, and that a copy of any such agreement may be obtained by participants and beneficiaries upon written request to the plan administrator, and is available for examination by participants and beneficiaries, as required by §§ 2520.104b–1 and 2520.104b–30. For the purpose of this paragraph, a plan is maintained pursuant to a collective bargaining agreement if such agreement controls any duties, rights or benefits under the plan, even though such agreement has been superseded in part for other purposes;

(j) The plan's requirements respecting eligibility for participation and for benefits. The summary plan description shall describe the plan's provisions relating to eligibility to participate in the plan, such as age or years of service requirements, and the items listed in paragraphs (j)(1) or (2) of this section as appropriate:

(1) For employee pension benefit plans, it shall also include a statement describing the plan's normal retirement age, as that term is defined in section 3(24) of the Act, and a statement describing any other conditions which must be met before a participant will be eligible to receive benefits. Such plan benefits shall be described or summarized.

(2) For employee welfare benefit plans, it shall also include a statement of the conditions pertaining to eligibility to receive benefits, and a description or summary of the benefits. In the case of a welfare plan providing extensive schedules of benefits (a medical care plan, for example), only a general description is required if reference is made to detailed schedules of benefits which are available without cost to any participant or beneficiary who so requests;

(k) In the case of an employee pension benefit plan, a statement describing any joint and survivor benefits provided under the plan, including any requirement that an election be made as a condition to select or reject the joint and survivor annuity;

(l) For both pension and welfare benefit plans, a statement clearly identifying circumstances which may result in disqualification, ineligibility, or denial, loss, forfeiture or suspension of any benefits that a participant or beneficiary might otherwise reasonably expect the plan to provide on the basis of the description of benefits required by paragraphs (j) and (k).

(m) For an employee pension benefit plan the following information:

(1) If the benefits of the plan are not insured under Title IV of the Act, a statement of this fact, and the reason for the lack of insurance; and

(2) If the benefits of the plan are insured under Title IV of the Act, there shall be included a statement of this fact, a summary of the pension benefit guaranty provisions of Title IV, and a statement indicating that further information on the provisions of Title IV can be obtained from the plan administrator or the Pension Benefit Guaranty Corporation. The address of the PBGC shall be provided.

(3) A summary plan description will be deemed to have complied with paragraph (m)(2) of this section if it includes the following statement in the summary plan description:

Benefits under this plan are insured by the Pension Benefit Guaranty Corporation (PBGC) if the plan terminates. Generally, the PBGC guarantees most vested normal age retirement benefits, early retirement benefits, and certain disability and survivor's pensions. However, PBGC does not guarantee all types of benefits under covered plans, and the amount of benefit protection is subject to certain limitations.

The PBGC guarantees vested benefits at the level in effect on the date of plan termination. However, if a plan has been in effect less than five years before it terminates, or if benefits have been increased within the five years before plan termination, the whole amount of the plan's vested benefits or the benefit increase may not be guaranteed. In addition, there is a ceiling on the amount of monthly benefit that PBGC guarantees, which is adjusted periodically.

For more information on the PBGC insurance protection and its limitations, ask your Plan Administrator or the PBGC. Inquiries to the PBGC should be addressed to the Office of Communications, PBGC, 2020 K Street NW., Washington, D.C. 20006. The PBGC Office of Communications may also be reached by calling (202) 254–4817.

(n) In the case of an employee pension benefit plan, a description and explanation of the plan provisions for determining years of service for eligibility to participate, vesting, and breaks in service, and years of participation for benefit accrual. The description shall state the service required to accrue full benefits and the manner in which accrual of benefits is prorated for employees failing to complete full service for a year.

(o) In the case of an employee pension benefit plan that will use the "cutback" rule of Internal Revenue Service Revenue Ruling 76–378, IRB 1976–40, October 4, 1976, to make retroactive changes in the vesting or accrual provisions described in the summary plan description, a statement that certain provisions of the plan are subject to amendment which directly or indirectly modifies certain plan rights and benefits, the nature of such modifications, the identification by reference of such plan provisions, and the identification by reference of the portions of the summary plan description where such provisions are described. Such statement may be either printed within the text of the summary plan description or it may be printed in a separate sheet and disclosed together with the summary plan description.

(p) The sources of contributions to the plan—for example, employer, em-

scription of the provisions of, and bene- bers' dues or a certain portion of the (2) In lieu of filing an annual report

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ployee organization, employees—and the method by which the amount of contribution is calculated. Defined benefit pension plans may state without further explanation that the contribution is actuarially determined.

(q) The identity of any funding medium used for the accumulation of assets through which benefits are provided. The summary plan description shall identify any insurance company, trust fund, or any other institution, organization, or entity which maintains a fund on behalf of the plan or through which the plan is funded or benefits are provided;

(r) The date of the end of the year for purposes of maintaining the plan's fiscal records;

(s) The procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part (including procedures required under section 503 of Title I of the Act); and

(t)(1) the statement of ERISA rights described in section 104(c) of the Act, containing the information applicable to the plan included in the model statement of paragraph (t)(2) of this section. Information which is not applicable to the plan is not required to be included. The statement may contain explanatory and descriptive provisions in addition to those prescribed in paragraph (t)(2) of this section. However, the style and format of the statement shall not have the effect of misleading, misinforming or failing to inform participants and beneficiaries of a plan. Any additional explanatory information shall be written in a manner calculated to be understood by the average plan participant, taking into account factors such as the level of comprehension and education of typical participants in the plan and the complexity of the items required under this subparagraph to be included in the statement. Inaccurate or misleading explanatory material will fail to meet the requirements of this section.

(2) A plan administrator who uses the language of the statement set forth below will be deemed to meet the requirements of paragraph (t)(1) of this section. Information which is not applicable to a particular plan may be deleted.

(3) As a participant in (Name of Plan) you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974. ERISA provides that all plan participants shall be entitled to:

(i) Examine, without charge, at the plan administrator's office and at other locations (worksites and union halls), all plan documents, including insurance contracts, collective bargaining agreements and copies of all documents filed by the plan with the U.S. Department of Labor, such as annual reports and plan descriptions.

(ii) Obtain copies of all plan documents and other plan information upon written request to the plan administrator. The administrator may make a reasonable charge for the copies.

(iii) Receive a summary of the plan's annual financial report. The plan administrator is required by law to furnish each participant with a copy of this summary financial report.

(iv) Obtain, once a year, a statement of the total pension benefits accrued and the nonforfeitable (vested) pension benefits (if any) or the earliest date on which benefits will become nonforfeitable (vested). The plan may require a written request for this statement, but it must provide the statement free of charge.

(v) File suit in a federal court, if any materials requested are not received within 30 days of the participant's request, unless the materials were not sent because of matters beyond the control of the administrator. The court may require the plan administrator to pay up to $100 for each day's delay until the materials are received.

(4) In addition to creating rights for plan participants, ERISA imposes obligations upon the persons who are responsible for the operation of the employee benefit plan.

(5) These persons are referred to as "fiduciaries" in the law. Fiduciaries must act solely in the interest of the plan participants and they must exercise prudence in the performance of their plan duties. Fiduciaries who violate ERISA may be removed and required to make good any losses they have caused the plan.

(6) Your employer may not fire you or discriminate against you to prevent you from obtaining a [pension, welfare] benefit or exercising your rights under ERISA.

(7) If you are improperly denied a [pension, welfare] benefit in full or in part, you have a right to file suit in a federal or a state court. If plan fiduciaries are misusing the plan's money, you have a right to file suit in a federal court or request assistance from the U.S. Department of Labor. If you are successful in your lawsuit, the court may, if it so decides, require the other party to pay your legal costs, including attorney's fees.

(8) If you have any questions about this statement or your rights under ERISA, you should contact the plan administrator or the nearest Area Office of the U.S. Labor-Management Service Administration, Department of Labor.

§ 2520.102–4 Option for different summary plan descriptions.

In some cases an employee benefit plan may provide different benefits for various classes of participants and beneficiaries. For example, a plan amendment altering benefits may apply to only those participants who are employees of an employer when the amendment is adopted and to employees who later become participants, but not to participants who no longer are employees when the amendment is adopted. (See § 2520.104b–4). Similarly, a plan may provide for different benefits for participants employed at different plants of the employer, or for different classes of participants in the same plant. In such cases the plan administrator may fulfill the requirement to furnish a summary plan description to participants covered under the plan and beneficiaries receiving benefits under the plan by furnishing to each member of each class of participants and beneficiaries a copy of a summary plan description appropriate to that class. Each summary plan description so prepared shall follow the style and format prescribed in § 2520.102–2, and shall contain all information which is required to be contained in the summary plan description under § 2520.102–3 It may omit information which is not applicable to the class of participants or beneficiaries to which it is furnished. It should also clearly identify on the first page of the text the class of participants and beneficiaries for which it has been prepared and the plan's coverage of other classes. If the classes which the employee benefit plan covers are too numerous to be listed adequately on the first page of the text of the summary plan description, they may be listed elsewhere in the text so long as the first page of the text contains a reference to the page or pages in the text which contain this information. If the plan administrator elects to prepare more than one summary plan description, each such summary plan description shall be filed with the Secretary in the manner provided in § 2520.104a–3(b).

§ 2520.104–4 Alternative method of compliance for certain successor pension plans.

(a) *General.* Under the authority of section 110 of the Act, this section sets forth an alternative method of compliance for certain successor pension plans in which some participants and beneficiaries not only have their rights set out in the plan, but also retain eligibility for certain benefits under the terms of a former plan which has been merged into the successor. Under the alternative method, the plan administrator of the successor plan is not required to describe relevant provisions of merged plans in summary plan descriptions of the successor plan furnished after the merger to that class of participants and beneficiaries still affected by the terms of the merged plans. Also, the plan administrator of the successor plan is not required to file with the Secretary of Labor a copy of the summary plan description of any merged plan.

(b) *Scope and application.* This alternative method of compliance is available only if:

(1) The plan administrator of the successor plan furnishes to the participants covered under the predecessor plan and beneficiaries receiving pension benefits under the predecessor plan within 90 days after the effective date of the merger:

(i) A copy of the most recent summary plan description of the successor plan;

(ii) A copy of any summaries of material modifications to the successor plan not incorporated in the most recent summary plan description; and

(iii) A separate statement containing a brief description of the merger, a description of the provisions of, and benefits provided by, the predecessor and successor plans which are applicable to the participants and beneficiaries of the predecessor plan, and a notice that copies of the predecessor and successor plan documents, as well as the merger documents, are available for inspection and that copies may be obtained upon written request for a duplication charge (pursuant to § 2520.104b–30); and

(2) After the merger, the plan administrator, in all subsequent summary plan descriptions furnished pursuant to § 2520.104b–2(a)(2)—

(i) Clearly and conspicuously identifies the class of participants and beneficiaries affected by the provisions of the merged plan, and

(ii) States the rights of participants and beneficiaries to inspect and copy documents as described in paragraph (b)(1) of this section.

§ 2520.104–26 Limited exemption for certain unfunded dues financed welfare plans maintained by employee organizations.

(a) *Scope.* Under the authority of section 104(a)(3) of the Act, a welfare benefit plan that meets the requirements of paragraph (b) of this section is exempted from the provisions of the Act that require (i) filing with the Secretary a plan description and annual report and (ii) furnishing a summary annual report to participants and beneficiaries. Such plans may use a simplified method of reporting and disclosure to comply with the requirements (i) to furnish a summary plan description to participants and beneficiaries and (ii) to file a copy of the summary plan description with the Secretary, as follows:

(1) In lieu of filing a plan description and a summary plan description with the Secretary,

(i) filing is made under the Labor-Management Reporting and Disclosure Act (LMRDA) and regulations thereunder, of the Report Form LM–1 or LM–1A, together with a copy of the employee organization constitution or by-laws in which the plan is described, and

(ii) filing is made of any document furnished to participants and beneficiaries, in accordance with subparagraph (3).

(2) In lieu of filing an annual report with the Secretary or distributing a summary annual report, a filing is made of Report Form LM–2 or LM–3, pursuant to the LMRDA and regulations thereunder.

(3)(i) The plan meets the requirements for furnishing a summary plan description of § 2520.104b–2(f), except the requirement of subparagraph (1) of that paragraph to have furnished the summary plan description before the date of publication of these regulations. The employee organization constitution or by-laws may be used as the summary plan description, if they meet the requirements of that paragraph.

(ii) Notwithstanding subparagraph (i), if any provisions of such documents indicate that a certain portion of members' dues or a certain portion of the employee organization's assets will be used only for the payment of benefits, although such portion of dues or assets may legally be used for general employee organization purposes, or are subject to the claims of general creditors of the employee organization, such documents may nevertheless be used as the summary plan description *Provided*, That:

(A) The supplement required by § 2520.104b–2(f) contains a clear statement that such portion of dues or assets may legally be used for general employee organization purposes or are subject to the claims of general creditors of the employee organization, and

(B) The employee organization constitution or by-laws are amended as soon as possible following normal procedures (e.g., at the next regularly scheduled employee organization convention, in the case of a constitution or by-laws which provide for amendment in regularly scheduled conventions) to reflect accurately the funded or unfunded status of the plan.

(b) *Application.* This exemption is available only to welfare benefit plans maintained by an employee organization, as that term is defined in section 3(4) of the Act, paid for out of the employee organization's general assets, which are derived wholly or partly from membership dues, and which cover employee organization members and their beneficiaries.

(c) *Limitations.* This exemption does not exempt the administrator from any other requirement of Part 1 of Title I of the Act.

§ 2520.104–27 Alternative method of compliance for certain unfunded dues financed pension plans maintained by employee organizations.

(a) *Scope.* Under the authority of section 110 of the Act, a pension benefit plan that meets the requirements of paragraph (b) of this section is exempted from the provisions of the Act that require (i) filing with the Secretary a plan description and annual report and (ii) furnishing a summary annual report to participants and beneficiaries receiving benefits. Such plans may use a simplified method of reporting and disclosure to comply with the requirements (i) to furnish a summary plan description to participants and beneficiaries receiving benefits and (ii) to file a copy of the summary plan description with the Secretary, as follows:

(1) In lieu of filing a plan description and a summary plan description with the Secretary,

(i) filing is made under the Labor-Management Reporting and Disclosure Act (LMRDA) and regulations thereunder, of the Report Form LM–1 or LM–1A, together with a copy of the employee organization constitution or by-laws in which the plan is described, and

(ii) Filing is made of any document furnished to participants and beneficiaries, in accordance with subparagraph (3).

(2) In lieu of filing an annual report with the Secretary or distributing a summary annual report, a filing is made of Report Form LM–2 or LM–3, pursuant to the LMRDA and regulations thereunder.

(3)(i) The plan meets the requirements for furnishing the summary plan description of § 2520.104b–2(f) except the requirement of subparagraph (1) of that paragraph to have furnished the summary plan description before the date of publication of these regulations. The employee organization constitution or by-laws may be used as the summary plan description, if they meet the requirements of that paragraph.

(ii) Notwithstanding subparagraph (i), if any provisions of such documents indicate that a certain portion of members' dues or a certain portion of the employee organization's assets will be used only for the payment of benefits, although such portion of dues or assets may legally be used for general employee organization purposes, or are subject to the claims of general creditors of the employee organization, such documents may nevertheless be used as the summary plan description *Provided*, That:

(A) The supplement required by § 2520.104b–2(f) contains a clear statement that such portion of dues or assets may legally be used for general employee organization purposes or are subject to the claims of general creditors of the employee organization, and

(B) The employee organization constitution or by-laws are amended as soon as possible following normal procedures (e.g., at the next regularly scheduled employee organization convention, in the case of a constitution or by-laws which provide for amendment in regularly scheduled conventions) to reflect accurately the funded or unfunded status of the plan.

(b) *Application.* This exemption is available only to pension benefit plans maintained by an employee organization, as that term is defined in section 3(4) of the Act, paid for out of the employee organization's general assets, which are derived wholly or partly from membership dues, and which cover employee organization members and their beneficiaries.

(c) *Limitations.* This exemption does not exempt the administrator from any other requirement of Part 1 of Title I of the Act.

Subpart E—Reporting Requirements

§ 2520.104a–3 Summary plan description.

(a) *Filing obligation.* The administrator of a plan subject to the provisions of Part 1 of Title I of the Act shall file with the Secretary of Labor a copy of the summary plan description which is required to be furnished to participants covered under the plan and pension plan beneficiaries receiving benefits under the plan. The copy of the summary plan description shall be filed on or before the last date on which a summary plan description may be furnished to such plan participants and beneficiaries under sec-

(2) In lieu of filing an annual report with the Secretary or distributing a summary annual report, a filing is made of Report Form LM–2 or LM–3, pursuant to the LMRDA and regulations thereunder.

(3)(i) The plan meets the requirements for furnishing the summary plan description of § 2520.104b–2(f) except the requirement of subparagraph (1) of that paragraph to have furnished the summary plan description before the date of publication of these regulations. The employee organization constitution or by-laws may be used as the summary plan description, if they meet the requirements of that paragraph.

(ii) Notwithstanding subparagraph (i), if any provisions of such documents indicate that a certain portion of members' dues or a certain portion of the employee organization's assets will be used only for the payment of benefits, although such portion of dues or assets may legally be used for general employee organization purposes, or are subject to the claims of general creditors of the employee organization, such documents may nevertheless be used as the summary plan description *Provided*, That:

(A) The supplement required by § 2520.104b–2(f) contains a clear statement that such portion of dues or assets may legally be used for general employee organization purposes or are subject to the claims of general creditors of the employee organization, and

(B) The employee organization constitution or by-laws are amended as soon as possible following normal procedures (e.g., at the next regularly scheduled employee organization convention, in the case of a constitution or by-laws which provide for amendment in regularly scheduled conventions) to reflect accurately the funded or unfunded status of the plan.

(b) *Application.* This exemption is available only to pension benefit plans maintained by an employee organization, as that term is defined in section 3(4) of the Act, paid for out of the employee organization's general assets, which are derived wholly or partly from membership dues, and which cover employee organization members and their beneficiaries.

(c) *Limitations.* This exemption does not exempt the administrator from any other requirement of Part 1 of Title I of the Act.

Subpart E—Reporting Requirements

§ 2520.104a–3 Summary plan description.

(a) *Filing obligation.* The administrator of a plan subject to the provisions of Part 1 of Title I of the Act shall file with the Secretary of Labor a copy of the summary plan description which is required to be furnished to participants covered under the plan and pension plan beneficiaries receiving benefits under the plan. The copy of the summary plan description shall be filed on or before the last date on which a summary plan description may be furnished to such plan participants and beneficiaries under sec-

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tion 104(b)(1)(B) of the Act and § 2520.104b–2.

(b) *Filing of multiple summary plan descriptions.* In the case of a plan for which the plan administrator has chosen under § 2520.102–4 to prepare more than one summary plan description, the plan administrator shall file with the Secretary a copy of each such summary plan description and a list identifying each such summary plan description. The name of the plan sponsor and the employer identification number (EIN) assigned to the plan sponsor by the Internal Revenue Service shall appear on the cover page of each summary plan description filed and also on the list of such summary plan descriptions.

(c) *Terminated plans.* (1) If on or before the date by which a plan is required to file a summary plan description or updated summary plan description under this section, the plan has terminated within the meaning of subparagraph (2), such plan is not required to file a summary plan description with the Secretary.

(2) For purposes of this section, a plan shall be considered terminated if:

(i) In the case of an employee pension benefit plan, all distributions to participants and beneficiaries have been completed; and

(ii) In the case of an employee welfare benefit plan, no claims can be incurred which will result in a liability of the plan to pay benefits. A claim is incurred upon the occurrence of the event or condition from which the claim arises (whether or not discovered).

(d) *Filing address.* The summary plan description shall be filed with the Secretary of Labor by mailing it to SPD, Pension and Welfare Benefit Programs, U.S. Department of Labor, 200 Constitution Ave. N.W., Washington, D.C. 20216, or by delivering it during normal working hours to Room N–4635, U.S. Department of Labor, 200 Constitution Ave. N.W., Washington, D.C.

(e) *Alternative requirements for plans subject to the alternative ERISA Notice requirements.* See § 2520.104b–2, and § 2520.104–5 or § 2520.104–6. See § 2510.3–3(d).

Subpart F—Disclosure Requirements

§ 2520.104b–2 Summary plan description.

(a) *Obligation to furnish.* Under the authority of sections 104(b)(1) and 104(c) of the Act, the plan administrator of an employee benefit plan subject to the provisions of Part 1 of Title I shall furnish a copy of the summary plan description and a statement of ERISA rights as provided in § 2520.102–3(t), to each participant covered under the plan (as defined in § 2510.3–3(d)), and each beneficiary receiving benefits under a pension plan on or before the later of:

(1) The date which is 90 days after the employee becomes a participant, or (in the case of a beneficiary receiving benefits under a pension plan) within 90 days after he or she first receives benefits, except as provided in § 2520.104b–4(a), or,

(2) Within 120 days after the plan becomes subject to Part 1 of Title I.

(b) *Periods for furnishing updated summary plan descriptions.* [Reserved]

(c) *Alternative ERISA Notice requirements.* A plan which elected to comply with the alternative ERISA Notice procedure provided in § 2520.104–5 or § 2520.104–6 is not required to furnish a copy of the summary plan description to participants and beneficiaries until the time described in the applicable section, and will be deemed to have satisfied the requirements of section 104(b)(1)(B) of the Act until such time. Thereafter, the requirements of section 104(b)(1)(B) of the Act and this section must be met in full.

(d) *Use of form EBS–1 as summary plan description.* The plan administrator of an employee benefit plan shall be deemed to have satisfied the requirements of section 104(b)(1)(B) of the Act and this section for the initial disclosure of the summary plan description if the plan administrator filed a summary plan description pursuant to proposed § 2520.104a–3(d) of the June 9, 1975, proposed regulations (40 FR 24642); § 2520.104–3 as issued on April 30, 1975 (40 FR 19469; see also 40 FR 20628, May 12, 1975); proposed §§ 2522.40 and 2523.30 as published on December 4, 1974 (39 FR 42241); and the instructions on old form EBS–1 (bearing print date 4/75), and if the plan administrator furnished copies of a complete Form EBS–1 bearing print date 4/75 to participants covered under the plan and beneficiaries receiving benefits under the plan.

(2) Under the authority of section 104(c) of the Act, a plan described in subparagraph (1) shall furnish to participants covered under the plan and beneficiaries receiving benefits under the plan a statement of ERISA rights which complies with § 2520.102–3(t) on or before July 15, 1977.

(e) *Disclosure obligation for plans which filed and disclosed by May 30, 1976 in reliance upon regulations of the Department.* The plan administrator of an employee benefit plan shall be deemed to have satisfied the requirements of section 104(b)(1)(B) of the Act and this section for the initial disclosure of the summary plan description if the plan administrator filed a summary plan description based upon the final regulations published in the FEDERAL REGISTER on August 15, 1975 (40 FR 34526) and on specific sections of the proposed regulations published in the FEDERAL REGISTER on June 9, 1975 (40 FR 24642) in reliance upon the preamble to the final regulations published in the FEDERAL REGISTER on April 23, 1976 (41 FR 16957) and announced in Departmental press release USDL 76–706, published April 21, 1976, and if the plan administrator furnished to participants covered under the plan and pension plan beneficiaries receiving benefits under the plan copies of such summary plan description.

(2) Under the authority of section 104(c) of the Act, a plan described in subparagraph (1) shall furnish to participants covered under the plan and pension plan beneficiaries receiving benefits under the plan a statement of ERISA rights which complies with § 2520.102–3(t) on or before July 15, 1977.

(f) *Disclosure obligation for all other plans which previously filed and disclosed the summary plan description.* (1) This section applies to those employee benefit plans which have filed with the Secretary and disclosed to participants covered under the plan and pension plan beneficiaries receiving benefits under the plan a summary plan description on or after September 2, 1974 and before the date of publication of these regulations and which are not described in paragraphs (d) or (e) of this section.

(2) The plan administrator of an employee benefit plan described in paragraph (f)(1) of this section shall be deemed to have satisfied the requirements of section 104(b)(1)(B) of the Act and this section for the initial disclosure of the summary plan description and the disclosure of the first updated summary plan description if the plan administrator:

(i) Furnishes to participants covered under the plan and pension plan beneficiaries receiving benefits under the plan on or before July 15, 1977 a copy of a supplement to the summary plan description which includes any items of information required by § 2520.102–3 which were not included in the earlier document and which, taken together with the earlier document, meets the style and format requirements of § 2520.102–2. The requirement of § 2520.102–2(b) that benefit restrictions be described or cross referenced adjacent to the description of benefits will deemed satisfied if the supplement contains a statement which references participants to the descriptions of benefits and benefit restrictions in the summary plan description and describes their relationship; and

(ii) Furnishes to participants and beneficiaries a summary plan description which meets the requirements of §§ 2520.102–2 and 2520.102–3 within five years (or ten years) of the date of disclosure described in subparagraph (i).

(g) *Terminated plans.* (1) If, on or before the date by which a plan is required to furnish a summary plan description or updated summary plan description to participants and pension plan beneficiaries under this section, the plan has terminated within the meaning of subparagraph (2), the administrator of such plan is not required to file with the Secretary or to furnish to participants covered under the plan or to beneficiaries receiving benefits under the plan a summary plan description.

(2) For purposes of this section, a plan shall be considered terminated if:

(i) in the case of an employee pension benefit plan, all distributions to participants and beneficiaries have been completed; and

(ii) in the case of an employee welfare benefit plan, no claims can be incurred which will result in a liability of the plan to pay benefits. A claim is incurred upon the occurrence of the event or condition from which the claim arises (whether or not discovered).

(h) *Alternative requirements for plans subject to the alternative ERISA Notice requirements.* See § 2520.104–5 or § 2520.104–6. See § 2510.3–3(d).

(i) *Style and format of the summary plan description.* See § 2520.102–2.

(j) *Contents of the summary plan description.* See § 2520.102–3.

(k) *Option for different summary plan descriptions.* See § 2520.102–4; § 2520.104–26; and § 2520.104–27.

(l) *Employee benefit plan—participant covered under a plan.* See § 2510.3–3(d).

§ 2520.104b–3 Summary of material modifications to the plan and changes in the information required to be included in the summary plan description.

(a) The administrator of an employee benefit plan subject to the provisions of Part 1 of Title I of the Act shall, in accordance with § 2520.104b–1(b), furnish a summary description of any material modification to the plan and any change in the information required by section 102(b) of the Act and § 2520.102–3 of these regulations to be included in the summary plan description to each participant covered under the plan and each beneficiary receiving benefits under the plan. The plan administrator shall furnish this summary, written in a manner calculated to be understood by the average plan participant, not later than 210 days after the close of the plan year in which the modification or change was adopted. This disclosure date is not affected by retroactive application to a prior plan year of an amendment which makes a material modification to the plan; a modification does not occur before it is adopted. For example, a calendar year plan adopts a modification in April, 1978. The modification, by its terms, applies retroactively to the 1977 plan year. A summary description of the material modification is furnished on or before July 29, 1979. A plan which adopts an amendment which makes a material modification to the plan which takes effect on a date in the future must disclose a summary of that modification within 210 days after the close of the plan year in which the modification or change is adopted. Under the authority of sections 104(a)(3) and 110 of the Act, a summary description of a material modification or change is not required to be disclosed if it is rescinded or otherwise does not take effect. For example, a calendar year plan adopts a modification in June, 1978. The modification, by its terms, becomes effective beginning in plan year 1979. Before the beginning of plan year 1979, the prospective modification is withdrawn. No summary of the material modification is required to be disclosed.

(b) The summary of material modifications to the plan or changes in information required to be included in the summary plan description need not be furnished separately if the changes or modifications are described in a timely summary plan description. For example, a calendar year plan adopts a material modification on June 3, 1976. The modification is incorporated in a summary plan description furnished on July 15, 1977. No separate summary of the material modification is furnished. The plan adopts another material modification September 15, 1977. A separate summary of the modification is furnished on or before July 29, 1978.

(c) The copy of the summary plan description furnished in accordance with §§ 2520.104b–2(a)(1)(i) and 2520.104b–4 shall be accompanied by all summaries of material modifications or changes in information required to be included in the summary plan description which have not been incorporated into that summary plan description.

(d) *Alternative requirements for plans subject to the alternative ERISA Notice requirements.* See § 2520.104a–3; § 2520.104b–2 and § 2520.104–5 or 2520.104–6.

(e) *Filing obligation for all other plans which previously filed and disclosed the summary plan description.* See § 2520.104a–3.

§ 2520.104b–4 Alternative method of compliance for furnishing pension plan documents to retired participants and their beneficiaries and separated participants with vested benefits.

Under the authority of section 110 of the Act, in the case of an employee pension benefit plan—

(a) A copy of the summary plan description or updated summary plan description need not be furnished to a retired participant, a beneficiary receiving benefits, or a separated participant with vested benefits ("vested separated participant") within the time prescribed in section 104(b)(1) of the Act and § 2520.104b–2(a) for furnishing the summary plan description, and within the five or ten year periods prescribed for furnishing updated summary plan descriptions in section 104(b)(1) of the Act and § 2520.104b–2(c), if—

(1)(i) Such vested separated participant, beneficiary or retired participant was furnished with a copy of a document which:

(A) Satisfies the requirements of section 102(a)(1) of the Act and § 2520.102–2 (relating to the style and format of the summary plan description) and § 2520.102–3 (relating to the content of the summary plan description);

(B) Describes the rights and obligations under the plan of such vested separated participant, beneficiary or retired participant as of the date stated in subparagraph (ii); and

(C) Was furnished no earlier than the date stated in subparagraph (ii).

(ii) For purposes of subparagraphs (i)(B) and (C), the appropriate dates are: For a vested separated participant, the date of separation; for a beneficiary, the date on which payment of benefits commences, and for a retired participant, the date of retirement.

(iii) In the case of a person who retired, became a beneficiary, or separated with vested benefits before July 15, 1977, a document will be deemed to comply with the requirements of subparagraph (i)(A) of this paragraph if the document omitted only information described in one or more of the provisions of § 2520.102–3 listed below, provided that a supplement containing such information, which meets the requirements of § 2520.102–2, is furnished to the retired participant, beneficiary or vested separated participant on or before July 15, 1977:

(A) Employee identification number (EIN), as required by § 2520.102–2(a);

(B) Type of administration, as required by § 2520.102–2(e);

(C) Name of agent for service of legal process, as required by § 2520.102–2(g);

(D) Names and addresses of trustees, as required by § 2520.102–3(h);

(E) Statement regarding plan termination insurance as required by § 2520.102–3(m);

(F) Date of the end of the fiscal year, as required by § 2520.102–3(r); or

(G) Statement of ERISA rights, as required by § 2520.102–3(t).

(2) No later than the time prescribed in section 104(b)(1) of the Act and § 2520.104b–1(a) for furnishing the summary plan description, and within the five or ten year periods prescribed by section 104(b)(1) of the Act and § 2520.104b–2(c) for furnishing the updated summary plan description, the retired participant, beneficiary receiving benefits under the plan or vested separated participant is furnished a notice containing the following information:

(i) A statement that such participant, beneficiary, or vested separated participant may obtain a copy of the summary plan description or updated summary plan description without charge, upon request, from the plan administrator, and

(ii) A statement that the benefit rights of such participant, beneficiary or vested separated participant are set forth in the earlier summary plan description described in paragraph (a)(1) of this section, and

(3) The plan administrator furnishes a copy of the summary plan description or updated summary plan description to such participant, beneficiary, or vested separated participant without charge, upon request.

(b) A summary description of a material modification to the plan or a change in the information required to be included in the summary plan description need not be furnished to a retired participant, a beneficiary receiving benefits under the plan, or a vested separated participant within the time prescribed in section 104(b)(1) of the Act and § 2520.104b–2 for furnishing summary descriptions of such modifications and changes if the material modification or change in no way affects such participant's, beneficiary's, or vested separated participant's rights under the plan. A change in trustees, for example, is information which such a person may need to know in order to make inquiries about his or her rights expeditiously, and hence must be furnished.

On the other hand, a modification in benefits under the plan to which such

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participant, beneficiary or vested separated participant had not at any time been entitled (and would not in the future be entitled) would not affect his or her rights and hence need not be furnished. If such participant, beneficiary, or vested separated participant requests a copy of a summary description of a material modification or a change which was not furnished, the plan administrator shall furnish the copy, without charge.

Effective date: This regulation shall become effective March 15, 1977.

Signed at Washington, D.C., this 11th day of March, 1977.

J. VERNON BALLARD,
Acting Administrator of Pension and Welfare Benefit Programs.

[FR Doc.77-7637 Filed 3-11-77;10:22 am]

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

Deferral of Summary Plan Description Reporting and Disclosure Requirements

The amendments to §§ 2520.104–5 and 2520.104–6 (29 CFR 2520.104–5 and 2520.104–6) contained in this regulation provide a short additional deferral of the initial summary plan description reporting and disclosure requirements for welfare and pension plans, respectively. Sections 2520.104–5 and 2520.104–6 presently require that welfare plans and certain pension plans file a copy of the summary plan description with the Secretary, and furnish a copy to participants covered under the plan and beneficiaries receiving benefits under a pension plan, not later than March 31, 1977. The amendments to those sections contained in this document defer the filing and disclosure date to July 15, 1977.

These sections have not previously been proposed and are promulgated as final rules under the authority of 5 U.S.C. 553(a)(3)(B) of the Administrative Procedure Act, which permits an agency for good cause to issue a final rule without notice and opportunity for comment if "notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." Pursuant to the requirements of 5 U.S.C. 553(a)(3)(B), a brief statement of reasons supporting a finding of good cause by an agency must accompany the issuance of a final rule without public notice and comment under this section. The following findings are made pursuant to 5 U.S.C. 553(a)(3)(B):

Issuance of a proposal to defer the March 31, 1977 reporting and disclosure deadline for summary plan descriptions would be impracticable because plan administrators must have a reasonable period of time before a due date in which to make preparations for compliance. Previous public comments (see 41 FR 16958) have indicated that the time remaining before the March 31, 1977 date is inadequate. Consequently, only a certain, i.e. final, rule would be effective at this time.

Accordingly, 29 CFR 2520.104–5 and 2520.104–6 are revised as set forth below.

Effective date: This regulation shall become effective March 15, 1977.

Signed at Washington, D.C. this 11th day of March 1977.

J. VERNON BALLARD,
Acting Administrator of Pension and Welfare Benefit Programs.

§ 2520.104–5 Deferral of certain reporting and disclosure requirements relating to the summary plan description for welfare plans.

(a) *General Rule.* Under the authority of section 104(a)(3) of the Act, employee welfare benefit plans described in and meeting the conditions of paragraph (b) may defer certain reporting and disclosure requirements that apply on and after May 30, 1976. These requirements may be deferred until dates that are no earlier than July 15, 1977, as provided in paragraph (c). This deferral is available only to welfare plans that are subject to the provisions of Part 1, Title I on or before December 1, 1976. The requirements that may be deferred include filing a copy of a summary plan description with the Secretary, furnishing a copy of a summary plan description to participants of a plan; filing material modifications to the plan and changes in the information required to be included in the summary plan description with the Secretary; and furnishing a summary description of such modifications or changes to participants of a plan and furnishing a copy of the latest summary plan description to participants and beneficiaries upon written request. Welfare plans which become subject to Part 1 on or after December 2, 1976 but before March 17, 1977 may defer the requirements described in the preceding sentence until the times described in paragraph (c). Such plans are not required to meet the conditions of paragraph (b). Welfare plans which become subject to Part 1 on or after March 17, 1977, shall meet the general reporting and disclosure provisions set forth in Part 1 and regulations issued thereunder.

(b) *Application.* (1) In the case of a welfare plan subject to the provisions of Part 1, Title I of the Act on or before March 2, 1976, the plan administrator may defer until the times specified in paragraph (c) compliance with the following requirements: to file a copy of the summary plan description with the Secretary on or before May 30, 1976, in accordance with section 104(a)(1)(C) of the Act and § 2520.104–3; to furnish a copy of the summary plan description to participants on or before May 30, 1976 in accordance with section 104(b)(1) of the Act and § 2520.104–3; to file with the Secretary material modifications to the plan and changes in the information required to be included in the summary plan description in accordance with section 104(a)(1)(D) of the Act and § 2520.104–3; to furnish a summary description of such modifications and changes to participants in accordance with section 104(b)(1) of the Act and § 2520.104–3; and to furnish a copy of the latest summary plan description to any participant or beneficiary upon written request in accordance with section 104(b)(4) of the Act and § 2520.104–3; if the administrator

(i) Furnishes an ERISA Notice which meets the requirements of § 2520.104b–5 on or before May 30, 1976 to each participant covered under the plan as of March 2, 1976.

(ii) Furnishes an ERISA Notice which meets the requirements of § 2520.104b–5 to each person who becomes a participant covered under the plan after March 2, 1976 and before December 2, 1976, within 90 days after that person becomes a participant covered under the plan and

(iii) Furnishes a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary to whom no copy of the Notice has been previously furnished.

(2) In the case of a welfare plan subject to the provisions of Part 1, Title I of the Act after March 2, 1976 but before December 2, 1976, the plan administrator may defer compliance with the following requirements: to file a copy of the summary plan description with the Secretary within 120 days after becoming subject to Part 1, Title I in accordance with section 104(a)(1)(C) of the Act; to furnish a copy of the summary plan description within 120 days after becoming subject to Part 1, Title I in accordance with section 104(b)(1) of the Act; to file with the Secretary material modifications and changes in the information required to be included in the summary plan description in accordance with section 104(a)(1)(D) of the Act; to furnish a summary description of such modifications and changes to participants in accordance with section 104(b)(1) of the Act; and to furnish a copy of the latest summary plan description to any participant or beneficiary upon request in accordance with section 104(b)(4) of the Act; if the administrator

(i) Furnishes an ERISA Notice which meets the requirements of § 2520.104b–5 within 90 days after the date the plan becomes subject to the provisions of Part 1, Title I, to each person who is a participant covered under the plan on the date the plan becomes subject to the provisions of Part 1, Title I.

(ii) Furnishes an ERISA Notice which meets the requirements of § 2520.104b–5 to each person who becomes a participant covered under the plan after the date on which the plan becomes subject to the provisions of Part 1, Title I and before December 2, 1976, within 90 days after that person becomes a participant covered under the plan, and

(iii) Furnishes a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary to whom no copy of the Notice has been previously furnished.

(3) The administrator of a welfare plan who elects to defer compliance with the statutory requirements described in paragraph (b)(1) or (b)(2) is not required to file with the Secretary a copy of the ERISA Notice furnished to participants; however, such Notice must be filed with the Secretary upon request in accordance with section 104(a)(1) of the Act.

(c) The administrator of a welfare plan who elects to defer compliance with the statutory requirements described in paragraph (b)(1) or (b)(2)

(1) Shall file a copy of the summary plan description with the Secretary on or before July 15, 1977, in accordance with section 104(a)(1)(C) of the Act,

(2) Shall furnish a copy of the summary plan description on or before July 15, 1977 to each participant covered under the plan as of April 16, 1977, in accordance with section 104(b)(1) of the Act,

(3) Shall furnish a copy of the summary plan description to each person who becomes a participant covered under the plan after April 16, 1977 within 90 days after that person becomes a participant covered under the plan, in accordance with section 104(b)(1) of the Act, and

(4) Shall comply with the following provisions on and after July 15, 1977:

(i) Section 104(b)(4) of the Act and § 2520.104b–1, to the extent that they require a plan administrator to furnish a copy of the latest summary plan description to any participant or beneficiary upon written request, and

(ii) The provisions of sections 104(a)(1)(D) and 104(b)(1) of the Act that require filing with the Secretary and furnishing to participants and beneficiaries receiving benefits a summary description of material modifications to the plan and changes in information required to be included in the summary plan description except that no summary description is required to be furnished for material modifications and changes in the information required to be included in the summary plan description if any such modification or change has been incorporated in the initial summary plan description furnished on or before July 15, 1977.

§ 2520.104–6 Deferral of certain reporting and disclosure requirements relating to the summary plan description for pension plans.

(a) *General Rule.* Under the authority of section 110 of the Act, an alternative method of compliance which defers certain reporting and disclosure requirements that apply on and after May 30, 1976 is provided for employee pension benefit plans described in and meeting the conditions of paragraph (b). The alternative method of compliance permits pension plans to defer these requirements until the times set in paragraph (c), and applies only to pension plans subject to the provisions of Part 1, Title I of the Act on or before December 2, 1976. The requirements which may be deferred include filing a copy of the summary plan description with the Secretary, furnishing a copy of the summary plan description to participants and beneficiaries of a plan, filing material modifications and changes in the information required to be included in the summary plan description with the Secretary, furnishing a summary description of such modifications or changes to participants and beneficiaries of a plan, and furnishing a copy of the latest summary plan description upon written request. Pension plans which become subject to Part 1 on or after December 2, 1976 but before March 17, 1977 may defer the requirements described in the preceding sentence until the times described in paragraph (c). Such plans are not required to meet the conditions of paragraph (b). Pension plans which become subject to Part 1 on or after March 17, 1977 shall meet the general reporting and disclosure provisions set forth in Part 1 and regulations issued thereunder.

(b) *Application.* (1) In the case of a pension plan subject to the provisions of Part 1, Title I of the Act on or before March 2, 1976, the plan administrator may defer until the times specified in paragraph (c) compliance with the following requirements: to file a copy of the summary plan description with the Secretary on or before May 30, 1976 in accordance with section 104(a)(1)(c) of the Act and § 2520.104–3; to furnish a copy of the summary plan description to participants and beneficiaries receiving benefits on or before May 30, 1976 in accordance with section 104(a)(1)(C) of Act and § 2520.104–3; to file with the Secretary material modifications and changes in the information required to be included in the summary plan description in accordance with section 104(a)(1)(D) of the Act and § 2520.104–3; to furnish a summary of such modifications and changes to participants and beneficiaries receiving benefits in accordance with section 104(b)(1) of the Act and § 2520.104–3; and to furnish a copy of the latest summary plan description to any participant or beneficiary upon written request in accordance with section 104(b)(4) of the Act; if the administrator:

(i) Furnishes an ERISA Notice which meets the requirements of § 2520.104b–5 on or before May 30, 1976 to each participant covered under the plan and beneficiary receiving benefits as of March 2, 1976,

(ii) Furnishes an ERISA Notice which to each person who becomes a participant covered under the plan or a beneficiary receiving benefits after March 2, 1976 but more than 120 days before the date prescribed in paragraph (c), within 90 days after that person becomes a participant covered under the plan or beneficiary receiving benefits, and

(iii) Furnishes a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary receiving benefits to whom no copy of the Notice has been previously furnished.

(2) In the case of a pension plan subject to the provisions of Part 1, Title I of the Act after March 2, 1976 but before December 2, 1976, the plan administrator may defer compliance with the following requirements: to file a copy of the summary plan description with the Secretary within 120 days after becoming subject to Part 1, Title I in accordance with section 104(a)(1)(C) of the Act; to furnish a copy of the summary plan description to participants and beneficiaries receiving benefits within 120 days after becoming subject to Part 1, Title I in accordance with section 104(b)(1) of the Act; to furnish a summary description of such modifications and changes to participants and beneficiaries receiving benefits in accordance with section 104(b)(1) of the Act; and furnish a copy of the latest summary plan description to any participant or beneficiary upon written request in accordance with section 104(b)(4) of the Act; to file with the Secretary material modifications and changes in the information required to be included in the summary plan description in accordance with section 104(a)(1)(D) of the Act; to furnish a summary description of such modifications and changes to participants and beneficiaries receiving benefits in accordance with section 104(b)(1) of the Act; and to furnish a copy of the latest summary plan description to any participant or beneficiary upon written request in accordance with section 104(b)(4) of the Act; if the administrator

(i) Furnishes an ERISA notice which meets the requirements of § 2520.104b–5 within 90 days after the date the plan becomes subject to the provisions of Part 1, Title I to each person who is a participant covered under the plan or beneficiary receiving benefits on the date the plan becomes subject to the provisions of Part 1, Title I,

(ii) Furnishes an ERISA Notice which meets the requirements of § 2520.104b–5 to each person who becomes a participant covered under the plan or a beneficiary receiving benefits after the date on which the plan becomes subject to the provisions of Part 1, Title I but more than 120 days before the date prescribed in paragraph (c), within 90 days after that person becomes a participant covered under the plan or a beneficiary receiving benefits; and

(iii) Furnishes a copy of the ERISA Notice, without charge, upon request to any participant covered under the plan or beneficiary receiving benefits to whom no copy of the Notice has been previously furnished.

(3) The administrator of a pension plan who elects to defer compliance with the requirements described in paragraph (b)(1) or (b)(2) is not required to file a copy of the ERISA Notice with the Secretary, however, such Notice must be furnished to the Secretary upon request in accordance with section 104(a)(1) of the Act.

(c)(1) The administrator of a pension plan which elects to defer compliance with the statutory requirements described in paragraph (b)(1) or (b)(2),

(i) Which files a request for a determination letter within the period prescribed in section 401(b) of the Internal Revenue Code of 1954 and the regulations issued pursuant thereto, shall comply with the requirements described in

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paragraph (2) on or before, and the requirements described in paragraph (3) on and after, the later of July 15, 1977, or 90 days after the date on which notice of the final determination with respect to the request for a determination letter is issued by the Internal Revenue Service, the request is withdrawn or the request is otherwise finally disposed of.

(ii) Which does not file a request for a determination letter within the period prescribed in section 401(b) of the Internal Revenue Code and the regulations issued pursuant thereto, shall comply with the requirements described in paragraph (2) on or before, and the requirements described in paragraph (3) on and after the later of July 15, 1977 or the close of the period prescribed in section 401(b) of the Internal Revenue Code of 1954 and the regulations issued pursuant thereto.

(2) The following requirements apply on or before the date prescribed in paragraph (1) to a pension plan electing the alternative methods of compliance:

(i) The provisions of section 104(a)(1)(C) of the Act and § 2520.104a–3 that require filing a copy of the summary plan description with the Secretary.

(ii) The provisions of section 104(b)(1) of the Act and § 2520.104b–2 that require furnishing a copy of the summary plan description to individuals who are participants covered under the plan or beneficiaries receiving benefits as of 90 days prior to the date prescribed in paragraph (1) and

(iii) The provisions of section 104(b)(1) of the Act and § 2520.104b–2 that require furnishing a summary plan description to individuals within 90 days after they become participants covered under the plan or beneficiaries receiving benefits, if they attain such status later than 90 days before the date prescribed in paragraph (1).

(3) The following requirements apply on or after the date prescribed in paragraph (1) to a pension plan electing the alternative method of compliance:

i) The Provisions of section 104(b)(4) of the Act and § 2520.104b–1 that require furnishing a copy of the latest summary plan description to any participant or beneficiary upon written request and

(ii) The provisions of sections 104(a)(1)(D) and 104(b)(1) of the Act that require filing with the Secretary, and furnishing to participants and beneficiaries receiving benefits a summary description of material modifications to the plan and changes in information required to be included in the summary plan description, except that no summary description is required to be furnished for material modifications and changes in the information required to be included in the summary plan description if any such modification or change has been incorporated in the initial summary plan description furnished on or before the date prescribed in paragraph (1).

[FR Doc.77–7464 Filed 3–11–77;10:22 am]

federal register

TUESDAY, MARCH 15, 1977

PART III

DEPARTMENT OF LABOR

Employment Standards Administration

■

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

Administration and Procedures

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DEPARTMENT OF LABOR

Employment Standards Administration

[20 CFR Part 702]

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

Administration and Procedures

AGENCY: Department of Labor.

ACTION: Proposed rulemaking.

SUMMARY: This rulemaking is designed to expedite the adjudication of claims under the Act by clarifying the present provisions with respect to applications for fees for services on behalf of claimants, the role of the Deputy Commissioner in informal counferences regarding claims filed under the Act and by establishing new procedures to expedite the handling of cases referred for formal hearing.

Adoption of these provisions will enable the Department to handle more efficiently and expeditiously the increasing number of controverted claims arising under the Act.

Extension consultation has been had with members of the Bar representing the parties to the proceedings under the Act in connection with this proposal.

DATE: Comments due on or before April 14, 1977.

COMMENTS SHOULD BE ADDRESSED TO:

Mr. George M. Lilly, Counsel for Longshore Programs, Office of the Solicitor, Suite N2716, New DOL Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Tel.: 202–523–7651

SUPPLEMENTARY INFORMATION: These revisions are responsive to the demonstrated need to reduce the time lags between the referral of a claim for formal hearing and the filing of the administrative law judge's decision and order. As noted in the General Accounting Office Report entitled "Improvements Needed in Administration of Benefits Program for Injured Workers Under the Longshoreman's and Harbor Workers' Compensation Act," (MND–76–56, dated January 12, 1976), the time lags between referral for hearing to the Office of Administrative Law Judges and issuance of the daministrative law judge decision and order were 190 days in Fiscal Year 1973 and 195 days in 1974. Also, in the "OWCP Task Force Report on the Longshore and Harbor Workers' Compensation Program," released in December, 1976, it was noted that the average time from date of referral to the date of decision was between six and eight months. For the period from October 1, 1976 until February 24, 1977, the average time between referral and decision was slightly over five months. Additionally, numerous complaints were received from members of the bar and others regarding the time lag problem.

These revisions are designed specifically to reduce these time lags and to expedite the adjudication of contested claims. It is anticipated that the deputy commissioner will make every effort to resolve disputed issues informally and no case shall be referred for formal hearing until the deputy commissioner has attempted to resolve such issues and has evaluated all available evidence, including all available medical information. If referral for hearing becomes necessary, the parties are required to submit to the deputy commissioner a Pre-hearing Statement form listing the specific issue(s) in dispute, the witnesses who will testify, the evidence to be offered at the hearing, as well as other pertinent information, all designed to expedite the hearing process. After checking the forms for completeness and after any further conferences he considers warranted, the deputy commissioner forwards the forms and all available medical reports, statements and depositions to the Office of the Chief Administrative Law Judge, thereby initiating the formal hearing procedure. The revisions are designed also to expedite the formal hearing procedure by allowing continuances of scheduled hearings only in cases of extreme hardship, not permitting post hearing briefs except in cases involving novel or unusually difficult issues and then only with the permission or at the request of the administrative law judge, and normally terminating the hearing upon the conclusion of the proceeding at which the evidence is submitted to the administrative law judge without waiting for the transcript of the proceedings to be printed and delivered to the administrative law judge before terminating the hearing.

These revisions were prepared in the Office of the Solicitor, Employee Benefits Division, under the supervision of the Associate Solicitor for Employee Benefits, in cooperation with the Chief Administrative Law Judge.

1. Section 702.132 is revised to read as follows:

§ 702.132 Fees for services.

An attorney or other representative seeking a fee for services performed on behalf of a claimant with respect to claims filed under the Act shall make application therefor to the Deputy Commissioner, Administrative Law Judge, Board, or court before whom the services were performed (see 33 U.S.C. 928(c)). The application shall be filed within the time limits specified by such Deputy Commissioner, Administrative Law Judge, Board, or court. The application shall be supported by a complete statement of the extent and character of the necessary work done. Any fee approved shall be reasonably commensurate with the actual necessary work performed, and shall take into account the capacity in which the representative has appeared, the amount of benefits involved and the financial circumstances of the claimant. No contract for a stipulated fee or for a fee on a contingent basis shall be recognized.

2. Section 702.316 is revised to read as follows:

§ 702.316 Conclusion of conference; no agreement on all matters with respect to the claim.

When it becomes apparent during the course of the informal conference that agreement on all issues cannot be reached, the deputy commissioner shall bring the conference to a close and afterward prepare a memorandum of conference setting forth only the issue or issues in dispute, such pertinent background as any be appropriate thereto, and his recommendations for resolution of the dispute. Copies of this memorandum shall then be sent by certified mail to each of the parties or their representative, who shall then have 14 days in which to signify in writing to the deputy commissioner whether they agree or disagree with his recommendations. If they agree, the deputy commissioner shall proceed as in § 702.315(a). If they disagree (Caution: see § 702.134(b)), then the deputy commissioner may schedule such further conference or conferences as, in his opinion, may bring about agreement or, if he is satisfied that any further conference would be unproductive or if any party has requested a hearing, he shall prepare the case for transfer to the office of the Chief Administrative Law Judge (see § 702.331 et seq.). No such case shall be transferred to the Chief Administrative Law Judge until the deputy commissioner has attempted to resolve all outstanding issues and has evaluated all available evidence, including all available medical information.

3. Section 702.317 is revised to read as follows:

§ 702.317 Preparation and transfer of the case for hearing.

A case is prepared for transfer in the following manner:

(a) The Deputy Commissioner shall furnish each of the parties or their representatives with a copy of a Pre-Hearing Statement form.

(b) Each party shall, within 21 days after receipt of such form, complete it and return it to the Deputy Commissioner and serve copies on each other party. Extensions of time for good cause shown may be granted by the Deputy Commissioner.

(c) Upon receipt of the completed forms the Deputy Commissioner, after checking them for completeness and after any further conferences as, in his opinion, are warranted, shall forward them to the Office of the Chief Administrative Law Judge by letter of transmittal together with all available medical reports, statements and depositions (exclusive of X-rays, slides and other materials not suitable for mailing which may be offered into evidence at the time of hearing).

(d) If the completed Pre-Hearing Statements raised new or additional issues not previously considered by the Deputy Commissioner or indicate that new medical or other evidence will be submitted or that additional medical examinations are indicated, the Deputy

Commissioner shall, in conformance with § 702.316, transfer the case to the Office of Administrative Law Judges only after having considered all outstanding issues and only after having evaluated all available medical reports and other relevant evidence in conformance with § 702.136. A case shall not be considered ready for transmittal unless all necessary medical reports and other documents which a party intends to offer at the hearing are filed with and have been fully considered by the Deputy Commissioner.

(e) If it comes to the attention of the Deputy Commissioner that any party is deliberately procrastinating and delaying the filing of his Pre-Hearing Statement, the Deputy Commissioner may, at his discretion, transmit the case without that party's Pre-Hearing Statement. However, such transmittal shall include a statement from the Deputy Commissioner setting forth the circumstances causing the failure to include the Pre-Hearing Statement and such party's failure to submit a Pre-Hearing Statement may be considered by the Administrative Law Judge in subsequent rulings on motions which may be made in the course of formal hearing.

4. Section 702.331 is revised to read as follows:

§ 702.331 Formal hearings; procedure initiating.

Formal hearings are initiated by transmitting to the Office of the Chief Administrative Law Judge the Pre-Hearing Statements, the medical evidence and the letter of transmittal from the deputy commissioner as provided in §§ 702.316 and 702.317.

5. Section 702.335 is revised to read as follows:

§ 702.335 Formal hearings; notice.

The Office of the Chief Administrative Law Judge shall notify, on a form prescribed for this purpose, the parties (see § 702.333) of the scheduling of a formal hearing not less than 10 days in advance thereof.

6. Section 702.336 is revised to read as follows:

§ 702.336 Formal hearings; new issues.

(a) If, during the course of the formal hearing, the evidence presented warrants consideration of an issue not previously considered, the hearing may be expanded to include such new issue. If in the opinion of the Administrative Law Judge such new issue requires additional time for preparation, the parties shall be given a reasonable time in which to prepare for such new issue. At the request of either party or on his own motion, the Administrative Law Judge may remand the entire case to the Deputy Commissioner for his consideration and resolution if such new evidence had not been previously considered by the Deputy Commissioner and in the opinion of the Administrative Law Judge the consideration of such new issue by the Deputy Commissioner may resolve the issue without the necessity of a formal hearing. The Administrative Law Judge may consult with the Deputy Commissioner regarding the advisability of such remand.

7. Section 702.337 is revised to read as follows:

§ 702.337 Formal hearings; change of time or place for hearing; postponements.

(a) Except for good cause shown, hearings shall be held at convenient locations not more than 75 miles from the claimant's residence.

(b) Once a formal hearing has been scheduled, continuances shall not be granted except in cases of extreme hardship. Requests for Continuances must be received by the Chief Administrative Law Judge at least 5 days before the scheduled hearing date, unless the ground for the request arises thereafter; must be served on other parties; and must specify the extreme hardship claimed.

(c) The Chief Administrative Law Judge or the Administrative Law Judge assigned to the case may change the time and place for the hearing, or temporarily adjourn a hearing, on his own motion or for good cause shown by a party. The parties shall be given not less than 10 days' notice of the new time and place of the hearing, unless the parties agree to such change without notice.

8. Section 702.341 is revised to read as follows:

§ 702.341 Formal hearings; depositions; interrogatories.

The testimony of any party or witness may be taken by deposition or interrogatory according to the rules of practice of the Federal District Court for the judicial district in which the case is pending. However, such depositions must be completed within reasonable times to be fixed by the Chief Administrative Law Judge or Administrative Law Judge.

9. Section 702.343 is revised to read as follows:

§ 702.343 Formal hearings; oral argument and written allegations.

The parties, upon their request, shall be allowed a reasonable time for the presentation of oral argument and shall be permitted to file pre-hearing briefs or other written statements of allegations as to facts or law. Copies of such pre-hearing brief or other written statement shall be filed with the Chief Administrative Law Judge or Administrative Law Judge before or during the hearing and must be served on all parties in interest by the party submitting the statement. Post-hearing briefs will be permitted only in cases involving novel or unusually difficult legal or factual issues and only with the permission or at the request of the Administrative Law Judge. Enlargements of time for filing post-hearing briefs will be granted only for good cause shown. Delay in the receipt of transcripts shall not ordinarily constitute good cause for granting enlargements of time for filing post-hearing briefs.

10. Section 702.347 is revised to read as follows:

§ 702.347 Formal hearings: termination.

(a) Formal hearings are normally terminated upon the conclusion of the proceeding at which the evidence is submitted to the Administrative Law Judge.

(b) In exceptional cases the Chief Administrative Law Judge or the Administrative Law Judge may, in his discretion, extend the time for official termination of the hearing.

(33 U.S.C. 939.)

Dated: March 9th, 1977.

RAY MARSHALL,
Secretary of Labor.

[FR Doc.77–7463 Filed 3–14–77;8:45 am]

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TUESDAY, MARCH 15, 1977
PART IV

DEPARTMENT OF LABOR

Office of the Secretary

■

PUBLIC JOBS PROGRAM UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT (CETA)

Proposed Rulemaking

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DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Parts 94, 95, 98, 99]

PUBLIC JOBS PROGRAM UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT ("CETA")

Notice of Proposed Rulemaking

AGENCY: Department of Labor.

ACTION: Proposed rules.

SUMMARY: This document proposes to amend the Comprehensive Employment and Training Act of 1973 (CETA) regulations in 29 CFR Parts 94, 95, 98, and 99. The proposed changes relate primarily to the public jobs program under Title VI of CETA.

The Emergency Jobs Programs Extension Act of 1976 amended Title VI of CETA by adding Secs. 607, 608 and 609. The Title VI program was divided into two separate programs as follows:

(1) Sec. 607 required prime sponsors to continue the old Title VI public service employment program by reserving enough funds to sustain throughout Fiscal Year 1977 the number of Title II and Title VI public service job participants who were in the program on June 30, 1976. The total number of old Title VI public service job slots which a prime sponsor may sustain through FY 1977 are referred to in these regulations as the "Title VI level of sustainment." Sec. 607 also required prime sponsors to fill at least 50 percent of the slots which become vacant in the Title VI level of sustainment with low-income welfare (AFDC) recipients and long-term unemployed persons.

(2) Secs. 607–609 created a second Title VI program by requiring prime sponsors to use all remaining Title VI funds to run "projects" in which only low-income long-term unemployed and AFDC recipients would be eligible to participate.

The Department of Labor published final regulations implementing the Emergency Jobs Programs Extension Act of 1976 on December 10, 1976 (41 FR 54066). To correct typographical and compilation errors, the Department republished the final regulations on January 11, 1977 (42 FR 2425). Those regulations stated at 29 CFR 99.1(k):

> (k) Although the Emergency Jobs Programs Extension Act of 1976 authorizes the funding of projects for the long-term unemployed and for AFDC recipients, Congress at the present time has appropriated by a continuing resolution only the amount of money which it believed would be enough to maintain the number of public service jobs which were filled on June 30, 1976. Consequently, it is not expected that there will be much money available for projects at this time. Therefore, these regulations at § 99.40 (b) allow a simplified administrative system for calculating the number of long-term unemployed and AFDC recipients who are hired into the program. Because of the current lack of appropriations for projects and because the principal intent of the Emergency Jobs Programs Extension Act is to sustain the public service jobs programs, § 99.40 (a) allows prime sponsors to carry into the new grant period the number of participants on board on October 31, 1976, if that number is higher than the June 30, 1976 level. Should additional funds become available for Title VI, these regulations will be revised accordingly.

The Department anticipates that Congress will soon appropriate a substantial amount of new money for the Title VI program. Under section 607 of the Act virtually all the new money must be used to fund "projects" for low-income AFDC recipients and long-term unemployed, that is, it must be used for the "new" Title VI program. The principal purpose of this proposed rulemaking document, therefore, is to further implement the amendments made to Title VI by the Emergency Jobs Program Extension Act of 1976 by providing additional guidance to prime sponsors for the operation and administration of the "projects" which were authorized by the amendments.

SUMMARY OF PROPOSED CHANGES

1. In § 94.4, Definitions, the following additions and changes are proposed:

(a) In paragraph (ooo), the definition for "project" would be amended. The present definition requires that projects be limited to a duration of twelve months or less. The new definition proposed in this document further clarifies the scope and purpose of projects by requiring them to result in a specific product or accomplishment, and by requiring them to be program activities which would not otherwise be accomplished with existing funds. The new definition would clarify that the term "project" is synonymous with the term "project and activity" used in sections 607–9 of the Act.

(b) A new paragraph (rrr) would define an "exhaustee" of unemployment compensation. The new definition is needed because low-income exhaustees of unemployment compensation are one class of the long-term unemployed who are eligible for participation in projects under Title VI.

(c) A new paragraph (sss) would define the term "Ineligible for Unemployment Compensation." This definition is needed because low-income persons who are ineligible for unemployment compensation and who have been unemployed for fifteen weeks or more are eligible for participation in projects.

(d) A new paragraph (ttt) would define "level of sustainment" as the number of Title II and Title VI slots which the prime sponsor may sustain throughout FY 1977, that is, as the number of slots which the Title II and Title VI programs contained on June 30, 1976, or on October 31, 1976, whichever was higher. The paragraph would also define the "Title VI level of sustainment" as the number of Title VI slots in the level of sustainment.

2. In § 95.33, Types of manpower activities allowable, the requirement in paragraph (d)(5)(iii)(B) that day care programs funded under CETA meet Federal Interagency Day Care Standards would be deleted. The Department has learned that many prime sponsors are finding it extremely difficult to comply with the standards.

3. In § 98.12, Allowable federal costs, paragraph (b)(3) has been expanded to permit the participation of CETA participants in the winterization/weatherization projects of specified Federal agencies.

4. Section 98.25, Retirement programs, is proposed to be revised. The present regulation contains provisions which allow CETA funds to be used for a retirement program whenever CETA participants are required by State or local law to be included in the retirement program or whenever the retirement plan is a consolidated package which requires the participation of the CETA participants. The Department, however, has learned that a large amount of CETA money has been used for retirement programs in cases in which the CETA participants are not employed long enough to benefit from the retirement program. The Department, therefore, is proposing to revise the regulation to ensure that CETA funds paid into retirement funds accrue to the benefit of CETA participants. The regulation would be revised to state that CETA funds may be paid into a retirement system only on behalf of those participants in on-the-job training, work experience and public service employment in public or private non-profit agencies who:

(1) Obtain unsubsidized employment with the employer, provided the time spent as a CETA participant is accredited service under the retirement plan;

(2) Obtain unsubsidized employment with another employer provided benefits are portable; or

(3) Obtain vesting.

The proposed regulation provides examples of methods (both actuarial and non-actuarial) for administering such a system for such CETA participants.

5. Section 99.1, *Scope and purpose of this Part 99*, would be revised as follows:

(a) Paragraph (b) would be reworded to emphasize that Title VI funds not needed to support participants in the Title VI level of sustainment must be used to create new projects.

(b) Paragraph (c) would be revised to state that the Title VI program is shifting its emphasis toward serving persons who are long-term unemployed or AFDC recipients and whose family incomes are 70 percent or less of the lower living standard income level (in new Title VI projects). It would also include the requirement, specified in the Emergency Jobs Programs Extension Act of 1976, that at least 50 percent of the vacancies which occur or already exist in the Title VI level of sustainment (old Title VI program) be filled with the long-term unemployed and AFDC recipients whose family incomes are 70 percent or less of the lower living standard income level.

(c) Paragraphs (d), (e), (f), (g), (h), and (i), are proposed to be deleted because their relevant substantive provisions are repeated in the body of the regulations.

(d) The Secretary of Labor has expressed the desire for a national goal for the Department of Labor of 35 percent for veteran participation in the newly created public service employment jobs under Title II and Title VI of CETA. Although the Secretary has not imposed any goals with respect to the Title VI program or on individual Title VI prime sponsors, a new paragraph (e) would encourage prime sponsors to develop, to the maximum extent feasible, ways of assuring the participation of veterans in the newly created public service employment positions.

(e) New paragraph (f) would require prime sponsors to equitably serve the segments of their unemployed populations.

(f) Paragraph (j) is relettered as (d), and paragraph (i) is edited, divided, and relettered as paragraphs (g) and (h).

6. Section 99.12, *Content and description of grant application*, has been broken down into five separate sections, 99.12–16, in order to make reading and comprehension easier.

7. In the new § 99.14:

(a) The Project Data Summary would be added to the contents of the Comprehensive Title VI Plan. In the Project Data Summary a prime sponsor would be required to describe how it plans to use Title VI project funds.

(b) A new paragraph (b)(3)(i)(B) would be added requiring prime sponsors to identify the level of enrollment in the CETA Titles II and VI programs in its jurisdiction at time of grant execution, if that level is higher than the level of sustainment. The eligible applicant would also be required to explain what will be done with these excess participants.

(c) A new paragraph (b)(3)(i)(E) would be added requiring identification of the number of Title VI participants in the Title VI level of sustainment.

(d) Paragraph (b)(3)(xi) has been added to require documentation on the prime sponsor's efforts on behalf of veterans.

(e) A new paragraph (g) would be added, describing the new "Project Data Summary," which is a description of each proposed new project.

(f) Paragraph (h) would stipulate that the information required by the new Project Data Summary need not be provided in the Program Summary. The Program Summary is that part of the Comprehensive Title VI Plan which describes the number and distribution of jobs and training slots, the funds which the prime sponsor plans to use for itself and its subgrantees, and its planned distribution of jobs, training slots and funds by area, population, and employing agency.

8. Section 99.33, Public service job activities, would be retitled "Public service job activities in the Title VI level of sustainment" to clarify that the requirements set forth in this section apply only to public service jobs in the Title VI level of sustainment.

9. In § 99.40, Apportionment of the prime sponsor's allocation:

(a) A new paragraph (a)(1)(iv) would be added. It would allow a prime sponsor to transfer participants enrolled in excess of its Title VI level of sustainment as of the date of grant execution into projects and into CETA programs under other Titles of the Act provided the participants meet the applicable eligibility criteria.

(b) Paragraph (b)(1) would be revised to more clearly state the requirement, found in Section 607 of the Act, that prime sponsors hire low-income AFDC recipients and the long-term unemployed into approximately 50 percent of the slots in the Title VI level of sustainment which become vacant.

(c) Paragraph (b)(2) would be changed to indicate that vacancies not required to be filled by low-income AFDC recipients and the long-term unemployed shall be filled by participants who meet the eligibility criteria for the old Title VI program.

(d) Paragraphs (b)(2)(i) and (ii), and (b)(3) would be eliminated and requirements contained therein would be incorporated into new paragraphs (b)(3), (4) and (5).

(e) Paragraph (b)(4) would be renumbered as (b)(6).

10. In § 99.41, Project approval, in paragraph (a), the wording in the first sentence would be modified to allow prime sponsors to conduct manpower activities such as on-the-job training as part of a public service employment project.

11. In § 99.42, Eligibility for participation in Title VI programs, the eligibility requirements contained in paragraphs (a)(1)(i), (ii) and (iii) would be clarified to insure that all long-term unemployed individuals intended by the Congress to be served will be considered eligible for participation. The proposed amendments would include:

(a) Paragraph (a)(1)(i) would require that long-term unemployed individuals, who are applying for participation in a CETA Title VI program as unemployed compensation recipients, must have been receiving such compensation at the time of Title VI application for 15 or more weeks uninterrupted by any period of employment. This clarification is needed because the present regulation does not focus on the time of application nor does it speak to the receipt of unemployment compensation which is interrupted by a period of employment.

(b) Paragraph (a)(1)(ii) would clarify that a long-term unemployed individual who is ineligible for unemployment compensation and has been unemployed for 15 or more weeks is eligible provided, for the reason set out in the paragraph above, that the unemployment has been for the 15 or more weeks immediately before the time of application and that it has been uninterrupted by a period of employment. For purposes of paragraph (a)(1)(ii), a "period of employment" would be defined as work lasting over 10 hours or earning over $30 in any calendar week so that persons who work for 10 hours or less or earn less than $30 in any calendar week will be able to participate.

(c) Paragraph (a)(1)(iii) would provide that an individual who, at the time of application, is unemployed, and who is an exhaustee of all unemployment benefits to which the individual is entitled, may be eligible.

(d) In paragraph (a)(2)(i) the terms "welfare payments" and "public payments" would both be changed to "public assistance payments." This change is being made because prime sponsors found the terms confusing, and because the Department meant those terms to mean "public assistance" payments, a term which is defined in § 94.4(ss). Further, the word "family" previously published in the regulation indicating that public assistance payments to the family are to be included for purposes of determining family income would be changed to the word "individual" to precisely reflect the language of the statute.

(e) A new paragraph (a)(5) would be added to indicate that a veteran shall be immediately eligible, upon discharge, without regard to the 15 weeks of unemployment requirement, provided the veteran has not obtained permanent, full time unsubsidized employment between the time of discharge and the time of application for Title VI. This provision is required by 38 U.S.C. 2013 which requires that time spent on active duty be disregarded in determining a newly discharged veteran's eligibility for federally funded manpower programs.

12. In § 99.43, Verification of participant eligibility, several changes would be made to clarify the roles and responsibilities of those involved in the verification of participant eligibility and to facilitate the rapid implementation of the program. Specifically:

(a) In paragraph (a), the following phrase would be added at the end of the third sentence: "except as provided in paragraphs (b) and (c)(3) below." The last sentence of this paragraph would be moved to become the introductory sentence of a new paragraph (c). Paragraphs (a)(1) and (2) would be relettered as (c)(1) and (2) of the new paragraph (c).

(b) Paragraph (b) would be relettered as (d). A new paragraph (b) would be inserted allowing a prime sponsor to enroll, without prior verification and without being subject to a disallowance of funds, applicants who attest to their eligibility, provided that within 60 days of enrollment the prime sponsor obtains written verification of their eligibility and immediately terminates any participants found to be ineligible. This change would facilitate the rapid implementation of the program.

(c) A new paragraph (c)(3) would be added indicating that, if a prime sponsor's grant describes arrangements in accordance with which other agencies will verify participant eligibility, the prime sponsor shall not be responsible for the accuracy of such verifications, nor shall it be subject to disallowance of funds because of its reliance on such agencies should the verifications supplied by the agencies prove inaccurate.

13. A sentence would be added to § 99.72(b) to allow the Secretary, during the phase-in and phase-down periods of the program, to require information on a more frequent basis than it is currently

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obtained through the Program Status and Monthly Reports. This should aid in effectively administering Title VI during phase-in and phase-down periods.

14. Several other minor, editorial and clarifying changes are proposed to be made.

OPERATIONAL CONSIDERATIONS

In view of the current high levels of unemployment, prime sponsors are strongly encouraged to make every effort to achieve 75 percent of the anticipated program expansion by June 30, 1977.

DATES: Comments on the proposed rulemaking are due on or before April 14, 1977.

ADDRESSES: Comments should be addressed to the Assistant Secretary for Employment and Training, United States Department of Labor, 6th and D Streets, NW., Washington, D.C. 20213. Attention: Pierce A. Quinlan, Director, Office of Comprehensive Employment Development.

FOR FURTHER INFORMATION CONTACT:

Mr. Pierce A. Quinlan, (202) 376-6254.

Parts 94, 95, 98, and 99 of Title 29, of the Code of Federal Regulations are proposed to be amended as follows:

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

1. Section 94.4, Definitions, is proposed to be amended by revising paragraphs (ooo) and (ppp), and adding paragraphs (rrr), (sss), and (ttt) to read as follows:

§ 94.4 Definitions.

* * * * *

(ooo) "Project" shall mean, for purposes of Part 99 of this Title (except for § 99.33 of this Title), the same thing as the term "project and activity" used in Sections 607-9 of the Act, that is, "project" shall mean a definable task or group of related tasks which:

(1) Will be completed within a definable time period, not exceeding one year;

(2) Will have a public service objecjective;

(3) Will result in a specific product or accomplishment; and

(4) Would otherwise not be done with the project and activities applicant's existing funds.

(ppp) "Project applicant" shall mean:

(1) A State;

(2) A State agency;

(3) A unit of general local government;

(4) An agency of a unit of general local government;

(5) A combination or association of units of general local government the primary purpose of which is to assist the governmental units to provide public services;

(6) A special purpose political subdivision having the power to levy taxes and spend funds within an area served by one or more units of general local government;

(7) A local education agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965;

(8) An institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965;

(9) A community based organization as defined in paragraph (k) of this section;

(10) A community development corporation;

(11) A nonprofit group or organization serving Indians or Native Hawaiians; or

(12) A private non-profit organization or institution engaged in public service.

* * * * *

(rrr) "Exhaustee" shall mean an individual who has made a claim for unemployment compensation and has exhausted all such benefits to which the individual was entitled including Extended Benefits (EB), Federal Supplemental Benefits (FSB), Disaster Unemployment Assistance (DUA), Trade Readjustment Allowance (TRA), Special Unemployment Assistance (SUA), Unemployment Compensation for Federal Employees (UCFE), and/or Unemployment Compensation for Exservicemen (UCX). Exhaustee status will continue through the existing regular benefit year, at which time a new claim may be filed creating a new status of eligible or ineligible for unemployment compensation.

(sss) "Ineligible for unemployment compensation" shall mean the status of an individual:

(1) Who, based on a wage finding transcript obtained from a State unemployment compensation office, is monetarily ineligible for unemployment compensation, including SUA, DUA, and TRA.

(ttt) "Level of sustainment" shall mean, the number of Title II and Title VI slots which the prime sponsor may sustain throughout FY 1977, that is, the number of slots which the program contained on June 30, 1976, or on October 31, 1976, whichever was higher. The "Title VI level of sustainment" shall mean the number of Title VI slots in the level of sustainment.

PART 95—PROGRAMS UNDER TITLE I OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

2. Section 95.33(d)(5)(iii)(B) is revised to read as follows:

§ 95.33 Types of manpower activities allowable.

* * * * *

(d) * * *

(5) * * *

(iii) * * *

(B) Child care: Day care programs shall comply with applicable State and local standards, including State licensing requirements.

3. Section 95.34 is amended by renumbering paragraph (f) as (f)(1) and by renumbering paragraph (f)(1) as (f)(2) to read as follows:

§ 95.34 Training allowances.

* * * * *

(f) (1) Dependents allowances. Dependents allowances of $5 per week for each dependent over two, up to a maximum of four additional dependents, for a total maximum of $20 for six or more dependents shall be provided to participants receiving basic allowances or who would be receiving basic allowances were it not for their receipt of unemployment compensation payments. Participants eligible for dependents allowances from other sources shall not be precluded from receiving dependents allowances funded under the Act.

(2) Dependents allowances shall be reduced pro rata only for absences without good cause. The reduction of the weekly dependents allowance shall be based on the ratio of the number of hours of absence without good cause to the number of hours which the individual is scheduled to participate in activities for which he/she receives allowances.

* * * * *

PART 98—ADMINISTRATIVE PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

4. Section 98.12 is amended by adding the following sentence at the end of paragraph (b)(3).

§ 98.12 Allowable Federal costs.

* * * * *

(b) * * *

(3) * * * Participants, however, may participate in the winterization/weatherization of privately owned rental housing under projects funded and approved by the Federal Energy Administration or the Community Services Administration, (704(f).)

* * * * *

5. Section 98.25 is revised to read as follows:

§ 98.25 Retirement programs.

(a) The Act provides for temporary training and employment. Therefore, the inclusion of CETA participants in a retirement system is not encouraged. Funds under the Act, however, may be paid into a retirement system on behalf of participants in on-the-job training, work experience and public service employment in public or private non-profit agencies who:

(1) Obtain unsubsidized employment with the employer, provided the time spent as a CETA participant is accredited service under the employer's retirement plan;

(2) Obtain unsubsidized employment with another employer provided benefits are portable; or

(3) Obtain vesting.

(b) Examples of methods of administering such retirement system accounts are as follows:

(1) Payments are made first into a reserve account and are not paid into the retirement fund until the participant obtains a status described in paragraphs (a) (1) through (3) to this section. The amount held in the reserve account is then adjusted quarterly to reflect the turnover of participants and the projected funds needed to cover current participants; or

(2) Payments are made first into a reserve account for the actuarily determined number of participants who can be expected to obtain a status described in paragraphs (a) (1) through (3) of this section, and the payments are not paid into the retirement fund until the participants obtain that status. If this method is used, the amount held in the reserve account and the actuarial rate shall be adjusted or determined at least annually; or

(3) Payments are made directly into the retirement fund for the actuarily determined number of participants who can be expected to obtain a status described in paragraphs (a) (1) through (3) of this section. The amount held in the fund shall be adjusted or redetermined at least quarterly to reflect the actual number of participants who have acquired a status described in paragraph (a) (1) through (3) of this section. If this method is used, the amount of accumulated principal and interest earned on contributions made on behalf of participants not described in paragraphs (a) (1) through (3) of this section who terminate their program participation or who, for whatever reason, are no longer considered members in the retirement program must be retrievable.

(c)(1) If other than an actuarial method of benefit determination is used, there shall be at least a quarterly reprogramming back into the CETA program of any contributions (principal and interest) made on behalf of participants not described in paragraphs (a) (1) through (3) of this section who terminate their program participation, or who, for whatever reason, are no longer considered members in the retirement program.

(2) If an actuarial method is used in determining the number of participants who will benefit, a redetermination of the actuarial rate shall be made at least annually.

(3) Funds set aside in a reserve account may earn interest. Any interest earned shall be retained in the reserve account and shall be taken into consideration during reprogramming. Any interest earned on what may reasonably be determined to be a participant's portion of the reserve fund account may also be paid into the retirement fund when the participant obtains a status described in paragraphs (a) (1) through (3) of this section.

(d) Expenditures may be made from program funds for taxes under the Federal Insurance Contributions Act (FICA), 26 U.S.C. §§ 3101 et seq.

6. Part 99 is revised to read as follows:

PART 99—PROGRAMS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—General

Sec.
99.1 Scope and purpose of this Part 99.
99.2 Allocation of funds.
99.3 Eligibility for funds.

Subpart B—Grant Application

99.10 General.
99.11 Planning process; advisory councils.
99.12 Content and description of grant application.
99.13 Application for Federal assistance.
99.14 Comprehensive Title VI plan.
99.15 Assurances and certifications.
99.16 Grant signature sheet.
99.17 Comment and publication procedures relating to submission of grant application.
99.18 Submission of grant application; standards for reviewing grant applications.
99.19 Application approval; application disapproval; grant agreement.
99.20 Use of alternative eligible applicant; services by the Secretary.
99.21 Modifications.

Subpart C—Program Operation Requirements for Prime Sponsors

99.30 General.
99.31 Basic responsibilities of prime sponsors; basic responsibilities of program agents.
99.32 Program performance requirements for prime sponsors.
99.33 Public service job activities in the Title VI level of sustainment.
99.34 Maintenance of effort.
99.35 Linkages with other employment and training programs; training and supportive services.
99.36 Placement goals.
99.37 Compensation and working conditions for participants.
99.38 Place of residence for participants.

Subpart D—Program Operation Requirements Under the Emergency Jobs Programs Extension Act of 1976

99.40 Apportionment of the prime sponsor's allocation.
99.41 Project approval.
99.42 Eligibility for participation in Title VI programs.
99.43 Verification of participant eligibility.
99.44 Special considerations on selection.
99.45 Administrative staff selection and compensation.

Subpart E—Administrative Provisions

99.70 General.
99.71 Payments, financial management systems and audit.
99.72 Reporting requirements.
99.73 Reallocation of funds.
99.74 Allowable Federal costs.
99.75 Grantee contracts and subgrants.
99.76 Allocations of allowable costs among program activities.
99.77 Basic personnel standards for eligible applicants.
99.78 Adjustments in payments.
99.79 Termination of grant and closeout procedures.
99.80 Retention of records.
99.81 Program income and procurement standards.
99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.
99.83 Assessment and evaluation.
99.84 Hearings and judicial review.

Subpart F—Special Conditions for Grants to Indian Tribes and Alaskan Native Villages

99.90 General.
99.91 Grant responsibility.
99.92 Distribution of funds.
99.93 Eligibility for funds.
99.94 Funding of prime sponsors.
99.95 Participant eligibility.
99.96 Comments and publication procedures relating to submission of application for funding.
99.97 Planning process; advisory councils.
99.98 Travel requirements.
99.99 Nepotism and conflict of interest.
99.100 Nondiscrimination; political activities.
99.101 Subgrants.

Subpart A—General

§ 99.1 Scope and purpose of this Part 99.

(a) This part contains the Department of Labor's regulations governing the establishment and operation of a public service and employment and training program under Title VI of the Act, as amended by the Emergency Jobs and Unemployment Assistance Act of 1974, Pub. L. 93-567, 88 Stat. 1845, and the Emergency Jobs Programs Extension Act of 1976, Pub. L. 94-444.

(b) This program is intended to sustain enrollment under Titles II and VI of the Act throughout Fiscal Year 1977, and to create project opportunities with funds in excess of those needed for sustaining enrollment.

(c) Provision is also made for a shift in emphasis toward serving persons who are long-term unemployed or AFDC recipients and whose family incomes are 70 percent or less of the lower living standard income level. All persons enrolled in projects must meet the above criteria. In addition, at least 50 percent of the vacancies which occur or which already exist in the Title VI level of sustainment must be filled with long-term unemployed persons and AFDC recipients. Persons filling the remaining vacancies may meet the original Title VI eligibility criteria. A prime sponsor, however, may fill all vacancies with long-term unemployed persons and AFDC recipients.

(d) Definitions for terms and abreviations used in this Part which are not found in this Part may be found at § 94.4 of this title.

(e) Prime sponsors are encouraged to develop to the maximum extent feasible ways of assuring participation of veterans in the newly created public service employment positions.

(f) Pursuant to § 98.21 of this title, prime sponsors shall assure equal employment opportunity in the selection of eligible participants for projects. In the establishment of eligibility pools for participants, prime sponsors shall have ample lead time to assure that those in the pool adequately reflect the characteristics of their unemployed populations (i.e., minorities, women).

(g) Statutory authority for the regulations contained in this part is found

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in section 702(a) of the Act. Other relevant sections of the Act are generally noted at the end of the substantive regulations in this part.

(h) Pub. L. 94-444 was signed into law on October 1, 1976. Therefore, as of October 1, 1976, certain provisions of Pub. L. 94-444 became immediately applicable, including sections 3(a)(1), 3(a)(2), and 11.

§ 99.2 Allocation of funds.

(a) The Secretary shall allocate not less than 2 percent of the funds available for Title VI of the Act to those eligible applicants defined in § 99.3 which are Indian tribes, bands, and groups qualified under section 302(c)(1) of the Act (sec. 602(e) and sec. 603 (a)(1)).

(b) Not less than 90 percent of the funds remaining after the application of paragraph (a) of this section shall be allocated among eligible applicants defined in § 99.3 which are prime sponsors under Title I of the Act according to the following basic formula (sec. 603(a)(1)):

(1) Fifty percent of the funds shall be allocated among eligible applicants in proportion to the relative number of unemployed persons who reside in areas within the jurisdiction of such applicants compared to the number of unemployed persons who reside in all eligible applicants' areas in all the States (sec. 603 (a)(2)(A)).

(2) Twenty-five percent of the funds shall be allocated among eligible applicants on the basis of the ratio of the excess number of unemployed persons, as defined below, who reside within the jurisdiction of the eligible applicant, to the total excess number of unemployed persons who reside within the jurisdictions of all eligible applicants. In allocating funds to an eligible applicant which is not a State, the term "excess number" shall mean the number of unemployed persons in excess of 4.5 percent of the labor force who reside in the jurisdiction of the eligible applicant. For allocating funds to an eligible applicant which is a State, the term "excess number" shall mean either the number of unemployed persons in excess of 4.5 percent of the labor force who reside in the jurisdiction of the eligible applicant, or the number of unemployed persons in excess of 4.5 percent of the labor force in areas eligible for assistance under Title II of the Act in the geographical area served by such State prime sponsor (under Title I or Title II), whichever is greater (sec. 603 (a)(2)(C)).

(3) Twenty-five percent of the funds shall be allocated for use on behalf of residents of areas of substantial unemployment. An area of substantial unemployment, other than in relation to Indian tribes, bands, and groups, is any area within a prime sponsor's jurisdiction which has a population of at least 10,000 persons, qualifies for a minimum allocation of $25,000 under Title II of the Act, and has a rate of unemployment of at least 6.5 percent for a period of three consecutive months as determined by the Secretary of Labor at least once each fiscal year. These funds shall be allocated in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the eligible applicant as compared to the total number of unemployed persons residing in all areas of substantial unemployment (sec. 603(a)(2)(b).

(c)(1) The remaining funds, not to exceed 10 percent of the funds remaining after application of paragraph (a) of this section, may be distributed to prime sponsors under Title VI by the Secretary as the Secretary deems appropriate to carry out the purpose of Title VI, taking into account both changes in rates of unemployment, and the need for additional funds to continue the same level of public service employment activities previously supported under the Act within the jurisdiction of the eligible applicant (sec. 603(b)).

(2) When any portion of these funds is to be allocated using a formula, the Secretary shall not later than 30 days prior to such allocation publish in the FEDERAL REGISTER the specific formula for such distribution, the rationale behind the selection of the formula and the proposed amount for distribution to each eligible applicant. After consideration of comments received within 30 days of the FEDERAL REGISTER notice, the Secretary shall publish final allocations (sec. 603 (d)).

(d) For purposes of paragraphs (b) and (c) of this section, the term "jurisdiction" means the jurisdiction of each unit of general local government as described in § 95.3(a)(2) of this subtitle, whether or not such unit has entered into a consortium of units of general local government for the purposes of § 95.3(a)(3) of this subtitle (sec. 603 (c)).

(e)(1) An eligible applicant shall distribute to a program agent, as defined in paragraph (e)(3) of this section, funds to be utilized to serve residents of the program agent's area unless the program agent declines to operate a program. In which case, the eligible applicant shall make other arrangements to serve the residents of the program agent's jurisdiction (sec. 204(d)(1)).

(2) If the Secretary does not specify an amount to be distributed to a program agent, the eligible applicant shall distribute funds to the program agent using the same rationale used by the Secretary in distributing funds to eligible applicants.

(3) The term "program agent" under this part shall mean any unit of general local government (or combination of such units) located within an eligible applicant's jurisdiction which has a population of 50,000 or more (sec. 204(d)(1)).

(4) Notwithstanding paragraph (e)(1) of this section, a program agent which is a member of a consortium may make agreements agreed to by the consortium for the administration of funds for the benefit of the residents of the eligible program agent's area:

§ 99.3 Eligibility for funds.

(a) Funds shall be allocated by the Secretary only to eligible applicants. The term "eligible applicant" shall mean prime sponsors qualified for Fiscal Year 1977 under Title I of the Act and Indian tribes, bands, and groups qualified for Fiscal Year 1977 under section 302(c)(1) of the Act (sec. 602(e)).

(b) A State shall not qualify as an eligible applicant for any geographical area within the jurisdiction of any other eligible applicant which is a unit of local government, within the State unless the non-State eligible applicant has not submitted an approvable application for Title VI funds, or has stated to the Regional Administrator, in writing, its desire to be served by the State (sec. 204 (a)).

(c) A unit of general local government shall not qualify as an eligible applicant with respect to any area within the jurisdiction of another eligible unit of general local government unless the other unit has not submitted an approvable application for such areas, or has stated its desire to the RA, in writing, to be served by such larger unit (sec. 204(a)).

(d)(1) An eligible applicant shall distribute funds to program agents as provided in § 99.2(e) (sec. 204(d)(2)).

(2) No program agent shall receive or continue to receive funds for any area within the jurisdiction of another program agent unless the RA determines that the other program agent has not carried out its administrative responsibility consistent with the application for financial assistance developed by the eligible applicant for developing, funding, overseeing, and monitoring programs within its area (sec. 204(d)(3)).

(e) Funds for areas of substantial unemployment.

(1) An eligible applicant or program agent which contains an area or areas of substantial unemployment shall make available for services to residents of each such area those funds allocated to the eligible applicant under § 99.2(b)(3) (sec. 603(a)(2)(b)).

(2) An eligible applicant other than a State, or a program agent, whose entire jurisdiction qualifies as an area of substantial unemployment, shall, to the extent feasible, allocate funds allocated under § 99.2(b)(3) according to § 96.3(f)(1) of this subtitle.

(3) If the eligible applicant is a State whose entire jurisdiction qualifies as an area of substantial unemployment, the eligible applicant shall, to the extent feasible, allocate the funds allocated to it under § 99.2(b)(3) according to § 96.3 (f)(2) of this subtitle.

(4) If an eligible applicant believes that there is an area of substantial unemployment within its jurisdiction that has not been designated as such by the Secretary it may recommend that such area be considered by the Secretary. In making any such recommendation, the eligible applicant must include a precise geographical definition of the area to be served and population data. Such recommendation shall be submitted to the RA. The Secretary shall, within a reasonable time, make a determination on the recommendation and inform the eligible applicant of the decision and the reasons therefor.

Subpart B—Grant Application

§ 99.10 General.

(a) This subpart contains the procedures for obtaining grants to operate programs under Title VI of the Act (sec. 602(a)).

(b) The Secretary reserves the right to temporarily waive any of the grant procedures in this subpart and provide immediate funding authority when, and if, strict adherence to a procedure would result in a funding delay which would necessitate the lay-off of currently employed participants.

§ 99.11 Planning process; advisory councils.

To receive finfancial assistance under Title VI of the Act, eligible applicants shall submit an appropriate comprehensive Title VI plan, pursuant to § 99.12. In developing and modifying such a plan, an eligible applicant shall utilise the planning process and the advisory councils pursuant to § 95.13 (b), (c), (d), and (e) of this subtitle.

§ 99.12 Content and description of grant application.

(a) To apply for a grant, each eligible applicant shall complete and submit a grant application.

(b) Copies of all grant application forms and instructions are contained in the Forms Preparation Handbook (ET Handbook No. 311).

(c) Each grant application shall consist of an Application for Federal Assistance, a Comprehensive Title VI Plan, Assurances and Certifications, and a Grant Signature Sheet. §§ 99.13–16 of this Part describes the contents of the grant application.

§ 99.13 Application for Federal Assistance.

The Application for Federal Assistance identifies the eligible applicant and the amount of funds requested. It provides information concerning the area to be served and the number of people expected to benefit from the program. The Standard Form 424 contained in Federal Management Circular (FMC) 74-7 is being used as the Application for Federal Assistance.

§ 99.14 Comprehensive Title VI Plan.

(a) The Comprehensive Title VI Plan is a statement of how the eligible applicant intends to use Title VI funds and to coordinate its activities with other employment and training programs and services operating within its jurisdiction. The Comprehensive Title VI Plan consists of the Narrative Description of the Title VI Program, the Program Planning Summary, the Budget Information Summary, the Monthly Schedule, the Public Service Employment Occupational Summary, the Project Data Summary, and the Program Summary which are described below in paragraphs (b) through (h) of this section.

(b) The Narrative Description of the Title VI program identifies and explains the employment and training problems within the eligible applicant's jurisdiction, describes proposed program activities and delivery systems to deal with those problems, and states the results expected from the program. The Narrative Description requirements in this paragraph (b) are an abbreviated version of the Narrative Description requirements for Title II (§ 96.14(b)(2)(i) of this title). If the information required has already been provided in the current Title II Narrative Description, a copy of the Title II Narrative Description may be attached in order to comply with the requirements in this paragraph. The Narrative Description of the Title VI program must include the following items:

(1) *Objectives and needs for the assistance.* (i) Program purpose; and

(ii) Analysis of need—A brief description of the labor market of the area including labor force and a description of the population groups most in need of services at this time.

(2) *Results and benefits expected.* This item should explain how the quantified results in Section I of the PPS impact on the needs of the labor force and the community services to be provided.

(3) *Approach.* (i) What provisions have been made to sustain the June 30, 1976, level of enrollment in both Titles II and VI, or to retain the October 31, 1976 level, if higher?

(A) Identify the June 30, 1976, level of enrollment in Titles II and VI. Identify the October 31, 1976, level, if different.

(B) Identify the level of enrollment at the time of grant execution, if higher than either of the preceding. If the level of enrollment is higher, describe how these excess participants will be accommodated (e.g., transfer to projects, terminate, place in jobs).

(C) Estimate the amount of funds it will take to sustain the June 30, 1976, level of enrollment or to retain the October 31, 1976, level of enrollment, whichever level of enrollment is higher.

(D) Identify the number of participants that will be sustained under Title II.

(E) Identify the number of participants that will be in the Title VI level of sustainment.

(F) If any former participants are to be reinstated in the program under the provisions of § 99.40(c), state the number of individuals involved. Submit adequate documentation to allow the RA to determine that such individuals qualify for reinstatement, including the name, position, date of termination and reason for termination of each participant and any additional information required by the RA.

(ii) Describe the methods which will be used to provide any training and supportive services to long-term unemployed persons.

(iii) Provide the estimated average annual wage rate for PSE occupations and the method of obtaining this wage rate, keeping in mind the aim of obtaining a nationwide rate of $7,800.

(iv) Describe unmet public service needs.

(v) Describe the method of recruiting low-income AFDC recipients and long-term unemployed persons, and the method which will be used to verify such persons' eligibility for the program. Describe the procedures that will be used to track and monitor the flow of participants in order to comply with the different eligibility requirements of § 99.42(a) and (b).

(vi) Explain the basis for distributing funds within the eligible applicant's area.

(vii) Describe what steps will be taken to provide services to disabled, special and recently discharged veterans and to welfare recipients.

(viii) For newly eligible applicants, eligible applicants operating independently for the first time and eligible applicants serving geographical area(s) in addition to that served in the previous program year, describe the continuity of service to be provided.

(ix) Describe the process for selecting delivery agents and project operators including:

(A) The methods and criteria to be used in the selection of delivery agents and project operators;

(B) The methods and criteria to be used for soliciting and approving project applicants.

(x) Describe the linkages established with other employment and training and related agencies.

(xi) Identify the percentage of Title VI positions planned to be filled with veterans.

(4) *Management and administrative plan.* (i) Provide an organizational chart.

(ii) Describe internal administrative controls, including personnel or merit system and grievance procedures.

(5) *Maintenance of effort data.* Estimate the number of jobs that will be filled by rehiring former employees who have been terminated or laid off. (Under § 99.34, the RA may request additional documentation on this item.)

(c) *Program planning summary.* The program planning summary requires an eligible applicant to provide a quantitative statement of planned enrollment levels, the participants to be served by each program activity (classroom training, on-the-job training, public service employment, work experience, and other activities), and planned outcomes for program participants. It also requires an identification of the significant segments of the population and the number of individuals in each to be served.

(d) *Budget information summary.* The budget information summary requires an eligible applicant to:

(1) Provide a quantitative statement of planned expenditures and obligations;

(2) Indicate yearly planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services); and

(3) State planned quarterly obligations and planned expenditures by program activity.

(e) *Monthly schedule.* The monthly schedule contains an estimate of total

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number of participants who will be enrolled in Title VI programs at the end of each month and of the total cumulative expenditures expected to have been incurred by the end of each month.

(f) *Public service employment occupational summary.* The public service employment occupational summary provides a description of proposed job opportunities, occupations and wages for similar nonsubsidized jobs in the employing agency at the sustaining level.

(g) *Project data summary.* The project data summary provides a description of each proposed project.

(h) *Program summary.* The program summary presents a distribution of jobs, training slots, and funds to be provided to eligible applicants and subgrantees. It designates the area to be served, the population and employing agencies of each area. The above information should not be provided for projects.

§ 99.15 Assurances and certifications.

(a) The assurances and certifications form is a signature sheet on which the eligible applicant assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable Federal Management Circulars and Office of Management and Budget (OMB) circulars. The assurances and certifications form will be provided in the grant application package.

(b) When prime sponsors are planning to fund job opportunities authorized under Section 304(a) of the Act, paragraphs (3), (4), (5), and (6), they must submit a certification to the RA in the grant application that such activities are necessary to provide sufficient job opportunities in the area served by the prime sponsor (sec. 604(a)).

§ 99.16 Grant Signature Sheet.

The Grant Signature Sheet records the acceptance by the grantee and grantor of the terms and conditions of the grant and any changes to the grant. It records the time period for which the grant is effective, the grant allotment, the amount of funds obligated by the RA to the grantee, the Title of the Act under which funding is authorized and the name, title and signature of the approving official on both sides.

§ 99.17 Comment and publication procedures relating to submission of grant application.

(a) Each eligible applicant shall provide an opportunity for comment on the application as set out in § 95.15 of this subtitle, except that newspaper publication and provision of the application to Governors, appropriate units of government, appropriate Indian prime sponsors, and appropriate labor organizations may be simultaneous with submission of the grant application to the RA.

(b) Each eligible applicant shall submit a copy of its grant application to appropriate State and sub-state clearinghouse(s) at the same time that it submits its application to the RA.

§ 99.18 Submission of grant application; standards for reviewing grant applications.

(a) Each eligible applicant shall submit its grants application to the RA on or before a date set by the Secretary.

(b) A grant application shall include all items set out in § 99.12.

(c) A grant application will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law. In reviewing a grant application, the RA shall use the standards set forth in § 95.17(b) of this subtitle.

§ 99.19 Application approval; application disapproval; grant agreement.

The procedures set forth in §§ 95.18 and 95.19 of this subtitle shall apply for Title VI applications and grant agreements.

§ 99.20 Use of alternative eligible applicant; services by the Secretary.

The provisions detailed in § 95.20 of this subtitle shall apply to applications and grants made pursuant to Title VI of the Act.

§ 99.21 Modifications.

The modification procedures set forth in § 95.21 of this subtitle shall apply to Title VI grants.

Subpart C—Program Operation Requirements for Prime Sponsors

§ 99.30 General.

(a) This subpart contains the program operation requirements governing prime sponsors with respect to the creating and expanding of public service job opportunities for unemployed and underemployed persons (secs. 205, 602(a)).

(b) This subpart also contains special provisions governing prime sponsors of areas of excessively high unemployment, which include:

(1) Prime sponsors of areas having an average unemployment rate in excess of 7 percent for the most recent three consecutive months based upon the best available information and subject to review by the RA, and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area;

(2) Prime sponsors which are "exceptional circumstance" prime sponsors under section 102(a)(4) of the Act and which certify to the RA in the grant application or a request for modification that application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area;

(3) Prime sponsors which are "concentrated employment program" prime sponsors under section 102(a)(5) of the Act and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the area; and

(4) Prime sponsors which are State prime sponsors serving areas which are eligible for assistance under Title II of the Act and which certify to the RA in the grant application or a request for modification that the application of the special provisions for areas of excessively high unemployment are necessary in order to provide sufficient job opportunities in the Title II area.

§ 99.31 Basic responsibilities of prime sponsors; basic responsibilities of program agents.

(a) (1) A prime sponsor shall administer its programs under Title VI of the Act pursuant to the provisions of § 96.21 of this subtitle.

(2) A prime sponsor of an area of excessively high unemployment shall administer its programs under Title VI of the Act pursuant to the provisions of § 96.21 of this subtitle, except that the provisions of § 96.21(c), (d) and (e) of this subtitle shall not apply.

(b) The responsibilities of program agents, as defined in § 99.2(e)(3), shall be those provided in § 96.22 of this subtitle.

§ 99.32 Program performance requirements for prime sponsors.

(a) A prime sponsor shall use funds under Title VI of the Act in accordance with the expenditure levels and enrollment levels described in the approved Comprehensive Title VI Plan and within the monthly schedule.

(b) (1) The RA shall review the program performance of each prime sponsor on a monthly basis and determine the adequacy of the prime sponsor's performance with respect to the expenditure and enrollment levels provided for in the Program Planning Summary, Budget Information Summary, and the monthly schedule.

(2) If a prime sponsor operates at a level in variance from the monthly schedule, the RA may prescribe corrective action and/or technical assistance.

(c) The RA, on a monthly basis, shall make a general review of the prime sponsor's performance and goals to determine the responsiveness of the prime sponsor's program to the unemployment rates of its area and the employment needs of the persons within its jurisdiction.

§ 99.33 Public service job activities in the Title VI level of sustainment.

(a) A prime sponsor may use funds reserved for sustaining enrollment under Title VI to provide:

(1) Public service jobs in employment projects which provide maximum employment opportunities for eligible persons (sec. 602(a));

(2) Public service employment programs which meet the requirements of § 96.23 of this subtitle (sec. 602(a));

(3) Basic manpower activities and services described in § 96.33(d) (1), (2), (4), (5), and (6) of this title (sec. 201);

(4) Job opportunities with public employers, as described in paragraphs (3), (4), (5), and (6) of section 304(a) of the Act, if the prime sponsor certifies to the RA in the grant application or a modification that such activities are necessary to provide sufficient job opportunities in the area served by the prime sponsor (sec. 640(a));

(5) Where funds are utilized pursuant to paragraphs (a)(3) and (a)(4) of this section, all provisions under this part shall apply, except for references in such provisions to §§ 96.20, 96.21 (b) (c) (d) (e) (g) and (h), 96.23, 96.31, 96.32, 96.33, and 96.34 of this subtitle. In addition, those provisions applicable for program under Title I, or Part A of Title III shall apply. However, when Title VI funds are used to fund public service employment, all of the provisions of this part shall apply.

(b) Funds allocated to prime sponsors of areas of excessively high unemployment may also be used for the following special program activities and services (sec. 604):

(1) Public service employment programs which meet the requirements of § 96.23 of this subtitle, except that § 96.23(b) (2), (3), and (8) shall not apply;

(2) The funding of jobs with public employers on community capital improvement projects, which would not be otherwise carried out (however, these activities must be activities that the prime sponsor is authorized to do and would normally perform itself rather than contract out). Such projects may include the rehabilitation, alteration, or improvement, but not new construction, of public buildings, roads and other public transportation facilities, health and education facilities, and other facilities for the improvement of the community in which the project is or will be located. Funds shall not be used, however, for employment in capital improvement projects which inures primarily to the benefit of a private profit-making organization (sec. 604(b)); and

(3) The funding of jobs in projects for functions that would normally be authorized for the jurisdiction but would not otherwise be carried out. The activities performed in the projects must be those which the prime sponsor has historically performed itself rather than those which would normally be performed by an outside contractor. Such projects may include construction (including new construction), rehabilitation, alteration, or improvement of water and waste disposal facilities in communities with populations of 10,000 individuals or less which are outside the Standard Metropolitan Statistical Area, as defined by the Bureau of the Census.

§ 99.34 Maintenance of effort.

(a) Public service jobs funded under Title VI of the Act shall only be in addition to employment which would otherwise be financed by the prime sponsor without assistance under the Act (sec. 602(c), 205(c)(25)).

(b) To assure maintenance of effort, the prime sponsor shall see that all programs under Title VI of the Act:

(1) Shall result in an increase in employment opportunities over those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of nonovertime work, wages, or employment benefits;

(3) Shall not impair existing contracts for services or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(4) Shall not substitute public service jobs for existing federally assisted jobs under federally supported programs other than those under the Act (secs. 602(c), 208(a)(1)).

(c) Prime sponsors, program agents and subgrantees may not terminate, layoff, or reduce the working hours of, an employee in anticipation of hiring an individual with funds available under Title VI. In addition, no participant shall be used to fill positions or provide services normally provided by temporary, part-time, or seasonal workers or contracted out, or to fill full-time vacancies, unless documentation is maintained, as provided in paragraph (h) of this section, that such action does not constitute a substitution of Federal funds for purposes that would otherwise have been supported by other resources.

(d) No prime sponsor shall hire or allow the hiring of any person into any job funded under this part when any other person is on lay-off from the same or any substantially equivalent job (secs. 602(c), 205(c)(7)(8)). If layoffs of regular employees occur during the grant period, participants may not remain working in the same or substantially equivalent job within the employing agency that is affected by the lay-off. Such participants shall be transferred to positions not affected or be laid off or terminated. Prime sponsors shall try to transfer them to Title I, if appropriate, or shall attempt to place them into unsubsidized employment before laying them off or terminating them (secs. 602(c), 205(c)(8)).

(e) Former employees who lost their jobs due to a bona fide lay-off may be hired into positions supported under this Part provided that such hiring does not constitute a violation of the maintenance of effort provisions of the Act and these regulations.

(f) No participant may be placed or remain working in any position substantially equivalent to a position which is vacant due to a hiring freeze unless the prime sponsor can demonstrate that:

(1) The freeze resulted from a lack of funds to sustain former staff levels and was not established because of the availability of funds under this part; and

(2) The promotional opportunities of regular employers will not be infringed upon.

(g) Prime sponsors shall notify the RA in writing of any layoff or hiring freeze in a department or agency where participants are employed in positions substantially equivalent to those affected by the layoff or hiring freeze.

(h) Prime sponsors, program agents, or subgrantees which utilize funds under this Part to hire persons to fill positions previously supported by funds other than funds available under the Act or to provide services which are normally provided by temporary, part-time or seasonal workers or which are normally contracted out, shall maintain documentation that such use of funds does not constitute a violation of paragraph (c) of this section nor of any other requirements of this section. Such documentation shall be prepared and maintained in a form which clearly demonstrates that all requirements of this section are complied with and shall be readily available for the inspection of the RA for a period of not less than one year subsequent to the filling of any position to which these provisions are applicable. Prime sponsors shall, at the direction of the RA, submit such documentation or any budgetary expenditure records, revenue statements, and other information relevant to determinations under this section. RA's shall not approve any plan unless prime sponsors have submitted, when directed by the RA, conclusive evidence that the proposed use of funds fully meets the requirements of this section.

(i) Funds shall not be used to provide public services, through a private or nonprofit organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area if such funding will result in a reduction of the customary level of such service by the State, political subdivision, or local educational agency.

(j) RAs and prime sponsors shall carefully review all programs to insure compliance with all maintenance of effort requirements.

§ 99.35 Linkages with other employment and training programs; training and supportive services.

(a) Each prime sponsor, where appropriate, shall maintain linkages with other employment and training programs as provided under the provisions of § 96.32 of this subtitle.

(b) As appropriate, each prime sponsor shall provide training and supportive services for participants as specified by § 96.31 of this subtitle.

§ 99.36 Placement goals.

Public service employment programs, to the extent feasible, shall meet placement goals as described in § 96.33 of this subtitle (secs. 602(c), 211(b)). The provisions of § 96.33(c)–(f), however, shall not be applicable to participants in projects as described in § 99.40(a)(2).

§ 99.37 Compensation and working conditions for participants.

(a) Participants in public service employment programs and projects shall be compensated pursuant to § 96.34 of this subtitle.

(b) A prime sponsor may establish, on an area basis, jobs and wage structures for participants, taking into account the average wages in the area

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served and the cost of living in such areas, with the aim of effecting a nationwide, federally supported annual average wage rate equivalent of $7,800 per full-time position within the overall $10,000 federally supported salary limitation provided to public service jobholders. However, this provision in no way is intended to relieve a prime sponsor from compensating participants in accordance with paragraphs (a), (c), (d), (e), and (f) of this section. The RA is authorized to make recommendations, on an area basis, to prime sponsors pertaining to the provisions set forth in this paragraph.

(c) Participants in classroom training programs shall be compensated pursuant to § 95.34 of this subtitle.

(d) Participants in on-the-job training programs and projects shall be compensated pursuant to § 95.35 of this subtitle.

(e) Participants in work experience programs shall be compensated in accordance with § 95.33(d)(4)(viii) of this subtitle. When participants enrolled in work experience are working in projects, wages shall equal the highest of either of the rates specified in § 95.33(d)(4)(viii) of this subtitle or the prevailing rates of pay for persons employed in similar occupations by the same employer.

(f) The salary limitations specified in § 96.34(c) of this subtitle shall apply to compensation provided participants under Title VI.

§ 99.38 Place of residence for participants.

(a) *General.* (1)(i) At time of both application and selection, program participants shall reside within the geographic area for which funds have been designated. A program agent, therefore, may not hire persons outside of its jurisdiction nor may a prime sponsor hire a person from the jurisdiction of another prime sponsor or of a program agent within its own jurisdiction.

(ii) Because of changes in program agent designations each program year, this policy does not require the layoff of participants eligible under the residency requirements that were applicable at the time of their selection.

(2) A prime sponsor or program agent may receive additional funds as a subgrantee of another prime sponsor or program agent to enroll residents of the other prime sponsor's or program agent's jurisdiction in any public service job or other manpower program under Title VI. The prime sponsor or program agent receiving funds must offer jobs or programs which are within reasonable commuting distance of residents of the other prime sponsor's or program agent's jurisdiction.

(3) *Consortia of eligible applicants.* If two or more jurisdictions eligible to be prime sponsors have found a consortium to operate programs under Titles I, II, and VI, residents of any designated area within the boundaries of the consortium may be employed in public service jobs or enrolled in any other manpower activity either within the geographical boundaries of the consortium or outside such boundaries in which case the provisions of § 96.23(b)(7) of this subtitle shall apply: *Provided,* That the total amount of funds spent for residents of each participating prime sponsor equals the amount of funds that the area would have received if the consortium had not been formed.

(b) Funds provided under § 99.2(b)(3) shall be used only on behalf of residents of geographic areas eligible for assistance under Title II of the Act.

(c) *Consortia of units of general local government formed in order to qualify as program agents; multijurisdictional prime sponsors.* The provisions of paragraphs (a) and (b) of this section shall apply to consortia of units of general local government formed in order to qualify as program agents and shall apply to multijurisdictional prime sponsors.

Subpart D—Program Operation Requirements Under the Emergency Jobs Programs Extension Act of 1976

§ 99.40 Apportionment of the prime sponsor's allocation.

(a) *General.* (1)(i) Each prime sponsor shall reserve from the funds available during Fiscal Year 1977 for its use under Title VI, an amount which, when added to the funds available during Fiscal Year 1977 for its use under Title II, shall be sufficient to sustain throughout FY 1977 the number of Titles II and VI participants who were in the program on June 30, 1976.

(ii) However, if the number of participants enrolled in Titles II and VI on October 31, 1976, plus any rehires who were terminated from Titles II and VI and who are approved for reinstatement in accordance with paragraph (c) of this section, is higher than the June 30, 1976, level of participants, the prime sponsor may reserve funds to carry the higher level into the new grant period. The prime sponsor should be aware, however, that its allocation, which shall be keyed to the June 30, 1976 level, may not be sufficient to operate at the higher level throughout FY 1977.

(iii) (A) Funds reserved in accordance with paragraph (a)(1)(i) of this section shall not be used to support a level of opportunities in excess of the June 30, 1976, level or the level of opportunities on the date of grant execution.

(B) Funds reserved in accordance with paragraph (a)(1)(ii) of this section shall not be used to support a level of opportunities in excess of the October 31, 1976, level plus any rehires who have been approved for reinstatement under paragraph (c) of this section or the level of opportunities on the date of grant execution.

(iv) Where the enrollment level at the time of grant execution is higher than the Title VI level of sustainment, prime sponsors may transfer these excess participants into projects or into their programs under Titles I or II, to the extent that the participants being transferred meet the appropriate eligibility criteria.

(2) Funds remaining after the application of paragraph (a)(1) of this section shall be used for new projects as defined in § 94.4(ooo) of this title, not to exceed 12 months and subject to the approval procedures in § 99.41 (sec. 607(b)).

(b) *Enrollment of Title VI participants.* (1) At least fifty percent of the participants enrolled in vacancies or openings in the Title VI level of sustainment shall meet the eligibility criteria in § 99.42(a) of this Part.

(2) Those vacancies not filled by individuals meeting the new eligibility criteria shall be filled by individuals meeting the eligibility criteria in § 99.42(b) of this Part.

(3) All participants enrolled in projects as specified in § 99.40(a)(2) and § 99.41 of this Part shall meet the eligibility criteria in § 99.42(a) of this Part.

(4) Individuals enrolled in Title VI may be rehired as defined in § 94.4(qqq), of this title, provided that the maintenance of effort provisions of § 99.34 of this Part are not violated. In addition, prime sponsors may give preference to unemployed, qualified former health and safety personnel for public health and safety positions, when selecting individuals pursuant to paragraph (b)(2) of this section (sec. 607(c)(2)).

(5) The cumulative and current number of participants meeting the eligibility criteria in § 99.42(a) of this Part who are enrolled in vacancies or openings in the Title VI level of sustainment shall at all times approximately 50 percent or greater of all participants enrolled in vacancies or openings in the Title VI level of sustainment.

(6) In paragraphs (b)(1), (2), and (3) of this section, persons enrolled after grant execution shall not include Title II participants who are moved into Title VI during the initial separation of Titles II and VI participants.

(c) Any rehire who, after June 30, 1976, and before October 1, 1976, was laid off from a job supported under Titles II and VI because of the provisions of § 96.24(e) and (f) of this subtitle may be reinstated by the prime sponsor into a Title VI position supported pursuant to paragraph (a)(1) of this section without regard to requirements of paragraphs (b)(1) and (2) of this section. However, reinstatement shall be subject to RA determination that they were laid off because of § 96.24(e) and (f), after review of information provided in § 99.14(b)(3)(i)(F). The reinstatement provision of this section shall not relieve a prime sponsor from compliance with § 99.34(d) (sec. 609(c)).

§ 99.41 Project approval.

(a) Funds remaining after funds are reserved for supporting the level of opportunities determined in § 99.40(a)(1) shall be utilized for public service jobs in new projects, as defined in § 94.4(ooo), not to exceed one year in duration. (As part of these new projects, prime sponsors may utilize those funds for manpower program activities as described in § 95.33(d)(1), (2), (4), (5), and (6) of this title (sec. 607(b)).

(b) Such projects and activities shall be funded as follows:

(1) Each prime sponsor shall establish procedures for its own use and the use of its program agents for notifying potentially eligible project applicants (as defined in § 94.4(ppp) of the application process and cut-off date for acceptance of applications.

(2) Each prime sponsor is responsible for establishing procedures for its own use and the use of its program agents, whereby, upon receipt, a copy of each project/activity application shall be submitted to the prime sponsor's planning council to allow the council to submit comments and recommendations with respect to the application (sec. 609(a)).

(i) No member of a prime sponsor's planning council shall cast a vote on any matter in connection with a proposed project or activity in which that member (or any organization with which that member is associated) has a direct interest (sec. 609(a)).

(3) Prime sponsors and program agents should give consideration to providing a substantial portion of the project funds to nonprofit agencies.

(4) In reviewing project applications, prime sponsors, and program agents, should carefully consider any proposed expenditures for materials, supplies, equipment, and space in relation to the duration of the proposed projects.

(5) Prime sponsors and program agents shall not disapprove a project application without first considering any comments and recommendations submitted by the planning council and providing the applicant and the council with a written statement of the reasons for the disapproval (sec. 609(b)).

(6) In program agent areas, decisions on approving or disapproving project applications shall be made in accordance with § 96.22 of this subtitle.

§ 99.42 Eligibility for participation in Title VI programs.

(a) The following criteria shall be used by prime sponsors in determining participant eligibility pursuant to § 99.40(a)(2) and (b)(1) and in selecting participants for these positions (sec. 608(a)).

(1) An eligible person must be a member of a family which has a current total family income, determined pursuant to paragraph (a)(2) of this section, at or below 70 per centum of the lower living standard income level, as defined in § 94.4(nnn), and must meet the residency requirements of § 99.38 of this Part, and must be a person.

(i) Who, at the time of application, has been receiving unemployment compensation for 15 or more weeks which are uninterrupted by a period of employment; or

(ii) Who, at the time of application, is ineligible for unemployment compensation as defined in § 94.4(sss) and has been unemployed for 15 or more weeks which are uninterrupted by a period of employment. For purposes of this paragraph, "period of employment" is defined as work in excess of 10 hours in any calendar week or work for which the individual has earned in excess of $30 in any calendar week; or

(iii) Who, at the time of application, is unemployed and is an exhaustee as defined in § 94.4(rrr) of this title; or

(iv) Whose family is receiving Aid to Families with Dependent Children (AFDC), including AFDC—Unemployed Fathers, under Title IV of the Social Security Act.

(2)(i) In determining current family income, the prime sponsor shall annualize, based on the three months preceding application, total family income, utilizing the same exclusions (e.g., unemployment compensation) used to determine family income for the Participant Record, except with regard to public assistance as defined in § 94.4(ss) of this title. Only that portion of public assistance payments received by the applicant which the applicant will be disqualified from receiving due to the enrollment of the applicant under Title VI (e.g., payments under the Aid to Families with Dependent Children of Unemployed Fathers program) shall be excluded.

(ii) In instances where, due to seasonal employment, summer employment for youth, or other circumstances, the three months period is unrepresentative, the prime sponsor shall compute family income by totaling all family income received during the twelve months prior to application, except for those exclusions indicated in paragraph (a)(2)(i) of this section (sec. 608(a)(2)).

(3) The prime sponsor shall take reasonable steps to insure that funds used pursuant to § 99.40(a)(2) and (b)(1) are equitably allocated among the categories of eligible persons described in subdivisions (i), (ii), (iii), and (iv) of paragraph (a)(1) of this section. Such equitable allocation shall be made in light of the composition of the population of unemployed eligible persons served by the prime sponsor, to the extent that such data are available. No one group shall be served exclusively, and no group shall be excluded from service (sec. 608(c)).

(4) Participants under Title I, Title IV, section 302 and section 303 of the Act, participants under Sections 5 and 6 of the Emergency Employment Act, and participants under Title X of the Public Works and Economic Development Act who are enrolled in Titles II or VI activities funded through the Department, may be transferred pursuant to § 99.40(a)(2) or (b)(1) if they met the requirements of paragraph (a)(1) of this section and § 99.38 at the time of their entry into the program from which they are being transferred, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(2)).

(5) A person participating in a WIN public service employmeat program under Part C, Title IV, of the Social Security Act, who leaves or is removed from a public service employment position, shall be treated in the same manner as any other such applicant with respect to eligibility pursuant to § 99.40(b)(2):

(i) If such an individual is still receiving cash welfare payments, that individual meets the definition of unemployed would otherwise pertain (38 U.S.C. 2013): *Provided,* The veteran has not obtained permanent, unsubsidized employment between the time of discharge and the time of application for participation in Title VI.

(b) In order to be eligible pursuant to § 99.40(b)(2), an individual shall be:

(1)(i) A person who has been unemployed for at least 30 days, as defined in § 94.4(hhh), prior to application, or who is underemployed, as defined in § 94.4(fff), and who meets the residence requirements of § 99.38, is eligible pursuant to § 99.40(b)(2). The term residence is defined in § 96.27(f) of this subtitle; or

(ii) A person who has been unemployed for at least 15 days, as defined in § 94.4(hhh), except for the provision of § 94.4(hhh)(3), prior to application, or who is underemployed, as defined in § 94.4(fff) and who meets the residence requirements of § 99.38, is eligible for a job funded under § 99.40(b)(2) in areas of excessively high unemployment.

(2) A veteran who has served on active duty for a period of more than 180 days or who was discharged or released from active duty for a service connected disability, shall be immediately eligible, upon discharge, for participation in an activity under § 99.40(a)(1) and (b)(2) without regard to the 15- or 30-day unemployment requirement which would otherwise pertain (38 U.S.C. 2013): *Provided,* the veteran has not obtained permanent, full-time unsubsidized employment between the time of discharge and the time of application for participation in Title VI.

(3) A person participating in a public employment program under a Section 5 or Section 6 grant funded by the Emergency Employment Act (EEA) may be transferred into an activity under § 99.40(b)(2), in order to provide for the orderly phaseout of the EEA grant, if he/she met the requirements of § 99.38 at the time his/her entry into EEA, and provided that maximum efforts have been made to place such an individual in unsubsidized employment or training.

(4) Title I, Title II, Title IV, section 302, and section 303 participants under the Act, and participants under Title X of the Public Works and Economic Development Act, who are enrolled in Titles II or VI activities funded through the Department may be transferred pursuant to § 99.40(b)(2) only if they met the requirements of paragraph (b)(1) of this section at the time of their entry into the program from which they are being transferred, and if maximum efforts have been made to place such individuals in unsubsidized employment or training (sec. 105(a)(2)).

(5) A person participating in a WIN public service employmeat program under Part C, Title IV, of the Social Security Act, who leaves or is removed from a public service employment position, shall be treated in the same manner as any other such applicant with respect to eligibility pursuant to § 99.40(b)(2):

(i) If such an individual is still receiving cash welfare payments, that individual meets the definition of unemployed

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for this title, and is immediately eligible if the individual also meets the requirements of § 99.38.

(ii) If the individual is no longer receiving welfare payments, that individual must meet the standard eligibility criteria for paragraph (b)(1) of this section.

(c) The following requirements are applicable in the selection process of participants for all jobs and activities filled under Title VI:

(1) The selection of participants shall be made in accordance with the provisions of § 96.25 of this subtitle.

(2) A person who obtains permanent, full-time unsubsidized employment after application shall no longer be considered eligible for Title VI, unless even with such full-time employment, an applicant pursuant to § 99.40(b)(2) still meets the requirements of paragraph (b)(1) of this section.

(3) Citizenship may not be used as a criterion to prevent persons from participating in a program under Title VI. However, program participation shall be limited to nationals of the United States and aliens who have been accorded the privilege of residing in the United States as lawful permanent residents or are otherwise legally available for work in the United States.

(4) While the selection of eligible full-time students for participation in programs funded under Title VI is not prohibited, prime sponsors should exercise caution in providing for such participation and should provide for such participation only in accordance with these regulations. Prior to providing for such participation, prime sponsors should give special consideration to those persons most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under Title VI.

(5) A participant in a Title VI program may change jobs within a particular prime sponsor's or program agent's jurisdiction without reestablishing eligibility pursuant to paragraphs (a) or (b) of this section, but may not be employed in a job or activity for any other prime sponsor or program agent without again establishing eligibility pursuant to paragraphs (a) or (b) of this section.

(6) The provisions of § 96.28 and § 96.30, special consideration for most severely disadvantaged persons and groups to be provided special consideration, shall apply to programs funded under Title VI.

(7) The significant segments of a prime sponsor's population shall be served on an equitable basis, as provided in § 96.29 of this subtitle. In selecting individuals eligible pursuant to paragraphs (a) of this section, the requirements of paragraph (a)(3) of this section are in addition to serving significant segments equitably.

(d) Prime sponsors may transfer Title VI participants into Title II without regard to the 30 day period of unemployment requirement (sec. 4(a)(1)(B) of Pub. L. 94-444).

§ 99.43 Verification of participant eligibility.

(a) A prime sponsor is responsible for assuring the eligibility of all participants under Title VI. The eligibility requirements of paragraphs (i), (ii), (iii), and (iv) of § 99.42(a)(1) of this Part are verifiable. Prime sponsors shall be liable for any payments made to participants determined ineligible during program audits or reviews or otherwise. Decisions on whether to verify eligibility and on the method of verification rest with the prime sponsor except as provided in paragraphs (b) and (c)(3) below.

(b) To facilitate the rapid implementation of this program, the prime sponsor may enroll without prior verification, applicants who attest to their eligibility. Within 60 days of these participants' enrollment, the prime sponsor shall obtain written verification of their eligibity from the State employment security agencies (SESAs) and/or welfare agencies. Participants who are found to be ineligible shall be terminated immediately and the prime sponsor shall not be liable for wages and benefits paid to these participants prior to the receipt of the written verification.

(c) In order to protect their liability, prime sponsors are encouraged to develop arrangements and procedures for the verification of participants as follows:

(1) Arrangements, including cooperative agreements, with SESAs for the verification of individuals whose applications indicate that they qualify pursuant to paragraphs (i), (ii), and (iii) of § 99.42(a)(1) of this Part; and

(2) Arrangements with public welfare agencies for the verification of individuals whose applications indicate that they qualify as an AFDC recipient (§ 99.42(a)(1)(iv)).

(3) To the extent that there are arrangements pursuant to paragraphs (c)(1) and (2) of this section and these arrangements are described in an approved grant, the prime sponsor shall not be responsible for verifying those eligibility requirements covered in those arrangements, nor shall it be liable for any costs resulting from its reliance on such arrangements.

(d) As unemployment compensation recipients approach their 15th week or their exhaustion status, SESAs will be informing them of their possible eligibility for Title VI programs. Prime sponsors shall work with the SESA in the development of arrangements for informing these individuals of their possible eligibility for available opportunities.

§ 99.44 Special considerations on selection.

In providing public service jobs and determining hours of work for individuals eligible pursuant to § 99.40(a)(2) and § 99.40(b)(1), each prime sponsor shall take into consideration the household support obligations of the individuals and shall give special consideration to such alternative working arrangements as flexible hours of work, shared time and part-time jobs, for participants with particular needs, e.g., parents of young children, older persons, and handicapped individuals (sec. 608(d)).

§ 99.45 Administrative staff selection and compensation.

(a) The Title VI administrative staff shall be selected and compensated in accordance with the provisions of § 96.35 of this subtitle.

(b) When administrative funds are utilized to pay the wages of supervisory personnel for projects, the promotional rights of existing employees to fill the supervisory positions shall be protected.

Subpart E—Administrative Provisions

§ 99.70 General.

This subpart contains regulations on the administration of grants under Title VI of the Act. The regulations in this subpart reference the sections of Part 98 of this subtitle which apply to Title VI grants.

§ 99.71 Payments, financial management systems and audit.

§§ 98.2 through 98.6 of this subtitle relating to payments, financial management systems and audits apply to grants under Title VI of the Act (secs. 702(b), 713).

§ 99.72 Reporting requirements.

(a) Section 98.7 of this subtitle shall apply to Title VI programs (secs. 702(12), 713).

(b) Section 98.8 of this subtitle requiring submission of the Program Status Report and Monthly Report shall apply to programs under Title VI. To assure the effective implementation of the program and the least disruption during its phase-down, the Secretary may require the prime sponsor to submit information on a more frequent basis.

(c) Section 98.9 of this subtitle requiring submission of a Quarterly Summary of Participant Characteristics shall apply to programs under Title VI.

(d) Section 98.10 of this subtitle requiring submission of a Report of Federal Cash Transactions shall apply to programs under Title VI.

§ 99.73 Reallocation of funds.

(a) Irrespective of requirements under § 98.11 of this subtitle, the RA may make such reallocation, as he deems appropriate, of any amount of any allocation under Title VI of the Act to the extent that he determines that an eligible applicant will not be able to use such amount within a reasonable period of time.

(b) When the RA determines that a reallocation is appropriate, he shall give the grantee and the appropriate Governor 30-day notice of the proposed action to remove funds from the grant. Such notice shall include the specific reasons for the action being taken.

(c) The grantee and the Governor will be invited to submit comments on a proposed reallocation of funds. These comments shall be submitted to the RA within 30 days from the date of the notice. The RA shall notify the Governor and affected prime sponsors on any decision to reallocate funds and shall have

any such decision published in the FEDERAL REGISTER.

(d) The procedures set out in this section are in lieu of any other procedure which might otherwise be applicable under § 98.40, et seq. of this subtitle.

(e) Any reallocation of funds shall be to an alternate eligible applicant to serve the same area or to eligible applicants to serve other areas. In reallocating such funds to serve other areas, priority shall be given first to eligible applicants within the same State and then to eligible applicants within other States, taking into consideration the number of eligible unemployed individuals in those areas (sec. 606).

§ 99.74 Allowable Federal costs.

(a) Section 98.12 of this subtitle concerning allowable Federal costs shall apply to Title VI grants. In addition, the cost of participants' salaries and fringe benefits or the cost of allowances in areas of excessively high unemployment may include jobs on community capital improvement projects, which would not otherwise be carried out by the grantee or subgrantee, including the rehabilitation, alteration, or improvement of public buildings, roads, and other transportation facilities, health and education facilities, and other facilities for the improvement of the community in which the community capital improvement projects or will be located, but such funds shall not be used for public service employment in new building and highway construction work or in other work which inures primarily to the benefit of a private profitmaking organization (sec. 604(b)(3)). The costs of participants' salaries and fringe benefits or the costs of allowances in areas of excessively high unemployment are allowable for participants engaged in construction, rehabilitation, alteration, or improvment of water and waste disposal facilities which would not otherwise be carried out, in communities having populations of 10,000 individuals or less which are outside the boundaries of a Standard Metropolitan Statistical Area (as defined by the Bureau of the Census) (sec. 604(a)(3)).

99.75 Grantee contracts and subgrants.

Section 98.27 of this title shall apply to Title VI grants, except that contracts and subgrants may not extend more than 6 months beyond the term of the grant.

§ 99.76 Allocations of allowable costs among program activities.

Section 98.13 of this subtitle shall apply to Title VI grants.

§ 99.77 Basic personnel standards for eligible applicants.

(a) Section 98.14 of this title shall apply to Title VI grants (sec. 703(14)).

(b) The basic personnel standards, as set forth in § 98.14 of this subtitle, shall apply only to an eligible applicant's staff and not to program participants. However, in filing public service jobs funded under Title VI of the Act, eligible applicants shall insure that applicable personnel procedures and collective bargaining agreements have been met.

§ 99.78 Adjustments in payments.

Section 98.15 of this subtitle shall apply to Title VI grants (sec. 702(b)).

§ 99.79 Termination of grant and closeout procedures.

Sections 98.16 and 98.17 of this subtitle shall apply to Title VI grants (sec. 702(b)).

§ 99.80 Retention of records.

Section 98.18 of this subtitle shall apply to Title VI grants (sec. 703(a)(12)).

§ 99.81 Program income and procurement standards.

Sections 98.19 and 98.20 of this subtitle shall apply to Title VI grants.

99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.

(a) Sections 98.21, 98.22 and 98.23 of this subtitle apply to Title VI programs (secs. 703(1), 710 and 712);

(b) Sections 98.24, 98.25, 98.26, 98.28, and 98.29 of this subtitle relating to general benefits and working conditions, retirement programs, procedures for resolving issues, nonfederal status of participants, and Davis-Bacon Act provisions, shall apply to Title VI programs.

§ 99.83 Assessment and evaluation.

Sections 98.30 through 98.34 shall apply to Title VI grants (sec. 703(14)).

§ 99.84 Hearings and judicial review.

Sections 98.40 through 98.49 of this subtitle shall apply to Title VI grants (except as otherwise provided in this part).

Subpart F—Special Conditions for Grants to Indian Tribes and Alaskan Native Villages

§ 99.90 General.

This subpart contains special conditions for grants under Title VI of the Act to Indian tribes on Federal and State reservations, recognized tribes in the State of Oklahoma, and Alaskan Native Villages in the State of Alaska. To the extent that any provisions of this subpart differ from any other provision of this part, the provisions of this subpart shall govern. Otherwise, the requirements of this part 99 apply to programs under this subpart.

§ 99.91 Grant responsibility.

The Division of Indian and Native American Programs in the Office of National Programs shall have full responsibility for all matters pertaining to funds allocated to eligible applicants as defined under § 99.90 above. For purposes of this subpart, all references to RA in this Part 99 shall be read as Director, Division of Indian and Native American Programs.

§ 99.92 Distribution of funds.

Funds for use under this subpart shall be not less than 2 percent of all funds appropriated for Title VI programs. Such funds shall be allocated among the designated prime sponsors on the basis of the prime sponsor's Indian and Alaskan Native rate of unemployment compared to the rate of unemployment in all eligible areas. In making such allocations, the Secretary shall use the best data available. Within prime sponsors which are consortia, the Secretary shall allocate funds among the member reservations on the basis of identifiable areas of high unemployment. To the extent feasible, a nonconsortium prime sponsor shall allocate funds within its area on the basis of identifiable areas of high unemployment.

§ 99.93 Eligibility for funds.

Indian tribes on Federal or State reservations, recognized tribes in Oklahoma and Alaskan Native villages shall be eligible for Title VI funds provided they meet the requirements of § 96.42 of this subtitle, except that recognized tribes in Oklahoma and Alaskan Native villages are exempt from the Federal or State reservation requirement.

§ 99.94 Funding of prime sponsors.

(a) A prime sponsor, if necessary, shall update its Preapplication for Federal Assistance (SF-424) to include a request for funding pursuant to Title VI of the Act. An eligible applicant which has not previously submitted a Preapplication shall comply with § 97.111 of this subtitle.

(b) A consortium, if necessary, shall amend its consortium agreement to insure that it covers activities funded under Title VI of the Act.

(c) Funds made available pursuant to Title VI shall be included in existing Fiscal Year 1977 grants via a modification if appropriate. If new grants are executed, they shall be for a period not to exceed 12 months.

(d) The Title VI modification of the new grant shall consist of the Employment Plan and the Grant Sheet. New grants shall also include appropriate Assurances and Certifications. The Employment Plan shall consist of:

(1) A full narrative description of the program;

(2) A program planning summary;

(3) A budget information summary;

(4) An occupational summary;

(5) A program summary; and

(6) A monthly plan.

§ 99.95 Participant eligibility.

Indian and Alaskan Natives who meet the eligibility and residency requirements of this part shall be eligible to participate in programs funded under Title VI.

§ 99.96 Comments and publication procedures relating to submission of application for funding.

Each eligible applicant shall provide an opportunity for comment on its Title VI plan as set out in § 97.115 of this subtitle.

§ 99.97 Planning process; advisory councils.

Eligible applicants shall utilize in their planning process the services of their planning councils authorized under § 97.113 of this subtitle. In addition,

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the provision of § 99.41 shall apply to the project application approval process.

§ 99.98 Travel requirements.

Travel regulations for grantees under this subpart shall be those at § 97.161(f)(7) of this subtitle.

§ 99.99 Nepotism and conflict of interest.

(a) No prime sponsor, subgrantee or contractor shall hire, or permit the hiring of, any person in a staff position, nor shall they accept any person as a participant, if a member of the person's immediate family is employed in an administrative capacity by the prime sponsor, subgrantee or contractor. For the purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister. The term "staff position" includes all positions such as instructors, counselors, administrators, and suppliers of training and services. The term "employed in an administrative capacity" includes those persons who have overall administrative responsibility for a program, including: All elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under this subpart as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director and unit chiefs; and persons who have selection, hiring, placement, or supervisory responsibilities for public service employment participants. The Secretary may waive this requirement if adequate justification is received that no other persons within the subgrantee's jurisdiction are eligible and available for participation or employment by the prime sponsor.

(b) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the prime sponsor shall follow the tribal rule.

(c) Each prime sponsor shall establish safeguards to prohibit employees under the grant, board members, or tribal council members from using their positions for private gain for themselves or others with whom they have family, business or other ties.

§ 99.100 Non-discrimination; political activities.

Sections 98.21 and 98.23 shall be applicable to programs under this subpart except to the extent that those provisions conflict with 42 U.S.C. 2000e(b).

§ 99.101 Subgrants.

In addition to the requirements concerning subgrants, Indian tribes may require that subgrantees agree, to the maximum extent feasible, to hire as staff qualified Indians in accordance with 42 U.S.C. 2000e–2(i).

Signed in Washington, D.C., this 7th day of March, 1977.

ROBERT J. MCCONNON,
Deputy Assistant Secretary for Employment and Training.

[FR Doc.77-7801 Filed 3-14-77;8:45 am]

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TUESDAY, MARCH 15, 1977

PART V

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

FOOD FOR HUMAN CONSUMPTION

Reorganization and Republication

Title 21—Food and Drugs	Changes in the food additive number-	

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Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Recodification Docket No. 15; Docket No. 76N–0501]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

REORGANIZATION AND REPUBLICATION

The Food and Drug Administration (FDA) is reorganizing and republishing certain sections of the general regulations together with the human food regulations under its jurisdiction, effective March 15, 1977.

The Commissioner of Food and Drugs, for the purposes of establishing an orderly development of informative regulations for the Food and Drug Administration, furnishing ample room for expansion of such regulations in years ahead, and providing the public and affected industries with regulations that are easy to find, read, and understand, has initiated a recodification program for Chapter I of Title 21 of the Code of Federal Regulations.

This is the fifteenth document in a series of recodification documents that will eventually include all regulations administered by FDA; this document incorporates certain general regulations applicable to human food formerly under Subchapter A into the newly organized Subchapter B but does not set forth those regulations administered by the Environmental Protection Agency under Part 193. The full text of Part 193, transferred from Part 121, was set out under Part 123 in the tenth recodification document published in the FEDERAL REGISTER of March 28, 1975 (40 FR 14156); Part 123 was subsequently transferred to Part 193 by publication in the FEDERAL REGISTER of June 28, 1976 (41 FR 26565).

The fourteenth recodification document, published in the FEDERAL REGISTER of September 10, 1976 (41 FR 38618), transferred § 1.16 and all of Subpart C of Part 121 to Subchapter E—Animal Drugs, Feeds, and Related Products. Upon publication of this fifteenth recodification document, all regulations concerning human food now appear under reorganized Subchapter B (Parts 100 through 199). The fourteenth recodification document also transferred all other animal food regulations from old Subchapter B to Subchapter E (Parts 500 through 599). At that time, separation of regulations concerning animal food from those on human food necessitated some duplication (with changes for editorial clarification) of certain sections in Subchapter B and Subchapter E. The reader will find all the other "old sections" listed in the redesignation table appearing in the preamble to the September 1976 recodification listed again in the redesignation table below, reflecting their position in Subchapter B number-keyed, as far as practicable, to their section number in Subchapter E (e.g., § 1.7, as applicable to animal food, was redesignated as § 501.1 and, as applicable to human foods, is redesignated below as § 101.1).

Changes in the food additive numbering system in this recodification have been made in an effort to provide a comprehensive system to solve the problems of clarity and accessibility. The Commissioner invites suggestions for further improvement to make the food additive regulations clear and readily accessible to the reader.

The following table shows the relationship of the CFR section numbers formerly under Subchapter A and those sections being redesignated under the reorganized Subchapter B and under Subchapter E. This conversion table includes all changes made by FDA recodification documents numbered 14 and 15.

Old section	New human section	New animal section [1]
1.7	101.1	501.1
1.8	101.3	501.3
1.8a	101.5	501.5
1.8b	101.105	501.105
1.8c	101.8	501.8
1.8d	101.2	501.2
1.9	101.15	501.15
1.10	101.4	501.4
1.10a	101.100	501.100
1.10b	101.103	501.103
1.12	101.22	501.22
1.13	101.17	501.17
1.15	101.18	501.18
1.16	NA	501.110
1.17	101.9	NA
1.18	101.25	NA
3.2	100.150	NA
3.5	100.135	NA
3.17	166.40	NA
3.19	133.10	NA
3.20	109.160	NA
3.25	101.35	NA
3.24	100.145	NA
3.31	100.140	NA
3.36	161.30	NA
3.51	101.33	NA
3.69	100.120	NA
3.72	100.130	NA
3.97	100.155	NA
3.88	101.6	NA
3.93	109.15	509.15
3.302	101.29	NA
3.306	131.25	NA
3.307	101.10	NA
10.1	130.3	564.1
10.2	130.5	564.5
10.3	130.6	564.6
10.4	130.20	564.20
10.5	130.17	564.17
10.6	130.12	564.12
10.7	130.14	564.14
10.8	130.6	564.6
11.1	103.5	NA
11.2	103.3	NA
11.5	103.23	NA
11.6	103.29	NA
11.7	103.35	NA
14.1	163.110	NA
14.2	163.111	NA
14.3	163.112	NA
14.4	163.113	NA
14.5	163.114	NA
14.6	163.123	NA
14.7	163.130	NA
14.8	163.140	NA
14.9	163.135	NA
14.10	163.145	NA
14.11	163.153	NA
14.12	163.150	NA
14.13	163.155	NA
14.14	163.117	NA
15.1	137.105	NA
15.10	137.165	NA
15.20	137.155	NA
15.30	137.160	NA
15.40	137.220	NA
15.50	137.180	NA
15.60	137.185	NA
15.70	137.175	NA
15.75	137.170	NA
15.80	137.200	NA
15.90	137.205	NA
15.100	137.225	NA
15.110	137.195	NA
15.120	137.190	NA
15.130	137.300	NA
15.140	137.305	NA
15.150	137.320	NA
15.500	137.250	NA
15.504	137.275	NA
15.502	137.255	NA
15.503	137.280	NA
15.504	137.265	NA
15.505	137.285	NA
15.506	137.270	NA
15.507	137.290	NA
15.508	137.211	NA
15.509	137.215	NA
15.510	137.230	NA
15.511	137.245	NA
15.512	137.240	NA
15.513	137.260	NA
15.514	137.235	NA
15.525	137.350	NA
16.1	139.110	NA
16.2	139.120	NA
16.3	139.138	NA
16.4	139.140	NA
16.5	139.125	NA
16.6	139.150	NA
16.7	139.180	NA
16.8	139.160	NA
16.9	139.115	NA
16.10	139.155	NA
16.11	139.135	NA
16.12	139.165	NA
16.13	139.121	NA
16.14	139.122	NA
16.15	139.117	NA
17.1	136.3	NA
17.10	136.110	NA
17.20	136.115	NA
17.30	136.130	NA
17.40	136.160	NA
17.50	136.180	NA
17.60	136.165	NA
18.1	131.3	NA
18.2	131.110	NA
18.10	131.135	NA
18.20	131.145	NA
18.30	131.180	NA
18.501	131.155	NA
18.511	131.157	NA
18.515	131.150	NA
18.520	131.130	NA
18.525	131.115	NA
18.530	131.120	NA
18.540	131.125	NA
18.545	131.127	NA
18.550	131.160	NA
18.555	131.162	NA
18.560	131.185	NA
18.565	131.187	NA
18.570	131.164	NA
18.575	131.189	NA
19.499	133.3	NA
19.500	133.113	NA
19.502	133.114	NA
19.503	133.116	NA
19.506	133.136	NA
19.507	133.137	NA
19.510	133.118	NA
19.512	133.119	NA
19.513	133.121	NA
19.515	133.123	NA
19.520	133.162	NA
19.525	133.129	NA
19.530	133.128	NA
19.531	133.131	NA
19.535	133.144	NA
19.537	133.165	NA
19.540	133.195	NA
19.542	133.196	NA
19.543	133.149	NA
19.544	133.185	NA
19.545	133.106	NA
19.547	133.109	NA
19.550	133.160	NA
19.551	133.161	NA
19.555	133.138	NA
19.560	133.142	NA
19.565	133.106	NA
19.567	133.141	NA
19.569	133.164	NA
29.570	133.184	NA
19.575	133.152	NA
19.580	133.153	NA
19.585	133.154	NA
19.590	133.181	NA
19.591	133.111	NA
19.595	133.165	NA
19.600	133.155	NA
19.601	133.157	NA
19.605	133.150	NA
19.606	133.158	NA
19.610	133.183	NA
19.615	133.102	NA
19.620	133.103	NA
19.625	133.104	NA
19.635	133.127	NA
19.637	133.126	NA
19.639	133.140	NA
19.650	133.150	NA
19.655	133.187	NA
19.660	133.188	NA

See footnotes at end of table.

Old section	New human section	New animal section [1]
19.665	133.182	NA
19.670	133.190	NA
19.675	133.191	NA
19.680	133.148	NA
19.685	133.189	NA
19.750	133.169	NA
19.751	133.167	NA
19.755	133.170	NA
19.760	133.171	NA
19.763	133.168	NA
19.765	133.173	NA
19.770	133.174	NA
19.775	133.179	NA
19.776	133.175	NA
19.780	133.180	NA
19.781	133.176	NA
19.782	133.134	NA
19.783	133.178	NA
19.785	133.133	NA
19.787	133.124	NA
19.788	133.125	NA
19.790	133.147	NA
19.791	133.146	NA
19.792	133.193	NA
20.1	135.30	NA
20.2	135.10	NA
20.3	135.40	NA
20.4	135.20	NA
20.5	135.90	NA
20.6	135.65	NA
20.7	135.70	NA
20.8	135.50	NA
22.1	109.3	NA
22.2	109.175	NA
22.3	109.178	NA
22.4	109.177	NA
22.5	109.178	NA
22.6	109.180	NA
22.7	109.181	NA
22.8	109.179	NA
22.9	109.182	NA
25.1	109.140	NA
25.2	109.155	NA
25.3	168.150	NA
26.1	168.111	NA
26.2	168.110	NA
26.3	168.120	NA
26.4	168.121	NA
26.5	168.123	NA
27.1	145.3	NA
27.1 except (g) through (m) and (o) (1) and (4).	146.3	NA
27.2	145.170(a)	NA
27.3	145.170(b)	NA
27.4	145.170(c)	NA
27.5	145.179	NA
27.6	145.171	NA
27.10	145.115(a)	NA
27.11	145.115(b)	NA
27.12	145.115(c)	NA
27.13	145.118	NA
27.14	145.116	NA
27.15	145.190	NA
27.20	145.175(a)	NA
27.21	145.175(b)	NA
27.22	145.175(c)	NA
27.23	145.178	NA
27.24	145.176	NA
27.25	145.140	NA
27.30	145.125(a)	NA
27.31	145.125(b)	NA
27.32	145.125(c)	NA
27.33	145.123	NA
27.34	145.126	NA
27.35	145.120	NA
27.40	145.135(a)	NA
27.41	145.135(b)	NA
27.42	145.135(c)	NA
27.43	145.136	NA
27.45	145.185(a)	NA
27.46	145.185(b)	NA
27.47	145.185(c)	NA
27.50	145.180(a)	NA
27.51	145.180(b)	NA
27.52	145.180(c)	NA
27.54	146.185(a)	NA
27.55	146.185(b)	NA
27.56	146.185(c)	NA
27.57	145.181	NA
27.60	146.187	NA
27.70	145.130	NA
27.71	145.134	NA
27.73	145.131	NA
27.80	145.110(a)	NA
27.81	145.110(c)	NA
27.90	145.145(a)	NA
27.91	145.145(b)	NA
27.92	145.145(c)	NA
27.99	146.115	NA
27.100	146.125	NA
27.101	146.120	NA
27.102	146.126	NA
27.103	146.121	NA
27.105	146.135	NA
27.106	146.137	NA
27.107	146.140	NA
27.108	146.141	NA
27.109	146.145	NA
27.110	146.150	NA
27.111	146.145	NA
27.112	146.151	NA
27.113	146.152	NA
27.114	146.153	NA
27.115	146.154	NA
27.125	146.123	NA
27.126	146.113	NA
27.127	146.110	NA
27.128	146.111	NA
27.131	146.130	NA
27.150	146.168	NA
27.151	146.169	NA
27.152	146.170	NA
27.153	146.171	NA
27.154	146.172	NA
27.155	146.173	NA
27.156	146.176	NA
27.157	146.177	NA
27.158	146.155	NA
27.159	146.156	NA
27.160	146.158	NA
27.161	146.159	NA
27.162	146.160	NA
27.163	146.161	NA
27.164	146.163	NA
27.165	146.164	NA
27.166	146.165	NA
27.167	146.166	NA
27.168	146.167	NA
28.1	152.125(a)	NA
28.2	152.125(b)	NA
29.1	150.110	NA
29.2	150.140	NA
29.3	150.160	NA
29.4	150.141	NA
29.5	150.161	NA
30.1	168.180	NA
30.2	168.140	NA
30.3	168.130	NA
30.4	168.160	NA
31.1	165.175	NA
36.3	161.173(c)	NA
36.5	161.145(a)	NA
36.6	161.145(c)	NA
36.10	161.130	NA
36.11	161.131	NA
36.12	161.132	NA
36.13	161.133	NA
36.14	161.134	NA
36.15	161.135	NA
36.16	161.130	NA
36.17	161.137	NA
36.19	161.139	NA
36.19	161.139	NA
36.20	161.140	NA
36.30	161.175	NA
36.31	161.176	NA
37.3	161.190(a)	NA
37.10	161.190(c)	NA
37.12	161.170(a)	NA
37.13	161.170(c)	NA
42.1	160.100	NA
42.10	160.115	NA
42.20	160.110	NA
42.30	160.105	NA
42.40	160.190	NA
42.50	160.190	NA
42.60	160.185	NA
42.70	160.140	NA
42.71	160.150	NA
42.72	160.145	NA
45.1	165.110	NA
46.1	164.150	NA
46.51	164.110	NA
46.52	164.120(c)	NA
50.1	158.3	NA
50.2	158.170(a)	NA
50.3	158.170(b)	NA
51.1	156.170(a)	NA
51.2	155.170(b)	NA
51.3	155.170(c)	NA
51.4	155.172(a)	NA
51.5	155.172(b)	NA
51.6	155.172(c)	NA
51.10	155.120(a)	NA
51.11	155.120(b)	NA
51.20	155.130(a)	NA
51.21	155.130(b)	NA
51.22	155.130(c)	NA
51.30	155.121(a)	NA
51.32	155.121(c)	NA
51.563	155.201(c)	NA
51.990	155.200	NA
53.1	156.145	NA
53.5	156.147	NA
53.10	156.194	NA
53.20	155.192	NA
53.30	155.191	NA
53.40	155.190(a)	NA
53.41	155.190(b)	NA
53.42	155.190(c)	NA
80.1	105.85	NA
85.1	197.810	NA
85.2	197.812	NA
85.3	197.820	NA
85.4	197.825	NA
85.5	197.829	NA
85.6	197.830	NA
85.7	197.840	NA
85.8	197.850	NA
85.9	197.855	NA
85.10	197.860	NA
85.11	197.870	NA
85.12	197.880	NA
85.13	197.885	NA
85.14	197.815	NA
85.16	197.310	NA
85.17	197.312	NA
85.18	197.320	NA
85.19	197.325	NA
85.20	197.329	NA
85.21	197.330	NA
85.22	197.340	NA
85.23	197.350	NA
85.24	197.355	NA
85.25	197.360	NA
85.26	197.370	NA
85.27	197.380	NA
85.28	197.385	NA
85.29	197.315	NA
90.1	108.3	508.3
90.2	108.19	508.19
90.3	108.5	508.5
90.4	108.7	508.7
90.5	108.10	508.10
90.6	108.6	508.6
90.7	108.12	508.12
90.20	108.35	508.35
100.1	104.5	NA
100.2	104.19	NA
100.5	104.47	NA
102.1	102.5	502.5
102.2	102.19	502.19
102.5	102.54	NA
102.6	102.57	NA
102.7	102.50	NA
102.8	102.47	NA
102.9	102.32	NA
102.10	102.30	NA
102.11	102.36	NA
102.12	102.28	NA
102.13	102.39	NA
102.14	102.45	NA
102.15	102.49	NA
102.16	102.55	NA
102.17	102.41	NA
102.19	102.37	NA
121.1	170.3	[2] 570.3
121.2	170.19	570.19
121.3	170.30	570.30
121.4	170.18	570.18
121.5	170.22	570.22
121.6	170.20	570.20
121.8	170.10	NA
121.10	170.45	NA
121.11	170.6	570.6
121.12	170.50	NA
121.13	170.60	NA
121.14	181.5	NA
121.40	170.35	570.35
121.41	170.38	570.38
121.51 except (k) and (l).	171.1	571.1
121.51 (k) and (l).	171.100	571.100
121.52	171.7	571.7
121.53	171.6	571.6
121.54	171.102	571.102
121.55	171.110	571.110
121.72	170.15	570.15
121.74	171.130	571.130
121.75	170.17	570.17
121.101 except table in (d) and (e) through (i).	182.1	582.1
121.101(d)	182.1005	582.1005
	182.1009	582.1009
	182.1033	582.1033
	182.1045	NA
	182.1047	NA
	182.1057	582.1057
	182.1061	582.1061
	182.1089	582.1089
	182.1073	582.1073
	182.1077	582.1077
	182.1087	582.1087
	182.1091	582.1091
	182.1095	582.1095
	182.1099	582.1099
	182.1125	582.1125
	182.1127	582.1127
	182.1129	582.1129
	182.1131	582.1131
	182.1135	582.1135

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Old section	New human section	New animal section [1]
121.101(d)	582.1127	582.1127
	582.1129	582.1129
	582.1141	582.1141
	582.1143	582.1143
	582.1155	582.1155
	582.1165	582.1165
	582.1180	NA
	582.1191	582.1191
	582.1193	582.1193
	582.1195	582.1195
	582.1199	582.1199
	582.1205	582.1205
	582.1207	582.1207
	582.1210	582.1210
	582.1217	582.1217
	582.1235	582.1235
	582.1240	582.1240
	582.1275	582.1275
	582.1295	NA
	582.1320	582.1320
	582.1324	582.1324
	582.1355	582.1355
	582.1396	582.1396
	582.1400	582.1400
	582.1425	582.1425
	582.1429	582.1429
	582.1431	582.1431
	582.1440	NA
	582.1480	582.1480
	582.1500	582.1500
	582.1516	582.1516
	582.1540	582.1540
	582.1545	NA
	582.1585	582.1585
	582.1613	582.1613
	582.1619	582.1619
	582.1625	582.1625
	582.1631	582.1631
	582.1643	582.1643
	582.1655	582.1655
	582.1666	582.1666
	582.1685	582.1685
	582.1711	582.1711
	582.1721	582.1721
	582.1736	582.1736
	582.1743	582.1743
	582.1745	582.1745
	582.1748	582.1748
	582.1751	582.1751
	582.1763	582.1763
	582.1775	582.1775
	582.1778	582.1778
	582.1781	582.1781
	582.1792	582.1792
	582.1804	582.1804
	582.1810	582.1810
	582.1901	582.1901
	582.1911	NA
	582.1973	582.1973
	582.1975	582.1975
	582.1978	582.1978
	582.2122	582.2122
	582.2227	582.2227
	582.2437	582.2437
	582.2727	582.2727
	582.2729	582.2729
	582.2906	582.2906
	582.3013	582.3013
[2] NA	582.3021	582.3021
	582.3025	NA
	582.3041	582.3041
	582.3081	582.3081
	582.3089	582.3089
	582.3109	582.3109
	582.3149	582.3149
	582.3169	582.3169
	582.3173	582.3173
	582.3189	582.3189
	582.3221	582.3221
	582.3225	582.3225
	582.3280	582.3280
	582.3336	582.3336
[2] NA	582.3460	582.3460
	582.3616	582.3616
	582.3637	582.3637
	582.3640	582.3640
[2] NA	582.3660	582.3660
	582.3670	582.3670
	582.3731	582.3731
[2] NA	582.3733	582.3733
	582.3739	582.3739
	582.3766	582.3766
	582.3784	582.3784
	582.3795	582.3795
	582.3798	582.3798
	582.3845	582.3845
	582.3862	582.3862
	582.3890	582.3890
	582.4029	NA
	582.4087	NA
	582.4093	NA
	582.4101	582.4101
	582.4185	NA
	582.4505	582.4505
	582.4521	582.4521

See footnotes at end of table.

Old section	New human section	New animal section [1]
121.101(d)	582.4560	NA
	582.4660	582.4660
	582.5013	582.5013
	582.5017	582.5017
	582.5049	582.5049
	582.5065	582.5065
	582.5118	582.5118
	582.5145	582.5145
	582.5159	582.5159
	582.5191	582.5191
	582.5195	582.5195
	582.5201	582.5201
	582.5210	582.5210
	582.5212	582.5212
	582.5217	582.5217
	582.5223	582.5223
	582.5230	582.5230
	582.5245	582.5245
	582.5250	582.5250
	582.5252	582.5252
	582.5260	582.5260
	582.5265	NA
[2] NA	582.5271	582.5271
	582.5273	582.5273
	582.5301	582.5301
	582.5304	582.5304
	582.5306	582.5306
	582.5308	582.5308
	582.5311	582.5311
	582.5315	582.5315
	582.5361	582.5361
	582.5370	582.5370
	582.5375	582.5375
	582.5381	582.5381
	582.5406	582.5406
	582.5411	582.5411
	582.5431	582.5431
	582.5434	582.5434
	582.5443	582.5443
	582.5446	582.5446
	582.5449	582.5449
	582.5452	582.5452
	582.5455	582.5455
	582.5458	582.5458
	582.5461	582.5461
	582.5464	582.5464
	582.5470	582.5470
	582.5475	582.5475
	582.5477	582.5477
	582.5500	582.5500
	582.5535	582.5535
	582.5580	582.5580
	582.5590	582.5590
	582.5622	582.5622
	582.5628	582.5628
	582.5634	582.5634
[3] NA	582.5650	582.5650
	582.5676	582.5676
	582.5695	582.5695
	582.5697	582.5697
	582.5701	582.5701
	582.5772	582.5772
	582.5778	582.5778
	582.5835	582.5835
	582.5875	582.5875
	582.5878	582.5878
	582.5881	582.5881
	582.5890	582.5890
	582.5902	582.5902
	582.5915	582.5915
	582.5920	582.5920
	582.5925	582.5925
	582.5930	582.5930
	582.5933	582.5933
	582.5936	582.5936
	582.5945	582.5945
	582.5950	582.5950
	582.5953	582.5953
	582.5965	582.5965
	582.5968	582.5968
	582.5981	582.5981
	582.5984	582.5984
	582.5987	582.5987
	582.6033	582.6033
	582.6065	582.6065
	582.6099	582.6099
	582.6103	582.6103
	582.6108	582.6108
	582.6165	582.6165
	582.6168	582.6168
	582.6185	582.6185
	582.6197	582.6197
	582.6199	582.6199
	582.6203	582.6203
	582.6215	582.6215
	582.6219	582.6219
	582.6285	582.6285
	582.6290	582.6290
	582.6386	582.6386
	582.6611	582.6611
	582.6625	582.6625
	582.6731	582.6731
	582.6754	582.6754
	582.6757	582.6757
	582.6760	582.6760
	582.6769	582.6769

Old section	New human section	New animal section [1]
121.101(d)	582.6778	582.6778
	582.6787	582.6787
	582.6789	582.6789
	582.6801	582.6801
	582.6804	582.6804
	582.6807	582.6807
	582.6810	582.6810
	582.6851	582.6851
	582.7115	582.7115
	582.7133	582.7133
	582.7187	582.7187
	582.7255	582.7255
[2] NA	582.7330	582.7330
[2] NA	582.7332	582.7332
[2] NA	582.7337	582.7337
[2] NA	582.7343	582.7343
[2] NA	582.7349	582.7349
[2] NA	582.7351	582.7351
	582.7610	582.7610
	582.7724	582.7724
121.101(e)(1)	582.10	582.10
121.101(e)(2)	582.20	582.20
121.101(e)(3)	582.30	582.30
121.101(e)(4)	582.40	582.40
121.101(e)(5)	582.50	582.50
121.101(f)	NA	582.80
121.101(g)	582.60	582.60
121.101(h)	582.90	NA
121.101(i)	582.70	NA
121.102	582.99	582.99
121.104 except (g)	184.1	NA
121.104(g)(1)	184.1840	NA
121.104(g)(2)	184.1660	NA
121.104(g)(4)	184.1835	NA
121.104(g)(5)	184.1343	NA
121.104(g)(6)	184.1021	NA
121.104(g)(7)	184.1733	NA
121.104(g)(8)	184.1317	NA
121.104(g)(13)	184.1262	NA
121.104(g)(17)	184.1333	NA
121.104(g)(18)	184.1351	NA
121.104(g)(19)	184.1330	NA
121.104(g)(20)	184.1349	NA
121.104(g)(21)	184.1699	NA
121.104(g)(22)	184.1271	NA
121.104(g)(23)	184.1272	NA
121.104(g)(24)	184.1293	NA
121.104(g)(25)	184.1953	NA
121.104(g)(26)	184.1650	NA
121.104(g)(27)	184.1339	NA
121.105 (except (f))	186.1	NA
121.105(f)(1)	186.1343	NA
121.105(f)(2)	186.1339	NA
121.105(f)(3)	186.1673	NA
121.105(f)(4)	186.1330	NA
121.106 except (d) and (e)	189.1	NA
121.106(d)(1)	189.110	NA
121.106(d)(2)	189.145	NA
121.106(d)(3)	189.175	NA
121.106(d)(4)	189.130	NA
121.106(d)(5)	189.135	NA
121.106(d)(6)	189.180	NA
121.106(d)(7)	189.155	NA
121.106(d)(8)	189.190	NA
121.106(d)(9)	189.120	NA
121.106(d)(10)	189.165	NA
121.106(d)(11)	189.140	NA
121.106(e)(1)	189.220	NA
121.106(e)(2)	189.280	NA
121.106(e)(3)	189.250	NA
121.201	NA	573.400
121.202	NA	573.380
121.203	NA	573.820
121.206	NA	573.500
121.209	NA	573.180
121.210	NA	573.480
121.222	NA	573.1000
121.223	NA	573.700
121.224	NA	573.640
121.229	NA	573.940
121.230	NA	573.420
121.231	NA	573.300
121.294	NA	573.600
121.235	NA	573.860
121.236	NA	573.840
121.239	NA	573.780
121.243	NA	573.660
121.246	NA	573.680
121.247	NA	573.580
121.250	NA	573.260
121.261	NA	573.720
121.269	NA	573.820
121.271	NA	573.860
121.272	NA	573.900
121.273	NA	573.920
121.275	NA	573.520
121.277	NA	573.740
121.282	NA	573.560
121.283	NA	573.980
121.284	NA	573.1020
121.285	NA	573.160
121.286	NA	573.620
121.288	NA	573.120
121.295	NA	573.760

Old section	New human section	New animal section [1]
121.298	NA	573.440
121.301	NA	573.540
121.302	NA	573.200
121.306	NA	573.260
121.307	NA	573.980
121.313	NA	573.240
121.319	NA	573.140
121.320	NA	573.800
121.322	NA	573.340
121.325	NA	573.920
121.328	NA	573.220
121.329	NA	573.460
121.1000	172.5	NA
121.1001	172.140	NA
121.1002	172.320	NA
121.1004	172.852	NA
121.1008	172.838	NA
121.1009	172.840	NA
121.1010	172.725	NA
121.1012	172.822	NA
121.1013	172.856	NA
121.1016	172.818	NA
121.1017	172.130	NA
121.1018	172.828	NA
121.1019	172.894	NA
121.1021	172.874	NA
121.1023	172.802	NA
121.1027	172.814	NA
121.1028	172.878	NA
121.1029	172.842	NA
121.1030	172.836	NA
121.1031	172.832	NA
121.1032	172.490	NA
121.1034	172.115	NA
121.1035	172.110	NA
121.1036	172.832	NA
121.1037	172.330	NA
121.1038	173.255	NA
121.1040	173.220	NA
121.1041	173.290	NA
121.1042	173.310	NA
121.1043	173.340	NA
121.1044	173.250	NA
121.1045	173.270	NA
121.1047	172.844	NA
121.1048	172.846	NA
121.1050	172.215	NA
121.1056	172.125	NA
121.1058	172.480	NA
121.1059	172.615	NA
121.1060	172.350	NA
121.1063	172.170	NA
121.1064	172.175	NA
121.1065	173.300	NA
121.1066	172.620	NA
121.1067	172.626	NA
121.1068	172.655	NA
121.1069	172.660	NA
121.1070	172.860	NA
121.1071	172.863	NA
121.1073	172.375	NA
121.1077	172.280	NA
121.1080	172.755	NA
121.1081	172.575	NA
121.1082	172.560	NA
121.1084	172.730	NA
121.1085	172.806	NA
121.1089	172.565	NA
121.1087	172.808	NA
121.1090	172.535	NA
121.1091	173.315	NA
121.1092	173.5	NA
121.1095	172.310	NA
121.1097	172.580	NA
121.1098	172.890	NA
121.1099	173.340	NA
121.1100	172.370	NA
121.1101	173.275	NA
121.1102	172.715	NA
121.1105	172.230	NA
121.1109	172.530	NA
121.1110	173.50	NA
121.1111	172.806	NA
121.1112	172.873	NA
121.1113	172.856	NA
121.1114	173.305	NA
121.1116	172.190	NA
121.1119	172.265	NA
121.1120	172.854	NA
121.1122	172.850	NA
121.1123	172.535	NA
121.1124	172.806	NA
121.1130	172.360	NA
121.1132	172.160	NA
121.1134	173.245	NA
121.1135	172.410	NA
121.1136	172.775	NA
121.1137	172.810	NA
121.1139	173.55	NA
121.1141	172.310	NA
121.1142	172.260	NA
121.1146	172.878	NA
121.1148	173.25	NA

Old section	New human section	New animal section [1]
121.1149	172.265	NA
121.1151	172.515	NA
121.1154	172.892	NA
121.1155	173.320	NA
121.1156	172.898	NA
121.1160	172.870	NA
121.1161	172.770	NA
121.1162	172.720	NA
121.1163	172.510	NA
121.1164	172.515	NA
121.1165	173.130	NA
121.1166	172.880	NA
121.1170	173.135	NA
121.1171	173.385	NA
121.1174	172.610	NA
121.1175	173.520	NA
121.1179	172.210	NA
121.1180	173.20	NA
121.1181	173.345	NA
121.1182	172.894	NA
121.1183	172.826	NA
121.1185	172.820	NA
121.1186	172.145	NA
121.1190	172.430	NA
121.1192	173.17	NA
121.1193	172.623	NA
121.1194	172.720	NA
121.1196	172.830	NA
121.1197	172.705	NA
121.1198	172.834	NA
121.1199	173.150	NA
121.1202	172.385	NA
121.1203	172.250	NA
121.1206	172.150	NA
121.1209	173.355	NA
121.1211	172.846	NA
121.1215	172.190	NA
121.1219	172.220	NA
121.1222	172.634	NA
121.1224	172.695	NA
121.1225	172.710	NA
121.1228	172.275	NA
121.1229	172.520	NA
121.1230	172.177	NA
121.1233	173.120	NA
121.1235	173.908	NA
121.1237	172.992	NA
121.1238	172.864	NA
121.1239	172.388	NA
121.1244	172.185	NA
121.1246	173.40	NA
121.1250	172.560	NA
121.1255	173.160	NA
121.1257	172.812	NA
121.1258	172.806	NA
121.1259	172.886	NA
121.1260	173.145	NA
121.1262	172.888	NA
121.1263	172.320	NA
121.1265	173.110	NA
121.1266	172.225	NA
121.1267	173.280	NA
121.1268	172.712	NA
121.2000	181.1	NA
121.2005 (introductory offer)	181.22	NA
121.2005(a)	181.24	NA
121.2005(b)	181.23	NA
121.2005(c)	181.25	NA
121.2005(d)	181.26	NA
121.2005(e)	181.27	NA
121.2005(f)	181.28	NA
121.2005(g)	181.29	NA
121.2005(h)	181.30	NA
121.2010	181.32	NA
121.2500	174.1	NA
121.2501	177.1520	NA
121.2502	177.1500	NA
121.2503	178.3030	NA
121.2505	178.3200	NA
121.2506	178.3520	NA
121.2507	177.1200	NA
121.2508	178.2550	NA
121.2509	178.3060	NA
121.2510	177.1640	NA
121.2511	178.3740	NA
121.2512	176.170	NA
121.2513	178.3750	NA
121.2514	175.300	NA
121.2515	176.150	NA
121.2516	176.320	NA
121.2517	177.1620	NA
121.2518	176.160	NA
121.2519	176.210	NA
121.2520	175.105	NA
121.2521	177.1980	NA
121.2522	177.1980	NA
121.2523	177.1350	NA
121.2524	177.1650	NA
121.2525	178.230	NA
121.2526	176.170	NA
121.2527	178.3330	NA
121.2528	177.1960	NA
121.2529	178.230	NA
121.2530	178.3850	NA

Old section	New human section	New animal section [1]
121.2531	178.3010	NA
121.2532	177.1610	NA
121.2533	177.1240	NA
121.2534	178.3120	NA
121.2535	177.2900	NA
121.2536	177.2260	NA
121.2537	176.180	NA
121.2538	176.120	NA
121.2539	176.350	NA
121.2540	175.350	NA
121.2541	178.3400	NA
121.2543	179.45	NA
121.2544	178.3950	NA
121.2545	177.1850	NA
121.2546	176.260	NA
121.2547	178.1010	NA
121.2548	175.390	NA
121.2549	177.1460	NA
121.2550	177.1210	NA
121.2551	178.3300	NA
121.2552	178.3500	NA
121.2553	178.3570	NA
121.2554	177.1320	NA
121.2555	177.1550	NA
121.2556	178.3800	NA
121.2557	176.200	NA
121.2558	178.3530	NA
121.2559	175.380	NA
121.2563	176.250	NA
121.2561	178.3450	NA
121.2562	177.2600	NA
121.2563	178.3970	NA
121.2564	177.1310	NA
121.2565	178.3290	NA
121.2566	178.2010	NA
121.2567	177.1400	NA
121.2569	175.320	NA
121.2570	177.1350	NA
121.2571	176.180	NA
121. 2572	177. 1650	NA
121. 2573	178. 3720	NA
121. 2574	177. 1580	NA
121. 2575	175. 250	NA
121. 2576	177. 2420	NA
121. 2577	175. 125	NA
121. 2578	175. 230	NA
121. 2579	177. 1440	NA
121. 2580	177. 1600	NA
121. 2581	177. 2430	NA
121. 2582	177. 1330	NA
121. 2583	178. 3010	NA
121. 2584	177. 2710	NA
121. 2585	177. 2280	NA
121. 2586	178. 3710	NA
121. 2587	177. 2410	NA
121. 2588	178. 3700	NA
121. 2589	178. 3620	NA
121. 2590	177. 1420	NA
121. 2591	177. 1010	NA
121. 2592	178. 3570	NA
121. 2593	177. 2510	NA
121. 2594	178. 3650	NA
121. 2595	177. 1900	NA
121. 2596	178. 3300	NA
121. 2597	178. 3790	NA
121. 2598	177. 1670	NA
121. 2599	175. 360	NA
121. 2600	175. 365	NA
121. 2601	175. 260	NA
121. 2602	178. 2650	NA
121. 2603	177. 2460	NA
121. 2604	178. 3600	NA
121. 2605	178. 3770	NA
121. 2606	178. 3940	NA
121. 2607	178. 3760	NA
121. 2608	177. 1970	NA
121. 2609	177. 1950	NA
121. 2610	177. 1430	NA
121. 2611	177. 1830	NA
121. 2612	175. 270	NA
121. 2613	177. 2500	NA
121. 2614	177. 1480	NA
121. 2615	178. 3610	NA
121. 2616	178. 3490	NA
121. 2617	177. 1570	NA
121. 2618	178. 3720	NA
121. 2619	177. 1380	NA
121. 2620	178. 3280	NA
121. 2621	177. 2490	NA
121. 2622	177. 1810	NA
121. 2623	177. 1960	NA
121. 2624	178. 3550	NA
121. 2625	177. 1050	NA
121. 2626	177. 1820	NA
121. 2627	177. 1030	NA
121. 2628	177. 2450	NA
121. 2629	177. 1040	NA
121. 2630	178. 3790	NA
121. 2631	177. 2250	NA
121. 2632	177. 1590	NA
121. 2633	177. 1020	NA
121. 2634	177. 2010	NA
121. 2635	177. 1460	NA
121. 2636	177. 2210	NA
121. 2637	177. 2470	NA

See footnotes at end of table.

SUBCHAPTER B—FOODS FOR HUMAN

PART 100—GENERAL

mixtures of nutritive sweeteners and sac-

(1) The bottles when filled with bever-

vegetables are of low sodium content and

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Old section	New human section	New animal section [1]
121.3038	177.2480	NA
121.3001	179.21	NA
121.3003	179.22	NA
121.3006	179.30	NA
121.3007	179.36	NA
121.3008	179.39	NA
121.4000	180.1	NA
121.4001	180.37	NA
121.4004	180.30	NA
121.4005	180.25	NA
121.4010	180.22	NA
122.1	109.3	509.3
122.10	109.30	509.30
125.1	105.3	NA
125.2	105.60	NA
125.3	105.77	NA
125.5	105.65	NA
125.6	105.67	NA
125.7	105.79	NA
125.8	105.63	NA
125.9	105.69	NA
126.1	110.3	NA
126.2	110.1	NA
126.3	110.20	NA
126.4	110.40	NA
126.5	110.25	NA
126.6	110.37	NA
126.7	110.80	NA
126.8	110.10	NA
126.9	110.19	NA
126.10	110.99	NA
128a.1	122.3	NA
128a.2	122.1	NA
128a.3	122.20	NA
128a.4	122.40	NA
128a.5	122.35	NA
128a.6	122.37	NA
128a.7	122.80	NA
128a.401	123.3	NA
128a.402	123.1	NA
128a.403	123.20	NA
128a.404	123.40	NA
128a.405	123.35	NA
128a.406	123.37	NA
128a.407	123.80	NA
128b.1	113.3	507.3
128b.2	113.1	507.1
128b.3	113.93	507.81
128b.4	113.89	507.83
128b.5	113.87	507.87
128b.6	113.40	507.40
128b.7	113.60	507.60
128b.8	113.100	507.100
128b.9	113.89	507.89
128b.10	113.10	507.10
128c.1	118.3	NA
128c.2	118.1	NA
128c.3	118.20	NA
128c.4	118.40	NA
128c.5	118.35	NA
128c.6	118.37	NA
128c.7	118.80	NA
128c.8	118.100	NA
128d.1	129.3	NA
128d.2	129.1	NA
128d.3	129.20	NA
128d.4	129.40	NA
128d.5	129.35	NA
128d.6	129.37	NA
128d.7	129.80	NA

[1] The text of the animal food regulations listed in this columnare set forth in the fourteenth recodification document published in the FEDERAL REGISTER of Sept. 10, 1976 (41 FR 38618).

[2] § 570.3 does not include pars. (n) and (o) of former § 121.1.

[3] The procedure for listing substances when affirmed as GRAS is to eliminate them from listing in Part 182 (formerly § 121.101(d)). For substances affirmed as GRAS in human food, see Parts 184 and/or 186. For all GRAS substances in animal food see Part 582 (published in the Federal Register of September 10, 1976 (41 FR 38618)).

The changes being made are nonsubstantive in nature and for this reason notice and public procedure are not prerequisites to this promulgation. For the convenience of the user, the entire text of reorganized Subchapter B, except Part 193 under the jurisdiction of the Environmental Protection Agency, is set forth below.

Dated: March 4, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

SUBCHAPTER B—FOODS FOR HUMAN CONSUMPTION

Part:

100 General.
101 Food labeling.
102 Common or usual name for nonstandardized foods.
103 Quality standards for foods with no identity standards.
104 Nutritional quality guidelines for foods.
105 Foods for special dietary use.
108 Emergency permit control.
109 Unavoidable contaminants in food and food-packaging material.
110 Current good manufacturing practice in manufacturing, processing, packing, or holding human food.
113 Thermally processed low-acid foods packaged in hermetically sealed containers.
118 Cacao products and confectionery.
122 Smoked and smoke-flavored fish.
123 Frozen raw breaded shrimp.
129 Processing and bottling of bottled drinking water.
130 Food standards: general.
131 Milk and cream.
133 Cheeses and related cheese products.
135 Frozen desserts.
136 Bakery products.
137 Cereal flours and related products.
139 Macaroni and noodle products.
145 Canned fruits.
146 Canned fruit juices.
150 Fruit butters, jellies, preserves, and related products.
152 Fruit pies.
155 Canned vegetables.
156 Vegetable juices.
158 Frozen vegetables.
160 Eggs and egg products.
161 Fish and shellfish.
163 Cacao products.
164 Tree nut and peanut products.
165 Nonalcoholic beverages.
166 Margarine.
168 Sweeteners and table sirups.
169 Food dressings and flavorings.
170 Food additives.
171 Food additive petitions.
172 Food additives permitted for direct addition to food for human consumption.
173 Secondary direct food additives permitted in food for human consumption.
174 Indirect food additives, general.
175 Indirect food additives—adhesive coatings and components.
176 Indirect food additives—paper and paperboard components.
177 Indirect food additives—polymers.
178 Indirect food additives—adjuvants, production aids, and sanitizers.
179 Irradiation in the production, processing and handling of food.
180 Food additives permitted in food on an interim basis or in contact with food pending additional study.
181 Prior-sanctioned food ingredients.
182 Substances generally recognized as safe.
184 Direct food substances affirmed as generally recognized as safe.
186 Indirect food substances affirmed as generally recognized as safe.
189 Substances prohibited from use in human food.
193 [1] Tolerances for pesticides in food administered by the Environmental Protection Agency.
197 Seafood inspection program.

[1] Full text of this part, transferred from former Part 121, was set out under Part 123 in the tenth recodification document published in the FEDERAL REGISTER of March 23, 1975 (40 FR 14156). Part 123 was subsequently transferred to Part 193 by publication in the FEDERAL REGISTER of June 28, 1976 (41 FR 26565).

PART 100—GENERAL

Subparts A–F—[Reserved]

Subpart G—Specific Administrative Rulings and Decisions

Sec.

100.120 Artificially red-dyed yellow varieties of sweet potatoes.
100.130 Combinations of nutritive and nonnutritive sweeteners in "diet beverages."
100.135 Disposition of incubator reject eggs.
100.140 Label declaration of salt in frozen vegetables.
100.145 Notice to packers of comminuted tomato products.
100.150 Notice to packers and shippers of shelled peanuts.
100.155 Salt and iodized salt.
100.160 Tolerances for moldy and insect-infected cocoa beans.

AUTHORITY: Sec. 701, 52 Stat. 1055–1056 as amended (21 U.S.C. 371) unless otherwise noted.

Subparts A–F [Reserved]

Subpart G—Specific Administrative Rulings and Decisions

§ 100.120 Artificially red-dyed yellow varieties of sweet potatoes.

(a) It has been the practice of some growers, packers, and distributors of yellow varieties of sweet potatoes to artificially color the skins of such potatoes with a red dye. Surveys made by the Food and Drug Administration and letters received by the Administration from consumers reveal that this practice can deceive those persons who prefer the naturally red varieties of sweet potatoes. Also, representatives of the red sweet potato industry have alleged that some consumers refuse to purchase any red sweet potatoes since they cannot distinguish between the naturally red ones and those artificially colored with red dye.

(b) The Food and Drug Administration concludes, therefore, that yellow varieties of sweet potatoes artificially colored with a red dye are adulterated within the meaning of section 402(b) of the Federal Food, Drug, and Cosmetic Act.

(c) The Food and Drug Administration will consider appropriate regulatory action regarding such adulterated sweet potatoes shipped in interstate commerce if the act of adulterating the potatoes occurs after 90 days following the date of publication of this statement of policy in the FEDERAL REGISTER.

(Sec. 402(b), 52 Stat. 1046–1047 (21 U.S.C. 342 (b)).)

§ 100.130 Combinations of nutritive and nonnutritive sweeteners in "diet beverages."

As a result of the removal of cyclamic acid and its salts from the list of substances generally recognized as safe (Part 182 of this chapter) by an order published in the FEDERAL REGISTER of October 21, 1969 (34 FR 17063), the Commissioner of Food and Drugs has received inquiries as to the proper composition and labeling, from the standpoint of application of the Federal Food, Drug, and Cosmetic Act, of so-called "diet beverages" that will be made from

mixtures of nutritive sweeteners and saccharin or its salts. The Commissioner concludes that:

(a) Any "diet beverage" or diet beverage base made with combinations of nutritive and nonnutritive sweeteners must be so formulated that each ingredient is one which is generally recognized as safe and is not a food additive as defined in section 201(s) or a color additive as defined in section 201(t) of the act, or if it is a food additive or a color additive as so defined, is used in accordance with a regulation established pursuant to section 409 or 706 of the act.

(b) The product is to be so formulated that its caloric value is at least 50 percent less than the caloric value of the comparable product made without artificial sweeteners. In no case shall the beverage provide more than 6 calories per fluid ounce.

(c) If it is to be marketed under a name heretofore used on a product represented to have no, or only a few, calories per serving, the name shall be modified by the word "new" for at least 1 year following the time such product is introduced in a given market.

(d) (1) The label must bear a complete statement of ingredients except that spices, flavorings, and colorings may be designated as such without naming each.

(2) The label must bear a statement of the caloric content per fluid ounce, the carbohydrate content per fluid ounce, a statement of the percentage of saccharin or saccharin salt used, and the statement "Contains _____ mg saccharin (or saccharin salt, as the case may be) per ounce, a nonnutritive artificial sweetener".

(3) To further avoid injury through inadvertent use by diabetics in the belief that the product does not contain carbohydrates, the label of a beverage containing sugar(s) must bear the statement "Contains sugar(s); not for use by diabetics without advice of a physician."

(4) To avoid confusion by diabetics, the label of a beverage containing sorbitol, mannitol, or other hexitol, must bear the statement "Contains carbohydrates, not for use by diabetics without advice of a physician". To further avoid confusion of these beverages with those sweetened solely with nonnutritive artificial sweeteners which have been marketed in containers bearing prominent statements such as "sugar free", "sugarless", or "no sugar", the labels of beverages containing hexitols must not bear these or similar statements.

(e) Bottlers of diet drinks have on hand large stocks of returnable lithographed bottles bearing statements indicating that the beverages contain cyclamates and/or declarations such as "sugar free", "less than 1 calorie per bottle", or "less than 2 calories per bottle" which bottles were formerly used for artificially sweetened beverages containing cyclamates. The Food and Drug Administration will not object to continued use of these bottles under the following conditions:

(1) The bottles when filled with beverages made with combinations of nutritive and nonnutritive sweeteners may be marketed only:

(i) In multiunit cartons labeled prominently on each principal display panel with the information set forth in paragraphs (c) and (d) of this section and with a prominent, forthright notice that any information on bottles which is contrary to that on the cartons should be disregarded because it is incorrect. To assure adequate prominence and conspicuousness, the following statements should stand out in marked contrast with other labeling: The statement of caloric content and carbohydrate content per fluid ounce, the statement required by paragraph (d) (3) or (4) of this section as applicable, and the notice to disregard any information on bottles which is contrary to that on the cartons. These statements may be made to stand out by means such as setting them forth in boxes, printing in bold capitals on lines separated from other printed labeling, using colors that contrast with those used for other label statements, or other similar means.

(ii) In vending machines bearing durable labeling which includes all of the information required to appear on cartons set forth with the same degree of prominence.

(2) In addition, the bottles must bear caps labeled prominently with the words "Contains Sugar" or "Contains Carbohydrates", and accurate statements of the caloric content and carbohydrate content per fluid ounce.

(Secs. 201(s), 403, 409(d), 52 Stat. 1047–1048, as amended, 72 Stat. 1784 as amended, 1787 (21 U.S.C. 321(s), 343, 348).)

§ 100.135 Disposition of incubator reject eggs.

(a) Investigations by the Food and Drug Administration and a number of State regulatory agencies have revealed that incubator reject eggs, removed as infertile or otherwise unhatchable during hatching operations, are being diverted for human food use. Such eggs are regarded as adulterated within the meaning of section 402(a)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(a)(3)) because they are unfit for food.

(b) The introduction or delivery for introduction into interstate commerce of adulterated eggs is prohibited under section 301(a) of the aforesaid act (21 U.S.C. 331(a)) unless they have been broken, crushed, or smashed and then denatured with kerosene, creolin, or other suitable denaturant to preclude their diversion to human food channels.

(Secs. 301, 402, 52 Stat. 1042, 1046 (21 U.S.C. 331, 342.)

§ 100.140 Label declaration of salt in frozen vegetables.

(a) In a number of diseases or disease conditions it is important to restrict the intake of sodium. Sodium occurs in all natural foods, but added salt makes the most important contribution to the total sodium intake in the diet. Most fresh vegetables are of low sodium content and consumers generally regard frozen vegetables as being free of added salt and suitable for use in low-sodium diets. While salt may not be added directly as a seasoning ingredient during the processing of frozen vegetables, the use of salt brine in quality separation of such vegetables as peas and lima beans preparatory to freezing may contribute substantial amounts of salt to the finished article. The failure of the labels of frozen vegetables to declare the presence of salt has been the basis of complaints to the Food and Drug Administration.

(b) Section 403(i)(2) of the Federal Food, Drug, and Cosmetic Act requires the label of a fabricated food to bear the common or usual name of each ingredient present. The Department of Health, Education, and Welfare regards any frozen vegetable containing salt, added directly or indirectly, as misbranded in violation of section 403(i)(2) of the Federal Food, Drug, and Cosmetic Act unless its label names salt as an ingredient.

§ 100.145 Notice to packers of comminuted tomato products.

(a) It has long been known that tomato rot may be caused by one or more of the following: Fungus diseases, bacterial diseases, virus diseases, and certain nonparasitic diseases. Only the fungus rots are characterized by the presence of mold filaments. Mold counts on comminuted tomato products are not increased by incorporating within the product tomato rot caused by bacteria, virus, or nonparasitic factors. Although high mold counts on these products reveal that large amounts of rotten material are present, low mold counts do not necessarily demonstrate absence of the type of rot caused by the tomato diseases that are not characterized by mold filaments.

(b) Inspections of canneries engaged in the packing of comminuted tomato products show that most packers effectively trim, sort out, and discard rotten tomatoes from the raw stock. Some packers, however, do not properly eliminate rotten tomato material, and a few packers deliberately use rotten tomatoes in these foods, provided the mold count remains low. Some packers, on occasion, have mixed tomato products having a high mold count with tomato products containing little or no mold, so as to produce a blend with a low mold count.

(c) Packers of comminuted tomato products who rely upon the mold count as the sole or primary control procedure, to the neglect of adequate sorting and trimming, may produce products with low mold counts which contain substantial amounts of rot.

(d) It is the purpose of this announcement to advise all canners of tomato products that:

(1) Although high mold count is conclusive evidence of inclusion of substantial amounts of rot, mold count is not the only way of establishing that comminuted tomato products contain decomposed tomato material.

(2) Where factory observations or other evidence reveals that comminuted

display panel shall appear within that

(f) The package is designed such that

(1) Neither the bottle nor the closure is required to bear nutrition labeling in

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tomato products contain rot not caused by mold, such rot, as well as that caused by mold, will be taken into account in applying the provisions of the Federal Food, Drug, and Cosmetic Act against adulteration.

(3) The blending of tomato products adulterated with tomato rot, of whatever kind, with tomato products made from sound tomatoes, or with other sound food, renders the blend adulterated.

§ 100.150 Notice to packers and shippers of shelled peanuts.

(a) Investigations by the Food and Drug Administration have shown that a number of interstate shipments of shelled peanuts in bags holding from approximately 100 to 125 pounds each have failed to bear labeling as required by the terms of the Federal Food, Drug, and Cosmetic Act.

(b) Shelled peanuts in sacks, whether or not shipped in carload lots, should bear the following information required by the law on food in package form:

(1) The name of the product.

(2) An accurate statement of net weight.

(3) The name and place of business of the packer or distributor.

(c) The information required by paragraph (b) of this section should be conspicuously set forth. It may be printed or stenciled on each bag or, if desired, placed on tags which are securely attached to each bag.

(d) The net weight marked on the bags must be the correct net weight of the peanuts at the time they are delivered to the carrier for interstate shipment. The tare weight of the bag should not be included in the weight declaration.

§ 100.155 Salt and iodized salt.

(a) For the purposes of this section, the term "iodized salt" or "iodized table salt" is designated as the name of salt for human food use to which iodide has been added in the form of cuprous iodide or potassium iodide permitted by §§ 182.5265 and 182.5634 of this chapter. In the labeling of such products, all words in the name shall be equal in prominence and type size. The statement "This salt supplies iodide, a necessary nutrient" shall appear on the label immediately following the name and shall be in letters which are not less in height than those required for the declaration of the net quantity of contents as specified in § 101.105 of this chapter.

(b) Salt or table salt for human food use to which iodide has not been added shall bear the statement, "This salt does not supply iodide, a necessary nutrient." This statement shall appear immediately following the name of the food and shall be in letters which are not less in height than those required for the declaration of the net quantity of contents as specified in §101.105 of this chapter.

(c) Salt, table salt, iodized salt, or iodized table salt to which anticaking agents have been added may bear in addition to the ingredient statement designating the anticaking agent(s), a label statement describing the characteristics imparted by such agent(s) (for example, "free flowing"), providing such statement does not appear with greater prominence or in type size larger than the statements which immediately follow the name of the food as required by paragraphs (a) and (b) of this section.

(d) Individual serving-sized packages containing less than ½ ounce and packages containing more than 2½ pounds of a food described in this section shall be exempt from declaration of the statements which paragraphs (a) and (b) of this section require immediately following the name of the food. Such exemption shall not apply to the outer container or wrapper of a multiunit retail package.

(e) All salt, table salt, iodized salt, or iodized table salt in packages intended for retail sale shipped in interstate commerce 18 months after the date of publication of this statement of policy in the FEDERAL REGISTER, shall be labeled as prescribed by this section; and if not so labeled, the Food and Drug Administration will regard them as misbranded within the meaning of section 403 (a) and (f) of the Federal Food, Drug, and Cosmetic Act.

(Secs. 403 (a) and (f), 52 Stat. 1047 (21 U.S.C. 343 (a) and (f)).)

§ 100.160 Tolerances for moldy and insect-infested cocoa beans.

On and after February 22, 1963, shipments of cocoa beans offered for entry into the United States must meet a tolerance of 6 percent total moldy and insect-infested, including insect-damaged, beans, but not more than 4 percent of either moldy or insect-infested, including insect-damaged, beans. This statement of policy supersedes the notice issued August 27, 1931, addressed to shippers, importers, and dealers in cocoa beans and manufacturers of chocolate and cocoa products and the statement of policy issued June 22, 1961, in this section.

(Sec. 402(a)(3), 68 Stat. 511 (21 U.S.C. 342 (a)(3)).)

PART 101—FOOD LABELING

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AUTHORITY: Secs. 4, 6, Pub. L. 89-755, 80 Stat. 1297, 1299, 1300 (15 U.S.C. 1453, 1455); secs. 403, 602, 701, Pub. L. 717, 52 Stat. 1047, 1054, 1055 as amended (21 U.S.C. 343, 362, 371), unless otherwise noted.

Subpart A—General Provisions

§ 101.1 Principal display panel of package form food.

The term "principal display panel" as it applies to food in package form and as used in this part, means the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale. The principal display panel shall be large enough to accommodate all the mandatory label information required to be placed thereon by this part with clarity and conspicuousness and without obscuring design, vignettes, or crowding. Where packages bear alternate principal display panels, information required to be placed on the principal display panel shall be duplicated on each principal display panel. For the purpose of obtaining uniform type size in declaring the quantity of contents for all packages of substantially the same size, the term "area of the principal display panel" means the area of the side or surface that bears the principal display panel, which area shall be:

(a) In the case of a rectangular package where one entire side properly can be considered to be the principal display panel side, the product of the height times the width of that side;

(b) In the case of a cylindrical or nearly cylindrical container, 40 percent of the product of the height of the container times the circumference;

(c) In the case of any otherwise shaped container, 40 percent of the total surface of the container: *Provided, however*, That where such container presents an obvious "principal display panel" such as the top of a triangular or circular package of cheese, the area shall consist of the entire top surface. In determining the area of the principal display panel, exclude tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars. In the case of cylindrical or nearly cylindrical containers, information required by this part to appear on the principal

display panel shall appear within that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

§ 101.2 Information panel of package form food.

(a) The term "information panel" as it applies to packaged food means that part of the label immediately contiguous and to the right of the principal display panel as observed by an individual facing the principal display panel with the following exceptions:

(1) If the part of the label immediately contiguous and to the right of the principal display panel is too small to accommodate the necessary information or is otherwise unusable label space, e.g., folded flaps or can ends, the panel immediately contiguous and to the right of this part of the label may be used.

(2) If the package has one or more alternate principal display panels, the information panel is immediately contiguous and to the right of any principal display panel.

(3) If the top of the container is the principal display panel and the package has no alternate principal display panel, the information panel is any panel adjacent to the principal display panel.

(b) All information required to appear on the label of any package of food pursuant to §§ 101.4, 101.5, 101.8, 101.9, 101.17, 101.25 and Part 105 of this chapter shall appear either on the principal display panel or on the information panel, unless otherwise specified by regulations in this chapter.

(c) All information appearing on the principal display panel or the information panel pursuant to this section shall appear prominently and conspicuously, but in no case may the letters and/or numbers be less than one-sixteenth inch in height unless an exemption pursuant to paragraph (f) of this section is established. The requirements for conspicuousness and legibility shall include the specifications of §§ 101.105(h) (1) and (2) and § 101.15.

(1) Packaged foods are exempt from the type size requirements of this paragraph: *Provided*, That:

(i) The package is designed such that it has a surface area that can bear an information panel and/or an alternate principal display panel.

(ii) The area of surface available for labeling on the principal display panel of the package as this term is defined in § 101.1 is less than 10 square inches.

(iii) The label information includes nutrition information and a full list of ingredients in accordance with regulations in this part and the policy expressed in § 101.6.

(iv) The information required by paragraph (b) of this section appears on the principal display panel or information panel label in accordance with the provisions of this paragraph (c) except that the type size is not less than three sixty-fourths inch in height.

(2) Packaged foods are exempt from the type size requirements of this paragraph: *Provided*, That:

(i) The package is designed such that it has a single "obvious principal display panel" as this term is defined in § 101.1 and has no other available surface area for an information panel or alternate principal display panel.

(ii) The area of surface available for labeling on the principal display panel of the package as this term is defined in § 101.1 is less than 12 square inches and bears all labeling appearing on the package.

(iii) The label information includes nutrition information and a full list of ingredients in accordance with regulations in this part and the policy expressed in §101.6.

(iv) The information required by paragraph (b) of this section appears on the single, obvious principal display panel in accordance with the provisions of this paragraph (c) except that the type size is not less than one thirty-second inch in height.

(3) Packaged foods are exempt from the type size requirements of this paragraph: *Provided*, That:

(i) The package is designed such that it has a total surface area available to bear labeling of less than 12 square inches.

(ii) The label information includes nutrition information and a full list of ingredients in accordance with regulations in this part and the policy expressed in § 101.6.

(iii) The information required by paragraph (b) of this section appears on the principal display panel or information panel label in accordance with the provisions of this paragraph (c) except that the type size is not less than one thirty-second inch in height.

(4)(i) Soft drinks packaged in bottles manufactured before October 31, 1975 shall be exempt from the requirements prescribed by this section to the extent that information which is blown, lithographed, or formed onto the surface of the bottle is exempt from the size and placement requirements of this section.

(ii) Soft drinks packaged in bottles shall be exempt from the size and placement requirements prescribed by this section if all of the following conditions are met:

(*a*) If the soft drink is packaged in a bottle bearing a paper, plastic foam jacket or foil label, or is packaged in a nonreusable bottle bearing a label lithographed onto the surface of the bottle, the product shall not be exempt from any requirement of this section other than the exemption created by § 1.1c(a)(5)(ii) of this chapter and the label shall bear all required information in the specified minimum type size, except the label will not be required to bear the information required by § 101.5 if this information appears on the bottle closure in a type size not less than one-sixteenth inch in height.

(*b*) If the soft drink is packaged in a bottle which does not bear a paper, plastic foam jacket or foil label, or is packaged in a reusable bottle bearing a label lithographed onto the surface of the bottle:

(*1*) Neither the bottle nor the closure is required to bear nutrition labeling in compliance with § 101.9, except that any multiunit retail package in which it is contained shall bear nutrition labeling if required by § 101.9; and any vending machine in which it is contained shall bear nutrition labeling if nutrition labeling is not present on the bottle or closure, if required by § 101.9.

(*2*) All other information pursuant to this section shall appear on the top of the bottle closure prominently and conspicuously in letters and/or numbers no less than one thirty-second inch in height, except that if the information required by § 101.5 is placed on the side of the closure in accordance with § 1.1c(a)(5)(ii) of this chapter, such information shall appear in letters and/or numbers no less than one-sixteenth inch in height.

(*3*) Upon the petition of any interested person demonstrating that the bottle closure is too small to accommodate this information, the Commissioner may by regulation establish an alternative method of disseminating such information. Information appearing on the closure shall appear in the following priority:

(*i*) The warning required by § 100.130 of this chapter.

(*ii*) The statement of ingredients.

(*iii*) The name and address of the manufacturer, packer, or distributor.

(*iv*) The statement of identity.

(d)(1) All information required to appear on the principal display panel or on the information panel pursuant to this section shall appear on the same panel unless there is insufficient space. In determining the sufficiency of the available space, any vignettes, design, and other nonmandatory label information shall not be considered. If there is insufficient space for all of this information to appear on a single panel, it may be divided between these two panels except that the information required pursuant to any given section or part shall all appear on the same panel. A food whose label is required to bear the ingredient statement on the principal display panel may bear all other information specified in paragraph (b) of this section on the information panel.

(2) Any of the foods listed in § 1.1c(a)(6)(i) and (7)(i), and §§ 133.128, 133.129, and 133.131 of this chapter, and yogurt and yogurt products, when packaged in a container consisting of a separate lid and body and bearing nutrition labeling pursuant to § 101.9, and the lid is designed as a principal display panel, shall be exempt from the placement requirements of this section in the following respects.

(i) The name and place of business information required by § 101.5 shall not be required on the body of the container if this information appears on the lid in accordance with this section.

(ii) The nutrition information required by § 101.9 shall not be required on the lid if this information appears on the container body in accordance with this section.

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(iii) The statement of ingredients re- word "imitation" and, immediately § 101.4 Food; designation of ingre-

(10) Dried whole eggs, frozen whole eggs, and liquid whole eggs may be de- flour is "durum flour"; the first ingredient designated in the ingredient list of and Drug Administration encourages all manufacturers, packers, and distributors

(iii) The statement of ingredients required by § 101.4 shall not be required on the lid if this information appears on the container body in accordance with this section. Further, the statement of ingredients is not required on the container body if this information appears on the lid in accordance with this section.

(e) All information appearing on the information panel pursuant to this section shall appear in one place without other intervening material.

(f) If the label of any package of food is too small to accommodate all of the information required by §§ 101.4, 101.5, 101.8, 101.9, 101.17, and 101.25, and Part 105 of this chapter, the Commissioner may establish by regulation an acceptable alternative method of disseminating such information to the public, e.g., a type size smaller than one-sixteenth inch in height, or labeling attached to or inserted in the package or available at the point of purchase. A petition requesting such a regulation, as an amendment to this paragraph shall be submitted pursuant to Part 2 of this chapter.

§ 101.3 Identity labeling of food in packaged form.

(a) The principal display panel of a food in package form shall bear as one of its principal features a statement of the identity of the commodity.

(b) Such statement of identity shall be in terms of:

(1) The name now or hereafter specified in or required by any applicable Federal law or regulation; or, in the absence thereof,

(2) The common or usual name of the food; or, in the absence thereof,

(3) An appropriately descriptive term, or when the nature of the food is obvious, a fanciful name commonly used by the public for such food.

(c) Where a food is marketed in various optional forms (whole, slices, diced, etc.), the particular form shall be considered to be a necessary part of the statement of identity and shall be declared in letters of a type size bearing a reasonable relation to the size of the letters forming the other components of the statement of identity; except that if the optional form is visible through the container or is depicted by an appropriate vignette, the particular form need not be included in the statement. This specification does not affect the required declarations of identity under definitions and standards for foods promulgated pursuant to section 401 of the act.

(d) This statement of identity shall be presented in bold type on the principal display panel, shall be in a size reasonably related to the most prominent printed matter on such panel, and shall be in lines generally parallel to the base on which the package rests as it is designed to be displayed.

(e) Under the provisions of section 403(c) of the Federal Food, Drug, and Cosmetic Act, a food shall be deemed to be misbranded if it is an imitation of another food unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(1) A food shall be deemed to be an imitation and thus subject to the requirements of section 403(c) of the act if it is a substitute for and resembles another food but is nutritionally inferior to that food.

(2) A food that is a substitute for and resembles another food shall not be deemed to be an imitation provided it meets each of the following requirements:

(i) It is not nutritionally inferior to the food for which it substitutes and which it resembles.

(ii) Its label bears a common or usual name that complies with the provisions of § 102.5 of this chapter and that is not false or misleading, or in the absence of an existing common or usual name, an appropriately discriptive term that is not false or misleading. The label may, in addition, bear a fanciful name which is not false or misleading.

(3) A food for which a common or usual name is established by regulation (e.g., in a standard of identity pursuant to section 401 of the act, in a common or usual name regulation pursuant to Part 102 of this chapter, or in a regulation establishing a nutritional quality guideline pursuant to Part 104 of this chapter), and which complies with all of the applicable requirements of such regulation(s), shall not be deemed to be an imitation.

(4) Nutritional inferiority includes: (i) Any reduction in the content of an essential nutrient that is present in a measurable amount, but does not include a reduction in the caloric or fat content provided the food is labeled pursuant to the provisions of § 101.9, and provided the labeling with respect to any reduction in caloric content complies with the provisions applicable to caloric content in Part 105 of this chapter.

(ii) For the purpose of this section, a measurable amount of an essential nutrient in a food shall be considered to be 2 percent or more of the U.S. RDA of protein or any vitamin or mineral listed under § 105.3(b) of this chapter per average or usual serving, or where the food is customarily not consumed directly, per average or usual portion, as established in § 101.9.

(iii) If the Commissioner concludes that a food is a substitute for and resembles another food but is inferior to the food imitated for reasons other than those set forth in this paragraph, he may propose appropriate revisions to this regulation or he may propose a separate regulation governing the particular food.

(f) A label may be required to bear the percentage(s) of a characterizing ingredient(s) or information concerning the presence or absence of an ingredient(s) or the need to add an ingredient(s) as part of the common or usual name of the food pursuant to Subpart B of Part 102 of this chapter.

(Secs. 403, 701(a), 52 Stat. 1047-1048, as amended, 1055 (21 U.S.C. 343, 371(a)).

§ 101.4 Food; designation of ingredients.

(a) Ingredients required to be declared on the label of a food, including foods that comply with standards of identity that require labeling in compliance with this Part 101, except those exempted by § 101.100, shall be listed by common or usual name in descending order of predominance by weight on either the principal display panel or the information panel in accordance with the provisions of § 101.2.

(b) The name of an ingredient shall be a specific name and not a collective (generic) name, except that:

(1) Spices, flavorings, colorings and chemical preservatives shall be declared according to the provisions of § 101.22.

(2) An ingredient which itself contains two or more ingredients and which has an established common or usual name, conforms to a standard established pursuant to the Meat Inspection or Poultry Products Inspection Acts by the U.S. Department of Agriculture, or conforms to a definition and standard of identity established pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act, shall be designated in the statement of ingredients on the label of such food by either of the following alternatives:

(i) By declaring the established common or usual name of the ingredient followed by a parenthetical listing of all ingredients contained therein in descending order of predominance except that, if the ingredient is a food subject to a definition and standard of identity established in this Subchapter B, only the ingredients required to be declared by the definition and standard of identity need be listed; or

(ii) By incorporating into the statement of ingredients in descending order of predominance in the finished food, the common or usual name of every component of the ingredient without listing the ingredient itself.

(3) Skim milk, concentrated skim milk, reconstituted skim milk, and nonfat dry milk may be declared as "skim milk" or "nonfat milk".

(4) Milk, concentrated milk, reconstituted milk, and dry whole milk may be declared as "milk".

(5) Bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "made from cultured skim milk or cultured buttermilk".

(6) Sweetcream buttermilk, concentrated sweetcream buttermilk, reconstituted sweetcream buttermilk, and dried sweetcream buttermilk may be declared as "buttermilk".

(7) Whey, concentrated whey, reconstituted whey, and dried whey may be declared as "whey".

(8) Cream, reconstituted cream, dried cream, and plastic cream (sometimes known as concentrated milk fat) may be declared as "cream".

(9) Butteroil and anhydrous butterfat may be declared as "butterfat".

(10) Dried whole eggs, frozen whole eggs, and liquid whole eggs may be declared as "eggs".

(11) Dried egg whites, frozen egg whites, and liquid egg whites may be declared as "egg whites".

(12) Dried egg yolks, frozen egg yolks, and liquid egg yolks may be declared as "egg yolks".

(13) [Reserved]

(14) Each individual fat and/or oil ingredient of a food intended for human consumption shall be declared by its specific common or usual name (e.g., "beef fat", "cottonseed oil") in its order of predominance in the food except that blends of fats and/or oils may be designated in their order of predominance in the food as "____ shortening" or "blend of ____ oils", the blank to be filled in with the word "vegetable", "animal", "marine", with or without the terms "fat" or "oils", or combination of these, whichever is applicable if, immediately following the term, the common or usual name of each individual vegetable, animal, or marine fat or oil is given in parentheses, e.g., "vegetable oil shortening (soybean and cottonseed oil)". For products that are blends of fats and/or oils and for foods in which fats and/or oils constitute the predominant ingredient, i.e., in which the combined weight of all fat and/or oil ingredients equals or exceeds the weight of the most predominant ingredient that is not a fat or oil, the listing of the common or usual names of such fats and/or oils in parentheses shall be in descending order of predominance. In all other foods in which a blend of fats and/or oils is used as an ingredient, the listing of the common or usual names in parentheses need not be in descending order of predominance if the manufacturer, because of the use of varying mixtures, is unable to adhere to a constant pattern of fats and/or oils in the product. If the fat or oil is completely hydrogenated, the name shall include the term "saturated", or if partially hydrogenated, the name shall include the term "partially saturated". Fat and/or oil ingredients not present in the product may be listed if they may sometimes be used in the product. Such ingredients shall be identified by words indicating that they may not be present, such as "or", "and/or", "contains one or more of the following:", e.g., "vegetable oil shortening (contains one or more of the following: cottonseed oil, palm oil, soybean oil)". No fat or oil ingredient shall be listed unless actually present if the fats and/or oils constitute the predominant ingredient of the product, as defined in this paragraph (b)(14).

(15) When all the ingredients of a wheat flour are declared in an ingredient statement, the principal ingredient of the flour shall be declared by the name(s) specified in §§ 137.105, 137.200, 137.220 and 137.225 of this chapter, i.e., the first ingredient designated in the ingredient list of flour, or bromated flour, or enriched flour, or self-rising flour is "flour", "white flour", "wheat flour", or "plain flour"; the first ingredient designated in the ingredient list of durum flour is "durum flour"; the first ingredient designated in the ingredient list of whole wheat flour, or bromated whole wheat flour is "whole wheat flour", "graham flour", or "entire wheat flour"; and the first ingredient designated in the ingredient list of whole durum wheat flour is "whole durum wheat flour".

(c) When water is added to reconstitute, completely or partially, an ingredient permitted by paragraph (b) of this section to be declared by a class name, the position of the ingredient class name in the ingredient statement shall be determined by the weight of the unreconstituted ingredient plus the weight of the quantity of water added to reconstitute that ingredient, up to the amount of water needed to reconstitute the ingredient to single strength. Any water added in excess of the amount of water needed to reconstitute the ingredient to single strength shall be declared as "water" in the ingredient statement.

§ 101.5 Food; name and place of business of manufacturer, packer, or distributor.

(a) The label of a food in packaged form shall specify conspicuously the name and place of business of the manufacturer, packer, or distributor.

(b) The requirement for declaration of the name of the manufacturer, packer, or distributor shall be deemed to be satisfied, in the case of a corporation, only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used.

(c) Where the food is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such food; such as "Manufactured for ____________", "Distributed by ____________", or any other wording that expresses the facts.

(d) The statement of the place of business shall include the street address, city, State, and ZIP code; however, the street address may be omitted if it is shown in a current city directory or telephone directory. The requirement for inclusion of the ZIP code shall apply only to consumer commodity labels developed or revised after the effective date of this section. In the case of nonconsumer packages, the ZIP code shall appear either on the label or the labeling (including invoice).

(e) If a person manufacturers, packs, or distributes a food at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where such food was manufactured or packed or is to be distributed, unless such statement would be misleading.

§ 101.6 Label designation of ingredients for standardized foods.

(a) There is significant consumer interest that the labels of standardized foods bear complete information on the ingredients contained in the food. In the absence of legal authority to require that the label bear such information, the Food and Drug Administration encourages all manufacturers, packers, and distributors to voluntarily make such disclosure.

(b) The Food and Drug Administration intends to amend the definitions and standards of identity of food by setting into motion as rapidly as possible the provisions of section 401 of the act to require label declaration of all optional ingredients with the exception of optional spices, flavorings, and colorings which may continue to be designated as such without specific ingredient declaration.

(c) Statutory authority does not exist to require the declaration of mandatory ingredients on the label of standardized foods.

(d) The requirement (set forth in some of the definitions and standards of identity for food) that designated optional ingredients such as spices, flavorings, colorings, emulsifiers, flavor enhancers, stabilizers, preservatives, and sweeteners be declared in a specified manner on the label wherever the name of the standardized food appears on the label so conspicuously as to be easily seen under customary conditions of purchase shall not apply to any manufacturer, packer, or distributor of a standardized food who voluntarily labels such food in the manner indicated by section 403(i) of the act (21 U.S.C. 343(i)), and the regulations promulgated thereunder, and who otherwise complies with such definition and standard. Words and statements that significantly differentiate between several foods complying with the same standard by describing the optional forms or varieties, the packing medium, and significant characterizing ingredients present in the food, shall continue to be declared in the manner as required by the particular standard.

§ 101.8 Labeling of food with number of servings.

(a) The label of any package of a food which bears a representation as to the number of servings contained in such package shall bear in immediate conjunction with such statement, and in the same size type as is used for such statement, a statement of the net quantity (in terms of weight, measure, or numerical count) of each such serving; however, such statement may be expressed in terms that differ from the terms used in the required statement of net quantity of contents (for example, cupfuls, tablespoonfuls, etc.) when such differing term is common to cookery and describes a constant quantity. Such statement may not be misleading in any particular. A statement of the number of units in a package is not in itself a statement of the number of servings.

(b) If there exists a voluntary product standard promulgated pursuant to the procedures found in 15 CFR Part 10 by the Department of Commerce, quantitatively defining the meaning of the term "serving" with respect to a particular food, then any label representation as to the number of servings in such packaged food shall correspond with such quantitative definition. (Copies of published standards are available upon request from the National Bureau of

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cluding the 10-percent level, 5-percent

Vitamin A, 5,000 International Units.

set of percentage U.S. RDA values for

Standards, Department of Commerce, Washington, DC 20234.)

§ 101.9 Nutrition labeling of food.

(a) Nutrition information relating to food may be included on the label and in the labeling of a product: *Provided*, That it conforms to the requirements of this section. Except as provided in paragraph (h) of this section, inclusion of any added vitamin, mineral, or protein in a product or of any nutrition claim or information, other than sodium content, on a label or in advertising for a food subjects the label to the requirements of this section, and in labeling for a food subjects the label and that labeling to the requirements of this section.

(1) Solicitation of requests for nutrition information by a statement "For nutrition information write to ---------- ----------" on the label or in the labeling or advertising for a food, or providing such information in a direct written reply to a solicited or unsolicited request, does not subject the label or the labeling to the requirements of this section if no other nutrition claim is made on the label or in other labeling or advertising, if the reply to the request conforms to the requirements of this section, and if no vitamin, mineral, or protein is added to the food.

(2) If any vitamin and/or mineral is added to a food so that a single serving provides 50 percent or more of the U.S. Recommended Daily Allowance (U.S. RDA) for adults and children 4 years or more of age, as specified in § 105.3 of this chapter, of any one of the added vitamins and/or minerals, unless such addition is permitted or required in other regulations, e.g., a standard of identity or nutritional quality guideline, or is otherwise exempted by the Commissioner the food shall conform to the standard or identity set forth in § 105.85 of this chapter, and shall also conform to the labeling established in § 105.85 of this chapter, except that the labeling established in paragraph (c) of this section including the order for listing vitamins and minerals established in paragraph (c)(7)(iv) of this section, shall be used in lieu of the labeling established in § 105.85(i)(1) of this chapter.

(b) All nutrient quantities (including vitamins, minerals, calories, protein, carbohydrate, and fat) shall be declared in relation to the average or usual serving or, where the food is customarily not consumed directly, in relation to the average or usual portion. Another column of figures may be used to declare the nutrient quantities in relation to the average or usual amount consumed on a daily basis, in the same format required in paragraph (c) of this section for the serving (portion), where reliable data have established that the food is customarily consumed more than once during the day and the average or usual amount so consumed.

(1) The term "serving" means that reasonable quantity of food suited for or practicable of consumption as part of a meal by an adult male engaged in light physical activity, or by an infant or child under 4 years of age when the article purports or is represented to be for consumption by an infant or child under 4 years of age. The term "portion" means the amount of a food customarily used only as an ingredient in the preparation of a meal component (e.g., ½ cup flour, ½ tablespoon cooking oil or ¼ cup tomato paste). A label statement regarding a serving (portion) shall be in terms of a convenient unit of such food or a convenient unit of measure that can be easily identified as an average or usual serving (portion) and can be readily understood by purchasers of such food (e.g., a serving (portion) may be expressed in slices, cookies, or wafers; or in terms of ounces, fluid ounces, teaspoonfuls, tablespoonfuls, or cupfuls).

(2) A teaspoonful shall be considered to mean 5 milliliters (approximately one-sixth fluid ounce) in volume; a tablespoon shall be considered to mean 15 milliliters (approximately one-half fluid ounce) in volume; and a cupful shall be considered to mean 240 milliliters (approximately 8 fluid ounces) in volume. The weight of the serving (portion) may also be expressed in grams.

(3) The declaration of nutrient quantities shall be on the basis of the food as packaged. Another column of figures may be used to declare the nutrient quantities on the basis of the food as consumed after cooking or other preparation, in the same format required in paragraph (c) of this section for the food alone: *Provided*, That the specific method of cooking or other preparation shall be disclosed in a prominent statement immediately following the information required by paragraph (c) of this section.

(c) The declaration of nutrition information on the label and in labeling shall contain the following information in the following order, using the headings specified, under the overall heading of "Nutrition Information Per Serving (Portion)." The terms "Per Serving (Portion)" are optional and may follow or be placed directly below the terms "Nutrition Information."

(1) "Serving (portion) size": A statement of the serving (portion) size.

(2) "Servings (portions) per container": The number of servings (portions) per container.

(3) "Caloric content" or "Calories": A statement of the caloric content per serving (portion), expressed to the nearest 2-calorie increment up to and including 20 calories, 5-calorie increment above 20 calories and up to and including 50 calories, and 10-calorie increment above 50 calories. Caloric content shall be determined by the Atwater method as described in A. L. Merrill and B. K. Watt, "Energy Value of Foods—Basis and Derivation," USDA Handbook 74 (1955).[1] Caloric content may be calculated on the basis of 4, 4, and 9 calories per gram for protein, carbohydrate, and fat respectively unless the use of these values gives a caloric value more than 20 percent greater than the caloric value obtained when using the more accurate values determined by use of the Atwater method as found in USDA Handbook 74 (1955).[1]

(4) "Protein content" or "Protein": A statement of the number of grams of protein in a serving (portion), expressed to the nearest gram. Protein content may be calculated on the basis of the factor of 6.25 times the nitrogen content of the food as determined by the appropriate method of analysis of the Association of Official Analytical Chemists, 11th edition, 1970,[2] except when the official procedure for a specific food requires another factor.

(5) "Carbohydrate content" or "Carbohydrate": A statement of the number of grams of carbohydrate in a serving (portion) expressed to the nearest gram.

(6) "Fat content" or "Fat": A statement of the number of grams of fat in a serving (portion) expressed to the nearest gram. Fatty acid composition, cholesterol content, and sodium content may also be declared in compliance with §§ 101.25 and 105.69 of this chapter.

(i) When fatty acid composition is declared, the information on fatty acids required by § 101.25(c) shall be placed on the label immediately following the statement of fat content. The declaratory information statement required by § 101.25(d) shall be placed either immediately following the statement on fat and fatty acids or shall be appropriately referenced by symbol and placed immediately following the completed nutrition information statement.

(ii) When cholesterol content is declared, the information on cholesterol required by § 101.25(b) shall immediately follow the statement on fat content (and fatty acids, if stated). The declaratory information statement required by § 101.25(d) shall be placed either immediately following the statement on cholesterol or shall be appropriately referenced by symbol and placed immediately following the completed nutrition information statement.

(iii) When both fatty acid and cholesterol information are provided, the declaratory information statement may be combined as permitted by § 101.25(d).

(iv) When sodium is declared, the information on sodium required by § 105.69 of this chapter shall be placed on the label immediately following the statement on fat content (and fatty acid and/or cholesterol, if stated).

(7) "Percentage of U.S. Recommended Daily Allowances (U.S. RDA)": A statement of the amount per serving (portion) of the protein, vitamins, and minerals, as described in this paragraph (c)(7), expressed in percentage of the U.S. Recommended Daily Allowance (U.S. RDA).

(i) The percentages shall be expressed in 2-percent increments up to and including the 10-percent level, 5-percent increments above 10 percent and up to and including the 50-percent level, and 10-percent increments above the 50-percent level. Nutrients present in amounts less than 2 percent of the U.S. RDA may be indicated by a zero, or by an asterisk referring to another asterisk placed at the bottom of the table and followed by the statement "contains less than 2 percent of the U.S. RDA of this (these) nutrient (nutrients)." However, when a product contains less than 2 percent of the U.S. RDA for each of five or more of the eight nutrients specified in paragraph (c)(7)(iii) of this section, the manufacturer or distributor may choose to declare no more than three of those nutrients and none of the remainder listed in paragraph (c)(7)(iv) of this section. The statement "contains less than 2 percent of the U.S. RDA of ----------", listing whichever of the eight nutrients are present at less than 2 percent of the U.S. RDA and have not been declared, shall directly follow the declared nutrient in the same type size. Any nutrient declared shall always appear in the order established in paragraph (c)(7)(iv) of this section.

(ii) The declaration of protein, which shall come first, shall be a statement of the amount per serving (portion) of protein, expressed as a percentage of the U.S. RDA.

(*a*) The U.S. RDA of the protein in a food product is 45 grams if the protein efficiency ration (PER) of the total protein in the product is equal to or greater than that of casein, and 65 grams if the PER of the total protein in the product is less than that of casein. The percentage of the U.S. RDA shall be declared as described in paragraph (c)(7)(i) of this section.

(*b*) Total protein with a PER less than 20 percent of the PER of casein may not be stated on the label in terms of percentage U.S. RDA, and the statement of protein content in grams per serving (portion) under paragraph (c)(4) of this section shall be modified by the statement "not a significant source of protein" immediately adjacent to the protein content statement, regardless of the actual amount of protein present.

(iii) The declaration of vitamins and minerals as a percent of the U.S. RDA which shall follow the protein declaration, shall include vitamin A, vitamin C, thiamine, riboflavin, niacin, calcium, and iron, in that order, and shall include any of the other vitamins and minerals listed in paragraph (c)(7)(iv) of this section when they are added and may list any of the other vitamins and minerals listed in paragraph (c)(7)(iv) of this section when they are naturally occurring in the order listed therein.

(iv) The following U.S. Recommended Daily Allowances (U.S. RDA) and nomenclature are established for these vitamins and minerals, essential in human nutrition:

Vitamin A, 5,000 International Units.
Vitamin C, 60 milligrams.[3]
Thiamine, 1.5 milligrams.[3]
Riboflavin, 1.7 milligrams.[3]
Niacin, 20 milligrams.
Calcium, 1.0 gram.
Iron, 18 milligrams.
Vitamin D, 400 International Units.
Vitamin E, 30 International Units.
Vitamin B_6, 2.0 milligrams.
Folic acid, 0.4 milligrams.
Vitamin B_{12}, 6 micrograms.
Phosphorus, 1.0 gram.
Iodine, 150 micrograms.
Magnesium, 400 milligrams.
Zinc, 15 milligrams.
Copper, 2 milligrams.
Biotin, 0.3 milligram.
Pantothenic acid, 10 milligrams.

These nutrients and levels have been derived by the Food and Drug Administration from the "Recommended Dietary Allowances," published by the Food and Nutrition Board, National Academy of Sciences-National Research Council, and are subject to amendment from time to time as more information on human nutrition becomes available.

(v) No claim may be made that a food is a significant source of a nutrient unless that nutrient is present in the food at a level equal to or in excess of 10 percent of the U.S. RDA in a serving (portion). No claim may be made that a food is nutritionally superior to another food unless it contains at least 10 percent more of the U.S. RDA of the claimed nutrient per serving (portion).

(d) Products with separately packaged ingredients or to which other ingredients are added by the user may be labeled as follows:

(1) If a product is comprised of two or more separately packaged ingredients enclosed in an outer container, nutrition labeling of the total product shall be located on the outer container to provide information for the consumer at the point of purchase. However, when two or more food products are simply combined together in such a manner that no outer container is used, or no outer label is available, each product shall have its own nutrition information, e.g., two boxes taped together or two cans combined in a clear plastic overwrap.

(2) If a food is commonly combined with another ingredient(s) before eating and directions for such combination are provided, another column of figures may be used to provide a list of the nutrient contents for the final combination in the same format required in paragraph (c) of this section for the food alone (e.g., a dry ready-to-eat cereal may be described with one set of percentage U.S. RDA values for the cereal as sold (per ounce), and another set for the cereal and milk as suggested in the label (per ounce of cereal and one-half cup of vitamin D fortified whole milk); and a cake mix may be labeled with one set of percentage U.S. RDA values for the dry mix (per serving), and another set for a serving of the final cake when prepared). The type and quantity of the other ingredient(s) to be added by the user to the product shall be specified.

(e) Compliance with this section shall be determined as follows:

(1) A collection of primary containers or units of the same size, type, and style produced under conditions as nearly uniform as possible, designated by a common container code or marking, or in the absence of any common container code or marking a day's production, constitutes a "lot."

(2) The sample for nutrient analysis shall consist of a composite of 12 subsamples (consumer units), taken one from each of 12 different randomly chosen shipping cases, to be representative of a lot. Composites shall be analyzed by Association of Official Analytical Chemists (AOAC) methods where available or, if no AOAC method is available, by reliable and appropriate analytical procedures. Alternative methods of analysis may be submitted to the Food and Drug Administration to determine their acceptability.

(3) Two classes of nutrients are defined for purposes of compliance:

Class I. Added nutrients in fortified or fabricated foods.
Class II. Naturally occurring (indigenous) nutrients.

If any ingredient which contains a naturally occurring (indigenous) nutrient is added to a food, the total amount of such nutrient in the final food product is subject to Class II requirements unless the same nutrient is also added.

(4) A food with a label declaration of a vitamin, mineral, or protein shall be deemed to be misbranded under section 403(a) of the act unless it meets the following requirements:

(i) *Class I vitamin, mineral, or protein.* The nutrient content of the composite is at least equal to the value for that nutrient declared on the label.

(ii) *Class II vitamin, mineral, or protein.* The nutrient content of the composite is at least equal to 80 percent of the value for that nutrient declared on the label.

Provided, That no regulatory action will be based on a determination of a nutrient value which falls below this level by a factor less than the variability generally recognized for the analytical method used in that food at the level involved.

(5) A food with a label declaration of calories, carbohydrates, or fat shall be deemed to be misbranded under section

[1] Copies may be obtained from: Division of Nutrition (HFF-260), Bureau of Foods, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

[3] The following synonyms may be added in parentheses immediately following the name of the vitamin:

Vitamin C	Ascorbic acid
Folic acid	Folacin
Riboflavin	Vitamin B_2
Thiamine	Vitamin B_1

403(a) of the act unless the nutrient

(2) Dietary supplements, the nutrients

soil on which that food was grown, is or

sented or displayed under customary

(3) If any article of labeling (other

(c) Among representations in the la-

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403(a) of the act unless the nutrient content of the composite is no greater than 20 percent in excess of the value for that nutrient declared on the label.

(6) Reasonable excesses of a vitamin, mineral, or protein over labeled amounts are acceptable within good manufacturing practices. Reasonable deficiencies of calories or fat under labeled amounts are acceptable within good manufacturing practices.

(f) Nutrition information provided by a manufacturer or distributor directly to professionals (e.g., physicians, dietitians, educators) may vary from the requirements of this section but shall also contain or have attached to it the nutrition information exactly as required by this section.

(g) The location of nutrition information on a label shall be in compliance with § 101.2.

(h) The following foods are exempt from this section or are subject to special labeling requirements:

(1) (i) Except where expressly covered by § 105.65 of this chapter, infant, baby, and junior-type food promoted for infants and children under 4 years of age shall include nutrition information on the label and in labeling in compliance with this section, except that the U.S. Recommended Daily Allowance (U.S. RDA) levels for infants from birth to 12 months of age or for children under 4 years of age contained in § 105.3(b) of this chapter shall be used in lieu of the U.S. RDA levels contained in paragraph (c)(7)(iv) of this section.

(ii) Both the U.S. RDA levels for infants from birth to 12 months of age and the U.S. RDA values for children under 4 years of age may be declared for foods represented or intended for use by both infants and children under 4 years of age. If such dual declaration is used on any label, it shall also be included in all labeling, and equal prominence shall be given to both values in all promotional material.

(iii) For the purposes of labeling these foods with a percent of the U.S. RDA for protein for infants, a value of 18 grams of protein shall be the U.S. RDA value for protein with a protein efficiency ratio (PER) equal to or greater than casein, and 25 grams if the PER of the protein is less than the PER of casein but greater than 40 percent of casein. For purposes of labeling foods for children under 4 years of age with a percent of the U.S. RDA for protein, a value of 20 grams of protein shall be the U.S. RDA value for protein with a PER equal to or greater than casein, and 28 grams if the PER of the protein is less than the PER of casein but greater than 20 percent of casein.

(iv) Total protein with a PER less than 40 percent of the PER of casein may not be stated on the label in terms of percentage U.S. RDA for infants, and the statement of protein content in grams per serving under paragraph (c)(4) of this section shall be modified by the statement "not a significant source of protein for infants" immediately adjacent to the protein content statement regardless of the actual amount of protein present.

(2) Dietary supplements, the nutrients of which consist solely of vitamins and/or minerals, shall be labeled in compliance with §§ 105.77 and 105.85 of this chapter, except that the labeling of a dietary supplement in food form, e.g., a breakfast cereal, shall conform to the labeling established in paragraph (c) of this section, including the order for listing vitamins and minerals established in paragraph (c)(7)(iv) of this section, in lieu of the labeling established in § 105.85 (i)(1) of this chapter.

(3) Any food represented for use as the sole item of the diet shall be labeled in compliance with Part 105 of this chapter.

(4) Foods represented for use solely under medical supervision to meet nutritional requirements in specific medical conditions shall be labeled in compliance with Part 105 of this chapter.

(5) Iodized salt shall be labeled in compliance with § 100.155 of this chapter and when used in a food does not subject that food to labeling under this section if it is declared in the ingredient statement by its name (iodized salt) and neither iodine nor iodized salt is otherwise referred to on the label or in labeling or advertising.

(6) A nutrient(s) included in food solely for technological purposes may be declared solely in the ingredient statement, without complying with this section, if the nutrient(s) is otherwise not referred to on the label or in labeling or in advertising.

(7) A standardized food containing an added nutrient(s), e.g., enriched flour, and included in another food as a component may be declared in the ingredient statement by its standardized name, without compliance with this section, if neither the nutrient(s) nor the component is otherwise referred to on the label or in labeling or in advertising.

(8) Food products shipped in bulk form for use solely in the manufacture of other foods and not for distribution to consumers in such bulk form or container.

(9) Food products containing an added vitamin, mineral, or protein, or for which a nutritional claim is made on the label or in labeling or in advertising, which are supplied for institutional food service use only: *Provided*, That the manufacturer or distributor provides the nutrition information required by this section directly to those institutions on a current basis.

(10) Fresh fruits and fresh vegetables, pending promulgation of specific labeling requirements for these products.

(i) A food labeled under the provisions of this section shall be deemed to be misbranded under sections 201(n) and 403(a) of the act if its labeling represents, suggests, or implies:

(1) That the food because of the presence or absence of certain dietary properties, is adequate or effective in the prevention, cure, mitigation, or treatment of any disease or symptom.

(2) That a balanced diet of ordinary foods cannot supply adequate amounts of nutrients.

(3) That the lack of optimum nutritive quality of a food, by reason of the soil on which that food was grown, is or may be responsible for an inadequacy or deficiency in the quality of the daily diet.

(4) That the storage, transportation, processing or cooking of a food is or may be responsible for an inadequacy or deficiency in the quality of the daily diet.

(5) That the food has dietary properties when such properties are of no significant value or need in human nutrition. Ingredients or products such as rutin, other bioflavonoids, para-aminobenzoic acid, inositol, and similar substances which have in the past been represented as having nutritional properties but which have not been shown to be essential in human nutrition may not be combined with vitamins and/or minerals, added to food labeled in accordance with this section, or otherwise used or represented in any way which states or implies nutritional benefit. Ingredients or products of this type may be marketed as individual products or mixtures thereof: *Provided*, That the possibility of nutritional, dietary, or therapeutic value is not stated or implied, e.g., their labeling does not state that their usefulness in human nutrition has not been established and does not otherwise disclaim nutritional, dietary, or therapeutic value.

(6) That a natural vitamin in a food is superior to an added or synthetic vitamin, or to differentiate in any way between vitamins naturally present from those added.

(Secs. 201(n), 403(a), 701(a), 52 Stat. 1040–1042, 1047, 1055; 21 U.S.C. 321(n), 343(a), 371(a).)

§ 101.10 Nutrition labeling of restaurant foods.

A nutrition claim or nutrition information concerning a combination of restaurant foods, e.g., the total nutritional value of a meal consisting of a hamburger, french fries, and milk shake, may be included in advertising and/or in labeling (other than labels), without causing nutrition information to be required on the label(s) of each article of food: *Provided*, That complete nutrition information for the combination of foods (the combination as an entity without the nutritional value of each article being specified) in the format established by § 101.9(c) is effectively displayed to the customer both when he orders the food and when he consumes the food. This statement of policy does not apply to food dispensed in automatic vending machines.

(Secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a)).)

§ 101.15 Food; prominence of required statements.

(a) A word, statement, or other information required by or under authority of the act to appear on the label may lack that prominence and conspicuousness required by section 403(f) of the act by reason (among other reasons) of:

(1) The failure of such word, statement, or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase;

(2) The failure of such word, statement, or information to appear on two or more parts or panels of the label, each of which has sufficient space therefor, and each of which is so designed as to render it likely to be, under customary conditions of purchase, the part or panel displayed;

(3) The failure of the label to extend over the area of the container or package available for such extension, so as to provide sufficient label space for the prominent placing of such word, statement, or information;

(4) Insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space for any word, statement, design, or device which is not required by or under authority of the act to appear on the label;

(5) Insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space to give materially greater conspicuousness to any other word, statement, or information, or to any design or device; or

(6) Smallness or style of type in which such word, statement, or information appears, insufficient background contrast, obscuring designs or vignettes, or crowding with other written, printed, or graphic matter.

(b) No exemption depending on insufficiency of label space, as prescribed in regulations promulgated under section 403(e) or (i) of the act, shall apply if such insufficiency is caused by:

(1) The use of label space for any word, statement, design, or device which is not required by or under authority of the act to appear on the label;

(2) The use of label space to give greater conspicuousness to any word, statement, or other information than is required by section 403(f) of the act; or

(3) The use of label space for any representation in a foreign language.

(c)(1) All words, statements, and other information required by or under authority of the act to appear on the label or labeling shall appear thereon in the English language: *Provided, however*, That in the case of articles distributed solely in the Commonwealth of Puerto Rico or in a Territory where the predominant language is one other than English, the predominant language may be substituted for English.

(2) If the label contains any representation in a foreign language, all words, statements, and other information required by or under authority of the act to appear on the label shall appear thereon in the foreign language: *Provided, however*, That individual serving-size packages of foods containing no more than 1½ avoirdupois ounces or no more than 1½ fluid ounces served with meals in restaurants, institutions, and passenger carriers and not intended for sale at retail are exempt from the requirements of this paragraph (c)(2), if the only representation in the foreign language(s) is the name of the food.

(3) If any article of labeling (other than a label) contains any representation in a foreign language, all words, statements, and other information required by or under authority of the act to appear on the label or labeling shall appear on such article of labeling.

§ 101.17 Food labeling warning statements.

(a) *Self-pressurized containers.* (1) The label of a food packaged in a self-pressurized container and intended to be expelled from the package under pressure shall bear the following warning:

WARNING—Avoid spraying in eyes. Contents under pressure. Do not puncture or incinerate. Do not store at temperature above 120° F. Keep out of reach of children.

(2) In the case of products intended for use by children, the phrase "except under adult supervision" may be added at the end of the last sentence in the warning required by paragraph (a)(1) of this section.

(3) In the case of products packaged in glass containers, the word "break" may be substituted for the word "puncture" in the warning required by paragraph (a)(1) of this section.

(4) The words "Avoid spraying in eyes" may be deleted from the warning required by paragraph (a)(1) of this section in the case of a product not expelled as a spray.

(b) *Self-pressurized containers with halocarbon or hydrocarbon propellants.* (1) In addition to the warning required by paragraph (a) of this section, the label of a food packaged in a self-pressurized container in which the propellant consists in whole or in part of a halocarbon or a hydrocarbon shall bear the following warning:

WARNING—Use only as directed. Intentional misuse by deliberately concentrating and inhaling the contents can be harmful or fatal.

(2) The warning required by paragraph (b)(1) of this section is not required for the following products:

(i) Products expelled in the form of a foam or cream, which contain less than 10 percent propellant in the container.

(ii) Products in a container with a physical barrier that prevents escape of the propellant at the time of use.

(iii) Products of a net quantity of contents of less than 2 ounces that are designed to release a measured amount of product with each valve actuation.

(iv) Products of a net quantity of contents of less than one-half ounce.

§ 101.18 Misbranding of food.

(a) Among representations in the labeling of a food which render such food misbranded is a false or misleading representation with respect to another food or a drug, device, or cosmetic.

(b) The labeling of a food which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such food in such labeling by a name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling.

(c) Among representations in the labeling of a food which render such food misbranded is any representation that expresses or implies a geographical origin of the food or any ingredient of the food except when such representation is either:

(1) A truthful representation of geographical origin.

(2) A trademark or trade name provided that as applied to the article in question its use is not deceptively misdescriptive. A trademark or trade name composed in whole or in part of geographical words shall not be considered deceptively misdescriptive if it:

(i) Has been so long and exclusively used by a manufacturer or distributor that it is generally understood by the consumer to mean the product of a particular manufacturer or distributor; or

(ii) Is so arbitrary or fanciful that it is not generally understood by the consumer to suggest geographic origin.

(3) A part of the name required by applicable Federal law or regulation.

(4) A name whose market significance is generally understood by the consumer to connote a particular class, kind, type, or style of food rather than to indicate geographical origin.

Subpart B—Specific Food Labeling Requirements

§ 101.22 Foods; labeling of spices, flavorings, colorings and chemical preservatives.

(a)(1) The term "artificial flavor" or "artificial flavoring" means any substance, the function of which is to impart flavor, which is not derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf or similar plant material, meat, fish, poultry, eggs, dairy products, or fermentation products thereof. Artificial flavor includes the substances listed in §§ 172.515(b) and 182.60 of this chapter except where these are derived from natural sources.

(2) The term "spice" means any aromatic vegetable substance in the whole, broken, or ground form, except for those substances which have been traditionally regarded as foods, such as onions, garlic and celery; whose significant function in food is seasoning rather than nutritional; that is true to name; and from which no portion of any volatile oil or other flavoring principle has been removed. Spices include the spices listed in § 182.10 of this chapter, such as the following:

Allspice	Marjoram
Anise	Mustard flour
Basil	Nutmeg
Bay leaves	Oregano
Caraway seed	Paprika
Cardamon	Parsley
Celery seed	Pepper, black
Chervil	Pepper, white
Cinnamon	Pepper, red
Cloves	Rosemary
Coriander	Saffron
Cumin seed	Sage
Dill seed	Savory
Fennel seed	Star aniseed
Fenugreek	Tarragon
Ginger	Thyme
Horseradish	Turmeric
Mace	

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Paprika, turmeric, and saffron or other spices which are also colors, shall be declared as "spice and coloring" unless declared by their common or usual name.

(3) The term "natural flavor" or "natural flavoring" means the essential oil, oleoresin, essence or extractive, protein hydrolysate, distillate, or any product of roasting, heating or enzymolysis, which contains the flavoring constituents derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf or similar plant material, meat, seafood, poultry, eggs, dairy products, or fermentation products thereof, whose significant function in food is flavoring rather than nutritional. Natural flavors include the natural essence or extractives obtained from plants listed in §§ 182.10, 182.20, 182.30, 182.40, and 182.50 of this chapter, and the substances listed in § 172.510 of this chapter.

(4) The term "artificial color" or "artificial coloring" means any "color additive" as defined in § 8.1(f) of this chapter.

(5) The term "chemical preservative" means any chemical that, when added to food, tends to prevent or retard deterioration thereof, but does not include common salt, sugars, vinegars, spices, or oils extracted from spices, substances added to food by direct exposure thereof to wood smoke, or chemicals applied for their insecticidal or herbicidal properties.

(b) A food which is subject to the requirements of section 403(k) of the act shall bear labeling, even though such food is not in package form.

(c) A statement of artificial flavoring, artificial coloring, or chemical preservative shall be placed on the food, or on its container or wrapper, or on any two or all of these, as may be necessary to render such statement likely to be read by the ordinary individual under customary conditions of purchase and use of such food.

(d) A food shall be exempt from compliance with the requirements of section 403(k) of the act if it is not in package form and the units thereof are so small that a statement of artificial flavoring, artificial coloring, or chemical preservative, as the case may be, cannot be placed on such units with such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

(e) A food shall be exempt while held for sale from the requirements of section 403(k) of the act (requiring label statement of any artificial flavoring, artificial coloring, or chemical preservatives) if said food, having been received in bulk containers at a retail establishment, is displayed to the purchaser with either (1) the labeling of the bulk container plainly in view or (2) a counter card, sign, or other appropriate device bearing prominently and conspicuously the information required to be stated on the label pursuant to section 403(k).

(f) A fruit or vegetable shall be exempt from compliance with the requirements of section 403(k) of the act with respect to a chemical preservative applied to the fruit or vegetable as a pesticide chemical prior to harvest.

(g) A flavor shall be labeled in the following way when shipped to a food manufacturer or processor (but not a consumer) for use in the manufacture of a fabricated food, unless it is a flavor for which a standard of identity has been promulgated, in which case it shall be labeled as provided in the standard:

(1) If the flavor consists of one ingredient, it shall be declared by its common or usual name.

(2) If the flavor consists of two or more ingredients, the label either may declare each ingredient by its common or usual name or may state "All flavor ingredients contained in this product are approved for use in a regulation of the Food and Drug Administration." Any flavor ingredient not contained in one of these regulations, and any nonflavor ingredient, shall be separately listed on the label.

(3) In cases where the flavor contains a solely natural flavor(s), the flavor shall be so labeled, e.g., "strawberry flavor", "banana flavor", or "natural strawberry flavor". In cases where the flavor contains both a natural flavor and an artificial flavor, the flavor shall be so labeled, e.g., "natural and artificial strawberry flavor". In cases where the flavor contains a solely artificial flavor(s), the flavor shall be so labeled, e.g., "artificial strawberry flavor".

(h) The label of a food to which flavor is added shall declare the flavor in the statement of ingredients in the following way:

(1) Spice, natural flavor, and artificial flavor may be declared as "spice", "natural flavor", or "artificial flavor", or any combination thereof, as the case may be.

(2) An incidental additive in a food, originating in a spice or flavor used in the manufacture of the food, need not be declared in the statement of ingredients if it meets the requirements of § 101.100(a)(3).

(3) Substances obtained by cutting, grinding, drying, pulping, or similar processing of tissues derived from fruit, vegetable, meat, fish, or poultry, e.g., powdered or granulated onions, garlic powder, and celery powder, are commonly understood by consumers to be food rather than flavor and shall be declared by their common or usual name.

(4) Any salt (sodium chloride) used as an ingredient in food shall be declared by its common or usual name "salt."

(5) Any monosodium glutamate used as an ingredient in food shall be declared by its common or usual name "monosodium glutamate."

(6) Any pyroligneous acid or other artificial smoke flavors used as an ingredient in a food may be declared as artificial flavor or artificial smoke flavor. No representation may be made, either directly or implied, that a food flavored with pyroligneous acid or other artificial smoke flavor has been smoked or has a true smoked flavor, or that a seasoning sauce or similar product containing pyroligneous acid or other artificial smoke flavor and used to season or flavor other foods will result in a smoked product or one having a true smoked flavor.

(i) If the label, labeling, or advertising of a food makes any direct or indirect representations with respect to the primary recognizable flavor(s), by word, vignette, e.g., depiction of a fruit, or other means, or if for any other reason the manufacturer or distributor of a food wishes to designate the type of flavor in the food other than through the statement of ingredients, such flavor shall be considered the characterizing flavor and shall be declared in the following way:

(1) If the food contains no artificial flavor which simulates, resembles or reinforces the characterizing flavor, the name of the food on the principal display panel or panels of the label shall be accompanied by the common or usual name of the characterizing flavor, e.g., "vanilla", in letters not less than one-half the height of the letters used in the name of the food, except that:

(i) If the food is one that is commonly expected to contain a characterizing food ingredient, e.g., strawberries in "strawberry shortcake", and the food contains natural flavor derived from such ingredient and an amount of characterizing ingredient insufficient to independently characterize the food, or the food contains no such ingredient, the name of the characterizing flavor may be immediately preceded by the word "natural" and shall be immediately followed by the word "flavored" in letters not less than one-half the height of the letters in the name of the characterizing flavor, e.g., "natural strawberry flavored shortcake," or "strawberry flavored shortcake".

(ii) If none of the natural flavor used in the food is derived from the product whose flavor is simulated, the food in which the flavor is used shall be labeled either with the flavor of the product from which the flavor is derived or as "artificially flavored."

(iii) If the food contains both a characterizing flavor from the product whose flavor is simulated and other natural flavor which simulates, resembles or reinforces the characterizing flavor, the food shall be labeled in accordance with the introductory text and paragraph (i)(1)(i) of this section and the name of the food shall be immediately followed by the words "with other natural flavor" in letters not less than one-half the height of the letters used in the name of the characterizing flavor.

(2) If the food contains any artificial flavor which simulates, resembles or reinforces the characterizing flavor, the name of the food on the principal display panel or panels of the label shall be accompanied by the common or usual name(s) of the characterizing flavor, in letters not less than one-half the height of the letters used in the name of the food and the name of the characterizing flavor shall be accompanied by the word(s) "artificial" or "artificially flavored", in letters not less than one-half the height of the letters in the name of the characterizing flavor, e.g., "artificial vanilla", "artificially flavored strawberry", or "grape artificially flavored".

(3) Wherever the name of the characterizing flavor appears on the label

(other than in the statement of ingredients) so conspicuously as to be easily seen under customary conditions of purchase, the words prescribed by this paragraph shall immediately and conspicuously precede or follow such name, without any intervening written, printed, or graphic matter, except:

(i) Where the characterizing flavor and a trademark or brand are presented together, other written, printed, or graphic matter that is a part of or is associated with the trademark or brand may intervene if the required words are in such relationship with the trademark or brand as to be clearly related to the characterizing flavor; and

(ii) If the finished product contains more than one flavor subject to the requirements of this paragraph, the statements required by this paragraph need appear only once in each statement of characterizing flavors present in such food, e.g., "artificially flavored vanilla and strawberry".

(iii) If the finished product contains three or more distinguishable characterizing flavors, or a blend of flavors with no primary recognizable flavor, the flavor may be declared by an appropriately descriptive generic term in lieu of naming each flavor, e.g., "artificially flavored fruit punch".

(4) A flavor supplier shall certify, in writing, that any flavor he supplies which is designated as containing no artificial flavor does not, to the best of his knowledge and belief, contain any artificial flavor, and that he has added no artificial flavor to it. The requirement for such certification may be satisfied by a guarantee under section 303(c)(2) of the act which contains such a specific statement. A flavor used shall be required to make such a written certification only where he adds to or combines another flavor with a flavor which has been certified by a flavor supplier as containing no artificial flavor, but otherwise such user may rely upon the supplier's certification and need make no separate certification. All such certifications shall be retained by the certifying party throughout the period in which the flavor is supplied and for a minimum of three years thereafter, and shall be subject to the following conditions:

(i) The certifying party shall make such certifications available upon request at all reasonable hours to any duly authorized office or employee of the Food and Drug Administration or any other employee acting on behalf of the Secretary of Health, Education, and Welfare. Such certifications are regarded by the Food and Drug Administration as reports to the government and as guarantees or other undertakings within the meaning of section 301(h) of the act and subject the certifying party to the penalties for making any false report to the government under 18 U.S.C. 1001 and any false guarantee or undertaking under section 303(a) of the act. The defenses provided under section 303(c)(2) of the act shall be applicable to the certifications provided for in this section.

(ii) Wherever possible, the Food and Drug Administration shall verify the accuracy of a reasonable number of certifications made pursuant to this section, constituting a representative sample of such certifications, and shall not request all such certifications.

(iii) Where no person authorized to provide such information is reasonably available at the time of inspection, the certifying party shall arrange to have such person and the relevant materials and records ready for verification as soon as practicable: *Provided*, That, whenever the Food and Drug Administration has reason to believe that the supplier or user may utilize this period to alter inventories or records, such additional time shall not be permitted. Where such additional time is provided, the Food and Drug Administration may require the certifying party to certify that relevant inventories have not been materially disturbed and relevant records have not been altered or concealed during such period.

(iv) The certifying party shall provide, to an officer or representative duly designated by the Secretary, such qualitative statement of the composition of the flavor or product covered by the certification as may be reasonably expected to enable the Secretary's representatives to determine which relevant raw and finished materials and flavor ingredient records are reasonably necessary to verify the certifications. The examination conducted by the Secretary's representative shall be limited to inspection and review of inventories and ingredient records for those certifications which are to be verified.

(v) Review of flavor ingredient records shall be limited to the qualitative formula and shall not include the quantitative formula. The person verifying the certifications may make only such notes as are necessary to enable him to verify such certification. Only such notes or such flavor ingredient records as are necessary to verify such certification or to show a potential or actual violation may be removed or transmitted from the certifying party's place of business: *Provided*, That, where such removal or transmittal is necessary for such purposes the relevant records and notes shall be retained as separate documents in Food and Drug Administration files, shall not be copied in other reports, and shall not be disclosed publicly other than in a judicial proceeding brought pursuant to the act or 18 U.S.C. 1001.

(j) A food to which a chemical preservative(s) is added shall, except when exempt pursuant to § 101.100 bear a label declaration stating both the common or usual name of the ingredient(s) and a separate description of its function, e.g., "preservative", "to retard spoilage", "a mold inhibitor", "to help protect flavor" or "to promote color retention".

(Secs. 402, 403, 409, 701(a), 703, 704, 52 Stat. 1046, 1047, 1048–1049 as amended, 1055, 1056–1057 as amended; 21 U.S.C. 342, 343, 348, 371(a), 373, 374.)

§ 101.25 Labeling of foods in relation to fat and fatty acid and cholesterol content.

(a) Implicit or explicit claims for the value of food in preventing or treating heart or artery disease can be misleading to consumers. However, a significant segment of the medical community is recommending that individuals modify their total diet by eliminating certain foods or by replacing certain foods with others in order to effect changes in the levels of blood components. Although there have been no definitive studies which have demonstrated beyond doubt that extensive changes in the consumption of fat and cholesterol by the general public are desirable, it is nevertheless appropriate to provide for informative labeling which will help individuals to identify foods for inclusion in fat-modified diets recommended by physicians. It is also appropriate to prohibit label statements which misrepresent specific foods as being, of themselves, of value in the control of the levels of these blood components or in the control of heart or artery disease.

(b) A food label or labeling may include a statement of the cholesterol content of the food: *Provided*, That it meets the following conditions:

(1) The food is labeled in compliance with the provisions of § 101.9.

(2) The following information is included in the following order, in accordance with the provisions of § 101.9(c)(6)(ii):

(i) The cholesterol content, stated to the nearest 5-milligram increment per serving.

(ii) The cholesterol content, stated to the nearest 5-milligram increment per 100 grams of the food.

(iii) The statement required by paragraph (d) of this section.

(c) A food label or labeling may include information on the fatty acid content of the food: *Provided*, That it meets the following conditions:

(1) The food contains 10 percent or more fat on a dry weight basis and not less than 2 grams of fat in an average serving. Any food containing less than 10 percent total fat on a dry weight basis and/or containing less than 2 grams of fat in a serving is not suitable for use by man as a means of regulating the intake of fatty acids.

(2) The food is labeled in compliance with § 101.9 and the following information is included in the following order in accordance with § 101.9(c)(6)(ii):

(i) The total fat content in terms of the percentage of the total calories in the food provided by fat with the heading "Percent of calories from fat".

(ii) The amount of fatty acids, calculated as the triglycerides, shall be stated in grams per serving to the nearest gram in the following two categories, stated with the following headings, in the following order, and displayed in equal prominence:

(*a*) *Cis,cis*-methylene-interrupted polyunsaturated fatty acids, stated as "Polyunsaturated";

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(b) The sum of lauric, myristic, palmitic, and stearic acids, stated as "Saturated"; and

(iii) The statement required by paragraph (d) of this section.

(d) A food labeled in accordance with paragraph (b) or (c) of this section shall display the following statement on the label: "Information (or "this information") on fat (and/or cholesterol, where appropriate) content is provided for individuals who, on the advice of a physician, are modifying their dietary intake of fat (and/or cholesterol, where appropriate)."

(e) Compliance with this section shall be determined as follows:

(1) A collection of primary containers or units of the same size, type, and style produced under conditions as nearly uniform as possible, designated by a common container code or marking or, in the absence of any common container code or marking, a day's production, constitutes a "lot."

(2) The sample for analysis shall consist of a composite of 12 subsamples (consumer units), taken one from each of 12 different randomly chosen shipping cases, to be representative of a lot.

(3) Composites shall be analyzed for fat and saturated fatty acids by the methods of the Association of Official Analytical Chemists (AOAC). The methods for fat, fatty acids, and cholesterol will be those of the Association of Official Analytical Chemists (AOAC), or other reliable and appropriate methods. Alternative methods of analysis may be submitted to the Food and Drug Administration to determine their acceptability. The determination of *cis,cis*-methylene-interrupted polyunsaturated fatty acids will be the Canadian Food and Drug Directorate Method FA–59[1] for *cis,cis*-methylene-interrupted fatty acid.

(4) A food with a label declaration of cholesterol content shall be deemed to be misbranded under section 403(a) of the act if the content of the composite is greater than 20 percent in excess of the value for the cholesterol content declared on the label.

(5) A food with a label declaration of fat content shall be deemed to be misbranded under section 403(a) of the act if the content of the composite is greater than 20 percent in excess of the value for the fat content declared on the label or less than required by good manufacturing practices.

(6) A food with a label declaration of fatty acid content shall be deemed to be misbranded under section 403(a) of the act if the content of the composite is greater than 20 percent in excess of the value, or less than 80 percent of the value, for the fatty acid content declared on the label.

(f) Label statements made in accordance with paragraphs (b), (c), or (d) of this section shall comply with the requirements of § 101.2, but in no case may they be printed in larger than the minimum size type required by the provisions of § 101.105 for the declaration of net quantity of contents.

(g) No label or labeling may contain a claim indicating, suggesting, or implying that the product will prevent, mitigate, or cure heart or artery disease or any attendant condition. The principal display panel of the label may state "cholesterol (fat) information appears _____;" the blank to be filled in with a phrase stating where the information is contained. The statement shall appear in one-sixteenth-inch type size or in the alternative in a type size no larger than one-half the minimum type size required for the declaration of net quantity of contents by the provisions of § 101.105 of this chapter.

(h) No statements relating to cholesterol, fat or fatty acids, other than those expressly permitted by this section may be made. Any label or labeling containing any statement concerning cholesterol, fat or fatty acids which is not in conformity with this section shall be deemed to be misbranded under sections 201(n) and 403(a) of the act.

§ 101.29 Labeling of kosher and kosher-style foods.

The term "kosher" should be used only on food products that meet certain religious dietary requirements. The precise significance of the phrase "kosher style" as applied to any particular product by the public has not been determined. There is a likelihood that the use of the term may cause the prospective purchaser to think that the product is "kosher." Accordingly, the Food and Drug Administration believes that use of the phrase should be discouraged on products that do not meet the religious dietary requirements.

(Sec. 402, 52 Stat. 1046; 21 U.S.C. 342)

§ 101.33 Label declaration of D-erythroascorbic acid when it is an ingredient of a fabricated food.

(a) The article D-erythroascorbic acid (D-araboascorbic acid, D-erythro-3-keto-hexonic acid lactone) has sometimes been designated as D-isoascorbic acid. However, this designation is capable of misleading purchasers of food in which it is used as an ingredient because of the similarity of such designation to the chemical name and the common name of vitamin C, which is ascorbic acid. Ascorbic acid (vitamin C) is capable of preventing the deficiency disease scurvy, but D-isoascorbc acid is ineffective for this purpose.

(b) The Joint Committee on Nomenclature of the American Institute of Nutrition and the Society of Biological Chemists has considered this matter, and pursuant to the Committee's recommendation the respective scientific organizations approved a resolution to drop the use of the designation D-isoascorbic acid and to adopt as a common name the name erythorbic acid for D-erythroascorbic acid.

(c) The compound D-erythroascorbic acid is not specified as an ingredient of any food for which a standard has been established. For foods other than those for which standards have been established, section 403(i)(2) of the Federal Food, Drug, and Cosmetic Act requires that ingredients be listed on labels by their common or usual names. If the label on a food that contains D-erythroascorbic acid designates that ingredient by the name erythorbic acid, the requirement that the label bear the common or usual name of the ingredient will be regarded as having been met.

(Sec. 403, 52 Stat. 1047, as amended (21 U.S.C. 343).)

§ 101.35 Notice to manufacturers and users of monosodium glutamate and other hydrolyzed vegetable protein products.

Following a review of various statements submitted by manufacturers and distributors of monosodium glutamate and various hydrolyzed plant protein products, the following conclusions have been reached:

(a) The facts submitted established that there are three classes of products to be considered:

(1) Purified monosodium glutamate.

(2) Hydrolyzed proteins (amino acid salts) from which none of the monosodium glutamate has been removed.

(3) Hydrolyzed proteins (amino acid salts), a byproduct in the manufacture of purified monosodium glutamate but from which a substantial proportion of the monosodium glutamate has been removed.

(b) [Reserved]

(c)(1) The substance described in paragraph (a)(2) of this section has long been designated as "hydrolyzed vegetable protein."

(2) The substance covered by paragraph (a)(3) of this section should have a distinctive name, since one of its original constituents has been partially removed. Manufacturers have suggested that this substance be described as "hydrolyzed vegetable protein with reduced monosodium glutamate content." This designation appears acceptable.

(d) While the substances referred to in paragraph (a)(2) and (3) of this section contain a number of amino acid salts as well as sodium chloride, monosodium glutamate is the ingredient which has been quite generally emphasized, and is best known to consumers under that name. No objection is offered under the Federal Food, Drug, and Cosmetic Act to the addition of a quantitative declaration on the labels of containers of such hydrolyzed vegetable protein or hydrolyzed vegetable protein with reduced monosodium glutamate content showing the percentage amounts of monosodium glutamate, the total of other amino acid salts, salt, and water, if in liquid form, all to be declared in the order of their decreasing percentages. If monosodium glutamate represents a smaller proportion of the substance than the other amino acid salts and salt (sodium chloride), it should be declared last in the list of ingredients.

[1] Copies may be obtained from: Division of Nutrition (HFF–260), Bureau of Foods, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

(e) When the substances described in paragraph (a)(2) and (3) of this section are used as ingredients in a fabricated food, either may be declared as "salt and hydrolyzed vegetable protein" (or "salt and hydrolyzed plant protein") on the label of the fabricated food product: *Provided*, That where salt is declared as a separate ingredient of the fabricated food, in compliance with section 403(i)(2) of the act, the word "salt" need not be repeated in connection with the "hydrolyzed vegetable protein" (or "hydrolyzed plant protein") declaration.

Subparts C through E—[Reserved]

Subpart F—Exemptions From Food Labeling Requirements

§ 101.100 Food; exemptions from labeling.

(a) The following foods are exempt from compliance with the requirements of section 403(i)(2) of the act (requiring a declaration on the label of the common or usual name of each ingredient when the food is fabricated from two or more ingredients).

(1) An assortment of different items of food, when variations in the items that make up different packages packed from such assortment normally occur in good packing practice and when such variations result in variations in the ingredients in different packages, with respect to any ingredient that is not common to all packages. Such exemption, however, shall be on the condition that the label shall bear, in conjunction with the names of such ingredients as are common to all packages, a statement (in terms that are as informative as practicable and that are not misleading) indicating by name other ingredients which may be present.

(2) A food having been received in bulk containers at a retail establishment, if displayed to the purchaser with either (i) the labeling of the bulk container plainly in view or (ii) a counter card, sign, or other appropriate device bearing prominently and conspicuously the information required to be stated on the label pursuant to section 403(i)(2) of the act.

(3) Incidental additives that are present in a food at insignificant levels and do not have any technical or functional effect in that food. For the purposes of this paragraph (a)(3), incidental additives are:

(i) Substances that have no technical or functional effect but are present in a food by reason of having been incorporated into the food as an ingredient of another food, in which the substance did have a functional or technical effect.

(ii) Processing aids, which are as follows:

(*a*) Substances that are added to a food during the processing of such food but are removed in some manner from the food before it is packaged in its finished form.

(*b*) Substances that are added to a food during processing, are converted into constituents normally present in the food, and do not significantly increase the amount of the constituents naturally found in the food.

(c) Substances that are added to a food for their technical or functional effect in the processing but are present in the finished food at insignificant levels and do not have any technical or functional effect in that food.

(iii) Substances migrating to food from equipment or packaging or otherwise affecting food that are not food additives as defined in section 201(s) of the act; or if they are food additives as so defined, they are used in conformity with regulations established pursuant to section 409 of the act.

(b) A food repackaged in a retail establishment is exempt from the following provisions of the act if the conditions specified are met.

(1) Section 403(e)(1) of the act (requiring a statement on the label of the name and place of business of the manufacturer, packer, or distributor).

(2) Section 403(g)(2) of the act (requiring the label of a food which purports to be or is represented as one for which a definition and standard of identity has been prescribed to bear the name of the food specified in the definition and standard and, insofar as may be required by the regulation establishing the standard the common names of the optional ingredients present in the food), if the food is displayed to the purchaser with its interstate labeling clearly in view, or with a counter card, sign, or other appropriate device bearing prominently and conspicuously the information required by these provisions.

(3) Section 403(i)(1) of the act (requiring the label to bear the common or usual name of the food), if the food is displayed to the purchaser with its interstate labeling clearly in view, or with a counter card, sign, or other appropriate device bearing prominently and conspicuously the common or usual name of the food, or if the common or usual name of the food is clearly revealed by its appearance.

(c) An open container (a container of rigid or semirigid construction, which is not closed by lid, wrapper, or otherwise other than by an uncolored transparent wrapper which does not obscure the contents) of a fresh fruit or fresh vegetable, the quantity of contents of which is not more than 1 dry quart, shall be exempt from the labeling requirements of sections 403(e), (g)(2) (with respect to the name of the food specified in the definition and standard), and (i)(1) of the act; but such exemption shall be on the condition that if two or more such containers are enclosed in a crate or other shipping package, such crate or package shall bear labeling showing the number of such containers enclosed therein and the quantity of the contents of each.

(d) Except as provided by paragraphs (e) and (f) of this section, a shipment or other delivery of a food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantity at an establishment other than that where originally processed or packed, shall be exempt, during the time of introduction into and movement in interstate commerce and the time of holding in such establishment, from compliance with the labeling requirements of section 403 (c), (e), (g), (h), (i), (j), and (k) of the act if:

(1) The person who introduced such shipment or delivery into interstate commerce is the operator of the establishment where such food is to be processed, labeled, or repacked; or

(2) In case such person is not such operator, such shipment or delivery is made to such establishment under a written agreement, signed by and containing the post office addresses of such person and such operator, and containing such specifications for the processing, labeling, or repacking, as the case may be, of such food in such establishment as will ensure, if such specifications are followed, that such food will not be adulterated or misbranded within the meaning of the act upon completion of such processing, labeling, or repacking. Such person and such operator shall each keep a copy of such agreement until 2 years after the final shipment or delivery of such food from such establishment, and shall make such copies available for inspection at any reasonable hour to any officer or employee of the Department who requests them.

(3) The article is an egg product subject to a standard of identity promulgated in Part 160 of this chapter, is to be shipped under the conditions specified in paragraph (d)(1) or (2) of this section and for the purpose of pasteurization or other treatment as required in such standard, and each container of such egg product bears a conspicuous tag or label reading "Caution—This egg product has not been pasteurized or otherwise treated to destroy viable Salmonella microorganisms". In addition to safe and suitable bactericidal processes designed specifically for Salmonella destruction in egg products, the term "other treatment" in the first sentence of this paragraph shall include use in acidic dressings in the processing of which the pH is not above 4.1 and the acidity of the aqueous phase, expressed as acetic acid, is not less than 1.4 percent, subject also to the conditions that:

(i) The agreement required in paragraph (d)(2) of this section shall also state that the operator agrees to utilize such unpasteurized egg products in the processing of acidic dressings according to the specifications for pH and acidity set forth in this paragraph, agrees not to deliver the acidic dressing to a user until at least 72 hours after such egg product is incorporated in such acidic dressing, and agrees to maintain for inspection adequate records covering such processing for 2 years after such processing.

(ii) In addition to the caution statement referred to above, the container of such egg product shall also bear the statement "Unpasteurized ——— for use in acidic dressings only", the blank being filled in with the applicable name of the eggs or egg product.

combination of numerical count and space equal to the height of the lettering panel of which has an area of more than 5 but not more than 25 square inches,

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(e) Conditions affecting expiration of exemptions: (1) An exemption of a shipment or other delivery of a food under paragraph (d) (1) or (3) of this section shall, at the beginning of the act of removing such shipment or delivery, or any part thereof, from such establishment become void ab initio if the food comprising such shipment, delivery, or part is adulterated or misbranded within the meaning of the act when so removed.

(2) An exemption of a shipment or other delivery of a food under paragraph (d) (2) or (3) of this section shall become void ab initio with respect to the person who introduced such shipment or delivery into interstate commerce upon refusal by such person to make available for inspection a copy of the agreement, as required by paragraph (d) (2) or (3) of this section.

(3) An exemption of a shipment or other delivery of a food under paragraph (d) (2) or (3) of this section shall expire:

(i) At the beginning of the act of removing such shipment or delivery, or any part thereof, from such establishment if the food constituting such shipment, delivery, or part is adulterated or misbranded within the meaning of the act when so removed; or

(ii) Upon refusal by the operator of the establishment where such food is to be processed, labeled, or repacked, to make available for inspection a copy of the agreement, as required by such paragraph.

(f) The word "processed" as used in this paragraph shall include the holding of cheese in a suitable warehouse at a temperature of not less than 35° F for the purpose of aging or curing to bring the cheese into compliance with requirements of an applicable definition and standard of identity. The exemptions provided for in paragraph (d) of this section shall apply to cheese which is, in accordance with the practice of the trade, shipped to a warehouse for aging or curing, on condition that the cheese is identified in the manner set forth in one of the applicable following paragraphs, and in such case the provisions of paragraph (e) of this section shall also apply:

(1) In the case of varieties of cheese for which definitions and standards of identity require a period of aging whether or not they are made from pasteurized milk, each such cheese shall bear on the cheese a legible mark showing the date at which the preliminary manufacturing process has been completed and at which date curing commences, and to each cheese, on its wrapper or immediate container, shall be affixed a removable tag bearing the statement "Uncured ——— cheese for completion of curing and proper labeling", the blank being filled in with the applicable name of the variety of cheese. In the case of swiss cheese, the date at which the preliminary manufacturing process had been completed and at which date curing commences is the date on which the shaped curd is removed from immersion in saturated salt solution as provided in the definition and standard of identity for swiss cheese, and such cheese shall bear a removable tag reading, "To be cured and labeled as 'swiss cheese,' but if eyes do not form, to be labeled as 'swiss cheese for manufacturing' ".

(2) In the case of varieties of cheeses which when made from unpasteurized milk are required to be aged for not less than 60 days, each such cheese shall bear a legible mark on the cheese showing the date at which the preliminary manufacturing process has been completed and at which date curing commences, and to each such cheese or its wrapper or immediate container shall be affixed a removable tag reading, "——— cheese made from unpasteurized milk. For completion of curing and proper labeling", the blank being filled in with the applicable name of the variety of cheese.

(3) In the case of cheddar cheese, washed curd cheese, colby cheese, granular cheese, and brick cheese made from unpasteurized milk, each such cheese shall bear a legible mark on the cheese showing the date at which the preliminary manufacturing process has been completed and at which date curing commences, and to each such cheese or its wrapper or immediate container shall be affixed a removable tag reading "——— cheese made from unpasteurized milk. For completion of curing and proper labeling, or for labeling as ——— cheese for manufacturing", the blank being filled in with the applicable name of the variety of cheese.

(g) The label declaration of a harmless marker used to identify a particular manufacturer's product may result in unfair competition through revealing a trade secret. Exemption from the label declaration of such a marker is granted, therefore, provided that the following conditions are met:

(1) The person desiring to use the marker without label declaration of its presence has submitted to the Commissioner of Food and Drugs full information concerning the proposed usage and the reasons why he believes label declaration of the marker should be subject to this exemption; and

(2) The person requesting the exemption has received from the Commissioner of Food and Drugs a finding that the marker is harmless and that the exemption has been granted.

(h) Wrapped fish fillets of nonuniform weight intended to be unpacked and marked with the correct weight at or before the point of retail sale in an establishment other than that where originally packed shall be exempt from the requirement of section 403(e)(2) of the act during introduction and movement in interstate commerce and while held for sale prior to weighing and marking:

(1) *Provided*, That (i) The outside container bears a label declaration of the total net weight; and

(ii) The individual packages bear a conspicuous statement "To be weighed at or before time of sale" and a correct statement setting forth the weight of the wrapper;

(2) *Provided further*, That it is the practice of the retail establishment to weigh and mark the individual packages with a correct net-weight statement prior to or at the point of retail sale. A statement of the weight of the wrapper shall be set forth so as to be readily read and understood, using such term as "wrapper tare—ounce", the blank being filled in with the correct average weight of the wrapper used.

(3) The act of delivering the wrapped fish fillets during the retail sale without the correct net-weight statement shall be deemed an act which results in the product's being misbranded while held for sale. Nothing in this paragraph shall be construed as requiring net-weight statements for wrapped fish fillets delivered into institutional trade provided the outside container bears the required information.

(i) Wrapped clusters (consumer units) of bananas of nonuniform weight intended to be unpacked from a master carton or container and weighed at or before the point of retail sale in an establishment other than that where originally packed shall be exempt from the requirements of section 403(e)(2) of the act during introduction and movement in interstate commerce and while held for sale prior to weighing:

(1) *Provided*, That (i) The master carton or container bears a label declaration of the total net weight; and

(ii) The individual packages bear a conspicuous statement "To be weighed at or before the time of sale" and a correct statement setting forth the weight of the wrapper; using such term as "wrapper tare ——— ounce", the blank being filled in with the correct average weight of the wrapper used;

(2) *Provided further*, That it is the practice of the retail establishment to weigh the individual packages either prior to or at the time of retail sale.

(3) The act of delivering the wrapped clusters (consumer units) during the retail sale without an accurate net weight statement or alternatively without weighing at the time of sale shall be deemed an act which results in the product's being misbranded while held for sale. Nothing in this paragraph shall be construed as requiring net-weight statements for clusters (consumer units) delivered into institutional trade, provided that the master container or carton bears the required information.

§ 101.103 Petitions requesting exemptions from or special requirements for label declaration of ingredients.

The Commissioner of Food and Drugs, either on his own initiative or on behalf of any interested person who has submitted a petition pursuant to Part 2 of this chapter may issue a proposal to amend § 101.4 to specify the manner in which an ingredient(s) shall be declared, i.e., by specific or class name, or § 101.100 to exempt an ingredient(s) from the requirements for label declaration.

§ 101.105 Declaration of net quantity of contents when exempt.

(a) The principal display panel of a food in package form shall bear a declaration of the net quantity of contents. This shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure. The statement shall be in terms of fluid measure if the food is liquid, or in terms of weight if the food is solid, semisolid, or viscous, or a mixture of solid and liquid; except that such statement may be in terms of dry measure if the food is a fresh fruit, fresh vegetable, or other dry commodity that is customarily sold by dry measure. If there is a firmly established general consumer usage and trade custom of declaring the contents of a liquid by weight, or a solid, semisolid, or viscous product by fluid measure, it may be used. Whenever the Commissioner determines that an existing practice of declaring net quantity of contents by weight, measure, numerical count, or a combination in the case of a specific packaged food does not facilitate value comparisons by consumers and offers opportunity for consumer confusion, he will by regulation designate the appropriate term or terms to be used for such commodity.

(b)(1) Statements of weight shall be in terms of avoirdupois pound and ounce.

(2) Statements of fluid measure shall be in terms of the U.S. gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof, and shall:

(i) In the case of frozen food that is sold and consumed in a frozen state, express the volume at the frozen temperature.

(ii) In the case of refrigerated food that is sold in the refrigerated state, express the volume at 40° F (4° C).

(iii) In the case of other foods, express the volume at 68° F (20° C).

(3) Statements of dry measure shall be in terms of the U.S. bushel of 2,150.42 cubic inches and peck, dry quart, and dry pint subdivisions thereof.

(c) When the declaration of quantity of contents by numerical count does not give adequate information as to the quantity of food in the package, it shall be combined with such statement of weight, measure, or size of the individual units of the foods as will provide such information.

(d) The declaration may contain common or decimal fractions. A common fraction shall be in terms of halves, quarters, eighths, sixteenths, or thirty-seconds; except that if there exists a firmly established general consumer usage and trade custom of employing different common fractions in the net quantity declaration of a particular commodity, they may be employed. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than two places. A statement that includes small fractions of an ounce shall be deemed to permit smaller variations than one which does not include such fractions.

(e) The declaration shall be located on the principal display panel of the label, and with respect to packages bearing alternate principal panels it shall be duplicated on each principal display panel.

(f) The declaration shall appear as a distinct item on the principal display panel, shall be separated (by at least a space equal to the height of the lettering used in the declaration) from other printed label information appearing above or below the declaration and (by at least a space equal to twice the width of the letter "N" of the style of type used in the quantity of contents statement) from other printed label information appearing to the left or right of the declaration. It shall not include any term qualifying a unit of weight, measure, or count (such as "jumbo quart" and "full gallon") that tends to exaggerate the amount of the food in the container. It shall be placed on the principal display panel within the bottom 30 percent of the area of the label panel in lines generally parallel to the base on which the package rests as it is designed to be displayed: *Provided*, That on packages having a principal display panel of 5 square inches or less, the requirement for placement within the bottom 30 percent of the area of the label panel shall not apply when the declaration of net quantity of contents meets the other requirements of this part.

(g) The declaration shall accurately reveal the quantity of food in the package exclusive of wrappers and other material packed therewith: *Provided*, That in the case of foods packed in containers designed to deliver the food under pressure, the declaration shall state the net quantity of the contents that will be expelled when the instructions for use as shown on the container are followed. The propellant is included in the net quantity declaration.

(h) The declaration shall appear in conspicuous and easily legible boldface print or type in distinct contrast (by typography, layout, color, embossing, or molding) to other matter on the package; except that a declaration of net quantity blown, embossed, or molded on a glass or plastic surface is permissible when all label information is so formed on the surface. Requirements of conspicuousness and legibility shall include the specifications that:

(1) The ratio of height to width (of the letter) shall not exceed a differential of 3 units to 1 unit (no more than 3 times as high as it is wide).

(2) Letter heights pertain to upper case or capital letters. When upper and lower case or all lower case letters are used, it is the lower case letter "o" or its equivalent that shall meet the minimum standards.

(3) When fractions are used, each component numeral shall meet one-half the minimum height standards.

(i) The declaration shall be in letters and numerals in a type size established in relationship to the area of the principal display panel of the package and shall be uniform for all packages of substantially the same size by complying with the following type specifications:

(1) Not less than one-sixteenth inch in height on packages the principal display panel of which has an area of 5 square inches or less.

(2) Not less than one-eighth inch in height on packages the principal display panel of which has an area of more than 5 but not more than 25 square inches.

(3) Not less than three-sixteenths inch in height on packages the principal display panel of which has an area of more than 25 but not more than 100 square inches.

(4) Not less than one-fourth inch in height on packages the principal display panel of which has an area of more than 100 square inches, except not less than ½ inch in height if the area is more than 400 square inches.

Where the declaration is blown, embossed, or molded on a glass or plastic surface rather than by printing, typing, or coloring, the lettering sizes specified in paragraph (h) (1) through (4) of this section shall be increased by one-sixteenth of an inch.

(j) On packages containing less than 4 pounds or 1 gallon and labeled in terms of weight or fluid measure:

(1) The declaration shall be expressed both in ounces, with identification by weight or by liquid measure and, if applicable (1 pound or 1 pint or more) followed in parentheses by a declaration in pounds for weight units, with any remainder in terms of ounces or common or decimal fractions of the pound (see examples set forth in paragraph (m) (1) and (2) of this section), or in the case of liquid measure, in the largest whole units (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart (see examples in paragraph (m) (3) and (4) of this section).

(2) If the net quantity of contents declaration appears on a random package, that is a package which is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights and with no fixed weight pattern, it may, when the net weight exceeds 1 pound, be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two decimal places. When the net weight does not exceed 1 pound, the declaration on the random package may be in decimal fractions of the pound in lieu of ounces (see example in paragraph (m)(5) of this section).

(3) The declaration may appear in more than one line. The term "net weight" shall be used when stating the net quantity of contents in terms of weight. Use of the terms "net" or "net contents" in terms of fluid measure or numerical count is optional. It is sufficient to distinguish avoirdupois ounce from fluid ounce through association of terms; for example, "Net wt. 6 oz" or "6 oz Net wt." and "6 fl oz" or "Net contents 6 fl oz".

(k) On packages containing 4 pounds or 1 gallon or more and labeled in terms of weight or fluid measure, the declaration shall be expressed in pounds for weight units with any remainder in terms of ounces or common or decimal fraction of the pound, or in the case of fluid measure, it shall be expressed in the largest whole unit (gallons followed by common or decimal fraction of a gal-

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lon or by the next smaller whole unit or units (quarts, or quarts and pints)) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart (see paragraph (m)(6) of this section).

(l) [Reserved.]

(m) Examples:

(1) A declaration of 1½ pounds weight shall be expressed as "Net Wt. 24 oz (1 lb 8 oz)," "Net Wt. 24 oz (1½ lb)," or "Net Wt. 24 oz (1.5 lb)".

(2) A declaration of three-fourths pound avoirdupois weight shall be expressed as "Net Wt. 12 oz".

(3) A declaration of 1 quart liquid measure shall be expressed as "Net 32 fl oz (1 qt)".

(4) A declaration of 1¾ quarts liquid measure shall be expressed as "Net contents 56 fluid ounces (1 quart 1½ pints)" or as "Net 56 fluid oz (1 qt 1 pt 8 oz)", but not in terms of quart and ounce such as "Net 56 fluid oz (1 quart 24 ounces)".

(5) On a random package, declaration of three-fourths pound avoirdupois may be expressed as "Net Wt. .75 lb".

(6) A declaration of 2½ gallons liquid measure shall be expressed as "Net contents 2½ gallons," "Net contents 2.5 gallons," or "Net contents 2 gallons 2 quarts" and not as "2 gallons 4 pints".

(n) For quantities, the following abbreviations and none other may be employed (periods and plural forms are optional):

weight wt	pint pt
ounce oz	quart qt
pound lb	fluid fl
gallon gal	

(o) Nothing in this section shall prohibit supplemental statements at locations other than the principal display panel(s) describing in nondeceptive terms the net quantity of contents; provided, that such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the food contained in the package; for example, "jumbo quart" and "full gallon". Dual or combination declarations of net quantity of contents as provided for in paragraphs (a), (c), and (j) of this section (for example, a combination of net weight plus numerical count, net contents plus dilution directions of a concentrate, etc.) are not regarded as supplemental net quantity statements and may be located on the principal display panel.

(p) A separate statement of the net quantity of contents in terms of the metric system is not regarded as a supplemental statement and an accurate statement of the net quantity of contents in terms of the metric system of weight or measure may also appear on the principal display panel or on other panels.

(q) The declaration of net quantity of contents shall express an accurate statement of the quantity of contents of the package. Reasonable variations caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice will be recognized. Variations from stated quantity of contents shall not be unreasonably large.

(r) The declaration of net quantity of contents on pickles and pickle products, including relishes but excluding one or two whole pickles in clear plastic bags which may be declared by count, shall be expressed in terms of the U.S. gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof.

(s) On a multiunit retail package, a statement of the quantity of contents shall appear on the outside of the package and shall include the number of individual units, the quantity of each individual unit, and, in parentheses, the total quantity of contents of the multiunit package in terms of avoirdupois or fluid ounces, except that such declaration of total quantity need not be followed by an additional parenthetical declaration in terms of the largest whole units and subdivisions thereof, as required by paragraph (j)(1) of this section. A multiunit retail package may thus be properly labeled: "6–16 oz bottles—(96 fl oz)" or "3–16 oz cans—(net wt. 48 oz)". For the purposes of this section, "multiunit retail package" means a package containing two or more individually packaged units of the identical commodity and in the same quantity, intended to be sold as part of the multiunit retail package but capable of being individually sold in full compliance with all requirements of the regulations in this part. Open multiunit retail packages that do not obscure the number of units nor prevent examination of the labeling on each of the individual units are not subject to this paragraph if the labeling of each individual unit complies with the requirements of paragraphs (f) and (i) of this section. The provisions of this section do not apply to that butter or margarine covered by the exemptions in § 1.1c(a) (10) and (11).

(t) Where the declaration of net quantity of contents is in terms of net weight and/or drained weight or volume and does not accurately reflect the actual quantity of the contents or the product falls below the applicable standard of fill of container because of equipment malfunction or otherwise unintentional product variation, and the label conforms in all other respects to the requirements of this chapter (except the requirement that food falling below the applicable standard of fill of container shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter), the mislabeled food product, including any food product that fails to bear the general statement of substandard fill specified in § 130.14(b) of this chapter, may be sold by the manufacturer or processor directly to institutions operated by Federal, State or local governments (schools, prisons, hospitals, etc.): *Provided*, That:

(1) The purchaser shall sign a statement at the time of sale stating that he is aware that the product is mislabeled to include acknowledgment of the nature and extent of the mislabeling, (e.g., "Actual net weight may be as low as ____% below labeled quantity") and that any subsequent distribution by him of said product except for his own institutional use is unlawful. This statement shall be kept on file at the principal place of business of the manufacturer or processor for 2 years subsequent to the date of shipment of the product and shall be available to the Food and Drug Administration upon request.

(2) The product shall be labeled on the outside of its shipping container with the statement(s):

(i) When the variation concerns net weight and/or drained weight or volume, "Product Mislabeled. Actual net weight (drained weight or volume where appropriate) may be as low as ____% below labeled quantity. This Product Not for Retail Distribution", the blank to be filled in with the maximum percentage variance between the labeled and actual weight or volume of contents of the individual packages in the shipping container, and

(ii) When the variation is in regard to a fill of container standard, "Product Mislabeled. Actual fill may be as low as __% below standard of fill. This Product Not for Retail Distribution".

(3) The statements required by paragraph (t)(2) (i) and (ii) of this section, which may be consolidated where appropriate, shall appear prominently and conspicuously as compared to other printed matter on the shipping container and in boldface print or type on a clear, contrasting background in order to render them likely to be read and understood by the purchaser under ordinary conditions of purchase.

(Sec. 5(a), 80 Stat. 1298 (15 U.S.C. 1454).)

PART 102—COMMON OR USUAL NAME FOR NONSTANDARDIZED FOODS

Subpart A—General Provisions

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102.47 Bonito.
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102.50 Crabmeat.
102.54 Seafood cocktails.
102.55 Nonstandardized breaded composite shrimp units.
102.57 Greenland turbot (*Reinhardtius hippoglossoides*).

AUTHORITY: Secs. 201(n), 403, 701(a), 52 Stat. 1041 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321(n), 343, 371(a)).

Subpart A—General Provisions

§ 102.5 General principles.

(a) The common or usual name of a food, which may be a coined term, shall accurately identify or describe, in as simple and direct terms as possible, the basic nature of the food or its characterizing properties or ingredients. The name shall be uniform among all identical or similar products and may not be confusingly similar to the name of any other food that is not reasonably encompassed within the same name. Each class or subclass of food shall be given its own common or usual name that states, in clear terms, what it is in a way that distinguishes it from different foods.

(b) The common or usual name of a food shall include the percentage(s) of any characterizing ingredient(s) or component(s) when the proportion of such ingredient(s) or component(s) in the food has a material bearing on price or consumer acceptance or when the labeling or the appearance of the food may otherwise create an erroneous impression that such ingredient(s) or component(s) is present in an amount greater than is actually the case. The following requirements shall apply unless modified by a specific regulation in Subpart B of this part.

(1) The percentage of a characterizing ingredient or component shall be declared on the basis of its quantity in the finished product (i.e., weight/weight in the case of solids, or volume/volume in the case of liquids).

(2) The percentage of a characterizing ingredient or component shall be declared by the words "containing (or contains) ____ percent (or %) ____" or "____ percent (or %) ____" with the first blank filled in with the percentage expressed as a whole number not greater than the actual percentage of the ingredient or component named and the second blank filled in with the common or usual name of the ingredient or component. The word "containing" (or "contains"), when used, shall appear on a line immediately below the part of the common or usual name of the food required by paragraph (a) of this section. For each characterizing ingredient or component, the words "____ percent (or %) ____" shall appear following or directly below the word "containing" (or contains), or directly below the part of the common or usual name of the food required by paragraph (a) of this section when the word "containing" (or contains) is not used, in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(i) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(ii) Not less than one-half the height of the largest type appearing in the part of the common or usual name of the food required by paragraph (a) of this section.

(c) The common or usual name of a food shall include a statement of the presence or absence of any characterizing ingredient(s) or component(s) and/or the need for the user to add any characterizing ingredient(s) or component(s) when the presence or absence of such ingredient(s) or component(s) in the food has a material bearing on price or consumer acceptance or when the labeling or the appearance of the food may otherwise create an erroneous impression that such ingredient(s) or component(s) is present when it is not, and consumers may otherwise be misled about the presence or absence of the ingredient(s) or component(s) in the food. The following requirements shall apply unless modified by a specific regulation in Subpart B of this part.

(1) The presence or absence of a characterizing ingredient or component shall be declared by the words "containing (or contains) _____" or "containing (or contains) no _____" or "no _____" or "does not contain _____", with the blank being filled in with the common or usual name of the ingredient or component.

(2) The need for the user of a food to add any characterizing ingredient(s) or component(s) shall be declared by an appropriate informative statement.

(3) The statement(s) required under paragraph (c) (1) and/or (2) of this section shall appear following or directly below the part of the common or usual name of the food required by paragraphs (a) and (b) of this section, in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the alternatives established under paragraph (b)(2) (i) and (ii) of this section.

(d) A common or usual name of a food may be established by common usage or by establishment of a regulation in Subpart B of this part, in Part 104 of this chapter, in a standard of identity, or in other regulations in this chapter.

§ 102.19 Petitions.

(a) The Commissioner of Food and Drugs, either on his own initiative or on behalf of any interested person who has submitted a petition, may publish a proposal to issue, amend, or revoke, under this part, a regulation prescribing a common or usual name for a food, pursuant to Part 2 of this chapter.

(b) If the principal display panel of a food for which a common or usual name regulation is established is too small to accommodate all mandatory requirements, the Commissioner may establish by regulation an acceptable alternative, e.g., a smaller type size. A petition requesting such a regulation, which would amend the applicable regulation, shall be submitted pursuant to Part 2 of this chapter.

Subpart B—Requirements for Specific Nonstandardized Foods

§ 102.26 Frozen "heat and serve" dinners.

(a) A frozen "heat and serve" dinner:

(1) Shall contain at least three components, one of which shall be a significant source of protein and each of which shall consist of one or more of the following: meat, poultry, fish, cheese, eggs, vegetables, fruit, potatoes, rice, or other cereal based products (other than bread or rolls).

(2) May also contain other servings of food (e.g., soup, bread or rolls, beverage, dessert).

(b) The common or usual name of the food consists of all of the following:

(1) The phrase "frozen 'heat and serve' dinner," except that the name of the predominant characterizing ingredient or other appropriately descriptive term may immediately precede the word "dinner" (e.g., "frozen chicken dinner" or "frozen heat and serve beef dinner"). The words "heat and serve" are optional. The word "frozen" is also optional, provided that the words "Keep Frozen" or the equivalent are prominently and conspicuously placed on the principal display panel in type size not less than that specified in § 102.5(b)(2)(i).

(2) The phrase "containing (or contains) _____" the blank to be filled in with an accurate description of each of the three or more dish components listed in paragraph (a)(1) of this section in their order of descending predominance by weight (e.g., ham, mashed potatoes, and peas), followed by any of the other servings specified in paragraph (a)(2) of this section contained in the package (e.g., onion soup, enriched white bread, and artificially flavored vanilla pudding) in their order of descending predominance by weight. This part of the name shall by placed immediately following or directly below the part specified in paragraph (b)(1) of this section in the manner set forth in § 102.5(c)(3). The words "contains" or "containing" are optional.

(3) If the labeling implies that the package contains other foods and these foods are not present in the package, e.g., if a vignette on the package depicts a "serving suggestion" which includes any foods not present in the package, the principal display panel shall bear a statement that such foods are not present, in type size not less than that specified in § 102.5(b)(2)(i).

§ 102.28 Foods packaged for use in the preparation of "main dishes" or "dinners."

(a) The common or usual name of a packaged food which is represented on the principal display panel by word or vignette to be used in the preparation of a "main dish", "dinner", or other such food serving, and to which some other important characterizing ingredient(s) or component(s) not present in the package must be added, consists of all the following:

(1) The common or usual name of each important ingredient or component in the package, in descending order of predominance by weight (e.g., "noodles and tomato sauce").

(2) An appropriate informative statement identifying the food to be prepared by use of the package contents (e.g., "for preparation of chicken casserole").

(2) An appropriate informative state- § 102.30 Noncarbonated beverage prod- mixture, the descriptive name shall be

of comminuted fish flesh, shall be "fish made from minced fish," with one or more seafood ingredients shall be:

Subpart B—Standards of Quality

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(3) An appropriate informative statement that additional characterizing ingredient(s) or component(s) must be added and which names the additional characterizing ingredient(s) or component(s) (e.g., "you must add _____ to complete the recipe," the blank to be filled in with the name(s) of the important characterizing ingredient(s) or component(s) that must be added).

(b) The labeling required by paragraph (a) of this section shall appear on the principal display panel.

(1) No word in the statement required by paragraph (a)(2) of this section may appear on the principal display panel more conspicuously or in larger type than the smallest and least conspicuous type employed on the panel for any word, phrase or statement within the scope of paragraph (a)(1) of this section.

(2) Every word in the statement required by paragraph (a)(3) of this section shall appear on the principal display panel in easily legible bold face print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(i) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(ii) Not less than one-half the height of the largest type appearing in the part of the common or usual name of the food required by paragraph (a)(1) and (2) of this section.

(c) Any vignette which shows any food or characterizing ingredient(s) or component(s) not included in the package shall be accompanied either by the statement required by paragraph (a)(3) of this section or by a separate statement specifying the food or characterizing ingredient(s) or component(s) shown in the vignette but not included in the package.

(d) If the statement specified in paragraph (a)(2) of this section is used on any panel in addition to the principal display panel as a product identification statement, the complete common or usual name shall appear on such panel in the manner specified in paragraph (b) of this section.

(e) When a brand name or other prominent product designation contains a word or words that includes or suggests an important characterizing ingredient(s) or component(s) that must be added, or otherwise states or implies that the package contains a complete main dish, dinner, or other food serving, the part of the common or usual name of the food required by paragraph (a)(3) of this section shall appear in direct conjunction with such brand name or other designation and in type size not less than one-half the height of the largest type appearing in such brand name or other designation.

§ 102.30 Noncarbonated beverage products containing no fruit or vegetable juice.

The common or usual name of noncarbonated beverage products (including a concentrated, dehydrated, powdered, or other counterpart) containing no fruit or vegetable juice shall include the following:

(a) A descriptive name for the product meeting the requirements of § 102.5(a); and

(b) When the labeling or the color, and flavor of the beverage represents, suggests, or implies that any fruit or vegetable juice may be present (e.g., the product label bears the name or a variation of the name or any pictorial representation of any fruit or vegetable, or the product contains color and flavor which give the beverage the appearance and taste of containing a fruit or vegetable juice) the statement "Containing (or contains) no _____ juice", or "no _____ juice", or "does not contain _____ juice", the blank to be filled in with the name of the fruit(s) or vegetable(s) represented, suggested, or implied, in the manner set forth in § 102.5(c). If a nonspecific fruit or vegetable juice content is represented, suggested, or implied, the blank shall be filled in with the word "fruit" or "vegetable" as applicable.

§ 102.32 Diluted orange juice beverages.

(a) The common or usual name of a noncarbonated beverage containing less than 100 percent and more than 0 percent orange juice shall be as follows:

(1) A descriptive name for the product meeting the requirements of § 102.5(a) (e.g., diluted orange juice beverage or another descriptive phrase) and

(2) A statement of the percent of orange juice contained in the product in the manner set forth in § 102.5(b)(2). The percent of orange juice shall be declared in 5-percent increments, expressed as a multiple of five not greater than the actual percentage of orange juice in the product, except that the percent of orange juice in products containing more than 0 percent but less than 5-percent orange juice shall be declared in the statement as "less than 5" percent.

(b) The percent of orange juice in the product shall be determined on the basis of the orange juice having an equivalent single strength of 11.8 percent orange juice soluble solids.

§ 102.37 Mixtures of edible fat or oil and olive oil.

The common or usual name of a mixture of edible fats and oils containing less than 100 percent and more than 0 percent olive oil shall be as follows:

(a) A descriptive name for the product meeting the requirements of § 102.5(a), e.g., "cottonseed oil and olive oil" or another descriptive phrase, and

(b) When the label bears any representation, other than in the ingredient listing, of the presence of olive oil in the mixture, the descriptive name shall be followed by a statement of the percentage of olive oil contained in the product in the manner set forth in § 102.5(b)(2).

§ 102.39 Onion rings made from diced onion.

(a) The common or usual name of the food product that resembles and is of the same composition as onion rings, except that it is composed of comminuted onions, shall be as follows:

(1) When the product is composed of dehydrated onions, the name shall be "onion rings made from dried diced onions."

(2) When the product is composed of any form of onion other than dehydrated, the name shall be "onion rings made from diced onions."

(b) The words "made from dried diced onions" or "made from diced onions" shall immediately follow or appear on a line(s) immediately below the words "onion rings" in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(1) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(2) Not less than one-half the height of the largest type used in the words "onion rings."

§ 102.41 Potato chips made from dried potatoes.

(a) The common or usual name of the food product that resembles and is of the same composition as potato chips, except that it is composed of dehydrated potatoes (buds, flakes, granules, or other form), shall be "potato chips made from dried potatoes."

(b) The words "made from dried potatoes" shall immediately follow or appear on a line(s) immediately below the words "potato chips" in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(1) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(2) Not less than one-half the height of the largest type used in the words "potato chips."

§ 102.45 Fish sticks or portions made from minced fish.

(a) The common or usual name of the food product that resembles and is of the same composition as fish sticks or fish portions, except that it is composed

of comminuted fish flesh, shall be "fish _____ made from minced fish," the blank to be filled in with the word "sticks" or "portions" as the case may be.

(b) The words "made from minced fish" shall immediately follow or appear on a line(s) immediately below the words "fish _____" in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(1) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(2) Not less than one-half the height of the largest type used in the words "fish _____"

§ 102.47 Bonito.

"Bonito" or "bonito fish" is the common or usual name of the food fish *Sardi chilensis* and *Sardi velox*.

§ 102.49 Fried clams made from minced clams.

(a) The common or usual name of the food product that resembles and is of the same composition as fried clams, except that it is composed of comminuted clams, shall be "fried clams made from minced clams."

(b) The words "made from minced clams" shall immediately follow or appear on a line(s) immediately below the words "fried clams" and in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(1) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(2) Not less than one-half the height of the largest type used in the words "fried clams."

§ 102.50 Crabmeat.

The common or usual name of crabmeat derived from each of the following designated species of crabs shall be as follows:

Scientific name of crab	*Common or usual name of crabmeat*
Paralithodes camtschatica and *Paralithodes platypus.*	King crabmeat.
Paralithodes brevipes....	King crabmeat or Hanasaki crabmeat.
Erimacrus isenbeckii....	Korean variety crabmeat or Kegani crabmeat.
Chionoecetes opilio, Chionoecetes tanneri, Chionoecetes bairdii, and *Chionoecetes angulatus.*	Snow crabmeat.

§ 102.54 Seafood cocktails.

The common or usual name of a seafood cocktail in package form fabricated with one or more seafood ingredients shall be:

(a) When the cocktail contains only one seafood ingredient, the name of the seafood ingredient followed by the word "cocktail" (e.g., shrimp cocktail, crabmeat cocktail) and a statement of the percentage by weight of that seafood ingredient in the product in the manner set forth in § 102.5(b).

(b) When the cocktail contains more than one seafood ingredient, the term "seafood cocktail" and a statement of the percentage by weight of each seafood ingredient in the product in the manner set forth in § 102.5(b).

NOTE: Section 102.54 (formerly § 102.5) was stayed in its entirety at 40 FR 26267, June 23, 1975.

§ 102.55 Nonstandardized breaded composite shrimp units.

(a) The common or usual name of the food product that conforms to the definition and standard of identity described by § 161.175(c)(6) of this chapter, except that the food is made from comminuted shrimp and is not in raw frozen form, shall be "_____ made from minced shrimp," the blank to be filled in with the words "breaded shrimp sticks" or "breaded shrimp cutlets" depending upon the shape of the product, or if prepared in a shape other than that of sticks or cutlets "breaded shrimp _____ made from minced shrimp," the blank to be filled by a word or phrase that accurately describes the shape and that is not misleading.

(b) The words "made from minced shrimp" shall immediately follow or appear on a line(s) immediately below the other words required by this section in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(1) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and no less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(2) Not less than one-half the height of the largest type used in the words "breaded shrimp sticks" or the other comparable words required by this section.

§ 102.57 Greenland turbot (*Reinhardtius hippoglossoides*).

"Greenland turbot" is the common or usual name of the food fish *Reinhardtius hippoglossoides*, a species of *Pleuronectidae* right-eye flounders. The term "halibut" may be associated only with Atlantic halibut (*Hippoglossus hippoglossus*) or Pacific halibut (*Hippoglossus stenolepis*).

PART 103—QUALITY STANDARDS FOR FOODS WITH NO IDENTITY STANDARDS

Subpart A—General Provisions

Sec.
103.3 Definitions.
103.5 General principles.

Subpart B—Standards of Quality

Sec.
103.23 Frozen ready-to-eat banana, coconut, chocolate, or lemon cream-type pies.
103.29 Food grade gelatin.
103.35 Bottled water.

AUTHORITY: Secs. 401, 403, 701, 52 Stat. 1046–1048 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 343, 371) unless otherwise noted.

Subpart A—General Provisions

§ 103.3 Definitions.

(a) A "lot" is:

(1) For purposes of determining quality factors related to manufacture, processing, or packing, a collection of primary containers or units of the same size, type, and style produced under conditions as nearly uniform as possible and usually designated by a common container code or marking, or in the absence of any common container code or marking, a day's production.

(2) For purposes of determining quality factors related to distribution and storage, a collection of primary containers or units transported, stored, or held under conditions as nearly uniform as possible.

(b) A "sample" consists of 10 subsamples (consumer units), taken one from each of 10 different randomly chosen shipping cases to be representative of a given lot, unless otherwise specified in a specific quality standard in this part.

(c) An "analytical unit" is the portion(s) of food taken from a subsample of a sample for the purpose of analysis.

§ 103.5 General principles.

(a) The quality of a food depends upon numerous characteristics including but not limited to the levels of microorganisms and such physical factors as turbidity, color, flavor, and odor. Such characteristics are indicative of the quality of the raw materials and ingredients, the degree of quality control used in manufacture, processing, and packing, and the conditions of distribution and storage. The diversity of raw materials, food processing, and distribution practices, as well as the variation in quality factors important to consumers, requires that individual standards of quality be established for different types of food.

(b)(1) The label of a food that fails to meet the requirements of an applicable standard of quality promulgated pursuant to this part shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter in the manner and form therein specified; but in lieu of such general statement of substandard quality, the label may bear the alternative statement, "Below Standard in Quality—_____", the blank to be filled in with whichever of the following are applicable:

(i) "Contains Excessive Bacteria".

(ii) "Excessively Turbid".

(iii) "Abnormal Color".

(iv) The phrase specified in the applicable standard of quality to describe any other quality deviation.

(2) The statement of substandard quality shall appear on the principal display panel or panels and shall immedi-

ately and conspicuously precede or fol-

(2) Coliform count (geometric mean) organisms per 100 milliliters and the

TABLE 2

(g) *Adulteration.* Bottled water con-

dures and requirements established in § 101.9(e) of this chapter.

ately and conspicuously precede or follow, without intervening written, printed or graphic matter, the name of the food.

(c) Product descriptions included in a standard of quality promulgated pursuant to this part are intended only to designate the class of foods to which the standards apply, and are not standards of identity for the products involved. Should a standard of identity later be established for any of these foods, the standard of quality will be recodified to appear in the same part of the regulations.

(d) The food characteristics included in a standard of quality published in this part relate only to the quality of the food and not to compliance with any of the adulteration provision of section 402 of the act. Compliance with a standard of quality promulgated pursuant to this part does not excuse failure to observe either the requirement of section 402(a)(4) of the act that food may not be prepared, packed, or held under insanitary conditions, or the provisions of Part 110 of this chapter requiring that food manufacturers must observe current food manufacturing practices. For example, evidence obtained through factory inspection indicating such a violation renders the food unlawful, even though the food contains levels of microorganisms lower than those prescribed by an applicable standard.

(e) The Commissioner of Food and Drugs, either on his own initiative or on behalf of any interested person who has submitted a petition, may establish amend, or repeal, under Subpart B of this part, a regulation prescribing a standard of quality for a food pursuant to Part 2 of this chapter.

Subpart B—Standards of Quality

§ 103.23 Frozen ready-to-eat banana, coconut, chocolate, or lemon cream-type pies.

(a) For the purposes of this section a frozen ready-to-eat banana, coconut, chocolate, or lemon cream-type pie is a frozen ready-to-eat pie that is labeled as and/or has the physical and compositional characteristics of a cream-type pie, including but not limited to semi-solid filling and/or topping, and contains flavoring and/or fruit ingredients corresponding to the banana, coconut, chocolate, or lemon flavor representation made for such pie. It is made with or without a crust.

(b) A sample of a frozen ready-to-eat banana, coconut, chocolate, or lemon cream-type pie, as defined in § 103.3(b) when examined by the methods described in sections 41.015 and 41.016 of the "Official Methods of Analysis of the Association of Official Analytical Chemists" 11th Ed. (1970),[2] shall meet standards of microbiological quality as follows:

(1) Aerobic plate count (geometric mean) ≤50,000 per gram.

(2) Coliform count (geometric mean) ≤50 per gram, MPN.

(c) If the microbiological quality of the cream-type pies described in paragraph (a) of this section falls below the standard prescribed by paragraph (b) of this section, the label shall bear the statement of substandard quality specified in § 103.5(b)(1)(i).

§ 103.29 Food grade gelatin.

(a) For the purposes of this section food grade gelatin is the high quality edible ground product that is labeled as and/or has the physical and compositional characteristics of gelatin. It is extracted from animal bones and tissues in accordance with current good manufacturing practices. In hot solution it does not have a foreign odor, is clear and of light color.

(b) A sample of food grade gelatin, as defined in § 103.3(b), when examined in accordance with the methods described in sections 41.015 and 41.016 of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed. (1970),[2] shall meet standards of microbiological quality as follows:

(1) Aerobic plate count (geometric mean) ≤3,000 per gram.

(2) Coliform count (geometric mean) ≤10 per gram, MPN. In the preparation for examination of an analytical unit, as defined in § 103.3(c), 10 grams are weighed out aseptically into a 90 milliliter sterile water blank containing glass beads held at 45° C, with intermittent shaking for not more than 15 minutes.

(c) If the microbiological quality of gelatin falls below the standard as prescribed by paragraph (b) of this section, the label shall bear the statement of substandard quality specified in § 103.5(b)(1)(i).

§ 103.35 Bottled water.

(a) *Definition.* "Bottled water" is defined as water that is sealed in bottles or other containers and intended for human consumption. Bottled water does not include mineral water or any food defined in § 165.175 of this chapter.

(b) *Microbiological quality.* Bottled water shall, when a sample consisting of analytical units of equal volume is examined by the methods described in Part 400 of "Standard Methods for the Examination of Water and Wastewater," 13th Ed., 1971, American Public Health Association,[4] meet standards of microbiological quality as follows:

(1) *Multiple-tube fermentation method.* Not more than one of the analytical units in the sample shall have a most probable number (MPN) of 2.2 or more coliform organisms per 100 milliliters and no analytical unit shall have a MPN of 9.2 or more coliform organisms per 100 milliliters, or:

(2) *Membrane filter method.* Not more than one of the analytical units in the sample shall have 4.0 or more coliform organisms per 100 milliliters and the arithmetic mean of the coliform density of the sample shall not exceed one coliform organism per 100 milliliters.

(c) *Physical quality.* Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the method described in Part 100 of the 13th Ed., 1971, of "Standard Methods for the Examination of Water and Wastewater," American Public Health Association,[4] meet standards of physical quality as follows:

(1) The turbidity shall not exceed 5 units.

(2) The color shall not exceed 15 units.

(3) The odor shall not exceed threshold odor No. 3.

(d)(1) *Chemical quality.* Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the methods described in Part 100 of the 13th Ed., 1971, of "Standard Methods of Examination of Water and Wastewater," American Public Health Association[4], meet standards of chemical quality and shall not contain chemical substances in excess of the following concentrations:

Substance:	*Concentration in milligrams per liter*
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chloride	250.0
Chromium (Hexavalent)	0.05
Copper	1.0
Cyanide	0.2
Iron	0.3
Lead	0.05
Manganese	0.05
Nitrate	45.0
Phenols	0.001
Selenium	0.01
Silver	0.05
Sulfate	250.0
Total Dissolved Solids	500.0
Zinc	5.0

(2) (i) Bottled water packaged in the United States to which no fluoride is added shall not contain fluoride in excess of the levels in Table 1 and these levels shall be based on the annual average of maximum daily air temperatures at the location where the bottled water is sold at retail.

TABLE 1

Annual average of maximum daily air temperatures:	*Fluoride concentration in milligrams per liter*
50.0–53.7	2.4
53.8–58.3	2.2
58.4–63.8	2.0
63.9–70.6	1.8
70.7–79.2	1.6
79.3–90.5	1.4

(ii) Imported bottled water to which no fluoride is added shall not contain fluoride in excess of 1.4 milligrams per liter.

(iii) Bottled water packaged in the United States to which fluoride is added shall not contain fluoride in excess of levels in Table 2 and these levels shall be based on the annual average of maximum daily air temperatures at the location where the bottled water is sold at retail.

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

[4] "Standard Methods for the Examination of Water and Wastewater," 13th Ed. 1971, can be obtained from the American Public Health Association, 1015 18th Street NW., Washington, DC 20036.

TABLE 2

Annual average of maximum daily air temperatures:	*Fluoride concentration in milligrams per liter*
50.0–53.7	1.7
53.8–58.3	1.5
58.4–63.8	1.3
63.9–70.6	1.2
70.7–79.2	1.0
79.3–90.5	0.8

(iv) Imported bottled water to which fluoride is added shall not contain fluoride in excess of 0.8 milligram per liter.

(e) *Radiological quality.* Bottled water shall, when a composite of analytical units of equal volume from a sample is examined by the methods described in Part 300 of the 13th Ed., 1971, of "Standard Methods for the Examination of Water and Wastewater" American Public Health Association,[4] meet standards of radiological quality as follows:

(1) The bottled water shall not contain radioactivity in excess of the following concentrations:

Substance:	*Concentration in microcuries per liter*
Radium-226	3
Strontium-90	10

(2) When it is known that the strontium-90 and alpha emitters are absent, the composite shall not contain a gross beta concentration in excess of 1,000 micromicrocuries per liter.

(f) *Label statements.* Bottled water, the quality of which is below that prescribed by this section, shall be labeled with a statement of substandard quality as follows:

(1) When the microbiological quality of bottled water is below that prescribed by paragraph (b) of this section, the label shall bear the statement of substandard quality specified in § 103.5(b).

(2) When the physical, chemical, and/or radiological quality of bottled water is below that prescribed by paragraphs (c) through (e) respectively of this section, the label shall bear the statement of substandard quality specified in § 103.5(b) except that, as appropriate, instead of or in addition to the words "Contains Excessive Bacteria" the following statement(s) shall be used:

(i) "Excessively Turbid", "Abnormal Color", and/or "Abnormal Odor" if the bottled water fails to meet the requirements of paragraph (c) (1), (2), and/or (3), respectively, of this section.

(ii) "Contains Excessive Chemical Substances", if the bottled water fails to meet any of the requirements of paragraph (d) of this section. The specific chemical(s) may be declared in lieu of the words "Chemical Substances" in the statement "Contains Excessive Chemical Substances". When a specific chemical is declared, that name by which the chemical(s) is designated in paragraph (d) of this section shall be used. Example: "Contains Excessive Copper".

(iii) "Excessively Radioactive" if the bottled water fails to meet the requirements of paragraph (e) of this section.

(g) *Adulteration.* Bottled water containing a substance at a level considered injurious to health under section 402(a)(1) of the act is deemed to be adulterated, regardless of whether or not the bottled water bears a label statement of substandard quality prescribed by paragraph (f) of this section.

[4] "Standard Methods for the Examination of Water and Wastewater," 13th Ed. 1971, can be obtained from the American Public Health Association, 1015 18th Street NW., Washington, DC 20036.

PART 104—NUTRITIONAL QUALITY GUIDELINES FOR FOODS

Subpart A—General Provisions

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104.5 General principles.
104.19 Petitions.

Subpart B—[Reserved]

Subpart C—Specific Nutritional Quality Guidelines

104.47 Frozen "heat and serve" dinner.

AUTHORITY: Secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a)) unless otherwise noted.

Subpart A—General Provisions

§ 104.5 General principles.

(a) A nutritional quality guideline prescribes the minimum level or range of nutrient composition (nutritional quality) appropriate for a given class of food.

(b) Labeling for a product which complies with all of the requirements of the nutritional quality guideline established for its class of food may state "This product provides nutrients in amounts appropriate for this class of food as determined by the U.S. Government," except that the words "this product" are optional. This statement, if used, shall be printed on the principal display panel, and may also be printed on the information panel, in letters not larger than twice the size of the minimum type required for the declaration of net quantity of contents by § 101.105 of this chapter. Labeling of noncomplying products may not include any such statement or otherwise represent, suggest, or imply the product as being, in whole or in part, in compliance with a guideline.

(c) A product bearing the statement provided for in paragraph (b) of this section, in addition to meeting the requirements of the applicable nutritional quality guideline, shall comply with the following requirements:

(1) The label of the product shall bear the common or usual name of the food in accordance with the provisions of the guideline and §§ 101.3 and 102.5(a) of this chapter.

(2) The label of the product shall bear nutrition labeling in accordance with §§ 101.2 and 101.9 of this chapter and all other labeling required by applicable sections of Part 101 of this chapter.

(d) No claim or statement may be made on the label or in labeling representing, suggesting, or implying any nutritional or other differences between a product to which nutrient addition has or has not been made in order to meet the guideline, except that a nutrient addition shall be declared in the ingredient statement.

(e) Compliance with a nutrient level specified in a nutritional quality guideline shall be determined by the procedures and requirements established in § 101.9(e) of this chapter.

(f) A product within a class of food for which a nutritional quality guideline has been established and to which has been added a discrete nutrient either for which no minimum nutrient level or nutrient range or other allowance has been established as appropriate in the nutritional quality guideline, or at a level that exceeds any maximum established as appropriate in the guideline, shall be ineligible to bear the guideline statement provided for in paragraph (b) of this section, and such a product shall also be deemed to be misbranded under the act unless the label and all labeling bear the following prominent and conspicuous statement: "The addition of —— to (or "The addition of —— at the level contained in) this product has been determined by the U.S. Government to be unnecessary and inappropriate and does not increase the dietary value of the food," the blank to be filled in with the common or usual name of the nutrient(s) involved.

§ 104.19 Petitions.

The Commissioner of Food and Drugs, on his own initiative, on the advice of the National Academy of Sciences or other experts, or on behalf of any interested person who has submitted a petition, may issue a proposal to issue, amend, or revoke a regulation prescribing a nutritional quality guideline for a class of foods, pursuant to Part 2 of this chapter.

Subpart B—[Reserved]

Subpart C—Specific Nutritional Quality Guidelines

§ 104.47 Frozen "heat and serve" dinner.

(a) A product, for which a common or usual name is established in § 102.26 of this chapter, in order to be eligible to bear the guideline statement set forth at § 104.5(b), shall contain at least the following three components:

(1) One or more sources of protein derived from meat, poultry, fish, cheese, or eggs.

(2) One or more vegetables or vegetable mixtures other than potatoes, rice, or cereal-based product.

(3) Potatoes, rice, or cereal-based product (other than bread or rolls) or another vegetable or vegetable mixture.

(b) The three or more components named in paragraph (a) of this section, including their sauces, gravies, breading, etc.:

(1) Shall contribute not less than the minimum levels of nutrients prescribed in paragraph (d) of this section.

(2) Shall be selected so that one or more of the listed protein sources of paragraph (a)(1) of this section, excluding their sauces, gravies, breading, etc., shall provide not less than 70 percent of the total protein supplied by the components named in paragraph (a) of this section.

(c) If it is necessary to add any nutrient(s) in order to meet the minimum nutrient levels prescribed in paragraph (d) of this section, the addition of each such nutrient may not result in a total nutrient level exceeding 150 percent

including but not limited to the condi-

(c) In addition to the nutrients graphic matter that represents, suggests, another food having an allergenic prop-

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of the minimum level prescribed. Nutrients used for such addition shall be biologically available in the final product.

(d) Minimum levels of nutrients for a frozen "heat and serve" dinner are as follows:

Nutrient	Minimum levels for frozen "heat and serve" dinner— For each 100 Calories (kcal) of the total components specified in par. (a)	For the total components specified in par. (a)
Protein, grams	4.60	16.0
Vitamin A, IU	160.00	820.0
Thiamine, mg	.05	.2
Riboflavin, mg	.00	.2
Niacin, mg	.90	3.4
Pantothenic acid, mg	.32	1.1
Vitamin B_6, mg	.15	.5
Vitamin B_{12}, mcg	.36	1.1
Iron, mg	.62	2.3

(1) A frozen "heat and serve" dinner prepared from conventional food ingredients listed in paragraph (a) of this section will also contain folic acid, magnesium, iodine, calcium, and zinc. Minimum levels for these nutrients cannot be established at the present time but may be specified as additional data are obtained.

(2) The minimum levels for pantothenic acid, vitamin B–6, and vitamin B–12 are tentative. Final levels will be established when sufficient data are available. Until final levels are established, a product containing less than the tentative levels will not be deemed to be misbranded when labeled in accordance with § 104.5(b).

(3) When technologically practicable, iodized salt shall be used or iodine shall be present at a level equivalent to that which would be present if iodized salt were used in the manufacture of the product.

(4) When technologically practicable, product components and ingredients shall be selected to obtain the desirable calcium to phosphorous ratio of 1:1. Technological addition of phosphates shall be minimized and shall not exceed the amount necessary for the intended effect.

(e) If the product includes servings of food which are not prescribed by paragraph (a) of this section (e.g., soup, bread or rolls, beverage, or dessert), their contribution shall not be considered in determining compliance with the nutrient levels established in paragraph (d) of this section but shall be included in any nutrition labeling.

(f) For the purposes of labeling, an "average serving" shall be one entire frozen "heat and serve" dinner.

PART 105—FOODS FOR SPECIAL DIETARY USE

Subpart A—General Provisions

Sec.

105.3 Definitions and interpretations.

Subpart B—Label Statements

105.60 Restrictions, placement, false or misleading representations.
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105.69 Foods used to regulate sodium intake.
105.77 Vitamins and minerals.
105.79 Nonnutritive constituents.

Subpart C—[Reserved]

Subpart D—Standards of Identity

105.85 Dietary supplements of vitamins and minerals.

AUTHORITY: Secs. 403, 701, 52 Stat. 1047–1048 as amended, 1055–1056 as amended (21 U.S.C. 343, 371) unless otherwise noted.

Subpart A—General Provisions

§ 105.3 Definitions and interpretations.

The definitions and interpretations of terms contained in section 201 of the Federal Food, Drug, and Cosmetic Act (hereafter "the act") shall be applicable with the following additions:

(a) *"Special dietary use."* (1) The term "special dietary use" as applied to food used by man means a particular use for which a food purports or is represented to be used, including but not limited to the following:

(i) Supplying a special dietary need that exists by reason of a physical, physiological, pathological, or other condition, including but not limited to the condition of disease, convalescence, pregnancy, lactation, infancy, allergic hypersensitivity to food, underweight, overweight, or the need to control the intake of sodium.

(ii) Supplying a vitamin, mineral, or other ingredient for use by man to supplement his diet by increasing the total dietary intake. (Rules applicable to the composition and labeling of dietary supplements of vitamins and minerals, including applicable exemptions, are provided by § 105.85.)

(iii) Supplying a special dietary need by reason of being a food for use as the sole item of the diet.

(2) The use of an artificial sweetener in a food, except when specifically and solely used for achieving a physical characteristic in the food which cannot be achieved with sugar or other nutritive sweetener, shall be considered a use for regulation of the intake of calories and available carbohydrate, or for use in the diets of diabetics and is therefore a special dietary use.

(b) *U.S. Recommended Daily Allowances (U.S. RDA's).* (1) The term "U.S. Recommended Daily Allowance (U.S. RDA)" means the following daily amounts of the following vitamins and minerals:

Vitamins and minerals [1]	Unit of measurement	Infants	Children under 4 years of age	Adults and children 4 or more years of age	Pregnant or lactating women
Vitamin A	International units	1,500	2,500	5,000	8,000
Vitamin D	do	400	400	400	400
Vitamin E	do	5	10	30	30
Vitamin C	Milligrams	35	40	60	60
Folic acid	do	.1	.2	.4	.8
Thiamine	do	.5	.7	1.5	1.7
Riboflavin	do	.6	.8	1.7	2.0
Niacin	do	8	9	20	20
Vitamin B_6	do	.4	.7	2.0	2.5
Vitamin B_{12}	Micrograms	2	3	6	8
Biotin	Milligrams	.05	.15	.30	.35
Pantothenic acid	do	3	5	10	10
Calcium	Grams	.6	.8	1.0	1.3
Phosphorus	do	.5	.8	1.0	1.3
Iodine	Micrograms	35	70	150	150
Iron	Milligrams	15	10	18	18
Magnesium	do	70	200	400	450
Copper	do	.6	1.0	2.0	2.0
Zinc	do	5	8	15	15

[1] The following synonyms may be added in parentheses immediately following the name of the vitamin:

Vitamin:	Synonym
Vitamin C	Ascorbic acid.
Folic acid	Folacin.
Riboflavin	Vitamin B_2.
Thiamine	Vitamin B_1.

(2) The U.S. Recommended Daily Allowances (U.S. RDA's) have been derived by the Food and Drug Administration from the "Recommended Dietary Allowances," published by the Food and Nutrition Board, National Academy of Sciences/National Research Council, and are subject to amendment as more knowledge on human nutrient requirements becomes available.

(3) For determining the percentage of the U.S. RDA present in a quantity of food, as required by § 105.77(a), the quantitative content of the following vitamins shall be calculated in terms of the following chemically identifiable reference forms:

Vitamin	*Reference Form* Name	Empirical formula	Molecular weight
Vitamin C	L-Ascorbic acid	$C_6H_8O_6$	176.13
Folic acid	Pteroyl mono-L-glutamic acid	$C_{19}H_{19}N_7O_6$	441.41
Thiamine	Thiamine chloride hydrochloride	$C_{12}H_{17}ClN_4OS \cdot HCl$	337.28
Riboflavin	Riboflavin	$C_{17}H_{20}N_4O_6$	376.37
Niacin	Nicotinic acid	$C_6H_5NO_2$	123.11
Vitamin B_6	Pyridoxine	$C_8H_{11}NO_3$	169.18
Vitamin B_{12}	Cyanocobalamin	$C_{63}H_{88}CoN_{14}O_{14}P$	1,356.40
Biotin	D-Biotin	$C_{10}H_{16}N_2O_3S$	244.31
Pantothenic acid	D-Pantothenic acid	$C_9H_{17}NO_5$	219.23

(c) In addition to the nutrients listed in paragraph (b) of this section, other vitamins and minerals recognized as essential or probably essential in human nutrition in their biologically active forms but for which no U.S. RDA's have been established are: vitamin K, choline, and the minerals chlorine, chromium, fluorine, manganese, molybdenum, nickel, potassium, selenium, silicon, sodium, tin, and vanadium.

(d) The term "artificial sweetener" means a sweetening substance not used in normal metabolism as a source of calories.

(e) The term "infant" means a person not more than 12 months of age.

(f) The term "serving" means that reasonable quantity of food suited for or practicable of consumption as part of a meal either by an adult male engaged in light physical activity, or by an infant or child when the article purports or is represented to be for infant feeding or child consumption. A label statement regarding a serving, as used in this part, shall be in terms of a convenient unit of such food or a convenient unit of measure than can be readily understood by purchasers of such food, e.g., a serving may be expressed in terms of slices, cookies, or wafers, or in terms of ounces, fluid ounces, teaspoonfuls, tablespoonfuls, or cupfuls. A teaspoonful shall be considered to mean 5 milliliters (approximately ⅙ fluid ounce) in volume; a tablespoonful shall be considered to mean 15 milliliters (approximately ½ fluid ounce) in volume; and a cupful shall be considered to mean 240 milliliters (approximately 8 fluid ounces) in volume.

(g) The term "diabetic" means a person having diabetes mellitus.

(Secs. 201(n), 401, 403 (a) and (j), 411, 701 (a) and (e), 52 Stat. 1041, 1046–1048, 1055, 70 Stat. 919, 90 Stat. 410–411 (21 U.S.C. 321 (n), 341, 343 (a) and (j), 350, 371 (a) and (e)).)

Subpart B—Label Statements

§ 105.60 Restrictions, placement, false or misleading representations.

(a) If a food purports or is represented to be for any special dietary use, unless covered by other regulations, the principal display panel of its label shall bear a conspicuous statement of the usefulness of the food, limited to a listing of the dietary properties upon which such use is based: *Provided, however,* That if insufficient space is available on the principal display panel, the information panel may be used pursuant to § 101.2 of this chapter, if such use is consistent with § 101.15 of this chapter. Such statement shall show the presence or absence of any substance, any alteration of the quantity or character of any constituent, and any other special dietary property of such food upon which such use is based.

(b) A food which purports or is represented to be a food for special dietary use shall be deemed to be misbranded under sections 201(n) and 403 (a) and (j) of the act if its labeling bears any statement, vignette, or other printed or graphic matter that represents, suggests, or implies:

(1) That the food, because of the presence or absence of certain vitamins and/or minerals, is adequate or effective in the prevention, cure, mitigation, or treatment of any disease or symptom, except that the label may state that the food is a source of an essential nutrient and that this nutrient is important for good nutrition and health, and except that provision shall not apply to foods represented for use solely under medical supervision in the dietary management of specific diseases and disorders.

(2) That a balanced diet of ordinary foods cannot supply adequate amounts of nutrients: *Provided,* That representations may be made that it is often impractical to supply the iron requirements of infants, children, and women of childbearing age with a diet of conventional foods.

(3) That the lack of optimum quality of a food, by reason of the soil on which that food is grown, is or may be responsible for an inadequacy or deficiency in the quality of the daily diet.

(4) That the storage, transportation, processing, or cooking of a food is or may be responsible for an inadequacy or deficiency in the quality of the daily diet.

(5) That the food has dietary properties when such properties are of no significant value or need in human nutrition. Except as provided in § 105.85(e), ingredients or products such as rutin, other bioflavonoids, paraaminobenzoic acid, and similar substances which have in the past been represented as having nutritional properties but which have not been shown to be essential to human nutrition may not be combined with vitamins and/or minerals, added to food labeled in accordance with this section, or otherwise used or represented in any way which states or implies nutritional benefit. Ingredients or products of this type may be marketed as individual products or mixtures thereof: *Provided,* That the possibility of nutritional, dietary, or therapeutic value is not stated or implied. Examples of false or misleading statements or implications are:

(i) Label statements to the effect that need or usefulness in human nutrition has not been established.

(ii) Label statements which otherwise disclaim nutritional, dietary, or therapeutic value.

(6) That a natural vitamin in a food is superior to an added or synthetic vitamin, or that there is a difference between vitamins naturally present and those that have been added.

(Secs. 201(n), 401, 403 (a) and (j), 411, 701 (a) and (e), 52 Stat. 1041, 1046–1048, 1055, 70 Stat. 919, 90 Stat. 410–411 (21 U.S.C. 321 (n), 341, 343 (a) and (j), 350, 371 (a) and (e)).)

§ 105.62 Hypoallergenic foods.

If a food purports to be or is represented for special dietary use by reason of the decrease or absence of any allergenic property or by reason of being offered as food suitable as a substitute for another food having an allergenic property, the label shall bear:

(a) The common or usual name and the quantity or proportion of each ingredient (including spices, flavoring, and coloring) in case the food is fabricated from two or more ingredients.

(b) A qualification of the name of the food, or the name of each ingredient thereof in case the food is fabricated from two or more ingredients, to reveal clearly the specific plant or animal that is the source of such food or of such ingredient, if such food or such ingredient consists in whole or in part of plant or animal matter and such name does not reveal clearly the specific plant or animal that is such a source.

(c) An informative statement of the nature and effect of any treatment or processing of the food or any ingredient thereof, if the changed allergenic property results from such treatment or processing.

(Secs. 401, 403(j), 701(e), 52 Stat. 1046 as amended, 1048, 70 Stat. 919 (21 U.S.C. 341, 343(j), 371(e)).)

§ 105.65 Infant foods.

(a) If a food (other than a dietary supplement of vitamins and/or minerals alone) purports to be or is represented for special dietary use for infants, the label shall bear, if such food is fabricated from two or more ingredients, the common or usual name of each ingredient, including spices, flavoring, and coloring.

(b) If such food, or any ingredient thereof, consists in whole or in part of plant or animal matter and the name of such food or ingredient does not clearly reveal the specific plant or animal which is its source, such name shall be so qualified as to reveal clearly the specific plant or animal that is such source.

(c) If such use of the food is by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk, the label shall also bear:

(1) A statement of the percent by weight or weight per unit volume of moisture, protein, fat, available carbohydrate, ash, and crude fiber contained in such food.

(2) A statement of the number of available kilocalories (in the case of food label statements, a kilocalorie is represented by the word "Calorie") supplied by a specified quantity of such food as customarily or usually prepared for consumption.

(3) A statement of the amount of each vitamin or mineral listed in paragraph (c)(5) of this section and the amount of other added vitamin(s) and mineral(s) supplied by a specified quantity of such food as customarily or usually prepared for consumption.

(4) The statement "This product should not be used as the sole source of protein in the infant diet" if a quantity which supplies 100 available kilocalories of such food as customarily or usually prepared for consumption contains less than 1.8 grams of protein of a biological quality equivalent to that of casein, or if

§ 105.79 Nonnutritive constituents.

guidelines have been promulgated, or statutes

and Drugs on his own initiative or upon petition by an interested person in ac-

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the amount and biological quality of protein per 100 available kilocalories of such food are such that the quality of protein expressed as a fraction of that of casein multiplied by the amount of protein in grams is less than 1.8, or if the biological quality of protein is less than 70 percent of that of casein.

(i) For the purpose of this paragraph (c)(4), the method for determining biological quality of protein shall be the method prescribed on page 800 (secs. 39.166–39.170) under "Biological Evaluation of Protein Quality—Official, Final Action" of "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition (1970).[2]

(ii) For the purpose of this paragraph (c)(4), the method for determining the amount of protein is to multiply by 6.25 the total nitrogen content in grams, as determined by the method described on page 16 (sec. 2.051) under "Improved Kjeldahl Methods for Nitrate-Free Samples—Official, Final Action" of "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition (1970).[2]

(5) If a quantity which supplies 100 available kilocalories of such food as customarily or usually prepared for consumption contains less than the following amounts of vitamins and minerals, a statement that an additional quantity of such vitamin(s) or mineral(s), as the case may be, should be supplied from other sources:

Vitamins and minerals	Unit of measurement	Minimum amounts
Vitamin A	International units	250
Vitamin D	do	40
Vitamin E	do	0.3
Ascorbic acid (vitamin C)	Milligrams	7.8
Thiamine (vitamin B_1)	do	0.025
Riboflavin (vitamin B_2)	do	0.06
Niacin[1]	Milligram equivalents	0.8
Vitamin B_6	Milligrams	0.035
Folacin	Micrograms	4
Pantothenic acid	Milligrams	0.3
Vitamin B_{12}	Micrograms	0.15
Calcium	Milligrams	50
Phosphorus	do	25
Magnesium	do	8
Iron	do	1
Iodine	Micrograms	5
Copper	Milligrams	0.06

[1] The generic term "niacin" includes niacin (nicotinic acid), niacinamide (nicotinamide), and 1 mg equivalent for each 60 milligrams of tryptophan in the food.

When a statement prescribed by this paragraph (c)(5) is required, it shall appear in immediate proximity to the statement for the appropriate vitamin or mineral required by paragraph (c)(3) of this section. The difference in quantity between the amount of vitamin(s) and mineral(s) supplied and the amount required by this paragraph, expressed on the same basis, must also appear in the same statement.

(6) If such food contains fat at a level supplying less than 15 percent of the total available kilocalories, or linoleic acid (present as a glyceride) at a level supplying less than 2 percent of the total available kilocalories, a statement that an additional quantity of fat or linoleic acid (linoleate), as the case may be, should be supplied from other sources. The requirement of this paragraph (c)(6) shall not apply to such food which purports to be or is represented for special dietary use by reason of a need for regulating the intake of fat.

(d) The provisions of paragraph (c) of this section shall not apply to whole milk (of cows) or evaporated milk except with respect to ascorbic acid, vitamin D, and iron under paragraph (c)(5) of this section.

(e) A food which purports to be or is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk, and which complies with the provisions of this section, shall be exempt from the effective provisions of §§ 105.67 and 105.77.

See footnote 2 on p. 14326.

§ 105.67 Certain label statements relating to certain food used in control of body weight or in dietary management with respect to disease.

If a food purports to be or is represented for special dietary use by man by reason of its use as a means of regulating the intake of protein, fat, carbohydrate, or calories, for the purpose of controlling body weight, or for the purpose of dietary management with respect to disease, the label shall bear a statement of:

(a) The percent by weight of protein, fat, and available carbohydrates in such food; and

(b) The number of available calories supplied by a specified quantity of such food.

§ 105.69 Foods used to regulate sodium intake.

If a food purports to be or is represented for special dietary use by man by reason of its use as a means of regulating the intake of sodium or salt (sodium chloride), the label shall bear a statement of the number of milligrams of sodium in 100 grams of such food and a statement of the number of milligrams of sodium in a specified serving of such food. The number of milligrams of sodium shall be declared as the nearest multiple of 5 milligrams, as determined by appropriate analysis, except that, if such food contains not more than 10 milligrams of sodium in 100 grams of the food and not more than 10 milligrams of sodium in a specified serving of the food, the label shall bear a statement to that effect.

(Secs. 401, 403(j), 701(e), 52 Stat. 1046 as amended, 1048, 70 Stat. 919 (21 U.S.C. 341, 343(j), 371(e)).)

§ 105.77 Vitamins and minerals.

(a) *Vitamins and minerals for which U.S. RDA's are established.* If a food purports or is represented to be for special dietary use because of vitamin or mineral properties for which U.S. RDA's have been established, the label shall bear a statement of the percentage of the U.S. RDA of such vitamins and minerals, as set forth in § 105.3(b), supplied by such food when consumed in a specified quantity during a period of 1 day. The quantity specified shall be a reasonable quantity suitable for and practicable of consumption within 1 day. The order in which the nutrients appear on the label shall be the order in § 105.3(b), except when other regulations provide otherwise. Immediately preceding the declaration of vitamin and mineral content, the following heading shall be stated, "Percentage of U.S. Recommended Daily Allowances (U.S. RDA)." If such purported or represented special dietary use is for persons within more than one group for which U.S. RDA's are established, such statement shall include the percentage for each group. When the percentage of the U.S. RDA is a whole number and a fraction or a whole number and a decimal, it shall be expressed as the whole number disregarding the fraction or decimal. The total quantity of vitamins or minerals in a food shall be no less than the amount declared, and no more than a reasonable amount above the declared quantity. Reasonable variations caused by heat, light, oxidation, storage, transportation, or unavoidable deviations in good manufacturing practice are recognized.

(b) *Vitamins and minerals for which no U.S. RDA's are established.* If a food purports or is represented to be for special dietary use because of the presence of a vitamin or mineral for which no U.S. RDA has been established, the quantity of each such nutrient (in the order listed in § 105.3(c), except when other regulations provide otherwise) supplied by the food when consumed in a specified quantity during a period of 1 day shall be stated on the label in standard metric units of weight followed by the statement "No U.S. Recommended Daily Allowance (U.S. RDA) has been established for this nutrient" or by an asterisk referring to another asterisk at the bottom of the table and followed by that statement. The quantity of consumption specified shall be a reasonable quantity suitable for and practicable of consumption within 1 day.

(c) *Applicability.* When paragraphs (a) and (b) of this section are both applicable: information required by paragraph (b) with respect to vitamins shall follow immediately after information required by paragraph (a) with respect to vitamins; information required by paragraph (b) with respect to minerals shall follow immediately after information required by paragraph (a) with respect to minerals; and the quantity of consumption specified pursuant to each paragraph shall be the same.

(d) *Iodized salt.* The requirements of this section shall not apply to iodized salt when the declared content of the iodine compound in the salt is equivalent to 0.01 percent by weight iodine.

(Secs. 201(n), 401, 403 (a) and (j), 411, 701 (a) and (e), 52 Stat. 1041, 1046–1048, 1055, 70 Stat. 919, 90 Stat. 410–411 (21 U.S.C. 321 (n), 341, 343 (a) and (j), 350, 371 (a) and (e)).)

§ 105.79 Nonnutritive constituents.

If a food purports to be or is represented for special dietary use by man by reason of the presence of any constituent which is not utilized in normal metabolism, the label shall bear a statement of the percent by weight of such constituent, and, in juxtaposition with the name of such constituent, the word "nonnutritive". If such constituent is fibrous plant matter, it shall be considered to be crude fiber and its percent expressed as such. But if such constituent is saccharin or a saccharin salt, the label shall bear, in lieu of such statement and word, the statement "Contains ____ saccharin (or saccharin salt, as the case may be), a nonnutritive, artificial sweetener which should be used only by persons who must restrict their intake of ordinary sweets," the blank to be filled in with the percent by weight of saccharin or saccharin salt in such food. The provisions of this section shall not be construed as authorizing the use of saccharin or its salts in any food other than one for use by persons who must restrict their intake of carbohydrates, or as relieving any food from compliance with any requirement of sections 402 (b) or (d), 403(g), or other provisions of the act.

Subpart C—[Reserved]

Subpart D—Standards of Identity

§ 105.85 Dietary supplements of vitamins and minerals.

(a) *General provisions*—(1) *Articles subject to this regulation; "dietary supplements."* The dietary supplements of vitamins and/or minerals for which definitions and standards of identity are prescribed by this section are prepared and offered as tablets, capsules, wafers, or other similar uniform units; in powder, granular, flake, or liquid form; or in the physical form of conventional foods; and purport to be or are represented for special dietary use by man to supplement his diet by increasing the total dietary intake of one or more of the essential vitamins and/or minerals specified in paragraph (d) of this section. The dietary supplements of vitamins and/or minerals are henceforth referred to as "dietary supplements" in this section.

(2) *Articles not subject to this regulation.* This section does not apply to:

(i) Any food which contains or consists of any vitamin or mineral listed in § 105.3(b)(1), or any combination thereof, provided that all of the following requirements are met: (*a*) No such nutrient is contained at a level of 50 percent or more of the adult U.S. RDA per serving for that nutrient, (*b*) no direct or implied representation is made on the label, in labeling, or in advertising that the product is a dietary supplement or is adequate or appropriate for supplementing the daily diet with essential nutrients, and (*c*) the product is labeled pursuant to § 101.9 of this chapter.

(ii) Foods the composition of which is defined by other regulations, e.g., other foods for which definitions and standards of identity or nutritional guidelines have been promulgated, or statutes.

(iii) Any food represented for use as the sole item of a meal or of the diet.

(iv) Foods represented for use solely under medical supervision to meet nutritional requirements in specific medical conditions.

(v) Conventional foods to which one or more nutrient(s) listed in paragraph (d)(1) of this section are added to improve nutritional quality, unless the total level, including any naturally occurring amounts, of any such added vitamin or mineral per single serving attains or exceeds 50 percent of the U.S. Recommended Daily Allowance (U.S. RDA) for adults and children 4 years or more of age as specified in § 105.3(b)(1), in which case the provisions of both this section and § 101.9 of this chapter shall apply. If the provisions of both this section and § 101.9 of this chapter apply to a food, the labeling of such food shall conform to the labeling established in this section except that the labeling established in § 101.9(g) of this chapter, including the order for listing vitamins and minerals established in § 101.9(c)(7)(iv) of this chapter, shall be used in lieu of the labeling established in paragraph (i)(1) of this section.

(vi) Raw agricultural commodities.

(vii) A food with nutrients restored to pre-processing levels or added pursuant to § 101.3(e) of this chapter so that it is not nutritionally inferior to the food for which it substitutes and which it resembles.

(3) *Enforcement.* Any food product that meets the definition of a dietary supplement in paragraph (a)(1) of this section and which is not subject to any of the exemptions set forth in paragraph (a)(2) of this section and which fails to comply with the requirements of this section, including a multicomponent supplement not subject to paragraph (e) of this section which offers an added vitamin or mineral not permitted by this section or which offers a greater potency of any vitamin or mineral than is permitted by this section, will be deemed to be in violation of section 403(g) of the Federal Food, Drug, and Cosmetic Act (hereafter "the act"), which provides that a food shall be deemed to be misbranded if it purports to be or is represented as a food for which a definition and standard of identity has been prescribed, unless it conforms to the definition and standard.

(4) *Other requirements of law.* Compliance with the requirements of this section does not exempt a dietary supplement from other requirements of any other applicable regulations, whether or not cross-referenced herein.

(5) *Amendments to this standard.* Amendment of the permissible combinations of vitamins and/or minerals, as established in paragraph (b) of this section, or of the permitted range of potency for any vitamin(s) or mineral(s) in a dietary supplement, as established in paragraph (c) of this section, or any other amendments to this section, may be proposed by the Commissioner of Food and Drugs on his own initiative or upon petition by an interested person in accordance with the procedure set forth in Part 2 of this chapter. Any such petition shall show that such amendment will promote honesty and fair dealing in the interest of consumers.

(b) *Inclusion of vitamins and minerals in dietary supplements.* Except as provided in paragraph (e) of this section: (1) A dietary supplement consisting of more than one vitamin or mineral shall contain only those vitamins and/or minerals listed in paragraph (d)(1) of this section and shall be offered for its vitamin and/or mineral content only in the following combinations, with the provision that any vitamin or mineral defined as optional in paragraph (d)(1) of this section may be omitted:

(i) All vitamins and minerals.

(ii) All vitamins.

(iii) All minerals.

(iv) All vitamins and the mineral iron.

(v) A dietary supplement of vitamins A, D, and C, represented for use by infants and/or children under 4 years of age, composed of vitamin A, vitamin D and vitamin C. Vitamin E and/or iron may be included as optional ingredients in such a preparation: *Provided*, That inclusion of the optional ingredients vitamin D and/or phosphorous in the dietary supplements identified in paragraph (b)(1)(i), (ii), (iii) or (iv) of this section does not require inclusion of any additional optional ingredients. Inclusion of the optional ingredients biotin and pantothenic acid and/or copper and zinc in such products does not require inclusion of vitamin D and/or phosphorus when the latter two nutrients are optional. Inclusion of any of the other optional ingredients (biotin or pantothenic acid for vitamins and copper or zinc for minerals) in such products requires the inclusion of both such optional ingredients if the product is a multivitamin or multimineral supplement, and requires the inclusion of all four such ingredients if the product is a multivitamin and multimineral supplement; and: *Provided further*, That folic acid is optional for liquid dietary supplements because of instability of the vitamin in liquid preparations. A liquid dietary supplement represented as a "multivitamin" preparation but not containing folic acid shall bear the following statement on the label: "This product does not contain the essential vitamin folic acid," which shall immediately follow the listing of vitamins and minerals as prescribed in paragraph (i) of this section.

(2) A dietary supplement may also be composed of a single vitamin or mineral.

(c) *Potency of vitamins and minerals in dietary supplements.* (1) Except as provided in paragraph (e) of this section, and subject to good manufacturing practices, dietary supplements shall contain in the specified daily quantity not less than the lower limit nor more than the upper limit of any nutrient specified in paragraph (d)(1) of this section for the groups for which the supplement is offered.

(2) For the purposes of this section, the term "daily quantity" means the

(5) Copper—See § 182.5260 of this

(i) "For infants."

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quantity of a dietary supplement that shall be specified in the labeling for consumption in a period of 1 day, and which shall be an amount or number of units reasonably suitable for and practicable of consumption in 1 day.

(d) *U.S. Recommended Daily Allowance.* (1) The following table sets forth the permissible qualitative and quantitative composition of dietary supplements of vitamins and/or minerals for purposes of paragraphs (b) and (c):

U.S. recommended daily allowances (U.S. RDA's) and permissible compositional ranges for dietary supplements of vitamins and minerals

	Unit of measurement	Children under 4 years of age [1]			Adults and children 4 or more years of age			Pregnant or lactating women		
		Lower limit	U.S. RDA	Upper limit	Lower limit	U.S. RDA	Upper limit	Lower limit	U.S. RDA	Upper limit
Vitamins—Mandatory:										
Vitamin A	International units	1,250	2,500	2,500	2,500	5,000	5,000	5,000	8,000	8,000
Vitamin D [2]	do	200	400	400				400	400	400
Vitamin E	do	5	10	15	15	30	45	30	30	60
Vitamin C	Milligrams	20	40	60	30	60	90	60	60	120
Folic acid [3]	do	.1	.2	.3	.2	.4	.4	.4	.8	.8
Thiamine	do	.35	.70	1.05	.75	1.50	2.25	1.50	1.70	3.00
Riboflavin	do	.4	.8	1.2	.8	1.7	2.6	1.7	2.0	3.4
Niacin	do	4.5	9.0	13.5	10.0	20.0	30.0	20.0	20.0	40.0
Vitamin B_6	do	.35	.70	1.05	1.00	2.00	3.00	2.00	2.50	4.00
Vitamin B_{12}	Micrograms	1.5	3.0	4.5	3.0	6.0	9.0	6.0	8.0	12.0
Optional:					200	400	400			
Vitamin D	International units									
Biotin	Milligrams	.075	.150	0.225	.150	.300	.450	.300	.300	.600
Pantothenic acid	do	2.5	5.0	7.5	5.0	10.0	15.0	10.0	10.0	20.0
Minerals—Mandatory:										
Calcium	Grams	.125	.800	1.200	.125	1.000	1.500	.125	1.300	2.000
Phosphorus [4]	do	.125	.800	1.200	.125	1.000	1.500			
Iodine	Micrograms	35	70	105	75	150	225	150	150	300
Iron	Milligrams	5	10	15	9	18	27	18	18	60
Magnesium	do	40	100	200	100	400	600	100	450	800
Optional:										
Phosphorus [4]	Grams	.5	1.0	1.5	1.0	2.0	3.0	.125	1.300	2.000
Copper	Milligrams	4.0	8.0	12.0	7.5	15.0	22.5	1.0	2.0	4.0
Zinc	do							7.5	15.0	30.0

[1] When labeled for use by infants, a dietary supplement shall contain not less than the lower limit designated for a nutrient in this set of columns, nor more than 100 percent of the infant U.S. RDA for a nutrient as prescribed in sec. 125.1(b) of this chapter except that the level of biotin, when used, shall be 0.05 mg daily recommended quantity.
[2] Optional for adults and children 4 or more years of age.
[3] Optional for liquid products.
[4] Optional for pregnant or lactating women. When present, the quantity of phosphorus may be not greater than the quantity of calcium.

(2) The U.S. Recommended Daily Allowances (U.S. RDA's) have been derived by the Food and Drug Administration from the "Recommended Dietary Allowances," published by the Food and Nutrition Board, National Academy of Sciences/National Research Council, and are subject to amendment as more knowledge on human nutrient requirements becomes available.

(3) For determining the percentage of the U.S. RDA present in a dietary supplement, the quantitative content of the following vitamins shall be calculated in terms of the following chemically identifiable reference forms:

Reference form

Vitamin	Name	Empirical formula	Molecular weight
Vitamin C	*L*-Ascorbic acid	$C_6H_8O_6$	176.12
Folic acid	Pteroyl mono-*L*-glutamic acid	$C_{19}H_{19}N_7O_6$	441.41
Thiamine	Thiamine chloride hydrochloride	$C_{12}H_{17}ClN_4OS{\cdot}HCl$	327.28
Riboflavin	Riboflavin	$C_{17}H_{20}N_4O_6$	376.37
Niacin	Nicotinic acid	$C_6H_5NO_2$	123.11
Vitamin B_6	Pyridoxine	$C_8H_{11}NO_3$	169.18
Vitamin B_{12}	Cyanocobalamin	$C_{63}H_{88}CoN_{14}O_{14}P$	1,355.40
Biotin	*D*-Biotin	$C_{10}H_{16}N_2O_3S$	244.31
Pantothenic acid	*D*-Pantothenic acid	$C_9H_{17}NO_5$	219.23

(4) In addition to the nutrients listed in paragraph (d)(1) of this section, other vitamins and minerals recognized as essential or probably essential in human nutrition in their biologically active forms but for which no U.S. RDA's have been established are: vitamin K, choline, and the minerals chlorine, chromium, fluorine, manganese, molybdenum, nickel, potassium, selenium, silicon, sodium, tin, and vanadium.

(e) *Exemption from limitations on inclusion of ingredients and from maximum potency restrictions for certain dietary supplements.* (1) Pursuant to section 411 (a)(1) of the act, the limitations established by paragraphs (b) and (d) of this section and by § 105.60(b)(5) with respect to the inclusion of vitamins, minerals, and other ingredients in dietary supplements, and the maximum limits on potency established by paragraphs (c) and (d) of this section shall not apply to a food for special dietary use, defined in § 105.3(a)(1), which is or contains any vitamin or mineral and which complies with the following criteria:

(i) The preparation is intended for ingestion in tablet, capsule, or liquid form, or, if not intended for ingestion in such a form, does not simulate and is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(ii) The preparation is not represented for use by individuals in treatment or management of specific diseases or disorders, by children, or by pregnant or lactating women.

(2) For purposes of paragraph (e)(1) of this section: a food shall be considered as intended for ingestion in liquid form only if it is formulated in a fluid carrier and it is intended for ingestion in daily quantities measured in drops or similar small units of measure; and the term "children" means individuals who are under the age of 12 years.

(3) The exemption provided by section 411(a)(1) of the act and paragraph (e)(1) of this section does not apply to minimum potency requirements established by this section. Whenever a vitamin or mineral for which a U.S. RDA has been established is included in a dietary supplement, the supplement shall provide in the recommended daily quantity at least the lower potency limit for the vitamin or mineral established by the table in paragraph (d)(1) of this section.

(4) The exemption provided by section 411(a)(1) of the act and paragraph (e)(1) of this section does not apply to restrictions on maximum potency imposed by the act or by regulations for reasons of safety under paragraph (f) of this section.

(f) *Restrictions on maximum potency of vitamins and minerals for reasons of safety.* Restrictions of the maximum potency of a vitamin or mineral may be imposed for reasons of safety by the act or by regulation. For convenience, certain restrictions are cross-referenced below:

(1) Vitamin A—See § 250.109 of this chapter.

(2) Vitamin D—See § 250.110 of this chapter.

(3) Folic acid—See § 172.345 of this chapter.

(4) Iodine—See §§ 172.365 and 172.375 of this chapter.

(5) Copper—See § 182.5260 of this chapter.

(6) Fluorine—See § 170.45 of this chapter.

(7) Potassium—See § 201.306 of this chapter.

(8) Any vitamin or mineral which is included in a dietary supplement and which is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown to be safe under the conditions of its intended use is a food additive within the meaning of section 201(s) of the act; and pursuant to sections 402(a)(2)(C) and 409 of the act, such inclusion is illegal in the absence of a food additive regulation approving such inclusion. A listing of some of the vitamins, minerals, and compounds with vitamin and/or mineral properties which are generally recognized as safe, and which thus may lawfully be included in a dietary supplement without a food additive regulation, appears at Subpart F of Part 182 of this chapter.

(g) *Acceptable ingredient sources for dietary supplements:* (1) A vitamin or mineral used in a dietary supplement may be supplied by any suitable substance which is not a food additive as defined in section 201(s) of the act; or if it is a food additive as so defined, it shall be used in conformity with regulations established pursuant to section 409 of the act.

(2) Any safe and suitable substance may be used as preservative, stabilizer, flavor, sweetener, color, seasoning, carrier, base, or vehicle, or to facilitate preparation of vitamin or mineral substances. A dietary supplement shall be prepared so that any such substance contained therein does not exceed the amount reasonably required to accomplish its intended physical or technical effect, and so that the biological availability of the vitamin(s) and mineral(s) is not impaired by the presence of such substance. Any such substance shall not be a food additive or color additive as defined in section 201 (s) or (t) of the act; or if it is a food additive or color additive as so defined, it shall be used in conformity with regulations established pursuant to section 409 or 706 of the act.

(h) *Nomenclature.* (1) The name of a dietary supplement shall consist of a term descriptive of the vitamin and/or mineral composition of the product, as established in paragraph (h)(2) of this section, together with a phrase or phrases designating the group(s) for which the supplement is intended, as established in paragraph (h)(3) of this section, e.g., "multivitamin and multimineral supplement for children under 4 years of age"; "dietary supplement of vitamin C and E for adults". The name of the dietary supplement shall appear prominently and conspicuously on the principal display panel(s) of the label. The letters or phrase(s) designating the consumer group(s) for which the product is represented shall be no less than one-third the size of those used in the term descriptive of the composition of the product. In addition to the name prescribed by this paragraph, a dietary supplement may be labeled with a proprietary name: *Provided*, That it is not false or misleading in any particular.

(2) The terms used to describe the vitamin and/or mineral composition of dietary supplements shall be as follows:

(i) "Multivitamin and multimineral supplement" for a dietary supplement containing all vitamins and minerals identified as "mandatory," for the group(s) for which the supplement is offered, in the table in paragraph (d)(1) of this section.

(ii) "Multivitamin supplement" for a dietary supplement containing all vitamins identified as "mandatory," for the group(s) for which the supplement is offered, in the table in paragraph (d)(1) of this section.

(iii) "Multimineral supplement" for a dietary supplement containing all minerals identified as "mandatory," for the group(s) for which the supplement is offered, in the table in paragraph (d)(1) of this section.

(iv) "Multivitamin and iron supplement" or "multivitamin supplement with iron" for a dietary supplement containing all vitamins identified as "mandatory," for the group(s) for which the supplement is offered, in the table in paragraph (d)(1) of this section and the mineral iron.

(v) "_____ supplement" for a dietary supplement containing a single vitamin or mineral listed in paragraph (d) of this section (the blank to be filled in with the name of the vitamin or mineral).

(vi) "Dietary supplement of vitamins A, D, and C" for a preparation complying with paragraph (b)(1)(v) of this section, provided that if vitamin E is included, the term shall read "* * * vitamins A, D, C, and E * * *," and that if iron is included, the term shall conclude with "* * * with iron" or "* * * and iron."

(vii) If, pursuant to section 411(a)(1) of the act and paragraph (e)(1) of this section, the dietary supplement contains more than one vitamin or mineral but does not meet the criteria for any of the preparations identified in paragraph (h)(2) (i) through (vi) of this section, the preparation shall bear a term that is accurately descriptive of its vitamin and/or mineral composition, e.g., "dietary supplement of vitamins A, C, and E." The term "multivitamin" shall not be used to describe a product which fails to provide all of the vitamins identified as "mandatory," for the group(s) for which the supplement is offered, in the table in paragraph (d), except as provided in the second proviso clause of paragraph (b)(1) of this section with respect to a liquid multivitamin preparation which does not include folic acid, and the term "multivitamin" shall not be used to describe a product which fails to provide all of the minerals identified as "mandatory," for the group(s) for which the supplement is offered, in the table in paragraph (d)(1) of this section.

(3) The phrases used to designate the group(s) for which a dietary supplement is intended shall be as follows:

(i) "For infants."

(ii) "For children under 4 years of age."

(iii) "For adults and children 4 or more years of age."

(iv) "For pregnant or lactating women."

(v) If, pursuant to section 411(a)(1) of the act and paragraph (e)(1) of this section, a dietary supplement does not comply with the formulation and potency criteria established in paragraphs (b) and (c) of this section, the supplement may not be offered for any of the groups identified in paragraph (h)(3)(i) through (iv) because the exemption from formulation and potency restrictions authorized by section 411(a)(1) of the act and paragraph (e)(1) of this section does not apply to preparations offered for use by persons under 12 years of age or by pregnant or lactating women. Such a preparation shall accurately identify the group for which it is offered, e.g., "For adults" or "For persons 12 years of age or older, other than pregnant or lactating women."

(i) *Format for listing vitamins and minerals.* (1) Immediately following the name of the dietary supplement (i.e., the term descriptive of the vitamin and/or mineral composition of the product together with the phrase or phrases designating the group(s) for which the supplement is intended, as required by paragraph (h) of this section) on the principal display panel, or on the information panel pursuant to § 101.2 of this chapter if insufficient space is available on the principal display panel, the label shall bear a listing in tabular form of each of the vitamins and/or minerals supplied by the specified daily quantity of the dietary supplement, such daily quantity being specified at the top of the list. (In the event a dietary supplement is offered for more than one group, the specified daily quantity and listing of vitamins and/or minerals for each group shall be stated separately on the label.) The vitamins and/or minerals shall be described by the names appearing in paragraph (d) of this section and shall be grouped and identified separately as "vitamins" and/or "minerals" without reference to "mandatory" or "optional." Within each category (i.e., "vitamins" and "minerals"), the vitamins or minerals shall appear in the order listed in paragraph (d) of this section. The quantity of each vitamin and/or mineral present in a specified daily quantity of the dietary supplement shall be stated as a part of this list and expressed in percentage of the U.S. RDA for each group for which the supplement is offered. The quantity of each vitamin and/or mineral present in the specified daily quantity of the dietary supplement shall also appear in the tabular listing in terms of the unit of measure specified in paragraph (d)(1) of this section: *Provided*, That if the dietary supplement includes a vitamin or mineral for which no U.S. RDA has been established, the listing shall state the quantity in standard metric units of weight of each such nutrient supplied by the food when consumed in the specified quantity during a period of 1 day, ac-

companied by the statement "No U.S.

§ 108.6 Revocation of determination of

except in unusual circumstances, but will

Within 20 working days after receipt of

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companied by the statement "No U.S. Recommended Daily Allowance (U.S. RDA) has been established for this nutrient," or followed by an asterisk referring to another asterisk placed at the bottom of the table and followed by that statement.

(2) For determining the percentage contents of the U.S. RDA's present in the dietary supplement, the quantitative content of the following vitamins shall be calculated in terms of the following chemically identifiable reference forms:

Reference form

Vitamin	Name	Empirical formula	Molecular weight
Vitamin C	*L*-Ascorbic acid	$C_6H_8O_6$	176.12
Folic acid	Pteroyl mono-*L*-glutamic acid	$C_{19}H_{19}N_7O_6$	441.41
Thiamine	Thiamine chloride hydrochloride	$C_{12}H_{17}ClN_4OS{\cdot}HCl$	337.28
Riboflavin	Riboflavin	$C_{17}H_{20}N_4O_6$	376.37
Niacin	Nicotinic acid	$C_6H_5NO_2$	123.11
Vitamin B_6	Pyridoxine	$C_8H_{11}NO_3$	169.18
Vitamin B_{12}	Cyanocobalamin	$C_{63}H_{88}CoN_{14}O_{14}P$	1,355.40
Biotin	*D*-Biotin	$C_{10}H_{16}N_2O_3S$	244.31
Pantothenic acid	*D*-Pantothenic acid	$C_9H_{17}NO_5$	219.23

(3) The following synonyms may be added in parentheses immediately following the name of the vitamin in the listing described in paragraph (i)(1) of this section:

Vitamin	*Synonym*
Vitamin C	Ascorbic acid.
Folic acid	Folacin.
Riboflavin	Vitamin B_2.
Thiamine	Vitamin B_1.

(j) *List of ingredients.* A separate list of all ingredients used in the manufacture of the product shall be included on the panel pursuant to the requirements of Part 101 of this chapter. Such list shall include the natural source or chemical form of each individual nutrient present in the dietary supplement.

(k) *Dietary supplements containing alcohol.* When a dietary supplement is in liquid form and contains alcohol, the label shall state the percent-by-volume of alcohol present.

(l) *Expiration date.* A dietary supplement containing one or more nutrients subject to deterioration below the labeled value before consumption shall bear on its outside wrapper or container, as well as on the label of its immediate container, the statement: "Expiration date _____" the blank to be filled in with a month and year. The expiration date shall be the date selected by the manufacturer, packer, or distributor of the dietary supplement on the basis of tests or other information showing that the dietary supplement, until that date, under the conditions of handling, storage, and use prescribed by directions appearing on its label, or, in the absence of such prescribed directions, under customary or usual conditions of handling, storage and use, will contain not less than the quantity of each such vitamin and/or mineral, as set forth on its label, when consumed.

(m) *Conspicuousness of labeling.* All labeling information required by this section shall appear with the conspicuousness required by section 403(f) of the act and §101.2 of this chapter. In addition, the following labeling requirements shall be met:

(1) The list of nutrients required by paragraph (i)(1) of this section shall appear in uniform type size.

(2) The synonyms permitted by paragraph (i)(3) of this section, if used, and the list of ingredients required by paragraph (j) of this section shall appear in uniform type size, and in type size no larger than that used for the list of nutrients required by paragraph (i)(1) of this section.

(n) *Certain labeling prohibitions.* Because dietary supplements are foods for special dietary use, the labels and labeling for dietary supplements are subject to the prohibitions contained in § 105.60(b) in addition to the requirements of this section.

(Secs. 201(n), 401, 403 (a) and (j), 411, 701 (a) and (e), 52 Stat. 1041, 1046–1048, 1055, 70 Stat. 919, 90 Stat. 410–411 (21 U.S.C. 321 (n), 341, 343 (a) and (j), 350, 371 (a) and (e)).)

PART 108—EMERGENCY PERMIT CONTROL

Subpart A—General Provisions

Sec.

108.3 Definitions.
108.5 Determination of the need for a permit.
108.6 Revocation of determination of need for permit.
108.7 Issuance or denial of permit.
108.10 Suspension and reinstatement of permit.
108.12 Manufacturing, processing, or packing without a permit, or in violation of a permit.
108.19 Establishment of requirements for exemption from section 404 of the act.

Subpart B—Specific Requirements and Conditions for Exemption From or Compliance With an Emergency Permit

108.35 Thermal processing of low-acid foods packaged in hermetically sealed containers.

AUTHORITY: Secs. 402, 404, 701, 52 Stat. 1046–1047 as amended, 1048, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 342, 344, 371).

Subpart A—General Provisions

§ 108.3 Definitions.

(a) The definitions contained in section 201 of the Federal Food, Drug, and Cosmetic Act are applicable to such terms when used in this part.

(b) "Commissioner" means the Commissioner of Food and Drugs.

(c) "Act" means the Federal Food, Drug, and Cosmetic Act, as amended.

(d) "Permit" means an emergency permit issued by the Commissioner pursuant to section 404 of the act for such temporary period of time as may be necessary to protect the public health.

(e) "Manufacture, processing, or packing of food in any locality" means activities conducted in a single plant or establishment, a series of plants under a single management, or all plants in an industry or region, by a manufacturer, processor, or packer.

§ 108.5 Determination of the need for a permit.

(a) Whenever the Commissioner determines after investigation that a manufacturer, processor, or packer of a food for which a regulation has been promulgated in Subpart B of this part does not meet the mandatory conditions and requirements established in such regulation, he shall issue to such manufacturer, processor, or packer an order determining that a permit shall be required before the food may be introduced or delivered for introduction into interstate commerce by that person. The order shall specify the mandatory conditions and requirements with which there is a lack of compliance.

(1) The manufacturer, processor, or packer shall have 3 working days after receipt of such order within which to file objections. Such objections may be filed by telegram, telex, or any other mode of written communication addressed to the Food and Drug Administration, Bureau of Foods, 200 C St. SW., Washington, DC 20204. If such objections are filed, the determination is stayed pending a hearing to be held within 5 working days after the filing of objections on the issues involved unless the Commissioner determines that the objections raise no genuine and substantial issue of fact to justify a hearing.

(2) If the Commissioner finds that there is an imminent hazard to health, the order shall contain this finding and the reasons therefor, and shall state that the determination of the need for a permit is effective immediately pending an expedited hearing.

(b) A hearing under this section shall be conducted by the Commissioner or his designee at a location agreed upon by the objector and the Commissioner or, if such agreement cannot be reached, at a location designated by the Commissioner. The manufacturer, processor, or packer shall have the right to cross-examine the Food and Drug Administration's witnesses and to present witnesses on his own behalf.

(c) Within 5 working days after the hearing, and based on the evidence presented at the hearing, the Commissioner shall determine whether a permit is required and shall so inform the manufacturer, processor, or packer in writing, with the reasons for his decision.

(d) The Commissioner's determination of the need for a permit constitutes final agency action from which appeal lies to the courts. The Commissioner will not stay a determination of the need for a permit pending court appeal except in unusual circumstances, but will participate in expediting any such appeal.

§ 108.6 Revocation of determination of need for permit.

(a) A permit shall be required only during such temporary period as is necessary to protect the public health.

(b) Whenever the Commissioner has reason to believe that a permit holder is in compliance with the mandatory requirements and conditions established in Subpart B of this part and is likely to remain in compliance, he shall, on his own initiative or on the application of the permit holder, revoke both the determination of need for a permit and the permit that had been issued. If denied, the applicant shall, upon request, be afforded a hearing conducted in accordance with § 108.5 (b) and (c) as soon as practicable. Such revocation is without prejudice to the initiation of further permit proceedings with respect to the same manufacturer, processor, or packer should later information again show the need for a permit.

§ 108.7 Issuance or denial of permit.

(a) After a determination and notification by the Commissioner in accordance with the provisions of § 108.5 that a manufacturer, processor, or packer requires a permit, such manufacturer, processor, or packer may not thereafter introduce or deliver for introduction into interstate commerce any such food manufactured, processed, or packed by him unless he holds a permit issued by the Commissioner or obtains advance written approval of the Food and Drug Administration pursuant to § 108.12(a).

(b) Any manufacturer, processor, or packer for whom the Commissioner has made a determination that a permit is necessary may apply to the Commissioner for the issuance of such a permit. The application shall contain such data and information as is necessary to show that all mandatory requirements and conditions for the manufacturer, processing or packing of a food for which regulations are established in Subpart B of this part are met and, in particular, shall show that the deviations specified in the Commissioner's determination of the need for a permit have been corrected or suitable interim measures established. Within 10 working days after receipt of such application, (except that the Commissioner may extend such time an additional 10 working days where necessary), the Commissioner shall issue a permit, deny the permit, or offer the applicant a hearing conducted in accordance with § 108.5 (b) and (c) as to whether the permit should be issued. The Commissioner shall issue such a permit to which shall be attached, in addition to the mandatory requirements and conditions of Subpart B of this part, any additional requirements or conditions which may be necessary to protect the public health if he finds that all mandatory requirements and conditions of Subpart B of this part are met or suitable interim measures are established.

(c) Denial of a permit constitutes final agency action from which appeal lies to the courts. The Commissioner will not stay such denial pending court appeal except in unusual circumstances, but will participate in expediting any such appeal.

§ 108.10 Suspension and reinstatement of permit.

(a) Whenever the Commissioner finds that a permit holder is not in compliance with the mandatory requirements and conditions established by the permit, he shall immediately suspend the permit and so inform the permit holder, with the reasons for the suspension.

(b) Upon application for reinstatement of a permit, the Commissioner shall, within 10 working days, reinstate the permit if he finds that the person is in compliance with the mandatory requirements and conditions established by the permit or deny the application.

(c) Any person whose permit has been suspended or whose application for reinstatement has been denied may request a hearing. The hearing shall be conducted by the Commissioner or his designee within 5 working days of receipt of the request at a location agreed upon by the objector and the Commissioner or, if an agreement cannot be reached, at a location designated by the Commissioner. The permit holder shall have the right to present witnesses on his own behalf and to cross-examine the Food and Drug Administration's witnesses.

(d) Within 5 working days after the hearing, and based on the evidence presented at the hearing, the Commissioner shall determine whether the permit shall be reinstated and shall so inform the permit holder, with the reasons for his decision.

(e) Denial of an application for reinstatement of a permit constitutes final agency action from which appeal lies to the courts. The Commissioner will not stay such denial pending court appeal except in unusual circumstances, but will participate in expediting any such appeal.

§ 108.12 Manufacturing, processing, or packing without a permit, or in violation of a permit.

(a) A manufacturer, processor, or packer may continue at his own risk to manufacture, process, or pack without a permit a food for which the Commissioner has determined that a permit is required. All food so manufactured, processed, or packed during such period without a permit shall be retained by the manufacturer, processor, or packer and may not be introduced or delivered for introduction into interstate commerce without the advance written approval of the Food and Drug Administration. Such approval may be granted only upon an adequate showing that such food is free from microorganisms of public health significance. The manufacturer, processor, or packer may provide to the Commissioner, for his consideration in making any such determination, an evaluation of the potential public health significance of such food by a competent authority in accordance with procedures recognized as being adequate to detect any potential hazard to public health. Within 20 working days after receipt of a written request for such written approval the Food and Drug Administration shall either issue such written approval or deny the request. If the request is denied, the applicant shall, upon request, be afforded a prompt hearing conducted in accordance with § 108.5 (b) and (c).

(b) Except as provided in paragraph (a) of this section, no manufacturer, processor, or packer may introduce or deliver for introduction into interstate commerce without a permit or in violation of a permit a food for which the Commissioner has determined that a permit is required. Where a manufacturer, processor, or packer utilizes a consolidation warehouse or other storage facility under his control, interstate shipment of any such food from the point of production to that warehouse or storage facility shall not violate this paragraph, provided that no further introduction or delivery for introduction into interstate commerce is made from that consolidated warehouse or storage facility except as provided in paragraph (a) of this section.

§ 108.19 Establishment of requirements for exemption from section 404 of the act.

(a) Whenever the Commissioner finds after investigation that the distribution in interstate commerce of any class of food may, by reason of contamination with microorganisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered interstate commerce, he shall promulgate regulations in Subpart B of this part establishing requirements and conditions governing the manufacture, processing, or packing of the food necessary to protect the public health. Such regulations may be proposed by the Commissioner on his own initiative or in response to a petition from any interested person pursuant to Part 2 of this chapter.

(b) A manufacturer, processor, or packer of a food for which a regulation has been promulgated in Subpart B of this part shall be exempt from the requirement for a permit only if he meets all of the mandatory requirements and conditions established in that regulation.

Subpart B—Specific Requirements and Conditions for Exemption From or Compliance With an Emergency Permit

§ 108.35 Thermal processing of low-acid foods packaged in hermetically sealed containers.

(a) Inadequate or improper manufacture, processing, or packing of thermally processed low-acid foods in hermetically sealed containers may result in the distribution in interstate commerce of processed foods that may be injurious to health. The harmful nature of such foods cannot be adequately determined after these foods have entered into interstate commerce. The Commissioner of Food and Drugs therefore finds that, in order to protect the public health, it may

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be necessary to require any commercial processor, in any establishment engaged in the manufacture, processing, or packing of thermally processed low-acid foods in hermetically sealed containers, to obtain and hold a temporary emergency permit provided for under section 404 of the Federal Food, Drug, and Cosmetic Act. Such a permit may be required whenever the Commissioner finds, after investigation, that the commercial processor has failed to fulfill all the requirements of this section, including registration and the filing of process information, and the mandatory portions of Part 113 of this chapter. These requirements are intended to ensure safe manufacture, processing, and packing procedures and to permit the Food and Drug Administration to verify that these procedures are being followed. Such failure shall constitute prima facie basis for the immediate application of the emergency permit control provisions of section 404 of the act to that establishment, pursuant to the procedures established in Subpart A of this part.

(b) The definitions in § 113.3 of this chapter are applicable when such terms are used in this section.

(c) Registration and process filing. (1) *Registration.* A commercial processor when first engaging in the manufacture, processing, or packing of thermally processed low-acid foods in hermetically sealed containers in any state, as defined in section 201(a)(1) of the act, shall, not later than 10 days after first so engaging, register with the Food and Drug Administration on Form FD–2541 (food canning establishment registration) information including (but not limited to) his name, principal place of business, the location of each establishment in which such processing is carried on, the processing method in terms of the type of processing equipment employed, and a list of the low-acid foods so processed in each such establishment. These forms are available from the Food and Drug Administration, Bureau of Foods, Industry Guidance Branch, HFF–326, 200 C St. SW., Washington, DC 20204, or at any Food and Drug Administration district office. The completed form shall be submitted to the Food and Drug Administration, Bureau of Foods, Division of Food Technology, HFF–419, 200 C St. SW., Washington, DC 20204. Commercial processors presently so engaged shall register not later than July 13, 1973. Commercial processors duly registered in accordance with this section shall notify the Food and Drug Administration not later than 90 days after such commercial processor ceases or discontinues the manufacture, processing, or packing of thermally processed foods in any establishment: *Provided*, That such notification shall not be required as to the temporary cessation necessitated by the seasonal character of the particular establishment's production or caused by temporary conditions including but not limited to strikes, lockouts, fire, or acts of God.

(2) *Process filing.* A commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers shall, not later than 60 days after registration and prior to the packing of a new product, provide the Food and Drug Administration information as to the scheduled processes including but not limited to the processing method, type of retort or other thermal processing equipment employed, minimum initial temperatures, times and temperatures of processing, sterilizing value (F_0), or other equivalent scientific evidence of process adequacy, critical control factors affecting heat penetration, and source and date of the establishment of the process, for each such low-acid food in each container size: *Provided*, That the filing of such information does not constitute approval of the information by the Food and Drug Administration, and that information concerning processes and other data so filed shall be regarded as trade secrets within the meaning of 21 U.S.C. 331(j) and 18 U.S.C. 1905. This information shall be submitted on the following forms as appropriate: Form FD–2541a (food canning establishment and process filing for still retort processes), Form FD–2541b (food canning establishment and process filing for agitating processes), or Form FD–2541c (food canning establishment and process filing for other than still retort and agitating processes). These forms are available from the Food and Drug Administration, Bureau of Foods, Industry Guidance Branch, HFF–326, 200 C St. SW., Washington, DC 20204, or at any Food and Drug Administration district office. The completed form(s) shall be submitted to the Food and Drug Administration, Bureau of Foods, Division of Food Technology, HFF–419, 200 C St. SW., Washington, DC 20204.

(i) If all the necessary information is not available for existing products, the processor shall, at the time the existing information is provided to the Food and Drug Administration request in writing an extension of time for submission of such information, specifying what additional information is to be supplied and the date by which it is to be submitted. Within 30 working days after receipt of such request the Food and Drug Administration shall either grant or deny such request in writing.

(ii) If a packer intentionally makes a change in a previously filed scheduled process by reducing the initial temperature or retort temperature, reducing the time of processing, or changing the product formulation, the container, or any other condition basic to the adequacy of scheduled process, he shall prior to using such changed process obtain substantiation by qualified scientific authority as to its adequacy. Such substantiation may be obtained by telephone, telegram, or other media, but must be promptly recorded, verified in writing by the authority, and contained in the packer's files for review by the Food and Drug Administration. Within 30 days after first use, the packer shall submit to the Food and Drug Administration, Bureau of Foods, 200 C St. SW., HFF–419, Washington, DC 20204 a complete description of the modifications made and utilized, together with a copy of his file record showing prior substantiation by a qualified scientific authority as to the safety of the changed process. Any intentional change of a previously filed scheduled process or modification thereof in which the change consists solely of a higher initial temperature, a higher retort temperature, or a longer processing time, shall not be considered a change subject to this paragraph, but if that modification is thereafter to be regularly scheduled, the modified process shall be promptly filed as a scheduled process, accompanied by full information on the specified forms as provided in this paragraph.

(iii) Many packers employ an "operating" process in which retort operators are instructed to use retort temperatures and/or processing times slightly in excess of those specified in the scheduled process as a safety factor to compensate for minor fluctuations in temperature or time to assure that the minimum times and temperatures in the scheduled process are always met. This would not constitute a modification of the scheduled process.

(3) *Process adherence and information.* (i) A commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers in any registered establishment shall process each low-acid food in each container size in conformity with at least the scheduled processes and modifications filed pursuant to paragraph (c)(2) of this section.

(ii) Process information availability: When requested by the Food and Drug Administration in writing, a commercial processor engaged in thermal processing of low-acid foods packaged in hermetically sealed containers shall provide the Food and Drug Administration with any information concerning processes and procedures which is deemed necessary by the Food and Drug Administration to determine the adequacy of the process: *Provided*, That the furnishing of such information does not constitute approval of the information by the Food and Drug Administration, and that the information concerning processes and other data so furnished shall be regarded as trade secrets within the meaning of 21 U.S.C. 331(j) and 18 U.S.C. 1905.

(d) A commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers shall promptly report to the Food and Drug Administration any instance of spoilage or process deviation the nature of which indicates potential health significance where any lot of such food has in whole or in part entered distribution.

(e) A commercial processor engaged in thermal processing of low-acid foods packaged in hermetically sealed containers shall promptly report to the Food and Drug Administration any instance wherein any lot of such food, which may be injurious to health by reason of contamination with microorganisms, has in whole or in part entered distribution.

(f) A commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers shall have prepared and in his files a current procedure which he will use for products under his control and which he will ask his distributor to follow, including plans for effecting recalls of any product that may be injurious to health; for identifying, collecting, warehousing, and controlling the product; for determining the effectiveness of such recall; for notifying the Food and Drug Administration of any such recall; and for implementing such recall program.

(g) All operators of retorts, thermal processing systems, aseptic processing and packaging systems, or other thermal processing systems, and container closure inspectors shall be under the operating supervision of a person who has attended a school approved by the Commissioner for giving instruction in retort operations, aseptic processing and packaging systems operations or other thermal processing systems operations, and container closure inspections, and has satisfactorily completed the prescribed course of instruction: *Provided*, That this requirement shall not apply in the State of California as listed in paragraph (j) of this section and shall not apply until March 25, 1975 in any other State. The Commissioner will not withhold approval of any school qualified to give such instruction.

(h) A commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers shall prepare, review, and retain at the processing plant for a period of not less than one year, and at the processing plant or other reasonably accessible location for an additional two years, all records of processing, deviations in processing, container closure inspections, and other records specified in Part 113 of this chapter. If during the first year of the three-year record retention period the processing plant is closed for a prolonged period between seasonal packs, the records may be transferred to some other reasonably accessible location at the end of the seasonal pack. Upon written demand during the course of a factory inspection pursuant to section 704 of the act by a duly authorized employee of the Food and Drug Administration, a commercial processor shall permit the inspection and copying by such employee of these records to verify the adequacy of processing, the integrity of container closures, and the coding of the products.

(i) This section shall not apply to the commercial processing of any food processed under the continuous inspection of the meat and poultry inspection program of the Animal and Plant Health Inspection Service of the Department of Agriculture under the Federal Meat Inspection Act (34 Stat. 1256, as amended by 81 Stat. 584 (21 U.S.C. 601 et seq.)) and the Poultry Products Inspection Act (71 Stat. 441, as amended by 82 Stat. 791 (21 U.S.C. 451 et seq.)).

(j) Compliance with State regulations: (1) Wherever the Commissioner finds that any State regulates the commercial thermal processing of low-acid foods in accordance with effective regulations specifying at least the requirements of Part 113 of this chapter, he shall issue a notice stating that compliance with such State regulations shall constitute compliance with Part 113 of this chapter. However, the provisions of this section shall remain applicable to the commercial processing of low-acid foods in any such State, except that, either the State through its regulatory agency or each processor of low-acid foods in such State shall filed with the Bureau of Foods the registration information and the processing information prescribed in paragraph (c) of this section.

(2) The Commissioner finds that the regulations adopted by the State of California under the laws relating to cannery inspections governing thermal processing of low-acid foods packaged in hermetically sealed containers satisfy the requirements of Part 113 of this chapter. Accordingly, processors, who under the laws relating to cannery inspections are licensed by the State of California and who comply with such state regulations, shall be deemed to comply with the requirements of Part 113 of this chapter.

(k) Imports: (1) This section shall apply to any foreign commercial processor engaged in the thermal processing of low-acid foods packaged in hermetically sealed containers and offering such foods for import into the United States except that, in lieu of providing for the issuance of an emergency permit under paragraph (a) of this section, the Commissioner will request the Secretary of the Treasury to refuse admission into the United States, pursuant to section 801 of the act, of any such low-acid foods which the Commissioner determines, after investigation, may result in the distribution in interstate commerce of processed foods that may be injurious to health as set forth in paragraph (a) of this section.

(2) Any such food refused admission shall not be admitted until such time as the Commissioner may determine that the commercial processor offering the food for import is in compliance with the requirements and conditions of this section and that such food is not injurious to health. For the purpose of making such determination, the Commissioner reserves the right for a duly authorized employee of the Food and Drug Administration to inspect the commercial processor's manufacturing, processing, and packing facilities.

(1) The following data and information submitted to the Food and Drug Administration pursuant to this section are not available for public disclosure unless they have been previously disclosed to the public as defined in § 4.81 of this chapter or they relate to a product or ingredient that has been abandoned and they no longer represent a trade secret or confidential commercial or financial information as defined in § 4.61 of this chapter:

(1) Manufacturing methods or processes, including quality control information.

(2) Production, sales, distribution, and similar data and information, except that any compilation of such data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(3) Quantitative or semiquantitative formulas.

PART 109—UNAVOIDABLE CONTAMINANTS IN FOOD AND FOOD-PACKAGING MATERIAL

Subpart A—General Provisions

Sec.
109.3 Definitions and interpretations.
109.15 Use of polychlorinated biphenyls (PCB's) in establishments manufacturing food-packaging materials.

Subpart B—Tolerances for Unavoidable Poisonous or Deleterious Substances

109.30 Temporary tolerances for polychlorinated biphenyls (PCB's).

AUTHORITY: Secs. 402(a), 406, 409, 701, 52 Stat. 1046 as amended, 1049 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948, 72 Stat. 1785–1788 as amended (21 U.S.C. 342(a), 346, 348, 371).

Subpart A—General Provisions

§ 109.3 Definitions and interpretations.

(a) The definitions and interpretations of terms contained in section 201 of the Federal Food, Drug, and Cosmetic Act shall be applicable to such terms when used in this part.

(b) Unavoidable natural, environmental, or industrial contaminants include any poisonous or deleterious substance added to any food where such substance cannot be avoided by good manufacturing practice.

§ 109.15 Use of polychlorinated biphenyls (PCB's) in establishments manufacturing food-packaging materials.

(a) Polychlorinated biphenyls (PCB's) represent a class of toxic industrial chemicals manufactured and sold under a variety of trade names, including: Aroclor (United States); Phenoclor (France); Colphen (Germany); and Kanaclor (Japan). PCB's are highly stable, heat resistant, and nonflammable chemicals. Industrial uses of PCB's include, or did include in the past, their use as electrical transformer and capacitor fluids, heat transfer fluids, hydraulic fluids, and plasticizers, and in formulations of lubricants, coatings, and inks. Their unique physical and chemical properties and widespread, uncontrolled industrial applications have caused PCB's to be a persistent and ubiquitous contaminant in the environment, causing the contamination of certain foods. In addition, incidents have occurred in which PCB's have directly contaminated animal feeds as a result of industrial accidents (leakage or spillage of PCB fluids from plant equipment). These accidents in turn caused the contamination of food products intended for human

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consumption (meat, milk and eggs). Investigations by the Food and Drug Administration have revealed that a significant percentage of paper food-packaging material contains PCB's which can migrate to the packaged food. The origin of PCB's in such material is not fully understood. Reclaimed fibers containing carbonless copy paper (contains 3 to 5 percent PCB's) have been identified as a primary source of PCB's in paper products. Some virgin paper products have also been found to contain PCB's, the source of which is generally attributed to direct contamination from industrial accidents from the use of PCB-containing equipment and machinery in food packaging manufacturing establishments. Since PCB's are toxic chemicals, the PCB contamination of food-packaging materials as a result of industrial accidents, which can cause the PCB contamination of food, represents a hazard to public health. It is therefore necessary to place certain restrictions on the industrial uses of PCB's in establishments manufacturing food-packaging materials.

(b) The following special provisions are necessary to preclude the accidental PCB contamination of food-packaging materials:

(1) New equipment or machinery for manufacturing food-packaging materials shall not contain or use PCB's.

(2) On or before September 4, 1973, the management of establishments manufacturing food-packaging materials shall:

(i) Have the heat exchange fluid used in existing equipment for manufacturing food-packaging materials sampled and tested to determine whether it contains PCB's or verify the absence of PCB's in such formulations by other appropriate means. On or before Sept. 4, 1973, any such fluid formulated with PCB's must to the fullest extent posible commensurate with current good manufacturing practices be replaced with a heat exchange fluid that does not contain PCB's.

(ii) Eliminate to the fullest extent possible commensurate with current good manufacturing practices from the establishment any other PCB-containing equipment, machinery and materials wherever there is a reasonable expectation that such articles could cause food-packaging materials to become contaminated with PCB's either as a result of normal use or as a result of accident, breakage, or other mishap.

(iii) The toxicity and other characteristics of fluids selected as PCB replacements must be adequately determined so that the least potentially hazardous replacement is used. In making this determination with respect to a given fluid, consideration should be given to (*a*) its toxicity; (*b*) the maximum quantity that could be spilled onto a given quantity of food before it would be noticed, taking into account its color and odor; (*c*) possible signaling devices in the equipment to indicate a loss of fluid, etc.; and (*d*) its environmental stability and tendency to survive and be concentrated through the food chain. The judgment as to whether a replacement fluid is sufficiently non-hazardous is to be made on an individual installation and operation basis.

(c) The provisions of this section do not apply to electrical transformers and condensers containing PCB's in sealed containers.

Subpart B—Tolerances for Unavoidable Poisonous or Deleterious Substances

§ 109.30 Temporary tolerances for polychlorinated biphenyls (PCB's).

(a) Polychlorinated biphenyls (PCB's) are toxic, industrial chemicals. Because of their widespread, uncontrolled industrial applications, PCB's have become a persistent and ubiquitous contaminant in the environment. As a result, certain foods and animal feeds, principally those of animal and marine origin, contain PCB's as unavoidable, environmental contaminants. PCB's are transmitted to the food portion (meat, milk, and eggs) of food-producing animals ingesting PCB-contaminated animal feed. In addition, a significant percentage of paper food-packaging materials contain PCB's which may migrate to the packaged food. The source of PCB's in paper food-packaging materials is primarily of certain types of carbonless copy paper (containing 3 to 5 percent PCB's) in waste paper stocks used for manufacturing recycled paper. Therefore, temporary tolerances for residues of PCB's as unavoidable environmental or industrial contaminants are established for a sufficient period of time following the effective date of this paragraph to permit the elimination of such contaminants at the earliest practicable time. For the purposes of this paragraph, the term "polychlorinated biphenyls (PCB's)" is applicable to mixtures of chlorinated biphenyl compounds, irrespective of which mixture of PCB's is present as the residue. The temporary tolerances for residues of PCB's are as follows:

(1) 2.5 parts per million in milk (fat basis).

(2) 2.5 parts per million in manufactured dairy products (fat basis).

(3) 5 parts per million in poultry (fat basis).

(4) 0.5 parts per million in eggs.

(5) 0.2 parts per million in finished animal feed for food-producing animals (except the following finished animal feeds: feed concentrates, feed supplements, and feed premixes).

(6) 2 parts per million in animal feed components of animal origin, including fishmeal and other by-products of marine origin and in finished animal feed concentrates, supplements, and premixes intended for food producing animals.

(7) 5 parts per million in fish and shellfish (edible portion). The edible portion of fish excludes head, scales, viscera, and inedible bones.

(8) 0.2 parts per million in infant and junior foods.

(9) 10 parts per million in paper food-packaging material intended for or used with human food, finished animal feed and any components intended for animal feeds. The tolerance shall not apply to paper food-packaging material separated from the food therein by a functional barrier which is impermeable to migration of PCB's.

(b) A compilation entitled "Analytical Methodology for Polychlorinated Biphenyls, February 1973" for determining compliance with the tolerances established in this section is available from the Hearing Clerk, Department of Health, Education, and Welfare, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857.

NOTE: At 38 FR 22794, Aug. 24, 1973, the following appeared concerning § 109.30(a)(9) (formerly 122.10)(a)(9):

* * * § 109.30(a)(9) is hereby stayed pending full review of the objections and requests for hearing. * * *

In the interim, as stated in the final order (38 FR 18098) the Food and Drug Administration will enforce the temporary tolerance level established by § 109.30(a)(9) by seizing any paper food-packaging material shipped in interstate commerce after September 4, 1973 containing higher than the specified level of PCB's as adulterated in violation of sec. 402 of the act.

PART 110—CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING HUMAN FOOD

Subpart A—General Provisions

Sec.
110.1 Current good manufacturing practice.
110.3 Definitions.
110.10 Personnel.
110.19 Exclusions.

Subpart B—Buildings and Facilities

110.20 Plants and grounds.
110.35 Sanitary facilities and controls.
110.37 Sanitary operations.

Subpart C—Equipment

110.40 Equipment and procedures.

Subpart D—[Reserved]

Subpart E—Production and Process Controls

110.80 Processes and controls.
110.99 Natural or unavoidable defects in food for human use that present no health hazard.

AUTHORITY: Secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055 (21 U.S.C. 342(a)(4), 371(a)) unless otherwise noted.

Subpart A—General Provisions

§ 110.1 Current good manufacturing practice.

The criteria in §§ 110.10, 110.19, 110.20, 110.35, 110.37, 110.40, 110.80, and 110.99 shall apply in determining whether the facilities, methods, practices, and controls used in the manufacture, processing, packing, or holding of food are in conformance with or are operated or administered in conformity with good manufacturing practices to assure that food for human consumption is safe and has been prepared, packed, and held under sanitary conditions.

§ 110.3 Definitions.

The definitions and interpretations contained in section 201 of the Federal Food, Drug, and Cosmetic Act are applicable to such terms when used in this

part. The following definitions shall also apply:

(a) "Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practice.

(b) "Plant" means the building or buildings or parts thereof, used for or in connection with the manufacturing, processing, packaging, labeling, or holding of human food.

(c) "Sanitize" means adequate treatment of surfaces by a process that is effective in destroying vegetative cells of pathogenic bacteria and in substantially reducing other microorganisms. Such treatment shall not adversely affect the product and shall be safe for the consumer.

§ 110.10 Personnel.

The plant management shall take all reasonable measures and precautions to assure the following:

(a) *Disease control*. No person affected by disease in a communicable form, or while a carrier of such disease, or while affected with boils, sores, infected wounds, or other abnormal sources of microbiological contamination, shall work in a food plant in any capacity in which there is a reasonable possibility of food or food ingredients becoming contaminated by such person, or of disease being transmitted by such person to other individuals.

(b) *Cleanliness*. All persons, while working in direct contact with food preparation, food ingredients, or surfaces coming into contact therewith shall:

(1) Wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty, to the extent necessary to prevent contamination of food products.

(2) Wash their hands thoroughly (and sanitize if necessary to prevent contamination by undesirable microorganism) in an adequate hand-washing facility before starting work, after each absence from the work station and at any other time when the hands may have become soiled or contaminated.

(3) Remove all insecure jewelry and, during periods where food is manipulated by hand, remove from hands any jewelry that cannot be adequately sanitized.

(4) If gloves are used in food handling, maintain them in an intact, clean, and sanitary condition. Such gloves should be of an impermeable material except where their usage would be inappropriate or incompatible with the work involved.

(5) Wear hair nets, headbands, caps, or other effective hair restraints.

(6) Not store clothing or other personal belongings, eat food or drink beverages, or use tobacco in any form in areas where food or food ingredients are exposed or in areas used for washing equipment or utensils.

(7) Take any other necessary precautions to prevent contamination of foods with microorganisms or foreign substances including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals, and medicants.

(c) *Education and training*. Personnel responsible for identifying sanitation failures or food contamination should have a background of education or experience, or a combination thereof, to provide a level of competency necessary for production of clean and safe food. Food handlers and supervisors should receive appropriate training in proper food-handling techniques and food-protection principles and should be cognizant of the danger of poor personal hygiene and insanitary practices.

(d) *Supervision*. Responsibility for assuring compliance by all personnel with all requirements of this Part 110 shall be clearly assigned to competent supervisory personnel.

§ 110.19 Exclusions.

The following operations are excluded from coverage under these general regulations, however, the Commissioner will issue special regulations when he believes it necessary to cover these excluded operations: Establishments engaged solely in the harvesting, storage, or distribution of one or more raw agricultural commodities, as defined in section 201(r) of the act, which are ordinarily cleaned, prepared, treated or otherwise processed before being marketed to the consuming public.

Subpart B—Buildings and Facilities

§ 110.20 Plants and grounds.

(a) *Grounds*. The grounds about a food plant under the control of the operator shall be free from conditions which may result in the contamination of food including, but not limited to, the following:

(1) Improperly stored equipment, litter, waste, refuse, and uncut weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place, or harborage for rodents, insects, and other pests.

(2) Excessively dusty roads, yards, or parking lots that may constitute a source of contamination in areas where food is exposed.

(3) Inadequately drained areas that may contribute contamination to food products through seepage or foot-borne filth and by providing a breeding place for insects or microorganisms.

If the plant grounds are bordered by grounds not under the operator's control of the kind described in paragraph (a) (1) through (3) of this section, care must be exercised in the plant by inspection, extermination, or other means to effect exclusion of pests, dirt, and other filth that may be a source of food contamination.

(b) *Plant construction and design*. Plant buildings and structures shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food-processing purposes. The plant and facilities shall:

(1) Provide sufficient space for such placement of equipment and storage of materials as is necessary for sanitary operations and production of safe food. Floors, walls, and ceilings in the plant shall be of such construction as to be adequately cleanable and shall be kept clean and in good repair. Fixtures, ducts, and pipes shall not be so suspended over working areas that drip or condensate may contaminate foods, raw materials, or food-contact surfaces. Aisles or working spaces between equipment and between equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of food or food-contact surfaces with clothing or personal contact.

(2) Provide separation by partition, location, or other effective means for those operations which may cause contamination of food products with undesirable microorganisms, chemicals, filth, or other extraneous material.

(3) Provide adequate lighting to hand-washing areas, dressing and locker rooms, and toilet rooms and to all areas where food or food ingredients are examined, processed, or stored and where equipment and utensils are cleaned. Light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation shall be of the safety type or otherwise protected to prevent food contamination in case of breakage.

(4) Provide adequate ventilation or control equipment to minimize odors and noxious fumes or vapors (including steam) in areas where they may contaminate food. Such ventilation or control equipment shall not create conditions that may contribute to food contamination by airborne contaminants.

(5) Provide, where necessary, effective screening or other protection against birds, animals, and vermin (including, but not limited to, insects and rodents).

§ 110.35 Sanitary facilities and controls.

Each plant shall be equipped with adequate sanitary facilities and accomodations including, but not limited to, the following:

(a) *Water supply*. The water supply shall be sufficient for the operations intended and shall be derived from an adequate source. Any water that contacts foods or food-contact surfaces shall be safe and of adequate sanitary quality. Running water at a suitable temperature and under pressure as needed shall be provided in all areas where the processing of food, the cleaning of equipment, utensils, or containers, or employee sanitary facilities require.

(b) *Sewage disposal*. Sewage disposal shall be made into an adequate sewerage system or disposed of through other adequate means.

(c) *Plumbing*. Plumbing shall be of adequate size and design and adequately installed and maintained to:

(1) Carry sufficient quantities of water to required locations throughout the plant.

(2) Properly convey sewage and liquid disposable waste from the plant.

(3) Not constitute a source of contamination to foods, food products or ingredients, water supplies, equipment, or utensils or create an insanitary condition.

(4) Provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal

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operations release or discharge water or other liquid waste on the floor.

(d) *Toilet facilities*. Each plant shall provide its employees with adequate toilet and associated hand-washing fa-

as will prevent the contamination of food or packaging materials with illegal residues.

(c) *Sanitation of equipment and utensils*. All utensils and product-contact

chemicals. Industrial uses of PCB's include, or did include in the past, their use as electrical transformer and capacitor fluids, heat transfer fluids, hydraulic fluids, and plasticizers, and in formula-

(3) For the purposes of this section, the provisions do not apply to electrical transformers and condensers containing PCB's in sealed containers.

Subpart D—[Reserved]

and refrigeration to assure that mechanical breakdowns, time delays, temperature fluctuations, and other factors do not contribute to the decomposition or contamination of the processed products.

utilize quality control procedures which will reduce natural or unavoidable defects to the lowest level currently feasible.

(d) The mixing of a food containing defects above the current defect action

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operations release or discharge water or other liquid waste on the floor.

(d) *Toilet facilities.* Each plant shall provide its employees with adequate toilet and associated hand-washing facilities within the plant. Toilet rooms shall be furnished with toilet tissue. The facilities shall be maintained in a sanitary condition and kept in good repair at all times. Doors to toilet rooms shall be self-closing and shall not open directly into areas where food is exposed to airborne contamination, except where alternate means have been taken to prevent such contamination (such as double doors, positive air-flow systems, etc.). Signs shall be posted directing employees to wash their hands with cleaning soap or detergents after using toilet.

(e) *Hand-washing facilities.* Adequate and convenient facilities for hand washing and, where appropriate, hand sanitizing shall be provided at each location in the plant where good sanitary practices require employees to wash or sanitize and dry their hands. Such facilities shall be furnished with running water at a suitable temperature for hand washing, effective hand-cleaning and sanitizing preparations, sanitary towel service or suitable drying devices, and, where appropriate, easily cleanable waste receptacles.

(f) *Rubbish and offal disposal.* Rubbish and any offal shall be so conveyed, stored, and disposed of as to minimize the development of odor, prevent waste from becoming an attractant and harborage or breeding place for vermin, and prevent contamination of food, food-contact surfaces, ground surfaces, and water supplies.

§ 110.37 Sanitary operations.

(a) *General maintenance.* Buildings, fixtures, and other physical facilities of the plant shall be kept in good repair and shall be maintained in a sanitary condition. Cleaning operations shall be conducted in such a manner as to minimize the danger of contamination of food and food-contact surfaces. Detergents, sanitizers, and other supplies employed in cleaning and sanitizing procedures shall be free of significant microbiological contamination and shall be safe and effective for their intended uses. Only such toxic materials as are required to maintain sanitary conditions, for use in laboratory testing procedures, for plant and equipment maintenance and operation, or in manufacturing or processing operations shall be used or stored in the plant. These materials shall be identified and used only in such manner and under conditions as will be safe for their intended uses.

(b) *Animal and vermin control.* No animals or birds, other than those essential as raw material, shall be allowed in any area of a food plant. Effective measures shall be taken to exclude pests from the processing areas and to protect against the contamination of foods in or on the premises by animals, birds, and vermin (including, but not limited to, rodents and insects). The use of insecticides or rodenticides is permitted only under such precautions and restrictions as will prevent the contamination of food or packaging materials with illegal residues.

(c) *Sanitation of equipment and utensils.* All utensils and product-contact surfaces of equipment shall be cleaned as frequently as necessary to prevent contamination of food and food products. Nonproduct-contact surfaces of equipment used in the operation of food plants should be cleaned as frequently as necessary to minimize accumulation of dust, dirt, food particles, and other debris. Single-service articles (such as utensils intended for one-time use, paper cups, paper towels, etc.) should be stored in appropriate containers and handled, dispensed, used, and disposed of in a manner that prevents contamination of food or food-contact surfaces. Where necessary to prevent the introduction of undesirable microbiological organisms into food products, all utensils and product-contact surfaces of equipment used in the plant shall be cleaned and sanitized prior to such use and following any interruption during which such utensils and contact surfaces may have become contaminated. Where such equipment and utensils are used in a continuous production operation, the contact surfaces of such equipment and utensils shall be cleaned and sanitized on a predetermined schedule using adequate methods for cleaning and sanitizing. Sanitizing agents shall be effective and safe under conditions of use. Any facility, procedure, machine, or device may be acceptable for cleaning and sanitizing equipment and utensils if it is established that such facility, procedure, machine, or device will routinely render equipment and utensils clean and provide adequate sanitizing treatment.

(d) *Storage and handling of cleaned portable equipment and utensils.* Cleaned and sanitized portable equipment and utensils with product-contact surfaces should be stored in such a location and manner that product-contact surfaces are protected from splash, dust, and other contamination.

Subpart C—Equipment

§ 110.40 Equipment and procedures.

(a) *General.* All plant equipment and utensils should be (1) suitable for their intended use, (2) so designed and of such material and workmanship as to be adequately cleanable, and (3) properly maintained. The design, construction, and use of such equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants. All equipment should be so installed and maintained as to facilitate the cleaning of the equipment and of all adjacent spaces.

(b) *Use of polychlorinated biphenyls in food plants.* Polychlorinated biphenyls (PCB's) represent a class of toxic industrial chemicals manufactured and sold under a variety of trade names, including: Arocior (United States); Phenoclor (France); Colphen (Germany); and Kanaclor (Japan). PCB's are highly stable, heat resistant, and nonflammable chemicals. Industrial uses of PCB's include, or did include in the past, their use as electrical transformer and capacitor fluids, heat transfer fluids, hydraulic fluids, and plasticizers, and in formulations of lubricants, coatings, and inks. Their unique physical and chemical properties and widespread, uncontrolled industrial applications have caused PCB's to be a persistent and ubiquitous contaminant in the environment and causing the contamination of certain foods. In addition, incidents have occurred in which PCB's have directly contaminated animal feeds as a result of industrial accidents (leakage or spillage of PCB fluids from plant equipment). These accidents in turn cause the contamination of food intended for human consumption (meat, milk, and eggs). Since PCB's are toxic chemicals, the PCB contamination of food as a result of these accidents represents a hazard to human health. It is therefore necessary to place certain restrictions on the industrial uses of PCB's in the production, handling, and storage of food. The following special provisions are necessary to preclude accidental PCB contamination of food:

(1) New equipment, utensils, and machinery for handling or processing food in or around a food plant shall not contain PCB's.

(2) On or before September 4, 1973, the management of food plants shall:

(i) Have the heat exchange fluid used in existing equipment or machinery for handling or processing food sampled and tested to determine whether it contains PCB's, or verify the absence of PCB's in such formulations by other appropriate means. On or before Sept. 4, 1973, any such fluid formulated with PCB's must be replaced with a heat exchange fluid that does not contain PCB's.

(ii) Eliminate from the food plant any PCB-containing food-contact surfaces of equipment or utensils and any PCB-containing lubricants for equipment or machinery that is used for handling or processing food.

(iii) Eliminate from the food plant any other PCB-containing materials wherever there is a reasonable expectation that such materials could cause food to become contaminated with PCB's either as a result of normal use or as a result of accident, breakage, or other mishap.

(iv) The toxicity and other characteristics of fluids selected as PCB replacements must be adequately determined so that the least potentially hazardous replacement is used. In making this determination with respect to a given fluid, consideration should be given to (*a*) its toxicity; (*b*) the maximum quantity that could be spilled onto a given quantity of food before it would be noticed, taking into account its color and odor; (*c*) possible signaling devices in the equipment to indicate a loss of fluid, etc.; and (*d*) its environmental stability and tendency to survive and be concentrated through the food chain. The judgment as to whether a replacement fluid is sufficiently nonhazardous is to be made on an individual installation and operation basis.

(3) For the purposes of this section, the provisions do not apply to electrical transformers and condensers containing PCB's in sealed containers.

Subpart D—[Reserved]

Subpart E—Production and Process Controls

§ 110.80 Processes and controls.

All operations in the receiving, inspecting, transporting, packaging, segregating, preparing, processing, and storing of food shall be conducted in accord with adequate sanitation principles. Overall sanitation of the plant shall be under the supervision of an individual assigned responsibility for this function. All reasonable precautions, including the following, shall be taken to assure that production procedures do not contribute contamination such as filth, harmful chemicals, undesirable microorganisms, or any other objectionable material to the processed product:

(a) Raw material and ingredients shall be inspected and segregated as necessary to assure that they are clean, wholesome, and fit for processing into human food and shall be stored under conditions that will protect against contamination and minimize deterioration. Raw materials shall be washed or cleaned as required to remove soil or other contamination. Water used for washing, rinsing, or conveying of food products shall be of adequate quality, and water shall not be reused for washing, rinsing, or conveying products in a manner that may result in contamination of food products.

(b) Containers and carriers of raw ingredients should be inspected on receipt to assure that their condition has not contributed to the contamination or deterioration of the products.

(c) When ice is used in contact with food products, it shall be made from potable water and shall be used only if it has been manufactured in accordance with adequate standards and stored, transported, and handled in a sanitary manner.

(d) Food-processing areas and equipment used for processing human food should not be used to process nonhuman food-grade animal feed or inedible products unless there is no reasonable possibility for the contamination of the human food.

(e) Processing equipment shall be maintained in a sanitary condition through frequent cleaning including sanitization where indicated. Insofar as necessary, equipment shall be taken apart for thorough cleaning.

(f) All food processing, including packaging and storage, should be conducted under such conditions and controls as are necessary to minimize the potential for undesirable bacterial or other microbiological growth, toxin formation, or deterioration or contamination of the processed product or ingredients. This may require careful monitoring of such physical factors as time, temperature, humidity, pressure, flow-rate and such processing operations as freezing, dehydration, heat processing, and refrigeration to assure that mechanical breakdowns, time delays, temperature fluctuations, and other factors do not contribute to the decomposition or contamination of the processed products.

(g) Chemical, microbiological, or extraneous-material testing procedures shall be utilized where necessary to identify sanitation failures or food contamination, and all foods and ingredients that have become contaminated shall be rejected or treated or processed to eliminate the contamination where this may be properly accomplished.

(h) Packaging processes and materials shall not transmit contaminants or objectionable substances to the products, shall conform to any applicable food additive regulation (Parts 170 through 189 of this chapter), and should provide adequate protection from contamination.

(i) Meaningful coding of products sold or otherwise distributed from a manufacturing, processing, packing, or repacking activity should be utilized to enable positive lot identification to facilitate, where necessary, the segregation of specific food lots that may have become contaminated or otherwise unfit for their intended use. Records should be retained for a period of time that exceeds the shelf life of the product, except that they need not be retained more than 2 years.

(j) Storage and transportation of finished products should be under such conditions as will prevent contamination, including development of pathogenic or toxigenic microorganisms, and will protect against undesirable deterioration of the product and the container.

§ 110.99 Natural or unavoidable defects in food for human use that present no health hazard.

(a) Some foods, even when produced under current good manufacturing and/or processing practices, contain natural or unavoidable defects at lower levels that are not hazardous to health. The Food and Drug Administration establishes maximum levels for such defects in foods produced under good manufacturing and/or processing practices and uses these levels for recommending regulatory actions.

(b) Defect action levels are established for products whenever it is necessary and feasible. Such levels are subject to change upon the development of new technology or the availability of new information.

(c) Compliance with defect action levels does not excuse failure to observe either the requirement in section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act that food may not be prepared, packed, or held under insanitary conditions or the other requirements in this part that food manufacturers must observe current good manufacturing practices. Evidence obtained through factory inspection indicating such a violation renders the food unlawful, even though the amounts of natural or unavoidable defects are lower than the currently established action levels. The manufacturer of food must at all times utilize quality control procedures which will reduce natural or unavoidable defects to the lowest level currently feasible.

(d) The mixing of a food containing defects above the current defect action level with another lot of food is not permitted and renders the final food unlawful regardless of the defect level of the final food.

(e) Current action levels for natural and unavoidable defects in food for human use that present no health hazard are as follows. (Levels that have been adopted on a temporary basis prior to publication as a regulation may be obtained upon request at the Office of the Assistant Commissioner for Public Affairs, Food and Drug Administration, Room 15B–42, 5600 Fishers Lane, Rockville, MD 20857.)

PART 113—THERMALLY PROCESSED LOW-ACID FOODS PACKAGED IN HERMETICALLY SEALED CONTAINERS

Subpart A—General Provisions

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113.1 Current good manufacturing practice.
113.3 Definitions.
113.10 Personnel.

Subpart B—[Reserved]

Subpart C—Equipment

113.40 Equipment and procedures.

Subpart D—Control of Components, Food Product Containers, Closures, and In-Process Materials

113.60 Containers.

Subpart E—Production and Process Controls

113.81 Product preparation.
113.83 Establishing scheduled processes.
113.87 Operations in the thermal processing room.
113.89 Deviations in processing.

Subpart F—Records and Reports

113.100 Records.

AUTHORITY: Sec. 402(a)(4), 701(a), 52 Stat. 1046, 1055 (21 U.S.C. 342(a)(4), 371(a)).

Subpart A—General Provisions

§ 113.1 Current good manufacturing practice.

The criteria in §§ 113.10, 113.40, 113.60, 113.81, 113.83, 113.87, 113.89, and 113.100 shall apply in determining whether the facilities, methods, practices, and controls used by the commercial processor in the manufacture, processing, or packing of low-acid foods in hermetically sealed containers are operated or administered in a manner adequate to protect the public health.

§ 113.3 Definitions.

For the purposes of this part, the following definitions apply:

(a) "Aseptic processing and packaging" means the filling of a commercially sterilized cooled product into presterilized containers, followed by aseptic hermetical sealing, with a presterilized closure, in an atmosphere free of microorganisms.

(b) "Bleeders" means openings used to remove air, that enters with steam, from retorts and steam chambers and to promote circulation of steam in such re-

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torts and steam chambers. Bleeders may serve as a means of removing condensate.

(c) "Coming-up-time" means the time which elapses between the introduction of steam into the closed retort and the time when the retort reaches the required processing temperature.

(d) "Commercial processor" shall include any person engaged in commercial, custom, and so-called sportsman processing or institutional (church, school, penal, or other organization) processing of food.

(e) "Commercial sterility" of food means the condition achieved by application of heat which renders such food free of viable forms of microorganisms having public health significance, as well as any microorganisms of nonhealth significance capable of reproducing in the food under normal nonrefrigerated conditions of storage and distribution. "Commercial sterility" of equipment and containers used for aseptic processing and packaging of food means the condition achieved by application of heat, chemical sterilant(s), or other appropriate treatment which renders such equipment and containers free of viable forms of microorganisms having public health significance as well as any microorganisms of nonhealth significance capable of reproducing in the food under normal nonrefrigerated conditions of storage and distribution.

(f) "Flame sterilizer" means an apparatus in which hermetically sealed containers are agitated at atmospheric pressure, by either continuous, discontinuous, or reciprocating movement, over gas flames to achieve sterilization temperatures. A holding period in a heated section may follow the initial heating period.

(g) "Headspace, gross" is the vertical distance between the level of the product (generally the liquid surface) in an upright rigid container and the top edge of the container (the top of the double seam of a can or the top edge of a glass jar).

(h) "Headspace, net" of a container having a double seam, such as a can, is the vertical distance between the level of the product (generally the liquid surface) in the upright rigid container and the inside surface of the lid.

(i) "Hermetically sealed container" means a container which is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

(j) "Incubation" means the holding of a sample(s) at a specified temperature for a specified period of time before examination.

(k) "Initial temperature" means the average temperature of the contents of the coldest container to be processed at the time the sterilizing cycle begins, as determined after thorough stirring or shaking of the filled and sealed container.

(l) "Lot" means the product produced during a period of time indicated by a specific code.

(m) "Low-acid foods" means any foods, other than alcoholic beverages, with a finished equilibrium pH value greater than 4.6 and a water activity greater than 0.85 and also includes any normally low-acid fruits, vegetables, or vegetable products in which for the purpose of thermal processing the pH value is reduced by acidification. Tomatoes, pears, and pineapples, or the juices thereof, having a pH of less than 4.7 and figs having a pH of 4.9 or below shall not be classed as low-acid foods.

(n) "Minimum thermal process" means the application of heat to food, either before or after sealing in a hermetically sealed container, for a period of time and at a temperature scientifically determined to be adequate to ensure destruction of microorganisms of public health significance.

(o) "Retort" means any closed vessel or other equipment used for the thermal processing of foods.

(p) "Scheduled process" means the process selected by the processor as adequate under the conditions of manufacture for a given product to achieve commercial sterility. This process may be in excess of that necessary to ensure destruction of microorganisms of public health significance.

(q) "Shall" and "should." As used in this part, "shall" refers to mandatory requirements and "should" refers to recommended or advisory procedures or equipment.

(r) "Vents" means openings controlled by gate, plug cock, or other adequate valves used for the elimination of air during the venting period.

(s) "Water activity" or "a_w" means the vapor pressure of the food product divided by the vapor pressure of pure water under identical conditions of pressure and temperature.

§ 113.10 Personnel.

All operators of retorts, processing systems, and aseptic processing and packaging systems, and container closure inspectors shall be under the operating supervision of a person who has attended a school approved by the Commissioner for giving instruction in retort operations, processing systems operations, aseptic processing and packaging systems operations, and container closure inspections, and has been identified by that school as having satisfactorily completed the prescribed course of instruction.

Subpart B—[Reserved]

Subpart C—Equipment

§ 113.40 Equipment and procedures.

(a) *Equipment and procedures for pressure processing in steam in still retorts*—(1) *Indicating mercury-in-glass thermometer.* Each retort shall be equipped with at least one mercury-in-glass thermometer with a temperature range of not more than 100° F in the processing range on a scale at least 7 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to ensure their accuracy. Bulbs of indicating thermometers shall be installed either within the retort shell or in external wells attached to the retort. External wells or pipes shall be connected to the retort through at least a ¾-inch diameter opening, and shall be equipped with a one-sixteenth inch or larger bleeder opening so located as to provide a full flow of steam past the length of the thermometer bulb. The bleeder for external wells shall emit steam continuously during the entire processing period. Thermometers shall be installed where they can be accurately and easily read. A thermometer that has a divided mercury column or that deviates more than 1° F from the standard shall be repaired or replaced. The mercury thermometer—not the recorder chart—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recording device.* There shall be an accurate temperature recording device for each still retort adjusted to agree within 1° F of the known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 2° F within a range of 10° F of the processing temperature. Each chart shall have a working scale of not more than 50° F per inch within a range of 20° F of the processing temperature. This recorder may be combined with the steam controller and may be a recording-controlling instrument. The temperature recorder bulb shall be installed either within the retort shell or in a well attached to the shell. Each temperature recorder bulb well shall have a one-sixteenth inch or larger bleeder opening emitting steam continuously during the processing period.

(3) *Pressure gages.* Each retort shall be equipped with a pressure gage. The gage should be graduated in divisions of 2 pounds or less, should be connected to the retort shell or external well by a short gooseneck tube, and should be not more than 4 inches higher than the gooseneck. The gage should be checked for accuracy at least once a year.

(4) *Steam controller.* Each retort shall be equipped with a steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a recording thermometer.

(5) *Steam inlet.* The steam inlet to each still retort shall be large enough to provide sufficient steam for proper operation of the retort. Steam may enter either the top portion or the bottom portion of the retort but, in any case, shall enter the portion of the retort opposite the vent; for example, steam inlet in bottom portion and vent in top portion.

(6) *Crate supports.* A bottom crate support shall be employed in vertical still retorts. Baffle plates shall not be used in the bottom of still retorts.

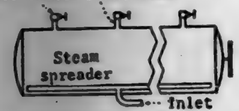
(7) *Steam spreaders.* Steam spreaders, which are perforated or other style continuations of the steam line inside the retort, should not be larger than the steam inlet line. Horizontal still retorts shall be equipped with steam spreaders that extend along the bottom for the length of the retort; the perforations should be along the top 90° of this pipe. Horizontal still retorts over 30 feet long should have two steam inlets connected to the spreader. In vertical still retorts the steam spreaders, if used, should be in the form of a cross with the perforations along the top or sides of the pipe. The number of perforations in spreaders for both horizontal and vertical still retorts should be such that the total cross-sectional area of the perforations is equal to 1½ to 2 times the cross-sectional area of the steam inlet line.

(8) *Bleeders.* Bleeders, except those for thermometer wells, shall be one-eighth inch or larger and shall be wide open during the entire process, including the coming-up-time. For horizontal retorts, bleeders shall be located within approximately 1 foot of each end; additional bleeders shall be located not more than 8 feet apart along the top. Vertical retorts shall have at least one bleeder opening located in that portion of the retort opposite the steam inlet. In retorts having top steam inlet and bottom venting, a bleeder shall be installed in the bottom of the retort to ensure removal of condensate. All bleeders shall be arranged in such a way that the operator can observe that they are functioning properly.

(9) *Stacking equipment and position of containers.* Crates, trays, gondolas, etc., for holding containers shall be made of strap iron, adequately perforated sheet metal, or other suitable material. When perforated sheet metal is used for the bottoms, the perforations should be approximately the equivalent of 1-inch holes on 2-inch centers. If dividers are used between the layers of containers, they should be perforated as above. When there is stratification of the product in the containers, the containers should be processed in such a position that the plane of stratification is vertical.

(10) *Vents.* Vents shall be installed in such a way that air is removed from the retort before timing of the process is started. Vents shall be controlled by gate, plug cock, or other adequate type valves which shall be fully open to permit rapid discharge of air from the retort during the venting period. Vents shall not be connected directly to a closed drain system. If the overflow is used as a vent, there shall be an atmospheric break in the line before it connects to a closed drain. The vent shall be located in that portion of the retort opposite the steam inlet; for example, steam inlet in bottom portion and vent in top portion. Where a retort manifold connects several vent pipes from a single still retort, it shall be controlled by a gate, plug cock, or other adequate type valve. The retort manifold shall be of a size such that the cross-sectional area of the pipe is larger than the total cross-sectional area of all connecting vents. The discharge shall not be directly connected to a closed drain without an atmospheric break in the line. A manifold header connecting vents or manifolds from several still retorts shall lead to the atmosphere. The manifold header shall not be controlled by a valve and shall be of a size such that the cross-sectional area is at least equal to the total cross-sectional area of all connecting retort manifold pipes from all retorts venting simultaneously. Timing of the process shall not begin until the retort has been properly vented and the processing temperature has been reached. Retorts using air for pressure cooling shall be equipped with a ball or globe valve or suitable valve and piping arrangement on the air line to prevent air leakage into the retort during processing. Some typical installations and operating procedures reflecting the requirements of this section for venting still retorts are given in paragraphs (a)(10) (i) (*a*) through (*d*) and (ii) (*a*) and (*b*) of this section. Other installations and operating procedures which deviate from the above specifications may be used, provided that there is evidence that they accomplish adequate venting of air.

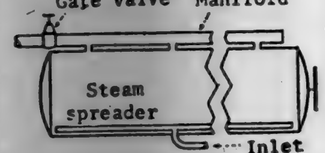
(i) *Venting horizontal retorts.* (*a*) Venting through multiple 1-inch vents discharging directly to atmosphere.



Specifications. One 1-inch vent for every 5 feet of retort length, equipped with a gate or plug cock valve and discharging to atmosphere; end vents not more than 2½ feet from ends of retort.

Venting method. Vent valves should be wide open for at least 5 minutes and to at least 225° F, or at least 7 minutes and to at least 220° F.

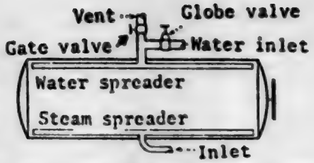
(*b*) Venting through multiple 1-inch vents discharging through a manifold to atmosphere.



Specifications. One 1-inch vent for every 5 feet of retort length; end vents not over 2½ feet from ends of retort; size of manifold—for retorts less than 15 feet in length, 2½ inches; for retorts 15 feet and over in length, 3 inches.

Venting method. Manifold vent gate or plug cock valve should be wide open for at least 6 minutes and to at least 225° F, or for at least 8 minutes and to at least 220° F.

(*c*) Venting through water spreaders.

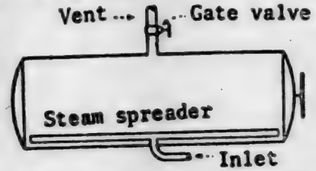


Size of water inlet, vent pipe, and vent valve. For retorts less than 15 feet in length, 2 inches; for retorts 15 feet and over in length, 2½ inches.

Size of water spreader. For retorts less than 15 feet in length, 1½ inches; for retorts 15 feet and over in length, 2 inches.

Venting method. Water spreader vent gate or plug cock valve should be wide open for at least 5 minutes and to at least 225° F, or for at least 7 minutes and to at least 220° F.

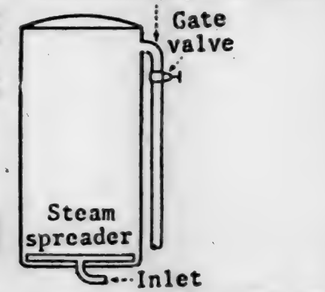
(*d*) Venting through a single 2½-inch top vent (for retorts not exceeding 15 feet in length).



Specifications: A 2½-inch vent equipped with a 2½-inch gate or plug cock valve and located within 2 feet of the center of the retort.

Venting method: Vent gate or plug cock valve should be wide open for at least 4 minutes and to at least 220° F.

(ii) *Venting vertical retorts.* (*a*) Venting through a 1½-inch overflow.



Specifications. A 1½-inch overflow pipe equipped with a 1½-inch gate or plug cock valve and with not more than 6 feet of 1½-inch pipe beyond the valve before break to the atmosphere or to a manifold header.

Venting method. Vent gate or plug cock valve should be wide open for at least 4 minutes and to at least 218° F, or for at least 5 minutes and to at least 215° F.

(*b*) Venting through a single 1-inch side or top vent.

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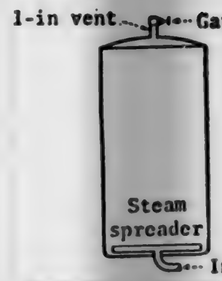


Specifications. A 1-inch vent in lid or top side, equipped with a 1-inch gate or plug cock valve and discharging directly into the atmosphere or to a manifold header.

Venting method. Vent gate or plug cock valve should be wide open for at least 5 minutes and to at least 230° F, or for at least 7 minutes and to at least 220° F.

(11) *Critical factors.* (i) Where maximum drained weight is specified in the scheduled process it shall be measured and recorded at intervals of sufficient frequency to ensure that the weight of the product does not exceed the maximum for the given container size specified in the scheduled process.

(ii) Closing machine vacuum (in vacuum-packed products) shall be observed and recorded at intervals of sufficient frequency to ensure that the vacuum is as specified in the scheduled process.

(iii) Such measurements and recordings should be made at intervals not to exceed 15 minutes.

(b) *Equipment and procedures for pressure processing in water in still retorts.*—(1) *Indicating mercury-in-glass thermometer.* Each retort shall be equipped with at least one mercury-in-glass thermometer that has a temperature range of not more than 100° F in the processing range on a scale at least 7 inches in length or a temperature range of not more than 150° F on a scale at least 9 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to ensure their accuracy. Bulbs of indicating thermometers shall be located in such a position that they are beneath the surface of the water throughout the process. On horizontal retorts this entry should be made in the side at the center, and the thermometer bulbs shall be inserted directly into the retort shell. In both vertical and horizontal retorts, the thermometer bulbs shall extend directly into the water a minimum of at least 2 inches without a separable well or sleeve. Thermometers shall be installed where they can be accurately and easily read. A thermometer that has a divided mercury column or that deviates more than 1° F from the standard shall be repaired or replaced. The mercury thermometer—not the recorder chart—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recording device.* There shall be an accurate temperature recording device for each still retort adjusted to agree within 1° F of the known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 2° F within a range of 10° F of the processing temperature. Each chart shall have a working scale of not more than 50° F per inch within a range of 20° F of the processing temperature. This recorder may be combined with the steam controller and may be a recording-controlling instrument. The recording thermometer bulb should be located adjacent to the bulb of the mercury-in-glass thermometer except in the case of a vertical retort equipped with a combination recorder-controller. In such vertical retorts the temperature recorder-control bulb shall be located at the bottom of the retort below the lowest crate rest in such a position that the steam does not strike it directly. In horizontal retorts the temperature recorder-control bulb shall be located between the water surface and the horizontal plane passing through the center of the retort so that there is no opportunity for direct steam impingement upon the control bulb.

(3) *Pressure gages.* (i) Each retort shall be equipped with a pressure gage. The gage should be graduated in divisions of 2 lbs. or less, should be connected to the retort shell or external well by a short gooseneck tube, and should be not more than 4 inches higher than the gooseneck. The gage should be checked for accuracy at least once a year.

(ii) An adjustable pressure relief, or control valve of a capacity sufficient to prevent undesired increase in retort pressure when the water valve is wide open and should be installed in the overflow line.

(4) *Steam introduction.* The distribution of steam in the bottom of the retort shall be accomplished in a manner adequate to provide uniform heat distribution throughout the retort. In vertical retorts, uniform steam distribution can be achieved by any of several methods. In horizontal retorts, the steam distributor shall run the length of the bottom of the retort with perforations distributed uniformly along the upper part of the pipe.

(5) *Crate supports.* A bottom crate support shall be employed in vertical still retorts. Baffle plates shall not be used in the bottom of the retort. Centering guides should be installed so as to ensure that there be about 1½-inches clearance between the side wall of the crate and the retort wall.

(6) *Stacking equipment.* Crates, trays, gondolas, etc., for holding containers shall be made of strap iron, adequately perforated sheet metal, or other suitable material. When perforated sheet metal is used for the bottoms, the perforations should be approximately the equivalent of 1-inch holes on 2-inch centers. If divider plates are used between the layers of containers, they should be perforated as above.

(7) *Drain valve.* A nonclogging, watertight valve shall be used. Screens should be installed over all drain openings.

(8) *Water level indicator.* There shall be a means of determining the water level in the retort during operation (e.g., by using a gage water glass or petcock(s)). Water shall cover the top layer of containers during the entire coming-up-time and processing periods and should cover the top layer of containers during the cooling periods.

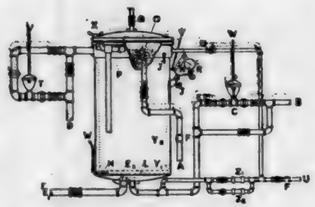
(9) *Air supply and controls.* In both horizontal and vertical still retorts for pressure processing in water, a means shall be provided for introducing compressed air at the proper pressure and rate. The proper pressure shall be controlled by an automatic pressure control unit. A check valve shall be provided in the air supply line to prevent water from entering the system. Air or water circulation shall be maintained continuously during the coming-up-time, processing, and cooling periods; if air is used to promote circulation it shall be introduced into the steam line at a point between the retort and the steam control valve at the bottom of the retort.

(10) *Cooling water supply.* In vertical retorts the cooling water should be introduced at the top of the retort between the water and container levels; in horizontal retorts the cooling water should be introduced into the suction side of the pump. A check valve should be included in the cooling water line.

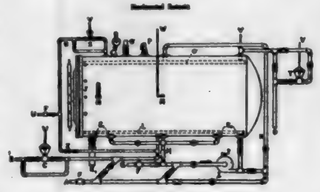
(11) *Retort headspace.* The headspace necessary to control the air pressure should be maintained between the water level and the top of the retort shell.

(12) *Vertical and horizontal still retorts.* Vertical and horizontal still retorts should follow the arrangements in the following diagrams or be equivalent.

Vertical Retorts



Horizontal Retorts



LEGEND FOR VERTICAL AND HORIZONTAL STILL RETORTS

A—Water line.
B—Steam line.
C—Temperature control.
D—Overflow line.
E_1—Drain line.
E_2—Screens.
F—Check valves.
G—Line from hot water storage.
H—Suction line and manifold.
I—Circulating pump.
J—Petcocks.
K—Recirculating line.
L—Steam distributor.
M—Temperature controller bulb.
N—Thermometer.
O—Water spreader.
P—Safety valve.
Q—Vent valve for steam processing.
R—Pressure gage.
S—Inlet air control.
T—Pressure control.
U—Air line.
V—To pressure control instrument.
W—To temperature control instrument.
X—Wing nuts.
Y_1—Crate support.
Y_2—Crate guides.
Z—Constant flow orifice valve.
Z_1—Constant flow orifice valve used during come-up.
Z_2—Constant flow orifice valve used during cook.

(13) *Water circulation.* When a water circulating system is used for heat distribution it shall be installed in such a manner that water will be drawn from the bottom of the retort through a suction manifold and discharged through a spreader which extends the length of the top of the retort. The holes in the water spreader shall be uniformly distributed and should have an aggregate area not greater than the cross section area of the outlet line from the pump. The suction outlets should be protected with nonclogging screens to keep debris from entering the circulating system. The pump shall be equipped with a pilot light or other signaling device to warn the operator when it is not running, and with a bleeder to remove air when starting operations.

(14) *Critical factors.* (i) Where maximum drained weight is specified in the scheduled process it shall be measured and recorded at intervals of sufficient frequency to ensure that the weight of the product does not exceed the maximum for the given container size specified in the scheduled process.

(ii) Closing machine vacuum (in vacuum-packed products) shall be observed and recorded at intervals of sufficient frequency to ensure that the vacuum is as specified in the scheduled process.

(iii) Such measurements and recordings should be made at intervals not to exceed 15 minutes.

(c) *Equipment and procedures for pressure processing in steam in continuous agitating retorts.*—(1) *Indicating mercury-in-glass thermometer.* Each retort shall be equipped with at least one mercury-in-glass thermometer that has a temperature range of not more than 100° F in the processing range on a scale at least 7 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to ensure their accuracy. Bulbs of indicating thermometers shall be installed either within the retort shell or in external wells attached to the retort. External wells or pipes shall be connected to the retort through at least a ¾-inch diameter opening, and shall be equipped with a 1/16-inch or larger bleeder opening so located as to provide a full flow of steam past the length of the thermometer bulb. The bleeders for external wells shall emit steam continuously during the entire processing period. Thermometers shall be installed where they can be accurately and easily read. A thermometer that has a divided mercury column or that deviates more than 1° F from the standard shall be repaired or replaced. The mercury thermometer—not the recorder chart—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recording device.* There shall be an accurate temperature recording device for each retort adjusted to agree within 1° F of the known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 2° F within a range of 10° F of the processing temperature. Each chart shall have a working scale of not more than 50° F per inch within a range of 20° F of the processing temperature. This recorder may be combined with the steam controller and may be a recording-controlling instrument. The temperature recorder bulb shall be installed either within the retort shell or in a well attached to the shell. Each temperature recorder bulb well shall have a 1/16-inch or larger bleeder opening emitting steam continuously during the processing period.

(3) *Pressure gages.* Each retort shall be equipped with a pressure gage. The gage should be graduated in divisions of 2 pounds or less, should be connected to the retort shell or external well by a short gooseneck tube, and should be not more than 4 inches higher than the gooseneck. The gage should be checked for accuracy at least once a year.

(4) *Steam controller.* Each retort shall be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a recording thermometer.

(5) *Bleeders.* Bleeders, except those for thermometer wells, shall be ⅛-inch or larger and shall be wide open during the entire process, including the coming-up time. Bleeders shall be located within approximately 1 foot of each end; additional bleeders shall be located not more than 8 feet apart along the top of the retort. All bleeders shall be arranged in such a way that the operator can observe that they are functioning properly.

(6) *Venting and condensate removal.* Vents shall be located in that portion of the retort opposite the steam inlet. Air shall be removed before processing is started. At the time steam is turned on, the drain should be opened for a time sufficient to remove steam condensate from the retort and provision shall be made for continuing drainage of condensate during the retort operation. The condensate bleeder in the bottom of the shell serves as an indicator of continuous condensate removal.

(7) *Retort speed timing.* The rotational speed of the retort shall be specified in the scheduled process. The speed shall be adjusted and recorded when the retort is started, at any time a speed change is made, and at intervals of sufficient frequency to ensure that the retort speed is maintained as specified in the scheduled process. These adjustments and recordings should be made every 4 hours or less. Alternatively, a recording tachometer may be used to provide a continuous record of the speed. A means of preventing unauthorized speed changes on retorts shall be provided.

(8) *Emergency stops.* If a retort jams or breaks down during processing operations, necessitating cooling the retort for repairs, the retort shall either be operated as a still retort, with all containers being given a full still retort process before the retort is cooled, or the retort shall be cooled promptly and all containers shall be either reprocessed, repacked and reprocessed, or discarded.

(i) Any containers in the retort intake valve of a continuous retort at the time of breakdown shall either be reprocessed, repacked and reprocessed, or discarded.

(ii) Both the time at which the reel stopped and the time the retort was used for a still retort process, if so used, shall be marked on the recording chart and entered on the other production records required in this chapter. If the alternative procedure of prompt cooling is followed, the subsequent handling methods used for the containers in the retort at the time of stopping and cooling shall be entered on the production records.

(9) *Temperature drop.* If the temperature of the continuous retort drops below the temperature specified in the scheduled process while containers are in the retort, the retort reel shall be stopped promptly. An automatic device should be used to stop the reel when the temperature drops below the specified process temperature. Before the reel is restarted, all containers in the retort shall be given a complete still retort process if the temperature drop was 10° F or more below the specified temperature. Alternatively, container entry to the retort shall be stopped and the reel shall be restarted to empty the retort. The discharged containers shall be either reprocessed, repacked and reprocessed, or discarded. Both the time at which the reel stopped and the time the retort was used for a still retort process, if so used, shall be marked on the recording chart and entered on the other production records required in this chapter. If the alternative procedure of emptying the retort is followed, the subsequent handling methods used for the containers in the retort at the time of stopping and cooling shall be entered on the production records. If the temperature drop was less than 10° F, an authorized emer-

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gency still process approved by a qualified person(s) having expert knowledge of thermal processing requirements may be used before restarting the retort reel. Alternatively, container entry to the retort shall be stopped and an authorized emergency agitating process may be used before container entry to the retort is restarted. If any emergency process and procedure is utilized, no containers shall enter the retort during this time and the process and procedures used shall be entered on the production records.

(10) *Critical factors.* The minimum headspace of containers, if specified in the scheduled process, shall be measured and recorded at intervals of sufficient frequency to ensure that the headspace is as specified in the scheduled process. The headspace of solder-tipped, lap seam (vent hole) cans may be measured by net weight determinations. Where the product consistency is specified in the scheduled process, the consistency of the product shall be determined by objective measurements on the product taken from the filler before processing and recorded at intervals of sufficient frequency to ensure that the consistency is as specified in the scheduled process. Minimum closing machine vacuum (in vacuum-packed products), maximum drained weight, minimum net weight, and percent solids shall be as specified in the scheduled process for all products where deviations from such specifications may affect the scheduled process. Measurements of these critical factors shall be made and recorded at intervals of sufficient frequency to ensure that they are as specified in the scheduled process. All measurements and recordings of critical factors should be made at intervals not to exceed 15 minutes.

(d) *Equipment and procedures for pressure processing in steam in discontinuous agitating retorts*—(1) *Indicating mercury-in-glass thermometer.* Each retort shall be equipped with at least one mercury-in-glass thermometer that has a temperature range of not more than 100° F in the processing range on a scale at least 7 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to ensure their accuracy. Bulbs of indicating thermometers shall be installed either within the retort shell or in external wells attached to the retort. External wells or pipes shall be connected to the retort through at least a ¾-inch diameter opening, and shall be equipped with a 1/16-inch or larger bleeder opening so located as to provide a full flow of steam past the length of the thermometer bulb. The bleeder for external wells shall emit steam continuously during the entire processing period. Thermometers shall be installed where they can be accurately and easily read. A thermometer with a divided mercury column or that deviates more than 1° F from the standard shall be repaired or replaced. The mercury thermometer—not the recorder chart—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recording device.* There shall be an accurate temperature recording device for each retort adjusted to agree within 1° F of the known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 2° F within a range of 10° F of the processing temperature. Each chart shall have a working scale of not more than 50° F per inch within a range of 20° F of the processing temperature. This recorder may be combined with the steam controller and may be a recording-controlling instrument. The temperature recorder bulb shall be installed either within the retort shell or in a well attached to the shell. Each temperature recorder bulb well shall have a 1/16-inch or larger bleeder opening emitting steam continuously during the processing period.

(3) *Pressure gages.* Each retort shall be equipped with a pressure gage. The gage should be graduated in divisions of 2 pounds or less, should be connected to the retort shell or external well by a short gooseneck tube, and should be not more than 4 inches higher than the gooseneck.The gage should be checked for accuracy at least once a year.

(4) *Steam controller.* Each retort shall be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a recording thermometer.

(5) *Bleeders.* Bleeders, except those for thermometer wells, shall be ⅛ inch or larger and shall be wide open during the entire process, including the coming-up-time. Bleeders shall be located within approximately 1 foot of each end; additional bleeders shall be located not more than 8 feet apart along the top of the retort. In retorts having top steam inlet and bottom venting, a bleeder shall be installed in the bottom of the retort to ensure removal of condensate. All bleeders shall be arranged in such a way that the operator can observe that they are functioning properly.

(6) *Venting and condensate removal.* The air in each retort shall be removed before processing is started. At the time steam is turned on, the drain should be opened for a time sufficient to remove steam condensate from the retort and provision should be made for continuing drainage of condensate during the retort operation.

(7) *Retort speed timing.* The rotational speed of the retort shall be specified in the scheduled process. The rotational speed shall be adjusted, as necessary, to ensure that the speed is as specified in the scheduled process. The rotational speed as well as the process time shall be recorded for each retort load processed. Alternatively, a recording tachometer may be used to provide a continuous record of the speed. A means of preventing unauthorized speed changes on retorts shall be provided.

(8) *Critical factors.* The minimum headspace of containers in each retort load to be processed, if specified in the scheduled process, shall be measured and recorded at intervals of sufficient frequency to ensure that the headspace is as specified in the scheduled process. The headspace of solder-tipped, lap seam (vent hole) cans may be measured by net weight determinations. Where the product consistency is specified in the scheduled process, the consistency of the product shall be determined by objective measurements on the product taken from the filler before processing and recorded at intervals of sufficient frequency to ensure that the consistency is as specified in the scheduled process. Minimum closing machine vacuum (in vacuum-packed products), maximum drained weight, minimum net weight, and percent solids shall be as specified in the scheduled process for all products where deviations from such specifications may affect the scheduled process. Measurements of these critical factors shall be made and recorded at intervals of sufficient frequency to ensure that they are as specified in the scheduled process. All measurements and recordings of critical factors should be made at intervals not to exceed 15 minutes.

(e) *Equipment and procedures for pressure processing in water in discontinuous agitating retorts*—(1) *Indicating mercury-in-glass thermometer.* Each retort shall be equipped with at least one mercury-in-glass thermometer that has a temperature range of not more than 100° F in the processing range on a scale at least 7 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to ensure their accuracy. Bulbs of indicating thermometers shall be installed either within the retort shell or in external wells attached to the retort. Thermometers shall be installed where they can be accurately and easily read. A thermometer that has a divided mercury column or that deviates more than 1° F from the standard shall be repaired or replaced. The mercury thermometer—not the recorder chart—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recording device.* There shall be an accurate temperature recording device for each retort adjusted to agree within 1° F of the known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 2° F within a range of 10° F of the processing temperature. Each chart shall have a working scale of not more than 50° F per inch within a range of 20° F of the processing temperature. This recorder may be combined with the steam controller and may be a recording-controlling instrument. The temperature recorder bulb shall be installed either

within the retort shell or in a well attached to the shell.

(3) *Pressure gages.* Each retort shall be equipped with a pressure gage. The gage should be graduated in divisions of 2 pounds or less, should be connected to the retort shell or external well by a short gooseneck tube, and should be not more than 4 inches higher than the gooseneck. The gage should be checked for accuracy at least once a year.

(4) *Steam controller.* Each retort shall be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a recording thermometer.

(5) *Retort speed timing.* The rotational speed of the retort shall be specified in the scheduled process. The rotational speed shall be adjusted, as necessary, to ensure that the speed is as specified in the scheduled process. The rotational speed as well as the process time shall be recorded for each retort load processed. Alternatively, a recording tachometer may be used to provide a continuous record of the speed. A means of preventing unauthorized speed changes shall be provided.

(6) *Air supply and controls.* Means shall be provided for introducing compressed air at the proper pressure and rate. The proper pressure shall be controlled by an automatic pressure control unit. A check valve shall be provided in the air supply line to prevent water from entering the system.

(7) *Critical factors.* The minimum headspace of containers in each retort load to be processed, if specified in the scheduled process, shall be measured and recorded at intervals of sufficient frequency to ensure that the headspace is as specified in the scheduled process. The headspace of solder-tipped, lap seam (vent hole) cans may be measured by net weight determinations. Where the product consistency is specified in the scheduled process the consistency of the product shall be determined by objective measurements on the product taken from the filler before processing and recorded at intervals of sufficient frequency to ensure that the consistency is as specified in the scheduled process. Minimum closing machine vacuum (in vacuum-packed products), maximum drained weight, minimum net weight, and percent solids shall be as specified in the scheduled process for all products where deviations from such specifications may affect the scheduled process. Measurements of these critical factors shall be made and recorded at intervals of sufficient frequency to ensure that they are as specified in the scheduled process. All measurements and recordings of critical factors should be made at intervals not to exceed 15 minutes.

(f) *Equipment and procedures for pressure processing in steam in hydrostatic retorts*—(1) *Indicating mercury-in-glass thermometer.* Each retort shall be equipped with at least one mercury-in-glass thermometer that has a temperature range of not more than 100° F in the processing range on a scale at least 7 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to ensure their accuracy. The thermometer shall be located in the steam dome near the steam-water interface. Where the scheduled process specifies maintenance of particular temperatures in the hydrostatic water legs, a mercury-in-glass thermometer shall be located in each hydrostatic water leg in a position near the bottom automatic recorder so that it can be accurately and easily read. A thermometer that has a divided mercury column or that deviates more than 1° F from the standard shall be repaired or replaced. The mercury thermometer—not the recorder chart—shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recording device.* There shall be an accurate temperature recording device for each retort adjusted to agree within 1° F of the known accurate mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The chart graduations shall not exceed 2° F within a range of 10° F of the processing temperature. Each chart shall have a working scale of not more than 50° F per in. within a range of 20° F of the processing temperature. This recorder may be combined with the steam controller and may be a recording-controlling instrument. The temperature recorder bulb shall be installed either within the steam dome or in a well attached to the dome. Temperature recorder bulb wells shall have a 1/16-inch or large bleeder opening emitting steam continuously during the entire processing period. Additional temperature recorder bulbs shall be installed in the hydrostatic water legs if the scheduled process specifies maintenance of particular temperatures in the hydrostatic water legs.

(3) *Recording of temperatures.* Temperatures indicated by the mercury-in-glass thermometer or thermometers shall be entered on a suitable form during processing operations. Temperatures shall be recorded by an accurate automatic recorder or recorders at the following points:

(i) In the steam chamber between the steam-water interface and the lowest container position.

(ii) Near the top and the bottom of each hydrostatic water leg if the scheduled process specifies maintenance of particular temperatures in the legs.

(4) *Venting.* Before the start of processing operations, the retort steam chamber or chambers shall be vented to ensure removal of air.

(5) *Bleeders.* Bleeder openings ¼-inch or larger shall be located at the end of the steam chamber or chambers opposite from the point of steam entry. Bleeders shall be wide open and shall emit steam continuously during the entire process, including the coming-up-time. All bleeders shall be arranged in such a way that the operator can observe that they are functioning properly.

(6) *Retort speed.* The speed of the container conveyor chain shall be specified in the scheduled process and shall be determined and recorded at the start of processing and at intervals of sufficient frequency to ensure that the retort speed is maintained as specified. The speed should be determined and recorded every 4 hours. An automatic device should be used to stop the chain when the temperature drops below that specified in the scheduled process. A means of preventing unauthorized speed changes shall be provided.

(7) *Critical factors.* (i) Where maximum drained weight is specified in the scheduled process, it shall be measured and recorded at intervals of sufficient frequency to ensure that the weight of the product does not exceed the maximum for the given container size specified in the scheduled process.

(ii) Minimum closing machine vacuum (in vacuum-packed products) shall be observed and recorded at intervals of sufficient frequency to ensure that the vacuum is as specified in the scheduled process.

(iii) Such measurements and recordings should be made at intervals not to exceed 15 minutes.

(g) *Aseptic processing and packaging systems* — (1) *Product sterilizer* — (i) *Equipment*—(a) *Temperature indicating device.* Each product sterilizer shall be equipped with at least one mercury-in-glass thermometer that has a temperature range of not more than 100° F in the processing range on a scale at least 7 inches in length, or an equivalent temperature indicating device, such as a thermocouple-recorder. The scale divisions or chart graduations of the temperature indicating device shall be no more than 2° F within the range of 10° F of the product sterilization operating range. The device shall be installed in the product at the holding tube outlet between the holding tube and the inlet to the cooler. The temperature indicating device shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or more frequently as may be necessary to ensure its accuracy. The device shall be installed so that it can be accurately and easily read. A thermometer that has a divided mercury column or a device that deviates more than 1° F from the standard shall be repaired or replaced. The temperature indicating device shall be the reference instrument for indicating the processing temperature.

(b) *Temperature recording device.* There shall be an accurate temperature recording device on each product presterilizer. The temperature sensor shall be located in the presterilized product at the holding tube outlet between the holding tube and the inlet of the cooler. The recording device shall be adjusted to agree with a known accurate standard mercury-in-glass thermometer. A means of preventing unauthorized changes in adjustment shall be provided. The recording device shall not deviate more than 1° F from the standard thermometer; it shall be installed so that it

(i) Required and optional can seam where packed, the product contained

(e) When normally low-acid fruits,

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can be accurately and easily read. The recording chart graduations shall not exceed 2° F within a range of 10° F of the desired product sterilization temperature. The chart shall have a working scale of not more than 50° F per inch within a range of 20° F of the processing temperature.

(c) *Temperature recorder-controller.* An accurate temperature recorder-controller shall be located in the product sterilizer at the final heater outlet. It shall be capable of assuring that the desired product sterilization temperature is maintained. The chart graduations shall not exceed 2° F within a range of 10° F of the desired product sterilization temperature.

(d) *Product-to-product regenerators.* Where a product-to-product regenerator is used to heat the cold unsterilized product entering the sterilizer by means of a heat exchange system. It shall be designed, operated, and controlled so that the pressure of the sterilized product in the regenerator is greater than the pressure of any unsterilized product in the regenerator to ensure that any leakage in the regenerator will be from the sterilized product into the unsterilized product.

(e) *Differential pressure recorder-controller.* Where a product-to-product regenerator is used, there shall be an accurate differential pressure recorder-controller installed on the regenerator. The scale divisions shall not exceed 2 pounds per square inch on a working scale of not more than 20 pounds per square inch per inch. The controller shall be tested for accuracy against a known accurate standard pressure indicator, upon installation and at least once every 3 months of operation thereafter or more frequently as may be necessary to ensure its accuracy. One pressure sensor shall be installed at the sterilized product regenerator outlet, and the other pressure sensor shall be installed at the unsterilized product regenerator inlet.

(f) *Metering pump.* A metering pump shall be located upstream from the holding tube and shall be operated to maintain the required rate of product flow. A means of preventing unauthorized speed changes shall be provided.

(g) *Product holding tube.* The product sterilizing holding tube shall be designed to give continuous holding of every particle of food for at least the minimum holding time specified in the scheduled process. The holding tube shall be designed so that no portion between the product inlet and the product outlet can be heated, and it shall be sloped upward at least 0.25 inch per foot.

(ii) *Operation—(a) Startup.* Prior to the start of aseptic processing operations, the product sterilizer shall be brought to a condition of commercial sterility.

(b) *Temperature drop in product sterilizing holding tube.* When product temperature in the holding tube drops below the temperature specified in the scheduled process, the product holding tube and any further system portions affected shall be returned to a condition of commercial sterility before flow is resumed to the filler.

(c) *Loss of proper pressures in the regenerator.* Where a regenerator is used the product may lose sterility whenever the pressure of sterilized product in the regenerator is less than 1 lb. per square in. greater than the pressure of unsterilized product in the regenerator. Product flow to the filler shall not be resumed until the cause of the improper pressure relationships in the regenerator has been corrected and the affected system(s) has been returned to a condition of commercial sterility.

(d) *Records.* Readings at the following points shall be observed and recorded at the start of aseptic packaging operations and at intervals of sufficient frequency to ensure that these values are as specified in the scheduled process: Temperature indicating device in holding tube outlet; temperature recorder in holding tube outlet; temperature recorder-controller at final heater outlet; differential pressure recorder-controller, if a product-to-product regenerator is used; and product flow rate as established by the meering pump or as determined by filling and closing rates. Such measurements and recordings should be made at intervals not to exceed 1 hour.

(2) *Container sterilizing, filling, and closing operation—(i) Equipment—(a) Recording device.* The container and closure sterilization system and product filling and closing system shall be instrumented to show that commercial sterility is being achieved. Automatic recording devices shall be used to record, where applicable, the sterilization media flow rates and/or temperatures. Where a batch system is used for container sterilization, the sterilization conditions shall be recorded.

(b) *Timing method(s).* A method(s) shall be used either to give the retention time of containers, and closures if applicable, in the sterilizing environment as specified in the scheduled process, or to control the sterilization cycle at the rate as specified in the scheduled process. A means of preventing unauthorized speed changes shall be provided.

(ii) *Operation—(a) Startup.* Prior to the start of packaging operations, both the container and closure sterilizing system and the product filling and closing system shall be brought to a condition of commercial sterility.

(b) *Loss of sterility.* In the event of loss of sterility, the system(s) shall be returned to a condition of commercial sterility before resuming packaging operations.

(c) *Records.* Observations and measurements of operating conditions shall be made and recorded at intervals of sufficient frequency to ensure that commercial sterility of the food product is being achieved; such measurements shall include the sterilization media flow rates and/or temperatures, the container and closure rates (if applicable) through the sterilizing system, and the sterilization conditions if a batch system is used for container sterilization. The measurements and recordings should be made at intervals not to exceed 1 hour.

(3) *Incubation.* Incubation tests shall be conducted on a representative sample of containers of product from each code; records of the tests shall be maintained.

(h) *Equipment and procedures for flame sterilizers.* The container conveyor speed shall be specified in the scheduled process. The container conveyor speed shall be measured and recorded at the start of operations and at intervals of sufficient frequency to ensure that the conveyor speed is as specified in the scheduled process. Such measurements and recordings should be done at 1-hour intervals. Alternatively, a recording tachometer may be used to provide a continuous record of the speed. A means of preventing unauthorized speed changes on the conveyor shall be provided. The surface temperature of at least one container from each conveyor channel shall be measured and recorded at the end of the holding period at intervals of sufficient frequency to ensure that the temperatures specified in the scheduled process are maintained. Such measurements and recordings should be done at intervals not to exceed 15 minutes.

(i) *New systems.* The development of new systems for the thermal processing of low-acid foods in hermetically sealed containers shall conform to the applicable requirements of this part and shall ensure that the methods and controls used for the manufacture, processing, and/or packing of such foods are operated or administered in a manner adequate to achieve commercial sterility.

Subpart D—Control of Components, Food Product Containers, Closures, and In-Process Materials

§ 113.60 Containers.

(a) *Closures.* Regular observations shall be maintained during production runs for gross closure defects. Any such defects shall be recorded, and corrective action shall be taken and recorded. At intervals of sufficient frequency to ensure proper closure, the operator, closure supervisor, or other qualified container closure inspection person shall visually examine either the top seam of a can randomly selected from each seaming head or the closure of any other type of container being used, and shall record his observations. Such measurements and recordings shoud be made at intervals not to exceed 30 minutes. Additional visual closure inspections shall be made immediately following a jam in a closure machine, after closing machine adjustment, or after startup of a machine following a prolonged shutdown. All pertinent observations shall be recorded. Where irregularities are found, the corrective action shall be recorded.

(1) Teardown examinations for double seam cans shall be performed by a qualified individual and the results therefrom shall be recorded at intervals of sufficient frequency on enough containers from each seaming station to ensure maintenance of seam integrity. Such examinations and recordings should be made at intervals not to exceed 4 hours. The results of the teardown examinations shall be recorded and the corrective action taken, if any, shall be noted.

(i) Required and optional can seam measurements:

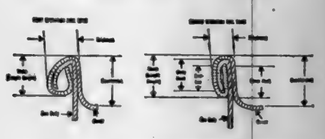
(a) Micrometer measurement system:

Required	*Optional*
Cover hook.	Overlap (by calculation).
Body hook.	Countersink.
Width (length, height).	
Tightness (observation for wrinkle).	Thickness.

(b) Seam scope or projector:

Required	*Optional*
Body hook.	Width (length, height).
Overlap.	Cover hook.
Tightness (observation for wrinkle).	Countersink.
	Thickness.

(c) Can double seam terminology:



(ii) Two measurements at different locations, excluding the side seam, shall be made for each double seam characteristic if a seam scope or seam projector is used. When a micrometer is used, three measurements shall be made at points approximately 120° apart, excluding the side seam.

(iii) Overlap length can be calculated by the following formula:

The theoretical overlap length = CH + BH + T − W

where

CH = cover hook
BH = body hook
T = cover thickness, and
W = seam width, (height, length)

(2) For closures other than double seams, appropriate detailed inspections and tests shall be conducted by qualified personnel at intervals of sufficient frequency to ensure proper closing machine performance and consistently reliable hermetic seal production. Records of such tests shall be maintained.

(b) *Cooling.* Container cooling water should be chlorinated as necessary by the processor so that there is a measurable free chlorine residual at the water discharge point of the container cooler. Other safe chemical or physical treatment which is equivalent to chlorination in its bactericidal effect may be used. Where pressure cooling is utilized, adequate pressure should be maintained for a time sufficient to prevent permanent distortion of the container.

(c) *Coding.* Each hermetically sealed container of low-acid processed food shall be marked with an identifying code which shall be permanently visible to the naked eye. Where the container does not permit the code to be embossed or inked, the label may be legibly perforated or otherwise marked, provided that the label is securely affixed to the product container. The required identification shall identify in code the establishment where packed, the product contained therein, the year packed, the day packed, and the period during which packed. The packing period code shall be changed with sufficient frequency to enable ready identification of lots during their sale and distribution. Codes may be changed on the basis of one of the following: Intervals of every 4 to 5 hours; personnel shift changes; or batches, provided the containers comprising such batch do not extend over a period of more than one personnel shift.

(d) *Postprocess handling.* Where cans are handled on belt conveyors, such conveyors should be so constructed as to minimize contact by the belt with the double seam, i.e., cans should not be rolled on the double seam. All worn and frayed belting, can retarders, cushions, etc. should be replaced with new nonporous material. All tracks and belts which come into contact with the can seams should be thoroughly scrubbed and sanitized at intervals of sufficient frequency to avoid product contamination. Automatic equipment used in handling filled containers should be so designed and operated in such a manner as to preserve the can seam or other container closure integrity.

Subpart E—Production and Process Controls

§ 113.81 Product preparation.

(a) Incoming raw materials, ingredients, and packaging components should be inspected upon receipt to ensure that they are suitable for processing. Raw materials should be received in an area separate from the processing areas. Prior to being placed in inventory, ingredients susceptible to microbiological contamination which would render them unsuitable for processing either should be examined for microbiological condition or should be received under a supplier's guarantee that they are of a microbiological condition suitable for use in processing low-acids foods. Products should be held prior to processing in such a manner as to minimize growth of microorganisms.

(b) Blanching by heat, when required in the preparation of food for canning, should be effected by heating the food to the required temperature, holding it at this temperature for the required time, and then either rapidly cooling the food or passing it to subsequent processing without delay. Thermophilic growth and contamination in blanchers should be minimized by the use of adequate operating temperatures and by cleaning. Where the blanched food product is washed prior to filling, potable water should be used.

(c) The filling of containers, either mechanically or by hand, shall be controlled so as to ensure that the filling requirements specified in the scheduled process are met.

(d) The exhausting of containers for the removal of air shall be controlled so as to meet the conditions for which the process was designed. This may be done by heat exhausting, mechanical exhausting, hot brining, or steam injection.

(e) When normally low-acid fruits, vegetables, or vegetable products require sufficient acidification to permit safe processing at low temperatures, such as in boiling water, there shall be careful supervision to ensure that the equilibrium pH of the finished product meets that of the scheduled process.

§ 113.83 Establishing scheduled processes.

Scheduled processes for low-acid foods shall be established by qualified persons having expert knowledge of thermal processing requirements for low-acid foods in hermetically sealed containers and having adequate facilities for making such determinations. The type, range, and combination of variations encountered in commercial production shall be adequately provided for in establishing the scheduled process. Critical factors which may affect the scheduled process (e.g., minimum headspace, consistency, maximum drained weight, etc.) shall be specified in the scheduled process. Acceptable scientific methods of establishing heat sterilization processes shall include, where necessary, but not be limited to microbial thermal death time data, process calculations based on product heat penetration data, inoculated packs, and incubation tests. Product heat penetration data may be mathematically converted in calculating processes for different container sizes and thermal processing temperatures. If incubation tests are necessary, they shall include containers from test trials and from actual commercial production runs during the period of instituting the process. The incubation tests for establishing scheduled processes should include the containers from the test trials and a number of containers from each of four or more actual commercial production runs. The number of containers from actual commercial production runs should be determined on the basis of recognised scientific methods to be of a size sufficient to ensure the adequacy of the process. Complete records covering all aspects of the establishment of the process and associated incubation tests shall be prepared and shall be permanently retained by the person or organization making the determination.

§ 113.87 Operations in the thermal processing room.

(a) Scheduled processes and venting procedures to be used for each product and container size being packed shall either be posted in a conspicuous place near the processing equipment or shall be made readily available to the retort or processing system operator and any duly authorized employee of the Food and Drug Administration.

(b) All retort baskets, trucks, cars, or crates containing unretorted food product, or some of the containers on the top of each basket, shall be plainly and conspicuously marked with a heat sensitive indicator, or by other effective means, which will visually indicate to thermal processing personnel whether or not each such unit has been retorted.

(a) The initial temperature of the con-

cocoa product. Such foods include but

(b) Seams on food-contact surfaces

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(c) The initial temperature of the contents of the containers to be processed shall be determined and recorded with sufficient frequency to ensure that the temperature of the product is no lower than the minimum initial temperature specified in the scheduled process.

(d) Timing devices used in recording thermal process time information shall be accurate to the extent needed to ensure that the processing time specified in the scheduled process is achieved. Pocket or wrist watches shall not be considered satisfactory for timing purposes.

(e) For continuous agitating retorts, the condensate bleeder shall be checked with sufficient frequency to ensure adequate removal of condensate. A record shall be kept to show how it is functioning.

§ 113.89 Deviations in processing.

Whenever any process is less than the scheduled process for any low-acid food or container system as disclosed from records, by processor check, or otherwise, the commercial processor of such low-acid food shall either fully reprocess that portion of the production involved, keeping full records of the reprocessing conditions or, alternatively, shall set aside that portion of the production involved for further evaluation as to any potential public health significance. Such evaluation shall be made by a competent processing authority and shall be in accordance with procedures recognized by competent processing authorities as being adequate to detect any potential hazard to public health. Unless such evaluation demonstrates that the product had been given a thermal process that rendered it free of microorganisms of potential public health significance, the product set aside either shall be fully reprocessed to render it commercially sterile or it shall be destroyed. A record shall be made of the evaluation procedures used and the results. Either upon completion of full reprocessing and the attainment of commercial sterility or after the determination that no significant potential for public health hazard exists, that portion of the production involved may be shipped in normal distribution. Otherwise, the portion of the production involved shall be destroyed.

Subpart F—Records and Reports

§ 113.100 Records.

(a) Processing and production information shall be entered by the retort or processing system operator, or other designated person, on forms which shall include the product, the code number, the retort or processing system number, the size of container, the approximate number of containers per coding interval, the minimum initial temperature, the actual processing time and temperature, the mercury-in-glass and recording thermometer readings, and other appropriate processing data. Closing machine vacuum (in vacuum-packed products), maximum drained weight, or other critical factors specified in the scheduled process shall also be recorded. In addition, the following records shall be maintained:

(1) *Still retorts.* Time steam on; time temperature up to processing temperature; time steam off; venting time and/or temperature to which vented (as applicable).

(2) *Agitating retorts.* Functioning of condensate bleeder; retort speed; and, where specified in the scheduled process, headspace, consistency, maximum drained weight, minimum net weight, and percent solids.

(3) *Hydrostatic retorts.* The temperature in the steam chamber between the steam-water interface and the lowest container position; speed of the container conveyor chain; and, where the scheduled process specifies maintenance of particular temperatures in the hydrostatic water legs, the temperatures near the top and the bottom of each hydrostatic water leg.

(4) *Aseptic processing and packaging systems.* Product temperature in the holding tube outlet as indicated by the temperature indicating device and the temperature recorder; product temperature in the final heater outlet as indicated by the temperature recorder-controller; differential pressure as indicated by the differential pressure recorder-controller, if a product-to-product regenerator is used; product flow rate, as determined by the metering pump or by filling and closing rates; sterilization media flow rate and/or temperature; retention time of containers, and closures where applicable, in the sterilizing equipment; and, where a batch system is used for container and/or closure sterilization, sterilization cycle times and temperatures.

(5) *Flame sterilizers.* Container conveyor speed; surface temperature at the end of the holding period; nature of container.

(b) Recording thermometer charts shall be identified by date, and other data as necessary, so they can be correlated with the written record of lots processed. Each entry on the record shall be made by the retort or processing system operator, or other designated person, at the time the specific retort or processing system condition or operation occurs, and the retort or processing system operator or such designated person shall sign or initial each record form. Not later than 1 working day after the actual process, and prior to shipment or release for distribution, a representative of plant management who is qualified by suitable training or experience shall review all processing and production records for completeness and to ensure that the product received the scheduled process. The records, including the recording thermometer chart(s), shall be signed or initialed by the person conducting the review.

(c) Written records of all container closure examinations shall specify the product code, the date and time of container closure inspections, the measurements obtained, and all corrective actions taken. Records shall be signed or initialed by the container closure inspector and shall be reviewed by management with sufficient frequency to assure that the containers are hermetically sealed.

(d) Copies of all records provided for in this part except those required under § 113.83 establishing scheduled processes, shall be retained at the processing plant for a period of not less than one year, and at the processing plant or other reasonably accessible location for an additional two years. If during the first year of the three-year record retention period the processing plant is closed for a prolonged period between seasonal packs, the records may be transferred to some other reasonably accessible location at the end of the seasonal pack.

PART 118—CACAO PRODUCTS AND CONFECTIONERY

Subpart A—General Provisions

Sec.
118.1 Current good manufacturing practice.
118.3 Definitions.

Subpart B—Buildings and Facilities

118.20 Plants and grounds.
118.35 Sanitation facilities.
118.37 Sanitary operations.

Subpart C—Equipment

118.40 Equipment and procedures.

Subpart D—[Reserved]

Subpart E—Production and Process Controls

118.80 Processes and controls.

Subpart F—Records and Reports

118.100 Records.

AUTHORITY: Secs. 402(a)(4), 409, 701(a), 52 Stat. 1046, 1055, 72 Stat. 1785–1788 (21 U.S.C. 342(a)(4), 348, 371(a)).

Subpart A—General Provisions

§ 118.1 Current good manufacturing practice.

(a) The criteria and definitions in Part 110 of this chapter shall apply in determining whether the facilities, methods, practices, and controls used for the manufacture, processing, packing, or holding of cacao products and confectionery are in conformance with and are operated or administered in conformity with good manufacturing practices to produce, under sanitary conditions, food for human consumption.

(b) The criteria in §§ 118.20, 118.35, 118.37, 118.40, 118.80, and 118.100 set forth additional standards to be applied in evaluating the methods and procedures used in the manufacture, processing, packaging, packing, or holding of cacao products and confectionery.

(c) Pertinent criteria from Part 110 of this chapter have been incorporated into §§ 118.20, 118.35, 118.37, 118.40, 118.80, and 118.100 to emphasize critical control points in the manufacture, processing, packaging, packing, or holding of cacao products and confectionery.

§ 118.3 Definitions.

For the purposes of this part, the following definitions apply:

(a) "Cacao products" means any form of chocolate, chocolate product, cocoa, or cocoa product. Such foods include but are not limited to cacao nibs, sweet chocolate, milk chocolate, other foods standardized by Part 163 of this chapter, and chocolate sirup. They do not include the raw cacao bean, extracts, flavoring derived from such extracts, and chocolate- or cocoa-flavored foods.

(b) "Confectionery" means candy and other food products made with sweeteners, and frequently prepared with colorings, flavorings, milk products, cacao products, nuts, fruits, starches, and other materials. Such foods include but are not limited to frostings, toppings, and cake decorations. They do not include chewing gum, sauces, sirups, jellies, jams, preserves, cakes, or cookies.

(c) "Lot" means a collection of primary containers or units of the same size, type and style, containing finished product produced under conditions as nearly uniform as possible, designated by a common container code or marking, and, in any event no more than a day's production.

(d) "Return" means clean, wholesome product(s) returned to the manufacturer for reprocessing for reasons other than insanitary conditions and which is suitable for use as food.

(e) "Rework" means clean, wholesome product(s) removed from processing for reasons other than insanitary conditions and which is suitable for reprocessing and for use as food.

(f) "Shall" refers to mandatory requirements and "should" refers to recommended or advisory procedures or equipment.

(g) "Waste" means product rejected due to adulteration that renders it unsuitable for use as human food.

Subpart B—Buildings and Facilities

§ 118.20 Plants and grounds.

Effective measures shall be taken to prevent contamination of products, raw materials, or packaging materials with microorganisms, chemicals, filth, or other extraneous material. This may be accomplished by separating the following operations by partition, location, air flow, enclosed systems, or other effective means:

(a) Receiving.
(b) Raw material storage.
(c) Cacao bean cleaning, roasting, cooling, cracking, and fanning.
(d) Cacao product milling, pressing, mixing, refining, conching, tempering, and molding.
(e) Pulverizing or separating of cocoa, and other dusty operations.
(f) Cacao product and confectionery processing.
(g) Portable equipment and utensil cleaning and sanitizing.
(h) Packaging and packing.
(i) Finished product storage and shipping.

§ 118.35 Sanitation facilities.

(a) Adequate and readily accessible hand washing and sanitizing facilities shall be provided in the plant for employees who may handle unprotected food, unprotected packaging materials, and food-contact surfaces. Such facilities shall be furnished with running water at a suitable temperature for hand washing, effective hand cleaning and sanitizing preparations, sanitary towel service or suitable drying devices, and, where appropriate, refuse receptacles constructed and maintained in a manner to prevent product contamination. These facilities should also be equipped wtih water control valves so designed and constructed as to prevent recontamination of clean, sanitized hands.

(b) Readily understandable signs directing employees handling unprotected food, unprotected packaging materials, or food-contact surfaces, to wash and sanitize their hands before starting work, after each absence from post of duty, and when their hands may have become soiled or contaminated shall be conspicuously posted in the processing room(s) and in all other areas where employees may handle such materials and surfaces.

(c) Management shall maintain sufficient control to ensure that employees handling unprotected food, unprotected packaging materials, or food-contact surfaces wash and sanitize their hands before starting work, after each absence from post of duty, and when their hands may have become soiled or contaminated.

§ 118.37 Sanitary operations.

(a) Cleaning and sanitizing of utensils and equipment shall be carried out in such a manner as to prevent raw material, packaging material, or product contamination.

(b) Food-contact surfaces of equipment used for processing or holding low moisture raw materials or products such as chocolate, fats and oils, liquid nutritive sweeteners, peanut butter, and similar materials which are not conducive to microbial growth shall be maintained in a sanitary condition. When wet cleaning of such equipment may cause conditions conducive to microbial growth, other appropriate cleaning methods shall be utilized to prevent product contamination.

(c) Poisonous or dangerous cleaning compounds, sanitizing agents, and pesticide chemicals shall be applied, stored, and held in such a manner as to prevent food or packaging material contamination. These materials shall be identified and used only in such manner and under such conditions as will be safe for their intended use. Any applicable regulations promulgated by the Environmental Protection Agency for the application, use, or holding of such material shall be followed.

Subpart C—Equipment

§ 118.40 Equipment and procedures.

(a) Food-contact surfaces shall be corrosion-free and made of nontoxic material that will not crack or disintegrate in normal operation and will withstand the environment of its intended use and the action of food ingredients, cleaning compounds, and sanitizing agents. All food-contact surfaces shall be maintained to prevent product contamination and shall be in compliance with section 409 of the act (21 U.S.C. 348) as it pertains to indirect food additives.

(b) Seams on food-contact surfaces shall be smoothly bonded or maintained so as to prevent microbiological contamination in places where dirt or organic material might accumulate.

(c) Nonfood-contact surfaces of equipment shall be so constructed that they can be kept in a clean condition.

(d) Regulating and/or recording controls, thermometers, other temperature measuring devices, and temperature recording devices on equipment used to pasteurize raw materials or products shall be accurate and effective for their designated uses. The accuracy of temperature controlling, measuring, and recording devices on equipment used to control or prevent undesirable microbial growth in raw materials or finished products shall be within ±2° F.

(e) Each freezer and cold storage compartment used for storing or holding raw materials or products capable of supporting growth of microorganisms shall be fitted with an indicating thermometer, temperature measuring device, or temperature recording device so installed as to show accurately the temperature within the compartment, and should be fitted with an automatic control for regulating temperature or an automatic alarm system to indicate a significant temperature change in a manual operation.

(f) Cooling tunnels on processing lines shall have access doors or other provisions to permit cleaning of the interior.

Subpart D—[Reserved]

Subpart E—Production and Process Controls

§ 118.80 Processes and controls.

The manufacturer shall employ appropriate quality control procedures and treatments to ensure that raw materials and finished products are wholesome and fit for food, that packaging materials are safe and suitable and that all of the foregoing materials are otherwise in compliance with the Federal Food, Drug, and Cosmetic Act.

(a) *Handling of raw materials.* (1) Milk and milk products shall have been pasteurized before use, and egg products shall have been pasteurized or otherwise treated to destroy viable Salmonella microorganisms before use, or these materials (i.e., milk, milk products and egg products) shall be pasteurized or otherwise treated during processing operations to destroy pathogenic microorganisms. The manufacturer shall ensure that gelatin, dried coconut, nuts, and other raw materials susceptible to contamination by pathogenic microorganisms are free of such microorganisms before these materials are incorporated into finished products unless these materials are pasteurized or otherwise treated before or during processing operations to destroy pathogenic microorganisms. Compliance with this requirement may be accomplished by purchasing these materials under a supplier's guarantee or certification, or verified by analyzing these materials for pathogenic microorganisms.

(2) The manufacturer shall ensure that peanuts, Brazil nuts, pistachio nuts,

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filberts, walnuts, almonds, pecans, corn meal, and other raw materials susceptible to aflatoxin contamination comply with current Food and Drug Administration regulations, guidelines, and action levels for poisonous or deleterious substances before these materials are incorporated into finished products. Compliance with this requirement may be accomplished by purchasing these materials under a supplier's guarantee or certification, or verified by analyzing these materials for aflatoxins.

(3) The manufacturer shall ensure that nuts, raisins, cacao beans, spices, rework, return, and other raw materials susceptible to infestation or contamination by animals, birds, vermin, microorganisms, or extraneous material comply with current Food and Drug Administration regulations, guidelines, and action levels for natural or unavoidable defects before these materials are incorporated into finished products. Compliance with this requirement may be verified by examining these materials for infestation and contamination.

(b) *Storing and holding of raw materials.* Raw materials shall be held in containers so designed and constructed as to prevent raw material contamination. Raw materials and packaging materials shall be held at such temperature and relative humidity and in such a manner as to prevent their adulteration due to contamination or decomposition.

(1) Materials capable of supporting growth of pathogenic microorganisms shall be stored at a temperature below 40° F or above 140° F, except for such period of time actually required for the processing involved and which does not affect the wholesomeness of the raw materials.

(2) Frozen materials shall be kept frozen and should be stored at a temperature of 0° F or below.

(3) Liquid sugars shall be held in such a manner as to prevent microbial growth or any other direct or indirect contamination. Storage tanks for liquid sugars shall have filtered air-intake vents.

(4) Liquid mixtures containing egg products or other perishable materials and capable of supporting growth of pathogenic microorganisms shall be held in such a manner as to preclude the growth of these microorganisms or shall be processed in such a manner as to destroy these microorganisms. This may be accomplished by:

(i) Maintaining the mixtures at a temperature below 40° F after removal from storage and disposing of the unused portion at least every 12 hours during operations and at the end of the day's operation; or

(ii) Maintaining the mixture at a temperature below 50° F after removal from storage and disposing of the unused portion at least every 4 hours during operations and at the end of the day's operation; or

(iii) Pasteurizing or otherwise treating the mixtures during processing operations to destroy pathogenic microorganisms.

(c) *Processing operations.* (1) Frozen egg products shall be defrosted in a sanitary manner and by such methods that their wholesomeness is not adversely affected. This may be accomplished by defrosting at a temperature of 40° F or below, or by defrosting at a temperature above 40° F for a period of time not exceeding 24 hours: *Provided*, That the temperature in any part of the defrosted liquid does not exceed 50° F.

(2) Processes intended to pasteurize or otherwise treat materials to destroy pathogenic microorganisms shall be scientifically determined to be adequate under the conditions of manufacture for a given product to ensure destruction of such microorganisms.

(3) Rework and return shall be considered as raw materials. They shall be held in properly identified containers in a manner to prevent product contamination.

(4) Waste shall not contribute to direct or indirect product contamination. This may be accomplished by holding the waste in properly identified containers and removing it from the processing area daily.

(5) Effective measures shall be taken to prevent cross contamination between raw materials and finished products or between refuse and these materials. When any of these materials are unprotected they shall not be handled simultaneously in a receiving, loading, or shipping area. Raw materials and products transported by conveyor shall be protected against contamination from extraneous material.

(6) Equipment, containers, and utensils used to convey, process, hold or store raw materials or products shall be handled during processing or storage in such a manner as to prevent raw material or product contamination.

(7) Effective measures shall be taken to prevent the inclusion of metal or other extraneous material in finished products. This may be accomplished by using suitable equipment such as sieves, magnets, electronic metal detectors, or by other effective means.

(8) Effective measures shall be taken to remove extraneous material from molding starch before it is reused in molding operations. This may be accomplished by passing the starch through a sieve and a metal trap or by otherwise treating it to remove extraneous material.

(9) The cooling and winnowing of roasted cacao beans and the processing and storage of cocoa nibs shall be carried out in such a manner as to prevent product contamination.

(10) Cacao bean shell, dust, and other residue particles resulting from cracking operations shall be handled and held in such a manner as to prevent product contamination.

(11) Adulterated materials shall be disposed of in such a manner as to prevent raw material, rework, return, or finished product contamination, or shall be reconditioned, if feasible, and then reexamined and found to be wholesome before being incorporated into finished products.

(d) *Coding.* Permanently legible code marks shall be placed at a readily visible location on each shipping container or they shall be placed on each finished product package delivered or displayed to retail purchasers and be visible on the unopened package. The code marks may be placed in both locations if desired by the manufacturer. Such marks shall identify at least the plant where packed and the product lot or packaging lot.

(e) *Warehousing and distribution.* Finished products shall be handled in storage, during shipment, and while being held for sale in such a manner as to prevent product contamination. Transportation equipment, warehouses, and other facilities used for storing, holding, or transporting finished products shall be of such design and construction as to prevent contamination or adulteration of the products. Such facilities and equipment shall be free of vermin or other objectionable conditions.

Subpart F—Records and Reports

§ 118.100 Records.

(a) Records shall be maintained of the results of examinations of raw materials, packaging materials, and finished products. Suppliers' guarantees or certifications that verify compliance with Food and Drug Administration regulations and guidelines shall be retained.

(b) Processing and production records covering processes intended to pasteurize or otherwise treat materials to destroy pathogenic microorganisms shall be maintained, and shall contain sufficient information to permit a public health evaluation of the processes.

(c) Records shall be maintained to identify the initial distribution of the finished product to facilitate, when necessary, the segregation of specific food lots that may have become contaminated or otherwise rendered unfit for their intended use.

(d) The records required by paragraphs (a), (b), and (c) of this section shall be retained for a period of time that exceeds the shelf life of the finished product, except that they need not be retained more than 2 years.

PART 122—SMOKED AND SMOKE-FLAVORED FISH

Subpart A—General Provisions

Sec.
122.1 Current good manufacturing practice.
122.3 Definitions.

Subpart B—Buildings and Facilities

122.20 Plants and grounds.
122.35 Sanitary facilities.
122.37 Sanitary operations.

Subpart C—Equipment

122.40 Equipment and procedures.

Subpart D—[Reserved]

Subpart E—Production and Process Controls

122.80 Processes and controls.

AUTHORITY: Secs. 403(a)(4), 701(a), 52 Stat. 1046, 1055 (21 U.S.C. 342(a)(4), 371(a)).

Subpart A—General Provisions

§ 122.1 Current good manufacturing practice.

(a) The criteria in Part 110 of this chapter shall apply in determining whether the facilities, methods, practices, and controls used for the manufacture, processing, packing, or holding of fish and seafood products are in conformance with and are operated or administered in conformity with good manufacturing practice to produce, under sanitary conditions, food for human consumption.

(b) The criteria in this part set forth additional requirements for the hot-process smoked or hot-process smoke-flavored fish industry.

§ 122.3 Definitions.

For the purposes of this part, the following definitions apply:

(a) "Smoked fish" means any fish that is prepared by treating it with salt (sodium chloride) and then subjecting it to the direct action of smoke from burning wood, sawdust, or similar material.

(b) "Smoke-flavored fish" means any fish that is prepared by treating it with salt (sodium chloride) and then imparting to it the flavor of smoke by other than the direct action of smoke. This paragraph does not alter the labeling requirements under § 101.22 of this chapter.

(c) "Loin muscle" means the longitudinal quarter of the great lateral muscle freed from skin, scales, visible blood clots, bones, gills, and viscera and from the nonstriated part of such muscle, which part is known anatomically as the median superficial muscle.

(d) "Water phase salt" means the percent salt (sodium chloride) in the finished product as determined by the method described in sections 18.009 and 18.010 of the "Official Methods of Analysis of the Association of Agricultural Chemists," 10th edition, page 273 (1965), multiplied by 100 and divided by the percent salt (sodium chloride) plus the percent moisture in the finished product as determined by the method described in section 18.006 of said edition.

(e) "Hot-process smoked or hot-process smoke-flavored fish" means the finished food prepared by subjecting forms of smoked fish referred to in paragraphs (a) and (b) of this section to heat as prescribed in § 122.80(d).

Subpart B—Buildings and Facilities

§ 122.20 Plants and grounds.

(a) Unloading platforms shall be:

(1) Made of readily cleanable material.

(2) Equipped with drainage facilities adequate to accommodate all seepage and wash water.

(b) The following processes should be carried out in separate rooms or facilities, and the interior walls separating these processes should extend from floor to ceiling and contain only necessary openings (such as for conveyors and doorways):

(1) Receiving or shipping.

(2) Storage of raw fish.

(3) Presmoking operations (thawing, dressing, brining, etc.).

(4) Drying and smoking.

(c) The following processes shall be carried out in separate rooms or facilities, and the interior walls separating these processes shall extend from floor to ceiling and contain only necessary openings (such as for conveyors and doorways):

(1) Cooling and packing.

(2) Storage of final product.

(d) The product shall be so processed as to prevent contamination by exposure to areas, utensils, or equipment, involved in earlier processing steps, refuse, or other objectionable areas.

§ 122.35 Sanitary facilities.

(a) Adequate hand-washing and sanitizing facilities shall be located in the processing room(s) or in one area easily accessible from the processing room(s).

(b) Readily understandable signs directing employees to wash and sanitize their hands after each absence from post of duty shall be conspicuously posted in the processing room(s) and elsewhere in the plant as conditions require.

(c) Offal shall be placed in suitable covered containers for removal at least once a day, or more frequently if necessary, or shall be removed by conveyors or chutes. Offal, debris, or refuse from any source whatever shall not be allowed to accumulate in or about the plant.

§ 122.37 Sanitary operations.

(a) Before beginning the day's operation, all utensils and product-contact surfaces of equipment to be used for the day's operation shall be rinsed and sanitized.

(b) Containers used to convey or store fish shall not be nested while they contain fish or otherwise handled during processing or storage in a manner conducive to direct or indirect contamination of their contents.

(c) Cleaning and sanitizing of utensils and portable equipment should be conducted in an area set aside for these purposes and shall be carried out in such a manner as to prevent contamination of the fish or fish products.

Subpart C—Equipment

§ 122.40 Equipment and procedures.

(a) All food-contact surfaces (tanks, belts, tables, utensils, and other equipment) shall be made of readily cleanable materials.

(b) Metal seams shall be smoothly soldered, welded, or bonded.

(c) Each freezer and cold storage compartment used for the product shall be fitted with at least the following:

(1) An automatic control for regulating temperature.

(2) An indicating thermometer so installed as to show accurately the temperature within the compartment.

(3) A recording thermometer so installed as to indicate accurately at all times the temperature within the compartment.

(d) Thermometers or other temperature-measuring devices shall have an accuracy of ±2° F.

Subpart D—[Reserved]

Subpart E—Production and Process Controls

§ 122.80 Processes and controls.

(a) *Raw materials.* (1) Fresh fish received shall be inspected and adequately washed before processing. Only sound, wholesome fish free from adulteration and organoleptically detectable spoilage shall be processed.

(2) Every lot of fish that has been partially processed in another plant, including frozen fish, shall be adequately inspected, and only clean, wholesome fish shall be processed.

(3) Fresh or partially processed fish, except those to be immediately processed, shall be iced or otherwise refrigerated to an internal temperature of 38° F or below upon receipt and shall be maintained at that temperature until the fish are to be processed.

(4) All fish received in a frozen state shall be either thawed promptly and processed, or stored at a temperature that will maintain it in a frozen state.

(b) *Defrosting of frozen fish.* (1) Defrosting shall be carried out in a sanitary manner and by such methods that the wholesomeness of the fish is not adversely affected. Frozen fish shall be defrosted:

(i) In air at 45° F or below until other than hard frozen; or

(ii) In air so that the temperature in any part of the fish does not exceed 45° F; or

(iii) In a continuous water-overflow thaw tank or spray system in such a manner that the temperature in any part of the fish does not exceed 45° F.

(2) When a thaw tank is used, fish should not remain in the tank longer than one-half hour after they are completely defrosted.

(3) Fish entering the thaw tanks shall be free of exterior packaging material and substantially free of liner material.

(4) After thawing, fish shall be washed thoroughly with a vigorous water spray or a continuous waterflow system.

(c) *Presmoking operation.* (1) Evisceration of fish shall be performed with minimum disturbance of intestinal tract contents. Removal of viscera shall be complete.

(2) After the evisceration process, the fish (including the body cavity) shall be thoroughly washed with a vigorous water spray or a continuous waterflow system.

(3) All fish shall be dry-salted at a temperature not to exceed 38° F throughout the fish, or shall be brined in such a manner that the temperature of the fish and the brine:

(i) Does not exceed 60° F at the start of brining, and

(ii) If between 38° F and 50° F at the start of brining, is continuously lowered to 38° F or below within 12 hours, and

(iii) If between 50° F and 60° F at the start of brining, is continuously lowered to 50° F or below within 2 hours and to 38° F or below within the following 10 hours, and

(iv) Does not rise above 38° F after reaching that temperature or below

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either prior to or during the brining operation.

(4) Hot-process smoked or hot-process smoke-flavored fish shall be brined in such a manner that the final salt (sodium chloride) content of the loin muscle of the finished product, expressed as percent in the water phase of the loin muscle, shall not be less than:

(i) 3.5 percent if heat-processed as prescribed under paragraph (d)(2)(i) of this section; or

(ii) 5.0 percent if heat-processed as prescribed under paragraph (d)(2)(ii) of this section.

(5) Fish shall be rinsed with fresh water after brining.

(d) *Heating, cooking, smoking operation.* (1) A point-sensitive, continuous temperature-recording device shall be used to monitor both the internal temperature of the fish and the ambient temperature within the oven. Each recording-device record shall be identified as to the specific oven load and date processed.

(2) Hot-process smoked or hot-process smoke-flavored fish shall be heated by a controlled heat process that provides a monitoring system positioned in as many strategic locations in the oven as necessary to assure a continuous temperature throughout each fish of:

(i) Not less than 180° F for a minimum of 30 minutes for hot-process smoked or hot-process smoke-flavored fish which have been brined to contain 3.5 percent water phase salt in the finished product as prescribed in paragraph (c)(4)(i) of this section, except that smoked chub containing sodium nitrite as provided for in § 172.177 of this chapter shall be processed in accordance with that section; or

(ii) Not less than 150° F for a minimum of 30 minutes for hot-process smoked or hot-process smoke-flavored fish which have been brined to contain 5.0 percent water phase salt in the finished product as prescribed in paragraph (c)(4)(ii) of this section.

(e) *Packing.* (1) The finished product shall be handled only with clean, sanitized hands, gloves, or utensils.

(2) Manual manipulation of the finished product shall be kept to a minimum.

(3) The finished product shall be cooled to a temperature of 50° F or below within 3 hours after cooking and further cooled to a temperature of 38° F or below within 12 hours after cooking, and this temperature shall be maintained during all subsequent storage and distribution.

(4) The shipping containers, retail packages, and shipping records shall indicate by appropriate labeling the perishable nature of the product and shall specify that the product shall be shipped, stored, and/or held for sale at 38° F or below until consumed.

(5) Permanently legible code marks shall be placed on the outer layer of every finished product package and master carton. Such marks shall identify at least the plant where packed, the date of packing, and the oven load. Records shall be so maintained as to provide positive identification (i) of the process procedures used for the manufacture of hot-process smoked or hot-process smoke-flavored fish and (ii) of the distribution of the finished product.

(f) *Testing.* (1) Microbiological examination of in-line and finished product samples should be conducted with sufficient frequency to assure that processing steps and sanitary procedures are adequate.

(2) The finished product shall be analyzed chemically with sufficient frequency to assure that the required salinity is obtained in every fish and that other chemical additives are present at authorized levels.

PART 123—FROZEN RAW BREADED SHRIMP

Subpart A—General Provisions

Sec.
123.1 Current good manufacturing practice.
123.3 Definitions.

Subpart B—Buildings and Facilities

123.20 Plants and grounds.
123.35 Sanitary facilities and controls.
123.37 Sanitary operations.

Subpart C—Equipment

123.40 Equipment and procedures.

Subpart D—[Reserved]

Subpart E—Production and Process Controls

123.80 Processes and controls.

AUTHORITY: Secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055 (21 U.S.C. 342(a)(4), 371(a)).

Subpart A—General Provisions

§ 123.1 Current good manufacturing practice.

The criteria in Part 110 of this chapter shall apply in determining whether the facilities, methods, practices, and controls for the manufacture, processing, packing, or holding of fish and seafood products are in conformance with and are operated or administered in conformity with good manufacturing practice to produce, under sanitary conditions, food for human consumption. The criteria in §§ 123.20, 123.35, 123.37, 123.40, and 123.80 set forth requirements in addition to those in Part 110 of this chapter for the breaded shrimp industry.

§ 123.3 Definitions.

For the purposes of this part, the following definitions apply:

(a) "Breaded shrimp" means any form of frozen raw breaded shrimp or frozen raw lightly breaded shrimp which complies with or is in semblance of that defined in §§ 161.175 and 161.176, respectively, of this chapter.

(b) "Peeling" shall include the operation whereby raw shrimp are prepared to comply with § 161.175(c) of this chapter and, where applicable, the alimentary canal or vein is removed.

Subpart B—Buildings and Facilities

§ 123.20 Plants and grounds.

(a) Unloading platforms shall be:

(1) Made of a readily cleanable material.

(2) Equipped with drainage facilities adequate to accommodate all seepage and wash water.

(b) The product shall be so processed as to prevent contamination by exposure to areas involved in earlier processing steps, refuse, or other objectionable areas.

§ 123.35 Sanitary facilities and controls.

(a) Adequate hand-washing and sanitizing facilities shall be located in the processing area, easily accessible from the peeling and subsequent processing operations.

(b) Readily understandable signs directing employees handling shrimp to wash and sanitize their hands after each absence from post of duty shall be conspicuously posted in the peeling and subsequent processing areas and elsewhere in the plant as conditions require.

(c) Offal, debris, or refuse from any source whatsoever shall not be allowed to accumulate. Offal shall be placed in suitable, covered containers and shall be removed not less than once daily or shall be continuously removed by flumes, conveyors, or chutes.

§ 123.37 Sanitary operations.

(a) Batter application equipment, except that prescribed under § 123.80(d)(3), shall be flushed and sanitized at least every 4 hours during plant operations. All batter application equipment shall be cleaned and sanitized at the end of the day's operation.

(b) Breading application equipment and utensils, excluding holding tanks and pneumatic systems, shall be thoroughly cleaned and sanitized at the end of the day's operation.

(c) All utensils used in processing and product-contact surfaces of equipment shall be thoroughly cleaned and sanitized at least every 4 hours during operation; however, this shall not apply to equipment for which other specific minimum cleaning times are established or to freezing equipment.

(d) Before beginning the day's operation, all utensils and product-contact surfaces of equipment, except for those prescribed under paragraph (b) of this section, shall be rinsed and sanitized.

(e) Containers used to convey or store food shall not be handled in a manner conducive to direct or indirect contamination of the contents.

Subpart C—Equipment

§ 123.40 Equipment and procedures.

(a) All food-contact surfaces (tanks, belts, tables, flumes, utensils, and other equipment) shall be of metal or other readily cleanable materials.

(b) All seams shall be smoothly soldered, welded, or bonded to prevent accumulation of shrimp, shrimp material, and debris.

(c) Each freezer and cold storage compartment used for raw materials, materials in process, or finished products shall be fitted with at least the following:

(1) An automatic control for regulating temperature, or an automatic alarm system to indicate a significant temperature change in a manual operation.

(2) An indicating thermometer so installed as to show accurately the temperature within the compartment.

(3) A recording thermometer so installed as to indicate accurately at all times the temperature within the compartment.

(d) Thermometers or other temperature measuring devices shall have an accuracy of ±2° F.

Subpart D—[Reserved]

Subpart E—Production and Process Controls

§ 123.80 Processes and controls.

(a) *Raw materials.* (1) Fresh shrimp shall be adequately washed, inspected, and culled to remove shrimp that are filthy, putrid, or decomposed, and to remove all nonshrimp material.

(2) Every lot of shrimp that has been partially processed in another plant, including frozen shrimp, shall be inspected, and only cleaned, wholesome shrimp shall be processed.

(3) Fresh or partially processed shrimp shall be iced or otherwise refrigerated to maintain the shrimp at a temperature of 40° F or below until they are to be processed.

(4) Frozen shrimp shall be stored at a temperature of 0° F or below.

(5) Ingredients capable of supporting rapid bacterial growth shall be examined to assure that only clean, wholesome materials are used in production.

(b) *Defrosting of frozen shrimp.* (1) Defrosting shall be carried out in a sanitary manner and by such methods that the wholesomeness of the shrimp is not adversely affected; for example, in air at 45° F or below until other than hard frozen or in a continuous waterflow thaw tank or spray system.

(2) When a thaw tank is used, shrimp should not remain in the tank any longer than one-half hour after they are thawed.

(3) Shrimp entering the thaw tank should be free of exterior packaging material and substantially free of liner material.

(4) On removal from the thaw tank, shrimp shall be washed with a vigorous water spray.

(c) *Peeling operation.* (1) Shrimp shall be peeled into flumes that immediately transport the meat portion from the machines or peeling tables, except that shrimp may be peeled into seamless containers if the peeled meats are not held in such containers for more than 20 minutes before being flumed or conveyed from peeling tables. If shrimp are peeled into such containers, the containers shall be cleaned and sanitized as often as necessary to maintain them in a sanitary condition, but in no case less frequently than every 3 hours. Whenever a peeler is absent from his post of duty, the container used by such peeler shall be cleaned and sanitized before peeling is resumed.

(2) Sanitary drainage shall be provided to remove liquid waste from the peeling tables.

(3) Peeled shrimp being transported from one building of the plant to another shall be properly iced or refrigerated, covered, and protected.

(d) *Batter and breading operation.* (1) Shrimp shall be washed with a low-velocity spray or in unrecirculated flowing water at 50° F or below just prior to the initial batter or breading application, whichever comes first, except in those instances where a predust application is included in the process.

(2) In removing the batter or breading mixes or other dry ingredients from multiwalled bags:

(i) The outer layer of the bag shall first be removed.

(ii) The bag shall be slit in the exposed area and the contents removed without contact with the seam ends or closures.

(iii) If the entire contents are not removed at one time, the remainder shall be protected against contamination.

(3) Batter in enclosed equipment that assures a batter temperature of not more than 40° F shall be disposed of at the end of each work day, but under no circumstances less often than every 12 hours.

(4) Batter, except for that prescribed under paragraph (d)(3) of this section, shall be maintained at a temperature of 50° F or below and shall be disposed of at least every 4 hours during operations and at the end of the day's operation.

(5) Breading may be reused during a day's operation if it is sifted through a screen of one-quarter inch or smaller mesh. Breading remaining in the breading application equipment at the end of the day's operation may be reused within 20 hours if it is sifted as set forth above and placed in freezer storage in a covered sanitary container. All material removed by sifting shall be discarded.

(e) *Packing.* (1) Manual manipulation of breaded shrimp shall be kept to a minimum.

(2) The outer layers of the finished product package and the master carton shall bear a caution to keep the product thoroughly frozen and not to refreeze.

(3) Permanently legible code marks shall be placed on every finished package and master carton. Such marks should identify at least the date of packing and the plant where packed.

(4) The aggregate processing time, excluding the time required for thawing frozen raw material, shall be less than 2 hours. Processing time does not include time in iced or refrigerated storage.

(5) Breaded shrimp shall be placed into the freezer within 30 minutes after it is packaged.

(f) *Freezing and cold storage.* (1) The freezing method used shall reduce the temperature of the food product in all size packages to 32° F within 12 hours and shall produce a thoroughly frozen product within 24 hours.

(2) After freezing, the food shall be stored in such a manner that its temperature does not exceed 0° F and shall be handled in such manner as will maintain the thoroughly frozen condition.

(g) *Testing.* The microbiological condition of the operation shall be evaluated by the periodic collection and analysis of in-line and finished product samples coupled with sample-related inspections. This evaluation should be made at least weekly; more often when problems are encountered.

PART 129—PROCESSING AND BOTTLING OF BOTTLED DRINKING WATER

Subpart A—General Provisions

Sec.
129.1 Current good manufacturing practice.
129.3 Definitions.

Subpart B—Buildings and Facilities

129.20 Plant construction and design.
129.35 Sanitary facilities.
129.37 Sanitary operations.

Subpart C—Equipment

129.40 Equipment and procedures.

Subpart D—[Reserved]

Subpart E—Production and Process Controls

129.80 Processes and controls.

AUTHORITY: Secs. 402(a)(4), 400, 701(a), 52 Stat. 1046, 1055; 72 Stat. 1785–1788 (21 U.S.C. 342(a)(4), 348, 371(a)).

Subpart A—General Provisions

§ 129.1 Current good manufacturing practice.

The applicable criteria in Part 110 of this chapter, as well as the criteria in §§ 129.20, 129.35, 129.37, 129.40, and 129.80 shall apply in determining whether the facilities, methods, practices, and controls used in the processing, bottling, holding, and shipping of bottled drinking water are in conformance with or are operated or administered in conformity with good manufacturing practice to assure that bottled drinking water is safe and that it has been processed, bottled, held, and transported under sanitary conditions.

§ 129.3 Definitions.

For the purposes of this part, the following definitions apply:

(a) "Approved source" when used in reference to a plant's product water or operations water means that the source of the water and the water therefrom, whether it be from a spring, artesian well, drilled well, municipal water supply, or any other source, shall have been inspected and the water sampled, analyzed, and found to be of a safe and sanitary quality in accordance with the applicable laws and regulations of the government agency or agencies having jurisdiction. The presence, in the plant, of current certificates or notifications of approval from the government agency or agencies having jurisdiction shall constitute approval of the source and the water supply.

(b) "Bottled drinking water" means all water which is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

(c) "Lot" means a collection of primary containers or unit packages of the same size, type, and style produced under conditions as nearly uniform as possible and designated by a common container code or marking.

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(d) "Multiservice containers" means containers intended for use more than one time.

(e) "Nontoxic materials" means materials for product water contact surfaces utilized in the transporting, processing, storing, and packaging of bottled drinking water, which are free of substances which may render the water injurious to health or which may adversely affect the flavor, color, odor, or bacteriological quality of the water.

(f) "Operations water" means water which is delivered under pressure to a plant for container washing, hand washing, plant and equipment cleanup and for other sanitary purposes.

(g) "Primary container" means the immediate container in which the product water is packaged.

(h) "Product water" means processed water used by a plant for bottled drinking water.

(i) "Shall and should." "Shall" refers to mandatory requirements and "should" refers to recommended or advisory procedures or equipment.

(j) "Shipping case" means a container in which one or more primary containers of the product are held.

(k) "Single-service container" means a container intended for one time usage only.

(l) "Unit package" means a standard commercial package of bottled drinking water, which may consist of one or more containers.

Subpart B—Buildings and Facilities

§ 129.20 Plant construction and design.

(a) The bottling room shall be separated from other plant operations or storage areas by tight walls, ceilings, and self-closing doors to protect against contamination. Conveyor openings shall not exceed the size required to permit passage of containers.

(b) If processing operations are conducted in other than a sealed system under pressure, adequate protection shall be provided to preclude contamination of the water and the system.

(c) Adequate ventilation shall be provided to minimize condensation in processing rooms, bottling rooms, and in container washing and sanitizing areas.

(d) The washing and sanitizing of containers for bottled drinking water shall be performed in an enclosed room. The washing and sanitizing operation shall be positioned within the room so as to minimize any possible post-sanitizing contamination of the containers before they enter the bottling room.

(e) Rooms in which product water is handled, processed, or held or in which containers, utensils, or equipment are washed or held shall not open directly into any room used for domestic household purposes.

§ 129.35 Sanitary facilities.

Each plant shall provide adequate sanitary facilities including, but not limited to, the following:

(a) *Product water and operations water*—(1) *Product water.* The product water supply for each plant shall be from an approved source properly located, protected, and operated and shall be easily accessible, adequate, and of a safe, sanitary quality which shall be in conformance at all times with the applicable laws and regulations of the government agency or agencies having jurisdiction.

(2) *Operations water.* If different from the product water supply, the operations water supply shall be obtained from an approved source properly located, protected, and operated and shall be easily accessible, adequate, and of a safe, sanitary quality which shall be in conformance at all times with the applicable laws and regulations of the government agency or agencies having jurisdiction.

(3) *Product water and operations water from approved sources.* (i) Water samples shall be taken from approved sources by the plant as often as is necessary, but at a minimum frequency of twice each year with an interval between samples of not less than 5 months nor more than 7 months to assure that the supply is in conformance with the applicable standards, laws, and regulations of the government agency or agencies having jurisdiction. The sampling and analysis shall be by qualified plant personnel and shall be in addition to any sampling performed by the government agency or agencies having jurisdiction. Records of both government agency approval of the water source and the sampling and analysis performed by the plant shall be maintained on file at the plant.

(ii) Test and sample methods shall be those recognized and approved by the government agency or agencies having jurisdiction over the approval of the water source, and shall be consistent with the minimum requirements set forth in § 103.35 of this chapter.

(iii) Analysis of the samples may be performed for the plant by competent commercial laboratories.

(b) *Air under pressure.* Whenever air under pressure is directed at product water or a product water-contact surface, it shall be free of oil, dust, rust, excessive moisture, and extraneous materials; shall not affect the bacteriological quality of the water; and should not adversely affect the flavor, color, or odor of the water.

(c) *Locker and lunchrooms.* When employee locker and lunchrooms are provided, they shall be separate from plant operations and storage areas and shall be equipped with self-closing doors. The rooms shall be maintained in a clean and sanitary condition and refuse containers should be provided. Packaging or wrapping material or other processing supplies shall not be stored in locker or lunchrooms.

NOTE: Paragraph (a)(3) of § 129.35 (formerly § 128d.5) was partially stayed at 40 FR 51104, Nov. 4, 1975.

§ 129.37 Sanitary operations.

(a) The product water-contact surfaces of all multiservice containers, utensils, pipes, and equipment used in the transportation, processing, handling, and storage of product water shall be clean and adequately sanitized. All product water-contact surfaces shall be inspected by plant personnel as often as necessary to maintain the sanitary condition of such surfaces and to assure they are kept free of scale, evidence of oxidation, and other residue. The presence of any unsanitary condition, scale, residue, or oxidation shall be immediately remedied by adequate cleaning and sanitizing of that product water-contact surface prior to use.

(b) After cleaning, all multiservice containers, utensils, and disassembled piping and equipment shall be transported and stored in such a manner as to assure drainage and shall be protected from contamination.

(c) Single-service containers and caps or seals shall be purchased and stored in sanitary closures and kept clean therein in a clean, dry place until used. Prior to use they shall be examined, and as necessary, washed, rinsed, and sanitized and shall be handled in a sanitary manner.

(d) Filling, capping, closing, sealing, and packaging of containers shall be done in a sanitary manner so as to preclude contamination of the bottled drinking water.

Subpart C—Equipment

§ 129.40 Equipment and procedures.

(a) *Suitability.* (1) All plant equipment and utensils shall be suitable for their intended use. This includes all collection and storage tanks, piping, fittings, connections, bottle washers, fillers, cappers, and other equipment which may be used to store, handle, process, package, or transport product water.

(2) All product water contact surfaces shall be constructed of nontoxic and nonabsorbant material which can be adequately cleaned and sanitized and is in compliance with section 409 of the act.

(b) *Design.* Storage tanks shall be of the type that can be closed to exclude all foreign matter and shall be adequately vented.

Subpart D—[Reserved]

Subpart E—Production and Process Controls

§ 129.80 Processes and controls.

(a) *Treatment of product water.* All treatment of product water by distillation, ion-exchanging, filtration, ultraviolet treatment, reverse osmosis, carbonation, mineral addition, or any other process shall be done in a manner so as to be effective in accomplishing its intended purpose and in accordance with section 409 of the Federal Food, Drug, and Cosmetic Act. All such processes shall be performed in and by equipment and with substances which will not adulterate the bottled product. A record of the type and date of physical inspections of such equipment, conditions found, and the performance and effectiveness of such equipment shall be maintained by the plant. Product water samples shall be taken after processing and prior to bottling by the plant and analyzed as often as is necessary to assure uniformity and effectiveness of the processes performed by the plant. The methods of analysis shall be those approved by the government agency or agencies having jurisdiction.

(b) *Containers.* (1) Multiservice primary containers shall be adequately cleaned, sanitized, and inspected just prior to being filled, capped, and sealed. Containers found to be unsanitary or defective by the inspection shall be reprocessed or discarded. All multiservice primary containers shall be washed, rinsed, and sanitized by mechanical washers or by any other method giving adequate sanitary results. Mechanical washers shall be inspected as often as is necessary to assure adequate performance. Records of physical maintenance, inspections and conditions found, and performance of the mechanical washer shall be maintained by the plant.

(2) Multiservice shipping cases shall be maintained in such condition as to assure they will not contaminate the primary container or the product water. Adequate dry or wet cleaning procedures shall be performed as often as necessary to maintain the cases in satisfactory condition.

(c) *Cleaning and sanitizing solutions.* Cleaning and sanitizing solutions utilized by the plant shall be sampled and tested by the plant as often as is necessary to assure adequate performance in the cleaning and sanitizing operations. Records of these tests shall be maintained by the plant.

(d) *Sanitizing operations.* Sanitizing operations, including those performed by chemical means or by any other means such as circulation of live steam or hot water, shall be adequate to effect sanitization of the intended product water-contact surfaces and any other critical area. The plant should maintain a record of the intensity of the sanitizing agent and the time duration that the agent was in contact with the surface being sanitized. The following times and intensities shall be considered a minimum:

(1) Steam in enclosed system: At least 170° F for at least 15 minutes or at least 200° F for at least 5 minutes.

(2) Hot water in enclosed system: At least 170° F for at least 15 minutes or at least 200° F for at least 5 minutes.

(3) Chemical sanitizers shall be equivalent in bactericidal action to a 2-minute exposure of 50 parts per million of available chlorine at 57° F when used as an immersion or circulating solution. Chemical sanitizers applied as a spray or fog shall have as a minimum 100 parts per million of available chlorine at 57° F or its equivalent in bactericidal action.

(4) 0.1 part per million ozone water solution in an enclosed system for at least 5 minutes.

(5) When containers are sanitized using a substance other than one provided for in § 178.1010 of this chapter, such substance shall be removed from the surface of the container by a rinsing procedure. The final rinse, prior to filling the container with product water, shall be performed with a disinfected water rinse free of pathogenic bacteria or by an additional sanitizing procedure equivalent in bactericidal action to that required in paragraph (d)(3) of this section.

(e) *Unit package production code.* Each unit package from a batch or segment of a continuous production run of bottled drinking water shall be identified by a production code. The production code shall identify a particular batch or segment of a continuous production run and the day produced. The plant shall record and maintain information as to the kind of product, volume produced, date produced, lot code used, and the distribution of the finished product to wholesale and retail outlets.

(f) *Filling, capping, or sealing.* During the process of filling, capping or sealing either single-service or multiservice containers, the performance of the filler, capper or sealer shall be monitored and the filled containers visually or electronically inspected to assure they are sound, properly capped or sealed, and coded and labeled. Containers which are not satisfactory shall be reprocessed or rejected. Only nontoxic containers and closures shall be used. All containers and closures shall be sampled and inspected to ascertain that they are free from contamination. At least once each 3 months, a bacteriological swab and/or rinse count should be made from at least four containers and closures selected just prior to filling and sealing. No more than one of the four samples may exceed more than one bacteria per milliliter of capacity or one colony per square centimeter of surface area. All samples shall be free of coliform organisms. The procedure and apparatus for these bacteriological tests shall be in conformance with those recognized by the government agency or agencies having jurisdiction. Tests shall be performed either by qualified plant personnel or a competent commercial laboratory.

(g) *Compliance procedures.* To assure that the plant's production of bottled drinking water is in compliance with the applicable standards, laws, and regulations of the government agency or agencies having jurisdiction, the plant shall:

(1) For bacteriological purposes, take and analyze at least once a week a representative sample from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The representative sample shall consist of primary containers of product or unit packages of product.

(2) For chemical, physical, and radiological purposes, take and analyze at least semi-annually a representative sample from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The representative sample shall consist of primary containers of product or unit packages of product.

(3) Analyze such samples by methods approved by the government agency or agencies having jurisdiction. The plant shall maintain records of date of sampling, type of product sampled, production code, and results of the analysis.

(h) *Record retention.* All records required by §§ 129.1, 129.20, 129.35, 129.37, 129.40, and 129.80 shall be maintained at the plant for not less than 2 years. Plants shall also retain, on file at the plant, current certificates or notifications of approval issued by the government agency or agencies approving the plant's source and supply of product water and operations water. All required documents shall be available for official review at reasonable times.

PART 130—FOOD STANDARDS: GENERAL

Subpart A—General Provisions

Sec.
130.3 Definitions and interpretations.
130.5 Procedure for establishing a food standard.
130.6 Review of Codex Alimentarius food standards.
130.8 Conformity to definitions and standards of identity.
130.12 General methods for water capacity and fill of containers.
130.14 General statements of substandard quality and substandard fill of container.
130.17 Temporary permits for interstate shipment of experimental packs of food varying from the requirements of definitions and standards of identity.

Subpart B—Food Additives in Standardized Foods

130.20 Food additives proposed for use in foods for which definitions and standards of identity are established.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371).

Subpart A—General Provisions

§ 130.3 Definitions and interpretations.

(a) The definitions and interpretations of terms contained in section 201 of the act shall be applicable also to such terms when used in regulations promulgated under the act.

(b) If a regulation prescribing a definition and standard of identity for a food has been promulgated under section 401 of the act and the name therein specified for the food is used in any other regulation under section 401 or any other provision of the act, such name means the food which conforms to such definition and standard, except as otherwise specifically provided in such other regulation.

(c) No provision of any regulation prescribing a definition and standard of identity or standard of quality or fill of container under section 401 of the act shall be construed as in any way affecting the concurrent applicability of the general provisions of the act and the regulations thereunder relating to adulteration and misbranding. For example, all regulations under section 401 contemplate that the food and all articles used as components or ingredients thereof shall not be poisonous or deleterious and shall be clean, sound, and

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fit for food. A provision in such regulations for the use of coloring or flavoring does not authorize such use under circumstances or in a manner whereby damage or inferiority is concealed or whereby the food is made to appear better or of greater value than it is.

(d) "Safe and suitable" means that the ingredient:

(1) Performs an appropriate function in the food in which it is used.

(2) Is used at a level no higher than necessary to achieve its intended purpose in that food.

(3) Is not a food additive or color additive as defined in section 201 (s) or (t) of the Federal Food, Drug, and Cosmetic Act as used in that food, or is a food additive or color additive as so defined and is used in conformity with regulations established pursuant to section 409 or 706 of the act.

§ 130.5 Procedure for establishing a food standard.

(a) The procedure for establishing a food standard under section 401 of the act shall be governed by Part 2 of this chapter.

(b) Any petition for a food standard shall show that the proposal, if adopted, would promote honesty and fair dealing in the interest of consumers.

(c) Any petition for a food standard shall assert that the petitioner commits himself to substantiste the information in the petition by evidence in a public hearing, if such a hearing becomes necessary.

(d) If a petitioner fails to appear, or to substantiate the information in his petition, at a public hearing on the matter, the Commissioner may either (1) withdraw the regulation and terminate the proceeding or (2) if he concludes that it is in accordance with the requirements of section 401 of the act, continue the proceeding and introduce evidence to substantiate such information.

§ 130.6 Review of Codex Alimentarius food standards.

(a) All food standards adopted by the Codex Alimentarius Commission will be reviewed by the Food and Drug Administration and will be accepted without change, accepted with change, or not accepted.

(b) Review of Codex standards will be accomplished in one of the following three ways:

(1) Any interested person may petition the Commissioner to adopt a Codex standard, with or without change, by proposing a new standard or an appropriate amendment of an existing standard, pursuant to section 401 of the act. Any such petition shall specify any deviations from the Codex standard, and the reasons for any such deviations. The Commissioner shall publish such a petition in the FEDERAL REGISTER as a proposal, with an opportunity for comment, if reasonable grounds are provided in the petition. Any published proposal shall state any deviations from the Codex standard and the stated reasons therefor.

(2) The Commissioner may on his own initiative propose by publication in the FEDERAL REGISTER the adoption of a Codex standard, with or without change, through a new standard or an appropriate amendment to an existing standard, pursuant to section 401 of the act. Any such proposal shall specify any deviations from the Codex standard, and the reasons for any such deviations.

(3) Any Codex standard not handled under paragraph (b) (1) or (2) of this section may be published in the FEDERAL REGISTER for review and informal comment. Interested persons shall be requested to comment on the desirability and need for the standard, on the specific provisions of the standard, on additional or different provisions that should be included in the standard, and on any other pertinent points. After reviewing all such comments, the Commissioner either shall publish a proposal to establish a food standard pursuant to section 401 of the act covering the food involved, or shall publish a notice terminating consideration of such a standard.

(c) All interested persons are encouraged to confer with different interest groups (consumers, industry, the academic community, professional organizations, and others) in formulating petitions or comments pursuant to paragraph (b) of this section. All such petitions or comments are requested to include a statement of any meetings and discussions that have been held with other interest groups. Appropriate weight will be given by the Commissioner to petitions or comments that reflect a consensus of different interest groups.

§ 130.8 Conformity to definitions and standards of identity.

In the following conditions, among others, a food does not conform to the definition and standard of identity therefor:

(a) If it contains an ingredient for which no provision is made in such definition and standard, unless such ingredient is an incidental additive introduced at a nonfunctional and insignificant level as a result of its deliberate and purposeful addition to another ingredient permitted by the terms of the applicable standard and the presence of such incidental additive in unstandardized foods has been exempted from label declaration as provided in § 101.100 of this chapter.

(b) If it fails to contain any one or more ingredients required by such definition and standard;

(c) If the quantity of any ingredient or component fails to conform to the limitation, if any, prescribed therefor by such definition and standard.

§ 130.12 General methods for water capacity and fill of containers.

For the purposes of regulations promulgated under section 401 of the act:

(a) The term "general method for water capacity of containers" means the following method:

(1) In the case of a container with lid attached by double seam, cut out the lid without removing or altering the height of the double seam.

(2) Wash, dry, and weigh the empty container.

(3) Fill the container with distilled water at 68° F to 3/16 inch vertical distance below the top level of the container, and weigh the container thus filled.

(4) Subtract the weight found in paragraph (a) (2) of this section from the weight found in paragraph (a) (3) of this section. The difference shall be considered to be the weight of water required to fill the container.

In the case of a container with lid attached otherwise than by double seam, remove the lid and proceed as directed in paragraphs (a) (2) to (4) of this section, except that under paragraph (a) (3) of this section, fill the container to the level of the top thereof.

(b) The term "general method for fill of containers" means the following method:

(1) In the case of a container with lid attached by double seam, cut out the lid without removing or altering the height of the double seam.

(2) Measure the vertical distance from the top level of the container to the top level of the food.

(3) Remove the food from the container; wash, dry, and weigh the container.

(4) Fill the container with water to 3/16 inch vertical distance below the top level of the container. Record the temperature of the water, weigh the container thus filled, and determine the weight of the water by subtracting the weight of the container found in paragraph (b) (3) of this section.

(5) Maintaining the water at the temperature recorded in paragraph (b) (4) of this section, draw off water from the container as filled in paragraph (b) (4) of this section to the level of the food found in paragraph (b) (2) of this section, weigh the container with remaining water, and determine the weight of the remaining water by subtracting the weight of the container found in paragraph (b) (3) of this section.

(6) Divide the weight of water found in paragraph (b) (5) of this section by the weight of water found in paragraph (b) (4) of this section, and multiply by 100. The result shall be considered to be the percent of the total capacity of the container occupied by the food.

In the case of a container with lid attached otherwise than by double seam, remove the lid and proceed as directed in paragraphs (b) (2) to (6) of this section, except that under paragraph (b) (4) of this section, fill the container to the level of the top thereof.

§ 130.14 General statements of substandard quality and substandard fill of container.

For the purposes of regulations promulgated under section 401 of the act:

(a) The term "general statement of substandard quality" means the statement "Below Standard in Quality Good Food—Not High Grade" printed in two lines of Cheltenham bold condensed caps. The words "Below Standard in Quality" constitute the first line, and the second immediately follows. If the quantity of the contents of the container is less than 1 pound, the type of the first line is 12-point, and of the second, 8-point. If such quantity is 1 pound or more, the type of the first line is 14-point, and of the second, 10-point. Such statement is enclosed within lines, not less than 6 points in width, forming a rectangle. Such statement, with enclosing lines, is on a strongly contrasting, uniform background, and is so placed as to be easily seen when the name of the food or any pictorial representation thereof is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

(b) The term "general statement of substandard fill" means the statement "Below Standard in Fill" printed in Cheltenham bold condensed caps. If the quantity of the contents of the container is less than 1 pound, the statement is in 12-point type; if such quantity is 1 pound or more, the statement is in 14-point type. Such statement is enclosed within lines, not less than 6 points in width, forming a rectangle; but if the statement specified in paragraph (a) of this section is also used, both statements (one following the other) may be enclosed within the same rectangle. Such statement or statements, with enclosing lines, are on a strongly contrasting, uniform background, and are so placed as to be easily seen when the name of the food or any pictorial representation thereof is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

§ 130.17 Temporary permits for interstate shipment of experimental packs of food varying from the requirements of definitions and standards of identity.

(a) The Food and Drug Administration recognizes that before petitions to amend food standards can be submitted, appropriate investigations of potential advances in food technology sometimes require tests in interstate markets of the advantages to find acceptance by consumers of experimental packs of food varying from applicable definitions and standards of identity prescribed under section 401 of the act.

(b) It is the purpose of the Food and Drug Administration to permit such tests when it can be ascertained that the sole purpose of the tests is to obtain data necessary for reasonable grounds in support of a petition to amend food standards, that the tests are necessary to the completion or conclusiveness of an otherwise adequate investigation, and that the interests of consumers are adequately safeguarded; permits for such tests shall normally be for a period not to exceed 15 months. The Commissioner, for good cause shown by the applicant, may provide for a longer test market period. The Food and Drug Administration will therefore refrain from recommending regulatory proceedings under the act on the charge that a food does not conform to an applicable standard, if the person who introduces or causes the introduction of the food into interstate commerce holds an effective permit from the Commissioner providing specifically for those variations in respect to which the food fails to conform to the applicable definition and standard of identity. The test period will begin on the date the person holding an effective permit from the Commissioner introduces or causes the introduction of the food covered by the permit into interstate commerce but not later than 3 months after notice of the issuance of the permit is published in the FEDERAL REGISTER. The Commissioner shall be notified in writing of the date on which the test period begins as soon as it is determined.

(c) Any person desiring a permit may file with the Commissioner a written application in triplicate containing as part thereof the following:

(1) Name and address of the applicant.

(2) A statement of whether or not the applicant is regularly engaged in producing the food involved.

(3) A reference to the applicable definition and standard of identity (citing applicable section of regulations).

(4) A full description of the proposed variation from the standard.

(5) The basis upon which the food so varying is believed to be wholesome and nondeleterious.

(6) The amount of any new ingredient to be added; the amount of any ingredient, required by the standard, to be eliminated; any change of concentration not contemplated by the standard; or any change in name that would more appropriately describe the new product under test. If such new ingredient is not a commonly known food ingredient, a description of its properties and basis for concluding that it is not a deleterious substance.

(7) The purpose of effecting the variation.

(8) A statement of how the variation is of potential advantage to consumers. The statement shall include the reasons why the applicant does not consider the data obtained in any prior investigations which may have been conducted sufficient to support a petition to amend the standard.

(9) The proposed label (or an accurate draft) to be used on the food to be market tested. The label shall conform in all respects to the general requirements of the act and shall provide a means whereby the consumer can distinguish between the food being tested and such food complying with the standard.

(10) The period during which the applicant desires to introduce such food into interstate commerce, with a statement of the reasons supporting the need for such period. If a period longer than 15 months is requested, a detailed explanation of why a 15-month period is inadequate shall be provided.

(11) The probable amount of such food that will be distributed. The amount distributed should be limited to the smallest number of units reasonably required for a bona fide market test. Justification for the amount requested shall be included.

(12) The areas of distribution.

(13) The address at which such food will be manufactured.

(14) A statement of whether or not such food has been or is to be distributed in the State in which it was manufactured.

(15) If it has not been or is not to be so distributed, a statement showing why.

(16) If it has been or is to be so distributed, a statement of why it is deemed necessary to distribute such food in other States.

(d) The Commissioner may require the applicant to furnish samples of the food varying from the standard and to furnish such additional information as may be deemed necessary for action on the application.

(e) If the Commissioner concludes that the variation may be advantageous to consumers and will not result in failure of the food to conform to any provision of the act except section 403(g), a permit shall be issued to the applicant for interstate shipment of such food. The terms and conditions of the permit shall be those set forth in the application with such modifications, restrictions, or qualifications as the Commissioner may deem necessary and state in the permit.

(f) The terms and conditions of the permit may be modified at the discretion of the Commissioner or upon application of the permittee during the effective period of the permit.

(g) The Commissioner may revoke a permit for cause, which shall include but not be limited to the following:

(1) That the permittee has introduced a food into interstate commerce contrary to the terms and conditions of the permit.

(2) That the application for a permit contains an untrue statement of a material fact.

(3) That the need therefor no longer exists.

(h) During the period within which any permit is effective, it shall be deemed to be included within the terms of any guaranty or undertaking otherwise effective pursuant to the provisions of section 303(c) of the act.

(i) If an application is made for an extension of the permit, it shall be accompanied by a description of experiments conducted under the permit, tentative conclusions reached, and reasons why further experimental shipments are considered necessary. The application for an extension shall be filed not later than 3 months prior to the expiration date of the permit and shall be accompanied by a petition to amend the affected food standard. If the Commissioner concludes that it will be in the interest of consumers to issue an extension of the time period for the market test, a notice will be published in the

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FEDERAL REGISTER stating that fact. The notice will include an invitation to all interested persons to participate in the market test under the same conditions that applied to the initial permit holder, including labeling and the amount to be distributed, except that the designated area of distribution shall not apply. The extended market test period shall not begin prior to the publication of a notice in the FEDERAL REGISTER granting the extension and shall terminate either on the effective date of an affirmative order ruling on the proposal or 30 days after a negative order ruling on the proposal, whichever the case may be. Any interested person who accepts the invitation to participate in the extended market test shall notify the Commissioner in writing of that fact, the amount to be distributed, and the area of distribution; and along with such notification, he shall submit the labeling under which the food is to be distributed.

(j) Notice of the granting or revocation of any permit shall be published in the FEDERAL REGISTER.

(k) All applications for a temporary permit, applications for an extension of a temporary permit, and related records are available for public disclosure when the notice of a permit or extension thereof is published in the FEDERAL REGISTER. Such disclosure shall be in accordance with the rules established in Part 4 of this chapter.

(l) Any person who contests denial, modification, or revocation of a temporary permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

Subpart B—Food Additives in Standardized Foods

§ 130.20 Food additives proposed for use in foods for which definitions and standards of identity are established.

(a) Where a petition is received for the issuance or amendment of a regulation establishing a definition and standard of identity for a food under section 401 of the act, which proposes the inclusion of a food additive in such definition and standard of identity, the provisions of the regulations in Part 171 of this chapter shall apply with respect to the information that must be submitted with respect to the food additive. Since section 409(b)(5) of the act requires that the Commissioner publish notice of a petition for the establishment of a food additive regulation within 30 days after filing, notice of a petition relating to a definition and standard of identity shall also be published within that time limitation if it includes a request, so designated, for the establishment of a regulation pertaining to a food additive.

(b) If a petition for a definition and standard of identity contains a proposal for a food additive regulation, and the petitioner fails to designate it as such, the Commissioner, upon determining that the petition includes a proposal for a food additive regulation, shall so notify the petitioner and shall thereafter proceed in accordance with the regulations in Part 171 of this chapter.

PART 131—MILK AND CREAM

Subpart A—General Provisions

Sec.
131.3 Definitions.
131.25 Whipped cream products containing flavoring or sweetening.

Subpart B—Requirements for Specific Standardized Milk and Cream

131.110 Milk.
131.115 Concentrated milk.
131.120 Sweetened condensed milk.
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131.127 Nonfat dry milk fortified with vitamins A and D.
131.130 Evaporated milk.
131.135 Lowfat milk.
131.145 Skim milk.
131.150 Heavy cream.
131.155 Light cream.
131.157 Light whipping cream.
131.160 Sour cream.
131.162 Acidified sour cream.
131.164 Sour cream dressing.
131.180 Half-and-half.
131.185 Sour half-and-half.
131.187 Acidified sour half-and-half.
131.189 Sour half-and-half dressing.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371).

Subpart A—General Provisions

§ 131.3 Definitions.

(a) "Cream" means the liquid milk product high in fat separated from milk, which may have been adjusted by adding thereto: Milk, concentrated milk, dry whole milk, skim milk, concentrated skim milk, or nonfat dry milk. Cream contains not less than 18 percent milkfat.

(b) "Pasteurized" when used to describe a dairy product means that every particle of such product shall have been heated in properly operated equipment to one of the temperatures specified in the table of this paragraph and held continuously at or above that temperature for the specified time (or other time/temperature relationship which has been demonstrated to be equivalent thereto in microbial destruction):

Temperature:	*Time*
145°F[1]	30 minutes
161°F[1]	15 seconds
191°F	1 second
204°F	0.05 second
212°F	0.01 second

[1] If the dairy ingredient has a fat content of 10 percent or more, or if it contains added sweeteners, the specified temperature shall be increased by 5°F.

(c) "Ultra-pasteurized" when used to describe a dairy product means that such product shall have been thermally processed at or above 280°F for at least 2 seconds, either before or after packaging, so as to produce a product which has an extended shelf life under refrigerated conditions.

§ 131.25 Whipped cream products containing flavoring or sweetening.

The unqualified name "whipped cream" should not be applied to any product other than one made by whipping the cream that complies with the standards of identity for whipping cream (§§ 131.150 and 131.157 of this chapter). If flavoring and/or sweetening is added, the resulting product is a flavored and/or sweetened whipped cream, and should be so identified.

(Secs. 401, 403, 52 Stat. 1047, 1048; 21 U.S.C. 341, 343)

Subpart B—Requirements for Specific Standardized Milk and Cream

§ 131.110 Milk.

(a) *Description.* Milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. Milk that is in final package form for beverage use shall have been pasteurized or ultra-pasteurized, and shall contain not less than 8¼ percent milk solids not fat and not less than 3¼ percent milkfat. Milk may have been adjusted by separating part of the milkfat therefrom, or by adding thereto cream, concentrated milk, dry whole milk, skim milk, concentrated skim milk, or nonfat dry milk. Milk may be homogenized.

(b) *Vitamin addition* (Optional). (1) If added, vitamin A shall be present in such quantity that each quart of the food contains not less than 2000 International Units thereof within limits of good manufacturing practice.

(2) If added, vitamin D shall be present in such quantity that each quart of the food contains 400 International Units thereof within limits of good manufacturing practice.

(c) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) Carriers for vitamins A and D.

(2) Characterizing flavoring ingredients (with or without coloring, nutritive sweetener, emulsifiers, and stabilizers) as follows:

(i) Fruit and fruit juice (including concentrated fruit and fruit juice).

(ii) Natural and artificial food flavorings.

(d) *Methods of analysis.* Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

(1) Milk fat content—"Fat, Roese-Gottlieb Method—Official Final Action," section 16.052.[2]

(2) Milk solids not fat content—Calculated by subtracting the milk fat content from the total solids content as determined by the method "Total Solids, Method I—Official Final Action," section 16.032.[2]

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 39.149–39.162.[2]

(e) *Nomenclature.* The name of the food is "milk". The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(1) The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name:

(i) If vitamins are added, the phrase "vitamin A" or "vitamin A added", or "vitamin D" or "vitamin D added", or "vitamin A and D" or "vitamins A and D added", as is appropriate. The word "vitamin" may be abbreviated "vit.".

(ii) The word "ultra-pasteurized" if the food has been ultra-pasteurized.

(2) The following terms may appear on the label:

(i) The word "pasteurized" if the food has been pasteurized.

(ii) The word "homogenized" if the food has been homogenized.

(f) *Label declaration.* When used in the food, each of the ingredients specified in paragraphs (b) and (c) (2) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 131.115 Concentrated milk.

(a) *Description.* Concentrated milk is the liquid food obtained by partial removal of water from milk. The milkfat and total milk solids contents of the food are not less than 7.5 and 25.5 percent, respectively. It is pasteurized, but is not processed by heat so as to prevent spoilage. It may be homogenized.

(b) *Vitamin addition* (Optional). If added, vitamin D shall be present in such quantity that each fluid ounce of the food contains 25 International Units thereof, within limits of good manufacturing practice.

(c) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(1) Carriers for vitamins A and D.

(2) Characterizing flavoring ingredients, with or without coloring, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(d) *Methods of analysis.* Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

(1) Milkfat content—"Fat—Official Final Action," section 16.129.[2]

(2) Total milk solids—"Total Solids—Official Final Action," section 16.127.[2]

(3) Vitamin D content—"Vitamin D in Milk—Official Final Action," sections 39–149–39.162.[2]

(e) *Nomenclature.* The name of the food is "Concentrated milk" or alternatively "Condensed milk." If the food contains added vitamin D, the phrase "vitamin D" or "vitamin D added" shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name. The word "homogenized" may appear on the label if the food has been homogenized. The name of the food shall include a declaration of the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(f) *Label declaration.* When used in the food, the optional ingredients specified in paragraph (b) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 131.120 Sweetened condensed milk.

(a) *Description.* Sweetened condensed milk is the food obtained by the partial removal of water only from a mixture of milk and safe and suitable nutritive sweetener. The finished food contains not less than 8.5 percent by weight of milkfat, and not less than 28 percent by weight of total milk solids. The quantity of nutritive sweetener used is sufficient to prevent spoilage. The food is pasteurized, and may be homogenized.

(b) *Optional ingredients.* Safe and suitable characterizing flavoring ingredients, with or without coloring, as follows:

(1) Fruit and fruit juice, including concentrated fruit and fruit juice.

(2) Natural and artificial food flavoring.

(c) *Methods of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, section 16.142, under "Fat—Official Final Action."[2]

(d) *Nomenclature.* The name of the food is "Sweetened condensed milk". The word "homogenized" may appear on the label if the food has been homogenized. The name of the food shall include a declaration of the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(e) *Label declaration.* The optional sweetener used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 131.125 Nonfat dry milk.

(a) *Description.* Nonfat dry milk is the product obtained by removal of water only from pasteurized skim milk. It contains not more than 5 percent by weight of moisture, and not more than 1½ percent by weight of milkfat unless otherwise indicated.

(b) *Optional ingredients.* Safe and suitable characterizing flavoring ingredients, with or without coloring, as follows:

(1) Fruit and fruit juice, including concentrated fruit and fruit juice.

(2) Natural and artificial food flavoring.

(c) *Methods of analysis.* Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

(1) Moisture content—"Moisture—Official Final Action," section 16.149.[2]

(2) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.156–16.157.[2]

(d) *Nomenclature.* The name of the food is "Nonfat dry milk". If the fat content is over 1½ percent by weight, the name of the food on the principal display panel or panels shall be accompanied by the statement "Contains ----% milkfat", the blank to be filled in with the percentage to the nearest one-tenth of 1 percent of fat contained, within limits of good manufacturing practice. The name of the food shall include a declaration of the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

§ 131.127 Nonfat dry milk fortified with vitamins A and D.

(a) *Description.* Nonfat dry milk fortified with vitamins A and D conforms to the standard of identity for nonfat dry milk, except that vitamins A and D are added as prescribed by paragraph (b) of this section.

(b) *Vitamin addition.* (1) Vitamin A is added in such quantity that, when prepared according to label directions, each quart of the reconstituted product contains 2000 International Units thereof.

(2) Vitamin D is added in such quantity that, when prepared according to label directions, each quart of the reconstituted product contains 400 International Units thereof.

(3) The requirements of this paragraph will be deemed to have been met if reasonable overages, within limits of good manufacturing practice, are present to ensure that the required levels of vitamins are maintained throughout the expected shelf life of the food under customary conditions of distribution.

(c) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(1) Carriers for vitamins A and D.

(2) Characterizing flavoring ingredients, with or without coloring, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(d) *Methods of analysis.* Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

(1) Moisture content—"Moisture—Official Final Action," section 16.149.[2]

(2) Milkfat content—"Fat in Dried Milk—Official Final Action," sections 16.156–16.157.[2]

(e) *Nomenclature.* The name of the food is "Nonfat dry milk fortified with vitamins A and D". If the fat content is over 1½ percent by weight, the name of the food on the principal display panel or panels shall be accompanied by the statement "Contains --% milkfat", the blank to be filled in to the nearest one-tenth of 1 percent with the percentage of fat contained within limits of good manufacturing practice. The name of the food shall be include a declaration of the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

§ 131.130 Evaporated milk.

(a) *Description.* Evaporated milk is the liquid food obtained by the partial removal of water from milk. The milkfat and total milk solids contents of the food are not less than 7.5 and 25.5 percent, respectively. Evaporated milk contains added vitamin D as prescribed by para-

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

prescribed in "Official Methods of Analysis of the Association of Official Analyti-

(ii) The word "sweetened" if no characterizing flavoring ingredients are used,

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graph (b) of this section. It is homogenized. It is sealed in a container and so processed by heat, either before or after sealing, as to prevent spoilage.

(b) *Vitamin addition.* (1) Vitamin D shall be present in such quantity that each fluid ounce of the food contains 25 International Units thereof within limits of good manufacturing practice.

(2) Addition of vitamin A is optional. If added, vitamin A shall be present in such quantity that each fluid ounce of the food contains not less than 125 International Units thereof within limits of good manufacturing practice.

(c) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) Carriers for vitamins A and D.

(2) Emulsifiers.

(3) Stabilizers, with or without dioctyl sodium sulfosuccinate (when permitted by, and complying with the provisions of, § 172.810 of this chapter) as a solubilizing agent.

(4) Characterizing flavoring ingredients, with or without coloring, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(d) *Methods of analysis.* Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

(1) Milkfat content — "Fat—Official Final Action," section 16.129.[2]

(2) Total milk solids—"Total Solids—Official Final Action," section 16.127.[2]

(3) Vitamin D content—"Vitamin D in Milk—Official Final Action," sections 39.149–39.162.[2]

(e) *Nomenclature.* The name of the food is "Evaporated milk". The phrase "vitamin D" or "vitamin D added," or "vitamin A and D" or "vitamins A and D added", as is appropriate, shall immediately precede or follow the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name. The name of the food shall include a declaration of the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(f) *Label declaration.* When used in the food, each of the ingredients specified in paragraphs (b) (2) and (c) (2) and (3) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 131.135 Lowfat milk.

(a) *Description.* Lowfat milk is milk from which sufficient milkfat has been removed to produce a food having, within limits of good manufacturing practice, one of the following milkfat contents: ½, 1, 1½, or 2 percent. Lowfat milk is pasteurized or ultra-pasteurized, contains added vitamin A as prescribed by paragraph (b) of this section, and contains not less than 8¼ percent milk solids not fat. Lowfat milk may be homogenized.

(b) *Vitamin addition.* (1) Vitamin A shall be present in such quantity that each quart of the food contains not less than 2000 International Units thereof within limits of good manufacturing practice.

(2) Addition of vitamin D is optional. If added, vitamin D shall be present in such quantity that each quart of the food contains 400 International Units thereof within limits of good manufacturing practice.

(c) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) Carriers for vitamins A and D.

(2) Concentrated skim milk, nonfat dry milk, or other milk derived ingredients to increase the nonfat solids content of the food: *Provided,* That the ratio of protein to total nonfat solids of the food, and the protein efficiency ratio of all protein present, shall not be decreased as a result of adding such ingredients.

(3) When one or more of the optional milk derived ingredients in paragraph (c)(2) of this section are used, emulsifiers, stabilizers, or both, in an amount not more than 2 percent by weight of the solids in such ingredients.

(4) Characterizing flavoring ingredients (with or without coloring, nutritive sweetener, emulsifiers, and stabilizers) as follows:

(i) Fruit and fruit juice (including concentrated fruit and fruit juice).

(ii) Natural and artificial food flavorings.

(d) *Methods of analysis.* Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

(1) Milkfat content—"Fat, Roese-Gottlieb Method—Official Final Action," section 16.052.[2]

(2) Milk solids not fat content (or total nonfat solids content)—Calculated by subtracting the milkfat content from the total solids content as determined by the method "Total Solids, Method I—Official Final Action," section 16.032.[2]

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 39.149–39.162.[2]

(e) *Nomenclature.* The name of the food is "Lowfat milk". The name of the food shall appear on the label in type of uniform size, style, and color. The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(1) The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half of the height of the letters used in such name:

(i) The phrase "____% milkfat", the blank to be filled in with the fraction ½, or multiple thereof, to indicate the actual fat content of the food.

(ii) The phrase "vitamin A" or "vitamin A added", or, if vitamin D is added, the phrase "vitamins A and D added". The word "vitamin" may be abbreviated "vit.".

(iii) The word "ultra-pasteurized" if the food has been ultra-pasteurized.

(iv) The phrase "protein fortified" or "fortified with protein" if the food contains not less than 10 percent milk derived nonfat solids.

(2) The following terms may appear on the label:

(i) The word "pasteurized" if the food has been pasteurized.

(ii) The word "homogenized" if the food has been homogenized.

(f) *Label declaration.* When ingredients are used in the food as specified in paragraphs (b)(2) and (c)(2), (3), and (4) of this section, such ingredients shall be declared on the label as required by the applicable sections of Part 101 of this chapter except that concentrated skim milk and nonfat dry milk may be declared as "nonfat milk solids".

§ 131.145 Skim milk.

(a) *Description.* Skim milk is milk from which sufficient milkfat has been removed to reduce its milkfat content to less than 0.5 percent. Skim milk that is in final package form for beverage use shall have been pasteurized or ultra-pasteurized, shall contain added vitamin A as prescribed by paragraph (b) of this section, and shall contain not less than 8¼ percent milk solids not fat. Skim milk may be homogenized.

(b) *Vitamin addition.* (1) Vitamin A shall be present in such quantity that each quart of the food contains not less than 2000 International Units thereof within limits of good manufacturing practice.

(2) Addition of vitamin D is optional. If added, vitamin D shall be present in such quantity that each quart of the food contains 400 International Units thereof within limits of good manufacturing practice.

(c) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) Carriers for vitamins A and D.

(2) Concentrated skim milk, nonfat dry milk, or other milk derived ingredients to increase the nonfat solids content of the food: *Provided,* That the ratio of protein to total nonfat solids of the food, and the protein efficiency ratio of all protein present, shall not be decreased as a result of adding such ingredients.

(3) When one or more of the optional milk derived ingredients in paragraph (c)(2) of this section are used, emulsifiers, stabilizers, or a combination of both, in an amount not more than 2 percent by weight of the solids in such ingredients.

(4) Characterizing flavoring ingredients (with or without coloring, nutritive sweetener, emulsifiers, and stabilizers) as follows:

(i) Fruit and fruit juice (including concentrated fruit and fruit juice).

(ii) Natural and artificial food flavoring.

(d) *Methods of analysis.* Referenced methods are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

(1) Milkfat content—"Fat, Roese-Gottlieb Method—Official Final Action," section 16.052.[2]

(2) Milk solids not fat content (or total nonfat solids content)—Calculated by subtracting the milkfat content from the total solids content as determined by the method "Total Solids, Method I—Official Final Action," section 16.032.[2]

(3) Vitamin D content—"Vitamin D—Official Final Action," sections 39.149–39.162.[2]

(e) *Nomenclature.* The name of the food is "Skim milk" or alternatively "Nonfat milk". The name of the food shall appear on the label in type of uniform size, style, and color. The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(1) The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half of the height of the letters used in such name:

(i) The phrase "vitamin A" or "vitamin A added", or, if vitamin D is added, the phrase "vitamins A and D" or "vitamins A and D added". The word "vitamin" may be abbreviated "vit.".

(ii) The word "ultra-pasteurized" if the food has been ultra-pasteurized.

(iii) The phrase "protein fortified" or "fortified with protein" if the food contains not less than 10 percent milk derived nonfat solids.

(2) The following terms may appear on the label:

(i) The word "pasteurized" if the food has been pasteurized.

(ii) The word "homogenized" if the food has been homogenized.

(f) *Label declaration.* When used in the food, each of the ingredients specified in paragraphs (b)(2) and (c)(2), (3), and (4) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 131.150 Heavy cream.

(a) *Description.* Heavy cream is cream which contains not less than 36 percent milkfat. It is pasteurized or ultra-pasteurized, and may be homogenized.

(b) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(1) Emulsifiers.

(2) Stabilizers.

(3) Nutritive sweeteners.

(4) Characterizing flavoring ingredients (with or without coloring) as follows:

(i) Fruit and fruit juice (including concentrated fruit and fruit juice).

(ii) Natural and artificial food flavoring.

(c) *Methods of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, section 16.114 under "Fat, Roese-Gottlieb Method—Official Final Action."[2]

(d) *Nomenclature.* (1) The name of the food is "Heavy cream" or alternatively "Heavy whipping cream". The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in § 101.22 of this chapter. The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name:

(i) The word "ultra-pasteurized" if the food has been ultra-pasteurized.

(ii) The word "sweetened" if no characterizing flavoring ingredients are used, but nutritive sweetener is added.

(2) The following terms may appear on the label:

(i) The word "pasteurized" if the food has been pasteurized.

(ii) The word "homogenized" if the food has been homogenized.

(e) *Label declaration.* When used in the food, each of the ingredients specified in paragraph (b) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 131.155 Light cream.

(a) *Description.* Light cream is cream which contains not less than 18 percent but less than 30 percent milkfat. It is pasteurized or ultra-pasteurized, and may be homogenized.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) Stabilizers.

(2) Emulsifiers.

(3) Nutritive sweeteners.

(4) Characterizing flavoring ingredients (with or without coloring) as follows:

(i) Fruit and fruit juice (including concentrated fruit and fruit juice).

(ii) Natural and artificial food flavoring.

(c) *Methods of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, section 16.114 under "Fat, Roese-Gottlieb Method—Official Final Action."[2]

(d) *Nomenclature.* The name of the food is "Light cream", or alternatively "Coffee cream" or "Table cream". The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(1) The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name:

(i) The word "ultra-pasteurized" if the food has been ultra-pasteurized.

(ii) The word "sweetened" if no characterizing flavoring ingredients are used, but nutritive sweetener is added.

(2) The following terms may appear on the label:

(i) The word "pasteurized" if the food has been pasteurized.

(ii) The word "homogenized" if the food has been homogenized.

(e) *Label declaration.* When used in the food, each of the ingredients specified in paragraph (b) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 131.157 Light whipping cream.

(a) *Description.* Light whipping cream is cream which contains not less than 30 percent but less than 36 percent milkfat. It is pasteurized or ultra-pasteurized, and may be homogenized.

(b) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(1) Emulsifiers.

(2) Stabilizers.

(3) Nutritive sweeteners.

(4) Characterizing flavoring ingredients (with or without coloring) as follows:

(i) Fruit and fruit juice (including concentrated fruit and fruit juice).

(ii) Natural and artificial food flavoring.

(c) *Methods of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, section 16.114 under "Fat, Roese-Gottlieb Method—Official Final Action."[2]

(d) *Nomenclature.* The name of the food is "Light whipping cream" or alternatively "Whipping cream". The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(1) The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name:

(i) The word "ultra-pasteurized" if the food has been ultra-pasteurized.

(ii) The word "sweetened" if no characterizing flavoring ingredients are used, but nutritive sweetener is added.

(2) The following terms may appear on the label:

(i) The word "pasteurized" if the food has been pasteurized.

(ii) The word "homogenized" if the food has been homogenized.

(e) *Label declaration.* When used in the food, each of the ingredients specified in paragraph (b) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 131.160 Sour cream.

(a) *Description.* Sour cream results from the souring, by lactic acid producing bacteria, of pasteurized cream. Sour cream contains not less than 18 percent

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

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milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of the milkfat is not less than 18 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 14.4 percent milkfat. Sour cream has a titratable acidity of not less than 0.5 percent, calculated as lactic acid.

(b) *Optional ingredients.* (1) Safe and suitable ingredients that improve texture, prevent syneresis, or extend the shelf life of the product.

(2) Sodium citrate in an amount not more than 0.1 percent may be added prior to culturing as a flavor precursor.

(3) Rennet.

(4) Safe and suitable nutritive sweeteners.

(5) Salt.

(6) Flavoring ingredients, with or without safe and suitable coloring, as follows:

(i) Fruit and fruit juice (including concentrated fruit and fruit juice).

(ii) Safe and suitable natural and artificial food flavoring.

(c) *Method of analysis.* Referenced methods in paragraphs (c) (1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

(1) Milkfat content—"Fat—Official Final Action," section 16.129.

(2) Titratable acidity — "Acidity — Official Final Action," section 16.022.

(d) *Nomenclature.* The name of the food is "Sour cream" or alternatively "Cultured sour cream". The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in § 101.22 of this chapter. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened".

(e) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream".

§ 131.162 Acidified sour cream.

(a) *Description.* Acidified sour cream results from the souring of pasteurized cream with safe and suitable acidifiers, with or without addition of lactic acid producing bacteria. Acidified sour cream contains not less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of milkfat is not less than 18 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 14.4 percent milkfat. Acidified sour cream has a titratable acidity of not less than 0.5 percent, calculated as lactic acid.

(b) *Optional ingredients.* (1) Safe and suitable ingredients that improve texture, prevent syneresis, or extend the shelf life of the product.

(2) Rennet.

(3) Safe and suitable nutritive sweeteners.

(4) Salt.

(5) Flavoring ingredients, with or without safe and suitable coloring, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Safe and suitable natural and artificial food flavoring.

(c) *Method of analysis.* Referenced methods in paragraph (c) (1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

(1) Milkfat content—"Fat—Official Final Action," section 16.129.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.022.

(d) *Nomenclature.* The name of the food is "Acidified sour cream". The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in § 101.22 of this chapter. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened".

(e) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream".

(2) Concentrated skim milk, nonfat dry milk, and reconstituted skim milk prepared by addition of water to concentrated skim milk or nonfat dry milk may be declared as "skim milk".

(3) Concentrated milk, dry whole milk, and reconstituted milk prepared by addition of water to concentrated milk or dry whole milk may be declared as "milk".

(4) Sweet cream buttermilk, concentrated sweet cream buttermilk, and dried sweet cream buttermilk, may be declared as "buttermilk".

(5) Cheese whey, concentrated cheese whey, and dried cheese whey may be declared as "whey".

NOTE.—§ 131.164 (formerly § 18.570) was stayed in its entirety at 40 FR 18549, Apr. 29, 1975.

§ 131.180 Half-and-half.

(a) *Description.* Half-and-half is the food consisting of a mixture of milk and cream which contains not less than 10.5 percent but less than 18 percent milkfat. It is pasteurized or ultra-pasteurized, and may be homogenized.

(b) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(1) Emulsifiers.

(2) Stabilizers.

(3) Nutritive sweeteners.

(4) Characterizing flavoring ingredients (with or without coloring) as follows:

(i) Fruit and fruit juice (including concentrated fruit and fruit juice).

(ii) Natural and artificial food flavoring.

(c) *Methods of analysis.* The milkfat content is determined by the method

prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, section 16.114 under "Fat, Roese-Gottlieb Method—Official Final Action."[2]

(d) *Nomenclature.* The name of the food is "Half-and-half". The name of the food shall be accompanied on the label by a declaration indicating the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(1) The following terms shall accompany the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name:

(i) The word "ultra-pasteurized" if the food has been ultra-pasteurized.

(ii) The word "sweetened" if no characterizing flavor ingredients are used, but nutritive sweetener is added.

(2) The following terms may appear on the label:

(i) The word "pasteurized" if the food has been pasteurized.

(ii) The word "homogenized" if the food has been homogenized.

(e) *Label declaration.* When used in the food, each of the ingredients specified in paragraph (b) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 131.185 Sour half-and-half.

(a) *Description.* Sour half-and-half results from the souring, by lactic acid producing bacteria, of pasteurized half-and-half. Sour half-and-half contains not less than 10.5 percent but less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of milkfat is not less than 10.5 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 8.4 percent milkfat. Sour half-and-half has a titratable acidity of not less than 0.5 percent, calculated as lactic acid.

(b) *Optional ingredients.* (1) Safe and suitable ingredients that improve texture, prevent syneresis, or extend the shelf life of the product.

(2) Sodium citrate in an amount not more than 0.1 percent may be added prior to culturing as a flavor precursor.

(3) Rennet.

(4) Safe and suitable nutritive sweeteners.

(5) Salt.

(6) Flavoring ingredients, with or without safe and suitable coloring, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Safe and suitable natural and artificial food flavoring.

(c) *Method of analysis.* Referenced methods in paragraph (c) (1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

(1) Milkfat content—"Fat—Official Final Action," § 16.129.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.022.

(d) *Nomenclature.* The name of the food is "Sour half-and-half" or alternatively "Cultured sour half-and-half". The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in § 101.22 of this chapter. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened".

(e) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream".

§ 131.187 Acidified sour half-and-half.

(a) *Description.* Acidified sour half-and-half results from the souring of pasteurized half-and-half with safe and suitable acidifiers, and with or without addition of lactic acid producing bacteria. Acidified sour half-and-half contains not less than 10.5 percent but less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of milkfat is not less that 10.5 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 8.4 percent milkfat. Acidified sour half-and-half has a titratable acidity of not less than 0.5 percent, calculated as lactic acid.

(b) *Optional ingredients.* (1) Safe and suitable ingredients to improve texture, prevent syneresis, or extend the shelf life of the product.

(2) Rennet.

(3) Safe and suitable nutritive sweeteners.

(4) Salt.

(5) Flavoring ingredients, with or without safe and suitable coloring, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Safe and suitable natural and artificial food flavoring.

(c) *Methods of analysis.* Referenced methods in paragraph (c) (1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

(1) Milkfat content—"Fat—Official Final Action," section 16.129.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.022.

(d) *Nomenclature.* The name of the food is "Acidified sour half-and-half". The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in § 101.22 of this chapter. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened".

(e) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream".

§ 131.189 Sour half-and-half dressing.

(a) *Description.* Sour half-and-half dressing is made in semblance of sour half-and-half, but does not comply with the standards of identity for either sour half-and-half under § 131.185 or acidified sour half-and-half under § 131.187. Sour half-and-half dressing contains not less than 10.5 percent but less than 18 percent milkfat; except that when the food is characterized by the addition of nutritive sweeteners or bulky flavoring ingredients, the weight of milkfat is not less than 10.5 percent of the remainder obtained by subtracting the weight of such optional ingredients from the weight of the food; but in no case does the food contain less than 8.4 percent milkfat. Sour half-and-half dressing has a titratable acidity of not less than 0.5 percent, calculated as lactic acid. The blend of all ingredients used shall be pasteurized, except that volatile flavoring substances, enzymes, bacterial cultures, and acidifying agents may be added following pasteurization.

(b) *Optional ingredients.* Safe and suitable ingredients may be used in a quantity not greater than is reasonably required to accomplish their intended effect.

(c) *Method of analysis.* Referenced methods in paragraph (c) (1) and (2) of this section are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[2]

(1) Milkfat content—"Fat—Official Final Action," section 16.129.

(2) Titratable acidity—"Acidity—Official Final Action," section 16.022.

(d) *Nomenclature.* The name of the food is "Sour half-and-half dressing". The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The name of the food shall be accompanied by a declaration indicating the presence of any flavoring that characterizes the product, as specified in § 101.22 of this chapter. If nutritive sweetener in an amount sufficient to characterize the food is added without addition of characterizing flavoring, the name of the food shall be preceded by the word "sweetened".

(e) *Label declaration.* Each of the ingredients used in the food shall be declared on the label as required by the

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applicable sections of Part 101 of this chapter, except that:

(1) Bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "cultured cream".

(2) Concentrated skim milk, nonfat dry milk, and reconstituted skim milk prepared by addition of water to concentrated skim milk or nonfat dry milk may be declared as "skim milk".

(3) Concentrated milk, dry whole milk, and reconstituted milk prepared by addition of water to concentrated milk or dry whole milk may be declared as "milk".

(4) Sweet cream buttermilk, concentrated sweet cream buttermilk, and dried sweet cream buttermilk may be declared as "buttermilk".

(5) Cheese whey, concentrated cheese whey, and dried cheese whey may be declared as "whey".

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

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133.171 Pasteurized process pimento cheese.
133.173 Pasteurized process cheese food.
133.174 Pasteurized process cheese food with fruits, vegetables, or meats.
133.175 Pasteurized cheese spread.
133.176 Pasteurized cheese spread with fruits, vegetables, or meats.
133.178 Pasteurized neufchatel cheese spread with other foods.
133.179 Pasteurized process cheese spread.
133.180 Pasteurized process cheese spread with fruits, vegetables, or meats.
133.181 Provolone and pasta filata cheese.
133.182 Soft ripened cheeses.
133.183 Romano cheese.
133.184 Roquefort, sheep's milk blue-mold, and blue-mold cheese from sheep's milk.
133.185 Samsoe cheese.
133.186 Sap sago cheese.
133.187 Semisoft cheeses.
133.188 Semisoft part-skim cheeses.
133.189 Skim milk cheese for manufacturing.
133.190 Spiced cheeses.
133.191 Part-skim spiced cheeses.
133.193 Spiced, flavored standardized cheeses.
133.195 Swiss and emmentaler cheese.
133.196 Swiss cheese for manufacturing.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371) unless otherwise indicated.

Subpart A—General Provisions

§ 133.3 Definitions.

For the purposes of this part, the phrase "safe and suitable" when used to describe ingredients of cheese or cheese products means that such ingredients shall be functionally suitable substances that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act; or if they are food additives as so defined, they shall be used in conformity with regulations established pursuant to section 409 of the act.

§ 133.10 Notice to manufacturers, packers, and distributors of pasteurized blended cheese, pasteurized process cheese, cheese food, cheese spread, and related foods.

(a) Definitions and standards of identity have recently been promulgated under the authority of the Federal Food, Drug, and Cosmetic Act for a number of foods made in part from cheese, including pasteurized process cheese; pasteurized process cheese with fruits, vegetables, or meats; pasteurized blended cheese; pasteurized process cheese food; pasteurized process cheese spread, and related foods. These standards prescribe the name for each such food. The act requires that this name appear on the label. Many of these names consist of several words. In the past it has been the practice of some manufacturers to subordinate the words "pasteurized," "blended," "process," "food," and "spread" to give undue prominence to the word "cheese" and to words naming the variety of cheese involved.

(b) When placing the names of these foods on labels so as to comply with the requirements of section 403 (a), (f), and (g) of the act, all the words forming the name specified by a definition and standard of identity should be given equal prominence. This can readily be accomplished by printing the specified name of the food in letters of the same size, color, and style of type, and with the same background.

(c) Where the names of optional ingredients are required to appear on the label, the designations of all such ingredients should be given equal prominence. The names of the optional ingredients should appear prominently and conspicuously but should not be displayed with greater prominence than the name of the food. The word "contains" may precede the names of the optional ingredients, and when so used will not be considered as intervening printed matter between name of food and name of optional ingredients required to be placed on the label.

(d) Where a manufacturer elects to include a label statement of fat and moisture content, the declaration should be on the basis of the food as marketed. A fat declaration on a moisture-free basis is likely to be misleading, and should not be used in labeling.

Subpart B—Requirements for Specific Standardized Cheese and Related Products

§ 133.102 Asiago fresh and asiago soft cheese.

(a) Asiago fresh cheese, asiago soft cheese, is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 45 percent of moisture, and its solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in § 133.113(c). It is cured for not less than 60 days.

(b) Milk which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid producing bacteria, present in such milk or added thereto. Harmless artificial blue or green coloring in a quantity which neutralizes any natural yellow coloring in the curd may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. The mass is cut, stirred, and heated to promote and regulate separation of the

whey from the curd. The whey is drained off. When the curd is sufficiently firm it is removed from the kettle or vat, further drained for a short time, packed into hoops, and pressed. The pressed curd is salted in brine and cured in a well-ventilated room. During curing the surface of the cheese is occasionally rubbed with a vegetable oil. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of asiago fresh cheese may be added during the procedure in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) (1) For the purposes of this section, the word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Such milk may be bleached by the use of benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate; but the weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, sufficient vitamin A is added to the curd to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(d) Asiago fresh cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) (1) (i) If asiago fresh cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "__________ added to retard mold growth" or "________ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(ii) If the milk is bleached, the label shall bear the statement "Milk bleached with benzoyl peroxide".

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.103 Asiago medium cheese.

Asiago medium cheese conforms to the definition and standard of identity and is subject to the requirements for label statement of optional ingredients prescribed by § 133.102 for asiago fresh cheese, except that it contains not more than 35 percent moisture, its solids contain not less than 45 percent of milk fat, and it is cured for not less than 6 months.

§ 133.104 Asiago old cheese.

Asiago old cheese conforms to the definition and standard of identity and is subject to the requirements for label statement of optional ingredients prescribed by § 133.102 for asiago fresh cheese, except that it contains not more than 32 percent moisture, its solids contain not less than 42 percent of milk fat, and it is cured for not less than 1 year.

§ 133.106 Blue cheese.

(a) Blue cheese is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It is characterized by the presence of bluish-green mold throughout the cheese. It contains not more than 46 percent moisture, and its solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in § 133.113(c). It is not less than 60 days old.

(b) Milk, which may be pasteurized or clarified or both, which may be warmed, and which may be homogenized, is subjected to the action of harmless lactic-acid producing bacteria, present in such milk or added thereto. Harmless artificial green or blue coloring in a quantity which neutralizes any natural yellow coloring in the curd may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. The mass is cut into smaller portions and allowed to stand for a time. The mixed curd and whey is placed in forms permitting further drainage. While being placed in forms, spores of the mold *Penicillium roquefortii* are added. The forms are turned several times during drainage. When sufficiently drained, the shaped curd is removed from the forms and salted with dry salt or brine. Perforations are then made in the shaped curd, and it is held at a temperature of approximately 50° F, at 90 to 95 percent relative humidity, until the characteristic mold growth has developed. During storage the surface of the cheese may be scraped to remove surface growth of undesirable microorganisms. The rind of the cheese may be coated with a vegetable food fat or oil (which may be hydrogenated), or any combination of two or more such articles. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of blue cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk.

(2) Such milk may be bleached by the use of benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate; but the weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk being bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, vitamin A is added to the curd in such quantity as to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(3) Such milk may be adjusted by separating part of the fat therefrom or by adding one or more of the following: Cream, cream which has been treated in the manner provided in paragraph (c) (2) of this section, concentrated skim milk, nonfat dry milk, water sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(d) The food may have applied to its surface an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) (1) If the milk used is bleached, the label shall bear the statement "milk bleached with benzoyl peroxide".

(2) If the food contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "____________ added to retard surface mold growth" or "____________ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Whenever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed in this paragraph showing the optional ingredients used shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

§ 133.108 Brick cheese.

(a) Brick cheese is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 44 percent of moisture, and its solids contain not less than 50 percent of milk fat, as determined by the methods prescribed

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ingredients specified in this section, by

milk, which may be adjusted by separat-

solve 0.9544 gm. of pure borax (Bureau of Standards Sample 187) in distilled water

in § 133.113(c). If the milk used is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F for not less than 60 days.

(b) Milk, which may be pasteurized or clarified or both, is brought to a temperature of about 88° F and subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial coloring may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. The mass is cut into cubes with sides approximately ⅜-inch long, and stirred and heated so that the temperature rises slowly to about 96° F. The stirring is continued until the curd is sufficiently firm. Part of the whey is then removed, and the mixture diluted with water or salt brine to control the acidity. The curd is transferred to forms, and drained. During drainage it is pressed and turned. After drainage the curd is salted, and the biological curing agents characteristic of brick cheese are applied to the surface. The cheese is then cured to develop the characteristics of brick cheese. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of brick cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction. Brick cheese shall be deemed not to have been made from pasteurized milk if 0.25 gm. shows a phenol equivalent of more than 5 micrograms when tested by the method prescribed in § 133.113(f).

(d) Brick cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e)(1) If brick cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.109 Brick cheese for manufacturing.

Brick cheese for manufacturing conforms to the definition and standard of identity for brick cheese prescribed by § 133.108, except that the milk is not pasteurized, curing is not required, and the provisions of paragraph (d) of that section do not apply.

§ 133.111 Caciocavallo siciliano cheese.

(a) Caciocavallo siciliano cheese is the food prepared from cow's milk or sheep's milk or goat's milk or mixtures of two or all of these and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It has a stringy texture, and is made in oblong shapes. It contains not more than 40 percent of moisture, and its solids contain not less than 42 percent milk fat, as determined by the methods prescribed in § 133.113(c). It is cured for not less than 90 days at a temperature of not less than 35° F.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial blue or green coloring in a quantity which neutralizes any natural yellow coloring in the curd may be added. Sufficient rennet, rennet paste, extract of rennet paste, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, singly or in any combination (with or without purified calcium chloride in a quantity not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) is added to set the milk to a semisolid mass. The mass is cut, stirred, and heated so as to promote and regulate the separation of whey from curd. The whey is drained off, and the curd is removed to another vat containing hot whey, in which it is soaked for several hours. This whey is withdrawn, the curd is allowed to mat, and is cut into blocks. These are washed in hot whey until the desired elasticity is obtained. The curd is removed from the vat, drained, pressed into oblong forms, dried, and salted in brine, and cured. It may be paraffined. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of caciocavallo siciliano cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c)(1) For the purposes of this section, the word "milk" means cow's milk or goat's milk or sheep's milk or mixtures of two or all of these. Such milk may be adjusted by separating part of the fat therefrom or (in the case of cow's milk) by adding one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk; (in the case of goat's milk) the corresponding products from goat's milk; (in the case of sheep's milk) the corresponding products from sheep's milk; water in a quantity sufficient to reconstitute any such concentrated or dried products used.

(2) Such milk may be bleached by the use of benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate; but the weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, sufficient vitamin A is added to the curd to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(d) Caciocavallo siciliano cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e)(1) When caciocavallo siciliano cheese is made solely from cow's milk, the name of such cheese is "caciocavallo siciliano cheese". When made from sheep's milk or goat's milk or mixtures of these, or one or both of these with cow's milk, the name is followed by the words "made from _____", the blank being filled in with the name or names of the milks used, in order of predominance by weight.

(2)(i) If caciocavallo siciliano cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(ii) If the milk used is bleached, the label shall bear the statement, "Milk bleached with benzoyl peroxide".

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seem under customary conditions of purchase, the words and statements prescribed by this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.113 Cheddar cheese.

(a) Cheddar cheese, cheese, is the food prepared from milk and other

ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 39 percent of moisture, and its solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in paragraph (c) of this section. If the milk used is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F for not less than 60 days.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial coloring may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. The whey is drained off, and the curd is matted into a cohesive mass. The mass is cut into slabs, which are so piled and handled as to promote the drainage of whey and the development of acidity. The slabs are then cut into pieces, which may be rinsed by sprinkling or pouring water over them, with free and continuous drainage; but the duration of such rinsing is so limited that only the whey on the surface of such pieces is removed. The curd is salted, stirred, further drained, and pressed into forms. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of cheddar cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) Determine moisture by the method prescribed on page 262 (15.124) [Ed. note, 10th edition, 1965, p. 247, sec. 15.157], under "Moisture—Official," and milk fat by the method prescribed on page 263 (15.131) [Ed. note, 10th edition, 1965, p. 248, sec. 15.164], under "Fat—Official," of "Official Methods of Analysis of the Association of Official Agricultural Chemists," Seventh Edition, 1950. Subtract the percent of moisture found from 100; divide the remainder into the percent milk fat found. The quotient, multiplied by 100, shall be considered to be the percent of milk fat contained in the solids.

(d) Cheddar cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) For the purposes of this section:

(1) The word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction. Cheddar cheese shall be deemed not to have been made from pasteurized milk if 0.25 gm. shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in paragraph (f) of this section.

(3) During the cheese-making process the milk may be treated with hydrogen peroxide solution followed by addition of a suitable catalase preparation to eliminate the hydrogen peroxide. The hydrogen peroxide solution shall comply with the specifications of the United States Pharmacopeia, except that it may exceed the concentration specified therein and it does not contain added preservative. The amount of the hydrogen peroxide solution used shall be such that the weight of the hydrogen peroxide added thereby does not exceed 0.05 percent of the weight of the milk treated. The catalase preparation used shall be stable, and in potency, for eliminating added hydrogen peroxide from milk, it shall not be less than equivalent to liver-catalase preparation testing 100 Kefl units per gram. It shall be either a preparation that is not a food additive within the meaning of section 201(s) of the Federal Food, Drug, and Cosmetic Act, or a preparation that it is a food additive but which is used in conformity with regulations promulgated pursuant to the authority of section 409 of the act. The amount of catalase preparation used shall be such that the weight of the catalase added thereby does not exceed 20 parts per million of the weight of the milk treated.

(f) The method referred to in paragraph (e)(2) of this section is as follows:

I. *Reagents*—1. *Buffers*—a. *Barium borate-hydroxide buffer.* Dissolve 25.0 gm. of c. p. barium hydroxide ($Ba(OH)_2 \cdot 8H_2O$, fresh, not deteriorated) in distilled water and dilute to 500 ml. Dissolve, in another flask or cylinder, 11.0 gm. of c. p., boric acid (H_3BO_3) and dilute to 500 ml. Warm each to 50° C (122° F), mix the two together, stir, cool to approximately 20° C (68° F), filter and stopper the filtrate tightly. (pH approximately 10.6). The buffer prepared thus is designated as the 25–11 buffer, the figures indicating the grams per liter of each of the respective reagents.

b. *Color-development buffer.* Dissolve 6.0 gm. of sodium metaborate ($NaBO_2$) and 20 gm. of sodium chloride in water and dilute to a liter with water (pH 9.8).

c. *Color-dilution buffer.* Dilute 100 ml. of color-development buffer 1–b to a liter with water.

d. *Standard borax buffer, 0.01-molar, for checking pH meter, pH 9.18 at 25° C.*[1] Dissolve 0.9544 gm. of pure borax (Bureau of Standards Sample 187) in distilled water (distilled recently or freshly boiled and cooled) and dilute to 250 ml. Keep stoppered tightly.

2. *Buffer substrates.* Specify phenol-free crystalline disodium phenyl phosphate.

a. *For evaluating pasteurization.* Dissolve 0.10 gm. of the phenyl phosphate in 100 ml of the appropriate (table 1) barium borate-hydroxide buffer 1–a.

b. *For quantitative results with raw-milk cheese.* Dissolve 0.20 gm. of the phenyl phosphate in 100 ml. of the appropriate (table 1) barium borate-hydroxide buffer 1–a.

3. *Protein precipitants*—a. *Zinc-copper precipitant for unripened cheese.* Dissolve 6.0 gm. of zinc sulfate ($ZnSO_4 \cdot 7H_2O$) and 0.1 gm. of copper sulfate ($CuSO_4 \cdot 5H_2O$) in water and dilute to 100 ml. with water. The precipitant prepared thus is designated as the 6.0–0.1 precipitant.

b. *Zinc precipitant for ripened cheese.* Dissolve 6.0 gm. of zinc sulfate in water and dilute to 100 ml. with water. This precipitant is designated as the 6.0 precipitant.

4. *BQC (2,6-dibromoquinone-chloroimine solution) (Gibbs' reagent):* Dissolve 40 mg. of BQC powder in 10 ml. of absolute methyl alcohol and transfer to a dark-colored dropper bottle. This reagent remains stable for at least a month if kept in the ice tray of a refrigerator. Do not use it after it begins to turn brown.

5. *Other reagents*—a. *Copper sulfate, 0.05 percent, for standards.* Dissolve 0.05 gm of copper sulfate in water and dilute to 100 ml.

b. *Butyl alcohol.* Specify *n*-butyl alcohol, boiling point 116°–118° C. To adjust the pH, mix 50 ml. of the color-development buffer 1–b with a liter of the butyl alcohol.

6. *Phenol standards*—a. *Stock solution.* Weigh accurately 1.0 gm. of pure phenol, transfer to a liter volumetric flask, dilute to a liter with water, and mix. One ml. contains 1 mg. (0.001 gm.) of phenol. Use this stock solution to prepare standard solutions. It is stable for several months in the refrigerator.

b. *Preparation of standards.* Dilute 10.0 ml. of the stock solution 6–a to a liter with water, and mix. One ml. contains 10 micrograms (0.00001 gm., 10 gammas, or 10 units) of phenol. Use this standard solution to prepare more dilute standard solutions; e.g., dilute 5, 10, 30, and 50 ml. to 100 ml. with water to prepare standard solutions containing 0.5, 1.0, 3.0, and 5.0 gammas or units of phenol per milliliter, respectively. Keep standard solutions in the refrigerator.

In a similar manner, prepare from the stock solution such more concentrated standard solutions as may be needed, containing, for example, 20, 30, and 40 units per milliliter.

Measure appropriate quantities of the phenol standard solution into a series of tubes (preferably graduated at 5.0 and 10.0 ml.) to provide a suitable range of standards as needed, containing 0 (control blank), 0.5, 1.0, 3.0, 5.0, 10.0, etc., to 30 or 40 units. To increase the brightness of the blue color and improve the stability of the standards add 1.0 ml. of 0.05 percent copper sulfate solution 5–a to each.

Add 5.0 ml. of color dilution buffer 1–c and add water to bring the volume to 10.0 ml. Add 4 drops (0.08 ml.) of BQC 4, mix, and allow to develop for 30 minutes at room temperature. If the butyl alcohol extraction method is to be used in the test, extract the standards as described under III Conducting the Test.

Read the color intensities with a photometer, subtract the value of the blank from the value of each phenol standard, and prepare a standard curve (straight line). When the standards are to be used for visual comparisons they should be stored in a refrigerator.

[1] All pH values reported herein were determined at 25° C or corrected to that temperature.

TABLE I.—*Phosphatase test modifications for different kinds of cheese and cheese of*

Avoid the use of samples contaminated with mold.

With samples yielding more than 5 units, compare the colors in aqueous tests with

not be used in flasks in which butyl alcohol is stored. Glass or cork stoppers should be

with all the provisions of § 133.113, including the requirements for label statement of optional ingredients, except

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TABLE I.—*Phosphatase test modifications for different kinds of cheese and cheese of different ages*

Kind of cheese	Age or extent of curing; other details	Buffer for optimal pH (9.85–10.20)	Precipitant
Cheddar, granular, stirred curd, hard cheese	1 week	[1] 25–11	[2] 6.0–0.0
	1 week–1½ mo	25–11	[2] 6.0
	1½–4 mo	26–11	6.0
	4 mo	27–11	6.1
Washed curd, soaked curd, colby	1 week	25–11	6.0–0.0
	1 week–2 mo	25–11	6.0
	2 mo	26–11	6.0
Swiss, gruyere	1 week	25–11	6.0–0.1
	1 week–1 mo	25–11	6.1
	1–3 mo	26–11	6.0
	3 mo	27–11	6.1
Brick, muenster	1 week	25–11	6.0–0.0
	1 week–1 mo	25–11	6.1
	1–2 mo	25–11	6.0
	2 mo	26–11	6.0
Edam, gouda	1 week	25–11	6.0–0.1
	1 week–2 mo	25–11	6.0–0.1
	2–4 mo	26–11	6.0
	4 mo	27–11	6.0
Blue mold, blue	1 week	25–11	6.0–6.1
	1 week–1 mo	26–11	6.0
	1–4½ mo	27–11	6.0
	4½ mo	26–11	6.0
Camembert, limburger	1 week	25–11	6.0–0.1
	1 week–1 mo	25–11	6.0
	1–2 mo	26–11	6.0
	2 mo	27–11	6.0
Monterey	1 week	25–11	6.0–0.1
	1 week–2 mo	25–11	6.0
	2 mo	26–11	6.0
High-moisture jack	1 week	25–11	6.0–0.1
	1 week–2½ mo	25–11	6.1
	2½ mo	26–11	6.1
Provolone, pasta filata	1 week	25–11	6.0–0.0
	1 week–1 mo	25–11	6.0
	1–3 mo	26–11	6.0
	3 mo	27–11	6.0
Parmesan, reggiano, monte, modena, romano, asiago old.	1 week	25–11	6.0–0.0
	1 week–2 mo	26–11	6.0
	2–6 mo	27–11	6.0
	6 mo–1 yr	26–11	6.0
	1 yr	29–11	6.0
Asiago fresh	Same as cheddar		
Asiago medium	1 week	25–11	6.0–0.1
	1 week–1 mo	25–11	6.0
	1–3 mo	26–11	6.0
	3 mo	27–11	6.0
Gorgonzola	Same as blue		
Cottage, cook cheese, koch kaese	Dry	25–11	6.0–0.1
	Moist	[4] 25–11(8+2)	6.5–0.1
		25–11(7+3)	6.0–0.1
Cream cheese		25–11	6.0–0.1
Semisoft cheese	1 week	25–11	6.0
	1 week–1 mo	25–11	6.0
	1 mo	26–11	6.0
Soft ripened cheese	1 week	25–11	6.0–0.1
	1 week–1 mo	25–11	6.0
	1 mo	26–11	6.0
Nokkelost, kuminost, sage cheese	1 week	25–11	6.0–0.1
	1 week–1½ mo	25–11	6.0
	1½–4 mo	26–11	6.0
	4 mo	27–11	6.0
Pasteurized process, pasteurized process pimento, pasteurized process with fruits, meats, etc.	Soft, mild	25–11	6.0
	Medium, firm	26–11	6.0
	Firm, sharp (including swiss, gruyere)	27–11	6.0
Pasteurized process cheese foods; pasteurized process cheese foods with fruits, meats, etc.	Same as pasteurized process		
Pasteurized process cheese spreads; pasteurized process cheese spreads with fruits, meats, etc.	Soft, high moisture, including cream spreads	25–11	6.0
	Less soft, including blue	26–11	6.0
Cold-pack, club; cold-pack cheese foods; cold-pack cheese foods with fruits, meats, etc.	Mild to medium flavored, soft	26–11	6.0
	Sharp, firm	27–11	6.0

[1] Grams $Ba(OH)_2 8H_2O$ and H_2BO_3 per liter, respectively.
[2] Grams $ZnSO_4 7H_2O$ and $CuSO_4 5H_2O$ per 100 ml., respectively.
[3] Grams $ZnSO_4 7H_2O$ per 100 ml.
[4] 8 parts of 25–11 buffer plus 2 parts of water.

II. *Sampling*—1. *Hard cheese.* Take a sample from the interior with a *clean* Roquefort trier, place in a small tube, stopper the tube, and keep it in a refrigerator.

2. *Soft and semisoft ripened cheese.* Harden the cheese by chilling it in the freezing chamber of a refrigerator. Taking special precaution to avoid contaminating the sample with phosphatase that may be present on the surface, use either of the following methods for sampling:

a. Cut a portion from the end of the loaf or from the side of the cheese, extending in at least 2 inches if possible, or to a point somewhat beyond the center in the case of a small cheese. Cut a slit ¼ to ½ inch deep at least halfway around the portion and midway between the top and bottom. Break the portion into two parts, pulling it apart so that it breaks on a line with the slit, being careful not to contaminate the freshly exposed, broken surface. Remove the sample from the freshly exposed surface at or near the center of the cheese.

b. Remove the surface of the area to be sampled—e.g., the end and the adjacent sides—with a clean knife or spatula, to a depth of ¼ inch. Clean the instrument and hands with hot water and phenol-free soap and wipe them dry. Remove the freshly exposed surface to a similar or greater depth and repeat the cleaning. Then take the sample from the center of the freshly exposed area, preferably at or near the center of the cheese in the case of a small cheese.

3. *Process cheese, spreads, etc.* Take the sample from beneath the surface with a clean knife or spatula.

Avoid the use of samples contaminated with mold.

4. *Preservation.* If a preservative is necessary, put 1 to 3 ml. of chloroform in the container, cover with a plug of cotton, insert sample and stopper container tightly. Label preserved samples *"Poison — Preservative added."*

III. *Conducting the test.* 1. Weigh, on a clean balance pan or watch glass, a 0.50-gm. sample (preferably two samples in duplicate) and place in a culture tube 16 or 18 x 150 mm. Similarly, weigh another sample and place in a tube as a control or blank. If the cheese is sticky, weigh the sample on a piece of wax paper about 1 x 1 inch and insert the paper with the sample into the tube. Macerate the blank and the test with a glass rod about 8 x 180 mm.

2. Add to the blank 1.0 ml. of the appropriate (Table 1) barium buffer 1–a (without substrate added), macerate with the rod, leave the rod in the tube, heat for about a minute to at least 85° C (185°F) in a beaker of boiling water with the beaker covered so that the entire tube becomes heated to approximately 85° C, cool to room temperature, and macerate again with the rod.

3. Add to the test 1.0 ml. of the appropriate (Table 1) barium buffer-substrate 2-a or 2-b, and macerate.

From this point, treat the blank and the test in a similar manner.

Add 9.0 ml. of the appropriate barium buffer substrate 2–a or 2–b (total, 10.0 ml. added), and mix. The rod may be left in the tube during incubation; or, if removing it at this point, cut a piece of filter paper approximately 1 x 1 inch, wrap and hold it tightly around the rod, rotate the rod while withdrawing it from within the tube so as to wipe the rod clean, insert the paper with the adhering fat into the tube, and stopper the tube.

4. Incubate in a water bath at 37°–38° C (99°–100° F) for 1 hour, mixing or shaking the contents occasionally.

5. Place in a beaker of boiling water for nearly a minute, heating to 85° C (185° F), and cool to room temperature.

6. Pipet in 1.0 ml. of the zinc precipitant 3–b for ripened cheese or the zinc-copper precipitant 3–a for unripened cheese, and mix thoroughly (pH of mixture, 9.0–9.1).

7. Filter (6-cm. funnel, 9-cm. Whatman No. 42 or No. 2 paper recommended), and collect 5.0 ml. of filtrate in a tube, preferably graduated at 5.0 and 10.0 ml.

8. Add 5.0 ml. of color-development buffer 1–b (pH of mixture, 9.3–9.4).

9. Add four drops[2] of BQC 4, mix, and allow the color to develop for 30 minutes at room temperature.

10. Determine the amount of blue color by either of two methods:

a. *With a photometer.* Read the color intensity of the blank and that of the test, subtract the reading of the blank from that of the test, and convert the result into phenol equivalents by reference to the standard curve described under "Phenol standards." The butyl alcohol extraction method is ordinarily unnecessary when using a photometer.

b. *With visual standards.* For quantitative results in borderline instances, e.g., tests yielding 0.5 to 5 units of color, extract with butyl alcohol 5–b. Add 5.0 ml. of the alcohol and invert the tube slowly several times. Centrifuge if necessary to increase the clearness of the alcohol layer. Compare the blue color with the colors of standards in the alcohol.

[2] For merely detecting underpasteurization, in testing unripened cheese, two drops is sufficient, provided the visual standards are prepared likewise with two drops.

With samples yielding more than 5 units, compare the colors in aqueous tests with those of aqueous standards.

11. *Dilution method for quantitative results.* In tests that are observed during color development to be strongly positive, e.g., 20 units or more, in which four drops of BQC may be much less than sufficient to combine with all of the phenol, pipet an appropriate proportion of the contents into another tube, make up to 10.0 ml. with color-dilution buffer 1–c, and add two drops more of BQC in the case of unripened cheese or four drops in the case of ripened cheese. With each test, dilute and treat the blank in the corresponding manner. Dilute each strongly positive test thus until the final color is within the range of the standards or photometer. Allow 30 minutes for color development after the last addition of BQC, and make the reading at the end of the 30-minute period. Multiply, for example, by 2 for a 5+5 dilution, 10 for a 1+9 dilution, and 50 for a 1+9 followed by a 2+8 dilution.

Alternatively, to reduce the amount of yellow 'off' color, add two instead of four drops of BQC after each dilution, and allow the color to develop. Then test the completeness of color development by adding a third drop; repeat the dilution procedure until the addition of an extra drop does not cause any further increase in the amount of blue color.

12. *Calculation and evaluation of results.* When using 0.5 gm. of sample and adding a total of 11.0 ml. of liquid, multiply the value of the reading by 1.1 to convert it to units of color or phenol equivalents per 0.25 gm. of cheese. The result may, if desired, be converted to phenol equivalents per 1 gm. by multiplying by 4.4.

IV. *Photometric determination.* To read the color in aqueous solution, use a filter with maximum light transmission in the region of 610 m_μ wave length.

To read the color in butyl alcohol, extract the color as described above. If necessary, centrifuge the sample for 5 minutes to break the emulsion and to remove the moisture suspended in the alcohol layer. A Babcock centrifuge can be adapted for this purpose by making special tube holders as follows: Slice a section ¼ inch thick from a rubber stopper of suitable diameter to fit in the bottom of the centrifuge cup. Glue together two cork stoppers of appropriate diameter, bore through the center a hole of proper size to hold the tube snugly, and insert the double-cork section into the cup. After centrifuging, remove nearly all of the butyl alcohol by means of a pipet with a rubber bulb on the top end. Filter the alcohol into the photometer cell and read with a filter with maximum light transmission in the region of 650 m_μ wave length.

If more than approximately 4 ml. of butyl alcohol is required for the photometer used, conduct the test in a larger tube and extract the color, in both the test and the standards, with the necessary quantity of butyl alcohol rather than with 5 ml. specified above.

V. *Precautions.* The length of time that the crystalline disodium phenyl phosphate and the BQC powder will remain stable can be increased greatly by keeping them in the freezing chamber of a refrigerator, and by keeping them dry.

The glassware, stoppers, and sampling tools should be scrupulously clean, and it is desirable to soak them in hot, running water after cleaning.

The solid barium hydroxide and the barium buffer must be kept stoppered tightly to prevent absorption of carbon dioxide. Phenolic contamination from plastic closures on reagent bottles has been encountered, and therefore the use of plastic closures should be avoided. Rubber stoppers should not be used in flasks in which butyl alcohol is stored. Glass or cork stoppers should be used.

VI. *Modifications for different cheeses.* Different kinds of cheese and cheeses of different ages have different buffering capacities, and therefore some of them require modification of concentrations of the reagents. The modifications of the barium buffer needed to produce optimal pH conditions during incubation (9.85–10.20), and of the precipitant to yield uniformly clear filtrates and to minimize interference during color development under optimal pH conditions (9.3–9.4), are specified in Table I.

With some samples, especially those of unknown history, slight deviations from the optimal pH range may occur, but such deviations do not very materially affect the results. For example, pH values as low as 9.6 or as high as 10.35 during incubation have been found to result in an average decrease of not more than 20 percent below the maximum in the quantity of phenol liberated. The use of the 25–11 buffer substrate with samples for which the 27–11 buffer substrate is specified yields pH values not lower than 9.8.

In testing cheese of unknown history or age, information as to the percentage of solids, especially the nonfat solids, is useful as an indication of the correct buffer to use; cheese with a relatively high percentage of nonfat solids generally requires the use of a relatively concentrated buffer to adjust the pH of the mixture correctly.

For precise quantitative results on unknown samples, adjust the pH to 10.0–10.05 for the incubation.

Cottage cheese curd is heated in the presence of considerable acid during manufacture, and therefore its phosphatase values are comparatively low. Alternatively, to increase the sensitivity of the test on cottage cheese, apply the following modifications: Use a 1.0-gm. sample, 27–11 buffer substrate, 2-hour incubation, and 6.0–0.1 precipitant.

(g) (1) If cheddar cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used; e.g., "Sorbic acid and potassium sorbate added to retard mold growth".

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.114 Cheddar cheese for manufacturing.

Cheddar cheese for manufacturing conforms to the definition and standard of identity prescribed for cheddar cheese by § 133.113, except that the milk is not pasteurized, curing is not required, and the provisions of paragraph (d) of that section do not apply.

§ 133.116 Low sodium cheddar cheese.

Low sodium cheddar cheese is the food prepared from the same ingredients and in the same manner prescribed in § 133.113 for cheddar cheese and complies with all the provisions of § 133.113, including the requirements for label statement of optional ingredients, except that:

(a) Salt is not used. Any safe and suitable ingredient or combination of ingredients that contains no sodium and that is recognized as a salt substitute may be used.

(b) Sodium sorbate is not used.

(c) It contains not more than 96 milligrams of sodium per pound of finished food.

(d) The name of the food is "low sodium cheddar cheese". The letters in the words "low sodium" shall be of the same size and style of type as the letters in the words "cheddar cheese", wherever such words appear on the label.

(e) If a salt substitute as provided for in paragraph (a) of this section is used, the label shall bear the statement "_____ added as a salt substitute", the blank being filled in with the common name or names of the ingredient or ingredients used as a salt substitute.

(f) Low sodium cheddar cheese is subject to § 105.69 of this chapter.

§ 133.118 Colby cheese.

(a) Colby cheese is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 40 percent of moisture, and its solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in § 133.113(c). If the milk used is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F for not less than 60 days.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial coloring may be added. Sufficent rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. A part of the whey is drained off, and the curd is cooled by adding water, the stirring being continued so as to prevent the pieces of curd from matting. The curd is drained, salted, stirred, further drained, and pressed into forms. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of colby cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

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(c) For the purposes of this section:

(1) The word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, water, in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction. Colby cheese shall be deemed not to have been made from pasteurized milk if 0.25 gm. shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.113(f).

(3) During the cheese-making process the milk may be treated as provided in § 133.113 (e)(3).

(d)(1) Colby cheese in the form of slices or cuts may have added to it a clear aqueous solution prepared by condensing or precipitating wood smoke in water.

(2) Colby cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight calculated as sorbic acid.

(e) (1) If colby cheese has added to it a clear aqueous solution prepared by condensing or precipitating wood smoke in water as provided in paragraph (d)(1) of this section, the name of the food is immediately followed by the words "with added smoke flavoring" with all words in this phrase of the same type size, style, and color without intervening written, printed, or graphic matter.

(2) If colby cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d)(2) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in paragraph (e)(2) of this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter except for the statement "with added smoke flavoring," as set forth in paragraph (e)(1) of this section.

§ 133.119 Colby cheese for manufacturing.

Colby cheese for manufacturing conforms to the definition and standard of identity prescribed for colby cheese by § 133.118, except that the milk is not pasteurized, curing is not required, and the provisions of paragraph (d) of that section do not apply.

§ 133.121 Low sodium colby cheese.

Low sodium colby cheese is the food prepared from the same ingredients and in the same manner prescribed in § 133.118 for colby cheese and complies with all the provisions of § 133.118, including the requirements for label statement of optional ingredients, except that:

(a) Salt is not used. Any safe and suitable ingredient or combination of ingredients that contains no sodium and that is recognized as a salt substitute may be used.

(b) Sodium sorbate is not used.

(c) It contains not more than 96 milligrams of sodium per pound of finished food.

(d) The name of the food is "low sodium colby cheese". The letters in the words "low sodium" shall be of the same size and style of type as the letters in the words "colby cheese", wherever such words appear on the label.

(e) If a salt substitute as provided for in paragraph (a) of this section is used, the label shall bear the statement "_____ added as a salt substitute", the blank being filled in with the common name or names of the ingredient or ingredients used as a salt substitute.

(f) Low sodium colby cheese is subject to § 105.69 of this chapter.

§ 133.123 Cold-pack and club cheese.

(a)(1) Cold-pack cheese, club cheese, is the food prepared by comminuting, without the aid of heat, one or more cheeses of the same or two or more varieties, except cream cheese, neufchatel cheese, cottage cheese, lowfat cottage cheese, cottage cheese dry curd, hard grating cheese, semisoft part-skim cheese, part-skim spiced cheese and skim milk cheese for manufacturing, into a homogeneous plastic mass. One or more of the optional ingredients designated in paragraph (c) of this section may be used.

(2) All cheeses used in a cold-pack cheese are made from pasteurized milk or are held for not less than 60 days at a temperature of not less than 35° F before being comminuted.

(3) (i) The moisture content of a cold-pack cheese made from a single variety of cheese is not more than the maximum moisture content prescribed by the definition and standard of identity, if any there be, for the variety of cheese used. If there is no applicable definition and standard of identity, or if such standard contains no provision as to maximum moisture content, no water is used in the preparation of the cold-pack cheese.

(ii) The fat content of the solids of a cold-pack cheese made from a single variety of cheese is not less than the minimum prescribed by the definition and standard of identity, if any there be, for the variety of cheese used, but in no case is less than 47 percent, except that the fat content of the solids of cold-pack swiss cheese is not less than 43 percent, and the fat content of the solids of cold-pack gruyere cheese is not less than 45 percent.

(4) (i) The moisture content of a cold-pack cheese made from two or more varieties of cheese is not more than the arithmetical average of the maximum moisture contents prescribed by the definitions and standards of identity, if any there be, for the varieties of cheese used, but in no case is the moisture content more than 42 percent, except that the moisture content of a cold-pack cheese made from two or more of the varieties cheddar cheese, washed curd cheese, colby cheese, and granular cheese is not more than 39 percent.

(ii) The fat content of the solids of a cold-pack cheese made from two or more varieties of cheese is not less than the arithmetical average of the minimum percent of fat prescribed by the definitions and standards of identity, if any there be, for the varieties of cheese used, but in no case is less than 47 percent, except that the fat content of the solids of a cold-pack cheese made from swiss cheese and gruyere cheese is not less than 45 percent.

(5) Moisture and fat are determined by the methods prescribed in § 133.113(c).

(6) The weight of each variety of cheese in a cold-pack cheese made from two varieties of cheese is not less than 25 percent of the total weight of both, except that the weight of blue cheese, nuworld cheese, roquefort cheese, or gorgonzola cheese is not less than 10 percent of the total weight of both, and the weight of limburger cheese is not less than 5 percent of the total weight of both. The weight of each variety of cheese in a cold-pack cheese made from three or more varieties of cheese is not less than 15 percent of the total weight of all, except that the weight of blue cheese, nuworld cheese, roquefort cheese, or gorgonzola cheese is not less than 5 percent of the total weight of all, and the weight of limburger cheese is not less than 3 percent of the total weight of all. These limits do not apply to the quantity of cheddar cheese, washed curd cheese, colby cheese, and granular cheese in mixtures which are designated as "American cheese" as prescribed in paragraph (d)(2) of this section. Such mixtures are considered as one variety of cheese for the purpose of this paragraph (a)(6).

(b) Cold-pack cheese may be smoked, or the cheese or cheeses from which it is made may be smoked, before comminuting and mixing, or it may contain substances prepared by condensing or precipitating wood smoke.

(c) The optional ingredients referred to in paragraph (a) of this section are:

(1) An acidifying agent consisting of one or any mixture of two or more of the following: A vinegar, lactic acid, citric acid, acetic acid, and phosphoric acid, in such quantity that the pH of the finished cold-pack cheese is not below 4.5. For the purposes of this section vinegar is considered to be acetic acid.

(2) Water.

(3) Salt.

(4) Harmless artificial coloring.

(5) Spices or flavorings, other than any which singly or in combination with other ingredients simulate the flavor of a cheese of any age or variety.

(6) Cold-pack cheese in consumer-sized packages may contain an optional

mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid or consisting of not more than 0.3 percent by weight of sodium propionate, calcium propionate, or a combination of sodium propionate and calcium propionate.

(d)(1) The name of a cold-pack cheese for which a definition and standard of identity is prescribed by this section is "Cold-pack _____ cheese", "_____ cold-pack cheese" or "_____ club cheese", the blanks being filled in with the name or names of the varieties of cheese used, in order of predominance by weight.

(2) If the cold-pack cheese is made of cheddar cheese, washed curd cheese, colby cheese, or granular cheese or any mixture of two or more of these, it may be designated "Cold-pack American cheese"; or when cheddar cheese, washed curd cheese, colby cheese, granular cheese, or any mixture of two or more of these is combined with other varieties of cheese in the cheese ingredient any of such cheeses or such mixture may be designated as "American cheese".

(3) The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. Wherever any word or statement emphasizing the name of any ingredient appears on the label (other than in an ingredient statement as specified in paragraph (f) of this section) so conspicuously as to be easily seen under customary conditions of purchase, the full name of the food shall immediately and conspicuously precede or follow such word or statement in type of at least the same size as the type used in such word or statement.

(e) The name of the food shall include a declaration of any flavoring, including smoke and substances prepared by condensing or precipitating wood smoke, that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice that characterizes the product.

(f) The common name of each of the ingredients used shall be declared on the labels as required by the applicable sections of Part 101 of this chapter, except that:

(1) Artificial coloring need not be declared.

(2) If the cheese ingredient contains cheddar cheese, washed curd cheese, colby cheese, granular cheese, or any mixture of two or more of these, such cheese of such mixture may be designated as "American cheese".

§ 133.124 Cold-pack cheese food.

(a)(1) Cold-pack cheese food is the food prepared by comminuting and mixing, without the aid of heat, one or more of the optional cheese ingredients prescribed in paragraph (c) of this section, with one or more of the optional dairy ingredients prescribed in paragraph (d) of this section, into a homogeneous plastic mass. One or more of the optional ingredients specified in paragraph (e) of this section may be used.

(2) All cheeses used in a cold-pack cheese food are made from pasteurized milk, or are held for not less than 60 days at a temperature of not less than 35° F before being comminuted.

(3) The moisture content of a cold-pack cheese food is not more than 44 percent, and the fat content is not less than 23 percent.

(4) Moisture and fat are determined by the methods prescribed in § 133.113 (c), except that in determining moisture the loss in weight which occurs in drying for 5 hours, under the conditions prescribed in such method, is taken as the weight of moisture.

(5) The weight of the cheese ingredient prescribed by paragraph (a)(1) of this section constitutes not less than 51 percent of the weight of the finished cold-pack cheese food.

(6) The weight of each variety of cheese in the cold-pack cheese food made with two varieties of cheese is not less than 25 percent of the total weight of both, except that the weight of blue cheese, nuworld cheese, roquefort cheese, gorgonzola cheese, or limburger cheese is not less than 10 percent of the total weight of both. The weight of each variety of cheese in the cold-pack cheese food made with three or more varieties of cheese is not less than 15 percent of the total weight of all, except that the weight of blue cheese, nuworld cheese, roquefort cheese, gorgonzola cheese, or limburger cheese is not less than 5 percent of the total weight of all. These limits do not apply to the quantity of cheddar cheese, washed curd cheese, colby cheese, and granular cheese in mixtures which are designated as "American cheese" as prescribed in paragraph (h)(5) of this section. Such mixtures are considered as one variety of cheese for the purposes of this paragraph (a)(6).

(b) Cold-pack cheese food may be smoked, or the cheese or cheeses from which it is made may be smoked, before comminuting and mixing, or it may contain substances prepared by condensing or precipitating wood smoke.

(c) The optional cheese ingredients referred to in paragraph (a) of this section are: One or more cheeses of the same or two or more varieties, except that cream cheese, neufchatel cheese, cottage cheese, creamed cottage cheese, cook cheese, and skim-milk cheese for manufacturing are not used, and except that semisoft part-skim cheese, part-skim spiced cheese, and hard grating cheese may not be used, alone or in combination with each other, as the cheese ingredient.

(d) The optional dairy ingredients referred to in paragraph (a) of this section are: Cream, milk, skim milk, buttermilk, cheese whey, any of the foregoing from which part of the water has been removed, anhydrous milkfat, dehydrated cream, skim milk cheese for manufacturing, and albumin from cheese whey. All optional dairy ingredients used in cold-pack cheese food are pasteurized or made from products that have been pasteurized.

(e) The other optional ingredients referred to in paragraph (a) of this section are:

(1) An acidifying agent consisting of one or any mixture of two or more of the following: A vinegar, lactic acid, citric acid, acetic acid, and phosphoric acid, in such quantity that the pH of the finished cold-pack cheese food is not below 4.5.

(2) Water.

(3) Salt.

(4) Harmless artificial coloring.

(5) Spices or flavorings, other than any which singly or in combination with other ingredients simulate the flavor of cheese of any age or variety.

(6) A sweetening agent consisting of one or any mixture of two or more of the following: Sugar, dextrose, corn sugar, corn sirup, corn sirup solids, glucose sirup, glucose sirup solids, maltose, malt sirup, and hydrolyzed lactose, in a quantity necessary for seasoning.

(7) Cold-pack cheese food in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid or consisting of not more than 0.3 percent by weight of sodium propionate, calcium propionate, or a combination of sodium propionate and calcium propionate.

(8) In the preparation of cold-pack cheese food, guar gum, or xanthan gum, or both may be used, but the total quantity of such ingredient or combination is not to exceed 0.3 percent of the weight of the finished food. When one or both such optional ingredients is used, dioctyl sodium sulfosuccinate complying with the requirements of § 172.810 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredient or ingredients.

(f) The name of the food is "cold-pack cheese food". The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. Wherever any word or statement emphasizing the name of any ingredient appears on the label (other than in an ingredient statement as specified in paragraph (h) of this section) so conspicuously as to be easily seen under customary conditions of purchase, the full name of the food shall immediately and conspicuously precede or follow such word or statement in type of at least the same size as the type used in such word or statement.

(g) The name of the food shall include a declaration of any flavoring, including smoke and substances prepared by condensing or precipitating wood smoke, that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice that characterizes the product.

(h) The common name of each of the ingredients used shall be declared on the label as required by the applicable sec-

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tions of Part 101 of this chapter, except that:

(1) Plastic cream and dried cream may be declared as "cream".

(2) Concentrated milk and dried milk may be declared as "milk".

(3) Concentrated skim milk and nonfat dry milk may be declared as "skim milk".

(4) Cheese whey, concentrated cheese whey, and dried cheese whey may be declared as "whey".

(5) If the cheese ingredient contains cheddar cheese, washed cheese, colby cheese, granular cheese, or any mixture of two or more of these, such cheese or such mixture may be designated as "American cheese".

§ 133.125 Cold-pack cheese food with fruits, vegetables, or meats.

(a) Cold-pack cheese food with fruits, vegetables, or meats or mixtures of these is the food which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for cold-pack cheese food by § 133.124, except that:

(1) Its milk fat content is not less than 22 percent.

(2) It contains one or any mixture of two or more of the following: Any properly prepared fresh, cooked, canned, or dried vegetable; any properly prepared cooked or canned meat.

(3) When the added fruits, vegetables, or meats contain fat, the method prescribed for the determination of fat by § 133.113(c) is not applicable.

(b) The name of a cold-pack cheese food with fruits, vegetables or meats is "Cold-pack cheese food with _____", the blank being filled in with the common or usual name or names of the fruits, vegetables, or meats used, in order of predominance by weight.

§ 133.127 Cook cheese, koch kaese.

(a) Cook cheese, koch kaese, is the food prepared from skim milk and other ingredients specified in this section by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 80 percent moisture as determined by the method therefor prescribed in § 133.113(c). When tested for phosphatase by the method prescribed in § 133.113(f), 0.25 gram of cook cheese shows a phenol equivalent of not more than 3 micrograms.

(b) Skim milk, or the optional dairy ingredients specified in paragraph (c) of this section, which may be pasteurized, and which may be warmed, are subjected to the action of harmless lactic-acid-producing bacteria, present in such dairy ingredients or added thereto. A culture of a harmless white mold may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the skim milk, may be added to aid in setting the mix to a semisolid mass. The mass is cut, stirred, and heated, with continued stirring, so as to separate the curd and whey. The whey is drained from the curd, and the curd is cured for 2 or 3 days. It is then heated to a temperature of not less than 180° F until the hot curd will drop from a ladle with a consistency like that of honey. The hot cheese is filled into packages and cooled. Pasteurized cream, salt, or caraway seed, or any mixture of two or more of these may be added.

(c) The optional dairy ingredients referred to in paragraph (b) of this section are: Skim milk or concentrated skim milk or nonfat dry milk or a mixture of any two or more of these, with water in a quantity not in excess of that sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(d) For the purposes of this section, "skim milk" means cow's milk from which the milk fat has been separated.

§ 133.128 Cottage cheese.

(a) Cottage cheese is the soft uncured cheese prepared by mixing cottage cheese dry curd with a creaming mixture as provided in paragraph (b) of this section. The milkfat content is not less than 4 percent by weight of the finished food, within limits of good manufacturing practice. The finished food contains not more than 80 percent of moisture, as determined by the method prescribed in § 133.129(a).

(b) The creaming mixture is prepared from safe and suitable ingredients including, but not limited to, milk or substances derived from milk. Any ingredients used that are not derived from milk shall serve a useful function other than building the total solids content of the finished food, and shall be used in a quantity not greater than is reasonably required to accomplish their intended effect. The creaming mixture shall be pasteurized; however, heat labile ingredients, such as bacterial starters, may be added following pasteurization.

(c) The name of the food consists of the following two phrases which shall appear together:

(1) The words "cottage cheese" which shall appear in type of the same size and style.

(2) The statement "not less than ____ percent milkfat" or "____ percent milkfat minimum", the blank being filled in with the whole number that is closest to, but does not exceed, the actual fat content of the product. This statement of fat content shall appear in letters not less than one-half of the height of the letters in the phrase specified in paragraph (c)(1) of this section, but in no case less than one-eighth of an inch in height.

(d) When the optional process described in § 133.129(b)(1)(ii) or (iii) is used to make the cottage cheese dry curd used in cottage cheese, the label shall bear the statement "Directly set" or "Curd set by direct acidification". Wherever the name of the food appears on the label so conspicuously as to be seen under customary conditions of purchase, the statement specified in this paragraph, showing the optional process used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

(e) The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Concentrated milk, dried milk, and reconstituted milk prepared by addition of water to concentrated milk or dried milk may be declared as "milk".

(2) Concentrated skim milk, nonfat dry milk, and reconstituted skim milk prepared by addition of water to concentrated skim milk or nonfat dry milk may be declared as "skim milk".

(3) Bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "made from cultured skim milk".

(4) Milk-clotting enzymes may be declared by the word "enzymes".

§ 133.129 Dry curd cottage cheese.

(a) Cottage cheese dry curd is the soft uncured cheese prepared by the procedure set forth in paragraph (b) of this section. The finished food contains less than 0.5 percent milkfat. It contains not more than 80 percent of moisture, as determined by the method prescribed under "Moisture—Official," on page 272 of "Official Methods of Analysis of the Association of Official Analytical Chemists," Eleventh Edition (1970).[1]

(b) (1) One or more of the dairy ingredients specified in paragraph (b)(2) of this section is pasteurized; calcium chloride may be added in a quantity of not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the mix; thereafter one of the following methods is employed:

(i) Harmless lactic-acid-producing bacteria, with or without rennet and/or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, are added and it is held until it becomes coagulated. The coagulated mass may be cut; it may be warmed; it may be stirred; it is then drained. The curd may be washed with water and further drained; it may be pressed, chilled, worked, seasoned with salt; or

(ii) Food grade phosphoric acid, lactic acid, citric acid, or hydrochloric acid, with or without rennet and/or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, is added in such amount as to reach a pH of between 4.5 and 4.7; coagulation to a firm curd is achieved while heating to a maximum of 120° F without agitation during a continuous process. The coagulated mass may be cut; it may be warmed; it may be stirred; it is then drained. The curd is washed with water, stirred, and further drained. It may be pressed, chilled, worked, seasoned with salt.

(iii) Food grade acids as provided in paragraph (b)(1)(ii) of this section,

D-Glucono-delta-lactone with or without rennet, and/or other safe and suitable milk clotting enzyme that produces equivalent curd formation, are added in such amounts as to reach a final pH value in the range of 4.5–4.8, and it is held until it becomes coagulated. The coagulated mass may be cut; it may be warmed; it may be stirred; it is then drained. The curd is then washed with water, and further drained. It may be pressed, chilled, worked, and seasoned with salt.

(2) The dairy ingredients referred to in paragraph (b)(1) of this section are sweet skim milk, concentrated skim milk, and nonfat dry milk. If concentrated skim milk or nonfat dry milk is used, water may be added in a quantity not in excess of that removed when the skim milk was concentrated or dried.

(3) For the purposes of this section the term "skim milk" means the milk of cows from which the milk fat has been separated, and "concentrated skim milk" means skim milk from which a portion of the water has been removed by evaporation.

(c) The name of the food consists of the following two phrases which shall appear together:

(1) The words "cottage cheese dry curd" or alternatively "dry curd cottage cheese" which shall all appear in type of the same size and style.

(2) The words "less than ½% milkfat" which shall all appear in letters not less than one-half of the height of the letters in the phrase specified in paragraph (c)(1) of this section, but in no case less than one-eighth of an inch in height.

(d) When either of the optional processes described in paragraph (b)(1)(ii) or (iii) of this section is used to make cottage cheese dry curd, the label shall bear the statement "Directly set" or "Curd set by direct acidification". Wherever the name of the food appears on the label so conspicuously as to be seen under customary conditions of purchase, the statement specified in this paragraph, showing the optional process used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

(e) The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Concentrated skim milk, nonfat dry milk, and reconstituted skim milk prepared by addition of water to concentrated skim milk or nonfat dry milk may be declared as "skim milk".

(2) Bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "made from cultured skim milk".

(3) Milk-clotting enzymes may be declared by the word "enzymes".

§ 133.131 Lowfat cottage cheese.

Lowfat cottage cheese is the food prepared from the same ingredients and in the same manner prescribed in § 133.128 for cottage cheese and complies with all the provisions of § 133.128 (including requirements for the label statement of optional ingredients), except that:

(a) Its content of milkfat is not less than 0.5 percent and not more than 2 percent by weight, within limits of good manufacturing practice.

(b) Its moisture content is not more than 82.5 percent.

(c) The name of the food consists of the following two phrases which shall appear together:

(1) The words "lowfat cottage cheese" which shall appear in type of the same size and style.

(2) The words "_____ % milkfat", the blank being filled in with the fraction "½" or multiple thereof closest to the actual fat content of the product. This statement of fat content shall appear in letters not less than one-half of the height of the letters in the phrase specified in paragraph (c)(1) of this section, but in no case less than one-eighth of an inch in height.

§ 133.133 Cream cheese.

(a) Cream cheese is the soft uncured cheese prepared by the procedure set forth in paragraph (b) of this section. The finished cream cheese contains not less than 33 percent of milk fat and not more than 55 percent of moisture, as determined, respectively by the methods prescribed under "Fat—Official" on page 302 and under "Moisture—Official" on page 301 of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fifth Edition, 1940. (These methods appear in the 10th edition, 1965, p. 248, sec. 15.164; p. 247, sec. 15.157, respectively.)

(b)(1) One or a mixture of two or more of the dairy ingredients specified in paragraph (b)(3) of this section is pasteurized and may be homogenized. To such ingredient or mixture harmless lactic-acid-producing bacteria, with or without rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, are added and it is held until it becomes coagulated. The coagulated mass may be warmed; it may be stirred; it is then drained. The moisture content may be adjusted with cheese whey, concentrated cheese whey, dried cheese whey, or reconstituted cheese whey prepared by addition of water to concentrated cheese whey or dried cheese whey. The curd may be pressed, chilled, worked, seasoned with salt; it may be heated, with or without addition of one or more of the dairy ingredients specified in paragraph (b)(3) of this section, until it becomes fluid, and it may then be homogenized or otherwise mixed.

(2)(i) In the preparation of cream cheese, one or any mixture of two or more of the optional ingredients gum karaya, gum tragacanth, carob bean gum, guar gum, carrageenan, gelatin, algin (sodium alginate), propylene glycol alginate, or xanthan gum may be used; but the quantity of any such ingredient or mixture is such that the total weight of solids contained therein is not more than 0.5 percent by weight of the finished cream cheese.

(ii) When one or more of the optional ingredients in paragraph (b)(2)(i) of this section are used, dioctyl sodium sulfosuccinate complying with the requirements of § 172.810 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(3) The dairy ingredients referred to in paragraph (b)(1) of this section are cream, plastic cream, milk, skim milk, concentrated milk, concentrated skim milk, and nonfat dry milk. If concentrated milk, concentrated skim milk, or nonfat dry milk is used, water may be added in a quantity not in excess of that removed when the milk or skim milk was concentrated or dried.

(4) For the purposes of this section, the term "milk" means sweet milk of cows, "skim milk" means milk from which the milk fat has been separated, and "concentrated skim milk" means skim milk from which a portion of the water has been removed by evaporation.

(c) When used in the food, salt, bacterial culture, and enzymes as provided for in paragraph (b)(1) of this section and each of the ingredients listed in paragraph (b)(2) and (3) of this section shall be declared by common name on the label as required by the applicable sections of Part 101 of this chapter except that:

(1) Any cream as defined in Part 131 of this chapter and plastic cream may be declared as "cream".

(2) Concentrated milk and reconstituted milk prepared by addition of water to concentrated milk may be declared as "milk".

(3) Concentrated skim milk, nonfat dry milk, and reconstituted skim milk prepared by addition of water to concentrated skim milk or nonfat dry milk may be declared as "skim milk".

(4) Bacterial cultures may be declared as "cheese culture" or by the word "cultured" followed by the name of the substrate, e.g., "made from cultured cream".

(5) Milk clotting enzymes may be declared by the word "enzymes".

§ 133.134 Cream cheese with other foods.

(a) Cream cheese with other foods is the class of foods each of which is prepared by mixing, with or without the aid of heat, cream cheese with one or a mixture of two or more properly prepared foods (except other cheeses), such as fresh, cooked, canned, or dried fruits or vegetables; cooked or canned meats; relishes, pickles, or other foods suitable for blending with cream cheese. The amount of the added food or foods must be sufficient to so differentiate the mixture that it does not simulate cream cheese. The mixture may also contain:

(1)(i) One or any mixture of two or more of the following optional ingredients: Gum karaya, gum tragacanth, carob bean gum, gelatin, guar gum, sodium carboxymethylcellulose (cellulose gum), carrageenan, oat gum, algin (sodium alginate), propylene glycol alginate, or xanthan gum. The total quantity of any such substances, including that contained in the cream cheese, is

tity sufficient to reconstitute any con-

produced when the procedure set forth

(3) Such milk may be adjusted by sep-

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not more than 0.8 percent by weight of the finished food.

(ii) When one or more of the optional ingredients in paragraph (a)(1)(i) of this section are used, dioctyl sodium sulfosuccinate complying with the requirements of § 172.810 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(2) Artificial coloring, unless such addition conceals damage or inferiority or makes the finished food appear better or of greater value than it is.

(b) No water other than that contained in the added food ingredients is used, but the moisture content of the mixture in no case is more than 60 percent. The milk fat is not less than 33 percent of the percent by weight of the cream cheese used, but in no case is it less than 27 percent of the finished food. Moisture and fat are determined by the methods prescribed in § 133.113(c), except that when the added food contains fat the method prescribed for the determination of fat is not applicable.

(c) The name of the food is "cream cheese with _____" or "cream cheese and _____", the blank being filled in with the common names of the foods added, in order of predominance by weight. The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. Wherever any word or statement emphasizing the name of an ingredient appears on the label (other than in an ingredient statement as specified in paragraph (d) of this section) so conspicuously as to be easily seen under customary conditions of purchase, the full name of the food shall immediately and conspicuously precede or follow such word or statement in type of at least the same size as the type used in such word or statement.

(d) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 133.136 Washed curd and soaked curd cheese.

(a) Washed curd cheese, soaked curd cheese, is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 42 percent of moisture, and its solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in § 133.113(c). If the milk used is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F for not less than 60 days.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial coloring may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. The whey is drained off, and the curd is matted into a cohesive mass. The mass is cut into slabs, which are so piled and handled as to promote the drainage of whey and the development of acidity. The slabs are then cut into pieces, cooled in water, and soaked therein until the whey is partly extracted and water is absorbed. The curd is drained, salted, stirred, and pressed into forms. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of washed curd cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes or for a time and at a temperature equivalent thereto in phosphatase destruction. Washed curd cheese shall be deemed not to have been made from pasteurized milk if 0.25 gram. shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.113(f).

(3) During the cheese-making process the milk may be treated as provided in § 133.113(e)(3).

(d) Washed curd cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e)(1) If washed curd cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.137 Washed curd cheese for manufacturing.

Washed curd cheese for manufacturing conforms to the definition and standard of identity prescribed for washed curd cheese by § 133.136, except that the milk is not pasteurized, curing is not required, and the provisions of paragraph (d) of that section do not apply.

§ 133.138 Edam cheese.

(a) Edam cheese is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 45 percent of moisture, and its solids contain not less than 40 percent of milk fat, as determined by the methods prescribed in § 133.113(c). If the milk used is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F for not less than 60 days. Edam cheese is made in ball or loaf shapes, and the surface is covered with a paraffin or other tightly adhering coating. The covering or coating may be natural in color or may be colored red or any other color.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial coloring may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. After coagulation the mass is cut into small cube-shaped pieces with sides approximately ⅜-inch long. The mass is stirred and heated to about 90° F, and so handled by further stirring, heating, dilution with water or salt brine, and salting as to promote and regulate the separation of curd and whey. When the desired curd is obtained, it is transferred to forms permitting drainage of whey. During drainage the curd is pressed and turned. After drainage the curd is removed from the forms and is salted and cured. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of edam cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction. Edam cheese shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.113(f).

(d) Edam cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, soduim sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e)(1) If edam cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a perservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

§ 133.140 Gammelost cheese.

(a) Gammelost cheese is the food prepared from the skim milk of cows and the other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section. It contains not more than 52 percent of moisture, as determined by the method prescribed in § 133.113(c).

(b) Skim milk, which may be pasteurized, is subjected to the action of harmless lactic-acid-producing bacteria, present in such skim milk or added thereto. The development of acidity is continued until the skim milk coagulates to a semisolid mass. The mass is stirred and heated until a temperature of about 145° F is reached, and is held at that temperature for not less than ½ hour. The whey is drained off and the curd removed and placed in forms and pressed. The shaped curd is placed in whey and heated for 3 or 4 hours. It is then removed from the whey and may again be pressed. It is then stored under conditions suitable for curing.

§ 133.141 Gorgonzola cheese.

(a) Gorgonzola cheese is the food prepared from cow's milk or goat's milk or mixtures of these, and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It is characterized by the presence of bluish-green mold throughout the cheese. It is made in loaves weighing between 14 and 17 pounds. It contains not more than 42 percent moisture, and its solids contain not less than 50 percent milk fat, as determined by the methods prescribed in § 133.113(c). It is not less than 90 days old.

(b) Milk, which may be pasteurized or clarified or both, which may be warmed, and which may be homogenized, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial green or blue coloring in a quantity which neutralizes any natural yellow coloring in the curd may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. The mass is cut into smaller portions and allowed to stand for a time. The mixed curd and whey is placed into forms permitting further drainage. While being placed in forms, spores, of the mold *Penicillium roquefortii* are added. The forms are turned several times during drainage. When sufficiently drained, the shaped curd is removed from the forms and salted with dry salt or brine. Perforations are then made in the shaped curd and it is held at a temperature of approximately 50° F, at 90 to 95 percent relative humidity, until the characteristic mold growth has developed. During storage the surface of the cheese is scraped, if necessary, to remove surface growth of undesirable microorganisms. The rind of the cheese may be coated with a vegetable food fat or oil (which may be hydrogenated), or any combination of two or more such articles. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of gorgonzola cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk or goat's milk or mixtures of these.

(2) Such milk may be bleached by the use of benzoyl peroxide or mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate, but the weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk being bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, vitamin A is added to the curd in such quantity as to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(3) Such milk may be adjusted by separating part of the fat therefrom or by adding one or more of the following: (In the case of cow's milk) cream, cream which has been treated in the manner provided in paragraph (c)(2) of this section, concentrated skim milk, nonfat dry milk; (in the case of goat's milk) the corresponding products obtained from goat's milk; water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(d) The food may have applied to its surface an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e)(1) If the milk used is bleached, the label shall bear the statement "milk bleached with benzoyl peroxide".

(2) If the food contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard surface mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Whenever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed in this paragraph showing the optional ingredients used shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

§ 133.142 Gouda cheese.

Gouda cheese conforms to the definition and standard of identity and complies with the requirements for label declaration of optional ingredients prescribed for edam cheese by § 133.138, except that the fat content of its solids is not less than 46 percent. It is made in the shape of a compressed sphere, in which the compressed sides are parallel and flat. The surface may or may not be covered with red-colored paraffin or similar tightly adhering coating.

§ 133.144 Granular and stirred curd cheese.

(a) Granular cheese, stirred curd cheese, is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 39 percent of moisture, and its solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in § 133.113(c). If the milk used is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F for not less than 60 days.

(b) Milk, which may be pasteurized or clarified or both, and which may be

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warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial coloring may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. A part of the whey is drained off. The curd is then alternately stirred and drained to prevent matting and to remove whey from curd. The curd is then salted, stirred, drained, and pressed into forms. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of granular cheese, may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes or for a time and at a temperature equivalent thereto in phosphatase destruction. Granular cheese shall be deemed not to have been made from pasteurized milk of 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.113(f).

(3) During the cheese-making process the milk may be treated as provided in § 133.113(c)(3).

(d) Granular cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e)(1) If granular cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.145 Granular cheese for manufacturing.

Granular cheese for manufacturing conforms to the definition and standard of identity prescribed for granular cheese by § 133.144, except that the milk is not pasteurized, curing is not required, and the provisions of paragraph (d) of that section do not apply.

§ 133.146 Grated cheeses.

(a)(1) Grated cheeses are the class of food prepared by grinding, grating, shredding, or otherwise comminuting cheese of one variety or a mixture of two or more varieties. The cheese varieties that may be used are those for which definitions and standards of identity have been promulgated pursuant to section 401 of the act, except cream cheese, neufchatel cheese, cottage cheese, creamed cottage cheese, cook cheese, and skim milk cheese for manufacturing. One or more of the optional ingredients specified in paragraph (b) of this section may be used.

(2) Any cheese ingredient used is made from pasteurized milk or is held at a temperature of not less than 35° F for not less than 60 days.

(3) Each cheese ingredient used must be present at a level of not less than 2 percent by weight of the finished food.

(4) In the manufacture of the finished food, moisture may be removed from the cheese ingredients but no moisture is added, except as provided for in paragraph (b)(1) of this section.

(5)(i) The fat content of the solids of grated cheese made from a single variety of cheese is not more than 1 below the minimum percentage prescribed by the definition and standard of identity for the variety of cheese used.

(ii) The fat content of the solids of grated cheeses made from two or more varieties of cheese is not more than 1 below the arithmetical average of the minimum fat content percentages prescribed by the definitions and standards of identity for the varieties of cheese used, but in no case is the fat content less than 31 percent.

(6) Moisture and fat in grated cheeses are determined by the methods prescribed in § 133.113(c).

(b) The optional ingredients referred to in paragraph (a) of this section are:

(1) A mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these in an amount not to exceed 0.3 percent by weight of the finished food calculated as sorbic acid. The salts of sorbic acid provided for herein may be applied in aqueous solution, the amount of water used being not more than that required for application of these water-soluble salts in accordance with good commercial practice.

(2) An anticaking agent consisting of silicon dioxide (complying with the provisions of § 172.480 of this chapter), calcium silicate (complying with the provisions of § 172.410 of this chapter), sodium silicoaluminate, microcrystalline cellulose, or any combination of two or more of these in an amount not to exceed 2 percent by weight of the finished food.

(3) Spices.

(4) Safe and suitable flavoring substances other than any which singly or in combination with other ingredients simulate the flavor of cheese of any age or variety.

(c)(1) The name of the food, if it is made with only one variety of cheese, is "grated _____ cheese", the blank being filled in with the name of the variety used.

(2) The name of the food, if the only cheese ingredients used are parmesan and romano cheese, each being present at a level of not less than 25 percent by weight of the finished food, is "grated _____ and _____ cheese", the blanks being filled in with the names "parmesan" and "romano" in order of predominance by weight. The varietal designation "reggiano" may be used for "parmesan".

(3) The name of the food, if it is made with a mixture of cheese varieties (not including parmesan or romano cheese) with each of the varieties used being present at a level of not less than 25 percent of the weight of the finished food, is "grated _____ cheese", the blank being filled in with the names of the two or more varieties in order of predominance by weight.

(4) The name of the food, if it is made with a mixture of cheese varieties in which one or more varieties (not including parmesan or romano cheese) are each present at a level of not less than 25 percent by weight of the finished food, and one or more other varieties (which may include parmesan and romano cheese) are each present at a level of not less than 2 percent but in the aggregate not more than 10 percent, is "grated _____ cheese with other grated cheese" or "grated _____ cheese with other grated cheeses", as appropriate, the blank being filled in with the name or names of those cheese varieties present at levels of not less than 25 percent by weight of the finished food in order of predominance, in letters not more than twice as high as the letters in the phrase "with other grated cheese(s)".

(5) The name of the food, if it is made with a mixture of cheese varieties other than those specified by paragraphs (c)(2), (3), and (4) of this section is "grated cheeses".

(6) The cheese variety names prescribed for use in the name of the food by paragraphs (c)(1), (2), (3), and (4) of this section are those specified by applicable standard of identity sections of this part, except that the variety name "American cheese" may be used for cheddar, washed curd, colby, or granular cheese. Any mixture of two or more of these varieties may, for the purposes of this section, be considered as a single variety with the name "American cheese".

(7) If the particles of cheese are in the form of cylinders, shreds, or strings, the word "shredded", or if they are in the form of chips, the word "chipped" or "chopped", may be used in lieu of the word "grated" in the specified name of the product.

(d)(1) If the food contains an optional mold-inhibiting ingredient as specified in paragraph (b)(1) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredients used.

(2) If it contains an optional anticaking agent as specified in paragraph (b)(2) of this section, the label shall bear the statement "_____ added to prevent caking", the blank being filled in with the common name or names of the anticaking agents used.

(3) If it contains a spice as specified in paragraph (b)(3) of this section, the label shall bear the statement "spice added", "with added spice", or "spiced with _____", the blank being filled in with the common or usual name of the spice used.

(4) If it contains a flavoring substance as specified in paragraph (b)(4) of this section, the label shall bear the statement "flavoring added", "with added flavoring", or "flavored with _____", the blank being filled in with the common or usual name of the flavoring used. If the flavoring used is artificial, the word "artificially" shall precede the statement "flavored with _____".

(5) If the name of one or more varieties of cheese used in grated cheeses does not appear as a part of the name of the food, the names of all cheese varieties used shall be listed in order of predominance by weight.

(e) The words and statements specified in paragraph (d) of this section showing the optional ingredients present shall be listed on the principal display panel or panels or any appropriate information panel without obscuring design, vignettes, or crowding. The declaration shall appear in conspicuous and easily legible letters of boldface print or type the size of which shall be not less than one-half of that required by Part 101 of this chapter for the statement of net quantity of contents appearing on the label, but in no case less than one-sixteenth of an inch in height. The entire declaration shall appear on at least one panel of the label and in lines generally parallel to the base on which the container rests as it is designed to be displayed.

§ 133.147 Grated American cheese food.

(a)(1) Grated American cheese food is the food prepared by mixing, with or without the aid of heat, one or more of the optional cheese ingredients prescribed in paragraph (b) of this section with one or more of the optional ingredients prescribed in paragraph (c) of this section, into a uniformly blended, partially dehydrated, powdered or granular mixture.

(2) Grated American cheese food contains not less than 23 percent of milk fat, as determined by the methods prescribed in § 133.113(c).

(b) The optional cheese ingredients referred to in paragraph (a) of this section are cheddar cheese, washed curd cheese, colby cheese, and granular cheese.

(c) The other optional ingredients referred to in paragraph (a) of this section are:

(1) Nonfat dry milk.

(2) Dried whey.

(3) An emulsifying agent consisting of one or any mixture of two or more of the emulsifying ingredients named in § 133.173(e)(1), in such quantity that the weight of the solids thereof is not more than 3 percent of the weight of the grated American cheese food.

(4) An acidifying agent consisting of one or more of the acid-reacting ingredients named in § 133.173(e)(2).

(5) Salt.

(6) Artificial coloring.

(d) The name of the food is "Grated American cheese food". The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. Wherever any word or statement emphasizing the name of any ingredient appears on the label (other than in an ingredient statement as specified in paragraph (e) of this section) so conspicuously as to be easily seen under customary conditions of purchase, the full name of the food shall immediately and conspicuously precede or follow such word or statement in type of at least the same size as the type used in such word or statement.

(e) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that cheddar cheese, washed curd cheese, colby cheese, granular cheese, or any mixture of two or more of these may be designated "American cheese".

§ 133.148 Hard grating cheeses.

(a) The cheeses for which definitions and standards of identity are prescribed by this section are hard grating cheeses for which specifically applicable definitions and standards of identity are not prescribed by other sections of this part. They are made from milk and the other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section. They contain not more than 34 percent of moisture, and their solids contain not less than 32 percent of milk fat, as determined by the methods prescribed in § 133.113(c). Hard grating cheeses are cured for not less than 6 months.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria or other harmless flavor-producing bacteria, present in such milk or added thereto. Sufficient rennet, rennet paste, extract of rennet paste, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, singly or in any combination (with or without purified calcium chloride in a quantity not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) is added to set the milk to a semisolid mass. Harmless artificial coloring may be added. The mass is cut into small particles, stirred, and heated. The curd is separated from the whey, drained, shaped into forms, pressed, salted, and cured. The rind may be colored or rubbed with vegetable oil or both. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of hard grating cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section, the word "milk" means cow's milk or goat's milk or sheep's milk or mixtures of two or all of these. Such milk may be adjusted by separating part of the fat therefrom or (in the case of cow's milk) by adding one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk; (in the case of goat's milk) the corresponding products from goat's milk; (in the case of sheep's milk) the corresponding products from sheep's milk; water in a quantity sufficient to reconstitute any such concentrated or dried products used.

(d) Hard grating cheeses in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) The name of each hard grating cheese for which a definition and standard of identity is prescribed by this section is "Hard grating cheese", preceded or followed by:

(1) The specific common or usual name of such hard grating cheese, if any such name has become generally recognized therefor; or

(2) If no such specific common or usual name has become generally recognized therefor, an arbitrary or fanciful name that is not false or misleading in any particular.

(f)(1) When milk other than cow's milk is used in whole or in part, the name of the cheese includes the statement "made from _____", the blank being filled in with the name or names of the milk used, in order of predominance by weight.

(2) If hard grating cheeses in sliced or cut form contain an optional mold-inhibiting ingredient as provided for in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary condi-

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tions of purchase, the words and statements prescribed by this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.149 Gruyere cheese.

(a) Gruyere cheese is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 39 percent of moisture and its solids contain not less than 45 percent of milk fat, as determined by the methods prescribed in § 133.113 (c). It contains small holes, or eyes. It has a mild flavor, due in part to the growth of surface-curing agents. It is not less than 90 days old.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto; harmless propionic-acid-producing bacteria may also be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. The mass is cut into particles similar in size to wheat kernels. For about 30 minutes the particles are alternately stirred and allowed to settle. The temperature is raised to about 126° F. Stirring is continued until the curd becomes firm. The curd is transferred to hoops or forms, and pressed until the desired shape and firmness are obtained. The cheese is surface-salted while held at a temperature of 48° F to 54° F for a few days. It is soaked for 1 day in a saturated salt solution. It is then held for 3 weeks in a salting cellar and wiped every 2 days with brine cloth to ensure growth of biological curing agents on the rind. It is then removed to a heating room and held at progressively higher temperatures, finally reaching 65° F with a relative humidity of 85 to 90 percent, for several weeks, during which time small holes, or so-called eyes, form. The cheese is then stored at a lower temperature for further curing. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of gruyere cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section, the word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto cream or skim milk.

(d) Gruyere cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e)(1) If gruyere cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.150 Hard cheeses.

(a) The cheeses for which definitions and standards of identity are prescribed by this section are hard cheeses for which specifically applicable definitions and standards of identity are not prescribed by other sections of this part. They are made from milk and the other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section. They contain not more than 39 percent of moisture, and their solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in § 133.113(c). If the milk used is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F for not less than 60 days.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, with or without other harmless flavor-producing bacteria, present in such milk or added thereto. Harmless artificial coloring may be added. Sufficient rennet, rennet paste, extract of rennet paste, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, singly or in any combination (with or without purified calcium chloride in a quantity not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) is added to set the milk to a semisolid mass. The mass is cut into small particles, stirred, and heated. The curd is separated from the whey, drained, and shaped into forms, and may be pressed. The curd is salted at some stage of the manufacturing process. The shaped curd may be cured. The rind may be coated with paraffin or rubbed with vegetable oil. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of hard cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used. Harmless flavor-producing microorganisms may be added, and curing may be conducted under suitable conditions for the development of biological curing agents.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk or goat's milk or sheep's milk or mixtures of two or all of these. Such milk may be adjusted by separating part of the fat therefrom, or (in the case of cow's milk) by adding one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk; (in the case of goat's milk) the corresponding products from goat's milk; (in the case of sheep's milk) the corresponding products from sheep's milk; water in a quantity sufficient to reconstitute any concentrated or dried products used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction. A hard cheese shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms, when tested by the method prescribed in § 133.113(f).

(d) Hard cheeses in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) The name of each hard cheese for which a definition and standard of identity is prescribed by this section is "Hard cheese", preceded or followed by:

(1) The specific common or unusual name of such hard cheese, if any such name has become generally recognized therefor; or

(2) If no such specific common or usual name has become generally recognized, therefor, an arbitrary or fanciful name that is not false or misleading in any particular.

(f)(1) When milk other than cow's milk is used in whole or in part, the name of the cheese includes the statement "made from _____", the blank being filled in with the name or names of the milk used, in order of predominance by weight.

(2) If hard cheeses in sliced or cut form contain an optional mold-inhibiting ingredient as provided for in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed by this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.152 Limburger cheese.

(a) Limburger cheese is the food prepared from milk and other ingredients

specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 50 percent of moisture, and its solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in § 133.113(c). If the milk used is not pasteurized, limburger cheese is held at a temperature of not less than 35° F for not less than 60 days.

(b) Milk, which may be pasteurized or clarified or both, is brought to a temperature of about 92° F and subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium choiride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. The mass is cut into cubes with sides approximately ½-inch long. After a few minutes the mass is stirred and heated, gradually raising the temperature to 96° F to 98° F. The curd is then allowed to settle, most of the whey is drained off, and the remaining curd and whey dipped into molds. During drainage the curd may be pressed. It is turned at regular intervals. After drainage the curd is cut into pieces of desired size and dry-salted at intervals for 24 to 48 hours. The cheese is then cured with frequent applications of a weak brine solution to the surface, until the proper growth of surface-curing organisms is obtained. It is then wrapped and held in storage for development of as much additional flavor as is desired. When made from pasteurized milk, the milk is brought to a temperature of 89° F to 90° F after pasteurization. A culture of harmless lactic-acid-producing bacteria is added. Calcium chloride may be added, as to raw milk. The procedure then is the same as with raw milk, except that heating is to 94° F. After most of the whey is drained off, salt brine at a temperature of 66° F to 70° F is added, so that the pH of the curd is about 4.8. The mixed curd, whey, and brine is dipped into molds and the same procedure followed as when raw milk is used. Whether pasteurized or unpasteurized milk is used, a harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of limburger cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction.

§ 133.153 Monterey cheese and monterey jack cheese.

(a) Monterey cheese, monterey jack cheese is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 44 percent of moisture, and its solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in § 133.113(c).

(b) Milk, which is pasteurized, and which may be clarified, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. Part of the whey is drained off, and water or salt brine may be added. The curd is drained and placed in a muslin or sheeting cloth, formed into a ball and pressed; or the curd is placed in a cheese hoop and pressed. Later, the cloth bandage is removed, and the cheese may be covered with paraffin or dipped in vegetable oil, and may have rice flour sprinkled on the surface. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of monterey cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction. Monterey cheese shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.113(f).

(d) Monterey cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e)(1) If monterey cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.154 High-moisture jack cheese.

High-moisture jack cheese conforms to the definition and standard of identity and is subject to the requirement for label statement of optional ingredients prescribed for monterey cheese by § 133.153, except that its moisture content is more than 44 percent but less than 50 percent.

§ 133.155 Mozzarella cheese and scamorza cheese.

(a) Mozzarella cheese, scamorza cheese is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section. It may be molded into various shapes. It contains more than 52 percent but not more than 60 percent of moisture, and its milk fat content, calculated on the solids basis, is not less than 45 percent, as determined by the methods prescribed in § 133.113(c).

(b) Milk, which is pasteurized, is warmed to approximately 88° F and subjected to the action of harmless lactic-acid-producing bacteria, which may be added thereto as starter. The milk may be acidified with vinegar. Liquid rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both may be added to aid in setting the milk to a semisolid mass. The mass is cut, and it may be stirred to facilitate separation of whey from the curd. The whey is drained and the curd may be washed with cold water and the water drained off. The curd may be collected in bundles for further drainage and for ripening. The curd may be iced, it may be held under refrigeration, and it may be permitted to warm to room temperature and ripen further. The curd may be cut. It is immersed in hot water or heated with steam and is kneaded and stretched until smooth and free of lumps.

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Then it is cut and molded. The molded

(c) For the purposes of this section:

§ 133.160 Muenster and munster

an amount not to exceed 0.3 percent by

algin (sodium alginate), propylene gly-

(b) Milk, which may be pasteurized or clarified or both, which may be warmed,

Then it is cut and molded. The molded curd is firmed by immersion in cold water and may be salted in brine and drained.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding cream or skim milk or both.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 145° F for a period of not less than 30 minutes, or for a time and temperature equivalent thereto in phosphatase destruction. The finished food shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.113(f), provolone modification.

§ 133.156 Low-moisture mozzarella and scamorza cheese.

(a) Low moisture mozzarella cheese is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It may be molded into various shapes. Its moisture content is more than 45 percent but not more than 52 percent, and its milk fat content, calculated on the solids basis, is not less than 45 percent, as determined by the method prescribed in § 133.113(c).

(b) Milk, which is pasteurized, and which may be clarified or homogenized or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, which may be added thereto as starter. The milk may be acidified with vinegar. Rennet, rennet paste, extract of rennet paste, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, singly or in any combination (with or without purified calcium chloride in a quantity not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) is added to aid in setting the milk to a semisolid mass. The mass is cut, stirred, and allowed to stand. It may be reheated and again stirred. The whey is drained, and the curd may be cut and piled to promote further separation of whey. It may be washed with cold water and the water drained off. The curd may be collected in bundles for further drainage and ripening. The curd may be iced, it may be held under refrigeration, and it may be permitted to warm to room temperature and ripen further. The curd may be cut. It is immersed in hot water or heated with steam and is kneaded and stretched until smooth and free of lumps. Then it is cut and molded. In molding, the curd is kept sufficiently warm to cause proper sealing of the surface. The molded curd is firmed by immersion in cold water and may be salted in brine and drained.

(c) For the purposes of this section:

(1) The word "milk" mean cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, and water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 145° F for a period of 30 minutes or for a time and temperature equivalent thereto in phosphatase destruction. The finished food shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.113(f), provolone modification.

(d) Low moisture mozzarella cheese, low moisture scamorza cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) (1) If low moisture mozzarella cheese, low moisture scamorza cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed by this section, showing the optional ingredient (or ingredients) used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.157 Part-skim mozzarella and scamorza cheese.

Part-skim mozzarella cheese, part-skim scamorza cheese conforms to the definition and standard of identity as prescribed for mozzarella cheese by § 133.155, except that its milk fat content, calculated on the solids basis, is less than 45 percent but not less than 30 percent.

§ 133.158 Low-moisture part-skim mozzarella and scamorza cheese.

Low moisture part-skim mozzarella cheese, low moisture part-skim scamorza cheese conforms to the definition and standard of identity and complies with the requirements for label declaration of optional ingredients prescribed for low moisture mozzarella cheese, low moisture scamorza cheese by § 133.156; except that its milk fat content, calculated on the solids basis, is less than 45 percent but not less than 30 percent.

§ 133.160 Muenster and munster cheese.

(a) Muenster cheese, munster cheese, is the food prepared from pasteurized milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 46 percent of moisture, and its solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in § 133.113(c).

(b) Milk, which is pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial coloring may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. After coagulation the mass is divided into small portions, stirred, and heated, with or without dilution with water or salt brine, so as to promote and regulate the separation of whey and curd. The curd is transferred to forms permitting drainage of the whey. During drainage the curd may be pressed and turned. After drainage the curd is removed from the forms and is salted. The surface of the cheese may be rubbed with vegetable oil. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of muenster cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction. Muenster cheese shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.113(f).

(d) Muenster cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in

an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) (1) If muenster cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.161 Muenster and munster cheese for manufacturing.

Muenster cheese for manufacturing conforms to the definition and standard of identity for muenster cheese prescribed by § 133.160, except that the milk is not pasteurized and the provisions of paragraphs (d) and (e) of that section do not apply.

§ 133.162 Neufchatel cheese.

(a) Neufchatel cheese is the soft uncured cheese prepared by the procedure set forth in paragraph (b) of this section. The finished neufchatel cheese contains not less than 20 percent but less than 33 percent of milk fat and not more than 65 percent of moisture, as determined, respectively, by the methods prescribed under "Fat—Official" on page 302 and under "Moisture—Official" on page 301 of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fifth Edition, 1940. (These methods appear in the 10th edition, 1965, p. 248, sec. 15.164; p. 247, sec. 15.157, respectively.)

(b) (1) One or a mixture of two or more of the dairy ingredients specified in paragraph (b) (3) of this section is pasteurized and may be homogenized. To such ingredient or mixture harmless lactic-acid-producing bacteria, with or without rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, are added and it is held until it becomes coagulated. The coagulated mass may be warmed; it may be stirred; it is then drained. The moisture content may be adjusted with cheese whey, concentrated cheese whey, dried cheese whey, or reconstituted cheese whey prepared by addition of water to concentrated cheese whey or dried cheese whey. The curd may be pressed, chilled, worked, seasoned with salt; it may be heated, with or without addition of one or more of the dairy ingredients specified in paragraph (b) (3) of this section, until it becomes fluid, and it may then be homogenized or otherwise mixed.

(2) (i) In the preparation of neufchatel cheese, one or any mixture of two or more of the optional ingredients gum karaya, gum tragacanth, carob bean gum, guar gum, carrageenan, gelatin, algin (sodium alginate), propylene glycol alginate, or xanthan gum may be used; but the quantity of any such ingredient or mixture is such that the total weight of solids contained therein is not more than 0.5 percent by weight of the finished neufchatel cheese.

(ii) When one or more of the optional ingredients in paragraph (b) (2) (i) of this section are used, dioctyl sodium sulfosuccinate complying with the requirements of § 172.810 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(3) The dairy ingredients referred to in paragraph (b) (1) of this section are cream, plastic cream, milk, skim milk, concentrated milk, concentrated skim milk, and nonfat dry milk. If concentrated milk, concentrated skim milk, or nonfat dry milk is used, water may be added in a quantity not in excess of that removed when the milk or skim milk was concentrated or dried.

(4) For the purposes of this section the term "milk" means sweet milk of cows; "skim milk" means milk from which the milk fat has been separated, and "concentrated skim milk" means skim milk from which a portion of the water has been removed by evaporation.

(c) When used in the food, salt, bacterial culture, and enzymes as provided for in paragraph (b) (1) of this section and each of the ingredients listed in paragraph (b) (2) and (3) of this section shall be declared by common name on the label as required by the applicable sections of Part 101 of this chapter except that:

(1) Any cream as defined in Part 131 of this chapter and plastic cream may be declared as "cream".

(2) Concentrated milk and reconstituted milk prepared by addition of water to concentrated milk may be declared as "milk".

(3) Concentrated skim milk, nonfat dry milk, and reconstituted skim milk prepared by addition of water to concentrated skim milk or nonfat dry milk may be declared as "skim milk".

(4) Bacterial cultures may be declared as "cheese culture" or by the word "cultured" followed by the name of the substrate, e.g., "made from cultured cream".

(5) Milk clotting enzymes may be declared by the word "enzymes".

§ 133.164 Nuworld cheese.

(a) Nuworld cheese is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It is characterized by the presence of creamy-white mold throughout the cheese. It contains not more than 46 percent of moisture and its solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in § 133.113(c). It is not less than 60 days old.

(b) Milk, which may be pasteurized or clarified or both, which may be warmed, and which may be homogenized, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial green or blue coloring, in a quantity which neutralizes any natural yellow coloring in the curd, may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of milk, is added to set the milk to a semisolid mass. The mass is cut into smaller portions and allowed to stand for a time. The mixed curd and whey is placed in forms permitting further drainage. While being placed in forms, spores of a white mutant of the mold *Penicillium roquefortii* are added. The forms are turned several times during drainage. When sufficiently drained, the shaped curd is removed from the form and salted with dry salt or brine. Perforations are then made in the shaped curd, and it is held at a temperature of approximately 50° F, at 90 percent to 95 percent relative humidity, until the characteristic mold growth has developed. During storage, the surface of the cheese may be scraped to remove surface growth of undesirable microorganisms. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of nuworld cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section, the word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, concentrated skim milk, nonfat dry milk, water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

§ 133.165 Parmesan and reggiano cheese.

(a) Parmesan cheese, reggiano cheese, is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It is characterized by a granular texture and a hard and brittle rind. It grates readily. It contains not more than 32 percent of moisture, and its solids contain not less than 32 percent of milk fat, as determined by the methods prescribed in § 133.113(c). It is cured for not less than 10 months.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces

equivalent curd formation, or both, with

the optional ingredients used, shall im-

cheese, and skim milk cheese for manu-

(5) Moisture and fat are determined

(3) Water.

same size as the type used in such word or statement.

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equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. Harmless artificial coloring may be added. The mass is cut into pieces no larger than wheat kernels, heated, and stirred until the temperature reaches between 115° F and 125° F. The curd is allowed to settle and is then removed from the kettle or vat, drained for a short time, placed in hoops, and pressed. The pressed curd is removed and salted in brine, or dry-salted. The cheese is cured in a cool, ventilated room. The rind of the cheese may be coated or colored. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of parmesan cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) (1) For the purposes of this section, the word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Such milk may be bleached by the use of benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate; but the weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, sufficient vitamin A is added to the curd to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(d) Parmesan cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) (1) If the milk used is bleached, the label shall bear the statement "Milk bleached with benzoyl peroxide."

(2) If parmesan cheese in sliced or cut form contains an optional mold-inhibiting ingredient as provided for in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed by this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.167 Pasteurized blended cheese.

Pasteurized blended cheese conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for pasteurized process cheese by § 133.169, except that:

(a) In mixtures of two or more cheeses, cream cheese or neufchatel cheese may be used.

(b) None of the ingredients prescribed or permitted for pasteurized process cheese by § 133.169 (c) and (d) (1) is used.

(c) In case of mixtures of two or more cheeses containing cream cheese or neufchatel cheese, the moisture content is not more than the arithmetical average of the maximum moisture contents prescribed by the definitions and standards of identity for the varieties of cheeses blended, for which such limits have been prescribed.

(d) The word "process" is replaced by the word "blended" in the name prescribed by § 133.169(e).

§ 133.168 Pasteurized blended cheese with fruits, vegetables, or meats.

(a) Pasteurized blended cheese with fruits, vegetables, or meats or mixtures of these is the food which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for pasteurized blended cheese by § 133.167, except that:

(1) Its moisture content may be 1 percent more, and the milk fat content of its solids may be 1 percent less, than the limits prescribed by § 133.167 for moisture and milk fat in the corresponding pasteurized blended cheese.

(2) It contains one or any mixture of two or more of the following: Any properly prepared cooked, canned, or dried fruit; any properly prepared cooked, canned, or dried vegetable; any properly prepared cooked or canned meat.

(3) When the added fruits, vegetables, or meats contain fat, the method prescribed for the determination of fat by § 133.113(c) is not applicable.

(b) The name of a pasteurized blended cheese with fruits, vegetables, or meats is the name prescribed by § 133.167 for the applicable pasteurized blended cheese, followed by the term "with _____", the blank being filled in with the common or usual name or names of the fruits, vegetables, or meats used, in order of predominance by weight.

§ 133.169 Pasteurized process cheese.

(a) (1) Pasteurized process cheese is the food prepared by comminuting and mixing, with the aid of heat, one or more cheeses of the same or two or more varieties, except cream cheese, neufchatel cheese, cottage cheese, lowfat cottage cheese, cottage cheese dry curd, cook cheese, hard grating cheese, semisoft part-skim cheese, part-skim spiced cheese, and skim milk cheese for manufacturing with an emulsifying agent prescribed by paragraph (c) of this section into a homogeneous plastic mass. One or more of the optional ingredients designated in paragraph (d) of this section may be used.

(2) During its preparation, pasteurized process cheese is heated for not less than 30 seconds at a temperature of not less than 150° F. When tested for phosphatase by the method prescribed in § 133.113(f), the phenol equivalent of 0.25 gram of pasteurized process cheese is not more than 3 micrograms.

(3) (i) The moisture content of a pasteurized process cheese made from a single variety of cheese is not more than 1 percent greater than the maximum moisture content prescribed by the definition and standard of identity, if any there be, for the variety of cheese used; but in no case is more than 43 percent, except that the moisture content of pasteurized process washed curd cheese or pasteurized process colby cheese is not more than 40 percent; the moisture content of pasteurized process swiss cheese or pasteurized process gruyere cheese is not more than 44 percent; and the moisture content of pasteurized process limburger cheese is not more than 51 percent.

(ii) The fat content of the solids of a pasteurized process cheese made from a single variety of cheese is not less than the minimum prescribed by the definition and standard of identity, if any there be, for the variety of cheese used, but in no case is less than 47 percent; except that the fat content of the solids of pasteurized process swiss cheese is not less than 43 percent, and the fat content of the solids of pasteurized process gruyere cheese is not less than 45 percent.

(4) (i) The moisture content of a pasteurized process cheese made from two or more varieties of cheese is not more than 1 percent greater than the arithmetical average of the maximum moisture contents prescribed by the definitions and standards of identity, if any there be, for the varieties of cheese used; but in no case is the moisture content more than 43 percent, except that the moisture content of a pasteurized process cheese made from two or more of the varieties cheddar cheese, washed curd cheese, colby cheese, and granular cheese is not more than 40 percent, and the moisture content of a mixture of swiss cheese and gruyere cheese is not more than 44 percent.

(ii) The fat content of the solids of a pasteurized process cheese made from two or more varieties of cheese is not less than the arithmetical average of the minimum fat contents prescribed by the definitions and standards of identity, if any there be, for the varieties of cheese used, but in no case is less than 47 percent, except that the fat content of the solids of a pasteurized process gruyere cheese made from a mixture of swiss cheese and gruyere cheese is not less than 45 percent.

(5) Moisture and fat are determined by the methods prescribed in § 133.113(c).

(6) The weight of each variety of cheese in a pasteurized process cheese made from two varieties of cheese is not less than 25 percent of the total weight of both, except that the weight of blue cheese, nuworld cheese, roquefort cheese, or gorgonzola cheese is not less than 10 percent of the total weight of both, and the weight of limburger cheese is not less than 5 percent of the total weight of both. The weight of each variety of cheese in a pasteurized process cheese made from three or more varieties of cheese is not less than 15 percent of the total weight of all, except that the weight of blue cheese, nuworld cheese, roquefort cheese, or gorgonzola cheese is not less than 5 percent of the total weight of all, and the weight of limburger cheese is not less than 3 percent of the total weight of all. These limits do not apply to the quantity of cheddar cheese, washed curd cheese, colby cheese and granular cheese in mixtures which are designated as "American cheese" as prescribed in paragraph (e) (2) (ii) of this section. Such mixtures are considered as one variety of cheese for the purposes of this paragraph (a) (6).

(7) For the purposes of this section, cheddar cheese for manufacturing, washed curd cheese for manufacturing, colby cheese for manufacturing, granular cheese for manufacturing, brick cheese for manufacturing, muenster cheese for manufacturing, and swiss cheese for manufacturing are considered as cheddar cheese, washed curd cheese, colby cheese, granular cheese, brick cheese, muenster cheese, and swiss cheese, respectively.

(b) Pasteurized process cheese may be smoked, or the cheese or cheeses from which it is made may be smoked, before comminuting and mixing, or it may contain substances prepared by condensing or precipitating wood smoke.

(c) The emulsifying agent referred to in paragraph (a) of this section is one or any mixture of two or more of the following: Monosodium phosphate, disodium phosphate, dipotassium phosphate, trisodium phosphate, sodium metaphosphate (sodium hexametaphosphate), sodium acid pyrophosphate, tetrasodium pyrophosphate, sodium aluminum phosphate, sodium citrate, potassium citrate, calcium citrate, sodium tartrate, and sodium potassium tartrate, in such quantity that the weight of the solids of such emulsifying agent is not more than 3 percent of the weight of the pasteurized process cheese.

(d) The optional ingredients referred to in paragraph (a) of this section are:

(1) An acidifying agent consisting of one or any mixture of two or more of the following: A vinegar, lactic acid, citric acid, acetic acid, and phosphoric acid, in such quantity that the pH of the pasteurized process cheese is not below 5.3.

(2) Cream, anhydrous milkfat, dehydrated cream, or any combination of two or more of these, in such quantity that the weight of the fat derived therefrom is less than 5 percent of the weight of the pasteurized process cheese.

(3) Water.

(4) Salt.

(5) Harmless artificial coloring.

(6) Spices or flavorings, other than any which singly or in combination with other ingredients simulate the flavor of a cheese of any age or variety.

(7) Pasteurized process cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of not more than 0.2 percent by weight of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, or consisting of not more than 0.3 percent by weight of sodium propionate, calcium propionate, or a combination of sodium propionate and calcium propionate.

(8) Pasteurized process cheese in the form of slices or cuts in consumer-sized packages may contain lecithin as an optional anti-sticking agent in an amount not to exceed 0.03 percent by weight of the finished product.

(9) Safe and suitable enzyme modified cheese.

(e) The name of a pasteurized process cheese for which a definition and standard of identity is prescribed by this section is as follows:

(1) In case it is made from a single variety of cheese, its name is "Pasteurized process _____ cheese", the blank being filled in with the name of the variety of cheese used.

(2) In case it is made from two or more varieties of cheese, its name is "Pasteurized process _____ and _____ cheese", or "Pasteurized process _____ blended with _____ cheese", or "Pasteurized process blend of _____ and _____ cheese", the blanks being filled in with the names of the varieties of cheeses used, in order of predominance by weight; except that:

(i) In case it is made from gruyere cheese and swiss cheese, and the weight of gruyere cheese is not less than 25 percent of the weight of both, it may be designated "Pasteurized process gruyere cheese"; and

(ii) In case it is made of cheddar cheese, washed curd cheese, colby cheese, or granular cheese or any mixture of two or more of these, it may be designated "Pasteurized process American cheese"; or when cheddar cheese, washed curd cheese, colby cheese, granular cheese, or any mixture of two or more of these is combined with other varieties of cheese in the cheese ingredient, any of such cheeses or such mixture may be designated as "American cheese".

The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. Wherever any word or statement emphasizing the name of any ingredient appears on the label (other than in an ingredient statement as specified in paragraph (g) of this section) so conspicuously as to be easily seen under customary conditions of purchase, the full name of the food shall immediately and conspicuously precede or follow such word or statement in type of at least the same size as the type used in such word or statement.

(f) The name of the food shall include a declaration of any flavoring, including smoke and substances prepared by condensing or precipitating wood smoke, that characterizes the product as specified in §101.22 of this chapter and a declaration of any spice that characterizes the product.

(g) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter except that:

(1) Artificial coloring need not be declared.

(2) If the cheese ingredient contains cheddar cheese, washed curd cheese, colby cheese, granular cheese, or any mixture of two or more of these, such cheese or such mixture may be designated as "American cheese".

§ 133.170 Pasteurized process cheese with fruits, vegetables, or meats.

(a) Unless a definition and standard of identity specifically applicable is established by another section of this part, a pasteurized process cheese with fruits, vegetables, or meats or mixture of these is a food which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for pasteurized process cheese by § 133.169, except that:

(1) Its moisture content may be 1 percent more, and the milk fat content of its solids may be 1 percent less than the limits prescribed by § 133.169 for moisture and fat in the corresponding pasteurized process cheese.

(2) It contains one or any mixture of two or more of the following: Any properly prepared cooked, canned, or dried fruit; any properly prepared cooked, canned, or dried vegetable; any properly prepared cooked or canned meat.

(3) When the added fruits, vegetables, or meats contain fat, the method prescribed for the determination of fat by § 133.113(c) is not applicable.

(b) The name of a pasteurized process cheese with fruits, vegetables, or meats is the name prescribed by § 133.169 for the applicable pasteurized process cheese, followed by the term "with_____", the blank being filled in with the common or usual name or names of the fruits, vegetables, or meats used, in order of predominance by weight.

§ 133.171 Pasteurized process pimento cheese.

Pasteurized process pimento cheese is the food which conforms to the definition and standard of identity for pasteurized process cheese with fruits, vegetables, or meats, and is subject to the requirement for label statement of optional ingredients, except that:

(a) Its moisture content is not more than 41 percent, and the fat content of its solids is not less than 49 percent.

(b) The cheese ingredient is cheddar cheese, washed curd cheese, colby cheese, granular cheese or any mixture of two or more of these in any proportion.

(c) For the purposes of this section, in mixtures which are designated as

erly prepared cooked, canned, or dried

(b) of this section. The amount of the added food or foods must be sufficient

same size as the type used in such word or statement.

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(c) For the purposes of this section, cheddar cheese for manufacturing, washed curd cheese for manufacturing, colby cheese for manufacturing, and granular cheese for manufacturing shall be considered as cheddar cheese, washed curd cheese, colby cheese, and granular cheese, respectively.

(d) The only fruit, vegetable, or meat ingredient is pimentos in such quantity that the weight of the solids thereof is not less than 0.2 percent of the weight of the finished pasteurized process pimento cheese.

(e) The optional ingredients designated in § 133.169 (b) and (d) (6) are not used.

(f) The mandatory ingredient pimentos need not be declared in the ingredient statement required by § 133.169(g).

§ 133.173 Pasteurized process cheese food.

(a) (1) A pasteurized process cheese food is the food prepared by comminuting and mixing, with the aid of heat, one or more of the optional cheese ingredients prescribed in paragraph (c) of this section, with one or more of the optional dairy ingredients prescribed in paragraph (d) of this section, into a homogeneous plastic mass. One or more of the optional ingredients specified in paragraph (e) of this section may be used.

(2) During its preparation, a pasteurized process cheese food is heated for not less than 30 seconds, at a temperature of not less than 150° F. When tested for phosphatase by the method prescribed in § 133.113(f), the phenol equivalent of 0.25 gram of pasteurized process cheese food is not more than 3 micrograms.

(3) The moisture content of a pasteurized process cheese food is not more than 44 percent, and the fat content is not less than 23 percent.

(4) Moisture and fat are determined by the methods prescribed in § 133.113 (c), except that in determining moisture the loss in weight which occurs in drying for 5 hours, under the conditions prescribed in such method, is taken as the weight of moisture.

(5) The weight of the cheese ingredient prescribed by paragraph (a) (1) of this section constitutes not less than 51 percent of the weight of the finished pasteurized process cheese food.

(6) The weight of each variety of cheese in a pasteurized process cheese food made with two varieties of cheese is not less than 25 percent of the total weight of both, except that the weight of blue cheese, nuworld cheese, roquefort cheese, gorgonzola cheese, or limburger cheese is not less than 10 percent of the total weight of both. The weight of each variety of cheese in a pasteurized process cheese food made with three or more varieties of cheese is not less than 15 percent of the total weight of all, except that the weight of blue cheese, nuworld cheese, roquefort cheese, gorgonzola cheese, or limburger cheese is not less than 5 percent of the total weight of all. These limits do not apply to the quantity of cheddar cheese, washed curd cheese, colby cheese, and granular cheese in mixtures which are designated as "American cheese" as prescribed in paragraph (h) (5) of this section. Such mixtures are considered as one variety of cheese for the purposes of this subparagraph.

(7) For the purposes of this section, cheddar cheese for manufacturing, washed curd cheese for manufacturing, colby cheese for manufacturing, granular cheese for manufacturing, brick cheese for manufacturing, muenster cheese for manufacturing, and swiss cheese for manufacturing are considered as cheddar cheese, washed curd cheese, colby cheese, granular cheese, brick cheese, muenster cheese, and swiss cheese, respectively.

(b) Pasteurized process cheese food may be smoked, or the cheese or cheeses from which it is made may be smoked, before comminuting and mixing, or it may contain substances prepared by condensing or precipitating wood smoke.

(c) The optional cheese ingredients referred to in paragraph (a) of this section are one or more cheeses of the same or two or more varieties, except cream cheese, neufchatel cheese, cottage cheese, creamed cottage cheese, cook cheese, and skim-milk cheese for manufacturing, and except that hard grating cheese, semisoft part skim cheese, and part-skim spiced cheese are not used alone or in combination with each other as the cheese ingredient.

(d) The optional dairy ingredients referred to in paragraph (a) of this section are cream, milk, skim milk, buttermilk, cheese whey, any of the foregoing from which part of the water has been removed, anhydrous milkfat, dehydrated cream, albumin from cheese whey, and skim milk cheese for manufacturing.

(e) The other optional ingredients referred to in paragraph (a) of this section are:

(1) An emulsifying agent consisting of one or any mixture of two or more of the following: Monosodium phosphate, disodium phosphate, dipotassium phosphate, trisodium phosphate, sodium metaphosphate (sodium hexametaphosphate), sodium acid pyrophosphate, tetrasodium pyrophosphate, sodium aluminum phosphate, sodium citrate, potassium citrate, calcium citrate, sodium tartrate, and sodium potassium tartrate, in such quantity that the weight of the solids of such emulsifying agent is not more than 3 percent of the weight of the pasteurized process cheese food.

(2) An acidifying agent consisting of one or any mixture of two or more of the following: A vinegar, lactic acid, citric acid, acetic acid, and phosphoric acid in such quantity that the pH of the pasteurized process cheese food is not below 5.0.

(3) Water.

(4) Salt.

(5) Harmless artificial coloring.

(6) Spices or flavorings other than any which singly or in combination with other ingredients simulate the flavor of cheese of any age or variety.

(7) Pasteurized process cheese food in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of not more than 0.2 percent by weight of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, or consisting of not more than 0.3 percent by weight of sodium propionate, calcium propionate, or a combination of sodium propionate and calcium propionate.

(8) Pasteurized process cheese food in the form of slices or cuts in consumer-sized packages may contain lecithin as an optional anti-sticking agent in an amount not to exceed 0.03 percent by weight of the finished product.

(9) Safe and suitable enzyme modified cheese.

(f) The name of the food is "Pasteurized process cheese food". The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. Wherever any word or statement emphasizing the name of any ingredient appears on the label (other than in an ingredient statement as specified in paragraph (h) of this section) so conspicuously as to be easily seen under customary conditions of purchase, the full name of the food shall immediately and conspicuously precede or follow such word or statement in type of at least the same size as the type used in such word or statement.

(g) The name of the food shall include a declaration of any flavoring, including smoke and substances prepared by condensing or precipitating wood smoke, that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice that characterizes the product.

(h) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Plastic cream and dried cream may be declared as "cream".

(2) Concentrated milk and dried milk may be declared as "milk".

(3) Concentrated skim milk and nonfat dry milk may be declared as "skim milk".

(4) Cheese whey, concentrated cheese whey, and dried cheese whey may be declared as "whey".

(5) If the cheese ingredient contains cheddar cheese, washed curd cheese, colby cheese, granular cheese, or any mixture of two or more of these, such cheese or such mixture may be designated as "American cheese".

§ 133.174 Pasteurized process cheese food with fruits, vegetables, or meats.

(a) Pasteurized process cheese food with fruits, vegetables, or meats, or mixtures of these is the food which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for pasteurized process cheese food by § 133.173, except that:

(1) Its milk fat content is not less than 22 percent.

(2) It contains one or any mixture of two or more of the following: Any properly prepared cooked, canned, or dried fruit; any properly prepared cooked, canned, or dried vegetable; any properly prepared cooked or canned meat.

(3) When the added fruits, vegetables, or meats contain fat, the method prescribed for the determination of fat by § 133.113(c) is not applicable.

(b) The name of a pasteurized process cheese food with fruits, vegetables, or meats is "Pasteurized process cheese food with _____", the blank being filled in with the common or usual name or names of the fruits, vegetables, or meats used, in order of predominance by weight.

(c) If the only vegetable ingredient is pimento, and no meat or fruit ingredient is used, the weight of the solids of such pimentos is not less than 0.2 percent of the weight of the finished food. The name of this food is "Pimento pasteurized process cheese food" or "Pasteurized process pimento cheese food".

§ 133.175 Pasteurized cheese spread.

Pasteurized cheese spread is the food which conforms to the definition and standard of identity, and is subject to the requirements of label statement of optional ingredients, prescribed for pasteurized process cheese spread by §133.179, except that no emulsifying agent as prescribed by § 133.179(e) is used.

§ 133.176 Pasteurized cheese spread with fruits, vegetables, or meats.

(a) Pasteurized cheese spread with fruits, vegetables, or meats or mixtures of these is the food which conforms to the definition and standard of identity and is subject to the requirements for label statement of optional ingredients prescribed for pasteurized cheese spread by § 133.175, except that:

(1) It contains one or any mixture of two or more of the following: Any properly prepared cooked, canned, or dried fruit; any properly prepared cooked, canned, or dried vegetable; any properly prepared cooked or canned meat.

(2) When the added fruits, vegetables, or meats contain fat, the method prescribed for the determination of fat by § 133.113(c) is not applicable.

(b) The name of a pasteurized cheese spread with fruits, vegetables, or meats is "Pasteurized cheese spread with _____", the blank being filled in with the name or names of the fruits, vegetables, or meats used, in order of predominance by weight.

§ 133.178 Pasteurized neufchatel cheese spread with other foods.

(a) (1) Pasteurized neufchatel cheese spread with other foods is the class of foods each of which is prepared by mixing, with the aid of heat, neufchatel cheese with one or a mixture of two or more properly prepared foods (except other cheeses), such as fresh, cooked, canned, or dried fruits or vegetables; cooked or canned meats; relishes, pickles or other foods suitable for blending with neufchatel cheese. It may contain one or any mixture of two or more of the optional ingredients named in paragraph (b) of this section. The amount of the added food or foods must be sufficient to so differentiate the blend that it does not simulate neufchatel cheese. It is spreadable at 70° F.

(2) During its preparation the mixture is heated for not less than 30 seconds at a temperature of not less than 150° F. When tested for phosphatase by the method prescribed in § 133.113(f), the phenol equivalent of 0.25 gram of such food is not more than 3 micrograms.

(3) (i) No water other than that contained in the ingredients used is added to this food, but the moisture content in no case is more than 65 percent.

(ii) The milk fat is not less than 20 percent by weight of the finished food.

(b) The optional ingredients referred to in paragraph (a) of this section are:

(1) (i) One or any mixture of two or more of the following: Gum karaya, gum tragacanth, carob bean gum, gelatin, algin (sodium alginate), propylene glycol alginate, guar gum, sodium carboxymethylcellulose (cellulose gum), carrageenan, oat gum, or xanthan gum. The total quantity of any such substances, including that contained in the neufchatel cheese, is not more than 0.8 percent by weight of the finished food.

(ii) When one or more of the optional ingredients in paragraph (b) (1) (i) of this section are used, dioctyl sodium sulfosuccinate complying with the requirements of § 172.810 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(2) Artificial coloring, unless such addition conceals damage or inferiority or makes the finished food appear better or of greater value than it is.

(3) An acidifying agent consisting of one or a mixture of two or more of the following: A vinegar, acetic acid, lactic acid, citric acid, phosphoric acid.

(4) A sweetening agent consisting of one or a mixture of two or more of the following: Sugar, dextrose, corn sirup, corn sirup solids, glucose sirup, glucose sirup solids, maltose, malt sirup, hydrolyzed lactose.

(5) Cream, milk, skim milk, buttermilk, cheese whey, any of the foregoing from which part of the water has been removed, anhydrous milkfat, dehydrated cream, and albumin from cheese whey.

(c) The name of the food is "pasteurized Neufchâtel cheese spread with _____" or "pasteurized Neufchâtel cheese spread and _____", the blank being filled in with the common names of the foods added, in order of predominance by weight. The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. Wherever any word or statement emphasizing the name of any ingredient appears on the label (other than in an ingredient statement as specified in paragraph (d) of this section) so conspicuously as to be easily seen under customary conditions of purchase, the full name of the food shall immediately and conspicuously precede or follow such word or statement in type of at least the same size as the type used in such word or statement.

(d) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Plastic cream and dried cream may be declared as "cream".

(2) Concentrated milk and dried milk may be declared as "milk".

(3) Concentrated skim milk and nonfat dry milk may be declared as "skim milk".

§ 133.179 Pasteurized process cheese spread.

(a) (1) Pasteurized process cheese spread is the food prepared by comminuting and mixing, with the aid of heat, one or more of the optional cheese ingredients prescribed in paragraph (c) of this section, with or without one or more of the optional dairy ingredients prescribed in paragraph (d) of this section, with one or more of the emulsifying agents prescribed in paragraph (e) of this section, and with or without one or more of the optional ingredients prescribed by paragraph (f) of this section, into a homogeneous plastic mass, which is spreadable at 70° F.

(2) During its preparation, a pasteurized process cheese spread is heated for not less than 30 seconds at a temperature of not less than 150° F. When tested for phosphatase by the method prescribed in § 133.113(f) the phenol equivalent of 0.25 gram of pasteurized process cheese spread is not more than 3 micrograms.

(3) The moisture content of a pasteurized process cheese spread is more than 44 percent but not more than 60 percent, and the milk fat content is not less than 20 percent.

(4) Moisture and fat are determined by the methods prescribed in § 133.113 (c), except that in determining moisture the loss in weight which occurs in drying for 5 hours under the conditions prescribed in such method, is taken as the weight of the moisture.

(5) The weight of the cheese ingredient referred to in paragraph (a) (1) of this section constitutes not less than 51 percent of the weight of the pasteurized process cheese spread.

(6) The weight of each variety of cheese in a pasteurized process cheese spread made with two varieties of cheese is not less than 25 percent of the total weight of both, except that the weight of blue cheese, nuworld cheese, roquefort cheese, gorgonzola cheese, or limburger cheese is not less than 10 percent of the total weight of both. The weight of each variety of cheese in a pasteurized process cheese spread made with three or more varieties of cheese is not less than 15 percent of the total weight of all, except that the weight of blue cheese, nuworld cheese, roquefort cheese, gorgonzola cheese, or limburger cheese is not less than 5 percent of the total weight of all. These limits do not apply to the quantity of cheddar cheese, washed curd cheese, colby cheese, and granular cheese in mixtures which are designated as "American

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cheese" as prescribed in paragraph (i) (5) of this section. Such mixtures are considered as one variety of cheese for the purposes of this paragraph (a)(6).

(7) For the purposes of this section, cheddar cheese for manufacturing, washed curd cheese for manufacturing, colby cheese for manufacturing, granular cheese for manufacturing, brick cheese for manufacturing, muenster cheese for manufacturing, and swiss cheese for manufacturing are considered as cheddar cheese, washed curd cheese, colby cheese, granular cheese, brick cheese, muenster cheese, and swiss cheese, respectively.

(b) Pasteurized process cheese spread may be smoked, or the cheese or cheeses from which it is made may be smoked, before comminuting and mixing, or it may contain substances prepared by condensing or precipitating wood smoke.

(c) The optional cheese ingredients referred to in paragraph (a) of this section are one or more cheeses of the same or two or more varieties, except that skim-milk cheese for manufacturing may not be used, and except that cream cheese, neufchatel cheese, cottage cheese, creamed cottage cheese, cook cheese, hard grating cheese, semisoft part-skim cheese, and part-skim spiced cheese are not used, alone or in combination with each other, as the cheese ingredient.

(d) The optional dairy ingredients referred to in paragraph (a) of this section are cream, milk, skim milk, buttermilk, cheese whey, any of the foregoing from which part of the water has been removed, anhydrous milkfat, dehydrated cream, albumin from cheese whey, and skim milk cheese for manufacturing.

(e) The emulsifying agents prescribed in paragraph (a) of this section are one or any mixture of two or more of the following: Monosodium phosphate, disodium phosphate, dipotassium phosphate, trisodium phosphate, sodium metaphosphate (sodium hexametaphosphate), sodium acid pyrophosphate, tetrasodium pyrophosphate, sodium aluminum phosphate, sodium citrate, potassium citrate, calcium citrate, sodium tartrate, and sodium potassium tartrate, in such quantity that the weight of the solids of such emulsifying agent is not more than 3 percent of the weight of the pasteurized process cheese spread.

(f) The other optional ingredients referred to in paragraph (a) of this section are:

(1) (i) One or any mixture of two or more of the following: Carob bean gum, gum karaya, gum tragacanth, guar gum, gelatin, sodium carboxymethylcellulose (cellulose gum), carrageenan, oat gum, algin (sodium alginate), propylene glycol alginate, or xanthan gum. The total weight of such substances is not more than 0.8 percent of the weight of the finished food.

(ii) When one or more of the optional ingredients in paragraph (f) (1) (i) of this section are used, dioctyl sodium sulfosuccinate complying with the requirements of § 172.810 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(2) An acidifying agent consisting of one or any mixture of two or more of the following: A vinegar, lactic acid, citric acid, acetic acid, and phosphoric acid, in such quantity that the pH of the pasteurized process cheese spread is not below 4.0.

(3) A sweetening agent consisting of one or any mixture of two or more of the following: Sugar, dextrose, corn sugar, corn sirup, corn sirup solids, glucose sirup, glucose sirup solids, maltose, malt sirup, and hydrolyzed lactose, in a quantity necessary for seasoning.

(4) Water.

(5) Salt.

(6) Harmless artificial coloring.

(7) Spices or flavorings other than any which singly or in combination with other ingredients simulate the flavor of a cheese of any age or variety.

(8) Pasteurized process cheese spread in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.2 percent by weight, calculated as sorbic acid or consisting of not more than 0.3 percent by weight of sodium propionate, calcium propionate, or a combination of sodium propionate and calcium propionate.

(9) Pasteurized process cheese spread in consumer-sized packages may contain lecithin as an optional anti-sticking agent in an amount not to exceed 0.03 percent by weight of the finished product.

(10) Safe and suitable enzyme modified cheese.

(g) The name of the food is "pasteurized process cheese spread." The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. Wherever any word or statement emphasizing the name of any ingredient appears on the label (other than in an ingredient statement as specified in paragraph (i) of this section) so conspicuously as to be easily seen under customary conditions of purchase, the full name of the food shall immediately and conspicuously precede or follow such word or statement in type of at least the same size as the type used in such word or statement.

(h) The name of the food shall include a declaration of any flavoring, including smoke and substances prepared by condensing or precipitating wood smoke, that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice that characterizes the product.

(i) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Plastic cream and dried cream may be declared as "cream".

(2) Concentrated milk and dried milk may be declared as "milk".

(3) Concentrated skim milk and nonfat dry milk may be declared as "skim milk".

(4) Cheese whey, concentrated cheese whey, and dried cheese whey may be declared as "whey".

(5) If the cheese ingredient contains cheddar cheese, washed curd cheese, colby cheese, granular cheese, or any mixture of two or more of these, such cheese or such mixture may be designated as "American cheese".

§ 133.180 Pasteurized process cheese spread with fruits, vegetables, or meats.

(a) Pasteurized process cheese spread with fruits, vegetables, or meats or mixtures of these is the food which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for pasteurized process cheese spread by § 133.179, except that:

(1) It contains one or any mixture of two or more of the following: Any properly prepared cooked, canned, or dried fruit; any properly prepared cooked, canned, or dried vegetable; any properly prepared cooked or canned meat.

(2) When the added fruits, vegetables, or meats contain fat, the method prescribed for the determination of fat by § 133.113(c) is not applicable.

(b) The name of a pasteurized process cheese spread with fruits, vegetables, or meats is "Pasteurized process cheese spread with _____", the blank being filled in with the name or names of the fruits, vegetables, or meats used, in order of predominance by weight.

§ 133.181 Provolone and pasta filata cheese.

(a) Provolone cheese, pasta filata cheese, is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It has a stringy texture, and may be made in several shapes. It contains not more than 45 percent of moisture, and its solids contain not less than 45 percent of milk fat, as determined by the methods prescribed in § 133.113(c). If the milk used is not pasteurized, the cheese so made is held at a temperature of not less than 35° F for not less than 60 days.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial blue or green coloring in a quantity which neutralizes any natural yellow coloring in the curd may be added. Sufficient rennet, rennet paste, extract of rennet paste, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, singly or in any combination (with or without purified calcium chloride in a quantity not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) is added to set the milk to a semisolid mass. The mass is cut, stirred, and heated so as to promote

and regulate the separation of whey from the curd. The whey is drained off and the curd is matted and cut, immersed in hot water, and kneaded and stretched until it is smooth and free from lumps. Then it is cut and molded. During the molding the curd is kept sufficiently warm to cause proper sealing of the surface. The molded curd is then firmed by immersion in cold water, salted in brine, and dried. Some shapes may be encased in ropes or twine before drying. Provolone cheese may be smoked or it may have added to it a clear aqueous solution prepared by condensing or precipitating wood smoke in water. It is given some additional curing and covered with paraffin or similar wax. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of provolone cheese may be added during the procedure in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk, water in a quantity sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction. Provolone cheese shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms when tested by the method prescribed in § 133.113(f).

(3) Such milk may be bleached by the use of benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate; but the weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, sufficient vitamin A is added to the curd to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(d) Provolone cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) (1) The name "provolone cheese" ("pasta filata cheese") may include the common name of the shape of the cheese, such as "salami provolone". If provolone cheese is not smoked, the name includes the words "not smoked". If a clear aqueous solution prepared by condensing or precipitating wood smoke in water is added to the provolone cheese, the name is immediately followed by the words "with added smoke flavoring" with all words in this phrase of the same type size, style, and color without intervening written, printed, or graphic matter.

(2) (i) If provolone cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(ii) If the milk used is bleached, the label shall bear the statement "Milk bleached with benzoyl peroxide".

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed by this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except for the statement "with added smoke flavoring" as set forth in paragraph (e) (1) of this section.

§ 133.182 Soft ripened cheeses.

(a) The cheeses for which definitions and standards of identity are prescribed by this section are soft ripened cheeses for which specifically applicable definitions and standards of identity are not prescribed by other sections of this part. They are made from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section. Their solids contain not less than 50 percent of milk fat, as determined by the method prescribed therefor in § 133.113(c). If the milk used is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F for not less than 60 days.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria or other harmless flavor-producing bacteria, present in such milk or added thereto. Sufficient rennet, rennet paste, extract of rennet paste, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, singly or in any combination (with or without purified calcium chloride in a quantity not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) is added to set the milk to a semisolid mass. Harmless artificial coloring may be added. After coagulation the mass is so treated as to promote and regulate the separation of whey and curd. Such treatment may include one or more of the following: Cutting, stirring, heating, dilution with water or brine. The whey, or part of it, is drained off, and the curd is collected and shaped. It may be placed in forms, and may be pressed. Harmless flavor-producing microorganisms may be added. It is cured under conditions suitable for development of biological curing agents on the surface of the cheese, and the curing is conducted so that the cheese cures from the surface toward the center. Salt may be added during the procedure. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of soft ripened cheeses may be added, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk or goat's milk or sheep's milk or mixtures of two or all of these. Such milk may be adjusted by separating part of the fat therefrom or (in the case of cow's milk) by adding one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk; (in the case of goat's milk) the corresponding products from goat's milk; (in the case of sheep's milk) the corresponding products from sheep's milk; water, in a quantity sufficient to reconstitute any such concentrated or dried products used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction.

(d) The name of each soft ripened cheese for which a definition and standard of identity is prescribed by this section is "Soft ripened cheese", preceded or followed by:

(1) The specific common or usual name of such soft ripened cheese, if any such name has become generally recognized therefor; or

(2) If no such specific common or usual name has become generally recognized therefor, an arbitrary or fanciful name which is not false or misleading in any particular.

(e) When milk other than cow's milk is used in whole or in part, the name of the cheese includes the statement "made from _____", the blank being filled in with the name or names of the milk used, in order of predominance by weight.

§ 133.183 Romano cheese.

(a) Romano cheese is the food prepared from cow's milk or sheep's milk or goat's milk or mixtures of two or all of these and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It grates readily, and has a granular texture and a hard and brittle rind. It contains not more than 34 percent of moisture, and its solids contain not less than 38 percent of milk fat, as determined by the methods prescribed in § 133.113(c). It is cured for not less than 5 months.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of

harmless lactic-acid-producing bacteria

(e) When romano cheese is made

Perforations are then made in the shaped

is then cured at a temperature of from 60° to 70° F for 3 to 5 weeks to obtain

and shaped. It may be placed in forms, and may be pressed. Harmless flavor-

(3) Wherever the name of the food appears on the label so conspicuously as

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harmless lactic-acid-producing bacteria present in such milk or added thereto. Harmless artificial blue or green coloring in a quantity which neutralizes any natural yellow coloring in the curd may be added. Rennet, rennet paste, extract of rennet paste, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, singly or in any combination (with or without purified calcium chloride in a quantity not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) is added to set the milk to be a semisolid mass. The mass is cut into particles no larger than corn kernels, stirred, and heated to a temperature of about 120° F. The curd is allowed to settle to the bottom of the kettle or vat, and is then removed and drained for a short time, packed in forms or hoops, and pressed. The pressed curd is salted by immersing in brine for about 24 hours and is then removed from the brine and the surface allowed to dry. It is then alternately rubbed with salt and washed at intervals. It may be perforated with needles. It is finally dry-cured. During curing it is turned and scraped. The surface may be rubbed with vegetable oil. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of romano cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) (1) For the purposes of this section, the word "milk" means cow's milk or goat's milk or sheep's milk or mixtures of two or all of these. Such milk may be adjusted by separating part of the fat therefrom or (in the case of cow's milk) by adding one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk; (in the case of goat's milk) the corresponding products from goat's milk; (in the case of sheep's milk) the corresponding products from sheep's milk; water in a quantity sufficient to reconstitute any such concentrated or dried products used.

(2) Such milk may be bleached by the use of benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate; but the weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk bleached, and the weight of the potassium alum, calcium, sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, sufficient vitamin A is added to the curd to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(d) Romano cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) When romano cheese is made solely from cow's milk, the name of such cheese is "Romano cheese made from cow's milk", and may be preceded by the word "Vaccino" (or "Vacchino"); when made solely from sheep's milk, the name is "Romano cheese made from sheep's milk", and may be preceded by the word "Pecorina"; when made solely from goat's milk, the name is "Romano cheese made from goat's milk", and may be preceded by the word "Caprino"; and when a mixture of two or all of the milks specified in this section is used, the name of the cheese is "Romano cheese made from ----------", the blank being filled in with the names of the milks used, in order of predominance by weight.

(f) (1) If the milk used is bleached, the label shall bear the statement "Milk bleached with benzoyl peroxide".

(2) If romano cheese in sliced or cut form contains an optional mold-inhibiting ingredient as provided for in paragraph (d) of this section, the label shall bear the statement "---------- added to retard mold growth" or "---------- added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed by this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed or graphic matter.

§ 133.184 Roquefort, sheep's milk blue-mold, and blue-mold cheese from sheep's milk.

(a) Roquefort cheese, sheep's milk blue-mold cheese, blue mold cheese from sheep's milk, is the food prepared from sheep's milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It is characterized by the presence of bluish-green mold throughout the cheese. It contains not more than 45 percent moisture, and its solids contain not less than 50 percent milk fat, as determined by the methods prescribed in § 133.113 (c). It is not less than 60 days old.

(b) Milk, which may be pasteurized, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, is added to set the milk to a semisolid mass. The mass is cut into smaller portions and allowed to stand for a time. The mixed curd and whey is placed in forms permitting further drainage of whey. Spores of the mold *Penicillium roquefortii* are added. The forms are turned several times during drainage. When sufficiently drained, the shaped curd is removed from the forms and salted with dry salt or brine. Perforations are then made in the shaped curd, and it is held at a temperature of approximately 50° F, with relative humidity of 90 to 95 percent, until the characteristic mold growth has developed. During storage the surface of the cheese is scraped, if necessary, to remove surface growth of undesirable microorganisms. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of roquefort cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section, the word "milk" means sheep's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto sheep's milk cream or skimmed sheep's milk.

§ 133.185 Samsoe cheese.

(a) Samsoe cheese is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. The shape of the cheese is flat cylindrical. Its weight is approximately 30 pounds (14 kilograms); its diameter is approximately 17 inches (44 centimeters); and its height is approximately 4 inches (10 centimeters). It has a small amount of eye formation of approximately uniform size of about $\frac{1}{8}$-inch (8 millimeters). It contains not more than 41 percent of moisture, and its solids contain not less than 45 percent of milk fat, as determined by the methods prescribed in § 133.113(c). The cheese so made is cured at a temperature of not less than 60 days. The surface may be covered with plain or colored paraffin or other tightly adhering coating.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial coloring may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. After coagulation the mass is cut into small cube-shaped pieces with sides approximately $\frac{3}{8}$-inch (1 centimeter). The mass is stirred and heated to about 102° F, and so handled by further stirring, heating, dilution with water, and salting as to promote and regulate the separation of curd and whey. When the desired curd is obtained, it is transferred to forms permitting drainage of whey. During drainage, the curd is pressed. After drainage, the curd is removed from the forms and is further salted by immersing in a concentrated salt solution for about 3 days. The curd

is then cured at a temperature of from 60° to 70° F for 3 to 5 weeks to obtain the desired eye formation. Further curing is conducted at a lower temperature.

(c) For the purposes of this section the word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto cream or skim milk.

§ 133.186 Sap sago cheese.

(a) Sap sago cheese is the food prepared from the skim milk of cows and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section. It has a pale-green color, and is made in the shape of a truncated cone. It contains not more than 38 percent of moisture, as determined by the method prescribed in § 133.113(c).

(b) Skim milk is allowed to become sour, and is heated to boiling temperature, with stirring. Cold buttermilk may be added. Sufficient sour whey is added to precipitate the casein. The curd is removed, spread out in boxes, and pressed, and while under pressure is allowed to drain and ferment. It is ripened for not less than 5 weeks. The ripened curd is dried and ground, salt and dried clover of the species *Melilotus coerulea* are added. The mixture is shaped into truncated cones. It is then cured for not less than 5 months.

§ 133.187 Semisoft cheeses.

(a) The cheeses for which definitions and standards of identity are prescribed by this section are semisoft cheeses for which specifically applicable definitions and standards of identity are not prescribed by other sections of this part. They are made from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section. They contain more than 39 percent, but not more than 50 percent, of moisture, and their solids contain not less than 50 percent of milk fat, as determined by the methods prescribed in § 133.113(c). If the milk used is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F for not less than 60 days.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria or other harmless flavor-producing bacteria, present in such milk or added thereto. Sufficient rennet, rennet paste, extract of rennet paste, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, singly or in any combination (with or without purified calcium chloride in a quantity not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) is added to set the milk to a semisolid mass. Harmless artificial coloring may be added. After coagulation the mass is so treated as to promote and regulate the separation of whey and curd. Such treatment may include one or more of the following: cutting, stirring, heating, dilution with water or brine. The whey, or part of it, is drained off, and the curd is collected and shaped. It may be placed in forms, and may be pressed. Harmless flavor-producing microorganisms may be added. It may be cured in a manner to promote the growth of biological curing agents. Salt may be added during the procedure. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of semisoft cheese may be added, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk or goat's milk or sheep's milk or mixtures of two or all of these. Such milk may be adjusted by separating part of the fat therefrom, or (in the case of cow's milk) by adding one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk; (in the case of goat's milk) the corresponding products from goat's milk; (in the case of sheep's milk) the corresponding products from sheep's milk; water in a quantity sufficient to reconstitute any such concentrated or dried products used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction. A semisoft cheese shall be deemed not to have been made from pasteurized milk if 0.25 gm shows a phenol equivalent of more than 5 micrograms when tested by the method prescribed in § 133.113(f).

(d) Semisoft cheeses in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) The name of each semisoft cheese for which a definition and standard of identity is prescribed by this section is "Semisoft cheese"; preceded or followed by:

(1) The specific common or usual name of such semisoft cheese, if any such name has become generally recognized therefor; or

(2) If no such specific common or usual name has become generally recognized therefor, an arbitrary or fanciful name which is not false or misleading in any particular.

(f) (1) When milk other than cow's milk is used in whole or in part, the name of the cheese includes the statement "made from ----------", the blank being filled in with the name or names of the milk used, in order of predominance by weight.

(2) If semisoft cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "---------- added to retard mold growth" or "---------- added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed by this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.188 Semisoft part-skim cheeses.

(a) The cheeses for which definitions and standards of identity are prescribed by this section are semisoft part-skim cheeses for which specifically applicable definitions and standards of identity are not prescribed by other sections of this part. They are made from partly skimmed milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section. They contain not more than 50 percent of moisture, and their solids contain not less than 45 percent, but less than 50 percent, of milk fat, as determined by the methods set forth in § 133.113(c). If the milk used is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F, for not less than 60 days.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria or other harmless flavor-producing bacteria, present in such milk or added thereto. Sufficient rennet, rennet paste, extract of rennet paste, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation singly or in any combination (with or without purified calcium chloride in a quantity not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) is added to set the milk to a semisolid mass. Harmless artificial coloring may be added. After coagulation the mass is so treated as to promote and regulate the separation of whey and curd. Such treatment may include one or more of the following: Cutting, stirring, heating, dilution with water or brine. The whey, or part of it, is drained off, and the curd is collected and shaped. It may be placed in forms, and it may be pressed. Harmless flavor-producing microorganisms may be added. It may be cured in a manner to promote the growth of biological curing agents. Salt may be added during the procedure. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of semisoft part-skim cheese may be added in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk or goat's milk or sheep's milk or mixtures of two or all of these. Such milk may be adjusted by separating part of the fat therefrom or (in the case of cow's milk) by adding one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk; (in the case of goat's milk) the corresponding products from goat's milk; (in the case of sheep's milk) the corresponding products

from sheep's milk; water in a quantity sufficient to reconstitute any such concentrated or dried products used.

(2) Such milk may be bleached by the use of benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate; but the weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk bleached, and the weight of the potassium alum, calcium, sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, sufficient vitamin A is added to the curd to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(d) Part-skim cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) When part-skim cheese is made solely from cow's milk, the name of such cheese is "part-skim cheese made from cow's milk", and may be preceded by the word "Vaccino" (or "Vacchino"); when made solely from sheep's milk, the name is "part-skim cheese made from sheep's milk", and may be preceded by the word "Pecorina"; when made solely from goat's milk, the name is "part-skim cheese made from goat's milk", and may be preceded by the word "Caprino"; and when a mixture of two or all of the milks specified in this section is used, the name of the cheese is "part-skim cheese made from ----------", the blank being filled in with the names of the milks used, in order of predominance by weight.

(f) (1) If the milk used is bleached, the label shall bear the statement "Milk bleached with benzoyl peroxide".

(2) If part-skim cheese in sliced or cut form contains an optional mold-inhibiting ingredient as provided for in paragraph (d) of this section, the label shall bear the statement "---------- added to retard mold growth" or "---------- added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed by this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.189 Spiced cheese.

(a) Spiced cheese is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 45 percent moisture, and its solids contain not less than 50 percent milk fat, as determined by the methods prescribed in § 133.113(c). It is not less than 60 days old.

(b) Milk, which may be pasteurized, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, is added to set the milk to a semisolid mass. The mass is cut into smaller portions and allowed to stand for a time. The mixed curd and whey is placed in forms permitting further drainage of whey. The forms are turned several times during drainage. When sufficiently drained, the shaped curd is removed from the forms and salted with dry salt or brine. Perforations are then made in the shaped curd, and it is held at a temperature of approximately 50° F, with relative humidity of 90 to 95 percent, until the characteristic mold growth has developed. During storage the surface of the cheese is scraped, if necessary, to remove surface growth of undesirable microorganisms. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of roquefort cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) For the purposes of this section, the word "milk" means sheep's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto sheep's milk cream or skimmed sheep's milk.

"Spiced cheese", preceded or followed by:

the procedure set forth in paragraph (b) of this section, or by another procedure

to compensate for the vitamin A or its precursors destroyed in the bleaching

from sheep's milk; water in a quantity sufficient to reconstitute any such concentrated or dried products used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction. A semisoft part-skim cheese shall be deemed not to have been made from pasteurized milk if 0.25 gm. shows a phenol equivalent of more than 5 micrograms when tested by the method prescribed in § 133.113(f).

(d) Semisoft part-skim cheeses in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) The name of each semisoft part-skim cheese for which a definition and standard of identity is prescribed by this section is "Semisoft part-skim cheese," preceded or followed by:

(1) The specific common or usual name of such semisoft cheese, if any such name has become generally recognized therefor; or

(2) If no such specific common or usual name has become generally recognized therefor, an arbitrary or fanciful name which is not false or misleading in any particular.

(f)(1) When milk other than cow's milk is used in whole or in part, the name of the cheese includes the statement "made from _____", the blank being filled in with the name or names of the milk used, in order of predominance by weight.

(2) If semi-soft part-skim cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed by this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.189 Skim milk cheese for manufacturing.

(a) Skim milk cheese for manufacturing is the food prepared from skim milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 50 percent of moisture, as determined by the method therefor prescribed in § 133.113(c). It is coated with blue-colored paraffin or other tightly adhering coating, colored blue.

(b) Skim milk or the optional dairy ingredients specified in paragraph (c) of this section, which may be pasteurized, and which may be warmed, are subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial coloring may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the skim milk, is added to set the skim milk to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. The whey is drained off, and the curd is matted into a cohesive mass. Proteins from the whey may be incorporated. The mass is cut into slabs which are so piled and handled as to promote the drainage of whey and the development of acidity. The slabs are then cut into pieces, which may be rinsed by pouring or sprinkling water over them, with free and continuous drainage; but the duration of such rinsing is so limited that only the whey on the surface of such pieces is removed. The curd is salted, stirred, further drained, and pressed into forms. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of skim milk cheese for manufacturing may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c) The optional dairy ingredients referred to in paragraph (b) of this section are: Skim milk or concentrated skim milk or nonfat dry milk or a mixture of any two or more of these, with water in a quantity not in excess of that sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(d) For the purposes of this section, "skim milk" means cow's milk from which the milk fat has been separated.

§ 133.190 Spiced cheeses.

(a) The cheeses for which definitions and standards of identity are prescribed by this section are spiced cheeses for which specifically applicable definitions and standards of identity are not prescribed by other sections of this part. They are made from milk and the other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section. Their solids contain not less than 50 percent of milk fat as determined by the method therefor prescribed in § 133.113(c). They contain one or a mixture of two or more spices, except any which singly or in combination with other ingredients simulate the flavor of a cheese of any age or variety, in an amount not less than 0.015 ounce per pound of cheese, and may contain spice oils. If the milk used is not pasteurized, the cheese so made is cured at a temperature of not less than 35° F for not less than 60 days.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto. Harmless artificial coloring may be added. Sufficient rennet, rennet paste, extract of rennet paste, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, singly or in any combination (with or without purified calcium chloride in a quantity not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) is added to set the milk to a semisolid mass. The mass is divided into smaller portions, and so handled by stirring, heating, and diluting with water or salt brine as to promote and regulate the separation of whey and curd. The whey is drained off. The curd is removed, and may be further drained. The curd is then shaped into forms, and may be pressed. At some time during the procedure, spices are added so as to be evenly distributed through the finished cheese. Spice oils may be added. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of spiced cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used. Harmless flavor-producing microorganisms may be added, and curing may be conducted under suitable conditions for the development of biological curing agents.

(c) For the purposes of this section:

(1) The word "milk" means cow's milk or goat's milk or sheep's milk or mixtures of two or all of these. Such milk may be adjusted by separating part of the fat therefrom or (in the case of cow's milk) by adding one or more of the following: Cream, skim milk, concentrated skim milk, nonfat dry milk; (in the case of goat's milk) the corresponding products from goat's milk; (in the case of sheep's milk) the corresponding products from sheep's milk; water in a quantity sufficient to reconstitute any such concentrated or dried products used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction. Spiced cheeses shall be deemed not to have been made from pasteurized milk if 0.25 gram shows a phenol equivalent of more than 3 micrograms, when tested by the method prescribed in § 133.113(f).

(d) Spiced cheeses in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e) The name of each spiced cheese for which a definition and standard of identity is prescribed by this section is

"Spiced cheese", preceded or followed by:

(1) The specific common or usual name of such spiced cheese, if any such name has become generally recognized therefor; or

(2) If no such specific common or usual name has become generally recognized therefor, an arbitrary or fanciful name that is not false or misleading in any particular.

(f)(1) When milk other than cow's milk is used in whole or in part, the name of the cheese includes the statement "made from _____", the blank being filled in with the name or names of the milk used, in order of predominance by weight.

(2) If spiced cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed by this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.191 Part-skim spiced cheeses.

Part-skim spiced cheeses conform to the definition and standard of identity, and are subject to the requirements for label statement of optional ingredients, prescribed for spiced cheeses by § 133.190, except that their solids contain less than 50 percent, but not less than 20 percent, of milk fat.

§ 133.193 Spiced, flavored standardized cheeses.

(a) Except as otherwise provided for herein and in applicable sections in this part, a spiced or flavored standardized cheese conforms to the applicable definitions, standard of identity and requirements for label statement of optional ingredients prescribed for that specific natural cheese variety promulgated pursuant to section 401 of the act. In addition a spiced and/or flavored standardized cheese shall contain one or more safe and suitable spices and/or flavorings, in such proportions as are reasonably required to accomplish their intended effect: *Provided*, That no combination of ingredients shall be used to simulate the flavor of cheese of any age or variety.

(b) The name of a spiced or flavored standardized cheese shall include in addition to the varietal name of the natural cheese, a declaration of any flavor and/or spice that characterizes the food, in the manner prescribed in § 101.22 of this chapter.

§ 133.195 Swiss and emmentaler cheese.

(a) Swiss cheese, emmentaler cheese, is the food prepared from milk and other ingredients specified in this section, by the procedure set forth in paragraph (b) of this section, or by another procedure which produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It has holes, or eyes, developed throughout the cheese. It contains not more than 41 percent of moisture, and its solids contain not less than 43 percent of milk fat, as determined by the methods prescribed in § 133.113(c). It is not less than 60 days old.

(b) Milk, which may be pasteurized or clarified or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, present in such milk or added thereto; harmless propionic-acid-producing bacteria may also be added. Authorized artificial coloring may be added. Sufficient rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the milk, is added to set the milk to a semisolid mass. The mass is cut into particles similar in size to wheat kernels. For about 30 minutes the particles are alternately stirred and allowed to settle. The temperature is raised to about 126° F. Stirring is continued until the curd becomes firm. The acidity of the whey at this point, calculated as lactic acid, does not exceed 0.13 percent. The curd is transferred to hoops or forms and pressed until the desired shape and firmness are obtained. The cheese is then salted by immersing it in a saturated salt solution for about 3 days. It is then held at a temperature of about 50° F to 60° F for a period of 5 to 10 days, after which it is held at a temperature of about 75° F until it is approximately 30 days old, or until the so-called eyes form. Salt, or a solution of salt in water, is added to the surface of the cheese at some time during the curing process. The cheese is then stored at a lower temperature for further curing. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of swiss cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the milk used.

(c)(1) For the purposes of this section, the word "milk" means cow's milk, which may be adjusted by separating part of the fat therefrom or by adding thereto cream or skim milk. Such milk may be bleached by the use of benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate; but the weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk bleached, and the weight of potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If the milk is bleached in this manner, sufficient vitamin A is added to the curd to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(2) During the cheese-making process the milk may be treated as provided in § 133.113(e)(3).

(d) Swiss cheese in the form of slices or cuts in consumer-sized packages may contain an optional mold-inhibiting ingredient consisting of sorbic acid, potassium sorbate, sodium sorbate, or any combination of two or more of these, in an amount not to exceed 0.3 percent by weight, calculated as sorbic acid.

(e)(1)(i) If swiss cheese in sliced or cut form contains an optional mold-inhibiting ingredient as specified in paragraph (d) of this section, the label shall bear the statement "_____ added to retard mold growth" or "_____ added as a preservative", the blank being filled in with the common name or names of the mold-inhibiting ingredient or ingredients used.

(ii) If the milk used is bleached, the label shall bear the statement "Milk bleached with benzoyl peroxide".

(2) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in this section, showing the optional ingredient used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 133.196 Swiss cheese for manufacturing.

Swiss cheese for manufacturing conforms to the definition and standard of identity prescribed for swiss cheese by § 133.195, except that the holes, or eyes, have not developed throughout the entire cheese, and the provisions of paragraph (d) of that section do not apply; however, the labeling requirements of paragraph (e)(2) of that section do apply.

PART 135—FROZEN DESSERTS

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Frozen Desserts

Sec.

135.10 Frozen custard.
135.20 Fruit sherbets.
135.30 Ice cream.
135.40 Ice milk.
135.50 Mellorine.
135.65 Nonfruit sherbets.
135.70 Nonfruit water ices.
135.90 Water ices.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371).

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Frozen Desserts

§ 135.10 Frozen custard.

Frozen custard, french ice cream, french custard ice cream conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for ice cream by § 135.30, except that one or more of the optional egg

ingredients permitted by § 135.30(f)(1)

the case of concentrated fruit or fruit

sirup, dried glucose sirup, corn sirup,

(f) The name of each such fruit sherbet is "_____ sherbet", the blank

and one or more of the optional ingredients specified in paragraph (f) of this

and which may contain disodium phosphate or sodium citrate in such quantity

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ingredients permitted by § 135.30(f)(1) are used in such quantity that the total weight of egg yolk solids therein is not less than 1.4 percent of the weight of the finished frozen custard: *Provided, however*, That when the ingredients named in § 135.30(b)(3) through (8), inclusive, are used, the content of egg yolk solids may be reduced in proportion to the bulky ingredient or ingredients added, under the conditions prescribed by § 135.30(a) for reduction in milk fat and total milk solids; but in no case is the content of egg yolk solids less than 1.12 percent.

§ 135.20 Fruit sherbets.

(a) Fruit sherbets are the foods each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing fruit ingredients specified in paragraph (b) of this section and one or more of the optional ingredients specified in paragraph (c) of this section, sweetened with one or more of the optional sweetening ingredients specified in paragraph (d) of this section. One or more of the optional ingredients specified, in paragraph (e) of this section may be used, subject to the conditions hereinafter set forth. The mix of combined dairy ingredients, with or without other ingredients, is pasteurized. The titratable acidity of the finished fruit sherbet, calculated as lactic acid, is not less than 0.35 percent. The mix with or without added water may be seasoned with salt, and may be homogenized. The optional dairy ingredients used and the content of milk fat and nonfat milk solids therein are such that the weight of milk fat is not less than 1 percent and not more than 2 percent, and the weight of total milk solids is not less than 2 percent and not more than 5 percent of the weight of the finished fruit sherbet. The optional caseinates specified in paragraph (e)(7) of this section are not deemed to be milk solids. The finished fruit sherbet weighs not less than 6 pounds to the gallon: except that when the optional ingredient microcrystalline cellulose specified in paragraph (e)(11) of this section is used, the finished fruit sherbet weighs not less than 6 pounds to the gallon, exclusive of the weight of the microcrystalline cellulose.

(b) The optional fruit characterizing ingredients referred to in paragraph (a) of this section are any mature fruit or the juice of any mature fruit. The fruit or fruit juice used may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be thickened with pectin or other of the optional ingredients named in paragraph (e)(2) of this section, subject to the restriction on the total quantity of such substances in fruit sherbets prescribed in that paragraph. The fruit is prepared by the removal of pits, seeds, skins, and cores, where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. The fruit may be screened, crushed, or otherwise comminuted. It may be acidulated with citric acid, ascorbic acid, or phosphoric acid. In the case of concentrated fruit or fruit juices, from which part of the water is removed, substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of citrus fruits, the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juices, cold-pressed citrus oil may be added thereto in an amount not exceeding that which would have been obtained if the whole fruit had been used. The quantity of fruit ingredients used is such that, in relation to the weight of the finished sherbet, the weight of fruit or fruit juice, as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content), is not less than 2 percent in the case of citrus sherbets, 6 percent in the case of berry sherbets, and 10 percent in the case of sherbets prepared with other fruits. For the purposes of this section, tomatoes and rhubarb are considered as kinds of fruit.

(c) The optional dairy ingredients referred to in paragraph (a) of this section are: Cream, dried cream, plastic cream (sometimes known as concentrated milk fat), butter, butter oil, milk, concentrated milk, evaporated milk, superheated condensed milk, sweetened condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, concentrated cheese whey, and dried cheese whey. Water may be added, or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term "milk" as used in this section means cow's milk. Dried cheese whey is uniformly light in color, free from brown and black scorched particles, and has an alkalinity of ash, not more than 225 milliliters 0.1N HCl per 100 grams, a bacterial count of not more than 50,000 per gram, and, as adjusted with water to a total solids content of 6.5 percent, a titratable acidity of not more than 0.16 percent calculated as lactic acid. Concentrated cheese whey has an alkalinity of ash, not more than 115 milliliters 0.1N HCl per 100 grams, a bacterial count of not more than 50,000 per gram, and, as adjusted with water to a total solids content of 6.5 percent, a titratable acidity of not more than 0.18 percent, calculated as lactic acid.

(d) The optional sweetening ingredients referred to in paragraph (a) of this section are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

(e) Other optional ingredients referred to in paragraph (a) of this section are:

(1) Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen yolks, dried yolks; but the weight of egg yolk solids therein is less than 0.5 percent of the weight of the finished fruit sherbet.

(2) Agar-agar, algin (sodium alginate), calcium sulfate, egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl methylcellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, lecithin, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly or of any combination of two or more such ingredients used (including any such ingredient added separately to the fruit ingredient) is not more than 0.5 percent of the weight of the finished fruit sherbet. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(3) Monoglycerides or diglycerides or both of fat-forming fatty acids. The total weight of such ingredients is not more than 0.2 percent of the weight of the finished fruit sherbet. If the preparation used is one having a high proportion of monoglycerides (over 90 percent), it may be preblended with edible fat, but the amount of such fat does not exceed 20 percent by weight of the blend, and the total amount of the blend used does not exceed 0.2 percent of the weight of the finished fruit sherbet.

(4) Polysorbate 65, polysorbate 80, or both (complying with the provisions of § 172.838 and § 172.840 of this chapter including the limit on either used separately or both used in combination of not more than 0.1 percent by weight of the finished frozen dessert).

(5) Propylene glycol alginate (complying with the provisions of § 172.858 of this chapter including the limit of not more than 0.5 percent by weight of the finished frozen dessert).

(6) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, phosphoric acid, or any combination of two or more of these in such quantity as seasons the finished food.

(7) Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, sodium caseinate.

(8) Any natural food flavoring.

(9) Any artificial flavoring.

(10) Coloring, including artificial coloring.

(11) Microcrystalline cellulose, in a quantity not to exceed 0.5 percent of the weight of the finished fruit sherbet.

(12) When one or more of the optional thickening ingredients in paragraph (e)(2) or (5) of this section are used, dioctyl sodium sulfosuccinate complying with the requirements of §172.810 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(f) The name of each such fruit sherbet is "____________ sherbet", the blank being filled in with the common name of the fruit or fruits from which the fruit ingredients used are obtained. When the names of two or more fruits are included, such names shall be arranged in order of predominance, if any, by weight of the respective fruit ingredients used.

(g) When the optional ingredients artificial coloring or artificial flavoring are used in fruit sherbet they shall be named on the labels as follows:

(1) The label shall designate artificial coloring by the statement "artificially colored", "artificial coloring added", "with added artificial coloring", or "____________ an artificial color added", the blank being filled in with the name of the artificial coloring used.

(2) The label shall designate artificial flavoring by the statement "artificially flavored", "artificial flavoring added", "with added artificial flavoring", or "____________ an artificial flavor added", the blank being filled in with the name of the artificial flavoring used.

(3) Whenever artificial flavoring is not added as such but as a component of some other ingredient, the label shall include the statement "__________ artificially flavored", the blank being filled in with the name of such other ingredient.

(4) When the optional ingredient microcrystalline cellulose specified in paragraph (e)(11) of this section is used, the label shall bear the statement "microcrystalline cellulose added" or "with added microcrystalline cellulose".

Label statements may be combined, as for example, "with added artificial flavoring and artificial coloring".

(h) Where one or more of the optional ingredients artificial coloring or artificial flavoring are used and there appears on the label any representation as to the fruit or fruits in the sherbet, such representation shall be immediately and conspicuously accompanied by appropriate label statements as prescribed in paragraph (g) of this section, showing the optional ingredients used.

(i) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements specified in this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

§ 135.30 Ice cream.

(a) Ice cream is the food prepared by freezing, while stirring, a pasteurized mix composed of one or more of the optional ingredients specified in paragraph (c) of this section, sweetened with one or more of the optional sweetening ingredients specified in paragraph (d) of this section. One or more of the optional characterizing ingredients specified in paragraph (b) of this section and one or more of the optional ingredients specified in paragraph (d)(5) to (10) may be used to characterize the ice cream. One or more of the optional caseinates specified in paragraph (e) and one or more of the optional ingredients specified in paragraph (f) of this section may be used, subject to the conditions hereinafter set forth. The mix may be seasoned with salt, and may be homogenized. The kind and quantity of optional dairy ingredients used, as specified in paragraph (c) of this section, and the content of milk fat and nonfat milk solids therein, are such that the weights of milk fat and total milk solids are not less than 10 percent and 20 percent, respectively, of the weight of the finished ice cream; but in no case shall the content of milk solids not fat be less than 6 percent, except that when one or more of the bulky optional ingredients as specified in paragraph (b)(3) to (8), inclusive, of this section, are used, the weights of milk fat and total milk solids (exclusive of such fat and solids in any malted milk used) are not less than 10 percent and 20 percent, respectively, of the remainder obtained by subtracting the weight of such optional ingredients, modified as prescribed in this paragraph, from the weight of the finished ice cream; but in no case is the weight of milk fat or total milk solids less than 8 percent and 16 percent, respectively, of the weight of the finished ice cream. The optional caseinates specified in paragraph (e) of this section are not deemed to be milk solids. In calculating the reduction of milk fat and total milk solids from the use of bulky optional ingredients, chocolate and cocoa solids used shall be considered the bulky ingredients of paragraph (b)(3) of this section. In order to make allowance for additional sweetening ingredients needed when bulky ingredients are used, the weight of chocolate or cocoa solids may be multiplied by 2.5; the weight of fruit or nuts used may be multiplied by 1.4; and the weight of partially or wholly dried fruits or fruit juices may be multiplied by appropriate factors to obtain the original weights before drying and this weight multiplied by 1.4. The finished ice cream contains not less than 1.6 pounds of total solids to the gallon and weighs not less than 4.5 pounds to the gallon; except that when the optional ingredient microcrystalline cellulose specified in paragraph (f)(6) of this section is used, the finished ice cream contains not less than 1.6 pounds of total solids to the gallon and weighs not less than 4.5 pounds to the gallon exclusive, in both cases, of the weight of the microcrystalline cellulose. Artificial flavoring in any chocolate, cocoa, confectionery, or other ingredient used is an optional ingredient of the finished ice cream. Coloring, including artificial coloring, may be added.[5]

(b) The optional characterizing ingredients referred to in paragraph (a) of this section are:

(1) Ground spice, ground vanilla beans, infusion of coffee or tea, or any natural food flavoring.

(2) Artificial food flavoring.

(3) Chocolate or cocoa, which may be added as such or as a suspension in sirup, and which may contain disodium phosphate or sodium citrate in such quantity that the finished ice cream contains not more than 0.2 percent by weight of disodium phosphate or sodium citrate. For the purposes of this section, the term "cocoa" means one or any combination of two or more of the following: Cocoa, breakfast cocoa, low-fat cocoa, and the unpulverized residual material prepared by removing part of the fat from ground cacao nibs.

(4) Mature fruit or the juice of mature fruit, either of which may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be whole, shredded, or comminuted; it may be sweetened, thickened with pectin or with one or more of the ingredients named in paragraph (f)(2) of this section, subject to the restriction on the total quantity of such substances in ice cream prescribed in that paragraph, and it may be acidulated with citric acid, ascorbic acid, or phosphoric acid. The fruit is prepared by the removal of pits, seeds, skins, and cores, where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. In the case of fruit or fruit juice from which part of the water is removed, the substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of the citrus fruits the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juice, cold-pressed citrus oil may be added in an amount not exceeding that which would have been obtained if the peel from the whole fruit had been used. For the purposes of this section, the flesh of the coconut shall be considered a fruit.

(5) Nut meats, which may be roasted, cooked in an edible fat or oil, or preserved in sirup, and which may be salted.

(6) Malted milk.

(7) Confectionery. For the purposes of this section, the term "confectionery" means candy, cakes, cookies, and glacéed fruits.

(8) Properly prepared and cooked cereal.

(9) Distilled alcoholic beverage, including liqueurs or wine, in an amount not to exceed that required for flavoring the ice cream.

(c) The optional dairy ingredients referred to in paragraph (a) of this section are: Cream, dried cream, plastic cream (sometimes known as concentrated milk (fat), butter, butter oil, milk, concentrated milk, evaporated milk, sweetened condensed milk, superheated condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, skim milk in concentrated or dried form which has been modified by treating the

[5] Section 403(k) of the Federal Food, Drug, and Cosmetic Act grants label declaration exemption for artificial coloring in ice cream.

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concentrated skim milk with calcium

in the finished ice cream from one or a

(2) (i) If the food contains no artificial

1 pint but less than one-half gallon, not

than 5 percent of bananas and more than 1 percent of almonds it would be

meet the minimum protein requirements shall be provided by milk solids not fat

concentrated skim milk with calcium hydroxide and disodium phosphate, concentrated cheese whey, and dried cheese whey. Water may be added, or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent, calculated as lactic acid. The term "milk" as used in this section means cow's milk. Any concentrated cheese whey and dried cheese whey used contribute not more than 25 percent by weight of the total nonfat milk solids content of the finished food. Dried cheese whey is uniformly light in color, free from brown and black scorched particles, and has an alkalinity of ash, not more than 225 milliliters 0.1*N* HCl per 100 grams, a bacterial count of not more than 50,000 per gram, and, as adjusted with water to a total solids content of 6.5 percent, a titratable acidity of not more than 0.16 percent, calculated as lactic acid. Concentrated cheese whey has an alkalinity of ash, not more than 115 milliliters 0.1*N* HCl per 100 grams, a bacterial count of not more than 50,000 per gram, and, as adjusted with water to a total solids content of 6.5 percent, a titratable acidity of not more than 0.18 percent, calculated as lactic acid. The modified skim milk, when adjusted with water to a total solids content of 9 percent is substantially free of lactic acid as determined by titration with 0.1*N* NaOH and it has a pH value in the range of 8.0 to 8.3.

(d) The optional sweetening ingredients referred to in paragraph (a) of this section are:

(1) Sugar (sucrose) or sugar sirup.
(2) Dextrose.
(3) Invert sugar (in paste or sirup form).
(4) Corn sirup, dried corn sirup, glucose sirup, dried glucose sirup.
(5) Maple sirup, maple sugar.
(6) Honey.
(7) Brown sugar.
(8) Malt sirup, maltose sirup, malt extract.
(9) Dried malt sirup, dried maltose sirup, dried malt extract.
(10) Refiner's sirup.
(11) Molasses (other than blackstrap).
(12) Lactose.
(13) Fructose N. F.

(e) The optional caseinates referred to in paragraph (a) of this section which may be added to ice cream mix containing not less than 20 percent total milk solids are: Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, and sodium caseinate. Caseinates may be added in liquid or dry form, but must be free of excess alkali.

(f) Other optional ingredients referred to in paragraph (a) of this section are:

(1) Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen egg yolks, and dried egg yolks. Any egg ingredient used is added to the mix before it is pasteurized. The total weight of egg yolk solids in the finished ice cream from one or a combination of two or more such ingredients is less than the minimum prescribed for frozen custard by § 135.10 (1.4 percent).

(2) Agar-agar, algin (sodium alginate), calcium sulfate, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, lecithin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly or of any combination of two or more such ingredients used (including any such ingredient and pectin added separately to the fruit ingredient) is not more than 0.5 percent of the weight of the finished ice cream. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(3) Monoglycerides or diglycerides or both of fat-forming fatty acids. The total weight of such ingredients is not more than 0.2 percent of the weight of the finished ice cream. If the preparation used is one having a high proportion of monoglycerides (over 90 percent), it may be preblended with edible fat, but the amount of such fat does not exceed 20 percent by weight of the blend, and the total amount of the blend used does not exceed 0.2 percent of the weight of the finished ice cream.

(4) Polysorbate 65, polysorbate 80, or both (complying with the provisions of § 172.838 and § 172.840 of this chapter including the limit on either used separately or both used in combination of not more than 0.1 percent by weight of the finished frozen dessert).

(5) Propylene glycol alginate (complying with the provisions of § 172.858 of this chapter including the limit of not more than 0.5 percent by weight of the finished frozen dessert).

(6) Microcrystalline cellulose, in a quantity not to exceed 1.5 percent by weight of the finished frozen dessert.

(7) When one or more of the optional thickening ingredients in paragraph (f)(2) or (5) of this section are used, dioctyl sodium sulfosuccinate complying with the requirements of § 172.810 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(8) (i) Sodium citrate, disodium phosphate, tetrasodium pyrophosphate, sodium hexametaphosphate, or any combination of two or more of these; but the total quantity of the solids of such ingredients (exclusive of any disodium phosphate or sodium citrate present in chocolate or cocoa, as permitted by paragraph (b)(3) of this section) is not more than 0.2 percent by weight of the finished ice cream.

(ii) Calcium oxide, magnesium oxide, calcium hydroxide, magnesium hydroxide, calcium carbonate, magnesium carbonate, or any combination of two or more of these; but the total quantity of the solids of such ingredients is not more than 0.04 percent of the weight of the finished ice cream.

(g)(1) The name of the food is "ice cream".

(2) (i) If the food contains no artificial flavor, the name on the principal display panel or panels of the label shall be accompanied by the common or usual name of the characterizing flavor, e.g., "vanilla", in letters not less than one-half the height of the letters used in the words "ice cream".

(ii) If the food contains both a natural characterizing flavor and an artificial flavor simulating it, and if the natural flavor predominates, the name on the principal display panel or panels of the label shall be accompanied by the common name of the characterizing flavor, in letters not less than one-half the height of the letters used in the words "ice cream", followed by the word "flavored", in letters not less than one-half of the height of the letters in the name of the characterizing flavor, e.g., "VANILLA flavored", or "PEACH flavored", or "VANILLA flavored and STRAWBERRY flavored".

(iii) If the food contains both a natural characterizing flavor and an artificial flavor simulating it, and if the artificial flavor predominates, or if artificial flavor is used alone, the name on the principal display panel or panels of the label shall be accompanied by the common name of the characterizing flavor, in letters not less than one-half the height of the letters used in the words "ice cream", preceded by "artificial" or "artificially flavored", in letters not less than one-half the height of the letters in the name of the characterizing flavor, e.g., "artificial VANILLA", or "artificially flavored STRAWBERRY" or "artificially flavored VANILLA and artificially flavored STRAWBERRY".

(3) (i) If the food is subject to the requirements of paragraph (g)(2)(ii) of this section or if it contains any artificial flavor not simulating the characterizing flavor, the label shall also bear the words "artificial flavor added" or "artificial _____ flavor added", the blank being filled with the common name of the flavor simulated by the artificial flavor in letters of the same size and prominence as the words that precede and follow it.

(ii) When the optional ingredient microcrystalline cellulose specified in paragraph (f)(6) of this section is used, the label shall bear the statement "microcrystalline cellulose added" or "with microcrystalline cellulose".

(iii) When two or more of the optional ingredients specified in paragraphs (b)(2) and (f)(6) of this section are used, such words may be combined; for example, "microcrystalline cellulose and artificial flavor added".

(iv) Wherever the name of the characterizing flavor appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words prescribed by this paragraph (g)(3) shall immediately and conspicuously precede or follow such name, in a size reasonably related to the prominence of the name of the characterizing flavor and in any event the size of the type is not less than 6-point on packages containing less than 1 pint, not less than 8-point on packages containing at least

1 pint but less than one-half gallon, not less than 10-point on packages containing at least one-half gallon but less than 1 gallon, and not less than 12-point on packages containing 1 gallon or over; *Provided, however,* That where the characterizing flavor and a trade mark or brand are presented together, other written, printed, or graphic matter that is a part of or is associated with the trade mark or brand, may intervene if the required words are in such relationship with the trade mark or brand as to be clearly related to the characterizing flavor: *And provided further,* That if the finished product contains more than one flavor of ice cream subject to the requirements of this paragraph (g)(3), the statements required by this paragraph (g)(3) need appear only once in each statement of characterizing flavors present in such ice cream, e.g., "VANILLA flavored, CHOCOLATE and STRAWBERRY flavored, artificial flavors added".

(4) If the food contains both a natural characterizing flavor and an artificial flavor simulating the characterizing flavor, any reference to the natural characterizing flavor shall, except as otherwise authorized by this paragraph (g), be accompanied by a reference to the artificial flavor, displayed with substantially equal prominence, e.g., "strawberry and artificial strawberry flavor".

(5) An artificial flavor simulating the characterizing flavor shall be deemed to predominate:

(i) In the case of vanilla beans or vanilla extract used in combination with vanillin if the amount of vanillin used is greater than 1 ounce per unit of vanilla constituent, as that term is defined in § 169.3(c) of this chapter.

(ii) In the case of fruit or fruit juice used in combination with artificial fruit flavor, if the quantity of the fruit or fruit juice used is such that, in relation to the weight of the finished ice cream, the weight of the fruit or fruit juice, as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content), is less than 2 percent in the case of citrus ice cream, 6 percent in the case of berry or cherry ice cream, and 10 percent in the case of ice cream prepared with other fruits.

(iii) In the case of nut meats used in combination with artificial nut flavor, if the quantity of nut meats used in such that, in relation to the finished ice cream, the weight of the nut meats is less than 2 percent.

(iv) In the case of two or more fruits or fruit juices, or nut meats, or both, used in combination with artificial flavors simulating the natural flavors and dispersed throughout the food, if the quantity of any fruit or fruit juice or nut meat is less than one-half the applicable percentage specified in paragraph (g)(5)(ii) or (iii) of this section. For example, if a combination ice cream contains less than 5 percent of bananas and less than 1 percent of almonds it would be "Artificially flavored banana-almond ice cream". However, if it contains more than 5 percent of bananas and more than 1 percent of almonds it would be "Banana-almond flavored ice cream".

(6) If two or more flavors of ice cream are distinctively combined in one package, e.g., "Neapolitan" ice cream, the applicable provisions of this paragraph (g) shall govern each flavor of ice cream comprising the combination.

§ 135.40 Ice milk.

Ice milk is the food prepared from the same ingredients and in the same manner prescribed in § 135.30 for ice cream and complies with all the provisions of § 135.30 (including the requirements for label statement of optional ingredients), except that:

(a) Its content of milk fat is more than 2 percent but not more than 7 percent.

(b) Its content of total milk solids is not less than 11 percent.

(c) Caseinates may be added when the content of total milk solids is not less than 11 percent.

(d) The provision for reduction in milk fat and total milk solids from the addition of bulky ingredients in § 135.30 (a) does not apply.

(e) The quantity of food solids per gallon is not less than 1.3 pounds; except that when the optional ingredient microcrystalline cellulose specified in § 135.30 (f)(6) is used the quantity of food solids per gallon is not less than 1.3 pounds, exclusive of the weight of the microcrystalline cellulose.

(f) When any artificial coloring is used in ice milk, directly or as a component of any other ingredient, the label shall bear the statement "artificially colored", "artificial coloring added", "with added artificial color", or "_____ an artificial color added", the blank being filled in with the common or usual name of the artificial color; or in lieu thereof, in case the artificial color is a component of another ingredient, "_____ artificially colored".

(g) The name of the food is "ice milk".

(h) If both artificial color and artificial flavoring are used, the label statements may be combined.

§ 135.50 Mellorine.

(a) *Description.* (1) Mellorine is a food produced by freezing, while stirring, a pasteurized mix consisting of safe and suitable ingredients including, but not limited to, milk-derived nonfat solids and animal or vegetable fat, or both, only part of which may be milkfat. Mellorine is sweetened with nutritive carbohydrate sweetener and is characterized by the addition of flavoring ingredients.

(2) Mellorine contains not less than 1.6 pounds of total solids to the gallon, and weighs not less than 4.5 pounds to the gallon. Mellorine contains not less than 6 percent fat and 2.7 percent protein by weight of the food, exclusive of the weight of any bulky flavoring ingredients used. In no case shall the fat content of the finished food be less than 4.8 percent or the protein content be less than 2.2 percent. The protein to meet the minimum protein requirements shall be provided by milk solids not fat and/or other milk-derived ingredients, and shall have a protein efficiency ratio (PER) not less than that of whole milk protein (120 percent of casein as determined by the method prescribed in paragraph (d)(3) of this section).

(3) When calculating the minimum amount of milkfat and protein required in the finished food, the solids of chocolate or cocoa used shall be considered a bulky flavoring ingredient. In order to make allowance for additional sweetening ingredients needed when certain bulky ingredients are used, the weight of chocolate or cocoa solids used may be multiplied by 2.5; the weight of fruit or nuts used may be multiplied by 1.4; and the weight of partially or wholly dried fruits or fruit juices may be multiplied by appropriate factors to obtain the original weights before drying and this weight may be multiplied by 1.4.

(b) *Fortification.* Vitamin A is present in a quantity which will ensure that 40 international units (IU) are available for each gram of fat in mellorine, within limits of good manufacturing practice.

(c) *Definitions.* For the purposes of this section a pasteurized mix is one every particle of which has been heated in properly operated equipment to one of the temperatures specified in the table of this paragraph and held continuously at or above that temperature for the specified time (or other time/temperature relationship which has been demonstrated to be equivalent thereto in microbial destruction):

Temperature:	Time
155° F.	30 minutes
175° F.	25 seconds

(d) *Methods of analysis.* Fat and protein content, and the PER shall be determined by the methods contained in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th ed., 1970.[3]

(1) Fat content shall be determined by the method: "Fat, Roese-Gottlieb Method—Official Final Action," section 16.228.

(2) Protein content shall be determined by one of the following methods: "Nitrogen—Official Final Action," Kjeldahl Method, section 16.226, or Dye Binding Method, section 16.227.

(3) PER shall be determined by the method: "Biological Evaluation of Protein Quality—Official Final Action" sections 39.166–39.170.

(e) *Nomenclature.* The name of the food is "mellorine". The name of the food on the label shall be accompanied by a declaration indicating the presence of characterizing flavoring in the same manner as is specified in § 135.30(g).

(f) *Label declaration.* The common or usual name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that sources of milkfat or milk solids not fat may be declared, in descending order of predominance, either by the use of all the terms "water, milkfat, and nonfat milk solids",

or alternatively as permitted in § 101.4 of

whey, and dried cheese whey. Water may

rately or both used in combination of not

"sherbet" may intervene) in a size reasonably related to the prominence of the

than 0.5 percent of the weight of the finished nonfruit water ice. Such ingre-

prominence and conspicuousness as to render them likely to be read and under-

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or alternatively as permitted in § 101.4 of this chapter.

Note: § 135.50 (formerly § 20.8) was stayed in its entirety at 40 FR 56725, Dec. 30, 1975.

§ 135.65 Nonfruit sherbets.

(a) Nonfruit sherbets are the foods each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing ingredients specified in paragraph (b) of this section and one or more of the optional dairy ingredients specified in paragraph (c) of this section, sweetened with one or more of the optional sweetening ingredients specified in paragraph (d) of this section. One or more of the optional ingredients specified in paragraph (e) of this section may be used, subject to the conditions hereinafter set forth. The mix of combined dairy ingredients, with or without other ingredients, is pasteurized. The mix, with or without added water, may be seasoned with salt and may be homogenized. The optional dairy ingredients used and the content of milk fat and nonfat milk solids therein are such that the weight of milk fat is not less than 1 percent and not more than 2 percent and the weight of total milk solids is not less than 2 percent and not more than 5 percent of the weight of the finished nonfruit sherbets. The optional caseinates specified in paragraph (e) (7) of this section are not deemed to be milk solids. The finished nonfruit sherbet weighs not less than 6 pounds to the gallon; except that when the optional ingredient microcrystalline cellulose specified in paragraph (e) (9) of this section is used, the finished nonfruit sherbet weighs not less than 6 pounds to the gallon, exclusive of the weight of the microcrystalline cellulose.

(b) The optional characterizing ingredients referred to in paragraph (a) of this section are:

(1) Ground spice or infusion of coffee or tea.

(2) Chocolate or cocoa, including sirup.

(3) Confectionery.

(4) Distilled alcoholic beverage, including liqueurs or wine, in an amount not to exceed that required for flavoring the sherbet.

(5) Any natural or artificial food flavoring (except any having a characteristic fruit or fruitlike flavor).

(c) The optional dairy ingredients referred to in paragraph (a) of this section are: Cream, dried cream, plastic cream (sometimes known as concentrated milk fat), butter, butter oil, milk, concentrated milk, evaporated milk, superheated condensed milk, sweetened condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, skim milk that has been concentrated and from which part of the lactose has been removed by crystallization, concentrated cheese whey, and dried cheese whey. Water may be added or water may be evaporated from the mix. The sweet cream buttermilk and the concentrated sweet cream buttermilk or dried sweet cream buttermilk, when adjusted with water to a total solids content of 8.5 percent, has a titratable acidity of not more than 0.17 percent calculated as lactic acid. The term "milk" as used in this section means cow's milk. Dried cheese whey is uniformly light in color, free from brown and black scorched particles, and has an alkalinity of ash not more than 225 milliliters 0.1*N* HCl per 100 grams, a bacterial count of not more than 50,000 per gram, and, as adjusted with water to a total solids content of 6.5 percent, a titratable acidity of not more than 0.16 percent calculated as lactic acid. Concentrated cheese whey has an alkalinity of ash not more than 115 milliliters of 0.1*N* HCl per 100 grams, a bacterial count of not more than 50,000 per gram, and, as adjusted with water to a total solids content of 6.5 percent, a titratable acidity of not more than 0.18 percent calculated as lactic acid.

(d) The optional sweetening ingredients referred to in paragraph (a) of this section are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

(e) Other optional ingredients referred to in paragraph (a) of this section are:

(1) Liquid eggs, frozen eggs, dried eggs, egg yolks, frozen yolks, dried yolks; but the weight of egg yolk solids therein is less than 0.5 percent of the weight of the finished nonfruit sherbet.

(2) Agar-agar, algin (sodium alginate), calcium sulfate, egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl methylcellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, lecithin, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly or of any combination of two or more such ingredients used is not more than 0.5 percent of the weight of the finished, nonfruit sherbet. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(3) Monoglycerides or diglycerides or both of fat-forming fatty acids. The total weight of such ingredients is not more than 0.2 percent of the weight of the finished nonfruit sherbet. If the preparation used is one having a high proportion of monoglycerides (over 90 percent), it may be preblended with edible fat, but the amount of such fat does not exceed 20 percent by weight of the blend and the total amount of the blend used does not exceed 0.2 percent of the weight of the finished nonfruit sherbet.

(4) Polysorbate 65, polysorbate 80, or both, (complying with the provisions of §§ 172.838 and 172.840 of this chapter including the limit on either used separately or both used in combination of not more than 0.1 percent by weight of the finished frozen dessert).

(5) Propylene glycol alginate (complying with the provisions of § 172.858 of this chapter including the limit of not more than 0.5 percent by weight of the finished frozen dessert).

(6) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, phosphoric acid, or any combination of two or more of these in such quantity as seasons the finished food.

(7) Casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, sodium caseinate.

(8) Coloring, including artificial coloring.

(9) Microcrystalline cellulose, in a quantity not to exceed 0.5 percent of the weight of the finished nonfruit sherbet.

(10) When one or more of the optional thickening ingredients in paragraph (e) (2) or (5) of this section are used, dioctyl sodium sulfosuccinate complying with the requirements of § 172.810 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(f) Except as provided for in paragraph (g) of this section, the name of each such nonfruit sherbet is "_____sherbet", the blank being filled in with the common or usual name or names of the characterizing flavor or flavors; for example, "peppermint".

(g) If the characterizing flavor used is vanilla, the name of the food is "_____sherbet", the blank being filled in as specified by § 135.30(g) (2) and (5) (i).

(h) When the optional ingredients artificial flavoring, artificial coloring, or microcrystalline cellulose are used in nonfruit sherbet, they shall be named on the label as follows:

(1) If the flavoring ingredient or ingredients consists exclusively of artificial flavoring, the label designation shall be "artificially flavored".

(2) If the flavoring ingredients are a combination of natural and artificial flavors, the label designation shall be "artificial and natural flavoring added".

(3) The label shall designate artificial coloring by the statement "artificially colored", "artificial coloring added", "with added artificial coloring", or "_____, an artificial color added", the blank being filled in with the name of the artificial coloring used.

(4) When the optional ingredient microcrystalline cellulose is used, the label shall bear the statement "microcrystalline cellulose added" or "with added microcrystalline cellulose".

(i) Wherever there appears on the label any representation as to the characterizing flavor or flavors of the food and such flavor or flavors consist in whole or in part of artificial flavoring, the statement required by paragraph (h) (1) or (2) of this section, as appropriate, shall immediately and conspicuously precede or follow such representation, without intervening written, printed, or graphic matter (except that the word "sherbet" may intervene) in a size reasonably related to the prominence of the name of the characterizing flavor and in any event the size of the type is not less than 6-point on packages containing less than 1 pint, not less than 8-point on packages containing at least 1 pint but less than one-half gallon, not less than 10-point on packages containing at least one-half gallon but less than 1 gallon, and not less than 12-point on packages containing 1 gallon or over.

(j) Except as specified in paragraph (i) of this section, the statements required by paragraph (h) of this section shall be set forth on the principal display panel or panels of the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

§ 135.70 Nonfruit water ices.

(a) Nonfruit water ices are the foods each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing ingredients specified in paragraph (b) of this section, sweetened with one or more of the optional sweetening ingredients specified in paragraph (c) of this section. One or more of the optional ingredients specified in paragraph (d) of this section may be used, subject to the conditions hereinafter set forth. The mix, with or without added water, may be seasoned with salt and may be homogenized. The finished nonfruit water ice weighs not less than 6 pounds to the gallon.

(b) The optional characterizing ingredients referred to in paragraph (a) of this section are:

(1) Ground spice or infusion of coffee or tea.

(2) Chocolate or cocoa, including sirup.

(3) Confectionery.

(4) Distilled alcoholic beverage, including liqueurs or wine, in an amount not to exceed that required for flavoring the water ice.

(5) Any natural or artificial food flavoring (except any having a characteristic fruit or fruit-like flavor).

(c) The optional sweetening ingredients referred to in paragraph (a) of this section are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

(d) Other optional ingredients referred to in paragraph (a) of this section are:

(1) (i) Agar-agar, algin (sodium alginate), egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl methylcellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, propylene glycol alginate, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly, or of any combination of two or more such ingredients used, is not more than 0.5 percent of the weight of the finished nonfruit water ice. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(ii) When one or more of the optional thickening ingredients in paragraph (d) (1) (i) of this section are used, dioctyl sodium sulfosuccinate complying with the requirements of § 172.810 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(2) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, phosphoric acid, or any combination of two or more of these in such quantity as seasons the finished food.

(3) Coloring, including artificial coloring.

(e) Except as provided for in paragraph (f) of this section, the name of each such nonfruit water ice is "_____ ice", the blank being filled in with the common or usual name or names of the characterizing flavor or flavors; for example, "peppermint".

(f) If the characterizing flavor used is vanilla, the name of the food is "_____ ice", the blank being filled in as specified by § 135.30(g) (2) and (5) (i).

(g) When the optional ingredients artificial flavoring or artificial coloring are used in nonfruit water ice, they shall be named on the label as follows:

(1) If the flavoring ingredient or ingredients consist exclusively of artificial flavoring, the label designation shall be "artificially flavored".

(2) If the flavoring ingredients used are a combination of natural and artificial flavors, the label designation shall be "artificial and natural flavoring added".

(3) The label shall designate artificial coloring by the statement "artificially colored", "artificial coloring added", "with added artificial coloring", or "_____, an artificial color added", the blank being filled in with the name of the artificial coloring used.

(h) Wherever there appears on the label any representation as to the characterizing flavor or flavors of the food and such flavor or flavors consist in whole or in part of artificial flavoring, the statement required by paragraph (g) (1) or (2) of this section, as appropriate, shall immediately and conspicuously precede or follow such representation, without intervening written, printed, or graphic matter (except that the word "ice" may intervene) in a size reasonably related to the prominence of the name of the characterizing flavor and in any event the size of the type is not less than 6-point on packages containing less than 1 pint, not less than 8-point on packages containing at least 1 pint but less than one-half gallon but less than 1 gallon, and not less than 12-point on packages containing 1 gallon or over.

(i) Except as specified in paragraph (h) of this section, the statements required by paragraph (g) of this section shall be set forth on the principal display panel or panels or the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

§ 135.90 Water ices.

(a) Water ices are the foods each of which is prepared by freezing, while stirring, a mix composed of one or more of the optional characterizing fruit ingredients specified in paragraph (b) of this section, sweetened with one or more of the optional sweetening ingredients specified in paragraph (c) of this section. One or more of the optional ingredients specified in paragraph (d) of this section may be used, subject to the conditions hereinafter set forth. The titratable acidity of the finished water ice, calculated as lactic acid, is not less than 0.35 percent. The mix, with or without added water, may be seasoned with salt, and may be homogenized. The finished water ice weighs not less than 6 pounds to the gallon.

(b) The optional fruit ingredients referred to in paragraph (a) of this section are any mature fruit or the juice of any mature fruit. The fruit or fruit juice used may be fresh, frozen, canned, concentrated, or partially or wholly dried. The fruit may be thickened with pectin or other of the optional ingredients named in paragraph (d) (1) of this section subject to the restriction on the total quantity of such substances in water ices prescribed in that paragraph. The fruit is prepared by the removal of pits, seeds, skins, and cores where such removal is usual in preparing that kind of fruit for consumption as fresh fruit. The fruit may be screened, crushed, or otherwise comminuted. It may be acidulated with citric acid, ascorbic acid, or phosphoric acid. In the case of fruit or fruit juices from which part of the water is removed, substances contributing flavor volatilized during water removal may be condensed and reincorporated in the concentrated fruit or fruit juice. In the case of citrus fruits, the whole fruit, including the peel but excluding the seeds, may be used, and in the case of citrus juice or concentrated citrus juices, cold-pressed citrus oil may be added thereto in an amount not exceeding that which would have been obtained if the whole fruit had been used. The quantity of fruit ingredients used is such that in relation to the weight of the finished water ice, the weight of fruit or fruit juice as the case may be (including water necessary to reconstitute partially or wholly dried fruits or fruit juices to their original moisture content) is not less than 2 percent in the case of citrus ices, 6 percent in the case of berry ices, and 10 percent in the case of ices prepared with other fruits.

(c) The optional sweetening ingredients referred to in paragraph (a) of this section are: Sugar (sucrose), dextrose, invert sugar (paste or sirup), glucose sirup, dried glucose sirup, corn sirup, dried corn sirup, malt sirup, malt extract, dried malt sirup, dried malt extract, maltose sirup, dried maltose sirup.

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(d) Other optional ingredients referred to in paragraph (a) of this section are:

(1) (i) Agar-agar, algin, (sodium alginate), egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl methylcellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, propylene glycol alginate, pectin, psyllium seed husk, sodium carboxymethylcellulose. The total weight of the solids of any such ingredient used singly, or of any combination of two or more such ingredients used (including any such ingredient added separately to the fruit ingredient), is not more than 0.5 percent of the weight of the finished water ice. Such ingredients may be added in admixture with dextrin, propylene glycol, or glycerin.

(ii) When one or more of the optional thickening ingredients in paragraph (d) (1) (i) of this section are used, dioctyl sodium sulfosuccinate complying with the requirements of § 172.810 of this chapter may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.

(2) Citric acid, tartaric acid, malic acid, lactic acid, ascorbic acid, phosphoric acid, or any combination of two or more of these in such quantity as seasons the finished food.

(3) Any natural flavoring.

(4) Any artificial flavoring.

(5) Coloring, including artificial coloring.

(e) The name of each such water ice is "_____ ice", the blank being filled in with the common name of the fruit or fruits from which the fruit ingredient used is obtained. When the names of two or more fruits are included, such names shall appear in the order of predominance, if any, by weight of the respective fruit ingredients used.

(f) When the optional ingredients artificial coloring and artificial flavoring are used in water ices they shall be named on the labels as follows:

(1) The label shall designate artificial coloring by the statement "artificially colored", "artificial coloring added", "with added artificial coloring", or "_____, an artificial color added", the blank being filled in with the name of the artificial coloring used.

(2) The label shall designate artificial flavoring by the statement "artificially flavored", "artificial flavoring added", "with added artificial flavoring", or "_____, an artificial flavor added", the blank being filled in with the name of the the artificial flavoring used.

Label statements may be combined, as for example, "flavoring and artificial coloring added".

(g) Where one or more of the optional ingredients artificial coloring or artificial flavoring are used and there appears on the labeling any representation as to the fruit or fruits in the ice, such representation shall be immediately and conspicuously accompanied by appropriate label statements as prescribed in paragraph (f) of this section, showing the optional ingredients used.

(h) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements set out in this section showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

PART 136—BAKERY PRODUCTS

Subpart A—General Provisions

Sec.
136.3 Definitions.

Subpart B—Requirements for Specific Standardized Bakery Products

136.110 Bread, rolls, and buns.
136.115 Enriched bread, rolls, and buns.
136.130 Milk bread, rolls, and buns.
136.160 Raisin bread, rolls, and buns.
136.165 Enriched raisin bread, rolls, and buns.
136.180 Whole wheat bread, rolls, and buns.

AUTHORITY: Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)).

Subpart A—General Provisions

§ 136.3 Definitions.

For purposes of this part, the following definitions apply:

(a) The word "bread" when used in the name of the food means the unit weighs one-half pound or more after cooling.

(b) The words "rolls" and "buns" when used in the name of the food mean the unit weighs less than one-half pound after cooling.

Subpart B—Requirements for Specific Standardized Bakery Products

§ 136.110 Bread, rolls, and buns.

(a) Bread, white bread, and rolls, white rolls, or buns, and white buns are the foods produced by baking mixed yeast-leavened dough prepared from one or more of the farinaceous ingredients listed in paragraph (c) (1) of this section and one or more of the moistening ingredients listed in paragraph (c) (2), (6), (7), and (8) of this section and one or more of the leavening agents provided for by paragraph (c) (3) of this section. The food may contain additional ingredients as provided for by paragraph (c) of this section. Each of the finished foods contains not less than 62 percent total solids as determined by the method prescribed in paragraph (d) of this section.

(b) All ingredients from which the food is fabricated shall be safe and suitable.

(c) The following optional ingredients are provided for:

(1) Flour, bromated flour, phosphated flour, or a combination of two or more of these. The potassium bromate in any bromated flour used and the monocalcium phosphate in any phosphated flour used are deemed to be additional optional ingredients in the bread, rolls, or buns. All ingredients in any flour, bromated flour, or phosphated flour used are deemed to be optional ingredients of the bread, rolls, or buns prepared therefrom.

(2) Water.

(3) Yeast—any type which produces the necessary leavening effect.

(4) Salt.

(5) Shortening, in which or in conjunction with which may be used one or any combination of two or more of the following:

(i) Lecithin, hydroxylated lecithin complying with the provisions of Part 172 of this chapter, either of which may include related phosphatides derived from the corn oil or soybean oil from which such ingredients were obtained.

(ii) Mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids, propylene glycol mono- and diesters of fat-forming fatty acids complying with the provisions of Part 172 of this chapter, or a combination of two or more of these. The total quantity of these ingredients whether used alone or in combination does not exceed 0.5 part for each 100 parts by weight of flour used.

(6) Milk and/or other dairy products in such quantity and composition as not to meet the requirements for milk and/or other dairy products prescribed for milk bread by § 136.130. Whenever nonfat milk solids in any form are used, carrageenan or salts of carrageenan complying with the provisions of Part 172 of this chapter may be used in a quantity not in excess of 0.8 percent by weight of such nonfat milk solids.

(7) Egg products.

(8) Nutritive carbohydrate sweeteners.

(9) Enzyme active preparations.

(10) Lactic-acid-producing bacteria.

(11) Nonwheat flours, nonwheat meals, nonwheat grits, wheat and nonwheat starches, any of which may be wholly or in part dextrinized, dextrinized wheat flour, or any combination of 2 or more of these, if the total quantity is not more than 3 parts for each 100 parts by weight of flour used.

(12) Ground dehulled soybeans which may be heat-treated, and from which oil may be removed, but which retain enzymatic activity, if the quantity is not more than 0.5 part for each 100 parts by weight of flour used.

(13) Yeast nutrients and calcium salts, if the total quantity of such ingredients, with the exception of monocalcium phosphate and calcium propionate, is not more than 0.25 part for each 100 parts by weight of flour used. The quantity of monocalcium phosphate, including any quantity in the flour used, is not more than 0.75 part for each 100 parts by weight of flour used. Any calcium propionate used as a preservative in bread, rolls, or buns is not subject to the limitation prescribed in this paragraph.

(14) (i) Potassium bromate, calcium bromate, potassium iodate, calcium iodate, calcium peroxide, or any combination of 2 or more of these if the total quantity, including the potassium bromate in any bromated flour used, is not more than 0.0075 part for each 100 parts by weight of flour used.

(ii) Azodicarbonamide, if the total quantity, including any quantity in the flour used, is not more than 0.0045 part for each 100 parts by weight of flour used.

(15) Dough strengtheners and other dough conditioners not specifically listed in this paragraph, if the total quantities of such ingredients or combination is not more than 0.5 part for each 100 parts by weight of flour used.

(16) Spices, spice oil, and spice extract which do not impart a color simulating that of egg to the finished food.

(17) Coloring may not be added as such or as part of another ingredient except that which may be present in butter if the intensity of the butter color does not exceed "medium high" (MH) when viewed under diffused light (7400 Kelvin) against the Munsell Butter Color Comparator. The MH designation corresponds to the Munsell renotation of 3.8Y 7.9/7.6.

(18) Other ingredients that do not change the basic identity or adversely affect the physical and nutritional characteristics of the bread.

(d) Total solids are determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. 1975, sec. 14.083(a),[2] except that if the baked unit weighs 1 pound or more, one entire unit is used for the determination; if the baked unit weighs less than 1 pound, enough units to weigh 1 pound or more are used.

(e) (1) The name of the food is "bread", "white bread", "rolls", "white rolls", "buns", "white buns", as applicable. When the food contains not less than 2.56 percent by weight of whole egg solids, the name of the food may be "egg bread", "egg rolls", or "egg buns", as applicable, accompanied by the statement "Contains ____ medium-sized egg(s) per pound" in the manner prescribed by § 102.5(c) (3) of this chapter, the blank to be filled in with the number which represents the whole egg content of the food expressed to the nearest one-fifth egg but not greater than the amount actually present. For the purpose of this regulation, whole egg solids are the edible contents of eggs calculated on a moisture-free basis and exclusive of any nonegg solids which may be present in standardized and other commercial egg products. One medium-sized egg is equivalent to 0.41 ounce of whole egg solids.

(2) When the label bears any representation, other than in the ingredient listing, of the presence of egg in the food, e.g., the word egg or any phonetic equivalent spelling of the word egg, or a picture of an egg, the food shall contain not less than 2.56 percent of whole egg solids.

(f) All ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

NOTE.—The confirmation of effective date for § 136.110 (formerly § 17.10) published in the FEDERAL REGISTER of October 15, 1976 (41 FR 45540) stated that the following provisions are stayed pending full review of the objections and requests for hearing:

a. Paragraph (c) (5) (i) as it pertains to egg bread, egg rolls, and egg buns.

b. Paragraph (e) (2) (ii): Pending resolution of the issue, the requirements of § 136.110(a) (1) (ii) of the superseded standard will apply. That standard reads as follows:

(ii) Mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids, propylene glycol mono- and diesters of fat-forming fatty acids complying with the provisions of § 172.856 (formerly § 121.1113) of this chapter, or a combination of two or more of these. The total weight of these ingredients used does not exceed 20 percent by weight of the combination of such ingredients and the shortening, and the total amount of monoglyceride, diacetyl tartaric acid ester of monoglyceride, and propylene glycol monoester does not exceed 8 percent by weight of the combination; but if purified or concentrated monoglyceride alone is used, the amount does not exceed 10 percent by weight of the combination.

c. Paragraph (c) (16) as it pertains to the use of spices, spice oil, or spice extract that imparts a color simulating that of egg to a standardized bakery product not represented on the label as containing egg or egg product and not purporting to contain egg or egg product.

d. Paragraph (c) (17), to include that portion that reads "except that which may be present in butter if the intensity of the butter color does not exceed 'medium high' (MH) when viewed under diffused light (7400 Kelvin) against the Munsell Butter Color Comparator. The MH designation corresponds to the Munsell re-notation of 3.8Y 7.9/7.6." Pending resolution of the issue, coloring may not be added as such or as part of another ingredient.

e. Paragraph (e) as it pertains to the use of the word "egg" in the name of the food.

§ 136.115 Enriched bread, rolls, and buns.

(a) Each of the foods enriched bread, enriched rolls, and enriched buns conforms to the definition and standard of identity and is subject to the requirements for label statement of ingredients prescribed for bread, rolls or buns by § 136.110, except that:

(1) Each such food contains in each pound 1.8 milligrams of thiamine, 1.1 milligrams of riboflavin, 15 milligrams of niacin, and 25 milligrams of iron.

NOTE.—By an order published in the FEDERAL REGISTER of February 11, 1974 (39 FR 5188), concerning nutritional requirements for standardized enriched bakery products, the requirement that the food contain 25 milligrams of iron per pound was stayed. Accordingly, the requirement for iron reverts to not less than 8.0 milligrams and not more than 12.5 milligrams per pound pending resolution of the issue of the level of iron enrichment that was the subject of a hearing conducted in April 1974.

(2) Each such food may contain added calcium in such quantity that the total calcium content is 600 milligrams per pound. If insufficient calcium is added to meet the 600-milligram level per pound of the finished food, no claim may be made on the label for calcium as a nutrient except as a part of nutrition labeling.

(3) The requirements of paragraph (a) (1) and (2) of this section will be deemed to have been met if reasonable overages of the vitamins and minerals, within the limits of good manufacturing practice, are present to ensure that the required levels of the vitamins and minerals are maintained throughout the expected shelf life of the food under customary conditions of distribution and storage. The quantitative content of the following vitamins shall be calculated in terms of the following chemically identifiable reference forms:

Vitamin	Reference form: Name	Reference form: Empirical formula	Reference form: Molecular weight
Thiamine	Thiamine chloride hydrochloride.	$C_{12}H_{17}ClN_4OS \cdot HCl$	337.28
Riboflavin	Riboflavin	$C_{17}H_{20}N_4O_6$	376.37
Niacin	Niacin	$C_6H_5NO_2$	123.11

NOTE.—Pending resolution of the issue which was the subject of the hearing referred to in the note in par. (a)(1) of this section, the provision relating to the overages of vitamins and minerals does not apply to iron.

(4) Each such food may also contain wheat germ or partly defatted wheat germ, but the total quantity thereof, including any wheat germ or partly defatted wheat germ in any enriched flour used, shall not be more than 5 percent of the flour ingredient.

(5) Enriched flour may be used, in whole or in part, instead of flour. As used in this section, the term "enriched flour" includes enriched bromated flour.

(6) The limitation prescribed by § 136.110(c) (6) on the quantity and composition of milk and/or other dairy products does not apply.

(7) The vitamins and minerals added to the food for enrichment purposes may be supplied by any safe and suitable substances. Niacin equivalents as derived from tryptophan content shall not be used in determining total niacin content.

(b) The name of the food is "enriched bread", "enriched rolls", or "enriched buns", as applicable. When the food contains not less than 2.56 percent by weight of whole egg solids, the name of the food may be "enriched egg bread", "enriched egg rolls", or "enriched egg buns", as applicable, accompanied by the statement "Contains ____ medium-sized egg(s) per pound" in the manner prescribed by § 102.5(c) (3) of this chapter, the blank to be filled in with the number which represents the whole egg content of the food expressed to the nearest one-fifth egg but not greater than the amount actually present. For the purpose of this regulation, whole egg solids are the edible contents of eggs calculated on a moisture-free basis and exclusive of any non-egg solids which may be present in standardized and other commercial egg products. One medium-sized egg is equivalent to 0.41 ounce of whole egg solids. When the food complies with the requirements for milk and/or other dairy products content in § 136.130 for milk bread, the name of the food may be "enriched milk bread", "enriched milk rolls", or "enriched milk buns", as applicable. When the food complies with the requirements for both enriched egg bread and enriched milk bread in this section, the name of the food may be "enriched milk and egg bread", "enriched milk and egg rolls", or "enriched

milk and egg buns", as applicable accompanied by the statement "Contains ____ medium-sized egg(s) per pound" in the manner prescribed by § 102.5(c) (3) of this chapter, the blank to be filled in with the number which represents the whole egg content of the food expressed to the nearest one-fifth egg but not greater than the amount actually present. For the purpose of this regulation, whole egg solids are the edible contents of eggs calculated on a moisture-free basis and exclusive of any nonegg solids which may be present in standardized and other commercial egg products. One medium-sized egg is equivalent to 0.41 ounce of whole egg solids.

(ii) When the label bears any representation, other than in the ingredient listing, of the presence of egg in the food, e.g., the word egg or any phonetic equivalent spelling of the word egg, or a picture of an egg, the food shall contain not less than 2.56 percent of whole egg solids.

(iii) All ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(2) Each such food contains in each pound 1.8 milligrams of thiamine, 1.1 milligrams of riboflavin, 15 milligrams of niacin, and 25 milligrams of iron.

NOTE.—By an order published in the FEDERAL REGISTER of February 11, 1974 (39 FR 5188), concerning nutritional requirements for standardized enriched bakery products, the requirement that the food contain 25 milligrams of iron per pound was stayed. Accordingly, the requirement for iron reverts to not less than 8.0 milligrams and not more than 12.5 milligrams per pound pending resolution of the issue of the level of iron enrichment that was the subject of a hearing conducted in April 1974.

(3) Each such food may contain added calcium in such quantity that the total calcium content is 600 milligrams per pound. If insufficient calcium is added to meet the 600-milligram level per pound of the finished food, no claim may be made on the label for calcium as a nutrient except as a part of nutrition labeling.

(4) The requirements of paragraph (a) (1) and (2) of this section will be deemed to have been met if reasonable overages of the vitamins and minerals, within the limits of good manufacturing practice, are present to ensure that the required levels of the vitamins and minerals are maintained throughout the expected shelf life of the food under customary conditions of distribution and storage. The quantitative content of the following vitamins shall be calculated in terms of the following chemically identifiable reference forms:

Vitamin	Reference form: Name	Reference form: Empirical formula	Reference form: Molecular weight
Thiamine	Thiamine chloride hydrochloride.	$C_{12}H_{17}ClN_4OS \cdot HCl$	337.28
Riboflavin	Riboflavin	$C_{17}H_{20}N_4O_6$	376.37
Niacin	Niacin	$C_6H_5NO_2$	123.11

NOTE.—Pending resolution of the issue which was the subject of the hearing referred to in the note in par. (a)(1) of this section, the provision relating to the overages of vitamins and minerals does not apply to iron.

(5) Each such food may also contain wheat germ or partly defatted wheat germ, but the total quantity thereof, including any wheat germ or partly defatted wheat germ in any enriched flour used, shall not be more than 5 percent of the flour ingredient.

(6) Enriched flour may be used, in whole or in part, instead of flour. As used in this section, the term "enriched flour" includes enriched bromated flour.

(7) The limitation prescribed by § 136.110(c) (6) on the quantity and composition of milk and/or other dairy products does not apply.

(8) The vitamins and minerals added to the food for enrichment purposes may be supplied by any safe and suitable substances. Niacin equivalents as derived from tryptophan content shall not be used in determining total niacin content.

(b) The name of the food is "enriched bread", "enriched rolls", or "enriched buns", as applicable. When the food contains not less than 2.56 percent by weight of whole egg solids, the name of the food may be "enriched egg bread", "enriched egg rolls", or "enriched egg buns", as applicable, accompanied by the statement "Contains ____ medium-sized egg(s) per pound" in the manner prescribed by § 102.5(c) (3) of this chapter, the blank to be filled in with the number which represents the whole egg content of the food expressed to the nearest one-fifth egg but not greater than the amount actually present. For the purpose of this regulation, whole egg solids are the edible contents of eggs calculated on a moisture-free basis and exclusive of any nonegg solids which may be present in standardized and other commercial egg products. One medium-sized egg is equivalent to 0.41 ounce of whole egg solids. When the food complies with the requirements for milk and/or other dairy products content in § 136.130 for milk bread, the name of the food may be "enriched milk bread", "enriched milk rolls", or "enriched milk buns", as applicable. When the food complies with the requirements for both enriched egg bread and enriched milk bread in this section, the name of the food may be "enriched milk and egg bread", "enriched milk and egg rolls", or "enriched

other than durum wheat and red durum wheat. To compensate for any natural

Wherever the name of the food appears on the label so conspicuously as to be

label statement of optional ingredients, prescribed or enriched flour by § 137.165,

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milk and egg buns", as applicable accompanied by the statement "Contains ____ medium-sized egg(s) per pound" in the manner prescribed by § 102.5(c)(3) of this chapter, the blank to be filled in with the number which represents the whole egg content of the food expressed to the nearest one-fifth egg but no greater than the amount actually present. For purposes of this regulation, whole egg solids are the edible contents of eggs calculated on a moisture-free basis and exclusive of any non-egg solids which may be present in standardized or other commercial egg products. One medium-sized egg is equivalent to 0.41 ounce of whole egg solids.

NOTE.—The confirmation of effective date for § 136.115 (formerly § 17.20) published in the FEDERAL REGISTER of October 15, 1976 (41 FR 45540) stated that § 136.115(b), as it pertains to the use of the word "egg" in the name of the food, is stayed pending full review of the objections and requests for hearing.

§ 136.130 Milk bread, rolls, and buns.

(a) Each of the foods milk bread, milk rolls, and milk buns conforms to the definition and standard of identity and is subject to the requirements for label statement of ingredients prescribed for bread, rolls or buns by § 136.110 except that:

(1) The only moistening ingredient permitted in the preparation of the dough is milk or, as an alternative, a combination of dairy products in such a proportion that the weight of the non-fat milk solids is not more than 2.3 times and not less than 1.2 times the weight of the milkfat therein, with or without water, in a quantity that provides not less than 8.2 parts milk solids for each 100 parts by weight of flour.

(2) No buttermilk, buttermilk product, cheese whey, cheese whey product, or milk protein is used.

(b) The name of the food is "milk bread", "milk rolls", "milk buns", as applicable.

§ 136.160 Raisin bread, rolls, and buns.

(a) Each of the foods raisin bread, raisin rolls, and raisin buns conforms to the definition and standard of identity and is subject to the requirements for label statement of ingredients prescribed for bread, rolls or buns by § 136.110, except that:

(1) Not less than 50 parts by weight of seeded or seedless raisins are used for each 100 parts by weight of flour used.

(2) Water extract of raisins may be used, but not to replace raisins.

(3) The baked units may bear icing or frosting.

(4) The limitation prescribed by § 136.110(c)(6) on the quantity and composition of milk and/or other dairy products does not apply.

(5) The total solids are determined by the method prescribed in § 136.110(d), except that sec. 14.083(b) on page 235 of "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. 1975,[1] will apply.

(b) The name of the food is "raisin bread", "raisin rolls", "raisin buns", as applicable. When the food contains not less than 2.56 percent by weight of whole egg solids, the name of the food may be "raisin and egg bread", "raisin and egg rolls", or "raisin and egg buns", as applicable, accompanied by the statement "Contains ____ medium-sized egg(s) per pound" in the manner prescribed by § 102.5(c)(3) of this chapter, the blank to be filled in with the number which represents the whole egg content of the food expressed to the nearest one-fifth egg but not greater than the amount actually present. For purposes of this regulation, whole egg solids are the edible contents of eggs calculated on a moisture-free basis and exclusive of any nonegg solids which may be present in standardized and other commercial egg products. One medium-sized egg is equivalent to 0.41 ounce of whole egg solids. The term "milk" may be included in the name of the food if the food complies with the requirements for milk and/or other dairy products in § 136.130.

NOTE. Since the provisions of § 136.165 (formerly § 17.60) relating to the use of the word "egg" in the name of the food are predicated on stayed provisions of §§ 136.110, 136.115 and 136.160, none of paragraph (b) of § 136.165 except the first and last sentences, will be effective while the issues remain unresolved.

§ 136.180 Whole wheat bread, rolls, and buns.

(a) Each of the foods whole wheat bread, graham bread, entire wheat bread, whole wheat rolls, graham rolls, entire wheat rolls, whole wheat buns, graham buns, and entire wheat buns conforms to the definition and standard of identity and is subject to the label statement of ingredients prescribed for bread, rolls and buns by § 136.110, except that:

(1) The dough is made from the optional ingredient whole wheat flour, bromated whole wheat flour, or a combination of these. No flour, bromated flour, or phosphated flour is used. The potassium bromate in any bromated whole wheat flour used is deemed to be an additional optional ingredient in the whole wheat bread, whole wheat rolls, or whole wheat buns.

(2) The limitation prescribed by § 136.110(c)(6) on the quantity and composition of milk and/or other dairy products does not apply.

(b) The name of the food is "whole wheat bread", "graham bread", "entire wheat bread", "whole wheat rolls", "graham rolls", "entire wheat rolls", "whole wheat buns", "graham buns", "entire wheat buns", as applicable.

PART 137—CEREAL FLOURS AND RELATED PRODUCTS

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Cereal Flours and Related Products

Sec.
137.105 Flour.
137.156 Bromated flour.
137.160 Enriched bromated flour.
137.165 Enriched flour.
137.170 Instantized flours.
137.175 Phosphated flour.
137.180 Self-rising flour.
137.185 Enriched self-rising flour.
137.190 Cracked wheat.
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137.200 Whole wheat flour.
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137.211 White corn flour.
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137.220 Durum flour.
137.225 Whole durum flour.
137.230 Corn grits.
137.235 Enriched corn grits.
137.240 Quick grits.
137.245 Yellow grits.
137.250 White corn meal.
137.255 Bolted white corn meal.
137.260 Enriched corn meals.
137.265 Degerminated white corn meal.
137.270 Self-rising white corn meal.
137.275 Yellow corn meal.
137.280 Bolted yellow corn meal.
137.285 Degerminated yellow corn meal.
137.290 Self-rising yellow corn meal.
137.300 Farina.
137.305 Enriched farina.
137.220 Semolina.
137.350 Enriched rice.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371).

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Cereal Flours and Related Products

§ 137.105 Flour.

(a) Flour, white flour, wheat flour, plain flour, is the food prepared by grinding and bolting cleaned wheat, other than durum wheat and red durum wheat. To compensate for any natural deficiency of enzymes, malted wheat, malted wheat flour, malted barley flour, or any combination of two or more of these, may be used; but the quantity of malted barley flour so used is not more than 0.75 percent. Harmless preparations of α-amylase obtained from *Aspergillus oryzae*, alone or in a safe and suitable carrier, may be used. When tested for granulation as prescribed in paragraph (c)(4) of this section, not less than 98 percent of the flour passes through a cloth having openings not larger than those of woven wire cloth designated "212 μm (No. 70)" in Table I of "Annual Book of ASTM Standards, Part 30" published in 1972 by the American Society for Testing and Materials.[2] The flour is freed from bran coat, or bran coat and germ, to such extent that the percent of ash therein, calculated to a moisture-free basis, is not more than the sum of 1/20 of the percent of protein therein, calculated to a moisture-free basis, plus 0.35. Its moisture content is not more than 15 percent. It may contain ascorbic acid in a quantity not to exceed 200 parts per million as a dough conditioner. Unless such addition conceals damage or inferiority or makes the flour appear to be better or of greater value than it is, one or any combination of two or more of the following optional bleaching ingredients may be added in a quantity not more than sufficient for bleaching or, in case such ingredient has an artificial aging effect; in a quantity not more than sufficient for bleaching and such artificial aging effect:

(1) Oxides of nitrogen.
(2) Chlorine.
(3) Nitrosyl chloride.
(4) Chlorine dioxide.

(5) One part by weight of benzoyl peroxide mixed with not more than six parts by weight of one or any mixture of two or more of the following: potassium alum, calcium sulfate, magnesium carbonate, sodium aluminum sulfate, dicalcium phosphate, tricalcium phosphate, starch, calcium carbonate.

(6) Acetone peroxides complying with the provisions of § 172.802 of this chapter.

(7) Azodicarbonamide (complying with the requirements of § 172.806 of this chapter, including the quantitative limit of not more than 45 parts per million).

(b) (1) All optional ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(2) When ascorbic acid is added, the label shall bear the statement "Ascorbic acid added as a dough conditioner". When the optional ingredient "α-amylase obtained from *Aspergillus oryzae*" is used, it shall be declared in the list of ingredients by that name. When any optional bleaching ingredient is used, the label shall bear the word "Bleached". Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "Bleached" shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trademark or brand, other written, printed or graphic matter, which is also a part of such trademark or brand, may so intervene if the word "Bleached" is in such juxtaposition with such trademark or brand as to be conspicuously related to such name.

(c) For the purposes of this section:

(1) Ash is determined by the method prescribed in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 5th Edition, 1940, page 212, under "Method I—Official." [Ed. note, 10th edition, 1965, p. 191, sec. 13.006.] Ash is calculated to a moisture-free basis by subtracting the percent of moisture in the flour from 100, dividing the remainder into the percent of ash, and multiplying the quotient by 100.

(2) Protein is 5.7 times the nitrogen as determined by the method prescribed in such book on page 26, under "Kjeldahl-Gunning-Arnold Method—Official." [Ed. note, 10th edition, 1965, p. 16, "Improved Kjeldahl Methods for Nitrate-Free Samples—Official," sec. 2.044.] Protein is calculated to a moisture-free basis by subtracting the percent of moisture in the flour from 100, dividing the remainder into the percent of protein, and multiplying the quotient by 100.

(3) Moisture is determined by the method prescribed in such book on page 211, under "Vacuum Oven Method—Official." [Ed. note, 10th edition, 1965, p. 191, secs. 13.002, 13.003.]

(4) Granulation is determined as follows: Use No. 70 sieve complying with specifications for wire cloth and sieve frames in "Standard Specifications for Sieves," published March 1, 1940, in L.C. 584 of the United States Department of Commerce, National Bureau of Standards. Attach bottom pan to sieve in Ro-Tap sifter (or an equivalent sifter). Place half of a rubber ball or other sieving aid in the sieve. Pour 100 grams of the sample in the sieve and turn on the sifter with knocker. Sift exactly 5 minutes. Weigh the residue on the No. 70 sieve and convert to percentage.

§ 137.155 Bromated flour.

Bromated flour conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for flour by § 137.105, except that potassium bromate is added in a quantity not exceeding 50 parts to each million parts of the finished bromated flour, and is added only to flours whose baking qualities are improved by such addition.

§ 137.160 Enriched bromated flour.

Enriched bromated flour conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed or enriched flour by § 137.165, except that potassium bromate is added in a quantity not exceeding 50 parts to each million parts of the finished enriched bromated flour, and is added only to enriched flours whose baking qualities are improved by such addition.

§ 137.165 Enriched flour.

Enriched flour conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for flour by § 137.105 except that:

(a) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, and 40 milligrams of iron;

(b) It may contain added calcium in such quantity that the total calcium content is 960 milligrams per pound. Enriched flour may be acidified with monocalcium phosphate within the limits prescribed by § 137.175 for phosphated flour, but, if insufficient additional calcium is present to meet the 960 milligram level, no claim may be made on the label for calcium as a nutrient;

(c) The requirement of paragraphs (a) and (b) of this section will be deemed to have been met if reasonable overages of the vitamins and minerals, within the limits of good manufacturing practice, are present to insure that the required levels of the vitamins and minerals are maintained throughout the expected shelf life of the food under customary conditions of distribution and storage. The quantitative content of the following vitamins shall be calculated in terms of the following chemically identifiable reference forms:

Vitamin	Reference form: Name	Empirical formula	Molecular weight
Thiamine	Thiamine chloride hydrochloride.	$C_{12}H_{17}ClN_4OS \cdot HCl$	337.28
Riboflavin	Riboflavin	$C_{17}H_{20}N_4O_6$	376.37
Niacin	Niacin	$C_6H_5NO_2$	123.11

(d) It may contain not more than 5 percent by weight of wheat germ or partly defatted wheat germ;

(e) In determining whether the ash content complies with the requirements of this section, ash resulting from any added iron or salts of iron or calcium or wheat germ is excluded in calculating ash content.

(f) All ingredients from which the food is fabricated shall be safe and suitable. The vitamins and minerals added to the food for enrichment purposes may be supplied by any safe and suitable substance. Niacin equivalents as derived from tryptophan content shall not be used in determining total niacin content.

EFFECTIVE DATE NOTE: The iron content in revised § 137.165(a) (formerly § 15.10(a)) of "40 milligrams" was stayed at 39 FR 5180, pending the outcome of a hearing. The levels of iron shall remain at the level "not less than 13.0 milligrams and not more than 16.5 milligrams" prescribed by the former § 15.10(a) prior to amendment of the section.

[1] Copies may be obtained from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

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§ 137.170 Instantized flours.

(a) Instantized flours, instant blending flours, quick-mixing flours, are the foods each of which conforms to the definition and standard of identity and is subject to the requirement for label statement of optional ingredients prescribed for the corresponding kind of flour by §§ 137.105, 137.155, 137.160, 137.165, 137.175, 137.180, and 137.185, except that each such flour has been made by one of the optional procedures set forth in paragraph (b) of this section, and is thereby made readily pourable. Such flour will all pass through a No. 20 mesh U.S. standard sieve (840-micron opening), and not more than 20 percent will pass through a 200 mesh U.S. standard sieve (74-micron opening).

(b) The optional procedures referred to in paragraph (a) of this section are:

(1) A selective grinding and bolting procedure or other milling procedure, whereby controlled techniques are used to obtain a food too fine to meet the granulation specification prescribed in § 137.300(a) for farina.

(2) An agglomerating procedure, whereby flour that originally meets the granulation specification prescribed in § 137.105(a) has been modified by further processing, so that a number of the individual flour particles have been combined into agglomerates conforming to the granulation specifications set out in paragraph (a) of this section.

(c) The name of each product covered by this section is the name prescribed by the definition and standard of identity for the corresponding kind of flour as referred to in paragraph (a) of this section, preceded immediately and conspicuously by the words "Instantized", "Instant blending", or "Quick-mixing".

§ 137.175 Phosphated flour.

Phosphated flour, phosphated white flour, phosphated wheat flour, conforms to the definition and standard of identity, and is subject to the requirements for label declaration of optional ingredients, prescribed for flour by § 137.105, except that:

(a) Monocalcium phosphate is added in a quantity not less than 0.25 percent and not more than 0.75 percent of the weight of the finished phosphated flour; and

(b) In determining whether the ash content complies with the requirements of this section allowance is made for the added monocalcium phosphate.

§ 137.180 Self-rising flour.

(a) Self-rising flour, self-rising white flour, self-rising wheat flour, is an intimate mixture of flour, sodium bicarbonate, and one or more of the acid-reacting substances monocalcium phosphate, sodium acid pyrophosphate, and sodium aluminum phosphate. It is seasoned with salt. When it is tested by the method prescribed in paragraph (c) of this section not less than 0.5 percent of carbon dioxide is evolved. The acid-reacting substance is added in sufficient quantity to neutralize the sodium bicarbonate. The combined weight of such acid-reacting substance and sodium bicarbonate is not more than 4.5 parts to each 100 parts of flour used. Subject to the conditions and restrictions prescribed by § 137.105(a), the bleaching ingredients specified in such section may be added as optional ingredients. If the flour used in making the self-rising flour is bleached, the optional bleaching ingredient used therein (see § 137.105(a)) is also an optional ingredient of the self-rising flour.

(b) All optional ingredients in self-rising flour, including any contributed by the flour used, shall be declared on the label as required by the applicable sections of Part 101 of this chapter and § 137.105(b)(2), as appropriate.

(c) The method referred to in paragraph (a) of this section is the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 5th edition, 1940, beginning on page 186 [Ed. note, 10th edition, 1965, p. 119, secs. 7.002, 7.003], under "Gasometric Method with Chittick's Apparatus—Official," except that the following procedure is substituted for the procedure specified therein under "6—Determination":

(1) Weigh 17 grams of the official sample into flask A, add 15–20 glass beads (4–6 mm. diameter), and connect this flask with the apparatus (fig. 22). Open stopcock C and by means of the leveling bulb E bring the displacement solution to the 25 cc. graduation above the zero mark. (This 25 cc. is a partial allowance for the volume of acid to be used in the decomposition.) Allow the apparatus to stand 1–2 minutes to insure that the temperature and pressure within the apparatus are the same as those of the room. Close the stopcock, lower the leveling bulb somewhat to reduce the pressure within the apparatus, and slowly run into the decomposition flask from burette F 45 cc. of sulfuric acid (1+5). To prevent the liberated carbon dioxide from escaping through the acid burette into the air, keep the displacement solution in the leveling bulb at all times during the decomposition at a lower level than that in the gas-measuring tube. Rotate and then vigorously agitate the decomposition flask for three minutes to mix the contents intimately. Allow to stand for 10 minutes to bring to equilibrium. Equalize the pressure in the measuring tube by means of the leveling bulb and read the volume of gas from the zero point on the tube. Deduct 20 cc. from this reading (this 20 cc. together with previous allowance of 25 cc. compensates for the 45 cc. acid used in the decomposition). Observe the temperature of the air surrounding the apparatus and also the barometric pressure and multiply the number of cc. of gas evolved by the factor given in Table 24—Chapter XLIII [Ed. note, 10th edition, 1965, p. 887, sec. 43.028] for the temperature and pressure observed. Divide the corrected reading by 100 to obtain the apparent percent by weight of carbon dioxide in the official sample.

(2) Correct the apparent percent of carbon dioxide to compensate for varying atmospheric conditions by immediately assaying a synthetic sample by the same method in the same apparatus.

(3) Prepare the synthetic sample with 16.2 grams of flour, 0.30 gram of monocalcium phosphate, 0.30 gram of salt, and a sufficient quantity of sodium bicarbonate U.S.P. (dried over sulfuric acid) to yield the amount of carbon dioxide recovered in assay of official sample. Determine this quantity by multiplying weight of carbon dioxide recovered in assay of official sample by 1.91.

(4) Divide the weight of carbon dioxide recovered from synthetic sample by weight of carbon dioxide contained in sodium bicarbonate used.

(5) Divide the quotient into the apparent percent of carbon dioxide in official sample to obtain percent of carbon dioxide evolved from the official sample.

§ 137.185 Enriched self-rising flour.

Enriched self-rising flour conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for self-rising flour by § 137.180, except that:

(a) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, and 40 milligrams of iron;

(b) It contains added calcium in such quantity that the total calcium content is 960 milligrams per pound. If a calcium compound is added for technical purposes to give self-rising characteristics to the flour, the amount of calcium per pound of flour may exceed 960 milligrams provided that the excess is no greater than necessary to accomplish the intended effect. However, if such calcium is insufficient to meet the 960-milligram level, no claim may be made on the label for calcium as a nutrient.

(c) The requirements of paragraphs (a) and (b) of this section will be deemed to have been met if reasonable overages of the vitamins and minerals, within the limits of good manufacturing practice, are present to insure that the required levels of the vitamins and minerals are maintained throughout the expected shelf life of the food under customary conditions of distribution and storage. The quantitative content of the following vitamins shall be calculated in terms of the following chemically identifiable reference forms:

Vitamin	Reference form		
	Name	Empirical formula	Molecular weight
Thiamine	Thiamine chloride hydrochloride.	$C_{12}H_{17}ClN_4OS\cdot HCl$	337.2
Riboflavin	Riboflavin	$C_{17}H_{20}N_4O_6$	376.37
Niacin	Niacin	$C_6H_5NO_2$	123.11

(d) It may contain not more than 5 percent by weight of wheat germ or partly defatted wheat germ;

(e) When calcium is added as dicalcium phosphate, such dicalcium phosphate is also considered to be an acid-reacting substance;

(f) When calcium is added as carbonate, the method set forth in § 137.180 (c) does not apply as a test for carbon dioxide evolved; but in such case the quantity of carbon dioxide evolved under ordinary conditions of use of the enriched self-rising flour is not less than 0.5 percent of the weight thereof;

(g) All ingredients from which the food is fabricated shall be safe and suitable. The vitamins and minerals added to the food for enrichment purposes may be supplied by any safe and suitable substances. Niacin equivalents as derived from tryptophan content shall not be used in determining total niacin content.

EFFECTIVE DATE NOTE: The iron content in revised § 137.185(a) (formerly § 15.60(a)) of "40 milligrams" was stayed at 39 FR 5180, pending the outcome of a hearing. The levels of iron shall remain at the level "not less than 13.0 milligrams and not more than 16.5 milligrams" prescribed by the former § 15.60(a) prior to amendment of the section.

§ 137.190 Cracked wheat.

Cracked wheat is the food prepared by so cracking or cutting into angular fragments cleaned wheat other than durum wheat and red durum wheat that, when tested by the method prescribed in § 137.200(c)(2), not less than 90 percent passes through a No. 8 sieve and not more than 20 percent passes through a No. 20 sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. Cracked wheat contains not more than 15 percent of moisture as determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", 5th edition, 1940, page 353 [Ed. note, 10th edition, 1965, p. 327, secs. 22.002, 22.003], under "Preparation of Sample—Official" and "Moisture I. Drying with Heat—Official."

§ 137.195 Crushed wheat.

Crushed wheat, coarse ground wheat, is the food prepared by so crushing cleaned wheat other than durum wheat and red durum wheat that, when tested by the method prescribed in § 137.200(c)(2), 40 percent or more passes through a No. 8 sieve and less than 50 percent passes through a No. 20 sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. Crushed wheat contains not more than 15 percent of moisture as determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 5th edition, 1940, page 353 [Ed. note, 10th edition, 1965, p. 327, secs. 22.002, 22.003], under "Preparation of Sample—Official" and "Moisture I. Drying with Heat—Official."

§ 137.200 Whole wheat flour.

(a) Whole wheat flour, graham flour, entire wheat flour is the food prepared by so grinding cleaned wheat, other than durum wheat and red durum wheat, that when tested by the method prescribed in paragraph (c)(2) of this section, not less than 90 percent passes through a 2.36 mm (No. 8) sieve and not less than 50 percent passes through a 850 μm (No. 20) sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. To compensate for any natural deficiency of enzymes, malted wheat, malted wheat flour, malted barley flour, or any combination of two or more of these, may be used; but the quantity of malted barley flour so used is not more than 0.75 percent. It may contain harmless preparations of α-amylase obtained from *Aspergillus oryzae*, alone or in a safe and suitable carrier. The moisture content of whole wheat flour is not more than 15 percent. It may contain ascorbic acid in a quantity not to exceed 200 parts per million as a dough conditioner. Unless such addition conceals damage or inferiority or makes the whole wheat flour appear to be better or of greater value than it is, the optional bleaching ingredient azodicarbonamide (complying with the requirements of § 172.806 of this chapter, including the quantative limit of not more than 45 parts per million) or chlorine dioxide, or chlorine, or a mixture of nitrosyl chloride and chlorine, may be added in a quantity not more than sufficient for bleaching and artificial aging effects.

(b)(1) All optional ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(2) When ascorbic acid is added, the label shall bear the statement "Ascorbic acid added as a dough conditioner". When the optional ingredient "α-amylase obtained from *Aspergillus oryzae*" is used, it shall be declared by that name in the list of ingredients. When any optional bleaching ingredient is used, the label shall bear the word "Bleached". Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "Bleached" shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trademark or brand, other written, printed, or graphic matter, which is also a part of such trademark or brand, may so intervene if the word "Bleached" is in such juxtaposition with such trademark or brand as to be conspicuously related to such name.

(c) For the purposes of this section:

(1) Moisture is determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 5th Edition, 1940, page 211, under "Vacuum Oven Method—Official." [Ed. note, 10th edition, 1965, p. 191, secs. 13.002, 13.005.]

(2) The method referred to in paragraph (a) of this section is as follows: Use No. 8 and No. 20 sieves, having standard 8-inch full height frames, complying with the specifications for wire cloth and sieve frames in "Standard Specifications for Sieves," published March 1, 1940, in L. C. 584 of the U.S. Department of Commerce, National Bureau of Standards. Fit a No. 8 sieve into a No. 20 sieve. Attach bottom pan to the No. 20 sieve. Pour 100 gm. of the sample into the No. 8 sieve. Attach cover and hold the assembly in a slightly inclined position with one hand. Shake the sieves by striking the sides against the other hand with an upward stroke, at the rate of about 150 times per minute. Turn the sieves about one-sixth of a revolution each time in the same direction, after each 25 strokes. Continue shaking for 2 minutes. Weigh the material which fails to pass through the No. 8 sieve and the material which passes through the No. 20 sieve.

§ 137.205 Bromated whole wheat flour.

Bromated whole wheat flour conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for whole wheat flour by § 137.200, except that potassium bromate is added in a quantity not exceeding 75 parts to each million parts of finished bromated whole wheat flour.

§ 137.211 White corn flour.

(a) White corn flour is the food prepared by so grinding and bolting cleaned white corn that when tested by the method prescribed in paragraph (b)(2) of this section, not less than 98 percent passes through a No. 50 sieve and not less than a 50 percent passes through No. 70 woven-wire cloth. Its moisture content is not more than 15 percent. In its preparation, part of the ground corn may be removed, but in any such case, the content (on a moisture-free basis) of neither the crude fiber nor fat in the finished white corn flour exceeds the content (on a moisture-free basis) of such substance in the cleaned corn from which it was ground.

(b) (1) For the purpose of this section, moisture, fat, and crude fiber are determined by methods therefor referred to in § 137.250 (b) (1).

(2) The method referred to in paragraph (a) of this section is as follows: Weigh 5 grams of sample into a tared truncated metal cone (top diameter 5 centimeters, bottom diameter 2 centimeters, height 4 centimeters), fitted at bottom with 70-mesh wire cloth complying with the specifications for No. 70 wire cloth in "Standard Specifications for Sieves," published March 1, 1940 in L. C. 584 of the Bureau of Standards, United States Department of Commerce. Attach cone to a suction flask. Wash with 150 ml. of petroleum ether applied in a small stream without suction, while gently stirring the sample with a small glass rod. Apply suction for 2 minutes after washing is completed, then shake the cone for 2 minutes with a vigorous horizontal motion, striking the side against the hand, and then weigh. The decrease in weight of sample, calculated as percent by weight of sample shall be considered the percent passing through No. 70 wire cloth. Transfer the residue from cone to a No. 50 sieve having a standard 8-inch diameter full-height frame, complying with the specifications for wire cloth and sieve frame in said "Standard Specifications for Sieves." Shake for 2 minutes with a vigorous horizontal motion, striking the side against the hand; remove and weigh the residue; calculate the weight of residue

as percent by weight of sample, and sub- after each 25 strokes. Continue shak- § 137.250 White corn meal.

ings. If any sieve is clogged by fine material smaller than its openings, empty

(3) It may contain in each pound not less than 500 milligrams and not more

with Chittick's Apparatus—Official," except that the following procedure is substituted for the procedure specified there-

as percent by weight of sample, and subtract from 100 percent to obtain the percent of sample passing through the No. 50 sieve.

§ 137.215 Yellow corn flour.

Yellow corn flour conforms to the definition and standard of identity prescribed by § 137.211 for white corn flour except that cleaned yellow corn is used instead of clean white corn.

§ 137.220 Durum flour.

(a) Durum flour is the food prepared by grinding and bolting cleaned durum wheat. When tested for granulation as prescribed in § 137.105(c)(4), not less than 98 percent of such flour passes through the No. 70 sieve. It is freed from bran coat, or bran coat and germ, to such extent that the percent of ash therein, calculated to a moisture-free basis, is not more than 1.5 percent. Its moisture content is not more than 15 percent.

(b) For the purpose of this section, ash, moisture, and granulation are determined by the methods prescribed in § 137.105(c).

§ 137.225 Whole durum flour.

Whole durum wheat flour conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for whole wheat flour by § 137.200, except that cleaned durum wheat, instead of cleaned wheat other than durum wheat and red durum wheat, is used in its preparation.

§ 137.230 Corn grits.

(a) Grits, corn grits, hominy grits, is the food prepared by so grinding and sifting cleaned white corn, with removal of corn bran and germ, that:

(1) On a moisture-free basis its crude fiber content is not more than 1.2 percent and its fat content is not more than 2.25 percent; and

(2) When tested by the method prescribed in paragraph (b)(2) of this section not less than 95 percent passes through a No. 10 sieve but not more than 20 percent through a No. 25 sieve.

(b)(1) For the purposes of this section moisture, fat, and crude fiber are determined by methods therefor referred to in § 137.250(b)(1).

(2) The method referred to in paragraph (a) of this section is as follows: Use No. 10 and No. 25 sieves, having standard 8-inch diameter full-height frames, complying with the specifications for wire cloth and sieve frames in "Standard Specifications for Sieves," published March 1, 1940, in L. C. 584 of the Bureau of Standards, United States Department of Commerce. Attach bottom pan to No. 25 sieve. Fit the No. 10 sieve into the No. 25 sieve. Pour 100 grams of sample into the No. 10 sieve, attach cover and hold assembly in a slightly inclined position, shake the sieves by striking the sides against one hand with an upward stroke, at the rate of about 150 times per minute. Turn the sieves about one-sixth of a revolution each time in the same direction after each 25 strokes. Continue shaking for 2 minutes. Weigh separately the material remaining on the No. 10 sieve and in the pan, and calculate each weight as percent of sample. The percent of sample passing through a No. 10 sieve shall be determined by subtracting from 100 percent the percent remaining on the No. 10 sieve. The percent of material in the pan shall be considered as the percent passing through a No. 25 sieve.

§ 137.235 Enriched corn grits.

(a) Enriched corn grits are the foods, each of which conforms to the definition and standard of identity prescribed for grits, yellow grits, or quick cooking grits by §§ 137.230, 137.240, and 137.245, except that:

(1) It contains in each pound not less than 2.0 mg. and not more than 3.0 mg. of thiamine, not less than 1.2 mg. and not more than 1.8 mg. of riboflavin, not less than 16 mg. and not more than 24 mg. of niacin or niacinamide, not less than 13 mg. and not more than 26 mg. of iron (Fe);

(2) It may contain in each pound not less than 250 U.S.P. units and not more than 1,000 U.S.P. units of vitamin D; and

(3) It may contain in each pound not less than 500 mg. and not more than 750 mg. of calcium (Ca). Iron and calcium may be added only in forms which are harmless and assimilable. The vitamins referred to in paragraph (a)(1) of this section may be combined with harmless substances to render them insoluble in water if the water-insoluble products are assimilable. The substances referred to in this subparagraph and in paragraphs (a)(1) and (2) of this section may be added in a harmless carrier; such carrier is used only in the quantity necessary to effect an intimate and uniform admixture of such substances with the kind of corn grits used. Dried yeast in quantities not exceeding 1.5 percent by weight of the finished food may be used.

(b) The name of each kind of enriched corn grits is the word "Enriched" followed by the name of the kind of corn grits used which is prescribed in the definition and standard of identity therefor.

§ 137.240 Quick grits.

(a) Quick grits, quick cooking grits are the foods, each of which conforms to the definition and standard of identity prescribed for a kind of grits by §§ 137.230 or 137.245, except that in process of preparation the grits are lightly steamed and slightly compressed so as to fracture the particles.

(b) The name of each kind of grits is "Quick" or "Quick cooking" followed by the name of the kind of grits used which is prescribed in the definition and standard of identity therefor.

§ 137.245 Yellow grits.

Yellow grits, yellow corn grits, yellow hominy grits, conforms to the definition and standard of identity prescribed by § 137.230 for grits except that cleaned yellow corn is used instead of cleaned white corn.

§ 137.250 White corn meal.

(a) White corn meal is the food prepared by so grinding cleaned white corn that when tested by the method prescribed in paragraph (b)(2) of this section not less than 95 percent passes through a No. 12 sieve, not less than 45 percent through a No. 25 sieve, but not more than 35 percent through a No. 72 grits gauze. Its moisture content is not more than 15 percent. In its preparation coarse particles of the ground corn may be separated and discarded, or reground and recombined with all or part of the material from which they were separated, but in any such case the crude fiber content of the finished corn meal is not less than 1.2 percent and not more than that of the cleaned corn from which it was ground, and its fat content does not differ more than 0.3 percent from that of such corn. The contents of crude fiber and fat in all the foregoing provisions relating thereto are on a moisture-free basis.

(b)(1) For the purposes of this section moisture is determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 6th edition, page 259, sections 20.70 and 20.71 [Ed. note, 10th edition, 1965, p. 202, secs. 13.058, 13.059], fat is determined by the method prescribed on pages 259 and 260, sections 20.70 and 20.73 [Ed. note, 10th edition, 1965, p. 202, secs. 13.058, 13.063]; and crude fiber determined by the method prescribed on pages 259 and 260, sections 20.70 and 20.74 [Ed. note, 10th edition, 1965, p. 202, secs. 13.058, 13.061].

(2) The method referred to in paragraph (a) of this section is as follows: Use No. 12 and No. 25 sieves, having standard 8-inch diameter, full-height frames, complying with the specifications for wire cloth and sieve frames in "Standard Specifications for Sieves," published March 1, 1940, in L.C. 584 of the Bureau of Standards, United States Department of Commerce. A sieve with frame of the same dimensions as the Nos. 12 and 25 and fitted with 72 XXX grits gauze is used as the third sieve. It is referred to hereafter as the No. 72 sieve. The 72 XXX grits gauze has openings equivalent in size with those of No. 70 woven-wire cloth, complying with specifications for such cloth contained in such "Standard Specifications for Sieves." Attach bottom pan to No. 72 sieve. Fit the No. 25 sieve into the No. 72 sieve and the No. 12 sieve into the No. 25 sieve. Pour 100 grams of sample into the No. 12 sieve, attach cover and hold the assembly in a slightly inclined position and shake the assembly of sieves by striking the sides against one hand with an upward stroke, at the rate of about 150 times per minute. Turn the assembly of sieves about one-sixth of a revolution, each time in the same direction, after each 25 strokes. Continue shaking for 2 minutes. Weigh separately the material remaining on each sieve and in the pan, and calculate each weight as percent of sample. Sometimes when meals are tested, fine particles clog the sieve openings. If any sieve is clogged by fine material smaller than its openings, empty the contents onto a piece of paper. Remove the entrapped material on the bottom of the sieve by a hair brush and add to the sieve below. In like manner, clean the adhering material from inside the sieve and add to the material on the paper. Return mixture on the paper to the sieve, reassemble the sieves, and shake in the same manner as before for 1 minute. Repeat cleaning procedure if necessary until a 5-gram or less loss in weight occurs in any sieve during a 1-minute shaking. The percent of sample passing through No. 12 sieve shall be determined by subtracting from 100 percent, the percent of material remaining on the No. 12 sieve. The percent passing through a No. 25 sieve shall be determined by adding the percents remaining on the No. 72 sieve and the percent in pan. The percent in the pan shall be considered as the percent passing through a No. 72 XXX grits gauze.

§ 137.255 Bolted white corn meal.

(a) Bolted white corn meal is the food prepared by so grinding and sifting cleaned white corn that:

(1) Its crude fiber content is less than 1.2 percent but its fat content is not less than 2.25 percent; and

(2) When tested by the method prescribed in § 137.250(b)(2), except that a No. 20 standard sieve is used instead of the No. 12 sieve, not less than 95 percent passes through a No. 20 sieve, not less than 45 percent through a No. 25 sieve, but not more than 25 percent through No. 72 XXX grits gauze. Its moisture content is not more than 15 percent. In its preparation particles of ground corn which contain germ may be separated, reground, and recombined with all or part of the material from which it was separated, but in any such case the fat content of the finished bolted white corn meal does not exceed by more than 0.3 percent the fat content of the cleaned corn from which it was ground. The contents of crude fiber and fat in all the foregoing provisions relating thereto are on a moisture-free basis.

(b) For the purposes of this section, moisture, fat and crude fiber are determined by the methods therefor referred to in § 137.250(b)(1).

§ 137.260 Enriched corn meals.

(a) Enriched corn meals are the foods, each of which conforms to the definition and standard of identity prescribed for a kind of corn meal by §§ 137.250, 137.255, 137.265, 137.270, 137.275, 137.280, 137.285, and 137.290, except that:

(1) It contains in each pound not less than 2.0 mg. and not more than 3.0 mg. of thiamine, not less than 1.2 mg. and not more than 1.8 mg. of riboflavin, not less than 16 mg. and not more than 24 mg. of niacin or niacinamide, and not less than 13 mg. and not more than 26 mg. of iron (Fe);

(2) It may contain in each pound not less than 250 U. S. P. units and not more than 1,000 U. S. P. units of vitamin D; and

(3) It may contain in each pound not less than 500 milligrams and not more than 750 milligrams of calcium (Ca); *Provided, however,* That enriched self-rising corn meals shall contain in each pound not more than 1,750 milligrams of calcium (Ca). Iron and calcium may be added only in forms which are harmless and assimilable. The substances referred to in this paragraph (a)(3) and in paragraphs (a)(1) and (2) of this section may be added in a harmless carrier which does not impair the enriched corn meal; such carrier is used only in the quantity necessary to effect an intimate and uniform admixture of such substances with the kind of corn meal used. Dried yeast in quantities not exceeding 1.5 percent by weight of the finished food may be used.

(b) The name of each kind of enriched corn meal is the word "Enriched" followed by the name of the kind of corn meal used which is prescribed in the definition and standard of identity therefor.

§ 137.265 Degerminated white corn meal.

(a) Degerminated white corn meal, degermed white corn meal, is the food prepared by grinding cleaned white corn and removing bran and germ so that:

(1) On a moisture-free basis, its crude fiber content is less than 1.2 percent and its fat content is less than 2.25 percent; and

(2) When tested by the method prescribed in § 137.250(b)(2), except that a No. 20 standard sieve is used instead of a No. 12 sieve, not less than 95 percent passes through a No. 20 sieve, not less than 45 percent through a No. 25 sieve, but not more than 25 percent through No. 72 XXX grits gauze. Its moisture content is not more than 15 percent.

(b) For the purposes of this section, moisture, fat and crude fiber are determined by methods therefor referred to in § 137.250(b)(1).

§ 137.270 Self-rising white corn meal.

(a) Self-rising white corn meal is an intimate mixture of white corn meal, sodium bicarbonate, and one or both of the acid-reacting substances monocalcium phosphate and sodium aluminum phosphate. It is seasoned with salt. When it is tested by the method prescribed in paragraph (b) of this section, not less than 0.5 percent of carbon dioxide is evolved. The acid-reacting substance is added in sufficient quantity to neutralize the sodium bicarbonate. The combined weight of such acid-reacting substance and sodium bicarbonate is not more than 4.5 parts to each 100 parts of white corn meal used.

(b) The method referred to in paragraph (a) of this section is the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 6th Edition, beginning on page 208 [Ed. note, 10th edition, 1965, p. 118, secs. 7.002, 7.003] under "Gasometric Method (2) with Chittick's Apparatus—Official," except that the following procedure is substituted for the procedure specified therein under "17.6—Determination":

(1) Weigh 17 grams of the official sample into flask *A*, add 15–20 glass beads (4–6 mm. diameter), and connect this flask with the apparatus (fig. 25). Open stopcock *C* and by means of the leveling bulk *E* bring the displacement solution to the 25 cc. graduation above the zero mark. (This 25 cc. is a partial allowance for the volume of acid to be used in the decomposition.) Allow the apparatus to stand 1–2 minutes to insure that the temperature and pressure within the apparatus are the same as those of the room. Close the stopcock, lower the leveling bulb somewhat to reduce the pressure within the apparatus, and slowly run into the decomposition flask from burette *F* 45 cc. of sulfuric acid (1+5). To prevent the liberated carbon dioxide from escaping through the acid burette into the air, keep the displacement solution in the leveling bulb at all times during the decomposition at a lower level than that in the gas-measuring tube. Rotate and then vigorously agitate the decomposition flask for 3 minutes to mix the contents intimately. Allow to stand for 10 minutes to bring to equilibrium. Equalize the pressure in the measuring tube by means of the leveling bulb and read the volume of gas from the zero point on the tube. Deduct 20 cc. from this reading (this 20 cc. together with previous allowance of 25 cc. compensates for the 45 cc. acid used in the decomposition). Observe the temperature of the air surrounding the apparatus and also the barometric pressure and multiply the number of cc. of gas evolved by the factor given in Table 44.30 [Ed. note, 10th edition, 1965, p. 887, sec. 43.028]—Reference Tables for the temperature and pressure observed. Divide the corrected reading by 100 to obtain the apparent percent by weight of carbon dioxide in the official sample.

(2) Correct the apparent percent of carbon dioxide to compensate for varying atmospheric conditions by immediately assaying a synthetic sample by the same method in the same apparatus.

(3) Prepare the synthetic sample with 16.2 grams of corn meal, 0.30 gram of monocalcium phosphate, 0.30 gram of salt, and a sufficient quantity of sodium bicarbonate U.S.P. (dried over sulfuric acid) to yield the amount of carbon dioxide recovered in assay of official sample. Determine this quantity by multiplying weight of carbon dioxide recovered in assay of official sample by 1.91.

(4) Divide the weight of carbon dioxide recovered from synthetic sample by weight of carbon dioxide contained in sodium bicarbonate used.

(5) Divide the quotient into the apparent percent of carbon dioxide in official sample to obtain percent of carbon dioxide evolved from the official sample.

§ 137.275 Yellow corn meal.

Yellow corn meal conforms to the definition and standard of identity pre-

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scribed by § 137.250 for white corn meal except that cleaned yellow corn is used instead of cleaned white corn.

§ 137.280 Bolted yellow corn meal.

Bolted yellow corn meal conforms to the definition and standard of identity prescribed by § 137.255 for bolted white corn meal except that cleaned yellow corn is used instead of cleaned white corn.

§ 137.285 Degerminated yellow corn meal.

Degerminated yellow corn meal, degermed yellow corn meal, conforms to the definition and standard of identity prescribed by § 137.265 for degerminated white corn meal except that cleaned yellow corn is used instead of cleaned white corn.

§ 137.290 Self-rising yellow corn meal.

Self-rising yellow corn meal conforms to the definition and standard of identity prescribed by § 137.270 for self-rising white corn meal except that yellow corn meal is used instead of white corn meal.

§ 137.300 Farina.

(a) Farina is the food prepared by grinding and bolting cleaned wheat, other than durum wheat and red durum wheat, to such fineness that, when tested by the method prescribed in paragraph (b) (2) of this section, it passes through a No. 20 sieve, but not more than 3 percent passes through a No. 100 sieve. It is freed from bran coat, or bran coat and germ, to such extent that the percent of ash therein, calculated to a moisture-free basis, is not more than 0.6 percent. Its moisture content is not more than 15 percent.

(b) For the purposes of this section:

(1) Ash and moisture are determined by the methods therefor referred to in § 137.105(c).

(2) The method referred to in paragraph (a) of this section is as follows: Use No. 20 and No. 100 sieves, having standard 8-inch full-height frames, complying with the specifications for wire cloth and sieve frames in "Standard Specifications for Sieves," published March 1, 1940, in L. C. 584 of the United States Department of Commerce, National Bureau of Standards. Fit a No. 20 sieve into a No. 100 sieve. Attach bottom pan to the No. 100 sieve. Pour 100 grams of the sample into the No. 20 sieve. Attach cover and hold the assembly in a slightly inclined position with one hand. Shake the sieves by striking the sides against the other hand with an upward stroke, at the rate of about 150 times per minute. Turn the sieves about one-sixth of a revolution, each time in the same direction, after each 25 strokes. Continue shaking for 2 minutes. Weigh the material which fails to pass through the No. 20 sieve and the material which passes through the No. 100 sieve.

§ 137.305 Enriched farina.

(a) Enriched farina conforms to the definition and standard of identity prescribed for farina by § 137.300, except that:

(1) It contains in each pound not less than 2.0 milligrams and not more than 2.5 milligrams of thiamine, not less than 1.2 milligrams and not more than 1.5 milligrams of riboflavin, not less than 16.0 milligrams and not more than 20.0 milligrams of niacin or niacinamide, and not less than 13.0 milligrams of iron (Fe).

(2) Vitamin D may be added in such quantity that each pound of the finished enriched farina contains not less than 250 U.S.P. units of the optional ingredient vitamin D.

(3) Calcium may be added in such quantity that each pound of the finished enriched farina contains not less than 500 milligrams of the optional ingredient calcium (Ca).

(4) It may contain not more than 8 percent by weight of the optional ingredient wheat germ or partly defatted wheat germ.

(5)(i) It may contain not less than 0.5 percent and not more than 1 percent by weight of the optional ingredient disodium phosphate; or

(ii) It may be treated with one of the proteinase enzymes papain or pepsin to reduce substantially the time required for cooking. In such treatment papain or pepsin, in an amount not to exceed 0.1 percent by weight, is added to the farina, which is moistened, warmed, and subsequently heated sufficiently to inactivate the enzyme and to dry the product to comply with the limit for moisture prescribed by § 137.300(a).

(6) In determining whether the ash content complies with the requirements of this section allowance is made for ash resulting from any added iron or salts of iron or calcium, or from any added disodium phosphate, or from any added wheat germ or partly defatted wheat germ.

Iron and calcium may be added only in forms which are harmless and assimilable. Dried irradiated yeast may be used as a source of vitamin D. The substances referred to in paragraphs (a) (1) and (2) of this section may be added in a harmless carrier which does not impair the enriched farina; such carrier is used only in the quantity necessary to effect an intimate and uniform admixture of such substances with the farina.

(b)(1) All optional ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(2)(i) When the optional ingredient disodium phosphate is used, the label shall bear the statement "Disodium phosphate added for quick cooking".

(ii) When the proteinase enzyme treatment is used, the label shall bear the statement "Enzyme treated for quicker cooking".

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed by paragraph (b)(2) of this section shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter; except that where the name of the food is a part of a trademark or brand, then other written, printed, or graphic matter that is also a part of the trademark or brand may so intervene, if such statement is in such juxtaposition with the trademark or brand as to be conspicuously related to the name of the food.

§ 137.320 Semolina.

(a) Semolina is the food prepared by grinding and bolting cleaned durum wheat to such fineness that, when tested by the method prescribed in § 137.300(b)(2), it passes through a No. 20 sieve, but not more than 3 percent passes through a No. 100 sieve. It is freed from bran coat, or bran coat and germ, to such extent that the percent of ash therein, calculated to a moisture-free basis, is not more than 0.92 percent. Its moisture content is not more than 15 percent.

(b) For the purpose of this section, ash and moisture are determined by the methods therefor referred to in § 137.105(c).

§ 137.350 Enriched rice.

(a) The foods for which definitions and standards of identity are prescribed by this section are forms of milled rice (except rice coated with talc and glucose and known as coated rice), to which nutrients have been added so that each pound of the rice contains:

(1) Not less than 2.0 milligrams and not more than 4.0 milligrams of thiamine; not less than 1.2 milligrams and not more than 2.4 milligrams of riboflavin; not less than 16 milligrams and not more than 32 milligrams of niacin or niacinamide; and not less than 13 milligrams and not more than 26 milligrams of iron (Fe).

(2) Each pound may contain not less than 250 U.S.P. units and not more than 1,000 U.S.P. units of vitamin D.

(3) Each pound may contain not less than 500 milligrams and not more than 1,000 milligrams of calcium (Ca). Calcium carbonate derived from the use of this substance in milling rice, when present in quantities that furnish less than 500 milligrams of calcium (Ca) per pound, is considered a normal ingredient of the milled rice used and not an optional ingredient of the enriched rice unless such enriched rice is labeled to show it contains the optional ingredient calcium. Iron and calcium may be added only in forms that are harmless and assimilable. The vitamins referred to in paragraphs (a) (1) and (2) of this section may be combined with harmless substances to render them insoluble in water, if the water-insoluble products are assimilable.

(4) In the case of enriched parboiled rice, butylated hydroxytoluene may be added as an optional ingredient in an amount not to exceed 0.0033 percent by weight of the finished food.

(b) The substances referred to in paragraph (a) (1), (2), and (3) of this section may be added in a harmless carrier. Such carrier is used only in the quantity necessary to effect an intimate and uniform mixture of such substances with the rice.

(c) Unless the label of the food bears the statement "To retain vitamins do not rinse before or drain after cooking" immediately preceding or following the name of the food and in letters not less than one-fourth the point size of type used for printing the name of the food (but in no case less than 8-point type) and the label bears no cooking directions calling for washing or draining or unless the food is precooked and it is packaged in consumer packages which are conspicuously and prominently labeled with directions for preparation which, if followed, will avoid washing away or draining off enriching ingredients, the substances named in paragraph (a) (1), (2), and (3) of this section shall be present in such quantity or in such form that when the enriched rice is washed as prescribed in paragraph (e) of this section, the washed rice contains not less than 85 percent of the minimum quantities of the substances named in paragraph (a) (1) of this section, as required for enriched rice; and in case any optional ingredients named in paragraph (a) (2) and (3) of this section are used, the washed rice also contains not less than 85 percent of the minimum quantity specified for the substance or substances used.

(d) The name specified for each food for which a definition and standard of identity is prescribed by this section is the common name of the kind of milled rice to which the enriching substances are added, preceded by the word "enriched" as, for example, "Enriched rice" or "Enriched parboiled rice".

(e) The method referred to in paragraph (c) of this section is as follows: Mix the contents of one or more containers and transfer ½ pound thereof to a 4-liter flask containing 2 liters of distilled water at room temperature (but not below 20° C). Stopper the flask and swirl it moderately for ½ minute so that the rice is in motion and in uniform suspension. Allow the rice to settle for ½ minute, then pour off 1,600 milliliters of the water, together with any floating and suspended matter, and discard. To the contents of the flask, add 1,600 milliliters of distilled water and 20 milliliters of 10 *N* hydrochloric acid. Agitate vigorously and wash down the sides of the flask with 150 milliliters of 0.1 *N* hydrochloric acid. In order to avoid excess foaming during the extraction, heat the mixture slowly to about 100° C, agitate agently if necessary, and maintain at this temperature until air is expelled. Again wash down the sides of the flask with 150 milliliters of 0.1 *N* hydrochloric acid. Heat the mixture in an autoclave at 120° C to 123° C for 30 minutes, remove and cool to room temperature. Dilute the mixture with distilled water so that the total volume is 2,500 milliliters. Swirl the flask, and while the solids are in uniform suspension pour off about 250 milliliters of the mixture for later determination of iron (and calcium, if this is to be determined). With filter paper that has been shown not to adsorb thiamine, riboflavin, or niacin, filter enough of the remaining mixture for determination of thiamine, riboflavin, and niacin. (In the case of a mixture difficult to filter, centrifuging or filtering through fritted glass, or both, using a suitable analytical filter-aid, may be substituted for, or may precede, filtering through paper.) Dilute an aliquot of filtrate with 0.1 *N* hydrochloric acid, so that each milliliter contains about 0.2 microgram of thiamine, and determine thiamine by the method entitled "Rapid Fluorometric Method—Official," beginning with section 38.32 of the book "Official Methods of Analysis of the Association of Official Agricultural Chemists," 8th Edition, 1955. [Ed. note, 10th edition, 1965, p. 761, sec. 39.028.] With a suitable aliquot determine riboflavin by the method entitled "Fluorometric Method—Official" in the same book, beginning with the third sentence of the second paragraph in section 38.35(a), "Adjust, with vigorous agitation * * *." [Ed. note, 10th edition, 1965, p. 762, sec. 39.035.] Determine niacin in a 200-milliliter aliquot of the filtrate by the method entitled "Chemical Method—Official" in the same book, beginning in the second sentence of the first paragraph in section 38.47 (a), "adjust to pH 4.5 with * * *." [Ed. note, 10th edition, 1965, p. 763, sec. 39.038.] Evaporate to dryness a 100-milliliter aliquot of the nonfiltered material withdrawn while agitating, and determine iron using the method on page 208 of the same book entitled "Iron—Official," [Ed. note, 10th edition, 1965, p. 192, secs. 13.011–13.013] and, if required, determine calcium as directed, on page 209 of the same book, entitled "Calcium—Official." [Ed. note, 10th edition, 1965, p. 193, sec. 13.014.]

(f) When the optional ingredient specified in paragraph (a) (4) of this section is added, the statement "Butylated hydroxytoluene added as a preservative" shall be placed on the label prominently and with such conspicuousness (as compared with other words, statements, designs, or devices in the label) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase.

NOTE: The Order of the Commissioner of Food and Drugs appearing at 23 F.R. 1170, Feb. 25, 1958, amending paragraphs (a)(1) and (c) provides in part as follows: The regulations in § 137.350 (formerly § 15.525) are stayed insofar as they require each pound of the food to contain not less than 1.2 milligrams and not more than 2.4 milligrams of riboflavin. This stay shall continue until final action is taken disposing of the objections, after public hearing thereon.

PART 139—MACARONI AND NOODLE PRODUCTS

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Macaroni and Noodle Products

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AUTHORITY: Secs. 401, 701, 52 Stat. 1046, as amended, 1055–1056, as amended (21 U.S.C. 341, 371).

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Macaroni and Noodle Products

§ 139.110 Macaroni products.

(a) Macaroni products are the class of food each of which is prepared by drying formed units of dough made from semolina, durum flour, farina, flour, or any combination of two or more of these, with water and with or without one or more of the optional ingredients specified in paragraphs (a) (1) to (6), inclusive, of this section.

(1) Egg white, frozen egg white, dried egg white, or any two or all of these, in such quantity that the solids thereof are not less than 0.5 percent and not more than 2.0 percent of the weight of the finished food.

(2) Disodium phosphate, in a quantity not less than 0.5 percent and not more than 1.0 percent of the weight of the finished food.

(3) Onions, celery, garlic, bay leaf, or any two or more of these, in a quantity which seasons the food.

(4) Salt, in a quantity which seasons the food.

(5) Gum gluten, in such quantity that the protein content of the finished food is not more than 13 percent by weight. The finished macaroni product contains not less than 87 percent of total solids as determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fifth edition, 1940, page 235 [Ed. note, 10th edition, 1965, p. 209, sec. 13.115], under "Vacuum Oven Method—Official."

(6) Concentrated glyceryl monostearate (containing not less than 90 percent monoester), in a quantity not exceeding 2 percent by weight of the finished food.

(b) Macaroni is the macaroni product the units of which are tube-shaped and more than 0.11 inch but not more than 0.27 inch in diameter.

(c) Spaghetti is the macaroni product the units of which are tube-shaped or cord-shaped (not tubular) and more than 0.06 inch but not more than 0.11 inch in diameter.

(d) Vermicelli is the macaroni product the units of which are cord-shaped (not tubular) and not more than 0.06 inch in diameter.

(e) The name of each food for which a definition and standard of identity is prescribed by this section is "Macaroni product"; or alternatively, the name is "Macaroni", "Spaghetti", or "Vermi-

celli", as the case may be, when the

(e) The common name of each of the

§ 139.121 Nonfat milk macaroni prod-

(ii) When the ingredient carrageenan or the salts of carrageenan specified in

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celli", as the case may be, when the units of the food are of the shapes and sizes specified in paragraph (b), (c), or (d), respectively, of this section.

(f) (1) When disodium phosphate is used the label shall bear the statement "Disodium phosphate added for quick cooking".

(2) When any ingredient specified in paragraph (a) (3) of this section is used the label shall bear the statement "Seasoned with _____", the blank being filled in with the common name of the ingredient; or in the case of bay leaves the statement "Spiced", "Spice added", or "Spiced with bay leaves".

(3) When the ingredient specified in paragraph (a) (6) of this section is used, the label shall bear the statement "Glyceryl monostearate added" or the statement "With added glyceryl monostearate".

(4) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed in this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow, or in part precede and in part follow, such name, without intervening written, printed, or graphic matter.

§ 139.115 Enriched macaroni products.

(a) Enriched macaroni products are the class of food each of which conforms to the definition and standard of identity and is subject to the requirements for label statement of optional ingredients, prescribed for macaroni products by § 139.110 (a) and (f), except that:

(1) Each such food contains in each pound not less than 4 mg. and not more than 5 mg. of thiamine, not less than 1.7 mg. and not more than 2.2 mg. of riboflavin, not less than 27 mg. and not more than 34 mg. of niacin or niacinamide, and not less than 13 mg. and not more than 16.5 mg. of iron (Fe);

(2) Each such food may also contain as an optional ingredient added vitamin D in such quantity that each pound of the finished food contains not less than 250 U. S. P. units and not more than 1000 U. S. P. units of vitamin D.

(3) Each such food may also contain as an optional ingredient added calcium in such quantity that each pound of the finished food contains not less than 500 mg. and not more than 625 mg. of calcium (Ca);

(4) Each such food may also contain as an optional ingredient partly defatted wheat germ but the amount thereof does not exceed 5 percent of the weight of the finished food;

(5) Each such food may be supplied, wholly or in part, with the prescribed quantity of any substance referred to in paragraphs (a) (1), (2), and (3) of this section through the use of dried yeast, dried torula yeast, partly defatted wheat germ, enriched farina, or enriched flour, or through the direct additions of any of the substances prescribed in paragraphs (a) (1), (2), and (3) of this section.

Iron and calcium may be added only in forms which are harmless and assimilable. The substances referred to in paragraphs (a) (1) and (2) of this section may be added in a harmless carrier which does not impair the enriched macaroni product, such carrier being used only in the quantity reasonably necessary to effect an intimate and uniform distribution of such substances in the finished enriched macaroni product.

(b) Enriched macaroni is the enriched macaroni product the units of which conform to the specifications of shape and size prescribed for macaroni by § 139.110(b).

(c) Enriched spaghetti is the enriched macaroni product the units of which conform to the specifications of shape and size prescribed for spaghetti by § 139.110(c).

(d) Enriched vermicelli is the enriched macaroni product the units of which conform to the specifications of shape and size prescribed for vermicelli by § 139.110(d).

(e) The name of each food for which a definition and standard of identity is prescribed by this section is "Enriched Macaroni product"; or alternatively, the name is "Enriched macaroni", "Enriched spaghetti", or "Enriched vermicelli", as the case may be, when the units of the food comply with the requirements of paragraphs (b), (c), or (d) respectively of this section.

§ 139.117 Enriched macaroni products with fortified protein.

(a) (1) Each of the foods for which a standard of identity is prescribed by this section is produced by drying formed units of dough made with one or more of the milled wheat ingredients designated in §§ 139.110(a) and 139.138(a), and other ingredients to enable the finished food to meet the protein requirements set out in paragraph (a) (2) (i) of this section. Edible protein sources, including food grade flours or meals made from nonwheat cereals or from oilseeds, may be used. Vitamin and mineral enrichment nutrients are added to bring the food into conformity with the requirements of paragraph (b) of this section. Safe and suitable ingredients, as provided for in paragraph (c) of this section, may be added. The proportion of the milled wheat ingredient is larger than the proportion of any other ingredient used.

(2) Each such finished food, when tested by the methods described in the cited sections of the book "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition, 1970, meets the following specifications:

(i) The protein content (N×6.25) is not less than 20 percent by weight (on a 13 percent moisture basis) as determined by the method in section 14.134. The protein quality is not less than 95 percent that of casein as determined on the cooked food by the method in sections 39.166 through 39.170 of the official methods.

(ii) The total solids content is not less than 87 percent by weight as determined by the method in section 14.125 of the official methods.

(b) (1) Each food covered by this section contains in each pound 5 milligrams of thiamin, 2.2 milligrams of riboflavin, 34 milligrams of niacin or niacinamide, and 16.5 milligrams of iron.

(2) Each pound of such food may also contain 625 milligrams of calcium.

(3) Iron and calcium may be added only in forms which are harmless and assimilable. The enrichment nutrients may be added in a harmless carrier used only in a quantity necessary to effect a uniform distribution of the nutrients in the finished food. The requirements of paragraphs (b) (1) and (2) of this section shall be deemed to have been met if reasonable overages, within the limits of good manufacturing practice, are present to assure that the prescribed levels of the vitamins and mineral(s) are maintained throughout the expected shelf life of the food under customary conditions of distribution.

(c) The safe and suitable ingredients referred to in paragraph (a) of this section are ingredients that serve a useful purpose, e.g., to fortify the protein or facilitate production of the food, but they do not include color additives, artificial flavorings, artificial sweeteners, chemical preservatives, or starches. Ingredients deemed suitable for use by this paragraph are added in amounts that are not in excess of those reasonably required to achieve their intended purposes. Ingredients are deemed to be safe if they are not food additives within the meaning of section 201(s) of the Federal Food, Drug, and Cosmetic Act, or in case they are food additives, if they are used in conformity with regulations established pursuant to section 409 of the act.

(d) (1) The name of any food covered by this section is "Enriched Wheat _____ Macaroni Product—with Fortified Protein", the blank being filled in with appropriate word(s) such as "Soy" to show the source of any flours or meals used that were made from nonwheat cereals or from oilseeds. In lieu of the words "Macaroni Product" the word "Macaroni", "Spaghetti", or "Vermicelli", as appropriate, may be used if the units conform in shape and size to the requirements of § 139.110 (b), (c), or (d).

(2) When any ingredient, not designated in the part of the name prescribed in paragraph (d) (1) of this section, is added in such proportion as to contribute 10 percent or more of the quantity of protein contained in the finished food, the name shall include the statement "Made with _____", the blank being filled in with the name of each such ingredient, e.g., "Made with nonfat milk".

(3) When, in conformity with paragraph (d) (1) or (2) of this section, two or more ingredients are listed in the name, their designations shall be arranged in descending order of predominance by weight.

(4) In the case of a food made to comply with another section of this part, but which also meets the compositional requirements of this section, it may alternatively bear the name set out in that other section.

(e) The common name of each of the ingredients used shall be declared on the label as required by the applicable section of Part 101 of this chapter. Further, the declaration of ingredients as set forth in this paragraph, shall appear in letters not less than one-half the size of that required by § 101.105 of this chapter for the declaration of net quantity of contents, and in no case less than one-sixteenth of an inch in height.

§ 139.120 Milk macaroni products.

(a) Milk macaroni products are the class of food each of which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for macaroni products by § 139.110 (a) and (f) (2) and (3), except that:

(1) Milk is used as the sole moistening ingredient in preparing the dough; or in lieu of milk one or more of the milk ingredients specified in paragraph (f) of this section is used, with or without water, in such quantity that the weight of milk solids therein is not less than 3.8 percent of the weight of the finished milk macaroni product; and

(2) None of the optional ingredients permitted by § 139.110(a) (1) and (2) is used. When the optional ingredient gum gluten (§ 139.110(a)(5)) is added, the quantity is such that the protein derived therefrom, together with the protein derived from semolina, durum flour, farina, flour, or any combination of these used, does not exceed 13 percent of the weight of the finished food.

(b) Milk macaroni is the milk macaroni product the units of which conform to the specifications of shape and size prescribed for macaroni by § 139.110 (b).

(c) Milk spaghetti is the milk macaroni product the units of which conform to the specifications of shape and size prescribed for spaghetti by § 139.110 (c).

(d) Milk vermicelli is the milk macaroni product the units of which conform to the specifications of shape and size prescribed for vermicelli by § 139.110 (d).

(e) The name of each food for which a definition and standard of identity is prescribed by this section is "Milk Macaroni Product"; or alternatively, the name is "Milk macaroni", "Milk spaghetti", or "Milk vermicelli", as the case may be, when the units of the food comply with the requirements of paragraph (b), (c), or (d), respectively, of this section.

(f) The milk ingredients referred to in paragraph (a) (1) of this section are concentrated milk, evaporated milk, dried milk, and a mixture of butter with skim milk, concentrated skim milk, evaporated skim milk, nonfat dry milk (dried skim milk), or any two or more of these, in such proportion that the weight of nonfat milk solids in such mixture is not more than 2.275 times the weight of milk fat therein.

§ 139.121 Nonfat milk macaroni products.

(a) Each of the macaroni products made with nonfat milk for which a definition and standard of identity is prescribed by this section conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for macaroni products by § 139.110 (a) and (f) (2), (3), and (4), except that:

(1) (i) In preparing the dough, nonfat dry milk or concentrated skim milk, or a mixture of these, is used in an amount such that the finished macaroni product made with nonfat milk contains by weight not less than 12 percent and not more than 25 percent of milk solids-not-fat. Carrageenan or salts of carrageenan conforming to the requirements of § 172.620 and § 172.626 of this chapter may be used in a quantity not in excess of 0.833 percent by weight of the milk solids-not-fat used.

(ii) When the ingredient carrageenan or the salts of carrageenan specified in paragraph (a) (1) (i) of this section is used, the label shall bear the statement, "Carrageenan added" or "Salts of carrageenan added" or the statement "With added salts of carrageenan", in the manner further prescribed by § 139.110(f)(4).

(2) None of the optional ingredients permitted by § 139.110(a) (1), (2), and (5) are used.

(b) The name of each food for which a definition and standard of identity is prescribed by this section is "Macaroni products made with nonfat milk" or, alternatively, the name is "Macaroni made with nonfat milk", "Spaghetti made with nonfat milk", or "Vermicelli made with nonfat milk", as the case may be when the units of the food conform to the specifications of shape and size prescribed by § 139.110 (b), (c), or (d), respectively.

§ 139.122 Enriched nonfat milk macaroni products.

(a) Each of the enriched macaroni products made with nonfat milk for which a definition and standard of identity is prescribed by this section conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for macaroni products by § 139.110 (a) and (f) (2), (3), and (4), except that:

(1) (i) In preparing the dough, nonfat dry milk or concentrated skim milk, or a mixture of these, is used in an amount such that the finished enriched macaroni product made with nonfat milk contains by weight not less than 12 percent and not more than 25 percent of milk solids-not-fat. Carrageenan or the salts of carrageenan conforming to the requirements of § 172.620 and § 172.626 of this chapter may be used in a quantity not in excess of 0.833 percent by weight of the milk solids-not-fat used.

(ii) When the ingredient carrageenan or the salts of carrageenan specified in paragraph (a) (1) (i) of this section is used, the label shall bear the statement, "Carrageenan added" or "Salts of carrageenan added" or the statement "With added salts of carrageenan", in the manner further prescribed by § 139.110(f)(4).

(2) None of the optional ingredients permitted by § 139.110(a) (1), (2), and (5) are used.

(3) Each such food contains in each pound not less than 4 milligrams and not more than 5 milligrams of thiamine, not less than 1.7 milligrams and not more than 2.2 milligrams of riboflavin, not less than 27 milligrams and not more than 34 milligrams of niacin or niacinamide, and not less than 13 milligrams and not more than 16.5 milligrams of iron (Fe). These substances may be added through direct addition or wholly or in part through the use of dried yeast, dried torula yeast, partly defatted wheat germ (as provided for in paragraph (a) (4) of this section), enriched farina, or enriched flour. They may be added in a harmless carrier, such carrier being used only in the quantity reasonably necessary to effect an intimate and uniform distribution of such substances in the finished food. Iron may be added only in a form that is harmless and assimilable.

(4) Each such food may also contain as an optional ingredient partly defatted wheat germ, but the amount thereof does not exceed 5 percent by weight of the finished food.

(b) The name of each food for which a definition and standard of identity is prescribed by this section is "Enriched macaroni product made with nonfat milk" or, alternatively, the name is "Enriched macaroni made with nonfat milk", "Enriched spaghetti made with nonfat milk", or "Enriched vermicelli made with nonfat milk," as the case may be when the units of the food conform to the specifications of shape and size prescribed by § 139.110 (b), (c), or (d), respectively.

§ 139.125 Vegetable macaroni products.

(a) Vegetable macaroni products are the class of food each of which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for macaroni products by § 139.110 (a) and (f) (2) and (3), except that:

(1) Tomato (of any red variety), artichoke, beet, carrot, parsley, or spinach is added in such quantity that the solids thereof is not less than 3 percent by weight of the finished vegetable macaroni product (the vegetable used may be fresh, canned, dried, or in the form of puree or paste); and

(2) None of the optional ingredients permitted by § 139.110(a) (1) and (2) is used. When the optional ingredient gum gluten (§ 139.110(a)(5)) is added, the quantity is such that the protein derived therefrom, together with the protein de-

rived from the semolina, durum flour, farina, flour or any combination of these ingredients, prescribed for macaroni products by § 139.110 (a) and (f) (2)

prescribed by this section is "Wheat and

(d) Egg spaghetti is the noodle product the units of which are tube-shaped

not exceed 5 percent of the weight of the finished food;

(c) Vegetable egg macaroni is the vegetable noodle product the units of which

rived from the semolina, durum flour, farina, flour or any combination of these used, does not exceed 13 percent of the weight of the finished food.

(b) Vegetable macaroni is the vegetable macaroni product the units of which conform to the specifications of shape and size prescribed for macaroni by § 139.110(b).

(c) Vegetable spaghetti is the vegetable macaroni product the units of which conform to the specifications of shape and size prescribed for spaghetti by § 139.110(c).

(d) Vegetable vermicelli is the vegetable macaroni product, the units of which conform to the specifications of shape and size prescribed for vermicelli by § 139.110(d).

(e) The name of each food for which a definition and standard of identity is prescribed by this section is "_____ macaroni product", the blank being filled in with the name whereby the vegetable used is designated in paragraph (a) of this section; or alternatively, the name is "_____ macaroni", "_____ spaghetti", or "_____ vermicelli", as the case may be, when the units of the food comply with the requirements of paragraph (b), (c), or (d), respectively, the blank in each instance being filled in with the name whereby the vegetable used is designated in paragraph (a) of this section.

§ 139.135 Enriched vegetable macaroni products.

(a) Each of the macaroni products for which a definition and standard of identity is prescribed by this section conforms to the definition and standard of identity and is subject to the requirements for label statement of optional ingredients prescribed for macaroni products by § 139.110 (a) and (f), and in addition is enriched to meet the requirements prescribed for enriched macaroni products by § 139.115 and contains a vegetable ingredient in compliance with the requirements prescribed for vegetable macaroni products by § 139.125.

(b) The name of each food for which a definition and standard of identity is prescribed by this section is "Enriched _____ macaroni product", or, alternatively, the name is "Enriched _____ macaroni", "Enriched _____ spaghetti", or "Enriched _____ vermicelli", when the units comply with the shape and size requirements prescribed for macaroni, spaghetti, or vermicelli in § 139.110 (b), (c), or (d). The blank in each instance is filled in with the name of the vegetable used, as specified in § 139.125(a). For example, the name of an enriched macaroni product containing the prescribed amount of spinach and made in units not conforming in shape and size to the requirements for macaroni, spaghetti, or vermicelli is "Enriched spinach macaroni product".

§ 139.138 Whole wheat macaroni products.

(a) Whole wheat macaroni products are the class of food each of which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for macaroni products by § 139.110 (a) and (f) (2) and (3), except that:

(1) Whole wheat flour or whole durum wheat flour or both are used as the sole wheat ingredient; and

(2) None of the optional ingredients permitted by § 139.110 (a) (1), (2), and (5) is used.

(b) Whole wheat macaroni is the whole wheat macaroni product the units of which conform to the specifications of shape and size prescribed for macaroni by § 139.110(b).

(c) Whole wheat spaghetti is the whole wheat macaroni product the units of which conform to the specifications of shape and size prescribed for spaghetti by § 139.110(c).

(d) Whole wheat vermicelli is the whole wheat macaroni product the units of which conform to the specifications of shape and size prescribed for vermicelli by § 139.110(d).

(e) The name of each food for which a definition and standard of identity is prescribed by this section is "Whole wheat macaroni product"; or alternatively, the name is "Whole wheat macaroni", "Whole wheat spaghetti", or "Whole wheat vermicelli", as the case may be, when the units of the food comply with the requirements of paragraph (b), (c), or (d), respectively, of this section.

§ 139.140 Wheat and soy macaroni products.

(a) Wheat and soy macaroni products are the class of food each of which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for macaroni products by § 139.110 (a) and (f) (2) and (3), except that:

(1) Soy flour is added in a quantity not less than 12.5 percent of the combined weight of the wheat and soy ingredients used (the soy flour used is made from heat-processed, dehulled soybeans, with or without the removal of fat therefrom); and

(2) None of the optional ingredients permitted by § 139.110(a) (1) and (2) is used. When the optional ingredient gum gluten (§ 139.110(a)(5)) is added, the quantity is such that the protein derived therefrom, together with the protein derived from semolina, durum flour, farina, flour or any combination of these used, does not exceed 13 percent of the weight of the finished food.

(b) Wheat and soy macaroni is the wheat and soy macaroni product the units of which conform to the specifications of shape and size prescribed for macaroni by § 139.110(b).

(c) Wheat and soy spaghetti is the wheat and soy macaroni product the units of which conform to the specifications of shape and size prescribed for spaghetti by § 139.110(c).

(d) Wheat and soy vermicelli is the wheat and soy macaroni product the units of which conform to the specifications of shape and size prescribed for vermicelli by § 139.110(d).

(e) The name of each food for which a definition and standard of identity is prescribed by this section is "Wheat and soy macaroni product", "Wheat and soybean macaroni product", "_____ and soy macaroni product", or "_____ and soybean macaroni product", the blank in each instance being filled in with the name whereby the wheat ingredient used is designated in § 139.110 (a); or alternatively, the name is "Wheat and soy macaroni", "Wheat and soybean macaroni", "_____ and soy macaroni", or "_____ and soybean macaroni" when the units of the food comply with the requirements of paragraph (b) of this section; or "Wheat and soy spaghetti", "Wheat and soybean spaghetti", "_____ and soy spaghetti", or "_____ and soybean spaghetti" when such units comply with the requirements of paragraph (c) of this section; or "Wheat and soy vermicelli", "Wheat and soybean vermicelli", "_____ and soy vermicelli", or "_____ and soybean vermicelli" when such units comply with the requirements of paragraph (d) of this section, the blank in each instance being filled in with the name whereby the wheat ingredient used is designated in § 139.110(a).

§ 139.150 Noodle products.

(a) Noodle products are the class of food each of which is prepared by drying formed units of dough made from semolina, durum flour, farina, flour, or any combination of two or more of these, with liquid eggs, frozen eggs, dried eggs, egg yolks, frozen yolks, dried yolks, or any combination of two or more of these, with or without water and with or without one or more of the optional ingredients specified in paragraph (a) (1) to (4) of this section inclusive:

(1) Onions, celery, garlic, bay leaf, or any two or more of these, in a quantity which seasons the food.

(2) Salt, in a quantity which seasons the food.

(3) Gum gluten, in such quantity that the protein derived therefrom, together with the protein derived from semolina, durum flour, farina, flour or any combination of these used, does not exceed 13 percent of the weight of the finished food.

(4) Concentrated glyceryl monostearate (containing not less than 90 percent monoester) in a quantity not exceeding 2 percent by weight of the finished food. The finished noodle product contains not less than 87 percent of total solids as determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fifth Edition, 1940, page 235 [Ed. note, 10th edition, 1965, p. 209, sec. 13.115], under "Vacuum Oven Method—Official." The total solids of noodle products contains not less than 5.5 percent by weight of the solids of egg, or egg yolk.

(b) Noodles, egg noodles, is the noodle product the units of which are ribbon-shaped.

(c) Egg macaroni is the noodle product the units of which are tube-shaped and more than 0.11 inch but not more than 0.27 inch in diameter.

(d) Egg spaghetti is the noodle product the units of which are tube-shaped or cord-shaped (not tubular) and more than 0.06 inch but not more than 0.11 inch in diameter.

(e) Egg vermicelli is the noodle product the units of which are cord-shaped (not tubular) and not more than 0.06 inch in diameter.

(f) The name of each food for which a definition and standard of identity is prescribed by this section is "Noodle product" or "Egg noodle product"; or alternatively, the name is "Noodles" or "Egg noodles", "Egg macaroni", "Egg spaghetti", or "Egg vermicelli", as the case may be, when the units of the food are of the shapes and sizes specified in paragraph (b), (c), (d), or (e), respectively, of this section.

(g)(1) When any ingredient specified in paragraph (a)(1) of this section is used, the label of the noodle product shall bear the statement "Seasoned with _____", the blank being filled in with the common name of the ingredient; or in the case of bay leaves, the statement "Spiced", "Spice added", or "Spiced with bay leaves".

(2) When the ingredient specified in paragraph (a)(4) of this section is used, the label shall bear the statement "Glyceryl monostearate added" or the statement "With added glyceryl monostearate".

(h) Wherever the name of the food appears on such label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed in this section, showing the ingredients used shall immediately and conspicuously precede or follow, or in part precede and in part follow, such name without intervening written, printed, or other graphic matter.

§ 139.155 Enriched noodle products.

(a) Enriched noodle products are the class of food each of which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for noodle products by § 139.150 (a) and (g), except that:

(1) Each such food contains in each pound not less than 4 mg. and not more than 5 mg. of thiamine, not less than 1.7 mg. and not more than 2.2 mg. of riboflavin, not less than 27 mg. and not more than 34 mg. of niacin or niacinamide, and not less than 13 mg. and not more than 16.5 mg. of iron (Fe);

(2) Each such food may also contain as an optional ingredient added vitamin D in such quantity that each pound of the finished food contains not less than 250 U.S.P. units and not more than 1000 U.S.P. units of vitamin D;

(3) Each such food may also contain as an optional ingredient added calcium in such quantity that each pound of the finished food contains not less than 500 mg. and not more than 625 mg. of calcium (Ca);

(4) Each such food may also contain as an optional ingredient partly defatted wheat germ, but the amount thereof does not exceed 5 percent of the weight of the finished food;

(5) Each such food may be supplied, wholly or in part, with the prescribed quantity of any substance referred to in paragraphs (a) (1), (2), and (3) of this section through the use of dried yeast, dried torula yeast, partly defatted wheat germ, enriched farina, or enriched flour, or through the direct additions of any of the substances prescribed in paragraphs (a) (1), (2), and (3) of this section.

Iron and calcium may be added only in forms which are harmless and assimilable. The substances referred to in paragraph (a) (1) and (2) of this section may be added in a harmless carrier which does not impair the enriched noodle product, such carrier being used only in the quantity reasonably necessary to effect an intimate and uniform distribution of such substances in the finished enriched noodle product.

(b) Enriched noodles, enriched egg noodles are the enriched noodle products the units of which conform to the specifications of shape and size prescribed for noodles in § 139.150(b).

(c) Enriched egg macaroni is the enriched noodle product the units of which conform to the specifications of shape and size prescribed for egg macaroni in § 139.150 (c).

(d) Enriched egg spaghetti is the enriched noodle product the units of which conform to the specifications of shape and size prescribed for egg spaghetti in § 139.150 (d).

(e) Enriched egg vermicelli is the enriched noodle product the units of which conform to the specifications of shape and size prescribed for egg vermicelli in § 139.150(e).

(f) The name of each food for which a definition and standard of identity is prescribed by this section is "Enriched noodle product" or "Enriched egg noodle product"; or alternatively, the name is "Enriched noodles", or "Enriched egg noodles", "Enriched egg macaroni", "Enriched egg spaghetti", or "Enriched egg vermicelli", as the case may be, when the units of the food comply with the requirements of paragraphs (b), (c), (d), or (e) respectively of this section.

§ 139.160 Vegetable noodle products.

(a) Vegetable noodle products are the class of food each of which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for noodle products by § 139.150 (a) and (g), except that tomato (of any red variety), artichoke, beet, carrot, parsley, or spinach is added in such quantity that the solids thereof is not less than 3 percent by weight of the finished vegetable noodle product (the vegetable used may be fresh, canned, dried, or in the form of puree or paste).

(b) Vegetable noodles, vegetable egg noodles, is the vegetable noodle product the units of which are ribbon-shaped.

(c) Vegetable egg macaroni is the vegetable noodle product the units of which conform to the specifications of shape and size prescribed for egg macaroni by § 139.150 (c).

(d) Vegetable egg spaghetti is the vegetable noodle product the units of which conform to the specifications of shape and size prescribed for egg spaghetti by § 139.150 (d).

(e) Vegetable egg vermicelli is the vegetable noodle product the units of which conform to the specifications of shape and size prescribed for egg vermicelli by § 139.150 (e).

(f) The name of each food for which a definition and standard of identity is prescribed by this section is "_____ noodle product" or "_____ egg noodle product", the blank being filled in with the name whereby the vegetable used is designated in paragraph (a) of this section; or alternatively, the name is "_____ noodles" or "_____ egg noodles", "_____ egg macaroni", "_____ egg spaghetti", or "_____ egg vermicelli", as the case may be, when the units of the food comply with the requirements of paragraph (b), (c), (d), or (e) of this section, respectively, the blank in each instance being filled in with the name whereby the vegetable is designated in paragraph (a) of this section.

§ 139.165 Enriched vegetable noodle products.

(a) Each of the noodle products for which a definition and standard of identity is prescribed by this section conforms to the definition and standard of identity and is subject to the requirements for label declaration of optional ingredients prescribed for noodle products by § 139.150 (a), (g), and (h), and in addition is enriched to meet the requirements prescribed for enriched noodle products by § 139.155 and, except as hereinafter provided, contains a vegetable ingredient in compliance with the requirements prescribed for vegetable noodle products by § 139.160. Carrots, because they are apt to impart an egg-yolk color, are not used in enriched vegetable noodle products.

(b) The name of each food for which a definition and standard of identity is prescribed by this section is "Enriched _____ noodle product", "Enriched _____ egg noodle product", or, alternatively, the name is "Enriched _____ noodles", or "Enriched _____ egg noodles", "Enriched _____ egg macaroni", "Enriched _____ egg spaghetti", or "Enriched _____ egg vermicelli", when the units comply with the size and shape requirements for noodles, macaroni, spaghetti, or vermicelli in § 139.150 (b), (c), (d), or (e). The blank in each instance is filled in with the name of the vegetable used, as specified in § 139.160(a).

§ 139.180 Wheat and soy noodle products.

(a) Wheat and soy noodle products are the class of food each of which conforms to the definition and standard of identity, and is subject to the require-

ments for label statement of optional ingredients, prescribed for noodle prod-

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tions established pursuant to section 409 of the act.

which, complies with the specifications for the No. 8 sieve set forth in the "Defi-

ple units permitted in a lot that will be accepted approximately 95 percent of the

correction for water-insoluble solids, invert sugar, or other substances.

ments for label statement of optional ingredients, prescribed for noodle products by § 139.150 (a) and (g), except that soy flour is added in a quantity not less than 12.5 percent of the combined weight of the wheat and soy ingredients used (the soy flour used is made from heat-processed, dehulled soybeans, with or without the removal of fat therefrom).

(b) Wheat and soy noodles, wheat and soy egg noodles, is the wheat and soy noodle product the units of which are ribbon-shaped.

(c) Wheat and soy egg macaroni is the wheat and soy noodle product the units of which conform to the specifications of shape and size prescribed for egg macaroni by § 139.150 (c).

(d) Wheat and soy egg spaghetti is the wheat and soy noodle product the units of which conform to the specifications of shape and size prescribed for egg spaghetti by § 139.150 (d).

(e) Wheat and soy egg vermicelli is the wheat and soy noodle product the units of which conform to the specifications of shape and size prescribed for egg vermicelli by § 139.150 (e).

(f) The name of each food for which a definition and standard of identity is prescribed by this section is "Wheat and soy noodle product", "Wheat and soy egg noodle product", "Wheat and soybean noodle product", "Wheat and soybean egg noodle product", "------ and soy noodle product", "------ and soy egg noodle product", "------ and soybean noodle product", or "------ and soybean egg noodle product", the blank in each instance being filled in with the name whereby the wheat ingredient used is designated in § 139.150(a); or alternatively, the name is "Wheat and soy noodles", "Wheat and soy egg noodles", "Wheat and soybean noodles", "Wheat and soybean egg noodles", "------ and soy noodles", "------ and soy egg noodles", "------ and soybean noodles", or "------ and soybean egg noodles" when the units of the food comply with the requirements of paragraph (b) of this section; or "Wheat and soy egg macaroni", "Wheat and soybean egg macaroni", "------ and soy egg macaroni", or "------ and soybean egg macaroni" when such units comply with the requirements of paragraph (c) of this section; or "Wheat and soy egg spaghetti", "Wheat and soybean egg spaghetti", "------ and soy egg spaghetti", or "------ and soybean egg spaghetti" when such units comply with the requirements of paragraph (d) of this section; or "Wheat and soy egg vermicelli", "Wheat and soybean egg vermicelli", "------ and soy egg vermicelli", or "------ and soybean egg vermicelli", when such units comply with the requirements of paragraph (e) of this section, the blank in each instance being filled in with the name whereby the wheat ingredient used is designated in § 139.150(a).

PART 145—CANNED FRUITS

Subpart A—General Provisions

Sec.
145.3 Definitions.

Subpart B—Requirements for Specific Standardized Canned Fruits

Sec.
145.110 Canned applesauce.
145.115 Canned apricots.
145.116 Artificially sweetened canned apricots.
145.118 Canned apricots with rum.
145.120 Canned berries.
145.125 Canned cherries.
145.126 Artificially sweetened canned cherries.
145.128 Canned cherries with rum.
145.130 Canned figs.
145.131 Artificially sweetened canned figs.
145.134 Canned preserved figs.
145.135 Canned fruit cocktail.
145.136 Artificially sweetened canned fruit cocktail.
145.140 Canned seedless grapes.
145.145 Canned grapefruit.
145.170 Canned peaches.
145.171 Artificially sweetened canned peaches.
145.173 Canned peaches with rum.
145.175 Canned pears.
145.176 Artificially sweetened canned pears.
145.178 Canned pears with rum.
145.180 Canned pineapple.
145.181 Artificially sweetened canned pineapple.
145.185 Canned plums.
145.190 Canned prunes.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371) unless otherwise noted.

Subpart A—General Provisions

§ 145.3 Definitions.

For the purposes of this part:

(a) The term "corn sirup" means a clarified, concentrated aqueous solution of the products obtained by the incomplete hydrolysis of cornstarch, and includes dried corn sirup. The solids of corn sirup and of dried corn sirup contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose.

(b) The term "dextrose" means the hydrated or anhydrous, refined monosaccharide obtained from hydrolyzed starch.

(c) The term "dried glucose sirup" means the product obtained by drying "glucose sirup."

(d) The term "glucose sirup" means a clarified, concentrated, aqueous solution of the products obtained by the incomplete hydrolysis of any edible starch. The solids of glucose sirup contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose.

(e) The term "invert sugar sirup" means an aqueous solution of inverted or partly inverted, refined or partly refined sucrose, the solids of which contain not more than 0.3 percent by weight of ash, and which is colorless, odorless, and flavorless, except for sweetness.

(f) The term "sugar" means refined sucrose.

(g) The terms "edible organic acid" and "edible organic salt" refer to any edible organic acid and any edible organic salt added for the purpose of flavor enhancement that either is not a food additive as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act or, if it is a food additive as so defined, is used in conformity with regulations established pursuant to section 409 of the act.

(h) The term "water" means, in addition to water, any mixture of water and fruit juice in which the fruit juice(s) is less than 50 percent of such mixture, including any water contributed by the use of liquid nutritive carbohydrate sweeteners.

(i) The term "fruit juice(s) and water" means any mixture of fruit juice as herein defined and water, including any water contributed by the use of liquid nutritive carbohydrate sweeteners, in which the fruit juice(s) is 50 percent, or more, of such mixture except that water used in preparing equivalent single strength juice(s) from concentrate(s) shall not be considered to be a mixture of fruit juice and water.

(j) The term "fruit juice(s)" means single strength expressed juice(s) of sound, mature fruit(s). It may be fresh, frozen, canned, or made from concentrate(s). However, if it is made from concentrate(s), the juice(s) shall be reconstituted with water to not less than the soluble solids that such fruit juice had before concentration. Fruit juice(s) may be used singly or in combination. If a fruit juice(s) is used which is regulated by a standard of identity of this chapter, it shall conform to the compositional requirements prescribed by such standard prior to the addition of any sweetener which may be used.

(k) The term "clarified juice" means the liquid expressed wholly or in part from fruit peelings, fruit shells, fruit cores, or from the fruit flesh or parts thereof, which is clarified and may be further refined or concentrated.

(l) The term "solid pack" means the product contains practically all fruit with only the very little free flowing liquid that is expressed from the fruit and to which no packing media have been added.

(m) The procedure for determining the densities of the packing media means the following: The density of the packing medium, when measured 15 days or more after packing, or the density of the blended homogenized slurry of the comminuted entire contents of the container, when measured less than 15 days after canning, is determined according to "Official Method of Analysis of the Association of Official Analytical Chemists", 11th Ed., 1970, p. 526, section 31.011 (Solids) "By Means of the Refractometer—Official, Final Action" (and 47.012 and 47.015)[3] with result expressed as percent by weight of sucrose (degrees Brix) with correction for temperature to the equivalent at 20° C, but without correction for invert sugar or other substances.

(n) The procedure for determining drained weight is as follows: Tilt the opened container so as to distribute the contents evenly over the meshes of a circular sieve which has previously been weighed. The diameter of the sieve is 20.3 centimeters (8 inches) if the quantity of contents of the container is less than 1.4 kilograms (3 pounds) and 30.5 centimeters (12 inches) if such quantity is 1.4 kilograms (3 pounds) or more. The bottom of the sieve is woven-wire cloth

which complies with the specifications for the No. 8 sieve set forth in the "Definitions of Terms and Explanatory Notes," p. xviii, of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970.[3] Carefully invert by hand all fruits having cups or cavities if they fall on the sieve with cups or cavities up. Cups or cavities in soft products may be drained by tilting sieve. Without further shifting the material on the sieve, incline the sieve at an angle of 17° to 20° to facilitate drainage. Two minutes after the drainage begins, weigh the sieve and drained fruit. The weight so found, less the weight of the sieve, shall be considered to be the weight of the drained fruit.

(o) Compliance means the following: Unless otherwise provided in a standard, a lot of canned fruits shall be deemed in compliance for the following factors, to be determined by the sampling and acceptance procedure as provided in paragraph (p) of this section, namely:

(1) *Packing medium density.* A lot shall be deemed to be in compliance for packing medium density based on the average sucrose value for all samples analyzed according to the sampling plans, but no container may have a sucrose value lower than that of the next lower category or 2 percent by weight sucrose (degrees Brix) lower if no lower category exists.

(2) *Quality.* The quality of a lot shall be considered acceptable when the number of defectives does not exceed the acceptance number in the sampling plans.

(3) *Fill of container.* A lot shall be deemed to be in compliance for fill of container (packing medium and fruit ingredient) when the number of defectives does not exceed the acceptance number (c) in the sampling plans.

(4) *Drained weight.* A lot shall be deemed to be in compliance for drained weight based on the average value of all samples analyzed according to the sampling plans. The sample unit shall be the entire contents of the container.

(p) The sampling and acceptance procedure means the following:

(1) *Definitions*—(i) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(ii) *Lot size.* The number of primary containers or units in the lot.

(iii) *Sample size.* The total number of sample units drawn for examination from a lot.

(iv) *Sample unit.* A container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(v) *Defective.* Any sample unit shall be regarded as defective when the sample unit does not meet the criteria set forth in the standards.

(vi) *Acceptance number (c).* The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(vii) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

(2) *Sampling plans:*

Lot size (primary containers)	Size of container	
	Net weight equal to or less than 1 kg (2.2 lb)	
	n	c
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 42,000	29	4
42,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kg (10 lb)	
	n	c
2,400 or less	13	2
2,401 to 15,000	21	3
15,001 to 24,000	29	4
24,001 to 42,000	48	6
42,001 to 72,000	84	9
72,001 to 120,000	126	13
Over 120,000	200	19
	Net weight greater than 4.5 kg (10 lb)	
	n	c
600 or less	13	2
601 to 1,000	21	3
1,001 to 7,200	29	4
7,201 to 15,000	48	6
15,001 to 24,000	84	9
24,001 to 42,000	126	13
Over 42,000	200	19

n=number of primary containers in sample.
c=acceptance number.

Subpart B—Requirements for Specific Standardized Canned Fruits

§ 145.110 Canned applesauce.

(a) *Identity*—(1) *Definition.* Canned applesauce is the food prepared from comminuted or chopped apples (*Malus domestica* Borkhausen), which may or may not be peeled and cored, and which may have added thereto one or more of the optional ingredients specified in paragraph (a) (2) of this section. The apple ingredient is heated and, in accordance with good manufacturing practices, bruised apple particles, peel, seed, core material, carpel tissue, and other coarse, hard, or extraneous materials are removed. The food is sealed in containers. It is so processd by heat, either before or after sealing, as to prevent spoilage. The soluble solids content, measured by refractometer and expressed as percent sucrose (degrees Brix) with correction for temperature to the equivalent at 20° C (68° F), is not less than 9 percent (exclusive of the solids of any added optional nutritive carbohydrate sweeteners) as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Edition, 1970, page 371, § 22.019, "Soluble Solids (By Refractometer) in Fresh and Canned Fruits, Jams, Marmalades, and Preserves—Official First Action"[3] without correction for water-insoluble solids, invert sugar, or other substances.

(2) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(i) Water.

(ii) Apple juice.

(iii) Salt.

(iv) Any organic acid added for the purpose of acidification. (Organic acids generally recognized as having a preservative effect are not permitted in applesauce except as provided for in paragraph (a) (2) (viii) of this section.)

(v) Nutritive carbohydrate sweeteners.

(vi) Spices.

(vii) Natural and artificial flavoring.

(viii) Either of the following:

(*a*) Erythorbic acid or ascorbic acid as an antioxidant preservative in an amount not to exceed 150 parts per million; or

(*b*) Ascorbic acid (vitamin C) in a quantity such that the total vitamin C in each 113 g (4 ounces) by weight of the finished food amounts to 60 mg. This requirement will be deemed to have been met if a reasonable overage of the vitamin, within limits of good manufacturing practice, is present to insure that the required level is maintained throughout the expected shelf life of the food under customary conditions of distribution.

(ix) Color additives in such quantity as to distinctly characterize the food unless such addition conceals damage or inferiority or makes the finished food appear better or of greater value than it is.

(3) *Nomenclature.* The name of the food is "applesauce". The name of the food shall include a declaration indicating the presence of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice that characterizes the product. If a nutritive sweetener as provided for in paragraph (a) (2) (v) of this section is added and the soluble solids content of the finished food is not less than 16.5 percent as determined by the method referred to in paragraph (a) (1) of this section, the name may include the word "sweetened". If no such sweetener is added, the name may include the word "unsweetened."

(4) *Label declaration.* Each of the optional ingredients shall be declared on the label as required by the applicable sections of Part 101 of this chapter. However, when ascorbic acid (vitamin C) is added as provided for in paragraph (a) (2) (viii) (*b*) of this section, after the application of heat to the apples, preservative labeling requirements do not apply.

(b) [Reserved]

(c) *Fill of container*—(1) The standard of fill of container for canned applesauce is a fill of not less than 90 percent of the total capacity of the container, as determined by the general method for fill of containers prescribed in § 130.12 (b) of this chapter; except that in the case of glass containers having a total capacity of 192 ml (6½ fluid ounces) or less, the fill is not less than 85 percent.

(2) Sampling and acceptance procedure: A lot will be deemed to fall below

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the standard of fill when the number of "defectives" exceeds the acceptance

(3) If canned applesauce falls below the standard of fill of container pre-

termined by the procedure prescribed in § 145.3(m) shall be designated by the ap-

sugar and honey, an appropriate statement would be "------ sirup of

section: So trim a test piece from the unit as to fit, with peel surface up,

heat to prevent spoilage, without crushing or breaking such ingredient.

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the standard of fill when the number of "defectives" exceeds the acceptance number "c" in the sampling plans prescribed in paragraph (c)(2)(ii) of this section.

(ii) Definitions of terms to be used in the sampling plans in paragraph (c)(2)(ii) of this section are as follows:

(*a*) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(*b*) *Lot size.* The number of primary containers or units in the lot.

(*c*) *Sample size "n."* The total number of sample units drawn for examination from a lot as indicated in paragraph (c)(2)(ii) of this section.

(*d*) *Sample unit.* A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for examination or testing as a single unit.

(*e*) *Defective.* A container that falls below the requirement for minimum fill prescribed in paragraph (c)(1) of this section is considered a "defective."

(*f*) *Acceptable number "c."* The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(*g*) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

(ii) Sampling and acceptance:

Acceptable quality level (AQL) 6.5

Lot size (primary containers)	Size of container	
	Net weight equal to or less than 1 kg (2.2 lb)	
	n	c
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kg (10 lb)	
	n	c
2,400 or less	13	2
2,401 to 15,000	21	3
15,001 to 24,000	29	4
24,001 to 42,000	48	6
42,001 to 72,000	84	9
72,001 to 120,000	126	13
Over 120,000	200	19
	Net weight greater than 4.5 kg (10 lb)	
	n	c
600 or less	13	2
601 to 2,000	21	3
2,001 to 7,200	29	4
7,201 to 15,000	48	6
15,001 to 24,000	84	9
24,001 to 42,000	126	13
Over 42,000	200	19

n=number of primary containers in sample.
c=acceptance number.

(3) If canned applesauce falls below the standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 145.115 Canned apricots.

(a) *Identity*—(1) *Ingredients.* Canned apricots is the food prepared from mature apricots of one of the optional styles specified in paragraph (a)(2) of this section, which may be packed as solid pack or in one of the optional packing media specified in paragraph (a)(3) of this section. Such food may also contain one, or any combination of two or more of the following safe and suitable optional ingredients:

(i) Natural and artificial flavors.

(ii) Spice.

(iii) Vinegar, lemon juice, or organic acids.

(iv) Apricot pits, except in the cases of unpeeled whole apricots and peeled whole apricots, in a quantity not more than 1 apricot pit to each 227 grams (8 ounces) of finished canned apricots.

(v) Apricot kernels, except in the cases of unpeeled whole apricots and peeled whole apricots, and except when optional ingredient under paragraph (a)(4) of this section is used.

(vi) Ascorbic acid in an amount no greater than necessary to preserve color.

Such food is sealed in a container and before or after sealing is so processed by heat as to prevent spoilage.

(2) *Optional styles of the apricot ingredient.* The optional styles of the apricot ingredient referred to in paragraph (a) of this section are peeled or unpeeled:

(i) Whole.

(ii) Halves.

(iii) Quarters.

(iv) Slices.

(v) Pieces or irregular pieces.

Each such ingredient, except in the cases of unpeeled whole apricots and peeled whole apricots, is pitted.

(3) *Packing media.* (i) The optional packing media referred to in paragraph (a)(1) of this section, as defined in § 145.3 are:

(*a*) Water.

(*b*) Fruit juice(s) and water.

(*c*) Fruit juice(s).

Such packing media may be used as such or any one or any combination of two or more safe and suitable nutritive carbohydrate sweetener(s) may be added. Sweeteners defined in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.3.

(ii) When a sweetener is added as a part of any such liquid packing medium, the density range of the resulting packing medium expressed as percent by weight of sucrose (degrees Brix) as determined by the procedure prescribed in § 145.3(m) shall be designated by the appropriate name for the respective density ranges, namely:

(*a*) When the density of the solution is 10 percent or more but less than 16 percent, the medium shall be designated as "slightly sweetened water"; or "extra light sirup"; "slightly sweetened fruit juice(s) and water"; or "slightly sweetened fruit juice(s)", as the case may be.

(*b*) When the density of the solution is 16 percent or more but less than 21 percent, the medium shall be designated as "light sirup"; "lightly sweetened fruit juice(s) and water"; or "lightly sweetened fruit juice(s)", as the case may be.

(*c*) When the density of the solution is 21 percent or more but less than 25 percent, the medium shall be designated as "heavy sirup"; "heavily sweetened fruit juice(s) and water"; or "heavily sweetened fruit juice(s)", as the case may be.

(*d*) When the density of the solution is 25 percent or more but not more than 40 percent, the medium shall be designated as "extra heavy sirup"; "extra heavily sweetened fruit juice(s) and water"; or "extra heavily sweetened fruit juice(s)", as the case may be.

(4) *Labeling requirements.* (i) The name of the food is "apricots". The name of the food shall also include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice or seasoning that characterizes the product; for example, "Spice Added", or in lieu of the word "Spice", the common name of the spice, "Seasoned with Vinegar" or "Seasoned with Apricot Kernels". When two or more of the optional ingredients specified in paragraph (a)(1)(ii) through (iv), inclusive, of this section are used, such words may be combined as for example, "Seasoned with Cider Vinegar, Cloves, Cinnamon Oil and Apricot Kernels".

(ii) The style of the apricot ingredient as provided in paragraph (a)(2) of this section and the name of the packing medium as used in paragraph (a)(3)(i) and (ii) of this section, preceded by "In" or "Packed in" or the words "solid pack", where applicable, shall be included as part of the name or in close proximity to the name of the food, except that pieces or irregular pieces shall be designated "Pieces", "Irregular pieces", or "Mixed pieces of irregular sizes and shapes". The style of the apricot ingredient shall be preceded or followed by "Unpeeled" or "Peeled", as the case may be. "Halves" may be alternatively designated "Halved", "Quarters" as "Quartered" and "Slices" as "Sliced". When the packing medium is prepared with a sweetener(s) which imparts a taste, flavor or other characteristic to the finished food in addition to sweetness, the name of the packing medium shall be accompanied by the name of such sweetener(s), as for example in the case of a mixture of brown sugar and honey, an appropriate statement would be "---------- sirup of brown sugar and honey" the blank to be filled in with the word "light", "heavy", or "extra heavy" as the case may be. When the liquid portion of the packing media provided for in paragraph (a)(3)(i) and (ii) of this section consists of fruit juice(s), such juice(s) shall be designated in the name of the packing medium as:

(*a*) In the case of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit".

(*b*) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (a)(4)(iii) of this section, and

(*c*) In the case of a single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (a)(4)(iii) of this section.

(iii) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided in paragraph (a)(4)(ii)(*b*) of this section, such names and the words "from concentrate," as specified in paragraph (a)(4)(ii)(*c*) of this section, shall appear in an ingredient statement pursuant to the requirements of § 101.3(d) of this chapter.

(iv) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality*—(1) The standard of quality for canned apricots is as follows:

(i) All units tested in accordance with the method prescribed in paragraph (b)(2) of this section are pierced by a weight of not more than 300 grams.

(ii) In the cases of whole apricots, halves, and quarters, the weight of the largest unit in the container is not more than twice the weight of the smallest unit therein.

(iii) Not more than 20 percent of the units in the container are blemished with scab, hail injury, discoloration, or other abnormalities.

(iv) In the cases of whole apricots, halves, and quarters, all units are untrimmed, or are so trimmed as to preserve normal shape.

(v) Except in the case of mixed pieces of irregular sizes and shapes, not more than 5 percent of the units in a container of 20 or more units, and not more than 1 unit in a container of less than 20 units, are crushed or broken. (A unit which has lost its normal shape because of ripeness and which bears no mark of crushing shall not be considered to be crushed or broken.)

(2) Canned apricots shall be tested by the following method to determine whether or not they meet the requirements of paragraph (b)(1)(i) of this section: So trim a test piece from the unit as to fit, with peel surface up, into a supporting receptacle. If the unit is of different firmness in different parts of its peel surface, trim the piece from the firmest part. If the piece is unpeeled, remove the peel. The top of the receptacle is circular in shape, of 1⅛ inches inside diameter, with vertical sides; or rectangular in shape, ¾ inch by 1 inch inside measurements, with ends vertical and sides sloping downward and joining at the center at a vertical depth of ¾ inch. Use the circular receptacle for testing units of such size that a test piece can be trimmed therefrom to fit it. Use the rectangular receptacle for testing other units. Test no unit from which a test piece with rectangular peel surface at least ⅛ inch by 1 inch cannot be trimmed. Test the piece by means of a round metal rod 3/16 inch in diameter. To the upper end of the rod is affixed a device to which weight can be added. The rod is held vertically by a support through which it can freely move upward or downward. The lower end of the rod is a plane surface to which the vertical axis of the rod is perpendicular. Adjust the combined weight of the rod and device to 100 grams. Set the receptacle so that the surface of the test piece is held horizontally. Lower the end of the rod to the approximate center of such surface, and add weight to the device at a uniform, continuous rate of 12 grams per second until the rod pierces the test piece. Weigh the rod and weighted device. Test all units in containers of 50 units or less, except those units too small for testing or too soft for trimming. Test at least 50 units, taken at random, in containers of more than 50 units; but if less than 50 units are of sufficient size and firmness for testing, test those which are of sufficient size and firmness.

(3) If the quality of canned apricots falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; but in lieu of such general statement of substandard quality, the label may bear the alternative statement "Below standard in quality ----------", the blank to be filled in with the words specified after the corresponding number of each subparagraph of paragraph (b)(1) of this section which such canned apricots fail to meet, as follows: (i) "Not tender"; (ii) "Mixed sizes"; (iii) "Blemished"; (iv) "Unevenly trimmed"; (v) "Partly crushed or broken". Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "apricots" and any words and statements required or authorized to appear with such name by § 145.115(a)(2).

(c) *Fill of container*—(1) The standard of fill of container for canned apricots is the maximum quantity of the optional apricot ingredient that can be sealed in the container and processed by heat to prevent spoilage, without crushing or breaking such ingredient.

(2) If canned apricots fall below the standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 145.116 Artificially sweetened canned apricots.

(a) Artificially sweetened canned apricots is the food which conforms to the definition and standard of identity prescribed for canned apricots by § 145.115(a), except that in lieu of a packing medium specified in § 145.115(a)(3), the packing medium used is water artificially sweetened with saccharin, sodium saccharin, or a combination of both. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

(b)(1) The specified name of the food is "artificially sweetened ----------", the blank being filled in with the name prescribed by § 145.115(a) for canned apricots having the same optional apricot ingredient.

(2) The artificially sweetened food is subject to the requirements for label statement of optional ingredients used, as prescribed for canned apricots by § 145.115(a). If the packing medium is thickened with pectin, the label shall bear the statement "thickened with pectin". When any organic salt or acid or any mixture of two or more of these is added, the label shall bear the common or usual name of each such ingredient.

§ 145.118 Canned apricots with rum.

Canned apricots with rum conforms to the definition and standard of identity and is subject to the requirements for label statement of optional ingredients, prescribed for canned apricots by § 145.115(a), except that it contains added rum in such amount that its alcohol content is more than 3 percent but less than 5 percent by weight.

§ 145.120 Canned berries.

(a) *Ingredients.* Canned berries is the food prepared from any suitable variety of one of the optional berry ingredients specified in paragraph (b) of this section, which may be packed in one of the optional packing media specified in paragraph (c) of this section. It may contain safe and suitable natural and artificial flavors. It is sealed in a container and before or after sealing is so processed by heat as to prevent spoilage.

(b) *Varietal types.* The optional berry ingredients referred to in paragraph (a) of this section are prepared from stemmed fruit of the following optional varietal types of berry ingredient; namely:

(1) Raspberry varieties conforming to the characteristics of *Rubus idaeus* L. or *Rubus occidentalis* L.

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(2) Blackberries.
(3) Blueberries.
(4) Boysenberries.
(5) Dewberries.
(6) Gooseberries.
(7) Huckleberries.
(8) Loganberries.
(9) Strawberries.
(10) Youngberries.

(c) *Packing media.* (1) The optional packing media referred to in paragraph (a) of this section, as defined in § 145.3 are:

(i) Water.
(ii) Fruit juice(s) and water.
(iii) Fruit juice(s).

Such packing media may be used as such or any one or any combination of two or more safe and suitable nutritive carbohydrate sweetener(s) may be added. Sweeteners defined in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.3.

(2) When a sweetener is added as a part of any such liquid packing medium, the four density ranges of the resulting packing media hereinafter specified for each berry ingredient, expressed as percent by weight of sucrose (degrees Brix) as determined by the procedure described in § 145.3(m), shall be designated by the appropriate name for each of the respective density ranges for each berry ingredient as:

(i) "Slightly sweetened water"; or "extra light sirup"; "slightly sweetened fruit juice(s) and water"; or "slightly sweetened fruit juice(s)", as the case may be.

(ii) "Light sirup", when the liquid used is water; or "lightly sweetened fruit juice(s) and water"; or "lightly sweetened fruit juice(s)", as the case may be.

(iii) "Heavy sirup", when the liquid used is water; or "heavily sweetened fruit juice(s) and water"; or "heavily sweetened fruit juice(s)", as the case may be.

(iv) "Extra heavy sirup", when the liquid used is water; or "extra heavily sweetened fruit juice(s) and water"; or "extra heavily sweetened fruit juice(s)", as the case may be.

The density ranges referred to herein are:

Optional berry ingredient	Density ranges (i) Minimum	(i) Maximum less than	(ii) Minimum	(ii) Maximum less than	(iii) Minimum	(iii) Maximum less than	(iv) Minimum	(iv) Maximum not more than
Raspberries	11	15	15	20	20	27	27	35
Blackberries		14	14	19	19	24	24	35
Blueberries		15	15	20	20	25	25	35
Boysenberries		14	14	19	19	24	24	35
Dewberries		14	14	19	19	24	24	35
Gooseberries		14	14	20	20	26	26	35
Huckleberries		15	15	20	20	25	25	35
Loganberries		14	14	19	19	24	24	35
Strawberries		14	14	19	19	27	27	35
Youngberries		14	14	19	19	24	24	35

(d) *Labeling requirements.* (1) The name of the food is the appropriate name of the berry ingredient specified in paragraph (b) of this section.

(2) The name of the packing medium, as used in paragraph (c)(1) of this section preceded by "In" or "Packed in" as provided in paragraph (c) of this section and, in the case of raspberries other than red raspberries provided for in paragraph (b) of this section, the name of such packing medium and the color of such raspberry shall be included as part of the name or in close proximity to the name of the food. When the packing medium is prepared with a sweetener(s) which imparts a taste, flavor or other characteristic to the finished food in addition to sweetness, the name of the packing medium shall be accompanied by the name of such sweetener(s), as for example in the case of a mixture of brown sugar and honey, an appropriate statement would be "_____ sirup of brown sugar and honey" the blank to be filled in with the word "light", "heavy", or "extra heavy" as the case may be. When the liquid portion of the packing media provided for in paragraph (c)(1) and (2) of this section consists of fruit juice(s), such juice(s) shall be designated in the name of the packing medium as:

(i) In the case of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit";

(ii) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (c) of this section; and

(iii) In the case of a single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (d)(3) of this section.

(3) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided in paragraph (d)2)(ii) of this section, such names and the words "from concentrate", as specified in paragraph (d)(2)(iii) of this section, shall appear in an ingredient statement pursuant to the requirements of § 101.3(d) of this chapter.

(4) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 145.125 Canned cherries.

(a) *Identity.*—(1) *Ingredients.* Canned cherries is the food prepared from one of the optional fresh or previously canned cherry ingredients specified in paragraph (a)(2) of this section, which may be packed in one of the optional packing media specified in paragraph (a)(3) of this section. Such food may also contain one, or any combination of two or more, of the following safe and suitable optional ingredients:

(i) Natural and artificial flavors.
(ii) Spice.
(iii) Vinegar, lemon juice, or organic acids.

Such food is sealed in a container and before or after sealing is so processed by heat as to prevent spoilage.

(2) *Varietal types and styles.* The optional cherry ingredients referred to in paragraph (a)(1) of this section are prepared from mature pitted or unpitted cherries of the red tart or alternatively, red sour, light sweet or dark sweet varietal group.

(3) *Packing media.* (i) The optional packing media referred to in paragraph (a)(1) of this section, as defined in § 145.3 are:

(a) Water.
(b) Fruit juice(s) and water.
(c) Fruit juice(s).

Such packing media may be used as such or any one or any combination of two or more safe and suitable nutritive carbohydrate sweetener(s) may be added. Sweeteners defined in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.3.

(ii) When a sweetener is added as a part of any such liquid packing medium, the density range of the resulting packing medium expressed as percent by weight of sucrose (degrees Brix) as determined by the procedure prescribed in § 145.3(m) shall be designated by the appropriate name for the respective density ranges, namely:

(a) In the case of sweet cherries:

(*i*) When the density of the solution is less than 16 percent, the medium shall be designated as "slightly sweetened water"; or "extra light sirup"; "slightly sweetened fruit juice(s) and water"; or "slightly sweetened fruit juice(s)", as the case may be.

(*ii*) When the density of the solution is 16 percent or more but less than 20 percent, the medium shall be designated as "light sirup"; "lightly sweetened fruit juice(s) and water"; or "lightly sweetened fruit juice(s)", as the case may be.

(*iii*) When the density of the solution is 20 percent or more but less than 25 percent, the medium shall be designated as "heavy sirup"; "heavily sweetened fruit juice(s) and water"; or "heavily sweetened fruit juice(s)", as the case may be.

(*iv*) When the density of the solution is 25 percent or more but not more than 35 percent, the medium shall be designated as "extra heavy sirup"; "extra heavily sweetened fruit juice(s) and water"; or "extra heavily sweetened fruit juice(s)", as the case may be.

(b) In the case of red tart cherries:

(*i*) When the density of the solution is less than 18 percent, the medium shall be designated as "slightly sweetened water"; "slightly sweetened fruit juice(s) and water"; or "slightly sweetened fruit juice(s)", as the case may be.

(*ii*) When the density of the solution is 18 percent or more but less than 22 percent, the medium shall be designated as "light sirup"; "lightly sweetened fruit juice(s) and water"; or "lightly sweetened fruit juice(s)", as the case may be.

(*iii*) When the density of the solution is 22 percent or more but less than 28 percent, the medium shall be designated as "heavy sirup"; "heavily sweetened fruit juice(s) and water"; or "heavily sweetened fruit juice(s)", as the case may be.

(*iv*) When the density of the solution is 28 percent or more but not more than 45 percent, the medium shall be designated as "extra heavy sirup"; "extra heavily sweetened fruit juice(s) and water"; or "extra heavily sweetened fruit juice(s)", as the case may be.

(4) *Labeling requirements.* (i) The name of the food is "cherries". The optional varietal type as set forth in paragraph (a)(2) of this section, preceded or followed by the word "pitted" when this is the fact, shall be a part of the name. The name of the food shall also include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice or seasoning that characterizes the product; for example, "Spice added", or in lieu of the word "Spice", the common name of the spice, or "Seasoned with lemon juice". When two or more of the optional ingredients specified in paragraph (a)(1)(ii) and (iii) of this section are used, such words may be combined as for example, "Seasoned with cider vinegar, cloves, and cinnamon oil".

(ii) The color type and style of the cherry ingredient as provided in paragraph (a)(2) of this section and the name of the packing medium specified in paragraph (a)(3)(i) and (ii) of this section, preceded by "In" or "Packed in" or the words "solid pack", where applicable, shall be included as part of the name or in close proximity to the name of the food. When the packing medium is prepared with a sweetener(s) which imparts a taste, flavor or other characteristic to the finished food in addition to sweetness, the name of the packing medium shall be accompanied by the name of such sweetener(s), as for example in the case of a mixture of brown sugar and honey, an appropriate statement would be "_____ sirup of brown sugar and honey" the blank to be filled in with the word "light", "heavy", or "extra heavy" as the case may be. When the liquid portion of the packing media provided for in paragraph (a)(3)(i) and (ii) of this section consists of fruit juice(s), such juice(s) shall be designated in the name of the packing medium as:

(a) In the case of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit";

(b) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (a)(4)(iii) of this section; and

(c) In the case of a single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (a)(4)(iii) of this section.

(iii) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided in paragraph (a)(4)(ii)(b) of this section, such names and the words "from concentrate", as specified in paragraph (a)(4)(ii)(c) of this section, shall appear in an ingredient statement pursuant to the requirements of § 101.3(d) of this chapter.

(iv) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality.*—(1) The standard of quality for canned cherries is as follows:

(i) In the case of pitted cherries, not more than 1 pit is present in each 20 ounces of canned cherries, as determined by the method prescribed in paragraph (b)(2)(i) of this section.

(ii) In the case of unpitted cherries, the weight of each cherry in the container is not less than 1/10 ounce.

(iii) In the case of unpitted cherries, the weight of the largest cherry in the container is not more than twice the weight of the smallest cherry therein.

(iv) In the case of unpitted cherries, the total weight of pits is not more than 12 percent of the weight of drained cherries, as determined by the method prescribed in paragraph (b)(2)(ii) of this section.

(v) Not more than 15 percent by count of the cherries in the container are blemished with scab, hail injury, discoloration, scar tissue or other abnormality. A cherry showing skin discoloration (other than scald) having an aggregate area exceeding that of a circle 3/32 inch in diameter is considered to be blemished. A cherry showing discoloration of any area but extending into the fruit tissue is also considered to be blemished.

(2)(i) Pitted canned cherries shall be tested by the following method to determine whether or not they comply with the requirements of paragraph (b)(1)(i) of this section: Take at random such number of containers as to have a total quantity of contents of at least 24 pounds. Open the containers and weigh the contents. Count the pits and pieces of pit shell in such total quantity. Count a piece of pit shell equal to or smaller than one-half pit shell as one-half pit, and a piece of pit shell larger than one-half pit shell as one pit; but when two or more pieces of pit shell are within or attached to a single cherry, count such pieces as one-half pit if their combined size is equivalent to that of one-half pit shell or less, and as one pit if their combined size is equivalent to that of more than one-half pit shell. From the total number of pits so counted and the combined weight of the contents of all the containers, calculate the number of pits present in each 20 ounces of canned cherries.

(ii) Unpitted canned cherries shall be tested by the following method to determine whether or not they comply with the requirements of paragraph (b)(1)(iv) of this section: Tilt the opened container so as to distribute the contents over the meshes of a circular sieve which has previously been weighed. The diameter of the sieve is 8 inches if the quantity of the contents of the container is less than 3 pounds, or 12 inches if such quantity is 3 pounds or more. The bottom of the sieve is No. 6 woven-wire cloth which complies with the specifications for such cloth set forth on page 3 of "Standard Specifications for Sieves," published October 25, 1938, by United States Department of Commerce, National Bureau of Standards. Without shifting the cherries, so incline the sieve as to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and drained cherries. The weight so found, less the weight of the sieve, shall be considered to be the weight of drained cherries. Pit the cherries and wash the pits free from adhering flesh. Drain and weigh the pits by the method prescribed above. Divide the weight of pits so found by the weight of drained cherries, and multiply by 100.

(3) If the quality of canned cherries falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; but in lieu of such general statement of substandard quality, the label may bear the alternative statement "Below Standard in Quality _____", the blank to be filled in with the words specified after the corresponding number of each subparagraph of paragraph (b)(1) of this section which such canned cherries fail to meet, as follows: (i) "Partially pitted"; (ii) "Small"; (iii) "Mixed sizes"; (iv) "Thin-fleshed"; (v) "Blemished". Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "Cherries" and

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any words and statements required or authorized to appear with such name by § 145.125(a)(2).

(c) *Fill of container*—(1) The standard of fill of container for canned cherries is the maximum quantity of the optional cherry ingredient that can be sealed in the container and processed by heat to prevent spoilage, without crushing such ingredient.

(2) If canned cherries fall below the standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 145.126 Artificially sweetened canned cherries.

(a) Artificially sweetened canned cherries is the food which conforms to the definition and standard of identity prescribed for canned cherries by § 145.125(a), except that in lieu of a packing medium specified in § 145.125(a)(3), the packing medium used is water artificially sweetened with saccharin, sodium saccharin, or a combination of both. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

(b)(1) The specified name of the food is "artificially sweetened _____", the blank being filled in with the name prescribed by § 145.125(a) for canned cherries having the same optional cherry ingredient.

(2) The artificially sweetened food is subject to the requirements for label statement of optional ingredients used, as prescribed for canned cherries by § 145.125(a). If the packing medium is thickened with pectin, the label shall bear the statement "thickened with pectin". When any organic salt or acid or any mixture of two or more of these is added, the label shall bear the common or usual name of each such ingredient.

§ 145.128 Canned cherries with rum.

Canned cherries with rum conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for canned cherries by § 145.125(a), except that it contains added rum in such amount that its alcohol content is more than 3 percent but less than 5 percent by weight.

§ 145.130 Canned figs.

(a) *Ingredients.* Canned figs is the food prepared from one of the optional fig ingredients specified in paragraph (b) of this section and one of the optional packing media specified in paragraph (c) of this section, to which lemon juice, concentrated lemon juice or organic acid(s) is added, when necessary to reduce the pH of the finished product to pH 4.9 or below. Such food may also contain one, or any combination of two or more of the following safe and suitable optional ingredients:

(1) Natural and artificial flavoring.
(2) Spice.
(3) Vinegar.
(4) Unpeeled segments of citrus fruits.
(5) Salt.

Such food is sealed in a container and before or after sealing is so processed by heat as to prevent spoilage.

(b) *Varietal types.* The optional fig ingredients referred to in paragraph (a) of this section are prepared from mature figs of the light or dark varieties. Figs (or whole figs), split figs (or broken figs), or any combination thereof are optional fig ingredients. A "whole fig" is one which is whole, but may be slightly cracked, provided it retains its natural conformation without exposing the interior. A "split" or "broken" fig is one that is open to such an extent that the seed cavity is exposed. The shape of the fruit may be distorted, and the fruit may or may not be broken apart into entirely separate pieces.

(c) *Packing media.* (1) The optional packing media referred to in paragraph (a) of this section, as defined in § 145.3 are:

(i) Water.
(ii) Fruit juice(s) and water.
(iii) Fruit juice(s).

Such packing media may be used as such or any one or any combination of two or more safe and suitable nutritive carbohydrate sweetener(s) may be added. Sweeteners defined in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.3.

(2) When a sweetener is added as a part of any such liquid packing medium, the density range of the resulting packing medium expressed as percent by weight of sucrose (degrees Brix) as determined by the procedure prescribed in § 145.3(m) shall be designated by the appropriate name for the respective density ranges, namely:

(i) When the density of the solution is 11 percent or more but less than 16 percent, the medium shall be designated as "slightly sweetened water"; or "extra light syrup"; "slightly sweetened fruit juice(s) and water"; or "slightly sweetened fruit juice(s)", as the case may be.

(ii) When the density of the solution is 16 percent or more but less than 21 percent, the medium shall be designated as "light sirup"; "lightly sweetened fruit juice(s) and water"; or "lightly sweetened fruit juice(s)", as the case may be.

(iii) When the density of the solution is 21 percent or more but less than 26 percent, the medium shall be designated as "heavy sirup"; "heavily sweetened fruit juice(s) and water"; or "heavily sweetened fruit juice(s)", as the case may be.

(iv) When the density of the solution is 26 percent or more but not more than 35 percent, the medium shall be designated as "extra heavy sirup"; "extra heavily sweetened fruit juice(s) and water"; or "extra heavily sweetened fruit juice(s)", as the case may be.

(d) *Labeling requirements.* (1) The name of the food is "figs". The words "broken" or "split" shall be a part of the name when the optional fig ingredient is a broken or split fig. The name of the food shall also include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice or seasoning that characterizes the product; for example, "Spice added", or in lieu of the word "Spice", the common name of the spice, "Seasoned with vinegar" or "Seasoned with unpeeled segments of citrus fruits". When two or more of the optional ingredients specified in paragraph (a)(2) through (5), inclusive, of this section are used, such words may be combined as for example, "Seasoned with cider vinegar, cloves, cinnamon oil and unpeeled segments of citrus fruits."

(2) The name of the packing medium as used in paragraph (c)(1) of this section, preceded by "In" or "Packed in", as provided in paragraph (c) of this section, shall be included as part of the name or in close proximity to the name of the food. When the packing medium is prepared with a sweetener(s) which imparts a taste, flavor or other characteristic to the finished food other than sweetness, as for example, a mixture of brown sugar and honey, the statement "_____ sirup of brown sugar and honey" the blank to be filled in with the word "light", "heavy", or "extra heavy", as the case may be, shall be included as part of the name or in close proximity to the name of the food. When the liquid portion of the packing media provided for in paragraph (c)(1) and (2) of this section consists of fruit juice(s), such juice(s) shall be designated in the name of the packing medium as:

(i) In the case of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit";

(ii) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (d)(3) of this section; and

(iii) In the case of a single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (d)(3) of this section.

(3) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided in paragraph (d)(2)(ii) of this section, such names and the words "from concentrate", as specified in paragraph (d)(2)(iii) of this section, shall appear in an ingredient statement pursuant to the requirements of § 101.3(d) of this chapter.

(4) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 145.131 Artificially sweetened canned figs.

(a) Artificially sweetened canned figs is the food which conforms to the definition and standard of identity prescribed for canned figs by § 145.130, except that in lieu of a packing medium specified in § 145.130(c), the packing medium used is water artificially sweetened with saccharin, sodium saccharin, or a combination of both. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

(b)(1) The specified name of the food is "artificially sweetened _____", the blank being filled in with the name prescribed by § 145.130 for canned figs having the same optional fig ingredient.

(2) The artificially sweetened food is subject to the requirements for label statement of optional ingredients used, as prescribed for canned figs by § 145.130. If the packing medium is thickened with pectin, the label shall bear the statement "thickened with pectin". When any organic salt or acid or any mixture of two or more of these is added, the label shall bear the common or usual name of each such ingredient.

§ 145.134 Canned preserved figs.

(a) Canned preserved figs is the food prepared from one of the optional fig ingredients specified in paragraph (b) of this section and the packing medium specified in paragraph (c) of this section, to which citric acid or lemon juice or concentrated lemon juice is added, if necessary, in such quantity as to reduce the pH of the finished product to 4.9 or below. The figs are precooked in the packing medium, sealed in a container, and so processed by heat, either before or after sealing, as to prevent spoilage.

(b) The optional fig ingredients referred to in paragraph (a) of this section are whole mature figs of the light or dark varieties that may be either peeled or unpeeled.

(c)(1) The packing medium referred to in paragraph (a) of this section is prepared from water and one of the following optional sweetening ingredients:

(i) Sugar.
(ii) Invert sugar sirup.
(iii) Any mixture of optional sweetening ingredients designated in paragraph (c)(1)(i) and (ii) of this section.
(iv) Any of the optional sweetening ingredients designated in paragraph (c)(1)(i), (ii), and (iii) of this section with dextrose: *Provided*, That the weight of the solids of dextrose does not exceed one-third of the total weight of the solids of the combined sweetening ingredients.
(v) Any of the optional sweetening ingredients designated in paragraph (c)(1)(i), (ii), and (iii) of this section with corn sirup or with dried corn sirup or with glucose sirup or with dried glucose sirup, or with any two or more of these: *Provided*, That the weight of the solids of corn sirup, dried corn sirup, glucose sirup, dried glucose sirup or the sum of the weights of the solids of corn sirup, dried corn sirup, glucose sirup, and dried glucose sirup, in case two or more of these are used, does not exceed one-fourth of the total weight of the solids of the combined sweetening ingredients.
(vi) Any mixture of the optional ingredients designated in paragraph (c)(1)(iv) and (v) of this section.

(2) The density of the packing medium described in paragraph (c)(1) of this section, as measured on the Brix hydrometer 15 days or more after the figs are canned, is not less than 50° and not more than 55°.

(d)(1) The name of the food is "Preserved Figs—Precooked in Sirup". For the purpose of label declaration, the words "Precooked in Sirup" may appear immediately below the words "Preserved Figs", but there shall be no intervening written, printed, or graphic matter, and the letters used for the words "Precooked in Sirup" shall be of the same type style and not less than one-half the height of the letters in the words "Preserved Figs".

(2) The label shall indicate which optional fig ingredient specified in paragraph (b) of this section is used.

(e) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words herein specified, showing the optional fig ingredient used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the varietal name of the figs may so intervene.

§ 145.135 Canned fruit cocktail.

(a) *Identity*—(1) *Ingredients.* Canned fruit cocktail, canned cocktail fruits, canned fruits for cocktail, is the food prepared from the mixture of fresh, frozen, or previously canned fruit ingredients of mature fruits in the forms and proportions as provided in paragraph (a)(2) of this section, and one of the optional packing media specified in paragraph (a)(3) of this section. Such food may also contain one, or any combination of two or more, of the following safe and suitable optional ingredients:

(i) Natural and artificial flavors.
(ii) Spice.
(iii) Vinegar, lemon juice, or organic acids.
(iv) Ascorbic acid in an amount no greater than necessary to preserve color. Such food is sealed in a container and before or after sealing is so processed by heat as to prevent spoilage.

(2) *Varietal types and styles.* The fruit ingredients referred to in paragraph (a)(1) of this section, the forms of each, and the percent by weight of each in the mixture of drained fruit from the finished canned fruit cocktail are as follows:

(i) *Peaches.* Any firm yellow variety of the species *Prunus persica* L., excluding nectarine varieties, which are pitted, peeled, and diced, not less than 30 percent and not more than 50 percent.

(ii) *Pears.* Any variety, of the species *Pyrus communis* L. or *Pyrus sinensis* L., which are peeled, cored, and diced, not less than 25 percent and not more than 45 percent.

(iii) *Pineapples.* Any variety, of the species *Ananas comosus* L., which are peeled, cored, and cut into sectors or into dice, not less than 6 percent and not more than 16 percent.

(iv) *Grapes.* Any seedless variety, of the species *Vitis vinifera* L., or *Vitis labrusca* L., not less than 6 percent and not more than 20 percent.

(v) *Cherries.* Approximate halves or whole pitted cherries of the species *Prunus cerasus* L., not less than 2 percent and not more than 6 percent, of the following types:

(a) Cherries of any light, sweet variety;

(b) Cherries artificially colored red; or

(c) Cherries artificially colored red and flavored, natural or artificial.

Provided, That each 127.5 grams (4½ ounces avoirdupois) of the finished canned fruit cocktail and each fraction thereof greater than 56.7 grams (2 ounces avoirdupois) contain not less than 2 sectors or 3 dice of pineapple and not less than 1 approximate half of the optional cherry ingredient.

(3) *Packing media.* (i) The optional packing media referred to in paragraph (a)(1) of this section, as defined in § 145.3 are:

(a) Water.
(b) Fruit juice(s) and water.
(c) Fruit juice(s).

Such packing media may be used as such or any one or any combination of two or more safe and suitable nutritive carbohydrate sweetener(s) may be added. Sweeteners defined in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.3.

(ii) When a sweetener is added as a part of any such liquid packing medium, the density range of the resulting packing medium expressed as percent by weight of sucrose (degrees Brix) as determined by the procedure prescribed in § 145.3(m) shall be designated by the appropriate name for the respective density ranges, namely:

(a) When the density of the solution is 10 percent or more, but less than 14 percent, the medium shall be designated as "slightly sweetened water"; or "extra light sirup"; "slightly sweetened fruit juice(s) and water"; or "slightly sweetened fruit juice(s)", as the case may be.

(b) When the density of the solution is 14 percent or more but less than 18 percent, the medium shall be designated as "light sirup"; "lightly sweetened fruit juice(s) and water"; or "lightly sweetened fruit juice(s)", as the case may be.

(c) When the density of the solution is 18 percent or more but less than 22 percent, the medium shall be designated as "heavy sirup"; "heavily sweetened fruit juice(s) and water"; or "heavily sweetened fruit juice(s)", as the case may be.

(d) When the density of the solution is 22 percent or more but not more than

(iv) Each of the optional ingredients used shall be declared on the label as re-

other than evenly distributed in the unit or other than uniform with the color

pectin". When any organic salt or acid or any mixture of two or more of these

juice(s) and water"; or "lightly sweetened fruit juice(s)", as the case may be.

trate(s)" shall follow the word "juice(s)"

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(d) When the density of the solution is 22 percent or more but not more than 35 percent, the medium shall be designated as "extra heavy syrup"; "extra heavily sweetened fruit juice(s) and water"; or "extra heavily sweetened fruit juice(s)", as the case may be.

(4) *Labeling requirements.* (i) The name of the food is "fruit cocktail", "cocktail fruits", or "fruits for cocktail". The name of the food shall also include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice or seasoning that characterizes the product; for example, "Spice added", or in lieu of the word "Spice", the common name of the spice, "Seasoned with vinegar" or "Seasoned with lemon juice". When two or more of the optional ingredients specified in paragraph (a) (1) (ii) and (iii) of this section are used, such words may be combined as for example, "Seasoned with cider vinegar, cloves, cinnamon oil and lemon juice".

(ii) The name of the packing medium as used in paragraph (a) (3) (i) and (ii) of this section, preceded by "In" or "Packed in" shall be included as part of the name or in close proximity to the name of the food. When the packing medium is prepared with a sweetener(s) which imparts a taste, flavor or other characteristic to the finished food in addition to sweetness, the name of the packing medium shall be accompanied by the name of such sweetener(s), as for example, in the case of a mixture of brown sugar and honey, an appropriate statement would be "_____ sirup of brown sugar and honey" the blank to be filled in with the word "light", "heavy", or "extra heavy" as the case may be. When the liquid portion of the packing media provided for in paragraph (a) (3) (i) and (ii) of this section consists of fruit juice(s), such juice(s) shall be designated in the packing medium as:

(*a*) In the case of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit";

(*b*) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (a) (4) (iii) of this section; and

(*c*) In the case of a single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (a) (4) (iii) of this section.

(iii) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided in paragraph (a) (4) (ii) (*b*) of this section, such names and the words "from concentrate", as specified in paragraph (a) (4) (ii) (*c*) of this section, shall appear in an ingredient statement pursuant to the requirements of § 101.3(d) of this chapter.

(iv) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality*—(1) The standard of quality for canned fruit cocktail is as follows:

(i) Not more than 20 percent by weight of the units in the container of peach or pear, or of pineapple if the units thereof are diced, are more than ¾ inch in greatest edge dimension, or pass through the meshes of a sieve designated as 5/16 inch in Table I of "Standard Specifications for Sieves," published March 1, 1940, in L.C. 584 of the National Bureau of Standards, United States Department of Commerce. If the units of pineapple are in the form of sectors, not more than 20 percent of such sectors in the container fail to conform to the following dimensions: The length of the outside arc is not more than ¾ inch but is more than ⅜ inch; the thickness is not more than ½ inch but is more than 5/16 inch; the length (measured along the radius from the inside arc to the outside arc) is not more than 1¼ inches but is more than ¾ inch.

(ii) Not more than 10 percent of the grapes in a container containing 10 grapes or more, and not more than 1 grape in a container containing less than 10 grapes, are cracked to the extent of being severed into two parts or are crushed to the extent that their normal shape is destroyed.

(iii) Not more than 10 percent of the grapes in a container containing 10 grapes or more, and not more than a grape in a container containing less than 10 grapes, have the cap stem attached.

(iv) There is present in the finished canned fruit cocktail not more than 1 square inch of pear peel per each 1 pound of drained weight of units of pear plus the weight of a proportion of the packing medium which is the same proportion as the drained weight of the units of pear bears to the drained weight of the entire contents of the can. Such drained weights shall be determined by the method prescribed in paragraph (c) of this section.

(v) There is present in the finished canned fruit cocktail not more than 1 square inch of peach peel per each 1 pound of drained weight of units of peach plus the weight of a proportion of the packing medium which is the same proportion as the drained weight of units of peach bears to the drained weight of the entire contents of the can. Such drained weights shall be determined by the method prescribed in paragraph (c) of this section.

(vi) Not more than 15 percent of the units of cherry ingredient, and not more than 20 percent of the units of peach, pear, or grape, in the container are blemished with scab, hail injury, scar tissue or other abnormality.

(vii) If the cherry ingredient is artificially colored, the color of not more than 15 percent of the units thereof in a container containing more than six units and of not more than one unit in a container containing six units or less, is other than evenly distributed in the unit or other than uniform with the color of the other units of the cherry ingredient.

(2) If the quality of canned fruit cocktail falls below the standard of fill of container prescribed in paragraph (b) (1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14 (a) of this chapter, in the manner and form therein specified.

(c) *Fill of container*—(1) The standard of fill of container for canned fruit cocktail is a fill such that the total weight of drained fruit is not less than 65 percent of the water capacity of the container, as determined by the general method for water capacity of containers prescribed in § 130.12(a) of this chapter. Such total weight of drained fruit is determined by the following method: Tilt the opened container so as to distribute the contents evenly over the meshes of a circular sieve which has been previously weighed. The diameter of the sieve is 8 inches if the quantity of contents of the container is less than 3 pounds, and 12 inches if such quantity is 3 pounds or more. The bottom of the sieve is woven-wire cloth which complies with the specifications for such cloth set forth under "2380 Micron (No. 8)" in Table I of "Standard Specifications for Sieves," published March 1, 1940, in L.C. 584 of the United States Department of Commerce, National Bureau of Standards. Without shifting the material on the sieve so incline the sieve as to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and drained fruit. The weight so found, less the weight of the sieve, shall be considered to be the total weight of drained fruit.

(2) If canned fruit cocktail falls below the standard of fill of container prescribed in paragraph (c) (1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein prescribed.

§ 145.136 Artificially sweetened canned fruit cocktail.

(a) Artificially sweetened canned fruit cocktail is the food which conforms to the definition and standard of identity prescribed for canned fruit cocktail by § 145.135(a), except that in lieu of a packing medium specified in § 145.135(a) (3), the packing medium used is water artificially sweetened with saccharin, sodium saccharin, or a combination of both. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

(b) (1) The specified name of the food is "artificially sweetened fruit cocktail".

(2) Artificially sweetened fruit cocktail is subject to the requirements for label statement of optional ingredients used, as prescribed for canned fruit cocktail by § 145.135(a). If the packing medium is thickened with pectin, the label shall bear the statement "thickened with pectin". When any organic salt or acid or any mixture of two or more of these is added, the label shall bear the common or usual name of each such ingredient.

§ 145.140 Canned seedless grapes.

(a) *Ingredients.* Canned seedless grapes is the food prepared from one of the fresh or previously canned optional grape ingredients specified in paragraph (b) of this section, which may be packed in one of the optional packing media specified in paragraph (c) of this section. Such food may also contain one, or any combination of two or more, of the following safe and suitable optional ingredients:

(1) Natural and artificial flavors.

(2) Spice.

(3) Vinegar, lemon juice, or organic acids.

Such food is sealed in a container and before or after sealing is so processed by heat as to prevent spoilage.

(b) *Varietal types and styles.* The optional grape ingredients referred to in paragraph (a) of this section are prepared from stemmed grapes of the light or dark seedless varieties or from unstemmed clusters of such grapes. For the purposes of paragraph (d) of this section, the names of such optional grape ingredients are "light seedless grapes" or "dark seedless grapes", as the case may be, preceded by the words "unstemmed clusters" where applicable.

(c) *Packing media.* (1) The optional packing media referred to in paragraph (a) of this section, as defined in § 145.3 are:

(i) Water.

(ii) Fruit juice(s) and water.

(iii) Fruit juice(s).

Such packing media may be used as such or any one or any combination of two or more safe and suitable nutritive carbohydrate sweetener(s) may be added. Sweeteners defined in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.3.

(2) When a sweetener is added as a part of any such liquid packing medium, the density range of the resulting packing medium expressed as percent by weight of sucrose (degrees Brix) as determined by the procedure prescribed in § 145.3(m) shall be designated by the appropriate name for the respective density ranges, namely:

(i) When the density of the solution is less than 14 percent, the medium shall be designated as "slightly sweetened water"; or "extra light sirup"; "slightly sweetened fruit juice(s) and water"; or "slightly sweetened fruit juice(s)", as the case may be.

(ii) When the density of the solution is 14 percent or more but less than 18 percent, the medium shall be designated as "light sirup"; "lightly sweetened fruit juice(s) and water"; or "lightly sweetened fruit juice(s)", as the case may be.

(iii) When the density of the solution is 18 percent or more but less than 22 percent, the medium shall be designated as "heavy sirup"; "heavily sweetened fruit juice(s) and water"; or "heavily sweetened fruit juice(s)", as the case may be.

(iv) When the density of the solution is 22 percent or more but not more than 35 percent, the medium shall be designated as "extra heavy sirup"; "extra heavily sweetened fruit juice(s) and water"; or "extra heavily sweetened fruit juice(s)", as the case may be.

(d) *Labeling requirements.* (1) The name of the food is "seedless grapes." The name of the food shall also include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice or seasoning that characterizes the product; for example, "Spice added", or in lieu of the word "Spice", the common name of the spice, or "Seasoned with lemon juice". When two or more of the optional ingredients specified in paragraph (a) (2) and (3) of this section are used, such words may be combined as for example, "Seasoned with cider vinegar, cloves, and cinnamon oil".

(2) The color type and style of the grape ingredient as provided in paragraph (b) of this section and the name of the packing medium specified in paragraph (c) (1) and (2) of this section, preceded by "In" or "Packed in" or the words "solid pack", where applicable, shall be included as part of the name or in close proximity to the name of the food. When the packing medium is prepared with a sweetener(s) which imparts a taste, flavor or other characteristic to the finished food in addition to sweetness, the name of the packing medium shall be accompanied by the name of such sweetener(s), as for example in the case of a mixture of brown sugar and honey, an appropriate statement would be "_____ sirup of brown sugar and honey" the blank to be filled in with the word "light", "heavy", or "extra heavy" as the case may be. When the liquid portion of the packing media provided for in paragraph (c) (1) and (2) of this section consists of fruit juice(s), such juice(s) shall be designated in the packing medium as:

(i) In the case of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit";

(ii) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (d) (3) of this section; and

(iii) In the case of a single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (d) (3) of this section.

(3) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided in paragraph (d) (2) (ii) of this section, such names and the words "from concentrate", as specified in paragraph (d) (2) (iii) of this section, shall appear in an ingredient statement pursuant to the requirements of § 101.3(d) of this chapter.

(4) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 145.145 Canned grapefruit.

(a) *Identity*—(1) *Product identification.* Canned grapefruit is the food prepared from one of the optional grapefruit ingredients specified in paragraph (a) (2) of this section and one of the optional packing media specified in paragraph (a) (3) of this section. Such food may also contain one or more of the following safe and suitable optional ingredients:

(i) Spices.

(ii) Natural and artificial flavoring.

(iii) Lemon juice.

(iv) Citric acid.

(v) Calcium chloride or calcium lactate or a mixture of the two calcium salts in a quantity reasonably necessary to firm the grapefruit sections, but in no case in a quantity such that the calcium contained in such calcium salt or mixture is more than 0.035 percent by weight of the finished food.

Such food is sealed in a container and, before or after sealing, is so processed by heat as to prevent spoilage.

(2) *Optional grapefruit ingredient.* The optional grapefruit ingredients referred to in paragraph (a) (1) of this section are prepared from sound, mature grapefruit (*Citrus paradisi* Macfadyen) of the color types white—produced from white-fleshed grapefruit, and pink—produced from pink or red-fleshed grapefruit and are in the following forms of units: Whole sections or broken sections. Each such form of units or a mixture of such forms of units prepared from a single varietal group (color type) is an optional grapefruit ingredient. The core, seeds, and major portions of membrane of such ingredient are removed. For the purpose of this section, a grapefruit section is considered whole when the unit is intact or an intact portion of such unit is not less than 75 percent of its apparent original size and is not excessively trimmed.

(i) For the purpose of paragraph (a) (4) of this section, the name of the optional grapefruit ingredient is:

(*a*) "Section" or "segments", if 50 percent or more of the drained weight of the food consists of whole sections.

(*b*) "Broken sections" or "broken segments", if less than 50 percent of the

drained weight of the food consists of

refractometer, expressed as percent by

quired by the applicable sections of Part 101 of this chapter.

(ii) Sampling plans and acceptance

evenly over the meshes of a circular sieve which has previously been weighed.

the optional ingredient in paragraph (a) (1) (iv) of this section is used.

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drained weight of the food consists of whole sections.

(ii) The drained weight is determined by the method prescribed in the standard of fill of container for canned grapefruit set forth in paragraph (c)(2) of this section.

(3) *Packing media.* (i) The optional packing media referred to in paragraph (a)(1) of this section are:

(*a*) Water.
(*b*) Grapefruit juice and water.
(*c*) Grapefruit juice.
(*d*) Slightly sweetened sirup or slightly sweetened water.
(*e*) Light sirup.
(*f*) Heavy sirup.
(*g*) Slightly sweetened grapefruit juice and water.
(*h*) Lightly sweetened grapefruit juice and water.
(*i*) Heavily sweetened grapefruit juice and water.
(*j*) Slightly sweetened grapefruit juice.
(*k*) Lightly sweetened grapefruit juice.
(*l*) Heavily sweetened grapefruit juice.

As used in paragraph (a)(3)(i) of this section, the optional packing medium "water" means, in addition to water, any mixture of water and grapefruit juice in which there is less than 50 percent grapefruit juice; the optional packing medium "grapefruit juice and water" means the liquid packing medium in which juice of mature grapefruit and water are combined as a liquid packing medium with not less than 50 percent grapefruit juice and the term "grapefruit juice" means single strength expressed juice of sound, mature fruit. It may be fresh, canned, or made from concentrate. However, if it is made from concentrate, the juice shall be reconstituted with water to not less than the soluble solids the grapefruit juice had before concentration.

(ii) Each of the packing media in paragraph (a)(3)(i) (*d*) to (*l*) of this section is prepared with a liquid ingredient and one or more safe and suitable nutritive carbohydrate sweeteners. Water is the liquid ingredient from which packing media in paragraph (a)(3)(i) (*d*) to (*f*) of this section are prepared. Grapefruit juice and water are the liquid ingredients from which the packing media in paragraph (a)(3)(i) (*g*) to (*i*) of this section are prepared. Grapefruit juice is the liquid ingredient from which the packing media in paragraph (a)(3)(i) (*j*) to (*l*) of this section are prepared. If one or more liquid nutritive carbohydrate sweeteners and grapefruit juice are combined as a liquid packing medium with not less than 50 percent grapefruit juice, the packing medium is as set forth in paragraph (a)(3)(i) (*g*) to (*i*) of this section.

(iii) The respective densities of packing media in paragraph (a)(3)(i) (*d*) to (*f*) of this section as measured on the refractometer, expressed as percent by weight sucrose (degrees Brix) with correction for temperature to the equivalent at 20° *C* (68° F), 15 days or more after the grapefruit are canned or the blended homogenized slurry of the comminuted entire contents of the container if canned for less than 15 days, according to the "Official Methods of Analysis of the Association of Official Analytical Chemists",[2] 11th Ed., 1970, page 526, section 31.011 (Solids) "By Means of Refractometer—Official Final Action" (and 47.012 and 47.015) without correction for invert sugar or other substances, are as follows:

(*a*) Packing media in paragraph (a)(3)(i) (*d*), (*g*), and (*j*) of this section: Twelve percent or more but less than 16 percent.

(*b*) Packing media in paragraph (a)(3)(i) (*e*), (*h*), and (*k*) of this section: Sixteen percent or more but less than 18 percent.

(*c*) Packing media in paragraph (a)(3)(i) (*f*), (*i*), and (*l*) of this section: Eighteen percent or more. A lot shall be deemed to be in compliance for packing medium density based on the average value for all the samples analyzed according to paragraph (b)(2) of this section but no container may have a value lower than that of the next lower category or 2 percent by weight sucrose (degrees Brix) lower if no lower category exists.

(4) *Labeling requirements.* (i) The name of the food is "grapefruit" or "pink grapefruit", as appropriate for the color type of the grapefruit used. The name of the food shall also include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice or seasoning that characterizes the product; for example, "with added spice". Whenever the word "sirup" is used, it may be alternatively spelled "syrup". When two or more of the optional ingredients specified in paragraphs (a)(1)(i), (ii), and (iii) of this section are used, such words may be combined; for example, "with added cloves and cinnamon oil".

(ii) The form and style of the grapefruit ingredient as provided for in paragraph (a)(2) of this section and the name of the packing medium as used in paragraph (a)(3) of this section preceded by "In" or "Packed in" shall be included as part of the name. When the packing medium is prepared from concentrated grapefruit juice, the words "from concentrate" shall follow the words "grapefruit juice" in the name of the packing medium.

(iii) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality.*—(1) The standard of quality for canned grapefruit is as follows:

(i) The food is free from extraneous material such as leaves, portions of leaves, and pieces of peel.

(ii) The finished food contains per 500 grams (17.6 ounces) not more than:

(*a*) An aggregate area of 20 square centimeters (3.1 square inches) of tough membrane or albedo on the units.

(*b*) Four developed seeds. A seed is considered a developed seed when it measures more than 9.0 millimeters (0.35 inches) in any dimension.

(iii) Not more than 15 percent by weight of the drained grapefruit may be blemished units. A blemished unit is a grapefruit section or any portion thereof which is damaged by lye peeling, by discoloration, or by other visible injury. The drained weight is determined by the method prescribed in the standard of fill of container for canned grapefruit set forth in paragraph (c)(2) of this section.

(2) *Sampling and acceptance procedure.* A lot is to be considered acceptable when the number of "defectives" does not exceed the acceptance number in the sampling plans given in paragraph (b)(2)(ii) of this section.

(i) Definitions of terms to be used in the sampling plans in paragraph (b)(2)(ii) of this section are as follows:

(*a*) *Lot.* A collection of primary containers or units of the same size, type and style manufactured or packed under similar conditions and handled as a single unit of trade.

(*b*) *Lot size.* The number of primary containers or units in the lot.

(*c*) *Sample size* (*n*). The total number of sample units drawn for examination from a lot.

(*d*) *Sample unit.* A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(*e*) *Defective.* Any sample unit shall be regarded as defective when any of the defects or conditions specified in the quality standard (paragraph (b)(1) of this section) and paragraph (c)(3)(i) of this section for minimum fill of container are present in excess of the stated tolerances.

(*f*) *Accepted number* (*c*). The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(*g*) *Acceptable quality level* (*AQL*). The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(ii) Sampling plans and acceptance procedure:

Lot size (primary containers)	Size of container	
	Net weight equal to or less than 1 kg (2.2 lb)	
	n	*c*
4,800 or less	13	2
4,801–24,000	21	3
24,001–48,000	29	4
48,001–84,000	48	6
84,001–144,000	84	9
144,001–240,000	126	13
over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kg (10 lb)	
	n	*c*
2,400 or less	13	2
2,401–15,000	21	3
15,001–24,000	29	4
24,001–42,000	48	6
42,001–72,000	84	9
72,001–120,000	126	13
over 120,000	200	19
	Net weight greater than 4.5 kg (10 lb)	
	n	*c*
800 or less	13	2
801–2,000	21	3
2,001–7,200	29	4
7,201–15,000	48	6
15,001–24,000	84	9
24,001–42,000	126	13
over 42,000	200	19

n=number of primary containers in sample
c=acceptance number

(3) If the quality of canned grapefruit falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; however, if the quality of the canned grapefruit falls below standard with respect to only one of the factors of quality specified by paragraph (b)(1)(i), (ii), or (iii) of this section, there may be substituted for the second line of such general statement of substandard quality, "Good Food—Not High Grade", a new line as specified after the corresponding designation of paragraph (b)(1) of this section which the canned grapefruit fail to meet:

(i) "Contains extraneous material".
(ii) (*a*) "Excessive tough membrane".
(*b*) "Excessive seeds".
(iii) "Excessive blemished units".

(c) *Fill of container.*—(1) The standard of fill of container for canned grapefruit is:

(i) The fill of grapefruit and packing medium, as determined by the general method for fill of container prescribed in § 130.12(b) of this chapter, is not less than 90 percent of the total capacity of the container.

(ii) The drained weight of grapefruit ingredient is not less than 50 percent of the water capacity of the container, as determined by the method prescribed in paragraph (c)(2) of this section and the general method for water capacity of containers prescribed in § 130.12(a) of this chapter.

(2) Drained weight is determined by the following method: Tilt the opened container so as to distribute the contents evenly over the meshes of a circular sieve which has previously been weighed. The diameter of the sieve is 20.3 centimeters (8 inches) if the quantity of contents of the container is less than 1.4 kilograms (3 pounds) and 30.5 centimeters (12 inches) if such quantity is 1.4 kilograms (3 pounds) or more. The bottom of the sieve is woven-wire cloth which complies with the specifications for the No. 8 sieve set forth in the "Definitions of Terms and Explanatory Notes," page xviii, of the "Official Methods of Analysis of the Association of Official Analytical Chemists",[2] 11th Ed., 1970. Without shifting the material on the sieve, incline the sieve at an angle of 17° to 20° to facilitate drainage. Two minutes after the drainage begins, weigh the sieve and drained grapefruit. The weight so found, less the weight of the sieve, shall be considered to be the weight of the drained grapefruit.

(3)(i) A container that falls below the requirement for minimum fill prescribed in paragraph (c)(1)(i) of this section shall be considered a "defective". The food will be deemed to fall below the standard of fill when the number of defectives exceeds the acceptance number (*c*) in the sampling plans prescribed in paragraph (b)(2) of this section.

(ii) Canned grapefruit will be deemed to fall below the standard of fill when the average drained weight of all containers analyzed when sampled according to the sampling plans prescribed in paragraph (b)(2) of this section is less than that prescribed in paragraph (c)(1)(ii) of this section.

(4) If canned grapefruit falls below the standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 145.170 Canned peaches.

(a) *Identity.*—(1) *Ingredients.* Canned peaches is the food prepared from one of the fresh, frozen, or previously canned optional peach ingredients *Prunus persica* L., of commercial canning varieties, but excluding nectarine varieties, specified in paragraph (a)(2) of this section, which may be packed as a solid pack or in one of the optional packing media specified in paragraph (a)(3) of this section. Such food may also contain one, or any combination of two or more, of the following safe and suitable optional ingredients:

(i) Natural and artificial flavors.
(ii) Spice.
(iii) Vinegar, lemon juice, or organic acids.
(iv) Peach pits, except in the cases of peeled whole peaches, in a quantity not more than 1 peach pit to each 227 grams (8 ounces) of finished canned peaches.
(v) Peach kernels, except in the cases of peeled whole peaches and except when the optional ingredient in paragraph (a)(1)(iv) of this section is used.
(vi) Ascorbic acid in an amount no greater than necessary to preserve color. Such food is sealed in a container and before or after sealing is so processed by heat as to prevent spoilage.

(2) *Varietal types and styles.* The optional peach ingredients referred to in paragraph (a)(1) of this section are prepared from mature peaches of the following optional varietal and color types and styles of peach ingredients; namely:

(i) *The optional varietal types.* (*a*) Freestone is the distinct varietal type where the pit separates readily from the flesh.

(*b*) Clingstone is the distinct varietal type where the pit adheres to the flesh.

(ii) *The optional color types.*—(*a*) *Yellow*—the varietal types in which the predominant color ranges from pale yellow to rich red orange.

(*b*) *White*—the varietal types in which the predominant color ranges from white to yellow-white.

(*c*) *Red*—the varietal types in which the predominant color ranges from pale yellow to orange red and with variegated red coloring other than that associated with the pit cavity.

(*d*) *Green*—varietal types in which the flesh has a green tint even when mature.

(iii) *The optional styles of the peach ingredients.*—(*a*) *Whole*—Consisting of whole peeled unpitted peaches.

(*b*) *Halves*—consisting of peeled pitted peaches cut into two approximately equal parts.

(*c*) *Halves and pieces*—consisting of a mixture in which the halves will be more than 50 percent by weight.

(*d*) *Quartered*—consisting of peeled pitted peaches cut into four approximately equal parts.

(*e*) *Sliced*—consisting of peeled pitted peaches cut into wedge-shaped sectors.

(*f*) *Diced*—consisting of peeled pitted peaches cut into cube-like parts.

(*g*) *Pieces or irregular pieces*—consisting of peeled pitted peaches of irregular shapes and sizes.

(3) *Packing media.* (i) The optional packing media referred to in paragraph (a)(1) of this section, as defined in § 145.3 are:

(*a*) Water.
(*b*) Fruit juice(s) and water.
(*c*) Fruit juice(s).

Such packing media may be used as such or any one or any combination of two or more safe and suitable nutritive carbohydrate sweetener(s) may be added. Sweeteners defined in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.3.

(ii) When a sweetener is added as a part of any such liquid packing medium, the density range of the resulting packing medium, expressed as percent by weight of sucrose (degrees Brix) as determined by the procedure prescribed in § 145.3(m), shall be designated by the

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appropriate name for the respective density ranges, namely:

(a) When the density of the solution is 10 percent or more but less than 14 percent, the medium shall be designated as "slightly sweetened water"; or "extra light sirup"; "slightly sweetened fruit juice(s) and water"; or "slightly sweetened fruit juice(s)", as the case may be.

(b) When the density of the solution is 14 percent or more but less than 18 percent, the medium shall be designated as "light sirup"; "lightly sweetened fruit juice(s) and water"; or "lightly sweetened fruit juice(s)", as the case may be.

(c) When the density of the solution is 18 percent or more but less than 22 percent, the medium shall be designated as "heavy sirup"; "heavily sweetened fruit juice(s) and water"; or "heavily sweetened fruit juice(s)", as the case may be.

(d) When the density of the solution is 22 percent or more but not more than 35 percent, the medium shall be designated as "extra heavy sirup"; "extra heavily sweetened fruit juice(s) and water"; or "extra heavily sweetened fruit juice(s)", as the case may be.

(4) *Labeling requirements.* (i) The name of the food is "peaches". The optional varietal type as set forth in paragraph (a)(2)(i) of this section shall be a part of the name. The name of the food shall also include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice or seasoning that characterizes the product; for example, "Spice added", or in lieu of the word "Spice", the common name of the spice, "Seasoned with vinegar" or "Seasoned with peach kernels". When two or more of the optional ingredients specified in paragraph (a)(1)(ii) through (v) of this section are used, such words may be combined as for example, "Seasoned with cider vinegar, cloves, cinnamon oil and peach kernels".

(ii) The color type and style of the peach ingredient as provided in paragraph (a)(2)(ii) and (iii) of this section and the name of the packing medium specified in paragraph (a)(3)(i) and (ii) of this section, preceded by "In" or "Packed in" or the words "solid pack", where applicable, shall be included as part of the name or in close proximity to the name of the food, except that pieces or irregular pieces shall be designated "Pieces", "Irregular pieces", or "Mixed pieces of irregular sizes and shapes". "Halves" may be alternately designated as "Halved", "Halves and pieces" as "Halved and pieces", "Quartered" as "Quarters", "Sliced" as "Slices", and "Diced" as "Dice". The terms "Cling" and "Free" may be used as optional designations for "Clingstone" and "Freestone" respectively. When the packing medium is prepared with a sweetener(s) which imparts a taste, flavor, or other characteristic to the finished food in addition to sweetness, the name of the packing medium shall be accompanied by the name of such sweetener(s), as for example in the case of a mixture of brown sugar and honey, an appropriate statement would be "_____ sirup of brown sugar and honey" the blank to be filled in with the word "light", "heavy", or "extra heavy" as the case may be. When the liquid portion of the packing media provided for in paragraph (a)(3)(i) and (ii) of this section consists of fruit juice(s), such juice(s) shall be designated in the name of the packing medium as:

(a) In the case of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit";

(b) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (a)(4)(iii) of this section; and

(c) In the case of a single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (a)(4)(iii) of this section.

(iii) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided in paragraph (a)(4)(ii)(b) of this section, such names and the words "from concentrate", as specified in paragraph (a)(4)(ii)(c) of this section, shall appear in an ingredient statement pursuant to the requirements of § 101.3(d) of this chapter.

(iv) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality.*—(1) The standard of quality for canned peaches is as follows:

(i) All units tested in accordance with the method prescribed in paragraph (b) of this section are pierced by a weight of not more than 300 grams.

(ii) In the cases of halves and quarters, the weight of each unit is not less than ⅗ ounce and ⅗₀ ounce, respectively.

(iii) In the cases of whole peaches, halves, and quarters, the weight of the largest unit in the container is not more than twice the weight of the smallest unit therein.

(iv) Except in the case of unpeeled peaches, there is present in the finished canned peaches not more than 1 square inch of peel per each 1 pound of net contents.

(v) Not more than 20 percent of the units in the container are blemished with scab, hail injury, discoloration, or other abnormalities.

(vi) In the cases of whole peaches, halves, quarters, and slices, all units are untrimmed, or are so trimmed as to preserve normal shape.

(vii) Except in the case of mixed pieces of irregular sizes and shapes, not more than 5 percent of the units in a container of 20 or more units, and not more than one unit in a container of less than 20 units, are crushed or broken. (A unit which has lost its normal shape because of ripeness and which bears no mark of crushing shall not be considered to be crushed or broken.)

(2) Canned peaches shall be tested by the following method to determine whether or not they meet the requirements of paragraph (b)(1)(i) of this section: So trim a test piece from the unit as to fit, with peel surface up, into a supporting receptacle. If the unit is of different firmness in different parts of its peel surface, trim the piece from the firmest part. If the piece is unpeeled, remove the peel. The top of the receptacle is circular in shape, of 1⅛ inches inside diameter, with vertical sides; or rectangular in shape, ¾ inch by 1 inch inside measurements, with ends vertical and sides sloping downward and joining at the center at a vertical depth of ¾ inch. Use the circular receptacle for testing units of such size that a test piece can be trimmed therefrom to fit it. Use the rectangular receptacle for testing other units. Test no unit from which a test piece with rectangular peel surface at least ½ inch by 1 inch cannot be trimmed. Test the piece by means of a round metal rod 5/32 inch in diameter. To the upper end of the rod is affixed a device to which weight can be added. The rod is held vertically by a support through which it can freely move upward or downward. The lower end of the rod is a plane surface to which the vertical axis of the rod is perpendicular. Adjust the combined weight of the rod and device to 100 grams. Set the receptacle so that the surface of the test piece is held horizontally. Lower the end of the rod to the approximate center of such surface, and add weight to the device at a uniform, continuous rate of 12 grams per second until the rod pierces the test piece. Weigh the rod and weighted device. Test all units in containers of 50 units or less, except those units too small for testing or too soft for trimming. Test at least 50 units, taken at random, in containers of more than 50 units; but if less than 50 units are of sufficient size and firmness for testing, test those which are of sufficient size and firmness.

(3) If the quality of canned peaches falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified: but in lieu of such general statement of substandard quality the label may bear the alternative statement "Below Standard in Quality _____", the blank to be filled in with the words specified after the corresponding number of each clause of paragraph (b)(1) of this section which such canned peaches fail to meet, as follows: (i) "Not tender"; (ii) "Small halves," or "Small quarters", as the case may be; (iii) "Mixed Sizes"; (iv) "Not well peeled"; (v) "Blemished"; (vi) "Unevenly trimmed"; (vii) "Partly crushed or broken". Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "peaches" and any words and statements required or authorized to ap-

pear with such name by paragraph (a)(2) of this section.

(c) *Fill of container.*—(1) The standard of fill of container for canned peaches is the maximum quantity of the optional peach ingredient that can be sealed in the container and processed by heat to prevent spoilage, without crushing or breaking such ingredient.

(2) If canned peaches fall below the standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 145.171 Artificially sweetened canned peaches.

(a) Artificially sweetened canned peaches is the food which conforms to the definition and standard of identity prescribed for canned peaches by § 145.170(a), except that in lieu of a packing medium specified in § 145.170(a)(3), the packing medium used is water artificially sweetened with saccharin, sodium saccharin, or a combination of both. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

(b)(1) The specified name of the food is "artificially sweetened _____", the blank being filled in with the name prescribed by § 145.170(a) for canned peaches having the same optional peach ingredient.

(2) The artificially sweetened food is subject to the requirements for label statement of optional ingredients used, as prescribed for canned peaches by § 145.170(a). If the packing medium is thickened with pectin, the label shall bear the statement "thickened with pectin". When any organic salt or acid or any mixture of two or more of these is added, the label shall bear the common or usual name of each such ingredient.

§ 145.173 Canned peaches with rum.

Canned peaches with rum conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for canned peaches by § 145.170(a) except that it contains added rum in such amount that its alcohol content is more than 3 percent but less than 5 percent by weight.

§ 145.175 Canned pears.

(a) *Identity.*—(1) *Ingredients.* Canned pears is the food prepared from one of the fresh or previously canned optional pear ingredients *Pyrus communis* or *Pyrus sinensis* specified in paragraph (a)(2) of this section which may be packed in one of the optional packing media specified in paragraph (a)(3) of this section. Such food may also contain one, or any combination of two or more, of the following safe and suitable optional ingredients.

(i) Natural and artificial flavors.

(ii) Spice.

(iii) Vinegar, lemon juice, or organic acids.

(iv) Artificial colors.

Such food is sealed in a container and before or after sealing is so processed by heat as to prevent spoilage.

(2) *Styles and forms of units.* The optional pear styles and forms of units referred to in paragraph (a)(1) of this section are:

(i) Whole.
(ii) Halves.
(iii) Quarters.
(iv) Slices.
(v) Diced.
(vi) Pieces or irregular pieces.

Each such ingredient is peeled, except whole and halves may be, alternatively, unpeeled. Except in the case of whole pears, each such ingredient is cored.

(3) *Packing media.* (i) The optional packing media referred to in paragraph (a)(1) of this section, as defined in § 145.3 are:

(a) Water.
(b) Fruit juice(s) and water.
(c) Fruit juice(s).
(d) Clarified juice.

Such packing media may be used as such or any one or any combination of two or more safe and suitable nutritive carbohydrate sweetener(s) may be added. Sweeteners defined in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.30.

(ii) If the concentration of clarified juice is such that the packing medium forms to the density range for one of the sirups under paragraph (a)(3)(ii)(a), (b), (c), or (d) of this section, the concentrated clarified juice is considered to be light sirup, heavy sirup, or extra heavy sirup, as the case may be. When a sweetener is added as a part of any such liquid packing medium, the density range of the resulting packing medium expressed as percent by weight of sucrose (degrees Brix) as determined by the procedure in § 145.3(m) shall be designated by the appropriate name for the respective density ranges, namely:

(a) When the density of the solution is less than 14 percent, the medium shall be designated as "slightly sweetened water"; or "extra light sirup"; "slightly sweetened fruit juice(s) and water"; or "slightly sweetened fruit juice(s)", as the case may be.

(b) When the density of the solution is 14 percent or more but less than 18 percent, the medium shall be designated as "light sirup"; "lightly sweetened fruit juice(s) and water"; or "lightly sweetened fruit juice(s)" as the case may be.

(c) When the density of the solution is 18 percent or more but less than 22 percent, the medium shall be designated as "heavy sirup"; "heavily sweetened fruit juice(s) and water"; or "heavily sweetened fruit juice(s)", as the case may be.

(d) When the density of the solution is 22 percent or more but not more than 35 percent, the medium shall be designated as "extra heavy sirup"; "extra heavily sweetened fruit juice(s) and water"; or "extra heavily sweetened fruit juice(s)", as the case may be.

(4) *Labeling requirements.* (i) The name of the food is "pears". The name of the food shall also include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice or seasoning that characterizes the product; for example, "Spice Added", or in lieu of the word "Spice", the common name of the spice, "Seasoned with Vinegar". When two or more of the optional ingredients specified in paragraph (a)(1)(ii) and (iii) of this section are used, such words may be combined as for example, "Seasoned with cider vinegar, cloves, and cinnamon oil".

(ii) The style and forms of units of the pear ingredient as provided in paragraph (a)(2) of this section and the name of the packing medium specified in paragraph (a)(3)(i) and (ii) of this section, preceded by "In" or "Packed in" or the words "solid pack", where applicable, shall be included as part of the name or in close proximity to the name of the food, except that pieces or irregular pieces shall be designated "Pieces", "Irregular pieces", or "Mixed pieces of irregular sizes and shapes". The style of the pear ingredient shall be preceded or followed by "Unpeeled" when the units are whole or halves and are unpeeled. "Halves" may be alternatively designated as "Halved", "Quarters" as "Quartered", "Slices" as "Sliced", and "Diced" as "Dice". When the packing medium is prepared with a sweetener(s) which imparts a taste, flavor or other characteristic to the finished food in addition to sweetness, the name of the packing medium shall be accompanied by the name of such sweetener(s), as for example in the case of a mixture of brown sugar and honey, an appropriate statement would be "_____ sirup of brown sugar and honey" the blank to be filled in with the word "light", "heavy", or "extra heavy", as the case may be. When the liquid portion of the packing media provided for in paragraph (a)(3)(i) and (ii) of this section consists of fruit juice(s), such juice(s) shall be designated in the name of the packing medium as:

(a) In the case of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit";

(b) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (a)(4)(iii) of this section; and

(c) In the case of a single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (a)(4)(iii) of this section.

(iii) Whenever the names of the fruit

The rod is held vertically by a support

organic acid or acids as a flavor-

(viii) Crushed; consisting of shredded or finely cut pieces of fruit flesh,

which are within the ranges specified for each in the following list:

section, the name is "pineapple", preceded or followed by the word "crushed".

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(iii) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided in paragraph (a) (4) (ii) (b) of this section, such names and the words "from concentrate", as specified in paragraph (a) (4) (ii) (c) of this section, shall appear in an ingredient statement pursuant to the requirements of § 101.3(d) of this chapter.

(iv) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality*—(1) The standard of quality for canned pears is as follows:

(i) All units tested in accordance with the method prescribed in paragraph (b) (2) of this section are pierced by a weight of not more than 300 grams.

(ii) In the cases of halves and quarters, the weight of each unit is not less than ⅜ ounce and 7/10 ounce, respectively.

(iii) In the cases of whole pears, halves, and quarters, the weight of the largest unit in the container is not more than twice the weight of the smallest unit therein.

(iv) Except in the case of unpeeled pears, there is present in the finished canned pears not more than 1 square inch of peel per each 1 pound of net contents.

(v) Not more than 20 percent of the units in the container are blemished with scab, hail injury, discoloration, or other abnormalities.

(vi) In the cases of whole pears, halves, and quarters, all units are untrimmed, or are so trimmed as to preserve normal shape.

(vii) Except in the case of mixed pieces of irregular sizes and shapes, not more than 10 percent of the units in a container of 10 or more units, and not more than 1 unit in a container of less than 10 units, are crushed or broken. (A unit which has lost its normal shape because of ripeness and which bears no mark of crushing shall not be considered to be crushed or broken.)

(2) Canned pears shall be tested by the following method to determine whether or not they meet the requirements of paragraph (a) (1) of this section: So trim a test piece from the unit as to fit, with peel surface up, into a supporting receptacle. If the unit is of different firmness in different parts of its peel surface, trim the piece from the firmest part. If the piece is unpeeled remove the peel. The top of the receptacle is circular in shape of 1⅛ inches inside diameter, with vertical sides; or rectangular in shape, ⅝ inch by 1 inch inside measurements, with ends vertical and sides sloping downward and joining at the center at a vertical depth of ¾ inch. Use the circular receptacle for testing units of such size that a test piece can be trimmed therefrom to fit it. Use the rectangular receptable for testing other units. Test no unit from which a test piece with rectangular peel surface at least ½ inch by 1 inch cannot be trimmed. Test the piece by means of a round metal rod 9/32 inch in diameter. To the upper end of the rod is affixed a device to which weight can be added. The rod is held vertically by a support through which it can freely move upward or downward. The lower end of the rod is a plane surface to which the vertical axis of the rod is perpendicular. Adjust the combined weight of the rod and device to 100 grams. Set the receptacle so that the surface of the test piece is held horizontally. Lower the end of the rod to the approximate center of such surface, and add weight to the device at a uniform, continuous rate of 12 grams per second until the rod pierces the test piece. Weigh the rod and weighted device. Test all units in containers of 50 units or less, except those units too small for testing or too soft for trimming. Test at least 50 units, taken at random, in containers of more than 50 units; but if less than 50 units are of sufficient size and firmness for testing, test those which are of sufficient size and firmness.

(3) If the quality of canned pears falls below the standard prescribed in paragraph (b) (1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14 (a) of this chapter in the manner and form therein specified; but in lieu of such general statement of substandard quality, the label may bear the alternative statement "Below standard in quality ____", the blank to be filled in with the words specified after the corresponding number of each subparagraph of paragraph (a) of this section which such canned pears fail to meet, as follows: (i) "Not tender"; (ii) "Small halves" or "Small quarters," as the case may be; (iii) "Mixed sizes"; (iv) "Not well peeled"; (v) "Blemished"; (vi) "Unevenly trimmed"; (vii) "Partly crushed or broken". Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "pears" and any words and statements required or authorized to appear with such names by paragraph (a) (2) of this section.

(c) *Fill of container*—(1) The standard of fill of container for canned pears is the maximum quantity of the optional pear ingredient that can be sealed in the container and processed by heat to prevent spoilage, without crushing or breaking such ingredient.

(2) If canned pears fall below the standard of fill of container prescribed in paragraph (c) (1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14 (b) of this chapter, in the manner and form therein specified.

§ 145.176 Artificially sweetened canned pears.

(a) Artificially sweetened canned pears is the food which conforms to the definition and standard of identity prescribed for canned pears by § 145.175(a) except that in lieu of a packing medium specified in § 145.175(a) (3), the packing medium used is water artificially sweetened with saccharin, sodium saccharin, or a combination of both. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

(b) (1) The specified name of the food is "artificially sweetened _____", the blank being filled in with the name prescribed by § 145.175(a) for canned pears having the same optional pear ingredient.

(2) The artificially sweetened food is subject to the requirements for label statement of optional ingredients used, as prescribed for canned pears by § 145.175(a). If the packing medium is thickened with pectin, the label shall bear the statement "thickened with pectin". When any organic salt or acid or any mixture of two or more of these is added, the label shall bear the common or usual name of each such ingredient.

§ 145.178 Canned pears with rum.

Canned pears with rum conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for canned pears by § 145.175(a), except that it contains added rum in such amount that its alcohol content is more than 3 percent but less than 5 percent by weight.

§ 145.180 Canned pineapple.

(a) *Identity*—(1) Canned pineapple is the food prepared from one of the following optional forms of units obtained from peeled, cored, mature fruits of the pineapple plant:

(i) Sliced, slices; consisting of whole circular slices cut across the axis of the peeled, cored fruit cylinders.

(ii) Half sliced, half slices; consisting of semicircular halves of slices. A unit that is approximately one-half slice is considered to be a half slice.

(iii) Broken sliced, broken slices; consisting of arc-shaped portions cut or broken from slices, which portions are not uniform in size or shape.

(iv) Tidbits; consisting of sectors cut from slices. Tidbits are reasonably uniform in size and shape; they are predominantly from 5/16-inch to ½-inch thick and, except for an occasional unit, each sector is not larger than one-sixth of the slice from which cut.

(v) Chunks; consisting of short, thick pieces cut from thick slices or from peeled, cored fruit. Chunks may or may not be symmetrical or uniform in shape and size. Predominantly, the units have a thickness greater than ½-inch, a width greater than 5/16-inch, but a longest dimension (along any edge) not greater than 1½ inches.

(vi) Cubes, diced; consisting of cube-shaped pieces cut from slices or from peeled, cored fruit. Except for an occasional unit, the longest dimension (along any edge) of each unit is not greater than 5/16-inch.

(vii) Spears, fingers; consisting of long, slender pieces cut parallel to the core axis from peeled cored fruit cylinders. The units are not larger than one-sixth of the cylinder from which they are cut, and they are not less than 2½ inches long.

(viii) Crushed; consisting of shredded or finely cut pieces of fruit flesh.

The optional forms of units specified by paragraphs (a) (1) (i) through (vii) of this section are canned with one of the optional packing media specified in paragraph (a) (2) of this section. The optional form of unit specified by paragraph (a) (1) (viii) of this section may be canned with one of the optional packing media specified in paragraph (a) (2) (ii) through (vi) of this section or with one of the optional sweetening ingredients specified in paragraph (a) (4) of this section. Canned pineapples may be flavored or seasoned with one or more of the optional ingredients specified in paragraph (a) (5) of this section. In the canning of pineapple, dimethylpolysiloxane complying with the requirements of § 173.340 of this chapter may be employed as a defoaming agent in an amount not greater than 10 parts per million by weight of the finished food. Such food is sealed in containers, and is so processed by heat, either before or after sealing, as to prevent spoilage.

(2) The optional packing media referred to in paragraph (a) (1) of this section are:

(i) Water.
(ii) Pineapple juice.
(iii) Clarified juice.
(iv) Light sirup.
(v) Heavy sirup.
(vi) Extra heavy sirup.

(3) For the purposes of this section:

(i) Pineapple juice conforms to the definition and standard of identity for unsweetened pineapple juice as specified in § 146.185(a) of this chapter, except that it is not required to be separately sealed in containers and so processed by heat as to prevent spoilage. Clarified juice is the liquid collected from cutting various form of units from pineapple fruits, or the liquid expressed wholly or in part from pineapple cores, shells, or from pineapple flesh or parts thereof, which liquid is clarified and may be further refined or concentrated; but if the concentration is such that the packing medium conforms to the density range for one of the sirups hereinafter specified, such concentrated liquid is considered to be light sirup, heavy sirup, or extra heavy sirup, as the case may be.

(ii) Except as the concentrated clarified juice is considered to be a sirup packing medium as above provided, each of the packing media light sirup, heavy sirup and extra heavy sirup consist of an optional sweetening ingredient as specified in paragraph (a) (4) of this section, dissolved in one or any mixture of two or more of the liquids designated in paragraphs (a) (2) (i), (ii), and (iii) of this section. The sirup packing media have respective densities as determined by the method specified in "Official Methods of Analysis of the Association of Official Agricultural Chemists," Eighth Edition, on page 533, under the heading "Solids—By Means of Spindle—Official," [Ed. note 10th edition 1965, p. 486, sec. 29.009], using the Brix hydrometer 15 days or more after the pineapple is canned, which are within the ranges specified for each in the following list:

Packing medium	*Brix measurement*
Light sirup	14° or more but less than 18°.
Heavy sirup	18° or more but less than 22°.
Extra heavy sirup	22° or more but not more than 35°.

(iii) In the case of crushed pineapple (paragraph (a) (1) (viii) of this section), the juice resulting from cutting or shredding the pineapple flesh is considered to be pineapple juice, without regard to whether it has or has not been drained away from the pieces of pineapple.

(4) The optional sweetening ingredients referred to in paragraphs (a) (1) and (3) of this section are:

(i) Sugar.
(ii) Invert sugar sirup.
(iii) Any mixture of optional sweetening ingredients designated in paragraph (a) (4) (i) and (ii) of this section.
(iv) Any of the optional sweetening ingredients designated in paragraph (a) (4) (i), (ii), and (iii) of this section with dextrose, provided that the weight of the solids of dextrose does not exceed one-third of the total weight of the solids of the combined sweetening ingredients.
(v) Any of the optional sweetening ingredients designated in paragraph (a) (4) (i), (ii), and (iii) of this section with corn sirup or with dried corn sirup or with glucose sirup or with dried glucose sirup, or with any two or more of these, provided that the weight of the solids of corn sirup, dried corn sirup, glucose sirup, dried glucose sirup or the sum of the weights of the solids of corn sirup, dried corn sirup, glucose sirup, and dried glucose sirup, in case two or more of these are used, does not exceed one-fourth of the total weight of the solids of the combined sweetening ingredients.
(vi) Any mixture of the optional ingredients designated in paragraph (a) (4) (iv) and (v) of this section.

(5) The optional ingredients referred to in paragraph (a) (1) of this section are as follows:

(i) Spice.
(ii) Flavoring, other than artificial flavoring.
(iii) A vinegar.

(6) The name of the canned pineapple prepared from each of the optional forms of pineapple ingredient specified in paragraph (a) (1) of this section is as follows:

(i) If the optional form is one designated in paragraph (a) (1) (i) to (vii), inclusive, of this section, the name is "pineapple", preceded or followed, for each of the indicated optional forms of units, by the words here specified:

(a) "Sliced" or "slices".
(b) "Half sliced" or "half slices".
(c) "Broken sliced" or "broken slices".
(d) "Tidbits".
(e) "Chunks".
(f) "Cubes" or "diced".
(g) "Spears" or "fingers".

(ii) If the optional form is one designated in paragraph (a) (1) (viii) of this section, the name is "pineapple", preceded or followed by the word "crushed". If the crushed pineapple, when drained by the method specified in paragraph (b) (2) (i) of this section, yields not less than 73 percent but less than 78 percent by weight of drained material, the word "crushed" or the words "crushed pineapple" in the name of the food may be preceded or followed by the words "heavy pack", and if it yields 78 percent or more by weight of drained material the word "crushed" or the words "crushed pineapple" may be preceded or followed by the words "solid pack".

(7) (i) The labels of canned pineapple prepared from the optional forms of pineapple specified in paragraph (a) (1) (i) to (vii), inclusive, of this section shall bear the name of the optional packing medium used as specified in paragraph (a) (2) of this section, preceded by "in" or "packed in". Whenever the optional packing medium pineapple juice, as specified in paragraph (a) (2) (ii) of this section, is used, the words "pineapple juice" may be preceded by the word "unsweetened". The labels of crushed pineapple canned with the optional packing media specified in paragraph (a) (2) (ii) to (vi), inclusive, of this section shall bear the statement "in _____" or "packed in _____", the blank being filled in with the name of the optional packing medium used as specified in paragraph (a) (2) of this section, but in lieu of such statement crushed pineapple canned with pineapple juice (paragraph (a) (2) (ii) of this section) may be labeled "unsweetened", and crushed pineapple canned with pineapple juice and sugar may be labeled "lightly sweetened" or "heavily sweetened" or "extra heavily sweetened", if the drained liquid conforms to the density ranges specified in paragraph (a) (3) of this section for light sirup, heavy sirup, or extra heavy sirup, respectively.

(ii) When any optional ingredient permitted by one of the following specified in paragraph (a) (5) of this section is used, the label shall bear the words set forth below after the number of such subparagraph:

(a) "Spiced" or "spice added" or "with added spice" or, in lieu of the word "spice", the common name of the spice.

(b) "Flavoring added" or "with added flavoring" or, in lieu of the word "flavoring", the common name of the flavoring.

(c) "Seasoned with vinegar" or "seasoned with _____ vinegar", the blank being filled in with the name of the vinegar used.

When two or all of the optional seasoning ingredients specified in paragraph (a) (5) (i), (ii) and (iii) of this section are used, such words may be combined, as for example, "seasoned with vinegar, cloves, and cinnamon oil".

(ii) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements herein specified, showing the optional ingredients used, shall conspicu-

ously precede or follow the name, with-

(viii) In the case of broken slices and

(2) The methods to be employed to

material per pound of drained fruit, to determine compliance with paragraph

definition and standard of identity prescribed for canned pineapple by § 145.180

in Part 168 of this chapter shall comply with such standard in lieu of any defini-

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ously precede or follow the name, without intervening written, printed, or graphic matter, except that the adjectival designation of the State, Territory, or possession of the United States or of the foreign country in which the pineapples were grown may intervene.

(b) *Quality*—(1) The standard of quality for canned pineapple is as follows:

(i) In the case of broken slices, not more than 10 percent of the drained weight may consist of pieces having an arc of less than 90° and not more than 5 percent of the drained weight of the contents of the container, as determined by the method prescribed in paragraph (b) (2) (i) of this section:

(*a*) Consists of pieces that measure in thickness less than 5/16 inch or more than 1 inch; or

(*b*) Consists of pieces that measure less than ¾ inch in width as measured from the outer edge to the inner edge.

(ii) (*a*) In the case of cubes or diced pineapple, not more than 10 percent of the drained weight consists of units of such size that they pass through the screen when tested by the method prescribed in paragraph (b) (2) (iv) of this section; and

(*b*) Not more than 15 percent of the drained weight consists of pieces weighing more than 5/32 ounce each.

(iii) In the case of chunks, not more than 15 percent of the drained weight consists of pieces weighing less than 5/16 ounce each.

(iv) (*a*) In the case of slices and spears, the drained weight of the largest unit in the container is not more than 1.4 times the weight of the smallest.

(*b*) In the case of half slices, the drained weight of the largest unit in the container is not more than 1.75 times the weight of the smallest (except for an occasional broken piece due to splitting or an occasional whole slice not quite completely cut through).

(v) In the case of broken slices, not more than 5 percent of the drained weight of the contents of the can consists of broken slices having an outside diameter differing by as much as 3/8-inch from that of those present in greatest proportion by weight.

(vi) In the case of tidbits, not more than 15 percent of the drained weight consists of tidbits each of which weighs less than three-fourths as much as the average weight of all the untrimmed tidbits in the container.

(vii) In the case of slices and half slices, not more than 7½ percent by count of the units in a container may be excessively trimmed, but in any container having not more than 10 units, one unit may be excessively trimmed, and in any container having more than 10 units, but not more than 27 units, two units may be excessively trimmed. Such slices and half slices are excessively trimmed if the portion trimmed away exceeds 5 percent of the apparent physical bulk of the perfectly formed unit and if such trimming destroys the normal circular shape of the outer or inner edge of the unit.

(viii) In the case of broken slices and spears, not more than 15 percent by count of the total units in the container, and, in the case of tidbits, not more than 15 percent of the drained weight, consist of units excessively trimmed. Broken slices, spears, and tidbits are excessively trimmed if the normal shape of these units is destroyed by such trimming.

(ix) In the case of slices, half slices, broken slices, spears, chunks, cubes, and tidbits, not more than 12½ percent by count of the units in any container may be blemished, but in containers having not more than five units, one unit may be blemished; in containers having more than five units but not more than 10 units, two units may be blemished; and in containers having more than 10 units, but not more than 32 units, four units may be blemished. Blemishes include:

(*a*) Any of the following, if in excess of 1/16 inch in the longest dimension on the exposed surface of the unit: Eyes, pieces of shell, brown spots.

(*b*) Deep fruit eyes.

(*c*) Bruised portions.

(*d*) Other abnormalities that it is possible to detect in good commercial practice before sealing in the containers.

(x) In the case of crushed pineapple, not more than 1¼ percent of the drained weight of the contents of the can consists of fragments bearing such blemishes.

(xi) In the case of spears, not more than one unit per container is mashed; in the case of slices and half slices, not more than one unit in containers of 25 units or less, and not more than three units in containers of more than 25 units are mashed; in the case of broken slices, not more than 5 percent by count of the units in the container is mashed; in the case of chunks, not more than three of the units in containers of less than 70 units, or 5 percent of the units in containers of 70 units or more, is mashed; in the case of tidbits, not more than three of the units in containers of less than 150 units, or 2 percent of the units in containers of 150 units or more, is mashed. (A unit that has lost its normal shape because of ripeness and which bears no mark of mechanical injury shall not be considered as mashed.)

(xii) In the case of all forms of canned pineapple, not more than 1.1 ounces of core is contained in 1 pound of drained fruit, as determined by the method prescribed in paragraph (b) (2) (viii) of this section.

(xiii) In the case of all forms of canned pineapple, not more than 1.35 grams of acid, as determined by the method prescribed in paragraph (b) (2) (ix) of this section and calculated as anhydrous citric acid, is contained in 100 milliliters of the liquid drained from the product 15 days or more after the pineapple is canned.

(xiv) In the case of crushed pineapple the drained weight of pineapple, as determined by the method prescribed in paragraph (b) (2) (i) of this section, is not less than 63 percent of the net weight of the contents of the container.

(2) The methods to be employed to determine whether canned pineapple meets the requirements of paragraph (b) (1) of this section are as follows:

(i) Determine the drained weight of the canned pineapple by the following procedure: Pour the contents of the can on a round sieve made with No. 8 woven-wire cloth complying with the specifications for such cloth in Table I of "Standard Specifications for Sieves," published March 1, 1940, in L.C. 584 of the United States Department of Commerce, National Bureau of Standards. Use a sieve 8 inches in diameter for containers of less than 3 pounds net contents and a sieve 12 inches in diameter for larger containers. Incline the sieve, without shifting the contents, to facilitate draining. Allow to drain for 2 minutes from the time the contents of the container are poured on the sieve. Immediately transfer the drained pineapple to a clean dry, tared pan by inverting the sieve over the pan in one moderately rapid motion, and determine the weight of the drained pineapple.

(ii) In the case of broken slices and spears, check the dimensions and weight of each unit against the requirements of paragraph (b) (1) (i), (iv), and (v) of this section.

(iii) In the case of cubes, chunks, and tidbits, check the weight of the units against the requirements of paragraph (b) (1) (ii) (*b*), (iii), and (vi) of this section.

(iv) Test cubes for compliance with paragraph (b) (1) (ii) (*a*) of this section by placing the cubes, a few at a time, on the meshes of a sieve designated as 5/16 inch in Table I of "Standard Specifications for Sieves," described in paragraph (b) (2) (i) of this section. After shaking gently, remove those that remain on the sieve before testing the next portion. Continue portionwise until all units are tested, then determine the aggregate weight of those units that have passed through the sieve.

(v) Except in the case of cubes, chunks, and crushed pineapple, inspect all the units in the container to determine those that have been excessively trimmed, as defined in paragraph (b) (1) (vii) or (viii) of this section.

(vi) Except in the case of crushed pineapple, segregate and count each unit that is blemished as defined in paragraph (b) (1) (ix) of this section. In the case of crushed pineapple, segregate each fragment of crushed pineapple bearing a blemish and determine the aggregate weight of such fragments to determine compliance with paragraph (b) (1) (x) of this section.

(vii) Except in the case of cubes and crushed pineapple, count the total units in the container and the number of mashed units, to determine compliance with paragraph (b) (1) (xi) of this section.

(viii) In the case of each form of optional pineapple ingredient, identify and separate any core material cleanly from each of the units in the container, and weigh the aggregate of such core material. Calculate the weight of the core material per pound of drained fruit, to determine compliance with paragraph (b) (1) (xii) of this section.

(ix) Determine the total acidity of the drained liquid by titration, using the following method: Measure with a pipette 10 milliliters of the unfiltered drained liquid into a 250-milliliter Erlenmeyer flask. Add 25 milliliters of freshly boiled, distilled water and 0.3 milliliter of 1-percent phenolphthalein solution. Titrate with one-tenth normal sodium hydroxide solution to a faint, permanently pink coloration. Multiply the number of milliliters of one-tenth normal sodium hydroxide required by 0.064 to calculate the number of grams of anhydrous citric acid per 100 milliliters of drained liquid.

(3) If the quality of canned pineapple falls below the standards prescribed in paragraph (b) (1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14 (a) of this subchapter, in the manner and form therein specified. However, if the quality of canned pineapple falls below standard with respect to only one of the factors of quality specified in paragraph (b) (1) (i) through (xiv) of this section, there may be substituted for the second line of such general statement of substandard quality a new line as specified below, after the number corresponding to each subparagraph of paragraph (b) (1) of this section that such canned pineapple fails to meet as follows:

(i) "Small broken pieces" or "Thick broken pieces", as the case may be.

(ii) (*a*) "Irregular small pieces";

(*b*) "Mixed sizes". (These words are to be used only where the cubes are of mixed sizes and the tolerance for units larger than maximum size is exceeded.)

(iii) "Irregular small pieces".

(iv) "Mixed sizes".

(v) "Mixed sizes".

(vi) "Mixed sizes".

(vii) "Excessively trimmed".

(viii) "Excessively trimmed".

(ix) "Blemished" or "Contains blemished pieces".

(x) "Blemished" or "Contains blemished pieces".

(xi) "Mashed units" or "Contains mashed units".

(xii) "Poorly cored" or "Excessive core".

(xiii) "Excessively tart".

(xiv) "Contains excess liquid".

(c) *Fill of Container*—(1) The standard of fill of container for canned crushed pineapple is a fill of not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 130.12 (b) of this chapter.

(2) If canned crushed pineapple falls below the standard of fill of container prescribed in paragraph (c) (1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14 (b) of this chapter, in the manner and form therein specified.

§ 145.181 Artificially sweetened canned pineapple.

(a) Artificially sweetened canned pineapple is the food that conforms to the definition and standard of identity prescribed for canned pineapple by § 145.180 (a), except that in lieu of a packing medium specified in § 145.180 (a) (2), the packing medium used is water artificially sweetened with saccharin, sodium saccharin, or a combination of both. Such packing medium may be thickened with pectin.

(b) (1) The specified name of the food is "artificially sweetened _____", the blank being filled in with the name prescribed by § 145.180 (a) for canned pineapple having the same optional pineapple ingredient.

(2) The artificially sweetened food is subject to the requirements for label statement of optional ingredients used, as prescribed for canned pineapple by § 145.180 (a). If the packing medium is thickened with pectin, the label shall bear the statement "thickened with pectin".

§ 145.185 Canned plums.

(a) *Identity*—(1) *Ingredients.* Canned plums is the food prepared from clean, sound, and mature fruit of plum varieties conforming to the characteristics of *Prunus domestica* L., greengage varieties conforming to the characteristics of *Prunus italica* L., mirabelle or damson varieties conforming to the characteristics of *Prunus insititia* L., or cherry varieties conforming to the characteristics of *Prunus cerasifera* Ehrh. The food consists of one of the optional styles of the plum ingredient, specified in paragraph (a) (2) of this section, and one of the optional packing media specified in paragraph (a) (3) of this section. Such food may also contain one, or any combination of two or more of the following safe and suitable optional ingredients:

(i) Natural and artificial flavors.

(ii) Spice.

(iii) Vinegar, lemon juice, or organic acids.

(iv) Artificial coloring.

Such food is sealed in a container and before or after sealing is so processed by heat so as to prevent spoilage.

(2) *Optional styles of the plum ingredient.* The optional plum ingredients specified in paragraph (a) (1) of this section are peeled or unpeeled:

(i) Whole.

(ii) Halves.

Peeled or unpeeled whole plums are pitted or, alternatively, unpitted. Peeled or unpeeled plum halves are pitted.

(3) *Packing media*—(i) The optional packing media referred to in paragraph (a) (1) of this section, as defined in § 145.3 are:

(*a*) Water.

(*b*) Fruit juice(s) and water.

(*c*) Fruit juice(s).

Such packing media may be used as such or any one or any combination of two or more safe and suitable nutritive carbohydrate sweetener(s) may be added. Sweeteners defined in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.3.

(ii) When a sweetener is added as a part of any such liquid packing medium, the density range of the resulting packing medium expressed as percent by weight of sucrose (degrees Brix) as determined by the procedure prescribed in § 145.3 (m) shall be designated by the appropriate name for the respective density ranges, namely:

(*a*) When the density of the solution is 11 percent or more but less than 15 percent, the medium shall be designated as "slightly sweetened water", or "extra light sirup", "slightly sweetened fruit juice(s) and water" or "slightly sweetened fruit juice(s)", as the case may be.

(*b*) When the density of the solution is 15 percent or more, but less than 19 percent, the medium shall be designated as "light sirup", "lightly sweetened fruit juice(s) and water", or "lightly sweetened fruit juice(s)", as the case may be.

(*c*) When the density of the solution is 19 percent or more, but less than 25 percent, the medium shall be designated as "heavy sirup", "heavily sweetened fruit juice(s) and water", or "heavily sweetened fruit juice(s)", as the case may be.

(*d*) When the density of the solution is 25 percent or more, but less than 35 percent, the medium shall be designated as "extra heavy sirup", "extra heavily sweetened fruit juice(s) and water", or "extra heavily sweetened fruit juice(s)", as the case may be.

(4) *Labeling requirements*—(i) The name of the food is "plums" accompanied by the color designation "yellow" or "golden" or "red" or "purple", as appropriate, or the specific name of the variety or "Greengage plums", "Damson plums", "Cherry plums", "Mirabelle plums". The name of the food shall also include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice or seasoning that characterizes the product; for example, "Spice added", or in lieu of the word "Spice", the common name of the spice; "Seasoned with vinegar". When two or more of the optional ingredients specified in paragraph (a) (1) (ii) and (iii) of this section are used, such words may be combined as for example, "Seasoned with cider vinegar, cloves, and cinnamon oil".

(ii) The style of the plum ingredient as provided in paragraph (a) (2) of this section and the name of the packing medium specified in paragraph (a) (3) (i) and (ii) of this section, preceded by "In" or "Packed in" shall be included as part of the name or in close proximity to the name of the food. The style of the plum ingredient shall be preceded or followed by "Peeled" when the plums are peeled and by "Pitted" in the case of whole pitted plums. "Halves" may be alternatively designated "Halved". When the packing medium is prepared with a sweetener(s) which imparts a taste, flavor or other characteristics to the finished food in addition to sweetness, the name of the packing medium shall be

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accompanied by the name of such sweetener(s), as for example, in the case of a mixture of brown sugar and honey, an appropriate statement would be "________ sirup of brown sugar and honey", the blank to be filled in with the word "light", "heavy", or "extra heavy", as the case may be. When the liquid portion of the packing media provided for in paragraph (a)(3) (i) and (ii) of this section consists of fruit juice(s), such juice(s) shall be designated in the name of the packing medium as:

(*a*) In the case of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit",

(*b*) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (a)(4)(iii) of this section, and

(*c*) In the case of a single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (a)(4)(iii) of this section.

(iii) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided in paragraph (a)(4)(ii)(*b*) of this section, such names and the words "from concentrate", as specified in paragraph (a)(4)(ii)(*c*) of this section, shall appear in an ingredient statement pursuant to the requirements of § 101.3(d) of this chapter.

(iv) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality*—(1) The standard of quality for canned plums is as follows:

(i) *Blemishes (damaged)*. After draining in accordance with the procedure set out in § 145.3(n) not more than 30 percent by weight of the drained plums consists of plums which have been blemished or damaged by any of the following factors either singly or in combination: Damaged by insects; appearance or eating quality materially affected by friction, disease, external stone gum or discoloration.

(ii) *Crushed or broken units in whole and halves styles*. In the case of the whole styles, not more than 25 percent by weight of the drained plums are deformed or broken to an extent that the normal shape of the fruit is seriously affected. In the case of the halves style, not more than 25 percent by weight of the drained plums are damaged or torn to such an extent that they are smaller than 50 percent of a plum half.

(iii) *Blemishes and crushed or broken units*. Not more than 35 percent by weight of the drained plums consist of both blemishes as specified in paragraph (b)(1)(i) of this section and crushed or broken units in the case of the whole and halves styles as specified in paragraph (b)(2)(ii) of this section.

(iv) *Extraneous plant material*. Not more than one piece of stalk or stem from the plum tree or other harmless extraneous plant material per 200 grams (7 ounces) of drained plums.

(v) *Loose pits in whole style*. Not more than three loose pits per 500 grams (17.6 ounces) of drained plums.

(vi) *Pits or pieces of pits in whole pitted and halves styles*. Not more than two pits or pieces of pits per 500 grams (17.8 ounces) of drained plums.

(2) Determine compliance as specified in § 145.3(o) except that a lot shall be deemed to be in compliance for extraneous plant material, loose pits in whole style, and pits or pieces of pits in whole pitted and halves styles based on the average of all samples analyzed according to the sampling plans set out in § 145.3(p).

(3) If the quality of canned plums falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; however, if the quality of the canned plums falls below standard with respect to only one of the factors of quality specified in paragraph (b)(1) (i) through (vi) of this section, there may be substituted for the second line of such general statement of substandard quality ("Good Food—Not High Grade") a new line, as specified after the corresponding designation of paragraph (b)(1) of this section which the canned plums fail to meet, as follows:

(i) "Blemished";

(ii) "Partly crushed or broken";

(iii) "Blemished and partly crushed or broken";

(iv) "Contains extraneous plant material";

(v) "Contains loose pits"; or

(vi) "Contains pits" or "Contains pieces of pits".

(c) *Fill of container*—(1) The standard of fill of container for canned plums is:

(i) The fill of the plums and packing medium, as determined by the general method for fill of container prescribed in § 130.12(b) of this chapter, is not less than 90 percent of the total capacity of the container.

(ii) The drained weight of the plum ingredient as determined by the method prescribed in § 145.3(h) is not less than 50 percent for whole styles and 55 percent for halves styles based on the water capacity of containers as determined in § 130.12(a) of this chapter.

(2) Determine compliance for fill of container as specified in § 145.3(o).

(3) If canned plums fall below the standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified. If canned plums fall below the standard of fill of container in respect to drained weight, the words "Low drained weight" shall follow the general statement of substandard fill on the label.

§ 145.190 Canned prunes.

(a) *Ingredients*. Canned prunes is the food prepared from dried prunes, which may be packed as a solid pack or in one of the optional packing media specified in paragraph (b) of this section. Such food may also contain one, or any combination of two or more, of the following safe and suitable optional ingredients:

(1) Natural and artificial flavors.

(2) Spice.

(3) Vinegar, lemon juice, or organic acids.

(4) Unpeeled pieces of citrus fruits.

Such food is sealed in a container and before or after sealing is so processed by heat as to prevent spoilage.

(b) *Packing media*—(1) The optional packing media referred to in paragraph (a) of this section, as defined in § 145.3 are:

(i) Water.

(ii) Fruit juice(s) and water.

(iii) Fruit juice(s).

Such packing media may be used as such or any one or any combination of two or more safe and suitable nutritive carbohydrate sweetener(s) may be added. Sweeteners defined in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.3.

(2) When a sweetener is added as a part of any such liquid packing medium, the density range of the resulting packing medium expressed as percent by weight of sucrose (degrees Brix) as determined by the procedure prescribed in § 145.3(m) shall be designated by the appropriate name for the respective density ranges, namely:

(i) When the density of the solution is less than 20 percent, the medium shall be designated as "slightly sweetened water"; or "extra light sirup"; "slightly sweetened fruit juice(s) and water"; or "slightly sweetened fruit juice(s)", as the case may be.

(ii) When the density of the solution is 20 percent or more but less than 24 percent, the medium shall be designated as "light sirup"; "lightly sweetened fruit juice(s) and water"; or "lightly sweetened fruit juice(s)", as the case may be.

(iii) When the density of the solution is 24 percent or more but less than 30 percent, the medium shall be designated as "heavy sirup"; "heavily sweetened fruit juice(s) and water"; or "heavily sweetened fruit juice(s)", as the case may be.

(iv) When the density of the solution is 30 percent or more but not more than 45 percent, the medium shall be designated as "extra heavy sirup"; "extra heavily sweetened fruit juice(s) and water"; or "extra heavily sweetened fruit juice(s)", as the case may be.

(c) *Labeling requirements*—(1) The name of the food is "prunes—prepared from dried prunes". The words "prepared from dried prunes" shall be in close proximity to the word "prunes" and shall be of the same style and not less than ½ of the point size of the type used for the

word "prunes". The name of the food shall also include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice or seasoning that characterizes the product; for example, "Spice added", or in lieu of the word "Spice", the common name of the spice, "Seasoned with vinegar" or "Seasoned with unpeeled pieces of citrus fruit". When two or more of the optional ingredients specified in paragraph (a) (2) through (4) of this section are used, such words may be combined as for example, "Seasoned with cider vinegar, cloves, cinnamon oil and unpeeled pieces of citrus fruit."

(2) When the food is prepared with a packing medium, the name of the packing medium specified in paragraph (b)(1) and (2) of this section, preceded by "In" or "Packed in" and the words "cooked", "stewed", or "prepared", shall be included as part of the name or in close proximity to the name of the food. When no packing medium is used, the words "solid pack" or "moist pack" or the word "moistened" followed by the words "without sirup" shall be included as part of the name or in close proximity to the name of the food. When the packing medium is prepared with a sweetener(s) which imparts a taste, flavor or other characteristic to the finished food in addition to sweetness, the name of the packing medium shall be accompanied by the name of such sweetener(s), as for example in the case of a mixture of brown sugar and honey, an appropriate statement would be "________ sirup of brown sugar and honey", the blank to be filled in with the word "light", "heavy", or "extra heavy" as the case may be. When the liquid portion of the packing media provided for in paragraph (b) (1) and (2) of this section consists of fruit juice(s), such juice(s) shall be designated in the name of the packing medium as:

(i) In the case of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit",

(ii) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (c)(3) of this section, and

(iii) In the case of the single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (c)(3) of this section.

(3) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided in paragraph (c)(2)(ii) of this section, such names and the words "from concentrate", as specified in paragraph (c)(2) (iii) of this section, shall appear in an ingredient statement pursuant to the requirements of § 101.3(d) of this chapter.

(4) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

PART 146—CANNED FRUIT JUICES

Subpart A—General Provisions

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146.3 Definitions.

Subpart B—Requirements for Specific Standardized Canned Fruit Juices and Beverages

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146.135 Orange juice.
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146.145 Orange juice from concentrate.
146.146 Frozen concentrated orange juice.
146.150 Canned concentrated orange juice.
146.151 Orange juice for manufacturing.
146.152 Orange juice with preservative.
146.153 Concentrated orange juice for manufacturing.
146.154 Concentrated orange juice with preservative.
146.155 Orange juice drink.
146.156 Concentrate for orange juice drink.
146.158 Powdered orange juice drink.
146.159 Orange juice drink blend.
146.160 Powdered orange juice drink blend.
146.161 Orange drink.
146.163 Concentrate for orange drink.
146.164 Powdered orange drink.
146.165 Orange flavored drink.
146.166 Concentrate for orange flavored drink.
146.167 Powdered orange flavored drink.
146.168 Water-extracted soluble orange solids.
146.169 Dehydrated water-extracted soluble orange solids.
146.170 Comminuted oranges.
146.171 Dehydrated comminuted oranges.
146.172 Extract of comminuted oranges.
146.175 Dehydrated extract of comminuted oranges.
146.176 Juicy orange pulp for manufacturing.
146.177 Dehydrated juicy orange pulp for manufacturing.
146.185 Canned pineapple juice.
146.187 Canned prune juice.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371).

Subpart A—General Provisions

§ 146.3 Definitions.

For the purposes of this part:

(a) The term "corn sirup" means a clarified, concentrated, aqueous solution of the products obtained by the incomplete hydrolysis of cornstarch, and includes dried corn sirup. The solids of corn sirup and of dried corn sirup contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose.

(b) The term "dextrose" means the hydrated or anhydrous, refined monosaccharide obtained from hydrolyzed starch.

(c) The term "dried glucose sirup" means the product obtained by drying glucose sirup.

(d) The term "glucose sirup" means a clarified, concentrated, aqueous solution of the products obtained by the incomplete hydrolysis of any edible starch. The solids of glucose sirup contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose.

(e) The term "invert sugar sirup" means an aqueous solution of inverted or partly inverted, refined or partly refined sucrose, the solids of which contain not more than 0.3 percent by weight of ash, and which is colorless, odorless, and flavorless, except for sweetness.

(f) The term "sugar" means refined sucrose.

(g) Compliance means the following: Unless otherwise provided in a standard, a lot of canned fruits shall be deemed in compliance for the following factors, to be determined by the sampling and acceptance procedure as provided in paragraph (h) of this section, namely:

(1) *Quality*. The quality of a lot shall be considered acceptable when the number of defectives does not exceed the acceptance number in the sampling plans.

(2) *Fill of container*. A lot shall be deemed to be in compliance for fill of container when the number of defectives does not exceed the acceptance number (c) in the sampling plans.

(h) The sampling and acceptance procedure means the following:

(1) *Definitions*—(i) *Lot*. A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(ii) *Lot size*. The number of primary containers or units in the lot.

(iii) *Sample size*. The total number of sample units drawn for examination from a lot.

(iv) *Sample unit*. A container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(v) *Defective*. Any sample unit shall be regarded as defective when the sample unit does not meet the criteria set forth in the standards.

(vi) *Acceptance number (c)*. The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(vii) *Acceptable quality level (AQL)*. The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

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(2) *Sampling plans:*

shall appear on the label either on the

§ 146.113 Canned fruit nectars.

of the Association of Official Agricultural Chemists," 10th Edition, 1965, page 487,

"nectar" preceded by the name of the fruit; for example, "Apricot nectar".

(b) of this section, water, and one or more of the optional sweetening in-

(2) *Sampling plans:*

Lot size (primary containers)	Size of container	
	Net weight equal to or less than 1 kg (2.2 lb)	
	n	c
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kg (10 lb)	
	n	c
2,400 or less	13	2
2,401 to 15,000	21	3
15,001 to 24,000	29	4
24,001 to 42,000	48	6
42,001 to 72,000	84	9
72,001 to 120,000	126	13
Over 120,000	200	19
	Net weight greater than 4.5 kg (10 lb)	
	n	c
600 or less	13	2
601 to 2,000	21	3
2,001 to 7,200	29	4
7,201 to 15,000	48	6
15,001 to 24,000	84	9
24,001 to 42,000	126	13
Over 42,000	200	19

n=number of primary containers in sample.
c=acceptance number.

Subpart B—Requirements for Specific Standardized Canned Fruit Juices and Beverages

§ 146.110 Cranberry juice cocktail.

(a) Cranberry juice cocktail—a juice drink is the beverage food prepared from one or both of the cranberry juice ingredients specified in paragraph (b) of this section to which water and one or more safe and suitable nutritive sweeteners are added. The finished food is filtered and contains not less than 25 percent by volume of equivalent single strength cranberry juice. The soluble solids content of the finished food is not less than 14° Brix nor more than 16° Brix, as determined by refractometer. It may contain added vitamin C in a quantity prescribed by paragraph (c) of this section. The acid content of the food, calculated as anhydrous citric acid, is not less than 0.55 gram per 100 milliliters. The food is sealed in a container and so processed by heat, before or after sealing, as to prevent spoilage.

(b) The cranberry juice ingredients referred to in paragraph (a) of this section are cranberry juice and concentrated cranberry juice. For the purpose of this section cranberry juice is the juice extracted from mature, well colored, sound, washed cranberries and concentrated cranberry juice is cranberry juice from which part of the water has been removed.

(c) Vitamin C may be added in a quantity such that the total vitamin C in each 6 fluid ounces of the finished food amounts to not less than 30 milligrams and not more than 60 milligrams.

(d) The name of the food is "Cranberry juice cocktail—a juice drink—contains not less than 25 percent cranberry juice". The words "a juice drink" shall appear on the label either on the same line with or centered on a line immediately below the words "cranberry juice cocktail". The words "contains not less than 25 percent cranberry juice" shall appear on a line immediately below and be centered with the line preceding it. The words "a juice drink—contains not less than 25 percent cranberry juice" shall be in letters not less than one-half the height of the largest letter in the words "cranberry juice cocktail".

(e) (1) The label shall name the sweetening ingredients used. When vitamin C is added, as provided for by paragraph (c), it shall be designated on the label as "vitamin C added" or "with added vitamin C". The label shall conform to the labeling requirements prescribed for foods which purport to be or are represented for special dietary uses by regulations promulgated pursuant to section 403(j) of the Federal Food, Drug, and Cosmetic Act.

(2) Statements of the ingredients present as specified in this paragraph shall be set forth on the label with such prominence and conspicuousness as to render them likely to be read by the ordinary individual under customary conditions of purchase.

NOTE.—§ 146.110 (formerly § 27.127) was stayed in its entirety at 33 F.R. 10088, July 13, 1968.

§ 146.111 Artificially sweetened cranberry juice cocktail.

(a) Artificially sweetened cranberry juice cocktail—a juice drink is the food that conforms to the definition and standard of identity prescribed for cranberry juice cocktail—a juice drink by § 146.110, except that in lieu of nutritive sweeteners it is sweetened with one or more of the artificial sweeteners listed in and complying with Parts 170 through 189 of this chapter, and the soluble solids specifications prescribed in § 146.110(a) do not apply. The quantity of artificial sweeteners added is sufficient to sweeten the beverage to the same sweetness taste level as that of the food conforming to § 146.110.

(b) The name of the food is "Artificially sweetened cranberry juice cocktail—a juice drink—contains not less than 25 percent cranberry juice". The words "artificially sweetened" shall be of the same size and style of type as the words "cranberry juice cocktail" and the words "a juice drink—contains not less than 25 percent cranberry juice" shall be of the same size and placement as prescribed in § 146.110(d).

(c) The food is subject to the requirements for label statement of ingredients as prescribed for cranberry juice cocktail—a juice drink by § 146.110 and is labeled to conform to the labeling requirements prescribed for foods which purport to be or are represented for special dietary uses by regulations promulgated pursuant to section 403(j) of the Federal Food, Drug, and Cosmetic Act.

NOTE.—§ 146.111 (formerly § 27.128) was stayed in its entirety at 33 F.R. 10088, July 13, 1968.

§ 146.113 Canned fruit nectars.

(a) Canned fruit nectars are the pulpy, liquid foods prepared from one or more of the optional fruit ingredients specified in paragraph (b) of this section in an amount not less than the percentage specified in that paragraph, water, and one or more of the optional sweetening ingredients as provided for in paragraph (d) of this section. They may contain one or more of the optional ingredients as provided for in paragraph (e) of this section. The consistency of the finished product is such that the time of flow is not less than 30 seconds when tested by the method set forth in "Consistency Measurement of Fruit Nectars and Fruit Juice Products," published in the "Journal of the Association of Official Agricultural Chemists," p. 411, vol. 42, 1959. Such food is sealed in a container and so processed by heat, either before or after sealing, as to prevent spoilage.

(b) (1) The optional fruit ingredients referred to in paragraph (a) of this section are fruit puree, pulp, juice, or concentrates thereof, as prepared from whole, mature fruits of the following varieties: Apple, apricot, blackberry, boysenberry, cherry guava, loganberry, mango, nectarine, papaya, passion fruit, peach, pear, pineapple, and plum. Apples, cherries, passion fruit, and pineapples are used only in combination with one or more of the other fruits listed.

(2) The fruit ingredients contain finely divided insoluble fruit solids but do not contain seeds, pits, or other coarse or hard substances capable of being avoided by good canning practices.

(3) Single-fruit nectars are made from fruits of a single variety. The proportion of fruit ingredient used on an equivalent single strength basis is not less than 40 percent by weight of the finished food; except that for apricot nectar it is not less than 35 percent, for papaya nectar it is not less than 33⅓ percent, and for guava nectar it is not less than 25 percent. Multiple-fruit nectars are made from two or more varieties of fruit, and they may be made by blending single-fruit nectars provided that each single-fruit nectar used meets its fruit ingredient requirement. The fruit ingredient requirements for those fruits that by paragraph (b)(1) of this section are restricted for use in combination with other fruits are: Apples—not less than 40 percent, cherries—not less than 40 percent, passion fruit—not less than 15 percent, and pineapples—not less than 40 percent. Each multiple-fruit nectar made by any procedure other than by the method of blending single-fruit nectars shall contain no less of each fruit ingredient than it would be required to have if made by the blending method. In no case shall the quantity of a fruit ingredient be less than that required to impart a definite flavor or other definite characteristic to the nectar. The weight of any fruit ingredient shall be determined as follows: Determine the percent of soluble solids in such fruit ingredient by the method prescribed in section 29.011 of "Official Methods of Analysis

of the Association of Official Agricultural Chemists," 10th Edition, 1965, page 487, under "Solids." Use this method notwithstanding the presence of insoluble solids. Multiply the result so found by the weight of each fruit ingredient used and divide the product by the Brix value for each such fruit ingredient set forth in paragraph (c)(3) of this section. The result is the equivalent weight of the individual single strength fruit ingredients. For example, 1,180 pounds of concentrated peach ingredient having 30 percent soluble solids is used. The equivalent weight of single strength peach ingredient would be:

(1,180×30÷11.8=3,000 pounds.)

(c) Any requirement of this section with respect to the weight of any fruit means:

(1) In the case of fruit the proper preparation of which involves the removal of pits, seeds, skins, cores, or other parts, the weight of such fruit exclusive of all such substances removed therefrom; and

(2) The weight of the fruit exclusive of the weight of water or any other substance added for any processing, packing, or canning of such fruit, or otherwise added to such fruit.

(3) For the purposes of this section the weight of any fruit ingredient shall be converted to the equivalent weight of single strength fruit ingredient having a Brix value as follows:

Name of fruit:	Brix value
Apple	13.3
Apricot	14.3
Blackberry	10.0
Boysenberry	10.0
Cherry	14.3
Guava	7.7
Loganberry	10.5
Mango	13.0
Nectarine	11.8
Papaya	11.5
Passion fruit	14.5
Peach	11.8
Pear	15.4
Pineapple	13.0
Plum	14.3

(d) The optional sweetening ingredients referred to in paragraph (a) of this section are: Sugar, invert sugar sirup, dextrose, corn sirup, dried corn sirup, glucose sirup, and dried glucose sirup.

(e) Optional ingredients that may be added in making fruit nectars are one or more of the following:

(1) Acidifiers: Lemon juice, concentrated lemon juice, citric acid, malic acid, and fumaric acid.

(2) Ascorbic acid as an antioxidant preservative in a quantity not to exceed 150 parts per million.

(3) Ascorbic acid (vitamin C) added in such quantity that the total ascorbic acid in each 4 fluid ounces of the finished fruit nectar amounts to not less than 30 milligrams and not more than 60 milligrams.

(f) The names of the fruit nectars for which standards of identity are prescribed by this section are:

(1) If the fruit ingredient is prepared from a single variety of fruit the name is "nectar" preceded by the name of the fruit; for example, "Apricot nectar".

(2) If the fruit ingredient is a combination of two or more fruits and the weight of each is not less than one-tenth of the weight of the combination, the name is "nectar" preceded by the names of the fruits arranged in descending order of predominance; for example, "Apricot and papaya nectar".

(3) If the fruit ingredient is a combination, the nectar shall be so named as to differentiate those fruits furnishing one-tenth or more to the weight of the combination from those fruits furnishing less than one-tenth to such weight. The names of those fruits furnishing one-tenth or more to the combination shall be shown as prescribed in paragraph (f)(2) of this section; or, alternatively, in the case of combinations wherein each of four or more fruits furnishes one-tenth or more to the weight of the combination, their names may be listed in descending order of predominance immediately following the words "Blended fruit nectar". The names of any fruits furnishing less than one-tenth of the weight of the combination shall be shown immediately following the rest of the name of the nectar by listing them in the blank of the statement "with added_____" or "_____ added". For example, nectar made with a combination containing: 35 percent pear, 25 percent peach, 20 percent plum, 15 percent apricot, and 5 percent passion fruit may be named "Pear, peach, plum, apricot nectar, passion fruit added", or alternatively, it may be named "Blended fruit nectar—pear, peach, plum, apricot, with added passion fruit".

(g) The common names of optional ingredients used shall be shown on the principal display panel or panels of the label with such prominence and conspicuousness that they are likely to be read and understood by ordinary individuals under customary conditions of purchase. The term "sweetener added" may be used in lieu of the name or names of the sweetening ingredient. When ascorbic acid is added as provided for in paragraph (e)(2) of this section, it shall be declared on the label by the statement "ascorbic acid added_____", the blank being filled in with "to preserve color and flavor" or "as a preservative". A fruit nectar containing ascorbic acid (vitamin C) as provided for in paragraph (e)(3) of this section shall bear on the label, in addition to the preservative declaration required by this paragraph, the statement "vitamin C added" or "with added vitamin C" and such statement shall be accompanied by labeling conforming to the requirements prescribed in the regulations established pursuant to section 403(j) of the Federal Food, Drug, and Cosmetic Act.

NOTE.—§ 146.113 (formerly § 27.126) was stayed in its entirety at 33 FR 10713, July 27, 1968.

§ 146.115 Lemonade.

(a) Lemonade is the beverage food prepared from one or more of the lemon juice ingredients specified in paragraph (b) of this section, water, and one or more of the optional sweetening ingredients specified in paragraph (c) of this section. It may contain one or more of the optional ingredients provided for in paragraph (d) of this section. The proportion of lemon juice ingredients used is sufficient to yield an acidity, calculated as anhydrous citric acid, of not less than 0.70 gram per 100 milliliters of the finished lemonade. The pulp content of lemonade may be adjusted by removing or by adding lemon pulp in accordance with good manufacturing practice. The beverage made by diluting frozen concentrate for lemonade, identified in § 146.120, with water to meet the requirements of this section is deemed to be lemonade. Lemonade may be treated with heat to reduce the enzymatic activity and the number of viable microorganisms. It may be preserved by refrigeration, by freezing, by the addition of preservatives as provided for in paragraph (d)(2) of this section, or by sealing in containers and so processing by heat, either before or after sealing, as to prevent spoilage.

(b) The lemon juice ingredients referred to in paragraph (a) of this section are lemon juice and concentrated lemon juice, either of which may be frozen. For the purposes of this section, lemon juice is the juice expressed from mature lemons of an acid variety. Concentrated lemon juice is lemon juice from which part of the water has been removed. Lemon juice ingredients may be treated by heat to reduce the enzymatic activity and the number of viable microorganisms.

(c) The optional sweetening ingredients referred to in paragraph (a) of this section are: Sugar, invert sugar sirup, dextrose, corn sirup, dried corn sirup, glucose sirup, and dried glucose sirup.

(d) Optional ingredients that may be added in making lemonade are one or more of the following:

(1) Lemon oil, cold-pressed lemon oil, concentrated lemon oil, and lemon essence recovered during the concentration of lemon juice.

(2) The chemical preservatives: Sodium benzoate and sorbic acid.

(3) Safe and suitable buffering salts, emulsifying agents and weighting oils (emulsifying agents and weighting oils may be used only when an oil as provided for by paragraph (d)(1) of this section is added and in a quantity not greater than required to facilitate dispersion of such oil). Such ingredients are deemed safe if they are not food additives as defined by section 201(s) of the Federal Food, Drug, and Cosmetic Act, or if they are food additives as so defined, when they are used in conformity with regulations established pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act.

(e) The name of the food is "Lemonade". If the food is preserved by freezing, the name is "Frozen lemonade". If it is preserved by heat processing so as to prevent spoilage, the name is "Canned lemonade"; however, if it does not pur-

port to be a refrigerated or frozen product, the word "canned" may be omitted.

preparing frozen concentrate for lemonade, provided that the amount of pulp

standard of identity and is subject to the requirements for label statement of on-

§ 146.133 Canned pineapple-grapefruit juice drink.

(d) Optional ingredients that may be added in making pineapple-grapefruit

ceded on the label by the varietal name of the oranges used, and if the oranges

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port to be a refrigerated or frozen product, the word "canned" may be omitted.

(f) The common names of optional ingredients used shall be shown on the principal display panel or panels of the label with such prominance and conspicuousness that they are likely to be read and understood by ordinary individuals under customary conditions of purchase. The term "sweetener added" may be used in lieu of the name or names of the sweetening ingredient. The term "flavor added" may be used in lieu of the names for lemon oil, cold-pressed lemon oil, concentrated lemon oil, or lemon essence. The name of the preservative ingredient used shall be accompanied by words to show that it is a preservative; for example, "preserved with sodium benzoate".

NOTE.—§ 146.115 (formerly § 27.99) was stayed in its entirety at 33 F.R. 10713, July 27, 1968.

§ 146.120 Frozen concentrate for lemonade.

(a) Frozen concentrate for lemonade is the frozen food prepared from one or both of the lemon juice ingredients specified in paragraph (b) of this section together with one or any mixture of safe and suitable nutritive carbohydrate sweeteners. The product contains not less than 48.0 percent by weight of soluble solids taken as the sucrose value determined by refractometer and corrected for acidity as given in "Correction of Refractometer Sucrose Readings for Citric Acid Content in Frozen Concentrate for Lemonade," by Yeatman, Senzel and Springer, "Journal of the Association of Analytical Chemists," vol. 59, p. 368 (1976).[2] When the product is diluted according to directions for making lemonade which shall appear on the label, the acidity of the lemonade, calculated as anhydrous citric acid, shall be not less than 0.70 gram per 100 milliliters, and the soluble solids, measured as described for the concentrate, shall be not less than 10.5 percent by weight.

(b) The lemon juice ingredients referred to in paragraph (a) of this section are:

(1) Lemon juice or frozen lemon juice or a mixture of these.

(2) Concentrated lemon juice or frozen concentrated lemon juice or a mixture of these.

For the purposes of this section, lemon juice is the undiluted juice expressed from mature lemons of an acid variety; and concentrated lemon juice is lemon juice from which part of the water has been removed. In the preparation of the lemon juice ingredients, the lemon oil content may be adjusted by the addition of lemon oil or concentrated lemon oil in accordance with good manufacturing practice, and the lemon pulp in the juice as expressed may be left in the juice or may be separated. Lemon pulp that has been separated, which may have been preserved by freezing, may be added in preparing frozen concentrate for lemonade, provided that the amount of pulp added does not raise the proportion of pulp in the finished food to a level in excess of that which would be present by using lemon juice ingredients from which pulp has not been separated. The lemon juice ingredients may be treated by heat, either before or after the other ingredients are added, to reduce the enzymatic activity and the number of viable microorganisms.

(c) Each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 146.121 Frozen concentrate for artificially sweetened lemonade.

(a) Frozen concentrate for artificially sweetened lemonade conforms to the definition and standard of identity prescribed for frozen concentrate for lemonade by § 146.120, except that in lieu of nutritive sweeteners it is sweetened with one or more of the artificial sweetening ingredients listed in and complying with the requirements of Parts 172, 180 or 184 of this chapter, and the soluble solids specifications prescribed in § 146.120(a) do not apply. When the product is diluted according to directions which shall appear on the label, the acidity of the artificially sweetened lemonade, calculated as anhydrous citric acid, shall be not less than 0.70 gram per 100 milliliters. It may contain one or more safe and suitable dispersing ingredients serving the function of distributing the lemon oil throughout the food. It may also contain one or more safe and suitable thickening ingredients. Such dispersing and thickening ingredients are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act; or if they are food additives as so defined, they are used in conformity with regulations established pursuant to section 409 of the act.

(b) [Reserved]

(c) The name of the food is "Frozen concentrate for artificially sweetened lemonade". The words "artificially sweetened" shall be of the same size and style of type as the word "lemonade".

(d) If an optional thickening or dispersing ingredient referred to in paragraph (a) of this section is used, the label shall bear the statement "_____ added" or "with added _____", the blank being filled in with the common name of the thickening or dispersing agent used. Such statement shall be set forth on the label with such prominence and conspicuousness as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase.

(e) Frozen concentrate for artificially sweetened lemonade is labeled to conform to the labeling requirements prescribed for foods which purport to be or are represented for special dietary use by regulations promulgated pursuant to section 403(j) of the act.

§ 146.125 Colored lemonade.

(a) Colored lemonade is the beverage food that conforms to the definition and standard of identity and is subject to the requirements for label statement of optional ingredients prescribed for lemonade by § 146.115, except that it is colored with a safe and suitable color. Such color is deemed safe if it is a color additive as defined in section 201(t) of the Federal Food, Drug, and Cosmetic Act and is used in conformity with regulations established pursuant to section 706 of the act. The beverage made by diluting frozen concentrate for colored lemonade, identified in § 146.126 with water to meet the requirements of this section is deemed to be colored lemonade.

(b) The name of the food conforms to the name prescribed by § 146.115, except that the word "lemonade" is immediately preceded by a word describing the color of the food; for example, "frozen pink lemonade".

(c) The authorized coloring ingredient used shall be shown on the label by the statement "_____ added" or "with added _____", the blank being filled in with words "artificial coloring" if the color additive used is artificial, or if it is not an artificial coloring the blank is filled in with the word "coloring" or with the common name of the color additive used; for example, "beet juice added".

NOTE.—§ 146.125 (formerly § 27.100) was stayed in its entirety at 33 FR 10713, July 27, 1968.

§ 146.126 Frozen concentrate for colored lemonade.

(a) Frozen concentrate for colored lemonade conforms to the definition and standard of identity prescribed for frozen concentrate for lemonade by § 146.120, except that it is colored with a safe and suitable fruit juice, vegetable juice, or any such juice in concentrated form, or with any other color additive ingredient suitable for use in food, including artificial coloring, used in conformity with regulations established pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act.

(b) The name of the food is "Frozen concentrate for _____ lemonade", the blank being filled in with the word describing the color: for example, "Frozen concentrate for pink lemonade".

(c) Each of the ingredients specified in paragraph (a) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 146.130 Limeade.

Limeade is the beverage food that conforms to the compositional requirements prescribed by § 146.115 for lemonade, except that instead of using lemon juice ingredients, lemon pulp, and flavoring ingredients derived from lemons, the corresponding juice, pulp, and flavoring ingredients derived from mature limes of an acid variety are used. Limeade conforms to the labeling requirements prescribed by § 146.115 for lemonade, except that the name "limeade" replaces the name "lemonade".

NOTE.—§ 146.130 (formerly § 27.131) was stayed in its entirety at 33 FR 10713, July 27, 1968.

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

§ 146.133 Canned pineapple-grapefruit juice drink.

(a) Canned pineapple-grapefruit juice drink is the beverage food prepared from one or both of the pineapple juice ingredients and one or both of the grapefruit juice ingredients specified in paragraph (b) of this section, water, and one or more of the optional sweetening ingredients specified in paragraph (c) of this section. It may contain one or more of the optional ingredients as provided for in paragraph (d) of this section. The consistency of the finished food is such that the time of flow is less than 30 seconds when tested by the method set forth in "Consistency Measurement of Fruit Nectars and Fruit Juice Products" published in the "Journal of the Association of Official Agricultural Chemists," pages 411–416, vol. 42, 1959. The food is sealed in a container and so processed by heat, either before or after sealing, as to prevent spoilage.

(b) (1) The fruit juice ingredients referred to in paragraph (a) of this section are pineapple juice, concentrated pineapple juice, grapefruit juice, and concentrated grapefruit juice. Each fruit juice ingredient may contain finely divided insoluble fruit solids but does not contain seeds, pits, or other coarse or hard substances capable of being avoided in good canning practices. The adjusted weight of the combination of these fruit juice ingredients shall be not less than 50 percent of the weight of the finished food, calculated by the method specified in paragraph (b)(2) of this section. Each fruit juice ingredient shall be used in a quantity sufficient to impart its characteristics to the blend, and the proportion of the pineapple juice ingredient shall exceed the proportion of the grapefruit juice ingredient.

(2) Determine the percent of soluble solids in the fruit juice ingredients used by the method prescribed in section 29.011 of "Official Methods of Analysis of the Association of Official Agricultural Chemists," 10th edition, 1965, page 487, under "Solids." Use this method, notwithstanding the presence of insoluble solids. Multiply the result so found by the weight of each fruit juice ingredient used and divide the product by the following Brix value for each fruit ingredient.

Name of fruit:	Brix value
Pineapple juice	13.0
Grapefruit juice	9.5

The result is the adjusted weight of the fruit juice ingredient. For example, assume there is on hand 1,300 pounds of concentrated pineapple juice that in accordance with the above-cited A.O.A.C. method is found to contain 30 percent of soluble solids. The weight of equivalent single strength pineapple juice is calculated as follows:

$$1{,}300 \times 30 \div 13.0 = 3{,}000 \text{ pounds}$$

(c) The optional sweetening ingredients referred to in paragraph (a) of this section are: Sugar, invert sugar sirup, dextrose, corn sirup, dried corn sirup, glucose sirup, and dried glucose sirup.

(d) Optional ingredients that may be added in making pineapple-grapefruit juice drink are one or more of the following:

(1) Citrus oil flavoring derived from orange, lemon, and/or grapefruit.

(2) Acidifiers: Lemon juice, concentrated lemon juice, citric acid, malic acid, and fumaric acid.

(3) Ascorbic acid (vitamin C) added in such a quantity that the total ascorbic acid in each 4 fluid ounces of the finished pineapple-grapefruit juice drink amounts to not less than 30 milligrams and not more than 60 milligrams.

(4) Sodium citrate.

(e) The name of the food is:

Pineapple-Grapefruit Juice Drink
Contains not less than 50 percent fruit juice

That part of the name consisting of the statement "Contains not less than 50 percent fruit juice" shall immediately follow the words "Pineapple-grapefruit juice drink" and shall be shown in the same color, on the same background, and in letters that are not less than one-half the height of the largest letter in the preceding words in the name.

(f) The common names of the optional ingredients used shall be shown on the principal display panel or panels of the label with such prominence and conspicuousness that they are likely to be read and understood by ordinary individuals under customary conditions of purchase. The term "sweetener added" may be used in lieu of the name or names of the sweetening ingredient. The term "flavor added" may be used in lieu of the name of the citrus oil flavoring ingredient. When ascorbic acid (vitamin C) is added it shall be declared as "vitamin C added" or "with added vitamin C" and this declaration shall be accompanied by labeling conforming to the requirements prescribed in the regulations established pursuant to section 403(j) of the Federal Food, Drug, and Cosmetic Act.

NOTE.—§ 146.133 (formerly § 27.128) was stayed in its entirety at 33 FR 10713, July 27, 1968.

§ 146.135 Orange juice.

(a) Orange juice is the unfermented juice obtained from mature oranges of the species *Citrus sinensis*. Seeds (except embryonic seeds and small fragments of seeds that cannot be separated by good manufacturing practice) and excess pulp are removed. The juice may be chilled, but it is not frozen.

(b) The name of the food is "orange juice". The name "orange juice" may be preceded on the label by the varietal name of the oranges used, and if the oranges grew in a single State, the name of such State may be included in the name, as for example, "California Valencia orange juice".

§ 146.137 Frozen orange juice.

(a) Frozen orange juice is orange juice as defined in § 146.135, except that it is frozen.

(b) The name of the food is "Frozen orange juice". Such name may be preceded on the label by the varietal name of the oranges used, and if the oranges grew in a single State, the name of such State may be included in the name, as for example, "California Valencia frozen orange juice".

§ 146.140 Pasteurized orange juice.

(a) Pasteurized orange juice is the food prepared from unfermented juice obtained from mature oranges as specified in § 146.135, to which may be added not more than 10 percent by volume of the unfermented juice obtained from mature oranges of the species *Citrus reticulata* or hybrids thereof. Seeds (except embryonic seeds and small fragments of seeds that cannot be separated by good manufacturing practice) are removed, and pulp and orange oil may be adjusted in accordance with good manufacturing practice. If the adjustment involves the addition of pulp, then such pulp shall not be of the washed or spent type. The solids may be adjusted by the addition of one or more of the optional concentrated orange juice ingredients specified in paragraph (b) of this section. One or more of the optional sweetening ingredients listed in paragraph (c) of this section may be added in a quantity reasonably necessary to raise the Brix or the Brix-acid ratio to any point within the normal range usually found in unfermented juice obtained from mature oranges as specified in § 146.135. The orange juice is so treated by heat as to reduce substantially the enzymatic activity and the number of viable microorganisms. Either before or after such heat treatment, all or a part of the product may be frozen. The finished pasteurized orange juice contains not less than 10.5 percent by weight of orange juice soluble solids, exclusive of the solids of any added optional sweetening ingredients, and the ratio of the Brix hydrometer reading to the grams of anhydrous citric acid per 100 milliliters of juice is not less than 10 to 1.

(b) The optional concentrated orange juice ingredients referred to in paragraph (a) of this section are frozen concentrated orange juice as specified in § 146.146 and concentrated orange juice for manufacturing as specified in § 146.153 when made from mature oranges; but the quantity of such concentrated orange juice ingredients added shall not contribute more than one-fourth of the total orange juice solids in the finished pasteurized orange juice.

(c) The optional sweetening ingredients referred to in paragraph (a) of this section are sugar, invert sugar, dextrose, dried corn sirup, dried glucose sirup.

(d) (1) The name of the food is "Pasteurized orange juice". If the food is filled into containers and preserved by freezing, the label shall bear the name "Frozen pasteurized orange juice". The words "pasteurized" or "frozen pasteurized" shall be shown on labels in letters not less than one-half the height of the letters in the words "orange juice".

(2) If the pasteurized orange juice is filled into containers and refrigerated, the label shall bear the name of the food,

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"chilled pasteurized orange juice". If it does not purport to be either canned orange juice or frozen pasteurized orange juice, the word "chilled" may be omitted from the name. The words "pasteurized" or "chilled pasteurized" shall be shown in letters not less than one-half the height of the letters in the words "orange juice".

(e) (1) If a concentrated orange juice ingredient specified in paragraph (b) of this section is used in adjusting the orange juice solids of the pasteurized orange juice, the label shall bear the statement "prepared in part from concentrated orange juice" or "with added concentrated orange juice" or "concentrated orange juice added".

(2) If one or more of the sweetening ingredients specified in paragraph (c) of this section are added to the pasteurized orange juice, the label shall bear the statement "____ added", the blank being filled in with the name or an appropriate combination of the names of the sweetening ingredients used. However, for the purpose of this section, the name "sweetener" may be used in lieu of the specific name or names of the sweetening ingredients.

(f) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements specified in this section for naming the optional ingredients used shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

§ 146.141 Canned orange juice.

(a) Canned orange juice is the food prepared from orange juice as specified in § 146.135 or frozen orange juice as specified in § 146.137, or a combination of both, to which may be added not more than 10 percent by volume of the unfermented juice obtained from mature oranges of the species *Citrus reticulata* or hybrids thereof. Seeds (except embryonic seeds and small fragments of seeds that cannot be separated by good manufacturing practice) are removed. Orange oil and pulp may be adjusted in accordance with good manufacturing practice. The adjustment of pulp referred to in this paragraph does not permit the addition of washed or spent pulp. Liquid condensate recovered from the deoiling operation may be added back. One or more of the optional sweetening ingredients named in paragraph (b) of this section may be added, in a quantity reasonably necessary to raise the Brix or the Brix-acid ratio to any point within the normal range usually found in unfermented juice obtained from mature oranges as specified in § 146.135. The food is sealed in containers and so processed by heat, either before or after sealing, as to prevent spoilage. The finished canned orange juice tests not less than 10° Brix, and the ratio of the Brix hydrometer reading to the grams of anhydrous citric acid per 100 milliliters of juice is not less than 9 to 1.

(b) The optional sweetening ingredients referred to in paragraph (a) of this section are sugar, invert sugar, dextrose, dried corn sirup, dried glucose sirup.

(c) The name of the food is "Canned orange juice". All the words in the name shall appear in the same size, color, and style of type and on the same color-contrasting background. If the food is not sold under refrigeration and if it does not purport to be chilled pasteurized orange juice or frozen pasteurized orange juice, the word "canned" may be omitted from the name.

(d) If one or more of the sweetening ingredients specified in paragraph (b) of this section are added to the canned orange juice, the label shall bear the statement "_____ added", the blank being filled in with the name or an appropriate combination of the names of the sweetening ingredients used. However, for the purpose of this section, the name "sweetener" may be used in lieu of the specific name or names of the sweetening ingredients.

(e) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements specified in this section for naming the optional ingredients used shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

§ 146.145 Orange juice from concentrate.

(a) Orange juice from concentrate is the food prepared by mixing water with frozen concentrated orange juice as defined in § 146.146 or with concentrated orange juice for manufacturing as defined in § 146.153 (when made from mature oranges), or both. To such mixture may be added orange juice as defined in § 146.135, frozen orange juice as defined in § 146.137, pasteurized orange juice as defined in § 146.140, orange juice for manufacturing as defined in § 146.151 (when made from mature oranges and preserved by chilling or freezing but not by canning), orange oil, orange pulp, and one or more of the sweetening ingredients listed in paragraph (b) of this section. The finished orange juice from concentrate contains not less than 11.8 percent orange juice soluble solids, exclusive of solids of any added optional sweetening ingredients. It may be so treated by heat as to reduce substantially the enzymatic activity and the number of viable microorganisms.

(b) The sweetening ingredients referred to in paragraph (a) of this section are sugar, sugar sirup, invert sugar, invert sugar sirup, dextrose, corn sirup, dried corn sirup, glucose sirup, dried glucose sirup.

(c) The name of the food is "Orange juice from concentrate". The words "from concentrate" shall be shown in letters not less than one-half the height of the letters in the words "orange juice".

(d) When orange juice from concentrate contains any optional sweetening ingredient as listed in paragraph (b) of this section, whether added directly as such or indirectly as an added ingredient of any orange juice product used, the label shall bear the statement "_____ added", the blank being filled in with the name or an appropriate combination of the names of the sweetening ingredients added. However, for the purposes of this section the name "sweetener" may be used in lieu of the specific name or names of the sweetening ingredients.

(e) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements specified in this section for naming the optional ingredients used shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

§ 146.146 Frozen concentrated orange juice.

(a) Frozen concentrated orange juice is the food prepared by removing water from the juice of mature oranges as provided in § 146.135, to which juice may be added unfermented juice obtained from mature oranges of the species *Citrus reticulata*, or hybrids thereof, or of *Citrus aurantium*, or both. However, in the unconcentrated blend the volume of juice from *Citrus reticulata* shall not exceed 10 percent and from *Citrus aurantium* shall not exceed 5 percent. The concentrate so obtained is frozen. In its preparation, seeds (except embryonic seeds and small fragments of seeds that cannot be separated by good manufacturing practice) and excess pulp are removed, and a properly prepared water extract of the excess pulp so removed may be added. Orange oil, orange pulp, orange essence (obtained from orange juice), orange juice and other orange juice concentrate as provided in this section or concentrated orange juice for manufacturing provided in § 146.153 (when made from mature oranges), water, and one or more of the optional sweetening ingredients specified in paragraph (b) of this section may be added to adjust the final composition. The juice of *Citrus reticulata* and *Citrus aurantium*, as permitted by this paragraph, may be added in single strength or concentrated form prior to concentration of the *Citrus sinensis* juice, or in concentrated form during adjustment of the composition of the finished food. The addition of concentrated juice from *Citrus reticulata* or *Citrus aurantium*, or both, shall not exceed, on a single-strength basis, the 10 percent maximum for *Citrus reticulata* and the 5 percent maximum for *Citrus aurantium* prescribed by this paragraph. Any of the ingredients of the finished concentrate may have been so treated by heat as to reduce substantially the enzymatic activity and the number of viable microorganisms. The finished food is of such concentration that when diluted according to label directions the diluted article will contain not less than 11.8 percent by weight of orange juice soluble solids, exclusive of the solids of any added optional sweetening ingredients. The dilution ratio shall be not less than 3 plus 1. For the purposes of this section and § 146.150, the term "dilution ratio" means the whole number of volumes of water per volume of frozen concentrate required to produce orange juice from concentrate having orange juice soluble solids of not less than 11.8 percent by weight exclusive of the solids of any added optional sweetening ingredients.

(b) The optional sweetening ingredients referred to in paragraph (a) of this section are sugar, sugar sirup, invert sugar, invert sugar sirup, dextrose, corn sirup, dried corn sirup, glucose sirup, and dried glucose sirup.

(c) If one or more of the sweetening ingredients specified in paragraph (b) of this section are added to the frozen concentrated orange juice, the label shall bear the statement "_____ added", the blank being filled in with the name or an appropriate combination of names of the sweetening ingredients used. However, for the purpose of this section, the name "sweetener" may be used in lieu of the specific name or names of the sweetening ingredients.

(d) The name of the food concentrated to a dilution ratio of 3 plus 1 is "frozen concentrated orange juice" or "frozen orange juice concentrate". The name of the food concentrated to a dilution ratio greater than 3 plus 1 is "frozen concentrated orange juice, _____ plus 1" or "frozen orange juice concentrate, _____ plus 1", the blank being filled in with the whole number showing the dilution ratio; for example, "frozen orange juice concentrate, 4 plus 1". However, where the label bears directions for making 1 quart of orange juice from concentrate (or multiples of a quart), the blank in the name may be filled in with a mixed number; for example, "frozen orange juice concentrate, 4⅓ plus 1". For containers larger than 1 pint, the dilution ratio in the name may be replaced by the concentration of orange juice soluble solids in degrees Brix; for example, a 62° Brix concentrate in 3½-gallon cans may be named on the label "frozen concentrated orange juice, 62° Brix".

(e) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements specified in this section for naming the optional ingredients used shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

(f) Nothing in this section is intended to interfere with the adoption and enforcement by any State, in regulating the production of frozen concentrated orange juice in such State, of State standards, consistent with this section, but which impose higher or more restrictive requirements than those set forth in this section.

§ 146.150 Canned concentrated orange juice.

(a) Canned concentrated orange juice complies with the requirements for composition, definition of dilution ratio, and labeling of optional ingredients prescribed for frozen concentrated orange juice by § 146.146, except that it is not frozen and it is sealed in containers and so processed by heat, either before or after sealing, as to prevent spoilage.

(b) The name of the food when concentrated to a dilution ratio of 3 plus 1 is "Canned concentrated orange juice" or "Canned orange juice concentrate". The name of the food when concentrated to a dilution ratio greater than 3 plus 1 is "Canned concentrated orange juice, _____ plus 1" or "Canned orange juice concentrate, _____ plus 1", the blank being filled in with the whole number showing the dilution ratio; for example, "Canned orange juice concentrate, 4 plus 1". However, where the label bears directions for making 1 quart of single-strength diluted product (or multiples of a quart) the blank in the name may be filled in with a mixed number; for example, "Canned orange juice concentrate, 4⅓ plus 1". For containers larger than 1 pint, the dilution ratio in the name may be replaced by the concentration of orange juice soluble solids in degrees Brix; for example, a 62° Brix concentrate in 1-gallon cans may be named on the label "canned concentrated orange juice, 62° Brix". If the food does not purport to be frozen concentrated orange juice, the word "canned" may be omitted from the name.

§ 146.151 Orange juice for manufacturing.

(a) Orange juice for manufacturing is the food prepared for further manufacturing use. It is prepared from unfermented juice obtained from oranges as provided in § 146.135, except that the oranges may deviate from the standards for maturity in that they are below the minimum for Brix and Brix-acid ratio for such oranges, and to which juice may be added not more than 10 percent by volume of the unfermented juice obtained from oranges of the species *Citrus reticulata* or the hybrids thereof. Seeds (except embryonic seeds and small fragments of seeds that cannot be separated by good manufacturing practice) are removed, and pulp and orange oil may be adjusted in accordance with good manufacturing practice. If pulp is added it shall be other than washed or spent pulp. The juice or portions thereof may be so treated by heat as to reduce substantially the enzymatic activity and number of viable microorganisms, and it may be chilled or frozen, or it may be so treated by heat, either before or after sealing in containers, as to prevent spoilage.

(b) The name of the food is "Orange juice for manufacturing".

§ 146.152 Orange juice with preservative.

(a) Orange juice with preservative is the food prepared for further manufacturing use. It complies with the requirements for composition of orange juice for manufacturing as provided for in § 146.151, except that a preservative is added to inhibit spoilage. It may be heat-treated to reduce substantially the enzymatic activity and the number of viable microorganisms.

(b) The preservatives referred to in paragraph (a) of this section are sodium benzoate and sorbic acid. Sodium benzoate or sorbic acid may be used in an amount not exceeding 0.2 percent by weight.

(c) The name of the food is "Orange juice with preservative".

(d) The label shall bear the statement "_____ added as a preservative", the first blank being filled in with the percent by weight of the preservative used and the second blank by the name "sorbic acid" or "sodium benzoate" (or "benzoate of soda"), as appropriate.

(e) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in paragraph (d) of this section for naming the preservative ingredient used shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

§ 146.153 Concentrated orange juice for manufacturing.

(a) Concentrated orange juice for manufacturing is the food that complies with the requirements for composition and labeling of optional ingredients prescribed for frozen concentrated orange juice by § 146.146, except that it is either not frozen, or it is less concentrated, or both, and the oranges from which the juice is obtained may deviate from the standards for maturity in that they are below the minima for Brix and Brix-acid ratio for such oranges: *Provided, however*, That the concentration of orange juice soluble solids is not less than 20° Brix.

(b) The name of the food is "Concentrated orange juice for manufacturing, _____" or "_____ orange juice concentrate for manufacturing", the blank being filled in with the figure showing the concentration of orange juice soluble solids in degrees Brix.

§ 146.154 Concentrated orange juice with preservative.

(a) Concentrated orange juice with preservative complies with the requirements for composition and labeling of optional ingredients prescribed for concentrated orange juice for manufacturing by § 146.153, except that a preservative is added to inhibit spoilage.

(b) The preservatives referred to in paragraph (a) of this section are sodium benzoate and sorbic acid. Sodium benzoate or sorbic acid may be used in an amount not exceeding 0.2 percent, by weight.

(c) The name of the food is "Concentrated orange juice with preservative, _____", the blank being filled in with the figure showing the concentration of orange juice soluble solids in degrees Brix.

(d) The label shall bear the statement "_____ _____ added as a preservative", the first blank being filled in with the percent by weight of the preservative used and the second blank by the name "sorbic acid" or "sodium benzoate" (or "benzoate of soda"), as appropriate.

(e) Wherever the name of the food

turing or juicy orange pulp for manu-

"juice" or "orange" or any form or deriv-

§ 146.156 Concentrate for orange juice drink.

(a) It is prepared by adding water to a blend of the orange juice ingredients

NOTE.—§ 146.160 (formerly § 27.162) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

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(e) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement specified in paragraph (d) of this section for naming the preservative ingredient used shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

§ 146.155 Orange juice drink.

(a) Orange juice drink is the beverage prepared by adding water to one or more of the unfermented orange juice ingredients which are specified in paragraph (b) of this section and which are used in quantities as indicated by paragraph (d)(2) of this section. One or more of the safe and suitable ingredients specified in paragraph (c) of this section may be added to the beverage. Vitamin C shall be added in a quantity which will ensure that the total vitamin C in each 6 fluid ounces of the finished beverage amounts to 60 milligrams. Orange juice drink may be preserved by freezing; by refrigerating; by heating to reduce substantially the enzymatic activity and the number of viable microorganisms; by sealing in containers and, either before or after sealing, heating to prevent spoilage; or by adding a preservative. For the purposes of this section orange juice drink contains less than 70 percent but not less than 35 percent equivalent single strength orange juice calculated as prescribed by paragraph (d)(2) of this section. This requirement is considered to have been met if the content of orange juice soluble solids (exclusive of soluble solids other than orange juice soluble solids), amounts to less than 8.26 percent but not less than 4.13 percent by weight of the finished beverage. The weight of the total solids is not less than 12 percent of the weight of the finished beverage.

(b) The classes of unfermented orange juice ingredients referred to in paragraph (a) of this section are:

(1) Orange juice products defined in §§ 146.135, 146.137, 146.140, 146.141, 146.145, 146.146, 146.150, 146.151, 146.152, 146.153, and 146.154 subject to the restriction that those defined in §§ 146.152 and 146.154 are used only in preparing orange juice drink which contains an added preservative as provided for in paragraph (a) of this section and that orange juice products so processed by heat as to prevent spoilage are used only in the canned form of the orange juice drink.

(2) Dehydrated orange juice made from oranges of the species *Citrus sinensis*.

(3) Water-extracted soluble orange solids as defined in § 146.168.

(4) Dehydrated water-extracted soluble orange solids as defined in § 146.169.

(5) Comminuted oranges as defined in § 146.170.

(6) Dehydrated comminuted oranges as defined in § 146.171.

(7) Extract of comminuted oranges as defined in § 146.172.

(8) Dehydrated extract of comminuted oranges as defined in § 146.175.

(9) Pulpy orange juice for manufacturing or juicy orange pulp for manufacturing as defined in § 146.176.

(10) Dehydrated pulpy orange juice for manufacturing or dehydrated juicy orange pulp for manufacturing as defined in § 146.177.

(11) Orange juice ingredients which conform to the compositional requirements of any one of the classes of orange juice ingredients described in paragraph (c)(1) through (10) of this section, except that the oranges from which they are made are oranges of the species *Citrus reticulata*, *Citrus aurantium*, hybrids thereof, or hybrids of the species *Citrus sinensis*.

(c) The safe and suitable ingredients provided for in paragraph (a) of this section that may be added to orange juice drink are one or more of the following:

(1) Nutritive sweeteners.
(2) Organic acids.
(3) Thickeners.
(4) Stabilizers.
(5) Clouding agents.
(6) Emulsifiers.
(7) Buffers.
(8) Orange pulp.
(9) Orange peel.
(10) Natural and artificial flavors.
(11) Natural and artificial colors.
(12) Preservatives.

For the purposes of this paragraph, an ingredient may be used in orange juice drink in such proportion as reasonably necessary to accomplish its intended effect. The ingredients of this paragraph are considered safe if they are not food additives or color additives within the meaning of section 201 (s) or (t) of the Federal Food, Drug, and Cosmetic Act or if they are food additives or color additives as so defined and are used in conformity with regulations established pursuant to section 409 or 706 of the act.

(d) (1) The name of the beverage consists of the following two phrases which shall appear together:

(i) The words "Orange juice drink" which shall be printed on a single line and shall all be in type of the same size and style.

(ii) The words "Containing ____ percent orange juice" which shall have the blank filled in with the number 35 or a number which is a multiple of 5 higher than 35 but not higher than 65 or greater than the percentage of equivalent single strength orange juice in the finished beverage. The word "Containing" may be on the line below "orange juice drink". The words "____ percent orange juice" shall all be on the line below "Containing" and shall be in bold condensed caps in letters all of the same size, the height of which is not less than:

(*a*) 12-point type if the container in which it is sold contains less than 16 ounces of the finished beverage and 14-point type if the container in which it is sold contains 16 ounces or more of the finished beverage; or

(*b*) One-half the height of the largest letters in which the word "juice" or "orange" appears anywhere on the labeling either directly or indirectly, such as by appearing as another form or derivative thereof or by the word "juice" or "orange" or any form or derivative thereof appearing as a part of a compound or fanciful word or name, or otherwise; whichever is the larger. All of the words in the name shall be in the same color type and on the same color contrasting background. If the beverage is preserved by freezing, the name shall be preceded by the word "frozen". If refrigeration is required to preserve the beverage the words "Keep refrigerated" shall appear on the principal display panel.

(2) The percentage of orange juice in the finished beverage is determined by adding the weight of orange juice soluble solids (exclusive of the weight of soluble solids other than orange juice soluble solids) contributed to the finished beverage by each of the added orange juice ingredients and dividing the sum of those weights by the product obtained by multiplying 11.8 percent by the total weight of the finished beverage. For the purpose of calculating the percentage of orange juice that shall be declared on the label, if the sum of the weights of the orange juice soluble solids contributed to the finished beverage by the orange juice ingredients described in paragraph (b)(3) through (11) of this section exceeds 1.18 percent of the weight of the finished beverage, then only so much of the sum of those weights as equals 1.18 percent of the weight of the finished beverage shall be counted as orange juice. The remaining orange juice soluble solids declared on the label must be contributed by one or more of the orange juice ingredients described in paragraph (b)(1) or (2) of this section.

(e) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter, and the vitamin C shall be declared as such in conformity with the requirements prescribed in the regulations established pursuant to section 403(j) of the act except that:

(1) If an orange juice product or products provided for in paragraph (b)(1) and (2) of this section is used, the words "orange juice" may be used in lieu of the common or usual name of the orange juice product provided for by the applicable section.

(2) If an orange juice ingredient or ingredients provided for in paragraph (b)(3) through (11) is used, the words "orange component" may be used in lieu of the common or usual name of the orange juice ingredient provided for by the applicable section.

(3) If sugar (sucrose) or invert sugar is used the term "sweetener" may be used, and if the sweetener is derived from corn the term "corn sweetener" may be used.

Further, the declaration of the ingredients on the label as set out in this paragraph shall appear in letters not less than one-half of that required by § 101.105 of this chapter for the declaration of net quantity of contents.

NOTE.—§ 146.155 (formerly § 27.158) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.156 Concentrate for orange juice drink.

Concentrate for orange juice drink is the beverage concentrate which, when diluted according to label directions, conforms to all of the requirements for composition and labeling prescribed by § 146.155 for orange juice drink except that:

(a) The name of the concentrated beverage base consists of the following two phrases which shall appear together:

(1) The words "Concentrate for" which shall be on a single line immediately above the words "Orange juice drink".

(2) The words "Containing ____ percent orange juice" which shall have the blank filled in with the number 35 or a number which is a multiple of 5 higher than 35 but not higher than 65 or greater than the percentage of equivalent single strength orange juice in the beverage made by diluting the beverage concentrate as directed on the label.

(b) The dilution ratio of the beverage shall be not less than 3 plus 1. For the purpose of this section the "dilution ratio" is the whole number of volumes of water per volume of concentrate for orange juice drink required to produce orange juice drink conforming to the requirements for composition prescribed by § 146.155.

NOTE.—§ 146.156 (formerly § 27.159) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.158 Powdered orange juice drink.

Powdered orange juice drink is the dehydrated beverage base which, when reconstituted according to label directions, conforms to all of the requirements for composition and labeling as prescribed by § 146.155 for orange juice drink except that:

(a) The name of the beverage base consists of the following two phrases which shall appear together:

(1) The word "Powdered" or any appropriate descriptive word used in lieu of the word "Powdered" which shall be on a line immediately above the words "Orange juice drink".

(2) The words "Containing ____ percent orange juice" which shall have the blank filled in with the number 35 or a number which is a multiple of 5 higher than 35 but not higher than 65 or greater than the percentage of equivalent single strength orange juice in the beverage made by reconstituting the powdered base as directed on the label.

(b) Safe and suitable anticaking agents, foaming agents, browning inhibitors, and drying agents may be added.

NOTE.—§ 146.158 (formerly § 27.160) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.159 Orange juice drink blend.

Orange juice drink blend is the beverage that conforms to all of the requirements for composition and labeling prescribed by § 146.155 for orange juice drink, except that:

(a) It is prepared by adding water to a blend of the orange juice ingredients set forth in § 146.155(b) and derived from fruit grown in two or more geographic orange producing regions with a minimum of 20 percent of the orange juice soluble solids derived from fruit grown in any one producing region. Orange juice soluble solids derived from the orange juice ingredients set forth in § 146.155(b)(3) to (11) are not counted toward the above requirement for the minimum of 20 percent of the orange juice soluble solids to be derived from fruit grown in any one producing region but may be added in quantities as indicated in § 146.155(d)(2).

(b) It contains less than 95 percent but not less than 70 percent equivalent single strength orange juice calculated as indicated in § 146.155(d)(2). This requirement is considered to have been met if the content of orange juice soluble solids (exclusive of soluble solids other than orange juice soluble solids) amounts to less than 11.2 percent but not less than 8.26 percent by weight of the finished beverage.

(c) Thickeners, stabilizers, clouding agents, emulsifiers, and buffers may not be added to orange juice drink blend.

(d) The name of the beverage consists of the following two phrases which shall appear together:

(1) The words "Orange juice drink blend" which shall be printed on a single line.

(2) The words "Containing ____ percent orange juice" which shall have the blank filled in with the number 70 or a number which is a multiple of 5 higher than 70 but not higher than 95 or greater than the percentage of equivalent single strength orange juice in the beverage.

NOTE.—§ 146.159 (formerly § 27.161) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.160 Powdered orange juice drink blend.

Powdered orange juice drink blend is the dehydrated beverage base which, when reconstituted according to label directions, conforms to all of the requirements for composition and labeling prescribed by § 146.159 for orange juice drink blend except that:

(a) The name of the beverage base consists of the following two phrases which shall appear together:

(1) The word "Powdered" or any appropriate descriptive word used in lieu of the word "Powdered" which shall be on a line immediately above the words "Orange juice drink blend".

(2) The words "Containing ____ percent orange juice" which shall have the blank filled in with the number 70 or a number which is a multiple of 5 higher than 70 but not higher than 95 or greater than the percentage of equivalent single strength orange juice contained in a beverage made by reconstituting the powdered base as directed on the label.

(b) Safe and suitable anticaking agents, foaming agents, browning inhibitors, and drying agents may be added.

NOTE.—§ 146.160 (formerly § 27.162) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.161 Orange drink.

Orange drink is the beverage that conforms to all of the requirements for composition and labeling prescribed by § 146.155 for orange juice drink except that:

(a) It contains less than 35 percent but not less than 10 percent equivalent single strength orange juice calculated as set forth in § 146.155(d)(2). This requirement is considered to have been met if the content of orange juice soluble solids (exclusive of soluble solids other than orange juice soluble solids) amounts to less than 4.13 percent but not less than 1.18 percent by weight of the finished beverage.

(b) The minimum orange juice soluble solids requirement of 1.18 percent for orange drink may be contributed solely by one or more of the orange juice ingredients described in § 146.155(b)(3) through (11). The remaining orange juice soluble solids declared on the label, if more than 10 percent is declared, must be contributed by one or more of the orange juice ingredients described in § 146.155(b)(1) and (2).

(c) The weight of the total soluble solids is not less than 10 percent by weight of the finished beverage.

(d) The name of the beverage consists of the following two phrases which shall appear together:

(1) The words "Orange drink" which shall be printed on a single line.

(2) The words "Containing ____ percent orange juice" which shall have the blank filled in with the number 10 or a number which is a multiple of 5 higher than 10 but not higher than 30 or greater than the percentage of equivalent single strength orange juice contained in the finished beverage.

NOTE.—§ 146.161 (formerly § 27.163) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.163 Concentrate for orange drink.

Concentrate for orange drink is the beverage concentrate which, when diluted according to label directions, conforms to all of the requirements for composition and labeling prescribed by § 146.161 for orange drink except that:

(a) The name of the concentrated beverage base consists of the following two phrases which shall appear together:

(1) The words "Concentrate for" which shall be on a single line immediately above the words "Orange drink".

(2) The words "Containing ____ percent orange juice" which shall have the blank filled in with the number 10 or a number which is a multiple of 5 higher than 10 but not higher than 30 or greater than the percentage of equivalent single strength orange juice in the beverage made by diluting the beverage concentrate as directed on the label.

(b) The dilution ratio of the beverage shall be not less than 3 plus 1. For the purposes of this section, the "dilution ratio" is the whole number of volumes

of water per volume of concentrate for

(1) Anticaking agents.
(2) Antioxidants.

facturing use prepared by removing water from comminuted oranges as de-

The food complies with the requirements for composition and labeling of optional ingredients prescribed for dehydrated

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of water per volume of concentrate for orange drink required to produce orange drink conforming to the requirements for composition prescribed by § 146.161.

NOTE.—§ 146.163 (formerly § 27.164) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.164 Powdered orange drink.

Powdered orange drink is the dehydrated beverage base which, when reconstituted according to label directions, conforms to all of the requirements for composition and labeling prescribed by § 146.161 for orange drink except that:

(a) The name of the beverage base consists of the following two phrases which shall appear together:

(1) The word "Powdered" or any appropriate descriptive word used in lieu of the word "Powdered" which shall be on a line immediately above the words "Orange drink".

(2) The words "Containing ____ percent orange juice" which shall have the blank filled in with the number 10 or a number which is a multiple of 5 higher than 10 but not higher than 30 or greater than the percentage of equivalent single strength orange juice in a beverage made by reconstituting the powdered base as directed on the label.

(b) Safe and suitable anticaking agents, foaming agents, browning inhibitors, and drying agents may be added.

NOTE.—§ 146.164 (formerly § 27.165) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.165 Orange flavored drink.

Orange flavored drink is the beverage that conforms to all of the requirements for composition and labeling prescribed by § 146.155 for orange juice drink except that:

(a) It contains less than 10 percent but more than 0 percent equivalent single strength orange juice calculated as set forth in § 146.155(d)(2) of this chapter. This requirement is considered to have been met if the content of orange juice soluble solids (exclusive of soluble solids other than orange juice soluble solids) amounts to less than 1.18 percent but more than 0 percent by weight of the finished beverage.

(b) The orange juice soluble solids requirements for orange flavored drink may be contributed solely by one or more of the orange juice ingredients described in § 146.155(b) (1) through (11).

(c) The weight of the total soluble solids is not less than 10 percent by weight of the finished beverage.

(d) The name of the beverage consists of the following two phrases which shall appear together:

(1) The words "Orange flavored drink" which shall be printed on a single line.

(2) The words "Containing ____ percent orange juice" which shall have the blank filled in with the words "less than 2" if the beverage contains less than 2 percent but more than 0 percent orange juice or with the number 2 or a number which is a multiple of 2 higher than 2 but not higher than 8 or greater than the percentage of equivalent single strength orange juice contained in the finished beverage.

NOTE.—§ 146.165 (formerly § 27.166) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.166 Concentrate for orange flavored drink.

Concentrate for orange flavored drink is the beverage concentrate which, when diluted according to label directions, conforms to all of the requirements for composition and labeling prescribed by § 146.165 for orange flavored drink except that:

(a) The name of the concentrated beverage base consists of the following two phrases which shall appear together:

(1) The words "Concentrate for" which shall be on a single line immediately above the words "Orange flavored drink".

(2) The words "Containing ____ percent orange juice" which shall have the blank filled in with the words "less than 2" or with the number 2 or a number which is a multiple of 2 higher than 2 but not higher than 8 or greater than the percentage of equivalent single strength orange juice in a beverage made by diluting the beverage concentrate as directed on the label.

(b) The dilution ratio of the beverage shall not be less than 3 plus 1. For the purpose of this section the "dilution ratio" is the whole number of volumes of water per volume of concentrate for orange flavored drink required to produce orange flavored drink conforming to the requirements for composition prescribed by § 146.165.

NOTE.—§ 146.166 (formerly § 27.167) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.167 Powdered orange flavored drink.

Powdered orange flavored drink is the dehydrated beverage base which when reconstituted according to label directions conforms to all of the requirements for composition and labeling as prescribed by § 146.165 for orange flavored drink except that:

(a) The name of the beverage base consists of the following two phrases which shall appear together:

(1) The word "Powdered" or any appropriate descriptive word used in lieu of the word "Powdered" which shall be on a line immediately above the words "Orange flavored drink".

(2) The words "Containing ____ percent orange juice" which shall have the blank filled in with the words "less than 2" or with the number 2 or a number which is a multiple of 2 higher than 2 but not higher than 8 or greater than the percentage of equivalent single strength orange juice in a beverage made by reconstituting the powdered base as directed on the label.

(b) Safe and suitable anticaking agents, foaming agents, browning inhibitors, and drying agents may be added.

NOTE: § 146.167 (formerly § 27.168) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.168 Water-extracted soluble orange solids.

(a) Water-extracted soluble orange solids is the food prepared for further manufacturing use from the unfermented excess pulp removed during the production of one or more of the orange juice products provided for in §§ 146.135, 146.137, 146.140, 146.141, 146.145, 146.146, 146.150, 146.151, 146.152, 146.153, and 146.154. The orange juice adhering to the excess pulp is extracted from the excess pulp in the presence of water. Seeds (except embryonic seeds and small fragments of seeds that cannot be separated by good manufacturing practice) and part of the spent pulp are removed. Water may be removed. The food may be preserved by freezing; by refrigerating; by adding a safe and suitable optional preservative ingredient; by heating to reduce substantially the enzymatic activity and the number of viable microorganisms; or by heating, either before or after sealing in containers, to prevent spoilage.

(b) An optional ingredient is considered to be safe if it is not a food additive as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act, or if it is a food additive as so defined and is used in conformity with regulations established pursuant to section 409 of the act.

(c) The name of the food is "water-extracted soluble orange solids __° Brix", the blank being filled in with the figure showing the percent by weight of total soluble orange solids in the food expressed in degrees Brix. However, if the food is concentrated to 20° Brix or more, the word "concentrated" shall precede the name of the food.

(d) If one or more of the optional preservative ingredients are added, the label shall bear the statement "_____ added as a preservative", the blank being filled in with the name of the preservative.

(e) For the purpose of calculating the percentage of orange juice in a beverage to which this food is added as an optional orange juice ingredient use the weight of only the soluble portion of this food in calculating the percentage of orange juice soluble solids that may be contributed to the beverage by this food.

NOTE.—§ 146.168 (formerly § 27.150) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.169 Dehydrated water-extracted soluble orange solids.

(a) Dehydrated water-extracted soluble orange solids is the dehydrated food for further manufacturing use prepared by removing water from water-extracted soluble orange solids as defined in § 146.168. Orange essence and orange oil may be added. It may contain one or more of the safe and suitable ingredients specified in paragraph (b) of this section. The moisture content is not greater than 7 percent of the weight of the finished food. It may be refrigerated or frozen.

(b) The optional ingredients suitable for use in the dehydrated food are the following:

(1) Anticaking agents.
(2) Antioxidants.
(3) Foaming agents.
(4) Browning inhibitors.
(5) Drying agents.

For the purposes of this section, an optional ingredient is considered to be safe when it complies with the requirements of § 146.168(b).

(c) The common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter and shall appear in letters not less than one-half the size required by § 101.105 of this chapter for the declaration of net quantity of contents.

(d) The name of the food is "Dehydrated water-extracted soluble orange solids".

(e) For the purpose of calculating the percentage of orange juice in a beverage to which this food is added as an optional orange juice ingredient, use only the weight of the soluble portion of the food in calculating the percentage of orange juice soluble solids that may be contributed to the beverage by this food.

NOTE.—§ 146.169 (formerly § 27.151) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.170 Comminuted oranges.

(a) Comminuted oranges is the food puree for further manufacturing use prepared by comminuting whole mature oranges of the species *Citrus sinensis*. The amount of orange oil may be adjusted in accordance with good manufacturing practice. Orange essence may be added. The food may be preserved by freezing; by refrigerating; by adding a safe and suitable preservative; by heating to reduce substantially the enzymatic activity and the number of viable microorganisms; or by heating, either before or after sealing in containers, to prevent spoilage.

(b) For the purposes of this section, a preservative is considered to be safe when it complies with the requirements of § 146.168(b).

(c) The name of the food is "Comminuted oranges _____ percent Brix", the blank being filled in with the figure showing the percent by weight of total soluble orange solids in the food expressed in degrees Brix.

(d) If a preservative is added the label shall bear the statement "_____ added as a preservative", the blank being filled in with the name of the preservative.

(e) For the purpose of calculating the percentage of orange juice in a beverage to which this food is added as an optional orange juice ingredient, use only the weight of the soluble portion of the food in calculating the percentage of orange juice soluble solids that may be contributed to the beverage by this food.

NOTE.—§ 146.170 (formerly § 27.152) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.171 Dehydrated comminuted oranges.

(a) Dehydrated comminuted oranges is the dehydrated food for further manufacturing use prepared by removing water from comminuted oranges as defined in § 146.170. The food complies with the requirements for composition and labeling of optional ingredients prescribed for dehydrated water-extracted soluble orange solids by § 146.169, except that it is made from comminuted oranges as defined in § 146.170 and except that the moisture content is not greater than 10 percent of the weight of the finished food.

(b) The name of the food is "Dehydrated comminuted oranges".

(c) For the purpose of calculating the percentage of orange juice in a beverage to which this food is added as an optional orange juice ingredient, use only the weight of the soluble portion of the food in calculating the percentage orange juice soluble solids that may be contributed to the beverage by this food.

NOTE.—§ 146.171 (formerly § 27.158) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.172 Extract of comminuted oranges.

(a) Extract of comminuted oranges is the liquid food prepared for further manufacturing use from the fluids obtained from comminuted oranges as defined in § 146.170. Water may be used in the extraction process. Excess peel, pulp, flavido, and seed fragments are removed. Water may be removed. The amount of orange oil may be adjusted in accordance with good manufacturing practice. Orange essence may be added. The food may be preserved by freezing; by refrigerating; by adding a safe and suitable preservative; by heating to reduce substantially the enzymatic activity and the number of viable microorganisms; or by heating, either before or after sealing in containers, to prevent spoilage.

(b) For the purposes of this section, a preservative is considered to be safe if it complies with the requirements of § 146.168(b).

(c) The name of the food is "Extract of comminuted oranges, _____° Brix", the blank being filled in with the figure showing the percent by weight of total soluble solids in the food expressed in degrees Brix.

(d) If a preservative is added the label shall bear the statement "_____ added as a preservative", the blank being filled in with the name of the preservative.

(e) For the purpose of calculating the percentage of orange juice in a beverage to which this food is added as an optional orange juice ingredient, use only the weight of the soluble portion of the food in calculating the percentage of orange juice soluble solids that may be contributed to the beverage by this food.

NOTE.—§ 146.172 (formerly § 27.154) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.175 Dehydrated extract of comminuted oranges.

(a) Dehydrated extract of comminuted oranges is the dehydrated food for further manufacturing use prepared by removing water from extract of comminuted oranges as defined in § 146.172. The food complies with the requirements for composition and labeling of optional ingredients prescribed for dehydrated water-extracted soluble orange solids by § 146.169 except that it is made from extract of comminuted oranges as defined in § 146.172.

(b) The name of the food is "Dehydrated extract of comminuted oranges".

(c) For the purpose of calculating the percentage of orange juice in a beverage to which this food is added as an optional orange juice ingredient, use only the weight of the soluble portion of the food in calculating the percentage of orange juice soluble solids that may be contributed to the beverage by this food.

NOTE.—§ 146.175 (formerly § 27.155) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.176 Juicy orange pulp for manufacturing.

(a) Juicy orange pulp for manufacturing and pulpy orange juice for manufacturing is the class of pulpy moist foods or pulpy liquid foods prepared for further manufacturing use from the unfermented juice and the pulp of mature oranges of the species *Citrus sinensis*. The pulp has not been washed. Seeds (except embryonic seeds and small fragments of seeds that cannot be separated by good manufacturing practice) are removed. Orange juice, orange pulp, and orange oil may be adjusted in accordance with good manufacturing practice. Orange essence and orange juice products as defined in §§ 146.135, 146.137, 146.140, 146.141, 146.145, 146.146, 146.150, 146.151, 146.152, 146.153, and 146.154 may be added. The food may be preserved by freezing; by refrigerating; by adding a preservative; by heating to reduce substantially the enzymatic activity and the number of viable microorganisms; or by heating, either before or after sealing in containers, to prevent spoilage.

(b) For the purposes of this section, a preservative is considered to be safe if it complies with the requirements of § 146.168(b).

(c) The name of the food is "Juicy orange pulp for manufacturing", if the percentage of pulp exceeds 50 percent or the name of the food is "Pulpy orange juice for manufacturing", if the percentage of pulp is 50 percent or less.

(d) If a preservative is added, the label shall bear the statement "_____ added as a preservative", the blank being filled in with the name of the preservative.

(e) For the purpose of calculating the percentage of the orange juice in a beverage to which this food is added as an optional orange juice ingredient, use only the weight of the soluble portion of the food in calculating the percentage of orange juice soluble solids that may be contributed to the beverage by this food.

NOTE.—§ 146.176 (formerly § 27.156) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.177 Dehydrated juicy orange pulp for manufacturing.

(a) Dehydrated juicy orange pulp for manufacturing and dehydrated pulpy

orange juice for manufacturing is the

as specified in paragraph (a) of this

posing centrifuge tubes in operating

Subpart A—[Reserved]

(iii) Citric acid.

tion to each two parts by weight of nutritive carbohydrate sweetener as measured

orange juice for manufacturing is the class of dehydrated foods for further manufacturing use prepared by removing water from juicy orange pulp for manufacturing or pulpy orange juice for manufacturing as defined in § 146.176. The food complies with the requirements for composition and labeling of optional ingredients prescribed for dehydrated water-extracted soluble orange solids by § 146.169, except that it is made from juicy orange pulp or pulpy orange juice rather than from dehydrated water extracted soluble orange solids and except that the moisture content is not greater than 10 percent of the weight of the finished food.

(b) The name of the food is "Dehydrated juicy orange pulp for manufacturing", if it is made from juicy orange pulp for manufacturing, or the name of the food is "Dehydrated pulpy orange juice for manufacturing," if it is made from pulpy orange juice for manufacturing, both as defined in § 146.176.

(c) For the purpose of calculating the percentage of orange juice in a beverage to which this food is added as an optional orange juice ingredient use only the weight of the soluble portion of the food in calculating the percentage of orange juice soluble solids that may be contributed to the beverage by this food.

NOTE: § 146.177 (formerly § 27.157) was stayed in its entirety at 38 FR 6969, Mar. 14, 1973.

§ 146.185 Canned pineapple juice.

(a) *Identity*—(1) Canned pineapple juice is the juice, intended for direct consumption, obtained by mechanical process, which may include centrifuging but not filtering, from the flesh or parts thereof, with or without core material, of sound, ripe pineapple (*Ananas comosus* L. Merrill). The juice may have been concentrated and later reconstituted with water suitable for the purpose of maintaining essential composition and quality factors of the juice. Canned pineapple juice contains finely divided insoluble solids, but it does not contain pieces of shell, seeds, or other coarse or hard substances. It may be sweetened with any suitable dry nutritive carbohydrate sweetener. However, if the pineapple juice is prepared from concentrate, such sweeteners, in liquid form, also may be used. It may contain added vitamin C in a quantity such that the total vitamin C in each 4 fluid ounces of the finished food amounts to not less than 30 milligrams and not more than 60 milligrams. In the canning of pineapple juice, dimethylpolysiloxane complying with the requirements of § 173.340 of this chapter may be employed as a defoaming agent in an amount not greater than 10 parts per million by weight of the finished food. Before or after sealing in the container, canned pineapple juice is so processed by heat as to prevent spoilage.

(2) The name of the food is "Pineapple juice" if the juice from which it is prepared has not been concentrated and/or diluted with water. The name of the food is "Pineapple juice from concentrate" if the finished juice has been made from pineapple juice concentrate as specified in paragraph (a) of this section. If a nutritive sweetener is added, the label shall bear the statement "Sweetener added." If no sweetener is added, the word "Unsweetened" may immediately precede or follow the words "Pineapple juice" or "Pineapple juice from concentrate."

(3) Each of the optional ingredients shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality*—(1) The standard of quality for canned pineapple juice is as follows:

(i) The soluble solids content of pineapple juice (exclusive of added sugars) without added water shall not be less than 10.5° Brix as determined by refractometer at 20° C uncorrected for acidity and read as degrees Brix on International Sucrose Scales. Where the juice has been obtained using concentrated juice with addition of water, the soluble pineapple juice solids content (exclusive of added sugars) shall be not less than 13.5° Brix, uncorrected for acidity and read as degrees Brix on the International Sucrose Scales.

(ii) The acidity, as determined by the method prescribed in paragraph (b) (2) (ii) of this section, is not more than 1.35 grams of anhydrous citric acid per 100 milliliters of the juice.

(iii) The ratio of the degrees Brix to total acidity, as determined by the method prescribed in paragraph (b) (2) (iii) of this section, is not less than 12.

(iv) The quantity of finely divided "insoluble solids", as determined by the method prescribed in paragraph (b) (2) (iv) of this section, is not less than 5 percent nor more than 30 percent.

(2) The methods referred to in paragraph (b) (1) of this section are as follows:

(i) Determine the degrees Brix of the canned pineapple juice by the method prescribed in "Official Methods of Analysis of the Association of Official Agricultural Chemists," "Solids—By Means of Spindle—Official" [Ed. note, 10th edition, 1965, p. 486, sec. 29.0091.

(ii) Determine the total acidity of the canned pineapple juice by titration by the method prescribed in § 145.180(b) (2) (ix) of this chapter.

(iii) Divide the degrees Brix determined as prescribed in paragraph (b) (2) (i) of this section by the grams of anhydrous citric acid per 100 milliliters of juice, determined as prescribed in paragraph (b) (2) (ii) of this section, and report the results as ratio of degrees Brix to total acidity.

(iv) Determine the quantity of "insoluble solids" in canned pineapple juice as follows: Measure 50 milliliters of thoroughly stirred pineapple juice into a cone-shaped graduated tube of the long-cone type, measuring approximately 4⅜6 inches from tip to top calibration and having a capacity of 50 milliliters. Place the tube in a suitable centrifuge the approximate speed of which is related to diameter of swing in accordance with the table immediately below. The word "diameter" means the over-all distance between the tips of opposing centrifuge tubes in operating position.

Diameter (inches):	*Approximate revolutions per minute*
10	1,609
10½	1,570
11	1,534
11½	1,500
12	1,468
12½	1,438
13	1,410
13½	1,384
14	1,359
14½	1,336
15	1,313
15½	1,292
16	1,271
16½	1,252
17	1,234
17½	1,216
18	1,199
18½	1,182
19	1,167
19½	1,152
20	1,137

The milliliter reading at the top of the layer of "insoluble solids," after centrifuging 3 minutes, is multiplied by two to obtain the percentage of "insoluble solids."

(3) If the quality of canned pineapple juice falls below the standard prescribed in paragraph (b) (1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14 (a) of this chapter, in the manner and form therein specified.

(c) *Fill of container*—(1) The standard of fill of container for canned pineapple juice is a fill of not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 130.12(b) of this chapter.

(2) If canned pineapple juice falls below the standard of fill of container prescribed in paragraph (c) (1) of this section, the label shall bear the statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 146.187 Canned prune juice.

(a) Canned prune juice is the food prepared from a water extract of dried prunes and contains not less than 18.5 percent by weight of water-soluble solids extracted from dried prunes. The quantity of prune solids may be adjusted by the concentration, dilution, or both, of the water extract or extracts made. Such food may contain one or more of the optional acidifying ingredients specified in paragraph (b) (1) of this section, in a quantity sufficient to render the food slightly tart; it may contain honey added within the quantitative limits prescribed by paragraph (b) (2) of this section; and it may contain added vitamin C in a quantity prescribed by paragraph (b) (3) of this section. Such food is sealed in a container and so processed by heat, before or after sealing, as to prevent spoilage.

(b) The optional ingredients referred to in paragraph (a) of this section are:

(1) One or any combination of two or more of the following acidifying ingredients:

(i) Lemon juice.

(ii) Lime juice.

(iii) Citric acid.

(2) Honey, in a quantity not less than 2 percent and not more than 3 percent by weight of the finished food.

(3) Vitamin C, in a quantity such that the total vitamin C in each 6 fluid ounces of the finished food amounts to not less than 30 milligrams and not more than 50 milligrams.

(c) (1) The name of the food is "Prune juice—a water extract of dried prunes". For the purposes of the Federal Food, Drug, and Cosmetic Act concerning the label declaration of the name of the food, the explanatory statement "A water extract of dried prunes" may appear immediately below the words "prune juice", but there shall be no intervening written, printed, or graphic matter, and the type used for the words "A water extract of dried prunes" shall be of the same style and not less than half the print size of the type used for the words "prune juice".

(2) (i) When one or more of the acidifying ingredients specified in paragraph (b) (1) of this section are used, the label shall bear the statement "---------- added" or "with added ----------", the blank being filled in with the name or names of the optional ingredients used.

(ii) When honey, as specified in paragraph (b) (2) of this section, is used the label shall bear the statement "with ---------- honey" or "---------- honey added", the blank to be filled in with the percent by weight of the honey in the finished food or with the statement "between 2 and 3%".

(iii) When one or more of the ingredients designated in paragraph (b) (1) of this section and the ingredient designated in paragraph (b) (2) of this section are used, the statements specified in paragraph (c) (2) (i) and (ii) of this section may be combined, as for example, "with lemon juice and between 2 and 3% honey added".

(iv) When vitamin C is added as provided in paragraph (b) (3) of this section, it shall be designated on the label as "vitamin C added" or "with added vitamin C".

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words specified in this paragraph, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

PART 150—FRUIT BUTTERS, JELLIES, PRESERVES, AND RELATED PRODUCTS

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Fruit Butters, Jellies, Preserves, and Related Products

Sec.
150.110 Fruit butter.
150.140 Fruit jelly.
150.141 Artificially sweetened fruit jelly.
150.160 Fruit preserves and jams.
150.161 Artificially sweetened fruit preserves and jams.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371).

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Fruit Butters, Jellies, Preserves, and Related Products

§ 150.110 Fruit butter.

(a) The fruit butters for which definitions and standards of identity are prescribed by this section are the smooth, semisolid foods each of which is made from a mixture of one or a permitted combination of the optional fruit ingredients specified in paragraph (b) of this section and one or any combination of the optional ingredients specified in paragraph (c) of this section, which meets the specifications in paragraph (d) of this section, and which is labeled in accordance with paragraph (e) of this section. Such mixture is concentrated with or without heat. The volatile flavoring materials or essence from such mixture may be captured during concentration, separately concentrated, and added back to any such mixture, together with any concentrated essence accompanying any optional fruit ingredient.

(b) (1) Each of the optional fruit ingredients referred to in paragraph (a) of this section is prepared by cooking one of the following fresh, frozen, canned, and/or dried (evaporated) mature fruits, with or without added water, and screening out skins, seeds, pits, and cores:

Name of fruit:	*Factor referred to in paragraph (d) (2) of this section*
Apple	7.5
Apricot	7.0
Grape	7.0
Peach	8.5
Pear	6.5
Plum (other than prune)	7.0
Prune	7.0
Quince	7.5

(2) The permitted combinations are of two, three, four, and five of the fruit ingredients specified in paragraph (b) (1) of this section; the weight of each is not less than one-fifth of the weight of the combination. Each such fruit ingredient in any such combination is an optional ingredient.

(c) The following safe and suitable optional ingredients may be used:

(1) Nutritive carbohydrate sweeteners.

(2) Spice.

(3) Flavoring (other than artificial flavoring).

(4) Salt.

(5) Acidifying agents.

(6) Fruit juice or diluted fruit juice or concentrated fruit juice, in a quantity not less than one-half the weight of the optional fruit ingredient.

(7) Preservatives.

(8) Antifoaming agents except those derived from animal fats.

(9) Pectin, in a quantity which reasonably compensates for deficiency, if any, of the natural pectin content of the fruit ingredient.

(d) For the purposes of this section:

(1) The mixture referred to in paragraph (a) of this section shall contain not less than five parts by weight of the fruit ingredient as measured in accordance with paragraph (d) (2) of this section to each two parts by weight of nutritive carbohydrate sweetener as measured in accordance with paragraph (d) (4) of this section.

(2) Any requirement with respect to the weight of any optional fruit ingredient, whether concentrated, unconcentrated, or diluted, means the weight determined by the following method: (i) Determine the percent of soluble solids in the optional fruit ingredient by the method for soluble solids referred to in paragraph (d) (3) of this section; (ii) multiply the percent so found by the weight of such fruit ingredient; (iii) divide the result by 100; (iv) subtract from the quotient the weight of any nutritive sweetener solids or other added solids; and (v) multiply the remainder by the factor for such ingredient prescribed in paragraph (b) (1) of this section. The result is the weight of the optional fruit ingredient.

(3) The soluble solids content of the finished fruit butter is not less than 43 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed. 1975, p. 397, sec. 22.024, under "Soluble Solids (by Refractometer) in Fresh and Canned Fruits, Fruit Jellies, Marmalades, and Preserves—Official First Action," except that no correction is made for water-insoluble solids.

(4) The weight of any nutritive carbohydrate sweetener means the weight of the solids of such ingredient.

(5) The weight of fruit juice or diluted fruit juice or concentrated fruit juice (optional ingredient, paragraph (c) (6)) from a fruit specified in paragraph (b) (1) of this section is the weight of such juice, as determined by the method prescribed in paragraph (d) (2) of this section, except that the percent of soluble solids is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, p. 566, sec. 31.011, under "Solids by Means of Refractometer—Official Final Action"; the weight of diluted concentrated juice from any other fruit is the original weight of the juice before it was diluted or concentrated.

(e) (1) The name of each fruit butter for which a definition and standard of identity is prescribed by this section is as follows:

(i) In case the fruit butter is made from a single fruit ingredient, the name is "Butter", preceded by the name where by such fruit is designated in paragraph (b) (1) of this section.

(ii) In case the fruit butter is made from a combination of two, three, four, or five fruit ingredients, the name is "Butter", preceded by the words "Mixed fruit" or by the names whereby such fruits are designated in paragraph (b) (1) of this section, in the order of predominance, if any, of the weight of such fruit ingredients in the combination.

(2) Each of the optional ingredients specified in paragraphs (b) and (c) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(i) Other than in the case of dried (evaporated) fruit the name(s) of the

Name of fruit:	
Pomegranate	5.5

"Solids By Means of Refractometer—Official Final Action."[3]

ficiency, if any, of the natural acidity of the fruit juice ingredient.

ceed 2 percent by weight of the finished food.

tured during concentration, separately concentrated, and added back to any

(i) Other than in the case of dried (evaporated) fruit the name(s) of the fruit or fruits used may be declared without specifying the particular form of the fruit or fruits used. When the optional fruit ingredient is prepared in whole or in part from dried fruit, the label shall bear the words "prepared from" or "prepared in part from", as the case may be, followed by the word "evaporated" or "dried", followed by the name whereby such fruit is designated in paragraph (c) of this section. When two or more such optional fruit ingredients are used, such names, each preceded by the word "evaporated" or "dried", shall appear in the order of predominance, if any, of the weight of such ingredients in the combination.

(ii) If sugar or invert sugar is the sweetener used, the term "sugar" may be used, and if the sweetener used is derived from corn the term "corn sweetener" may be used.

§ 150.140 Fruit jelly.

(a) The jellies for which definitions and standards of identity are prescribed by this section are the jelled foods each of which is made from a mixture of one or a permitted combination of the fruit juice ingredients specified in paragraph (b) of this section and one or any combination of the optional ingredients specified in paragraph (c) of this section, which meets the specifications in paragraph (d) of this section and which is labeled in accordance with paragraph (e) of this section. Such mixture is concentrated with or without heat. The volatile flavoring materials or essence from such mixture may be captured during concentration, separately concentrated, and added back to any such mixture, together with any concentrated essence accompanying any optional fruit ingredient.

(b)(1) Each of the fruit juice ingredients referred to in paragraph (a) of this section is the filtered or strained liquid extracted with or without the application of heat and with or without the addition of water, from one of the following mature, properly prepared fruits which are fresh, frozen and/or canned:

Name of fruit:	*Factor referred to in paragraph (d)(2) of this section*
Apple	7.5
Apricot	7.0
Blackberry (other than dewberry)	10.0
Black raspberry	9.0
Boysenberry	10.0
Cherry	7.0
Crabapple	6.5
Cranberry	9.5
Damson, damson plum	7.0
Dewberry (other than boysenberry, loganberry, and youngberry)	10.0
Fig	5.5
Gooseberry	12.0
Grape	7.0
Grapefruit	11.0
Greengage, greengage plum	7.0
Guava	13.0
Loganberry	9.5
Orange	8.0
Peach	6.5
Pineapple	7.0
Plum (other than damson, greengage, and prune)	7.0
Pomegranate	5.5
Prickly pear	11.0
Quince	7.5
Raspberry, red raspberry	9.5
Red currant, currant (other than black currant)	9.5
Strawberry	12.5
Youngberry	10.0

(2) The permitted combinations are of two, three, four, or five of the fruit juice ingredients specified in paragraph (b)(1) of this section, the weight of each is not less than one-fifth of the weight of the combination. Each such fruit juice ingredient in any such combination is an optional ingredient.

(c) The following safe and suitable optional ingredients may be used:

(1) Nutritive carbohydrate sweeteners.

(2) Spice.

(3) Acidifying agents.

(4) Pectin, in a quantity which reasonably compensates for deficiency, if any, of the natural pectin content of the fruit juice ingredient.

(5) Buffering agents.

(6) Preservatives.

(7) Antifoaming agents except those derived from animal fats.

(8) Mint flavoring and artificial green coloring, in case the fruit juice ingredient or combination of fruit juice ingredients is extracted from apple, crabapple, pineapple, or two or all of such fruits.

(9) Cinnamon flavoring, other than artificial flavoring, and artificial red coloring in case the fruit juice ingredient or combination of fruit juice ingredients is extracted from apple or crabapple or both such fruits.

(d) For the purposes of this section:

(1) The mixture referred to in paragraph (a) of this section shall contain not less than 45 parts by weight of the fruit juice ingredients as measured in accordance with paragraph (d)(2) of this section to each 55 parts by weight of saccharine ingredient as measured in accordance with paragraph (d)(4) of this section.

(2) Any requirement with respect to the weight of any fruit juice ingredient, whether prepared from concentrated, unconcentrated, or diluted fruit juice means the weight determined by the following method: (i) Determine the percent of soluble solids in such fruit juice ingredient by the method for soluble solids referred to in paragraph (d)(3) of this section; (ii) multiply the percent so found by the weight of such fruit juice ingredient; (iii) divide the result by 100; (iv) subtract from the quotient the weight of any added saccharine ingredient solids or other added solids; and (v) multiply the remainder by the factor for such fruit juice ingredient prescribed in paragraph (b) of this section. The result is the weight of the fruit juice ingredient.

(3) The soluble-solids content of the finished jelly is not less than 65 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed. (1970) p. 526, Sec. 31.011, "Solids By Means of Refractometer—Official Final Action."[3]

(4) The weight of any optional saccharine ingredient means the weight of the solids of such ingredient.

(e)(1) The name of each jelly for which a definition and standard of identity is prescribed by this section is as follows:

(i) In case the jelly is made with a single fruit juice ingredient, the name is "Jelly", preceded or followed by the name or synonym whereby the fruit from which such fruit juice ingredient was extracted is designated in paragraph (b) of this section.

(ii) In case the jelly is made with a combination of two, three, four, or five fruit juice ingredients, the name is "Jelly", preceded or followed by the words "Mixed fruit" or by the names or synonyms whereby the fruits from which the fruit juice ingredients were extracted are designated in paragraph (b) of this section, in the order of predominance, if any, of the weights of any such fruit juice ingredients in the combination.

(2) Each of the optional ingredients specified in paragraphs (b) and (c) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(i) The name(s) of the fruit or fruits used may be declared without specifying the particular form of the fruit or fruits used.

(ii) When the optional ingredients listed in paragraph (c) (3), (4), and (5) of this section are declared on the label, the declaration may be followed by the statement "Used as needed" on all jellies to which they are customarily, but not always, added to compensate for natural variations in the fruit juice ingredients used.

§ 150.141 Artificially sweetened fruit jelly.

(a) The artificially sweetened fruit jellies for which definitions and standards of identity are prescribed by this section are the jellied foods made from a fruit juice ingredient as specified in paragraph (b) of this section and an artificial sweetening ingredient as specified in paragraph (c) of this section, with a jelling ingredient as specified in paragraph (d) of this section. Water may be added. The quantity of the fruit juice ingredient, calculated as set out in § 150.140(b), amounts to not less than 55 percent by weight of the finished food. The article is sealed in containers and so processed by heat, either before or after sealing, as to prevent spoilage. Such food may also contain one or more of the following optional ingredients:

(1) Spice, spice oil, spice extract.

(2) A vinegar, lemon juice, lime juice, citric acid, lactic acid, malic acid, tartaric acid, fumaric acid, or any combination of two or more of these, in a quantity which reasonably compensates for deficiency, if any, of the natural acidity of the fruit juice ingredient.

(3) Sodium citrate, sodium acetate, sodium tartrate, monosodium phosphate, disodium phosphate, trisodium phosphate, sodium potassium tartrate, potassium citrate, potassium acid tartrate, or any combination thereof, in an amount not exceeding 2 ounces avoirdupois per 100 pounds of the finished food.

(4) Sodium hexametaphosphate in an amount not exceeding 8 ounces avoirdupois per 100 pounds of the finished food.

(5) Purified calcium chloride, calcium citrate, calcium gluconate, calcium lactate, calcium sulfate, monocalcium phosphate, potassium chloride, or any combination of two or more of these salts, in a quantity reasonably necessary to enable the jelling ingredients to produce a jellied finished product.

(6) Ascorbic acid, sorbic acid, sodium sorbate, potassium sorbate, sodium propionate, calcium propionate, sodium benzoate, benzoic acid, methylparaben (methyl-*p*-hydroxybenzoate), propylparaben (propyl-*p*-hydroxybenzoate), or any combination of two or more of these, in a quantity reasonably necessary as a preservative, but not to exceed 0.1 percent by weight of the finished food.

(b) The fruit juice ingredient referred to in paragraph (a) of this section is any one, or any combination of two, three, four, or five of the fruit juice ingredients complying with the requirements of § 150.140(c). Except as paragraph (d) of this section permits the use of pectin, carrageenan, or salts of carrageenan standardized with nutritive sweetener, no nutritive sweetening ingredient is added, either directly or indirectly, to the fruit juice ingredient used to make artificially sweetened fruit jelly.

(c) The artificial sweetening ingredients referred to in paragraph (a) of this section are saccharin, sodium saccharin, calcium saccharin, or any combination of two or more of these.

(d) The jelling ingredients referred to in paragraph (a) of this section are pectin, agar-agar, carob bean gum (also called locust bean gum), guar gum, gum karaya, gum tragacanth, algin (sodium alginate), sodium carboxymethylcellulose (cellulose gum), methylcellulose (meeting U.S.P. requirements and with methoxy content not less than 27.5 percent and not more than 31.5 percent on a dry-weight basis), carrageenan or salts of carrageenan complying with the requirements of § 172.620 or § 172.626 of this chapter, or any combination of two or more of these. Pectin may be standardized with a nutritive sweetening ingredient, but such sweetening ingredient shall not amount to more than 44 percent by weight of the standardized pectin and the quantity of such standardized pectin used shall not exceed 3 percent by weight of the finished food. Carrageenan or salts of carrageenan may be standardized with a nutritive sweetening ingredient, but such sweetening ingredient shall not amount to more than 25 percent by weight of the standardized carrageenan or salts of carrageenan and the quantity of such standardized carrageenan or salts of carrageenan used shall not exceed 2 percent by weight of the finished food.

(e) The name of each artificially sweetened fruit jelly for which a definition and standard of identity is prescribed by this section consists of the words "artificially sweetened", immediately followed by the name prescribed by § 150.140(e)(1) for the fruit jelly which corresponds in its fruit ingredient to the artificially sweetened article. The words "artificially sweetened" shall be prominently and conspicuously displayed in letters not smaller than the largest letter used in any other word in the name of the food.

(f)(1) The jelling ingredient used shall be named on the label by a statement "_____added" or "with added _____", the blank being filled in with the common name of the jelling ingredient used; for example, "pectin and methylcellulose added".

(2) When one of the optional ingredients specified in paragraph (a)(1) of this section is used, the label shall bear the statement "_____ added" or "with added _____", the blank being filled in with the words "spice", "spice oil", or "spice extract" as appropriate, but in lieu of the word "spice" in such statement the common name of the spice may be used.

(3) When the optional ingredient specified in paragraph (a)(4) of this section is used, the label shall bear the words "sodium hexametaphosphate added" or "with added sodium hexametaphosphate".

(4) When any optional ingredient listed in paragraph (a)(6) of this section is used, the label shall bear the statement "_____ added as a preservative", the blank being filled in with the common name of the preservative ingredient used as designated in paragraph (a)(6) of this section.

(g) Wherever the name of the food appears on the label of the artificially sweetened fruit jelly so conspicuously as to be easily seen under customary conditions of purchase, the words and statements specified in this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the varietal name of the fruit source of the fruit juice ingredient used in preparing such jelly may so intervene.

§ 150.160 Fruit preserves and jams.

(a) The preserves or jams for which definitions and standards of identity are prescribed by this section are the viscous or semi-solid foods, each of which is made from a mixture composed of one or a permitted combination of the fruit ingredients specified in paragraph (b) of this section and one or any combination of the optional ingredients specified in paragraph (c) of this section which meets the specifications in paragraph (d) of this section, and which is labeled in accordance with paragraph (e) of this section. Such mixture, with or without added water, is concentrated with or without heat. The volatile flavoring material from such mixture may be captured during concentration, separately concentrated, and added back to any such mixture, together with any concentrated essence accompanying any optional fruit ingredient.

(b)(1) The fruit ingredients referred to in paragraph (a) of this section are the following mature, properly prepared fruits which are fresh, concentrated, frozen and/or canned:

Group I

Blackberry (other than dewberry)	Grapefruit
Black raspberry	Huckleberry
Blueberry	Loganberry
Boysenberry	Orange
Cherry	Pineapple
Crabapple	Raspberry, red raspberry
Dewberry (other than boysenberry, loganberry, and youngberry)	Rhubarb
Elderberry	Strawberry
Grape	Tangerine
	Tomato
	Yellow tomato
	Youngberry

Group II

Apricot	Nectarine
Cranberry	Peach
Damson, damson plum	Pear
Fig	Plum (other than greengage plum and damson plum)
Gooseberry	Quince
Greengage, greengage plum	Red currant, currant (other than black currant)
Guava	

(2) The following combinations of fruit ingredients may be used:

(i) Any combination of two, three, four, or five of such fruits in which the weight of each is not less than one-fifth of the weight of the combination; except that the weight of pineapple may be not less than one-tenth of the weight of the combination.

(ii) Any combination of apple and one, two, three, or four of such fruits in which the weight of each is not less than one-fifth and the weight of apple is not more than one-half of the weight of the combination; except that the weight of pineapple may be not less than one-tenth of the weight of the combination.

In any combination of two, three, four, or five fruits, each such fruit is an optional ingredient. For the purposes of this section the word "fruit" includes the vegetables specified in this paragraph.

(c) The following safe and suitable optional ingredients may be used:

(1) Nutritive carbohydrate sweeteners.

(2) Spice.

(3) Acidifying agents.

(4) Pectin, in a quantity which reasonably compensates for deficiency, if any, of the natural pectin content of the fruit ingredient.

(5) Buffering agents.

(6) Preservatives.

(7) Antifoaming agents, except those derived from animal fat.

(d) For the purposes of this section:

(1) The mixture referred to in paragraph (a) of this section shall be composed of not less than: (i) In the case of a fruit ingredient consisting of a Group I fruit or a permitted combination exclusively of Group I fruits, 47 parts by weight of the fruit ingredient to each 55 parts by weight of the saccharine ingre-

[3] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

dient; and (ii) in all other cases, 45 parts by weight of the fruit ingredient to each

preceded or followed by the name or synonym whereby such fruit is desig-

able the jelling ingredients to produce a jelled finished product.

(f)(1) The jelling ingredient used

not food additives as defined in section

ing that of a circle nine thirty-seconds of an inch in diameter is considered to be

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dient; and (ii) in all other cases, 45 parts by weight of the fruit ingredient to each 55 parts by weight of the saccharine ingredient. The weight of the fruit ingredient shall be determined in accordance with paragraph (d)(2) of this section, and the weight of the saccharine ingredient shall be determined in accordance with paragraph (d)(5) of this section.

(2) Any requirement with respect to the weight of any fruit, combination of fruits, or fruit ingredient means:

(i) The weight of fruit exclusive of the weight of any sugar, water, or other substance added for any processing or packing or canning, or otherwise added to such fruit.

(ii) In the case of fruit prepared by the removal, in whole or in part, of pits, seeds, skins, cores, or other parts; the weight of such fruit, exclusive of the weight of all such substances removed therefrom.

(iii) In the cases of apricots, cherries, grapes, nectarines, peaches, and all varieties of plums, whether or not pits and seeds are removed therefrom; the weight of such fruit, exclusive of the weight of such pits and seeds.

(iv) In the case of concentrated fruit, the weight of the properly prepared fresh fruit used to produce such concentrated fruit.

(3) The term "concentrated fruit" means a concentrate made from the properly prepared edible portion of mature fresh or frozen fruits by removal of moisture with or without the use of heat or vacuum, but not to the point of drying. Such concentrate is canned or frozen without the addition of sugar or other sweetening agents and is identified to show or permit the calculation of the weight of the properly prepared fresh fruit used to produce any given quantity of such concentrate. The volatile flavoring material or essence from such fruits may be captured during concentration and separately concentrated for subsequent addition to the concentrated fruit either directly or during manufacture of the preserve or jam, in the original proportions present in the fruit.

(4) The weight of any optional saccharine ingredient means the weight of the solids of such ingredient.

(5) The soluble-solids content of the finished jam or preserve is not less than 65 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed. (1970) p. 371, Sec. 22.019, "Soluble Solids (By Refractometer) in Fresh and Canned Fruits, Jams, Marmalades, and Preserves—Official First Action,"[2] except that no correction is made for water-insoluble solids.

(e)(1) The name of each preserve or jam for which a definition and standard of identity is prescribed by this section is as follows:

(i) If the fruit ingredient is a single fruit, the name is "Preserve" or "Jam", preceded or followed by the name or synonym whereby such fruit is designated in paragraph (b) of this section.

(ii) If the fruit ingredient is a combination of two, three, four, or five fruits, the name is "Preserve" or "Jam", preceded or followed by the words "Mixed fruit" or by the names or synonyms whereby such fruits are designated in paragraph (b) of this section, in the order of predominance, if any, of the weights of such fruits in the combination.

(2) Each of the optional ingredients specified in paragraphs (b) and (c) of this section shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(i) The name(s) of the fruit or fruits used may be declared without specifying the particular form of the fruit or fruits used.

(ii) When the optional ingredients listed in paragraph (c)(3), (4), and (5) of this section are declared on the label, the declaration may be followed by the statement "used as needed" on all preserves or jams to which they are customarily, but not always, added to compensate for natural variations in the fruit ingredients used.

§ 150.161 Artificially sweetened fruit preserves and jams.

(a) The artificially sweetened fruit preserves or artificially sweetened fruit jams for which definitions and standards of identity are prescribed by this section are the viscous or semisolid foods made from a fruit ingredient as specified in paragraph (b) of this section and an artificial sweetening ingredient as specified in paragraph (c) of this section, and with or without water and a jelling ingredient as specified in paragraph (d) of this section. The quantity of the fruit ingredient amounts to not less than 55 percent by weight of the finished food. The article is sealed in containers and so processed by heat, either before or after sealing, as to prevent spoilage. Such food may also contain one or more of the following optional ingredients:

(1) Spice, spice oil, spice extract.

(2) A vinegar, lemon juice, lime juice, citric acid, lactic acid, malic acid, tartaric acid, fumaric acid, or any combination of two or more of these, in a quantity which reasonably compensates for deficiency, if any, of the natural acidity of the fruit ingredient.

(3) Sodium citrate, sodium acetate, sodium tartrate, monosodium phosphate, disodium phosphate, trisodium phosphate, sodium potassium tartrate, potassium citrate, potassium acid tartrate, or any combination thereof, in an amount not exceeding 2 ounces avoirdupois per 100 pounds of the finished food.

(4) Sodium hexametaphosphate in an amount not exceeding 8 ounces avoirdupois per 100 pounds of the finished food.

(5) Purified calcium chloride, calcium citrate, calcium gluconate, calcium lactate, calcium sulfate, monocalcium phosphate, potassium chloride, or any combination of two or more of these salts, in a quantity reasonably necessary to enable the jelling ingredients to produce a jelled finished product.

(6) Ascorbic acid, sorbic acid, sodium sorbate, potassium sorbate, sodium propionate, calcium propionate, sodium benzoate, benzoic acid, methylparaben (methyl-p-hydroxybenzoate), propylparaben (propyl-p-hydroxybenzoate), or any combination of two or more of these, in a quantity reasonably necessary as a preservative but not to exceed 0.1 percent by weight of the finished food.

(b) The fruit ingredient referred to in paragraph (a) of this section is any one, or any combination of two, three, four, or five of the fruit ingredients complying with the requirements of § 150.160(b) and (c). Except as paragraph (d) of this section permits the use of pectin, carrageenan, or salts of carrrageenan standardized with nutritive sweetener, no nutritive sweetening ingredient is added, either directly or indirectly, to the fruit ingredient used to make artificially sweetened fruit preserves or artificially sweetened fruit jam.

(c) The artificial sweetening ingredients referred to in paragraph (a) of this section are saccharin, sodium saccharin, calcium saccharin, or any combination of two or more of these.

(d) The jelling ingredients referred to in paragraph (a) of this section are pectin, agar-agar, carob bean gum (also called locust bean gum), guar gum, gum karaya, gum tragacanth, algin (sodium alginate), sodium carboxymethylcellulose (cellulose gum), methylcellulose (meeting U.S.P. requirements and with methoxy content not less than 27.5 percent and not more than 31.5 percent on a dry-weight basis), carrageenan or salts of carrageenan complying with the requirements of § 172.620 or § 172.626 of this chapter, or any combination of two or more of these. Pectin may be standardized with a nutritive sweetening ingredient, but such sweetening ingredient shall not amount to more than 44 percent by weight of the standardized pectin and the quantity of such standardized pectin used shall not exceed 3 percent by weight of the finished food. Carrageenan or salts of carrageenan may be standardized with a nutritive sweetening ingredient, but such sweetening ingredient shall not amount to more than 25 percent by weight of the standardized carrageenan or salts of carrageenan and the quantity of such standardized carrageenan or salts of carrageenan used shall not exceed 2 percent by weight of the finished food.

(e) The name of each artificially sweetened fruit preserve or artificially sweetened fruit jam for which a definition and standard of identity is prescribed by this section consists of the words "artificially sweetened" immediately followed by the name prescribed by § 150.160(e)(1) for the fruit preserves or jams which correspond in fruit ingredient to the artificially sweetened article. The words "artificially sweetened" shall be prominently and conspicuously displayed in letters not smaller than the largest letter used in any other word in the name of the food.

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(f)(1) The jelling ingredient used shall be named on the label by a statement "_____ added" or "with added _____", the blank being filled in with the common name of the jelling ingredient used.

(2) When one of the optional ingredients specified in paragraph (a)(1) of this section is used, the label shall bear the statement, "_____ added" or "with added _____", the blank being filled in with the words "spice", "spice oil", or "spice extract" as appropriate, but in lieu of the word "spice" in such statement the common name of the spice may be used.

(3) When the optional ingredient specified in paragraph (a)(4) of this section is used, the label shall bear the words "sodium hexametaphosphate added" or "with added sodium hexametaphosphate".

(4) When any optional ingredient listed in paragraph (a)(6) of this section is used, the label shall bear the statement "_____ added as a preservative", the blank being filled in with the common name by which the preservative ingredient used is designated in paragraph (a)(6) of this section.

(g) Wherever the name of the food appears on the label of the artificially sweetened fruit preserve or artificially sweetened fruit jam so conspicuously as to be easily seen under customary conditions of purchase, the words and statements specified in this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the varietal name of the fruit used in preparing such preserve or jam may so intervene.

PART 152—FRUIT PIES

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Fruit Pies

Sec.

152.126 Frozen cherry pie.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371).

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Fruit Pies

§ 152.126 Frozen cherry pie.

(a) *Identity*—(1) Frozen cherry pie (excluding baked and then frozen) is the food prepared by incorporating in a filling contained in a pastry shell mature, pitted, stemmed cherries that are fresh, frozen, and/or canned. The top of the pie may be open or it may be wholly or partly covered with pastry or other suitable topping. Filling, pastry, and topping components of the food consist of optional ingredients as prescribed by paragraph (a)(2) of this section. The finished food is frozen.

(2) The optional ingredients referred to in paragraph (a)(1) of this section consist of suitable substances that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act or color additives as defined in section 201(t) of the act; or if they are food additives or color additives as so defined, they are used in conformity with regulations established pursuant to section 409 or 706 of the act. Ingredients that perform a useful function in the formulation of the filling, pastry, and topping components, when used in amounts reasonably required to accomplish their intended effect, are regarded as suitable except that artificial sweeteners are not suitable ingredients of frozen cherry pie.

(3) The name of the food for which a definition and standard of identity is established by this section is frozen cherry pie; however, if the maximum diameter of the food (measured across opposite outside edges of the pastry shell) is not more than 4 inches, the food alternatively may be designated by the name frozen cherry tart. The word "frozen" may be omitted from the name on the label if such omission is not misleading.

(4)(i) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(ii) The label shall not bear any misleading pictorial representation of the cherries in the pie.

(b) *Quality*—(1) The standard of quality for frozen cherry pie is as follows:

(i) The fruit content of the pie is such that the weight of the washed and drained cherry content is not less than 25 percent of the weight of the pie when determined by the procedure prescribed by paragraph (b)(2) of this section.

(ii) Not more than 15 percent by count of the cherries in the pie are blemished with scab, hail injury, discoloration, scar tissue, or other abnormality. A cherry showing skin discoloration (other than scald) having an aggregate area exceeding that of a circle nine thirty-seconds of an inch in diameter is considered to be blemished. A cherry showing discoloration of any area but extending into the fruit tissue is also considered to be blemished.

(2) Compliance with the requirement for the weight of the washed and drained cherry content of the pie, as prescribed by paragraph (b)(1)(i) of this section, is determined by the following procedure:

(i) Select a random sample from a lot:

(a) At least 24 containers if they bear a weight declaration of 16 ounces or less.

(b) Enough containers to provide a total quantity of declared weight of at least 24 pounds if they bear a weight declaration of more than 16 ounces.

(ii) Determine net weight of each frozen pie.

(iii) Temper the pie until the top crust can be removed.

(iv) Remove the filling and cherries from the pie and transfer to the surface of a previously weighed 12-inch diameter U.S. No. 8 sieve (0.094-inch openings) stacked on a U.S. No. 20 sieve (0.033-inch openings).

(v) Distribute evenly over the surface and wash with a gentle spray of water at 70°–75° F to free the cherries and cherry fragments from the adhering material.

(vi) Remove the U.S. No. 8 sieve and examine the U.S. No. 20 sieve and transfer all cherry fragments to the U.S. No. 8 sieve.

(vii) Drain the cherry contents on the No. 8 sieve for 2 minutes in an inclined position (15°–30° slope). Weigh the U.S. No. 8 sieve and the washed and drained cherries to the nearest 0.01 ounce.

(viii) The weight of the washed and drained cherries is the weight of the sieve and the cherry material less the weight of the sieve. Calculate the percent of the cherry content of each pie with the following formula, and then calculate the average percent of the entire random sample:

$$\text{Percent of the cherry content of the pie} = \frac{\text{Weight of washed and drained cherries}}{\text{Net weight of pie}} \times 100.$$

(3) If the quality of the frozen cherry pie falls below the standard of quality prescribed by paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form specified therein; but in lieu of the words prescribed for the second line inside the rectangle, the label may bear the alternative statement "Below standard in quality _____", the blank being filled in with the following words, as applicable: "too few cherries", or "blemished cherries". Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name of the food as prescribed by paragraph (a) of this section.

PART 155—CANNED VEGETABLES

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Canned Vegetables

Sec.

155.120 Canned green beans and canned wax beans.
155.130 Canned corn.
155.131 Canned field corn.
155.170 Canned peas.
155.172 Canned dry peas.
155.190 Canned tomatoes.
155.191 Tomato paste.
155.192 Tomato puree.
155.194 Catsup.
155.200 Certain other canned vegetables.
155.201 Canned mushrooms.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371) unless otherwise indicated.

Subpart A—[Reserved]

(iii) Disodium inosinate.
(iv) Disodium guanylate.

weight of the sieve, as the drained weight.

section. In the case of pods sliced lengthwise, remove seed and pieces of seed and

cm (3 in.) long and 3 mm (⅛ in.) inside diameter inserted into a rubber tube of 6

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Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Canned Vegetables

§ 155.120 Canned green beans and canned wax beans.

(a) *Identity*—(1) *Definition.* Canned green beans and canned wax beans are the foods prepared from succulent pods of fresh green bean or wax bean plants conforming to the characteristics of *Phaseolus vulgaris* L. *and Phaseolus coccineus* L. The optional color and varietal types and styles of the bean ingredient are set forth in paragraph (a) (2) of this section. The product is packed with water or other suitable aqueous liquid medium to which may be added one or more of the other optional ingredients set forth in paragraph (a) (3) of this section. Such food is so processed by heat, in an appropriate manner before or after being sealed in a container, as to prevent spoilage.

(2) *Optional color and varietal types and styles of pack.* The optional color and varietal types and styles of the bean ingredient referred to in paragraph (a) (1) of this section are:

(i) *Optional color types.* The beans shall be one of the following distinct color types: (*a*) Green; or (*b*) Wax.

(ii) *Optional varietal types*—(*a*) *Round.* Beans having a width not greater than 1½ times the thickness of the bean; or

(*b*) *Flat.* Beans having a width greater than 1½ times the thickness of the bean.

(iii) *Optional styles of pack*—(*a*) *Whole.* Whole pods of any length.

(*b*) *Shoestring or sliced lengthwise or French style.* Pods sliced lengthwise or at an angle of less than 45° to the longitudinal axis.

(*c*) *Cuts.* Transversely cut pods not less than 19 mm (0.75 in) long as measured along the longitudinal axis, which may contain the shorter end pieces that result from cutting such pods.

(*d*) *Short cuts.* Pieces of pods cut transversely of which 75 percent, by count, or more are less than 19 mm (0.75 in) in length and not more than 1 percent by count are more than 32 mm (1¼ in) in length.

(*e*) *Diagonal cuts.* Pods cut in lengths as specified in paragraph (a) (2) (iii) (*c*) of this section, except the pods are cut at an angle approximately 45° to the longitudinal axis.

(*f*) *Diagonal short cuts.* Pods cut in lengths as specified in paragraph (a) (2) (iii) (*d*) of this section, except the pods are cut at an angle approximately 45° to the longitudinal axis.

(*g*) *Mixture.* Any mixture of two or more of the styles specified in paragraph (a) (2) (iii) (*a*) to (*f*), inclusive, of this section.

(3) *Optional ingredients.* In addition to the optional packing media listed in paragraph (a) (1) of this section and the optional types and styles of beans ingredient listed in paragraph (a) (2) of this section, the following safe and suitable optional ingredients may be used:

(i) Salt.

(ii) Monosodium glutamate.

(iii) Disodium inosinate.

(iv) Disodium guanylate.

(v) Hydrolyzed vegetable protein.

(vi) Autolyzed yeast extract.

(vii) Nutritive carbohydrate sweeteners.

(viii) Spice.

(ix) Flavoring (except artificial).

(x) Pieces of green or red peppers or mixtures of both, either of which may be dried, or other vegetables not exceeding in total 15 percent by weight of the finished product.

(xi) Vinegar.

(xii) Lemon juice or concentrated lemon juice.

(xiii) Mint leaves.

(xiv) Butter or margarine in a quantity of not less than 3 percent by weight of the finished product. When butter or margarine is added, emulsifiers or stabilizers, or both, may be added. No spice or flavoring simulating the color or flavor imparted by butter or margarine is used.

(4) *Labeling*—(i) The name of the food is "green beans" or " wax beans" as appropriate. Wax beans may be additionally designated "golden" or "yellow".

(ii) The following shall be included as part of the name or in conjunction with the name of the food:

(*a*) A declaration of any flavoring that characterizes the product, as specified in § 101.22 of this chapter.

(*b*) A declaration of any spice, seasoning, or garnishing that characterizes the product, e.g., "with added spice", or, in lieu of the word spice, the common name of the spice, e.g., "seasoned with green peppers".

(*c*) The name of the optional style of pack of bean ingredient as set forth in paragraph (a) (2) (iii) of this section or, if a product consists of a mixture of such styles, the words "mixture of ------", the blank to be filled in with the names of the styles present, arranged in the order of decreasing predominance, if any, by weight of such ingredients. If the product consists of whole beans and the pods are packed parallel to the sides of the container, the word "whole" may be preceded or followed by the words "vertical pack", or if the pods are cut at both ends and are of substantially equal lengths, the words "asparagus style" may be used in lieu of the words "vertical pack". If the product consists of "short cuts" or "diagonal short cuts" a numerical expression indicating the predominate length of cut in the finished food may be used in lieu of the word "short", e.g., "½ inch cut".

(iii) The following may be included in the name of the food:

(*a*) The word "stringless" where the beans are in fact stringless.

(*b*) The name of the optional varietal type as specified in paragraph (a) (2) (ii) of this section.

(iv) If a term designating diameter is used, it shall be supported by an exact graphic representation of the cross section of the bean pod or by a statement of the maximum diameter in common or decimal fractions of an inch and, optionally, by the millimeter equivalent stated parenthetically. The diameter of a whole, cut, diagonal cut, or short cut is determined by measuring the thickest portion of the pod at the shorter diameter of the bean perpendicular to the longitudinal axis.

(5) *Ingredient statement.* The name of each optional ingredient used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality*—(1) When tested by the method prescribed in paragraph (b) (2) of this section:

(i) In the case of cut beans and diagonal cut beans under paragraph (a) (2) (iii) (*c*) and (*d*) of this section and mixtures of two or more optional forms under paragraph (a) (2) (iii) (*g*) of this section, not more than 60 units per 340 g (12 oz) drained weight are less than 13 mm (0.50 in) long: *Provided,* That where the number of units per 340 g (12 oz) drained weight exceeds 240, not more than 25 percent by count of the total units are less than 13 mm (0.50 in) long.

(ii) Not more than 5 percent by weight of the units may possess strings that will support the weight of 250 g (8.8 oz) for 5 seconds or longer.

(iii) The deseeded pods contain not more than 0.15 percent by weight of fibrous material.

(iv) There are not more than 10 percent by weight of blemished units of which amount not more than one-half may be materially damaged by insect or pathological injury. A unit is considered blemished when the aggregate blemished area exceeds the area of a circle 3 mm (⅛ in) in diameter. Materially damaged means that the unit is damaged to the extent that the appearance or eating quality of the unit is seriously affected.

(v) There are not more than 8 unstemmed units per 340 g (12 oz) drained weight.

(vi) The combined number of leaves, detached stems, and other extraneous vegetable matter shall not average more than 3 pieces per 340 g (12 oz) drained beans.

(2) Canned beans shall be tested by the following method to determine whether they meet the requirements of paragraph (b) (1) of this section:

(i) Distribute the contents of the container over the meshes of a U.S. No. 8 circular sieve with openings of 2.36 mm (0.0937 in) which has been previously weighed. The diameter of the sieve is 20.3 cm (8 in) if the quantity of the contents of the container is less than 1.36 kg (3 lb) and 30.5 cm (12 in) if such quantity is 1.36 kg (3 lb) or more. The bottom of the sieve is woven-wire cloth which complies with the specifications for such cloth set forth in the "Definitions of Terms and Explanatory Notes," p. xviii, of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Edition, 1975. Without shifting the material on the sieve, incline the sieve 17 to 20 degrees to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and the drained material. Record in grams the weight so found, less the weight of the sieve, as the drained weight.

(ii) Pour the drained material from the sieve into a flat tray and spread it in a layer of fairly uniform thickness. Count the total number for units. For the purpose of this count—loose seeds, pieces of seed, loose stems, and extraneous material are not to be included. Divide the number of units by the drained weight recorded in paragraph (b) (2) (i) of this section and multiply by 340 to obtain the number of units per 340 g (12 oz.) drained weight.

(iii) Examine the drained material in the tray, weigh and record weight of blemished units, count and record the number of unstemmed units; and, in case the material consists of the optional ingredient specified in paragraph (a) (2) (iii) (*c*), (*d*) or (*f*) of this section, count and record the number of units which are less than 13 mm (0.50 in.) long. If the number of units per 340 g (12 oz.) is 240 or less, divide the number of units which are less than 13 mm (0.50 in.) by the drained weight recorded in paragraph (b) (2) (i) of this section and multiply by 340 to obtain the number of such units per 340 g (12 oz.) drained weight. If the number of units per 340 g (12 oz.) exceeds 240, divide the number of units less than 13 mm (0.50 in.) long by the total number of units and multiply by 100 to determine the percentage by count of the total units which are less than 13 mm (0.50 in.) long.

(*a*) Divide the weight of blemished units by the drained weight recorded in paragraph (b) (2) (i) of this section and multiply by 100 to obtain the percentage by weight of blemished units in the container.

(*b*) Divide the number of unstemmed units by the drained weight recorded in paragraph (b) (2) (i) of this section and multiply by 340 to obtain the number of unstemmed units per 340 g (12 oz.) of drained weight.

(iv) Remove from the tray the extraneous vegetable material, count, record count, and return to tray.

(v) Remove from the tray one or more representative samples of 99 to 113 g (3½ to 4 ounces) covering each sample as taken to prevent evaporation.

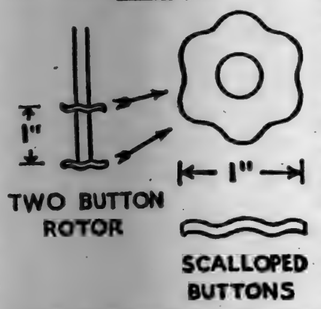
(vi) From each representative sample selected in paragraph (b) (2) (v) of this section, discard any loose seed and extraneous vegetable material and detach and discard any attached stems. Except with optional style of ingredient specified in paragraph (a) (2) (iii) (*b*) of this section (pods sliced lengthwise), trim off, as far as the end of the space formerly occupied by the seed, any portion of pods from which the seed has become separated. Remove and discard any portions of seed from the trimmings and reserve the trimmings for paragraph (b) (2) (viii) of this section. Weigh and record the weight of the trimmed pods. Deseed the trimmed pods and reserve the deseeded pods for paragraph (b) (2) (viii) of this section. Remove strings from the pods during the deseeding operation. Reserve these strings for testing as prescribed in paragraph (b) (2) (vii) of this section. In the case of pods sliced lengthwise, remove seed and pieces of seed and reserve the deseeded pods for use as prescribed in paragraph (b) (2) (viii) of this section.

(vii) If strings have been removed for testing, as prescribed in paragraph (b) (2) (vi) of this section, test them as follows:

Fasten clamp, weighted to 250 g (8.8 oz.), to one end of the string, grasp the other end with the fingers (a cloth may be used to aid in holding the string), and lift gently. Count the string as tough if it supports the 250 g (8.8 oz.) weight for at least 5 seconds. If the string breaks before 5 seconds, test such parts into which it breaks as are 13 mm (½ in.) or more in length; and if any such part of the string supports the 250 g (8.8 oz.) weight for at least 5 seconds, count the string as tough. Divide the number of tough strings by the weight of the sample recorded in paragraph (b) (2) (v) of this section and multiply by 340 to obtain the number of tough strings per 340 g (12 oz.) drained weight.

(viii) Combine the deseeded pods with the trimmings reserved in paragraph (b) (2) (vi) of this section, and, if strings were tested as prescribed in paragraph (b) (2) (vii) of this section, add such strings broken or unbroken. Weigh and record weight of combined material. Transfer to the metal cup of a malted-milk stirrer and mash with a pestle. Wash material adhering to the pestle back into cup with 200 cc of boiling water. Bring mixture nearly to a boil, add 25 cc of 50 percent (by weight) sodium hydroxide solution and bring to a boil. (If foaming is excessive, 1 cc of capryl alcohol may be added.) Boil for 5 minutes, then stir for 5 minutes with a malted-milk stirrer capable of a no-load speed of at least 7,200 rpm. Use a rotor with two scalloped buttons shaped as shown in Exhibit 1 as follows:

EXHIBIT 1



Transfer the material from the cup to a previously weighed 30-mesh monel metal screen having a diameter of about 9–10 cm (3½ to 4 in.) and side walls about 2.5 cm (1 in.) high, and wash fiber on the screen with a stream of water using a pressure not exceeding a head (vertical distance between upper level of water and outlet of glass tube) of 152 cm (60 in.), delivered through a glass tube 7.6 cm (3 in.) long and 3 mm (⅛ in.) inside diameter inserted into a rubber tube of 6 mm (¼ in.) inside diameter. Wash the pulpy portion of the material through the screen and continue washing until the remaining fibrous material, moistened with phenolphthalein solution, does not show any red color after standing 5 minutes. Again wash to remove phenolphthalein. Dry the screen containing the fibrous material for 2 hours at 100°C, cool, weigh, and deduct weight of screen. Divide the weight of fibrous material by the weight of combined deseeded pods, trimmings, and strings and multiply by 100 to obtain the percentage of fibrous material.

(ix) If the drained weight recorded in paragraph (b) (2) (i) of this section was less than 340 g (12 oz.), open and examine separately for extraneous material, as directed in paragraph (b) (2) (iv) of this section, additional containers until a total of not less than 340 g (12 oz.) of drained material is obtained. To determine the number of pieces of extraneous vegetable material per 340 g (12 oz.) of drained weight, total the number of pieces of extraneous vegetable material found in all containers opened, divide this sum by the sum of the drained weights in these containers and multiply by 340.

(3) Sampling and acceptance procedure: A lot is to be considered acceptable when the number of "defectives" does not exceed the acceptance number in the sampling plans given in paragraph (b) (3) (ii) of this section, except extraneous plant material, which is based on an average of all the containers examined.

(i) Definitions of terms to be used in the sampling plans in paragraph (b) (3) (ii) of this section are as follows:

(*a*) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(*b*) *Lot size.* The number of primary containers or units in the lot.

(*c*) *Sample size* (*n*). The total number of sample units drawn for examination from a lot.

(*d*) *Sample unit.* A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(*e*) *Defective.* Any sample unit shall be regarded as defective when any of the defects or conditions specified in the standard of quality under paragraph (b) (1) of this section are present in excess of the stated tolerances.

(*f*) *Acceptance number* (*c*). The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(*g*) *Acceptable quality level* (*AQL*). The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

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(ii) Sampling plans and acceptance procedure:

Acceptable Quality Level 6.5

Lot size (primary containers):	Size of container	
	Net weight equal to or less than 1 kg (2.2 lb)	
	n	c
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kg (10 lb)	
	n	c
2,400 or less	13	2
2,401 to 15,000	21	3
15,001 to 24,000	29	4
24,001 to 42,000	48	6
42,001 to 72,000	84	9
72,001 to 120,000	126	13
Over 120,000	200	19
	Net weight greater than 4.5 kg (10 lb)	
	n	c
600 or less	13	2
601 to 2,000	21	3
2,001 to 7,200	29	4
7,201 to 15,000	48	6
15,001 to 24,000	84	9
24,001 to 42,000	126	13
Over 42,000	200	19

n=number of primary containers in sample.
c=acceptance number.

(4) If the quality of the canned green beans or canned wax beans falls below the standard of quality prescribed by paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14 (a) of this chapter, in the manner and form therein specified; but in lieu of the words prescribed for the second line inside the rectangle the following words may be used, when the quality of canned green beans or canned wax beans falls below the standard in one only of the following respects:

(i) "Excessive number very short pieces", if the canned green beans or canned wax beans fail to meet the requirements of paragraph (b)(1)(i) of this section.

(ii) "Excessive number blemished units", if they fail to meet the requirements of paragraph (b)(1)(iv) of this section.

(iii) "Excessive number unstemmed units", if they fail to meet the requirements of paragraph (b)(1)(v) of this section.

(iv) "Excessive foreign material", if they fail to meet the requirements of paragraph (b)(1)(vi) of this section.

§ 155.130 Canned corn.

(a) *Identity*—(1) *Definition.* Canned sweet corn is the product prepared from clean, sound kernels of sweet corn packed with a suitable liquid packing medium which may include water and the creamy component from corn kernels. The tip caps are removed. The product is of the optional styles specified in paragraph (a)(2) of this section. It may contain one, or any combination of two or more, of the optional ingredients set forth in paragraph (a)(3) of this section. Such food is processed by heat, in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage.

(2) *Styles.* The optional styles referred to in paragraph (a)(1) of this section consist of succulent sweet corn of the yellow (golden) or white color type, conforming to *Zea mays* L. having the sweet corn characteristic as follows:

(i) Whole kernel or whole grain or cut kernel consisting of whole or substantially whole cut kernels packed with a liquid medium.

(ii) Cream style consisting of whole or partially whole cut kernels packed in a creamy component from the corn kernels and other liquid or other ingredients to form a product of creamy consistency.

(3) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(i) Salt.
(ii) Monosodium glutamate.
(iii) Disodium inosinate.
(iv) Disodium guanylate.
(v) Hydrolyzed vegetable protein.
(vi) Autolyzed yeast extract.
(vii) Nutritive carbohydrate sweeteners.
(viii) Spice.
(ix) Flavoring (except artificial).
(x) Citric acid.
(xi) Starch or food starch-modified in cream style corn when necessary to ensure smoothness.
(xii) Seasonings and garnishes.

(a) Mint leaves.

(b) Pieces of green peppers or red peppers, or mixtures of both, either of which may be sweet or hot and may be dried, or other vegetables, not exceeding 15 percent by weight of the finished food.

(c) Lemon juice or concentrated lemon juice.

(d) Butter or margarine in a quantity not less than 3 percent by weight of the finished food. When butter or margarine is added, emulsifiers or stabilizers, or both, may be added. When butter or margarine is added, no spice, or flavoring simulating the color or flavor imparted by butter or margarine is used.

(4) *Labeling.* The name of the food is "corn" or "sweet corn" or "sugar corn" and shall include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice, seasoning or garnishing that characterizes the product; for example, "With added spice", "Seasoned with red peppers", "Seasoned with butter". The name of the food shall also include the following:

(i) The optional style of the corn ingredient as specified in paragraph (a)(2) of this section.

(ii) The words "vacuum pack" or "vacuum packed" when the corn ingredient is as specified in paragraph (a)(2)(i) of this section and the weight of the liquid in the container, as determined by the method prescribed in paragraph (b)(2)(i) of this section, is not more than 20 percent of the net weight, and the container is closed under conditions creating a high vacuum in the container.

(iii) The color type used only when the product consists of white corn.

(iv) The color type used only when the product consists of white corn.

(5) *Ingredient statement.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality*—(1) The standard of quality for canned corn is as follows:

(i) When tested by the method prescribed in paragraph (b)(2) of this section, canned whole-kernel corn (paragraph (a)(2)(i) of this section):

(a) Contains not more than seven brown or black discolored kernels or pieces of kernel per 400 g. (14 ounces) of drained weight;

(b) Contains not more than 1 cubic centimeter of pieces of cob for each 400 g. (14 ounces) of drained weight;

(c) Contains not more than 7 square centimeters (1.1 square inch) of husk per 400 g. (14 ounces) of drained weight; and

(d) Contains not more than 180 mm. (7 inches) of silk per 28 g. (1 ounce) of drained weight.

(ii) When tested by the method prescribed in paragraph (b)(3) of this section, canned cream style corn (paragraph (a)(2)(ii) of this section):

(a) Contains not more than 10 brown or black discolored kernels or pieces of kernel per 600 g. (21.4 ounces) of net weight;

(b) Contains not more than 1 cubic centimeter of pieces of cob per 600 g. (21.4 ounces) of net weight;

(c) Contains not more than 7 square centimeters (1.1 square inch) of husk per 600 g. (21.4 ounces) of net weight;

(d) Contains not more than 150 mm. (6 inches) of silk for each 28 g. (1 ounce) of net weight; and

(e) Has a consistency such that the average diameter of the approximately circular area over which the prescribed sample spreads does not exceed 30.5 cm. (12 inches), except that when the washed drained material contains more than 20 percent of alcohol-insoluble solids, the average diameter of the approximately circular area over which the prescribed sample spreads does not exceed 25.4 cm. (10 inches).

(iii) (a) The weight of the alcohol-insoluble solids of whole-kernel corn (paragraph (a)(2)(i) of this section) does not exceed 27 percent of the drained weight, when tested by the method prescribed in paragraph (b)(2) of this section.

(b) The weight of the alcohol-insoluble solids of the washed drained material of cream style corn (paragraph (a)(2)(ii) of this section) does not exceed 27 percent of the drained weight of such material, when tested by the method prescribed in paragraph (b)(3) of this section.

(2) The method referred to in paragraph (b)(1) of this section for testing whole-kernel corn (paragraph (a)(2)(i) of this section) is as follows:

(i) Determine the gross weight of the container. Open and distribute the contents of the container over the meshes of a U.S. No. 8 circular sieve which has previously been weighed. The diameter of the sieve is 20.3 cm. (8 inches) if the quantity of the contents of the container is less than 1.36 kg. (3 pounds), and 30.5 cm. (12 inches) if such quantity is 1.36 kg. (3 pounds) or more. The bottom of the sieve is woven-wire cloth which complies with the specifications for such sieve set forth in the "Definitions of Terms and Explanatory Notes," page xviii, of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition, 1970.[1] Without shifting the material on the sieve, so incline the sieve at approximately 17–20° angle to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and the drained material. Record, in g. (ounces), the weight so found, less the weight of the sieve, as the drained weight. Dry and weigh the empty container and subtract this weight from the gross weight to obtain the net weight. Calculate the percent of drained liquid in the net weight.

(ii) Pour the drained material from the sieve into a flat tray and spread it in a layer of fairly uniform thickness. Count, but do not remove, the brown or black discolored kernels or pieces of kernel and calculate the number per 400 g. (14 ounces) of drained material. Remove pieces of silk more than 12.7 mm. (one-half inch) long, husk, cob, and any pieces of material other than corn. Measure the aggregate length of such pieces of silk and calculate the length of silk per 28 g. (1 ounce) of drained weight. Spread the husk flat, measure its aggregate area, and calculate the area of husk per 400 g. (14 ounces) of drained weight. Place all pieces of cob under a measured amount of water in a cylinder which is so graduated that the volume can be measured to 0.1 cubic centimeter. Take the increase in volume as the aggregate volume of the cob and calculate the volume of cob per 400 g. (14 ounces) of drained weight.

(iii) Comminute a representative 100 g. sample of the drained corn from which the silk, husk, cob, and other material which is not corn (i.e., peppers) have been removed. An equal amount of water is used to facilitate this operation. Weigh to nearest 0.01 g. a portion of the comminuted material equivalent to approximately 10 g. of the drained corn into a 600 cubic centimeter beaker. Add 300 cubic centimeters of 80 percent alcohol (by volume), stir, cover beaker, and bring to a boil. Simmer slowly for 30 minutes. Fit a Buchner funnel with a previously prepared filter paper of such sizes that its edges extend 12.7 mm. (one-half inch) or more up the vertical sides of the funnel. The previous preparation of the filter paper consists of drying it in a flat-bottomed dish for 2 hours at 100° C, covering the dish with a tight fitting cover, cooling it in a desiccator, and promptly weighing to the nearest 0.001 g. After the filter paper is fitted to the funnel, apply suction and transfer the contents of the beaker to the funnel. Do not allow any of the material to run over the edge of the paper. Wash the material on the filter with 80 percent alcohol (by volume) until the washings are clear and colorless. Transfer the filter paper with the material retained thereon to the dish used in preparing the filter paper. Dry the material in a ventilated oven, without covering the dish, for 2 hours at 100° C. Place the cover on the dish, cool it in a desiccator, and promptly weigh to the nearest 0.001 g. From this weight subtract the weight of the dish, cover, and paper as previously found. Calculate the remainder to percentage.

(3) The method referred to in paragraph (b)(1) of this section for testing cream-style corn (paragraph (a)(2)(ii) of this section) is as follows:

(i) Allow the container to stand at least 24 hours at a temperature of 68° F to 85° F. Determine the gross weight, open, transfer the contents into a pan, and mix thoroughly in such a manner as not to incorporate air bubbles. (If the net contents of a single container is less than 510 g. (18 ounces) determine the gross weight, open, and mix the contents of the least number of containers necessary to obtain 510 g. (18 ounces). Fill level full a hollow, truncated cone so placed on a polished horizontal plate as to prevent leakage. The cone has an inside bottom diameter of 7.62 cm. (3 inches), inside top diameter of 5.08 cm. (2 inches), and height of 12.30 cm. (4 27/32 inches). As soon as the cone is filled, lift it vertically. Determine the average of the longest and shortest diameters of the approximately circular area on the plate covered by the sample 30 seconds after lifting the cone. Dry and weigh each empty container and subtract the weight so found from the gross weight to obtain the net weight.

(ii) Transfer the material from the plate, cone, and pan onto a U.S. No. 8 sieve as prescribed in paragraph (b)(2)(i) of this section. The diameter of the sieve is 20.3 cm. (8 inches) if the quantity of the contents of the container is less than 1.36 kg. (3 pounds), and 30.5 cm. (12 inches) if such quantity is 1.36 kg. (3 pounds) or more. Set the sieve in a pan. Add enough water to bring the level within 9.53 mm. (three-eighth inch) to 6.35 mm. (one-fourth inch) of the top of the sieve. Gently wash the material on the sieve by combined up-and-down and circular motion for 30 seconds. Repeat washing with a second portion of water. Remove sieve from pan, incline to facilitate drainage, and drain for 2 minutes.

(iii) From the material remaining on the U.S. No. 8 sieve, count, but do not remove, the brown or black discolored kernels or pieces of kernel and calculate the number per 600 g. (21.4 ounces) of net weight. Remove pieces of silk more than 12.7 mm. (one-half inch) long, husk, cob, and other material which is not corn (i.e., peppers). Measure aggregate length of such pieces of silk and calculate the length per 28 g. (ounce) of net weight. Spread the husk flat and measure its aggregate area and calculate the area per 600 g. (21.4 ounces) of net weight. Place all pieces of cob under a measured amount of water in a cylinder which is so graduated that the volume can be measured to 0.1 cubic centimeter. Take the increase in volume as the aggregate volume of the cob and calculate the volume of cob per 600 g. (21.4 ounces) of net weight. Take a representative 100 g. sample of the material remaining on the U.S. No. 8 sieve (if such material weighs less than 100 g. take all of it) and determine the alcohol-insoluble solids as prescribed in paragraph (b)(2)(iii) of this section for whole kernel corn.

(4) Sampling and acceptance procedure. A lot is to be considered acceptable when the number of "defectives" does not exceed the acceptance number in the sampling plans given in paragraph (b)(4)(ii) of this section.

(i) Definitions of terms to be used in the sampling plans in paragraph (b)(4)(ii) of this section are as follows:

(a) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(b) *Lot size.* The number of primary containers or units in the lot.

(c) *Sample size (n).* The total number of sample units drawn for examination from a lot.

(d) *Sample unit.* A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(e) *Defective.* Any sample unit shall be regarded as defective when any of the defects or conditions specified in the quality (paragraph (b)(1) of this section) and fill of container (paragraph (c) of this section) standards are present in excess of the stated tolerances.

(f) *Acceptance number (c).* The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(g) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(ii) Sampling plans and acceptance procedure, in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition, 1970,[1] are as follows:

Acceptable Quality Level 6.5

Lot size (primary containers):	Size of container	
	Net weight equal to or less than 1 kg (2.2 lb)	
	n	c
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kg (10 lb)	
	n	c
2,400 or less	13	2
2,401 to 15,000	21	3
15,001 to 24,000	29	4
24,001 to 42,000	48	6
42,001 to 72,000	84	9
72,001 to 120,000	126	13
Over 120,000	200	19
	Net weight greater than 4.5 kg (10 lb)	
	n	c
600 or less	13	2
601 to 2,000	21	3
2,001 to 7,200	29	4
7,201 to 15,000	48	6
15,001 to 24,000	84	9
24,001 to 42,000	126	13
Over 42,000	200	19

n=number of primary containers in sample.
c=acceptance number.

(4) If the quality of the canned peas falls below the standard of quality prescribed by paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; but in lieu of the words prescribed for the second line inside the rectangle the following words may be used, when the quality of canned peas falls below the standard in one only of the following respects:

(i) "Excessive number very short pieces", if the canned peas fail to meet the requirements of paragraph (b)(1)(i) of this section.

(ii) "Excessive number blemished units", if they fail to meet the requirements of paragraph (b)(1)(iv) of this section.

(iii) "Excessive number unstemmed units", if they fail to meet the requirements of paragraph (b)(1)(v) of this section.

(iv) "Excessive foreign material", if they fail to meet the requirements of paragraph (b)(1)(vi) of this section.

§ 155.131 Canned peas.

(a) *Identity*—(1) *Definition.* Canned peas is the product prepared from clean, sound, shelled peas packed with a suitable liquid packing medium which may include water and the creamy component from peas. The product is of the optional styles specified in paragraph (a)(2) of this section. It may contain one, or any combination of two or more, of the optional ingredients set forth in paragraph (a)(3) of this section. Such food is processed by heat, in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage.

(2) *Styles.* The optional styles referred to in paragraph (a)(1) of this section consist of succulent peas of the smooth-seeded or wrinkled-seeded type, conforming to *Pisum sativum* L. as follows:

(i) Whole peas or whole grain or cut peas consisting of whole or substantially whole cut peas packed with a liquid medium.

(ii) Cream style consisting of whole or partially whole cut peas packed in a creamy component from peas and other liquid or other ingredients to form a product of creamy consistency.

(3) *Optional ingredients.* The following safe and suitable optional ingredients may be used:

(i) Salt.
(ii) Sugar.
(iii) Monosodium glutamate.
(iv) Disodium inosinate.
(v) Disodium guanylate.
(vi) Hydrolyzed vegetable protein.
(vii) Autolyzed yeast extract.
(viii) Nutritive carbohydrate sweeteners.
(ix) Spice.
(x) Flavoring (except artificial).
(xi) Citric acid.
(xii) Starch or food starch-modified in cream style peas when necessary to ensure smoothness.
(xiii) Seasonings and garnishes.

(a) Mint leaves.

(b) Pieces of green peppers or red peppers, or mixtures of both, either of which may be sweet or hot and may be dried, or other vegetables, not exceeding 15 percent by weight of the finished food.

(c) Lemon juice or concentrated lemon juice.

(d) Butter or margarine in a quantity not less than 3 percent by weight of the finished food. When butter or margarine is added, emulsifiers or stabilizers, or both, may be added. When butter or margarine is added, no spice, or flavoring simulating the color or flavor imparted by butter or margarine is used.

(4) *Labeling.* The name of the food is "peas" or "sweet peas" and shall include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any spice, seasoning or garnishing that characterizes the product; for example, "With added spice", "Seasoned with red peppers", "Seasoned with butter". The name of the food shall also include the following:

(i) The optional style of the peas ingredient as specified in paragraph (a)(2) of this section.

(ii) The words "vacuum pack" or "vacuum packed" when the peas ingredient is as specified in paragraph (a)(2)(i) of this section and the weight of the liquid in the container, as determined by the method prescribed in paragraph (b)(2)(i) of this section, is not more than 20 percent of the net weight, and the container is closed under conditions creating a high vacuum in the container.

(iii) The color type used only when the product consists of green peas.

(iv) The color type used only when the product consists of green peas.

(5) *Ingredient statement.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality*—(1) The standard of quality for canned peas is as follows:

(i) When tested by the method prescribed in paragraph (b)(2) of this section, canned whole peas (paragraph (a)(2)(i) of this section):

(a) Contains not more than seven brown or black discolored peas per 400 g. (14 ounces) of drained weight;

(b) Contains not more than 7 square centimeters (1.1 square inch) of husk per 400 g. (14 ounces) of drained weight; and

(c) Contains not more than 180 mm. (7 inches) of silk per 28 g. (1 ounce) of drained weight.

(ii) When tested by the method prescribed in paragraph (b)(3) of this section, canned cream style peas (paragraph (a)(2)(ii) of this section):

(a) Contains not more than 10 brown or black discolored peas per 600 g. (21.4 ounces) of net weight;

(b) Contains not more than 7 square centimeters (1.1 square inch) of husk per 600 g. (21.4 ounces) of net weight;

(c) Contains not more than 150 mm. (6 inches) of silk for each 28 g. (1 ounce) of net weight; and

(d) Has a consistency such that the average diameter of the approximately circular area over which the prescribed sample spreads does not exceed 30.5 cm. (12 inches), except that when the washed drained material contains more than 20 percent of alcohol-insoluble solids, the average diameter of the approximately circular area over which the prescribed sample spreads does not exceed 25.4 cm. (10 inches).

(iii) (a) The weight of the alcohol-insoluble solids of whole peas (paragraph (a)(2)(i) of this section) does not exceed 27 percent of the drained weight, when tested by the method prescribed in paragraph (b)(2) of this section.

(b) The weight of the alcohol-insoluble solids of the washed drained material of cream style peas (paragraph (a)(2)(ii) of this section) does not exceed 27 percent of the drained weight of such material, when tested by the method prescribed in paragraph (b)(3) of this section.

(2) The method referred to in paragraph (b)(1) of this section for testing whole peas (paragraph (a)(2)(i) of this section) is as follows:

(i) Determine the gross weight of the container. Open and distribute the contents of the container over the meshes of a U.S. No. 8 circular sieve which has previously been weighed. The diameter of the sieve is 20.3 cm. (8 inches) if the quantity of the contents of the container is less than 1.36 kg. (3 pounds), and 30.5 cm. (12 inches) if such quantity is 1.36 kg. (3 pounds) or more. The bottom of the sieve is woven-wire cloth which complies with the specifications for such sieve set forth in the "Definitions of Terms and Explanatory Notes," page xviii, of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition, 1970.[1] Without shifting the material on the sieve, so incline the sieve at approximately 17–20° angle to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and the drained material. Record, in g. (ounces), the weight so found, less the weight of the sieve, as the drained weight. Dry and weigh the empty container and subtract this weight from the gross weight to obtain the net weight. Calculate the percent of drained liquid in the net weight.

(ii) Pour the drained material from the sieve into a flat tray and spread it in a layer of fairly uniform thickness. Count, but do not remove, the brown or black discolored peas and calculate the number per 400 g. (14 ounces) of drained material. Remove pieces of silk more than 12.7 mm. (one-half inch) long, husk, and any pieces of material other than peas. Measure the aggregate length of such pieces of silk and calculate the length of silk per 28 g. (1 ounce) of drained weight. Spread the husk flat, measure its aggregate area, and calculate the area of husk per 400 g. (14 ounces) of drained weight. Place all peas under a measured amount of water in a cylinder which is so graduated that the volume can be measured to 0.1 cubic centimeter. Take the increase in volume as the volume of the peas and calculate the volume per 400 g. (14 ounces) of drained weight.

(iii) Comminute a representative 100 g. sample of the drained peas from which the silk, husk, and other material which is not peas have been removed. An equal amount of water is used to facilitate this operation. Weigh to nearest 0.01 g. a portion of the comminuted material equivalent to approximately 10 g. of the drained peas into a 600 cubic centimeter beaker. Add 300 cubic centimeters of 80 percent alcohol (by volume), stir, cover beaker, and bring to a boil. Simmer slowly for 30 minutes. Fit a Buchner funnel with a previously prepared filter paper of such sizes that its edges extend 12.7 mm. (one-half inch) or more up the vertical sides of the funnel. The previous preparation of the filter paper consists of drying it in a flat-bottomed dish for 2 hours at 100° C, covering the dish with a tight fitting cover, cooling it in a desiccator, and promptly weighing to the nearest 0.001 g. After the filter paper is fitted to the funnel, apply suction and transfer the contents of the beaker to the funnel. Do not allow any of the material to run over the edge of the paper. Wash the material on the filter with 80 percent alcohol (by volume) until the washings are clear and colorless. Transfer the filter paper with the material retained thereon to the dish used in preparing the filter paper. Dry the material in a ventilated oven, without covering the dish, for 2 hours at 100° C. Place the cover on the dish, cool it in a desiccator, and promptly weigh to the nearest 0.001 g. From this weight subtract the weight of the dish, cover, and paper as previously found. Calculate the remainder to percentage.

(3) The method referred to in paragraph (b)(1) of this section for testing cream-style peas (paragraph (a)(2)(ii) of this section) is as follows:

(i) Allow the container to stand at least 24 hours at a temperature of 68° F to 85° F. Determine the gross weight, open, transfer the contents into a pan, and mix thoroughly in such a manner as not to incorporate air bubbles. (If the net contents of a single container is less than 510 g. (18 ounces) determine the gross weight, open, and mix the contents of the least number of containers necessary to obtain 510 g. (18 ounces). Fill level full a hollow, truncated cone so placed on a polished horizontal plate as to prevent leakage. The cone has an inside bottom diameter of 7.62 cm. (3 inches), inside top diameter of 5.08 cm. (2 inches), and height of 12.30 cm. (4 27/32 inches). As soon as the cone is filled, lift it vertically. Determine the average of the longest and shortest diameters of the approximately circular area on the plate covered by the sample 30 seconds after lifting the cone. Dry and weigh each empty container and subtract the weight so found from the gross weight to obtain the net weight.

(ii) Transfer the material from the plate, cone, and pan onto a U.S. No. 8 sieve as prescribed in paragraph (b)(2)(i) of this section. The diameter of the sieve is 20.3 cm. (8 inches) if the quantity of the contents of the container is less than 1.36 kg. (3 pounds), and 30.5 cm. (12 inches) if such quantity is 1.36 kg. (3 pounds) or more. Set the sieve in a pan. Add enough water to bring the level within 9.53 mm. (three-eighth inch) to 6.35 mm. (one-fourth inch) of the top of the sieve. Gently wash the material on the sieve by combined up-and-down and circular motion for 30 seconds. Repeat washing with a second portion of water. Remove sieve from pan, incline to facilitate drainage, and drain for 2 minutes.

(iii) From the material remaining on the U.S. No. 8 sieve, count, but do not remove, the brown or black discolored peas and calculate the number per 600 g. (21.4 ounces) of net weight. Remove pieces of silk more than 12.7 mm. (one-half inch) long, husk, and other material which is not peas. Measure aggregate length of such pieces of silk and calculate the length per 28 g. (ounce) of net weight. Spread the husk flat and measure its aggregate area and calculate the area per 600 g. (21.4 ounces) of net weight. Place all peas under a measured amount of water in a cylinder which is so graduated that the volume can be measured to 0.1 cubic centimeter. Take the increase in volume as the aggregate volume of the peas and calculate the volume of peas per 600 g. (21.4 ounces) of net weight. Take a representative 100 g. sample of the material remaining on the U.S. No. 8 sieve (if such material weighs less than 100 g. take all of it) and determine the alcohol-insoluble solids as prescribed in paragraph (b)(2)(iii) of this section for whole peas.

(4) Sampling and acceptance procedure. A lot is to be considered acceptable when the number of "defectives" does not exceed the acceptance number in the sampling plans given in paragraph (b)(4)(ii) of this section.

(i) Definitions of terms to be used in the sampling plans in paragraph (b)(4)(ii) of this section are as follows:

(a) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(b) *Lot size.* The number of primary containers or units in the lot.

(c) *Sample size (n).* The total number of sample units drawn for examination from a lot.

(d) *Sample unit.* A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(e) *Defective.* Any sample unit shall be regarded as defective when any of the defects or conditions specified in the quality (paragraph (b)(1) of this section) and fill of container (paragraph (c) of this section) standards are present in excess of the stated tolerances.

(f) *Acceptance number (c).* The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(g) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

material is not more than one-half of 1 percent of the drained weight of peas which weight may be added is affixed to the upper end of the rod. Before lowering the rod, the sieve is placed on a pan and 200 g. of the sample is weighed into the sieve. The sieve is then placed in the machine and the rod lowered so that the bottom of the sieve is 3 inches above the bottom of the pan. The machine is started and operated for 3 minutes. The sieve is removed from the machine and the peas remaining on the sieve are weighed. The weight of the peas that have passed through the sieve is determined by subtracting the weight of the peas remaining on the sieve from the weight of the sample. The percentage of peas that have passed through the sieve is calculated.

(iii) Comminute a representative 100 g. sample of the drained peas from which the silk, husk, and other material which is not peas have been removed. An equal amount of water is used to facilitate this operation. Weigh to nearest 0.01 g. a portion of the comminuted material equivalent to approximately 10 g. of the drained peas into a 600 cubic centimeter beaker. Add 300 cubic centimeters of 80 percent alcohol (by volume), stir, cover beaker, and bring to a boil. Simmer slowly for 30 minutes. Fit a Buchner funnel with a previously prepared filter paper of such sizes that its edges extend 12.7 mm. (one-half inch) or more up the vertical sides of the funnel. The previous preparation of the filter paper consists of drying it in a flat-bottomed dish for 2 hours at 100° C, covering the dish with a tight fitting cover, cooling it in a desiccator, and promptly weighing to the nearest 0.001 g. After the filter paper is fitted to the funnel, apply suction and transfer the contents of the beaker to the funnel. Do not allow any of the material to run over the edge of the paper. Wash the material on the filter with 80 percent alcohol (by volume) until the washings are clear and colorless. Transfer the filter paper with the material retained thereon to the dish used in preparing the filter paper. Dry the material in a ventilated oven, without covering the dish, for 2 hours at 100° C. Place the cover on the dish, cool it in a desiccator, and promptly weigh to the nearest 0.001 g. From this weight subtract the weight of the dish, cover, and paper as previously found. Calculate the remainder to percentage.

(3) The method referred to in paragraph (b)(1) of this section for testing cream-style peas (paragraph (a)(2)(ii) of this section) is as follows:

(i) Allow the container to stand at least 24 hours at a temperature of 68° F to 85° F. Determine the gross weight, open, transfer the contents into a pan, and mix thoroughly in such a manner as not to incorporate air bubbles. (If the net contents of a single container is less than 510 g. (18 ounces) determine the gross weight, open, and mix the contents of the least number of containers necessary to obtain 510 g. (18 ounces). Fill level full a hollow, truncated cone so placed on a polished horizontal plate as to prevent leakage. The cone has an inside bottom diameter of 7.62 cm. (3 inches), inside top diameter of 5.08 cm. (2 inches), and height of 12.30 cm. (4 27/32 inches). As soon as the cone is filled, lift it vertically. Determine the average of the longest and shortest diameters of the approximately circular area on the plate covered by the sample 30 seconds after lifting the cone. Dry and weigh each empty container and subtract the weight so found from the gross weight to obtain the net weight.

(ii) Transfer the material from the plate, cone, and pan onto a U.S. No. 8 sieve as prescribed in paragraph (b)(2)(i) of this section. The diameter of the sieve is 20.3 cm. (8 inches) if the quantity of the contents of the container is less than 1.36 kg. (3 pounds), and 30.5 cm. (12 inches) if such quantity is 1.36 kg. (3 pounds) or more. Set the sieve in a pan. Add enough water to bring the level within 9.53 mm. (three-eighth inch) to 6.35 mm. (one-fourth inch) of the top of the sieve. Gently wash the material on the sieve by combined up-and-down and circular motion for 30 seconds. Repeat washing with a second portion of water. Remove sieve from pan, incline to facilitate drainage, and drain for 2 minutes.

(iii) From the material remaining on the U.S. No. 8 sieve, count, but do not remove, the brown or black discolored peas and calculate the number per 600 g. (21.4 ounces) of net weight. Remove pieces of silk more than 12.7 mm. (one-half inch) long, husk, and other material which is not peas. Measure aggregate length of such pieces of silk and calculate the length per 28 g. (ounce) of net weight. Spread the husk flat and measure its aggregate area and calculate the area per 600 g. (21.4 ounces) of net weight. Place all peas under a measured amount of water in a cylinder which is so graduated that the volume can be measured to 0.1 cubic centimeter. Take the increase in volume as the aggregate volume of the peas and calculate the volume of peas per 600 g. (21.4 ounces) of net weight. Take a representative 100 g. sample of the material remaining on the U.S. No. 8 sieve (if such material weighs less than 100 g. take all of it) and determine the alcohol-insoluble solids as prescribed in paragraph (b)(2)(iii) of this section for whole peas.

(4) Sampling and acceptance procedure. A lot is to be considered acceptable when the number of "defectives" does not exceed the acceptance number in the sampling plans given in paragraph (b)(4)(ii) of this section.

(i) Definitions of terms to be used in the sampling plans in paragraph (b)(4)(ii) of this section are as follows:

(a) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(b) *Lot size.* The number of primary containers or units in the lot.

(c) *Sample size (n).* The total number of sample units drawn for examination from a lot.

(d) *Sample unit.* A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(e) *Defective.* Any sample unit shall be regarded as defective when any of the defects or conditions specified in the quality (paragraph (b)(1) of this section) and fill of container (paragraph (c) of this section) standards are present in excess of the stated tolerances.

(f) *Acceptance number (c).* The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(g) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

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(ii) Sampling plans and acceptance procedure:

Acceptable quality level 6.5

Lot size (primary containers)	Size of container	
	Net weight equal to or less than 1 kg (2.2 lb)	
	n	c
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kg (10 lb).	
	n	c
2,400 or less	13	2
2,401 to 15,000	21	3
15,001 to 24,000	29	4
24,001 to 42,000	48	6
42,001 to 72,000	84	9
72,001 to 120,000	126	13
Over 120,000	200	19
	Net weight greater than 4.5 kg (10 lb)	
	n	c
600 or less	13	2
601 to 2,000	21	3
2,001 to 7,200	29	4
7,201 to 15,000	48	6
15,001 to 24,000	84	9
24,001 to 42,000	126	13
Over 42,000	200	19

n=number of primary containers in sample.
c=acceptance number.

(5) If the quality of canned corn falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; however, if the quality of the canned corn falls below standard with respect to only one of the factors of quality specified by paragraph (b)(1)(i) (*a*) to (*d*) of this section, or by paragraph (b)(1)(ii) (*a*) to (*e*) of this section, there may be substituted for the second line of such general statement of substandard quality, "Good food—not high grade", a new line as specified after the corresponding subdivision designation of paragraph (b)(1) of this section, which the canned corn fails to meet:

(i) (*a*) or (ii) (*a*) "Excessive discolored kernels".
(i) (*b*) or (ii) (*b*) "Excessive cob".
(i) (*c*) or (ii) (*c*) "Excessive husk".
(i) (*d*) or (ii) (*d*) "Excessive silk".
(ii) (*e*) "Excessively liquid".

(c) *Fill of container*—(1) The standard of fill of container for canned corn is:

(i) Except in the case of vacuum pack corn the fill of the corn ingredient and packing medium, as determined by the general method for fill of container prescribed in §130.12(b) of this chapter, is not less than 90 percent of the total capacity of the container.

(ii) In whole kernel corn, the drained weight of the corn ingredient, as determined by sections 32.001 and 32.002 *Canned Products—Drained Weight—Procedure*, in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition, 1970, page 559, shall not be less than 61 percent of the water capacity of the container.

(2)(i) A container that falls below the requirement for minimum fill prescribed in paragraph (c)(1)(i) of this section is considered a "defective." The food will be deemed to fall below the standard of fill when the number of defectives exceeds the acceptance number (*c*) in the sampling plans prescribed in paragraph (b)(4) of this section.

(ii) Whole kernel will be deemed to fall below the standard of fill when the average drained weight of all of the containers examined according to the sampling plans prescribed in paragraph (b)(4) of this section is less than that prescribed in paragraph (c)(1)(ii) of this section.

(3) If canned corn falls below the standard of fill of container prescribed in paragraphs (c)(1) and (2) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 155.131 Canned field corn.

(a) *Identity*—(1) Canned field corn conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for canned corn by § 155.130(a), except that the corn ingredient consists of succulent field corn or a mixture of succulent field corn and succulent sweet corn.

(2) The name of the food conforms to the name specified in § 155.130(a)(5), except that the words "Corn", "Sweet corn", and "Sugar corn" are replaced by the words "Field corn", and the term "Golden field corn" is not used.

(b) [Reserved.]

(c) *Fill of container.* Canned cream-style field corn conforms to the standard of fill of container and label statement of substandard fill prescribed for canned cream-style corn by § 155.130(c).

§ 155.170 Canned peas.

(a) *Identity*—(1) Canned peas is the food prepared from one of the optional pea ingredients, specified in paragraph (a)(1), of this section, and water. The food may contain one or more of the optional ingredients specified in paragraph (a)(2) of this section and one or more of the optional seasonings specified in paragraph (a)(3) of this section. The food is sealed in a container and so processed by heat as to prevent spoilage. The optional pea ingredients are:

(i) Shelled, succulent peas (*Pisum sativum*) of Alaska or other smooth skin varieties.

(ii) Shelled, succulent peas (*Pisum sativum*) of sweet, wrinkled varieties.

(2) The following optional ingredients may be used:

(i) Salt.

(ii) Monosodium glutamate.

(iii) Disodium inosinate complying with the provisions of § 172.535 of this chapter.

(iv) Disodium guanylate complying with the provisions of § 172.530 of this chapter.

(v) Hydrolyzed vegetable protein.

(vi) Autolyzed yeast extract.

(vii) Sugar.

(viii) Dextrose.

(ix) Spice.

(x) Flavoring (except artificial).

(xi) Artificial coloring.

(xii) Sodium carbonate, sodium bicarbonate, sodium hydroxide, calcium hydroxide, magnesium hydroxide, magnesium oxide, magnesium carbonate, or any mixture or combination of these in such quantity that the pH of the finished canned peas is not more than 8, as determined by the glass electrode method for the hydrogen ion concentration.

(3) The food may be seasoned with one or more of the following optional seasonings:

(i) Green peppers or red peppers, which may be dried.

(ii) Mint leaves.

(iii) Onions, which may be dried.

(iv) Garlic, which may be dried.

(v) Horseradish.

(vi) Lemon juice or concentrated lemon juice.

(vii) Butter or margarine in a quantity not less than 3 percent by weight of the finished food. When butter or margarine is added, safe and suitable emulsifiers or stabilizers, or both, may be added. When butter or margarine is added, no spice, flavoring, or coloring simulating the flavor or color imparted by butter or margarine is used.

(4) The name of the optional pea ingredient is "early" or "June" or "early June", "sweet" or "sweet wrinkled" or "sugar".

(5) If artificial coloring is present, the label shall state that fact in such manner and form as provided in paragraph (b)(3) of this section.

(6) The name of the food is "peas". The name of the food shall include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter, and a declaration of any spice or seasoning that characterizes the product; for example, "with added spice", "seasoned with red peppers", "seasoned with butter". Whenever the name "peas" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the name of the optional pea ingredient present as specified in paragraph (a)(4) of this section, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the specified varietal name of the peas may so intervene.

(7) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality*—(1) The standard of quality for canned peas is as follows:

(i) Not more than 4 percent by count of the peas in the container are spotted or otherwise discolored;

(ii) Standard canned peas are normally colored, not artificially colored;

(iii) The combined weight of pea pods and other harmless extraneous vegetable material is not more than one-half of 1 percent of the drained weight of peas in the container;

(iv) The weight of pieces of peas is not more than 10 percent of the drained weight of peas in the container;

(v) The skins of not more than 25 percent by count of the peas in the container are ruptured to a width of 1/16 inch or more;

(vi) Not less than 90 percent by count of the peas in the container are crushed by a weight of not more than 907.2 grams (2 pounds); and

(vii) The alcohol-insoluble solids of Alaska or other smooth skin varieties of peas in the container are not more than 23.5 percent, and of sweet, wrinkled varieties, not more than 21 percent.

(2) Canned peas shall be tested by the following methods to determine whether or not they meet the requirements of paragraph (b)(1) of this section:

(i) After determining the fill of the container as prescribed in paragraph (c)(1) of this section, distribute the contents of the container over the meshes of a circular sieve made with No. 8 woven-wire cloth which complies with the specifications for such cloth set forth on page 3 of "Standard Specifications for Sieves," published October 25, 1938, by United States Department of Commerce, National Bureau of Standards. The diameter of the sieve used is 8 inches if the quantity of the contents of the container is less than 3 pounds, or 12 inches if such quantity is 3 pounds or more. Without shifting the peas, so incline the sieve as to facilitate drainage. Two minutes from the time drainage begins, remove the peas from the sieve and weigh them. Such weight shall be considered to be the drained weight of the peas.

(ii) From the drained peas obtained in paragraph (b)(2)(i) of this section, promptly segregate and weigh the pea pods and other harmless extraneous vegetable material, and the pieces of peas.

(iii) From the drained peas obtained in paragraph (b)(2)(i) of this section, take at random a subdivision of 100 to 150 peas, and count them. Immediately cover these peas with a portion of the liquid obtained in paragraph (b)(2)(i) of this section, and add the remaining liquid to the drained peas from which the subdivision was taken. Count those peas in the subdivision which are spotted or otherwise discolored, and also those peas the skins of which are ruptured to a width of 1/16 inch or more.

(iv) Immediately after each pea is examined by the method prescribed in paragraph (b)(2)(iii) of this section, test it by removing its skin, placing one of its cotyledons, with flat surface down, on the approximate center of the level, smooth surface of a rigid plate, lowering a horizontal disc to the highest point of the cotyledon, and measuring the height of the cotyledon. The disc is of rigid material and is affixed to a rod held vertically by a support through which the rod can freely move upward or downward. The lower face of the disc is a smooth, plane surface horizontal to the vertical axis of the rod. A device to which weight may be added is affixed to the upper end of the rod. Before lowering the disc to the cotyledon, adjust the combined weight of disc, rod, and device to 100 grams. After measuring the height of the cotyledon, and shifting the plate, if necessary, so that the cotyledon is under the approximate center of the disc, add weight to the device at a uniform, continuous rate of 12 grams per second until the cotyledon is pressed to one-fourth its previously measured height, or until the combined weight of disc, rod, and device is 907.2 grams (2 pounds). A pea so tested shall be considered to be crushed when its cotyledon is pressed to one-fourth its original height.

(v) Drain the liquid from the peas which remained after taking the subdivision as prescribed in paragraph (b)(2)(iii) of this section. Transfer the peas to a pan, and rinse them with a volume of water equal to twice the capacity of the container from which such peas were drained in paragraph (b)(2)(i) of this section. Immediately drain the peas again by the method prescribed in paragraph (b)(2)(i) of this section. After the 2 minutes' draining, wipe the moisture from the bottom of the sieve. Comminute the peas thus drained, stir them to a uniform mixture, and weigh 20 grams of such mixture into a 600 cc beaker. Add 300 cc. of 80 percent alcohol (by volume), stir, cover beaker, and bring to a boil. Simmer slowly for 30 minutes. Fit a Buchner funnel with a previously prepared filter paper of such size that its edges extend ½ inch or more up the vertical sides of the funnel. The previous preparation of the filter paper consists of drying it in a flat-bottomed dish for 2 hours at 100° C, covering the dish with a tight-fitting cover, cooling it in a desiccator, and promptly weighing. After the filter paper is fitted to the funnel, apply suction and transfer the contents of the beaker to the funnel. Do not allow any of the material to run over the edge of the paper. Wash the material on the filter with 80 percent alcohol (by volume) until the washings are clear and colorless. Transfer the filter paper with the material retained thereon to the dish used in preparing the filter paper. Dry the material in a ventilated oven, without covering the dish, for 2 hours at 100° C. Place the cover on the dish, cool it in a desiccator, and promptly weigh. From this weight, subtract the weight of the dish, cover, and paper, as previously found. The weight in grams thus obtained, multiplied by 5, shall be considered to be the percent of alcohol-insoluble solids.

(3) If the quality of canned peas falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; but in lieu of such general statement of substandard quality when the quality of canned peas falls below the standard in only one respect, the label may bear the alternative statement "Below standard in quality _____", the blank to be filled in with the words specified after the corresponding subparagraph number of paragraphs (b)(1) of this section which such canned peas fail to meet, as follows: (i) "Excessive discolored peas"; (ii) "Artificially colored"; (iii) "Excessive foreign material"; (iv) "Excessive broken peas"; (v) "Excessive cracked peas"; (vi) "Not tender"; (vii) "Excessively mealy". Such alternative statement shall immediately and conspicuously precede or follow without intervening written, printed, or graphic matter, the name "Peas" and any words and statements required or authorized to appear with such name by paragraph (a)(4) of this section.

(c) *Fill of container*—(1) The standard of fill of container for canned peas is a fill such that, when the peas and liquid are removed from the container and returned thereto, the leveled peas (irrespective of the quantity of the liquid), 15 seconds after they are so returned completely fill the container. A container with lid attached by double seam shall be considered to be completely filled when it is filled to the level 3/16 inch vertical distance below the top of the double seam; and a glass container shall be considered to be completely filled when it is filled to the level ¼ inch vertical distance below the top of the container.

(2) If canned peas fall below the standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 155.172 Canned dry peas.

Canned dry peas conforms to the definition and standard of identity, and is subject to requirements for label statement of optional ingredients prescribed for canned peas by § 155.170(a), except that:

(a) *Identity*—(1) The optional pea ingredients are:

(i) Shelled, dry peas (*Pisum sativum*) of Alaska or other smooth skin varieties.

(ii) Shelled, dry peas (*Pisum sativum*) of sweet, wrinkled varieties.

(2) The optional ingredients specified in § 155.170(a)(2)(xii) shall not be used.

(3) The name of the food is "Cooked dry peas" or "Soaked dry peas". The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color. The optional pea ingredient names specified by § 155.170(a)(4) shall not be used on labels.

(b) *Quality*—(1) The standard of quality for canned dry peas is that specified for canned peas by § 155.170(b)(1) and (2), except that:

(i) The alcohol insoluble solids maximums specified in § 155.170(b)(1)(vii) do not apply.

(ii) The alcohol insoluble solids methods specified in § 155.170(b)(2)(v) is not used.

(2) If the quality of canned dry peas falls below the standard of quality prescribed by paragraph (b)(1) of this section the label shall bear the statement of

substandard quality in the manner and form specified in § 155.170(b)(3) for

(iv) Tomato juice, tomato puree or tomato pulp or tomato paste complying

(b)(2)(i) of this section, is not less than 50 percent of the weight of water re-

(b) Yellow—Munsell 2.5 YR 8/12 (glossy finish)

(4) If the quality of canned tomatoes falls below the standard prescribed in

ble solids as determined by the following method: 'Determine the refractive index

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substandard quality in the manner and form specified in § 155.170(b)(3) for canned peas, except that words "Excessively mealy" shall not be used.

(c) *Fill of container*—(1) The standard of fill of container for canned dry peas is that prescribed for canned peas by § 155.170(c)(1).

(2) If canned dry peas fall below the standard of fill of container prescribed by paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 155.190 Canned tomatoes.

(a) *Identity*—(1) *Description*—(i) Canned tomatoes is the food prepared from mature tomatoes conforming to the characteristics of the fruit *Lycopersicum esculentum* P. Mill, of red or reddish varieties. The tomatoes may or may not be peeled, but shall have had the stems and calicies removed and shall have been cored, except where the internal core is insignificant to texture and appearance.

(ii) Canned tomatoes may contain one or more of the safe and suitable optional ingredients specified in paragraph (a)(2) of this section, be packed without any added liquid or in one of the optional packing media specified in paragraph (a)(3) of this section and be prepared in one of the styles specified in paragraph (a)(4) of this section. Such food is sealed in a container and before or after sealing is so processed by heat as to prevent spoilage.

(2) *Optional ingredients.* One or more of the following safe and suitable ingredients may be used:

(i) Calcium salts in a quantity reasonably necessary to firm the tomatoes, but the amount of calcium in the finished canned tomatoes is not more than 0.045 percent of the weight, except that when the tomatoes are prepared in one of the styles specified in paragraph (a)(4)(iv) to (vi) of this section the amount of calcium is not more than 0.08 percent of the weight of the food.

(ii) Organic acids for the purpose of acidification.

(iii) Dry nutritive carbohydrate sweeteners whenever any organic acid provided for in paragraph (a)(2)(ii) of this section is used, in a quantity reasonably necessary to compensate for the tartness resulting from such added acid.

(iv) Salt.

(v) Spices, spice oils.

(vi) Flavoring and seasoning.

(vii) Natural vegtable ingredients such as onion, peppers, and celery in a quantity not more than 10 percent by weight of the finished food.

(3) *Packing media.* (i) The liquid draining from the tomatoes during or after peeling or coring.

(ii) The liquid strained from the residue from preparing tomatoes for canning consisting of peels and cores with or without tomatoes or pieces thereof.

(iii) The liquid strained from mature tomatoes.

(iv) Tomato juice, tomato puree or tomato pulp or tomato paste complying with the compositional requirements of §§ 155.191, 155.192, and 156.145 of this chapter.

(4) *Styles.* (i) Whole.
(ii) Whole and pieces.
(iii) Pieces.
(iv) Diced.
(v) Sliced.
(vi) Wedges.

(5) *Name of the food.* (i) The name of the food is "tomatoes", except that when the tomatoes are not peeled the name is "unpeeled tomatoes".

(ii) The following shall be included as part of the name or in close proximity to the name of the food:

(*a*) A declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter.

(*b*) A declaration of any added spice, seasoning, or natural vegetable ingredient that characterizes the product, (e.g., "with added_____" or, "with_____" the blank to be filled in with the word(s) "spice(s)", "seasoning(s)", or the name (s) of the vegetable(s) used or in lieu of the word(s) "spice(s)" or "seasoning (s)", the common or usual name(s) of the spice(s) or seasoning(s) used) except that no declaration of the presence of onion, peppers, and celery is required for stewed tomatoes.

(*c*) The word "stewed" if the tomatoes contain characterizing amounts of at least the three optional vegetables listed in paragraph (a)(2)(vii) of this section.

(*d*) The styles: "whole and pieces", "pieces", "diced", "sliced", or "wedges", as appropriate.

(*e*) The name of the packing medium: "tomato paste", "tomato puree", or "tomato pulp" as provided in paragraph (a)(3)(iv) of this section, or "strained residual tomato material from preparation for canning" as provided for in paragraph (a)(3)(ii) of this section, as appropriate. The name of the packing medium shall be preceded by the word "with".

(iii) The following may be included as part of the name or in close proximity to the name:

(*a*) The word "whole" if the tomato ingredient present is whole or almost whole and the drained weight as determined in accordance with the method prescribed in paragraph (b)(2) of this section is not less than 80 percent of the finished food.

(*b*) The words "solid pack" when none of the optional packing media specified in paragraph (a)(3) of this section are used.

(*c*) The words "in tomato juice" if the packing medium specified in paragraph (a)(3)(iv) of this section is used.

(6) *Label declaration of optional ingredients.* The name of each optional ingredient used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality*—(1) The standard of quality for canned tomatoes is as follows:

(i) The drained weight, as determined by the method prescribed in paragraph (b)(2)(i) of this section, is not less than 50 percent of the weight of water required to fill the container, as determined by the general method for water capacity of containers prescribed in § 130.12(a) of this chapter;

(ii) The strength and redness of color as determined by the method prescribed in paragraph (b)(2) of this section, are not less than that of the blended color of any combination of the color discs described in such method in which one-third the area of disc 1, and not more than one-third the area of disc 2, is exposed;

(iii) Peel per kilogram (2.2 pounds) of the finished food covers an area of not more than 15 cm^2 (2.3 square inches) (6.8 cm^2 (1.06 square inch) per pound) on average of all containers examined provided, however, the area of peel is not a factor of quality for canned unpeeled tomatoes labeled in accordance with paragraph (a)(5)(i) of this section; and

(iv) Blemishes per kilogram (2.2 pounds) of the finished food cover an area of not more than 3.5 cm^2 (0.54 square inch) (1.6 cm^2 (0.25 square inch) per pound) based on an average of all containers examined.

(2) Canned tomatoes shall be tested by the following method to determine whether or not they meet the requirements of paragraph (b)(1)(i) and (ii) of this section:

(i) Remove lid from container, but in the case of a container with lid attached by double seam, do not remove or alter the height of the double seam. Tilt the opened container so as to distribute the contents over the meshes of a circular sieve which has previously been weighed. The diameter of the sieve used is 20.3 centimeters (8 inches) if the quantity of the contents of the container is less than 1.4 kilograms (3 pounds) or 30.5 centimeters (12 inches) if such quantity is 1.4 kilograms (3 pounds) or more. The meshes of such sieve are made by so weaving wire of 1.4 mm (0.054 inch) diameter as to form square openings 11.3 mm by 11.3 mm (0.446 inch by 0.446 inch). Without shifting the tomatoes, so incline the sieve as to facilitate drainage of the liquid. Two minutes from the time drainage begins, weigh the sieve and drained tomatoes. The weight so found, less the weight of the sieve, shall be considered to be the drained weight.

(ii) Remove from the sieve the drained tomatoes, cut out and segregate successively those portions of least redness until 50 percent of the drained weight has been so segregated. Comminute the segregated portions to a uniform mixture without removing or breaking the seeds. Fill the mixture into a black container to a depth of at least 25.4 mm (1 inch). Free the mixture from air bubbles, and skim off or press below the surface all visible seeds. Compare the color of the mixture, in full diffused daylight or its equivalent, with the blended color of combinations of the following concentric Munsell color discs of equal diameter, or the color equivalent of such discs:

(*a*) Red—Munsell 5 R 2.6/13 (glossy finish).

(b) Yellow—Munsell 2.5 YR 8/12 (glossy finish).

(c) Black—Munsell N 1/ (glossy finish).

(d) Grey—Munsell N 4 (mat finish).

(3) *Sampling and acceptance procedure.* A lot is to be considered acceptable when the number of "defectives" does not exceed the acceptance number in the sampling plans given in paragraph (b)(3)(ii) of this section.

(i) Definitions of terms to be used in the sampling plans in paragraph (b)(3)(ii) of this section are as follows:

(*a*) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(*b*) *Lot size.* The number of primary containers or units in the lot.

(*c*) *Sample size (n).* The total number of sample units drawn for examination from a lot.

(*d*) *Sample unit.* A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for examination or testing as a single unit.

(*e*) *Defective.* Any sample unit shall be regarded as defective when the sample unit does not meet the criteria set forth in the standards.

(*f*) *Acceptance number (c).* The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(*g*) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

(ii) Sampling plans and acceptance procedure:

Acceptable Quality level 6.5

Lot size (primary containers)	Size of container	
	Net weight equal to or less than 1 kg (2.2 lb.)	
	n	c
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb.) but not more than 4.5 kg (10 lb.)	
	n	c
2,400 or less	13	2
2,401 to 15,000	21	3
15,001 to 24,000	29	4
24,001 to 42,000	48	6
42,001 to 72,000	84	9
72,001 to 120,000	126	13
Over 120,000	200	19
	Net weight greater than 4.5 kg (10 lb.)	
	n	c
600 or less	13	2
601 to 3,000	21	3
3,001 to 7,200	29	4
7,201 to 15,000	48	6
15,001 to 24,000	84	9
24,001 to 42,000	126	13
Over 42,000	200	19

n=number of primary containers in sample.
c=acceptance number.

(4) If the quality of canned tomatoes falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter in the manner and form therein specified; if, however, the quality of canned tomatoes falls below standard with respect to only one of the factors of quality specified by paragraph (b)(1)(i) to (iii) of this section, there may be substituted for the second line of such general statement of substandard quality ("Good Food—Not High Grade") a new line, appropriate for the corresponding subparagraph designation of paragraph (b)(1) of this section which the canned tomatoes fail to meet, to read as follows: (i) "Poor color" or (ii) "Excessive peel" or (iii) "Excessive blemishes".

(c) *Fill of container*—(1) The standard of fill of container for canned tomatoes is a fill of not less than 90 percent of the total capacity of the container, as determined by the general method for fill of containers prescribed in § 130.12(b) of this chapter.

(2) If canned tomatoes fall below the standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 155.191 Tomato paste.

(a) Tomato paste is the food prepared from one or any combination of two or all of the following optional ingredients:

(1) The liquid obtained from mature tomatoes of red or reddish varieties.

(2) The liquid obtained from the residue from preparing such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.

(3) The liquid obtained from the residue from partial extraction of juice from such tomatoes.

Such liquid is obtained by so straining such tomatoes or residue, with or without heating, as to exclude skins, seeds, and other coarse or hard substances. Prior to straining, food-grade hydrochloric acid may be added to the tomato material at a rate to obtain a pH no lower than 2.0±0.2. Such acid is then neutralized with food-grade sodium hydroxide so that the treated tomato material is restored to a pH of 4.2±0.2, prior to straining. It is concentrated and may be seasoned with one or more of the optional ingredients:

(4) Salt (sodium chloride formed during acid neutralization shall be considered added salt).

(5) Spice.

(6) Flavoring.

It may contain, in such quantity as neutralizes a part of the tomato acids, the optional ingredient:

(7) Baking soda.

When sealed in a container it is so processed by heat, before or after sealing, as to prevent spoilage. It contains not less than 24.0 percent of natural tomato soluble solids as determined by the following method:[1] Determine the refractive index of the clear serum obtained from the product, corrected for temperature, converting the resultant index to "% Sucrose" in accordance with the "International Scale of Refractive Indices of Sucrose at 20° C.," pages 828–30, Reference Tables 43.008 and 43.009 of the book "Official Methods of Analysis of the Association of Official Agricultural Chemists," 10th edition, 1965. If no salt has been added, this percent sucrose from the reference table shall be considered the percent of natural tomato soluble solids. If salt has been added, determine the percent of sodium chloride by the method prescribed on page 519, section 30.009, under "Sodium Chloride–Official," of said book. Subtract the percent of sodium chloride found from the percent of total soluble solids found and multiply the difference by 1.016. The product shall be considered the percent of natural tomato soluble solids.

(b) When the optional ingredient specified in paragraph (a)(2) of this section is present, in whole or in part, the label shall bear the statement "Made from" (or Made in part from", as the case may be) "residual tomato material from canning". When the optional ingredient specified in paragraph (a)(3) of this section is present, in whole or in part, the label shall bear the statement "Made from" (or "Made in part from", as the case may be) "residual tomato material from partial extraction of juice". If both such ingredients are present, such statements may be combined in the statement "Made from" (or "Made in part from", as the case may be) "residual tomato material from canning and from partial extraction of juice". When the optional ingredient specified in paragraph (a)(4), (5), or (6) of this section is present, the label shall bear the statement or statements "Salt added" or "With added salt", "Spice added" or "With added spice", "Flavoring added" or "With added flavoring", as the case may be. When the optional ingredient specified in paragraph (a)(7) of this section is present, the label shall bear the statement "Baking soda added". If two or all of the optional ingredients specified in paragraphs (a)(4), (5), (6), and (7) of this section are present, such statements may be combined; for example, "Salt, spice, flavoring, and baking soda added". In lieu of the word "salt", "spice", or "flavoring" in such statement or statements, the common or usual name of such salt, spice, or flavoring may be used.

(c) Wherever the name "Tomato paste" appears on the label so conspicuously as to be easily seen under custom-

[1] "Collaborative Study of the Determination of Soluble Solids in Tomato Products by Refractive Index Expressed as Percent Sucrose" by Frank C. Lamb, National Canners Association, 1950 Sixth Street, Berkeley, CA 94710, "Journal of the Association of Official Analytical Chemists," vol. 52, No. 5 (1969), pp. 1050–54. Adopted as official, first action at the 1969 AOAC meeting.

ary conditions of purchase, the statement or statements specified in this section considered the percent of natural tomato soluble solids.

in paragraph (b) of this section. The vegetable ingredient in each such canned optional ingredient. To the vegetable ingredient additional ingredients as re- the case of the vegetables specified, may be added:

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ary conditions of purchase, the statement or statements specified in this section, showing the optional ingredients present shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 155.192 Tomato puree.

(a) Tomato puree, tomato pulp, is the food prepared from one or any combination of two or all of the following optional ingredients:

(1) The liquid obtained from mature tomatoes of red or reddish varieties.

(2) The liquid obtained from the residue from preparing such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.

(3) The liquid obtained from the residue from partial extraction of juice from such tomatoes.

(4) Salt.

Such liquid is obtained by so straining such tomatoes or residue, with or without heating, as to exclude skins, seeds, and other coarse or hard substances. Prior to straining, food-grade hydrochloric acid may be added to the tomato material at a rate to obtain a pH no lower than 2.0±0.2. Such acid is then neutralized with food-grade sodium hydroxide so that the treated tomoto material is restored to a pH of 4.2±0.2, prior to straining. It is concentrated and may be seasoned with salt (sodium chloride formed during acid neutralization shall be considered added salt). When sealed in a container, it is so processed by heat, before or after sealing, as to prevent spoilage. It contains not less than 8.0 percent, but less than 24.0 percent, of natural tomato soluble solids, as determined by the following method:[7] Determine the refractive index of the clear serum obtained from the product, corrected for temperature, converting the resultant index to "% Sucrose" in accordance with the "International Scale of Refractive Indices of Sucrose at 20° C.," pages 931–33, 935, Reference Tables 47.012, 47.013, and 47.015 of the book "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition, 1971. If no salt has been added, this percent sucrose from the reference table shall be considered the percent of natural tomato soluble solids. If salt has been added, determine the percent of sodium chloride by the method prescribed on page 561, section 32.017, under "Sodium Chloride—Official," of said book. Subtract the percent of sodium chloride from the percent of total soluble solids found and multiply the difference by 1.016. The product shall be considered the percent of natural tomato soluble solids.

(b)(1) When the optional ingredient specified in paragraph (a)(2) of this section is present, in whole or in part, the label shall bear the statement "Made from residual tomato material from canning" or "Made in part from residual tomato material from canning", as the case may be. When the optional ingredient specified in paragraph (a)(3) of this section is present, in whole or in part, the label shall bear the statement "Made from residual tomato material from partial extraction of juice" or "Made in part from residual tomato material from partial extraction of juice", as the case may be. If both such ingredients are present, such statements may be combined in the statement "Made from residual tomato material from canning and from partial extraction of juice" or "Made in part from residual tomato material from canning and from partial extraction of juice", as the case may be. When the optional ingredient specified in paragraph (a)(4) of this section is present, the label shall bear the statement "Salt added" or "With added salt".

(2) The name specified for the food covered by this section is "tomato puree" or alternatively "tomato pulp"; however, if the only optional tomato ingredient used is the ingredient specified in paragraph (a)(1) of this section and the food contains not less than 20.0 percent of natural tomato soluble solids, the name "concentrated tomato juice" may be used in lieu of the names "tomato puree" or "tomato pulp".

(3) Wherever the name "Tomato puree" or "Tomato pulp" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement or statements specified in this section, showing the optional ingredients present, shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 155.194 Catsup.

(a) Catsup, ketchup, catchup, is the food prepared from one or any combination of two or all of the following optional ingredients:

(1) The liquid obtained from mature tomatoes of red or reddish varieties.

(2) The liquid obtained from the residue from preparing such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.

(3) The liquid obtained from the residue from partial extraction of juice from such tomatoes.

Such liquid is obtained by so straining such tomatoes or residue, with or without heating, as to exclude skins, seeds, and other coarse or hard substances. Prior to straining, food-grade hydrochloric acid may be added to the tomato material at a rate to obtain a pH no lower than 2.0±0.2. Such acid is then neutralized with food-grade sodium hydroxide so that the treated tomato material is restored to a pH of 4.2±0.2, prior to straining. It is concentrated and seasoned with salt (sodium chloride formed during acid neutralization shall be considered added salt), a vinegar or vinegars, spices or flavorings or both, and onions or garlic or both, and is sweetened with sugar, or dextrose, or corn sirup (including dried corn sirup), or glucose sirup (including dried glucose sirup), or any mixture of these; provided that when the solids of corn sirup, or dried corn sirup, or glucose sirup, or dried glucose sirup (or any combination of these) used contains less than 58 percent by weight of reducing sugars calculated as anhydrous dextrose, then such corn sirup or glucose sirup shall be mixed with sugar or dextrose or both, in such quantity that the weight of the solids of such corn sirup or dried corn sirup or both, or glucose sirup, or dried glucose sirup or both, is not more than one-third of the weight of the solids of such mixture. When sealed in a container, it is so processed by heat, before or after sealing, as to prevent spoilage.

(b) (1) For the purposes of this section, the term "corn sirup" means refined corn sirup (including dried corn sirup) the solids of which contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose.

(2) The term "glucose sirup" means a clarified, concentrated, aqueous solution of the products obtained by the incomplete hydrolysis of any edible starch. The solids of glucose sirup contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose. "Dried glucose sirup" means the product obtained by drying "glucose sirup."

(c) When optional ingredient specified in paragraph (a) (2) of this section, is present, in whole or in part, the label shall bear the statement "Made from ______" (or "Made in part from ______", as the case may be) "Residual tomato material from canning". When optional ingredient specified in paragraph (a) (3) of this section is present, in whole or in part, the label shall bear the statement "Made from ______" (or "Made in part from ______", as the case may be) "Residual tomato material from partial extraction of juice". If both such ingredients are present, such statements may be combined in the statement "Made from ______" (or "Made in part from ______", as the case may be) "Residual tomato material from canning and from partial extraction of juice". Wherever the name "Catsup", "Ketchup" or "Catchup" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement or statements specified in this paragraph showing the optional ingredients present shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 155.200 Certain other canned vegetables.

(a) The canned vegetables for which definitions and standards of identity are prescribed by this section are those named in column I of the table set forth

[7] "Collaborative Study of the Determination of Soluble Solids in Tomato Products by Refractive Index Expressed as Percent Sucrose" by Frank C. Lamb, National Canners Association, 1950 Sixth Street, Berkeley, CA 94710, "Journal of the Association of Official Analytical Chemists," vol. 52, No. 5 (1969), pp. 1050–54. Adopted as official, first action at the 1969 AOAC meeting.

in paragraph (b) of this section. The vegetable ingredient in each such canned vegetable is obtained by proper preparation from the succulent vegetable prescribed in column II of such table. If two or more forms of such ingredient are designated in column III of such table, the vegetable in each such form is an optional ingredient. To the vegetable ingredient additional ingredients as required or permitted by paragraph (c) of this section are added, and the food is sealed in a container and so processed by heat as to prevent spoilage.

(b) The table referred to in paragraph (a) of this section is as follows:

I Name or synonym of canned vegetable	II Source	III Optional forms of vegetable ingredient
Artichokes	Flower buds of the artichoke plant	Whole; half or halves or halved; whole hearts; halved hearts; quartered hearts.
Asparagus	Edible portions of sprouts of the asparagus plant, as follows:	
	3 and 3/4 in or more of upper end	Stalks or spears.
	3 and 3/4 in or more of peeled upper end	Peeled stalks or peeled spears.
	Not less than 2 and 3/4 in but less than 3 and 3/4 in of upper end	Tips.
	Less than 2 and 3/4 in of upper end	Points.
	Sprouts cut in pieces	Cut stalks or cut spears.
	Sprouts from which the tip has been removed, cut in pieces.	Bottom cuts or cuts—tips removed.
Bean sprouts	Sprouts of the Mung bean	
Shelled beans	Seed shelled from green or wax bean pods, with or without snaps (pieces of immature unshelled pods).	
Lima beans or butter beans	Seed shelled from the pods of the lima bean plant.	
Beets	Root of the beet plant	Whole; slices or sliced; quarters or quartered; dice or diced; cut; shoestring or French style or julienne.
Beet greens	Leaves, or leaves and immature root, of the beet plant.	
Broccoli	Heads of the broccoli plant	
Brussels sprouts	Sprouts of the brussels sprouts plant	
Cabbage	Cut pieces of the heads of the cabbage plant.	
Carrots	Root of the carrot plant	Do.
Cauliflower	Cut pieces of the head of the cauliflower plant.	
Celery	Stalks of the celery plant	Cut; hearts.
Collards	Leaves of the collard plant	
Dandelion greens	Leaves of the dandelion plant	
Kale	Leaves of the kale plant	
Mushrooms	Cap and stem of the mushroom	Buttons; whole; slices or sliced; pieces and stems.
Mustard greens	Leaves of the mustard plant	
Okra	Pods of the okra plant	Whole; cut.
Onions	Bulb of the onion plant	Do.
Parsnips	Root of the parsnip plant	Whole; quarters or quartered; slices or sliced; cut; shoestring or French style or julienne.
Black-eye peas or black-eyed peas.	Seed shelled from pods of the black-eye pea plant, with or without snaps (pieces of immature unshelled pods).	
Field peas	Seed shelled from pods of the field pea plant (other than the black-eye pea plant), with or without snaps (pieces of immature unshelled pods).	
Green sweet peppers	Green pods of the sweet pepper plant	Whole; halves or halved; pieces; dice or diced; strips; chopped.
Red sweet peppers	Red-ripe pods of the sweet pepper plant	Do.
Pimientos or pimentos	Red-ripe pods of the pimiento, pimento, pepper plant.	Whole, halves or halved; pieces; dice or diced; slices or sliced; chopped.
Potatoes	Tuber of the potato plant	Whole; slices or sliced; dice or diced; pieces; shoestring or French style or julienne; French fry cut.
Rutabagas	Root of the rutabaga plant	Whole; quarters or quartered; slices or sliced; dice or diced; cut.
Salsify	Root of the salsify plant	
Spinach	Leaves of the spinach plant	Whole leaf; cut leaf or sliced; chopped.
Sweetpotatoes	Tuber of the sweetpotato plant	Whole; mashed; pieces or cuts or cut (longitudinally cut halves may be named on labels as halves or halved in lieu of pieces or cuts or cut).
Swiss chard	Leaves of the Swiss chard plant	
Truffles	Fruit of the truffle	
Turnip greens	Leaves of the turnip plant	
Turnips	Root of the turnip plant	Whole; quarters or quartered; slices or sliced; dice or diced; cut.

(c) Water is added to the vegetable ingredient, except that pimientos may be canned with or without added water, and sweet potatoes in mashed form are canned without added water. Asparagus may be canned with added water, asparagus juice, or a mixture of both. For the purposes of this section, asparagus juice is the clear, unfermented liquid expressed from the washed and heated sprouts or parts of sprouts of the asparagus plant, and mixtures of asparagus juice and water are considered to be water when such mixtures are used as a packing medium for canned asparagus. In the case of artichokes, a vinegar or any safe and suitable organic acid, which either is not a food additive as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act, or if it is a food additive as so defined, is used in conformity with regulations established pursuant to section 409 of the act, is added in such quantity as to reduce the pH of the finished canned vegetable to 4.5 or below. The following optional ingredients, in the case of the vegetables specified, may be added:

(1) An edible vegetable oil, in the cases of artichokes and pimientos.

(2) Snaps, in the cases of shelled beans, black-eyed peas, and field peas.

(3) In the case of all vegetables (except canned mushrooms and except canned mashed sweetpotatoes as regards the seasonings lised in paragraph (c)(3)(iii) of this section) one or more of the following optional seasoning ingredients may be added in a quantity sufficient to season the food.

(i) Refined sugar (sucrose).

(ii) Refined corn sugar (dextrose).

(iii) Corn sirup, glucose sirup.

(iv) Dried corn sirup, dried glucose sirup.

(v) Spice.

(vi) A vinegar.

(vii) Green peppers or red peppers which may be dried.

(viii) Mint leaves.

(ix) Onions, which may be dried.

(x) Garlic, which may be dried.

(xi) Horseradish.

(xii) Lemon juice or concentrated lemon juice.

(xiii) Butter or margarine in a quantity not less than 3 percent by weight of the finished food. When butter or margarine is added, safe and suitable emulsifiers or stabilizers, or both, may be added. When butter or margarine is added, no spice or flavoring simulating the color or flavor imparted by butter or margarine is used.

(4) In the case of all vegetables, the following optional ingredients may be added:

(i) Salt.

(ii) Monosodium glutamate.

(iii) Disodium inosinate complying with the provisions of § 172.535 of this chapter.

(iv) Disodium guanylate complying with the provisions of § 172.530 of this chapter.

(v) Hydrolyzed vegetable protein.

(vi) Autolyzed yeast extract.

(5) In the case of all vegetables except canned mushrooms, flavoring (except artificial) may be added.

(6)(i) In the case of potatoes, purified calcium chloride, calcium sulfate, calcium citrate, monocalcium phosphate, or any mixture of two or more such calcium salts, in a quantity reasonably necessary to firm the potatoes, but in no case in a quantity such that the calcium contained in any such salt or mixture is more than 0.1 percent of the weight of the finished food.

(ii) In the case of green sweet peppers, red sweet peppers, or lima beans, purified calcium chloride, calcium sulfate, calcium citrate, monocalcium phosphate, or any mixture of two or more such calcium salts, in a quantity reasonably necessary to firm the peppers or lima beans, but in no case in a quantity such that the calcium contained in such calcium salt or mixture is more than 0.026 percent of the weight of the finished food.

(iii) In the case of canned bean sprouts, calcium lactate may be added in an amount reasonably necessary to im-

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prove crispness but not in an amount such that calcium contained therein ex-

unmodified may be used in lieu of the words "whole leaf spinach".

less than 62 percent of the water capacity of the container, if such water

min C (Ascorbic Acid) Official Final Action".[2] When sealed in a container, it

containers that is sufficient for the examination or testing as a single unit.

clared or of smaller sizes. The sample unit may not contain more than 20 percent by weight of peas of the next two

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prove crispness but not in an amount such that calcium contained therein exceeds 0.051 percent of the weight of the finished food.

(iv) In the case of carrots, purified calcium chloride, calcium sulfate, calcium citrate, monocalcium phosphate, or any mixture of two or more such calcium salts, in a quantity reasonably necessary to firm the carrots, but in no case in a quantity such that the calcium contained in any such salt or mixture is more than 0.036 percent by weight of the finished food.

(7) In the case of canned mushrooms, ascorbic acid (vitamin C) may be added in a quantity not to exceed 37.5 milligrams for each ounce of drained weight of mushrooms.

(8) In the case of canned artichokes packed in glass containers, ascorbic acid may be added in a quantity not to exceed 32 milligrams per 100 grams of the finished food.

(9) In the case of canned asparagus packed in glass containers, stannous chloride may be added in a quantity not to exceed 15 parts per million calculated as tin (Sn), except that in the case of asparagus packed in glass containers with lids lined with an inert material the quantity of stannous chloride added may exceed 15 parts per million but not 20 parts per million calculated as tin (Sn).

(10) In the case of canned black-eyed peas, disodium EDTA may be added in a quantity not to exceed 145 parts per million.

(11) In the case of potatoes, calcium disodium EDTA may be added in a quantity not to exceed 110 parts per million.

(12) A vinegar or any safe and suitable organic acid, which either is not a food additive as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act, or if it is a food additive as so defined, is used in conformity with regulations established pursuant to section 409 of the act, in the cases of all vegetables (except artichokes, in which the quantity of such optional ingredient is prescribed by the introductory text of paragraph (c) of this section, and except canned mushrooms, in which no such ingredient is permitted), in a quantity which, together with the amount of any lemon juice or concentrated lemon juice that may be added, is not more than sufficient to permit effective processing by heat without discoloration or other impairment of the article.

(d) The name of each canned vegetable for which a definition and standard of identity is prescribed by this section is the name or any synonym thereof whereby such vegetable is designated in column I of the table in paragraph (b) of this section.

(e) When two or more forms of the vegetable are specified in column III of the table in paragraph (b) of this section, the label shall bear the specified word or words, or in case synonyms are so specified, one of such synonyms, showing the form of the vegetable ingredient present; except that in the case of canned spinach, if the whole leaf is the optional form used, the word "spinach" unmodified may be used in lieu of the words "whole leaf spinach".

(f) (1) If the optional ingredient specified in paragraph (c) (1) of this section is present, the label shall bear the statement "---------- oil added" or "With added ---------- oil", the blank being filled in with the common or usual name of the oil.

(2) If asparagus juice is used as a packing medium in canned asparagus, the label shall bear the statement "Packed in asparagus juice".

(3) If the optional ingredient specified in paragraph (c) (2) of this section is present, the label shall bear the statement "With snaps".

(g) The name of the food shall include a declaration of any flavoring that characterizes the product as specified in § 101.122 of this chapter, and a declaration of any spice or seasoning that characterizes the product; for example, "with added spice", "seasoned with red peppers", "seasoned with butter". Wherever the name of the vegetable appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements specified in paragraphs (e) and (f) (1) through (3) of this section shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the varietal name of the vegetable may so intervene.

(h) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 155.201 Canned mushrooms.

(a) *Identity.* The standard of identity for canned mushrooms is part of the standard of identity for certain other canned vegetables under § 155.200.

(b) [Reserved]

(c) *Fill of container.* The standard of fill of container for canned mushrooms is a fill such that:

(1) The weight of drained mushrooms in a container the dimensions of which are specified in the following table is not less than the weight of drained mushrooms prescribed in such table for such container:

Trade designation	Overall dimensions sealed can (inches)		Weight in ounces of drained mushrooms (avoirdupois)
	Diameter	Height	
202 x 204	2 1/16	2 1/4	2
211 x 212	2 13/16	2 7/8	3
300 x 400	3	4	4
307 x 510	3 7/16	5 5/8	10
603 x 700	6 3/16	7	65

(2) The drained weight of mushrooms in containers of a size not specified in paragraph (c) (1) of this section is not less than 56 percent of the water capacity of the container, if such water capacity is less than 11.0 ounces avoirdupois; not less than 59 percent of the water capacity of the container, if such water capacity is 11.0 ounces or more but less than 25 ounces avoirdupois; and not less than 62 percent of the water capacity of the container, if such water capacity is 25 ounces avoirdupois or more.

(3) Water capacity of containers is determined by the general method provided in § 130.12 of this chapter.

(4) Drained weight is determined by the following method: Tilt the opened container so as to distribute the contents evenly over the meshes of a circular sieve which has been previously weighed. The diameter of the sieve is 8 inches if the quantity of contents of the container is less than 3 pounds, and 12 inches if such quantity is 3 pounds or more. The bottom of the sieve is woven-wire cloth which complies with the specifications for such cloth set forth under "2380 Micron (No. 8)" in table I of "Standard Specifications for Sieves," published March 1, 1940, in L.C. 584 of the U.S. Department of Commerce, National Bureau of Standards. Without shifting the material on the sieve, so incline the sieve as to facilitate drainage. Two minutes after drainage begins, weigh the sieve and drained mushrooms. The weight so found, less the weight of the sieve, shall be considered to be the weight of drained mushrooms.

(5) If canned mushrooms fall below the applicable standard of fill of container prescribed in paragraph (c) (1) or (2) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

PART 156—VEGETABLE JUICES

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Vegetable Juices

Sec.
156.145 Tomato juice.
156.147 Yellow tomato juice.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371).

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Vegetable Juices

§ 156.145 Tomato juice.

(a) Tomato juice is the unconcentrated liquid extracted from mature tomatoes of red or reddish varieties, with or without scalding followed by draining. In the extraction of such liquid, heat may be applied by any method which does not add water thereto. Such liquid is strained free from skins, seeds, and other coarse or hard substances, but carries finely divided insoluble solids from the flesh of the tomato. Such liquid may be homogenized, and may be seasoned with salt. Such liquid may contain added ascorbic acid in a quantity such that the total vitamin C in each fluid ounce of the finished food is 10 milligrams as determined by the method prescribed in sections 39.051–39.055 of the Official Methods of Analysis of the Association of Official Analytical Chemists, 11th ed., 1970, pp. 777–778, under "Vitamin C (Ascorbic Acid) Official Final Action".[1] When sealed in a container, it is so processed by heat, before or after sealing, as to prevent spoilage.

(b) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter. Tomato juice to which vitamin C has been added may bear on its label the statement "Enriched with Vitamin C" in accordance with § 104.5 of this chapter or "with added vitamin C" or a similar statement.

EFFECTIVE DATE NOTE: At 39 FR 20884, June 14, 1974, § 156.145 (formerly § 53.1) was revised. At 39 FR 31896, Sept. 3, 1974, the effective date was stayed pending a public hearing. For the convenience of the user the currently effective section follows:

§ 156.145 Tomato juice; identity.

Tomato juice is the unconcentrated liquid extracted from mature tomatoes of red or reddish varieties, with or without scalding followed by draining. In the extraction of such liquid, heat may be applied by any method which does not add water thereto. Such liquid is strained free from skins, seeds, and other coarse or hard substances, but carries finely divided insoluble solids from the flesh of the tomato. Such liquid may be homogenized, and may be seasoned with salt. When sealed in a container it is so processed by heat, before or after sealing, as to prevent spoilage.

§ 156.147 Yellow tomato juice.

Yellow tomato juice is the unconcentrated liquid extracted from mature tomatoes of yellow varieties. It conforms, in all other respects, to the definition and standard of identity for tomato juice prescribed in § 156.145.

PART 158—FROZEN VEGETABLES

Subpart A—General Provisions

Sec.
158.3 Definitions.

Subpart B—Requirements for Specific Standardized Frozen Vegetables

158.170 Frozen peas.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056, as amended (21 U.S.C. 341, 371).

Subpart A—General Provisions

§ 158.3 Definitions.

For the purposes of this part the following definitions shall apply:

(a) *Lot.* A collection of primary containers or units of the same size, type and style manufactured or packed under similar conditions and handled as a single unit of trade.

(b) *Lot size.* The number of primary containers or units (pounds when in bulk) in the lot.

(c) *Sample size.* The total number of sample units drawn for examination from a lot.

(d) *Sample unit.* A container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(e) *Defective.* Any sample unit shall be regarded as defective when the sample unit does not meet the criteria set forth in the standards.

(f) *Acceptance number.* The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements. The following acceptance numbers shall apply:

Lot size (primary container)	Size container	
	Net weight equal to or less than 1 kg (2.2 lb)	
	n	c
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb)	
	n	c
Number of pounds:		
20,000 or less	13	2
More than 20,000 to 100,000	21	3
More than 100,000 to 200,000	29	4
More than 200,000 to 400,000	48	6
More than 400,000 to 600,000	84	9
More than 600,000 to 1,000,000	126	13
More than 1,000,000	200	19

n=number of sample units.
c=acceptance number.

(g) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

Subpart B—Requirements for Specific Standardized Frozen Vegetables

§ 158.170 Frozen peas.

(a) *Identity*—(1) *Product definition.* Frozen peas is the food in "package" form as that term is defined in § 1.1(b) of this chapter, prepared from the succulent seed of the pea plant of the species *Pisum sativum* L. Any suitable variety of pea may be used. It is blanched, drained, and preserved by freezing in such a way that the range of temperature of maximum crystallization is passed quickly. The freezing process shall not be regarded as complete until the product temperature has reached −18° C (0° F) or lower at the thermal center, after thermal stabilization. Such food may contain one, or any combination of two or more, of the following safe and suitable optional ingredients:

(i) Natural and artificial flavors.

(ii) Condiments such as spices and mint leaves.

(iii) Dry nutritive carbohydrate sweeteners.

(iv) Salt.

(v) Monosodium glutamate and other glutamic acid salts.

(2) *Size specifications.* If size graded, frozen peas shall contain not less than 80 percent by weight of peas of the size declared or of smaller sizes. The sample unit may not contain more than 20 percent by weight of peas of the next two larger sizes, of which not more than one quarter by weight of such peas may be of the larger of these two sizes, and may contain no peas larger than the next two larger sizes, if such there be. The following sizes and designations shall apply:

	Round hole sieve size through which peas will pass	
	Millimeters	*Inch*
Size designation:		
Extra small	Up to 7.5	0.295
Very small	Up to 8.2	.32
Small	Up to 8.75	.34
Medium	Up to 10.2	.40
Large	Over 10.2	.40

(3) *Labeling.* The name of the product is "peas". The term "early", "June", or "early June" shall precede or follow the name in the case of smooth-skin or substantially smooth-skin peas, such as Alaska-type peas. Where the peas are of sweet green wrinkled varieties, the name may include the designation "sweet", "green", "wrinkled", or any combination thereof. The label shall contain the words "frozen" or "quick frozen". The name of the food shall include a declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter and a declaration of any condiment such as spices and mint leaves that characterizes the product, e.g., "Spice added". Where a statement of pea size is made, such statement shall indicate either the size designation as specified in paragraph (a) (2) of this section or the applicable sieve size. However, the optional descriptive words "petite" or "tiny" may be used in conjunction with the product name when an average of 80 percent or more of the peas will pass through a circular opening of a diameter of 8.75 mm (0.34 in) or less for sweet green wrinkled peas and 8.2 mm (0.32 in) for smooth-skin or substantially smooth-skin peas, such as Alaska-type peas.

(4) *Ingredient statement.* The name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) *Quality*—(1) The standard of quality for frozen peas is as follows:

(i) Not more than 4 percent by weight blond peas, i.e., yellow or white but edible peas;

(ii) Not more than 10 percent by weight blemished peas, i.e., slightly stained or spotted peas;

(iii) Not more than 2 percent by weight seriously blemished peas, i.e., peas that are hard, shrivelled, spotted, discolored or otherwise blemished to an extent that the appearance or eating quality is seriously affected;

(iv) Not more than 15 percent by weight pea fragments, i.e., portions of peas, separated or individual cotyledons, crushed, partial or broken cotyledons and loose skins, but excluding entire intact peas with skins detached;

(v) Not more than 0.5 percent by weight, or more than 12 sq cm (2 sq in)

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

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in area, extraneous vegetable material, i.e., vine or leaf or pod material from the pea plant or other such material per sample unit as defined in paragraph (b) of this section.

(vi) The sum of the pea material described in paragraph (b)(1)(i), (ii), (iii) and (iv) of this section shall not exceed 15 percent.

(vii) For peas that meet the organoleptic and analytical characteristics of sweet green wrinkled varieties:

(*a*) The alcohol-insoluble solids may not be more than 19 percent based on the procedure set forth in paragraph (b)(3) of this section.

(*b*) Not more than 15 percent by count of the peas may sink in a solution containing 16 percent salt by weight according to the brine flotation test set forth in paragraph (b)(4) of this section;

(viii) For smooth-skin or substantially smooth-skin varieties the alcohol insoluble solids may not be more than 23 percent based on the procedure set forth in paragraph (b)(3) of this section.

(ix) The quality of a lot shall be considered acceptable when the number of defectives does not exceed the acceptance number in the sampling plans set forth in § 158.3(f).

(2) The sample unit for determining compliance with the requirements of paragraph (b)(1) of this section other than those of paragraphs (b)(1)(vii)(*a*) and (b)(1)(viii) of this section, shall be 500 g (17.6 oz). For the determination of alcohol-insoluble solids as specified in paragraph (b)(3) of this section, the container may be the sample unit.

(3) Alcohol-insoluble solids determination.

(i) Extracting solutions:

(*a*) One hundred parts of ethanol denatured with five parts of methanol volume to volume (formula 3A denatured alcohol), or

(*b*) A mixture of 95 parts of formula 3A denatured alcohol and five parts of isopropanol v/v.

(ii) Eighty percent alcohol (8 liters of extracting solutions, specified in paragraph (b)(3)(i) (*a*) or (*b*) of this section, diluted to 9.5 liters with water).

(iii) Drying dish—a flat-bottom dish with a tight fitting cover.

(iv) Drying oven—a properly ventilated oven thermostatically controlled at 100±2° C.

(v) Procedure—Transfer frozen contents of package to plastic bag; tie bag securely and immerse in water bath with continuous flow at room temperature. Avoid agitation of bag during thawing by using clamps or weights. When sample completely thaws, remove bag, blot off adhering water, and transfer peas to U.S. No. 8 sieve, using (20 cm.) size for container of less than 3 lb. net weight and (30.5 cm.) for larger quantities. Without shifting peas, incline sieve to aid drainage, drain 2 minutes. With cloth wipe surplus water from lower screen surface. Weigh 250 g. of peas into high-speed blender, add 250 g. of water and blend to smooth paste. For less than 250 g. sample, use entire sample with equal weight of water. Weight 20 g. ±10 mg. of the paste into 250 ml. distillation flask, add 120 ml. of extracting solutions specified in paragraph (b)(3)(i) (*a*) or (*b*) of this section, and reflux 30 minutes on steam or water bath or hotplate. Fit into a buchner funnel a filter paper of appropriate size (previously prepared by drying in flatbottom dish for 2 hours in drying oven, covering, cooling in desiccator, and weighing). Apply vacuum to buchner funnel and transfer contents of beaker so as to avoid running over edge of paper. Aspirate to dryness and wash material on filter with 80 percent alcohol until washings are clear and colorless. Transfer paper and alcohol-insoluble solids to drying dish used to prepare paper, dry uncovered for 2 hours in drying oven, cover, cool in desiccator, and weigh at once. From this weight deduct weight of dish, cover, and paper. Calculate percent by weight of alcohol-insoluble solids.

(4) Brine flotation test. (i) Explanation—The brine flotation test utilizes salt solutions of various specific gravities to separate the peas according to maturity. The brine solutions are based on the percentage by weight of pure salt (NaCl) in solution at 20° C. In making the test the brine solutions are standardized to the proper specific gravity equivalent to the specified "percent of salt solutions at 20° C" by using a salometer spindle accurately calibrated at 20° C. A 250 ml. glass beaker or similar receptacle is filled with the brine solution to a depth of approximately 50 mm. The brine solution and sample (100 peas per container) must be at the same temperature and should closely approximate 20° C.

(ii) Procedure—After carefully removing the skins from the peas, place the peas into the solution. Pieces of peas and loose skins should not be used in making the brine flotation test. If cotyledons divide, use both cotyledons in the test and consider the two separated cotyledons as 1 pea; and, if an odd cotyledon sinks, consider it as one pea. Only peas that sink to the bottom of the receptacle within 10 seconds after immersion are counted as "peas that sink".

(5) If the quality of the frozen peas falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in the Code of Federal Regulations but in lieu of the words prescribed in the second line of the rectangle the following words may be used where the frozen peas fall below the standard in only one respect: "Below standard in quality _____", the blank to be filled in with the specific reason for substandard quality as listed in the standard.

PART 160—EGGS AND EGG PRODUCTS

Subpart A—[Reserved]

Subpart B—Requirements for Specific Eggs and Egg Products

Sec.
160.100 Eggs.
160.105 Dried eggs.
160.110 Frozen eggs.
160.115 Liquid eggs.
160.140 Egg whites.
160.145 Dried egg whites.
160.150 Frozen egg whites.
160.160 Egg yolks.
160.165 Dried egg yolks.
160.190 Frozen egg yolks.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046, as amended, 1055–1056, as amended (21 U.S.C. 341, 371) unless otherwise noted.

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Eggs and Egg Products

§ 160.100 Eggs.

No regulation shall be promulgated fixing and establishing a reasonable definition and standard of identity for the food commonly known as eggs.

§ 160.105 Dried eggs.

(a) Dried eggs, dried whole eggs are prepared by drying liquid eggs that conform to § 160.115, with such precautions that the finished food is free of viable *Salmonella* microorganisms. They may be powdered. Before drying, the glucose content of the liquid eggs may be reduced by one of the optional procedures set forth in paragraph (b) of this section. Either silicon dioxide complying with the provisions of § 172.480 of this chapter or sodium silicoaluminate may be added as an optional anticaking ingredient, but the amount of silicon dioxide used is not more than 1 percent and the amount of sodium silicoaluminate used is less than 2 percent by weight of the finished food. The finished food shall contain not less than 95 percent by weight total egg solids.

(b) The optional glucose-removing procedures are:

(1) *Enzyme procedure.* A glucose-oxidase-catalase preparation and hydrogen peroxide solution are added to the liquid eggs. The quantity used and the time of reaction are sufficient to substantially reduce the glucose content of the liquid eggs. The glucose-oxidase-catalase preparation used is one that is generally recognized as safe within the meaning of section 201(s) of the Federal Food, Drug, and Cosmetic Act. The hydrogen peroxide solution used shall comply with the specifications of the United States Pharmacopeia, except that it may exceed the concentration specified therein and it does not contain a preservative.

(2) *Yeast procedure.* The pH of the liquid eggs is adjusted to the range of 6.0 to 7.0, if necessary, by the addition of dilute, chemically pure hydrochloric acid, and controlled fermentation is maintained by adding food-grade baker's yeast (*Saccharomyces cerevisiae*). The quantity of yeast used and the time of reaction are sufficient to substantially reduce the glucose content of the liquid eggs.

(c) The name of the food for which a definition and standard of identity is prescribed by this section is "Dried eggs" or "Dried whole eggs" and if the glucose content was reduced, as provided in paragraph (b) of this section, the name shall be followed immediately by the statement "Glucose removed for stability" or "Stabilized, glucose removed".

(d) (1) When either of the optional anticaking ingredients specified in paragraph (a) of this section is used, the label shall bear the statement "Not more than 1 percent silicon dioxide added as an anticaking agent" or "Less than 2 percent sodium silicoaluminate added as an anticaking agent", whichever is applicable.

(2) The name of any optional ingredient used, as provided in paragraph (d)(1) of this section, shall be listed on the principal display panel or panels of the label with such prominence and conspicuousness as to render such statement likely to be read and understood by the ordinary individual under customary conditions of purchase.

§ 160.110 Frozen eggs.

(a) Frozen eggs, frozen whole eggs, frozen mixed eggs is the food prepared by freezing liquid eggs that conform to § 160.115, with such precautions that the finished food is free of viable *Salmonella* microorganisms.

(b) Monosodium phosphate or monopotassium phosphate may be added either directly or in a water carrier, but the amount added does not exceed 0.5 percent of the weight of the frozen eggs. If a water carrier is used, it shall contain not less than 50 percent by weight of such monosodium phosphate or monopotassium phosphate.

(c) When one of the optional ingredients specified in paragraph (b) of this section is used, the label shall bear the statement "Monosodium phosphate (or monopotassium phosphate) added to preserve color", or, in case the optional ingredient used is added in a water carrier, the statement shall be "'Monosodium phosphate (or monopotassium phosphate), with _____ percent water as a carrier, added to preserve color", the blank being filled in to show the percent by weight of water used in proportion to the weight of the finished food. The statement declaring the optional ingredient used shall appear on the principal display panel or panels with such prominence and conspicuousness as to render it likely to be read and understood under customary conditions of purchase.

§ 160.115 Liquid eggs.

Liquid eggs, mixed eggs, liquid whole eggs, mixed whole eggs are eggs of the domestic hen broken from the shells and with yolks and whites in their natural proportion as so broken. They may be mixed, or mixed and strained, and they are pasteurized or otherwise treated to destroy all viable *Salmonella* microorganisms. Pasteurization or such other treatment is deemed to permit the adding of safe and suitable substances (other than chemical preservatives) that are essential to the method of pasteurization or other treatment used. For the purposes of this paragraph, safe and suitable substances are those that perform a useful function in the pasteurization or other treatment to render the liquid eggs free of viable *Salmonella* microorganisms, and that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act; or, if they are food additives, they are used in conformity with regulations established pursuant to section 409 of the act.

§ 160.140 Egg whites.

(a) Egg whites, liquid egg whites, liquid egg albumen is the food obtained from eggs of the domestic hen, broken from the shells and separated from yolks. The food may be mixed, or mixed and strained, and is pasteurized or otherwise treated to destroy all viable *Salmonella* microorganisms. Pasteurization or such other treatment is deemed to permit the adding of safe and suitable substances (other than chemical preservatives) that are essential to the method of pasteurization or other treatment used. Safe and suitable substances that aid in protecting or restoring the whipping properties of liquid egg whites may be added. For the purposes of this paragraph, safe and suitable substances are those that perform a useful function as whipping aids or in the pasteurization or other treatment to render liquid egg whites free of viable *Salmonella* microorganisms and that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act; or, if they are food additives, they are used in conformity with regulations established pursuant to section 409 of the act.

(b) Any optional ingredients used as whipping aids, as provided for in paragraph (a) of this section, shall be named on the principal display panel or panels of labels with such prominence and conspicuousness as to render such names likely to be read and understood by ordinary individuals under customary conditions of purchase.

§ 160.145 Dried egg whites.

(a) The food dried egg whites, egg white solids, dried egg albumen, egg albumen solids is prepared by drying liquid egg whites conforming to the requirements of § 160.140 (or deviating from that section only by not being *Salmonella* free). As a preliminary step to drying, the glucose content of the liquid egg whites is reduced by adjusting the pH, where necessary, with food-grade acid and by following one of the optional procedures set forth in paragraph (b) of this section. If the food is prepared from liquid egg whites conforming in all respects to the requirements of § 160.140, drying shall be done with such precautions that the finished food is free of viable *Salmonella* microorganisms. If the food is prepared from liquid egg whites that are not *Salmonella* free, the dried product shall be so treated by heat or otherwise as to render the finished food free of viable *Salmonella* microorganisms. Dried egg whites may be powdered.

(b) The optional glucose-removing procedures are:

(1) *Enzyme procedure.* A glucose-oxidase-catalase preparation and hydrogen peroxide solution are added to liquid egg whites. The quantity used and the time of reaction are sufficient to substantially reduce the glucose content. The glucose-oxidase-catalase preparation used is one that is generally recognized as safe within the meaning of section 201(s) of the Federal Food, Drug, and Cosmetic Act. The hydrogen peroxide solution used shall comply with the specifications of the United States Pharmacopeia, except that it may exceed the concentration specified therein and it does not contain a preservative.

(2) *Controlled fermentation procedures*—(i) *Yeast procedure.* Food-grade baker's yeast (*Saccharomyces cerevisiae*) is added to the liquid egg whites and controlled fermentation is maintained. The quantity of yeast used and the time of reaction are sufficient to substantially reduce the glucose content.

(ii) *Bacterial procedure.* The liquid egg whites are subjected to the action of a culture of glucose-fermenting bacteria either generally recognized as safe within the meaning of section 201(s) of the Federal Food, Drug, and Cosmetic Act or the subject of a regulation established pursuant to section 409 of the act, and the culture is used in conformity with such regulation. The quantity of the culture used is sufficient to predominate in the fermentation and the time and temperature of reaction are sufficient to substantially reduce the glucose content.

(c) When the dried egg whites are prepared from liquid egg whites containing any optional ingredients added as whipping aids, as provided for in § 160.140(a), the common names of such optional ingredients shall be listed on the principal display panel or panels of the label with such prominence and conspicuousness as to render the names likely to be read and understood by ordinary individuals under customary conditions of purchase.

§ 160.150 Frozen egg whites.

(a) Frozen egg whites, frozen egg albumen is the food prepared by freezing liquid egg whites that conform to § 160.140, with such precautions that the finished food is free of viable *Salmonella* microorganisms.

(b) When frozen egg whites are prepared from liquid egg whites containing any optional ingredients added as whipping aids, as provided for in § 160.140(a), the common names of such optional ingredients shall be listed on the principal display panel or panels of the label with such prominence and conspicuousness as to render such names likely to be read and understood by ordinary individuals under customary conditions of purchase.

§ 160.180 Egg yolks.

Egg yolks, liquid egg yolks, yolks, liquid yolks are yolks of eggs of the domestic hen, so separated from the whites thereof as to contain not less than 43 percent total egg solids, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Agricultural Chemists," 10th edition, 1965, p. 257, sections 16.002 and 16.003, under "Total Solids." They may be

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mixed, or mixed and strained, and they are pasteurized or otherwise treated to destroy all viable *Salmonella* microorganisms. Pasteurization or such other treatment is deemed to permit the adding of safe and suitable substances (other than chemical preservatives) that are essential to the method of pasteurization or other treatment used. For the purposes of this paragraph, safe and suitable substances are those that perform a useful function in the pasteurization or other treatment to render the egg yolks free of viable *Salmonella* microorganisms, and that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act; or, if they are food additives, they are used in conformity with regulations established pursuant to section 409 of the act.

§ 160.185 Dried egg yolks.

(a) Dried egg yolks, dried yolks is the food prepared by drying egg yolks that conform to § 160.180, with such precautions that the finished food is free of viable *Salmonella* microorganisms. Before drying, the glucose content of the liquid egg yolks may be reduced by one of the optional procedures set forth in paragraph (b) of this section. Either silicon dioxide complying with the provisions of § 172.480 of this chapter or sodium silicoaluminate may be added as an optional anticaking ingredient, but the amount of silicon dioxide used is not more than 1 percent and the amount of sodium silicoaluminate used is less than 2 percent by weight of the finished food. The finished food shall contain not less than 95 percent by weight total egg solids.

(b) The optional glucose-removing procedures are:

(1) *Enzyme procedure.* A glucose-oxidase-catalase preparation and hydrogen peroxide solution are added to the liquid egg yolks. The quantity used and the time of reaction are sufficient to substantially reduce the glucose content of the liquid egg yolks. The glucose-oxidase-catalase preparation used is one that is generally recognized as safe within the meaning of section 201(s) of the Federal Food, Drug, and Cosmetic Act. The hydrogen peroxide solution used shall comply with the specification of the United States Pharmacopeia, except that it may exceed the concentration specified therein and it does not contain a preservative.

(2) *Yeast procedure.* The pH of the liquid egg yolks is adjusted to the range of 6.0 to 7.0, if necessary, by the addition of dilute, chemically pure hydrochloric acid, and controlled fermentation is maintained by adding food-grade baker's yeast (*Saccharomyces cerevisiae*). The quantity of yeast used and the time of reaction are sufficient to substantially reduce the glucose content of the liquid egg yolks.

(c) The name of the food for which a definition and standard of identity is prescribed by this section is "Dried egg yolks", or "Dried yolks", and if the glucose content was reduced, as provided in paragraph (b) of this section, the name shall be followed immediately by the statement "Glucose removed for stability" or "Stabilized, glucose removed".

(d)(1) When either of the optional anticaking ingredients specified in paragraph (a) of this section is used, the label shall bear the statement "Not more than 1 percent silicon dioxide added as an anticaking agent" or "Less than 2 percent sodium silicoaluminate added as an anticaking agent", whichever is applicable.

(2) The name of any optional ingredient used, as provided in paragraph (d)(1) of this section, shall be listed on the principal display panel or panels of the label with such prominence and conspicuousness as to render such statement likely to be read and understood by the ordinary individual under customary conditions of purchase.

§ 160.190 Frozen egg yolks.

Frozen egg yolks, frozen yolks is the food prepared by freezing egg yolks that conform to § 160.180, with such precautions that the finished food is free of viable *Salmonella* microorganisms.

PART 161—FISH AND SHELLFISH

Subpart A—General Provisions

Sec.

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161.176 Frozen raw lightly breaded shrimp.
161.190 Canned tuna.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371) unless otherwise noted.

Subpart A—General Provisions

§ 161.30 Declaration of quantity of contents on labels for canned oysters.

(a) For many years packers of canned oysters in the Gulf area of the United States have labeled their output with a declaration of the drained weight of oysters in the containers. Packers in other areas have marketed canned oysters with a declaration of the total weight of the contents of the container. Investigation reveals that under present-day practice consumers generally do not discard the liquid packing medium, but use it as a part of the food. Section 403(e)(2) of the Federal Food, Drug, and Cosmetic Act and the regulations thereunder require food in package form to bear an accurate label statement of the quantity of food in the container.

(b) It is concluded that compliance with the label declaration of quantity of contents requirement will be met by an accurate declaration of the total weight of the contents of the can. The requirements of § 161.145(c), establishing a standard of fill of container for canned oysters and specifying the statement of substandard fill for those canned oysters failing to meet that standard remain unaffected by this interpretation.

(Sec. 403, 52 Stat. 1047, as amended; 21 U.S.C. 343)

Subpart B—Requirements for Specific Standardized Fish and Shellfish

§ 161.130 Oysters.

(a) Oysters, raw oysters, shucked oysters, are the class of foods each of which is obtained by shucking shell oysters and preparing them in accordance with the procedure prescribed in paragraph (b) of this section. The name of each such food is the name specified in the applicable definition and standard of identity, prescribed in §§ 161.131 to 161.140, inclusive.

(b) If water, or salt water containing less than 0.75 percent salt, is used in any vessel into which the oysters are shucked the combined volume of oysters and liquid when such oysters are emptied from such vessel is not less than four times the volume of such water or salt water. Any liquid accumulated with the oysters is removed. The oysters are washed, by blowing or otherwise, in water or salt water, or both. The total time that the oysters are in contact with water or salt water after leaving the shucker, including the time of washing, rinsing, and any other contact with water or salt water is not more than 30 minutes. In computing the time of contact with water or salt water, the length of time that oysters are in contact with water or salt water that is agitated by blowing or otherwise, shall be calculated at twice its actual length. Any period of time that oysters are in contact with salt water containing not less than 0.75 percent salt before contact with oysters, shall not be included in computing the time that the oysters are in contact with water or salt water. Before packing into the containers for shipment or other delivery for consumption the oysters are thoroughly drained and are packed without any added substance.

(c) For the purposes of this section:

(1) "Shell oysters" means live oysters of any of the species, *Ostrea virginica, Ostrea gigas, Ostrea lurida,* in the shell, which, after removal from their beds, have not been floated or otherwise held under conditions which result in the addition of water.

(2) "Thoroughly drained" means one of the following:

(i) The oysters are drained on a strainer or skimmer which has an area of not less than 300 square inches per gallon of oysters, drained, and has perforations of at least ¼ of an inch in diameter and not more than 1¼ inches apart, or perforations of equivalent areas and distribution. The oysters are distributed evenly over the draining surface of the skimmer and drained for not less than 5 minutes; or

(ii) The oysters are drained by any method other than that prescribed by paragraph (c)(2)(i) of this section whereby liquid from the oysters is removed so that when the oysters are tested within 15 minutes after packing by draining a representative gallon of oysters on a skimmer of the dimensions and in the manner described in paragraph (c)(2)(i) of this section for 2 minutes, not more than 5 percent of liquid by weight is removed by such draining.

§ 161.131 Extra large oysters.

Extra large oysters, oysters counts (or plants), extra large raw oysters, raw oysters counts (or plants), extra large shucked oysters, shucked oysters counts (or plants), are of the species *Ostrea virginica* and conform to the definition and standard of identity prescribed for oysters by § 161.130 and are of such size that 1 gallon contains not more than 160 oysters and a quart of the smallest oysters selected therefrom contains not more than 44 oysters.

§ 161.132 Large oysters.

Large oysters, oysters extra selects, large raw oysters, raw oysters extra selects, large shucked oysters, shucked oysters extra selects, are of the species *Ostrea virginica* and conform to the definition and standard of identity prescribed for oysters by § 161.130 and are of such size that 1 gallon contains more than 160 oysters but not more than 210 oysters; a quart of the smallest oysters selected therefrom contains not more than 58 oysters, and a quart of the largest oysters selected therefrom contains more than 36 oysters.

§ 161.133 Medium oysters.

Medium oysters, oysters selects, medium raw oysters, raw oysters selects, medium shucked oysters, shucked oysters selects, are of the species *Ostrea virginica* and conform to the definition and standard of identity prescribed for oysters by § 161.130 and are of such size that 1 gallon contains more than 210 oysters, but not more than 300 oysters; a quart of the smallest oysters selected therefrom contains not more than 83 oysters, and a quart of the largest oysters selected therefrom contains more than 46 oysters.

§ 161.134 Small oysters.

Small oysters, oysters standards, small raw oysters, raw oysters standards, small shucked oysters, shucked oysters standards, are of the species *Ostrea virginica* and conform to the definition and standards of identity prescribed for oysters by § 161.130 and are of such size that 1 gallon contains more than 300 oysters but not more than 500 oysters; a quart of the smallest oysters selected therefrom contains not more than 138 oysters and a quart of the largest oysters selected therefrom contains more than 68 oysters.

§ 161.135 Very small oysters.

Very small oysters, very small raw oysters, very small shucked oysters are of the species *Ostrea virginica* and conform to the definition and standard of identity prescribed for oysters by § 161.130 and are of such size that 1 gallon contains more than 500 oysters, and a quart of the largest oysters selected therefrom contains more than 112 oysters.

§ 161.136 Olympia oysters.

Olympia oysters, raw Olympia oysters, shucked Olympia oysters, are of the species *Ostrea lurida* and conform to the definition and standard of identity prescribed for oysters in § 161.130.

§ 161.137 Large Pacific oysters.

Large Pacific oysters, large raw Pacific oysters, large shucked Pacific oysters, are of the species *Ostrea gigas* and conform to the definitions and standards of identity prescribed for oysters by § 161.130 and are of such size that 1 gallon contains not more than 64 oysters, and the largest oyster in the container is not more than twice the weight of the smallest oyster therein.

§ 161.138 Medium Pacific oysters.

Medium Pacific oysters, medium raw Pacific oysters, medium shucked Pacific oysters, are of the species *Ostrea gigas* and conform to the definition and standard of identity prescribed for oysters by § 161.130 and are of such size that 1 gallon contains more than 64 oysters and not more than 96 oysters, and the largest oyster in the container is not more than twice the weight of the smallest oyster therein.

§ 161.139 Small Pacific oysters.

Small Pacific oysters, small raw Pacific oysters, small shucked Pacific oysters, are of the species *Ostrea gigas* and conform to the definition and standard of identity prescribed for oysters by § 161.130 and are of such size that 1 gallon contains more than 96 oysters and not more than 144 oysters, and the largest oyster in the container is not more than twice the weight of the smallest oyster therein.

§ 161.140 Extra small Pacific oysters.

Extra small Pacific oysters, extra small raw Pacific oysters, extra small shucked Pacific oysters, are of the species *Ostrea gigas* and conform to the definition and standard of identity prescribed for oysters by § 161.130 and are of such size that 1 gallon contains more than 144 oysters, and the largest oyster in the container is not more than twice the weight of the smallest oyster therein.

§ 161.145 Canned oysters.

(a) *Identity.*—(1) Canned oysters is the food prepared from one or any mixture of two or all of the forms of oysters specified in paragraph (a)(2) of this section, and a packing medium of water, or the watery liquid draining from oysters before or during processing, or a mixture of such liquid and water. The food may be seasoned with salt. It is sealed in containers and so processed by heat as to prevent spoilage.

(2) The forms of oysters referred to in paragraph (a)(1) of this section are prepared from oysters which have been removed from their shells and washed and which may be steamed while in the shell or steamed or blanched or both after removal therefrom, and are as follows:

(i) Whole oysters with such broken pieces of oysters as normally occur in removing oysters from their shells, washing, and packing.

(ii) Pieces of oysters obtained by segregating pieces of oysters broken in shucking, washing, or packing whole oysters.

(iii) Cut oysters obtained by cutting whole oysters.

(3)(i) When the form of oysters specified in paragraph (a)(2)(i) of this section is used, the name of the food is "Oysters" or "Cove oysters", if of the species *Ostrea virginica;* "Oysters" or "Pacific oysters", if of the species *Ostrea gigas;* "Oysters" or "Olympia oysters", if of the species *Ostrea lurida.*

(ii) When the form of oysters specified in paragraph (a)(2)(ii) of this section is used, the name of the food is "Pieces of _____", the blank being filled in with the name "Oysters" or "Cove oysters", if of the species *Ostrea virginica;* "Oysters" or "Pacific oysters", if of the species *Ostrea gigas;* "Oysters" or "Olympia oysters", if of the species *Ostrea lurida.*

(iii) When the form of oysters specified in paragraph (a)(2)(iii) of this section is used, the name of the food is "Cut ____", the blank being filled in with the name "Oysters" or "Cove oysters", if of the species *Ostrea virginica;* "Oysters" or "Pacific oysters", if of the species *Ostrea gigas;* "Oysters" or "Olympia oysters", if of the species *Ostrea lurida.*

(iv) In case a mixture of two or all such forms of oysters is used, the name is a combination of the names specified in this paragraph (a)(3) of the forms of oysters used, arranged in order of their predominance by weight.

(b) [Reserved]

(c) *Fill of container.*—(1) The standard of fill of container for canned oysters is a fill such that the drained weight of oysters taken from each container is not less than 59 percent of the water capacity of the container.

(2) Water capacity of containers is determined by the general method provided in § 130.12(a) of this chapter.

(3) Drained weight is determined by the following method: Keep the unopened canned oyster container at a temperature of not less than 68° or more than 95° Fahrenheit for at least 12 hours immediately preceding the determination. After opening, tilt the container so as to distribute its contents evenly over the meshes of a circular sieve which has been previously weighed. The diameter of the sieve is 8 inches if the quantity of the contents of the container is less than 3 pounds, and 12 inches if such quantity is 3 pounds or more. The bottom of the sieve is woven-wire cloth which complies with the specifications for such cloth set forth under "2360

diameter and 4 inches in height), is a fill

ately adjacent to the tail fins may be

accurately describes the shape, but which is not misleading.

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Micron (No. 8)," in Table I of "Standard Specifications for Sieves," published March 1, 1940, in L. C. 584 of the United States Department of Commerce, National Bureau of Standards. Without shifting the material on the sieve, so incline the sieve as to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and the drained oysters. The weight so found, less the weight of the sieve, shall be considered to be the drained weight of the oysters.

(4) If canned oysters fall below the standard of fill of container prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter in the manner and form therein specified, followed by the statement, "A can of this size should contain _____ oz. of oysters. This can contains only _____ oz", the blanks being filled in with the applicable figures.

§ 161.170 Canned Pacific salmon.

(a) *Identity*—(1) Canned Pacific salmon is the food prepared from one of the species of fish enumerated in paragraph (a)(2) of this section, prepared in one of the forms of pack specified in paragraph (a)(3) of this section, and to which may be added one or more of the optional ingredients specified in paragraph (a)(4) of this section. The food is packed in hermetically sealed containers and so processed by heat as to prevent spoilage and soften bones. The food is labeled in accordance with paragraph (a)(5) of this section.

(2)(i) The species of fish which may be used in this food are:

Oncorhynchus tshawytscha.	Chinook, king, spring.
Oncorhynchus nerka	Blueback, red, sockeye.
Oncorhynchus kisutch	Coho, Cohoe, medium red, silver.
Oncorhynchus gorbuscha.	Pink.
Oncorhynchus keta	Chum, keta.
Oncorhynchus masou	Masou, cherry.

(ii) For the purpose of paragraph (a)(5)(i) of this section, the common or usual name or names of each species of fish enumerated in paragraph (a)(2)(i) of this section is (are) the name(s) immediately following the scientific name of each species.

(3) The optional forms of canned Pacific salmon are processed from fish prepared by removing the head, gills, and tail, and the viscera, blood, fins, and damaged or discolored flesh to the greatest extent practicable in accordance with good manufacturing practice; and then washing. Canned Pacific salmon is prepared in one of the following forms of pack:

(i) "Regular" consists of sections or steaks which are cut transversely from the fish and filled vertically into the can. In preparation, segments of skin or large backbone may be removed. The sections or steaks are so packed that the cut surfaces approximately parallel the ends of the container. A small portion of salmon may be added if necessary to complete the fill of the container.

(ii) "Skinless and backbone removed" consists of the regular form of canned salmon set forth in paragraph (a)(3)(i) of this section from which the skin and vertebrae have been removed in accordance with good manufacturing practices.

(iii) "Minced salmon" consists of salmon which has been minced or ground.

(iv) "Salmon tips or tidbits" consists of small pieces of salmon.

(v) "No salt added" consists of canned salmon to which no salt has been added.

(4) One or more of the following optional ingredients may be added to the food:

(i) Salt.

(ii) Edible salmon oil comparable in color, viscosity, and flavor to the oil which would occur naturally in the species of salmon canned.

(5)(i) The name of the food is "salmon" together with the common or usual name or names of the species. At least one species name shall be printed in letters of the same style of type and not less in height than those used for the word "salmon".

(ii) (a) Whenever the form of pack is that described in paragrpah (a)(3)(ii), (iii), or (iv) of this section, the word or words describing the form of pack shall immediately precede or follow the name of the food without intervening written, printed, or graphic matter in the manner prescribed in § 101.3(c) of this chapter; for example, "red salmon" as the name of the food followed by "skinless and backbone removed".

(b) Whenver the form of pack is that described in paragraph (a)(3)(v) of this section and words describing the form of pack are declared on the label, the label shall also bear the statements required by § 105.69 of this chapter.

(iii) The name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) [Reserved]

(c) *Fill of container*—(1) The standard of fill of container for canned salmon is a fill including all the contents of the container and is not less than the minimum net weight specified for the corresponding can size in the following table:

I. *Can size*	II. *Minimum net weight*
603x405	1.814 kg (64 oz).
301x411	454 g (16 oz).
301x406	439 g (15½ oz).
401x211	439 g (15½ oz).
607x406x108	439 g (15½ oz).
301x308	340 g (12 oz).
307x200.25	220 g (7¾ oz).
513x307x103	220 g (7¾ oz).
307x113	191 g (6¾ oz).
301x106	106 g (3¾ oz).
407x218x015	106 g (3¾ oz).

If the can size in question is not listed, calculate the value for Column II as follows: From the list, select as the comparable can size, that one having the nearest water capacity of the can size in question, multiply the net weight listed in Column II by the water capacity of the can size in question, and divide by the water capacity of the comparable can size. Water capacities are determined by the general method provided in § 130.12(a) of this chapter.

(2) Sampling and acceptance procedure: The sample size of the sample representing the lot will be selected in accordance with the sampling plan shown in paragraph (c)(2)(ii) of this section. A lot is to be considered acceptable when the average net weight of all the sample units is not less than the minimum net weight stated in paragraph (c)(1) of this section for the corresponding can size.

(i) Definitions of terms to be used in the sampling plans in paragraph (c)(2)(ii) of this section are as follows:

(a) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(b) *Lot size.* The number of primary containers or units in the lot.

(c) *Sample size* (n). The total number of sample units drawn for examination from a lot.

(d) *Sample unit.* A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for examination or testing as a single unit.

(ii) Sampling plans:

Lot size (primary containers):	*Size of container*[1] (n)
4,800 or less	13
4,801 to 24,000	21
24,001 to 48,000	29
48,001 to 84,000	48
84,001 to 144,000	84
144,001 to 240,000	126
Over 240,000	200

[1] Net weight equal to or less than 1 kg. (2.2 lb).

Lot size (primary containers):	*Size of container*[2] (n)
2,400 or less	13
2,401 to 15,000	21
15,001 to 24,000	29
24,001 to 42,000	48
42,001 to 72,000	84
72,001 to 120,000	126
Over 120,000	200

n-number of primary containers in sample.

[2] Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kgs (10 lb).

(3) If canned salmon falls below the standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 161.173 Canned wet pack shrimp and canned dry pack shrimp in nontransparent containers.

(a)-(b) [Reserved]

(c) *Fill of container*—(1) The standard of fill of nontransparent containers for canned wet pack shrimp is a fill such that the cut-out weight of shrimp taken from each can is not less than 64 percent of the water capacity of the container, and, for canned dry pack shrimp (except that packed in the nontransparent cylindrical container which is $2^{11}/_{16}$ inches in diameter and 4 inches in height), is a fill such that the cut-out weight of shrimp taken from each can is not less than 60 percent of the water capacity of the container. The standard or fill for canned dry pack shrimp packed in the nontransparent cylindrical container which is $2^{11}/_{16}$ inches in diameter and 4 inches in height is a cut-out weight of not less than 6½ avoirdupois ounces of shrimp for each container. Water capacity of containers is determined by the general method provided in § 130.12(a) of this chapter. Cut-out weight is determined by the following method: Keep the unopened canned shrimp container at a temperature of not less than 68° nor more than 95° F for at least 12 hours immediately preceding the determination. After opening, tilt the container so as to distribute the shrimp evenly over the meshes of a circular sieve which has been previously weighed. The diameter of the sieve is 8 inches if the quantity of the contents of the container is less than 3 pounds, and 12 inches if such quantity is 3 pounds or more. The bottom of the sieve is woven-wire cloth which complies with the specifications for such cloth set forth under "2380 Micron (No. 8)" in Table I of "Standard Specifications for Sieves," published March 1, 1940, in L.C. 584 of the United States Department of Commerce, National Bureau of Standards. Without shifting the material on the sieve, so incline the sieve as to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and the drained shrimp. The weight so found, less the weight of the sieve, shall be considered to be the cut-out weight of the shrimp.

(2) If canned wet pack shrimp or canned dry pack shrimp, in nontransparent containers, falls below the applicable standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill provided in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 161.175 Frozen raw breaded shrimp.

(a) Frozen raw breaded shrimp is the food prepared by coating one of the optional forms of shrimp specified in paragraph (c) of this section with safe and suitable batter and breading ingredients as provided in paragraph (d) of this section. The food is frozen.

(b) The food tests not less than 50 percent of shrimp material as determined by the method prescribed in paragraph (g) of this section, except that if the shrimp are composite units the method prescribed in paragraph (h) of this section is used.

(c) The term "shrimp" means the tail portion of properly prepared shrimp of commercial species. Except for composite units, each shrimp unit is individually coated. The optional forms of shrimp are:

(1) Fantail or butterfly: Prepared by splitting the shrimp; the shrimp are peeled, except that tail fins remain attached and the shell segment immediately adjacent to the tail fins may be left attached.

(2) Butterfly, tail off: Prepared by splitting the shrimp; tail fins and all shell segments are removed.

(3) Round: Round shrimp, not split; the shrimp are peeled, except that tail fins remain attached and the shell segment immediately adjacent to the tail fins may be left attached.

(4) Round, tail off: Round shrimp, not split; tail fins and all shell segments are removed.

(5) Pieces: Each unit consists of a piece or a part of a shrimp; tail fins and all shell segments are removed.

(6) Composite units: Each unit consists of two or more whole shrimp or pieces of shrimp, or both, formed and pressed into composite units prior to coating; tail fins and all shell segments are removed; large composite units, prior to coating, may be cut into smaller units.

(d) The batter and breading ingredients referred to in paragraph (a) of this section are the fluid constituents and the solid constituents of the coating around the shrimp. These ingredients consist of suitable substances which are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act; or if they are food additives as so defined, they are used in conformity with regulations established pursuant to section 409 of the act. Batter and breading ingredients that perform a useful function are regarded as suitable, except that artificial flavorings, artificial sweeteners, artificial colors, and chemical preservatives, other than those provided for in this paragraph, are not suitable ingredients of frozen raw breaded shrimp. Chemical preservatives that are suitable are:

(1) Ascorbic acid, which may be used in a quantity sufficient to retard development of dark spots on the shrimp; and

(2) The antioxidant preservatives listed in Subpart D of Part 182 of this chapter that may be used to retard development of rancidity of the fat content of the food, in amounts within the limits prescribed by that section.

(e) The label shall name the food, as prepared from each of the optional forms of shrimp specified in paragraph (c)(1) to (6), inclusive, of this section, and following the numbered sequence of such subparagraph, as follows:

(1) "Breaded fantail shrimp." The word "butterfly" may be used in lieu of "fantail" in the name.

(2) "Breaded butterfly shrimp, tail off."

(3) "Breaded round shrimp."

(4) "Breaded round shrimp, tail off."

(5) "Breaded shrimp pieces."

(6) Composite units:

(i) If the composite units are in a shape similar to that of breaded fish sticks the name is "Breaded shrimp sticks"; if they are in the shape of meat cutlets, the name is "Breaded shrimp cutlets".

(ii) If prepared in a shape other than that of sticks or cutlets, the name is "Breaded shrimp _____", the blank to be filled in with the word or phrase that accurately describes the shape, but which is not misleading.

In the case of the names specified in paragraphs (e)(1) through (5) of this section, the words in each name may be arranged in any order, provided they are so arranged as to be accurately descriptive of the food. The word "prawns" may be added in parentheses immediately after the word "shrimp" in the name of the food if the shrimp are of large size; for example, "Fantail breaded shrimp (prawns)". If the shrimp are from a single geographical area, the adjectival designation of that area may appear as part of the name; for example, "Breaded Alaskan shrimp sticks".

(f) The names of the optional ingredients used, as provided for in paragraph (d) of this section, shall be listed on the principal display panel or panels of the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase. If a spice that also imparts color is used, it shall be designated as "spice and coloring", unless the spice is designated by its specific name. If ascorbic acid is used to retard development of dark spots on the shrimp, it shall be designated as "Ascorbic acid added as a preservative" or "Ascorbic acid added to retard discoloration of shrimp". If any other antioxidant preservative, as provided in paragraph (d) of this section, is used, such preservative shall be designated by its common name followed by the statement "Added as a preservative".

(g) The method for determining percentage of shrimp material for those forms specified in paragraph (c)(1) through (5) of this section is as follows:

(1) *Equipment needed.* (i) Two-gallon container, approximately 9 inches in diameter.

(ii) Two-vaned wooden paddle, each vane measuring approximately 1¾ inches by 3¾ inches.

(iii) Stirring device capable of rotating the wooden paddle at 120 r.p.m.

(iv) Balance accurate to 0.01 ounce (or 0.1 gram).

(v) U.S. Standard sieve No. 20, 12-inch diameter.[6]

(vi) U.S. Standard sieve, ½-inch sieve opening, 12-inch diameter.

(vii) Forceps, blunt points.

(viii) Shallow baking pans.

(ix) Rubber-tipped glass stirring rod.

(2) *Procedure.* (i) Weigh the sample to be debreaded. Fill the container three-fourths full of water at 70°–80° F. Suspend the paddle in the container, leaving a clearance of at least 5 inches below the paddle vanes, and adjust speed to 120 r.p.m. Add shrimp and stir for 10 minutes. Stack the sieves, the ½-inch mesh over the No. 20, and pour the contents of the container onto them. Set the sieves under a faucet, preferably with spray at-

[6] The sieves shall comply with the specifications for wire cloth and sieve frames in "Standard Specifications for Sieves," published March 1, 1940, in L.C. 584 of the U.S. Department of Commerce, National Bureau of Standards.

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tached, and rinse shrimp with no rubbing of flesh, being careful to keep all rinsings over the sieves and not having the stream of water hit the shrimp on the sieve directly. Lay the shrimp out singly on the sieve as rinsed. Inspect each shrimp and use the rubber-tipped rod and the spray to remove the breading material that may remain on any of them, being careful to avoid undue pressure or rubbing, and return each shrimp to the sieve. Remove the top sieve and drain on a slope for 2 minutes, then remove the shrimp to weighing pan. Rinse contents of the No. 20 sieve onto a flat pan and collect any particles other than breading (i.e., flesh and tail fins) and add to shrimp on balance pan and weigh.

$$\text{Percent shrimp material} = \frac{\text{Weight of debreaded sample}}{\text{Weight of sample}} \times 100 \div 2$$

(h) The method for determining percentage of shrimp material for composite units, specified in paragraph (c) (6) of this section, is as follows:

(1) *Equipment needed.* (i) Water bath (for example a 3-liter to 4-liter beaker).

(ii) Balance accurate to 0.1 gram.

(iii) Clip tongs of wire, plastic, or glass.

(iv) Stop-watch or regular watch readable to a second.

(v) Paper towels.

(vi) Spatula, 4-inch blade with rounded tip.

(vii) Nut picker.

(viii) Thermometer (immersion type) accurate to ±2° F.

(ix) Copper sulfate crystals ($CuSo_4 \cdot 5H_2O$).

(2) *Procedure.* (i) Weigh all composite units in the sample while they are still hard frozen.

(ii) Place each composite unit individually in a water bath that is maintained at 63° F–86° F, and allow to remain until the breading becomes soft and can easily be removed from the still frozen shrimp material (between 10 seconds to 80 seconds for composite units held in storage at 0° F). If the composite units were prepared using batters that are difficult to remove after one dipping, redip them for up to 5 seconds after the initial debreading and remove residual batter materials.

[NOTE.—Several preliminary trials may be necessary to determine the exact dip time required for "debreading" the composite units in a sample. For these trials only, a saturated solution of copper sulfate (1 pound of copper sulfate in 2 liters of tap water) is necessary. The correct dip time is the minimum time of immersion in the copper sulfate solution required before the breading can easily be scraped off: *Provided*, That the "debreaded" units are still solidly frozen and only a slight trace of blue color is visible on the surface of the "debreaded" shrimp material.]

(iii) Remove the unit from the bath; blot lightly with double thickness of paper toweling; and scrape off or pick out coating from the shrimp material with the spatula or nut picker.

(iv) Weigh all the "debreaded" shrimp material.

(v) Calculate the percentage of shrimp material in the sample, using the following formula:

$$\text{Percent shrimp material} = \frac{\text{Weight of debreaded shrimp sample}}{\text{Weight of sample}} \times 100$$

§ 161.176 Frozen raw lightly breaded shrimp.

Frozen raw lightly breaded shrimp complies with the provisions of § 161.175, except that it contains not less than 65 percent of shrimp material, as determined by the method prescribed in § 161.175 (g) or (h), as appropriate, and that in the name prescribed the word "lightly" immediately precedes the words "breaded shrimp".

§ 161.190 Canned tuna.

(a) *Identity.*—(1) Canned tuna is the food consisting of processed flesh of fish of the species enumerated in paragraph (a) (2) of this section, prepared in one of the optional forms of pack specified in paragraph (a) (3) of this section, conforming to one of the color designations specified in paragraph (a) (4) of this section, in one of the optional packing media specified in paragraph (a) (5) of this section, and may contain one or more of the seasonings and flavorings specified in paragraph (a) (6) of this section. For the purpose of inhibiting the development of struvite crystals, sodium acid pyrophosphate may be added in a quantity not in excess of 0.5 percent by weight of the finished food. It is packed in hermetically sealed containers and so processed by heat as to prevent spoilage. It is labeled in accordance with the provisions of paragraph (a) (8) of this section.

(2) The fish included in the class known as tuna fish are:

Thunnus thynnus	Bluefin tuna.[9]
Thunnus maccoyii	Southern bluefin tuna.[9]
Thunnus orientalis	Oriental tuna.[11]
Thunnus germo	Albacore.[11]
Thunnus atlanticus	Blackfin tuna.[12]
Parathunnus mebachi	Big-eyed tuna.[12]
Neothunnus macropterus.	Yellowfin tuna.[12]
Neothunnus rarus	Northern bluefin tuna.[9]
Katsuwonus pelamis	Skipjack.[9]
Euthynnus alleteratus	Little tunny.[10]
Euthynnus lineatus	Little tunny.[10]
Euthynnus yaito	Kawakawa.[13]

[9] "A Comparison of the Bluefin Tunas, Genus Thunnus, from New England, Australia, and California," by H. C. Godsil and Edwin K. Holmberg, State of California, Department of Natural Resources Division of Fish and Game, Bureau of Marine Fisheries, Fish Bulletin No. 77 (1950).

[10] "Contributions to the Comparative Study of the So-called Scombroid Fishes," by Kamakichi Kishinouye, Journal of the College of Agriculture, Imperial University of Tokyo, Vol. VIII, No. 3 (1923).

[11] "A Systematic Study of the Pacific Tunas," by H. C. Godsil and Robert D. Byers, State of California, Department of Natural Resources, Division of Fish and Game, Bureau of Marine Fisheries, Fish Bulletin No. 60 (1944).

[12] "Descriptive Study of Certain Tuna-Like Fishes," by H. C. Godsil, State of California, Department of Fish and Game, Fish Bulletin No. 97.

[13] "Comparative Anatomy and Systematics of the Tunas, Genus Thunnus," by Robert H. Gibbs, Jr., and Bruce B. Collette, Division of Fishes, U.S. National Museum and Bureau of Commercial Fisheries, Fish and Wildlife Service, U.S. Department of the Interior, Fishery Bulletin Vol. 66, No. 1 (1967), pp. 65–130.

The description of each species will be found in the text to which reference is made.

(3) The optional forms of processed tuna consist of loins and other striated muscular tissue of the fish. The loin is the longitudinal quarter of the great lateral muscle freed from skin, scales, visible blood clots, bones, gills, viscera and from the nonstriated part of such muscle, which part (known anatomically as the median superficial muscle) is highly vascular in structure, dark in color because of retained blood, and granular in form. Canned tuna is prepared in one of the following forms of pack, the identity of which is determined in accordance with the methods prescribed in paragraph (c) (2) of this section.

(i) Solid or solid pack consists of loins freed from any surface tissue discolored by diffused hemolyzed blood, cut in transverse segments to which no free fragments are added. In containers of 1 pound or less of net contents, such segments are cut in lengths suitable for packing in one layer. In containers of more than 1 pound net contents, such segments may be cut in lengths suitable for packing in one or more layers of equal thickness. Segments are placed in the can with the planes of their transverse cut ends parallel to the ends of the can. A piece of a segment may be added if necessary to fill a container. The proportion of free flakes broken from loins in the canning operation shall not exceed 18 percent.

(ii) Chunk, chunks, chunk style consists of a mixture of pieces of tuna in which the original muscle structure is retained. The pieces may vary in size, but not less than 50 percent of the weight of the pressed contents of a container is retained on a ½-inch-mesh screen.

(iii) Flake or flakes consist of a mixture of pieces of tuna in which more than 50 percent of the weight of the pressed contents of the container will pass through a ½-inch-mesh screen, but in which the muscular structure of the flesh is retained.

(iv) Grated consists of a mixture of particles of tuna that have been reduced to uniform size, that will pass through a ½-inch-mesh screen, and in which the particles are discrete and do not comprise a paste.

(v) Any of the specified forms of pack of canned tuna may be smoked. Canned smoked tuna shall be labeled in accordance with the provisions of paragraph (a) (8) (v) of this section.

(4) Canned tuna, in any of the forms of pack specified in paragraph (a) (3) of this section, falls within one of the following color designations, measured by visual comparison with matte surface neutral reflectance standards corresponding to the specified Munsell units of value, determined in accordance with paragraph (a) (7) of this section.

(i) *White.* This color designation is limited to the species Thunnus germo (albacore), and is not darker than Munsell value 6.3.

(ii) *Light.* This color designation includes any tuna not darker than Munsell value 5.3.

(iii) *Dark.* This color designation includes all tuna darker than Munsell value 5.3.

(iv) *Blended.* This color designation may be applied only to tuna flakes specified in paragraph (a) (3) (iii) of this section, consisting of a mixture of tuna flakes of which not less than 20 percent by weight meet the color standard for either white tuna or light tuna, and the remainder of which fall within the color standard for dark tuna. The color designation for blended tuna is determined in accordance with paragraph (a) (7) of this section.

(5) Canned tuna is packed in one of the following optional packing media:

(i) Any edible vegetable oil other than olive oil, or any mixture of such oils not containing olive oil.

(ii) Olive oil.

(iii) Water.

(6) Canned tuna may be seasoned or flavored with one or more of the following:

(i) Salt.

(ii) Purified monosodium glutamate.

(iii) Hydrolyzed protein.

(iv) Hydrolyzed protein with reduced monosodium glutamate content.

(v) Spices or spice oils or spice extracts.

(vi) Vegetable broth in an amount not in excess of 5 percent of the volume capacity of the container, such broth to consist of a minimum of 0.5 percent by weight of vegetable extractives and to be prepared from two or more of the following vegetables: Beans, cabbage, carrots, celery, garlic, onions, parsley, peas, potatoes, green bell peppers, red bell peppers, spinach, and tomatoes.

(vii) Garlic.

(viii) Lemon flavoring to be prepared from lemon oil and citric acid together with safe and suitable carriers for the lemon oil which are present at nonfunctional and insignificant levels in the finished canned food. When lemon flavoring is added, a safe and suitable solubilizing and dispersing ingredient may be added in a quantity not exceeding 0.005 percent by weight of the finished food. A substance used in accordance with this paragraph is deemed to be suitable if it is used in an amount no greater than necessary to achieve the intended flavor effect, and is deemed to be safe if it is not a food additive as defined in section 201(s) of the act or, if it is a food additive as so defined, it is used in conformity with regulations established pursuant to section 409 of the act.

(7) For determination of the color designations specified in paragraph (a) (4) of this section, the following method shall be used: Recombine the separations of pressed cake resulting from the method prescribed in paragraph (c) (2) of this section. Pass the combined portions through a sieve fitted with woven-wire cloth of ¼-inch mesh which complies with the specifications for such wire cloth set forth in "Standard Specifications for Sieves," published March 1, 1940, in L. C. 584 of the U.S. Department of Commerce, National Bureau of Standards. Mix the sieved material and place a sufficient quantity into a 307 x 113 size container (bearing a top seam and having a false bottom approximately ½-inch deep and painted flat black inside and outside) so that after tamping and smoothing the surface of the sample the material will be ⅛-inch to ¼-inch below the top of the container. Within 10 minutes after sieving through the ¼-inch mesh woven-wire cloth, determine the Munsell value of sample surface.

(i) Determine the Munsell value of the sample surface so prepared. The following method may be used, employing an optical comparator, consisting of a lens and prism system which brings two beams of light, reflected from equal areas of sample surface and standard surface, respectively, together, within an eyepiece, so as to show an equally divided optical field. The scanned areas of sample and standard surface are not smaller than 2 square inches. Light reaching the eye is rendered sufficiently diffuse, by design of eyepiece and comparator, so that detail of the sample surface will remain undefined, to a degree such as to avoid visual confusion in observation of a match of over-all intensity of reflected light. The eyepiece contains a color filter centering at a wavelength between 550 mμ and 560 mμ. The filter does not pass appreciable visible radiation of wavelengths below 540 mμ or above 570 mμ. The passed wavelength band is of a monochromaticity sufficient to cause a sample and a neutral standard of equal reflectance to appear of the same hue. The comparator is rigidly mounted on a vertical stand attached to a base in which arrangement is provided for securely and accurately positioning two cans of size 307 x 113 in the two fields of view. Mounted on the base are two shaded lamps, which direct the center of their beams of light at about a 45° angle to the plane of the sample and standard surfaces. The lamps are so positioned that light from one bears mainly upon the sample surface and light from the other mainly on the standard surface, and are so placed in relation to sample and standard that no shadows, as from the can rims, appear in the fields of view. The lamps are strong enough to furnish adequate and convenient illumination through eyepiece and filter. Means is provided to alter the light intensity of one lamp in relation to the other, as may conveniently be achieved by using a 100-watt tungsten filament bulb in one lamp and using, in the other, a similar 150-watt bulb connected with the power source through a suitable rheostat. The stand is equipped with nonglossy black curtains on the side of the observer, to exclude variation in extraneous light reflected from the person of the observer.

(ii) To adjust the comparator, place a pair of matte surface standards of Munsell value 5.3, mounted as described in paragraph (a) (7) (iv) of this section, in position in the comparator base, and adjust the intensity of the variable lamp until the two halves of the optical field, viewed through the eyepiece, are of equal brightness. Then remove one of the standards and replace it with the prepared sample. Without altering any other adjustments, observe through the eyepiece whether the sample appears lighter or darker than the standard. In case of examination of albacore designated "white", conduct the procedure using standards of Munsell value 6.3.

(iii) The standards with which comparisons are made are essentially neutral matte-finish standards, equivalent in luminous reflectance of light of 555 mμ wavelength to 33.7 percent of the luminous reflectance of magnesium oxide (for Munsell value 6.3) and 22.6 percent of the luminous reflectance of magnesium oxide (for Munsell value 5.3), as given by the relationship between

Munsell value and luminous reflectance alternatively bear either the statement

and plunger in position on the press procedure and calculate their percentage from those specified in this paragraph

307 x 113:

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Munsell value and luminous reflectance derived by a subcommittee of the Optical Society of America and published in the "Journal of the Optical Society of America," Volume 33, page 406 (1943).

(iv) These standards shall be cut in circles 3¼ inches in diameter and shall be mounted in 307 x 113 size containers, bearing a top seam and painted flat black inside and outside, so that the surfaces of the standards are 3/16 inch below the top of the containers in which they are mounted.

(v) In the case of blended tuna, the foregoing method shall be varied by first separating the tuna flakes of the two different colors before passing them through the ¼-inch mesh sieve, then proceeding with each portion separately for the determination of its color value, employing, if necessary, a sample container with false bottom greater than ½ inch deep.

(8) (i) The specified names of the canned tuna for which definitions and standards of identity are prescribed by this section, except where water is the packing medium or where the tuna is smoked, are formed by combining the designation of form of pack with the color designation of the tuna; for example, "Solid pack white tuna", "Grated dark tuna", etc. In the case of blended tuna, there shall be used both applicable color designations of the blended flakes, in precedence determined in accordance with the predominating portion found in the container; for example, "Blended white and dark tuna flakes", "Blended dark and light tuna flakes".

(ii) The specified name of canned tuna when water is used as the packing medium is formed as described in paragraph (a) (8) (i) of this section, followed by the words "in water"; for example, "Grated light tuna in water".

(iii) When the packing medium is vegetable oil or olive oil, the label shall bear the name of the optional packing medium used, as specified in paragraph (a) (5) of this section, preceded by the word "in" or the words "packed in". In case of the optional ingredient specified in paragraph (a) (5) (i) of this section, the name or names of the oil used may be stated, or the general term "vegetable oil" may be used.

(iv) In case solid pack tuna is packed in olive oil, the designation "Tonno" may also appear.

(v) In case any of the specified forms of canned tuna are smoked, the word "smoked" shall appear as a part of the name on the label; for example, "Smoked light tuna flakes".

(vi) Where the canned tuna contains one or more of the ingredients provided for in paragraph (a) (6) of this section, the label shall bear the statement "Seasoned with _____", the blank being filled in with the name or names of the ingredient or ingredients used, except that if the ingredient designated in paragraph (a) (6) (vi) of this section is used, the blanks shall be filled in with the term "vegetable broth"; and if the ingredient designated in paragraph (a) (6) (v) of this section is used alone, the label may alternatively bear either the statement "spiced" or the statement "with added spice"; and if salt is the only seasoning ingredient used, the label may alternatively bear any of the statements "salted", "with added salt", or "salt added". If the flavoring ingredients designated in paragraph (a) (6) (viii) of this section are used, the words "lemon flavored" or "with lemon flavoring" shall appear as a part of the name on the label; for example, "lemon flavored chunk light tuna". Citric acid and any optional solubilizing and dispersing agent used as specified in paragraph (a) (6) (viii) of this section in connection with lemon flavoring ingredients shall be designated on the label by its common or usual name.

(vii) Where the canned tuna contains the optional ingredient sodium acid pyrophosphate as provided in paragraph (a) (1) of this section, the label shall bear the statement "pyrophosphate added" or "with added pyrophosphate".

(viii) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the names of the optional ingredients used, as specified in paragraphs (a) (8) (iii), (vi), and (vii) of this section (except if lemon flavoring is added, this subparagraph applies only to the terms "lemon flavored" or "with lemon flavoring", not to the constituent ingredients of that flavoring or to any optional solubilizing or dispersing ingredient used in connection with lemon flavoring ingredients), shall immediately and conspicuously precede or follow such name without intervening, written, printed, or graphic matter, except that the common name of the species of tuna fish may so intervene; but the species name "albacore" may be employed only for canned tuna of that species which meets the color designation "white" as prescribed by paragraph (a) (4) (i) of this section.

(ix) Statements of optional ingredients present required by paragraph (a) (8) (vi) of this section, but not subject to the provisions of paragraph (a) (8) (viii) of this section shall be set forth on the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase.

(b) [Reserved]

(c) *Fill of container*—(1) The standard of fill of container for canned tuna is a fill such that the average weight of the pressed cake from 24 cans, as determined by the method prescribed by paragraph (c) (2) of this section, is not less than the minimum value specified for the corresponding can size and form of tuna ingredient in the following table:

I. Can size and form of tuna ingredient	II. Minimum value for weights of pressed cake (average of 24 cans)
	Ounces
211 x 109:	
Solid	2.25
Chunks	1.98
Flakes	1.98
Grated	2.00
307 x 113:	
Solid	4.47
Chunks	3.92
Flakes	3.92
Grated	3.96
401 x 206:	
Solid	8.76
Chunks	7.68
Flakes	7.68
Grated	7.76
603 x 408:	
Solid	43.2
Chunks	37.9
Flakes	37.9
Grated	38.3

If the can size in question is not listed, calculate the value for column II as follows: From the list select as the comparable can size that one having nearest the water capacity of the can size in question, multiply the value listed in column II for the same form of tuna ingredient by the water capacity of the can size in question, and divide by the water capacity of the comparable can size. Water capacities are determined by the general method provided in § 130.-12(a) of this chapter. For the purposes of this section, cans of dimensions 211 x 109 shall be deemed to have a water capacity at 68° F of 3.55 avoirdupois ounces of water; cans of dimensions 307 x 113, a water capacity of 7.05 avoirdupois ounces of water; cans of dimensions 401 x 206, a water capacity of 13.80 avoirdupois ounces of water; and cans of dimensions 603 x 408, a water capacity of 68.15 avoirdupois ounces of water.

(2) The methods referred to in paragraph (c) (1) of this section for determining the weight of the pressed cake and referred to in paragraph (a) (3) (i) of this section for determining the percent of free flakes and the percent of pieces that pass through a ½-inch-mesh sieve are as follows:

(i) Have each of the 24 cans and contents at a temperature of 75° F within ±5° F. Test each can in turn as follows:

(ii) Cut out the top of the can (code end), using a can opener that does not remove nor distort the double seam.

(iii) With the cut top held on the can contents, invert the can, and drain the free liquid by gentle finger pressure on the cut lid so that most of the free liquid drains from the can.

(iv) With the cut lid still in place, cut out the bottom of the can with the can opener, then turn the can upright and remove the cut can top (code end). Scrape off any adhering tuna particles into the tuna mass in the can.

(v) Place the proper size of press cylinder as provided in paragraph (c) (3) (i) of this section in a horizontal position on a table; then, using the cut bottom of the can as a pusher, gently force the can contents from the can into the cylinder so that the flat side of the can contents lies in contact with the bottom of the cylinder. Remove the bottom of the can that was used as the pusher and scrape any adhering particles from the can body and bottom of the can, and put them in the cylinder.

(vi) Place the cylinder plunger on top of the can contents in the cylinder. Remove the eyebolt and put the cylinder and plunger in position on the press (paragraph (c) (3) (iii) of this section).

(vii) Begin the operation of the press and as soon as liquid is observed coming from the cylinder start timing the operation. Apply pressure to the plunger slowly and at a uniform rate, so that a full minute is used to reach a pressure of 384 pounds per square inch of plunger face in contact with the can contents. Hold this pressure for 1 additional minute and then release the pressure and disengage the plunger from the press shaft. Tip the press cylinder so that any free liquid is drained out.

(viii) Remove press cylinder with plunger from the press, insert eyebolt in plunger and withdraw it from the cylinder. Loosen the pressed cake from the cylinder with a thin blade and remove the entire pressed cake as gently as possible, to keep the mass in a single cake during this operation. Place the pressed cake and any pieces that adhered to the plunger and cylinder in a tared receiving pan and determine the weight of the pressed material.

(ix) For cans larger than 401 x 206, cut out the top of the can and drain off free liquid from the can contents as in operations described in paragraphs (c) (2) (ii) and (iii) of this section. Determine the gross weight of the can and remaining contents. Using a tared core cutter as provided for in paragraph (c) (3) (ii) of this section, cut vertically a core of the drained material in the can. Determine the weight of the core. With a thin spatula transfer the core to the pressing cylinder for 401 x 206 cans. Determine the weight of the pressed cake as in the operations described in paragraphs (c) (2) (v) through (viii) of this section. Remove the remaining drained contents of the can, reserving the contents for the determination of free flakes (paragraph (c) (2) (xi) of this section), weigh the empty can, and calculate the weight of the total drained material. Calculate the weight of pressed cake on the entire can basis by multiplying the weight of the pressed cake of the core by the ratio of the weight of the drained contents of the can to the weight of the core before pressing.

(x) Repeat the determination of weight of pressed cake on the remainder of the 24 cans and determine the average weight of pressed cake for the purpose of paragraph (c) (1) of this section.

(xi) Determination of free flakes: If the optional form of tuna ingredient is solid pack, determine the percent of free flakes. Any flakes resulting from the operations described in this paragraph (c) (2) (xi) or in other parts of this paragraph are to be weighed as free flakes. Only fragments that were broken in the canning procedure are considered to be free flakes. If the can is of such size that its entire drained contents were pressed as described in paragraphs (c) (2) (i) to (viii) of this section, inclusive, examine the pressed cake carefully for free flakes. Using a spatula, scrape free flakes gently from the outside of the cake. Weigh the aggregate free flakes that were broken from the loin segments in the canning procedure and calculate their percentage of the total weight of pressed cake. If the can is of such size that a core was cut for pressing as described in paragraph (c) (2) (ix) of this section, make the examination for free flakes on a weighed portion of the drained material remaining after the core was removed. The weight of the portion examined should approximately equal the weight of the core before pressing. Calculate the weight of the free flakes that were broken from the loins in the canning procedure as a percentage of the weight of the portion examined.

(xii) Determination of particle size: If the optional form of tuna ingredient is chunks, flakes, or grated, the pressed cake resulting from the operations described in paragraphs (c) (2) (i) to (ix) of this section, inclusive, is gently separated by hand, care being taken to avoid breaking the pieces. The separated pieces are evenly distributed over the top sieve of the screen separation equipment described in paragraph (c) (3) (iv) of this section. Beginning with the top sieve, lift and drop each sieve by its open edge three times. Each time, the open edge of the sieve is lifted the full distance permitted by the device. Combine and weigh the material remaining on the three top sieves (1½-inch, 1-inch, ½-inch screens), and determine the combined percentage retention by weight in relation to the total weight of the pressed cake.

(3) (i) The press cylinder and plunger referred to in paragraph (c) (2) of this section are made of stainless steel. The press cylinders are made with a lip to facilitate drainage of the liquid. Plungers have a threaded center hole, about half as deep as the thickness of the plunger, for receiving a ringbolt to assist in removing the plunger from the press cylinder. Dimensions for press cylinders and plungers are as follows:

For can size 211 x 109

Press cylinder:
Inside depth, approximately 3¾ inches.
Inside diameter, 2.593 inches.
Wall thickness, approximately 3/8 inch.
Plunger:
Thickness, approximately 1 inch.
Diameter, 2.568 inches.

For can size 307 x 113

Press cylinder:
Inside depth, approximately 4 inches.
Inside diameter, 3.344 inches.
Wall thickness, approximately 5/16 inch.
Plunger:
Thickness, approximately 1¼ inches.
Diameter, 3.319 inches.

For can size 401 x 206

Press cylinder:
Inside depth, approximately 4⅛ inches.
Inside diameter, 3.968 inches.
Wall thickness, approximately ½ inch.
Plunger:
Thickness, approximately 1¼ inches.
Diameter, 3.944 inches.

For can sizes where the diameter is greater than 401, the core cutter described in paragraph (c) (3) (ii) of this section shall be used and the resulting core pressed in the press cylinder for can size 401 x 206. For can sizes differing from those specified in this paragraph (c) (3) (i), special press cylinders and plungers may be used. Special press cylinders have inside diameters 1/10-inch less than the outside diameters, at the double seam, for the can sizes for which the cylinders are used; plunger diameters are 0.025-inch less than the inside diameters of the press cylinders.

(ii) The core cutter referred to in paragraph (c) (2) (ix) and (xi) of this section and paragraph (c) (3) (i) of this section is made from a previously sealed 300 x 407 can. The cover, including the top seam, is cut out. The edge is smoothed and sharpened. A small hole to permit passage of air is made in the bottom.

(iii) The hydraulic press referred to in paragraph (c) (2) (vi) to (x) of this section, inclusive, is made by so mounting a hydraulic jack, in a strong frame, that it will press horizontally against the center of the plunger in the press cylinder used. The frame is so braced that it does not change shape when pressure is applied. The gauge on the hydraulic jack is so calibrated that it will indicate, for the plunger being used, when the plunger is pressing against the contents of the press cylinder with a pressure of 384 pounds per square inch of plunger face.

(iv) The sieving device referred to in paragraph (c) (2) (xii) of this section consists of three sieves, each approximately 1 foot square, loosely mounted, one above the other, in a metal frame. The mesh in the top sieve complies with the specifications for 1½-inch woven-wire cloth as set forth in "Standard Specifications for Sieves," as published March 1, 1940, in L. C. 584 of the U.S. Department of Commerce, National Bureau of Standards. The meshes in the sieves below comply with similar specifications for 1-inch and ½-inch woven-wire cloth as set forth in the same publication. The sides of each sieve are formed, in a raised rim, from ¾-inch x ⅛-inch metal strap. The frame has tracks made of ⅜-inch angle metal to support each sieve under each side. The tracks are so positioned as to permit each sieve a free vertical travel of 1¾ inches.

(4) If canned tuna falls below the applicable standard of fill of container prescribed in paragraph (c) (1) of this section, the label shall bear the general statement of substandard fill provided in § 130.14(b) of this chapter, in the manner and form therein specified.

PART 163—CACAO PRODUCTS

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Cacao Products

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163.110 Cacao nibs.
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Sec.

fast cocoa, cocoa, low-fat cocoa, or any

name, without intervening written, including the limit of not more than 0.4 of the solids of all the saccharine ingre-
printed or graphic matter: percent by weight of the finished food dients used.

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Sec.
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AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended (21 U.S.C. 341, 371) unless otherwise noted.

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Cacao Products

§ 163.110 Cacao nibs.

(a) Cacao nibs, cocoa nibs, cracked cocoa is the food prepared by heating and cracking dried or cured and cleaned cacao beans and removing shell therefrom. Cacao nibs or the cacao beans from which they are prepared may be processed by heating with one or more of the following optional alkali ingredients, added as such or in aqueous solution: Bicarbonate, carbonate, or hydroxide of sodium, ammonium, or potassium; or carbonate or oxide of magnesium; but for each 100 parts by weight of cacao nibs used, as such or before shelling from the cacao beans, the total quantity of such alkalis used is not greater in neutralizing value (calculated from the respective combining weights of such alkalis used) than the neutralizing value of 3 parts by weight of anhydrous potassium carbonate. The cacao shell content of cacao nibs is not more than 1.75 percent by weight (calculated to an alkali-free basis if they or the cacao beans from which they were prepared have been processed with alkali), as determined by the method prescribed under "Shell in Cacao Nibs—Tentative" beginning on page 208 [Ed. note, 10th edition, 1965, p. 180, secs. 12.009–12.013] of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 5th Ed., 1940.

(b) When cacao nibs or the cacao beans from which they are prepared are processed, in whole or in part, with any optional alkali ingredient specified in paragraph (a) of this section, the label shall bear the statement "Processed with alkali"; but in lieu of the word "alkali" in such statement the specific common name of the optional alkali ingredient may be used. Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, such statement shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

§ 163.111 Chocolate liquor.

(a) Chocolate liquor, chocolate, baking chocolate, bitter chocolate, cooking chocolate, chocolate coating, bitter chocolate coating is the solid or semiplastic food prepared by finely grinding cacao nibs. To such ground cacao nibs, cacao fat or a cocoa or both may be added in quantities needed to adjust the cacao fat content of the finished chocolate liquor. (For the purposes of this section the term "cocoa" means breakfast cocoa, cocoa, low-fat cocoa, or any mixture of two or more of these.) Chocolate liquor may be spiced, flavored, or otherwise seasoned with one or more of the following optional ingredients, other than any such ingredient or combination of ingredients specified in paragraph (a) (1), (2), or (3) of this section which imparts a flavor that imitates the flavor of chocolate, milk, or butter:

(1) Ground spice.

(2) Ground vanilla beans; any natural food flavoring oil, oleoresin, or extract.

(3) Vanillin, ethyl vanillin, or other artificial food flavoring.

(4) Butter, milk fat, dried malted cereal extract, ground coffee, ground nut meats.

(5) Salt.

Any optional ingredient used with the cacao beans or cacao nibs from which such chocolate liquor is prepared, or used with any cocoa added in preparing such chocolate liquor, shall be considered to be an optional ingredient used with such chocolate liquor. The optional alkali ingredients specified for use with cacao nibs in § 163.110(a) may be used as optional ingredients with chocolate liquor; but for each 100 parts by weight of cacao nibs used in preparing the chocolate liquor, the total quantity of such alkalis used is not greater in neutralizing value (calculated from the respective combining weights of such alkalis used) than 3 parts by weight of anhydrous potassium carbonate. The finished chocolate liquor contains not less than 50 percent and not more than 58 percent by weight of cacao fat. Unless the chocolate liquor is seasoned with butter, milk fat, or ground nut meats, the percentage of cacao fat is determined by the method prescribed under "Fat Method I—Official" beginning on page 202 [Ed. note, 10th edition, 1965, p. 184, sec. 12.022] of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 5th Ed., 1940.

(b) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed in this section, showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter:

(1) When the food is seasoned with an optional ingredient specified in paragraph (a)(1) of this section the label shall bear the statement "Spiced", "Spice added", "With added spice", "Spiced with _____", or "With added _____", the blank being filled in with the specific common name of the spice used.

(2) When the food is flavored with an optional ingredient specified in paragraph (a)(2) of this section, the label shall bear the statement "Flavored", "Flavoring added", "With added flavoring", or "Flavored with _____", "_____ added", or "With added _____", the blank being filled in with the specific common name of the flavoring used.

(3) When the food is flavored with an optional ingredient specified in paragraph (a)(3) of this section, the label shall bear the statement "Artificially flavored", "Artificial flavoring added", "With artificial flavoring", "Artificially flavored with _____", or "With _____, an artificial flavoring", the blank being filled in with the specific common name of the artificial flavoring used.

(4) When the food is seasoned with an optional ingredient specified in paragraph (a)(4) of this section, the label shall bear the statement "Seasoned with _____", the blank being filled in with the specific common name of the substance used as seasoning.

(5) When any optional alkali ingredient specified in § 163.110 (a) is used, the label shall bear the statement "Processed with alkali"; but in lieu of the word "alkali" in such statement the specific common name of the optional alkali ingredient may be used.

Label statements prescribed in paragraph (b) (1) to (4), inclusive, of this section may be combined, as for example, "With added cinnamon, vanilla, and ethyl vanillin, an artificial flavoring".

§ 163.112 Breakfast cocoa.

(a) Breakfast cocoa, high fat cocoa is the food prepared by pulverizing the residual material remaining after part of the cacao fat has been removed from ground cacao nibs. It may be spiced, flavored, or otherwise seasoned with one or more of the following optional ingredients, other than any such ingredient or combination of ingredients which imparts a flavor that imitates the flavor of chocolate, milk, or butter:

(1) Ground spice.

(2) Ground vanilla beans; any natural food flavoring oil, oleoresin, or extract.

(3) Vanillin, ethyl vanillin, or other artificial food flavoring.

(4) Salt.

Any optional ingredient used with the cacao beans, cacao nibs, or ground cacao nibs from which such breakfast cocoa is prepared shall be considered to be an optional ingredient used with such breakfast cocoa. The optional alkali ingredients specified for use with cacao nibs in § 163.110(a) may be used as optional ingredients with breakfast cocoa; but for each 100 parts by weight of cacao nibs used in preparing the breakfast cocoa, the total quantity of such alkalis used is not greater in neutralizing value (calculated from the respective combining weights of such alkalis used) than 3 parts by weight of anhydrous potassium carbonate. The finished breakfast cocoa contains not less than 22 percent of cacao fat, as determined by the method prescribed under "Fat Method I—Official" beginning on page 202 [Ed. note, 10th edition, 1965, p. 184, sec. 12.022] of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 5th Ed., 1940.

(b) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed in this section, showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter:

(1) When the food is seasoned with an optional ingredient specified in paragraph (a)(1) of this section, the label shall bear the statement "Spiced", "Spice added", "With added spice", "Spiced with _____", or "With added _____", the blank being filled in with the specific common name of the spice used.

(2) When the food is flavored with an optional ingredient specified in paragraph (a)(2) of this section, the label shall bear the statement "Flavored", "Flavoring added", "With added flavoring", "Flavored with _____", "_____ added", or "With added _____", the blank being filled in with the specific common name of the flavoring used.

(3) When the food is flavored with an optional ingredient specified in paragraph (a)(3) of this section, the label shall bear the statement "Artificially flavored", "Artificial flavoring added", "With artificial flavoring", "Artificially flavored with _____", or "With _____, an artificial flavoring", the blank being filled in with the specific common name of the artificial flavoring used.

(4) When any optional alkali ingredient specified in § 163.110(a) is used, the label shall bear the statement "Processed with alkali"; but in lieu of the word "alkali" in such statement the specific common name of the optional alkali ingredient may be used.

Label statements prescribed by paragraph (b) (1) to (4), inclusive, of this section may be combined, as for example, "With added cinnamon, vanilla, and ethyl vanillin, an artificial flavoring".

§ 163.113 Cocoa.

Cocoa, medium fat cocoa conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for breakfast cocoa by § 163.112, except that it contains less than 22 percent but not less than 10 percent of cacao fat, as determined by the method referred to in § 163.112(a).

§ 163.114 Low-fat cocoa.

Low-fat cocoa conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for breakfast cocoa by § 163.12, except that it contains less than 10 percent of cacao fat as determined by the method referred to in § 163.112(a).

§ 163.117 Cocoa with dioctyl sodium sulfosuccinate for manufacturing.

(a) Cocoa with dioctyl sodium sulfosuccinate for manufacturing is the food additive complying with the provisions § 172.520 of this chapter. It conforms to the definition and standard of identity and is subject to the requirements for label statement of optional ingredients prescribed for breakfast cocoa by § 163.112, or for cocoa by § 163.113, or low-fat cocoa by § 163.114, except that the food additive contains dioctyl sodium sulfosuccinate (complying with the requirements of § 172.810 of this chapter including the limit of not more than 0.4 percent by weight of the finished food additive).

(b) The name of the food additive is "cocoa with dioctyl sodium sulfosuccinate for manufacturing" to which is added any modifier of the word "cocoa" required by the definition and standard of identity to which the food additive otherwise conforms. When the food additive is used in a fabricated food, the words "for manufacturing" may be omitted from any declaration of ingredients required under § 101.4 of this chapter.

§ 163.123 Sweet chocolate.

(a) Sweet chocolate, sweet chocolate coating is the solid or semiplastic food the ingredients of which are intimately mixed and ground, prepared from chocolate liquor (with or without the addition of cacao fat) sweetened with one of the optional saccharine ingredients specified in paragraph (b) of this section. It may be spiced, flavored, or otherwise seasoned with one or more of the optional ingredients specified in paragraph (c) of this section, other than any such ingredient or combination of ingredients which imparts a flavor that imitates the flavor of chocolate, milk, or butter. One of the optional emulsifying ingredients or combinations of ingredients specified in paragraph (d) of this section may be used, subject to the conditions therein prescribed. One or more of the optional dairy ingredients specified in paragraph (e) of this section may be used in such quantity that the finished sweet chocolate contains less than 12 percent by weight of milk constituent solids. If chocolate liquor with any optional ingredient specified in § 163.111(a) is used, such ingredient shall be considered to be an optional ingredient used with the sweet chocolate. The finished sweet chocolate contains not less than 15 percent by weight of chocolate liquor, calculated by subtracting from the weight of chocolate liquor used the weight of cacao fat therein and the weights therein of alkali and seasoning ingredients, if any, multiplying the remainder by 2.2, dividing the result by the weight of the finished sweet chocolate, and multiplying the quotient by 100. Bittersweet chocolate is sweet chocolate which contains not less than 35 percent by weight of chocolate liquor, calculated in the same manner.

(b) The optional saccharine ingredients referred to in paragraph (a) of this section are:

(1) Sugar, or partly refined cane sugar, or both.

(2) Any mixture of dextrose and sugar or partly refined cane sugar or both in which the weight of the solids of the dextrose used is not more than one-third of the total weight of the solids of all the saccharine ingredients used.

(3) Any mixture of dried corn sirup or dried glucose sirup and sugar or partly refined cane sugar or both in which the weight of the solids of the dried corn sirup or dried glucose sirup used is not more than one-fourth of the total weight of the solids of all the saccharine ingredients used.

(4) Any mixture of dextrose and dried corn sirup or dried glucose sirup and sugar or partly refined cane sugar or both in which three times the weight of the solids of the dextrose used plus four times the weight of the solids of the dried corn sirup or of the solids of the dried glucose sirup used is not more than the total weight of the solids of all the saccharine ingredients used.

(c) The optional ingredients for spicing, flavoring, or otherwise seasoning referred to in paragraph (a) of this section are:

(1) Ground spice.

(2) Ground vanilla beans; any nautral food flavoring oil or oleoresin or extract.

(3) Ground coffee.

(4) Ground nut meats.

(5) Honey, molasses, brown sugar, maple sugar.

(6) Dried malted cereal extract.

(7) Salt.

(8) Vanillin, ethyl vanillin, or other artificial food flavoring.

(d) The optional emulsifying ingredient or combination of ingredients referred to in paragraph (a) of this section is:

(1) Lecithin, with or without related natural phosphatides, in an amount not to exceed 0.5 percent by weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(2) Monoglycerides and diglycerides of fat-forming fatty acids in combination with monosodium phosphate derivatives thereof, in an amount not to exceed 0.5 percent of the weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(3) Sorbitan monostearate, complying with the requirements of § 172.842 of this chapter, in an amount not to exceed 1 percent of the weight of the finished food; or

(4) Polysorbate 60, complying with the requirements of § 172.836 of this chapter, in an amount not to exceed 0.5 percent of the weight of the finished food; or

(5) Any combination of two or more of the foregoing each within the limits prescribed in paragraph (d) (1), (2), (3), and (4) of this section provided that the total quantity of any two or all three of the emulsifiers specified in paragraph (d) (2), (3), and (4) of this section does not exceed 1 percent by weight of the finished food and the total quantity of the emulsifiers specified in paragraph (d) (1) and (2) of this section does not exceed 0.5 percent of the weight of the finished food.

(e) The optional dairy ingredients referred to in paragraph (a) of this section are:

(1) Cream, milk fat, butter.

(2) Milk, concentrated milk, evaporated milk, sweetened condensed milk, dried milk.

(3) Any optional ingredient used with the cacao beans, cacao nibs, or ground cacao nibs from which such breakfast cocoa is prepared shall be considered to be an optional ingredient used with such breakfast cocoa. The optional alkali ingredients specified for use with cacao nibs in § 163.110(a) may be used as optional ingredients with breakfast cocoa; but for each 100 parts by weight of cacao nibs used in preparing the breakfast cocoa, the total quantity of such alkalis used is not greater in neutralizing value (calculated from the respective combining weights of such alkalis used) than 3 parts by weight of anhydrous potassium carbonate. The finished breakfast cocoa contains not less than 22 percent of cacao fat, as determined by the method prescribed under "Fat Method I—Official" beginning on page 202 [Ed. note, 10th edition, 1965, p. 184, sec. 12.022] of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 5th Ed., 1940.

(b) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed in this section, showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter:

(1) When the food is seasoned with an optional ingredient specified in paragraph (a)(1) of this section, the label shall bear the statement "Spiced", "Spice added", "With added spice", "Spiced with _____", or "With added _____", the blank being filled in with the specific common name of the spice used.

(2) When the food is flavored with an optional ingredient specified in paragraph (a)(2) of this section, the label shall bear the statement "Flavored", "Flavoring added", "With added flavoring", "Flavored with _____", "_____ added", or "With added _____", the blank being filled in with the specific common name of the flavoring used.

(3) When the food is flavored with an optional ingredient specified in paragraph (a)(3) of this section, the label shall bear the statement "Artificially flavored", "Artificial flavoring added", "With artificial flavoring", "Artificially flavored with _____", or "With _____, an artificial flavoring", the blank being filled in with the specific common name of the artificial flavoring used.

(4) When any optional alkali ingredient specified in § 163.110(a) is used, the label shall bear the statement "Processed with alkali"; but in lieu of the word "alkali" in such statement the specific common name of the optional alkali ingredient may be used.

Label statements prescribed by paragraph (b) (1) to (4), inclusive, of this section may be combined, as for example, "With added cinnamon, vanilla, and ethyl vanillin, an artificial flavoring".

§ 163.145 Mixed dairy product chocolates.

(a) Mixed dairy product chocolates are the solid or semiplastic foods each of which is prepared by intimately mixing and grinding chocolate liquor (with or without the addition of cacao fat) and one or more optional dairy ingredients specified in paragraph (c) of this section, sweetened with one or more of the optional saccharine ingredients specified in paragraph (b) of this section. They may be spiced, flavored, or otherwise seasoned with one or more of the optional ingredients specified in paragraph (d) of this section, other than any such ingredient or combination of ingredients which imparts a flavor that imitates the flavor of chocolate, milk, or butter. One or more of the optional emulsifying ingredients specified in paragraph (e) of this section may be used, subject to the conditions therein prescribed. If chocolate liquor with any optional ingredient specified in § 163.111(a) is used, such ingredient shall be considered to be an optional ingredient used with the mixed dairy product chocolate. The finished mixed dairy product chocolate contains not less than 12 percent by weight of milk constituent solids and not less than 15 percent by weight of chocolate liquor, calculated by subtracting from the weight of chocolate liquor used the weight of cacao fat therein and the weights therein of alkali and seasoning ingredients, if any, multiplying the remainder by 2.2, dividing the result by the weight of the finished mixed dairy product chocolate, and multiplying the quotient by 100. Bittersweet mixed dairy product chocolate is mixed dairy product chocolate which contains not less than 35 percent by weight of chocolate liquor, calculated in the same manner.

(b) The optional saccharine ingredients referred to in paragraph (a) of this section are:

(1) Sugar, or partly refined cane sugar, or both.

(2) Any mixture of dextrose and sugar or partly refined cane sugar or both in which the weight of the solids of the dextrose used is not more than one-third of the total weight of the solids of all the saccharine ingredients used.

(3) Any mixture of dried corn sirup or dried glucose sirup and sugar or partly refined cane sugar or both in which the weight of the solids of the dried corn sirup or dried glucose sirup used is not more than one-fourth of the total weight of the solids of all the saccharine ingredients used.

(4) Any mixture of dextrose and dried corn sirup or dried glucose sirup and sugar or partly refined cane sugar or both in which three times the weight of the solids of the dextrose used plus four times the weight of the solids of the dried corn sirup or of the solids of the dried glucose sirup used is not more than the total weight of the solids of all the saccharine ingredients used.

(c) The optional ingredients for spicing, flavoring, or otherwise seasoning referred to in paragraph (a) of this section are:

(1) Ground spice.

(2) Ground vanilla beans; any nautral food flavoring oil or oleoresin or extract.

(3) Ground coffee.

(4) Ground nut meats.

(5) Honey, molasses, brown sugar, maple sugar.

(6) Dried malted cereal extract.

(7) Salt.

(8) Vanillin, ethyl vanillin, or other artificial food flavoring.

(d) The optional emulsifying ingredient or combination of ingredients referred to in paragraph (a) of this section is:

(1) Lecithin, with or without related natural phosphatides, in an amount not to exceed 0.5 percent by weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(2) Monoglycerides and diglycerides of fat-forming fatty acids in combination with monosodium phosphate derivatives thereof, in an amount not to exceed 0.5 percent of the weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(3) Sorbitan monostearate, complying with the requirements of § 172.842 of this chapter, in an amount not to exceed 1 percent of the weight of the finished food; or

(4) Polysorbate 60, complying with the requirements of § 172.836 of this chapter, in an amount not to exceed 0.5 percent of the weight of the finished food; or

(5) Any combination of two or more of the foregoing each within the limits prescribed in paragraph (d) (1), (2), (3), and (4) of this section provided that the total quantity of any two or all three of the emulsifiers specified in paragraph (d) (2), (3), and (4) of this section does not exceed 1 percent by weight of the finished food and the total quantity of the emulsifiers specified in paragraph (d) (1) and (2) of this section does not exceed 0.5 percent of the weight of the finished food.

(e) The optional dairy ingredients referred to in paragraph (a) of this section are:

(1) Cream, milk fat, butter.

(2) Milk, concentrated milk, evaporated milk, sweetened condensed milk, dried milk.

(3) Any optional ingredient used with the mixed dairy product chocolate shall be considered to be an optional ingredient used with such mixed dairy product chocolate. The optional alkali ingredients specified for use with cacao nibs in § 163.110(a) may be used as optional ingredients with mixed dairy product chocolate; but for each 100 parts by weight of cacao nibs used in preparing the mixed dairy product chocolate, the total quantity of such alkalis used is not greater in neutralizing value (calculated from the respective combining weights of such alkalis used) than 3 parts by weight of anhydrous potassium carbonate. The finished mixed dairy product chocolate contains not less than 25 percent by weight of cacao fat, as determined by the method prescribed under "Fat Method I—Official" beginning on page 202 [Ed. note, 10th edition, 1965, p. 184, sec. 12.022] of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 5th Ed., 1940.

(b) Wherever the name of each such article is used, without intervening written, printed, or graphic matter, the label shall bear the statement "Mixed dairy product chocolate".

§ 163.150 Sweet cocoa and vegetable fat (other than cacao fat) coating.

(a) Sweet cocoa and vegetable fat (other than cacao fat) coating is the solid or semiplastic food the ingredients of which are intimately mixed and ground, prepared from chocolate liquor (with or without the addition of cacao fat) sweetened with one of the optional saccharine ingredients specified in paragraph (b) of this section. It may be spiced, flavored, or otherwise seasoned with one or more of the optional ingredients specified in paragraph (c) of this section, other than any such ingredient or combination of ingredients which imparts a flavor that imitates the flavor of chocolate, milk, or butter. One or more of the optional emulsifying ingredients specified in paragraph (d) of this section may be used, subject to the conditions therein prescribed. One or more of the optional dairy ingredients specified in paragraph (e) of this section may be used in such quantity that the finished sweet cocoa and vegetable fat (other than cacao fat) coating contains less than 12 percent by weight of milk constituent solids. If chocolate liquor with any optional ingredient specified in § 163.111(a) is used, such ingredient shall be considered to be an optional ingredient used with the sweet cocoa and vegetable fat (other than cacao fat) coating. The finished sweet cocoa and vegetable fat (other than cacao fat) coating contains not less than 15 percent by weight of chocolate liquor, calculated by subtracting from the weight of chocolate liquor used the weight of cacao fat therein and the weights therein of alkali and seasoning ingredients, if any, multiplying the remainder by 2.2, dividing the result by the weight of the finished sweet cocoa and vegetable fat (other than cacao fat) coating, and multiplying the quotient by 100. Bittersweet cocoa and vegetable fat (other than cacao fat) coating is sweet cocoa and vegetable fat (other than cacao fat) coating which contains not less than 35 percent by weight of chocolate liquor, calculated in the same manner.

(b) The optional saccharine ingredients referred to in paragraph (a) of this section are:

(1) Sugar, or partly refined cane sugar, or both.

(2) Any mixture of dextrose and sugar or partly refined cane sugar or both in which the weight of the solids of the dextrose used is not more than one-third of the total weight of the solids of all the saccharine ingredients used.

(3) Any mixture of dried corn sirup or dried glucose sirup and sugar or partly refined cane sugar or both in which the weight of the solids of the dried corn sirup or dried glucose sirup used is not more than one-fourth of the total weight of the solids of all the saccharine ingredients used.

(4) Any mixture of dextrose and dried corn sirup or dried glucose sirup and sugar or partly refined cane sugar or both in which three times the weight of the solids of the dextrose used plus four times the weight of the solids of the dried corn sirup or of the solids of the dried glucose sirup used is not more than the total weight of the solids of all the saccharine ingredients used.

(c) The optional ingredients for spicing, flavoring, or otherwise seasoning referred to in paragraph (a) of this section are:

(1) Ground spice.

(2) Ground vanilla beans; any nautral food flavoring oil or oleoresin or extract.

(3) Ground coffee.

(4) Ground nut meats.

(5) Honey, molasses, brown sugar, maple sugar.

(6) Dried malted cereal extract.

(7) Salt.

(8) Vanillin, ethyl vanillin, or other artificial food flavoring.

(d) The optional emulsifying ingredient or combination of ingredients referred to in paragraph (a) of this section is:

(1) Lecithin, with or without related natural phosphatides, in an amount not to exceed 0.5 percent by weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(2) Monoglycerides and diglycerides of fat-forming fatty acids in combination with monosodium phosphate derivatives thereof, in an amount not to exceed 0.5 percent of the weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(3) Sorbitan monostearate, complying with the requirements of § 172.842 of this chapter, in an amount not to exceed 1 percent of the weight of the finished food; or

(4) Polysorbate 60, complying with the requirements of § 172.836 of this chapter, in an amount not to exceed 0.5 percent of the weight of the finished food; or

(5) Any combination of two or more of the foregoing each within the limits prescribed in paragraph (d) (1), (2), (3), and (4) of this section provided that the total quantity of any two or all three of the emulsifiers specified in paragraph (d) (2), (3), and (4) of this section does not exceed 1 percent by weight of the finished food and the total quantity of the emulsifiers specified in paragraph (d) (1) and (2) of this section does not exceed 0.5 percent of the weight of the finished food.

(e) The optional dairy ingredients referred to in paragraph (a) of this section are:

(1) Cream, milk fat, butter.

(2) Milk, concentrated milk, evaporated milk, sweetened condensed milk, dried milk.

§ 163.153 Sweet chocolate and vegetable fat (other than cacao fat) coating.

(a) Sweet chocolate and vegetable fat (other than cacao fat) coating is the solid or semiplastic food the ingredients of which are intimately mixed and ground, prepared from chocolate liquor (with or without the addition of cacao fat) sweetened with one of the optional saccharine ingredients specified in paragraph (b) of this section. It may be spiced, flavored, or otherwise seasoned with one or more of the optional ingredients specified in paragraph (c) of this section, other than any such ingredient or combination of ingredients which imparts a flavor that imitates the flavor of chocolate, milk, or butter. One or more of the optional emulsifying ingredients specified in paragraph (d) of this section may be used, subject to the conditions therein prescribed. One or more of the optional dairy ingredients specified in paragraph (e) of this section may be used in such quantity that the finished sweet chocolate and vegetable fat (other than cacao fat) coating contains less than 12 percent by weight of milk constituent solids. If chocolate liquor with any optional ingredient specified in § 163.111(a) is used, such ingredient shall be considered to be an optional ingredient used with the sweet chocolate and vegetable fat (other than cacao fat) coating. The finished sweet chocolate and vegetable fat (other than cacao fat) coating contains not less than 15 percent by weight of chocolate liquor, calculated by subtracting from the weight of chocolate liquor used the weight of cacao fat therein and the weights therein of alkali and seasoning ingredients, if any, multiplying the remainder by 2.2, dividing the result by the weight of the finished sweet chocolate and vegetable fat (other than cacao fat) coating, and multiplying the quotient by 100. Bittersweet chocolate and vegetable fat (other than cacao fat) coating is sweet chocolate and vegetable fat (other than cacao fat) coating which contains not less than 35 percent by weight of chocolate liquor, calculated in the same manner.

(b) The optional saccharine ingredients referred to in paragraph (a) of this section are:

(1) Sugar, or partly refined cane sugar, or both.

(2) Any mixture of dextrose and sugar or partly refined cane sugar or both in which the weight of the solids of the dextrose used is not more than one-third of the total weight of the solids of all the saccharine ingredients used.

(3) Any mixture of dried corn sirup or dried glucose sirup and sugar or partly refined cane sugar or both in which the weight of the solids of the dried corn sirup or dried glucose sirup used is not more than one-fourth of the total weight of the solids of all the saccharine ingredients used.

(4) Any mixture of dextrose and dried corn sirup or dried glucose sirup and sugar or partly refined cane sugar or both in which three times the weight of the solids of the dextrose used plus four times the weight of the solids of the dried corn sirup or of the solids of the dried glucose sirup used is not more than the total weight of the solids of all the saccharine ingredients used.

(c) The optional ingredients for spicing, flavoring, or otherwise seasoning referred to in paragraph (a) of this section are:

(1) Ground spice.

(2) Ground vanilla beans; any nautral food flavoring oil or oleoresin or extract.

(3) Ground coffee.

(4) Ground nut meats.

(5) Honey, molasses, brown sugar, maple sugar.

(6) Dried malted cereal extract.

(7) Salt.

(8) Vanillin, ethyl vanillin, or other artificial food flavoring.

(d) The optional emulsifying ingredient or combination of ingredients referred to in paragraph (a) of this section is:

(1) Lecithin, with or without related natural phosphatides, in an amount not to exceed 0.5 percent by weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(2) Monoglycerides and diglycerides of fat-forming fatty acids in combination with monosodium phosphate derivatives thereof, in an amount not to exceed 0.5 percent of the weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(3) Sorbitan monostearate, complying with the requirements of § 172.842 of this chapter, in an amount not to exceed 1 percent of the weight of the finished food; or

(4) Polysorbate 60, complying with the requirements of § 172.836 of this chapter, in an amount not to exceed 0.5 percent of the weight of the finished food; or

(5) Any combination of two or more of the foregoing each within the limits prescribed in paragraph (d) (1), (2), (3), and (4) of this section provided that the total quantity of any two or all three of the emulsifiers specified in paragraph (d) (2), (3), and (4) of this section does not exceed 1 percent by weight of the finished food and the total quantity of the emulsifiers specified in paragraph (d) (1) and (2) of this section does not exceed 0.5 percent of the weight of the finished food.

(e) The optional dairy ingredients referred to in paragraph (a) of this section are:

(1) Cream, milk fat, butter.

(2) Milk, concentrated milk, evaporated milk, sweetened condensed milk, dried milk.

§ 163.155 Milk chocolate and vegetable fat (other than cacao fat) coating.

(a) Milk chocolate and vegetable fat (other than cacao fat) coating is the solid or semiplastic food the ingredients of which are intimately mixed and ground, prepared from chocolate liquor (with or without the addition of cacao fat) sweetened with one of the optional saccharine ingredients specified in paragraph (b) of this section. It may be spiced, flavored, or otherwise seasoned with one or more of the optional ingredients specified in paragraph (c) of this section, other than any such ingredient or combination of ingredients which imparts a flavor that imitates the flavor of chocolate, milk, or butter. One or more of the optional emulsifying ingredients specified in paragraph (d) of this section may be used, subject to the conditions therein prescribed. One or more of the optional dairy ingredients specified in paragraph (e) of this section may be used in such quantity that the finished milk chocolate and vegetable fat (other than cacao fat) coating contains less than 12 percent by weight of milk constituent solids. If chocolate liquor with any optional ingredient specified in § 163.111(a) is used, such ingredient shall be considered to be an optional ingredient used with the milk chocolate and vegetable fat (other than cacao fat) coating. The finished milk chocolate and vegetable fat (other than cacao fat) coating contains not less than 10 percent by weight of chocolate liquor, calculated by subtracting from the weight of chocolate liquor used the weight of cacao fat therein and the weights therein of alkali and seasoning ingredients, if any, multiplying the remainder by 2.2, dividing the result by the weight of the finished milk chocolate and vegetable fat (other than cacao fat) coating, and multiplying the quotient by 100.

(b) The optional saccharine ingredients referred to in paragraph (a) of this section are:

(1) Sugar, or partly refined cane sugar, or both.

(2) Any mixture of dextrose and sugar or partly refined cane sugar or both in which the weight of the solids of the dextrose used is not more than one-third of the total weight of the solids of all the saccharine ingredients used.

(3) Any mixture of dried corn sirup or dried glucose sirup and sugar or partly refined cane sugar or both in which the weight of the solids of the dried corn sirup or dried glucose sirup used is not more than one-fourth of the total weight of the solids of all the saccharine ingredients used.

(4) Any mixture of dextrose and dried corn sirup or dried glucose sirup and sugar or partly refined cane sugar or both in which three times the weight of the solids of the dextrose used plus four times the weight of the solids of the dried corn sirup or of the solids of the dried glucose sirup used is not more than the total weight of the solids of all the saccharine ingredients used.

(c) The optional ingredients for spicing, flavoring, or otherwise seasoning referred to in paragraph (a) of this section are:

(1) Ground spice.

(2) Ground vanilla beans; any nautral food flavoring oil or oleoresin or extract.

(3) Ground coffee.

(4) Ground nut meats.

(5) Honey, molasses, brown sugar, maple sugar.

(6) Dried malted cereal extract.

(7) Salt.

(8) Vanillin, ethyl vanillin, or other artificial food flavoring.

(d) The optional emulsifying ingredient or combination of ingredients referred to in paragraph (a) of this section is:

(1) Lecithin, with or without related natural phosphatides, in an amount not to exceed 0.5 percent by weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(2) Monoglycerides and diglycerides of fat-forming fatty acids in combination with monosodium phosphate derivatives thereof, in an amount not to exceed 0.5 percent of the weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(3) Sorbitan monostearate, complying with the requirements of § 172.842 of this chapter, in an amount not to exceed 1 percent of the weight of the finished food; or

(4) Polysorbate 60, complying with the requirements of § 172.836 of this chapter, in an amount not to exceed 0.5 percent of the weight of the finished food; or

(5) Any combination of two or more of the foregoing each within the limits prescribed in paragraph (d) (1), (2), (3), and (4) of this section provided that the total quantity of any two or all three of the emulsifiers specified in paragraph (d) (2), (3), and (4) of this section does not exceed 1 percent by weight of the finished food and the total quantity of the emulsifiers specified in paragraph (d) (1) and (2) of this section does not exceed 0.5 percent of the weight of the finished food.

(e) The optional dairy ingredients referred to in paragraph (a) of this section are:

(1) Cream, milk fat, butter.

(2) Milk, concentrated milk, evaporated milk, sweetened condensed milk, dried milk.

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(3) Skim milk, concentrated skim milk, evaporated skim milk, sweetened condensed skim milk, nonfat dry milk.

(4) Concentrated buttermilk, dried buttermilk.

(5) Malted milk.

(f) For the purpose of this section:

(1) The term "dextrose" means the anhydrous refined monosaccharide obtained from hydrolyzed starch.

(2) The term "dried corn sirup" means the product obtained by drying incompletely hydrolyzed cornstarch; its solids contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose.

(3) The term "dried glucose sirup" means the product obtained by drying "glucose sirup". "Glucose sirup" is a clarified, concentrated, aqueous solution of the products obtained by the incomplete hydrolysis of any edible starch. The solids of glucose sirup contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose.

(g) "Semisweet chocolate", "bittersweet chocolate", "semisweet chocolate coating", and "bittersweet chocolate coating" are alternate names for sweet chocolate which contains not less than the minimum quantity of chocolate liquor prescribed for bittersweet chocolate by paragraph (a) of this section.

(h) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed in this paragraph showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter:

(1) When the food is flavored with an optional ingredient specified in paragraph (c)(8) of this section, the label shall bear the statement "Artificially flavored", "Artificial flavoring added", "With artificial flavoring", "Artificially flavored with ___________", or "With ___________, an artificial flavoring", the blank being filled in with the specific common name of the artificial flavoring used.

(2) When an optional emulsifying ingredient or combination of ingredients specified in paragraph (d) of this section is used, the label shall bear the statement "Emulsifier added", "With added emulsifier", or "___________ added as (an) emulsifier(s)", the blank being filled in with the common name(s) of the emulsifier(s) used.

(3) When any optional alkali ingredient specified in § 163.110(a) is used, the label shall bear the statement "Processed with alkali", but in lieu of the word "alkali" in such statement the specific common name of the optional alkali ingredient may be used.

In cases where two or more of the statements set forth in this paragraph are required, such statements may be combined in a manner which is appropriate and not misleading.

§ 163.130 Milk chocolate.

(a) Milk chocolate, sweet milk chocolate, milk chocolate coating, sweet milk chocolate coating is the solid or semiplastic food the ingredients of which are intimately mixed and ground, prepared from chocolate liquor (with or without the addition of cacao fat) and one or more of the optional dairy ingredients specified in paragraph (b) of this section, sweetened with one of the optional saccharine ingredients specified in § 163.123 (b) and (f). It may be spiced, flavored, or otherwise seasoned with one or more of the optional ingredients specified in paragraph (c) of this section, other than any such ingredient or combination of ingredients which imparts a flavor that imitates the flavor of chocolate, milk, or butter. One of the optional emulsifying ingredients or combinations of ingredients specified in paragraph (d) of this section may be used, subject to the conditions therein prescribed. If chocolate liquor with any optional ingredient specified in § 163.111(a) is used, such ingredient shall be considered to be an optional ingredient used with the milk chocolate. The finished milk chocolate contains not less than 3.66 percent by weight of milk fat, not less than 12 percent by weight of milk solids, and not less than 10 percent by weight of chocolate liquor as calculated by subtracting from the weight of chocolate liquor used the weight of cacao fat therein and the weights therein of alkali and seasoning ingredients, if any, multiplying the remainder by 2.2, dividing the result by the weight of the finished milk chocolate, and multiplying the quotient by 100.

(b) The optional dairy ingredients referred to in paragraph (a) of this section are milk, concentrated milk, evaporated milk, sweetened condensed milk, dried milk, butter, milk fat, cream, skim milk, concentrated skim milk, evaporated skim milk, sweetened condensed skim milk, and nonfat dry milk; but in any such ingredient or combination of two or more of such ingredients used, the weight of nonfat milk solids is not more than 2.43 times and not less than 1.20 times the weight of milk fat therein.

(c) The optional ingredients for spicing, flavoring, or otherwise seasoning referred to in paragraph (a) of this section are:

(1) Ground spice.

(2) Ground vanilla beans; any natural food flavoring oil or oleoresin or extract.

(3) Ground coffee.

(4) Ground nut meats.

(5) Honey, molasses, brown sugar, maple sugar.

(6) Dried malted cereal extract.

(7) Salt.

(8) Vanillin, ethyl vanillin, or other artificial food flavoring.

(d) The optional emulsifying ingredient or combination of ingredients referred to in paragraph (a) of this section is:

(1) Lecithin, with or without related natural phosphatides, in an amount not to exceed 0.5 percent by weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(2) Monoglycerides and diglycerides of fat-forming fatty acids in combination with monosodium phosphate derivatives thereof, in an amount not to exceed 0.5 percent of the weight of the finished food (with or without a vegetable food fat carrier in an amount not to exceed two-thirds of the weight of the emulsifying ingredient used); or

(3) Sorbitan monostearate, complying with the requirements of § 172.842 of this chapter, in an amount not to exceed 1 percent of the weight of the finished food; or

(4) Polysorbate 60, complying with the requirements of § 172.836 of this chapter, in an amount not to exceed 0.5 percent of the weight of the finished food; or

(5) Any combination of two or more of the foregoing each within the limits prescribed in paragraph (d) (1), (2), (3), and (4) of this section provided that the total quantity of any two or all three of the emulsifiers specified in paragraph (d) (2), (3), and (4) of this section does not exceed 1 percent by weight of the finished food and the total quantity of the emulsifiers specified in paragraph (d) (1) and (2) of this section does not exceed 0.5 percent of the weight of the finished food.

(e) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed in this paragraph showing the optional ingredients used shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter:

(1) When the food is flavored with an optional ingredient specified in paragraph (c)(8) of this section, the label shall bear the statement "Artificially flavored", "Artificial flavoring added", "With artificial flavoring", "Artificially flavored with ___________", or "With ___________, an artificial flavoring", the blank being filled in with the specific common name of the artificial flavoring used.

(2) When an optional emulsifying ingredient or combination of ingredients specified in paragraph (d) of this section is used, the label shall bear the statement "Emulsifier added", "With added emulsifier", or "___________ added as (an) emulsifier(s)", the blank being filled in with the common name(s) of the emulsifier(s) used.

(3) When any optional alkali ingredient specified in § 163.110(a) is used, the label shall bear the statement "Processed with alkali," but in lieu of the word "alkali" in such statement the specific common name of the optional alkali ingredient may be used.

In cases where two or more of the statements set forth in this paragraph are required, such statements may be combined in a manner which is appropriate and not misleading.

§ 163.135 Buttermilk chocolate.

Buttermilk chocolate, buttermilk chocolate coating conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed

for milk chocolate by § 163.130, except that:

(a) The dairy ingredients used are limited to sweet cream buttermilk, concentrated sweet cream buttermilk, dried sweet cream buttermilk, or any combination of two or all of these.

(b) The finished buttermilk chocolate contains less than 3.66 percent by weight of milk fat and, instead of milk solids, it contains not less than 12 percent by weight of sweet cream buttermilk solids.

§ 163.140 Skim milk chocolate.

Skim milk chocolate, sweet skim milk chocolate, skim milk chocolate coating, sweet skim milk chocolate coating conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for milk chocolate by § 163.130, except that:

(a) The dairy ingredients used are limited to skim milk, concentrated skim milk, evaporated skim milk, sweetened condensed skim milk, nonfat dry milk, and any combination of two or more of these.

(b) The finished skim milk chocolate contains less than 3.66 percent by weight of milk fat and, instead of milk solids, it contains not less than 12 percent by weight of skim milk solids.

§ 163.145 Mixed dairy product chocolates.

(a) The articles for which definitions and standards of identity are prescribed by this section are the foods each of which conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for milk chocolate by § 163.130, except that:

(1) The dairy ingredient used in each such article is a mixture of two or more of the following four components:

(i) Any dairy ingredient or combination of such ingredients specified in § 163.130(b) which is within the limits of the ratios specified therein for nonfat milk solids to milk fat.

(ii) One or more of the five skim milk ingredients specified in § 163.140.

(iii) One or more of the three sweet cream buttermilk ingredients specified in § 163.135.

(iv) Malted milk.

(2) Each of the finished articles may contain less than 3.66 percent by weight of milk fat and, instead of milk solids, it contains not less than 12 percent by weight of milk constituent solids of the components used. The quantity of each component used in any such mixture is such that no component contributes less than one-third of the weight of milk constituent solids contributed by that component used in largest proportion. When any such mixture is of components (i) and (ii) of paragraph (a)(1) of this section, the quantity of nonfat milk solids in such mixture is more than 2.43 times the quantity of milk fat therein. For the purposes of paragraph (b) of this section, the designation of each of the components listed above is respectively "Milk", "Skim milk", "Buttermilk", and "Malted milk".

(b) The name of each such article is "Chocolate" or "Chocolate coating" preceded by the designations prescribed by paragraph (a) of this section for each component of the dairy ingredients used, such designations appearing in the order of predominance, if any, of the weight of milk constituent solids in each such component, (e.g., "Milk and skim milk chocolate").

§ 163.150 Sweet cocoa and vegetable fat (other than cacao fat) coating.

Sweet cocoa and vegetable fat (other than cacao fat) coating conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for sweet chocolate by § 163.123, except that:

(a) In its preparation cocoa is used, instead of chocolate liquor, in such quantity that the finished food contains not less than 6.8 percent by weight of the nonfat cacao portion of such cocoa, calculated by subtracting from the weight of cocoa used the weight of cacao fat therein and the weight therein of alkali and seasoning ingredients, if any, dividing the remainder by the weight of the finished food, and multiplying the quotient by 100. (For the purposes of this section, the term "cocoa" means breakfast cocoa, cocoa, low-fat cocoa, or any mixture of two or more of these.)

(b) In its preparation is added one or any combination of two or more vegetable food oils, vegetable food fats, or vegetable food stearins, other than cacao fat, which oil, fat, stearin, or combination has a melting point higher than that of cacao fat. Any such oil or fat may be hydrogenated.

(c) The requirement of § 163.123(a) that the milk constituent solids be less than 12 percent by weight does not apply.

§ 163.153 Sweet chocolate and vegetable fat (other than cacao fat) coating.

(a) Sweet chocolate and vegetable fat (other than cacao fat) coating conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for sweet chocolate by § 163.123, except that:

(1) In its preparation there is added one or any combination of two or more vegetable food oils or vegetable food fats, other than cacao fat, which oil, fat, or combination may be hydrogenated and which has a melting point lower than that of cacao fat.

(2) Of the emulsifying ingredients and combinations of ingredients listed in § 163.123(d), only the ingredients specified in § 163.123(d) (1) and (2), alone or in combination, may be used subject to the limitation that the total quantity of these ingredients does not exceed 0.5 percent by weight of the finished food.

(b) The provisions of this section shall not be construed as applicable to any article by reason of the addition thereto of a vegetable food fat other than cacao fat as a carrier of emulsifying ingredients, as authorized and within the limits prescribed by § 163.123(d) (1) and (2).

§ 163.155 Milk chocolate and vegetable fat (other than cacao fat) coating.

(a) Milk chocolate and vegetable fat (other than cacao fat) coating, sweet milk chocolate and vegetable fat (other than cacao fat) coating conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients, prescribed for milk chocolate by § 163.130, except that:

(1) In its preparation there is added one or any combination of two or more vegetable food oils or vegetable food fats, other than cacao fat, which oil, fat, or combination may be hydrogenated and which has a melting point lower than that of cacao fat.

(2) Of the emulsifying ingredients and combinations of ingredients listed in § 163.130(d), only the ingredients specified in § 163.130(d) (1) and (2), alone or in combination, may be used subject to the limitation that the total quantity of these ingredients does not exceed 0.5 percent by weight of the finished food.

(b) The provisions of this section shall not be construed as applicable to any article by reason of the addition thereto of a vegetable food fat other than cacao fat as a carrier of emulsifying ingredients, as authorized and within the limits prescribed by § 163.130(d) (1) and (2).

PART 164—TREE NUT AND PEANUT PRODUCTS

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Tree Nut and Peanut Products

Sec.
164.110 Mixed nuts.
164.120 Shelled nuts in rigid or semirigid containers.
164.150 Peanut butter.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended by 70 Stat. 919, 72 Stat. 948 (21 U.S.C. 341, 371).

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Tree Nut and Peanut Products

§ 164.110 Mixed nuts.

(a) Mixed nuts is the food consisting of a mixture of four or more of the optional shelled tree nut ingredients, with or without one or more of the optional shelled peanut ingredients, of the kinds prescribed by paragraph (b) of this section; except that when 2 ounces or less of the food is packed in transparent containers, three or more of the optional tree nut ingredients shall be present. Each such kind of nut ingredient when used shall be present in a quantity not less than 2 percent and not more than 80 percent by weight of the finished food. For purposes of this section, each kind of tree nut and peanut is an optional ingredient that may be prepared by any suitable method in accordance with good manufacturing practice. The finished food may contain one or more of the optional nonnut ingredients provided for in paragraph (c) of this section.

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product, consider the height to be the ... which are not food additives as defined ... shall contain caffeine from kola nut ex-

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(b) The optional shelled nut ingredients referred to in paragraph (a) of this section are:

(1) Almonds, black walnuts, Brazil nuts, cashews, English walnuts (alternatively "walnuts"), filberts, pecans, and other suitable kinds of tree nuts.

(2) Peanuts of the Spanish, Valencia, Virginia, or similar varieties, or any combination of two or more such varieties.

(c) The optional nonnut ingredients referred to in paragraph (a) of this section consist of suitable substances that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act; or if they are food additives as so defined, they are used in conformity with regulations established pursuant to section 409 of the act. Nonnut ingredients that perform a useful function are regarded as suitable, except that color additives are not suitable ingredients of the food.

(d) The name of the food is "mixed nuts". If the percentage of a single tree nut ingredient or the total peanut content by weight of the finished food exceeds 50 percent but not 60 percent, the statement "contains up to 60% _____" or "contains 60% _____" or "60% _____" shall immediately follow the name "mixed nuts" and shall appear on the same background, be of the same color or, in the case of multicolors, in the color showing distinct contrast with the background, and be in letters not less than one-half the height of the largest letter in the words "mixed nuts". The blank is to be filled in with the appropriate name of the predominant nut ingredient; for example, "contains up to 60% pecans" or "contains up to 60% Spanish peanuts". The numbers "70" or "80" shall be substituted for the number "60" when the percentage of the predominant nut ingredient exceeds 60 but not 70, or exceeds 70 but not 80, respectively. Compliance with the requirements for percentage of nut ingredients of this section and the fill of container requirements of § 164.120(c) will be determined by the following procedure:

(1) Take at random from a lot, in the case of containers bearing a weight declaration of 16 ounces or less, at least 24 containers, and for containers bearing a weight declaration of more than 16 ounces, enough containers to provide a total quantity of at least 24 pounds of nuts.

(2) If compliance with § 164.120(c) is to be determined, first follow the procedure set forth therein.

(3) Determine the percent by weight of each nut ingredient present in each container separately. Calculate the average percentage of each nut ingredient present. If the average percent found for each nut ingredient present is 2 percent or more and none of the individual nut ingredients exceeds 80 percent by weight of the finished food, the lot will be deemed to be in compliance with the percentage requirements of paragraph (a) of this section. If the average percent found for a single nut ingredient exceeds 50 percent by weight of the finished food and the average percent found is within the range indicated by the number declared on the label in accordance with this paragraph, the lot will be deemed to be in compliance with the labeling requirements of this paragraph.

(e) Optional nut ingredients and optional nonnut ingredients used in the food, as provided for in paragraphs (b) and (c) of this section, shall be declared on the label by their common names in the order of decreasing predominance by weight except that:

(1) If the Spanish variety of peanuts is used, it shall be declared as "Spanish peanuts". Other varieties of peanuts shall be declared as "peanuts", or alternatively "_____ peanuts", the blank being filled in with the varietal name of the peanuts used.

(2) If the peanut ingredient or ingredients as provided for in paragraph (b)(1) of this section are unblanched, the label shall show that fact by such statement as "Peanuts unblanched", "Peanuts skins on," or words of similar import, unless the vignette clearly depicts peanuts with skins on.

(3) Vegetable oils used shall be declared by the words "Vegetable oil" or "Hydrogenated vegetable oil", or alternatively "_____ oil", or "Hydrogenated _____ oil", as the case may be, the blank being filled in with the name or names of the vegetable source(s) of the oil. For the purposes of this section, hydrogenated vegetable oil shall be considered to include partially hydrogenated vegetable oil.

(4) When antioxidant preservatives are used in the finished food, the label shall bear the statement "_____ added as a preservative" or "_____ added to inhibit rancidity", the blank being filled in with the name or names of the preservative(s) used.

(f) The words and statements specified in paragraph (e) of this section showing the optional ingredients present shall be listed on the principal display panel or panels or any appropriate information panel without obscuring design, vignettes, or crowding. The declaration shall appear in conspicuous and easily legible letters of boldface print or type the size of which shall be not less than one-half of that required by Part 101 of this chapter for the statement of net quantity of contents appearing on the label, but in no case less than one-sixteenth of an inch in height. The entire ingredient statement shall appear on at least one panel of the label. If the label bears any pictorial representation of the mixture of nuts, it shall depict the relative proportions of the nut ingredients of the food. If the label bears a pictorial representation of only one of each nut ingredient present, the nuts shall be depicted in the order of decreasing predominance by weight. A factual statement that the food does not contain a particular nut ingredient or ingredients may be shown on the label if the statement is not misleading and does not result in an insufficiency of label space for the proper declaration of information required by or under authority of the act to appear on the label.

§ 164.120 Shelled nuts in rigid or semirigid containers.

(a)-(b) [Reserved]

(c) *Fill of container*—(1) The standard of fill for shelled nuts in rigid or semirigid containers is a fill such that the average volume of nuts, from the number of containers specified in § 164.110(d)(1), is not less than 85 percent of the container volume as determined by the method in paragraph (c)(2) of this section.

(2) The method for determining the percent of fill is as follows:

(i) For the shelled nuts in each container, determine the loose volume, the settled volume, and the average volume in cubic centimeters. For the purposes of this subparagraph, consider volume in milliliters to be numerically equal to volume in cubic centimeters. Open the container and pour the nuts loosely into a vertical graduated cylinder (do not tilt) of appropriate size fitted with a funnel which has been modified, if necessary, to provide a minimum opening of 1½-inch diameter. (If the loose volume of the nuts is less than 500 milliliters, use a 500-milliliter cylinder with an inside diameter of approximately 1⅞ inches; but if the loose volume is 500 milliliters or more, use a 1,000-milliliter cylinder with an inside diameter of approximately 2¼ inches.) Without shaking the cylinder, estimate the location of a horizontal plane representing the average height of the product, read the volume of the nuts, and record as the loose volume. Raise the cylinder 2 inches and allow it a free vertical drop onto a level, firm, but resilient surface (do not tamp) for a total of 5 times and observe the volume as above. Repeat in successive five-drop increments until the nuts have so settled that the volume decreases less than 2 percent in the last five-drop increment. Read the last volume in the manner described above and record as the settled volume. The arithmetical average of the loose volume and the settled volume equals the average volume of nuts.

(ii) Classify the container by shape and determine its volume in cubic centimeters according to one of the following methods as appropriate:

(*a*) For containers of irregular shape, including glass jars, follow the general method for water capacity of containers as prescribed in § 130.12(a) of this chapter and determine the container volume, considering the water capacity in grams to be numerically equivalent to volume in cubic centimeters, or the water capacity in ounces (avoirdupois) to be equivalent to 28.35 cubic centimeters per ounce.

(*b*) For box-shaped containers (that is, with opposite sides parallel), measure the inside height, width, and depth and calculate the volume as the product of these three dimensions. For such containers used to enclose vacuum packs and containing 4 ounces or less of the product, consider the height to be the inside height minus three-eighths inch.

(*c*) For cylindrical containers, calculate the container volume in cubic centimeters as the product of the height times the square of the diameter, both measured in inches, times 12.87; or as the product of the height times the square of the diameter, both measured in centimeters, times 0.7854. For containers that do not have indented ends, use the inside height and inside diameter as the dimensions. For metal cans with indented ends (that is, metal cans with ends attached by double seams), consider the height to be the outside height at the double seam minus three-eighths inch (0.953 centimeter) and the diameter to be the outside diameter at the double seam minus one-eighth inch (0.318 centimeter). For fiber-bodied containers with indented ends (that is, fiber-bodied cans with metal ends attached by double seams), consider the height to be the outside height at the double seam minus three-eighths inch (0.953 centimeter) and the diameter to be the outside diameter at the double seam minus three-sixteenths inch (0.476 centimeter).

(iii) Calculate the percent fill of the container as follows: Divide the average volume of nuts found according to paragraph (c)(2)(i) of this section by the appropriate container volume found according to paragraph (c)(2)(ii) of this section and multiply by 100. The result shall be considered to be the percent fill of the container.

(3) If shelled nuts fall below the standard of fill of container prescribed in paragraph (c)(1) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein specified.

§ 164.150 Peanut butter.

(a) Peanut butter is the food prepared by grinding one of the shelled and roasted peanut ingredients provided for by paragraph (b) of this section, to which may be added safe and suitable seasoning and stabilizing ingredients provided for by paragraph (c) of this section, but such seasoning and stabilizing ingredients do not in the aggregate exceed 10 percent of the weight of the finished food. To the ground peanuts, cut or chopped, shelled, and roasted peanuts may be added. During processing, the oil content of the peanut ingredient may be adjusted by the addition or subtraction of peanut oil. The fat content of the finished food shall not exceed 55 percent when determined as prescribed in section 25.004 *Crude Fat—Official, First Action*, paragraph (a) *Direct method*, in "Official Methods of Analysis of the Association of Official Agricultural Chemists," 10th Edition, page 412.

(b) The peanut ingredients referred to in paragraph (a) of this section are:

(1) Blanched peanuts, in which the germ may or may not be included.

(2) Unblanched peanuts, including the skins and germ.

(c) The seasoning and stabilizing ingredients referred to in paragraph (a) of this section are suitable substances which are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act, or if they are food additives as so defined, they are used in conformity with regulations established pursuant to section 409 of the act. Seasoning and stabilizing ingredients that perform a useful function are regarded as suitable, except that artificial flavorings, artificial sweeteners, chemical preservatives, added vitamins and color additives are not suitable ingredients of peanut butter. Oil products used as optional stabilizing ingredients shall be hydrogenated vegetable oils. For the purposes of this section, hydrogenated vegetable oil shall be considered to include partially hydrogenated vegetable oil.

(d) If peanut butter is prepared from unblanched peanuts as specified in paragraph (b)(2) of this section, the name shall show that fact by some such statement as "prepared from unblanched peanuts (skins left on)." Such statement shall appear prominently and conspicuously and shall be in type of the same style and not less than half of the point size of that used for the words "peanut butter." This statement shall immediately precede or follow the words "peanut butter," without intervening written, printed, or graphic matter.

(e) The label of peanut butter shall name, by their common names, the optional ingredients used, as provided in paragraph (c) of this section. If hydrogenated vegetable oil is used, the label statement of optional ingredients shall include the words "Hydrogenated _____ oil" or "Hardened _____ oil", the blank being filled in either with the names of the vegetable sources of the oil or, alternatively, with the word "vegetable"; for example, "Hydrogenated peanut oil" or "Hardened peanut and cottonseed oils" or "Hydrogenated vegetable oil".

PART 165—NONALCOHOLIC BEVERAGES

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Nonalcoholic Beverages

Sec.
165.175 Soda water.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371) unless otherwise noted.

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Nonalcoholic Beverages

§ 165.175 Soda water.

(a) *Description.* Soda water is the class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressure of one atmosphere and at a temperature of 60° F. It either contains no alcohol or only such alcohol, not in excess of 0.5 percent by weight of the finished beverage, as is contributed by the flavoring ingredient used. Soda water designated by any name which includes the word "cola" or "pepper" shall contain caffeine from kola nut extract and/or other natural caffeine-containing extracts. Caffeine may also be added to any soda water. The total caffeine content in the finished food shall not exceed 0.02 percent by weight. Soda water may contain any safe and suitable optional ingredient, except that vitamins, minerals, and proteins added for nutritional purposes and artificial sweeteners are not suitable for food encompassed by this standard.

(b) *Nomenclature.* (1) The name of the beverage for which a definition and standard of identity is established by this section, which is neither flavored nor sweetened, is soda water, club soda, or plain soda.

(2) The name of each beverage containing flavoring and sweetening ingredients shall appear as "_____ soda" or "_____ water" or "_____ carbonated beverage", the blank to contain the word or words that designate the characterizing flavor of the soda water as prescribed in § 101.22 of this chapter.

(3) If the soda water is one generally designated by a particular common name; for example, ginger ale, root beer, or sparkling water, that name may be used in lieu of the name prescribed in paragraph (b)(1) and (2) of this section. For the purposes of this section, a proprietary name that is commonly used by the public as the designation of a particular kind of soda water may be used in lieu of the name prescribed in paragraph (b)(1) and (2) of this section.

(c) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

PART 166—MARGARINE

Subpart A—General Provisions

Sec.
Sec.
166.40 Labeling of margarine.

Subpart B—Requirements for Specific Standardized Margarine

166.110 Margarine.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371), unless otherwise noted.

Subpart A—General Provisions

§ 166.40 Labeling of margarine.

The Federal Food, Drug, and Cosmetic Act was amended by Public Law 459, 81st Congress (64 Stat. 20) on colored oleomargarine or margarine by adding thereto a new section numbered 407. Among other things, this section requires that there appear on the label of the package the word "oleomargarine" or "margarine" in type or lettering at least as large as any other type or lettering on the label, and a full and accurate statement of all the ingredients contained in such oleomargarine or margarine. It provides that these requirements "shall be in addition to and not in lieu of any of the other requirements of this Act".

(a) Under section 403(g) of the Federal Food, Drug, and Cosmetic Act, any

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article that is represented as or purports to be oleomargarine or margarine must conform to the definition and standard of identity for oleomargarine or margarine promulgated under section 401 of the act (Subpart B of this part), and its label must bear the name "oleomargarine" or "margarine".

(b) The identity standard for oleomargarine or margarine applies to both the uncolored and the colored article. Although this standard does not require that all permitted optional ingredients be declared on the label, the amendment to the Federal Food, Drug, and Cosmetic Act made by Public Law 459, 81st Congress, requires the labels on packages of colored oleomargarine or margarine to bear "a full and accurate statement of all the ingredients contained in such oleomargarine or margarine". The optional ingredients permitted by the identity standard for oleomargarine or margarine and the names by which we believe such ingredients, when present, should be declared in order to constitute "a full and accurate statement" are set forth below:

(1) The rendered fat or oil, or stearin derived therefrom (any or all of which may be hydrogenated), of cattle, sheep, swine, or goats, or any combination of two or more such articles—to be declared by the name of the specific animal fat, oil, or stearin, for example, "beef fat". If the animal fat or oil is hydrogenated the name should include the word "hydrogenated" or "hardened". Where combinations are used, the names are to be arranged in order of predominance, with the animal fat, oil, or stearin present in greatest proportion named first.

(2) Any vegetable food fat or oil, or oil or stearin derived therefrom (any or all of which may be hydrogenated), or any combination of two or more such articles—to be declared by the name of the specific vegetable food fat, oil, or stearin, for example "cottonseed oil" or "soybean oil". If the vegetable fats or oils present are hydrogenated, the declaration should include the word "hydrogenated" or "hardened", for example, "hydrogenated cottonseed oil" or "hardened cottonseed oil". If two or more vegetable food fats or oils are used they are to be named in order of predominance with the one present in greatest proportion named first in the series, as, for example, "cottonseed oil, soybean oil, and corn oil".

(3) The optional ingredients cream, milk, skim milk, nonfat dry milk and water, ground soybeans and water, butter, and salt should be declared by those terms.

(4) Artificial color and artificial flavor should be declared as such by the terms prescribed in the identity standard for oleomargarine or margarine (Subpart B of this part). They need not be declared additionally by the names of the specific colors or flavors.

(5) The presence of sodium benzoate or benzoic acid should be declared as prescribed by the identity standard for oleomargarine or margarine.

(6) The optional ingredient vitamin A added in an essential carrier should be declared as "vitamin A added" or "with added vitamin A".

(7) The optional ingredient vitamin D should be declared as "vitamin D added" or "with added vitamin D".

(8) The optional emulsifying ingredients lecithin, mono- or diglycerides and sodium sulfo-acetate derivatives of mono- or diglycerides should be declared by those terms.

(9) The presence of citric acid, isopropyl citrate, and stearyl citrate should be declared as prescribed by the identity standard for oleomargarine or margarine.

(10) The statement of all the ingredients contained in colored olemargarine or colored margarine is subject to the requirements pertaining to conspicuousness in section 403 (f) of the act.

(c) In considering the requirement that the word "oleomargarine" or "margarine" be in type or lettering at least as large as any other type or lettering on the label, it must be borne in mind that at least three factors are involved—the height of each letter, the area occupied by each letter as measured by a closely fitting rectangle drawn around it, and the boldness of letters or breadth of the lines forming the letters. The type or lettering used should meet the following tests:

(1) The height of each letter in the word "oleomargarine" or "margarine" should equal or exceed the height of any other letter elsewhere on the label.

(2) The area of the closely fitting rectangle with respect to any of the letters in the word "oleomargarine" or "margarine" should equal or exceed the area of such rectangle applied to the same or a corresponding letter elsewhere on the label.

(3) The letters in the word "oleomargarine" or "margarine" should be equal to or exceed in prominence and boldness, such as breadth of lines forming the letters, the same or corresponding letters elsewhere on the label.

(d) [Reserved]

(e) The word "oleomargarine" or "margarine" (and thus the other information called for by the statute) should appear on each panel of the package label that might reasonably be selected by the grocer for display purposes at the point of sale.

(f) The amendment covering colored oleomargarine or colored margarine states that, "for the purposes of * * * section 407 of the Federal Food, Drug, and Cosmetic Act, as amended, the term 'oleomargarine' or 'margarine' includes: (1) All substances, mixtures, and compounds known as oleomargarine or margarine; (2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter". Notwithstanding the difference between this definition and the definition and standard of identity for oleomargarine or margarine promulgated under section 401 of the act, it was the clear intent of Congress that any article which is represented as or purports to be oleomargarine or margarine is misbranded if it fails to comply with the definition and standard of identity for oleomargarine or margarine even though it may meet the statutory definition.

(g) Section 407(a) states that "Colored oleomargarine or colored margarine which is sold in the same State or Territory in which it is produced shall be subject in the same manner and to the same extent to the provisions of this act as if it had been introduced in interstate commerce".

(h) Section 407(b)(4) requires that each part of the contents of the package be "contained in a wrapper which bears the word 'oleomargarine' or 'margarine' in type or lettering not smaller than 20-point type". The Food and Drug Administration interprets this to mean that the height of the actual letters is no less than 20 points, or 20/72 of 1 inch.

(i) The wrappers on the subdivisions of oleomargarine or margarine contained within the package sold at retail are labels within the meaning of section 201(k) and shall contain all of the label information required by sections 403 and 407 of the Federal Food, Drug, and Cosmetic Act, just as in the case of 1-pound cartons, except that wrappers on the subdivisions contained within the retail package shall be exempt from the requirements for label declaration of ingredients of section 403(g)(2), (i)(2), and (k) of the act when the subdivisions are securely enclosed within and are not intended to be separated from the retail package under conditions of retail sale, the wrappers on the subdivisions are labeled with the statement "This Unit Not Labeled For Retail Sale" in type size not less than one-sixteenth inch in height, and each multiunit package principal display panel is labeled with the statement "Inner Units Not Labeled for Retail Sale" in type size not smaller than the minimum size required for the declaration of net quantity of contents by § 101.105 of this chapter.

(Sec. 407, 64 Stat. 20 (21 U.S.C. 347).)

Subpart B—Requirements for Specific Standardized Margarine

§ 166.110 Margarine.

(a) Margarine (or oleomargarine) is the food in plastic form or liquid emulsion, containing not less than 80 percent fat determined by the method prescribed under section 16.163 of the "Indirect Method," "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition 1970.[2] Margarine contains only safe and suitable ingredients. It is produced from one or more of the optional ingredients in paragraph (a) (1) of this section, and one or more of the optional ingredients in subparagraph (a) (2) of this section, to which may be added one or more of the optional ingredients in paragraph (b) of this section. Margarine contains vitamin A as provided for in paragraph (a) (3) of this section.

(1) Edible fats and/or oils, or mixtures of these, whose origin is vegetable or rendered animal carcass fats, any or all of which may have been subjected to an accepted process of physico-chemical modification. They may contain small amounts of other lipids such as phosphatides, or unsaponifiable constituents and of free fatty acids naturally present in the fat or oil.

(2) One or more of the following aqueous phase ingredients:

(i) Water and/or milk and/or milk products.

(ii) Suitable edible protein including, but not limited to, the liquid, condensed, or dry form of whey, whey modified by the reduction of lactose and/or minerals, nonlactose containing whey components, albumin, casein, caseinate, vegetable proteins, or soy protein isolate, in amounts not greater than reasonably required to accomplish the desired effect.

(iii) Any mixture of two or more of the articles named under paragraph (a)(2)(i) and (ii) of this section.

(iv) The ingredients in paragraph (a)(2)(i), (ii), (iii) of this section shall be pasteurized and then may be subjected to the action of harmless bacterial starters. One or more of the articles designated in paragraph (a)(2)(i), (ii), (iii) of this section is intimately mixed with the edible fat and/or oil ingredients to form a solidified or liquid emulsion.

(3) Vitamin A in such quantity that the finished margarine contains not less than 15,000 international units per pound.

(b) Optional ingredients: (1) Vitamin D in such quantity that the finished oleomargarine contains not less than 1,500 international units of vitamin D per pound.

(2) Salt (sodium chloride); potassium chloride for dietary margarine or oleomargarine.

(3) Nutritive carbohydrate sweeteners.

(4) Emulsifiers including but not limited to the following within these maximum amounts in percent by weight of the finished food: Mono- and diglycerides of fatty acids esterified with the following acids; acetic, acetyltartaric, citric, lactic, tartaric, and their sodium and calcium salts, 0.5 percent; such mono- and diglycerides in combination with the sodium sulfo-acetate derivatives thereof, 0.5 percent; polyglycerol esters of fatty acids, 0.5 percent; 1,2-propylene glycol esters of fatty acids, 2 percent; lecithin, 0.5 percent.

(5) Preservatives including but not limited to the following within these maximum amounts in percent by weight of the finished food: Sorbic acid, benzoic acid and their sodium, potassium, and calcium salts, individually, 0.1 percent, or in combination, 0.2 percent, expressed as the acids; calcium disodium EDTA, 0.0075 percent, propyl, octyl, and dodecyl gallates, BHT, BHA, ascorbyl palmitate, ascorbyl stearate, all individually or in combination, 0.02 percent, stearyl citrate, 0.15 percent; isopropyl citrate mixture, 0.02 percent.

(6) Color additives. For the purpose of this subparagraph, provitamin A (beta-carotene) shall be deemed to be a color additive.

(7) Flavoring substances. If the flavoring ingredients impart to the food a flavor other than in semblance of butter, the characterizing flavor shall be declared as part of the name of the food in accordance with § 101.22 of this chapter.

(8) Acidulants.

(9) Alkalizers.

(c) The name of the food for which a definition and standard of identity are prescribed in this section is "margarine" or "oleomargarine".

(d) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter. For the purposes of this section the use of the term "milk" unqualified means milk from cows. If any milk other than cow's milk is used in whole or in part, the animal source shall be identified in conjunction with the word milk in the ingredient statement. Colored margarine shall be subject to the provisions of section 407 of the Federal Food, Drug, and Cosmetic Act as amended.

PART 168—SWEETENERS AND TABLE SIRUPS

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Sweeteners and Table Sirups

Sec.
168.110 Dextrose anhydrous.
168.111 Dextrose monohydrate.
168.120 Glucose sirup.
168.121 Dried glucose sirup.
168.122 Lactose.
168.130 Cane sirup.
168.140 Maple sirup.
168.160 Sorghum sirup.
168.180 Table sirup.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046, as amended, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371).

Subpart A—[Reserved]

Subpart B—Requirements for Specific Standardized Sweeteners and Table Sirups

§ 168.110 Dextrose anhydrous.

(a) Dextrose anhydrous is purified and crystallized D-glucose without water of crystallization and conforms to the specifications of § 168.111, except that the total solids content is not less than 98.0 percent m/m.

(b) The name of the food is "Dextrose anhydrous" or "Anhydrous dextrose".

§ 168.111 Dextrose monohydrate.

(a) Dextrose monohydrate is purified and crystallized D-glucose containing one molecule of water of crystallization with each molecule of D-glucose.

(b) The food shall meet the following specifications:

(1) The total solids content is not less than 90.0 percent mass/mass (m/m), and the reducing sugar content (dextrose equivalent), expressed as D-glucose, is not less than 99.5 percent m/m calculated on a dry basis.

(2) The sulfated ash content is not more than 0.25 percent m/m (calculated on a dry basis), and the sulfur dioxide content is not more than 20 mg/kg.

(c) The name of the food is "Dextrose monohydrate" or Dextrose".

(d) For purposes of this section, the methods of analysis to be used to determine if the food meets the specifications of paragraph (b)(1) and (2) of this section are the following sections in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970:[2]

(1) Total solids content, 31.005.
(2) Reducing sugar content, 31.212(a).
(3) Sulfated ash content, 31.208.
(4) Sulfur dioxide content, 20.090–20.095.

§ 168.120 Glucose sirup.

(a) Glucose sirup is the purified, concentrated, aqueous solution of nutritive saccharides obtained from edible starch.

(b) The food shall meet the following specifications:

(1) The total solids content is not less than 70.0 percent mass/mass (m/m), and the reducing sugar content (dextrose equivalent), expressed as D-glucose, is not less than 20.0 percent m/m calculated on a dry basis.

(2) The sulfated ash content is not more than 1.0 percent m/m (calculated on a dry basis), and the sulfur dioxide content is not more than 40 mg/kg.

(c) The name of the food is "Glucose sirup". When the food is derived from a specific type of starch, the name may alternatively be "_____ sirup", the blank to be filled in with the name of the starch. For example, "Corn sirup", "Wheat sirup", "Tapioca sirup". When the starch is derived from sorghum grain, the alternative name of the food is "Sorghum grain sirup". The word "sirup" may also be spelled "syrup".

(d) For purposes of this section, the methods of analysis to be used to determine if a food meets the specifications of paragraph (b)(1) and (2) of this section are the following sections in "Official Methods of Analysis of the Association of Official Analytical Chemists", 11th Ed., 1970:[2]

(1) Total solids content, 31.200–31.201.
(2) Reducing sugar content, 31.212(a).
(3) Sulfated ash content, 31.208.
(4) Sulfur dioxide content, 20.090–20.095.

§ 168.121 Dried glucose sirup.

(a) Dried glucose sirup is glucose sirup from which the water has been partially removed and conforms to the specifications of § 168.120, except that:

(1) The total solids content is not less than 90.0 percent m/m when the reducing sugar content (dextrose equivalent), expressed as D-glucose, is not less than 88.0 percent m/m, calculated on a dry basis; or

(2) The total solids content is not less than 93.0 percent m/m when the reducing sugar content, (dextrose equivalent) expressed as D-glucose, is less than 88.0 percent m/m, calculated on a dry basis.

(b) The name of the food is "Dried glucose sirup" or "Glucose sirup solids".

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

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When the food is derived from a specific type of starch, the name may alternatively be "Dried _____ sirup" or "_____ sirup solids", the blank to be filled in with the name of the starch; for example, "Dried corn sirup", "Corn sirup solids", Dried wheat sirup", "Wheat sirup solids", "Dried tapioca sirup", "Tapioca sirup solids". When the starch is derived from sorghum grain, the alternative name of the food is "Dried sorghum grain sirup" or "Sorghum grain sirup solids". The word "sirup" may also be spelled "syrup".

§ 168.122 Lactose.

(a) Lactose is the carbohydrate normally obtained from whey. It may be anhydrous or contain one molecule of water of crystallization or be a mixture of both forms.

(b) The food shall meet the following specifications:

(1) The lactose content is not less than 99.0 percent, mass over mass (m/m), calculated on a dry basis.

(2) The sulfated ash content is not more than 0.3 percent, m/m, calculated on a dry basis.

(3) The pH of a 10.0 percent, m/m, solution is not less than 4.5 nor more than 7.0.

(4) The loss on drying for 16 hours at 120° C is not more than 6.0 percent, m/m.

(c) The name of the food is "Lactose" or, alternatively, "Milk sugar".

(d) (1) The methods of analysis to be used to determine whether the food meets the requirements of paragraph (b) (1), (2), and (3) of this section are the following sections in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th ed., 1975: [1]

(i) Lactose content, section 31.062.

(ii) Sulfated ash content, section 31.014.

(iii) pH, section 14.022, except that a 10.0 percent, m/m, solution of lactose in water is used for the determination.

(2) The method of analysis to be used to determine if the food meets the requirement of paragraph (b) (4) of this section is the following: Loss on drying at 120° C, "United States Pharmacopeia," 18th Revision, 1970, pages 358 and 935.

§ 168.130 Cane sirup.

(a) Cane sirup is the liquid food derived by concentration and heat treatment of the juice of sugarcane (*Saccharum officinarum* L.) or by solution in water of sugarcane concrete made from such juice. It contains not less than 74 percent by weight of soluble solids derived solely from such juice. The concentration may be adjusted with or without added water. It may contain one or more of the optional ingredients provided for in paragraph (b) of this section. All ingredients from which the food is fabricated shall be safe and suitable.

(b) The optional ingredients that may be used in cane sirup are:

(1) Salt.

(2) Preservatives.

(3) Defoaming agents.

(c) The name of the food is "Cane sirup" or "Sugar cane sirup". Alternatively, the word "sirup" may be spelled "syrup".

(d) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 168.140 Maple sirup.

(a) Maple sirup is the liquid food derived by concentration and heat treatment of the sap of the maple tree (*Acer*) or by solution in water of maple sugar (maple concrete) made from such sap. It contains not less than 66 percent by weight of soluble solids derived solely from such sap. The concentration may be adjusted with or without added water. It may contain one or more of the optional ingredients provided for in paragraph (b) of this section. All ingredients from which the food is fabricated shall be safe and suitable.

(b) The optional ingredients that may be used in maple sirup are:

(1) Salt.

(2) Chemical preservatives.

(3) Defoaming agents.

(c) The name of the food is "Maple sirup". Alternatively, the word "sirup" may be spelled "syrup".

(d) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 168.160 Sorghum sirup.

(a) Sorghum sirup is the liquid food derived by concentration and heat treatment of the juice of sorghum cane (sorgos) (*Sorghum vulgare*). It contains not less than 74 percent by weight of soluble solids derived solely from such juice. The concentration may be adjusted with or without added water. It may contain one or more of the optional ingredients provided for in paragraph (b) of this section. All ingredients from which the food is fabricated shall be safe and suitable.

(b) The optional ingredients that may be used in sorghum sirup are:

(1) Salt.

(2) Chemical preservatives.

(3) Defoaming agents.

(4) Enzymes.

(5) Anticrystallizing agents.

(6) Antisolidifying agents.

(c) The name of the food is "Sorghum sirup" or "Sorghum". Alternatively, the word "sirup" may be spelled "syrup".

(d) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 168.180 Table sirup.

(a) Table sirup is the liquid food consisting of one or more of the optional sweetening ingredients provided for in paragraph (b) (1) of this section. The food contains not less than 65 percent soluble sweetener solids by weight and is prepared with or without added water. It may contain one or more of the optional ingredients prescribed in paragraphs (b) (2) through (12) of this section. All ingredients from which the food is fabricated shall be safe and suitable. (Vitamins, minerals, and protein added for nutritional purposes and artificial sweeteners are not considered to be suitable ingredients for this food.)

(b) The optional ingredients that may be used in table sirup are:

(1) One or more of the nutritive carbohydrate sweeteners provided for in this paragraph (b) (1). When a sweetener provided for in paragraph (b) (1) (i) or (ii) of this section is used it shall constitute not less than 2 percent by weight of the finished food.

(i) The sirups identified by §§ 168.130, 168.140, and 168.160, except that the use of any such ingredient is so limited that the finished food does not meet the requirement prescribed for any sirup by §§ 168.130, 168.140, or 168.160.

(ii) Honey.

(iii) Other nutritive carbohydrate sweeteners.

(2) Butter, in a quantity not less than 2 percent by weight of the finished food.

(3) Edible fats and oils, except that, in products designated as "buttered sirups", butter as provided for in paragraph (b) (2) of this section is the only fat that may be used.

(4) Emulsifiers or stabilizers or both.

(5) Natural and artificial flavorings, either fruit or nonfruit, alone or in carriers.

(6) Color additives.

(7) Salt.

(8) Chemical preservatives.

(9) Viscosity adjusting agents.

(10) Acidifying, alkalizing, or buffering agents.

(11) Defoaming agents.

(12) Any other ingredient (e.g., shredded cocoanut, ground orange peel) that is not incompatible with other ingredients in the food.

(c) Except as provided for in this paragraph and in paragraph (d) (2) and (3) of this section, the name of the food is "Table sirup", "Sirup", "Pancake sirup", "Waffle sirup", "Pancake and waffle sirup", or "_____ sirup", the blank being filled in with the word or words that designate the sweetening ingredient that characterizes the food, except "maple", "cane", or "sorghum" alone, such sirups being required to comply in all respects with §§ 168.130, 168.140, and 168.160, respectively, and in the case of more than one sweetening ingredient, in descending order of predominance by weight in the food. The type shall be of uniform style and size.

(1) When one of the sweeteners constitutes at least 80 percent of the total sweetener solids, the name of the food may be designated as the corresponding sirup, for example, "Corn sirup", provided that the name is immediately and conspicuously followed, without intervening written, printed, or graphic matter, by the statement "with _____" as part of the name, the blank being filled in with the name or names of each additional sweetening ingredient present, stated in a clear legible manner in letters of uniform style and size not less than one-half the height of, nor larger than, the letters used in the name of the principal sweetener.

(2) When butter is used, as provided for in paragraph (b) (2) of this section, the name of the food may be "Buttered _____", the blank being filled in with the name otherwise prescribed in this paragraph. The percentage by weight of butter present shall be declared as part of the name of the food as prescribed by Part 102 of this chapter.

(3) Alternatively, the word "sirup" may be spelled "syrup".

(d) (1) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(2) A statement (other than in the ingredient listing) or a vignette identifying a flavor may be included on the label only if such flavor contributes the primary recognizable flavor that characterizes the sirup. When maple, honey, or both maple and honey are represented as the characterizing flavors, the total quantity of maple sirup or honey, singly, or of maple sirup and honey in combination, shall be not less than 10 percent by weight of the finished food. The presence of any natural or artificial flavor in the food shall be declared on the label as prescribed by the applicable sections of Part 101 of this chapter.

(3) The percentage of any optional ingredient used shall be declared as part of the name of the food as prescribed by Part 102 of this chapter when all of the following conditions apply to the use of the ingredient:

(i) It is one of the characterizing ingredients permitted by paragraph (b) (1) (i) and (ii) of this section.

(ii) The ingredient is either named on the label other than in the list of ingredients or is suggested by vignette or other labeling.

PART 169—FOOD DRESSINGS AND FLAVORINGS

Subpart A—General Provisions

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169.175 Vanilla extract.
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169.179 Vanilla powder.
169.180 Vanilla-vanillin extract.
169.181 Vanilla-vanillin flavoring.
169.182 Vanilla-vanillin powder.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046 as amended, 1055–1056, as amended by 70 Stat. 919 (21 U.S.C. 341, 371) unless otherwise noted.

Subpart A—General Provisions

§ 169.3 Definitions.

For the purposes of this part:

(a) The term "vanilla beans" means the properly cured and dried fruit pods of *Vanilla planifolia Andrews* and of *Vanilla tahitensis Moore*.

(b) The term "unit weight of vanilla beans" means, in the case of vanilla beans containing not more than 25 percent moisture, 13.35 ounces of such beans; and, in the case of vanilla beans containing more than 25 percent moisture, it means the weight of such beans equivalent in content of moisture-free vanilla-bean solids to 13.35 ounces of vanilla beans containing 25 percent moisture. (For example, one unit weight of vanilla beans containing 33.25 percent moisture amounts to 15 ounces.) The moisture content of vanilla beans is determined by the method prescribed in Official Methods of Analysis of the Association of Official Agricultural Chemists, Ninth Edition, 1960, sections 22.004 and 22.005 [Ed. note, 10th edition, 1965, p. 327, secs. 22.004, 22.005], except that the toluene used is blended with 20 percent by volume of benzene and the total distillation time is 4 hours. To prepare samples for analysis, the pods are chopped into pieces approximately ¼-inch in longest dimension, using care to avoid moisture change.

(c) The term "unit of vanilla constituent" means the total sapid and odorous principles extractable from one unit weight of vanilla beans, as defined in paragraph (b) of this section, by an aqueous alcohol solution in which the content of ethyl alcohol by volume amounts to not less than 35 percent.

Subpart B—Requirements for Specific Standardized Food Dressings and Flavorings

§ 169.115 French dressing.

(a) *Description.* French dressing is the separable liquid food or the emulsified viscous fluid food prepared from vegetable oil(s) and one or both of the acidifying ingredients specified in paragraph (b) of this section. One or more of the ingredients specified in paragraph (c) of this section may also be used. The vegetable oil(s) used may contain an optional crystallization inhibitor as specified in paragraph (c) (11) of this section. All the ingredients from which the food is fabricated shall be safe and suitable. French dressing contains not less than 35 percent by weight of vegetable oil. French dressing may be mixed and packed in an atmosphere in which air is replaced in whole or in part by carbon dioxide or nitrogen.

(b) *Acidifying ingredients.* (1) Any vinegar or any vinegar diluted with water, or any such vinegar or diluted vinegar mixed with an optional acidifying ingredient as specified in paragraph (c) (9) of this section. For the purpose of this paragraph, any blend of two or more vinegars is considered to be a vinegar.

(2) Lemon juice and/or lime juice in any appropriate form, which may be diluted with water.

(c) *Other optional ingredients.* The following optional ingredients may also be used:

(1) Salt.

(2) Nutritive carbohydrate sweeteners.

(3) Spices and/or natural flavorings.

(4) Monosodium glutamate.

(5) Tomato paste, tomato puree, catsup, sherry wine.

(6) Eggs and ingredients derived from eggs.

(7) Color additives that will impart the color traditionally expected.

(8) Stabilizers and thickeners to which calcium carbonate or sodium hexametaphosphate may be added. Dioctyl sodium sulfosuccinate may be added in accordance with § 172.810 of this chapter.

(9) Citric and/or malic acid, in an amount not greater than 25 percent of the weight of the acids of the vinegar or diluted vinegar calculated as acetic acid.

(10) Sequestrant(s), including but not limited to calcium disodium EDTA (calcium disodium ethylenediaminetetraacetate) and/or disodium EDTA (disodium ethylenediaminetetraacetate), may be used to preserve color and/or flavor.

(11) Crystallization inhibitors, including but not limited to oxystearin, lecithin, or polyglycerol esters of fatty acids.

(d) *Nomenclature.* The name of the food is "French dressing".

(e) *Label declaration of ingredients.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 169.140 Mayonnaise.

(a) *Description.* Mayonnaise, mayonnaise dressing, is the emulsified semisolid food prepared from vegetable oil(s), one or both of the acidifying ingredients specified in paragraph (b) of this section, and one or more of the egg yolk-containing ingredients specified in paragraph (c) of this section. One or more of the ingredients specified in paragraph (d) of this section may also be used. The vegetable oil(s) used may contain an optional crystallization inhibitor as specified in paragraph (d) (7) of this section. All the ingredients from which the food is fabricated shall be safe and suitable. Mayonnaise contains not less than 65 percent by weight of vegetable oil. Mayonnaise may be mixed and packed in an atmosphere in which air is replaced in whole or in part by carbon dioxide or nitrogen.

(b) *Acidifying ingredients.* (1) Any vinegar or any vinegar diluted with water to an acidity, calculated as acetic acid, of not less than 2½ percent by weight, or any such vinegar or diluted vinegar mixed with an optional acidifying ingredient as specified in paragraph (d) (6) of this section. For the purpose of this paragraph, any blend of two or more vinegars is considered to be a vinegar.

(2) Lemon juice and/or lime juice in any appropriate form, which may be diluted with water to an acidity, calculated as citric acid, of not less than 2½ percent by weight.

(c) *Egg yolk-containing ingredients.* Liquid egg yolks, frozen egg yolks, dried egg yolks, liquid whole eggs, frozen whole eggs, dried whole eggs, or any one or more of the foregoing ingredients listed in this paragraph with liquid egg white or frozen egg white.

(d) *Other optional ingredients.* The following optional ingredients may also be used:

(1) Salt.

(2) Nutritive carbohydrate sweeteners.

Vanilla powder may contain one or any and is subject to any requirement for

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(3) Any spice (except saffron or turmeric) or natural flavoring, provided it does not impart to the mayonnaise a color simulating the color imparted by egg yolk.
(4) Monosodium glutamate.
(5) Sequestrant(s), including but not limited to calcium disodium EDTA (calcium disodium ethylenediaminetetraacetate) and/or disodium EDTA (disodium ethylenediaminetetraacetate), may be used to preserve color and/or flavor.
(6) Citric and/or malic acid in an amount not greater than 25 percent of the weight of the acids of the vinegar or diluted vinegar, calculated as acetic acid.
(7) Crystallization inhibitors, including but not limited to oxystearin, lecithin, or polyglycerol esters of fatty acids.

(e) *Nomenclature.* The name of the food is "Mayonnaise" or "Mayonnaise dressing".

(f) *Label declaration of ingredients.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 169.150 Salad dressing.

(a) *Description.* Salad dressing is the emulsified semisolid food prepared from vegetable oil(s), one or both of the acidifying ingredients specified in paragraph (b) of this section, one or more of the egg yolk-containing ingredients specified in paragraph (c) of this section, and a cooked or partly cooked starchy paste prepared as specified in paragraph (d) of this section. One or more of the ingredients in paragraph (e) of this section may also be used. The vegetable oil(s) used may contain an optional crystallization inhibitor as specified in paragraph (e)(8) of this section. All the ingredients from which the food is fabricated shall be safe and suitable. Salad dressing contains not less than 30 percent by weight of vegetable oil and not less egg yolk-containing ingredient than is equivalent in egg yolk solids content to 4 percent by weight of liquid egg yolks. Salad dressing may be mixed and packed in an atmosphere in which air is replaced in whole or in part by carbon dioxide or nitrogen.

(b) *Acidifying ingredients.* (1) Any vinegar or any vinegar diluted with water, or any such vinegar or diluted vinegar mixed with an optional acidifying ingredient as specified in paragraph (e)(6) of this section. For the purpose of this paragraph, any blend of two or more vinegars is considered to be a vinegar.

(2) Lemon juice and/or lime juice in any appropriate form, which may be diluted with water.

(c) *Egg yolk-containing ingredients.* Liquid egg yolks, frozen egg yolks, dried egg yolks, liquid whole eggs, frozen whole eggs, dried whole eggs, or any one of more of the foregoing ingredients listed in this paragraph with liquid egg white or frozen egg white.

(d) *Starchy paste.* It may be prepared from a food starch, food starch-modified, tapioca flour, wheat flour, rye flour, or any two or more of these. Water may be added in the preparation of the paste.

(e) *Other optional ingredients.* The following optional ingredients may also be used.
(1) Salt.
(2) Nutritive carbohydrate sweeteners.
(3) Any spice (except saffron or turmeric) or natural flavoring, provided it does not impart to the salad dressing a color simulating the color imparted by egg yolk.
(4) Monosodium glutamate.
(5) Stabilizers and thickeners. Dioctyl sodium sulfosuccinate may be added in accordance with § 172.810 of this chapter.
(6) Citric and/or malic acid may be used in an amount not greater than 25 percent of the weight of the acids of the vinegar or diluted vinegar calculated as acetic acid.
(7) Sequestrant(s), including but not limited to calcium disodium EDTA (calcium disodium ethylenediaminetetraacetate) and/or disodium EDTA (disodium ethylenediaminetetraactetate), may be used to preserve color and/or flavor.
(8) Crystallization inhibitors, including but not limited to oxystearin, lecithin, or polyglycerol esters of fatty acids.

(f) *Nomenclature.* The name of the food is "Salad dressing".

(g) *Label declaration of optional ingredients.* Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 169.175 Vanilla extract.

(a) Vanilla extract is the solution in aqueous ethyl alcohol of the sapid and odorous principles extractable from vanilla beans. In vanilla extract the content of ethyl alcohol is not less than 35 percent by volume and the content of vanilla constituent, as defined in § 169.3(c), is not less than one unit per gallon. The vanilla constituent may be extracted directly from vanilla beans or it may be added in the form of concentrated vanilla extract or concentrated vanilla flavoring or vanilla flavoring concentrated to the semisolid form called vanilla oleoresin. Vanilla extract may contain one or more of the following optional ingredients:
(1) Glycerin.
(2) Propylene glycol.
(3) Sugar (including invert sugar).
(4) Dextrose.
(5) Corn sirup (including dried corn sirup).

(b)(1) The specified name of the food is "Vanilla extract" or "Extract of vanilla".

(2) When the vanilla extract is made in whole or in part by dilution of vanilla oleoresin, concentrated vanilla extract, or concentrated vanilla flavoring, the label shall bear the statement "Made from _____" or "Made in part from _____", the blank being filled in with the name or names "vanilla oleoresin", "concentrated vanilla extract", or "concentrated vanilla flavoring", as appropriate. If the article contains two or more units of vanilla constituent, the name of the food shall include the designation "_____ fold", the blank being filled in with the whole number (disregarding fractions) expressing the number of units of vanilla constituent per gallon of the article.

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the labeling required by paragraph (b)(2) of this section shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 169.176 Concentrated vanilla extract.

(a) Concentrated vanilla extract conforms to the definition and standard of identity and is subject to any requirement for label statement of optional ingredients prescribed for vanilla extract by § 169.175, except that it is concentrated to remove part of the solvent, and each gallon contains two or more units of vanilla constituent as defined in § 169.3(c). The content of ethyl alcohol is not less than 35 percent by volume.

(b) The specified name of the food is "Concentrated vanilla extract _____ fold" or "_____ fold concentrated vanilla extract", the blank being filled in with the whole number (disregarding fractions) expressing the number of units of vanilla constituent per gallon of the article. (For example, "Concentrated vanilla extract 2-fold".)

§ 169.177 Vanilla flavoring.

(a) Vanilla flavoring conforms to the definition and standard of identity and is subject to any requirement for label statement of optional ingredients prescribed for vanilla extract by § 169.175, except that its content of ethyl alcohol is less than 35 percent by volume.

(b) The specified name of the food is "Vanilla flavoring".

§ 169.178 Concentrated vanilla flavoring.

(a) Concentrated vanilla flavoring conforms to the definition and standard of identity and is subject to any requirement for label statement of optional ingredients prescribed for vanilla flavoring by § 169.177, except that it is concentrated to remove part of the solvent, and each gallon contains two or more units of vanilla constituent as defined in § 169.3(c).

(b) The specified name of the food is "Concentrated vanilla flavoring _____ fold" or "_____ fold concentrated vanilla flavoring", the blank being filled in with the whole number (disregarding fractions) expressing the number of units of vanilla constituent per gallon of the article. (For example, "Concentrated vanilla flavoring 3-fold".)

§ 169.179 Vanilla powder.

(a) Vanilla powder is a mixture of ground vanilla beans or vanilla oleoresin or both, with one or more of the following optional blending ingredients:
(1) Sugar.
(2) Dextrose.
(3) Lactose.
(4) Food starch (including food starch-modified as prescribed in § 172.892 of this chapter).
(5) Dried corn sirup.
(6) Gum acacia.

Vanilla powder may contain one or any mixture of two or more of the anticaking ingredients specified in paragraph (b) of this section, but the total weight of any such ingredient or mixture is not more than 2 percent of the weight of the finished vanilla powder. Vanilla powder contains in each 8 pounds not less than one unit of vanilla constituent, as defined in § 169.3(c).

(b) The anticaking ingredients referred to in paragraph (a) of this section are:
(1) Aluminum calcium silicate.
(2) Calcium silicate.
(3) Calcium stearate.
(4) Magnesium silicate.
(5) Tricalcium phosphate.

(c)(1) The specified name of the food is "Vanilla powder _____ fold" or "_____ fold vanilla powder", except that if sugar is the optional blending ingredient used, the word "sugar" may replace the word "powder". The blank in the name is filled in with the whole number (disregarding fractions) expressing the number of units of vanilla constituent per 8 pounds of the article. However, if the strength of the article is less than 2-fold, the term "_____ fold" is omitted from the name.

(2) The label of vanilla powder shall bear the common names of any of the optional ingredients specified in paragraphs (a) and (b) of this section that are used, except that where the alternative name "Vanilla sugar" is used for designating the food it is not required that sugar be named as an optional ingredient.

(3) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the labeling required by paragraph (c)(2) of this section shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 169.180 Vanilla-vanillin extract.

(a) Vanilla-vanillin extract conforms to the definition and standard of identity and is subject to any requirement for label statement of optional ingredients prescribed for vanilla extract by § 169.175, except that for each unit of vanilla constituent, as defined in § 169.3(c), contained therein, the article also contains not more than 1 ounce of added vanillin.

(b) The specified name of the food is "Vanilla-vanillin extract _____ fold" or "_____ fold vanilla-vanillin extract", followed immediately by the statement "contains vanillin, an artificial flavor (or flavoring)". The blank in the name is filled in with the whole number (disregarding fractions) expressing the sum of the number of units of vanilla constituent plus the number of ounces of added vanillin per gallon of the article. However, if the strength of the article is less than 2-fold, the term "_____ fold" is omitted from the name.

§ 169.181 Vanilla-vanillin flavoring.

(a) Vanilla-vanillin flavoring conforms to the definition and standard of identity and is subject to any requirement for label statement of optional ingredients prescribed for vanilla-vanillin extract by § 169.180, except that its content of ethyl alcohol is less than 35 percent by volume.

(b) The specified name of the food is "Vanilla-vanillin flavoring _____ fold" or "_____ fold vanilla-vanillin flavoring", followed immediately by the statement "contains vanillin, an artificial flavor (or flavoring)". The blank in the name is filled in with the whole number (disregarding fractions) expressing the sum of the number of units of vanilla constituent plus the number of ounces of added vanillin per gallon of the article. However, if the strength of the article is less than 2-fold, the term "_____ fold" is omitted from the name.

§ 169.182 Vanilla-vanillin powder.

(a) Vanilla-vanillin powder conforms to the definition and standard of identity and is subject to any requirement for label statement of optional ingredients prescribed for vanilla powder by § 169.179, except that for each unit of vanilla constituent as defined in § 169.3(c) contained therein, the article also contains not more than 1 ounce of added vanillin.

(b) The specified name of the food is "Vanilla-vanillin powder _____ fold" or "_____ fold vanilla-vanillin powder", followed immediately by the statement "contains vanillin, an artificial flavor (or flavoring)". If sugar is the optional blending ingredient used, the word "sugar" may replace the word "powder" in the name. The blank in the name is filled in with the whole number (disregarding fractions) expressing the sum of the number of units of vanilla constituent plus the number of ounces of added vanillin per 8 pounds of the article. However, if the strength of the article is less than 2-fold the term "_____ fold" is omitted from the name.

PART 170—FOOD ADDITIVES

Subpart A—General Provisions

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AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—General Provisions

§ 170.3 Definitions.

For the purposes of this subchapter, the following definitions apply:

(a) "Secretary" means the Secretary of Health, Education, and Welfare.

(b) "Department" means the Department of Health, Education, and Welfare.

(c) "Commissioner" means the Commissioner of Food and Drugs.

(d) As used in this part, the term "act" means the Federal Food, Drug, and Cosmetic Act approved June 25, 1936, 52 Stat. 1040 et seq., as amended (21 U.S.C. 301–392).

(e) "Food additives" includes all substances not exempted by section 201(s) of the act, the intended use of which results or may reasonably be expected to result, directly or indirectly, either in their becoming a component of food or otherwise affecting the characteristics of food. A material used in the production of containers and packages is subject to the definition if it may reasonably be expected to become a component, or to affect the characteristics, directly or indirectly, of food packed in the container. "Affecting the characteristics of food" does not include such physical effects, as protecting contents of packages, preserving shape, and preventing moisture loss. If there is no migration of a packaging component from the package to the food, it does not become a component of the food and thus is not a food additive. A substance that does not become a component of food, but that is used, for example, in preparing an ingredient of the food to give a different flavor, texture, or other characteristic in the food, may be a food additive.

(f) "Common use in food" means a substantial history of consumption of a substance by a significant number of consumers in the United States.

(g) The word "substance" in the definition of the term "food additive" includes a food or food component consisting of one or more ingredients.

(h) "Scientific procedures" include those human, animal, analytical, and other scientific studies, whether published or unpublished, appropriate to establish the safety of a substance.

(i) "Safe" or "safety" means that there is a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use. It is impossible in the present state of scientific knowledge to establish with complete certainty the absolute harmlessness of the use of any substance. Safety may be determined by scientific procedures or by general recognition of safety. In determining safety, the following factors shall be considered:

(1) The probable consumption of the substance and of any substance formed in or on food because of its use.

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(2) The cumulative effect of the substance in the diet, taking into account any chemically or pharmacologically related substance or substances in such diet.

(3) Safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of food and food ingredients, are generally recognized as appropriate.

(j) The term "nonperishable processed food" means any processed food not subject to rapid decay or deterioration that would render it unfit for consumption. Examples are flour, sugar, cereals, packaged cookies, and crackers. Not included are hermetically sealed foods or manufactured dairy products and other processed foods requiring refrigeration.

(k) "General recognition of safety" shall be determined in accordance with § 170.30.

(l) "Prior sanction" means an explicit approval granted with respect to use of a substance in food prior to September 6, 1958, by the Food and Drug Administration or the United States Department of Agriculture pursuant to the Federal Food, Drug, and Cosmetic Act, the Poultry Products Inspection Act, or the Meat Inspection Act.

(m) "Food" includes human food, substances migrating to food from food-contact articles, pet food, and animal feed.

(n) The following general food categories are established to group specific related foods together for the purpose of establishing tolerances or limitations for the use of direct human food ingredients. Individual food products will be included within these categories according to the detailed classification lists contained in Exhibit 33B of the report of the National Academy of Sciences/National Research Council report, "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe" (September 1972):[10]

(1) Baked goods and baking mixes, including all ready-to-eat and ready-to-bake products, flours, and mixes requiring preparation before serving.

(2) Beverages, alcoholic, including malt beverages, wines, distilled liquors, and cocktail mix.

(3) Beverages and beverage bases, nonalcoholic, including only special or spiced teas, soft drinks, coffee substitutes, and fruit and vegetable flavored gelatin drinks.

(4) Breakfast cereals, including ready-to-eat and instant and regular hot cereals.

(5) Cheeses, including curd and whey cheeses, cream, natural, grating, processed, spread, dip, and miscellaneous cheeses.

(6) Chewing gum, including all forms.

(7) Coffee and tea, including regular, decaffeinated, and instant types.

(8) Condiments and relishes, including plain seasoning sauces and spreads, olives, pickles, and relishes, but not spices or herbs.

(9) Confections and frostings, including candy and flavored frostings, marshmallows, baking chocolate, and brown, lump, rock, maple, powdered, and raw sugars.

(10) Dairy product analogs, including nondairy milk, frozen or liquid creamers, coffee whiteners, toppings, and other nondairy products.

(11) Egg products, including liquid, frozen, or dried eggs, and egg dishes made therefrom, i.e., egg roll, egg foo young, egg salad, and frozen multicourse egg meals, but not fresh eggs.

(12) Fats and oils, including margarine, dressings for salads, butter, salad oils, shortenings and cooking oils.

(13) Fish products, including all prepared main dishes, salads, appetizers, frozen multicourse meals, and spreads containing fish, shellfish, and other aquatic animals, but not fresh fish.

(14) Fresh eggs, including cooked eggs and egg dishes made only from fresh shell eggs.

(15) Fresh fish, including only fresh and frozen fish, shellfish, and other aquatic animals.

(16) Fresh fruits and fruit juices, including only raw fruits, citrus, melons, and berries, and home-prepared "-ades" and punches made therefrom.

(17) Fresh meats, including only fresh or home-frozen beef or veal, pork, lamb or mutton and home-prepared fresh meat-containing dishes, salads, appetizers, or sandwich spreads made therefrom.

(18) Fresh poultry, including only fresh or home-frozen poultry and game birds and home-prepared fresh poultry-containing dishes, salads, appetizers, or sandwich spreads made therefrom.

(19) Fresh vegetables, tomatoes, and potatoes, including only fresh and home-prepared vegetables.

(20) Frozen dairy desserts and mixes, including ice cream, ice milks, sherbets, and other frozen dairy desserts and specialties.

(21) Fruit and water ices, including all frozen fruit and water ices.

(22) Gelatins, puddings, and fillings, including flavored gelatin desserts, puddings, custards, parfaits, pie fillings, and gelatin base salads.

(23) Grain products and pastas, including macaroni and noodle products, rice dishes, and frozen multicourse meals, without meat or vegetables.

(24) Gravies and sauces, including all meat sauces and gravies, and tomato, milk, buttery, and specialty sauces.

(25) Hard candy and cough drops, including all hard type candies.

(26) Herbs, seeds, spices, seasonings, blends, extracts, and flavorings, including all natural and artificial spices, blends, and flavors.

(27) Jams and jellies, home-prepared, including only home-prepared jams, jellies, fruit butters, preserves, and sweet spreads.

(28) Jams and jellies, commercial, including only commercially processed jams, jellies, fruit butters, preserves, and sweet spreads.

(29) Meat products, including all meats and meat containing dishes, salads, appetizers, frozen multicourse meat meals, and sandwich ingredients prepared by commercial processing or using commercially processed meats with home preparation.

(30) Milk, whole and skim, including only whole, lowfat, and skim fluid milks.

(31) Milk products, including flavored milks and milk drinks, dry milks, toppings, snack dips, spreads, weight control milk beverages, and other milk origin products.

(32) Nuts and nut products, including whole or shelled tree nuts, peanuts, coconut, and nut and peanut spreads.

(33) Plant protein products, including the National Academy of Sciences/National Research Council "reconstituted vegetable protein" category, and meat, poultry, and fish substitutes, analogs, and extender products made from plant proteins.

(34) Poultry products, including all poultry and poultry-containing dishes, salads, appetizers, frozen multicourse poultry meals, and sandwich ingredients prepared by commercial processing or using commercially processed poultry with home preparation.

(35) Processed fruits and fruit juices, including all commercially processed fruits, citrus, berries, and mixtures; salads, juices and juice punches, concentrates, dilutions, "-ades", and drink substitutes made therefrom.

(36) Processed vegetables and vegetable juices, including all commercially processed vegetables, vegetable dishes, frozen multicourse vegetable meals, and vegetable juices and blends.

(37) Snack foods, including chips, pretzels, and other novelty snacks.

(38) Soft candy, including candy bars, chocolates, fudge, mints, and other chewy or nougat candies.

(39) Soups, home-prepared, including meat, fish, poultry, vegetable, and combination home-prepared soups.

(40) Soups and soup mixes, including commercially prepared meat, fish, poultry, vegetable, and combination soups and soup mixes.

(41) Sugar, white, granulated, including only white granulated sugar.

(42) Sugar substitutes, including granulated, liquid, and tablet sugar substitutes.

(43) Sweet sauces, toppings, and syrups, including chocolate, berry, fruit, corn syrup, and maple sweet sauces and toppings.

(o) The following terms describe the physical or technical functional effects for which direct human food ingredients may be added to foods. They are adopted from the National Academy of Sciences/National Research Council national survey of food industries, reported to the Food and Drug Administration under the contract title "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe" (September 1972):[10]

(1) "Anticaking agents and free-flow agents": Substances added to finely powdered or crystalline food products to prevent caking, lumping, or agglomeration.

(2) "Antimicrobial agents": Substances used to preserve food by preventing growth of microorganisms and subsequent spoilage, including fungistats, mold and rope inhibitors, and the effects listed by the National Academy of Sciences/National Research Council under "preservatives."

(3) "Antioxidants": Substances used to preserve food by retarding deterioration, rancidity, or discoloration due to oxidation.

(4) "Colors and coloring adjuncts": Substances used to impart, preserve, or enhance the color or shading of a food, including color stabilizers, color fixatives, color-retention agents, etc.

(5) "Curing and pickling agents": Substances imparting a unique flavor and/or color to a food, usually producing an increase in shelf life stability.

(6) "Dough strengtheners": Substances used to modify starch and gluten, thereby producing a more stable dough, including the applicable effects listed by the National Academy of Sciences/National Research Council under "dough conditioner."

(7) "Drying agents": Substances with moisture-absorbing ability, used to maintain an environment of low moisture.

(8) "Emulsifiers and emulsifier salts": Substances which modify surface tension in the component phase of an emulsion to establish a uniform dispersion or emulsion.

(9) "Enzymes": Enzymes used to improve food processing and the quality of the finished food.

(10) "Firming agents": Substances added to precipitate residual pectin, thus strengthening the supporting tissue and preventing its collapse during processing.

(11) "Flavor enhancers": Substances added to supplement, enhance, or modify the original taste and/or aroma of a food, without imparting a characteristic taste or aroma of its own.

(12) "Flavoring agents and adjuvants": Substances added to impart or help impart a taste or aroma in food.

(13) "Flour treating agents": Substances added to milled flour, at the mill, to improve its color and/or baking qualities, including bleaching and maturing agents.

(14) "Formulation aids": Substances used to promote or produce a desired physical state or texture in food, including carriers, binders, fillers, plasticizers, film-formers, and tableting aids, etc.

(15) "Fumigants": Volatile substances used for controlling insects or pests.

(16) "Humectants": Hygroscopic substances incorporated in food to promote retention of moisture, including moisture-retention agents and antidusting agents.

(17) "Leavening agents": Substances used to produce or stimulate production of carbon dioxide in baked goods to impart a light texture, including yeast, yeast foods, and calcium salts listed by the National Academy of Sciences/National Research Council under "dough conditioners."

(18) "Lubricants and release agents": Substances added to food contact surfaces to prevent ingredients and finished products from sticking to them.

(19) "Non-nutritive sweeteners": Substances having less than 2 percent of the caloric value of sucrose per equivalent unit of sweetening capacity.

(20) "Nutrient supplements": Substances which are necessary for the body's nutritional and metabolic processes.

(21) "Nutritive sweeteners": Substances having greater than 2 percent of the caloric value of sucrose per equivalent unit of sweetening capacity.

(22) "Oxidizing and reducing agents": Substances which chemically oxidize or reduce another food ingredient, thereby producing a more stable product, including the applicable effect listed by the National Academy of Sciences/National Research Council under "dough conditioners."

(23) "pH control agents": Substances added to change or maintain active acidity or basicity, including buffers, acids, alkalies, and neutralizing agents.

(24) "Processing aids": Substances used as manufacturing aids to enhance the appeal or utility of a food or food component, including clarifying agents, clouding agents, catalysts, flocculents, filters aids, and crystallization inhibitors, etc.

(25) "Propellants, aerating agents, and gases": Gases used to supply force to expel a product or used to reduce the amount of oxygen in contact with the food in packaging.

(26) "Sequestrants": Substances which combine with polyvalent metal ions to form a soluble metal complex, to improve the quality and stability of products.

(27) "Solvents and vehicles": Substances used to extract or dissolve another substance.

(28) "Stabilizers and thickeners": Substances used to produce viscous solutions or dispersions, to impart body, improve consistency, or stabilize emulsions, including suspending and bodying agents, setting agents, jellying agents, and bulking agents, etc.

(29) "Surface-active agents": Substances used to modify surface properties of liquid food components for a variety of effects, other than emulsifiers, but including solubilizing agents, dispersants, detergents, wetting agents, rehydration enhancers, whipping agents, foaming agents, and defoaming agents, etc.

(30) "Surface-finishing agents": Substances used to increase palatability, preserve gloss, and inhibit discoloration of foods, including glazes, polishes, waxes, and protective coatings.

(31) "Synergists": Substances used to act or react with another food ingredient to produce a total effect different or greater than the sum of the effects produced by the individual ingredients.

(32) "Texturizers": Substances which affect the appearance or feel of the food.

[10] Copies may be obtained from: National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22151.

§ 170.6 Opinion letters on food additive status.

(a) Over the years the Food and Drug Administration has given informal written opinions to inquiries as to the safety of articles intended for use as components of, or in contact with, food. Prior to the enactment of the Food Additives Amendment of 1958 (Public Law 85-929; Sept. 6, 1958), these opinions were given pursuant to section 402(a)(1) of the Federal Food, Drug, and Cosmetic Act, which reads in part: "A food shall be deemed to be adulterated if it bears or contains any poisonous or deleterious substance which may render it injurious to health;".

(b) Since enactment of the Food Additives Amendment, the Food and Drug Administration has advised such inquirers that an article:

(1) Is a food additive within the meaning of section 201(s) of the act; or

(2) Is generally recognized as safe (GRAS); or

(3) Has prior sanction or approval under that amendment; or

(4) Is not a food additive under the conditions of intended use.

(c) In the interest of the public health, such articles which have been considered in the past by the Food and Drug Administration to be safe under the provisions of section 402(a)(1), or to be generally recognized as safe for their intended use, or to have prior sanction or approval, or not to be food additives under the conditions of intended use, must be reexamined in the light of current scientific information and current principles for evaluating the safety of food additives if their use is to be continued.

(d) Because of the time span involved, copies of many of the letters in which the Food and Drug Administration has expressed an informal opinion concerning the status of such articles may no longer be in the file of the Food and Drug Administration. In the absence of information concerning the names and uses made of all the articles referred to in such letters, their safety of use cannot be reexamined. For this reason all food additive status opinions of the kind described in paragraph (c) of this section given by the Food and Drug Administration are hereby revoked.

(e) The prior opinions of the kind described in paragraph (c) of this section will be replaced by qualified and current opinions if the recipient of each such letter forwards a copy of each to the Department of Health, Education, and Welfare, Food and Drug Administration, Bureau of Foods, Pesticides, and Product Safety, Office of Compliance, 200 C Street SW., Washington, DC 20204, along with a copy of his letter of inquiry, on or before July 23, 1976.

(f) This section does not apply to food additive status opinion letters pertaining to articles that were considered by the Food and Drug Administration to be food additives nor to articles included in reg-

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ulations in Parts 170 through 189 of this chapter if the articles are used in accordance with the requirements of such regulations.

(Sec. 201, 72 Stat. 1784–88, as amended; 21 U.S.C. 321)

§ 170.10 Food additives in standardized foods.

(a) The inclusion of food ingredients in Parts 170 through 189 of this chapter does not imply that these ingredients may be used in standardized foods unless they are recognized as optional ingredients in applicable food standards. Where a petition is received for the issuance or amendment of a regulation establishing a definition and standard of identity for a food under section 401 of the act, which proposes the inclusion of a food additive in such definition and standard of identity, the provisions of the regulations in this part shall apply with respect to the information that must be submitted with respect to the food additive. Since section 409(b)(5) of the act requires that the Secretary publish notice of a petition for the establishment of a food-additive regulation within 30 days after filing, notice of a petition relating to a definition and standard of identity shall also be published within that time limitation if it includes a request, so designated, for the establishment of a regulation pertaining to a food additive.

(b) If a petition for a definition and standard of identity contains a proposal for a food-additive regulation, and the petitioner fails to designate it as such, the Commissioner, upon determining that the petition includes a proposal for a food-additive regulation, shall so notify the petitioner and shall thereafter proceed in accordance with the regulations in this part.

(c) A regulation will not be issued allowing the use of a food additive in a food for which a definition and standard of identity is established, unless its issuance is in conformity with section 401 of the act or with the terms of a temporary permit issued under § 130.17 of this chapter. When the contemplated use of such additive complies with the terms of a temporary permit, the food additive regulation will be conditioned on such compliance and will expire with the expiration of the temporary permit.

§ 170.15 Adoption of regulation on initiative of Commissioner.

(a) The Commissioner upon his own initiative may propose the issuance of a regulation prescribing, with respect to any particular use of a food additive, the conditions under which such additive may be safely used. Notice of such proposal shall be published in the FEDERAL REGISTER and shall state the reasons for the proposal.

(b) Action upon a proposal made by the Commissioner shall proceed as provided in Part 2 of this chapter.

§ 170.17 Exemption for investigational use and procedure for obtaining authorization to market edible products from experimental animals.

A food additive or food containing a food additive intended for investigational use by qualified experts shall be exempt from the requirements of section 409 of the act under the following conditions:

(a) If intended for investigational use in vitro or in laboratory research animals, it bears a label which states prominently, in addition to the other information required by the act, the warning:

Caution. Contains a new food additive for investigational use only in laboratory research animals or for tests in vitro. Not for use in humans.

(b) If intended for use in animals other than laboratory research animals and if the edible products of the animals are to be marketed as food, permission for the marketing of the edible products as food has been requested by the sponsor, and authorization has been granted by the Food and Drug Administration in accordance with § 511.1 of this chapter or by the Department of Agriculture in accordance with § 309.17 of Title 9 (9 CFR 309.17), and it bears a label which states prominently, in addition to the other information required by the act, the warning:

Caution. Contains a new food additive for use only in investigational animals. Not for use in humans.

Edible products of investigational animals are not to be used for food unless authorization has been granted by the U.S. Food and Drug Administration or by the U.S. Department of Agriculture.

§ 170.18 Tolerances for related food additives.

(a) Food additives that cause similar or related pharmacological effects will be regarded as a class, and in the absence of evidence to the contrary, as having additive toxic effects and will be considered as related food additives.

(b) Tolerances established for such related food additives may limit the amount of a common component that may be present, or may limit the amount of biological activity (such as cholinesterase inhibition) that may be present or may limit the total amount of related food additives that may be present.

(c) Where food additives from two or more chemicals in the same class are present in or on a food, the tolerance for the total of such additives shall be the same as that for the additive having the lowest numerical tolerance in this class, unless there are available methods that permit quantitative determination of the amount of each food additive present or unless it is shown that a higher tolerance is reasonably required for the combined additives to accomplish the physical or technical effect for which such combined additives are intended and that the higher tolerance will be safe.

(d) Where residues from two or more additives in the same class are present in or on a food and there are available methods that permit quantitative determination of each residue, the quantity of combined residues that are within the tolerance may be determined as follows:

(1) Determine the quantity of each residue present.

(2) Divide the quantity of each residue by the tolerance that would apply if it occurred alone, and multiply by 100 to determine the percentage of the permitted amount of residue present.

(3) Add the percentages so obtained for all residues present.

(4) The sum of the percentage shall not exceed 100 percent.

§ 170.19 Pesticide chemicals in processed foods.

When pesticide chemical residues occur in processed foods due to the use of raw agricultural commodities that bore or contained a pesticide chemical in conformity with an exemption granted or a tolerance prescribed under section 408 of the act, the processed food will not be regarded as adulterated so long as good manufacturing practice has been followed in removing any residue from the raw agricultural commodity in the processing (such as by peeling or washing) and so long as the concentration of the residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity. But when the concentration of residue in the processed food when ready to eat is higher than the tolerance prescribed for the raw agricultural commodity, the processed food is adulterated unless the higher concentration is permitted by a tolerance obtained under section 409 of the act. For example, if fruit bearing a residue of 7 parts per million of DDT permitted on the raw agricultural commodity is dried and a residue in excess of 7 parts per million of DDT results on the dried fruit, the dehydrated fruit is adulterated unless the higher tolerance for DDT is authorized by the regulations in this part. Food that is itself ready to eat, and which contains a higher residue than allowed for the raw agricultural commodity, may not be legalized by blending or mixing with other foods to reduce the residue in the mixed food below the tolerance prescribed for the raw agricultural commodity.

Subpart B—Food Additive Safety

§ 170.20 General principles for evaluating the safety of food additives.

(a) In reaching a decision on any petition filed under section 409 of the act, the Commissioner will give full consideration to the specific biological properties of the compound and the adequacy of the methods employed to demonstrate safety for the proposed use, and the Commissioner will be guided by the principles and procedures for establishing the safety of food additives stated in current publications of the National Academy of Sciences-National Research Council. A petition will not be denied, however, by reason of the petitioner's having followed procedures other than those outlined in the publications of the National Academy of Sciences-National Research Council if, from available evidence, the Commissioner finds that the procedures used give results as reliable as, or more reliable than, those reasonably to be expected from the use of the outlined procedures. In reaching a decision, the Commissioner will give due weight to the anticipated levels and patterns of consumption of the additive specified or reasonably inferrable. For the purposes of this section, the principles for evaluating safety of additives set forth in the above-mentioned publications will apply to any substance that may properly be classified as a food additive as defined in section 201(s) of the act.

(b) Upon written request describing the proposed use of an additive and the proposed experiments to determine its safety, the Commissioner will advise a person who wishes to establish the safety of a food additive whether he believes the experiments planned will yield data adequate for an evaluation of the safety of the additive.

§ 170.22 Safety factors to be considered.

In accordance with section 409(c)(5)(C) of the act, the following safety factors will be applied in determining whether the proposed use of a food additive will be safe: Except where evidence is submitted which justifies use of a different safety factor, a safety factor in applying animal experimentation data to man of 100 to 1, will be used; that is, a food additive for use by man will not be granted a tolerance that will exceed 1/100th of the maximum amount demonstrated to be without harm to experimental animals.

§ 170.30 Eligibility for classification as generally recognized as safe (GRAS).

(a) General recognition of safety may be based only on the views of experts qualified by scientific training and experience to evaluate the safety of substances directly or indirectly added to food. The basis of such views may be either (1) scientific procedures or (2) in the case of a substance used in food prior to January 1, 1958, through experience based on common use in food. General recognition of safety requires common knowledge about the substance throughout the scientific community knowledgeable about the safety of substances directly or indirectly added to food.

(b) General recognition of safety based upon scientific procedures shall require the same quantity and quality of scientific evidence as is required to obtain approval of a food additive regulation for the ingredient. General recognition of safety through scientific procedures shall ordinarily be based upon published studies which may be corroborated by unpublished studies and other data and information.

(c) General recognition of safety through experience based on common use in food prior to January 1, 1958, may be determined without the quantity or quality of scientific procedures required for approval of a food additive regulation. General recognition of safety through experience based on common use in food prior to January 1, 1958, shall ordinarily be based upon generally available data and information. An ingredient not in common use in food prior to January 1, 1958, may achieve general recognition of safety only through scientific procedures.

(d) The food ingredients listed as GRAS in Part 182 of this chapter or affirmed as GRAS in Part 184 or § 186.1 of this chapter do not include all substances that are generally recognized as safe for their intended use in food. Because of the large number of substances the intended use of which results or may reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of food, it is impracticable to list all such substances that are GRAS. A food ingredient of natural biological origin that has been widely consumed for its nutrient properties in the United States prior to January 1, 1958, without known detrimental effects, which is subject only to conventional processing as practiced prior to January 1, 1958, and for which no known safety hazard exists, will ordinarily be regarded as GRAS without specific inclusion in Part 182, Part 184 or § 186.1 of this chapter.

(e) Food ingredients were listed as GRAS in Part 182 of this chapter during 1958–1962 without a detailed scientific review of all available data and information relating to their safety. Beginning in 1969, the Food and Drug Administration has undertaken a systematic review of the status of all ingredients used in food on the determination that they are GRAS or subject to a prior sanction. All determinations of GRAS status or food additive status or prior sanction status pursuant to this review shall be handled pursuant to §§ 170.35, 170.38, and 180.1 of this chapter. Affirmation of GRAS status shall be announced in Part 184 or § 186.1 of this chapter.

(f) The status of the following food ingredients will be reviewed and affirmed as GRAS or determined to be a food additive or subject to a prior sanction pursuant to § 170.35, § 170.38, or § 180.1 of this chapter:

(1) Any substance of natural biological origin that has been widely consumed for its nutrient properties in the United States prior to January 1, 1958, without known detrimental effect, for which no health hazard is known, and which has been modified by processes first introduced into commercial use after January 1, 1958, which may reasonably be expected significantly to alter the composition of the substance.

(2) Any substance of natural biological origin that has been widely consumed for its nutrient properties in the United States prior to January 1, 1958, without known detrimental effect, for which no health hazard is known, that has had significant alteration of composition by breeding or selection after January 1, 1958, where the change may be reasonably expected to alter the nutritive value or the concentration of toxic constituents.

(3) Distillates, isolates, extracts, and concentration of extracts of GRAS substances.

(4) Reaction products of GRAS substances.

(5) Substances not of a natural biological origin, including those for which evidence is offered that they are identical to a GRAS counterpart of natural biological origin.

(6) Substances of natural biological origin intended for consumption for other than their nutrient properties.

(g) A food ingredient that is not GRAS or subject to a prior sanction requires a food additive regulation promulgated under section 409 of the act before it may be directly or indirectly added to food.

(h) A food ingredient that is listed as GRAS in Part 182 of this chapter or affirmed as GRAS in Part 184 or § 186.1 of this chapter shall be regarded as GRAS only if, in addition to all the requirements in the applicable regulation, it also meets all of the following requirements:

(1) It complies with any applicable food grade specifications of the Food Chemicals Codex, 2d Ed. (1972) [1]; except that any substance used as a component of articles that contact food and affirmed as GRAS in § 186.1 of this chapter shall comply with the specifications therein, or in the absence of such specifications, shall be of a purity suitable for its intended use.

(2) It performs an appropriate function in the food or food-contact article in which it is used.

(3) It is used at a level no higher than necessary to achieve its intended purpose in that food or, if used as a component of a food-contact article, at a level no higher than necessary to achieve its intended purpose in that article.

(i) If a substance is affirmed as GRAS in Part 184 or § 186.1 of this chapter with no limitation other than good manufacturing practice, it shall be regarded as GRAS if its conditions of use are not significantly different from those reported in the regulation as the basis on which the GRAS status of the substance was affirmed. If the conditions of use are significantly different, such use of the substance may not be GRAS. In such a case a manufacturer may not rely on the regulation as authorizing the use but must independently establish that the use is GRAS or must use the substance in accordance with a food additive regulation.

(j) If an ingredient is affirmed as GRAS in Part 184 or § 186.1 of this chapter with specific limitation(s), it may be used in food only within such limitation(s) (including the category of food(s), the functional use(s) of the ingredient, and the level(s) of use). Any use of such an ingredient not in full compliance with each such established limitation shall require a food additive regulation.

(k) Pursuant to § 170.35, a food ingredient may be affirmed as GRAS in Part 184 or § 186.1 of this chapter for a specific use(s) without a general evaluation of use of the ingredient. In addition to the use(s) specified in the regulation, other uses of such an ingredient may also be GRAS. Any affirmation of GRAS status for a specific use(s), without a general evaluation of use of the ingredient, is subject to reconsideration upon such evaluation.

[1] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

Subpart A—General Provisions

(1) New information may at any time require reconsideration of the GRAS status of a food ingredient. Any change in Part 182, Part 184, or § 186.1 of this chapter shall be accomplished pursuant to § 170.38.

§ 170.35 Affirmation of generally recognized as safe (GRAS) status.

(a) The Commissioner, either on his initiative or on the petition of an interested person, may affirm the GRAS status of substances that directly or indirectly become components of food.

(b) (1) If the Commissioner proposes on his own initiative that a substance is entitled to affirmation as GRAS, he will place all of the data and information on which he relies on public file in the office of the Hearing Clerk and will publish in the FEDERAL REGISTER a notice giving the name of the substance, its proposed uses, and any limitations proposed for purposes other than safety.

(2) The FEDERAL REGISTER notice will allow a period of 60 days during which any interested person may review the data and information and/or file comments with the Hearing Clerk. Copies of all comments received shall be made available for examination in the Hearing Clerk's office.

(3) The Commissioner will evaluate all comments received. If he concludes that there is convincing evidence that the substance is GRAS as described in § 170.30, he will publish a notice in the FEDERAL REGISTER listing the substance as GRAS in Part 182, Part 184, or Part 186 of this chapter, as appropriate.

(4) If, after evaluation of the comments, the Commissioner concludes that there is a lack of convincing evidence that the substance is GRAS and that it should be considered a food additive subject to section 409 of the act, he shall publish a notice thereof in the FEDERAL REGISTER in accordance with § 170.38.

(c) (1) Persons seeking the affirmation of GRAS status of substances as provided for in § 170.30(e), except those subject to the NAS–NRC GRAS list survey (36 FR 20546), shall submit a petition for GRAS affirmation pursuant to Part 2 of this chapter. Such petition shall contain information to establish that the GRAS criteria as set forth in § 170.30(b) have been met, in the following form:

(i) Description of the substance, including:

(*a*) Common or usual name.

(*b*) Chemical name.

(*c*) Chemical Abstract Service (CAS) registry number.

(*d*) Empirical formula.

(*e*) Structural formula.

(*f*) Specifications for food grade material, including arsenic and heavy metals. (Recommendation for any change in the Food Chemicals Codex monograph should be included where applicable.)

(*g*) Quantitative compositions.

(*h*) Manufacturing process (excluding any trade secrets).

(ii) Use of the substance, including:

(*a*) Date when use began.

(*b*) Information and reports or other data on past uses in food.

(*c*) Foods in which used, and levels of use in such foods, and for what purposes.

(iii) Methods for detecting the substance in food, including:

(*a*) References to qualitative and quantitative methods for determining the substance(s) in food, including the type of analytical procedures used.

(*b*) Sensitivity and reproducibility of such method(s).

(iv) Information to establish the safety and functionality of the substance in food. Published scientific literature, evidence that the substance is identical to a GRAS counterpart of natural biological origin, and other data may be submitted to support safety. Any adverse information or consumer complaints shall be included. Complete bibliographic references shall be provided where a copy of the article is not provided.

(v) A statement signed by the person responsible for the petition that to the best of his knowledge it is a representative and balanced submission that includes unfavorable information, as well as favorable information, known to him pertinent to the evaluation of the safety and functionality of the substance.

(2) Within 30 days after the date of filing the petition, the Commissioner will place the petition on public file in the office of the Hearing Clerk and will publish a notice of filing in the FEDERAL REGISTER giving the name of the petitioner and a brief description of the petition including the name of the substance, its proposed use, and any limitations proposed for reasons other than safety. A copy of the notice will be mailed to the petitioner at the time the original is sent to the FEDERAL REGISTER.

(3) The notice of filing in the FEDERAL REGISTER will allow a period of 60 days during which any interested person may review the petition and/or file comments with the Hearing Clerk. Copies of all comments received shall be made available for examination in the Hearing Clerk's office.

(4) The Commissioner will evaluate the petition and all available information including all comments received. If the petition and such information provide convincing evidence that the substance is GRAS as described in § 170.30 he will publish an order in the FEDERAL REGISTER listing the substance as GRAS in Part 182, Part 184, or Part 186 of this chapter, as appropriate.

(5) If, after evaluation of the petition and all available information, the Commissioner concludes that there is a lack of convincing evidence that the substance is GRAS and that it should be considered a food additive subject to section 409 of the act, he shall publish a notice thereof in the FEDERAL REGISTER in accordance with § 170.38.

(6) The notice of filing in the FEDERAL REGISTER will request submission of proof of any applicable prior sanction for use of the ingredient under conditions different from those proposed to be determined to be GRAS. The failure of any person to come forward with proof of such an applicable prior sanction in response to the notice of filing will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice of filing will also constitute a proposal to establish a regulation under Part 181 of this chapter, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the notice of filing.

(Sec. 201, 72 Stat. 1784–1788; 21 U.S.C. 321)

§ 170.38 Determination of food additive status.

(a) The Commissioner may, in accordance with § 170.35 (b) (4) or (c) (5), publish a notice in the FEDERAL REGISTER determining that a substance is not GRAS and is a food additive subject to section 409 of the act.

(b) (1) The Commissioner, on his own initiative or on the petition of any interested person, pursuant to Part 2 of this chapter, may issue a notice in the FEDERAL REGISTER proposing to determine that a substance is not GRAS and is a food additive subject to section 409 of the act. Any petition shall include all relevant data and information of the type described in § 171.130(b). The Commissioner will place all of the data and information on which he relies on public file in the office of the Hearing Clerk and will include in the FEDERAL REGISTER notice the name of the substance, its known uses, and a summary of the basis for the determination.

(2) The FEDERAL REGISTER notice will allow a period of 60 days during which any interested person may review the data and information and/or file comments with the Hearing Clerk. Copies of all comments shall be made available for examination in the Hearing Clerk's office.

(3) The Commissioner will evaluate all comments received. If he concludes that there is a lack of convincing evidence that the substance is GRAS or is otherwise exempt from the definition of a food additive in section 201(s) of the act, he will publish a notice thereof in the FEDERAL REGISTER. If he concludes that there is convincing evidence that the substance is GRAS, he will publish an order in the FEDERAL REGISTER listing the substance as GRAS in Part 182, Part 184, or Part 186 of this chapter, as appropriate.

(c) A FEDERAL REGISTER notice determining that a substance is a food additive shall provide for the use of the additive in food or food contact surfaces as follows:

(1) It may promulgate a food additive regulation governing use of the additive.

(2) It may promulgate an interim food additive regulation governing use of the additive.

(3) It may require discontinuation of the use of the additive.

(4) It may adopt any combination of the above three approaches for different uses or levels of use of the additive.

(d) If the Commissioner of Food and Drugs is aware of any prior sanction for use of the substance, he will concurrently propose a separate regulation covering such use of the ingredient under Part 181 of this chapter. If the Commissioner is unaware of any such applicable prior sanction, the proposed regulation will so state and will require any person who intends to assert or rely on such sanction to submit proof of its existence. Any regulation promulgated pursuant to this section constitutes a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to the proposal will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice will also constitute a proposal to establish a regulation under Part 181 of this chapter, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the proposal.

(Sec. 201, 72 Stat. 1784–1788; 21 U.S.C. 321)

Subpart C—Specific Administrative Rulings and Decisions

§ 170.45 Flourine-containing compounds.

The Commissioner of Food and Drugs has concluded that it is in the interest of the public health to limit the addition of fluorine compounds to foods (a) to that resulting from the fluoridation of public water supplies as stated in § 250.-203 of this chapter, (b) to that resulting from the fluoridation of bottled water within the limitation established in § 103.35(d) of this chapter, and (c) to that authorized by regulations (40 CFR Part 180) under section 408 of the act.

§ 170.50 Glycine (aminoacetic acid) in food for human consumption.

(a) Heretofore, the Food and Drug Administration has expressed the opinion in trade correspondence that glycine is generally recognized as safe for certain technical effects in human food when used in accordance with good manufacturing practice; however:

(1) Reports in scientific literature indicate that adverse effects were found in cases where high levels of glycine were administered in diets of experimental animals.

(2) Current usage information indicates that the daily dietary intake of glycine by humans may be substantially increasing due to changing use patterns in food technology.

Therefore, the Food and Drug Administration no longer regards glycine and its salts as generally recognized as safe for use in human food and all outstanding letters expressing sanction for such use are rescinded.

(b) The Commissioner of Food and Drugs concludes that by May 8, 1971, manufacturers:

(1) Shall reformulate food products for human use to eliminate added glycine and its salts; or

(2) Shall bring such products into compliance with an authorizing food additive regulation. A food additive petition supported by toxicity data is required to show that any proposed level of glycine or its salts added to foods for human consumption will be safe.

(c) The status of glycine as generally recognized as safe for use in animal feed, as prescribed in § 582.5049 of this chapter, remains unchanged because the additive is considered an essential nutrient in certain animal feeds and is safe for such use under conditions of good feeding practice.

(Sec. 201(s), 72 Stat. 1784–88, as amended; 21 U.S.C. 321(s).)

§ 170.60 Nitrites and/or nitrates in curing premixes.

(a) Nitrites and/or nitrates are food additives when combined in curing premixes with spices and/or other flavoring or seasoning ingredients that contain or constitute a source of secondary or tertiary amines, including but not limited to essential oils, disodium inosinate, disodium guanylate, hydrolysates of animal or plant origin (such as hydrolyzed vegetable protein), oleoresins of spices, soy products, and spice extractives. Such food additives may be used only after the establishment of an authorizing food additive regulation. A food additive petition submitted pursuant to §§ 171.1 and 171.100 of this chapter, supported by data demonstrating that nitrosamines are not formed in curing premixes containing such food additives, is required to establish safety.

(b) Nitrites and/or nitrates, when packaged separately from flavoring and seasoning in curing premixes, may continue to be used under prior sanctions in the commercial curing of meat and meat products and poultry products and in accordance with the provisions of §§ 172.-170 and 172.175 of this chapter that apply to meat curing preparations for the home curing of meat and meat products, including poultry and wild game. To assure safe use of such ingredients the labeling of the premixes shall bear instructions to the user that such separately packaged ingredients are not to be combined until just prior to use. Encapsulating or coating some or all of the ingredients does not constitute separate packaging.

PART 171—FOOD ADDITIVE PETITIONS

Subpart A—General Provisions

Sec.

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171.6 Amendment of petition.
171.7 Withdrawal of petition without prejudice.

Subpart B—Administrative Actions on Applications

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171.102 Effective date of regulation.
171.110 Objection to regulation and request for hearing.
171.130 Procedure for amending and repealing tolerances or exemptions from tolerances.

AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—General Provisions

§ 171.1 Petitions.

(a) Petitions to be filed with the Commissioner under the provisions of section 409(b) of the act shall be submitted in triplicate. If any part of the material submitted is in a foreign language, it shall be accompanied by an accurate and complete English translation. The petition shall state petitioner's post office address to which published notices or orders issued or objections filed pursuant to section 409 of the act may be sent.

(b) Pertinent information may be incorporated in, and will be considered as part of, a petition on the basis of specific reference to such information submitted to and retained in the files of the Food and Drug Administration. However, any reference to unpublished information furnished by a person other than the applicant will not be considered unless use of such information is authorized in a written statement signed by the person who submitted it. Any reference to published information offered in support of a food-additive petition should be accompanied by reprints or photostatic copies of such references.

(c) Petitions shall include the following data and be submitted in the following form:

(Date)

Name of petitioner----------
Post-office address----------
Date----------
Name of food additive and proposed use----

Petitions Control Branch
Food and Drug Administration
Department of Health, Education, and Welfare
Washington, D.C. 20204.

DEAR SIRS:

The undersigned, ----------, submits this petition pursuant to section 409(b)(1) of the Federal Food, Drug, and Cosmetic Act with respect to----------

---

(Name of the food additive and proposed use)

Attached hereto, in triplicate, and constituting a part of this petition, are the following:

A. The name and all pertinent information concerning the food additive, including chemical identity and composition of the food additive, its physical, chemical, and biological properties, and specifications prescribing the minimum content of the desired component(s) and identifying and limiting the reaction byproducts and other impurities. Where such information is not available, a statement as to the reasons why it is not should be submitted.

When the chemical identity and composition of the food additive is not known, the petition shall contain information in sufficient detail to permit evaluation regarding the method of manufacture and the analytical controls used during the various stages of manufacturing, processing, or packing of the food additive which are relied upon to establish that it is a substance of reproducible composition. Alternative methods and controls and variations in methods and controls within reasonable limits that do not affect the characteristics of the substance or the reliability of the controls may be specified.

or explain the petition and requests in § 171.7 Withdrawal of petition without

ested person, pursuant to Part 2 of this

If the food additive is a mixture of chemicals, the petition shall supply a list of all substances used in the synthesis, extraction, or other method of preparation, regardless of whether they undergo chemical change in the process. Each substance should be identified by its common English name and complete chemical name, using structural formulas when necessary for specific identification. If any proprietary preparation is used as a component, the proprietary name should be followed by a complete quantitative statement of composition. Reasonable alternatives for any listed substance may be specified.

If the petitioner does not himself perform all the manufacturing, processing, and packing operations for a food additive, the petition shall identify each person who will perform a part of such operations and designate the part.

The petition shall include stability data, and, if the data indicate that it is needed to insure the identity, strength, quality, or purity of the additive, the expiration date that will be employed.

B. The amount of the food additive proposed for use and the purposes for which it is proposed, together with all directions, recommendations, and suggestions regarding the proposed use, as well as specimens of the labeling proposed for the food additive and any labeling that will be required by applicable provisions of the Federal Food, Drug, and Cosmetic Act on the finished food by reason of the use of the food additive. If the additive results or may reasonably be expected to result from the use of packaging material, the petitioner shall show how this may occur and what residues may reasonably be anticipated.

(Typewritten or other draft-labeling copy will be accepted for consideration of the petition, provided a statement is made that final printed labeling identical in content to the draft copy will be submitted as soon as available and prior to the marketing of the food additive.

If the food additive is one for which a tolerance limitation is required to assure its safety, the level of use proposed should be no higher than the amount reasonably required to accomplish the intended physical or other technical effect, even though the safety data may support a higher tolerance.)

C. Data establishing that the food additive will have the intended physical or other technical effect or that it may reasonably be expected to become a component, or to affect the characteristics, directly or indirectly, of food and the amount necessary to accomplish this. These data should include information in sufficient detail to permit evaluation with control data.

D. A description of practicable methods to determine the amount of the food additive in the raw, processed, and/or finished food and of any substance formed in or on such food because of its use. The test proposed shall be one that can be used for food-control purposes and that can be applied with consistent results by any properly equipped and trained laboratory personnel.

E. Full reports of investigations made with respect to the safety of the food additive.

(A petition may be regarded as incomplete unless it includes full reports of adequate tests reasonably applicable to show whether or not the food additive will be safe for its intended use. The reports ordinarily should include detailed data derived from appropriate animal and other biological experiments in which the methods used and the results obtained are clearly set forth. The petition shall not omit without explanation any reports of investigations that would bias an evaluation of the safety of the food additive.)

F. Proposed tolerances for the food additive, if tolerances are required in order to insure its safety. A petitioner may include a proposed regulation.

G. If submitting petition to modify an existing regulation issued pursuant to section 409(c)(1)(A) of the act, full information on each proposed change that is to be made in the original regulation must be submitted. The petition may omit statements made in the original petition concerning which no change is proposed. A supplemental petition must be submitted for any change beyond the variations provided for in the original petition and the regulation issued on the basis of the original petition.

H. The petitioner is required to submit an environmental impact analysis report analyzing the environmental impact of the manufacturing process and the ultimate use or consumption of the food additive pursuant to § 6.1 of this chapter.

Yours very truly,

Petitioner

By _____

(Indicate authority)

(d) The petitioner will be notified of the date on which his petition is filed; and an incomplete petition, or one that has not been submitted in triplicate, will usually be retained but not filed as a petition under section 409 of the act. The petitioner will be notified in what respects his petition is incomplete.

(e) The petition must be signed by the petitioner or by his attorney or agent, or (if a corporation) by an authorized official.

(f) The data specified under the several lettered headings should be submitted on separate sheets or sets of sheets, suitably identified. If such data have already been submitted with an earlier application, the present petition may incorporate it by specific reference to the earlier. If part of the data have been submitted by the manufacturer of the food additive as a master file, the petitioner may refer to the master file if and to the extent he obtains the manufacturer's written permission to do so. The manufacturer may authorize specific reference to the data without disclosure to the petitioner. Nothing herein shall prevent reference to published data.

(g) A petition shall be retained but shall not be filed if any of the data prescribed by section 409(b) of the act are lacking or are not set forth so as to be readily understood.

(h)(1) The following data and information in a food additive petition are available for public disclosure, unless extraordinary circumstances are shown, after the notice of filing of the petition is published in the FEDERAL REGISTER or, if the petition is not promptly filed because of deficiencies in it, after the petitioner is informed that it will not be filed because of the deficiencies involved:

(i) All safety and functionality data and information submitted with or incorporated by reference in the petition.

(ii) A protocol for a test or study, unless it is shown to fall within the exemption established for trade secrets and confidential commercial information in § 4.61 of this chapter.

(iii) Adverse reaction reports, product experience reports, consumer complaints, and other similar data and information, after deletion of:

(*a*) Names and any information that would identify the person using the product.

(*b*) Names and any information that would identify any third party involved with the report, such as a physician or hospital or other institution.

(iv) A list of all ingredients contained in a food additive, whether or not it is in descending order of predominance. A particular ingredient or group of ingredients shall be deleted from any such list prior to public disclosure if it is shown to fall within the exemption established in § 4.61 of this chapter, and a notation shall be made that any such ingredient list is incomplete.

(v) An assay method or other analytical method, unless it serves no regulatory or compliance purpose and is shown to fall within the exemption established in § 4.61 of this chapter.

(2) The following data and information in a food additive petition are not available for public disclosure unless they have been previously disclosed to the public as defined in § 4.81 of this chapter or they relate to a product or ingredient that has been abandoned and they no longer represent a trade secret or confidential commercial or financial information as defined in § 4.61 of this chapter:

(i) Manufacturing methods or processes, including quality control procedures.

(ii) Production, sales, distribution, and similar data and information, except that any compilation of such data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(iii) Quantitative or semiquantitative formulas.

(3) All correspondence and written summaries of oral discussions relating to a food additive petition are available for public disclosure in accordance with the provisions of Part 4 of this chapter when the food additive regulation is published in the FEDERAL REGISTER.

(4) For purposes of this regulation, safety and functionality data include all studies and tests of a food additive on animals and humans and all studies and tests on a food additive for identity, stability, purity, potency, performance, and usefulness.

(i)(1) Within 15 days after receipt, the Commissioner will notify the petitioner of acceptance or nonacceptance of a petition, and if not accepted the reasons therefor. If accepted, the date of the notification letter sent to petitioner becomes the date of filing for the purposes of section 409(b)(5) of the act. If the petitioner desires, he may supplement a deficient petition after being notified regarding deficiencies. If the supplementary material or explanation of the petition is deemed acceptable, petitioner shall be notified. The date of such notification becomes the date of filing. If the petitioner does not wish to supplement

or explain the petition and requests in writing that it be filed as submitted, the petition shall be filed and the petitioner so notified. The date of such notification becomes the date of filing.

(2) The Commissioner will publish in the FEDERAL REGISTER within 30 days from the date of filing of such petition, a notice of the filing, the name of the petitioner, and a brief description of the proposal in general terms. In the case of a food additive which becomes a component of food by migration from packaging material, the notice shall include the name of the migratory substance, and where it is different from that of one of the original components, the name of the parent component, the maximum quantity of the migratory substance that is proposed for use in food, and the physical or other technical effect which the migratory substance or its parent component is intended to have in the packaging material. A copy of the notice will be mailed to the petitioner when the original is forwarded to the FEDERAL REGISTER for publication.

(j) The Commissioner may request a full description of the methods used in, and the facilities and controls used for, the production of the food additive, or a sample of the food additive, articles used as components thereof, or of the food in which the additive is proposed to be used, at any time while a petition is under consideration. The Commissioner shall specify in the request for a sample of the food additive, or articles used as components thereof, or of the food in or on which the additive is proposed to be used, a quantity deemed adequate to permit tests of analytical methods to determine quantities of the food additive present in foods for which it is intended to be used or adequate for any study or investigation reasonably required with respect to the safety of the food additive or the physical or technical effect it produces. The date used for computing the 90-day limit for the purposes of section 409(c)(2) of the act shall be moved forward 1 day for each day after the mailing date of the request taken by the petitioner to submit the sample. If the information or sample is requested a reasonable time in advance of the 180 days, but is not submitted within such 180 days after filing of the petition, the petition will be considered withdrawn without prejudice.

§ 171.6 Amendment of petition.

After a petition has been filed, the petitioner may submit additional information or data in support thereof. In such cases, if the Commissioner determines that the additional information or data amounts to a substantive amendment, the petition as amended will be given a new filing date, and the time limitation will begin to run anew. Where the substantive amendment proposes a substantial change to the petition which may affect the quality of the human environment, the petitioner is required to submit an environmental impact analysis report pursuant to § 6.1 of this chapter.

§ 171.7 Withdrawal of petition without prejudice.

(a) In some cases the Commissioner will notify the petitioner that the petition, while technically complete, is inadequate to justify the establishment of a regulation or the regulation requested by petitioner. This may be due to the fact that the data are not sufficiently clear or complete. In such cases, the petitioner may withdraw the petition pending its clarification or the obtaining of additional data. This withdrawal will be without prejudice to a future filing. Upon refiling, the time limitation will begin to run anew from the date of refiling.

(b) At any time before the order provided for in § 171.100(a) has been forwarded to the FEDERAL REGISTER for publication, the petitioner may withdraw the petition without prejudice to a future filing. Upon refiling the time limitation will begin to run anew.

Subpart B—Administrative Actions on Applications

§ 171.100 Regulation based on petition.

(a) The Commissioner will forward for publication in the FEDERAL REGISTER, within 90 days after filing of the petition (or within 180 days if the time is extended as provided for in section 409(c)(2) of the act), a regulation prescribing the conditions under which the food additive may be safely used (including, but not limited to, specifications as to the particular food or classes of food in or on which such additive may be used, the maximum quantity that may be used or permitted to remain in or on such food, the manner in which such additive may be added to or used in or on such food, and any directions or other labeling or packaging requirements for such additive deemed necessary by him to assure the safety of such use), and prior to the forwarding of the order to the FEDERAL REGISTER for publication shall notify the petitioner of such order and the reasons for such action; or by order deny the petition, and shall notify the petitioner of such order and of the reasons for such action.

(b) If the Commissioner determines that additional time is needed to study and investigate the petition, he shall by written notice to the petitioner extend the 90-day period for not more than 180 days after the filing of the petition.

§ 171.102 Effective date of regulation.

A regulation published in accordance with § 171.100(a) shall become effective upon publication in the FEDERAL REGISTER.

§ 171.110 Procedure for objections and hearings.

Objections and hearings relating to food additive regulations under section 409 (c), (d), or (h) of the act shall be governed by Part 2 of this chapter.

§ 171.130 Procedure for amending and repealing tolerances or exemptions from tolerances.

(a) The Commissioner, on his own initiative or on the petition of any interested person, pursuant to Part 2 of this chapter, may propose the issuance of a regulation amending or repealing a regulation pertaining to a food additive or granting or repealing an exception for such additive.

(b) Any such petition shall include an assertion of facts, supported by data, showing that new information exists with respect to the food additive or that new uses have been developed or old uses abandoned, that new data are available as to toxicity of the chemical, or that experience with the existing regulation or exemption may justify its amendment or repeal. New data shall be furnished in the form specified in §§ 171.1 and 171.100 for submitting petitions.

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

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172.310 Aluminum nicotinate.
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172.320 Amino acids.
172.325 Bakers yeast protein.
172.330 Calcium pantothenate, calcium chloride double salt.
172.335 D-Pantothenamide.
172.345 Folic acid (folacin).
172.350 Fumaric acid and salts or fumaric acids.
172.365 Kelp.
172.370 Iron-choline citrate complex.
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172.610 Arabinogalactan.
172.615 Chewing gum base.
172.620 Carrageenan.
172.623 Carrageenan with polysorbate 80.
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172.660 Salts of furcelleran.
172.695 Xanthan gum.

Subpart H—Other Specific Usage Additives

172.710 Adjuvants for pesticide use dilutions.
172.712 Dimethyl dialkyl ammonium chloride.
172.715 Calcium lignosulfonate.
172.720 Calcium lactobionate.
172.725 Gibberellic acid and its potassium salt.
172.730 Potassium bromate.
172.735 Glycerol ester of wood rosin.
172.755 Stearyl monoglyceridyl citrate.
172.765 Succistearin (stearoyl propylene glycol hydrogen succinate).
172.770 Ethylene oxide polymer.
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172.802 Acetone peroxides.
172.804 Aspartame.
172.806 Azodicarbonamide.
172.808 Copolymer condensates of ethylene oxide and propylene oxide.
172.810 Dioctyl sodium sulfosuccinate.
172.812 Glycine.
172.814 Hydroxylated lecithin.
172.816 Methyl glucoside-coconut oil ester.
172.818 Oxystearin.
172.820 Polyethylene glycol (mean molecular weight 200–9,500).
172.822 Sodium lauryl sulfate.
172.824 Sodium mono- and dimethyl naphthalene sulfonates.
172.826 Sodium stearyl fumarate.
172.828 Acetylated monoglycerides.
172.830 Succinylated monoglycerides.
172.832 Monoglyceride citrate.
172.834 Ethoxylated mono- and diglycerides.
172.836 Polysorbate 60.
172.838 Polysorbate 65.
172.840 Polysorbate 80.
172.842 Sorbitan monostearate.
172.844 Calcium stearoyl-2-lactylate.
172.846 Sodium stearoyl-2-lactylate.
172.848 Lactylic esters of fatty acids.
172.850 Lactylated fatty acid esters of glycerol and propylene glycol.
172.852 Glyceryl-lacto esters of fatty acids.
172.854 Polyglycerol esters of fatty acids.
172.856 Propylene glycol mono- and diesters of fats and fatty acids.
172.858 Propylene glycol alginate.
172.860 Fatty acids.
172.862 Oleic acid derived from tall oil fatty acids.
172.863 Salts of fatty acids.
172.864 Synthetic fatty alcohols.
172.866 Synthetic glycerin produced by the hydrogenolysis of carbohydrates.
172.868 Ethyl cellulose.
172.870 Hydroxypropyl cellulose.
172.872 Methyl ethyl cellulose.
172.874 Hydroxypropyl methylcellulose.
172.876 Castor oil.
172.878 White mineral oil.
172.880 Petrolatum.
172.882 Synthetic isoparaffinic petroleum hydrocarbons.
172.884 Odorless light petroleum hydrocarbons.
172.886 Petroleum wax.
172.888 Synthetic petroleum wax.
172.890 Rice bran wax.
172.892 Food starch–modified.
172.894 Modified cottonseed products intended for human consumption.
172.896 Dried yeasts.
172.898 Bakers yeast glycan.

AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—General Provisions

§ 172.5 General provisions for direct food additives.

(a) Regulations prescribing conditions under which food additive substances may be safely used predicate usage under conditions of good manufacturing practice. For the purposes of this part, good manufacturing practice shall be defined to include the following restrictions.

(1) The quantity of the substance added to food does not exceed the amount reasonably required to accomplish its intended physical, nutritive, or other technical effect in food.

(2) Any substance intended for use in or on food is of appropriate food grade and is prepared and handled as a food ingredient.

(b) The existence of a regulation prescribing safe conditions of use for a food additive shall not be construed to relieve the use of the substance from compliance with any other provision of the act.

(c) The existence of any regulation prescribing safe conditions of use for a nutrient substance does not constitute a finding that the substance is useful or required as a supplement to the diet of humans.

Subpart B—Food Preservatives

§ 172.110 BHA.

The food additive BHA (butylated hydroxyanisole) alone or in combination with other antioxidants permitted in food for human consumption in this Subpart B may be safely used in or on specified foods, as follows:

(a) The BHA meets the following specification:

Assay (total BHA), 98.5 percent minimum. Melting point 48° C minimum.

(b) The BHA is used alone or in combination with BHT, as an antioxidant in foods, as follows:

Food	Limitations (total BHA and BHT) parts per million
Dehydrated potato shreds	50
Active dry yeast	[1] 1,000
Beverages and desserts prepared from dry mixes	[1] 2
Dry breakfast cereals	50
Dry diced glazed fruit	[1] 32
Dry mixes for beverages and desserts	[1] 90
Emulsion stabilizers for shortenings	200
Potato flakes	50
Potato granules	10
Sweetpotato flakes	50

[1] BHA only.

(c) To assure safe use of the additive:

(1) The label of any market package of the additive shall bear, in addition to the other information required by the act, the name of the additive.

(2) When the additive is marketed in a suitable carrier, in addition to meeting the requirement of paragraph (c)(1) of this section, the label shall declare the percentage of the additive in the mixture.

(3) The label or labeling of dry mixes for beverages and desserts shall bear adequate directions for use to provide that beverages and desserts prepared from the dry mixes contain no more than 2 parts per million BHA.

§ 172.115 BHT.

The food additive BHT (butylated hydroxytoluene), alone or in combination with other antioxidants permitted in this Subpart B may be safely used in or on specified foods, as follows:

(a) The BHT meets the following specification: Assay (total BHT) 99 percent minimum.

(b) The BHT is used alone or in combination with BHA, as an antioxidant in foods, as follows:

Food	Limitations (total BHA and BHT) parts per million
Dehydrated potato shreds	50
Dry breakfast cereals	50
Emulsion stabilizers for shortenings	200
Potato flakes	50
Potato granules	10
Sweetpotato flakes	50

(c) To assure safe use of the additive:

(1) The label of any market package of the additive shall bear, in addition to the other information required by the act, the name of the additive.

(2) When the additive is marketed in a suitable carrier, in addition to meeting the requirement of paragraph (c)(1) of this section, the label shall declare the percentage of the additive in the mixture.

§ 172.120 Calcium disodium EDTA.

The food additive calcium disodium EDTA (calcium disodium ethylenediaminetetraacetate) may be safely used in designated foods for the purposes and

in accordance with the conditions prescribed, as follows:

(a) The additive contains a minimum of 99 percent by weight of either the dihydrate $C_{10}H_{12}O_8N_2CaNa_2 \cdot 2H_2O$ or the trihydrate $C_{10}H_{12}O_8N_2CaNa_2 \cdot 3H_2O$, or any mixture of the two.

(b) It is used or intended for use as follows:

(1) Alone, in the following foods at not to exceed the levels prescribed, calculated as the anhydrous compound:

Food	Limitation (parts per million)	Use
Cabbage, pickled	220	Promote color, flavor, and texture retention.
Canned carbonated soft drinks	33	Promote flavor retention.
Canned white potatoes	110	Promote color retention.
Clams (cooked canned)	340	Promote color retention.
Crabmeat (cooked canned)	275	Retard struvite formation; promote color retention.
Cucumbers pickled	220	Promote color, flavor, and texture retention.
Distilled alcoholic beverages	25	Promote stability of color, flavor, and/or product clarity.
Dressings, nonstandardized	75	Preservative.
Dried lima beans (cooked canned)	310	Promote color retention.
Egg product that is hard-cooked and consists, in a cylindrical shape, of egg white with an inner core of egg yolk	[1] 200	Preservative.
Fermented malt beverages	25	Antigushing agent.
French dressing	75	Preservative.
Mayonnaise	75	Do.
Mushrooms (cooked canned)	200	Promote color retention when such use is prescribed by an effective temporary permit issued under sec. 130.17 of this chapter.
Oleomargarine	75	Preservative.
Pecan pie filling	100	Promote color retention.
Potato salad	100	Preservative.
Processed dry pinto beans	800	Promote color retention.
Salad dressing	75	Preservative.
Sandwich spread	100	Do.
Sauces	75	Do.
Shrimp (cooked canned)	250	Retard struvite formation; promote color retention.
Spice extractives in soluble carriers	60	Promote color and flavor retention.
Spreads, artificially colored and lemon-flavored or orange-flavored	100	Promote color retention.

[1] By weight of egg yolk portion.

(2) With disodium EDTA (disodium ethylenediaminetetraacetate) in the following foods at not to exceed, in combination, the levels prescribed, calculated as anhydrous $C_{10}H_{12}O_8N_2CaNa_2$:

Food	Limitation (parts per million)	Use
Dressings, nonstandardized	75	Preservative.
French dressing	75	Do.
Mayonnaise	75	Do.
Salad dressing	75	Do.
Sandwich spread	100	Do.
Sauces	75	Do.

(c) To asure safe use of the additive:

(1) The label and labeling of the additive container shall bear, in addition to the other information required by the act, the name of the additive.

(2) The label or labeling of the additive container shall bear adequate use directions to provide a final food product that complies with the limitations provided in paragraph (b) of this section.

(d) In the standardized foods listed in paragraph (b) of this section, the additives are used only in compliance with the applicable standards of identity for such foods.

§ 172.130 Dehydroacetic acid.

The food additive dehydroacetic acid and/or its sodium salt may be safely used in accordance with the following prescribed conditions:

(a) The food additive meets the following specifications:

Dehydroacetic acid: Melting point, 109° C–111° C; assay, minimum 98 percent (dry basis).

Sodium salt of dehydroacetic acid: Assay, minimum 98 percent (dry basis).

(b) It is used or intended for use as a preservative for cut or peeled squash, and is so used that no more than 65 parts per million expressed as dehydroacetic acid remains in or on the prepared squash.

(c) The label or labeling of any package of the additive intended for use in food shall bear adequate directions for use to insure compliance with this section.

§ 172.135 Disodium EDTA.

The food additive disodium EDTA (disodium ethylenediaminetetraacetate) may be safely used in designated foods for the purposes and in accordance with the following prescribed conditions:

(a) The additive contains a minimum of 99 percent disodium ethylenediaminetetraacetate dihydrate ($C_{10}H_{14}O_8N_2Na_2 \cdot 2H_2O$).

(b) It is used or intended for use as follows:

(1) Alone, in the following foods at not to exceed the levels prescribed, calculated as anhydrous calcium disodium EDTA:

Food	Limitation (parts per million)	Use
Aqueous multivitamin preparations	190	With iron salts as a stabilizer for vitamin B_{12} in liquid multivitamin preparations.
Canned black-eyed peas	145	Promote color retention.
Canned cooked chickpeas	145	Do.
Canned kidney beans	155	Preservative.
Canned strawberry pie filling	300	Promote color retention.
Cooked sausage	[1]	As a cure accelerator with sodium ascorbate or ascorbic acid.
Dressings, nonstandardized	75	Preservative.
French dressing	75	Do.
Frozen white potatoes including frill potatoes	100	Promote color retention.
Gefilte fish balls or patties in packing medium	50	Inhibit discoloration.
Mayonnaise	75	Preservative.
Ready-to-eat cereal	[2] 315	Promote color retention.
Products containing dried bananas		
Salad dressing	75	Preservative.
Sandwich spread	100	Do.
Sauces	75	Do.

[1] Based on total weight of finished product including packing medium.

[2] In dried banana component of cereal product.

(2) With calcium disodium EDTA (calcium disodium ethylenediaminetetraacetate; calcium disodium (ethylenedinitrilo) tetraacetate), in the following foods at not to exceed, in combination, the levels prescribed, calculated as anhydrous $C_{10}H_{12}O_8N_2CaNa_2$:

Food	Limitation (parts per million)	Use
Dressings, nonstandardized	75	Preservative.
French dressing	75	Do.
Mayonnaise	75	Do.
Salad dressing	75	Do.
Sandwich spread	100	Do.
Sauces	75	Do.

(3) Alone, as a sequestrant in the nonnutritive sweeteners that are listed in § 180.37 of this chapter and that, in addition, are designed for aqueous solution: *Provided*, That the amount of the additive, calculated as anhydrous calcium disodium EDTA, does not exceed 0.1 percent by weight of the dry nonnutritive sweetener.

(c) To assure the safe use of the additive:

(1) The label and labeling of the additive container shall bear, in addition to the other information required by the act, the name of the additive.

(2) The label or labeling of the addi-

§ 172.180 Stannous chloride.

§ 172.215 Coumarone-indene resin.

in food in accordance with the following prescribed conditions:

The food additive coumarone-indene

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(2) The label or labeling of the additive container shall bear adequate use directions to provide a final food product that complies with the limitations provided in paragraph (b) of this section.

(d) In the standardized foods listed in paragraph (b) (1) and (2) of this section the additives are used only in compliance with the applicable standards of identity for such foods.

§ 172.140 Ethoxyquin.

(a) Ethoxyquin (1,2-dihydro-6-ethoxy-2,2,4-trimethylquinoline) may be safely used as an antioxidant for preservation of color in the production of chili powder, paprika, and ground chili at levels not in excess of 100 parts per million.

(b) In order to provide for the safe use of the additive in feed prepared in accordance with §§ 573.380 and 573.400 of this chapter, tolerances are established for residues of ethoxyquin in or on edible products of animals as follows:

5 parts per million in or on the uncooked fat of meat from animals except poultry.

3 parts per million in or on the uncooked liver and fat of poultry.

0.5 part per million in or on the uncooked muscle meat of animals.

0.5 part per million in poultry eggs.

Zero in milk.

§ 172.145 Heptylparaben.

(a) The food additive heptylparaben is the chemical *n*-heptyl *p*-hydroxybenzoate.

(b) It may be safely used to inhibit microbiological spoilage in accordance with the following prescribed conditions:

(1) In fermented malt beverages in amounts not to exceed 12 parts per million.

(2) In noncarbonated soft drinks and fruit-based beverages in amounts not to exceed 20 parts per million, when standards of identity established under section 401 of the act (21 U.S.C. 341) do not preclude such use.

§ 172.150 4-Hydroxymethyl-2,6-di-*tert*-butylphenol.

The food additive 4-hydroxymethyl-2,6-di-*tert*-butylphenol may be safely used in food in accordance with the following prescribed conditions:

(a) The additive has a solidification point of 140° C–141° C.

(b) The additive is used as an antioxidant alone or in combination with other permitted antioxidants.

(c) The total amount of all antioxidants added to such food shall not exceed 0.02 percent of the oil or fat content of the food, including the essential (volatile) oil content of the food.

§ 172.160 Potassium nitrate.

The food additive potassium nitrate may be safely used as a curing agent in the processing of cod roe, in an amount not to exceed 200 parts per million of the finished roe.

§ 172.170 Sodium nitrate.

The food additive sodium nitrate may be safely used in or on specified foods in accordance with the following prescribed conditions:

(a) It is used or intended for use as follows:

(1) As a preservative and color fixative, with or without sodium nitrite, in smoked, cured sablefish, smoked, cured salmon, and smoked, cured shad, so that the level of sodium nitrate does not exceed 500 parts per million and the level of sodium nitrite does not exceed 200 parts per million in the finished product.

(2) As a preservative and color fixative, with or without sodium nitrite, in meat-curing preparations for the home curing of meat and meat products (including poultry and wild game), with directions for use which limit the amount of sodium nitrate to not more than 500 parts per million in the finished meat product and the amount of sodium nitrite to not more than 200 parts per million in the finished meat product.

(b) To assure safe use of the additive, in addition to the other information required by the act:

(1) The label of the additive or of a mixture containing the additive shall bear:

(i) The name of the additive.

(ii) A statement of the concentration of the additive in any mixture.

(2) If in a retail package intended for household use, the label and labeling of the additive, or of a mixture containing the additive, shall bear adequate directions for use to provide a final food product that complies with the limitations prescribed in paragraph (a) of this section.

(3) If in a retail package intended for household use, the label of the additive or of a mixture containing the additive, shall bear the statement "Keep out of the reach of children".

§ 172.175 Sodium nitrite.

The food additive sodium nitrite may be safely used in or on specified foods in accordance with the following prescribed conditions:

(a) It is used or intended for use as follows:

(1) As a color fixative in smoked cured tunafish products so that the level of sodium nitrite does not exceed 10 parts per million (0.001 percent) in the finished product.

(2) As a preservative and color fixative, with or without sodium nitrate, in smoked, cured sablefish, smoked, cured salmon, and smoked, cured shad so that the level of sodium nitrite does not exceed 200 parts per million and the level of sodium nitrate does not exceed 500 parts per million in the finished product.

(3) As a preservative and color fixative, with sodium nitrate, in meat-curing preparations for the home curing of meat and meat products (including poultry and wild game), with directions for use which limit the amount of sodium nitrite to not more than 200 parts per million in the finished meat product, and the amount of sodium nitrate to not more than 500 parts per million in the finished meat product.

(b) To assure safe use of the additive, in addition to the other information required by the act:

(1) The label of the additive or of a mixture containing the additive shall bear:

(i) The name of the additive.

(ii) A statement of the concentration of the additive in any mixture.

(2) If in a retail package intended for household use, the label and labeling of the additive, or of a mixture containing the additive, shall bear adequate directions for use to provide a final food product which complies with the limitations prescribed in paragraph (a) of this section.

(3) If in a retail package intended for household use, the label of the additive, or of a mixture containing the additive, shall bear the statement "Keep out of the reach of children".

§ 172.177 Sodium nitrite used in processing smoked chub.

The food additive sodium nitrite may be safely used in combination with salt (NaCl) to aid in inhibiting the outgrowth and toxin formation from *Clostridium botulinum* type E in the commercial processing of smoked chub in accordance with the following prescribed conditions:

(a) All fish in smoking establishments shall be clean and wholesome and shall be expeditiously processed, packed, and stored under adequate sanitary conditions in accordance with good manufacturing practice.

(b) The brining procedure is controlled in such a manner that the water phase portion of the edible portion of the finished smoked product has a salt (NaCl) content of not less than 3.5 percent, as measured in the loin muscle, and the sodium nitrite content of the edible portion of the finished smoked product is not less than 100 parts per million and not greater than 200 parts per million, as measured in the loin muscle.

(c) Smoked chub shall be heated by a controlled heat process which provides a monitoring system positioned in as many strategic locations in the smokehouse as necessary to assure a continuous temperature throughout each fish of at least 160 °F for a minimum of 30 minutes.

(d) The finished product shall be cooled to a temperature of 50 ° F or below within 3 hours after smoking and further cooled to a temperature of 38 ° F or below within 12 hours after smoking. A temperature of 38 ° F or below shall be maintained during all subsequent storage and distribution. All shipping containers, retail packages, and shipping records shall indicate with appropriate notice the perishable nature of the product and specify that the product shall be held under refrigeration (38 ° F or below) until consumed.

(e) To assure safe use of the additive:

(1) The label and labeling of the additive container shall bear, in addition to the other information required by the act, the name of the additive.

(2) The label or labeling of the additive container shall bear adequate directions to assure use in compliance with the provisions of this section.

§ 172.180 Stannous chloride.

The food additive stannous chloride may be safely used for color retention in asparagus packed in glass, with lids lined with an inert material, in an amount not to exceed 20 parts per million calculated as tin (Sn).

§ 172.185 TBHQ.

The food additive TBHQ, which is the chemical 2-(1,1-dimethylethyl)-1,4-benzenediol (Chemical Abstracts Service Registry Number 1948-33-0), also known as tertiary butylhydroquinone, may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive has a melting point of 126.5° C–128.5° C.

(b) It is used as an antioxidant alone or in combination with BHA and/or BHT.

(c) The total antioxidant content of a food containing the additive will not exceed 0.02 percent of the oil or fat content of the food, including the essential (volatile) oil content of the food.

§ 172.190 THBP.

The food additive THBP (2,4,5-trihydroxybutyrophenone) may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive has a melting point of 140° C—153° C.

(b) It is used as an antioxidant alone or in combination with other permitted antioxidants.

(c) The total antioxidant content of a food containing the additive will not exceed 0.02 percent of the oil or fat content of the food, including the essential (volatile) oil content of the food.

Subpart C—Coatings, Films and Related Substances

§ 172.210 Coatings on fresh citrus fruit.

Coatings may be applied to fresh citrus fruit for protection of the fruit in accordance with the following conditions:

(a) The coating is applied in the minimum amount required to accomplish the intended effect.

(b) The coating may be formulated from the following components, each used in the minimum quantity required to accomplish the intended effect:

(1) Substances generally recognized as safe for the purpose or previously sanctioned for the purpose.

(2) One or more of the following:

Component	*Limitations*
Fatty acids	Complying with § 172.860.
Oleic acid derived from tall oil fatty acids.	Complying with § 172.862.
Partially hydrogenated rosin	Catalytically hydrogenated to a maximum refractive index of 1.5012 at 100° C. Color of WG or paler.
Pentaerythritol ester of maleic anhydride-modified wood rosin.	Acid number of 134–145; drop-softening point of 127° C–137° C; saponification number of less than 280; and a color of M or paler.
Do	Acid number of 176–186; drop-softening point of 110° C–118° C; saponification number of less than 280; and a color of M or paler.
Polyethylene glycol	Complying with § 172.820. As a defoamer and dispersing adjuvant.
Sodium lauryl sulfate	Complying with § 172.822. As a film former.
Wood rosin	Color of K or paler.

(3) In lieu of the components listed in paragraph (b) (2) and (4) of this section, the following copolymer and one or more of the listed adjuvants.

Component	*Limitations*
Vinyl chloride-vinylidene chloride copolymer.	As an aqueous dispersion containing a minimum of 75 percent water when applied.
Polyethylene glycol	Complying with § 172.820. As a defoamer and dispersing adjuvant.
Polyvinylpyrrolidone	Do.
Potassium persulfate	Do.
Propylene glycol alginate	Do.
Sodium decylbenzenesulfonate	Do.

(4) In lieu of the components listed in paragraph (b) (2) and (3) of this section, the following rosin derivative and either or both of the listed adjuvants:

Component	*Limitations*
Calcium salt or partially dimerized rosin.	Having a maximum drop-softening point of 197°C and a color of H or paler. It is prepared by reaction with not more than 7 parts hydrated lime per 100 parts of partially dimerized rosin. The partially dimerized rosin is rosin that has been dimerized by sulfuric acid catalyst to a drop-softening point of 95° C to 105° C and a color of WG or paler.
Petroleum naphtha	As adjuvant. Complying with § 172.250.
Sperm oil	As adjuvant.

§ 172.215 Coumarone-indene resin.

The food additive coumarone-indene resin may be safely used on grapefruit, lemons, limes, oranges, tangelos, and tangerines in accordance with the following prescribed conditions:

(a) The food additive is manufactured by the polymerization of a crude, heavy coal-tar solvent naphtha meeting the following specifications:

(1) It is a mixture of indene, indan (hydrindene), substituted benzenes, and related compounds.

(2) It contains no more than 0.25 percent tar bases.

(3) 95 percent distills in the range 167° C–184° C.

(b) The food additive meets the following specifications:

(1) Soft point, ring and ball: 126° C minimum as determined by the American Society for Testing Materials Method No. E–28–51T.

(2) Refractive index $\left(\frac{n^{\infty}}{D}\right)$ 1.63–1.64.

(c) It is used or intended for use as a protective coating for grapefruit, lemons, limes, oranges, tangelos, and tangerines whereby the maximum amount of the resin remaining on the fruit does not exceed 200 parts per million on a fresh-weight basis.

(d) To assure safe use of the additive:

(1) The label of the market package or any intermediate premix of the additive shall bear, in addition to the other information required by the act:

(i) The name of the additive, coumarone-indene resin.

(ii) A statement of the concentration of the additive therein.

(2) The label or accompanying labeling shall bear adequate directions that, if followed, will result in a finished food not in conflict with the requirements of this section.

§ 172.225 Methyl esters of fatty acids produced from edible fats and oils.

Methyl esters of fatty acids produced from edible fats and oils may be safely used in food, subject to the following prescribed conditions:

(a) The additive consists of a mixture of methyl esters of fatty acids produced from edible fats and oils and meets the following specifications:

(1) Not less than 90 percent methyl esters of fatty acids.

(2) Not more than 1.5 percent unsaponifiable matter.

(b) The additive is used or intended for use at a level not to exceed 3 percent by weight in an aqueous emulsion in dehydrating grapes to produce raisins, whereby the residue of the additive on the raisins does not exceed 200 parts per million.

§ 172.230 Microcapsules for flavoring oils.

Microcapsules may be safely used for encapsulating discrete particles of fla-

voring oils that are generally recognized

the crystals in the flask with about 25 milliliters of distilled water and pour this also

fraction specifications prescribed in item 2.3 of the table in § 177.1520(c) of this

tin capsules in an amount not to exceed 0.07 percent of the weight of the capsule.

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voring oils that are generally recognized as safe for their intended use or are regulated under this part, in accordance with the following conditions:

(a) The microcapsules may be formulated from the following components, each used in the minimum quantity required to accomplish the intended effect:

(1) Substances generally recognized as safe for the purpose.

(2) One or more of the following:

Component	Limitations
Succinylated gelatin.	Not to exceed 15 percent by combined weight of the microcapsule and flavoring oil. Succinic acid content of the gelatin is 4.5 to 5.5 percent.
Arabinogalactan	Complying with § 172.610; as adjuvant.
Silicon dioxide	Complying with § 172.480; as adjuvant.

(3) In lieu of the components listed in paragraph (a)(2) of this section, the following components:

Component	Limitations
Glutaraldehyde	As cross-linking agent for insolubilizing a coacervate of gum arabic and gelatin.
n-Octyl alcohol	As a defoamer.

(b) The microcapsules may be used for encapsulating authorized flavoring oils for use, in accordance with good manufacturing practice, in foods for which standards of identity established under section 401 of the act do not preclude such use, except that microcapsules formulated from components listed in paragraph (a)(2) of this section may be used only for encapsulating lemon oil, distilled lime oil, orange oil, peppermint oil, and spearmint oil for use in dry mixes for puddings and gelatin desserts.

§ 172.235 Morpholine.

Morpholine may be safely used as a component of food, subject to the following restrictions.

(a) It is used as the salt(s) of one or more of the fatty acids meeting the requirements of § 172.860, as a component of protective coatings applied to fresh fruits and vegetables.

(b) It is used at a level not in excess of that reasonably required to produce its intended effect.

§ 172.250 Petroleum naphtha.

Petroleum naphtha may be safely used in food in accordance with the following conditions:

(a) The additive is a mixture of liquid hydrocarbons, essentially paraffinic and naphthenic in nature obtained from petroleum,

(b) The additive is refined to meet the following specifications when subjected to the procedures described in this paragraph.

(1) Boiling-point range: 175° F–300° F.

(2) Nonvolatile residue: 0.002 gram per 100 milliliters maximum.

(3) Ultraviolet absorbance limits, as follows:

Wavelength (millimicrons)	*Maximum absorbance per centimeter optical pathlength*
280–289	0.15
290–299	.13
300–359	.08
360–400	.02

ANALYTICAL SPECIFICATION FOR PETROLEUM NAPHTHA

GENERAL INSTRUCTIONS

All glassware should be scrupulously cleaned to remove all organic matter such as oil, grease, detergent residues, etc. Examine all glassware, including stoppers and stopcocks, under ultraviolet light to detect any residual fluorescent contamination. As a precautionary measure, it is recommended practice to rinse all glassware with purified isooctane immediately before use. No grease is to be used on stopcocks or joints. Great care to avoid contamination of petroleum naphtha samples in handling and to assure absence of any extraneous material arising from inadequate packaging is essential. Because some of the polynuclear hydrocarbons sought in this test are very susceptible to photo-oxidation, the entire procedure is to be carried out under subdued light.

APPARATUS

Separatory funnels. 250-milliliter, and 2,000-milliliter capacity, equipped with tetrafluoroethylene polymer stopcocks.

Erlenmeyer flask. 125-milliliter with 24/40 standard taper neck.

Evaporation flask. 250-milliliter capacity all-glass flask equipped with 24/40 standard taper stopper having inlet and outlet tubes to permit passage of nitrogen across the surface of the contained liquid to be evaporated.

Condenser. 24/40 joints, fitted with drying tube, length optional.

Spectrophotometric cells. Fused quartz cells, optical path length in the range of 5,000 centimeters ±0.005 centimeter; also for checking spectrophotometer performance only, optical path length in the range 1,000 centimeter ±0.005 centimeter. With distilled water in the cells, determine any absorbance difference.

Spectrophotometer. Spectral range 250–400 mμ with spectral slit width of 2 mμ or less; under instrument operating conditions for these absorbance measurements, the spectrophotometer shall also meet the following performance requirements:

Absorbance repeatability, ±0.01 at 0.4 absorbance.
Absorbance accuracy,[1] ±0.05 at 0.4 absorbance.
Wavelength repeatability, ±0.2 millimicron.
Wavelength accuracy, ±1.0 millimicron.

Ultraviolet lamp. Long wavelength (3400–3800A°).

REAGENTS

Isooctane (2,2,4-trimethylpentane). Use 180 milliliters in a 250-milliliter Erlenmeyer flask, add 1 milliliter of purified *n*-hexadecane, insert the head assembly, allow nitrogen gas to flow into the inlet tube and connect the outlet tube to a solvent trap and vacuum line in such a way as to prevent any back flow of condensate into the flask. The contents of the flask are evaporated on a steam bath until 1 milliliter of residue remains. Dissolve the 1 milliliter of hexadecane residue in isooctane and make up to 25 milliliters. Determine the absorbance in a 5-centimeter path length cell compared to isooctane as reference. The absorbance should not exceed 0.01 per centimeter path length between 280–400 mμ. If necessary, isooctane may be purified by passage through a column of activated silica gel (Grade 12, Davidson Chemical Co., Baltimore, Md., or equivalent) or by distillation.

Methyl alcohol, A.C.S. reagent grade. Use 10 milliliters and proceed as with isooctane. The absorbance per centimeter of path length should be 0.00 between 280–400 mμ. Methyl alcohol may be purified by simple distillation or by refluxing in the presence of potassium hydroxide (10 grams/2 liters) and zinc dust (25 grams/2 liters) for 3 hours followed by distillation.

n-Hexadecane, 99 percent olefin-free. Dilute 1.0 milliliter of *n*-hexadecane to 25 milliliters with isooctane and determine the absorbance in a 5-centimeter cell compared to isooctane as reference between 280–400 mμ. The absorbance per centimeter path length shall not exceed 0.00 in this range. Purify, if necessary, by percolation through activated silica gel or by distillation.

Sodium borohydride. 98 percent.

Water. All distilled water must be extracted with isooctane before use. A series of three successive extracts of 1.5 liters of distilled water with 100-milliliter portions of isooctane is satisfactory.

PROCEDURE

Determination of ultraviolet absorbance. Add a 25-milliliter aliquot of the hydrocarbon solvent together with 1 milliliter of hexadecane to the 125-milliliter Erlenmeyer flask. While flushing with nitrogen, evaporate to 1 milliliter on a steam bath. Nitrogen is admitted through a 8±1-milliliter outer-diameter tube, drawn out into a 2±1-centimeter long and 1±0.5-millimeter inner-diameter capillary tip. This is positioned so that the capillary tip extends 4 centimeters into the flask. The nitrogen flow rate is such that the surface of the liquid is barely disturbed. After the volume is reduced to that of the 1 milliliter of hexadecane, the flask is left on the steam bath for 10 more minutes before removing. Add 10 milliliters of purified isooctane to the flask and reevaporate the solution to a 1-milliliter volume in the same manner as described above, except do not heat for an added 10 minutes. Repeat this operation twice more. Let the flask cool.

Add 10 milliliters of methyl alcohol and about 0.3 gram of sodium borohydride. (Minimize exposure of the borohydride to the atmosphere; a measuring dipper may be used.) Immediately fit a water-cooled condenser equipped with a 24/40 joint and with a drying tube into the flask, mix until the sodium borohydride is dissolved, and allow to stand for 30 minutes at room temprature, with intermittent swirling. At the end of this time, disconnect the flask and evaporate the methyl alcohol on the steam bath under nitrogen until sodium borohydride begins to drop out of solution. Remove the flask and let it cool.

Add 6 milliliters of isooctane to the flask and swirl to wash the crystalline slurry. Carefully transfer the isooctane extract to a 250-milliliter separatory funnel. Dissolve the crystals in the flask with about 25 milliliters of distilled water and pour this also into the separatory funnel. Adjust the water volume in the separatory funnel to about 100 milliliters and shake for 1 minute. After separation of the layers, draw off the aqueous layer into a second 250-milliliter separatory funnel. Transfer the hydrocarbon layer in the first funnel to a 25-milliliter volumetric flask.

Carefully wash the Erlenmeyer flask with an additional 6 milliliters of isooctane, swirl, and transfer to the second separatory funnel. Shake the funnel for 1 minute. After separation of the layers, draw off the aqueous layer into the first separatory funnel. Transfer the isooctane in the second funnel to the volumetric flask. Again wash the Erlenmeyer flask with an additional 6 milliliters of isooctane, swirl, and transfer to the first separatory funnel. Shake the funnel for 1 minute. After separation of the layers, draw off the aqueous layer and discard. Transfer the isooctane layer to the volumetric flask and adjust the volume to 25 milliliters of isooctane. Mix the contents well, then transfer to the first separatory funnel and wash twice with 50-milliliter portions of distilled water. Discard the aqueous layers after each wash.

Determine the ultraviolet absorbance of the isooctane extract in 5-centimeter path length cells compared to isooctane as reference between 280–400 mμ. Determine a reagent blank concurrently with the sample, using 25 milliliters of purified isooctane instead of a solvent sample and measuring the ultraviolet absorbance of the blank between 280–400mμ.

The reagent blank absorbance should not exceed 0.04 per centimeter path length between 280–289 mμ; 0.020 between 290–299 mμ; and 0.010 between 300–400 mμ.

Determination of boiling-point range. Use ASTM Method D–86.

Determination of nonvolatile residue. For hydrocarbons boiling below 250° F determine the nonvolatile residue by ASTM Method D–1353; for those boiling above 250° F, use ASTM Method D–381.

(c) Petroleum naphtha containing antioxidants shall meet the specified ultraviolet absorbance limits after correction for any absorbance due to the antioxidants. Petroleum naphtha may contain antioxidants authorized for use in food in an amount not to exceed that reasonably required to accomplish the intended effect or to exceed any prescribed limitations.

(d) Petroleum naphtha is used or intended for use as a solvent in protective coatings on fresh citrus fruit in compliance with § 172.210.

§ 172.255 Polyacrylamide.

Polyacrylamide containing not more than 0.2 percent of acrylamide monomer may be safely used as a film former in the imprinting of soft-shell gelatin capsules when the amount used is not in excess of the minimum required to produce the intended effect.

§ 172.260 Oxidized polyethylene.

Oxidized polyethylene may be safely used as a component of food, subject to the following restrictions:

(a) Oxidized polyethylene is the basic resin produced by the mild air oxidation of polyethylene. The polyethylene used in the oxidation process conforms to the density, maximum *n*-hexane extractable fraction, and maximum xylene soluble fraction specifications prescribed in item 2.3 of the table in § 177.1520(c) of this chapter. The oxidized polyethylene has a minimum number average molecular weight of 1,200, as determined by high temperature vapor pressure osmometry; contains a maximum of 5 percent by weight of total oxygen; and has an acid value of 9 to 19.

(b) The additive is used or intended for use as a protective coating or component of protective coatings for fresh avocados, bananas, beets, coconuts, eggplant, garlic, grapefruit, lemons, limes, mango, muskmelons, onions, oranges, papaya, peas (in pods), pineapple, plantain, pumpkin, rutabaga, squash (acorn), sweetpotatoes, tangerines, turnips, watermelon, Brazil nuts, chestnuts, filberts, hazelnuts, pecans, and walnuts (all nuts in shells).

(c) The additive is used in accordance with good manufacturing practice and in an amount not to exceed that required to produce the intended effect.

§ 172.275 Synthetic paraffin and succinic derivatives.

Synthetic paraffin and succinic derivatives identified in this section may be safely used as a component of food, subject to the following restrictions:

(a) The additive is prepared with 50 percent Fischer-Tropsch process synthetic paraffin, meeting the definition and specifications of § 172.615, and 50 percent of such synthetic paraffin to which is bonded succinic anhydride and succinic acid derivatives of isopropyl alcohol, polyethylene glycol, and polypropylene glycol. It consists of a mixture of the Fischer-Tropsch process paraffin (alkane), alkyl succinic anhydride, alkyl succinic anhydride isopropyl half ester, dialkyl succinic anhydride polyethylene glycol half ester, and dialkyl succinic anhydride polypropylene glycol half ester, where the alkane (alkyl) has a chain length of 30–70 carbon atoms and the polyethylene and polypropylene glycols have molecular weights of 600 and 260, respectively.

(b) The additive meets the following specifications: Molecular weight, 880–930; melting point, 215°–217° F; acid number, 43–47; and saponification number, 75–78.

(c) It is used or intended for use as a protective coating or component of protective coatings for fresh grapefruit, lemons, limes, muskmelons, oranges, sweetpotatoes, and tangerines.

(d) It is used in an amount not to exceed that required to produce the intended effect.

§ 172.280 Terpene resin.

The food additive terpene resin may be safely used in accordance with the following prescribed conditions:

(a) The food additive is the beta-pinene polymer obtained by polymerizing terpene hydrocarbons derived from wood. It has a softening point of 112° C —118° C, as determined by ASTM method E–28–51T.

(b) It is used or intended for use as follows:

(1) As a moisture barrier on soft gelatin capsules in an amount not to exceed 0.07 percent of the weight of the capsule.

(2) As a moisture barrier on powders of ascorbic acid or its salts in an amount not to exceed 7 percent of the weight of the powder.

Subpart D—Special Dietary and Nutritional Additives

§ 172.310 Aluminum nicotinate.

Aluminum nicotinate may be safely used as a source of niacin in foods for special dietary use. A statement of the concentration of the additive, expressed as niacin, shall appear on the label of the food additive container or on that of any intermediate premix prepared therefrom.

§ 172.315 Nicotinamide-ascorbic acid complex.

Nicotinamide-ascorbic acid complex may be safely used in accordance with the following prescribed conditions:

(a) The additive is the product of the controlled reaction between ascorbic acid and nicotinamide, melting in the range 141°C to 145°C.

(b) It is used as a source of ascorbic acid and nicotinamide in multivitamin preparations.

§ 172.320 Amino acids.

The food additive amino acids may be safely used as nutrients added to foods in accordance with the following conditions:

(a) The food additive consists of one or more of the following individual amino acids in the free, hydrated or anhydrous form or as the hydrochloride, sodium or potassium salts:

L-Alanine
L-Arginine
L-Aspartic acid
L-Cysteine
L-Cystine
L-Glutamic acid
L-Glutamine
Glycine
L-Histidine
L-Isoleucine
L-Leucine
L-Lysine
DL-Methionine (not for infant foods)
L-Methionine
L-Phenylalanine
L-Proline
L-Serine
L-Threonine
L-Tryptophan
L-Tyrosine
L-Valine

(b) The food additive meets the following specifications:

(1) As found in "Food Chemicals Codex," National Academy of Sciences-National Research Council (NAS–NRC), 2nd Edition (1972)[2] for the following:

L-Alanine
L-Arginine
L-Arginine Monohydrochloride
L-Cysteine Monohydrochloride
L-Cystine
Glycine
L-Leucine
DL-Methionine
L-Methionine
L-Tryptophan

[1] As determined by procedure using potassium chromate for reference standard and described in National Bureau of Standards Circular 484, Spectrophotometry, U.S. Department of Commerce, 1949. The accuracy is to be determined by comparison with the standard values at 290, 345, and 400 millimicrons.

[2] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

nisms, including *Salmonella*, and shall with the following prescribed condi- micrograms for adults and children 4 or

V 4250 MAR 15 77 7 UMI

L-Phenylalanine
L-Proline
L-Serine
L-Threonine
Glutamic Acid Hydrochloride
L-Isoleucine
L-Lysine Monohydrochloride
Monopotassium L-glutamate
L-Tyrosine
L-Valine

(2) As found in "Specifications and Criteria for Biochemical Compounds," NAS–NRC Publication, 3rd Edition (1972)[1] for the following:

L-Asparagine
L-Aspartic acid
L-Glutamine
L-Histidine

(c) The additive(s) is used or intended for use to significantly improve the biological quality of the total protein in a food containing naturally occurring primarily-intact protein that is considered a significant dietary protein source, provided that:

(1) A reasonable daily adult intake of the finished food furnishes at least 9.5 grams of naturally occurring primarily intact protein (based upon 10 percent of the daily allowance for the "reference" adult male recommended by the National Academy of Sciences in "Recommended Dietary Allowances," NAS Publication No. 1694, 7th Edition (1968)).[1]

(2) The additive(s) results in a protein efficiency ratio (PER) of protein in the finished ready-to-eat food equivalent to casein as determined by the method specified in paragraph (d) of this section.

(3) Each amino acid (or combination of the minimum number necessary to achieve a statistically significant increase) added results in a statistically significant increase in the PER as determined by the method described in paragraph (d) of this section. The minimum amount of the amino acid(s) to achieve the desired effect must be used and the increase in PER over the primarily-intact naturally occurring protein in the food must be substantiated as a statistically significant difference with at least a probability (P) value of less than 0.05.

(4) The amount of the additive added for nutritive purposes plus the amount naturally present in free and combined (as protein) form does not exceed the following levels of amino acids expressed as percent by weight of the total protein of the finished food:

	Percent by weight of total protein (expressed as free amino acid)
L-Alanine	6.1
L-Arginine	6.6
L-Aspartic acid (including L-asparagine)	7.0
L-Cystine (including L-cysteine)	2.3
L-Glutamic acid (including L-glutamine)	12.4
Glycine	3.5
L-Histidine	2.4
L-Isoleucine	6.6
L-Leucine	8.8
L-Lysine	6.4
L- and DL-Methionine	3.1
L-Phenylalanine	5.8
L-Proline	4.2
L-Serine	8.4
L-Threonine	5.0
L-Tryptophan	1.6
L-Tyrosine	4.3
L-Valine	7.4

[1] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

(d) Compliance with the limitations concerning PER under paragraph (c) of this section shall be determined by the method described in sections 39.166–39.170, "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Edition (1970).[2] Each manufacturer or person employing the additive(s) under the provisions of this section shall keep and maintain throughout the period of his use of the additive(s) and for a minimum of 3 years thereafter, records of the tests required by this paragraph and other records required to assure effectiveness and compliance with this regulation and shall make such records available upon request at all reasonable hours by any officer or employee of the Food and Drug Administration, or any other officer or employee acting on behalf of the Secretary of Health, Education, and Welfare and shall permit such officer or employee to conduct such inventories of raw and finished materials on hand as he deems necessary and otherwise to check the correctness of such records.

(e) To assure safe use of the additive, the label and labeling of the additive and any premix thereof shall bear, in addition to the other information required by the act, the following:

(1) The name of the amino acid(s) contained therein including the specific optical and chemical form.

(2) The amounts of each amino acid contained in any mixture.

(3) Adequate directions for use to provide a finished food meeting the limitations prescribed by paragraph (c) of this section.

(f) The food additive amino acids added as nutrients to special dietary foods that are intended for use solely under medical supervision to meet nutritional requirements in specific medical conditions and comply with the requirements of Part 105 of this chapter are exempt from the limitations in paragraphs (c) and (d) of this section and may be used in such foods at levels not to exceed good manufacturing practices.

§ 172.325 Bakers yeast protein.

Bakers yeast protein may be safely used in food in accordance with the following conditions:

(a) Bakers yeast protein is the insoluble proteinaceous material remaining after the mechanical rupture of yeast cells of *Saccharomyces cerevisiae* and removal of whole cell walls by centrifugation and separation of soluble cellular materials.

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(b) The additive meets the following specifications on a dry weight basis:

(1) Zinc salts less than 500 parts per million (ppm) as zinc.

(2) Nucleic acid less than 2 percent.

(3) Less than 0.3 ppm arsenic, 0.1 ppm cadmium, 0.4 ppm lead, 0.05 ppm mercury, and 0.3 ppm selenium.

(c) The viable microbial content of the finished ingredient is:

(1) Less than 10,000 organisms/gram by aerobic plate count.

(2) Less than 10 yeasts and molds/gram.

(3) Negative for *Salmonella, E. coli*, coagulase positive *Staphylococci, Clostridium perfringens, Clostridium botulinum*, or any other recognized microbial pathogen or any harmful microbial toxin.

(d) The ingredient is used in food as a nutrient supplement as defined in § 170.3(o)(30) of this chapter.

§ 172.330 Calcium pantothenate, calcium chloride double salt.

The food additive calcium chloride double salt of calcium pantothenate may be safely used in foods for special dietary uses in accordance with good manufacturing practice and under the following prescribed conditions:

(a) The food additive is of the *d* (dextrotatory) or the *dl* (racemic) form.

(b) To assure safe use of the additive, the label and labeling of the food additive container, or that of any intermediate premixes prepared therefrom, shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive "calcium chloride double salt of *d*-calcium pantothenate" or "calcium chloride double salt of *dl*-calcium pantothenate", whichever is appropriate.

(2) A statement of the appropriate concentration of the additive, expressed as pantothenic acid.

§ 172.335 D-Pantothenamide.

The food additive D-pantothenamide as a source of pantothenic acid activity, may be safely used in foods for special dietary use in an amount not in excess of that reasonably required to produce its intended effect.

§ 172.345 Folic acid (folacin).

Folic acid (folacin) may be safely added to a food for its vitamin property, provided the maximum intake of the food as may be consumed during a period of 1 day, or as directed for use in the case of a dietary supplement, will not result in daily ingestion of the additive in excess of 0.4 milligram for foods labeled without reference to age or physiological state; and when age or the conditions of pregnancy or lactation are specified, in excess of 0.1 milligram for infants, 0.3 milligram for children under 4 years of age, 0.4 milligram for adults and children 4 or more years of age, and 0.8 milligram for pregnant or lactating women.

§ 172.350 Fumaric acid and salts or fumaric acid.

Fumaric acid and its calcium, ferrous, magnesium, potassium, and sodium salts may be safely used in food in accordance

with the following prescribed conditions:

(a) The additives meet the following specifications:

(1) Fumaric acid contains a minimum of 99.5 percent by weight of fumaric acid, calculated on the anhydrous basis.

(2) The calcium, magnesium, potassium, and sodium salts contain a minimum of 99 percent by weight of the respective salt, calculated on the anhydrous basis. Ferrous fumarate contains a minimum of 31.3 percent total iron and not more than 2 percent ferric iron.

(b) With the exception of ferrous fumarate, fumaric acid and the named salts are used singly or in combination in food at a level not in excess of the amount reasonably required to accomplish the intended effect.

(c) Ferrous fumarate is used as a source of iron in foods for special dietary use, when the use is consistent with good nutrition practice.

§ 172.365 Kelp.

Kelp may be safely added to a food as a source of the essential mineral iodine, provided the maximum intake of the food as may be consumed during a period of one day, or as directed for use in the case of a dietary supplement, will not result in daily ingestion of the additive so as to provide a total amount of iodine in excess of 225 micrograms for foods labeled without reference to age or physiological state; and when age or the conditions of pregnancy or lactation are specified, in excess of 45 micrograms for infants, 105 micrograms for children under 4 years of age, 225 micrograms for children under 4 or more years of age, and 300 micrograms for pregnant or lactating women. The food additive kelp is the dehydrated, ground product prepared from *Macrocystis pyrifera, Laminaria digitata, Laminaria saccharina*, and *Laminaria cloustoni*.

§ 172.370 Iron-choline citrate complex.

Iron-choline citrate complex made by reacting approximately equimolecular quantities of ferric hydroxide, choline, and citric acid may be safely used as a source of iron in foods for special dietary use.

§ 172.375 Potassium iodide.

The food additive potassium iodide may be safely used in accordance with the following prescribed conditions:

(a) Potassium iodide may be safely added to a food as a source of the essential mineral iodine, provided the maximum intake of the food as may be consumed during a period of one day, or as directed for use in the case of a dietary supplement, will not result in daily ingestion of the additive so as to provide a total amount of iodine in excess of 225 micrograms for foods labeled without reference to age or physiological state; and when age or the conditions of pregnancy or lactation are specified, in excess of 45 micrograms for infants, 105 micrograms for children under 4 years of age, 225 micrograms for adults and children 4 or more years of age, and 300 micrograms for pregnant or lactating women.

(b) To assure safe use of the additive, in addition to the other information required by the act, the label of the additive shall bear:

(1) The name of the additive.

(2) A statement of the concentration of the additive in any mixture.

§ 172.385 Whole fish protein concentrate.

The food additive whole fish protein concentrate may be safely used as a food supplement in accordance with the following prescribed conditions:

(a) The additive is derived from whole, wholesome hake and hakelike fish, herring of the genera *Clupea*, menhaden, and anchovy of the species *Engraulis mordax*, handled expeditiously and under sanitary conditions in accordance with good manufacturing practices recognized as proper for fish that are used in other forms for human food.

(b) The additive consists essentially of a dried fish protein processed from the whole fish without removal of heads, fins, tails, viscera, or intestinal contents. It is prepared by solvent extraction of fat and moisture with isopropyl alcohol or with ethylene dichloride followed by isopropyl alcohol, except that the additive derived from herring, menhaden and anchovy is prepared by solvent extraction with isopropyl alcohol alone. Solvent residues are reduced by conventional heat drying and/or microwave radiation and there is a partial removal of bone.

(c) The food additive meets the following specifications:

(1) Protein content (N x 6.25) shall not be less than 75 percent by weight of the final product, as determined by the method described in Official Methods of Analysis of the Association of Official Agricultural Chemists, section 2.044, 10th Edition (1965). Protein quality shall not be less than 100, as determined by the method described in sections 39.133–39.137 of such 10th Edition.

(2) Moisture content shall not exceed 10 percent by weight of the final product, as determined by the method described in section 23.003 of said 10th Edition.

(3) Fat content shall not exceed 0.5 percent by weight of the final product, as determined by the method described in section 23.005 of said 10th Edition.

(4) The additive may contain residues of isopropyl alcohol and ethylene dichloride not in excess of 250 parts per million and 5 parts per million, respectively, when used as solvents in the extraction process.

(5) Microwave radiation meeting the requirements of § 179.30 of this chapter may be used to reduce residues of the solvents used in the extraction process.

(6) The additive shall contain not in excess of 100 parts per million fluorides (expressed as F).

(7) The additive shall be free of *Escherichia coli* and pathogenic organisms, including *Salmonella*, and shall have a total bacterial plate count of not more than 10,000 per gram.

(8) The additive shall have no more than a faint characteristic fish odor and taste.

(d) When the additive is used or intended for use in the household as a protein supplement in food for regular consumption by children up to 8 years of age, the amount of the additive from this source shall not exceed 20 grams per day (about one heaping tablespoon).

(e) When the additive is used as a protein supplement in manufactured food, the total fluoride content (expressed as F) of the finished food shall not exceed 8 ppm based on the dry weight of the food product.

(f) To assure safe use of the additive, in addition to the other information required by the act:

(1) The label of consumer-sized or bulk containers of the additive shall bear the name "whole fish protein concentrate".

(2) The label or labeling of containers of the additive shall bear adequate directions for use to comply with the limitations prescribed by paragraphs (d) and (e) of this section.

(3) Labels of manufactured foods containing the additive shall bear, in the ingredient statement, the name of the additive, "whole fish protein concentrate" in the proper order of decreasing predominance in the finished food.

§ 172.395 Xylitol.

Xylitol may be safely used in foods for special dietary uses, provided the amount used is not greater than that required to produce its intended effect.

Subpart E—Anticaking Agents

§ 172.410 Calcium silicate.

Calcium silicate, including synthetic calcium silicate, may be safely used in food in accordance with the following prescribed conditions:

(a) It is used as an anticaking agent in food in an amount not in excess of that reasonably required to produce its intended effect.

(b) It will not exceed 2 percent by weight of the food, except that it may be present up to 5 percent by weight of baking power.

§ 172.430 Iron ammonium citrate.

Iron ammonium citrate may be safely used in food in accordance with the following prescribed conditions:

(a) The additive is the chemical green ferric ammonium citrate.

(b) The additive is used, or intended for use as an anticaking agent in salt for human consumption so that the level of iron ammonium citrate does not exceed 25 parts per million (0.0025 percent) in the finished salt.

(c) To assure safe use of the additive the label or labeling of the additive shall bear, in addition to the other information required by the act:

(1) The name of the additive.

(2) Adequate directions to provide a final product that complies with the limitations prescribed in paragraph (b) of this section.

§ 172.480 Silicon dioxide.

The food additive silicon dioxide may be safely used in food in accordance with the following conditions:

(a) The food additive is manufactured by vapor phase hydrolysis or by other means whereby the particle size is such as to accomplish the intended effect.

(b) It is used as an anticaking agent, subject to the following conditions:

(1) It is used in only those foods in which the additive has been demonstrated to have an anticaking effect.

(2) It is used in an amount not in excess of that reasonably required to produce its intended effect.

(3) [Reserved]

(4) It is used in an amount not to exceed 2 percent by weight of the food.

(c) It is used or intended for use as a stabilizer in the production of beer, and is removed from the beer by filtration prior to final processing.

(d) It is used or intended for use as an adsorbent for *dl-α*-tocopheryl acetate and pantothenyl alcohol in tableted foods for special dietary use, in an amount not greater than that required to accomplish the intended physical or technical effect.

§ 172.490 Yellow prussiate of soda.

(a) The food additive yellow prussiate of soda (sodium ferrocyanide decahydrate: $Na_4FE(CN)_6.10H_2O$) contains a minimum of 99 percent by weight of sodium ferrocyanide decahydrate.

(b) The additive is used or intended for use as an anticaking agent in salt and as an adjuvant in the production of dendritic crystals of salt in an amount needed to produce its intended effect but not in excess of 13 parts per million calculated as anhydrous sodium ferrocyanide.

Subpart F—Flavoring Agents and Related Substances

§ 172.510 Natural flavoring substances and natural substances used in conjunction with flavors.

Natural flavoring substances and natural adjuvants may be safely used in food in accordance with the following conditions.

(a) They are used in the minimum quantity required to produce their intended physical or technical effect, and in accordance with all the principles of good manufacturing practice.

(b) In the appropriate forms (plant parts, fluid and solid extracts, concretes, absolutes, oils, gums, balsams, resins, oleoresins, waxes, and distillates) they consist of one or more of the following, used alone or in combination with flavoring substances and adjuvants generally recognized as safe in food, previously sanctioned for such use, or regulated in any section of this part.

Common name	Scientific name	Limitations
Aloe	*Aloe perryi* Baker, *A. barbadensis* Mill., *A. ferox* Mill., and hybrids of this sp. with *A. africana* Mill. and *A. spicata* Baker.	
Althea root and flowers	*Althea officinalis* L.	
Amyris (West Indian sandalwood).	*Amyris balsamifera* L.	
Angola weed	*Roccella fuciformis* Ach	In alcoholic beverages only.
Arnica flowers	*Arnica mexicana* L., *A. fulgens* Pursh, *A. sororia* Greene, or *A. cordifolia* Hooker.	Do.
Artemisia (wormwood)	*Artemisia* spp.	Finished food thujone free.[1]
Artichoke leaves	*Cynara scolymus* L.	In alcoholic beverages only.
Beeswax, white (Cire d'abeille).	*Apis mellifera* L.	
Benzoin resin	*Styrax benzoin* Dryander, *S. parallelioneurus* Perkins, *S. tonkinensis* (Pierre) Craib ex Hartwich, or other spp. of the Section *Anthostyrax* of the genus *Styrax*.	
Blackberry bark	*Rubus*, Section *Eubatus*.	
Boldus (boldo) leaves	*Peumus boldus* Mol.	Do.
Boronia flowers	*Boronia megastigma* Nees.	
Bryonia root	*Bryonia alba* L., or *B. dioeca* Jacq.	Do.
Buchu leaves	*Barosma betulina* Bartl. et Wendl., *B. crenulata* (L.) Hook. or *B. serratifolia* Willd.	
Buckbean leaves	*Menyanthes trifoliata* L.	Do.
Cajeput	*Melaleuca leucadendron* L. and other *Melaleuca* spp.	
Calumba root	*Jateorhiza palmata* (Lam.) Miers	Do.
Camphor tree	*Cinnamomum camphora* (L.) Nees et Eberm.	Safrole free.
Cascara sagrada	*Rhamnus purshiana* DC.	
Cassie flowers	*Acacia farnesiana* (L.) Willd.	
Castor oil	*Ricinus communis* L.	
Catechu, black	*Acacia catechu* Willd.	
Cedar, white (abervitae), leaves and twigs.	*Thuja occidentalis* L.	Finished food thujone free.[1]
Centaury	*Centaurium umbellatum* Gilib.	In alcoholic beverages only.
Cherry pits	*Prunus avium* L. or *P. cerasus* L.	Not to exceed 25 p.p.m. prussic acid.
Cherry-laurel leaves	*Prunus laurocerasus* L.	Do.
Chestnut leaves	*Castanea dentata* (Marsh.) Borkh.	
Chirata	*Swertia chirata* Buch.-Ham.	In alcoholic beverages only.
Cinchona, red, bark	*Cinchona succirubra* Pav. or its hybrids.	In beverages only; not more than 83 p.p.m. total cinchona alkaloids in finished beverage.
Cinchona, yellow, bark	*Cinchona ledgeriana* Moens, *C. calisaya* Wedd., or hybrids of these with other spp. of *Cinchona*.	Do.
Copaiba	South American spp. of *Copaifera* L.	
Cork, oak	*Quercus suber* L., or *Q. occidentalis* F. Gay.	In alcoholic beverages only.
Costmary	*Caryopteris balsamita* L.	Do.
Costus root	*Saussurea lappa* Clarke.	
Cubeb	*Piper cubeba* L. f.	
Currant, black, buds and leaves.	*Ribes nigrum* L.	
Damiana leaves	*Turnera diffusa* Willd.	
Davana	*Artemisia pallens* Wall.	
Dill, Indian	*Anethum sowa* Roxb. (*Peucedanum graveolens* Benth et Hook., *Anethum graveolens* L.).	
Dittany (fraxinella) roots	*Dictamnus albus* L.	In alcoholic beverages only.
Dittany of Crete	*Origanum dictamnus* L.	
Dragon's blood (dracorubin)	*Daemonorops* spp.	
Elder tree leaves	*Sambucus nigra* L.	In alcoholic beverages only; not to exceed 25 p.p.m. prussic acid in the flavor.
Elecampane rhizome and roots	*Inula helenium* L.	In alcoholic beverages only.
Elemi	*Canarium commune* L. or *C. luzonicum* Miq.	
Erigeron	*Erigeron canadensis* L.	
Eucalyptus globulus leaves	*Eucalyptus globulus* Labill.	
Fir ("pine") needles and twigs	*Abies sibirica* Ledeb., *A. alba* Mill., *A. sachalinensis* Masters or *A. mayriana* Miyabe et Kudo.	
Fir, balsam, needles and twigs	*Abies balsamea* (L.) Mill.	
Galanga, greater	*Alpinia galanga* Willd.	Do.
Galbanum	*Ferula galbaniflua* Boiss. et Buhse and other *Ferula* spp.	
Gambir (catechu, pale)	*Uncaria gambir* Roxb.	
Genet flowers	*Spartium junceum* L.	
Gentian rhizome and roots	*Gentiana lutea* L.	Do.
Gentian, stemless	*Gentiana acaulis* L.	Do.
Germander, chamaedrys	*Teucrium chamaedrys* L.	In alcoholic beverages only.
Germander, golden	*Teucrium polium* L.	
Guaiac	*Guaiacum officinale* L., *G. sanctum* L., *Bulnesia sarmienti* Lor.	
Guarana	*Paullinia cupana* HBK.	
Haw, black, bark	*Viburnum prunifolium* L.	
Hemlock needles and twigs	*Tsuga canadensis* (L.) Carr. or *T. heterophylla* (Raf.) Sarg.	
Hyacinth flowers	*Hyacinthus orientalis* L.	
Iceland moss	*Cetraria islandica* Ach.	Do.
Imperatoria	*Peucedanum ostruthium* (L.) Koch (*Imperatoria ostruthium* L.).	
Iva	*Achillea moschata* Jacq.	Do.
Labdanum	*Cistus* spp.	
Lemon-verbena	*Lippia citriodora* HBK.	Do.
Linaloe wood	*Bursera delpechiana* Poiss. and other *Bursera* spp.	
Linden leaves	*Tilia* spp.	Do.
Lovage	*Levisticum officinale* Koch.	
Lungmoss (lungwort)	*Sticta pulmonacea* Ach.	
Maidenhair fern	*Adiantum capillus-veneris* L.	Do.
Maple, mountain	*Acer spicatum* Lam.	
Mimosa (black wattle) flowers	*Acacia decurrens* Willd. var. *dealbata*.	
Mullein flowers	*Verbascum phlomoides* L. or *V. thapsiforme* Schrad.	Do.
Myrrh	*Commiphora molmol* Engl., *C. abyssinica* (Berg) Engl., or other *Commiphora* spp.	

Common name	Scientific name	Limitations
Myrtle leaves	*Myrtus communis* L.	In alcoholic beverages only.
Oak, English, wood	*Quercus robur* L.	Do.
Oak, white, chips	*Quercus alba* L.	
Oak moss	*Evernia prunastri* (L.) Ach., *E. furfuracea* (L.) Mann, and other lichens.	Finished food thujone.
Olibanum	*Boswellia carteri* Birdw. and other *Boswellia* spp.	
Opopanax (bisabolmyrrh)	*Opopanax chironium* Koch (true opopanax) of *Commiphora erythraea* Engl. var. *Llebrecana*	
Orris root	*Iris germanica* L. (including its variety *florentina* Dykes) and *I. pallida* Lam.	
Pansy	*Viola tricolor* L.	In alcoholic beverages only.
Passion flower	*Passiflora incarnata* L.	
Patchouly	*Pogostemon cablin* Benth. and *P. heyneanus* Benth.	
Peach leaves	*Prunus persica* (L.) Batsch	In alcoholic beverages only; not to exceed 25 p.p.m. prussic acid in the flavor.
Pennyroyal, American	*Hedeoma pulegioides* (L.) Pers.	
Pennyroyal, European	*Mentha pulegium* L.	
Pine, dwarf, needles and twigs	*Pinus mugo* Turra var. *pumilio* (Haenke) Zenari.	
Pine, Scotch, needles and twigs	*Pinus sylvestris* L.	In alcoholic beverages only.
Pine, white, bark	*Pinus strobus* L.	
Pine, white oil	*Pinus palustris* Mill. and other *Pinus* spp.	
Poplar buds	*Populus balsamifera* L. (*P. tacamahacca* Mill.), *P. candicans* Ait., or *P. nigra* L.	Do.
Quassia	*Picraena excelsa* (Sw.) Planch, or *Quassia amara* L.	
Quebracho bark	*Aspidosperma quebracho-blanco* Schlecht, or (*Quebrachia lorentzii* (Griseb).	*Schinopsis lorentzii* (Griseb.) Engl.
Quillaia (soapbark)	*Quillaja saponaria* Mol.	
Red saunders (red sandal wood).	*Pterocarpus santalinus* L.	In alcoholic beverages only.
Rhatany root	*Krameria triandra* Ruiz et Pav. or *K. argentea* Mart.	
Rhubarb, garden root	*Rheum rhaponticum* L.	Do.
Rhubarb root	*Rheum officinale* Baill., *R. palmatum* L., or other spp. (excepting *R. rhaponticum* L.) or hybrids of *Rheum* grown in China.	
Roselle	*Hibiscus sabdariffa* L.	Do.
Rosin (colophony)	*Pinus palustris* Mill. and other *Pinus* spp.	Do.
St. Johnswort leaves, flowers, and caulis.	*Hypericum perforatum* L.	Hypericin-free alcohol distillate form only; in alcoholic beverages only.
Sandalwood, white (yellow, or East Indian).	*Santalum album* L.	
Sandarac	*Tetraclinis articulata* (Vahl.), Mast.	In alcoholic beverages only.
Sarsaparilla	*Smilax aristolochiaefolia* Mill., (Mexican sarsaparilla), *S. regelii* Killip et Morton (Honduras sarsaparilla), *S. febrifuga* Kunth (Ecuadorean sarsaparilla), or undetermined *Smilax* spp. (Ecuadorean or Central American sarsaparilla).	
Sassafras leaves	*Sassafras albidum* (Nutt.) Nees.	Safrole free.
Senna, Alexandria	*Cassia acutifolia* Delile.	
Serpentaria (Virginia snakeroot).	*Aristolochia serpentaria* L.	In alcoholic beverages only.
Simaruba bark	*Simaruba amara* Aubl.	Do.
Snakeroot, Canadian (wild ginger).	*Asarum canadense* L.	
Spruce needles and twigs	*Picea glauca* (Moench) Voss or *P. mariana* (Mill.) BSP.	
Storax (styrax)	*Liquidambar orientalis* Mill. or *L. styraciflua* L.	
Tagetes (marigold)	*Tagetes patula* L., *T. erecta* L., or *T. minuta* L. (*T. glandulifera* Schrank).	As oil only.
Tansy	*Tanacetum vulgare* L.	In alcoholic beverages only; finished alcoholic beverage thujone free.[1]
Thistle, blessed (holy thistle)	*Onicus benedictus* L.	In alcoholic beverges only.
Thyme, capitate (Spanish "origanum").	*Thymus capitatus* Hoffmg. et Link.	
Tolu	*Myroxylon balsamum* (L.) Harms.	
Turpentine	*Pinus palustris* Mill. and other *Pinus* spp. which yield terpene oils exclusively.	
Valerian rhizome and roots	*Valeriana officinalis* L.	
Veronica	*Veronica officinalis* L.	In alcoholic beverages only.
Vervain, European	*Verbena officinalis* L.	Do.
Vetiver	*Vetiveria zizanioides* Stapf.	Do.
Violet, Swiss	*Viola odorata* L.	
Walnut husks (hulls), leaves, and green nuts.	*Juglans nigra* L. or *J. regia* L.	
Woodruff, sweet	*Asperula odorata* L.	Do.
Yarrow	*Achillea millefolium* L.	In beverages only; finished beverage thujone free.[1]
Yerba santa	*Eriodictyon californicum* (Hook, et Arn.) Torr.	
Yucca, Joshua-tree	*Yucca brevifolia* Engelm.	
Yucca, Mohave	*Yucca schidigera* Roezl ex Ortgies (*Y. mohavensis* Sarg.).	

[1] As determined by using the method (or, in other than alcoholic beverages, a suitable adaptation thereof) in sec. 9.091, "Official Methods of Analysis of the Association of Official Agricultural Chemists," 10th Edition (1965).

§ 172.515 Synthetic flavoring substances and adjuvants.

Synthetic flavoring substances and adjuvants may be safely used in food in accordance with the following conditions.

(a) They are used in the minimum quantity required to produce their intended effect, and otherwise in accordance with all the principles of good manufacturing practice.

(b) They consist of one or more of the following, used alone or in combination with flavoring substances and adjuvants generally recognized as safe in food, prior-sanctioned for such use, or regulated by an appropriate section in this part.

Acetal; acetaldehyde diethyl acetal.
Acetaldehyde phenethyl propyl acetal.
Acetanisole; 4'-methoxyacetophenone.
Acetophenone; methyl phenyl ketone.
Adipic acid; 1,4-butanedicarboxylic acid.
Allyl anthranilate.
Allyl butyrate.
Allyl cinnamate.
Allyl cyclohexaneacetate.
Allyl cyclohexanebutyrate.
Allyl cyclohexanehexanoate.
Allyl cyclohexanepropionate.
Allyl cyclohexanevalerate.
Allyl disulfide.
Allyl 2-ethylbutyrate.
Allyl hexanoate; allyl caproate.
Allyl α-ionone; 1-(2,6,6-trimethyl-2-cyclohexen-1-yl)-1,6-heptadiene-3-one.
Allyl isothiocyanate; mustard oil.
Allyl isovalerate.
Allyl mercaptan; 2-propene-1-thiol.
Allyl nonanoate.
Allyl octanoate.
Allyl phenoxyacetate.
Allyl phenylacetate.
Allyl propionate.
Allyl sorbate; allyl 2,4-hexadienoate.
Allyl sulfide.
Allyl tiglate; allyl *trans*-2-methyl-2-butenoate.
Allyl 10-undecenoate.
Ammonium isovalerate.
Ammonium sulfide.
Amyl alcohol; pentyl alcohol.
Amyl butyrate.
α-Amylcinnamaldehyde.
α-Amylcinnamaldehyde dimethyl acetal.
α-Amylcinnamyl acetate.
α-Amylcinnamyl alcohol.
α-Amylcinnamyl formate.
α-Amylcinnamyl isovalerate.
Amyl formate.
Amyl heptanoate.
Amyl hexanoate.
Amyl octanoate.
Anisole; methoxybenzene.
Anisyl acetate.
Anisyl alcohol; *p*-methoxybenzyl alcohol.
Anisyl butyrate
Anisyl formate.
Anisyl phenylacetate.
Anisyl propionate.
Beechwood creosote.
Benzaldehyde dimethyl acetal.
Benzaldehyde glyceryl acetal; 2-phenyl-*m*-dioxan-5-ol.
Benzaldehyde propylene glycol acetal; 4-methyl-2-phenyl-*m*-dioxolane.
Benzenethiol; thiophenol.
Benzoin; 2-hydroxy-2-phenylacetophenone.
Benzophenone; diphenylketone.
Benzyl acetate.
Benzyl acetoacetate.
Benzyl alcohol.
Benzyl benzoate.
Benzyl butyl ether.
Benzyl butyrate.
Benzyl cinnamate.
Benzyl 2,3-dimethylcrotonate; benzyl methyl tiglate.
Benzyl disulfide; dibenzyl disulfide.
Benzyl ethyl ether.
Benzyl formate.
3-Benzyl-4-heptanone; benzyl dipropyl ketone.
Benzyl isobutyrate.

Benzyl isovalerate
Citronellol; 3,7-dimethyl-6-octen-1-ol; 4- 2-Ethylbutyl acetate.

3-Heptanone; ethyl butyl ketone.
Isobutyl alcohol.
Menthyl acetate; p-menth-3-yl acetate.
Menthyl isovalerate; p-menth-3-yl isoval-

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Benzyl isovalerate.
Benzyl mercaptan; α-toluenethiol.
Benzyl methoxyethyl acetal; acetaldehyde benzyl β-methoxyethyl acetal.
Benzyl phenylacetate.
Benzyl propionate.
Benzyl salicylate.
Birch tar oil.
Borneol; *d*-camphanol.
Bornyl acetate.
Bornyl formate.
Bornyl isovalerate.
Bornyl valerate.
β-Bourbonene; 1,2,3,3a,3bβ,4,5,6,6aβ,6bα-decahydro-1α-isopropyl-3aβ-methyl-6-methylene-cyclobuta [1,2:3,4] dicyclopentene.
2-Butanone; methyl ethyl ketone.
Butter acids.
Butter esters.
Butter starter distillate.
Butyl acetate.
Butyl acetoacetate.
Butyl alcohol; 1-butanol.
Butyl anthranilate.
Butyl butyrate.
Butyl butyryllactate; lactic acid, butyl ester, butyrate.
α-Butylcinnamaldehyde.
Butyl cinnamate.
Butyl 2-decenoate.
Butyl ethyl malonate.
Butyl formate.
Butyl heptanoate.
Butyl hexanoate.
Butyl *p*-hydroxybenzoate.
Butyl isobutyrate.
Butyl isovalerate.
Butyl lactate.
Butyl laurate.
Butyl levulinate.
Butyl phenylacetate.
Butyl propionate.
Butyl stearate.
Butyl sulfide.
Butyl 10-undecenoate.
Butyl valerate.
Butyraldehyde.
Cadinene.
Camphene; 2,2-dimethyl-3-methylenenorbornane.
d-Camphor.
Carvacrol; 2-*p*-cymenol.
Carvacryl ethyl ether; 2-ethoxy-*p*-cymene.
Carveol; *p*-mentha-6,8-dien-2-ol.
4-Carvomenthenol; 1-*p*-menthen-4-ol; 4-terpinenol.
cis Carvone oxide; 1,8-epoxy-*p*-menth-8-en-2-one.
Carvyl acetate.
Carvyl propionate.
β-Caryophyllene.
Caryophyllene alcohol.
Caryophyllene alcohol acetate.
β-Caryophyllene oxide; 4-12,12-trimethyl-9-methylene-5-oxatricyclo [8.2.0.0^{4,5}] dodecane.
Cedarwood oil alcohols.
Cedarwood oil terpenes.
1,4-Cineole.
Cinnamaldehyde ethylene glycol acetal.
Cinnamic acid.
Cinnamyl acetate.
Cinnamyl alcohol; 3-phenyl-2-propen-1-ol.
Cinnamyl anthranilate.
Cinnamyl benzoate.
Cinnamyl butyrate.
Cinnamyl cinnamate.
Cinnamyl formate.
Cinnamyl isobutyrate.
Cinnamyl isovalerate.
Cinnamyl phenylacetate.
Cinnamyl propionate.
Citral diethyl acetal; 3,7-dimethyl-2,6-octadienal diethyl acetal.
Citral dimethyl acetal; 3,7-dimethyl-2,6-octadienal dimethyl acetal.
Citral propylene glycol acetal.
Citronellal; 3,7-dimethyl-6-octenal; rhodinal.
Citronellol; 3,7-dimethyl-6-octen-1-ol; *d*-citronellol.
Citronelloxyacetaldehyde.
Citronellyl acetate.
Citronellyl butyrate.
Citronellyl formate.
Citronellyl isobutyrate.
Citronellyl phenylacetate.
Citronellyl propionate.
Citronellyl valerate.
p-Cresol.
Cuminaldehyde; cuminal; *p*-isopropyl benzaldehyde.
Cyclohexaneacetic acid.
Cyclohexaneethyl acetate.
Cyclohexyl acetate.
Cyclohexyl anthranilate.
Cyclohexyl butyrate.
Cyclohexyl cinnamate.
Cyclohexyl formate.
Cyclohexyl isovalerate.
Cyclohexyl propionate.
p-Cymene.
γ-Decalactone; 4-hydroxy-decanoic acid, γ-lactone.
δ-Decalactone; 5-hydroxy-decanoic acid, δ-lactone.
Decanal dimethyl acetal.
1-Decanol; decylic alcohol.
2-Decenal.
3-Decen-2-one; heptylidene acetone.
Decyl actate.
Decyl butyrate.
Decyl propionate.
Dibenzyl ether.
4,4-Dibutyl-γ-butyrolactone; 4,4-dibutyl-4-hydroxy-butyric acid, γ-lactone.
Dibutyl sebacate.
Diethyl malate.
Diethyl malonate; ethyl malonate.
Diethyl sebacate.
Diethyl succinate.
Diethyl tartrate.
2,5-Diethyltetrahydrofuran.
Dihydrocarveol; 8-*p*-menthen-2-ol; 6-methyl-3-isopropenylcyclohexanol.
Dihydrocarvone.
Dihydrocarvyl acetate.
m-Dimethoxybenzene.
p-Dimethoxybenzene; dimethyl hydroquinone.
2,4-Dimethylacetophenone.
α,α-Dimethylbenzyl isobutyrate; phenyldimethylcarbinyl isobutyrate.
α,α-Dimethylphenethyl acetate; benzylpropyl acetate; benzyldimethylcarbinyl acetate.
α,α-Dimethylphenethyl alcohol; dimethylbenzyl carbinol.
α,α-Dimethylphenethyl butyrate; benzyldimethylcarbinyl butyrate.
α,α-Dimethylphenethyl formate; benzyldimethylcarbinyl formate.
Dimethyl succinate.
1,3-Diphenyl-2-propanone; dibenzyl ketone.
delta-Dodecalactone; 5-hydroxydodecanoic acid, deltalactone.
γ-Dodecalactone; 4-hydroxydodecanoic acid γ-lactone.
2-Dodecenal.
Estragole.
p-Ethoxybenzaldehyde.
Ethyl acetoacetate.
Ethyl 2-acetyl-3-phenylpropionate; ethylbenzyl acetoacetate.
Ethyl aconitate, mixed esters.
Ethyl acrylate.
Ethyl *p*-anisate.
Ethyl anthranilate.
Ethyl benzoate.
Ethyl benzoylacetate.
α-Ethylbenzyl butyrate; α-phenylpropyl butyrate.
Ethyl brassylate; tridecanedioic acid cyclic ethylene glycol diester; cyclo 1,13-ethylenedioxytridecan-1,13-dione.
2-Ethylbutyl acetate.
2-Ethylbutyraldehyde.
2-Ethylbutyric acid.
Ethyl cinnamate.
Ethyl crotonate; *trans*-2-butenoic acid ethyl ester.
Ethyl cyclohexanepropionate.
Ethyl decanoate.
Ethyl formate.
2-Ethylfuran.
Ethyl 2-furanpropionate.
4-Ethylguaiacol; 4-ethyl-2-methoxyphenol.
Ethyl heptanoate.
2-Ethyl-2-heptenal; 2-ethyl-3-butylacrolein.
Ethyl hexanoate.
Ethyl isobutyrate.
Ethyl isovalerate.
Ethyl lactate.
Ethyl laurate.
Ethyl levulinate.
Ethyl maltol; 2-ethyl-3-hydroxy-4H-pyran-4-one.
Ethyl 2-methylbutyrate.
Ethyl myristate.
Ethyl nitrite.
Ethyl nonanoate.
Ethyl 2-nonynoate; ethyl octyne carbonate.
Ethyl octanoate.
Ethyl oleate.
Ethyl phenylacetate.
Ethyl 4-phenylbutyrate.
Ethyl 3-phenylglycidate.
Ethyl 3-phenylpropionate; ethyl hydrocinnamate.
Ethyl propionate.
Ethyl pyruvate.
Ethyl salicylate.
Ethyl sorbate; ethyl 2,4-hexadienoate.
Ethyl tiglate; ethyl *trans*-2-methyl-2-butenoate.
Ethyl undecanoate.
Ethyl 10-undecenoate.
Ethyl valerate.
Eucalpytol; 1,8-epoxy-*p*-menthane; cineole.
Eugenyl acetate.
Eugenyl benzoate.
Eugenyl formate.
Eugenyl methyl ether; 4-allylveratrole; methyl eugenol.
Farnesol; 3,7,11-trimethyl-2,6,10-dodecatrien-1-ol.
d-Fenchone; *d*-1,3,3-trimethyl-2-norbornanone.
Fenchyl alcohol; 1,3,3-trimethyl-2-norbornanol.
Formic acid
(2-Furyl)-2-propanone; furyl acetone.
1-Furyl-2-propanone; furyl acetone.
Fusel oil, refined (mixed amyl alcohols).
Geranyl acetoacetate; *trans*-3,7-dimethyl-2,6-octadien-1-yl acetoacetate.
Geranyl acetone; 6,10-dimethyl-5,9-undecadien-2-one.
Geranyl benzoate.
Geranyl butyrate.
Geranyl formate.
Geranyl hexanoate
Geranyl isobutyrate.
Geranyl isovalerate.
Geranyl phenylacetate.
Geranyl propionate.
Glucose pentaacetate.
Glyceryl monooleate.
Guaiacol; *o*-methoxyphenol.
Guaiacyl acetate; *o*-methoxyphenyl acetate.
Guaiacyl phenylacetate.
Gualene; 1,4-dimethyl-7-isopropenyl-Δ9, 10-octahydroazulene.
Guaiol acetate; 1,4-dimethyl-7-(α-hydroxyisopropyl)-Δ9,10-octahydroazulene acetate.
γ-Heptalactone; 4-hydroxyheptanoic acid, γ-lactone.
Heptanal; enanthaldehyde.
Heptanal dimethyl acetal.
Heptanal 1,2-glyceryl acetal.
2,3-Heptanedione; acetyl valeryl.
3-Heptanol.
2-Heptanone; methyl amyl ketone.

3-Heptanone; ethyl butyl ketone.
4-Heptanone; dipropyl ketone.
cis-4-Heptenal; *cis*-4-hepten-1-al.
Heptyl acetate.
Heptyl alcohol; enanthic alcohol.
Heptyl butyrate.
Heptyl cinnamate.
Heptyl formate.
Heptyl isobutyrate.
Heptyl octanoate.
1-Hexadecanol; cetyl alcohol.
ω-6-Hexadeceniactone; 16-hydroxy-6-hexadecenoic acid, ω-lactone; ambrettolide.
γ-Hexalactone; 4-hydroxyhexanoic acid, γ-lactone; tonkalide.
Hexanal; caproic aldehyde.
2,3-Hexanedione; acetyl butyryl.
Hexanoic acid; caproic acid.
2-Hexenal.
2-Hexen-1-ol.
3-Hexen-1-ol; leaf alcohol.
2-Hexen-1-yl acetate.
3-Hexenyl isovalerate.
3-Hexenyl 2-methylbutyrate.
3-Hexenyl phenylacetate; cis-3-hexenyl phenylacetate.
Hexyl acetate.
2-Hexyl-4-acetoxytetrahydrofuran.
Hexyl alcohol.
Hexyl butyrate.
α-Hexylcinnamaldehyde.
Hexyl formate.
Hexyl hexanoate.
2-Hexylidene cyclopentanone.
Hexyl isovalerateI.
Hexyl 2-methylbutyrate.
Hexyl octanoate.
Hexyl phenylacetate; *n*-hexyl phenylacetate.
Hexyl propionate.
Hydroxycitronellal; 3,7-dimethyl-7-hydroxyoctanal.
Hydroxycitronellal diethyl acetal.
Hydroxycitronellal dimethyl acetal.
Hydroxycitronellal; 3,7-dimethyl-1,7-octanediol.
N-(4-Hydroxy-3-methoxybenzyl) -nonanamide; pelargonyl vanillylamide.
5-Hydroxy-4-octanone; butyroin.
4-(*p*-Hydroxyphenyl)-2-butanone; *p*-hydroxybenzyl acetone.
Indole.
α-Ionone; 4-(2,6,6-trimethyl-2-cyclohexen-1-yl)-3-buten-2-one.
β-Ionone; 4-(2,6,6-trimethyl-1-cyclohexen-1-yl)-3-buten-2-one.
α-Irone; 4-(3,5,6,6-tetramethyl-2-cyclohexene-1-yl)-3-buten-2-one; 6-methylionone.
Isoamyl acetate.
Isoamyl acetoacetate.
Isoamyl alcohol; isopentyl alcohol; 3-methyl-1-butanol.
Isoamyl benzoate.
Isoamyl butyrate.
Isoamyl cinnamate.
Isoamyl formate.
Isoamyl 2-furanbutyrate; α-isoamyl furfurylpropionate.
Isoamyl 2-furanpropionate; α-isoamyl furfurylacetate.
Isoamyl hexanoate.
Isoamyl isobutyrate.
Isoamyl isovalerate.
Isoamyl laurate.
Isoamyl-2-methylbutyrate; isopentyl-2-methylbutyrate.
Isoamyl nonanoate.
Isoamyl octanoate.
Isoamyl phenylacetate.
Isoamyl propionate.
Isoamyl pyruvate.
Isoamyl salicylate.
Isoborneol.
Isobornyl acetate.
Isobornyl formate.
Isobornyl isovalerate.
Isobornyl propionate.
Isobutyl acetate.
Isobutyl acetoacetate.
Isobutyl alcohol.
Isobutyl angelate; isobutyl *cis*-2-methyl-2-butenoate.
Isobutyl anthranilate.
Isobutyl benzoate.
Isobutyl butyrate.
Isobutyl cinnamate.
Isobutyl formate.
Isobutyl 2-furanpropionate.
Isobutyl heptanoate.
Isobutyl hexanoate.
Isobutyl isobutyrate.
α-Isobutylphenethyl alcohol; isobutyl benzyl carbinol; 4-methyl-1-phenyl-2-pentanol.
Isobutyl phenylacetate.
Isobutyl propionate.
Isobutyl salicylate.
Isobutyraldehyde.
Isobutyric acid.
Isoeugenol; 2-methoxy-4-propenylphenol.
Isoeugenyl acetate.
Isoeugenyl benzyl ether; benzyl isoeugenol.
Isoeugenyl ethyl ether; 2-ethoxy-5-propenylanisole; ethyl isoeugenol.
Isoeugenyl formate.
Isoeugenyl methyl ether; 4-propenylveratrole; methyl isoeugenol.
Isoeugenyl phenylacetate.
Isojasmone; mixture of 2-hexylidenecyclopentanone and 2-hexyl-2-cyclopenten-1-one.
α-Isomethylionone; 4-(2,6,6-trimethyl-2-cyclohexen-1-yl)-3-methyl-3-buten-2-one; methyl γ-ionone.
Isopropyl acetate.
p-Isopropylacetophenone.
Isopropyl alcohol; isopropanol.
Isopropyl benzoate.
p-Isopropylbenzyl alcohol; cuminic alcohol; *p*-cymen-7-ol.
Isopropyl butyrate.
Isopropyl cinnamate.
Isopropyl formate.
Isopropyl hexanoate.
Isopropyl isobutyrate.
Isopropyl isovalerate.
p-Isopropylphenylacetaldehyde; *p*-cymen-7-carboxaldehyde.
Isopropyl phenylacetate.
3-(*p*-Isopropylphenyl)-propionaldehyde; *p*-isopropylhydrocinnamaldehyde; cuminyl acetaldehyde.
Isopropyl propionate.
Isopulegol; *p*-menth-8-en-3-ol.
Isopulegone; *p*-menth-8-en-3-one.
Isopulegyl acetate.
Isoquinoline.
Isovaleric acid.
cis-Jasmone; 3-methyl-2-(2-pentenyl)-2-cyclopenten-1-one.
Lauric aldehyde; dodecanal.
Lauryl acetate.
Lauryl alcohol; 1-dodecanol.
Lepidine; 4-methylquinoline.
Levulinic acid.
Linalool oxide; *cis*- and *trans*-2-vinyl-2-methyl-5-(1'-hydroxy-1'-methylethyl) tetrahydrofuran.
Linalyl anthranilate; 3,7-dimethyl-1, 6-octadien-3-yl anthranilate.
Linalyl benzoate.
Linalyl butyrate.
Linalyl cinnamate.
Linalyl formate.
Linalyl hexanoate.
Linalyl isobutyrate.
Linalyl isovalerate.
Linalyl octanoate.
Linalyl propionate.
Maltol; 3-hydroxy-2-methyl-4H-pyran-4-one.
Menthadienol; *p*-mentha-1,8(10)-dien-9-ol.
p-Mentha-1,8-dien-7-ol; perillyl alcohol.
Menthadienyl acetate; *p*-mentha-1,8(10)-dien-9-yl acetate.
p-Menth-3-en-1-ol.
1-*p*-Menthen-9-yl acetate; *p*-menth-1-en-9-yl acetate.
Menthol; 2-isopropyl-5-methylcyclohexanol.
Menthone; *p*-menthan-3-one.
Menthyl acetate; *p*-menth-3-yl acetate.
Menthyl isovalerate; *p*-menth-3-yl isovalerate.
o-Methoxybenzaldehyde.
p-Methoxybenzaldehyde; *p*-anisaldehyde.
o-Methoxycinnamaldehyde.
2-Methoxy-4-methylphenol; 4-methylguaiacol; 2-methoxy-*p*-cresol.
4-(*p*-Methoxyphenyl)-3-butanone; anisyl acetone.
1-(4-Methoxyphenyl)-4-methyl-1-penten-3-one; methoxystyryl isopropyl ketone.
1-(*p*-Methoxyphenyl)-1-penten-3-one; α-methylanisylidene acetone; ethone.
1-(*p*-Methoxyphenyl)-2-propanone; anisylmethyl ketone; anisic ketone.
2-Methoxy-4-vinylphenol; *p*-vinylguaiacol.
Methyl acetate.
4'-Methylacetophenone; *p*-methylacetophenone; methyl *p*-tolyl ketone.
2-Methoxy-4-vinylphenol; *p*-vinylguaiacol.
1-yl butyrate.
Methyl anisate.
o-Methylanisole; *o*-cresyl methyl ether.
p-Methylanisole; *p*-cresyl methyl ether; *p*-methoxytoluene.
Methyl benzoate.
Methylbenzyl acetate, mixed *o*-,*m*-,*p*-.
α-Methylbenzyl acetate; styralyl acetate.
α-Methylbenzyl alcohol; styralyl alcohol.
α-Methylbenzyl butyrate; styralyl butyrate.
α-Methylbenzyl isobutyrate; styralyl isobutyrate.
α-Methylbensyl formate; styralyl formate.
α-Methylbensyl propionate; styralyl propionate.
2-Methylbutyl isovalerate.
Methyl *p*-*tert*-butylphenylacetate.
2-Methylbutyraldehyde; methyl ethyl acetaldehyde.
3-Methylbutyraldehyde; isovaleraldehyde.
Methyl butyrate.
2-Methylbutyric acid.
α-Methylcinnamaldehyde.
p-Methylcinnamaldehyde.
Methyl cinnamate.
2-Methyl-1,3-cyclohexadiene.
Methylcyclopentenolone; 3-methylcyclopentane-1,2-dione.
Methyl disulfide; dimethyl disulfide.
Methyl ester of rosin, partially hydrogenated (as defined in § 172.615); methyl dihydroabietate.
Methyl heptanoate.
2-Methylheptanoic acid.
6-Methyl-5-hepten-2-one.
Methyl hexanoate.
Methyl 2-hexanoate.
Methyl *p*-hydroxybenzoate; methylparaben.
Methyl α-ionone; δ-(2,6,6-trimethyl-2-cyclohexen-1-yl)-4-penten-3-one.
Methyl β-ionone; δ,(2,6,6-trimethyl-3-cyclohexen-1-yl)-4-penten-3-one.
Methyl Δ-ionone; δ-(2,6,6-trimethyl-3-cyclohexen-1-yl)-4-penten-3-one.
Methyl isobutyrate.
2-Methyl-3-(*p*-isopropylphenyl)-propionaldehyde; α-methyl-*p*-isopropylhydrocinnamaldehyde; cyclamen aldehyde.
Methyl isovalerate.
Methyl laurate.
Methyl mercaptan; methanethiol.
Methyl *o*-methoxybenzoate.
Methyl *N*-methylanthranilate; dimethyl anthranilate.
Methyl 2-methylbutyrate.
Methyl 2-methylthiopropionate.
Methyl 4-methylvalerate.
Methyl myristate.
Methyl β-naphthyl ketone; 2'-acetonaphthone.
Methyl nonanoate.
Methyl 2-nonenoate.
Methyl 2-nonynoate; methyloctyne carbonate.
2-Methyloctanal; methyl hexyl acetaldehyde.
Methyl octanoate.
Methyl 2-octynoate; methyl heptine carbonate.

4-Methyl-2,3-pentanedione; acetyl isobutyryl.
2,3-Pentanedione; acetyl propionyl.
Propyl disulfide.

Veratraldehyde.

obtained by approximately 0.03 milli- 150 parts per million of ethylene dichloride, methylene chloride, or tri-

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4-Methyl-2,3-pentanedione; acetyl isobutyryl.
4-Methyl-2-pentanone; methyl isobutyl ketone.
β-Methylphenethyl alcohol; hydratrophyl alcohol.
Methyl phenylacetate.
3-Methyl-4-phenyl-3-butene-2-one.
2-Methyl-4-phenyl-2-butyl acetate; dimethylphenylethyl carbinyl acetate.
2-Methyl-4-phenyl-2-butyl isobutyrate; dimethylphenyl-ethylcarbinyl isobutyrate.
3-Methyl-2-phenylbutyraldehyde; α-isopropyl phenylacetaldehyde.
Methyl 4-phenylbutyrate.
4-Methyl-1-phenyl-2-pentanone; benzyl isobutyl ketone.
Methyl 3-phenylpropionate; methyl hydrocinnamate.
Methyl propionate.
3-Methyl-5-propyl-2-cyclohexen-1-one.
Methyl sulfide.
3-Methylthiopropionaldehyde; methional.
2-Methyl-3-tolylpropionaldehyde, mixed *o*-, *m*-, *p*-.
2-Methylundecanal; methyl nonyl acetaldehyde.
Methyl 9-undecenoate.
Methyl 2-undecynoate; methyl decyne carbonate.
Methyl valerate.
2-Methylvaleric acid.
Myrcene; 7-methyl-3-methylene-1,6-octadiene.
Myristaldehyde; tetradecanal.
d-Neomenthol; 2-isobutyl-5-methylcyclohexanol.
Nerol; *cis*-3,7-dimethyl-2,6-octadien-1-ol.
Nerolidol; 3,7,11-trimethyl-1,6,10-dodecatrien-3-ol.
Neryl acetate.
Neryl butyrate.
Neryl formate.
Neryl isobutyrate.
Neryl isovalerate.
Neryl propionate.
2,6-Nonadien-1-ol.
γ-Nonalactone; 4-hydroxynonanoic acid, γ-lactone; aldehyde C–18.
Nonanal; pelargonic aldehyde.
1,3-Nonanediol acetate, mixed esters.
Nonanoic acid; pelargonic acid.
2-Nonanone; methylheptyl ketone.
3-Nonanon-1-yl acetate; 1-hydroxy-3-nonanone acetate.
Nonyl acetate.
Nonyl alcohol; 1-nonanol.
Nonyl octanoate.
Nonyl isovalerate.
Nootkatone; 5,6-dimethyl-8-isopropenyl-bicyclo[4,4,0]-dec-1-en-3-one.
Ocimene; *trans*-β-ocimene; 3,7-dimethyl-1,3,6-octatriene.
γ-Octalactone; 4-hydroxyoctanoic acid, γ-lactone.
Octanal; caprylaldehyde.
Octanal dimethyl acetal.
Octanoic acid; caprylic acid.
1-Octanol; octyl alcohol.
2-Octanol.
3-Octanol.
2-Octanone; methyl hexyl ketone.
3-Octanone; ethyl amyl ketone.
3-Octanon-1-ol.
1-Octen-3-ol; amyl vinyl carbinol.
1-Octen-3-yl acetate.
Octyl acetate.
3-Octyl acetate.
Octyl butyrate.
Octyl formate.
Octyl heptanoate.
Octyl isobutyrate.
Octyl isovalerate.
Octyl octanoate.
Octyl phenylacetate.
Octyl propionate.
ω-Pentadecalactone; 15-hydroxypentadecanoic acid, ω-lactone; pentadecanolide; angelica lactone.
2,3-Pentanedione; acetyl propionyl.
2-Pentanone; methyl propyl ketone.
4-Pentenoic acid.
1-Penten-3-ol.
Perillaldehyde; 4-isopropenyl-1-cyclohexene-1-carboxaldehyde; *p*-mentha-1,8-dien-7-al.
Perillyl acetate; *p*-mentha-1,8-dien-7-yl acetate.
α-Phellandrene; *p*-mentha-1,5-diene.
Phenethyl acetate.
Phenethyl alcohol; β-phenylethyl alcohol.
Phenethyl anthranilate.
Phenethyl benzoate.
Phenethyl butyrate.
Phenethyl cinnamate.
Phenethyl formate.
Phenethyl isobutyrate.
Phenethyl isovalerate.
Phenethyl 2-methylbutyrate.
Phenethyl phenylacetate.
Phenethyl propionate.
Phenethyl salicylate.
Phenethyl senecioate; phenethyl 3,3-dimethylacrylate.
Phenethyl tiglate.
Phenoxyacetic acid.
2-Phenoxyethyl isobutyrate.
Phenylacetaldehyde; α-toluic aldehyde.
Phenylacetaldehyde 2,3-butylene glycol acetal.
Phenylacetaldehyde dimethyl acetal.
Phenylacetaldehyde glyceryl acetal.
Phenylacetic acid; α-toluic acid.
4-Phenyl-2-butanol; phenylethyl methyl carbinol.
4-Phenyl-3-buten-2-ol; methyl styryl carbinol.
4-Phenyl-3-buten-2-one.
4-Phenyl-2-butyl acetate; phenylethyl methyl carbinyl acetate.
1-Phenyl-3-methyl-3-pentanol; phenylethyl methyl ethyl carbinol.
1-Phenyl-1-propanol; phenylethyl carbinol.
3-Phenyl-1-propanol; hydrocinnamyl alcohol.
2-Phenylpropionaldehyde; hydratropaldehyde.
3-Phenylpropionaldehyde; hydrocinnamaldehyde.
2-Phenylpropionaldehyde dimethyl acetal; hydratropic aldehyde dimethyl acetal.
3-Phenylpropionic acid; hydrocinnamic acid.
3-Phenylpropyl acetate.
2-Phenylpropyl butyrate.
3-Phenylpropyl cinnamate.
3-Phenylpropyl formate.
3-Phenylpropyl hexanoate.
2-Phenylpropyl isobutyrate.
3-Phenylpropyl isobutyrate.
3-Phenylpropyl isovalerate.
3-Phenylpropyl propionate.
2-(3-Phenylpropyl)-tetrahydrofuran.
α-Pinene; 2-pinene.
β-Pinene; 2(10)-pinene.
Pine tar oil.
Pinocarveol; 2(10)-pinen-3-ol.
Piperidine.
Piperine.
d-Piperitone; *p*-menth-1-en-3-one.
Piperitenone; *p*-mentha-1,4(8)-dien-3-one.
Piperitenone oxide; 1,2-epoxy-*p*-menth-4(8)-en-3-one.
Piperonyl acetate; heliotropyl acetate.
Piperonyl isobutyrate.
Polylimonene.
Polysorbate 20; polyoxyethylene (20) sorbitan monolaurate.
Polysorbate 60; polyoxyethylene (20) sorbitan monostereate.
Polysorbate 80; polyoxyethylene (20) sorbitan monooleate.
Potassium acetate.
Propenylguaethol; 6-ethoxy-*m*-anol.
Propionaldehyde.
Propyl acetate.
Propyl alcohol; 1-propanol.
p-Propyl anisole; dihydroanethole.
Propyl benzoate.
Propyl butyrate.
Propyl cinnamate.
Propyl disulfide.
Propyl formate.
Propyl 2-furanacrylate.
Propyl heptanoate.
Propyl hexanoate.
Propyl *p*-hydroxybenzoate; propylparaben.
3-Propylidenephthalide.
Propyl isobutyrate.
Propyl isovalerate.
Propyl mercaptan.
α-Propylphenethyl alcohol.
Propyl phenylacetate.
Propyl propionate.
Pulegone; *p*-menth-4(8)-en-3-one.
Pyridine.
Pyroligneous acid extract.
Pyruvaldehyde.
Pyruvic acid.
Rhodinol; 3,7-dimethyl-7-octen-1-ol; *l*-citronellol.
Rhodinyl acetate.
Rhodinyl butyrate.
Rhodinyl formate.
Rhodinyl isobutyrate.
Rhodinyl isovalerate.
Rhodinyl phenylacetate.
Rhodinyl propionate.
Rum ether; ethyl oxyhydrate.
Salicylaldehyde.
Santalol, α and β.
Santalyl acetate.
Santalyl phenylacetate.
Skatole.
Sorbitan monostearate.
Styrene.
Sucrose octaacetate.
α-Terpinene.
γ-Terpinene.
α-Terpineol; *p*-menth-1-en-8-ol.
β-Terpineol.
Terpinolene; *p*-menth-1,4(8)-diene.
Terpinyl acetate.
Terpinyl anthranilate.
Terpinyl butyrate.
Terpinyl cinnamate.
Terpinyl formate.
Terpinyl isobutyrate.
Terpinyl isovalerate.
Terpinyl propionate.
Tetrahydrofurfuryl acetate.
Tetrahydrofurfuryl alcohol.
Tetrahydrofurfuryl butyrate.
Tetrahydrofurfuryl propionate.
Tetrahydro-pseudo-ionone; 6,10-dimethyl-9-undecen-2-one.
Tetrahydrolinalool; 3,7-dimethyloctan-3-ol.
Tetramethyl ethylcyclohexenone; mixture of 5-ethyl-2,3,4,5-tetramethyl-2-cyclohexen-1-one and 5-ethyl-3,4,5,6-tetramethyl-2-cyclohexen-1-one.
2-Thienyl mercaptan; 2-thienylthiol.
Thymol.
Tolualdehyde glyceryl acetal, mixed *o*, *m*, *p*.
Tolualdehydes, mixed *o*, *m*, *p*.
p-Tolylacetaldehyde.
o-Tolyl acetate; *o*-cresyl acetate.
p-Tolyl acetate; *p*-cresyl acetate.
4-(*p*-Tolyl)-2-butanone; *p*-methylbenzylacetone.
p-Tolyl isobutyrate.
p-Tolyl laurate.
p-Tolyl phenylacetate.
2-(*p*-Tolyl)-propionaldehyde; *p*-methylhydratropic aldehyde.
Tributyl acetylcitrate.
2-Tridecenal.
2,3-Undecadione; acetyl nonyryl.
γ-Undecalactone; 4-hydroxyundecanoic acid γ-lactone; peach aldehyde; aldehyde C–14.
Undecenal.
2-Undecanone; methyl nonyl ketone.
9-Undecenal; undecenoic aldehyde.
10-Undecenal.
Undecen-1-ol; undecylenic alcohol.
10-Undecen-1-yl acetate.
Undecyl alcohol.
Valeraldehyde; pentanal.
Valeric acid; pentanoic acid.
Vanillin acetate; acetyl vanillin.

Veratraldehyde.
Verbenol; 2-pinen-4-ol.
Zingerone; 4-(4-hydroxy-3-methoxyphenyl)-2-butanone.

(c) α-Decalactone and α-dodecalactone when used separately or in combination in oleomargarine are used at levels not to exceed 10 parts per million and 20 parts per million, respectively, in accordance with § 166.110 of this chapter.

(d) BHA (butylated hydroxyanisole) may be used as an antioxidant in flavoring substances whereby the additive does not exceed 0.5 percent of the essential (volatile) oil content of the flavoring substance.

§ 172.520 Cocoa with dioctyl sodium sulfosuccinate for manufacturing.

The food additive "cocoa with dioctyl sodium sulfosuccinate for manufacturing," conforming to § 163.117 of this chapter and § 172.810, is used or intended for use as a flavoring substance in dry beverage mixes whereby the amount of dioctyl sodium sulfosuccinate does not exceed 75 parts per million of the finished beverage. The labeling of the dry beverage mix shall bear adequate directions to assure use in compliance with this section.

§ 172.530 Disodium guanylate.

Disodium guanylate may be safely used as a flavor enhancer in foods, at a level not in excess of that reasonably required to produce the intended effect.

§ 172.535 Disodium inosinate.

The food additive disodium inosinate may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is the disodium salt of inosinic acid, manufactured and purified so as to contain no more than 150 parts per million of soluble barium in the compound disodium inosinate with seven and one-half molecules of water of crystallization.

(b) The food additive is used as a flavoring adjuvant in food.

§ 172.560 Modified hop extract.

The food additive modified hop extract may be safely used in beer in accordance with the following prescribed conditions:

(a) The food additive is used or intended for use as a flavoring agent in the brewing of beer.

(b) The food additive is manufactured by one of the following processes:

(1) The additive is manufactured from a hexane extract of hops by simultaneous isomerization and selective reduction in an alkaline aqueous medium with sodium borohydride, whereby the additive meets the following specifications:

(i) A solution of the food additive solids is made up in approximately 0.012 *n* alkaline methyl alcohol (6 milliliters of 1 *n* sodium hydroxide diluted to 500 milliliters with methyl alcohol) to show an absorbance at 253 millimicrons of 0.6 to 0.9 per centimeter. (This absorbance is obtained by approximately 0.03 milligram solids permilliliter.) The ultraviolet absorption spectrum of this solution exhibits the following characteristics: An absorption peak at 253 millimicrons; no absorption peak at 325 to 330 millimicrons; the absorbance at 268 millimicrons does not exceed the absorbance at 272 millimicrons.

(ii) The boron content of the food additive does not exceed 310 parts per million (0.0310 percent), calculated as boron.

(2) The additive is manufactured from hops by a sequence of extractions and fractionations, using benzene, light petroleum spirits, and methyl alcohol as solvents, followed by isomerization by potassium carbonate treatment. Residues of solvents in the modified hop extract shall not exceed 1.0 part per million of benzene, 1.0 part per million of light petroleum spirits, and 250 parts per million of methyl alcohol. The light petroleum spirits and benzene solvents shall comply with the specifications in § 172.250 except that the boiling point range for light petroleum spirits is 150° F—300° F.

(3) The additive is manufactured from hops by a sequence of extractions and fractionations, using methylene chloride, hexane, and methyl alcohol as solvents, followed by isomerization by sodium hydroxide treatment. Residues of the solvents in the modified hop extract shall not exceed 5 parts per million of methylene chloride, 25 parts per million of hexane, and 100 parts per million of methyl alcohol.

(4) The additive is manufactured from hops by a sequence of extractions and fractionations, using benzene, light petroleum spirits, methyl alcohol, *n*-butyl alcohol, and ethyl acetate as solvents, followed by isomerization by potassium carbonate treatment. Residues of solvents in the modified hop extract shall not exceed 1.0 part per million of benzene, 1.0 part per million of light petroleum spirits, 50 parts per million of methyl alcohol, 50 parts per million of *n*-butyl alcohol, and 1 part per million of ethyl acetate. The light petroleum spirits and benzene solvents shall comply with the specifications in § 172.250 except that the boiling point range for light petroleum spirits is 150° F to 300° F.

(5) The additive is manufactured from hops by an initial extraction and fractionation using one or more of the following solvents: Ethylene dichloride, hexane, isopropyl alcohol, methyl alcohol, methylene chloride, trichloroethylene, and water; followed by isomerization by calcium chloride or magnesium chloride treatment in ethylene dichloride, methylene chloride, or trichloroethylene and a further sequence of extractions and fractionations using one or more of the solvents set forth in this paragraph. Residues of the solvents in the modified hop extract shall not exceed 125 parts per million of hexane; 150 parts per million of ethylene dichloride, methylene chloride, or trichloroethylene; or 250 parts per million of isopropyl alcohol or methyl alcohol.

(6) The additive is manufactured from hops by an initial extraction and fractionation using one or more of the solvents listed in paragraph (b)(5) of this section followed by: Hydrogenation using palladium as a catalyst in methyl alcohol, ethyl alcohol, or isopropyl alcohol acidified with hydrochloric or sulfuric acid; oxidation with peracetic acid; isomerization by calcium chloride or magnesium chloride treatment in ethylene dichloride, methylene chloride, or trichloroethylene (alternatively, the hydrogenation and isomerization steps may be performed in reverse order); and a further sequence of extractions and fractionations using one or more of the solvents listed in paragraph (b)(5) of this section. The additive shall meet the residue limitations as prescribed in paragraph (b)(5) of this section.

(7) The additive is manufactured from hops as set forth in paragraph (b)(6) of this section followed by reduction with sodium borohydride in aqueous alkaline methyl alcohol, and a sequence of extractions and fractionations using one or more of the solvents listed in paragraph (b)(5) of this section. The additive shall meet the residue limitations as prescribed in paragraph (b)(5) of this section, and a boron content level not in excess of 300 parts per million (0.0300 percent), calculated as boron.

(8) The additive is manufactured from hops as a nonisomerizable nonvolatile hop resin by an initial extraction and fractionation using one or more of the solvents listed in paragraph (b)(5) of this section followed by a sequence of aqueous extractions and removal of nonaqueous solvents to less than 0.5 percent. The additive is added to the wort before or during cooking in the manufacture of beer.

§ 172.575 Quinine.

Quinine, as the hydrochloride sale or sulfate salt, may be safely used in food in accordance with the following conditions:

Uses	Limitations
In carbonated beverages as a flavor.	Not to exceed 83 parts per million, as quinine. Label shall bear a prominent declaration of the presence of quinine either by the use of the word "quinine" in the name of the article or through a separate declaration.

§ 172.580 Safrole-free extract of sassafras.

The food additive safrole-free extract of sassafras may be safely used in accordance with the following prescribed conditions:

(a) The additive is the aqueous extract obtained from the root bark of the plant

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MASTICATORY SUBSTANCES

PLASTICIZING MATERIALS (SOFTENERS)—Continued

(a) The food additive consists of carrageenan, meeting the provisions of

Sassafras albidum (Nuttall) Nees (Fam. Lauraceae).

(b) It is obtained by extracting the bark with dilute alcohol, first concentrating the alcoholic solution by vacuum distillation, then diluting the concentrate with water and discarding the oily fraction.

(c) The purified aqueous extract is safrole-free.

(d) It is used as a flavoring in food.

§ 172.585 Sugar beet extract flavor base.

Sugar beet extract flavor base may be safely used in food in accordance with the provisions of this section.

(a) Sugar beet extract flavor base is the concentrated residue of soluble sugar beet extractives from which sugar and glutamic acid have been recovered, and which has been subjected to ion exchange to minimize the concentration of naturally occurring trace minerals.

(b) It is used as a flavor in food.

§ 172.590 Yeast-malt sprout extract.

Yeast-malt sprout extract, as described in this section, may be safely used in food in accordance with the following prescribed conditions:

(a) The additive is produced by partial hydrolysis of yeast extract (derived from *Saccharomyces cerevisiae, Saccharomyces fragilis,* or *Candida utilis*) using the sprout portion of malt barley as the source of enzymes. The additive contains a maximum of 6 percent 5′ nucleotides by weight.

(b) The additive may be used as a flavor enhancer in food at a level not in excess of that reasonably required to produce the intended effect.

Subpart G—Gums, Chewing Gum Bases and Related Substances

§ 172.610 Arabinogalactan.

Arabinogalactan may be safely used in food in accordance with the following conditions:

(a) Arabinogalactan is a polysaccharide extracted by water from Western larch wood, having galactose units and arabinose units in the approximate ratio of six to one.

(b) It is used in the following foods in the minimum quantity required to produce its intended effect as an emulsifier, stabilizer, binder, or bodying agent: Essential oils, nonnutritive sweeteners, flavor bases, nonstandardized dressings, and pudding mixes.

§ 172.615 Chewing gum base.

The food additive chewing gum base may be safely used in the manufacture of chewing gum in accordance with the following prescribed conditions:

(a) The food additive consists of one or more of the following substances that meet the specifications and limitations prescribed in this paragraph, used in amounts not to exceed those required to produce the intended physical or other technical effect.

MASTICATORY SUBSTANCES

NATURAL (COAGULATED OR CONCENTRATED LATICES) OF VEGETABLE ORIGIN

Family	*Genus and species*
Sapotaceae:	
Chicle	Manilkara zapotilla Gilly and Manilkara chicle Gilly.
Chiquibul	Manilkara zapotilla Gilly.
Crown gum	Manilkara zapotilla Gilly and Manilkara chicle Gilly.
Gutta hang kang	Palaquium leiocarpum Boerl. and Palaquium oblongifolium Burck.
Massaranduba balata (and the solvent-free resin extract of Massaranduba balata).	Manilkara huberi (Ducke) Chevalier.
Massaranduba chocolate	Manilkara solimoesensis Gilly.
Nispero	Manilkara zapotilla Gilly and Manilkara chicle Gilly.
Rosidinha (rosadinha)	Micropholis (also known as Sideroxylon) spp.
Venezuelan chicle	Manilkara williamsii Standley and related spp.
Apocynaceae:	
Jelutong	Dyera costulata Hook. F. and Dyera lowii Hook. F.
Leche caspi (sorva)	Couma macrocarpa Barb. Rodr.
Pendare	Couma macrocarpa Barb. Rodr. and Couma utilis (Mart.) Muell. Arg.
Perillo	Couma macrocarpa Barb. Rodr. and Couma utilis (Mart.) Muell. Arg.
Moraceae:	
Leche de vaca	Brosimum utile (H.B.K.) Pittier and Poulsenia spp.; also Lacmellea standleyi (Woodson), Monachino (Apocynaceae).
Niger gutta	Ficus platyphylla Del.
Tunu (tuno)	Castilla fallax Cook.
Euphorbiaceae:	
Chilte	Cnidoscolus (also known as Jatropha) elasticus Lundell and Cnidoscolus tepiquensis (Cost. and Gall.) McVaugh.
Natural rubber (smoked sheet and latex solids).	Hevea brasiliensis.
Synthetic	*Specifications*
Butadiene-styrene rubber	Basic polymer.
Isobutylene - isoprene copolymer (butyl rubber).	Do.
Paraffin	Synthesized by Fischer-Tropsch process from carbon monoxide and hydrogen, which are catalytically converted to a mixture of paraffin hydrocarbons. Lower molecular weight fractions are removed by distillation. The residue is hydrogenated and further treated by percolation through activated charcoal. The product has a congealing point of 200° F–210° F as determined by A.S.T.M. D–938–49 method; a maximum oil content of 0.5 percent as determined by A.S.T.M. D–721–56T method; and an absorptivity of less than 0.01 at 290 millimicrons in decahydronaphthalene at 190° F as determined by A.S.T.M. 131 method.
Petroleum wax	Complying with § 172.886.
Petroleum wax synthetic	Complying with § 172.888.
Polyethylene	Molecular weight 2,000–21,000.
Polyisobutylene	Minimum molecular weight 37,000 (Flory).
Polyvinyl acetate	Molecular weight, minimum 2,000.

PLASTICIZING MATERIALS (SOFTENERS)

Glycerol ester of partially dimerized rosin.	Having an acid number of 3–8, a drop-softening point of 109° C–119° C, and a color of M or paler.
Glycerol ester of partially hydrogenated gum or wood rosin.	Having an acid number of 3–10, a drop-softening point of 79° C–88° C, and a color of N or paler.
Glycerol ester of polymerized rosin	Having an acid number of 3–12, a melting-point range 80° C–126° C, and a color of M or paler.
Glycerol ester of gum rosin	Having an acid number of 5–9, a drop-softening point of 88° C–96° C, and a color of N or paler. The ester is purified by steam stripping.
Glycerol ester of tall oil rosin	Having an acid number of 5–12, a softening point (ring and ball) of 80°–86° C, and a color of N or paler. The ester is purified by steam stripping.
Glycerol ester of wood rosin	Having an acid number of 3–8, a drop-softening point of 88° C–96° C, and a color of N or paler. The ester is purified by steam stripping.
Lanolin	
Methyl ester of rosin, partially hydrogenated.	Having an acid number of 4–8, a refractive index of 1.5170–1.5205 at 20° C, and a viscosity of 23–66 poises at 25° C. The ester is purified by steam stripping.

PLASTICIZING MATERIALS (SOFTENERS)—Continued

Pentaerythritol ester of partially hydrogenated gum or wood rosin.	Having an acid number of 7–18, a drop-softening point of 102° C–110° C, and a color of K or paler.
Pentaerythritol ester of gum or wood rosin.	Having an acid number of 6–16, a drop-softening point of 109° C–116° C, and a color of M or paler.
Rice bran wax	Complying with § 172.890.
Stearic acid	Complying with § 172.860.
Sodium and potassium stearates	Complying with § 172.863.
	TERPENE RESINS
Synthetic resin	Consisting of polymers of α-pinene, β-pinene, and/or dipentene; acid value less than 5, saponification number less than 5, and color less than 4 on the Gardner scale as measured in 50 percent mineral spirit solution.
Natural resin	Consisting of polymers of α-pinene; softening point minimum 155° C, determined by U.S.P. closed-capillary method.
	ANTIOXIDANTS
Butylated hydroxyanisole	Not to exceed antioxidant content of 0.1% when used alone or in any combination.
Butylated hydroxytoluene	
Propyl gallate	
	MISCELLANEOUS
Sodium sulfate	Reaction-control agent in synthetic polymer production.
Sodium sulfide	

(b) In addition to the substances listed in paragraph (a) of this section, chewing gum base may also include substances generally recognized as safe in food.

(c) To assure safe use of the additive, in addition to the other information required by the act, the label and labeling of the food additive shall bear the name of the additive, "chewing gum base." As used in this paragraph, the term "chewing gum base" means the manufactured or partially manufactured nonnutritive masticatory substance comprised of one or more of the ingredients named and so defined in paragraph (a) of this section.

§ 172.620 Carrageenan.

The food additive carrageenan may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is the refined hydrocolloid prepared by aqueous extraction from the following members of the families Gigartinaceae and Solieriaceae of the class Rodophyceae (red seaweed):

Chondrus crispus.
Chondrus ocellatus.
Eucheuma cottonii.
Eucheuma spinosum.
Gigartina acicularis.
Gigartina pistillata.
Gigartina radula.
Gigartina stellata.

(b) The food additive conforms to the following conditions:

(1) It is a sulfated polysaccharide the dominant hexose units of which are galactose and anhydrogalactose.

(2) Range of sulfate content: 20 percent to 40 percent on a dry-weight basis.

(c) The food additive is used or intended for use in the amount necessary for an emulsifier, stabilizer, or thickener in foods, except for those standardized foods that do not provide for such use.

(d) To assure safe use of the additive, the label and labeling of the additive shall bear the name of the additive, carrageenan.

§ 172.623 Carrageenan with polysorbate 80.

Carrageenan otherwise meeting the definition and specifications of § 172.620 (a) and (b) and salts of carrageenan otherwise meeting the definition of § 172.626(a) may be safely produced with the use of polysorbate 80 meeting the specifications and requirements of § 172.840 (a) and (b) in accordance with the following prescribed conditions:

(a) The polysorbate 80 is used only to facilitate separation of sheeted carrageenan and salts of carrageenan from drying rolls.

(b) The carrageenan and salts of carrageenan contain not more than 5 percent by weight of polysorbate 80, and the final food containing the additives contains polysorbate 80 in an amount not to exceed 500 parts per million.

(c) The carrageenan and salts of carrageenan so produced are used only in producing foods in gel form and only for the purposes defined in § 172.620(c) and § 172.626(b), respectively.

(d) The carrageenan and salts of carrageenan so produced are not used in foods for which standards of identity exist unless the standards provide for the use of carrageenan, or salts or carrageenan, combined with polysorbate 80.

(e) The carrageenan and salts of carrageenan produced in accordance with this section, and foods containing the same, in addition to the other requirements of the act, are labeled to show the presence of polysorbate 80, and the label or labeling of the carrageenan and salts of carrageenan so produced bear adequate directions for use.

§ 172.626 Salts of carrageenan.

The food additive salts of carrageenan may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive consists of carrageenan, meeting the provisions of § 172.620, modified by increasing the concentration of one of the naturally occurring salts (ammonium, calcium, potassium, or sodium) of carrageenan to the level that it is the dominant salt in the additive.

(b) The food additive is used or intended for use in the amount necessary for an emulsifier, stabilizer, or thickener in foods, except for those standardized foods that do not provide for such use.

(c) To assure safe use of the additive, the label and labeling of the additive shall bear the name of the salt of carrageenan that dominates the mixture by reason of the modification, e.g., "sodium carrageenan", "potassium carrageenan", etc.

§ 172.655 Furcelleran.

The food additive furcelleran may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is the refined hydrocolloid prepared by aqueous extraction of furcellaria fastigiata of the class Rodophyceae (red seaweed).

(b) The food additive conforms to the following:

(1) It is a sulfated polysaccharide the dominant hexose units of which are galactose and anhydrogalactose.

(2) Range of sulfate content: 8 percent to 19 percent, on a dry-weight basis.

(c) The food additive is used or intended for use in the amount necessary for an emulsifier, stabilizer, or thickener in foods, except for those standardized foods that do not provide for such use.

(d) To assure safe use of the additive, the label and labeling of the additive shall bear the name of the additive, furcelleran.

§ 172.660 Salts of furcelleran.

The food additive salts of furcelleran may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive consists of furcelleran, meeting the provisions of § 172.655, modified by increasing the concentration of one of the naturally occurring salts (ammonium, calcium, potassium, or sodium) of furcelleran to the level that it is the dominant salt in the additive.

(b) The food additive is used or intended for use in the amount necessary for an emulsifier, stabilizer, or thickener in foods, except for those standardized foods that do not provide for such use.

(c) To assure safe use of the additive, the label and labeling of the additive shall bear the name of the salt of furcelleran that dominates the mixture by reason of the modification, e.g., "sodium furcelleran", "potassium furcelleran", etc.

§ 172.695 Xanthan gum.

The food additive xanthan gum may be safely used in food in accordance with the following prescribed conditions:

(a) The additive is a polysaccharide gum derived from *Xanthomonas campestris* by a pure-culture fermentation

(b) It is used or intended for use as [illegible] under the following prescribed con-

(b) The additive stearyl monoglyc-

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process and purified by recovery with isopropyl alcohol. It contains D-glucose, D-mannose, and D-glucuronic acid as the dominant hexose units and is manufactured as the sodium, potassium, or calcium salt.

(b) The strain of *Xanthomonas campestris* is nonpathogenic and nontoxic in man or other animals.

(c) The additive is produced by a process that renders it free of viable cells of *Xanthomonas campestris*.

(d) The additive meets the following specifications:

(1) Residual isopropyl alcohol not to exceed 750 parts per million.

(2) An aqueous solution containing 1 percent of the additive and 1 percent of potassium chloride stirred for 2 hours has a minimum viscosity of 600 centipoises at 75° F, as determined by Brookfield Viscometer, Model LVF (or equivalent), using a No. 3 spindle at 60 r.p.m., and the ratio of viscosities at 75 ° F and 150 ° F is in the range of 1.02 to 1.45.

(3) Positive for xanthan gum when subjected to the following procedure:

LOCUST BEAN GUM GEL TEST

Blend on a weighing paper or in a weighing pan 1.0 gram of powdered locust bean gum with 1.0 gram of the powdered polysaccharide to be tested. Add the blend slowly (approximately ½ minute) at the point of maximum agitation to a stirred solution of 200 milliliters of distilled water previously heated to 80° C in a 400-milliliter beaker. Continue mechanical stirring until the mixture is in solution, but stir for a minimum time of 30 minutes. Do not allow the water temperature to drop below 60° C.

Set the beaker and its contents aside to cool in the absence of agitation. Allow a minimum time of 3 hours for cooling. Examine the cooled beaker contents for a firm rubbery gel formation after the temperature drops below 40° C.

In the event that a gel is obtained, make up a 1 percent solution of the polysaccharide to be tested in 200 milliliters of distilled water previously heated to 80° C (omit the locust bean gum). Allow the solution to cool without agitation as before. Formation of a gel on cooling indicates that the sample is a gelling polysaccharide and not xanthan gum.

Record the sample as "positive" for xanthan gum if a firm, rubbery gel forms in the presence of locust bean gum but not in its absence. Record the sample as "negative" for xanthan gum if no gel forms or if a soft or brittle gel forms both with locust bean gum and in a 1 percent solution of the sample (containing no locust bean gum).

(4) Positive for xanthan gum when subjected to the following procedure:

PYRUVIC ACID TEST

Pipet 10 milliliters of an 0.6 percent solution of the polysaccharide in distilled water (60 milligrams of water-soluble gum) into a 50-milliliter flask equipped with a standard taper glass joint. Pipet in 20 milliliters of 1*N* hydrochloric acid. Weigh the flask. Reflux the mixture for 3 hours. Take precautions to avoid loss of vapor during the refluxing. Cool the solution to room temperature. Add distilled water to make up any weight loss from the flask contents.

Pipet 1 milliliter of a 2,4-dinitrophenylhydrazine reagent (0.5 percent in 2*N* hydrochloric acid) into a 30-milliliter separatory funnel followed by a 2-milliliter aliquot (4 milligrams of water-soluble gum) of the polysaccharide hydrolyzate. Mix and allow the reaction mixture to stand at room temperature for 5 minutes. Extract the mixture with 5 milliliters of ethyl acetate. Discard the aqueous layer.

Extract the hydrazone from the ethyl acetate with three 5 milliliter portions of 10 percent sodium carbonate solution. Dilute the combined sodium carbonate extracts to 100 milliliters with additional 10 percent sodium carbonate in a 10-milliliter volumetric flask. Measure the optical density of the sodium carbonate solution at 375 millimicrons.

Compare the results with a curve of the optical density versus concentration of an authentic sample of pyruvic acid that has been run through the procedure starting with the preparation of the hydrazone.

Record the percent by weight of pyruvic acid in the test polysaccharide. Note "positive" for xanthan gum if the sample contains more than 1.5 percent of pyruvic acid and "negative" for xanthan gum if the sample contains less than 1.5 percent of pyruvic acid by weight.

(e) The additive is used or intended for use in accordance with good manufacturing practice as a stabilizer, emulsifier, thickener, suspending agent, bodying agent, or foam enhancer in foods for which standards of identity established under section 401 of the act do not preclude such use.

(f) To assure safe use of the additive:

(1) The label of its container shall bear, in addition to other information required by the act, the name of the additive and the designation "food grade".

(2) The label or labeling of the food additive container shall bear adequate directions for use.

Subpart H—Other Specific Usage Additives

§ 172.710 Adjuvants for pesticide use dilutions.

The following surfactants and related adjuvants may be safely added to pesticide use dilutions by a grower or applicant prior to application to the growing crop:

n-Alkyl (C_8-C_{18}) amine acetate, where the alkyl groups (C_8-C_{18}) are derived from coconut oil, as a surfactant in emulsifier blends at levels not in excess of 5 percent by weight of the emulsifier blends that are added to herbicides for application to corn and sorghum.

Di-*n*-alkyl (C_8-C_{18}) dimethyl ammonium chloride, where the alkyl groups (C_8-C_{18}) are derived from coconut oil, as surfactants in emulsifier blends at levels not in excess of 5 percent by weight of emulsifier blends that are added to herbicides for application to corn or sorghum.

Diethanolamide condensate based on a mixture of saturated and unsaturated soybean oil fatty acids (C_{16}-C_{18}) as a surfactant in emulsifier blends that are added to the herbicide atrazine for application to corn.

Diethanolamide condensate based on stripped coconut fatty acids (C_{12}-C_{18}) as a surfactant in emulsifier blends that are added to the herbicide atrazine for application to corn.

α-(*p*-Dodecylphenyl) - *omega* - hydroxypoly (oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecyl group is a propylene tetramer isomer) with an average of 4–14 or 30–70 moles of ethylene oxide; if a blend of products issued, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4–14 or 30–70.

Ethylene dichloride.

Polyglyceryl phthalate ester of coconut oil fatty acids.

α-[*p*-(1,1,3,3-Tetramethylbutyl) phenyl]-*omega*-hydroxypoly(oxyethylene) produced by the condensation or 1 mole of *p*-(1,1,3,3-tetramethylbutyl) phenol with an average of 4–14 or 30–70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4–14 or 30–70.

α-[*p*-(1,1,3,3-Tetramethylbutyl) phenyl]-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl) phenol with 1 mole of ethylene oxide.

Sodium acrylate and acrylamide copolymer with a minimum average molecular weight of 10,000,000 in which 30 percent of the polymer is comprised of acrylate units and 70 percent acrylamide units, for use as a drift control agent in herbicide formulations applied to crops at a level not to exceed 0.5 ounces of the additive per acre.

§ 172.712 Dimethyl dialkyl ammonium chloride.

Dimethyl dialkyl ammonium chloride may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is produced by ammonolysis of natural tallow fatty acids to form amines that are subsequently reacted with methyl chloride to form the quaternary ammonium compounds consisting primarily of dimethyl dioctadecyl ammonium chloride and dimethyl dihexadecyl ammonium chloride. The additive may contain residues of isopropyl alcohol not in excess of 12 percent by weight when used as a processing solvent.

(b) The food additive contains not more than a total of 2 percent by weight of free amine and amine hydrochloride.

(c) The food additive is used as a decolorizing agent in the clarification of refinery sugar liquors. It is added only at the defecation/clarification stage of sugar liquor refining in an amount not to exceed 700 parts per million by weight of sugar solids.

(d) To assure safe use of the additive, the label and labeling of the additive shall bear, in addition to other information required by the act, adequate directions to assure use in compliance with paragraph (c) of this section.

§ 172.715 Calcium lignosulfonate.

Calcium lignosulfonate may be safely used in or on food, subject to the provisions of this section.

(a) Calcium lignosulfonate consists of sulfonated lignin, primarily as calcium and sodium salts.

(b) It is used in an amount not to exceed that reasonably required to accomplish the intended physical or technical effect when added as a dispersing agent and stabilizer in pesticides for preharvest or postharvest application to bananas.

§ 172.720 Calcium lactobionate.

The food additive calcium lactobionate may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is the calcium salt of lactobionic acid (4-(β, D-galactosido)-D-gluconic acid) produced by the oxidation of lactose.

(b) It is used or intended for use as a firming agent in dry pudding mixes at a level not greater than that required to accomplish the intended effect.

§ 172.725 Gibberellic acid and its potassium salt.

The food additives gibberellic acid and its potassium salt may be used in the malting of barley in accordance with the following prescribed conditions:

(a) The additives meet the following specifications:

(1) The gibberellic acid is produced by deep-culture fermentation of a suitable nutrient medium by a strain of Fusarium moniliforme or a selection of this culture.

(2) The gibberellic acid produced is of 80 percent purity or better.

(3) The empirical formula of gibberellic acid is represented by $C_{19}H_{22}O_6$.

(4) Potassium gibberellate is the potassium salt of the specified gibberellic acid.

(5) The potassium gibberellate is of 80 percent purity or better.

(6) The gibberellic acid or potassium gibberellate may be diluted with substances generally recognized as safe in foods or with salts of fatty acids conforming to § 172.863.

(b) They are used or intended for use in the malting of barley under conditions whereby the amount of either or both additives present in the malt is not in excess of 2 parts per million expressed as gibberellic acid, and the treated malt is to be used in the production of fermented malt beverages or distilled spirits only, whereby the finished distilled spirits contain none and the finished malt beverage contains not more than 0.5 part per million of gibberellic acid.

(c) To insure the safe use of the food additives the label of the package shall bear, in addition to the other information required by the act:

(1) The name of the additive, "gibberellic acid" or "potassium gibberellate", whichever is appropriate.

(2) An accurate statement of the concentration of the additive contained in the package.

(3) Adequate use directions to provide not more than 2 parts per million of gibberellic acid in the finished malt.

(4) Adequate labeling directions to provide that the final malt is properly labeled as described in paragraph (d) of this section.

(d) To insure the safe use of the additive the label of the treated malt shall bear, in addition to the other information required by the act, the statements:

(1) "Contains not more than 2 parts per million _____", the blank being filled in with the words "gibberellic acid" or "potassium gibberellate", whichever is appropriate; and

(2) "Brewer's malt—To be used in the production of fermented malt beverages only" or "Distiller's malt—To be used in the production of distilled spirits only", whichever is appropriate.

§ 172.730 Potassium bromate.

The food additive potassium bromate may be safely used in the malting of barley under the following prescribed conditions:

(a) (1) It is used or intended for use in the malting of barley under conditions whereby the amount of the additive present in the malt from the treatment does not exceed 75 parts per million of bromate (calculated as Br), and the treated malt is used only in the production of fermented malt beverages or distilled spirits.

(2) The total residue of inorganic bromides in fermented malt beverages, resulting from the use of the treated malt plus additional residues of inorganic bromides that may be present from uses in accordance with other regulations in this chapter promulgated under sections 408 and/or 409 of the act, does not exceed 25 parts per million of bromide (calculated as Br). No tolerance is established for bromide in distilled spirits because there is evidence that inorganic bromides do not pass over in the distillation process.

(b) To assure safe use of the additive, the label or labeling of the food additive shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive.

(2) Adequate directions for use.

(c) To assure safe use of the additive, the label or labeling of the treated malt shall bear, in addition to other information required by the act, the statement, "Brewer's Malt—To be used in the production of fermented malt beverages only", or "Distiller's Malt—To be used in the production of distilled spirits only", whichever is the case.

§ 172.735 Glycerol ester of wood rosin.

Glycerol ester of wood rosin may be safely used in food in accordance with the following prescribed conditions:

(a) It has an acid number of 3 to 9, a drop-softening point of 88° C–96° C; and a color of N or paler as determined in accordance with Official Naval Stores Standards of the United States. It is purified by countercurrent steam distillation.

(b) It is used to adjust the density of citrus oils used in the preparation of beverages whereby the amount of the additive does not exceed 100 parts per million of the finished beverage.

§ 172.755 Stearyl monoglyceridyl citrate.

The food additive stearyl monoglyceridyl citrate may be safely used in food in accordance with the following provisions:

(a) The additive is prepared by controlled chemical reaction of the following:

Reactant	*Limitations*
Citric acid	
Monoglycerides of fatty acids.	Prepared by the glycerolysis of edible fats and oils or derived from fatty acids conforming with § 172.860.
Stearyl alcohol	Derived from fatty acids conforming with § 172.860, or derived synthetically in conformity with § 172.864.

(b) The additive stearyl monoglyceridyl citrate, produced as described under paragraph (a) of this section, meets the following specifications:

Acid number	40 to 52.
Total citric acid	15 to 18 percent.
Saponification number	215–255.

(c) The additive is used or intended for use as an emulsion stabilizer in or with shortenings containing emulsifiers.

§ 172.765 Succistearin (stearoyl propylene glycol hydrogen succinate).

The food additive succistearin (stearoyl propylene glycol hydrogen succinate) may be safely used in food in accordance with the following prescribed conditions:

(a) The additive is the reaction product of succinic anhydride, fully hydrogenated vegetable oil (predominantly C_{16} or C_{18} fatty acid chain length), and propylene glycol.

(b) The additive meets the following specifications:

Acid number 50–150.
Hydroxyl number 15–50.
Succinated ester content 45–75 percent.

(c) The additive is used or intended for use as an emulsifier in or with shortenings and edible oils intended for use in cakes, cake mixes, fillings, icings, pastries, and toppings, in accordance with good manufacturing practice.

§ 172.770 Ethylene oxide polymer.

The polymer of ethylene oxide may be safely used as a foam stabilizer in fermented malt beverages in accordance with the following conditions.

(a) It is the polymer of ethylene oxide having a minimum viscosity of 1,500 centipoises in a 1 percent aqueous solution at 25° C.

(b) It is used at a level not to exceed 300 parts per million by weight of the fermented malt beverage.

(c) The label of the additive bears directions for use to insure compliance with paragraph (b) of this section.

§ 172.775 Methacrylic acid-divinylbenzene copolymer.

Methacrylic acid-divinylbenzene copolymer may be safely used in food in accordance with the following prescribed conditions:

(a) The additive is produced by the polymerization of methacrylic acid and divinylbenzene. The divinylbenzene functions as a cross-linking agent and constitutes a minimum of 4 percent of the polymer.

(b) Aqueous extractives from the additive do not exceed 2 percent (dry basis) after 24 hours at 25° C.

(c) The additive is used as a carrier of vitamin B_{12} in foods for special dietary use.

Subpart I—Multipurpose Additives

§ 172.802 Acetone peroxides.

The food additive acetone peroxides may be safely used in flour, and in bread and rolls where standards of identity do not preclude its use, in accordance with the following prescribed conditions:

injected either immediately before or after

vial, cap tightly, shake and place in an 80°

accordance with good manufacturing

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(a) The additive is a mixture of monomeric and linear dimeric acetone peroxide, with minor proportions of higher polymers, manufactured by reaction of hydrogen peroxide and acetone.

(b) The additive may be mixed with an edible carrier to give a concentration of: (1) 3 grams to 10 grams of hydrogen peroxide equivalent per 100 grams of the additive, plus carrier, for use in flour maturing and bleaching; or (2) approximately 0.75 gram of hydrogen peroxide equivalent per 100 grams of the additive, plus carrier, for use in dough conditioning.

(c) It is used or intended for use: (1) In maturing and bleaching of flour in a quantity not more than sufficient for such effect; and (2) as a dough-conditioning agent in bread and roll production at not to exceed the quantity of hydrogen peroxide equivalent necessary for the artificial maturing effect.

(d) To insure safe use of the additive, the label of the food additive container and any intermediate premix thereof shall bear, in addition to the other information required by the act:

(1) The name of the additive, "acetone peroxides".

(2) The concentration of the additive expressed in hydrogen peroxide equivalents per 100 grams.

(3) Adequate use directions to provide a final product that complies with the limitations prescribed in paragraph (c) of this section.

§ 172.804 Aspartame.

The food additive aspartame may be safely used in food in accordance with good manufacturing practice as a sweetening agent or for an authorized technological purpose in foods for which standards of identity established under section 401 of the act do not preclude such use under the following conditions:

(a) Aspartame is the chemical

1-methyl *N*-L-α-aspartyl-L-phenylalanine ($C_{14}H_{18}N_2O_5$).

(b) The additive meets the following specifications:

(1) Not less than 98.0 percent and not more than the equivalent of 102.0 percent $C_{14}H_{18}N_2O_5$ (aspartame), calculated on the dried basis (4 hours at 105° C), as determined by the following analytical method.

APPARATUS

Titration vessel. Glass beaker or flask, 150 milliliters.

Buret. 50 milliliters with 0.1-milliliter gradations, equipped with tetrafluoroethylene polymer stopcock.

Aluminum foil.

Optional equipment. Magnetic stirrer and tetrafluoroethylene polymer-coated magnetic bar.

REAGENTS

Lithium metal.

Methyl alcohol. Absolute, A.C.S. reagent grade.

Benzene. Anhydrous, A.C.S. reagent grade.

Thymol blue (thymolsulfonephthalein). A.C.S. reagent grade.

Ethyl alcohol. 95 percent.

Benzoic acid. A.C.S. reagent grade, of specified purity dried at 80° C.

N,N-Dimethylformamide. A.C.S. reagent grade.

Lithium methoxide solution. 0.1 normal; dissolve 600 milligrams of lithium metal in 150 milliliters of absolute methyl alcohol and 850 milliliters of benzene. Filter the solution if cloudy.

Thymol blue solution. Dissolve 100 milligrams of thymol blue in 100 milliliters of 95 percent ethyl alcohol. Filter if necessary.

PROCEDURE

General instructions. Perform in triplicate both the standardization of the lithium methoxide solution and the titration of the sample. Perform one titration of the solvent blank, i.e., *N,N*-dimethylformamide. Cover the titration vessel with aluminum foil while dissolving the samples and throughout the titration to decrease carbon dioxide absorption.

Titration of solvent blank. Add 35 milliliters of *N,N*-dimethylformamide to the titration vessel. Add 5 drops of the thymol blue solution and titrate the mixture with lithium methoxide solution to an end point indicated by a color change from yellow to blue.

Determination of normality of the lithium methoxide solution. Place a weighed sample of benzoic acid (approximately 80 milligrams) in the titration vessel, add 35 milliliters of *N,N*-dimethylformamide and dissolve the sample. Add 5 drops of thymol blue solution to the dissolved sample and titrate with the lithium methoxide solution to an end point indicated by a color change from yellow to blue.

Titration of the aspartame sample. Place a weighed sample of aspartame (approximately 150 milligrams dried at 105° C for 4 hours and stored in a desiccator) in the titration vessel, add 35 milliliters of *N,N*-dimethylformamide and dissolve the sample. Add 5 drops of thymol blue solution to the dissolved sample and titrate with the lithium methoxide solution to an end point indicated by a color change from yellow to blue

CALCULATIONS

$$N=\frac{J}{(122.12)\ (S-B)}$$

Per cent aspartame in sample=

$$\frac{(294.3)\ (A-B)\ (N)}{K}\times 100.$$

Where:
N=Accurate normality of the lithium methoxide solution.
S=Milliliters of lithium methoxide solution required to titrate the benzoic acid.
A=Milliliters of lithium methoxide solution required to titrate the aspartame sample.
B=Milliliters of lithium methoxide solution required to titrate the solvent blank.
J=Milligrams of benzoic acid standard.
K=Milligrams of aspartame sample.

(2) Specific rotation $[\alpha]_D^{20}$, shall be between +12.5° and +17.5°, calculated on the dried basis (4 hours at 105° C) in accordance with the test for optical rotation described in the "Food Chemicals Codex," 2nd Ed. (1972),[1] page 939. Weigh accurately about 4 grams of sample and dissolve it in sufficient 15*N* formic acid to make exactly 100 milliliters of solution, and complete the determination of the rotation in a 100-millimeter tube within 30 minutes after preparing the solution.

(3) 5-Benzyl-3,6-dioxo-2-piperazineacetic acid (diketopiperazine) not to exceed 2.0 percent as determined by the following analytical method:

APPARATUS

Gas chromatograph. With hydrogen flame ionization detector and designed for handling glass columns with on-column injection (Micro-Tek 220 or equivalent). Chromatograph conditions should be optimized to obtain maximum resolution for the specific instrument used. To preclude buildup of silicon oxide, clean the detector with acetone frequently. Approximate operating conditions are:

Column temperature: 200° C.
Detector temperature: 275° C.
Inlet temperature: 200° C.
Carrier gas (helium) flow rate: 75 milliliters per minute.
Hydrogen and air flow to burner: Optimize to give maximum sensitivity.
Sample size: 3 microliters.
Elution time: 7–9 minutes.
Recorder: 1 millivolt full scale (for the Micro-Tek 220, the attenuation is 16x10).

Chromatograph column: 6 feet x 4 millimeters I.D. glass column packed with OV–1 on 80–100 mesh Supelcoport (Supelco, Inc., or equivalent). Condition the column overnight at 250° C before readjustment and equilibration to the operation conditions.

Oven. Capable of maintaining 80±1° C for 30 minutes.

Glass manifold. Suitable for evaporating samples to dryness over steam bath; the apparatus may have an optional gas flow over the sample to enhance the rate of solvent evaporation.

Vials. 2-dram size with tetrafluoroethylene polymer-lined cap.

REAGENTS

N,N-Dimethylformamide. A.C.S. reagent grade.

N,O-Bis(trimethylsilyl) acetamide.

Silylation reagent. Dilute by volume three parts *N,O*-bis (trimethylsilyl) acetamide with two parts *N,N*-dimethylformamide. Prepare fresh before use.

Methyl alcohol. Anyhdrous, A.C.S. reagent grade.

5-Benzyl-3,6-dioxo-2-piperazineacetic acid. Specifications: Purity, not less than 99 percent; minimum melting point, 243° C; specific rotation of a 1 percent solution (in acetic acid), between −9° and −11°; total impurities determined by thin layer chromatography, less than 0.5 percent; impurities determined by gas chromatography, less than 1 percent for any single impurity. A sample of the reagent and test procdures for verification of specifications may be obtained from Food Chemicals Codex, National Academy of Sciences, 2101 Constitution Ave., NW., Washington, DC 20037.

PROCEDURE

Preparation of the standard. Place a weighed sample of 5-benzyl-3,6-dioxo-2-piperazineacetic acid (25 milligrams) into a 50-milliliter volumetric flask. Add methyl alcohol to dissolve the solid standard and dilute to volume. Dilute a 10-milliliter portion of the above solution to 50 milliliters with methyl alcohol in another 50-milliliter volumetric flask. The concentration of this standard solution is 0.1 milligram per milliliter. Pipet 2 milliliters of the standard solution into a 2-dram vial and evaporate the solvent to dryness. Add 1 milliliter of the silylation reagent to the dried sample, cap the vial tightly, shake and place in an 80° C oven for 30 minutes. Remove from oven, shake vial 15 seconds and cool to room temperature. Inject 3 microliters of this solution into the gas chromatograph and measure the peak height. The standard should be injected either immediately before or after each sample for proper quantification.

Preparation of the aspartame sample. Place a weighed sample of aspartame (approximately 10 milligrams) into a 2-dram vial. Add 1 milliliter of silylation reagent to the vial, cap tightly, shake and place in an 80° C oven for 30 minutes. Remove from oven, shake vial 15 seconds and cool to room temperature. Inject 3 microliters of this solution into the gas chromatograph and measure the subject compound peak height.

CALCULATION

$$\text{Milligrams of 5-benzyl-3,6-dioxo-2-piperazineacetic acid in aspartame}=\frac{\text{peak height of aspartame sample}}{\text{peak height of standard sample}}\times 0.2$$

$$\text{Percent 5-benzyl-3,6-dioxo-2-piperazineacetic acid in aspartame}=\frac{\text{milligrams of subject compound in aspartame}}{\text{milligrams of aspartame sample}}\times 100.$$

(c) The additive may be used as a sweetener in the following foods:

(1) Dry, free-flowing sugar substitutes for table use (not to include use in cooking) in package units not to exceed the sweetening equivalent of 2 teaspoonfuls of sugar.

(2) Sugar substitute tablets for sweetening hot beverages, including coffee and tea. L-leucine may be used as a lubricant in the manufacture of such tablets at a level not to exceed 3.5 percent of the weight of the tablet.

(3) Cold breakfasts cereals.

(4) Chewing gum.

(5) Dry bases for:

(i) Beverages.

(ii) Instant coffee and tea.

(iii) Gelatins, puddings, and fillings.

(iv) Dairy product analog toppings.

(d) The additive may be used as a flavor enhancer in chewing gum.

(e) To assure safe use of the additive, in addition to the other information required by the act:

(1) The principal display panel of any intermediate mix of the additive for manufacturing purposes shall bear a statement of the concentration of the additive contained therein;

(2) The label of any food containing the additive shall bear, either on the principal display panel or on the information panel, the following statement: PHENYLKETONURICS: CONTAINS PHENYLALANINE

The statement shall appear in the labeling prominently and conspicuously as compared to other words, statements, designs or devices and in bold type and on clear contrasting background in order to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(3) When the additive is used in a sugar substitute for table use, its label shall bear instructions not to use in cooking or baking.

(f) If the food containing the additive purports to be or is represented for special dietary uses, it shall be labeled in compliance with Part 105 of this chapter.

NOTE: Section 172.804 (formerly § 121.1258) was stayed in its entirety at 40 FR 56907, Dec. 5, 1975.

§ 172.806 Azodicarbonamide.

The food additive azodicarbonamide may be safely used in food in accordance with the following prescribed conditions:

(a) It is used or intended for use:

(1) As an aging and bleaching ingredient in cereal flour in an amount not to exceed 2.05 grams per 100 pounds of flour (0.0045 percent; 45 parts per million).

(2) As a dough conditioner in bread baking in a total amount not to exceed 0.0045 percent (45 parts per million) by weight of the flour used, including any quantity of azodicarbonamide added to flour in accordance with paragraph (a) (1) of this section.

(b) To assure safe use of the additive:

(1) The label and labeling of the additive and any intermediate premix prepared therefrom shall bear, in addition to the other information required by the act, the following:

(i) The name of the additive.

(ii) A statement of the concentration or the strength of the additive in any intermediate premixes.

(2) The label or labeling of the food additive shall also bear adequate directions for use.

§ 172.808 Copolymer condensates of ethylene oxide and propylene oxide.

Copolymer condensates of ethylene oxide and propylene oxide may be safely used in food under the following prescribed conditions:

(a) The additive consists of one of the following:

(1) α-Hydro - *omega* - hydroxy - poly (oxyethylene) poly (oxypropylene) - (55–61 moles) poly (oxyethylene) block copolymer, having a molecular weight range of 9,760–13,200 and a cloud point above 100° C in 1 percent aqueous solution.

(2) α-Hydro - *omega* - hydroxy - poly (oxyethylene) poly (oxypropylene) - (53–59 moles) poly (oxyethylene) (14 – 16 moles) block copolymer, having a molecular weight range of 3,500–4,125 and a cloud point of 9° C–12° C in 10 percent aqueous solution.

(3) α-Hydro-*omega*-hydroxy-poly (oxyethylene) / poly (oxypropylene) (minimum 15 moles) /poly (oxyethylene) block copolymer, having a minimum average molecular weight of 1900 and a minimum cloud point of 9° C–12° C in 10 percent aqueous solution.

(4) α-Hdyro-*omega*-hydroxy-poly (oxyethylene) poly (oxypropylene) - (51–57 moles) poly (oxyethylene) block copolymer, having an average molecular weight of 14,000 and a cloud point above 100° C in 1 percent aqueous solution.

(b) The additive is used or intended for use as follows:

(1) The additive identified in paragraph (a) (1) of this section is used in accordance with good manufacturing practice as a solubilizing and stabilizing agent in flavor concentrates (containing authorized flavoring oils) for use in foods for which standards of identity established under section 401 of the act do not preclude such use, provided that the weight of the additive does not exceed the weight of the flavoring oils in the flavor concentrate.

(2) The additive identified in paragraph (a) (2) of this section is used as a processing aid and wetting agent in combination with dioctyl sodium sulfosuccinate for fumaric acid as prescribed in § 172.810.

(3) The additive identified in paragraph (a) (3) of this section is used as a surfactant and defoaming agent, at levels not to exceed 0.05 percent by weight, in scald baths for poultry defeathering, followed by potable water rinse. The temperatures of the scald baths shall be not less than 125° F.

(4) The additive identified in paragraph (a) (4) of this section is used as a dough conditioner in yeast-leavened bakery products for which standards of identity established under section 401 of the act do not preclude such use, provided that the amount of the additive dose not exceed 0.5 percent by weight of the flour used.

§ 172.810 Dioctyl sodium sulfosuccinate.

The food additive dioctyl sodium sulfosuccinate which meets the specifications of the Food Chemicals Codex may be safely used in food in accordance with the following prescribed conditions:

(a) As a wetting agent in the following fumaric acid-acidulated foods: Dry gelatin dessert, dry beverage base, and fruit juice drinks, when standards of identity do not preclude such use. The labeling of the dry gelatin dessert and dry beverage base shall bear adequate directions for use, and the additive shall be used in such an amount that the finished gelatin dessert will contain not in excess of 15 parts per million of the additive and the finished beverage or fruit juice drink will contain not in excess of 10 parts per million of the additive.

(b) As a processing aid in sugar factories in the production of unrefined cane sugar, in an amount not in excess of 0.5 part per million of the additive per percentage point of sucrose in the juice, syrup, or massecuite being processed, and so used that the final molasses will contain no more than 25 parts per million of the additive.

(c) As a solubilizing agent on gums and hydrophilic colloids to be used in food as stabilizing and thickening agents, when standards of identity do not preclude such use. The additive is used in an amount not to exceed 0.5 percent by weight of the gums or hydrophilic colloids.

(d) As an emulsifying agent for cocoa fat in noncarbonated beverages containing cocoa, whereby the amount of the additive does not exceed 25 parts per million of the finished beverage.

(e) As a dispersing agent in "cocoa with dioctyl sodium sulfosuccinate for

[1] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

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manufacturing" that conforms to the provisions of § 163.117 of this chapter and the use limitations prescribed in § 172.520, in an amount not to exceed 0.4 percent by weight thereof.

(f) As a processing aid and wetting agent in combination with *α*-hydro-*omega*-hydroxy-poly(oxyethylene) poly(oxypropylene) (53–69 moles) poly(oxyethylene) (14–16 moles) block copolymer, having a molecular weight range of 3,500–4,125 and a cloud point of 9° C–12° C in 10 percent aqueous solution, for fumaric acid used in fumaric acid-acidulated dry beverage base and in fumaric acid-acidulated fruit juice drinks, when standards of identity do not preclude such use. The labeling of the dry beverage base shall bear adequate directions for use, and the additives shall be used in such an amount that the finished beverage or fruit juice drink will contain not in excess of a total of 10 parts per million of the dioctyl sodium sulfosuccinate-block copolymer combination.

§ 172.812 Glycine.

The food additive glycine may be safely used for technological purposes in food in accordance with the following prescribed conditions:

(a) The additive complies with the specifications prescribed in "*Food Chemicals Codex*," National Academy of Sciences/National Research Council (NAS/NRC) 2d edition (1972).[1]

(b) The additive is used or intended for use as follows:

Uses	*Limitations*
As a masking agent for the bitter aftertaste of saccharin used in manufactured beverages and beverage bases.	Not to exceed 0.2 percent in the finished beverage.
As a stabilizer in mono- and diglycerides prepared by the glycerolysis of edible fats or oils.	Not to exceed 0.02 percent of the mono- and diglycerides.

(c) To assure safe use of the additive, in addition to the other information required by the act:

(1) The labeling of the additive shall bear adequate directions for use of the additive in compliance with the provisions of this section.

(2) The labeling of beverage bases containing the additive shall bear adequate directions for use to provide that beverages prepared therefrom shall contain no more than 0.2 percent glycine.

§ 172.814 Hydroxylated lecithin.

The food additive hydroxylated lecithin may be safely used as an emulsifier in foods in accordance with the following conditions:

(a) The additive is obtained by the treatment of lecithin in one of the following ways, under controlled conditions whereby the separated fatty acid fraction of the resultant product has an acetyl value of 30 to 38:

(1) With hydrogen peroxide, benzoyl peroxide, lactic acid, and sodium hydroxide.

(2) With hydrogen peroxide, acetic acid, and sodium hydroxide.

(b) It is used or intended for use, in accordance with good manufacturing practice, as an emulsifier in foods, except for those standardized foods that do not provide for such use.

(c) To assure safe use of the additive, the label of the food additive container shall bear, in addition to the other information required by the act:

(1) The name of the additive, "hydroxylated lecithin".

(2) Adequate directions for its use.

§ 172.816 Methyl glucoside-coconut oil ester.

Methyl glucoside-coconut oil ester may be safely used in food in accordance with the following conditions:

(a) It is the methyl glucoside-coconut oil ester having the following specifications:

Acid number	10–20.
Hydroxyl number	200–300.
pH (5% aqueous)	4.8–5.0.
Saponification number	178–190.

(b) It is used or intended for use as follows:

(1) As an aid in crystallization of sucrose and dextrose at a level not to exceed the minimum quantity required to produce its intended effect.

(2) As a surfactant in molasses at a level not to exceed 320 parts per million in the molasses.

§ 172.818 Oxystearin.

The food additive oxystearin may be safely used in foods, when such use is not precluded by standards of identity in accordance with the following conditions.

(a) The additive is a mixture of the glycerides of partially oxidized stearic and other fatty acids obtained by heating hydrogenated cottonseed or soybean oil under controlled conditions, in the presence of air and a suitable catalyst which is not a food additive as so defined. The resultant product meets the following specifications:

Acid number	Maximum 15.
Iodine number	Maximum 15.
Saponification number	225–240.
Hydroxyl number	30–45.
Unsaponifiable material	Maximum 0.8 percent.
Refractive index (butyro)	60 ± 1 at 48° C.

(b) It is used or intended for use as a crystallization inhibitor in vegetable oils and as a release agent in vegetable oils and vegetable shortenings, whereby the additive does not exceed 0.125 percent of the combined weight of the oil or shortening.

(c) To insure safe use of the additive, the label and labeling of the additive container shall bear, in addition to the other information required by the act:

(1) The name of the additive.

(2) Adequate directions to provide an oil or shortening that complies with the limitations prescribed in paragraph (b) of this section.

§ 172.820 Polyethylene glycol (mean molecular weight 200–9,500).

Polyethylene glycol identified in this section may be safely used in food in accordance with the following prescribed conditions:

(a) *Identity.* (1) The additive is an addition polymer of ethylene oxide and water with a mean molecular weight of 200 to 9,500.

(2) It contains no more than 0.2 percent total by weight of ethylene and diethylene glycols when tested by the analytical methods prescribed in paragraph (b) of this section.

(b) *Analytical method.* (1) The analytical method prescribed in the U.S.P. XVII for polyethylene glycol 400 shall be used to determine the total ethylene and diethylene glycol content of polyethylene glycols having mean molecular weights of 450 or higher.

(2) The following analytical method shall be used to determine the total ethylene and diethylene glycol content of polyethylene glycols having mean molecular weights below 450.

ANALYTICAL METHOD

ETHYLENE GLYCOL AND DIETHYLENE GLYCOL CONTENT OF POLYETHYLENE GLYCOLS

The analytical method for determining ethylene glycol and diethylene glycol is as follows:

APPARATUS

Gas chromatograph with hydrogen flame ionization detector (Varian Aerograph 600 D or equivalent). The following conditions shall be employed with the Varian Aerograph 600 D gas chromatograph:

Column temperature: 165° C.

Inlet temperature: 260° C.

Carrier gas (nitrogen) flow rate: 70 milliliters per minute.

Hydrogen and air flow to burner: Optimize to give maximum sensitivity.

Sample size: 2 microliters.

Elution time: Ethylene glycol: 2.0 minutes. Diethylene glycol: 6.5 minutes.

Recorder: −0.5 to +1.05 millivolt, full span, 1 second full response time.

Syringe: 10-microliter (Hamilton 710 N or equivalent).

Chromatograph column: 5 feet × ⅛ inch I.D. stainless steel tube packed with sorbitol (Mathieson-Coleman-Bell 2768 Sorbitol SX850, or equivalent) 12 percent in H_2O by weight on 60–80 mesh nonacid washed diatomaceous earth (Chromosorb W, Johns-Manville, or equivalent).

REAGENTS AND MATERIALS

Carrier gas, nitrogen: Commercial grade in cylinder equipped with reducing regulator to provide 50 p.s.i.g. to the gas chromatograph.

Ethylene glycol: Commercial grade. Purify if necessary, by distillation.

Diethylene glycol: Commercial grade. Purify, if necessary, by distillation.

Glycol standards: Prepare chromatographic standards by dissolving known amounts of ethylene glycol and diethylene glycol in water. Suitable concentrations for standardization range from 1 to 6 milligrams of each component per milliliter (for example 10 milligrams diluted to volume in a 10-milliliter volumetric flask is equivalent to 1 milligram per milliliter).

STANDARDIZATION

Inject a 2-microliter aliquot of the glycol standard into the gas chromatograph employing the conditions described above. Measure the net peak heights for the ethylene glycol and for the diethylene glycol. Record the values as follows:

A = Peak height in millimeters of the ethylene glycol peak.

B = milligrams of ethylene glycol per milliliter of standard solution.

C = Peak height in millimeters of the diethylene glycol peak.

D = Milligrams of diethylene glycol per milliliter of standard solution.

PROCEDURE

Weigh approximately 4 grams of polyethylene glycol sample accurately into a 10-milliliter volumetric flask. Dilute to volume with water. Mix the solution thoroughly and inject a 2-microliter aliquot into the gas chromatograph. Measure the heights, in millimeters, of the ethylene glycol peak and of the diethylene glycol peak and record as E and F, respectively.

$$\text{Percent ethylene glycol} = \frac{E \times B}{A \times \text{sample weight in grams}}$$

$$\text{Percent diethylene glycol} = \frac{F \times D}{C \times \text{sample weight in grams}}$$

[1] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

(c) *Uses.* It may be used, except in milk or preparations intended for addition to milk, as follows:

(1) As a coating, binder, plasticizing agent, and/or lubricant in tablets used for food.

(2) As an adjuvant to improve flavor and as a bodying agent in nonnutritive sweeteners identified in § 180.37 of this chapter.

(3) As an adjuvant in dispersing vitamin and/or mineral preparations.

(4) As a coating on sodium nitrite to inhibit hygroscopic properties.

(d) *Limitations.* (1) It is used in an amount not greater than that required to produce the intended physical or technical effect.

(2) A tolerance of zero is established for residues of polyethylene glycol in milk.

§ 172.822 Sodium lauryl sulfate.

The food additive sodium lauryl sulfate may be safely used in food in accordance with the following conditions:

(a) The additive meets the following specifications:

(1) It is a mixture of sodium alkyl sulfates consisting chiefly of sodium lauryl sulfate [$CH_3(CH_2)_{10}CH_2OSO_3Na$].

(2) It has a minimum content of 90 percent sodium alkyl sulfates.

(b) It is used or intended for use:

(1) As an emulsifier in or with egg whites whereby the additive does not exceed the following limits:

Egg white solids,	1,000 parts per million.
Frozen egg whites,	125 parts per million.
Liquid egg whites,	125 parts per million.

(2) As a whipping agent at a level not to exceed 0.5 percent by weight of gelatine used in the preparation of marshmallows.

(3) As a surfactant in:

(i) Fumaric acid-acidulated dry beverage base whereby the additive does not exceed 25 parts per million of the finished beverage and such beverage base is not for use in a food for which a standard of identity established under section 401 of the act precludes such use.

(ii) Fumaric acid-acidulated fruit juice drinks whereby the additive does not exceed 25 parts per million of the finished fruit juice drink and it is not used in a fruit juice drink for which a standard of identity established under section 401 of the act precludes such use.

(c) To insure the safe use of the additive, the label of the food additive container shall bear, in addition to the other information required by the act:

(1) The name of the additive, sodium lauryl sulfate.

(2) Adequate use directions to provide a final product that complies with the limitations prescribed in paragraph (b) of this section.

§ 172.824 Sodium mono- and dimethyl naphthalene sulfonates.

The food additive sodium mono- and dimethyl naphthalene sulfonates may be safely used in accordance with the following prescribed conditions:

(a) The additive has a molecular weight range of 245–260.

(b) The additive is used or intended for use:

(1) In the crystallization of sodium carbonate in an amount not to exceed 250 parts per million of the sodium carbonate. Such sodium carbonate is used or intended for use in potable water systems to reduce hardness and aid in sedimentation and coagulation by raising the pH for the efficient utilization of other coagulation materials.

(2) As an anticaking agent in sodium nitrite at a level not in excess of 0.1 percent by weight thereof for authorized uses in cured fish and meat.

(3) In the washing or to assist in the lye peeling of fruits and vegetables as prescribed in § 173.315 of this chapter.

(c) In addition to the general labeling requirements of the act:

(1) Sodium carbonate produced in accordance with paragraph (b)(1) of this section shall be labeled to show the presence of the additive and its label or labeling shall bear adequate directions for use.

(2) Sodium nitrite produced in accordance with paragraph (b)(2) of this section shall bear the labeling required by § 172.175 and a statement declaring the presence of sodium mono- and dimethyl naphthalene sulfonates.

§ 172.826 Sodium stearyl fumarate.

Sodium stearyl fumarate may be safely used in food in accordance with the following conditions:

(a) It contains not less than 99 percent sodium stearyl fumarate calculated on the anhydrous basis; and not more than 0.25 percent sodium stearyl maleate.

(b) The additive is used or intended for use:

(1) As a dough conditioner in yeast-leavened bakery products in an amount not to exceed 0.5 percent by weight of the flour used.

(2) As a conditioning agent in dehydrated potatoes in an amount not to exceed 1 percent by weight thereof.

(3) As a stabilizing agent in nonyeast-leavened bakery products in an amount not to exceed 1 percent by weight of the flour used.

(4) As a conditioning agent in processed cereals for cooking in an amount not to exceed 1 percent by weight of the dry cereal, except for foods for which standards of identity preclude such use.

(5) As a conditioning agent in starch-thickened or flour-thickened foods in an amount not to exceed 0.2 percent by weight of the food.

§ 172.828 Acetylated monoglycerides.

The food additive acetylated monoglycerides may be safely used in or on food in accordance with the following prescribed conditions:

(a) The additive is manufactured by:

(1) The interesterification of edible fats with triacetin and in the presence of catalytic agents that are not food additives or are authorized by regulation, followed by a molecular distillation or by steam stripping; or

(2) The direct acetylation of edible monoglycerides with acetic anhydride without the use of catalyst or molecular distillation, and with the removal by vacuum distillation, if necessary, of the acetic acid, acetic anhydride, and triacetin.

(b) The food additive has a Reichert-Meissl value of 75–150 and an acid value of less than 6.

(c) The food additive is used at a level not in excess of the amount reasonably required to produce its intended effect in food, or in food-processing, food-packing, or food-storage equipment.

§ 172.830 Succinylated monoglycerides.

The food additive succinylated monoglycerides may be safely used in food in accordance with the following prescribed conditions:

(a) The additive is a mixture of semi- and neutral succinic acid esters of mono- and diglycerides produced by the succinylation of a product obtained by the glycerolysis of edible fats and oils, or by the direct esterification of glycerol with edible fat-forming fatty acids.

(b) The additive meets the following specifications:

Succinic acid content	14.8%–25.6%.
Melting point	50° C–60° C.
Acid number	70–120.

(c) The additive is used or intended for use in the following foods:

(1) As an emulsifier in liquid and plastic shortenings at a level not to exceed 3 percent by weight of the shortening.

(2) As a dough conditioner in bread baking, when such use is permitted by an appropriate food standard, at a level not to exceed 0.5 percent by weight of the flour used.

§ 172.832 Monoglyceride citrate.

A food additive that is a mixture of glyceryl monooleate and its citric acid

(9) As an emulsifier in solid-state,

(c) The additive is used, or intended

tions prescribed in paragraph (c) of this

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monoester manufactured by the reaction of glyceryl monooleate with citric acid under controlled conditions may be safely used as a synergist and solubilizer for antioxidants in oils and fats, when used in accordance with the conditions prescribed in this section.

(a) The food additive meets the following specifications:

Acid number, 70–100.
Total citric acid (free and combined), 14 percent–17 percent.

(b) It is used, or intended for use, in antioxidant formulations for addition to oils and fats whereby the additive does not exceed 200 parts per million of the combined weight of the oil or fat and the additive.

(c) To assure safe use of the additive:

(1) The container label shall bear, in addition to the other information required by the act, the name of the additive.

(2) The label or accompanying labeling shall bear adequate directions for the use of the additive which, if followed, will result in a food that complies with the requirements of this section.

§ 172.834 Ethoxylated mono- and diglycerides.

The food additive ethoxylated mono- and diglycerides (polyoxyethylene (20) mono- and diglycerides of fatty acids) (polyglycerate 60) [Chemical Abstracts Service Registry No. 977051–30–1] may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is manufactured by:

(1) Glycerolysis of edible fats primarily composed of stearic, palmitic, and myristic acids; or

(2) Direct esterification of glycerol with a mixture of primarily stearic, palmitic, and myristic acids;

to yield a product with less than 0.3 acid number and less than 0.2 percent water, which is then reacted with ethylene oxide.

(b) The additive meets the following specifications:

Saponification number, 65–75.
Acid number, 0–2.
Hydroxyl number, 65–80.
Oxyethylene content, 60.5–65.0 percent.

(c) The additive is used or intended for use in the following foods when standards of identity established under section 401 of the act do not preclude such use:

Use	*Limitations*
1. As a dough conditioner in yeast-leavened bakery products.	Not to exceed 0.5 percent by weight of the flour used.
2. As an emulsifier in cakes and cake mixes.	Not to exceed 0.5 percent by weight of the dry ingredients.
3. As an emulsifier in whipped vegetable oil toppings and topping mixes.	Not to exceed 0.45 percent by weight of the finished whipped vegetable oil toppings.
4. As an emulsifier in icings and icing mixes.	Not to exceed 0.5 percent by weight of the finished icings.
5. As an emulsifier in frozen desserts.	Not to exceed 0.2 percent by weight of the finished frozen desserts.
6. As an emulsifier in edible vegetable fat-water emulsions intended for use as substitutes for milk or cream in beverage coffee.	Not to exceed 0.4 percent by weight of the finished vegetable fat-water emulsions.

(d) When the name "polyglycerate 60" is used in labeling it shall be followed by either "polyoxyethylene (20) mono- and diglycerides of fatty acids" or "ethoxylated mono- and diglycerides" in parentheses.

§ 172.836 Polysorbate 60.

The food additive polysorbate 60 (polyoxyethylene (20) sorbitan monostearate) which is a mixture of polyoxyethylene ethers of mixed partial stearic and palmitic acid esters of sorbitol anhydrides and related compounds, may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is manufactured by reacting stearic acid (usually containing associated fatty acids, chiefly palmitic) with sorbitol to yield a product with a maximum acid number of 10 and a maximum water content of 0.2 percent, which is then reacted with ethylene oxide.

(b) The food additive meets the following specifications:

Saponification number 45–55.
Acid number 0–2.
Hydroxyl number 81–96.
Oxyethylene content 65 percent–69.5 percent.

(c) It is used or intended for use as follows:

(1) As an emulsifier in whipped vegetable oil topping with or without one or a combination of the following:

(i) Sorbitan monostearate;
(ii) Polysorbate 65;
(iii) Polysorbate 80;

whereby the maximum amount of the additive or additives used does not exceed 0.4 percent of the weight of the finished whipped vegetable oil topping; except that a combination of the additive with sorbitan monostearate may be used in excess of 0.4 percent, provided that the amount of the additive does not exceed 0.77 percent and the amount of sorbitan monostearate does not exceed 0.27 percent of the weight of the finished whipped vegetable oil topping.

(2) As an emulsifier in cakes and cake mixes, with or without one or a combination of the following:

(i) Polysorbate 65.
(ii) Sorbitan monostearate.

When used alone, the maximum amount of polysorbate 60 shall not exceed 0.46 percent of the weight of the cake or cake mix, on a dry-weight basis. When used with polysorbate 65 and/or sorbitan monostearate, it shall not exceed 0.46 percent, nor shall the polysorbate 65 exceed 0.32 percent or the sorbitan monostearate exceed 0.61 percent, and no combination of these emulsifiers shall exceed 0.66 percent of the cake or cake mix, all calculated on a dry-weight basis.

(3) As an emulsifier, alone or in combination with sorbitan monostearate, in nonstandardized confectionery coatings and standardized cacao products specified in §§ 163.123, 163.130, 163.135, 163.140, 163.145, and 163.150 of this chapter, as follows:

(i) It is used alone in an amount not to exceed 0.5 percent of the weight of the finished nonstandardized confectionery coating or standardized cacao product.

(ii) It is used with sorbitan monostearate in any combination of up to 0.5 percent of polysorbate 60 and up to 1 percent of sorbitan monostearate: *Provided*, That the total combination does not exceed 1 percent of the weight of the finished nonstandardized confectionery coating or standardized cacao product.

(4) [Reserved]

(5) As an emulsifier in cake icings and cake fillings, with or without one or a combination of the following:

(i) Polysorbate 65.
(ii) Sorbitan monostearate.

When used alone, the maximum amount of polysorbate 60 shall not exceed 0.46 percent of the weight of the cake icings and cake fillings. When used with polysorbate 65 and/or sorbitan monostearate, it shall not exceed 0.46 percent, nor shall the polysorbate 65 exceed 0.32 percent or the sorbitan monostearate exceed 0.7 percent, and no combination of these emulsifiers shall exceed 1 percent of the weight of the cake icing or cake filling.

(6) To impart greater opacity to sugar-type confection coatings whereby the maximum amount of the additive does not exceed 0.2 percent of the weight of the finished sugar coating.

(7) As an emulsifier in nonstandardized dressings whereby the maximum amount of the additive does not exceed 0.3 percent of the weight of the finished dressings.

(8) As an emulsifier, alone or in combination with polysorbate 80, in shortenings and edible oils intended for use in nonstandardized baked goods, baking mixes, icings, fillings, and toppings, and in the frying of foods, as follows:

(i) It is used alone in an amount not to exceed 1 percent of the weight of the finished shortening or oil.

(ii) It is used with polysorbate 80 in any combination providing no more than 1 percent of polysorbate 60 and no more than 1 percent of polysorbate 80, provided that the total combination does not exceed 1 percent of the finished shortening or oil.

(iii) The 1-percent limitation specified in paragraph (c)(8) (i) and (ii) of this section may be exceeded in premix concentrates of shortening or edible oil if the labeling complies with the requirements of paragraph (d) of this section.

(9) As an emulsifier in solid-state, edible vegetable fat-water emulsions intended for use as substitutes for milk or cream in beverage coffee, with or without one or a combination of the following:

(i) Polysorbate 65.
(ii) Sorbitan monostearate.

The maximum amount of the additive or additives shall not exceed 0.4 percent by weight of the finished edible vegetable fat-water emulsion.

(10) As a foaming agent in nonalcoholic mixes, to be added to alcoholic beverages in the preparation of mixed alcoholic drinks, at a level not to exceed 4.5 percent by weight of the nonalcoholic mix.

(11) As a dough conditioner in yeast-leavened bakery products in an amount not to exceed 0.5 percent by weight of the flour used.

(12) As an emulsifier, alone or in combination with sorbitan monostearate, in the minimum quantity required to accomplish the intended effect, in formulations of white mineral oil conforming with § 172.878 and/or petroleum wax conforming with § 172.886 for use as protective coatings on raw fruits and vegetables.

(13) As a dispersing agent in artificially sweetened gelatin desserts and in artificially sweetened gelatin dessert mixes, whereby the amount of the additive does not exceed 0.5 percent on a dry-weight basis.

(14) As an emulsifier in chocolate flavored syrups, whereby the maximum amount of the additive does not exceed 0.05 percent in the finished product.

(d) To assure safe use of the additive, in addition to the other information required by the act:

(1) The label of the additive and any intermediate premixes shall bear:

(i) The name of the additive.

(ii) A statement of the concentration or strength of the additive in any intermediate premixes.

(2) The label or labeling shall bear adequate directions to provide a final product that complies with the limitations prescribed in paragraph (c) of this section.

§ 172.838 Polysorbate 65.

The food additive polysorbate 65 (polyoxyethylene (20) sorbitan tristearate), which is a mixture of polyoxyethylene ethers of mixed stearic acid esters of sorbitol anhydrides and related compounds, may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is manufactured by reacting stearic acid (usually containing associated fatty acids, chiefly palmitic) with sorbitol to yield a product with a maximum acid number of 15 and a maximum water content of 0.2 percent, which is then reacted with ethylene oxide.

(b) The food additive meets the following specifications:

Saponification number 88–98.
Acid number 0–2.
Hydroxyl number 44–60.
Oxyethylene content 46 percent–50 percent.

(c) The additive is used, or intended for use, as follows:

(1) As an emulsifier in ice cream, frozen custard, ice milk, fruit sherbet and nonstandardized frozen desserts when used alone or in combination with polysorbate 80, whereby the maximum amount of the additives, alone or in combination, does not exceed 0.1 percent of the finished frozen dessert.

(2) As an emulsifier in cakes and cake mixes, with or without one or a combination of the following:

(i) Sorbitan monostearate.
(ii) Polysorbate 60.

When used alone, the maximum amount of polysorbate 65 shall not exceed 0.32 percent of the cake or cake mix, on a dry-weight basis. When used with sorbitan monostearate and/or polysorbate 60, it shall not exceed 0.32 percent, nor shall the sorbitan monostearate exceed 0.61 percent or the polysorbate 60 exceed 0.46 percent, and no combination of these emulsifiers shall exceed 0.66 percent of the cake or cake mix, all calculated on a dry-weight basis.

(3) As an emulsifier in whipped vegetable oil topping with or without one or a combination of the following:

(i) Sorbitan monostearate;
(ii) Polysorbate 60;

whereby the maximum amount of the additive or additives used does not exceed 0.4 percent of the weight of the finished whipped vegetable oil topping.

(iii) Polysorbate 80;

(4) As an emulsifier in solid-state, edible vegetable fat-water emulsions intended for use as substitutes for milk or cream in beverage coffee, with or without one or a combination of the following:

(i) Sorbitan monostearate.
(ii) Polysorbate 60.

The maximum amount of the additive or additives shall not exceed 0.4 percent by weight of the finished edible vegetable fat-water emulsion.

(5) As an emulsifier in cake icings and cake fillings, with or without one or a combination of the following:

(i) Sorbitan monostearate.
(ii) Polysorbate 60.

When used alone, the maximum amount of polysorbate 65 shall not exceed 0.32 percent of the weight of the cake icing or cake filling. When used with sorbitan monostearate and/or polysorbate 60, it shall not exceed 0.32 percent, nor shall the sorbitan monostearate exceed 0.7 percent or the polysorbate 60 exceed 0.46 percent, and no combination of these emulsifiers shall exceed 1 percent of the weight of the cake icing or cake filling.

(d) To assure safe use of the additive, in addition to the other information required by the act:

(1) The label of the additive and any intermediate premixes shall bear:

(i) The name of the additive.

(ii) A statement of the concentration or strength of the additive in any intermediate premixes.

(2) The label or labeling shall bear adequate directions to provide a final product that complies with the limitations prescribed in paragraph (c) of this section.

§ 172.840 Polysorbate 80.

The food additive polysorbate 80 (polyoxyethylene (20) sorbitan monooleate), which is a mixture of polyoxyethylene ethers of mixed partial oleic acid esters of sorbitol anhydrides and related compounds, may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is manufactured by reacting oleic acid (usually containing associated fatty acids) with sorbitol to yield a product with a maximum acid number of 7.5 and a maximum water content of 0.5 percent, which is then reacted with ethylene oxide.

(b) The food additive meets the following specifications:

Saponification number 45–55.
Acid number 0–2.
Hydroxyl number 65–80.
Oxyethylene content 65 percent–69.5 percent.

(c) The additive is used or intended for use as follows:

(1) An emulsifier in ice cream, frozen custard, ice milk, fruit sherbet, and nonstandardized frozen desserts, when used alone or in combination with polysorbate 65 whereby the maximum amount of the additives, alone or in combination, does not exceed 0.1 percent of the finished frozen dessert.

(2) In yeast-defoamer formulations, whereby the maximum amount of the additive does not exceed 4 percent of the finished yeast defoamer and the maximum amount of the additive in the yeast from such use does not exceed 4 parts per million.

(3) As a solubilizing and dispersing agent in pickles and pickle products, whereby the maximum amount of the additive does not exceed 500 parts per million.

(4) As a solubilizing and dispersing agent in:

(i) Vitamin-mineral preparations containing calcium caseinate in the absence of fat-soluble vitamins, whereby the maximum intake of polysorbate 80 shall not exceed 175 milligrams from the recommended daily dose of the preparations.

(ii) Fat-soluble vitamins in vitamin and vitamin-mineral preparations containing no calcium caseinate, whereby the maximum intake of polysorbate 80 shall not exceed 300 milligrams from the recommended daily dose of the preparations.

(iii) In vitamin-mineral preparations containing both calcium caseinate and fat-soluble vitamins, whereby the maximum intake of polysorbate 80 shall not exceed 475 milligrams from the recommended daily dose of the preparations.

(5) As a surfactant in the production of coarse crystal sodium chloride whereby the maximum amount of the additive in the finished sodium chloride does not exceed 10 parts per million.

(6) In special dietary foods, as an emulsifier for edible fats and oils, with directions for use which provide for the ingestion of not more than 360 milligrams of polysorbate 80 per day.

(7) As a solubilizing and dispersing

§ 172.842 Sorbitan monostearate.

(i) Polysorbate 65.

for each 100 parts by weight of flour

Foods	*Limitations*

or oleic acid derived from tall oil fatty acids, meeting the requirements of

(7) As a solubilizing and dispersing agent for dill oil in canned spiced green beans, not to exceed 30 parts per million.

(8) As an emulsifier, alone or in combination with polysorbate 60, in shortenings and edible oils intended for use in nonstandardized baked goods, baking mixes, icings, fillings, and toppings and in the frying of foods, as follows:

(i) It is used alone in an amount not to exceed 1 percent of the weight of the finished shortening or oil.

(ii) It is used with polysorbate 60 in any combination providing ne more than 1 percent of polysorbate 80 and no more than 1 percent of polysorbate 60, provided that the total combination does not exceed 1 percent of the finished shortening or oil.

(iii) The 1-percent limitation specified in paragraph (c)(8) (i) and (ii) of this section may be exceeded in premix concentrates of shortening or edible oil if the labeling complies with the requirements of paragraph (d) of this section.

(9) As an emulsifier in whipped vegetable oil topping with or without one or a combination of the following:

(i) Sorbitan monostearate;
(ii) Polysorbate 60.
(iii) Polysorbate 65.

whereby the maximum amount of the additive or additives used does not exceed 0.4 percent of the weight of the finished whipped vegetable oil topping.

(10) It is used as a wetting agent in scald water for poultry defeathering, followed by potable water rinse. The concentration of the additive in the scald water does not exceed 0.0175 percent.

(11) As a dispersing agent in gelatin desserts and in gelatin dessert mixes, whereby the amount of the additive does not exceed 0.082 percent on a dry-weight basis.

(12) As an adjuvant added to herbicide use and plant-growth regulator use dilutions by a grower or applicator prior to application of such dilutions to the growing crop. Residues resulting from such use are exempt from the requirement of a tolerance. When so used or intended for use, the additive shall be exempt from the requirements of paragraph (d)(1) of this section.

(13) As a defoaming agent in the preparation of the creaming mixture for cottage cheese and lowfat cottage cheese, as identified in §§ 133.128 and 133.131 of this chapter, respectively, whereby the amount of the additive does not exceed .008 percent by weight of the finished products.

(d) To assure safe use of the additive, in addition to the other information required by the act:

(1) The label of the additive and any intermediate premixes shall bear:

(i) The name of the additive.

(ii) A statement of the concentration or strength of the additive in any intermediate premixes.

(2) The label or labeling shall bear adequate directions to provide a final product that complies with the limitations prescribed in paragraph (c) of this section.

§ 172.842 Sorbitan monostearate.

The food additive sorbitan monostearate, which is a mixture of partial stearic and palmitic acid esters of sorbitol anhydrides, may be safely used in or on food in accordance with the following prescribed conditions:

(a) The food additive is manufactured by reacting stearic acid (usually containing associated fatty acids, chiefly palmitic) with sorbitol to yield essentially a mixture of esters.

(b) The food additive meets the following specifications:

Saponification number	147–157
Acid number	5–10
Hydrotyl number	235–260

(c) It is used or intended for use, alone or in combination with polysorbate 60 as follows:

(1) As an emulsifier in whipped vegetable oil topping with or without one or a combination of the following:

(i) Polysorbate 60;
(ii) Polysorbate 65;
(iii) Polysorbate 80;

whereby the maximum amount of the additive or additives used does not exceed 0.4 percent of the weight of the finished whipped vegetable oil topping; except that a combination of the additive with polysorbate 60 may be used in excess of 0.4 percent: *Provided*, That the amount of the additive does not exceed 0.27 percent and the amount of polysorbate 60 does not exceed 0.77 percent of the weight of the finished whipped vegetable oil topping.

(2) As an emulsifier in cakes and cake mixes, with or without one or a combination of the following:

(i) Polysorbate 65.
(ii) Polysorbate.

When used alone, the maximum amount of sorbitan monostearate shall not exceed 0.61 percent of the cake or cake mix, on a dry-weight basis. When used with polysorbate 65 and/or polysorbate 60, it shall not exceed 0.61 percent, nor shall the polysorbate 65 exceed 0.32 percent or the polysorbate 60 exceed 0.46 percent, and no combination of the emulsifiers shall exceed 0.66 percent of the weight of the cake or cake mix, calculated on a dry-weight basis.

(3) As an emulsifier, alone or in combination with polysorbate 60 in nonstandardized confectionery coatings and standardized cacao products specified in §§ 163.123, 163.130, 163.135, 163.140, 163.145, and 163.150 of this chapter, as follows:

(i) It is used alone in an amount not to exceed 1 percent of the weight of the finished nonstandardized confectionery coating or standardized cacao product.

(ii) It is used with polysorbate 60 in any combination of up to 1 percent sorbitan monostearate and up to 0.5 percent polysorbate 60 provided that the total combination does not exceed 1 percent of the weight of the finished nonstandardized confectionery coating or standardized cacao product.

(4) As an emulsifier in cake icings and cake fillings, with or without one or a combination of the following:

(i) Polysorbate 65.
(ii) Polysorbate 60.

When used alone, the maximum amount of sorbitan monostearate shall not exceed 0.7 percent of the weight of the cake icing or cake filling. When used with polysorbate 65 and/or polysorbate 60, it shall not exceed 0.7 percent, nor shall the polysorbate 65 exceed 0.32 percent or the polysorbate 60 exceed 0.46 percent, and no combination of these emulsifiers shall exceed 1 percent of the weight of the cake icing or cake filling.

(5) As an emulsifier in solid-state, edible vegetable fat-water emulsions intended for use as substitutes for milk or cream in beverage coffee, with or without one or a combination of the following:

(i) Polysorbate 60.
(ii) Polysorbate 65.

The maximum amount of the additive or additives shall not exceed 0.4 percent by weight of the finished edible vegetable fat-water emulsion.

(6) It is used alone as a rehydration aid in the production of active dry yeast in an amount not to exceed 1 percent by weight of the dry yeast.

(7) As an emsulsifier, alone or in combination with polysorbate 60, in the minimum quantity required to accomplish the intended effect, in formulations of white mineral oil conforming with § 172.878 and/or petroleum wax conforming with § 172.886 for use as protective coatings on raw fruits and vegetables.

(d) To assure safe use of the additive, in addition to the other information required by the act:

(1) The label of the additive and any intermediate premixes shall bear:

(i) The name of the additive.

(ii) A statement of the concentration or strength of the additive in any intermediate premixes.

(2) The label or labeling shall bear adequate directions to provide a final product that complies with the limitations prescribed in paragraph (c) of this section.

§ 172.844 Calcium stearoyl-2-lactylate.

The food additive calcium stearoyl-2-lactylate may be safely used in or on food in accordance with the following prescribed conditions:

(a) The additive, which is a mixture of calcium salts of stearoyl lactylic acids and minor proportions of other calcium salts of related acids, is manufactured by the reaction of stearic acid and lactic acid and conversion to the calcium salts.

(b) The additive meets the following specifications:

Acid number, 50–86.
Calcium content, 4.2–5.2 percent.
Lactic acid content, 32–38 percent.
Ester number, 125–164.

(c) It is used or intended for use as follows:

(1) As a dough conditioner in yeast-leavened bakery products and prepared mixes for yeast-leavened bakery products in an amount not to exceed 0.5 part for each 100 parts by weight of flour used.

(2) As a whipping agent in:

(i) Liquid and frozen egg white at a level not to exceed 0.05 percent.

(ii) Dried egg white at a level not to exceed 0.5 percent.

(iii) Whipped vegetable oil topping at a level not to exceed 0.3 percent of the weight of the finished whipped vegetable oil topping.

(3) As a conditioning agent in dehydrated potatoes in an amount not to exceed 0.5 percent by weight thereof.

(d) To assure safe use of the additive:

(1) The label and labeling of the food additive and any intermediate premix prepared therefrom shall bear, in addition to the other information required by the act, the following:

(i) The name of the additive.

(ii) A statement of the concentration or strength of the additive in any intermediate premixes.

(2) The label or labeling of the food additive shall also bear adequate directions of use to provide a finished food that complies with the limitations prescribed in paragraph (c) of this section.

§ 172.846 Sodium stearoyl-2-lactylate.

The food additive sodium stearoyl-2-lactylate may be safely used in food in accordance with the following prescribed conditions:

(a) The additive, which is a mixture of sodium salts of stearoyl lactylic acids and minor proportions of other sodium salts of related acids, is manufactured by the reaction of stearic acid and lactic acid and conversion to the sodium salts.

(b) The additive meets the following specifications:

Acid number, 60–80.
Sodium content, 3.5 percent–5.0 percent.
Lactic acid content, 31 percent–34 percent.
Ester number, 150–190.

(c) It is used or intended for use as an emulsifier, dough conditioner, or whipping agent in the following foods when standards of identity established under section 401 of the act do not preclude such use: Icings, fillings, puddings, and toppings; baked products; pancakes and waffles; prepared mixes for any of the foregoing foods; and in liquid and solid edible vegetable fat-water emulsions intended for use as substitutes for milk or cream in beverage coffee.

(d) It is used in an amount not greater than required to produce the intended physical or technical effect.

§ 172.848 Lactylic esters of fatty acids.

Lactylic esters of fatty acids may be safely used in food in accordance with the following prescribed conditions:

(a) They are prepared from lactic acid and fatty acids meeting the requirements of § 172.860(b) and/or oleic acid derived from tall oil fatty acids meeting the requirements of § 172.862.

(b) They are used as emulsifiers, plasticizers, or surface-active agents in the following foods, when standards of identity do not preclude their use:

Foods	*Limitations*
Bakery mixes	
Baked products	
Cake icings, fillings, and toppings.	
Dehydrated fruits and vegetables.	
Dehydrated fruit and vegetable juices.	
Edible vegetable fat-water emulsions.	As substitutes for milk or cream in beverage coffee.
Frozen desserts	
Liquid shortening	For household use.
Pancake mixes	
Precooked instant rice	
Pudding mixes	

(c) They are used in an amount not greater than required to produce the intended physical or technical effect, and they may be used with shortening and edible fats and oils when such are required in the foods identified in paragraph (b) of this section.

§ 172.850 Lactylated fatty acid esters of glycerol and propylene glycol.

The food additive lactylated fatty acid esters of glycerol and propylene glycol may be safely used in food in accordance with the following prescribed conditions:

(a) The additive is a mixture of esters produced by the lactylation of a product obtained by reacting edible fats or oils with propylene glycol.

(b) The additive meets the following specifications: Water insoluble combined lactic acid, 14–18 percent; and acid number, 12 maximum.

(c) It is used in amounts not in excess of that reasonably required to produce the intended physical effect as an emulsifier, plasticizer, or surface-active agent in food.

§ 172.852 Glyceryl-lacto esters of fatty acids.

Glyceryl-lacto esters of fatty acids (the lactic acid esters of mono- and diglycerides) may be safely used in food in accordance with the following prescribed conditions:

(a) They are manufactured from glycerin, lactic acid, and fatty acids conforming with § 172.860 and/or oleic acid derived from tall oil fatty acids conforming with § 172.862 and/or edible fats and oils.

(b) They are used in amounts not in excess of those reasonably required to accomplish their intended physical or technical effect as emulsifiers and plasticizers in food.

§ 172.854 Polygylcerol esters of fatty acids.

Polyglycerol esters of fatty acids, up to and including the decaglycerol esters, may be safely used in food in accordance with the following prescribed conditions:

(a) They are prepared from corn oil, cottonseed oil, lard, palm oil from fruit, peanut oil, safflower oil, sesame oil, soybean oil, and tallow and the fatty acids derived from these substances (hydrogenated and nonhydrogenated) meeting the requirements of § 172.860(b) and/or oleic acid derived from tall oil fatty acids meeting the requirements of § 172.862.

(b) They are used as emulsifiers in food, in amounts not greater than that required to produce the intended physical or technical effect.

(c) Polyglycerol esters of a mixture of stearic, oleic, and coconut fatty acids are used as a cloud inhibitor in vegetable and salad oils when use is not precluded by standards of identity. The fatty acids used in the production of the polyglycerol esters meet the requirements of § 172.860(b), and the polyglycerol esters are used at a level not in excess of the amount required to perform its cloud-inhibiting effect. Oleic acid derived from tall oil fatty acids conforming with § 172.862 may be used as a substitute for or together with the oleic acid permitted by this paragraph.

(d) Polyglycerol esters of butter oil fatty acids are used as emulsifiers in combination with other approved emulsifiers in dry, whipped topping base. The fatty acids used in the production of the polyglycerol esters meet the requirements of § 172.860(b), and the polyglycerol esters are used at a level not in excess of the amount required to perform their emulsifying effect.

§ 172.856 Propylene glycol mono- and diesters of fats and fatty acids.

Propylene glycol mono- and diesters of fats and fatty acids may be safely used in food, subject to the following prescribed conditions:

(a) They are produced from edible fats and/or fatty acids in compliance with § 172.860 and/or oleic acid derived from tall oil fatty acids in compliance with § 172.862.

(b) They are used in food in amounts not in excess of that reasonably required to produce their intended effect.

§ 172.858 Propylene glycol alginate.

The food additive propylene glycol alginate may be used as an emulsifier, stabilizer, or thickener in foods in accordance with the following prescribed conditions:

(a) The additive is the ester of alginic acid and propylene glycol, containing up to 85 percent of the carboxylic acid groups esterified with the remaining groups either free or neutralized.

(b) It is used or intended for use as a stabilizer in ice cream, frozen custard, ice milk, fruit sherbet, and water ices at not to exceed 0.5 percent of the weight of the finished product, and is used or intended for use, in accordance with good manufacturing practice, as an emulsifier, stabilizer, or thickener in foods except for those standardized foods that do not provide for such use.

(c) To insure safe use of the additive, the label of the food additive container shall bear, in addition to the other information required by the act:

(1) The name of the additive, "propylene glycol alginate" or "propylene glycol ester of alginic acid".

(2) Adequate directions for use.

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(3) The analytical method for deter-

Wavelength accuracy, ±1.0 millimicron.

PROCEDURE

§ 172.860 Fatty acids.

The food additive fatty acids may be safely used in food and in the manufacture of food components in accordance with the following prescribed conditions:

(a) The food additive consists of one or any mixture of the following straight-chain monobasic carboxylic acids and their associated fatty acids manufactured from fats and oils derived from edible sources: Capric acid, caprylic acid, lauric acid, myristic acid, oleic acid, palmitic acid, and stearic acid.

(b) The food additive meets the following specifications:

(1) Unsaponifiable matter does not exceed 2 percent.

(2) It is free of chick-edema factor:

(i) As evidenced during the bioassay method for determining the chick-edema factor as prescribed in paragraph (c)(2) of this section; or

(ii) As evidenced by the absence of chromatographic peaks with a retention time relative to aldrin (RA) between 10 and 25, using the gas chromatographic-electron capture method prescribed in paragraph (c)(3) of this section. If chromatographic peaks are found with RA values between 10 and 25, the food additive shall meet the requirements of the bioassay method prescribed in paragraph (c)(2) of this section for determining chick-edema factor.

(c) For the purposes of this section:

(1) Unsaponifiable matter shall be determined by the method described in the most recent edition of "Official Methods of Analysis of the Association of Official Analytical Chemists."[3]

(2) Chick-edema factor shall be determined by the bioassay method described in Official Methods of Analysis of the Association of Official Analytical Chemists, 10th Edition (1965), sections 26.087 through 26.091.[3]

(3) The gas chromatographic-electron capture method for testing fatty acids for chick-edema shall be the method described in the "Journal of the Association of Official Analytical Chemists," Volume 50 (No. 1), pages 216–218 (1967),[3] or the modified method using a sulfuric acid clean-up procedure, as described in the "Journal of the Association of Official Analytical Chemists," Volume 51 (No. 2), pages 489–490 (1968).[3]

(d) It is used or intended for use as follows:

(1) In foods as a lubricant, binder, and as a defoaming agent in accordance with good manufacturing practice.

(2) As a component in the manufacture of other food-grade additives.

(e) To assure safe use of the additive, the label and labeling of the additive and any premix thereof shall bear, in addition to the other information required by the act, the following:

(1) The common or usual name of the acid or acids contained therein.

(2) The words "food grade", in juxtaposition with and equally as prominent as the name of the acid.

[3] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

§ 172.862 Oleic acid derived from tall oil fatty acids.

The food additive oleic acid derived from tall oil fatty acids may be safely used in food and as a component in the manufacture of food-grade additives in accordance with the following prescribed conditions:

(a) The additive consists of purified oleic acid separated from refined tall oil fatty acids.

(b) The additive meets the following specifications:

(1) Specifications prescribed in "Food Chemicals Codex" for oleic acid, except that titer (solidification point) shall not exceed 13.5° C and unsaponifiable matter shall not exceed 0.5 percent.

(2) The resin acid content does not exceed 0.01 percent as determined by ASTM Method D 1240–54 (1961).[4]

(3) The requirements for absence of chick-edema factor as prescribed in § 172.860.

(c) It is used or intended for use as follows:

(1) In foods as a lubricant, binder, and defoaming agent in accordance with good manufacturing practice.

(2) As a component in the manufacture of other food-grade additives.

(d) To assure safe use of the additive, the label and labeling of the additive and any premix thereof shall bear, in addition to the other information required by the act, the following:

(1) The common or usual name of the acid.

(2) The words "food grade" in juxtaposition with and equally as prominent as the name of the acid.

§ 172.863 Salts of fatty acids.

The food additive salts of fatty acids may be safely used in food and in the manufacture of food components in accordance with the following prescribed conditions:

(a) The additive consists of one or any mixture of two or more of the aluminum, calcium, magnesium, potassium, and sodium salts of the fatty acids conforming with § 172.860 and/or oleic acid derived from tall oil fatty acids conforming with § 172.862.

(b) The food additive is used or intended for use as a binder, emulsifier, and anticaking agent in food in accordance with good manufacturing practice.

(c) To assure safe use of the additive, the label and labeling of the additive and any premix thereof shall bear, in addition to the other information required by the act, the following:

(1) The common or usual name of the fatty acid salt or salts contained therein.

(2) The words "food grade", in juxtaposition with and equally as prominent as the name of the salt.

[4] Copies may be obtained from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

§ 172.864 Synthetic fatty alcohols.

Synthetic fatty alcohols may be safely used in food and in the synthesis of food components in accordance with the following prescribed conditions:

(a) The food additive consists of any one of the following fatty alcohols:

(1) Hexyl, octyl, decyl, lauryl, myristyl, cetyl, and stearyl; manufactured by fractional distillation of alcohols obtained by a sequence of oxidation and hydrolysis of organo-aluminums generated by the controlled reaction of low molecular weight trialkylaluminum with purified ethylene (minimum 99 percent by volume C_2H_4), and utilizing the hydrocarbon solvent as defined in paragraph (b) of this section, such that:

(i) Hexyl, octyl, decyl, lauryl, and myristyl alcohols contain not less than 99 percent of total alcohols and not less than 96 percent of straight chain alcohols. Any nonalcoholic impurities are primarily paraffins.

(ii) Cetyl and stearyl alcohols contain not less than 98 percent of total alcohols and not less than 94 percent of straight chain alcohols. Any nonalcoholic impurities are primarily paraffins.

(iii) The synthetic fatty alcohols contain no more than 0.1 weight percent of total diols as determined by a method available upon request from the Commissioner of Food and Drugs.

(2) Hexyl, octyl, and decyl; manufactured by fractional distillation of alcohols obtained by a sequence of oxidation, hydrolysis, and catalytic hydrogenation (catalyst consists of copper, chromium, and nickel) of organo-aluminums generated by the controlled reaction of low molecular weight trialkylaluminum with purified ethylene (minimum 99 percent by volume C_2H_4), and utilizing an external coolant such that these alcohols meet the specifications precribed in paragraph (a)(1) (i) and (iii) of this section.

(b) The hydrocarbon solvent used in the process described in paragraph (a)(1) of this section is a mixture of liquid hydrocarbons essentially paraffinic in nature, derived from petroleum and refined to meet the specifications described in paragraph (b)(1) of this section when subjected to the procedures described in paragraph (b) (2) and (3) of this section.

(1) The hydrocarbon solvent meets the following specifications:

(i) Boiling-point range: 175° C–275° C.

(ii) Ultraviolet absorbance limits as follows:

Wavelength (millimicrons):	*Maximum absorbance per centimeter optical path length*
280–289	0.15
290–299	.12
300–359	.05
360–400	.02

(2) Use ASTM Method D–86[4] to determine boiling point range.

(3) The analytical method for determining ultraviolet absorbance limits is as follows:

GENERAL INSTRUCTIONS

All glassware should be scrupulously cleaned to remove all organic matter such as oil, grease, detergent residues, etc. Examine all glassware, including stoppers and stopcocks, under ultraviolet light to detect any residual fluorescent contamination. As a precautionary measure, it is recommended practice to rinse all glassware with purified isooctane immediately before use. No grease is to be used on stopcocks or joints. Great care to avoid contamination of hydrocarbon solvent samples in handling and to assure absence of any extraneous material arising from inadequate packaging is essential. Because some of the polynuclear hydrocarbons sought in this test are very susceptible to photo-oxidation, the entire procedure is to be carried out under subdued light.

APPARATUS

Chromatographic tube. 450 millimeters in length (packing section), inside diameter 19 millimeters ± 1 millimeter, equipped with a wad of clean Pyrex brand filtering wool (Corning Glass Works Catalog No. 3950 or equivalent). The tube shall contain a 250-milliliter reservoir and a 2-millimeter tetrafluoroethylene polymer stopcock at the opposite end. Overall length of the tube is 670 millimeters.

Stainless steel rod. 2 feet in length, 2 to 4 millimeters in diameter.

Vacuum oven. Similar to Labline No. 3610 but modified as follows: A copper tube one-fourth inch in diameter and 13 inches in length is bent to a right angle at the 4-inch point and plugged at the opposite end; eight copper tubes one-eighth inch in diameter and 5 inches in length are silver soldered in drilled holes (one-eighth inch in diameter) to the one-fourth-inch tube, one on each side at the 5-, 7.5-, 10- and 12.5-inch points; the one-eighth-inch copper tubes are bent to conform with the inner periphery of the oven.

Beakers. 250-milliliter and 500-milliliter capacity.

Graduated cylinders. 25-milliliter, 50-milliliter, and 150-milliliter capacity.

Tuberculin syringe. 1-milliliter capacity, with 3-inch, 22-gauge needle.

Volumetric flask. 5-milliliter capacity.

Spectrophotometric cells. Fused quartz ground glass stoppered cells, optical path length in the range of 1.000 centimeter ±0.005 centimeter. With distilled water in the cells, determine any absorbance difference.

Spectrophotometer. Spectral range 250 millimicrons—400 millimicrons with spectral slit width of 2 millimicrons or less: under instrument operating conditions for these absorbance measurements, the spectrophotometer shall also meet the following performance requirements:

Absorbance repeatability, ±0.01 at 0.4 absorbance.

Absorbance accuracy,[1] ±0.05 at 0.4 absorbance.

Wavelength repeatability, ±0.2 millimicron.

[1] As determined by procedure using potassium chromate for reference standard and Circular 484, Spectrophotometry, U.S. Department of Commerce, 1949. The accuracy described in National Bureau of Standards is to be determined by comparison with the standard values at 290, 345, and 400 millimicrons.

Wavelength accuracy, ±1.0 millimicron.

Nitrogen cylinder. Water-pumped or equivalent purity nitrogen in cylinder equipped with regulator and valve to control flow at 5 p.s.i.g.

REAGENTS AND MATERIALS

Organic solvents. All solvents used throughout the procedure shall meet the specifications and tests described in this specification. The isooctane, benzene, hexane, and 1,2-dichloroethane designated in the list following this paragraph shall pass the following test:

To the specified quantity of solvent in a 250-milliliter beaker, add 1 milliliter of purified *n*-hexadecane and evaporate in the vacuum oven under a stream of nitrogen. Discontinue evaporation when not over 1 milliliter of residue remains. (To the residue from benzene add a 5-milliliter portion of purified isooctane, reevaporate, and repeat once to insure complete removal of benzene.)

Dissolve the 1 milliliter of hexadecane residue in isooctane and make to 5 milliliters volume. Determine the absorbance in the 1-centimeter path length cells compared to isooctane as reference. The absorbance of the solution of the solvent residue shall not exceed 0.02 per centimeter path length between 280 and 300 mμ and shall not exceed 0.01 per centimeter path length between 300 and 400 mμ.

Isooctane (2,2,4-trimethylpentane). Use 10 milliliters for the test described in the preceding paragraph. If necessary, isooctane may be purified by passage through a column of activated silica gel (Grade 12, Davison Chemical Co., Baltimore, Md., or equivalent).

Benzene, spectro grade (Burdick and Jackson Laboratories, Inc., Muskegon, Mich., or equivalent). Use 80 milliliters for the test. If necessary, benzene may be purified by distillation or otherwise.

Hexane, spectro grade (Burdick and Jackson Laboratories, Inc., Muskegon, Mich., or equivalent). Use 650 milliliters for the test. If necessary, hexane may be purified by distillation or otherwise.

1,2-Dichloroethane, spectro grade (Matheson, Coleman, and Bell, East Rutherford, N.J., or equivalent). Use 20 milliliters for test. If necessary, 1,2-dichloroethane may be purified by distillation.

Eluting mixtures:

1. *10 percent 1,2-dichloroethane in hexane.* Pipet 100 milliliters of 1,2-dichloroethane into a 1-liter glass-stoppered volumetric flask and adjust to volume with hexane, with mixing.

2. *40 percent benzene in hexane.* Pipet 400 milliliters of benzene into a 1-liter glass-stoppered volumetric flask and adjust to volume with hexane, with mixing.

n-Hexadecane, 99 percent olefin-free. Dilute 1.0 milliliter of *n*-hexadecane to 5 milliliters with isooctane and determine the absorbance in a 1-centimeter cell compared to isooctane as reference between 280 mμ–400 mμ. The absorbance per centimeter path length shall not exceed 0.00 in this range. If necessary, *n*-hexadecane may be purified by percolation through activated silica gel or by distillation.

Silica gel, 28–200 mesh (Grade 12, Davison Chemical Co., Baltimore, Md., or equivalent). Activate as follows: Weigh about 900 grams into a 1-gallon bottle, add 100 milliliters of de-ionized water, seal the bottle and shake and roll at intervals for 1 hour. Allow to equilibrate overnight in the sealed bottle. Activate the gel at 150° C for 16 hours, in a 2-inch x 7-inch x 12-inch porcelain pan loosely covered with aluminum foil, cool in a desiccator, transfer to a bottle and seal.

PROCEDURE

Determination of ultraviolet absorbance. Before proceeding with the analysis of a sample determine the absorbance in a 1-centimeter path cell for the reagent blank by carrying out the procedure without a sample. Record the absorbance in the wavelength range of 280 to 400 millimicrons. Typical reagent blank absorbance in this range should not exceed 0.04 in the 280 to 299 millimicron range, 0.02 in the 300 to 359 millimicron range, and 0.01 in the 360 to 400 millimicron range. If the characteristic benzene peaks in the 250 to 260 millimicron region are present, remove the benzene by the procedure described above under "Reagents and Materials," "Organic Solvents," and record absorbance again.

Transfer 50 grams of silica gel to the chromatographic tube for sample analysis. Raise and drop the column on a semisoft, clean surface for about 1 minute to settle the gel. Pour 100 milliliters of hexane into the column with the stopcock open and allow to drain to about one-half inch above the gel. Turn off the stopcock and allow the column to cool for 30 minutes. After cooling, vibrate the column to eliminate air and stir the top 1 to 2 inches with a small diameter stainless steel rod. Take care not to get the gel above the liquid and onto the sides of the column.

Weigh out 40 grams ±0.1 gram of the hydrocarbon solvent sample into a 250-milliliter beaker, add 50 milliliters of hexane, and pour the solution into the column. Rinse the beaker with 50 milliliters of hexane and add this to the column. Allow the hexane sample solution to elute into a 500-milliliter beaker until the solution is about one-half inch above the gel. Rinse the column three times with 50-milliliter portions of hexane. Allow each hexane rinse to separately elute to about one-half inch above the gel. Replace the eluate beaker (discard the hexane eluate) with a 250-milliliter beaker. Add two separate 25-milliliter portions of 10 percent 1,2-dichloroethane and allow each to separately elute as before. Finally, add 150 milliliters of 10 percent 1,2-dichloroethane for a total of 200 milliliters. When the final 10 percent 1,2-dichloroethane fraction is about one-half inch above the top of the gel bed, replace the receiving beaker (discard the 1,2-dichloroethane eluate) with a 250-milliliter beaker containing 1 milliliter of hexadecane. Adjust the elution rate to 2 to 3 milliliters per minute, add two 25-milliliter portions of 40 percent benzene and allow each to separately elute as before to within about one-half inch of the gel bed. Finally, add 150 milliliters of 40 percent benzene for a total of 200 milliliters. Evaporate the benzene in the oven with vacuum and sufficient nitrogen flow to just ripple the top of the benzene solution. When the benzene is removed (as determined by a constant volume of hexadecane) add 5 milliliters of isooctane and evaporate. Repeat once to insure complete removal of benzene. Remove the beaker and cover with aluminum foil (previously rinsed with hexane) until cool.

Quantitatively transfer the hexadecane residue to a 5-milliliter volumetric flask and dilute to volume with isooctane. Determine the absorbance of the solution in 1-centimeter path length cells between 280 and 400 millimicrons using isooctane as a reference. Correct the absorbance values for any absorbance derived from reagents as determined by carrying out the procedure without a sample. If the corrected absorbance does not exceed the limits prescribed in subparagraph (b)(1)(ii) of this section, the

sample meets the ultraviolet absorbance

Limitation (inclusive of all petro-

Ultraviolet absorbance:
260–319 millimicrons—1.5 maximum.

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sample meets the ultraviolet absorbance specifications for hydrocarbon solvent.

(c) Synthetic fatty alcohols may be used as follows:

(1) As substitutes for the corresponding naturally derived fatty alcohols permitted in food by existing regulations in this part or Part 173 of this chapter provided that the use is in compliance with any prescribed limitations.

(2) As substitutes for the corresponding naturally derived fatty alcohols used as intermediates in the synthesis of food additives and other substances permitted in food.

§ 172.866 Synthetic glycerin produced by the hydrogenolysis of carbohydrates.

Synthetic glycerin produced by the hydrogenolysis of carbohydrates may be safely used in food, subject to the provisions of this section:

(a) It shall contain not in excess of 0.2 percent by weight of a mixture of butanetriols.

(b) It is used or intended for use in an amount not to exceed that reasonably required to produce its intended effect.

§ 172.868 Ethyl cellulose.

The food additive ethyl cellulose may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive is a cellulose ether containing ethoxy (OC_2H_5) groups attached by an ether linkage and containing on an anhydrous basis not more than 2.6 ethoxy groups per anhydroglucose unit.

(b) It is used or intended for use as follows:

(1) As a binder and filler in dry vitamin preparations.

(2) As a component of protective coatings for vitamin and mineral tablets.

(3) As a fixative in flavoring compounds.

§ 172.870 Hydroxypropyl cellulose.

The food additive hydroxypropyl cellulose may be safely used in food, except standardized foods that do not provide for such use, in accordance with the following prescribed conditions:

(a) The additive is a cellulose ether containing propylene glycol groups attached by an ether linkage and contains, on an anhydrous basis, not more than 4.6 hydroxypropyl groups per anhydroglucose unit. The additive has a minimum viscosity of 145 centipoises for 10 percent by weight aqueous solution at 25° C.

(b) The additive is used or intended for use as an emulsifier, film former, protective colloid, stabilizer, suspending agent, or thickener, in accordance with good manufacturing practice.

§ 172.872 Methyl ethyl cellulose.

The food additive methyl ethyl cellulose may be safely used in food in accordance with the following prescribed conditions.

(a) The additive is a cellulose ether having the general formula $[C_6H_{(10-x-y)}O_5(CH_3)_x(C_2H_5)_y]_n$, where x is the number of methyl groups and y is the number of ethyl groups. The average value of x is 0.3 and the average value of y is 0.7.

(b) The additive meets the following specifications:

(1) The methoxy content shall be not less than 3.5 percent and not more than 6.5 percent, calculated as OCH_3, and the ethoxy content shall be not less than 14.5 percent and not more than 19 percent, calculated as OC_2H_5, both measured on the dry sample.

(2) The viscosity of an aqueous solution, 2.5 grams of the material in 100 milliliters of water, at 20° C. is 20 to 60 centipoises.

(3) The ash content on a dry basis has a maximum of 0.6 percent.

(c) The food additive is used as an aerating, emulsifying, and foaming agent, in an amount not in excess of that reasonably required to produce its intended effect.

§ 172.874 Hydroxypropyl methylcellulose.

The food additive hydroxypropyl methylcellulose may be safely used in food, except confectionery and except in standardized foods which do not provide for such use if:

(a) The additive complies with the definition and specifications prescribed in the National Formulary, 12th edition.

(b) It is used or intended for use as an emulsifier, film former, protective colloid, stabilizer, suspending agent, or thickener, in accordance with good manufacturing practice.

(c) To insure safe use of the additive, the container of the additive, in addition to being labeled as required by the general provisions of the act, shall be accompanied by labeling which contains adequate directions for use to provide a final product that complies with the limitations prescribed in paragraph (b) of this section.

§ 172.876 Castor oil.

The food additive castor oil may be safely used in accordance with the following conditions:

(a) The additive meets the specifications of the United States Pharmacopeia XVII.

(b) The additive is used or intended for use as follows:

Use	*Limitations*
Hard candy production—As a release agent and antisticking agent, not to exceed 500 parts per million in hard candy.	
Vitamin and mineral tablets—As a component of protective coatings.	

§ 172.878 White mineral oil.

White mineral oil may be safely used in food in accordance with the following conditions:

(a) White mineral oil is a mixture of liquid hydrocarbons, essentially paraffinic and naphthenic in nature obtained from petroleum. It is refined to meet the following specifications:

(1) It meets the test requirements of U.S.P. XVII for readily carbonizable substances (page 399).

(2) It meets the test requirements of U.S.P. XVII for sulfur compounds (page 400).

(3) It meets the specifications prescribed in the Journal of the Association of Official Analytical Chemists, Volume 45, page 66 (1962)[1] after correction of the ultraviolet absorbance for any absorbance due to added antioxidants.

(b) White mineral oil may contain any antioxidant permitted in food by regulations issued in accordance with section 409 of the act, in an amount not greater than that required to produce its intended effect.

(c) White mineral oil is used or intended for use as follows:

[1] "Collaborative Study of the Determination of Soluble Solids in Tomato Products by Refractive Index Expressed as Percent Sucrose" by Frank C. Lamb, National Canners Association, 1950 Sixth Street, Berkeley, CA 94710, "Journal of the Association of Official Analytical Chemists," vol. 52, No. 5 (1969), pp. 1050–54. Adopted as official, first action at the 1969 AOAC meeting.

Use	*Limitation (inclusive of all petroleum hydrocarbons that may be used in combination with white mineral oil)*
1. As a release agent, binder, and lubricant in or on capsules and tablets containing concentrates of flavoring, spices, condiments, and nutrients intended for addition to food, excluding confectionery.	Not to exceed 0.6% of the capsule or tablet.
2. As a release agent, binder, and lubricant in or on capsules and tablets containing food for special dietary use.	Not to exceed 0.6% of the capsule or tablet.
3. As a float on fermentation fluids in the manufacture of vinegar and wine to prevent or retard access of air, evaporation, and wild yeast contamination during fermentation.	In an amount not to exceed good manufacturing practice.
4. As a defoamer in food	In accordance with § 173.340 of this chapter.
5. In bakery products, as a release agent and lubricant	Not to exceed 0.15% of bakery products.
6. In dehydrated fruits and vegetables, as a release agent.	Not to exceed 0.02% of dehydrated fruits and vegetables.
7. In egg white solids, as a release agent	Not to exceed 0.1% of egg white solids.
8. On raw fruits and vegetables, as a protective coating	In an amount not to exceed good manufacturing practice.
9. In frozen meat, as a component of hot-melt coating	Not to exceed 0.095% of meat.
10. As a protective float on brine used in the curing of pickles.	In an amount not to exceed good manufacturing practice.
11. In molding starch used in the manufacture of confectionery.	Not to exceed 0.3 percent in the molding starch.
12. As a release agent, binder, and lubricant in the manufacture of yeast.	Not to exceed 0.15 percent of yeast.
13. As an antidusting agent in sorbic acid for food use	Not to exceed 0.25 percent in the sorbic acid.
14. As release agent and as sealing and polishing agent in the manufacture of confectionery.	Not to exceed 0.2 percent of confectionery.

§ 172.880 Petrolatum.

Petrolatum may be safely used in food, subject to the provisions of this section.

(a) Petrolatum complies with the specifications set forth in the U.S. Pharmacopeia XVII for white petrolatum or in The National Formulary XII for petrolatum.

(b) Petrolatum meets the following ultraviolet absorbance limits when subjected to the analytical procedure described in § 172.886(b):

Ultraviolet absorbance per centimeter path length:

Millimicrons:	*Maximum*
280–289	0.25
290–299	.20
300–359	.14
360–400	.04

(c) Petrolatum is used or intended for use as follows:

Use	*Limitation (inclusive of all petroleum hydrocarbons that may be used in combination with petrolatum)*
In bakery products; as release agent and lubricant.	With white mineral oil, not to exceed 0.15 percent of bakery product.
In confectionery; as release agent and as sealing and polishing agent.	Not to exceed 0.2 percent of confectionery.
In dehydrated fruits and vegetables; as release agent.	Not to exceed 0.02 percent of dehydrated fruits and vegetables.
In egg white solids; as release agent	Not to exceed 0.1 percent of egg white solids.
On raw fruits and vegetables; as protective coating.	In an amount not to exceed good manufacturing practice.
In beet sugar and yeast; as defoaming agent.	As prescribed in § 173.340 of this chapter.

(d) Petrolatum may contain any antioxidant permitted in food by regulations issued in accordance with section 409 of the act, in an amount not greater than that required to produce its intended effect.

§ 172.882 Synthetic isoparaffinic petroleum hydrocarbons.

Synthetic isoparaffinic petroleum hydrocarbons may be safely used in food, in accordance with the following conditions:

(a) They are produced by synthesis from petroleum gases and consist of a mixture of liquid hydrocarbons meeting the following specifications:

Boiling point 200°–500° F, as determined by A.S.T.M. Method D–86.

Ultraviolet absorbance:

260–319 millimicrons—1.5 maximum.
320–329 millimicrons—0.08 maximum.
330–350 millimicrons—0.05 maximum.

Nonvolatile residue: 0.002 gram per 100 milliliters maximum.

Synthetic isoparaffinic petroleum hydrocarbons containing antioxidants shall meet the specified ultraviolet absorbance limits after correction for any absorbance due to the antioxidants. The ultraviolet absorbance shall be determined by the procedure described for application to mineral oil under "Specifications" on page 66 of the Journal of the Association of Official Analytical Chemists, Vol. 45 (February 1962), disregarding the last sentence of that procedure. For hydrocarbons boiling below 250° F, the nonvolatile residue shall be determined by A.S.T.M. procedure D–1353; for those boiling above 250° F, A.S.T.M. procedure D–381 shall be used.

(b) Isoparaffinic petroleum hydrocarbons may contain antioxidants authorized for use in food in an amount not to exceed that reasonably required to accomplish the intended technical effect nor to exceed any prescribed limitations.

(c) Synthetic isoparaffinic petroleum hydrocarbons are used or intended for use as follows:

Uses	*Limitations*
1. In the froth-flotation cleaning of vegetables.	In an amount not to exceed good manufacturing practice.
2. As a component of insecticide formulations for use on processed foods.	Do.
3. As a component of coatings on fruits and vegetables.	Do.
4. As a coating on shell eggs.	Do.
5. As a float on fermentation fluids in the manufacture of vinegar and wine and on brine used in curing pickles, to prevent or retard access of air, evaporation, and contamination with wild organisms during fermentation.	Do.

§ 172.884 Odorless light petroleum hydrocarbons.

Odorless light petroleum hydrocarbons may be safely used in food, in accordance with the following prescribed conditions:

(a) The additive is a mixture of liquid hydrocarbons derived from petroleum or synthesized from petroleum gases. The additive is chiefly paraffinic, isoparaffinic, or naphthenic in nature.

(b) The additive meets the following specifications:

(1) Odor is faint and not kerosenic.

(2) Initial boiling point is 300° F minimum.

(3) Final boiling point is 650° F maximum.

(4) Ultraviolet absorbance limits determined by method specified in § 178.-

3620(b)(1)(ii) of this chapter as fol-

the second and first separatory funnels suc-

Magnesium oxide-Celite 545 mixture

The male fitting should be equipped with the flask will speed evaporation). Discon-

nel at intervals to release pressure.) When

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3620(b)(1)(ii) of this chapter, as follows:

Wavelength mμ:	Maximum absorbance per centimeter optical pathlength
280–289	4.0
290–299	3.5
300–329	2.3
330–360	.8

(c) The additive is used as follows:

Use	Limitations
As a coating on shell eggs	In an amount not to exceed good manufacturing practice.
As a defoamer in processing beet sugar and yeast.	Complying with § 173.340 of this chapter.
As a float on fermentation fluids in the manufacture of vinegar and wine to prevent or retard access of air, evaporation, and wild yeast contamination during fermentation.	In an amount not to exceed good manufacturing practice.
In the froth-flotation cleaning of vegetables.	Do.
As a component of insecticide formulations used in compliance with regulations issued in Parts 170 through 180 of this chapter.	Do.

§ 172.886 Petroleum wax.

Petroleum wax may be safely used in or on food, in accordance with the following conditions:

(a) Petroleum wax is a mixture of solid hydrocarbons, paraffinic in nature, derived from petroleum, and refined to meet the specifications prescribed by this section.

(b) Petroleum wax meets the following ultraviolet absorbance limits when subjected to the analytical procedure described in this paragraph.

		Ultraviolet absorbance per centimeter path length
280–289	millimicrons	0.15 maximum
290–299	millimicrons	0.12 maximum
300–359	millimicrons	0.06 maximum
360–400	millimicrons	0.02 maximum

ANALYTICAL SPECIFICATION FOR PETROLEUM WAX

General Instructions

Because of the sensitivity of the test, the possibility of errors arising from contamination is great. It is of the greatest importance that all glassware be scrupulously cleaned to remove all organic matter such as oil, grease, detergent residues, etc. Examine all glassware, including stoppers and stopcocks, under ultraviolet light to detect any residual fluorescent contamination. As a precautionary measure it is recommended practice to rinse all glassware with purified isooctane immediately before use. No grease is to be used on stopcocks or joints. Great care to avoid contamination of wax samples is handling and to assure absence of any extraneous material arising from inadequate packaging is essential. Because some of the polynuclear hydrocarbons sought in this test are very susceptible to photo-oxidation, the entire procedure is to be carried out under subdued light.

Apparatus

Separatory funnels. 250-milliliter, 500-milliliter, 1,000-milliliter, and preferably 2,000-milliliter capacity, equipped with tetrafluoroethylene polymer stopcocks.

Reservoir. 500-milliliter capacity, equipped with a 24/40 standard taper male fitting at the bottom and a suitable ball-joint at the top for connecting to the nitrogen supply. The male fitting should be equipped with glass hooks.

Chromatographic tube. 180 millimeters in length, inside diameter to be 15.7 millimeters ±0.1 millimeter, equipped with a coarse, fritted-glass disc, a tetrafluoroethylene polymer stopcock, and a female 24/40 standard tapered fitting at the opposite end. (Over-all length of the column with the female joint is 235 millimeters.) The female fitting should be equipped with glass hooks.

Disc. Tetrafluoroethylene polymer 2-inch diameter disc approximately 1/16-inch thick with a hole bored in the center to closely fit the stem of the chromatographic tube.

Heating jacket. Conical, for 500-milliliter separatory funnel. (Used with variable transformer heat control.)

Suction flask. 250-milliliter or 500-milliliter filter flask.

Condenser. 24/40 joints, fitted with a drying tube, length optional.

Evaporation flask (optional). 250-milliliter or 500-milliliter capacity all-glass flask equipped with standard taper stopper having inlet and outlet tubes to permit passage of nitrogen across the surface of contained liquid to be evaporated.

Vacuum distillation assembly. All glass (for purification of dimethyl sulfoxide); 2-liter distillation flask with heating mantle; Vigreaux vacuum-jacketed condenser (or equivalent) about 45 centimeters in length and distilling head with separable cold finger condenser. Use of tetrafluoroethylene polymer sleeves on the glass joints will prevent freezing. Do not use grease on stopcocks or joints.

Spectrophotometric cells. Fused quartz cells, optical path length in the range of 5.000 centimeters ±0.005 centimeter; also for checking spectrophotometer performance only, optical path length in the range 1.000 centimeter ±0.005 centimeter. With distilled water in the cells, determine any absorbance differences.

Spectrophotometer. Spectral range 250 millimicrons–400 millimicrons with spectral slit width of 2 millimicrons or less; under instrument operating conditions for these absorbance measurements, the spectrophotometer shall also meet the following performance requirements:

Absorbance repeatability, ±0.01 at 0.4 absorbance.

Absorbance accuracy,[1] ±0.05 at 0.4 absorbance.

Wavelength repeatability, ±0.2 millimicron.

Wavelength accuracy, ±1.0 millimicron.

Nitrogen cylinder. Water-pumped or equivalent purity nitrogen in cylinder equipped with regulator and valve to control flow at 5 p.s.i.g.

REAGENTS AND MATERIALS

Organic solvents. All solvents used throughout the procedure shall meet the specifications and tests described in this specification. The isooctane, benzene, acetone, and methyl alcohol designated in the list following this paragraph shall pass the following test:

To the specified quantity of solvent in a 250-milliliter Erlenmeyer flask, add 1 milliliter of purified *n*-hexadecane and evaporate on the steam bath under a stream of nitrogen (a loose aluminum foil jacket around the flask will speed evaporation). Discontinue evaporation when not over 1 milliliter of residue remains. (To the residue from benzene add a 10-milliliter portion of purified isooctane, reevaporate, and repeat once to insure complete removal of benzene.)

Alternatively, the evaporation time can be reduced by using the optional evaporation flask. In this case the solvent and *n*-hexadecane are placed in the flask on the steam bath, the tube assembly is inserted, and a stream of nitrogen is fed through the inlet tube while the outlet tube is connected to a solvent trap and vacuum line in such a way as to prevent any flow-back of condensate into the flask.

Dissolve the 1 milliliter of hexadecane residue in isooctane and make to 25 milliliters volume. Determine the absorbance in the 5-centimeter path length cells compared to isooctane as reference. The absorbance of the solution of the solvent residue (except for methyl alcohol) shall not exceed 0.01 per centimeter path length between 280 and 400 mμ. For methyl alcohol this absorbance value shall be 0.00.

Isooctane (2,2,4-trimethylpentane). Use 180 milliliters for the test described in the preceding paragraph. Purify, if necessary, by passage through a column of activated silica gel (Grade 12, Davison Chemical Company, Baltimore, Maryland, or equivalent) about 90 centimeters in length and 5 centimeters to 6 centimeters in diameter.

Benzene, A.C.S. reagent grade. Use 150 milliliters for the test. Purify, if necessary, by distillation or otherwise.

Acetone, A.C.S. reagent grade. Use 200 milliliters for the test. Purify, if necessary, by distillation.

Eluting mixtures:

1. *10 percent benzene in isooctane.* Pipet 50 milliliters of benzene into a 500-milliliter glass-stoppered volumetric flask and adjust to volume with isooctane, with mixing.

2. *20 percent benzene in isooctane.* Pipet 50 milliliters of benzene into a 250-milliliter glass-stoppered volumetric flask, and adjust to volume with isooctane, with mixing.

3. *Acetone-benzene-water mixture.* Add 20 milliliters of water to 380 milliliters of acetone and 200 milliliters of benzene, and mix.

n-Hexadecane, 99 percent olefin-free. Dilute 1.0 milliliter of *n*-hexadecane to 25 milliliters with isooctane and determine the absorbance in a 5-centimeter cell compared to isooctane as reference point between 280 mμ–400 mμ. The absorbance per centimeter path length shall not exceed 0.00 in this range. Purify, if necessary, by percolation through activated silica gel or by distillation.

Methyl alcohol, A.C.S. reagent grade. Use 10.0 milliliters of methyl alcohol. Purify, if necessary, by distillation.

Dimethyl sulfoxide. Pure grade, clear, water-white, m.p. 18° minimum. Dilute 120 milliliters of dimethyl sulfoxide with 240 milliliters of distilled water in a 500-milliliter separatory funnel, mix and allow to cool for 5–10 minutes. Add 40 milliliters of isooctane to the solution and extract by shaking the funnel vigorously for 2 minutes. Draw off the lower aqueous layer into a second 500-milliliter separatory funnel and repeat the extraction with 40 milliliters of isooctane. Draw off and discard the aqueous layer. Wash each of the 40-milliliter extractives three times with 50-milliliter portions of distilled water. Shaking time for each wash is 1 minute. Discard the aqueous layers. Filter the first extractive through anhydrous sodium sulfate prewashed with isooctane (see *Sodium sulfate under* "Reagents and Materials" for preparation of filter), into a 250-milliliter Erlenmeyer flask, or optionally into the evaporating flask. Wash the first separatory funnel with the second 40-milliliter isooctane extractive, and pass through the sodium sulfate into the flask. Then wash

[1] As determined by procedure using potassium chromate for reference standard and described in National Bureau of Standards Circular 484, Spectrophotometry, U.S. Department of Commerce, 1949. The accuracy is to be determined by comparison with the standard values at 290, 345, and 400 millimicrons.

the second and first separatory funnels successively with a 10-milliliter portion of isooctane, and pass the solvent through the sodium sulfate into the flask. Add 1 milliliter of *n*-hexadecane and evaporate the isooctane on the steam bath under nitrogen. Discontinue evaporation when not over 1 milliliter of residue remains. To the residue add a 10-milliliter portion of isooctane and reevaporate to 1 milliliter of hexadecane. Again, add 10 milliliters of isooctane to the residue and evaporate to 1 milliliter of hexadecane to insure complete removal of all volatile materials. Dissolve the 1 milliliter of hexadecane in isooctane and make to 25-milliliter volume. Determine the absorbance in 5-centimeter path length cells compared to isooctane as reference. The absorbance of the solution should not exceed 0.02 per centimeter path length in the 280 mμ–400 mμ range. (NOTE.—Difficulty in meeting this absorbance specification may be due to organic impurities in the distilled water. Repetition of the test omitting the dimethyl sulfoxide will disclose their presence. If necessary to meet the specification, purify the water by redistillation, passage through an ion-exchange resin, or otherwise.)

Purify, if necessary, by the following procedure: To 1,500 milliliters of dimethyl sulfoxide in a 2-liter glass-stoppered flask, add 6.0 milliliters of phosphoric acid and 50 grams of Norit A (decolorizing carbon, alkaline) or equivalent. Stopper the flask, and with the use of a magnetic stirrer (tetrafluoroethylene polymer coated bar) stir the solvent for 15 minutes. Filter the dimethyl sulfoxide through four thicknesses of fluted paper (18.5 centimeters, Schleicher & Schuell, No. 597, or equivalent). If the initial filtrate contains carbon fines, refilter through the same filter until a clear filtrate is obtained. Protect the sulfoxide from air and moisture during this operation by covering the solvent in the funnel and collection flask with a layer of isooctane. Transfer the filtrate to a 2-liter separatory funnel and draw off the dimethyl sulfoxide into the 2-liter distillation flask of the vacuum distillation assembly and distill at approximately 3-millimeter Hg pressure or less. Discard the first 200-milliliter fraction of the distillate and replace the distillate collection flask with a clean one. Continue the distillation until approximately 1 liter of the sulfoxide has been collected.

At completion of the distillation, the reagent should be stored in glass-stoppered bottles since it is very hygroscopic and will react with some metal containers in the presence of air.

Phosphoric acid. 85 percent A.C.S. reagent grade.

Sodium borohydride. 98 percent.

Magnesium oxide (Sea Sorb 43, Food Machinery Company, Westvaco Division, distributed by chemical supply firms, or equivalent). Place 100 grams of the magnesium oxide in a large beaker, add 700 milliliters of distilled water to make a thin slurry, and heat on a steam bath for 30 minutes with intermittent stirring. Stir well initially to insure that all the absorbent is completely wetted. Using a Buchner funnel and a filter paper (Schleicher & Schuell No. 597, or equivalent) of suitable diameter, filter with suction. Continue suction until water no longer drips from the funnel. Transfer the absorbent to a glass trough lined with aluminum foil (free from rolling oil). Break up the magnesia with a clean spatula and spread out the absorbent on the aluminum foil in a layer about 1 centimeter to 2 centimeters thick. Dry for 24 hours at 160° C ± 1° C. Pulverize the magnesia with mortar and pestle. Sieve the pulverized absorbent between 60–180 mesh. Use the magnesia retained on the 180-mesh sieve.

Celite 545. Johns-Manville Company, diatomaceous earth, or equivalent.

Magnesium oxide–Celite 545 mixture (2+1) by weight. Place the magnesium oxide (60–180 mesh) and the Celite 545 in 2 to 1 proportions, respectively, by weight in a glass-stoppered flask large enough for adequate mixing. Shake vigorously for 10 minutes. Transfer the mixture to a glass trough lined with aluminum foil (free from rolling oil) and spread it out on a layer about 1 centimeter to 2 centimeters thick. Reheat the mixture at 160° C ± 1° C for 2 hours, and store in a tightly closed flask.

Sodium sulfate, anhydrous, A.C.S. reagent grade, preferably in granular form. For each bottle of sodium sulfate reagent used, establish as follows the necessary sodium sulfate prewash to provide such filters required in the method: Place approximately 35 grams of anhydrous sodium sulfate in a 30-milliliter coarse, fritted-glass funnel or in a 65-millimeter filter funnel with glass wool plug; wash with successive 15-milliliter portions of the indicated solvent until a 15-milliliter portion of the wash shows 0.00 absorbance per centimeter path length between 280 mμ and 400 mμ when tested as prescribed under "Organic solvents." Usually three portions of wash solvent are sufficient.

Before proceeding with analysis of a sample, determine the absorbance in a 5-centimeter path cell between 250 mμ and 400 mμ for the reagent blank by carrying out the procedure, without a wax sample, at room temperature, recording the spectra after the extraction stage and after the complete procedure as prescribed. The absorbance per centimeter path length following the extraction stage should not exceed 0.040 in the wavelength range from 280 mμ to 400 mμ; the absorbance per centimeter path length following the complete procedure should not exceed 0.070 in the wavelength range from 280 mμ to 299 mμ, inclusive, nor 0.045 in the wavelength range from 300 mμ to 400 mμ. If in either spectrum the characteristic benzene peaks in the 250 mμ–260 mμ region are present, remove the benzene by the procedure under "Organic solvents" and record absorbance again.

Place 300 milliliters of dimethyl sulfoxide in a 1-liter separatory funnel and add 75 milliliters of phosphoric acid. Mix the contents of the funnel and allow to stand for 10 minutes. (The reaction between the sulfoxide and the acid is exothermic. Release pressure after mixing, then keep funnel stoppered.) Add 150 milliliters of isooctane and shake to prequilibrate the solvents. Draw off the individual layers and store in glass-stoppered flasks.

Place a representative 1-kilogram sample of wax, or if this amount is not available, the entire sample, in a beaker of a capacity about three times the volume of the sample and heat with occasional stirring on a steam bath until the wax is completely melted and homogeneous. Weigh four 25-gram ±0.2 gram portions of the melted wax in separate 100-milliliter beakers. Reserve three of the portions for later replicate analyses as necessary. Pour one weighed portion immediately after remelting (on the steam bath) into a 500-milliliter separatory funnel containing 100 milliliters of the prequilibrated sulfoxide–phosphoric acid mixture that has been heated in the heating jacket at a temperature just high enough to keep the wax melted. (NOTE: In preheating the sulfoxide-acid mixture, remove the stopper of the separatory funnel at intervals to release the pressure.)

Promptly complete the transfer of the sample to the funnel in the jacket with portions of the prequilibrated isooctane, warming the beaker, if necessary, and using a total volume of just 50 milliliters of the solvent. If the wax comes out of solution during these operations, let the stoppered funnel remain in the jacket until the wax redissolves. (Remove stopper from the funnel at intervals to release pressure.) When the wax is in solution, remove the funnel from the jacket and shake it vigorously for 2 minutes. Set up three 250-milliliter separatory funnels with each containing 30 milliliters of prequilibrated isooctane. After separation of the liquid phases, allow to cool until the main portion of the wax-isooctane solution begins to show a precipitate. Gently swirl the funnel when precipitation first occurs on the inside surface of the funnel to accelerate this process. Carefully draw off the lower layer, filter it slowly through a thin layer of glass wool fitted loosely in a filter funnel into the first 250-milliliter separatory funnel, and wash in tandem with the 30-milliliter portions of isooctane contained in the 250-milliliter separatory funnels. Shaking time for each wash is 1 minute. Repeat the extraction operation with two additional portions of the sulfoxide-acid mixture, replacing the funnel in the jacket after each extraction to keep the wax in solution and washing each extractive in tandem through the same three portions of isooctane.

Collect the successive extractives (300 milliliters total) in a separatory funnel (preferably 2-liter), containing 480 milliliters of distilled water, mix, and allow to cool for a few minutes after the last extractive has been added. Add 80 milliliters of isooctane to the solution and extract by shaking the funnel vigorously for 2 minutes. Draw off the lower aqueous layer into a second separatory funnel (preferably 2-liter) and repeat the extraction with 80 milliliters of isooctane. Draw off and discard the aqueous layer. Wash each of the 80-milliliter extractives three times with 100-milliliter portions of distilled water. Shaking time for each wash is 1 minute. Discard the aqueous layers. Filter the first extractive through anhydrous sodium sulfate prewashed with isooctane (see *Sodium Sulfate* under "Reagents and Materials" for preparation of filter) into a 250-milliliter Erlenmeyer flask (or optionally into the evaporation flask). Wash the first separatory funnel with the second 80-milliliter isooctane extractive and pass through the sodium sulfate. Then wash the second and first separatory funnels successively with a 20-milliliter portion of isooctane and pass the solvent through the sodium sulfate into the flask. Add 1 milliliter of *n*-hexadecane and evaporate the isooctane on the steam bath under nitrogen. Discontinue evaporation when not over 1 milliliter of residue remains. To the residue, add a 10-milliliter portion of isooctane, reevaporate to 1 milliliter of hexadecane, and repeat this operation once.

Quantitatively transfer the residue with isooctane to a 25-milliliter volumetric flask, make to volume, and mix. Determine the absorbance of the solution in the 5-centimeter path length cells compared to isooctane as reference between 280 mμ–400 mμ (take care to lose none of the solution in filling the sample cell). Correct the absorbance values for any absorbance derived from reagents as determined by carrying out the procedure without a wax sample. If the corrected absorbance does not exceed the limits prescribed in this paragraph (b), the wax meets the ultraviolet absorbance specifications. If the corrected absorbance per centimeter path length exceeds the limits prescribed in this paragraph (b), proceed as follows:

Quantitatively transfer the isooctane solution to a 125-milliliter flask equipped with 24/40 joint and evaporate the isooctane on the steam bath under a stream of nitrogen to a volume of 1 milliliter of hexadecane. Add 10 milliliters of methyl alcohol and approximately 0.3 gram of sodium borohydride. (Minimize exposure of the borohydride to the atmosphere. A measuring dipper may be used.) Immediately fit a water-cooled condenser equipped with a 24/40 joint and with

a drying tube into the flask, mix until the

benzene through anhydrous sodium sulfate

Use	Limitations

(c) Food starch may be oxidized by

(f) Food starch may be esterified and

(2) It contains no added arsenic compound and therefore may not exceed a

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a drying tube into the flask, mix until the borohydride is dissolved, and allow to stand for 30 minutes at room temperature, with intermittent swirling. At the end of this period, disconnect the flask and evaporate the methyl alcohol on the steam bath under nitrogen until the sodium borohydride begins to come out of the solution. Then add 10 milliliters of isooctane and evaporate to a volume of about 2–3 milliliters. Again, add 10 milliliters of isooctane and concentrate to a volume of approximately 5 milliliters. Swirl the flask repeatedly to assure adequate washing of the sodium borohydride residues.

Fit the tetrafluoroethylene polymer disc on the upper part of the stem of the chromatographic tube, then place the tube wih the disc on the suction flask and apply the vacuum (approximately 135 millimeters Hg pressure). Weight out 14 grams of the 2:1 magnesium oxide-Celite 545 mixture and pour the adsorbent mixture into the chromatographic tube in approximately 3-centimeter layers. After the addition of each layer, level off the top of the adsorbent with a flat glass rod or metal plunger by pressing down firmly until the adsorbent is well packed. Loosen the topmost few millimeters of each adsorbent layer with the end of a metal rod before the addition of the next layer. Continue packing in this manner until all the 14 grams of the adsorbent is added to the tube. Level off the top of the absorbent by pressing down firmly with a flat glass rod or metal plunger to make the depth of the adsorbent bed approximately 12.5 centimeters in depth. Turn off the vacuum and remove the suction flask. Fit the 500-milliliter reservoir onto the top of the chromatographic column and prewet the column by passing 100 milliliters of isooctane through the column. Adjust the nitrogen pressure so that the rate of descent of the isooctane coming off of the column is between 2–3 milliliters per minute. Discontinue pressure just before the last of the isooctane reaches the level of the adsorbent. (CAUTION: Do not allow the liquid level to recede below the adsorbent level at any time.) Remove the reservoir and decant the 5-milliliter isooctane concentrate solution onto the column and with slight pressure again allow the liquid level to recede to barely above the adsorbent level. Rapidly complete the transfer similarly with two 5-milliliter portions of isooctane, swirling the flask repeatedly each time to assure adequate washing of the residue. Just before the final 5-milliliter wash reaches the top of the adsorbent, add 100 milliliters of isooctane to the reservoir and continue the percolation at the 2–3 milliliter per minute rate. Just before the last of the isooctane reaches the adsorbent level, add 100 milliliters of 10 percent benzene in isooctane to the reservoir and continue the percolation at the aforementioned rate. Just before the solvent mixture reaches adsorbent level, add 25 milliliters of 20 percent benzene in isooctane to the reservoir and continue the percolation at 2–3 milliliters per minute until all this solvent mixture has been removed from the column. Discard all the elution solvents collected up to this point. Add 300 milliliters of the acetone-benzene-water mixture to the reservoir and percolate through the column to elute the polynuclear compounds. Collect the eluate in a clean 1-liter separatory funnel. Allow the column to drain until most of the solvent mixture is removed. Wash the eluate three times with 300-milliliter portions of distilled water, shaking well for each wash. (The addition of small amounts of sodium chloride facilitates separation.) Discard the aqueous layer after each wash. After the final separation, filter the residual benzene through anhydrous sodium sulfate prewashed with benzene (see *Sodium sulfate* under "Reagents and Materials" for preparation of filter) into a 250-milliliter Erlenmeyer flask (or optionally into the evaporation flask). Wash the separatory funnel with two additional 20-milliliter portions of benzene which are also filtered through the sodium sulfate. Add 1 milliliter of *n*-hexadecane and completely remove the benzene by evaporation under nitrogen, using the special procedure to eliminate benzene as previously described under "Organic Solvents." Quantitatively transfer the residue with isooctane to a 25-milliliter volumetric flask and adjust to volume. Determine the absorbance of the solution in the 5-centimeter path length cells compared to isooctane as reference between 250 m_μ–400 m_μ. Correct for any absorbance derived from the reagents as determined by carrying out the procedure without a wax sample. If either spectrum shows the characteristic benzene peaks in the 250 m_μ–260 m_μ region, evaporate the solution to remove benzene by the procedure under "Organic Solvents." Dissolve the residue, transfer quantitatively, and adjust to volume in isooctane in a 25-milliliter volumetric flask. Record the absorbance again. If the corrected absorbance does not exceed the limits prescribed in this paragraph (b), the wax meets the ultraviolet absorbance specifications.

(c) Petroleum wax may contain any antioxidant permitted in food by regulations issued in accordance with section 409 of the act, in an amount not greater than that required to produce its intended effect.

(d) Petroleum wax is used or intended for use as follows:

Use	*Limitations*
In chewing gum base, as a masticatory substance.	In an amount not to exceed good manufacturing practice.
On cheese and raw fruits and vegetables as a protective coating.	Do.
As a defoamer in food.	In accordance with § 173.340 of this chapter.

§ 172.888 Synthetic petroleum wax.

Synthetic petroleum wax may be safely used in or on foods in accordance with the following conditions:

(a) Synthetic petroleum wax is a mixture of solid hydrocarbons, paraffinic in nature, prepared by catalytic polymerization of ethylene, and refined to meet the specifications prescribed by this section.

(b) Synthetic petroleum wax meets the ultraviolet absorbance limits of § 172.886(b) when subjected to the analytical procedure described therein.

(c) Synthetic petroleum wax has a number average molecular weight of not less than 500 nor greater than 1,200 as determined by vapor pressure osmometry.

(d) Synthetic petroleum wax may contain any antioxidant permitted in food by regulations issued in accordance with section 409 of the Act, in an amount not greater than that required to produce its intended effect.

(e) Synthetic petroleum wax is used or intended for use as follows:

Use	*Limitations*
In chewing gum base, as a masticatory substance.	In accordance with § 172.615 in an amount not to exceed good manufacturing practice.
On cheese and raw fruits and vegetables as a protective coating.	In an amount not to exceed good manufacturing practice.
As a defoamer in food.	In accordance with § 173.340 of this chapter.

§ 172.890 Rice bran wax.

Rice bran wax may be safely used in food in accordance with the following conditions:

(a) It is the refined wax obtained from rice bran and meets the following specifications:

Melting point 75° C to 80° C.
Free fatty acids, maximum 10 percent.
Iodine number, maximum 20.
Saponification number 75 to 120.

(b) It is used or intended for use as follows:

Food	Limitation in food	Use
Candy	50 p.p.m.	Coating.
Fresh fruits and fresh vegetables.	do	Do.
Chewing gum	2¼ pct	Plasticising material.

§ 172.892 Food starch-modified.

Food starch-modified as described in this section may be safely used in food. The quantity of any substance employed to effect such modification shall not exceed the amount reasonably required to accomplish the intended physical or technical effect, nor exceed any limitation prescribed. To insure safe use of the food starch-modified, the label of the food additive container shall bear the name of the additive "food starch-modified" in addition to other information required by the act. Food starch may be modified by treatment prescribed as follows:

(a) Food starch may be acid-modified by treatment with hydrochloric acid or sulfuric acid or both.

(b) Food starch may be bleached by treatment with one or more of the following:

	Limitations
Active oxygen obtained from hydrogen peroxide and/or peracetic acid, not to exceed 0.45 percent of active oxygen.	----------
Ammonium persulfate, not to exceed 0.075 percent and sulfur dioxide, not to exceed 0.05 percent.	----------
Chlorine, as sodium hypochlorite, not to exceed 0.0082 pound of chlorine per pound of dry starch.	----------
Potassium permanganate, not to exceed 0.2 percent.	Residual manganese (calculated as Mn), not to exceed 50 parts per million in food starch-modified.
Sodium chlorite, not to exceed 0.5 percent.	----------

(c) Food starch may be oxidized by treatment with chlorine, as sodium hypochlorite, not to exceed 0.055 pound of chlorine per pound of dry starch.

(d) Food starch may be esterified by treatment with one of the following:

	Limitations
Acetic anhydride	Acetyl groups in food starch-modified not to exceed 2.5 percent.
Adipic anhydride, not to exceed 0.12 percent, and acetic anhydride.	Do.
Monosodium orthophosphate.	Residual phosphate in food starch-modified not to exceed 0.4 percent calculated as phosphorus.
1-Octenyl succinic anhydride, not to exceed 3 percent.	----------
1-Octenyl succinic anhydride, not to exceed 2 percent, and aluminum sulfate, not to exceed 2 percent.	----------
Phosphorus oxychloride, not to exceed 0.1 percent.	----------
Phosphorus oxychloride, not to exceed 0.1 percent, followed by either acetic anhydride, not to exceed 8 percent, or vinyl acetate, not to exceed 7.5 percent.	Acetyl groups in food starch-modified not to exceed 2.5 percent.
Sodium trimetaphosphate.	Residual phosphate in food starch-modified not to exceed 0.04 percent, calculated as phosphorus.
Sodium tripolyphosphate and sodium trimetaphosphate.	Residual phosphate in food starch-modified not to exceed 0.4 percent calculated as phosphorus.
Succinic anhydride, not to exceed 4 percent.	----------
Vinyl acetate.	Acetyl groups in food starch-modified not to exceed 2.5 percent.

(e) Food starch may be etherified by treatment with one of the following:

	Limitations
Acrolein, not to exceed 0.6 percent.	----------
Epichlorohydrin, not to exceed 0.3 percent.	----------
Epichlorohydrin, not to exceed 0.1 percent, combined with propylene oxide, not to exceed 10 percent.	Residual propylene chlorohydrin not more than 5 parts per million in food starch-modified.
Epichlorohydrin, not to exceed 0.1 percent, followed by propylene oxide, not to exceed 25 percent.	Do.
Propylene oxide, not to exceed 25 percent.	Do.

(f) Food starch may be esterified and etherified by treatment with one of the following:

	Limitations
Acrolein, not to exceed 0.6 percent and vinyl acetate, not to exceed 7.5 percent.	Acetyl groups in food starch-modified not to exceed 2.5 percent.
Epichlorohydrin, not to exceed 0.3 percent, and acetic anhydride.	Acetyl groups in food starch-modified not to exceed 2.5 percent.
Epichlorohydrin, not to exceed 0.3 percent, and succinic anhydride, not to exceed 4 percent.	----------
Phosphorus oxychloride, not to exceed 0.1 percent, and propylene oxide, not to exceed 10 percent.	Residual propylene chlorohydrin not more than 5 parts per million in food starch-modified.

(g) Food starch may be modified by treatment with one of the following:

	Limitations
Chlorine, as sodium hypochlorite, not to exceed 0.055 pound of chlorine per pound of dry starch; 0.45 percent of active oxygen obtained from hydrogen peroxide; and propylene oxide, not to exceed 25 percent.	Residual propylene chlorohydrin not more than 5 parts per million in food starch-modified.
Sodium hydroxide, not to exceed 1 percent.	----------

(h) Food starch may be modified by a combination of the treatments prescribed by paragraphs (a) and/or (b) of this section and any one of the treatments prescribed by paragraph (c), (d), (e), (f), or (g) of this section, subject to any limitations prescribed by the paragraphs named.

§ 172.894 Modified cottonseed products intended for human consumption.

The food additive modified cottonseed products may be used for human consumption in accordance with the following prescribed conditions:

(a) The additive is derived from:

(1) Decorticated, partially defatted, cooked, ground cottonseed kernels; or

(2) Decorticated, ground cottonseed kernels, in a process that utilizes *n*-hexane as an extracting solvent in such a way that no more than 60 parts per million of *n*-hexane residues and less than 1 percent fat by weight remain in the finished product; or

(3) Glandless cottonseed kernels roasted to attain a temperature of not less than 250° F in the kernel for not less than 5 minutes for use as a snack food, or in baked goods, or in soft candy; or

(4) Raw glandless cottonseed kernels may be used in hard candy where the kernel temperature during cooking will exceed 250° F for not less than 5 minutes.

(b) The additive is prepared to meet the following specifications:

(1) Free gossypol content not to exceed 450 parts per million.

(2) It contains no added arsenic compound and therefore may not exceed a maximum natural background level of 0.2 part per million total arsenic, calculated as As.

(c) To assure safe use of the additive, the label of the food additive container shall bear, in addition to other information required by the act, the name of the additive as follows:

(1) The additive identified in paragraph (a)(1) of this section as "partially defatted, cooked cottonseed flour".

(2) The additive identified in paragraph (a)(2) of this section as "defatted cottonseed floor".

(3) The additive identified in paragraph (a)(3) of this section as "roasted glandles cottonseed kernels".

(4) The additive identified in paragraph (a)(4) of this section as "raw glandless cottonseed kernels for use in cooked hard candy".

(d) The Food and Drug Administration and the Environmental Protection Agency have determined that glandless cottonseed kernels permitted for use by this section are a distinct commodity from glanded cottonseed.

§ 172.896 Dried yeasts.

Dried yeast (*Saccharomyces cerevisiae* and *Saccharomyces fragilis*) and dried torula yeast (*Candida utilis*) may be safely used in food provided the total folic acid content of the yeast does not exceed 0.04 milligram per gram of yeast (approximately 0.008 milligram of pteroyglutamic acid per gram of yeast).

§ 172.898 Bakers yeast glycan.

Bakers yeast glycan may be safely used in food in accordance with the following conditions:

(a) Bakers yeast glycan is the comminuted, washed, pasteurized, and dried cell walls of the yeast, *Saccharomyces cerevisiae*. It is composed principally of long chain carbohydrates, not less than 85 percent on a dry solids basis. The carbohydrate is composed of glycan and mannan units in approximately a 2:1 ratio.

(b) The additive meets the following specifications on a dry weight basis: Less than 0.4 part per million (ppm) arsenic, 0.13 ppm cadmium, 0.2 ppm lead, 0.05 ppm mercury, 0.09 ppm selenium, and 10 ppm zinc.

(c) The viable microbial content of the finished ingredient is:

(1) Less than 10,000 organisms/gram by aerobic plate count.

(2) Less than 10 yeasts and molds/gram.

(3) Negative for *Salmonella*, *E. coli*, coagulase positive *Staphylococci*, *Clostridium perfringens*, *Clostridium botulinum*, or any other recognized microbial pathogen or any harmful microbial toxin.

(d) The additive is used or intended for use only in salad dressings as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter, stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, or texturizer as defined in § 170.3(o)(32) of this chapter

at a maximum concentration of 5 per-

(2) Sodium polyacrylate-acrylamide sample will not exceed 0.4 percent by

(b) Ion-exchange resins are used in

treat bulk quantities of aqueous food, in-

and 5 percent acetic acid, will be found to result in not more than 7 parts per

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at a maximum concentration of 5 percent.

(e) The label and labeling of the ingredient shall bear adequate directions to assure that use of the ingredient complies with this regulation.

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

Subpart A—Polymer Substances for Food Treatment

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173.360 Octafluorocyclobutane.
173.385 Sodium methyl sulfate.

AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056, 72 Stat. 1785–1786 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—Polymer Substances for Food Treatment

§ 173.5 Acrylate-acrylamide resins.

Acrylate-acrylamide resins may be safely used in food under the following prescribed conditions:

(a) The additive consists of one of the following:

(1) Acrylamide-acrylic acid resin (hydrolyzed polyacrylamide) is produced by the polymerization of acrylamide with partial hydrolysis, or by copolymerization of acrylamide and acrylic acid, with the greater part of the polymer being composed of acrylamide units.

(2) Sodium polyacrylate-acrylamide resin is produced by the polymerization and subsequent hydrolysis of acrylonitrile in a sodium silicate-sodium hydroxide aqueous solution, with the greater part of the polymer being composed of acrylate units.

(b) The additive contains not more than 0.05 percent of residual monomer calculated as acrylamide.

(c) The additive is used or intended for use as follows:

(1) The additive identified in paragraph (a)(1) of this section is used as a flocculent in the clarification of beet sugar juice and liquor or cane sugar juice and liquor in an amount not to exceed 5 parts per million by weight of the juice or 10 parts per million by weight of the liquor.

(2) The additive identified in paragraph (a)(2) of this section is used to control organic and mineral scale in beet sugar juice and liquor or cane sugar juice and liquor in an amount not to exceed 2.5 parts per million by weight of the juice or liquor.

§ 173.10 Modified polyacrylamide resin.

Modified polyacrylamide resin may be safely used in food in accordance with the following prescribed conditions:

(a) The modified polyacrylamide resin is produced by the copolymerization of acrylamide with not more than 5-mole percent β-methacryloyloxyethyltrimethylammonium methyl sulfate.

(b) The modified polyacrylamide resin contains not more than 0.05 percent residual acrylamide.

(c) The modified polyacrylamide resin is used as a flocculent in the clarification of beet or cane sugar juice in an amount not exceeding 5 parts per million by weight of the juice.

(d) To assure safe use of the additive, the label and labeling of the additive shall bear, in addition to the other information required by the act, adequate directions to assure use in compliance with paragraph (c) of this section.

§ 173.20 Ion-exchange membranes.

Ion-exchange membranes may be safely used in the processing of food under the following prescribed conditions:

(a) The ion-exchange membrane is prepared by subjecting a polyethylene base conforming to § 177.1520 of this chapter to polymerization with styrene until the polystyrene phase of the base is not less than 16 percent nor more than 30 percent by weight. The base is then modified by reaction with chloromethyl methyl ether, and by subsequent amination with trimethylamine, dimethylamine, diethylenetriamine, or dimethylethanolamine.

(b) The ion-exchange membrane is manufactured so as to comply with the following extraction limitations when subjected to the described procedure: Separate square-foot samples of membrane weighing approximately 14 grams each are cut into small pieces and refluxed for 4 hours in 150 cubic centimeters of the following solvents: Distilled water, 5 percent acetic acid, and 50 percent alcohol. Extraction from each sample will not exceed 0.4 percent by weight of sample.

(c) The ion-exchange membrane will be used in the production of grapefruit juice to adjust the ratio of citric acid to total solids of the grapefruit juice produced.

§ 173.25 Ion-exchange resins.

Ion-exchange resins may be safely used in the treatment of food under the following prescribed conditions:

(a) The ion-exchange resins are prepared in appropriate physical form, and consist of one or more of the following:

(1) Sulfonated copolymer of styrene and divinylbenzene.

(2) Sulfonated anthracite coal meeting the requirements of ASTM–D388–38, Class I, Group 2.

(3) Sulfite-modified cross-linked phenol-formaldehyde, with modification resulting in sulfonic acid groups on side chains.

(4) Methacrylic acid-divinylbeneze copolymer.

(5) Cross-linked polystyrene, first chloromethylated then aminated with trimethylamine, dimethylamine, diethylenetriamine, or dimethylethanolamine.

(6) Diethylenetriamine, triethylenetetramine, or tetraethylenepentamine cross-linked with epichlorohydrin.

(7) Cross-linked phenol-formaldehyde activated with one or both of the following: Triethylene tetramine and tetraethylenepentamine.

(8) Reaction resin of formaldehyde; acetone, and tetraethylenepentamine.

(9) Completely hydrolyzed copolymers of methyl acrylate and divinylbenzeno.

(10) Completely hydrolyzed terpolymers of methyl acrylate, divinylbenzene, and acrylonitrile.

(11) Sulfonated terpolymers of styrene, divinylbenzene, and acrylonitrile or methyl acrylate.

(12) Methyl acrylate-divinylbenzene copolymer containing not less than 2 percent by weight of divinylbenzene, aminolyzed with dimethylaminopropylamine.

(13) Methyl acrylate-divinylbenzene copolymer containing not less than 3.5 percent by weight of divinylbenzene, aminolyzed with dimethylaminopropylamine.

(14) Epichlorohydrin cross-linked with ammonia.

(15) Sulfonated tetrapolymer of styrene, divinylbenzene, acrylonitrile, and methyl acrylate derived from a mixture of monomers containing not more than a total of 2 percent by weight of acrylonitrile and methyl acrylate.

(16) Methyl acrylate-divinylbenzene-diethylene glycol divinyl ether terpolymer containing not less than 3.5 percent by weight of divinylbenzene and not more than 0.6 percent by weight of diethylene glycol divinyl ether, aminolyzed with dimethylaminopropylamine.

(17) Styrene - divinylbenzene cross-linked copolymer, first chloromethylated then aminated with dimethylamine and oxidized with hydrogen peroxide whereby the resin contains not more than 15 percent by weight of vinyl *N,N*-dimethylbenzylamine-*N*-oxide and not more than 6.5 percent by weight of nitrogen.

(b) Ion-exchange resins are used in the purification of foods, including potable water, to remove undesirable ions or to replace less desirable ions with one or more of the following: Bicarbonate, calcium, carbonate, chloride, hydrogen, hydroxyl, magnesium, potassium, sodium, and sulfate except that: The ion-exchange resin identified in paragraph (a)(12) of this section is used only in accordance with paragraph (b)(1) of this section, the ion-exchange resin identified in paragraph (a)(13) of this section is used only in accordance with paragraph (b)(2) of this section, the resin identified in paragraph (a)(16) of this section is used only in accordance with paragraph (b) (1) or (2) of this section, and the ion-exchange resin identified in paragraph (a)(17) of this section is used only in accordance with paragraph (b)(3) of this section.

(1) The ion-exchange resins identified in paragraph (a) (12) and (16) of this section are used to treat water for use in the manufacture of distilled alcoholic beverages, subject to the following conditions:

(i) The water is subjected to treatment through a mixed bed consisting of one of the resins identified in paragraph (a) (12) or (16) of this section and one of the strongly acidic cation-exchange resins in the hydrogen form identified in paragraph (a) (1), (2), and (11) of this section; or

(ii) The water is first subjected to one of the resins identified in paragraph (a) (12) or (16) of this section and is subsequently subjected to treatment through a bed of activated carbon or one of the strongly acidic cation-exchange resins in the hydrogen form identified in paragraph (a) (1), (2), and (11) of this section.

(iii) The temperature of the water passing through the resin beds identified in paragraph (b)(1) (i) and (ii) of this section is maintained at 30° C or less, and the flow rate of the water passing through the beds is not less than 2 gallons per cubic foot per minute.

(iv) The ion-exchange resins identified in paragraph (a) (12) or (16) of this section are exempted from the requirements of paragraph (c)(4) of this section, but the strongly acidic cation-exchange resins referred to in paragraph (b)(1) (i) and (ii) of this section used in the process meet the requirements of paragraph (c)(4) of this section, except for the exemption described in paragraph (d) of this section.

(2) The ion-exchange resins identified in paragraph (a) (13) and (16) of this section are used to treat water and aqueous food only of the types identified under categories I, II, and VI–B in table 1 of § 176.170(c) of this chapter: *Provided*, That the temperature of the water or food passing through the resin beds is maintained at 50° C or less and the flow rate of the water or food passing through the beds is not less than 0.5 gallon per cubic foot per minute.

(3) The ion-exchange resin identified in paragraph (a)(17) of this section is used only for industrial application to treat bulk quantities of aqueous food, including potable water, or for treatment of municipal water supplies, subject to the condition that the temperature of the food or water passing through the resin bed is maintained at 25° C or less and the flow rate of the food or water passing through the bed is not less than 2 gallons per cubic foot per minute.

(c) To insure safe use of ion-exchange resins, each ion-exchange resin will be:

(1) Subjected to pre-use treatment by the manufacturer and/or the user in accordance with the manufacturer's directions prescribed on the label or labeling accompanying the resins, to guarantee a food-grade purity of ion-exchange resins, in accordance with good manufacturing practice.

(2) Accompanied by label or labeling to include directions for use consistent with the intended functional purpose of the resin.

(3) Used in compliance with the label or labeling required by paragraph (c)(2) of this section.

(4) Found to result in no more than 1 part per million of organic extractives obtained with each of the named solvents, distilled water, 15 percent alcohol, and 5 percent acetic acid when, having been washed and otherwise treated in accordance with the manufacturer's directions for preparing them for use with food, the ion-exchange resin is subjected to the following test: Using a separate ion-exchange column for each solvent, prepare columns using 50 milliliters of the ready to use ion-exchange resin that is to be tested. While maintaining the highest temperature that will be encountered in use pass through these beds at the rate of 350–450 milliliters per hour the three test solvents distilled water, 15 percent (by volume) ethyl alcohol, and 5 percent (by weight) acetic acid. The first liter of effluent from each solvent is discarded, then the next 2 liters are used to determine organic extractives. The 2-liter sample is carefully evaporated to constant weight at 105° C; this is total extractives. This residue is fired in a muffle furnace at 850° C to constant weight; this is ash. Total extractives. minus ash equals the organic extractives. If the organic extractives are greater than 1 part per million of the solvent used, a blank should be run on the solvent and a correction should be made by subtracting the total extractives obtained with the blank from the total extractives obtained in the resin test. The solvents used are to be made as follows:

Distilled water (de-ionized water is distilled).
15 percent ethyl alcohol made by mixing 15 volumes of absolute ethyl alcohol A.C.S. reagent grade, with 85 volumes of distilled de-ionized water.
5 percent acetic acid made by mixing 5 parts by weight of A.C.S. reagent grade glacial acetic acid with 95 parts by weight of distilled de-ionized water.

In addition to the organic extractives limitation prescribed in this paragraph, the ion-exchange resin identified in paragraph (a) (7) of this section, when extracted with each of the named solvents, distilled water, 50 percent alcohol, and 5 percent acetic acid, will be found to result in not more than 7 parts per million of nitrogen extractives (calculated as nitrogen) when the resin in the free-base form is subjected to the following test immediately before each use: Using a separate 1-inch diameter glass ion-exchange column for each solvent, prepare each column using 100 milliliters of ready to use ion-exchange resin that is to be tested. With the bottom outlet closed, fill each ion-exchange column with one of the three solvents at a temperature of 25° C until the solvent level is even with the top of the resin bed. Seal each column at the top and bottom and store in a vertical position at a temperature of 25° C. After 96 hours, open the top of each column, drain the solvent into a collection vessel, and analyze each drained solvent and a solvent blank for nitrogen by a standard micro-Kjeldahl method.

(d) The ion-exchange resins identified in paragraph (a)(1), (2), (11), and (15) of this section are exempted from the acetic acid extraction requirement of paragraph (c)(4) of this section.

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

§ 173.40 Molecular sieve resins.

Molecular sieve resins may be safely used in the processing of food under the following prescribed conditions:

(a) The molecular sieve resins consist of purified dextran having an average molecular weight of 40,000, cross-linked with epichlorohydrin in a ratio of 1 part of dextran to 10 parts of epichlorohydrin, to give a stable three dimensional structure. The resins have a pore size of 2.0 to 3.0 milliliters per gram of dry resin (expressed in terms of water regain), and a particle size of 10 to 300 microns.

(b) The molecular sieve resins are thoroughly washed with potable water prior to their first use in contact with food.

(c) Molecular sieve resins are used as the gel filtration media in the final purification of partially delactosed whey. The gel bed shall be maintained in a sanitary manner in accordance with good manufacturing practice so as to prevent microbial build-up on the bed and adulteration of the product.

§ 173.50 Polyvinylpolypyrrolidone.

The food additive polyvinylpolypyrrolidone may be safely used in accordance with the following prescribed conditions:

(a) The additive is a homopolymer of purified vinylpyrrolidone catalytically produced under conditions producing polymerization and cross-linking such that an insoluble polymer is produced.

(b) The food additive is so processed that when the finished polymer is refluxed for 3 hours with water, 5 percent acetic acid, and 50 percent alcohol, no more than 50 parts per million of extractables is obtained with each solvent.

(c) It is used or intended for use as a clarifying agent in beverages and vinegar, followed by removal with filtration.

§ 173.55 Polyvinylpyrrolidone.

saturation of 1 percent, calculated as

(b) The organism *Micrococcus lyso-*

nonpathogenic and nontoxic in man or

(b) (1) The nonpathogenic organism is classified as follows:

6. Vacuum oven, minimum inside dimensions: 200 mm x 200 mm x 300 mm deep.

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§ 173.55 Polyvinylpyrrolidone.

The food additive polyvinylpyrrolidone may be safely used in accordance with the following prescribed conditions:

(a) The additive is a polymer of purified vinylpyrrolidone catalytically produced, having an average molecular weight of 40,000 and a maximum unsaturation of 1 percent, calculated as the monomer, except that the polyvinylpyrrolidone used in beer is that having an average molecular weight of 360,000 and a maximum unsaturation of 1 percent, calculated as the monomer.

(b) The additive is used or intended for use in foods as follows:

Food	Limitations
Beer	As a clarifying agent, at a residual level not to exceed 10 parts per million.
Flavor concentrates in tablet form	As a tableting adjuvent in an amount not to exceed good manufacturing practice.
Nonnutritive sweeteners in concentrated liquid form.	As a stabilizer, bodying agent, and dispersant, in an amount not to exceed good manufacturing practice.
Nonnutritive sweeteners in tablet form.	As a tableting adjuvant in an amount not to exceed good manufacturing practice.
Vitamin and mineral concentrates in liquid form.	As a stabilizer, bodying agent, and dispersant, in an amount not to exceed good manufacturing practice.
Vitamin and mineral concentrates in tablet form.	As a tableting adjuvant in an amount not to exceed good manufacturing practice.
Vinegar	As a clarifying agent, at a residual level not to exceed 40 parts per million.
Wine	As a clarifying agent, at a residual level not to exceed 60 parts per million.

Subpart B—Enzyme Preparations and Microorganisms

§ 173.110 Amyloglucosidase derived from *Rhizopus niveus*.

Amyloglucosidase enzyme product, consisting of enzyme derived from *Rhizopus niveus*, and diatomaceous silica as a carrier, may be safely used in food in accordance with the following conditions:

(a) *Rhizopus niveus* is classified as follows: Class, Phycomycetes; order, Mucorales; family, Mucoraceae; genus, *Rhizopus;* species, *niveus*.

(b) The strain of *Rhizopus niveus* is nonpathogenic and nontoxic in man or other animals.

(c) The enzyme is produced by a process which completely removes the organism *Rhizopus niveus* from the amyloglucosidase.

(d) The additive is used or intended for use for degrading gelatinized starch into constituent sugars, in the production of distilled spirits and vinegar.

(e) The additive is used at a level not to exceed 0.1 percent by weight of the gelatinized starch.

§ 173.120 Carbohydrase and cellulase derived from *Aspergillus niger*.

Carbohydrase and cellulase enzyme preparation derived from *Aspergillus niger* may be safely used in food in accordance with the following prescribed conditions:

(a) *Aspergillus niger* is classified as follows: Class, Deuteromycetes; order, Moniliales; family, Moniliaceae; genus, *Aspergillus;* species, *niger*.

(b) The strain of *Aspergillus niger* is nonpathogenic and nontoxic in man or other animals.

(c) The additive is produced by a process that completely removes the organism *Aspergillus niger* from the carbohydrase and cellulase enzyme product.

(d) The additive is used or intended for use as follows:

(1) For removal of visceral mass (bellies) in clam processing.

(2) As an aid in the removal of the shell from the edible tissue in shrimp processing.

(e) The additive is used in an amount not in excess of the minimum required to produce its intended effect.

§ 173.130 Carbohydrase derived from *Rhizopus oryzae*.

Carbohydrase from *Rhizopus oryzae* may be safely used in the production of dextrose from starch in accordance with the following prescribed conditions:

(a) *Rhizopus oryzae* is classified as follows: Class, Phycomycetes; order, Mucorales; family, Mucoraceae; genus, *Rhizopus;* species, *Rhizopus oryzae*.

(b) The strain of *Rhizopus oryzae* is nonpathogenic and nontoxic.

(c) The carbohydrase is produced under controlled conditions to maintain nonpathogenicity and nontoxicity, including the absence of aflatoxin.

(d) The carbohydrase is produced by a process which completely removes the organism *Rhizopus oryzae* from the carbohydrase product.

(e) The carbohydrase is maintained under refrigeration from production to use and is labeled to include the necessity of refrigerated storage.

§ 173.135 Catalase derived from *Micrococcus lysodeikticus*.

Bacterial catalase derived from *Micrococcus lysodeikticus* by a pure culture fermentation process may be safely used in destroying and removing hydrogen peroxide used in the manufacture of cheese, in accordance with the following conditions.

(a) The organism *Micrococcus lysodeikticus* from which the bacterial catalase is to be derived is demonstrated to be nontoxic and nonpathogenic.

(b) The organism *Micrococcus lysodeikticus* is removed from the bacterial catalase prior to use of the bacterial catalase.

(c) The bacterial catalase is used in an amount not in excess of the minimum required to produce its intended effect.

§ 173.145 Alpha-Galactosidase derived from *Morteirella vinaceae* var. *raffinoseutilizer*.

The food additive alpha-galactosidase and parent mycelial microorganism *Mortierella vinaceae* var. *raffinoseutilizer* may be safely used in food in accordance with the following conditions:

(a) The food additive is the enzyme alpha-galactosidase and the mycelia of the microorganism *Mortierella vinaceae* var. *raffinoseutilizer* which produces the enzyme.

(b) The nonpathogenic microorganism matches American Type Culture Collection (ATCC) No. 20034,[12] and is classified as follows:

Class: Phycomycetes.
Order: Mucorales.
Family: Mortierellaceae.
Genus: *Mortierella*.
Species: *vinaceae*.
Variety: *raffinoseutilizer*.

(c) The additive is used or intended for use in the production of sugar (sucrose) from sugar beets by addition as mycelial pellets to the molasses to increase the yield of sucrose, followed by removal of the spent mycelial pellets by filtration.

(d) The enzyme removal is such that there are no enzyme or mycelial residues remaining in the finished sucrose.

§ 173.150 Milk-clotting enzyme.

Milk-clotting enzyme produced by pure-culture fermentation process may be safely used in the production of cheese in accordance with the following prescribed conditions:

(a) Milk-clotting enzyme is derived from one of the following organisms by a pure-culture fermentation process:

(1) *Endothia parasitica* classified as follows: Class, Ascomycetes; order, Sphaeriales; family, Diaporthacesae; genus, *Endothia;* species, *parasitica*.

(2) *Bacillus cereus* classified as follows: Class, Schizomycetes; order, Eubacteriales; family, Bacillaceae; genus, *Bacillus;* species, *cereus* (Frankland and Frankland).

(3) *Mucor pusillus* Lindt classified as follows: Class, Phycomycetes; subclass, Zygomycetes; order, Mucorales; family, Mucoraceae; genus, *Mucor;* species, *pusillus;* variety, *Lindt*.

(4) *Mucor miehei* Cooney et Emerson classified as follows: Class, Phycomycetes; subclass, Zygomycetes; order, Mucorales; family, Mucoraceae; genus, *Mucor;* species, *miehei;* variety, *Cooney et Emerson*.

(b) The strains of organism identified in paragraph (a) of this section are

[12] Available from: American Type Culture Collection, 12301 Parklawn Drive, Rockville, MD 20852.

nonpathogenic and nontoxic in man or other animals.

(c) The additive is produced by a process that completely removes the generating organism from the milk-clotting enzyme product.

(d) The additive is used in an amount not in excess of the minimum required to produce its intended effect in the production of those cheeses for which it is permitted by standards of identity established pursuant to section 401 of the act.

§ 173.160 *Candida guilliermondii*.

The food additive *Candida guilliermondii* may be safely used as the organism for fermentation production of citric acid in accordance with the following conditions:

(a) The food additive is the enzyme system of the viable organism *Candida guilliermondii* and its concomitant metabolites produced during the fermentation process.

(b) (1) The nonpathogenic and nontoxicogenic organism descending from strain, American Type Culture Collection (ATCC) No. 20474,[13] is classified as follows:

Class: Deuteromycetes.
Order: Moniliales.
Family: Cryptococcaceae.
Genus: *Candida*.
Species: *guilliermondii*.
Variety: *guilliermondii*.

(2) The taxonomic characteristics of the reference culture strain ATCC No. 20474 agree in the essentials with the standard description for *Candida guilliermondii* variety *guilliermondii*, listed in "The Yeasts—A Taxonomic Study," 2d ed., 1970,[12] by Jacomina Lodder.

(c) (1) The additive is used or intended for use as a pure culture in the fermentation process for the production of citric acid using an acceptable aqueous carbohydrate substrate.

(2) The organism *Candida guilliermondii* is made nonviable and is completely removed from the citric acid during the recovery and purification process.

(d) The additive is so used that the citric acid produced conforms to the specifications of the "Food Chemicals Codex," 2d ed., 1972.[11]

§ 173.165 *Candida lipolytica*.

The food additive *Candida lipolytica* may be safely used as the organism for fermentation production of citric acid in accordance with the following conditions:

(a) The food additive is the enzyme system of the organism *Candida lipolytica* and its concomitant metabolites produced during the fermentation process.

(b) (1) The nonpathogenic organism is classified as follows:

Class: Deuteromycetes.
Order: Moniliales.
Family: Cryptococcaceae.
Genus: *Candida*.
Species: *lipolytica*.

(2) The taxonomic characteristics of the culture agree in the essentials with the standard description for *Candida lipolytica* variety *lipolytica*, listed in *The Yeasts—A Taxonomic Study*, 2d Ed. (1970)[12] by Jacomina Lodder.

(c) The additive is used or intended for use as a pure culture in the fermentation process for the production of citric acid from purified normal alkanes.

(d) The additive is so used that the citric acid produced conforms to the specifications of the Food Chemicals Codex, 2d Ed. (1972)[11] and meet the following ultraviolet absorbance limits when subjected to the analytical procedure described in this paragraph:

Ultraviolet absorbance per centimeter path length:	Maximum
280 to 289 millimicrons	0.25
290 to 299 millimicrons	0.20
300 to 359 millimicrons	0.13
360 to 400 millimicrons	0.03

ANALYTICAL PROCEDURE FOR CITRIC ACID

GENERAL INSTRUCTIONS

Because of the sensitivity of the test, the possibility of errors arising from contamination is great. It is of the greatest importance that all glassware be scrupulously cleaned to remove all organic matter such as oil, grease, detergent residues, etc. Examine all glassware including stoppers and stopcocks, under ultraviolet light to detect any residual fluorescent contamination. As a precautionary measure it is recommended practice to rinse all glassware with purified isooctane immediately before use. No grease is to be used on stopcocks or joints. Great care to avoid contamination of citric acid samples in handling is essential to assure absence of any extraneous material arising from inadequate packaging. Because some of the polynuclear hydrocarbons sought in this test are very susceptible to photo-oxidation, the entire procedure is to be carried out under subdued light.

APPARATUS

1. Aluminum foil, oil free.

2. Separatory funnels, 500-milliliter capacity, equipped with tetrafluoroethylene polymer stopcocks.

3. Chromatographic tubes: (a) 80-millimeter ID x 900-millimeter length equipped with tetrafluorethylene polymer stopcock and course fritted disk; (b) 18-millimeter ID x 300-millimeter length equipped with tetrafluoroethylene polymer stopcock.

4. Rotary vacuum evaporator, Buchi or equivalent.

5. Spectrophotometer—Spectral range 250–400 nanometers with spectral slit width of 2 nanometers or less; under instrument operating conditions for these absorbance measurements, the spectrophotometer shall also meet the following performance requirements:

Absorbance repeatability, ±0.01 at 0.4 absorbance.

Wavelength repeatability, ±0.2 nanometer.

Wavelength accuracy, ±1.0 nanometer.

The spectrophotometer is equipped with matched 1 centimeter path length quartz microcuvettes with 0.5-milliliter volume capacity.

6. Vacuum oven, minimum inside dimensions: 200 mm x 200 mm x 300 mm deep.

REAGENTS AND MATERIALS

Organic solvents. All solvents used throughout the procedure shall meet the specifications and tests described in this specification. The methyl alcohol, isooctane, benzene, hexane and 1,2-dichloroethane designated in the list following this paragraph shall pass the following test:

The specified quantity of solvent is added to a 250-milliliter round bottom flask containing 0.5 milliliter of purified n-hexadecane and evaporated on the rotary evaporator at 45° C to constant volume. Six milliliters of purified isooctane are added to this residue and evaporated under the same conditions as above for 5 minutes. Determine the absorbance of the residue compared to purified n-hexadecane as reference. The absorbance of the solution of the solvent residue shall not exceed 0.03 per centimeter path length between 280 and 299 nanometers and 0.01 per centimeter path length between 300 and 400 nanometers.

Methyl alcohol, A.C.S. reagent grade. Use 100 milliliters for the test described in the preceding paragraph. If necessary, methyl alcohol may be purified by distillation through a Virgreaux column discarding the first and last ten percent of the distillate or otherwise.

Benzene, spectrograde (Burdick and Jackson Laboratories, Inc., Muskegon, Mich., or equivalent). Use 80 milliliters for the test. If necessary, benzene may be purified by distillation or otherwise.

Isooctane (2,2,4-trimethylpentane). Use 100 milliliters for the test. If necessary, isooctane may be purified by passage through a column of activated silica gel, distillation or otherwise.

Hexane, spectrograde (Burdick and Jackson Laboratories, Inc., Muskegon, Mich., or equivalent). Use 100 milliliters for the test. If necessary, hexane may be purified by distillation or otherwise.

1,2-Dichloroethane, spectrograde (Matheson, Coleman and Bell, East Rutherford, N.J., or equivalent). Use 100 milliliters for the test. If necessary, 1,2-dichloroethane may be purified by distillation or otherwise.

ELUTING MIXTURES

1. *10 percent 1,2-dichloroethane in hexane.* Prepare by mixing the purified solvents in the volume ratio of 1 part of 1,2-dichloroethane to 9 parts of hexane.

2. *40 percent benzene in hexane.* Prepare by mixing the purified solvents in the volume ratio of 4 parts of benzene to 6 parts of hexane.

n-Hexadecane, 99 percent olefin-free. Determine the absorbance compared to isooctane as reference. The absorbance per centimeter path length shall not exceed 0.00 in the range of 280–400 nanometers. If necessary, n-hexadecane may be purified by percolation through activated silica gel, distillation or otherwise.

Silica gel, 28–200 mesh (Grade 12, Davison Chemical Co., Baltimore, MD, or equivalent). Activate as follows: Slurry 900 grams of silica gel reagent with 2 liters of purified water in a 3-liter beaker. Cool the mixture and pour into a 60 x 900 chromatographic column with coarse fritted disc. Drain the water, wash with an additional 6 liters of purified water and wash with 3,600 milliliters of purified methyl alcohol at a relatively slow rate. Drain all of the solvents and transfer the silica gel to an aluminum foil-lined drying dish. Place foil over the top of the dish. Activate in a vacuum oven at low vacuum (approximately 750 millimeters Mercury or 27 inches of Mercury below atmospheric pressure) at 173° to 177° C for at

[11] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

[12] Available from: American Type Culture Collection, 12301 Parklawn Drive, Rockville, MD 20852.

[13] Copies may be obtained from: Director, Division of Food and Color Additives, Bureau of Foods, 200 C St. SW., Washington, D.C. 20204.

least 30 hours. Cool under vacuum and store

the hexane solvent reaches the top of the

exceed 2.0 percent by weight: *Provided,*

§ 173.275 Hydrogenated sperm oil.

Subpart D—Specific Usage Additives

purpose, and the amount of steam in contact with food does not exceed that

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least 20 hours. Cool under vacuum and store in an amber bottle.

Sodium sulfate, anhydrous, A.C.S. reagent grade. This reagent should be washed with purified isooctane. Check the purity of this reagent as described in § 172.886 of this chapter.

Water, purified. All water used must meet the specifications of the following test:

Extract 600 milliliters of water with 50 milliliters of purified isooctane. Add 1 milliliter of purified *n*-hexadecane to the isooctane extract and evaporate the resulting solution to 1 milliliter. The absorbance of this residue shall not exceed 0.02 per centimeter path length between 300–400 nanometers and 0.03 per centimeter path length between 280–299 nanometers. If necessary, water may be purified by distillation, extraction with purified organic solvents, treatment with an absorbent (e.g., activated carbon) followed by filtration of the absorbent or otherwise.

PROCEDURE

Separate portions of 200 milliliters of purified water are taken through the procedure for use as control blanks. Each citric acid sample is processed as follows: Weigh 200 grams of anhydrous citric acid into a 500 milliliter flask and dissolve in 200 milliliters of pure water. Heat the solution to 60° C and transfer to a 500 milliliter separatory funnel. Rinse the flask with 50 milliliters of isooctane and add the isooctane to the separatory funnel. Gently shake the mixture 90 times (caution: vigorous shaking will cause emulsions) with periodic release of the pressure caused by shaking.

Allow the phases to separate for at least 5 minutes. Draw off the lower aqueous layer into a second 500-milliliter separatory funnel and repeat the extraction with a second aliquot of 50 milliliters of isooctane. After separation of the layers, draw off and discard the water layer. Combine both isooctane extracts in the funnel containing the first extract. Rinse the funnel which contained the second extract with 10 milliliters of isooctane and add this portion to the combined isooctane extract.

A chromatographic column containing 5.5 grams of silica gel and 3 grams of anhydrous sodium sulfate is prepared for each citric acid sample as follows: Fit 18 x 300 column with a small glass wool plug. Rinse the inside of the column with 10 milliliters of purified isooctane. Drain the isooctane from the column. Pour 5.5 grams of activated silica gel into the column. Tap the column approximately 20 times on a semisoft, clean surface to settle the silica gel. Carefully pour 3 grams of anhydrous sodium sulfate onto the top of the silica gel in the column.

Carefully drain the isooctane extract of the citric acid solution into the column in a series of additions while the isooctane is draining from the column at an elution rate of approximately 2 milliliters per minute. Rinse the separatory funnel with 10 milliliters of isooctane after the last portion of the extract has been applied to the column and add this rinse to the column. After all of the extract has been applied to the column and the solvent layer reaches the top of the sulfate bed, rinse the column with 25 milliliters of isooctane followed by 10 milliliters of a 10-percent dichloroethane in hexane solution. For each rinse solution, drain the column until the solvent layer reaches the top of the sodium sulfate bed. Discard the rinse solvents. Place a 250-milliliter round bottom flask containing 0.5 milliliter of purified *n*-hexadecane under the column. Elute the polynuclear aromatic hydrocarbons from the column with 30 milliliters of 40-percent benzene in hexane solution. Drain the eluate until the 40-percent benzene in the hexane solvent reaches the top of the sodium sulfate bed.

Evaporate the 40-percent benzene in hexane eluate on the rotary vacuum evaporator at 45° C until only the *n*-hexadecane residue of 0.5 milliliter remains. Treat the *n*-hexadecane residue twice with the following wash step: Add 6 milliliters of purified isooctane and remove the solvents by vacuum evaporation at 45° C to constant volume, i.e., 0.5 milliliter. Cool the *n*-hexadecane residue and transfer the solution to an 0.5-milliliter microcuvette. Determine the absorbance of this solution compared to purified *n*-hexadecane as reference. Correct the absorbance values for any absorbance derived from the control reagent blank. If the corrected absorbance does not exceed the limits prescribed, the samples meet the ultraviolet absorbance specifications.

The reagent blank is prepared by using 200 milliliters of purified water in place of the citric acid solution and carrying the water sample through the procedure. The typical control reagent blank should not exceed 0.03 absorbance per centimeter path length between 280 and 299 nanometers, 0.02 absorbance per centimeter path length between 300 and 359 nanometers, and 0.01 absorbance per centimeter path length between 360 and 400 nanometers.

Subpart C—Solvents, Lubricants, Release Agents and Related Substances

§ 173.210 Acetone.

A tolerance of 30 parts per million is established for acetone in spice oleoresins when present therein as a residue from the extraction of spice.

§ 173.220 1,3-Butylene glycol.

1,3-Butylene glycol (1,3-butanediol) may be safely used in food in accordance with the following prescribed conditions:

(a) The substance meets the following specifications:

(1) 1,3-Butylene glycol content: Not less than 99 percent.

(2) Specific gravity at 20/20° C: 1.004 to 1.006.

(3) Distillation range: 200°–215° C.

(b) It is used in the minimum amount required to perform its intended effect.

(c) It is used as a solvent for natural and synthetic flavoring substances except where standards of identity issued under section 401 of the act preclude such use.

§ 173.230 Ethylene dichloride.

A tolerance of 30 parts per million is established for ethylene dichloride in spice oleoresins when present therein as a residue from the extraction of spice; *Provided, however,* That if residues of other chlorinated solvents are also present the total of all residues of such solvents shall not exceed 30 parts per million.

§ 173.240 Isopropyl alcohol.

Isopropyl alcohol may be present in the following foods under the conditions specified:

(a) In spice oleoresins as a residue from the extraction of spice, at a level not to exceed 50 parts per million.

(b) In lemon oil as a residue in production of the oil, at a level not to exceed 6 parts per million.

(c) In hops extract as a residue from the extraction of hops at a level not to exceed 2.0 percent by weight: *Provided,* That,

(1) The hops extract is added to the wort before or during cooking in the manufacture of beer.

(2) The label of the hops extract specifies the presence of the isopropyl alcohol and provides for the use of the hops extract only as prescribed by paragraph (c)(1) of this section.

§ 173.250 Methyl alcohol residues.

Methyl alcohol may be present in the following foods under the conditions specified:

(a) In spice oleoresins as a residue from the extraction of spice, at a level not to exceed 50 parts per million.

(b) In hops extract as a residue from the extraction of hops, at a level not to exceed 2.2 percent by weight; *Provided,* That:

(1) The hops extract is added to the wort before or during cooking in the manufacture of beer.

(2) The label of the hops extract specifies the presence of methyl alcohol and provides for the use of the hops extract only as prescribed by paragraph (b)(1) of this section.

§ 173.255 Methylene chloride.

Methylene chloride may be present in food under the following conditions:

(a) In spice oleoresins as a residue from the extraction of spice, at a level not to exceed 30 parts per million; *Provided,* That, if residues of other chlorinated solvents are also present, the total of all residues of such solvents shall not exceed 30 parts per million.

(b) In hops extract as a residue from the extraction of hops, at a level not to exceed 2.2 percent, *Provided,* That:

(1) The hops extract is added to the wort before or during cooking in the manufacture of beer.

(2) The label of the hops extract identifies the presence of the methylene chloride and provides for the use of the hops extract only as prescribed by paragraph (b)(1) of this section.

(c) In coffee as a residue from its use as a solvent in the extraction of caffeine from green coffee beans, at a level not to exceed 10 parts per million (0.001 percent) in decaffeinated roasted coffee and in decaffeinated soluble coffee extract (instant coffee).

§ 173.270 Hexane.

Hexane may be present in the following foods under the conditions specified:

(a) In spice oleoresins as a residue from the extraction of spice, at a level not to exceed 25 parts per million.

(b) In hops extract as a residue from the extraction of hops, at a level not to exceed 2.2 percent by weight; *Provided,* That:

(1) The hops extract is added to the wort before or during cooking in the manufacture of beer.

(2) The label of the hops extract specifies the presence of the hexane and provides for the use of the hops extract only as prescribed by paragraph (b)(1) of this section.

§ 173.275 Hydrogenated sperm oil.

The food additive hydrogenated sperm oil may be safely used in accordance with the following prescribed conditions:

(a) The sperm oil is derived from rendering the fatty tissue of the sperm whale or is prepared by synthesis of fatty acids and fatty alcohols derived from the sperm whale. The sperm oil obtained by rendering is refined. The oil is hydrogenated.

(b) It is used alone or as a component of a release agent or lubricant in bakery pans.

(c) The amount used does not exceed that reasonably required to accomplish the intended lubricating effect.

§ 173.280 Solvent extraction process for citric acid.

A solvent extraction process for recovery of citric acid from conventional *Aspergillus niger* fermentation liquor may be safely used to produce food-grade citric acid in accordance with the following conditions:

(a) The solvent used in the process consists of a mixture of *n*-octyl alcohol meeting the requirements of § 172.864 of this chapter, synthetic isoparaffinic petroleum hydrocarbons meeting the requirements of § 172.882 of this chapter, and tridodecyl amine.

(b) The component substances are used solely as a solvent mixture and in a manner that does not result in formation of products not present in conventionally produced citric acid.

(c) The citric acid so produced meets the specifications of the Food Chemicals Codex, 2d Ed. (1972)[11] and supplements thereto, and the polynuclear aromatic hydrocarbon specifications of § 173.165.

(d) Residues of *n*-octyl alcohol and synthetic isoparaffinic petroleum hydrocarbons are removed in accordance with good manufacturing practice. Current good manufacturing practice results in residues not exceeding 16 parts per million (ppm) *n*-octyl alcohol and 0.47 ppm synthetic isoparaffinic petroleum hydrocarbons in citric acid.

(e) Tridodecyl amine may be present as a residue in citric acid at a level not to exceed 100 parts per billion.

(Secs. 201(s), 409, 710(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 348, 371(a)).)

§ 173.290 Trichloroethylene.

Tolerances are established for residues of trichloroethylene resulting from its use as a solvent in the manufacture of foods as follows:

Decaffeinated ground coffee.	25 parts per million.
Decaffeinated soluble (instant) coffee extract.	10 parts per million.
Spice oleoresins	30 parts per million (provided that if residues of other chlorinated solvents are also present, the total of all residues of such solvents in spice oleoresins shall not exceed 30 parts per million).

Subpart D—Specific Usage Additives

§ 173.310 Boiler water additives.

Boiler water additives may be safely used in the preparation of steam that will contact food, under the following conditions:

(a) The amount of additive is not in excess of that required for its functional purpose, and the amount of steam in contact with food does not exceed that required to produce the intended effect in or on the food.

(b) The compounds are prepared from substances identified in paragraphs (c) and (d) of this section, and are subject to the limitations, if any, prescribed:

(c) List of substances:

	Limitations
Acrylamide-sodium acrylate resin	Contains not more than 0.05 percent by weight of acrylamide monomer.
Ammonium alginate	
Cobalt sulfate (as catalyst)	
Lignosulfonic acid	
Monobutyl ethers of polyethylene-polypropylene glycol produced by random condensation of a 1:1 mixture by weight of ethylene oxide and propylene oxide with butanol.	Minimum mol. wt. 1,500.
Polyethylene glycol	As defined in § 172.820 of this chapter.
Polyoxypropylene glycol	Do.
Potassium carbonate	
Potassium tripolyphosphate	
Sodium acetate	
Sodium alginate	
Sodium aluminate	
Sodium carbonate	
Sodium carboxymethylcellulose	Contains not less than 95 percent sodium carboxymethylcellulose on a dry-weight basis, with maximum substitution of 0.9 carboxymethyl groups per anhydroglucose unit, and with a minimum viscosity of 15 centipoises for 2 percent by weight aqueous solution at 25° C; such determinations to be made by methods prescribed in Food Chemicals Codex (Second Edition)[11] monograph for sodium carboxymethyl-cellulose.
Sodium glucoheptonate	Less than 1 part per million cyanide in the sodium glucoheptonate.
Sodium hexametaphosphate	
Sodium humate	
Sodium hydroxide	
Sodium lignosulfonate	
Sodium metasilicate	
Sodium metabisulfite	
Sodium nitrate	
Sodium phosphate (mono-, di-, tri-)	
Sodium polyacrylate	
Sodium polymethacrylate	
Sodium silicate	
Sodium sulfate	
Sodium sulfite (neutral or alkaline)	
Sodium tripolyphosphate	
Tannin (including quebracho extract)	
Tetrasodium EDTA	
Tetrasodium pyrophosphate	

(d) Substances used alone or in combination with substances in paragraph (c) of this section:

	Limitations
Cyclohexylamine	Not to exceed 10 parts per million in steam, and excluding use of such steam in contact with milk and milk products.
Diethylaminoethanol	Not to exceed 15 parts per million in steam, and excluding use of such steam in contact with milk and milk products.
Hydrazine	Zero in steam.
Morpholine	Not to exceed 10 parts per million in steam, and excluding use of such steam in contact with milk and milk products.
Octadecylamine	Not to exceed 3 parts per million in steam, and excluding use of such steam in contact with milk and milk products.
Trisodium nitrilotriacetate	Not to exceed 5 parts per million in boiler feedwater; not to be used where steam will be in contact with milk and milk products.

[11] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

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(e) To assure safe use of the additive, in addition to the other information required by the act, the label or labeling shall bear:

(1) The common or chemical name or names of the additive or additives.

(2) Adequate directions for use to assure compliance with all the provisions of this section.

§ 173.315 Chemicals used in washing or to assist in the lye peeling of fruits and vegetables.

Chemicals may be safely used to wash or to assist in the lye peeling of fruits and vegetables in accordance with the following conditions:

(a) The chemicals consist of one or more of the following:

(1) Substances generally recognized as safe in food or covered by prior sanctions for use in washing fruits and vegetables.

(2) Substances identified in this subparagraph and subject to such limitations as are provided:

Substances	Limitations
A mixture of alkylene oxide adducts of alkyl alcohols and phosphate esters of alkylene oxide adducts of alkyl alcohols consisting of: α-alkyl (C_{12}-C_{15})-*omega*-hydroxy-poly (oxyethylene) (7.5–8.5 moles)/poly (oxypropylene) block copolymer having an average molecular weight of 810; α-alkyl (C_{12}-C_{15})-*omega*-hydroxy-poly (oxyethylene) (3.3–3.7 moles) polymer having an average molecular weight of 380, and subsequently esterified with 1.25 moles phosphoric anhydride; and α-alkyl (C_{12}-C_{15})-*omega*-hydroxypoly (oxyethylene) (11.9–12.9 moles)/poly (oxypropylene) copolymer, having an average molecular weight of 810, and subsequently esterified with 1.25 moles phosphoric anhydride.	May be used at a level not to exceed 0.2 percent in lye-peeling solution to assist in the lye peeling of fruits and vegetables.
Aliphatic acid mixture consisting of valeric, caproic, enanthic, caprylic, and pelargonic acids.	May be used at a level not to exceed 1 percent in lye-peeling solution to assist in the lye peeling of fruits and vegetables.
Polyacrylamide	Not to exceed 10 p.p.m. in wash water. Contains not more than 0.2 percent acrylamide monomer.
Potassium bromide	Not to exceed 0.2 percent in wash water. May be used in washing or to assist in the lye peeling of fruits and vegetables.
Sodium *n*-alkylbenzene-sulfonate (alkyl group predominantly C_{18} and C_{12} and not less than 95 percent C_{10} to C_{14}).	Do.
Sodium dodecylbenzene-sulfonate (alkyl group predominantly C_{12} and not less than 95% C_{10} to C_{14}).	Do.
Sodium 2 ethyl-hexyl sulfate	
Sodium hypochlorite	
Sodium mono- and di-methyl naphthalene sulfonates (mol. wt. 245–260).	Not to exceed 0.2 percent in wash water. May be used in the washing or to assist in the lye peeling of fruits and vegetables.

(b) The chemicals are used in amounts not in excess of the minimum required to accomplish their intended effect.

(c) The use of the chemicals is followed by rinsing with potable water to remove, to the extent possible, residues of the chemicals.

(d) To assure safe use of the additive:

(1) The label and labeling of the additive container shall bear, in addition to the other information required by the act, the name of the additive or a statement of its composition.

(2) The label or labeling of the additive container shall bear adequate use directions to assure use in compliance with all provisions of this section.

§ 173.320 Chemical for controlling microorganisms in cane-sugar and beet-sugar mills.

The food additives disodium cyanodithioimidocarbonate, disodium ethylenebisdithiocarbamate, ethylenediamine, potassium *N*-methyldithiocarbamate, and sodium dimethyldithiocarbamate may be safely used in accordance with the following conditions:

(a) They are used in the control of microorganisms in cane-sugar and/or beet-sugar mills as specified in paragraph (b) of this section.

(b) They are applied to the sugar mill grinding system in one of the combinations listed in paragraph (b) (1), (2), or (3) of this section. Quantities of the individual additives in parts per million are expressed in terms of the weight of raw cane or raw beets.

(1) Combination for cane-sugar mills:

	Parts per million
Disodium cyanodithioimidocarbonate	2.5
Ethylenediamine	1.0
Potassium *N*-methyldithiocarbamate	3.5

(2) Combination for cane-sugar mills:

	Parts per million
Disodium ethylenebisdithiocarbamate	3.0
Sodium dimethyldithiocarbamate	3.0

(3) Combinations for cane-sugar mills and beet-sugar mills:

	Parts per million
(i) Disodium ethylenebisdithiocarbamate	3.0
Ethylenediamine	2.0
Sodium dimethyldithiocarbamate	3.0
(ii) Disodium cyanodithioimidocarbonate	2.9
Potassium *N*-methyldithiocarbamate	4.1

(c) To assure safe use of the additives, their label and labeling shall conform to that registered with the Environmental Protection Agency.

§ 173.340 Defoaming agents.

Defoaming agents may be safely used in processing foods, in accordance with the following conditions:

(a) They consist of one or more of the following:

(1) Substances generally recognized by qualified experts as safe in food or covered by prior sanctions for the use prescribed by this section.

(2) Substances listed in this paragraph (a)(2) of this section, subject to any limitations imposed:

Substances	Limitations
Dimethylpolysiloxane (substantially free from hydrolysable chloride and alkoxy groups; no more than 18 percent loss in weight after heating 4 hours at 200° C; viscosity 300–600 centistokes at 25° C; refractive index 1.400–1.404 at 25° C).	10 parts per million in food, or at such level in a concentrated food that when prepared as directed on the label the food in its ready-for-consumption state will have not more than 10 parts per million except as follows: Zero in milk; 110 parts per million in dry gelatin dessert mixes labeled for use whereby no more than 16 parts per million is present in the ready-to-serve dessert; 250 parts per million in salt labeled for cooking purposes, whereby no more than 10 parts per million is present in the cooked food.
Formaldehyde	As a preservative in defoaming agents containing dimethylpolysiloxane, in an amount not exceeding 1.0 percent of the dimethylpolysiloxane content.
Polyacrylic acid, sodium salt	As a stabilizer and thickener in defoaming agents containing dimethylpolysiloxane in an amount reasonably required to accomplish the intended effect.
Polyethylene glycol	As defined in § 172.820 of this chapter.
Polyoxyethylene 40 monostearate	As defined in U.S.P. XVI.
Polysorbate 60	As defined in § 172.836 of this chapter.
Polysorbate 65	As defined in § 172.836 of this chapter.
Propylene glycol alginate	As defined in § 172.858 of this chapter.
Silicon dioxide	As defined in § 172.480 of this chapter.
Sorbitan monostearate	As defined in § 172.842 of this chapter.
White mineral oil: Conforming with § 172.878 of this chapter.	As a component of defoaming agents for use in wash water for sliced potatoes at a level not to exceed 0.008 percent of the wash water.

(3) Substances listed in this paragraph (a)(3), provided they are components of defoaming agents limited to use in processing beet sugar and yeast, and subject to any limitations imposed:

Substances	Limitations
Aluminum stearate	As defined in § 172.863 of this chapter.
Butyl stearate	
BHA	As an antioxidant, not to exceed 0.1 percent by weight of defoamer.
BHT	As an antioxidant, not to exceed 0.1 percent by weight of defoamer.
Calcium stearate	As defined in § 172.863 of this chapter.
Fatty acids	As defined in § 172.860 of this chapter.
Formaldehyde	As a preservative.
Hydroxylated lecithin	As defined in § 172.814 of this chapter.
Isopropyl alcohol	As defined in § 172.863 of this chapter.
Magnesium stearate	
Mineral oil: Conforming with § 172.878 of this chapter.	Not more than 150 p.p.m. in yeast, measured as hydrocarbons.
Oderless light petroleum hydrocarbons: Conforming with § 172.884 of this chapter.	
Petrolatum: Conforming with § 172.880 of this chapter.	
Petroleum wax: Conforming with § 172.886 of this chapter.	
Petroleum wax, synthetic	
Synthetic isoparaffinic petroleum hydrocarbons: Conforming with § 172.882 of this chapter.	
Oleic acid derived from tall oil fatty acids	Complying with § 172.862 of this chapter.
Oxystearin	As defined in § 172.818 of this chapter.
Polyoxyethylene (600) dioleate	
Polyoxyethylene (600) monoricinoleate	
Polypropylene glycol	Molecular weight range, 1,200–2,500.
Polysorbate 80	As defined in § 172.840 of this chapter.
Potassium stearate	As defined in § 172.863 of this chapter.
Propylene glycol mono- and diesters of fats and fatty acids.	As defined in § 172.856 of this chapter.
Soybean oil fatty acids, hydroxylated	
Tallow, hydrogenated, oxidized or sulfated	
Tallow alcohol, hydrogenated	

(4) The substance listed in this paragraph (a)(4), provided it is a component of defoaming agents limited to use in processing beet sugar only, and subject to the limitations imposed:

Substance	*Limitations*
n-Butoxypolyoxyethylene polyoxypropylene glycol.	Molecular weight range, 3,900–4,100 (hydroxyl determination).

(b) They are added in an amount not in excess of that reasonably required to inhibit foaming.

§ 173.345 Chloropentafluoroethane.

The food additive chloropentafluoroethane may be safely used in food in accordance with the following prescribed conditions:

(a) The food additive has a purity of not less than 99.97 percent, and contains not more than 200 parts per million saturated fluoro compounds and 10 parts per million unsaturated fluoro compounds as impurities.

(b) The additive is used or intended for use alone or with one or more of the following substances: Carbon dioxide, nitrous oxide, propane, and octafluorocyclobutane complying with § 173.360, as a propellant and aerating agent for foamed or sprayed food products except for those standardized foods that do not provide for such use.

(c) To assure safe use of the additive:

(1) The label of the food additive container shall bear, in addition to the other information required by the act, the following:

(i) The name of the additive, chloropentafluoroethane, with or without the parenthetical name "Food Propellant 115".

(ii) The percentage of the additive present in the case of a mixture.

(iii) The designation "food grade".

(2) The label or labeling of the food additive container shall bear adequate directions for use.

§ 173.350 Combustion product gas.

The food additive combustion product gas may be safely used in the processing and packaging of the foods designated in paragraph (c) of this section for the purpose of removing and displacing oxygen in accordance with the following prescribed conditions:

(a) The food additive is manufactured by the controlled combustion in air of butane, propane, or natural gas. The combustion equipment shall be provided with an absorption-type filter capable of removing possible toxic impurities, through which all gas used in the treatment of food shall pass; and with suitable controls to insure that any combustion products failing to meet the specifications provided in this section will be prevented from reaching the food being treated.

(b) The food additive meets the following specifications:

(1) Carbon monoxide content not to exceed 4.5 percent by volume.

(2) The ultraviolet absorbance in isooctane solution in the range 255 millimicrons to 310 millimicrons not to exceed one-third of the standard reference absorbance when tested as described in paragraph (e) of this section.

(c) It is used or intended for use to displace or remove oxygen in the processing, storage, or packaging of beverage products and other food, except fresh meats.

(d) To assure safe use of the additive in addition to the other information required by the act, the label or labeling of the combustion device shall bear adequate directions for use to provide a combustion product gas that complies with the limitations prescribed in paragraph (b) of this section, including instructions to assure proper filtration.

(e) The food additive is tested for compliance with paragraph (b)(2) by the following empirical method:

Spectrophotometric measurements. All measurements are made in an ultraviolet spectrophotometer in optical cells of 5 centimeters in length, and in the range of 255 millimicrons to 310 millimicrons, under the same instrumental conditions. The standard reference absorbance is the absorbance at 275 millimicrons of a standard reference solution of naphthalene (National Bureau of Standards Material No. 577 or equivalent in purity) containing a concentration of 1.4 milligrams per liter in purified isooctane, measured against isooctane of the same spectral purity in 5-centimeter cells. (This absorbance will be approximately 0.30.)

Solvent. The solvent used is pure grade isooctane having an ultraviolet absorbance not to exceed 0.05 measured against distilled water as a reference. Upon passage of purified inert gas through some isooctane under the identical conditions of the test, a lowering of the absorbance value has been observed. The absorbance of isooctane to be used in this procedure shall not be more than 0.02 lower in the range 255 millimicrons to 310 millimicrons, inclusive, than that of the untreated solvent as measured in a 5-centimeter cell. If necessary to obtain the prescribed purities, the isooctane may be passed through activated silica gel.

Sec.

Substances — Limitations

Abietic acid

Apparatus. To assure reproducible results, the additive is passed into the isooctane solution through a gas-absorption train consisting of the following components and necessary connections:

1. A gas flow meter with a range up to 30 liters per hour provided with a constant differential relay or other device to maintain a constant flow rate independent of the input pressure.

2. An absorption apparatus consisting of an inlet gas dispersion tube inserted to the bottom of a covered cylindrical vessel with a suitable outlet on the vessel for effluent gas. The dimensions and arrangement of tube and vessel are such that the inlet tube introduces the gas at a point not above 5¼ inches below the surface of the solvent through a sintered glass outlet. The dimensions of the vessel are such, and both inlet and vessel are so designed, that the gas can be bubbled through 60 milliliters of isooctane solvent at a rate up to 30 liters per hour without mechanical loss of solvent. The level corresponding to 60 milliliters should be marked on the vessel.

3. A cooling bath containing crushed ice and water to permit immersion of the absorption vessel at least to the solvent level mark.

Caution. The various parts of the absorption train must be connected by gas-tight tubing and joints composed of materials which will neither remove components from nor add components to the gas stream. The gas source is connected in series to the flow-rate device, the flow meter, and the absorption apparatus in that order. Ventilation should be provided for the effluent gases which may contain carbon monoxide.

Sampling procedure. Immerse the gas-absorption apparatus containing 60 milliliters of isooctane in the coolant bath so that the solvent is completely immersed. Cool for at least 15 minutes and then pass 120 liters of the test gas through the absorption train at a rate of 30 liters per hour or less. Maintain the coolant bath at 0° C throughout. Remove the absorption vessel from the bath, disconnect, and warm to room temperature. Add isooctane to bring the contents of the absorption vessel to 60 milliliters, and mix. Determine the absorbance of the solution in the 5-centimeter cell in the range 255 millimicrons to 310 millimicrons, inclusive, compared to isooctane. The absorbance of the solution of combustion product gas shall not exceed that of the isooctane solvent at any wavelength in the specified range by more than one-third of the standard reference absorbance.

§ 173.355 Dichlorofluoromethane.

The food additive dichlorodifluoromethane may be safely used in food in accordance with the following prescribed conditions:

(a) The additive has a purity of not less than 99.97 percent.

(b) It is used or intended for use, in accordance with good manufacturing practice, as a direct-contact freezing agent for foods.

(c) To assure safe use of the additive:

(1) The label of its container shall bear, in addition to the other information required by the act, the following:

(i) The name of the additive, dichlorodifluoromethane, with or without the parenthetical name "Food Freezant 12".

(ii) The designation "food grade".

(2) The label or labeling of the food additive container shall bear adequate directions for use.

§ 173.360 Octafluorocyclobutane.

The food additive octafluorocyclobutane may be safely used as a propellant and aerating agent in foamed or sprayed food products in accordance with the following conditions:

(a) The food additive meets the following specifications:

99.99 percent octafluorocyclobutane.

Less than 0.1 part per million fluoroolefins, calculated as perfluoroisobutylene.

(b) The additive is used or intended for use alone or with one or more of the following substances: Carbon dioxide, nitrous oxide, and propane, as a propellant and aerating agent for foamed or sprayed food products, except for those standardized foods that do not provide for such use.

(c) To assure safe use of the additive:

(1) The label of the food additive container shall bear, in addition to the other information required by the act, the following:

(i) The name of the additive, octafluorocyclobutane.

(ii) The percentage of the additive present in the case of a mixture.

(iii) The designation "food grade".

(2) The label or labeling of the food additive container shall bear adequate directions for use.

§ 173.385 Sodium methyl sulfate.

Sodium methyl sulfate may be present in pectin in accordance with the following conditions.

(a) It is present as the result of methylation of pectin by sulfuric acid and methyl alcohol and subsequent treatment with sodium bicarbonate.

(b) It does not exceed 0.1 percent by weight of the pectin.

PART 174—INDIRECT FOOD ADDITIVES: GENERAL

Sec.
174.5 General provisions applicable to indirect food additives.

AUTHORITY: Sec. 409, 72 Stat. 1785-1786 as amended (21 U.S.C. 348, 371).

§ 174.5 General provisions applicable to indirect food additives.

(a) Regulations prescribing conditions under which food additive substances may be safely used predicate usage under conditions of good manufacturing practice. For the purpose of this part and Parts 175, 176, and 177 of this chapter, good manufacturing practice shall be defined to include the following restrictions:

(1) The quantity of any food additive substance that may be added to food as a result of use in articles that contact food shall not exceed, where no limits are specified, that which results from use of the substance in an amount not more than reasonably required to accomplish the intended physical or technical effect in the food-contact article; shall not exceed any prescribed limitations; and shall not be intended to accomplish any physical or technical effect in the food itself, except as such may be permitted by regulations in Parts 170 through 189 of this chapter.

(2) Any substance used as a component of articles that contact food shall be of a purity suitable for its intended use.

(b) The existence in the Subchapter B of a regulation prescribing safe conditions for the use of a substance as an article or component of articles that contact food shall not be construed to relieve such use of the substance or article from compliance with any other provision of the Federal Food, Drug, and Cosmetic Act. For example, if a regulated food-packaging material were found on appropriate test to impart odor or taste to a specific food product such as to render it unfit within the meaning of section 402(a)(3) of the act, the regulation would not be construed to relieve such use from compliance with section 402(a)(3).

(c) The existence in this Subchapter B of a regulation prescribing safe conditions for the use of a substance as an article or component of articles that contact food shall not be construed as implying that such substance may be safely used as a direct additive in food.

(d) Substances that under conditions of good manufacturing practice may be safely used as components of articles that contact food include the following, subject to any prescribed limitations:

(1) Substances generally recognized as safe in or on food.

(2) Substances generally recognized as safe for their intended use in food packaging.

(3) Substances used in accordance with a prior sanction or approval.

(4) Substances permitted for use by regulations in this part and Parts 175, 176, 177, 178 and § 179.45 of this chapter.

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

Subpart A—[Reserved]

Subpart B—Substances for Use Only as Components of Adhesives

Sec.
175.105 Adhesives.
175.125 Pressure-sensitive adhesives.

Subpart C—Substances for Use as Components of Coatings

175.210 Acrylate ester copolymer coatings.
175.230 Hot-melt strippable food coatings.
175.250 Paraffin (synthetic).
175.260 Partial phosphoric acid esters of polyester resins.
175.270 Poly(vinyl fluoride) resins.
175.300 Resinous and polymeric coatings.
175.320 Resinous and polymeric coatings for polyolefin films.
175.350 Vinyl acetate/crotonic acid copolymer.
175.360 Vinylidene chloride copolymer coatings for nylon film.
175.365 Vinylidene chloride copolymer coatings for polycarbonate film.
175.380 Xylene-formaldehyde resins condensed with 4,4'-isopropylidenediphenol-epichlorohydrin epoxy resins.
175.390 Zinc-silicon dioxide matrix coatings.

AUTHORITY: Secs. 409, 701, 52 Stat. 1055-1056 as amended, 72 Stat. 1785-1788 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—[Reserved]

Subpart B—Substances for Use Only as Components of Adhesives

§ 175.105 Adhesives.

(a) Adhesives may be safely used as components of articles intended for use in packaging, transporting, or holding food in accordance with the following prescribed conditions:

(1) The adhesive is prepared from one or more of the optional substances named in paragraph (c) of this section, subject to any prescribed limitations.

(2) The adhesive is either separated from the food by a functional barrier or used subject to the following additional limitations:

(i) *In dry foods*. The quantity of adhesive that contacts packaged dry food shall not exceed the limits of good manufacturing practice.

(ii) *In fatty and aqueous foods*. (*a*) The quantity of adhesive that contacts packaged fatty and aqueous foods shall not exceed the trace amount at seams and at the edge exposure between packaging laminates that may occur within the limits of good manufacturing practice.

(*b*) Under normal conditions of use the packaging seams or laminates will remain firmly bonded without visible separation.

(b) To assure safe usage of adhesives, the label of the finished adhesive container shall bear the statement "food-packaging adhesive".

(c) Subject to any limitation prescribed in this section and in any other regulation promulgated under section 409 of the act which prescribes safe conditions of use for substances that may be employed as constituents of adhesives, the optional substances used in the formulation of adhesives may include the following:

(1) Substances generally recognized as safe for use in food or food packaging.

(2) Substances permitted for use in adhesives by prior sanction or approval and employed under the specific conditions of use prescribed by such sanction or approval.

(3) Flavoring substances permitted for use in food by regulations in this part, provided that such flavoring substances are volatilized from the adhesives during the packaging fabrication process.

(4) Color additives approved for use in food.

(5) Substances permitted for use in adhesives by other regulations in this subchapter and substances named in this subparagraph: *Provided, however*, That any substance named in this subparagraph and covered by a specific regulation in this subchapter, must meet any specifications in such regulation.

Substances	Limitations
Abietic acid	
Acetone	
Acetone-urea-formaldehyde resin	
N-Acetyl ethanolamine	
Acetyl tributyl citrate	
Acetyl triethyl citrate	
Albumin, blood	
4-[2-[2-(2-alkoxy (C_{12}–C_{15}) ethoxy) ethoxyl] ethyl] disodium sulfosuccinate.	
1-Alkyl (C_6–C_{18}) amino-3-amino-propane monoacetate	
Alkylated (C_4 and/or C_8) phenols	
Alkyl (C_7–C_{12}) benzene	
Alkyl (C_{16}–C_{18}) dimethylbenzyl ammonium chloride	
n-Alkyl(C_{12}, C_{14}, C_{16}, or C_{18}) dimethyl (ethylbenzyl) ammonium cyclohexylsulfamate.	For use as preservative only.
Alkyl ketenedimers as described in § 176.120 of this chapter.	
Alkyl (C_7–C_{12}) naphthalene	
3-amino-propane diol	For use only in the preparation of polyurethane resins.
Aluminum	
Aluminum acetate	
Aluminum di(2-ethylhexoate)	
Aluminum potassium silicate	
N-β-Aminoethyl-*gamma*-aminopropyl trimethoxysilane	
3-(Aminomethyl)-3,5,5-trimethyl-cyclohexylamine	
Aminomethylpropanol	
Ammonium benzoate	For use as preservative only.
Ammonium bifluoride	For use only as bonding agent for aluminum foil, stabilizer or preservative. Total fluoride from all sources not to exceed 1 percent by weight of the finished adhesive.
Ammonium borate	
Ammonium citrate	
Ammonium persulfate	
Ammonium polyacrylate	
Ammonium potassium hydrogen phosphate	
Ammonium silico-fluoride	For use only as bonding agent for aluminum foil, stabilizer, or preservative. Total fluoride from all sources not to exceed 1 percent by weight of the finished adhesive.
Ammonium sulfamate	
Ammonium thiocyanate	
Ammonium thiosulfate	
Amyl acetate	
Anhydroenneaheptitol	
Animal glue as described in § 178.3120 of this chapter	
2-Anthraquinone sulfonic acid, sodium salt	For use only as polymerization-control agent.
Antimony oxide	
Asbestos	
Asphalt, paraffinic and naphthenic	
Azelaic acid	
Azo-*bis*-isobutyronitrile	
Balata rubber	
Barium acetate	
Barium peroxide	
Barium sulfate	
Bentonite	
Benzene (benzol)	
Benzothiazyldisulfide	
p-Benzoxyphenol	For use as preservative only.
Benzoyl peroxide	
Benzyl alcohol	
Benzyl benzoate	
Benzyl bromoacetate	For use as preservative only.
p-Benzyloxyphenol	For use as preservative only.
BHA (butylated hydroxyanisole)	
BHT (butylated hydroxytoluene)	
Bicyclo[2.2.1]hept-2-ene-6-methyl acrylate	
2-Biphenyl diphenyl phosphate	
1,3-Bis(2-benzothiazolylmercaptomethyl) urea	
4,4'-Bis(α,α-dimethylbenzyl)diphenylamine	
2,6-Bis (1-methylheptadecyl)-*p*-cresol	
Bis(tri-*n*-butyltin) oxide	For use as preservative only.
Bis(trichloromethyl)sulfone C.A. Registry No. 3064708	For use as a preservative only.
Borax	
Boric acid	
1,3-Butanediol	
1,4-Butanediol	
1,4-Butanediol modified with adipic acid	
Butoxy polyethylene polypropylene glycol (molecular weight 900-4,200).	
Butyl acetate	
Butyl acetyl ricinoleate	
Butyl alcohol	
Butylated, styrenated cresols identified in § 178.2010 (b) of this chapter.	
Butyl benzoate	
Butyl benzyl phthalate	
Butyldecyl phthalate	
1,3-Butylene glycoldiglycolic acid copolymer	
tert-Butyl hydroperoxide	
4,4'-Butylidenebis(6-*tert*-butyl-*m*-cresol)	
Butyl lactate	
Butyloctyl phthalate	
p-*tert*-Butylphenyl salicylate	
Butyl phthalate butyl glycolate	
p-*tert*-Butylpyrocatechol	For use only as polymerization-control agent.
Butyl ricinoleate	
Butyl rubber polymer	
Butyl stearate	
Butyl titanate, polymerized	
Butyraldehyde	
Calcium ethyl acetoacetate	
Calcium nitrate	
Calcium metasilicate	
Camphor	
Camphor fatty acid esters	
Candelilla wax	
epsilon-Caprolactam-(ethylene-ethyl acrylate) graft polymer.	
Carbon black, channel process	

14536 RULES AND REGULATIONS
Substances Limitations

RULES AND REGULATIONS 14537
Substances Limitations
Dimethyl octynediol

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Substances	Limitations
Carbon disulfide-1,1'-methylenedipiperidine reaction product.	
Carbon tetrachloride	
Carboxymethylcellulose	
Castor oil, polyoxyethylated (4-84 moles ethylene oxide)	
Cellulose acetate butyrate	
Cellulose acetate propionate	
Ceresin wax (ozocerite)	
Cetyl alcohol	
Chloracetamide	
Chloral hydrate	
Chlorinated liquid *n*-paraffins with chain lengths of C_{10}-C_{17}, containing 40-70 pegcent chlorine by weight.	
Chlorinated pyridine mixture with active ingredients consisting of 2,3,5,6-tetrachloro-4-(methylsulfonyl) pyridine, 2,3,5,6-tetrachloro-4-(methylsulfinyl) pyridine and pentachloropyridine.	For use as preservative only.
Chlorinated rubber polymer (natural rubber polymer containing approximately 67 percent chlorine).	
1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride	For use as preservative only.
Chlorobenzene	
4-Chloro-3,5-dimethylphenol (*p*-chloro-*m*-xylenol)	For use as preservative only.
4-Chloro-3-methylphenol	For use as preservative only.
Chloroform	
Chloroprene	
Chromium caseinate	
Chromium nitrate	
Chromium potassium sulfate	
Cobaltous acetate	
Coconut fatty acid amine salt of tetrachlorophenol	For use as preservative only.
Copal	
Copper 8-quinolinolate	For use as preservative only.
Coumarone-indene resin	
Cresyl diphenyl phosphate	
Cumene hydroperoxide	
Cyanoguanidine	
Cyclized rubber as identified in § 176.170(b(2) of this chapter	
Cyclohexane	
Cyclohexanol	
Cyclohexanone resin	
Cyclohexanone-formaldehyde condensate	
N-Cyclohexyl *p*-toluene sulfonamide	
Damar	
Defoaming agents as described in § 176.210 of this chapter.	
Dehydroacetic acid	
Diacetone alcohol	
Diacetyl peroxide	
N,N'-Dialkoyl-4,4'-diaminodiphenylmethane mixtures where the alkoyl groups are derived from marine fatty acids (C_{12}-C_{22}).	
2,5-Di-*tert*-amylhydroquinone	
Diamines derived from dimerized vegetable oil acids	
Diaryl-*p*-phenylenediamine, where the aryl group may be phenyl tolyl, or xylyl.	
Di(butoxyethyl) phthalate	
2,5-Di-*tert*-butylhydroquinone	
Dibutyl maleate	
2,6-Di-*tert*-butyl-4-methylphenol	For use as preservative only.
Di(C_7, C_9-alkyl)adipate	
Dibutyl phthalate	
Dibutyl sebacate	
Dibutyltin dilaurate for use only as a catalyst for polyurethane resins.	
1, 2-Dichloroethylene (mixed isomers)	
Dicumyl peroxide	
Dicyclohexyl phthalate	
Diethanolamine	
Diethanolamine condensed with animal or vegetable fatty acids.	
Diethylamine	
Diethylene glycol	
Diethylene glyco-adipic acid copolymer	
Diethylene glycol dibenzoate	
Diethylene glycol hydrogenated tallowate monoester	
Diethylene glycol laurate	
Diethylene glycol monobutyl ether	
Diethylene glycol monobutyl ether acetate	
Diethylene glycol monoethyl ether	
Diethylene glycol monoethyl ether acetate	
Diethylene glycol monomethyl ether	
Diethylene glycol monooleate	
Diethylene glycol monophenyl ether	
Diethylene glycol copolymer of adipic acid and phthalic anhydride.	
Di(2-ethylhexyl) adipate	
Di(2-ethylhexyl) hexahydrothalate	
Di(2-ethylhexy)phthalate	
Diethyl oxalate	
Diethyl phthalate	
Dihexyl phthalate	
Dihydroabietylphthalate	
Di(2-hydroxy-5-*tert*-butylphenyl) sulfide	
2,2'-Dihydroxy-5,5'-dichlorodiphenylmethane (dichlorophene).	
4,5-Dihydroxy-2-imidazolidinone	
4-(Diiodomethylsulfonyl)toluene CA Registry No.: 20018-09-01.	For use as an antifunga lpreservative only.
Diisobutyl adipate	
Diisobutyl ketone	
Diisobutylphenoxyethoxyethyl dimethyl benzyl ammonium chloride.	
Diisobutyl phthalate	
Diisodecyl adipate	
Diisodecyl phthalate	
Diisooctyl phthalate	
Diisopropylbenzene hydroperoxide	
N,N-Dimethylcyclohexylamine dibutyldithiocarbamate	
Dimethyl formamide	
Dimethyl hexynol	
2,2-Dimethyl-1,3-propanediol dibenzoate	

Substances	Limitations
Dimethyl oxtynediol	
N-(1,1-dimethyl-3-ocobutyl) acrylamide	
Dimethyl phthalate	
3,5-Dimethyl-1,3,5,2*H*-tetrahydrothiadiazine-2-thione	For use as preservative only.
Di-β-naphthyl-*p*-phenylenediamine	
4,6-Dinonyl-*o*-cresol	
Dinonylphenol	
Di-*n*-octyldecyl adipate	
Dioctyldiphenylamine	
Dioctylphthalate	
Dioctylsebacate	
Dioxane	
Dipentaerythritol pentastearate	
Dipentamethylene-thiuram-tetrasulfide	
Dipentene	
Dipentene resins	
Diphenyl-2-ethylhexyl phosphate	
Diphenyl, hydrogenated	
N,N'-Diphenyl-*p*-phenylenediamine	
Diphenyl phthalate	
1,3-Diphenyl-2-thiourea	
Dipropylene glycol	
Dipropylene glycol dibenzoate	
Dipropylene glycol monomethyl ether	
Dipropylene glycol copolymer of adipic acid and phthalic anhydride.	
Disodium cyanodithioimidocarbonate	
N,N'-Distearoylethylenediamine	
Distearyl thiodipropionate	
4,4'-Dithiodimorpholine	
n-Dodecylmercaptan	
tert-Dodecylmercaptan	
Dodecylphenoxybenzene-disulfonic acid and/or its calcium, magnesium, and sodium salts.	
Elemi gum	
Epichlorohydrin-4,4'-isopropylidenediphenol resin	
Epichlorohydrin-4,4'-*sec*-butylidenediphenol resin	
Epichlorohydrin-4,4'-isopropylidene-di-*o*-cresol resin	
Epichlorohydrin-phenolformaldehyde resin	
Erucamide (erucylamide)	
Ethanolamine	
Ethoxypropanol butyl ether	
Ethyl alcohol (ethanol)	
Ethylenediamine	
Ethylenediaminetetra-acetic acid, calcium, ferric, potassium, or sodium salts, single or mixed.	
Ethylene dichloride	
Ethylene glycol	
Ethylene glycol monobutyl ether	
Ethylene glycol monobutyl ether acetate	
Ethylene glycol monoethyl ether	
Ethylene glycol monoethyl ether acetate	
Ethylene glycol monoethyl ether ricinoleate	
Ethylene glycol monomethyl ether	
Ethylene glycol monophenyl ether	
Ethylene-maleic anhydride copolymer, ammonium or potassium salt.	
Ethylene-methacrylic acid copolymer partial salts: Ammonium, calcium, magnesium, sodium, and/or zinc.	
Ethylene-methacrylic acid-vinyl acetate copolymer partial salts: Ammonium, calcium, magnesium, sodium, and/or zinc.	
Ethylene-propylene-dicyclopentadiene copolymer rubber.	
Ethylene, propylene, 1,4-hexadiene and 2,5-norbornadiene tetrapolymer.	
Ethyl-*p*-hydroxybenzoate	For use as preservative only.
Ethyl hydroxyethylcellulose	
Ethyl lactate	
Ethyl phthalyl ethyl glycolate	
Ethyl-*p*-toluene sulfonamide	
Fats and oils derived from animal or vegetable sources, and the hydrogenated, sulfated, or sulfonated forms of such fats and oils.	
Fatty acids derived from animal or vegetable fats and oils; and salts of such acids, single or mixed, as follows:	
Aluminum	
Ammonium	
Calcium	
Magnesium	
Potassium	
Sodium	
Zinc	
Ferric chloride	
Fluosilicic acid (hydrofluosilicic acid)	For use only as bonding agent for aluminum foil, stabilizer, or preservative. Total fluoride from all sources not to exceed 1 percent by weight of the finished adhesive.
Formaldehyde	
Formaldehyde *o*- and *p*-toluene sulfonamide	
Formamide	
Fumaratochromium (III) nitrate	
Furfural	
Furfuryl alcohol	
Fumaric acid	
Glutaraldehyde	
Glycerides, di- and monoesters	
Glyceryl borate (glycol boriborate resin)	
Glyceryl ester of damar, copal, elemi, and sandarac	
Glyceryl monobutyl ricinoleate	
Glyceryl monohydroxy stearate	
Glyceryl monohydroxy tallowate	
Glyceryl polyoxypropylene triol (average molecular weight 1,000).	
Glyceryl tribenzoate	
Glycol diacetate	
Gyloxal	
Heptane	
Hexamethylenetetramine	
Hexane	
Hexanetriols	

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Substances	Limitations
Hexylene glycol	

Substances	Limitations
Nitrocellulose	

Substances	*Limitations*
Hexylene glycol	
Hydroabietyl alcohol	
Hydrofluoric acid	For use only as bonding agent for aluminum foil, stabilizer, or preservative. Total fluoride from all sources not to exceed 1 percent by weight of the finished adhesive.
Hydrogen peroxide	
α-Hydro-*omega*-hydroxypoly-(oxytetramethylene)	For use only in the preparation of polyurethane resins.
Hydroquinone	
Hydroquinone monobenzyl ether	
Hydroquinone monoethyl ether	
2(2′-Hydroxy-3′,5′ di-*tert*-amylphenyl) benzotriazole	
Hydroxyacetic acid	
7-Hydroxycoumarin	
Hydroxyethylcellulose	
1-(2-Hydroxyethyl)-1-(4-chlorobutyl)-2 alkyl (C_6-C_{17}) imidazolinium chloride.	
Hydroxyethyldiethylene-triamine	
β-Hydroxyethyl pyridinium 2-mercaptobenzothiazol	
Hydroxyethyl starch	
Hydroxyethylurea	
Hydroxylamine sulfate	
Hydroxypropyl methylcellulose	
2-(Hydroxymethyl)-2-methyl-1,3-propane-diol tribenzoate.	
2-Imidazolidinone	
Iodoform	For use only as polymerization-control agent.
Isoascorbic acid	
Isobuytl alcohol (isobutanol)	
Isobutylene-isoprene copolymer	
Isophorone	
Isopropanolamine (mono-, di-, tri-)	
Isopropyl acetate	
Isopropyl alcohol (isopropanol)	
Isopropyl-*m*- and *p*-cresol (thymol derived)	
4 4′-Isopropylidenedi-phenol	
4,4′-Isopropylidenedi-phenol, polybutylated mixture	
Isopropyl peroxydicarbonate	For use as preservative only.
p-Isopropoxy diphenylamine	
4,4′-Isopropylidene-bis(*p*-phenyleneoxy)-di-2-propanol	
Itaconic acid	
Japan wax	
Kerosene	
Lauroyl peroxide	
Lauroyl sulfate salts:	
Ammonium	
Magnesium	
Potassium	
Sodium	
Lauryl alcohol	
Lauryl pyridinium 5-chloro-2-mercaptobenzothiazole	
Lignin calcium sufonate	
Lignin sodium sulfonate	
Linoleamide (linoleic acid amide)	
Magnesium fluoride	For use only as bonding agent for aluminum foil, stabilizer, or preservative. Total fluoride from all sources not to exceed 1 percent by weight of the finished adhesives.
Magnesium glycerophosphate	
Maleic acid	
Maleic anhydride-diisobutylene copolymer, ammonium or sodium salt.	
Manganese acetate	
Marine oil fatty acid soaps, hydrogenated	
Melamine	
Melamine-formaldehyde copolymer	
2-Mercaptobenzothiazole	
2-Mercaptobenzothiazole and dimethyl dithiocarbamic acid mixture, sodium salt.	For use as preservative only.
2-Mercaptobenzothiazole, sodium or zinc salt	For use as preservative only.
Methacrylate-chromic chloride complex, ethyl or methyl ester.	
p-Menthane hydroperoxide	
Methyl acetate	
Methyl acetyl ricinoleate	
Methyl alcohol (methanol)	
Methylcellulose	
Methylene chloride	
4,4′-Methylenebis(2,6-di-*tert*-butylphenol)	
2,2-Methylenebis (4-ethyl-6-*tert*-butylphenol)	
2,2-Methylenebis (4-methyl-6-nonylphenol)	
2,2-Methylenebis (4-methyl-6-*tert*-butylphenol)	
Methyl ethyl ketone	
Methyl ethyl ketone-formaldehyde condensate	
2-Methylhexane	
1-Methyl-2-hydroxy-4-isopropyl benzene	
Methyl isobutyl ketone	
Methyl oleate	
Methyl oleate-palmitate mixture	
Methyl phthalyl ethyl glycolate	
Methyl ricinoleate	
Methyl salicylate	
α-Methylstyrene-vinyltoluene copolymer resins (molar ratio 1 α methylstyrene to 3 vinyltoluene).	
Methyl tallowate	
Mineral oil	
Monochloracetic acid	
Monooctyldiphenylamine	
Montan wax	
Morpholine	
Myristic acid-chromic chloride complex	
Myristyl alcohol	
Naphtha	
Naphthalene, monosulfonated	
Naphthalene sulfonic acid-formaldehyde condensate, sodium salt.	
α-Naphthylamine	
α,α′, α″, α‴-Neopentane tetrayltetrakis [*omega*-hydroxypoly (oxypropylene) (1-2 moles)], average molecular weight 400.	
Nitric acid	
o-Nitrobiphenyl	

Substances	*Limitations*
Nitrocellulose	
2-Nitropropane	
α-(*p*-Nonylphenyl)-*omega*-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content averages 6-9 moles or 50 moles.	
α-(*p*-Nonylphenyl)-*omega*-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of *p*-nonylphenol (nonyl group is a propylene trimer isomer) with an average of 1-40 moles of ethylene oxide.	
α-(*p*-Nonylphenyl)-*omega*-hydroxypoly (oxyethylene) sulfate, ammonium salt; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content averages 9 or 30 moles.	
endo-cis-5-Norbornene-2,3-dicarboxylic anhydride	
α-*cis*-9-Octadecenyl-*omega*-hydroxypoly (oxyethylene); the octadecenyl group is derived from oleyl alcohol and the poly (oxyethylene) content averages 20 moles.	
Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate	
Octyl alcohol	
Octyldecyl phthalate	
Octylphenol	
Octylphenoxyethanols	
Octylphenoxypolyethoxy-polypropoxyethanol (13 moles of ethylene oxide and propylene oxide).	
Odorless light petroleum hydrocarbons	
Oleamide (oleic acid amide)	
Oleic acid, sulfated	
Oxazoline	
n-Oxydiethylene-benzothiazole	
Palmitamide (palmitic acid amide)	
Paraffin (C_{12}-C_{20}) sulfonate	
Paraformaldehyde	
Pentachlorophenol	
Pentaerythritol ester of maleic anhydride	
Pentaerythritol monostearate	For use as preservative only.
Pentaerythritol tetrabenzoate [CAS Registry No. 4196-86-5].	
Pentaerythritol tetrastearate	
2,4-Pentanedione	
Perchloroethylene	
Petrolatum	
Petroleum hydrocarbon resin (cyclopentadiene type), hydrogenated.	
Petroleum hydrocarbon resin (produced by the catalytic polymerization and subsequent hydrogenation of styrene, vinyltoluene, and indene types from distillates of cracked petroleum stocks).	
Petroleum hydrocarbon resins (produced by the homo- and copolymerization of dienes and olefins of the aliphatic, alicyclic, and monobenzenoid arylalkene types from distillates of cracked petroleum stocks).	
Phenol	For use as a preservative only.
Phenol-coumarone-indene resin	
Phenolic resins as described in § 175.300 (b)(3)(vi)	
Phenothiazine	For use only as polymerization-control agent.
Phenyl-β-naphthylamine (free of β-naphthylamine)	
o-Phenylphenol	For use as preservative only.
o-Phthalic acid	
Pimaric acid	
Pine oil	
Piperazine	
Piperidinium pentamethylenedithiocarbamate	
Polyamides derived from reaction of one or more of the following acids with one or more of the following amines:	
Acids:	
Azelaic acid	
Dimerized vegetable oil acids	
Amines:	
Bis(hexamethylene) triamine and higher homologues	
Diethylenetriamine	
Diphenylamine	
Ethylenediamine	
Hexamethylenediamine	
Tetraethylenepentamine	
Triethylenetetramine	
Polybutene, hydrogenated	
Polybutylene glycol (molecular weight 1,000)	
Poly [2(diethylamino) ethyl methacrylate] phosphate	
Polyester of adipic acid, phthalic acid, and propylene glycol, terminated with butyl alcohol.	
Polyester of diglycolic acid and propylene glycol containing ethylene glycol monobutyl ether as a chain stopper.	
Polyester resins (including alkyd type), as the basic polymer, formed as esters when one or more of the following acids are made to react with one or more of the following alcohols:	
Poly(oxycaproyl) diols and triols (minimum molecular weight 500).	
Acids:	
Azelaic acid	
Polybasic and monobasic acids identified in § 175.300(b)(3)(vii) (*a*) and (*b*).	
Tetrahydrophthalic acid.	
Alcohols:	
1,4-Cyclohexanedimethanol.	
2,2-Dimethyl-1,3-propanediol.	
Polyhydric and monohydric alcohols identified in § 175.300(b)(3)(vii) (*c*) and (*d*).	
Polyethyleneadipate modified with ethanolamine with the molar ratio of the amine to the adipic acid less than 0.1 to 1.	For use only in the preparation of polyurethan resins.
Polyethylene glycol (molecular weight 200-6,000)	
Polyethylene, oxidized	
Polyethylene resins, carboxyl modified, identified in § 177.1600 of this chapter.	
Polyethylenimine	
Polyethylenimine-epicholrohydrin resins	
Polyisoprene	

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Substances *Limitations*

Substances *Limitations*

Polysorbate 60

Substances	Limitations
Polymeric esters of polyhydric alcohols and polycarboxylic acids prepared from glycerin and phthalic anhydride and modified with benzoic acid, castor oil, coconut oil, linseed oil, rosin, soybean oil, styrene, and vinyl toluene.	
Polymers: Homopolymers and copolymers of the following monomers:	
Acrylamide	
Acrylic acid	
Acrylonitrile	
Butadiene	
Butene	
N-tert-Butylacrylamide	
Butyl acrylate	
1,3-Butylene glycol dimethacrylate	
Butyl methacrylate	
Crotonic acid	
Decyl acrylate	
Diallyl fumarate	
Diallyl maleate	
Diallyl phthalate	
Dibutyl fumarate	
Dibutyl itaconate	
Dibutyl maleate	
Di(2-ethylhexyl) maleate	
Dimethyl-α-methylstyrene	
Dioctyl fumarate	
Dioctyl maleate	
Divinylbenzene	
Ethyl acrylate	
Ethylene	
Ethylene cyanohydrin	
2-Ethylhexyl acrylate	
Ethyl methacrylate	
Fumaric acid and/or its methyl, ethyl propyl, butyl, amyl hexyl, heptyl and octyl esters.	
Glycidyl methacrylate	
2-Hydroxyethyl acrylate	
2-Hydroxyethyl methacrylate	
2-Hydroxypropyl methacrylate	
Isobutyl acrylate	
Isobutylene	
Itaconic acid	
Maleic acid, diester with 2-hydroxyethanesulfonic acid, sodium salt.	
Maleic anhydride	
Methacrylic acid	
Methyl acrylate	
N,N'-Methylenebisacrylamide	
Methyl methacrylate	
N-Methylolacrylamide	
Methyl styrene	
Monoethyl maleate	
Monomethyl maleate	
Mono (2-ethylhexyl) maleate	
5-Norbornene-2 3-dicarboxylic acid, mono-n-butyl ester	
Propyl acrylate	
Propylene	
Styrene	
Triallyl cyanurate	
Vinyl acetate	
Vinyl alcohol (from alcoholysis or hydrolysis of vinyl acetate units).	
Vinyl butyrate	
Vinyl chloride	
Vinyl crotonate	
Vinyl ethyl ether	
Vinyl hexoate	
Vinylidene chloride	
Vinyl methyl ether	
Vinyl pelargonate	
Vinyl propionate	
Vinyl pyrrolidone	
Vinyl stearate	
Polyoxyalkylated-phenolic resin (phenolic resin obtained from formaldehyde plus butyl- and/or amylphenols, oxyalkylated with ethylene oxide and/or propylene oxide).	
Polyoxyethylated (40 moles) tallow alcohol sulfate, sodium salt.	
Polyoxyethylene (molecular weight 200) dibenzoate	
Polyoxyethylene (molecular weight 200–600) esters of fatty acids derived from animal or vegetable fats and oils (including tall oil).	
Polyoxyethylene (15 moles) ester of rosin	
Polyoxyethylene (4–5 moles) ether of phenol	
Polyoxyethylene (25 moles)—glycerol adduct	
Polyoxyethylene (40 moles) stearate	
Polyoxyethylene (5–15 moles) tridecyl alcohol	
Polyoxypropylene (3 moles) tridecyl alcohol sulfate	
Polyoxypropylene (20 moles) butyl ether	
Polyoxypropylene (40 moles) butyl ether	
Polyoxypropylene (20 moles) oleate butyl ether	
Polyoxypropylene-polyoxyethylene condensate (minimum molecular weight 1,900).	
Polypropylene glycol (minimum molecular weight 150)	
Polypropylene glycol (3–4 moles) triether with 2-ethyl-2-(hydroxymethyl)-1,3-propane-diol, average molecular weight 730.	
Polypropylene, noncrystalline	
Polysiloxanes:	
Diethyl polysiloxane	
Dihydrogen polysiloxane	
Dimethyl polysiloxane	
Diphenyl polysiloxane	
Ethyl hydrogen polysiloxane	
Ethyl phenyl polysiloxane	
Methyl ethyl polysiloxane	
Methyl hydrogen polysiloxane	
Methyl phenyl polysiloxane	
Phenyl hydrogen polysiloxane	

Substances	Limitations
Polysorbate 60	
Polysorbate 80	
Polysorbate 20 (polyoxyethylene (20) sorbitan monolaurate).	
Polysorbate 40 (polyoxyethylene (20) sorbitan monopalmitate).	
Poly[styrene-co-disodium maleate-co-α-(p-nonyl phenyl)-omega-(p-vinyl-benzyl)poly(oxyethylene)] terpolymer.	
Polytetrafluoroethylene	
Polyurethane resins produced by reacting diisocyanates with one or more of the polyols or polyesters named in this subparagraph or produced by reacting the chloroformate derivatives of one or more of the polyols or polyesters named in this subparagraph with one or more of the polyamines named in this subparagraph.	
Polyvinyl alcohol modified so as to contain not more than 3 weight percent of comonomer units derived from 1-alkenes having 12 to 20 carbon atoms.	
Polyvinyl butyral	
Polyvinyl formal	
Potassium ferricyanide	For use only as polymerization-control agent.
Potassium *N*-methyldithiocarbamate	For use as preservative only.
Potassium pentachlorophenate	
Potassium permanganate	
Potassium persulfate	
Potassium phosphates (mono-, di-, tribasic)	
Potassium tripolyphosphate	
6, 6', 6''-1, 2, 3-Propanetriyltris [omega-(2, 3-epoxypropoxy) poly (oxypropylene) (24 moles)].	
β-Propiolactone	
Propyl alcohol (propanol)	
Propylene carbonate	
Propylene glycol and p-p'-isopropylidenediphenol diether.	
Propylene glycol esters of coconut fatty acids	
Propylene glycol monolaurate	
Propylene glycol monomethyl ether	
Propylene glycol monostearate	
6, 6', 6''-[Propylidynetris (methylene)] tris [omega-hydroxypoly (oxypropylene) (1.5 moles minimum)], minimum molecular weight 400.	
Quaternary ammonium chloride (hexadecyl, octadecyl derivative).	For use as preservative only.
Rosin (wood, gum, and tall oil rosin), rosin dimers, decarboxylated rosin (including rosin oil, disproportionated rosin), and these substances as modified by one or more of the following reactants:	
Alkyl (C_1–C_8) phenolformaldehyde	
Ammonia	
Ammonium caseinate-p-Cyclohexylphenolformaldehyde	
Diethylene glycol	
Dipentaerythritol	
Ethylene glycol	
Formaldehyde	
Fumaric acid	
Glycerin	
Hydrogen	
Isophthalic acid	
4,4'-Isopropylidenediphenol-epichlorohydrin (epoxy)	
4,4'-Isopropylidenediphenol-formaldehyde	
Maleic anhydride	
Methyl alcohol	
Pentaerythritol	
Phthalic anhydride	
Polyethylene glycol	
Phenol-formaldehyde	
Phenyl o-cresol-formaldehyde	
p-Phenylphenol-formaldehyde	
Sulfuric acid	
Triethylene glycol	
Xylenol-formaldehyde	
Rosin salts (salts of wood, gum, and tall oil rosin, and the dimers thereof, decarboxylated rosin disproportionated rosin, hydrogenated rosin):	
Aluminum	
Ammonium	
Calcium	
Magnesium	
Potassium	
Sodium	
Zinc	
Rosin, gasoline-insoluble fraction	
Rubber hydrochloride polymer	
Rubber latex, natural	
Salicylic acid	For use as preservative only.
Sandarac	
Sebacic acid	
Shellac	
Silicon dioxide as defined in § 172.480(a) of this chapter	
Silicon dioxide as defined in Sec. 121.1958(a)	
Sodium alkyl (C_7–C_{18} aliphatic) benezenesulfonate	
Sodium aluminum pyrophosphate	
Sodium aluminum sulfate	
Sodium bisulfate	
Sodium calcium silicate	
Sodium caprylyl polyphosphate	
Sodium carboxymethylcellulose	
Sodium chlorate	
Sodium chlorite	
Sodium chromate	
Sodium decylsulfate	
Sodium dehydroacetate	For use as preservative only.
Sodium di-(2-ethylhexoate)	
Sodium di-(2-ethylhexyl) pyrophosphate	
Sodium dihexylsulfosuccinate	
Sodium dissobutylphenoxydiethoxyethyl sulfonate	
Sodium diisobutylphenoxymonoethoxyethyl sulfonate	

Substances	Limitations
Sodium dodecylbenzenesulfonate	
Sodium ethylenediaminetetraacetate	
Sodium ferrocyanide	
Sodium gluconate	
Sodium heptylparaben	For use as preservative only.
Sodium hexametaphosphate	
Sodium hydrosulfite	
Sodium hydroxide	
Sodium hypochlorite	
Sodium lauryl sulfate	
Sodium metabisulfite	
Sodium methylparaben	For use as preservative only.
Sodium nitrate	
Sodium nitrite	
Sodium oxalate	
Sodium pentachlorophenate	For use as preservative only.
Sodium perborate	
Sodium persulfate	
Sodium phosphates (mono-, di-, tribasic)	
Sodium propylparaben	For use as preservative only.
Sodium silicate	
Sodium stearyl fumarate	
Sodium sulfate	
Sodium sulfite	
Sodium tetradecyl sulfate	
Sodium thiosulfate	
Sodium tripolyphosphate	
Sodium xylenesulfonate	
Sorbic acid	
Sorbitan monostearate	
Starch, acid-modified	
Starch, alkaline-modified	
Starch, bleached	
Starch, hydroxyethyl ether	
Starch, oxidized	
Starch, pregelatinized	
Starch, succinate ester	
Starch, succinate ester, sodium salt	
Starch, sulfate ester, sodium salt	
Starch, sulfobutyl ether, sodium salt	
Starch, xanthate, sodium salt	
Stearic acid	
Stearyl alcohol	
Styrene-acrylonitrile copolymer	
Styrene-butadiene copolymer	
Styrene-butadiene-divinylbenzene copolymer	
Styrene-butadiene-methyl methacrylate copolymer	
Styrene-butadiene-vinyl pyridine copolymer	
Styrene-methyl methacrylate copolymer	
Sucrose	
Sucrose acetate isobutyrate	
Sucrose benzoate	
Sucrose octaacetate	
Sucrose octanitrate	
Sulfamic acid	
Sulfur dioxide	
Sulfuric acid	
Talc	
Tall oil	
Tall oil, hydrogenated	
Tall oil, hydrogenated, methyl ester	
Tall oil, methyl ester	
Tall oil, oxidized	
Tall oil, oxidized, methyl ester	
Tall oil, polymerized	
Tall oil, polymerized, methyl ester	
Tetrahydrofurfuryl alcohol	
Tetrakis [methylene 3-(3', 5'-di-tert-butyl-4'-hydroxyphenyl) propionate] methane	
Thiodipropionic acid	
Thiodipropionic acid, dilauryl ester	
Thiodipropionic acid, distearyl ester	
Titanium dioxide	
Toluene	
Toluene-2, 4-diisocyanate	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol adduct	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, acetylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, butylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, acetylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, butylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, ethylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, methylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, acetylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, butylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, ethylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, methylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, acetylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, butylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, ethylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, methylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, acetylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, butylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, ethylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, methylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, propylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, propylated, acetylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, propylated, butylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, propylated, ethylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, propylated, methylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, propylated, propylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, propylated, propylated, acetylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, propylated, propylated, butylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, propylated, propylated, ethylated	
Toluene-2, 4-diisocyanate-trimethylolpropane-polyoxypropylene glycol-polyoxyethylene glycol adduct, propylated, propylated, propylated, propylated, propylated, propylated, methylated	

Substances	Limitations
Butadiene-acrylonitrile copolymer.	
Butadiene-acrylonitrile-styrene copolymer.	
Butadiene-styrene copolymer.	
Butadiene-styrene-methyl methacrylate copolymer.	
Butadiene-styrene-vinyl pyridine copolymer.	
Butadiene-vinyl pyridine copolymer.	
Butyl rubber.	
Chloroprene polymer.	
Chlorosulfonated polyethylene.	
Ethylene-propylene copolymer.	
Ethylene-propylene-diene terpolymer.	
Ethylene-propylene-styrene copolymer.	
Ethylene-vinyl acetate copolymer.	
Isobutylene-isoprene copolymer.	
Isoprene polymer.	
Methacrylate-butadiene-styrene copolymer.	
Methyl methacrylate-butadiene-styrene copolymer.	
Methyl methacrylate-butadiene-styrene-vinyl pyridine copolymer.	
Methyl methacrylate-butadiene-vinyl pyridine copolymer.	
Methyl methacrylate-butyl acrylate copolymer.	
Methyl methacrylate-ethyl acrylate copolymer.	
Methyl methacrylate-ethyl acrylate-styrene copolymer.	
Methyl methacrylate-isoprene copolymer.	
Methyl methacrylate-styrene copolymer.	
Methyl methacrylate-vinyl pyridine copolymer.	
Styrene-vinyl pyridine copolymer.	
Vinyl pyridine polymer.	

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Substances	Limitations
Sodium diisopropyl- and triisopropylnaphthalenesulfonate.	
Sodium dimethyldithiocarbamate.	
Sodium dioctylsulfosuccinate.	
Sodium *n*-dodecylpolyethoxy (50 moles) sulfate.	
Sodium ethylene ether of nonylphenol sulfate.	
Sodium 2-ethylhexyl sulfate.	
Sodium fluoride.	For use only as bonding agent for aluminum foil, stabilizer, or preservative. Total fluorida for all sources not to exceed 1 percent by weight of the finished adhesive.
Sodium formaldehyde sulfoxylate.	
Sodium formate.	
Sodium heptadecylsulfate.	
Sodium hypochlorite.	
Sodium isododecylphenoxypolyethoxy (40 moles) sulfate.	
Sodium *N*-lauroyl sarcosinate.	
Sodium metaborate.	
Sodium *α*-naphthalene sulfonate.	
Sodium nitrate.	
Sodium nitrite.	
Sodium oleoyl isopropanolamide sulfosuccinate.	
Sodium pentachlorophenate.	For use as preservative only.
Sodium perborate.	
Sodium persulfate.	For use as preservative only.
Sodium *o*-phenylphenate.	
Sodium polyacrylate.	
Sodium polymethacrylate.	
Sodium polystyrene sulfonate.	
Sodium salicylate.	For use as preservative only.
Sodium salt of 1-hydroxy 2(1H)-pyridine thione.	For use as preservative only.
Sodium tetradecylsulfate.	
Sodium thiocyanate.	
Sodium bis-tridecylsulfosuccinate.	
Sodium xylene sulfonate.	
Sorbitan monooleate.	
Sorbitan monostearate.	
Soybean oil, epoxidized.	
Spermaceti wax.	
Sperm oil wax.	For use only as a catalyst for polyurethane resins.
Stannous 2-ethylhexanoate.	
Stannous stearate.	
Starch hydrolysates.	
Starch or starch modified by one or more of the treatments described in §§ 172.892 and 178.3520 of this chapter.	
Starch, reacted with a urea-formaldehyde resin.	
Starch, reacted with formaldehyde.	
Stearamide (stearic acid amide).	
Stearic acid.	
Stearic acid-chromic chloride complex.	
Stearyl-cetyl alcohol, technical grade, approximately 65 percent-80 percent stearyl and 20 percent-35 percent cetyl.	
Strontium salicylate.	
Styrenated phenol.	
Styrene block polymers with 1,3-butadiene.	
Styrene-maleic anhydride copolymer, ammonium or potassium salt.	
Styrene-maleic anhydride copolymer (partially methylated) sodium salt.	
Styrene-methacrylic acid copolymer, potassium salt.	
Sucrose acetate isobutyrate.	
Sucrose benzoate.	
Sucrose octaacetate.	
α-Sulfo-omega-(dodecyloxy)poly (oxyethylene), ammonium salt.	
Sulfonated octadecylene (sodium form).	
Sulfur.	
Tall oil.	
Tall oil fatty acids, linoleic and oleic.	
Tall oil fatty acid methyl ester.	
Tall oil, methyl ester.	
Tall oil pitch.	
Tall oil soaps.	
Tallow alcohol (hydrogenated).	
Tallow amine, secondary (hexadecyl, octadecyl), of hard tallow.	
Tallow, blown (oxidized).	
Tallow, propylene glycol ester.	
Terpene resins (*α*-and *β*-pinene) homopolymers, copolymers, and condensates with phenol, formaldehyde, coumarone, and/or indene.	
Terphenyl.	
Terphenyl, hydrogenated.	
Terpineol.	
Tetraethylene pentamine.	
Tetraethylthiuram disulfide.	
Tetrahydrofuran.	
Tetrahydrofurfuryl alcohol.	
Tetra-isopropyl titanate.	
α-[*p*-(1,1,3,3-Tetramethylbutyl) phenyl]-*omega*-hydroxypoly-(oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl) phenol with an average of 1-40 moles of ethylane oxide.	
Tetrakis[methylene (3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate)] methane.	
α-[*p*-(1,1,3,3-Tetramethylbutyl) phenyl]-*omega*-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and their sodium, potassium, and ammonium salts having a poly(oxyethylene) content averaging 6-9 or 40 moles.	
Tetramethyl decanediol.	
Tetramethyl decynediol.	
Tetramethyl decynediol plus 1-30 moles of ethylene oxide.	
Tetramethylthiuram monosulfide.	
Tetrasodium *N*-(1,2-dicarboxyethyl)-*N*-octadecylsulfosuccinnamate.	
4,4'-Thiobis-6-*tert*-butyl-*m*-cresol.	
Thiodiethylene-bis(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate).	
2,2'-(2,5-Thiophenediyl) bis[5-*tert*-butylbenzoxazole].	
Thiram.	

Substances	Limitations
Thymol.	For use as preservative only.
Titanium dioxide.	
Titanium dioxide-barium sulfate.	
Titanium dioxide-calcium sulfate.	
Titanium dioxide-magnesium silicate.	
Toluene.	
Toluene 2,4-diisocyanate.	
Toluene 2,6-diisocyanate.	
o- and *p*-Toluene ethyl sulfonamide.	
o- and *p*-Toluene sulfonamide.	
p-Toluene sulfonic acid.	
p- (*p*'-Toluene-sulfonylamide)-diphenylamide.	
Triazine-formaldehyde resins as described in § 175.300(b)(3)(xiii).	
Tributoxyethyl phosphate.	
Tributyl citrate.	For use as preservative only.
Tri-*tert*-butyl-*p*-phenyl phenol.	
Tributyl phosphate.	For use as preservative only.
Tributyltin chloride complex of ethylene oxide condensate of dehydrodroabietylamine.	For use as preservative only.
Tri-*n*-butyltin acetate.	For use as preservative only.
Tri-*n*-butyltin neodecanoate.	
1,1,1-Trichloroethane.	
1,1,2-Trichloroethane.	
Trichloroethylene.	
Tri-*β*-chloroethyl phosphate.	
Tridecyl alcohol.	
Triethanolamine.	
3-(Triethoxysilyl) propylamine.	
Triethylene glycol.	
Triethylene glycol dibenzoate.	
Triethylene glycol di(2-ethylhexoate).	
Triethylene glycol polyester of benzoic acid and phthalic acid.	
Triethylhexyl phosphate.	
Triethylphosphate.	
2,4,5-Trihydroxy butyrophenone.	
Triisopropanolamine.	
Trimethylol propane.	
2,2,4-Trimethylpentanediol-1,3-diisobutyrate.	
Trimeric aromatic amine resin from diphenylamine and acetone of molecular weight approximately 500.	As identified in § 177.2600(c)(4)(iii) of this chapter. For use only as a stabilizer.
Tri(nonylphenyl) phosphite-formaldehyde resins.	
Triphenylphosphate.	
Tripropylene glycol monomethyl ether.	
1,3,5-Tris (3,5-di-*tert*-butyl-4-hydroxy-benzyl)-*s*-triazine-2,4,6 (1H,3H,5H)-trione.	
Tris (*p*-tertiary butyl phenyl) phosphate.	
Tris(2-methyl-4-hydroxy-5-*tert*-butyl-phenyl)butane.	
Turpentine.	
Urea-formaldehyde resins as described in § 175.300(b)(3)(xii).	
Vegetable oil, sulfonated or sulfated, potassium salt.	
Vinyl acetate-maleic anhydride copolymer, sodium salt.	
Waxes, petroleum.	
Wax, petroleum, chlorinated (40% to 70% chlorine).	
Waxes, synthetic paraffin (Fischer-Tropsch process).	
2-(2-Xenolyl)-1,2-epoxy-propane.	
Xylene.	
Xylene (or toluene) alkylated with dicyclopentadiene.	
Zein.	
Zinc acetate.	
Zinc ammonium chloride.	
Zinc dibenzyl dithiocarbamate.	
Zinc dibutyldithiocarbamate.	
Zinc diethyldithiocarbamate.	
Zinc di(2-ethylhexoate).	
Zinc formaldehyde sulfoxylate.	
Zinc naphthenate and dehydroabietylamine mixture.	
Zinc nitrate.	
Zinc orthophosphate.	
Zinc resinate.	
Zinc sulfide.	
Zineb (zinc ethylenebis-dithiocarbamate).	
Ziram (zinc dimethyldithiocarbamate).	

§ 175.125 Pressure-sensitive adhesives.

Pressure-sensitive adhesives may be safely used as the food-contact surface of labels and/or tapes applied to food, in accordance with the following prescribed conditions:

(a) Pressure-sensitive adhesives prepared from one or a mixture of two or more of the substances listed in this paragraph may be used as the food-contact surface of labels and/or tapes applied to poultry, dry food, and processed, frozen, dried, or partially dehydrated fruits or vegetables.

(1) Substances generally recognized as safe in food.

(2) Substances used in accordance with a prior sanction or approval.

(3) Color additives listed for use in or on food in Part 8 of this chapter.

(4) Substances identified in § 172.615 of this chapter other than substances used in accordance with paragraph (a)(2) of this section.

(5) Polyethylene, oxidized; complying with the identity prescribed in § 177.1620(a) of this chapter.

(b) Pressure-sensitive adhesives prepared from one or a mixture of two or more of the substances listed in this paragraph may be used as the food-contact surface of labels and/or tapes applied to raw fruit and raw vegetables.

(1) Substances listed in paragraph (a) (1), (2), (3), and (5) of this section, and those substances prescribed by paragraph (a)(4) of this section that are not identified in paragraph (b)(2) of this section.

(2) Substances identified in this subparagraph and subject to the limitations provided:

List of substances:	Limitations
Aluminum stearate.	
Ammonium lauryl sulfate.	
Borax.	Not to exceed the amount required as a preservative in emulsion defoamer.
Disodium hydrogen phosphate.	Do.
Formaldehyde.	
Glyceryl monostearate.	
Methyl cellulose.	
Mineral oil.	
Paraffin wax.	
Potassium hydroxide.	
Potassium persulfate.	
Tallow.	
Tetrasodium pyrophosphate.	
Titanium dioxide.	

BHA.
BHT.
Butadiene-acrylonitrile copolymer.
Butadiene-acrylonitrile-styrene copolymer.
Butadiene-styrene copolymer.
Butyl rubber.
Chlorinated natural rubber.
Isobutylene-styrene copolymer.
Petrolatum.
Polybutene-1.
Polybutene, hydrogenated; complying with the identity prescribed under § 178.3740(b) of this chapter.
Polyisobutylene.
cis-1,4-Polyisoprene.
Polystyrene.
Propyl gallate.
Rapeseed oil, vulcanized.
Rosins and rosin derivatives as provided in § 178.3870 of this chapter.
Rubber hydrochloride.
Rubber (natural latex solids or crepe, smoked or unsmoked).
Terpene resins (*α*- and *β*-pinene), homopolymers, copolymers, and condensates with phenol, formaldehyde, coumarone, and/or indene.
Tetrasodium ethylenediaminetetraacetate.
Tri(mixed mono- and dinonylphenyl) phosphite (which may contain not more than 1 percent by weight of triisopropanolamine).

(c) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

Subpart C—Substances for Use as Components of Coatings

§ 175.210 Acrylate ester copolymer coating.

Acrylate ester copolymer coating may safely be used as a food-contact surface of articles intended for packaging and holding food, including heating of prepared food, subject to the provisions of this section:

(a) The acrylate ester copolymer is a fully polymerized copolymer of ethyl acrylate, methyl methacrylate, and methacrylic acid applied in emulsion form to molded virgin fiber and heat-cured to an insoluble resin.

(b) Optional substances used in the preparation of the polymer and in the preparation and application of the emulsion may include substances named in this paragraph, in an amount not to exceed that required to accomplish the desired technical effect and subject to any limitation prescribed: *Provided, however*, That any substance named in this paragraph and covered by a specific regulation in Subchapter B of this chapter must meet any specifications in such regulation.

(c) The coating in the form in which

(c) The provisions of this section are contact articles, a separate test sample

(d) Rosin salts:

(Alkoxy C_{12}-C_{16})-2,3-epoxypropane, in which the alkyl groups are even numbered

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(c) The coating in the form in which it contacts food meets the following tests:

(1) An appropriate sample when exposed to distilled water at 212° F for 30 minutes shall yield total chloroform-soluble extractables not to exceed 0.5 milligram per square inch.

(2) An appropriate sample when exposed to *n*-heptane at 120° F for 30 minutes shall yield total chloroform-soluble extractables not to exceed 0.5 milligram per square inch.

§ 175.230 Hot-melt strippable food coatings.

Hot-melt strippable food coatings may be safely applied to food, subject to the provisions of this section.

(a) The coatings are applied to and used as removable coatings for food.

(b) The coatings may be prepared, as mixtures, from the following substances:

(1) Substances generally recognized as safe in food.

(2) Substances identified in this subparagraph.

List of substances:	*Limitations*
Acetylated monoglycerides	Complying with 172.828 of this chapter.
Cellulose acetate butyrate	----------
Cellulose acetate propionate.	----------
Mineral oil, white	For use only as a component of hot-melt strippable food coatings applied to frozen meats and complying with § 172.878 of this chapter.

§ 175.250 Paraffin (synthetic).

Synthetic paraffin may be safely used as an impregnant in, coating on, or component of coatings on articles used in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food in accordance with the following prescribed conditions:

(a) The additive is synthesized by the Fischer-Tropsch process from carbon monoxide and hydrogen, which are catalytically converted to a mixture of paraffin hydrocarbons. Lower molecular-weight fractions are removed by distillation. The residue is hydrogenated and further treated by percolation through activated charcoal.

(b) Synthetic paraffin shall conform to the following specifications:

(1) *Congealing point.* The substance has a congealing point of not less than 200° F nor more than 210° F as determined by A.S.T.M. D-938-49.

(2) *Oil content.* The substance has an oil content not exceeding 0.5 percent as determined by A.S.T.M. D-721-56T.

(3) *Absorptivity.* The substance has an absorptivity at 290 millimicrons in decahydronaphthalene at 190° F not exceeding 0.01 as determined by A.S.T.M. 131.

(c) The provisions of this section are not applicable to synthetic paraffin used in food-packaging adhesives complying with § 175.105.

§ 175.260 Partial phosphoric acid esters of polyester resins.

Partial phosphoric acid esters of polyester resins identified in this section and applied on aluminum may be safely used as food-contact coatings, in accordance with the following prescribed conditions:

(a) For the purpose of this section, partial phosphoric acid esters of polyester resins are prepared by the reaction of trimellitic anhydride with 2,2-dimethyl-1,3-propanediol followed by reaction of the resin thus produced with phosphoric acid anhydride to produce a resin having an acid number of 81 to 98 and a phosphorus content of 4.05 to 4.65 percent by weight.

(b) The coating is chemically bonded to the metal and cured at temperatures exceeding 450° F.

(c) The finished food-contact coating, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of its intended use, as determined from tables 1 and 2 of § 175.300(d), yields total extractives in each extracting solvent not to exceed 0.3 milligrams per square inch of food-contact surface, as determined by the methods described in § 175.300(e), and the coating yields 2,2-dimethyl-1, 3-propanediol in each extracting solvent not to exceed 0.3 micrograms per square inch of food-contact surface. In testing the finished food-contact articles, a separate test sample is to be used for each required extracting solvent.

§ 175.270 Poly(vinyl fluoride) resins.

Poly(vinyl fluoride) resins identified in this section may be safely used as components of food-contact coatings for containers having a capacity of not less than 5 gallons, subject to the provisions of this section.

(a) For the purpose of this section, poly(vinyl fluoride) resins consist of basic resins produced by the polymerization of vinyl fluoride.

(b) The poly(vinyl fluoride) basic resins have an intrinsic viscosity of not less than 0.75 deciliter per gram as determined by ASTM Method D 1243-66, modified as follows:

(1) Solvent: *N,N*-Dimethylacetamide, technical grade.

(2) Solution: Powdered resin and solvent are heated at 120° C until the resin is dissolved.

(3) Temperature: Flow times of the solvent and solution are determined at 110° C.

(4) Viscometer: Cannon-Ubbelohde size 50 semimicro dilution viscometer (or equivalent).

(5) Calculation: The calculation method used is that described in appendix A1.2.2 (ASTM Method D 1243-66) with the reduced viscosity determined for three concentration levels, not greater than 0.5 gram per deciliter, and extrapolated to zero concentration for intrinsic viscosity. The following formula is used for determining reduced viscosity:

$$\text{Reduced viscosity in terms of deciliters per gram} = \frac{t - to}{to \times c}$$

Where:
t = Solution efflux time.
to = Solvent efflux time.
c = Concentration of solution in terms of grams per deciliter.

§ 175.300 Resinous and polymeric coatings.

Resinous and polymeric coatings may be safely used as the food-contact surface of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, in accordance with the following prescribed conditions:

(a) The coating is applied as a continuous film or enamel over a metal substrate, or the coating is intended for repeated food-contact use and is applied to any suitable substrate as a continuous film or enamel that serves as a functional barrier between the food and the substrate. The coating is characterized by one or more of the following descriptions:

(1) Coatings cured by oxidation.

(2) Coatings cured by polymerization, condensation, and/or cross-linking without oxidation.

(3) Coatings prepared from prepolymerized substances.

(b) The coatings are formulated from optional substances that may include:

(1) Substances generally recognized as safe in food.

(2) Substances the use of which is permitted by regulations in this part or which are permitted by prior sanction or approval and employed under the specific conditions, if any, of the prior sanction or approval.

(3) Any substance employed in the production of resinous and polymeric coatings that is the subject of a regulation in Subchapter B of this chapter and conforms with any specification in such regulation. Substances named in this paragraph (b)(3) and further identified as required:

(i) Drying oils, including the triglycerides or fatty acids derived therefrom:

Beechnut.
Candlenut.
Castor (including dehydrated).
Chinawood (tung).
Coconut.
Corn.
Cottonseed.
Fish (refined).
Hempseed.
Linseed.
Oiticica.

Perilla.
Poppyseed.
Pumpkinseed.
Safflower.
Sesame.
Soybean.
Sunflower.
Tall oil.
Walnut.

The oils may be raw, heat-bodied, or blown. They may be refined by filtration, degumming, acid or alkali washing, bleaching, distillation, partial dehydration, partial polymerization, or solvent extraction, or modified by combination with maleic anhydride.

(ii) Reconstituted oils from triglycerides or fatty acids derived from the oils listed in paragraph (b)(3)(i) of this section to form esters with:

Butylene glycol.
Ethylene glycol.
Pentaerythritol.
Polyethylene glycol.
Polypropylene glycol.
Propylene glycol.
Sorbitol.
Trimethylol ethane.
Trimethylol propane.

(iii) Synthetic drying oils, as the basic polymer:

Butadiene and methylstyrene copolymer.
Butadiene and styrene copolymer, blown or unblown.
Maleic anhydride adduct of butadiene styrene.
Polybutadiene.

(iv) Natural fossil resins, as the basic resin:

Copal.
Damar.
Elemi.
Gilsonite.
Glycerol ester of damar, copal, elemi, and sandarac.
Sandarac.
Shellac.
Utah coal resin.

(v) Rosins and rosin derivatives, with or without modification by polymerization, isomerization, incidental decarboxylation, and/or hydrogenation, as follows:

(*a*) Rosins, refined to color grade of K or paler:

Gum rosin.
Tall oil rosin.
Wood rosin.

(*b*) Rosin esters formed by reacting rosin (paragraph (b)(3)(v)(*a*) of this section) with:

4,4'-*sec*-Butylidenediphenol-epichlorohydrin (epoxy).
Diethylene glycol.
Ethylene glycol.
Glycerol.
4,4'-Isopropylidenediphenol-epichlorohydrin (epoxy).
Methyl alcohol.
Pentaerythritol.

(*c*) Rosin esters (paragraph (b)(3)(v)(*b*) of this section) modified by reaction with:

Maleic anhydride.
o-, *m*-, and *p*-substituted phenol-formaldehydes listed in paragraph (b)(3)(vi) of this section.
Phenol-formaldehyde.

(*d*) Rosin salts:

Calcium resinate (limed rosin).
Zinc resinate.

(vi) Phenolic resins as the basic polymer formed by reaction of phenols with formaldehyde:

(*a*) Phenolic resins formed by reaction of formaldehyde with:

Alkylated (methyl, ethyl, propyl, isopropyl, butyl) phenols.
p-*tert*-Amylphenol.
4,4'-*sec*-Butylidenediphenol.
p-*tert*-Butylphenol.
o-, *m*-, and *p*-Cresol.
p-Cyclohexylphenol.
4,4'-Isopropylidenediphenol.
p-Nonylphenol.
p-Octylphenol.
3-Pentadecyl phenol mixture obtained from cashew nut shell liquid.
Phenol.
Phenyl *o*-cresol.
p-Phenylphenol.
Xylenol.

(*b*) Adjunct for phenolic resins: Aluminum butylate.

(vii) Polyester resins (including alkyd-type), as the basic polymers, formed as esters of acids listed in paragraph (b)(3)(vii)(*a*) and (*b*) of this section by reaction with alcohols in paragraph (b)(3)(vii)(*c*) and (*d*) of this section.

(*a*) Polybasic acids:

Adipic.
Dimerized fatty acids derived from oils listed in paragraph (b)(3)(i) of this section.
Diphenolic acid.
Fumaric.
Isophthalic.
Maleic.
Orthophthalic.
Sebacic.
Terephthalic.
Terpene-maleic acid adduct.
Trimellitic.

(*b*) Monobasic acids:

Benzoic acid.
tert-Butyl benzoic acid.
Fatty acids derived from oils listed in paragraph (b)(3)(i) of this section.
Rosins listed in paragraph (b)(3)(v)(*a*) of this section, for use only as reactants in oil-based or fatty acid-based alkyd resins.

(*c*) Polyhydric alcohols:

Butylene glycol.
Diethylene glycol.
2,2-Dimethyl-1,3-propanediol for use only in forming polyester resins for coatings intended for use in contact with non-alcoholic foods.
Ethylene glycol.
Glycerol.
Mannitol.
a-Methyl glucoside.
Pentaerythritol.
Propylene glycol.
Sorbitol.
Trimethylol ethane.
Trimethylol propane.

(*d*) Monohydric alcohols:

Cetyl alcohol.
Decyl alcohol.
Lauryl alcohol.
Myristyl alcohol.
Octyl alcohol.
Stearyl alcohol.

(viii) Epoxy resins, catalysts, and adjuncts:

(*a*) Epoxy resins, as the basic polymer:

(Alkoxy C_{10}-C_{14})-2,3-epoxypropane, in which the alkyl groups are even numbered and consist of a maximum of 1 percent C_{12} carbon atoms and a minimum of 48 percent C_{12} carbon atoms and a minimum of 18 percent C_{14} carbon atoms, for use only in coatings that are intended for contact with dry bulk foods at room temperature.
4,4'-*sec*-Butylidenediphenol-epichlorohydrin.
4,4'-*sec*-Butylidenediphenol- epichlorohydrin reacted with one or more of the drying oils or fatty acids listed in paragraph (b)(3)(i) of this section.
4,4'-*sec*-Betylidenediphonel - epichlorohydrin chemically treated with one or more of the following substances:
Allyl ether of mono-, di-, or trimethylol phenol.
4,4'-*sec*-Butylidenediphenol-formaldehyde.
4,4'-Isopropylidenediphenol-formaldehyde.
Melamine-formaldehyde.
Phenol-formaldehyde.
Urea-formaldehyde.
Epoxidized polybutadiene.
Glycidyl ethers formed by reacting phenol-novolak resins within epichlorohydrin.
4,4'-Isopropylidenediphenol-epichlorohydrin.
4,4'-Isopropylidenediphenol-epichlorohydrin reacted with one or more of the drying oils or fatty acids listed in paragraph (b)(3)(i) of this section.
4,4'-Isopropylidenediphonel - epichlorohydrin chemically treated with one or more of the following substances:
Allyl ether of mono-, di-, or trimethyol phenol.
4,4'-*sec*-Butylidenediphenol-formaldehyde.
4,4'-Isopropylidenediphenol-formaldehyde.
Melamine-formaldehyde.
Phenol-formaldehyde.
Urea-formaldehyde.

(*b*) Catalysts and cross-linking agents for epoxy resins:

Cyanoguanidine.
Dibutyl phthalate, for use only in coatings for containers having a capacity of 1,000 gallons or more when such containers are intended for repeated use in contact with alcoholic beverages containing up to 8 percent of alcohol by volume.
Diethylenetriamine.
Diphenylamine.
Ethylenediamine.
Isophthalyl dihydrazide for use only in coatings subject to the provisions of paragraph (c)(3) or (4) of this section.
4,4'-Methylenedianiline, for use only in coatings for containers having a capacity of 1,000 gallons or more when such containers are intended for repeated use in contact with alcoholic beverages containing up to 8 percent of alcohol by volume.
N-Oleyl-1,3-propanediamine with not more than 10 percent by weight of diethylaminoethanol.
Polyamine produced when 1 mole of the chlorohydrin diether of polyethylene glycol 400 is made to react under dehydrohalogenating conditions with 2 moles of *N*-octadecyltrimethylenediamine for use only in coatings that are subject to the provisions of paragraph (c)(3) or (4) of this section and that contact food at temperatures not to exceed room temperature.
Salicylic acid, for use only in coatings for containers having a capacity of 1,000 gallons or more when such containers are intended for repeated use in contact with alcoholic beverages containing up to 8 percent of alcohol by volume.
Stannous 2-ethylhexanoate for use only as a catalyst at a level not to exceed 1 percent by weight of the resin used in coatings that are intended for contact with food under conditions of use D, E, F, and G described in table 2 of paragraph (d) of this section.

Styrene oxide, for use only in coatings for

Polyvinylidene chloride.

(xix) Polypropylene as the basic poly-

listed in paragraph (b)(3)(xxii)(*b*) of

only on metal substrates. The methyl-phenylpolysiloxanes contain not more than

Dilauryl thiodipropionate.
Nordihydroguaiaretic acid.

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Styrene oxide, for use only in coatings for containers having a capacity of 1,000 gallons or more when such containers are intended for repeated use in contact with alcoholic beverages containing up to 8 percent of alcohol by volume.
Tetraethylenepentamine.
Tetraethylenepentamine reacted with equimolar quantities of fatty acids.
Tri(dimethylaminomethyl) phenol and its salts prepared from the fatty acid moieties of the salts listed in paragraph (b)(3)(xxii)(b) of this section, for use only in coatings subject to the provisions of paragraph (c) (3) or (4) of this section.
Triethylenetetramine.
Trimellitic anhydride for use only as a cross-linking agent at a level not to exceed 15 percent by weight of the resin intended for use only in contact with food under conditions of use D, E, F, and G described in table 2 of paragraph (d) of this section.

(c) Adjuncts for epoxy resins:

Aluminum butylate.
Polyamides from dimerized vegetable oils and the amine catalysts listed in paragraph (b)(3)(viii)(b) of this section, as the basic polymer.

(ix) Coumarone-indene resin, as the basic polymer.

(x) Petroleum hydrocarbon resin (cyclopentadiene type), as the basic polymer.

(xi) Terpene resins, as the basic polymer, from one or more of the following:

Dipentene.
α-Pinene.
β-Pinene.

(xii) Urea-formaldehyde, as the basic polymer:

Urea-formaldehyde.
Urea-formaldehyde chemically modified with methyl, ethyl, butyl, propyl, isopropyl, or isobutyl alcohol.
Urea-formaldehyde chemically modified with one or more of the amine catalysts listed in paragraph (b)(3)(xiii)(b) of this section.

(xiii) Triazine-formaldehyde resins, as the basic polymer:

Benzoguanamine-formaldehyde.
Melamine-formaldehyde.
Melamine-formaldehyde chemically modified with one or more of the following amine catalysts:
Amine catalysts listed in paragraph (b)(3)(viii)(b) of this section.
Dimethylamine-2-methyl-1-propanol.
Methylpropanolamine.
Triethanolamine.
Melamine-formaldehyde chemically modified with methyl, ethyl, propyl, isopropyl, butyl, or isobutyl alcohol.

(xiv) Modifiers (for oils and alkyds, including polyesters), as the basic polymer:

Butyl methacrylate.
Cyclopentadiene.
Methyl, ethyl, butyl, or octyl esters of acrylic acid.
Methyl methacrylate.
Styrene.
Vinyl toluene.

(xv) Vinyl resinous substance, as the basic polymers:

Polyvinyl acetate.
Polyvinyl alcohol.
Polyvinyl butyral.
Polyvinyl chloride.
Polyvinyl formal.
Polyvinylidene chloride.
Polyvinyl pyrrolidone.
Polyvinyl stearate.
Vinyl chloride-acetate-2,3-epoxypropyl methacrylate copolymers containing not more than 10 weight percent of total polymer units derived from 2,3-epoxypropyl methacrylate and not more than 0.1 weight percent of unreacted 2,3-epoxypropyl methacrylate monomer for use in coatings for containers.
Vinyl chloride-acetate, hydroxyl-modified copolymer.
Vinyl chloride-acetate, hydroxyl-modified copolymer, reacted with trimellitic anhydride.
Vinyl chloride copolymerized with acrylamide and ethylene in such a manner that the finished copolymers have a minimum weight average molecular weight of 30,000 and contain not more than 3.5 weight percent of total polymer units derived from acrylamide; the acrylamide portion may or may not be subsequently partially hydrolyzed.
Vinyl chloride copolymerized with one or more of the following substances:
Acrylonitrile.
Fumaric acid and/or its methyl, ethyl, propyl, butyl, amyl, hexyl, heptyl, or octyl esters.
Maleic acid and/or its methyl, ethyl, propyl, butyl, amyl, hexyl, heptyl, or octyl esters.
5-Norbornene-2,3-dicarboxylic acid, mono-*n*-butyl ester; for use such that the finished vinyl chloride copolymers contain not more than 4 weight percent of total polymer units derived from this comonomer.
Vinyl acetate.
Vinylidene chloride.
Vinyl chloride-vinylidene chloride-2,3-epoxypropyl methacrylate copolymers containing not more than 10 weight percent of total polymer units derived from 2,3-epoxypropyl methacrylate and not more than 0.05 weight percent of unreacted 2,3-epoxypropyl methacrylate monomer based on polymer solids for use only in coatings for containers intended for contact with foods under conditions B, C, D, E, F, G, or H described in Table 2 of paragraph (d) of this section.

(xvi) Cellulosics, as the basic polymer:

Carboxymethylcellulose.
Cellulose acetate.
Cellulose acetate-butyrate.
Cellulose acetate-propionate.
Ethylcellulose.
Ethyl hydroxyethylcellulose.
Hydroxyethylcellulose.
Hydroxypropyl methylcellulose.
Methylcellulose.
Nitrocellulose.

(xvii) Styrene polymers, as the basic polymer:

Polystyrene.
α-Methyl styrene polymer.
Styrene copolymerized with one or more of the following:
Acrylonitrile.
α-Methylstyrene.

(xviii) Polyethylene and its copolymers as the basic polymer:

Ethylene-ethyl acrylate copolymer.
Ethylene-isobutyl acrylate copolymers containing no more than 35 weight percent of total polymer units derived from isobutyl acrylate.
Ethylene-vinyl acetate copolymer.
Polyethylene.

(xix) Polypropylene as the basic polymer:

Polypropylene.
Maleic anhydride adduct of polypropylene The polypropylene used in the manufacture of the adduct complies with §177.1520(c), item 1.1; and the adduct has a maximum combined maleic anhydride content of 0.8 percent and a minimum intrinsic viscosity of 0.9, determined at 135° C on a 0.1 percent solution of the modified polypropylene in decahydronaphthalene as determined by a method available on request from the Commissioner of Food and Drugs.

(xx) Acrylics and their copolymers, as the basic polymer:

Acrylamide with ethylacrylate and/or styrene and/or methacrylic acid, subsequently reacted with formaldehyde and butanol.
Acrylic acid and the following esters thereof:
Ethyl.
Methyl.
Butyl acrylate-styrene-methacrylic acid-hydroxyethyl methacrylate copolymers containing no more than 20 weight percent of total polymer units derived from methacrylic acid and containing no more than 7 weight percent of total polymer units derived from hydroxyethyl methacrylate; for use only in coatings that are applied by electrodeposition to metal substrates.
Butyl acrylate-styrene-methacrylic acid-hydroxypropyl methacrylate copolymers containing no more than 20 weight percent of total polymer units derived from methacrylic acid and containing no more than 7 weight percent of total polymer units derived from hydroxypropyl methacrylate; for use only in coatings that are applied by electrodeposition to metal substrates and that are intended for contact, under condition of use D, E, F, or G described in table 2 of paragraph (d) of this section, with food containing no more than 8 percent of alcohol.
Ethyl acrylate-styrene-methacrylic acid copolymers for use only as modifiers for epoxy resins listed in paragraph (b)(3)(viii)(a) of this section.
Ethyl acrylate-methyl methacrylate-styrene-methacrylic acid copolymers for use only as modifiers for epoxy resins listed in paragraph (b)(3)(viii)(a) of this section.
2-Ethylhexyl acrylate-methyl methacrylate-acrylic acid copolymers for use only as modifiers for epoxy resins listed in paragraph (b)(3)(viii) of this section.
Methacrylic acid and the following esters thereof:
Butyl.
Ethyl.
Methyl.
Methacrylic acid or its ethyl and methyl esters copolymerized with one or more of the following:
Acrylic acid.
Ethyl acrylate.
Methyl acrylate.

(xxi) Elastomers, as the basic polymer:

Butadiene-acrylonitrile copolymer.
Butadiene-acrylonitrile-styrene copolymer.
Butadiene-styrene copolymer.
Butyl rubber.
Chlorinated rubber.
2-Chloro-1,3-butadiene (neoprene).
Natural rubber (natural latex or natural latex solids, smoked or unsmoked).
Polyisobutylene.
Rubber hydrochloride.
Styrene-isobutylene copolymer.

(xxii) Driers made by reaction of a metal from paragraph (b)(3)(xxii)(a) of this section with acid, to form the salt

listed in paragraph (b)(3)(xxii)(b) of this section:

(a) Metals:

Aluminum.
Calcium.
Cerium.
Cobalt.
Iron.
Lithium.
Magnesium.
Manganese.
Zinc.
Zirconium.

(b) Salts:

Caprate.
Caprylate.
Isodecanoate.
Linoleate.
Naphthenate.
Neodecanoate.
Octoate (2-ethylhexoate).
Oleate.
Palmitate.
Resinate.
Ricinoleate.
Soyate.
Stearate.
Tallate.

(xxiii) Waxes:

Paraffin, Type I.
Paraffin, Type II.
Polyethylene.
Sperm oil.
Spermaceti.

(xxiv) Plasticizers:

Acetyl tributyl citrate.
Acetyl triethyl citrate.
Butyl phthalyl butyl glycolate.
Butyl stearate.
p-tert-Butyl phenyl salicylate.
Dibutyl sebacate.
Diethyl phthalate.
Diisobutyl adipate.
Diisooctyl phthalate.
Epoxidized soybean oil (iodine number maximum 14; oxirane oxygen content 6% minimum), as the basic polymer.
Ethyl phthalyl ethyl glycolate.
2-Ethylhexyl diphenyl phosphate.
di-2-Ethylhexyl phthalate.
Glycerol.
Glyceryl monooleate.
Glyceryl triacetate.
Monoisopropyl citrate.
Propylene glycol.
Sorbitol.
Mono-, di-, and tristearyl citrate.
Triethyl citrate.
Triethylene glycol.
3(2-Xenoxyl)-1,2-epoxypropane.

(xxv) Release agents, as the basic polymer, when applicable:

N,N'-Distearoyl ethylenediamine.
Linoleic acid amide.
Oleic acid amide.
Palmitic acid amide.
Petrolatum.
Polyethylene wax.
Polyoxyethylene glycol monooleate (mol. wt. of the polyoxyethylene glycol moiety greater than 300).
Polytetrafluoroethylene.
Silicones (not less than 300 centistokes viscosity): Dimethylpolysiloxanes and/or methylphenylpolysiloxanes. The methylphenylpolysiloxanes contain not more than 2.0 percent by weight of cyclosiloxanes having up to and including 4 siloxy units.
Silicones (not less than 100 centistokes viscosity): Dimethylpolysiloxanes and/or methylphenylpolysiloxanes limited to use only on metal substrates. The methylphenylpolysiloxanes contain not more than 2.0 percent by weight of cyclosiloxanes having up to and including 4 siloxy units.

(xxvi) Pigments and colorants:

Aluminum.
Aluminum hydrate.
Aluminum and potassium silicate (mica).
Aluminum mono-, di-, tristearate.
Aluminum silicate (China clay).
Barium sulfate.
Bentonite.
Bentonite, modified with dimethyl dioctadecyl ammonium ion.
Burnt umber.
Calcium carbonate.
Calcium silicate.
Calcium sulfate.
Carbon black (channel process).
Cobalt oxide–aluminum oxide.
Diatomaceous earth.
Iron oxides.
Magnesium oxide.
Magnesium silicate (talc).
Phthalocyanine blue (C.I. pigment blue 15, C.I. No. 74160).
Raw sienna.
Silica.
Tartrazine lake (certified FD&C Yellow No. 5 only).
Titanium dioxide.
Titanium dioxide–barium sulfate.
Titanium dioxide–magnesium silicate.
Zinc carbonate.
Zinc oxide.

(xxvii) Surface lubricants:

Cottonseed oil and other edible oils.
Dibutyl sebacate.
Dioctyl sebacate.
Glyceryl monostearate.
Lanolin.
Mineral oil, white.
Palm oil.
Paraffin, Type I.
Paraffin, Type II.
Petrolatum.
Stearic acid.

(xxviii) Silicones and their curing catalysts:

(a) Silicones as the basic polymer:

Siloxane resins originating from methyl hydrogen polysiloxane, dimethyl polysiloxane, and methylphenyl polysiloxane.

(b) Curing (cross-linking) catalysts for silicones (the maximum amount of tin catalyst used shall be that required to effect optimum cure but shall not exceed 1 part of tin per 100 parts of siloxane resins solids):

Dibutyltin dilaurate.
Stannous oleate.
Tetrabutyl titanate.

(xxix) Surface active agents:

Poly [2-(diethylamino) ethyl metharylate] phosphate (minimum intrinsic viscosity in water at 25° C is not less than 9.0 deciliters per gram as determined by ASTM Method D 1243–60), for use only as a suspending agent in the manufacture of vinyl chloride copolymers and limited to use at levels not to exceed 0.1 percent by weight of the copolymers.
Sodium dioctyl sulfosuccinate.
Sodium dodecyl benzenesulfonate.
Sodium lauryl sulfate.

(xxx) Antioxidants:

Butylated hydroxyanisole.
Butylated hydroxytoluene.
Gum guaiac.
Dilauryl thiodipropionate.
Nordihydroguaiaretic acid.
Propyl gallate.
Distearyl thiodipropionate.
Thiodipropionic acid.
2,4,5-Trihydroxybutyrophenone.

(xxxi) Can end cements (sealing compounds used for sealing can ends only): In addition to the substances listed in paragraph (b) of this section and those listed in § 177.1210(b)(5) of this chapter, the following may be used:

Butadiene-styrene-fumaric acid copolymer.
4,4'-Butylidenebis(6-*tert*-butyl-*m*-cresol).
Dibenzamido phenyl disulfide.
Di-β-naphthyl phenylenediamine.
Dipentamethylene thiuram tetrasulfide.
Isobutylene-isoprene-divinylbenzene copolymers for use only at levels not to exceed 15 percent by weight of the dry cement composition.
Naphthalene sulfonic acid-formaldehyde condensate, sodium salt, for use only at levels not to exceed 0.6 percent by weight of the cement solids in can end cements for containers having a capacity of not less than 5 gallons.
Sodium decylbenzene sulfonate.
Sodium nitrite for use only at levels not to exceed 0.3 percent by weight of the cement solids in can end cements for containers having a capacity of not less than 5 gallons.
Sodium pentachlorophenate for use as a preservative at 0.1 percent by weight in can-sealing compounds on containers having a capacity of 5 gallons or more.
Sodium phenylphenate.
Tetrasodium EDTA (tetrasodium ethylenediaminetetraacetate).
Tri (mixed mono- and dinonylphenyl) phosphite
Zinc dibutyldithiocarbamate.

(xxxii) Side seam cements: In addition to the substances listed in paragraph (b)(3)(i) to (xxx), inclusive, of this section, the following may be used

p-tert-Butyl perbenzoate as a catalyst for epoxy resin.
epsilon-Caprolactam-(ethylene-ethyl acrylate) graft polymer.
Dicumyl peroxide for use only as polymerization catalyst.
Diisodecyl phthalate for use only as plasticizer in side seam cements for containers intended for use in contact with food only of the types identified in paragraph (d) of this section, table 1, under categories I, II, and VI.
Ethyl toluene sulfonamide.
Polyamides derived from the following acids and amines:
Acids:
Adipic.
Azelaic.
Sebacic.
Vegetable oil acids (with or without dimerization).
Amines:
Diethylenetriamine.
Diphenylamine.
Ethylenediamine.
Hexamethylenediamine.
Tetraethylenepentamine.
Triethylenetetramine.
Sodium pentachlorophenate for use as a preservative at 0.1 percent by weight in can-sealing compounds on containers having a capacity of 5 gallons or more.
Toluene sulfonamide formaldehyde resin (basic polymer).
Triethylene glycol methacrylate for use only as polymerization cross-linking agent in side seam cements for containers intended

for use in contact with food only of the

the concentration of the polyamide

(2) From a coating intended for or

(e) *Analytical methods*—(1) *Selec-*

suitable burner. When a steady stream of steam emerges from the vent, close

extractives by the method described in paragraph (e)(5) of this section.

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for use in contact with food only of the types identified in paragraph (d) of this section, table 1, under categories I, II, and VI.

Urea.

(xxxiii) Miscellaneous materials:

Ammonium citrate.
Ammonium potassium phosphate.
Calcium acetate.
Calcium ethyl acetoacetate.
Calcium glycerophosphate.
Calcium, sodium, and potassium oleates.
Calcium, sodium, and potassium ricinoleates.
Calcium, sodium, and potassium stearates.
Castor oil, hydrogenated.
Cetyl alcohol.
Cyclohexanone-formaldehyde resin produced when 1 mole of cyclohexanone is made to react with 1.85 moles of formaldehyde such that the finished resin has an average molecular weight of 600–610 as determined by ASTM Method D2503. For use only in contact with nonalcoholic and nonfatty foods under conditions of use E, F, and G, described in table 2 of paragraph (d) of this section.
Decyl alcohol.
Disodium hydrogen phosphate.
Ethyl acetoacetate.
Lauryl alcohol.
Lecithin.
Magnesium, sodium, and potassium citrate.
Magnesium glycerophosphate.
Magnesium stearate.
Mono-, di-, and tricalcium phosphate.
Monodibutylamine pyrophosphate as sequestrant for iron.
Mono-, di-, and trimagnesium phosphate.
Myristyl alcohol.
Octyl alcohol.
Phosphoric acid.
Polybutene, hydrogenated; complying with the identity and limitations prescribed by § 178.3740 of this chapter.
Poly(ethylene oxide).
Sodium pyrophosphate.
Stannous chloride.
Stannous stearate.
Stannous sulfate.
Stearyl alcohol.
Tetrasodium pyrophosphate.
Tridecyl alcohol produced from tetrapropylene by the oxo process, for use only as a processing aid in polyvinyl chloride resins.
Vinyl acetate-dibutyl maleate copolymers produced when vinyl acetate and dibutyl maleate are copolymerized with or without one of the monomers: Acrylic acid or glycidyl methacrylate. For use only in coatings for metal foil used in contact with foods that are dry solids with the surface containing no free fat or oil. The finished copolymers shall contain at least 50 weight-percent of polymer units derived from vinyl acetate and shall contain no more than 5 weight-percent of total polymer units derived from acrylic acid or glycidyl methacrylate.

(xxxiv) Polyamide resins derived from dimerized vegetable oil acids (containing not more than 20 percent of monomer acids) and ethylenediamine, as the basic resin, for use only in coatings that contact food at temperatures not to exceed room temperature.

(xxxv) Polyamide resins having a maximum acid value of 5 and a maximum amine value of 8.5 derived from dimerized vegetable oil acids (containing not more than 10 percent of monomer acids), ethylenediamine, and 4,4-bis (4-hydroxyphenyl) pentanoic acid (in an amount not to exceed 10 percent by weight of said polyamide resins); as the basic resin, for use only in coatings that contact food at temperatures not to exceed room temperature provided that the concentration of the polyamide resins in the finished food-contact coating does not exceed 5 milligrams per square inch of food-contact surface.

(xxxvi) Methacrylonitrile grafted polybutadiene copolymers containing no more than 41 weight percent of total polymer units derived from methacrylonitrile; for use only in coatings that are intended for contact, under conditions of use D, E, F, or G described in Table 2 of paragraph (d) of this section, with food containing no more than 8 percent of alcohol.

(c) The coating in the finished form in which it is to contact food, when extracted with the solvent or solvents characterizing the type of food, and under conditions of time and temperature characterizing the conditions of its intended use as determined from Tables 1 and 2 of paragraph (d) of this section, shall yield chloroform-soluble extractives, corrected for zinc extractives as zinc, oleate, not to exceed the following:

(1) From a coating intended for or employed as a component of a container not to exceed 1 gallon and intended for one-time use, not to exceed 0.5 milligram per square inch nor to exceed that amount as milligrams per square inch that would equal 0.005 percent of the water capacity of the container, in milligrams, divided by the area of the food-contact surface of the container in square inches. From a fabricated container conforming with the description in this paragraph (c) (1), the extractives shall not exceed 0.5 milligram per square inch of food-contact surface nor exceed 50 parts per million of the water capacity of the container as determined by the methods provided in paragraph (e) of this section.

(2) From a coating intended for or employed as a component of a container having a capacity in excess of 1 gallon and intended for one-time use, not to exceed 1.8 milligrams per square inch nor to exceed that amount as milligrams per square inch that would equal 0.005 percent of the water capacity of the container in milligrams, divided by the area of the food-contact surface of the container in square inches.

(3) From a coating intended for or employed as a component of a container for repeated use, not to exceed 18 milligrams per square inch nor to exceed that amount as milligrams per square inch that would equal 0.005 percent of the water capacity of the container in milligrams, divided by the area of the food-contact surface of the container in square inches.

(4) From coating intended for repeated use, and employed other than as a component of a container, not to exceed 18 milligrams per square inch of coated surface.

(d) Tables:

TABLE 1.—*Types of food*

I.	Nonacid (pH above 5.0), aqueous products; may contain salt or sugar or both, and including oil-in-water emulsions of low- or high-fat content.
II.	Acidic (pH 5.0 or below), aqueous products; may contain salt or sugar or both, and including oil-in-water emulsions of low- or high-fat content.
III.	Aqueous, acid or nonacid products containing free oil or fat; may contain salt, and including water-in-oil emulsions of low or high fat content.
IV.	Dairy products and modifications:
	A. Water-in-oil emulsion, high or low fat.
	B. Oil-in-water emulsion, high or low fat.
V.	Low moisture fats and oils.
VI.	Beverages:
	A. Containing alcohol.
	B. Nonalcoholic.
VII.	Bakery products.
VIII.	Dry solids (no end test required).

TABLE 2.—*Test procedures for determining the amount of extractives from resinous or polymeric coatings, using solvents simulating types of foods and beverages*

Condition of use	Types of food (see table 1)	Extractant: Water (time and temperature)	Extractant: Heptane [1] [2] (time and temperature)	Extractant: 8 pct alcohol (time and temperature)
A. High temperature heat-sterilized (e.g., over 212° F).	I, IV-B	250° F, 2 hr		
	III, IV-A, VII	do	150° F, 2 hr	
B. Boiling water sterilized	II	212° F, 30 min		
	III, VII	do	120° F, 30 min	
C. Hot filled or pasteurized above 150° F.	II, IV-B	Fill boiling, cool to 100° F.		
	III, IV-A	do	120° F., 15 min	
	V		do	
D. Hot filled or pasteurized below 150° F.	II, IV-B, VI-B	150° F, 2 hr		
	III, IV-A	do	100° F, 30 min	
	V		do	
	VI-A			150° F, 2 hr.
E. Room temperature filled and stored (no thermal treatment in the container).	I, II, IV-B, VI-B	120° F, 24 hr		
	III, IV-A	do	70° F, 30 min	
	V, VII		do	
	VI-A			120° F, 24 hr.
F. Refrigerated storage (no thermal treatment in the container).	I, II, III, IV-A, IV-B, VI-B, VII	70° F, 48 hr		
	VI-A			70° F, 48 hr.
G. Frozen storage (no thermal treatment in the container).	I, II, III, IV-B, VII	70° F, 24 hr		
H. Frozen storage: Ready-prepared foods intended to be reheated in container at time of use:				
1. Aqueous or oil in water emulsion of high or low fat.	I, II, IV-B	212° F, 30 min		
2. Aqueous, high or low free oil or fat.	III, IV-A, VII	do	120° F, 30 min	

[1] Heptane extractant not to be used on wax-lined containers.
[2] Heptane extractivity results must be divided by a factor of five in arriving at the extractivity for a food product.

(e) *Analytical methods*—(1) *Selection of extractability conditions.* First ascertain the type of food product (Table 1, paragraph (d) of this section) that is being packed commercially in the test container and the normal conditions of thermal treatment used in packaging the type of food involved. Using Table 2 (paragraph (d) of this section), select the food-stimulating solvent or solvents (demineralized distilled water, heptane, and/or 8 percent ethyl alcohol) and the time-temperature exaggerations of the container-use conditions. Aqueous products (types I, II, IV–B, and VI–B) require only a water-extractability test at the temperature and time conditions shown for the most severe "conditions of use." Aqueous products with free oil or fat and water-oil emulsions (types III, IV–A, and VII) will require determinations of both water extractability and heptane extractability. Low-moisture fats and oils (type V with no free water) require only the heptane extractability. Alcoholic beverages (type VI–A) require only the 8 percent alcohol extractant. Having selected the appropriate extractant or extractants simulating various types of foods and beverages and the time-temperature exaggerations over normal use, follow the applicable extraction procedure. Adapt the procedure, when necessary, for containers having a capacity of over 1 gallon.

(2) *Selection of coated-container samples.* For consumer-sized containers up to 1 gallon, quadruplicate samples of representative containers (using for each replicate sample the number of containers nearest to an area of 180 square inches) should be selected from the lot to be examined.

(3) *Cleaning procedure preliminary to determining the amount of extractables from coated containers.* Quadruplicate samples of representative containers should be selected from the lot to be examined and must be carefully rinsed to remove extraneous material prior to the actual extraction procedure. Soda fountain pressure-type hot water rinsing equipment, consisting in its simplest form of a ⅛-inch–¼-inch internal diameter metal tube attached to a hot water line and bent so as to direct a stream of water upward, may be used. Be sure hot water has reached a temperature of 190° F–200° F before starting to rinse the container. Invert the container over the top of the fountain and direct a strong stream of hot water against the bottom and all sides for 1 minute, drain, and allow to dry.

(4) *Exposure conditions*—(i) *Water (250° F for 2 hours), simulating high-temperature heat sterilization.* Fill the container within ¼-inch of the top with a measured volume of demineralized distilled water. Cover the container with clean aluminum foil and place the container on a rack in a pressure cooker. Add a small amount of demineralized distilled water to the pressure cooker, but do not allow the water to touch the bottom of the container. Close the cooker securely and start to heat over a suitable burner. When a steady stream of steam emerges from the vent, close the vent and allow the pressure to rise to 15 pounds per square inch (250° F) and continue to maintain this pressure for 2 hours. Slowly release the pressure, open the pressure cooker when the pressure reads zero, and composite the water of each replicate immediately in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e) (5) of this section.

(ii) *Water (212° F for 30 minutes), simulating boiling water sterilization.* Fill the container within ¼-inch of the top with a measured volume of boiling, demineralized distilled water. Cover the container with clean aluminum foil and place the container on a rack in a pressure cooker in which a small amount of demineralized distilled water is boiling. Do not close the pressure vent, but operate at atmospheric pressure so that there is a continuous escape of a small amount of steam. Continue to heat for 30 minutes, then remove the test container and composite the contents of each replicate immediately in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e) (5) of this section.

(iii) *Water (from boiling to 100° F), simulating hot fill or pasteurization above 150° F.* Fill the container within ¼-inch of the top with a measured volume of boiling, demineralized distilled water. Insert a thermometer in the water and allow the uncovered container to stand in a room at 70° F–85° F. When the temperature reads 100° F, composite the water from each replicate immediately in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e) (5) of this section.

(iv) *Water (150° F for 2 hours), simulating hot fill or pasteurization below 150° F.* Preheat demineralized distilled water to 150° F in a clean Pyrex flask. Fill the container within ¼-inch of the top with a measured volume of the 150° F water and cover with clean aluminum foil. Place the test container in an oven maintained at 150° F. After 2 hours, remove the test container from the oven and immediately composite the water of each replicate in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e) (5) of this section.

(v) *Water (120° F for 24 hours), simulating room temperature filling and storage.* Preheat demineralized distilled water to 120° F in a clean Pyrex flask. Fill the container within ¼-inch of the top with a measured volume of the 120° F water and cover with clean aluminum foil. Place the test container in an incubator or oven maintained at 120° F. After 24 hours, remove the test container from the incubator and immediately composite the water of each replicate in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e) (5) of this section.

(vi) *Water (70° F for 48 hours), simulating refrigerated storage.* Bring demineralized distilled water to 70° F in a clean Pyrex flask. Fill the container within ¼-inch of the top with a measured volume of the 70° F water, and cover with clean aluminum foil. Place the test container in a suitable room maintained at 70° F. After 48 hours, immediately composite the water of each replicate in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e) (5) of this section.

(vii) *Water (70° F for 24 hours), simulating frozen storage.* Bring demineralized distilled water to 70° F in a clean Pyrex flask. Fill the container within ¼-inch of the top with a measured volume of the 70° F water and cover with clean aluminum foil. Place the container in a suitable room maintained at 70° F. After 24 hours, immediately composite the water of each replicate in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e) (5) of this section.

(viii) *Water (212° F for 30 minutes), simulating frozen foods reheated in the container.* Fill the container to within ¼-inch of the top with a measured volume of boiling, demineralized distilled water. Cover the container with clean aluminum foil and place the container on a rack in a pressure cooker in which a small amount of demineralized distilled water is boiling. Do not close the pressure vent, but operate at atmospheric pressure so that there is a continuous escape of a small amount of steam. Continue to heat for 30 minutes, then remove the test container and composite the contents of each replicate immediately in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e) (5) of this section.

(ix) *Heptane (150° F for 2 hours) simulating high-temperature heat sterilization for fatty foods only.* Preheat redistilled reagent-grade heptane (boiling point 208° F) carefully in a clean Pyrex flask on a water bath or nonsparking hot plate in a well-ventilated hood to 150° F. At the same time preheat a pressure cooker or equivalent to 150° F in an incubator. This pressure cooker is to serve only as a container for the heptane-containing test package inside the incubator in order to minimize the danger of explosion. Fill the test container within ¼-inch of the top with a measured volume of the 150° F heptane and cover with clean aluminum foil. Place the test container in the preheated pressure cooker and then put the assembly into a 150° F incubator. After 2 hours, remove the pressure cooker from the incubator, open the assembly, and immediately composite the heptane of each replicate in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e) (5) of this section.

(x) *Heptane (120° F for 30 minutes), simulating boiling water sterilization of*

from the incubator, open the assembly and immediately composite the heptane

24 hours, remove the container from the

If when calculated by the equations in paragraph (e) (5) (i) (a) and (b) of this

livering 190° F–200° F water and bent so as to direct a stream of water upward.

tended for repeated food-contact use shall be thoroughly cleansed prior to

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(x) *Heptane (120° F for 30 minutes), simulating boiling water sterilization of fatty foods only.* Preheat redistilled reagent-grade heptane (boiling point 208° F) carefully in a clean Pyrex flask on a water bath or nonsparking hot plate in a well-ventilated hood to 120° F. At the same time, preheat a pressure cooker or equivalent to 120° F in an incubator. This pressure cooker is to serve only as a vented container for the heptane-containing test package inside the incubator in order to minimize the danger of explosion. Fill the test container within ¼-inch of the top with a measured volume of the 120° F heptane and cover with clean aluminum foil. Place the test container in the preheated pressure cooker and then put the assembly into a 120° F incubator. After 30 minutes, remove the pressure cooker from the incubator, open the assembly, and immediately composite the heptane of each replicate in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e)(5) of this section.

(xi) *Heptane (120° F for 15 minutes), simulating hot fill or pasteurization above 150° F for fatty foods only.* Preheat redistilled reagent-grade heptane (boiling point 208° F) carefully in a clean Pyrex flask on a water bath or nonsparking hot plate in a well-ventilated hood to 120° F. At the same time, preheat a pressure cooker or equivalent to 120° F in an incubator. This pressure cooker is to serve only as a container for the heptane-containing test package inside the incubator in order to minimize the danger of explosion. Fill the test container within ¼-inch of the top with a measured volume of the 120° F heptane and cover with clean aluminum foil. Place the test container in the preheated pressure cooker and then put the assembly into a 120° F incubator. After 15 minutes, remove the pressure cooker from the incubator, open the assembly, and immediately composite the heptane of each replicate in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e)(5) of this section.

(xii) *Heptane (100° F for 30 minutes), simulating hot fill or pasteurization below 150° F for fatty foods only.* Preheat redistilled reagent-grade heptane (boiling point 208° F) carefully in a clean Pyrex flask on a water bath or nonsparking hot plate in a well-ventilated hood to 100° F. At the same time, preheat a pressure cooker or equivalent to 100° F in an incubator. This pressure cooker is to serve only as a container for the heptane-containing test package inside the incubator in order to minimize the danger of explosion. Fill the test container within ¼-inch of the top with a measured volume of the 100° F heptane and cover with clean aluminum foil. Place the test container in the preheated pressure cooker and then put the assembly into a 100° F incubator. After 30 minutes, remove the pressure cooker from the incubator, open the assembly and immediately composite the heptane of each replicate in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e)(5) of this section.

(xiii) *Heptane (70° F for 30 minutes), simulating room temperature filling and storage of fatty foods only.* Fill the test container within ¼-inch of the top with a measured volume of the 70° F heptane and cover with clean aluminum foil. Place the test container in a suitable room maintained at 70° F. After 30 minutes, composite the heptane of each replicate in a clean Pyrex flask or beaker. Proceed with the determination of the amount of extractives by the method described in paragraph (e)(5) of this section.

(xiv) *Heptane (120° F for 30 minutes), simulating frozen fatty foods reheated in the container.* Preheat redistilled reagent-grade heptane (boiling point 208° F) carefully in a clean Pyrex flask on a water bath or hot plate in a well-ventilated hood to 120° F. At the same time, preheat a pressure cooker to 120° F in an incubator. This pressure cooker is to serve only as a container for the heptane-containing test package inside the incubator in order to minimize the danger of explosion. Fill the test container within ¼-inch of the top with a measured volume of the 120° F heptane and cover with clean aluminum foil. Place the test container in the preheated pressure cooker and then put the assembly into a 120° F incubator. After 30 minutes, remove the pressure cooker from the incubator, open the assembly and immediately composite the heptane from each replicate into a clean Pyrex flask. Proceed with the determination of the amount of extractives by the method described in paragraph (e)(5) of this section.

(xv) *Alcohol—8 percent (150° F for 2 hours), simulating alcoholic beverages hot filled or pasteurized below 150° F.* Preheat 8 percent (by volume) ethyl alcohol in demineralized distilled water to 150° F in a clean Pyrex flask. Fill the test container with within ¼-inch of the top with a measured volume of the 8 percent alcohol. Cover the container with clean aluminum foil and place in an oven maintained at 150° F. After 2 hours, remove the container from the oven and immediately composite the alcohol from each replicate in a clean Pyrex flask. Proceed with the determination of the amount of extractives by the method described in paragraph (e)(5) of this section.

(xvi) *Alcohol—8 percent (120° F for 24 hours), simulating alcoholic beverages room-temperature filled and stored.* Preheat 8 percent (by volume) ethyl alcohol in demineralized distilled water to 120° F in a clean Pyrex flask. Fill the test container within ¼-inch of the top with a measured volume of the 8 percent alcohol, cover the container with clean aluminum foil and place in an oven or incubator maintained at 120° F. After 24 hours, remove the container from the oven or incubator and immediately composite the alcohol from each replicate into a clean Pyrex flask. Proceed with the determination of the amount of extractives by the method described in paragraph (e)(5) of this section.

(xvii) *Alcohol—8 percent (70° F for 48 hours), simulating alcoholic beverages in refrigerated storage.* Bring 8 percent (by volume) ethyl alcohol in demineralized distilled water to 70° F in a clean Pyrex flask. Fill the test container within ¼-inch of the top with a measured volume of the 8 percent alcohol. Cover the container with clean aluminum foil. Place the test container in a suitable room maintained at 70° F. After 48 hours, immediately composite the alcohol from each replicate into a clean Pyrex flask. Proceed with the determination of the amount of extractives by the method described in paragraph (e)(5) of this section.

NOTE: The tests specified in paragraph (e)(4)(i) through (xvii) of this section are applicable to flexible packages consisting of coated metal contacting food, in which case the closure end is double-folded and clamped with metal spring clips by which the package can be suspended.

(5) *Determination of amount of extractives*—(i) *Total residues.* Evaporate the food-simulating solvents from paragraph (e)(4)(i) to (xvii), inclusive, of this section to about 100 milliliters in the Pyrex flask and transfer to a clean, tared platinum dish, washing the flask three times with the solvent used in the extraction procedure, and evaporate to a few milliliters on a nonsparking low-temperature hotplate. The last few milliliters should be evaporated in an oven maintained at a temperature of 212° F. Cool the platinum dish in a desiccator for 30 minutes and weigh the residue to the nearest 0.1 milligram (*e*). Calculate the extractives in milligrams per square inch and in parts per million for the particular size of container being tested and for the specific food-simulating solvent used.

(*a*) *Water and 8-percent alcohol.*

$$\text{Milligrams extractives per square inch} = \frac{e}{s}$$

$$\text{Extractives residue} = Ex = \frac{(e)(a)(1000)}{(c)(s)}$$

(*b*) *Heptane:*

$$\text{Milligrams extractives per square inch} = \frac{e}{(s)(F)}$$

$$\text{Extractives residue} = Ex = \frac{(e)(a)(1000)}{(c)(s)(F)}$$

Where:

Ex = Extractives residue in ppm for any container size.
e = Milligrams extractives per sample tested.
a = Total coated area, including closure in square inches.
c = Water capacity of container, in grams.
s = Surface of coated area tested, in square inches.
F = Five, the ratio of the amount of extractives removed from a coated container by heptane under exaggerated time-temperature test conditions compared to the amount extracted by a fat or oil from a container tested under exaggerated conditions of thermal sterilization and use.
e' = Chloroform-soluble extractives residue.
ee' = Zinc corrected chloroform-soluble extractive residue.

e' or *ee'* is substituted for *e* in the above equations when necessary.

If when calculated by the equations in paragraph (e)(5)(i)(*a*) and (*b*) of this section, the concentration of extractives residue (*Ex*) exceeds 50 parts per million or the extractives in milligrams per square inch exceed the limitations prescribed in paragraph (c) of this section for the particular container size, proceed to paragraph (e)(2)(ii) of this section (method for determining the amount of chloroform-soluble extractives residue).

(ii) *Chloroform-soluble extractives residue.* Add 50 milliliters of chloroform (freshly distilled reagent grade or a grade having an established consistently low blank) to the dried and weighed residue, (*e*), in the platinum dish, obtained in paragraph (e)(5)(i) of this section. Warm carefully, and filter through Whatman No. 41 filter paper in a Pyrex funnel, collecting the filtrate in a clean, tared platinum dish. Repeat the chloroform extraction, washing the filter paper with this second portion of chloroform. Add this filtrate to the original filtrate and evaporate the total down to a few milliliters on a low-temperature hotplate. The last few milliliters should be evaporated in an oven maintained at 212° F. Cool the platinum dish in a desiccator for 30 minutes and weigh to the nearest 0.1 milligram to get the chloroform-soluble extractives residue (*e'*). This *e'* is substituted for *e* in the equations in paragraph (e)(5)(i) (*a*) and (*b*) of this section. If the concentration of extractives (*Ex*) still exceeds 50 parts per million or the extractives in milligrams per square inch exceed the limitations prescribed in paragraph (c) of this section for the particular container size, proceed as follows to correct for zinc extractives ("C" enamels only): Ash the residue in the platinum dish by heating gently over a Meeker-type burner to destroy organic matter and hold at red heat for about 1 minute. Cool in the air for 3 minutes, and place the platinum dish in the desiccator for 30 minutes and weigh to the nearest 0.1 milligram. Analyze this ash for zinc by standard Association of Official Agricultural Chemists methods or equivalent. Calculate the zinc in the ash as zinc oleate, and subtract from the weight of chloroform-soluble extractives residue (*e'*) to obtain the zinc-corrected chloroform-soluble extractives residue (*ee'*). This *ee'* is substituted for *e* in the formulas in paragraph (e)(5)(i) (*a*) and (*b*) of this section. To comply with the limitations in paragraph (c) of this section, the chloroform-soluble extractives residue (but after correction for the zinc extractives in case of "C" enamels) must not exceed 50 parts per million and must not exceed in milligrams per square inch the limitations for the particular article as prescribed in paragraph (c) of this section.

(f) *Equipment and reagent requirements*—(1) *Equipment.*

Rinsing equipment, soda fountain pressure-type hot water, consisting in simplest form of a ⅛-inch–¼-inch inside diameter metal tube attached to a hot water line delivering 190° F–200° F water and bent so as to direct a stream of water upward.

Pressure cooker, 21-quart capacity with pressure gage, safety release, and removable rack, 12.5 inches inside diameter x 11 inches inside height, 20 pounds per square inch safe operating pressure.

Oven, mechanical convection, range to include 120° F–212° F explosion-proof, inside dimensions (minimum), 19" x 19" x 19", constant temperature to ±2° F (water bath may be substituted).

Incubator, inside dimensions (minimum) 10" x 19" x 19" for use at 100° F±2° F explosion proof (water bath may be substituted).

Constant-temperature room or chamber 70° F±2° F minimum inside dimensions 19" x 19" x 19".

Hot plate, nonsparking (explosion proof), top 12" x 20", 2,500 watts, with temperature control.

Platinum dish, 100-milliliter capacity minimum.

All glass, Pyrex or equivalent.

(2) *Reagents.*

Water, all water used in extraction procedure should be freshly demineralized (deionized) distilled water.

Heptane, reagent grade, freshly redistilled before use, using only material boiling at 208° F.

Alcohol, 8 percent (by volume), prepared from undenatured 95 percent ethyl alcohol diluted with demineralized or distilled water.

Chloroform, reagent grade, freshly redistilled before use, or a grade having an established, consistently low blank.

Filter paper, Whatman No. 41 or equivalent.

(g) In accordance with good manufacturing practice, finished coatings intended for repeated food-contact use shall be thoroughly cleansed prior to their first use in contact with food.

(h) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

§ 175.320 Resinous and polymeric coatings for polyolefin films.

Resinous and polymeric coatings may be safely used as the food-contact surface of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, in accordance with the following prescribed conditions:

(a) The coating is applied as a continuous film over one or both sides of a base film produced from one or more of the basic olefin polymers complying with § 177.1520 of this chapter. The base polyolefin film may contain optional adjuvant substances permitted for use in polyolefin film by applicable regulations in Parts 170 through 189 of this chapter.

(b) The coatings are formulated from optional substances which are:

(1) Substances generally recognized as safe for use in or on food.

(2) Substances the use of which is permitted under applicable regulations in this part, by prior sanctions, or approvals.

(3) Substances identified in this subparagraph (a)(3) and subject to such limitations as are provided:

List of substances	Limitations
(i) Resins and polymers:	
Acrylic acid polymer and its ethyl or methyl esters.	
Acrylamide copolymerized with ethyl acrylate and/or styrene and/or methacrylic acid, and the copolymer subsequently reacted with formaldehyde and butanol.	
Butadiene-acrylonitrile copolymer.	
Butadiene-acrylonitrile-styrene terpolymer.	
Butyl rubber.	
N,N'-Diphenyl-*p*-phenylenediamine	For use only as a polymerization inhibitor in 2-sulfoethyl methacrylate, sodium salt.
2-Ethylhexyl acrylate copolymerized with one or more of the following:	
Acrylonitrile.	
Itaconic acid.	
Methacrylonitrile.	
Methyl acrylate.	
Methyl methacrylate.	
4,4'-Isopropylidenediphenolepichlorohydrin, average molecular weight 900.	
Melamine-formaldehyde as the basic polymer or chemically modified with methyl alcohol.	
Methacrylic acid and its ethyl or methyl esters copolymerized with one or more of the following:	
Acrylic acid.	
Ethyl acrylate.	
Methyl acrylate.	
α-Methyl styrene polymer.	
α-Methylstyrene-vinyltoluene copolymer resins (molar ratio 1 *α*-methylstyrene to 3 vinyltoluene).	For use only in coatings that contact food under conditions of use D, E, F, or G described in table 2 of § 176.170(c) of this chapter, provided that the concentration of *α*-methylstyrene-vinyltoluene copolymer resins in the finished food-contact coating does not exceed 1.0 milligram per square inch of food-contact surface.
Petroleum alicyclic hydrocarbon resins	As defined in § 176.170 of this chapter. Blended with butyl rubber for use as a component of coatings on polyolefin fabric for bulk packaging of raw fruits and vegetables and used at a level not to exceed 30 percent by weight of the total coating solids.
Polyamide resins, derived from dimerized vegetable oil acids (containing not more than 20% of monomer acids) and ethylenediamine, as the basic resin.	For use only in coatings for polyolefin films that contact food at temperatures not to exceed room temperature.
Polyamide resins having a maximum acid value of 5 and a maximum amine value of 8.5 derived from dimerized vegetable oil acids (containing not more than 10 percent of monomer acids), ethylenediamine, and 4,4-bis (4-hydroxyphenyl) pentanoic acids (in an amount not to exceed 10 percent by weight of said polyamide resins); as the basic resin.	For use only in coatings that contact food at temperatures not to exceed room temperature provided that the concentration of the polyamide resins in the finished food-contact coating does not exceed 5 milligrams per square inch of food-contact surface.

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Substances	Limitations
(1) Resins and polymers—continued	
Polyester resins formed by reaction of one or more of the following polybasic acids and monobasic acids with one or more of the following polyhydric alcohols:	
Polybasic acids:	
Adipic	For use in forming polyester resins intended for use in contacts that contact food only of the type identified in § 176.170 (c) of this chapter, table 1, under category VIII, and under conditions of use E, F, or G, described in table 2 of § 176.170 (c) of this chapter.
Azelaic	
Dimerized fatty acids derived from:	
Animal, marine or vegetable fats and oils.	
Tall oil	
Fumaric	
Isophthalic	
Maleic	
o-Phthalic	
Sebacic	
Terephthalic	
Trimellitic	
Monobasic acids:	
Fatty acids derived from:	
Animal, marine, or vegetable fats and oils.	
Gum resin	As defined in § 178.3870 of this chapter. For use in forming polyester resins intended for use in contacts that contact food only of the type identified in § 176.170(c) of this chapter, table 1, under category VIII, and under conditions of use E, F, or G described in table 2 of § 176.170(c) of this chapter.
Tall oil	
Polyhydric alcohols:	
1,3-Butylene glycol	
Diethylene glycol	
2,2-Dimethyl-1,3-propanediol	
Dipropylene glycol	
Ethylene glycol	
Glycerol	
Mannitol	
α-Methyl glucoside	
Pentaerythritol	
Propylene glycol	
Sorbitol	
Trimethylol ethane	
Trimethylol propane	
Polyethylenimine	For use only as a primer subcoat to anchor epoxy surface coatings in the base sheet.
Polystyrene	
Polyvinyl acetate	
Polyvinyl chloride	
Styrene copolymerized with one or more of the following:	
Acrylonitrile	
α-Methyl styrene	
Styrene-isobutylene copolymer	
Terpene resins consisting of polymers of α-pinene, β-pinene, and/or dipentene; acid value less than 5, saponification number less than 5, and color less than 4 on the Gardner scale as measured in 50 percent mineral spirits solution.	
2-Sulfoethyl metacrylate, sodium salt [C.A. Registry No. 10595-80-9].	For use only in copolymer coatings under conditions of use E, F, and G described in table 2 of § 176.170(a) of this chapter and limited to use at a level not to exceed 1.9 percent by weight of the dry copolymer coating.
Vinyl chloride-acetate, hydroxyl-modified copolymer or maleic acid-modified copolymer.	
Vinyl chloride copolymerized with one or more of the following:	
Acrylonitrile	
Vinyl acetate	
Vinylidene chloride	
Vinylidene chloride copolymerised with one or more of the following:	
Acrylic acid and its methyl, ethyl, propyl, butyl, or octyl esters.	
Acrylonitrile.	
Itaconic acid.	
Methacrylic acid and its methyl, ethyl, propyl, butyl, or octyl esters.	
Methacrylonitrile.	
Vinyl chloride.	
(2) Plasticizers:	
Acetyl tributyl citrate	
Acetyl triethyl citrate	
Butyl phthalyl butyl glycolate	
Butyl stearate	
Dibutyl sebacate	
Diethyl phthalate	
2-Ethylhexyl diphenyl phosphate	
Ethyl phthalyl ethyl glycolate	
Glycerol monooleate	
Glycerol triacetate	
Triethyl citrate	

Substances	Limitations
(iii) Adjuvants (release agents, waxes, and dispersants):	
Acetone	
Amides (unsubstituted) of fatty acids from vegetable or animal oils.	
n-Butyl acetate	
n-Butyl alcohol	
Candelilla wax	
Carnauba wax	
Ethyl acetate	
Fatty acids from vegetable or animal oils and their aluminum, ammonium, calcium, magnesium, and sodium salts.	
Hexane	
Methyl ethyl ketone	
Petroleum waxes conforming to specifications included in a regulation in Subchapter B of this chapter.	
Polyvinyl alcohol, minimum viscosity of 4% aqueous solution at 20°C of 4 centipoises and percent alcoholysis of 87–100.	For use only as a dispersing agent at levels not to exceed 6% of total coating weight in coatings for polyolefin films provided the finished polyolefin films contact food only of the types identified in § 176.170(c) of this chapter, table 1, under types V, VIII, and IX.
Sodium dioctyl sulfosuccinate	
Sodium dodecylbenzenesulfonate	
Sodium lauryl sulfate	
Sorbitan and sorbitol esters of fatty acids from vegetable or animal oils.	
Spermaceti wax	
Tetrahydrofuran	
Toluene	

(c) The coating in the finished form in which it is to contact food, when extracted with the solvent or solvents characterizing the type of food, and under conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, shall yield net chloroform-soluble extractives not to exceed 0.5 milligram per square inch of coated surface.

(d) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

§ 175.350 Vinyl acetate/crotonic acid copolymer.

A copolymer of vinyl acetate and crotonic acid may be safely used as a coating or as a component of a coating which is the food-contact surface of polyolefin films intended for packaging food, subject to the provisions of this section.

(a) The copolymer may contain added optional substances to impart desired properties.

(b) The quantity of any optional substance does not exceed the amount reasonably required to accomplish the intended physical or technical effect nor any limitations further provided.

(c) Any optional substance that is the subject of a regulation in Parts 174, 175, 176, 177, 178, and § 179.45 of this chapter conforms with any specifications in such regulation.

(d) Optional substances as provided in paragraph (a) of this section include:

(1) Substances generally recognized as safe in food.

(2) Substances subject to prior sanction or approval for uses with a copolymer of vinyl acetate and crotonic acid and used in accordance with such sanction or approval.

(3) Substances identified in this subparagraph and subject to such limitations as are provided:

List of substances	Limitations
Silica	----------
Japan wax	----------

(e) Copolymer of vinyl acetate and crotonic acid used as a coating or as a component of a coating conforming with the specifications of paragraph (e) (1) of this section are used as provided in paragraph (e) (2) of this section.

(1) *Specifications.* (i) The chloroform-soluble portion of the water extractives of the coated film obtained with distilled water at 120° F for 24 hours does not exceed 0.5 milligram per square inch of coated surface.

(ii) The chloroform-soluble portion of the *n*-heptane extractives of the coated film obtained with *n*-heptane at 70° F for 30 minutes does not exceed 0.5 milligram per square inch of coated surface.

(2) *Conditions of use.* The copolymer of vinyl acetate and crotonic acid is used as a coating or as a component of a coating for polyolefin films for packaging bakery products and confectionery.

§ 175.360 Vinylidene chloride copolymer coatings for nylon film.

Vinylidene chloride copolymer coatings identified in this section and applied on nylon film may be safely used as food-contact surfaces, in accordance with the following prescribed conditions:

(a) The coating is applied as a continuous film over one or both sides of a base film produced from nylon resins complying with § 177.1500 of this chapter.

(b) The coatings are prepared from vinylidene chloride copolymers produced by copolymerizing vinylidene chloride with one or more of the monomers acrylic acid, acrylonitrile, ethyl acrylate, methacrylic acid, and methyl acrylate. The finished copolymers contain at least 50 weight percent of polymer units derived from vinylidene chloride.

(c) Optional adjuvant substances employed in the production of the coatings or added thereto to impart desired properties may include sodium dodecylbenzenesulfonate.

(d) The coating in the finished form in which it is to contact food, when extracted with the solvent or solvents characterizing the type of food, and under conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, shall yield net chloroform-soluble extractives not to exceed 0.5 milligram per square inch of coated surface when tested by the methods described in § 176.170(d) of this chapter.

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

§ 175.365 Vinylidene chloride copolymer coatings for polycarbonate film.

Vinylidene chloride copolymer coatings identified in this section and applied on polycarbonate film may be safely used as food-contact surfaces, in accordance with the following prescribed conditions:

(a) The coating is applied as a continuous film over one or both sides of a base film produced from polycarbonate resins complying with § 177.1580 of this chapter.

(b) The coatings are prepared from vinylidene chloride copolymers produced by copolymerizing vinylidene chloride with acrylonitrile, methyl acrylate, and acrylic acid. The finished copolymers contain at least 50 weight-percent of polymer units derived from vinylidene chloride.

(c) Optional adjuvant substances employed in the production of the coatings or added thereto to impart desired properties may include sodium dodecylbenzenesulfonate in addition to substances described in § 174.1(d) of this chapter.

(d) The coating in the finished form in which it is to contact food, when extracted with the solvent or solvents characterizing the type of food, and under the conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, shall yield net chloroform-soluble extractives in each extracting solvent not to exceed 0.5 milligram per square inch of coated surface as determined by the methods described in § 176.170(d) of this chapter. In testing the finished food-contact articles, a separate test sample is to be used for each required extracting solvent.

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

§ 175.380 Xylene-formaldehyde resins condensed with 4,4'-isopropylidenediphenol-epichlorohydrin epoxy resins.

The resins identified in paragraph (a) of this section may be safely used as a food-contact coating for articles intended for use in contact with food, in accordance with the following prescribed conditions.

(a) The resins are produced by the condensation of xylene-formaldehyde resin and 4,4'-isopropylidenediphenol-epichlorohydrin epoxy resins, to which may have been added certain optional adjuvant substances required in the production of the resins or added to impart desired physical and technical properties. The optional adjuvant substances may include resins

produced by the condensation of allyl

(c) The substances permitted are as use to insure compliance with the re-

graph: *And provided further,* That if the

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produced by the condensation of allyl ether of mono-, di-, or trimethylol phenol and capryl alcohol and also may include substances identified in § 175.300(b)(3), with the exception of paragraph (b)(3)(xxxi) and (xxxii) of that section.

(b) The resins identified in paragraph (a) of this section may be used as a food-contact coating for articles intended for contact at temperatures not to exceed 160° F with food of types I, II, VI–A and B, and VIII described in table 1 of § 176.170(c) of this chapter provided that the coating in the finished form in which it is to contact food meets the following extractives limitations when tested by the methods provided in § 175.300(e):

(1) The coating when extracted with distilled water at 180° F for 24 hours yields total extractives not to exceed 0.05 milligram per square inch of food-contact surface.

(2) The coating when extracted with 8 percent (by volume) ethyl alcohol in distilled water at 160° F for 4 hours yields total extractives not to exceed 0.05 milligram per square inch of food-contact surface.

(c) The resins identified in paragraph (a) of this section may be used as a food-contact coating for articles intended for contact at temperatures not to exceed room temperature with food of type VI–C described in table 1 of § 176.170(c) of this chapter provided the coating in the finished form in which it is to contact food meets the following extractives limitations when tested by the methods provided in § 175.300(e):

(1) The coating when extracted with distilled water at 180° F for 24 hours yields total extractives not to exceed 0.05 milligram per square inch of food-contact surface.

(2) The coating when extracted with 50 percent (by volume) ethyl alcohol in distilled water at 180° F for 24 hours yields total extractives not to exceed 0.05 milligram per square inch.

§ 175.390 Zinc-silicon dioxide matrix coatings.

Zinc-silicon dioxide matrix coatings may be safely used as the food-contact surface of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section;

(a) The coating is applied to a metal surface, cured, and washed with water to remove soluble substances.

(b) The coatings are formulated from optional substances which include:

(1) Substances generally recognized as safe.

(2) Substances for which safe conditions of use have been prescribed in § 175.300.

(3) Substances identified in paragraph (c) of this section, subject to the limitations prescribed.

(c) The optional substances permitted are as follows:

Lists of substances	*Limitations*
Ethylene glycol	As a solvent removed by water washing
Iron oxide	
Lithium hydroxide	Removed by water washing.
Methyl orange	As an acid-base indicator.
Potassium dichromate	Removed by water washing.
Silica gel	
Sodium silicate	
Zinc, as particulate metal	

(d) The coating in the finished form in which it is to contact food, when extracted with the solvent or solvents characterizing the type of food, and under the conditions of its intended use as shown in Tables 1 and 2 of § 175.300(d) (using 20 percent alcohol as the solvent when the type of food contains approximately 20 percent alcohol) shall yield total extractives not to exceed those prescribed in § 175.300(c)(3); lithium extractives not to exceed 0.025 milligram per square inch of surface; and chromium extractives not to exceed 0.05 microgram per square inch of surface.

(e) The coatings are used as food-contact surfaces for bulk reusable containers intended for storing, handling, and transporting food.

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Subpart A—[Reserved]

Subpart B—Substances for Use Only as Components of Paper and Paperboard

Sec.
176.110 Acrylamide-acrylic acid resins.
176.120 Alkyl ketene dimers.
176.130 Anti-offset substances.
176.150 Chelating agents used in the manufacture of paper and paperboard.
176.160 Chromium (Cr III) complex of N-ethyl-N-heptadecylfluoro-octane sulfonyl glycine.
176.170 Components of paper and paperboard in contact with aqueous and fatty foods.
176.180 Components of paper and paperboard in contact with dry food.
176.200 Defoaming agents used in coatings.
176.210 Defoaming agents used in the manufacture of paper and paperboard.
176.230 3,5-Dimethyl-1,3,5,2H-tetrahydrothiadiazine-2-thione.
176.250 Poly-1,4,7,10,13-pentaaza-15-hydroxyhexadecane.
176.260 Pulp from reclaimed fiber.
176.300 Slimicides.
176.320 Sodium nitrate-urea complex.
176.350 Tamarind seed kernel powder.

AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—[Reserved]

Subpart B—Substances for Use Only as Components of Paper and Paperboard

§ 176.110 Acrylamide-acrylic acid resins.

Acrylamide-acrylic acid resins may be safely used as components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section.

(a) Acrylamide-acrylic acid resins are produced by the polymerization of acrylamide with partial hydrolysis or by the copolymerization of acrylamide and acrylic acid.

(b) The acrylamide-acrylic acid resins contain less than 0.2 percent residual monomer.

(c) The resins are used as adjuvants in the manufacture of paper and paperboard in amounts not to exceed that necessary to accomplish the technical effect and not to exceed 2 percent by weight of the paper or paperboard.

§ 176.120 Alkyl ketene dimers.

Alkyl ketene dimers may be safely used as a component of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section.

(a) The alkyl ketene dimers are manufactured by the dehydrohalogenation of the acyl halides derived from the fatty acids of animal or vegetable fats and oils.

(b) The alkyl ketene dimers are used as an adjuvant in the manufacture of paper and paperboard under such conditions that the alkyl ketene dimers and their hydrolysis products dialkyl ketones do not exceed 0.4 percent by weight of the paper or paperboard.

(c) The alkyl ketene dimers may be used in the form of an aqueous emulsion which may contain sodium lignosulfonate as a dispersant.

§ 176.130 Anti-offset substances.

Substances named in paragraphs (b) and (c) of this section may be safely used to prevent the transfer of inks employed in printing and decorating paper and paperboard used for food packaging in accordance with the provisions of this section:

(a) The substances are applied to the nonfood contact, printed side of the paper or paperboard in an amount not greater than that required to accomplish the technical effect nor greater than any specific limitations, where such are provided.

(b) Anti-offset powders are prepared from substances that are generally recognized as safe in food, substances for which prior sanctions or approvals were granted and which are used in accordance with the specific provisions of such sanction or approval, and substances named in paragraph (c) of this section.

(c) The substances permitted are as follows:

Substances	*Limitations*
Carbon tetrachloride	
Methyl hydrogen polysiloxanes	
Industrial starch—modified	Complying with § 178.3520 of this chapter.
Stannous oleate	
Zinc-2-ethyl hexoate	

§ 176.150 Chelating agents used in the manufacture of paper and paperboard.

The substances named in paragraph (a) of this section may be safely used in the manufacture of paper and paperboard, in accordance with the conditions prescribed in paragraphs (b) and (c) of this section:

(a) Chelating agents:

List of substances:	*Limitations*
Ammonium fructoheptonate	
Ammonium glucoheptonate	
Disodium ethylenediamine tetraacetate	
Pentasodium salt of diethylenetriamine pentaacetate	
Sodium fructoheptonate	
Sodium glucoheptonate	
Tetrasodium ethylenediamine tetraacetate	
Trisodium *N*-hydroxyethyl ethylenediamine triacetate	

(b) Any one or any combination of the substances named is used or intended for use as chelating agents.

(c) The substances are added in an amount not greater than that required to accomplish the intended technical effect nor greater than any specific limitation, where such is provided.

§ 176.160 Chromium (Cr III) complex of N-ethyl-N-heptadecylfluoro-octane sulfonyl glycine.

The chromium (Cr III) complex of *N*-ethyl-*N*-heptadecylfluoro-octane sulfonyl glycine containing up to 20 percent by weight of the chromium (Cr III) complex of heptadecylfluoro-octane sulfonic acid may be safely used as a component of paper for packaging dry food when used in accordance with the following prescribed conditions.

(a) The food additive is used as a component of paper in an amount not to exceed 0.5 percent by weight of the paper.

(b)(1) The food-contact surface of the paper is overcoated with a polymeric or resinous coating at least ⅓-mil in thickness, that meets the provision of § 176.170; or

(2) The treated paper forms one or more plies of a paper in a multiwall bag and is separated from the food by at least one ply of packaging films or grease-resistant papers which serves as a functional barrier between the food additive and the food. Such packaging films or grease-resistant papers conform with appropriate food additive regulations.

(c) The labeling of the food additive shall contain adequate directions for its use to insure compliance with the requirements of paragraphs (a) and (b) of this section.

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

Substances identified in this section may be safely used as components of the uncoated or coated food-contact surface of paper and paperboard intended for use in producing, manufacturing, packaging, processing, preparing, treating, packaging, transporting, or holding aqueous and fatty foods, subject to the provisions of this section. Components of paper and paperboard in contact with dry food of the type identified under type VIII of table 1 in paragraph (c) of this section are subject to the provisions of § 176.180.

(a) Substances identified in paragraph (a)(1) through (5) of this section may be used as components of the food-contact surface of paper and paperboard. Paper and paperboard products shall be exempted from compliance with the extractives limitations prescribed in paragraph (c) of this section: *Provided*, That the components of the food-contact surface consist entirely of one or more of the substances identified in this paragraph: *And provided further*, That if the paper or paperboard when extracted under the conditions prescribed in paragraph (c) of this section exceeds the limitations on extractives contained in paragraph (c) of this section, information shall be available from manufacturing records from which it is possible to determine that only substances identified in this paragraph (a) are present in the food-contact surface of such paper or paperboard.

(1) Substances generally recognized as safe in food.

(2) Substances generally recognized as safe for their intended use in paper and paperboard products used in food packaging.

(3) Substances used in accordance with a prior sanction or approval.

(4) Substances that by regulation in Parts 170 through 189 of this chapter may be safely used without extractives limitations as components of the uncoated or coated food-contact surface of paper and paperboard in contact with aqueous or fatty food, subject to the provisions of such regulation.

(5) Substances identified in this subparagraph, as follows:

List of substances	*Limitations*
Acetyl peroxide	For use only as polymerization catalyst.
Acrylamide-methacrylic acid-maleic anhydride copolymers containing not more than 0.2 percent of residual acrylamide monomer and having an average nitrogen content of 14.9 percent such that a 1 percent by weight aqueous solution has a minimum viscosity of 600 centipoises at 75° F, as determined by LVG-series Brookfield viscometer (or equivalent) using a No. 2 spindle at 30 r.p.m.	For use only as a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard in such an amount that the finished paper and paperboard will contain the additive at a level not in excess of 0.05 percent by weight of dry fibers in the finished paper and paperboard.
Acrylamide-β-methacrylyloxy ethyltrimethylammonium methyl sulfate copolymer resins containing not more that 10 molar percent of β-methacrylyloxyethyltrimethylammonium methyl sulfate and containing less than 0.2% or residual acrylamide monomer.	For use only as a retention aid and flocculant employed prior to the sheet-forming operation in the manufacture of paper and paperboard.
Acrylonitrile polymer, reaction product with ethylenediamine, sulfate having a nitrogen content of 22.5–25.0 percent (Kjeldahl dry basis) and containing no more than 0.075 percent monomer as ethylenediamine. The finished resin in a 24 percent by weight aqueous solution has a viscosity of 1,000–2,000 centipoises at 25° C as determined by LVT-series Brookfield viscometer using a No. 4 spindle at 50 r.p.m. (or by other equivalent method).	For use only as a size promoter and retention aid at a level not to exceed 0.5 percent by weight of the dry paper and paperboard.
Acrylonitrile polymer with styrene, reaction product with ethylenediamine, acetate, having a nitrogen content of 7.4–8.3 percent (Kjeldahl dry basis) and containing no more than 0.25 percent monomer as ethylenediamine.	1. For use only as a sizing material applied after the sheet-forming operation in the manufacture of paper and paperboard in such amount that the paper and paperboard will contain the additive at a level not in excess of 0.25 percent by weight of the dry paper and paperboard. 2. For use only as a sizing material applied prior to the sheet-forming operation in the manufacture of paper and paperboard in such amount that the paper and paperboard will contain the additive at a level not in excess of 1.0 percent by weight of the dry paper and paperboard.
(2-Alkenyl) succinic anhydrides mixture, in which the alkenyl groups are derived from olefins which contain not less than 95 percent of C_{15}–C_{21} groups.	For use only as a sizing agent employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 1 percent by weight of the finished dry paper and paperboard fibers.
tert-Alkyl(C_8–C_{16})mercaptans	For use only as polymerization-control agent.
Aluminum acetate	
Ammonium bis(*N*-ethyl-2-perfluoroalkylsulfonamido ethyl) phosphates, containing not more than 15% ammonium mono (*N*-ethyl-2-perfluoroalkylsulfonamido ethyl) phosphates, where the alkyl group is more than 95% C_8 and the salts have a fluorine content of 50.2% to 52.8% as determined on a solids basis.	For use only as an oil and water repellant at a level not to exceed 0.17 pound (0.09 pound of fluorine) per 1,000 square feet of treated paper or paperboard of a sheet basis weight of 100 pounds or less per 3,000 square feet of paper or paperboard, and at a level not to exceed 0.5 pound (0.26 pound of fluorine) per 1,000 square feet of treated paper or paperboard having a sheet basis weight greater than 100 lb. per 3,000 square feet as determined by analysis for total fluorine in the treated paper or paperboard without correction for any fluorine that might be present in the untreated paper or paperboard, when such paper or paperboard is used as follows: 1. In contact, under conditions of use C, D, E, F, G, or H described in table 2 of paragraph (c) of this section, with nonalcoholic food. 2. In contact with bakery products of type VII, VIII, and IX described in table I of paragraph (c) of this section under good manufacturing practices of commercial and institutional baking.

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List of substances	Limitations
Ammonium persulfate	
Ammonium thiosulfate	
Azo-bisisobutyronitrile	For use only as polymerization catalyst.
Benzoyl peroxide	Do.
N,N-Bis(2-hydroxyethyl)alkyl (C_{18}–C_{22})amide	For use only as an adjuvant to control pulp absorbency and pitch content in the manufacture of paper and paperboard prior to the sheet forming operation.
Bis(methoxymethyl)tetrakis[(octadecyloxy)-methyl] melamine resins having a 5.8–6.5 percent nitrogen content.	For use only under the following conditions: 1. As a water repellant employed prior to the sheet-forming operation in the manufacture of paper and paperboard in such amount that the finished paper and paperboard will contain the additive at a level not in excess of 1.6 percent by weight of the finished dry paper and paperboard fibers. 2. The finished paper and paperboard will be used in contact with nonalcoholic foods only.
tert-Butyl hydroperoxide	For use only as polymerization catalyst.
tert-Butyl peroxide	Do.
Calcium isostearate	For use only with *n*-decyl alcohol as a stabilizing material for aqueous calcium stearate dispersions intended for use as components of coatings for paper and paperboard.
Carrageenan and salts of carrageenan as described in §§ 172.620 and 172.626 of this chapter.	
Castor oil, hydrogenated	
Castor oil, sulfated, ammonium, potassium, or sodium salt.	
Cellulose, regenerated	
Chloracetamide	For use only as polymerization-control agent.
Cobaltous acetate	For use only as polymerization catalyst.
Cumene hydroperoxide	Do.
Cyanoguanidine	For use only: 1. As a modifier for amino resins. 2. As a fluidizing agent in starch and protein coatings for paper and paperboard.
n-Decyl alcohol	For use only with calcium isostearate as a stabilizing material for aqueous calcium stearate dispersions intended for use as components of coatings for paper and paperboard.
Dialdehyde guar gum	For use only as a wet-strength agent employed prior to the sheet-forming operation in the manufacture of paper and paperboard and used at a level not to exceed 1% by weight of the finished dry paper and paperboard fibers.
Dialdehyde locust bean gum	Do.
Diallyldiethylammonium chloride polymer with acrylamide and diallyldimethylammonium chloride, produced by copolymerizing acrylamide, diallyldiethylammonium chloride and diallyldimethylammonium chloride in a weight ratio of 50–2.5–47.5, respectively, so that the finished resin in a 1 percent by weight aqueous solution has a minimum viscosity of 22 centipoises at 22° C, as determined by LVF-series Brookfield viscometer using a No. 1 spindle at 60 r.p.m. (or by other equivalent method).	For use only as a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.05 percent by weight of the finished paper and paperboard.
Diallyldiethylammonium chloride polymer with acrylamide, potassium acrylate, and diallyldimethylammonium chloride. The polymer is produced by copolymerizing either: (1) acrylamide, diallyldiethylammonium chloride, and diallyldimethylammonium chloride in a weight ratio of 50–2.5–47.5, respectively, with 4.4 percent of the acrylamide subsequently hydrolyzed to potassium acrylate, or (2) acrylamide, potassium acrylate (as acrylic acid), diallyldiethylammonium chloride, and diallyldimethylammonium chloride in a weight ratio of 47.8–2.2–2.5–47.5, so that the finished resin in a 1 percent by weight aqueous solution has a minimum viscosity of 22 centipoises at 22° C, as determined by LVF-series Brookfield viscometer using a No. 1 spindle at 60 r.p.m. (or by other equivalent method).	For use only as a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.05 percent by weight of the finished paper and paperboard.
Diallyldimethylammonium chloride polymer with acrylamide, reaction product with glyoxal, produced by copolymerizing not less than 90 weight percent of acrylamide and not more than 10 weight percent of diallyldimethylammonium chloride, which is then cross-linked with not more than 30 weight percent of glyoxal, such that a 10 percent aqueous solution has a minimum viscosity of 25 centipoises at 25° C as determined by Brookfield viscometer Model RVF, using a No. 1 spindle at 100 r.p.m.	For use only as a dry and wet strength agent employed prior to the sheet-forming operation in the manufacture of paper and paperboard in such an amount that the finished paper and paperboard will contain the additive at a level not in excess of 2 percent by weight of the dry fibers in the finished paper and paperboard.
2,5-Di-*tert*-butyl hydroquinone	For use only as an antioxidant for fatty based coating adjuvants provided it is used at a level not to exceed 0.005% by weight of coating solids.
Diethanolamine	For use only as an adjuvant to control pulp absorbency and pitch content in the manufacture of paper and paperboard prior to the sheet-forming operation.
Diethanolamine salts of mono- and bis (1*H*,1*H*,2*H*,2*H*-perfluoroalkyl) phosphates where the alkyl group is even-numbered in the range C_8–C_{18} and the salts have a fluorine content of 52.4% to 54.4% as determined on a solids basis.	For use only as an oil and water repellant at a level not to exceed 0.17 pound (0.09 pound of fluorine) per 1,000 square feet of treated paper or paperboard, as determined by analysis for total fluorine in the treated paper or paperboard without correction for any fluorine which might be present in the untreated paper or paperboard, when such paper or paperboard is used in contact with nonalcoholic foods under the conditions of use described in paragraph (c) of this section, table 2, conditions of use (B) through (H).
Diethylenetriamine	For use only as a modifier for amino resins.
N,N-Diisopropanolamide of tallow fatty acids	For use only as an adjuvant to control pulp absorbency and pitch content in the manufacture of paper and paperboard prior to the sheet forming operation.
Dimethylamine-epichlorohydrin copolymer in which not more than 5 mole-percent of dimethylamine may be replaced by an equimolar amount of ethylenediamine and in which the ratio of total amine to epichlorohydrin does not exceed 1:1. The nitrogen content of the copolymer shall be 9.4 to 10.8 weight percent on a dry basis and a 10 percent by weight aqueous solution of the final product has a minimum viscosity of 5.0 centipoises at 25° C, as determined by LVT-series Brookfield viscometer using a No. 1 spindle at 60 r.p.m. (or by other equivalent method).	For use only as a retention aid employed before the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 1 percent by weight of the finished paper and paperboard.

List of substances	Limitations
N-[(Dimethylamino)methyl]-acrylamide polymer with acrylamide and styrene having a nitrogen content of not more than 14.9 percent and a residual acrylamide monomer content of not more than 0.2 percent on a dry basis.	For use only as a dry-strength agent employed prior to the sheet-forming operation in the manufacture of paper and paperboard and used at a level not to exceed 1 percent by weight of finished dry paper or paperboard fibers.
N,N'-Dioleoylethylenediamine	
Diphenylamine	For use only as an antioxidant for fatty based coating adjuvants provided it is used at a level not to exceed 0.005% by weight of coating solids.
Dipropylene glycol	
N,N'-Distearoylethylenediamine	
n-Dodecylguanidine acetate	For use only as an antimicrobial agent in paper and paperboard under the following conditions: 1. For contact only with nonalcoholic food having a pH above 5 and provided it is used at a level not to exceed 0.4 percent by weight of the paper and paperboard. 2. For use in the outer ply of multiwall paper bags for contact with dry food of Type VIII described in Table 1 of paragraph (c) of this section and provided it is used at a level of 0.8 percent by weight of the paper.
n-Dodecylguanidine hydrochloride	For use only as an antimicrobial agent in paper and paperboard under the following conditions: 1. For contact only with nonalcoholic food having a pH above 5 and provided it is used at a level not to exceed 0.4 percent by weight of the paper and paperboard. 2. For use in the outer ply of multiwall paper bags for contact with dry food of Type VIII described in Table 1 of paragraph (c) of this section and provided it is used at a level of 0.8 percent by weight of the paper.
Fatty acids derived from animal and vegetable fats and oils and salts of such acids, single or mixed, as follows: Aluminum. Ammonium. Calcium. Magnesium. Potassium. Sodium. Zinc.	
Ferric chloride	
Ferrous ammonium sulfate	
Fish oil, hydrogenated	
Fish oil, hydrogenated, potassium salt	
Furcelleran acid salts of furcelleran as described in §§ 172.655 and 172.660 of this chapter.	
Glyceryl lactostearate	
Glyceryl mono-12-hydroxy-stearate	
Glyceryl monoricinoleate	
Guar gum modified by treatment with β-diethylaminoethyl chloride hydrochloride.	For use only as a retention aid and/or drainage aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard.
Guar gum modified by treatment with not more than 7.6 weight percent of 2,3-epoxypropyltrimethylammonium chloride such that the finished product has a maximum chlorine content of 4.5 percent, a maximum nitrogen content of 3.0 percent, and a minimum viscosity in 1-percent-by-weight aqueous solution of 1,000 centipoises at 77° F, as determined by RV-series Brookfield viscometer (or equivalent) using a No. 3 spindle at 20 r.p.m.	For use only as a retention aid and/or internal size employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and limited to use at a level not to exceed 0.15 percent by weight of the finished dry paper and paperboard fibers.
Hexamethylenetetramine	For use only as polymerization cross-linking agent for protein, including casein.
Hydroquinone and the monomethyl or monoethyl ethers of hydroquinone.	For use only as an inhibitor for monomers.
Hydroxypropyl guar gum having a minimum viscosity of 5,000 centipoises at 25° C. as determined by RV-series Brookfield viscometer using a No. 4 spindle at 20 r.p.m. (or other suitable method) and using a test sample prepared by dissolving 5 grams of moisture-free hydroxypropyl guar gum in 495 milliliters of a 70 percent by weight aqueous propylene glycol solution.	For use only as a dry strength and formation aid agent employed prior to the sheet-forming operation in the manufacture of paper and paperboard and used at a level not to exceed 1.5 percent by weight of finished dry paper or paperboard fibers.
Isopropyl m- and p-cresols (thymal derived)	For use only as an antoxidant for fatty based coating adjuvants provided it is used as a level not to exceed 0.005% by weight of coating solids.
Isopropyl peroxydicarbonate	For use only as polymerization catalyst.
Japan wax	
Lanolin	
Lauryl peroxide	
Lauryl sulfate salts: Ammonium. Magnesium. Potassium. Sodium.	
Lecithin, hydroxylated	
Lignin sulfonate and its calcium, potassium, and sodium salts.	
Methyl naphthalene sulfonic acid-formaldehyde condensate, sodium salt.	For use only as an adjuvant to control pulp absorbency and pitch content in the manufacture of paper and paperboard prior to the sheet-forming operation.
Mineral oil, white	
Monoglyceride citrate	
Mustardseed oil, sulfated, ammonium, potassium, or sodium salt.	
Naphthalene sulfonic acid-formaldehyde condensate, sodium salt.	For use only as an adjuvant to control pulp absorbency and pitch content in the manufacture of paper and paperboard prior to the sheet-forming operation.
Nitrocellulose, 10.9–12.2% nitrogen	
Oleic acid, sulfated, ammonium, potassium, or sodium salt.	
N-Oleoyl-*N'*-stearoylethylenediamine	
Oxystearin	
Paraformaldehyde	For use only as setting agent for protein.
Petrolatum	Complying with § 178.3700 of this chapter.

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List of substances	*Limitations*
Petroleum asphalt, steam and vacuum refined to meet the following specifications: Softening point 190° F—200° F, as determined by ASTM Method D–36; penetration at 77° F not to exceed 0.3 mm., as determined by ASTM Method D–5; and maximum weight loss not to exceed 3% when distilled to 700° F, nor to exceed an additional 1.1% when further distilled between 700° F and thermal decomposition.	For use only as a component of internal sizing of paper and paperboard intended for use in contact only with raw fruits, raw vegetables, and dry food of the type identified under type VIII of table 1 in paragraph (c) of this section, and provided that the asphalt is used at a level not to exceed 5% by weight of the finished dry paper and paperboard fibers.
Petroleum wax, synthetic	Complying with § 178.3720 of this chapter.
Phenothiazine	For use only as antioxidant in dry rosin size.
Phenyl acid phosphate	For use only as polymerization catalyst in melamine-formaldehyde modified alkyd coatings and limited to use at a level not to exceed 2% by weight of the coating solids.
Phenyl-β-naphthylamine	For use only as antioxidant in dry rosin size and limited to use at a level not to exceed 0.4% by weight of the dry rosin size.
Phosphoric acid esters and polyesters (and their sodium salts) of triethanolamine formed by the reaction of triethanolamine with polyphosphoric acid to produce a mixture of esters having an average nitrogen content of 1.5 percent and an average phosphorus content of 32 percent (as PO_4).	For use as an adjuvant prior to the sheet forming operation to control pitch and scale formation in the manufacture of paper and paperboard intended for use in contact with food only of the types identified in paragraph (c) of this section, table 1, under type I, IV, V, VII, VIII, and IX, and used at a level not to exceed 0.075 percent by weight of dry paper or paperboard fibers.
Poly[acrylamide-acrylic acid-*N*-(dimethyl-aminomethyl) acrylamide], produced by reacting 2.40 to 3.12 parts by weight of polyacrylamide with 1.55 parts dimethylamine and 1 part formaldehyde, and containing no more than 0.2 percent monomer as acrylamide.	For use only as a drainage aid and retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard for use in contact with fatty foods under conditions of use described in paragraph (c) of this section, table 2, conditions of use, E, F, and G.
Poly(2-aminoethyl acrylate nitrate-co-2-hydroxypropyl acrylate) produced when one mole of hydroxypropyl acrylate and three moles of acrylic acid are reacted with three moles of ethylenimine and three moles of nitric acid, such that a 35 percent by weight aqueous solution has a minimum viscosity of 150 centipoises at 72° F. as determined by RVF-series Brookfield viscometer (or equivalent) using a No. 2 spindle at 20 r.p.m.	For use only as a retention and drainage aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard at a level not to exceed 0.2 percent by weight of dry paper or paperboard fiber.
Polyacrolein (1 part) -sodium bisulfite (0.7 part) adduct, containing excess bisulfite (ratio of excess bisulfite to adduct not to exceed 1.5 to 1).	For use only as an agent in modifying starches and starch gums used in the production of paper and paperboard and limited to use at a level not to exceed 0.09 mg/in² of the finished paper and paperboard.
Polyamide-epichlorohydrin modified resin produced by reacting adipic acid with diethylene triamine to produce a basic polyamide which is modified by reaction with formic acid and formaldehyde and further reacted with epichlorohydrin in the presence of ammonium hydroxide to form a water-soluble cationic resin having a nitrogen content of 13–16 percent (Kjeldahl, dry basis) such that a 35 percent by weight aqueous solution has a minimum viscosity of 75 centipoises at 25° C, as determined by Brookfield viscosimeter using a No. 1 spindle at 12 r.p.m.	For use only as a retention aid and flocculant employed prior to the sheet-forming operation in the manufacture of paper and paperboard and used at a level not to exceed 0.2 percent dry resin by weight offinished dry paper or paperboard fibers.
Polyamide-epichlorohydrin water-soluble thermosetting resins prepared by reacting adipic acid, isophthalic acid, itaconic acid or dimethyl glutarate with diethylenetriamine to form a basic polyamide and further reacting the polyamide with one of the following: Epichlorohydrin. Epichlorohydrin and ammonia mixture. Epichlorohydrin and sodium hydrosulfite mixture.	For use only in the manufacture of paper and paperboard under conditions such that the resins do not exceed 1.5 percent by weight of the paper or paperboard.
Polyamide-epichlorohydrin water-soluble thermosetting resins prepared by reacting adipic acid with diethylenetriamine to form a basic polyamide and further reacting the polyamide with an epichlorohydrin and dimethylamine mixture such that the finished resins have a nitrogen content of 17.0–18.0 percent on a dry basis, and a viscosity in 30 percent-by-weight aqueous solution of 350–800 centipoises at 20° C, as determined by a Brookfield viscometer using a No. 3 spindle at 30 r.p.m. (or equivalent method).	For use only under the following conditions: 1. As a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.12 percent by weight of the dry paper or paperboard. 2. The finished paper or paperboard will be used in contact with food only of the types identified in paragraph (c) of this section, Table 1, under types I and IVB and under conditions of use described in paragraph (c) of this section, Table 2, conditions of use (F) and (G).
Polyamine-epichlorohydrin resin produced by the reaction of bis(hexamethylene) triamine and higher homologues with epichlorohydrin such that the finished resin has a nitrogen content of 7.4–8.9 percent and chlorine content of 18–21 percent on a dry basis, and a minimum viscosity in 20 percent by weight aqueous solution of 30 centipoises at 25° C, as determined by Brookfield HAT model viscometer using a No. 1H spindle at 50 r.p.m. (or equivalent method).	For use only as a wet-strength agent and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 1 percent by weight of dry paper and paperboard fibers.
Polyamine-epichlorohydrin resin produced by the reaction of *N,N*-dimethyl-1,3-propanediamine with epichlorohydrin and further reacted with sulfuric acid, Chemical Abstracts Service Registry Number [27029-41-0], such that the finished resin has a maximum nitrogen content of 14.4 percent (dry basis) and a minimum viscosity in 30 percent by weight aqueous solution (PH 4–6) of 50 centipoises at 25° C, as determined by Brookfield LVT model viscometer, using a No. 1 spindle at 12 r.p.m. (or equivalent method).	For use only as a clarifier in the treatment of influent water to be used in the manufacture of paper and paperboard, and used at a level not to exceed 20 parts per million of the influent water.
Polyamine-epichlorohydrin water soluble thermosetting resin prepared by reacting hexamethylenediamine with 1,2-dichloroethane to form a prepolymer and further reacting this prepolymer with epichlorohydrin such that that finished resin has a nitrogen content of 5.2–5.5 percent and a chlorine content of 32.7–34.4 percent, on a dry basis, and a minimum viscosity, in 25 percent by weight aqueous solution, of 50 centipoises at 25° C, as determined on a Brookfield HAT model viscometer using a No. 1H spindle at 50 r.p.m. (or equivalent method).	For use only as a wet-strength agent and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 1 percent by weight of dry paper and paperboard fibers.

List of substances	*Limitations*
Polyamine-epichlorohydrin water soluble thermosetting resin prepared by reacting hexamethylenediamine with 1,2-dichloroethane to form a prepolymer and further reacting this prepolymer with epichlorohydrin. This resin is then reacted with nitrilotris (methylenephosphonic acid), pentasodium salt, such that the finished resin has a nitrogen content of 5.0–5.3 percent; a chlorine content of 29.7–31.3 percent; and a phosphorus content of 2.0–2.2 percent, on a dry basis, and a minimum viscosity, in 25 percent by weight aqueous solution, of 50 centipoises at 25°C., as determined on a Brookfield HAT model viscometer using a No. 1H spindle at 50 r.p.m. (or equivalent method).	For use only as a wet-strength agent and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 1 percent by weight of dry paper and paperboard fibers.
Polyamine resin produced by the reaction of 1,2-dichloroethane with bis(hexamethylene)triamine and higher homologues such that the finished resin has a nitrogen content of 13.0–15.0 percent on a dry basis, and a minimum viscosity in 25-percent-by-weight aqueous solution of 75 centipoises at 25° C., as determined by Brookfield HAT model viscometer using a No. 1 spindle at 50 r.p.m. (or equivalent method).	For use only as a retention aid and/or flocculent employed prior to the sheet-forming operation in the manufacture of paper and paperboard and used at a level not to exceed 0.1 percent by weight of dry paper or paperboard fibers.
Polyaminoamide-epichlorohydrin modified resin produced by reacting adipic acid with diethylenetriamine to produce a polyamide which is modified by reaction with diethylaminopropylamine and further reacted with dichloroethyl ether to form a polyamide intermediate. This polyamide intermediate is then reacted with epichlorohydrin such that the finished resins have a nitrogen content of 10.9–12.4 percent (Kjeldahl, dry basis) and a minimum viscosity in 40 percent-by-weight aqueous solution of 250 centipoises at 22° C, as determined by a Brookfield Model LVT viscometer using a No. 2 spindle at 30 r.p.m. (or equivalent method).	For use only as a wet-strength agent and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 0.5 percent by weight of the finished dry paper and paperboard.
Polybutene, hydrogenated; complying with the identity prescribed under § 178.3740(b) of this chapter.	For use only as provided in §§ 175.300, 178.3740 and 178.3890 of this chapter.
Poly(1,2-dimethyl-5-vinylpyridinium methyl sulfate) having a nitrogen content of 5.7 to 7.3 percent and a sulfur content of 11.7 to 13.3 percent by weight on a dry basis and having a minimum viscosity in 30-percent-by-weight aqueous solution of 2,000 centipoises at 25° C, as determined by LV-series Brookfield viscometer (or equivalent) using a No. 4 spindle at 60 r.p.m.	For use only as an adjuvant employed in the manufacture of paper and paperboard prior to the sheet-forming operation.
Polyethylene, oxidized; complying with the identity prescribed in § 177.1620(a) of this chapter.	For use only as component of coatings that contact food only of the type identified under type VII–B of table 1 in paragraph (c) of this section, and limited to use at a level not to exceed 50 percent by weight of the coating solids.
Polyethyleneamine mixture produced when 1 mole of ethylene dichloride, 1.05 moles of ammonia, and 2 moles of sodium hydroxide are made to react so that a 10 percent aqueous solution has a minimum viscosity of 40 centipoises at 77° F, as determined by Brookfield viscosimeter using a No. 1 spindle at 60 r.p.m.	For use only as a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard.
Polyethylene glycol (200) dilaurate	For use only as an adjuvant employed in the manufacture of paper and paperboard prior to the sheet-forming operation.
Polyethylene glycol (400) dioleate	
Polyethylene glycol (400) esters of coconut oil fatty acids.	
Polyethylene glycol (600) esters of tall oil fatty acids	
Polyethylene glycol (400) monolaurate	
Polyethylene glycol (600) monolaurate	
Polyethylene glycol (400) monooleate	
Polyethylene glycol (600) monooleate	
Polyethylene glycol (400) monostearate	
Polyethylene glycol (600) monostearate	
Polyethylene glycol (3,000) monostearate	
Polyethylenimine, produced by the polymerization of ethylenimine.	For use only as an adjuvant employed prior to sheet formation in paper-making systems operated at a pH of 4.5 or higher, and limited to use at a level not to exceed 5% by weight of finished dry paper or paperboard fibers.
Polymethacrylic acid, sodium salt, having a viscosity in 30-percent-by-weight aqueous solution of 125–325 centipoises at 25° C as determined by LV-series Brookfield viscometer (or equivalent) using a No. 2 spindle at 60 r.p.m.	For use only as a coating adjuvant for controlling viscosity when used at a level not to exceed 0.3% by weight of coating solids.
Polymethacrylic acid, sodium salt, having a viscosity in 40-percent-by-weight aqueous solution of 400–700 centipoises at 25° C, as determined by LV-series Brookfield viscometer (or equivalent) using a No. 2 spindle at 30 r.p.m.	For use only as a coating adjuvant for controlling viscosity when used at a level not to exceed 0.1% by weight of coating solids.
Poly[(methylimino) (2-hydroxytrimethylene) hydrochloride] produced by reaction of 1:1 molar ratio of methylamine and epichlorohydrin so that a 31 percent aqueous solution at 25° C has a Stokes viscosity range of 2.5–4.0 as determined by ASTM Method D 1545–63.	For use only as a retention aid employed prior to the sheet-forming operation in such an amount that finished paper and paperboard will contain the additive at a level not in excess of 1 percent by weight of the dry paper and paperboard.
Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] produced by reacting equimolar quantities of *N,N,N',N'*-tetramethylethylenediamine and dichloroethyl ether to yield a solution of the solid ploymer in distilled water at 25° C with a reduced viscosity of not less than 0.15 deciliter per gram as determined by ASTM Method D 1243–66. The following formula is used for determining reduced viscosity.	For use only to improve dry-strength of paper and paperboard and as a retention and drainage aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.1 percent by weight of the finished dry paper and paperboard fibers.

$$\text{Reduced viscosity in terms of deciliters per gram} = \frac{t-t_0}{t_0 \times C},$$

where:

t=Solution efflux time.
t_0=Water efflux time.
C=Concentration of solution in terms of grams per deciliter.

Polypropylene glycol (minimum molecular weight 1,000)	
Potassium persulfate	
Propylene glycol alginate	

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List of substances *Limitations*

(b) Substances identified in para- (1) Substances identified in § 175.300

List of substances	Limitations
Protein hydrolysate from animal hides or soybean protein condensed with oleic and/or stearic acid.	
Rapeseed oil, sulfated ammonium, potassium, or sodium salt.	
Ricebran oil, sulfated ammonium, potassium, or sodium salt.	
Rosin and rosin derivatives	As provided in § 178.3870 of this chapter.
Sodium carboxymethyl guar gum having a viscosity of 2,700-3,300 centipoises at 25° C after 24 hours as determined by RV-series Brookfield viscometer (or equivalent) using a No. 4 spindle at 20 r.p.m. and using a test sample prepared by dissolving 8 grams of sodium carboxymethyl guar gum in 392 milliliters of 0.2 percent by weight aqueous sodium o-phenylphenate solution.	For use only as a dry-strength and formation-aid agent employed prior to the sheet-forming operation in the manufacture of paper and paperboard and used at a level not to exceed 1% by weight of finished dry paper or paperboard fibers.
Sodium dioctyl sulfosuccinate	
Sodium formaldehyde sulfoxylate	For use only as polymerization catalyst.
Sodium hypochlorite	
Sodium *N*-methyl-*N*-oleyltaurate	For use only as an adjuvant to control pulp absorbency and pitch content in the manufacture of paper and paperboard prior to the sheet-forming operation.
Sodium nitrite	For use only: 1. At levels not to exceed 0.2% by weight of lubricants or release agents applied at levels not to exceed 1 lb. per ton of finished paper or paperboard. 2. As an anticorrosion agent at levels not to exceed 0.2% by weight of wax emulsions used as internal sizing in the manufacture of paper and paperboard prior to the sheet-forming operation.
Sodium persulfate	
Sodium polyacrylate	For use only: 1. As a thickening agent for natural rubber latex coatings, provided it is used at a level not to exceed 2 percent by weight of coating solids. 2. As a pigment dispersant in coatings at a level not to exceed 0.25 percent by weight of pigment.
Sperm oil, sulfated, ammonium, potassium, or sodium salt	
Stannous oleate	
Stearyl-2-lactylic acid and its calcium salt	
Styrene-maleic anhydride copolymer, sodium salt (minimum molecular weight 30,000).	For use only: 1. As a coating thickening agent at a level not to exceed 1% by weight of coating solids. 2. As surface size at a level not to exceed 1% by weight of paper or paperboard substrate.
Styrene-methacrylic acid copolymer, potassium salt (minimum molecular weight 30,000).	For use only as a coating thickening agent at a level not to exceed 1% by weight of coating solids.
Tallow	
Tallow alcohol	
Tallow alcohol, hydrogenated	
Tallow fatty acid, hydrogenated	
Tallow hydrogenated	
Tallow sulfated, ammonium, potassium, or sodium salt	
Tetraethylenepentamine	For use only as a modifier for amino resins.
N,N',N'-Tetramethylethylenediamine polymer with bis-(2-chloroethyl) ether, first reacted with not more than 5 percent by weight 1-chloro-2,3-epoxypropane and the reacted with not more than 5 percent by weight poly (acrylic acid) such that a 50 percent by weight aqueous solution of the product has a nitrogen content of 4.7–4.9 percent and viscosity of 350-700 centipoises at 25° C as determined by LV series Brookfield viscometer using a No. 2 spindle at 60 r.p.m. (or by other equivalent method).	For use only as a flocculent, drainage aid or retention aid employed prior to the sheet forming operation in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.2 percent by weight of the finished dry paper and paperboard fibers.
Tetrasodium *N* - (1,2 - dicarboxyethyl) - *N* - octadecylsulfosuccinamate.	For use only as an emulsifier in aqueous dispersions of rosin sizes complying with § 178.3870(a)(4) of this chapter and limited to use prior to the sheet-forming operation in the manufacture of paper and paperboard at a level not to exceed 0.02 pct by weight of finished paper and paperboard.
Triethanolamine	For use only to adjust pH during the manufacture of amino resins permitted for use as components of paper and paperboard.
Triethylene glycol adipic acid monoester produced by reacting equimolar quantities of triethylene glycol and adipic acid.	For use only as a curl-control agent at a level not to exceed 2% by weight of coated or uncoated paper and paperboard.
Triethylenetetramine	For use only as a modifier for amino resins.
Undecafluorocyclohexanemethanol ester mixture of dihydrogen phosphate, compound with 2,2'-iminodiethanol (1:1); hydrogen phosphate, compound with 2,2'-iminodiethanol (1:1); and P,P'-dihydrogen pyrophosphate, compound with 2,2'-iminodiethanol (1:2); where the ester mixture has a fluorine content of 48.3 pct to 53.1 pct as determined on a solids basis.	For use only as an oil repellent at a level not to exceed 0.087 lb (0.046 lb of fluorine) per 1,000 ft² of treated paper or paperboard, as determined by analysis for total fluorine in the treated paper or paperboard without correction for any fluorine which might be present in the untreated paper or paperboard, when such paper or paperboard is used in contact with food only of the types identified in paragraph (c) of this section, table 1, under types IVA, V, VIIA, VIII, and IX, and under the conditions of use B through G described in table 2 of paragraph (c) of this section.
Viscose rayon fibers	Complying with § 178.3710 of this chapter.
Wax, petroleum	For use only at a maximum level of 0.125 percent by weight of finished paper as a suspension aid or stabilizer for aqueous pigment slurries employed in the manufacture of paper and paperboard.
Xanthan gum, conforming to the identity and specifications prescribed in § 172.695 of this chapter, except that the residual isopropyl alcohol shall not exceed 6,000 parts per million.	For use only as an adjuvant to control pulp absorbency and pitch content in the manufacture of paper and paperboard prior to the sheet-forming operation.
Xylene sulfonic acid-formaldehyde condensate, sodium salt.	For use only as polymerization catalyst.
Zinc formaldehyde sulfoxylate	
Zinc octoate	For use only as a component of waterproof coatings where the zirconium oxide is present at a level not to exceed 1 percent by weight of the dry paper or paperboard fiber and where the zirconium oxide is produced by hydrolysis of zirconium acetate.
Zirconium oxide	

(b) Substances identified in paragraph (b) (1) and (2) of this section may be used as components of the food-contact surface of paper and paperboard, provided that the food-contact surface of the paper or paperboard complies with the extractives limitations prescribed in paragraph (c) of this section.

(1) Substances identified in § 175.300 (b)(3) of this chapter with the exception of those identified in paragraph (b)(3) (v), (xv), (xx), (xxxi), and (xxxii) of that section and paragraph (a) of this section.

(2) Substances identified in this paragraph (b)(2) follow:

List of substances	Limitations
Acrylamide copolymerized with ethyl acrylate and/or styrene and/or methacrylic acid, subsequently reacted with formaldehyde and butyl alcohol.	For use only as coatings or components of coatings.
Acrylamide copolymerized with ethylene and vinyl chloride in such a manner that the finished copolymers have a minimum weight average molecular weight of 30,000 and contain not more than 3.5 weight percent of total polymer units derived from acrylamide, and in such a manner that the acrylamide portion may or may not be subsequently partially hydrolysed.	
Acrylic copolymers produced by copolymerizing 2 or more of the acrylate monomers butyl acrylate, ethyl acrylate, ethyl methacrylate, methyl acrylate, methyl methacrylate, and n-propyl methacrylate, or produced by copolymerizing one or more of such acrylate monomers together with one or more of the monomers acrylic acid, acrylonitrile, butadiene, 2-ethyl-hexyl acrylate, fumaric acid, glycidyl methacrylate, n-hexyl-methacrylate, itaconic acid, methacrylic acid, styrene, vinyl acetate, vinyl chloride, and vinylidene chloride. The finished copolymers shall contain at least 50 weight percent of polymer units derived from one or more of the monomers butyl acrylate, ethyl acrylate, ethyl methacrylate, methyl acrylate, methyl methacrylate, and n-propyl methacrylate; and shall contain not more than 5 weight percent of total polymer units derived from acrylic acid, fumaric acid, glycidyl methacrylate, n-hexyl methacrylate, itaconic acid, and methacrylic acid. The provision limiting the finished acrylic copolymers to not more than 5 units derived from acrylic acid, fumaric acid, glycidyl methacrylate, n-hexyl methacrylate, itaconic acid, and methacrylic acid is not applicable to finished acrylic copolymers used as coating adjuvants at a level not exceeding 2 weight percent of total coating solids.	
n-Alkylsulfonate (alkyl group is in the range C_{10}–C_{18} with not less than 50 percent C_{14}–C_{16}).	For use only as an emulsifier for vinylidene chloride copolymer coatings and limited to use at a level not to exceed 2 percent by weight of the coating solids.
2-Bromo-4'-hydroxyacetophenone	For use only as a preservative for coating formulations, binders, pigment slurries, and sizing solutions at a level not to exceed 0.006 percent by weight of the coating, solution, slurry or emulsion.
Butylbenzyl phthalate	Complying with §178.3740 of this chapter.
Butyl oleate, sulfated, ammonium, postassium, or sodium salt.	
Butyraldehyde	
Captan (*N*-trichloromethylmercapto-4-cyclohexene-1, 2-dicarboximide).	For use only as a mold- and mildew-proofing agent in coatings intended for use in contact with food only of the types identified in paragraph (c) of this section, table 1, under type I, II, VI-B, and VIII.
Castor Oil, polyoxyethylated (42 moles ethylene oxide)	For use only as an emulsifier in nitrocellulose coatings for paper and paperboard intended for use in contact with food only of the types identified in paragraph (c) of this section, table 1, under types IV A, V, VII A, VIII, and IX; and limited to use at a level not to exceed 8 percent by weight of the coating solids.
1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride.	For use only as a preservative at a level of 0.3 weight percent in latexes used as pigment binders in paper and paperboard intended for use in contact with food only of the types identified in paragraph (c) of this section, table 1, under types V, VIII, and IX and under the conditions of use described in paragraph (c) of this section, table 2, conditions of use E, F, and G.
Copper 8-quinolinoiate	For use only as preservative for coating formulations.
Cyclized rubber produced when natural pale crepe rubber dissolved in phenol is catalytically cyclized so that the finished cyclized rubber has a melting point of 293° F–311° F as determined by ASTM Method E-28-58T and contains no more than 4,000 p.p.m. of residual-free phenol as determined by a gas liquid chromatographic method available upon request from the Commissioner of Food and Drugs.	For use only in coatings for paper and paperboard intended for use in contact with food only of the types identified in paragraph (c) of this section, table 1, under types VIII and IX.
Dibutyl phthalate	
Dibutyl sebacate	
Di(C,C-alkyl) adipate	Complying with § 178.3740 of this chapter.
Dicyclohexyl phthalate	
Diethylene glycol ester of the adduct of terpene and maleic anhydride.	
Dihydroxy dichlorodiphenyl methane	For use only as preservative for coating formulations.
Dimethylpolysiloxane, 100 centistokes viscosity	
Dimethylpolysiloxane-beta-phenylethyl methyl polysiloxane copolymer (2:1), 200 to 400 centistokes viscosity.	
N,N'-Diphenyl-*p*-phenylenediamine	For use only as polymerization inhibitor in 2-sulfoethyl methacrylate, sodium salt.
Disodium *N*-octadecylsulfosuccinamate	For use only as an emulsifier in resin latex coatings and limited to use at a level not to exceed 0.05% by weight of the coating solids.
EDTA (ethylenediaminetetraacetic acid) and its sodium and/or calcium salts.	
Ethylene-acrylic acid copolymers produced by the copolymerization of ethylene and acrylic acid and/or their partial ammonium salts. The finished copolymer shall contain no more than 25 weight-percent of polymer units derived from acrylic acid and no more than 0.35 weight percent of residual monomeric acrylic acid, and have a melt index not to exceed 350 as determined by ASTM method D 1238.	

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List of substances	Limitations
Formaldehyde	For use only as preservative for coating formulations.
Glyoxal	For use only as an insolubilizing agent in starch- and protein-based coatings that contact nonalcoholic foods, and limited to use at a level not to exceed 6 percent by weight of the starch or protein fraction of the coating solids.
Glyceryl monobutyl ricinoleate	
Hydroxymethyl derivatives (mixture of mono and poly) of [N-(1, 1-dimethyl-3-oxobutyl) acrylamide] produced by reacting 1 mole of the [N-(1,1-dimethyl-3-oxobutyl) acrylamide] with 3 moles of formaldehyde such that the finished product has a maximum nitrogen content of 6.2 percent and a maximum hydroxyl content of 15 percent by weight on a dry basis.	For use only as a comonomer in polyvinyl acetate latex coatings and limited to use at a level not to exceed 1 percent by weight of dry polymer solids.
Isobutyl oleate, sulfated, ammonium, potassium, or sodium salt.	
Maleic anhydride adduct of butadiene-styrene copolymer.	
α-Methylstyrene-vinyl-toluene copolymer resins (molar ratio 1 α-methylstyrene to 3 vinyltoluene).	
Naphthalene sulfonic acid-formaldehyde condensate, sodium salt.	
Oleyl alcohol	
Oxazolidinylethylmethacrylate (CAS Registry No. 46236-15-1) copolymer with ethyl acrylate and methyl methacrylate, and containing not more than 6 percent by weight of oxazolidinylethylmethacrylate. Maximum nitrogen content shall be 0.5 percent and number average molecular weight of that portion of the copolymer soluble in tetrahydrofuran shall be not less than 50,000.	For use only as a binder for pigment coatings as a binder level not to exceed 4.0 percent by weight of dry paper or paperboard.
Pentaerythritol tetrastearate	
Petroleum alicyclic hydrocarbon resins, or the hydrogenated product thereof, meeting the following specifications: Softening point 97° C minimum, as determined by ASTM Method E 28-58T; aniline point 120° C minimum, as determined by ASTM Method D 611-64; and specific gravity 0.96–0.99 (20° C/20° C). Such petroleum hydrocarbon resins are produced by the catalytic polymerization of dienes and olefins from low-boiling distillates of cracked petroleum stocks that contain no material boiling over 200° C and that meet the ultraviolet absorbance limits prescribed in § 172.880 (b) of this chapter when subjected to the analytical procedure described in § 172.886(b) of this chapter, modified as follows: Treat the product as in the first paragraph under "Procedure" in § 172.250(b)(4) of this chapter. Then proceed with § 172.886(b) of this chapter, starting with the paragraph commencing with "Promptly complete transfer of the sample • • •".	For use only as modifiers in waxpolymer blend coatings for corrugated paperboard intended for use in bulk packaging or raw fruits, raw vegetables, iced meat iced fish, and iced poultry, and limited to use at a level not to exceed 30 weight-percent of the coating solids.
Polyester resin formed by the reaction of the methyl ester of rosin, phthalic anhydride, maleic anhydride and ethylene glycol, such that the polyester resin has an acid number of 4 to 11, a drop-softening point of 70° C-92° C., and a color of K or paler.	
Polyester resin produced by reacting the acid groups in montan wax with ethylene glycol.	
Polyethylene, oxidized	Complying with § 177.1620 of this chapter.
Polyethylene reacted with maleic anhydride such that the modified polyethylene has a saponification number not in excess of 6 after Soxhlet extraction for 24 hours with anhydrous ethyl alchol.	
Polyoxyethylated (40 moles) tallow alcohol sulfate, sodium salt.	Not to exceed 300 p.p.m. in finished coated paper or paperboard.
Polyoxypropylene-polyoxyethylene block polymers (minimum molecular weight 6,800).	
Polyvinyl acetate	
Polyvinyl alcohol (minimum viscosity of 4% aqueous solution at 20° C. of 4 centipoises).	
Polyvinyl butyral	
Polyvinyl formal	
Polyvinylidene chloride	
Polyvinyl pyrrolidone	
Polyvinyl stearate	
Propylene glycol mono- and diesters of fats and fatty acids.	
Sodium decylbenzenesulfonate	
Sodium dihexyl sulfosuccinate	
Sodium n-dodecylpolyethoxy (50 moles) sulfate-sodium isododecylphenoxypolyethoxy (40 moles) sulfate mixture.	For use only as an emulsifier in coatings that contact food only of the types identified in paragraph (c) of this section, table 1, under types IV–A, V, VII, VIII, and IX; and limited to use at levels not to exceed 0.75 percent by weight of the coating solids.
Sodium 2-ethylhexyl sulfate	
Sodium oleoyl isopropanolamide sulfosuccinate	For use only as preservative for coating formulations.
Sodium pentachlorophenate	Do.
Sodium o-phenylphenate	
Sodium vinyl sulfonate polymerized	For use only as a coating or component of coatings and limited to use at a level not to exceed 1% by weight of paper or paperboard substrate.
Styrene copolymers produced by copolymerising styrene with maleic anhydride and its methyl and sec-butyl esters. Such copolymers may contain β-nitrostyrene as a polymerization chain terminator.	
Styrene-butadiene copolymers containing not more than 10 weight percent of polymer units derived by copolymerization with one or more of the following monomers: Acrylic acid. Fumaric acid. 2-Hydroxyethyl acrylate. Itaconic acid. Methacrylic acid.	
Styrene-butadiene copolymers with 2-hydroxyethyl acrylate and acrylic acid containing not more than 15 weight percent acrylic acid and no more than 20 weight percent of a combination of 2-hydroxyethyl acrylate and acrylic acid.	
Styrene-dimethylstyrene-α-methylstyrene copolymers produced by polymerizing equimolar ratios of the three comonomers such that the finished copolymers have a minimum average molecular weight of 835 as determined by ASTM Method D 2503.	For use only in coatings for paper and paperboard intended for use in contact with nonfatty food and limited to use at a level not to exceed 50% by weight of the coating solids.

List of substances	Limitations
Styrene-isobutylene copolymers (weight average molecular weight not less than 6,300).	For use only in coatings for paper and paperboard intended for use in contact under conditions of use D, G described in Table 2 of paragraph (c) of this section, with food of types I, II, IV–B, VI–B, VII–B, and VIII described in Table 1 of paragraph (c) of this section; and limited to use at a level not to exceed 40 percent by weight of the coating solids.
Styrene-maleic anhydride copolymers	For use only as a coating or component of coatings and limited for use at a level not to exceed 2 percent by weight of paper or paperboard substrate.
Styrene-methacrylic acid copolymers containing no more than 5 weight percent of polymer units derived from methacrylic acid.	
α-[p-(1,1,3,3-Tetramethylbutyl) phenyl]-omega-hydroxypoly (oxyethylene)hydrogen sulfate, sodium salt mixture with α-[p-(1,1,3,3-tetramethylbutyl)phenyl]-omega-hydroxypoly(oxyethylene) with both substances having a poly(oxyethylene) content averaging 3 moles.	For use only as a surface-active agent at levels not to exceed 3 percent by weight of vinyl acetate polymer with ethylene and N-(hydroxymethyl) acrylamide intended for use in coatings for paper and paperboard intended for use in contact with foods: 1. Of the types identified in paragraph (c) of this section, table 1, under types I, II, III, IV, VI B, and VII, and under the conditions of use described in paragraph (c) of this section, table 2, conditions of use E, F, and G. 2. Of the types identified in paragraph (c) of this section, table 1, under types V, VIII and IX and under the conditions of use described in paragraph (c) of this section, table 2, conditions of use C, D, E, F, and G.
2-Sulfoethyl methacrylate, sodium salt [C.A. Registry No. 10595-80-9].	For use only in copolymer coatings under conditions of use E, F, and G described in paragraph (c) of this section, table 2, and limited to use at a level not to exceed 1.0 percent by weight of the dry copolymer coating.
Tetrasodium N-(1,2-dicarboxyethyl)-N-octadecylsulfosuccinamate.	For use only as an emulsifier in resin latex coatings, and limited to use at a level not to exceed 0.05% by weight of the coating solids.
Toluenesulfonamide-formaldehyde resins	
Vinyl acetate copolymers produced by copolymerizing vinyl acetate with one or more of the monomers acrylamide, acrylic acid, acrylonitrile, bicyclo-[2.2.1]hept-2-ene-5-methylacrylate, butyl acrylate, crotonic acid, decyl acrylate, diallyl fumarate, diallyl maleate, diallyl phthalate, dibutyl fumarate dibutyl itaconate, dibutyl-maleate, di(2-ethylhexyl) maleate, divinyl benzene, ethyl acrylate, 2-ethyl-hexyl acrylate, fumaric acid, itaconic acid, maleic acid, methacrylic acid, methyl acrylate, methyl methacrylate, mono(2-ethylhexyl) maleate, monoethyl maleate, styrene, vinyl butyrate, vinyl crotonate, vinyl hexoate, vinylidene chloride, vinyl pelargonate, vinyl propionate, vinyl pyrrolidone, vinyl stearate, and vinyl sulfonic acid. The finished copolymers shall contain at least 50 weight percent of polymer units derived from vinyl acetate and shall contain no more than 5 weight percent of total polymer units derived from acrylamide, acrylic acid, crotonic acid, decyl acrylate, dibutyl itaconate, di(2-ethylhexyl) maleate, fumaric acid, itaconic acid, maleic acid, methacrylic acid, mono(2-ethylhexyl) maleate, monoethyl maleate, vinyl butyrate, vinyl hexoate, vinyl pelargonate, vinyl propionate, vinyl stearate, and vinyl sulfonic acid.	For use only in coatings for paper and paperboard intended for use in contact with foods: 1. Of the types identified in paragraph (c) of this section, table 1, under types I, II, III, IV, VI B, and VII and under the conditions of use described in paragraph (c) of this section, table 2, conditions of use E, F, and G. 2. Of the types identified in paragraph (c) of this section, table 1, under types V, VIII, and IX and under the conditions of use described in paragraph (c) of this section, table 2, conditions of use C, D, E, F, and G.
Vinyl acetate polymer with ethylene and N-(hydroxymethyl) acrylamide containing not more than 6 weight percent of total polymer units derived from N-(hydroxymethyl) acrylamide.	
Vinyl chloride copolymers produced by copolymerizing vinyl chloride with one or more of the monomers acrylonitrile; fumaric acid and its methyl, ethyl, propyl, butyl, amyl, hexyl, heptyl, or octyl esters; maleic acid and its methyl, ethyl, propyl, butyl, amyl, hexyl, heptyl, or octyl esters; maleic anhydride; 5-norbornene-2, 3-dicarboxylic acid; mono-n-butyl ester; vinyl acetate; and vinylidene chloride. The finished copolymers shall contain at least 50 weight percent of polymer units derived from vinyl chloride; shall contain no more than 5 weight percent of total polymer units derived from fumaric and/or maleic acid and/or their methyl, ethyl, propyl, butyl, amyl, hexyl, heptyl, or octyl monoesters or from maleic anhydride or from mono-n-butyl ester of 5-norbornene-2, 3-dicarboxylic acid (however, in any case the finished copolymers shall contain no more than 4 weight percent of total polymer units derived from mono-n-butyl ester of 5-norbornene-2,3-dicarboxylic acid).	
Vinyl chloride-vinyl acetate hydroxyl-modified copolymers.	
Vinyl chloride-vinyl acetate hydroxyl-modified copolymers reacted with trimellitic anhydride.	
Vinylidene chloride copolymers produced by copolymerizing vinylidene chloride with one or more of the monomers acrylamide, acrylic acid, acrylonitrile, butyl acrylate, butyl methacrylate, ethyl acrylate, ethyl methacrylate, fumaric acid, itaconic acid, methacrylic acid, methyl acrylate, methyl methacrylate, octadecyl methacrylate, propyl acrylate, propyl methacrylate, vinyl chloride, and vinyl sulfonic acid. The finished copolymers shall contain at least 50 weight percent of polymer units derived from vinylidene chloride; and shall contain no more than 5 weight percent of total polymer units derived from acrylamide, acrylic acid, fumaric acid, itaconic acid, methacrylic acid, octadecyl methacrylate, and vinyl sulfonic acid.	

(c) The food-contact surface of the TABLE 1—TYPES OF RAW AND PROCESSED Having selected the appropriate food-

each sample is always next to an alumi- e'=Chloroform-soluble extractives resi- be optionally fitted with a 100-millimeter

(c) The food-contact surface of the paper and paperboard in the finished form in which it is to contact food, when extracted with the solvent or solvents characterizing the type of food, and under conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of this paragraph, shall yield net chloroform-soluble extractives (corrected for wax, petrolatum, mineral oil and zinc extractives as zinc oleate) not to exceed 0.5 milligram per square inch of food-contact surface as determined by the methods described in paragraph (d) of this section.

TABLE 1—TYPES OF RAW AND PROCESSED FOODS

I. Nonacid, aqueous products; may contain salt or sugar or both (pH above 5.0).

II. Acid, aqueous products; may contain salt or sugar or both, and including oil-in-water emulsions of low- or high-fat content.

III. Aqueous, acid or nonacid products containing free oil or fat; may contain salt, and including water-in-oil emulsions of low- or high-fat content.

IV. Dairy products and modifications:
- A. Water-in-oil emulsions, high- or low-fat.
- B. Oil-in-water emulsions, high- or low-fat.

V. Low-moisture fats and oil.

VI. Beverages:
- A. Containing up to 8 percent of alcohol.
- B. Nonalcoholic.
- C. Containing more than 8 percent alcohol.

VII. Bakery products other than those included under types VIII or IX of this table:
- A. Moist bakery products with surface containing free fat or oil.
- B. Moist bakery products with surface containing no free fat or oil.

VIII. Dry solids with the surface containing no free fat or oil (no end test required).

IX. Dry solids with the surface containing free fat or oil.

TABLE 2.—*Test procedures with time temperature conditions for determining amount of extractives from the food-contact surface of uncoated or coated paper and paperboard, using solvents simulating types of foods and beverages*

Condition of use	Types of food (see table 1)	Food-simulating solvents: Water (time and temperature)	Heptane [1] (time and temperature)	8 pct alcohol (time and temperature)	50 pct alcohol (time and temperature)
A. High temperature heat-sterilized (e.g., over 212° F).	I, IV-B, VII-B	250° F, 2 hr.			
	III, IV-A, VII-A	do.		150° F, 2 hr.	
B. Boiling water sterilized.	II, VII-B	212° F, 30 min.			
	III, VII-A	do.		120° F, 30 min.	
C. Hot filled or pasteurized above 150° F.	II, IV-B, VII-B	Fill boiling, cool to 100° F.			
	III, IV-A, VII-A	do.		120° F, 15 min.	
	V, IX		do.		
D. Hot filled or pasteurized below 150° F.	II, IV-B, VI-B, VII-B.	150° F, 2 hr.			
	III, IV-A, VII-A	do.		100° F, 30 min.	
	V, IX		do.		
	VI-A		do.	150° F, 2 hr.	
	VI-C				150° F, 2 hr.
E. Room temperature filled and stored (no thermal treatment in the container).	I, II, IV-B, VI-B, VII-B.	120° F, 24 hr.			
	III, IV-A, VII-A	do.		70° F, 30 min.	
	V, IX		do.		
	VI-A			120° F, 24 hr.	
	VI-C				120° F, 24 hr.
F. Refrigerated storage (no thermal treatment in the container).	III, IV-A, VII-A	70° F, 48 hr.	70° F, 30 min.		
	I, II, IV-B, VI-B, VII-B.	do.			
	VI-A			70° F, 48 hr.	
	VI-C				70° F, 48 hr.
G. Frozen storage (no thermal treatment in the container).	II, II, IV-B, VII-B.	70° F, 24 hr.			
	III, VII-A	do.		70° F, 30 min.	
H. Frozen or refrigerated storage: Ready-prepared foods intended to be reheated in container at time of use:					
1. Aqueous or oil-in-water emulsion of high- or low-fat.	I, II, IV-B, VII-B.	212° F, 30 min.			
2. Aqueous, high- or low-free oil or fat.	III, IV-A, VII-A, IX.	do.		120° F, 30 min.	

[1] Heptane extractability results must be divided by a factor of five in arriving at the extractability for a food product having water-in-oil emulsion or free oil or fat. Heptane food-simulating solvent is not required in the case of wax-polymer blend coatings for corrugated paperboard containers intended for use in bulk packaging of iced meat, iced fish, and iced poultry.

(d) *Analytical methods*—(1) *Selection of extractability conditions.* First ascertain the type of food product (table 1, paragraph (c) of this section) that is being packed commercially in the paper or paperboard and the normal conditions of thermal treatment used in packaging the type of food involved. Using table 2, paragraph (c) of this section, select the food-simulating solvent or solvents and the time-temperature exaggerations of the paper or paperboard use conditions. Having selected the appropriate food-simulating solvent or solvents and the time-temperature exaggeration over normal use, follow the applicable extraction procedure.

(2) *Reagents*—(i) *Water.* All water used in extraction procedures should be freshly demineralized (deionized) distilled water.

(ii) *n-Heptane.* Reagent grade, freshly redistilled before use, using only material boiling at 208° F.

(iii) *Alcohol.* 8 or 50 percent (by volume), prepared from undenatured 95 percent ethyl alcohol diluted with demineralized (deionized) distilled water.

(iv) *Chloroform.* Reagent grade, freshly redistilled before use, or a grade having an established consistently low blank.

(3) *Selection of test method.* Paper or paperboard ready for use in packaging shall be tested by use of the extraction cell described in "Official Methods of Analysis of the Association of Official Agricultural Chemists," 10th edition, 1965, sections 7.034–7.039, under "Exposing Flexible Barrier Materials for Extraction," also described in ASTM Method F 34–63T, except that formed paper and paperboard products may be tested in the container by adapting the in-container methods described in § 175.300(e) of this chapter. Formed paper and paperboard products such as containers and lids, that cannot be tested satisfactorily by any of the above methods may be tested in specially designed extraction equipment, usually consisting of clamping devices that fit the closure or container so that the food-contact surface can be tested, or, if flat samples can be cut from the formed paper or paperboard products without destroying the integrity of the food-contact surface, they may be tested by adapting the following "sandwich" method:

(i) *Apparatus.* (*a*) Thermostated (±1.0° F) water bath, variable between 70° F and 120 F. water bath cover capable of holding at least one 800-milliliter beaker partially submersed in bath.

(*b*) Analytical balance sensitive to 0.1 milligram with an approximate capacity of 100 grams.

(*c*) Tongs.

(*d*) Hood and hot-plate facilities.

(*e*) Forced draft oven.

For each extraction, the following additional apparatus is necessary:

(*f*) One No. 2 paper clip.

(*g*) One 800-milliliter beaker with watch-glass cover.

(*h*) One 250-milliliter beaker.

(*i*) Five 2½-inch-square aluminum screens (standard aluminum window screening is acceptable).

(*j*) One wire capable of supporting sample stack.

(ii) *Procedure.* (*a*) For each extraction, accurately cut eight 2½-inch-square samples from the formed paper or paperboard product to be tested.

(*b*) Carefully stack the eight 2½-inch-square samples and the five 2½-inch-square aluminum screens in sandwich form such that the food-contact side of each sample is always next to an aluminum screen, as follows: Screen, sample, sample, screen, sample, sample, screen, etc. Clip the sandwich together carefully with a No. 2 paper clip, leaving just enough space at the top to slip a wire through.

(*c*) Place an 800-milliliter beaker containing 100-milliliters of the appropriate food-simulating solvent into the constant temperature bath, cover with a watch glass and condition at the desired temperature.

(*d*) After conditioning, carefully lower the sample sandwich with tongs into the beaker.

(*e*) At the end of the extraction period, using the tongs, carefully lift out the sample sandwich and hang it over the beaker with the wire.

(*f*) After draining, pour the food-simulating solvent solution into a tared 250-milliliter beaker. Rinse the 800-milliliter beaker three times, using a total of not more than 50 milliliters of the required solvent.

(*g*) Determine total nonvolatile extractives in accordance with paragraph (d)(5) of this section.

(4) *Selection of samples.* Quadruplicate samples should be tested, using for each replicate sample the number of cups, containers, or preformed or converted products nearest to an area of 100 square inches.

(5) *Determination of amount of extractives*—(i) *Total residues.* At the end of the exposure period, remove the test container or test cell from the oven and combine the solvent for each replicate in a clean Pyrex (or equivalent) flask or beaker being sure to rinse the test container or cell with a small quantity of clean solvent. Evaporate the food-simulating solvents to about 100 milliliters in the flask or beaker, and transfer to a clean, tared evaporating dish (platinum or Pyrex), washing the flask three times with small portions of solvent used in the extraction procedure, and evaporate to a few milliliters on a nonsparking, low-temperature hotplate. The last few milliliters should be evaporated in an oven maintained at a temperature of aproximately 221° F. Cool the evaporating dish in a desiccator for 30 minutes and weigh the residue to the nearest 0.1 milligram, (*e*). Calculate the extractives in milligrams per square inch of the container or sheeted paper or paperboard surface.

(*a*) *Water and 8- and 50-percent alcohol.* Milligrams extractives per square inch $= \frac{e}{s}$

(*b*) *Heptane.* Milligrams extractives per square inch $= \frac{e}{(s)\ (F)}$.

Where:

e = Milligrams extractives per sample tested.

s = Surface area tested, in square inches.

F = Five, the ratio of the amount of extractives removed by heptane under exaggerated time-temperature test conditions compared to the amount extracted by a fat or oil under exaggerated conditions of thermal sterilization and use.

e' = Chloroform-soluble extractives residue.

ee' = Corrected chloroform-soluble extractives residue.

e' or ee' is substituted for e in the above equations when necessary.

If when calculated by the equations in paragraph (d)(5)(i) (*a*) and (*b*) of this section, the extractives in milligrams per square inch exceed the limitations prescribed in paragraph (c) of this section, proceed to paragraph (d)(5)(ii) of this section (method for determining the amount of chloroform-soluble extractives residues).

(ii) *Chloroform-soluble extractives residue.* Add 50 milliliters of chloroform (freshly distilled reagent grade or a grade having an established consistently low blank) to the dried and weighed residue, (*e*), in the evaporating dish obtained in paragraph (d)(5)(i) of this section. Warm carefully, and filter through Whatman No. 41 filter paper (or equivalent) in a Pyrex (or equivalent) funnel, collecting the filtrate in a clean, tared evaporating dish (platinum or Pyrex). Repeat the chloroform extraction, washing the filter paper with this second portion of chloroform. Add this filtrate to the original filtrate and evaporate the total down to a few milliliters on a low-temperature hotplate. The last few milliliters should be evaporated in an oven maintained at approximately 221° F. Cool the evaporating dish in a desiccator for 30 minutes and weigh to the nearest 0.1 milligram to get the chloroform-soluble extractives residue (e'). This e' is substituted for e in the equations in paragraph (d)(5)(i) (*a*) and (*b*) of this section. If the chloroform-soluble extractives in milligrams per square inch still exceeds the limitation prescribed in paragraph (c) of this section, proceed to paragraph (d)(5)(iii) of this section (method for determining corrected chloroform-soluble extractives residue).

(iii) *Corrected chloroform-soluble extractives residue*—(*a*) *Correction for zinc extractives.* Ash the residue in the evaporating dish by heating gently over a Meker-type burner to destroy organic matter and hold at red heat for about 1 minute. Cool in the air for 3 minutes, and place the evaporating dish in the desiccator for 30 minutes and weigh to the nearest 0.1 milligram. Analyze this ash for zinc by standard Association of Official Agricultural Chemists methods or equivalent. Calculate the zinc in the ash as zinc oleate, and subtract from the weight of chloroform-soluble extractives residue (e') to obtain the zinc-corrected chloroform-soluble extractives residue (ee). This ee is substituted for e in the equations in paragraph (d)(5)(i) (*a*) and (*b*) of this section.

(*b*) *Correction for wax, petrolatum, and mineral oil*—(*1*) *Apparatus.* Standard 10 millimeter inside diameter x 60 centimeter chromatographic column (or standard 50-milliliter buret with an inside diameter of 10–11 millimeters) with a stopcock of glass, perfluorocarbon resin, or equivalent material. The column (or buret) may be optionally equipped with an integral coarse, fritted glass disc and the top of the column (or buret) may be optionally fitted with a 100-millimeter solvent reservoir.

(*2*) *Preparation of column.* Place a snug pledget of fine glass wool in the bottom of the column (or buret) if the column (or buret) is not equipped with integral coarse, fritted glass disc. Overlay the glass wool pledget (or fritted glass disc) with a 15–20 millimeter deep layer of fine sand. Measure in a graduated cylinder 15 milliliters of chromatographic grade aluminum oxide (80–200 mesh) that has been tightly settled by tapping the cylinder. Transfer the aluminum oxide to the chromatographic tube, tapping the tube during and after the transfer so as to tightly settle the aluminum oxide. Overlay the layer of aluminum oxide with a 1.0–1.5 centimeter deep layer of anhydrous sodium sulfate and on top of this place an 8–10 millimeter thick plug of fine glass wool. Next carefully add about 25 milliliters of heptane to the column with stopcock open, and allow the heptane to pass through the column until the top level of the liquid just passes into the top glass wool plug in the column, and close stopcock.

(*3*) *Chromatographing of sample extract*—(*i*) *For chloroform residues weighing 0.5 gram or less.* To the dried and weighed chloroform-soluble extract residue in the evaporating dish, obtained in paragraph (d)(5)(ii) of this section, add 20 milliliters of heptane and stir. If necessary, heat carefully to dissolve the residue. Additional heptane not to exceed a total volume of 50 milliliters may be used if necessary to complete dissolving. Cool to room temperature. (If solution becomes cloudy, use the procedure in paragraph (d)(5)(iii) (*b*)(*3*)(*ii*) of this section to obtain and aliquot of heptane solution calcuated to contain 0.1–0.5 gram of chloroform-soluble extract residue.) Transfer the clear liquid solution to the column (or buret). Rinse the dish with 10 millimeters of additional heptane and add to column. Allow the liquid to pass through the column into a clean, tared evaporating dish(platinum or Pyrex) at a dropwise rate of about 2 milliliters per minute until the liquid surface reaches the top glass wool plug; then close the stopcock temporarily. Rinse the Pyrex flask which contained the filtrate with an additional 10–15 milliliters of heptane and add to the column. Wash (elute) the column with more heptane collecting about 100 milliliters of total eluate including that already collected in the evaporating dish. Evaporate the combined eluate in the evaporating dish to dryness on a steam bath. Dry the residue for 15 minutes in an oven maintained at a temperature of approximately 221° F. Cool the evaporating dish in a desiccator for 30 minutes and weigh the residue to the nearest 0.1 milligram. Subtract the weight of the residue from the weight of chloroform-soluble extractives residue (e') to obtain the wax-, petrolatum-, and mineral oil-corrected chloroform-soluble extractives residue (ee'). This ee' is substituted for e in the equations in paragraph (d)(5)(i) (*a*) and (*b*) of this section.

(*ii*) *For chloroform residues weighing more than 0.5 gram.* Redissolve the

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dried and weighed chloroform-soluble extract residue as described in paragraph (d)(5)(iii)(*b*)(*3*)(*i*) of this section using proportionately larger quantities of heptane. Transfer the heptane solution to an appropriate-sized volumetric flask (i.e., a 250-milliliter flask for about 2.5 grams of residue) and adjust to volume with additional heptane. Pipette out an aliquot (about 50 milliliters) calculated to contain 0.1–0.5 gram of the chloroform-soluble extract residue and analyze chromatographically as described in paragraph (d)(5)(iii)(*b*)(*3*)(*i*) of this section. In this case the weight of the dried residue from the heptane eluate must be multiplied by the dilution factor to obtain the weight of wax, petrolatum, and mineral oil residue to be subtracted from the weight of chloroform-soluble extractives residue (e') to obtain the wax-, petrolatum-, and mineral oil-corrected chloroform-soluble extractives residue (ee'). This ee' is substituted for e in the equations in paragraph (d)(5)(i)(*a*) and (*b*) of this section. (Note: In the case of chloroform-soluble extracts which contain high melting waxes (melting point greater than 170° F), it may be necessary to dilute the heptane solution further so that a 50-milliliter aliquot will contain only 0.1–0.2 gram of the chloroform-soluble extract residue.)

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter, except where the copolymers are restricted to use in contact with food only of the type identified in paragraph (c), table 1 under category VIII.

§ 176.180 Components of paper and paperboard in contact with dry food.

The substances listed in this section may be safely used as components of the uncoated or coated food-contact surface of paper and paperboard intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding dry food of the type identified in § 176.170(c), table 1, under type VIII, subject to the provisions of this section.

(a) The substances are used in amounts not to exceed that required to accomplish their intended physical or technical effect, and are so used as to accomplish no effect in food other than that ordinarily accomplished by packaging.

(b) The substances permitted to be used include the following:

(1) Substances that by § 176.170 and other applicable regulations in Parts 170 through 189 of this chapter may be safely used as components of the uncoated or coated food-contact surface of paper and paperboard, subject to the provisions of such regulation.

(2) Substances identified in the following list:

List of substances	*Limitations*
4-[2-[2-(2-alkoxy(C_{12}–C_{15}) ethoxy) ethoxy]ethyl]disodium sulfosuccinate.	For use as a polymerization emulsifier and latex emulsion stabilizer at levels not to exceed 5 percent by weight of total emulsion solids.
Aluminum and calcium salts of FD & C dyes on a substrate of alumina.	Colorant.
Ammonium nitrate	
Amylose	
Barium metaborate	For use as preservative in coatings and sizings.
N,N'-Bis(hydroxyethyl)lauramide	
Bis(trichloromethyl) sulfone C.A. Registry No. 3064708	For use only as a preservative in coatings.
Borax	For use as preservative in coatings.
Boric acid	Do.
sec-Butyl alcohol	
Butyl benzyl phthalate	
Candelilla wax	
Carbon tetrachloride	
Castor oil, polyoxyethylated (42 moles ethylene oxide)	
Chloral hydrate	Polymerization reaction-control agent.
N-Cyclohexyl-*p*-toluene sulfonamide	
2,5-Di-*tert*-butyl hydroquinone	
Diethanolamine	
Diethylene glycol monobutyl ether	
Diethylene glycol monoethyl ether	
Diethylenetriamine	
N,N-Diisopropanolamide of tallow fatty acids	
N-[(dimethylamino)methyl]acrylamide polymer with acrylamide and styrene.	
N,N'-Dioleoylethylenediamine, *N,N'*-dilinoleoylethylenediamine, and *N*-oleoyl-*N'*-linoleoylethylenediamine mixture produced when tall oil fatty acids are made to react with ethylenediamine such that the finished mixture has a melting point of 212°–228° F, as determined by ASTM Method D 127–60, and an acid value of 10 maximum.	
Diphenylamine	
Disodium *N*-octadecylsulfosuccinamate	
tert-Dodecyl thioether of polyethylene glycol	
Erucamide (erucylamide)	
Ethylene oxide	Fumigant in sizing.
Ethylene oxide adduct of mono-(2-ethylhexyl) o-phosphate.	
Fatty acid (C_{12}–C_{18}) diethanolamide	
Fish oil fatty acids, hydrogenated, potassium salt	
Formaldehyde	
Glyceryl monocaprate	
Glyoxal	

List of substances	*Limitations*
Hexamethylenetetramine	Polymerization crosslinking agent for protein, including casein. As neutralizing agent with myristochromic chloride complex and stearato-chromic chloride complex.
Hexylene glycol (2-methyl-2,4-pentanediol)	
Hydroabietyl alcohol	
Isopropanolamine hydrochloride	
Isopropyl *m*- and *p*-cresol (thymol derived)	
Itaconic acid	
Maleic anhydride-diisobutylene copolymer, ammonium or sodium salt.	
Melamine-formaldehyde modified with:	Basic polymer.
Alcohols (ethyl, butyl, isobutyl, propyl, or isopropyl).	
Diethylenetriamine.	
Imino-bis-butylamine.	
Imino-bis-ethyleneimine.	
Imino-bis-propylamine.	
Polyamines made by reacting ethylenediamine or trimethylenediamine with dichloroethane or dichloropropane.	
Sulfanilic acid.	
Tetraethylenepentamine.	
Triethylenetetramine.	
Methyl alcohol	
Methyl esters of mono-, di-, and tripropylene glycol	
Methyl naphthalene sulfonic acid-formaldehyde condensate, sodium salt.	
Modified polyacrylamide resulting from an epichlorohydrin addition to a condensate of formaldehyde-dicyandiamide-diethylene triamine and which product is then reacted with polyacrylamide and urea to produce a resin having a nitrogen content of 5.6 to 6.3 percent and having a minimum viscosity in 56 percent-by-weight aqueous solution of 200 centipoises at 25° C, as determined by LVT-series Brookfield viscometer using a No. 4 spindle at 60 r.p.m. (or equivalent method).	For use only as a dry strength and pigment retention aid agent employed prior to the sheetforming operation in the manufacture of paper and paperboard and used at a level not to exceed 1 percent by weight of dry fibers.
Monoglyceride citrate	
Myristo chromic chloride complex	
Naphthalene sulfonic acid-formaldehyde condensate, sodium salt.	
Nickel	
β-Nitrostyrene	Basic polymer.
α-*cis*-9-Octadecenyl-*omega*-hydroxypoly-(oxyethylene); the octadecenyl group is derived from oleyl alcohol and the poly(oxyethylene) content averages not less than 20 moles.	
α-(*p*-Nonylphenyl)-*omega*-hydroxypoly (oxyethylene) sulfate, ammonium salt; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content averages 9 or 30 moles.	
Oleic acid reacted with *N*-alkyl-(C_{16}–C_{18}) trimethylenediamine.	
Petroleum alicyclic hydrocarbon resins, or the hydrogenated product thereof, complying with the identity prescribed in § 176.170(b)(2).	For use as modifiers at levels up to 30 weight-percent of the solids content of wax-polymer blend coatings.
Petroleum hydrocarbon resin (produced by the catalytic polymerization and subsequent hydrogenation of styrene, vinyltoluene, and indene types from distillates of cracked petroleum stocks).	
Petroleum hydrocarbons, light and odorless	
Petroleum sulfonates	
Pine oil	
Poly(2-aminoethyl acrylate nitrate-co-2-hydroxypropyl acrylate) complying with the identity described in § 176.170(a).	
Polyamide-epichlorohydrin modified resins resulting from the reaction of the initial caprolactam-itaconic acid product with diethylenetriamine and then condensing this prepolymer with epichlorohydrin to form a cationic resin having a nitrogen content of 11–15 percent and chlorine level of 20–23 percent on a dry basis.	
Polybutene, hydrogenated; complying with the identity prescribed under § 178.3740(b) of this chapter.	
Poly [2-(diethylamino) ethyl methacrylate] phosphate	
Polyethylene glycol (200) dilaurate	
Polymers: Homopolymers and copolymers of the following monomers:	Basic polymer.
Acrylamide.	
Acrylic acid and its methyl, ethyl, butyl, propyl, or octyl esters.	
Acrylonitrile.	
Butadiene.	
Crotonic acid.	
Cyclol acrylate.	
Decyl acrylate.	
Diallyl fumarate.	
Diallyl maleate.	
Diallyl phthalate.	
Dibutyl fumarate.	
Dibutyl itaconate.	
Dibutyl maleate.	
Di(2-ethylhexyl) maleate.	
Dioctyl fumarate.	
Dioctyl maleate.	
Divinylbenzene.	
Ethylene.	
2-Ethylhexyl acrylate.	
Fumaric acid.	
Glycidyl methacrylate.	
2-Hydroxyethyl acrylate.	
Isobutyl acrylate.	
Isobutylene.	
Isoprene.	
Itaconic acid.	
Maleic anhydride and its methyl or butyl esters.	

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List of substances *Limitations*

(d) Substances employed in the ... tion or approval for use in defoaming

List of substances	Limitations
Polymers: Homopolymers and copolymers of the following monomers—continued	
Methacrylic acid and its methyl, ethyl, butyl, or propyl esters.	
Methylstyrene.	
Mono(2-ethylhexyl) maleate.	
Monoethyl maleate.	
5-Norbornene-2,3-dicarboxylic acid, mono-*n*-butyl ester.	
Styrene.	
Vinyl acetate.	
Vinyl butyrate.	
Vinyl chloride.	
Vinyl crotonate.	
Vinyl hexoate.	
Vinylidene chloride.	
Vinyl pelargonate.	
Vinyl propionate.	
Vinyl pyrrolidone.	
Vinyl stearate.	
Vinyl sulfonic acid.	
Polyoxyethylene (minimum 12 moles) ester of tall oil (30%–40% rosin acids).	
Polyoxypropylene-polyoxyethylene glycol (minimum molecular weight 1,900).	
Polyvinyl alcohol	
Potassium titanate fibers produced by calcining titanium dioxide, potassium chloride, and potassium carbonate, such that the finished crystalline fibers have a nominal diameter of 0.20–0.25 micron, a length-to-diameter ratio of approximately 25:1 or greater, and consist principally of $K_2Ti_4O_9$ and $K_2Ti_6O_{13}$.	
Sodium diisobutylphenoxy diethoxyethyl sulfonate	
Sodium diisobutylphenoxy monoethoxy ethylsulfonate	
Sodium *n*-dodecylpolyethoxy (50 moles) sulfate	
Sodium isododecylphenoxypolyethoxy (40 moles) sulfate	
Sodium *N*-methyl-*N*-oleyl taurate	
Sodium methyl siliconate	
Sodium nitrite	
Sodium polyacrylate	
Sodium bis-tridecylsulfosuccinate	
Sodium xylene sulfonate	
Sorbose	
Stearato chromic chloride complex	
Styrene-allyl alcohol copolymers	
Styrene-methacrylic acid copolymer, potassium salt	
Tetraethylenepentamine	Polymerization cross-linking agent.
α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-*omega*-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and their sodium, potassium, and ammonium salts having a poly(oxyethylene) content averaging 6–9 or 40 moles.	
α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl or *p*-nonylphenyl]-*omega*-hydroxypoly(oxyethylene) where nonyl group is a propylene trimer isomer.	
Tetrasodium *N*-(1,2-dicarboxyethyl)-*N*-octadecyl sulfosuccinamate.	
Toluene	
Triethanolamine	
Triethylenetetramine	Polymerization cross-linking agent.
Triethylenetetramine monoacetate, partially stearoylated.	
Urea-formaldehyde chemically modified with:	
Alcohol (methyl, ethyl, butyl, isobutyl, propyl, or isopropyl).	
Aminomethylsulfonic acid.	
Diaminobutane.	
Diaminopropane.	
Diethylenetriamine.	
N,N'-Dioleoylethylenediamine.	
Diphenylamine.	
N,N'-Distearoylethylenediamine.	
Ethylenediamine.	
Guanidine.	
Imino-bis-butylamine.	
Imino-bis-ethylamine.	
Imino-bis-propylamine.	
N-Oleoyl-*N'*-stearoylethylenediamine.	
Polyamines made by reacting ethylenediamine or triethylenediamine with dichloroethane or dichloropropane.	
Tetraethylenepentamine.	
Triethylenetetramine.	
Xylene	
Xylene sulfonic acid-formaldehyde condensate, sodium salt.	
Zinc stearate	

§ 176.200 Defoaming agents used in coatings.

The defoaming agents described in this section may be safely used as components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section.

(a) The defoaming agents are prepared as mixtures of substances described in paragraph (d) of this section.

(b) The quantity of any substance employed in the formulation of defoaming agents does not exceed the amount reasonably required to accomplish the intended physical or technical effect in the defoaming agents or any limitation further provided.

(c) Any substance employed in the production of defoaming agents and which is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter conforms with any specification in such regulation.

(d) Substances employed in the formulation of defoaming agents include:

(1) Substances generally recognized as safe in food.

(2) Substances subject to prior sanction or approval for use in defoaming agents and used in accordance with such sanction or approval.

(3) Substances identified in this paragraph (d)(3) and subject to such limitations as are provided:

List of substances	Limitations
n-Butyl alcohol	
tert-Butyl alcohol	
Butyl stearate	
Castor oil, sulfated, ammonium, potassium, or sodium salt.	
Cetyl alcohol	
Cyclohexane	
Cyclohexanol	
Diethylene glycol monolaurate	
Diethylene glycol monostearate	
Dimers and trimers of unsaturated C_{18} fatty acids derived from:	For use only at levels not to exceed 0.1% by weight of total coating solids.
Animal and vegetable fats and oils.	
Tall oil.	
Dimethylpolysiloxane	
Dipropylene glycol	
Ethyl alcohol	
Fats and oils derived from animal, marine, or vegetable sources:	
Fatty acids derived from animal, marine, or vegetable fats and oils, and salts of such acids, single or mixed, as follows:	
Aluminum.	
Ammonium.	
Calcium.	
Magnesium.	
Potassium.	
Sodium.	
Zinc.	
Formaldehyde	For use as preservative of defoamer only.
Glyceryl mono-12-hydroxystearate	
Glyceryl monostearate	
Hexane	
Hexylene glycol (2-methyl-2,4-pentanediol)	
Isobutyl alcohol	
Isopropyl alcohol	
Kerosene	
Lecithin hydroxylated	
Methyl alcohol	
Methylcellulose	
Methyl esters of fatty acids derived from animal, marine, or vegetagle fats and oils.	
Methyl oleate	
Methyl palmitate	
Mineral oil	
Mustardseed oil, sulfated, ammonium, potassium, or sodium salt.	
Myristyl alcohol	
Naphtha	
β-Naphthol	For use as preservative of defoamer only.
Nonylphenol	
Odorless light petroleum hydrocarbons	As defined in § 178.3650 of this chapter.
Oleic acid, sulfated, ammonium, potassium, or sodium salt.	
Parachlorometacresol	For use as preservative of defoamer only.
Peanut oil, sulfated, ammonium, potassium, or sodium salt.	
Petrolatum	
Pine oil	
Polyacrylic acid, sodium salt	As a stabilizer and thickener in defoaming agents containing dimethylpolysiloxane.
Polyethylene	
Polyethylene, oxidized	
Polyethylene glycol (200) dilaurate	
Polyethylene glycol (400) dioleate	
Polyethylene glycol (600) dioleate	
Polyehtylene glycol (400) esters of coconut oil fatty acids	
Polyethylene glycol (400) monooleate	
Polyethylene glycol (600) monooleate	
Polyethylene glycol (600) monoricinoleate	
Polyethylene glycol (400) monostearate	
Polyoxybutylene-polyoxypropylene-polyoxyethylene glycol (min. mol. wt. 3,700).	
Polyoxyethylated (min. 3 mols) cetyl alcohol	
Polyoxyethylated (min. 5 mols) oleyl alcohol	
Polyoxyethylated (min. 1.5 mols) tridecyl alcohol	
Polyoxyethylene (min. 15 mols) ester of rosin	
Polyoxyethylene (min. 8 mols) monooleate	
Polyoxyethylene (40) stearate	
Polyoxypropylated (min. 20 mols) butyl alcohol	
Polyoxypropylene glycol (min. mol. wt. 200)	
Polyoxypropylene (min. 20 mols) oleate butyl ether	
Polyoxypropylene-polyoxyethylene glycol (min. mol. wt. 1,900).	
Polyoxypropylene (min. 40 mols) stearate butyl ether	
Potassium pentachlorophenate	For use as preservative of defoamer only.
Potassium trichlorophenate	For use as preservative of defoamer only.
Propylene glycol monoester of soybean oil fatty acids	
Propylene glycol monoester of tallow fatty acids	
Ricebran oil, sulfated, ammonium, potassium, or sodium salt.	
Rosins and rosin derivatives	As provided in § 178.3870 of this chapter.
Silica	
Sodium 2-mercaptobenzothiazole	For use as preservative of defoamer only.
Sodium pentachlorophenate	For use as preservative of defoamer only.

List of substances	Limitations

Isobutanol.

Tetrahydrofurfuryl alcohol.
Tributoxyethyl phosphate.

tains any poisonous or deleterious substance which is retained in the recovered

bial agents to control slime in the manufacture of paper and paperboard.

List of substances	Limitations
Sodium trichlorophenate	For use as preservative of defoamer only.
Sperm oil, sulfated, ammonium, potassium, or sodium salt.	
Stearyl alcohol.	
Tall oil fatty acids.	
Tallow fatty acids, hydrogenated or sulfated.	
Tallow, sulfated, ammonium, potassium, or sodium salt.	
Triethanolamine.	
Triisopropanolamine.	
Waxes, petroleum.	

(e) The defoaming agents are used as follows:

(1) The quantity of defoaming agent or agents used shall not exceed the amount reasonably required to accomplish the intended effect, which is to prevent or control the formation of foam.

(2) The defoaming agents are used in the preparation and application of coatings for paper and paperboard.

§ 176.210 Defoaming agents used in the manufacture of paper and paperboard.

Defoaming agents may be safely used in the manufacture of paper and paperboard intended for use in packaging, transporting, or holding food in accordance with the following prescribed conditions:

(a) The defoaming agents are prepared from one or more of the substances named in paragraph (d) of this section, subject to any prescribed limitations.

(b) The defoaming agents are used to prevent or control the formation of foam during the manufacture of paper and paperboard prior to and during the sheet-forming process.

(c) The quantity of defoaming agent or agents added during the manufacturing process shall not exceed the amount necessary to accomplish the intended technical effect.

(d) Substances permitted to be used in the formulation of defoaming agents include substances subject to prior sanctions or approval for such use and employed subject to the conditions of such sanctions or approvals, substances generally recognized as safe for use in food, substances generally recognized as safe for use in paper and paperboard, and substances listed in this paragraph, subject to the limitations, if any, prescribed.

(1) Fatty triglycerides, and the fatty acids, alcohols, and dimers derived therefrom:

Beef tallow.	Mustardseed oil.
Castor oil.	Palm oil.
Coconut oil.	Peanut oil.
Corn oil.	Rapeseed oil.
Cottonseed oil.	Ricebran oil.
Fish oil.	Soybean oil.
Lard oil.	Sperm oil.
Linseed oil.	Tall oil.

(2) Fatty triglycerides, and marine oils, and the fatty acids and alcohols derived therefrom (paragraph (d)(1) of this section) reacted with one or more of the following, with or without dehydration, to form chemicals of the category indicated in parentheses:

Aluminum hydroxide (soaps).
Ammonia (amides).
Butanol (esters).
Butoxy-polyoxypropylene, molecular weight 1,000–2,500 (esters).
Butylene glycol (esters).
Calcium hydroxide (soaps).
Diethanolamine (amides).
Diethylene glycol (esters).
Ethylene glycol (esters).
Ethylene oxide (esters and ethers).
Glycerin (mono- and di-glycerides).
Hydrogen (hydrogenated compounds).
Hydrogen (amines).
Isobutanol (esters).
Isopropanol (esters).
Magnesium hydroxide (soaps).
Methanol (esters).
Morpholine (soaps).
Oxygen (air-blown oils).
Pentaerythritol (esters).
Polyoxyethylene, molecular weights 200, 300, 400, 600, 700, 1,000, 1,540, 1,580, 1,760, 4,600 (esters).
Polyoxypropylene, molecular weight 200–2,000 (esters).
Potassium hydroxide (soaps).
Propanol (esters).
Propylene glycol (esters).
Propylene oxide (esters).
Sodium hydroxide (soaps).
Sorbitol (esters).
Sulfuric acid (sulfated and sulfonated compounds).
Triethanolamine (amides and soaps).
Triisopropanolamine (amides and soaps).
Trimethylolethane (esters).
Zinc hydroxide (soaps).

(3) Miscellaneous:

Alcohols and ketone alcohols mixture (still-bottom product from C_{12}–C_{18} alcohol manufacturing process).
Amyl alcohol.
Butoxy polyethylene polypropylene glycol molecular weight 900–4,200.
Butoxy-polyoxypropylene molecular weight 1,000–2,500.
Butylated hydroxyanisole.
Butylated hydroxytoluene.
Calcium lignin sulfonate.
Capryl alcohol.
p-Chlorometacresol.
Cyclohexanol.
Diacetyltartaric acid ester of tallow monoglyceride.
Diethanolamine.
Diethylene triamine.
Di-(2-ethylhexyl) phthalate.
2,6-Dimethyl heptanol-4 (nonyl alcohol).
Dimethylpolysiloxane.
Di-*tert*-butyl hydroquinone.
Dodecylbenzene sulfonic acids.
Ethanol.
2-Ethylhexanol.
Ethylenediamine tetraacetic acid tetrasodium salt.
Formaldehyde.
Heavy oxo-fraction (a still-bottom product of iso-octyl alcohol manufacture, of approximate composition: Octyl alcohol 5 percent nonyl alcohol 10 percent, decyl and higher alcohols 35 percent, esters 45 percent, and soaps 5 percent).
2-Heptadecenyl-4-methyl-4-hydroxymethyl-2-oxazoline.
Hexylene glycol (2-methyl-2-4-pentanediol).
12-Hydroxystearic acid.
Isobutanol.
Isopropanol.
Isopropylamine salt of dodecylbenzene sulfonic acid.
Kersosine.
Lanolin.
Methanol.
Methyl 12-hydroxystearate.
Methyl taurine-oleic acid condensate, molecular weight 486.
α,α'-[Methylenebis[4-(1,1,3,3-tetramethylbutyl)-*o*-phenylene]]*bis*[*omega*-hydroxypoly(oxyethylene)] having 6–7.5 moles of ethylene oxide per hydroxyl group.
Mineral oil.
Mono-, di-, and triisopropanolamine.
Mono- and diisopropanolamine stearate.
Monobutyl ether of ethylene glycol.
Monoethanolamine.
Morpholine.
Myristyl alcohol.
Naphtha.
β-Naphthol.
Nonylphenol.
Odorless light petroleum hydrocarbons.
Oleyl alcohol.
Petrolatum.
o-Phenylphenol.
Pine oil.
Polybutene, hydrogenated; complying with the identity prescribed under § 178.3740(b) of this chapter.
Polyethylene.
Polyethylene, oxidized (air-blown).
Polymer derived from N-vinyl pyrrolidone combined during its polymerization with copolymers derived from the mixed alkyl (C_{12}–C_{15}, C_{14}, C_{16}, C_{20} and C_{22}) methacrylate esters and butyl methacrylate; the combined polymer contains no more than 5 weight percent of polymer units derived from N-vinyl pyrrolidone and is present at a level not to exceed 7 parts per million by weight of the finished dry paper and paperboard fibers.
Polyoxyethylene (4 mols) decyl phosphate.
Polyoxyethylene (4 mols) di(2-ethyl hexanoate).
Polyoxyethylene (15 mols) ester of rosin.
Polyoxyethylene (3–15 mols) tridecyl alcohol.
Polyoxypropylene, molecular weight 200–2,000.
Polyoxypropylene-polyoxethylene condensate, minimum molecular weight 950.
Polyoxypropylene-ethylene oxide condensate of ethylene diamine, molecular weight 1,700–3,800.
Polyvinyl pyrrolidone, molecular weight 40,000.
Potassium distearyl phosphate.
Potassium pentachlorophenate.
Potassium trichlorophenate.
Rosins and rosin derivatives identified in § 175.105(c)(5) of this chapter.
Silica.
Sodium alkyl (C_8–C_{12}) benzene-sulfonate.
Sodium dioctyl sulfosuccinate.
Sodium distearyl phosphate.
Sodium lauryl sulfate.
Sodium lignin sulfonate.
Sodium 2-mercaptobenzothiazole.
Sodium naphthalenesulfonic acid (3 mols) condensed with formaldehyde (2 mols).
Sodium orthophenylphenate.
Sodium pentachlorophenate.
Sodium petroleum sulfonate, molecular weight 440–450.
Sodium trichlorophenate.
Stearyl alcohol.
α-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl-, *p*-nonylphenyl-, or p-dodecylphenyl]-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of *p*-alkylphenol (alkyl group is 1,1,3,3-tetramethylbutyl, a propylene trimer isomer, or a propylene tetramer isomer) with an average of 1.5–15 moles of ethylene oxide.
Tetrahydrofurfuryl alcohol.
Tributoxyethyl phosphate.
Tributyl phosphate.
Tridecyl alcohol.
Triethanolamine.
Triethylene glycol di(2-ethyl hexanoate).
Tri- (2-ethylhexyl) phosphate.
Tristearyl phosphate.
Wax, petroleum, Type I and Type II.
Wax, petroleum (oxidized).
Wax (montan).

§ 176.230 3,5-Dimethyl-1,3,5,2*H*-tetrahydrothiadiazine-2-thione.

3,5-Dimethyl-1,3,5,2*H*-tetrahydrothiadiazine-2-thione may safely be used as a preservative in the manufacture and coating of paper and paperboard intended for use in contact with food in accordance with the following prescribed conditions:

(a) It is used as follows:

(1) In the manufacture of paper and paperboard as a preservative for substances added to the pulp suspension prior to the sheet-forming operation provided that the preservative is volatilized by heat in the drying and finishing of the paper and paperboard.

(2) As a preservative for coatings for paper and paperboard, *Provided*, That the preservative is volatilized by heat in the drying and finishing of the coated paper or paperboard.

(b) The quantity used shall not exceed the least amount reasonably required to accomplish the intended technical effect and shall not be intended to nor, in fact, accomplish any physical or technical effect in the food itself.

(c) The use of a preservative in any substance or article subject to any regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter must comply with any specifications and limitations prescribed by such regulation for the substance or article.

§ 176.250 Poly-1,4,7,10,13-pentaaza-15-hydroxyhexadecane.

Poly-1,4,7,10,13-pentaaza-15-hydroxyhexadecane may be safely used as a retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard intended for use in contact with food in an amount not to exceed that necessary to accomplish the intended physical or technical effect and not to exceed 6 pounds per ton of finished paper or paperboard.

§ 176.260 Pulp from reclaimed fiber.

(a) Pulp from reclaimed fiber may be safely used as a component of articles used in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of paragraph (b) of this section.

(b) Pulp from reclaimed fiber is prepared from the paper and paperboard products described in paragraph (b)(1) and (2) of this section, by repulping with water to recover the fiber with the least possible amount of nonfibrous substances.

(1) Industrial waste from the manufacture of paper and paperboard products excluding that which bears or contains any poisonous or deleterious substance which is retained in the recovered pulp and that migrates to the food, except as provided in regulations promulgated under sections 406 and 409 of the Federal Food, Drug, and Cosmetic Act.

(2) Salvage from used paper and paperboard excluding that which (i) bears or contains any poisonous or deleterious substance which is retained in the recovered pulp and that migrates to the food, except as provided in regulations promulgated under sections 406 and 409 of the act or (ii) has been used for shipping or handling any such substance.

§ 176.300 Slimicides.

(a) Slimicides may be safely used in the manufacture of paper and paperboard that contact food, in accordance with the following prescribed conditions:

(1) Slimicides are used as antimicrobial agents to control slime in the manufacture of paper and paperboard.

(2) Subject to any prescribed limitations, slimicides are prepared from one or more of the slime-control substances named in paragraph (c) of this section to which may be added optional adjuvant substances as provided for under paragraph (d) of this section.

(3) Slimicides are added to the process water used in the production of paper or paperboard, and the quantity added shall not exceed the amount necessary to accomplish the intended technical effect.

(b) To insure safe usage, the label or labeling of slimicides shall bear adequate directions for use.

(c) Slime-control substances permitted for use in the preparation of slimicides include substances subject to prior sanction or approval for such use and the following:

List of substances	Limitations
Acrolein.	
Alkenyl (C_{12}–C_{18}) dimethylethyl-ammonium bromide.	
m-Alkyl(C_{12}–C_{18}) dimethyl benzyl ammonium chloride.	
1,2-benzisothiazolin-3-one	At a level of 0.06 pound per ton of dry weight fiber.
Bis(1,4-bromoacetoxy)-2-butene.	
5,5-Bis(bromoacetoxymethyl) *m*-diorane.	
2,6-Bis(dimethylaminomethyl) cyclohexanone.	
1,2-Bis(monobromoacetoxy) ethane [CA Reg. No. 3785-34-0].	At a maximum level of 0.10 pound per ton of dry weight fiber.
Bis(trichloromethyl)sulfone.	
4-Bromoacetoxymethyl-*m*-dioxolane.	
2-Bromo-4'-hydroxyacetophenone.	
β-Bromo-β-nitrostyrene.	At a maximum level of 1 pound per ton of dry weight fiber.
Chloroethyle nebisthiocyanate.	
Chlorinated levulinic acids.	
Chloromethyl butanethiolsulfonate.	
Cupric nitrate.	
m-Dialkyl(C_{12}–C_{18})benzylmethylammonium chloride.	At a maximum level of 0.1 lb/ton of dry weight fiber
2,2-Dibromo-3-nitriliopion-amide.	
2,3-Dibromopropionaldehyde.	
3,5-Dimethyl 1,3,5,2*H*-tetrahydrothiadiazine-2-thione.	
Dipotassium and disodium ethylenebis(dithiocarbamate).	
Disodium cyanodithioimidocarbonate.	
2-Hydroxypropyl methanethiol sulfonate.	
2-Mercaptobenzothiazole.	
Methylenebisbutanethiolsulfonate.	
Methylenebisthiocyanate.	
2-Nitrobutyl bromoacetate [CA Reg. No. 32815-96-6].	At a maximum level of 0.15 pound per ton of dry weight fiber.
N-(α-(Nitroethyl)benzyl] ethylenediamine.	
Potassium 2-mercaptobenzothiazole.	
Potassium *N*-hydroxymethyl-*N*-methyldithiocarbamate.	
Potassium *N*-methyldithiocarbamate.	
Potassium pentachlorophenate.	
Potassium trichlorophenate.	
Silver fluoride.	Limit of addition to process water not to exceed 0.024 pound, calculated as silver fluoride, per ton of paper produced.
Silver nitrate.	
Sodium dimethyldithiocarbamate.	
Sodium 2-mercaptobenzothiazole.	
Sodium pentachlorophenate.	
Sodium trichlorophenate.	
1,3,5,8-Tetraazatricyclo(6.2.1.1^{3,6})dodecane.	
3,3,4,4-Tetrachlorotetra hydrothiophene 1,1-dioxide.	
2-(Thiocyanomethylthio) benzothiazole.	
Vinylene bisthiocyanate.	

(d) Adjuvant substances permitted to be used in the preparation of slimicides include substances generally recognized as safe for use in food, substances generally recognized as safe for use in paper and paperboard, substances permitted to be used in paper and paperboard by other regulations in this chapter, and the following:

Acetone.
Butylene oxide.
Dibutyl phthalate.
Didecyl phthalate.
N,N-Dimethylformamide.
Dodecyl phthalate.
Ethanolamine.
Ethylene glycol.
Ethylenediamine.
α,α'-[Methylenebis[4-(1,1,3,3-tetramethylbutyl)-*o*-phenylene]] *bis*[*omega*-hydroxypoly(oxyethylene)] having 6–7.5 moles of ethylene oxide per hydroxyl group.
Monomethyl ethers of mono-, di-, and tripropylene glycol.
Nonylphenol reaction product with 9 to 12 molecules of ethylene oxide.
Octylphenol reaction product with 25 molecules of propylene oxide and 40 molecules of ethylene oxide.

§ 176.320 Sodium nitrate-urea complex.

Sodium nitrate-urea complex may be safely used as a component of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or

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holding food, subject to the provisions of this section.

(a) Sodium nitrate-urea complex is a clathrate of approximately two parts urea and one part sodium nitrate.

(b) Sodium nitrate-urea complex conforming to the limitations prescribed in paragraph (b)(1) of this section is used as provided in paragraph (b)(2) of this section.

(1) *Limitations.* (i) It is used as a plasticizer in glassine and greaseproof paper.

(ii) The amount used does not exceed that required to accomplish its intended technical effect or exceed 15 percent by weight of the finshed paper.

(2) *Conditions of use.* The glassine and greaseproof papers are used for packaging dry food or as the food-contact surface for dry food.

§ 176.350 Tamarind seed kernel powder.

Tamarind seed kernel powder may be safely used as a component of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section.

(a) Tamarind seed kernel powder is the ground kernel of tamarind seed (*Tamarindus indica* L.) after removal of the seed coat.

(b) It is used in the manufacture of paper and paperboard.

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Subpart A—[Reserved]

Subpart B—Substances for Use as Basic Components of Single and Repeated Use Food Contact Surfaces

Sec.
177.1010 Acrylic and modified acrylic plastics, semirigid and rigid.
177.1020 Acrylonitrile/ butadiene / styrene copolymer.
177.1030 Acrylonitrile/butadiene / styrene/ methyl methacrylate copolymer.
177.1040 Acrylonitrile/styrene copolymer.
177.1050 Acrylonitrile/styrene copolymer modified with butadiene/styrene elastomer.
177.1200 Cellophane.
177.1210 Closures with sealing gaskets for food containers.
177.1240 1,4-Cyclohexylene dimethylene terephthalate and 1,4-cyclohexylene dimethylene isophthalate copolymer.
177.1310 Ethylene-acrylic acid copolymers.
177.1320 Ethylene-ethyl acrylate copolymers.
177.1330 Ethylene-methacrylic acid copolymers, ethylene-methacrylic acid-vinyl acetate copolymers, and their partial salts.
177.1340 Ethylene-methyl acrylate copolymer resins.
177.1350 Ethylene-vinyl acetate copolymers.
177.1360 Ethylene-vinyl acetate-vinyl alcohol copolymers.
177.1380 Fluorocarbon resins.
177.1400 Hydroxyethyl cellulose film, water-insoluble.
177.1420 Isobutylene polymers.
177.1430 Isobutylene-butene copolymers.
177.1440 4,4'-Isopropylidenediphenol - epichlorohydrin resins minimum molecular weight 10,000.
177.1460 Melamine-formaldehyde resins in molded articles.
177.1480 Nitrile rubber modified acrylonitrile-methyl acrylate copolymers.
177.1500 Nylon resins.
177.1520 Olefin polymers.
177.1550 Perfluorocarbon resins.
177.1570 Poly-1-butene resins and butene/ethylene copolymers.
177.1580 Polycarbonate resins.
177.1590 Polyester elastomers.
177.1600 Polyethylene resins, carboxyl modified.
177.1610 Polyethylene, chlorinated.
177.1620 Polyethylene, oxidized.
177.1630 Polyethylene phthalate polymers.
177.1640 Polystyrene and rubber-modified polystyrene.
177.1650 Polysulfide polymer-polyepoxy resins.
177.1660 Poly(tetramethylene terephthalate).
177.1670 Polyvinyl alcohol film.
177.1680 Polyurethane resins.
177.1810 Styrene block polymers.
177.1820 Styrene-maleic anhydride copolymers.
177.1830 Styrene-methyl methacrylate copolymers.
177.1850 Teatryla.
177.1900 Urea-formaldehyde resins in molded articles.
177.1950 Vinyl chloride-ethylene copolymers.
177.1960 Vinyl chloride-hexene-1 copolymers.
177.1970 Vinyl chloride-lauryl vinyl ether copolymers.
177.1980 Vinyl chloride-propylene copolymers.

Subpart C—Substances for Use Only as Components of Articles Intended for Repeated Use

177.2210 Ethylene polymer, chlorosulfonated.
177.2250 Filters, microporous polymeric.
177.2260 Filters, resin-bonded.
177.2280 4,4'-Isopropylidenediphenol - epichlorohydrin thermosetting epoxy resins.
177.2410 Phenolic resins in molded articles.
177.2420 Polyester resins, cross-linked.
177.2430 Polyether resins, chlorinated.
177.2450 Polyamide-imide resins.
177.2460 Poly(2,6 - dimethyl-1,4-phenylene) oxide resins.
177.2470 Polyoxymethylene copolymer.
177.2480 Polyoxymethylene homopolymer.
177.2490 Polyphenylene sulfide resins.
177.2500 Polysulfone resins.
177.2510 Polyvinylidene fluoride resins.
177.2600 Rubber articles intended for repeated use.
177.2710 Styrene-divinylbenzene resins, cross-linked.
177.2800 Textiles and textile fibers.
177.2910 Ultra-filtration membranes.

AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—[Reserved]

Subpart B—Substances for Use as Basic Components of Single and Repeated Use Food Contact Surfaces

§ 177.1010 Acrylic and modified acrylic plastics, semirigid and rigid.

Semirigid and rigid acrylic and modified acrylic plastics may be safely used as articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) The optional substances used in the formulation of the semirigid and rigid acrylic and modified acrylic plastics include substances generally recognized as safe in food, substance used in accordance with a prior sanction or approval, substances permitted for use in such plastics by regulations in Parts 170 through 189 of this chapter, and substances identified in this paragraph. At least 50 weight-percent of the polymer content of the finished plastics shall consist of polymer units derived from one or more of the acrylic or methacrylic monomers listed in paragraph (a)(1) of this section.

(1) Homopolymers and copolymers of the following monomers:

n-Butyl acrylate.
n-Butyl methacrylate.
Ethyl acrylate.
2-Ethylhexyl acrylate.
Ethyl methacrylate.
Methyl acrylate.
Methyl methacrylate.

(2) Copolymers produced by copolymerizing one or more of the monomers listed in paragraph (a)(1) of this section with one or more of the following monomers:

Acrylonitrile.
Methacrylonitrile.
a-Methylstyrene.
Styrene.
Vinyl chloride.
Vinylidene chloride.

(3) Polymers identified in paragraph (a)(1) and (2) of this section containing no more than 5 weight-percent of total polymer units derived by copolymerization with one or more of the monomers listed in paragraph (a)(3)(i) and (ii) of this section. Monomers listed in paragraph (a)(3)(ii) of this section are limited to use only in plastic articles intended for repeated use in contact with food.

(i) List of minor monomers:

Acrylamide.
Acrylic acid.
1,3-Butylene glycol dimethacrylate.
1,4-Butylene glycol dimethacrylate.
Diethylene glycol dimethacrylate.
Dipropylene glycol dimethacrylate.
Divinylbenzene.
Ethylene glycol dimethacrylate.
Itaconic acid.
Methacrylic acid.
N-Methylolacrylamide.
N-Methylolmethacrylamide.
4-Methyl-1,4-pentanediol dimethacrylate.
Propylene glycol dimethacrylate.
Trivinylbenzene.

(ii) List of minor monomers limited to use only in plastic articles intended for repeated use in contact with food:

tert-Butyl acrylate.
tert-Butylaminoethyl methacrylate.
sec-Butyl methacrylate.
tert-Butyl methacrylate.
Cyclohexyl methacrylate.
Dimethylaminoethyl methacrylate.
2-Ethylhexyl methacrylate.
Hydroxyethyl methacrylate.
Hydroxyethyl vinyl sulfide.
Hydroxypropyl methacrylate.
Isobornyl methacrylate.
Isobutyl methacrylate.
Isopropyl acrylate.
Isopropyl methacrylate.
Methacrylamide.
Methacrylamidoethylene urea.
Methacryloxyacetamidoethylethylene urea.
Methacryloxyacetic acid.

n-Propyl methacrylate.
3,5,5-Trimethylcyclohexyl methacrylate.

(4) Polymers identified in paragraph (a)(1), (2), and (3) of this section are mixed together and/or with the following polymers, provided that no chemical reactions, other than addition reactions, occur when they are mixed:

Butadiene-acrylonitrile copolymers.
Butadiene-acrylonitrile-styrene copolymers.
Butadiene - acrylonitrile - styrene - methyl methacrylic copolymers.
Butadiene-styrene copolymers.
Butyl rubber
Natural rubber.
Polybutadiene.
Poly (3-chloro-1,3-butadiene).
Polyesters identified in § 175.300(b)(3)(vii) of this chapter.
Polyvinyl chloride.
Vinyl chloride copolymers complying with § 177.1980.
Vinyl chloride-vinyl acetate copolymers.

(5) Antioxidants and stabilizers identified in § 175.300(b)(3)(xxx) of this chapter and the following:

Di-*tert*-butyl-*p*-cresol.
2-Hydroxy-4-methoxybenzophenone.
2 - Hydroxy - 4 - methoxy - 2 - carboxybenzophenone.
3-Hydroxyphenyl benzoate.
p-Methoxyphenol.
Methyl salicylate.
Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate: For use only at levels not exceeding 0.01 percent by weight in rigid acrylic and modified acrylic plastics intended for repeated food-contact use.
Phenyl salicylate.

(6) Release agents: Fatty acids derived from animal and vegetable fats and oils, and fatty alcohols derived from such acids.

(7) Surface active agent: Sodium dodecylbenzenesulfonate.

(8) Miscellaneous materials:

Di(2-ethylhexyl) phthalate, for use only as a flow promoter at a level not to exceed 3 weight-percent based on the monomers.
Dimethyl phthalate.
Oxalic acid, for use only as a polymerization catalyst aid.
Tetraethylenepentamine, for use only as a catalyst activator at a level not to exceed 0.5 weight-percent based on the monomers.
Toluene.
Xylene.

(b) The semirigid and rigid acrylic and modified acrylic plastics, in the finished form in which they are to contact food, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature as determined from tables 1 and 2 of § 176.170(c) of this chapter, shall yield extractives not to exceed the following, when tested by the methods prescribed in paragraph (c) of this section:

(1) Total nonvolatile extractives not to exceed 0.3 milligram per square inch of surface tested.

(2) Potassium permanganate oxidizable distilled water and 8 and 50 percent alcohol extractives not to exceed an absorbance of 0.15.

(3) Ultraviolet-absorbing distilled water and 8 and 50 percent alcohol extractives not to exceed an absorbance of 0.30.

(4) Ultraviolet-absorbing *n*-heptane extractives not to exceed an absorbance of 0.10.

(c) *Analytical methods*—(1) *Selection of extractability conditions.* These are to be chosen as provided in § 176.170(c) of this chapter.

(2) *Preparation of samples.* Sufficient samples to allow duplicates of all applicable tests shall be cut from the articles or formed from the plastic composition under tests, as strips about 2.5 inches by about 0.85-inch wide by about 0.125-inch thick. The total exposed surface should be 5 square inches ±0.5-square inch. The samples, after preparation, shall be washed with a clean brush under hot tapwater, rinsed under running hot tapwater (140° F minimum), rinsed with distilled water, and air-dried in a dust-free area or in a desiccator.

(3) *Preparation of solvents.* The water used shall be double-distilled water, prepared in a still using a block tin condenser. The 8 and 50 percent (by volume) alcohol solvents shall be prepared from ethyl alcohol meeting the specifications of U.S.P. XVII and diluted with double-distilled water that has been prepared in a still using a tin block condenser. The *n*-heptane shall be spectrophotometric grade. Adequate precautions must be taken to keep all solvents dust-free.

(4) *Blank values on solvents.* (i) Duplicate determinations of residual solids shall be run on samples of each solvent that have been exposed to the temperature-time conditions of the extraction test without the plastic sample. Sixty milliliters of exposed solvent is pipetted into a clean, weighed platinum dish, evaporated to 2–5 milliliters on a nonsparking, low-temperature hot plate and dried in 212° F oven for 30 minutes. The residue for each solvent shall be determined by weight and the average residue weight used as the blank value in the total solids determination set out in paragraph (c) of this section. The residue for an acceptable solvent sample shall not exceed 0.5 milligram per 60 milliliters.

(ii) For acceptability in the ultraviolet absorbers test, a sample of each solvent shall be scanned in an ultraviolet spectrophotometer in 5-centimeter silica spectrophotometric absorption cells. The absorbance of the distilled water when measured versus air in the reference cell shall not exceed 0.03 at any point in the wavelength region of 245 to 310 mμ. The absorbance of the 8 percent alcohol when measured versus distilled water in the reference cell shall not exceed 0.01 at any point in the wavelength region of 245 to 310 mμ. The absorbance of the 50 percent alcohol when measured versus distilled water in the reference cell shall not exceed 0.05 at any point in the wavelength region of 245 to 310 mμ. The absorbance of the heptane when measured versus distilled water in the reference cell shall not exceed 0.15 at 245, 0.09 at 260, 0.04 at 270, and 0.02 at any point in the wavelength region of 280 to 310 mμ.

(iii) Duplicate ultraviolet blank determinations shall be run on samples of each solvent that have been exposed to the temperature-time conditions of the extraction test without the plastic sample. An aliquot of the exposed solvent shall be measured versus the unexposed solvent in the reference cell. The average difference in the absorbances at any wavelength in the region of 245 to 310 mμ shall be used as a blank correction for the ultraviolet absorbers measured at the same wavelength according to paragraph (c)(8)(ii) of this section.

(iv) The acceptability of the solvents for use in the permanganate test shall be determined by preparing duplicate permanganate test blanks according to paragraph (c)(7)(iv) of this section. For this test, the directions referring to the sample extract shall be disregarded. The blanks shall be scanned in 5-centimeter silica spectrophotometric cells in the spectrophotometer versus the appropriate solvent as reference. The absorbance in distilled water in the wavelength region of 544 to 552 mμ should be 1.16 but must not be less than 1.05 nor more than 1.25. The absorbance in the 8 and 50 percent alcohol must not be less than 0.85 nor more than 1.15.

(v) Duplicate permanganate test determinations shall be run on samples of distilled water and 8 and 50 percent alcohol solvents that have been exposed to the temperature-time conditions of the extraction test without the plastic sample. The procedure shall be as described in paragraph (c)(7)(iv) of this section, except that the appropriate exposed solvent shall be substituted where the directions call for sample extract. The average difference in the absorbances in the region of 544 to 552 mμ shall be used as a blank correction for the determination of permanganate oxidizable extractives according to paragraph (c)(7)(iv) of this section.

(5) *Extraction procedure.* For each extraction, place a plastic sample in a clean 25 millimeters x 200 millimeters hard-glass test tube and add solvent equal to 10 milliliters of solvent per square inch of plastic surface. This amount will be between 45 milliliters and 55 milliliters. The solvent must be preequilibrated to the temperature of the extraction test. Close the test tube with a ground-glass stopper and expose to the specified temperature for the specified time. Cool the tube and contents to room temperature if necessary.

(6) *Determination of total nonvolatile extractives.* Remove the plastic strip from the solvent with a pair of clean forceps and wash the strip with 5 milliliters of the appropriate solvent, adding the washings to the contents of the test tube. Pour the contents of the test tube into a clean, weighed platinum dish.

Wash the tube with 5 milliliters of the evaporation in a 212° F oven for 30

that order. Before use, the potassium

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 (21 U.S.C. 321(s), 348, 371

and (iii) of this section. This test shall

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Wash the tube with 5 milliliters of the appropriate solvent and add the solvent to the platinum dish. Evaporate the solvent to 2–5 milliliters on a nonsparking, low-temperature hotplate. Complete the evaporation in a 212° F oven for 30 minutes. Cool the dish in a desiccator for 30 minutes and weigh to the nearest 0.1 milligram. Calculate the total nonvolatile extractives as follows:

$$\text{Milligrams extractives per square inch} = \frac{c-b}{s};$$

$$\text{Extractives in parts per million} = \left(\frac{c-b}{s}\right)(100),$$

where:
c = Total increase in weight of the dish, in milligrams.
b = Blank value of the solvent in milligrams, as determined in paragraph (c)(4)(i) of this section.
s = Total surface of the plastic sample in square inches.

(7) *Determination of potassium permanganate oxidizable extractives.* (i) Pipette 25 milliliters of distilled water into a clean 125-milliliter Erlenmeyer flask that has been rinsed several times with aliquots of distilled water. This is the blank. Prepare a distilled water solution containing 1.0 part per million of *p*-methoxyphenol (melting point 54–56° C, Eastman grade or equivalent). Pipette 25 milliliters of this *p*-methoxyphenol solution into a rinsed Erlenmeyer flask. Pipette exactly 3.0 milliliters of 154 parts per million aqueous potassium permanganate solution into the *p*-methoxyphenol and exactly 3.0 milliliters into the blank, in that order. Swirl both flasks to mix the contents and then transfer aliquots from each flask into matched 5-centimeter spectrophotometric absorption cells. The cells are placed in the spectrophotometer cell compartment with the *p*-methoxyphenol solution in the reference beam. Spectrophotometric measurement is conducted as in paragraph (c)(7)(iv) of this section. The absorbance reading in the region 544–552 mμ should be 0.24 but must be not less than 0.12 nor more than 0.36. This test shall be run in duplicate. For the purpose of ascertaining compliance with the limitations in paragraph (b)(2) of this section, the absorbance measurements obtained on the distilled water extracts according to paragraph (c)(7)(iv) of this section shall be multiplied by a correction factor, calculated as follows:

$$\frac{0.24}{\text{Average of duplicate } p\text{-methoxyphenol absorbance determinations according to this paragraph (c)(7)(i) of this section.}} = \text{Correction factor for water extracts.}$$

(ii) The procedure in paragraph (c)(7)(i) of this section is repeated except that, in this instance, the solvent shall be 8 percent alcohol. The absorbance in the region 544–552 mμ should be 0.26 but must be not less than 0.13 nor more than 0.39. This test shall be run in duplicate. For the purpose of ascertaining compliance with the limitations prescribed in paragraph (b)(2) of this section, the absorbance measurements obtained on the 8 percent alcohol extracts according to paragraph (c)(7)(iv) of this section shall be multiplied by a correction factor, calculated as follows:

$$\frac{0.26}{\text{Average of duplicate } p\text{-methoxyphenol absorbance determination according to this paragraph (c)(7)(ii) of this section.}} = \text{Correction factor for aqueous 8 percent alcohol extracts.}$$

(iii) The procedure in paragraph (c)(7)(i) of this section is repeated except that, in this instance, the solvent shall be 50 percent alcohol. The absorbance in the region 544–552 mμ should be 0.25 but must be not less than 0.12 nor more than 0.38. This test shall be run in duplicate. For the purpose of ascertaining compliance with the limitations prescribed in paragraph (b)(2) of this section, the absorbance measurements obtained on the 50 percent alcohol extracts according to paragraph (c)(7)(iv) of this section shall be multiplied by a correction factor, calculated as follows:

$$\frac{0.25}{\text{Average of duplicate } p\text{-methoxyphenol absorbance determinations according to paragraph (c)(7)(iii) of this section.}} = \text{Correction factor for 50 percent aqueous alcohol extracts.}$$

(iv) *Water and 8 and 50 percent alcohol extracts.* Pipette 25 milliliters of the appropriate solvent into a clean, 125-milliliter Erlenmeyer flask that has been rinsed several times with aliquots of the same solvent. This is the blank. Into another similarly rinsed flask, pipette 25 milliliters of the sample extract that has been exposed under the conditions specified in paragraph (c)(5) of this section. Pipette exactly 3.0 milliliters of 154 parts per million aqueous potassium permanganate solution into the sample and exactly 3.0 milliliters into the blank, in that order. Before use, the potassium permanganate solution shall be checked as in paragraph (c)(7)(i) of this section. Both flasks are swirled to mix the contents, and then aliquots from each flask are transferred to matched 5-centimeter spectrophotometric absorption cells. Both cells are placed in the spectrophotometer cell compartment with the sample solution in the reference beam. The spectrophotometer is adjusted for 0 and 100 percent transmittance at 700 mu. The spectrum is scanned on the absorbance scale from 700 mμ to 500 mμ in such a way that the region 544 mμ to 552 mμ is scanned within 5 minutes to 10 minutes of the time that permanganate was added to the solutions. The height of the absorbance peak shall be measured, corrected for the blank as determined in paragraph (c)(4)(v) of this section, and multiplied by the appropriate correction factor determined according to paragraph (c)(7)(i), (ii), and (iii) of this section. This test shall be run in duplicate and the two results averaged.

(8) *Determination of ultraviolet-absorbing extractives.* (i) A distilled water solution containing 1.0 part per million of *p*-methoxyphenol (melting point 54° C.–56° C. Eastman grade or equivalent) shall be scanned in the region 360 to 220 mμ in 5-centimeter silica spectrophotometric absorption cells versus a distilled water reference. The absorbance at the wavelength of maximum absorbance (should be about 285 mμ) is about 0.11 but must be not less than 0.08 nor more than 0.14. This test shall be run in duplicate. For the purpose of ascertaining compliance with the limitations prescribed in paragraph (b)(3) and (4) of this section, the absorbance obtained on the extracts according to paragraph (c)(8)(ii) of this section shall be multiplied by a correction factor, calculated as follows:

$$\frac{0.11}{\text{Average of duplicate } p\text{-methoxyphenol absorbance determinations according to this paragraph (c)(8)(i) of this section.}} = \text{Correction factor for ultraviolet absorbers test.}$$

(ii) An aliquot of the extract that has been exposed under the conditions specified in paragraph (c)(5) of this section is scanned in the wavelength region 360 to 220 mμ versus the appropriate solvent reference in matched 5-centimeter silica spectrophotometric absorption cells. The height of any absorption peak shall be measured, corrected for the blank as determined in paragraph (c)(4)(iii) of this section, and multiplied by the correction factor determined according to paragraph (c)(8)(i) of this section.

(d) In accordance with good manufacturing practice, finished semirigid and rigid acrylic and modified acrylic plastics intended for repeated use in contact with food shall be thoroughly cleansed prior to their first use in contact with food.

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

§ 177.1020 Acrylonitrile/butadiene/styrene copolymer.

Acrylonitrile/butadiene/styrene copolymer identified in this section may be safely used as an article or component of articles intended for use with all foods, except those containing alcohol, under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter.

(a) *Identity.* For the purpose of this section, the acrylonitrile/butadiene/styrene copolymer consists of:

(1) Eighty-four to eighty-nine parts by weight of a matrix polymer containing 73 to 78 parts by weight of acrylonitrile and 22 to 27 parts by weight of styrene; and

(2) Eleven to sixteen parts by weight of a grafted rubber consisting of (i) 8 to 13 parts of butadiene/styrene elastomer containing 72 to 77 parts by weight of butadiene and 23 to 28 parts by weight of styrene and (ii) 3 to 8 parts by weight of a graft polymer having the same composition range as the matrix polymer.

(b) *Adjuvants.* The copolymer identified in paragraph (a) of this section may contain adjuvant substances required in its production. Such adjuvants may include substances generally recognized as safe in food, substances used in accordance with prior sanction, substances permitted in this part, and the following:

Substance	Limitations
2-Mercaptoethanol	The finished copolymer shall contain not more than 100 ppm 2-mercaptoethanol acrylonitrile adduct as determined by a method available upon request from the Commissioner of Food and Drugs.

(c) *Specifications.* (1) Nitrogen content of the copolymer is in the range of 16 to 18.5 percent as determined by Micro-Kjeldahl analysis.

(2) Residual acrylonitrile monomer content of the finished copolymer articles is not more than 11 parts per million as determined by a gas chromatographic method, available upon request from the Commissioner of Food and Drugs.

(d) *Extractive limitations.* (1) Total nonvolatile extractives not to exceed 0.0005 milligram per square inch surface area when the finished food contact article is exposed to distilled water, 3 percent acetic acid, or *n*-heptane for 8 days at 120° F.

(2) The finished food-contact article shall yield not more than 0.0015 milligram per square inch of acrylonitrile monomer when exposed to distilled water and 3 percent acetic acid at 150° F for 15 days when analyzed by a polarographic method, available upon request from the Division of Food and Color Additives, HFF–330, 200 C St., SW., Washington, DC 20204.

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

§ 177.1030 Acrylonitrile/butadiene/styrene/methyl methacrylate copolymer.

Acrylonitrile/butadiene/styrene/methyl methacrylate copolymer identified in this section may be safely used as an article or component of articles intended for use with food identified in table 1 of § 176.170(c) of this chapter as type I, II, III, IVA, IVB, V, VIB, (except bottles intended to hold carbonated beverages), VIIA, VIIB, VIII and IX, under conditions of use C, D, E, F, and G described in table 2 of § 176.170(c) of this chapter with a high temperature limitation of 190° F.

(a) *Identity.* For the purpose of this section, acrylonitrile/butadiene/styrene/methyl methacrylate copolymer consists of: (1) 73 to 79 parts by weight of a matrix polymer containing 64 to 69 parts by weight of acrylonitrile, 25 to 30 parts by weight of styrene and 4 to 6 parts by weight of methyl methacrylate; and (2) 21 to 27 parts by weight of a grafted rubber consisting of (i) 16 to 20 parts of butadiene/styrene/elastomer containing 72 to 77 parts by weight of butadiene and 23 to 28 parts by weight of styrene and (ii) 5 to 10 parts by weight of a graft polymer having the same composition range as the matrix polymer.

(b) *Adjuvants.* The copolymer identified in paragraph (a) of this section may contain adjuvant substances required in its production. Such adjuvants may include substances generally recognized as safe in food, substances used in accordance with prior sanction, substances permitted under applicable regulations in this part, and the following:

Substances	Limitations
2 - Mercaptoethanol	The finished copolymer shall contain not more than 800 ppm 2-mercaptoethanol - acrylonitrile adduct as determined by a method available upon request from the Commissioner of Food and Drugs.

(c) *Specifications.* (1) Nitrogen content of the copolymer is in the range of 13.0 to 16.0 percent as determined by Micro-Kjeldahl analysis.

(2) Residual acrylonitrile monomer content of the finished copolymer articles is not more than 11 parts per million as determined by a gas chromatographic method available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF–330), 200 C St. SW., (Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 (21 U.S.C. 321(s), 348, 371(a)).)

Note: § 177.1020 (formerly § 121.2633) insofar as it permits an acrylonitrile/butadiene/styrene copolymer to be used to fabricate beverage containers, was stayed by an order published in the FEDERAL REGISTER of March 11, 1977 (42 FR 13546).

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ditives (HFF–330), 200 C St. SW., Washington, DC 20204.

(d) *Extractive limitations*. (1) Total nonvolatile extractives not to exceed 0.0005 milligram per square inch surface area of the food-contact article when exposed to distilled water, 3 percent acetic acid, 50 percent ethanol, and *n*-heptane for 10 days at 120° F.

(2) The finished food-contact article shall yield not more than 0.0025 milligram per square inch of acrylonitrile monomer when exposed to distilled water, 3 percent acetic acid and *n*-heptane at 190° F for 2 hours, cooled to 120° F (80 to 90 minutes) and maintained at 120° F for 10 days when analyzed by a polarographic method available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF–330), 200 C St., SW., Washington, DC 20204.

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

NOTE: § 177.1030 (formerly § 121.2627), insofar as it permits an acrylonitrile/butadiene/styrene/methyl methacrylate copolymer to be used to fabricate beverage containers, was stayed by an order published in the FEDERAL REGISTER of March 11, 1977 (42 FR 13546).

§ 177.1040 Acrylonitrile/styrene copolymer.

Acrylonitrile/styrene copolymers identified in this section may be safely used as a component of packaging materials subject to the provisions of this section.

(a) *Identity*. For the purposes of this section acrylonitrile/styrene copolymers are basic copolymers meeting the specifications prescribed in paragraph (c) of this section.

(b) *Adjuvants*. (1) The copolymers identified in paragraph (c) of this section may contain adjuvant substances required in their production, with the exception that they shall not contain mercaptans or other substances which form reversible complexes with acrylonitrile monomer. Permissible adjuvants may include substances generally recognized as safe in food, substances used in accordance with prior sanction, substances permitted under applicable regulations in this part, and those authorized in paragraph (b)(2) of this section.

(2) The optional adjuvants for the acrylonitrile/styrene copolymer identified in paragraph (c)(1) of this section are as follows:

Substances	*Limitation*
Condensation polymer of toluene sulfonamide and formaldehyde.	0.15 pct maximum.

(c) Specifications.

Acrylonitrile styrene copolymers	Maximum residual acrylonitrile monomer content of finished article	Nitrogen content of copolymer	Maximum extractable fractions at specified temperatures and times	Conformance with certain specifications
1. Acrylonitrile/styrene copolymer consisting of the copolymer produced by polymerization of 66–72 parts by weight of acrylonitrile and 28–34 parts by weight of styrene; for use with food of type VI–B identified in table 1 of sec. 176.170(c) of this chapter under conditions of use C, D, E, F, G described in table 2 of sec. 176.170(c) of this chapter.	80 p/m *	17.4 to 19 pct.	Total nonvolatile extractives not to exceed 0.01 mg/in² surface area of the food contact article when exposed to distilled water and 3 pct acetic acid for 10 d at 150° F. The extracted copolymer shall not exceed 0.001 mg/in² surface area of the food contact article when exposed to distilled water and 3 pct acetic acid for 10 d at 150° F.*	Minimum number average molecular weight is 30,000.*
2. Acrylonitrile/styrene copolymer consisting of the copolymer produced by polymerization of 45–65 parts by weight of acrylonitrile and 35–55 parts by weight of styrene; for use with food of types I, II, III, IV, V, VI (except bottles), VII, VIII, and IX identified in table 1 of sec. 176.170(c) of this chapter under conditions B (not to exceed 200° F), C, D, E, F, G described in table 2 of sec. 176.170(c) of this chapter.	50 p/m *	12.2 to 17.2 pct.	Extracted copolymer not to exceed 2.0 p.p.m. in aqueous extract or n-heptane extract obtained when 100-g sample of the basic copolymer in the form of particles of a size that will pass through a U.S. Standard Sieve No. 6 and that will be held on a U.S. Standard Sieve No. 10 is extracted with 250 ml of deionized water or reagent grade n-heptane at reflux temperature for 2h.*	Minimum 10 pct solution viscosity at 25° C is 10 cP.*

*Method available from: Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF-330), 200 C St. SW., Washington, D.C. 20204.

(d) *Interim listing*. Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

NOTE: § 177.1040 (formerly § 121.2629), insofar as it permits an acrylonitrile/styrene copolymer to be used to fabricate beverage containers, was stayed by an order published in the FEDERAL REGISTER of March 11, 1977 (42 FR 13546).

§ 177.1050 Acrylonitrile/styrene copolymer modified with butadiene/styrene elastomer.

Acrylonitrile/styrene copolymer modified with butadiene/styrene elastomer identified in this section may be safely used as a component of bottles intended for use with foods identified in table I of § 176.170(c) of this chapter as type VI–B under conditions for use E, F, or G described in table 2 of § 176.170(c) of this chapter.

(a) *Identity*. For the purpose of this section, acrylonitrile/styrene copolymer modified with butadiene/styrene elastomer consists of a blend of:

(1) 82–88 parts by weight of a matrix copolymer produced by polymerization of 77–82 parts by weight of acrylonitrile and 18–23 parts of styrene; and

(2) 12–18 parts by weight of a grafted rubber consisting of (i) 8–12 parts of butadiene/styrene elastomer containing 77–82 parts by weight of butadiene and 18–23 parts by weight of styrene and (ii) 4–6 parts by weight of a graft copolymer consisting of 70–77 parts by weight of acrylonitrile and 23–30 parts by weight of styrene.

(b) *Adjuvants*. The modified copolymer identified in paragraph (a) of this section may contain adjuvant substances required in its production. Such adjuvants may include substances generally recognized as safe in food, substances used in accordance with prior sanction, substances permitted under applicable regulations in this part, and the following:

Substances	*Limitations*
n-Dodecylmercaptan	The finished copolymer shall contain not more than 500 parts per million (ppm) dodecylmercaptan as dodecylmercaptopropionitrile as determined by a method available upon request from the Commissioner of Food and Drugs.

(c) *Specifications*. (1) Nitrogen content of the modified copolymer is in the range of 17.7–19.8 percent.

(2) Intrinsic viscosity of the matrix copolymer in butyrolactone is not less than 0.5 deciliter/gram at 35° C, as determined by a method available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF–330), 200 C St. SW., Washington, D.C. 20204.

(3) Residual acrylonitrile monomer content of the modified copolymer articles is not more than 11 ppm as determined by a gas chromatographic method available upon request from the Commissioner of Food and Drugs.

(d) *Extractives limitations*. The following extractives limitations are determined by an infrared spectrophotometric method, available upon request from the Commissioner of Food and Drugs, and are applicable to the modified copolymers in the form of particles of a size that will pass through a U.S. Standard Sieve No. 6 and that will be held on a U.S. Standard Sieve No. 10:

(1) The extracted copolymer shall not exceed 2.0 ppm in aqueous extract obtained when a 100-gram sample of copolymer is extracted with 250 milliliters of freshly distilled water at reflux temperature for 2 hours.

(2) The extracted coplymer shall not exceed 0.5 ppm in *n*-heptane when a 100-gram sample of the basic copolymer is extracted with 250 milliliters spectral grade *n*-heptane at reflux temperature for 2 hours.

(e) *Accelerated extraction end test*. The modified copolymer shall yield acrylonitrile monomer not in excess of 0.4 ppm when tested as follows:

(1) The modified copolymer shall be in the form of eight strips ½ inch by 4 inches by .03 inch.

(2) The modified copolymer strips shall be immersed in 225 milliliters of 3 percent acetic acid in a Pyrex glass pressure bottle.

(3) The pyrex glass pressure bottle is then sealed and heated to 150° F in either a circulating air oven or a thermostat controlled bath for a period of 8 days.

(4) The Pyrex glass pressure bottle is then removed from the oven or bath and cooled to room temperature. A sample of the extracting solvent is then withdrawn and analyzed for acrylonitrile monomer by a gas chromatographic method available upon request from the Commissioner of Food and Drugs.

(f) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

NOTE: § 177.1050 (formerly § 121.2626), insofar as it permits an acrylonitrile/styrene copolymer modified with butadiene/styrene elastomer to be used to fabricate beverage containers, was stayed by an order published in the FEDERAL REGISTER of March 11, 1977 42 FR 13546).

§ 177.1200 Cellophane.

Cellophane may be safely used for packaging food in accordance with the following prescribed conditions:

(a) Cellophane consists of a base sheet made from regenerated cellulose to which have been added certain optional substances of a grade of purity suitable for use in food packaging as constituents of the base sheet or as coatings applied to impart desired technological properties.

(b) Subject to any limitations prescribed in this part, the optional substances used in the base sheet and coating may include:

(1) Substances generally recognized as safe in food.

(2) Substances for which prior approval or sanctions permit their use in cellophane, under conditions specified in such sanctions and substances listed in § 181.22 of this chapter.

(3) Substances that by any regulation promulgated under section 409 of the act may be safely used as components of cellophane.

(4) Substances named in this section and further identified as required.

(c) List of substances:

	Limitations (residue and limits of addition expressed as percent by weight of finished packaging cellophane)
Acrylonitrile-butadiene copolymer resins	As the basic polymer.
Acrylonitrile-butadiene-styrene copolymer resins	Do.
Acrylonitrile-styrene copolymer resins	Do.
Acrylonitrile-vinyl chloride copolymer resins	Do.
N-Acyl sarcosines where the acyl group is lauroyl or stearoyl.	For use only as release agents in coatings at levels not to exceed a total of 0.3 percent by weight of the finished packaging cellophane.
Alkyl ketene dimers identified in §176.120 of this chapter.	
Aluminum hydroxide	
Aluminum silicate	
Ammonium persulfate	
Ammonium sulfate	
Behenamide	
Butadiene-styrene copolymer	As the basic polymer.
1,3-Butanediol	
n-Butyl acetate	0.1 percent.
n-Butyl alcohol	Do.
Calcium ethyl acetoacetate	
Calcium stearoyl-2-lactylate identified in §172.844 of this chapter.	Not to exceed 0.5 percent weight of cellophane.
Carboxymethyl hydroxyethylcellulose polymer	
Castor oil, hydrogenated	
Castor oil phthalate with adipic acid and fumaric acid-diethylene glycol polyester.	As the basic polymer.
Castor oil phthalate, hydrogenated	Alone or in combination with other phthalates where total phthalates do not exceed 5 percent.
Castor oil, sulfonated, sodium salt	
Cellulose acetate butyrate	
Cellulose acetate propionate	
Cetyl alcohol	
Clay, natural	
Coconut oil fatty acid (C_8–C_{18}) diethanolamide, coconut oil fatty acid (C_{12}–C_{18}) diethanolamine soap, and diethanolamine mixture having total alkali (calculated as potassium hydroxide) of 16–18% and having an acid number of 25–35.	For use only as an adjuvant employed during the processing of cellulose pulp used in the manufacture of cellophane base sheet.
Copal resin, heat processed	As basic resin.
Damar resin	
Defoaming agents identified in § 176.200 of this chapter	
Dialkyl ketones where the alkyl groups are lauryl or stearyl.	Not to exceed a total of 0.35 percent.
Dibutylphthalate	Alone or in combination with other phthalates where total phthalates do not exceed 5 percent.
Dicyclohexyl phthalate	Do.
Diethylene glycol ester of the adduct of terpene and maleic anhydride.	
Di(2-ethylhexyl) adipate	
Di(2-ethylhexyl) phthalate	Alone or in combination with other phthalates where total phthalates do not exceed 5 percent.
Diisobutyl phthalate	Alone or in combination with other phthalates where total phthalates do not exceed 5 percent.
Dimethylcyclohexyl phthalate	Do.
Dimethyldialkyl (C_8–C_{18}) ammonium chloride	0.005 percent for use only as a flocculant for slip agents.
Di-*n*-ocyltin bis(2-ethylhexyl maleate)	For use only as a stabiliser at a level not to exceed 0.85 percent by weight of the coating solids in vinylidene chloride copolymer waterproof coatings prepared from vinylidene chloride copolymers identified in this paragraph, provided that such vinylidene chloride copolymers contain not less than 90 percent by weight of polymer units derived from vinylidene chloride.

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Limitations (residue and limits of addition ex-

Limitations (residue and limits of addition expressed as percent by weight of finished packaging cellophane)

	Limitations (residue and limits of addition expressed as percent by weight of finished packaging cellophane)
N,N'-Dioleoylethylenediamine, *N,N'*-dilinoleoylethylenediamine, and *N*-oleoyl-*N'*-linoleoylethylene-diamine mixture produced when tall oil fatty acids are made to react with ethylenediamine such that the finished mixture has a melting point of 212°–226° F. as determined by ASTM Method D 127–60, and an acid value of 10 maximum.	0.5 percent.
N,N'-Dioleoylethylenediamine (*N,N'*-ethylenebisoleamide).	
Disodium EDTA	0.06 percent.
Distearic acid ester of di(hydroxyethyl)diethylenetriamine monoacetate.	
N,N'-Distearoylethylenediamine (*N,N'*ethylenebisstearamide).	
Epoxidized polybutadiene	For use only as a primer subcoat to anchor surface coatings to the base sheet.
Erucamide	
Ethyl acetate	
Ethylene-vinyl acetate copolymers complying with § 177.1350.	
2-Ethylhexyl alcohol	0.1 percent for use only as lubricant.
Fatty acids derived from animal and vegetable fats and oils, and the following salts of such acids, single or mixed: Aluminum, ammonium, calcium, magnesium, potassium, sodium.	
Ferrous ammonium sulfate	
Fumaric acid	
Glycerin-maleic anhydride	As the basic polymer.
Glycerol diacetate	
Glycerol monoacetate	
Hydroxyethyl cellulose, water-insoluble	
Hydroxypropyl cellulose identified in § 172.870 of this chapter.	
Isopropyl acetate	Residue limit 0.1 percent.
Isopropyl alcohol	Do.
Itaconic acid	
Lanolin	
Lauryl alcohol	
Lauryl sulfate salts: ammonium, magnesium, potassium, sodium.	
Maleic acid	1 percent.
Maleic acid adduct of butadienestyrene copolymer	As the basic polymer.
Melamine formaldehyde	As the basic polymer, and used as a resin to anchor coatings to substrate.
Melamine-formaldehyde modified with one or more of the following: Butyl alcohol, diaminopropane, diethylenetriamine, ethyl alcohol, guanidine, imino-bis-butylamine, imino-bis-ethylamine, imino-bis-propylamine, methyl alcohol, polyamines made by reacting ethylenediamine or trimethylenediamine with dichloroethane or dichloropropane, sulfanilic acid, tetraethylenepentamine, triethanolamine, triethylenetetramine.	
Methyl ethyl ketone	Residue limit 0.1 percent.
Methyl hydrogen siloxane	0.1 percent as the basic polymer.
α-Methylstyrene-vinyltoluene copolymer resins (molar ratio 1 α-methylstyrene to 3 vinyltoluene).	
Mineral oil, white	
Naphthalenesulfonic acid-formaldehyde condensate, sodium salt.	0.1 percent, for use only as an emulsifier.
Nitrocellulose, 10.9 percent–12.2 percent nitrogen	
Nylon resins complying with § 177.1500	
n-Octyl alcohol	For use only as a defoaming agent in the manufacture of cellophane base sheet.
Olefin copolymers complying with § 177.1520	
Oleic acid reacted with *N*-alkyl trimethylenediamine (alkyl C_8 to C_{18}).	
Oleic acid, sulfonated, sodium salt	
Oleyl palmitamide	
N,N'-Oleoyl-stearylethylenediamine (*N*-(2-stearoylaminoethyl)oleamide).	
Paraffin, synthetic, complying with § 175.250 of this chapter.	
Pentaerythritol tetrastearate	0.1 percent.
Polyamide resins derived from dimerized vegetable oil acids (containing not more than 20 percent of monomer acids) and ethylenediamine as the basic resin.	For use only in cellophane coatings that contact food at temperatures not to exceed room temperature.
Polyamide resins having a maximum acid value of 5 and a maximum amine value of 3.5 derived from dimerized vegetable oil acids (containing not more than 10 percent monomer acids), ethylenediamine, and 4,4-bis(4-hydroxyphenyl)pentanoic acid (in an amount not to exceed 10 percent by weight of said polyamide resins).	As the basic resin, for use only in coatings that contact food at temperatures not to exceed room temperature provided that the concentration of the polyamide resins in the finished food-contact coating does not exceed 5 milligrams per square inch of food-contact surface.
Polybutadiene resin (molecular weight range 2,000–10,200; bromine number range 210–320).	For use only as an adjuvant in vinylidene chloride copolymer coatings.
Polycarbonate resins complying with § 177.1580	
Polyester resin formed by the reaction of the methyl ester of rosin, phthalic anhydride, maleic anhydride, and ethylene glycol, such that the polyester resin has an acid number of 4 to 11, a drop-softening point of 70° C–92° C, and a color of K or paler.	
Polyethylene	
Polyethyleneaminostearamide ethyl sulfate produced when stearic acid is made to react with equal parts of diethylenetriamine and triethylenetetramine and the reaction product is quaternized with diethyl sulfate.	0.1 percent.
Polyethylene glycol (400) monolaurate	
Polyethylene glycol (600) monolaurate	
Polyethylene glycol (400) monooleate	
Polyethylene glycol (600) monooleate	
Polyethylene glycol (400) monostearate	
Polyethylene glycol (600) monostearate	
Polyethylene, oxidized; complying with the identity prescribed in § 177.1620(a).	
Polyethylenimine	As the basic polymer, for use as a resin to anchor coatings to the substrate and for use as an impregnant in the food-contact surface of regenerated cellulose sheet in an amount not to exceed that required to improve heat-sealable bonding between coated and uncoated sides of cellophane.

	Limitations (residue and limits of addition expressed as percent by weight of finished packaging cellophane)
Polyisobutylene complying with § 177.1420	
Polyoxypropylene-polyoxyethylene block polymers (molecular weight 1,900–4,000).	For use as an adjuvant employed during the processing of cellulose pulp used in the manufacture of cellophane base sheet.
Polypropylene complying with § 177.1520	
Polystyrene	As the basic polymer.
Polyvinyl acetate	Do.
Polyvinyl alcohol (minimum viscosity of 4 percent aqueous solution at 20° C of 4 centipoises).	
Polyvinyl chloride	As the basic polymer.
Polyvinyl stearate	Do.
n-Propyl acetate	Residue limit 0.1 percent.
n-Propyl alcohol	Do.
Rapeseed oil, blown	
Rosins and rosin derivatives as provided in § 178.3870 of this chapter.	
Rubber, natural (natural latex solids)	
Silica	
Silicic acid	
Sodium *m*-bisulfite	
Sodium dioctyl sulfosuccinate	
Sodium dodecylbenzenesulfonate	
Sodium lauroyl sarcosinate	0.35 percent; for use only in vinylidene chloride copolymer coatings.
Sodium oleyl sulfate-sodium cetyl sulfate mixture	For use only as an emulsifier for coatings; limit 0.005 percent where coating is applied to one side only and 0.01 percent where coating is applied to both sides.
Sodium-silicate	
Sodium stearoyl-2-lactylate identified in § 172.846 of this chapter.	Not to exceed 0.5 percent weight of cellophane.
Sodium sulfate	
Sodium sulfite	
Spermaceti wax	
Stannous oleate	
2-Stearamido-ethyl stearate	
Stearyl alcohol	
Styrene-maleic anhydride resins	As the basic polymer.
Terpene resins identified in § 172.615 of this chapter	Residue limit of 0.1 percent.
Tetrahydrofuran	
Titanium dioxide	Residue limit of 0.1 percent.
Toluene	0.6 percent as the basic polymer.
Toluene sulfonamide formaldehyde	
Triethylene glycol	
Triethylene glycol dicaetate, prepared from triethylene glycol containing not more than 0.1 percent of diethylene glycol.	
2,2,4-Trimethyl-1,3 pentanediol diisobutyrate	For use only in cellophane coatings and limited to use at a level not to exceed 10 percent by weight of the coating solids except when used as provided in § 178.3740 of this chapter.
Urea (carbamide)	As the basic polymer.
Urea formaldehyde	As the basic polymer, and used as a resin to anchor coatings to the subtrate.
Urea formaldehyde modified with methanol, ethanol, butanol diethylenetriamine, triethylenetetramine, tetraethylenepentamine, guanidine, sodium sulfite, sulfanilic acid, imino-bis-ethylamine, imino-bis-propylamine, imino-bis-butylamine, diaminopropane, diaminobutane, aminomethylsulfonic acid, polyamines made by reacting ethylenediamine or trimethylenediamine with dichloroethane or dichloropropane.	
Vinyl acetate-vinyl chloride copolymer resins	As the basic polymer.
Vinyl acetate-vinyl chloride-maleic acid copolymer resins	Do.
Vinylidene chloride copolymerized with one or more of the following: Acrylic acid, acrylonitrile, butyl acrylate, butyl methacrylate, ethyl acrylate, 2-ethylhexyl acrylate, 2-ethylhexyl methacrylate, ethyl methacrylate, itaconic acid, methacrylic acid, methyl acrylate, methyl methacrylate, propyl acrylate, propyl methacrylate, vinyl chloride.	Do.
Vinylidene chloride-methacrylate decyloctyl copolymer	Do.
Wax, petroleum, complying with § 178.3710 of this chapter.	

(d) Any optional component listed in this section covered by a specific food additive regulation must meet any specifications in that regulation.

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

§ 177.1210 Closures with sealing gaskets for food containers.

Closures with sealing gaskets may be safely used on containers intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food in accordance with the following prescribed conditions:

(a) Closures for food containers are manufactured from substances generally recognized as safe for contact with food; substances that are subject to the provisions of prior sanctions; substances authorized by regulations in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter; and closure-sealing gaskets, as further prescribed in this section.

(b) Closure-sealing gaskets and overall discs are formulated from substances identified in §175.300(b) of this chapter, with the exception of paragraph (b)(3)(v), (xxxi), and (xxxii) of that section, and from other optional substances, including the following:

(1) Substances generally recognized as safe in food.

(2) Substances used in accordance with the provisions of a prior sanction or approval within the meaning of section 201(s) of the act.

(3) Substances that are the subject of regulations in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter and used in accordance with the conditions prescribed.

(4) Substances identified in paragraph (b)(5) of this section, used in amounts not to exceed those required to accomplish the intended physical or

technical effect and in conformance with [illegible] 178 and § 179.45 of this chapter conforms

Tables 3 and 4 shall yield net chloroform-

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technical effect and in conformance with any limitation provided; and further provided that any substance employed in the production of closure-sealing gasket compositions that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter conforms with the identity or specifications prescribed.

(5) Substances that may be employed in the manufacture of closure-sealing gaskets include:

Table 1

List of substances	*Limitations (expressed as percent by weight of closure-sealing gasket composition)*
Arachidyl-behenyl amide (C_{20}-C_{22} fatty acid amides)	5 percent.
Azodicarbonamide	2 percent.
Balata rubber	
Benzyl alcohol	1 percent.
1,3-Butanediol	
Calcium tin stearate	2 percent.
Calcium zinc stearate	2 percent.
Carbon, activated	1 percent.
Castor oil, hydrogenated	2 percent.
Chlorinated isobutylene-isoprene copolymers complying with § 177.1420.	
Coco amide (coconut oil fatty acids amides)	2 percent.
Cork (cleaned, granulated)	
Dibenzamide phenyl disulfide	1 percent; for use only in vulcanized natural or synthetic rubber gasket compositions.
Di(C_7,C_9-alkyl) adipate	Complying with § 178.3740 of this chapter; except that, there is no limitation on polymer thickness.
Di-2-ethylhexyl adipate	2 percent.
Di-2-ethylhexyl sebacate	1 percent.
Dihexyl ester of sodium sulfosuccinate	No limitation on amount used but for use only in closure-sealing gasket compositions used in contact with non-fatty foods containing no more than 8 percent of alcohol.
Diisodecyl phthalate	1 percent.
Di-β-naphthyl-p-phenylenediamine	0.4 percent; for use only in vulcanized natural or synthetic rubber gasket compositions.
Dipentamethylenethiuramtetrasulfide	
Eicosane (technical grade) (water-white mixture of predominantly straight-chain paraffin hydrocarbons averaging 20 carbon atoms per molecule).	
Epoxidized linseed oil	
Epoxidized linseed oil modified with trimellitic anhydride.	
Epoxidized safflower oil	
Epoxidized safflower oil modified with trimellitic anhydride.	
Epoxidized soybean oil modified with trimellitic anhydride.	
Erucylamide	5 percent.
Ethylene-propylene copolymer	
Ethylene-propylene modified copolymer elastomers produced when ethylene and propylene are copolymerized with 5-methylene-2-norbornene and/or 5-ethylidine-2-norbornene. The finished copolymer elastomers so produced shall contain not more than 5 weight-percent of total polymer units derived from 5-methylene-2-norbornene and/or 5-ethylidine-2-norbornene, and shall have a minimum viscosity average molecular weight of 120,000 as determined by the method described in § 177.1520(d)(5), and a minimum Mooney viscosity of 35 as determined by the method described in § 177.1520 (d)(6).	
Ethylene-vinyl acetate copolymer	
Glyceryl mono-12-hydroxystearate (hydrogenated glyceryl ricinoleate).	2 percent.
Gutta-percha	
Hexamethylenetetramine	1 percent.
Hexylene glycol	0.5 percent.
Isobutylene-isoprene copolymers complying with § 177.1420.	
Maleic anhydride-polyethylene copolymer	5 percent.
Maleic anhydride-styrene copolymer	5 percent.
2,2'-Methylenebis[6-(1-methylcyclohexyl)-p-cresol]	1 percent.
Naphthalene sulfonic acid-formaldehyde condensate, sodium salt.	0.2 percent.
Natural rubber (crepe, latex, mechanical dispersions)	0.5 percent.
cis-9-Octadecenyl-omega-hydroxypoly (oxyethylene); the octadecenyl group is derived from oleyl alcohol and the poly (oxyethylene) content averages 20 moles.	
Oleyl alcohol	1 percent.
4,4'-Oxybis (benzene sulfonyl hydrazide)	0.5 percent.
Paraformaldehyde	1 percent.
Polybutadiene	
Poly-p-dinitroso benzene (activator for butyl rubber)	1 percent; for use only in vulcanized natural or synthetic rubber gasket compositions.
Polyethylene glycol 400 esters of fatty acids derived from animal and vegetable fats and oils.	1 percent.
Polyisobutylene complying with § 177.1420	
Polyoxypropylene-polyoxyethylene condensate, average mol. wt. 2750–3000.	0.05 percent.
Potassium benzoate	1 percent.
Potassium perchlorate	1 percent.
Potassium propionate	2 percent.
Potassium and sodium persulfate	1 percent.
Resorcinol	0.24 percent; for use only as a reactive adjuvant substance employed in the production of gelatin-bonded cord compositions for use in lining crown closures. The gelatin so used shall be technical grade or better.
Rosins and rosin derivatives as defined in § 175.300(b)(3)(v) of this chapter for use only in resinous and polymeric coatings on metal substrates; for all other uses as defined in § 178.3870 of this chapter.	
Sodium cetyl sulfate	1 percent.
Sodium decylbenzenesulfonate	1 percent.
Sodium decyl sulfate	1 percent.
Sodium formaldehyde sulfoxylate	0.05 percent.
Sodium lauryl sulfate	1 percent.
Sodium lignin sulfonate	0.2 percent.
Sodium myristyl sulfate (sodium tetradecyl sulfate)	0.6 percent.
Sodium nitrite	0.2 percent; for use only in annular ring gaskets applied in aqueous dispersions to closures for containers having a capacity of not less than 5 gallons.
Sodium o-phenylphenate	0.05 percent.
Sodium polyacrylate	5 percent.
Sodium and potassium pentachlorophenate	0.05 percent.
Sodium salt of trisopropyl naphthalenesulfonic acid	0.2 percent.
Sodium tridecylsulfate	0.6 percent.
Stearic acid amide	5 percent.
Sulfur	For use only as a vulcanizing agent in vulcanized natural or synthetic rubber gasket compositions at a level not to exceed 4 percent by weight of the elastomer content of the rubber gasket composition.
Tallow, sulfated	1 percent.
Tin-zinc stearate	2 percent.
Tri(mixed mono- and dinonylphenyl) phosphite	1 percent.
Vinyl chloride-vinyl copolymer	0.8 percent; for use only in vulcanized natural or synthetic rubber gasket compositions.
Zinc dibutyldithiocarbamate	

Table 2.—*Maximum extractives tolerances*

[In parts per million]

Type of closure-sealing gasket composition	Chloroform fraction of water extractives	Chloroform fraction of heptane extractives	Chloroform fraction of alcohol extractives
1. Plasticized polymers, including unvulcanized or vulcanized or otherwise cured natural and synthetic rubber formed in place as overall discs or annular rings from a hot melt, solution, plastisol, organisol, mechanical dispersion, or latex.	50	500	50
2. Preformed overall discs or annular rings of plasticized polymers, including unvulcanized natural or synthetic rubber.	50	250	50
3. Preformed overall discs or annular rings of vulcanized plasticized polymers, including natural or synthetic rubber.	50	50	50
4. Preformed overall discs or annular rings of polymeric or resinous-coated paper, paperboard, plastic, or metal foil substrates.	50	250	50
5. Closures with sealing gaskets or sealing compositions as described in 1, 2, 3, and 4, and including paper, paperboard, and glassine used for dry foods only.	(1)	(1)	(1)

[1] Extractability tests not applicable.

(c) The closure assembly to include the sealing gasket or sealing compound, together with any polymeric or resinous coating, film, foil, natural cork, or glass that forms a part of the food-contact surface of the assembly, when extracted on a suitable glass container with a solvent or solvents characterizing the type of foods, and under conditions of time and temperature characterizing the conditions of its use as determined from Tables 3 and 4 shall yield net chloroform-soluble extractives (corrected for zinc as zinc oleate) not to exceed the tolerances specified in Table 2, calculated on the basis of the water capacity of the container on which the closure is to be used. Employ the analytical method described in § 175.300 of this chapter, adapting the procedural details to make the method applicable to closures; such as, for example, placing the closed glass container on its side to assure contact of the closure's food-contacting surface with the solvent.

Table 3—Types of Food

I. Nonacid (pH above 5.0), aqueous products; may contain salt or sugar or both, and including oil-in-water emulsions of low- or high-fat content.
II. Acidic (pH 5.0 or below), aqueous products; may contain salt or sugar or both, and including oil-in-water emulsions of low- or high-fat content.
III. Aqueous, acid or nonacid products containing free oil or fat; may contain salt, and including water-in-oil emulsions of low- or high-fat content.
IV. Dairy products and modifications:
  A. Water-in-oil emulsions, high- or low-fat.
  B. Oil-in-water emulsions, high- or low-fat.
V. Low-moisture fats and oils.
VI. Beverages:
  A. Containing alcohol.
  B. Nonalcoholic.
VII. Bakery products.
VIII. Dry solids (no end-test required).

Table 4.—*Test procedures with time-temperature conditions for determining amount of extractives from closure-sealing gaskets, using solvents simulating types of foods and beverages*

Conditions of use	Types of food (see Table 3)	Extractant: Water (time and temperature)	Extractant: Heptane [1] (time and temperature)	Extractant: 8 pct alcohol (time and temperature)
A. High temperature heat-sterilized (e.g., over 212° F).	I, IV-B	250° F, 2 hr.	150° F, 2 hr.	
	III, IV-A, VII	Do.		
B. Boiling water-sterilized	II	212° F, 30 min.		
	III, VII		120° F, 30 min.	
C. Hot filled or pasteurized above 150° F.	II, IV-B	Fill boiling, cool to 100° F.		
	III, IV-A		120° F, 15 min.	
	V		Do.	
D. Hot filled or pasteurized below 150° F.	II, IV-B, VI-B	150° F, 2hr.		
	III, IV-A		100° F, 30 min.	
	V		Do.	
	VI-A			150° F, 2 hr.
E. Room temperature filled and stored (no thermal treatment in the container).	II, IV-B, VI-B	120° F, 24 hr.		
	III, IV-A		70° F, 30 min.	
	V		Do.	
	VI-A			120° F, 24 hr.
F. Refrigerated storage (no thermal treatment in the container).	I, II III, IV-A, IV-B, VI-B, VII	70° F, 48 hr.	70° F, 30 min.	
	VI-A			70° F, 48 hr.
G. Frozen storage (no thermal treatment in the container).	I, II, III, IV-B VII	70° F, 24 hr.		

[1] Heptane extractant not applicable to closure-sealing gaskets overcoated with wax.

(iii) *Specific gravity.* Ethylene-ethyl 170(c) of this chapter) that is being ficial Agricultural Chemists, Volume 47,

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§ 177.1240 1,4-Cyclohexylene dimethylene terephthalate and 1,4-cyclohexylene dimethylene isophthalate copolymer.

Copolymer of 1,4-cyclohexylene dimethylene terephthalate and 1,4-cyclohexylene dimethylene isophthalate may be safely used as an article or component of articles used in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section:

(a) The copolymer is a basic polyester produced by the catalytic condensation of dimethyl terephthalate and dimethyl isophthalate with cyclohexanedimethanol-1,4, to which may have been added certain optional substances required in its production or added to impart desired physical and technical properties.

(b) The quantity of any optional substance employed in the production of the copolymer does not exceed the amount reasonably required to accomplish the intended physical or technical effect or any limitation further provided.

(c) Any substance employed in the production of the copolymer that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter conforms with any specification in such regulation.

(d) Substances employed in the production of the copolymer include:

(1) Substances generally recognized as safe in food.

(2) Substances subject to prior sanction or approval for use in the copolymer and used in accordance with such sanction or approval.

(3) Substances which by regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter may be safely used as components of resinous or polymeric coatings and film used as food-contact surfaces, subject to the provisions of such regulation.

(e) The copolymer conforms with the following specifications:

(1) The copolymer, when extracted with distilled water at reflux temperature for 2 hours, yields total extractives not to exceed 0.05 percent.

(2) The copolymer, when extracted with ethyl acetate at reflux temperature for 2 hours, yields total extractives not to exceed 0.7 percent.

(3) The copolymer, when extracted with *n*-hexane at reflux temperature for 2 hours, yields total extractives not to exceed 0.05 percent.

§ 177.1310 Ethylene-acrylic acid copolymers.

The ethylene-acrylic acid copolymers identified in pararaph (a) of this section may be safely used as components of articles intended for use in contact with food subject to the provisions of this section.

(a) For the purpose of this section, ethylene-acrylic acid copolymers consist of basic copolymers produced by the copolymerization of ethlene and acrylic acid such that the finished basic copolymers contain no more than 10 weight-percent of total polymer units derived from acrylic acid.

(b) The finished food-contact article, when extracted with the solvent or solvents characterizing the type of food and under the conditions of its intended use as determined from Tables 1 and 2 of § 176.170(c) of this chapter, yields net acidified chloroform-soluble extractives not to exceed 0.5 milligram per square inch of food-contact surface when tested by the methods prescribed in § 177.1330 (c), except that net acidified chloroform-soluble extractives from paper and paperboard complying with § 176.170 of this chapter may be corrected for wax, petrolatum, and mineral oil as provided in § 176.170(d)(5)(iii)(b) of this chapter. If the finished food-contact article is itself the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, it shall also comply with any specifications and limitations prescribed for it by that regulation. (NOTE: In testing the finished food-contact article, use a separate test sample for each extracting solvent.)

(c) The provisions of this section are not applicable to ethylene-acrylic acid copolymers used in food-packaging adhesives complying with § 175.105 of this chapter.

§ 177.1320 Ethylene-ethyl acrylate copolymers.

Ethylene-ethyl acrylate copolymers may be safely used to produce packaging materials, containers, and equipment intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, in accordance with the following prescribed conditions:

(a) Ethylene-ethyl acrylate copolymers consist of basic resins produced by the catalytic copolymerization of ethylene and ethyl acrylate, to which may have been added certain optional substances to impart desired technological properties to the resin. Subject to any limitations prescribed in this section, the optional substances may include:

(1) Substances generally recognized as safe in food and food packaging.

(2) Substances the use of which is permitted under applicable regulations in Parts 170 through 189 of this chapter, prior sanction, or approvals.

(b) The ethyl acrylate content of the copolymer does not exceed 8 percent by weight unless it is blended with polyethylene or with one or more olefin copolymers complying with § 177.1520 or with a mixture of polyethylene and one or more olefin copolymers, in such proportions that the ethyl acrylate content of the blend does not exceed 8 percent by weight, or unless it is used in a coating complying with § 175.300 or § 176.170 of this chapter, in such proportions that the ethyl acrylate content does not exceed 8 percent by weight of the finished coating.

(c) Ethylene-ethyl acrylate copolymers or the blend shall conform to the specifications prescribed in paragraph (c)(1) of this section and shall meet the ethyl acrylate content limits prescribed in paragraph (b) of this section, and the extractability limits prescribed in paragraph (c)(2) of this section, when tested by the methods prescribed for polyethylene in § 177.1520.

(1) *Specifications*—(i) *Infrared identification.* Ethylene-ethyl acrylate copolymers can be identified by their characteristic infrared spectra.

(ii) *Quantitative determination of ethyl acrylate content.* The ethyl acrylate can be determined by the infrared spectra. Prepare a scan from 10.5 microns to 12.5 microns. Obtain a baseline absorbance at 11.8 microns and divide by the plaque thickness to obtain absorbance per mil. From a previously prepared calibration curve, obtain the amount of ethyl acrylate present.

(iii) *Specific gravity.* Ethylene-ethyl acrylate copolymers have a specific gravity of not less than 0.920 nor more than 0.935, as determined by A.S.T.M. Method D-1505.

(2) *Limitations.* Ethylene-ethyl acrylate copolymers or the blend may be used in contact with food except as a component of articles used for packaging or holding food during cooking provided they meet the following extractability limits:

(i) Maximum soluble fraction of 11.3 percent in xylene after refluxing and subsequent cooling to 25° C.

(ii) Maximum extractable fraction of 5.5 percent when extracted with *n*-hexane at 50° C.

(d) The provisions of paragraphs (b) and (c)(2) of this section are not applicable to ethylene-ethyl acrylate copolymers used in the formulation of adhesives complying with § 175.105 of this chapter.

§ 177.1330 Ethylene-methacrylic acid copolymers, ethylene-methacrylic acid-vinyl acetate copolymers, and their partial salts.

Ethylene-methacrylic acid copolymers, ethylene-methacrylic acid-vinyl acetate copolymers, and/or their ammonium, calcium magnesium, sodium, and/or zinc partial salts may be safely used as articles or components of articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) For the purpose of this section, the ethylene-methacrylic acid copolymers consist of basic copolymers produced by the copolymerization of ethylene and methacrylic acid such that the copolymers contain no more than 20 weight percent of polymer units derived from methacrylic acid, and the ethylene-methacrylic acid-vinyl acetate copolymers consist of basic copolymers produced by the copolymerization of ethylene, methacrylic acid, and vinyl acetate such that the copolymers contain no more than 15 weight percent of polymer units derived from methacrylic acid.

(b) The finished food-contact article, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, yields net acidified chloroform-soluble extractives in each extracting solvent not to exceed 0.5 milligram per square inch of food-contact surface when tested by the methods described in paragraph (c) of this section; and if the finished food-contact article is itself the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, it shall also comply with any specifications and limitations prescribed for it by that regulation. (NOTE: In testing the finished food-contact article, use a separate test sample for each required extracting solvent.)

(c) *Analytical methods*—(1) *Selection of extractability conditions.* First ascertain the type of food (table 1 of § 176.170(c) of this chapter) that is being packed or used in contact with the finished food-contact article described in paragraph (b) of this section, and also ascertain the normal conditions of thermal treatment used in packaging or contacting the type of food involved. Using table 2 of § 176.170(c) of this chapter, select the food-simulating solvent or solvents and the time-temperature test conditions that correspond to the intended use of the finished food-contact article. Having selected the appropriate food-simulating solvent or solvents and time-temperature exaggeration over normal use, follow the applicable extraction procedure.

(2) *Reagents*—(i) *Water.* All water used in extraction procedures should be freshly demineralized (deionized), distilled water.

(ii) *n-Heptane.* Reagent grade, freshly redistilled before use, using only material boiling at 208° F.

(iii) *Alcohol.* 8 or 50 percent (by volume), prepared from undenatured 95 percent ethyl alcohol diluted with demineralized (deionized), distilled water.

(iv) *Chloroform.* Reagent grade, freshly redistilled before use, or a grade having an established, consistently low blank.

(3) *Selection of test method.* The finished food-contact articles shall be tested either by the extraction cell described in the Journal of the Association of Official Agricultural Chemists, Volume 47, No. 1, pages 177–179 (February 1964), also described in ASTM Method F 34–63T, or by adapting the in-container methods described in § 175.300(e) of this chapter.

(4) *Selection of samples.* Quadruplicate samples should be tested, using for each replicate sample the number of finished articles with a food-contact surface nearest to 100 square inches.

(5) *Determination of amount of extractives*—(i) *Total residues.* At the end of the exposure period, remove the test container or test cell from the oven, if any, and combine the solvent for each replicate in a clean Pyrex (or equivalent) flask or beaker, being sure to rinse the test container or cell with a small quantity of clean solvent. Evaporate the food-simulating solvents to about 100 milliliters in the flask, and transfer to a clean, tared evaporating dish (platinum or Pyrex), washing the flask three times with small portions of solvent used in the extraction procedure, and evaporate to a few milliliters on a nonsparking, low-temperature hotplate. The last few milliliters should be evaporated in an oven maintained at a temperature of 221° F. Cool the evaporating dish in a desiccator for 30 minutes and weigh the residues to the nearest 0.1 milligram, e. Calculate the extractives in milligrams per square inch of the container or material surface.

(a) *Water and 8- and 50-percent alcohol.* Milligrams extractives per square inch $= \frac{e}{s}$.

(b) *Heptane.* Milligrams extractives per square inch $= \frac{e}{(s)(F)}$

where:
e = Milligrams extractives per sample tested.
s = Surface area tested, in square inches.
F = Five, the ratio of the amount of extractives removed by heptane under exaggerated time-temperature test conditions compared to the amount extracted by a fat or oil under exaggerated conditions of thermal sterilization and use.
Acidified chloroform-soluble extractives residue.
e' is substituted for e in the above equations when necessary.

If when calculated by the equations in paragraph (c)(5)(i)(a) and (b) of this section, the extractives in milligrams per square inch exceed the limitations prescribed in paragraph (b) of this section, proceed to paragraph (c)(5)(ii) of this section (method for determining the amount of acidified chloroform-soluble extractives residue).

(ii) *Acidified chloroform-soluble extractives residue.* Add 3 milliliters of 37 percent ACS reagent grade hydrochloric acid and 3 milliliters of distilled water to the evaporating dish containing the dried and weighed residue, e, obtained in paragraph (c)(5)(i) of this section. Mix well so every portion of the residue is wetted with the hydrochloric acid solution. Then add 50 milliliters of chloroform. Warm carefully, and filter through Whatman No. 41 filter paper (or equivalent) in a Pyrex (or equivalent) funnel, collecting the filtrate in a clean separatory funnel, shake for 1 minute, then draw off the chloroform layer into a clean tared evaporating dish (platinum or Pyrex). Repeat the chloroform extraction, washing the dish, the filter paper, and the separatory funnel with this second portion of chloroform. Add this filtrate to the original filtrate and evaporate the total down to a few milliliters on a low-temperature hotplate. The last few milliliters should be evaporated in an oven maintained at 221° F. Cool the evaporating dish in a desiccator for 30 minutes and weigh to the nearest 0.1 milligram to get the acidified chloroform-soluble extractives residue, e'. This e' is substituted for e in the equations in paragraph (c)(5)(i)(a) and (b) of this section.

(d) The provisions of paragraph (b) of this section are not applicable to the ethylene-methracrylic acid copolymers, ethylene-methacrylic acid-vinyl acetate copolymers, and/or their ammonium, calcium, magnesium, sodium, and/or zinc partial salts used in food-packing adhesives complying with § 175.105 of this chapter.

§ 177.1340 Ethylene-methyl acrylate copolymer resins.

Ethylene-methyl acrylate copolymer resins may be safely used as articles or components of articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) For the purpose of this section,

the ethylene-methyl acrylate copolymer

chloroform-soluble extractives corrected

meet the following extractives limitation

liters of 50 percent (by volume) ethyl alcohol in distilled water at reflux tem-

300,000 (Flory) or higher) are modified by chlorination with not more than 1.3

been added certain optional adjuvant substances required in the production of

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the ethylene-methyl acrylate copolymer resins consist of basic copolymers produced by the copolymerization of ethylene and methyl acrylate such that the copolymers contain no more than 25 weight percent of polymer units derived from methyl acrylate.

(b) The finshed food-contact article, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, yields net chloroform-soluble extractives (corrected for zinc extractives as zinc oleate) in each extracting solvent not to exceed 0.5 milligram per square inch of food-contact surface when tested by the methods described in § 176.170(d) of this chapter. If the finished food-contact article is itself the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, it shall also comply with any specifications and limitations prescribed for it by that regulation.

NOTE.—In testing the finshed food-contact article, use a separate test sample for each required extracting solvent.

(c) The provisions of this section are not applicable to ethylene-methyl acrylate copolymer resins used in food-packaging adhesives complying with § 175.105 of this chapter.

§ 177.1350 Ethylene-vinyl acetate copolymers.

Ethylene-vinyl acetate copolymers may be safely used as articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food in accordance with the following prescribed conditions:

(a) Ethylene-vinyl acetate copolymers consist of basic resins produced by the catalytic copolymerization of ethylene and vinyl acetate to which may have been added certain optional substances to impart desired technological or physical properties to the resin. Subject to any limitations prescribed in this section, the optional substances may include:

(1) Substances generally recognized as safe in food and food packaging.

(2) Substances the use of which is permitted under applicable regulations in Parts 170 through 189 of this chapter, prior sanction, or approvals.

(3) Substances identified in § 175.300 (b)(3) (xxv), (xxvi), (xxvii), (xxx), and (xxxiii) of this chapter.

(4) Erucamide as identified in § 178.3860 of this chapter.

(b) Ethylene-vinyl acetate copolymers, with or without the optional substances described in paragraph (a) of this section, when extracted with the solvent or solvents characterizing the type of food, and under conditions of time and temperature characterizing the conditions of their intended use as determined from Tables 1 and 2 of § 176.170(c) of this chapter, shall yield net chloroform-soluble extractives corrected for zinc as zinc oleate not to exceed 0.5 milligram per square inch of an appropriate sample.

(c) The provisions of paragraph (b) of this section are not applicable to ethylene-vinyl acetate copolymers used in food-packaging adhesives complying with § 175.105 of this chapter.

(d) Ethylene-vinyl acetate copolymers may be irradiated under the following conditions to produce molecular crosslinking of the polymers to impart desired properties such as increased strength and increased ability to shrink when exposed to heat:

(1) Electron beam source of ionizing radiation at a maximum energy of 3 million electron volts; maximum absorbed dose not to exceed 8 megarads.

(2) The finished food-contact film shall meet the extractives limitations prescribed in paragraph (e)(2) of this section.

(3) The ethylene-vinyl acetate copolymer films may be further irradiated in accordance with the provisions of paragraph (e)(1) of this section: *Provided*, That the total accumulated radiation dose from both electron beam and gamma ray radiation does not exceed 8.0 megarads.

(e) Ethylene-vinyl acetate copolymer films intended for contact with food may be irradiated to control the growth of microorganisms under the following conditions:

(1) Gamma photons emitted from a cobalt-60 sealed source in the dose range of 0.5–5.0 megarads.

(2) The irradiated ethylene-vinyl acetate copolymer films, when extracted with reagent grade n-heptane (freshly redistilled before use) according to methods described under § 176.170(d)(3) of this chapter, at 75° F for 30 minutes shall yield total extractives not to exceed 4.5 percent by weight of the film.

§ 177.1360 Ethylene-vinyl acetate-vinyl alcohol copolymers.

Ethylene-vinyl acetate-vinyl alcohol copolymers may be safely used as articles or components of articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) Ethylene-vinyl acetate-vinyl alcohol copolymers are produced by the partial or complete alcoholysis or hydrolysis of those ethylene-vinyl acetate copolymers complying with § 177.1350 and containing a minimum of 55 percent ethylene such that the finished ethylene-vinyl acetate-vinyl alcohol copolymers will contain no more than 30 percent vinyl alcohol units by weight.

(b) The finished food contact article shall not exceed 0.005 inch thickness and shall contact foods only of the types identified in table 1 of § 176.170(c) of this chapter in categories I, II, IV–B, VI, VII–B, and VIII under the conditions of use D through G described in table 2 of § 176.170(c) of this chapter: *Provided*, That film samples of 0.005 inch thickness representing the finished article meet the following extractives limitation when tested by ASTM Method F34–63T:

(1) The film when extracted with distilled water at 70° F for 48 hours yields total extractives not to exceed 0.03 milligrams per square inch of food-contact surface.

(2) The film when extracted with 50 percent alcohol at 70° F for 48 hours yields total extractives not to exceed 0.04 milligram per square inch of food-contact surface.

(c) The provisions of this section are not applicable to ethylene-vinyl acetate-vinyl alcohol copolymers used in the food packaging adhesives complying with § 175.105 of this chapter.

§ 177.1380 Fluorocarbon resins.

Fluorocarbon resins may be safely used as articles or components of articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) For the purpose of this section, fluorocarbon resins consist of basic resins produced as follows:

(1) Chlorotrifluoroethylene resins produced by the homopolymerization of chlorotrifluoroethylene.

(2) Chlorotrifluoroethylene-1,1-difluoroethylene copolymer resins produced by copolymerization of chlorotrifluoroethylene and 1,1-difluoroethylene.

(3) Chlorotrifluoroethylene-1,1-difluoroethylene-tetrafluoroethylene copolymer resins produced by copolymerization of chlorotrifluoroethylene, 1,1-difluoroethylene, and tetrafluoroethylene.

(b) Fluorocarbon resins that are identified in paragraph (a) of this section and that comply with the extractives limitations prescribed in paragraph (c) of this section may be used as articles or components of articles intended for use in contact with food. Fluorocarbon resins that are identified in paragraph (a) of this section and that comply only with the extractives limitations prescribed in paragraph (c) (1) and (2) of this section may be used when such use is limited to articles or components of articles that are intended for repeated use in contact with food or that are intended for one-time use in contact with food only of the types identified in § 176.170(c) of this chapter, table 1, under types I, II, VI, VII–B, and VIII. In accordance with good manufacturing practice, those food-contact articles intended for repeated use shall be thoroughly cleansed prior to their first use in contact with food.

(c) Extractives limitations are applicable to the basic resins in the form of pellets that have been ground or cut into small particles that will pass through a U.S. Standard Sieve No. 6 and that will be held on a U.S. Standard Sieve No. 10.

(1) A 100-gram sample of the resin pellets, when extracted with 100 milliliters of distilled water at reflux temperature for 8 hours, shall yield total extractives not to exceed 0.003 percent by weight of the resins.

(2) A 100-gram sample of the resin pellets, when extracted with 100 milliliters of 50 percent (by volume) ethyl alcohol in distilled water at reflux temperature for 8 hours, shall yield total extractives not to exceed 0.003 percent by weight of the resins.

(3) A 100-gram sample of the resin pellets, when extracted with 100 milliliters of *n*-heptane at reflux temperature for 8 hours, shall yield total extractives not to exceed 0.01 percent by weight of the resins.

§ 177.1400 Hydroxyethyl cellulose film, water-insoluble.

Water-insoluble hydroxyethyl cellulose film may be safely used for packaging food in accordance with the following prescribed conditions:

(a) Water-insoluble hydroxyethyl cellulose film consists of a base sheet manufactured by the ethoxylation of cellulose under controlled conditions, to which may be added certain optional substances of a grade of purity suitable for use in food packaging as constituents of the base sheet or as coatings applied to impart desired technological properties.

(b) Subject to any limitations prescribed in Parts 170 through 189 of this chapter, the optional substances used in the base sheet and coating may include:

(1) Substances generally recognized as safe in food.

(2) Substances permitted to be used in water-insoluble hydroxyethyl cellulose film by prior sanction or approval and under conditions specified in such sanctions or approval, and substances listed in § 181.22 of this chapter.

(3) Substances that by any regulation promulgated under section 409 of the act may be safely used as components of water-insoluble hydroxyethyl cellulose film.

(4) Substances identified in and used in compliance with § 177.1200(c).

(c) Any substance employed in the production of the water-insoluble hydroxyethyl cellulose film described in this section that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter conforms with any specification in such regulation.

§ 177.1420 Isobutylene polymers.

Isobutylene polymers may be safely used as components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, in accordance with the following prescribed conditions:

(a) For the purpose of this section, isobutylene polymers are those produced as follows:

(1) Polyisobutylene produced by the homopolymerization of isobutylene such that the finished polymers have a molecular weight of 750,000 (Flory) or higher.

(2) Isobutylene-isoprene copolymers produced by the copolymerization of isobutylene with not more than 3 molar percent of isoprene such that the finished polymers have a molecular weight of 300,000 (Flory) or higher.

(3) Chlorinated isobutylene-isoprene copolymers produced when isobutylene-isoprene copolymers (molecular weight 300,000 (Flory) or higher) are modified by chlorination with not more than 1.3 weight-percent of chlorine.

(b) The polymers identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of the polymers. The optional adjuvant substances required in the production of the polymers may include substances generally recognized as safe in food, substances used in accordance with a prior sanction or approval, and aluminum chloride.

(c) The provisions of this section are not applicable to polyisobutylene used in food-packaging adhesives complying with § 175.105 of this chapter.

§ 177.1430 Isobutylene-butene copolymers.

Isobutylene-butene copolymers identified in this section may be safely used as components of articles intended for use in contact with food in accordance with the following prescribed conditions:

(a) For the purpose of this section, isobutylene-butene copolymers consist of basic copolymers produced by the copolymerization of isobutylene with mixtures of *n*-butenes such that the finished basic copolymers contain not less than 45 weight percent of polymer units derived from isobutylene and meet the following specifications:

(1) Average molecular weight is in the range 300–5,000 as determined by ASTM Method D 2503.

(2) Viscosity is in the range 40–20,000 seconds Saybolt at 200° F as determined by ASTM Method D 445.

(3) Maximum bromine value is 40 as determined by ASTM Method D 1492.

(b) The isobutylene-butene basic copolymers are limited to use:

(1) As a release agent in petroleum wax complying with § 178.3710 of this chapter.

(2) As a plasticizer in polyethylene complying with § 177.1520 and in polystyrene complying with § 177.1640.

(3) As a component of nonfood articles complying with §§ 175.300, 176.170, 176.210, 177.2260(d)(2), 177.2800, 178.3570 (provided that addition to food does not exceed 10 parts per million), or § 176.180 of this chapter.

(c) The provisions of this section are not applicable to isobutylene-butene copolymers used as provided under § 175.105 of this chapter.

§ 177.1440 4,4'-Isopropylidenediphenol-epichlorohydrin resins minimum molecular weight 10,000.

4,4'-Isopropylidenediphenol-epichlorohydrin resins having a minimum molecular weight of 10,000 may be safely used as articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food in accordance with the following prescribed conditions:

(a) 4,4' - Isopropylidenediphenol-epichlorohydrin resins consist of basic resins produced by the condensation of equimolar amounts of 4,4'-isopropylidenediphenol and epichlorohydrin terminated with phenol, to which may have been added certain optional adjuvant substances required in the production of the resins.

(b) The optional adjuvant substances required in the production of the resins may include substances generally recognized as safe in food, substances used in accordance with a prior sanction or approval, and the following:

List of substances	*Limitations*
Butyl alcohol	Not to exceed 300 p.p.m. as residual solvent in finished resin.
Ethyl alcohol	----------
Toluene	Not to exceed 1,000 p.p.m. as residual solvent in finished resin.

(c) 4,4'-Isopropylidenediphenol - epichlorohydrin resins shall meet the following nonvolatile extractives limitations:

(1) Maximum extractable nonvolatile fraction of 2 parts per million when extracted with distilled water at 70° C for 2 hours, using a volume-to-surface ratio of 2 milliliters per square inch.

(2) Maximum extractable nonvolatile fraction of 3 parts per million when extracted with *n*-heptane at 70° C for 2 hours, using a volume-to-surface ratio of 2 milliliters per square inch.

(3) Maximum extractable nonvolatile fraction of 6 parts per million when extracted with 10 percent (by volume) ethyl alcohol in distilled water at 70° C for 2 hours, using a volume-to-surface ratio of 2 milliliters per square inch.

(d) The provisions of this section are not applicable to 4,4'-isopropylidenediphenol-epichlorohydrin resins listed in other sections of Subchapter B of this chapter.

§ 177.1460 Melamine-formaldehyde resins in molded articles.

Melamine-formaldehyde resins may be safely used as the food-contact surface of molded articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food in accordance with the following prescribed conditions:

(a) For the purpose of this section, melamine-formaldehyde resins are those produced when 1 mole of melamine is made to react with not more than 3 moles of formaldehyde in water solution.

(b) The resins may be mixed with refined woodpulp and the mixture may contain other optional adjuvant substances which may include the following:

List of substances	*Limitations*
Dioctyl phthalate	For use as lubricant.
Hexamethylenetetramine.	For use only as polymerization reaction control agent
Phthalic acid anhydride.	Do.
Pigments and colorants identified in § 175.300(b)(3)(xxvi) of this chapter.	----------
Zinc stearate	For use as lubricant.

(c) The molded melamine-formaldehyde articles in the finished form in which they are to contact food, when extracted with the solvent or solvents

comes transparent or the sharp edges or

§ 177.1520 Olefin polymers.

(ii) 4-Methylpentene-1 and 1-alkenes

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characterizing the type of food and under the conditions of time and temperature as determined from tables 1 and 2 of § 175.300(d) of this chapter, shall yield net chloroform-soluble extractives not to exceed 0.5 milligram per square inch of food-contact surface.

§ 177.1480 Nitrile rubber modified acrylonitrile-methyl acrylate copolymers.

Nitrile rubber modified acrylonitrile-methyl acrylate copolymers identified in this section may be safely used as components of articles intended for food-contact use under conditions of use D, E, F, or G described in table 2 of § 176.170 (c) of this chapter, subject to the provisions of this section.

(a) For the purpose of this section, nitrile rubber modified acrylonitrile-methyl acrylate copolymers consist of basic copolymers produced by the graft copolymerization of 73–77 parts by weight of acrylonitrile and 23–27 parts by weight of methyl acrylate in the presence of 8–10 parts by weight of butadiene-acrylonitrile copolymers containing approximately 70 percent by weight of polymer units derived from butadiene.

(b) The nitrile rubber modified acrylonitrile-methyl acrylate basic copolymers meet the following specifications and extractives limitations:

(1) *Specifications.* (i) Nitrogen content is in the range 16.5–19 percent as determined by Kjeldahl analysis.

(ii) Intrinsic viscosity in acetonitrile at 25° C is not less than 0.29 deciliter per gram as determined by ASTM Method D 1243–60.

(iii) Residual acrylonitrile monomer content is not more than 11 parts per million as determined by gas chromatography.

(iv) Acetonitrile-soluble fraction after refluxing the base polymer in acetonitrile for 1 hour is not greater than 95 percent by weight of the basic copoylmers.

(2) *Extractives limitations.* The following extractives limitations are determined by an infrared spectrophotometric method, available upon request from the Commissioner of Food and Drugs, and are applicable to the basic copolymers in the form of particles of a size that will pass through a U.S. sandard sieve No. 6 and that will be held on a U.S. standard sieve No. 10:

(i) Extracted copolymer not to exceed 2.0 parts per million in aqueous extract obtained when a 100-gram sample of the basic copolymers is extracted with 250 milliliters of demineralized (deionized) water at reflux temperature for 2 hours.

(ii) Extracted copolymer not to exceed 0.5 part per million in *n*-heptane extract obtained when a 100-gram sample of the basic copolymers is extracted with 250 milliliters of reagent grade *n*-heptane at reflux temperature for 2 hours.

(c) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

NOTE: § 177.1480 (formerly § 121.2614, insofar as it permits a nitrile rubber modified acrylonitrile-methyl acrylate copolymer to be used to fabricate beverage containers, was stayed by an order published in the FEDERAL REGISTER of March 11, 1977 (42 FR 13646).

§ 177.1500 Nylon resins.

The nylon resins listed in paragraph (a) of this section may be safely used to produce articles intended for use in processing, handling, and packaging food, subject to the provisions of this section:

(a) The nylon resins are manufactured as described in this paragraph so as to meet the specifications prescribed in paragraph (b) of this section when tested by the methods described in paragraph (c) of this section.

(1) Nylon 66 resins are manufactured by the condensation of hexamethylenediamine and adipic acid.

(2) Nylon 610 resins are manufactured by the condensation of hexamethylenediamine and sebacic acid.

(3) Nylon 66/610 resins are manufactured by the condensation of equal-weight mixtures of nylon 66 salts and nylon 610 salts.

(4) Nylon 6/66 resins are manufactured by the condensation and polymerization of mixtures of nylon 66 salts and *epsilon*-caprolactam under such conditions that the *epsilon*-caprolactam monomer content does not exceed 0.7 percent by weight of the finished nylon 6/66 resins.

(5) Nylon 11 resins are manufactured by the condensation of 11-aminoundecanoic acid.

(6) Nylon 6 resins are manufactured by the polymerization of *epsilon*-caprolactam.

(7) Nylon 66T resins are manufactured by the condensation of hexamethylenediamine, adipic acid, and terephthalic acid such that composition in terms of ingredients is 43.1±0.2 weight percent hexamethylenediamine, 35.3±1.2 weight percent adipic acid, and 21.6±1.2 weight percent terephthalic acid.

(8) Nylon 612 resins are manufactured by the condensation of hexamethylenediamine and dodecanedioic acid.

(9) Nylon 12 resins are manufactured by the condensation of *omega*-laurolactam.

(b) Specifications:

Nylon resins	Specific gravity	Melting point (degrees Fahrenheit)	Solubility in boiling 4.2*N* HCl	Maximum extractable fraction in selected solvents (expressed as percent by weight of resin)			
				Water	95 pct ethyl alcohol	Ethyl acetate	Benzene
1 Nylon 66 resins	1.14±0.015	475–495	Dissolves in 1 h	1.5	1.8	0.2	0.2
2 Nylon 610 resins	1.09± .015	405–425	Insoluble after 1 h	1.0	2.0	1.0	1.0
3 Nylon 66/610 resins	1.10± .015	375–395	Dissolves in 1 h	1.5	2.0	1.0	1.0
4 Nylon 6/66 resins	1.13± .015	440–460	do	2.0	2.0	1.5	1.5
5.1 Nylon 11 resins for use in articles intended for 1-time use or repeated use in contact with food.	1.04± .015	355–375	Insoluble after 1 h	.30	.35	.25	.30
5.2 Nylon 11 resins for use only: a. In articles intended for repeated use in contact with food. b. In side-seam cements for articles intended for 1-time use in contact with food and which are in compliance with sec. 175.300 of this chapter.	1.04± .015	355–375	do	.35	1.60	.35	.40
6.1 Nylon 6 resins	1.15± .015	392–446	Dissolves in 1 h	1.0	2.0	1.0	1.0
6.2 Nylon 6 resins for use only in food-contact films having an average thickness not to exceed 0.001 in.	1.15± .015	392–446	do	1.5	2.0	1.0	1.0
7. Nylon 66T resins for use only in food-contact films having an average thickness not to exceed 0.001 in.	1.16± .015	482–518	Insoluble after 1 h	1.0	1.0	.25	.25
8. Nylon 612 resins for use only in articles intended for repeated use in contact with food at temperatures not to exceed 212° F.	1.06± .015	400–420	do	.50	1.50	.50	.50
9. Nylon 12 resins for use only in food-contact films having an average thickness not to exceed 0.0016 in, intended for use in contact with nonalcoholic food under the conditions of use A (sterilization not to exceed 30 min at a temperature not to exceed 250° F). B, C, D, E, F, G, and H, of table 2 of sec. 176.170(c) of this chapter.	1.01± .015	335–355	do	1.0	2.0	1.50	1.50

(c) *Analytical methods.*—(1) *Specific gravity.* Specific gravity shall be determined by weighing a 1-gram to 5-gram sample first in air and then in freshly boiled distilled water at 23° C ±2° C.

(2) *Melting point.* The melting point shall be determined as follows: Use a hot-stage apparatus. The use of crossed nicol prisms with a microscope hot stage and reading of the thermometer when the birefringence disappears increases the accuracy. If the crossed nicol apparatus is not available, use the lowest temperature at which the sample becomes transparent or the sharp edges or corners of the sample become rounded as the melting point. In case of doubt as to the onset of melting, the sample is prodded with a sharp instrument. If it sticks to the heating block, it is considered to have melted. If the melting point is low, dry the sample in an oven at 85° C for 24 hours in a nitrogen atmosphere then repeat the test.

(3) *Solubility in boiling 4.2N HCl.* The test shall be run on a sample approximately the size of a ⅛-inch cube in at least 25 milliliters of 4.2 normal hydrochloric acid.

(4) *Maximum extractable fraction in selected solvents.* The procedure for determining the maximum extractable fraction of the nylon resins in selected solvents is as follows:

(i) Film should be cut with ordinary scissors into pieces of a convenient size such as ¼-inch squares, for the extraction tests described in this section. The granules of nylon molding powders are in the proper form for the extraction tests. Samples of fabricated articles such as pipe, fittings, and other similar articles must be cut to approximately the size of the molding powder. This can be done conveniently by using a small-scale commercial plastics granulator and cutting the sample through a screen having ¼-inch mesh. Fine particles should be separated from the cut resin by screening through a 20-mesh screen. The material retained on the screen is suitable for the extraction tests.

(ii) The organic solvents must be of American Chemical Society analytical reagent grade; distilled water is used. Approximately 30 grams of the prepared sample is weighed to the nearest milligram. The weighed resin is transferred to a 500-milliliter round-bottom flask equipped with a reflux condenser. Approximately 300-milliliters of solvent is added to the flask and the contents refluxed gently for 8 hours with a heating mantle. The solvent is then filtered off immediately while still hot, using a Buchner funnel approximately 5 inches in diameter, a suction flask, and a hardened filter paper (Whatman No. 50 or equivalent). The paper is wet with the solvent and a slight suction applied just before starting the filtration. The resin is washed twice with approximately 100-milliliter portions of solvent and the combined filtrate and washings are reduced to approximately 25 milliliters by evaporation at reduced pressure (50 millimeters to 100 millimeters of mercury, absolute), heating as necessary. The contents of the flask are transferred to an evaporation dish (which has been held in a vacuum desiccator over anhydrous calcium sulfate until constant weight has been attained) and carefully evaporated to dryness. The weight of the solid residue is determined by difference after holding in a vacuum desiccator over anhydrous calcium sulfate until constant weight has been attained. The percent of solids extracted is calculated by dividing the weight of the solid residue by the weight of the sample and multiplying by 100.

§ 177.1520 Olefin polymers.

The olefin polymers listed in paragraph (a) of this section may be safely used as articles or components of articles intended for use in contact with food, subject to the provisions of this section.

(a) For the purpose of this section, olefin polymers are basic polymers manufactured as described in this paragraph, so as to meet the specifications prescribed in paragraph (c) of this section, when tested by the methods described in paragraph (d) of this section.

(1) Polypropylene consists of basic polymers manufactured by the catalytic polymerization of propylene.

(2) Polyethylene consists of basic polymers manufactured by the catalytic polymerization of ethylene.

(3) Olefin basic copolymers consist of basic copolymers manufactured by the catalytic copolymerization of:

(i) Two or more of the 1-alkenes having 2 to 8 carbon atoms. Such olefin basic copolymers contain not less than 96 weight-percent of polymer units derived from ethylene and/or propylene, except that olefin basic copolymers manufactured by the catalytic copolymerization of two or more of the monomers ethylene, propylene, 4-butene-1,2-methylpropene-1, and 2,4,4-trimethylpentene-1 shall contain not less than 85 weight-percent of polymer units derived from ethylene and/or propylene; or

(ii) 4-Methylpentene-1 and 1-alkenes having 6 to 10 carbon atoms. Such olefin basic copolymers shall contain not less than 95 molar percent of polymer units derived from 4-methylpentene-1; or

(iii) Ethylene and propylene that may contain as modifiers not more than 5 weight-percent of total polymer units derived by copolymerization with one or more of the following monomers:

5-Ethylidine-2-norbornene.
5-Methylene-2-norbornene.

(iv) Ethylene and propylene that may contain as a modifier not more than 4.5 weight percent of total polymer units derived by copolymerization with 1,4-hexadiene.

(4) Poly(methylpentene) consists of basic polymers manufactured by the catalytic polymerization of 4-methylpentene-1.

(b) The basic olefin polymers identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of such basic olefin polymers. The optional adjuvant substances required in the production of the basic olefin polymers or finished food-contact articles may include substances permitted for such use by applicable regulations in Parts 170 through 189 of this chapter, substances generally recognized as safe in food and food packaging, substances used in accordance with a prior sanction or approval, and the following:

Substance	*Limitations*
7-(2*H*-Naphtho[1,2-*d*] triazol-2-yl) - 3 - phenylcoumarin [Chemical Abstracts Service Registry No. 3333–62–8] having a melting point of 250° to 251° C and a nitrogen content of 10.7 to 11.2 percent.	For use as an optical brightener only at levels not to exceed 20 parts per million by weight of olefin polymers having a thickness of 0.025 inch or less and complying with the specifications for items 1.1, 2.1, 3.1, 3.3, and 4 of paragraph (c) of this section; and under the conditions described in § 176.170(c) of this chapter, table 2 under conditions of use E through G.

(c) Specifications:

Olefin polymers	Density	Melting point (MP) or softening point (SP) (*Degrees Centigrade*)	Maximum extractable fraction (expressed as percent by weight of polymer) in *n*-hexane at specified temperatures	Maximum soluble fraction (expressed as percent by weight of polymer) in xylene at specified temperatures
1.1 Polypropylene	0.880–0.913	MP:160°–180° C.	6.4 pct at reflux temperature.	9.8 pct at 25° C.
1.2 Polypropylene, noncrystalline; for use only to plasticize polyethylene described under items 2.1 and 2.2 of this table, provided that such plasticized polymers meet the maximum extractable fraction and maximum soluble fraction specifications prescribed for such basic polyethylene.	0.80 –0.88			
1.3 Polypropylene, noncrystalline, for use only: To plasticize polypropylene described by item 1.1 of this table, provided that such plasticized polymers meet the maximum extractable fraction and maximum soluble fraction specifications prescribed for such basic polypropylene, and further provided that such plasticized polypropylene contacts food only of the types identified in § 176.170(c) of this chapter, table 1, under types I, II, IV–B, VI–B, VII–B, and VIII; and for use at levels not to exceed 50 pct by weight of any mixture employed as a food-contact coating provided such coatings contact food only of the types identified in § 176.170(c) of this chapter, table 1, under types I, II, IV–B, VI–B, VII–B, and VIII.	0.80 –0.88	SP:115°–138° C.		

(2) *Melting point or softening point—*

Grams of residue

Percent extractable with *n*-hexane.

(2) Heating mantle of size for 150-milliliter beaker (or suitable aluminum

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Olefin polymers	Density	Melting point (MP) or softening point (SP) (*Degrees Centigrade*)	Maximum extractable fraction (expressed as percent by weight of polymer) in n-hexane at specified temperatures	Maximum soluble fraction (expressed as percent by weight of polymer) in xylene at specified temperatures
2.1 Polyethylene for use in articles that contact food except for articles used for packing or holding food during cooking.	0.85 -1.00		5.5 pct at 50° C	11.3 pct at 25° C.
2.2 Polyethylene for use in articles used for packing or holding food during cooking.	0.85 -1.00		2.6 pct at 50° C	Do.
2.3 Polyethylene for use only as component of food-contact coatings at levels up to and including 50 percent by weight of any mixture employed as a food-contact coating.	0.85 -1.00		53 pct at 50° C	75 pct at 25° C.
3.1 Olefin copolymers described in par. (a)(3)(i) of this section for use in articles that contact food except for articles used for packing or holding food during cooking.	0.85 -1.00		5.5 pct at 50° C	30 pct at 25° C.
3.2 Olefin copolymers described in par. (a)(3)(i) of this section for use in articles used for packing or holding food during cooking.	0.85 -1.00		2.6 pct at 50° C	Do.
3.3 Olefin copolymers described in par. (a)(3)(ii) of this section.	0.82 -0.85	MP: 235°-250° C.	6.6 pct at reflux temperature.	7.5 pct at 25° C.
3.4 Olefin copolymers, primarily noncrystalline, described in par. (a)(3)(iii) of this section provided that such olefin polymers have a minimum viscosity average molecular weight of 120,000 as determined by the method described in par. (d)(5) of this section and a minimum Mooney viscosity of 35 as determined by the method described in par. (d)(6) of this section, and further provided that such olefin copolymers contact food only of the types identified in sec. 176.170(c) of this chapter, table 1, under types I, II, III, IV-B, VI, VII, VIII, and IX.	0.85 -0.90			
3.5 Olefin copolymers, primarily noncrystalline, described in paragraph (a)(3)(iv) of this section, provided that such olefin polymers have a minimum viscosity average molecular weight of 95,600 as determined by the method described in paragraph (d)(5) of this section, and further provided that such olefin polymers are used oly in blends with olefin polymers described under items 1.1, 2.1, and 2.2 of this table at a maximum level of 25 pct by weight, ahd provided that such olefin copolymers contact food only of the types identified in § 176.170 (e) of this chapter, table 1, under types I, II, IV=B, VI, VII-B, and VII at temperatures not exceeding 190° F.	0.85-0.90			
4. Poly(methylpentene)	0.82 -0.85	MP: 235°-250° C.	6.6 pct at reflux temperature.	7.5 pct at 25° C.

(d) The analytical methods for determining whether olefin polymers conform to the specifications prescribed in this section are as follows, and are applicable to the basic polymer in film form not exceeding 4 mils in thickness. The film to be tested shall be cut into approximately 1-inch squares by any convenient method that avoids contamination by dust, dirt, or grease (NOTE: Do not touch samples with bare fingers—use forceps to hold or transfer samples).

(1) *Density*. Density shall be determined by ASTM Method D 1505.

(2) *Melting point or softening point*—(i) *Melting point*. The melting point shall be determined by ASTM Method D 2117-62T.

(ii) *Softening point*. The softening point shall be determined by ASTM Method E 28-58T.

(3) *Maximum extractable fraction in n-hexane*—(i) *Olefin Copolymers described in paragraph (a)(3)(ii) of this section, polypropylene, and poly(methylpentene)*. A sample is refluxed in the solvent for 2 hours and filtered at the boiling point. The filtrate is evaporated and the total residue weighed as a measure of the solvent extractable fraction.

(*a*) *Apparatus*. (*1*) Erlenmeyer flasks, 250-milliliter, with ground joint.

(*2*) Condensers, Allihn, 400-millimeter jacket, with ground joint.

(*3*) Funnels, ribbed 75-millimeter diameter, stem cut to 40 millimeters.

(*4*) Funnels, Büchner type, with coarse-porosity fritted disc, 60-millimeter diameter.

(*5*) Bell jar for vacuum filtration into beaker.

(*b*) *Reagent*. *n*-Hexane, commercial grade, specific gravity 0.663-0.667 (20° C/20° C), boiling range 66° C-69° C, or equivalent.

(*c*) *Procedure*. Weigh 1 gram of sample accurately and place in a 250-milliliter Erlenmeyer flask containing two or three boiling stones. Add 100 milliliters of solvent, attach the flask to the condenser (use no grease), and reflux the mixture for 2 hours. Remove the flask from the heat, disconnect the condenser, and filter rapidly, while still hot, through a small wad of glass wool packed in a short-stem funnel into a tared 150-millimeter beaker. Rinse the flask and filter with two 10-milliliter portions of the hot solvent, and add the rinsings to the filtrate. Evaporate the filtrate on a stream bath with the aid of a stream of nitrogen. Dry the residue in a vacuum oven at 110° C for 2 hours, cool in a desiccator, and weigh to the nearest 0.0001 gram. Determine the blank on 120 milliliters of solvent evaporated in a tared 150-milliliter beaker. Correct the sample residue for this blank if significant. Calculation:

$$\frac{\text{Grams of residue}}{\text{Grams of sample}} \times 100 = \text{Percent extractable with } n\text{-hexane.}$$

(ii) *Olefin copolymers described in paragraph (a)(3)(i) of this section and polyethylene*. A sample is extracted at 50° C in the solvent for 2 hours and filtered. The filtrate is evaporated and the total residue weighed as a measure of the solvent extractable fraction.

(*a*) *Extraction apparatus*. Two-liter, straight-walled, Pyrex (or equivalent) resin kettles, fitted with three-hole ground-glass covers are most convenient for this purpose. The cover is fitted with a thermometer, a gas-tight stirrer driven by an air motor or explosion-proof electric motor, and a reflux condenser. The kettle is fitted with an electric heating mantle of appropriate size and shape, which is controlled by a variable-voltage transformer.

(*b*) *Evaporating apparatus*. Rapid evaporation of large volumes of solvent requires special precautions to prevent contamination by dust. This is facilitated by a special "gas" cover consisting of an inverted flat Pyrex crystallizing dish of an appropriate size (190 millimeters x 100 millimeters) to fit a 1-liter beaker. Through the center of the dish are sealed an inlet tube for preheated, oxygen-free nitrogen, and an outlet tube located 1 inch off center. Nitrogen is fed from the supply source through a coil of ¼-inch stainless steel tubing immersed in the same steam bath used to supply heat for solvent evaporation. All connections are made with flexible tetrafluoroethylene tubing.

(*c*) *Reagents*—(*1*) *n-Hexane*. Spectrograde *n*-hexane.

(*2*) *Nitrogen*. High-purity dry nitrogen containing less than 10 parts per million of oxygen.

(*d*) *Procedure*. Transfer 2.5 grams (accurately weighed to nearest 0.001 gram) of the polymer to the resin kettle. Add 1 liter of solvent and clamp top in position. Start water flowing through jacket of the reflux condenser and apply air pressure to the stirring motor to produce vigorous agitation. Turn on heating jacket with transformer set at a predetermined voltage to bring the temperature of the contents to 50° C within 20-25 minutes. As the thermometer reading approaches 45° C-47° C, reduce the voltage to the predetermined setting that will just maintain the temperature at 50° C. Do not overshoot the prescribed temperature. Should this occur discard the test and start afreah. Exactly 2 hours after the solvent temperature has reached 50° C, disconnect the heater, remove the resin kettle from the heating jacket, and decant the solvent, while still warm, through a coarse filter paper placed on top of a fritted-glass funnel, collecting the filtrate in a tared, glass-stoppered Erlenmeyer flask of 1-liter capacity. Determine the weight of the filtrate recovered to the nearest gram. Recovery should be at least 90 percent of the original solvent. Losses due to evaporation during heating and filtering have been found not to exceed 10 percent. Transfer about half of the solvent filtrate to a 1-liter beaker placed on an opening in the steam bath and immediately cover with the special "gas" cover, the inlet tube of which has been attached with flexible tetrafluoroethylene tubing to a source of high-purity nitrogen in series with a stainless steel heating coil immersed directly in the body of the steam bath. Maintain a positive flow of warm nitrogen gas throughout the evaporation of the solvent, adding the remainder of the filtrate from the Erlenmeyer flask as the evaporation proceeds. When the volume of the solvent has been reduced to about 50 milliliters, transfer the concentrated liquid to a previously tared weighing dish of suitable size. Wash the beaker twice with 20-30 milliliter portions of warm solvent, adding the washings to the weighing dish while continuing to evaporate the remainder of the solvent under the gas cover with its flow of warm nitrogen directed toward the center of the dish. In the event that an insoluble residue that cannot be removed with warm solvent remains in the beaker, it may be necessary to heat with a small amount of a higher boiling solvent such as benzene or toluene, transferring these washings to the weighing dish before final evaporation to dryness. Transfer the weighing dish with its residue to a vacuum desiccator, and allow it to remain overnight (at least 12 hours), after which the net weight of the dry residue is determined to the nearest 0.0001 gram. Correct the result for any solvent blank equivalent to the nonvolatile matter determined to be contained in the amount of solvents used in the test.

(4) *Maximum soluble fraction in xylene*—(i) *Olefin copolymers described in paragraph (a)(3)(ii) of this section, polypropylene, and poly(methylpentene)*. A sample is dissolved completely in xylene by heating and stirring in a bottle with little free space. The solution is allowed to cool without stirring, whereupon the insoluble portion precipitates and is filtered off; the total solids content of the filtrate is then determined as a measure of the soluble fraction.

(*a*) *Apparatus*. (*1*) Pyrex (or equivalent) reagent bottle, 125-milliliter, glass-stoppered.

(*2*) Heating mantle of size for 150-milliliter beaker (or suitable aluminum block to fit the 125-milliliter bottle described in paragraph (d)(4)(i)(*a*)(*1*) of this section.

(*3*) Magnetic stirrer for use under the heating mantle (combination magnetic stirrer and hotplate may be used if aluminum block is used in place of heating mantle).

(*4*) Variable-voltage transformer, 7.5 amperes.

(*5*) Tetrafluoroethylene - resin-coated sirring bar, 1-inch long.

(*6*) Constant temperature water bath maintained at 25° C±0.5° C.

(*7*) *Aluminum* dishes, 18 millimeters x 60 millimeters, disposable.

(*8*) Funnel, Büchner type, with coarse-porosity fritted disc, 30-60 millimeter diameter.

(*b*) *Reagent*. Xylene with antioxidant. Dissolve 0.020 gram of phenyl-β-naphthylamine in 1 liter of industrial grade xylene having specific gravity 0.856-0.867 (20° C/20° C) and boiling range 123° C-160° C.

(*c*) *Procedure*. Weigh 1 to 2 grams of sample to the nearest 0.001 gram and place in a 125-milliliter Pyrex reagent bottle containing a 1-inch long tetrafluoroethylene-resin-coated stirring bar. Add 100 milliliters of solvent, set the stopper in lightly, and place the bottle in the heating mantle or aluminum block maintained at a temperature of 120° C, and stir with a magnetic stirrer until the sample is completely dissolved. Remove the bottle from the heat and allow it to cool 1 hour in the air, without stirring. Then place the bottle in a water bath maintained at 25° C ±0.5° C, and allow to stand 1 hour without stirring. Next, remove the bottle from the water bath, shake, and pour part of the contents into the coarse-porosity fritted-glass funnel. Apply suction, and draw 30-40 milliliters of filtrate through, adding more slurry to the funnel, and catching the filtrate in a large test tube. (If the slurry is hard to filter, add 10 grams of diatomaceous earth filter aid to the bottle and shake vigorously just prior to the filtration.) Pipet a suitable aliquot (preferably 20 milliliters) of the filtrate into a tared aluminum disposable dish. Place the dish on a steam bath covered with a fresh sheet of aluminum foil and invert a short-stemmed 4-inch funnel over the dish. Pass nitrogen (heated if desired) down through the funnel at a rate sufficient to just ripple the surface of the solvent. When the liquid has evaporated, place the dish in a vacuum oven at 140° C and less than 50 millimeters mercury pressure for 2 hours. Cool in a desiccator and weigh. (Note: If the residue value seems high, redry in the vacuum oven for one-half hour to ensure complete removal of all xylene solvent.) Calculation:

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where such films are manufactured from

(c) Polycarbonate resins shall con-

$$\frac{\text{Grams of residue}}{\text{Grams of sample}} \times \frac{100 \text{ milliliters}}{\text{volume of aliquot in milliliters}} \times 100 = \text{Percent soluble in xylene}$$

(ii) *Olefin copolymers described in paragraph (a) (3) (i) of this section and polyethylene.* A sample is extracted in xylene at reflux temperature for 2 hours and filtered. The filtrate is evaporated and the total residue weighed as a measure of soluble fraction.

(a) *Apparatus—(1) Extraction apparatus.* Two-liter, straight-walled Pyrex (or equivalent) resin kettles, fitted with ground-glass covers, are most convenient for this purpose. The cover is equipped with a thermometer and an efficient reflux condenser. The kettle is fitted with an electric heating mantle of appropriate size and shape which is controlled by a variable-voltage transformer.

(2) *Constant temperature water bath.* It must be large enough to permit immersion of the extraction kettle and set to maintain 25° C±0.1° C.

(3) *Evaporating apparatus.* Gas cover consisting of a flat Pyrex crystallizing dish (190 millimeters x 100 millimeters) inverted to fit over a 1-liter beaker with 8-millimeter gas inlet tube sealed through center and an outlet tube 1 inch off center. The beaker with gas cover is inserted in an electric heating mantle equipped with a variable-voltage transformer. The outlet tube is attached to an efficient condenser mounted on a receiving flask for solvent recovery and having an outlet for connection to an aspirator pump. The heating mantle (with the beaker) is mounted on a magnetic stirring device. An infrared heat lamp is mounted vertically 3–4 inches above the gas cover to prevent condensation of the solvent inside the cover. Make all connections with flexible tetrafluoroethylene tubing.

(b) *Reagents—(1) Xylene.* American Chemical Society reagent grade that has been redistilled through a fractionating column to reduce the nonvolatile residue.

(2) *Nitrogen.* High-purity dry nitrogen containing less than 10 parts per million oxygen.

(c) *Procedure.* Transfer 5 grams ±0.001 gram of sample to the resin kettle, add 1,000 milliliters (840 grams) of xylene, and clamp top in position after inserting a piece of glass rod to prevent bumping during reflux. Start water flowing through the jacket of the reflux condenser and apply full voltage (115 volts) to the heating mantle. When the xylene starts to boil, reduce the voltage to a level just sufficient to maintain reflux. After refluxing for at least 2 hours, disconnect the power source to the mantle, remove the kettle, and allow to cool in air until the temperature of the contents drops to 50° C, after which the kettle may be rapidly cooled to 25° C–30° C by immersing in a cold water bath. Transfer the kettle to a constant temperature bath set to maintain 25° C ±0.1° C, and allow to equilibrate for a least 1 hour (may be left overnight if convenient). Break up any precipitated polymers that may have formed, and decant the xylene solution successively through a fast filter paper and then through a fritted-glass filter into a tared 1-liter Erlenmeyer flask, collecting only the first 450 milliliters—500 milliliters of filtrate (any attempt to collect more of the xylene solution usually results in clogging the filter and risking losses). Reweigh the Erlenmeyer flask and calculate the weight of the filtrate obtained to the nearest 0.1 gram. Transfer the filtrate, quantitatively, from the Erlenmeyer flask to the 1-liter beaker, insert the beaker in its heating mantle, add a glass-coated magnetic stirring bar, and mount the gas cover in place, connecting the inlet tube to the nitrogen source and the outlet to the condenser of the receiving flask. Start a flow of nitrogen (2 to 3 liters per minute) into the gas cover and connect an aspirator to the receiver using a free-flow rate equivalent to 6–7 liters of air per minute. With the infrared lamp on, adjust the voltage to the heating mantle to give a distillation rate of 12-13 milliliters per minute when the magnetic stirrer is revolving just fast enough to promote good boiling. When the volume of solvent in the beaker has been reduced to 30–50 milliliters, transfer the concentrated extractive to a suitable weighing dish that has been previously tared (dry). Rinse the beaker twice with 10–20 milliliter portions of fresh xylene, adding the rinsings to the weighing dish. Evaporate the remainder of the xylene on an electric hotplate set at low heat under the gas cover with a stream of nitrogen directed toward the center of the dish. Avoid any charring of the residue. Transfer the weighing dish to a vacuum desiccator at room temperature and allow to remain under reduced pressure for at least 12 hours (overnight), after which determine the net weight of the residue to the nearest 0.0001 gram. Correct the result for nonvolatile solvent blank obtained by evaporating the equivalent amount of xylene under identical conditions. Calculate the weight of residue originally present in the total weight of solvent (840 grams), using the appropriate factor based on the weight of filtrate evaporated.

(5) *Viscosity average molecular weight olefin copolymers described in paragraphs (a) (3) (iii) and (iv) of this section.* The viscosity average molecular weight shall be determined from the kinematic viscosity (ASTM Method D 445)* of solutions of the copolymers in solvents and at temperatures as follows:

(i) Olefin polymers described in paragraph (a) (3) (iii) of this section in decahydronaphthalene at 135° C.

(ii) Olefin polymers described in paragraph (a) (3) (iv) of this section in tetrachloroethylene at 30° C.

(6) *Mooney viscosity — olefin copolymers described in paragraph (a) (3) (iii) of this section.* Mooney viscosity is determined by ASTM Method D 1646–63, using the large rotor at a temperature of 212° F, except that a temperature of 260° F shall be used for those copolymers whose Mooney viscosity cannot be determined at 212° F. The apparatus containing the sample is warmed for 1 minute, run for 8 minutes, and viscosity measurements are then made.

(e) Olefin copolymers described in paragraph (a) (3) (i) of this section and polyethylene, alone or in combination, may be subjected to irradiation bombardment from a source not to exceed 2.3 million volts intensity to cause molecular crosslinking of the polymers to impart desired properties, such as increased strength and increased ability to shrink when exposed to heat.

(f) The olefin polymers identified in and complying with this section, when used as components of the food-contact surface of any article that is the subject of a regulation in Parts 174, 175, 176, 177, 178, and § 179.45 of this chapter, shall comply with any specifications and limitations prescribed by such regulation for the article in the finished form in which it is to contact food.

(g) The provisions of this section are not applicable to olefin polymers identified in § 175.105 (c) (5) of this chapter and used in food-packaging adhesives complying with § 175.105 of this chapter.

§ 177.1550 Perfluorocarbon resins.

Perfluorocarbon resins may be safely used as articles or components of articles used in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, in accordance with the following prescribed conditions:

(a) Perfluorocarbon resins are produced by the homopolymerization and/or copolymerization of hexafluoropropylene and tetrafluoroethylene, to which may have been added certain optional substances to impart desired technological properties to the resins. Subject to any limitations prescribed in this section, the optional substances may include:

(1) Substances generally recognized as safe in food and food packaging.

(2) Substances the use of which is permitted under applicable regulations in this part, prior sanctions, or approvals.

(b) Perfluorocarbon resins shall conform to the specifications prescribed in paragraph (b) (1) of this section and shall meet the extractability limits prescribed in paragraph (b) (2) of this section.

(1) *Specifications—(i) Infrared identification.* Perfluorocarbon resins can be identified by their characteristic infrared spectra.

(ii) *Melt viscosity.* Perfluorocarbon resins have a melt viscosity of not less than 10^4 poises at 380° C as determined by American Society for Testing Materials Method D–1238–57T. Melt viscosity of the copolymers shall not vary more than 50 percent within ½-hour at 380° C.

(iii) *Thermal instability index.* The thermal instability index of the tetrafluoroethylene hemopolymer shall not exceed 50 as determined by American Society for Testing Materials Method D–1457–56T.

*Copies may be obtained from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(2) *Limitations.* Perfluorocarbon resins when extracted at reflux temperatures for 2 hours separately with distilled water, 50 percent ethanol in water, *n*-heptane, and ethyl acetate shall meet the following extractability limits:

(i) Total extractives not to exceed 0.2 milligram per square inch.

(ii) Fluoride extractives calculated as fluorine not to exceed 0.03 milligram per square inch.

§ 177.1570 Poly-1-butene resins and butene/ethylene copolymers.

The poly-1-butene resins and butene/ethylene copolymers identified in this section may be safely used as articles or components of articles intended for use in contact with food subject to the provisions of this section.

(a) *Identity.* Poly-1-butene resins are produced by the catalytic polymerization of butene-1 liquid monomer. Butene/ethylene copolymers are produced by the catalytic polymerization of 1-butene liquid monomer in the presence of small amounts of ethylene monomer so as to yield no higher than a 5 weight percent concentration of polymer units derived from ethylene in the copolymer.

(b) *Specifications and limitations.* Poly-1-butene resins and butene/ethylene copolymers shall conform to the specifications prescribed in paragraph (b) (1) of this section, and shall meet the extractability limits prescribed in paragraph (b) (2) of this section.

(1) *Specifications—(i) Infrared identification.* Poly-1-butene resins and butene/ethylene copolymers can be identified by their characteristic infrared spectra.

(ii) *Viscosity.* Poly-1-butene resins and the butene/ethylene copolymers have an intrinsic viscosity 1.0 to 3.2 as determined by ASTM Method D–1601.

(iii) *Density.* Poly-1-butene resins have a density of 0.904 to 0.920 gms/cm³, and butene/ethylene copolymers have a density of 0.890 to 0.916 gms/cm³ as determined by ASTM Method D–1505–63T.

(iv) *Melt index.* Poly-1-butene resins have a melt index of 0.1 to 24 and the butene/ethylene copolymers have a melt index of 0.1 to 20 as determined by ASTM Method D–1238, Condition E.

(2) *Limitations.* Poly-1-butene resins and butene/ethylene copolymers for use in articles that contact food, and for articles used for packing or holding food during cooking shall yield no more than the following extractables:

(i) Poly-1-butene resins and butene/ethylene copolymers may be used as articles or components of articles intended for use in contact with food, provided that the maximum extractables do not exceed 2.5 percent by weight of the polymer when film or molded samples are tested for two hours at 50° C in *n*-heptane; and provided further that the butene/ethylene copolymer contains no more than 1.5 percent by weight of polymer units derived from ethylene.

(ii) Butene/ethylene copolymers containing no more than 5 percent by weight of polymer units derived from ethylene may be used in food-contact films of no more than 1 mil thickness where such films are manufactured from this copolymer blended with polypropylene, complying with § 177.1520, provided that the finished film contain no more than 60 parts butene/ethylene copolymer and the maximum extractables of the finished film do not exceed 9.3 percent by weight of the film when extracted for two hours at 50° C, in *n*-heptane.

(iii) Poly-1-butene resins and butene/ethylene copolymers may be used as articles or components of articles intended for packaging or holding food during cooking, provided that the thickness of such polymers in the form in which they contact food shall not exceed 4 mils and yield maximum extractables of not more than 2.5 percent by weight of the polymer when films are extracted for two hours at 50° C in *n*-heptane; and provided further that the butene/ethylene copolymers contains no more than 1.5 percent by weight of polymer units derived from ethylene.

§ 177.1580 Polycarbonate resins.

Polycarbonate resins may be safely used as articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, in accordance with the following prescribed conditions:

(a) Polycarbonate resins are polyesters produced by:

(1) The condensation of 4,4'-isopropylidenediphenol and carbonyl chloride to which may have been added certain optional adjuvant substances required in the production of the resins; or by

(2) The reaction of molten 4,4'-isopropylidenediphenol with molten diphenyl carbonate in the presence of the disodium salt of 4,4'-isopropylidenediphenol.

(3) The condensation of 4,4'-isopropylidenediphenol, carbonyl chloride, and 0.5 percent weight maximum of α2,α6-bis(6-hydroxy-*m*-tolyl mesitol to which may have been added certain optional adjuvant substances required in the production of branched polycarbonate resins.

(b) The optional adjuvant substances required in the production of resins produced by the methods described in paragraph (a) (1) and (3) of this section may include substances generally recognized as safe in food, substances used in accordance with a prior sanction or approval, and the following:

List of substances:	Limitations
p-tert-Butylphenol	----------
Chloroform	----------
Ethylene dichloride	----------
Heptane	----------
Methylene chloride	----------
Monochlorobenzene	Not to exceed 500 p.p.m. as residual solvent in finished resin.
Pyridine	----------
Triethylamine	----------

(c) Polycarbonate resins shall conform to the specification prescribed in paragraph (c) (1) of this section and shall meet the extractives limitations prescribed in paragraph (c) (2) of this section.

(1) *Specification.* Polycarbonate resins can be identified by their characteristic infrared spectrum.

(2) *Extractives limitations.* The polycarbonate resins to be tested shall be ground or cut into small particles that will pass through a U.S. standard sieve No. 6 and that will be held on a U.S. standard sieve No. 10.

(i) Polycarbonate resins, when extracted with distilled water at reflux temperature for 6 hours, shall yield total extractives not to exceed 0.15 percent by weight of the resins.

(ii) Polycarbonate resins, when extracted with 50 percent (by volume) ethyl alcohol in distilled water at reflux temperature for 6 hours, shall yield total extractives not to exceed 0.15 percent by weight of the resins.

(iii) Polycarbonate resins, when extracted with *n*-heptane at reflux temperature for 6 hours, shall yield total extractives not to exceed 0.15 percent by weight of the resins.

§ 177.1590 Polyester elastomers.

The polyester elastomers identified in paragraph (a) of this section may be safely used as the food-contact surface of articles intended for use in contact with bulk quantities of dry food of the type identified in § 176.170(c) of this chapter, table 1, under type VIII, in accordance with the following prescribed conditions:

(a) For the purpose of this section, polyester elastomers are those produced by the ester exchange reaction when one or more of the following phthalates—dimethyl terephthalate, dimethyl orthophthalate, and dimethyl isophthalate—is made to react with alpha-hydro-omega-hydroxypoly(oxytetramethylene) and/or 1,4-butanediol such that the finished elastomer has a number average molecular weight between 20,000 and 30,000.

(b) Optional adjuvant substances employed in the production of the polyester elastomers or added thereto to impart desired technical or physical properties may include the following substances:

List of substances:	Limitations
4,4'-Bis(*alpha*, *alpha*-dimethylbenzyl) diphenylamine.	For use only as an antioxidant.
Tetrabutyl titanate	For use only as a catalyst.

(c) An appropriate sample of the finished polyester elastomer in the form in which it contacts food, when subjected to method 6191 in Federal Test Method Standard No. 141, using No. 50 Emery abrasive in lieu of Ottawa sand, shall exhibit an abrasion coefficient of not less than 100 liters per mil of thickness.

§ 177.1600 Polyethylene resins, carboxyl modified.

Carboxyl-modified polyethylene resins may be safely used as the food-contact

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surface of articles intended for use in contact with food in accordance with the following prescribed conditions:

(a) For the purpose of this section, carboxyl-modified polyethylene resins consist of basic polymers produced when ethylene-methyl acrylate basic copolymers, containing no more than 25 weight percent of polymer units derived from methyl acrylate, are made to react in an aqueous medium with one or more of the following substances:

Ammonium hydroxide.
Calcium carbonate.
Potassium hydroxide.
Sodium hydroxide.

(b) The finished food-contact article, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, yields total extractives in each extracting solvent not to exceed 0.5 milligram per square inch of food-contact surface as determined by the methods described in § 176.170(d) of this chapter; and if the finished food-contact article is itself the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, it shall also comply with any specifications and limitations prescribed for it by that regulation. In testing the finished food-contact articles, a separate test sample is to be used for each required extracting solvent.

(c) The provisions of paragraph (b) of this section are not applicable to carboxyl-modified polyethylene resins used in food-packaging adhesives complying with § 175.105 of this chapter.

§ 177.1610 Polyethylene, chlorinated.

Chlorinated polyethylene identified in this section may be safely used as articles or components of articles that contact food, except for articles used for packing or holding food during cooking, subject to the provisions of this section.

(a) For the purpose of this section, chlorinated polyethylene consists of basic polymers produced by the direct chlorination of polyethylene conforming to the density, maximum *n*-hexane extractable fraction, and maximum xylene soluble fraction specifications prescribed under item 2.1 of the table in § 177.1520(c). Such chlorinated polyethylene contains a maximum of 60 percent by weight of total chlorine, as determined by ASTM Method D 1303–55, and has a 7.0 percent maximum extractable fraction in *n*-hexane at 50° C as determined by the method described in § 177.1520(d)(3)(ii).

(b) Chlorinated polyethylene may be used in contact with all types of food, except that when used in contact with fatty food of types III, IV–A, V, VII–A, and IX described in table 1 of § 176.170(c) of this chapter, chlorinated polyethylene is limited to use only as a modifier admixed at levels not exceeding 15 weight percent in plastic articles prepared from polyvinyl chloride and/or from vinyl chloride copolymers complying with § 177.1980.

§ 177.1620 Polyethylene, oxidized.

Oxidized polyethylene identified in paragraph (a) of this section may be safely used as a component of food-contact articles, in accordance with the following prescribed conditions:

(a) Oxidized polyethylene is the basic resin produced by the mild air oxidation of polyethylene conforming to the density, maximum *n*-hexane extractable fraction, and maximum xylene soluble fraction specifications prescribed under item 2.3 of the table in § 177.1520(c). Such oxidized polyethylene has a minimum number average molecular weight of 1,200, as determined by high temperature vapor pressure osmometry, contains a maximum of 5 percent by weight of total oxygen, and has an acid value of 9 to 19.

(b) The finished food-contact article, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, yields net acidified chloroform-soluble extractives not to exceed 0.5 milligram per square inch of food-contact surface when tested by the methods described in § 177.1330(c), except that net acidified chloroform-soluble extractives from paper and paperboard complying with § 176.170 of this chapter may be corrected for wax, petrolatum, and mineral oil as provided in § 176.170(d)(5)(iii)(*b*) of this chapter. If the finished food-contact article is itself the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, it shall also comply with any specifications and limitations prescribed for it by such regulations. (NOTE: In testing the finished food-contact article, use a separate test sample for each extracting solvent.)

(c) The provisions of this section are not applicable to oxidized polyethylene used as provided in §§ 175.105 and 176.210 of this chapter, and § 177.2800. The provisions of paragraph (b) of this section are not applicable to oxidized polyethylene used as provided in §§ 175.125 and 176.170(a)(5) of this chapter and § 177.1200.

§ 177.1630 Polyethylene phthalate polymers.

Polyethylene phthalate polymers identified in this section may be safely used as, or components of plastics (films, articles, or fabric) intended for use in contact with food in accordance with the following prescribed conditions:

(a) Polyethylene phthalate films consist of a base sheet of ethylene terephthalate polymer or ethylene terephthalate-isophthalate copolymers, to which have been added optional substances, either as constituents of the base sheet or as constitutents of coatings applied to the base sheet.

(b) Polyethylene phthalate articles consist of a base polymer of ethylene terephthalate polymer to which have been added optional substances, either as constituents of the base polymer or as constituents of coatings applied to the base polymer.

(c) (1) Polyethylene phthalate spunbonded nonwoven fabric consist of continuous filaments of ethylene terephthalate polymer and ethylene terephthalate-isophthalate copolymer to which may have been added optional adjuvant substances required in their preparation and finishing.

(2) The ethylene terephthalate-isophthalate copolymer component of the fabric shall not exceed 25 percent by weight. The filaments may be blended with other fibers regulated for the specific use and the spunbonded fabric may be further bonded by application of heat and/or pressure.

(3) The fabric shall be used only in accordance with paragraph (i) of this section.

(d) The quantity of any optional substance employed in the production of polyethylene phthalate plastics does not exceed the amount reasonably required to accomplish the intended physical or technical effect or any limitation further provided. Any substance employed in the production of polyethylene phthalate plastics that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and 179 of this chapter conforms with any specification in such regulation.

(e) Substances employed in the production of polyethylene phthalate plastics include:

(1) Substances generally recognized as safe in food.

(2) Substances subject to prior sanction or approval for use in polyethylene phthalate plastics and used in accordance with such sanction or approval.

(3) Substances which by regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter may be safely used as components of resinous or polymeric food-contact surfaces subject to the provisions of such regulation.

(4) Substances identified in this paragraph (d)(4) subject to the limitations prescribed:

LIST OF SUBSTANCES AND LIMITATIONS
(i) Base sheet:
Ethylene terephthalate copolymers: Prepared by the condensation of dimethyl terephthalate or terephthalic acid with ethylene glycol, modified with one or more of the following: Azelaic acid, dimethyl azelate, dimethyl sebacate, sebacic acid.
Ethylene terephthalate-isophthalate copolymers: Prepared by the condensation of dimethyl terephthalate and dimethyl isophthalate with ethylene glycol or terephthalic acid and isophthalic acid with ethylene glycol. The finished copolymers contain 77–83 weight percent of polymer units derived from ethylene terephthalate.
(ii) Base sheet and base polymer:
Ethylene terephthalate polymer: Prepared by the condensation of dimethyl terephthalate and ethylene glycol.
Ethylene terephthalate polymer: Prepared by the condensation of terephthalic acid and ethylene glycol.
(iii) Coatings:
2-Ethylhexyl acrylate copolymerized with one or more of the following:
Acrylonitrile.

LIST OF SUBSTANCES AND LIMITATIONS—Continued
Methacrylonitrile.
Methyl acrylate.
Methyl methacrylate.
Itaconic acid.
Vinylidene chloride copolymerized with one or more of the following:
Methacrylic acid and its methyl, ethyl, propyl, butyl, or octyl esters.
Acrylic acid and its methyl, ethyl, propyl, butyl, or octyl esters.
Acrylonitrile.
Methacrylonitrile.
Vinyl chloride.
Itaconic acid.
(iv) Emulsifiers:
Sodium dodecylbenzenesulfonate: As an adjuvant in the application of coatings to the base sheet or base polymer.
Sodium lauryl sulfate: As an adjuvant in the application of coatings to the base sheet or base polymer.

(f) Polyethylene phthalate plastics conforming with the specifications prescribed in paragraph (f)(1) of this section are used as provided in paragraph (f)(2) of this section:

(1) *Specifications.* (i) The food contact surface, when exposed to distilled water at 250° F for 2 hours, yields chloroform-soluble extractives not to exceed 0.5 mg/in² of food contact surface exposed to the solvent; and

(ii) The food contact surface, when exposed to *n*-heptane at 150° F for 2 hours, yields chloroform-soluble extractives not to exceed 0.5 mg/in² of food contact surface exposed to the solvent.

(2) *Conditions of use.* The plastics are used for packaging, transporting, or holding food, excluding alcoholic beverages, at temperatures not to exceed 250° F.

(g) Polyethylene phthalate plastics conforming with the specifications prescribed in paragraph (g)(1) of this section are used as provided in paragraph (g)(2) of this section.

(1) *Specifications.* (i) The food contact surface meets the specifications in paragraph (f)(1) of this section; and

(ii) The food contact surface when exposed to 50 percent ethyl alcohol at 120° F for 24 hours, yields chloroform-soluble extractives not to exceed 0.5 mg/in² of food contact surface exposed to the solvent.

(2) *Conditions of use.* The plastics are used for packaging, transporting, or holding alcoholic beverages that do not exceed 50 percent alcohol by volume.

(h) Uncoated polyethylene phthalate plastics consisting of a base sheet or base polymer prepared as prescribed from substances identified in paragraphs (e)(4) (i) and (ii) of this section and conforming with the specifications prescribed in paragraph (h)(1) of this section are used as provided in paragraph (h)(2) of this section:

(1) *Specifications.* (i) The food contact surface, when exposed to distilled water at 250° F for 2 hours yields chloroform-soluble extractives not to exceed 0.02 milligram/inch² of food contact surface exposed to the solvent; and

(ii) The food contact surface, when exposed to *n*-heptane at 150° F for 2 hours, yields chloroform-soluble extractives not to exceed 0.02 milligram/inch² of food contact surface exposed to the solvent.

(2) *Conditions of use.* The plastics are used to contain foods during oven baking or oven cooking at temperatures above 250° F.

(i) Polyethylene phthalate fabric, identified in paragraph (c) of this section and conforming with the specifications prescribed in paragraph (i)(1) of this section, is used only as provided in paragraph (i)(2) of this section.

(1) *Specifications.* Chloroform-soluble extractives shall not exceed 0.2 milligram/inch² of food-contact surface when exposed to the following solvents at temperatures and times indicated:

(i) Distilled water at 212° F for 2 hours.

(ii) *n*-Heptane at 150° F for 2 hours.

(iii) 50 percent ethyl alcohol at 120° F for 24 hours.

(2) *Conditions of use.* The plastics are intended for:

(i) Dry food contact.

(ii) Bulk food (excluding alcoholic beverages) repeated use applications, including filtration, at temperatures not exceeding 212° F.

(iii) Filtration of bulk alcoholic beverages, not exceeding 50 percent alcohol by volume, at temperatures not exceeding 120° F.

§ 177.1640 Polystyrene and rubber-modified polystyrene.

Polystyrene and rubber-modified polystyrene identified in this section may be safely used as components of articles intended for use in contact with food, subject to the provisions of this section.

(a) *Identity.* For the purposes of this section, polystyrene and rubber-modified polystyrene are basic polymers manufactured as described in this paragraph so as to meet the specifications prescribed in paragraph (c) of this section when tested by the method described in paragraph (d) of this section.

(1) Polystyrene consists of basic polymers produced by the polymerization of styrene.

(2) Rubber-modified polystyrene consists of basic polymers produced by combining styrene-butadiene copolymers and/or polybutadiene with polystyrene, either during or after polymerization of the polystyrene, such that the finished basic polymers contain not less than 75 weight percent of total polymer units derived from styrene monomer.

(b) *Optional adjuvants.* The basic polymers identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of such basic polymers. Such optional adjuvant substances may include substances permitted for such use by regulations in Parts 170 through 189 of this chapter, substances generally recognized as safe in food, and substances used in accordance with a prior sanction or approval.

(c) *Specifications.* (1) Polystyrene basic polymers identified in paragraph (a)(1) of this section shall contain not more than 1 weight percent of total residual styrene monomer, as determined by the method described in paragraph (d) of this section, except that when used in contact with fatty foods of types III, IV–A, V, VII–A, and IX described in table 1 of § 176.170(c) of this chapter, such polystyrene basic polymers shall contain not more than 0.5 weight percent of total residual styrene monomer.

(2) Rubber-modified polystyrene basic polymers identified in paragraph (a)(2) of this section shall contain not more than 0.5 weight percent of total residual styrene monomer, as determined by the method described in paragraph (d) of this section.

(d) *Analytical method for determination of total residual styrene monomer content*—(1) *Scope.* This method is suitable for the determination of residual styrene monomer in all types of styrene polymers.

(2) *Principle.* The sample is dissolved in methylene chloride. An aliquot of the solution is injected into a gas chromatograph. The amount of styrene monomer present is determined from the area of the resulting peak.

(3) *Apparatus*—(i) *Gas chromatograph.* Beckman GC–2A gas chromatograph with hydrogen flame detector or apparatus of equivalent sensitivity.

(ii) *Chromatograph column.* One-quarter inch outside diameter stainless steel tubing (0.028 inch wall thickness), 4 feet in length, packed with 20 percent polyethylene glycol (20,000 molecular weight) on alkaline treated 60–80 mesh firebrick.

(iii) *Recorder.* Millivolt range of 0–1, chart speed of 30 inches per hour.

(4) *Reagents.* Compressed air, purified; helium gas; hydrogen gas; methylene chloride, redistilled; and styrene monomer, redistilled.

(5) *Operating conditions for the gas chromatograph.* (i) The column is operated at a temperature of 100° C with a helium flow rate of 82 milliliters per minute.

(ii) The hydrogen burner is operated with 15 pounds per square inch of air pressure and 7 pounds per square inch of hydrogen pressure.

(iii) The attenuation of the hydrogen flame detector is set at 2×10^2.

(6) *Standardization.* (i) Prepare a standard solution by weighing accurately 15 to 20 milligrams of styrene monomer into a 2-ounce bottle containing 25.0 milliliters of methylene chloride. Cap the bottle tightly and shake to thoroughly mix the solution.

(ii) By means of a microliter syringe, inject 1 microliter of the standard solution into the gas chromatograph. Measure the area of the styrene monomer peak which emerges after approximately 12 minutes.

(7) *Procedure.* (i) Transfer 1 gram of sample (accurately weighed to the nearest 0.001 gram to a 2-ounce bottle and

acid, several glass beads. Pipette 25.0

(ii) By means of a microliter syringe, the amount reasonably required to ac-

safely used as the food-contact surface moles)], average molecular weight 675.

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add several glass beads. Pipette 25.0 milliliters of methylene chloride into the bottle. Cap the bottle tightly and place on a mechanical shaker. Shake until the polymer is completely dissolved. If any insoluble residue remains, allow the bottle to stand (or centrifuge at a low speed) until a clear supernatant layer appears.

(ii) By means of a microliter syringe, inject 3 microliters of the clear supernatant liquid into the gas chromatogarph.

(iii) Measure the area of the resulting styrene monomer peak. Compare the sample peak area with the area produced by the standard styrene monomer solution. Calculation:

$$\text{Percent residual styrene monomer} = \frac{\text{Milligrams monomer in standard} \times \text{peak area of sample}}{\text{Peak area of monomer standard} \times \text{sample weight in grams} \times 30}$$

(e) *Other specifications and limitations.* The polystyrene and rubber-modified polystyrene identified in and complying with this section, when used as components of the food-contact surface of any article that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, shall comply with any specifications and limitations prescribed by such regulation for the article in the finished form in which it is to contact food.

(f) *Nonapplicability.* The provisions of this section are not applicable to polystyrene and rubber-modified polystyrene used in food-packaging adhesives complying with § 175.105 of this chapter.

§ 177.1650 Polysulfide polymer-polyepoxy resins.

Polysulfide polymer-polyepoxy resins may be safely used as the food-contact surface of articles intended for packaging, transporting, holding, or otherwise contacting dry food, in accordance with the following prescribed conditions:

(a) Polysulfide polymer-polyepoxy resins are the reaction products of liquid polysulfide polymers and polyfunctional epoxide resins, cured with the aid of tri(dimethylaminomethyl) phenol, to which have been added certain optional substances to impart desired technological properties to the resins. Subject to any limitations prescribed in this section, the optional substances may include:

(1) Substances generally recognized as safe in food and food packaging.

(2) Substances the use of which is permitted under applicable regulations in this part, prior sanctions, or approvals.

(3) Substances named in this subparagraph and further identified as required:

List of substances	Limitations
Bis(2-chloroethyl) formal	
Bis(dichloropropyl) formal	Cross-linking agent.
Butyl alcohol	Solvent.
Carbon black (channel process)	
Chlorinated paraffins	Cross-linking agent.
Epoxidized linseed oil	
Epoxidized soybean oil	
Epoxy resins (as listed in § 175.300(b)(3)(viii)(e) of this chapter).	
Ethylene glycol monobutyl ether	Solvent.
Magnesium chloride	
Methyl isobutyl ketone	Solvent.
Naphthalene sulfonic acid-formaldehyde condensate, sodium salt.	
Sodium dibutyl naphthalene sulfonate	Wetting agent.
Sodium hydrosulfide	
Sodium polysulfide	
$\beta,\beta',\gamma,\gamma'$-Tetrachloro normal propyl ether	Cross-linking agent.
Titanium dioxide	
Toluene	Solvent.
Trichloroethane	Cross-linking agent.
1,2,3-Trichloropropane	Cross-linking agent.
Urea-formaldehyde resins	
Xylene	Solvent.

(b) The resins are used as the food-contact surface for dry food.

(c) An appropriate sample of the finished resin in the form in which it contacts food, when subjected to Method 6191 in Federal Test Method Standard No. 141, published in "Varnish, Lacquer, and Related Materials—Methods of Inspection and Sampling" (General Services Administration, Washington 25, D.C.), using No. 50 Emery abrasive in lieu of Ottawa sand, shall exhibit an abrasion coefficient of not less than 20 liters per mil of film thickness.

§ 177.1660 Poly(tetramethylene terephthalate).

Poly(tetramethylene terephthalate) (poly (oxytetramethyleneoxyterephthaloyl)) [Chemical Abstracts Service Registry No. 24968-12-5] identified in this section may be safely used as articles or components of articles intended to contact nonalcoholic food, in accordance with the following prescribed conditions:

(a) *Identity.* For the purpose of this section, poly(tetramethylene terephthalate) is the reaction product of dimethyl terephthalate with 1,4-butanediol to which may have been added certain optional substances to impart desired technological properties to the polymer.

(b) *Optional adjuvant substances.* Poly(tetramethylene terephthalate) identified in paragraph (a) of this section may contain optional adjuvant substances. The quantity of any optional adjuvant substance employed in the production of the polymer does not exceed the amount reasonably required to accomplish the intended technical or physical effect. Such adjuvants may include substances generally recognized as safe in food, substances used in accordance with prior sanction, and substances permitted under applicable regulations in this part.

(c) *Specifications.* (1) Inherent viscosity of a 0.50 percent solution of the polymer in phenol/tetrachloroethane (60/40 weight ratio) solvent is not less than 0.8 as determined using a Wagner viscometer (or equivalent) and calculated from the following equation:

$$\text{Inherent viscosity} = \frac{\text{natural logarithm of } N_r}{c}$$

where:

N_r = Ratio of flow time of the polymer solution to that of the solvent and c = polymer concentration of the test solution in grams per 100 milliliters.

(2) Poly(tetramethylene terephthalate) in the finished form in which it is to contact food shall yield total extractives as follows:

(i) Not to exceed 0.08 milligram per square inch of food contact surface when extracted for 2 hours at 250° F with distilled water.

(ii) Not to exceed 0.02 milligram per square inch of food contact surface when extracted for 2 hours at 150° F with *n*-heptane.

(iii) Not to exceed 0.04 milligram per square inch of food contact surface when extracted for 2 hours at 212° F with 3 percent aqueous acetic acid.

(d) *Conditions of use.* Articles or components of articles in which the poly(tetramethylene terephthalate) food contact surface is greater than 0.010 inch thick shall not be used at temperatures and exposure times exceeding 180° F and 24 hours, respectively.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

§ 177.1670 Polyvinyl alcohol film.

Polyvinyl alcohol film may be safely used in contact with food of the types identified in § 176.170(c) of this chapter, table 1, under types V, VIII, and IX, in accordance with the following prescribed conditions:

(a) The polyvinyl alcohol film is produced from polyvinyl alcohol having a minimum viscosity of 4 centipoises when a 4-percent aqueous solution is tested at 20° C.

(b) The finished food-contact film for use in contact with food types V or IX, when extracted with the solvent characterizing the type of food and under the conditions of time and temperature characterizing its intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, yields total extractives not to exceed 0.5 milligram per square inch of food-contact surface when tested by ASTM Method F 34-63T.

(c) The finished food-contact film shall not be used as a component of food containers intended for use in contact with water.

§ 177.1680 Polyurethane resins.

The polyurethane resins identified in paragraph (a) of this section may be

safely used as the food-contact surface of articles intended for use in contact with bulk quantities of dry food of the type identified in § 176.170(c) of this chapter, table 1, under type VIII, in accordance with the following prescribed conditions:

(a) For the purpose of this section, polyurethane resins are those produced when one or more of the isocyanates listed in paragraph (a)(1) of this section is made to react with one or more of the substances listed in paragraph (a)(2) of this section:

(1) Isocyanates:

4,4'-Diisocyanato-3,3'-dimethylbiphenyl (bitolylene diisocyanate).
Diphenylmethane diisocyanate
Hexamethylene diisocyanate.
3-Isocyanatomethyl - 3,5,5 - trimethylcyclohexyl isocyanate.
4,4-Methylenebis(cyclohexyl isocyanate).
Toluene diisocyanate.

(2) List of substances:

Adipic acid.
1,4-Butanediol.
1,3-Butylene glycol.
2,2-Dimethyl-1,3-propanediol.
Ethylene glycol.
α-Hydro-ω-omega-hydroxypoly(oxytetramethylene).
α,α'-(Isopropylidenedi-p-phenylene)bis[omega-hydroxypoly(oxypropylene)(3-4 moles)], average molecular weight 675.
Maleic anhydride.
α,α',α'',α'''-Neopentanetetrayltetrakis[omega-hydroxypoly(oxypropylene)(1-2 moles)], average molecular weight 400.
Pentaerythritol-linseed oil alcoholysis product.
Phthalic anhydride.
Polybutylene glycol.
Polyethyleneadipate modified with ethanolamine with the molar ratio of the amine to the adipic acid less than 0.1 to 1.
Poly(oxycarbonylpentamethylene).
Polyoxypropylene ethers of 4,4'-isopropylidenediphenol (containing an average of 2-4 moles of propylene oxide).
Polypropylene glycol.
α,α',α''-1,2,3-Propanetriyltris[omega-hydroxypoly(oxypropylene)(15-18 moles)], average molecular weight 3,000.
Propylene glycol.
α,α',α''-[Propylidynetris(methylene)]-tris[omega-hydroxypoly(oxyphopylene)(minimum 1.5 moles)], minimum molecular weight 400.
α-[ρ(1,1,3,3-Tetramethylbutyl)-phenyl]-omega-hydroxypoly(oxyethylene)(5 moles), average molecular weight 425.
Trimethylol propane.

(b) Optional adjuvant substances employed in the production of the polyurethane resins or added thereto to impart desired technical or physical properties may include the following substances:

List of substances	Limitations
1-[(2-Aminoethyl) amino] 2-propanol	As a curing agent.
1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadamantane ichloride.	As a preservative.
Dibutyltin diacetate	As a catalyst.
D butyltin dichloride	Do.
Dibutyltin dilaurate	Do.
N,N-Dimethyldodecylamine	Do.
N-Dodecylmorpholine	Do.
α,α'-[Isopropylidenebis[p-phenyleneoxy(2-hydroxytrimethylene)]bis[omega-hydroxypoly(oxyethylene)(136-170 moles)], average molecular weight 15,000.	As a stabilizer.
4,4'-Methylenedianiline	As a curing agent.
1,1',1''-Nitrilotri-2-propanol	Do.
2,2'-(p-Phenylenedioxy) diethanol	Do.
Phthalocyanine blue (C.I. pigment blue 15, C.I. No. 74160).	As a pigment.
Polyvinyl isobutyl ether	
Polyvinyl methyl ether	
Soya alkyd resin	Conforming in composition with § 175.300 of this chapter and containing litharge not to exceed that residual from its use as the reaction catalyst and creosol not to exceed that required as an antioxidant.
N,N,N',N'-Tetrakis(2-hydroxypropyl)ethylenediamine	As a curing agent.
Triethanolamine	Do.
Ultramarine blue	As a pigment.

(c) An appropriate sample of the finished resin in the form in which it contacts food, when subjected to Method 6191 in Federal Test Method Standard No. 141, using No. 50 Emery abrasive in lieu of Ottawa sand, shall exhibit an abrasion coefficient of not less than 20 liters per mil of film thickness.

§ 177.1810 Styrene block polymers.

The styrene block polymers identified in paragraph (a) of this section may be safely used as articles or as components of articles intended for use in contact with food, subject to provisions of this section.

(a) For the purpose of this section, styrene block polymers are basic polymers manufactured as described in this paragraph, so that the finished polymers meet the specifications prescribed in paragraph (b) of this section, when tested by the methods described in paragraph (c) of this section.

(1) Styrene block polymers with 1,3-butadiene are those produced by the catalytic solution polymerization of styrene and 1,3-butadiene.

(2) Styrene block polymers with 2-methyl-1,3-butadiene are those produced by the catalytic solution polymerization of styrene and 2-methyl-1,3-butadiene.

(3) Styrene block polymers with 1,3-butadiene, hydrogenated are those produced by the catalytic solution polymerization of styrene and 1,3-butadiene, and subsequently hydrogenated.

(b) Specifications:

preparing, treating, packaging, trans- in paragraph (c) of this section, and

(i) Total extractives do not exceed 0.10 weight-percent when extracted with

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Styrene block polymers	Molecular weight (minimum)	Solubility	Glass transition points	Maximum extractable fraction in distilled water at specified temperatures, times and thicknesses	Maximum extractable fraction in 50 pct ethanol at specified temperatures, times and thicknesses
1. Styrene block polymers with 1,3-butadiene; for use as articles or as components of articles that contact food of types I, II, IV–B, VI, VII–B, and VIII identified in table 1 in sec. 176.170(c) of this chapter under conditions of use D, E, F, and G described in table 2 in sec. 176.170(c) of this chapter.	29,000	Completely soluble in toluene.	−86° C to −80° C and 92° C to 98° C.	0.025 mg/in² of surface at reflux temperature for 30 min on a 0.075 in thick sample.	0.005 mg/in² of surface at 150° F for 2 hr on a 0.075 in thick sample.
2. Styrene block polymers with 2-methyl-1,3-butadiene; for use as articles or as components of articles that contact food of types I, II, IX–B, VI, VII–B and VIII identified in table 1 in sec. 176.170(c) of this chapter under conditions of use D, E, F, and G described in table 2 in sec. 176.170(c) of this chapter.	29,000	do	−52° C to −47° C and 92° C to 98° C.	0.01 mg/in² of surface at reflux temperature for 2 hr on a 0.028 in thick sample.	0.01 mg/in² of surface at 150° F for 2 hr on a 0.028 in thick sample.
3. Styrene block polymers with 1,3-butadiene, hydrogenated; for use as articles or as components of articles that contact food of types I, II, IV–B, VI, VII–B, and VIII identified in table 1 in sec. 176.170(c) of this chapter.	16,000	do	−50° C to −30° C and 92° C to 98° C.	0.01 mg/in² of surface at reflex temperature for 2 hr on a 0.028 in thick sample.	0.01 mg/in² of surface at 150° F for 2 hr on a 0.028 in thick sample.

(c) The analytical methods for determining whether styrene block polymers conform to the specifications prescribed in this section are as follows and are applicable to the finished polymer.

(1) *Molecular weight.* Molecular weight shall be determined by intrinsic viscosity (or other suitable method).

(2) *Glass transition points.* The glass transition points shall be determined by ASTM Method D2236–70th [*] modified by using a forced resonant vibration instead of a fixed vibration and by using frequencies of 25 to 40 cycles per second instead of 0.1 to 10 cycles per second.

(3) *Maximum extractable fractions in distilled water and 50 percent ethanol.* The maximum extractable fractions in distilled water and 50 percent ethanol shall be determined in accordance with § 176.170(d)(3) of this chapter using a sandwich form of the finished copolymer of the specified thickness and for the time and temperature specified in paragraph (b) of this section.

(d) The provisions of this section are not applicable to butadiene-styrene copolymers listed in other sections of this subpart.

(e) The provisions of this section are not applicable to styrene block polymers with 1,3-butadiene listed in § 175.105 of this chapter.

[*] Copies may be obtained from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

Styrene-maleic anhydride copolymers	Molecular weight (minimum number average)	Residual styrene monomer	Residual maleic anhydride monomer	Maximum extractable fraction in distilled water at specified temperatures, times, and particle size	Maximum extractable fraction in *n*-heptane at specified temperatures, times, and particle size
Styrene-maleic anhydride copolymers containing not more than 15 pct maleic anhydride units by weight; for use as articles or as components of articles that contact food of types I, II, III, IV–A, IV–B, V, VI–B (except carbonated beverages), VII–A, VII–B, VIII, and IX identified in table 1 in sec. 176.170(c) of this chapter under conditions of use B, C, D, E, F, G, and H described in table 2 in sec. 176.170(c) of this chapter.	70,000	0.3 weight percent.	0.1 weight percent.	0.008 weight percent at reflux temperature for 1 hr utilizing particles of a size that will pass through a U.S. standard sieve No. 10 and will be held on a U.S. standard sieve No. 20.	0.02 weight percent at 73° F for 2 hr utilizing particles of a size that will pass through a U.S. standard sieve No. 10 and will be held on a U.S. standard sieve No. 20.

(c) The analytical methods for determining conformance with specifications for styrene-maleic anhydride copolymers prescribed in this section are as follows:

(1) *Molecular weight.* Molecular weight shall be determined by membrane osmometry.

(2) *Residual styrene monomer content.* Residual styrene monomer content shall be determined by the method described in § 177.1640(d).

(3) *Residual maleic anhydride monomer content.* Residual maleic anhydride monomer content shall be determined by a gas chromatographic method available upon request from the Commissioner of Food and Drugs.

(d) The provisions of this section are not applicable to styrene-maleic anhydride copolymers listed in other sections of this subpart.

§ 177.1820 Styrene-maleic anhydride copolymers.

Styrene-maleic anhydride copolymers identified in paragraph (a) of this section may be safely used as articles or components of articles intended for use in contact with food, subject to provisions of this section.

(a) For the purpose of this section, styrene-maleic anhydride copolymers are those produced by the polymerization of styrene and maleic anhydride so that the finished polymers meet the specifications prescribed in paragraph (b) of this section, when tested by the methods described in paragraph (c) of this section.

(b) Specifications:

§ 177.1830 Styrene-methyl methacrylate copolymers.

Styrene-methyl methacrylate copolymers identified in this section may be safely used as components of plastic articles intended for use in contact with food, subject to the provisions of this section.

(a) For the purpose of this section, styrene-methyl methacrylate copolymers consist of basic copolymers produced by the copolymerization of styrene and methyl methacrylate such that the finished basic copolymers contain more than 50 weight percent of polymer units derived from styrene.

(b) The finished plastic food-contact article, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of intended use as determined from tables 1 and 2 of § 176.170(c) of this chapter, yields extractives not to exceed the following when tested by the methods prescribed in § 177.1010(c):

(1) Total nonvolatile extractives not to exceed 0.3 milligram per square inch of surface tested.

(2) Potassium permanganate oxidizable distilled water and 8 and 50 percent alcohol extractives not to exceed an absorbance of 0.15.

(3) Ultraviolet-absorbing distilled water and 8 and 50 percent alcohol extractives not to exceed an absorbance of 0.30.

(4) Ultraviolet-absorbing *n*-heptane extractives not to exceed an absorbance of 0.40.

§ 177.1850 Textryls.

Textryls identified in this section may be safely used as articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting or holding food, subject to the provisions of this section.

(a) Textryls are nonwoven sheets prepared from natural or synthetic fibers, bonded with fibryl (Fibryl consists of a polymeric resin in fibrous form commingled with fiber to facilitate sheet formation and subsequently heat cured to fuse the fibryl and effect bonding).

(b) Textryls are prepared from the fibers, fibryls, and adjuvants identified in paragraph (c) of this section, and subject to limitations prescribed in that paragraph, provided that any substance that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter conforms with any specifications in such regulation for that substance as a component of polymeric resins used as food contact surfaces.

(c) The fibers, fibryls, and adjuvants permitted are as follows:

Substances	Limitations
(1) Fibers prepared from polyethylene terephthalate resins	Conforming with § 177.1630.
(2) Fibryls prepared from vinyl chloride-vinyl acetate copolymer	As the basic polymer.
(3) Adjuvant substance, dimethylformamide	As a solvent in the preparation of fibryl.

(d) Textryls meeting the conditions of test prescribed in paragraph (d)(1) of this section are used as prescribed in paragraph (d)(2) of this section.

(1) *Conditions of test.* Textryls, when extracted with distilled water at reflux temperature for 1 hour, yield total extractives not to exceed 1 percent.

(2) *Uses.* Textryls are used for packaging or holding food at ordinary temperatures and in the brewing of hot beverages.

§ 177.1900 Urea-formaldehyde resins in molded articles.

Urea-formaldehyde resins may be safely used as the food-contact surface of molded articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) For the purpose of this section, urea-formaldehyde resins are those produced when 1 mole of urea is made to react with not more than 2 moles of formaldehyde in water solution.

(b) The resins may be mixed with refined wood pulp and the mixture may contain other optional adjuvant substances which may include the following:

List of substances	*Limitations*
Hexamethylenetetramine	For use only as polymerization-control agent.
Tetrachlorophthalic acid anhydride.	Do.
Zinc stearate	For use as lubricant.

(c) The finished food-contact article, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 175.300(d) of this chapter, yields total extractives in each extracting solvent not to exceed 0.5 milligram per square inch of food-contact surface as determined by the methods described in § 175.300(e) of this chapter.

NOTE: In testing the finished food-contact article, use a separate test sample for each required extracting solvent.

§ 177.1950 Vinyl chloride-ethylene copolymers.

The vinyl chloride-ethylene copolymers identified in paragraph (a) of this section may be safely used as components of articles intended for contact with food, under conditions of use D, E, F, or G described in table 2 of § 176.170 (c) of this chapter, subject to the provisions of this section.

(a) For the purpose of this section, vinyl chloride-ethylene copolymers consist of basic copolymers produced by the copolymerization of vinyl chloride and ethylene such that the finished basic copolymers meet the specifications and extractives limitations prescribed in paragraph (c) of this section, when tested by the methods described in paragraph (d) of this section.

(b) The basic vinyl chloride-ethylene copolymers identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of such basic copolymers. The optional adjuvant substances required in the production of the basic vinyl chloride-ethylene copolymers may include substances permitted for such use by regulations in Parts 170 through 189 of this chapter, substances generally recognized as safe in food, and substances used in accordance with a prior sanction or approval.

(c) The vinyl chloride-ethylene basic copolymers meet the following specifications and extractives limitations:

(1) *Specifications.* (i) Total chlorine content is in the range of 53 to 56 percent as determined by any suitable analytical procedure of generally accepted applicability.

(ii) Intrinsic viscosity in cyclohexanone at 30° C is not less than 0.50 deciliter per gram as determined by ASTM Method D 1243–60.

(2) *Extractives limitations.* The following extractives limitations are determined by the methods described in paragraph (d) of this section:

(i) Total extractives do not exceed 0.10 weight-percent when extracted with *n*-heptane at 150° F for 2 hours.

(ii) Total extractives do not exceed 0.03 weight-percent when extracted with water at 150° F for 2 hours.

(iii) Total extractives obtained by extracting with water at 150° F for 2 hours contain no more than 0.5 milligram of vinyl chloride-ethylene copolymer per 100 grams of sample tested as determined from the organic chlorine content. The organic chlorine content is determined as described in paragraph (d)(3) of this section.

(d) Analytical methods: The analytical methods for determining whether vinyl chloride-ethylene basic copolymers conform to the extractives limitations prescribed in paragraph (c) of this sections are as follows and are applicable to the basic copolymers in powder form having a particle size such that 100 percent will pass through a U.S. Standard Sieve No. 40 and 80 percent will pass through a U.S. Standard Sieve No. 80:

(1) *Reagents*—(i) *Water.* All water used in these procedures shall be demineralized (deionized), freshly distilled water.

(ii) *n-Heptane.* Reagent grade, freshly distilled *n*-heptane shall be used.

(2) *Determination of total amount of extractives.* All determinations shall be done in duplicate using duplicate blanks. Approximately 400 grams of sample (accurately weighed) shall be placed in a 2-liter Erlenmeyer flask. Add 1,200 milliliters of solvent and cover the flask with aluminum foil. The covered flask and contents are suspended in a thermostated bath and are kept, with continual shaking at 150°F for 2 hours. The solution is then filtered through a No. 42 Whatman filter paper, and the filtrate is collected in a graduated cylinder. The total amount of filtrate (without washing) is measured and called *A* milliliters. The filtrate is transferred to a Pyrex (or equivalent) beaker and evaporated on a steam bath under a stream of nitrogen to a small volume (approximately 50–60 milliliters). The concentrated filtrate is then quantitatively transferred to a tared 100-milliliter Pyrex beaker using small, fresh portions of solvent and a rubber policeman to effect the transfer. The concentrated filtrate is evaporated almost to dryness on a hotplate under nitrogen, and is then transferred to a drying oven at 230° F in the case of the aqueous extract or to a vacuum oven at 150° F in the case of the heptane extract. In the case of the aqueous extract, the evaporation to constant weight is completed in 15 minutes at 230° F; and in the case of heptane extract, it is overnight under vacuum at 150° F. The residue is weighed and corrected for the solvent blank. Calculation:

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$$\frac{\text{Grams of corrected residue}}{\text{Grams of sample}} \times \frac{1{,}200 \text{ milliliters}}{\text{Volume of filtrate A in milliliters}} \times 100 = \text{Total extractives expressed as percent by weight of sample.}$$

(3) *Vinyl chloride-ethylene copolymer content of aqueous extract*—(i) *Principle.* The vinyl chloride-ethylene copolymer content of the aqueous extract can be determined by determining the organic chlorine content and calculating the amount of copolymer equivalent to the organic chlorine content.

(ii) *Total organic chlorine content.* A weighed sample of approximately 400 grams is extracted with 1,200 milliliters of water at 150° F for 2 hours, filtered, and the volume of filtrate is measured (*A* milliliters) as described in paragraph (d) (2) of this section.

(*a*) A slurry of Amberlite IRA–400, or equivalent, is made with distilled water in a 150-milliliter beaker. The slurry is added to a chromatographic column until it is filled to about half its length. This should give a volume of resin of 15–25 milliliters. The liquid must not be allowed to drain below the top of the packed column.

(*b*) The column is regenerated to the basic (OH) form by slowly passing through it (10–15 milliliters per minute) 10 grams of sodium hydroxide dissolved in 200 milliliters of water. The column is washed with distilled water until the effluent is neutral to phenolphthalein. One drop of methyl red indicator is added to the *A* milliliters of filtered aqueous extract and, if on the basic side (yellow), nitric acid is added drop by drop until the solution turns pink.

(*c*) The extract is deionized by passing it through the exchange column at a rate of 10–15 milliliters per minute. The column is washed with 200 milliliters of distilled water. The deionized extract and washings are collected in a 1,500-milliliter beaker. The solution is evaporated carefully on a steam plate to a volume of approximately 50 milliliters and then transferred quantitatively, a little at a time, to a clean 22-milliliter Parr cup, also on the steam plate. The solution is evaporated to dryness. Next 0.25 gram of sucrose and 0.5 gram of benzoic acid are added to the cup. One scoop (approximately 15 grams) of sodium peroxide is then added to the cup. The bomb is assembled and ignition is conducted in the usual fashion.

(*d*) After the bomb has cooled, it is rinsed thoroughly with distilled water and disassembled. The top of the bomb is rinsed into a 250-milliliter beaker with distilled water. The beaker is placed on the steam plate. The bomb cup is placed in the beaker and carefully tipped over to allow the water to leach out the combustion mixture. After the bubbling has stopped, the cup is removed from the beaker and rinsed thoroughly. The solution is cooled to room temperature and cautiously neutralized with concentrated nitric acid by slowly pouring the acid down a stirring rod until the bubbling ceases. The solution is cooled and an equal volume of acetone is added.

(*e*) The solution is titrated with 0.005 *H* silver nitrate using standard potentiometric titration techniques with a silver electrode as indicator and a potassium nitrate modified calomel electrode as a reference electrode. An expanded scale recording titrimeter. Metrohm Potentiograph 2336 or equivalent, should be used; a complete blank must be run in duplicate.

(iii) *Calculations.*

$$\text{Milligrams of aqueous extracted copolymer per 100-gram sample} = \frac{T \times F \times 64.3}{\text{Weight of sample in grams}} \times 100.$$

where:

T = Milliliters of silver nitrate (sample minus blank) × normality of silver nitrate.

$F = \frac{1{,}200}{A \text{ (as defined above)}}$

(e) The vinyl chloride-ethylene copolymers identified in and complying with this section, when used as components of the food-contact surface of any article that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, shall comply with any specifications and limitations prescribed by such regulation for the article in the finished form in which it is to contact food.

(f) The provisions of this section are not applicable to vinyl chloride–ethylene copolymers used as provided in §§ 175.–105 and 176.180 of this chapter.

§ 177.1960 Vinyl chloride-hexene-1 copolymers.

The vinyl chloride-hexene-1 copolymers identified in paragraph (a) of this section vinyl chloride-hexene-1 copolymers or as components of articles intended for use in contact with food, under conditions of use D, E, F, or G described in table 2 of § 176.170(c) of this chapter, subject to the provisions of this section.

(a) *Identity.* For the purposes of this section vinyl chloride-hexene-1 copolymers consist of basic copolymers produced by the copolymerization of vinyl chloride and hexene-1 such that the finished copolymers contain not more than 3 mole-percent of polymer units derived from hexene-1 and meet the specifications and extractives limitations prescribed in paragraph (b) of this section. The copolymers may optionally contain hydroxypropyl methylcellulose and trichloroethylene used as a suspending agent and chain transfer agent, respectively, in their production.

(b) *Specifications and limitations.* The vinyl chloride-hexene-1 basic copolymers meet the following specifications and extractives limitations:

(1) *Specifications.* (i) Total chlorine content is 53 to 56 percent as determined by any suitable analytical procedure of generally accepted applicability.

(ii) Inherent viscosity in cyclohexanone at 30° C is not less than 0.59 deciliters per gram as determined by ASTM Method D 1243–66.[*]

(2) *Extractives limitations.* The following extractives limitations are determined by the methods prescribed in § 177.1970(d).

(i) Total extractives do not exceed 0.01 weight percent when extracted with water at 150° F for 2 hours.

(ii) Total extractives do not exceed 0.30 weight percent when extracted with *n*-heptane at 150° F for 2 hours.

(c) *Other specifications and limitations.* The vinyl chloride-hexene-1 copolymers identified in and complying with this section, when used as components of the food-contact surface of any article that is subject to a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, shall comply with any specifications and limitations prescribed by such regulation for the article in the finished form in which it is to contact food.

§ 177.1970 Vinyl chloride-lauryl vinyl ether copolymers.

The vinyl chloride-lauryl vinyl ether copolymers identified in paragraph (a) of this section may be used as an article or as a component of an article intended for use in contact with food subject to the provisions of this section.

(a) *Identity.* For the purposes of this section vinyl chloride-lauryl vinyl ether copolymers consist of basic copolymers produced by the copolymerization of vinyl chloride and lauryl vinyl ether such that the finished copolymers contain not more than 3 weight-percent of polymer units derived from lauryl vinyl ether and meet the specifications and extractives limitations prescribed in paragraph (c) of this section.

(b) *Optional adjuvant substances.* The basic vinyl chloride-lauryl vinyl ether copolymers identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of such basic copolymers. These optional adjuvant substances may include substances permitted for such use by regulations in Parts 170 through 189 of this chapter, substances generally recognized as safe in food, and substances used in accordance with a prior sanction or approval.

(c) *Specifications and limitations.* The vinyl chloride-lauryl vinyl ether basic copolymers meet the following specifications and extractives limitations:

(1) *Specifications.* (i) Total chlorine content is 53 to 56 percent as determined by any suitable analytical procedure of generally accepted applicability.

(ii) Inherent viscosity in cyclohexanone at 30° C is not less than 0.60 deciliter per gram as determined by ASTM Method D 1243–60.

(2) *Extractives limitations.* The following extractives limitations are determined by the method described in paragraph (d) of this section:

[*] Copies may be obtained from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(i) Total extractives do not exceed 0.03 weight-percent when extracted with water at 150° F for 2 hours.

(ii) Total extractives do not exceed 0.60 weight-percent when extracted with *n*-heptane at 150° F for 2 hours.

(d) *Analytical methods.* The analytical methods for determining total extractives are applicable to the basic copolymers in powder form having a particle size such that 100 percent will pass through a U.S. Standard Sieve No. 40 and such that not more than 10 percent will pass through a U.S. Standard Sieve No. 200.

(1) *Reagents*—(i) *Water.* All water used in these procedures shall be demineralized (deionized), freshly distilled water.

(ii) *n-Heptane.* Reagent grade, freshly distilled *n*-heptane shall be used.

(2) *Determination of total amount of extractives.* Place an accurately weighed sample of suitable size in a clean borosilicate flask, and for each gram of sample add 3 milliliters of solvent previously heated to 150° F. Maintain the temperature of the contents of the flask at 150° F for 2 hours using a hot plate while also maintaining gentle mechanical agitation. Filter the contents of the flask rapidly through No. 42 Whatman filter paper with the aid of suction. Transfer the filtrate to flat glass dishes that are warmed on a hot plate and evaporate the solvent with the aid of a stream of filtered air. When the volume of the filtrate has been reduced to 10 to 15 milliliters, transfer the filtrate to tared 50-milliliter borosilicate glass beakers and complete evaporation to a constant weight in a 140° F vacuum oven. Carry out a corresponding blank determination with each solvent. Determine the weight of the residue corrected for the solvent blank and calculate the result as percent of the initial weight of the resin sample taken for analysis.

(e) *Other specifications and limitations.* The vinyl chloride-lauryl vinyl ether copolymers identified in and complying with this section, when used as components of the food-contact surface of any article that is subject to a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, shall comply with any specifications and limitations perscribed by such regulation for the article in the finished form in which it is to contact food.

§ 177.1980 Vinyl chloride-propylene copolymers.

The vinyl chloride-propylene copolymers identified in paragraph (a) of this section may be safely used as components of articles intended for contact with food, subject to the provisions of this section.

(a) For the purpose of this section, vinyl chloride-propylene copolymers consist of basic copolymers produced by the copolymerization of vinyl chloride and propylene such that the finished basic copolymers meet the specifications and extractives limitations prescribed in paragraph (c) of this section, when tested by the methods described in paragraph (d) of this section.

(b) The basic vinyl chloride-propylene copolymers identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of such basic copolymers. The optional adjuvant substances required in the production of the basic vinyl chloride-propylene copolymers may include substances permitted for such use by regulations in Parts 170 through 189 of this chapter, substances generally recognized as safe in food, and substances used in accordance with a prior sanction or approval.

(c) The vinyl chloride-propylene basic copolymers meet the following specifications and extractives limitations:

(1) *Specifications.* (i) Total chlorine content is in the range of 53 to 56 percent as determined by any suitable analytical procedure of generally accepted applicability.

(ii) Intrinsic viscosity in cyclohexanone at 30° C is not less than 0.50 deciliter per gram as determined by ASTM Method D 1243–60.

(2) *Extractives limitations.* The following extractives limitations are determined by the methods described in paragraph (d) of this section:

(i) Total extractives do not exceed 0.10 weight-percent when extracted with *n*-heptane at 150° F for 2 hours.

(ii) Total extractives do not exceed 0.03 weight-percent when extracted with water at 150° F for 2 hours.

(iii) Total extractives obtained by extracting with water at 150° F for 2 hours contain no more than 0.17 milligram of vinyl chloride-propylene copolymer per 100 grams of sample tested as determined from the organic chlorine content. For the purpose of this section, the organic chlorine content is the difference between the total chlorine and ionic chlorine contents determined as described in paragraph (d) of this section.

(d) Analytical methods: The analytical methods for determining whether vinyl chloride-propylene basic copolymers conform to the extractives limitations prescribed in paragraph (c) of this section are as follows and are applicable to the basic copolymers in powder form having a particle size such that 100 percent will pass through a U.S. Standard Sieve No. 40 and 80 percent will pass through a U.S. Standard Sieve No. 80:

(1) *Reagents.* (i) *Water.* All water used in these procedures shall be demineralized (deionized), freshly distilled water.

(ii) *n-Heptane.* Reagent grade, freshly distilled *n*-heptane shall be used.

(2) *Determination of total amount of extractives.* All determinations shall be done in duplicate using duplicate blanks. Approximately 400 grams of sample (accurately weighed) shall be placed in a 2-liter Erlenmeyer flask. Add 1,200 milliliters of solvent and cover the flask with aluminum foil. The covered flask and contents are suspended in a thermostated bath and are kept, with continual shaking, at 150° F for 2 hours. The solution is then filtered through a No. 42 Whatman filter paper, and the filtrate is collected in a graduated cylinder. The total amount of filtrate (without washing) is measured and called *A* milliliters. The filtrate is transferred to a Pyrex (or equivalent) beaker and evaporated on a steam bath under a stream of nitrogen to a small volume (approximately 50–60 milliliters). The concentrated filtrate is then quantitatively transferred to a tared 100-milliliter Pyrex beaker using small, fresh portions of solvent and a rubber policeman to effect the transfer. The concentrated filtrate is evaporated almost to dryness on a hotplate under nitrogen, and is then transferred to a drying oven at 230° F in the case of the aqueous extract or to a vacuum oven at 150° F in the case of the heptane extract. In the case of the aqueous extract the evaporation to constant weight is completed in 15 minutes at 230° F; and in the case of heptane extract, it is overnight under vacuum at 150° F. The residue is weighed and corrected for the solvent blank. Calculation:

$$\frac{\text{Grams of corrected residue}}{\text{Grams of sample}} \times \frac{1{,}200 \text{ milliliters}}{\text{Volume of filtrate } A \text{ in milliliters}} \times 100 = \text{Total extractives expressed as percent by weight of sample.}$$

(3) *Vinyl chloride-propylene copolymer content of aqueous extract*—(i) *Principle.* The vinyl chloride-propylene copolymer content of the aqueous extract can be determined by determining the organic chlorine content and calculating the amount of copolymer equivalent to the organic chlorine content. The organic chlorine content is the difference between the total chlorine content and the ionic chlorine content.

(ii) *Total chlorine content.* A weighed sample is extracted with water at 150° F for 2 hours, filtered, and the volume of filtrate is measured (*A* milliliters) as described in paragraph (d) (2) of this section. Two drops of 50 percent by weight sodium hydroxide solution are added to prevent loss of chloride from ammonium chloride, if present, and the solution is evaporated to approximately 15 milliliters. The concentrated filtrate is quantitatively transferred to a 22-milliliter Parr bomb fusion cup and gently evaporated to dryness. To the contents of the cup are added 3.5 grams of granular sodium peroxide, 0.1 gram of powdered starch, and 0.02 gram potassium nitrate; and the contents are mixed thoroughly. The bomb is assembled, water is added to the recess at the top of the bomb and ignition is conducted in the usual fashion using a Meeker burner. The heating is continued for 1 minute after the water at the top has evaporated. The bomb is quenched in water, rinsed with distilled water, and placed in a 400-milliliter beaker. The bomb cover is rinsed with water, catching the washings in the same 400-milliliter beaker. The bomb is covered with distilled water and a watch glass and heated until the melt has dissolved. The bomb is removed, rinsed, catching the rinsings

in the beaker, and the solution is acidi- dilute (1:5) nitric acid. Then 1.5 milli- subject to any limitations prescribed

(c) Any substance employed in the Melamine-formaldehyde. (i) Resin-bonded filters conforming

in the beaker, and the solution is acidified with concentrated nitric acid using methyl purple as an indicator. The beaker is covered with a watch glass, and the contents are boiled gently for 10–15 minutes. After cooling to room temperature the solution is made slightly alkaline with 50 percent by weight sodium hydroxide solution, then acidified with dilute (1:5) nitric acid. Then 1.5 milliliters of 2 *N* nitric acid per 100 milliliters of solution is added and the solution is titrated with 0.005 *N* silver nitrate to the equivalence potential end point using an expanded scale pH meter (Beckman Model 76, or equivalent). A complete blank must be run in duplicate. Calculation:

$$\text{Grams of sample} \quad (B-C) \times \frac{1{,}200 \text{ milliliters}}{\text{Volume of filtrate } A \text{ in milliliters}} \times 100 = \text{Milliequivalents of total chlorine in aqueous extract of 100 grams of sample,}$$

where:
A = volume of filtrate obtained in extraction.
B = milliliters of silver nitrate solution used in sample titration × normality of silver nitrate solution.
C = milliliters of silver nitrate solution used in blank titration × normality of silver nitrate solution.

(iii) *Ionic chlorine content.* A weighed sample is extracted with water at 150° F for 2 hours, filtered, and the volume of filtrate is measured (*A* milliliters) as in paragraph (d)(2) of this section. Two drops of 50 percent by weight sodium hydroxide solution are added and the solution is evaporated to approximately 150 milliliters. The solution is quantitatively transferred to a 250-milliliter beaker, methyl purple indicator is added, and the solution is neutralized with 0.1 *N* nitric acid. For each 100 milliliters of solution is added 1.5 milliliters of 2 *N* nitric acid. The solution is titrated with 0.005 *N* silver nitrate to the equivalence potential end point, using the expanded scale pH meter described in paragraph (d)(3) (ii) of this section. A complete blank must be run in duplicate. Calculation:

$$\frac{(D-E)}{\text{Grams of sample}} \times \frac{1{,}200 \text{ milliliters}}{\text{Volume of filtrate } A \text{ in milliliters}} \times 100 = \text{Milliequivalents of ionic chlorine in aqueous extract of 100 grams of sample,}$$

where:
A = volume of filtrate obtained in extraction.
D = milliliters of silver nitrate solution used in sample titration × normality of silver nitrate solution.
E = milliliters of silver nitrate solution used in blank titration × normality of silver nitrate solution.

(iv) *Organic chlorine content and vinyl chloride-propylene copolymer content of aqueous extract.* The organic chlorine content and the vinyl chloride propylene copolymer content of the aqueous extract is calculated as follows:

(*a*) *Organic chlorine content.* Milliequivalents of organic chlorine in aqueous extract of 100 grams of sample equal millliequivalents of total chlorine in aqueous extract of 100 grams of sample (as calculated in paragraph (d)(3)(ii) of this section) minus milliequivalents of ionic chlorine in aqueous extract of 100 grams of sample (as calculated in paragraph (d)(3)(iii) of this section).

(*b*) *Vinyl chloride-propylene copolymer content.* Milligrams of vinyl chloride-propylene copolymer in aqueous extract of 100 grams of sample equal millliequivalents of organic chlorine in aqueous extract of 100 grams of sample (as calculated in paragraph (d)(3)(iv)(*a*) of this section) multiplied by 84.5.

(NOTE: The conversion factor, 84.5, is derived from the equivalent weight of chlorine divided by the chlorine content of the heptane extractable fraction.)

(e) The vinyl chloride-propylene copolymers identified in and complying with this section, when used as components of the food-contact surface of any article that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, shall comply with any specifications and limitations prescribed by such regulation for the article in the finished form in which it is to contact food.

(f) The provisions of this section are not applicable to vinyl chloride-propylene copolymers used in food-packaging adhesives complying with § 175.105 of this chapter.

Subpart C—Substances for Use Only as Components of Articles Intended for Repeated Use

§ 177.2210 Ethylene polymer, chlorosulfonated.

Ethylene polymer, chlorosulfonated as identified in this section may be safely used as an article or component of articles intended for use in contact with food, subject to the provisions of this section.

(a) Ethylene polymer, chlorosulfonated is produced by chlorosulfonation of a carbon tetrachloride solution of polyethylene with chlorine and sulfuryl chloride.

(b) Ethylene polymer, chlorosulfonated shall meet the following specifications:

(1) Chlorine not to exceed 25 percent by weight.

(2) Sulfur not to exceed 1.15 percent by weight.

(3) Molecular weight is in the range of 95,000 to 125,000.

Methods for the above specifications are available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF-330), 200 C St., SW., Washington, DC 20204.

(c) The additive is used as the article, or a component of articles, intended for use as liners and covers for reservoirs intended for the storage of water for drinking purposes.

(d) Substances permitted by § 177.2600 may be employed in the preparation of ethylene polymers, chlorosulfonated, subject to any limitations prescribed therein.

(e) The finished ethylene copolymers, chlorosulfonated shall conform to § 177.2600 (e) and (g).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

§ 177.2250 Filters, microporous polymeric.

Microporous polymeric filters identified in paragraph (a) of this section may be safely used, subject to the provisions of this section, to remove particles of insoluble matter in producing, manufacturing, processing, and preparing bulk quantities of liquid food.

(a) Microporous polymeric filters consist of a suitably permeable, continuous, polymeric matrix of polyvinyl chloride, vinyl chloride-propylene, or vinyl chloride-vinyl acetate, in which finely divided silicon dioxide is embedded. Cyclohexanone may be used as a solvent in the production of the filters.

(b) Any substance employed in the production of microporous polymeric filters that is the subject of a regulation in Parts 170 through 189 of this chapter must conform with any specification in such regulation.

(c) Cyclohexanone when used as a solvent in the production of the filters shall not exceed 0.35 percent by weight of the microporous polymeric filters.

(d) The microporous polymeric filters may be colored by the pigments and colorants identified in § 175.300(b)(3)(xxvi) of this chapter.

(e) The temperature of food being processed through the microporous polymeric filters shall not exceed 180° F.

(f) The microporous polymeric filters shall be maintained in a sanitary manner in accordance with good manufacturing practice so as to prevent potential microbial adulteration of the food.

(g) To assure safe use of the microporous polymeric filters, the label or labeling shall include adequate directions for a pre-use treatment, consisting of washing with a minimum of 2 gallons of potable water at a temperature of 180° F for each square foot of filter, prior to the filter's first use in contact with food.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

§ 177.2260 Filters, resin-bonded.

Resin-bonded filters may be safely used in producing, manufacturing, processing, and preparing food, subject to the provisions of this section.

(a) Resin-bonded filters are prepared from natural or synthetic fibers to which have been added substances required in their preparation and finishing, and which are bonded with resins prepared by condensation or polymerization of resin-forming materials, together with adjuvant substances required in their preparation, application, and curing.

(b) The quantity of any substance employed in the production of the resin-bonded filter does not exceed the amount reasonably required to accomplish the intended physical or technical effect or any limitation further provided.

(c) Any substance employed in the production of resin-bonded filters that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter conforms with any specification in such regulation.

(d) Substances employed in the production of resin-bonded filters include the following, subject to any limitations provided:

List of Substances and Limitations

(1) *Fibers:*
Cellulose pulp.
Cotton.
Nylon. (From nylon resins complying with the provisions of applicable regulations in Subchapter B of this chapter.
Polyethylene terephthalate complying in composition with the provisions of § 177.1630; for use in inline filtration only as provided for in paragraphs (e) and (f) of this section.
Rayon (viscose).

(2) *Substances employed in fiber finishing:*
BHT.
Butyl (or isobutyl) palmitate or stearate.
2,5-Di-*tert*-butyl hydroquinone for use only in lubricant formulations for rayon fiber finishing and at a usage level not to exceed 0.1 percent by weight of the lubricant formulations.
Dimethylpolysiloxane.
4-Ethyl-4-hexadecyl morpholinium ethyl sulfate for use only as a lubricant in the manufacture of polyethylene terephthalate fibers specified in paragraph (d)(1) of this section at a level not to exceed 0.03 percent by weight of the finished fibers.
Fatty acid (C_{20}—C_{28}) diethanolamide condensates.
Fatty acids derived from animal or vegetable fats and oils, and salts of such acids, single or mixed, as follows:
Aluminum.
Ammonium.
Calcium.
Magnesium.
Potassium.
Sodium.
Triethanolamine.
Fatty acid (C_{16}—C_{18}) mono- and diesters of polyoxyethylene glycol (molecular weight 400–3,000).
Methyl esters of fatty acids (C_{16}—C_{18}).
Mineral oil.
Polybutene, hydrogenated; complying with the identity prescribed under § 178.3740(b) of this chapter.
Polyoxyethylene (4 mols) ethylenediamine monolauramide for use only in lubricant formulations for rayon fiber finishing and at a usage level not to exceed 10 percent by weight of the lubricant formulations.
Ricebran oil.
Titanium dioxide.

(3) *Resins:*
Acrylic polymers produced by polymerizing ethyl acrylate alone or with one or more of the monomers: Acrylic acid, acrylonitrile, *N*-methylolacrylamide, and styrene. The finished copolymers shall contain at least 70 weight percent of polymer units derived from ethyl acrylate, no more than 2 weight percent of total polymer units derived from acrylic acid, no more than 10 weight percent of total polymer units derived from acrylonitrile, no more than 2 weight percent of total polymer units derived from *N*-methylolacrylamide, and no more than 25 weight percent of total polymer units derived from styrene. For use only as provided in paragraph (m) of this section.
Melamine-formaldehyde.
Melamine-formaldehyde chemically modified with one or more of the amine catalysts identified in § 175.300(b)(3)(xiii) of this chapter.
Melamine-formaldehyde chemically modified with methyl alcohol.
Melamine-formaldehyde chemically modified with urea; for use only as provided for in paragraphs (e), (f), (g), (h), and (i) of this section.
Phenol-formaldehyde resins.
Polyvinyl alcohol.
Polyvinyl alcohol with the copolymer of acrylic acid-allyl sucrose.
Polyvinyl alcohol with melamine formaldehyde.
Polyvinyl acetate with melamine formaldehyde.
p-Toluenesulfonamide-formaldehyde chemically modified with one or more of the amine catalysts identified in § 175.300(b)(3)(xiii) of this chapter.

(4) *Adjuvant substances:*
Dimethyl polysiloxane with methylcellulose and sorbic acid (as an antifoaming agent).
Phosphoric acid.

(5) *Colorants:*
Phthalocyanine blue (C.I. pigment blue 15, C.I. No. 74160), not to exceed 0.1 percent in thermoplastic adhesives fabricated from components complying with §§ 177.1350 and 177.1520 for use in resin-bonded filters.

(e) Resin-bonded filters conforming with the specifications of paragraph (e)(1) of this section are used as provided in paragraph (e)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to distilled water at 100° F for 2 hours, yields total extractives not to exceed 2.8 percent by weight of the filter.

(2) *Conditions of use.* It is used to filter milk or potable water at operating temperatures not to exceed 100° F.

(f) Resin-bonded filters conforming with the specifications of paragraph (f)(1) of this section are used as provided in paragraph (e)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to distilled water at 145° F for 2 hours, yields total extractives not to exceed 4 percent by weight of the filter.

(2) *Conditions of use.* It is used to filter milk or potable water at operating temperatures not to exceed 145° F.

(g) Resin-bonded filters conforming with the specifications of paragraph (g)(1) of this section are used as provided in paragraph (g)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to *n*-hexane at reflux temperature for 2 hours, yields total extractives not to exceed 0.5 percent by weight of the filter.

(2) *Conditions of use.* It is used to filter edible oils.

(h) Resin-bonded filters conforming with the specifications of paragraph (h)(1) of this section are used as provided in paragraph (h)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to distilled water at 212° F for 2 hours, yields total extractives not to exceed 4 percent by weight of the filter.

(2) *Conditions of use.* It is used to filter milk, coffee, tea, and potable water at temperatures not to exceed 212° F.

(i) Resin-bonded filters conforming with the specifications of paragraph (i)(1) of this section are used as provided in paragraph (i)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to distilled water for 2 hours at a temperature equivalent to, or higher than, the filtration temperature of the aqueous food, yields total extractives not to exceed 4 percent, by weight, of the filter.

(2) *Conditions of use.* It is used in commercial filtration of bulk quantities of nonalcoholic, aqueous foods having a pH above 5.0.

(j) Resin-bonded filters conforming with the specifications of paragraph (j)(1) of this section are used as provided in paragraph (j)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to 5 percent (by weight) acetic acid for 2 hours at a temperature equivalent to, or higher than, the filtration temperature of the aqueous food, yields total extractives not to exceed 4 percent, by weight, of the filter.

(2) *Conditions of use.* It is used in commercial filtration of bulk quantities of nonalcoholic, aqueous foods having a pH of 5.0 or below.

(k) Resin-bonded filters conforming with the specifications of paragraph (k)(1) of this section are use as provided in paragraph (k)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to 8 percent (by volume) ethyl alcohol in distilled water for 2 hours at a temperature equivalent to, or higher than, the filtration temperature of the alcoholic beverage, yields total extractives not to exceed 4 percent, by weight, of the filter.

(2) *Conditions of use.* It is used in commercial filtration of bulk quantities of alcoholic beverages containing not more than 8 percent alcohol.

(l) Resin-bonded filters conforming with the specifications of paragraph (l)(1) of this section are used as provided in paragraph (l)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to 50 percent (by volume) ethyl alcohol in distilled water for 2 hours at a temperature equivalent to, or higher than, the filtration temperature of the alcoholic beverage, yields total extractives not to exceed 4 percent, by weight, of the filter.

(2) *Conditions of use.* It is used in commercial filtration of bulk quantities of alcoholic beverages containing more than 8 percent alcohol.

(m) Resin-bonded filters fabricated from acrylic polymers as provided in paragraph (d)(3) of this section together with other substances as provided in paragraph (d), (1), (2), and (4) of this section may be used as follows:

(1) The finished filter may be used to filter milk or potable water at operating temperatures not to exceed 100° F, provided that the finished filter when exposed to distilled water at 100° F for 2 hours yields total extractives not to exceed 1 percent by weight of the filter.

(2) The finished filter may be used to filter milk or potable water at operating temperatures not to exceed 145° F, pro-

vided that the finished filter when exposed to distilled water at 145° F for 2 hours yields total extractives not to exceed 4 percent by weight of the filter.

(3) The finished filter may be used to filter milk or potable water at operating temperatures not to exceed 212° F, provided that the finished filter when exposed to distilled water at 212° F for 2 hours yields total extractives not to exceed 4 percent by weight of the filter.

(n) Resin-bonded filters conforming with the specifications of paragraph (n)(1) of this section are used as provided in paragraph (n)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to *n*-hexane at reflux temperature for 2 hours, yields total extractives not to exceed 0.5 percent by weight of the filter.

(2) *Conditions of use.* It is used to filter edible oils.

(o) Resin-bonded filters conforming with the specifications of paragraph (o)(1) of this section are used as provided in paragraph (o)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to 50 percent (by volume) ethyl alcohol in distilled water for 2 hours at a temperature equivalent to, or higher than, the filtration temperature of the alcoholic beverage, yields total extractives not to exceed 4 percent, by weight, of the filter.

(2) *Conditions of use.* It is used in commercial filtration of bulk quantities of alcoholic beverages containing more than 8 percent alcohol.

(p) Resin-bonded filters conforming with the specifications of paragraph (p)(1) of this section are used as provided in paragraph (p)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to 5 percent (by weight) acetic acid for 2 hours at a temperature equivalent to, or higher than, the filtration temperature of the aqueous food, yields total extractives not to exceed 4 percent, by weight, of the filter.

(2) *Conditions of use.* It is used in commercial filtration of bulk quantities of nonalcoholic, aqueous foods having a pH of 5.0 or below.

(q) Resin-bonded filters conforming with the specifications of paragraph (q)(1) of this section are used as provided in paragraph (q)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to distilled water for 2 hours at a temperature equivalent to, or higher than, the filtration temperature of the aqueous food, yields total extractives not to exceed 4 percent, by weight, of the filter.

(2) *Conditions of use.* It is used in commercial filtration of bulk quantities of nonalcoholic, aqueous foods having a pH above 5.0.

(r) Resin-bonded filters conforming with the specifications of paragraph (r)(1) of this section are used as provided in paragraph (r)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to 8 percent (by volume) ethyl alcohol in distilled water for 2 hours at a temperature equivalent to, or higher than, the filtration temperature of the alcoholic beverage, yields total extractives not to exceed 4 percent, by weight, of the filter.

(2) *Conditions of use.* It is used in commercial filtration of bulk quantities of alcoholic beverages containing not more than 8 percent alcohol.

(s) Resin-bonded filters conforming with the specifications of paragraph (s)(1) of this section are used as provided in paragraph (s)(2) of this section:

(1) *Total extractives.* The finished filter, when exposed to 50 percent (by volume) ethyl alcohol in distilled water for 2 hours at a temperature equivalent to, or higher than, the filtration temperature of the alcoholic beverage, yields total extractives not to exceed 4 percent, by weight, of the filter.

(2) *Conditions of use.* It is used in commercial filtration of bulk quantities of alcoholic beverages containing more than 8 percent alcohol.

(t) Resin-bonded filters fabricated from acrylic polymers as provided in paragraph (d)(3) of this section together with other substances as provided in paragraph (d), (1), (2), and (4) of this section may be used as follows:

(1) The finished filter may be used to filter milk or potable water at operating temperatures not to exceed 100° F, provided that the finished filter when exposed to distilled water at 100° F for 2 hours yields total extractives not to exceed 1 percent by weight of the filter.

(2) The finished filter may be used to filter milk or potable water at operating temperatures not to exceed 145° F, pro-

List of substances | *Limitations (limits of addition expressed as percent by weight of finished resin)*

(2) Solution viscosity: not less than 1,200.

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vided that the finished filter when exposed to distilled water at 145° F for 2 hours yields total extractives not to exceed 1.2 percent by weight of the filter.

(n) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

§ 177.2280 4,4'-Isopropylidenediphenol-epichlorohydrin thermosetting epoxy resins.

4,4' - Isopropylidenediphenol - epichlorohydrin thermosetting epoxy resins may be safely used as articles or components of articles intended for repeated use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, in accordance with the following prescribed conditions:

(a) The basic thermosetting epoxy resin is made by reacting 4,4'-isopropylidenediphenol with epichlorohydrin.

(b) The resin may contain one or more of the following optional substances provided the quantity used does not exceed that reasonably required to accomplish the intended effect:

Allyl glycidyl ether	As curing system additive.
Di- and tri-glycidyl ester mixture resulting from the reaction of epichlorohydrin with mixed dimers and trimers of unsaturated C_{18} monobasic fatty acids derived from animal and vegetable fats and oils.	As modifier at levels not to exceed equal parts by weight of the 4,4'-isopropylidenediphenol-epichlorohydrin basic resin and limited to use in contact with alcoholic beverages containing not more than 8 percent of alcohol.
1,2-Epoxy-3-phenoxy-propane	As curing system additive.
Glycol	Do.
4,4'-Isopropylidenediphenol	Do.
4,4'-Methylenedianiline	As curing system additive.
m-Phenylenediamine	Do.
Tetrahydrophthalic anhydride	Do.

(c) In accordance with good manufacturing practice, finished articles containing the resins shall be thoroughly cleansed prior to their first use in contact with food.

(d) The provisions of this section are not applicable to 4,4'-isopropylidenediphenol-epichlorohydrin resins listed in other sections of Parts 174, 175, 176, 177, 178 and 179 of this chapter.

§ 177.2410 Phenolic resins in molded articles.

Phenolic resins identified in this section may be safely used as the food-contact surface of molded articles intended for repeated use in contact with nonacid food (pH above 5.0), in accordance with the following prescribed conditions:

(a) For the purpose of this section, the phenolic resins are those produced when one or more of the phenols listed in paragraph (a)(1) of this section are made to react with one or more of the aldehydes listed in paragraph (a)(2) of this section, with or without aniline and/or anhydro-formaldehyde aniline (hexahydro-1,3,5-triphenyl-s-triazine):

(1) Phenols:

p-tert-Amylphenol.
p-tert-Butylphenol.
o-, m-, and p-Cresol.
p-Octylphenol.
Phenol.
o- and p-Phenylethylphenol mixture produced when phenol is made to react with styrene in the presence of sulfuric acid catalyst.

(2) Aldehydes:

Acetaldehyde.
Formaldehyde.
Paraldehyde.

(b) Optional adjuvant substances employed in the production of the phenolic resins or added thereto to impart desired technical or physical properties include the following:

Asbestos fiber	
Barium hydroxide	For use as catalyst.
Calcium stearate	For use as lubricant.
Carbon black (channel process)	
Diatomaceous earth	
Glass fiber	
Hexamethylenetetramine	For use as curing agent.
Mica	
Oxalic acid	For use as catalyst.
Zinc stearate	For use as lubricant.

(c) The finished food-contact article, when extracted with distilled water at reflux temperature for 2 hours, using a volume-to-surface ratio of 2 milliliters of distilled water per square inch of surface tested, shall meet the following extractives limitations:

(1) Total extractives not to exceed 0.15 milligram per square inch of food-contact surface.

(2) Extracted phenol not to exceed 0.005 milligram per square inch of food-contact surface.

(3) No extracted aniline when tested by a spectrophotometric method sensitive to 0.006 milligram of aniline per square inch of food-contact surface.

(d) In accordance with good manufacturing practice, finished molded articles containing the phenolic resins shall be thoroughly cleansed prior to their first use in contact with food.

§ 177.2420 Polyester resins, cross-linked.

Cross-linked polyester resins may be safely used as articles or components of articles intended for repeated use in contact with food, in accordance with the following prescribed conditions:

(a) The cross-linked polyester resins are produced by the condensation of one or more of the acids listed in paragraph (a)(1) of this section with one or more of the alcohols or epoxides listed in paragraph (a)(2) of this section, followed by copolymerization with one or more of the cross-linking agents listed in paragraph (a)(3) of this section:

(1) Acids:

Adipic.
Fatty acids, and dimers thereof, from natural sources.
Fumaric.
Isophthalic.
Maleic.
Methacrylic.
Orthophthalic.
Sebacic.
Terephthalic.
Trimellitic.

(2) Polyols and polyepoxides:

Butylene glycol.
Diethylene glycol.
2,2-Dimethyl-1,3-propanediol.
Dipropylene glycol.
Ethylene glycol.
Glycero.
4,4' - Isopropylidenediphenol - epichlorohydrin.
Mannitol.
α-Methyl glucoside.
Pentaerythritol.
Polyoxypropylene ethers of 4,4'-isopropylidenediphenol (containing an average of 2–7.5 moles of propylene oxide).
Propylene glycol.
Sorbitol.
Trimethylol ethane.
Trimethylol propane.
2,2,4-Trimethyl-1,3-pentanediol.

(3) Cross-linking agents:

Butyl acrylate.
Butyl methacrylate.
Ethyl acrylate.
Ethylhexyl acrylate.
Methyl acrylate.
Methyl methacrylate.
Styrene.
Vinyl toluene.

(b) Optional adjuvant substances employed to facilitate the production of the resins or added thereto to impart desired technical or physical properties include the following, provided that the quantity used does not exceed that reasonably required to accomplish the intended physical or technical effect and does not exceed any limitations prescribed in this section:

List of substances	Limitations (limits of addition expressed as percent by weight of finished resin)
1. Inhibitors:	
Benzoquinone	Total not to exceed 0.06 percent.
tert-Butyl catechol	0.01 percent.
TBHQ	
Di-tert-butyl hydroquinone	
Hydroquinone	
2. Accelerators:	Total not to exceed 1.5 percent.
Benzyl trimethyl ammonium chloride	0.05 percent.
Calcium naphthenate	
Cobalt naphthenate	
Copper naphthenate	
N, N-Diethylaniline	0.4 percent.
N, N-Dimethylaniline	0.4 percent.
Ethylene guanidine hydrochloride	0.05 percent.
3. Catalysts:	Total not to exceed 1.5 percent, except that methyl ethyl ketone peroxide may be used as the sole catalyst at levels not to exceed 2 percent.
Azo-bis-isobutyronitrile	
Benzoyl peroxide	
tert-Butyl perbenzoate	
Chlorbenzoyl peroxide	
Cumene hydroperoxide	
Dicumyl peroxide	
Lauroyl peroxide	
p-Menthane hydroperoxide	
Methyl ethyl ketone peroxide	
4. Solvents for inhibitors, accelerators, and catalysts:	
Butyl benzyl phthalate (containing not more than 1.0 percent by weight of dibenzyl phthalate).	
Dibutyl phthalate	
Diethylene glycol	As a solvent for benzyl trimethyl ammonium chloride or ethylene guanidine hydrochloride only.
Dimethyl phthalate	
Methyl alcohol	
Styrene	
Triphenyl phosphate	
5. Reinforcements:	
Asbestos	
Glass fiber	
Polyester fiber produced by the condensation of one or more of the acids listed in paragraph (a)(1) of this section with one or more of the alcohols listed in paragraph (a)(2) of this section.	
6. Miscellaneous materials:	
Castor oil, hydrogenated	
α-Methylstyrene	
Polyethylene glycol 6000	
Silicon dioxide	
Wax, petroleum	Complying with § 178.3710 of this chapter.

(c) The cross-linked polyester resins, with or without the optional substances described in paragraph (b) of this section, and in the finished form in which they are to contact food, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of their intended use, as determined from tables 1 and 2 of § 176.170(c) of this chapter, shall meet the following extractives limitations:

(1) Net chloroform-soluble extractives not to exceed 0.1 milligram per square inch of food-contact surface tested when the prescribed food-simulating solvent is water or 8 or 50 percent alcohol.

(2) Total nonvolatile extractives not to exceed 0.1 milligram per square inch of food-contact surface tested when the prescribed food-simulating solvent is heptane.

(d) In accordance with good manufacturing practice, finished articles containing the cross-linked polyester resins shall be thoroughly cleansed prior to their first use in contact with food.

§ 177.2430 Polyether resins, chlorinated.

Chlorinated polyether resins may be safely used as articles or components of articles intended for repeated use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, in accordance with the following prescribed conditions:

(a) The chlorinated polyether resins are produced by the catalytic polymerization of 3,3-bis(chloromethyl) oxetane, and shall contain not more than 2 percent residual monomer.

(b) In accordance with good manufacturing practice, finished articles containing the chlorinated polyether resins shall be thoroughly cleansed prior to their first use in contact with food.

§ 177.2450 Polyamide-imide resins.

Polyamide-imide resins identified in paragraph (a) of this section may be safely used as components of articles intended for repeated use in contact with food, in accordance with the following prescribed conditions:

(a) *Identity:* For the purposes of this section the polyamide-imide resins are derived from the condensation reaction of substantially equimolar parts of trimellitic anhydride and p,p'-diphenylmethane diisocyanate.

(b) *Specifications:* Polyamide-imide resins identified in paragraph (a) of this section shall conform to the following specifications (analytical methods for paragraph (b) (2) and (3) of this section are available upon request from the Commissioner of Food and Drugs):

(1) Nitrogen content: not less than 7.80 weight percent and not more than 8.20 weight percent, as determined by the Dumas Nitrogen Determination as set forth in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th ed., 1970, p. 123, secs. 7.017 to 7.024.[2]

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(2) Solution viscosity: not less than 1.200.

(3) Residual monomers, as determined by gas chromatography, in the polyamide-imide resin, heat cured at 600° F for 15 minutes: p,p'-diphenylmethane diisocyanate, not more than 100 parts per million; trimellitic anhydride, not more than 500 parts per million.

(c) Extractive limitations are applicable to the polyamide-imide resin in the form of films of 1 mil uniform thickness after coating and heat-curing at 600° F for 15 minutes on stainless steel plates, each having such resin-coated surface area of 100 square inches. The cured-resin film coatings shall be extracted in accordance with the method described in § 176.170(d)(3) of this chapter, using a plurality of spaced, coated stainless steel plates, exposed to the respective food simulating solvents. The resin shall meet the following extractive limitations under the corresponding extraction conditions:

(1) Distilled water at 250° F for 2 hours: Not to exceed 0.01 milligram per square inch.

(2) Three percent acetic acid at 212° F for 2 hours: Not to exceed 0.05 milligram per square inch.

(3) Fifty percent ethyl alcohol at 160° F for 2 hours: Not to exceed 0.03 milligram per square inch.

(4) n-Heptane at 150° F for 2 hours: Not to exceed 0.05 milligram per square inch.

(d) In accordance with good manufacturing practice, those food contact articles, having as components the polyamide-imide resins identified in paragraph (a) of this section and intended for repeated use shall be thoroughly cleansed prior to their first use in contact with food.

§ 177.2460 Poly(2,6-dimethyl-1,4-phenylene) oxide resins.

The poly(2,6-dimethyl-1,4-phenylene) oxide resins identified in paragraph (a) of this section may be used as an article or as a component of an article intended for use in contact with food subject to the provisions of this section.

(a) *Identity.* For the purposes of this section, poly(2,6 - dimethyl - 1,4-phenylene) oxide resins consist of basic resins produced by the oxidative coupling of 2,6-xylenol such that the finished basic resins meet the specifications and extractives limitations prescribed in paragraph (c) of this section.

(b) *Optional adjuvant substances.* The basic poly(2,6-dimethyl-1,4-phenylene) oxide resins identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of such basic resins. The optional adjuvant substances required in the production of the basic poly(2,6-dimethyl - 1,4 - phenylene) oxide resins may include substances permitted for such use by regulations in Parts 170 through 189 of this chapter, substances generally recognized as safe in food, substances used in accordance with a prior sanction or approval, and the following:

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List of substances	Limitations (expressed as percent by weight of finished basic resin)
Diethylamine	Not to exceed 0.16 percent as residual catalyst.
Methyl alcohol	Not to exceed 0.02 percent as residual solvent.
Toluene	Not to exceed 0.2 percent as residual solvent.

(c) *Specifications and extractives limitations.* The poly(2,6-dimethyl-1,4-phenylene) oxide basic resins meet the following:

(1) *Specifications.* Intrinsic viscosity is not less than 0.40 deciliter per gram as determined by the method described in ASTM D1243–66 modified as follows:

(i) Solvent: Chloroform, reagent grade containing 0.01 percent *tert*-butylcatechol.

(ii) Resin sample: Powdered resin obtained from production prior to molding or extrusion.

(iii) Viscometer: Cannno-Ubbelohde series 25 dilution viscometer (or equivalent).

(iv) Calculation: The calculation method used is that described in appendix A1.2.2 (ASTM Method D 1243–66) with the reduced viscosity determined for three concentration levels (0.4, 0.2, and 0.1 gram per deciliter) and extrapolated to zero concentration for intrinsic viscosity. The following formula is used for determining reduced viscosity:

$$\text{Reduced viscosity in terms of deciliters per gram} = \frac{t - t_0}{t_0 \times c},$$

Where:
t=Solution efflux time.
t_0=Solvent efflux time.
c=Concentration of solution in terms of grams per deciliter.

(2) *Extractives limitations.* Total resin extracted not to exceed 0.02 weight-percent when extracted with *n*-heptane at 160° F for 2 hours as determined using 200 milliliters of reagent grade *n*-heptane which has been freshly distilled before use and 25 grams of poly (2,-6-dimethyl-1,4-phenylene) oxide resin. The resin as tested is in pellet form having a particle size such that 100 percent of the pellets will pass through a U.S. Standard Sieve No. 6 and 100 percent of the pellets will be held on a U.S. Standard Sieve No. 10.

(d) *Other limitations.* The poly(2,6-dimethyl-1,4-phenylene) oxide resins identified in and complying with this section, when used as components of the food-contact surface of any article that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, shall comply with any specifications and limitations prescribed by such regulation for the article in the finished form in which it is to contact food.

(e) *Uses.* The poly(2,6-dimethyl-1,4-phenylene) oxide resins identified in and complying with the limitations in this section may be used as articles or components of articles intended for repeated food-contact use or as articles or components of articles intended for single-service food-contact use only under the conditions described in § 176.170(c) of this chapter, Table 2, conditions of use II.

§ 177.2470 Polyoxymethylene copolymer.

Polyoxymethylene copolymer identified in this section may be safely used as an article or component of articles intended for food-contact use in accordance with the following prescribed conditions:

(a) *Identity.* For the purpose of this section, polyoxymethylene copolymer [Chemical Abstracts Service Registry Number 30754–12–2] is the reaction product of trioxane (cyclic trimer of formaldehyde) and ethylene oxide to which may have been added certain optional substances to impart desired technological properties to the copolymer.

(b) *Optional adjuvant substances.* The polyoxymethylene copolymer identified in paragraph (a) of this section may contain optional adjuvant substances required in its production. The quantity of any optional adjuvant substance employed in the production of the copolymer does not exceed the amount reasonably required to accomplish the intended technical or physical effect. Such adjuvants may include substances generally recognized as safe in food, substances used in accordance with prior sanction, substances permitted under applicable regulations in Parts 170 through 189 of this chapter, and the following:

(1) Stabilizers (total amount of stabilizers not to exceed 2.0 percent and amount of any one stabilizer not to exceed 1.0 percent of polymer by weight)

Calcium ricinoleate.
Cyanoguanidine.
2,2' - Methylenebis(4 - methyl - 6 - *tert*-butylphenol).
Tetrakis [methylene (3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane.[2]

(2) Lubricant: N,N'Distearoylethylenediamine.

(c) *Specifications.* (1) Polyoxymethylene copolymer can be identified by its characteristic infrared spectrum.

(2) Minimum number average molecular weight of the copolymer is 20,000 as determined by a method available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF–330), 200 C St. SW., Washington, DC 20204.

(d) *Extractive limitations.* (1) Polyoxymethylene copolymer in the finished form in which it is to contact food, when extracted with the solvent or solvents characterizing the type of food and under conditions of time and temperature as determined from Tables 1 and 2 of § 175.300(d) of this chapter, shall yield net chloroform-soluble extractives not to exceed 0.5 milligram per square inch of food-contact surface.

(2) Polyoxymethylene copolymer with or without the optional substances described in paragraph (b) of this section, when ground or cut into particles that pass through a U.S.A. Standard Sieve No. 6 and that are retained on a U.S.A. Standard Sieve No. 10, shall yield total extractives as follows:

(i) Not to exceed 0.20 percent by weight of the copolymer when extracted for 6 hours with distilled water at reflux temperature.

(ii) Not to exceed 0.15 percent by weight of the copolymer when extracted for 6 hours with n-heptane at reflux temperature.

(e) *Conditions of use.* (1) The polyoxymethylene copolymer is for use as articles or components of articles intended for repeated use.

(2) Use temperature shall not exceed 250° F.

(3) In accordance with good manufacturing practice, finished articles containing polyoxymethylene copolymer shall be thoroughly cleansed before their first use in contact with food.

§ 177.2480 Polyoxymethylene homopolymer.

Polyoxymethylene homopolymer identified in this section may be safely used as articles or components of articles intended for food-contact use in accordance with the following prescribed conditions:

(a) *Identity.* For the purpose of this section, polyoxymethylene homopolymer is polymerized formaldehyde [Chemical Abstracts Service Registry No. 9002–81–7]. Certain optional adjuvant substances, described in paragraph (b) of this section, may be added to impart desired technological properties to the homopolymer.

(b) *Optional adjuvant substances.* The polyoxymethylene homopolymer identified in paragraph (a) of this section may contain optional adjuvant substances in its production. The quantity of any optional adjuvant substance employed in the production of the homopolymer does not exceed the amount reasonably required to accomplish the intended effect. Such adjuvants may include substances generally recognized as safe in food, substances used in accordance with prior sanction, substances permitted under applicable regulations in this part, and the following:

(1) *Stabilizers* (total amount of stabilizers not to exceed 1.9 percent and amount of any one stabilizer not to exceed 0.5 percent, except that Nylon 66/610/6 terpolymer may be used up to 1.5 percent of homopolymer by weight).

(i) 2,2' - Methylenebis(4 - methyl-6-*tert*-butylphenol).

(ii) Nylon 66/610/6 terpolymer (see § 177.1500 for identification).

(iii) Tetrakis [methylene(3,5-di-*tert*-butyl - 4 - hydroxyhydrocinnamate)] methane.

(2) *Lubricant.* *N,N'*-Distearoylethylenediamine.

(3) *Molding assistant.* Polyethylene glycol 6,000.

(c) *Specifications.* (1) Polyoxymethylene homopolymer can be identified by its characteristic infrared spectrum.

(2) Minimum number average molecular weight of the homopolymer is 25,000.

(3) Density of the homopolymer is between 1.39 and 1.44 as determined by ASTM Method D1505.[1]

(4) Melting point is between 172° C and 184° C as determined by ASTM Method D2133.[2]

(d) *Extractive limitations.* (1) Polyoxymethylene homopolymer, in the finished form which is to contact food, when extracted with the solvent or solvents characterizing the type of food and under conditions of time and temperature characterizing the conditions of intended use under paragraphs (c)(3) and (d) of § 175.300 of this chapter and as limited by paragraph (e) of this section, shall yield net chloroform-soluble extractives not to exceed 0.5 milligram per square inch of food-contact surface.

(2) Polyoxymethylene homopolymer, with or without the optional adjuvant substances described in paragraph (b) of this section, when ground or cut into particles that pass through a U.S.A. Standard Sieve No. 6 and that are retained on a U.S.A. Standard Sieve No. 10, shall yield extractives as follows:

(i) Formaldehyde not to exceed 0.0050 percent by weight of homopolymer as determined by a method available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF–330), 200 C St. SW., Washington, DC 20204.

(ii) Total extractives not to exceed 0.20 percent by weight of homopolymer when extracted for 6 hours with distilled water at reflux temperature and 0.15 percent by weight of homopolymer when extracted for 6 hours with *n*-heptane at reflux temperature.

(e) *Conditions of use.* (1) Polyoxymethylene homopolymer is for use as articles or components of articles intended for repeated use.

(2) Use temperatures shall not exceed 160° F and pH of aqueous foods in contact with the homopolymer shall be between 4 and 9.

(3) In accordance with good manufacturing practice, finished articles containing polyoxymethylene homopolymer shall be thoroughly cleansed prior to first use in contact with food.

§ 177.2490 Polyphenylene sulfide resins.

Polyphenylene sulfide resins (poly(1,4-phenylene sulfide) resins) may be safely used as coatings or components of coatings of articles intended for repeated use in contact with food, in accordance with the following prescribed conditions.

(a) Polyphenylene sulfide resins consist of basic resins produced by the reaction of equimolar parts of *p*-dichlorobenzene and sodium sulfide, such that the finished resins meet the following specifications as determined by methods available upon request from the Commissioner of Food and Drugs.

(1) Sulfur content: 28.2–29.1 percent by weight of finished resin.

(2) Minimum inherent viscosity: 0.13 deciliters per gram.

(3) Maximum residual *p*-dichlorobenzene: 0.8 ppm.

(b) Subject to any limitations prescribed in Parts 170 through 189 of this chapter, the following optional substances may be added to the polyphenylene sulfide basic resins in an amount not to exceed that reasonably required to accomplish the intended physical or technical effect.

(1) Substances generally recognized as safe in food.

(2) Substances used in accordance with prior sanction or approval.

(3) Substances the use of which is permitted in coatings under regulations in Parts 170 through 189 of this chapter.

(c) The finished coatings are thermally cured at temperatures of 700° F and above.

(d) Polyphenylene sulfide resin coatings may be used in contact with food at temperatures not to exceed the boiling point of water; provided that the finished cured coating, when extracted at reflux temperatures for 6 hours separately with distilled water, 50 percent ethanol in water, and 3 percent acetic acid, yields total extractives in each extracting solvent not to exceed 0.02 milligram per square inch of surface and when extracted at reflux temperature for 8 hours with heptane yields total extractives not to exceed 0.1 milligram per square inch of surface.

List of substances	Limitations
Dimethyl sulfoxide	Not to exceed 50 p.p.m. as residual solvent in finished basic resin.
Monochlorobenzene	Not to exceed 500 p.p.m. as residual solvent in finished basic resin.

(e) Polyphenylene sulfide resin coatings containing perfluorocarbon resins complying with § 177.1550 may be used in contact with food at temperatures up to and including normal baking and frying temperatures; provided that the finished cured coating, when extracted at reflux temperatures for 2 hours separately with distilled water, 50 percent ethanol in water, 3 percent acetic acid and heptane, yields total extractives in each extracting solvent not to exceed 0.2 milligram per square inch of surface and when extracted at reflux temperature for 1 hour with diphenyl ether yields total extractives not to exceed 4.5 milligrams per square inch of surface.

§ 177.2500 Polysulfone resins.

Polysulfone resins identified in paragraph (a) of this section may be safely used as articles or components of articles intended for repeated use in contact with food, in accordance with the following prescribed conditions:

(a) For the purpose of this section, polysulfone resins (poly(oxy-*p*-phenylenesulfonyl - *p* - phenyleneoxy - *p* - phenyleneisopropylidene - *p* - phenylene) resins) consist of basic resins produced when the disodium salt of 4,4'-isopropylidenediphenol is made to react with 4,4'-dichlorodiphenyl sulfone such that the finished resins have a minimum number average molecular weight of 24,000, as determined by osmotic pressure in monochlorobenzene.

(b) The basic polysulfone resins identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of such basic resins. The optional adjuvant substances required in the production of the basic polysulfone resins may include substances described in § 174.5(d) of this chapter and the following:

List of substances	Limitations
Dimethyl sulfoxide	Not to exceed 50 p.p.m. as residual solvent in finished basic resin.
Monochlorobenzene	Not to exceed 500 p.p.m. as residual solvent in finished basic resin.

(c) The finished food-contact article, when extracted at reflux temperatures for 6 hours with the solvents distilled water, 50 percent (by volume) ethyl alcohol in distilled water, 3 percent acetic acid in distilled water, and *n*-heptane, yields total extractives in each extracting solvent not to exceed 0.05 milligram per square inch of food-contact surface. (NOTE: In testing the finished food-contact article, use a separate test sample for each required extracting solvent.)

(d) In accordance with good manufacturing practice, finished food-contact articles containing the polysulfone resins shall be thoroughly cleansed prior to their first use in contact with food.

§ 177.2510 Polyvinylidene fluoride resins.

Polyvinylidene fluoride resins may be safely used as articles or components of articles intended for repeated use in contact with food, in accordance with the following prescribed conditions:

(a) For the purpose of this section, the polyvinylidene fluoride resins consist of basic resins produced by the polymerization of vinylidene fluoride.

(b) The finished food-contact article, when extracted at reflux temperatures for 2 hours with the solvents distilled water, 50 percent (by volume) ethyl alcohol in distilled water, and *n*-heptane, yields total extractives in each extracting solvent not to exceed 0.01 milligram per square inch of food-contact surface tested; and if the finished food-contact article is itself the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, it shall also comply with any specifications and limitations prescribed for it by that regulation. (Note: In testing the finished food-contact article, use a separate test sample for each required extracting solvent.)

(c) In accordance with good manufacturing practice, finished food-contact articles containing the polyvinylidene fluoride resins shall be thoroughly

[1] Copies may be obtained from: Division of Nutrition (HFF–260), Bureau of Foods, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

[2] Copies may be obtained from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

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cleansed prior to their first use in contact with food.

§ 177.2600 Rubber articles intended for repeated use.

Rubber articles intended for repeated use may be safely used in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section.

(a) The rubber articles are prepared from natural and/or synthetic polymers and adjuvant substances as described in paragraph (c) of this section.

(b) The quantity of any substance employed in the production of rubber articles intended for repeated use shall not exceed the amount reasonably required to accomplish the intended effect in the rubber article and shall not be intended to accomplish any effect in food.

(c) Substances employed in the preparation of rubber articles include the following, subject to any limitations prescribed:

(1) Substances generally recognized as safe for use in food or food packaging.

(2) Substances used in accordance with the provisions of a prior sanction or approval.

(3) Substances that by regulation in Parts 170 through 189 of this chapter may be safely used in rubber articles, subject to the provisions of such regulation.

(4) Substances identified in this paragraph (c)(4), provided that any substance that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter conforms with any specification in such regulation.

(i) *Elastomers.*

Acrylonitrile-butadiene copolymer.
Butadiene-acrylonitrile-ethylene glycol dimethacrylate copolymers containing not more than 5 weight percent of polymer units derived from ethylene glycol dimethacrylate.
Butadiene-acrylonitrile-methacrylic acid copolymer.
Butadiene-styrene-methacrylic acid copolymer.
Chloroprene polymers.
Chlorotrifluoroethylene-vinylidene fluoride copolymer.
Ethylene-propylene copolymer elastomers which may contain not more than 5 weight-percent of total polymer units derived from 5-methylene-2-norbornene and/or 5-ethylidine-2-norbornene.
Ethylene-propylene-dicyclopentadiene copolymer.
Ethylene-propylene-1,4-hexadiene copolymers containing no more than 8 weight percent of total polymer units derived from 1,4-hexadiene.
Isobutylene-isoprene copolymer.
Polybutadiene.
Polyisoprene.
Polyurethane resins derived from reactions of diphenylmethane diisocyanate with adipic acid and 1,4-butanediol.
Rubber, natural.
Silicone basic polymers as described in ASTM D-1418-61T;
Silicone (Si) elastomers containing methyl groups.
Silicone (Psi) elastomers containing methyl and phenyl groups.
Silicone (Vsi) elastomers containing methyl and vinyl groups.
Silicone (Fsi) elastomers containing methyl and fluorine groups.
Silicone (PVsi) elastomers containing phenyl, methyl, and vinyl groups.
Styrene-butadiene copolymer.
Vinylidene fluoride-hexafluoropropylene copolymers (minimum number average molecular weight 70,000 as determined by osmotic pressure in methyl ethyl ketone).
Vinylidene fluoride - hexafluoropropylene-tetrafluoroethylene copolymers (minimum number average molecular weight 100,000 as determined by osmotic pressure in methyl ethyl ketone).

(ii) *Vulcanization materials—(a) Vulcanizing agents.*

4,4'-Bis(aminocyclohexyl)methane carbamate for use only as cross-linking agent in the vulcanization of vinylidene fluoridehexafluoropropylene copolymer and vinylidene fluoride-hexafluoropropylene-tetrafluoroethylene copolymer elastomers identified under paragraph (c)(4)(i) of this section and limited to use at levels not to exceed 2.4 percent by weight of such copolymers.
Hexamethylenediamine carbamate for use only as cross-linking agent in the vulcanization of vinylidene fluoride-hexafluoropropylene copolymer and vinylidene fluoride-hexafluoropropylene-tetrafluoroethylene copolymer elastomers identified under paragraph (c)(4)(i) of this section and limited to use at levels not to exceed 1.5 percent by weight of such copolymers.
Sulfur, ground.

(b) *Accelerators (total not to exceed 1.5 percent by weight of rubber product).*

2-Benzothiazyl - *N,N*-diethylthiocarbamyl-sulfide.
Benzoyl peroxide.
1,3 - Bis(2-benzothiazolylmercaptomethyl) urea.
N-tert-Butyl-2-benzothiazole sulfenamide
Butyraldehyde-aniline resin (iodine number 670–705).
Carbon disulfide - 1,1' - methylenedipiperidine reaction product.
Copper dimethyldithiocarbamate.
N-Cyclohexyl-2-benzothiazole sulfenamide
Dibenzoyl-*p*-quinone dioxime.
Dibenzylamine.
Di-*tert*-butyl peroxide.
Dibutyl xanthogen disulfide.
2,4-Dichlorobenzoyl peroxide.
Dicumyl peroxide.
N,N-Dimethylcyclohexylamine salt of dibutyldithiocarbamic acid.
2,6-Dimethylmorpholine thiobenzothiazol.
Dipentamethylenethiuram tetrasulfide.
Diphenylguanidine.
Diphenylguanidine phthalate.
1,3-Diphenyl-2-thiourea.
2,2'-Dithiobis[benzothiazole].
4,4'-Dithiodimorpholine.
N,N'-Di-*o*-tolylguanidine.
Di-o-tolylguanidine salt of pyrocatecholborate.
Ethylenediamine carbamate.
Heptaldehyde-aniline resin (iodine number 430–445).
Hexamethylenetetramine.
2-Mercaptobenzothiazole
2-Mercaptothiazoline
N-Oxydiethylene - benzothiazole-2-sulfenamide.
Piperidinium pentamethylenedithiocarbamate.
Potassium pentamethylenedithiocarbamate.
p-Quinone dioxime.
Sodium dibutyldithiocarbamate.
Sodium dimethyldithiocarbamate.
Stannous oleate for use only as an accelerator for silicone elastomers.
Tetrabutylthiuram monosulfide.
Tetraethylthiuram disulfide.
(1, 1, 4, 4-Tetramethyltetramethylene) bis [*tert*-butyl peroxide].
Tetramethylthiuram monosulfide.
Thiram (tetramethylthiuram disulfide).
Triallyl cyanurate.
Triethylenetetramine.
1,3,5-Triethyl-hexahydro-*s*-triazine (triethyltrimethylenetriamine).
Triphenylguanidine.
Zinc butyl xanathate.
Zinc dibenzyl dithiocarbamate.
Zinc dibutyldithiocarbamate.
Zinc diethyldithiocarbamate.
Zinc 2-mercaptobenzothiazole.
Ziram (zinc dimethyldithiocarbamate)

(c) *Retarders (total not to exceed 10 percent of weight of rubber product).*

Cyanoguanidine.
Phthalic anhydride.
Salicylic acid.

(d) *Activators (total not to exceed 5 percent by weight of rubber product except magnesium oxide may be used at higher levels).*

Diethylamine.
Fatty acid amines, mixed.
Fatty acids.
Magnesium carbonate.
Magnesium oxide, light and heavy.
Oleic acid, dibutylamine salt (dibutylammonium oleate).
Stannous chloride.
Tall oil fatty acids.
Tetrachloro-*p*-benzoquinone
Triethanolamine
Zinc salts of fatty acids.

(iii) *Antioxidants and antiozonants (total not to exceed 5 percent by weight of rubber product).*

Aldol-α-naphthylamine.
Alkylated (C, and/or C,) phenols.
BHT (butylated hydroxytoluene).
Butylated, styrenated cresols identified in § 178.2010(b) of this chapter.
4,4'-Butylidinebis(6-*tert*-butyl-*m* - cresol)
N - Cyclohexyl-*N'* - phenylphenylenediamine
p,p'-Diaminodiphenylmethane.
2,5-Di-*tert*-amylhydroquinone.
Diaryl-*p*-phenylenediamine, where the aryl group may be phenyl, tolyl, or xylyl.
2,6-Di-*tert*-butyl-*p*-phenylphenol.
1,2-Dihydro-2,2,4 - trimethyl - 6-dodecylquinoline.
1,2-Dihydro-2,2,4 - trimethyl - 6 - ethoxyquinoline.
1,2-Dihydro-2,2,4 - trimethyl - 6 - phenylquinoline.
4,4'-Dimethoxydiphenylamine.
4,6-Dinonyl-o-cresol.
N,N'-Dioctyl-*p*-phenylenediamine.
Diphenylamine-acetone resin.
Diphenylamine - acetone - formaldehyde resin.
N,N'-Diphenylethylenediamine.
N,N'-Disalicylalpropylenediamine.
N,N'-Di-o-tolylethylenediamine.
Hydroquinone monobenzyl ether.
Isopropoxydiphenylamine.
N - Isopropyl-*N'*-phenyl-*p*-phenylenediamine.
2,2' - Methylenebis(6 - *tert*-butyl-4-ethylphenol).
2,2' - Methylenebis(4 - methyl - 6 - *tert*-butylphenol).
2,2'-Methylenebis(4-methyl - 6 - nonylphenol).
2,2' - Methylenebis(4 - methyl - 6 - *tert*-octylphenol).
Monooctyl- and dioctyldiphenylamine.
N,N'-Di-β-naphthyl-*p*-phenylenediamine.
Phenyl-α-naphthylamine.
Phenyl-β-naphthylamine.
Phenyl-β-naphthylamine-acetone aromatic amine resin (average molecular weight 600; nitrogen content 5.3 percent).
o- and *p*-Phenylphenol.
Polybutylated (mixture) 4,4'-isopropylidenediphenol.
Sodium pentachlorophenate.
Styrenated cresols produced when 2 moles of styrene are made to react with 1 mole of a mixture of phenol and *o*-, *m*-, and *p*-cresols so that the final product has a Brookfield viscosity at 25° C of 1400 to 1700 centipoises.
Styrenated phenol.
4,4'-Thiobis (6-*tert*-butyl-*m*-cresol).
Toluene-2,4-diamine.
N-o-Tolyl-*N'*-phenyl-*p*-phenylenediamine.
p(*p*-Tolylsulfanilamide) diphenylamine.
Tri(mixed mono- and dinonylphenyl) phosphite.
Tri(nonylphenyl) phosphite-formaldehyde resins produced when 1 mole of tri(nonylphenyl) phosphite is made to react with 1.4 moles of formaldehyde or produced when 1 mole of nonylphenol is made to react with 0.36 mole of formaldehyde and the reaction product is then further reacted with 0.33 mole of phosphorus trichloride. The finished resins have a minimum viscosity of 20,000 centipoises at 25° C, as determined by LV-series Brookfield viscometer (or equivalent) using a No. 4 spindle at 12 r.p.m., and have an organic phosphorus content of 4.05 to 4.15 percent by weight.

(iv) *Plasticizers (total not to exceed 30 percent by weight of rubber product).*

n-Amyl *n*-decyl phthalate.
Butylacetyl ricinoleate.
n-Butyl ester of tall oil fatty acids.
Butyl laurate.
Butyl oleate.
Butyl stearate.
Calcium stearate.
Castor oil.
Coumarone-indene resins.
2,2'-Dibenzamidodiphenyl disulfide.
Dibenzyl adipate.
Dibutoxyethoxyethyl adipate.
Dibutyl phthalate.
Dibutyl sebacate.
Didecyl adipate.
Didecyl phthalate.
Diisodecyl adipate.
Diisodecyl phthalate.
Diisooctyl adipate.
Diisooctyl sebacate.
Dioctyl adipate.
Dioctyl phthalate.
Dioctyl sebacate.
Dipentene resin.
Diphenyl ketone.
Fatty acids.
Fatty acids, hydrogenated.
Isooctyl ester of tall oil fatty acids.
Lanolin.
α-Methylstyrene-vinyltoluene copolymer resins (molar ratio 1 α-methylstyrene to 3 vinyltoluene).
Mineral oil.
Montan wax.
n-Octyl *n*-decyl adipate.
n-Octyl *n*-decyl phthalate.
Petrolatum.
Petroleum hydrocarbon resin (cyclopentadiene type), hydrogenated.
Petroleum hydrocarbon resin (produced by the homo- and copolymerization of dienes and olefins of the aliphatic, alicyclic, and monobenzenoid arylalkene types from distillates of cracked petroleum stocks.)
Petroleum hydrocarbon resin (produced by the catalytic polymerization and subsequent hydrogenation of styrene, vinyltoluene, and indene types from distillates of cracked petroleum stocks).
Petroleum oil, sulfonated.
Phenol-formaldehyde resin.
Pine tar.
Polybutene.
Polystyrene.
Propylene glycol.
n-Propyl ester of tall oil fatty acids.
Rapeseed oil vulcanized with rubber maker's sulfur.
Rosins and rosin derivatives identified in § 175.105(c)(5) of this chapter.
Soybean oil vulcanized with rubber makers' sulfur.
Styrene-acrylonitrile copolymer.
Terpene resins.
Triethylene glycol dicaprate.
Triethylene glycol dicaprylate.
Waxes, petroleum.
Xylene (or toluene) alkylated with dicyclopentadiene.
Zinc 2-benzamidothiophenate.

(v) *Fillers.*

Aluminum hydroxide.
Aluminum silicate.
Asbestos fiber, chrysotile or crocidolite.
Barium sulfate.
Carbon black (channel process or furnace combustion process; total carbon black not to exceed 50 percent by weight of rubber product; furnace combustion black content not to exceed 10 percent by weight of rubber products intended for use in contact with milk or edible oils).
Cork.
Cotton (floc, fibers, fabric).
Mica.
Nylon (floc, fibers, fabric).
Silica.
Titanium dioxide.
Zinc carbonate.
Zinc sulfide.

(vi) *Colors (total not to exceed 10 percent by weight of rubber product).*

Chrome oxide (Cr_2O_3).
C.I. pigment red 38, C.I. No. 21120.
Iron oxide.
Phthalocyanine.
Phthalocyanine blue (C.I. pigment blue 15, C.I. No. 74160).
Titanium dioxide.
Ultramarine blue.
Zinc chromate.

(vii) *Lubricants (total not to exceed 2 percent by weight of rubber product).*

Polyethylene.
Sodium stearate.

(viii) *Emulsifiers.*

Fatty acid salts, sodium or potassium.
Naphthalene sulfonic acid-formaldehyde condensate, sodium salt.
Rosins and rosin-derivatives identified in § 175.105(c)(5) of this chapter.
Sodium decylbenzenesulfonate.
Sodium dodecylbenzenesulfonate.
Sodium lauryl sulfate.
Tall oil mixed soap (calcium, potassium, and sodium).

(ix) *Miscellaneous (total not to exceed 5 percent by weight of rubber product).*

Animal glue as described in § 178.3120 of this chapter.
Azodicarbonamide as chemical blowing agent.
2-Anthrsquinone sulfonic acid sodium salt for use only as polymerization inhibitor in chloroprene polymers and not to exceed 0.03 percent by weight of the chloroprene polymers.
n-Butyllithium for use only as polymerization catalyst for polybutadiene.
4-*tert*-Butyl-*o*-thiocresol as peptizing agent.
tert-Butyl peracetate.
p-tert-Butylpyrocatechol.
Dialkyl (C_{12}–C_{18}) dimethylammonium chloride for use only as a flocculating agent in the manufacture of silica.
Di- and triethanolamine.
Diethyl xanthogen disulfide.
Dodecyl mercaptan isomers, single or mixed.
2-Ethoxyethanol.
Iodoform.
p-Menthane hydroperoxide.
α-(*p*-Nonylphenyl) - *omega* - hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters, barium salt; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content averages 9 moles; for use only as residual polymerization emulsifier at levels not to exceed 0.7 percent by weight of ethylene-propylene-1,4-hexadiene copolymers identified under paragraph (c)(4)(i) of this section.
4,4'-Oxybis(benzenesulfonhydraxide) as chemical blowing agent.
Phenothiazine.
Potassium persulfate.
Sodium formaldehyde sulfoxylate.
Sodium polysulfide.
Sodium nitrite.
Sodium salt of ethylenediamine tetraacetic acid and glycine.
Sodium sulfide.
Styrene monomer.
Tall oil.
Thioxylenols as peptizing agents.
Tridecyl mercaptan.
Zinc 4-*tert*-butylthiophenate as peptizing agent.

(d) Rubber articles intended for use with dry food are so formulated and cured under conditions of good manufacturing practice as to be suitable for repeated use.

(e) Rubber articles intended for repeated use in contact with aqueous food shall meet the following specifications: The food-contact surface of the rubber article in the finished form in which it is to contact food, when extracted with distilled water at reflux temperature, shall yield total extractives not to exceed 20 milligrams per square inch during the first 7 hours of extraction, nor to exceed 1 milligram per square inch during the succeeding 2 hours of extraction.

(f) Rubber articles intended for repeated use in contact with fatty foods shall meet the following specifications: The food-contact surface of the rubber article in the finished form in which it is to contact food, when extracted with *n*-hexane at reflux temperature, shall yield total extractives not to exceed 175 milligrams per square inch during the first 7 hours of extraction, nor to exceed 4 milligrams per square inch during the succeeding 2 hours of extraction.

(g) In accordance with good manufacturing practice finished rubber articles intended for repeated use in contact with food shall be thoroughly

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cleansed prior to their first use in contact with food.

(h) The provisions of this section are not applicable to rubber nursing-bottle nipples.

(i) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

§ 177.2710 Styrene-divinylbenzene resins, cross-linked.

Styrene - divinylbenzene cross - linked copolymer resins may be safely used as articles or components of articles intended for repeated use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, in accordance with the following prescribed conditions:

(a) The resins are produced by the copolymerization of styrene with divinylbenzene.

(b) The resins meet the extractives limitations prescribed in this paragraph:

(1) The resins to be tested are ground or cut into small particles that will pass through a U.S. standard sieve No. 3 and that will be held on a U.S. standard sieve No. 20.

(2) A 100-gram sample of the resins, when extracted with 100 milliliters of ethyl acetate at reflux temperature for 1 hour, yields total extractives not to exceed 1 percent by weight of the resins.

(c) In accordance with good manufacturing practice, finished articles containing the resins shall be thoroughly cleansed prior to their first use in contact with food.

§ 177.2800 Textiles and textile fibers.

Textiles and textile fibers may safely be used as articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section.

(a) The textiles and textile fibers are prepared from one or more of the fibers identified in paragraph (d) of this section and from certain other adjuvant substances required in the production of the textiles or textile fibers or added to impart desired properties.

(b) The quantity of any adjuvant substance employed in the production of textiles or textile fibers does not exceed the amount reasonably required to accomplish the intended physical or technical effect or any limitation further provided.

(c) Any substance employed in the production of textiles or textile fibers that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter conforms with any specification in such regulation.

(d) Substances employed in the production of or added to textiles and textile fibers may include:

(1) Substances generally recognized as safe in food.

(2) Substances subject to prior sanction or approval for use in textiles and textile fibers and used in accordance with such sanction or approval.

(3) Substances generally recognized as safe for use in cotton and cotton fabrics used in dry-food packaging.

(4) Substances that by regulation in this part may safely be used in the production of or as a component of textiles or textile fibers and subject to provisions of such regulation.

(5) Substances identified in this paragraph (d) (5), subject to such limitations as are provided:

List of substances	*Limitation*
(i) Fibers:	
Cotton	
Rayon	
(ii) Adjuvant substances:	
Aluminum stearate	
4,4'-Bis(4-anilino-6-diethanolamine-s-triazin-2-ylamino)-2,2'-stilbene-disulfonic acid, disodium salt.	For use as colorant only.
4,4'-Bis(4-anilino-6-methylethanolamine-s-triazin-2-ylamino)-2,2'-etilbene-disulfonic acid, disodium salt.	
Borax	For use as preservative only.
Butyl-acetyl ricinoleate	
Di-*tert*-butyl hydroquinone	
Dimethylpolysiloxane	
Ethylenediaminetetraacetic acid, sodium salt	
4-Ethyl-4-hexadecyl morpholinium ethyl sulfate	For use only as a lubricant in the manufacture of polyethylene terephthalate fibers specified in paragraph (c)(5)(i) of this section at a level not to exceed 0.03 percent by weight of the finished fibers.
Eugenol	
Fats, oils, fatty acids, and fatty alcohols derived from castor, coconut, cottonseed, fish, mustardseed, palm, peanut, rapeseed, ricebran, soybean, sperm, and tall oils and tallow.	
Fats, oils, fatty acids, and fatty alcohols described in the preceding item reacted with one or more of the following substances:	
n-Butyl and isobutyl alcohol	
Diethylene glycol	
Diethanolamine	
Glycerol	
Hexylene glycol (2-methyl-2,4-pentanediol)	
Hydrogen	
Isopropyl alcohol	
Methyl alcohol	
Oxygen	
Polyethylene glycol (molecular weight 400—3,000)	
Potassium hydroxide	
Propylene glycol	
Sodium hydroxide	
Sulfuric acid	
Formaldehyde	For use as preservative only.
Glyceryl mono-12-hydroxystearate	
2-(9-Heptadecenyl)-1-[2-(10-octadecenamido)ethyl]-2-imidazolinium ethyl sulfate.	
Hexylene glycol (2-methyl,2,4-pentanediol)	
Isobutyl alcohol	
Isopropyl alcohol	
Kerosene	
Methyl ester of sulfated ricebran oil	
Mineral oil	For use only at a level not to exceed 0.15 percent by weight of finished fibers.
Mono- and diisopropylated *m*- and *p*-cresols (isothymol derivative).	
N-Oleyl, *N'*-acetyl, *N'*-β-hydroxy-ethylenediamine	
Petrolatum	
Petroleum sulfonate	
Pine oil	
Polybutene, hydrogenated; complying with the identity prescribed under § 178.3740(b) of this chapter.	For use only at a level not to exceed 0.15 percent by weight of finished fibers.
Polyethylene, oxidized (air blown)	
Polyethylene terephthalate complying in composition with the provisions of § 177.1630(d)(4)(i).	For use only in the manufacture of items for repeated use.
Polyvinyl acetate	
Polyvinyl alcohol	
Potassium soap of a saponified sulfated castor oil	
Sodium bis(2,6-dimethylheptyl-4) sulfosuccinate	
Sodium dioctyl sulfosuccinate	
Sodium dodecyl benzenesulfonate	For use as preservative only.
Sodium fluoride	
Sodium hydrosulfite	
Sodium hypochlorite	
Sodium lauryl sulfate	
Sodium 2-mercaptobenzothiazole	For use as preservative only.
Sodium pentachlorophenate	
Styrene-butadiene copolymer	Do.
Sulfated butyl, isobutyl and propyl oleate	
Tallow	
Tallow, sulfonated	
Titanium dioxide	
Triethanolamine	
Ultramarine blue	
Waxes, petroleum	
Zinc hydrosulfite	

(e) Textile and textile fibers are used as articles or components of articles that contact dry food only.

(f) The provisions of this section are not applicable to jute fibers used as prescribed by § 178.3620(d) (2) of this chapter.

§ 177.2910 Ultra-filtration membranes.

Ultra-filtration membranes identified in paragraph (a) of this section may be safely used in the processing of food, under the following prescribed conditions:

(a) The ultra-filtration membrane consists of paper impregnated with cured phenol-formaldehyde resin, which is used as a support and is coated with a vinyl chloride-acrylonitrile copolymer.

(b) Any substance employed in the production of ultra-filtration membranes that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter conforms with the specifications of such regulation.

(c) Ultra-filtration membranes are used in the physical separation of dissolved or colloidally suspended varying molecular size components of liquids during the commercial processing of bulk quantities of food.

(d) Ultra-filtration membranes shall be maintained in a sanitary manner in accordance with good manufacturing practice so as to prevent potential microbial adulteration of the food.

(e) To assure safe use of the ultra-filtration membranes, the label or labeling shall include adequate directions for a pre-use treatment, consisting of conditioning and washing with a minimum of 8 gallons of potable water prior to their first use in contact with food.

(f) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

(Secs. 201(s), 402, 409, 701(a), 52 Stat. 1046–1047 as amended, 1055, 72 Stat. 1784–1788 (21 U.S.C. 321(s), 342, 348, 371(a)))

PART 178—INDIRECT FOOD ADDITIVES; ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Subpart A—[Reserved]

Subpart B—Substances Utilized To Control the Growth of Microorganisms

Sec.
178.1010 Sanitizing solutions.

Subpart C—Antioxidants and Stabilizers

178.2010 Antioxidants and/or stabilizers for polymers.
178.2550 4-Hydroxymethyl-2, 6-di-*tert*-butylphenol.
178.2650 Ocotyltin stabilizers in vinyl chloride plastics.

Subpart D—Certain Adjuvants and Production Aids

178.3010 Adjuvant substances used in the manufacture of foamed polystyrene.
178.3120 Animal glue.
178.3130 Antistatic and/or antifogging agents in food-packaging materials.
178.3280 Castor oil, hydrogenated.
178.3290 Chromic chloride complexes.
178.3300 Corrosion inhibitors used for steel or tinplate.
178.3400 Emulsifiers and/or surface-active agents.
178.3450 Esters of stearic and palmitic acids.
178.3480 Fatty alcohols, synthetic.
178.3500 Glycerin, synthetic.
178.3520 Industrial starch-modified.
178.3530 Isoparaffinic petroleum hydrocarbons, synthetic.
178.3550 Kaolin-modified.
178.3570 Lubricants with incidental food contact.
178.3600 Methyl glucoside-coconut oil ester.
178.3610 α-Methylstyrene-vinyltoluene resins, hydrogenated.
178.3620 Mineral oil.
178.3650 Odorless light petroleum hydrocarbons.
178.3700 Petrolatum.
178.3710 Petroleum wax.
178.3720 Petroleum wax, synthetic.
178.3730 Piperonyl butoxide and pyrethrins as components of bags.
178.3740 Plasticizers in polymeric substances.
178.3750 Polyethylene glycol (mean molecular weight 200–9, 500).
178.3760 Polyethylene glycol (400) monolaurate.
178.3770 Polyhydric alcohol diesters of oxidatively refined (Gersthoffen process) montan wax acids.
178.3780 Polyhydric alcohol esters of long chain monobasic acids.
178.3790 Polymer modifiers in semirigid and rigid vinyl chloride plastics.
178.3800 Preservatives for wood.
178.3850 Reinforced wax.
178.3860 Release agents.
178.3870 Rosins and rosin derivatives.
178.3900 Sodium pentachlorophenate.
178.3910 Surface lubricants used in the manufacture of metallic articles.
178.3930 Terpene resins.
178.3940 Tetraethylene glycol di-(2-ethylhexoate).
178.3950 Tetrahydrofuran.
178.3970 Ultramarine blue.

AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—[Reserved]

Subpart B—Substances Utilized To Control the Growth of Microorganisms

§ 178.1010 Sanitizing solutions.

Sanitizing solutions may be safely used on food-processing equipment and utensils, and on other food-contact articles as specified in this section, within the following prescribed conditions:

(a) Such sanitizing solutions are used, followed by adequate draining, before contact with food.

(b) The solutions consist of one of the following, to which may be added components generally recognized as safe and components which are permitted by prior sanction or approval.

(1) An aqueous solution containing potassium, sodium, or calcium hypochlorite, with or without the bromides of potassium, sodium, or calcium.

(2) An aqueous solution containing dichloroisocyanuric acid, trichloroisocyanuric acid, or the sodium or potassium salts of these acids, with or without the bromides of potassium, sodium, or calcium.

(3) An aqueous solution containing potassium iodide, sodium p-toluenesulfonchloroamide, and sodium lauryl sulfate.

(4) An aqueous solution containing iodine, butoxy monoether of mixed (ethylene-propylene) polyalkylene glycol having a cloudpoint of 90°–100° C in 0.5 percent aqueous solution and an average molecular weight of 3,300, and ethylene glycol monobutyl ether. Additionally, the aqueous solution may contain diethylene glycol monoethyl ether as an optional ingredient.

(5) An aqueous solution containing elemental iodine, hydriodic acid, α-(p-nonylphenyl) - *omega*-hydroxypoly(oxyethylene) (complying with the identity prescribed in § 178.3400(c) and having a maximum average molecular weight of 748) and/or polyoxyethylene-polyoxypropylene block polymers (having a minimum average molecular weight of 1,900). Additionally, the aqueous solution may contain isopropyl alcohol as an optional ingredient.

(6) An aqueous solution containing elemental iodine, sodium iodide, sodium dioctylsulfosuccinate, and polyoxyethylene-polyoxypropylene block polymers (having a minimum average molecular weight of 1,900).

(7) An aqueous solution containing dodecylbenzenesulfonic acid, polyoxyethylene-polyoxypropylene block polymers (having a minimum average molecular weight of 2,800). In addition to use on food-processing equipment and utensils, this solution may be used on glass bottles and other glass containers intended for holding milk.

(8) An aqueous solution containing elemental iodine, butoxy monoether of mixed (ethylene-propylene) polyalkylene glycol having a minimum average molecular weight of 2,400 and α-lauroyl-*omega*-hydroxypoly (oxyethylene) with an average 8–9 moles of ethylene oxide and an average molecular weight of 400. In addition to use on food-processing equipment and utensils, this solution may be used on beverage containers, including milk containers or equipment. Rinse water treated with this solution can be recirculated as a preliminary rinse. It is not to be used as final rinse.

(9) An aqueous solution containing n-alkyl (C_{12}–C_{16}) benzyldimethylammonium chloride compounds having average molecular weights of 351–380 and consisting principally of alkyl groups with 12–16 carbon atoms with or without not over 1 percent each of groups with 8 and 10 carbon atoms. Additionally, the aqueous solution may contain isopropyl alcohol as an optional ingredient.

(10) An aqueous solution containing trichloromelamine and either sodium lauryl sulfate or dodecylbenzenesulfonic acid. In addition to use on food-processing equipment and utensils and other food-contact articles, this solution may be used on beverage containers except milk containers or equipment.

(11) An aqueous solution containing equal amounts of n-alkyl (C_{12}–C_{18}) benzyl dimethyl ammonium chloride and n-alkyl (C_{12}–C_{18}) dimethyl ethylbenzyl ammonium chloride (having an average molecular weight of 384). In addition to use on food-processing equipment and utensils, this solution may be used on food-contact surfaces in public eating places.

(12) An aqueous solution containing the sodium salt of sulfonated oleic acid, polyoxyethylene-polyoxypropylene block polymers (having an average molecular weight of 2,000 and 27 to 31 moles of polyoxypropylene). In addition to use on food-processing equipment and utensils, this solution may be used on glass bottles and other glass containers intended for holding milk. All equipment, utensils, glass bottles, and other glass containers treated with this sanitizing solution shall have a drainage period of 15 minutes prior to use in contact with food.

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more than 200 parts per million of avail-

Substances	*Limitations*

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(13) An aqueous solution containing elemental iodine and alkyl (C_{12}–C_{15}) monoether of mixed (ethylene-propylene) polyalkylene glycol, having a cloud-point of 70°–77°C in 1 percent aqueous solution and an average molecular weight of 807.

(14) An aqueous solution containing iodine, butoxy monoether of mixed (ethylene-propylene) polyalkylene glycol, having a cloud-point of 90°–100°C in 0.5 percent aqueous solution and an average molecular weight of 3,300, and polyoxyethylene-polyoxypropylene block polymers (having a minimum average molecular weight of 2,000).

(15) An aqueous solution containing lithium hypochlorite.

(16) An aqueous solution containing equal amounts of *n*-alkyl (C_{12}–C_{18}) benzyl dimethyl ammonium chloride and *n*-alkyl (C_{12}–C_{14}) dimethyl ethylbenzyl ammonium chloride (having average molecular weights of 377–384), with the optional adjuvant substances tetrasodium ethylenediaminetetraacetate and/or *alpha*-(*p*-nonylphenol)-*omega*-hydroxypoly(oxyethylene) having an average poly(oxyethylene) content of 11 moles. In addition to use of food-processing equipment and utensils, this solution may be used on food-contact surfaces in public eating places.

(17) An aqueous solution containing di-*n*-alkyl(C_8–C_{10}) dimethyl ammonium chlorides and isopropyl alcohol, having average molecular weights of 332–361. In addition to use on food-processing equipment and utensils, this solution may be used on food-contact surfaces in public eating places.

(18) An aqueous solution containing *n*-alkyl(C_{12}–C_{16}) benzyldimethylammonium chloride, sodium metaborate, *alpha*-terpineol and *alpha*[*p*-(1,1,3,3-tetramethylbutyl) phenyl] - *omega* - hydroxy - poly (oxyethylene) produced with one mole of the phenol and 4 to 14 moles ethylene oxide.

(19) An aqueous solution containing sodium dichloroisocyanurate and tetrasodium ethylenediaminetetraacetate. In addition to use on food-processing equipment and utensils, this solution may be used on food-contact surfaces in public eating places.

(20) An aqueous solution containing *ortho*-phenylphenol, *ortho*-benzyl-*para*-chlorophenol, para-tertiaryamylphenol, sodium - *alpha* - alkyl(C_{12}–C_{18}) - *omega*-hydroxypoly(oxyethylene) sulfate with the poly(oxyethylene) content averaging one mole, potassium salts of coconut oil fatty acids, and isopropyl alcohol or hexylene glycol.

(21) An aqueous solution containing sodium dodecylbenzenesulfonate. In addition to use on food-processing equipment and utensils, this solution may be used on glass bottles and other glass containers intended for holding milk.

(c) The solutions identified in paragraph (b) of this section will not exceed the following concentrations:

(1) Solutions identified in paragraph (b)(1) of this section will provide not more than 200 parts per million of available halogen determined as available chlorine.

(2) Solutions identified in paragraph (b)(2) of this section will provide not more than 100 parts per million of available halogen determined as available chlorine.

(3) Solution identified in paragraph (b)(3) of this section will provide not more than 25 parts per million of titratable iodine. The solutions will contain the components potassium iodide, sodium *p*-toluenesulfonchloramide, and sodium lauryl sulfate at a level not in excess of the minimum required to produce their intended functional effect.

(4) Solutions identified in paragraph (b) (4), (5), (6), (8), (13), and (14) of this section will contain iodine to provide not more than 25 parts per million of titratable iodine. The adjuvants used with the iodine will not be in excess of the minimum amounts required to accomplish the intended technical effect.

(5) Solutions identified in paragraph (b)(7) of this section will provide not more than 400 parts per million of dodecylbenzenesulfonic acid and not more than 80 parts per million of polyoxyethylene-polyoxypropylene block polymers (having a minimum average molecular weight of 2,800).

(6) Solutions identified in paragraph (b)(9) of this section shall provide when ready to use no more than 200 parts per million of the active quaternary compound.

(7) Solutions identified in paragraph (b)(10) of this section shall provide not more than sufficient trichloromelamine to produce 200 parts per million of available chlorine and either sodium lauryl sulfate at a level not in excess of the minimum required to produce its intended functional effect or not more than 400 parts per million of dodecylbenzenesulfonic acid.

(8) Solutions identified in paragraph (b)(11) of this section shall provide, when ready to use, no more than 200 parts per million of active quaternary compound.

(9) The solution identified in paragraph (b)(12) of this section shall provide not more than 200 parts per million of sulfonated oleic acid, sodium salt.

(10) Solutions identified in paragraph (b)(15) of this section will provide not more than 200 parts per million of available chlorine and not more than 30 ppm lithium.

(11) Solutions identified in paragraph (b)(16) of this section shall provide not more than 200 parts per million of active quaternary compound.

(12) Solutions identified in paragraph (b)(17) of this section shall provide, when ready to use, a level of 150 parts per million of the active quaternary compound.

(13) Solution identified in paragraph (b)(18) of this section shall provide not more than 200 parts per million of active quaternary compound and not more than 66 parts per million of *alpha*[*p*-(1,1,3,3-tetramethylbutyl) phenyl] - *omega* - hydroxypoly(oxyethylene).

(14) Solutions identified in paragraph (b)(19) of this section shall provide, when ready to use, a level of 100 parts per million of available chlorine.

(15) Solutions identified in paragraph (b)(20) of this section are for single use applications only and shall provide, when ready to use, a level of 800 parts per million of total active phenols consisting of 400 parts per million *ortho*-phenylphenol, 320 parts per million *ortho*-benzyl-*para*-chlorophenol and 80 parts per million *para*-tertiaryamylphenol.

(16) Solution identified in paragraph (b)(21) of this section shall provide not more than 430 parts per million and not less than 25 parts per million of sodium dodecylbenzenesulfonate.

(d) Sanitizing agents for use in accordance with this section will bear labeling meeting the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

Subpart C—Antioxidants and Stabilizers

§ 178.2010 Antioxidants and/or stabilizers for polymers.

The substances listed in paragraph (b) of this section may be safely used as antioxidants and/or stabilizers in polymers used in the manufacture of articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section:

(a) The quantity used shall not exceed the amount reasonably required to accomplish the intended technical effect.

(b) List of substances:

Substances	*Limitations*
N-*n*-Alkyl-*N'*- (carboxymethyl) -*N*,*N'*-trimethylenediglycine: the alkyl group is even numbered in the range C_{14}–C_{18} and the nitrogen content is in the range 5.4–5.6 weight percent.	For use only: 1. As component of nonfood articles complying with §§ 175.105 and 177.2600 of this chapter. 2. At levels not to exceed 1.35 percent by weight of natural rubber, butadiene-acrylonitrile, butadiene-acrylonitrile-styrene, and butadiene-styrene polymers that are used in contact with nonalcoholic food at temperatures not to exceed room temperature and that are employed in closure-sealing gaskets complying with § 177.1210 of this chapter or in coatings complying with § 175.300, § 176.170, or § 175.320 of this chapter. The average thickness of such coatings and closure-sealing gaskets shall not exceed 0.004 inch.
p-tert-Amylphenolformaldehyde resins produced when one mole of *p-tert*-amylphenol is made to react under acid conditions with one mole of formaldehyde.	For use only at levels not to exceed 2.1% by weight of polyamide resins that are: 1. Derived from dimerized vegetable oil acids (containing not more than 20% of monomer acids) and ethylenediamine. 2. Used in compliance with regulations in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter.
2,6-Bis(1-methylheptadecyl)-p-cresol...	For use only at levels not exceeding 0.3 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4. The average thickness of such polymers in the form in which they contact fatty food or food containing more than 8 percent of alcohol shall not exceed 0.004 inch.

Substances	*Limitations*
1,3-Butanediol	
Butylated, styrenated cresols produced when equal moles of isobutylene, styrene, and a metacresol-paracresol mixture having a no more than 3° C distillation range including 202° C are made to react so that the final product meets the following specifications: Not less than 95 pct by weight of total alkylated phenols consisting of 13–25 pct by weight of butylated *m*- and *p*-cresols, 26–36 pct by weight of styrenated *m*- and *p*-cresols, 47–49 pct by weight of butylated styrenated *m*- and *p*-cresols, and not more than 10 pct by weight total of alkylated xylenols, alkylated *o*-cresol, alkylated phenol, and alkylated ethylphenol; acidity not more than 0.003 pct; and refractive index at 25° C of 1.5550–1.5650, as determined by ASTM Method D 1218–61.	For use only: 1. As provided in §§ 175.105 and 177.2600 of this chapter. 2. At levels not to exceed 0.5 percent by weight of polystyrene, rubber-modified polystyrene, or olefin polymers complying with § 177.1520 (c) of this chapter, items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4, or complying with other sections in this Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, used in articles that contact food only under the conditions described in § 176.170 (c) of this chapter, table 2, under conditions of use C through G.
2-*tert*-Butyl-6-(3-*tert*-butyl-4-hydroxy-phenyl) - *p* - cumenyl bis(*p* - nonylphenyl) phosphite; the nonyl group is a propylene trimer isomer and the phosphorus content is in the range 3.8–4.0 weight percent.	For use only: 1. As components of nonfood articles complying with §§ 175.105 and 177.2600 of this chapter. 2. At levels not to exceed 1.35 percent by weight of natural rubber, butadiene-acrylonitrile, butadiene-acrylonitrile-styrene, and butadiene-styrene polymers that are used in contact with nonalcoholic food at temperatures not to exceed room temperature and that are employed in closure-sealing gaskets complying with § 177.1210 of this chapter or in coatings complying with § 175.300, § 176.170, or § 175.320 of this chapter. The average thickness of such coatings and closure-sealing gaskets shall not exceed 0.004 inch.
2-(2'-*tert*-Butyl-2'-hydroxy-5'-methylphenyl)-5-chlorobenzotriazole with a melting point of 137–141° C.	For use only at levels not to exceed 0.5 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, provided that the finished polymer contacts foods only of the types identified in categories I, II, IV–B, VI–A and B, VII–B, and VIII in table 1, § 176.170 of this chapter.
4,4'-Butylidenebis(6-*tert*-butyl-*m*-cresol)	For use only: 1. As provided in §§ 175.105 and 177.2600 of this chapter. 2. At levels not to exceed 0.5% by weight of polypropylene complying with § 177.1520 of this chapter and for use at levels not to exceed 0.3% by weight of polyethylene complying with § 177.1520 of this chapter, provided that the finished polypropylene and polyethylene contact food only of the types identified in § 176.170(c) of this chapter, table 1, under categories I, II, VI–B, and VIII.
Calcium benzoate Calcium myristate Calcium ricinoleate Calcium stearate	For use only at levels not to exceed 1 pct by weight of polyoxymethylene copolymer as provided in § 177.2470(b)(1) of this chapter.
Cupric acetate and lithium iodide	For use at levels not exceeding 0.025 pct cupric acetate and 0.065 pct lithium iodide by weight of nylon 66 resins complying with § 177.1500 of this chapter; the finished resins are used or are intended to be used to contain foods during oven baking or oven cooking at temperatures above 250° F. The average thickness of such resins in the form in which they contact food shall not exceed 0.0012 inch.
Cuprous iodide	For use at levels not exceeding 0.01 percent cuprous iodide by weight of nylon 66T resins complying with § 177.1500 of this chapter; the finished resins are used or are intended to be used to contain foods during oven baking or oven cooking at temperatures above 250° F. The average thickness of such resins in the form in which they contact food shall not exceed 0.001 inch.
Cuprous iodide and cuprous bromide	For use at levels not exceeding 0.0025 percent cuprous iodide and 0.0175 percent cuprous bromide by weight of nylon 66 resins complying with § 177.1500 of this chapter; the finished resins are used or are intended to be used to contain foods during oven baking or oven cooking at temperatures above 250° F. The average thickness of such resins in the form in which they contact food shall not exceed 0.0015 inch.
Cyanoguanidine	For use only at levels not to exceed 1 pct by weight of polyoxymethylene copolymer as provided in § 177.2470(b)(1) of this chapter.
Cyclic neopentanetetrayl bis(octadecyl phosphite); the phosphorus content is in the range of 7.8–8.2 weight percent.	For use only: 1. At levels not to exceed 0.25 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 2.1, and 3.1. 2. At levels not to exceed 0.25 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, item 2.2, that contact food Types I, II, VI–A, VII–B, and VIII described in table 1 of § 176.170(c) of this chapter under conditions of use B (for boil-in-bag applications), C, D, E, F, G, and H described in table 2 of § 176.170(c) of this chapter. 3. At levels not to exceed 0.15 pct by weight of olefin polymers complying with § 177.1520, items 1.1 and 3.2, that contact food Types I, II, VI–A, VII–B, and VIII described in table 1 of § 176.170(c) of this chapter under conditions of use B (for boil-in-bag applications), C, D, E, F, G, and H described in table 2 of § 176.170(c) of this chapter. 4. At levels not to exceed 0.20 percent by weight of polystyrene and/or rubber modified polystyrene complying with § 177.1640 of this chapter that contact food under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter.
4,4'-Cyclohexylidenebis(2-cyclohexylphenol).	For use only at levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4: *Provided*, That the finished polymers contact food only of the types identified in § 176.170(c) of this chapter, table 1, under categories I, II, IV–B, VI, VII–B, and VIII.
Dicetyl thiodipropionate having a melting point of 59°–62° C. as determined by ASTM Method E–324 and a saponification value in the range 176–183 as determined by ASTM Method D–1962.	The concentration of this additive and any other permitted antioxidants in the finished food-contact article shall not exceed a total of 0.5 milligram per square inch of food-contact surface.
Dimyristyl thiodipropionate having a melting point of 48°–50° C. as determined by ASTM Method E–324 and a saponification equivalent in the range 280–290 as determined by ASTM Method D–1962.	Finished food-contact articles containing this additive shall meet the extractives limitations prescribed in § 176.170(c) of this chapter.

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Substances	Limitations
N,N'-Diphenylthiourea	For use only: 1. At levels not to exceed 0.5 percent by weight of polyvinyl chloride and/or vinyl chloride copolymers complying with § 177.1980 of this chapter. 2. At levels not to exceed 0.5 pct by weight of vinyl chloride-vinyl acetate copolymers containing not more than 20 molar pct of vinyl acetate.
2,6-Di-*tert*-butyl-4-ethylphenol	For use only in contact with nonalcoholic foods: 1. At levels not exceeding 0.04 mg/in² of food contact surface and not exceeding 0.1 pct by weight in ethylene polymers and copolymers complying with § 177.1520(c) of this chapter, items 2.1, 2.2, 2.3, 3.1, 3.2, and 3.3; § 177.1350 of this chapter. The average thickness of such polymers and copolymers in the form in which they contact food shall not exceed 0.0025 in. 2. At levels not exceeding 0.04 mg/in² of food contact surface in ethylene polymers and copolymers complying with § 177.1520(c) of this chapter, items 2.1, 2.2, 2.3, 3.1, 3.2, and 3.3; § 177.1340; and § 177.1350 of this chapter. The average thickness of such polymers and copolymers in the form in which they contact food shall be greater than 0.0025 in but shall not exceed 0.025 in.
Hydrogenated 4,4'-isopropylidene-diphenolphosphite ester resins produced by the condensation of 1 mole of triphenyl phosphite and 1.5 moles of hydrogenated 4,4'-isopropylidene-diphenol such that the finished resins have a molecular weight in the range of 2,400-3,000, a phosphorous content of 6.5-6.9 percent, and contain no more than 2.2 percent by weight of residual free phenol.	For use only at levels not to exceed 0.55 percent by weight of vinyl chloride copolymers complying with § 177.1980 of this chapter and/or polyvinyl chloride when such vinyl chloride homo-and/or copolymers are used in the manufacture of rigid vinyl chloride plastic bottles intended for contact with edible oils (including edible oil in simple mixture or emulsion form), all types of dressings for salads, and food of types VIII and IX described in table 1 of § 176.170(c) of this chapter. The finished food-contact article containing this stabilizer, when extracted with distilled water at 135° F for 1 week (168 hours), using a volume-to-surface ratio of 5 milliliters per square inch of surface tested, shall yield extracted phenol not to exceed 0.008 milligram per square inch of food-contact surface and shall yield extracted organophosphates (total phosphates minus inorganic phosphates) not to exceed 0.0001 milligram per square inch of food-contact surface.
2-Hydroxy-4-isooctoxy-benzophenone. Chemical Abstracts (CA) name: Methanone, [2-hydroxy-4-(isooctyloxy) phenyl]phenyl; CA Registry No.: 33059-05-1.	For use only at levels not to exceed 0.5 pct by weight of olefin copolymers complying with § 177.1520(c) of this chapter: Items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3 or 4: *Provided*, That the finished polymer contacts food only of the types identified in § 176.170(c) of this chapter, table 1, under categories I, VII-B and VIII under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter.
2(2'-Hydroxy-5'-methylphenyl) benzotriazole meeting the following specification: Melting point 126°-132° C.	For use only: 1. As component of nonfood articles complying with § 177.1010 of this chapter. 2. At levels not to exceed 0.25 percent by weight of rigid polyvinyl chloride and/or rigid vinyl chloride copolymers complying with § 177.1980 of this chapter. 3. In polystyrene that complies with § 177.1640 of this chapter and that is limited to use in contact with dry food of type VIII described in table 1 of § 176.170(c) of this chapter. 4. At levels not to exceed 0.25 percent by weight of polystyrene and/or rubber-modified polystyrene polymers complying with § 177.1640 of this chapter intended to contact nonalcoholic food: *Provided*, That the finished basic rubber-modified polystyrene polymers in contact with fatty foods shall contain not less than 90 weight percent of total polymer units derived from styrene monomer.
2-Hydroxy-4-*n*-octoxy-benzophenone	For use only at levels not to exceed 0.5 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4: *Provided*, That the finished polymer contacts food only of the types identified in § 176.170(c) of this chapter, table 1, under categories I, IV-B, VII-B, and VIII, and under the conditions of use B through H described in table 2 of § 176.170(c) of this chapter.
4,4'-Isopropylidenediphenol alkyl(C_{12}–C_{15}) phosphites; the phosphorus content is in the range of 5.2-5.6 weight percent.	For use only at levels not exceeding 1.0 percent by weight in rigid polyvinyl chloride and/or rigid vinyl chloride copolymers complying with §§ 177.1950, 177.1970 or 177.1980 of this chapter, and used in contact with food, except milk, only under the conditions described in § 176.170(c) of this chapter, table 2, under conditions of use D through G.
Magnesium salicylate	For use only in rigid polyvinyl chloride and/or in rigid vinyl chloride copolymers complying with § 177.1980 of this chapter: *Provided*, That total salicylates (calculated as the acid) do not exceed 0.3 percent by weight of such polymers.
2,2'-Methylenebis (6-*tert*-butyl-4-ethylphenol).	For use only: 1. In acrylonitrile-butadiene-styrene copolymers at levels not to exceed 0.6 percent by weight of the copolymer. 2. In semirigid and rigid acrylic and modified acrylic plastics complying with § 177.1010 of this chapter at levels not to exceed 0.1 pct by weight of the plastic.
4,4'-Methylenebis (2,6-di-*tert*-butylphenol).	For use only: 1. As provided in § 175.105 of this chapter. 2. At levels not to exceed 0.25 percent by weight of petroleum hydrocarbon resins used in compliance with regulations in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter. 3. At levels not to exceed 0.25 pct by weight of terpene resins used in compliance with regulations in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter. 4. At levels not to exceed 0.5 percent by weight of polyethylene complying with § 177.1520 of this chapter: *Provided*, That the polyethylene end product contacts foods only of the types identified in categories I, II, IV-B, VI, VII-B, and VIII in table 1, § 176.170(c) of this chapter. 5. At levels not to exceed 0.5 percent by weight of polybutadiene used in rubber articles complying with § 177.2600 of this chapter: *Provided*, That the rubber end product contacts foods only of the types identified in categories I, II, IV-B, VI, VII-B, and VIII in table 1, § 176.170(c) of this chapter.
2,2'-Methylenebis (4-methyl-6-*tert*-butylphenol).	For use only: 1. At levels not to exceed 0.1 pct by weight of olefin polymers complying with sec. 177.1520(c) of this chapter, items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4 used in articles that contact food of the types identified in sec. 176.170(c) of this chapter, table 1, under categories I, II, IV-B, VI, VII-B, and VIII. 2. At levels not to exceed 1 pct by weight of polyoxymethylene copolymer as provided in sec. 177.2470(b)(1) of this chapter. 3. At levels not to exceed 0.5 pct by weight of polyoxymethylene homopolymer as provided in § 177.2480(b)(1) of this chapter.

Substances	Limitations
2,2'-Methylenebis[6-(1-methylcyclohexyl)-*p*-cresol].	For use only: 1. As provided in § 177.1210 of this chapter. 2. At levels not to exceed 0.2 pct by weight of polyethylene complying with § 177.1520 of this chapter: *Provided*, That the finished polyethylene contacts foods only of the type identified in § 176.170(c) of this chapter, table 1, under categories I, II, VI-B, and VIII. 3. In polyethylene complying with § 177.1520 of this chapter: *Provided*, That the finished polyethylene contacts foods only of the types identified in § 176.170(c) of this chapter, table I, under categories III, IV, V, VI-A, VII, and IX, and only at temperatures not to exceed room temperature: *And further provided*, That percentage concentration of the antioxidant in the polyethylene, when mulitplied by the thickness in inches of the finished polyethylene, shall not be greater than 0.0005.
2,2'-Methylenebis(4-methyl-6-nonylphenol) and 2,6-bis(2-hydroxy-3-nonyl-5-methyl-benzyl)-*p*-cresol mixtures (varying proportions).	For use only in acrylonitrile-butadiene-styrene copolymers used in contact with nonalcoholic foods.
Nylon 66/610/6 terpolymer. (see § 177.1500 of this chapter for identification).	For use only at levels not to exceed 1.5 percent by weight of polyoxymethylene homopolymer as provided in § 177.2480(b)(1) of this chapter.
Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate.	For use only. 1. At levels not exceeding 0.25 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4. When such polymers are used in contact with fatty food, the percentage concentration of the antioxidant and/or stabilizer multiplied by the thickness in inches of the finished olefin polymer shall not exceed a factor of 0.0025, except that concentrations of 0.05 percent or less may be used without limitation on thickness. 2. As provided in §§ 175.105 and 177.1010(a)(5) of this chapter. 3. At levels not exceeding 0.25 percent by weight of polystyrene and/or rubber-modified polystyrene polymers complying with § 177.1640 of this chapter, except that the finished basic rubber-modified polystyrene polymers in contact with fatty foods shall contain not less than 85 weight percent of total polymer units derived from styrene monomer. 4. At levels not to exceed 0.5 percent by weight of acrylonitrile-butadiene-styrene copolymers used in accordance with prior sanction or regulations in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter. 5. At levels not exceeding 0.25 percent by weight of olefin copolymers complying with 177.1520(c) of this chapter, items 3.4 and 3.5: *Provided*, That the finished polymer contacts nonfatty foods only of the types identified in § 176.170(c) of this chapter, table 1, under categories I, II, IV-B, VI, VII-B, and VIII.
Pentaerythritol and its stearate ester	For use only in rigid polyvinyl chloride and/or in rigid vinyl chloride copolymers complying with § 177.1980 of this chapter: *Provided*, That the total amount of pentaerythritol and/or pentaerythritol stearate (calculated as free pentaerythritol) does not exceed 0.4 percent by weight of such polymers.
Poly(1,4 - cyclohexylenedimethylene - 3,3'-thiodipropionate) partially terminated with stearyl alcohol and produced when approximately equal moles of 1,4-cyclohexanedimethanol and 3,3'-thiodipropionic acid are made to react in the presence of stearyl alcohol so that the final product has an average molecular weight in the range of 1,800-2,200, as determined by vapor pressure osmometry, and has a maximum acid value of 2.5.	For use only: 1. In polypropylene complying with § 177.1520(c) of this chapter, item 1.1, and used in contact with nonfatty, nonalcoholic food. 2. At levels not to exceed 0.5 percent by weight of polypropylene complying with § 177.1520(c) of this chapter, item 1.1, and used in contact with fatty, nonalcoholic food. The average thickness of such polymers in the form in which they contact fatty nonalcoholic food shall not exceed 0.005 inch.
Poly[(1,3 - dibutyldistannthianediylidene) - 1,3-dithio] having the formula $[C_8H_{18}Sn_2S_3]_n$ (where *n* averages 1.5-2) and produced so as to meet the following specifications: Softening point, 130-145° C; volatile components at 150° C, less than 1.0 percent; sulphur (sulfide) content in the range 20.5-22.0 percent; tin content in the range 52.0-53.2 percent.	For use only at levels not to exceed 0.2 pct by weight in polyvinyl chloride resin where such resin constitutes not less than 98.7 pct of a finished semirigid or rigid polyvinyl chloride food-contact surface, provided that the finished food-contact article is employed only to package meat, cheese, and food types I, VIII, and IX as described in table 1 of § 176.170(c) of this chapter. The finished food-contact article containing this stabilizer, when extracted with refined cottonseed oil at 120° F. for 48 hours, using a volume-to-surface ratio of 2 milliliters per square inch of surface tested, shall yield tin (Sn) not to exceed 0.0005 milligram per square inch of food-contact surface.
Potassium bromide and either cupric acetate or cupric carbonate.	For use at levels not exceeding 0.18 pct potassium bromide and 0.005 pct copper as cupric acetate or cupric carbonate by weight of nylon 66 resins complying with § 177.1500 of this chapter; the finished resins are used or are intended to be used to contain foods during oven baking or oven cooking at temperatures above 250° F. The average thickness of such resins in the form in which they contact food shall not exceed 0.0015 inch.
Tetrakis[methylene (3,5 - di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane.	For use only: 1. At levels not to exceed 0.5 pct by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4. 2. At levels not to exceed 0.05 pct by weight of ethylene-methacrylic acid copolymers complying with § 177.1330 of this chapter and ethylene-acrylic acid copolymers complying with § 177.1310 of this chapter. The average thickness of such copolymers in the form in which they contact food shall not exceed 0.005 inch. 3. At levels not to exceed 0.5 pct by weight of the following polymers when used in articles that contact nonalcoholic food: polystyrene and rubber-modified polystyrene complying with § 177.1640 of this chapter; ethylene-acrylic acid copolymers complying with § 177.1310 of this chapter; ethylene-vinyl acetate copolymers complying with § 177.1350 of this chapter; ethylene-methacrylic acid copolymers, ethylene-methacrylic acid-vinyl acetate copolymers and their partial salts complying with § 177.1330 of this chapter; isobutylene polymers complying with § 177.1420 of this chapter; and styrene butadiene copolymers used in compliance with regulations in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter. 4. At levels not to exceed 1 pct by weight of polyoxymethylene copolymer as provided in sec. 177.2470(b)(1) of this chapter. 5. At levels not to exceed 0.5 pct by weight of polyoxymethylene homopolymer as provided in § 177.2480(b)(1) of this chapter.
4,4-Thiobis(6-*tert*-butyl-*m*-cresol)	For use only: 1. As provided in §§ 175.105 and 177.2600 of this chapter. 2. At levels not to exceed 0.25% by weight of polyethylene complying with § 177.1520 of this chapter: *Provided*, That the specific gravity of the polyethylene is not less than 0.926: *And further provided*, That the finished polyethylene contacts food only of the types identified in § 176.170(c) of this chapter, table 1, under categories I, II, VI-B, and VIII.

Limitations

ride and/or higher (more than eight (8)

Subpart D—Certain Adjuvants and Production Aids

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Substance	Limitations
Thiodipropionic acid	For use only: 1. At levels not to exceed 0.5 pct by weight of polymers except nylon resins identified in § 177.1500 of this chapter. 2. At levels not to exceed 1 pct by weight of nylon resins identified in § 177.1500 of this chapter.
Tri(mixed mono- and dinonylphenyl) phosphite (which may contain not more than 1% by weight of triisopropanolamine).	
1,3,5-Tris(3,5-di-*tert*-butyl-4-hydroxybenzyl)-*s*-triazine-2,4,6(1*H*,3*H*,5*H*)-trione.	For use only: 1. At levels not to exceed 0.25 pct by weight of polypropylene complying with § 177.1520 of this chapter. 2. In polyethylene complying with § 177.1520 of this chapter: (a) At levels not to exceed 0.1 weight pct. (b) At levels not to exceed 0.5 weight pct in contact with nonfatty food. 3. At levels not to exceed 0.5 pct by weight of ethylene-propylene-5-ethylidine-2-norbornene terpolymers complying with § 177.1520 of this chapter. The maximum thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch.
1,3,5 - Tris(3,5 - di - *tert* - butyl - 4 - hydroxyhydrocinnamoyl)hexahydro-*s*-triazine.	For use only in contact with nonfatty foods: 1. At levels not to exceed 0.25 percent by weight of polypropylene complying with § 177.1520 of this chapter. 2. At levels not to exceed 0.1 percent by weight of polyethylene complying with § 177.1520 of this chapter. 3. At levels not to exceed 0.5 percent by weight of ethylene-propylene-5-ethylidine-2-norbornene terpolymers complying with § 177.1520 of this chapter. The maximum thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch.
Tris(2 - methyl - 4 - hydroxy - 5 - *tert* - butylphenyl) butane.	For use only: 1. At levels not to exceed 0.25 percent by weight of polymers used as provided in § 176.180 of this chapter. 2. At levels not to exceed 0.25 percent by weight of the following polymers when used in articles that contact food of types I, II, IV–B, VI–B, VII–B, and VIII described in table 1 of § 176.170(c) of this chapter: Olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 1.3, 1.9, 2.1, 2.2, 2.9, 3.1, 3.2, 3.3, or 4 or complying with other sections in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter; vinyl chloride polymers; and/or vinyl chloride copolymers complying with § 177.1980 of this chapter. 3. At levels not to exceed 0.1 percent by weight of the following polymers when used in articles that contact food of types III, IV–A, V, VI–A, VI–C, VII–A, and IX described in table 1 of § 176.170(c) of this chapter: Olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4 or complying with other sections in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter; vinyl chloride polymers; and/or vinyl chloride copolymers complying with § 177.1980 of this chapter. 4. As provided in § 175.105 of this chapter. 5. At levels not to exceed 0.2 percent by weight of polystyrene and/or modified polystyrene polymers identified in § 177.1640 of this chapter. 6. At levels not to exceed 0.25 percent by weight of acrylonitrile-butadiene-styrene copolymers used in contact with nonalcoholic foods.
Zinc dibutyldithiocarbamate	For use only at levels not to exceed 0.2 percent by weight of isobutylene-isoprene copolymers complying with § 177.1420 of this chapter: *Provided*, That the finished copolymers contact food only of the types identified in § 176.170(c) of this chapter, table 1, under types V, VII, VIII, and IX.
Zinc palmitate	
Zinc salicylate	For use only in rigid polyvinyl chloride and/or in rigid vinyl chloride copolymers complying with § 177.1980 of this chapter: *Provided*, That total salicylates (calculated as the acid) do not exceed 0.3 percent by weight of such polymers.
Zinc stearate	

§ 178.2550 4-Hydroxymethyl-2,6-di-*tert*-butylphenol.

4-Hydroxymethyl-2,6-di-*tert*-butylphenol may be safely used as an antioxidant in articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) The additive has a solidification point of 140°–141° C.

(b) The concentration of the additive and any other permitted antioxidants in the finished food-contact article does not exceed a total of 0.5 milligram per square inch of food-contact surface.

§ 178.2650 Octyltin stabilizers in vinyl chloride plastics.

The octyltin chemicals identified in paragraph (a) of this section may be safely used alone or in combination, at levels not to exceed a total of 3 parts per hundred of resin, as stabilizers in polyvinyl chloride and vinyl chloride copolymers complying with the provisions of § 177.1950 or § 177.1980 of this chapter and that are intended for use in contact with food of types I, II, III, IV (except liquid milk), V, VI (except malt beverages and carbonated nonalcoholic beverages), VII, VIII, and IX described in table 1 of § 176.170(c) of this chapter, in accordance with the following prescribed conditions:

(a) For the purpose of this section, the octyltin chemicals are those identified in paragraphs (a) (1) and (2) of this section.

(1) Di(*n* - octyl)tin S,S'-bis(isooctylmercaptoacetate) is an octyltin chemical having 15.1 to 16.4 percent by weight of tin (Sn) and having 8.1 to 8.9 percent by weight of mercapto sulfur. It is made from (di(*n*-octyl)tin dichloride or di(*n*-octyl)tin oxide. The isooctyl radical in the mercaptoacetate is derived from oxo process isooctyl alcohol. Di(*n*-octyl)tin dichloride has an organotin composition that is not less than 95 percent by weight di(*n*-octyl)tin dichloride, not more than 5 percent by weight total of *n*-octyltin trichloride and/or tri(*n*-octyl)tin chloride and/or higher (more than eight (8) carbon) alkyl tin chlorides, not more than 0.2 percent by weight total of other eight (8) carbon isomeric alkyltin derivatives, and not more than 0.1 percent by weight lower (less than eight (8) carbon) homologous alkyltin derivatives. Di(*n*-octyl)tin oxide has an organotin composition that is not less than 95 percent by weight di(*n*-octyl) tin oxide, not more than 5 percent by weight of bis [tri(*n*-octyl)tin] oxide, and/or mono *n*-octyltin oxide, and/or higher (more than eight (8) carbon) alkyltin oxides, not more than 0.2 percent by weight of isomeric-octyltin oxides, and not more than 0.1 percent by weight of lower (less than eight (8) carbon) alkyltin oxides.

(2) Di(*n*-octyl)tin maleate polymer is an octyltin chemical having the formula $[(C_8H_{17})_2SnC_4H_2O_4]_n$ (where n is between 2 and 4 inclusive), having 25.2 to 26.6 percent by weight of tin (Sn) and having a saponification number of 225 to 255. It is made from di(*n*-octyl)tin dichloride or di(*n*-octyl)tin oxide meeting the specifications prescribed for di(*n*-octyl)tin dichloride or di(*n*-octyl)tin oxide in paragraph (a)(1) of this section.

(b) The vinyl chloride plastic containers, film or panels in the finished form in which they are to contact food, shall meet the following limitations:

(1) The finished plastics intended for contact with foods of the types listed in this section shall be extracted with the solvent or solvents characterizing those types of foods as determined from table 2 of § 176.170(c) of this chapter at the temperature reflecting the conditions of intended use as determined therein. Additionally, extraction tests for acidic foods shall be included and simulated by 3-percent acetic acid at temperatures specified for water in table 2 of § 176.170(c) of this chapter. The extraction tests shall cover at least three equilibrium periodic determinations, as follows:

(i) The exposure time for the first determination shall be at least 72 hours for aqueous solvents, and at least 6 hours for heptane.

(ii) Subsequent determinations shall be at a minimum of 24-hour intervals for aqueous solvents, and 2-hour intervals for heptane. These tests shall yield di(*n*-octyl)tin *S,S'*-bis(isooctylmercaptoacetate) or di(*n*-octyl)tin maleate polymer or any combination thereof not to exceed 0.5 part per million as determined by an analytical method available upon request from the Commissioner of Food and Drugs.

(2) In lieu of the tests prescribed in paragraph (b)(1) of this section, the finished plastics intended for contact with foods only of types II, V, VI–A (except malt beverages), and VI–C may be end-tested with food-simulating solvents, under conditions of time and temperature, as specified below, whereby such tests shall yield the octyltin residues cited in paragraph (b)(1) of this section not in excess of 0.5 ppm:

	Food-simulating solvent	Time (hours)	Temperature (degrees Fahrenheit)
Type II	Acetic acid, 3 pct	10	135
Type V	Heptane	2	100
Type VI–A	Ethyl alcohol, 8 pct.	24	120
Type VI–C	Ethyl alcohol, 50 pct.	24	170

Subpart D—Certain Adjuvants and Production Aids

§ 178.3010 Adjuvant substances used in the manufacture of foamed polystyrene.

The following substances may be safely used as adjuvants in the manufacture of foamed polystyrene intended for use in contact with food, subject to any prescribed limitations:

List of substances	Limitations
Isopentane	For use as blowing agent.
n-Pentane	Do.
1,1,2,2-Tetrachloroethylene	For use only as a blowing agent adjuvant at a level not to exceed 0.3% by weight of finished foamed polystyrene intended for use in contact with food only of the types identified in § 176.170(c) of this chapter, table 1, under categories I, II, VI, and VIII.
Toluene	For use only as a blowing agent adjuvant at a level not to exceed 0.35% by weight of finished foamed polystyrene.

§ 178.3120 Animal glue.

Animal glue may be safely used as a component of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section.

(a) Animal glue consists of the proteinaceous extractives obtained from hides, bones, and other collagen-rich substances of animal origin (excluding diseased or rotted animals), to which may be added other optional adjuvant substances required in its production or added to impart desired properties.

(b) The quantity of any substance employed in the production of animal glue does not exceed the amount reasonably required to accomplish the intended physical or technical effect nor any limitation further provided.

(c) Any substance employed in the production of animal glue and which is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter conforms with any specification in such regulation.

(d) Optional adjuvant substances employed in the production of animal glue include:

(1) Substances generally recognized as safe in food.

(2) Substances subject to prior sanction or approval for use in animal glue and used in accordance with such sanction or approval.

(3) Substances identified in this paragraph (d)(3) and subject to such limitations as are provided:

List of substances	Limitations
Alum (double sulfate of aluminum and ammonium, potassium, or sodium).	For use as preservative only.
4-Chloro-3-methylphenol(*p*-chlorometacresol).	
Chromium potassium sulfate (chrome alum).	For use only in glue used as a colloidal flocculant added to the pulp suspension prior to the sheet-forming operation in the manufacture of paper and paper board.
3,5-Dimethyl-1,3,5,2*H*-tetrahydrothiadiazine-2-thione.	For use as preservative only.
Disodium cyanodithioimidocarbonate	Do.
Defoaming agents	As provided in § 176.210 of this chapter.
Ethanolamine	
Ethylenediamine	
Formaldehyde	For use as a preservative only.
Potassium *N*-methyldithiocarbamate	Do.
Potassium pentachlorophenate	Do.
Resins and resin derivatives	As provided in § 178.3870.
Sodium chlorate	
Sodium dodecylbenzenesulfonate	
Sodium 2-mercaptobenzothiazole	For use as preservative only.
Sodium pentachlorophenate	Do.
Sodium *o*-phenylphenate	Do.
Zinc dimethyldithiocarbamate	Do.
Zinc 2-mercaptobenzothiazole	Do.

(e) The conditions of use are as follows:

(1) The use of animal glue in any substance or article that is the subject of a regulation in this subpart conforms with any specifications or limitations prescribed by such regulation for the finished form of the substance or article.

(2) It is used as an adhesive or component of an adhesive in accordance with the provisions of § 175.105 of this chapter.

(3) It is used as a colloidal flocculant added to the pulp suspension prior to the sheet-forming operation in the manufacture of paper and paperboard.

(4) It is used as a protective colloid in resinous and polymeric emulsion coatings.

§ 178.3130 Antistatic and/or antifogging agents in food-packaging materials.

The substances listed in paragraph (b) of this section may be safely used as antistatic and/or antifogging agents in food-packaging materials, subject to the provisions of this section:

(a) The quantity used shall not exceed the amount reasonably required to accomplish the intended technical effect.

(b) List of substances:

List of substances	Limitations
α-Alkyl-, α-alkenyl-, and α-alkylaryl-	For use only at levels not to exceed 0.5 pct by weight of coatings complying

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List of substances	Limitations
Alpha-(Carboxymethyl)-omega-(tetradecyloxy) poly-oxyethylene)	For use only as an antistatic and/or antifogging agent at levels not to exceed 0.2 pct by weight in polyolefin film not exceeding 0.001 inch thickness.
N-Acyl sarcosines where the acyl group is lauroyl, oleoyl, or derived from the combined fatty acids of coconut oil.	For use only: 1. As antistatic and/or antifogging agent at levels not to exceed a total of 0.15 pct by weight of polyolefin film used for packaging meat, fresh fruits, and fresh vegetables. The average thickness of such polyolefin film shall not exceed 0.003 inch. 2. As antistatic and/or antifogging agent at levels not to exceed a total of 0.15 pct by weight of ethylene-vinyl acetate copolymer film complying with § 177.1350 of this chapter and used for packaging meat, fresh fruits, fresh vegetables, and dry food of type VIII described in table 1 of § 176.170(c) of this chapter. The average thickness of such ethylene-vinyl acetate copolymer film shall not exceed 0.003 inch when used for packaging meat, fresh fruits, and fresh vegetables.
N,N-Bis(2-hydroxyethyl)alkyl(C_{12}-C_{18})amine	For use only as an antistatic agent at levels not to exceed 0.1 pct by weight of polyolefin food-contact films.
N,N-Bis(2-hydroxyethyl) alkylamine, where the alkyl groups (C_{16}-C_{18}) are derived from tallow.	For use only: 1. As an antistatic agent at levels not to exceed 0.15 pct by weight in molded or extruded polyethylene containers that contact food only of the types identified in § 176.170(c) of this chapter, table 1, under types I, IV–B, VI–B, VII–B, and VIII, under the conditions of use E through G described in table 2 of § 176.170(c) of this chapter provided such foods have a pH above 5.0. 2. As an antistatic agent at levels not to exceed 0.10 mg. per square inch of food-contact surface in vinylidene chloride copolymer coatings complying with §§ 175.320, 177.1200, or 177.1630 of this chapter, provided that such coatings contact food only of the types identified in § 176.170(c) of this chapter, table 1, under types I, IV, VII, VIII, and IX under the conditions of use E through G described in table 2 of § 176.170(c) of this chapter. The finished copolymers shall contain at least 70 weight pct of polymer units derived from vinylidene chloride; and shall contain not more than 5 weight pct of total polymer units derived from acrylamide, acrylic acid, fumaric acid, itaconic acid, methacrylic acid, octadecyl methacrylate, and vinyl sulfonic acid.
N,N-Bis(2-hydroxyethyl) dodecanamide produced when diethanolamine is made to react with methyl laurate such that the finished product: Has a minimum melting point of 36° C; has a minimum amide assay of 90 percent; contains no more than 2 percent by weight of free diethanolamine; and contains no more than 0.5 percent by weight of *N,N*-bis(2-hydroxyethyl)piperazine, as determined by paper chromatography method.	For use only as an antistatic agent at levels not to exceed 0.5 percent by weight of molded or extruded polyethylene containers intended for contact with honey, chocolate syrup, liquid sweeteners, condiments, flavor extracts and liquid flavor concentrates, grated cheese, light and heavy cream, yogurt, and foods of type VIII as described in table 1 of § 176.170(c) of this chapter.
α-n-Dodecanol-*omega*-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of *n*-dodecanol with an average of 9.5 moles of ethylene oxide to form a condensate having a hydroxyl content of 2.7 to 2.9 pct and having a cloud point of 80° C to 92° C in 1 pct by weight aqueous solution.	For use only as an antistatic agent at levels not to exceed 0.2 pct by weight in low-density polyethylene film having an average thickness not exceeding 0.005 inch.
Glycerol ester mixtures of ricinoleic acid, containing not more than 50 pct monoricinoleate, 45 pct diricinoleate, 10 pct triricinoleate, and 3.3 pct free glycerine.	As an antifogging agent at levels not exceeding 1.5 pct by weight of permitted plasticized vinyl chloride homo-and/or copolymers.

§ 178.3280 Castor oil, hydrogenated.

Hydrogenated castor oil may be safely used in the manufacture of articles or components of articles intended for use in contact with food subject to the provisions of this section.

(a) The quantity used shall not exceed the amount reasonably required to accomplish the intended technical effect.

(b) The additive is used as follows:

Use	Limitations
1. As a lubricant for vinyl chloride polymers used in the manufacture of articles or components of articles authorized for food-contact use.	For use only at levels not to exceed 4 pct by weight of vinyl chloride polymers.
2. As a component of cellophane	Complying with § 177.1200 of this chapter.
3. As a component of resinous and polymeric coatings.	Complying with § 175.300 of this chapter.
4. As a component of paper and paperboard in contact with aqueous and fatty food.	Complying with § 176.170 of this chapter.
5. As a component of closures with sealing gaskets for food containers.	Complying with § 177.1210 of this chapter.
6. As a component of cross-linked polyester resins.	Complying with § 177.2420 of this chapter.

§ 178.3290 Chromic chloride complexes.

Myristo chromic chloride complex and stearato chronic chloride complex may be safely used as release agents in the closure area of packaging containers intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section:

(a) The quantity used shall not exceed that reasonably required to accomplish the intended technical effect nor exceed 7 micrograms of chromium per square inch of closure area.

(b) The packaging container which has its closure area treated with the release agent shall have a capacity of not less than 120 grams of food per square inch of such treated closure area.

§ 178.3300 Corrosion inhibitors used for steel or tinplate.

Corrosion inhibitors may be safely used for steel or tinplate intended for use in, or to be fabricated as, food containers or food-processing or handling equipment, subject to the provisions of this section.

(a) The corrosion inhibitors are prepared from substances identified in this section and used subject to the limitations prescribed.

(b) The following corrosion inhibitors or adjuvants are used in amounts not to exceed those reasonably required to accomplish the intended physical or technical effect:

(1) Corrosion inhibitors (active ingredients) used in packaging materials for the packaging of steel or tinplate or articles fabricated therefrom:

List of substances	Limitations
Dicyclohexylamine and its salts of fatty acids derived from animal or vegetable oil.	
Dicyclohexylamine nitrite	
Morpholine and its salts of fatty acids derived from animal or vegetable oils.	

(2) Adjuvants employed in the application and use of corrosion inhibitors:

List of substances	Limitations
Propylene glycol	

§ 178.3400 Emulsifiers and/or surface-active agents.

The substances listed in paragraph (c) of this section may be safely used as emulsifiers and/or surface-active agents in the manufacture of articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section.

(a) The quantity used shall not exceed the amount reasonably required to accomplish the intended technical effect; and the quantity that may become a component of food as a result of such use shall not be intended to, nor in fact, accomplish any physical or technical effect in the food itself.

(b) The use as an emulsifier and/or surface-active agent in any substance or article that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter conforms with any specifications and limitations prescribed by such regulation for the finished form of the substance or article.

(c) List of substances:

List of substances	Limitations
α-Alkyl-, α-alkenyl-, and α-alkylaryl-*omega*-hydroxypoly(oxyethylene) mixture consisting of 30 weight pct of α-(2,4,6-trisobutylphenyl)-*omega*-hydroxypoly(oxyethylene) having an average poly(oxyethylene) content of 7 moles and 70 weight pct of a 1:1 weight ratio mixture of α-(*Z*)-9-octadecenyl-*omega*-hydroxypoly-(oxyethylene) having an average poly-(oxyethylene) content of 18 moles and α-alkyl(C_{16}-C_{18})-*omega*-hydroxypoly-(oxyethylene) having an average poly-(oxyethylene) content of 18 moles.	For use only at levels not to exceed 0.5 pct by weight of coatings complying with § 175.320 of this chapter and limited to use as an emulsifier for polyhydric alcohol diesters used as provided in § 178.3770(b). The weight of the finished coating shall not exceed 2 milligrams per square inch of food-contact surface.
α-Alkyl-*omega*-hydroxypoly(oxyethylene) produced by condensation of 1 mole of C_{16}-C_{18} straight-chain randomly substituted secondary alcohols with an average of 7–20 moles of ethylene oxide.	For use only: 1. As provided in § 176.170 of this chapter. 2. At levels not to exceed 2 pct by weight of polyvinyl chloride and/or vinyl chloride copolymers complying with § 177.1980 of this chapter.
α-Alkylsulfonate (alkyl group is in the range C_{36}-C_{18} with not less than 50 pct (C_{14}-C_{16}).	For use only: 1. As a polymerization emulsifier at levels not to exceed 1.5 pct by weight of vinyl chloride polymers used as components of nonfood articles complying with §§ 175.105, 175.300, 176.170, 176.180, and 177.1210 of this chapter. Such vinyl chloride polymers are limited to polyvinyl chloride and/or vinyl chloride copolymers complying with § 177.1980 of this chapter. 2. As a polymerization emulsifier at levels not to exceed 1.5 pct by weight of vinyl chloride-vinyl acetate copolymers used as components of nonfood articles complying with §§ 175.105, 175.300, 176.170, 176.180, and 177.1210 of this chapter.
Ammonium salt of epoxidized oleic acid, produced from epoxidized oleic acid (predominantly dihydroxystearic and acetoxyhydroxystearic acids) meeting the following specifications: Acid number 100–190, saponification number 210–235, iodine number 2–15, and epoxy groups 0–0.4 percent.	
α-Di-*sec*-butylphenyl-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of di-*sec*-butylphenol with an average of 4–14 or 30–50 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4–14 or 30–50; *sec*-butyl groups are predominantly (90 percent or more) 2,4 *p*-substituents.	
α-Dodecyl-*omega*-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters that have an acid number (to pH 5.2) of 105–111 and that are produced by the esterification of the condensation product of 1 mole of *n*-dodecyl alcohol with 4–4.5 moles of ethylene oxide.	
α-(*p-Dodecylphenyl*)-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecyl group is a propylene tetramer isomer) with an average of 4–14 or 30–50 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4–14 or 30–50.	
α-(*p*-Nonylphenyl)-*omega*-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters that have an acid number (to pH 5.2) of 49–59 and that are produced by the esterification of α-(*p*-nonylphenyl)-*omega*-hydroxypoly(oxyethylene) complying with the identity prescribed in § 178.3400(c) and having an average poly(oxyethylene) content of 5.5–6.5 moles.	
α-(*p*-Nonylphenyl)-*omega*-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters that have an acid number (to pH 5.2) of 62–72 and that are produced by the esterification of α-(*p*-nonylphenyl)-*omega*-hydroxypoly (oxyethylene) complying with the identity prescribed in § 178.3400(c) and having an average poly(oxyethylene) content of 9–10 moles.	
α-(*p*-Nonylphenyl)-*omega*-hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters that have an acid number (to pH 5.2) of 98–110 and that are produced by the esterification of α-(*p*-nonylphenyl)-*omega*-hydroxypoly (oxyethylene) complying with the identity prescribed in § 178.3400(c) and having an average poly(oxyethylene) content of 45–55 moles.	
α-(*p*-Nonylphenyl)-*omega*-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4–14 or 30–50 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted	

List of Substances	Limitations

(d) The provisions of this section are responding naturally derived fatty al- be intended to, nor in fact accomplish, any direct physical or technical effect in

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List of Substances	*Limitations*
to produce any product that is a component of the blend shall be in the range 4-14 or 30-50.	
α-(p-Nonylphenyl)-*omega*-hydroxypoly (oxyethylene) sulfate, ammonium or sodium salt; the nonyl group is a propylene trimer isomer and the poly (oxyethylene) content average 4 moles.	
Poly(oxypropylene) (45-48 moles) block polymer with poly(oxyethylene). The finished block polymers meet the following specifications: Average molecular weight 11,000-18,000; hydroxyl number 6.2-10.2; cloud point above 100° C. for 10 pct solution.	For use only as a surface-active agent at levels not to exceed 0.5 percent by weight of polyolefin film or polyolefin coatings. Such polyolefin film and polyolefin coatings shall have an average thickness not to exceed 0.005 inch and shall be limited to use in contact with foods that have a pH above 5.0 and that contain no more than 8 pct of alcohol.
Polysorbate 20 (polyoxyethylene (20) sorbitan monolaurate) meeting the following specifications: Saponification number 40-50, acid number 0-2, hydroxyl number 60-108, oxyethylene content 70-74 pct.	
Polysorbate 40 (polyoxyethylene (20) sorbitan monopalmitate) meeting the following specifications: Saponification number 41-52, oxyethylene content 66-70.5 pct.	
Polysorbate 60 conforming to the identity prescribed in § 172.836 of this chapter.	
Polysorbate 65 conforming to the identity prescribed in § 172.838 of this chapter.	
Polysorbate 80 conforming to the identity prescribed in § 172.840 of this chapter.	
Polysorbate 85 (polyoxyethylene (20) sorbitan trioleate) meeting the following specifications: Saponification number 80-95, oxyethylene content 46-50 percent.	
Sodium n-alkylbenzenesulfonate (alkyl group predominantly C_{12} and C_{13} and not less than 95 percent C_{10} to C_{16}).	For use only as a component of nonfood articles complying with §§ 175.300, 175.320, 175.380, 176.170, 176.180, 177.1010, 177.1200, 177.1630, 177.2600, 177.2800, of this chapter and § 178.3120.
Sodium 1,4-dicyclohexyl sulfosuccinate	
Sodium 1,4-dihexyl sulfosuccinate	
Sodium 1,4-diisobutyl sulfosuccinate	
Sodium dioctyl sulfosuccinate	
Sodium 1,4-dipentyl sulfosuccinate	
Sodium 1,4-ditridecyl sulfosuccinate	
Sodium lauryl sulfate	
Sodium monoalkylphenoxybenzenedisulfonate and sodium dialkylphenoxybenzenedisulfonate mixtures containing not less than 70 pct of the monoalkylated product where the alkyl group is C_8-C_{18}.	
Sorbitan monolaurate meeting the following specifications: Saponification number 153-170; and hydroxyl number [illegible]	
Sorbitan monooleate meeting the following specifications: Saponification number 145-160, hydroxyl number 193-210.	
Sorbitan monopalmitate meeting the following specifications: Saponification No. 140-150; and hydroxyl No. 275-305.	
Sorbitan monostearate conforming to the identity prescribed in § 172.842 of this chapter.	
Sorbitan trioleate meeting the following specifications: Saponification No. 170-190; and hydroxyl No. 55-60.	
Sorbitan tristearate meeting the following specifications: Saponification No. 176-188; and hydroxyl No. 66-80.	
α-[p-(1,1,3,3-Tetramethylbutyl)phenyl]-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of p-(1,1,3,3-tetramethylbutyl) phenol with an average of 4-14 or 30-40 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4-14 or 30-50.	
Tetrasodium *N*-(1,2-dicarboxyethyl)-*N*-octadecyl-sulfosuccinamate.	For use only as a polymerization emulsifier for resins applied to tea-bag material.
α - Tridecyl - *omega* - hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters that have an acid number (to pH 5.2) of 75-85 and that are produced by the esterification of the condensation product of one mole of "oxo" process tridecyl alcohol with 5.5-6.5 moles of ethylene oxide.	
α - Tridecyl - *omega* - hydroxypoly (oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters that have an acid number (to pH 5.2) of 58-70 and that are produced by the esterification of the condensation product of one mole of "oxo" process tridecyl alcohol with 9-10 moles of ethylene oxide.	

(d) The provisions of this section are not applicable to emulsifiers and/or surface-active agents listed in § 175.105(c)(5) of this chapter and used in food-packaging adhesives complying with § 175.105 of this chapter.

§ 178.3450 Esters of stearic and palmitic acids.

The ester stearyl palmitate or palmityl stearate or mixtures thereof may be safely used as adjuvants in food-packaging materials when used in accordance with the following prescribed conditions:

(a) They are used or intended for use as plasticizers or lubricants in polystyrene intended for use in contact with food.

(b) They are added to the formulated polymer prior to extrusion.

(c) The quantity used shall not exceed that required to accomplish the intended technical effect.

§ 178.3480 Fatty alcohols, synthetic.

Synthetic fatty alcohols may be safely used as components of articles intended for use in contact with food, and in synthesizing food additives and other substances permitted for use as components of articles intended for use in contact with food in accordance with the following prescribed conditions:

(a) The food additive consists of fatty alcohols meeting the specifications and definition prescribed in § 172.864 of this chapter, except as provided in paragraph (c) of this section.

(b) It is used or intended for use as follows:

(1) As substitutes for the corresponding naturally derived fatty alcohols permitted for use as components of articles intended for use in contact with food by existing regulations in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter: *Provided*, That the use is in compliance with any prescribed limitations.

(2) As substitutes for the corresponding naturally derived fatty alcohols used as intermediates in the synthesis of food additives and other substances permitted for use as components of food-contact articles.

(c) Synthetic fatty alcohols identified in paragraph (c)(1) of this section may contain not more than 0.8 weight percent of total diols as determined by a method available upon request from the Commissioner of Food and Drugs, when used as prescribed in paragraph (c)(2) of this section.

(1) *Synthetic fatty alcohols*. (i) Hexyl, octyl, decyl, lauryl, myristyl, cetyl, and stearyl alcohols meeting the specifications and definition prescribed in § 172.864 of this chapter, except that they may contain not more than 0.8 weight percent total diols.

(ii) Lauryl, myristyl, cetyl, and stearyl alcohols manufactured by the process described in § 172.864(a)(2) of this chapter such that lauryl and myristyl alcohols meet the specifications in § 172.864(a)(1)(i) of this chapter, and cetyl and stearyl alcohols meet the specifications in § 172.864(a)(1)(ii) of this chapter.

(2) *Conditions of use*. (i) Synthetic fatty alcohols as substitutes for the corresponding naturally derived fatty alcohols permitted for use in compliance with § 178.3910.

(ii) Synthetic lauryl alcohol as a substitute for the naturally derived lauryl alcohol permitted as an intermediate in the synthesis of sodium lauryl sulfate used in compliance with § 178.3400.

§ 178.3500 Glycerin, synthetic.

Synthetic glycerin may be safely used as a component of articles intended for use in packaging materials for food, subject to the provisions of this section:

(a) It is produced by the hydrogenolysis of carbohydrates, and shall contain not in excess of 0.2 percent by weight of a mixture of butanetriols.

(b) It is used in a quantity not to exceed that amount reasonably required to produce its intended physical or technical effect, and in accordance with any limitations prescribed by applicable regulations in Parts 174, 175, 176, 177, 178 and 179 of this chapter. It shall not be intended to, nor in fact accomplish, any direct physical or technical effect in the food itself.

§ 178.3520 Industrial starch-modified.

Industrial starch-modified may be safely used as a component of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section.

(a) Industrial starch-modified is identified as follows:

(1) A food starch-modified or starch or any combination thereof that has been modified by treatment with one of the reactants hereinafter specified, in an amount reasonably required to achieve the desired functional effect but in no event in excess of any limitation prescribed, with or without subsequent treatment as authorized in § 172.892 of this chapter.

List of reactants	*Limitations*
Ammonium persulfate, not to exceed 0.3 pct. or in alkaline starch not to exceed 0.6 pct.	
(4 - Chlorobutene - 2) trimethylammonium chloride, not to exceed 5 pct.	Industrial starch modified by this treatment shall be used only as internal sizing for paper and paperboard intended for food packaging.
β-Diethylaminoethyl chloride hydrochloride, not to exceed 4 pct.	
Dimethylaminoethyl methacrylate, not to exceed 3 pct.	
Dimethylol ethylene urea, not to exceed 0.375 pct.	Industrial starch modified by this treatment shall be used only as internal sizing for paper and paperboard intended for food packaging.
2,3 - Epoxypropyltrimethylammonium chloride, not to exceed 5 pct.	
Ethylene oxide, not to exceed 3 pct of reacted ethylene oxide in finished product.	
Phosphoric acid, not to exceed 6 pct and urea, not to exceed 20 pct.	Industrial starch modified by this treatment shall be used only as internal sizing for paper and paperboard intended for food packaging and as surface sizing and coating for paper and paperboard that contact food only of types IV-A, V, VII, VIII, and IX described in table 1 of § 176.170(c) of this chapter.

(2) A starch irradiated under one of the following conditions to produce free radicals for subsequent graft polymerization with the reactants listed in this paragraph (a)(2):

(i) Radiation from a sealed cobalt 60 source, maximum absorbed dose not to exceed 5.0 megarads.

(ii) An electron beam source at a maximum energy of 7 million electron volts of ionizing radiation, maximum absorbed dose not to exceed 5.0 megarads.

List of reactants	*Limitations*
Acrylamide and [2-(methacryloyloxy) ethyl]trimethylammonium methyl sulfate, such that the finished industrial starch-modified shall contain: 1. Not more than 60 weight percent vinyl copolymer (of which not more than 32 weight percent is [2-(methacryloyloxy) ethyl] trimethylammonium methyl sulfate). 2. Not more than 0.20 pct residual acrylamide. 3. A minimum nitrogen content of 9.0 pct.	For use only: 1. As a retention aid and dry strength agent employed before the sheet-forming operation in the manufacture of paper and paperboard intended to contact only dry food of the type identified in § 176.170(c) of this chapter, table 1 under type VIII, and used at a level not to exceed 0.40 pct by weight of the finished dry paper and paperboard fibers. 2. As a retention aid and dry strength agent employed before the sheet-forming operation in the manufacture of paper and paperboard intended to contact food, and used at a level not to exceed 0.25 pct by weight of the finished dry paper and paperboard fibers.

(b) The following adjuvants may be used as surface-active agents in the processing of industrial starch-modified:

Polyethylene glycol (400) dilaurate.
Polyethylene glycol (400) monolaurate.
Polyoxyethylene (4) lauryl ether.

(c) To insure safe use of the industrial starch-modified, the label of the food additive container shall bear the name of the additive "industrial starch-modified," and in the instance of an industrial starch-modified which is limited with respect to conditions of use, the label of the food additive container shall contain a statement of such limited use.

§ 178.3530 Isoparaffinic petroleum hydrocarbons, synthetic.

Isoparaffinic petroleum hydrocarbons, synthetic, may be safely used in the production of nonfood articles intended for use in producing manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section.

(a) The isoparaffinic petroleum hydrocarbons, produced by synthesis from petroleum gases consist of a mixture of liquid hydrocarbons meeting the following specifications:

Boiling point 145°-500° F, as determined by A.S.T.M. Method D-86.

white mineral oil meets the following

stock), §§ 176.200, 177.2260, 177.2600, and

Wavelength accuracy, ±1.0 millimicron.

Ultraviolet absorbance:
260–319 millimicrons—1.5 maximum.
320–329 millimicrons—0.08 maximum.
330–350 millimicrons—0.05 maximum.
Nonvolatile residue 0.002 gram per 100 milliliters maximum.

Synthetic isoparaffinic petroleum hydrocarbons containing antioxidants shall meet the specified ultraviolet absorbance limits after correction for any absorbance due to the antioxidants. The ultraviolet absorbance shall be determined by the procedure described for application to mineral oil under "Specifications" on page 66 of the Journal of the Association of Official Agricultural Chemists, Vol. 45 (February 1962), disregarding the last sentence of that procedure. For hydrocarbons boiling below 250° F, the nonvolatile residue shall be determined by A.S.T.M. procedure D–1353; for those boiling above 250° F, A.S.T.M. procedure D–381 shall be used.

(b) Isoparaffinic petroleum hydrocarbons may contain antioxidants authorized for use in food in an amount not to exceed that reasonably required to accomplish the intended technical effect.

(c) Isoparaffinic petroleum hydrocarbons are used in the production of nonfood articles. The quantity used shall not exceed the amount reasonably required to accomplish the intended technical effect, and the residual remaining in the finished article shall be the minimum amount reasonably attainable.

§ 178.3550 Kaolin-modified.

Kaolin-modified, as identified in this section, may be safely used in olefin polymers as articles or components of articles intended for use in contact with food, subject to the provisions of this section.

(a) Kaolin-modified is produced by treating kaolin with a reaction product of isopropyl titanate and oleic acid in which 1 mole of isopropyl titanate is reacted with 1 to 2 moles of oleic acid. The reaction product will not exceed 8 percent of the modified kaolin. The oleic acid used shall meet the requirements specified in § 172.860 of this chapter.

(b) The additive is used as a pigment, colorant, or opacifier in olefin polymers complying with § 177.1520 of this chapter at levels not to exceed 40 percent by weight of the olefin polymer.

§ 178.3570 Lubricants with incidental food contact.

Lubricants with incidental food contact may be safely used on machinery used for producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, subject to the provisions of this section:

(a) The lubricants are prepared from one or more of the following substances:

(1) Substances generally recognized as safe for use in food.

(2) Substances used in accordance with the provisions of a prior sanction or approval.

(3) Substances identified in this paragraph (a) (3).

Substances	Limitations
Aluminum stearoyl benzoyl hydroxide.	For use only as a thickening agent in mineral oil lubricants at a level not to exceed 10 pct by weight of the mineral oil.
BHA	Addition to food not to exceed 10 parts per million:
BHT	Do.
Castor oil	Do.
Castor oil, dehydrated	For use only as a gelling agent in mineral oil lubricants at a level not to exceed 7 pct by weight of the mineral oil.
Castor oil, partially dehydrated	
Dialkyldimethylammonium aluminum silicate where the alkyl groups are derived from hydrogenated tallow fatty acids (C_{16}–C_{18}) and where the aluminum silicate is derived from bentonite.	
Dimethylpolysiloxane (viscosity greater than 300 centistokes).	Addition to food not to exceed 1 part per million.
Fatty acids derived from animal or vegetable sources, and the hydrogenated forms of such fatty acids.	
12-Hydroxystearic acid	For use only as an adjuvant (to improve lubricity) in mineral oil lubricants.
Isopropyl oleate	For use only as an adjuvant in mineral oil lubricants at a level not to exceed 10 percent by weight of the mineral oil.
Magnesium ricinoleate	Addition to food not to exceed 10 parts per million.
Mineral oil	Complying with § 178.3700. Addition to food not to exceed 10 parts per million.
Petrolatum	For use only, singly or in combination, as antioxidant in mineral oil lubricants at a level not to exceed a total of 1 percent by weight of the mineral oil.
Phenyl-α-and/or phenyl-β-naphthylamine.	For use only as an adjuvant in mineral oil lubricants at a level not to exceed 10 percent by weight of the mineral oil.
Polyurea, having a nitrogen content of 9–14 percent based on the dry polyurea weight, produced by reacting tolylene diisocyanate with tall oil fatty acid (C_{18} and C_{18}) amine and ethylene diamine in a 2:2:1 molar ratio.	Addition to food not to exceed 10 parts per million.
Polybutene (minimum average molecular weight 80,000).	Do.
Polybutene, hydrogenated; complying with the identity prescribed under § 178.3740.	Do.
Polyethylene	For use only as a thickening agent in mineral oil lubricants.
Polyisobutylene (average molecular weight 35,000–140,000 (Flory)).	For use only as a rust preventive in mineral oil lubricants at a level not to exceed 3 percent by weight of the mineral oil.
Sodium nitrite	

(b) The lubricants are used on food-processing equipment as a protective antirust film, as a release agent on gaskets or seals of tank closures, and as a lubricant for machine parts and equipment in locations in which there is exposure of the lubricated part to food. The amount used is the minimum required to accomplish the desired technical effect on the equipment, and the addition to food of any constituent identified in this section does not exceed the limitations prescribed.

(c) Any substance employed in the production of the lubricants described in this section that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter conforms with any specification in such regulation.

§ 178.3600 Methyl glucoside-coconut oil ester.

Methyl glucoside-coconut oil ester identified in § 172.816(a) of this chapter may be safely used as a processing aid (filter aid) in the manufacture of starch, including industrial starch-modified complying with § 178.3520, intended for use as a component of articles that contact food.

§ 178.3610 α-Methylstyrene-vinyltoluene resins, hydrogenated.

Hydrogenated α-methylstyrene-vinyltoluene copolymer resins having a molar ratio of 1 α-methylstyrene to 3 vinyltoluene may be safely used as components of polyolefin film intended for use in contact with food, subject to the following provisions:

(a) Hydrogenated α-methylstyrene-vinyltoluene copolymer resins have a drop-softening point of 125° to 165° C and a maximum absorptivity of 0.17 liter per gram centimeter at 266 nanometers, as determined by methods available upon request from the Commissioner of Food and Drugs.

(b) The polyolefin film is produced from olefin polymers complying with § 177.1520 of this chapter, and the average thickness of the film in the form in which it contacts food does not exceed 0.002 inch.

§ 178.3620 Mineral oil.

Mineral oil may be safely used as a component of nonfood articles intended for use in contact with food, subject to the provisions of this section:

(a) White mineral oil meeting the specifications prescribed in § 172.878 of this chapter may be used as a component of nonfood articles provided such use complies with any applicable limitations in Parts 178 through 189 of this chapter. The use of white mineral oil in or on food itself, including the use of white mineral oil as a protective coating or release agent for food, is subject to the provisions of § 172.878 of this chapter.

(b) Technical white mineral oil identified in paragraph (b) (1) of this section may be used as provided in paragraph (b) (2) of this section.

(1) Technical white mineral oil consists of specially refined distillates of virgin petroleum or of specially refined distillates that are produced synthetically from petroleum gases. Technical white mineral oil meets the following specifications:

(i) Saybolt color 20 minimum as determined by ASTM Method D–156.

(ii) Ultraviolet absorbance limits as follows:

Wavelength (mμ):	Maximum absorbance per centimeter optical pathlength
280 to 289	4.0
290 to 299	3.4
300 to 329	2.3
330 to 350	0.8

Technical white mineral oil containing antioxidants shall meet the specified ultraviolet absorbance limits after correction for any absorbance due to the antioxidants. The ultraviolet absorbance shall be determined by the procedure described for application to mineral oil under "Specification" on page 66 of the Journal of the Association of Official Agriculture Chemists, Volume 45 (February 1962), disregarding the last two sentences of that procedure and substituting therefor the following: Determine the absorbance of the mineral oil extract in a 10-millimeter cell in the range from 260–350 mμ, inclusive, compared to the solvent control. If the absorbance so measured exceeds 2.0 at any point in range 280–350 mμ, inclusive, dilute the extract and the solvent control, respectively, to twice their volume with dimethyl sulfoxide and remeasure the absorbance. Multiply the remeasured absorbance values by 2 to determine the absorbance of the mineral oil extract per centimeter optical pathlength.

(2) Technical white mineral oil may be used wherever mineral oil is permitted for use as a component of nonfood articles complying with §§ 175.105, 176.200, 176.210, 177.2260, 177.2600, and 177.2800 of this chapter and §§ 178.3570 and 178.3910.

(3) Technical white mineral oil may contain any antioxidant permitted in food by regulations issued in accordance with section 409 of the act, in an amount not greater than that required to produce its intended effect.

(c) Mineral oil identified in paragraph (c) (1) of this section may be used as provided in paragraph (c) (2) of this section.

(1) The mineral oil consists of virgin petroleum distillates refined to meet the following specifications:

(i) Initial boiling point of 450° F minimum.

(ii) Color 5.5 maximum as determined by ASTM Method D–1500.

(iii) Ultraviolet absorbance limits as follows as determined by the analytical method described in paragraph (c) (3) of this section:

Wavelength (mμ):	Maximum absorbance per centimeter optical pathlength
280 to 289	0.7
290 to 299	.6
300 to 359	.4
360 to 400	.09

(2) The mineral oil may be used wherever mineral oil is permitted for use as a component of nonfood articles complying with §§ 175.105 and 176.210 of this chapter and § 178.3910 (for use only in rolling of metallic foil and sheet stock), §§ 176.200, 177.2260, 177.2600, and 177.2800 of this chapter.

(3) The analytical method for determining ultraviolet absorbance limit is as follows:

GENERAL INSTRUCTIONS

Because of the sensitivity of the test, the possibility of errors arising from contamination is great. It is of the greatest importance that all glassware be scrupulously cleaned to remove all organic matter such as oil, grease, detergent residues, etc. Examine all glassware, including stoppers and stopcocks, under ultraviolet light to detect any residual fluorescent contamination. As a precautionary measure it is recommended practice to rinse all glassware with purified isooctane immediately before use. No grease is to be used on stopcocks or joints. Great care to avoid contamination of oil samples in handling and to assure absence of any extraneous material arising from inadequate packaging is essential. Because some of the polynuclear hydrocarbons sought in this test are very susceptible to photo-oxidation, the entire procedure is to be carried out under subdued light.

APPARATUS

Separatory funnels. 250-milliliter, 500-milliliter, 1,000-milliliter, and preferably 2,000-milliliter capacity, equipped with tetrafluoroethylene polymer stopcocks.

Reservoir. 500-milliliter capacity, equipped with a 24/40 standard taper male fitting at the bottom and a suitable ball-joint at the top for connecting to the nitrogen supply. The male fitting should be equipped with glass hooks.

Chromatographic tube. 180 millimeters in lenth, inside diameter to be 15.7 millimeters ±0.1 millimeter, equipped with a coarse, fritted-glass disc, a tetrafluoroethylene polymer stopcock, and a female 24/40 standard tapered fitting at the opposite end. (Overall length of the column with the female joint is 235 millimeters.) The female fitting should be equipped with glass hooks.

Disc. Tetrafluoroethylene polymer 2-inch diameter disk approximately $\frac{1}{8}$-inch thick with a hole bored in the center to closely fit the stem of the chromatographic tube.

Suction flask. 250-milliliter or 500-milliliter filter flask.

Condenser. 24/40 joints, fitted with a drying tube, length optional.

Evaporation flask (optional). 250-milliliter or 500-milliliter capacity all-class flask equipped with standard taper stopper having inlet and outlet tubes to permit passage of nitrogen across the surface of contained liquid to be evaporated.

Spectrophotometric cells. Fused quartz cells, optical path length in the range of 5,000 centimeter ±0.005 centimeter; also for checking spectrophotometer performance only, optical path length in the range 1,000 centimeter ±0.005 centimter. With distilled water in the cells, determine any absorbance differences.

Spectrophotometer. Spectral range 250 millimicrons—400 millimicrons with spectral slit width of 2 millimicrons or less; under instrument operating conditions for these absorbance measurements, the spectrophotometer shall also meet the following performance requirements:

Absorbance repeatability, ±0.01 at 0.4 absorbance.

Absorbance accuracy,[1] ±0.005 at 0.4 absorbance.

[1] As determined by procedure using potassium chromate for reference standard and described in National Bureau of Standards Circular 484. Spectrophotometry, U.S. Department of Commerce, 1949. The accuracy is to be determined by comparison with the standard values at 290, 345, and 400 millimicrons.

Wavelength accuracy, ±1.0 millimicron.

Wavelength accuracy, ±1.0 millimicron.

Nitrogen cylinder. Water-pumped or equivalent purity nitrogen in cylinder equipped with regulator and valve to control flow at 5 p.s.i.g.

REGENTS AND MATERIALS

Organic solvents. All solvents used throughout the procedure shall meet the specifications and tests described in this specification. The isooctane, benzene, acetone, and methyl alcohol designated in the list following this paragraph shall pass the following test:

To the specified quantity of solvent in a 250-milliliter Erlenmeyer flask, add 1 milliliter of purified n-hexadecane and evaporate on the steam bath under a stream of nitrogen (a loose aluminum foil jacket around the flask will speed evaporation). Discontinue evaporation when not over 1 millilliter of residue remains. (To the residue from benzene add a 10-millilliter portion of purified isooctane, reevaporate, and repeat once to insure complete removal of benzene.)

Alternatively, the evaporation time can be reduced by using the optional evaporation flask. In this case the solvent and n-hexadecane are placed in the flask on the steam bath, the tube assembly is inserted, and a stream of nitrogen is fed through the inlet tube while the outlet tube is connected to a solvent trap and vacuum line in such a way as to prevent any flow-back of condensate into the flask.

Dissolve the 1 millilliter of hexadecane residue in isooctane and make to 25 millilliters volume. Determine the absorbance in the 5-centimeter path length cells compared to isooctane as reference. The absorbance of the solution of the solvent residue (except for methyl alcohol) shall not exceed 0.01 per centimeter path length between 280 and 400 mμ. For methyl alcohol this absorbance value shall be 0.00.

Isooctane (2,2,4-trimethylpentane). Use 180 millilliters for the test described in the preceding paragraph. Purify, if necessary, by passage through a column of activated silica gel (Grade 12, Davison Chemical Company, Baltimore, Maryland, or equivalent) about 90 centimeters in length and 5 centimeters to 8 centimeters in diameter.

Benzene, A.C.S. reagent grade. Use 150 millilliters for the test. Purify, if necessary, by distillation or otherwise.

Acetone, A.C.S. reagent grade. Use 200 millilliters for the test. Purify, if necessary, by distillation.

Eluting mixtures:

1. *10 percent benzene in isooctane.* Pipet 50 millilliters of benzene into a 250-millilliter glass-stoppered volumetric flask and adjust to volume with isooctane, with mixing.

2. *20 percent benzene in isooctane.* Pipet 50 millilliters of benzene into a 250-milliliter glass-stopped volumetric flask and adjust to volume with isooctane, with mixing.

3. *Acetone-benzene-water mixture.* Add 20 millilliters of water to 380 millilliters of acetone and 200 millilliters of benzene, and mix.

n-Hexadecane, 99-percent olefin-free. Dilute 1.0 millilliter of n-hexadecane to 25 milliliters with isooctane and determine the absorbance in a 5-centimeter cell compared to isooctane as reference point between 280 mμ-400 mμ. The absorbance per centimeter path length shall not exceed 0.00 in this range. Purify, if necessary, by percolation through activated silica gel or by distillation.

Methyl alcohol, A.C.S. reagent grade. Use 10.0 millilliters of methyl alcohol. Purify, if necessary, by distillation.

Dimethyl sulfoxide. Spectrophotometric grade (Crown Zellerbach Corporation, Camas, Washington, or equivalent). Absorbance

(1-centimeter cell, distilled water reference

Place 300 millilliters of dimethyl sulfoxide, steam bath under a stream of nitrogen to

times with 300-milliliter portions of distilled water, shaking well for each wash. (The ad-

I. *Apparatus.* A. Assorted beakers, separatory funnels fitted with tetrafluoroethylene

erence. The absorbance of the solution of solvent residue shall not exceed 0.05 between

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(1-centimeter cell, distilled water reference, sample completely saturated with nitrogen).

Wavelength:	*Absorbance (maximum)*
261.5	1.00
270	.20
275	.09
280	.06
300	.015

There shall be no irregularities in the absorbance curve within these wavelengths.

Phosphoric acid. 85 percent A.C.S. reagent grade.

Sodium borohydride. 98 percent.

Magnesium oxide (Sea Sorb 43, Food Machinery Company, Westvaco Division, distributed by chemical supply firms, or equivalent). Place 100 grams of the magnesium oxide in a large beaker, add 700 milliliters of distilled water to make a thin slurry, and heat on a steam bath for 30 minutes with intermittent stirring. Stir well initially to insure that all the adsorbent is completely wetted. Using a Buchner funnel and a filter paper (Schleicher & Schuell No. 597, or equivalent) of suitable diameter, filter with suction. Continue suction until water no longer drips from the funnel. Transfer the adsorbent to a glass trough lined with aluminum foil (free from rolling oil). Break up the magnesia with a clean spatula and spread out the adsorbent on the aluminum foil in a layer about 1 centimeter to 2 centimeters thick. Dry for 24 hours at 160° C ±1° C. Pulverize the magnesia with mortar and pestle. Sieve the pulverized adsorbent between 60–180 mesh. Use the magnesia retained on the 180-mesh sieve.

Celite 545. Johns Mansville Company, diatomaceous earth, or equivalent.

Magnesium oxide-Celite 545 mixture (2+1) by weight. Place the magnesium oxide (60–180 mesh) and the Celite 545 in 2 to 1 proportions, respectively, by weight in a glass-stoppered flask large enough for adequate mixing. Shake vigorously for 10 minutes. Transfer the mixture to a glass trough lined with aluminum foil (free from rolling oil) and spread it out on a layer about 1 centimeter to 2 centimeters thick. Reheat the mixture at 160° C ±1° C for 2 hours, and store in a tightly closed flask.

Sodium sulfate, anhydrous, A.C.S. reagent grade, preferably in granular form. For each bottle of sodium sulfate reagent used, establish as follows the necessary sodium sulfate prewash to provide such filters required in the method: Place approximately 35 grams of anhydrous sodium sulfate in a 30-milliliter course, fritted-glass funnel or in a 65-millimeter filter funnel with glass wool plug; wash with successive 15-milliliter portions of the indicated sovent until a 15-milliliter portion of the wash shows 0.00 absorbance per centimeter path length between 280 m_μ and 400 m_μ when tested as prescribed under "Organic solvents." Usually three portions of wash solvent are sufficient.

Before proceeding with analysis of a sample, determine the absorbance in a 5-centimeter path cell between 250 millimicrons and 400 millimicrons for the reagent blank by carrying out the procedure, without an oil sample, recording the spectra after the extraction stage and after the complete procedure as prescribed. The absorbance per centimeter path length following the extraction stage should not exceed 0.02 in the wavelength range from 280 m_μ to 400 m_μ; the absorbance per centimeter path length following the complete procedure should not exceed 0.02 in the wavelength range from 280 m_μ to 400 m_μ. If in either spectrum the characteristic benzene peaks in the 250 m_μ–260 m_μ region are present, remove the benzene by the procedure under "Organic solvents" and record absorbance again.

Place 300 milliliters of dimethyl sulfoxide in a 1-liter separatory funnel and add 75 milliliters of phosphoric acid. Mix the contents of the funnel and allow to stand for 10 minutes. (The reaction between the sulfoxide and the acid is exothermic. Release pressure after mixing, then keep funnel stoppered.) Add 150 milliliters of isooctane and shake to pre-equilibrate the solvents. Draw off the individual layers and store in glass-stoppered flasks.

Weigh a 20-gram sample of the oil and transfer to a 500-milliliter separatory funnel containing 100 milliliters of pre-equilibrated sulfoxide-phosphoric acid mixture. Complete the transfer of the sample with small portions of preequilibrated isooctane to give a total volume of the oil and solvent of 75 milliliters. Shake the funnel vigorously for 2 minutes. Set up three 250-milliliter separatory funnels with each containing 30 milliliters of pre-equilibrated isooctane.. After separation of liquid phases, carefully draw off lower layer into the first 250-milliliter separatory funnel and wash in tandem with the 30-milliliter portions of isooctane contained in the 250-milliliter separatory funnels. Shaking time for each wash is 1 minute. Repeat the extraction operation with two additional portions of the sulfoxide-acid mixture and wash each extractive in tandem through the same three portions of isooctane

Collect the successive extractives (300 milliliters total) in a separatory funnel (preferably 2-liter) containing 480 milliliters of distilled water; mix, and allow to cool for a few minutes after the last extractive has been added. Add 80 milliliters of isooctane to the solution and extract by shaking the funnel vigorously for 2 minutes. Draw off the lower aqueous layer into a second separatory funnel (preferably 2-liter) and repeat the extraction with 80 milliliters of isooctane. Draw off and discard the aqueous layer. Wash each of the 80-milliliter extractives three times with 100-milliliter portions of distilled water. Shaking time for each wash is 1 minute. Discard the aqueous layers. Filter the first extractive through anhydrous sodium sulfate prewashed with isooctane (see Sodium sulfate under "Reagents and Materials" for preparation of filter) into a 250-milliliter Erlenmeyer flask (or optionally into the evaporation flask). Wash the first separatory funnel with the second 80-milliliter isooctane extractive and pass through the sodium sulfate. Then wash the second and first separatory funnels successively with a 20-milliliter portion of isooctane and pass the solvent through the sodium sulfate into the flask. Add 1 milliliter of *n*-hexadecane and evaporate the isooctane on the steam bath under nitrogen. Discontinue evaporation when not over 1 milliliter of residue remains. To the residue, add a 10-milliliter portion of isooctane, re-evaporate to 1 milliliter of hexadecane, and repeat this operation once.

Quantitatively transfer the residue with isooctane to a 200-milliliter volumetric flask, make to volume, and mix. Determine the absorbance of the solution in the 1-centimeter pathlength cells compared to isooctane as reference between 280 m_μ–400 m_μ (take care to lose none of the solution in filling the sample cell). Correct the absorbance values for any absorbance derived from reagents as determined by carrying out the procedure without an oil sample. If the corrected absorbance does not exceed the limits prescribed in this paragraph, the oil meets the ultraviolet absorbance specifications. If the corrected absorbance per centimeter pathlength exceeds the limits prescribed in this paragraph, proceed as follows: Quantitatively transfer the isooctane solution to a 125-milliliter flask equipped with 24/40 joint, and evaporate the isooctane on the steam bath under a stream of nitrogen to a volume of 1 milliliter of hexadecane. Add 10 milliliters of methyl alcohol and approximately 0.3 gram of sodium borohydride. (Minimize exposure of the borohydride to the atmosphere. A measuring dipper may be used.) Immediately fit a water-cooled condenser equipped with a 24/40 joint and with a drying tube into the flask, mix until the borohydride is dissolved, and allow to stand for 30 minutes at room temperature, with intermittent swirling. At the end of this period, disconnect the flask and evaporate the methyl alcohol on the steam bath under nitrogen until the sodium borohydride begins to come out of the solution. Then add 10 milliliters of isooctane and evaporate to a volume of about 2–3 milliliters. Again, add 10 milliliters of isooctane and concentrate to a volume of approximately 5 milliliters. Swirl the flask repeatedly to assure adequate washing of the sodium borohydride residues.

Fit the tetrafluoroethylene polymer disc on the upper part of the stem of the chromatographic tube, then place the tube with the disc on the suction flask and apply the vacuum (approximately 135 millimeters Hg pressure). Weigh out 14 grams of the 2:1 magnesium oxide-Celite, 545 mixture and pour the adsorbent mixture into the chromatographic tube in approximately 3-centimeter layers. After the addition of each layer, level off the top of the adsorbent with a flat glass rod or metal plunger by pressing down firmly until the adsorbent is well packed. Loosen the topmost few millimeters of each adsorbent layer with the end of a metal rod before the addition of the next layer. Continue packing in this manner until all the 14 grams of the adsorbent is added to the tube. Level off the top of the adsorbent by pressing down firmly with a flat glass rod or metal plunger to make the depth of the adsorbent bed approximately 12.5 centimeters in depth. Turn off the vacuum and remove the suction flask. Fit the 500-milliliter reservoir onto the top of the chromatographic column and prewet the column by passing 100 milliliters of isooctane through the column. Adjust the nitrogen pressure so that the rate of descent of the isooctane coming off the column is between 2–3 milliliters per minute. Discontinue pressure just before the last of the isooctane reaches the level of the adsorbent. (Caution: Do not allow the liquid level to recede below the adsorbent level at any time.) Remove the reservoir and decant the 5-milliliter isooctane concentrate solution onto the column and with slight pressure again allow the liquid level to recede to barely above the adsorbent level. Rapidly complete the transfer similarly with two 5-milliliter portions of isooctane, swirling the flask repeatedly each time to assure adequate washing of the residue. Just before the final 5-milliliter wash reaches the top of the adsorbent, add 100 milliliters of isooctane to the reservoir and continue the percolation at the 2–3 milliliters per minute rate. Just before the last of the isooctane reaches the adsorbent level, add 100 milliliters of 10 percent benzene in isooctane to the reservoir and continue the percolation at the aforementioned rate. Just before the solvent mixture reaches adsorbent level, add 25 milliliters of 20 percent benzene in isooctane to the reservoir and continue the percolation at 2–3 milliliters per minute until all this solvent mixture has been removed from the column. Discard all the elution solvents collected up to this point. Add 300 milliliters of the acetone-benzene-water mixture to the reservoir and percolate through the column to eluate the polynuclear compounds. Collect the eluate in a clean 1-liter separatory funnel. Allow the column to drain until most of the solvent mixture is removed. Wash the eluate three

times with 300-milliliter portions of distilled water, shaking well for each wash. (The addition of small amounts of sodium chloride facilitates separation.) Discard the aqueous layer after each wash. After the final separation, filter the residual benzene through anhydrous sodium sulfate pre-washed with benzene (see Sodium sulfate under "Reagents and Materials" for preparation of filter) into a 250-milliliter Erlenmeyer flask (or optionally into the evaporation flask). Wash the separatory funnel with two additional 20-milliliter portions of benzene which are also filtered through the sodium sulfate. Add 1 milliliter of *n*-hexadecane and completely remove the benzene by evaporation under nitrogen, using the special procedure to eliminate benzene as previously described under "Organic solvents." Quantitatively transfer the residue with isooctane to a 200-milliliter volumetric flask and adjust to volume. Determine the absorbance of the solution in the 1-centimeter pathlength cells compared to isooctane as reference between 250 m_μ–400 m_μ. Correct for any absorbance derived from the reagents as determined by carrying out the procedure without an oil sample. If either spectrum shows the characteristic benzene peaks in the 250 m_μ–260 m_μ region, evaporate the solution to remove benzene by the procedure under "Organic solvents." Dissolve the residue, transfer quantitatively, and adjust to volume in isooctane in a 200-milliliter volumetric flask. Record the absorbance again. If the corrected absorbance does not exceed the limits proposed in this paragraph, the oil meets the proposed ultravioiet absorbance specifications.

(d) Mineral oil identified in paragraph (d)(1) of this section may be used as provided in paragraph (d)(2) of this section.

(1) The mineral oil consists of virgin petroleum distillates refined to meet the following specifications:

(i) Distillation endpoint at 760 millimeters pressure not to exceed 700° F, with a maximum residue not to exceed 2 percent, as determined by ASTM Method D 86–IP 123.

(ii) Ultraviolet absorbance limits as follows as determined by the method described in paragraph (d)(3) of this section.

Wavelength (m_μ):	*Maximum absorbance per centimeter optical pathlength*
280 to 399	2.3
300 to 819	1.2
820 to 359	.6
360 to 400	.3

(iii) Pyrene content not to exceed a maximum of 25 parts per million as determined by the method described in paragraph (d)(3) of this section.

(2) The mineral oil may be used only in the processing of jute fiber employed in the production of textile bags intended for use in contact with the following types of food: Dry grains and dry seeds (for example, beans, peas, rice, and lentils); whole root crop vegetables of the types identified in 40 CFR 180.34 (f); unshelled and shelled nuts (including peanuts); and dry animal feed. The finished processed jute fiber shall contain no more than 6 percent by weight of residual mineral oil.

(3) The analytical method for determining ultraviolet absorbance limits and pyrene content is as follows:

I. *Apparatus.* A. Assorted beakers, separatory funnels fitted with tetrafluoroethylene polymer stopcocks, and graduated cylinders.

B. Volumetric flasks, 200-milliliter.

C. A chromatographic column made from nominal 1.3 centimeters outside diameter x 75 centimeters glass tubing tapered at one end and joined to a 2-millimeter-bore tetrafluorethylene polymer stopcock. The opposite end is flanged and joined to a female 24/40 standard taper fitting. This provides for accommodating the 500-milliliter reservoir described in item E below.

D. A chromatographic column made from nominal 1.7 centimetrs outside diameter x 115 centimeters glass tubing tapered at one end and joined to a 2-millimeter-bore tetrafluorethylene polymer stopcock. The opposite end is flanged and joined to a 2.5 centimeters outside diameter x 9.0 centimeters glass tube having a female 24/40 standard taper fitting. This provides for accommodating the 500-milliliter reservoir described in item I. E below.

E. A 500-milliliter reservoir having a 24/40 standard taper male fitting at bottom and a suitable ball joint at the top for connecting to the nitrogen supply. The female fitting of the chromatographic columns described in items I. C and D above and the male fitting of the reservoir described in this item E should both be equipped with glass hooks.

(NOTE: Rubber stoppers are not to be used. Stopcock grease is not to be used on ground-glass joints in this method.)

F. A spectrophotometer equipped to automatically record absorbance of liquid samples in 1-centimeter pathlength cells in the spectral region of 280–400 m_μ with a spectral slit width of 2 m_μ or less. At an absorbance level of about 0.4, absorbance measurements shall be repeatable within ±0.01 and accurate within ±0.05. Wavelength measurements shall be repeatable with ±0.2 m_μ and accurate within ±1.0 m_μ. Instrument operating conditions are selected to realise this performance under dynamic (automatic) recording operations. Accuracy of absorbance measurements are determined at 290, 345, and 400 m_μ, using potassium chromate as the reference standard. (National Bureau of Standards Circular 484, Spectrophotometry, U.S. Department of Commerce, 1949.)

G. Two fused quartz cells having pathlengths of 1.00±0.005 centimeter or better.

II. *Purity of reagents and materials.* Reagent-grade chemicals shall be used in all tests. It is further specified that each chemical shall be tested for purity in accordance with the instruction given under "Reagents and Materials" in III below. In addition, a blank run by the procedure shall be made on each purified lot of reagents and materials. Unless otherwise indicated, references to water shall be understood to mean distilled water.

III. *Reagents and materials* — A. *Organic solvents.* All solvents used throughout the procedure shall meet the specifications and tests described in this section III. The isooctane, benzene, cyclohexane, nitromethane, and *n*-hexadecane designated shall pass the following test: To the specified quantity of solvent in a 150-milliliter beaker, add 1 milliliter of purified *n*-hexadecane and evaporate on the steam bath under a stream of nitrogen. Discontinue evaporation when not over 1 milliliter of residue remains (to the residue from benzene and nitromethane add a 10-milliliter portion of purified isooctane, re-evaporate, and repeat once to insure complete removal of solvent). Dissolve the 1 milliliter of *n*-hexadecane residue in isooctane and make to 10-milliliter volume. Determine the absorbance in 1.0-centimeter pathlength cells compared to water as reference. The absorbance of the solution of solvent residue shall not exceed 0.05 between 280 and 400 m_μ.

1. *Isooctane (2,2,4-trimethylpentane).* Use 240 milliliters for the above test. Purify, if necessary, by passage through a column of activated silica gel.

2. *Benzene.* Use 200 milliliters for the above test. Purify, if necessary, by distillation or otherwise.

3. *Cyclohexane.* Use 70 milliliters for the above test. Purify, if necessary, by distillation, silica gel percolation, or otherwise.

4. *Nitromethane.* Use 125 milliliters for the above test. Purify, if necessary, by distillation or otherwise.

5. *n-Hexadecane.* Determine the absorbance on this solvent directly. Purify, if necessary, by silica gel percolation or otherwise.

B. *Other materials*—1. *Pyrene standard reference.* Pyrene, reagent grade, melting point range 150–152° C. (Organic Chemical 3627, Eastman Kodak Co., Rochester, N.Y., or equivalent). The standard reference absorbance is the absorbance at 334 millimicrons of a standard reference solution of pyrene containing a concentration of 1.0 milligram per liter in purified isooctane measured against isooctane of the same spectral purity in 1.0-centimeter cells. (This absorbance will be approximately 0.28.)

2. *Chrysene solution.* Prepare a solution at a concentration of 5.0 milligrams per liter by dissolving 5.0 milligrams of chrysene in purified isooctane in a 1-liter volumetric flask. Adjust to volume with isooctane.

3. *Nitrogen gas.* Water pumped or equivalent purity, cylinder with regulator, and valve control flow at 5 p.s.i.

4. *Silica gel.* 100–200 mesh (Davison Chemical, Baltimore, Md., Grade 923, or equivalent), purified and activated by the following procedure: Place about 1 kilogram of silica gel in a large column and wash with contaminant-free benzene until a 200-milliliter sample of the benzene coming off the column will pass the ultraviolet absorption test for benzene. This test is performed as stipulated under "Organic solvents" in A under III above. When the silica gel has been sufficiently cleaned, activate the gel before use by placing the 1-kilogram batch in a shallow container in a layer no greater than 1 inch in depth and heating in an oven (Caution! Explosion Hazard) at 130° C. for 16 hours, and store in a vacuum desiccator. Reheating about once a week is necessary if the silica gel is repeatedly removed from the desiccator.

5. *Aluminum oxide (Aluminum Co. of America, Grade F–20, or equivalent grade).* 80–200 mesh, purified and activated by the following procedure: Place about 1 kilogram of aluminum oxide in a large column and wash with contaminant-free benzene until a 200-milliliter sample of the benzene coming off the column will pass the ultraviolet absorption test for benzene. This test is performed as stipulated under "Organic solvents" in A under III above. (Caution! Remove Benzene From Adsorbent Under Vacuum To Minimize Explosion Hazard in Subsequent Heating!) When the aluminum oxide has been sufficiently cleaned and freed of solvent, activate it before use by placing the 1-kilogram batch in a shallow container in a layer no greater than 1 inch in depth. Heat in a oven at 130° C for 16 hours. Upon removal from heat, store at atmospheric pressure over 60 percent (by weight) sulfuric acid in a desiccator for at least 36 hours before use. This gives aluminum oxide with between 6 to 9.5 percent volatiles. This is determined by heating a weighed sample of the prepared aluminum oxide at 2,000° F for 2 hours and then quickly reweighing. To insure the proper adsorptive properties of the aluminum oxide, perform the following test:

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a. Weigh 50 grams ±1 gram of the activated aluminum oxide and pack into the chromatographic column (1.3 centimeters x 75 centimeters) described under "Apparatus" in C under I above. Use glass wool at the column exit to prevent the aluminum oxide from passing through the column.

b. Place a 250-milliliter graduated cylinder under the column to measure the amount of eluate coming from the column.

c. Prewet the aluminum oxide by passing 40 milliliters of isooctane through the column. Adjust the nitrogen pressure so that the rate of descent of the isooctane coming off the column is between 1.5 to 2.5 milliliters per minute.

d. Just prior to the last of the isooctane reaching the top of the aluminum oxide bed, add 10 milliliters of the isooctane solution containing 5.0 milligrams of chrysene per liter.

e. Continue percolation until the isooctane is just above the aluminum oxide. Then add 200 milliliters of a mixture of benzene and isooctane (33⅓ percent benzene and 66⅔ percent isooctane by volume) to the reservoir and continue percolation.

f. Continue percolation, collecting the eluates (40 milliliters of the prewet solution, 10 milliliters of the sample solution, and 200 milliliters of the gradient solution) in the 250-milliliter graduated cylinder until the level of the gradient solution is just above the aluminum oxide. Add 200 milliliters of the eluting solution of benzene and isooctane (90 percent benzene and 10 percent isooctane by volume) to the column and continue collecting until a total of 250 milliliters of solution has been obtained. This may be discarded. Now begin to collect the final eluate.

g. Place a 100-milliliter graduated cylinder under the column and continue the percolation until a 100-milliliter eluate has been obtained.

h. Measure the amount of chrysene in this 100-milliliter fraction by ultraviolet analysis. If the aluminum oxide is satisfactory, more than 80 percent of the original amount of chrysene should be found in this fraction. (NOTE: If the amount of chrysene recovered is less than 80 percent, the original batch of aluminum oxide should be sieved between 100–160 mesh. Activation and testing of this sieved batch should indicate a satisfactory aluminum oxide for use.)

IV. *Sampling.* Precautions must be taken to insure that an uncontaminated sample of the mineral oil is obtained since ultraviolet absorption is very sensitive to small amounts of extraneous material contaminating the sample through careless handling.

V. *Procedure.* A. *Blank.* Before proceeding with the analysis of a sample, determine the absorbance of the solvent residues by carrying out the procedure without a sample.

B. *Sample.* 1. Weigh out 20.0 grams ±0.1 gram of the mineral oil into a beaker and transfer to a 250-milliliter separatory funnel fitted with a tetrafluoroethylene polymer stopcock, using enough cyclohexane (25 milliliters) to give a final total volume of 50 milliliters (mineral oil plus cyclohexane).

2. Add 25 milliliters of nitromethane saturated with cyclohexane and shake by hand vigorously for 3 minutes. Recover the lower nitromethane layer in a 150-milliliter beaker containing 1 milliliter of *n*-hexadecane and evaporate on the steam bath under nitrogen. Repeat the extraction four more times, recovering each extract in the 150-milliliter beaker. Exercise care not to fill the beaker to such a capacity that solvent losses may occur. Evaporate the combined nitromethane extracts to 1 milliliter of *n*-hexadecane residue containing the nitromethane-soluble mineral oil extractives. (NOTE: Complete removal of the nitromethane is essential. This can be assured by two successive additions of 5 milliliters of isooctane and reevaporation.)

3. Remove the beaker from the steam bath and allow to cool.

4. Weigh 50 grams ±1 gram of activated aluminum oxide and pack into the chromatographic column (1.3 centimeters x 75 centimeters) described under "Apparatus" in C under I above. (NOTE: A small plug of glass wool is placed at the column exit to prevent the aluminum oxide from passing through the column. After adding aluminum oxide, tap the column lightly to remove air voids. All percolations using aluminum oxide are performed under nitrogen pressure. The 500-milliliter reservoir described under "Apparatus" in E under I above is to be used to hold the elution solvents.)

5. Prewet the column by adding 40 milliliters of isooctane to the column. Adjust nitrogen pressure so that rate of descent of the isooctane coming off the column is 2.0 to 3.0 milliliters per minute. Be careful to maintain the level of solvent in the reservoir to prevent air from entering the aluminum oxide bed. New or additional solvent is added just before the last portion of the previous solvent enters the bed. To minimize possible photo-oxidation effects, the following procedures (steps 6 through 18) shall be carried out in subdued light.

6. Before the last of the isooctane reaches the top of the aluminum oxide bed, release the nitrogen pressure and turn off the stopcock on the column. Transfer the *n*-hexadecane residue from the 150-milliliter beaker from procedure step 3 above onto the column, using several washes of isooctane (total volume of washes should be no greater than 10–15 milliliters).

7. Open the stopcock and continue percolation until the isooctane is about 1 centimeter above the top of the aluminum oxide bed. Add 200 milliliters of isooctane to the reservoir, and continue the percolation at the specified rate.

8. Just before the isooctane surface reaches the top of the aluminum oxide bed, add 200 milliliters of a mixture of benzene and isooctane (33⅓ percent benzene and 66⅔ percent isooctane by volume) to the reservoir, and continue the percolation.

9. Just before the surface of this mixture reaches the top of the aluminum oxide bed, release the nitrogen pressure, turn off the stopcock, and discard all the elution solvents collected up to this point.

10. Add to the reservoir 300 milliliters of a mixture of benzene and isooctane (90 percent benzene and 10 percent isooctane by volume), place a 25-milliliter graduated cylinder under the column, continue the percolation until 20 milliliters of eluate has been collected, and then discard the eluate.

11. At this point, place a clean 250-milliliter Erlenmeyer flask under the column. Continue the percolation and collect all the remaining eluate.

(NOTE: Allow the column to drain completely. An increase in the nitrogen pressure may be necessary as the last of the solvent comes off the column.)

12. Place 1 milliliter of *n*-hexadecane into a 150-milliliter beaker. Place this onto a steam bath under a nitrogen stream and transfer in small portions the eluate from step 11 above. Wash out the Erlenmeyer flask with small amounts of benzene and transfer to the evaporation beaker. Evaporate until only 1 milliliter of hexadecane residue remains. (NOTE: Complete removal of the benzene is essential. This can be assured by two successive additions of 5 milliliters of isooctane and reevaporation.)

13. Remove the beaker from the steam bath and cool.

14. Place a sample of 113.5 grams activated 100- 200-mesh silica gel in a 500-milliliter glass-stoppered Erlenmeyer flask. Add to the silica gel 46.2 grams (41 milliliters) of nitromethane. Stopper and shake the flask vigorously until no lumps of silica gel are observed and then shake occasionally during a period of 1 hour. The resultant nitromethane-treated silica gel is 29 weight-percent nitromethane and 71 weight-percent silica gel.

15. Place a small plug of glass wool in the tapered end of the 1.7 centimeters outside diameter x 115 centimeters column, described under "Apparatus" in D of I above, adjacent to the stopcock to prevent silica gel from passing through the stopcock. Pack the nitromethane-treated silica gel into the column, tapping lightly. The resultant silica gel bed should be about 95 centimeters in depth. Place into a flask 170 milliliters of isooctane saturated with nitromethane.

16. Place a 100-milliliter graduated cylinder under the column and transfer the residue from the beaker in procedure step 13 above with several washes of the 170 milliliters of isooctane, saturated with nitromethane, onto the top of the column. (Total volume of washes should be no greater than 10 to 15 milliliters.) Permit isooctane solution to enter the silica gel bed until the liquid level is at the top bed level. Place the remaining amount of the 170 milliliters of isooctane, saturated with nitromethane, in the reservoir above the bed for percolation through the silica gel. Apply nitrogen pressure to the top of the column, adjusting the pressure so that the isooctane is collected at the rate of 2.5 to 3.5 milliliters per minute, and percolate isooctane through the bed until a quantity of 75.0 milliliters of eluate is collected. Discard the 75 milliliters of eluate. Turn off the stopcock and add 250 milliliters of benzene to the reservoir above the bed. Use a 400-milliliter beaker to collect the remaining eluate.

17. Open the stopcock, renew the pressure, and percolate the remaining isooctane and benzene through the column eluting the remaining aromatics. Transfer the eluate in small portions from the 400 milliliter beaker to a 150-milliliter beaker containing 1 milliliter of *n*-hexadecane and evaporate on the steam bath under nitrogen. Rinse the 400-milliliter beaker well with small portions of isooctane to obtain a complete transfer.

(NOTE: Complete removal of the nitromethane and benzene is essential. This can be assured by successive additions of 5 milliliters of isooctane and reevaporation.)

18. Transfer the residue with several washes of isooctane into a 200-milliliter volumetric flask. Add isooctane to mark.

19. Record the spectrum of the sample solution in a 1-centimeter cell compared to isooctane from 270 to 400 mμ. After making necessary corrections in the spectrum for cell differences and for the blank absorbance, record the maximum absorbance in each of the wavelength intervals (mμ), 280–289, 290–299, 300–319, 320–359, 360–400.

a. If the spectrum then shows no discernible peak corresponding to the absorbance maximum of the pyrene reference standard solution at 334 mμ, the maximum absorbances in the respective wavelength intervals recorded shall not exceed those prescribed in paragraph (d)(1)(ii) of this section.

b. If such a peak is evident in the spectrum of the sample solution, and the spectrum as a whole is not incompatible with that of a pyrene contaminant yielding such a peak of the observed absorbance, calculate the concentration of pyrene that would yield this peak (334 mμ) by the base-line technique described in ASTM Method E-169-60T. Correct each of the maximum absorbances in the respective specified wavelength intervals by subtracting the absorbance due to pyrene, determined as follows:

$$\text{Absorbance due to pyrene} = \frac{Cp \times Sa}{Sp}$$

Where:

Cp=Calculated concentration of pyrene in sample solution;

Sp=Concentration of pyrene reference standard solution in same units of concentration;

Sa=Absorbance of pyrene reference standard solution at wavelength of maximum absorbance of sample solution in the respective specified wavelength intervals.

Also calculate the pyrene content of the oil sample in parts per million as follows:

$$\text{Pyrene content (p.p.m.)} = \frac{200/1000 \times C}{20/1000} = 10C.$$

Where:

C=Calculated concentration of pyrene in milligrams per liter of sample solution.

c. The pyrene content so determined shall not exceed 25 p.p.m. The maximum absorbances corrected for pyrene content as described in this step 19 for each of the specified wavelength intervals shall not exceed the limits prescribed in paragraph (d)(1)(ii) of this section.

d. If the spectrum as a whole of the sample solution is in any respect clearly incompatible with the presence of pyrene as the source of the peak at 334 mμ, then the maximum absorbances in the respective wavelength intervals without correction for any assumed pyrene content shall not exceed the limits prescribed in paragraph (d)(1)(ii) of this section.

§ 178.3650 Odorless light petroleum hydrocarbons.

Odorless light petroleum hydrocarbons may be safely used, as a component of nonfood articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) The additive is a mixture of liquid hydrocarbons derived from petroleum or synthesized from petroleum gases. The additive is chiefly paraffinic, isoparaffinic, or naphthenic in nature.

(b) The additive meets the following specifications:

(1) Odor is faint and not kerosenic.

(2) Initial boiling point is 300° F minimum.

(3) Final boiling point is 650° F maximum.

(4) Ultraviolet absorbance limits determined by method specified in § 178.3620(b)(1)(ii), as follows:

Wavelength (Mμ):	*Maximum absorbance per centimeter optical pathlength*
280 to 289	4.0
290 to 299	3.3
300 to 329	2.3
330 to 360	.8

(c) The additive is used as follows:

Use	*Limitations*
As a plasticizer and absorber oil in the manufacture of polyolefin articles authorized for food contact use.	In an amount not to exceed that required to produce intended effect, consistent with good manufacturing practice.
As a lubricant of fibers of textiles authorized for food contact use.	At a use level not to exceed 0.15 percent by weight of finished fibers.
As a component of adhesives	Complying with § 175.105 of this chapter.
As a defoamer in the manufacture of paper and paperboard.	Complying with § 176.210 of this chapter.
As a defoamer in coatings	Complying with § 176.200 of this chapter.

§ 178.3700 Petrolatum.

Petrolatum may be safely used as a component of nonfood articles in contact with food, in accordance with the following conditions:

(a) Petrolatum complies with the specifications set forth in the U.S. Pharmacopeia XVII for white petrolatum or in The National Formulary XII for yellow petrolatum.

(b) Petrolatum meets the following ultraviolet absorbance limits when subjected to the analytical procedure described in § 172.886(b) of this chapter:

Ultraviolet absorbance per centimeter path length:

Millimicrons:	*Maximum*
280 to 289	0.25
290 to 299	.20
300 to 359	.14
360 to 400	.04

(c) It is used or intended for use as a protective coating of the surfaces of metal or wood tanks used in fermentation process, in an amount not in excess of that required to produce its intended effect.

(d) Petrolatum as defined by this section may be used for the functions described and within the limitations prescribed by specific regulations in Parts 175, 176, 177, and 178 of this chapter which prescribe uses of petrolatum. For the purpose of cross-reference, such specific regulations include: §§ 175.105, 175, 176, 177, and 178 of this chapter 177.2600, and 177.2800 of this chapter and § 178.3570.

(e) Petrolatum may contain any antioxidant permitted in food by regulations issued pursuant to section 409 of the act, in an amount not greater than that required to produce its intended effect.

§ 178.3710 Petroleum wax.

Petroleum wax may be safely used as a component of nonfood articles in contact with food, in accordance with the following conditions:

(a) Petroleum wax is a mixture of solid hydrocarbons, paraffinic in nature, derived from petroleum, and refined to meet the specifications prescribed in this section.

(b) The petroleum wax meets the following ultraviolet absorbance limits when subjected to the analytical procedure described in § 172.886(b) of this chapter.

Ultraviolet absorbance per centimeter path length:

Millimicrons:	*Maximum*
280 to 289	0.15
290 to 299	.12
300 to 359	.08
360 to 400	.02

(c) Petroleum wax may contain any antioxidant permitted in food by regulations issued in accordance with section 409 of the act, in an amount not greater than that required to produce its intended effect.

(d) Petroleum wax may contain a total of not more than 1 weight percent of residues of the following polymers when such residues result from use of the polymers as processing aids (filter aids) in the production of the petroleum wax. Homopolymers and/or copolymers derived from one or more of the mixed *n*-alkyl (C_{12}, C_{14}, C_{16}, and C_{18}) methacrylate esters where the C_{12} and C_{14} alkyl groups are derived from coconut oil and the C_{16} and C_{18} groups are derived from tallow.

(e) Petroleum wax may contain 2-hydroxy-4-*n*-octoxybenzophenone as a stabilizer at a level not to exceed 0.01 weight percent of the petroleum wax.

§ 178.3720 Petroleum wax, synthetic.

Synthetic petroleum wax may be safely used in applications and under the same conditions where naturally derived petroleum wax is permitted in Subchapter B of this chapter as a component of articles intended to contact food, provided that the synthetic petroleum wax meets the definition and specifications prescribed in § 172.888 of this chapter.

§ 178.3730 Piperonyl butoxide and pyrethrins as components of bags.

Piperonyl butoxide in combination with pyrethrins may be safely used for insect control on bags that are intended for use in contact with dried feed in compliance with §§ 561.310 and 561.340 of this chapter, or that are intended for use

in contact with dried food in compliance articles or components of articles in-

Substances	*Limitations*
Diisopropyl adipate	For use only at levels not exceeding 43 pct. by weight of permitted vinyl

§ 178.3770 Polyhydric alcohol diesters of oxidatively refined (Gersthoffen

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in contact with dried food in compliance with §§ 193.60 and 193.390 of this chapter.

§ 178.3740 Plasticizers in polymeric substances.

Subject to the provisions of this regulation, the substances listed in paragraph (b) of this section may be safely used as plasticizers in polymeric substances used in the manufacture of articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food.

(a) The quantity used shall not exceed the amount reasonably required to accomplish the intended technical effect.

(b) List of substances:

Substances	*Limitations*
Butylbenzyl phthalate	For use only: 1. As provided in §§ 175.105 and 176.180 of this chapter. 2. In polymeric substances used in food-contact articles complying with §§ 175.300, 175.320, or 176.170 of this chapter: *Provided*, That the butyl benzyl phthalate contains not more than 1 percent by weight of dibenzyl phthalate. 3. In polymeric substances used in other permitted food-contact articles: *Provided*, That the butyl benzyl phthalate contains not more than 1 percent by weight of dibenzyl phthalate; and *Provided further*, That the finished food-contact article, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 175.300(d) of this chapter, shall yield net chloroform-soluble extractives not to exceed 0.5 mg. per square inch, as determined by the methods prescribed in § 175.300(e) of this chapter.
1,3-Butylene glycoladipic acid polyester (1,700–2,200 molecular weight) terminated with a 16 percent by weight mixture of myristic, palmitic, and stearic acids.	For use only under the conditions listed below, and excluding use as a component of resinous and polymeric coatings described in § 175.300 of this chapter. 1. At levels not to exceed 24 percent by weight of permitted vinyl chloride homo- and/or copolymers used in contact with nonfatty foods. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch. 2. At levels not to exceed 24 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact, under conditions of use F and G described in table 2 of § 176.170(c) of this chapter, with fatty foods having a fat and oil content not exceeding a total of 40 pct by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch. 3. At levels not exceeding 35 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact with nonfatty foods. The average thickness of such polymer in the form in which they contact food shall not exceed 0.002 inch. 4. At levels not exceeding 35 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact, under conditions of use F and G described in table 2 of § 176.170(c) of this chapter with fatty foods having a fat and oil content not exceeding a total of 40 pct by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.002 inch.
Di(C7, C9-alkyl) adipate, in which the C7, C9 alkyl groups are derived from linear alpha olefins by the oxo process.	
Di-n-alkyl adipate made from C6-C7-C8, (predominately C6 and C8) or C7-C9 synthetic fatty alcohols complying with § 172.864 of this chapter.	For use only: 1. At levels not exceeding 24 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact with nonfatty foods. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch. 2. At levels not exceeding 24 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact, under conditions of use F and G described in table 2 of § 176.170(c) of this chapter, with fatty foods having a fat and oil content not exceeding a total of 40 pct by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch. 3. At levels not exceeding 35 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact with nonfatty foods. The average thickness of such polymers in the form in which they contact food shall not exceed 0.002 inch. 4. At levels not exceeding 35 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact, under conditions of use F and G described in table 2 of § 176.170(c) of this chapter with fatty foods having a fat and oil content not exceeding a total of 40 pct by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.002 inch.
Dicyclohexyl phthalate	For use only: 1. As provided in §§ 175.105, 176.170, 176.180, and 177.1200 of this chapter. 2. Alone or in combination with other phthalates, in plastic film or sheet prepared from polyvinyl acetate, polyvinyl chloride, and/or vinyl chloride copolymers complying with § 177.1980 of this chapter. Such plastic film or sheet shall be used in contact with food at temperatures not to exceed room temperature and shall contain no more than 10 pct by weight of total phthalates, calculated as phthalic acid.
Di(2-ethylhexyl) adipate Diisononyl adipate	For use only: 1. At levels not exceeding 24 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact with nonfatty, nonalcoholic foods. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch. 2. At levels not exceeding 24 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact under conditions of use F and G described in table 2 of § 176.170(c) of this chapter with fatty, nonalcoholic foods having a fat and oil content not exceeding a total of 30 pct by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch. 3. At levels not exceeding 35 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact with nonfatty, nonalcoholic foods. The average thickness of such polymers in the form in which they contact food shall not exceed 0.002 inch. 4. At levels not exceeding 35 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact, under conditions of use F and G described in table 2 of § 176.170(c) of this chapter with fatty, nonalcoholic foods having a fat and oil content not exceeding a total of 40 pct by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.002 inch.

Substances	*Limitations*
Diisononyl phthalate	For use only at levels not exceeding 43 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact with food only of the types identified in § 176.170(c) of this chapter, Table 1, under categories I, II, IV–B, and VIII, at temperatures not exceeding room temperature. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch.
Di(2-ethylhexyl) azelate	For use only: 1. At levels not exceeding 24 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact with nonfatty, nonalcoholic food. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch. 2. At levels not exceeding 24 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact, under conditions of use F and G described in table 2 of § 175.170(c) of this chapter, with fatty, nonalcoholic food having a fat and oil content not exceeding a total of 30 percent by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch.
Di-n-hexyl azelate	For use only: 1. In polymeric substances used in contact with nonfatty food. 2. In polymeric substances used in contact with fatty food and limited to use at levels not exceeding 15 pct by weight of such polymeric substance except as provided under limitation 3. 3. At levels greater than 15 but not exceeding 24 pct by weight of permitted vinyl chloride homo- and/or copolymers used in contact, under conditions of use F or G described in table 2 of § 176.170(c) of this chapter, with fatty food having a fat and oil content not exceeding a total of 30 pct by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch.
Dihexyl phthalate	For use only: 1. As provided in § 175.105 of this chapter. 2. In articles that contact food only of the types identified in § 176.170(c) of this chapter, table 1, under categories I, II, IV–B, VI–B, and VIII.
Diphenyl phthalate	For use only: 1. As provided in § 175.105 of this chapter. 2. Alone or in combination with other phthalates, in plastic film or sheet prepared from polyvinyl acetate, polyvinyl chloride, and/or vinyl chloride copolymers complying with § 177.1980 of this chapter. Such plastic film or sheet shall be used in contact with food at temperatures not to exceed room temperature and shall contain no more than 10 pct by weight of total phthalates, calculated as phthalic acid.
Epoxidized butyl esters of linseed oil fatty acids.	Iodine number, maximum 5; oxirane oxygen, minimum 7.8 pct.
Epoxidized linseed oil	Iodine number, maximum 5; oxirane oxygen, minimum 9 pct.
Mineral oil, white	For use only: 1. In polymeric substances used in contact with non-fatty food. 2. In polyethylene complying with § 177.1520 of this chapter and used in contact with fatty food, provided that the hydrogenated polybutene is added in an amount not to exceed 0.5 pct by weight of the polyethylene, and further provided that such plasticized polyethylene shall not be used as a component of articles intended for packing or holding food during cooking. 3. In polystyrene complying with § 177.1640 of this chapter and used in contact with fatty food, provided that the hydrogenated polybutene is added in an amount not to exceed 5 pct by weight of the polystyrene, and further provided that such plasticized polystyrene shall not be used as a component of articles intended for packing or holding food during cooking.
Polybutene, hydrogenated (minimum viscosity at 210° F. 20 Saybolt Universal seconds, as determined by ASTM Methods D–445 and D–2161; and bromine number of 3 or less, as determined by ASTM Method D–1492).	
Polyisobutylene (mol weight 300–5,000).	For use in polyethylene complying with § 177.1520 of this chapter, provided that the polyisobutylene is added in an amount not exceeding 0.5 pct by weight of the polyethylene, and further provided that such plasticized polyethylene shall not be used as a component of articles intended for packing or holding food during cooking.
Polyisobutylene complying with § 177.1420 of this chapter.	
Propylene glycol azelate (average mol. weight 3,000).	For use only at levels not exceeding 41 pct by weight of permitted polyvinyl chloride coatings. Such coatings shall be used only as bulk food contact surfaces of articles intended for repeated use, complying with § 177.2600 of this chapter.
Triethylene glycol 2,2,4-Trimethyl-1, 3-pentanediol diisobutyrate.	Diethylene glycol content not to exceed 0.1 pct. For use only in cellulosic plastics in an amount not to exceed 15 pct by weight of the finished food-contact article, provided that the finished plastic article contacts food only of the types identified in § 176.170(c) of this chapter, table 1, under categories I, II, VI–B, VII–B, and VIII.

(c) The use of the plasticizers in any polymeric substance or article subject to any regulation in Parts 174, 175, 176, 177, 178 179 of this chapter must comply with any specifications and limitations prescribed by such regulation for the finished form of the substance or article.

§ 178.3750 Polyethylene glycol (mean molecular weight 200–9,500).

Polyethylene glycol identified in this section may be safely used as a component of articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) The additive is an addition polymer of ethylene oxide and water with a mean molecular weight of 200 to 9,500.

(b) It contains no more than 0.2 percent total by weight of ethylene and diethylene glycols if its mean molecular weight is 350 or higher and no more than 0.5 percent total by weight of ethylene and diethylene glycols if its mean molecular weight is below 350, when tested by the analytical methods prescribed in § 172.820(b) of this chapter.

(c) The provisions of paragraph (b) of this section are not applicable to polyethylene glycols used in food-packaging adhesives complying with § 175.105 of this chapter.

§ 178.3760 Polyethylene glycol (400) monolaurate.

Polyethylene glycol (400) monolaurate containing not more than 0.1 percent by weight of ethylene and/or diethylene glycol may be used at a level not to exceed 0.3 percent by weight of twine as a finish on twine to be used for tying meat provided the twine fibers are produced from nylon resins complying with § 177.1500 of this chapter.

§ 178.3770 Polyhydric alcohol diesters of oxidatively refined (Gersthoffen process) montan wax acids.

Polyhydric alcohol diesters of oxidatively refined (Gersthoffen process) montan wax acids identified in this section may be safely used as components of articles intended for use in contact with food in accordance with the following prescribed conditions:

(a) The polyhydric alcohol diesters identified in this paragraph may be used as lubricants in the fabrication of vinyl chloride plastic food-contact articles prepared from polyvinyl chloride and/or from vinyl chloride copolymers complying with § 177.1980 of this chapter. Such diesters meet the following specifications and are produced by partial esterification of oxidatively refined (Gersthoffen process) montan wax acids by either ethylene glycol or 1,3-butanediol with or without neutralization of unreacted carboxylic groups with calcium hydroxide:

(1) Dropping point 76° —105° C, as determined by ASTM Method D 566.

(2) Acid value 10–20, as determined by ASTM Method D 1386 using as solvent xylene-ethyl alcohol in a 2:1 ratio instead of toluene-ethyl alcohol in a 1:2 ratio.

(3) Saponification value 100–160, as determined by ASTM Method D 1387 using xylene-ethyl alcohol in a 2:1 ratio instead of ethyl alcohol in preparation of potassium hydroxide solution.

(4) Ultraviolet absorbance limits as follows, as determined by the analytical method described in this subparagraph:

Ultraviolet absorbance per centimeter path length.

Millimicrons:	*Maximum*
280 to 289	0.07
290 to 299	.06
300 to 359	.04
360 to 400	.01

ANALYTICAL METHOD

GENERAL INSTRUCTIONS

Because of the sensitivity of the test, the possibility of errors arising from contamination is great. It is of the greatest importance that all glassware be scrupulously cleaned to remove all organic matter such as oil, grease, detergent residues, etc. Examine all glassware, including stoppers and stopcocks, under ultraviolet light to detect any residual fluorescent contamination. As a precautionary measure it is recommended practice to rinse all glassware with purified isooctane immediately before use. No grease is to be used on stopcocks or joints. Great care to avoid contamination of wax samples in handling and to assure absence of any extraneous material arising from inadequate packaging is essential. Because some of the polynuclear hydrocarbons sought in this test are very susceptible to photo-oxidation, the entire procedure is to be carried out under subdued light.

APPARATUS

Separatory funnels. 250-milliliter, 500-milliliter, 1,000-milliliter, and preferably 2,000-milliliter capacity, equipped with tetrafluoroethylene polymer stopcocks.

Reservoir. 1,000-milliliter capacity, equipped with a 24/40 standard taper male fitting at the bottom and a suitable ball-joint at the top.

Chromatographic tube. 1,200 millimeters in length, inside diameter to be 16.5 millimeters

±0.5 millimeter, equipped with a coarse, tinue evaporation when not over 1 milli- and evaporate to 1 milliliter of hexadecane

and 400 mμ when tested as prescribed under

Wash the first separatory funnel with the sec-

plying with § 175.320 of this chapter.

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±0.5 millimeter, equipped with a coarse, fritted-glass disc, a tetrafluoroethylene polymer stopcock, and a female 24/40 standard tapered fitting at the opposite end. (Overall length of the column with the female joint is 1,255 millimeters.) The female fitting should be equipped with glass hooks.

Disc. Tetrafluoroethylene polymer 2-inch diameter disc approximately 3/16-inch thick with a hole bored in the center to closely fit the stem of the chromatographic tube.

Heating jackets. Conical, for 500-milliliter and 1,000-milliliter separatory funnels. (Used with variable transformer heat control.)

Suction flask. 250-milliliter or 500-milliliter filter flask.

Condenser. 24/40 joints, fitted with a drying tube, length optional.

Evaporation flasks (optional). A 250-milliliter or 500-milliliter capacity and a 1-liter capacity all-glass flask equipped with standard taper stopper having inlet and outlet tubes to permit passage of nitrogen across the surface of contained liquid to be evaporated.

Vacuum distillation assembly. All glass (for purification of dimethyl sulfoxide) 2-liter distillation flask with heating mantle; Vigreaux vacuum-jacketed condenser (or equivalent) about 45 centimeters in length and distilling head with separable cold finger condenser. Use of tetrafluoroethylene polymer sleeves on the glass joints will prevent freezing. Do not use grease on stopcocks or joints.

Oil bath. Capable of heating to 90° C.

Spectrophotometric cells. Fused quartz cells, optical path length in the range 1.000 centimeter ±0.005 centimeter. With distilled water in the cells, determine any absorbance differences.

Spectrophotometer. Spectral range 250 millimicrons–400 millimicrons with spectral slit width of 0.2 millimicron or less; under instrument operating conditions for these absorbance measurements. The spectrophotometer shall also meet the following performance requirements:

Absorbance repeatability, ±0.01 at 0.4 absorbance.

Absorbance accuracy,[1] ±0.05 at 0.4 absorbance.

Wavelength repeatability, ±0.2 millimicron.

Wavelength accuracy, ±1.0 millimicron.

Recording time, 50 seconds.

Time constant, 0.6 second.

Sensitivity, 30.

Ordinate scale, 90–100 percent transmission through scale.

Abscissa scale, 8X.

Nitrogen cylinder. Water-pumped or equivalent purity nitrogen in cylinder equipped with regulator and valve to control flow at 5 p.s.i.g.

REAGENTS AND MATERIALS

Organic solvents. All solvents used throughout the procedure shall meet the specifications and tests described in this specification. The isooctane and benzene designated in the list following this paragraph shall pass the following test:

To the specified quantity of solvent in a 250-milliliter Erlenmeyer flask, add 1 milliliter of purified *n*-hexadecane and evaporate on the steam bath under a stream of nitrogen (a loose aluminum foil jacket around the flask will speed evaporation). Discontinue evaporation when not over 1 milliliter of residue remains. (To the residue from benzene add a 10-milliliter portion of purified isooctane, reevaporate, and repeat once to insure complete removal of benzene.)

Alternatively, the evaporation time can be reduced by using the optional evaporation flask. In this case the solvent and *n*-hexadecane are placed in the flask on the steam bath, the tube assembly is inserted, and a stream of nitrogen is fed through the inlet tube while the outlet tube is connected to a solvent trap and vacuum line in such a way as to prevent any flow-back of condensate into the flask.

Dissolve the 1 milliliter of hexadecane residue in isooctane and make up to 25 milliliters volume. Determine the absorbance in the 1-centimeter path length cells compared to isooctane as reference. The absorbance of the solution of the solvent residue (except for methyl alcohol) shall not exceed 0.01 per centimeter path length between 280 mμ and 400 mμ.

Isooctane (2,2,4-trimethylpentane). Use 180 milliliters for the test described in the preceding paragraph. Purify, if necessary, by passage through a column of activated silica gel (Grade 12, Davison Chemical Co., Baltimore, Md., or equivalent) about 90 centimeters in length and 5 centimeters to 8 centimeters in diameter.

Benzene, A.C.S. reagent grade. Use 150 milliliters for the test. Purify, if necessary, by distillation or otherwise.

n-Hexadecane, 99 percent olefin-free. Dilute 1.0 milliliter of *n*-hexadecane to 25 milliliters with isooctane and determine the absorbance in a 1-centimeter cell compared to isooctane as reference point between 280 mμ–400 mμ. The absorbance per centimeter path length shall not exceed 0.00 in this range. If necessary, purify by filtering through a column containing 100 grams of aluminum oxide (use same grade as described below) in the lower half and 100 grams of activated silica gel in the upper half keeping the column at 150° C., for a period of 15 hours or overnight. The first 100 milliliters of eluate are used. Purification can also be accomplished by distillation.

Dimethyl sulfoxide. Pure grade, clear, water-white, m.p. -1° minimum. Dilute 120 milliliters of dimethyl sulfoxide with 240 milliliters of distilled water in a 500-milliliter separatory funnel, mix and allow to cool for 5–10 minutes. Add 40 milliliters of isooctane to the solution and extract by shaking the funnel vigorously for 2 minutes. Draw off the lower aqueous layer into a second 500-milliliter separatory funnel and repeat the extraction with 40 milliliters of isooctane. Draw off and discard the aqueous layer. Wash each of the 40-milliliter extractives three times with 50-milliliter portions of distilled water. Shaking time for each wash is 1 minute. Discard the aqueous layers. Filter the first extractive through anhydrous sodium sulfate prewashed with isooctane (see *Sodium sulfate* under "Reagents and materials" for preparation of filter), into a 250-milliliter Erlenmeyer flask, or optionally into the evaporating flask. Wash the first separatory funnel with the second 40-milliliter isooctane extractive, and pass through the sodium sulfate into the flask. Then wash the second and first separatory funnels successively with a 10-milliliter portion of isooctane, and pass the solvent through the sodium sulfate into the flask. Add 1 milliliter of *n*-hexadecane and evaporate the isooctane on the steam bath under nitrogen. Discontinue evaporation when not over 1 milliliter of residue remains. To the residue, add a 10-milliliter portion of isooctane and reevaporate to 1 milliliter of hexadecane. Again, add 10 milliliters of isooctane to the residue and evaporate to 1 milliliter of hexadecane to insure complete removal of all volatile materials. Dissolve the 1 milliliter of hexadecane in isooctane and make to 25-milliliter volume. Determine the absorbance in 1-centimeter path length cells compared to isooctane as reference. The absorbance of the solution should not exceed 0.02 per centimeter path length in the 280 mμ–400 mμ range. (NOTE: Difficulty in meeting this absorbance specification may be due to organic impurities in the distilled water. Repetition of the test omitting the dimethyl sulfoxide will disclose their presence. If necessary to meet the specification, purify the water by redistillation, passage through an ion-exchange resin, or otherwise.)

Purify, if necessary, by the following procedure: To 1,500 milliliters of dimethyl sulfoxide in a 2-liter glass-stoppered flask, add 6.0 milliliters of phosphoric acid and 50 grams of Norit A (decolorizing carbon, alkaline) or equivalent. Stopper the flask, and with the use of a magnetic stirrer (tetrafluoroethylene polymer coated bar) stir the solvent for 15 minutes. Filter the dimethyl sulfoxide through four thicknesses of fluted paper (18.5 centimeters, Schleicher & Schuell, No. 597, or equivalent). If the initial filtrate contains carbon fines, refilter through the same filter until a clear filtrate is obtained. Protect the sulfoxide from air and moisture during this operation by covering the solvent in the funnel and collection flask with a layer of isooctane. Transfer the filtrate to a 2-liter separatory funnel and draw off the dimethyl sulfoxide into the 2-liter distillation flask of the vacuum distillation assembly and distill at approximately 3-millimeter Hg pressure or less. Discard the first 200-milliliter fraction of the distillate and replace the distillate collection flask with a clean one. Continue the distillation until approximately 1 liter of the sulfoxide has been collected.

At completion of the distillation, the reagent should be stored in glass-stoppered bottles since it is very hygroscopic and will react with some metal containers in the presence of air.

Phosphoric acid. 85 percent A.C.S. reagent grade.

Aluminum oxide (80–200 mesh Woelm neutral activity grade 1 [Brockmann], Alupharm Chemicals, New Orleans, La., or equivalent). Pipette 1 milliliter of distilled water into a dry 250-milliliter Erlenmeyer flask equipped with a ground-glass stopper. Stopper the flask and rotate it in such a manner as to completely wet out the inside surfaces. When this has been done add 180 grams of the aluminum oxide and shake until no lumps or wet spots remain. Allow to stand at room temperature for a period of 2 hours. At the end of this time the water should be evenly distributed throughout the aluminum oxide powder, and it should have the same free flowing properties as the original material (flow velocity with water 0.2 milliliter per minute). At this point the aluminum oxide has an activity of 1 as expressed in Brockmann degrees, and the amount of added water is 0.5 percent by volume. This product is used in toto and as is, without further screening.

Sodium sulfate, anhydrous, A.C.S. reagent grade, preferably in granular form. For each bottle of sodium sulfate reagent used, establish as follows the necessary sodium sulfate prewash to provide such filters required in the method: Place approximately 35 grams of anhydrous sodium sulfate in a 30-milliliter coarse, fritted-glass funnel or in a 65-millimeter filter funnel with glass wool plug; wash with successive 15-milliliter portions of the indicated solvent until a 15-milliliter portion of the wash shows 0.00 absorbance per centimeter path length between 280 mμ and 400 mμ when tested as prescribed under "Organic solvents." Usually three portions of wash solvent are sufficient.

PROCEDURE

Before proceeding with analysis of a sample, determine the absorbance in a 1-centimeter path cell between 250 mμ and 400 mμ for the reagent blank by carrying out the procedure, without a wax sample, at room temperature, recording the spectrum after the complete procedure as prescribed. The absorbance per centimeter path length following the complete procedure should not exceed 0.04 in the wavelength range from 280 mμ to 299 mμ, inclusive, nor 0.02 in the wavelength range from 300 mμ to 400 mμ. If in either spectrum the characteristic benzene peaks in the 250 mμ–260 mμ region are present, remove the benzene by the procedure under "Organic solvents" and record absorbance again.

Place 300 milliliters of dimethyl sulfoxide in a 1-liter separatory funnel and add 75 milliliters of phosphoric acid. Mix the contents of the funnel and allow to stand for 10 minutes. (The reaction between the sulfoxide and the acid is exothermic. Release pressure after mixing, then keep funnel stoppered.) Add 150 milliliters of isooctane and shake to preequilibrate the solvents. Draw off the individual layers and store in glass-stoppered flasks.

In a 1-liter separatory funnel place a representative 25-gram sample of wax, add 50 milliliters of isooctane, heat gently, stir until the wax is in solution; add 100 milliliters of preequilibrated sulfoxide-phosphoric acid mixture and shake, making sure it remains in solution. If the wax comes out of solution during these operations, let the stoppered funnel remain in the jacket until the wax redissolves. (Remove stopper from the funnel at intervals to release pressure.) When the wax is in solution, remove the funnel from the jacket and shake it vigorously for 2 minutes. Set up three 250-milliliter separatory funnels with each containing 30 milliliters of preequilibrated isooctane. After separation of the liquid phases, allow to cool until the main portion of the wax-isooctane solution begins to show a precipitate. Gently swirl the funnel when precipitation first occurs on the inside surface of the funnel to accelerate this process. Carefully draw off the lower layer, filter it slowly through a thin layer of glass wool fitted loosely in a filter funnel into the first 250-milliliter separatory funnel, and wash in tandem with the 30-milliliter portions of isooctane contained in the 250-milliliter separatory funnels. Shaking time for each wash is 1 minute. Repeat the extraction operation with two additional portions of the sulfoxide-acid mixture, replacing the funnel in the jacket after each extraction to keep the wax in solution and washing each extractive in tandem through the same three portions of isooctane.

Collect the successive extractives (300 milliliters total) in a separatory funnel (preferably 2-liter), containing 480 milliliters of distilled water, mix, and allow to cool for a few minutes after the last extractive has been added. Add 80 milliliters of isooctane to the solution and extract by shaking the funnel vigorously for 2 minutes. Draw off the lower aqueous layer into a second separatory funnel (preferably 2-liter) and repeat the extraction with 80 milliliters of isooctane. Draw off and discard the aqueous layer. Wash each of the 80-milliliter extractives three times with 100-milliliter portions of distilled water. Shaking time for each wash is 1 minute. Discard the aqueous layers. Filter the first extractive through anhydrous sodium sulfate prewashed with isooctane (see *Sodium sulfate* under "Reagents and Materials" for preparation of filter) into a 250-milliliter Erlenmeyer flask (or optionally into the evaporation flask). Wash the first separatory funnel with the second 80-milliliter isooctane extractive and pass through the sodium sulfate. Then wash the second and first separatory funnels successively with a 20-milliliter portion of isooctane and pass the solvent through the sodium sulfate into the flask. Add 1 milliliter of *n*-hexadecane and evaporate the isooctane using an aspirator vacuum under nitrogen and in an oil bath temperature of approximately 90° C. Discontinue evaporation when not over 1 milliliter of residue remains. To the residue, add a 10-milliliter portion of isooctane, reevaporate to 1 milliliter of hexadecane, and repeat this operation once.

Reserve the residue for column chromatography on the aluminum oxide.

Fit the tetrafluoroethylene polymer disc on the upper part of the stem of the chromatographic tube, then place the tube with the disc on the suction flask and apply the vacuum (approximately 135 millimeters Hg pressure). Weigh out 180 grams of the aluminum oxide and pour the adsorbent mixture into the chromatographic tube in approximately 30-centimeter layers. After the addition of each layer, level off the top of the adsorbent with a flat glass rod or metal plunger by pressing down firmly until the adsorbent is well packed. Loosen the topmost few millimeters of each adsorbent layer with the end of a metal rod before the addition of the next layer. Continue packing in this manner until all the 180 grams of the adsorbent is added to the tube. Level off the top of the adsorbent by pressing down firmly with a flat glass rod or metal plunger to make the depth of the adsorbent bed approximately 80 centimeters in depth. Turn off the vacuum and remove the suction flask. Dissolve the hexadecane residue in 10 milliliters of warm benzene and decant the solution onto the column and allow the liquid level to recede to barely above the adsorbent level. Rapidly complete the transfer similarly with two 10-milliliter portions of benzene swirling the flask repeatedly each time to assure adequate washing of the residue. Fix the 1,000-milliliter reservoir onto the top of the chromatographic column. Just before the final 10-milliliter wash reaches the top of the adsorbent, add 670 milliliters of benzene to the reservoir and continue the percolation at the 2–3 milliliter per minute rate until a total of 670 milliliters of benzene has been utilized. Collect the eluate in a clean 1-liter Erlenmeyer flask (or optionally into a 1-liter evaporation flask). Allow the column to drain until most of the solvent mixture is removed. Add 1 milliliter of *n*-hexadecane and completely remove the benzene by evaporation under nitrogen, using the special procedure to eliminate benzene as previously described under "Organic Solvents." Quantitatively transfer the residue with isooctane to a 25-milliliter volumetric flask and adjust to volume. Determine the absorbance of the solution in the 1-centimeter path length cells compared to isooctane as reference between 250 mμ–400 mμ. Correct for any absorbance derived from the reagents as determined by carrying out the procedure without a wax sample. If either spectrum shows the characteristic benzene peaks in the 250 mμ–260 mμ region, evaporate the solution to remove benzene by the procedure under "Organic Solvents." Dissolve the residue, transfer quantitatively, and adjust to volume in isooctane in a 25-milliliter volumetric flask. Record the absorbance again. If the corrected absorbance does not exceed the limits prescribed in paragraph (a) of this section, the wax meets the ultraviolet absorbance specifications.

(b) The polyhydric alcohol diesters identified in this paragraph may be used as release agents in resinous and polymeric coatings for polyolefin films complying with § 175.320 of this chapter. Such diesters meet the following specifications and are produced by partial esterification of oxidatively refined (Gersthoffen process) montan wax acids with equimolar proportions of ethylene glycol and 1,3-butanediol:

(1) Dropping point 77°–82° C, as determined by ASTM Method D 566.

(2) Acid value 25–35, as determined by ASTM Method D 1386 using as solvent xylene-ethyl alcohol in a 2:1 ratio instead of toluene-ethyl alcohol in a 1:2 ratio.

(3) Saponification value 135–150, as determined by ASTM Method D 1387 using xylene-ethyl alcohol in a 2:1 ratio instead of ethyl alcohol in preparation of potassium hydroxide solution.

(4) Ultraviolet absorbance limits specified in paragraph (a) (4) of this section, as determined by the analytical method described therein.

§ 178.3780 Polyhydric alcohol esters of long chain monobasic acids.

Polyhydric alcohol esters of long chain monobasic acids identified in this section may be safely used as lubricants in the fabrication of polyvinyl chloride and/or polyvinyl chloride copolymer articles complying with § 177.1980 of this chapter that contact food of types I, II, IV–B, VI–B, VII–B, and VIII identified in table 1 in § 176.170(c) of this chapter under conditions of use E, F, and G described in table 2 in § 176.170(c) of this chapter, subject to the provisions of this section.

(a) *Identity.* For the purpose of this section, polyhydric alcohol esters of long chain monobasic acids consist of polyhydric alcohol esters having number average molecular weights in the range of 1,050 to 1,700. The esters are produced by the reaction of either ethylene glycol or glycerol with long chain monobasic acids containing from 9 to 49 carbon atoms obtained by the ozonization of long chain *alpha*-olefins, the unreacted carboxylic acids in the formation of the glycerol esters being neutralized with calcium hydroxide to produce a composition having up to 2 percent by weight calcium. The *alpha*-olefins, obtained from the polymerization of ethylene, have 20 to 50 carbon atoms and contain a minimum of 75 percent by weight straight chain *alpha*-olefins and not more than 25 percent vinylidene compounds.

(b) *Specifications.* The polyhydric alcohol esters have the following specifications:

(1) Melting point of 60–80° C for the ethylene glycol ester and 90–105° C for the glycerol ester as determined by the Fisher Johns method.

(2) Acid value 15–25 for each ester as determined by the A.O.C.S. Method Tria-64T,[14] modified to use as the acid solvent a 1:1 volume mixture of anhydrous isopropyl alcohol and toluene. The solution is titrated with 0.1*N* methanolic sodium hydroxide.

[1] As determined by procedure using potassium chromate for reference standard and described in National Bureau of Standards Circular 484, "Spectrohpotometry," U.S. Department of Commerce, 1949. The accuracy is to be determined by comparison with the standard values at 290, 345, and 400 millimicrons.

[14] Copies may be obtained from: American Association of Oil Chemists, 36 East Wacker Dr., Chicago, IL 60601.

(c) Reinforced wax conforming with § 178.3860 Release agents.

an acid number of 8 to 16, a drop-soften-

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(3) Saponification value 120–160 for the ethylene glycol ester and 90–130 for the glycerol ester as determined by an analytical method available upon request from the Division of Food and Color Additives, HFF–330, U.S. Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204.

(4) Ultraviolet absorbance as specified in § 178.3770(a)(4) of this chapter when tested by the analytical method described therein.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788; 21 U.S.C. 321(s), 348, 371(a).)

§ 178.3790 Polymer modifiers in semi-rigid and rigid vinyl chloride plastics.

The polymers identified in paragraph (a) of this section may be safely admixed, alone or in mixture with other permitted polymers, as modifiers in semi-rigid and rigid vinyl chloride plastic food-contact articles prepared from vinyl chloride homopolymers and/or from vinyl chloride copolymers complying with § 177.1950, § 177.1970, and/or § 177.1980 of this chapter, in accordance with the following prescribed conditions:

(a) For the purpose of this section, the polymer modifiers are identified as follows:

(1) Acrylic polymers identified in this subparagraph provided that such polymers contain at least 50 weight-percent of polymer units derived from one or more of the monomers listed in paragraph (a)(1)(i) of this section.

(i) Homopolymers and copolymers of the following monomers:

n-Butyl acrylate.
n-Butyl methacrylate.
Ethyl acrylate.
Methyl methacrylate.

(ii) Copolymers produced by copolymerizing one or more of the monomers listed in paragraph (a)(1)(i) of this section with one or more of the following monomers:

Acrylonitrile.
Butadiene.
α-Methylstyrene.
Styrene.
Vinylidene chloride.

(iii) Polymers identified in paragraph (a)(1)(i) and (ii) of this section containing no more than 5 weight-percent of total polymer units derived by copolymerization with one or more of the following monomers:

Acrylic acid.
1,3-Butylene glycol dimethacrylate.
Divinylbenzene.
Methacrylic acid.

(iv) Mixtures of polymers identified in paragraph (a)(1)(i), (ii), and (iii) of this section; provided that no chemical reactions, other than addition reactions, occur when they are mixed.

(2) Polymers identified in paragraph (a)(1) of this section combined during their polymerization with butadiene-styrene copolymers; provided that no chemical reactions, other than addition reactions, occur when they are combined. Such combined polymers may contain 50 weight-percent or more of total polymer units derived from the butadiene-styrene copolymers.

(b) The polymer content of the finished plastic food-contact article consists of:

(1) Not less than 80 weight-percent of polymer units derived from the vinyl chloride polymers identified in the introduction to this section and not more than 5 weight-percent of polymer units derived from polymers identified in paragraph (a)(1) of this section and may optionally contain up to 15 weight-percent of polymer units derived from butadiene-styrene copolymers; or

(2) Not less than 50 weight-percent of polymer units derived from the vinyl chloride polymers identified in the introduction to this section, not more than 50 weight-percent of polymer units derived from homopolymers and/or copolymers of ethyl acrylate and methyl methacrylate, and not more than 30 weight-percent of polymer units derived from copolymers of methyl methacrylate, α-methylstyrene and acrylonitrile and may optionally contain up to 15 weight-percent of polymer units derived from butadiene-styrene copolymers.

(c) No chemical reactions, other than addition reactions, occur among the vinyl chloride polymers and the modifying polymers present in the polymer mixture used in the manufacture of the finished plastic food-contact article.

(d) The finished plastic food-contact article, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature characterizing the conditions of its intended use as determined from Tables 1 and 2 of § 176.170(c) of this chapter, yields extractives not to exceed the limits prescribed in § 177.1010(b)(1), (2), (3), and (4) of this chapter when tested by the methods prescribed in § 177.1010(c) of this chapter.

(e) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

§ 178.3800 Preservatives for wood.

Preservatives may be safely used on wooden articles that are used or intended for use in packaging, transporting, or holding raw agricultural products subject to the provisions of this section:

(a) The preservatives are prepared from substances identified in paragraph (b) of this section and applied in amounts not to exceed those necessary to accomplish the technical effect of protecting the wood from decay, mildew, and water absorption.

(b) The substances permitted are as follows:

List of substances	Limitations
Copper-8-quinolinolate	Used singly or in combination so as to constitute not less than 50% of the solids.
Mineral spirits	Do.
Paraffin wax	
Petroleum hydrocarbon resin, produced by the homo- and copolymerization of dienes and olefins of the aliphatic, alicyclic, and monobenzenoid arylalkene type from distillates of cracked petroleum stocks.	
Pentachlorophenol and its sodium salt	Not to exceed 50 p.p.m. in the treated wood, calculated as pentachlorophenol.
Rosins and rosin derivatives	As provided in § 178.3870.
Zinc salt of sulfonated petroleum	

§ 178.3850 Reinforced wax.

Reinforced wax may be safely used as an article or component of articles intended for use in producing, manufacturing, packing, processing, transporting, or holding food subject to the provisions of this section.

(a) Reinforced wax consists of petroleum wax to which have been added certain optional substances required in its production, or added to impart desired physical or technical properties.

(b) The quantity of any optional adjuvant substance employed in the production of or added to reinforced wax does not exceed the amount reasonably required to accomplish the intended physical or technical effect or any limitation provided in this section.

(c) Any substance employed in the production of reinforced wax, including any optional substance, that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, conforms with any specification in such regulation.

(d) The substances and optional adjuvant substances employed in the production of or added to reinforced wax include:

(1) Substances generally recognized as safe in food.

(2) Substances subject to prior sanction for use in reinforced wax and used in accordance with such sanction or approval.

(3) Substances identified in this subparagraph and subject to any limitations provided therein:

List of substances	Limitations
Copolymer of isobutylene modified with isoprene	----
Petroleum wax, Type I and Type II	----
Polyethylene	----
Rosins and rosin derivatives as provided in § 178.3870	----

(e) Reinforced wax conforming with the specifications in this paragraph is used as provided in paragraph (e)(2) of this section.

(1) The chloroform-soluble portion of the water extract obtained by exposing reinforced wax to demineralized water at 70° F for 48 hours shall not exceed 0.5 milligram per square inch of food-contact surface.

(2) It is used as a packaging material or component of packaging materials for cheese and cheese products.

§ 178.3860 Release agents.

Substances listed in paragraph (b) of this section may be safely used as release agents in petroleum wax complying with § 178.3710 and in polymeric resins that contact food, subject to the provisions of this section.

(a) The quantity used shall not exceed the amount reasonably required to accomplish the intended technical effect or any limitations prescribed in this section.

(b) Release agents:

List of substances:	Limitations
Erucamide (erucylamide)	For use only in polyvinyl chloride films in amounts such that the concentration of the substance in these films in the form in which the films contact food shall not exceed 0.055 milligram of the substance per square inch of film.
N,N'-Dioleoylethylenediamine	
Oleyl palmitamide	For use only subject to the limitations prescribed for hydrogenated polybutene under § 178.3740(b).
Polybutene, hydrogenated; complying with the identity prescribed under § 178.3740(b).	
Saturated fatty acid amides manufactured from fatty acids derived from animal, marine, or vegetable fats and oils.	
Stearyl erucamide	

§ 178.3870 Rosins and rosin derivatives.

The rosins and rosin derivatives identified in paragraph (a) of this section may safely be used in the manufacture of articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing treating, packaging, transporting, or holding food, subject to the provisions of this section.

(a) The rosins and rosin derivatives are identified as follows:

(1) Rosins:

(i) Gum rosin, refined to color grade of K or paler.

(ii) Wood rosin, refined to color grade of K or paler.

(iii) Tall oil rosin, refined to color grade of K or paler.

(iv) Dark tall oil rosin, a fraction resulting from the refining of tall oil rosin produced by multicolumnar distillation of crude tall oil to effect removal of fatty acids and pitch components and having a saponification number of from 110–135 and 32 percent–44 percent rosin acids.

(v) Dark wood rosin, all or part of the residue after the volatile terpene oils are distilled from the oleoresin extracted from pine wood.

(2) Modified rosins manufactured from rosins identified in paragraph (a)(1) of this section:

(i) Partially hydrogenated rosin, catalytically hydrogenated to a maximum refractive index of 1.5012 at 100° C. and a color of WG or paler.

(ii) Fully hydrogenated rosin, catalytically hydrogenated to a maximum dehydroabietic acid content of 2 percent, a minimum drop-softening point of 79° C. and a color of X or paler.

(iii) Partially dimerized rosin, dimerized by sulfuric acid catalyst to a drop-softening point of 95°–105° C and a color of WG or paler.

(iv) Fully dimerized rosin, dimerized by sulfuric acid catalyst, and from which sufficient nondimerized rosin has been removed by distillation to achieve a minimum drop-softening point of 143° C, and a color of H or paler.

(v) Disproportionated rosin, catalytically disproportionated to a minimum dehydroabietic acid content of 35 percent, a maximum abietic acid content of 1 percent, a maximum content of substituted phenanthrenes (as retene) of 0.25 percent, and a color of WG or paler.

(3) Rosin esters manufactured from rosins and modified rosins identified in paragraphs (a)(1) and (2) of this section:

(i) Glycerol ester of wood rosin purified by steam stripping to have an acid number of 3 to 9, a drop-softening point of 88°–96° C, and a color of N or paler.

(ii) Glycerol ester of partially hydrogenated wood rosin, having an acid number of 3 to 10, a drop-softening point of 79°–88° C, and a color of N or paler.

(iii) Glycerol ester of partially dimerized rosin, having an acid number of 3 to 8, a drop-softening point of 109°–119° C, and a color of M or paler.

(iv) Glycerol ester of fully dimerized rosin, having an acid number of 5 to 16, a drop-softening point of 165°–175° C, and a color of H or paler.

(v) Glycerol ester of maleic anhydride-modified wood rosin, having an acid number of 30 to 40, a drop-softening point of 138°–146° C, a color of M or paler, and a saponification number less than 280.

(vi) Methyl ester of rosin, partially hydrogenated, purified by steam stripping to have an acid number of 4 to 8, a refractive index of 1.5170 to 1.5205 at 20° C, and a viscosity of 23 to 66 poises at 25° C.

(vii) Pentaerythritol ester of wood rosin, having an acid number of 6 to 16, a drop-softening point of 109°–116° C, and a color of M or paler.

(viii) Pentaerythritol ester of partially hydrogenated wood rosin, having an acid number of 7 to 18, a drop-softening point of 102°–110° C, and a color of K or paler.

(ix) Pentaerythritol ester of maleic anhydride-modified wood rosin, having an acid number of 8 to 16, a drop-softening point of 154°–162° C, a color of M or paler, and having a saponification number less than 280.

(x) Pentaerythritol ester of maleic anhydride-modified wood rosin, having an acid number of 9 to 16, a drop-softening point of 130°–140° C, a color of N or paler, and having a saponification number less than 280.

(xi) Pentaerythritol ester of maleic anhydride-modified wood rosin, having an acid number of 134 to 145, a drop-softening point of 127°–137° C, a color of M or paler, and having a saponification number less than 280.

(xii) Pentaerythritol ester of maleic anhydride-modified wood rosin, having an acid number of 30 to 40, a drop-softening point of 131°–137° C, a color of N or paler, and having a saponification number less than 280.

(xiii) Pentaerythritol ester of maleic anhydride-modified wood rosin, further modified by reaction with 4,4'-isopropylidenediphenol-formaldehyde condensate, having an acid number of 10 to 22, a drop-softening point of 162°–172° C, a color of K or paler, a saponification number less than 280, and a maximum ultraviolet absorbance of 0.14 at 296 mμ (using a 1-centimeter cell and 200 milligrams of the rosin ester per liter of solvent consisting of ethyl alcohol made alkaline by addition of 0.1 percent of potassium hydroxide).

(xiv) Mixed methyl and pentaerythritol ester of maleic anhydride-modified wood rosin, having an acid number of 73 to 83, a drop-softening point of 113°–123° C, a color of M or paler, and a saponification number less than 280.

(xv) Triethylene glycol ester of partially hydrogenated wood rosin, having an acid number of 2 to 10, a color of K or paler, and a viscosity of 350 to 425 seconds Saybolt at 100° C.

(xvi) Glycerol ester of maleic anhydride-modified wood rosin, having an acid number of 17 to 23, a drop-softening point of 136°–140° C, a color of M or paler, and a saponification number less than 280. For use only in cellophane complying with § 177.1200 of this chapter.

(xvii) Citric acid-modified glycerol ester of rosin, having an acid number less than 20, a drop-softening point of 105°–115° C, and a color of K or paler. For use only as a blending agent in coatings for cellophane complying with § 177.1200 of this chapter.

(xviii) Glycerol ester of tall oil rosin, purified by steam stripping to have an acid number of 5–12, a softening point of 80°–88° C, and a color of N or paler.

(xix) Glycerol ester of maleic anhydride-modified tall oil rosin, having an acid number of 30 to 40, a drop-softening point of 141°–146° C, a color of N or paler, and a saponification number less than 280.

(xx) Glycerol ester of disproportionated tall oil rosin, having an acid number of 5 to 10, a drop-softening point of 84°–93° C, a color of WG or paler, and a saponification number less than 180.

(4) Rosin salts and sizes—Ammonium, calcium, potassium, sodium, or zinc salts

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of rosin manufactured by the partial or complete saponification of any one of the rosins or modified rosins identified in paragraph (a) (1) and (2) of this section, or blends thereof, and with or without modification by reaction with one or more of the following:

(i) Formaldehyde.
(ii) Fumaric acid.
(iii) Maleic anhydride.
(iv) Saligenin.

(b) The quantity used shall not exceed the amount reasonably required to accomplish the intended technical effect.

(c) The use in any substance or article that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter shall conform with any specifications and limitations prescribed by such regulation for the finished form of the substance or article.

(d) The provisions of this section are not applicable to rosins and rosin derivatives identified in § 175.300(b)(3)(v) of this chapter and used in resinous and polymeric coatings complying with § 175.300 of this chapter.

(e) The provisions of this section are not applicable to rosins and rosin derivatives identified in § 175.105(c)(5) of this chapter and used in defoaming agents complying with § 176.210 of this chapter, food-packaging adhesives complying with § 175.105 of this chapter, and rubber articles complying with § 177.2600 of this chapter.

(f) The analytical methods for determining whether rosins and rosin derivatives conform to the specifications prescribed in paragraph (a) of this section are as follows:

(1) Color: Color shall be determined by ASTM Method D 509–55.

(2) Refractive index: Refractive index shall be determined by ASTM Method D 1747–62.

(3) Acid number: Acid number shall be determined by ASTM Method D 465–59.

(4) Viscosity: Viscosity in poises shall be determined by ASTM Method D 1824–66 and in Saybolt seconds by ASTM Method D 88–56.

(5) Softening point: Softening point shall determined by ASTM Method E 28–67.

(6) Analytical methods for determining drop-softening point, saponification number, and any other specification not listed under paragraph (f) (1) through (5) of this section are available upon request from the Commissioner of Food and Drugs.

§ 178.3900 Sodium pentachlorophenate.

Sodium pentachlorophenate may be safely used as a preservative for ammonium alginate employed as a processing aid in the manufacture of polyvinyl chloride emulsion polymers intended for use as articles or components of articles that contact food at temperatures not to exceed room temperature. The quantity of sodium pentachlorophenate used shall not exceed 0.5 percent by weight of ammonium alginate solids.

§ 178.3910 Surface lubricants used in the manufacture of metallic articles.

The substances listed in this section may be safely used in surface lubricants employed in the manufacture of metallic articles that contact food, subject to the provisions of this section.

(a) The following substances may be used in surface lubricants used in the rolling of metallic foil or sheet stock provided that total residual lubricant remaining on the metallic article in the form in which it contacts food does not exceed 0.015 milligram per square inch of metallic food-contact surface:

(1) Substances identified in paragraph (b) (1) and (2) of this section.

(2) Substances identified in this subparagraph.

List of substances	*Limitations*
Acetate esters derived from synthetic straight chain alcohols (complying with § 172.864 of this chapter) that have even numbers of carbon atoms in the range C_8–C_{18}.	
Tert-Butyl alcohol.	
Di(2-ethylhexyl)phthalate.	
Diethyl phthalate.	
Dimers, trimers, and/or their partial methyl esters; such dimers and trimers are of unsaturated C_{18} fatty acids derived from animal and vegetable fats and oils and/or tall oil, and such partial methyl esters meet the following specifications: Saponification value 187–193, acid value 75–95, and maximum iodine value 15.	For use only at a level not to exceed 10 pct by weight of finished lubricant formulation.
Di-*n*-octyl sebacate.	
Ethylenediaminetetraacetic acid, sodium salts.	
Isopropyl alcohol.	
Isopropyl oleate.	
Methyl esters of coconut oil fatty acids.	
Methyl esters of fatty acids (C_{16}–C_{18}) derived from animal and vegetable fats and oils.	
Polybutene, hydrogenated: complying with the identity prescribed under § 178.3740(b).	
Polyethylene glycol (400) monostearate.	
Polyisobutylene (minimum molecular weight 300).	
Polyvinyl alcohol.	
Sodium nitrite.	For use only as a rust inhibitor in lubricant formulations provided the total residual sodium nitrite on the metallic article in the form in which it contacts food does not exceed 0.007 milligram per square inch of metallic food-contact surface.
Synthetic alcohol mixture of straight- and branched-chain alcohols that have even numbers of carbon atoms in the range C_8–C_{18} and that are prepared from ethylene, aluminum, and hydrogen such that the finished synthetic alcohol mixture contains not less than 75 pct of straight-chain primary alcohols and contains not less than 85 pct total C_{10} and C_{12} alcohols.	For use at a level not to exceed 8 pct by weight of the finished lubricant formulation.
Synthetic primary alcohol mixture of straight- and branched-chain alcohols that contain at least 99 pct primary alcohols consisting of the following: not less than 70 pct normal alcohols; not less than 98.5 pct C_{12}–C_{18} alcohols; and not more than 2.5 pct alpha, omega C_{12}–C_{18} diols. The alcohols are prepared from linear olefins from a purified kerosene fraction, carbon monoxide and hydrogen using a modified oxo process, such that the finished primary alcohol mixture meets the following specifications: Molecular weight, 207±4; hydroxyl number, 263–276.	For use at a level not to exceed 8 pct by weight of the finished lubricant formulation.
Synthetic primary alcohol mixture of straight- and branched-chain alcohols that contain at least 90 pct primary alcohols consisting of the following: not less than 70 percent normal alcohols; not less than 93 pct C_{12}–C_{18} alcohols; not more than 5 pct C_{16}–C_{18} alcohols; and not more than 2.5 pct alpha, omega, C_{12}–C_{18} diols. The alcohols are prepared from linear olefins from a purified kerosene fraction, carbon monoxide and hydrogen using a modified oxo process, such that the finished primary alcohol mixture meets the following specification: Molecular weight 194±5; hydroxyl number, 289–296.	For use only at a level not to exceed 8 pct by weight of the finished lubricant formulation.
Tallow, sulfonated.	
Triethanolamine.	

(3) Mineral oil conforming to the identity prescribed in § 178.3620(c).

(4) Light petroleum hydrocarbons identified in paragraph (a)(4)(i) of this section: *Provided*, That the total residual lubricant on the metallic article in the form in which it contacts food meets the ultraviolet absorbance limits prescribed in paragraph (a)(4)(ii) of this section as determined by the analytical method described in paragraph (a)(4)(iii) of this section.

(i) Light petroleum hydrocarbons are derived by distillation from virgin petroleum stocks or are synthesized from petroleum gases. They are chiefly paraffinic, isoparaffinic, naphthenic, or aromatic in nature, and meet the following specifications:

(*a*) Initial boiling point is 75° F minimum and final boiling point is 550° F maximum, as determined by ASTM Method D–86.

(*b*) Nonvolatile residue is 0.005 gram per 100 milliliters, maximum, as determined by ASTM Method D–381 when the final boiling point is 250° F or above and by ASTM Method D–1353 when the final boiling point is below 250° F.

(*c*) Saybolt color 20 minimum as determined by ASTM Method D–156.

(*d*) Aromatic component content shall not exceed 32 percent.

(*e*) Conforms with ultraviolet absorbance limits prescribed in § 178.3620(c) as determined by the analytical method described therein.

(ii) Ultraviolet absorbance limits on residual lubricants are as follows:

Wavelength (m_μ):	*Maximum absorbance per 5 centimeters optical path length*
280–289	0.7
290–299	.6
300–359	.4
360–400	.09

(iii) The analytical method for determining ultraviolet absorbance limits on residual lubricants is as follows:

GENERAL INSTRUCTIONS

Because of the sensitivity of the test, the possibility of errors arising from contamination is great. It is of the greatest importance that all glassware be scrupulously cleaned to remove all organic matter such as oil, grease, detergent, residues, etc. Examine all glassware including stoppers and stopcocks, under ultraviolet light to detect any residual fluorescent contamination. As a precautionary measure it is recommended practice to rinse all glassware with purified isooctane immediately before use. No grease is to be used on stopcocks or joints. Great care to avoid contamination of oil samples in handling and to assure absence of any extraneous material arising from inadequate packaging is essential. Because some of the polynuclear hydrocarbons sought in this test are very susceptible to photo-oxidation, the entire procedure is to be carried out under subdued light.

APPARATUS

Separatory funnels. 250-milliliter, 500-milliliter, 1,000-milliliter, and preferably 2,000-milliliter capacity, equipped with tetrafluoroethylene polymer stopcocks.

Evaporation flask (optional). 250-milliliter or 500-milliliter capacity all-glass flask equipped with standard-taper stopper having inlet and outlet tubes to permit passage of nitrogen across the surface of contained liquid to be evaporated.

Spectrophotometric cells. Fused quartz cells, optical path length in the range of 5.000 centimeters ±0.005 centimeter; also for checking spectrophotometer performance only, optical path length in the range 1.000 centimeter ±0.005 centimeter. With distilled water in the cells, determine any absorbance differences.

Spectrophotometer. Special range 250 millicrons-400 millimicrons with spectral slit width of 2 millimicrons or less; under instrument operating conditions for these absorbance measurements, the spectrophotometer shall also meet the following performance requirements:

Absorbance repeatability, ±0.01 at 0.4 absorbance.

Absorbance accuracy,[1] ±0.05 at 0.4 absorbance.

Wavelength repeatability, ±0.2 millimicron.

Wavelength accuracy, ±1.0 millimicron.

Soxhlet apparatus. 60-millimeter diameter body tubes fitted with condenser and 500-milliliter round-bottom boiling flask. A supply of paper thimbles to fit is required.

Nitrogen cylinder. Water-pumped or equivalent purity nitrogen in cylinder equipped with regulator and valve to control flow at 5 p.s.i.g.

REAGENTS AND MATERIALS

Organic solvents. All solvents used throughout the procedure shall meet the specifications and tests described in this specification. The isooctane (2,2,4-trimethylpentane) shall pass the following test:

Place 180 milliliters of solvent in a 250-milliliter Erlenmeyer flask, add 1 milliliter of purified *n*-hexadecane and evaporate on the steam bath under a stream of nitrogen (a loose aluminum foil jacket around the flask will speed evaporation). Discontinue evaporation when not over 1 milliliter of residue remains.

Alternatively, the evaporation time can be reduced by using the optional evaporation flask. In this case the solvent and *n*-hexadecane are placed in the flask on the steam bath, the tube assembly is inserted, and a stream of nitrogen is fed through the inlet tube while the outlet tube is connected to a solvent trap and vacuum line in such a way as to prevent any flow-back of condensate into the flask.

Dissolve the 1 milliliter of hexadecane residue in isooctane and make to 25 milliliters volume. Determine the absorbance in the 5-centimeter path length cells compared to isooctane as reference. The absorbance of the solution of the solvent residue shall not exceed 0.01 per centimeter path length between 280 and 400 m_μ. Purify, if necessary, by passage through a column of activated silica gel (Grade 12, Davison Chemical Co., Baltimore, Maryland, or equivalent) about 90 centimeters in length and 5 centimeters to 8 centimeters in diameter.

n-Hexadecane, 99-percent olefin-free. Dilute 1.0 milliliter of *n*-hexadecane to 25 milliliters with isooctane and determine the absorbance in a 5-centimeter cell compared to isooctane as reference point between 280 m_μ–400 m_μ. The absorbance per centimeter path length shall not exceed 0.00 in this range. Purify, if necessary, by percolation through activated silica gel or by distillation.

Dimethyl sulfoxide. Spectrophotometric grade (Crown Zellerbach Corp., Camas, Washington, or equivalent). Absorbance (1-centimeter cell, distilled water reference, sample completely saturated with nitrogen).

Wavelength:	*Absorbance (maximum)*
261.5	1.00
270	.20
275	.09
280	.06
300	.015

[1] As determined by procedure using potassium chromate for reference standard and described in National Bureau of Standards Circular 484, Spectrophotometry, U.S. Department of Commerce, 1949. The accuracy is to be determined by comparison with the standard values at 290, 345, and 400 millimicrons.

There shall be no irregularities in the absorbance curve within these wavelengths.

Phosphoric acid. 85 percent A.C.S. reagent grade.

Sodium sulfate, anhydrous, A.C.S. reagent grade, preferably in granular form. For each bottle of sodium sulfate reagent used, establish as follows the necessary sodium sulfate prewash to provide such filters required in the method: Place approximately 35 grams of anhydrous sodium sulfate in a 30-milliliter coarse, fritted-glass funnel or in a 65-milliliter filter funnel with glass wool plug; wash with successive 15-milliliter portions of the indicated solvent until a 15-milliliter portion of the wash shows 0.00 absorbance per centimeter path length between 280 m_μ and 400 m_μ when tested as prescribed under "Organic solvents." Usually three portions of wash solvent are sufficient.

Before proceeding with analysis of a sample, determine the absorbance in a 5-centimeter path cell between 250 millimicrons and 400 millimicrons for the reagent blank by carrying out the procedure, without a metal sample. The absorbance per centimeter path length should not exceed 0.02 in the wavelength range from 280 m_μ to 400 m_μ.

Place 300 milliliters of dimethyl sulfoxide in a 1-liter separatory funnel and add 75 milliliters of phosphoric acid. Mix the contents of the funnel and allow to stand for 10 minutes. (The reaction between the sulfoxide and the acid is exothermic. Release pressure after mixing, then keep funnel stoppered.) Add 150 milliliters of isooctane and shake to preequilibrate the solvents. Draw off the individual layers and store in glass-stoppered flasks.

PROCEDURE

Sample. Select metal foil or sheet stock for the test which has not been previously contaminated by careless handling or exposure to atmospheric dust and fumes. A commercial coil in the form supplied for spindle mounting in a packaging line or wrapping machine is most suitable. Strip off the outside turn of metal and discard. Carefully avoid contamination or damage from handling the metal (wear gloves). Remove a 16-18-foot length from the coil and place it on a flat surface protected by a length of new kraft paper. Cut four 15-foot strips from the sample, each 3 inches wide (avoid tearing the edges of the strips). Using a piece of suitable glass rod, roll the strips of metal into loose coils and insert each into a Soxhlet thimble. Each turn of coil should be visibly separated from the adjacent turn.

Extraction. Fill each of the four Soxhlet tubes with purified isooctane (see under heading "Reagents and Materials," above) until siphon action occurs and then refill the tube body. Supply heat to the boiling flask and allow extraction to continue for at least 8 hours or until repeated weighings of the dried and cooled coil show no further weight loss.

Combine the isooctane extracts from the four Soxhlet units in a suitable beaker, rinsing each tube and flask into the beaker with fresh purified solvent. Evaporate the solvent under an atmosphere of inert gas (nitrogen) to residual volume of 50–60 milliliters and transfer this solution to a 500-milliliter separatory funnel containing 100 milliliters of prequilibrated sulfoxide-phosphoric acid mixture. Complete the transfer of the sample with small portions of prequilibrated isooctane to give a total volume of the residue and solvent of 75 milliliters. Shake the funnel vigorously for 2 minutes. Set up three 250-milliliter separatory funnels with each containing 30 milliliters of prequilibrated isooctane. After separation of liquid phases, carefully draw off lower layer into the first 250-milliliter separatory funnel and wash in tandem with the 30-milliliter portion of iso-

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octane contained in the 250-milliliter separatory funnels. Shaking time for each wash is 1 minute. Repeat the extraction operation with two additional portions of the sulfoxide-acid mixture and wash each extractive in tandem through the same three portions of isooctane.

Collect the successive extractives (300 milliliters total) in a separatory funnel (preferably 2-liter) containing 480 milliliters of distilled water; mix, and allow to cool for a few minutes after the last extractive has been added. Add 80 milliliters of isooctane to the solution and extract by shaking the funnel vigorously for 2 minutes. Draw off the lower aqueous layer into a second separatory funnel (preferably 2-liter) and repeat the extraction with 80 milliliters of isooctane. Draw off and discard the aqueous layer. Wash each of the 80-milliliter extractives three times with 100-milliliter portions of distilled water. Shaking time for each wash is 1 minute. Discard the aqueous layers. Filter the first extractive through anhydrous sodium sulfate pre-washed with isooctane (see sodium sulfate under "Reagents and Materials" for preparation of filter) into a 250-milliliter Erlenmeyer flask (or optionally into the evaporation flask). Wash the first separatory funnel with the second 80-milliliter isooctane extractive and pass through the sodium sulfate. Then wash the second and first separatory funnels successively with a 20-milliliter portion of isooctane and pass the solvent through the sodium sulfate into the flask. Add 1 milliliter of *n*-hexadecane and evaporate the isooctane on the steam bath under nitrogen. Discontinue evaporation when not over 1 milliliter of residue remains. To the residue, add a 10-milliliter portion of isooctane, reevaporate to 1 milliliter of hexadecane, and repeat this operation once.

Quantitatively transfer the residue with isooctane to a 25-milliliter volumetric flask, make to volume, and mix. Determine the absorbance of the solution in 5-centimeter pathlength cells compared to isooctane as reference between 280mμ–400mμ (take care to lose none of the solution in filling the sample cell). Correct the absorbance values for any absorbance derived from reagents as determined by carrying out the procedure without a metal sample. If the corrected absorbance does not exceed the limits prescribed in this paragraph, the residue meets the ultraviolet absorbance specifications.

(b) The following substances may be used in surface lubricants used to facilitate the drawing, sampling, or forming of metallic articles from rolled foil or sheet stock by further processing provided that the total residual lubricant remaining on the metallic article in the form in which it contacts food does not exceed 0.2 milligram per square inch of food-contact surface:

(1) Antioxidants used in compliance with regulations in Parts 170 through 189 of this chapter.

(2) Substances identified in this subparagraph.

List of substances	*Limitations*
Acetyl tributyl citrate	
Acetyl triethyl citrate	
Butyl stearate	
Castor oil	
Dibutyl sebacate	
Di(2-ethylhexyl) azelate	
Di(2-ethylhexyl) sebacate	
Diisodecyl phthalate	
Dimethylpolysiloxane	Conforming to the identity prescribed in § 181.28 of this chapter.
Dipropylene glycol	
Epoxidized soybean oil	Conforming to the identity prescribed in § 181.27 of this chapter.
Fatty acids derived from animal and vegetable fats and oils, and salts of such acids, single or mixed, as follows:	
Aluminum	
Magnesium	
Potassium	
Sodium	
Zinc	
Fatty alcohols, straight-chain with even number carbon atoms (C_{16} or greater).	
Isobutyl stearate	
Lanolin	
Linoleic acid amide	
Mineral oil	Conforming to the identity prescribed in § 178.3620 (a) or (b).
Mono-, di-, and tristearyl citrate	
Oleic acid amide	
Palmitic acid amide	
Petrolatum	Conforming to the identity prescribed in § 178.3700.
Polyethylene glycol (molecular weight 300 or greater).	Mono- and diethylene glycol content not to exceed a total of 0.2 pct.
Stannous stearate	
Stearic acid amide	
Stearyl stearate	
Triethylene glycol	Diethylene glycol content not to exceed 0.1 pct.
Wax, petroleum	Complying with § 178.3710.

(c) The substances identified in paragraph (a) (2) of this section may be used in surface lubricants used to facilitate the drawing, stamping, and forming of metallic articles from rolled foil and sheet stock provided that total residual lubricant remaining on the metallic article in the form in which it contacts food does not exceed 0.015 milligram per square inch of food-contact surface.

(d) Subject to any prescribed limitations, the quantity of surface lubricant used in the manufacture of metallic articles shall not exceed the least amount reasonably required to accomplish the intended technical effect and shall not be intended to nor, in fact, accomplish any technical effect in the food itself.

(e) The use of the surface lubricants in the manufacture of any article that is the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter must comply with any specifications prescribed by such regulation for the finished form of the article.

(f) Any substance that is listed in this section and the subject of a regulation in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter shall comply with any applicable specifications prescribed by such regulation.

§ 178.3930 Terpene resins.

The terpene resins identified in paragraph (a) of this section may be safely used as components of polypropylene film intended for use in contact with food, and the terpene resins identified in paragraph (b) of this section may be safely used as components of polyolefin film intended for use in contact with food;

(a) Terpene resins consisting of the hydrogenated polymers of terpene hydrocarbons obtainable from sulfate turpentine and meeting the following specifications: Drop-softening point of 118°–138° C; iodine value less than 20.

(b) Terpene resins consisting of polymers of beta-pinene and meeting the following specifications: Acid value less than 1; saponification number less than 1; color less than 4 on the Gardner scale as measured in 50 percent mineral spirits solution.

§ 178.3940 Tetraethylene glycol di-(2-ethylhexoate).

Tetraethylene glycol di-(2-ethylhexoate) containing not more than 22 parts per million ethylene and/or diethylene glycols may be used at a level not to exceed 0.7 percent by weight of twine as a finish on twine to be used for tying meat provided the twine fibers are produced from nylon resins complying with § 177.1500 of this chapter.

§ 178.3950 Tetrahydrofuran.

Tetrahydrofuran may be safely used in the fabrication of articles intended for packaging, transporting, or storing foods, subject to the provisions of this section.

(a) It is used as a solvent in the casting of film from a solution of polymeric resins of vinyl chloride, vinyl acetate, or vinylidene chloride that have been polymerized singly or copolymerized with one another in any combination, or it may be used as a solvent in the casting of film prepared from vinyl chloride copolymers complying with § 177.1980 of this chapter.

(b) The residual amount of tetrahydrofuran in the film does not exceed 1.5 percent by weight of film.

§ 178.3970 Ultramarine blue.

Ultramarine blue may be safely used as a component of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food in accordance with the following prescribed conditions:

(a) It is used as a colorant in the manufacture of the following articles:

(1) Flexible, semirigid, and rigid plastic materials.

(2) Textiles and textile fibers as provided in § 177.2800 of this chapter.

(b) The quantity used shall not exceed the amount reasonably required to accomplish the intended effect.

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

Subpart A—[Reserved]

Subpart B—Radiation and Radiation Sources

Sec.
179.21 Sources of radiation used for inspection of food, for inspection of packaged food, and for controlling food processing.
179.22 Low-dose gamma radiation for the treatment of food.
179.24 Low-dose electron beam radiation for the treatment of food.
179.30 Radiofrequency radiation for the heating of food, including microwave frequencies.
179.39 Ultraviolet radiation for the processing and treatment of food.

Subpart C—Packaging Materials for Irradiated Foods

179.45 Packaging materials for use during the irradiation of prepackaged foods.

AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1786 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—[Reserved]

Subpart B—Radiation and Radiation Sources

§ 179.21 Sources of radiation used for inspection of food, for inspection of packaged food, and for controlling food processing.

Sources of radiation for the purposes of inspection of foods, for inspection of packaged food, and for controlling food processing may be safely used under the following conditions:

(a) The radiation source is one of the following:

(1) X-ray tubes producing X-radiation from operation of the tube source at energy levels of 300 kilovolt peak or lower.

(2) Sealed units producing radiations at energy levels of not more than 2.2 million electron volts from one of the following isotopes: Americium-241, cesium-137, cobalt-60, iodine-125, krypton-85, radium-226, and strontium-90.

(b) To assure safe use of these radiation sources:

(1) The label of the sources shall bear, in addition to the other information required by the Act:

(i) Appropriate and accurate information identifying the source of radiation.

(ii) The maximum energy of radiation emitted by X-ray tube sources.

(2) The label or accompanying labeling shall bear:

(i) Adequate directions for installation and use.

(ii) A statement that no food shall be exposed to a radiation source so as to receive an absorbed dose in excess of 1000 rads.

§ 179.22 Low-dose gamma radiation for the treatment of food.

Gamma radiation for the treatment of certain foods may be safely used under the following conditions:

(a) The radiation source consists of sealed units containing the isotope cobalt-60 or cesium-137.

(b) The gamma radiation is used or intended for use in a single treatment as follows:

Food for irradiation	Limitations	Use
Wheat	Absorbed dose: 20,000 to 50,000 rd	Control of insect infestation.
Wheat flour from unirradiated wheat	do	Do.
White potatoes	Absorbed dose: 5,000 to 15,000 rd	Inhibit sprout development.

(c) To assure safe use, the label and labeling of the food shall bear, in addition to the other information required by the act, the following statements:

(1) "Treated with ionizing radiation" or "Treated with gamma radiation" on retail packages.

(2) "Treated with ionizing radiation—do not irradiate again" or "Treated with gamma radiation—do not irradiate again" on wholesale packages and on invoices or bills of lading of bulk shipments.

§ 179.24 Low-dose electron beam radiation for the treatment of food.

Electron beam radiation for the treatment of food may be safely used under the following conditions:

(a) The radiation source consists of an electron accelerator producing a beam of electrons at energy levels not to exceed 5 million electron volts.

(b) The electron beam radiation is used or intended for use in a single treatment as follows:

Food for radiation	Limitation	Use
Wheat	Absorbed dose: 20,000 to 50,000 rads. Maximum thickness of food under irradiation: 0.6 cm/Mev of electron energy under single beam irradiation or 1.4 cm/Mev of electron energy with crossfiring beams. Maximum flow: 10 tons per hour per kilowatt under single beam irradiation, or 14 tons per hour per kilowatt with crossfiring beams.	Control of insect infestation.
Wheat flour from unirradiated wheat	do	Do.

(c) In the case of electron beam radiation used for treatment of food, a permanent record of the radiation intensity and power used in the processing shall be made with recorders coupled to the electron accelerator, and the records shall be retained for Food and Drug Administration inspection for a period of 1 year. Such records shall provide information identifying completely the food that has been subjected to the radiation recorded thereon.

(d) To assure safe use, the label and labeling of the food shall bear, in addition to the other information required by the act, the following statements:

(1) "Treated with ionizing radiation" or "Treated with electron radiation" on retail packages.

(2) "Treated with ionizing radiation—do not irradiate again" or "Treated with electron radiation—do not irradiate again" on wholesale packages and on invoices or bills of lading of bulk shipments.

§ 179.30 Radiofrequency radiation for the heating of food, including microwave frequencies.

Radiofrequency radiation, including microwave frequencies, may be safely used for heating food under the following conditions:

(a) The radiation source consists of electronic equipment producing radio waves with specific frequencies for this purpose authorized by the Federal Communications Commission.

(b) The radiation is used or intended for use in the production of heat in food wherever heat is necessary and effective in the treatment or processing of food.

§ 179.39 Ultraviolet radiation for the processing and treatment of food.

Ultraviolet radiation for the processing and treatment of food may be safely used under the following conditions:

(a) The radiation sources consist of ultraviolet emission tubes designed to emit wavelengths within the range of 2200–3000 Angstrom units with 90 percent of the emission being the wavelength 2537 Angstrom units.

(b) The ultraviolet radiation is used or intended for use as follows:

Irradiated food	Limitations	Use
Food and food products	Irradiated with 2,200 to 3,000 A emissions, without ozone production: high fat-content food irradiated in vacuum or in an inert atmosphere; intensity of radiation, 1 W (of 2,537 A radiation) per 5 to 10 ft².	Surface microorganism control.
Potable water	Irradiated with 2,200 to 3,000 A emissions, without ozone production; coefficient of absorption, 0.19 per cm. or less; flow rate, 100 gal/h per watt of 2,537 A radiation; water depth, 1 cm or less; lamp-operating temperature, 36° to 46° C.	Sterilization of water used in food production.

Subpart C—Packaging Materials for

in compliance with §§ 178.3740 and 181.-

§§ 178.3740 and 181.22 through 181.30 of

substance will result in harm to the pub-

(a) Limitations for acrylonitrile mon-

temperatures appropriate to the intended conditions of use.

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Subpart C—Packaging Materials for Irradiated Foods

§ 179.45 Packaging materials for use during the irradiation of prepackaged foods.

The packaging materials identified in this section may be safely subjected to irradiation incidental to the radiation treatment and processing of prepackaged foods, subject to the provisions of this section and to the requirement that no induced radioactivity is detectable in the packaging material itself:

(a) The radiation of the food itself shall comply with regulations in this part.

(b) The following packaging materials may be subjected to a dose of radiation, not to exceed 1 megarad, unless otherwise indicated, incidental to the use of gamma radiation in the radiation treatment of prepackaged foods:

(1) Nitrocellulose-coated or vinylidene chloride copolymer-coated cellophane complying with § 177.1200 of this chapter.

(2) Glassine paper complying with § 176.170 of this chapter.

(3) Wax-coated paperboard complying with § 176.170 of this chapter.

(4) Polyolefin film prepared from one or more of the basic olefin polymers complying with § 177.1520 of this chapter. The finished film may contain:

(i) Adjuvant substances used in compliance with §§ 178.3740 and 181.22 through 181.30 of this chapter, sodium citrate, sodium lauryl sulfate, polyvinyl chloride, and materials as listed in paragraph (c) (2) (i) of this section.

(ii) Coatings comprising a vinylidene chloride copolymer containing a minimum of 85 percent vinylidene chloride with one or more of the following comonomers: Acrylic acid, acrylonitrile, itaconic acid, methyl acrylate, and methyl methacrylate.

(5) Kraft paper prepared from unbleached sulfate pulp to which rosin, complying with § 178.3870 of this chapter, and alum may be added. The kraft paper is used only as a container for flour and is irradiated with a dose not exceeding 50,000 rads.

(6) Polyethylene terephthalate film prepared from the basic polymer as described in § 177.1630(d) (4) (i) of this chapter. The finished film may contain:

(i) Adjuvant substances used in compliance with §§ 178.3740 and 181.22 through 181.30 of this chapter, sodium citrate, sodium lauryl sulfate, polyvinyl chloride, and materials as listed in paragraph (c) (2) (i) of this section.

(ii) Coatings comprising a vinylidene chloride copolymer containing a minimum of 85 percent vinylidene chloride with one or more of the following comonomers: Acrylic acid, acrylonitrile, itaconic acid, methyl acrylate, and methyl methacrylate.

(iii) Coatings consisting of polyethylene conforming to § 177.1520 of this chapter.

(7) Polystyrene film prepared from styrene basic polymer. The finished film may contain adjuvant substances used in compliance with §§ 178.3740 and 181.22 through 181.30 of this chapter.

(8) Rubber hydrochloride film prepared from rubber hydrochloride basic polymer having a chlorine content of 30–32 weight percent and having a maximum extractable fraction of 2 weight percent when extracted with *n*-hexane at reflux temperature for 2 hours. The finished film may contain adjuvant substances used in compliance with §§ 178.3740 and 181.22 through 181.30 of this chapter.

(9) Vinylidene chloride-vinyl chloride copolymer film prepared from vinylidene chloride-vinyl chloride basic copolymers containing not less than 70 weight percent of vinylidene chloride and having a viscosity of 0.50–1.50 centipoises as determined by ASTM method D 729–57. The finished film may contain adjuvant substances used in compliance with §§ 178.3740 and 181.22 through 181.30 of this chapter.

(10) Nylon 11 conforming to § 177.1500 of this chapter.

(c) The following packaging materials may be subjected to a dose of radiation, not to exceed 6 megarads incidental to the use of gamma or X-radiation in the radiation processing of prepackaged foods:

(1) Vegetable parchments, consisting of a cellulose material made from waterleaf paper (unsized) treated with concentrated sulfuric acid, neutralized, and thoroughly washed with distilled water.

(2) Films prepared from basic polymers and with or without adjuvants, as follows:

(i) Polyethylene film prepared from the basic polymer as described in § 177.1520(a) of this chapter. The finished film may contain one of more of the following added substances:

Substances	*Limitations*
Amides of erucic, linoleic, oleic, palmitic, and stearic acid.	Not to exceed 1 pct by weight of the polymer.
BHA as described in § 172.110 of this chapter.	Do.
BHT as described in § 172.115 of this chapter.	Do.
Calcium and sodium propionates	Do.
Petroleum wax as described in § 178.3710 of this chapter.	Do.
Polypropylene, noncrystalline, as described in § 177.1520(c) of this chapter.	Not to exceed 2 pct by weight of the polymer.
Stearates of aluminum, calcium, magnesium, potassium, and sodium as described in § 172.863(a) of this chapter.	Not to exceed 1 pct by weight of the polymer.
Triethylene glycol as described in § 178.3740(b) of this chapter.	Do.
Mineral oil as described in § 178.3620 (a) or (b) of this chapter.	Do.

(ii) Polyethylene terephthalate film prepared from the basic polymer as described in § 177.1630(d) (4) (i) of this chapter. The finished film may contain one or more of the added substances listed in subdivision (i) of this subparagraph.

(iii) Nylon 6 films prepared from the nylon 6 basic polymer as described in § 177.1500(a) (6) of this chapter and meeting the specifications of item 6.1 of the table in § 177.1500(b) of this chapter. The finished film may contain one or more of the added substances listed in paragraph (c) (2) (i) of this section.

(iv) Vinyl chloride-vinyl acetate copolymer film prepared from the basic copolymer containing 88.5 to 90.0 weight percent of vinyl chloride with 10.0 to 11.5 weight percent of vinyl acetate and having a maximum volatility of not over 3.0 percent (1 hour at 105° C) and viscosity not less than 0.30 determined by ASTM D–1243–60, Method A. The finished film may contain one or more of the added substances listed in paragraph (c) (2) (i) of this section.

(d) Acrylonitrile copolymers identified in this section shall comply with the provisions of § 180.22 of this chapter.

PART 180—FOOD ADDITIVES PERMITTED IN FOOD ON AN INTERIM BASIS OR IN CONTACT WITH FOOD PENDING ADDITIONAL STUDY

Subpart A—General Provisions

Sec.
180.1 General.

Subpart B—Specific Requirements for Certain Food Additives

Sec.
180.22 Acrylonitrile copolymers.
180.25 Mannitol.
180.30 Brominated vegetable oil.
180.37 Saccharin, ammonium saccharin, calcium saccharin, and sodium saccharin.

AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—General Provisions

§ 180.1 General.

(a) Substances having a history of use in food for human consumption or in food contact surfaces may at any time have their safety or functionality brought into question by new information that in itself is not conclusive. An interim food additive regulation for the use of any such substance may be promulgated in this subpart when new information raises a substantial question about the safety or functionality of the substance but there is a reasonable certainty that the substance is not harmful and that no harm to the public health will result from the continued use of the substance for a limited period of time while the question raised is being resolved by further study.

(b) No interim food additive regulation may be promulgated if the new information is conclusive with respect to the question raised or if there is a reasonable likelihood that the substance is harmful or that continued use of the

substance will result in harm to the public health.

(c) The Commissioner, on his own initiative or on the petition of any interested person, pursuant to Part 2 of this chapter, may propose an interim food additive regulation. A final order promulgating an interim food additive regulation shall provide that continued use of the substance in food is subject to each of the following conditions:

(1) Use of the substance in food or food contact surfaces must comply with whatever limitations the Commissioner deems to be appropriate under the circumstances.

(2) Within 60 days following the effective date of the regulation, an interested person shall satisfy the Commissioner in writing that studies adequate and appropriate to resolve the questions raised about the substance have been undertaken, or the Food and Drug Administration may undertake the studies. The Commissioner may extend this 60-day period if necessary to review and act on proposed protocols. If no such commitment is made, or adequate and appropriate studies are not undertaken, an order shall immediately be published in the FEDERAL REGISTER revoking the interim food additive regulation effective upon publication.

(3) A progress report shall be filed on the studies every January 1 and July 1 until completion. If the progress report is inadequate or if the Commissioner concludes that the studies are not being pursued promptly and diligently or if interim results indicate a reasonable likelihood that a health hazard exists, an order will promptly be published in the FEDERAL REGISTER revoking the interim food additive regulation effective upon publication.

(d) Promptly upon completion of the studies undertaken on the substance, the Commissioner will review all available data, will terminate the interim food additive regulation, and will either issue a food additive regulation or will require elimination of the substance from the food supply.

(e) The Commissioner may consult with advisory committees, professional organizations, or other experts in the field, in evaluating:

(1) Whether an interim food additive regulation is justified,

(2) The type of studies necessary and appropriate to resolve questions raised about a substance,

(3) Whether interim results indicate the reasonable likelihood that a health hazard exists, or

(4) Whether the data available at the conclusion of those studies justify a food additive regulation.

Subpart B—Specific Requirements for Certain Food Additives

§ 180.22 Acrylonitrile copolymers.

Acrylonitrile copolymers may be safely used on an interim basis as articles or components of articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) Limitations for acrylonitrile monomer extraction for finished food-contact articles, determined by using methods of analysis available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives, 200 C St. SW., Washington, DC 20204, are as follows:

(1) In the case of single-use articles having a volume to surface ratio of 10 milliliters or more per square inch of food contact surface—0.003 milligram/square inch when extracted to equilibrium at 120° F with food-simulating solvents appropriate to the intended conditions of use.

(2) In the case of single-use articles having a volume to surface ratio of less than 10 milliliters per square inch of food contact surface—0.3 part per million calculated on the basis of the volume of the container when extracted to equilibrium at 120° F with food-simulating solvents appropriate to the intended conditions of use.

(3) In the case of repeated-use articles—0.003 milligram/square inch when extracted at a time equivalent to initial batch usage utilizing food-simulating solvents and temperatures appropriate to the intended conditions of use.

The food-simulating solvents shall include, where applicable, distilled water, 8 percent or 50 percent ethanol, 3 percent acetic acid, and either *n*-heptane or an appropriate oil or fat.

(b) Where necessary, current regulations permitting the use of acrylonitrile copolymers shall be revised to specify limitations on acrylonitrile/mercaptan complexes utilized in the production of acrylonitrile copolymers. Such copolymers, if they contain reversible acrylonitrile/mercaptan complexes and are used in other than repeated-use conditions, shall be tested to determine the identity of the complex and the level of the complex present in the food-contact article. Such testing shall include determination of the rate of decomposition of the complex at temperatures of 100° F, 160° F, and 212° F using 3 percent acetic acid as the hydrolic agent. Acrylonitrile monomer levels, acrylonitrile/mercaptan complex levels, acrylonitrile oligomer levels, descriptions of the analytical methods used to determine the complex and the acrylonitrile migration, and validation studies of these analytical methods shall be submitted by June 9, 1977, to the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives, 200 C St. SW., Washington, D.C. 20204, unless an extension is granted by the Food and Drug Administration for good cause shown. Analytical methods for the determination of acrylonitrile complexes with *n*-dodecylmercaptan, *n*-octyl mercaptan, and 2-mercaptoethanol are available upon request from the Division of Food and Color Additives.

(c) The following data shall be provided for finished food-contact articles intended for repeated use:

(1) Qualitative and quantitative migration values at a time equivalent to initial batch usage, utilizing solvents and temperatures appropriate to the intended conditions of use.

(2) Qualitative and quantitative migration values at the time of equilibrium extractions, utilizing solvents and temperatures appropriate to the intended conditions of use.

(3) Data on the volume and/or weight of food handled during the initial batch time period(s), during the equilibrium test period, and over the estimated life of the food-contact surface.

(d) Where acrylonitrile copolymers represent only a minor component of a polymer system, calculations based on 100 percent migration of the acrylonitrile component may be submitted in lieu of the requirements of paragraphs (a), (b), and (c) of this section in support of the continued safe use of acrylonitrile copolymers.

(e) On or before September 13, 1976, any interested person shall satisfy the Commissioner of Food and Drugs that toxicological feeding studies adequate and appropriate to establish safe conditions for the use of acrylonitrile copolymers have been, or soon will be, undertaken. Toxicity studies of acrylonitrile monomer shall include (1) lifetime feeding studies with a mammalian species, preferably with animals exposed in utero to the chemical, (2) studies of multigeneration reproduction with oral administration of the test material, (3) assessment of teratogenic and mutagenic potentials, (4) subchronic oral administration in a nonrodent mammal, (5) tests to determine any synergistic toxic effects between acrylonitrile monomer and cyanide ion, and (6) a literature search on the effects of chronic ingestion of hydrogen cyanide. Data on levels of acrylamide extractable from acrylonitrile copolymers shall also be submitted. Protocols of testing should be submitted for review to the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF–330), 200 C St. SW., Washington, D.C. 20204.

(f) Acrylonitrile copolymers may be used in contact with food only if authorized in Parts 174 through 179 or § 181.32 of this chapter except that other uses of acrylonitrile copolymers in use prior to June 14, 1976, may continue under the following conditions:

(1) On or before August 13, 1976, each use of acrylonitrile copolymers in a manner not authorized by § 181.32 of this chapter or Parts 174 through 179 of this chapter shall be the subject of a notice to the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF–330), 200 C St. SW., Washington, DC 20204. Such notice shall be accompanied by a statement of the basis, including any articles and correspondence, on which the user in good faith believed the use to be prior-sanctioned. The Commissioner of Food and Drugs shall, by notice in the FEDERAL REGISTER, identify any use of acrylonitrile copolymers not in accordance with this paragraph. Those uses are thereafter unapproved food additives and consequently unlawful.

(2) Any use of acrylonitrile copolymers

(e) The label and labeling of food

(1) In beverages, fruit juice drinks,

Sec.
181.26 Drying oils as components of finished

any prior sanction for use of the ingredient under conditions different from

Calcium propionate.
Methylparaben (methyl *p*-hydroxybenzoate).
Propylparaben (propyl *p*-hydroxybenzoate).

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(2) Any use of acrylonitrile copolymers subject to paragraph (f)(1) of this section shall be the subject of a petition submitted on or before December 13, 1976, in accordance with § 171.1 of this chapter, unless an extension of time is granted by the Food and Drug Administration for good cause shown. Any application for extension shall be by petition submitted in accordance with the requirements of Part 2 of this chapter. If a petition is denied, in whole or in part, those uses subject to the denial are thereafter unapproved food additives and consequently unlawful.

(3) Any use of acrylonitrile copolymers subject to paragraph (f)(1) of this section shall meet the acrylonitrile monomer extraction limitation set forth in paragraph (a) of this section and shall be subject to the requirements of paragraph (b) of this section.

(g) In addition to the requirements of this section, the use of acrylonitrile copolymers shall comply with all applicable requirements in other regulations in this part.

§ 180.25 Mannitol.

(a) Mannitol is the chemical 1,2,3,4,5, 6,-hexanehexol ($C_6H_{14}O_6$) a hexahydric alcohol, differing from sorbitol principally by having a different optical rotation. Mannitol is produced by the electrolytic reduction, or the transition metal catalytic hydrogenation, of sugar solutions containing glucose or fructose.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an anticaking agent and free-flow agent as defined in § 170.3(o)(1) of this chapter, formulation aid as defined in § 170.3(o)(14) of this chapter, firming agent as defined in § 170.3(o)(10) of this chapter, flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter, lubricant and release agent as defined in § 170.3(o)(18) of this chapter, nutritive sweetener as defined in § 170.3(o)(21) of this chapter, processing aid as defined in § 170.3(o)(24) of this chapter, stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, surface-finishing agent as defined in § 170.3(o)(30) of this chapter, and texturizer as defined in § 170.3(o)(32) of this chapter.

(d) The ingredient is used in food at levels not to exceed 98 percent in pressed mints and 5 percent in all other hard candy and cough drops as defined in § 170.3(n)(25) of this chapter, 31 percent in chewing gum as defined in § 170.3(n)(6) of this chapter, 40 percent in soft candy as defined in § 170.3(n)(38) of this chapter, 8 percent in confections and frostings as defined in § 170.3(n)(9) of this chapter, 15 percent in nonstandardized jams and jellies, commercial, as defined in § 170.3(n)(28) of this chapter, and at levels less than 2.5 percent in all other foods.

(e) The label and labeling of food whose reasonably foreseeable consumption may result in a daily ingestion of 20 grams of mannitol shall bear the statement "Excess consumption may have a laxative effect".

(f) In accordance with § 180.1, adequate and appropriate feeding studies have been undertaken for this substance. Continued uses of this ingredient are contingent upon timely and adequate progress reports of such tests, and no indication of increased risk to public health during the test period.

(g) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 180.30 Brominated vegetable oil.

The food additive brominated vegetable oil may be safely used in accordance with the following prescribed conditions:

(a) The additive complies with specifications prescribed in Food Chemicals Codex, First Edition, except that free fatty acids (as oleic) shall not exceed 2.5 percent and iodine value shall not exceed 16.

(b) The additive is used on an interim basis as a stabilizer for flavoring oils used in fruit-flavored beverages, for which any applicable standards of identity do not preclude such use, in an amount not to exceed 15 parts per million in the finished beverage, pending the outcome of additional toxicological studies on which periodic reports at 6-month intervals are to be furnished and final results submitted to the Food and Drug Administration promptly after completion of the studies.

§ 180.37 Saccharin, ammonium saccharin, calcium saccharin, and sodium saccharin.

The food additives saccharin, ammonium saccharin, calcium saccharin, and sodium saccharin may be safely used as sweetening agents in food in accordance with the following conditions, if the substitution for nutritive sweeteners is for a valid special dietary purpose and is in accord with current special dietary food regulations and policies or if the use or intended use is for an authorized technological purpose other than calorie reduction:

(a) Saccharin is the chemical, 1,2-benzisothiazolin-3-one-1,1-dioxide ($C_7H_5NO_3S$). The named salts of saccharin are produced by the additional neutralization of saccharin with the proper base to yield the desired salt.

(b) The food additives meet the specifications of the "Food Chemicals Codex."

(c) Authority for such use shall expire when the Commissioner receives the final reports on the ongoing studies in Canada and publishes an order on the safety of saccharin and its salts based on those reports and other available data.

(d) The additives are used or intended for use as a sweetening agent only in special dietary foods, as follows:

(1) In beverages, fruit juice drinks, and bases or mixes when prepared for consumption in accordance with directions, in amounts not to exceed 12 milligrams of the additive, calculated as saccharin, per fluid ounce.

(2) As a sugar substitute for cooking or table use, in amounts not to exceed 20 milligrams of the additive, calculated as saccharin, for each expressed teaspoonful of sugar sweetening equivalency.

(3) In processed foods, in amounts not to exceed 30 milligrams of the additive, calculated as saccharin, per serving of designated size.

(e) The additives are used or intended for use only for the following technological purposes:

(1) To reduce bulk and enhance flavors in chewable vitamin tablets, chewable mineral tablets, or combinations thereof.

(2) To retain flavor and physical properties of chewing gum.

(3) To enhance flavor of flavor chips used in nonstandardized bakery products.

(f) To assure safe use of the additives, in addition to the other information required by the act:

(1) The label of the additive and any intermediate mixes of the additive for manufacturing purposes shall bear:

(i) The name of the additive.

(ii) A statement of the concentration of the additive, expressed as saccharin, in any intermediate mix.

(iii) Adequate directions for use to provide a final food product that complies with the limitations prescribed in paragraphs (d) and (e) of this section.

(2) The label of any finished food product containing the additive shall bear:

(i) The name of the additive.

(ii) The amount of the additive, calculated as saccharin, as follows:

(*a*) For beverages, in milligrams per fluid ounce;

(*b*) For cooking or table use products, in milligrams per dispensing unit;

(*c*) For processed foods, in terms of the weight or size of a serving which shall be that quantity of the food containing 30 milligrams or less of the additive.

(iii) When the additive is used for calorie reduction, such other labeling as is required by Part 105 or § 100.130 of this chapter.

PART 181—PRIOR-SANCTIONED FOOD INGREDIENTS

Subpart A—General Provisions

Sec.
181.1 General.
181.5 Prior sanctions.

Subpart B—Specific Prior-Sanctioned Food Ingredients

181.22 Certain substances employed in the manufacture of food-packaging materials.
181.23 Antimycotics.
181.24 Antioxidants.
181.25 Driers.
181.26 Drying oils as components of finished resins.
181.27 Plasticizers.
181.28 Release agents.
181.29 Stabilizers.
181.30 Substances used in the manufacture of paper and paperboard products used in food packaging.
181.32 Acrylonitrile polymers and resins.

AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—General Provisions

§ 181.1 General.

(a) An ingredient whose use in food or food packaging is subject to a prior sanction or approval within the meaning of section 201(s)(4) of the act is exempt from classification as a food additive. The Commissioner will publish in this part all known prior sanctions. Any interested person may submit to the Commissioner a request for publication of a prior sanction, supported by evidence to show that it falls within section 201(s)(4) of the act.

(b) Based upon scientific data or information that shows that use of a prior-sanctioned food ingredient may be injurious to health, and thus in violation of section 402 of the act, the Commissioner will establish or amend an applicable prior sanction regulation to impose whatever limitations or conditions are necessary for the safe use of the ingredient, or to prohibit use of the ingredient.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055 and 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 348, 371(a)).)

§ 181.5 Prior sanctions.

(a) A prior sanction shall exist only for a specific use(s) of a substance in food, i.e., the level(s), condition(s), product(s), etc., for which there was explicit approval by the Food and Drug Administration or the United States Department of Agriculture prior to September 6, 1958.

(b) The existence of a prior sanction exempts the sanctioned use(s) from the food additive provisions of the act but not from the other adulteration or the misbranding provisions of the act.

(c) All known prior sanctions shall be the subject of a regulation published in this part. Any such regulation is subject to amendment to impose whatever limitation(s) or condition(s) may be necessary for the safe use of the ingredient, or revocation to prohibit use of the ingredient, in order to prevent the adulteration of food in violation of section 402 of the act.

(d) In proposing, after a general evaluation of use of an ingredient, regulations affirming the GRAS status of substances added directly to human food in Part 184 of this chapter or substances in food-contact surfaces in Part 186 of this chapter, or establishing a food additive regulation for substances added directly to human food in Parts 172 and 173 of this chapter or food additives in food-contact surfaces in Parts 174, 175, 176, 177, 178 and § 179.45 of this chapter, the Commissioner shall, if he is aware of any prior sanction for use of the ingredient under conditions different from those proposed in the regulation, concurrently propose a separate regulation covering such use of the ingredient under this part. If the Commissioner is unaware of any such applicable prior sanction, the proposed regulation will so state and will require any person who intends to assert or rely on such sanction to submit proof of its existence. Any food additive or GRAS regulation promulgated after a general evaluation of use of an ingredient constitutes a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to a proposal will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice will also constitute a proposal to establish a regulation under this part, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the proposal.

Subpart B—Specific Prior-Sanctioned Food Ingredients

§ 181.22 Certain substances employed in the manufacture of food-packaging materials.

Prior to the enactment of the food additives amendment to the Federal Food, Drug, and Cosmetic Act, sanctions were granted for the usage of the following substances in the manufacture of packaging materials. So used, these substances are not considered "food additives" within the meaning of section 201(s) of the act, provided that they are of good commercial grade, are suitable for association with food, and are used in accordance with good manufacturing practice. For the purpose of this section, good manufacturing practice for food-packaging materials includes the restriction that the quantity of any of these substances which becomes a component of food as a result of use in food-packaging materials shall not be intended to accomplish any physical or technical effect in the food itself, shall be reduced to the least amount reasonably possible, and shall not exceed any limit specified in this subpart.

§ 181.24 Antioxidants.

Substances classified as antioxidants, when added to food (limit of addition to food, 0.005 percent) shall include:

Butylated hydroxyanisole.
Butylated hydroxytoluene.
Dilauryl thiodipropionate.
Distearyl thiodipropionate.
Gum guaiac.
Nordihydroguairetic acid.
Propyl gallate.
Thiodipropionic acid.
2,4,5-Trihydroxy butyrophenone.

§ 181.23 Antimycotics.

Substances classified as antimycotics, when added to food shall include:

Calcium propionate.
Methylparaben (methyl *p*-hydroxybenzoate).
Propylparaben (propyl *p*-hydroxybenzoate).
Sodium benzoate.
Sodium propionate.
Sorbic acid.

§ 181.25 Driers

Substances classified as driers, when added to food, shall include:

Cobalt caprylate.
Cobalt linoleate.
Cobalt naphthenate.
Cobalt tallate.
Iron caprylate.
Iron linoleate.
Iron naphthenate.
Iron tallate.
Manganese caprylate.
Manganese linoleate.
Manganese naphthenate.
Manganese tallate.

§ 181.26 Drying oils as components of finished resins.

Substances classified as drying oils, when added to food (as components of finished resins) shall include:

Chinawood oil (tung oil).
Dehydrated castor oil.
Linseed oil.
Tall oil.

§ 181.27 Plasticizers.

Substances classified as plasticizers, when added to food, shall include:

Acetyl tributyl citrate.
Acetyl triethyl citrate.
p-tert-Butylphenyl salicylate.
Butyl stearate.
Butylphthalyl butyl glycolate.
Dibutyl sebacate.
Di-(2-ethylhexyl) phthalate (for foods of high water content only).
Diethyl phthalate.
Diisobutyl adipate.
Diisooctyl phthalate (for foods of high water content only).
Diphenyl-2-ethylhexyl phosphate.
Epoxidized soybean oil (iodine number maximum 6; and oxirane oxygen, minimum, 6.0 percent).
Ethylphthalyl ethyl glycolate.
Glycerol monooleate.
Monoisopropyl citrate.
Mono, di-, and tristearyl citrate.
Triacetin (glycerol triacetate).
Triethyl citrate.
3-(2-Xenoyl)-1,2-epoxypropane.

§ 181.28 Release agents.

Substances classified as release agents, when added to food, shall include:

Dimethylpolysiloxane (substantially free from hydrolyzable chloride and alkoxy groups, no more than 18 percent loss in weight after heating 4 hours at 200° C.; viscosity 300 centisokes, 600 centisokes at 25° C, specific gravity 0.96 to 0.97 at 25° C, refractive index 1.400 to 1.404 at 25° C).
Linoleamide (linoleic acid amide).
Oleamide (oleic acid amide).
Palmitamide (palmitic acid amide).
Stearamide (stearic acid amide).

§ 181.29 Stabilizers.

Substances classified as stabilizers, when added to food, shall include:

Aluminum mono-, di-, and tristearate.
Ammonium citrate.
Ammonium potassium hydrogen phosphate.
Calcium glycerophosphate.
Calcium phosphate.
Calcium hydrogen phosphate.

[11] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

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Calcium oleate.

§ 181.32 Acrylonitrile copolymers and

solvents and temperatures appropriate

Subpart E—Emulsifying Agents

Sec.

182.5892 α-Tocopherol acetate.

Calcium oleate.
Calcium acetate.
Calcium carbonate.
Calcium ricinoleate.
Calcium stearate.
Disodium hydrogen phosphate.
Magnesium glycerophosphate.
Magnesium stearate.
Magnesium phosphate.
Magnesium hydrogen phosphate.
Mono-, di-, and trisodium citrate.
Mono-, di-, and tripotassium citrate.
Potassium oleate.
Potassium stearate.
Sodium pyrophosphate.
Sodium stearate.
Sodium tetrapyrophosphate.
Stannous stearate (not to exceed 50 parts per million tin as a migrant in finished food).
Zinc orthophosphate (not to exceed 50 parts per million zinc as a migrant in finished food).
Zinc resinate (not to exceed 50 parts per million zinc as a migrant in finished food).

§ 181.30 Substances used in the manufacture of paper and paperboard products used in food packaging.

Substances used in the manufacture of paper and paperboard products used in food packaging shall include:

Aliphatic polyoxyethylene ethers.*
1-Alkyl (C_8-C_{18})3-amino-3-aminopropane monoacetate.*
Borax or boric acid for use in adhesives, sizes, and coatings.*
Butadiene-styrene copolymer.
Chromium complex of perfluoro-octane sulfonyl glycine for use on paper and paperboard which is waxed.*
Disodium cyanodithioimidocarbamate with ethylene diamine and potassium *N*-methyl dithiocarbamate and/or sodium 2-mercaptobenzothiazole (slimicides).*
Ethyl acrylate and methyl methacrylate copolymers of itaconic acid or methacrylic acid for use only on paper and paperboard which is waxed.*
Hexamethylene tetramine as a setting agent for protein, including casein.*
1-(2-Hydroxyethyl)-1-(4-chlorobutyl)-2-alkyl (C_5-C_{17}) imidasolinium chloride.*
Itaconic acid (polymerized).
Melamine formaldehyde polymer.
Methyl acrylate (polymerized).
Methyl ethers of mono-, di-, and tripropylene glycol.*
Myristo chromic chloride complex.
Nitrocellulose.
Polyethylene glycol 400.
Polyvinyl acetate.
Potassium pentachlorophenate as a slime control agent.*
Potassium trichlorophenate as a slime control agent.*
Resins from high and low viscosity polyvinyl alcohol for fatty foods only.
Rubber hydrochloride.
Sodium pentachlorophenate as a slime control agent.*
Sodium-trichlorophenate as a slime control agent.*
Stearato-chromic chloride complex.
Titanium dioxide.*
Urea formaldehyde polymer.
Vinylidine chlorides (polymerized).

*Under the conditions of normal use, these substances would not reasonably be expected to migrate to food, based on available scientific information and data.

§ 181.32 Acrylonitrile copolymers and resins.

(a) Acrylonitrile copolymers and resins listed in this section, containing less than 30 percent acrylonitrile and complying with the requirements of paragraph (b) of this section, may be safely used as follows:

(1) *Films.* (i) Acrylonitrile/butadiene/styrene copolymers—no restrictions.

(ii) Acrylonitrile/butadiene/styrene copolymers—no restrictions.

(iii) Acrylonitrile/butadiene copolymer blended with vinyl chloride-vinyl acetate (optional at level up to 5 percent by weight of the vinyl chloride resin) resin—for use only in contact with oleomargarine.

(iv) Acrylonitrile/styrene copolymer—no restrictions.

(2) *Coatings.* (i) Acrylonitrile/butadiene copolymer blended with polyvinyl chloride resins—for use only on paper and paperboard in contact with meats and lard.

(ii) Polyvinyl chloride resin blended with either acrylonitrile/butadiene copolymer or acrylonitrile/butadiene styrene copolymer mixed with neoprene, for use as components of conveyor belts to be used with fresh fruits, vegetables, and fish.

(iii) Acrylonitrile/butadiene/styrene copolymer—no restrictions.

(iv) Acrylonitrile/styrene copolymer—no restrictions.

(3) *Rigid and semirigid containers.* (i) Acrylonitrile/butadiene/styrene copolymer—for use only as piping for handling food products and for repeated-use articles intended to contact food.

(ii) Acrylonitrile/styrene resin—no restrictions.

(iii) Acrylonitrile/butadiene copolymer blended with polyvinyl chloride resin—for use only as extruded pipe.

(b) Limitations for acrylonitrile monomer extraction for finished food-contact articles, determined by using methods of analysis available upon request from the Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives, 200 C St. SW., Washington, DC 20204, are as follows:

(1) In the case of single-use articles having a volume to surface ratio of 10 milliliters or more per square inch of food-contact surface—0.003 milligram/square inch when extracted to equilibrium at 120° F with food-simulating solvents appropriate to the intended conditions of use.

(2) In the case of single-use articles having a volume to surface ratio of less than 10 milliliters per square inch of food-contact surface—0.3 part per million calculated on the basis of the volume of the container when extracted to equilibrium at 120° F with food-simulating solvents appropriate to the intended conditions of use.

(3) In the case of repeated-use articles—0.003 milligram/square inch when extracted at a time equivalent to initial batch usage utilizing food-simulating solvents and temperatures appropriate to the intended conditions of use.

The food-simulating solvents shall include, where applicable, distilled water, 8 percent or 50 percent ethanol, 3 percent acetic acid, and either *n*-heptane or an appropriate oil or fat.

(c) Acrylonitrile monomer may present a hazard to health when ingested. Accordingly, any food-contact article containing acrylonitrile copolymers or resins that yield acrylonitrile monomer in excess of that amount provided for in paragraph (b) of this section shall be deemed to be adulterated in violation of section 402 of the act.

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

Subpart A—General Provisions

Sec.
182.1 Substances that are generally recognized as safe.
182.10 Spices and other natural seasonings and flavorings.
182.20 Essential oils, oleoresins (solvent-free), and natural extractives (including distillates).
182.30 Natural substances used in conjunction with spices and other natural seasonings and flavorings.
182.40 Natural extractives (solvent-free) used in conjunction with spices, seasonings, and flavorings.
182.50 Certain other spices, seasonings, essential oils, oleoresins, and natural extracts.
182.60 Synthetic flavoring substances and adjuvants.
182.70 Substances migrating from cotton fabrics used in dry food packaging.
182.90 Substances migrating to food from paper and paperboard products.
182.99 Adjuvants for pesticide chemicals.

Subpart B—Multiple Purpose GRAS Food Substances

182.1005 Acetic acid.
182.1009 Adipic acid.
182.1033 Citric acid.
182.1045 Glutamic acid.
182.1047 Glutamic acid hydrochloride.
182.1057 Hydrochloric acid.
182.1061 Lactic acid.
182.1069 Malic acid.
182.1073 Phosphoric acid.
182.1077 Potassium acid tartrate.
182.1087 Sodium acid pyrophosphate.
182.1091 Succinic acid.
182.1095 Sulfuric acid.
182.1099 Tartaric acid.
182.1125 Aluminum sulfate.
182.1127 Aluminum ammonium sulfate.
182.1129 Aluminum potassium sulfate.
182.1131 Aluminum sodium sulfate.
182.1135 Ammonium bicarbonate.
182.1137 Ammonium carbonate.
182.1139 Ammonium hydroxide.
182.1141 Ammonium phosphate.
182.1143 Ammonium sulfate.
182.1155 Bentonite.
182.1165 Butane.
182.1180 Caffeine.
182.1191 Calcium carbonate.
182.1193 Calcium chloride.
182.1195 Calcium citrate.
182.1199 Calcium gluconate.
182.1205 Calcium hydroxide.
182.1207 Calcium lactate.

Sec.
182.1210 Calcium oxide.
182.1217 Calcium phosphate.
182.1235 Caramel.
182.1240 Carbon dioxide.
182.1275 Dextrans.
182.1295 Ethyl formate.
182.1320 Glycerin.
182.1324 Glyceryl monostearate.
182.1355 Helium.
182.1366 Hydrogen peroxide.
182.1400 Lecithin.
182.1425 Magnesium carbonate.
182.1428 Magnesium hydroxide.
182.1431 Magnesium oxide.
182.1440 Magnesium stearate.
182.1480 Methylcellulose.
182.1500 Monoammonium glutamate.
182.1516 Monopotassium glutamate.
182.1540 Nitrogen.
182.1545 Nitrous oxide.
182.1585 Papain.
182.1613 Potassium bicarbonate.
182.1619 Potassium carbonate.
182.1625 Potassium citrate.
182.1631 Potassium hydroxide.
182.1643 Potassium sulfate.
182.1655 Propane.
182.1666 Propylene glycol.
182.1685 Rennet.
182.1711 Silica aerogel.
182.1721 Sodium acetate.
182.1736 Sodium bicarbonate.
182.1742 Sodium carbonate.
182.1745 Sodium carboxymethylcellulose.
182.1748 Sodium caseinate.
182.1751 Sodium citrate.
182.1763 Sodium hydroxide.
182.1775 Sodium pectinate.
182.1778 Sodium phosphate.
182.1781 Sodium aluminum phosphate.
182.1792 Sodium sesquicarbonate.
182.1804 Sodium potassium tartrate.
182.1810 Sodium tripolyphosphate.
182.1901 Triacetin.
182.1911 Triethyl citrate
182.1973 Beeswax.
182.1975 Bleached beeswax.
182.1978 Carnauba wax.

Subpart C—Anticaking Agents

182.2122 Aluminum calcium silicate.
182.2227 Calcium silicate.
182.2437 Magnesium silicate.
182.2727 Sodium aluminosilicate.
182.2729 Sodium calcium aluminosilicate, hydrated.
182.1906 Tricalcium silicate.

Subpart D—Chemical Preservatives

182.3013 Ascorbic acid.
182.3025 Caprylic acid.
182.3041 Erythorbic acid.
182.3081 Propionic acid.
182.3089 Sorbic acid.
182.3109 Thiodipropionic acid.
182.3149 Ascorbyl palmitate.
182.3169 Butylated hydroxyanisole.
182.3173 Butylated hydroxytoluene.
182.3189 Calcium ascorbate.
182.3221 Calcium propionate.
182.3225 Calcium sorbate.
182.3280 Dilauryl thiodipropionate.
182.3336 Gum guaiac.
182.3616 Potassium bisulfite.
182.3637 Potassium metabisulfite.
182.3640 Potassium sorbate.
182.3731 Sodium ascorbate.
182.3739 Sodium bisulfite.
182.3766 Sodium metabisulfite.
182.3784 Sodium propionate.
182.3795 Sodium sorbate.
182.3798 Sodium sulfite.
182.3845 Stannous chloride.
182.3862 Sulfur dioxide.
182.3890 Tocopherols.

Subpart E—Emulsifying Agents

182.4029 Cholic acid.
182.4037 Desoxycholic acid.
182.4053 Glycocholic acid.
182.4101 Diacetyl tartaric acid esters of mono- and diglycerides of edible fats or oils, or edible fat-forming fatty acids.
182.4105 Taurocholic acid.
182.4505 Mono- and diglycerides of edible fats or oils, or edible fat-forming acids.
182.4521 Monosodium phosphate derivatives of mono- and diglycerides of edible fats or oils, or edible fat-forming fatty acids.
182.4560 Ox bile extract.
182.4666 Propylene glycol.

Subpart F—Nutrients and or Dietary Supplements

182.5013 Ascorbic acid.
182.5017 Aspartic acid.
182.5049 Aminoacetic acid (glycine).
182.5065 Linoleic acid.
182.5118 Alanine.
182.5145 Arginine.
182.5159 Biotin.
182.5191 Calcium carbonate.
182.5195 Calcium citrate.
182.5201 Calcium glycerophosphate.
182.5219 Calcium oxide.
182.5212 Calcium pantothenate.
182.5217 Calcium phosphate.
182.5223 Calcium pyrophosphate.
182.5230 Calcium sulfate.
182.5245 Carotene.
182.5250 Choline bitartrate.
182.5252 Choline chloride.
182.5260 Copper gluconate.
182.5265 Cuprous iodide.
182.5273 Cystine.
182.5301 Ferric phosphate.
182.5304 Ferric pyrophosphate.
182.5306 Ferric sodium pyrophosphate.
182.5308 Ferrous gluconate.
182.5311 Ferrous lactate.
182.5315 Ferrous sulfate.
182.5361 Histidine.
182.5370 Inositol.
182.5375 Iron reduced.
182.5381 Isoleucine.
182.5406 Leucine.
182.5411 Lysine.
182.5431 Magnesium oxide.
182.5434 Magnesium phosphate.
182.5443 Magnesium sulfate.
182.5446 Manganese chloride.
182.5449 Manganese citrate.
182.5452 Manganese gluconate.
182.5455 Manganese glycerophosphate.
182.5458 Manganese hypophosphite.
182.5461 Manganese sulfate.
182.5464 Manganous oxide.
182.5470 Mannitol.
182.5475 Methionine.
182.5477 Methionine hydroxy analog and its calcium salts.
182.5530 Niacin.
182.5535 Niacinamide.
182.5580 D-Pantothenyl alcohol.
182.5590 Phenylalanine.
182.5622 Potassium chloride.
182.5628 Potassium glycerophosphate.
182.5634 Potassium iodide.
182.5650 Proline.
182.5676 Pyridoxine hydrochloride.
182.5695 Riboflavin.
182.5697 Riboflavin-5-phosphate.
182.5701 Serine.
182.5772 Sodium pantothenate.
182.5778 Sodium phosphate.
182.5875 Thiamine hydrochloride.
182.5878 Thiamine mononitrate.
182.5881 Threonine.
182.5890 Tocopherols.
182.5892 α-Tocopherol acetate.
182.5915 Tryptophane.
182.5920 Tyrosine.
182.5925 Valine.
182.5930 Vitamin A.
182.5933 Vitamin A acetate.
182.5936 Vitamin A palmitate.
182.5945 Vitamine B_{12}.
182.5950 Vitamin D_2.
182.5953 Vitamin D_3.
182.5985 Zinc chloride.
182.5988 Zinc gluconate.
182.5991 Zinc oxide.
188.5994 Zinc stearate.
182.5997 Zinc sulfate.

Subpart G—Sequestrants

182.6033 Citric acid.
182.6085 Sodium acid phosphate.
182.6099 Tartaric acid.
182.6185 Calcium acetate.
182.6193 Calcium chloride.
182.6195 Calcium citrate.
182.6197 Calcium diacetate.
182.6199 Calcium gluconate.
182.6203 Calcium hexametaphosphate.
182.6215 Monobasic calcium phosphate.
182.6219 Calcium phytate.
182.6285 Dipotassium phosphate.
182.6290 Disodium phosphate.
182.6386 Isopropyl citrate.
182.6511 Monoisopropyl citrate.
182.6625 Potassium citrate.
182.6751 Sodium citrate.
182.6754 Sodium diacetate.
182.6757 Sodium gluconate.
182.6760 Sodium hexametaphosphate.
182.6769 Sodium metaphosphate.
182.6778 Sodium phosphate.
182.6787 Sodium pyrophosphate.
182.6789 Tetra sodium pyrophosphate.
182.6801 Sodium tartrate.
182.6804 Sodium potassium tartrate.
182.6807 Sodium thiosulfate.
182.6810 Sodium tripolyphosphate.
182.6851 Stearyl citrate.

Subpart H—Stabilizers

182.7115 Agar-agar.
182.7133 Ammonium alginate.
182.7187 Calcium alginate.
182.7255 Chondrus extract.
182.7610 Potassium alginate.
182.7724 Sodium alginate.

AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—General Provisions

§ 182.1 Substances that are generally recognized as safe.

(a) It is impracticable to list all substances that are generally recognized as safe for their intended use. However, by way of illustration, the Commissioner regards such common food ingredients as salt, pepper, sugar, vinegar, baking powder, and monosodium glutamate as safe for their intended use. This part includes additional substances that, when used for the purposes indicated, in accordance with good manufacturing practice, are regarded by the Commissioner as generaly recognized as safe for such uses.

(b) For the purposes of this section, good manufacturing practice shall be defined to include the following restrictions:

(1) The quantity of a substance added to food does not exceed the amount reasonably required to accomplish its in-

tended physical, nutritional, or other that the substance is useful as a supple-

Common name	Botanical name of plant source
Rue	Ruta graveolens L.

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tended physical, nutritional, or other technical effect in food; and

(2) The quantity of a substance that becomes a component of food as a result of its use in the manufacturing, processing, or packaging of food, and which is not intended to accomplish any physical or other technical effect in the food itself, shall be reduced to the extent reasonably possible.

(3) The substance is of appropriate food grade and is prepared and handled as a food ingredient. Upon request the Commissioner will offer an opinion, based on specifications and intended use, as to whether or not a particular grade or lot of the substance is of suitable purity for use in food and would generally be regarded as safe for the purpose intended, by experts qualified to evaluate its safety.

(c) The inclusion of substances in the list of nutrients does not constitute a finding on the part of the Department that the substance is useful as a supplement to the diet for humans.

(d) Substances that are generally recognized as safe for their intended use within the meaning of section 409 of the act are listed in this part. When the status of a substance has been reevaluated, it will be deleted from this part, and will be issued as a new regulation under the appropriate part, e.g., "affirmed as GRAS" under Part 184 or 186 of this chapter; "food additive regulation" under Parts 170 through 180 of this chapter; "interim food additive regulation" under Part 180 of this chapter; or "prohibited from use in food" under Part 189 of this chapter.

§ 182.10 Spices and other natural seasonings and flavorings.

Spices and other natural seasonings and flavorings that are generally recognized as safe for their intended use, within the meaning of section 409 of the act, are as follows:

Common name	*Botanical name of plant source*
Alfalfa herb and seed	Medicago sativa L.
Allspice	Pimenta officinalis Lindl.
Ambrette seed	Hibiscus abelmoschus L.
Angelica	Angelica archangelica L. or other spp. of Angelica.
Angelica root	Do.
Angelica seed	Do.
Angostura (cusparia bark)	Galipea officinalis Hancock.
Anise	Pimpinella anisum L.
Anise, star	Illicium verum Hook. f.
Balm (lemon balm)	Melissa officinalis L.
Basil, bush	Ocimum minimum L.
Basil, sweet	Ocimum basilicum L.
Bay	Laurus nobilis L.
Calendula	Calendula officinalis L.
Camomile (chamomile), English or Roman	Anthemis nobilis L.
Camomile (chamomile), German or Hungarian	Matricaria chamomilla L.
Capers	Capparis spinosa L.
Capsicum	Capsicum frutescens L. or Capsicum annuum L.
Caraway	Carum carvi L.
Caraway, black (black cumin)	Nigella sativa L.
Cardamom (cardamon)	Elettaria cardamomum Maton.
Cassia, Chinese	Cinnamomum cassia Blume.
Cassia, Padang or Batavia	Cinnamomum burmanni Blume.
Cassia, Saigon	Cinnamomum loureirii Nees.
Cayenne pepper	Capsicum frutescens L. or Capsicum annuum L.
Celery seed	Apium graveolens L.
Chervil	Anthriscus cerefolium (L.) Hoffm.
Chives	Allium schoenoprasum L.
Cinnamon, Ceylon	Cinnamomum zeylanicum Nees.
Cinnamon, Chinese	Cinnamomum cassia Blume.
Cinnamon, Saigon	Cinnamomum loureirii Nees.
Clary (clary sage)	Salvia sclarea L.
Clover	Trifolium spp.
Cloves	Eugenia caryophyllata Thunb.
Coriander	Coriandrum sativum L.
Cumin (cummin)	Cuminum cyminum L.
Cumin, black (black caraway)	Nigella sativa L.
Elder flowers	Sambucus canadensis L.
Fennel, common	Foeniculum vulgare Mill.
Fennel, sweet (finocchio, Florence fennel)	Foeniculum vulgare Mill. var. dulce (DC.) Alex.
Fenugreek	Trigonella foenum-graecum L.
Galanga (galangal)	Alpinia officinarum Hance.
Geranium	Pelargonium spp.
Ginger	Zingiber officinale Rosc.
Glycyrrhiza	Glycyrrhiza glabra L. and other spp. of Glycyrrhiza.
Grains of paradise	Amomum melegueta Rosc.
Horehound (hoarhound)	Marrubium vulgare L.
Horseradish	Armoracia lapathifolia Gilib.
Hyssop	Hyssopus officinalis L.
Lavender	Lavandula officinalis Chair.
Licorice	Glycyrrhiza glabra L. and other spp. of Glycyrrhiza.
Linden flowers	Tilia spp.
Mace	Myristica fragrans Houtt.
Marigold, pot	Calendula officinalis L.
Marjoram, pot	Majorana onites (L.) Benth.
Marjoram, sweet	Majorana hortensis Moench.
Mustard, black or brown	Brassica nigra (L.) Koch.
Mustard, brown	Brassica juncea (L.) Coss.
Mustard, white or yellow	Brassica hirta Moench.
Nutmeg	Myristica fragrans Houtt.
Oregano (oreganum, Mexican oregano, Mexican sage, origan).	Lippia spp.
Paprika	Capsicum annuum L.
Parsley	Petroselinum crispum (Mill.) Mansf.
Pepper, black	Piper nigrum L.
Pepper, cayenne	Capsicum frutescens L. or Capsicum annum L.
Pepper, red	Do.
Pepper, white	Piper nigrum L.
Peppermint	Mentha piperita L.
Poppy seed	Papayer somniferum L.
Pot marigold	Calendula officinalis L.
Pot marjoram	Majorana onites (L.) Benth.
Rosemary	Rosmarinus officinalis L.

Common name	*Botanical name of plant source*
Rue	Ruta graveolens L.
Saffron	Crocus sativus L.
Sage	Salvia officinalis L.
Sage, Greek	Salvia triloba L.
Savory, summer	Satureia hortensis L. (Satureja).
Savory, winter	Satureia montana L. (Satureja).
Sesame	Sesamum indicum L.
Spearmint	Mentha spicata L.
Star anise	Illicium verum Hook. f.
Tarragon	Artemisia dracunculus L.
Thyme	Thymus vulgaris L.
Thyme, wild or creeping	Thymus serpyllum L.
Turmeric	Curcuma longa L.
Vanilla	Vanilla planifolia Andr. or Vanilla tahitensis J. W. Moore.
Zedoary	Curcuma zedoaria Rosc.

§ 182.20 Essential oils, oleoresins (solvent-free), and natural extractives (including distillates).

Essential oils, oleoresins (solvent-free), and natural extractives (including distillates) that are generally recognized as safe for their intended use, within the meaning of section 409 of the act, are as follows:

Alfalfa	Medicago sativa L.
Allspice	Pimenta officinalis Lindl.
Almond, bitter (free from prussic acid)	Prunus amygdalus Batsch, Prunus armeniaca L., or Prunus persica (L.) Batsch.
Ambrette (seed)	Hibiscus moschatus Moench.
Angelica root	Angelica archangelica L.
Angelica seed	Do.
Angelica stem	Do.
Angostura (cuspatia bark)	Galipea officinalis Hancock.
Anise	Pimpinella anisum L.
Asafetida	Ferula assa-foetida L. and related spp. of Ferula.
Balm (lemon balm)	Melissa officinalis L.
Balsam of Peru	Myroxylon pereirae Klotzsch.
Basil	Ocimum basilicum L.
Bay leaves	Laurus nobilis L.
Bay (myrcia oil)	Pimenta racemosa (Mill.) J. W. Moore.
Bergamot (bergamot orange)	Citrus aurantium L. subsp. bergamia Wright et Arn.
Bitter almond (free from prussic acid)	Prunus amygdalus Batsch, Prunus armeniaca L., or Prunus persica (L.) Batsch.
Bois de rose	Aniba rosaeodora Ducke.
Cacao	Theobroma cacao L.
Camomile (chamomile) flowers, Hungarian	Matricaria chamomilla L.
Camomile (chamomile) flowers, Roman or English	Anthemis nobilis L.
Cananga	Cananga odorata Hook. f. and Thoms.
Capsicum	Capsicum frutescens L. and Capsicum annuum L.
Caraway	Carum carvi L.
Cardamom seed (cardamon)	Elettaria cardamomum Maton.
Carob bean	Ceratonia siliqua L.
Carrot	Daucus carota L.
Cascarilla bark	Croton eluteria Benn.
Cassia bark, Chinese	Cinnamomum cassia Blume.
Cassia bark, Padang or Batavia	Cinnamomum burmanni Blume.
Cassia bark, Saigon	Cinnamomum loureirii Nees.
Celery seed	Apium graveolens L.
Cherry, wild, bark	Prunus serotina Ehrh.
Chervil	Anthriscus cerefolium (L.) Hoffm.
Chicory	Cichorium intybus L.
Cinnamon bark, Ceylon	Cinnamomum zeylanicum Nees.
Cinnamon bark, Chinese	Cinnamomum cassia Blume.
Cinnamon bark, Saigon	Cinnamomum loureirii Nees.
Cinnamon leaf, Ceylon	Cinnamomum zeylanicum Nees.
Cinnamon leaf, Chinese	Cinnamomum cassia Blume.
Cinnamon leaf, Saigon	Cinnamomum loureirii Nees.
Citronella	Cymbopogon nardus Rendle.
Citrus peels	Citrus spp.
Clary (clary sage)	Salvia sclarea L.
Clove bud	Eugenia caryophyllata Thunb.
Clove leaf	Do.
Clove stem	Do.
Clover	Trifolium spp.
Coca (decocainized)	Erythroxylum coca Lam. and other spp. of Erythroxylum.
Coffee	Coffea spp.
Cola nut	Cola acuminata Schott and Endl., and other spp. of Cola.
Coriander	Coriandrum sativum L.
Corn silk	Zea mays L.
Cumin (cummin)	Cuminum cyminum L.
Curacao orange peel (orange, bitter peel)	Citrus aurantium L.
Cusparia bark	Galipea officinalis Hancock.
Dandelion	Taraxacum officinale Weber and T. laevigatum DC.
Dandelion root	Do.
Dog grass (quackgrass, triticum)	Agropyron repens (L.) Beauv.
Elder flowers	Sambucus canadensis L. and S. nigra L.
Estragole (esdragol, esdragon, tarragon)	Artemisia dracunculus L.
Estragon (tarragon)	Do.
Fennel, sweet	Foeniculum vulgare Mill.
Fenugreek	Trigonella foenum-graecum L.
Galanga (galangal)	Alpinia officinarum Hance.
Geranium	Pelargonium spp.
Geranium, East Indian	Cymbopogon martini Stapf.
Geranium, rose	Pelargonium graveolens L'Her.
Ginger	Zingiber officinale Rosc.
Glycyrrhiza	Glycyrrhiza glabra L. and other spp. of Glycyrrhiza.
Glycyrrhizin, ammoniated	Do.
Grapefruit	Citrus paradisi Macf.
Guava	Psidium spp.
Hickory bark	Carya spp.
Horehound (hoarhound)	Marrubium vulgare L.
Hops	Humulus lupulus L.
Horsemint	Monarda punctata L.
Hyssop	Hyssopus officinalis L.
Immortelle	Helichrysum angustifolium DC.

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Common name	Botanical name of plant source
Jasmine	Jasminum officinale L. and other spp. of Jasminum.
Juniper (berries)	Juniperus communis L.
Kola nut	Cola acuminata Schott and Endl., and other spp. of Cola.
Laurel berries	Laurus nobilis L.
Laurel leaves	Laurus spp.
Lavender	Lavandula officinalis Chaix.
Lavender, spike	Lavandula latifolia Vill.
Lavandin	Hybrids between Lavandula officinalis Chaix and Lavandula latifolia Vill.
Lemon	Citrus limon (L.) Burm. f.
Lemon balm (see balm).	
Lemon grass	Cymbopogon citratus DC. and Cymbopogon lenuosus Stapf.
Lemon peel	Citrus limon (L.) Burm. f.
Licorice	Glycyrrhiza glabra L. and other spp. of Glycyrrhiza.
Lime	Citrus aurantifolia Swingle.
Linden flowers	Tilia supp.
Locust bean	Ceratonia siliqua L.
Lupulin	Humulus lupulus L.
Mace	Myristica fragrans Houtt.
Malt (extract)	Hordeum vulgare L., or other grains.
Mandarin	Citrus reticulata Blanco.
Marjoram, sweet	Majorana hortensis Moench.
Maté	Ilex paraguariensis St. Hil.
Melissa (see balm).	
Menthol	Mentha supp.
Menthyl acetate	Do.
Molasses (extract)	Saccarum officinarum L.
Mustard	Brassica spp.
Naringin	Citrus paradisi Macf.
Neroli, bigarade	Citrus aurantium L.
Nutmeg	Myristica fragrans Houtt.
Onion	Allium cepa L.
Orange, bitter, flowers	Citrus aurantium L.
Orange, bitter, peel	Do.
Orange leaf	Citrus sinensis (L.) Osbeck.
Orange, sweet	Do.
Orange, sweet, flowers	Do.
Orange, sweet, peel	Do.
Origanum	Origanum spp.
Palmarosa	Cymbopogon martini Stapf.
Paprika	Capsicum annuum L.
Parsley	Petroselinum crispum (Mill.) Mansf.
Pepper, black	Piper nigrum L.
Pepper, white	Do.
Peppermint	Mentha piperita L.
Peruvian balsam	Myroxylon pereirae Klotzsch.
Petitgrain	Citrus aurantium L.
Petitgrain lemon	Citrus limon (L.) Burm. f.
Petitgrain mandarin or tangerine	Citrus reticulata Blanco.
Pimenta	Pimenta officinalis Lindl.
Pimenta leaf	Primenta officinalis Lindl.
Pipsissewa leaves	Chimaphila umbellata Nutt.
Pomegranate	Punica granatum L.
Prickly ash bark	Xanthoxylum (or Zanthoxylum) Americanum Mill. or Xanthoxylum clava-herculis L.
Rose absolute	Rosa alba L., Rosa centifolia L., Rosa damascena Mill., Rosa gallica L., and vars. of these spp.
Rose (otto of roses, attar of roses)	Do.
Rose buds	Do.
Rose flowers	Do.
Rose fruit (hips)	Do.
Rose geranium	Pelargonium graveolens L'Her.
Rose leaves	Rosa spp.
Rosemary	Rosmarinus officinalis L.
Saffron	Crocus sativus L.
Sage	Salvia officinalis L.
Sage, Greek	Salvia triloba L.
Sage, Spanish	Salvia lavandulaefolia Vahl.
St. John's bread	Ceratonia siliqua L.
Savory, summer	Satureia hortensis L.
Savory, winter	Satureia montana L.
Schinus molle	Schinus molle L.
Sloe berries (blackthorn berries)	Prunus spinosa L.
Spearmint	Mentha spicata L.
Spike lavender	Lavandula latifolia Vill.
Tamarind	Tamarindus indica L.
Tangerine	Citrus reticulata Blanco.
Tannic acid	Nutgalls of Quercus infectoria Oliver and related spp. of Quercus. Also in many other plants.
Tarragon	Artemisia dracunculus L.
Tea	Thea sinensis L.
Thyme	Thymus vulgaris L. and Thymus zygis var. gracilis Boiss.
Thyme, white	Do.
Thyme, wild or creeping	Thymus serpyllum L.
Triticum (see dog grass).	
Tuberose	Polianthes tuberosa L.
Turmeric	Curcuma longa L.
Vanilla	Vanilla planifolia Andr. or Vanilla tahitensis J. W. Moore.
Violet flowers	Viola odorata L.
Violet leaves	Do.
Violet leaves absolute	Do.
Wild cherry bark	Prunus serotina Ehrh.
Ylang-ylang	Canarga odorata Hook. f. and Thoms.
Zedoary bark	Curcuma zedoaria Rosc.

§ 182.30 Natural substances used in conjunction with spices and other natural seasonings and flavorings.

Natural substances used in conjunction with spices and other natural seasonings and flavorings that are generally recognized as safe for their intended use, within the meaning of section 409 of the act, are as follows:

Common name	Botanical name of plant source
Algae, brown (kelp)	Laminaria spp. and Nereocystis spp.
Algae, red	Porphyra spp. and Rhodymenia palmata (L.) Grev.
Dulse	Rhodymenia palmata (L.)

§ 182.40 Natural extractives (solvent-free) used in conjunction with spices, seasonings, and flavorings.

Natural extractives (solvent-free) used in conjunction with spices, seasonings, and flavorings that are generally recognized as safe for their intended use, within the meaning of section 409 of the act, are as follows:

Common name	Botanical name of plant source
Algae, brown	Laminaria spp. and Nereocystis spp.
Algae, red	Porphyra spp. and Rhodymenia palmata (L.) Grev.
Apricot kernel (persic oil)	Prunus armeniaca L.
Dulse	Rhodymenia palmata (L.) Grev.
Kelp (see algae, brown).	
Peach kernel (persic oil)	Prunus persica Sieb. et Zucc.
Peanut stearine	Arachis hypogaea L.
Persic oil (see apricot kernel and peach kernel).	
Quince seed	Cydonia oblonga Miller.

§ 182.50 Certain other spices, seasonings, essential oils, oleoresins, and natural extracts.

Certain other spices, seasonings, essential oils, oleoresins, and natural extracts that are generally recognized as safe for their intended use, within the meaning of section 409 of the act, are as follows:

Common name	Derivation
Ambergris	Physeter macrocephalus L.
Castoreum	Castor fiber L. and C. canadensis Kuhl.
Civet (zibeth, zibet, zibetum)	Civet cats, Viverra civetta Schreber and Viverra zibetha Schreber.
Cognac oil, white and green	Ethyl oenanthate, so-called.
Musk (Tonquin musk)	Musk deer, Moschus moschiferus L.

§ 182.60 Synthetic flavoring substances and adjuvants.

Synthetic flavoring substances and adjuvants that are generally recognized as safe for their intended use, within the meaning of section 409 of the act, are as follows:

Acetaldehyde (ethanal).
Acetoin (acetyl methylcarbinol).
Aconitic acid (equisetic acid, citridic acid achilleic acid).
Anethole (parapropenyl anisole).
Benzaldehyde (benzoic aldehyde).
N-Butyric acid (butanoic acid).
d- or *l*-Carvone (carvol).
Cinnamaldehyde (cinnamic aldehyde).
Citral (2,6-dimethyloctadien-2,6-*al*-8, geranial, neral).
Decanal (*N*-decylaldehyde, capraldehyde, capric aldehyde, caprinaldeñyde, aldehyde C-10).
Diacetyl (2,3-butandeione).
Ethyl acetate.
Ethyl butyrate.
3-Methyl-3-phenyl glycidic acid ethyl ester (ethyl-methyl-phenyl-glycidate, so-called strawberry aldehyde, C-16 aldehyde).
Ethyl vanillin.
Eugenol.
Geraniol (3,7-dimethyl-2,6 and 3,6-octadien-1-ol).
Geranyl acetate (geraniol acetate).
Glycerol (glyceryl) tributyrate (tributyrin, butyrin).
Limonene (*d*-, *l*-, and *dl*-).
Linalool (linalol, 3,7-dimethyl-1,6-octadien-3-ol).
Linalyl acetate (bergamol).
1-Malic acid.
Methyl anthranilate (methyl-2-aminobenzoate).
Piperonal (3,4-methylenedioxy-benzaldehyde, heliotropin).
Vanillin.

§ 182.70 Substances migrating from cotton and cotton fabrics used in dry food packaging.

Substances migrating to food from cotton and cotton fabrics used in dry food packaging that are generally recognized as safe for their intended use, within the meaning of section 409 of the act, are as follows:

Acetic acid.
Beef tallow.
Calcium chloride.
Carboxymethylcellulose.
Coconut oil, refined.
Corn dextrin.
Cornstarch.
Fish oil (hydrogenated).
Gelatin.
Hydrogen peroxide.
Japan wax.
Lard.
Lard oil.
Lecithin (vegetable).
Oleic acid.
Peanut oil.
Potato starch.
Sodium acetate.
Sodium bicarbonate.
Sodium carbonate.
Sodium chloride.
Sodium hydroxide.
Sodium sulfate.
Sodium silicate.
Sodium tripolyphosphate.
Sorbose.
Soybean oil (hydrogenated).
Stearic acid.
Talc.
Tall oil.
Tallow (hydrogenated).
Tallow flakes.
Tapioca starch.
Tartaric acid.
Tetrasodium pyrophosphate.
Urea.
Wheat starch.
Zinc chloride.

§ 182.90 Substances migrating to food from paper and paperboard products.

Substances migrating to food from paper and paperboard products used in food packaging that are generally recognized as safe for their intended use, within the meaning of section 409 of the act, are as follows:

Acetic acid.
Alum (double sulfate of aluminum and ammonium potassium, or sodium).
Aluminum hydroxide.
Aluminum oleate.
Aluminum palmitate.
Ammonium chloride.
Ammonium hydroxide.
Calcium chloride.
Calcium hydroxide (lime).
Calcium sulfate.
Casein.
Cellulose acetate.
Clay (kaolin).
Copper sulfate.
Cornstarch.
Corn sugar (sirup).
Dextrin.
Diatomaceous earth filler.
Ethyl cellulose.
Ethyl vanillin.
Ferric sulfate.
Ferrous sulfate.
Formic acid or sodium salt.
Glycerin.
Invert sugar.
Iron, reduced.
Magnesium carbonate.
Magnesium chloride.
Magnesium hydroxide.
Magnesium sulfate.
Methyl and ethyl acrylate.
Mono- and diglycerides from glycerolysis of edible fats and oils.
Oleic acid.
Oxides of iron.
Potassium sorbate.
Propionic acid.
Propylene glycol.
Silicon dioxides.
Soap (sodium oleate, sodium palmitate).
Sodium aluminate.
Sodium carbonate.
Sodium chloride.
Sodium hexametaphosphate.
Sodium hydrosulfite.
Sodium hydroxide.
Sodium phosphoaluminate.
Sodium silicate.
Sodium sorbate.
Sodium sulfate.
Sodium thiosulfate (additive in salt).
Sodium tripolyphosphate.
Sorbitol.
Soy protein, isolated.
Sulfamic acid.
Sulfuric acid.
Starch, acid modified.
Starch, pregelatinized.
Starch, unmodified.
Sucrose.
Talc.
Urea.
Vanillin.
Zinc hydrosulfite.
Zinc sulfate.

§ 182.99 Adjuvants for pesticide chemicals.

Adjuvants, identified and used in accordance with 40 CFR 180.1001 (c) and (d), which are added to pesticide use dilutions by a grower or applicator prior to application to the raw agricultural commodity, are exempt from the requirement of tolerances under section 409 of the act.

(Sec. 409, 72 Stat. 1785; 21 U.S.C. 348.)

Subpart B—Multiple Purpose GRAS Food Substances

§ 182.1005 Acetic acid.

(a) *Product.* Acetic acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1009 Adipic acid.

(a) *Product.* Adipic acid.
(b) [Reserved]
(c) *Limitations, restrictions, or ex-*

(b) *Conditions of use.* This substance

§ 182.1613 Potassium bicarbonate.

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planation. This substance is generally recognized as safe when used as a buffer and neutralizing agent in accordance with good manufacturing practice.

§ 182.1033 Citric acid.

(a) *Product.* Citric acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1045 Glutamic acid.

(a) *Product.* Glutamic acid.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used as a salt substitute in accordance with good manufacturing practice.

§ 182.1047 Glutamic acid hydrochloride.

(a) *Product.* Glutamic acid hydrochloride.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used as a salt substitute in accordance with good manufacturing practice.

§ 182.1057 Hydrochloric acid.

(a) *Product.* Hydrochloric acid.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used as a buffer and neutralizing agent in accordance with good manufacturing practice.

§ 182.1061 Lactic acid.

(a) *Product.* Lactic acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1069 Malic acid.

(a) *Product.* Malic acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1073 Phosphoric acid.

(a) *Product.* Phosphoric acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1077 Potassium acid tartrate.

(a) *Product.* Potassium acid tartrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1087 Sodium acid pyrophosphate.

(a) *Product.* Sodium acid pyrophosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1091 Succinic acid.

(a) *Product.* Succinic acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1095 Sulfuric acid.

(a) *Product.* Sulfuric acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1099 Tartaric acid.

(a) *Product.* Tartaric acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1125 Aluminum sulfate.

(a) *Product.* Aluminum sulfate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1127 Aluminum ammonium sulfate.

(a) *Product.* Aluminum ammonium sulfate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1129 Aluminum potassium sulfate.

(a) *Product.* Aluminum potassium sulfate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1131 Aluminum sodium sulfate.

(a) *Product.* Aluminum sodium sulfate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1135 Ammonium bicarbonate.

(a) *Product.* Ammonium bicarbonate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1137 Ammonium carbonate.

(a) *Product.* Ammonium carbonate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1139 Ammonium hydroxide.

(a) *Product.* Ammonium hydroxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1141 Ammonium phosphate.

(a) *Product.* Ammonium phosphate (mono- and dibasic).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1143 Ammonium sulfate.

(a) *Product.* Ammonium sulfate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1155 Bentonite.

(a) *Product.* Bentonite.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1165 Butane.

(a) *Product.* Butane.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1180 Caffeine.

(a) *Product.* Caffeine.
(b) *Tolerance.* 0.02 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in cola-type beverages in accordance with good manufacturing practice.

§ 182.1191 Calcium carbonate.

(a) *Product.* Calcium carbonate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1193 Calcium chloride.

(a) *Product.* Calcium chloride.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1195 Calcium citrate.

(a) *Product.* Calcium citrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1199 Calcium gluconate.

(a) *Product.* Calcium gluconate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1205 Calcium hydroxide.

(a) *Product.* Calcium hydroxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1207 Calcium lactate.

(a) *Product.* Calcium lactate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1210 Calcium oxide.

(a) *Product.* Calcium oxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1217 Calcium phosphate.

(a) *Product.* Calcium phosphate (mono-, di-, and tribasic).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1235 Caramel.

(a) *Product.* Caramel.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1240 Carbon dioxide.

(a) *Product.* Carbon dioxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1275 Dextrans.

(a) *Product.* Dextrans of average molecular weight below 100,000.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1295 Ethyl formate.

(a) *Product.* Ethyl formate.
(b) *Tolerance.* 0.0015 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used as fumigant for cashew nuts in accordance with good manufacturing practice.

§ 182.1320 Glycerin.

(a) *Product.* Glycerin.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1324 Glyceryl monostearate.

(a) *Product.* Glyceryl monostearate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1355 Helium.

(a) *Product.* Helium.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1366 Hydrogen peroxide.

(a) *Product.* Hydrogen peroxide.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used as a bleaching agent in accordance with good manufacturing practice.

§ 182.1400 Lecithin.

(a) *Product.* Lecithin.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1425 Magnesium carbonate.

(a) *Product.* Magnesium carbonate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1428 Magnesium hydroxide.

(a) *Product.* Magnesium hydroxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1431 Magnesium oxide.

(a) *Product.* Magnesium oxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1440 Magnesium stearate.

(a) *Product.* Magnesium stearate.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used as migratory substance from packaging materials when used as a stabilizer in accordance with good manufacturing practice.

§ 182.1480 Methylcellulose.

(a) *Product.* U.S.P. methylcellulose, except that the methoxy content shall not be less than 27.5 percent and not more than 31.5 percent on a dry-weight basis.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1500 Monoammonium glutamate.

(a) *Product.* Monoammonium glutamate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1516 Monopotassium glutamate.

(a) *Product.* Monopotassium glutamate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1540 Nitrogen.

(a) *Product.* Nitrogen.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1545 Nitrous oxide.

(a) *Product.* Nitrous oxide.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used as a propellant for certain dairy and vegetable-fat toppings in pressurized containers in accordance with good manufacturing practice.

§ 182.1585 Papain.

(a) *Product.* Papain.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1613 Potassium bicarbonate.

(a) *Product.* Potassium bicarbonate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1619 Potassium carbonate.

(a) *Product.* Potassium carbonate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1625 Potassium citrate.

(a) *Product.* Potassium citrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1631 Potassium hydroxide.

(a) *Product.* Potassium hydroxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1643 Potassium sulfate.

(a) *Product.* Potassium sulfate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1655 Propane.

(a) *Product.* Propane.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1666 Propylene glycol.

(a) *Product.* Propylene glycol.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1685 Rennet.

(a) *Product. Rennet* (rennin).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1711 Silica aerogel.

(a) *Product.* Silica aerogel as a finely powdered microcellular silica foam having a minimum silica content of 89.5 percent.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used as a component of an anti-foaming agent in accordance with good manufacturing practice.

§ 182.1721 Sodium acetate.

(a) *Product.* Sodium acetate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1736 Sodium bicarbonate.

(a) *Product.* Sodium bicarbonate.

(b) *Conditions of use.* This substance

§ 182.1804 Sodium potassium tartrate.

(b) *Tolerance.* 2 percent.

tent, including essential (volatile) oil content of the food, provided the sub-

§ 182.3616 Potassium bisulfite.

§ 182.3845 Stannous chloride.

(a) *Product.* Stannous chloride.

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(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1742 Sodium carbonate.

(a) *Product.* Sodium carbonate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1745 Sodium carboxymethylcellulose.

(a) *Product.* Sodium carboxymethylcellulose is the sodium salt of carboxymethylcellulose not less than 99.5 percent on a dry-weight basis, with maximum substitution of 0.95 carboxymethyl groups per anhydroglucose unit, and with a minimum viscosity of 25 centipoises for 2 percent by weight aqueous solution at 25° C.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1748 Sodium caseinate.

(a) *Product.* Sodium caseinate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1751 Sodium citrate.

(a) *Product.* Sodium citrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1763 Sodium hydroxide.

(a) *Product.* Sodium hydroxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1775 Sodium pectinate.

(a) *Product.* Sodium pectinate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1778 Sodium phosphate.

(a) *Product.* Sodium phosphate (mono-, di-, and tribasic).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1781 Sodium aluminum phosphate.

(a) *Product.* Sodium aluminum phosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1792 Sodium sesquicarbonate.

(a) *Product.* Sodium sesquicarbonate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1804 Sodium potassium tartrate.

(a) *Product.* Sodium potassium tartrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1810 Sodium tripolyphosphate.

(a) *Product.* Sodium tripolyphosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1901 Triacetin.

(a) *Product.* Triacetin (glyceryl triacetate).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1911 Triethyl citrate.

(a) *Product.* Triethyl citrate.
(b) *Tolerance.* 0.25 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in dried egg whites in accordance with good manufacturing practice.

§ 182.1973 Beeswax.

(a) *Product.* Beeswax (yellow wax).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1975 Bleached beeswax.

(a) *Product.* Bleached beeswax (white wax).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.1978 Carnauba wax.

(a) *Product.* Carnauba wax.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

Subpart C—Anticaking Agents

§ 182.2122 Aluminum calcium silicate.

(a) *Product.* Aluminum calcium silicate.
(b) *Tolerance.* 2 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in table salt in accordance with good manufacturing practice.

§ 182.2227 Calcium silicate.

(a) *Product.* Calcium silicate.
(b) *Tolerance.* 2 percent and 5 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used at levels not exceeding 2 percent in table salt and 5 percent in baking powder in accordance with good manufacturing practice.

§ 182.2437 Magnesium silicate.

(a) *Product.* Magnesium silicate.
(b) *Tolerance.* 2 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in table salt in accordance with good manufacturing practice.

§ 182.2727 Sodium aluminosilicate.

(a) *Product.* Sodium aluminosilicate (sodium silicoaluminate).
(b) *Tolerance.* This substance is generally recognized as safe for use at a level not exceeding 2 percent in accordance with good manufacturing practice.

§ 182.2729 Sodium calcium aluminosilicate, hydrated.

(a) *Product.* Hydrated sodium calcium aluminosilicate (sodium calcium silicoaluminate).
(b) *Tolerance.* This substance is generally recognized as safe for use at a level not exceeding 2 percent in accordance with good manufacturing practice.

§ 182.2906 Tricalcium silicate.

(a) *Product.* Tricalcium silicate.
(b) *Tolerance.* 2 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in table salt in accordance with good manufacturing practice.

Subpart D—Chemical Preservatives

§ 182.3013 Ascorbic acid.

(a) *Product.* Ascorbic acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.3025 Caprylic acid.

(a) *Product.* Caprylic acid.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in cheese wraps in accordance with good manufacturing practice.

§ 182.3041 Erythorbic acid.

(a) *Product.* Erythorbic acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.3081 Propionic acid.

(a) *Product.* Propionic acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.3089 Sorbic acid.

(a) *Product.* Sorbic acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.3109 Thiodipropionic acid.

(a) *Product.* Thiodipropionic acid.
(b) *Tolerance.* This substance is generally recognized as safe for use in food when the total content of antioxidants is not over 0.02 percent of fat or oil content, including essential (volatile) oil content of the food, provided the substance is used in accordance with good manufacturing practice.

§ 182.3149 Ascorbyl palmitate.

(a) *Product.* Ascorbyl palmitate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.3169 Butylated hydroxyanisole.

(a) *Product.* Butylated hydroxyanisole.
(b) *Tolerance.* This substance is generally recognized as safe for use in food when the total content of antioxidants is not over 0.02 percent of fat or oil content, including essential (volatile) oil content of food, provided the substance is used in accordance with good manufacturing practice.

§ 182.3173 Butylated hydroxytoluene.

(a) *Product.* Butylated hydroxytoluene.
(b) *Tolerance.* This substance is generally recognized as safe for use in food when the total content of antioxidants is not over 0.02 percent of fat or oil content, including essential (volatile) oil content of food, provided the substance is used in accordance with good manufacturing practice.

§ 182.3189 Calcium ascorbate.

(a) *Product.* Calcium ascorbate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.3221 Calcium propionate.

(a) *Product.* Calcium propionate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.3225 Calcium sorbate.

(a) *Product.* Calcium sorbate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.3280 Dilauryl thiodipropionate.

(a) *Product.* Dilauryl thiodipropionate.
(b) *Tolerance.* This substance is generally recognized as safe for use in food when the total content of antioxidants is not over 0.02 percent of fat or oil content, including essential (volatile) oil content of the food, provided the substance is used in accordance with good manufacturing practice.

§ 182.3336 Gum guaiac.

(a) *Product.* Gum guaiac.
(b) *Tolerance.* 0.1 percent (equivalent antioxidant activity 0.01 percent).
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in edible fats or oils in accordance with good manufacturing practice.

§ 182.3616 Potassium bisulfite.

(a) *Product.* Potassium bisulfite.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in accordance with good manufacturing practice, except that it is not used in meats or in food recognized as source of vitamin B_1.

§ 182.3637 Potassium metabisulfite.

(a) *Product.* Potassium metabisulfite.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in accordance with good manufacturing practice, except that it is not used in meats or in food recognized as source of vitamin B_1.

§ 182.3640 Potassium sorbate.

(a) *Product.* Potassium sorbate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.3731 Sodium ascorbate.

(a) *Product.* Sodium ascorbate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.3739 Sodium bisulfite.

(a) *Product.* Sodium bisulfite.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in accordance with good manufacturing practice, except that it is not used in meats or in food recognized as source of vitamin B_1.

§ 182.3766 Sodium metabisulfite.

(a) *Product.* Sodium metabisulfite.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in accordance with good manufacturing practice, except that it is not used in meats or in food recognized as source of vitamin B_1.

§ 182.3784 Sodium propionate.

(a) *Product.* Sodium propionate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.3795 Sodium sorbate.

(a) *Product.* Sodium sorbate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.3798 Sodium sulfite.

(a) *Product.* Sodium sulfite.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in accordance with good manufacturing practice, except that it is not used in meats or in food recognized as source of vitamin B_1.

§ 182.3845 Stannous chloride.

(a) *Product.* Stannous chloride.
(b) *Tolerance.* This substance is generally recognized as safe for use at a level not exceeding 0.0015 percent calculated as tin in accordance with good manufacturing practice.

§ 182.3862 Sulfur dioxide.

(a) *Product.* Sulfur dioxide.
(b) [Reserved]
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in accordance with good manufacturing practice, except that it is not used in meats or in food recognized as source of vitamin B_1.

§ 182.3890 Tocopherols.

(a) *Product.* Tocopherols.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

Subpart E—Emulsifying Agents

§ 182.4029 Cholic acid.

(a) *Product.* Cholic acid.
(b) *Tolerance.* 0.1 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in dried egg whites in accordance with good manufacturing practice.

§ 182.4037 Desoxycholic acid.

(a) *Product.* Desoxycholic acid.
(b) *Tolerance.* 0.1 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in dried egg whites in accordance with good manufacturing practice.

§ 182.4053 Glycocholic acid.

(a) *Product.* Glycocholic acid.
(b) *Tolerance.* 0.1 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in dried egg whites in accordance with good manufacturing practice.

§ 182.4101 Diacetyl tartaric acid esters of mono- and diglycerides of edible fats or oils, or edible fat-forming fatty acids.

(a) *Product.* Diacetyl tartaric acid esters of mono- and diglycerides of edible fats or oils, or edible fat-forming fatty acids.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.4105 Taurocholic acid.

(a) *Product.* Taurocholic acid (or its sodium salt).
(b) *Tolerance.* 0.1 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in dried egg whites in accordance with good manufacturing practice.

§ 182.4505 Mono- and diglycerides of

(b) *Conditions of use.* This substance

§ 182.5315 Ferrous sulfate.

is generally recognized as safe when used

§ 182.5535 Niacinamide.

(a) *Product.* Niacinamide.

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§ 182.4505 Mono- and diglycerides of edible fats or oils, or edible fat-forming acids.

(a) *Product.* Mono- and diglycerides of edible fats or oils, or edible fat-forming acids.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.4521 Monosodium phosphate derivatives of mono- and diglycerides of edible fats or oils, or edible fat-forming fatty acids.

(a) *Product.* Monosodium phosphate derivatives of mono- and diglycerides of edible fats or oils, or edible fat-forming fatty acids.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.4560 Ox bile extract.

(a) *Product.* Ox bile extract.

(b) *Tolerance.* 0.1 percent.

(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in dried egg whites in accordance with good manufacturing practice.

§ 182.4666 Propylene glycol.

(a) *Product.* Propylene glycol.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

Subpart F—Nutrients and/or Dietary Supplements[15]

§ 182.5013 Ascorbic acid.

(a) *Product.* Ascorbic acid.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5017 Aspartic acid.

(a) *Product.* Aspartic acid (L- and DL forms).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5049 Aminoacetic acid (glycine).

(a) *Product.* Glycine (aminoacetic acid).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5065 Linoleic acid.

(a) *Product.* Linoleic acid prepared from edible fats and oils and free from chickedema factor.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5118 Alanine.

(a) *Product.* Alanine (L- and DL-forms).

[15] Amino acids listed in this subpart may be free hydrochloride salt, hydrated, or anhydrous form, where applicable.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5145 Arginine.

(a) *Product.* Arginine (L- and DL-forms).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5159 Biotin.

(a) *Product.* Biotin.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5191 Calcium carbonate.

(a) *Product.* Calcium carbonate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5195 Calcium citrate.

(a) *Product.* Calcium citrate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5201 Calcium glycerophosphate.

(a) *Product.* Calcium glycerophosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5210 Calcium oxide.

(a) *Product.* Calcium oxide.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5212 Calcium pantothenate.

(a) *Product.* Calcium pantothenate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5217 Calcium phosphate.

(a) *Product.* Calcium phosphate (mono-, di-, and tribasic).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5223 Calcium pyrophosphate.

(a) *Product.* Calcium pyrophosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5230 Calcium sulfate.

(a) *Product.* Calcium sulfate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5245 Carotene.

(a) *Product.* Carotene.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5250 Choline bitartrate.

(a) *Product.* Choline bitartrate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5252 Choline chloride.

(a) *Product.* Choline chloride.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5260 Copper gluconate.

(a) *Product.* Copper gluconate.

(b) *Conditions of use.* This substance is generally recognized as safe for use at a level not exceeding 0.005 percent in accordance with good manufacturing practice.

§ 182.5265 Cuprous iodide.

(a) *Products.* Cuprous iodide.

(b) *Tolerance.* 0.01 percent.

(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in table salt as a source of dietary iodine in accordance with good manufacturing practice.

§ 182.5273 Cystine.

(a) *Product.* Cystine (L- and DL-forms).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5301 Ferric phosphate.

(a) *Product.* Ferric phosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5304 Ferric pyrophosphate.

(a) *Product.* Ferric pyrophosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5306 Ferric sodium pyrophosphate.

(a) *Product.* Ferric sodium pyrophosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5308 Ferrous gluconate.

(a) *Product.* Ferrous gluconate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5311 Ferrous lactate.

(a) *Product.* Ferrous lactate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5315 Ferrous sulfate.

(a) *Product.* Ferrous sulfate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5361 Histidine.

(a) *Product.* Histidine (L- and DL-forms).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5370 Inositol.

(a) *Product.* Inositol.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5375 Iron reduced.

(a) *Product.* Iron reduced.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5381 Isoleucine.

(a) *Product.* Isoleucine (L- and DL-forms).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5406 Leucine.

(a) *Product.* Leucine (L- and DL-forms).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5411 Lysine.

(a) *Product.* Lysine (L- and DL-forms).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5431 Magnesium oxide.

(a) *Product.* Magnesium oxide.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5434 Magnesium phosphate.

(a) *Product.* Magnesium phosphate (di- and tribasic).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5443 Magnesium sulfate.

(a) *Product.* Magnesium sulfate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5446 Manganese chloride.

(a) *Product.* Manganese chloride.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5449 Manganese citrate.

(a) *Product.* Manganese citrate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5452 Manganese gluconate.

(a) *Product.* Manganese gluconate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5455 Manganese glycerophosphate.

(a) *Product.* Manganese glycerophosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5458 Manganese hypophosphite.

(a) *Product.* Manganese hypophosphite.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5461 Manganese sulfate.

(a) *Product.* Manganese sulfate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5464 Manganous oxide.

(a) *Product.* Manganous oxide.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5470 Mannitol.

(a) *Product.* Mannitol.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5475 Methionine.

(a) *Product.* Methionine.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5477 Methionine hydroxy analog and its calcium salts.

(a) *Product.* Methionine hydroxy analog and its calcium salts.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5530 Niacin.

(a) *Product.* Niacin.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5535 Niacinamide.

(a) *Product.* Niacinamide.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5580 D-Pantothenyl alcohol.

(a) *Product.* D-Pantothenyl alcohol.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5590 Phenylalanine.

(a) *Product.* Phenylalanine (L- and DL-forms).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5622 Potassium chloride.

(a) *Product.* Potassium chloride.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5628 Potassium glycerophosphate.

(a) *Product.* Potassium glycerophosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5634 Potassium iodide.

(a) *Product.* Potassium iodide.

(b) *Tolerance.* 0.01 percent.

(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in table salt as a source of dietary iodine in accordance with good manufacturing practice.

§ 182.5650 Proline.

(a) *Product.* Proline (L- and DL-forms).

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5676 Pyridoxine hydrochloride.

(a) *Product.* Pyridoxine hydrochloride.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5695 Riboflavin.

(a) *Product.* Riboflavin.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice

§ 182.5697 Riboflavin-5-phosphate.

(a) *Product.* Riboflavin-5-phosphate.

(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5701 Serine.

(a) *Product.* Serine (L- and DL-forms).

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(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5772 Sodium pantothenate.

(a) *Product.* Sodium pantothenate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5778 Sodium phosphate.

(a) *Product.* Sodium phosphate (mono-, di-, and tribasic).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5875 Thiamine hydrochloride.

(a) *Product.* Thiamine hydrochloride.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5878 Thiamine mononitrate.

(a) *Product.* Thiamine mononitrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5881 Threonine.

(a) *Product.* Threonine (L- and DL-forms).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5890 Tocopherols.

(a) *Product.* Tocopherols.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5892 α-Tocopherol acetate.

(a) *Product.* α-Tocopherol acetate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5915 Tryptophane.

(a) *Product.* Tryptophane (L- and DL-forms).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5920 Tyrosine.

(a) *Product.* Tyrosine (L- and DL-forms).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5925 Valine.

(a) *Product.* Valine (L- and DL-forms).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5930 Vitamin A.

(a) *Product.* Vitamin A.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5933 Vitamin A acetate.

(a) *Product.* Vitamin A acetate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5936 Vitamin A palmitate.

(a) *Product.* Vitamin A palmitate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5945 Vitamin B_{12}.

(a) *Product.* Vitamin B_{12}.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5950 Vitamin D_2.

(a) *Product.* Vitamin D_2.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5953 Vitamin D_3.

(a) *Product.* Vitamin D_3.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5985 Zinc chloride.

(a) *Product.* Zinc chloride.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5988 Zinc gluconate.

(a) *Product.* Zinc gluconate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5991 Zinc oxide.

(a) *Product.* Zinc oxide.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5994 Zinc stearate.

(a) *Product.* Zinc stearate prepared from stearic acid free from chickedema factor.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.5997 Zinc sulfate.

(a) *Product.* Zinc sulfate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

Subpart G—Sequestrants[16]

§ 182.6033 Citric acid.

(a) *Product.* Citric acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6085 Sodium acid phosphate.

(a) *Product.* Sodium acid phosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6099 Tartaric acid.

(a) *Product.* Tartaric acid.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6185 Calcium acetate.

(a) *Product.* Calcium acetate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6193 Calcium chloride.

(a) *Product.* Calcium chloride.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6195 Calcium citrate.

(a) *Product.* Calcium citrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6197 Calcium diacetate.

(a) *Product.* Calcium diacetate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6199 Calcium gluconate.

(a) *Product.* Calcium gluconate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6203 Calcium hexametaphosphate.

(a) *Product.* Calcium hexametaphosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6215 Monobasic calcium phosphate.

(a) *Product.* Monobasic calicum phosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

[16] For the purpose of this subpart, no attempt has been made to designate those sequestrants that may also function as chemical preservatives.

§ 182.6219 Calcium phytate.

(a) *Product.* Calcium phytate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6285 Dipotassium phosphate.

(a) *Product.* Dipotassium phosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6290 Disodium phosphate.

(a) *Product.* Disodium phosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6386 Isopropyl citrate.

(a) *Product.* Isopropyl citrate.
(b) *Tolerance.* This substance is generally recognized as safe for use at a level not exceeding 0.02 percent in accordance with good manufacturing practice.

§ 182.6511 Monoisopropyl citrate.

(a) *Product.* Monoisopropyl citrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6625 Potassium citrate.

(a) *Product.* Potassium citrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6751 Sodium citrate.

(a) *Product.* Sodium citrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6754 Sodium diacetate.

(a) *Product.* Sodium diacetate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6757 Sodium gluconate.

(a) *Product.* Sodium gluconate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6760 Sodium hexametaphosphate.

(a) *Product.* Sodium hexametaphosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6769 Sodium metaphosphate.

(a) *Product.* Sodium metaphosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6778 Sodium phosphate.

(a) *Product.* Sodium phosphate (mono-, di-, and tribasic).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6787 Sodium pyrophosphate.

(a) *Product.* Sodium pyrophosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6789 Tetra sodium pyrophosphate.

(a) *Product.* Tetra sodium pyrophosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacuring practice.

§ 182.6801 Sodium tartrate.

(a) *Product.* Sodium tartrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6804 Sodium potassium tartrate.

(a) *Product.* Sodium potassium tartrate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6807 Sodium thiosulfate.

(a) *Product.* Sodium thiosulfate.
(b) *Tolerance.* 0.1 percent.
(c) *Limitations, restrictions, or explanation.* This substance is generally recognized as safe when used in salt in accordance with good manufacturing practice.

§ 182.6810 Sodium tripolyphosphate.

(a) *Product.* Sodium tripolyphosphate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.6851 Stearyl citrate.

(a) *Product.* Stearyl citrate.
(b) *Tolerance.* This substance is generally recognized as safe for use at a level not exceeding 0.15 percent in accordance with good manufacturing practice.

Subpart H—Stabilizers

§ 182.7115 Agar-agar.

(a) *Product.* Agar-agar.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.7133 Ammonium alginate.

(a) *Product.* Ammonium alginate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.7187 Calcium alginate.

(a) *Product.* Calcium alginate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.7255 Chondrus extract.

(a) *Product.* Chondrus extract (carrageenin).
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.7610 Potassium alginate.

(a) *Product.* Potassium alginate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

§ 182.7724 Sodium alginate.

(a) *Product.* Sodium alginate.
(b) *Conditions of use.* This substance is generally recognized as safe when used in accordance with good manufacturing practice.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

Subpart A—General Provisions

Sec.
184.1 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

Subpart B—Listing of Specific Substances Affirmed as GRAS

184.1021 Benzoic acid.
184.1271 L-Cysteine.
184.1272 L-Cysteine monohydrochloride.
184.1282 Dill and its derivatives.
184.1293 Ethyl alcohol.
184.1317 Garlic and its derivatives.
184.1330 Acacia (gum arabic).
184.1333 Gum ghatti.
184.1339 Guar gum.
184.1343 Locust (carob) bean gum.
184.1349 Karaya gum (sterculia gum).
184.1351 Gum tragacanth.
184.1490 Methylparaben.
184.1660 Propyl gallate.
184.1670 Propylparaben.
184.1698 Oil of rue.
184.1733 Sodium benzoate.
184.1835 Sorbitol.
184.1982 Bakers yeast extract.

AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—General Provisions

§ 184.1 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

(a) The direct human food ingredients listed in this section have been reviewed by the Food and Drug Administration and determined to be generally recognized as safe (GRAS) for the purposes and under the conditions prescribed. The regulations in this section shall sufficiently describe each ingredient to identify the characteristics of the ingredient that has been affirmed as GRAS and to differentiate it from other possible versions of the ingredient that have not been affirmed as GRAS. Ingredients affirmed as GRAS in this

section may also be used as components also constitute a proposal to establish a

(d) This regulation is issued prior to

fined in § 170.3(o)(12) of this chapter. **§ 184.1330 Acacia (gum arabic).**

section may also be used as components of articles that contact food, subject to any limitations prescribed in Parts 174, 175, 176, 177, 178, or § 179.45 of this chapter or in Part 186 of this chapter.

(b) Any use levels included in this section represent maximum use levels under current good manufacturing practices. This section does not authorize addition of any level of an ingredient to a specific food above the amount reasonably necessary to accomplish the intended effect.

(1) If the ingredient is affirmed as GRAS with no limitation other than good manufacturing practice, it shall be regarded as GRAS if its conditions of use are not significantly different from those reported in the regulation as the basis on which the GRAS status of the substance was affirmed. If the conditions of use are significantly different, such use of the substance may not be GRAS. In such a case, a manufacturer may not rely on the regulation as authorizing the use but must independently establish that the use is GRAS or must use the substance in accordance with a food additive regulation.

(2) If the ingredient is affirmed as GRAS with specific limitation(s), it shall be used in food only within such limitation(s), including the category of food(s), the functional use(s) of the ingredient, and the level(s) of use. Any use of such an ingredient not in full compliance with each such established limitation shall require a food additive regulation.

(3) If the ingredient is affirmed as GRAS for a specific use, without a general evaluation of use of the ingredient, other uses may also be GRAS.

(c) The listing of a food ingredient in this section does not authorize the use of such substance in a manner that may lead to deception of the consumer or to any other violation of the act.

(d) The listing of more than one ingredient to produce the same technological effect does not authorize use of a combination of two or more ingredients to accomplish the same technological effect in any one food at a combined level greater than the highest level permitted for one of the ingredients.

(e) If the Commissioner of Food and Drugs is aware of any prior sanction for use of an ingredient under conditions different from those proposed to be affirmed as GRAS, he will concurrently propose a separate regulation covering such use of the ingredient under Part 181 of this chapter. If the Commissioner is unaware of any such applicable prior sanction, the proposed regulation will so state and will require any person who intends to assert or rely on such sanction to submit proof of its existence. Any regulation promulgated pursuant to this section constitutes a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to the proposal will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice will also constitute a proposal to establish a regulation under Part 181 of this chapter, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the proposal.

(f) The label and labeling of the ingredient and any intermediate mix of the ingredient for use in finished food shall bear, in addition to the other labeling required by the act:

(1) The name of the ingredient.

(2) A statement of concentration of the ingredient in any intermediate mix.

(3) Adequate information to assure that the final food product may comply with any limitations prescribed for the ingredient.

Subpart B—Listing of Specific Substances Affirmed as GRAS

§ 184.1021 Benzoic acid.

(a) Benzoic acid is the chemical benzenecarboxylic acid ($C_7H_6O_2$), occurring in nature in free and combined forms. Among the foods in which benzoic acid occurs naturally are cranberries, prunes, plums, cinnamon, ripe cloves, and most berries. Benzoic acid is manufactured by treating molten phthalic anhydride with steam in the presence of a zinc oxide catalyst, by the hydrolysis of benzotrichloride, or by the oxidation of toluene with nitric acid or sodium bichromate or with air in the presence of a transition metal salt catalyst.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972)[11].

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter, and as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS).

(e) Prior sanctions for this ingredient different from those uses established in this section, or different from that set forth in Part 181 of this chapter, do not exist or have been waived.

§ 184.1271 L-Cysteine.

(a) L-Cysteine is the chemical L-2-amino-3-mercaptopropanoic acid ($C_3H_7O_2NS$).

(b) The ingredient meets the appropriate part of the specification set forth in the Food Chemicals Codex, 2d Ed. (1972)[11] for L-cysteine monohydrochloride.

(c) The ingredient is used to supply up to 0.009 part of total L-cysteine per 100 parts of flour in dough as a dough strengthener as defined in § 170.3(o)(6) of this chapter in yeast-leavened baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter.

[11] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

(d) This regulation is issued prior to a general evaluation of use of this ingredient in order to affirm as GRAS the specific use named.

§ 184.1272 L-Cysteine monohydrochloride.

(a) L-Cysteine monohydrochloride is the chemical L-2-amino-3-mercaptopropanoic acid monohydrochloride monohydrate ($C_3H_7O_2NS \cdot HCl \cdot H_2O$).

(b) The ingredient meets the specifications of Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used to supply up to 0.009 part of total L-cysteine per 100 parts of flour in dough as a dough strengthener as defined in § 170.3(o)(6) of this chapter in yeast-leavened baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter.

(d) This regulation is issued prior to a general evaluation of use of this ingredient in order to affirm as GRAS the specific use named.

§ 184.1282 Dill and its derivatives.

(a) Dill (American or European) is the herb and seeds from *Anethum graveolens* L., and dill (Indian) is the herb and seeds from *Anethum sowa*, D.C. Its derivatives include essential oils, oleoresins, and natural extractives obtained from these sources of dill.

(b) Dill oils meet the description and specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) Dill and its derivatives are used as flavoring agents and adjuvants as defined in § 170.3(o)(12) of this chapter.

(d) The ingredients are used in food at levels not to exceed good manufacturing practice.

(e) The requirement of § 184.1(f)(2) is optional.

(f) Prior sanctions for these ingredients different from the uses established in this section do not exist or have been waived.

§ 184.1293 Ethyl alcohol.

(a) Ethyl alcohol (ethanol) is the chemical C_2H_5OH.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972)[11] and the formula requirements of 26 CFR Part 212.

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter on pizza crusts prior to final baking at levels not to exceed 2.0 percent by product weight.

(d) This regulation is issued prior to general evaluation of use of this ingredient in order to affirm as GRAS the specific use named.

§ 184.1317 Garlic and its derivatives.

(a) Garlic is the fresh or dehydrated bulb or cloves obtained from *Allium sativum*, a genus of the lily family. Its derivatives include essential oils, oleoresins, and natural extractives obtained from garlic.

(b) Garlic oil meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) Garlic and its derivatives are used as flavoring agents and adjuvants as defined in § 170.3(o)(12) of this chapter.

(d) The requirement of § 184.1(f)(2) is optional.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1330 Acacia (gum arabic).

(a) Acacia (gum arabic) is the dried gummy exudate from stems and branches of trees of various species of the genus *Acacia*, family Leguminosae.

(b) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used in food under the following conditions:

Maximum usage levels permitted

Food (as served)	Percent	Function
Beverages and beverage bases, sec. 170.3(n)(1) of this chapter.	2.0	Emulsifier and emulsifier salt, sec. 170.3(o)(8) of this chapter; flavoring agent and adjuvant, sec. 170.3(o)(12) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Chewing gum, sec. 170.3(n)(6) of this chapter	5.6	Flavoring agent and adjuvant, sec. 170.3(o)(12) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter; humectant, sec. 170.3(o)(16) of this chapter; surface-finishing agent, sec. 170.3(o)(30) of this chapter.
Confections and frostings, sec. 170.3(n)(9) of this chapter.	12.4	Formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter; surface-finishing agent, sec. 170.3(o)(30) of this chapter.
Dairy product analogs, sec. 170.3(n)(10) of this chapter.	1.3	Formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Fats and oils, sec. 170.3(n)(12) of this chapter	1.5	Formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Gelatins, puddings, and fillings, sec. 170.3(n)(22) of this chapter.	2.5	Emulsifier and emulsifier salt, sec. 170.3(o)(8) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Hard candy and cough drops, sec. 170.3(n)(26) of this chapter.	10.3	Flavoring agent and adjuvant, sec. 170.3(o)(12) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter.
Nuts and nut products, sec. 170.3(n)(32) of this chapter.	8.3	Formulation aid, sec. 170.3(o)(14) of this chapter; surface-finishing agent, sec. 170.3(o)(30) of this chapter.
Snack foods, sec. 170.3(n)(37) of this chapter	4.0	Emulsifier and emulsifier salt, sec. 173.3(o)(8) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter.
Soft candy, sec. 170.3(n)(38) of this chapter	85.0	Emulsifier and emulsifier salt, sec. 170.3(o)(8) of this chapter; firming agent, sec. 170.3(o)(10) of this chapter; flavoring agent and adjuvant, sec. 170.3(o)(12) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter, humectant, sec. 170.3(o)(16) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter; surface-finishing agent, sec. 170.3(o)(30) of this chapter.
All other food categories	1.0	Emulsifier and emulsifier salt, sec. 170.3(o)(8) of this chapter; flavoring agent and adjuvant, sec. 170.3(o)(12) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter; processing aid, sec. 170.3(o)(24) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter; surface-finishing agent, sec. 170.3(o)(30) of this chapter; texturizer, sec. 170.3(o)(32) of this chapter.

(d) The requirement of § 184.1(f)(2) is optional.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1338 Gum ghatti.

(a) Gum ghatti (Indian gum) is an exudate from wounds in the bark of *Anogeissus latifolia*, a large tree found in the dry deciduous forests of India and Ceylon.

(b) The ingredient complies with the following specifications:

(1) *Viscosity of a 1-percent solution.* Not less than the minimum or within the range claimed by the vendor.

(2) *Limits of impurities*—(i) *Arsenic (as As).* Not more than 3 parts per million (0.0003 percent);

(ii) *Ash (acid-insoluble).* Not more than 1.75 percent;

(iii) *Ash (total).* Not more than 6.0 percent;

(iv) *Heavy metals (as Pb).* Not more than 40 parts per million (0.004 percent); and

(v) *Lead.* Not more than 10 parts per million (0.001 percent).

(3) *Loss on drying.* Not more than 14 percent dried at 105° C for 5 hours.

(4) *Identification test.* Add 0.2 ml of diluted lead subacetate (basic lead acetate, *AOAC*, 12th Ed. 1975, Section 31.164 (b))[2] to 5 ml of a cold 1-in-100 aqueous solution of the gum. An immediate, voluminous, opaque precipitate indicates acacia. A small precipitate or clear solution which produces an opaque flocculent precipitate upon the addition of 1 ml of 3*N* ammonium hydroxide indicates gum ghatti.

(c) The ingredient is used in food under the following conditions:

Maximum usage levels permitted

Food (as served)	Percent	Function
Beverages and beverage bases, nonalcoholic, sec. 170.3(n)(3) of this chapter.	0.2	Emulsifier and emulsifier salt, sec. 170.3(o)(8) of this chapter.
All other food categories	.1	Emulsifier and emulsifier salt, sec. 170.3(o)(8) of this chapter.

[11] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(d) Prior sanctions for this ingredient *gonoloba* (Linne) Taub., or *Cyamopsis*

(d) The requirement of § 184.1(f)(2) from one of several species of *Astragalus*

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(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1339 Guar gum.

(a) Guar gum is the natural substance obtained from the maceration of the seed of the guar plant, *Cyamopsis tetragonoloba* (Linne) Taub., or *Cyamopsis psoraloides* (Lam.) D.C.

(b) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used in food under the following conditions:

Maximum usage levels permitted

Food (as served)	Percent	Function
Baked goods and baking mixes, sec. 170.3(n)(1) of this chapter.	0.35	Emulsifier and emulsifier salts, sec. 170.3(o)(8) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener; sec. 170.3(o)(28) of this chapter.
Breakfast cereals, sec. 170.3(n)(4) of this chapter.	1.2	Formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Cheese, sec. 170.3(n)(5) of this chapter	.8	Do.
Dairy products analogs, sec. 170.3(n)(10) of this chapter.	1.0	Firming agent, sec. 170.3(o)(10) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Fats and oils, sec. 170.3(n)(12) of this chapter.	2.0	Do.
Gravies and sauces, sec. 170.3(n)(24) of this chapter.	1.2	Formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Jams and jellies, commercial, sec. 170.3(n)(28) of this chapter.	1.0	Do.
Milk products, sec. 170.3(n)(31) of this chapter.	.6	Do.
Processed vegetables and vegetable juices, sec. 170.3(n)(38) of this chapter.	2.0	Formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Soups and soup mixes, sec. 170.3(n)(40) of this chapter.	.8	Do.
Sweet sauces, toppings and syrups, sec. 170.3(n)(43) of this chapter.	1.0	Do.
All other food categories	.5	Emulsifier and emulsifier salts, sec. 170.3(o)(8) of this chapter; firming agent, sec. 170.3(o)(10) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.

(d) The requirement of § 184.1(f)(2) is optional.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1343 Locust (carob) bean gum.

(a) Locust (carob) bean gum is primarily the macerated endosperm of the seed of the locust (carob) bean tree, *Ceratonia siliqua* (Linne) a leguminous evergreen tree, with lesser quantities of seed coat and germ.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used at levels not to exceed the following maximum levels:

Maximum usage levels permitted

Food (as served)	Percent	Function
Baked goods and baking mixes, sec. 170.3(n)(1) of this chapter.	0.15	Stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Beverages and beverage bases, nonalcoholic, sec. 170.3(n)(3) of this chapter.	.25	Do.
Cheeses, sec. 170.3(n)(5) of this chapter	.8	Do.
Gelatins, puddings, and fillings, sec. 170.3(n)(22) of this chapter.	.75	Do.
Jams and jellies, commercial, sec. 170.3(n)(28) of this chapter.	.75	Do.
All other food categories	.5	Do.

(d) The requirement of § 184.1(f)(2) is optional.

(e) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 184.1349 Karaya gum (sterculia gum).

(a) Karaya gum (sterculia gum) is the dried gummy exudate from the trunk of trees of various species of the genus *Sterculia*.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used in food under the following conditions:

Maximum usage levels permitted

Food (as served)	Percent	Function
Frozen dairy desserts and mixes, sec. 170.3(n)(20) of this chapter.	0.3	Formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Milk products, sec. 170.3(n)(31) of this chapter.	.02	Stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Soft candy, sec. 170.3(n)(38) of this chapter	.9	Emulsifier and emulsifier salt, sec. 170.3(o)(8) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
All other food categories	.002	Formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.

[11] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

(d) The requirement of § 184.1(f)(2) is optional.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1351 Gum tragacanth.

(a) Guam tragacanth is the exudate from one of several species of *Astragalus gummifer* Labillardiere, a shrub that grows wild in mountainous regions of the Middle East.

(b) The ingredient meets the specifications of the Food and Chemicals Codex, 2d Ed. (1972) [11]

(c) The ingredient is used in food under the following conditions:

Maximum usage levels permitted

Food (as served)	Percent	Function
Baked goods and baking mixes, sec. 170.3(n)(1) of this chapter.	0.2	Emulsifier and emulsifier salt, sec. 170.3(o)(8) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Condiments and relishes, sec. 170.3(n)(8) of this chapter.	.7	Do.
Fats and oils, sec 170.3(n)(12) of this chapter	1.3	Do
Gravies and sauces, sec. 170.3(n)(24) of this chapter.	.8	Do.
Meat products, sec. 170.3(n)(29) of this chapter.	.2	Formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Processed fruits and fruit juices, sec. 170.3(n)(35) of this chapter.	.2	Emulsifier and emulsifier salt, sec. 170.3(o)(8) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
All other food categories	.1	Do.

(d) The requirement of § 184.1(f)(2) is optional.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1490 Methylparaben.

(a) Methylparaben is the chemical methyl *p*-hydroxybenzoate. It is produced by the methanol esterification of *p*-hydroxybenzoic acid in the presence of sulfuric acid, with subsequent distillation.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

(e) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 184.1660 Propyl gallate.

(a) Propyl gallate is the *n*-propylester of 3,4,5-trihydroxybenzoic acid ($C_{10}H_{12}O_5$). Natural occurrence of propyl gallate has not been reported. It is commercially prepared by esterification of gallic acid with propyl alcohol followed by distillation to remove excess alcohol.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter.

[11] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.015 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section, or different from that stated in Part 181 of this chapter, do not exist or have been waived.

§ 184.1670 Propylparaben.

(a) Propylparaben is the chemical propyl *p*-hydroxybenzoate. It is produced by the *n*-proponol esterification of *p*-hydroxybenzoic acid in the presence of sulfuric acid, with subsequent distillation.

(b) The ingredient meets the specifications of the Food Chemicals Codex 2d Ed. (1972).[11]

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

(e) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 184.1699 Oil of rue.

(a) Oil of rue is the natural substance obtained by steam distillation of the fresh blossoming plants of rue, the perennial herb of several species of *Ruta—Ruta montana* L., *Ruta graveolens* L., *Ruta bracteosa* L., and *Ruta calepensis* L.

(b) Oil of rue meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used in food under the following conditions:

Maximum usage levels permitted

Food (as served)	Percent	Function
Baked goods and baking mixes, sec. 170.3(n)(1) of this chapter.	0.4	Emulsifier and emulsifier salt, sec. 170.3(o)(8) of this chapter; formulation aid, sec. 170.3(o)(14) of this chapter; stabilizer and thickener, sec. 170.3(o)(28) of this chapter.
Beverages and beverage bases, nonalcoholic, sec. 170.3(n)(3) of this chapter.	.2	Do.
Cheeses, sec. 170.3(n)(5) of this chapter	.4	Do.
Chewing gum, sec. 170.3(n)(6) of this chapter	1.0	Do.
Condiments and relishes, sec. 170.3(n)(8) of this chapter.	.4	Do.
Confections and frostings, sec. 170.3(n)(9) of this chapter.	.4	Do.
Fats and oils, sec. 170.3(n)(12) of this chapter	.4	Do.
Gelatins, puddings, and fillings, sec. 170.3(n)(22) of this chapter.	.4	Do.
Gravies and sauces, sec. 170.3(n)(24) of this chapter.	.4	Do.
Jams and jellies, commercial, sec. 170.3(n)(28) of this chapter.	.4	Do.
Milk products, sec. 170.3(n)(31) of this chapter.	.4	Do.
Processed fruits and fruit juices, sec. 170.3(n)(35) of this chapter.	.4	Do.
Soft candy, sec. 170.3(n)(38) of this chapter	.4	Do.
Soups and soup mixes, sec. 170.3(n)(40) of this chapter.	.4	Do.
Sweet sauces, toppings and syrups, sec. 170.3(n)(43) of this chapter.	.4	Do.
All other food categories	.4	Do.

(d) The requirement of § 184.1(f)(2) is optional.

(e) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 184.1703 Propylene glycol.

(a) Propylene glycol is the chemical 1,2-propanediol. It is produced by the hydration of propylene oxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

(e) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 184.1722 Sodium acetate.

(a) Sodium acetate is the chemical sodium salt of acetic acid. It is produced by the reaction of acetic acid with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a buffer and neutralizing agent as defined in § 170.3(o)(4) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1740 Sodium benzoate.

(a) Sodium benzoate is the chemical sodium benzoate. It is produced by the reaction of benzoic acid with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

(e) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 184.1760 Sodium diacetate.

(a) Sodium diacetate is the chemical sodium diacetate. It is produced by the reaction of acetic acid with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a buffer and neutralizing agent as defined in § 170.3(o)(4) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1763 Sodium erythorbate.

(a) Sodium erythorbate is the chemical sodium salt of erythorbic acid. It is produced by the reaction of erythorbic acid with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1765 Sodium formate.

(a) Sodium formate is the chemical sodium formate. It is produced by the reaction of formic acid with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a buffer and neutralizing agent as defined in § 170.3(o)(4) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1768 Sodium lactate.

(a) Sodium lactate is the chemical sodium salt of lactic acid. It is produced by the reaction of lactic acid with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a buffer and neutralizing agent as defined in § 170.3(o)(4) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1770 Sodium propionate.

(a) Sodium propionate is the chemical sodium propionate. It is produced by the reaction of propionic acid with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

(e) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 184.1771 Sodium propionate.

(a) Sodium propionate is the chemical sodium propionate. It is produced by the reaction of propionic acid with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

(e) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 184.1773 Sodium salts of fatty acids.

(a) Sodium salts of fatty acids are the chemical sodium salts of edible fatty acids. They are produced by the reaction of edible fatty acids with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1780 Sodium sorbate.

(a) Sodium sorbate is the chemical sodium salt of 2,4-hexadienoic acid. It is produced by the reaction of sorbic acid with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

(e) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 184.1781 Sodium stearoyl lactylate.

(a) Sodium stearoyl lactylate is the chemical sodium salt of stearoyl lactylic acid. It is produced by the reaction of stearoyl lactylic acid with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1785 Sodium sulfite.

(a) Sodium sulfite is the chemical sodium sulfite. It is produced by the reaction of sulfurous acid with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1790 Sodium tripolyphosphate.

(a) Sodium tripolyphosphate is the chemical sodium tripolyphosphate. It is produced by the reaction of phosphoric acid with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a buffer and neutralizing agent as defined in § 170.3(o)(4) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1796 Sorbic acid.

(a) Sorbic acid is the chemical 2,4-hexadienoic acid. It is produced by the condensation of crotonaldehyde with ketene.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

(e) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 184.1797 Stearyl monoglyceridyl citrate.

(a) Stearyl monoglyceridyl citrate is the chemical stearyl monoglyceridyl citrate. It is produced by the reaction of stearic acid, glycerol, and citric acid.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1798 Succinic acid.

(a) Succinic acid is the chemical succinic acid. It is produced by the hydrogenation of maleic acid.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a buffer and neutralizing agent as defined in § 170.3(o)(4) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1805 Sucrose octaacetate.

(a) Sucrose octaacetate is the chemical sucrose octaacetate. It is produced by the reaction of sucrose with acetic anhydride.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice results in a maximum level of 0.1 percent in food.

(e) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 184.1810 Sucrose oligoesters.

(a) Sucrose oligoesters are the chemical sucrose oligoesters. They are produced by the reaction of sucrose with edible fatty acids.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1812 Sucrose oligoesters, type I.

(a) Sucrose oligoesters, type I are the chemical sucrose oligoesters, type I. They are produced by the reaction of sucrose with edible fatty acids.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1818 Sucrose polyesters.

(a) Sucrose polyesters are the chemical sucrose polyesters. They are produced by the reaction of sucrose with edible fatty acids.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1820 Sucrose polyesters, type I.

(a) Sucrose polyesters, type I are the chemical sucrose polyesters, type I. They are produced by the reaction of sucrose with edible fatty acids.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1835 Thiamine hydrochloride.

(a) Thiamine hydrochloride is the chemical thiamine hydrochloride. It is produced by the reaction of thiamine with hydrochloric acid.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1839 Thiamine mononitrate.

(a) Thiamine mononitrate is the chemical thiamine mononitrate. It is produced by the reaction of thiamine with nitric acid.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1845 Tocopherols.

(a) Tocopherols are the chemical tocopherols. They are produced by the reaction of tocopherols with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1847 Tocopherols, type I.

(a) Tocopherols, type I are the chemical tocopherols, type I. They are produced by the reaction of tocopherols with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1850 Vanillin.

(a) Vanillin is the chemical vanillin. It is produced by the reaction of vanillin with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a flavoring agent as defined in § 170.3(o)(11) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1855 Vitamin A palmitate.

(a) Vitamin A palmitate is the chemical vitamin A palmitate. It is produced by the reaction of vitamin A with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1857 Vitamin A palmitate, type I.

(a) Vitamin A palmitate, type I is the chemical vitamin A palmitate, type I. It is produced by the reaction of vitamin A with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1860 Vitamin B12.

(a) Vitamin B12 is the chemical vitamin B12. It is produced by the reaction of vitamin B12 with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1865 Vitamin C.

(a) Vitamin C is the chemical vitamin C. It is produced by the reaction of vitamin C with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1867 Vitamin C, type I.

(a) Vitamin C, type I is the chemical vitamin C, type I. It is produced by the reaction of vitamin C with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1870 Vitamin D.

(a) Vitamin D is the chemical vitamin D. It is produced by the reaction of vitamin D with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1872 Vitamin D, type I.

(a) Vitamin D, type I is the chemical vitamin D, type I. It is produced by the reaction of vitamin D with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1875 Vitamin E.

(a) Vitamin E is the chemical vitamin E. It is produced by the reaction of vitamin E with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1877 Vitamin E, type I.

(a) Vitamin E, type I is the chemical vitamin E, type I. It is produced by the reaction of vitamin E with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1882 Xanthan gum.

(a) Xanthan gum is the chemical xanthan gum. It is produced by the reaction of xanthan with sodium hydroxide, sodium carbonate, or sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significantly different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1887 Xanthan gum, type I.

(a) Xanthan gum, type I is the chemical xanthan gum, type I. It is

Maximum usage levels permitted

Food (as served)	Parts per million	Function
Baked goods and baking mixes, sec. 170.3(n)(1), of this chapter.	10	Flavoring agent and adjuvant, sec. 170.3(o)(12) of this chapter.
Frozen dairy desserts and mixes, sec. 170.3(n)(20) of this chapter.	10	Do.
Soft candy, sec. 170.3(n)(38) of this chapter	10	Do.
All other food categories	4	Do.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 184.1733 Sodium benzoate.

(a) Sodium benzoate is the chemical benzoate of soda ($C_7H_5NaO_2$), produced by the neutralization of benzoic acid with sodium bicarbonate, sodium carbonate, or sodium hydroxide. The salt is not found to occur naturally.

(b) The ingredient meets the specification of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter, and as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice. Current usage results in a maximum level of 0.1 percent in food. (The Food and Drug Administration has not determined whether significally different conditions of use would be GRAS.)

(e) Prior sanctions for this ingredient different from the uses established in this section, or different from that set forth in Part 181 of this chapter, do not exist or have been waived.

§ 184.1835 Sorbitol.

(a) Sorbitol is the chemical 1,2,3,4,5,6-hexanehexol ($C_6H_{14}O_6$), a hexahydric alcohol, differing from mannitol principally by having a different optical rotation. Sorbitol is produced by the electrolytic reduction, or the transition metal catalytic hydrogenation of sugar solutions containing glucose or fructose.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used as an anticaking agent and free-flow agent as defined in § 170.3(o)(1) of this chapter, curing and pickling agent as defined in § 170.3(o)(5) of this chapter, drying agent as defined in § 170.3(o)(7) of this chapter, emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter, firming agent as defined in § 170.3(o)(10) of this chapter, flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter, formulation aid as defined in § 170.3(o)(14) of this chapter, humectant as defined in § 170.3(o)(16) of this chapter, lubricant and release agent as defined in § 170.3(o)(18) of this chapter, nutritive sweetener as defined in § 170.3(o)(21) of this chapter, sequestrant as defined in § 170.3(o)(26) of this chapter, stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, surface-finishing agent as defined in § 170.3(o)(30) of this chapter, and texturizer as defined in § 170.3(o)(32) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practices. Current good manufacturing practice in the use of sorbitol results in a maximum level of 99 percent in hard candy and cough drops as defined in § 170.3(n)(25) of this chapter, 75 percent in chewing gum as defined in § 170.3(n)(6) of this chapter, 98 percent in soft candy as defined in § 170.3(n)(38) of this chapter, 30 percent in nonstandardized jams and jellies, commercial, as defined in § 170.3(n)(28) of this chapter, 30 percent in baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter, 17 percent in frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter, and 12 percent in all other foods.

(e) The label and labeling of food whose reasonably foreseeable consumption may result in a daily ingestion of 50 grams of sorbitol shall bear the statement: "Excess consumption may have a laxative effect."

(f) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 184.1983 Bakers yeast extract.

(a) Bakers yeast extract is the food ingredient resulting from concentration of the solubles of mechanically ruptured cells of a selected strain of yeast, *Saccharomyces cerevisiae*. It may be concentrated or dried.

(b) The ingredient meets the following specifications on a dry weight basis: Less than 0.4 part per million (ppm) arsenic, 0.13 ppm cadmium, 0.2 ppm lead, 0.05 ppm mercury, 0.09 ppm selenium, and 10 ppm zinc.

(c) The viable microbial content of the finished ingredient as a concentrate or dry material is:

(1) Less than 10,000 organisms/gram by aerobic plate count.

(2) Less than 10 yeasts and molds/gram.

(3) Negative for *Salmonella*, *E. coli*, coagulase positive *Staphylococci*, *Clostridium perfringens*, *Clostridium botulinum*, or any other recognized microbial pathogen or any harmful microbial toxin.

(d) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter at a level not to exceed 5 percent in food.

(e) This regulation is issued prior to general evaluation of use of this ingredient in order to affirm as GRAS the specific use named.

[11] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

Subpart A—General Provisions

Sec.
186.1 Substances in food-contact surfaces affirmed as generally recognized as safe (GRAS).

Subpart B—Listing of Specific Substances Affirmed as GRAS

186.1330 Acacia (gum arabic).
186.1339 Guar gum.
186.1343 Locust (carob) bean gum.
186.1673 Pulp.

AUTHORITY: Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)).

Subpart A—General Provisions

§ 186.1 Substances in food-contact surfaces affirmed as generally recognized as safe (GRAS).

(a) The indirect human food ingredients listed in this section have been reviewed by the Food and Drug Administration and determined to be generally recognized as safe (GRAS) for the purposes and under the conditions prescribed. The regulations in this section shall sufficiently describe each ingredient to identify the characteristics of the ingredient that has been affirmed as GRAS and to differentiate it from other possible versions of the ingredient that have not been affirmed as GRAS.

(b) This section does not authorize direct addition of any food ingredient to a food. It authorizes only the use of these ingredients as indirect ingredients of food, through migration from their immediate wrapper, container, or other food-contact surface. Any migration or use levels included in this section represent maximum levels under current good manufacturing practice.

(1) If the ingredient is affirmed as GRAS with no limitation other than good manufacturing practice, it shall be regarded as GRAS if its conditions of use are not significantly different from those reported in the regulation as the basis on which the GRAS status of the substance was affirmed. If the conditions of use are significantly different, such use of the substance may not be GRAS. In such a case, a manufacturer may not rely on the regulation as authorizing the use but must independently establish that the use is GRAS or must use the substance in accordance with a food additive regulation.

(2) If the ingredient is affirmed as GRAS with specific limitation(s), it shall be used in food-contact surfaces only within such limitation(s), including the category of food-contact surface(s), the functional use(s) of the ingredient, and the level(s) of use. Any use of such an ingredient not in full compliance with each such established limitation shall require a food additive regulation.

(3) If the ingredient is affirmed as GRAS for a specific use, prior to general evaluation of use of the ingredient, other uses may also be GRAS.

(c) The listing of a food ingredient in this section does not authorize the use of such substance for the purpose of adding the ingredient to the food through extraction from the food-contact surface.

(d) The listing of a food ingredient in this section does not authorize the use of such substance in a manner that may lead to deception of the consumer or to any other violation of the act.

(e) If the Commissioner of Food and Drugs is aware of any prior sanction for use of an ingredient under conditions different from those proposed to be affirmed as GRAS, he will concurrently propose a separate regulation covering such use of the ingredient under Part 181 of this chapter. If the Commissioner is unaware of any such applicable prior sanction, the proposed regulation will so state and will require any person who intends to assert or rely on such sanction to submit proof of its existence. Any regulation promulgated pursuant to this section constitutes a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to the proposal will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice will also constitute a proposal to establish a regulation under Part 181 of this chapter, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the proposal.

Subpart B—Listing of Specific Substances Affirmed as GRAS

§ 186.1330 Acacia (gum arabic).

(a) Acacia (gum arabic) is the dried gummy exudate from stems and branches of trees of various species of the genus *Acacia* family Leguminosae.

(b) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(c) The ingredient is used or intended for use as a constituent of food-packaging materials.

(d) The ingredient is used at levels not to exceed good manufacturing practice.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 186.1339 Guar gum (technical grade).

(a) Guar gum, technical grade, is the natural substance obtained from maceration of the seed of the guar plant, *Cyamopsis tetragonoloba* (Linne) Taub. or *Cyamopsis psoraloides* (Lam.) D.C. containing greater quantities of seed hull and embryo than guar gum meeting the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(b) The technical grade gum meets the following specifications:

Galactomannans, not less than 35 percent.
Acid insoluble matter, not more than 27 percent.
Loss on drying, not more than 15 percent.
Protein, not more than 27 percent.
Ash, not more than 4.5 percent.
Arsenic (As), not more than 3 parts per million.
Heavy metals (as Pb), not more than 20 parts per million.
Lead (Pb), not more than 10 parts per million.

(c) The ingredient is used or intended for use as a constituent of food-contact surfaces.

(d) The ingredient migrates to the packaged or wrapped food at levels not to exceed good manufacturing practice.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

§ 186.1343 Locust (carob) bean gum.

(a) Locust (carob) bean gum, technical grade, is primarily the macerated endosperm of the seed of the locust (carob) bean tree, *Ceratonia siliqua* (Linne), a leguminous evergreen tree, containing greater quantities of seed hull and embryo than locust (carob) bean gum meeting the specifications of the Food Chemicals Codex, 2d Ed. (1972).[11]

(b) The technical grade gum meets the following specifications:

Galactomannans, not less than 50 percent.
Acid insoluble matter, not more than 17 percent.
Loss on drying, not more than 15 percent.
Protein, not more than 15 percent.
Ash, not more than 3 percent.
Arsenic (As), not more than 3 parts per million.
Heavy metals, not more than 20 parts per million.
Lead (Pb), not more than 10 parts per million.

(c) The ingredient is used or intended for use as a constituent of food-contact surfaces.

(d) The ingredient migrates to the packaged or wrapped food at levels not to exceed good manufacturing practices.

(e) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

§ 186.1673 Pulp.

(a) Pulp is the soft, spongy pith inside the stem of a plant such as wood, straw, sugarcane, or other natural plant sources.

(b) The ingredient is used or intended for use as a constituent of food packaging containers.

(c) The ingredient is used in paper and paperboard made by conventional paper-making processes at levels not to exceed good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

[11] Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

PART 189—SUBSTANCES PROHIBITED FROM USE IN HUMAN FOOD

Subpart A—General Provisions

Sec.
189.1 Substances prohibited from use in human food.

Subpart B—Substances Generally Prohibited From Addition or Use as Human Food [Reserved]

Subpart C—Substances Prohibited From Direct Addition Through Food-Contact Surfaces

189.110 Calamus and its derivatives.
189.120 Cobaltous salts and its derivatives.
189.130 Coumarin.
189.135 Cyclamate and its derivatives.
189.140 Diethylpyrocarbonate (DEPC).
189.145 Dulcin.
189.155 Monochloroacetic acid.
189.165 Nordihydroguaiaretic acid (NDGA).
189.175 P-4000.
189.180 Safrole.
189.190 Thiourea.

Subpart D—Substances Prohibited From Indirect Addition to Human Food Through Food-Contact Surfaces

189.220 Flectol H.
189.250 Mercaptoimidazoline and 2-mercaptoimidazoline.
189.280 4,4'-Methylenebis (2-chloroanaline).

AUTHORITY: Secs. 409, 701, 52 Stat. 1055–1056 as amended, 72 Stat. 1785–1788 as amended (21 U.S.C. 348, 371), unless otherwise noted.

Subpart A—General Provisions

§ 189.1 Substances prohibited from use in human food.

(a) The food ingredients listed in this section have been prohibited from use in human food by the Food and Drug Administration because of a determination that they present a potential risk to the public health or have not been shown by adequate scientific data to be safe for use in human food. Use of any of these substances in violation of this section causes the food involved to be adulterated in violation of the act.

(b) This section includes only a partial list of substances prohibited from use in human food, for easy reference purposes, and is not a complete list of substances that may not lawfully be used in human food. No substance may be used in human food unless it meets all applicable requirements of the act.

(c) The Commissioner of Food and Drugs, either on his own initiative or on behalf of any interested person who has submitted a petition, may publish a proposal to establish, amend, or repeal a regulation under this section on the basis of new scientific evaluation or information. Any such petition shall include an adequate scientific basis to support the petition, pursuant to Part 2 of this chapter, and will be published for comment if it contains reasonable grounds.

Subpart B—Substances Generally Prohibited from Addition or Use as Human Food [Reserved]

Subpart C—Substances Prohibited From Direct Addition or Use as Human Food

§ 189.110 Calamus and its derivatives.

(a) Calamus is the dried rhizome of *Acorus calamus* L. It has been used as a

flavoring compound, especially as the oil

ods of Analysis of the Association of Offi-

(c) The analytical method used for

to be adulterated in violation of the act

197.880 Certificates of inspection; warehousing and export permits.

tion service in any establishment upon failure of the packer to comply with

V 42 50 MAR 15 77 UMI

flavoring compound, especially as the oil or extract.

(b) Food containing any added calamus, oil of calamus, or extract of calamus is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of May 9, 1968 (33 FR 6967).

(c) The analytical method used for detecting oil of calamus (β-asarone) is in the *Journal of the Association of Official Analytical Chemists* 56(5):1281–1283, Sept. 1973.[1]

§ 189.120 Cobaltous salts and its derivatives.

(a) Cobaltous salts are the chemicals, $CoC_4H_6O_4$, $CoCl_2$, and $CoSO_4$. They have been used in fermented malt beverages as a foam stabilizer and to prevent "gushing."

(b) Food containing any added cobaltous salts is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of August 12, 1966 (31 FR 8788).

§ 189.130 Coumarin.

(a) Coumarin is the chemical 1,2-benzopyrone, $C_9H_6O_2$. It is found in tonka beans and extract of tonka beans, among other natural sources, and is also synthesized. It has been used as a flavoring compound.

(b) Food containing any added coumarin as such or as a constituent of tonka beans or tonka extract is deemed to be adulterated under the act, based upon an order published in the FEDERAL REGISTER of March 5, 1953 (19 FR 1239).

(c) The analytical methods used for detecting coumarin in food are in §§ 19.014 through 19.023 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[2]

§ 189.135 Cyclamate and its derivatives.

(a) Calcium, sodium, magnesium and potassium salts of cyclohexane sulfamic acid, $(C_6H_{12}NO_3S)_2Ca$, $(C_6H_{12}NO_3S)Na$, $(C_6H_{12}NO_3S)_2Mg$, and $(C_6H_{12}NO_3S)K$. Cyclamates are synthetic chemicals having a sweet taste 30 to 40 times that of sucrose, are not found in natural products at levels detectable by the official methodology, and have been used as artificial sweeteners.

(b) Food containing any added or detectable level of cyclamate is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of October 21, 1969 (34 FR 17063).

(c) The analytical methods used for detecting cyclamate in food are in §§ 20.127 through 20.132 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[3]

§ 189.140 Diethylpyrocarbonate (DEPC).

(a) Diethylpyrocarbonate is the chemical pyrocarbonic acid diethyl ester, $C_6H_{10}O_5$. It is a synthetic chemical not found in natural products at levels detectable by available methodology and has been used as a ferment inhibitor in alcoholic and nonalcoholic beverages.

(b) Food containing any added or detectable level of DEPC is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of August 2, 1972 (37 FR 15426).

§ 189.145 Dulcin.

(a) Dulcin is the chemical 4-ethoxyphenylurea, $C_9H_{12}N_2O_2$. It is a synthetic chemical having a sweet taste about 250 times that of sucrose, is not found in natural products at levels detectable by the official methodology, and has been proposed for use as an artificial sweetener.

(b) Food containing any added or detectable level of dulcin is deemed to be adulterated in violation of the act, based upon an order published in the FEDERAL REGISTER of January 19, 1950 (15 FR 321).

(c) The analytical methods used for detecting dulcin in food are in §§ 20.133 through 20.136 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[3]

§ 189.155 Monochloroacetic acid.

(a) Monochloroacetic acid is the chemical chloroacetic acid, $C_2H_3ClO_2$. It is a synthetic chemical not found in natural products, and has been proposed as a preservative in alcoholic and nonalcoholic beverages. Monochloracetic acid is permitted in food package adhesives with an accepted migration level up to 10 parts per billion (ppb) under § 175.105 of this chapter. The official methods do not detect monochloroacetic acid at the 10 ppb level.

(b) Food containing any added or detectable level of monochloroacetic acid is deemed to be adulterated in violation of the act based upon trade correspondence dated December 29, 1941 (TC–377).

(c) The analytical methods used for detecting monochloroacetic acid in food are in §§ 20.057 through 20.062 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[3]

§ 189.165 Nordihydroguaiaretic acid (NDGA).

(a) Nordihydroguaiaretic acid is the chemical 4,4'-(2,3-dimethyltetramethylene) dipyrocatechol. $C_{18}H_{22}O_4$. It occurs naturally in the resinous exudates of certain plants. The commercial product, which is synthesized, has been used as an antioxidant in foods.

(b) Food containing any added NDGA is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of April 11, 1968 (33 FR 5619).

(c) The analytical method used for detecting NDGA in food is in § 20.008 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[3]

§ 189.175 P–4000.

(a) P–4000 is the chemical 5-nitro-2-n-propoxyaniline, $C_9H_{12}N_2O_3$. It is a synthetic chemical having a sweet taste about 4000 times that of sucrose, is not found in natural products at levels detectable by the official methodology, and has been proposed for use as an artificial sweetener.

(b) Food containing any added or detectable level of P–4000 is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of January 19, 1950 (15 FR 321).

(c) The analytical methods used for detecting P–4000 in food are in §§ 20.137 through 20.141 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[3]

§ 189.180 Safrole.

(a) Safrole is the chemical 4-allyl-1,2-methylenedioxy-benzene, $C_{10}H_{10}O_2$. It is a natural constituent of the sassafras plant. Oil of sassafras is about 80 percent safrole. Isosafrole and dihydrosafrole are derivatives of safrole, and have been used as flavoring compounds.

(b) Food containing any added safrole, oil of sassafras, isosafrole, or dihydrosafrole, or any safrole as a constituent of any food or extract is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of December 3, 1960 (25 FR 12412).

(c) The analytical method used for detecting safrole, isosafrole and dihydrosafrole is in the *Journal of the Association of Official Analytical Chemists* 54 (4):900–902, July 1971.[3]

§ 189.190 Thiourea.

(a) Thiourea is the chemical thiocarbamide, CH_4N_2S. It is a synthetic chemical, is not found in natural products at levels detectable by the official methodology, and has been proposed as an antimycotic for use in dipping citrus.

(b) Food containing any added or detectable level of thiourea is deemed to be adulterated under the act.

(c) The analytical methods used for detecting thiourea are in §§ 20.009 through 20.100 of the "Official Methods of Analysis of the Association of Official Analytical Chemists."[2]

Subpart D—Substances Prohibited From Indirect Addition to Human Food Through Food-Contact Surfaces

§ 189.220 Flectol H.

(a) Flectol H is the chemical 1,2-dihydro-2,2,4-trimethylquinoline, polymerized, $(C_{12}H_{17}N)_n$. It is a synthetic chemical not found in natural products, and has been used as a component of food packaging adhesives.

(b) Food containing any added or detectable level of this substance is deemed

[2] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

[3] "Collaborative Study of the Determination of Soluble Solids in Tomato Products by Refractive Index Expressed as Percent Sucrose" by Frank C. Lamb, National Canners Association, 1950 Sixth Street, Berkeley, CA 94710, "Journal of the Association of Official Analytical Chemists," vol. 52, No. 5 (1969), pp. 1060–64. Adopted as official, first action at the 1969 AOAC meeting.

to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of April 7, 1967 (32 FR 5675).

§ 189.250 Mercaptoimidazoline and 2-mercaptoimidazoline.

(a) Mercaptoimidazoline and 2-mercaptoimidazoline both have the molecular formula $C_3H_6N_2S$. They are synthetic chemicals not found in natural products and have been used in the production of rubber articles that may come into contact with food.

(b) Food containing any added or detectable levels of these substances is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of November 30, 1973 (38 FR 33072).

§ 189.280 4,4'-Methylenebis (2-chloroanaline).

(a) 4,4'-Methylenebis (2-chloroanaline) has the molecular formula, $C_{13}H_{12}Cl_2N_2$. It is a synthetic chemical not found in natural products and has been used as a polyurethane curing agent and as a component of food packaging adhesives and polyurethane resins.

(b) Food containing any added or detectable level of this substance is deemed to be adulterated in violation of the act based upon an order published in the FEDERAL REGISTER of December 2, 1969 (34 FR 19073).

PART 197—SEAFOOD INSPECTION PROGRAM

Subparts A, B, C—[Reserved]

Subpart D—Inspection of Canned Oysters

Sec.
197.310 Application for inspection service.
197.312 Granting or refusing inspection service; cancellation of application.
197.315 Suspension and withdrawal of inspection service.
197.320 Inspection periods.
197.325 Assignment of inspectors.
197.329 Uninspected oysters excluded from inspected establishments.
197.330 General requirements for plant and equipment.
197.340 General operating conditions.
197.350 Code marking.
197.355 Processing.
197.360 Examination after canning.
197.370 Labeling.
197.380 Certificates of inspection; warehousing and export permits.
197.385 Inspection fees.

Subparts E, F, G, H—[Reserved]

Subpart I—Inspection of Processed Shrimp

197.810 Application for inspection service.
197.812 Granting or refusing inspection service; cancellation of application.
197.815 Suspension and withdrawal of inspection service.
197.820 Inspection periods.
197.825 Assignment of inspectors.
197.829 Uninspected shrimp excluded from inspected establishments.
197.830 General requirements for plant and equipment.
197.840 General operating conditions.
197.850 Code marking.
197.855 Processing.
197.860 Examination after processing.
197.870 Labeling.
197.880 Certificates of inspection; warehousing and export permits.
197.885 Inspection fees.

AUTHORITY: The provisions of this Part 197 issued under sec. 701, 52 Stat. 1055–1056 as amended (21 U.S.C. 371).

Subparts A, B, C—[Reserved]

Subpart D—Inspection of Canned Oysters

§ 197.310 Application for inspection service.

(a) Applications for inspection service on canned oysters under the provisions of section 702a of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372a) shall be on forms supplied by the Food and Drug Administration. No application for a regular inspection period filed with the Food and Drug Administration after September 1 preceding such period in any year shall be considered unless the applicant shows substantial cause for failure to file such application on or before September 1 of such year. The opening date of the canning season in each State shall be the date set by the State agency responsible for controlling the opening date of the canning season in that State. A separate application shall be made for each inspection period in each establishment for which the service is applied. Each application for a regular inspection period shall be accompanied by a payment of $600.00 as prescribed by § 197.385 (a) (1). Such deposit shall be paid in the manner prescribed by § 197.385 (e).

(b) For the purpose of §§ 197.310 through 197.385, an establishment is defined as a factory where oysters may be processed and warehouses under the control and direction of the packer where such canned oysters are stored.

§ 197.312 Granting or refusing inspection service; cancellation of application.

(a) The Secretary of Health, Education, and Welfare may grant the inspection service applied for upon determining that the establishment covered by such application complies with the requirements of § 197.330.

(b) The Secretary may refuse to grant the inspection service at any establishment for cause. In case of refusal the applicant shall be notified of the reason therefor and shall have returned to him all advance payments and production deposits made, less any expenses incurred for preliminary inspection of the establishment, or for other purposes incident to such application.

(c) The applicant, by written notice to the Secretary, may withdraw his application for inspection service before an inspector is assigned to the establishment. In case of such withdrawal, the Secretary shall return to such applicant all advance payments and production deposits made, less any salary and other expense incurred incident to such application.

§ 197.315 Suspension and withdrawal of inspection service.

(a) The Administration may suspend and the Secretary may withdraw inspection service in any establishment upon failure of the packer to comply with any applicable provision of §§ 197.310 through 197.385 or upon the dissemination by the packer or any person in privity with him of any representation that is false or misleading in any particular regarding the application to any seafood of the inspection service provided by the regulations in this part.

(b) When inspection service is suspended in an establishment, as authorized by paragraph (a) of this section, the Food and Drug Administration shall not lengthen the inspection period in such establishment to compensate for any of the time of suspension.

§ 197.320 Inspection periods.

(a) The regular inspection period in each establishment in which inspection service under §§ 197.310 through 197.385 is granted consists of 4 consecutive months. The date of the beginning of such regular inspection period shall be regarded as the date, on or after October 1 but not later than March 1, specified for the beginning of the service in the application therefor, or such other date as may be specified by amendment to such application and approved; but if the Secretary is not prepared to begin the service on the specified date then the period shall start on the date on which service is begun.

(b) Extension inspection periods shall begin at the close of the preceding inspection period. Extension inspection periods may be granted for periods of 1 month and/or fractional parts of 1 month, but in no case less than 1 day. Extension inspection periods for 1 month may be granted in such establishment if application therefor, accompanied by a payment of $600.00, as prescribed by § 197.385(a)(3), is made at least 2 weeks in advance of the close of such preceding inspection period. Applications for extension inspection periods for fractional parts of a month may be accepted when accompanied by the payment prescribed by § 197.385(a)(3) for such extensions. No regular or extension inspection period shall extend beyond June 30 of any year.

(c) Upon request of the packer, and with the approval of the Food and Drug Administration, such service during any inspection period may be transferred from one establishment to another to be operated by the same packer; but such transfer shall not serve to lengthen any inspection period or to take the place of an extension inspection period. In case of such transfer the packer shall furnish all necessary transportation of inspectors.

(d) The inspection service shall be continuous throughout the inspection period.

§ 197.325 Assignment of inspectors.

(a) An initial assignment of at least one inspector shall be made to each establishment in which inspection service under §§ 197.310 through 197.385 is granted. Thereafter, the Food and Drug Administration shall adjust the number of inspectors assigned to each establishment and tour of duty of each inspector

to the requirements for continuous and efficient inspection.

(c) Adequate toilet facilities of sanitary type which comply fully with an-

and sanitized after each delivery to the

Canned oysters	

greater than 1 pound and diameter of

310 through 197.385. Approval shall be subject to the condition that such label-

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to the requirements for continuous and efficient inspection.

(b) Any inspector of the Food and Drug Administration shall have free access at all times to all parts of the establishment and to all fishing and freight boats and other conveyances dredging oysters for or transporting oysters to such establishments.

§ 197.329 Uninspected oysters excluded from inspected establishments.

(a) No establishment to which inspection service on canned oysters has been granted shall at any time thereafter can oysters that have not been so inspected, or handle or store in such establishment any canned oysters that have not been so inspected; but this paragraph shall not apply to an establishment after termination of inspection service therein, or withdrawal therefrom as authorized by § 197.315.

(b) All oysters delivered to or held in an inspected establishment may be subject to inspection, but certificates of inspection shall be issued under § 197.380 only on canned oysters.

§ 197.330 General requirements for plant and equipment.

(a) All exterior openings of the cannery, including those of the shucking sheds, shall be adequately screened, and roofs and exterior walls shall be tight. When necessary, fly traps, fans, blowers, or other approved insect-control devices shall be installed.

(b) Shucking sheds and packing rooms shall be separate, and fixtures and equipment shall be so constructed and arranged as to permit thorough cleaning. Such sheds and rooms shall be adequately lighted and ventilated, and the floors shall be tight and arranged for thorough cleaning and proper drainage. Open drains from shucking shed shall not enter packing room. If shucking shed and packing room are in separate buildings, such buildings shall be not more than 100 yards apart, unless adequate provisions are made to enable efficient inspection.

(c) All surfaces of washers, tanks, belts, tables, flumes, utensils, and other equipment with which unshucked or shucked oysters come in contact after delivery to the establishment shall be of metal or of other smooth nonporous and easily cleanable material, provided such materials are not lead or other toxic substances. Metal seams shall be smoothly soldered or smoothly welded. Shucking tables shall be so constructed as to preclude contamination of working surfaces or products thereon from foot traffic or wheelbarrows or other containers used in delivering steamed oysters to such tables.

(d) Adequate supplies of suitable detergents and sanitizing agents approved by the Food and Drug Administration; clean, unpolluted running water; and steam shall be provided for washing, cleaning, and otherwise maintaining the establishment in a sanitary condition.

(e) Adequate toilet facilities of sanitary type which comply fully with applicable State laws and local ordinances shall be provided.

(f) An adequate number of sanitary washbasins, with liquid or powdered soap, shall be provided in both the shucking shed and the packing room. Paper towels shall be provided in the packing room.

(g) Signs requiring employees handling oysters to wash their hands after each absence from post of duty shall be conspicuously posted in the shucking shed and packing room and elsewhere about the premises as conditions require.

(h) One or more suitable washing devices and one or more suitable inspection belts shall be installed for the washing and subsequent inspection of the oysters before delivery for steaming or other means of opening.

(i) If steam boxes are used for opening the oysters, they shall be provided with adequate steam inlets, exhausts, drains, a safety valve, and a pressure gauge.

(j) Suitable means shall be provided for removing shells and debris from shucking shed.

(k) One or more suitable devices shall be provided for removing shell and grit from shucked oysters, for washing such oysters, and for their subsequent drainage.

(l) One or more suitable inspection belts shall be installed for the inspection of shucked oysters.

(m) Equipment shall be provided for code-marking cans.

(n) An automatic container-counting device shall be installed in each cannery line.

(o) Each sterilizing retort shall be fitted with at least the following equipment:

(1) An automatic control for regulating temperatures.

(2) An indicating mercury thermometer of a range from 170° F to 270° F, with scale divisions not greater than 2° F, installed either within a fitting attached to the shell of the retort or within the door or shell of the retort. If the thermometer is installed within a fitting, such fitting shall communicate with the chamber of the retort through an opening at least 1 inch in diameter. Such fitting shall be equipped with a bleeder at least one-eighth inch in diameter. If the thermometer is installed within the door or shell of the retort, the bulb shall project at least two-thirds of its length into the principal chamber.

(3) A recording thermometer of a range from 170° F to 270° F, with scale divisions not greater than 2° F. The bulb of such thermometer shall be installed as prescribed for the indicating mercury thermometer. The case which houses the charts and recording mechanism shall be provided with an approved lock, all keys to which shall be in the sole custody of the inspector.

(4) A pressure gauge of a range from 0 to 30 pounds, with scale divisions not greater than 1 pound and diameter of not less than 5 inches. Such gauge shall be connected to the chamber of the retort by a short gooseneck tube. The gauge shall be not more than 4 inches higher than the gooseneck.

(5) A blow-off vent of at least ¾-inch inside diameter in the top of the retort.

(6) A ⅛-inch bleeder in top of the retort.

(p) Suitable space and facilities shall be provided for the inspector to prepare records and examine samples and for the safekeeping of records and equipment.

§ 197.340 General operating conditions.

(a) The decks and holds of all boats tonging or dredging oysters for or transporting oysters to an inspected establishment, and the bodies of other conveyances so transporting oysters shall be kept in a sanitary condition. Such boats shall be equipped with adequate means for protecting the oysters against contamination with bilge water.

(b) Inspected establishments, freight boats, and other conveyances serving such establishments shall accept only live, clean, sound oysters taken from unpolluted areas. When necessary, ice or other suitable refrigeration shall be provided to prevent spoilage.

(c) After delivery of each load of oysters to the establishment, decks and holds of each boat and the body of each other conveyance or container making such delivery shall be washed down with clean, unpolluted water, and all debris shall be cleaned therefrom before such boat or other conveyance or container leaves the establishment premises.

(d) Before being steamed or opened by other means, the oysters shall be washed with clean, unpolluted water and then passed over the inspection belt and culled to remove dirty, muddy, dead, or decomposed oysters and extraneous material. Muddy oysters may be returned to the washer for rewashing.

(e) As often as is necessary to maintain sanitary conditions, unloading platforms and equipment shall be washed with clean, unpolluted water, and all debris shall be cleaned therefrom.

(f) Shells shall be removed from the shucking shed continuously.

(g) Offal, debris, or refuse from any source whatever shall not be allowed to accumulate in the cannery or, except for shells, about the premises. Shells shall not be allowed to accumulate about the premises in such a manner as to create a nuisance.

(h) The delivery of steamed oysters to shuckers by means of manually rolling, trundling, or wheelbarrowing such oysters on or above shucking tables will not be permitted.

(i) Shucking knives and shucking cups shall be thoroughly washed with soap and water and chlorinated before use each day. Chlorine solution shall be maintained at a strength of 200 parts per million.

(j) No shucked oysters shall be returned to shucker after delivery to the weigher. Shucking cups shall be cleaned and sanitized after each delivery to the weigher.

(k) Shucked oysters being transported from one building to another shall be properly covered and protected against contamination.

(l) The shucked oysters shall be washed, separated from the shell and grit by suitable devices, and then immediately drained. The time of washing shall not exceed the minimum time necessary for cleansing.

(m) From the time of delivery to the cannery up to the time of final processing, oysters shall be handled expeditiously and under such conditions as to prevent contamination or spoilage.

(n) The packer shall destroy for food purposes under the immediate supervision of the inspector all oysters in his possession condemned by the inspector as filthy, decomposed, putrid, or unfit for food. Oysters condemned on the boat or on the unloading platfrom shall not be taken into the cannery, but shall be either destroyed or returned to a bedding ground.

(o) All portions of the establishment shall be adequately lighted to enable the inspector to perform his duties properly.

(p) All floors and other parts of the establishment including unloading platforms, and all fixtures, equipment, and utensils shall be cleaned as often as may be necessary to maintain them in a sanitary condition.

(q) The packer shall require all employees handling oysters to wash their hands after each absence from post of duty and to observe other proper habits of cleanliness.

(r) The packer shall not knowingly employ in or about the establishment any person afflicted with an infestious or contagious disease or with any open sores on exposed portions of the body.

§ 197.350 Code marking.

(a) Code marks shall be affixed to all cans and other immediate containers before they are placed in the processing retorts. Sudh marks shall show at least:

(1) The date of packing;

(2) The establishment where packed;

(3) The conveyance; and

(4) The size of the oysters when such oysters are graded for size.

(b) Keys to all code marks shall be given to the inspector.

(c) Each lot shall be stored separately pending final inspection, with a space of not less than 6 inches between stacks of each lot. For the purposes of the regulations in this part all cans or other containers bearing the same code marks shall be regarded as comprising a lot.

§ 197.355 Processing.

(a) The closure of the can or other immediate container and the time and temperature of sterilizing the canned oysters shall be adequate to prevent bacterial spoilage.

(b) The following times and temperatures shall be the minimum employed for the containers indicated:

Canned oysters

Size	Initial temperature (degrees Fahrenheit)	Time at 240° F	Time at 250° F
		Minutes	*Minutes*
211 by 212	70	24	14
211 by 300	130	23	13
211 by 400	70	26	14
307 by 400	130	27	13

For the purposes of this section, initial temperature is defined as the average temperature of the contents of the container at the moment steam is admitted to the sterilizing retort.

(c) The blow-off vent shall be open during the coming-up period until the mercury thermometer registers at least 215° F. Bleeders shall emit steam during the entire cooking period.

(d) The inspector shall identify each record on the thermometer chart with the code mark of the lot to which such record relates and the date of such record. The Food and Drug Administration shall keep such charts for at least 5 years, and upon request shall make them available to the packer.

(e) The packer shall keep for at least 2 years all shipping records covering shipments from each lot, and upon request shall furnish such records to any inspector of the Food and Drug Administration.

§ 197.360 Examination after canning.

(a) Adequate samples shall be drawn by the inspector from each lot of canned oysters and shall be examined to determine whether or not such canned oysters conform to all requirements of the Federal Food, Drug, and Cosmetic Act, amendments thereto, and regulations thereunder.

(b) The packer shall destroy for food purposes, under the immediate supervision of the inspector, all canned oysters condemned by the inspector as not complying with § 197.355, or as filthy, decomposed, putrid, or otherwise unfit for food.

§ 197.370 Labeling.

(a) Labels on canned oysters packed and certified under §§ 197.310 through 197.385 may bear the mark "Production Supervised by the U.S. Food and Drug Administration." Such mark, if used, shall be plainly and conspicuously displayed, in type of uniform size and style, on a strongly contrasting, uniform background.

(b) Two proofs, or one proof and one photostat thereof, or eight specimens of all labeling intended for use on inspected canned oysters or on or within the cases therefor shall be submitted to the Food and Drug Administration for approval. If the proofs or photostat and proof are submitted, eight specimens of the labeling shall be sent to the Food and Drug Administration after printing. The Food and Drug Administration is hereby authorized to approve labeling for use on canned oysters inspected under §§ 197.310 through 197.385. Approval shall be subject to the condition that such labeling shall be so used as to comply with the provisions of the Federal Food, Drug and Cosmetic Act, amendments thereto, and regulations thereunder. The Food and Drug Administration is also authorized to revoke any such approval for cause. The Food and Drug Administration shall not approve labeling for canned oysters intended for export under the provisions of § 197.380(e).

(c) No commercial brand or brand name appearing on labeling approved as authorized under paragraph (b) of this section and bearing the mark described in paragraph (a) of this section, and no labeling simulating any such approved labeling, shall be used after such approval on canned oysters other than those that have been handled, prepared, and packed in compliance with all provisions of §§ 197.310 through 197.385; but this section shall not apply to any packer's labeling not bearing such mark after termination of inspection or withdrawal thereof as authorized by § 197.315 or to any distributor's labeling not bearing such mark after written notice by the owner thereof to the Food and Drug Administration that the use of such labeling on inspected canned oysters has been discontinued and will not be resumed.

(d) Canned-oyster labeling authorized by paragraph (a) of this section or approved under paragraph (b) of this section shall be used only as authorized by §§ 197.310 through 197.385. Unauthorized use of such labeling renders the user liable to the penalties prescribed by the Food, Drug, and Cosmetic Act, as amended.

§ 197.380 Certificates of inspection; warehousing and export permits.

(a) After finding that the canned oysters comprising any parcel have been handled, prepared, and packed in compliance with all provisions of §§ 197.310 through 197.385; bear labeling approved as authorized under § 197.370(b); and comply with all the provisions of the Federal Food, Drug, and Cosmetic Act, amendments thereto, and regulations thereunder, the inspector shall issue a certificate showing that such canned oysters so comply. The certificate shall specify the code marks to which it applies, the quantity of the parcel so marked, the place where such parcel is stored, the size and kind of containers, the commercial brand name on the labels, the condition of the oysters if they are broken or if they are substandard in fill, and the destination of the lot if known. Such certificate shall become void if such labeling is removed, altered, obliterated, or replaced; but such canned oysters may be relabeled under supervision of an inspector and recertified if the inspector finds that, after being relabeled, they comply with the requirements laid down by this paragraph for the issuance of a certificate.

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balance that would have accrued to such be made for each inspection period in the beginning of the service in the appli-

(b) Unless covered by certificate, canned oysters shall be moved from an inspected establishment only for storage authorized under paragraph (c) of this section, or for export authorized under paragraph (e) of this section, or for destruction as provided by § 197.360(b).

(c) Applications to move unlabeled canned oysters for storage in a warehouse elsewhere than in the establishment where such oysters were packed shall be on forms supplied by the Administration. The application shall give the name and location of the warehouse in which such canned oysters are to be stored, and shall be accompanied by an agreement signed by the operator of such warehouse that inspectors shall have free access at all times to all canned oysters so stored, and that conditions which will preserve the identity of each parcel of such canned oysters shall be continuously maintained pending issuance of a certificate thereon or removal as authorized by paragraph (d) of this section. If such application is approved and it appears to the inspector that the canned oysters comprising any parcel have been packed in compliance with §§ 197.310 through 197.385 and conform, except for the absence of labeling, to all requirements of the Federal Food, Drug, and Cosmetic Act, amendments thereto, and regulations thereunder, the inspector shall issue to the applicant, on his request, a warehousing permit covering such canned oysters. Such permit shall specify the code marks to which it applies, the quantity of the parcel so marked, the place from and to which such parcel is to be moved, the size of the oysters, the size and kind of containers, and the condition of the oysters if they are broken or if they are substandard in fill and, if such be the case, that they are intended for export under paragraph (e) of this section. When any provision of the agreement is violated, the Food and Drug Administration may revoke any permit issued pursuant to such agreement, and may also revoke its approval of the application for warehousing which accompanied such agreement.

(d) Unless covered by certificate, canned oysters stored under the authority of paragraph (c) of this section shall be moved from the warehouse where stored only for re-storage under such authority, or for return upon written permission of the inspector to the establishment where packed, or for export authorized under paragraph (e) of this section, or for destruction as provided by § 197.360(b).

(e) An application to export canned oysters under the provisions of section 801(d) of the act shall be accompanied by the original or a verified copy of the specifications of the foreign purchaser; if required by the Food and Drug Administration, evidence showing that such canned oysters are not in conflict with the laws of the country to which they are intended for export; and, if shipment of labeled canned oysters is specified or directed, eight specimens of the labeling therefor. If canned oysters prepared or packed according to such specifications are not in conflict with the laws of such country, the Administration shall direct the inspector to issue to the applicant an export permit covering such canned oysters comprising any parcel ordered by such purchaser under such specifications, when the inspector finds that such canned oysters were packed in compliance with the requirements of §§ 197.310 through 197.385 regarding sanitary conditions and processing; are not filthy, decomposed, putrid, or otherwise unfit for food; accord to such specifications, and are labeled on the outside of the shipping package to show that they are intended for export. Such permit shall specify the code marks to which it applies and the quantity of the parcel so marked, and shall show that such canned oysters were packed under sanitary conditions, are wholesome, and accord to such specifications. The applicant shall furnish to the inspector documentary evidence showing the exportation of all such canned oysters.

§ 197.385 Inspection fees.

(a) (1) Except as otherwise provided by the regulations in this part, an initial payment of $600.00 shall accompany each application; thereafter, three additional advance payments of $600.00 each shall be made, as follows: One payment on or before the date of the beginning of the regular inspection period specified in the application for inspection; the remaining two payments on or before the first day of each succeeding month, except that the Food and Drug Administration may require the full amount of all advance payments prescribed by this paragraph to accompany the application of an applicant who has defaulted in any payment due for any prior packing season: *Provided*, That a packer who is concurrently receiving inspection service and making payments under the regulations for the inspection of processed shrimp shall not make any additional payments under this subparagraph.

(2) Whenever it is determined, without hearing, by the Food and Drug Administration that an establishment having the inspection service has been damaged by wind, fire, flood, or other calamity to such an extent that packing operations cannot be resumed before the end of the fiscal year then current, no advance payments falling due after such calamity shall be required from the packer for that fiscal year; but whenever it is determined, without hearing, by the Food and Drug Administration that an establishment having the inspection service has been so damaged by any such calamity that operations must be suspended temporarily, but can be resumed before the end of the fiscal year then current, advance payments falling due after such calamity and before the month of resumption of operations shall be postponed until operations are resumed, and thereupon shall be paid in equal monthly installments during the period between the time of resumption of operations and June 1 of the fiscal year then current: *Provided*, That in the event of a determination described in this subparagraph the total payments and production deposits made by the packer involved shall be charged with the cost of the service made available for the establishment, without regard to the method provided hereinafter for computing charges against payments and production deposits, and the balance of the total payments and deposits remaining after such charges shall be refunded by the Food and Drug Administration to the packer after the completion of the fiscal year.

(3) Each application for an extension inspection period of 1 month shall be accompanied by a payment of $600.00, and at subsequent monthly intervals thereafter additional payments of $600.00 shall be made; but if the final payment is to cover a period of less than 30 days, then such payment shall be at the rate of $20.00 for each day of such period.

(b) (1) In addition to the payments prescribed in paragraph (a) of this section, advance deposits based upon the quantity of oysters canned by the subscribing establishment shall be made to underwrite adequately the cost of the inspection service. Such deposits shall be paid in advance in amounts of not less than $300.00, unless the Food and Drug Administration on an estimate of production authorizes other amounts, and shall be computed at the rate of 15 cents for each case of 48 cans, size 211 x 300. Any advance production deposits in excess of those required for actual oysters canned for the fiscal year (July 1 through June 30) will be refunded to the packers by the Food and Drug Administration after the completion of the fiscal year.

(2) Production deposits as computed under paragraph (b)(1) of this section, together with deposits for shrimp received as prescribed under § 197.885(b)(1), in the case of processed shrimp, shall be charged with the balance of the total cost of the inspection service which has not been provided for by the combined total payments under paragraph (a) of this section and paragraph (a) of § 197.885, in the case of processed shrimp. The balance of the production deposits remaining after such charges have been made shall be refunded by the Administration to the packers after the completion of the fiscal year in the ratio which each packer's production deposits for oysters canned and deposits for shrimp received bears to the combined total of such deposits for oysters canned and shrimp received by all packers for the fiscal year.

(3) When inspection service is withdrawn from an establishment as authorized under § 197.315(a), the Food and Drug Administration shall not return to the packer any advance payments and/or deposits required to the date of withdrawal of the service. Such payments and/or deposits shall be charged with the cost of the service made available for the establishment, without regard to the method described in this section, and the

balance that would have accrued to such packer shall remain to the credit of the Food and Drug Administration in the special account "Salaries and Expenses, Certification and Inspection Services."

(c) A separate fee shall be paid to cover all expenses incurred in accordance with the regulations of the United States Government, for salary, travel, subsistence, and for other purposes incident to inspection for the purpose of issuing a certificate or warehousing or export permit on canned oysters stored or held at any place other than an establishment to which a seafood inspector is then assigned.

(d) When the cannery and the cannery warehouse of an establishment are located at different points of such distance apart that transportation between them is required for the inspector to perform his duties in the establishment, the packer shall furnish such transportation or shall pay a separate fee to cover all expenses therefor.

(e) All payments required by the regulations in this part shall be by bank draft or certified check, collectible at par drawn to the order of the Food and Drug Administration, and payable at Washington, DC. All such drafts and checks except those for the payment required by § 197.310(a), shall be delivered to the inspector and promptly scheduled to the Food and Drug Administration, Department of Health, Education, and Welfare, Washington, DC, whereupon after appropriate records thereof have been made they shall be transmitted to the Chief Disbursing Officer, Division of Disbursement, Treasury Department, for deposit to the special account "Certification and Inspection Services, Food and Drug Administration."

(f) All refunds to packers shall be by check drawn on the Treasury of the United States pursuant to refund vouchers duly certified and approved by the designated administrative officers.

Subparts E, F, G, H—[Reserved]

Subpart I—Inspection of Processed Shrimp

§ 197.810 Application for inspection service.

(a) Applications for inspection service on the processing of shrimp under the provisions of section 702a of the Federal Food, Drug, and Cosmetic Act shall be on forms supplied by the Food and Drug Administration. The processing of shrimp comprises all the operations including labeling and storage, necessary to prepare for the market shrimp in any of the following forms: Iced or frozen raw headless, raw peeled or cooked peeled (any of which may be deveined); iced or frozen deveined shrimp, partially or completely peeled (which may be battered and breaded before freezing), and canned shrimp. No application for a regular inspection period filed with the Food and Drug Administration after May 1, preceding such period in any year, shall be considered unless the applicant shows substantial cause for failure to file such application on or before May 1 of such year. A separate application shall be made for each inspection period in each establishment for which the service is applied. Each application for a regular inspection period shall be accompanied by an advance payment of $500.00 as prescribed by § 197.885(a)(1). Such payment shall be made in the manner prescribed by § 197.885(e).

(b) For the purposes of §§ 197.810 through 197.885, an establishment is defined as a factory where shrimp may be processed and warehouses and cold storage plants under the control and direction of the packer where such shrimp is stored.

§ 197.812 Granting or refusing inspection service; cancellation of application.

(a) The Secretary of Health, Education, and Welfare may grant the inspection service applied for upon determining that the establishment covered by such application complies with the requirements of § 197.830.

(b) The Secretary may refuse to grant inspection service at any establishment for cause. In case of refusal, the applicant shall be notified of the reason therefor and shall have returned all advance payments and deposits made, less any expenses incurred for preliminary inspection of the establishment or for other purposes incident to such application.

(c) The applicant, by written notice to the Secretary, may withdraw his application for inspection service before July 1 preceding the inspection period covered by the application. In case of such withdrawal, the Secretary shall return to such applicant all advance payments and deposits made, less any salary and other expense incurred incident to such application.

§ 197.815 Suspension and withdrawal of inspection service.

(a) The Food and Drug Administration may suspend and the Secretary may withdraw inspection service in any establishment:

(1) Upon failure of the packer to comply with any applicable provision of §§ 197.810 through 197.885; or

(2) Upon the dissemination by the packer or any person in privity with him of any representation that is false or misleading in any particular regarding the application to any seafood of the inspection service provided by the regulations in this part.

(b) When inspection service is suspended in an establishment, as authorized by paragraph (a) of this section, the Food and Drug Administration shall not lengthen the inspection period in such establishment to compensate for any of the time of suspension.

§ 197.820 Inspection periods.

(a) The regular inspection period in each establishment in which inspection service under §§ 197.810 through 197.885 is granted consists of 9 consecutive months. The date of the beginning of such regular inspection period shall be regarded as the date, on or after July 1, but not later than October 1, specified for the beginning of the service in the application therefor, or such other date as may be specified by amendment to such application and approved; but if the Secretary is not prepared to begin the service on the specified date, then the period shall start on the date on which service is begun.

(b) Extension inspection periods shall begin at the close of the preceding inspection period. Extension inspection periods may be granted for periods of 1 month and/or fractional parts of 1 month, but in no case less than 1 day. Extension inspection periods for 1 month may be granted in such establishment if application therefor, accompanied by a payment of $600.00 as prescribed by § 197.885(a)(3), is made at least 2 weeks in advance of the close of such preceding inspection period. Applications for extension inspection periods for fractional parts of a month may be accepted when accompanied by the payment prescribed by § 197.885(a)(3) for such extensions. No regular or extension inspection period shall extend beyond June 30 of any year.

(c) Upon request of the packer, and with the approval of the Food and Drug Administration, such service during any inspection period may be transferred from one establishment to another to be operated by the same packer; but such transfer shall not serve to lengthen any inspection period or to take the place of an extension inspection period. In case of such transfer the packer shall furnish all necessary transportation of inspectors.

(d) The inspection service shall be continuous throughout the inspection period.

§ 197.825 Assignment of inspectors.

(a) An initial assignment of at least one inspector shall be made to each establishment in which inspection service under §§ 197.810 through 197.885 is granted. Thereafter, the Food and Drug Administration shall adjust the number of inspectors assigned to each establishment and tour of duty of each inspector to the requirements for continuous and efficient inspection.

(b) Any inspector of the Food and Drug Administration shall have free access at all times to all parts of the establishment, to plants supplying materials to the inspected establishment, and to all fishing and freight boats and other conveyances catching shrimp for, or transporting shrimp to, such establishment.

§ 197.829 Uninspected shrimp excluded from inspected establishments.

(a) No establishment to which inspection service has been granted shall at any time thereafter process shrimp which has not been so inspected or handle or store in such establishment any processed shrimp which has not been so inspected; but this paragraph shall not apply to an establishment after termination of inspection service therein or withdrawal therefrom as authorized by § 197.815.

(b) All shrimp and other ingredients entering into the finished product may

be subject to inspection prior to delivery

(i) Suitable containers, flumes, chutes

purposes of this paragraph, the term

(2) The establishment where packed;

Whatever method is used must be such as will produce a hard-frozen product in

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be subject to inspection prior to delivery to the establishment or at any time thereafter, and all shrimp processed in such establishment shall be subject to certification under § 197.880.

§ 197.830 General requirements for plant and equipment.

(a) All exterior openings of the establishment shall be adequately screened and roofs and exterior walls shall be tight. When necessary, fly traps, fans, blowers, or other approved insect-control devices shall be installed.

(b) Except for raw headless shrimp which may or may not be deveined, picking and packing rooms shall be separate, provided that this requirement may be waived by the Food and Drug Administration where separation of picking and packing rooms is not necessary for adequate sanitation. Blanching tanks shall not be located in picking room. Fixtures and equipment shall be so constructed and arranged as to permit thorough cleaning. Such rooms shall be adequately lighted and ventilated, and the floors shall be tight and arranged for thorough cleaning and proper drainage. Open drains from picking room shall not enter packing or blanching room. If picking and packing rooms are in separate buildings, such buildings shall be not more than 100 yards apart unless adequate provisions are made to enable efficient inspection.

(c) All surfaces of tanks, belts, tables, flumes, utensils, and other equipment with which either picked or unpicked shrimp come in contact after delivery to the establishment shall be of metal or of other smooth nonporous and easily cleanable materials, provided such materials are not lead or other toxic substances. Metal seams shall be smoothly soldered or smoothly welded.

(d) Adequate supplies of suitable detergents and sanitizing agents approved by the Food and Drug Administration; clean, unpolluted running water; and, if necessary, steam shall be provided for washing, cleaning, and otherwise maintaining the establishment in a sanitary condition.

(e) Adequate toilet facilities of sanitary type which comply fully with applicable State laws and local ordinances shall be provided.

(f) An adequate number of sanitary washbasins, with liquid or powdered soap, shall be provided in both the picking and packing rooms. Paper towels shall be provided in the packing room. Provision shall be made for sanitizing the hands of employees by the use of suitable sanitizing agents.

(g) Signs requiring employees handling shrimp to wash and sanitize their hands after each absence from post of duty shall be conspicuously posted in the picking and packing rooms and elsewhere about the premises as conditions require.

(h) One or more suitable washing devices and one or more suitable inspection belts shall be installed for the washing and subsequent inspection of the shrimp before processing.

(i) Suitable containers, flumes, chutes, or conveyors shall be provided for removing offal from picking room.

(j) Picking or heading tables shall be equipped with flumes supplied with clean, unpolluted water or with mechanical conveyors for removing the picked or headed shrimp.

(k) Equipment shall be provided for code-marking cans and other immediate containers and master cartons used in packaging other than canned shrimp.

(l) An automatic container-counting device shall be installed in each cannery line.

(m) Each sterilizing retort shall be fitted with at least the following equipment:

(1) An automatic control for regulating temperatures.

(2) An indicating mercury thermometer of a range from 170° F to 270° F with scale divisions not greater than 2° F. For steam cook such thermometers shall be installed either within a fitting attached to the shell of the retort or within the door or shell of the retort. For water cook such thermometers shall be installed in the door or shell of the retort below the water level. If the thermometer is installed within a fitting such fitting shall communicate with the chamber of the retort through an opening at least 1 inch in diameter. Such fitting shall be equipped with a bleeder at least one-eighth of an inch in diameter. If the thermometer is installed within the door or shell of the retort, the bulb shall project at least two-thirds of its length into the principal chamber.

(3) A recording thermometer of a range from 170° F to 270° F with scale divisions not greater than 2° F. The bulb of such thermometer shall be installed as prescribed for the indicating mercury thermometer. The case which houses the charts and recording mechanism shall be provided with an approved lock, all keys to which shall be in the sole custody of the inspector.

(4) A pressure gauge of a range from 0 to 30 pounds, with scale divisions not greater than 1 pound and diameter of not less than 5 inches. Such gauge shall be connected to the chamber of the retort by a short gooseneck tube. The gauge shall be not more than 4 inches higher than the gooseneck.

(5) For steam cook, a blow-off vent of at least ¾-inch inside diameter in the top of the retort.

(6) For steam cook, a ⅛-inch bleeder in top of retort.

(n) Each cold storage compartment shall be fitted with at least the following equipment:

(1) An automatic control for regulating temperature.

(2) An indicating thermometer so installed as to indicate accurately the temperature within the storage compartment.

(3) A recording thermometer so installed as to indicate accurately the temperature within the compartment at all times. The case which houses the charts and recording mechanism shall be provided with an approved lock, all keys to which shall be in the sole custody of the inspector.

(o) Provision shall be made for water-glazing where such glazing is necessary to maintain the quality of frozen shrimp. Glazing shall be done with clean, unpolluted water.

(p) Provision shall be made for immediate icing or cold storage of all packaged shrimp which is destined for sale as unfrozen shrimp.

(q) Suitable space and facilities shall be provided for the inspector to prepare records and examine samples, and for the safekeeping of records and equipment.

§ 197.840 General operating conditions.

(a) Plants supplying raw headless or frozen raw headless shrimp to an inspected establishment, decks and holds of all boats catching shrimp for or transporting shrimp to an inspected establishment, and the bodies of other conveyances so transporting shrimp shall be kept in a sanitary condition.

(b) Inspected establishments, plants supplying inspected establishments, freight boats, and other conveyances serving such establishments shall accept only fresh, clean, sound shrimp. The shrimp shall be iced or refrigerated immediately after they are caught, and shall be kept adequately iced or refrigerated until delivery to the establishment.

(c) After delivery of each load of shrimp to the establishment, decks and holds of each boat and the body of each other conveyance or container making such delivery shall be washed down with clean, unpolluted water, and all debris shall be cleaned therefrom before such boat or other conveyance or container leaves the establishment premises.

(d) Before being headed, picked, or deveined, the shrimp shall be adequately washed with clean, unpolluted water and then passed over the inspection belt and culled to remove all shrimp that are filthy, decomposed, putrid, or otherwise unfit for food, and all extraneous material.

(e) Offal from picking tables shall not be piled on the floor, but shall be placed in suitable containers for frequent removal, or shall be removed by flumes, conveyors, or chutes. Offal, debris, or refuse from any source whatever shall not be allowed to accumulate in or about the establishment.

(f) Shrimp shall be picked into flumes that immediately remove the picked meats from the picking tables; except that shrimp may be picked into seamless containers of not more than 3 pints capacity if the picked meats are not held in such containers for more than 20 minutes before being flumed or conveyed from the picking tables. If shrimp are picked into such containers, the containers shall be cleaned and sanitized as often as may be necessary to maintain them in a sanitary condition, but in no case less frequently than every 2 hours. Whenever a picker is absent from his or her post of duty, the container used by such picker shall be cleaned and sanitized before picking is resumed. For the purposes of this paragraph, the term "picked" shall include the operation whereby a portion of the shell is removed, leaving the tail in place, and the back of the shrimp is sliced open to remove the alimentary canal or vein.

(g) Picked shrimp being transported from one building to another shall be properly covered and protected against contamination.

(h) From the time of delivery to the establishment up to the time of final processing, shrimp shall be handled expeditiously and under such conditions as to prevent contamination or spoilage. Shrimp other than that to be canned shall be precooled immediately after the final cleaning or blanching operation to a temperature not exceeding 50° F if it is to be packaged immediately, or to a temperature not exceeding 40° F if it is not to be packaged immediately. If such shrimp are to be frozen, they shall be placed in the freezing compartment within 1 hour after final preparation.

(i) If batter is employed, it shall be used within 1 hour after it is prepared. The temperature of the batter shall not exceed 50° F.

(j) The packer shall destroy for food purposes under the immediate supervision of the inspector all shrimp in his possession condemned by the inspector as filthy, decomposed, putrid, or otherwise unfit for food. Shrimp condemned on boat or unloading platform shall not be taken into the icebox or picking room.

(k) Raw materials other than shrimp that enter into the finish product shall not be used if condemned by the inspector as unfit for food. Such condemned raw materials shall be segregated from usable materials and be held for disposal as directed by the inspector, or they may be destroyed forthwith by the packer if he so desires.

(l) All portions of the establishment shall be adequately lighted to enable the inspector to perform his duties properly.

(m) All floors and other parts of the establishment, including unloading platforms, and all fixtures, equipment, and utensils shall be cleaned as often as may be necessary to maintain them in a sanitary condition. Containers for mixing or holding batter shall be adequately cleaned and sanitized before they are used for a new batch of batter. Equipment for applying batter shall be adequately cleaned and sanitized at least once each hour while in operation.

(n) The packer shall require all employees handling shrimp to wash and sanitize their hands after each absence from post of duty, and to observe other proper habits of cleanliness.

(o) The packer shall not knowingly employ in or about the establishment any person afflicted with an infectious or contagious disease, or with any open sores on exposed portions of the body.

§ 197.850 Code marking.

(a) Permanently legible code marks shall be placed on all immediate containers at the time of packaging. Such marks shall show at least:

(1) The date of packing;

(2) The establishment where packed; and

(3) The size of the shrimp when such shrimp are graded for size and are not in containers through which they are clearly visible.

Corresponding code marks shall also be placed on the master cartons containing individual packages of shrimp other than canned.

(b) Keys to all code marks shall be given to the inspector.

(c) Each lot shall be stored separately pending final inspection, with a space of not less than 6 inches between stacks of each lot. For the purposes of the regulations in this part, all cans or other containers bearing the same code marks shall be regarded as comprising a lot.

§ 197.855 Processing.

(a) The closure of the can or other immediate container and the time and temperature of sterilizing the canned shrimp shall be adequate to prevent bacterial spoilage.

(b) The following times and temperatures shall be the minimums employed for the containers indicated:

Dry pack

Kind of container and liner	Size	Initial temperature	Time at 240° F	Time at 250° F
			Minutes	Minutes
Tin:				
1-piece liner	211 by 400 and smaller	70° F	60	60
No liner	do	70° F	70	60
	307 by 208	70° F	70	60
	307 by 400	70° F	75	65

Wet pack

Kind of container and size	Initial temperature	Time at 240° F	Time at 250° F
		Minutes	Minutes
Tin:			
211 by 400 (and smaller)	90° F	25	12
307 by 208	90° F	25	13
307 by 400	90° F	25	13
502 by 510	90° F	27	16
Glass: 2 to 9 fluid ounces, inclusive		22	14

For wet-pack shrimp in cans 307 x 400 and smaller, a cook of 12 minutes at 250° F, and for wet-pack shrimp in cans 502 x 510, a cook of 15 minutes at 250° F, may be approved if adequate provisions are made to insure an initial temperature of not less than 120° F in each individual can. For the purposes of this section, initial temperature is defined as the average temperature of the contents of the container at the moment steam is admitted to the sterilizing retort.

(c) For steam cook, blow-off vent shall be open during the coming-up period until the mercury thermometer registers at least 215° F. Bleeders shall emit steam during the entire cooking period.

(d) The method of freezing is not specified by the regulations in this part. Whatever method is used must be such as will produce a hard-frozen product in a sufficiently short time to prevent decomposition. Bulk packages containing 5 pounds or more of shrimp per package shall be hard frozen within 24 hours; smaller packages should be hard frozen within 12 hours. After freezing, the shrimp shall be stored in such a manner that its temperature does not exceed 0° F, and shall be handled in such manner as will maintain the hard-frozen condition.

(e) The storage temperatures for shrimp that are not frozen or canned are as follows:

(1) Cooked and peeled shrimp shall be stored at a room temperature not exceeding 35° F.

(2) Raw headless shrimp shall be stored at a room temperature not exceeding 35° F, except that it may be stored at a higher room temperature if sufficiently iced at all times to prevent spoilage.

(f) The inspector shall identify each record on the thermometer chart with the code mark of the lot to which such record relates and the date of such record. The Food and Drug Administration shall keep such charts for at least 5 years, and upon request shall make them available to the packer.

(g) The packer shall keep for at least 2 years all shipping records covering shipments from each lot, and upon request shall furnish such records to any inspector of the Food and Drug Administration.

§ 197.860 Examination after processing.

(a) Adequate samples shall be drawn by the inspector from each lot of processed shrimp and shall be examined to determine whether or not such processed shrimp conforms to all requirements of the Federal Food, Drug, and Cosmetic Act, amendments thereto, and regulations thereunder.

(b) The packer shall destroy for food purposes, under the immediate supervision of the inspector, all processed shrimp condemned by the inspector as not complying with § 197.855(a), or as filthy, decomposed, putrid, or otherwise unfit for food.

§ 197.870 Labeling.

(a) Labels on shrimp packed and certified under §§ 197.810 through 197.885 may bear a mark attesting to such packing and certification. Depending upon the type of processing, such marks, if used, shall read as follows:

(1) For canned shrimp: "Production supervised by U.S. Food and Drug Administration."

(2) For frozen shrimp: "Packing and freezing supervised by U.S. Food and Drug Administration. Perishable product—Not warranted against mishandling after freezing."

(3) For fresh, iced, or refrigerated shrimp: "Packing supervised by U.S. Food and Drug Administration. Perishable product—Not warranted against mishandling after packing."

Such marks if used shall be plainly and

§ 197.880 Certificates of inspection; warehousing and export permits.

such processed shrimp. Such permit

tional advance payments of $500.00 shall

(b)(1) In addition to the payments prescribed in paragraph (a) of this sec-

drawal of the service. Such payments and/or deposits shall be charged with

Such marks if used shall be plainly and conspicuously displayed in type of uniform size and style on a strongly contrasting uniform background. The marks referred to in paragraph (a)(2) and (3) of this section shall not be used on the master carton unless such marks will be defaced by the opening of the cartons.

(b) Labels on inspected processed shrimp, other than canned shrimp, not bearing the marks referred to in paragraph (a) (2) and (3) of this section, and all master cartons for inspected shrimp other than canned shrimp, shall bear the statement "Perishable—Keep frozen" or "Perishable—Keep refrigerated," whichever is applicable to the product.

(c) Two proofs, or one proof and one photostat thereof, or eight specimens of all labeling intended for use on inspected shrimp, or on or within the cases therefor, shall be submitted to the Food and Drug Administration for approval. If proofs or photostat and proof are submitted, eight specimens of the labeling shall be sent to the Food and Drug Administration after printing. The Food and Drug Administration is authorized to approve labeling for use on or with processed shrimp inspected under §§ 197.810 through 197.885; approval shall be subject to the condition that such labeling shall be so used as to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, amendments thereto and regulations thereunder. The Food and Drug Administration is also authorized to revoke any such approval for cause. The Food and Drug Administration shall not approve labeling for processed shrimp intended for export under the provisions of § 197.880(e).

(d) No commercial brand or brand name appearing on labeling approved as authorized under paragraph (c) of this section and bearing the marks described in paragraph (a) of this section, and no labeling simulating any such approved labeling, shall be used, after such approval, on processed shrimp other than that which has been handled, prepared, packed, and stored in compliance with all provisions of §§ 197.810 through 197.885; but this section shall not apply to any packer's labeling not bearing such mark after termination of inspection or withdrawal thereof as authorized by § 197.815 or to any distributor's labeling not bearing such mark after written notice by the owner thereof to the Food and Drug Administration that the use of such labeling on inspected processed shimp has been discontinued and will not be resumed.

(e) Shrimp labeling authorized by paragraph (a) of this section or approved under paragraph (c) of this section shall be used only as authorized by §§ 197.810 through 197.885. Unauthorized use of such labeling renders the user liable to the penalties prescribed by the Federal Food, Drug, and Cosmetic Act, as amended.

§ 197.880 Certificates of inspection; warehousing and export permits.

(a) After finding that the processed shrimp comprising any parcel has been handled, prepared, and packed in compliance with all provisions of §§ 197.810 through 197.885, bears labeling approved as authorized under § 197.870(c), and complies with all the provisions of the Federal Food, Drug, and Cosmetic Act, amendments thereto, and regulations thereunder, the inspector shall issue a certificate showing that such processed shrimp so complies. The certificate shall specify the code marks to which it applies, the quantity of the parcel so marked, the place where such parcel is stored, the size of the shrimp, the size and kind of containers, the type of pack, the commercial brand name on the labels, the quality grade of the shrimp if it is fancy, the condition of the shrimp if it is broken or if it is substandard in fill and the destination of the lot if known. Such certificate shall become void if such labeling is removed, altered, obliterated, or replaced, or if mishandling, improper storage, or other circumstances so change the product that it no longer complies with the requirements for the issuance of a certificate; but such processed shrimp may be relabeled under the supervision of an inspector and recertified if the inspector finds that, after being relabeled, it complies with the requirements laid down by this paragraph for the issuance of a certificate.

(b) Unless covered by certificate, processed shrimp shall be moved from an inspected establishment only for storage authorized under paragraph (c) of this section, or for export authorized under paragraph (e) of this section, or for destruction as provided by § 197.860(b).

(c) Applications to move unlabeled processed shrimp for storage in a warehouse or cold storage plant elsewhere than in the establishment where such shrimp was processed shall be on forms supplied by the Food and Drug Administration. The application shall give the name and location of the warehouse or cold storage plant in which such processed shrimp is to be stored, and shall be accompanied by an agreement signed by the operator of such warehouse or cold storage plant that inspectors shall have free access at all times to all processed shrimp so stored and that conditions which will preserve the identity of each parcel of such processed shrimp shall be continuously maintained pending issuance of a certificate thereon or removal as authorized by paragraph (d) of this section. If such application is approved and it appears to the inspector that the processed shrimp comprising any parcel has been packed in compliance with §§ 197.810 through 197.885 and conforms, except for the absence of labeling, to all requirements of the Federal Food, Drug, and Cosmetic Act, amendments thereto, and regulations thereunder, the inspector shall issue to the applicant, on his request, a warehousing permit covering such processed shrimp. Such permit shall specify the code marks to which it applies, the quantity of the parcel so marked, the places from and to which such parcel is to be moved, the size of the shrimp, the size and kind of containers, the type of pack, whether or not it is fancy grade, the condition of the shrimp if it is broken or if it is substandard in fill, and, if such be the case, that it is intended for export under paragraph (e) of this section. When any provision of the agreement is violated, the Food and Drug Administration may revoke any permit issued pursuant to such agreement, and may also revoke its approval of the application for warehousing or cold storage which accompanied such agreement.

(d) Unless covered by certificate, processed shrimp stored under the authority of paragraph (c) of this section shall be moved from the warehouse or cold storage plant where stored only for re-storage under such authority, or for return upon written permission of the inspector to the establishment where processed, or for export authorized under paragraph (e) of this section, or for destruction as provided by § 197.860(b).

(e) An application to export processed shrimp under the provisions of section 801(d) of the act shall be accompanied by the original or a verified copy of the specifications of the foreign purchaser; if required by the Food and Drug Administration, evidence showing that such processed shrimp is not in conflict with the laws of the country to which it is intended for export; and, if shipment of labeled processed shrimp is specified or directed, eight specimens of the labeling therefor. If processed shrimp prepared or packed according to such specifications is not in conflict with the laws of such country, the Food and Drug Administration shall direct the inspector to issue to the applicant an export permit covering such processed shrimp comprising any parcel ordered by such purchaser under such specifications when the inspector finds that such processed shrimp was packed in compliance with the requirements of §§ 197.810 through 197.885 regarding sanitary conditions and processing; is not filthy, decomposed, putrid, or otherwise unfit for food, accords to such specifications; and is labeled on the outside of the shipping package to show that it is intended for export. Such permit shall specify the code marks to which it applies and the quantity of the parcel so marked, and shall show that such processed shrimp was packed under sanitary conditions, is wholesome, and accords to such specifications. The applicant shall furnish to the inspector documentary evidence showing the exportation of all such processed shrimp.

§ 197.885 Inspection fees.

(a)(1) Except as otherwise provided by the regulations in this part, an initial payment of $500.00 shall accompany each application; thereafter, eight additional advance payments of $500.00 shall be made on or before the first day of each month beginning July 1 and continuing through February 1 for the regular inspection period; except that the Food and Drug Administration may require the full amount of advance payments prescribed by this paragraph to accompany the application of an applicant who has defaulted in any payment due for any prior packing season.

(2) Whenever it is determined, without hearing, by the Food and Drug Administration that an establishment having the inspection service has been damaged by wind, fire, flood, or other calamity, to such an extent that packing operations cannot be resumed before the end of the fiscal year then current, no advance payments falling due after such calamity shall be required from the packer for that fiscal year; but whenever it is determined, without hearing, by the Food and Drug Administration that an establishment having the inspection service has been so damaged by any such calamity that operations must be suspended temporarily, but can be resumed before the end of the fiscal year then current, advance payments falling due after such calamity and before the month of resumption of operations shall be postponed until operations are resumed, and thereupon shall be paid in equal monthly installments during the period between the time of resumption of operations and June 1 of the fiscal year then current: *Provided*, That in the event of a determination described in paragraph (a)(2) of this section the total payments and deposits made by the packer involved shall be charged with the cost of the service made available for the establishment without regard to the method provided hereinafter for computing charges against payments and deposits for shrimp received, and the balance of the total payments and deposits for shrimp received remaining after such charges shall be refunded by the Administration to the packer after the completion of the fiscal year.

(3) Each application for an extension inspection period of 1 month shall be accompanied by a payment of $600.00, and at subsequent monthly intervals thereafter additional payments of $600.00 shall be made; but if the final payment is to cover a period of less than 30 days, then such payment shall be at the rate of $20.00 for each day of such period.

(b)(1) In addition to the payments prescribed in paragraph (a) of this section, advance deposits based upon the quantity of shrimp received by the subscribing establishment shall be made to underwrite adequately the cost of the inspection service. Such deposits shall be paid in advance in amounts of not less than $300.00, unless the Food and Drug Administration on an estimate of receipt of shrimp authorizes other amounts, and shall be computed at the rate of 20 cents per 100 pounds of whole raw shrimp, or 35 cents per 100 pounds of raw headless shrimp, received by the plant. For the purposes of this section, the quantity of shrimp received by an establishment shall be determined by weighing on a suitable scale immediately after such shrimp leaves the initial inspection belt: *Provided, however*, That other arrangements for determining accurately the weight of shrimp received may be employed if approved in advance by the Food and Drug Administration. A record of such weights shall be maintained and made available to the inspector upon his request. Any advance deposits in excess of those required for actual shrimp received for the fiscal year (July 1 through June 30) shall be refunded to the packer by the Food and Drug Administration after the completion of the fiscal year.

(2) Deposits for shrimp received as computed under paragraph (b)(1) of this section, together with production deposits prescribed for oysters canned under § 197.385(b)(1), shall be charged with the balance of the total cost of the inspection service that has not been provided for by the combined total payments under paragraph (a) of this section and § 197.385(a), in the case of canned oysters. The balance of the deposits remaining for shrimp received after such charges have been made shall be refunded by the Food and Drug Administration to the packers after the completion of the fiscal year, in the ratio which each packer's deposits for shrimp received and production deposits for oysters canned bears to the combined total of such deposits for shrimp received and oysters canned by all packers for the fiscal year.

(3) When inspection service is withdrawn from an establishment as authorized under § 197.815(a), the Food and Drug Administration shall not return to the packer any advance payments and/or deposits required to the date of withdrawal of the service. Such payments and/or deposits shall be charged with the cost of the service made available for the establishment, without regard to the method described in this section, and the balance which would have accrued to such packer shall remain to the credit of the Food and Drug Administration in the special account "Salaries and Expenses, Certification and Inspection Services."

(c) A separate fee shall be paid to cover all expenses, incurred in accordance with the regulations of the United States Government for salary, travel, subsistence, and other purposes incident to inspection described under § 197.825 (b) of suppliers of any materials to establishments under the inspection service or for the purpose of issuing a certificate or warehousing or export permit on processed shrimp stored or held at any place other than an establishment to which a seafood inspector is then assigned.

(d) When the processing plant and the warehouse or cold storage plant of an establishment are located at different points of such distance apart that transportation between them is required for the inspector to perform his duties in the establishment, the packer shall furnish such transportation or shall pay a separate fee to cover all expenses therefor.

(e) All payments required by the regulations in this part shall be by bank draft or certified check collectible at par drawn to the order of the Food and Drug Administration, and payable at Washington, DC. All such drafts and checks, except those for the payment required by § 197.810(a), shall be delivered to the inspector and promptly scheduled to the Food and Drug Administration, Department of Health, Education, and Welfare, Washington, DC, whereupon after appropriate records thereof have been made, they shall be transmitted to the Chief Disbursing Officer, Division of Disbursement, Treasury Department, for deposit to the special account, "Certification and Inspection Services, Food and Drug Administration."

(f) All refunds to the packers shall be by check drawn on the Treasury of the United States pursuant to refund vouchers duly certified and approved by the designated administrative officers.

[FR Doc.77-7048 Filed 3-14-77;8:45 am]

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WEDNESDAY, MARCH 16, 1977

highlights

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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Title 3—The President

Executive Order 11977 • **March 14, 1977**

Designating Certain Public International Organizations Entitled To Enjoy Certain Privileges, Exemptions, and Immunities

By virtue of the authority vested in me by Section 1 of the International Organizations Immunities Act (59 Stat. 669, 22 U.S.C. 288), Reorganization Plan No. 4 of 1965, and Section 301 of Title 3 of the United States Code, and as President of the United States of America, and having found that the United States participates in the following organizations, it is hereby ordered as follows:

SECTION 1. The African Development Fund, in which the United States participates pursuant to Section 202 of the Act of May 31, 1976 (90 Stat. 593, 22 U.S.C. 290g) and the Agreement Establishing the African Development Fund, is hereby designated as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act, provided that such designation shall not affect in any way the applicability of the provisions of Article 43 of such Agreement or the Declaration made by the United States pursuant to Article 58 of such Agreement.

SEC. 2. The International Fertilizer Development Center, in which the United States participates pursuant to Section 301(f) of the Foreign Assistance Act of 1961, as amended (89 Stat. 866, 22 U.S.C. 2221(f)), and the Agreement entered into by the International Fertilizer Development Center with the United States and the Consultative Group on International Agricultural Research, is hereby designated as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act.

SEC. 3. Executive Order No. 11269, as amended, is further amended by adding "and African Development Fund" after "Asian Development Bank" in Sections 2(c) and 3(d), respectively.

SEC. 4. Executive Order No. 11269, as amended, is further amended by adding to Section 3 thereof the following new subsection:

"(e) The Secretary of the Treasury is hereby delegated the functions conferred upon the President by Section 203(b) and Section 207 of the Act of May 31, 1976 (90 Stat. 593 and 594, 22 U.S.C. 290g–1 and 290g–5).".

Jimmy Carter

THE WHITE HOUSE,
March 14, 1977.

[FR Doc.77-7953 Filed 3-15-77;10:23 am]

rules and regulations

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS AND POLICIES

PART 1409—MEETINGS OF THE BOARD OF DIRECTORS OF COMMODITY CREDIT CORPORATION

Government in the Sunshine Act

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: These regulations are issued pursuant to the provisions of the Government in the Sunshine Act (5 U.S.C. 552b) and set forth the procedural requirements designed to provide the public with information, to the fullest extent practicable, regarding the decision making process of the Board of Directors ("Board") of Commodity Credit Corporation ("Corporation"). The regulations include provisions for giving advance public notice of meetings of the Board, for holding meetings which may lawfully be closed to the public, for maintaining copies of transcripts, electronic recordings, or minutes of closed meetings, and for the availability of the nonexempt portions of such records to the public.

EFFECTIVE DATE: March 12, 1977.

FOR FURTHER INFORMATION CONTACT:

George E. Rippel, Staff Assistant, Office of the Administrator, ASCS, U.S. Department of Agriculture, Room 6967, South Bldg., Washington, D.C. 20250 (202–447–4786).

SUPPLEMENTAL INFORMATION: On February 8, 1977, at 42 FR 7963, the Board issued proposed regulations to implement the provisions of the Sunshine Act. Interested parties were given the opportunity to submit, not later than March 10, 1977, comments, views and recommendations regarding the proposed regulations.

The only comment received questioned whether the Board could assert exemption 9A of the Act (see, (9) (i) of § 1409.4 of the proposed regulations) to close a meeting. The commentator suggested that exemption 9A was not available to the Board because the Corporation did not appear to be an "agency which regulates currencies, securities, commodities, or financial institutions." The commentator further suggested that while the Corporation's actions may have an effect on commodity prices, these actions were similar to the actions of other agencies, such as the Civil Aeronautics Board, the Federal Power Commission and the Federal Communications Commission, whose actions may affect securities of the companies which they regulate, but that this fact alone is not sufficient to fulfill the requirements of exemption 9A.

As explained in the preamble to the proposed regulations, the purposes and authorities of the Corporation, among other things, are to stabilize, support and protect farm income and prices, and the actions of the Corporation do have a direct effect on agricultural market prices and a significant regulatory impact on agricultural commodities and the products thereof, on national and foreign markets. Thus, the Corporation's actions are intended to directly affect market prices on agricultural commodities and products, as contrasted with the actions of the other agencies mentioned above, which only incidentally, if at all, affect securities of companies which they regulate. The Corporation is an agency which regulates commodities within exemption 9A and, therefore, exemption (9) (i) in § 1409.4 is being retained.

The commentator also suggested the need to clarify proposed § 1409.4(b) to make it clear that the public interest issue will be considered separately in each instance where the Corporation determines that a meeting or information comes within one of the exemptions. The proposed regulations specifically set out the public issue determination in § 1409.4(b) separately from § 1409.4(a), which permits closure of meetings and withholding of information, to emphasize the importance and the need for a separate determination by the Board on the public interest issue. Therefore, it is not believed that any clarification is necessary in § 1409.4(b).

It was suggested that § 1409.5(c) be changed to make it clear that the General Counsel's certification will be issued before a closed meeting is held. This change has been made.

It was suggested by the commentator that proposed § 1409.6(e) include other means of informing the public, including a mailing list. A mailing list is being established and names will be included on request. The language of § 1409.6(e) requires no further amplification since it provides that the Board will "use all reasonable means to keep the public promptly and fully informed" of public announcements.

A final comment states that proposed § 1409.8(b) appears to require that a written request must be made before the transcripts, recordings and minutes of a meeting are made available to the public, contrary to the provisions of the Sunshine Act. There is no requirement for a written request in § 1409.8(b). On the contrary, § 1409.8(a) provides that the materials will be made "promptly available to the public" as provided in the Act.

The proposed regulations, with minor changes, are, therefore, adopted as set forth below.

Signed at Washington, D.C., on March 11, 1977.

BOB BERGLAND,
Secretary of Agriculture and Chairman, Board of Directors, Commodity Credit Corporation.

Sec.

1409.1 General Statement.
1409.2 Definitions.
1409.3 Open meetings.
1409.4 Exemptions.
1409.5 Closure of meetings.
1409.6 Notices to the public.
1409.7 Records retention.
1409.8 Public inspection and copying of records; applicable fees.
1409.9 Report to Congress.

AUTHORITY: The provisions of this Part 1409 issued under sec. 3(a), 90 Stat. 1244 (5 U.S.C. 552b), and sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b).

§ 1409.1 General Statement.

(a) It is the policy of Commodity Credit Corporation, under the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b) to make available to the public, to the fullest extent practicable, information regarding the decision process of the Board of Directors of Commodity Credit Corporation.

(b) This Part sets forth the procedural requirements designed to provide the public with such information while continuing to protect the rights of individuals and to maintain the capabilities of Commodity Credit Corporation in carrying out its responsibilities under the statutes administered by Commodity Credit Corporation.

§ 1409.2 Definitions.

(a) The term "Board" means the Board of Directors of Commodity Credit Corporation.

(b) The term "Director" means an individual who is a member of the Board of Directors of Commodity Credit Corporation and includes the Secretary of Agriculture, who is by statute an ex-officio director and Chairman of the Board.

(c) The term "General Counsel" means the General Counsel or the Assistant General Counsel of Commodity Credit Corporation.

(d) The term "meeting" means the deliberations of at least five (quorum) Directors of the Board of Directors of Commodity Credit Corporation where such deliberations determine or result in

the joint conduct or disposition of official Board business but shall not include deliberations to take action to open or close a meeting pursuant to § 1409.5 or to release or withhold records or information pursuant to § 1409.8.

(e) The term "closure" means the withholding of information pursuant to § 1409.4 regarding a meeting which would otherwise be open to the public.

(f) The term "public announcement" means the announcement of the time, place and subject matter of a meeting, whether it is to be open or closed to the public, and the announcement of the time, place and subject matter of any change in the time, place or subject matter of a meeting previously announced.

§ 1409.3 Open meetings.

(a) Every meeting of the Board shall be open to the public except as provided in § 1409.4.

(b) Except in the case of a meeting closed pursuant to § 1409.4, the Board shall make public announcement of each meeting at least seven days before the meeting.

(c) Public announcement of a meeting to be closed pursuant to § 1409.4 shall be made at the earliest practicable time.

§ 1409.4 Exemptions.

(a) Except in a case where the Board determines that the public interest requires otherwise, meetings or portions of meetings may be closed to the public and information pertaining to such meetings withheld if the Board determines that such meetings or portions of meetings or the disclosure of such information is likely to:

(1) Disclose matters (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) are in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Corporation;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would (i) in the case of a proposed action by the Corporation, be likely to significantly frustrate implementation of such proposed action, except that this subparagraph shall not apply in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final action on such proposal, or (ii) in the case of any action involving a determination, be likely to significantly frustrate implementation of any proposed determination or be likely significantly to frustrate any agency action that may be based upon such determination;

(10) Specifically concern the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Corporation of a particular case of formal agency adjudication pursuant to the procedures in section 554 of title 5 of the United States Code or otherwise involving a determination on the record after opportunity for a hearing.

(b) Whenever any person whose interests may be directly affected by a meeting requests that the Board close such meeting pursuant to one or more of the exemptions set forth in paragraph (a) of this section, the Board shall determine by recorded vote whether to close such meeting.

(c) Within one day of any vote taken pursuant to paragraph (b) of this section, the Board shall make public announcement of such vote and the reasons for the closure, including a citation to the specific exemption or exemptions which the Board relied upon in voting to close the meeting and a brief statement setting forth the reasons why the exemption or exemptions apply. The Board shall provide a full written explanation of its action in closing the meeting, including a list of all persons expected to attend the meeting and their affiliation, to any person making a request, within a reasonable time.

(d) Except in the case of a meeting closed pursuant to § 1409.4(a)(10), the Board shall, within one day of any vote taken pursuant to paragraph (b) of this section, make available to the public a transcript, electronic recording, or minutes of the meeting, except that in the case of a meeting, or portion of a meeting, closed pursuant to § 1409.4(a)(8), (9)(i), or (10), the Board shall make available to the public such a transcript, recording, or minutes within one day after the date of the meeting.

(e) Except in the case of a meeting closed pursuant to § 1409.4(a)(10), the Board shall maintain a complete transcript, electronic recording, or minutes of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting closed pursuant to § 1409.4(a)(8), (9)(i), or (10), the Board shall maintain such a transcript, recording, or minutes for at least one year after the meeting.

§ 1409.5 Closure of meetings.

(a) A meeting may be closed to the public pursuant to § 1409.4 only by a recorded vote of a majority of the Directors of the Board of Directors of Commodity Credit Corporation.

(b) Before voting to close a meeting, the General Counsel shall certify that in his opinion the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, shall be retained by the Corporation. The Corporation shall maintain a record of votes cast by each Director on closing each meeting to the public.

(c) Whenever any person whose interests may be directly affected by a meeting requests that the Board close such meeting pursuant to one or more of the exemptions set forth in § 1409.4(a), the Board shall determine by recorded vote whether to close such meeting.

termine by recorded vote that the Board business requires that a meeting be called on short notice, or that the time or subject matter of a meeting or the determination of the Board to open or close a meeting, or portion of a meeting, to the public has been changed subsequent to the announcement, and that no earlier announcement of the change was possible, the Board shall make such announcement at the earliest practicable time. The announcement shall include, in the case of a change in the determination to open or close a meeting, or portion of a meeting, to the public, a statement of the reasons why a majority of the Directors determined by recorded vote that Board business so required.

§ 1409.6 Notices to the public.

(a) Public announcements required by this Part shall be made by the Secretary of Agriculture.

(b) Public announcements shall be made by posting notices in the Office of the Secretary, Room 200-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250.

(c) Public announcements shall be made by issuing press releases to the Washington, D.C. news media.

(d) Public announcements shall be made by publication in the FEDERAL REGISTER.

(e) Public announcements shall be made by such other means as the Board may determine to be necessary to keep the public promptly and fully informed.

§ 1409.7 Records retention.

(a) The Corporation shall maintain a complete verbatim transcript, electronic recording, or minutes of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting closed pursuant to § 1409.4(a)(10), the Corporation shall maintain such a transcript, recording, or minutes for at least one year after the meeting.

(b) The Corporation shall maintain a copy of the certification of the General Counsel, the statement of the presiding officer, and a record of votes cast by each Director on closing each meeting to the public, for a period of at least two years after such meeting.

§ 1409.8 Public inspection and copying of records; applicable fees.

(a) The Corporation shall make promptly available to the public the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as may be withheld pursuant to § 1409.4.

(b) Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person upon request and payment of the applicable fees prescribed by the Corporation's regulations.

(c) Requests for records under this section shall be made to the Secretary of Agriculture, Washington, D.C. 20250.

§ 1409.9 Report to Congress.

The Secretary of Agriculture will annually report to Congress regarding the following:

(a) The number of meetings held during the preceding year, except for meetings closed pursuant to § 1409.4(a)(10).

(b) The approximate number of persons present at each meeting.

(c) A brief description of matters discussed and conclusions reached.

(d) The number of meetings closed to the public, the reasons for closing such meetings, and the applicable exemptive provisions.

(e) A description of any litigation brought against the Board during the preceding year, including any costs assessed against the Corporation in such litigation (whether or not paid during the year).

(f) A description of any significant changes in regulations, adopted or administrative practice during the preceding year.

(g) The estimated number of man-days and the estimated cost to the Corporation during the preceding year for preparing transcripts, recordings, and minutes of meetings.

[FR Doc.77-7251 Filed 3-15-77;8:45 am]

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the joint conduct or disposition of official Board business but shall not include deliberations for (1) closing a portion or portions of a meeting or series of meetings as provided in § 1409.5 (a) and (b) of this Part, or (2) calling a meeting at a date earlier than announced as provided in paragraph 1409.6(a)(2) of this Part; or (3) changing the subject matter of a publicly announced meeting as provided in § 1409.6(d) of this Part; or (4) determining whether or not to withhold from disclosure information pertaining to a meeting or portions of a meeting or series of meetings as provided in § 1409.5(b) of this Part.

(e) The term "public observation" means the right of any member of the public to attend and observe, but not participate or interfere in any way in an open meeting of the Board, within the limits of reasonable and comfortable accommodations made available for such purpose by Commodity Credit Corporation.

§ 1409.3 Open meetings.

Every portion of every meeting of the Board of Directors will be open to public observation except as provided in §§ 1409.4 and 1409.5 of this Part.

§ 1409.4 Exemptions.

(a) A portion or portions of a Board meeting may be closed to the public and any information pertaining to such meeting otherwise required by § 1409.3 of this Part to be disclosed to the public may be withheld, where the Board determines that public disclosure of information to be discussed at such meetings is likely to—

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practice of Commodity Credit Corporation;

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or to an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, or (iv) disclose the identity of a confidential source, and, in the case of a record compiled by a criminal enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to (i) lead to significant financial speculation in agricultural commodities or significantly endanger the stability of any financial institution; or (ii) significantly frustrate implementation of a proposed Board action except where the Board has already disclosed to the public the content or nature of its proposed action or where Commodity Credit Corporation is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern Commodity Credit Corporation's participation in a civil action or proceedings.

(b) Any Board meeting or portion thereof, which may be closed, or any information which may be withheld under paragraph (a) of this section, will not be closed or withheld, respectively, in any case where the Board finds the public interest requires otherwise.

§ 1409.5 Closure of meetings.

(a) *Procedure for closing a majority of the meetings.* (1) A majority of the meetings of the Board will be closed to the public pursuant to exemptions 4, 8, (9)(i) and 10 of § 1409.4(a) of this Part. These meetings will include deliberations such as those relating to the levels of price support for various agricultural commodities, the allocation of quantities of commodities for export programs, and the interest rates for commodity loans and farm storage facility loans. Board meetings will be closed pursuant to exemptions 4, 8, (9)(i) and 10 when at least five Directors vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting. A copy of the vote, reflecting the vote of each Director on the question, will be made available to the public. The Board will, except to the extent that such information is exempt from disclosure under the exemptions in paragraph 1409.4(a) of this Part, provide the public with public announcement of the time, place, and subject matter of the meeting and of each portion thereof, at the earliest practicable time.

(2) The provisions of paragraph (b) of this section and section 1409.6, except § 1409.6(e), of this Part will not apply to any meeting or portion thereof to which paragraph (a) of this section applies.

(b) *Procedure for closing other meetings.* (1) A separate vote of the entire membership of the Board will be taken with respect to each Board meeting a portion or portions of which are proposed to be closed to the public or any information which is proposed to be withheld from the public on the basis of one or more of the exemptions in § 1409.4(a) of this Part. The vote of each Director will be recorded and no proxy shall be allowed.

(2) A portion or portions of a meeting may be closed on the basis of one or more of the exemptions in § 1409.4(a) of this Part only when at least five Directors vote to take such action.

(3) A single vote of the entire membership of the Board may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public or with respect to the withholding of any information concerning such series of meetings, on the basis of one or more of the exemptions in § 1409.4(a) of this Part. Each meeting in such series must involve the same particular matters and must be scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Director participating in such vote will be recorded and no proxy vote shall be allowed.

(4) Whenever any person whose interests may be directly affected by a portion of a Board's meeting requests that the Board close such portion to the public on the basis of exemptions (5), (6), or (7) of § 1409.4(a) of this Part, the Board, upon the request of any one of its members, will vote whether or not to close such portion of the meeting. The vote of each Director participating in such vote will be recorded and no proxy shall be allowed.

(c) *General counsel's certification.* Before every Board meeting closed on the basis of one or more of the exemptions in § 1409.4(a) of this Part, the General Counsel will publicly certify that, in his opinion, the meeting may be closed to the public and shall state each relevant exemption.

§ 1409.6 Notices to the public.

(a) (1) The Secretary of the Board will make public announcement at least one week before each Board meeting of (i) the time and place of the meeting, (ii) the subject matter of the meeting, except to the extent that such information is exempt from disclosure under § 1409.4(a) of this Part, (iii) whether the meeting is to be open or closed to the public and (iv) the name and business telephone number of the Secretary of the Board.

(2) Notwithstanding paragraph (a)(1) of this section, less than one week advance public notice for a meeting may be given when at least five Directors determine by recorded vote that the Board business requires that a meeting be called at an earlier date, but in such case, announcement of the meeting will be made at the earliest practicable time.

(b) (1) When the Board votes on whether to close a portion or portions of a meeting or a series of meetings, or with respect to withholding any information concerning such meeting or series of meetings, in accordance with § 1409.5(b) of this Part, the Secretary of the Board will make available to the public a written copy of such vote reflecting the vote of each member on the question within one business day of such vote.

(2) If the Board votes to close a portion or portions of a meeting or a series of meetings in accordance with § 1409.5(b) of this Part, the Secretary of the Board will make available to the public within one business day of such vote, (i) a list of the names and affiliations of persons expected to be present at such closed portion or portions of the meeting or series of meetings and (ii) a full, written explanation of the Board's action in closing the portion or portions of the meeting or series of meetings, unless such disclosure would reveal the information that the meeting itself was closed to protect.

(c) The time or place of a Board meeting may be changed following the public announcement as required by paragraph (a)(1) of this section only if the Board publicly announces such change or changes at the earliest practicable time.

(d) The subject matter of a Board meeting or the determination of the Board to open or close a meeting or portions thereof to the public, may be changed following the public announcement as required by paragraph (a)(1) of this section only if (i) five Directors determine by recorded vote that Board business so requires and that no earlier announcement of the change was possible and (ii) the Board publicly announces such change and the vote of each Director upon such change at the earliest practicable time.

(e) The Secretary of the Board shall use all reasonable means to keep the public promptly and fully informed of public announcements including the use of a bulletin board outside the office of the Secretary of the Board at the address indicated in § 1409.8(b) of this Part. Requests for information concerning Board meetings should be addressed to the Secretary of the Board.

(f) Immediately following each public announcement required by this section, the information provided in such public announcement will be submitted for publication in the FEDERAL REGISTER.

(g) The Board usually meets in room 200-A, Administration Building, United States Department of Agriculture, 14th Street and Independence Avenue, S.W., Washington, D.C. Each person interested in attending an open meeting of the Board should notify the Secretary of the Board at least one business day prior to the open meeting of their intention to attend the meeting. Any person who fails to do so may not be accommodated if there is insufficient space in the meeting room.

§ 1409.7 Records retention.

(a) The Secretary of the Board will maintain the following records for each Board meeting, or portion thereof which is closed to the public pursuant to a vote under § 1409.5 of this Part:

(1) A copy of the General Counsel's certification required by § 1409.5(c) of this Part;

(2) A copy of a statement from the presiding officer which sets forth the time and place of the closed meeting or portion thereof and list of persons present; and

(3) A complete verbatim transcript or electronic recording adequate to record fully the proceedings of each Board meeting or portion of a meeting, except that in the case of a meeting or portion of a meeting closed to the public on the basis of exemptions (8), (9)(i) or (10) of § 1409.4(a) of this Part, the Secretary of the Board will maintain either a transcript, electronic recording, or a complete set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll-call vote reflecting the vote of each member on the question. All documents considered in connection with any action will be identified in such minutes.

(b) The retention period for the records required by paragraph (a) of this section will be for a period of at least two years after the particular Board meeting, or until one year after the conclusion of any Board proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

§ 1409.8 Public inspection and copying of records; applicable fees.

(a) The Secretary of the Board will make promptly available to the public the transcript, electronic recording, transcription of the recording, or minutes of the discussion of any item on the agenda of a Board meeting, or any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Secretary of the Board determines to contain information which may be withheld on the basis of one or more of the exemptions in § 1409.4(a) of this Part.

(b) Requests for public inspection of electronic recording, transcripts or minutes of Board meetings shall be made to the Secretary of the Board of Directors of Commodity Credit Corporation, Room 218-W, Administration Building, United States Department of Agriculture, 14th Street and Independence Avenue SW., Washington, D.C. 20250.

(c) The transcripts, minutes, or transcriptions of electronic recordings of a Board meeting will disclose the identity of each speaker, and will be furnished to any person at the actual cost of transcription or duplication.

§ 1409.9 Report to Congress.

The Secretary of Agriculture will annually report to the Congress regarding the Board's compliance with the Government in the Sunshine Act, including a tabulation of the total number of open meetings, the total number of closed meetings, the reasons for closing such meetings and a description of any litigation brought against the Board pursuant to the Government in the Sunshine Act, including any costs assessed against Commodity Credit Corporation in such litigation.

[FR Doc.77-7839 Filed 3-14-77;1:29 pm]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 311—RULES GOVERNING PUBLIC OBSERVATION OF MEETINGS OF THE CORPORATION'S BOARD OF DIRECTORS

Adoption of Government in the Sunshine Act Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: This regulation implements the requirements of the "Government in the Sunshine Act," 5 U.S.C. 552b. The objective of the Act and of this regulation is to provide the public with the fullest practicable information regarding the decisionmaking process, consistent with protecting the rights of individuals and the ability of the agency to carry out its responsibilities.

EFFECTIVE DATE: March 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mark Rosen, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429. (202-389-4422)

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the "Government in the Sunshine Act," 5 U.S.C. 552b, the FDIC published in the FEDERAL REGISTER (42 FR 8146) its proposed regulations implementing that Act. Interested parties were encouraged to submit comments on these proposed regulations. One comment was received. This commentator suggested that announcements of meetings should be submitted to a newspaper of general circulation in the locality where the meeting will be held. Such procedure is not required by the Government in the Sunshine Act. The overwhelming majority of Board meetings take place in Washington, D.C., and will be announced as required by the statute in the FEDERAL REGISTER. In addition, notice will be posted on the FDIC public notice bulletin board maintained in our lobby at 550 17th Street, N.W., Washington, D.C. 20429. Other methods of notification may be employed when appropriate. The FDIC believes these procedures will adequately notify interested parties.

The FDIC has reviewed the proposed regulation and made several minor

structural or technical changes which improve the clarity of the regulation.

(c) "Member" means a member of the Board.

deprive a person of a right to a fair trial or an impartial adjudication, (iii) con-

changed following the public announce-

make publicly available a written copy of the vote reflecting the vote of each Board

closing. If a majority of the entire Board votes to close, the meeting will be closed

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structural or technical changes which improve the clarity of the regulation, but are not significant enough to require further discussion.

Accordingly, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b), a new Part 311 is added to Title 12 CFR.

By Order of the Board of Directors, March 11, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

Sec.
311.1 Purpose.
311.2 Definitions.
311.3 Meetings.
311.4 Procedure for announcing meetings.
311.5 Regular procedure for closing meetings.
311.6 Expedited procedure for announcing and closing certain meetings.
311.7 General Counsel certification.
311.8 Transcript, minutes of closed meetings.

AUTHORITY: 5 U.S.C. 552b and 12 U.S.C. 1819.

§ 311.1 Purpose.

This part implements the policy of the "Government in the Sunshine Act", Section 552b of Title 5, United States Code, which is to provide the public with as much information as possible regarding the decision making process of certain federal agencies, including the Federal Deposit Insurance Corporation, while preserving the rights of individuals and the ability of the agency to carry out its responsibilities.

§ 311.2 Definitions.

For purposes of this part—

(a) "Board" means Board of Directors of the Federal Deposit Insurance Corporation and includes any committee or subdivision of the Board authorized to act on behalf of the Corporation, but does not include any standing or special committee (such as the Board of Review, the Board of Review (Mergers), or the Committee on Liquidations, Loans and Purchases of Assets) which has been or may be created by the Board of Directors but whose membership consists primarily of Corporation employees, including not more than one Board member.

(b) "Meeting" means the deliberations (including those conducted by conference telephone call, or by any other method) of at least two members where such deliberations determine or result in the joint conduct or disposition of agency business but does not include:

(1) Deliberations to determine whether meetings will be open or closed or whether information pertaining to closed meetings will be withheld;

(2) Informal background discussions among Board members and staff which clarify issues and expose varying views;

(3) Infrequent decision-making by circulating written material to individual Board members;

(4) Sessions with individuals from outside the Corporation where Board members listen to a presentation and may elicit additional information.

(c) "Member" means a member of the Board.

(d) "Open to public observation" and "open to the public" mean that individuals may witness the meeting, but not participate in, record, photograph, or otherwise electronically or mechanically reproduce the meeting without prior Corporation approval.

(e) "Public announcement" and "publicly announce" mean making reasonable effort under the particular circumstances of each case to fully inform the public. This may include posting notice on the Corporation's public notice bulletin board maintained in the lobby of its offices located at 550 17th Street, N.W., Washington, D.C. 20429, issuing a press release and employing other methods of notification that may be desirable in a particular situation.

§ 311.3 Meetings.

(a) *Open meetings.* Except as provided in paragraph (b) of this section, every portion of every meeting of the Corporation's Board will be open to public observation. Board members will not jointly conduct or dispose of Corporation business other than in accordance with this part.

(b) *When meetings may be closed and announcements and disclosures withheld.* Except where the Board finds that the public interest requires otherwise, a meeting or portion thereof may be closed, and announcements and disclosure pertaining thereto may be withheld when the Board determines that such meeting or portion of the meeting or the disclosure of such information is likely to—

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Corporation;

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552): *Provided*, That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Corporation or any other agency responsible for the supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to:

(i) (A) Lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or

(ii) Significantly frustrate implementation of a proposed Corporation action, except that this subdivision (ii) shall not apply in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern the Corporation's issuance of a subpoena, or the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Corporation of a particular case of formal agency ajudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 311.4 Procedure for announcing meetings.

(a) *Scope.* Except to the extent that such announcements are exempt from disclosure under § 311.3(b), announcements relating to open meetings, and meetings closed under the regular closing procedures of § 311.5, will be made in the manner set forth in this section.

(b) *Time and content of announcement.* The Corporation will make public announcement at least seven days before the meeting of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and telephone number of the official designated by the Corporation to respond to requests for information about the meeting. This announcement will be made unless a majority of the Board determines by a recorded vote that Corporation business requires that a meeting be called on lesser notice. In such cases, the Corporation will make public announcement of the time, place, and subject matter of the meeting, and whether it is open or closed to the public, at the earliest practicable time, which may be later than the commencement of the meeting.

(c) *Changing time or place of meeting.* The time or place of a meeting may be changed following the public announcement required by paragraph (b) of this section only if the Corporation publicly announces the change at the earliest practicable time, which may be later than the commencement of the meeting.

(d) *Changing subject matter or nature of meeting.* The subject matter of a meeting, or the determination to open or close a meeting or a portion of a meeting, may be changed following the public announcement only if:

(1) A majority of the entire Board determines by recorded vote that agency business so requires and that no earlier announcement of the change was possible; and,

(2) The Corporation publicly announces the change and the vote of each member upon such change at the earliest practicable time, which may be later than the commencement of the meeting.

(e) *Publication of announcements in Federal Register.* Immediately following each public announcement under this section, such announcement will be submitted for publication in the FEDERAL REGISTER by the Office of the Executive Secretary.

§ 311.5 Regular procedure for closing meetings.

(a) *Scope.* Unless § 311.6 is applicable, the procedures for closing meetings will be those set forth in this Section.

(b) *Procedure.* (1) A decision to close a meeting or portion of a meeting will be taken only when a majority of the entire Board votes to take such action. A separate vote of the Board will be taken with respect to each meeting which is proposed to be closed in whole or in part to the public. A single vote may be taken with respect to a series of meetings which are proposed to be closed in whole or in part to the public, or with respect to any information concerning such series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in the series. The vote of each Board member will be recorded and no proxies will be allowed.

(2) Any individual whose interests may be directly affected may request that the Corporation close any portion of a meeting for any of the reasons referred to in subparagraphs (5), (6), or (7) of § 311.3(b). Requests should be directed to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. After receiving notice that an individual desires a portion of a meeting to be closed, the Board, upon request of any one of its members, will vote by recorded vote whether to close the relevant portion of the meeting. This procedure will apply even if the individual's request is made subsequent to the announcement of a decision to hold an open meeting.

(3) The Corporation's General Counsel will make the public certification required by Section 367.

(4) Within one day after any vote taken pursuant to paragraphs (b)(1) or (2) of this section, the Corporation will make publicly available a written copy of the vote, reflecting the vote of each Board member. Except to the extent that such information is exempt from disclosure, if a meeting or portion of a meeting is to be closed to the public, the Corporation will make publicly available within one day after the required vote a full written explanation of its action, together with a list of all persons expected to attend the meeting and their affiliation.

(5) The Corporation will publicly announce the time, place, and subject matter of the meeting, with determinations as to open and closed portions, in the manner and within the time limits prescribed in Section 311.4.

§ 311.6 Expedited procedure for announcing and closing certain meetings.

(a) *Scope.* Since a majority of its meetings may properly be closed pursuant to paragraphs (4), (8), (9)(i), or (10) of § 311.3(b), subsection (d)(4) of the Government in the Sunshine Act (5 U.S.C. 552b) allows the Corporation to use expedited procedures in closing meetings under these four subparagraphs. Absent a compelling public interest to the contrary, meetings or portions of meetings that can be expected to be closed using these procedures include, but are not limited to: Administrative enforcement proceedings under Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818); appointment of the Corporation as receiver, liquidator or liquidating agent of a closed bank or a bank in danger of closing; and certain liquidation activities pursuant to such appointment; possible financial assistance by the Corporation under Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1623); changes pursuant to Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) in the rates of interest insured state nonmember banks may pay on deposits; certain bank applications including applications to establish or move branches, applications to merge, and applications for insurance; and investigatory activity under Section 10(c) of the Federal Deposit Insurance Act (12 U.S.C. 1820(c)). In announcing and closing meetings or portions of meetings under this section, the following procedures will be observed.

(b) *Announcement.* Except to the extent that such information is exempt from disclosure under the provisions of § 311.3(b) the Corporation will make public announcement of the time, place and subject matter of the meeting and of each portion thereof at the earliest practicable time. This announcement will be published in the FEDERAL REGISTER if publication can be effected at least one day prior to the scheduled date of the meeting.

(c) *Procedure for closing.* (1) The Corporation's General Counsel will make the public certification required by § 311.7.

(2) At the beginning of a meeting or portion of a meeting to be closed under this section, a recorded vote of the Board will be taken. The Board will determine by its vote whether to proceed with the closing. If a majority of the entire Board votes to close, the meeting will be closed to public observation. Even though a meeting or portion thereof could properly be closed under this section, a majority of the entire Board may find that the public interest requires an open session and vote to open the meeting. A copy of the vote, reflecting the vote of each Board member, will be made available to the public.

§ 311.7 General Counsel Certification.

For every meeting or portion thereof closed under § 311.5 or § 311.6, the Corporation's General Counsel will publicly certify that, in the opinion of such General Counsel, the meeting may be closed to the public and will state each relevant exemptive provision. In the absence of the General Counsel, the Deputy General Counsel may perform the certification. If the General Counsel and Deputy General Counsel are both absent, the Special Counsel to the General Counsel or an Assistant General Counsel may provide the required certification. A copy of this certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, will be retained in the Board's permanent files.

§ 311.8 Transcript, minutes of closed meetings.

(a) *When required.* The Corporation will maintain a complete transcript, identifying each speaker, to record fully the proceedings of each meeting or portion of a meeting closed to the public, except that in the case of a meeting or portions of a meeting closed to the public pursuant to paragraphs (8), (9)(i), or (10) of § 311.3(b), the Corporation may, in lieu of a transcript, maintain a set of minutes.

(b) *Content of minutes.* If minutes are maintained, they will fully and clearly describe all matters discussed and will provide a full and accurate summary of any actions taken, and the reasons for taking such action. Minutes will also include a description of each of the views expressed by each person in attendance on any item and the record of any roll call vote, reflecting the vote of each member. All documents considered in connection with any action will be identified in the minutes.

(c) *Available material.* The Corporation will maintain a complete verbatim copy of the transcript or minutes of each meeting or portion of a meeting closed to the public for a period of at least two years after the meeting, or until one year after the conclusion of any proceeding with respect to which the meeting or portion was held, whichever occurs later. The Corporation will make promptly available to the public the transcript, identifying each speaker, or minutes of items on the agenda or testimony of any witness received at the closed meeting except that in cases where the Privacy Act of 1974 (5 U.S.C. 552a) does not apply, the Corporation may withhold information exempt from disclosure under

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§ 311.3(b). For the convenience of members of the public who may be unable to attend open meetings of the Board, the Corporation will maintain for at least two years a set of minues of each meeting of the Board or portion thereof open to public observation.

(d) *Procedures for inspecting or copying available material.* (1) An individual may inspect materials made available under this Section at the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, during normal business hours. If the individual desires a copy of such material, the Corporation will furnish copies at a cost of 10 cents per page. Whenever the Corporation determines that in the public interest a reduction or waiver is warranted, it may reduce or waive any fees imposed under this section.

(2) An individual may also submit a written request for transcripts or minutes, reasonably identifying the records sought, to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

[FR Doc.77-7738 Filed 3-11-77;3:24 p.m.]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Interpretation Concerning Licensee's Assumption of Temporary Control in Order To Protect Its Investment

AGENCY: Small Business Administration.

ACTION: Interpretation of 13 CFR 107.-901(c) concerning assumption of temporary control by a Licensee in order to protect its investment in a portfolio Small Concern.

SUMMARY: Section 107.901 of the SBIC Regulation prohibits a Licensee from assuming control over a Small Concern, unless reasonably necessary for the protection of its investment, and subject to its filing a divestiture plan. Question has arisen as to whether this right, pursuant to § 107.901(c), may be exercised where Licensee's financing is necessary to rehabilitate a Small Concern threatened with insolvency or closure, or the Small Concern has been in existence for less than two years (so-called "start-up situations") or has made substantial changes in its type of operations or products during the preceding two years, and Licensee-supplied funds are the major source of its capital. The Agency interpretation set forth below makes it clear that a Licensee may assume temporary control in the foregoing situations, subject to the filing of a divestiture plan.

FOR FURTHER INFORMATION CONTACT:

Peter F. McNeish, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416

SUPPLEMENTARY INFORMATION: This Notice is published in accordance with Section 3 of the Administrative Procedure Act (5 U.S.C. 552(a)(1), (D)) requiring Federal agencies to publish in the FEDERAL REGISTER for the guidance of the public "* * * interpretations of general applicability formulated and adopted by the Agency." As an interpretation of general applicability, it is exempted by 5 U.S.C. 553(b), (A) and 5 U.S.C. 553(d)(2) from the public participation-comment procedure and the 30-day postponed effective date requirements of 5 U.S.C. 553 (c) and (d), respectively.

INTERPRETATION

Temporary Control of Small Business Concern (Interpreting § 107.901(c)). Section 107.901(c) authorizes a Licensee to acquire temporary control of a small concern only where reasonably necessary for the protection of its investment. This authorization was originally incorporated into the SBIC regulation on October 16, 1964 (29 FR 14221, October 16, 1964). It listed general illustrative situations where temporary control was permitted; namely, where (1) the financing is necessary to rehabilitate a small concern threatened with failure; (2) a small concern has been in existence for less than 2 years or has made substantial changes in its type of operations or products during the preceding two years, and Licensee-supplied funds constitute the major source of its capital; or (3) assumption of control is otherwise reasonably necessary for the protection of Licensee's investment. This § 107.502(d) was carried over into Revision 3 (29 FR 16946, Thursday, December 10, 1964), and into Revision 4 (33 FR 326, at 332-333 Tuesday, January 9, 1968), and Revision 5 (38 FR 30836 Wednesday, November 7, 1973) as § 107.901(c), but with the illustrative subparagraphs deleted. The deletion was made to shorten the regulation since the situations described were necessarily included in and represented circumstances warranting temporary control to protect Licensee's investment. No substantive change was intended by deletion of the illustrative subparagraphs. Accordingly, §107.901(c) assures to each Licensee, the right of reasonable protection of its investment, by assumption of temporary control, where financing is necessary to rehabilitate a small concern threatened with insolvency or closure; or the small concern has been in existence for less than two years (so-called "start-up situations") or has made substantial changes in its type of operations or products during the preceding two years, and Licensee-supplied funds constitute the major source of its capital; or temporary control is otherwise reasonably necessary under the circumstances to protect its investment.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 9, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77-7666 Filed 3-15-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-164, Amdt. 32]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEDURES

Amendment of Rule 39, Objections to Public Disclosure of Information

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., March 11, 1977.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: On March 12, 1977, the Government in the Sunshine Act (Pub. L. 94-409) amends the third exemption of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(3)), which deals with material exempted by statute. Section 1104 of the Federal Aviation Act (49 U.S.C. 1504) will no longer be a statute within the new third exemption. Board orders issued under section 1104 will not prevent disclosure of information in response to an FOIA request unless the material sought to be protected falls within one or more of the other FOIA exemptions. This final rule amends the Board's rules of practice (Rule 39, 14 CFR 302.39) to instruct persons requesting the Board to withhold material from public disclosure to specifically discuss the FOIA and refer to its exemptions. In this way, the Board will be able to base its section 1104 orders on the other FOIA exemptions.

EFFECTIVE DATE: March 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Jerome Nelson or Carol Light: (202) 673-5233.

SUPPLEMENTARY INFORMATION:

This amendment relates to the rules of Board practice and procedure and informs the public of the effect on Board practice and procedure of a change in statutory law. We therefore find that notice and public comment are unnecessary and the rule may become effective on less than thirty days' notice.

Accordingly, 14 CFR Part 302 is amended as follows:

By revising § 302.39(d)(2) to read as follows:

§ 302.39 Objections to public disclosure of information.

* * * * *

(d) * * *

(2) The motion shall include; (i) a description of the information sought to be withheld, sufficient for identification of the same; (ii) a statement explaining how and why the information falls within the exemptions from the Freedom of Information Act (5 U.S.C. 552(b)(1)-(9); and (iii) and a statement explaining how and why public disclosure of the information would adversely affect the interests of the objecting person(s) and is not required in the interests of the public.

* * * * *

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324); sec. 5, Government in the Sunshine Act, Pub. L. 94-409, 90 Stat. 1247)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7770 Filed 3-15-77;8:45 am]

[Reg. PR-163, Enactment of Part 310b, Docket 30338]

PART 310b—PUBLIC ACCESS TO BOARD MEETINGS

Implementation of Sunshine Act

Effective: March 11, 1977.

Adopted: March 11, 1977.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., March 11, 1977.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule implements the open meeting provisions of the Government in the Sunshine Act (Pub. L. 94-409) at the Civil Aeronautics Board. The Sunshine Act takes effect March 12, 1977 and requires that the Civil Aeronautics Board and other agencies subject to it promulgate regulations dealing with, among other things, announcing meetings, the circumstances and requirements for meetings closed to public observation, and the making of transcripts or detailed minutes of closed meetings.

EFFECTIVE DATE: March 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Jerome Nelson or Carol Light, (202) 673-5233.

SUPPLEMENTARY INFORMATION:

On January 14, 1977 the Civil Aeronautics Board issued for public comment its proposed rules implementing the open meeting provisions of Government in the Sunshine Act, Part 310b of the Board's Procedural Regulations (14 CFR Part 310b).[1] Comments were received from the Administrative Conference of the United States, the National Air Carrier Association (NACA), and Representative Richardson Preyer.

As a result of the comments and further Board consideration, we have determined to adopt the rule substantially as proposed but with some modifications. The provisions of the final rule are discussed below.

I. GENERAL ISSUES REGARDING OPEN MEETINGS.

Section 310b.3 of the proposed rules stated that:

It is the policy of the Board that its meetings are open to public observation unless the Board determines that: (1) A matter to be discussed at a meeting is likely to fall within one or more of the ten exemptions set out at § 310b.5; and (2) that there are sufficient reasons to close the discussion of the matter.

In its comment, NACA urged that all Board discussions of "objectives to be sought, strategy to be employed, proposals to be made, and policies to be followed in international air transportation negotiations" be closed to public observation. In support of this request, it states that these discussions would fall under Exemptions 4 and 9(B) (trade secrets and frustration of agency action) and should not be subject to the same ad hoc approach the Board would apply to other categories.

We do not accept NACA's suggestion for a predetermined policy automatically closing all such meetings. It is true that many Board discussions of international air transportation negotiations would probably fall under Exemptions 4 and 9(B) and that there would be sufficient reason to close many such meetings. Yet we cannot find in the abstract that all such discussions must be closed. The Sunshine Act requires, without exception, a vote of the Members on each item to be closed. This contemplates individualized consideration of items. In our view, meetings on international negotiations, like other meetings, will be approached on a case-by-case basis.

In addition to comment on the provisions and procedures of the proposed rule, the Board also invited comment on three general issues.

The first of these involved the relationship between a policy of open meetings, the command of section 801 of the Federal Aviation Act (49 U.S.C. 1461), and Executive Order 11920. Section 801 requires that certain Board decisions regarding overseas and foreign air transportation be submitted to the President for approval and prohibits the publication of the decision prior to its submission to the President. Under the Executive Order, the President has a brief period of time within which to classify all or part of these Board decisions in the interests of national security or foreign policy under the standards of Executive Order 11652. Arguably open meetings might hold the potential for breach of confidentiality as envisioned by Section 801 and the Executive Order. No one commented on this issue. Unless the Executive Branch submits views to the contrary, the Board has decided to treat 801 matters as proposed in the NPRM: there is a presumption of openness; decisions to close will be made on an ad hoc basis, and the Board will not close an 801 matter simply because it is an 801 matter.

The Board also requested comment on any perceived advantages and disadvantages in open discussions of enforcement matters. None were received. The Board will treat enforcement cases as it will other cases: there is a general presumption of openness but each discussion will be judged on an individual basis.

Finally, the Board requested comment on the potential effects of open meetings upon person's investment decisions. Representative Preyer stated his approval of the Board's statement that ". . . persons who choose to act on the basis of the content of discussion at open Board meetings do so entirely at their own risk" and added that in his view no further protection of individuals was necessary or appropriate. No one else commented. We agree that no addition to the proposed rule in this respect is necessary.

II. EXEMPTIONS FROM THE OPEN MEETING REQUIREMENTS IN THE BOARD'S RULES

In its proposed rules, the Board set forth as its § 310b.5 the language of the statute concerning exemptions from the open meeting requirements (5. U.S.C. 552b(c)).

Representative Preyer states that Exemption 9(A),[2] is not available to the Board. He argues that it should be deleted from the regulations because the Board is not an agency which regulates currencies, securities, commodities, or financial institutions. We agree that the Board is not such an agency but cannot rule out the possibility that the Board might at some future time wish to discuss reports or information from such an agency at a meeting. It seems logical that the exemption relates to the source and type of information, not the location of the meeting. For example, discussions of Comptroller of the Currency reports concerning financial institutions seem to us to be within the exemption whether the discussion takes place at the Federal Reserve Board or the Civil Aeronautics Board.

III. MEETINGS AND PROCEDURES UNDER THE BOARD'S RULES

In its proposed rules, the Board indicated that Meeting Announcements would be posted on the Board's Public Notice Board, Room 714, 1825 Connecticut Avenue, NW., would be available in the Board's Office of Public Affairs and transmitted to the FEDERAL REGISTER for publication (§ 310b.4).

The final rules adopted below have two changes from the proposed rules. The first is that in addition to posting on the Public Notice Board and availability in the Office of Public Affairs, the announcements will be placed in the Docket file, if any, and mailed to those on the service list in the Docket. The service list is made up of all those formally participating in the proceeding who have indicated their willingness to serve copies of their submissions upon others on the list and who will be served by the other parties. Representative Preyer, in his comments, suggested other forms of publicity such as submission to publications whose readers may have an interest in the Civil Aeronautics Board, and the creation of special Meeting Announcement mailing lists. The availability of the Announcements in the Office of Public Affairs is intended to make it convenient for any media person interested in the Board to be informed of Meeting Announcements. Given the expense of mailing every Announcement to every person on the

[1] 42 F.R. 2995.

[2] U.S.C. 552b(c)(9)(A), § 310b.5(1)(1).

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Board's several mailing lists and what may be the limited utility of Announcement mailing lists, the Board will for the present rely on the forms of notice already described.

The proposed rules stated that the entire Meeting Announcement would be transmitted to the FEDERAL REGISTER for publication. The Sunshine Act, however, requires only that notice be sent to the FEDERAL REGISTER of the time, place, subject matter, whether the meeting is open or closed, changes in these items, and the name and phone number of the agency contact person (5 U.S.C. 552b (e)(3)). As stated in the rules, some of the Board's Announcements may also contain votes of Members, explanations of closings, lists of persons attending closed meetings and the Certifications of the General Counsel. In order to accommodate any FEDERAL REGISTER effort to standardize publication formats, the Board's rules state that Meeting Announcements and Announcement Amendments will be transmitted for publication of at least the time, place, subject matter, whether the meeting is open or closed, changes in these items, and the name and phone number of the Board's contact person. This will permit the Board's Announcements to be published in a standard FEDERAL REGISTER format should one be available. The Announcements posted at the Board, available in the Office of Public Affairs, in Dockets, and served on the parties will, of course, contain all the information required by the Board's rules.

The Board received two comments regarding § 310b.7, the certification by the General Counsel that a meeting may be closed. Representative Preyer suggests that the regulations make it clear that a certification should occur before the meeting is closed. We agree and have modified our rule to make it clear that the General Counsel shall have an opportunity to certify before the meeting is actually closed. The Administrative Conference suggested that the designation in § 310b.7(c) of an Acting General Counsel should not be limited to Sunshine Act purposes since the intent of the Act was to have the senior legal officer responsible for the certification. We agree and the language of the regulation has been modified to make this explicit. We have also altered the rule to provide that the Secretary maintain the record copy of the certification rather than making it a part of the official Minutes, which are exclusively the record of Board action.

The section on requests to open or close announced Board meetings (§ 310b.8) has been extensively rewritten in the interests of clarity. The Administrative Conference did comment that the required number of copies (nine) seemed excessive, even though their distribution was spelled out in the rule. For the statutorily mandated requests to close meetings, the final rules request multiple copies but state that a single copy will be accepted. Requests to open meetings are not required by the statute. We believe that it is reasonable to ask persons taking advantage of this procedure to provide sufficient copies of their requests so as to minimize staff disruptions and burdens. Additionally, we have determined that ten copies, not nine are needed to provide each relevant Board component with a copy and have modified the rule to so state.

Although the issue was not raised by those commenting on the proposed rule, the Board's staff has received some inquiries on the question of tape recording and photography at open Board meetings. The final rules are an appropriate forum to address and resolve what might be a common question.

The Board's primary concern in this area as stated at § 310b.9(a) is the unimpeded exercise of the public's right to observe and the Board's right to conduct its business in an orderly manner during open meetings. In the Board's view, the necessary activity involved in the use of cameras (still, motion picture, videotape, television, etc.) would be, by its nature, disruptive to those observing the Board meeting and distracting to the Members and staff discussing Board business. We have therefore determined to bar all use of any cameras during open Board meetings. Tape recording, on the other hand, requires a lesser degree of operator activity. For example, if done unobtrusively by members of the public seated in the public seating section, tape recording would probably not be disruptive or distracting to the Board or its staff. Handheld "pocket" recorders could conceivably be operated without undue interference to other persons seated in the area. As a general guideline, we believe it to be in the public interest to permit the operation of tape recorders only in the public seating area so long as the activity is not disruptive to the Board or to other persons seated in that area and our final rules so state. In the last analysis, of course, particular situations may be examined by the Chairman or presiding Member in the factual context of a particular meeting.

The Board has also decided on several changes in its rules regarding transcripts of discussions at closed Board meetings, § 310b.10. The first is to provide that the Board, at its discretion, may use detailed minutes for discussions closed pursuant to Exemptions 8, 9A, and 10 (5 U.S.C. 552b(c)(8), (9A), and (10), § 310b.5(h), (i)(1), and (j)). The Sunshine Act provides this option (5 U.S.C. 552b(f)(1)) and, although we anticipate the use of complete transcripts for most meetings, it is possible that, in some circumstances, we will elect to use detailed minutes rather than complete transcripts for meetings closed pursuant to Exemptions 8, 9A, and 10.

The second is an editorial amendment to reflect the delegation of authority made to the General Counsel in OR–111, issued contemporaneously herewith. That delegation authorizes the General Counsel to review the transcripts and minutes of closed Board sessions so that portions of these documents which do not ocntain information exempt from disclosure pursuant to 5 U.S.C. 552b(c) and § 310b.5 can be made available to the public.

The third change in our final rules is the deletion of the mechanism for requests for additional portions of closed meeting transcripts. The proposed and final rules provide that nonexempt portions of transcripts will ordinarily be available within twenty working days of the meeting. The proposed rules provided that requests for additional portions could be sent to the Secretary within seven working days of the transcript's availability and a reply would be made by the Secretary within an additional seven working days. As desirable as such a procedure appears to the Board, further analysis shows that it presents serious practical problems because the proposed procedure would consume almost the entire sixty day time period for seeking judicial review.

The final rule provides that persons requesting portions of closed meeting transcripts or detailed minutes in addition to those already available in the Public Reference Room and other Board documents may do so using the pre-existing procedures of the Freedom of Information Act (FOIA) as set out in Part 310 of our regulations. In this connection, it should be noted that FOIA requests for transcripts are decided on the basis of the Sunshine exemptions rather than the FOIA exemptions. (5 U.S.C. 552b(k).)

As the Board gains experience under the Sunshine Act and as the courts provide interpretations and guidelines, the Board might reexamine this area and propose other mechanisms for making nonexempt portions of transcripts and minutes available to the public.

Finally, we have added a statement in the final rule that the transcripts and detailed minutes do not constitute the official record of Board action. The transcripts and detailed minutes will be kept for Sunshine Act purposes. The official record of the Board continues to be the Minutes of the Civil Aeronautics Board maintained by the Office of the Secretary.

Since the Government in the Sunshine Act, which requires these regulations, becomes effective on March 12, 1977, and there has been a full opportunity for public comment on the proposed regulations, the Board finds that this Part may become effective on less than thirty days' notice.

Accordingly, the Board hereby adopts a new Part 310b of its Procedural Regulations (14 CFR Part 310b), to read as follows:

Sec.

310b.1 Purpose and scope.
310b.2 Definitions.
310b.3 Open meetings policy.
310b.4 Meeting announcements.
310b.5 Matters which may be closed to the public.
310b.6 Procedures for closing discussion or withholding information.
310b.7 Certification by the General Counsel.
310b.8 Requests to open or close Board meetings.

Sec.

310b.9 Conduct of open Board meetings.
310b.10 Transcripts of discussions at closed Board meetings.
310b.11 Requests for material other than publicly available portions of transcripts or detailed minutes.

AUTHORITY: Sec. 204(a), Federal Aviation Act of 1958, as amended, Stat. 743, 49 U.S.C. 1324; 5 U.S.C. 552(g), 90 Stat. 1244.

§ 310b.1 Purpose and scope.

(a) The purpose of this regulation is to implement the open meeting provisions of the Government in the Sunshine Act, Pub. L. 94–409, 90 Stat. 1241 et seq., codified at 5 U.S.C. 552b. 5 U.S.C. 552b(g) requires the publication of these regulations implementing the requirements of 5 US.C. 552b(b) through (f).

(b) This regulation covers all meetings, as defined in § 310b.2, of a majority of the membership of the Board. The Civil Aeronautics Board has no subdivisions authorized to act on behalf of the agency within the meaning of 5 U.S.C. 552b(a)(1).

§ 310b.2 Definitions.

"Board" means the Civil Aeronautics Board.

"Meeting" means the deliberations of at least the majority of the membership where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations regarding a decision to open or close a meeting, to withhold information about a meeting, or regarding meeting agendas (e.g. time, place, subject).

"Member" means a Member of the Civil Aeronautics Board appointed by the President with the advice and consent of the Senate.

§ 310b.3 Open meetings policy.

It is the policy of the Board that its meetings are open to public observation unless the Board determines that: (1) A matter to be discussed at a meeting is likely to fall within one or more of the ten exemptions set out at § 310b.5; and (2) that there are sufficient reasons to close the discussion of the matter.

§ 310b.4 Meeting announcements.

(a) For all Board meetings, a meeting announcement shall be issued setting forth: (1) The time, place, matters to be discussed; (2) whether the discussion of each matter is to be open or closed to public observation; and (3) the name and phone number of the Board official who will respond to requests for information about the meeting.

(b) If the meeting is closed to public observation in whole or in part, the meeting announcement shall also include a copy of the Certification of the General Counsel, as set forth in § 310b.7. In addition, it shall include the recorded votes of the Members on the question of closing the meeting, and the explanation of the closing along with a list of persons expected to attend unless such information has already been made public pursuant to § 310b.6.

(c) If information about a closed meeting is itself within one or more of the exemptions set out at § 310b.5 and the Board determines to withhold such information from a meeting announcement, such announcement shall contain the recorded votes of the Members on the question of withholding information unless such vote has already been made public pursuant to § 310b.6.

(d) Each meeting announcement shall be issued at least seven calendar days before the meeting unless a majority of the members determines by recorded vote that agency business requires a meeting on less than seven days notice. If they have so voted, the meeting announcement shall issue at the earliest practicable time and shall include in addition to any information required by paragraphs (a), (b), and (c) of this section the recorded vote of the Members that agency business has required the shorter notice period.

(e) Each Meeting Announcement shall be: (1) Posted on the Board's Public Notice Board in Room 714, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (2) available in the Board's Office of Public Affairs; (3) placed in the Docket file, if any, and mailed to all persons on the service list of any Docket to be discussed at the meeting; and (4) transmitted to the FEDERAL REGISTER for publication of at least the time, place, subject matter, whether the meeting is open or closed, changes in these items, and the name and phone number of the person to contact for further information.

(f)(1) An amended Meeting Announcement shall be issued for any change in a meeting announcement.

(2) Changes in the time or place of a meeting do not require a recorded vote of the Members and may be made by issuing an amended Meeting Announcement.

(3) Changes in a prior meeting announcement regarding the subject matter, whether the meeting is open or closed in whole or in part to public observation, and decisions to withhold information about the meeting require the recorded vote of the majority of the membership as set forth in § 310b.6. Amended meeting announcements regarding these changes shall contain a copy of the recorded vote of the Members on the change unless such vote has already been made public pursuant to § 310b.6. If there has been a change from a decision to open the meeting to public observation, the explanation required by § 310b.6(e) shall also be included in the amended Meeting Announcement unless it has already been made public pursuant to § 310b.6.

(4) Amended meeting announcements shall be issued at the earliest practicable time and shall be made public in the same manner as the original meeting announcement as set forth in paragraph (e) of this section.

§ 310b.5 Matters which may be closed to the public.

Pursuant to the procedures set forth in § 310b.6, the Board may determine that discussion of a matter may be closed to public observation or that information about a matter to be discussed at a meeting may be withheld from public disclosure if such observation or disclosure is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (2) in fact properly classified pursuant to such Executive order;

(b) Relate solely to the internal personnel rules and practices of an agency;

(c) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would—

(1) In the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

(2) In the case of any agency, be likely to significantly frustrate implementation of a proposed agency action,

except that subparagraph (2) shall not apply in any instance where the agency has already disclosed to the public the

content or nature of its proposed action, or where the agency is required by law to

and it shall be part of the Board's rec-

to the Meeting Announcement to which it pertains

be the subject of either a complete tran-

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Regulation OR–111, Amendment No. 57]

found by him to be exempt from release pursuant to the standards set out at 5

content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 310b.6 Procedures for closing discussion or withholding information.

(a) Discussions of a matter shall not be closed to the public and information about a meeting shall not be withheld from the public meeting announcement except by a recorded vote of a majority of the membership with respect to each such matter or item of information. For this purpose, such votes shall be by the Members themselves without use of proxies.

(b) Each matter the discussion of which is to be closed to public observation and each piece of information that is to be withheld from the public meeting announcement shall be the subject of a separate vote unless the matter or information is expected to involve a series of meetings. In such case, the Board may vote to close the discussion or withhold the information about the same particular matter for a period of thirty days from the date of the initial discussion in the series.

(c) By the close of business on the working day following a vote to close or withhold, the Secretary of the Board shall have posted on the Board's Public Notice Board in Room 714, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 a copy of such vote, showing the vote of each Member on the question; a full written explanation of any closing as set forth in paragraph (d) of this section; and a list of all persons and their affiliation expected to attend the meeting.

(d) For each matter the discussion of which is to be closed to public observation, a full written explanation shall be issued. Such explanation shall contain refernce to the specific exemptions listed in § 310b.5 which the Board in invoking and shall set forth why the discussion is to be closed.

§ 310b.7 Certification by the General Counsel.

(a) For each matter the discussion of which the Board decides to close to the public, the General Counsel shall have the opportunity before the discussion to certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision."

(b) A copy of any such certification shall be included in the Meeting Announcement for the meeting in question and it shall be part of the Board's records for that proceeding.

(c) In the event the General Counsel position is vacant or the incumbent is unavailable or disqualified, the power to make such certification shall be exercisable by the Deputy General Counsel or the next-ranking attorney in the Office of General Counsel who is available and is not disqualified. Such person shall be deemed by the Board to be the Acting General Counsel.

(d) A copy of such certification shall be maintained in the Office of the Secretary.

§ 310b.8 Requests to open or close Board meetings.

(a)(1) Any person may request in writing that the Board open to public observation discussion of a matter which it has earlier decided to close.

(2) Such requests shall be captioned "Request to Open _____ (date) Board meeting on item _____ (number or description)." The request shall state the reason(s) therefor, the name and address of the person making the request and, if desired, a telephone number.

(3) Ten copies of such requests must be received by the Office of the Secretary no later than three working days after the issuance of the Meeting Announcement to which the request pertains. Requests received after that time will be returned to the requester with a statement that the request was untimely received and that copies of any nonexempt portions of the transcript or minutes for the meeting in question will ordinarily be available in the Public Reference Room twenty working days after the meeting.

(b)(1) Any person whose interests may be directly affected may request in writing that the Board close to public observation discussion of a matter which it has earlier decided to open for any of the reasons referred to in § 310.5 (e), (f), or (g).

(2) Such requests shall be captioned "Request to Close: _____(date) Board meeting on item _____ (number or description)", shall state the reason(s) therefor, the name and address of the person making the request and, if desired, a telephone number.

(3) It is requested that ten copies of such requests be filed with the Office of the Secretary as soon as possible after the issuance of the Meeting Announcement to which the request pertains. A single copy of the request will be accepted. Requests to close meetings must be received by the Office of the Secretary no later than the time scheduled for the meeting to which such request pertains.

(c) The Secretary shall retain one copy of timely requests and forward one copy to each Member, one copy to the General Counsel, one copy to the interested Bureau or Office, and two copies to the Docket Section, one for entry in the appropriate docket file, if any, and one to be posted on the Public Notice Board located in that section as an attachment to the Meeting Announcement to which it pertains.

(d) Responsive pleadings to requests to open or close shall not be accepted.

(e) Any Member may require that the Board vote upon the request to open or close. If the request is supported by the votes of a majority of the agency membership, an amended meeting announcement shall be issued and the Secretary shall immediately notify the requester and, before the close of business the next working day, have posted such vote and any other material required by §§ 310b.4, 310b.6, or 310b.7 on the Board's Public Notice Board.

(f) If no Board Member requests that a vote be taken on a request to open or close a Board meeting, the Secretary shall by the close of the next working day after the meeting to which such request pertains certify that no vote was taken. The Secretary shall forward one copy of that certification to the requester and two copies of that certification to the Docket Section, one to be placed in the appropriate Docket file, if any, and one to be posted on the Public Notice Board, where it will be displayed for one week.

§ 310b.9 Conduct of open Board meetings.

(a) The Chairman or presiding Member at each Board meeting has the authority and the responsibility to insure that the meetings are conducted in an orderly fashion so as to preserve the public's right to observe and the Board's right to conduct its business.

(b) Cameras shall not be used during open Board meetings. Tape recorders may be used by any member of the public only in the areas set aside for public seating if such use is not disruptive to the public's right to observe or the Board's right to meet.

(c) The right of the public to observe open discussions at Board meetings shall not include a right to participate at the meeting, or the right to file motions, pleadings, or other documents based on the comments of Board Members or staff at open discussions. The open meeting procedure is not an appropriate vehicle for persons to supplement records in matters before the Board. Such motions, pleadings or documents shall not be accepted by the Board.

(d) Deliberations, discussions, comments, or observations made during the course of open discussions at Board meetings do not themselves constitute action of the Board. In addition, comments made by a Member may be advanced for purposes of discussion and arguments and may not reflect the ultimate position of that Member. For this reason, persons who choose to act on the basis of the content of discussions at open Board meetings do so entirely at their own risk.

§ 310b.10 Transcripts of discussions at closed Board meetings.

(a) All Board meetings closed to public observation in whole or in part shall be the subject of either a complete transcript indicating the identity of each speaker or, at the Board's discretion in the case of discussions closed to public observation pursuant to § 310b.5(h), (i)(1), or (j), detailed minutes. Such detailed minutes shall fully and clearly describe all matters discussed, identify documents considered in connection with any agency action, and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any items and the record of any roll call vote (reflecting the vote of each Member on the question).

(b) Transcripts and detailed minutes shall be retained in the custody of the Board's Secretary for two years after the meeting or one year after conclusion of the Board proceeding with respect to which the discussion was held, whichever occurs later. Along with the transcript or detailed minutes, the Secretary shall also maintain a copy of the General Counsel certification (as set forth in § 310b.7) and a statement of the Chairman or presiding Member setting forth the time and place of the meeting at which the discussion occurred and a list of persons present.

(c) Portions of each transcript or detailed minutes determined by the General Counsel to contain material not exempt from disclosure pursuant to § 310b.5 shall be made available to the public in the Public Reference Room, Room 710, 1825 Connecticut Avenue, N.W., Washington, D.C., 20428. Such nonexempt portions of transcripts or detailed minutes will ordinarily be available within 20 working days of the meeting.

(d) Copies of the publicly available nonexempt portions of transcripts, for 15 cents per page, can be made at the Public Reference Room or ordered from the Public Reference Room.

(e) The transcripts and detailed minutes prescribed by this section do not constitute the official record of Board action. The official record of the Board continues to be the Minutes of the Civil Aeronautics Board maintained by the Office of the Secretary.

§ 310b.11 Requests for material other than publicly available portions of transcripts or detailed minutes.

Requests for portions of transcripts or detailed minutes not publicly available in the Public Reference Room and for all other Board documents are governed by Part 310 of this title.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7781 Filed 3-15-77;8:45 am]

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Regulation OR-111, Amendment No. 57]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Delegation of Authority to the General Counsel to Review and Release Nonexempt Portions of Transcript and Detailed Minutes Made of Board Meetings Closed to Public Observation

Effective: March 11, 1977.

Adopted: March 11, 1977.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., March 11, 1977.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: On March 12, 1977 the Government in the Sunshine Act (Pub. L. 94-409) takes effect. By PR-163 issued contemporaneously herewith, the Board has adopted regulations implementing the open meetings provisions of that Act. (14 CFR Part 310b) section 310b.10 of the regulations provides that nonexempt portions of closed meeting transcripts and detailed minutes will be made available to the public. This rule delegates to the General Counsel of the Civil Aeronautics Board the authority of the agency to make the review of the transcripts and minutes and to release those portions which are not exempt under the standards of the Government in the Sunshine Act exemptions at 5 U.S.C. 552b(c) and the Board's identical standards at 14 CFR 310b.5.

EFFECTIVE DATE: March 11, 1977

FOR FURTHER INFORMATION CONTACT:

Jerome Nelson or Carol Light: (202) 673-5233.

SUPPLEMENTARY INFORMATION:

This amendment is a rule of agency organization and procedure and is necessary to implement a statute and regulation which take effect by March 12, 1977. We therefore find that notice and public comment are unnecessary and the rule may become effective on less than thirty days' notice.

Accordingly, 14 CFR Part 385 is amended as follows:

By adding a new paragraph (g) to § 385.19 to read as follows:

§ 385.19 Delegation to the General Counsel.

* * * * * *

(g) Review transcripts and detailed minutes of closed meetings taken pursuant to 14 CFR § 310b.10 and to release to the public such portions of these transcripts and detailed minutes not found by him to be exempt from release pursuant to the standards set out at 5 U.S.C. 552b(c) and 14 CFR § 310b.5.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7774 Filed 3-15-75;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1012—MEETINGS: ADVANCE PUBLIC NOTICE, PUBLIC ATTENDANCE, AND RECORDKEEPING

Amendment of Regulation To Implement the Government in the Sunshine Act

AGENCY: Consumer Product Safety Commission.

ACTION: Final regulation.

SUMMARY: This regulation amends the Commission's existing meetings policy (16 CFR 1012) to implement the open meeting provisions of the Government in the Sunshine Act. The regulation sets forth procedures for making a determination to open or close a meeting of the Commissioners, the provisions for public announcement of such meetings, and the provisions regarding recordkeeping for such meetings, as required by the Government in the Sunshine Act. The regulation continues in effect the existing provisions regarding advance public notice, public attendance, and recordkeeping for meetings other than meetings of the Commissioners which are not covered by the Government in the Sunshine Act, including meetings between individual Commissioners or Agency staff members and outside parties, hearings, staff meetings, and advisory committee meetings.

EFFECTIVE DATE: March 12, 1977.

FOR FURTHER INFORMATION CONTACT:

David Meinick, General Law Division, Office of the General Counsel, Consumer Product Safety Commission, 1111-18th Street, N.W., Washington, D.C. 20207 (202-634-7770).

SUPPLEMENTARY INFORMATION: On January 27, 1977, the Consumer Product Safety Commission published proposed and interim regulations (42 FR 5079) to implement the open meeting provisions of the "Government in the Sunshine Act". The Commission solicited public comment on those regulations and two comments were received, one from Rep. Richardson Preyer, Chairman of the Subcommittee on Gov-

ernment Information and Individual

mission's view, constitute a 'public dis-

Accordingly pursuant to the provisions

§ 1012.2 Definitions.

activities such as recruitment, training, meetings involving consumer deputies, or

(vii) Names and telephone number of the CPSC host or contact person.

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ernment Information and Individual Rights of the Committee on Government Operations, House of Representatives and one from the National Electrical Manufacturers Association, Washington, D.C.

The issues raised in the comments and the Commission's conclusions thereon are as follows:

1. Chairman Preyer of the House Subcommittee on Government Information and Individual Rights pointed out that the determination to close a meeting of the Commission consists of two distinct steps: first, a determination whether the discussion comes within one of the specific exemptions; and second, if the discussion is determined to be exempt, whether the public interest nevertheless requires that the meeting be open. Chairman Preyer believes that 1012.4 (c) and (d), as proposed, were unclear on this point and suggested that the provisions be amended.

The Commission recognizes that the public interest must always be considered in determining whether to close a meeting and provided in § 1012.4(c) that notwithstanding the applicability of an exemption, a meeting could be open. However, in order to clarify the factors that must be considered in a determination to close a meeting, the Commission has amended § 1012.4(c) to explicitly provide that consideration of the public interest is a necessary step in determining whether to close a meeting, regardless of the applicability of an exemption.

2. Chairman Preyer also suggested that the § 1012.4(e)(3) as proposed be amended to make it clear that the General Counsel's certification must be made before the closed meeting is held.

The Commission, in requiring the General Counsel's certification to be issued within one day of a vote to close a meeting, as provided by proposed § 1012.4(e)(3) intended to make it clear that the certification would normally be made public approximately one week before the meeting. However, since the Commission recognizes that Agency business may in some instances require that the vote to close a meeting take place on the same day as the meeting, § 1012.4(e)(3)(iv) (redesignated § 1012.4(e)(4)(iv) in this document) has been amended to provide that the General Counsel's certification must in all cases be made available to the public before the meeting is convened. In addition, a new subparagraph (3) has been added to § 1012.4(e) to make it clear that the General Counsel's certification is a prerequisite to closing a meeting. Further, § 1012.4(e)(4) (renumbered § 1012.4(e)(5) in this document) regarding delay of the statement explaining the closing of a meeting, has been amended to clarify that the General Counsel's certification may not be delayed.

3. The National Electrical Manufacturers Association (NEMA) submitted a comment which disagreed with the Commission's preamble statement that "mere discussion of information at a public meeting would not, in the Commission's view, constitute a 'public disclosure' which would invoke the notice or retraction requirements of section 6(b)(1)" of the Consumer Product Safety Act. NEMA stated that once the Commission places an item on the agenda of a Commission meeting, it has affirmatively selected the meeting as the means to disclose the item to the public.

The Commission recognizes that discussion of an agenda item in a open Commission meeting is a public disclosure of the subject matter; however, a discussion at a Commission meeting is not the type of public disclosure which is the concern of section 6(b)(1). As stated in the preamble to the proposed regulations, the Commission has interpreted the term "public disclosure," as used in section 6(b)(1), to mean the affirmative and widespread dissemination of information, e.g., a press release which would receive widespread newspaper and television coverage. It is unlikely that Commission meetings will ordinarily receive this kind of attention. Further, section 6(b)(1) requires that an interested manufacturer or private labeler be given a 30-day opportunity to comment on a summary of the proposed "affirmative" disclosure prior to its release. It is obvious that a discussion cannot be summarized before it takes place, therefore the notice and comment provisions of section 6(b)(1) are impossible to apply.

Although the provisions of section 6(b)(1) do not apply to discussions in Commission meetings, the Commission will consider a request for correction or retraction if such discussion includes adverse statements about the safety of a product that are inaccurate or misrepresent the facts, and such statements are subsequently given widespread coverage in the media.

NEMA also commented that section 6(b)(1) should be applicable to Commission discussions since the public to whom disclosure is made may include competitors of the manufacturers whose business or products are the subject of the discussion. The comment suggests that a public discussion of a manufacturer's product may cause competitive harm to the manufacturer in some manner. The Sunshine Act recognizes this interest of manufacturers and others in protecting trade secrets and other privileged commercial or financial information and provides for the closing of meetings to protect this interest. (See § 1012.4(d)(4) of these regulations.) Section 6(b)(1) on the other hand, is intended to insure that information proposed to be disseminated—and which is otherwise releasable—is fair, accurate, and reasonably related to effectuating the purposes of the Consumer Product Safety Act. It is not intended to protect the interest of manufacturers vis-a-vis their competitors. As indicated above, there are other provisions which adequately protect this interest.

Having considered the comments received and other relevant material, the Commission concludes that the regulations shall be amended as set forth below.

Accordingly pursuant to the provisions of the Government in the Sunshine Act requiring agencies to promulgate implementing regulations, Part 1012 of Title 16, Chapter II, Subchapter A of the Code of Federal Regulations is amended to read as follows:

Sec.

1012.1 General policy considerations.
1012.2 Definitions.
1012.3 Forms of advance public notice of meetings; public calendar and FEDERAL REGISTER.
1012.4 Commission meetings; requirements for advance public notice and attendance by the public.
1012.5 Agency meetings; requirements for advance public notice and attendance by the public.
1012.6 Recordkeeping requirements for meetings.
1012.7 Agency meetings: the news media.
1012.8 Agency meetings: telephone conversations.

AUTHORITY: 5 U.S.C. 552b(g); Pub. L. 92-573, 86 Stat. 1207 (15 U.S.C. 2051-81); Pub. L. 90-189, 81 Stat. 568 (15 U.S.C. 1191-1204); Pub. L. 86-613, 74 Stat. 372, as amended by Pub. L. 89-756, 80 Stat. 1303, and Pub. L. 91-113, 83 Stat. 187 (15 U.S.C. 1261-74); Pub. L. 91-601, 84 Stat. 1670 (15 U.S.C. 1471-76) and the Act of Aug. 7, 1956, 70 Stat. 953 (15 U.S.C. 1211-14).

§ 1012.1 General policy considerations.

(a) In enacting the Government in the Sunshine Act (Pub. L. 94-409, 5 U.S.C. 552b), the Congress stated the policy that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government. The purpose of the Government in the Sunshine Act is to provide the public with such information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities. Accordingly, when the Commissioners of the Consumer Product Safety Commission hold meetings for the purpose of jointly conducting or disposing of Commission business, the meetings shall be held in accordance with the provisions of the Government in the Sunshine Act.

(b)(1) In order for the Consumer Product Safety Commission to properly carry out its mandate to protect the public from unreasonable risks of injury associated with consumer products, the Commission has determined that it must involve the public to the fullest possible extent in its activities.

(2) To guarantee public confidence in the integrity of Commission decisionmaking, the Agency will, to the fullest possible extent, conduct its business in an open manner which is free from any actual or apparent impropriety.

(3) To achieve the goals set forth in paragraphs (b)(1) and (2), the Commission believes that, wherever practicable, it should notify the public in advance of all Agency meetings involving matters of substantial interest held or attended by its personnel and permit the public to attend such meetings. Furthermore, to ensure the widest possible exposure of the details of such meetings, the Agency will keep records of them which are freely available for inspection by the public.

§ 1012.2 Definitions.

As used in this Part 1012, the following terms shall have the meanings set forth:

(a) *Agency.* The entire organization which bears the title Consumer Product Safety Commission (CPSC).

(b) *Agency staff.* Employees of the Agency other than the five Commissioners.

(c) *Commissioner.* An individual who belongs to the collegial body heading the CPSC.

(d) *Commission.* The Commissioners of the Consumer Product Safety Commission acting in an official capacity.

(e) *Majority of the Commission.* Three or more of the Commissioners.

(f) *Commission meeting.* The joint deliberations of at least a majority of the Commission where such deliberations determine or result in the joint conduct or disposition of official Agency business. This term does not include meetings required or permitted by § 1012.4(e)(1) (to determine whether a meeting will be open or closed), meetings required or permitted by § 1012.4(b)(2) (to change the subject matter of a meeting or the determination to open or close a meeting after the public announcement) or meetings required or permitted by § 1012.4(a)(2) (to dispense with the one week advance notice of a meeting).

(g) *Agency meeting.* Any face-to-face encounter, other than a Commission meeting as defined in paragraph (f) of this section, in which one or more employees, including Commissioners, discuss any subject relating to the Agency or any subject under its jurisdiction.

(h) *Outside party.* Any person not an employee, not under contract to do work for the Agency, or not acting in an official capacity as a consultant to the Consumer Product Safety Commission, such as advisory committee members or offeror personnel. Examples of persons falling within this definition are representatives from industry, consumer groups and other government bodies. Members of the news media are not considered to be outside parties when acting in a news-gathering capacity. (See also § 1012.7).

(i) *Substantial interest matter.* Any matter, other than that of a trivial nature, that pertains in whole or in part to any issue that is likely to be the subject of a regulatory or policy decision by the Commission. Pending matters, i.e., matters before the Agency in which the Agency is legally obligated to make a decision, automatically constitute substantial interest matters. Examples of pending matters are: scheduled administrative hearings; matters published for public comment; petitions under consideration; and mandatory standard development activities. The following examples do not constitute substantial interest matters: inquiries concerning the status of a pending matter; discussions relative to general interpretations of existing laws, rules, and regulations; inspection of nonconfidential CPSC documents by the public; negotiations for contractual services; and routine CPSC activities such as recruitment, training, meetings involving consumer deputies, or meetings with hospital staff and other personnel involved in the National Electronic Injury Surveillance System.

(j) *Public announcement.* A matter is publicly announced when it is entered on the master calendar or public calendar, or both.

§ 1012.3 Forms of advance public notice of meetings; public calendar/master calendar and Federal Register.

Advance notice of Agency activities is provided to the public so that it may know of an participate in these activities to the fullest extent possible. Where appropriate, the Commission uses the following types of notices for both Agency meetings involving substantial interest matters and Commission meetings.

(a) *Public calendar/master calendar.* (1) The printed public calendar and the master calendar maintained in the Office of the Secretary are the principal means by which the Agency notifies the public of its day-to-day activities. The public calendar and/or master calendar provide advance notice of public hearings, Commission meetings, Agency meetings with outside parties involving substantial interest matters, selected staff meetings, advisory committee meetings, and other events such as speeches, and participation in panel discussions, regardless of the location. The public calendar also lists recent CPSC FEDERAL REGISTER issuances and Advisory Opinions of the Office of the General Counsel.

(2) Upon request in writing to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, any person or organization will be sent the public calendar on a regular basis free of charge. In addition, interested persons may contact the Office of the Secretary to obtain information from the master calendar which is kept current on a daily basis.

(3) The master calendar, supplemented by meeting summaries, is intended to serve the requirements of section 27(j)(8) of the Consumer Product Safety Act (15 U.S.C. 2076(j)(8)).

(4) Commissioners and Agency staff are responsible for reporting meeting arrangements for Agency meetings to the Office of the Secretary so that they may be published in the printed public calendar or entered on the master calendar at least seven days before a meeting, except as provided in § 1012.5(b)(1). Such reports shall include the following information:

(i) Probable participants and their affiliations;

(ii) Date, time and place of the meeting;

(iii) Subject of the meeting (as fully and precisely designated as possible);

(iv) Who requested the meeting;

(v) Whether the meeting involves matters of substantial interest;

(vi) Notice that the meeting is open or reason why the meeting or any portion of the meeting is closed (e.g., discussion of trade secrets); and

(vii) Names and telephone number of the CPSC host or contact person.

(5) The Secretary of the Commission is responsible for preparing and making public the announcements and notices relating to Commission meetings that are required in §§ 1012.4 (a) and (b).

(b) *Federal Register.* The FEDERAL REGISTER is the publication through which official notifications, including formal rules and regulations of the Agency, are made. Because the public calendar and/or master calendar are the primary devices through which the Agency notifies the public of its routine, daily activities, the FEDERAL REGISTER will be utilized only when required by the Government in the Sunshine Act (as provided in §§ 1012.4 (a) and (b)) or other applicable law, or when the Agency believes that the additional coverage which the FEDERAL REGISTER can provide is necessary to assist in notification to the public of important meetings.

§ 1012.4 Commission meetings; requirements for advance public notice and attendance by the public.

Commission meetings are held for the purpose of jointly conducting the formal business of the Agency, including the rendering of official decisions. The following provisions regarding announcement of meetings and attendance by the public shall apply to Commission meetings that determine or result in the joint conduct or disposition of official Agency business. Requirements as to other types of meetings Commissioners may attend (Agency meetings) are contained in § 1012.5.

(a) *Announcement of meetings.* (1) The Agency shall announce each Commission meeting in the public calendar or master calendar at least one week (seven calendar days) before the meeting. The Agency shall concurrently submit the announcement for publication in the FEDERAL REGISTER. The announcement and the FEDERAL REGISTER notice shall contain the following information:

(i) The date, time, and place of the meeting;

(ii) The subject matter of the meeting;

(iii) Whether the meeting will be open or closed to the public;

(iv) The name and phone number of the official who responds to requests for information about the meeting.

(2) If a majority of the Commission determines by recorded vote that Agency business requires calling a meeting earlier than 7 calendar days in advance, announcement shall be made in the public calendar or master calendar at the earliest practicable time and the Agency shall transmit the announcement concurrently for publication in the FEDERAL REGISTER.

(b) *Changes after public announcement.* (1) When necessary and at the direction of the Chairman, the Secretary shall change the time of a meeting after the announcement in the public calendar or master calendar. Such change shall be entered on the master calendar and such other notice shall be given as is practicable.

(2) The Commission may change the

(7) Disclose investigatory records

(b) *Meetings between Commissioners*

(2) *Attendance by the public.* (i) Any person or organization may attend any

summary as described in § 1012.6(c)(1). However, only one meeting summary is

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(2) The Commission may change the subject matter of a meeting or the decision to open or close a meeting or portion thereof to the public, after announcement in the public calendar or master calendar only if a majority of the Commission determines by recorded vote that Agency business so requires. The Commission shall announce the change in the public calendar or master calendar at the earliest practicable time before the meeting and shall concurrently submit the announcement for publication in the FEDERAL REGISTER. (See also § 1012.4(f) for requirements for Commission reconsideration of a decision to open or close a meeting to the public.)

(c) *Attendance by the public.* Every portion of every Commission meeting shall be open to public observation, except as provided in paragraph (d) of this section. Notwithstanding the applicability of the exceptions contained in paragraph (d) of this section, Commission meetings or portions thereof shall be open to public observation when the Commission determines that the public interest so requires. The Commission shall take into account in all cases the relative advantages and disadvantages to the public of conducting the meeting in open session. The number of public observers shall be limited only by availability of space. Attendance by the public shall be limited to observation and shall not include participation.

(d) *Exceptions to the requirement of openness.* The requirement in paragraph (c) of this section that all Commission meetings be open to public observation shall not apply to any Commission meeting or portion thereof for which the Commission has determined, in accordance with the procedures for closing meetings set forth in paragraph (e) of this section, that such meeting or portion thereof is likely to—

(1) Disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and in fact properly classified pursuant to such Executive Order;

(2) Relate solely to the internal personnel rules and practices of the Agency;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552) provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed Agency action. This provision does not apply in any instance where the Agency has already disclosed to the public the content or nature of its proposed action, or where the Agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the Agency's issuance of a subpoena, or the Agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Agency of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(e) *Procedure for closing meetings of the Commission.* The following procedure shall be followed in closing a Commission meeting or portion thereof to public observation:

(1) A majority of the Commission must vote to close a meeting or portion thereof to public observation pursuant to subsection (d). A separate vote of the Commission shall be taken for each matter with respect to which a Commission meeting is proposed to be closed to public observation. Each such vote may, at the discretion of the Commission, apply to that portion of any meeting held within the following thirty days in which such matter is to be discussed. The vote of each Commissioner participating in such vote shall be recorded and no proxies shall be allowed.

(2) Any person, whose interest may be directly affected if a portion of a meeting is open, may request in writing to the Office of the Secretary that the Commission close that portion on the basis of paragraph (d) (5), (6) or (7) of this section. The Commission shall vote on such requests if at least one Commissioner desires to do so.

(3) Before a closed meeting may be held, the General Counsel must certify that in his or her opinion, the meeting may properly be closed to the public.

(4) Within one day of a vote in accordance with paragraph (e) (1) or (2) of this section to close a Commission meeting or portion thereof, the Secretary shall make available to the public a notice setting forth:

(i) The results of the vote reflecting the vote of each Commissioner;

(ii) A full explanation of the action of the Commission closing the meeting or portion thereof, including reference to the specific basis for such closing (see paragraph (d) of this section) and an explanation, (without disclosing exempt information), of why the Commission concludes on balance, (taking into account the relative advantages and disadvantages to the public of conducting the meeting in open or closed session) that the public interest would best be served by closing the meeting;

(iii) A list of all persons (other than Commissioners) expected to attend the meeting and their affiliations; and

(iv) A certification by the General Counsel that in his or her opinion, the meeting may properly be closed to the public. If a vote to close a Commission meeting takes place on the same day as the meeting, the certification must be made available to the public before the meeting is convened.

(5) The public release of the portion of the written statement required by paragraph (e) (4) (ii) may be delayed upon a determination by the Commission, by recorded vote, that such a notice, or portion thereof, would disclose information which may be withheld in accordance with paragraphs (d) (1) through (10) of this section.

(f) *Reconsideration of a decision to open or close a meeting.* The Commission may, in accordance with the procedures in paragraph (b) (2) or (e) (2) of this section, reconsider its determination to open or close a Commission meeting when it finds that the public interest so requires.

§ 1012.5 Agency meetings: requirements for advance public notice and attendance by the public.

For the purpose of implementing the Agency's meetings policy, meetings which involve Agency staff or the Commissioners, other than Commission meetings, shall be classified in the following categories and shall be held according to the procedures outlined within each category.

(a) *Hearings.* Hearings are public inquiries held by direction of the Commission for the purpose of fact finding or to comply with statutory requirements. The Office of the Secretary is responsible for providing transcription services at the hearings. Where possible, notice of forthcoming hearings will be published in the public calendar and the FEDERAL REGISTER at least 30 days before the date of the hearings.

(b) *Meetings between Commissioners or Agency staff and outside parties.* The following requirements shall apply to Agency meetings between Commissioners or Agency staff and outside parties whether hosted or attended at Agency premises or at the premises of outside parties, or at any other location:

(1) *Notice.* (i) (A) Notice of Agency meetings with outside parties involving substantial interest matters shall be published in the public calendar at least 7 calendar days in advance of the meeting. Any Agency employee planning to host or attend such a meeting must notify the Office of the Secretary as provided in § 1012.3(a)(4). Once notification has been made, Commission employees subsequently desiring to attend the meeting need not notify the Office of the Secretary.

(B) When there is no opportunity to give 7 days advance notice of a meeting, Agency staff (other than the personal staff of Commissioners) who desire to hold or attend such meeting must obtain the approval of the Office of the Chairman. Personal staff of Commissioners must obtain the approval of their respective Commissioners. If such approval is obtained, the Office of the Secretary must be notified in advance of the meeting to record the meeting on the master calendar. The Office of the Secretary shall publish notice of the meeting as an addendum to the succeeding public calendar. Because it could unduly compromise the independence of individual Commissioners, they need not obtain the permission of the Chairman to hold or attend an emergency unscheduled meeting. Listing of the meeting in the master calendar is still required.

(ii) *Exceptions.* The notice requirement shall not apply to:

(A) Meetings with outside parties not involving substantial interest matters (although such meetings should be listed where the public interest would be served).

(B) Meetings regarding initial notifications pursuant to section 15(b) of the Consumer Product Safety Act. However, subsequent meetings are not excepted from the notice requirement.

(C) Meetings held during the normal course of field surveillance, inspection or investigation of a person or company, including informal citation hearings under the Federal Hazardous Substances Act or the Poison Prevention Packaging Act. However, advance notice is required for any negotiation meetings leading to settlement of individual cases.

(D) Meetings or discussions with or at the request of members of Congress and their staffs, or Office of Management and Budget personnel relating to legislation or appropriation matters.

(E) Meetings with Department of Justice employees regarding litigation matters.

(F) Routine speeches given by CPSC personnel before outside parties. However, personnel are encouraged to submit advance notice of these speeches to the Office of the Secretary for inclusion in the public calendar, for information purposes.

(2) *Attendance by the public.* (i) Any person or organization may attend any Agency meeting listed in the master calendar unless that meeting has been listed as a closed meeting. Generally, all meetings between Agency employees and outside parties are open to the public for the purpose of observation or participation, subject only to space limitations. Participation by the public may be permitted by the meeting chairperson. When feasible, a person or organization desiring to attend should give at least one day advance notice to the employee holding or attending such meeting.

(ii) The following Agency meetings are not open to the public:

(A) Meetings, or, if possible, portions of meetings where the Office of the General Counsel has determined that proprietary data are to be discussed in such a manner as to imperil their confidentiality.

(B) meetings held by outside parties at which limits on attendance are imposed by lack of space, provided, that such meetings are open to the press or other news media.

(C) Meetings regarding initial notifications pursuant to section 15(b) of the Consumer Product Safety Act. All subsequent meetings shall be open to the public.

(D) Meetings held during the normal course of field surveillance, inspection, or investigation of a person or company, including informal citation hearings under the Federal Hazardous Substances Act or the Poison Prevention Packaging Act. However, the public may attend any negotiation meetings leading to settlement of individual cases.

(E) Meetings held with other government officials when they request that the meeting be closed, and, in the opinion of the Agency employees, extraordinary circumstances warrant closing the meeting.

(F) Meetings between Agency staff (othr than Commissioners and their personal staff) and an outside party, when, by majority vote of the Committee, it is determined that extraordinary circumstances require that the meeting be closed. In such a case, the reasons for closing the meeting or a portion of the meeting shall be detailed in the public calendar.

(G) Meetings between a Commissioner, his or her personal staff, or an outside party, when in the opinion of the Commissioner extraordinary circumstances require that the meeting be closed. In such a case, the reasons for closing the meeting or a portion of the meeting shall be detailed in the public calendar.

(H) Meetings or discussions with members of Congress and their staffs or office of Management and Budget personnel relating to legislation or appropriation matters.

(I) Meetings with Department of Justice employees regarding litigation matters.

(3) *Recordkeeping.* Any Commission employee who holds or attends an Agency meeting involving a substantial interest matter must prepare a meeting summary as described in § 1012.6(c)(1). However, only one meeting summary is required for each meeting, even if more than one CPSC employee holds or attends the meeting.

(c) *Staff meetings.* Staff meetings are attended only by members of the Agency as a general rule. At the discretion of the participants, such meetings may be listed on the public calendar and attendance by the public may be permitted. Recordkeeping is at the discretion of the participants.

(d) *Advisory committee meetings.* Meetings of the Agency's advisory committees are scheduled by the Commission. Notice will be given in both the public calendar and the FEDERAL REGISTER. Advisory committee meetings serve as a forum for discussion of matters relevant to the Agency's statutory responsibility with the objective of providing advice and recommendations to the Commission. The Agency's advisory committees are the National Advisory Committee for the Flammable Fabrics Act, the Product Safety Advisory Council, and the Technical Advisory Committee on Poison Prevention Packaging. The Office of the Secretary is responsible for the recordkeeping for such meetings. All meetings of advisory committees are open to the public as provided in the Federal Advisory Committee Act (Pub. L. 92-463, as amended by Pub. L. 94-409, 5 U.S.C. App. I) and the Commission's regulations under that Act (16 CFR 1016; 41 FR 45821, October 18, 1976).

§ 1012.6 Recordkeeping requirements.

(a) *Commission meetings.* (1) *Maintenance of transcripts, recordings or minutes.*—(i) The Agency shall maintain a complete transcript or electronic recording of each Commission meeting, whether open or closed, except that in the case of a meeting, or portion thereof, closed to the public pursuant to paragraph (10) of § 1012.4(d) of this Part, the Agency may elect to maintain a set of minutes instead of a transcript or a recording. Minutes shall:

(A) Fully and clearly describe all matters discussed, and

(B) Provide a full and accurate summary of any actions taken and the reasons therefor; including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each Commissioner on the question). All documents considered in connection with any action shall be identified in such minutes.

(ii) The transcript, recording or minutes of closed Commission meetings shall include the certification by the General Counsel required by § 1012.4(e)(3) and a statement by the presiding Commissioner setting forth the date, time and place of the meeting and the persons present.

(iii) The transcript, recording or minutes of any Commission meeting may include attachments such as Commission opinions, briefing papers, or other documents presented at the meeting.

(iv) The transcript and accompanying material shall be maintained by the Secretary for a period of at least two years after the meeting, or until one year

after the conclusion of any Agency proceeding with respect to which the meet-

the denial to the Commissioners of the Consumer Product Safety Commission

substantial interest matter must prepare a meeting summary. However, only one

Office of the Secretary within 20 calendar

SCOPE OF SUBPART F

§ 200.110—This rule has been amended to indicate that the purpose of

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after the conclusion of any Agency proceeding with respect to which the meeting, or portion thereof, was held, whichever occurs later.

(2) *Availability of transcripts, recordings or minutes.* The Agency shall make available to the public, the transcript, recording or minutes of Commission meetings. However, unless the Commission finds that the public interest requires otherwise, any portion of the transcript, recording or minutes of a closed meeting which is determined to contain information which may properly be withheld from the public on the basis of paragraphs (1) through (10) of § 1012.4(d) need not be made available to the public.

(3) *Procedure for making available transcripts, recordings or minutes.* Meeting records will be made available for inspection or copies will be furnished, as requested, in accordance with the following procedures.

(i) *Requests.* Requests for inspection or copies shall be in writing addressed to the Secretary, Consumer Products Safety Commission, Washington, D.C. 20207. A request must reasonably describe the meeting, or portion thereof, including the date and subject matter and any other information which may help to identify the requested material.

(ii) *Responses to requests.* The responsibility for responding to requests for meeting records is vested in the Secretary of the Commission. In any case where the Secretary or designee of the Secretary in his/her discretion determines that a request for an identifiable meeting record should be initially determined by the Commission, the Secretary or designee may certify the matter to the Commission for decision. In that event, the Commission decision shall be made within the time limits set forth in subparagraph (iii) and shall be final.

(iii) *Time limitations on responses to requests.* The Secretary or designee of the Secretary shall respond to all written requests for copies of meeting records within ten (10) working days. The time limitations on responses to requests shall begin to run as of the time a request for records is received and date stamped by the Office of the Secretary.

(iv) *Responses: Form and content.* When a requested meeting record has been identified and is available for disclosure, the requester shall either be informed as to where and when the records will be made available for inspection or supplied with a copy. A response denying a written request for a meeting record of a closed meeting shall be in writing signed by the Secretary and shall include:

(A) A reference to the specific exemptions under the Government in the Sunshine Act (5 U.S.C. 552b(c)) authorizing the denial; and

(B) A statement that the denial may be appealed to the Commission pursuant to subparagraph (v).

(v) *Appeals to the Commissioners.* (A) When the Secretary or designee of the Secretary has denied a request for records in whole or in part, the requester may, within 30 days of its receipt, appeal the denial to the Commissioners of the Consumer Product Safety Commission by writing to the attention of the Chairman, Consumer Product Safety Commission, Washington, D.C. 20207.

(B) The Commission will act upon an appeal within 20 working days of its receipt. The time limitations on an appeal begin to run as of the time an appeal is received by the Office of the Chairman and date stamped.

(C) The Commission's action on appeal shall be in writing, signed by the Chairman of the Commission if the appeal is denied and shall identify the Commissioners who voted for a denial. A denial in whole or in part of a request on appeal for records of a closed meeting shall set forth the exemption relied on and a brief explanation (without disclosing exempt information) of how the exemption applies to the records withheld. A denial in whole or in part shall also inform the requester of his/her right to seek judicial review as specified in 5 U.S.C. 552b(h).

(vi) *Fees.* (A) Fees shall be charged for copies of transcripts, recordings, transcriptions of recordings or minutes in accordance with the schedule contained in (C) below.

(B) There shall be no fee charged for services rendered in connection with production or disclosure of meeting records unless the charges, calculated according to the schedule below, exceed the sum of $25.00. Where the charges are calculated to be an amount in excess of $25.00, the fee charged shall be the difference between $25.00 and the calculated charges.

(C) The schedule of charges for furnishing copies of meeting records is as follows:

(1) Reproduction, duplication or copying of transcripts or minutes: 10 cents per page.

(2) Reproduction of recordings: Actual cost basis.

(3) Transcription (where meeting records are in form of recording only): Actual cost basis.

(4) Postage: Actual cost basis.

(b) *Records of Commission Action.* Records of Commission Action, summarizing the issues presented to the Commission for decision and indicating the vote of each Commissioner, document the decisions of the Commission, whether made at opeh or closed meetings or by ballot vote. The Commission's final Record of Commission Action constitutes the official means of recording the decisions of the Commission and the votes of individual Commissioners when filed with the Office of the Secretary.

(c) *Agency meetings.* The types of records required for Agency meetings depends on the type and purpose of the meeting. Following is a list of the types of and requirements for the categories of recordkeeping utilized by the Agency for Agency meetings.

(1) *Agency Meeting Summaries.* (i) Meeting summaries are written records setting forth the issues discussed at all Agency meetings with outside parties involving substantial interest matters. Any Commission employee who holds or attends an Agency meeting involving a substantial interest matter must prepare a meeting summary. However, only one meeting summary is required for each meeting, even if more than one CPSC employee holds or attends the meeting. A meeting summary should detail the essence of all substantive matters relevant to the Agency, especially any matter discussed which was not listed on the public calendar and should describe any decisions made or conclusions reached regarding substantial interest matters. A meeting summary should also indicate the date and the identity of persons at the meeting.

(ii) A meeting summary or a notice of cancellation of the meeting must be submitted to the Office of the Secretary within twenty (20) calendar days after the meeting for which the summary is required. The Office of the Secretary shall maintain a public file of the meeting summaries in chronological order.

(2) *Transcripts.* Transcripts are generally taken at public hearings and certain Agency meetings when complex subjects indicate verbatim records are desirable. The transcript may also include exhibits submitted to be part of the formal record of an Agency meeting. Copies of such transcripts are placed on file for public inspection in the Office of the Secretary.

§ 1012.7 Agency meetings: The news media.

The Agency recognizes that the news media occupy a unique position relative to informing the public of the activities of the Agency. It is believed that the inherently public nature of the news media requires that their activities be exempt from the requirements of this Part whenever Agency meetings are held with the news media for the purpose of informing them about Agency activities. Such Agency meetings are not exempt in the event that any representative of the news media attempts to influence any Agency employee on a substantial interest matter.

§ 1012.8 Agency meetings: Telephone conversations.

Telephone conversations present special problems regarding Agency meetings as set forth in this Part. It is recognized that persons outside the Agency have a legitimate right to information and to present their views regarding Agency activities. It is further recognized that such persons may not have the financial means to travel to meet with Agency employees. However, because telephone conversations, by their very nature, are not susceptible to attendance or participation by the public, care must be taken to ensure that they are not utilized to circumvent the provisions of this Part. Two basic rules apply to telephone conversations:

(a) Any telephone conversation in which substantial interest matters are discussed with outside parties must be detailed in a meeting summary which meets the requirements of § 1012.6(c)(1) of this Part. A summary detailing telephone conversations must be submitted by the CPSC employee involved to the

Office of the Secretary within 20 calendar days after the telephone call for which a summary is required. The Office of the Secretary shall maintain a public file of telephone call summaries in chronological order.

(b) All Agency personnel must exercise sound judgment in discussing substantial interest matters during a telephone conversation and in the exercise of such discretion, should not hesitate to terminate a telephone conversation and insist that the matters being discussed be postponed until an Agency meeting with appropriate advance public notice may be scheduled or until the matter is presented to the Agency in writing if the outside party is financially or otherwise unable to meet with the Agency employee.

Effective date: The regulations promulgated in this document are effective March 12, 1977.

Dated: March 11, 1977.

SHELDON D. BUTTS,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc.77-7717 Filed 3-15-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5815, 34-13351, 35-19927, 39-459, IC-9672, IA-576, File No. S7-682]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Code of Behavior Governing Ex Parte Communications Between Persons Outside the Commission and Decisional Employees

Comment deadline: April 15, 1977. The Securities and Exchange Commission today announced the adoption, effective immediately, of amendments to the Commission's Code of Behavior Governing Ex Parte Communications Between Persons Outside the Commission and Decisional Employees, 17 CFR Part 200, Subpart F. These amendments are designed to conform the language of the Commission's existing rules governing ex parte communications to the requirements of section 4 of the Government in the Sunshine Act, Pub. L. 94-409, and do not substantially alter the scope and nature of the Commission's existing rules. Although the modifications to Subpart F described herein take effect immediately, the Commission is offering an opportunity for public comment thereon and, should comment reveal the need for further amendments, appropriate action will be considered.[1]

[1] Since these amendments deal solely with Commission procedure and practice, prior public notice and comment are not required. See 5 U.S.C. 553(b). Moreover, since the amendments herein are designed simply to be interpretive of the requirements of the Sunshine Act, which takes effect on March 12, 1977, these rules are not subject to the provision in 5 U.S.C. 553(d) requiring 30 days advance notice prior to the effective date of a substantive agency rule. In any event, however, pursuant to 5 U.S.C. 553(d)(3), the Commission hereby finds, in view of the fact that these amendments do not significantly alter the nature of the procedures set forth in Subpart F, and in view of the fact that Section 4 of the Sunshine Act takes effect on March 12, 1977, that good cause exists for omitting the 30 day notice provided in 5 U.S.C. 553(d).

[2] While the Commission's rules in Subpart F (as amended and previously) apply only to communications between Commission members or decisional employees and persons outside the agency, in certain circumstances other requirements of law or professional responsibility might restrict or preclude communications not encompassed within Subpart F. See, e.g., 5 U.S.C. 554(d); 17 CFR 200.63; Rule 2 of the Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission, 17 CFR 200.735-2(b); and ABA Code of Professional Responsibility, DR 7-110(B).

SCOPE OF SUBPART F

As stated above, the amendments announced herein are designed solely to conform the language of the Commission's existing prohibition against certain ex parte communications to section 4 of the Sunshine Act. In that connection, the Commission directs special attention to the scope of existing Subpart F and of section 4. The objectives of Subpart F are to protect the discharge of the Commission's quasi-judicial functions from unfair or improper influence and to insure that all participants in such proceedings have a fair opportunity to respond to the contentions and evidence presented by other participants. Pursuant to these objectives, both section 4 of the Sunshine Act and the Commission's rules are narrowly focused. Both prohibit certain communications between Commission members or decisional employees and interested persons outside the agency.[2] The Conference Report on the Sunshine Act, H.R. Rep. No. 94-1441, 94th Cong. 2d Sess. at 29 (1976), states, in regard to the scope of the prohibitions therein:

> The conferees wish to note the fact that this provision (Section 4(b) of the Sunshine Act) and the ex parte provisions of new section 557(d) (as added by this act) in no way prohibit—
>
> 1. Any communication with an agency decisionmaking official if not involving a formal adjudicatory proceeding (and a few formal rulemaking proceedings); or
>
> 2. Any communication with a decisionmaking official which is not relevant to the merits of a covered proceeding; or
>
> 3. Any communication with a decisionmaking official in any proceeding at any time if it involves only a request for the status of the proceedings and is not intended to affect the merits; or
>
> 4. Any communication at any time with an agency official not involved in the decisional process.

SYNOPSIS OF AMENDMENTS

The Commission's amendments to Subpart F affect existing §§ 200.111 through 200.114 inclusive of Title 17 of the Code of Federal Regulations. Below is a brief description of the changes in each of these rules.

§ 200.110—This rule has been amended to indicate that the purpose of Subpart F is to conform the Commission's rules to section 4 of the Government in the Sunshine Act.

§ 200.111—Rule 111 sets forth the prohibitions applicable to certain ex parte communications, identifies the proceedings to which the prohibitions attach, and contains certain definitions. Subsection (a) of this rule has been amended to conform to new 5 U.S.C. 557(d)(1)(A) and (B). As amended, Rule 111(a) prohibits any interested person outside the agency from engaging in an ex parte communication with a Commission member or decisional employee relevant to the merits of an on-the-record proceeding, and prohibits any Commission member or decisional employee from engaging in such a communication with an interested person outside the agency.[3]

Rule 111(b) identifies the proceedings in which the prohibition in Rule 111(a) applies. This subsection is drawn from existing Rule 111(b) and includes the provision in section 4(a) of the Sunshine Act requiring that the ex parte communication prohibition extend to all proceedings subject to 5 U.S.C. 557(a).

Rule 111(c) prescribes the times at which, in a given proceeding, the prohibition in subsection (a) of the rule commences and ceases to apply. The criteria set forth are those in existing Rule 111(c) and in new 5 U.S.C. 557(d)(1)(E).

Rule 111(d) defines the terms "ex parte communication," "participants to the proceeding," and "decisional employee." The definition of ex parte communication combines new 5 U.S.C. 551(14) and the terms of existing Rule 111(f)(1) and (2)(i).[4]

The definition of the term "participants to the proceeding" is identical to that in existing Rule 111(e). The definition of the term "decisional employee" is similar to that in existing Rule 111(d).

§ 200.112—This rule establishes the procedures which are to be followed in the event that a prohibited ex parte communication occurs. Rule 112(a) re-

[3] Careful attention should be afforded to the scope, conditions, and terms of this subsection. For example, discussions concerning the proposed settlement of a proceeding would not be within the prohibition in Rule 111(a) since these discussions would occur between attorneys for the participants and not between counsel for an interested person outside the Commission and a Commission member or decisional employee. Moreover, settlement negotiations would not be deemed "communication relevant to the merits of the proceeding" within the meaning of Rule 111(a) and 5 U.S.C. 557(d)(1).

[4] The exceptions in existing Rule 111(f)(2)(ii) and (iii) for oral communications of which contemporaneous or after-the-fact notice is afforded to other participants to the proceeding have been deleted as inconsistent with Section 4 of the Sunshine Act. In addition, the exclusions from the existing ex parte communications prohibitions which appear in Rule 111(g) of the Commission's present code have been deleted as unnecessary and redundant. In general, the communications now authorized by Subsection (g) would not, under the amended rules, constitute prohibited ex parte communications.

flects new 5 U.S.C. 557(d)(1)(C) and

public comment indicate the need for

sion enters an order temporarily sus-

sist thereafter in making or recommend-

with § 200.112. Such responses shall be included in the public record.

rules today announced shall take effect on March 12, 1977.[2]

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flects new 5 U.S.C. 557(d)(1)(C) and requires that such communications, along with any responses, be placed on the public record of the proceeding.[2] Subsection (b) of the rule incorporates the additional requirement, which appears in existing Rule 112(a) and (b), that the Secretary notify all other participants to the proceeding of the occurrence of the prohibited communication.

Subsection (c) of the amended rule is identical to existing Rule 112(c) and pertains to communications which would be prohibited but for the fact that they are received after the prohibitions in Rule 111(a) have terminated as to the proceeding in question.

§ 200.113—Rule 113(a), pursuant to new 5 U.S.C. 557(d)(1)(C), affords all participants the opportunity to respond to an unauthorized ex parte communication. No amendments (aside from the addition of a descriptive caption) have been made to Subsection (b) of the rule which pertains to the handling of correspondence regarding adjudicatory proceedings.

§ 200.114—Rule 114(a) and (c), which authorize, respectively, the imposition of sanctions against persons who practice before the Commission and against Commission employees who violate the provisions of Subpart F, have not been amended (aside from the addition of descriptive captions). Subsection (b) of the rule, which authorizes adverse action of the merits against a participant who engages in a prohibited communication, has been reworded to conform to the language of 5 U.S.C. 557(d)(1)(C) and of 5 U.S.C. 556(d), as amended by Section 4(c) of the Sunshine Act.

CONCLUSION

The Commission believes that the amendments which it has today adopted will fully conform its rules governing ex parte communications to the language of section 4 of the Sunshine Act but will not significantly alter the substance of the existing code of behavior in this area. Nevertheless, the Commission invites comments from all interested persons concerning its Code of Conduct Governing Ex Parte Communications Between Persons Outside the Commission and Decisional Employees, and intends to afford due consideration to any views received. Although, as stated above, these amendments take effect immediately, the Commission will, should public comment indicate the need for further modifications, consider appropriate steps.

Comments concerning these amendments should be submitted, in triplicate, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, before the close of business on April 15, 1977. All such communications should refer to File S7-682 and will be available for public inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. The text of the amendments discussed herein is set forth below.

TEXT OF RULES

Subpart F—Code of Behavior Governing Ex Parte Communications Between Persons Outside the Commission and Decisional Employees

§ 200.110 Purpose.

This code is adopted in conformity with Section 4 of the Government in the Sunshine Act, Public Law 94-409, and is designed to insulate the administrative process from improper influence.

§ 200.111 Prohibitions; application; definitions.

(a) *Prohibited communications.* In any agency proceeding which is subject to this subpart, except to the extent required for the disposition of ex parte matters as authorized by law—

(1) No interested person outside the agency shall make or knowingly cause to be made to any member of the Commission or decisional employee an ex parte communication relevant to the merits of the proceeding; and

(2) No member of the Commission or decisional employee shall make or knowingly cause to be made to any interested person outside the agency an ex parte communication relevant to the merits of the proceeding.

(b) *Proceedings to which prohibitions apply.* This subpart shall apply to all proceedings subject to 5 U.S.C. 557(a), including suspension proceedings instituted pursuant to the provisions of Regulations A, B, E, and F of the Securities Act of 1933 (§ 230.251 et seq. of this chapter), all review proceedings instituted pursuant to section 19(g) of the Securities Exchange Act of 1934, and all other proceedings where an evidentiary hearing has been ordered pursuant to a statutory provision or rule of the Commission and where the action of the Commission must be taken on the basis of an evidentiary record. In addition, this subpart shall apply to any other proceeding in which the Commission so orders.

(c) *Period during which prohibitions apply.* (1) The prohibitions in § 200.111(a) shall begin to apply when the Commission issues an order for hearing; *Provided,*

(i) That in suspension proceedings pursuant to Regulations A, B, E and F of the Securities Act of 1933 (§ 230.251 et seq. of this chapter), these prohibitions shall commence when the Commission enters an order temporarily suspending the exemption; and

(ii) That in proceedings under section 19(d) of the Securities Exchange Act of 1934 these prohibitions shall commence from the time that a copy of an application for review has been served by the Secretary upon the self-regulatory organization; and

(iii) In no case shall the prohibitions in § 200.111(a) begin to apply later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his or her acquisition of such knowledge.

(2) The prohibitions in § 200.111(a) shall continue until the time to file a petition for rehearing from the final order of the Commission has expired. In the event a petition for rehearing is filed, these prohibitions shall cease if and when the petition for rehearing is denied.

(3) The Commission may, by specific order entered in a particular proceeding, determine that these prohibitions shall commence from some date earlier than the time specified in this subsection (c) or shall continue until a date subsequent to the time specified herein.

(d) *Definitions.* As used in this subpart—

(1) "Ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all participants to the proceeding is not given, but it shall not include requests for status reports on any matter or proceeding. In addition, an ex parte communication shall not include:

(i) Any written communication of which copies are served by the communicator contemporaneously with the transmittal of the communication in accordance with requirements of Rule 23 of the Commission's Rules of Practice, § 201.23 of this chapter, upon all participants to the proceeding (including the interested Division or Office of the Commission); or

(ii) Any oral communication where 48 hours advance written notice is given to all participants to the proceeding (including the interested division of the Commission)

(2) "Participants to the proceeding" means all parties to the proceeding (including the interested Division or Office of the Commission) and any other persons who have been granted limited participation pursuant to the provisions of Rule 9(c) of the Commission's Rules of Practice, § 201.9(c) of this chapter.

(3) "Decisional employee" means: (i) The administrative law judge assigned to the proceeding in question; and

(ii) All members of the staff of the Office of Opinions and Review; and

(iii) The legal and executive assistants to members of the Commission; and

(iv) Any employee of the Commission who has been specifically named by order of the administrative law judge or the Commission in the proceeding to assist thereafter in making or recommending a particular decision; and

(v) Any other employee of the Commission who is, or may reasonably be expected to be, involved in the decisional process of the proceeding.

§ 200.112 Duties of recipient; notice to participants.

(a) *Duties of recipient.* A member of the Commission or decisional employee who receives, or who make or knowingly causes to be made, a communication prohibited by this subsection, or who receives or makes a communication which he or she concludes should, in fairness, be brought to the attention of all participants to the proceeding, shall transmit to the Commission's Secretary, who shall place on the public record of the proceeding:

(1) All such written communications; and

(2) Memoranda stating the substance of all such oral communications; and

(3) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraphs (1) and (2) of this subsection.

(b) *Notice to participants.* The Secretary shall send copies of the communication to all participants to the proceeding with respect to which it was made, and shall notify the communicator of the provisions of this code prohibiting ex parte communications. If the communications are from persons other than participants to the proceedings or their agents, and the Secretary determines that it would be too burdensome to send copies of the communications to all participants because: (1) The communications are so voluminous, or (2) the communications are of such borderline relevance to the issues of the proceedings, or (3) the participants to the proceeding are so numerous, the Secretary may, instead, notify the participants that the communications have been received, placed in the file, and are available for examination.

(c) *Post decisional communications.* Any Commission member or decisional employee who receives a communication which would be prohibited by this Code, but for the fact that it was received subsequent to the date when the prohibitions imposed hereby have ceased to apply, shall comply with the provisions of § 200.112(a) with respect to such communication in the event that he or she is to act in a decisional capacity in the same proceeding pursuant to remand where he or she concludes, in fairness, that such communication should be brought to the attention of all participants to the proceeding.

§ 200.113 Opportunity to respond; interception.

(a) *Opportunity to respond.* All participants to a proceeding may respond to any allegations or contentions contained in a prohibited ex parte communication placed in the public record in accordance with § 200.112. Such responses shall be included in the public record.

(b) *Interception of communications.* * * *

§ 200.114 Sanctions.

(a) *Discipline of persons practicing before the Commission.* * * *

(b) *Adverse action on claim.* Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this subpart, the Commission, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(c) *Discipline of Commission employees.* * * *

Dated: March 10, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-7698 Filed 3-11-77;2:46 pm]

[Release No. 33-5814, 34-13350, 35-19926, 39-458, IC-9671, IA-575, FOIA-51; File No. S7-674]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Government in the Sunshine; Public Observation of Commission Meetings; Information and Requests, and Related Matters

Effective date of the rules: March 12, 1977.

The Securities and Exchange Commission today announced final rulemaking action to implement the Government in the Sunshine Act, 5 U.S.C. 552b ("Sunshine Act"), which has, as its principal provision, the requirement that, unless exempt, "every portion of every meeting of an agency be open to public observation." 5 U.S.C. 552b(b). Except as specifically described below, the rules today announced are identical to the proposals on which public comment was solicited in Securities Act Release No. 5802 (Feb. 2, 1977), 11 SEC Docket 1610 (Feb. 15, 1977), 42 FR 6827 (Feb. 4, 1977).[1] The Commission has reviewed these proposals, and the public comment received thereon, and has concluded that, with minor modifications, the proposed rules will fully implement both the letter and spirit of the Sunshine Act while at the same time protecting the Commission's need, in order properly and fairly to discharge its responsibilities under the federal securities laws, to prevent public disclosure of certain information. The rules today announced shall take effect on March 12, 1977.[2]

The rules herein amend Subpart A (entitled "Organization and Program Management") and Subpart D (entitled "Information and Requests") of the Commission's existing rules in Part 200 of 17 CFR. In addition, the Commission has created a new Subpart B (entitled "Disposition of Commission Business") and a new Subpart I (entitled "Regulations Pertaining to Public Observation of Commission Meetings").[3] A brief synopsis of these rules appears in Securities Act Release No. 5802, supra, and reference should be made thereto.

The full text of the rules is appended to this release. A summary of the changes which the Commission has made in the proposals is set forth below.

§ 200.42(b)(2)—This paragraph provides that the open meetings requirements of Subpart I of the Commission's rules are inapplicable to duty officer action, whether or not the duty officer consults with other members of the Commission. The word "individually" has been added to make clear that only duty officer consultation with individual other members of the Commission does not constitute a meeting as defined in 5 U.S.C. 552b(a)(2).

§ 200.80(b)(2)—The introductory phrase has been amended to conform to the language of 5 U.S.C. 552(b)(2). A parallel change has been made in § 200.402(a)(2).

§ 200.401(f)—The phrase "more probable than not" has been added to the definition of the term "likely to" in order that the language of the definition will more closely parallel the understanding of that term as reflected in the Conference Report on the Sunshine Act, H.R. Rep. No. 94-1441, 94th Cong. 2d Sess. at 15 (1976).

§ 200.402(a)(5)(i)—This clause has been amended to conform to the language in clauses (ii) and (iii) with respect to discussions which involve accusing any person of a crime.

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[1] See also Securities Act Release No. 5805 (Feb. 16, 1977) 42 FR 10698.

[2] Since the rules published in Release No. 33-5802 and today adopted are designed simply to be interpretive of the requirements of the Sunshine Act, these rules are not subject to the provision in 5 U.S.C. 553(d) requiring 30 days advance notice prior to the effective date of a substantive agency rule. In any event, however, pursuant to 5 U.S.C. 553(d)(3), the Commission hereby finds, in view of the fact that the Sunshine Act takes effect on March 12, 1977, that good cause exists for omitting the 30 day notice provided in 5 U.S.C. 553(d).

[3] The Sunshine Act also establishes certain standards regarding ex parte communications in on-the-record agency proceedings. Accordingly, the Commission has, in Securities Act Release No. 5815 (March 10, 1977), amended its existing Code of Behavior Governing Ex Parte Communications Between Persons Outside the Commission and Decisional Employees (17 CFR pt. 200, subpt. F) to conform to 5 U.S.C. 557(d), enacted by the Sunshine Act.

[2] In certain cases, the Commission conducts nonpublic adjudicatory proceedings in which the record is confidential unless and until the Commission enters an order imposing sanctions. In such instances, the Commission construes the requirement in amended Rule 112(a) (which also appears in the existing rule) that ex parte communications be placed "on the public record" to mean only that such communications be added to the file in order that, once the entire record becomes public, the ex parte communication will likewise become public. The Commission does not intend that the occurrence of an ex parte communication will require that the existence of an otherwise private proceeding must become public by virtue of Rule 112(a).

§ 200.402(a)(5)(iv)—This clause, which authorizes the Commission to

Administrative Procedure Act, including the FOIA and Sunshine Acts. The inclu-

The text of the rules which the Commission has today adopted, and which

Commission upon any matter is unneces-

pursuant to § 200.41; or (ii) scheduled for affirmation at a Commission meeting

(ii) Hiring, termination, promotion, discipline, compensation, or reward of

§ 200.402(a)(5)(iv)—This clause, which authorizes the Commission to close meetings concerning the referral of Commission files to other law enforcement bodies, has been amended to include discussion involving whether to "transmit or disclose" files to such agencies. Upon occasion, other agencies or departments receive authorization to inspect Commission files without taking physical possession thereof, and the Commission wishes to make clear that discussion concerning such authorization is closable.

§ 200.403(b)—This subsection has been amended to add the provision, required by 5 U.S.C. 552b(e)(1), that, in certain circumstances, action to omit the one-week advance notice of Commission meetings must be "by a recorded vote."

Several other points which, the Commission has concluded, do not warrant any amendments to the proposals merit brief discussion. First, the use of the word "generically" in the phrase "generically or specifically" in § 200.404(b)(2), which provides that the Commission will announce the persons expected to attend certain closed meetings, is intended simply to permit the Commission to refrain from identifying by name all members of its own staff who might attend such a meeting. The Commission believes that the personal privacy and safety of staff members, coupled with the difficulty of predicting which of its employees are likely to attend, justify a provision of this nature. The Commission does not intend that the specific identity of persons not employed by the Commission would be omitted from announcements of closed meetings, in the unlikely event that attendance by such individuals is expected, except under unusual circumstances.

Second, the Commission recognizes that, in several of its Sunshine and FOIA rules, it has expressly exempted records, or discussions concerning records, received from securities industry self-regulatory organizations. See, e.g., amended 17 CFR § 200.80 (b), (b)(7), (b)(8) and proposed 17 CFR § 200.402 (a), (a)(5)(iv), (a)(7), (a)(8), and (a)(9)(ii). In general, the purpose of these amendments is to make explicit the Commission's long-standing practice of protecting the confidentiality of investigatory, examination, and other records received from self-regulatory organizations, to the same extent that Commission records of a similar nature would be withheld from the public. For example, investigatory records, whether generated by the Commission's staff or obtained from a self-regulatory organization, will not generally be made public if disclosure would interfere with enforcement proceedings, constitute an unwarranted invasion of personal privacy, or may otherwise be withheld under the Freedom of Information Act. The Commission stresses, however, that these amendments and proposals should not be construed as suggesting that self-regulatory organizations are themselves "agencies" within the meaning of the Administrative Procedure Act, including the FOIA and Sunshine Acts. The inclusion of references to self-regulatory organization rules in the Commission's exemptions is a consequence of the obligations of self-regulatory organizations to aid in the enforcement of certain provisions of the federal securities laws, the statutory relationship between the Commission and those entities and of the attendant need to insure the free flow of information between the Commission and the self-regulatory bodies.

Further, with regard to 17 CFR § 200.403(c)(2), which permits the Commission to delete from its agenda particular matters without prior notice, the Commission does not intend that this provision will be invoked as to items previously announced for consideration at a meeting open to the public except in extraordinary circumstances. The Commission recognizes that members of the public may arrange to attend particular open meetings, and will make every effort to afford reasonable notice of any alterations in previously noticed open meetings should such alterations be necessary. In the case, however, of closed meetings, the Commission believes it important that it retain a measure of flexibility to respond to contingencies requiring the omission or rescheduling of agenda items. Since the public would not, in any event, be in attendance at such meetings, the Commission does not believe that § 200.402(c)(2) will inconvenience interested persons.

Finally, in adopting these rules, the Commission re-emphasizes the caveat in Release No. 5802 that the sole purpose of proposed new Subparts B and I of the Commission's rules—"Disposition of Commission Business" and "Regulations Pertaining to Public Observation of Commission Meetings," respectively—is the implementation of the Sunshine Act. These rules are not intended to confer new rights, apart from those expressly conferred by the Act, nor to open to those who disagree with particular Commission decisions new avenues of attack—not available under existing law—upon Commission action for the protection of investors. Accordingly, the rules herein should be interpreted in light of the purposes and terms of the Sunshine Act.

Similarly, the Commission also stresses that the expanded right to observe Commission meetings (and the possibility of obtaining transcripts or recordings of discussion at closed meetings) should not be viewed as creating new grounds for challenging the basis and rationale for Commission action. Observations made by individual members of the Commission during the course of deliberations may not necessarily reflect the reasoning underlying the Commission's final action on a given matter. Thus, the legal sufficiency of Commission action must, as in the past, be judged solely on the basis of the action itself and any official supporting statement released by the Commission—not on the basis of remarks or observations made prior thereto.

The text of the rules which the Commission has today adopted, and which take effect on March 12, 1977, appears below.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 10, 1977.

TEXT OF RULES

1. Section 200.21 of Subpart A of Title 17 CFR is amended by adding the following to § 200.21 to read as follows:

Subpart A—Organization and Program Management

§ 200.21 The General Counsel.

* * * * *

The General Counsel is also responsible for publicly certifying, pursuant to § 200.406, that, in his or her opinion, particular Commission meetings may properly be closed to the public. In the absence of the General Counsel, the most senior Associate General Counsel available shall be deemed the General Counsel for purposes of § 200.406. In the absence of the General Counsel and every Associate General Counsel, the most senior Assistant General Counsel available shall be deemed the General Counsel for purposes of § 200.406. In the absence of every Associate General Counsel and every Assistant General Counsel, such attorneys as the General Counsel may designate (in such order of succession as the General Counsel directs) shall exercise the responsibilities imposed by § 200.406.

2. New Subpart B is added to Part 200 to read as follows:

Subpart B—Disposition of Commission Business

Sec.
200.40 Joint disposition of business by Commission meeting.
200.41 Disposition of business by seriatim Commission consideration.
200.42 Disposition of business by exercise of authority delegated to individual Commissioner.

Subpart B—Disposition of Commission Business

§ 200.40 Joint disposition of business by Commission meeting.

Any disposition of Commission business which entails joint deliberation among the members of the Commission shall occur at Commission meetings in accordance with the definitions and procedures set forth in Subpart I of this part. The Commission's Secretary shall prepare and maintain a Minute Record reflecting the official action taken at such meetings.

§ 200.41 Disposition of business by seriatim Commission consideration.

(a) Whenever the Commission's Chairman, or the Commission member designated as duty officer pursuant to § 200.42, is of the opinion that joint deliberation among the members of the

Commission upon any matter is unnecessary in light of the nature of the matter, impracticable, or contrary to the requirements of agency business, but is of the view that such matter should be the subject of a vote of the Commission, such matter may be disposed of by circulation of any relevant materials concerning the matter to at least that number of Commission members necessary to take action thereon. Each participating Commission member shall report his or her vote to the Secretary, who shall record it in the Minute Record of the Commission.

(b) Whenever any member of the Commission so requests, any matter circulated for disposition pursuant to § 200.41(a) shall be withdrawn from circulation and scheduled instead for joint Commission deliberation.

§ 200.42 Disposition of business by exercise of authority delegated to individual Commissioner.

(a) *Delegation to duty officer.* (1) Pursuant to the provisions of Pub. L. No. 87–592, 76 Stat. 394, as amended by Section 25 of Pub. L. 94–29, 89 Stat. 163, the Commission hereby delegates to an individual Commissioner, to be designated as the Commission's "duty officer" by the Chairman of the Commission (or by the Chairman's designee) from time to time, all of the functions of the Commission; *Provided, however,* That no such delegation shall authorize the duty officer (i) to exercise the function of rulemaking, as defined in the Administrative Procedure Act of 1946, as codified, 5 U.S.C. 551, et seq., with reference to general rules as distinguished from rules of particular applicability; (ii) to make any rule, pursuant to section 19(c) of the Securities Exchange Act of 1934; or (iii) to preside at the taking of evidence as described in section 7(a) of the Administrative Procedure Act, 5 U.S.C. 556(b).

(2) To the extent feasible, the designation of a duty officer shall rotate, under the administration of the Secretary, on a regular weekly basis among the members of the Commission other than the Chairman.

(b) *Exercise of duty officer authority.* (1) The authority delegated by this rule shall be exercised when, in the opinion of the duty officer, action is required to be taken which, by reason of its urgency, cannot practicably be scheduled for consideration at a Commission meeting. After consideration of a staff recommendation involving such a matter, the duty officer shall forthwith report his or her action thereon to the Secretary.

(2) In any consideration of Commission business by a duty officer, the provisions of Subpart I herein, § 200.400 et seq., shall not apply, whether or not the duty officer, in exercising his or her authority, consults with, or seeks the advice of, other members of the Commission individually.

(c) *Commission affirmation of duty officer action.* (1) Any action authorized by a duty officer pursuant to § 200.42(a) shall be either (i) circulated to the members of the Commission for affirmation pursuant to § 200.41; or (ii) scheduled for affirmation at a Commission meeting at the earliest practicable date consistent with the procedures in Subpart I.

(2)(i) The Commission may, in its discretion, at any time review any unaffirmed action taken by a duty officer, either upon its own initiative or upon the petition of any person affected thereby. The vote of any one member of the Commission, including the duty officer, shall be sufficient to bring any such unaffirmed action taken by a duty officer before the Commission for review.

(ii) A person or party adversely affected by any unaffirmed action taken by a duty officer shall be entitled to seek review by the Commission of the duty officer's unaffirmed actions, but only in the event that the unaffirmed action by the duty officer (A) denies any request for action pursuant to sections 8(a) or 8(c) of the Securities Act of 1933, or the first sentence of section 12(d) of the Securities Exchange Act of 1934; (B) suspends trading in a security pursuant to section 12(k) of the Securities Exchange Act of 1934; or (C) is pursuant to any provision of the Securities Exchange Act of 1934 in a case of adjudication, as defined in section 551 of Title 5, United States Code, not required by that Act to be determined on the record after notice and opportunity for hearing (except to the extent there is involved a matter described in section 554(a) (1) through (6) of Title 5, United States Code).

(3) Affirmed or unaffirmed action taken by the duty officer shall be deemed to be, for all purposes, the action of the Commission unless and until the Commission directs otherwise. Rule 26 of the Commission's rules of practice, 17 CFR 201.26, shall not apply to duty officer action.

Subpart D—Information and Requests

3. Section 200.80 of Subpart D of Part 200 is amended as follows: Paragraph (a)(1)(v) is amended; paragraph (a)(1)(vi) is added; and paragraphs (b)(2), (3), (4), and (8) are amended to read as follows:

§ 200.80 Commission records and information.

(a)(1) *Information published in the* FEDERAL REGISTER. * * *

(v) Each amendment, revision, or repeal of the foregoing; and

(vi) The notice of Commission meetings described in § 200.403, but only to the extent, and under the conditions, specified in § 200.403.

* * * * *

(b) *Nonpublic matters.* * * *

(2) Related solely to the internal personnel rules and practices of the Commission or any other agency, including, but not limited to:

(i) Operation rules, guidelines, and manuals of procedure for investigators, attorneys, accountants, and other employees other than those which establish legal requirements to which members of the public are expected to conform; or

(ii) Hiring, termination, promotion, discipline, compensation, or reward of any Commission employee or member, the existence, investigation, or disposition of a complaint against any Commission employee or member, the physical or mental condition of any Commission employee or member, the handling of strictly internal matters, matters which would tend to infringe on the privacy of the staff or members of the Commission, or similar subjects.

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided,* That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential, including, but not limited to:

* * * * *

(7)(i) Investigatory records compiled for law enforcement purposes to the extent that the production of such records would: (A) Interfere with enforcement activities undertaken or likely to be undertaken by the Commission or the Department of Justice, or any United States Attorney, or any federal, state, local, or foreign governmental authority, any professional association, or any securities industry self-regulatory organization; (B) deprive a person of a right to a fair trial or an impartial adjudication; (C) constitute an unwarranted invasion of personal privacy; (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; or (E) disclose investigative techniques and procedures; or (F) endanger the life or physical safety of law enforcement personnel.

(ii) The term "investigatory records" includes, but is not limited to, all documents, records, transcripts, evidentiary materials of any nature, correspondence, related memoranda, or work product concerning any examination, any investigation (whether formal or informal), or any related litigation, which pertains to, or may disclose, the possible violation by any person of any provision of any statute, rule, or regulation administered by the Commission, by any other federal, state, local, or foreign governmental authority, by any professional association, or by any securities industry self-regulatory organization. The term "investigatory records" also includes all written communications from, or to, any person complaining or otherwise furnishing information respecting such possible violations, as well as all correspondence or memoranda in connection with such complaints or information.

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(8) Contained in, or related to, any examination operating, or condition report ... in the notice of Commission meetings described in § 200.403. ... (1) Disclose matters specifically authorized under criteria established by an

CFR 240.17a–9, 240.17a–10, 240.17a–12, and 240.17a–16), and any information ... fessional association, or any securities industry self-regulatory organization; (B) ... tive prior to taking final agency action on such proposal.

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(8) Contained in, or related to, any examination operating, or condition report prepared by, on behalf of, or for the use of, the Commission, any other federal, state, local, or foreign governmental authority, or any securities industry self-regulatory organization, responsible for the regulation or supervision of financial institutions.

* * * * *

4. Add the following sentence to § 200.80a.

§ 200.80a Appendix A Documentary material available to the public.

* * * * *

MISCELLANEOUS

* * * * *

Notices of Commission meetings announced to the public as described in § 200.403; announcements of Commission action to close a meeting, or any portion thereof, as described in § 200.404(b) and § 200.405(c); and certifications by the General Counsel, pursuant to § 200.406, that a Commission meeting, or any portion thereof, may be closed to the public.

5. New Subpart I is added to Part 200 to read as follows:

Subpart I—Regulations Pertaining to Public Observation of Commission Meetings

Sec.

200.400 Open meetings.
200.401 Definitions.
200.402 Closed meetings.
200.403 Notice of Commission meetings.
200.404 General procedure for determination to close meeting.
200.405 Special procedure for determination to close meeting.
200.406 Certification by the General Counsel.
200.407 Transcripts, minutes, and other documents concerning closed Commission meetings.
200.408 Public access to transcripts and minutes of closed Commission meetings; record retention.
200.409 Administrative appeals.
200.410 Miscellaneous.

Subpart I—Regulations Pertaining to Public Observation of Commission Meetings

§ 200.400 Open meetings.

Except as otherwise provided in this subpart, meetings of the Commission shall be open to public observation.

§ 200.401 Definitions.

As used in this subpart—

(a) "Meeting" means the joint deliberations of at least the number of individual members of the Securities and Exchange Commission required to take action on behalf of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by § 200.41 or § 200.42 (respecting seriatim and duty officer disposition of Commission business, respectively), or by §§ 200.403, 200.404, or 200.405 (respecting whether particular Commission deliberations shall be open or closed and related matters).

(b) "Portion of a meeting" means the consideration during a meeting of a particular topic or item separately identified in the notice of Commission meetings described in § 200.403.

(c) "Open," when used in the context of a Commission meeting or a portion thereof, means that the public may attend and observe the deliberations of the Commission during such meeting or portion of a meeting, consistent with the provisions of § 200.410 (respecting decorum at meetings and other related matters).

(d) "Closed," when used in the context of a Commission meeting or a portion thereof, means that the public may not attend or observe the deliberations of the Commission during such meeting or portion of a meeting.

(e) "Announce," and "make publicly available," when used in the context of the dissemination of information, mean, in addition to any specific method of publication described in this subpart, that a document containing the information in question will be posted for public inspection in, or adjacent to, the lobby of the Commission's headquarters offices, and will be available to the public through the Commission's Public Reference Section and the Commission's Office of Public Affairs, all in Washington, D.C.

(f) The term "likely to," as used in § 200.402, illustrating the circumstances under which Commission meetings may be closed, and the circumstances in which information may be deleted from the notice of Commission meetings, means that it is more probable than not that the discussion of Commission business, or publication of information, reasonably could encompass matters which the Commission is authorized, by the Government in the Sunshine Act, Pub. L. 94–409, as implemented by this subpart, to consider or discuss at a closed meeting (or a closed portion of a meeting).

(g) The term "financial institution," as used in § 200.402(a), authorizing the closure of certain Commission meetings, includes, but is not limited to, banks, savings and loan associations, credit unions, brokers and dealers in securities or commodities, exchanges dealing in securities or commodities, national securities associations, investment companies, investment advisers, securities industry self-regulatory organizations subject to 15 U.S.C. 78s, and institutional managers as defined in 15 U.S.C. 78m(f).

(h) The term "person" includes, but is not limited to, any corporation, partnership, company, association, joint stock corporation, business trust, unincorporated organization, government, political subdivision, agency, or instrumentality of a government.

§ 200.402 Closed meetings.

(a) *Nonpublic matters.* Pursuant to the general or special procedures for closing Commission meetings, as set forth in § 200.404 or § 200.405, respectively, a meeting, or any portion thereof, shall be closed to public observation where the Commission determines that such meeting, or a portion thereof, is likely to—

(1) Disclose matters specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy, and in fact properly classified pursuant to such executive order.

(2) Relate solely to the internal personnel rules and practices of the Commission or any other agency, including, but not limited to, discussion concerning

(i) Operation rules, guidelines, and manuals of procedure for investigators, attorneys, accountants, and other employees, other than those rules, guidelines, and manuals which establish legal requirements to which members of the public are expected to conform; or

(ii) Hiring, termination, promotion, discipline, compensation, or reward of any Commission employee or member, the existence, investigation, or disposition of a complaint against any Commission employee or member, the physical or mental condition of any Commission employee or member, the handling of strictly internal matters, which would tend to infringe on the privacy of the staff or members of the Commission, or similar subjects.

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential, including, but not limited to:

(i) Information contained in letters of comment in connection with resignation statements, applications for registration or other material filed with the Commission, replies thereto, and related material which is deemed to have been submitted to the Commission in confidence or to be confidential at the instance of the registrant or person who has filed such material unless the contrary clearly appears; and

(ii) Information contained in any document submitted to or required to be filed with the Commission where the Commission has undertaken formally or informally to receive such submission or filing for its use or the use of specified persons only, such as preliminary proxy material filed pursuant to Rule 14a–6 under the Securities Exchange Act (17 CFR 240.14a–6), reports filed pursuant to Rule 316(a) under the Securities Act (17 CFR 230.316(a)), agreements filed pursuant to Rule 15c3–1 under the Securities Exchange Act, 17 CFR 240.15c3–1, schedules filed pursuant to Part I of Form X–17A–5 (17 CFR 249.617) in accordance with Rule 17a–5(b) (3) under the Securities Exchange Act (17 CFR 240.17a–5(b)(3)), statements filed pursuant to Rule 17a–5(k)(1) under the Securities Exchange Act (17 CFR 240.17a–5(k)(1)), confidential reports filed pursuant to Rules 17a–9, 17a–10, 17a–12 and 17a–16 under the Securities Exchange Act (17 CFR 240.17a–9, 240.17a–10, 240.17a–12, and 240.17a–16), and any information filed with the Commission and confidential pursuant to section 45 of the Investment Company Act of 1940, 15 U.S.C. 80a–44, or Rule 45a–1 thereunder (17 CFR 270.45a–1); and

(iii) Information contained in reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with, an examination or inspection of the books and records of any person or any other investigation.

(5) Involve accusing any person of a crime, or formally censuring any person, including, but not limited to, consideration of whether to:

(i) Institute, continue, or conclude administrative proceedings or any formal or informal investigation or inquiry, whether public or nonpublic, against or involving any person, alleging a violation of any provision of the federal securities laws, or the rules and regulations thereunder, or any other statute or rule a violation of which is punishable as a crime; or

(ii) Commence, participate in, or terminate judicial proceedings alleging a violation of any provision of the federal securities laws, or the rules and regulations thereunder, or any other statute or rule a violation of which is punishable as a crime; or

(iii) Issue a report or statement discussing the conduct of any person and the relationship of that conduct to possible violations of any provision of the federal securities laws, or the rules and regulations thereunder, or any other statute or rule a violation of which is punishable as a crime; or

(iv) Transmit, or disclose, with or without recommendation, any Commission memorandum, file, document, or record to the Department of Justic, a United States Attorney, any federal, state, local, or foreign governmental authority, any professional association, or any securities industry self-regulatory organization, in order that the recipient may consider the institution of proceedings against any person or the taking of any action that might involve accusing any person of a crime or formally censuring any person; or

(v) Seek from, act upon, or act jointly with respect to, any information, file, document, or record where such action could lead to accusing any person of a crime or formally censuring any person by any entity described in paragraph (a)(5)(iv) of this section.

(6) Disclose information of a personal nature, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(7)(i) Disclose investigatory records compiled for law enforcement purposes, or information which, if written, would be contained in such records, to the extent that the production of such records would: (A) Interfere with enforcement activities undertaken, or likely to be undertaken, by the Commission or the Department of Justice, or any United States Attorney, or any federal, state, local, or foreign governmental authority, any professional association, or any securities industry self-regulatory organization; (B) deprive a person of a right to a fair trial or an impartial adjudication; (C) constitute an unwarranted invasion of personal privacy; (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; (E) disclose investigative techniques and procedures; or (F) endanger the life or physical safety of law enforcement personnel.

(ii) The term "investigatory records" includes, but is not limited to, all documents, records, transcripts, evidentiary materials of any nature, correspondence, related memoranda, or work product concerning any examination, any investigation (whether formal or informal), or any related litigation, which pertains to, or may disclose, the possible violation by any person of any provision of any statute, rule, or regulation administered by the Commission, by any other federal, state, local, or foreign governmental authority, by any professional association, or by any securities industry self-regulatory organization. The term "investigatory records" also includes all written communications from, or to, any person complaining or otherwise furnishing information respecting such possible violations, as well as all correspondence or memoranda in connection with such complaints or information.

(8) Disclose information contained in, or related to, any examination, operating, or condition report prepared by, on behalf of, or for the use of, the Commission, any other federal, state, local, or foreign governmental authority, or any securities industry self-regulatory organization, responsible for the regulation or supervision of financial institutions.

(9) Disclose information the premature disclosure of which would be likely to

(i)(A) Lead to significant financial speculation in currencies, securities, or commodities, including, but not limited to, discussions concerning the proposed or continued suspension of trading in any security, or the possible investigation of, or institution of activity concerning, any person with respect to conduct involving or affecting publicly-traded securities, or (B) Significantly endanger the stability of any financial institution; or

(ii) Significantly frustrate the implementation, or the proposed implementation, of action by the Commission, any other federal or state governmental authority or agency, or any securities industry self regulatory agency: *Provided, however*, That this subdivision (ii) shall not apply in any instance where the Commission has already disclosed to the public the precise content or nature of its proposed action, or where the Commission is expressly required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal.

(10) Specifically concern the Commission's consideration of, or its actual: issuance of a subpoena (whether by the Commission directly or by any Commission employee or member); participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration; or initiation, conduct, or dispostion of a particular case of formal adjudication pursuant to the procedures in 5 U.S.C. 554, or otherwise involving a determination on the record after opportunity for a hearing; including, but not limited to, matters involving

(i) The institution, prosecution, adjudication, dismissal, settlement, or amendment of any administrative proceeding, whether public or nonpublic; or

(ii) The commencement, settlement, defense, or prosecution of any judicial proceeding to which the Commission, or any one or more of its members or employees, is or may become a party; or

(iii) The commencement, conduct, termination, status, or disposition of any inquiry, investigation, or proceedings to which the power to issue subpoenas is, or may become, attendant; or

(iv) The discharge of the Commission's responsibilities involving litigation under any statute concernng the subject of bankruptcy; or

(v) The participation by the Commission (or any employee or member thereof) in, or involvement with, any civil judicial proceeding or any administrative proceeding, whether as a party, as amicus curiae, or otherwise; or

(vi) The disposition of any application for a Commission order of any nature where the issuance of such an order would involve a determination on the record after opportunity for a hearing.

(b) *Interpretation of exemptions.* The examples set forth § 200.402(a)(1) through (10) of particular matters which may be the subject of closed Commission deliberations are to be construed as illustrative, but not as exhaustive, of the scope of those exemptions.

(c) *Public interest determination.* Notwithstanding the provisions of § 200.402 (a) (concerning the closing of Commission meetings), but subject to the provisions of § 200.409(a) (respecting the right of certain persons to petition for the closing of a Commission meeting), the Commission may conduct any meeting or portion of a meeting in public where the Commission determines, in its discretion, that the public interest renders it appropriate to open such a meeting.

(d) *Nonpublic matter in announcements.* The Commission may delete from the notice of Commission meetings described in § 200.403, from the announcements concerning closed meetings described in §§ 200.404(b) and 200.405(c), and from the General Counsel's certification described in § 200.406, any information or description the publication of which would be likely to disclose matters of the nature described in § 200.402(a)

(concerning the closing of Commission meetings)

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(concerning the closing of Commission meetings).

§ 200.403 Notice of Commission meetings.

(a) *Content of notice.* (1) In the case of open meetings, or meetings closed pursuant to the procedures specified in § 200.404, the Commission shall announce the items to be considered. For each such item, the announcement shall include:

(i) A brief description of the generic or precise subject matter to be discussed;

(ii) The date, place, and approximate time at which the Commission will consider the matter;

(iii) Whether the meeting, or the various portions thereof, shall be open or closed; and

(iv) The name and telephone number of the Commission official designated to respond to requests for information concerning the meeting at which the matter is to be considered.

(2) Every announcement of a Commission meeting described in this subsection, or any amended announcement described in § 200.403(c), shall be transmitted to the FEDERAL REGISTER for publication.

(b) *Time of notice.* The announcement of Commission meetings referred to in § 200.403(a) shall be made publicly available (and submitted immediately thereafter to the FEDERAL REGISTER for publication) at least one week prior to the consideration of any item listed therein, except where a majority of the members of the Commission determine, by a recorded vote, that Commission business requires earlier consideration of the matter. In the event of such a determination, the announcement shall be made publicly available (and submitted to the FEDERAL REGISTER) at the earliest practicable time.

(c) *Amendments to notice.* (1) (i) The time or place of a meeting may be changed following any public announcement that may be required by § 200.403(a). In the event of such action, the Commission shall announce the change at the earliest practicable time.

(ii) The subject matter of a meeting, or the determination of the Commission to open or close a meeting (or a portion of a meeting), may be changed following any public announcement that may be required by § 200.403(a), if (A) a majority of the entire membership of the Commission determines, by a recorded vote, that Commission business so requires and that no earlier announcement of the change was possible; and (B) the Commission publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(2) Notwithstanding the provisions of this paragraph (c), matters which have been announced for Commission consideration may be deleted, or continued in whole or in part to the next scheduled Commission meeting, without notice.

(d) *Notice of meetings closed pursuant to special procedure.* In the case of meetings closed pursuant to the special procedures set forth in § 200.405, the Commission shall make publicly available, in whole or in summary form,

(1) A brief description of the general subject matter considered or to be considered, and

(2) The date, place, and approximate time at which the Commission will, or did, consider the matter. The announcement described in this subsection shall be made publicly available at the earliest practicable time, and may be combined, in whole or in part, with the announcement described in § 200.403(a).

NOTE.—The Commission intends, to the extent convenient, to adhere to the following schedule in organizing its weekly agenda: Closed meetings to consider matters concerning the enforcement of the federal securities laws and the conduct of related investigations will generally be held on Tuesdays and on Thursday afternoons. An open meeting will generally be held each Thursday morning to consider matters of any appropriate nature. On Wednesdays, either open or closed meetings, or both, will generally be held according to the requirements of the Commission's agenda for the week in question. Normally, no meetings will be scheduled on Mondays, Fridays, Saturdays, Sundays, or legal holidays.

The foregoing tentative general schedule is set forth for the guidance of the public, but is not, in any event, binding upon the Commission. In every case, the scheduling of Commission meetings shall be determined by the demands of Commission business, consistent with the requirements of this Subpart I. When feasible, the Commission will endeavor to announce the subject matter of all then-contemplated open meetings during a particular month at least one week prior to the commencement of that month.

When and if convenient after the conclusion of a closed Commission meeting, the Commission will endeavor to make publicly available a notice describing (subject to the provision in § 200.402(d) regarding nonpublic matter in announcements) the items considered at that meeting and any action taken thereon.

§ 200.404 General procedure for determination to close meeting.

(a) *Action to close meeting.* Action to close a meeting pursuant to § 200.402 (a) or (c) shall be taken only upon a vote of a majority of the entire membership of the Commission. A separate vote of the Commission members shall be taken with respect to each Commission meeting a portion or portions of which are proposed to be closed to the public pursuant to § 200.402(a), or with respect to any information which is proposed to be withheld under § 200.402(d); *Provided, however,* That a single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed, or with respect to any information concerning such series of meetings, so long as each meeting in such series relates to the same matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commission member participating in such vote shall be recorded and no proxies shall be allowed.

(b) *Announcement of action to close meeting.* Within one day of any vote pursuant to paragraph (a) of this section or § 200.409(a) (relating to review of Commission determinations to open a meeting), the Commission shall make publicly available:

(1) A written record reflecting the vote of each participating member of the Commission on the question; and

(2) In the case of a meeting or portion thereof to be closed to the public, a written explanation of the Commission's action closing the meeting or a portion thereof, together with a list describing generically or specifically the persons expected to attend the meeting and their affiliation; and

(3) For every closed meeting, the certification executed by the Commission's General Counsel as described in § 200.406.

§ 200.405 Special procedure for determination to close meeting.

(a) *Finding.* Based, in part, on a review of several months of its meetings, as well as the legislative history of the Sunshine Act, the Commission finds that a majority of its meetings may properly be closed to the public pursuant to § 200.402(a) (4), (8), (9)(i), or (10), or any combination thereof.

(b) *Action to close meeting.* The Commission may, by recorded vote of a majority of its members at the commencement of any meeting or portion thereof, determine to close any meeting or a portion thereof properly subject to being closed pursuant to § 200.402(a) (4), (8), (9)(i), or (10), or any combination thereof. The procedure described in this rule may be utilized notwithstanding the fact that a meeting or portion thereof properly subject to being closed pursuant to § 200.402(a) (4), (8), (9)(i), or (10), or any combination thereof, could also be closed pursuant to § 200.402(a) (1), (2), (3), (5), (6), (7), or (9)(ii), or any combination thereof.

(c) *Announcement of action to close meeting.* In the case of a meeting or a portion of a meeting closed pursuant to this rule, as soon as practicable the Commission shall make publicly available:

(1) A written record reflecting the vote of each participating member of the Commission to close the meeting; and

(2) The certification described in § 200.406, executed by the Commission's General Counsel.

§ 200.406 Certification by the General Counsel.

For every Commission meeting closed pursuant to § 200.402(a) (1) through (10), the General Counsel of the Commission (or, in his or her absence, the attorney designated by General Counsel pursuant to § 200.21) shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision.

§ 200.407 Transcripts, minutes, and other documents concerning closed Commission meetings.

(a) *Record of closed meetings.* Except as provided in § 200.407(b), the Commission's Secretary shall prepare a complete transcript or electronic recording adequate to record fully the proceedings of each closed meeting, or closed portion of a meeting.

(b) *Minutes of closed meetings.* In the case of a meeting, or portion of a meeting, closed to the public pursuant to § 200.402(a) (8), (9)(i), or (10), the Secretary may, in his or her discretion or at the direction of the Commission, prepare either the transcript or recording described in § 200.407(a), or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each participating Commission member on the question). All documents specifically considered by the Commission in connection with any action shall be identified if such minutes are maintained.

(c) *Retention of certificate and statement.* The Secretary shall retain a copy of every certification executed by the General Counsel pursuant to § 200.406, together with a statement from the presiding officer of the meeting, or portion of a meeting to which the certification applies, setting forth the time and place of the meeting, and the persons present.

(d) *Minute Record.* Nothing herein shall affect the provisions of §§ 200.13a and 200.40 requiring the Secretary to prepare and maintain a Minute Record reflecting the official actions of the Commission.

§ 200.408 Public access to transcripts and minutes of closed Commission meetings; record retention.

(a) *Public access to record.* Within twenty days (excluding Saturdays, Sundays, and legal holidays) of the receipt by the Commission's Freedom of Information Act Officer of a written request, or within such extended period as may be agreeable to the person making the request, the Secretary shall make available for inspection by any person in the Commission's Public Reference Room, the transcript, electronic recording, or minutes (as required by § 200.407 (a) or (b)) of the discussion of any item on the agenda, except for such item or items as the Freedom of Information Act Officer determines to involve matters which may be withheld under § 200.402 or otherwise. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication, as set forth in § 200.80e, and, if a transcript is prepared, the actual cost of such transcription.

(b) *Review of deletion from record.* Any person who has been notified that the Freedom of Information Act Officer has determined to withhold any transcript, recording, or minute, or portion thereof, which was the subject of a request for access pursuant to § 200.402 (a), or any person who has not received a response to his or her own request within the 20 days specified in § 200.408 (a), may appeal the adverse determination or failure to respond by applying for an order of the Commission determining and directing that the transcript, recording or minute, or deleted portion thereof, be made available. Such application shall be in writing and should be directed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. The applicant shall state such facts and cite such legal or other authorities as the applicant may consider appropriate. The Commission shall make a determination with respect to any appeal pursuant to this subsection within 20 days (excepting Saturdays, Sundays and legal public holidays) after the receipt of such appeal, or within such extended period as may be agreeable to the person making the request. The Commission may determine to withhold any record that is exempt from disclosure pursuant to § 200.402(a), although it may disclose a record, even if exempt, if, in its discretion, it determines it to be appropriate to do so.

(c) *Retention of record.* The Commission, by its Secretary, shall retain a complete verbatim copy of the transcript, or a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

§ 200.409 Administrative appeals.

(a) *Review of determination to open meeting.* Following any announcement stating that the Commission intends to open a meeting or a portion thereof, any person whose interests may be directly and substantially affected by the disposition of the matter to be discussed at such meeting may make a request, directed to the Commission's Secretary, that the meeting, or relevant portion thereof, be closed pursuant to § 200.402(a) (5), (6), or (7). The Secretary shall circulate such a request to the members of the Commission, along with a supporting statement provided by the requestor setting forth the requestor's interest in the matter and the reasons why the requestor believes that the meeting (or portion thereof) should be closed, and the Commission, upon the request of any one of its members, shall vote by recorded vote on whether to close such meeting or portion.

(b) *Review of determination to close meeting.* Following any announcement that the Commission intends to close a meeting or a portion thereof, any person may make written or telegraphic request, directed to the Commission's Secretary, that the meeting or a portion thereof be open. Such a request shall set forth the requestor's interest in the matter and the reasons why the requestor believes that the meeting (or a portion thereof) should be open to the public. The Secretary shall circulate such a request and supporting statement to the members of the Commission, and the Commission, upon the request of any one of its members, shall vote whether to open such a meeting or a portion thereof.

§ 200.410 Miscellaneous.

(a) *Unauthorized recordings; maintenance of decorum.* Nothing in this subpart shall authorize any member of the public to be heard at, or otherwise participate in, any Commission meeting, or to record any Commission meeting or portion thereof by electronic or photographic devices. The Commission may exclude any person from attendance at any meeting whenever necessary to preserve decorum, or where appropriate or necessary for health or safety reasons, or where necessary to terminate behavior unauthorized by this subsection. Any person desiring to record or photograph an open Commission meeting may apply to the Commission's Secretary for permission to do so, setting forth the requestor's interest in the matter and the reasons why the requestor desires to record or photograph the Commission's proceedings. The Commission's determination whether or not to permit such conduct shall be confided to its exclusive discretion; *Provided, however,* That nothing herein shall preclude any person from taking notes at, or publicly or privately reporting on, the Commission's open meetings.

(b) *Suspension of open meeting.* Subject to the satisfaction of any procedural requirements which may be required by this subpart, nothing in this subpart shall preclude the Commission from directing that the room be cleared of spectators, temporarily or permanently, whenever it appears that the discussion during an open Commission meeting is likely to involve any matter described in § 200.402(a) (respecting closed meetings).

(c) *Access to Commission documents.* Except as expressly provided, nothing in this subpart shall authorize any person to obtain access to any document not otherwise available to the public or not required to be disclosed pursuant to Subpart D. Access to documents considered or mentioned at Commission meetings may only be obtained subject to the procedures set forth in, and the provisions of, Subpart D.

[FR Doc.77-7699 Filed 3-11-77;2:46 pm]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. RM77-4; Order No. 562]

PART 1—RULES OF PRACTICE AND PROCEDURE

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS; MISCELLANEOUS CHARGES; ETHICAL STANDARDS

Order Adopting Rules Governing Observation of Commission Meetings and Ex Parte Communications

On November 15, 1976, the Commission issued a notice in this proceeding, 41 FR 52303 (1976), wherein we proposed to

amend portions of Parts 1 and 3 of the

tical difficulties coupled with the poten-

proposed procedure would result in the

pose in preventing even the appearance

decisional employees made after reason-

on-the-record proceeding" in the cur-

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amend portions of Parts 1 and 3 of the Commission's rules and to adopt a new Section 1.3a, Chapter I, Title 18, CFR, to be entitled "Notice and procedures for Commission meetings." The purposes of the proposed changes are to conform the Commission's current open meeting procedures to the requirements of section 3 of the Government in the Sunshine Act (Act), Pub. L. No. 94-409, and to revise and clarify its current ex parte rule in light of section 4 of the Act.

The Commission had previously issued a notice in Docket No. RM76-24, stating that it had been petitioned by certain utilities and others to amend its ex parte rule, 18 CFR § 1.4(d) (1976). The petition proposed the amendment for the stated purpose of facilitating the disposition of matters before the Commission by allowing informal discussions between Commission staff counsel, or certain other Commission employees, and counsel for parties to proceedings before the Commission concerning proposed settlements or proposed agreements for disposition of particular issues. To the extent that the comments filed in Docket No. RM76-24 have been incorporated by reference by respondents herein, they have been considered in revising the proposed ex parte rule.

The notices provided for a period of comment and comments were received from 24 parties in Docket No. RM76-24[1] and 11 parties in Docket No. RM77-4.[2] The concerns of the commenting parties are discussed hereafter according to subject matter. In addition to the opportunity for written submittals, an on-the-record public conference was held on February 24, 1977 in response to a request for further consideration of the proposed ex parte rule amendments. A number of participants from within and without the Commission attended.[3]

Open Meeting Provisions

The meetings of the Commission, i.e., the deliberations of the Commissioners, have been opened to public observation since April 21, 1976 pursuant to Administrative Order No. 160, issued April 1, 1976. The respondents indicated no objection to the proposed procedures in light of the Act. Some suggestions for technical revisions to the proposed rules are adopted and are not specifically discussed herein.

The Southern California Edison Company (Edison) requested that the Commission allow public observers at open meetings to record such meetings by electronic equipment or cameras in order to benefit those interested persons who are unable to attend due to distance from Washington, D.C. In view of the fact that official minutes of such meetings will be made, which will be available to members of the general public, and that ample provision is made for members of the press desiring to report on the Commission's public deliberations, we decline to accede to Edison's request. The logistical difficulties coupled with the potential for interruption do no warrant allowing the requested procedures in view of alternatives available to those unable to attend the Commission's open meetings.

The Director of the U.S. Department of Health, Education, and Welfare's Consumer Affairs Office commented that the agenda for an open meeting should be publicized as early as possible and at least one month in advance, whenever possible. We will, of course, give notice of such meetings as early as possible, although we recognize that it will likely be infeasible to announce the agenda for a particular meeting more than one week in advance in most situations. The Director also urged that we use the Commission's 24-hour telephone "Hotline" for announcing upcoming meetings. Technical limitations prevent us from extending total taped message time to include meeting announcements at the present; however, we believe the suggestion is a good one and we intend to pursue its implementation whenever it appears technically feasible to do so.

Columbia Gas Transmission Corporation, et al. requested that the Commission expand the current format of its published agenda in order to describe each action being considered by the Commissioners. The Commission's current procedure is to announce its agenda by designating each agenda item by complete docket number without further elaboration. We believe that this procedure is sufficient to alert interested members of the public of the general matters to be considered, particularly in the context of current filings that are available for public inspection. We therefore decline to adopt the suggestion due to the fact that the purpose of the Act is to open the deliberations of the Commissioners to the public rather than to expand the public's rights to secure information which would otherwise be exempt from public disclosure under the Freedom of Information Act. 5 U.S.C. 552(b)(k), 90 Stat. 1241, 1246.

Congresswoman Bella Abzug, Chairwoman of the Government Information and Individual Rights Subcommittee of the House Committee on Government Operations made several suggestions for clarifying amendments which are adopted herein without further elaboration. Congresswoman Abzug incorrectly asserted, however that the Commission cannot avail itself of exemption 9A of the Act "since (the Commission) is not 'an agency which regulates currencies, securities, commodities, or financial institutions.'" In light of our responsibilities under various statutes respecting certain corporate transactions of regulated utilities, we do not choose to delete exemption 9A from the Commission's regulations under the Act. See, e.g., 16 U.S.C. 824b, 824c, 825d and 825q; 15 U.S.C. 717k.

Congresswoman Abzug, without citing any authority for the proposition, suggested that the Commission had no discretion to delete individual items on an agenda without notice. The Commission's proposed procedure would result in the announcement of items for Commission consideration, even though the staff work might not have been completed at the time of the announcement. To eliminate flexibility with respect to deletions of agenda items would serve no useful purpose, while creating additional administrative burdens. The proposed procedure gives adequate notice to the public that a particular matter may be considered at a meeting. The agenda is subject to further check with the agency contact person designated in the notice. We therefore believe that retaining the proposed procedure best serves the needs of the public.

We recognize that a majority of the Commission's meetings may properly be closed to the public pursuant to exemptions 4, 8, 9A or 10 of the Act or any combination thereof. In such a situation, the agency is authorized to provide by special regulation for the closing of meetings under 5 U.S.C. 552b(d)(4), 90 Stat. 1241, 1243. Certain procedural and informational requirements of the Act do not apply to any portion of a meeting closed under such special regulations. This Commission has been in the vanguard in its commitment to a policy of open meetings since the adoption of Administrative Order No. 160. While we do not preclude the possibility that at some future time due to changing conditions the Commission may find it appropriate to provide a more streamlined mechanism for closing meetings, we decline to do so at the present time.

Ex Parte Communications

The Commission's proposal to modify its rule regarding ex parte communications in light of the Act and the legislative history thereof was the focus of considerable comment. Most comments were critical of the Commission's current rule and the proposed rule, arguing that both were unduly restrictive and should be revised to track the language of Section 4 of the Act, Substantive comments are responded to hereafter.

Several respondents commented that the proposed rule was in conflict with the Act because the proposed rule, though less restrictive than the current rule, was more restrictive than and, it was argued, in conflict with the Act. We recognized, and so announced, in our notice of rulemaking that the present rule served to impede unnecessarily the conduct of Commission business by prohibiting generally all contacts between Commission employees and any interested person in any contested on-the-record proceeding. At the same time, we recognized that Section 4 of the Act established a floor, not a ceiling, for prohibited ex parte communications. Thus, the Act would supplement more stringent restrictions against ex parte contacts which an agency may have issued prior to the Act. H.R. Rep. No. 94-880, Part I, 94th Cong., 2d Sess. 19 (1976).

To the extent that our proposed ex parte rule continues to be more restrictive than the minimum required by the Act, we believe that it serves a valid pur-

[1] See Attachment A.
[2] See Attachment B.
[3] See Attachment C.

pose in preventing even the appearance of improper contacts between those within[4] and without the agency. To the extent that the proposed rule would allow limited, informal discussions between staff counsel or certain Commission employees and counsel for parties to proceedings before the Commission, we believe that the relaxation of our present rule in this regard would have the salutory effect of expediting the disposition of Commission business without diminishing the integrity of the decisional process. In any event, non-unanimous settlement proposals would be required to be served upon all parties to a proceeding for such action as they may consider appropriate prior to any formal submission to the Commission.[5] Even after the filing of proposed settlement agreements with the Commission, our practice is to allow submission of comments on the proposal before any action is taken by us. Given the existence of these safeguards against the unfair treatment of any party to a proceeding before this Commission, we cannot believe that such a practice can be reasonably considered to erode public confidence in the administrative process.

Several respondents suggested that the proposed definition of ex parte contacts should be revised to exclude requests for status reports. We encourage such requests to be made to the Secretary.[6] In light of the Act, which expressly excludes requests for status reports on any matter or proceeding covered by the Act as being an ex parte contact, we will not include such requests within our definition of ex parte contacts. S. Rep. No. 94-1178, 94th Cong., 2d Sess. 29 (1976); H.R. Rep. No. 94-1441, 94th Cong., 2d Sess. 29 (1976). At the same time, we wish to make it clear that we will not allow such a request to be used as an indirect or subtle effort to influence the substantive outcome of a covered proceeding. In doubtful cases, Commissioners and staff shall treat the communication as ex parte so as to protect the integrity of the decisionmaking process. H.R. Rep. No. 94-880, Part I, 94th Cong., 2d Sess. 20-21 (1976).

It was also suggested by several respondents that the proposed exemption (vi) to the ex parte rule should eliminate the prohibition against contacts with decisional employees made after reasonable prior notice to and consent of all parties. In order that we not preclude legitimate contacts between the Commission and its staff and outside interested persons, we herein eliminate the limitation. We do so since it is our belief that the decisionmaking process is protected in instances where all parties have been given reasonable prior notice and have unanimously consented to certain communications.

Alabama Power Company et al. suggested that the definition of an ex parte communication be modified to clarify that such a communication is prohibited only when it is relative to the merits of an on-the-record proceeding pending before the Commission. We agree that such is the purpose of Section 4 of the Act, H.R. Rep. No. 94-880, Part I, 94th Cong., 2d Sess. 19-20 (1976), and our proposed rule. Accordingly, our rule will be clarified as suggested.

The Executive Committee of the Federal Power Bar Association (Association) and several participants at the public conference suggested that we define who is a decisional employee with greater precision. We consider this to be an appropriate request and will direct the Commission's Secretary to prepare and issue a list of decisional employees who are to be protected from non-consensual ex parte contacts. Such a list cannot, however, be considered as eliminating the burden upon outside persons to inquire of staff members whether they are decisional employees in a particular proceeding. Similarly, a member of the staff not listed as a decisional employee who acts in that capacity with respect to a particular proceeding should so inform any interested outside person attempting to make an ex parte contact.

This responsibility of the decisional staff is the analogue of the responsibility of the trial staff to make an appearance in a particular proceeding in order to inform the public and the decisional staff that they will not thereafter be involved in the decisional process. See, e.g., Tr. 5. Having voluntarily made or entertained prohibited ex parte communications, an employee will be prohibited from future participation in the decisional process of the relevant pending on-the-record proceeding. See, e.g., Tr. 50-51.

The Association also suggested that the Commission clarify those proceedings covered by the ex parte prohibition. We believe that the proposed rule sufficiently defines the scope of the prohibition to cover any proceeding "required by statute, constitution, published Commission rule or regulation or order in a particular case, to be decided on the basis of the record of a Commission hearing. * * *"

Edison urged that we modify the proposed rule to eliminate the provision for triggering the prohibition by the filing of protests and notices to intervene in a particular proceeding. We do not believe that this provision creates any additional difficulties for the public since it parallels the definition of "contested on-the-record proceeding" in the current rule. More importantly, however, there are sometimes unavoidable, but lengthy intervals between the filing of protests or petitions to intervene and any notice for hearing which may be issued in a particular proceeding. In such instances, we do not believe that such delays, unavoidable though they may be, should serve to erode public confidence in the decisional process by effectively preventing protestants and intervenors from being informed about and participating at all stages of a pending proceeding.

The Commission finds: (1) The notice and opportunity to participate in this rulemaking proceeding with respect to the matters presently before this Commission through the submission, in writing, and presentation at a public, on-the-record conference held on February 24, 1977 of data, views, comments, and suggestions in the manner described above, are consistent and in accordance with the procedural requirements prescribed by 5 U.S.C. 553.

(2) Good cause exists for making the amendments herein adopted effective immediately upon issuance.

(3) It is necessary and appropriate for the administration of the Government in the Sunshine Act, the Federal Power Act and the Natural Gas Act, that the Commission's General Rules be amended as herein provided.

The Commission, acting pursuant to the authority granted the Federal Power Commission by the Federal Power Act, as amended, particularly Sections 308 and 309 (49 Stat. 858, 859; 16 U.S.C. 825g, 825h), by the Natural Gas Act, as amended, particularly Sections 15 and 16 (52 Stat. 829, 830; 15 U.S.C. 717n, 717o), and by Pub. L. No. 94-409 (90 Stat. 1241) orders:

(A) Part I—Rules of Practice and Procedure—Chapter I, Title 18 of the Code of Federal Regulations, is amended as follows:

1. Section 1.1(c)(1) is revised to read as follows:

§ 1.1 The Commission.

* * * * * * *

(c) Sessions. * * * (1) *Public.* Public sessions of the Commission will be held after due notice as ordered by the Commission. (See §§ 1.3 and 1.3a).

* * * * * * *

2. Section 1.2(a)(1) is revised to read as follows:

§ 1.2 The Secretary.

(a) *Official records.* (1) The Secretary shall have custody of the Commission's seal, the minutes of all action taken by the Commission, the transcripts, electronic recordings or minutes of meetings closed to public observation, its rules and regulations and its administrative orders.

* * * * * * *

3. Immediately following § 1.3, a new § 1.3a, Notice and procedures for Commission meetings, is added. Section 1.3a reads as follows:

[4] Several respondents expressed concern that improper contacts may occur between trial staff and advisory staff in the absence of an express prohibition and of separation of function within the staff. We do not believe that further actions are necessary in this regard since we construe 18 CFR § 1.30(f) as prohibiting improper contacts between different staff elements. Thus, any Commission employee who participates in a substantial manner in a contested on-the-record proceeding should enter a formal appearance in that proceeding, whether or not appearing as a witness or as staff counsel, and should thereafter refrain from improper contacts with the advisory, i.e., decisional, staff.

[5] Unaccepted proposals of settlement may continue to be privileged and shall not be admissible in evidence against any counsel or person claiming such privilege pursuant to 18 CFR § 1.18(e) (1976).

[6] See, e.g., 18 CFR § 3.100(b) (1976).

§ 1.3a Notice and procedures for Com-

fact properly classified pursuant to such

court or international tribunal, or an ar-

meeting setting forth the time and place of the meeting, and the persons present,

(6) For an extension of the time limit prescribed by paragraph (e)(5) of this

about the meeting shall also be submitted by the Secretary of the Com-

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§ 1.3a Notice and procedures for Commission meetings.

(a) *Definitions.* In this section:

(1) "Agency", as defined in 5 U.S.C. 551(1) as "* * * each authority of the Government of the United States, whether or not it is within or subject to review by another agency, * * *" includes "* * * any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency * * *" (5 U.S.C. 552(e)) which is headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency;

(2) "Meeting" means the deliberations of at least the number of individual members of the Federal Power Commission required to take action on behalf of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by paragraphs (d)(3) and (f) of this section;

(3) "Member" means an individual who belongs to the collegial body heading the Federal Power Commission; and

(4) "Staff" includes the employees of the Federal Power Commission other than the five Commissioners.

(b) *Open meetings.* (1) Every portion of every meeting of the Federal Power Commission will be open to public observation subject to the exemptions provided in paragraph (d)(1) of this section. Open meetings will be attended by the Commissioners, certain Commission staff, and any other individual or group desiring to observe the meeting. The public will be invited to observe and listen to the meeting but not to participate nor to record any any of the discussions by means of electronic or other devices or cameras. Documents being considered at Commission meetings may be obtained subject to the procedures and exemptions set forth in § 1.36 of this Part.

(2) Commission members shall not jointly conduct or dispose of agency business other than in accordance with this section.

(c) *Physical arrangements.* The Secretary shall be responsible for seeing that ample space, sufficient visibility, and adequate acoustics are provided for public observation of the Commission meetings.

(d) *Closed meetings.* (1) Meetings will be closed to public observation where the Commission properly determines, according to the procedures set forth in paragraph (d)(3) of this subsection, that such portion or portions of the meeting or disclosure of such information is likely to:

(i) Disclose matters that are (A) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and are (B) in fact properly classified pursuant to such Executive order;

(ii) Relate solely to the internal personnel rules and practices of an agency;

(iii) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(iv) Disclose the trade secrets and commercial or financial information obtained from a person and privileged or confidential, which may include geological or geophysical information and data, including maps, concerning wells;

(v) Involve accusing any person of a crime, or formally censuring any person;

(vi) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, including personnel and medical files and similar files;

(vii) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or, (F) endanger the life or physical safety of law enforcement personnel;

(viii) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(ix) Disclose information the premature disclosure of which would:

(A) In the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

(B) In the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except that paragraph (d)(1)(ix)(B) shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(x) Specifically concern the Commission's issuance of a subpoena, or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Commission of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

(2) Commission meetings shall not be closed pursuant to paragraph (d)(1) of this section when the Commission finds that the public interest requires that they be open.

(3) (i) Action to close a meeting, or portion thereof, pursuant to the exemptions defined in paragraph (d)(1) of this section shall be taken only when a majority of the entire membership of the Commission votes to take such action. A separate vote of the Commission members shall be taken with respect to each Commission meeting a portion or portions of which are proposed to be closed to the public or with respect to any information which is proposed to be withheld. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commission member participating in such vote shall be recorded and no proxies shall be allowed.

(ii) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close such portion to the public for any of the reasons referred to in paragraph (d)(1)(v), (d)(1)(vi), (d)(1)(vii) of this section, the Commission, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

(iii) Within one day of any vote taken pursuant to paragraph (d)(3)(i) or (d)(3)(ii) of this section, the Secretary of the Commission shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Secretary shall, within one day of the vote taken pursuant to paragraph (d)(3)(i) or (d)(3)(ii) of this section, make publicly available a full written explanation of the Commission's action closing the portion together with a list of all persons expected to attend the meeting and their affiliation. The information required by this paragraph shall be disclosed except to the extent that it is exempt from disclosure under the provisions of paragraph (d)(1) of this section.

(e) *Transcripts.* (1) Prior to a determination that a meeting should be closed pursuant to paragraph (d) of this section, the General Counsel of the Commission shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the

meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Secretary of the Commission as part of the transcript, recording, or minutes required by paragraph (e)(2) of this section.

(2) The Secretary shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraphs (d)(1)(viii), (d)(1)(ix)(A), or (d)(1)(x) of this section, the Secretary shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll-call vote (reflecting the vote of each member on the question). All agenda documents considered in connection with any Commission action shall be identified in such minutes.

(3) The Secretary shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

(4) Within a reasonable time after the adjournment of a meeting closed to the public, the Commission shall make available to the public, in the Office of Public Information of the Commission, Washington, D.C., the transcript, electronic recording, of minutes (as required by paragraph (e)(2) of this section) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Director of Public Information determines to contain information which may be withheld under paragraph (d) of this section. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription (see § 3.102).

(5) The determination of the Director of Public Information to withhold information pursuant to paragraph (e)(4) of this section may be appealed to the Chairman of the Commission, in his capacity as administrative head of the Commission pursuant to Section 1 of Reorganization Plan No. 9 of 1950. The Chairman, or officer designated pursuant to § 3b.224(f) of this subchapter, will make a determination to withhold or release the requested information within twenty days from the date of receipt of the request for review (excluding Saturdays, Sundays, and legal public holidays).

(6) For an extension of the time limit prescribed by paragraph (e)(5) of this section, the provisions of § 1.36(f)(3) of this part shall apply.

(f) *Public announcement.* (1) Except to the extent that such information is exempt from disclosure under the provisions of paragraph (d) of this section, in the case of each meeting, the Secretary of the Commission shall make public announcement at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and telephone number of the official designated by the Commission to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the Commission determines by a recorded vote that Commission business requires that such meeting be called at an earlier date, in which case the Secretary shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(2) The time or place of a meeting may be changed following the public announcement required by paragraph (f)(1) of this section only if the Secretary publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this subsection only if (i) a majority of the entire membership of the Commission determines by a recorded vote that Commission business so requires (as for example, pursuant to paragraph (d)(3)(ii) of this section) and that no earlier announcement of the change was possible, and (ii) the Secretary publicly announces such change and the vote of each member upon such change at the earliest practicable time: *Provided*, That individual items which have been announced for Commission consideration may be deleted without notice.

(3) The "earliest practicable time", as used in this subsection, means as soon as possible, which should in few, if any, instances be later than the commencement of the meeting or portion in question.

(4) The Secretary of the Commission shall use reasonable means to assure that the public is fully informed of the public announcements required by this subsection. For example, such announcements may be posted on the Commission's public notice boards, published in official FPC publications, or sent to the persons on a mailing list maintained for those who want to receive such material.

(5) Immediately following each public announcement required by this subsection, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in a preceding announcement, and the name and telephone number of the official designated by the Commission to respond to requests for information about the meeting shall also be submitted by the Secretary of the Commission for publication in the FEDERAL REGISTER.

(6) Following each Commission meeting, the Secretary shall issue a list of Commission actions taken which shall become effective as of the date of issuance of the related order or other document, which the Secretary shall issue in due course, all in the manner prescribed by the Commission under the Natural Gas Act, Federal Power Act, or other legal authority.

* * * * * *

4. Section 1.4(d) is amended as follows:

(a) Paragraph (1) is amended by adding two new definitions to the second sentence.

(b) Five new subparagraphs (v), (vi), (vii), (viii), and (ix) are added to paragraph (2).

(c) Paragraph (3) is amended by the addition of a phrase to the first sentence and by the addition of two additional sentences.

(d) Paragraph (4) is amended by deleting the fourth sentence.

(e) Paragraph (6) is redesignated as paragraph (7) and a new paragraph (6) is added.

(f) Newly designated paragraph (7) is completely revised.

Section 1.4(d), as amended, reads as follows:

§ 1.4 Appearances and practice before the Commission.

* * * * *

(d) *Ex parte communications.* * * *

(1) * * *

For the purposes of this paragraph, the term "ex parte communication" means an oral or written communication relative to the merits of an on-the-record proceeding pending before the Commission which is not on the public record and with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this section; the term "decisional employee" means a Commissioner or member of his personal staff, an administrative law judge, or any other employee of the Commission who is or may be reasonably expected to be involved in the decisional process of the proceeding; the term "contested on-the-record proceedings" means * * *

(2) The prohibitions contained in paragraph (d)(1) of this section do not apply to a communication:

* * * * * *

(v) When the communication is between the staff counsel assigned to the proceeding or, in the presence of or after coordination with such staff counsel, any other employee of the Commission (except a decisional employee) and any party or counsel to any party or parties to the proceeding or, in the presence of or after coordination with such counsel or party, and agent of any such party: *Provided*, That any employee of the Commission who may reasonably be expected to participate in the decisional

process may waive such participation by

Commission, Administrative Law Judge,

§ 3.102 Public information requests,

PRESENT

ject of a Notice of Intent and Hearings

While the Freedom of Information Act does not apply to disclosure to Federal

process may waive such participation by entering a staff appearance in the proceeding: *Provided further*, That nonunanimous settlement offers shall thereafter be served on all participants in the proceeding prior to the submission of such offers to the Commission;

(vi) Which all the participants agree may be made on an ex parte basis;

(vii) Related to routine safety, construction, and operational inspections of project works by the Commission staff not undertaken to investigate or study a matter pending in issue before the Commission in any on-the-record proceeding;

(viii) Related to routine field audits of the accounts or any books or records of a company subject to the Commission's accounting requirements not undertaken to investigate or study a matter pending in issue before the Commission in any on-the-record proceeding;

(ix) Which relates solely to a request for supplemental information or data necessary for an understanding of factual materials contained in documents filed with the Commission in a proceeding covered by this subsection and which is made in the presence of or after coordinationer with counsel, except a communication with a decisional employee, in the absence of waiver of participation.

(3) All written communications prohibited by paragraph (d)(1) of this section, all sworn statements reciting the substance of all such oral communications, and all written responses and sworn statements reciting the substance of all oral responses to such prohibited communications shall be delivered to the Secretary of the Commission who shall place the communication in public files associated with the case, but separate from the record material upon which the Commission can rely in reaching its decision. The Secretary shall serve such communications upon all parties to the proceeding. The Secretary shall also serve a copy of the sworn statement to the communicator and allow him a reasonable opportunity to file a response.

(4) A Commissioner, member of his immediate staff, Administrative Law Judge, or any other employee of the Federal Power Commission who receives an oral offer of any communication prohibited by paragraph (d)(1) of this section shall decline to listen to such communication and shall explain that the matter is pending for determination. If unsuccessful in preventing such communication, the recipient thereof shall advise the communicator that he will not consider the communication. The recipient shall prepare a sworn statement setting forth the substance of the communication and the circumstances thereof within 48 hours and deliver the statement to the Secretary of the Commission for compliance with the procedures established in paragraph (d)(3) of this section.

* * * * *

(6) Upon receipt of a communication knowingly made in violation of paragraph (d)(1) of this section, the Commission, Administrative Law Judge, or other employee presiding at the hearing may require, to the extent consistent with the interests of justice and the policy of underlying statutes, the communicator to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(7) The prohibitions contained in paragraph (b)(1) of this section shall apply from the time at which a proceeding is noticed for hearing or the person responsible for such communication has knowledge that it will be noticed for hearing or at the time at which a protest or a petition or notice to intervene in opposition to requested Commission action has been filed, whichever occurs first.

* * * * *

5. Section 1.36 is amended as follows:

a. Subsection (a) is amended by adding a new sentence immediately following the second sentence.

b. Paragraph (14) of subsection (c) is redesignated as paragraph (15) and a new paragraph (14) would be added.

c. Subparagraph (iii) of the newly designated paragraph (15), in susection (c), is revised.

Section 1.36, as amended, reads as follows:

§ 1.36 Public information and requests.

* * * * *

(a) *Notice of proceedings.* * * * Notice of applications for certificates of public convenience and necessity under section 7 of the Natural Gas Act is provided for by § 157.9 of this chapter. Notice of public sessions and proceedings and of meetings of the Commission is provided by §§ 1.3 and 1.3a of this chapter.
* * *

* * * * * *

(c) *Public records.*

* * * * *

(14) Transcripts, electronic recordings, or minutes of Commission meetings closed to public observation containing material nonexempt pursuant to § 1.3a of this Part.

(15) All other records of the Commission except for those that are:

* * * * *

(iii) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

* * * * *

(B) Section 3.102(b), Part 3—Organization; Operation; Information and Requests; Miscellaneous Charges; Ethical Standards, Chapter I, Title 18 of the Code of Federal Regulations is amended by adding a new sentence immediately following the third sentence. As amended, § 3.102(b) reads as follows:

§ 3.102 Public information requests, and assistance; miscellaneous charges.

* * * * *

(b) * * * Any person may obtain a copy of the schedule of fees by requesting such schedule from the Office of Public Information in person, by telephone, or by mail. Copies of transcripts, electronic recordings, or minutes of Commission meetings closed to public observation containing material non-exempt pursuant to § 1.3a of this Part are available to the public at the actual cost of duplication or transcription.

* * * * *

(C) The Secretary shall issue a list of employees usually participating in the decisionmaking process, which is to be updated periodically.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A—RESPONDENTS IN DOCKET No. RM76-24

American Bar Association
Cities of Adrian, Minnesota, et al.
Columbia Gas of Kentucky, Inc., et al.
Consumers Power Company
The Dayton Power and Light Company
Delmarva Power and Light Company
Executive Committee of The Federal Power Bar Association
FPC—Bureau of Natural Gas
FPC—Office of Administrative Law Judges
FPC—Office of Economics, Bureau of Power, Office of the General Counsel, and Office of Special Assistants
Georgia Power Company
Gulf Power Company
Interstate Natural Gas Association of America
The Montana Power Company
Northern Natural Gas Company
Pacific Power and Light Company
Phillips Petroleum Company
Power Authority of the State of New York
Public Service Commission of the State of New York
Public Service Company of New Mexico
Public Service Electric and Gas Company
Southern California Edison Company
Tucson Gas and Electric Company
Wisconsin Municipal Electric Utilities

ATTACHMENT B—RESPONDENTS IN DOCKET No. RM77-4

Cong. Bella Absug
Alabama Power Company, et al.
Columbia Gas Transmission Corporation, et al.
Consumers Power Company
Executive Committee of the Federal Power Bar Association
FPC, Bureau of Natural Gas
HEW, Virginia H. Knauer, Director, Office of Consumer Affairs
Interstate Natural Gas Association of America
Northern Natural Gas Company
Southern California Edison Company
Tenneco Oil Company

ATTACHMENT C—PARTICIPANTS IN PUBLIC CONFERENCE IN DOCKET No. RM77-4 HELD FEBRUARY 24, 1977

PRESENT

Romulo L. Diaz, Jr., of the Commission, presiding.
William I. Harkaway, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20006, on behalf of the Federal Power Bar Association.
Jerome J. McGrath, John H. Cheatham, III, of the Interstate Natural Gas Association, on behalf of the Interstate Natural Gas Association.
William G. Porter, Jr., of Porter, Stanly, Platt & Arthur, 37 W. Broad Street, Columbus, Ohio, on behalf of Alabama Power Co., et al.
Richard M. Merriman, of Reid & Priest, 1701 K Street, Northwest, Washington, D.C. 20006, on behalf of the Federal Power Bar Association.
Francis J. Walsh, 1101 17th Street, Northwest, Washington, D.C., on behalf of Union Texas.
C. R. Tilley, of Columbia Gas System Service Corporation, 1625 I Street, N.W., Washington, D.C. 20006, on behalf of Columbia Gas System Service Corporation and Columbia Gas Transmission Corporation.
Frederick T. Searls, of Debevoise and Liberman, 806 15th Street, Northwest, Washington, D.C. 20005, on behalf of Alabama Power Company, et al.
Thomas P. Ryan, Jr., 821 15th Street, Northwest, Washington, D.C. 20005, on behalf of himself.
Kenneth Richardson, Joseph J. Solters, William Baglebter, Robert Scarbrough, Lilo Schifter, H. H. Hammond, William W. Lindsay, of the Federal Power Commission, on behalf of the Federal Power Commission.
Mary Jane Klipple, Room 500, 1101 17th Street, N.W., Washington, D.C. 20036, on behalf of Foster Associates.
Carl W. Ulrich, of Chapman, Gadsby, Hannah and Duff, 1700 Pennsylvania Avenue, N.W., Washington, D.C. 20006, on behalf of Colorado Interstate Gas Company.
George L. Weber, of Consolidated Natural Gas Service Co., Inc., 1101 16th Street, N.W., Washington, D.C., on behalf of Consolidated Natural Gas Co.
William Warfield Boss, 1320 19th Street, N.W., Washington, D.C. 20036, on behalf of the Administrative Law Section, American Bar Association.
Harry L. Albrecht, 1120 Connecticut Avenue, N.W., Washington, D.C. 20037, on behalf of Natural Gas Pipeline Co.
Anthony D. Pryor, P.O. Box 2511, Houston, Texas 77001, on behalf of Tennessee Gas Pipeline Co.
Morton L. Simons, of Simons & Simons, 1629 K Street, N.W., Washington, D.C. 20006.

[FR Doc.77-7795 Filed 3-11-77;5:01 pm]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

PART 422—ORGANIZATION AND PROCEDURES

Freedom of Information

In order to conform current regulations to the requirements of the Freedom of Information Act as amended by the Government in the Sunshine Act, Pub. L. 94-409, secion 5(b) effective March 12, 1977, the Secretary of Health, Education, and Welfare is issuing the interim amendment to 20 CFR Part 401 set out below. The rules for disclosure of social security records contained in 20 CFR Part 401, the Social Security Administration's Regulation No. 1, were the subject of a Notice of Intent and Hearings published by the Commissioner of Social Security on November 22, 1976 (41 FR 51425). The notice solicited public comments and testimony on the Social Security Administration's disclosure policy in anticipation of a proposal to amend Regulation No. 1. The Department is currently studying the testimony received at public hearings and the written comments as part of an indepth evaluation of existing policy and preparation of a notice of proposed rulemaking. The Secretary has determined that an interim Regulation No. 1 is needed immediately so that the disclosure rules for social security information will be consistent with the requirements of the amended Freedom of Information Act. For that reason the Secretary finds that prior notice and public comment on the interim regulation, as well as a delayed effective date, are impracticable and contrary to the public interest. Although the interim regulation contains the general disclosure policy for social security information, a final set of rules (which will be established as soon as practicable after notice of proposed rulemaking and further opportunity for public comment) will explain the application of the disclosure policy in a much more specific manner.

Social security information, as referred to herein, includes information obtained by the Department in administering titles II, XVI, and XVIII of the Social Security Act, irrespective of the organizational component within the Department responsible for the administration of the programs authorized by those titles.

Prior to the Government in the Sunshine Act, any social security information protected by Regulation No. 1 pursuant to section 1106(a) of the Social Security Act was also immune from disclosure under the Freedom of Information Act. Such information constituted matter "specifically exempted from disclosure by statute" within the meaning of exemption (3) of the Freedom of Information Act, 5 U.S.C. 552(b)(3). The Government in the Sunshine Act amended exemption (3) with the result that the Department can no longer cite section 1106(a) as authority for denying a Freedom of Information Act request. The Congressional Conference Committee specifically noted section 1106(a) as an example of a statute whose terms would not bring it within the amended exemption (3). See House of Representative Report No. 94-1441, 94th Cong., 2d Sess. (August 26, 1976) p. 25. Accordingly any social security information previously withheld on this basis must be made available unless another Freedom of Information Act exemption applies or another statute, which qualifies under amended exemption (3), prohibits disclosure. The Social Security Administration has applied the Freedom of Information Act rules to nonpersonal information since the July 1975 amendment to Regulation No. 1, 40 FR 27649, and the Department will now apply these rules to personal information as well.

While the Freedom of Information Act does not apply to disclosure to Federal agencies, Federal and State courts, or to instances where no specific request is made, the Department considers that a single consistent set of interim rules best promotes the public interest. Therefore, the interim regulation incorporates the principles of the Freedom of Information Act as the general rules for determining whether social security information may be disclosed, whether or not the Freedom of Information Act specifically applies. If, considering the circumstances of the disclosure, the information would not be exempt under 5 U.S.C. 552(b), the information may be disclosed (unless, of course, disclosure would be prohibited by another statute such as the Privacy Act or the Internal Revenue Code as amended by the Tax Reform Act of 1976). If the information would be exempt under the Freedom of Information Act, then the information will generally not be disclosed. The rules provide that information arguably exempt—for example, internal memoranda under 5 U.S.C. 552(b)(5) or investigatory records under 5 U.S.C. 552(b)(7)—may nevertheless be released under criteria for "waiving" an exemption. The interim regulation also expressly incorporates the access requirements of the Privacy Act and the mandatory disclosure provisions of the Freedom of Information Act, as well as the disclosure restrictions of other applicable laws.

In applying the interim rules to social security information, in all likelihood the most pertinent Freedom of Information Act exemption will be exemption (6), 5 U.S.C. 552(b)(6). Exemption (6) protects

personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This exemption requires the Department to weigh the individual's interest in privacy against the public interest served by disclosure. The Department anticipates that application of this balancing test to the records of workers and beneficiaries will produce results similar to the existing rules in Regulation No. 1. Therefore, a significant change in the availability of beneficiary or worker information is not intended or anticipated. Nevertheless unforeseen differences could occur in some cases, since the outcome of the balancing test depends on the precise facts of the case to which it is applied.

The balancing test may have a different impact on some other information currently protected by Regulation No. 1, for example, payments to individual physicians under the Medicare program. Although this information reflects at least to some degree the physician's income, a matter in which he has a privacy interest, disclosure would serve the strong public interest in the accountability of government programs, revealing how public funds are spent and the extent to which the funds are paid to individuals when acting in a business or professional capacity. The Department's past disclo-

sure of the amounts paid to physicians below. The Secretary finds that new

disclosed. The procedural rules in Part

datory disclosure under Freedom of In-

XVI provides for a finding of disability

of impairments which meets or equals the proposed additional medical criteria

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sure of the amounts paid to physicians under the Medicaid program would be consistent with a determination that releasing the same information regarding Medicare payments does not involve a "clearly unwarranted" invasion of privacy.

Furthermore, exemption (4), while it may affect the new rules for disclosure of some social security data, would not appear to preclude disclosure of Medicare payments. Exemption (4), 5 U.S.C. 552 (b)(4), applies to "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Since Medicare payment information is generated by the Department and its carriers, the data are not "obtained from" a source outside the Executive Branch as required by current case law on exemption (4).

In addition to exemptions (4) and (6), the new disclosure rules will also require the Department in some instances to apply exemption (3), the "statutory" exemption in 5 U.S.C. 552(b)(3). Although section 1106(a) no longer qualifies, there are other statutes affecting social security information which appear to meet the exemption (3) criteria as amended by the Sunshine Act. For example, the Tax Reform Act of 1976 will still govern the redisclosure of tax "returns" and "return information" in the possession of the Department. Section 1865(a)(2) of the Social Security Act, which protects the confidentiality of accreditation survey reports submitted by the Joint Commission on Accreditation of Hospitals, will continue to do so under the new disclosure rules. Sections 1106 (d) and (e) of the Social Security Act, which protect certain official reports dealing with the operation of the health programs established by title XVIII of the Act, qualify under exemption (3) and will remain binding. The rules of these and other qualifying statutes are incorporated in the new Regulation No. 1 simply by reference to the "Freedom of Information Act rules," which include, by definition, exemption (3).

The regulation also provides that the procedural rules in 20 CFR Part 422, Subpart E, will apply to requests for disclosure governed by the substantive rules in Part 401. Under this provision, the fee schedules in 20 CFR Part 422 and the Department public information regulation, 45 CFR Part 5, will be applied to requests pursuant to the Freedom of Information Act. The fees for access by individuals to information about them in program record systems under the Privacy Act are limited, of course, by the Privacy Act, 5 U.S.C. 552a(f)(5), as implemented by the Department Privacy Act regulation, 45 CFR 5b.13. Fees for all other disclosures will be determined in accordance with section 1106(b) of the Social Security Act. It is anticipated that determinations thereunder will follow the prior rules established in 20 CFR 401.6 before amendment.

Accordingly, the principles of the Freedom of Information Act are adopted as interim rules for disclosure in the amendments to 20 CFR Part 401 set forth below. The Secretary finds that new statutory requirements resulting from the Government in the Sunshine Act establish good cause for dispensing with prior notice and a delayed effective date. Therefore, as authorized by the Administrative Procedure Act, 5 U.S.C. 553 (b) and (c), the amendments are adopted effective immediately.

If you have questions, please contact Mr. Kenneth Dyer, Acting Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7454.

(Secs. 205, 1102, and 1106 of the Social Security Act; 49 Stat. 624, as amended, 647, as amended, 53 Stat. 1398, as amended; sec. 290, 66 Stat. 234; (42 U.S.C. 405, 1302, 1306; 8 U.S.C. 1360; 5 U.S.C. 552a) (Privacy Act of 1974); (5 U.S.C. 552) (Freedom of Information Act), as amended by Pub. L. 94-409, 90 Stat. 1241; 26 U.S.C. 6103, as amended by Pub. L. 94-455, 90 Stat. 1667 (Tax Reform Act of 1976))

(Catalog of Federal Domestic Assistance Programs No. 13.800-13.807, Social Security Programs.)

NOTE: The Department has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 amended by Executive Order 11949 and OMB Circular A-107.

Dated: March 11, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Parts 401 and 422 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

1. Part 401 is amended by deleting §§ 401.4 through 401.6 and amending §§ 401.1 through 401.3 as follows:

§ 401.1 Purpose and scope.

(a) The regulations in this part implement section 1106(a) of the Social Security Act. As authorized by section 1106 (a), these regulations prescribe rules for the disclosure of information protected by section 1106(a). The rules apply to information obtained by officers or employees of the Department in the course of administering titles II, XVI, and XVIII of the Social Security Act, information obtained by Medicare intermediaries or carriers in the course of carrying out agreements under sections 1816 and 1842 of the Social Security Act, information obtained by State agencies in the course of carrying out agreements for making disability or blindness determinations under sections 221 and 1633 of the Social Security Act, information obtained during the course of a consultative examination under Part 404, § 404.1527 or Part 416, § 416.927 of this chapter, and any other information subject to section 1106(a) of the Social Security Act. The rules do not govern disclosure of information which is not subject to the prohibitions of section 1106(a), such as employee personnel records or other information maintained solely for purposes of personnel management.

(b) Except as authorized by the rules in this part, no information described in paragraph (a) of this section shall be disclosed. The procedural rules in Part 422, Subpart E, of this chapter shall be applied to requests for information which is subject to the rules for disclosure in this part.

(c) Requests for information which may not be disclosed according to the provisions of this part shall be denied under authority of section 1106(a) of the Social Security Act and this part, and furthermore, such requests which have been made pursuant to the Freedom of Information Act shall be denied under authority of an appropriate Freedom of Information Act exemption, 5 U.S.C. 552 (b).

§ 401.2 Definitions.

For purposes of this part: (a) The term "Freedom of Information Act rules" means the substantive mandatory disclosure provisions of the Freedom of Information Act, 5 U.S.C. 552 (including the exemptions from mandatory disclosure, 5 U.S.C. 552(b), as implemented by the Department's public information regulation, 45 CFR Part 5, Subpart F and by Part 422, Subpart E of this chapter);

(b) The term "subject individual" means an individual whose record is maintained by the Department in a system of records, as the terms "individual," "record," and "system of records" are defined in the Privacy Act of 1974, 5 U.S.C. 552a(a);

(c) The term "person" means a person as defined in the Administrative Procedure Act, 5 U.S.C. 551(2). This includes State or local agencies, but does not include Federal agencies or State or Federal courts.

§ 401.3 Rules for disclosure.

(a) *General rule.* The Freedom of Information Act rules shall be applied to every proposed disclosure of information. If, considering the circumstances of the disclosure, the information would be made available in accordance with the Freedom of Information Act rules, then the information may be disclosed regardless of whether the requester or recipient of the information has a statutory right to request the information under the Freedom of Information Act, 5 U.S.C. 552, or whether a request has been made.

(b) *Application of the general rule.* Pursuant to the general rule in paragraph (a) of this section,

(1) Information shall be disclosed—

(i) To a subject individual when required by the access provision of the Privacy Act, 5 U.S.C. 552a(d), as implemented by the Department Privacy Act regulation, 45 CFR Part 5b; and

(ii) To a person upon request when required by the Freedom of Information Act, 5 U.S.C. 552;

(2) Unless prohibited by any other statute (e.g., the Privacy Act of 1974, 5 U.S.C. 552a(b), the Tax Reform Act of 1976, 26 U.S.C. 6103, or section 1106 (d) and (e) of the Social Security Act), information may be disclosed to any requester or recipient of the information, including another Federal agency or a State or Federal court, when the information would not be exempt from mandatory disclosure under Freedom of Information Act rules or when the information nevertheless would be made available under the Department's public information regulation's criteria for disclosures which are in the public interest and consistent with obligations of confidentiality and administrative necessity, 45 CFR Part 5, Subpart F, as supplemented by Part 422, Subpart E of this chapter.

§§ 401.4–401.6 [Deleted]

§ 422.426 [Amended]

2. Section 422.426 of Subpart E of Part 422 is amended by deleting paragraph (b) and redesignating paragraph (c) as paragraph (b).

[FR Doc.77-7754 Filed 3-11-77;4:14 pm]

[Regs. No. 4, 16]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Rights and Benefits Based on Disability; Determination of Disability or Blindness; Additional Medical Criteria for Determinations of Disability for Children Under Age 18

On December 3, 1976, there was published in the FEDERAL REGISTER (41 FR 53042) a notice of proposed rule making with proposed amendments to Subpart P, Regulations No. 4 and Subpart I, Regulations No. 16. The proposed amendments provided: (1) Additional medical criteria for the determination of disability of children under age 18 under title XVI of the Social Security Act; and (2) For the use of these criteria when evaluating disability under title II of a wage earner under age 18. Section 501(b) of Pub. L. 94-566, enacted October 20, 1976, requires that we publish these criteria within 120 days of enactment. Interested parties were given 45 days from the date of publication of that notice within which to submit any data, views, or arguments to the Social Security Administration, Department of Health, Education, and Welfare.

These criteria were developed in consultation with the Social Security Administration's Medical Consultant Staff, augmented by physicians with expertise in specific subspecialties of pediatrics. Several groups in the medical community were requested to comment on these medical criteria as they were being formulated.

The definition of disability in title XVI closely parallels that in title II, with the exception that title XVI provides specifically for eligibility for children under age 18 on the basis of disability. Within the basic definition of disability (i.e., an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months), title XVI provides for a finding of disability in the case of a child under the age of 18 if the child suffers from any medically determinable physical or mental impairment of comparable severity.

In determining "comparable severity," it is necessary to recognize that the manifestations of certain disease processes in children may be different than in adults, even where the diagnosed disease is the same.

The basic requirements for the determination of disability for children under age 18 are found in Regulations No. 16, Subpart I, § 416.904. Section 416.904 provides, in part, that disability will be deemed to exist for a child under age 18 if the child is not engaging in substantial gainful activity and his impairment(s) meets the requisite durational requirement and is either listed in the published appendix to Subpart I or, with appropriate consideration of the particular effect of disease processes in children, is medically the equivalent of a listed impairment. Thus, determinations of disability of children have been made and will continue to be made under the authority provided in § 416.904 and in consideration of the basic requirements stated therein.

The Listing of Impairments in the published appendix to Subpart I is identical to that in the appendix to Subpart P of Regulations No. 4. These criteria had originally been developed for the purpose of determining disability with respect to the essentially adult claimant population of the title II disability insurance program. When these criteria were adopted for the title XVI program, it was recognized that for a number of impairments, the medical criteria published in the appendix were directly applicable for determining disability of children, as well as of adults, and that these criteria could readily be used in children's claims.

Conversely, it was also recognized from the outset that some of the published criteria would not be directly applicable for determining disability of children because those criteria are based primarily on experience with impairments in adults. Additionally, it was recognized that some diseases and impairments generally seen only in young children were not addressed in the published appendix. Experience gained in evaluating impairments of children since January 1974 indicates the advisability of providing additional medical criteria at this time.

These proposed additional criteria do not alter the basic requirements for determining disability for children under § 416.904. They will, however, facilitate the decision making process because the criteria are directly applicable for determining disability for children. Because these proposed additional medical criteria are based on the concept of "comparable severity" to the Listing of Impairments published in the appendix to Subpart I, there should not be any transitional problems upon a child's attainment of age 18. Absent medical improvement, an impairment or a combination of impairments which meets or equals the proposed additional medical criteria for children until the attainment of age 18 would be expected to meet or equal the comparable existing medical criteria after the attainment of age 18.

The proposed amendments also contain technical revisions; specifically, the appendix has been redesignated "Appendix 1" and subdivided into Parts A and B. Part A contains the Listing of Impairments in the published appendix and is applicable to all individuals age 18 and over and to children under age 18 where it is clear, based upon the medical facts of the case, that the criteria are appropriate. Part B, which is herewith published as a Final Regulation, is applicable only to the evaluation of children's impairments where the criteria in Part A do not give appropriate consideration to the particular effect of disease processes in childhood. Thus, where additional criteria are included in Part B, the impairment categories are, to the extent feasible, numbered in such a way as to maintain a relationship with their counterparts in Part A.

We are also amending Regulations No. 4, Subpart P, § 404.1506 to refer to Part B when evaluating disability under title II of a wage earner under age 18 where the adult criteria are not applicable. Though not conclusive of the issue of disability in title II claims, use of the criteria in Part B will facilitate the title II decision making process in those cases where an applicant under age 18 applies for disability benefits on the basis of his own earnings.

In response to the Notice of Proposed Rule Making various interested parties submitted comments which were considered in preparing these final regulations. There follows a discussion of the comments received from 30 sources.

1. One writer stated that the proposed amendments to the regulations do not show how the Department arrived at the proposed medical criteria nor how the impairments are disabling; and another inquired about the extent of input from practicing physicians. The medical criteria were developed and formulated over a 2-year period by the Social Security Administration Medical Consultant Staff together with practicing physicians, and other professionals, such as psychologists, who are experts in various specialties, primarily pediatrics. In identifying these impairments and the level of severity which would establish disability, these professionals placed primary emphasis on the effects of physical and mental impairments in children, the impact of the impairment on the child's activities, and the restrictions on growth, learning, and development imposed on the child by the impairments. Those impairments which were determined to impact on the child's development to the same extent that the adult criteria have on an adult's ability to engage in substantial gainful activity were deemed to be of "comparable severity" to the adult listing. All the listed impairments have a severe impact on the child's development in one form or another—

physical, mental, emotional, or social.

6. Some writers indicated that the medically determinable physical or men-

proposed amendments to the regulations

18. One writer raised a question as to the clarity of the criteria for growth

2. The entries for section 416.906, and Appendix in the Table of Contents for

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physical, mental, emotional, or social. Thus, within this context, we believe that we have complied with Congressional intent and the law.

2. Another commentator stated that the Social Security Administration interprets severity in medical rather than functional terms. Such an interpretation is necessary because the proposed amendments to the regulations are derived from section 1614(a)(3)(C) of the Social Security Act, which specifies that a physical or mental impairment is one which is "demonstrable by medically acceptable clinical and laboratory diagnostic techniques." The medical criteria proposed, however, do result in functional limitations or restrictions, depending on the nature of the impairments, and these have been considered.

3. One writer questioned the use of the term "medically determinable" in § 416.-904, pointing out that the exact cause of mental deficiency is not known in many cases. The term "medically determinable" is not meant to imply that the specific etiology of a disabling condition must be determined, but that its effect and limitations are discernible by the use of techniques commonly employed and accepted by medical professionals. In the case of mental deficiency, this can include detailed accounts of the child's daily activities, based on the observations of professional persons, as explained in section 112.00 of the Appendix.

4. Several writers commented that the proposed amendments to the regulations provide for a finding of childhood disability only when the particular child's impairment fits within one of the impairments enumerated in the regulations and that they do not make provision for a situation where a child has several impairments which involve more than one body system. The impairments listed in Appendix 1 provide a means to efficiently and equitably evaluate the more common impairments. The enumeration of these impairments does not preclude a finding of disability for children who have an impairment that is not included in the Appendix, nor does it preclude a favorable decision in cases where the child has a combination of impairments—where the individual impairments are less severe than a listed impairment. Decisions in such cases are made within the framework of § 416.-904(b), which provides for evaluating unlisted impairments or a combination of multiple impairments. These decisions are made on the basis of whether the unlisted impairment, or the totality of impairments, are of a severity equivalent to a listed impairment.

5. One writer stated that the Listing is simply a modification of that used for adults. We agree that for those impairments common to both adults and children the proposed Listing corresponds to the adult Listing, with modifications of the adult criteria, where necessary, to take into account the different impact on children. In addition, the Listing contains impairments that are generally seen only in children.

6. Some writers indicated that the regulations should be broadened to include developmental needs. The medical criteria in Appendix 1 do consider developmental levels. Many of the criteria were established by considering disability in terms of departures from developmental norms at various levels. Developmental needs, however, such as counseling, special education, training, rehabilitation, guidance, etc., are not considered because they are not within the scope of the law.

7. Other writers suggested that the regulations should be based on a definition of disability which responds specifically to the physical, mental, and emotional development of the child; and several commentators believed that children must be evaluated according to developmental milestones. In applying the law, we considered those medical factors which relate to physical, mental, and emotional development. We also considered developmental milestones and, where they apply, these criteria were incorporated into the Listing so that the regulations do describe childhood impairments that interfere with the child's development.

8. A number of writers suggested that title XVI should include additional provisions for the general welfare and health needs of disabled children. Several writers suggested that the proposed regulations be broadened to help all children in need of medical care. Another writer recommended that responsibility for the care of children found disabled under the regulations be linked with a State program for crippled children. Another writer was concerned about the absence of a provision for dental care. Finally, one writer observed that the regulations should weigh the effect of the child's familial and educational development. While we concur that disabled children require many services, the intent of Congress is to provide benefits for children who meet the definition of disability. Because none of the above concerns relate to "disability," no changes are being made. To the writer who suggested a link with a State program for crippled children, however, Public Law 94–566, enacted on October 20, 1976, amends section 1615 of title XVI and provides for the referral of those children found blind or disabled under the title XVI criteria to a State agency, such as one providing crippled children's services, for appropriate counseling, medical, educational, developmental, rehabilitative, and social services.

9. One writer noted that § 416.902 gives consideration to education and indicated that consideration of education in an infant or child is inappropriate. We agree that consideration of education is inapproprate in determining disability in children under age 18. Section 416.902 does not apply to children under age 18; it refers to individuals age 18 and over.

10. Section 416.904 states that a child under age 18 will be found to be disabled as defined in § 416.901(b)(1) if he has a medically determinable physical or mental impairment of comparable severity to that which qualifies an individual age 18 or over. Several writers expressed concern about the phrase "if the child is not engaging in substantial gainful activity" as contained in § 416.904. A recommended substitution for "substantial gainful activity" was "age-appropriate major daily activities." This portion of § 416.904 is derived from section 1614(a)(3) and does not enter into the medical evaluation process. It covers the unusual situation where a child is actually working and deriving substantial earnings therefrom despite the presence of a severe impairment. As required by section 1614(a)(3)(D) of the Social Security Act, such a situation would preclude a finding of disability. Further, we believe that to set a standard based on "age-appropriate major daily activities" for all impairments is unduly restrictive and not within the intent of the law.

11. Other writers stated that it seems inappropriate to use a work-related definition for children. Recognizing that children are not expected to engage in work activity, disability in children has been defined in terms of a child's activity, growth, and development. Thus, the child's theoretical capacity to engage in work activity is not considered in determining disability under the listing in Appendix A.

12. Another writer states that a child's performance of substantial gainful work should not be a conclusive factor in denying supplemental security income benefits. This writer points out that some disabled children may be in situations where they are found to engage in employment. Not all employment situations constitute substantial gainful activity as defined elsewhere in the regulations (§§ 416.932, 416.933, and 416.934). Most persons who are denied under this provision (which applies to adults as well as children) are those who have developed special skills that permit them to perform substantial work despite a severe impairment. It would be unusual for a child who has a severe impairment to find and successfully perform substantial gainful activity. In that event, however, section 1614(a)(3)(D) of the Social Security Act requires a denial of the disability claim.

13. One writer was concerned that "substantial gainful activity" could be interpreted to mean attendance in a school classroom. The term substantial gainful activity as defined in §§ 416.932–416.934 of the regulations refers only to that activity within a work situation which is usually performed for remuneration, pay, or profit. Thus, school attendance cannot be construed as substantial gainful activity.

14. Appendix 1, Part B, section 112.00B states that developmental milestone criteria may be the sole basis for adjudication only in cases where the child's young age or condition preclude formal standardized testing by a psychologist or psychiatrist experienced in testing children. One writer commented that the proposed amendments to the regulations limit the identification of mental disorders to physicians; additionally, he suggested that psychologists are limited to a testing role. Under the title XVI statutory provisions, evidence from a medical source is necessary to establish the existence, severity, and duration of an impairment. Psychologists are recognized as a source of medical evidence as pointed out in Appendix I, Part A, section 12.00D, which indicates that "the severity of a mental disorder should be evaluated on the basis of psychiatrists' reports, hospital reports, psychologists' reports and description of daily activities." Consequently, psychologists' reports represent primary sources of medical evidence and are included in determining whether disability exists. Additionally, section 112.00B of the proposed amendments to the regulations indicates that standardized intelligence test results are essential to the adjudication of all cases of mental retardation that are not clearly covered under the provisions of section 112.05A. Thus, many cases may include psychologists' reports containing a composite of information pertaining to the claimant's daily activities and current behavior, as well as laboratory findings including the results of standardized psychological tests. Because the validity of these test results are important in the documentation and evaluation of mental deficiency, the regulations simply emphasize that they should be administered by qualified and experienced psychologists or psychiatrists. Reference to psychologists in this capacity is not intended to imply that their role is limited to this function. Because all symptoms, signs, and laboratory findings by psychologists are considered medical evidence and because their role is not limited to that of testing, no change in the proposed regulatory language is required.

15. One writer commented that the medical criteria of the regulations should be reviewed in light of the medical advances. Consistent with traditional policies of the Social Security Administration, the need for ongoing review of the regulations in light of progress in medicine is fully appreciated and undertaken periodically. Future revisions will be made based on these medical advances and operating experience.

16. One commenter was concerned that investigations of continuing medical severity, after entitlement, will infringe upon privacy. Periodic redeterminations of disability do not constitute an invasion of the individual's privacy if he wishes benefits. In scheduling future reexaminations to determine whether medical recovery has occurred, emphasis is placed on those who have impairments which have a definite potential for improvement.

17. Another writer objected to the use of the pronouns "her," "his," and "him." This accords with §416.120(c)(11) of the regulations which states that the masculine gender includes the feminine, unless otherwise indicated.

18. One writer raised a question as to the clarity of the criteria for growth impairment and pointed out that the requirement of one standard deviation of bone age delay would include too many normal children. Appropriate changes have been made to section 100.00 Growth Impairment in response to this comment.

19. Three writers advised using additional higher frequency tone levels in evaluating hearing impairments, and one writer advised other clarifying language for evaluating hearing impairments. These changes have been incorporated in sections 102.00, and 102.08.

20. Two writers recommended clarifying language for section 104.00 Cardiovascular Impairments. A number of these have been adopted. The others are under study.

21. Two writers questioned the specific identification of Down's syndrome under section 112.00. Because there is an adequate basis for adjudication of impairments associated with this diagnosis elsewhere in the Regulations, the reference to Down's syndrome in sections 112.00 and 112.05 have been removed.

Section 102.02 has been revised to clarify that the standard for evaluating impairment of central visual acuity in adults also applies to children under age 18. Minor editorial changes have also been made. According, these amendments to the regulations are adopted as set forth below.

(Secs. 223, 1102, 1614, 1631, of the Social Security Act, as amended; 70 Stat. 815, 49 Stat. 647, as amended, 86 Stat. 1471, 86 Stat. 1475; 42 U.S.C. 423, 1302, 1382c, 1383.)

Effective date: The amendments shall be effective March 16, 1977.

(Catalog of Federal Domestic Assistance Programs No. 13.802, Social Security-Disability Insurance, No. 13.807, Supplemental Security Income Program.

NOTE: The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order No. 11821 and OMB Circular A–107.

Dated: February 16, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: March 9, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Parts 404 and 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

1. Section 404.1506 is amended by inserting a new paragraph (e) to read as follows:

§ 404.1506 Listing of impairments in appendix.

* * * * *

(e) In determining whether a wage earner under age 18 has an impairment which is disabling on medical considerations alone (see § 404.1502(a)), reference shall also be made to Part 416, Subpart I, Appendix 1, Part B.

2. The entries for section 416.906, and Appendix in the Table of Contents for Part 416, Subpart I are revised as follows:

Subpart I—Determination of Disability or Blindness

* * * * *

416.906 Listing of impairments in Appendix 1.

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APPENDIX 1—LISTING OF IMPAIRMENTS

Part A.—Criteria Applicable to Individuals Age 18 and Over and to Children Under Age 18 Where Criteria are Appropriate.

Part B.—Additional Medical Criteria for the Evaluation of Impairments of Children.

3. Paragraph (a) of § 416.902 is revised to read as follows:

§ 416.902 Evaluation of disability for individuals age 18 or over.

(a) Whether or not an impairment in a particular case constitutes a disability, as defined in § 416.901(b)(1), is determined from all the facts of that case. Primary consideration is given to the severity of the individual's impairment. Consideration is also given to such other factors as the individual's age, education and work experience. Medical considerations alone can justify a finding that the individual is not under a disability where the only impairment is a slight neurosis, slight impairment of sight or hearing, or other slight abnormality or a combination of slight abnormalites. On the other hand, medical considerations alone (including physiological and psychological manifestations of aging) can, except where other evidence rebuts a finding of "disability," e.g., the individual is actually engaging in substantial gainful activity, justify a finding that the individual is under a disability where his impairment is one that meets the duration requirement in § 416.901(b)(1), and is listed in Part A of Appendix 1 to this Subpart I, or the Social Security Administration determines his impairment (or combined impairments) to be medically the equivalent of a listed impairment (see § 416.905).

* * * * *

4. Section 416.904 is revised to read as follows:

§ 416.904 Evaluation of disability of a child under age 18.

A child under age 18 will be found to be disabled as defined in § 416.901(b)(1) if he has a medically determinable physical or mental impairment of comparable severity to that which qualifies an individual age 18 or over. Disability shall be deemed to be of comparable severity and to exist under § 416.901(b)(1) if the child is not engaging in substantial gainful activity, and if:

(a) His impairment or impairments meet the durational requirements in § 416.901(b)(1), and are listed in Appendix 1 to this Subpart I; or

(b) His impairment or impairments are not listed in Appendix 1 to this Subpart I but singly or in combination meet the durational requirement in § 416.901(b)(1) and are determined by the Social

Security Administration with appropri-

in children or when the disease process

available. Heights (or lengths) should be

102.01 CATEGORY OF IMPAIRMENTS, SPECIAL

A. Recent, recurrent intense asthmatic at-

Security Administration, with appropriate consideration of the particular effect of disease processes in childhood, to be medically the equivalent of a listed impairment (see § 416.905).

5. Section 416.905 is revised to read as follows:

§ 416.905 Determining medical equivalence.

(a) An individual's impairment or impairments shall be determined to be medically the equivalent of an impairment listed in Appendix 1 to this Subpart I, only if the medical findings with respect thereto are at least equivalent in severity and duration to the listed findings of the listed impairment.

(b) Any decision with respect to disability made under the criteria in § 416.901(b) as to whether an individual's impairment or impairments are medically the equivalent of an impairment listed in Appendix 1 to this Subpart I, shall be based on medical evidence demonstrated by medically acceptable clinical and laboratory diagnostic techniques, including a medical judgment furnished by one or more physicians designated by the Social Security Administration, relative to the question of medical equivalence. A "physician designated by the Social Security Administration" shall include a physician in the employ of or engaged for this purpose by the Social Security Administration or State agency authorized to make determinations of disability.

6. Section 416.906 is amended by revising the title, redesignating the existing paragraphs (b), (c), and (d) as (c), (d), and (e) respectively, incorporating technical revisions in the existing paragraphs (a) and (c), and inserting a new paragraph (b) to read as follows:

§ 416.906 Listing of impairments in appendix 1.

(a) With respect to § 416.901(b)(1), the Listing of Impairments in Appendix 1 to this Subpart I describes, for each of the major body systems, impairments which:

(1) Are of a level of severity which can justify a finding that the individual is disabled, except where other evidence rebuts such a finding; and

(2) Are expected to result in death or to last for a continuous period of not less than 12 months.

(b) The Listing of Impairments consists of two parts—A and B. Part A contains medical criteria that are applicable to all individuals age 18 and over. The medical criteria in Part A may also be applied in the evaluation of impairments in children under age 18 where the disease processes have similar impairment impact on children and adults. Part B contains additional medical criteria applicable only to the evaluation of impairments of children under age 18. Part B is used where the criteria in Part A do not give appropriate consideration to the particular effects of the disease processes in childhood; i.e., when the disease process is generally found only in children or when the disease process differs in its effect on children than on adults. Where additional criteria are included in Part B, the impairment categories are, to the extent feasible, numbered to maintain a relationship with their counterparts in Part A. The method for adjudicating claims for children under age 18 is to look first to Part B. Where the medical criteria in Part B are not applicable, the medical criteria in Part A should be used.

* * * * *

(d) An impairment shall not be considered to be one listed in Appendix 1 to this Subpart I solely because it has the name of a listed impairment. To be considered a listed impairment, it must also have such attendant findings as are recited in the Listing for the impairment.

* * * * *

7. Subpart I of Part 416 is amended by designating the existing Listing of Impairments as Part A entitled as follows:

APPENDIX 1

LISTING OF IMPAIRMENTS

Part A

Criteria applicable to individuals age 18 and over and to children under age 18 where criteria are appropriate.

Sec.
1.00 Musculoskeletal System.
2.00 Special Sense Organs.
3.00 Respiratory System.
4.00 Cardiovascular System.
5.00 Digestive System.
6.00 Genito-Urinary System.
7.00 Hemic and Lymphatic System.
8.00 Skin.
9.00 Endocrine System.
10.00 Multiple Body Systems.
11.00 Neurological.
12.00 Mental Disorders.
13.00 Neoplastic Diseases—Malignant.

* * * * *

8. Subpart I of Part 416 is further amended by adding to Appendix 1 a new Part B, which read as follows:

Part B

Additional medical criteria for the evaluation of impairments of children under age 18 (where criteria in Part A do not give appropriate consideration to the particular disease process in childhood).

Sec.
100.00 Growth Impairment.
101.00 Musculoskeletal System.
102.00 Special Sense Organs.
103.00 Respiratory System.
104.00 Cardiovascular System.
105.00 Digestive System.
106.00 Genito-Urinary System.
107.00 Hemic and Lymphatic System.
109.00 Endocrine System.
110.00 Multiple Body Systems.
111.00 Neurological.
112.00 Mental and Emotional Disorders.
113.00 Neoplastic Diseases—Malignant.

100.00 GROWTH IMPAIRMENT

A. *Impairment of growth* may be disabling in itself or it may be an indicator of the severity of the impairment due to a specific disease process.

Determinations of growth impairment should be based upon the comparison of current height with at least three previous determinations, including length at birth, if available. Heights (or lengths) should be plotted on a standard growth chart, such as derived from the National Center for Health Statistics: NCHS Growth Charts. Height should be measured without shoes. Body weight corresponding to the ages represented by the heights should be furnished. The adult heights of the child's natural parents and the heights and ages of siblings should also be furnished. This will provide a basis upon which to identify those children whose short stature represents a familial characteristic rather than a result of disease. This is particularly true for adjudication under § 100.02B.

B. *Bone age determinations* should include a full descriptive report of roentgenograms specifically obtained to determine bone age and must cite the standardization method used. Where roentgenograms must be obtained currently as a basis for adjudication under § 100.03, views of the left hand and wrist should be ordered. In addition, roentgenograms of the knee and ankle should be obtained when cessation of growth is being evaluated in an older child at, or past, puberty.

C. The criteria in this section are applicable until closure of the major epiphyses. The cessation of significant increase in height at that point would prevent the application of these criteria.

100.01 CATEGORY OF IMPAIRMENTS, GROWTH

100.02 *Growth impairment*, considered to be related to an additional specific medically determinable impairment, and one of the following:

A. Fall of greater than 15 percentiles in height which is sustained; or

B. Fall to, or persistence of, height below the third percentile.

100.03 *Growth impairment*, not identified as being related to an additional, specific medically determinable impairment. With:

A. Fall of greater than 25 percentiles in height which is sustained; and

B. Bone age greater than two standard deviations (2 SD) below the mean for chronological age (see § 100.00B).

101.00 MUSCULOSKELETAL SYSTEM

A. *Rheumatoid arthritis.* Documentation of the diagnosis of juvenile rhematoid arthritis shoud be made according to an established protocol, such as that published by the Arthritis Foundation, *Bulletin on the Rheumatic Diseases*, Vol. 23, 1972–1973 Series, p. 712. Inflammatory signs include persistent pain, tenderness, erythema, swelling, and increased local temperature of a joint.

B. *The measurements of joint motion* are based on the technique for measurements described in the "Method of Measuring and Recording," published by the American Academy of Orthopedic Surgeons in 1965, or "The Extremities and Back" in *Guides to the Evaluation of Permanent Impairment*, Chicago, American Medical Association, 1971 Chapter 1, pp. 1–48.

C. *Degenerative arthritis* may be the end stage of many skeletal diseases and conditions, such as traumatic arthritis, collagen disorders, septic arthritis, congenital dislocation of the hip, aseptic necrosis of the hip, slipped capital femoral epiphyses, skeletal dysplasias, etc.

101.01 CATEGORY OF IMPAIRMENTS, MUSCULOSKELETAL

101.02 *Juvenile rheumatoid arthritis.* With:

A. Persistence or recurrence of joint inflammation despite six months of medical treatment and one of the following:

1. Limitation of motion of two major joints of 50 percent or greater; or

2. Fixed deformity of two major weight-bearing joints of 30 degrees or more; or

3. Radiographic changes of joint narrowing, erosion, or subluxation; or

4. Persistent or recurrent systemic involvement such as iridocyclitis or pericarditis; or

B. Steroid dependence.

101.03 *Deficit of musculoskeletal function* due to deformity or musculoskeletal disease and one of the following:

A. Walking is markedly reduced in speed or distance despite orthotic or prosthetic devices; or

B. Ambulation is possible only with obligatory bilateral upper limb assistance (e.g. with walker, crutches); or

C. Inability to perform age-related personal self-care activities involving feeding dressing and personal hygiene.

101.05 *Disorders of the spine.*

A. *Fracture of vertebra with cord involvement (substantiated by appropriate sensory and motor loss).*

B. *Scoliosis (congenital idiopathic or neuromyopathic).* With:

1. Major spinal curve measuring 60 degrees or greater; or

2. Spinal fusion of six or more levels. Consider under a disability for one year from the time of surgery; thereafter evaluate the residual impairment; or

3. FEV (vital capacity) of 50 percent or less of predicted normal values for the individual's measured (actual) height.

C. *Kyphosis or lordosis measuring 90 degrees or greater.*

101.08 *Chronic osteomyelitis* with persistence or recurrence of inflammatory signs or drainage for at least 6 months despite prescribed therapy and consistent radiographic findings.

102.00 SPECIAL SENSE ORGANS

A. *Visual impairments in children.* Impairment of central visual acuity should be determined with use of the standard Spellen test chart. Where this cannot be used, as in very young children, a complete description should be provided of the findings using other appropriate methods of examination, including a description of the techniques used for determining the central visual acuity for distance.

The accommodative reflex is generally not present in children under 6 months of age. In premature infants, it may not be present until 6 months plus the number of months the child is premature. Therefore absence of accommodative reflex will be considered as indicating a visual impairment only in children above this age (6 months).

Documentation of an ophthalmologic disorder must include description of the ocular pathology.

B. *Hearing impairments in children.* The criteria for hearing impairments in children take into account that a lesser impairment in hearing which occurs at an early age may result in a severe speech and language disorder.

Improvement by a hearing aid, as predicted by the testing procedure, must be demonstrated to be feasible in that child, since younger children may be unable to use a hearing aid effectively.

The type of audiometric testing performed must be described and a copy of the results must be included. The pure tone air conduction in § 102.08 are based on American National Standard Institute Specifications for Audiometers, S 3.6—1969 (ANSI–1969). The report should indicate the specifications used to calibrate the audiometer.

The finding of a severe impairment will be based on the average hearing levels of the four frequencies, 500, 1000, 2000, and 3000 Hertz (Hz) in the better ear, and on speech discrimination, as specified in § 102.08.

102.01 CATEGORY OF IMPAIRMENTS, SPECIAL SENSE ORGANS

102.02 *Impairment of central visual acuity.*

A. Remaining vision in the better eye after best correction is 20/200 or less.

B. For children below 3 years of age at at time of adjudication:

1. Absence of accommodative reflex (see § 102.00A for exclusion of children under 6 months of age); or

2. Retrolental fibroplasia with macular scarring or neovascularization; or

3. Bilateral congenital cataracts with visualization of retinal red reflex only or when associated with other ocular pathology.

102.08 *Hearing impairments.*

A. For children below 5 years of age at time of adjudication, inability to hear air conduction thresholds at an average of 40 decibels (db) hearing level or greater in the better ear.

B. For children 5 years of age and above at time of adjudication;

1. Inability to hear air conduction thresholds at an average of 70 decibels (db) or greater in the better ear or

2. Speech discrimination scores at 40 percent or less; or

3. Inability to hear air conduction thresholds at an average of 40 decibels (db) or greater in the better ear, and a speech and language disorder which significantly affects the clarity and content of the speech and is attributable to the hearing impairment.

103.00 RESPIRATORY SYSTEM

A. *Documentation of pulmonary insufficiency.* The reports of spirometric studies for evaluation under Table I must be expressed in liters. The reported FEV, should represent the largest of at least three satisfactory attempts, and should be within 10 percent of another FEV,. The appropriately labeled spirometric tracing of three FEV maneuvers must be submitted with the report, showing distance per second on the abscissa and distance per liter on the ordinate. The unit distance for volume on the tracing should be at least 15 mm. per liter and the paper speed at least 20 mm. per second. The height of the individual without shoes must be recorded.

The ventilatory function studies should not be performed during or soon after an acute episode or exacerbation of a respiratory illness. In the presence of acute bronchospasm, or where the FEV, is less than that stated in Table I, the studies should be repeated after the administration of a nebulized bronchodilator. If a bronchodilator was not used in such instances, the reason should be stated in the report.

A statement should be made as to the child's ability to understand directions and to cooperate in performance of the test, and should include an evaluation of the child's effort. Where tests cannot be performed or completed, the reason (such as a child's young age) should be stated in the report.

B. *Cystic fibrosis.* This section discusses only the pulmonary manifestations of cystic fibrosis. Other manifestations, complications, or associated disease must be evaluated under the appropriate section.

The diagnosis of cystic fibrosis will be based upon appropriate history, physical examination, and pertinent laboratory findings. Confirmation based upon elevated concentration of sodium or chloride in the sweat should be included, with indication of the technique used for collection and analysis.

103.01 CATEGORY OF IMPAIRMENTS, RESPIRATORY

103.03 *Bronchial asthma.* With evidence of progression of the disease despite therapy and documented by one of the following:

A. Recent, recurrent intense asthmatic attacks requiring parenteral medication; or

B. Persistent prolonged expiration with wheezing between acute attacks and radiographic findings of peribronchial disease.

103.13 *Pulmonary manifestations of cystic fibrosis.* With:

A. FEV, equal to or less than the values specified in Table I (see § 103.00A for requirements of ventilatory function testing); or

B. For children where ventilatory function testing cannot be performed:

1. History of dyspnea on mild exertion or chronic frequent productive cough; and

2. Persistent or recurrent abnormal breath sounds, bilateral rales or rhonchi; and

3. Radiographic findings of extensive disease with hyperaeration and bilateral peribronchial infiltration.

Table I

Height (in centimeters):	*FEV, equal to or less than (liters)*
110 or less	0.6
120	.7
130	.9
140	1.1
150	1.3
160	1.5
170 or more	1.6

104.00 CARDIOVASCULAR SYSTEM

A. *General.* Evaluation should be based upon history, physical findings, and appropriate laboratory data. Reported abnormalities should be consistent with the pathologic diagnosis. The actual electrocardiographic tracing, or an adequate marked photocopy, must be included. Reports of other pertinent studies necessary to substantiate the diagnosis or describe the severity of the impairment must also be included.

B. *Evaluation of cardiovascular impairments in children* requires two steps:

1. The delineation of a specific cardiovascular disturbance, either congenital or acquired. This may include arterial or venous disease, rhythm disturbance, or disease involving the valves, septa, myocardium or pericardium; and

2. Documentation of the severity of the impairment, with medically determinable and consistent cardiovascular signs, symptoms, and laboratory data. In cases where impairment characteristics are questionably secondary to the cardiovascular disturbance, additional documentation of the severity of the impairment (e.g., catherization data, if performed) will be necessary.

C. *Chest roentgenogram* (6 ft. PA film) will be considered indicative of cardiomegaly if:

1. The cardiothoracic ratio is over 60 percent at age one year or less, or 55 percent at more than one year of age; or

2. The cardiac size is increased over 15 percent from any prior chest roentgenograms; or

3. Specific chamber or vessel enlargement is documented in accordance with established criteria.

D. *Tables* I, II, *and* III below are designed for case adjudication and not for diagnostic purposes. The adult criteria may be useful for older children and should be used when applicable.

E. *Rheumatic fever*, as used in this section assumes diagnoses made according to the revised Jones Criteria.

104.01 CATEGORY OF IMPAIRMENTS, CARDIOVASCULAR

104.02 *Chronic congestive failure.* With two or more of the following signs:

A. Tachycardia (see Table I).

B. Tachypnea (see Table II).

C. Cardiomegaly on chest roentgenogram (see § 104.00C).

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D. Hepatomegaly (more than 2 cm. below the right costal margin in the right midclavicular line).

E. Evidence of pulmonary edema, such as rales or orthopnea.

F. Dependent edema.

G. Exercise intolerance manifested as labored respiration on mild exertion (e.g., in an infant, feeding).

TABLE I—TACHYCARDIA AT REST

Age	Apical Heart (beats per minute)
Under 1 yr	150
1 through 3 yr	130
4 through 9 yr	120
10 through 15 yr	110
Over 15 yr	100

TABLE II—TACHYPNEA AT REST

Age	Respiratory rate over (per minute)
Under 1 yr	40
1 through 5 yr	35
6 through 9 yr	30
Over 9 yr	25

104.03 *Hypertensive cardiovascular disease.* With persistently elevated blood pressure for age (see Table III) and one of the following:

A. Impaired renal function as described under the criteria in § 106.02; or

B. Cerebrovascular damage as described under the criteria in § 111.06; or

C. Congestive heart failure as described under the criteria in § 104.02.

TABLE III—ELEVATED BLOOD PRESSURE

Age	Systolic (over) In mm. Hg	Diastolic (over) In mm. Hg
Under 6 mo.	95	60
6 mo. to 1 yr.	110	70
1 through 8 yrs.	115	80
9 through 11 yrs.	120	80
12 through 15 yrs.	130	80
Over 15 yrs.	140	80

104.04 *Cyanotic congenital heart disease.* With one of the following:

A. Surgery is limited to palliative measures; or

B. Characteristic squatting, hemoptysis, syncope, or hypercyanotic spells; or

C. Chronic hematocrit of 55 percent or greater or arterial O_2 saturation of less than 90 percent at rest, or arterial oxygen tension of less than 60 Torr at rest.

104.05 *Cardiac arrhythmia, such as persistent or recurrent heart block or A–V dissociation (with or without therapy).* And one of the following:

A. Cardiac syncope; or

B. Congestive heart failure as described under the criteria in § 104.02; or

C. Exercise intolerance with labored respirations on mild exertion (e.g., in infants, feeding).

104.07 *Cardiac syncope.* With at least one documented syncopal episode characteristic of specific cardiac disease (e.g., aortic stenosis).

104.08 *Recurrent hemoptysis.* Associated with either pulmonary hypertension or extensive bronchial collaterals due to documented chronic cardiovascular disease.

104.09 *Chronic rheumatic fever or rheumatic heart disease.* With:

A. Persistence of rheumatic fever activity for 6 months or more, with significant murmur(s), cardiomegaly (see § 104.00C), and other abnormal laboratory findings (such as elevated sedimentation rate or electrocardiographic findings); or

B. Congestive heart failure as described under the criteria in § 104.02.

105.00 DIGESTIVE SYSTEM

A. Disorders of the digestive system which result in disability usually do so because of interference with nutrition and growth, multiple recurrent inflammatory lesions, or other complications of the disease. Such lesions or complications usually respond to treatment. To constitute a listed impairment, these must be shown to have persisted or be expected to persist despite prescribed therapy for a continuous period of at least 12 months.

B. *Documentation of gastrointestinal impairments* should include pertinent operative findings, radiographic studies, endoscopy, and biopsy reports. Where a liver biopsy has been performed in chronic liver disease, documentation should include the report of the biopsy.

C. *Growth retardation and malnutrition.* When the primary disorder of the digestive tract has been documented, evaluate resultant malnutrition under the criteria described in § 105.08. Evaluate resultant growth impairment under the criteria described in § 100.03. Intestinal disorders, including surgical diversions and potentially correctable congenital lesions, do not represent a severe impairment if the individual is able to maintain adequate nutrition, growth, and development.

D. *Multiple congenital anomalies.* See related criteria, and consider as a combination of impairments.

105.01 CATEGORY OF IMPAIRMENTS, DIGESTIVE

105.03 *Esophageal obstruction, caused by atresia, stricture, or stenosis.* With malnutrition as described under the criteria in § 105.08.

105.05 *Chronic liver disease.* With one of the following:

A. Inoperable biliary atresia demonstrated by X-ray or surgery; or

B. Intractable ascites not attributable to other causes, with serum albumin of 3.0 gm./100 ml. or less; or

C. Esophageal varices (demonstrated by angiography, barium swallow, or endoscopy or by prior performance of a specific shunt or plication procedure); or

D. Hepatic coma, documented by findings from hospital records; or

E. Hepatic encephalopathy. Evaluate under the criteria in § 112.02; or

F. Chronic active inflammation or necrosis documented by SGOT persistently more than 100 units or serum bilirubin of 2.5 mg. percent or greater.

105.07 *Chronic inflammatory bowel disease (such as ulcerative colitis, regional enteritis), as documented in § 105.00.* With one of the following:

A. Intestinal manifestations or complications, such as obstruction, abscess, or fistula formation which has lasted or is expected to last 12 months; or

B. Malnutrition as described under the criteria in § 105.08; or

C. Growth impairment as described under the criteria in § 100.03.

105.08 *Malnutrition, due to demonstrable gastrointestinal disease causing either a fall of 15 percentiles of weight which persists or the persistence of weight which is less than the third percentile (on standard growth charts).* And one of the following:

A. Stool fat excretion per 24 hours:

1. More than 15 percent in infants less than 6 months.

2. More than 10 percent in infants 6–18 months.

3. More than 6 percent in children more than 18 months; or

B. Persistent hematocrit of 30 percent or less despite prescribed therapy; or

C. Serum carotene of 40 mcg./100 ml. or less; or

D. Serum albumin of 3.0 gm./100 ml. or less.

106.00 GENITO-URINARY SYSTEM

A. Determination of the presence of chronic renal disease will be based upon the following factors:

1. History, physical examination, and laboratory evidence of renal disease.

2. Indications of its progressive nature or laboratory evidence of deterioration of renal function.

B. *Renal transplant.* The amount of function restored and the time required to effect improvement depend upon various factors including adequacy of post-transplant renal function, incidence of renal infection, occurrence of rejection crisis, presence of systemic complications (anemia, neuropathy, etc.) and side effects of corticosteriod or immunosuppressive agents. A period of at least 12 months is required for the individual to reach a point of stable medical improvement.

C. Evaluate associated disorders and complications according to the appropriate body system listing.

106.01 CATEGORY OF IMPAIRMENTS, GENITO-URINARY

106.02 *Chronic renal disease.* With:

A. BUN of 30 mg./100 ml. or greater; or

B. Serum creatinine of 3.0 mg./100 ml. or greater; or

C. Creatinine clearance equal to or less than 42 ml./min./1.73 m^2; or

D. Chronic renal dialysis program for irreversible renal failure; or

E. Renal transplant. Consider under a disability for 12 months following surgery; thereafter, evaluate the residual impairment (see § 106.00B).

106.06 *Nephrotic syndrome, with edema not controlled by prescribed therapy.* And:

A. Serum albumin less than 2 gm./100 ml.; or

B. Proteinuria more than 2.5 gm./1.73 m^2/day.

107.00 HEMIC AND LYMPHATIC SYSTEM

A. Sickle cell disease refers to a chonric hemolytic anemia associated with sickle cell hemoglobin, either homozygous or in combination with thalassemia or with another abnormal hemoglobin (such as C or F).

Appropriate hematologic evidence for sickle cell disease, such as hemoglobin electrophoresis must be included. Vaso-occlusive, hemolytic, or aplastic episodes should be documented by description of severity, frequency, and duration.

Disability due to sickle cell disease may be solely the result of a severe, persistent anemia or may be due to the combination of chronic progressive or episodic manifestations in the presence of a less severe anemia.

Major visceral episodes causing disability include meningitis, osteomyelitis, pulmonary infections or infarctions, cerebrovascular accidents, congestive heart failure, genitourinary involvement, etc.

B. *Coagulation defects.* Chronic inherited coagulation disorders must be documented by appropriate laboratory evidence such as abnormal thromboplastin generation, coagulation time, or factor assay.

C. *Acute leukemia.* Initial diagnosis of acute leukemia must be based upon definitive bone marrow pathologic evidence. Recurrent disease may be documented by peripheral blood, bone marrow, or cerebrospinal fluid examination. The pathology report must be included.

Section 107.11 contains the designated duration of disability implicit in the finding of a listed impairment. Following the designated time period, a documented diagnosis itself is no longer sufficient to establish a severe impairment. The severity of any remaining impairment must be evaluated on the basis of the medical evidence.

107.01 CATEGORY OF IMPAIRMENTS, HEMIC AND LYMPHATIC

107.03 *Hemolytic anemia (due to any cause).* Manifested by persistence of hematocrit of 26 percent or less despite prescribed therapy, and reticulocyte count of 4 percent or greater.

107.05 *Sickle cell disease.* With:

A. Recent, recurrent, severe vaso-occlusive crises (musculoskeletal, vertebral, abdominal); or

B. A major visceral complication in the 12 months prior to application; or

C. A hyperhemolytic or aplastic crisis within 12 months prior to application; or

D. Chronic, severe anemia with persistence of hematocrit of 26 percent or less; or

E. Congestive heart failure, cerebrovascular damage, or emotional disorder as described under the criteria in § 104.02, § 111.00ff, or § 112.00ff.

107.06 *Chronic idiopathic thrombocytopenic purpura of childhood.* With purpura and thrombocytopenia of 40,000 platelets/cu. mm. or less despite prescribed therapy or recurrent upon withdrawal of treatment.

107.08 *Inherited coagulation disorder.* With:

A. Repeated spontaneous or inappropriate bleeding; or

B. Hemarthrosis with joint deformity.

107.11 *Acute leukemia.* Consider under a disability:

A. For 2½ years from the time of initial diagnosis; or

B. For 2½ years from the time of recurrence of active disease.

109.00 ENDOCRINE SYSTEM

A. Cause of disability. Disability is caused by a disturbance in the regulation of the secretion or metabolism of one or more hormones which are not adequately controlled by therapy. Such disturbances or abnormalities usually respond to treatment. To constitute a listed impairment these must be shown to have persisted or be expected to persist despite prescribed therapy for a continuous period of at least 12 months.

B. *Growth.* Normal growth is usually a sensitive indicator of health as well as of adequate therapy in children. Impairment of growth may be disabling in itself or may be an indicator of a severe disorder involving the endocrine system or other body systems. Where involvement of other organ systems has occurred as a result of a primary endocrine disorder, these impairments should be evaluated according to the criteria under the appropriate sections.

C. *Documentation.* Description of characteristic history, physical findings, and diagnostic laboratory data must be included. Results of laboratory tests will be considered abnormal if outside the normal range or greater than two standard deviations from the mean of the testing laboratory. Reports in the file should contain the information provided by the testing laboratory as to their normal values for that test.

D. *Hyperfunction of the adrenal cortex.* Evidence of growth retardation must be documented as described in § 100.00. Elevated blood or urinary free cortisol levels are not acceptable in lieu of urinary 17-hydroxycorticosteroid excretion for the diagnosis of adrenal cortical hyperfunction.

E. *Adrenal cortical insufficiency.* Documentation must include persistent low plasma cortisol or low urinary 17-hydroxycorticosteroids or 17-ketogenic steroids and evidence of unresponsiveness to ACTH stimulation.

109.01 CATEGORY OF IMPAIRMENTS, ENDOCRINE

109.02 *Thyroid Disorders.*

A. *Hyperthyroidism (as documented in § 109.00C).* With clinical manifestations despite prescribed therapy, and one of the following:

1. Elevated serum thyroxine (T_4) and either elevated free T_4 or resin T_3 uptake; or

2. Elevated thyroid uptake of radioiodine; or

3. Elevated serum triiodothyronine (T_3).

B. *Hypothyroidism.* With one of the following, despite prescribed therapy:

1. IQ of 69 or less; or

2. Growth impairment as described under the criteria in § 100.02B and C; or

3. Precocious puberty.

109.03 *Hyperparathyroidism (as documented in § 109.00C).* With:

A. Repeated elevated total or ionized serum calcium; or

B. Elevated serum parathyroid hormone.

109.04 *Hypoparathyroidism or Pseudohypoparathyroidism.* With:

A. Severe recurrent tetany or convulsions which are unresponsive to prescribed therapy; or

B. Growth retardation as described under the criteria in § 100.02B and C.

109.05 *Diabetes insipidus, documented by pathologic hypertonic saline or water deprivation test.* And one of the following:

A. Intracranial space-occupying lesion, before or after surgery; or

B. Unresponsiveness to Pitressin; or

C. Growth retardation as described under the criteria in § 100.02B and C; or

D. Unresponsive hypothalmic thirst center, with chronic or recurrent hypernatremia; or

E. Decreased visual fields attributable to a pituitary lesion.

109.06 *Hyperfunction of the adrenal cortex (Primary or seconday).* With:

A. Elevated urinary 17-hydroxycorticosteroids (or 17-ketogenic steroids) as documented in § 109.00C and D; and

B. Unresponsiveness to low-dose dexamethasone suppression.

109.07 *Adrenal cortical insufficiency (as documented in § 109.00C and E).* With recent, recurrent episodes of circulatory collapse.

109.08 *Juvenile diabetes mellitus (as documented in § 109.00C) requiring parenteral insulin.* And one of the following, despite prescribed therapy:

A. Recent, recurrent hospitalizations with acidosis; or

B. Recent, recurrent episodes of hypoglycemia; or

C. Growth retardation as described under the criteria in § 100.02B or C; or

D. Impaired renal function as described under the criteria in § 106.00ff.

109.09 *Iatrogenic hypercorticoid state.* With chronic glucocorticoid therapy resulting in one of the following:

A. Osteoporosis; or

B. Growth retardation as described under the criteria in § 100.02B or C; or

C. Diabetes mellitus as described under the criteria in § 109.08; or

D. Myopathy as described under the criteria in § 111.06; or

E. Emotional disorder as described under the criteria in § 112.00ff.

109.10 *Pituitary dwarfism (with documented growth hormone deficiency).* And growth impairment as described under the criteria in § 100.02C.

109.11 *Adrenogenital syndrome.* With:

A. Recent, recurrent salt-losing episodes despite prescribed therapy; or

B. Inadequate replacement therapy manifested by accelerated bone age and virilization; or

C. Growth impairment as described under the criteria in § 100.02B or C.

109.12 *Hypoglycemia (as documented in § 109.00C).* With recent, recurrent hypoglycemic episodes producing convulsion or coma.

109.13 *Gonadal Dysgenesis (Turner's Syndrome), chromosomally proven.* Evaluate the resulting impairment under the criteria for the appropriate body system.

110.00 MULTIPLE BODY SYSTEMS

A. Catastrophic congenital abnormalities or disease. This section refers only to very serious congenital disorders, diagnosed in the newborn or infant child.

B. *Immune deficiency diseases.* Documentation of immune deficiency disease must be submitted, and may include quantitative immunoglobulins, skin tests for delayed hypersensitivity, lymphocyte stimulative tests, and measurements of cellular immunity mediators.

110.01 CATEGORY OF IMPAIRMENTS, MULTIPLE BODY SYSTEMS

110.08 *Catastrophic congenital abnormalities or disease.* With:

A. A positive diagnosis (such as anencephaly, trisomy D or E, cyclopia, etc.), generally regarded as being incompatible with extrauterine life; or

B. A positive diagnosis (such as cri du chat, Tay-Sachs Disease) wherein attainment of the growth and development level of 2 years is not expected to occur.

110.09 *Immune deficiency disease.*

A. *Hypogammaglobulinemia or dysgammaglobulinemia.* With:

1. Recent, recurent severe infections; or

2. A complication such as growth retardation, chronic lung disease, collagen disorder, or tumors.

B. *Thymic dysplastic syndromes* (such as Swiss, diGeorge).

111.00 NEUROLOGICAL

A. Seizure disorder must be substantiated by at least one detailed description of a typical seizure. Report of recent documentation should include an electroencephalogram and neurological examination. Sleep EEG is preferable, especially with temporal lobe seizures. Frequency of attacks and any associated phenomena should also be substantiated.

Young children may have convulsions in association with febrile illnesses. Proper use of § 111.02 and § 111.03 requires that a seizure disorder be established. Although this does not exclude consideration of seizures occurring during febrile illnesses, it does require documentation of seizures during nonfebrile periods.

There is an expected delay in control of seizures when treatment is started, particularly when changes in the treatment regimen are necessary. Therefore, a seizure disorder should not be considered to meet the requirements of § 111.02 or § 111.03 unless it is shown that seizures have persisted more than three months after prescribed therapy began.

B. *Minor motor seizures.* Classical petit mal seizures must be documented by characteristic EEG pattern, plus information as to age at onset and frequency of clinical seizures. Myoclonic seizures, whether of the typical infantile or Lennox-Gastaut variety after infancy, must also be documented by the characteristic EEG pattern plus information as to age at onset and frequence of seizures.

C. *Motor dysfunction.* As described in § 111.06, motor dysfunction may be due to any neurological disorder. It may be due to static or progressive conditions involving any area of the nervous system and producing any type of neurological impairment. This

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may include weakness, spasticity lack of coordination, ataxia, tremor, athetosis, or sensory loss. Documentation of motor dysfunction must include neurologic findings and description of type of neurologic abnormality (e.g., spasticity, weakness), as well as a description of the child's functional impairment (i.e., what the child is unable to do because of the abnormality). Where a diagnosis has been made, evidence should be included for substantiation of the diagnosis (e.g., blood chemistries and muscle biopsy reports), wherever applicable.

D. *Impairment of communication.* The documentation should include a description of a recent comprehensive evaluation, including all areas of affective and effective communication, performed by a qualified professional.

111.01 CATEGORY OF IMPAIRMENT, NEUROLOGICAL

111.02 *Major motor seizure disorder.*

A. *Major motor seizures.* In a child with an established seizure disorder, the occurrence of more than one major motor seizure per month despite at least three months of prescribed treatment. With:

1. Diurnal episodes (loss of consciousness and convulsive seizures); or

2. Nocturnal episodes manifesting residuals which interfere with activity during the day.

B. *Major motor seizures.* In a child with an established seizure disorder, the occurrence of at least one major motor seizure in the year prior to application despite at least three months of prescribed treatment. And one of the following:

1. IQ of 69 or less; or

2. Significant interference with communication due to speech, hearing, or visual defect; or

3. Significant emotional disorder; or

4. Where significant adverse effects of medication interfere with major daily activities.

111.03 *Minor motor seizure disorder.* In a child with an established seizure disorder, the occurrence of more than one minor motor seizure per week, with alteration of awareness or loss of consciousness, despite at least three months of prescribed treatment.

111.05 *Brain tumors.* A. Malignant gliomas (astrocytoma—Grades III and IV, glioblastoma multiforme), medulloblastoma, ependymoblastoma, primary sarcoma, or brain stem gliomas; or

B. Evaluate other brain tumors under the criteria for the resulting neurological impairment.

111.06 *Motor dysfunction (due to any neurological disorder).* Persistent disorganization or deficit of motor function for age involving two extremities, which (despite prescribed therapy) interferes with age-appropriate major daily activities and results in disruption of:

A. Fine and gross movements; or

B. Gait and station.

111.07 *Cerebral palsy.* With: A. Motor dysfunction meeting the requirements of § 111.06 or § 101.03; or

B. Less severe motor dysfunction (but more than slight) and one of the following:

1. IQ of 69 or less; or

2. Seizure disorder, with at least one major motor seizure in the year prior to application; or

3. Significant interference with communication due to speech, hearing, or visual defect; or

4. Significant emotional disorder.

111.08 *Meningomyelocele (and related disorders).* With one of the following despite prescribed treatment:

A. Motor dysfunction meeting the requirements of § 111.06 or § 111.03; or

B. Less severe motor dysfunction (but more than slight), and:

1. Urinary or fecal incontinence when inappropriate for age; or

2. IQ of 69 or less; or

C. Four extremity involvement; or

D. Noncompensated hydrocephalus producing interference with mental or motor developmental progression.

111.09 *Communication impairment, associated with documented neurological disorder.* And one of the following:

A. Documented speech deficit which significantly affects the clarity and content of the speech; or

B. Documented comprehension deficit resulting in ineffective verbal communication for age; or

C. Impairment of hearing as described under the criteria in § 102.08.

112.00 MENTAL AND EMOTIONAL DISORDERS

A. *Introduction.* This section is intended primarily to describe mental and emotional disorders of young children. The criteria describing medically determinable impairments in adults should be used where they clearly appear to be more appropriate.

B. *Mental retardation. General.* As with any other impairment, the necessary evidence consists of symptoms, signs, and laboratory findings which provide medically demonstrable evidence of impairment severity. Standardized intelligence test results are essential to the adjudication of all cases of mental retardation that are not clearly covered under the provisions of § 112.05A. Developmental milestone criteria may be the sole basis for adjudication only in cases where the child's young age and/or condition preclude formal standardized testing by a psychologist or psychiatrist experienced in testing children.

Measures of intellectual functioning. Standardized intelligence tests, such as the Wechsler Preschool and Primary Scale of Intelligence (WPPSI), the Wechsler Intelligence Scale for Children (WISC), the Revised Stanford-Binet Scale, and the McCarthey Scales of Children's Abilities, should be used wherever possible. Key data such as subtest scores should also be included in the report. Tests should be administered by a qualified and experienced psychologist or psychiatrist, and any discrepancies between formal test results and the child's customary behavior and daily activities should be duly noted and resolved.

Developmetal milestone criteria. In the event that a child's young age and/or condition preclude formal testing by a psychologist or psychiatrist experienced in testing children, a comprehensive evaluation covering the full range of developmental activities should be performed. This should consist of a detailed account of the child's daily activities together with direct observations by a professional person; the latter should include indices or manifestations of social, intellectual, adaptive, verbal, motor (posture, locomotion, manipulation), language, emotional, and self-care development for age. The above should then be related by the evaluating or treating physician to established developmental norms of the kind found in any widely used standard pediatrics text.

C. *Profound combined mental-neurological-musculoskeletal impairments.* There are children with profound and irreversible brain damage resulting in total incapacitation. Such children may meet criteria in either neurological, musculoskeletal, and/or mental sections; they should be adjudicated under the criteria most completely substantiated by the medical evidence submitted. Frequently, the most appropriate criteria will be found under the mental impairment section.

112.01 CATEGORY OF IMPAIRMENTS, MENTAL AND EMOTIONAL

112.02 *Chronic brain syndrome.* With arrest of developmental progression for at least six months or loss of previously acquired abilities.

112.03 *Psychosis of infancy and childhood.* Documented by psychiatric evaluation and supported, if necessary, by the results of appropriate standardized psychological tests and manifested by marked restriction in the performance of daily age-appropriate activities; constriction of age-appropriate interests; deficiency of age-appropriate self-care skills; and impaired ability to relate to others; together with persistence of one (or more) of the following:

A. Significant withdrawal or detachment; or

B. Impaired sense of reality; or

C. Bizarre behavior patterns; or

D. Strong need for maintenance of sameness, with intense anxiety, fear, or anger when change is introduced; or

E. Panic at threat of separation from parent.

112.04 *Functional nonpsychotic disorders.* Documented by psychiatric evaluation and supported, if necessary, by the results of appropriate standardized psychological tests and manifested by marked restriction in the performance of daily age-appropriate activities; construction of age-appropriate interests; deficiency of age-appropriate self-care skills; and impaired ability to relate to others; together with persistence of one (or more) of the following:

A. Psychophysiological disorder (e.g., diarrhea, asthma); or

B. Anxiety; or

C. Depression; or

D. Phobic, obsessive, or compulsive behavior; or

E. Hypochondriasis; or

F. Hysteria; or

G. Asocial or antisocial behavior.

112.05 *Mental retardation.*—A. Achievement of only those developmental milestones generally acquired by children no more than one-half the child's chronological age; or

B. IQ of 59 or less; or

C. IQ of 60–69, inclusive, and a physical or other mental impairment imposing additional and significant restriction of function or developmental progression.

13.00 NEOPLASTIC DISEASES, MALIGNANT.—A. *Introduction.* Determination of disability in the growing and developing child with a malignant neoplastic disease is based upon the combined effects of:

1. The pathophysiology, histology, and natural history of the tumor; and

2. The effects of the currently employed aggressive multimodal therapeutic regimens.

Combinations of surgery, radiation, and chemotherapy or prolonged therapeutic schedules impart significant additional morbidity to the child during the period of greatest risk from the tumor itself. This period of highest risk and greatest therapeutically-induced morbidity defines the limits of disability for most of childhood neoplastic disease.

B. *Documentation.* The diagnosis of neoplasm should be established on the basis of symptoms, signs, and laboratory findings. The site of the primary, recurrent, and metastatic lesion must be specified in all cases of malignant neoplastic diseases. If an operative procedure has been performed, the evidence should include a copy of the operative note and the report of the gross and microscopic examination of the surgical specimen, along with all pertinent laboratory and X-ray reports. The evidence should also include a recent report directed especially at describing whether there is evidence of local or regional recurrence, soft part or skeletal metastasis, and significant post-therapeutic residuals.

C. *Malignant solid tumors,* as listed under § 113.03, include the histiocytosis syndromes except for solitary eosinophilic granuloma. Thus, § 113.03 should not be used for evaluating brain tumors (see § 111.05) or thyroid tumors, which must be evaluated on the basis of whether they are controlled by prescribed therapy.

D. *Duration of disability* from malignant neoplastic tumors is included in § 113.02 and § 113.03. Following the time periods designated in these sections, a documented diagnosis itself is no longer sufficient to establish a severe impairment. The severity of a remaining impairment must be evaluated on the basis of the medical evidence.

113.01 Category of impairments, neoplastic diseases—malignant.

113.02 *Lymphoreticular malignant neoplasms.* Consider under a disability:

A. For 2½ years from the time of initial diagnosis, or

B. For 2½ years from the time of recurrence of active disease.

113.03 *Malignant solid tumors.* Consider under a disability:

A. For 2 years from the time of initial diagnosis; or

B. For 2 years from the time of recurrence of active disease.

113.04 *Neuroblastoma.* With one of the following:

A. Extension across the midline; or

B. Distant metastasis; or

C. Recurrence; or

D. Onset at age 1 year or older.

113.05 *Retinoblastoma.* With one of the following:

A. Bilateral involvement; or

B. Metastases; or

C. Extension beyond the orbit; or

D. Recurrence.

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Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Public Observation of Parole Commission Meetings

On February 3, 1977 42 FR 6610, the United States Parole Commission published a notice of proposed rules implementing the requirements of 5 U.S.C. 552b, subsections (b) through (f), ("The Government in the Sunshine Act"). Following the period announced for the submission of public comment, the Commission voted to adopt its rules with the single change that § 16.200(e)(5) was expanded to clarify the functions of the study committees referred to in that section.

The only comment received was from Rep. Richardson Preyer, Chairman of the Government Information and Individual Rights Subcommittee of the House Committee on Government Operations. This letter raised several points of criticism, specifically discussed below.

1. Section 16.202(b) was criticized for prohibiting the use of "any mechanical or electronic device" to record an open meeting. The comment suggested consideration be given to permitting recording methods whose operation would not disturb the proceedings. The Commission reserves in its rule the right to grant prior permission for the use of such methods in appropriate circumstances. The Commission believes that as a general policy, a limitation to observation and note-taking prevents the possibility of disruption while providing members of the public with the opportunity to keep memoranda of points of interest to them.

2. Section 16.203(a)(4) was criticized for varying from the language of exemption 4 of the Act. However, the Commission believes that one proper function of agency rules is to apply a general law such as the Sunshine Act to the specific context within which the agency operates, and to explain its practical significance to day to day agency operations. No criticism was made that the type of financial information involved in applications for exemptions under 29 U.S.C. 504 and 1111, would not fall within the exemption for "financial information" set forth at section (c)(4), whenever obtained upon a promise of confidentiality.

3. Section 16.203(b) was criticized for not setting up a formal, two-step procedure by which the Commission would apparently first vote whether a meeting could be closed, and second, whether the meeting should be opened in the public interest, notwithstanding an available exemption under the law. However, such a procedural formality is not, in the Commission's view, required by the law. The Commission believes that it is implicit in its regulation, and it is the Commission's intent, that it will in all cases consider the public interest, and that it will open its meetings whenever feasible notwithstanding the available exemptions.

4. Section 16.203(d)(4) was criticized for failing to require certification by the General Counsel before a meeting may be closed. The Commission agrees that the better practice, as suggested in H. Rep. 94–1441, p. 19, is to obtain certification prior to the holding of a closed meeting, and will endeavor to make it its practice to do so. Moreover, the relative infrequency of Commission business and policy meetings (as compared with other agencies), makes the possibility of late certification generally unlikely. Only in the case of meetings to decide individual parole cases would the rare emergency be likely to arise (under statutory deadlines for decision-making) necessitating late certification.

5. Finally, § 16.204(c)(2) was criticized because it would permit deletion of items without notice; however, this deletion provision applies only to closed meetings. Thus, no member of the public planning to attend a meeting would be inconvenienced by such a deletion.

Accordingly, pursuant to the authority of 18 U.S.C. 4203(a)(1) and 5 U.S.C. 552b(g), a new Subpart F is added to 28 CFR, Chapter I, Part 16 as follows, effective March 12, 1977.

Dated: March 10, 1977.

GEORGE J. REED,
Acting Vice Chairman,
United States Parole Commission.

Subpart F—Public Observation of Parole Commission Meetings

Sec.
16.200 Definitions.
16.201 Voting by the Commissioners without joint deliberation.
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16.206 Transcripts, minutes, and miscellaneous documents concerning Commission meetings.
16.207 Public Access to non-exempt transcripts and minutes of closed Commission meetings, documents used at meetings, record retention.
16.208 Annual report.

AUTHORITY: 18 U.S.C. 4203(a)(1), 5 U.S.C. 552b(g).

Subpart F—Public Observation of Parole Commission Meetings

§ 16.200 Definitions.

As used in this part: (a) The term Commission means the United States Parole Commission and any subdivision thereof authorized to act on its behalf.

(b) The term meeting refers to the deliberations of at least the number of Commissioners required to take action on behalf of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business.

(c) Specifically included in the term meeting are:

(1) Meetings of the Commission required to be held by 18 U.S.C. 4203(a);

(2) Special meetings of the Commission called pursuant to 18 U.S.C. 4204(a)(1);

(3) Meetings of the National Commissioners in original jurisdiction cases pursuant to 28 CFR 2.17(a);

(4) Meetings of the entire Commission to determine original jurisdiction appeal cases pursuant to 28 CFR 2.27; and

(5) Meetings of the National Appeals Board pursuant to 28 CFR 2.26.

(6) Meetings of the Commission to conduct a hearing on the record in conjunction with applications for certificates of exemption under section 504(a) of the Labor-Management Reporting and Disclosure Act of 1959, and section 411 of the Employee Retirement Income Security Act of 1974 (28 CFR 4.1–17 and 28 CFR 4a.1–17).

(d) Specifically excluded from the term meeting are:

(1) Determination made through independent voting of the Commissioners without the joint deliberation of the number of Commissioners required to take such action, pursuant to § 16.201;

(2) Original jurisdiction cases determined by sequential vote pursuant to 28 CFR 2.17;

(3) Cases determined by sequential vote pursuant to 28 CFR 2.24 and 2.25;

(4) National Appeals Board cases determined by sequential vote pursuant to 28 CFR 2.26;

(5) Meetings of committees of Commissioners, not constituting a quorum of the Commission, which shall be established by the Chairman to report and make recommendations to the Commis-

sion and the Chairman on any matter, including (i) policy, (ii) budget, (iii)

§ 16.203 Closed meetings—formal procedure.

(v) Disclose investigative techniques and procedures, or

(2) Upon the request of any Commissioner, the Commission shall make a

of the Commission determines by a recorded vote that Commission business re-

sion, which are held at least quarterly.

(b) *Meetings to which applicable.* The

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sion and the Chairman on any matter, including (i) policy, (ii) budget, (iii) personnel and training, and (iv) research; in addition, such committees may from time to time be approved by a majority of the Commission and Chairman regarding policies and procedures of the Commission;

(6) Determinations required or permitted by these regulations to open or close a meeting, or to withhold or disclose documents or information pertaining to a meeting.

(e) All other terms used in this part shall be deemed to have the same meaning as identical terms used in Chapter I, Part 2, of Title 28, of the Code of Federal Regulations.

§ 16.201 Voting by the Commissioners without joint deliberation.

(a) Whenever the Commission's Chairman so directs, any matter which (1) does not appear to require joint deliberation among the members of the Commission, or (2) by reason of its urgency, cannot be scheduled for consideration at a Commission meeting, may be disposed of by presentation of the matter separately to each of the members of the Commission. After consideration of the matter each Commission member shall report his vote to the Chairman.

(b) Whenever any member of the Commission so requests, any matter presented to the Commissioners for disposition pursuant to paragraph (a) of this section shall be withdrawn and scheduled instead for consideration at a Commission meeting.

(c) The provisions of § 16.206(a) of these rules shall apply in the case of any Commission determination made pursuant to this section.

§ 16.202 Open meetings.

(a) Every portion of every meeting of the Commission shall be open to public observation unless closed to the public pursuant to the provisions of § 16.203 (Formal Procedure) or § 16.205 (Informal Procedure).

(b) The attendance of any member of the public is conditioned upon the orderly demeanor of such person during the conduct of Commission business. The public shall be permitted to observe and to take notes, but unless prior permission is granted by the Commission, shall not be permitted to record or photograph by means of any mechanical or electronic device any portion of meetings which are open to the public.

(c) The Commission shall be responsible for arranging a suitable site for each open Commission meeting so that ample seating, visibility, and acoustics are provided to the public and ample security measures are employed for the protection of Commissioners and Staff. The Commission shall be responsible for recording or developing the minutes of Commission meetings.

(d) Public notice of open meetings shall be given as prescribed in § 16.204 (a), and a record of votes kept pursuant to § 16.206(a).

§ 16.203 Closed meetings—formal procedure.

(a) The Commission, by majority vote, may close to public observation any meeting or portion thereof, and withhold from the public announcement concerning such meeting any information, if public observation or the furnishing of such information is likely to:

(1) Disclose matters (i) specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission or any agency of the Government of the United States;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552, or the Federal Rules of Criminal Procedure): *Provided*, That such statute or rule (i) requires that the matters be withheld in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld, including exempted material under the Privacy Act of 1974 or the Commission's Alternate Means of Access under the Privacy Act of 1974, as set forth at 28 CFR 16.85;

(4) Disclose a trade secret or commercial or financial information obtained from any person, corporation, business, labor or pension organization, which is privileged or obtained upon a promise of confidentiality, including information concerning the financial condition or funding of labor or pension organizations, or the financial condition of any individual, in conjunction with applications for exemption under 29 U.S.C. 504 and 1111, and information concerning income, assets and liabilities of inmates, and persons on supervision;

(5) Involve accusing any person of a crime or formally censuring any person;

(6) Disclose information of a personal nature, where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose an investigatory record compiled for law enforcement purposes, or information derived from such a record, which describes the criminal history or associations of any person under the Commission's jurisdiction or which describes the involvement of any person in the commission of a crime, but only to the extent that the production of such records or information would

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(v) Disclose investigative techniques and procedures, or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed Commission action except where

(i) The Commission has already publicly disclosed the content or nature of its proposed action or

(ii) The Commission is required by law to make such disclosure on its own initiative prior to taking final Commission action on such proposal;

(9) Specifically concern the Commission's issuance of subpoena or participation in a civil action or proceeding; or

(10) Specifically concern the initiation, conduct, or disposition of a particular case of formal adjudication pursuant to the procedures in 5 U.S.C. 554, or of any case involving a determination on the record after opportunity for a hearing. Included under the above terms are:

(A) Record review hearings following opportunity for an in-person hearing pursuant to the procedures of 28 CFR 4.1–17 and 28 CFR 4a.1–17 (governing applications for certificates of exemption under the Labor-Management Reporting and Disclosure Act of 1959 and the Employee Retirement Income Security Act of 1974, and

(B) The initiation, conduct, or disposition by the Commission of any matter pursuant to the procedures of 28 CFR 2.1–58 (parole, release, supervision, and recommitment of prisoners, youth offenders, and juvenile delinquents).

(b) *Public Interest Provision.* Notwithstanding the exemptions at paragraph (a) (1)–(10) of this section, the Commission may conduct a meeting or portion of a meeting in public when the Commission determines, in its discretion, that the public interest in an open meeting clearly outweighs the need for confidentiality.

(c) *Nonpublic matter in announcements.* The Commission may delete from any announcement or notice required in these regulations information the disclosure of which would be likely to have any of the consequences described in paragraph (a) (1)–(10) of this section, including the name of any individual considered by the Commission in any case of formal or informal adjudication.

(d) *Voting and certification.* (1) A separate recorded vote of the Commission shall be taken with respect to each meeting or portion thereof which is proposed to be closed, and with respect to any information which is proposed to be withheld pursuant to this section. Voting by proxy shall not be permitted. In the alternative, the Commission may, by a single majority vote, close to public observation a series of meetings, or portion(s) thereof or withhold information concerning such series of meetings, provided that:

(i) Each meeting in such series involves the same particular matters and

(ii) Each meeting is scheduled to be held no more than thirty days after the initial meeting in the series.

(2) Upon the request of any Commissioner, the Commission shall make a determination as to closure pursuant to this subsection if any person whose interests may be directly affected by a portion of a meeting requests the Commission to close such portion or portions to the public observation for any of the grounds specified in paragraph (a) (5) (6) or (7) of this section.

(3) The determination to close any meeting to public observation pursuant to this section shall be made at least one week prior to the meeting or the first of a series of meetings as the case may be. If a majority of the Commissioners determines by recorded vote that agency business requires the meeting to take place at any earlier date, the closure determination and announcement thereof shall be made at the earliest practicable time. Within one day of any vote taken on whether to close a meeting under this section, the Commission shall make available to the public a written record reflecting the vote of each Commissioner on the question, including a full written explanation of its action in closing the meeting, portion(s) thereof, or series of meetings, together with a list of all persons expected to attend the meeting(s) or portion(s) thereof and their affiliation, subject to the provisions of paragraph (c) of this section.

(4) For every meeting or series of meetings closed pursuant to this section, the General Counsel of the Parole Commission shall publicly certify that, in Counsel's opinion, the meeting may be closed to the public and shall state each relevant exemptive provision.

§ 16.204 Public notice.

(a) *Requirements.* Every open meeting and meeting closed pursuant to § 16.203 shall be preceded by a public announcement posted before the main entrance to the Chairman's Office at the Commission's headquarters, 320 First Street, Northwest, Washington, D.C., and, in the case of a meeting held elsewhere, in a prominent place at the location in which the meeting will be held. Such announcement shall be transmitted to the FEDERAL REGISTER for publication and, in addition, may be issued through the Department of Justice, Office of Public Information, as a press release, or by such other means as the Commission shall deem reasonable and appropriate. The announcement shall furnish:

(1) A brief description of the subject matter to be discussed;

(2) The date, place, and approximate time of the meeting;

(3) Whether the meeting will be open or closed to public observation; and

(4) The name and telephone number of the official designated to respond to requests for information concerning the meeting. See § 16.205(d) for the notice requirement applicable to meetings closed pursuant to that section.

(b) *Time of notice.* The announcement required by this section shall be released to the public at least one week prior to the meeting announced therein except where a majority of the members of the Commission determines by a recorded vote that Commission business requires earlier consideration. In the event of such a determination, the announcement shall be made at the earliest practicable time.

(c) *Amendments to notice.* The time or place of a meeting may be changed following the announcement only if the Commission publicly announces such change at the earliest practicable time. The subject matter of a meeting, or determination of the Commission to open or close a meeting, or portion of a meeting, to the public may be changed following the announcement only if:

(1) A majority of the entire membership of the Commission determines by a recorded vote that Commission business so requires and that no earlier announcement of the change was possible, and

(2) The Commission publicly announces such change and the vote of each member upon such change at the earliest practicable time: *Provided*, That individual items which have been announced for Commission consideration at a closed meeting may be deleted without notice.

§ 16.205 Closed meetings — Informal procedures.

(a) *Finding.* Based upon a review of the meetings of the U.S. Parole Commission since the effective date of the Parole Commission and Reorganization Act (May 14, 1976), the regulations issued pursuant thereto (28 CFR Part 2) the experience of the U.S. Board of Parole, and the regulations pertaining to the Commission's authority under 29 U.S.C. 504 and 29 U.S.C. 1111 (28 CFR Parts 4 and 4a), the Commission finds that the majority of its meetings may properly be closed to the public pursuant to 5 U.S.C. 552 (d) (4) and (c) (10). The major part of normal Commission business lies in the adjudication of individual parole cases, all of which proceedings commence with an initial parole or revocation hearing and are determined on the record thereof.

Original jurisdiction cases are decided at bi-monthly meetings of the National Commissioners (28 CFR 2.17) and by the entire Commission in conjunction with each business meeting of the Commission (held at least quarterly) (28 CFR 2.27).

The National Appeals Board normally decides cases by sequential vote on a daily basis, but may meet from time to time for joint deliberations. In the period from October, 1975 through September, 1976, the National Appeals Board made 2,072 Appellate decisions.

Finally, over the last two years the Commission determined eleven cases under the Labor and Pension Acts, which are proceedings pursuant to 5 U.S.C. 554. The only meetings of the Commission not of an adjudicative nature involving the most sensitive inquiry into the personal background and behavior of the individual concerned, or involving sensitive financial information concerning the parties before the Commission, are the normal business meetings of the Commission, which are held at least quarterly.

(b) *Meetings to which applicable.* The following types of meetings may be closed in the event that a majority of the Commissioners present at the meeting, and authorized to act on behalf of the Commission, votes by recorded vote at the beginning of each meeting or portion thereof, to close the meeting or portions thereof:

(1) Original jurisdiction initial and appellate case deliberations conducted pursuant to 28 CFR 2.17 and 2.27;

(2) National Appeals Board deliberations pursuant to 28 CFR 2.26;

(3) Meetings of the Commission to conduct a hearing on the record regarding applications for certificates of exemption pursuant to the Labor-Management Reporting and Disclosure Act of 1959, 29 U.S.C. 504, and the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1111 (28 CFR 4.1–17 and 29 CFR 4a.1–17).

(c) *Written record of action to close meeting.* In the case of a meeting or portion of a meeting closed pursuant to this section, the Commission shall make available to the public as soon as practicable:

(1) A written record reflecting the vote of each member of the Commission to close the meeting; and

(2) A certification by the Commission's General Counsel to the effect that in Counsel's opinion, the meeting may be closed to the public, which certification shall state each relevant exemptive provision.

(d) *Public notice.* In the case of meetings closed pursuant to this section the Commission shall make a public announcement of the subject matter to be considered, and the date, place, and time of the meeting. The announcement described herein shall be released to the public at the earliest practicable time.

§ 16.206 Transcripts, minutes, and miscellaneous documents concerning Commission meetings.

(a) In the case of any Commission meeting, whether open or closed, the Commission shall maintain and make available for public inspection a record of the final vote of each member on rules, statements of policy, and interpretations adopted by it: 18 U.S.C. 4203(d).

(b) The Commission shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public pursuant to §16.203. In the case of a meeting, or portion of a meeting, closed to the public pursuant to § 16.205 of these regulations, the Commission may maintain either the transcript or recording described above, or a set of minutes unless a recording is required by Title 18, U.S.C. 4208(f). The minutes required by this section shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote. (reflecting the vote of each Commissioner on the question). All documents considered in connection with any

and a description of any litigation brought against the Commission under

§ 1209.01 Scope and purpose.

§ 1209.07 Change in meeting plans subsequent to public announcement.

§ 1209.12 Procedures for closing meetings.

cussed, provide a full and accurate summary of any actions taken and the reasons expressed therefor, and include a

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missioner on the question). All documents considered in connection with any action shall be identified in such minutes.

(c) The Commission shall retain a copy of every certification executed by the General Counsel's Office pursuant to these regulations, together with a statement from the presiding officer of the meeting, or portion of a meeting to which the certification applies, setting forth the time and place of the meeting, and the persons present.

(d) Nothing herein shall affect any other provision in Commission procedures or regulations requiring the preparation and maintenance of a record of all official actions of the Commission.

§ 16.207 Public access to non-exempt transcripts and minutes of closed Commission meetings—documents used at meetings—record retention.

(a) *Public access to records.* Within a reasonable time after any closed meeting, the Commission shall make available to the public, in the Commission's Public Reading Room located at 320 First Street Northwest, Washington, D.C., the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at such meeting, maintained hereunder, except for such item or items of such discussion or testimony which contain information exempt under any provision of the Government in the Sunshine Act (Pub. L. 94-409), or of any amendment thereto. Copies of non-exempt transcripts, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(b) Access to documents identified or discussed in any Commission meeting, open or closed, shall be governed by Department of Justice regulations at this Part 16, Subparts (c) and (d). The Commission reserves the right to invoke statutory exemptions to disclosure of such documents under 5 U.S.C. 552 and 552a, and applicable regulations. The exemptions provided in U.S.C. 552b(c) shall apply to any request made pursuant to 5 U.S.C. 552 or 552a to copy and inspect any transcripts, recordings or minutes prepared or maintained pursuant hereto.

(c) *Retention of records.* The Commission shall maintain a complete verbatim copy of the transcript, or a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

§ 16.208 Annual report.

The Commission shall report annually to Congress regarding its compliance with Sunshine Act requirements, including a tabulation of the total number of meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the Commission under this section, including any costs assessed against the Commission in such litigation and whether or not paid.

[FR Doc.77-7663 Filed 3-15-77;8:45 am]

Title 29—Labor

CHAPTER X—NATIONAL MEDIATION BOARD

PART 1209—PUBLIC OBSERVATION OF NATIONAL MEDIATION BOARD MEETINGS

Government in the Sunshine Act

Notice is hereby given that Chapter X, Title 29 Code of Federal Regulations, is amended by the addition of a new Part 1209, entitled "Public Observation of National Mediation Board Meetings." A notice of proposed rulemaking with respect to Part 1209 was published in the FEDERAL REGISTER on February 9, 1977, (42 FR 8155). The final text of Part 1209 reflects minor non-substantive editorial and organizational changes from the proposed text.

Part 1209 implements the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b. This part sets forth the regulations under which the National Mediation Board shall engage in public decisionmaking processes, make public announcement of meetings at which a quorum of Board Members consider and determine official agency actions, and inform the public of which meetings they are entitled to observe.

These amendments are issued pursuant to the authority of 5 U.S.C. 552b (g) and 44 Stat. 577, as amended (45 U.S.C. 151 et seq.).

The regulations as adopted read as set forth below and shall be effective for all meetings as defined therein held on or after March 12, 1977.

By direction of the National Mediation Board.

ROWLAND K. QUINN, JR.,
Executive Secretary.

29 CFR, Chapter X, is amended by the addition of a new Part 1209, reading as follows:

Sec.
1209.01 Scope and purpose.
1209.02 Definitions.
1209.03 Conduct of National Mediation Board Business.
1209.04 Open meetings.
1209.05 Public announcement of meetings.
1209.06 Special meetings.
1209.07 Change in meeting plans subsequent to public announcement.
1209.08 Providing information to the public.
1209.09 Federal Register notices.
1209.10 Capacity of public observers.
1209.11 Provisions under which meetings may be closed.
1209.12 Procedures for closing meetings.
1209.13 Public availability of recorded vote to close meetings and explanation therefore.
1209.14 Maintaining records of closed meetings.
1209.15 Availability of records to the public.
1209.16 Requests for records under Freedom of Information Act.

AUTHORITY: 5 U.S.C. 552b(g), 44 Stat. 577, as amended (45 U.S.C. 151 et seq.)

§ 1209.01 Scope and purpose.

(a) The provisions of this part are intended to implement the requirements of section 3(a) of the Government in the Sunshine Act, 5 U.S.C. 552b.

(b) It is the policy of the National Mediation Board that the public is entitled to the fullest practicable information regarding its decisionmaking processes. It is the purpose of this part to provide the public with such information while protecting the rights of individuals and the ability of the agency to carry out its responsibilities.

§ 1209.02 Definitions.

For purposes of this part:

(a) The term "Board" means the National Mediation Board, a collegial body composed of three Members appointed by the President with the advice and consent of the Senate.

(b) The term "meeting" means the deliberations of at least two Members of the Board where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations to determine whether a meeting shall be closed to public observation, or with respect to any information proposed to be withheld under 5 U.S.C. 552b(c).

§ 1209.03 Conduct of National Mediation Board Business.

Members shall not jointly conduct or dispose of agency business other than in accordance with this part.

§ 1209.04 Open meetings.

Every portion of every Board meeting shall, except as otherwise provided by § 1209.11, be open to public observation.

§ 1209.05 Public announcement of meetings.

(a) Except as provided in §§ 1209.06 and 1209.07, the Board shall make a public announcement at least one week before the scheduled meeting, to include the following:

(1) Time, place, and subject matter of the meeting, except as qualified by paragraph (b) of this section;

(2) Whether the meeting is to be open or closed to the public; and

(3) Name and telephone number of the agency official who will respond to requests for information concerning the meeting.

(b) If announcement of the subject matter of a closed meeting would reveal information, the nature of which would frustrate the purpose for closing the meeting, the subject matter shall not be announced.

§ 1209.06 Special meetings.

Notwithstanding § 1209.05, where agency business so requires, the Board Members may determine, by majority recorded vote, to schedule a meeting for a date earlier than one week subsequent to public announcement. Under such circumstances, the information to be conveyed to the public pursuant to § 1209.05 shall be publicly announced at the earliest practicable time.

§ 1209.07 Change in meeting plans subsequent to public announcement.

(a) Following public announcement of a meeting pursuant to § 1209.05 or § 1209.06, the time or place of a meeting may be changed only if the change is announced publicly at the earliest practicable time in a manner otherwise in conformance with § 1209.05.

(b) Following public announcement of a meeting, the subject matter of a meeting or the determination to open or close a meeting may be changed only if both of the following conditions are met:

(1) A majority, recorded vote of the Members of the Board determines that agency business requires the change and that no earlier announcement of such change was possible; and

(2) A public announcement of the change and of the individual Board Members' votes is made at the earliest practicable time.

§ 1209.08 Providing information to the public.

Information available to the public in accordance with this part shall be posted on a bulletin board maintained for such purpose at the Board's offices, 1425 K Street NW., Washington, D.C. Interested individuals or organizations may request the Executive Secretary, National Mediation Board, Washington, D.C. 20572 to place them on a mailing list for receipt of information available under this part.

§ 1209.09 Federal Register notices.

Immediately following each public announcement required by this part, the following information, as applicable, shall be submitted for publication in the FEDERAL REGISTER.

(a) Notice of the time, place, and subject matter of a meeting;

(b) Whether the meeting is open or closed;

(c) Any change in one of the preceding; and

(d) The name and telephone number of the agency official who will respond to requests for information about the meeting.

§ 1209.10 Capacity of public observers.

The public may attend open Board meetings *for the sole purpose of observation.* Observers *may not participate* in meetings unless expressly invited or otherwise interfere with the conduct and disposition of agency business. When a portion of a meeting is closed to the public, observers will leave the meeting room upon request to enable discussion of the exempt matter therein under consideration.

§ 1209.11 Provisions under which meetings may be closed.

A meeting as defined in § 1209.02 or portion thereof, may be closed to public observation where the Board determines that portions of the meeting are likely to incorporate deliberations subject to the exemptions enumerated in 5 U.S.C. 552b (c).

§ 1209.12 Procedures for closing meetings.

(a) The Board may determine to close to public observation a particular meeting or portions thereof, only if at least two Board Members vote on the record to take such action. No proxy votes shall be permitted. A single vote may be taken with respect to a series of meetings, or portions thereof, which are proposed to be closed to the public, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in the series.

(b) Whenever any person, whose interests may be directly affected by a portion of a meeting, requests that the Board close such portion to the public for any of the reasons referred to in 5 U.S.C. 552b(c) (5), (6) or (7), the Board, upon request of any of the Members thereof, shall determine by recorded vote whether to close such portion.

(c) For every meeting or portion thereof which Members of the Board have voted to close, the General Counsel of the National Mediation Board shall publicly certify, whether, in his or her opinion, the meeting may properly be closed to the public. In addition, the General Counsel shall state each relevant exemptive provision as set forth in 5 U.S.C. 552b(c). A copy of the General Counsel's certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and listing the persons present, shall be retained by the Board's Executive Secretary.

§ 1209.13 Public availability of recorded vote to close meetings and explanation therefor.

Within one day of any vote taken on a proposal to close a meeting, the Board shall make publicly available a record reflecting the vote of each Member on the question. In addition, within one day of any vote which closes a portion or portions of a meeting to the public, the Board shall make publicly available a full written explanation of its closure action together with a list naming all persons expected to attend and identifying their affiliation, unless such disclosure would reveal information, the nature of which would frustrate the purpose for closing the meeting.

§ 1209.14 Maintaining records of closed meetings.

(a) A record of each meeting or portion thereof which is closed to the public will be made and retained for two years or for one year after the conclusion of the agency proceeding involved in the meeting, whichever is longer. Such record shall consist of a verbatim transcript or electronic recording of the meeting except as provided by § 1209.14(b).

(b) In lieu of a transcript or recording, a comprehensive set of minutes may be produced if the closure decision was made pursuant to 5 U.S.C. 552b(c) (8), (9)(A), or (10). Such minutes shall fully and clearly describe all matters discussed, provide a full and accurate summary of any actions taken and the reasons expressed therefor, and include a description of each of the views expressed on any item. The minutes shall also reflect the vote of each Member on any action taken during the proceedings and identify all documents produced at the meeting.

§ 1209.15 Availability of records to the public.

(a) The Board shall make promptly available to the public the transcript, electronic recording, or minutes maintained as a record of closed meetings, except for such records exempt from disclosure pursuant to 5 U.S.C. 552b(f)(2). Copies of such nonexempt transcripts, minutes, or electronic recordings, disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(b) Requests for transcripts, minutes, or electronic recordings of Board meetings shall be directed to the Executive Secretary, National Mediation Board, Washington, D.C. 20572. Such requests shall reasonably identify the records being sought and include a statement that whatever costs are involved in furnishing the records will be acceptable or, alternatively, that costs will be acceptable up to a specified amount. The Board may determine to require prepayment of costs associated with this Subsection.

§ 1209.16 Requests for records under Freedom of Information Act.

Requests to review or obtain copies of agency records other than notices or records prepared under this Part may be pursued in accordance with the Freedom of Information Act (5 U.S.C 552), part 1208 of the Board's rules addresses the requisite procedure under that Act.

[FR Doc.77-7728 Filed 3-11-77;3:23 pm]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

Quality Control System; Revocation of Disallowance Provisions

The Administrator of the Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare, hereby amends § 205.40 and revokes § 205.41 of Title 45 of the Code of Federal Regulations. Current regulations in § 205.40 provide for a Quality Control system for the Aid to Families with Dependent Children program, and, in Puerto Rico, the Virgin Islands and Guam, for the programs of financial assistance to the aged, blind or disabled. This section requires States to sample their caseloads to determine their rates of erroneous payments thereunder for 6-month reporting periods, and to take corrective action to reduce the inci-

IV-D plan and support or contribution

Freedom of Information Act regulations (45 CFR Part 612) cover the availability

session might be used in such a rare circumstance, but not otherwise.

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dence of these erroneous payments. As amended on August 5, 1975 (40 FR 32954) after proposed rulemaking published on May 19, 1975 (40 FR 21737), the regulations at § 205.41 provided for the disallowance of Federal financial participation in payments to ineligibles and overpayments exceeding the prescribed tolerance levels of 3 percent and 5 percent, respectively. The disallowances were to be taken for all reporting periods beginning with the July 1–December 31, 1975 reporting period.

Two factors form the basis for the Department's revocation of § 205.41. First on May 14, 1976, the United States District Court for the District of Columbia issued an Order and Opinion in the case of *State of Maryland* v. *Mathews* which involved a challenge by 14 States to the validity of the disallowance provisions.

The Court ruled, contrary to the plaintiff States' argument, that the Social Security Act does not require Federal matching of all erroneous payments, and therefore concluded that a regulation providing for the disallowance of such payments exceeding specified levels is authorized by the Act. However, the Court ruled that the Act does contemplate Federal matching of a reasonable level of erroneous payments.

The Court found the tolerance levels of 3 percent and 5 percent to be inadequately justified, and, based upon the evidence before it, unreasonably strict. Accordingly, the Court enjoined the Department from enforcing § 205.41 against the plaintiff States.

Second, the Department has been discussing with representatives of a number of States the possibility of revising the Quality Control program. The Department decided not to appeal the *Maryland* decision as a demonstration of its good faith in these discussions. The Department also believes that it would be unfair, and certainly contrary to the spirit of cooperation necessary for successful completion of these discussions, to take the disallowances against those States which did not attain the prescribed tolerance levels and were not parties to the *Maryland* action.

Therefore, the Department is retroactively revoking § 205.41 to comply with the *Maryland* decision, and to demonstrate its good faith in discussion with the States to seek a fair alternative to the present Quality Control regulations. Accordingly, no disallowances will be taken for any periods pursuant to the § 205.41 provisions that are being revoked.

The revocation of the current content of § 205.41 does not exempt the States from the requirements of § 205.40. Thus, States are still required to sample their caseloads, report the results of these samples, and develop and implement corrective action plans to reduce the incidence of erroneous payments as specified under that section.

It should be noted that the revocation of § 205.41 also results in States being held fiscally accountable for individually identified payments to ineligibles and overpayments which are made after the date of publication of this revocation. The regulations at 45 CFR 233.10(b)(1) provide that Federal financial participation is available only in proper payments. Therefore, absent the provision of § 205.41 which, in effect, provide for FFP in these improper payments not exceeding the prescribed tolerance levels, the Department is now required to disallow FFP in all such individual improper payments identified by the State or through Federal reviews.

The Department finds that there is good cause to dispense with proposed rulemaking for two reasons. First, the revocation, effective retroactively, will relieve States of the potential fiscal burden of disallowances for prior periods. Second, immediate publication is necessary to enable those States which were not parties to the *Maryland* action to plan their budgets with full knowledge of the Department's intentions.

In addition to the revocation of § 205.41, two changes are being made in § 205.40:

1. Section 205.40(b)(3)(iv) incorporates by cross-reference the tolerance levels "specified in paragraph (a) of § 205.41 of this chapter"; § 205.40 (a) and (c) refer to § 205.41. The revocation of § 205.41 requires that tolerance levels be reflected in § 205.40 for purposes of corrective action plans; and that the references to § 205.41 be deleted. The revisions do not require proposed rulemaking procedures since they are purely technical and do not result in any substantive change.

2. The Department recognizes that the Child Support Enforcement Program under Title IV–D of the Act is a major Federal/State undertaking which cuts across many aspects of the eligibility and grant determination process for a large portion of the AFDC caseload, and that States continue to experience significant difficulty in fully implementing these provisions. Accordingly, § 205.40(c) is amended to extend, through June 30, 1977, the time period during which IV–D-related errors will not be counted as case errors.

The purpose of this change is to provide the States with an additional period of time during which to fully implement the cited requirements. The basis for the extension is the Department's belief that to cite case errors associated with the IV–D program would be unreasonable and not in the best interest of the goal of improved management of the AFDC program and uniform national application of quality control.

This amendment does not exempt the States from implementing the statutory and regulatory program requirements. Failure to substantially comply with such requirements could still result in withholding of Federal financial participation. The Department finds that there is good cause to waive public participation procedures because the extension benefits State agencies without having any adverse effects on applicants for, or recipients of, assistance.

Both the *Maryland* decision and the decision in similar actions, *State of Ohio* v. *Mathews and State of Georgia* v. *Mathews*, clearly allow the Department to establish new tolerance levels for overpayments and payments to ineligibles, under regulations similar to those contained at § 205.41 prior to this revocation, as a basis for disallowing FFP in the future. Accordingly, the Department has prepared a draft proposal to establish new tolerance levels for use as the basis for future disallowances of FFP. The draft proposal is currently in the review process and is available prior to its publication in the FEDERAL REGISTER. Copies of the draft proposal may be obtained from:

Dr. Victor Kugajevsky, Office of Special Initiatives, Social and Rehabilitation Service, U.S. Department of Health, Education, and Welfare, Room 5092, MES Building, 330 C Street SW., Washington, D.C. 20201, 202–245–0330.

Accordingly, Chapter II, Title 45 of the Code of Federal Regulations is revised as set forth below:

1. Section 205.40 is revised by deleting all cross-references to § 205.41 and amending paragraphs (b)(3)(iv) and (c) to read as set forth below:

§ 205.40 Quality control system.

(a) *Definitions.* For purposes of this section, notwithstanding any other regulations in this chapter:

* * * * * *

(b) *State plan requirements.*—A State plan under title IV–A or I, X, XIV or XVI of the Social Security Act must provide for a continuing system of quality control for assuring that assistance is furnished in accordance with permissible State practice (as defined herein). Under this requirement:

* * * * * *

(3) The State agency shall submit to the Social and Rehabilitation Service, in such form and at such times as it prescribes:

* * * * * *

(iv) A corrective action plan for reducing the case error rates of ineligibility, overpayments, and underpayments, within 90 days of the close of the 6-month sampling period to which they apply (January 1 through June 30, or July 1 through December 31), even after achieving case error rates of:

(A) 3 percent for ineligibility;
(B) 5 percent for overpayments; and
(C) 5 percent for underpayments; and

* * * * * *

(c) *Temporary exception.* Through June 30, 1977, for the purpose of this section, the term "case error" shall not include errors that result solely from the State's:

(1) Failure to apply, or improper or incomplete application of, the following provisions:

(i) 45 CFR 232.10 Furnishing of social security numbers;

(ii) 45 CFR 232.11 Assignment of rights to support; and

(iii) 45 CFR 232.12 Cooperation in obtaining support; and

(2) Treatment of child support collected and distributed under the State

IV–D plan and support or contribution income received directly from a legally liable individual by the AFDC family, when the recipient's support rights have been assigned to the State agency.

2. Section 205.41 is revoked, retroactive to July 1, 1975.

§ 205.41 [Reserved]

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

Effective date. This amendment is effective July 1, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance—Maintenance Assistance (State Aid))

NOTE.—The Social and Rehabilitation Service has determined that this document does not require preparation of an inflationary impact statement under Executive Order 11821 and OMB Circular A–107.

Answers to specific questions may be obtained by calling Victor Kugajevsky, 202–245–0330.

Dated: February 7, 1977.

DON I. WORTMAN,
Acting Administrator, Social and Rehabilitation Service.

Approved: March 10, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc.77-7756 Filed 3-15-77;8:45 am]

CHAPTER VI—NATIONAL SCIENCE FOUNDATION

PART 614—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS OF THE NATIONAL SCIENCE BOARD

The following regulations implement the policy of the United States and of the National Science Board (NSB) to give the public open access to the decisionmaking of the Board to the fullest extent that is practicable, consistent with the rights of individuals, and consistent with the ability of the Board and the Federal Government generally to carry out their responsibilities. It will be the general rule of the Board that every portion of every meeting of the National Science Board will be open to public observation. Certain exceptions to this rule will be made to protect the rights of citizens and the functioning of the Board and the Foundation. The following regulations identify the conditions under which meetings may be closed under these exceptions and under which certain other information may be withheld. They also prescribe procedures for closing meetings, for handling the transcripts or recordings of closed meetings, and for making public announcements of Board meetings and meeting changes.

These regulations were published in proposed form in 41 FR 54956 on December 16, 1976. Comments received have been carefully considered. The principal points raised and the Foundation's responses follow:

1. *Comment.* The Board should be required to decide by majority vote whether any document considered at a Board meeting shall be kept secret. *Response.* The Foundation's currently effective Freedom of Information Act regulations (45 CFR Part 612) cover the availability of documents, including documents considered at Board meetings. Meaningful detailed consideration by the full National Science Board of what parts of what documents may be and should be withheld would be impractical and a poor use of its limited time.

2. *Comment.* The regulations should permit requests from the public for reconsideration of decisions to close meetings. *Response.* Inclusion of a formal provision is not required by law and appears unnecessary. The staff of the Board will consider any such requests and bring them to the attention of the Chairman.

3. *Comment.* Any decision not to release all or parts of the transcript of a closed meeting should be taken in the same manner as a decision to close all or parts of the meeting—by record vote of the Board. *Response.* Such a requirement is conspicuously absent in 5 U.S.C. 552b(f)(2). Section 614.4(c) of the Board's regulations, which provides for release by the Chairman or his designee, should speed and simplify the release of information, since the Board meets as a whole only at intervals of a month or more.

4. *Comment.* Budget deliberations of the Board are not per se exempt under the Act. *Response.* The regulations do not make budget deliberations per se exempt. The Board will generally follow Administration guidance on interpretation of the Act in determining what budget deliberations to conduct in closed session.

5. *Comment.* The preamble to the NSB regulations indicates that there will be cases in which Board recommendations to the President will be considered in closed session to prevent premature disclosure. Agency recommendations to the President are not ipso facto within exemption 9B. *Response.* The proposed regulations do not require recommendations to the President to be considered in closed session. However, the Board may find in individual cases that deliberations on some such recommendations are within the exemption. This is consistent with its legislative history.

6. *Comment.* Section 614.2(a) should be amended to require, besides a finding that the subject matter falls within a specific exemption, a finding that the public interest mandates a closed meeting. *Response.* Proposed § 614.2(a) states that the Board may close portions of meetings if it properly determines that the subjects under discussion fall within one of the exemptions. In other words, the section is permissive, not mandatory. In deciding whether or not to close any discussion the Board will naturally be guided by the public interest provision of the Act.

7. *Comment.* Section 614.2(a)(9)(i), which reflects exemption 9A of the Act, is not available to the Board and should be deleted from the regulations. *Response.* The Board may conceivably receive information from a government agency within the scope of 9A. The provision which would allow the Board to consider any such information in closed session might be used in such a rare circumstance, but not otherwise.

8. *Comment.* Section 614.3(a) should be amended to make clear that the General Counsel's certificate must be presented before a meeting may be closed. *Response.* The Act says only that "for every meeting closed" the General Counsel shall certify. It does not say when he shall certify. The certificate normally will nonetheless be executed before any meeting of the Board is closed. Instances may arise in which the certificate will not be reduced to written form before the the closed meeting, however, even though the Board's resolution to close will be made with advice from the General Counsel. This might occur, for example, when items that cannot be postponed are added to a closed-meeting agenda at the last minute. Thus, § 614.3 is consistent with the text of the Act and provides appropriate flexibility for special circumstances.

9. *Comment.* Section 614.4(a) should be amended to make the transcript or recording of a closed meeting publicly available on the Board's own initiative, whether or not a public request for it is made. *Response.* The Act does not require that the transcript be made available before a request is made. The Board has been conducting its meetings under the Act for several months, during which no request for a transcript or recording has yet been made. Preparation of a transcript or recording for release, with accompanying decisions on what will and will not be withheld, is costly. The Board's experience thus far indicates that anticipatory expenditure of the taxpayers' money for this purpose would be unjustified. Should the frequency of requests for transcripts materially increase, however, the Board will reconsider this matter.

10. *Comments.* Section 614.5(b) should be amended to provide for the posting on public notice boards of meeting announcements and related information. *Response.* This has been done.

Accordingly, Part 614 of Title 45 of the Code of Federal Regulations is promulgated as set forth below, effective March 12, 1977.

NORMAN HACKERMAN,
Chairman, National Science Board.

MARCH 11, 1977.

Sec.
614.1 General rule.
614.2 Grounds for closing meetings.
614.3 Materials relating to closed portions of meetings.
614.4 Opening of transcript or recording.
614.5 Public announcement.
614.6 Meeting changes.
614.7 Record vote.
614.8 Application to Board Executive Committee.

AUTHORITY: Government in the Sunshine Act, sec. 552b of Title 5, United States Code; 90 Stat. 1241.

§ 614.1 General rule.

Except as otherwise provided in these regulations, every portion of every meeting of the National Science Board will be open to public observation.

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§ 614.2 Grounds for closing meetings.

(a) The National Science Board may by record vote close any portion of any meeting if it properly determines that an open meeting:

(1) Is likely to disclose matters that (i) are specifically authorized under criteria established by Executive Order to be kept secret in the interests of national defense or foreign policy and (ii) are in fact properly classified pursuant to the Executive Order;

(2) Is likely to relate solely to the internal personnel rules and practices of the National Science Foundation;

(3) Is likely to disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That the statute (i) requires in such a manner as to leave no discretion on the issue that the matters be withheld from the public, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Is likely to involve accusing any person of a crime, or formally censuring any person;

(6) Is likely to disclose personal information where the disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Is likely to disclose investigatory law-enforcement records, or information which, if written, would be contained in such records, but only to the extent provided in 5 U.S.C. 552b(c)(7);

(8) Is likely to disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Is likely to disclose information, the premature disclosure of which would:

(i) In the case of information received from an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

(ii) Be likely to significantly frustrate implementation of a proposed Foundation action, unless the Foundation has already disclosed to the public the content or nature of its proposed action or is required by law to make such disclosure on its own initiative before taking final action; or

(10) Is likely to specifically concern the Foundation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration.

(b) Anyone who believes his interests may be directly affected by a portion of a meeting may request that the Board close it to the public for any reason referred to in paragraphs (a) (5), (6), or (7) of this section. The request should be addressed to the National Science Board, National Science Foundation, Washington, D.C. 20550. It will be circulated to Members of the Board if received at least three full days before the meeting, and on motion of any Member the Board will determine by record vote whether to close the affected portion of the meeting.

§ 614.3 Materials relating to closed portions of meetings.

If a portion or portions of any meeting of the National Science Board are closed to the public under § 614.2:

(a) The General Counsel of the National Science Foundation shall publicly certify that, in his opinion, that portion or portions may properly be closed to the public. The certificate shall state the exemptions under 5 U.S.C. 552b(c) that make the closings proper.

(b) The presiding officer of the meeting (usually the Chairman of the Board) shall furnish a statement setting forth the time and place of the meeting and the persons present.

(c) The Board shall make a complete transcript or electronic recording adequate to record fully the proceedings of each portion of the meeting that is closed to the public.

(d) The National Science Board Office shall maintain the General Counsel's certificate, the presiding officer's statement, and the transcript or recording of the meeting for at least two years after the meeting and at least one year after the Board completes consideration of any proposal, report, resolution, or similar matter discussed in any closed portion of the meeting.

§ 614.4 Opening of transcript or recording.

(a) Except as otherwise provided in this section, the transcript or electronic recording of every portion of every meeting closed to the public will promptly be made available on request to any member of the public in an easily accessible place. The National Science Board Office will furnish to any member of the public on request copies of the transcript or of a transcription of the recording disclosing the identity of each speaker, and will charge for the copies or transcriptions no more than the actual cost of duplication or transcription.

The Board will, however, withhold the transcript or recording of the discussion of any agenda item if the Chairman of the Board or a Board Member designated by him determines that the discussion contains information which should be withheld under the same standards as apply for closing meetings under § 614.2.

(c) The Board will release any transcript or recording withheld under this paragraph (b) when the Chairman of the Board or any person designated by him determines that the grounds for withholding it no longer apply.

(d) A request under paragraph (a) of this section should be directed in writing to the Executive Secretary, National Science Board, should clearly state what is requested, and should contain a promise to pay the costs of any duplication or transcription requested.

§ 614.5 Public announcement.

(a) Except as provided in paragraphs (c) and (d) of this section, the National Science Board will make a public announcement of each Board meeting at least one week before the meeting takes place.

The announcement will cover: (1) The time, place, and subject matter of the meeting;

(2) What portions of the meeting, if any, are to be closed to the public; and

(3) The name and telephone number of the official designated to respond to requests for information on the meeting.

(b) Each such announcement will be promptly posted on public notice boards at the National Science Foundation and made available to journals of general scientific interest. Immediately following the issuance of such an announcement, it will be submitted for publication in the FEDERAL REGISTER.

(c) The announcement may be made less than a week before the meeting it announces or after the meeting only if (1) the Board by record vote determines that agency business requires the meeting to be called on such short or after-the-fact notice and (2) an announcement is made at the earliest practicable time.

(d) All or any portion of the announcement of any meeting may be omitted if the Board by record vote determines that the announcement would disclose information which should be withheld under the same standards as apply for closing meetings under § 614.2.

§ 614.6 Meeting changes.

(a) The time or place of a meeting of the National Science Board that has been publicly announced as provided in § 614.5 may subsequently be changed, but any such change will be publicly announced at the earliest practicable time.

(b) The subject matter of any portion of any meeting of the Board that has been publicly announced as provided in § 614.5 or the determination whether any portion of any meeting so publicly announced will be open or closed may subsequently be changed, but only when:

(1) The Board determines by record vote that agency business so requires and that no earlier announcement of the change was possible; and

(2) The Board publicly announces the change and the vote of each Member on the change at the earliest practicable time.

§ 614.7 Record vote.

(a) For purposes of this part a vote of the National Science Board is a "record vote" if: (1) It carries by a majority of all those holding office as Board Members at the time of the vote;

(2) No proxies are counted toward the necessary majority; and

(3) The individual vote of each Member present and voting is recorded.

(b) Within one day of any such record vote or any attempted record vote that fails to achieve the necessary majority under paragraph (a)(1) of this section, the Board Office will make publicly available a written record showing the vote of each Member on the question.

(c) Within one day of any record vote under which any portion or portions of a Board meeting are to be closed to the public, the Board Office will make available a full written explanation of the Board's action and a list of all persons expected to attend the meeting, showing their affiliations.

§ 614.8 Application to Board Executive Committee.

All the provisions of this part applicable to the National Science Board shall apply equally to the Executive Committee of the Board whenever the Executive Committee is meeting pursuant to its authority to act on behalf of the Board.

[FR Doc.77-7783 Filed 3-11-77;4:35 pm]

CHAPTER XIV—NATIONAL INSTITUTE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 1440—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

National Council on Educational Research

ACTION: Final regulation.

SUMMARY: This notice contains the final regulation implementing the Government in the Sunshine Act, Pub. L. 94-409, as required by section 3(a) of the Act.

EFFECTIVE DATE: March 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter Gerber, Chief, NCER Staff, 1200 19th Street, NW., Washington, D.C. 20208.

The National Council on Educational Research (NCER) published in the FEDERAL REGISTER (42 FR 9399, February 16, 1977) its proposed regulations implementing the "Government in the Sunshine Act" (Pub. L. 94-409; 5 U.S.C. 552b). Interested parties were encouraged to submit comments on these proposed regulations. Three written comments were received.

One party urged that closed meetings be the rare exceptions to the general rule stated in § 1440.1 that "except as otherwise provided in these regulations, every portion of every meeting of the NCER will open to public observation." NCER agrees that only in rare instances will the statutory exemptions be invoked. Thus § 1440.1 remains as proposed.

This party also stressed the importance of the public announcement requirements of § 1440.5. This party would have the NCER adopt a procedure of placing a notice at least one week in advance in a newspaper of general circulation in the area where the meeting is to be held. Whenever feasible, the NCER will give the broadest possible publication concerning the time, place and subject of its meetings. The NCER thinks that as currently written, § 1440.5 provides adequate authority for public notification, without requiring the specific notice suggested.

The second party was the Honorable Richard Preyer, in his capacity as Chairman of the House Subcommittee on Government Information and Individual Rights of the Committee on Government Operations. Mr. Preyer made three suggestions.

Mr. Preyer first referred to the introductory comments to the proposed regulations about the possibility of closing discussions on NIE's proposed budget and which indicate that NCER will follow the guidance of the Office of Management and Budget in this regard. Mr. Preyer indicated that this issue was raised at various times during congressional considerations of the Act and that Congress did not see fit to include a specific exemption for such discussions. The NCER agrees that budget discussions will be closed to the extent that they are determined to fit within any of the ten exemptions contained in the Act, and that budget discussions are not per se exempt under these regulations.

Mr. Preyer's second suggestion was that Section 1440.2 be amended to make clear that there are two distinct steps in any determination that the NCER agrees before it can vote to close a meeting, the NCER must decide first whether the discussion comes within one of the specific exemptions; and second, if it is determined that the meeting can be closed, whether the public interest nevertheless requires that the meeting be open.

Therefore, the NCER has adopted appropriate modifications to § 1440.2.

Mr. Preyer's third suggestion concerned possible ambiguity about the timing of the public certification by the General Counsel of HEW whether the meeting may properly be closed to the public.

In order to make the timing clear, the NCER has amended § 1440.3(a) so that the General Counsel of HEW shall certify, in writing to the NCER prior to any NCER vote, whether the proposed closing of any portion or portions of a meeting or series of meetings would be proper under the provisions of this subpart and of the Government in the Sunshine Act.

The third party was concerned that the statutory two year record preservation period of § 1440.3(d) might be inadequate. He suggested that NCER amend § 1440.3(d) to provide that the records would be kept "for at least five years after the meetings," because it may take the public two years to become aware of the existence of such records.

The NCER recognizes this concern, but is not convinced that it is necessary for the NCER to require records retention for five years. Section 1440.3(d) will remain as proposed.

JOHN E. CORBALLY,
Chairman.

Title 45 CFR Chapter XIV is amended by adding a new Part 1440 to read as follows:

Sec.
1440.1 General rule.
1440.2 Grounds for closing meetings.
1440.3 Materials relating to closed portions of meetings.
1440.4 Opening of transcript or recording.
1440.5 Public announcement.
1440.6 Meeting changes.
1440.7 Record vote.
1440.8 Application to NCER Committees.

AUTHORITY: Government in the Sunshine Act, sec. 552b of Title 5, United States Code: 90 Stat. 1241.

§ 1440.1 General rule.

Except as otherwise provided in these regulations, every portion of every meeting of the NCER will be open to public observation.

§ 1440.2 Grounds for closing meetings.

(a) The NCER may by record vote close any portion of any meeting if it properly determines that an open meeting:

(1) Is likely to disclose matters that (i) are specifically authorized under criteria established by Executive Order to be kept secret in the interests of national defense or foreign policy and (ii) are in fact properly classified pursuant to the Executive Order;

(2) Is likely to relate solely to the internal personnel rules and practices of the National Institute of Education (NIE);

(3) Is likely to disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That the statute (i) requires in such a manner as to leave no discretion on the issue that the matters be withheld from the public, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Is likely to involve accusing any person of a crime, or formally censuring any person;

(6) Is likely to disclose persona linformation where the disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Is likely to disclose investigatory law-enforcement records, or information which, if written, would be contained in such records, but only to the extent provided in 5 U.S.C. 552b(v)(7);

(8) Is likely to disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Is likely to disclose information, the premature disclosure of which (i) In the case of information received from an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or (ii) Be

likely to significantly frustrate implementation of a proposed NIE action,

the copies or transcriptions no more than the actual cost of duplication or

and that no earlier announcement of change was possible, and (2) the NCER

States House of Representatives submitted comments. These comments listed

§ 1802.1 Purpose and scope.

The Harry S. Truman Scholarship

§ 1802.3 Open meetings.

(a) Members shall not jointly conduct

likely to significantly frustrate implementation of a proposed NIE action, unless the NIE has already disclosed to the public the content or nature of its proposed action or is required by law to to make such disclosure on its own initiative before taking final action; or

(10) Is likely to specifically concern the NIE participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration.

(b) Such a determination must also include the NCER's consideration and determination whether the public interest merits keeping the meeting open, despite the applicability of an exemption permitting a closed meeting or portion thereof.

(c) Anyone who believes his interests may be directly affected by a portion of a meeting may request that the NCER close it to the public for any reason referred to in paragraphs (a) (5), (6), or (7) of this section. This request should be addressed to the Chief, NCER Staff at the headquarters of the NIE. It will be circulated to Members of the NCER if received at least three full days before the meeting, and on motion of any Member, the NCER will determine by record vote whether to close the affected portion of the meeting.

§ 1440.3 Materials relating to closed portions of meetings.

If a portion or portions of any meeting of the NCER are closed to the public under § 1440.2;

(a) The General Counsel of HEW shall certify, in writing to the NCER prior to any NCER vote, whether or not in his or her opinion the proposed closing of any portion or portions of a meeting or series of meetings is proper under the provisions of this subpart and of the Government in the Sunshine Act.

(b) The presiding officer of the meeting (usually the Chairman of NCER) shall furnish a statement setting forth the time and place of the meeting and the persons present.

(c) The NCER shall make a complete transcript or electronic recording adequate to record fully the proceedings of each portion of the meeting that is closed to the public.

(d) The NCER office shall maintain the General Counsel's certificate, the presiding officer's statement and the transcript or recording of the meeting for at least two years after the meeting and at least one year after the NCER completes consideration of any proposal, report, resolution, or similar matter discussed in any closed portion of the meeting.

§ 1440.4 Opening of transcript of recording.

(a) Except as otherwise provided in this section, the transcript or electronic recording of every portion of every meeting closed to the public will promptly be made available on request to any member of the public in an easily accessible place. The NCER office will furnish to any member of the public on request copies of the transcript or of a transcription of the recording disclosing the identity of each speaker, and will charge for the copies or transcriptions no more than the actual cost of duplication or transcription.

(b) The NCER will, however, withhold the transcript or recording of the discussion of any agenda item if the Chairman of the NCER or a NCER Member designated by him determines that the discussion contains information which should be withheld under the same standards as apply for closing meetings under § 1440.2.

(c) The NCER will release any transcript or recording withheld under paragraph (b) of this section when the Chairman of the NCER or any person designated by him determines that the grounds for withholding it no longer apply.

(d) A request under paragraph (a) of this section should be directed in writing to the Chief, NCER Staff, NIE, should clearly state what is requested, and should contain a promise to pay the costs of any duplication or transcription requested.

§ 1440.5 Public announcement.

(a) Except as provided in paragraph (c) and (d) of this section, the NCER will make a public announcement of each meeting at least one week before the meeting takes place. The announcement will cover: (1) The time, place, and subject matter of the meeting; (2) what portions of the meeting, if any, are to be closed to the public; and (3) the name and phone number of the official designated to respond to requests for information on the meeting.

(b) Each such announcement will be promptly made available to selected journals and other appropriate publications. Immediately following the issuance of such an announcement it will be submitted for publication to the FEDERAL REGISTER.

(c) The announcement may be made less than a week before the meeting it announces or after the meeting only if (1) the NCER by record vote determines that agency business requires the meeting to be called on such short or after-the-fact notice and (2) a full announcement is made at the earliest practicable time.

(d) All or any portion of the announcement of any meeting may be omitted if the NCER by record vote determines that the announcement would disclose information which should be withheld under the same standards as apply for closing meetings under § 1440.2.

§ 1440.6 Meeting changes.

(a) The time or place of a meeting of the NCER that has been publicly announced as provided in § 1440.5 may subsequently be changed, but any such change will be publicly announced at the earliest practicable time.

(b) The subject matter of any portion of any meeting of the NCER that has been publicly announced as provided in § 1440.5 or the determination whether any portion of any meeting so publicly announced will be open or closed may subsequently be changed, but only when: (1) The NCER determines by record vote that agency business so requires and that no earlier announcement of change was possible, and (2) the NCER publicly announces the change and the vote of each member on the change at the earliest practicable time.

§ 1440.7 Record vote.

(a) For purposes of this part of a vote of the NCER is a "record vote" if: (1) It carries by a majority of all those holding office as NCER Members at the time of the vote; (2) no proxies are counted toward the necessary majority; and (3) the individual vote of each Member present and voting is recorded.

(b) Within one day of any such record vote or any attempted record vote that fails to achieve the necessary majority under paragraph (a)(1) of this section, the NCER office will make publicly available a written record showing the vote of each member on the question.

(c) Within one day of any record vote under which any portion or portions of a NCER meeting are to be closed to the public, the NCER office will make available a full written explanation of the NCER's action and a list of all persons expected to attend the meeting, showing their affiliations.

§ 1440.8 Application to NCER Committees.

All the provisions of this part applicable to the NCER shall apply equally to the Committees of NCER whenever the Committees are authorized to act on behalf of the NCER.

[FR Doc.77-7673 Filed 3-15-77;8:45 am]

CHAPTER XVIII—HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

PART 1802—PUBLIC MEETING PROCEDURES OF THE BOARD OF TRUSTEES

Implementation of Government in the Sunshine Act

On February 1, 1977, at 42 FR 5987, the Harry S. Truman Scholarship Foundation issued proposed regulations which set forth the procedures which will be followed by the Foundation's Board of Trustees in conducting its meetings, as prescribed by the Government in the Sunshine Act (5 U.S.C. 552b).

The Foundation gave notice that the proposed regulations would (1) define terms used therein, (2) request notification from the public of intention to attend an open meeting, (3) clarify that these procedures apply only to meetings of the Board of Trustees of the Foundation, (4) declare that, unless otherwise specified, every meeting of the Board of Trustees shall be open to the public, (5) state the basis for closing a meeting to the public, (6) provide for the announcement of meetings, (7) state how a meeting shall be closed, (8) require the keeping of records of closed meetings, and (9) state how requests for information shall be addressed.

Prior to adoption of the proposed regulations, the Foundation opened the record for public comment. Only the Subcommittee on Government Information and Individual Rights of the Committee on Government Operations of the United States House of Representatives submitted comments. These comments listed six specific suggestions as follows:

(1) The subcommittee suggested that the barrier to the use of recording devices at Board meetings in § 1802.3 (b) of the proposed regulations should only bar recording devices that would disrupt the proceedings. Section 1802.3(b) has been amended to follow this suggestion.

(2) The subcommittee suggested the addition of a specific declaration to the proposed regulations to make it clear that meetings can be closed only after a specific finding that an open meeting is not required by the public interest. Such a declaration has been added to § 1802.6 (a) of the regulations.

(3) The subcommittee pointed out that exemption 9A of the Government in the Sunshine Act, the exemption concerning the regulation of currencies, securities, commodities, or financial institutions, does not apply to the Foundation. Accordingly, this exemption has been deleted from § 1802.4(1) of the Foundation's regulations.

(4) The subcommittee suggested that the Foundation publicize its meetings widely. The Foundation will make every effort to comply with this suggestion.

(5) The subcommittee suggested the deletion of proposed § 1802.5(e) permitting the deletion of meeting agenda items without notice. This suggestion has been followed and the proposed regulation has been stricken.

(6) The subcommittee pointed out that the General Counsel of the Foundation must publicly certify that a particular meeting may properly be closed before it may be closed. Section 1802.6(e) of the Foundation's regulations have been amended to make this point clear.

These amendments to the Foundation's proposed regulations make these regulations conform to the Government in the Sunshine Act with respect to the activities of the Foundation. Accordingly, the Foundation now publishes in final form the following regulations, effective March 12, 1977.

Dated: March 11, 1977.

ROBERT E. CLEARY,
Executive Secretary.

Approved:
JOHN W. SNYDER,
Chairman, Board of Trustees.

Title 45 of the Code of Federal Regulations is amended by establishing a new Part 1802 in Chapter XVIII, to read as follows:

PART 1802—PUBLIC MEETING PROCEDURES OF THE BOARD OF TRUSTEES

Sec.
1802.1 Purpose and scope.
1802.2 Definitions.
1802.3 Open meetings.
1802.4 Grounds on which meetings may be closed, or information may be withheld.
1802.5 Procedure for announcing meetings.
1802.6 Procedure for closing meetings.
1802.7 Transcripts, recordings, minutes of meetings.

AUTHORITY: 5 U.S.C. 552b(g); 20 U.S.C. 2001-2012.

§ 1802.1 Purpose and scope.

The Harry S. Truman Scholarship Foundation will provide the public with the fullest practical information regarding its decision-making processes while protecting the rights of individuals and the Foundation's abilities to carry out its responsibilities. Accordingly, these procedures apply to meetings of the Board of Trustees, Harry S. Truman Scholarship Foundation, including committees of the Board of Trustees.

§ 1802.2 Definitions.

As used in this part:

"Board" or "Board of Trustees" means the collegial body that conducts the business of the Harry S. Truman Scholarship Foundation as specified in section 5(b), Pub. L. 93-642 (20 U.S.C. 2004), consisting of:

(1) Eight persons appointed by the President, by and with the advice and consent of the Senate;

(2) Two Members of the Senate, one from each political party, appointed by the President of the Senate;

(3) Two members of the House of Representatives, one from each political party, appointed by the Speaker; and

(4) The Commissioner of Education or his designee, who serves as an ex officio member of the Board.

"Chairman" means the presiding officer of the Board.

"Committee" means any formally designated subdivision of the Board, consisting of at least two Board members, authorized to act on behalf of the Board, including the Board's standing committees and any ad hoc committees appointed by the Board for special purposes.

"Executive Secretary" means the individual appointed by the Board to serve as the chief executive officer of the Foundation.

"Meeting" means the deliberations of at least the number of individual voting members of the Board required to take action on behalf of the Board, where such deliberations determine or result in the joint conduct or disposition of official business of the Board, but does not include (1) deliberations to open or close a meeting, to establish the agenda for a meeting, or to release or withhold information, required or permitted by §§ 1802.5 or 1802.6, (2) notation voting or similar consideration of matters whether by circulation of material to members individually in writing, or polling of members individually by telephone or telegram and (3) instances where individual members, authorized to conduct business on behalf of the Board or to take action on behalf of the Board, meet with members of the public or staff. Conference telephone calls that involve the requisite number of members, and otherwise come within the definition, are included.

"Member" means a member of the Board of Trustees.

"Staff" includes the employees of the Harry S. Truman Scholarship Foundation, other than the members of the Board.

§ 1802.3 Open meetings.

(a) Members shall not jointly conduct or dispose of business of the Board of Trustees other than in accordance with these procedures. Every portion of every meeting of the Board of Trustees or any committees of the Board shall be open to public observation subject to the exceptions provided in Section 1802.4.

(b) Open meetings will be attended by members of the Board, certain staff, and any other individual or group desiring to observe the meeting. The public will be invited to observe and listen to the meeting but not to participate. The use of cameras and disruptive recording devices will not be permitted.

§ 1802.4 Grounds on which meetings may be closed, or information may be withheld.

Except in a case where the Board or a committee finds that the public interest requires otherwise, the open meeting requirement as set forth in the second sentence of § 1802.3(a) shall not apply to any portion of a Board or committee meeting, and the informational disclosure requirements of §§ 1802.5 and 1802.6 shall not apply to any information pertaining to such meeting otherwise required by this part to be disclosed to the public, where the Board or committee, as applicable, properly determines that such portion or portions of its meetings or the disclosure of such information is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (2) in fact properly classified pursuant to such Executive Order;

(b) Relate solely to the internal personnel rules and practices of the Harry S. Truman Scholarship Foundation;

(c) Disclose matters specifically exempted from disclosure by statute (other than section 552, Title 5, United States Code), provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial and financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity

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of a confidential source and, in the case of a record compiled by a criminal law

nouncement required by paragraph (a) only if the Executive Secretary, acting

tion of a meeting requests that the Board or a committee close such portion to the

the vote of each member on the question). All documents considered in con-

sion's Rules and Regulations, with respect to the use of wireless microphones.'

of this and the length of time since the last examination of the needs of this particular auxiliary broadcast service,

of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except that this paragraph shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the issuance of a subpoena, or Foundation participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Foundation of a particular case of formal adjudication pursuant to the procedures in Section 554 of Title 5, United States Code, or otherwise involving a determination on the record after opportunity for a hearing.

§ 1802.5 Procedure for announcing meetings.

(a) Except to the extent that such information is exempt from disclosure under the provisions of Section 1802.4, in the case of each Board or committee meeting, the Executive Secretary, acting at the direction of the Board, shall publish in the FEDERAL REGISTER, at least seven days before the meeting, the following information:

(1) Time of the meeting;

(2) Place of the meeting;

(3) Subject matter of the meeting;

(4) Whether the meeting or parts thereof are to be open or closed to the public; and

(5) The name and phone number of the person designated by the Board or committee to respond to requests for information about the meeting.

(b) The seven-day period for the public announcement required by paragraph (a) of this section may be reduced if a majority of the members of the Board or committee, as applicable, determine by a recorded vote that Board or committee business requires that such expedited meeting be called at an earlier date. The Board or committee shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(c) The time or place of a meeting may be changed following the public announcement required by paragraph (a) only if the Executive Secretary, acting at the direction of the Board, publicly announces such change at the earliest practicable time. Such change need not be voted on by the members.

(d) The subject matter of a meeting, or the determination of the Board or committee, as applicable, to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by paragraph (a) only if (1) a majority of the entire voting membership of the Board or a majority of the entire voting membership of a committee, determines by a recorded vote that Board or committee business so requires and that no earlier announcement of the change was possible, and (2) the Board or committee publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(e) The "earliest practicable time" as used in this section, means as soon as possible, which should in few, if any, instances be no later than commencement of the meeting or portion in question.

(f) Immediately following each public announcement required by this section, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the person designated by the Board or committee to respond to requests for information about the meeting, shall be submitted for publication in the FEDERAL REGISTER.

§ 1802.6 Procedure for closing meetings.

(a) Action to close a meeting or a portion thereof, pursuant to the exemptions set forth in § 1802.4, shall be taken only when a majority of the entire voting membership of the Board or a majority of the entire voting membership of a committee, as applicable, vote to take such action. Any such action shall include a specific finding by the Board that an open meeting is not required by the public interest.

(b) A separate vote of the Board or committee members shall be taken with respect to each Board or committee meeting, a portion or portions of which are proposed to be closed to the public pursuant to § 1802.4 or with respect to any information which is proposed to be withheld under § 1802.4.

(c) A single vote of the Board or committee may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in such series.

(d) The vote of each member shall be recorded, and may be by notation voting, telephone polling or similar consideration.

(e) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Board or a committee close such portion to the public under any of the exemptions relating to personal privacy, criminal accusation, or law enforcement information referred to in paragraph (e), (f), or (g) of § 1802.4, the Board or committee, as applicable, upon request of any one of its members, shall vote by recorded vote whether to close such meeting. Where the Board receives such a request prior to a meeting, the Board may ascertain by notation voting, or similar consideration, the vote of each member of the Board, or committee, as applicable, as to the following:

(1) Whether the business of the Board or committee permits consideration of the request at the next meeting, and delay of the matter in issue until the meeting following, or

(2) Whether the members wish to close the meeting.

(d) Within one day of any vote taken pursuant to paragraph (a), (b), (c) or (e), of this section, the Board or committee shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Board or committee shall, within one day of the vote taken pursuant to paragraph (a), (b), (c), or (e) of this section, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation. The information required by this paragraph shall be disclosed except to the extent it is exempt from disclosure under the provisions of § 1802.4.

(e) For every meeting closed pursuant to § 1802.4, the General Counsel of the Harry S. Truman Scholarship Foundation shall certify before the meeting may be closed that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Board as part of the transcript, recording or minutes required by § 1802.7.

§ 1802.7 Transcripts, recordings, minutes of meetings.

(a) The Board of Trustees shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting closed to the public pursuant to paragraph (j) of § 1802.4, the Board shall maintain either such a transcript or recording, or a set of minutes.

(b) Where minutes are maintained they shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons for such actions, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(c) The Board shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Board proceeding with respect to which the meeting or portion was held, whichever occurs later.

(d) Public availability of records shall be as follows:

(1) Within ten days of receipt of a request for information (excluding Saturdays, Sundays, and legal public holidays), the Foundation shall make available to the public, in the offices of the Harry S. Truman Scholarship Foundation, 712 Jackson Place NW., Washington, D.C., the transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting except for such item or items of such discussion or testimony as the General Counsel determines to contain information which may be withheld under § 1802.4.

(2) Copies of such transcript, or minutes, or a transcription of such recording disclosing the identify of each speaker, shall be available at the actual cost of duplication or transcription.

(3) The determination of the General Counsel to withhold information pursuant to subparagraph (1) may be appealed to the Board. The appeal shall be circulated to individual Board members. The Board shall make a determination to withhold or release the requested information within twenty days from the date of receipt of a written request for review (excluding Saturdays, Sundays, and legal public holidays).

(4) A written request for review shall be deemed received by the Board when it has arrived at the offices of the Board in a form that describes in reasonable detail the material sought.

[FR Doc.77-7649 Filed 3-15-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20195; RM-2041; RM-2659; FCC 77-119]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Wireless Microphones; Operation of Wireless Microphones in the Frequency Range 174–216 MHz (VHF Channels (Television) 7–13)

Adopted: February 10, 1977.

Released: March 8, 1977.

In the matter of amendment of Part 2, and Subpart D, Part 74, of the Commission's Rules and Regulations, with respect to the use of wireless microphones.[1] Report, memorandum opinion and order.

By the Commission: Commissioner Lee absent.

1. The Commission has under consideration its notice of inquiry and notice of proposed rule making in the above entitled matter. Comments were requested in the notice on the desirability of amending the low power auxiliary broadcast rules to permit the operation of wireless microphones in the frequency range 174–216 MHz (VHF television Channels 7–13). The notice was released in response to a petition for rule making filed by Vega Electronics (Vega), a manufacturer of wireless microphones.

2. The reasoning behind the proposal was explained in the notice as follows: there are many areas in AM, FM, and TV broadcasting where wireless microphones could effectively be used. Broadcast use of wireless microphones, however, requires freedom from interference (to function properly), and an adequate spectrum allocation (in order to accommodate a large number of wireless microphones at a given location). For the most part, the frequencies allocated within the present framework of the Commission's Rules do not simultaneously satisfy these requirements. Petitioner, however, suggested frequencies in the 174–216 MHz band could meet these requirements and would be suitable for wireless microphone use.

3. Present operations on these frequencies are of a fixed nature and are authorized in accordance with a rigid set of separation requirements (Section 73.610). Due to the nature of the separation requirements, it was stated, there exists a television channel in every community that is not used for local off-the-air service and on which no distant off-the-air service may be received. This channel may not be used by a regular television station since in does not meet the prescribed separation requirements. Nonetheless, it could be used for wireless microphone operation without fear of interference to local reception. Conversely, from the wireless microphone user's standpoint this channel could be considered interference-free.

4. Under the technical criteria suggested by Vega, one television channel would accommodate the simultaneous operation of ten wireless microphones at the same location. This was expected to satisfy the need for wireless microphones used in special events coverage and in dramatic presentations having a large number of performers. In short, the Vega proposal would permit the operation of wireless microphones in large numbers without fear of interference.

5. The Commission was persuaded by the Vega showing. It appeared the lack of desirable spectrum had limited wireless microphone development. In view of this and the length of time since the last examination of the needs of this particular auxiliary broadcast service, we proposed amendment of the existing low power broadcast auxiliary rules as suggested by Vega.

6. In doing so, the Commission expressed reservations that interference could occur as a result of wireless microphone operation. Our concern included the possibilities of interference with off-the-air television reception, cable television systems and subscribers, closed circuit television systems, home video recording and reproducing equipment, and UHF to VHF television receiver converters.

7. In addition, comments were requested on eight specific topics. These were:

(a) What technical standards should apply to wireless microphones;

(b) Whether type acceptance or type approval should be required of wireless microphones;

(c) What potential exists for excess signal radiation from the microphone cord;

(d) Whether a five MHz band should be specified within each television channel with upper and lower limits, what these limits should be, and whether the chrominance subcarrier should be given protection;

(e) Whether specific center frequencies should be specified, and if so, what they should be;

(f) Whether suitable rule amendments should be formulated to cover the foregoing topics;

(g) Whether limits on the area of operation of wireless microphones should be specified; and

(h) What means exist by which producers of television programs, etc., that are not broadcast licensees might have available the expected benefits of the Vega proposal.

8. Comments in response to the notice were filed by the American Broadcasting Company, Inc. (ABC), Association of Motion Picture and Television Producers (AMPTP), CBS, Inc. (CBS), Comrex Corporation (Comrex), Metromedia, Inc. (Metromedia), National Broadcasting Company (NBC), and Vega. Reply comments were filed by ABC, the Association of Maximum Service Telecasters, Inc. (AMST), AMPTP, Motorola, Inc. (Motorola), and Vega. Late comments were filed by Robert C. Moffett, director of engineering services of KOCE-TV (Channel 50), Huntington Beach, California.

9. Based upon our review of the comments, reply comments, and related technical data, we are persuaded that wireless microphone operations in the 174–216 MHz band may be permitted without significantly increasing the potential for, or the degree of, interference to existing services. In order to do this, certain precautions relating to frequency usage and area of operation, among others, must be strictly observed. These limitations will be discussed after an examination of the comments filed in opposition to the proposal.

10. These opposition comments, filed by Metromedia and AMST, argue the Commission does not have the technical data necessary to insure the interference-free operation of wireless microphones, Metromedia states the proceed-

[1] The original notice of inquiry and notice of proposed rule making was concerned with amendment of Part 74 only. The Commission has since determined that Part 2 should also be amended.

ing should be delayed pending investigations to obtain such data, while AMST

tems should not be affected by wireless microphone operation according to these

16. The technical standards proposed were generally thought sufficient to pro-

should be specified. This will aid licensees contemplating co-channel use

hand, advocate a specified area of operation. Vega's comments suggest the area

frequency or frequencies to be used. These frequencies, however, must be ones that are specified as available for

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ing should be delayed pending investigations to obtain such data, while AMST feels the proceeding should be terminated. It is noted in both comments that any expected potential for interference will increase due to the unauthorized use of wireless microphone by technically unknowledgeable persons. Rather than run this risk, Metromedia suggests present wireless microphone frequencies be utilized instead.

11. The Commission disagrees. The notice explained in some detail the problems associated with broadcast use of present wireless microphone frequencies. It is therefore non-productive for Metromedia to state that present allocations should be utilized. Secondly, the possibility that unauthorized use may be made of wireless microphones is a minor consideration in view of the increase in spectrum efficiency made possible by the proposal. The technical criteria adopted herein will tend to insure that these wireless microphones will not be available to the general public, e.g. for recreational use, due to the economics of producing a technically acceptable unit. Finally, the Commission is of the view that adequate technical data exists upon which to amend the rules to permit the proposed operation. This data has been acquired over the years and it, along with the technical comments filed in response to the notice, indicates to the Commission the sharing concept is both feasible and desirable.

12. This does not imply that there is absolutely no chance of interference to the reception of off-the-air television broadcast signals. For example, a wireless microphone operating under the technical criteria proposed could create a potential co-channel interference area extending for several miles. This assumes operation of a unit that is highly efficient in its radiating capability. For a few locations and for a small percentage of the time, this interference area could extend considerably beyond this range. On the other hand, the radiating efficiency of these wireless microphone units is very low. Moreover, as certain of the comments noted, the presence of a co-channel television signal of sufficient strength to be received by a television set indicates the presence of a signal of sufficient strength to interfere with the wireless microphone receiver. The source of the television broadcast signal is unimportant. Whether it originates from a television broadcast station or a television translator station, it limits the area available for wireless microphone operation. Because of this, we anticipate operation of these units will occur in areas where co-channel television signals are not capable of being received. In these areas, the interference range of the wireless microphone unit is not a matter of great concern.

13. The responses to the notice favoring the proposal do not expect the interference considerations noted in paragraph 6 of this document to materialize. Cable television systems, home video systems, and closed circuit television systems should not be affected by wireless microphone operation according to these comments, since such systems are "hard wired" and are for the most part unaffected by "outside" fields. Similarly, the possibility of interference to UHF to VHF converters is remote since there are so few remaining in service. While the subject was not addressed in the comments, the Commission has also considered the possibility of interference to CATV "head-end" receiving equipment and to VHF television translator "front ends." In this assumed situation, the co-channel wireless microphone signal would interfere with the reception of the desired, distant broadcast signal at the CATV and translator receiving locations. The quality of the broadcast service offered by these methods would then be impaired. Additionally, it is possible that wireless microphone operation in close proximity to television receivers connected to CATV systems may cause interference. We have found, however, that the CATV and translator equipment of concern is generally located in remote areas where little wireless microphone usage is anticipated. Consequently, the likelihood of interference is quite small. If an interference situation should arise, it may be easily resolved through the choice of a different channel for the wireless microphone transmissions. In any event, the potential for this type of interference does not appear to necessitate specific rule amendments to guard against it.

14. The CBS comments suggest each application for wireless microphone operation contain a statement indicating the possibility of interference to nearby cable and closed circuit television systems, UHF to VHF converters, and home video recorders. The reply comments of Vega disagree with this suggestion. It states that wireless microphone operators should only be required to bear the burden of resolving interference complaints. The Commission agrees with Vega. The usefulness of the showing suggested by CBS depends primarily on the Commission's knowledge of the location of the closed circuit television systems, home recorders, etc. This is information the Commission simply does not have. In view of the comments concerning the high resistance of these closed systems to interference, there is no reason for the Commission to request a showing of limited usefulness. We will, however, require wireless microphone users to bear the burden of resolving interference complaints.

15. In paragraph 10(a) of the notice, comments were requested on the technical standards suggested by Vega and proposed by the Commission. These standards envisioned wireless microphone operating with 50 mW power, a maximum deviation of ±15 KHz, and a frequency tolerance of 0.005%. Crystal control of the units was proposed. In addition, comments concerning the need for antenna height and gain limitations were elicited.

16. The technical standards proposed were generally thought sufficient to permit satisfactory wireless microphone operation. The power, frequency deviation, and frequency tolerance limitations met with approval from all commenting parties. Similarly, it was agreed that crystal control of the wireless microphone units should be required. Opinions varied, however, as to the necessity of adopting antenna height and gain restrictions.

17. In view of the concurring comments, the standards contained in the notice are being adopted. Limits on antenna height and gain, however, do not appear necessary. Instead, a rule provision similar to present Section 74.435 (i) is being adopted which we feel is an adequate safeguard against execesses in either area. While all parties opposed specifying an audio frequency response range, the Commission is going to specify a maximum modulating frequency of 15 kHz. This will prevent wide band spectrum occupancy by individual wireless microphone units.

18. Except for ABC, all parties favor either type approval or type acceptance of wireless microphone equipment (paragraph 10(b) of the notice). ABC feels either is an unnecessary burden on both licensees and the Commission. Our feeling, however, is that type acceptance is necessary to insure strict compliance with the standards set forth. Thus, it will be required.

19. The danger of excess signal radiation from the microphone cord was discounted by all of the parties favoring the proposal (paragraph 10(c) of the notice). Each stated it was a minor consideration and should not be of Commission concern.

20. Responses to questions concerning the matter of specifying a five MHz band with upper and lower limits, of protecting the chrominance subcarrier, and of specifying channel center frequencies (paragraphs 10 (d) and (e) in the notice) are interdependent. A five MHz band with a 0.5 MHz guard band at each end of the TV channel is thought to provide sufficient channels for wireless microphone operation. There is disagreement as to whether specific frequencies within the television channel should be afforded protection. NBC and ABC felt there was no reason to protect certain frequencies while CBS and Vega felt it was appropriate. Specific channel center frequencies should not be specified according to the comments of all three networks. Vega's comments recommend a uniform channel spacing of either 100 or 200 kHz while its reply comments state the Commission should honor the views of the broadcasters, i.e., specific channel frequencies should not be assigned. Motorola, on the other hand, recommended uneven channel spacing within each television channel. This, they state, will permit maximum efficiency so that other compatible uses may be provided for.

21. The Commission is of the opinion that specific channel center frequencies

should be specified. This will aid licensees contemplating co-channel use in the same area by simplifying coordination problems. In addition, it will call attention to the taboo frequency band, discussed below, within which wireless microphone operation is being prohibited. We have decided to specify channel center frequencies at 200 kHz intervals. Vega notes that 100 kHz spacing would yield a greater number of usable frequencies but that sophisticated computer techniques would be required to determine the unusable channels (due to third and fifth order intermodulation products). A channel spacing of 200 kHz simplifies the frequency selection process somewhat and for this reason it has been selected. In any event, with a 200 kHz channel spacing the Commission may reduce the separation between channels at a later date if necessary.

22. We have not adopted the uneven channel spacing plan proposed by Motorola for a number of reasons. By not doing so we anticipate receivers of high quality will be manufactured in order to discriminate against the undesired signals generated by transmitters using an even channel spacing plan. Ultimately this will permit the use of a greater number of frequencies within each television channel. Specifying uneven channel spacing would not place as great a discriminatory burden on the wireless microphone receivers and would not offer an incentive to manufacturers to upgrade their equipment. Consequently, no increase in the number of usable frequencies within each television channel could be expected.

23. We are also establishing a taboo frequency band within ±100 kHz of 3.25 MHz below the lower band edge of the upper adjacent television channel. This will prevent the possibility of a "beat" signal being generated between the wireless microphone signal and the picture carrier of the upper adjacent channel. Such a signal could cause interference to the sound carrier of the upper adjacent television channel. Vega felt a similar taboo band should be established to protect the chrominance subcarrier, and there has been concern by others that operation near the visual carrier frequency could also result in harmful interference. However, the Commission's data does not indicate that additional protection for these two frequencies is necessary and we have not included it. However, if future experience indicates that such protection is warranted, additional taboos will be established as appropriate.

24. In paragraph 10(g) of the notice information regarding specific areas of operation for wireless microphone usage was requested. The responses to that question were varied. NBC felt that operational limitations should not be more stringent for wireless microphones in the 174–216 MHz band than they are for other auxiliary broadcast stations. ABC felt no restrictions were necessary since it believes the potential for interference is so slight. CBS and Vega, on the other hand, advocate a specified area of operation. Vega's comments suggest the area outside the Grade B contour of any co-channel television station. Its reply comments, however, again encourage the Commission to decide the question "based on the views of the broadcasters."

25. The Commission agrees with the comments which suggested a limitation on the area of wireless microphone operation. The danger of interference to television service is neither as remote as the proposals advocates claim, nor as great as AMST and Metromedia maintain. Yet the technical data available to the Commission indicates that co-channel interference possibilities may be all but removed by imposing a limitation on the area of operation. Such a limitation appears to be the only means the Commission has of protecting off-the-air television service and still permitting the shared use of the channels. In view of this we have decided to limit wireless microphone operations to areas outside existing co-channel Grade B television contours. We do not feel wireless microphone applicants and licensees should be burdened with the problem of determining the location of a protected station's Grade B contour. We are therefore setting forth specific figures to be used by applicants and licensees in determining the approximate Grade B contour. The figures are: for Zone I, 97 Km (60 miles); for Zones II and III, 120 Km (75 miles). For the sake of simplicity, these figures assume protected television stations to be operating with maximum facilities. Additionally, the Commission is cognizant of its agreements with Canada and Mexico. As an interim measure, pending coordination with Canada and Mexico on this matter, minimum separations from allocated channels in Canada and Mexico will be: for Zone I, 274 Km (170 miles); for Zone II, 306 Km (190 miles); for Zone III, 354 Km (220 miles). In the case of Zone III, 322 Km (200 miles) will apply if the area of wireless microphone operation is 322 Km (200 miles) or more from the Mexican border. Operation contrary to these standards will be permitted only upon a showing of need and judicious channel selection. Given these limitations and the frequency limitations discussed in paragraphs 21 and 23, the Commission believes wireless microphone operation may be accommodated without danger of either co- or adjacent channel interference.

26. It has generally been suggested in the comments that licensees be given the option of choosing the frequencies of operation for wireless microphones. This would be accomplished by the Commission issuing a blanket license for the 174–216 MHz band or by authorizing an individual license for each television channel. In either case, the licensee would select the specific frequency of operation. The Commission is not opposed to this proposal. We will authorize the operation of wireless microphones within individual television channels. The licensee may then select the specific frequency or frequencies to be used. These frequencies, however, must be ones that are specified as available for wireless microphone operation. In addition, licensees will be permitted the use of more than one high band VHF television channel.

27. One remaining major question requires resolution: should groups or entities other than broadcast licensees be permitted to use wireless mircrophones in the 174–216 MHz band? The notice requested comments on this subject and specifically mentioned program producers and cable television operators as examples of groups that have the same production problems as broadcast licensees. The three networks responded to this question by stating eligibility should not be extended. NBC states that film producers have access to frequencies in the Motion Picture and Business Radio Services (in the Industrial Radio Services), while cable television operators have access to the Business Radio Service.

28. It is also stated in these comments that broadcast licensees have the technical expertise necessary to insure the proper non-interference operation of wireless microphones. It is urged that other groups lack this expertise and would not be as mindful of the interference possibilities. Also noted is the difference between intra-service and inter-service frequency sharing. The former, we are told, is more desirable since all users would be responsible to the Commission's Broadcast Bureau whose staff is quite familiar with broadcast matters.

29. The Vega reply comments, however, indicate eligibility should be extended beyond broadcast licensees, and AMPTP advocates eligibility for motion picture and television program producers in its comments and reply comments. Additionally, it has come to our attention that there are other groups such as producers of live entertainment programs who also have needs similar to those of broadcast licensees, and it is stated that such groups should not be denied the benefits of the Vega proposal.

30. The Commission finds itself in agreement with the motion picture and television producers. These groups exhibit wireless microphone requirements akin to those of broadcast licensees. Since it has been shown that the presently allocated wireless microphone frequencies are generally unsuitable for broadcast use, it seems they would be unsuitable for use by groups with requirements similar to those of broadcast licensees. In view of this, there seems to be no reason to deny motion picture and television program producers, and certain cable television operators, the immediate use of the 174–216 MHz band.[3] In addition,

[3] Only Cable system operators who operate cable systems that produce program material for origination or access cablecasting as defined in Sections 76.5 (w) and (z) of the rules.

those network entities which have recently been granted eligibility in the

and users alike are hereby placed on notice that our investigations in this area

Power Auxiliary" from the heading of the subpart to read as follows:

governing his service: *And Provided Further*, that any changes made to type ac-

to transmit over distances of approximately 100 meters and will normally fall

166.5, 166.8, 167.0, 167.2, 167.4, 167.6, 167.8, 188.0, 188.2, 188.4, 188.6, 189.0, 189.2, 189.4, 189.6, 189.8, 190.0, 190.2, 190.4, 190.6, 190.8,

those network entities which have recently been granted eligibility in the Auxiliary Broadcast Service will be granted use of the 174–216 MHz band. Although we are not establishing specific eligibility herein for nonbroadcast entities other than motion picture producers and cable system operators, the Commission will consider on a case-by-case basis applications by other groups such as live entertainment program producers, etc., for operation in the 174–216 MHz band. We are confident that groups other than broadcast licensees can use these frequencies responsibly, obtaining the benefits of such use while being aware of the interference possibilities associated with it. If not, adequate sanctions exist for dealing with operations not in compliance with the rules.

31. We are providing eligibility for the use of the 174–216 MHz band by motion picture producers, television program producers, and cable television operators under Part 74. These non-broadcast groups will be authorized to use these frequencies by the Commission's Broadcast Bureau just as translator and ITFS (Instructional Television Fixed Service) licensees are. The broadcast related experience of our staff will be available to them in this manner.

32. The Comrex comments suggest the Commission permit wireless microphone use of UHF television frequencies in addition to the VHF frequencies. This request, however, is beyond the scope of the present proceeding and will not be considered.

33. Also pending before the Commission is a petition for rulemaking (RM–2659), filed by AMPTP, seeking the use of frequencies in the 169–172 MHz band for wireless microphone operation. The Commission believes that the purpose for which the frequencies were requested in RM–2659 has been satisfied by the instant proceeding. Therefore, to this extent the petition is being granted and in all other respects denied.

34. We have concluded that, for the reasons set forth above, adoption of these amendments will serve the public interest. Accordingly, *It is ordered*, That effective April 18, 1977, Parts 2 and 74 of the Commission's rules and regulations are amended as set forth in the attached Appendix pursuant to the authority contained in Sections 4(i), 303(a), (b), (g), (q) and (r) and 307(b) of the Communications Act of 1934, as amended. *It is further ordered*, That the petition for rulemaking (RM–2659), concerning wireless microphone operations in the 169 to 172 MHz band and filed by the Association of Motion Picture and Television Producers, Inc., Is granted to the extent indicated above and in all other respects Denied.

35. Finally, it should be noted that information developed through field investigations would indicate that certain manufacturers of wireless microphones may be improperly equipping the devices to operate on unauthorized frequencies. Additionally, certain users have apparently altered the wireless microphones to achieve the same results. Manufacturers and users alike are hereby placed on notice that our investigations in this area will continue and appropriate sanction action will be initiated. The Commission cannot tolerate continued spectrum pollution through the willful use of unauthorized frequencies by wireless microphones and intends to vigorously enforce the rules adopted herein.

36. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. In Part 2 of Chapter I of Title 47 of the Code of Federal Regulations, Section 2.106, the Table of Frequency Allocations, is amended by adding a new footnote designator, NG 115, to the band 174–216 MHz and by adding, in proper numerical sequence, the text of footnote NG 115 in the list of footnotes following the table, as follows:

§ 2.106 **Table of frequency allocations.**

United States

• • •	• • •
Band (MHz) 5	Allocation 6.
• • •	• • •.
174–216	NG (NG 115).
• • •	• • •.

• • • • • •

NG 115 In the 174 to 216 MHz band wireless microphones may be authorized to operate on a secondary, non-interfering basis, subject to terms and conditions set forth in Part 74 of these Rules and Regulations.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

2. Section 74.15(b) is amended to read as follows:

§ 74.15 **License period.**

• • • • • •

(b) Licenses for stations or systems in the Auxiliary Broadcast Service held by a licensee of a broadcast station will be issued for a period running concurrently with the license of the associated broadcast station with which it is licensed. Licenses held by eligible networks for the purpose of providing program services to affiliated stations under Subpart D, and by eligible networks, cable television operators, motion picture producers, and television program producers under Subpart H, will be issued for a period running concurrently with the normal licensing period for broadcast stations located in the same area of operation.

• • • • • •

3. Part 74, Subpart D is amended by the deletion of the words "And Low Power Auxiliary" from the heading of the subpart to read as follows:

Subpart D—Remote Pickup Broadcast Stations

• • • • • •

§ 74.401 [Amended]

4. Section 74.401 is amended by the deletion of the definition of "Low Power Broadcast Auxiliary Station".

§ 74.402 [Amended]

5. Section 74.402 is amended by the deletion of subparagraph (a)(9) which consists of frequency Group T and by the deletion of footnote 9 associated with Group T.

§ 74.435 [Reserved]

6. Section 74.435 is deleted and marked Reserved.

7. Sections 74.451 (c) and (e) are amended by the deletion of the words "or low power auxiliary" and "and low power auxiliary", respectively, from the first sentence of each paragraph, and paragraph (c) is additionally amended by deleting reference to "fees" to read as follows:

§ 74.451 **Type acceptance of equipment.**

• • • • • •

(c) An applicant for a remote pickup broadcast station or system may also apply for type acceptance for an individual transmitter by following the type acceptance procedure set forth in Part 2 of the Commission's Rules and Regulations. Individual transmitters which are type accepted will not normally be included in the Commission's "Radio Equipment List".

• • • • • •

(e) Remote pickup broadcast station equipment authorized to be used pursuant to an application accepted for filing prior to September 1, 1977, may continue to be used by the licensee or its successors or assignees: Provided, however, if operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this Subpart, the Commission may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

• • • • • •

8. Section 74.452(b) is amended by the deletion of the words "or low power auxiliary" from the first sentence to read as follows:

§ 74.452 **Equipment changes.**

• • • • • •

(b) The licensee of a remote pickup broadcast station may, except as set forth in paragraph (d) of this section, make any other changes in the equipment that are deemed desirable or necessary, including replacement with type accepted equipment, without prior Commission approval: *Provided*, the proposed changes will not depart from any of the terms of the station or system authorization or the Commission's technical rules

governing his service: *And Provided Further*, that any changes made to type accepted transmitting equipment shall be in compliance with the provisions of Part 2 of the Commission's Rules and Regulations concerning modification to type accepted equipment.

• • • • • •

§ 74.466 **Station inspections.**

The licensee of each remote pickup broadcast station or system shall make such station or system available for inspection by representatives of the Commission at any reasonable hour.

10. Sections 74.468 (a) and (c) are amended by the deletions of the words "or low power auxiliary" from the first sentence of each paragraph to read as follows:

§ 74.468 **Operator requirements.**

(a) Except under the circumstances specified in paragraph (d) of this section, a remote pickup broadcast station may be operated by any person designated by and under control of the station licensee. That person need not be a licensed operator under Part 13 (Commercial Radio Operators) of the Commission's Rules and Regulations.

• • • • • •

(c) The provisions of this section authorizing unlicensed persons to operate remote pickup broadcast stations, or authorizing unattended operation of such stations in certain circumstances, shall not be construed to change or diminish in any respect the responsibility of a station licensee to have and to maintain control over the stations licensed to it or for the proper functioning and operation of those stations in accordance with the terms of the station or system license and pertinent Commission rules and regulations.

• • • • • •

11. Section 74.481 is amended by the deletion of paragraph (e) and the marking of it as Reserved.

§ 74.481 **Logs and records.**

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(e) [RESERVED]

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12. Part 74 is amended by the addition of a new Subpart H to read as follows:

Subpart H—Low Power Auxiliary Stations

DEFINITIONS AND ALLOCATION OF FREQUENCIES

§ 74.801 **Definitions.**

Cable television system operator. A cable television operator is defined in § 76.5(11) of the rules as that local business entity, be it natural person, partnership, corporation, or association, which offers for sale services of a cable television system in the system community.

Low power auxiliary station. An aural auxiliary station authorized and operated pursuant to the provisions set forth in this Subpart. Devices authorized as low power auxiliary stations are intended to transmit over distances of approximately 100 meters and will normally fall into two general categories; cue and control signal transmitters and wireless microphones.

Motion picture producer. Motion picture producer refers to a person engaged in the production or filming of motion pictures.

Network entity. An organization which produces programs available for simultaneous transmissions by 10 or more affiliated stations, and having distribution facilities or circuits available to such affiliated stations in service at least 12 hours each day.

Television program producer. Television program producer refers to a person engaged in the production of television programs.

§ 74.802 **Frequency assignment.**

(a) The following frequency bands may be assigned for use by low power auxiliary stations:

26.10—26.48 MHz
161.625—161.775 MHz (except in Puerto Rico or the Virgin Islands)
174—216 MHz
450—451 MHz
455—456 MHz
947—952 MHz

Except for the 174–216 MHz band, transmitting units may be operated on any frequency within the band of frequencies for which the station is licensed.

(b) In the 174–216 MHz band, operations are limited to locations removed from existing co-channel stations[1] by the following distances unless otherwise authorized by the Commission:

Zone I, 97 Km (60 miles)
Zone II and III, 120 Km (75 miles)

Specific frequency operation is required in this band. However, the licensee will select the exact frequency on which operation is desired. Specific frequencies available for use by low power auxiliary stations in the 174–216 MHz band are as follows:

(1) Within television Channel 7 (174–180 MHz):

174.6, 174.8, 175.0, 175.2, 175.4, 175.6, 175.8, 176.0, 176.2, 176.4, 176.6, 177.0, 177.2, 177.4, 177.6, 177.8, 178.0, 178.2, 178.4, 178.6, 178.8, 179.0, 179.2, 179.4.

(2) Within television Channel 8 (180–186 MHz):

180.6, 180.8, 181.0, 181.2, 181.4, 181.6, 181.8, 182.0, 182.2, 182.4, 182.6, 183.0, 183.2, 183.4, 183.6, 183.8, 184.0, 184.2, 184.4, 184.6, 184.8, 185.0, 185.2, 185.4.

(3) Within television Channel 9 (186–192 MHz):

186.6, 186.8, 187.0, 187.2, 187.4, 187.6, 187.8, 188.0, 188.2, 188.4, 188.6, 189.0, 189.2, 189.4, 189.6, 189.8, 190.0, 190.2, 190.4, 190.6, 190.8, 191.0, 191.2, 191.4.

(4) Within television Channel 10 (192–198 MHz):

192.6, 192.8, 193.0, 193.2, 193.4, 193.6, 193.8, 194.0, 194.2, 194.4, 194.6, 195.0, 195.2, 195.4, 195.6, 195.8, 196.0, 196.2, 196.4, 196.6, 196.8, 197.0, 197.2, 197.4.

(5) Within television Channel 11 (198–204 MHz):

198.6, 198.8, 199.0, 199.2, 199.4, 199.6, 199.8, 200.0, 200.2, 200.4, 200.6, 201.0, 201.2, 201.4, 201.6, 201.8, 202.0, 202.2, 202.4, 202.6, 202.8, 203.0, 203.2, 203.4.

(6) Within television Channel 12 (204–210 MHz):

204.6, 204.8, 205.0, 205.2, 205.4, 205.6, 205.8, 206.0, 206.2, 206.4, 206.6, 207.0, 207.2, 207.4, 207.6, 207.8, 208.0, 208.2, 208.4, 208.6, 208.8, 209.0, 209.2, 209.4.

(7) Within television Channel 13 (210–216 MHz):

210.6, 210.8, 211.0, 211.2, 211.4, 211.6, 211.8, 212.0, 212.2, 212.4, 212.6, 213.0, 213.2, 213.4, 213.6, 213.8, 214.0, 214.2, 214.4, 214.6, 214.8, 215.0, 215.2, 215.4.

(c) A licensee is not limited with respect to the number of low power auxiliary stations which may be licensed.

(d) Low power auxiliary licensees will not be granted exclusive frequency assignments.

§ 74.803 **Frequency selection to avoid interference.**

(a) Where two or more low power auxiliary licensees need to operate in the same area, the licensees shall endeavor to select frequencies or schedule operation in such manner as to avoid mutual interference. If a mutually satisfactory arrangement cannot be reached, the Commission shall be notified and it will specify the frequency or frequencies to be employed by each licensee.

(b) The selection of frequencies in the 174–216 MHz band for use in any area shall be guided by the need to avoid interference to television reception. In this band low power auxiliary station usage is secondary to television broadcasting and shall not cause harmful interference to television reception. If interference occurs, low power auxiliary station operation shall cease immediately and shall not resume until the interference problem has been resolved.

§ 74.804 **Use of FCC form 425.**

(a) Applicants proposing to operate low power auxiliary equipment in the 26.10–26.48 MHz band in the Chicago, Illinois Regional Area, as defined in Section 74.404(d) of the Part, shall make application on FCC Form 425 in lieu of FCC Form 313. Form 425 shall be used to apply for new facilities or to apply for modification, renewal or assignment of existing authorizations.

(b) Applications on FCC Form 425 shall be submitted to the Commission's Chicago Regional Office at 1550 Northwest Highway, Park Ridge, Illinois, 60068.

(c) Information regarding the special provisions relating to the land mobile spectrum management program in the

[1] Authorizations issued by the Commission will be subject to the provisions of any agreements entered into by the United States with Canada and Mexico. Until further notice, the following minimum separations from allocated channels in Canada and Mexico will be required:

Zone I, 274 Km (170 miles)
Zone II, 306 Km (190 miles)
Zone III*, 354 Km (220 miles)

*322 Km (200 miles) will apply if the location is 322 Km (200 miles) or more from the Mexican border.

Chicago region is contained in Section 74.405

producers may be authorized to operate low power auxiliary stations only in the

tion: *Provided, however*, That low power auxiliary stations operating in the 174–

§ 74.802: *Provided*, That, in the case of events of wide-spread interest and im-

auxiliary station using equipment which has not been type accepted will specify

a transmitter which has not been type accepted for use in the low power auxil-

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Chicago region is contained in Section 74.405.

ADMINISTRATIVE PROCEDURE

§ 74.811 Cross reference.

See §§ 74.11 to 74.16.

LICENSING POLICIES AND GENERAL OPERATING REQUIREMENTS

§ 74.831 Scope of service and permissible transmissions.

The license for a low power auxiliary station authorizes the transmission of cues and orders to production personnel and participants in broadcast programs and motion pictures and in the preparation therefor, the transmission of program material by means of a wireless microphone worn by a performer and other participants in a program or motion picture during rehearsal and during the actual broadcast, filming, or recording, or the transmission of comments, interviews, and reports from the scene of a remote broadcast. Low power auxiliary stations operating in the 947–952 MHz band may, in addition, transmit synchronizing signals and various control signals to portable or hand-carried TV cameras which employ low power radio signals in lieu of cable to deliver picture signals to the control point at the scene of a remote broadcast.

§ 74.832 Licensing requirements and procedures.

(a) A license authorizing operation of one or more low power auxiliary stations will be issued only to the following:

(1) A licensee of a standard, commercial FM, noncommercial educational FM, commercial television, educational television or international broadcasting station. Low power auxiliary broadcast stations will be licensed for use with a specific broadcasting station or combination of broadcasting stations licensed to the same licensee and to the same community.

(2) A network entity as defined in § 74.801.

(3) A cable television system operator who operates a cable system that produces program material for origination or access cablecasting, as defined in §§ 76.5 (w) and (x).

(4) Motion picture producers as defined in § 74.801.

(5) Television program producers as defined in § 74.801.

(b) An application for a new or renewal of low power auxiliary license shall specify the frequency band or bands desired. Only those frequency bands necessary for satisfactory operation shall be requested.

(c) Licensees of standard, commercial FM, noncommercial educational FM, educational and commercial television or international broadcast stations, and network entities may be authorized to operate low power auxiliary stations in the frequency bands set forth in Section 74.802(a).

(d) Cable television operators, and motion picture and television program producers may be authorized to operate low power auxiliary stations only in the 174–216 MHz band.

(e) An application for new low power auxiliary stations or for a change in an existing authorization shall specify the broadcasting station, combination of such station, or the network with which the low power broadcast auxiliary facilities are to be principally used as set forth in paragraph (h) of this section; or it shall specify the motion picture or television production company or the cable television operator with which the low power broadcast auxiliary facilities are to be solely used. A single application, filed in duplicate on FCC Form 313 or FCC Form 425, as appropriate, may be used in applying for the authority to operate one or more low power auxiliary units. The application shall specify the number of units to be operated and the frequency bands which will be used. Applications for the use of the 174–216 MHz band shall also specify the nearest television stations operating on the requested channel since operations in this band are limited to areas removed from existing co-channel stations. Motion picture producers, television program producers, and cable television operators are required to attach a single sheet to their application form explaining in detail the manner in which the eligibility requirements set forth in paragraph (a) are met.

(f) Applications for the use of the 174–216 MHz band must specify an area of operation within which the low power auxiliary station will be used. This area of operation may, for example, be specified as the metropolitan area which the broadcast licensee serves, or a restricted area within which motion picture and television producers are operating. Since low power auxiliary station use of this band will only be permitted in areas removed from existing co-channel television broadcast stations, it is the licensee's responsibility to insure operation of these stations does not occur at distances less than those specified in Section 74.802(b) with respect to existing co-channel television stations serving part of the specified area of operation.

(g) Low power auxiliary licenses will specify the minimum and maximum number of units that may be operated as follows: from 1 to 5 stations; from 4 to 12 stations; from 10 to 24 stations; from 20 to 50 stations; 45 or more stations. Licensees shall have installed and maintain in operating condition the minimum number of units authorized within 120 days following the grant date of the license.

(h) For broadcast licensees, low power auxiliary stations will be licensed for use with a specific broadcasting station or combination of broadcasting stations licensed to the same licensee and to the same community. Licensing of low power auxiliary stations for use with a specific broadcasting station or combination of such stations does not preclude their use with other broadcasting stations of the same or a different licensee at any location: *Provided, however,* That low power auxiliary stations operating in the 174–216 MHz band may not operate outside the area of operation specified in the authorization without prior Commission approval. Such additional use for low power auxiliary stations operating in other bands is permitted without further authority of the Commission: *Provided, however,* Operation of low power auxiliary stations shall, at all times, be in accordance with the requirements of Section 74.882 of this Subpart: *And provided further,* A low power auxiliary station that is being used with a broadcasting station or network other than one with which it is licensed, shall, in addition to meeting the requirements of Section 74.861 of this Subpart, not cause harmful interference to another low power auxiliary station which is being used with the broadcast station(s) or network with which it is licensed.

(i) In case of permanent discontinuance of operation of a station licensed under this Subpart, the licensee shall forward the station license to the Commission in Washington for cancellation. For purposes of this section, a station which is not operated for a period of one year is considered to have been permanently discontinued.

§ 74.833 Temporary authorizations.

(a) Special temporary authority may be granted for: operation of a low power auxiliary station licensed to another licensee; operation, as a low power auxiliary station, of equipment licensed to another class of station or service, or, operation of equipment of suitable design not heretofore licensed. Such authority will normally be granted only for special operations of a temporary nature.

(b) A request for special temporary authority for the operation of a low power auxiliary station may be made by informal application, which shall be filed with the Commission in Washington at least 10 days prior to the date of the proposed operation: *Provided,* That, an application filed within less than 10 days of the proposed operation may be accepted upon a satisfactory showing of the reasons for the delay in submitting the request.

(c) An informal request for special temporary authority shall be addressed to the Commission in Washington, D.C., or the Commission's Chicago Regional office, as appropriate (see § 74.804), and shall set forth full particulars including: applicant's name, statement of eligibility, call letters of associated broadcasting station or stations, if any, name and address of individual designated to receive return telegram, type and manufacturer of equipment, power output, emission, frequency or frequencies proposed to be used, commencement and termination date and location of proposed operation, and purpose for which request is made including any particular justification.

(d) A request for special temporary authority shall specify a frequency band consistent with the provisions of

§ 74.802: *Provided,* That, in the case of events of wide-spread interest and importance which cannot be transmitted successfully on these frequencies, frequencies assigned to other services may be requested upon a showing that operation thereon will not cause interference to established stations: *And provided further,* In no case will operation of a low power auxiliary broadcast station be authorized on frequencies employed for the safety of life and property.

(e) An applicant requesting special temporary authority to operate, as a low power auxiliary station, equipment authorized for use by another class of station, shall, if the equipment to be used is not licensed to the applicant, submit a statement to show that temporary control of the transmissions therefrom has been secured for the duration of the special operation proposed.

(f) Special temporary authority to permit operation of low power auxiliary stations pending Commission action on an application for regular authority will not normally be granted.

EQUIPMENT

§ 74.851 Type acceptance of equipment.

(a) Applications for new low power auxiliary stations tendered after August 31, 1977, will not be accepted unless the equipment specified therein has been type accepted for use pursuant to provisions of this Subpart. However, all applications specifying the use of the 174–216 MHz band, must specify type accepted equipment.

(b) Any manufacturer of a transmitter to be used in this service may apply for type acceptance for such transmitter following the type acceptance procedure set forth in Part 2 of the Commission's Rules and Regulations. Attention is also directed to Part 1 of the Commission's Rules and Regulations which specifies the fees required when filing an application for type acceptance.

(c) An applicant for a low power auxiliary station may also apply for type acceptance for an individual transmitter by following the type acceptance procedure set forth in Part 2 of the Commission's Rules and Regulations. The application for type acceptance must be accompanied by the proper fees as prescribed in Part 1 of the Commission's Rules and Regulations. Individual transmitters which are type accepted will not normally be included in the Commission's "Radio Equipment List."

(d) Low power auxiliary station equipment authorized to be used pursuant to an application accepted for filing prior to September 1, 1977 may continue to be used by the licensee or its successors or assignees: *Provided, however,* If operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this Subpart, the Commission may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

(e) Each instrument of authority which permits operation of a low power auxiliary station using equipment which has not been type accepted will specify the particular transmitting equipment which the licensee is authorized to use.

(f) All transmitters marketed after August 31, 1977, shall be type accepted by the Federal Communications Commission for use under this Subpart. (Refer to Subpart I of Part 2 of the Commission's Rules and Regulations.)

§ 74.852 Equipment changes.

(a) The licensee of a low power auxiliary station may, except as set forth in paragraph (c) of this section, make any changes in the equipment that are deemed desirable or necessary, including replacement with type accepted equipment, without prior Commission approval: *Provided,* The proposed changes will not depart from any of the terms of the station authorization or the Commission's technical rules governing this service: *And provided further,* That any changes made to type accepted transmitting equipment shall be in compliance with the provisions of Part 2 of the Commission's Rules and Regulations concerning modification to type accepted equipment.

(b) Any equipment changes made pursuant to paragraph (a) of this section shall be set forth in the next application for renewal of license.

(c) Prior to September 1, 1977, Commission approval must be obtained before replacing an authorized transmitter with a transmitter which has not been type accepted for use in the low power auxiliary broadcast service. Transmitters initially installed after August 31, 1977, must be type accepted for use in this service.

TECHNICAL OPERATION AND OPERATORS

§ 74.861 Technical requirements.

(a) Transmitter power is the power at the transmitter output terminals and delivered to the antenna, antenna transmission line, or any other impedance-matched, radio frequency load. For the purpose of this Subpart, the transmitter power is the carrier power.

(b) Each authorization for a new low power auxiliary station issued pursuant to an application accepted after August 31, 1977, shall require the use of type accepted equipment. Such equipment shall be operated in accordance with the emission specifications included in the type acceptance grant and as prescribed in paragraphs (c) through (k) of this section. However, all authorizations issued for the use of the 174–216 MHz band shall require the use of type accepted equipment.

(c) The maximum authorized bandwidth of emissions corresponding to the types of emissions specified below, and the maximum authorized frequency deviation in the case of frequency or phase modulated emissions, shall be as follows:

Frequencies (megahertz)	Authorized bandwidth (kilohertz)	Maximum frequency deviation (kilohertz) [1]	Type of emission [2 3]
26.10 to 26.48	20	5	A3, F3, F9
161.625 to 161.775	30	5	A1, A2, A3, F1, F2, F3, F9
174 to 216	100	15	F3
450 to 451:			
(10 kHz channels)	10	1.5	A1, A2, A3, F1, F2, F3, F9
(25 kHz channels)	25	5	A1, A2, A3, F1, F2, F3, F9
(50 kHz channels)	50	10	A1, A2, A3, F1, F2, F3, F9
(100 kHz channels)	100	35	A1, A2, A3, F1, F2, F3, F9
455 to 456:			
(10 kHz channels)	10	1.5	A1, A2, A3, F1, F2, F3, F9
(25 kHz channels)	25	5	A1, A2, A3, F1, F2, F3, F9
(50 kHz channels)	50	10	A1, A2, A3, F1, F2, F3, F9
(100 kHz channels)	100	35	A1, A2, A3, F1, F2, F3, F9

[1] Applies where class F1, F2, F3, or F9 emission is used.
[2] Transmitters operating above 450 MHz shall show a need for employing A1, A2, F1, or F2 emission.
[3] Emission designators shall be established in accordance with provisions of subpt. C of pt. 2 of the Commission's Rules and Regulations. For transmitting equipment which is type accepted, emission designators will appear in the Commission's radio equipment list.

(d) The mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) On any frequency removed from the operating frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth: at least 25 decibels;

(2) On any frequency removed from the operating frequency by more than 100 percent up to and including 250 percent of the authorized bandwith: at least 35 decibels;

(3) On any frequency removed from the operating frequency by more than 250 percent of the authorized bandwidth: at least $46+10 \log_{10}$ (mean output power in watts) decibels.

(e) In the event a station's emissions outside its authorized frequency band causes harmful interference, the Commission may, at its discretion, require the licensee to take such further steps as may be necessary to eliminate the interference.

(f) Low power auxiliary transmitters not required to operate on specific carrier frequencies shall operate sufficiently within the authorized frequency band edges to insure the emission bandwidth falls entirely within the authorized band.

(g) An emission appearing on any discrete frequency outside the authorized frequency band shall be attenuated, at least $46+10 \log_{10}$ (mean output power, in watts) decibels below the mean output power of the transmitting unit.

(h) Unusual transmitting antennas or antenna elevations shall not be used to deliberately extend the range of low power auxiliary stations beyond the

limited areas defined in Section 74.831 terms of the station license and pertinent

April 15, 1977, through September 30,

(p) Violators of refuge regulations may be required to remove themselves

poise and could commence upon issuance of modified certificates of inclusion.

unless the major portion of the course is to be pursued through conventional

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limited areas defined in Section 74.831 (b) of this Subpart.

(i) For low power auxiliary stations not operating in the 174–216 MHz band, the following technical requirements are imposed:

(1) The maximum transmitter power which will be authorized as 1 watt. Licensees may accept the manufacturer's power rating; however, it is the licensee's responsibility to observe specified power limits.

(2) If a low power auxiliary station employs amplitude modulation, modulation shall not exceed 100 percent on positive or negative peaks.

(j) For low power auxiliary stations operating in the 174–216 MHz band, the following technical requirements are imposed:

(1) Transmitters shall be crystal controlled, employ frequency modulation with a maximum deviation of ±15 kHz and a maximum modulating frequency of 15 kHz, and shall have a frequency tolerance of 0.005%.

(2) The power of the unmodulated carrier at the transmitter output terminals may not exceed 50 mW.

(k) Low power auxiliary stations shall be operated so that no harmful interference is caused to any other class of station operating in accordance with Commission Rules and Regulations and with the Table of Frequency Allocations in Part 2 thereof.

NOTE.—All stations, regardless of date or original licensing must meet the authorized bandwidth and maximum frequency deviation specifications contained in paragraph (c) by August 31, 1978.

§ 74.866 Station inspections.

The licensee of each low power auxiliary station shall make such station available for inspection by representatives of the Commission at any reasonable hour.

§ 74.867 Posting of licenses.

The license for one or more low power auxiliary stations shall be posted with the license for any broadcasting station with which the auxiliary is licensed. The licenses held by an eligible network entity, cable television operator, motion picture producer, or television program producer shall be kept in the licensee's files at the address shown on the authorization.

§ 74.868 Operator requirements.

(a) A low power auxiliary station may be operated only by a person designated by and under the control of the licensee and need not be a licensed operator under Part 13 (Commercial Radio Operators) of the Commission's Rules and Regulations.

(b) The provisions of this section authorizing unlicensed persons to operate low power auxiliary stations shall not be construed to change or diminish in any respect the responsibility of the licensee to have and to maintain control over the stations licensed to it or for the proper functioning and operation of those stations in accordance with the terms of the station license and pertinent Commission rules and regulations.

(c) All transmitter repairs or adjustments which may affect the proper operation of a low power auxiliary station shall be made by or under the immediate supervision of a person holding a first or second-class commercial radiotelephone operator's license.

OTHER OPERATING REQUIREMENTS

§ 74.881 Logs and records.

Each licensee of low power auxiliary stations having transmitter output power exceeding 50 mW shall maintain an accurate record listing the current location of all such low power auxiliary stations. These records may be kept at the main studio or transmitter of a broadcasting station with which the auxiliary station is licensed, or in the files of the principal place of business for eligible network entities, cable television operators, motion picture producers, and television program producers. These records shall be retained for a period of one year.

§ 74.882 Station identification.

Call signs will not be assigned to low power auxiliary stations. In lieu thereof, for transmitters used for voice transmissions and having a transmitter output power exceeding 50 mW, an announcement shall be made at the beginning and end of each period of operation at a single location, over the transmitting unit being operated, identifying the transmitting unit designator, its location, and the call sign of the broadcasting station or name of the licensee with which it is being used. A period of operation may consist of a continuous transmission or intermittent transmissions pertaining to a single event.

[FR Doc.77-7597 Filed 3-15-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

De Soto National Wildlife Refuges, Iowa and Nebraska

The following special regulations are issued and are effective on March 16, 1977.

§ 26.33 Special regulations, public access, use, and recreation, for individual wildlife refuge areas.

IOWA-NEBRASKA

DE SOTO NATIONAL WILDLIFE REFUGE

Public recreational activities on De Soto National Wildlife Refuge, Missouri Valley, Iowa, are permitted from April 15 through September 30, 1977, inclusive, subject to the following special conditions:

(1) *Authorized activities.* Public recreational activities are limited to fishing, picnicking, swimming, boating, water skiing, sightseeing, mushroom picking, and nature observation.

(2) *Open season.* The open season for general public recreation use is from April 15, 1977, through September 30, 1977. During this period, the area is open daily from 6:00 a.m. through 10:00 p.m. Admittance onto the refuge is prohibited after 9:00 p.m. Between the dates of September 16 and September 30, 1977 all water oriented recreational activities, except boat and bank fishing, are prohibited. Boat motors are limited to 25 horsepower or less during this period. Swimming will be permitted from May 28 to September 5, 1977, during the hours posted, and only in the designated beach area. Two separate mushroom picking areas are open daily to the public from April 15 through May 31, hours of use are the same as for the general use area.

(3) *Open area.* The area open for general public use comprises approximately 2,000 acres and the special mushroom picking areas comprise approximately 1,100 acres. These areas are delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West 6th Avenue, Denver, Colorado 80215. Maps of the open areas are also posted or available for handout at entrance points.

(4) *Access.* Entry onto the open area is permitted only at gates or points of entry specifically posted for this purpose.

(5) *Other Provisions.* (a) The use of air mattresses, innertubes, beach balls and all other flotation devices, other than life preservers, is prohibited on refuge waters.

(b) The possession of bottles or cans is prohibited on the designated swimming beach.

(c) The use of fire is permitted, but only in grills.

(d) Access to refuge waters with air boats or house boats is prohibited.

(e) Access to refuge waters with boats that have toilets that flush directly into the water is prohibited, unless such toilets are sealed from use.

(f) The maximum number of power boats greater than 25 horsepower that will be permitted on refuge waters at any one time is 125.

(g) The possession of open alcoholic beverages is prohibited on any boat propelled by mechanical power while the craft is in operation.

(h) The lake being long and narrow requires that all boaters keep to the right and maintain a highway type traffic pattern. Turns shall always be made to the operator's left except when beaching or docking a boat.

(i) A portion of the refuge lake is posted as a "No Ski Zone". No water skiing is allowed in the area.

(j) All boats are prohibited from loading or unloading passengers from the swimming area.

(k) Operation of boats, excluding sailboats, with persons on deck or gunwales is prohibited.

(l) All boat and bank fishermen will be permitted to use the entire lake.

(m) Domestic animals, including dogs, cats, horses and cattle are not permitted on the refuge.

(n) Removal of all plant life, including down timber, is prohibited.

(p) Violators of refuge regulations may be required to remove themselves from the area.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26, and are effective through September 30, 1977.

DAVID E. HEFFERNAN,
Acting Refuge Manager.

FEBRUARY 24, 1977.

[FR Doc.77-7640 Filed 3-15-77;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Interim Regime for Taking of Marine Mammals Incidental to Commercial Fishing Operations

On January 5, 1977, notice was published in the FEDERAL REGISTER (42 FR 1034) that the National Marine Fisheries Service (NMFS) had on December 29, 1976, amended its regulations governing the incidental take of marine mammals in commercial fishing operations and the general permit issued to the American Tunaboat Association to incidentally take marine mammals in yellowfin tuna purse seining. The permit was amended to extend its duration from 2400 hours December 31, 1976 to 2400 hours April 30, 1977; to prohibit the taking of marine mammal species and stocks between 0001 hours January 1, 1977 and 2400 hours April 30, 1977, until such time as the NMFS Director designates that such taking can commence; and to limit the number of marine mammal species and stocks that may be killed under the permit once taking commences as set forth in the notice.

By Order of the United States Court of Appeals for the District of Columbia Circuit of August 6, 1976, the previously described regulations and permit were voided as of January 1, 1977. This Court upheld an Order of the District of Columbia District Court voiding these regulations and the permit issued thereunder because of a failure by the NMFS to make certain findings as required by the Marine Mammal Protection Act. However, in part, because these findings had purportedly been made in adopting new regulations, the D.C. Circuit Court of Appeals, on March 8, 1977, stayed the District Court Order to allow the taking of porpoise incidental to yellowfin tuna purse seining pursuant to the 1976 permit as modified in the January 5, 1977 FEDERAL REGISTER notice, from March 8, 1977, to April 30, 1977, or until a 1977 permit is issued, whichever comes first. It was further ordered that this taking shall be governed by regulations published in the FEDERAL REGISTER on March 1, 1977 (42 FR 12010) except as to the term of the permit and quotas of porpoise and could commence upon issuance of modified certificates of inclusion. Finally, it was ordered that any and all porpoise taken under the modified permit are to be counted as a part of the total allowable take for 1977.

Modified certificates of inclusion will be issued to all 1976 certificate holders not later than Saturday, March 12, 1977. Therefore, as allowed by the Court Order of March 8, 1977, the Director is designating, in accordance with the amended permit, that the taking of marine mammals incidental to yellowfin tuna purse seining can commence at 0001 hours March 14, 1977 Pacific Coast Time. Thus, as of 0001 hours March 14, 1977, Pacific Coast Time, taking of porpoise incidental to yellowfin tuna purse seining may commence provided that such taking is governed by regulations published in the FEDERAL REGISTER on March 1, 1977, and the number and kind of marine mammals taken be limited to that set forth in 42 FR 1034. The taking under this amended certificate is effective until 2400 hours April 30, 1977, or when a new 1977 permit is issued, or when the quotas are reached, whichever comes first.

Dated: March 11, 1977.

WINFRED M. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-7757 Filed 3-15-77;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

Part 21—Vocational Rehabilitation and Education

Administration of Educational Benefits; Open Circuit Television

On page 49506 of the FEDERAL REGISTER of November 9, 1976, there was published a notice of proposed regulatory development to amend § 21.4233(c) to clarify the acceptable number of credit hours of training which may be allowed for the purpose of full-time measurement when pursued by open circuit television.

Interested persons were given 30 days in which to submit comments regarding the proposed regulation.

A total of seven comments were received. Most of the comments generally objected to the fact that the regulation restricts the use of open circuit television courses in the training of veterans. However, one of the comments objects more specifically to the requirement of the regulation which limits the maximum number of credit hours of open circuit television training to six credit hours.

This general objection to placing restrictions of any kind upon this type of training must be rejected as a matter of law.

Section 1673(c), title 38, United States Code, provides that no course may be approved for enrollment of an eligible veteran if an integral part of the course is to be pursued by open circuit television when the course is pursued in residence, and leads to a standard college degree, unless the major portion of the course is to be pursued through conventional classroom or laboratory attendance.

The provision of law is mandatory and may not be ignored by the Veterans Administration. This general concept has long been a part of § 21.4233 and is not in any way altered by the proposed amendment. The intent of Congress has been that courses offered by remote media, such as open circuit television, fail to meet the accepted traditional requirements for courses offered as a part of an institutional program. Such courses lack the essentials of pupil-teacher availability and relationships, and the normal school environment, which are not normally supplied with open circuit television courses. While it is true that the authors of the comments seem to believe that this intent of Congress is not consonant with accepted contemporary technology and educational practice, legislation would be required to alter the statutory basis for the current regulation.

The comment of one of the persons interested in the proposed change to § 21.4233 reveals an understanding of the necessity for restrictions, but questions the manner in which the regulation executes the responsibility. This person questions the validity of restricting the maximum amount of credits to be permitted by open circuit training to six per semester or quarter. Since the law only requires that the nontelevision portion of the course shall be the majority, the person states that the regulation is in error in that, even though more than six credits are by open circuit television a majority of the courses could be by nontelevision training. The reason that the regulation is being amended is that the majority of educational institutions do not operate on a full-time equivalency greater than 12 credit hours per semester. The existing regulation is based upon an outdated rule of thum, that 14 semester hours of credit is the normal full-time training rate. The existing regulation contains an example based upon that logic which could result in a misleading interpretation. Some individuals would have barred a person from taking six credits of open circuit television training unless the person was also enrolled in eight credits by traditional classroom training. In fact a person who is enrolled for six credits by open circuit television could take as few as seven credit hours by traditional classroom training and be in compliance with the law.

On the other hand, a person enrolled for more than 14 semester hours of credit has been limited to six semester hours of open circuit television regardless of how many credit hours in excess of fourteen are taken. In this regard we concur with the comment and do hereby amend the proposed change accordingly.

In the light of the statutory language and the absence of contrary Congressional intent, it is determined that the only requirement needed is that the major portion of the course shall be by conventional classroom and/or labora-

V 42 51 MAR 16 77 UMI

tory training. Thus, if a person is ... sider the nature of the existing proce- ... authority and the highest level of re-

Effective date: This VA Regulation is effective March 10, 1977.

Veterans Administration unless an application for review is filed as provided in paragraph (d) of this section.

(1) The date the station head approves the unanimous recommendation of the Committee on Educational Allow-

tory training. Thus, if a person is enrolled for 16 credit hours of which 9 are by conventional classroom attendance the student qualifies for full-time benefits even though the remaining 7 credits are by open circuit television.

The comments do raise a disturbing note, since more than one of them states or implies that the educational institutions do record courses taken by open circuit television upon student transcripts without differentiating them from courses of a like nature taken by traditional classroom training. The schools may not maintain their records in such a way as to obscure the true nature of the training from validation upon compliance survey. Some permanent records of the school, if not the student transcripts, must differentiate, so that compliance with § 21.4233 may be verified. A school which fails to maintain such records may subject itself to liability under § 21.4009, for a student whose training does not meet the requirements of § 21.4233 may not be paid benefits for such courses.

Effective date: This VA Regulation is effective March 10, 1977.

Approved: March 10, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

In § 21.4233, paragraph (c)(1)(iii) is revised to read as follows:

§ 21.4233 Combination.

* * * * *

(c) *Television—(1) Open circuit telecast.* A program may be pursued in part by open circuit telecast when:

* * * * *

(iii) A major portion of the credit hours for which the veteran or eligible person is enrolled during any semester or quarter is offered through conventional classroom and/or laboratory sessions.

[FR Doc.77-7786 Filed 3-15-77;8:45 am]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Administration of Educational Benefits; Failure of School To Meet Requirements; Correction

On page 41 FR 54201 of the FEDERAL REGISTER of December 13, 1976, there was published a notice of proposed regulatory development to amend Part 21 of the Code of Federal Regulations to correct an error in § 21.4207.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. A total of two comments were received.

One of the comments objects to the failure of the proposed regulation to provide for an appeal of original decisions made at the Central Office level (when a decision was not made at the field station level). This comment fails to consider the nature of the existing procedures and makes a proposal which would be in direct conflict with the law.

The determinations called for in some cases are to be rendered by the Veterans Administration Central Office, according to the provisions of § 21.4207. The actual decision is rendered by the Central Office Education and Training Review Panel with the concurrence of the Director, Education and Rehabilitation Service, but if the Director does not concur, the final determination shall be made by the Chief Benefits Director. (§ 21.4208(c))

This delegation of final authority is in accordance with the specific provisions of law found in sections 211 and 212, title 38, United States Code. Section 211 states that, with minor exceptions, the Administrator shall render final decisions on any question of law or fact under any law, administered by the Veterans' Administration, providing benefits for veterans and their dependents or survivors. It also states that no other official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise.

Section 212, title 38, United States Code, grants to the Administrator the right to delegate authority to act and to render decisions to such officers and employees of the Veterans Administration as he finds necessary. In the exercise of this authority the Administrator has delegated authority for final decisions regarding the failure of a school to meet legal requirements, as provided by §§ 21.4207 and 21.4208. Section 212 specifically states that the exercise of such delegated authority, by those to whom the Administrator has made the delegation, shall have the same force and effect as though the Administrator himself had made the decision.

The second letter approaches the proposed change from a similar, if more specific, point of view. The person making the comment wishes to amend the proposed regulation to remove that portion of it which makes decisions of the field station appealed to Central Office and subsequently approved by Central Office, effective on the date of the original station decision. The proposal would also defer implementation of such approved decisions for 30 days after the receipt of the final decision by the institution. The person making the suggestion wishes to provide this delay, for determinations that an educational institution has failed to meet legal requirements, to enable the educational institution and/or the student to appeal the action. However, this overlooks the fact that the determination is as to the status of the school, not the student, and the student would not have the right to contest the issue. Furthermore, neither the school nor the student could appeal beyond the Central Office level anyway, because as noted above no appeal lies to any other legal authority. The determination of Central Office is the determination of the Administrator, who is the ultimate authority and the highest level of recourse available to the school.

Apparently the person commenting does not fully understand the intent of the proposed change. The language of existing paragraph (e) of § 21.4207 failed to clearly differentiate the situations which may occur. Merged together are two categories of cases. One category consists of those cases in which no decision was reached by the station. There are two such possibilities. One is the case in which the station committee makes a recommendation which is not unanimous and which must, therefore, be submitted to Central Office for a decision. The second is the case in which, even though the committee has submitted a unanimous recommendation, the station head does not concur and the decision must, also, be made by Central Office. In both cases in this category, since no decision has been made until Central Office has responded, both the old regulation and the current regulation provide that the decision shall become effective on the date the station receives the decision from Central Office. An earlier date such as the date that the decision is actually rendered by Central Office would be unfair, since the station has the responsibility to notify the school of the determination made and the ensuing delay in obtaining the decision and acting upon it by the station would be inequitable.

Unfortunately the language used to describe this rule in § 21.4207(e) was so broad as to encompass a second category of cases that are determined by Central Office and provides a different effective date than that which was used in VA Regulations under the Korean Conflict G.I. Bill (upon which § 21.4207 was patterned). If the station's adverse decision based upon a unanimous recommendation of the committee and the approval of the station head, is appealed to Central Office for review pursuant to paragraph (d) and Central Office affirms the decision, the effective date should be the date that the station head approved the committee's recommendation. In this case the school has already been notified at the time the station renders its decision. The language of paragraph (e) stated, however, that in such a case the effective date would be the date the station receives the decision of Central Office affirming the station's decision.

This would result in the students being eligible to receive benefits for training at a school that is not in compliance with the law for the period between the date the station first decides adversely to the school and the date that it receives the determination from Central Office affirming the decision. Such a result was never intended and is inconsistent with the provisions of §§ 21.2208 and 21.2209 (no longer in effect) used to administer the Korean Conflict G.I. Bill.

Therefore, the proposals of those persons commenting are rejected and the proposed change to § 21.4207 is hereby adopted without further amendment.

Effective date: This VA Regulation is effective March 10, 1977.

Approved: March 10, 1977.

By direction of th Administrator.

RUFUS H. WILSON,
Deputy Administrator.

In § 21.4207, paragraphs (a), (c), (d), and (e) are revised to read as follows:

§ 21.4207 Failure of school to meet requirements.

(a) *Committee on Educational Allowances.* The Committee on Educational Allowances in the field station is authorized to make recommendations on action to be taken for the purposes of this section, subject to approval by the station head. The committee will include a minimum of three staff members designated by the station head. The unanimous recommendation of the committee, when approved by the station head, becomes the final administrative decision of the Veterans Administration unless an application for review is filed as provided in paragraph (d) of this section.

* * * * *

(c) *Referral to Central Office by the field station.* The decision will be made by Central Office and the issue shall be referred to the Director, Education and Rehabilitation Service if:

(1) The recommendation of the Committee on Educational Allowances is not unanimous, or

(2) The station head does not approve the recommendation of the Committee.

(d) *Request by the school for review.* The school may file an application for review by Central Office of any decision rendered under paragraph (a) of this section. The application must be received in Central Office within 30 days after the date of notice of the decision. See § 21.4208.

(e) *Effective date.* The effective date for decisions of the field station or of Central Office will be:

(1) The date the station head approves the unanimous recommendation of the Committee on Educational Allowances, if no review by Central Office is required;

(2) The date the station head originally approved the recommendation of the Committee on Educational Allowances, if the decision is reviewed by Central Office, pursuant to paragraph (d) of this section, and approved;

(3) The date the station head originally approved the recommendation of the Committee on Educational Allowances, if the decision is reviewed by Central Office, pursuant to paragraph (d) of this section, and the station's decision is reversed by a Central Office decision; or

(4) The date of receipt by the field station of the decision of Central Office rendered pursuant to paragraph (c) of this section. See § 21.4208.

* * * * *

[FR Doc.77-7789 Filed 3-15-77;8:45 am]

proposed rules

open or closed, any change in one of the preceding and the name and phone

Accordingly, in order to facilitate full participation in this proceeding, FEA

DATES: Comments must be received on or before: April 1, 1977.

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

[1 CFR Part 438]

GOVERNMENT IN THE SUNSHINE ACT

Meetings of the Board of Directors

Congress established the Center on November 28, 1975 in the National Productivity and Quality of Working Life Act of 1975. The organization and functions of the National Center for Productivity and Quality of Working Life are outlined in Pub. L. 94–136.

Notice is hereby given that the National Center for Productivity and Quality of Working Life has proposed regulations which would implement the provisions of the Government in the Sunshine Act (5 U.S.C. 552b).

Prior to adoption of these proposed regulations consideration shall be given to any comments or suggestions pertaining to the proopsed regulations which are submitted in writing no later than April 15, 1977, to the Executive Director of the National Center for Productivity and Quality of Working Life, 2000 M Street, NW., Washington, D.C. 20036.

It is proposed to add to Title 1, Chapter IV a new Part 438 to read as follows:

PART 438—NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

Sec.

438.1 Definitions.
438.2 Scope of application.
438.3 Open meetings.
438.4 Exemptive provisions
438.5 Notice of public observation.
438.6 Procedures for closure of meetings.
438.7 Public availability of copies of recorded voting.
438.8 Certification of closed meetings.
438.9 Public announcement of meetings.
438.10 FEDERAL REGISTER notice.
438.11 Recording of closed meetings.
438.12 Availability of records to the public.

AUTHORITY: Pub. L. 94–136 and Pub. L. 94–409.

§ 438.1 Definitions.

(a) The term "agency" means any agency, as defined in 5 U.S.C. 552(e) which includes the National Center for Productivity and Quality of Working Life.

(b) The term "Center" means the National Center for Productivity and Quality of Working Life.

(c) The term "Board" means the Board of Directors of the Center established under section 202 of Pub. L. 94–136.

(d) The term "member" means any one of the members of the Board.

(e) The term "meeting" means any deliberations of at least the number of members required to take action on behalf of the Board where such deliberations determine or result in a recommendation of national policy to the President and Congress.

(f) The term "public observation" means the right of any member of the public to attend and observe, but not participate or interfere in any way in an open meeting within the limits of reasonable and comfortable accommodations made available for such purposes by the Center.

§ 438.2 Scope of application.

These provisions apply to the meetings of the Board and do not apply to conferences or gatherings of employees of the Center who meet or join with others, except at meetings of the Board.

§ 438.3 Open meeting.

All meetings shall be open to the public observation except as may be exempt by 5 U.S.C. 552b(c) paragraphs (1) through (10) as cited in § 438.4.

§ 438.4 Exemptive provisions.

(a) Except in a case where the Board finds that the public interest requires otherwise, a meeting or portion thereof may be closed to public observation, and information pertaining to such meeting may be withheld from the public, where the Board determines that the exemptive provisions listed in 5 U.S.C. 552b(c) paragraphs (1) through (10), apply to such portion or portions of the meeting.

§ 438.5 Notice of public observation.

(a) In order to permit the Center to determine the amount of space and number of seats needed to accommodate individuals who desire to exercise the right of public observation, such individuals are requested to give notice to the Center at least two business days before the start of the open meeting of the intention to exercise such right.

(b) Individuals who have not given advance notice of intention to exercise the right of public observation will not be permitted to attend and observe the open meeting of the Board if the available space and seating are necessary to accommodate individuals who gave advance notice of such intention.

(c) Notice of intention to exercise the right of public observation may be given in writing, in person, or by telephone to the official responsible pursuant to § 438.10.

§ 438.6 Procedures for closure of meetings.

(a) Any action taken to close a meeting or a portion of a meeting shall only be taken by the Board according to the provisions of 5 U.S.C. 552b(d) paragraphs (1) and (2).

§ 438.7 Public availability of copies of recorded voting.

Within one business day of any vote taken to close a meeting or any portion of a meeting the Center shall make publicly available a written copy of the vote reflecting the vote of each member on the question, a full written explanation of the action closing the portion, and a list of all persons expected to attend the meeting and their affiliation.

§ 438.8 Certification of closed meetings.

For every meeting closed pursuant to §§ 438.4 and 438.6, the Executive Director of the Center shall publicly certify that in his or her opinion the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of the certification, together with a statement from the Chairman of the Board, or presiding officer of the meeting, setting forth the time and place of the meeting, and the persons present shall be retained by the Center.

§ 438.9 Public announcement of meetings.

(a) For each meeting the Center shall make a public announcement, at least one week before the meeting. The announcement shall include time, place and subject matter of the meeting, whether it will be open or closed to the public, and the name and phone number of the official responsible to respond to requests for information about the meeting.

(b) When a majority of the Board determines by a recorded vote that business requires the meeting be called at an earlier date, the Center shall at the earliest practicable time make public announcement of the time, place and subject of the meeting and whether it will be open to the public. The Center shall announce at the earliest practicable time changes in the time or place of the previously announced meeting.

(c) The Board may change the subject matter of a meeting or the determination to open or close a meeting or portion of a meeting to the public only if the Board determines by recorded vote that the business so requires, and that no earlier announcement was possible, and announces such change and the vote of each member upon such change at the earliest practicable date.

§ 438.10 Federal Register notice.

Immediately following each public announcement required by § 438.9, the notice of time, place and subject matter of a meeting, whether the meeting is

open or closed, any change in one of the preceding and the name and phone number of the official designated by the Center to respond to requests for information about the meeting, shall be submitted for publication in the FEDERAL REGISTER.

§ 438.11 Recording of closed meetings.

The Center shall maintain a complete transcript, or electronic recording or minutes as required by 5 U.S.C. 552b(f)(1), to record fully the proceedings of each meeting or portion of a meeting closed to the public.

§ 438.12 Availability of records to the public.

(a) The Center shall make promptly available to the public, according to the provisions of 5 U.S.C. 552b(f)(2), in the Center offices the transcript, electronic recording, or minutes required to be kept by 552b(f)(1) as cited in § 438.11. Copies shall be furnished at the actual cost of duplication or transcription.

(b) Fees shall be paid by check or money order made payable to the National Center for Productivity and Quality of Working Life.

(c) Copies of a transcript, transcription of electronic recording or set of minutes which are publicly available pursuant to these regulations shall be furnished by request made in person or by mail at the Center Offices located at 2000 M Street NW., Washington, D.C. 20036.

(d) The Executive Director of the Center has the discretion to waive charges whenever release of the copies is determined to be in the public interest.

Dated: March 10, 1977.

GEORGE H. KUPER,
Executive Director, National Center for Productivity and Quality of Working Life.

[FR Doc.77-7547 Filed 3-11-77;11:50 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

REEVALUATION OF THE CRUDE OIL BUY/SELL PROGRAM

Notice of Extension of Time for Submission of Written Comments and Change in Date of Public Hearing

On March 3, 1977 the Federal Energy Administration (FEA) issued a Notice of Public Hearing and Opportunity for Public Comment (42 FR 12187, March 3, 1977) regarding a reevaluation of the Mandatory Crude Oil Allocation Program (the "buy/sell program") set forth in 10 CFR 211.65. The notice stated that written comments were to be received by, and that the public hearing was to be held on, March 21, 1977.

FEA has received several requests for an extension in the filing deadline for written comments and for a change in the date for the public hearing, based on the problems anticipated in preparing comments and testimony.

Accordingly, in order to facilitate full participation in this proceeding, FEA hereby gives notice that the public hearing will be held at 9:30 a.m., e.s.t., on Tuesday, April 12, 1977, in Room 2105, 2000 M Street NW., Washington, D.C. 20461.

Data, views or arguments with respect to the proposal should be submitted to Executive Communications, Room 3309, Federal Energy Administration, Box KR, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to FEA. Executive Communications with the designation "Reevaluation of the Crude Oil Buy/Sell Program." Fifteen copies should be submitted. All comments received before 4:30 p.m. on Wednesday, April 13, 1977, will be considered by the Federal Energy Administration before final action is taken on the proposed regulations.

Written requests for an opportunity to make oral presentations should be directed to Executive Communications, FEA, and must be received before 4:30 p.m. on Monday, April 4, 1977. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through Tuesday, April 12, 1977. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., Wednesday, April 6, 1977 and must submit 100 copies of his or her statement to FEA, Regulations Management, Room 2105, 2000 M Street NW., Washington, D.C. 20461, before 4:30 p.m. on Monday, April 11, 1977.

Any interested person may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, FEA before 4:30 p.m., Friday, April 8, 1977.

Issued in Washington, D.C., March 14, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-7944 Filed 3-14-77;4:55 pm]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-13347; File No. S7-613]

RECORDS REGARDING BENEFICIAL OWNERSHIP OF ACCOUNTS CARRIED BY BROKERS AND DEALERS

Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of Time for Comment.

SUMMARY: The time for comment on a proposed amendment to Securities Exchange Act Rule 17a–3(a)(9) is being extended. The comment period expired on March 4, 1977.

DATES: Comments must be received on or before: April 1, 1977.

ADDRESSES: Interested persons should submit six copies of their written views and comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 and should refer to File No. S7–613. All submissions will be made available for public inspection in the Commission's Public Reference Section, Room 6101, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Charles M. Horn, Esq.,
Office of Chief Counsel,
Division of Market Regulation,
Securities and Exchange Commission,
Washington, D.C. 20549
202/755–8747.

SUPPLEMENTARY INFORMATION: On January 27, 1976, the Commission published Securities Exchange Act Release No. 12055,[1] which, among other things, proposed for comment an amendment to Securities Exchange Act Rule 17a–3(a)(9), 17 CFR 240.17a–3(a)(9). Interested persons were invited to submit written views and comments on the proposed amendment not later than May 1, 1976.[2]

Subsequently, the Commission instituted a general inquiry into the rules of national securities exchanges relating to foreign access[3] and disapproved two rules of the New York Stock Exchange, Inc. (the "NYSE")[4] establishing certain restrictions on foreign access, in light of the proposed amendment to Rule 17a–3(a)(9).

On January 10, 1977, the Commission republished for comment the proposed amendment to Rule 17a–3(a)(9)[5] to clarify, in some respects, the intended operation of the proposed amendment, and invited interested persons to submit comments by March 4, 1977.

The NYSE and other interested persons have requested the Commission to extend the comment period concerning the matters raised in Securities Exchange Act Release No. 13149.[6] In light of the complex issues involved, the Commission does not believe that granting the request would result in unduly delay-

[1] 41 FR 8075 (Feb. 24, 1976.)

[2] On April 28, 1976, the Commission extended the comment period to June 15, 1976. Securities Exhange Act Release No. 12378, 41 FR 18432 (May 4, 1976).

[3] Securities Exchange Act Release No. 12157 (Mar. 2, 1976), 41 FR 10662 (Mar. 12, 1976).

[4] Securities Exchange Act Release No. 12737 (Aug. 25, 1976), 41 FR 36847 (Sept. 13, 1976).

[5] Securities Exchange Act Release No. 13149, 42 FR 3312 (Jan. 18, 1977).

[6] It has been urged that "[w]hen the Commission proposes a rule for public comment, it should be required to act on that rule within a reasonable time period * * *." "Final Report of the SEC Major Issues Conference" (1977), at 3.

ing Commission action.[7] Under the circumstances, the Commission has deter-

ACTION: Proposed Rulemaking Amendment.

Defense Nuclear Agency

[32 CFR Part 291a]

to be kept classified in the interest of national defense or foreign policy. The

DEPARTMENT OF AGRICULTURE

Forest Service

(3) "General Management Plan" means the document setting forth the

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ing Commission action.[1] Under the circumstances, the Commission has determined to extend the comment period until April 1, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 9, 1977.

[FR Doc.77-7714 Filed 3-15-77; 8:45 am]

[17 CFR Part 270]

[Release No. IC-9669; File No. S7-675]

REGISTERED MANAGEMENT COMPANIES

Extension of Comment Period Regarding Use of Depository Systems

This notice extends the period for comments to the notice, published February 11, 1977 (42 FR 8666), proposing regulations regarding the use of depository systems by registered management companies. Proposed Rule 17f-4 (17 CFR 270.17f-4) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) would govern the direct or indirect use by such companies of certain depository systems for the deposit of the companies' securities.

A request for an extension of time to April 11, 1977 was submitted by the Investment Company Institute (the "ICI"). The ICI stated that due to the length and complexity of the proposed rule it would not be feasible for it to comment by March 15, 1977, the present expiration date of the comment period. In view of this request, the Commission has authorized an extension until April 11, 1977 of the due date for submitting comments with respect to the proposed rule. The Commission believes that this extension is appropriate and will not result in undue delay. Interested persons are invited to submit their views and comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before April 11, 1977. All such communications should refer to File No. S7-675, and will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 9, 1977.

[FR Doc.77-7712 Filed 3-15-77; 8:45 am]

DEPARTMENT OF DEFENSE

Defense Communications Agency

[32 CFR Part 287a]

[DCA Instruction 210-225-2]

PRIVACY ACT OF 1974

Exemptions

AGENCY: Defense Communications Agency.

ACTION: Proposed Rulemaking Amendment.

SUMMARY: On November 28, 1975, there was published in the FEDERAL REGISTER (40 FR 55535) a final rule adoption, effective September 27, 1975, pertaining to the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a) implementation by the Defense Communications Agency concerning procedures and requirements on personal privacy and rights of individuals regarding their personal privacy. The Defense Communications Agency proposes to amend the final rules by adding a new section (§ 287a.8 Exemptions.) to the rules which would authorize the Director, DCA the right to create exemptions and to permit any information in the records systems which is properly classified to be exempt from the access requirements of the Privacy Act.

DATES: Any inquiries, comments, including written data, views or arguments concerning the proposed amendment may be submitted to the address indicated below. All material received on or before April 15, 1977, will be considered.

ADDRESS: Defense Communications Agency, ATTN: Code 105, Washington, D.C. 20305.

FOR FURTHER INFORMATION CONTACT: Mr. C. Herbert Lucero, (202) 692-2009, at the above address.

JOHN T. WHEALEN,
Counsel.

MARCH 11, 1977.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

It is proposed to add the following new § 287a.8 as follows:

§ 287a.8 Exemptions.

Section 5 U.S.C. 552a (3) (j) and (3) (k) authorize an agency head to exempt certain systems of records or parts of certain systems of records from some of the requirements of the act. This part reserves to the Director, DCA, as head of an agency, the right to create exemptions pursuant to the exemption provisions of the act. All systems of records maintained by DCA shall be exempt from the requirements of 5 U.S.C. 552a (d) pursuant to 5 U.S.C. 552a(3) (k) (1) to the extent that the system contains any information properly classified under Executive Order 11652, "Classification and Declassification of National Security Information and Material," dated March 8, 1972 (37 FR 10053, May 19, 1972) and which is required by the Executive Order to be kept classified in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions may contain isolated information which has been properly classified.

[FR Doc.77-7732 Filed 3-15-77; 8:45 am]

Defense Nuclear Agency

[32 CFR Part 291a]

[DNA Instruction 5400.11]

PRIVACY ACT OF 1974

Exemptions

AGENCY: Defense Nuclear Agency.

ACTION: Proposed Rulemaking Amendment.

SUMMARY: On November 28, 1975, FR Doc. 75-32008, there was published in the FEDERAL REGISTER (40 FR 55543) a final adoption of rules, effective September 27, 1975, pertaining to the privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a) implementation by the Defense Nuclear Agency concerning procedures and requirements on personal privacy and rights of individuals regarding their personal privacy. The Defense Nuclear Agency proposes to amend these final rules by amending § 291a.6 by adding a paragraph (b) thereto which would authorize the Director, Defense Nuclear Agency, to permit any information in the records systems which is properly classified to be exempt from the access requirements of the Privacy Act. This provision was previously omitted through oversight.

DATES: Any inquires, comments, including written data, views or arguments concerning the proposed amendment may be submitted to the address indicated below. All material received on or before April 16, 1977, will be considered.

ADDRESS: Chief, Civilian Personnel Division, Personnel Administration Directorate, Defense Nuclear Agency, Washington, D.C. 20305.

FOR FURTHER INFORMATION CONTACT: Mr. J. David Woodend, (202) 325-7591, at the above address.

MARCH 11, 1977.

WARREN D. JOHNSON,
Lieutenant General, United States Air Force Director.

MAURICE W. ROCHE,
Director, Correspondence and Directives Office of the Assistant Secretary of Defense (Comptroller).

It is proposed to add the following new paragraph (b) after the Note in § 291a.6(a):

§ 291a.6 Specific exemptions.

* * * * *

(b) Section 5 U.S.C. 552a(3) (j) and (3) (k) authorize an agency head to exempt certain systems of records or parts of certain systems of records from some of the requirements of the act. All systems of records maintained by Defense Nuclear Agency shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(3) (k) (1) to the extent that the system contains any information properly classified under Executive Order 11652, "Classification and Declassification of National Security Information and Material," dated March 8, 1972 (37 FR 10053, May 19, 1972) and which is required by the Executive Order to be kept classified in the interest of national defense or foreign policy. The exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions may contain isolated information which has been properly classified.

[FR Doc.77-7733 Filed 3-15-77; 8:45 am]

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[1] The comments of the NYSE may be helpful in view of its recent experience in attempting to resolve the possible problems of disclosure arising with respect to prospective or existing member organizations with foreign affiliations.

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 292]

SAWTOOTH NATIONAL RECREATION AREA—FEDERAL LANDS

Administration and Use of Federal Lands

Pursuant to the authority vested in the Secretary of Agriculture by the Act of June 4, 1897 (30 Stat. 35, 36, as amended; 16 U.S.C. 487, 551), and the Act of August 22, 1972, Pub. L. 92-400 (86 Stat. 612), regulations for Federal lands in the Sawtooth National Recreation Area are herein proposed as a new Subpart D to Part 292, Chapter II, Title 36 of the Code of Federal Regulations.

Section 11 of Pub. L. 92-400 directs the promulgation of regulations to regulate the use of and protect the surface values of Federal lands in the recreation area including unpatented mining claims. These regulations establish guidelines for the use, management, utilization, and disposal of natural resources on Federally owned lands including, but not limited to, mineral exploration and development operations. Upon publication of final regulations, the Closure Order for the Sawtooth National Recreation Area dated May 14, 1973, will be revoked.

Interested persons may submit written comments, suggestions, or objections to the U.S. Department of Agriculture, Forest Service, Recreation Management Staff, South Agriculture Building, Washington, D.C. 20250, through April 15, 1977.

All written submissions made pursuant to this notice will be available for public inspection in Recreation Management Staff during regular business hours (7 CFR 1.27(b)).

In light of the foregoing it is proposed to amend 36 CFR Part 292 by adding a new Subpart D to follows:

Subpart D—Sawtooth National Recreation Area—Federal Lands

Sec.
292.17 General provisions.
292.18 Mineral resources.

AUTHORITY: Pub. L. 92-400, 86 Stat. 612.

Subpart D—Sawtooth National Recreation Area—Federal Lands

§ 292.17 General provisions.

(a) The use, management, and utilization of natural resources on the Federal lands in the Sawtooth National Recreation Area (SNRA) are subject to the General Management Plan and the laws, rules, and regulations pertaining to the National Forests with the exception that Part 252 of this chapter does not apply to these resources. No use or disposal of such resources shall be authorized which will result in substantial impairment of the natural values of the Recreation Area.

(b) Definitions: (1) "Act" means Pub. L. 92-400, (86 Stat. 612), which established the SNRA.

(2) "Area Ranger or Superintendent" means the Forest Service officer having administrative authority for the SNRA.

(3) "General Management Plan" means the document setting forth the land allocation and resource decisions for management of the SNRA.

(4) "Letter of Authorization" means a letter signed by the Area Ranger, or his designee, authorizing an operator to conduct operations as approved in the operating plan.

(5) "Mineral Resources" means all locatable minerals.

(6) "Operator" means a person conducting or proposing to conduct operations.

(7) "Operations" means all functions, work, and activities in connection with exploration, development, mining or processing of mineral resources and all uses reasonably incident thereto, including roads and other means of access on lands, regardless of whether said operations take place on or off mining claims.

(8) "Operating Plan" means a written instrument describing proposed operations on Federal lands and containing such information as required by § 292.18.

(9) "Person" means any individual, partnership, association, corporation, or other legal entity.

(10) "Substantial Impairment" means that level of disturbance of the values of the SNRA which is incompatible with the standards of the General Management Plan. The proposed activities will be evaluated as to: (i) The period of impact, (ii) the area affected, and (iii) the importance of the impact on the SNRA values.

(11) "Unpatented Mining Claims" means any mining claim or millsite claim located prior to August 22, 1972, pursuant to the Mining Law of 1872, but not patented.

§ 292.18 Mineral resources.

(a) *Occupancy.* No unpatented mining claim may be used or occupied for any purpose other than exploration, mining, or processing operations and uses reasonably incident thereto.

(b) *Letter of authorization.* A letter of authorization with the posting of an appropriate bond is required prior to conducting operations in the SNRA.

(c) *Operating plan.* A proposed operating plan must be filed with the Area Ranger prior to conducting any operations and prior to construction, reconstruction, improvement or maintenance of roads and trails, bridges, or other facilities for access within the SNRA; provided, that an operating plan is not required for (1) operations which only involve vehicular travel on existing roads open to public use; (2) marking and/or reestablishing claims corners; (3) sampling and exploration work which will not cause significant damage to surface resources and will not involve the removal of more than 100 pounds of material for analysis and study, provided the Area Ranger has prior notice of such activities; or (4) the evaluation and study of existing underground mine workings not involving surface disturbances.

Corps of Engineers

[33 CFR Part 207]

NAVIGATION REGULATIONS

Disestablishment of Seaplane Restricted Area

AGENCY: U.S. Army Corps of Engineers.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commander, Twelfth Coast Guard District has requested that a seaplane restricted area located in San Francisco Bay bordering the Coast Guard Air Station in South San Francisco, San Mateo County, California, be disestablished as the Coast Guard no longer requires the use of the area nor requires that watercraft be restricted from the area at any time. Accordingly, we propose to delete paragraph (d) of 33 CFR 207.640 to disestablish this seaplane restricted area.

COMMENT CLOSING DATE: April 1, 1977.

PROPOSED EFFECTIVE DATE: Date of publication of final rule in the FEDERAL REGISTER.

ADDRESS: Comments, suggestions or objections concerning this proposal should be submitted to: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314. ATTN: DAEN-CWO-N.

FOR FURTHER INFORMATION CONTACT:

Ralph Eppard, Regulatory Functions Branch Office of the Chief of Engineers, 20314 (202-693-5070)

§ 207.640 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, San Joaquin River, and Connecting Waters, California.

* * * * *

(d) San Francisco Bay at South San Francisco; seaplane restricted area. [Deleted].

* * * * *

NOTE.—The Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(40 Stat. 266; 33 U.S.C. 1)

Dated: March 3, 1977.

MARVIN W. REES,
Colonel, Corps of Engineers Executive Director of Civil Works.

[FR Doc.77-7639 Filed 3-15-77; 8:45 am]

(d) *Operating plan—requirements.* Each operating plan shall include:

(iv) Notify the operator of an apparent conflict of ownership and that addi-

DEPARTMENT OF THE INTERIOR

state Commerce Act (49 U.S.C. 15a(4)) was enacted on February 5, 1976, by sec-

It is clear that section 15a(4) calls for a thorough analysis of railroad revenue

The evidentiary base provided for general rate increase proceedings by Ex

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(d) *Operating plan—requirements.* Each operating plan shall include:

(1) The names and mailing address of the persons who will operate and their agents, along with a statement of ownership and/or authorization under which the operation is to be conducted, and including a copy of the location notice(s), proof of assessment labor, and quit claim deeds if ownership has changed within the assessment year.

(2) A map or sketch showing information sufficient to locate the proposed area of operations on the ground, existing and/or proposed roads or access routes to be used in connection with the operations and the approximate location and size of areas where surface resources will be disturbed.

(3) Information describing the nature of operations proposed and how they will be conducted, the type and standard of existing and proposed roads or access routes, the means of transportation to be used, the period during which the proposed operations will take place, and measures to be taken for protecting the values of the SNRA and reclaiming the lands.

(e) *Operating plan—approval.* (1) The Area Ranger shall promptly acknowledge receipt of any operating plan to the operator. The Area Ranger shall review the environmental effects and conduct a technical examination of each proposed operating plan.

The technical examination shall identify the resources and the land uses in the area of operations. The Area Ranger shall use the current General Management Plan of the SNRA and the Final Environmental Statement as guides in determining whether the proposed operations may result in substantial impairment of the values of the SNRA. In his review, the Area Ranger may solicit comments from the general public and/or other government agencies in any analysis of environmental effects. In his review, the Area Ranger will consider the compatibility of the proposed operating Plan with the Act and the General Management Plan. The Area Ranger may not approve an operating plan for an identical climed area to more than one operator.

(2) Within 30 working days of receipt of a proposed operating plan, the Area Ranger shall take one of the following actions:

(i) Notify the operator that the operating plan has been approved as submitted; or,

(ii) Notify the operator that the operating plan has been approved subject to the operator accepting the changes or conditions deemed necessary by the Area Ranger; or,

(iii) Notify the operator that more time is necessary to review the plan because of the need to prepare an environmental impact statement, or conduct a cultural resource survey, or other stated reasons; in such cases, the operator will be notified of the approximate time needed to complete the review; or,

(iv) Notify the operator of an apparent conflict of ownership and that additional proof of ownership is required.

(v) Notify the operator that the operating plan as submitted is inadequate to support any conclusion as to substantial impairment, and that additional information will be required.

(vi) Notify the operator that the operating plan is not approved since such operations as specified in the plan would create substantial impairment.

(f) *Operating plans—suspension or modification.* The Area Ranger may suspend or terminate authorization to operate in whole or in part where such operations are causing substantial impairment which cannot be mitigated. At any time during operations under an approved operation plan, the operator may be required to modify the operating plan in order to minimize or avoid substantial impairment of the values of the SNRA.

(g) *Bond requirements.* (1) An operator shall furnish a bond, in the mount determined by the Area Ranger to be appropriate for reclamation of the disturbed surface area, prior to the commencement of operations. In lieu of a bond, the operator may deposit into a Federal depository, as directed by the Forest Service, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having market value at the time of deposit of not less than the required dollar amount of the bond.

(2) When the reclamation of the project, or portions thereof, has been completed, the operator will notify the Area Ranger who will examine the area to determine whether the reclamation is acceptable. When the Area Ranger has accepted as completed any portion of the reclamation, he shall reduce proportionately the amount of bond thereafter to be required with respect to the remaining reclamation. However, the operator will not be released from liability under the bond for the amount which may be necessary to revegetate each planting area for a minimum period of at least 5 years after the first efforts at revegetation if those initial efforts are unsuccessful.

(3) If the Area Ranger determines that revegetation is likely to occur before the expiration of such minimum period, he may release the operator from the extended liability under the bond for revegetation of the planting area.

(h) *Access.* The operator shall permit free and unrestricted public access to and through lands included within an unpatented mining claim for all lawful and proper purposes. In areas where such access would unduly interfere with authorized operations or would constitute a hazard to public health and safety, public use may be restricted with price approval of the Area Ranger.

BOB BERGLAND,
Secretary.

MARCH 11, 1977.

[FR Doc.77-7676 Filed 3-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 2920, 6260]

RULES FOR VISITOR USE—OTHER THAN DEVELOPED RECREATION SITES

Extension of Comment Period

In a proposed rulemaking notice published in the FEDERAL REGISTER on January 27, 1977 (42 FR 5293), the Department of the Interior published proposed regulations providing rules and procedures setting up a fair and equitable system of special recreation permits for recreational use of areas requiring management of such use in order to ensure a safe recreational experience for the user while minimizing the environmental impact of the recreational use of the area. In the notice, comments were requested by March 14, 1977. It has now been determined to extend the comment period by 30 days. Comments received on or before April 13, 1977, will be considered before final action is taken on the proposed rulemaking.

CHRIS FARRAND,
Acting Assistant Secretary of the Interior.

MARCH 11, 1977.

[FR Doc.77-7741 Filed 3-15-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1109]

[Ex Parte No. 338]

ESTABLISHMENT OF ADEQUATE RAILROAD REVENUE LEVELS

Standards and Procedures

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to make a determination of revenue adequacy, using specified criteria, in any railroad general rate increase proceeding where an improvement of earnings is sought. This proposal is made to implement a provision of the Railroad Revitalization and Regulatory Reform Act of 1976.

DATES: Statements of participants are due on or before the following dates: Notices of intent to participate—March 21, 1977; Statements of comment—April 25, 1977; Replies to statements of comment—May 20, 1977.

The proposed effective date of the subject rules is February 1, 1978.

ADDRESS: Notices of intent to participate, statements of comment, and replies shall be sent to the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Deputy Director or Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7693).

SUPPLEMENTARY INFORMATION: The present section 15a(4) of the Interstate Commerce Act (49 U.S.C. 15a(4)) was enacted on February 5, 1976, by section 205(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (the "4-R Act": Pub. L. 94-210, 90 Stat. 41). As pertinent, it provides that:

> With respect to common carriers by railroad, the Commission shall, within 24 months after the date of enactment of this paragraph, after notice and an opportunity for a hearing, develop and promulgate (and thereafter revise and maintain) reasonable standards and procedures for the establishment of revenue levels adequate under honest, economical, and efficient management to cover total operating expenses, including depreciation and obsolescence, plus a fair, reasonable, and economic profit or return (or both) on capital employed in the business. Such revenue levels should (a) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation, and (b) insure retention and attraction of capital in amounts adequate to provide a sound transportation system in the United States. The Commission shall make an adequate and continuing effort to assist such carriers in attaining such revenue levels.

Under the authority of section 15a(4), this rulemaking proceeding is instituted for the purpose of developing and promulgating (and thereafter revising and maintaining) reasonable standards and procedures for the establishment of adequate railroad revenue levels.

It is our proposal herein to add a new section 1109.25 to Title 49 of the Code of Federal Regulations, to include essentially the following provisions: In any railroad general rate increase proceeding aimed at improving the carriers' earnings, the adequacy of revenues at the proposed rate level shall be determined. Such determination shall be in accordance with the criteria stated in section 15a(4), and shall be based upon consideration of whether such revenues (1) provide a return on net investment equal to the carriers' cost of capital, (2) enable the maintenance of financial ratios indicative of a sound financial condition, and (3) provide a flow of funds sufficient to allow the carriers' needs for funds to be met. The carriers' cost of capital, their return on net investment and other financial ratios, and the sufficiency of their flow of funds shall be determined upon joint consideration of (1) evidence submitted by the parties pursuant to regulations already prescribed, and (2) projections made by the Commission, employing the methodology initially developed in Ex Parte No. 271, Net Investment—Railroad Rate Base and Rate of Return, 345 I.C.C. 1492.[1]

[1] The purposes of the present proceeding overlap those of Ex Parte No. 271, which was under way at the time of enactment of the 4-R Act. In Ex Parte No. 271, the Commission undertook to consider questions pertaining to the computation of railroad return on investment for ratemaking purposes, and related matters. A substantial record was compiled in that proceeding, and the findings and recommendations of the Coordinator, Commissioner Hardin, were set forth in a report served December 22, 1976 (345 I.C.C. 1492).

Because of time limits on pending proceedings imposed by section 303(b) of the 4-R Act (Pub. L. 94-210, 90 Stat. 50 (49 U.S.C. 17(14)), and in view of the institution of the present proceeding, the Commission does not contemplate the issuance of a further report in Ex Parte No. 271. However, to the extent that the issues addressed in Ex Parte No. 271 are pertinent to the implementation of section 15a(4), consideration will be given in the present proceeding to the record in Ex Parte No. 271, to the Coordinator's findings and recommendations, and to any exceptions or comments submitted thereon.

It is clear that section 15a(4) calls for a thorough analysis of railroad revenue requirements in determining adequacy of revenues. Railroad general rate increase proceedings provide a logical setting for making such an analysis.

These proceedings afford an ample record for determining revenue adequacy. Under recently-prescribed regulations, the carrier respondents in such proceedings are required to submit:

(1) Financial ratios and underlying data for essentially the 3 years preceding the rate proposal;

(2) Income statement data (a) for the previous 4-quarter period as actually reported, and (b) for the previous 4-quarter period, restated to reflect current wage, price and productivity levels, with and without the proposed increase;

(3) Funds flow statements (statements of changes in financial position) for each of the preceding 3 calendar years; and

(4) Other data, including information on rents payable; payments to affiliates for services; costs and revenues for specified commodity groups; uneven effects of the proposed increase by commodities, localities, types of traffic, and individual carriers; and number of employees, service hours, compensation, employee benefits and labor productivity.

These regulations provide that the restated income statement data should enable the Commission to find that the proposed increase:

(a) Is cost justified and does not reflect future inflationary expectations;

(b) Takes into account expected and reasonable productivity gains;

(c) Is not excessive in terms of the carriers' ability to provide adequate and safe service or to provide for necessary expansion to meet future requirements for transportation services; and

(d) Is not excessive in terms of the rate of return needed by the carriers to attract debt and equity capital at reasonable costs.

Finally, these regulations require the carriers to submit such evidence as will permit a determination of their cost of debt and equity capital, and of the respective amounts of such capital which they need to attract in order to insure their financial stability and capacity to render service.

These requirements were prescribed in Ex Parte No. 290, Procedures Governing Rail General Increase Proceedings, 351 I.C.C. 544 (1976), as modified February 4, 1977, and are codified at 49 CFR 1102. They are to become effective January 1, 1978.

The evidentiary base provided for general rate increase proceedings by Ex Parte No. 290 may be supplemented by Commission projections of carrier financial data. The initial methodology for making such projections was developed under the supervision of Commissioner Hardin, Coordinator, and is set forth in his report in Ex Parte No. 271, supra.

The projected data include income statements, balance sheets, funds flow statements, and financial ratios, for the class I railroads by district and nationwide (excluding, initially, the bankrupt railroads). The projections are to be based on estimates of traffic levels and other data, using, among other things, published econometric forecasts of the general level of economic activity. Initial projects for the years 1976 through 1985 are set forth in the Coordinator's report. We propose to rely both upon the evidentiary requirements of Ex Parte No. 290 and upon projection methodology of Ex Parte No. 271 (including the short-term methodology described at 351 I.C.C. 1936-1942), in making determinations of revenue adequacy.

We do not propose to make revenue-adequacy determinations in all general increase proceedings. As is commonly recognized, the stringent competitive environment in which the railroads operate is frequently a severe limiting factor on the size of the rate increases that the carriers can even hope to implement. For this reason, many of the general increase proposals that have actually been made in recent years have been no greater, and sometimes less, than the amount of the expense increases shown by the carriers as occurring since the previous general rate proceeding.

It has been contended for several years that railroad earnings have been below an adequate level. However, where it has appeared that the level of earnings would not be improved by a particular increase proposal, there has been no need for a detailed analysis of the magnitude of the earnings deficiency. Further, because of the necessity for a prompt regulatory response to proposals of this nature, the opportunity for detailed consideration of earnings requirements has been limited. (As indicated later in this notice, comments will also be requested as to the application of section 15(a)(4) to proceedings involving specific increases of individual carriers.)

Where the carriers are content to rest their case for a proposed increase on the need to recoup expense increases, it appears sufficient to evaluate the reason that the revenue increase produced by a proposed rate increase may exceed recent expense increases, and they seek to justify the rate at least in part on the basis of a need for improved earnings, then the analysis of revenue adequacy under the section 15a(4) criteria is clearly relevant. Thus, it is in such proceedings that we have proposed to make the revenue-adequacy determination.

Because the Commission's evidentiary requirements for railroad general increase proceedings require the submis-

sion of data for class I carriers only, as referring to transportation. Indeed, a Parte No. 271. The Coordinator con-

The fact that section 15a(4) contem- Parte No. 271, 345 I.C.C. 1492 at 1932-

A list of the sources of carrier funds and a balancing list of the uses of such

sion of data for class I carriers only, we have proposed that the revenue-adequacy determination be based on data for the same class of carriers. Moreover, in these cases we do not propose to make determinations for individual carriers within that class. We recognize the importance of considering the financial posture of individual carriers in evaluating all general increase proposals, and we require the submission of individual carrier data, such as financial ratios and historical funds flows, in our existing regulations. However, at the present time, it would be unduly difficult and time-consuming to make a detailed financial analysis and projections for every class I carrier in the course of a general increase proceeding. Further, because individual carriers within a district cannot feasibly maintain rate levels different from those of their competitors, the reasonableness of overall rate levels must be determined primarily on a district and national basis, rather than by individual carriers. Thus, the purposes of these proceedings will be satisfactorily served by the determination of revenue adequacy on a district and national basis. Of course, if it is ultimately determined that section 15(a)(4) applies also to any category of specific rate increases, determination would be based on reverse adequacy for the individual carrier involved.

Section 15(a)(4) calls for the determination of revenue adequacy under conditions of honest, economical, and efficient management is not a new one under the act, but rather has long been a part of the rule of ratemaking set forth in section 15a(2) (which, as amended by the "4-R Act", no longer applies to the railroads). Accordingly, while this requirement will underlie the entire revenue adequacy determination, it does not form the basis of a separate standard or procedure in the proposed regulation.

In the words of section 15a(4), the adequate revenue level must "cover total operating expenses, including depreciation and obsolescence." The necessity for rail revenues to cover expenses is one that is recognized in all general increase proceedings, whether or not an improvement in earnings is sought. The manner of recording expenses is prescribed in the Commission's Uniform System of Accounts for Railroad Companies (49 CFR 1201). Such expenses are required to be shown in the income statement data specified in Ex Parte No. 290. Thus, the evidentiary standards for showing expenses are well developed, and we propose to employ the same standards in making the revenue-adequacy determination.

Appraising the adequacy of the carriers' rate of return requires first that there be agreement as to the rate base and as to the income category that represents a return on that base. With respect to the rate base, section 15a(4) employs the term, "capital employed in the business." We interpret "the business as referring to transportation. Indeed, a principal concern in regulating carrier rates is that they be properly remunerative for transportation services. Thus, the proper rate base is one that measures capital employed in transportation.

Such a measurement is envisioned in the concept, "net investment in transportation property," which the Commission has long used as a rate base in appraising carrier earnings. Net investment consists of the net original cost of the transportation assets held by the carriers, plus an allowance for working capital. Accordingly, in considering adequacy of revenues under section 15a(4), we propose to use net investment in transportation property as the rate base.

Whether this rate base is distorted because of unrealistic depreciation reserves or for other reasons is a matter that was under consideration in Ex Parte No. 271. We note that, on the basis of special depreciation studies, the Coordinator concluded that the net investment base was reasonably stated.

If "capital employed in the business" refers to transportation property, then a return on such capital must logically be the income produced by the provision of transportation services. Such a concept is best reflected in the accounting category of "net railway operating income" specified in the Commission's Uniform System of Accounts. Net railway operating income is the amount left over from operating revenues after operating expenses, taxes and rents are deducted. It is the figure already used by the Commission in finding return on net investment, and we propose to continue this practice in implementing section 15a(4).

One of the questions addressed in Ex Parte No. 271 was whether the amount of taxes recognized in computing net railway operating income should include deferred taxes, or should be limited to taxes currently paid. Because the resolution of this question will have a bearing on the computation of return on investment for the purposes of section 15a(4), it will be given further consideration in this proceeding.

Evidentiary requirements concerning the showing of return on net investment are already found in the Commission's regulations. For example, the carriers are required to submit financial ratios, including return on net investment, for essentially the three years preceding the proposed increase. Another requirement of these regulations is the estimation of the income, including net railway operating income, that would result from the proposed increase, based on a restatement of the data of the previous year at current wage, price and productivity levels. In addition, the Commission's projections using the Ex Parte No. 271 methodology will include projections of return on net investment. Such data should provide a reasonable basis for conclusions as to the return on net investment that would result from a proposed increase.

Consideration of a proper rate of return for railroads was undertaken in Ex Parte No. 271. The Coordinator concluded that, under present circumstances, the railroads should strive to earn a return of from 6 to 10 percent on net investment. That proceeding, however, did not undertake to prescribe a standard for finding a fair return. The formulation of such a standard appears to be called for in the present proceeding.

The modern approach to finding a fair return is the determination of the firm's cost of capital. Ordinarily, the cost of debt capital (an interest rate) and the cost of equity capital (earnings as a percentage of equity) are separately determined. Then, the two are weighted together according to the debt/equity structure to find the composite cost of capital as a percentage of the investment. Most of the evidence presented on the rate of return question in Ex Parte No. 271, for example, consisted of studies of the railroads' cost of capital.

The cost-of-capital criterion appears to be fully responsive to the requirements of section 15a(4). A return equal to the cost of capital would allow the carriers to meet their interest obligations, and give them the level of earnings required by shareholders. Thus, it should protect their credit in the debt and equity markets, and enable them to retain and attract the capital they need. Accordingly, we propose to employ cost of capital as the standard for a "fair, reasonable, and economic profit or return" for the purposes of section 15a(4).

Evidence concerning the carriers' cost of capital is already required by the Commission's prescribed regulations for railroad general increase proceedings. The nature of the required evidence is not specified in the regulations, and we do not propose at this time to prescribe one particular technique for showing cost of capital. Cost of capital studies can be made in a variety of ways. If based on valid assumptions, the various methods should provide fairly similar results, and can serve as useful checks upon one another. Thus, we contemplate that the parties would be allowed the freedom to show the carriers' cost of capital in the ways they deem most suitable under conditions prevailing at the time of a particular proceeding. However, we desire the comments of the participants to this proceeding as to whether they believe a particular technique for showing cost of capital should be prescribed, and as to the details of the technique, if any, that they believe should be adopted.

Section 15a(4) does not envision that the rate of return will be the sole factor to be considered in judging revenue adequacy. Rather, it specifies that adequate revenues must provide a "flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation." In addition, the revenue level, to be adequate, must "insure retention and attraction of capital in amounts adequate to provide a sound transportation system in the United States."

The fact that section 15a(4) contemplates something in addition to rate of return analysis is confirmed by its legislative history. In reporting on a provision in S. 2718 similar to the present section 15a(4), the Senate Committee on Commerce stated:

> In considering adequate revenue levels, the Commission will be expected to utilize the most modern financial analysis techniques available and to adopt a prospective view of carrier revenue needs. Previous analyses of the adequacy of regulated industry revenues has focused upon adequate returns on investments. While this type of analysis may need to be continued, it is equally important for the Commission to focus on the level of revenue needed to provide and maintain adequate service in the public interest. This requires emphasis upon present and future revenue levels under honest, economic, and efficient management as opposed to a theoretically adequate rate of return on investment that may have no relationship to the need for operating and capital funds necessary to maintain service in the public interest. (Senate Report No. 94-499: Report of the Senate Committee on Commerce on S. 2718, Rail Services Act of 1975, November 26, 1975, pages 51-52.)

The Committee's call for a "prospective view of carrier revenue needs" finds a ready response in the projection methodology of Ex Parte No. 271. Further, in that proceeding, as well as in Ex Parte No. 290, the groundwork has been laid for a proper use of the "most modern financial analysis techniques," specifically, analysis of financial ratios and analysis of funds flows. We will discuss how the use of these techniques appears to meet the requirements of section 15a(4).

Return on net investment is itself a financial ratio, and may be used to illustrate the analysis of financial ratios. Like other financial ratios, return on net investment relates one item of financial data to another, in particular, it relates an item from the income statement (net railway operating income) to an item based on the balance sheet (net investment in transportation property). The value of this ratio is that it tells how profitably the transportation property is being used. This ratio figure can be used for comparisons of various types, such as those among carriers or among districts, as well as comparisons between railroads and other industries. It can also be used for comparisons between years for a particular carrier or group of carriers. Such comparisons are a means for testing how well the carriers are performing at a particular time, and whether their performance is improving or declining with the passage of time.

However, return on net investment is only one of a number of financial ratios that can be used in making judgements about various aspects of the carriers' financial performance. Relationships between a number of items in the income statement and balance sheet can be examined, to permit judgements as to operating efficiency, liquidity, ability to meet debt obligations, and other matters. Further discussion of such uses may be found in the Coordinator's report in Ex Parte No. 271, 345 I.C.C. 1492 at 1932-1936.

Financial ratios can be of value in making judgments as to the soundness of the carriers' financial conditions at a particular revenue level, and as to the attractiveness of their debt and equity securities in the capital markets. Thus, analysis of such ratios can assist in the determination required by section 15a(4) as to whether a proposed rate level would "insure retention and attraction of capital in amounts adequate to provide a sound transportation system in the United States."

An approach that could be taken in this proceeding would be the prescription of particular numbers for various ratios that would be taken as indicators of revenue adequacy. However, we have doubts as to the validity of such a mechanical approach. It appears preferable to us at this time to simply recognize the importance of considering financial ratios in determining adequacy of revenues, and to allow the ratios shown in particular proceedings to be appraised according to the informed judgments of the parties and the Commission. Thus, we do not propose any particular numerical ratios as tests of adequate revenues. However, we do propose that one measure of revenue adequacy for the purposes of section 15a(4) be whether such revenues make possible a satisfactory financial condition, as reflected by analysis of financial ratios.

In our evidentiary regulations for railroad general increase proceedings, we require evidence of selected carrier financial ratios for the 3 years preceding a proposed general increase. In addition, the projection methodology in Ex Parte No. 271 embraces the projection of financial ratios, as a concomitant of the projections of income statements and balance sheets. Such data will afford the needed evidentiary basis for the use of financial ratios in the determination of revenue adequacy. Accordingly, we propose no additional evidentiary requirements with respect to financial ratios at this time.

The other factor proposed to be considered in the evaluation of revenue adequacy is the sufficiency of the carriers' flow of funds. A statement of funds flow permits a broader view of railroad financial requirements than is provided within the confines of the income statement. The focus of the income statement is on revenues obtained from the use of carrier property, and on the expenses incurred in obtaining those revenues. The income statement recognizes the movement of money from shippers to carriers, and the payment of some of that money to providers of labor, material and supplies. However, carrier operations also involve other movements of funds. Such transactions have to do chiefly with the acquisition of property, or capital goods, with which to provide service and with the financing of such property. They concern primarily the movement of funds between carriers and shareholders, between carriers and lenders, and between carriers and suppliers of capital goods.

A list of the sources of carrier funds and a balancing list of the uses of such funds is a statement of funds flow. The study of such a statement can aid in the determination of adequate revenue levels, by revealing the extent to which the carriers are succeeding in obtaining the funds they need to meet their requirements for funds.

The carriers' requirements for funds arise from several causes. The criteria stated in section 15a(4) relate to these causes. First is the need for capital spending, in the acquisition of transportation property. The carriers must have sufficient funds to replace needed assets as they become unusable through exhaustion or obsolescence, and to expand their plant when necessary to provide needed service. In the words of section 15a(4), they must have sufficient funds to "support prudent capital outlays."

In addition, the carriers must be able to repay their debt obligations as they become due. Section 15a(4) refers to this aspect as the necessity for having sufficient funds to "assure the repayment of a reasonable level of debt."

Third, the carriers must be able to provide the necessary reward to shareholders, through a combination of dividend payments and increases in shareholders' equity from retained earnings. If the carriers do not have sufficient funds for this purpose, they cannot hope to market additional stock on reasonable terms. This is recognized in section 15a(4) as the need for sufficient funds to "permit the raising of needed equity capital."

Inflation is also a factor in the carriers' needs for funds. In particular, it affects the amount needed for capital expenditures, by requiring increases in the dollar investment just to maintain the same real value. It also affects the amount of earnings required by shareholders to offset the decline in the real value of their equity. If the carriers have sufficient funds to meet their needs at inflated dollar costs, then they will have sufficient funds, in the words of section 15a(4) to "cover the effects of inflation."

As indicated by section 15a(4), the carriers' "flow of net income plus depreciation" must be sufficient to allow their needs for funds to be met. We do not construe this language to mean that all of the needed funds must be provided directly from the flow of net income plus depreciation. As we have previously found, not all of the carriers' requirements for capital expenditures can be expected to be met from funds provided by ratepayers. Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, 339 I.C.C. 125, 180-181 (1971); Ex Parte No. 295, Increased Freight Rates and Charges, 1973, Nationwide, 344 I.C.C. 589, 610 (1973); Ex Parte No. 318, Increased Freight Rates and Charges—1976, ------ I.C.C. ------ (1976), slip opinion, pp. 29-30. There must be a resort to the other sources of capital as well. However, the amounts of funds that the carriers can hope to raise in the capital markets

depends on the quality of their credit in

formulated their own proposals as to

fore March 21, 1977, file an original and

shall be governed by the criteria set forth

(3) Whether such revenues make possible a sufficient flow of funds to allow

(3) Projections of income statements, balance sheets, financial ratios and funds

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depends on the quality of their credit in those markets. The quality of their credit, in turn, depends on the adequacy of their earnings. Thus, while the flow of net income plus depreciation is not expected to cover all needs for funds directly, it must be sufficient to allow those needs to be met, giving consideration to the carriers' credit in the capital markets.

By examining the carrier's rates of return and other financial ratios, the Commission can estimate the carrier's credit in the capital markets, and draw conclusions as to the amounts of debt and equity capital that they could expect to raise. By considering these data, together with estimates of funds requirements and of the amounts of net income and depreciation expected at the proposed rate level, the Commission can determine whether the carriers will have sufficient funds to meet their requirements for funds at the proposed rate level.

The determination of the amount of funds required by the carriers at a particular time, as well as the determination of the amount of funds available from capital sources, are matters requiring judgment based on all the facts existing at a particular time. Thus, we have not proposed particular standards for such determinations, other than to say that the criteria of section 15a(4) will govern, and that an adequate revenue level is one that will provide a sufficient flow of funds to allow the carriers' needs for funds to be met.

With respect to evidentiary requirements, our regulations provide that the carriers shall submit funds flow statements (statements of changes in financial position) for the three years preceding the proposed increase. In addition, the carriers are required to show the amounts of capital needed in order to assure their financial stability and their capacity to render service.

The computerized projection methodology of Ex Parte No. 271 is being developed with the primary purpose of forecasting funds flow. This methodology relies on forecasts of traffic levels and other pertinent data to anticipate what the railroads' funds requirements will be for each of the succeeding 10 years. Thus, it will permit an estimate of the extent to which the carriers' foreseeable funds requirements may exceed the funds available from operations and capital sources.

We do not propose additional evidentiary requirements with respect to funds flow at this time, although this is a matter for further consideration after receipt of comments. Rather, we propose that the sufficiency of the carriers' flow of funds at the proposed rate level shall be determined upon joint consideration of the evidence required by our prescribed regulations and projections of funds flow using the methodology of Ex Parte No. 271.

We recognize that interested persons may already have given substantial attention to section 15a(4), and may have formulated their own proposals as to how it should be implemented. Our purpose in proposing a specific rule at this time is not, by any means, to foreclose consideration of such proposals, but merely to afford a useful basis for comment. In particular, we hope to stimulate consideration of how any new standards and procedures would mesh with the Commission's existing machinery for handling railroad general increase proceedings.

All interested persons are invited to submit their comments (including data, views and arguments) as to the regulation proposed herein, and as to any amplification or modification of that regulation that they consider desirable. Comments are also desired as to the following questions:

1. Should other financial indicators, such as projected return on shareholders' equity, be accorded the same or greater weight than rate of return on investment?

2. Should standards and procedures be prescribed for determining adequacy of overall revenues for carriers involved in proceedings concerning individual rates?

In addition, comments are desired on the projection methodology of Ex Parte No. 271, and will be seriously considered for the purpose of modifying and refining that methodology. In particular, it is noted that the expenditure projections made in Ex Parte No. 271 were based on normalized maintenance, and did not include expenditures need to make up deferred maintenance. One of the needs for funds that the Commission has recognized in the past in granting general increases is for making up deferred maintenance and delayed capital improvements (see in particular, Ex Parte No. 305, Nationwide Increase of Ten Percent in Freight Rates and Charges, 1974, order served June 4, 1974). We recognize that, besides the data reported to us under Ex Parte No. 305, the carriers have filed data with the Secretary of Transportation under section 504(a) of the 4–R Act and that under other provisions of the Act the maintenance needs of particular rail lines will come under study for considerations of public funding. We are aware of problems of definition and of lack of uniformity in measurement. Comments are desired as to whether deferred maintenance and delayed capital improvements should be included in the projection methodology, and as to how they should be defined and determined.

Finally, comments of interested persons are desired as to any regulations or approaches other than those suggested here that they may believe are warranted to provide the standards and procedures called for by section 15a(4). All common carriers by railroad subject to Part I of the Interstate Commerce Act are made respondents in this proceeding.

Any interested person may participate in this proceding by submitting initial or reply statements of comments (or both) in response to this notice. Any person intending to participate shall, on or before March 21, 1977, file an original and one copy of a notice of intent to participate with the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20433. Because the Commission desires to conserve time, to avoid unnecessary expense, and to limit the service of statements in this proceeding to persons who intend actively to participate, each notice of intent to participate shall include a detailed statement of (1) whether the person's interest extends merely to receiving Commission releases in this proceeding; (2) whether the person wishes to participate by filing and receiving statements of comment; (3) whether, if the person desires to file statements, his interests can be consolidated with those of other persons by the filing of joint statements; and (4) any other pertinent information to aid in limiting the service list to be issued in this proceeding. The Commission will prepare and make available, to all persons submitting notices of intent to participate, a service list which will contain the names and addresses of all persons participating in this proceeding.

An original and 19 copies of each statement of comment, if possible, shall be filed with the Commission, and one copy of each statement shall be served upon each person on the service list, on or before April 25, 1977. Replies to statements of comment shall be similarly filed and served on or before May 20, 1977. No oral hearing is contemplated at this time.

Notice of the institution of this rulemaking proceeding will be given to the general public by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy of the notice with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

ROBERT L. OSWALD,
Secretary.

Accordingly, it is proposed that 49 CFR 1109 be amended by adding a new § 1109.25 as follows:

§ 1109.25 Standards and procedures for the establishment of adequate railroad revenue levels.

In any proceeding where a proposed general increase in railroad rates is sought to be justified, in whole or in part, on the basis of a need for a higher level of carrier earnings (i.e., where the increase is recognized as being greater than the amount necessary to offset expense increases occurring since the carriers' last previous general rate increase), the adequacy of revenues at the proposed rate level shall be determined by the Commission. Such determination shall be made, by district and on a national basis, for the class I railroads.

(a) The determination of the adequacy of revenues at the proposed rate level shall be governed by the criteria set forth in section 15a(4) of the Interstate Commerce Act (49 U.S.C. 15a(4)), and shall be based upon consideration of:

(1) Whether such revenues cover total operating expenses (including depreciation and retirements) and provide a return on net investment in transportation property equal to the carriers' cost of capital;

(2) Whether such revenues enable the carriers to maintain financial ratios indicative of a sound financial condition; and

(3) Whether such revenues make possible a sufficient flow of funds to allow the carrier's needs for funds to be met.

(b) Determination of the railroads' cost of capital, their return on net investment and other financial ratios, and the sufficiency of their flow of funds, at the proposed rate level, shall be made upon joint consideration of:

(1) Evidence submitted by the railroads pursuant to the requirements of part 1102 of this chapter;

(2) Other evidence submitted by the parties to the proceeding; and

(3) Projections of income statements, balance sheets, financial ratios and funds flows by the Commission, employing the methodology described in Ex Parte No. 271, Net Investment–Railroad Rate Base & Rate of Return, 345 I.C.C. 1492, and such modifications of that methodology as may from time to time be adopted by the Commission.

(Sec. 205, Pub. L. 94-210, 90 Stat. 41 (49 U.S.C. 15a(4)).)

[FR Doc.77-7590 Filed 3-15-77;8:45 am]

notices

FEDERAL REGISTER pursuant to 25 CFR 242.10 (1959) as dependent members of the immedi- dence adduced at such hearing has been rendered.

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with § 800.5(c) of the Advisory Council on Historic Preservation's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800), that on April 18, 1977, at 3:00 p.m., a public information meeting will be held at the Pawnee Bill State Park, Pawnee, Oklahoma. The purpose of this meeting is to provide an opportunity for representatives of National, State and local units of government, representatives of public and private organizations and interested citizens to receive information and express their views on the proposed 9-hole Blue Hawk Peak Golf Course, an undertaking assisted by the Bureau of Outdoor Recreation that will affect the Blue Hawk Peak Ranch, a property included in the National Register of Historic Places.

A summary of the agenda of the public information meeting follows:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. An explanation of the undertaking and an evaluation of its effects on the property by the Bureau of Outdoor Recreation.

III. A statement by the Oklahoma State Historic Preservation Officer.

IV. Statements from local officials, private organizations and the public on the effects of the undertaking on the properties.

V. A general question period.

Speakers should limit their statements to approximately 10 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, P.O. Box 25085, Denver, Colorado 80225, telephone number 303-234-4946.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc.77-7638 Filed 3-15-77; 8:45 am]

PUBLIC INFORMATION MEETING

Notice is hereby given in accordance with § 800.5(c) of the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800) that on March 22, 1977, at 7:00 P.M., a public information meeting will be held at the Fall Creek YMCA, 10th and Indiana Avenue, Indianapolis, Indiana. The purpose of this meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations and interested citizens to receive information and express their views on the proposed demolition of Lockefield Gardens, Indianapolis, Indiana, as it affects the Gardens, a property included in the National Register of Historic Places.

A summary of the agenda of the public information meeting follows:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. An explanation of the undertaking and an evaluation of its effects on the property.

III. A statement by the Indiana State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statements to approximately 10 minutes.

Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 "K" Street NW., Washington, D.C. 20005 at 202-254-3380.

ROBERT M. UTLEY,
Deputy Executive Director.

[FR Doc.77-7742 Filed 3-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 29916]

NEW MEXICO

Application

MARCH 8, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Hanson Oil Corporation has applied for one 3-inch salt water disposal pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 34 E.,
Sec. 35, E½NE¼ and SW¼NE¼.

The pipeline will convey salt water from oil and gas operations across 0.532 miles of national resource land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-7726 Filed 3-15-77;8:45 am]

Bureau of Indian Affairs

DISTRIBUTEES AND DEPENDENT MEMBERS OF HOPLAND RANCHERIA, CALIFORNIA

Dependent Members Listed in the Hopland Rancheria Distribution Plan Are Not Terminated

MARCH 4, 1977.

This notice is published in exercise of the authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

On February 20, 1976, a Final Declaratory Judgment and Permanent Injunction was issued in the two actions of Eddie F. Knight, et al., Plaintiffs No. C-74-0005, and Ambrose Duncan, Jr., et al., Plaintiffs No. C-73-0034, v. Thomas Kleppe, et al., Defendants, by Judge W. T. Sweigert, United States District Court, Northern District of California.

As to the named plaintiffs in Action No. C-74-0005, the district court entered the following judgment:

Kate D. Feliz (also known as Doris Feliz), Rand M. Feliz (also known as Randolph Feliz), Barbara Feliz, Thelma Campbell Knight, Eddie Knight, Gail Knight, Delores Knight, Gertrude Campbell Feliz, June Feliz, Frank Feliz, Richard Feliz, and John Feliz, plaintiffs in Action No. 74-0005; retain their status as Indians under federal law, have not been "terminated" pursuant to section 10(b) of the California Rancheria Act as amended, and must be removed from the list of "dependent members" in the Hopland Rancheria's Distribution Plan. The Secretary of the Interior is under a duty to effect this removal forthwith. These plaintiffs must not be denied services or benefits provided by the United States because of their status as such on the ground that they have been terminated pursuant to section 10(b) of the Rancheria Act.

As to all the named plaintiffs in Action Nos. C-73-0334 and C-74-0005 and the class of similarly situated Indians which they represent, the court entered the following order:

This judgment affects all of the named plaintiffs and all Indians whose names have been listed or otherwise included in California Rancheria Distribution Plans and/or in termination notices published in the FEDERAL REGISTER pursuant to 25 CFR 242.10 (1959) as dependent members of the immediate families of distributees.

Defendants and all persons acting in concert with them are permanently enjoined from treating any Indians, heretofore listed in a California termination roll as a "dependent member" of a distributee's immediate family, as a terminated Indian pursuant to section 10(b) of the California Rancheria Act, until such time as that Indian has been given full notice and afforded an opportunity for a hearing . . . and, if a hearing is requested in a timely manner until such time as a written decision based upon the evidence adduced at such hearing has been rendered.

Accordingly, notice is hereby given deleting the names of the following dependent members of the immediate families of distributees of Hopland Rancheria from those listed on "A Plan for the Distribution of the Assets of the Hopland Rancheria" approved on May 22, 1961 and they are hereby considered to be unterminated Indians and entitled to federal services in accordance with the aforementioned decision of the district court.

Deletion of dependent family members	Date of birth	Address	Relationship to distributee	Distributee
Evelyn Crandell	June 21, 1960	2451 Fleetwood Dr., San Bruno, Calif. 94066.	Daughter	James Crandell.
Lucille Silva	May 10, 1931	551 Lovers Lane, Ukiah, Calif. [illegible]	Wife	John Silva.
Sharol Silva	Nov. 23, 1953	do	Daughter	Do.
Charlotte Silva	May 17, 1954	do	do	Do.
Arlis Elliott	Jan. 15, 1952	123 Pacific Ave., Crescent City, Calif. 95531.	do	William Elliott.
Debra Elliott	Mar. 28, 1955	do	do	Do.
Ethel Burke	June 4, 1906	1331 Nokomis Rd., Hopland, Calif. 95449.	Wife	Vivian J. Burke.
Tillie Billy	Apr. 29, 1917	4374 Sebastopol Rd., Santa Rosa, Calif. 95401.	do	Richard Billy.
Ray Billy	Jan. 25, 1938	do	Son	Do.
Delmar Wayne Billy	July 26, 1939	do	do	Do.
Beverly D. Billy	Dec. 18, 1941	536 B St., Santa Rosa, Calif. [illegible]	Daughter	Do.
Leone Billy	June 22, 1944	4374 Sebastopol Rd., Santa Rosa, Calif. 95401.	Son	Do.
Timothy Billy	Aug. 23, 1947	do	do	Do.
Leona Billy	June 18, 1949	do	Daughter	Do.
Cornell Daniels	Mar. 9, 1956	3316 Belden St., Sacramento, Calif. [illegible]	Grandson	Kate Ball Daniel.
Dianna Lozintos	Apr. 30, 1950	P.O. Box 418, Hopland, Calif. [illegible]	Daughter	Juanita Knight.
Debra Jean Antone	Sept. 22, 1957	P.O. Box 451, Healdsburg, Calif. [illegible]	do	Do.
Isabel Iris Antone	Sept. 19, 1960	do	do	Do.
Kate D. Feliz	Mar. 16, 1924	1008 Shelter Ave., Napa, Calif. [illegible]	Wife	Robert Feliz.
Rand M. Feliz	Mar. 7, 1958	280 Freitas Ave., Ukiah, Calif. [illegible]	Son	Do.
Barbara M. Feliz	July 5, 1954	do	Daughter	Do.
Gertrude Feliz	May 20, 1932	P.O. Box 262, Ukiah, Calif Calif. 954482.	Wife	Necho Feliz, Jr.
Frank Eugene Feliz	Jan. 30, 1952	do	Son	Do.
Richard Joseph Feliz	Apr. 10, 1953	do	Son	Do.
June Lee Feliz	May 27, 1954	do	Daughter	Do.
John Ray Feliz	May 26, 1955	do	Son	Do.
Thelma Knight	Dec. 26, 1929	P.O. Box 755, Windsor, Calif. 95492.	Wife	William Knight.
Christine Knight	July 3, 1937	P.O. Box 189, Fulton, Calif. [illegible]	do	John Knight.
Tina Knight	Apr. 22, 1956	do	Daughter	Do.
Deana Knight	Feb. 19, 1957	do	do	Do.
Cathy Knight	July 14, 1959	do	do	Do.
Mary Feliz		P.O. Box 431, Hopland, Calif. 95449.	Wife	George Feliz.
Sheena M. Feliz	Jan. 20, 1967	do	Daughter	Do.
Bryan Billy	Mar. 26, 1955	7667 Canterbury Lane, Dublin, Calif. 94566.	Son	Matthews Billy.
Matthews Billy, Jr.	Aug. 7, 1957	do	do	Do.
Pauline Elliott	Apr. 8, 1927	Route 1, Box 136X, Ukiah, Calif. 95482.	Wife	Orville Elliott.
Alice Elliott	Nov. 5, 1950	do	Daughter	Do.
Roger Elliott	Jan. 10, 1952	do	Son	Do.
Iris Ann Elliott	May 17, 1953	do	Daughter	Do.
Luellen Elliott	Aug. 12, 1954	do	do	Do.
Betty Lou Ray	Oct. 16, 1943	765 N. Pine St., Ukiah, Calif. [illegible]	do	Catherine Feliz San Diego.
David San Diego	Dec. 21, 1954	do	Son	Do.
Julie Andrea Billy	Sept. 8, 1951	523 Ashwood Dr., Santa Rosa, Calif. 95401.	Daughter	Dennis Billy.
Candice Lynn Carmela Billy.	Dec. 19, 1952	do	do	Do.
Carole Francis Feliz	Apr. 26, 1940	P.O. Box 532, Hopland, Calif. 95449.	do	Necho Feliz, Sr.
Diane Ray	June 9, 1947	249 Gobbi St., Ukiah, Calif. [illegible]	do	Ruby Feliz Ray Pe[illegible]
Donald Ray	Feb. 27, 1951	do	Son	Do.
Rita Ann Ray	July 16, 1962	do	Daughter	Do.
Mabel Knight	Jan. 10, 1910	c/o Lake County Indian Health, 150 Third St., Lakeport, Calif. 95443.	Wife	Arthur Knight.
Rosalie Elliott	Feb. 13, 1930	General Delivery, Hopland, Calif. 95449.	do	Rayfield Elliott.
Raymond Ferry	Dec. 11, 1949	3426 38th St., Sacramento, Calif. 95817.	Son	Edna Silva Fallis.
Edmond Ferry	Feb. 16, 1951	do	Son	Do.
Cynthia Daniels	Feb. 15, 1939	3651 Branch Rd., Hopland, Calif. 95449.	Daughter	Kate Ball Daniels.
Frances Daniels	Aug. 9, 1947	P.O. Box 466, Hopland, Calif. [illegible]	do	Do.

Deletion of dependent family members	Date of birth	Address	Relationship to distributee	Distributee

DEPARTMENT OF THE INTERIOR

1. APPLICATION FOR (Indicate only one)

(d) Dr. Stig Jeppesen, Assistant Director, Charles Darwin Research Station

(8) Permission is requested to import and

Deletion of dependent family members	Date of birth	Address	Relationship to distributee	Distributee
Louis Garry Billy	July 27, 1950	4374 Sebastopol Rd., Santa Rosa, Calif. 95401.	Son	Richard Billy.
Emilio (Gascon) Inay	Sept. 8, 1947	Route 1, Box 40, Hopland, Calif. 95449.	Son	Delphine Elliott Gascon.
Gladys Knight	May 26, 1940	Route 1, Box 34, Hopland, Calif. 95449.	Daughter	Florence Elliott Anderson.
Ronald Knight	Oct. 29, 1941	13150 Feliz Dr., Hopland, Calif. 95449.	Son	Do.
Rickey Knight	Apr. 9, 1943	do	Son	Do.
Alfredo Knight	Mar. 12, 1945	do	Son	Do.
Elliott Lopez	Aug. 4, 1952	314 19th St., Sacramento, Calif. 95814.	Son	Huberta Elliott Carrillo.
Darrell Lopez	Aug. 5, 1954	do	Son	Do.
Wanda Carrillo	Apr. 30, 1956	316 21st St., Sacramento, Calif. 95814.	Daughter	Do.
Brenda Carrillo	Aug. 7, 1957	do	do	Do.
Liza Ann Carrillo	Aug. 16, 1959	353 East 13th St., Salt Lake City, Utah 84705.	do	Do.
Eddie F. Knight	Sept. 15, 1948	650 Fine Rd., Redwood Valley, Calif. 95470.	Son	William Knight.
Gail T. Knight	Apr. 1, 1956	198 Doolin Dr., Ukiah, Calif. 95482.	Daughter	Do.
Delores Knight	Apr. 4, 1960	P.O. Box 755, Windsor, Calif. 95492.	do	Do.

This notice becomes effective March 16, 1977.

RAYMOND V. BUTLER,
Acting Commissioner of Indian Affairs.

[FR Doc.77-7543 Filed 3-15-77;8:45 am]

Bureau of Reclamation

[Int. FES 77-8]

RIO GRANDE—VELARDE TO CABALLO DAM, RIO GRANDE AND MIDDLE RIO GRANDE PROJECTS, OPERATION AND MAINTENANCE PROGRAM

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the Operation and Maintenance Program for the Rio Grande-Velarde to Caballo Dam, Rio Grande and Middle Rio Grande Projects, New Mexico.

The environmental statement concerns: (1) O&M activities such as channel stabilization, floodway rectification, maintenance of the conveyance channels, cleared floodway, and previously cleared areas along the Rio Grande from Velarde to Caballo Dam; and (2) proposed construction of the Bernardo-San Acacia Conveyance and Protective Works (12 miles), Drain Units 10 and 11 connections and San Antonio Drain extension (13 miles), and phreatophyte clearing (4,155 acres).

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner, Ecology, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240. Telephone (202) 343-4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225. Telephone (303) 234-3022.

Office of the Regional Director, Bureau of Reclamation, Herring Plaza, Box H-4377, Amarillo, Texas 79101. Telephone (806) 376-2404.

Albuquerque Planning Office, Bureau of Reclamation, P.O. Box 252, Albuquerque, New Mexico 97103. Telephone (505) 766-2272.

Upper Rio Grande Basin Projects Office, Bureau of Reclamation P.O. Box 252, Albuquerque, New Mexico 87103. Telephone (505) 766-3381.

Rio Grande Project Office, Bureau of Reclamation, P.O. Box Drawer P, El Paso, Texas 79952. Telephone (915) 543-7741.

Single copies of the final statement may be obtained on request to the Commissioner of Reclamation, Regional Director, Albuquerque Planning Officer, or Project Superintendents. Please refer to the statement number above.

Dated: March 11, 1977.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.77-7785 Filed 3-15-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: University of California, Museum of Vertebrate Zoology, 2593 Life Sciences Building, Berkeley, California 94720, Dr. James L. Patton.

OMB NO. 42-R1626

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one): [ ] IMPORT OR EXPORT LICENSE [X] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: import 200 tissue samples from Galapagos tortoises (Geochelone elephantopus) for scientific research

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Dr. James L. Patton
Museum of Vertebrate Zoology
2593 Life Sciences Building
University of California
Berkeley, California 94720
(415) 642-3567

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[X] MR. [ ] MRS. [ ] MISS [ ] MS. — HEIGHT: 5'9" — WEIGHT: 165lbs
DATE OF BIRTH: 21 June 1941 — COLOR HAIR: blond — COLOR EYES: blue
PHONE NUMBER WHERE EMPLOYED: (415) 642-3567 — SOCIAL SECURITY NUMBER: 579-54-5739
OCCUPATION: Assoc. Curator and Assoc. Prof.
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
Museum of Vertebrate Zoology
2593 Life Sciences Building
University of California
Berkeley, California 94720

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:
a) importation from Ecuador to Berkeley, CA., via Miami, Fl.
b) maintenance of samples at Mus. Vert. Zool., Univ. Calif. Berkeley

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [ ] YES [X] NO (If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [X] YES [ ] NO (If yes, list jurisdictions and type of documents)
a) Charles Darwin Foundation, letter
b) Ecuador, permit letter

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE: 20 Jan. 1977

11. DURATION NEEDED: 6 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): James L. Patton — DATE: 23 December 1976

3-200 (6/76)

ATTACHMENTS

DR. JAMES L. PATTON,
Museum of Vertebrate Zoology,
University of California,
Berkeley, Calif. 94720

Title 50 CFR, Section 17.22(a):

(1) Authorization is requested for the importation of 200 tissue samples of Galapagos Tortoises (*Geochelone elephantopus*) from the Galapagos Islands, Ecuador, to Berkeley, California, via Miami, Florida.

(2) Tissue samples will be taken from animals in wild, natural populations as well as from animals in captive breeding herds. Of the latter, some of these were born in captivity, others were removed from the wild for breeding purposes. The breeding colonies are at Academy Bay, Isla Santa Cruz, Galapagos, under the joint supervision of the Charles Darwin Research Station and the Parque Nacional de Galapagos, Ecuador.

(3) Tissue samples, primarily blood, will be taken from living animals with no harm to the animal.

(4) All specimens, captive or wild, are in the Galapagos Islands, Ecuador.

(5) The tissue samples will be housed in the Frozen Tissue Collection of the Museum of Vertebrate Zoology, University of California, Berkeley, and all research performed will be accomplished in the biochemical laboratories of that same institution. The Museum, founded in 1908, is an Organized Research Unit of the University of California-Berkeley, and is the largest such institution in the western U.S. Its staff members serve as both curators in the Museum and as regularized faculty in the Department of Zoology.

(6) Not applicable.

(7) Attached are copies of correspondence from the following officers of the Charles Darwin Foundation and the Government of Ecuador providing written permission for the collection of the tortoise tissue samples:

(a) Ing. Teodoro Suarez M., Director General de Desarrollo Forestal, Ministerio de Agricultura y Ganaderia, Quito, Ecuador (with English translation appended);

(b) Dr. Peter Kramer, President, Charles Darwin Foundation;

(c) Dr. David Snow, Secretary, CDF Scientific Advisory Committee;

(d) Dr. Stig Jeppesen, Assistant Director, Charles Darwin Research Station

(8) Permission is requested to import and maintain tissue samples of Galapagos tortoises as an aid to the extensive propagation program of the tortoises developed by the Ecudoran Park Service and the Charles Darwin Foundation and carried out at the CDRS, Academy Bay, Isla Santa Cruz, Galapagos. At the specific request of both of these organizations, I will collect tissue samples from animals of known population origin (there are 14 known races of tortoises, 11 still extant) and will use these samples as a source of material for the determination of genetic markers characterizing each of the extant populations. Specifically, biochemical techniques employing identification of enzymes and other proteins will be used, such as starch gel electrophoresis and immunology. This project will aid in two major ways. First, by comparing levels of genetic variability between animals from wild populations with those from the breeding pens, an assessment of the potential detrimental effects of inbreeding can be made. Adjustments in the breeding program can then be developed to alleviate such problems. Second, the characterization of populations by simple genetic markers will enable the identification as to population origin the thousands of Galapagos tortoises maintained in zoological gardens around the world. Hence, proper breeding programs which will insure the survival of specific races can be initiated.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-623-07; please refer to this number when submitting comments. All relevant comments received by April 15, 1977 will be considered.

Dated: March 11, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-7626 Filed 3-15-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:

Steven R. Lorenz, 2710 Stevens Street, La-Crescenta, California 91214.

V42-51 MAR 16 77 UMI

DEPARTMENT OF THE INTERIOR — 1. APPLICATION FOR (Indicate only one) — OMB NO. 42-R1626

Tragopan Cock died of a broken neck when an animal scared him off his perch one night. A solid wall is now being added to

comments received by April 15, 1977 will be considered.

ZOOLOGICAL SOCIETY OF SAN DIEGO,
December 17, 1976.

DIRECTOR (FWS/LE).

V4

OMB NO. 42-R1370

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☐ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
IMPORTATION OF PAIR OF RESTRICTED BIRDS FOR THE PURPOSE of breeding them.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
STEVEN ROSS LORENZ
2710 STEVENS La Crescenta, CA 91214
(213-248-5063

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

	HEIGHT	WEIGHT
☑ MR. ☐ MRS. ☐ MISS ☐ MS.	5.7	140
DATE OF BIRTH: 2-23-50	COLOR HAIR: BLACK	COLOR EYES: BRN
PHONE NUMBER WHERE EMPLOYED: 1-213-474555	SOCIAL SECURITY NUMBER: 556-63-2376	
OCCUPATION: PROGRAMMER		

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
2710 STEVENS LaCrescenta
VIA CANADA TO U.S. International AIR port AT LOS ANGELES, CA

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☑ YES ☐ NO
(If yes, list license or permit number(s))
PRT 2-136

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☑ NO
(If yes, list jurisdictions and type of documents)
I have not as yet applied for any permits, neither have the Studbook Party Rl Canada, but he is expected to do so soon.

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: 2/1/77

11. DURATION NEEDED: 1 year

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Do not sign) Steven Ross Lorenz
DATE 12/11/76

GPO 938-842

La Crescenta Calif., Feb. 1, 1977.

Reply to letter Jan. 28, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

DEAR SIR: Per your request that I supply information required by 50 CFR 17,22(a)(7), I will attempt to do so.

On Nov. 11 or thereabouts I sent a letter to Jack Schuiteman, R.R. No. 2 Devlin, Ontario, Canada inquiring on his offer to sell year old White eared pheasants, Crossoptilon crossoptilon drouyni. He later answered my letter and stated their price at $1000 pr. He had several other orders and did not know if he would have enough sexable birds. He also requested a deposit to reserve the birds if he did have a pair. I wrote him a second letter and explained to him that I was still interested in the birds but would not include a deposit because of the uncertainty of getting the necessary permits. If I do not get the permit this year or if Mr. Schuiteman has sold all of his birds I would like the permit to cover next year.

STEVEN R. LORENZ.

12 ATTACHMENTS

1. Permit to import 1 pair (2) White eared pheasant, *Crosoptilan C. drouny.*
2. Captive bread birds. To be imported across State and International borders.
3.—
4. Captive born in Canada.
5. i of 2 possible cages: A 12 x 6 x 6 cage that was to be used to house a pair of Brown eared and photo per that permit or a 9 x 8 x 6 cage that now stands besides this. Both well planted with sand and gravel floor.
6. My resume of experience is much the same as in the previous permit application with the addition the intention of breeding Satyr Tragopan pheasants this spring.
6. iii Applicant will participate in a cooperative breeding program.
6. iv Size will accommodate 2 medium size pheasants in separate compartments.

Constructed of wood and soft inside protection.

6. v No deaths to eared pheasants have occurred in the last 5 years but a Satyr Tragopan Cock died of a broken neck when an animal scared him off his perch one night. A solid wall is now being added to the side of the cage that the pheasants favor most.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-556-07; please refer to this number when submitting comments. All relevant comments received by April 15, 1977 will be considered.

Dated: March 11, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-7625 Filed 3-15-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112; Charles L. Bieler, Director.

OMB NO. 42-R1370

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Import one (1) female Ceylonese elephant Elaphus maximus ceylanicus endangered species for long term captive breeding project.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
San Diego Zoological Garden
P.O. Box 551
San Diego, California 92112
Phone: 714-231-1515

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

	HEIGHT	WEIGHT
☐ MR. ☐ MRS. ☐ MISS ☐ MS.		
DATE OF BIRTH	COLOR HAIR	COLOR EYES
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER	
OCCUPATION		

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Public Zoo - Wildlife exhibition, research programs in addition to educational and related activities.

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. Charles L. Bieler, Director, 714-231-1515

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Import from Colombo, Sri Lanka to San Diego, California

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number(s))
1962 - 10 (under 1944 law issued 1962)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Sri Lanka export permit

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ not required

10. DESIRED EFFECTIVE DATE: ASAP

11. DURATION NEEDED: Until terminated

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Do not sign) Charles L. Bieler
DATE 17 December 1976

ZOOLOGICAL SOCIETY OF SAN DIEGO,
December 17, 1976.

DIRECTOR (FWS/LE),
U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C.

DEAR SIR: The San Diego Zoological Garden requests an endangered species permit to import one female Ceylonese elephant, *Elaphus maximus ceylanicus.*

1. Common and scientific names of the species or subspecies, number, age and sex of the wildlife to be covered in the permit.

We hope to receive permission to import one orphaned young female Ceylonese elephant, *Elaphus maximus ceylanicus* declared orphaned, rescued and surplus by the Department of Wildlife, Colombo, Sri Lanka (Ceylon). This mammal would be approximately 6-18 months of age.

2. Copy of the contract or other agreement under which such wildlife is to be imported, showing the country of origin, name and address of the seller or consignor, date of the contract, number and weight (if available), and description of the wildlife.

Negotiations for this orphaned, rescued female Ceylonese elephant, *Elaphus maximus ceylanicus* began with our letter to Dr. Atapattu dated 14 December 1976 and with receipt of a letter dated 29 September 1976 from the Department of Wildlife Conservation (DWC), Colombo, Sri Lanka. Our first offer to purchase the orphaned elephant was made on 29 October 1976 and confirmed by the DWC on 25 November 1976 (see attachments).

Additionally, we have a colleague, Mr. W. L. de Alwis, Director, Colombo Zoological Gardens, Sri Lanka, to act as our representative in this transaction. We were concerned about the orphan's welfare and safety. Having a personal representative in Sri Lanka assures us that the animal would be in good health, condition and would be able to make the journey safely.

The female Ceylonese elephant would be a rescued orphan provided by the Department of Wildlife Conservation, No. 54 Chatham Street, Colombo, Sri Lanka, Dr. C. W. M. Aponso, Director (telephone 28036) and Dr. Shelton Atapattu, Assistant Director (telephone 28929).

The specific animal to be imported is not yet available for exact description. We hope to import a recently weaned female in perfect condition, weighing approximately 300-400 pounds and standing 38"-46" at the shoulder.

3. A full statement of justification for the permit including details of the project or other plans for utilization of the wildlife in relation to a zoological, educational, scientific, or propagational purposes as appropriate and the planned disposition of the wildlife upon termination of the project.

The San Diego Zoological Gardens is deeply concerned with the conservation of wildlife, particularly those types designated as threatened or endangered. Our activities and programs reflect that commitment. Our mammalian breeding record is increasing yearly as well as our success with various groups (i.e. ungulates, primates and felines). We are constantly learning, and ways to improve our husbandry techniques are being periodically reviewed. We learn by first hand experience and by sharing information with colleagues. Previous endangered species applications have documented our commitment to wildlife and detailed our expertise with various wildlife types.

When sexually mature, this elephant will be used in a breeding program. It has been documented that Ceylonese elephants require from 8-10 years to reach puberty in

nature (McKay, G.M., behaviour and Ecology of the Asiatic Elephant in Southeastern Ceylon, Smithsonian Contributions to Zoology, No. 125, 1973). Therefore, we would not anticipate importing a female under the age of 8 years.

4. Name and address of the consignee in the United States.

San Diego Zoological Garden
P.O. Box 551
San Diego, California 92112

5. Name and address of the exporting and importing institutions.

Exporting institution: Department of Wildlife Conservation, No. 54 Chatham Street, Colombo, Sri Lanka, Dr. C. W. M. Aponso, Director (telephone 28036) and Dr. Shelton Atapattu, Assistant Director (telephone 28929).

Importing institution: San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112, Charles L. Bieler, Director (telephone 714-231-1515).

6. Name and address of the person responsible for the care of the animal during shipment.

Mr. W. L. de Alwis, Director, Colombo Zoological Gardens, Sri Lanka.

7. Name and address of the veterinarian responsible for the health of the animal during shipment.

Dr. Shelton Atapattu, Assistant Director, Department of Wildlife Conservation, No. 54 Chatham Street, Colombo, Sri Lanka (telephone 28929).

8. Name and address of the veterinarian responsible for the health of the animal after arrival.

Dr. Robert Wallace, Curator of Mammals, San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112 (telephone 714-231-1515).

9. Name and address of the veterinarian responsible for the health of the animal during quarantine.

Dr. Robert Wallace, Curator of Mammals, San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112 (telephone 714-231-1515).

10. Name and address of the quarantine facility.

San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112.

11. Name and address of the veterinarian responsible for the health of the animal during quarantine.

Dr. Robert Wallace, Curator of Mammals, San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112 (telephone 714-231-1515).

12. Name and address of the quarantine facility.

San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112.

13. Name and address of the veterinarian responsible for the health of the animal during quarantine.

Dr. Robert Wallace, Curator of Mammals, San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112 (telephone 714-231-1515).

14. Name and address of the quarantine facility.

San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112.

15. Name and address of the veterinarian responsible for the health of the animal during quarantine.

Dr. Robert Wallace, Curator of Mammals, San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112 (telephone 714-231-1515).

16. Name and address of the quarantine facility.

San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112.

17. Name and address of the veterinarian responsible for the health of the animal during quarantine.

Dr. Robert Wallace, Curator of Mammals, San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112 (telephone 714-231-1515).

18. Name and address of the quarantine facility.

San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112.

19. Name and address of the veterinarian responsible for the health of the animal during quarantine.

Dr. Robert Wallace, Curator of Mammals, San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112 (telephone 714-231-1515).

20. Name and address of the quarantine facility.

San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112.

21. Name and address of the veterinarian responsible for the health of the animal during quarantine.

Dr. Robert Wallace, Curator of Mammals, San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112 (telephone 714-231-1515).

22. Name and address of the quarantine facility.

San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112.

23. Name and address of the veterinarian responsible for the health of the animal during quarantine.

Dr. Robert Wallace, Curator of Mammals, San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112 (telephone 714-231-1515).

24. Name and address of the quarantine facility.

San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112.

25. Name and address of the veterinarian responsible for the health of the animal during quarantine.

Dr. Robert Wallace, Curator of Mammals, San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112 (telephone 714-231-1515).

26. Name and address of the quarantine facility.

San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112.

27. Name and address of the veterinarian responsible for the health of the animal during quarantine.

Dr. Robert Wallace, Curator of Mammals, San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112 (telephone 714-231-1515).

28. Name and address of the quarantine facility.

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mitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. 1001.

submitting comments. All relevant comments received by April 15, 1977 will be

To: CHIEF, FEDERAL WILDLIFE PERMIT, OFFICE.
Washington, D.C.
From: ASSISTANT REGIONAL DIRECTOR, APA.

V4251 MAR 16 77 UMI

nature (McKay, G.M., behaviour and Ecology of the Asiatic Elephant in Southeastern Ceylon, Smithsonian Institution Press, No. 125, 1973). It is reasonable to assume that a similar length of time would be required in captivity, although with adequate nutrition there are indications that captive animals reach puberty somewhat earlier (McKay, G.M., 1973). By the time this animal reaches sexual maturity we will be in a position to begin a captive propagation program.

Recently, the Calgary, Alberta, Canada Zoo imported three baby Ceylonese elephants from the same source, a male and two females. They have expressed their desire to propagate this species and to cooperate with the San Diego Zoo in a propagation program. We currently have one female Ceylonese elephant "Sumithi" which we received from the National Zoo of Sri Lanka in 1968. Sumithi was a hand raised orphaned elephant which we acquired through the assistance of Mr. W. L. de Alwis, the director of the National Zoo in Sri Lanka. Sumithi is in excellent health and condition and is on display in our large elephant enclosure. In addition, our San Diego Wild Animal Park, an 1800 acre second campus belonging to the Zoological Society of San Diego, presently has a young male Indian elephant, *Elaphus maximus*.

Our willingness to share data is reflected in the publications of the professional staff and in our participation with AAZPA's International Species Inventory System.

The propagation of Asiatic elephants is not only possible but probable in captivity. Through the pioneering efforts of the Portland, Oregon zoo with *Elaphus maximus*, the basic requirements, nutrition and husbandry have been established. Their propagation efforts are well known and documented. Information gained from their project will be used as guidelines for our propagation program. We currently have existing facilities, experience and expertise to begin this work.

Any offspring produced in the course of this activity would be incorporated into the propagation program at San Diego Zoological Garden, or if deemed neecssary, dispersed to other qualified facilities interested in similar objectives and with similar programs.

4. A Description and the Address of the Institution or Other Facility Where the Wildlife Will be Used or Maintained.

The Ceylonese elephant will be held at the San Diego Zoo. This institution is owned by the City of San Diego but is managed and operated by a California nonprofit corporation known as the Zoological Society of San Diego. The postal address is: San Diego Zoo, Box 551, San Diego, California 92112.

5. A Statement That at the Time of Application the Wildlife to be Imported Is Still in the Wild, Was Born in Captivity or Has Been Removed From the Wild.

At this time the particular animal to be imported is still in the wild. However, the Wildlife Conservation Department of Sri Lanka has an ongoing orphan elephant rescue program and we would be importing an animal acquired through their program.

6. A Resume of the Applicant's Attempts to Obtain the Wildlife to be Imported From Sources Which Would Not Cause the Death or Removal of Additional Animals From the Wild.

Since these elephants are rescued animal orphans, the removal of these from Sri Lanka under the conditions stated appears to be sound management by the Conservation Department.

Any specimens captured and offered by the Sri Lanka Conservation Department would not be removed from the wild to fill a request by the San Diego Zoo. The animals are only removed as part of an ongoing rescue program. A potential specimen would only be selected from animals in captivity at the time an offer is made.

(v) For the Five Years Preceding the Date of This Application Provide a Detailed Description of all Mortalities Involving the Species Covered in the Application and Held by the Applicant, if any (or any Other Wildlife of the Same Genus or Family Held by the Applicant), Including the Causes of Such Mortality and the Steps Taken to Avoid or Decrease Such Mortalities.

No mortalities have occurred.

7(i). A Complete Description, Including Photographs or Diagrams of the Area and Facilities in Which the Wildlife Will be Housed.

Self explanatory photographs and diagrams are enclosed. The elephant will be in the Children's Zoo facility initially, then transferred to the main elephant enclosure and barn.

(ii) A Brief Resume of the Technical Expertise Available, Including any Experience the Applicant or his Personnel may Have had in Propagating the Species or Closely Related Species to be Imported.

See attached.

(iii). A Statement of the Applicant's Willingness to Participate in a Cooperative Breeding Program, and to Maintain or Contribute Data to a Studbook.

The San Diego Zoological Garden would be willing to cooperate in breeding programs established for this species and would be willing to contribute data to a studbook for elephants. We currently contribute to existing studbooks relating to those species held by the San Diego Zoological Garden.

(iv). A Detailed Description of the Type, Size and Construction of the Container: Arrangements for Feeding, Watering, and Otherwise Caring for the Wildlife in Transit: and the Arrangements for Caring for the Wildlife on Importation into the United States.

The Ceylonese elephant will be air transported from Colombo, Sri Lanka (Ceylon) on Air Ceylon to London, England. From London we will use a direct flight to Los Angeles, California on Trans World Airlines (with Seaboard World Airlines the alternate in the event TWA cannot be used). Transportation from the port of entry (Los Angeles International Airport) to the San Diego Zoo will be made by zoo truck driven by an experienced zoo driver and accompanied by a veterinarian and/or curator or their designees. From Colombo, Sri Lanka the elephant will be personally accompanied by the assistant curator of mammals, Mark S. Rich, or another qualified zoo individual. This will insure adequate food and fluid intake by the elephant en route. The anticipated travel time is not in excess of two days, the entire trip being accompanied by qualified zoological personnel.

The shipping crate will exceed the minimum standards required by the International Air Transport Association (IATA). The shipping crate will be provided by the Department of Wildlife Conservation, Sri Lanka (Ceylon) who are experienced in the construction of these containers. The shipping crate will have feeding and watering facilities built in. At Los Angeles the animal will be met by our custom house brokers, James G. Wiley Co. This company is experienced with such animal transactions and has acted as our broker for years. The San Diego Zoological Garden is a licensed zoological garden by the USDA, license No. 93-C-40.

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I, Title 50, and I further certify that the information sub-

mitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Sincerely,

MARK S. RICH,
Assistant Curator of Mammals.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-560-07; please refer to this number when submitting comments. All relevant comments received by April 15, 1977 will be considered.

Dated: March 11, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

Applicant: Regional Director, Region 3, U.S. Fish and Wildlife Service, Federal Building, Ft. Snelling, Twin Cities, Minnesota 55111.

OMB NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one): ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Request authority to collect and transport endangered mussels caught incidental to official field investigations in Region III.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Jack E. Hemphill, Director
Region III
U.S. Fish and Wildlife Service
Federal Bldg., Ft. Snelling
Twin Cities, MN 55111 *and designated assistants
Phone: 612/725-3563

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: ☐ MR. ☐ MRS. ☐ MISS ☐ MS. HEIGHT WEIGHT DATE OF BIRTH COLOR HAIR COLOR EYES PHONE NUMBER WHERE EMPLOYED SOCIAL SECURITY NUMBER OCCUPATION ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION. NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:
Environment field offices in Region 3.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO (If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO (If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE: as soon as possible

11. DURATION NEEDED: Infinite

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Jack E. Hemphill DATE: JAN 3 1977

*designated assistants will be furnished in writing to the ES Office, Wash. D.C.

To: CHIEF, FEDERAL WILDLIFE PERMIT, OFFICE, *Washington, D.C.*
From: ASSISTANT REGIONAL DIRECTOR, AFA. Twin Cities, MN.
Subject: Endangered Species Application PRT-2-579

February 22, 1977.

In your memorandum of February 4, you pointed out the need to amend our application for an endangered species permit to include the Curtis' pearly mussel (*Epioblasma florintina curtisi*). Please consider this a request to do so. Also, if not readily apparent on the permit, it will be necessary for the permit to state the permit is applicable to Mr. Hemphill's written designee(s).

D. H. RASMUSSEN,

Item 12—Attachments, 50 CFR 17.22(a)

1. We are seeking a permit to collect post-larval Higgin's eye pearly mussel (*Lampsilis higginsi*) of both sexes. The collecting method to be used (crowfoot-bar dredge or brail) is not selective as to sex, but smaller and younger individuals will be taken with less frequency. No larvae will be taken. We propose to take as few as is necessary to establish the presence of the Higgins' eye pearly mussel in a particular mussel bed, generally less than five individuals per bed. Our purpose is to provide special protection to mussel beds containing endangered species and significant populations of other mussel species.

2. The animals we propose to collect are currently in the wild.

3. *L. higginsi* is difficult to identify, as are most of the mussels. To assure accurate identification of the mussels collected, specimens from each sample site are sent to Dr. David Stansbery at the Ohio State University Museum. One to five *L. higginsi* from each mussel bed will be sent to Dr. Stansbery for positive identification. Any additional individuals collected from the same mussel bed will be immediately returned to the river.

4. N/A.

5. Ohio State University Museum, Museum of Zoology, 1813 North High, Columbus, Ohio 43210.

6. N/A.

7. No contracts or agreements are involved.

8. (i) Biologists of the Rock Island Area Office, as part of their normal duties in the review of federally funded on permitted water resource activities, sample areas of the Mississippi River to locate and determine the species composition of freshwater mussel beds. During 1975, we collected *L. higginsi* at two locations and they could be found again at any time during routine sampling at other areas.

(ii) Sampling is conducted from April to October annually at selected sites. The non-species descriminante crowfoot-bar dredge or brail, the same technique used for the commercial harvest of freshwater mussels, will be used for sample collection. Not every mussel bed will be sampled every year.

(iii) When we know where *L. higginsi* occurs, we will be able to give those areas permits and water resource development special protection in our review of federal projects. We may also make a contribution toward the identification of critical habitat for the species.

(iv) Any specimen not identified as Higgins' eye pearly mussel in the field will be sent to Dr. Stansbery for identification and become part of the Ohio State University Museum collection.

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Attachment as required by #12.
(1) Sampson's pearly mussel (*Epioblasma*

OMB NO. 42-R1570
1. APPLICATION FOR (Indicate only one)

ropes. The furniture has been designed to accommodate the normal locomotor be-

continue to contribute to the advancement of science and to public education.

comments received by April 15, 1977 will be considered.

Attachment as required by #12.

(1) Sampson's pearly mussel (*Epioblasma sampsoni*); White cat's paw pearly mussel (*Epioblasma sulcata*); Tuberculed-blossom pearly mussel (*Epioblasma torulosa*); Pink mucket pearly mussel (*Lampsilis orbiculata*); Higgins eye pearly mussel (*Lampsilis higginsi*); Fat pocketbook pearly mussel (*Potamilus capax*).

The number, age, and sex of such species cannot be determined in advance.

(2) The wildlife sought is still in the wild.

(3) The endangered freshwater mussels are taken incidental to specimens collected for identification purposes in connection with official investigations under authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), and at request of other Federal agencies concerning suspected illegal works in navigable waters of the United States.

Identification is a problem in the field in that freshwater mussels are extremely difficult to identify. Accurate classification is required by a qualified expert, usually at a University. During transportation and storage, there appears to be no practical method to keep live mussels alive or to return same to the stream after identification has been made.

We would like to have the shells retained at the Environment field offices throughout the Region as a guide for identification. The endangered mussel specimens will be utilized at various educational institutions for teaching and research purposes.

The environment field offices are located at:

Twin Cities, MN, E. Lansing, MI, Lebanon, OH, Rock Island, IL, Green Bay, WI.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-879-07; please refer to this number when submitting comments. All relevant comments received by April 15, 1977 will be considered.

Dated: March 11, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 77-7623 Filed 3-15-77; 8:45 am]

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Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (P.L. 93-205).

Applicant: National Zoological Park, Smithsonian Institution, Washington, D.C. 20009. Dr. Theodore H. Reed.

OMB NO. 42-R1679

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one): ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Import two male and four female live proboscis monkey, Nasalis larvatus, for the purpose of research, propagation and educational display.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
National Zoological Park
Smithsonian Institution
Washington, D. C. 20009

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: WEIGHT:
DATE OF BIRTH: COLOR HAIR: COLOR EYES:
PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER:
OCCUPATION:

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Zoological Park

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Theodore H. Reed. D.V.M. Director
(202) 381-7222

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
National Zoological Park
Washington, D. C. 20009

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL, FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit numbers)
PRT 5-3-X; PRT 8-142-C

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Indonesia, correspondence

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: Immediately

11. DURATION NEEDED: Through 1977

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Theodore H. Reed
DATE: 22 Nov 76

3-200
10-74

NATIONAL ZOOLOGICAL PARK,
Washington, D.C., November 22, 1976.

Attn: Permit Branch, Wildlife Permit Office.

MR. LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C.

DEAR SIR: (1) Import into the United States one (1) male and two (2) female live adult proboscis monkeys, *Nasalis larvatus*, now and on (1) male and two (2) females of this species later.

(2) All of the animals are wild-born, and are specimens confiscated by the conservation department of Indonesia (see attached correspondence).

(3) N.A. Proboscis monkeys are not available from U.S. or European zoos.

(4) Removed from the wild in Kalimantan, Indonesia.

(5) The monkeys will be housed at the U.S. National Zoological Park, Washington, D.C.

(6) (i) The six proboscis monkeys will be maintained in two identical exhibit cages in the Monkey House of the National Zoological Park (see photographs). Each cage is composed of an inside and outside exhibit area and two small shift cages. Indoor exhibit cages are 5.0 m long×3.0 m wide×3.7 m high with a cement floor and impervious wall material. Indoor visitor viewing is through a full length glass wall. Outdoor cages measure 5.5 m long×4.6 m wide×2.8 m high with a cement floor, rock back wall, and barred side and front walls. Public viewing is from behind a guardrail and through the barred front of the cages. Indoor-outdoor access can be controlled if necessary. The exhibit cage units are provided with cage furniture composed of wooden poles and ropes. The furniture has been designed to accommodate the normal locomotor behavior of proboscis monkeys. We constantly have available to us the leafy material (bamboo, maple, mulberry, beech, willow) necessary to the successful maintenance of this specialized form. The diet will be our basic folivore arrangement for howler monkeys, Colobinae monkeys, red panda, giant panda, tree kangaroo, with appropriate modifications.

(ii) See previous permit applications for resumes of the persons who will be involved with the animals. In addition, the National Zoo has sponsored two recent conferences relevant to primates: "Ecology and Behavior of Arboreal Folivores" (May 1975) and "The Biology and Conservation of the Callitrichidae" (August 1975).

(iii) We would be willing to participate in a captive breeding program (see attached correspondence) and to contribute data to a studbook. Data on all specimens will be entered in the computer of the International Species Inventory System (ISIS).

(iv) Each specimen will be shipped by air in a separate container exceeding minimum International Air Transport Association (IATA) Live Animal Regulations. The routing will be as direct as possible from Jakarta to Washington, D.C. through an authorized port of entry.

(v) We have kept two genera of this family in the past five years (Subfamily Colobinae). There have been no mortalities in the *Presbytis senex*.

In the *Colobus guereza* there have been three deaths: a female imported 16 January 1967 died 9 March 1971 of psychological inanition (a senile barren female, rejected by the group and housed separately); a female imported 29 November 1966 died 8 March 1975 of inanition and sepsis with undetermined underlying causes (gave birth eight times and aborted once while at the National Zoo); and a stillborn full-term fetus on February 26, 1974. Currently, the colony consists of seven animals, all born at the National Zoo except for one imported male.

(7) See attached. All specimens will be accompanied by legal export documents from Indonesia.

(8) This permit is for the importation into the United States of two male and four female proboscis monkeys (*Nasalis larvatus*). All animals are wild-born specimens confiscated and well acclimated by the conservation department of Indonesia. They will be shipped by air as directly as possible to Washington, D.C. where they will be placed in specially prepared exhibit cages.

The use of confiscated monkeys and the proposed cooperative captive breeding program with the Jakarta Zoo will aid the cause of this endangered species in Indonesia. The use of these unique monkeys in public exhibits at and in ongoing education programs at the National Zoo will greatly promote endangered species education in the United States. The monkeys will also form the basis for a research program to develop captive husbandry and propagation techniques. The experienced, highly trained and capable staff of the National Zoo provides the best chance that sustained captive breeding will be achieved. It is hoped that education and sustained captive breeding will help to preserve monkeys in the wild.

Upon their death, the specimens will be offered to the Smithsonian Institution's Natural History Museum. In this way, they will continue to contribute to the advancement of science and to public education.

Sincerely,

THEODORE H. REED, D.V.M.,
Director.

Attachments:

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-500-07; please refer to this number when submitting comments. All relevant comments received by April 15, 1977 will be considered.

Dated: March 11, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-7622 Filed 3-15-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Dr. Paul B. Holden, BIO/WEST, Inc., P.O. Box 3226, Logan, Utah 84321.

OMB NO. 42-R1679

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one): ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Collect and return unharmed to the point of capture Colorado squawfish and humpback chubs (endangered species) for scientific research. Preserve up to 25 specimens of each, but no more than 2 from any 10-mile reach of stream.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Dr. Paul B. Holden
BIO/WEST, Inc.
P.O. Box 3226
Logan, Utah 84321
(801) 752-4202

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5'10" WEIGHT: 165
DATE OF BIRTH: Feb. 11, 1944 COLOR HAIR: brown COLOR EYES: blue
PHONE NUMBER WHERE EMPLOYED: (801) 752-4202 SOCIAL SECURITY NUMBER: 395-42-8485
OCCUPATION: Fishery Research Biologist, Senior Aquatic Ecologist and Pres. of BIO/WEST, Inc.

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
N/A

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Scientific collecting in Upper Colorado River Basin of Colorado, New Mexico, Wyoming, and Utah, in the Green and Colorado Rivers

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list licenses or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of documents)
State permits are required but are contingent on receiving a federal permit.

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $ N/A

10. DESIRED EFFECTIVE DATE: March 15, 1977

11. DURATION NEEDED: December 31, 1977

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Paul B. Holden
DATE: January 28, 1977

3-200
10-74

GPO 833-842

ATTACHMENT	
	Dam upstream and the Missouri River Basin from Sioux City, Iowa, upstream. Annotated

ENDANGERED SPECIES PERMIT

of the Endangered Species Act of 1973 tacted USDA regarding quarantine and im-

V4251 MAR 16 77 UMI

ATTACHMENT

1. Endangered fish to be studied: Colorado squawfish—*Ptychocheilus lucius;* Humpback chub—*Gila cypha.*

Unlimited numbers of all ages and both sexes will be captured and returned unharmed to the point of capture. In addition, permission is sought to preserve up to 25 individuals of various ages and sex of each species. Specimens accidentally killed by capture techniques will be preserved, although the likelihood of such an occurrance is small.

2. All fish to be captured will be wild fish in their native habitat.

3. Fish will be collected by seines and D.C. electrofishing gear. All collecting procedures and handling will be done in such a manner as to assure mortality is minimized. Dr. Holden spent 1968–1971 studying these species in the upper Colorado River basin returning most specimens unharmed to the site of collection. In 1973, he collected the first brood stock of Colorado squawfish for the U.S. Fish and Wildlife Service. In 1976, he led the Colorado Squawfish Recovery Team on a trip on the Green River, Utah, to capture additional brood stock. Therefore, Dr. Holden is very knowledgeable of techniques used to capture rare Colorado basin fishes without harming them needlessly.

4. N/A.

ATTACHMENT

5. Preserved species will be placed in institutions at the discretion of the Service; the most likely repository is the U.S. Fish and Wildlife Service laboratory in Ft. Collins, Colorado.

6. N/A.

7. The activities sought in applying for this permit are needed for a study awarded to BIO/WEST, Inc. by the U.S. Fish and Wildlife Service, Office of Biological Services, Western Energy and Land Use Team, Ft. Collins, Colorado. The project is entitled, "Habitat requirements of rare fishes," Project No. 24, Phase II. (See Appendix.) Field work is anticipated to start in the latter part of March, 1977 and continue for 24 months thereafter.

8. Fish will be collected with seines and D.C. electrofishing gear from various habitat types in the upper Colorado River basin. Fish will be identified, counted, and returned to the place of capture. These data will be analyzed to determine habitat preferences of the fish, as well as the importance of various habitat types. These analyses will help determine the habitat needs of the endangered species. This information is needed to restore populations of these species to former abundance. Similarly it is needed to determine impacts of various proposed water development projects on the fishes and their habitat. This information is needed as there are many proposed impacts, yet we know little of the actual needs of the rare fishes.

CONTRACT/PROGRAM-ADVICE AWARDED

Category 2.

WELUT No. 024–76 (Western Water Allocation Funds).

Title: Aquatic Endangered Species.

Project Officer: Bob Raleigh.

Contractors: Phase I—Ecology Consultants, Inc., Fort Collins, Colorado. Phase II—Bio West, Logan, Utah.

The primary objective is an ecosystem study of the present status, distribution and habitat requirements of important endemic, endangered and threatened fishes of the Upper Colorado and Missouri Basins.

The scope of this project is focused on the Colorado River Basin from Glen Canyon Dam upstream and the Missouri River Basin from Sioux City, Iowa upstream. Annotated and indexed bibliographies of all published and available unpublished technical information including current studies pertaining to aquatic fauna, flora, and habitat characteristics of the two river systems will be compiled. In addition to the Project 30 bibliographies the contractor will identify any additional existing publications and data by contacting the appropriate libraries, state and federal agencies, universities, private firms and individuals. Project emphasis will be on endangered, threatened and selected endemic fish of the area, but all technical information pertinent to the river ecosystem and habitat characteristics of these fish should be included.

The compiled data base will be used to construct base maps and overlays of past and present distributions including spawning and rearing areas of selected fish species and locations of past and present field studies. The compiled data base will be evaluated to determine data gaps regarding the ecology, migrations, habitat parameters, etc. needed to describe the distribution and habitat requirements of target fishes. Critical habitat characteristics will be identified where sufficient data exist by comparing characteristics of areas currently utilized to those areas from which the species has been recently eliminated.

A series of detailed study proposals for short-term studies will be prepared. The studies will be designed to fill specific data gaps concerning the distribution, ecology, and habitat requirements of target fish. Field studies based on the study proposals will be conducted following approval by the Project Officer.

Initiation Date: Estimate December 1976.

Completion Date: December 1978.

Products: 1. An indexed and annotated bibliography of published and unpublished technical information regarding aquatic fauna of the Upper Colorado and Missouri River systems; a separate bibliography for each system.

2. A set of maps and overlays for each river system delineating distribution, spawning and rearing area, physical and chemical characteristics and locations of past and present field studies.

3. An evaluation report of the ecosystem of each river system based on the compiled data base.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–622–07; please refer to this number when submitting comments. All relevant comments received by April 15, 1977 will be considered.

Dated: March 11, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77–7021 Filed 3–15–77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93–205).

Applicant: International Crane Foundation, City View Road, Baraboo, Wisconsin 53913; George W. Archibald, Director.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE
LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one) — ☐ IMPORT OR EXPORT LICENSE — ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Importation of 1 Siberian crane (endangered species) for breeding and propagation purposes at ICF, Baraboo, Wisconsin

Importation of 8 Siberian crane eggs for hatching, and adult Siberian cranes for breeding

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
International Crane Foundation
City View Road
Baraboo, WI 53913
phone: 608-356-3553

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
non-profit, research and educational institution
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
George W. Archibald, Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Wisconsin

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
International Crane Foundation
City View Road
Baraboo, Wisconsin 53913

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number)
NONE

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
not required

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE: Feb 14, 1977

11. DURATION NEEDED: 2 years (Feb 14,1979)

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
attachments

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (By mail) Mildred L. Zanton
Administrator, ICF
DATE January 11, 1977

3-200 GPO 865-842

INTERNATIONAL CRANE FOUNDATION,
January 10, 1977.

THE DIRECTOR,
Department of the Interior, U.S. Fish and Wildlife, Washington, D.C.

DEAR SIRS: The Siberian Crane is one of the world's rarest and most critically endangered species of birds numbering less than 350 individuals in the wild and 11 in capavity. The International Crane Foundation is attempting to establish a viable captive population, a Species Bank, of Siberian Cranes at ICF headquarters in central Wisconsin. There is a single Siberian Crane maintained in captivity in Japan. The bird is nine (9) years old, in excellent physical condition and is maintained at the Hirakawa Zoo in Kagoshima, Japan. ICF has been trying to secure this crane on a breeding loan from the people of Kagoshima since 1972. The Japanese repeatedly stalled on the proposal.

On September 22, 1972 we received an import permit (ES–279) from the USDI for the import of the crane. The permit was amended on May 28, 1974 authorizing the import, and amended again on April 3, 1975, regarding the import of Japanese crane eggs included under the original permit. Unfortunately the Japanese Government failed to comply with export arrangements and the rare crane remained at the Hirakawa Zoo.

We recently received a communication from the Director of the World Wildlife Fund—Japan, that the Japanese are willing and indeed anxious to send the crane to ICF in the immediate future in view of the outstanding propagation success achieved for rare crane species by ICF in 1976. We contacted USDA regarding quarantine and import permits from their office. Dr. G. P. Pierson of USDA informed that their permit would be immediately forthcoming and that the quarantine facilities are prepared to receive the crane in Honolulu, February 14. We then contacted Mr. Larry La Rochelle of your department regarding the amending of our USDI import permit. Mr. La Rochelle informed that the permit cannot be amended and that proceedings to receive the permit at all would have to be reinitiated involving approximately a three (3) months time period. We wish to urge that USDI reconsider this case and amend the original permit to allow the crane Honolulu entry February 14, 1977.

If the crane is imported February 14, it will be in a breeding confine until March 14 and shipped to ICF exactly the same time the wild Siberian cranes leave their wintering grounds in India on their 500 mile migration to arctic breeding grounds in Russia. If the Siberian crane from Japan arrives at ICF in mid-March, and there is a strong possibility a reproductive result can be achieved from that individual in 1977. However, if we must wait three (3) months for the USDI import permit there is no chance of the crane breeding in 1977, and the Japanese may in fact, decide not to send it to us at all.

Last year we imported a male Japanese crane on February 10, to Honolulu and the bird arrived at ICF March 10. Four (4) chicks were reared from that bird in 1976. These four (4) chicks represent approximately two percent (2%) increase in the world population of the Japanese crane.

We hope you sympathize with this case and that provisions can be made to have our import permit amended in the near future.

Thank you for your cooperation.

Sincerely,

MILDRED L. ZANTOW,
Administrator.

Enclosed: Request for permit.

Attachment covering Rules and Regulations under Title 50, Wildlife and Fisheries, paragraph 17.22.

1. The endangered species involved in the permit request is the Siberian Crane (*Grus leucogeranus*)

2. The adult Siberian Crane to be imported is in captivity in Japan. It is being held at Hirakawa Zoo. The Siberian Crane eggs are in the wild and will be gathered by Dr. Vladimir Flint.

3. and 4. The adult Siberian Crane is a single crane which migrated into Japan and did not migrate back to the breeding grounds. The International Crane Foundation has been trying to import this crane for a period of 5 years. The Japanese people have now decided to permit the crane to be loaned to ICF for breeding purposes only. It is urgent that we accept their offer while they are willing to send the bird.

The eggs to be obtained from the Siberian Crane in Russia are vital to the propagation of the species and is in compliance with the detente with the Zoological Museum in Moscow. The International Crane Foundation is to establish a species bank for returning these very endangered cranes to the wild as soon as the habitat is restored.

5. The International Crane Foundation, a non-profit breeding, research and educational organization in Baraboo, Wisconsin will be caring for and propagating these cranes.

6. A complete description of ICF headquarters and confines is on file in the USDI along with many many photographs of the entire 65 acres of the foundation.

7. We are under the constant watchful care and guidelines of the US Fish and Wildlife Animal Health Laboratory in Madison,

Wisconsin. They have complete current records of all our stock and maintain health

BOOKER T. WASHINGTON NATIONAL MONUMENT

(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 801(c),

1. Under provisions of the Public Law, Petitioner is filing a formal petition to

(d) One Epling cutting machine, height from ground is 26 inches.

(e) One Long-Airdox scoop manufac-

(1970), Plateau Mining Co., Inc., 101 East Tennessee Avenue, Oak Ridge, Tennessee 37830 has filed a petition to

Wisconsin. They have complete current records of all our stock and maintain health checks constantly to assure safety of the cranes.

8. All contracts of loan on all cranes received at the International Crane Foundation are on file and all progeny will be handled in compliance with the loan agreements and the USDI and the USDA regulations.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-632-07; please refer to this number when submitting comments. All relevant comments received by April 15, 1977 will be considered.

Dated: March 11, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-7620 Filed 3-15-77;8:45 am]

National Park Service

APPOMATOX COURT HOUSE NATIONAL HISTORICAL PARK

Availability of Draft General Management Plan and Environmental Review

The National Park Service has prepared a Draft General Management Plan and Environmental Review for Appomattox Court House National Historical Park.

The Plan discusses proposals for future development and management of Appomattox Court House National Historical Park. The Environmental Review analyzes the impacts on the resources, visitors and the region that would be associated with the actions proposed in the Plan.

Written comments on the Plan and the Environmental Review are invited and will be accepted for a period on or before April 30, 1977. Comments should be addressed to the Regional Director, Mid-Atlantic Region, or the Superintendent, Appomattox Court House National Historical Park at the addresses given below.

Copies are available from or for inspection at the following locations:

Mid-Atlantic Regional Office, National Park Service, 143 S. Third Street, Philadelphia, Pennsylvania 19106.

Superintendent, Appomattox Court House National Historical Park, P.O. Box 218, Appomattox, Virginia 24522.

Dated: February 28, 1977.

BENJAMIN J. ZERBEY,
Acting Regional Director, Mid-Atlantic Region.

[FR Doc.77-7743 Filed 3-15-77;8:45 am]

BOOKER T. WASHINGTON NATIONAL MONUMENT

Availability of Draft Master Plan and Environmental Assessment

The National Park Service has prepared a Draft Master Plan and Environmental Assessment for Booker T. Washington National Monument.

The Plan discusses proposals for future development and management of Booker T. Washington National Monument. The Environmental Assessment analyzes the impacts on the resources, visitors and the region that would be associated with the actions proposed in the Plan.

Written comments on the Plan and the Environmental Assessment are invited and will be accepted for a period on or before May 15, 1977. Comments should be addressed to the Regional Director, Mid-Atlantic Region, or the Superintendent, Booker T. Washington National Monument at the addresses given below.

Copies are available from or for inspection at the following locations:

Mid-Atlantic Regional Office, National Park Service, 143 S. Third Street, Philadelphia, Pennsylvania 19106.

Superintendent, Booker T. Washington National Monument, Route 1, Box 195, Hardy, Virginia 24101.

Dated: March 1, 1977.

BENJAMIN J. ZERBEY,
Acting Regional Director, Mid-Atlantic Region.

[FR Doc.77-7744 Filed 3-15-77;8:45 am]

ENVIRONMENTAL ASSESSMENTS AND STATEMENTS

Recension of Guidelines for Preparation and Review

Notice is hereby given that the National Park Service hereby rescinds the guidelines for preparation and review of environmental assessments and statements dated July 29, 1974. Notice of these guidelines was published in the FEDERAL REGISTER on May 19, 1976, at 41 FR 20601-20602.

The rescinded guidelines have been replaced by National Park Service "Environmental Assessments and Statements Guideline" dated November 1976, copies of which are available from the National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

Dated: March 9, 1977.

GARY EVERHARDT,
Director, National Park Service.

[FR Doc.77-7745 Filed 3-15-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-119]

ELECTROMET FUEL

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Electromet Fuel, Route 8, Box 292C, Morgantown, West Virginia 26505, has filed a petition to modify the application of 30 CFR 75.1710 cabs or canopies; electrical face equipment, to its Pohey Mine No. 1, located in Monongalia County, West Virginia.

The Substance of Petitioner's statement is as follows:

1. Under provisions of the Public Law, Petitioner is filing a formal petition to modify the application of a mandatory safety standard as it applies to shuttle cars and roof bolters presently being operated at this mine. The installation of canopies on this type of mining equipment would not guarantee any more protection to the operator but would, in fact, constitute a hazard.

2. The nature of the Redstone coalbed with its many rolling clay veins and sharp local dips cause the mining height and clearance to vary considerably, making it almost impossible to operate this type of equipment with any degree of safety with canopies properly mounted. Also, the shuttle car operator has very limited vision while loading, tramming, and unloading with these canopies on, requiring him to lean out of his cab to gain needed vision, thereby exposing himself and endangering his unseen fellow workers.

3. Therefore, Petitioner is asking for an investigation to be conducted and a waiver to operate this equipment without canopies until this matter can be resolved.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 15, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

MARCH 7, 1977.

[FR Doc.77-7642 Filed 3-15-77;8:45 am]

[Docket No. M 77-120]

J & J MINING CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), J & J Mining Co., Inc., Route 8, Box 292C, Morgantown, West Virginia 26505, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies; electrical face equipment, to its J & J Mine No. 3, located in Monongalia County, West Virginia.

The substance of Petitioner's statement is as follows:

1. Under provisions of the Public Law, Petitioner is filing a formal petition to modify the application of a mandatory safety standard as it applies to shuttle cars and roof bolters presently being operated at this mine. The installation of canopies on this type of mining equipment would not guarantee any more protection to the operator but would, in fact, constitute a hazard.

2. The nature of the Redstone coalbed with its many rolling clay veins and sharp local dips cause the mining height and clearance to vary considerably, making it almost impossible to operate this type of equipment with any degree of safety with canopies properly mounted. Also, the shuttle car operator has very limited vision while loading, tramming, and unloading with these canopies on, requiring him to lean out of his cab to gain needed vision, thereby exposing himself and endangering his unseen fellow workers.

3. Therefore, Petitioner is asking for an investigation to be conducted and a waiver to operate this equipment without canopies until this matter can be resolved.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 15, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

MARCH 7, 1977.

[FR Doc.77-7641 Filed 3-15-77;8:45 am]

[Docket No. M 77-100]

METCO, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Metco, Inc., Box 1528, Wise, Virginia 24293, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies; electrical face equipment, to its Metco Mine No. 1, located in Wise County, Virginia.

The substance of Petitioner's statement is as follows:

1. Petitioner's equipment consists of the following:

(a) One Long-Airdox coal loader, height from ground is 25 inches.

(b) One AR-4 Elkhorn scoop, height from ground is 25 inches.

(c) One roofbolting machine manufactured by Paul's Repair Shop, Grundy, Virginia, height from ground is 24 inches.

(d) One Epling cutting machine, height from ground is 26 inches.

(e) One Long-Airdox scoop manufactured by Long Airdox, height from ground is 32 inches.

2. This is a non-agreement mine and a copy of this letter has been posted on the mine bulletin board.

3. Relief from compliance with this portion of the code is requested for the following reasons:

(a) At present the coal height (Norton Seam) ranges from 38 to 56 inches with rolls and swags that vary in elevation from 2 to 6 feet in short distances. However, according to the Virginia Iron Coal & Coke Company, Coeburn, Virginia, engineering section, the coal height in some cases will reduce to 20 inches further back in the unmined section.

(b) Installation of canopies on this type equipment will probably impair operator vision/flexibility and increase the probability of collision type accidents.

(c) Also, due to the rolls in the coal seam and changing heights of the seam, it would be almost impossible to design and install canopies which would effectively provide the operator any additional protection.

(d) Informal discussions with the miners (averaging 10 years mining experience each) who operate this equipment reveal that in their opinion, installation of canopies on this type equipment would create danger to them as opposed to improving personal safety.

4. In view of the above, it is believed that installation of canopies on this equipment to be used in this mine could possibly compromise rather than enhance safety. Consequently, Petitioner requests that relief from compliance with this portion of the regulations be granted.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

MARCH 7, 1977.

[FR Doc.77-7644 Filed 3-15-77;8:45 am]

[Docket No. 77-111]

PLATEAU MINING CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Plateau Mining Co., Inc., 101 East Tennessee Avenue, Oak Ridge, Tennessee 37830 has filed a petition to modify the application of 30 CFR 77.1605, loading and haulage equipment; installations, to its Plateau Mine No. 1, located in Campbell County, Tennessee.

The substance of Petitioner's statement is as follows:

1. The property and grounds on which operator and Petitioner is operating is land which is owned by the Tennessee Valley Authority, a governmental agency.

2. The land on which the mining operations of Petitioner are presently being operated has been mined for a period of many years, the bench of the existing road has been utilized without berms and guardrails.

3. The surface of the roadway and the adjoining land which would be necessary to be developed to install the berm as required is made of solid rock material and would require much blasting of the roadway.

4. Installation of guardrails and berms, except where needed, would take away portions of the usable driving surface and would thereby render the roadways more dangerous than if berms and guardrails were not installed.

5. Where steep portions do not have berms, their installation would occupy such a large portion of the existing useable roadway as to greatly diminish the road's usefulness for hauling. Widening the roadway would entail blasting the existing stable rock highwall. Guardrails would have to be installed on the fill material and it would be very difficult to make them substantial to a reasonable degree of safety.

6. Petitioner has an excellent safety record in its hauling and traveling over said roadway which record results from proper maintenance, supervised traffic systems, and the condition of vehicles using the roadway.

7. The installation of berms and guardrails in this particular situation would involve great expense and for the reasons stated in the forgoing paragraphs would not provide additional safety for the operation.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before April 15, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Director, Office of Hearings and Appeals.

MARCH 7, 1977.

[FR Doc.77-7643 Filed 3-15-77;8:45 am]

CIVIL AERONAUTICS BOARD

By this order the Board proposes to establish a new final service mail rate reasonable rate for the intra-Alaska mail services of KWA. However, in reaching

prive KWA of more than $3,000 of mail pay and in view of KWA's critical finan-

[MA 1]

MEETING

ministrative Law Judges, Committee on Private Voluntary Agency Eligibility,

CIVIL AERONAUTICS BOARD

[Order 77-3-48; Dockets 29123 and 27502 Agreements C.A.B. 26484 and 26485]

INTERNATIONAL AIR TRANSPORT ASSOC., TRAFFIC CONFERENCE 2

Passenger Fares and Currency Matters

Issued under delegated authority March 8, 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). Agreement C.A.B. 26484 was adopted by mail vote; Agreement C.A.B. 26485 was adopted at the Composite Traffic Conference held in Cannes, France during February 1977.

Agreement C.A.B. 26484 would amend various resolutions of the TC2 Limited Agreement (Middle East-Africa) to extend the limited agreement to include Ethiopa. Agreement C.A.B. 26485 would establish reduction factors on local selling fares between points within Europe, and is intended to relate local currency selling fares more closely to fluctuating foreign exchange values.

We will approve the agreements insofar as they affect fares that are combinable with fares to/from the United States and thus have indirect application in air transportation as defined by the Act.

Pursuant to authority duly delegated by the Board's Regulations, 14 CFR 385.14, it is not found that Agreements C.A.B. 26484 and C.A.B. 26485 are adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously applied by the Board.

Accordingly, *it is ordered*, That: Agreements C.A.B. 26484 and C.A.B. 26485 be and hereby are approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7778 Filed 3-15-77;8:45 am]

[Order 77-3-56; Docket 30333]

KODIAK-WESTERN ALASKA AIRLINES, INC.

Order to Show Cause Regarding Service Mail Rates Increase

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 10th day of March, 1977.

By this order the Board proposes to establish a new final service mail rate for the transportation of mail over the intra-Alaska routes of Kodiak-Western Alaska Airlines, Inc. (KWA) on and after January 11, 1977.

By petition filed January 11, 1977, KWA requested that the Civil Aeronautics Board set a fair and reasonable rate of increased compensation for the transportation of mail by aircraft on its certificated routes consisting of a terminal charge of seven cents per pound of mail and a linehaul charge of $4.00 per mail ton-mile to be effective January 1, 1977. Subsequently, KWA amended its petition to correct certain clerical errors, changing the proposed rates to six cents per pound of mail and $3.72 per mail ton-mile.[1] The proposed rates are based on the carrier's analyses of reported operating results for the year ended June 30, 1976.

In support thereof, KWA asserts that its operating costs have increased substantially since calendar year 1969[2] and, except for the relief granted by way of a fuel surcharge, there has been no corresponding increase in its service mail rate to compensate for those cost increases. Additionally, the rate inadequacy is further compounded because KWA is currently on a sliding-scale mail rate whereby the yield declines with increased mail volume which has almost tripled since 1969. Moreover, the carrier is faced with a critical financial crisis which would be helped by the requested rate increase.

On February 7, 1977, the U.S. Postal Service (Postal Service) filed an answer to KWA's petition objecting to the rates proposed therein and proposing a single-element rate of $5.23 per mail ton-mile on and after January 1, 1977. In support thereof, the Postal Service states that KWA, as a Group I air carrier, is not required to report certain costs in detail in Form 41 schedules making it infeasible to identify sufficiently and acceptably allocate these costs among mail, nonmail, terminal, and linehaul elements. Accordingly, the Postal Service has computed an overall allocation of common economic costs from which it derived its rate proposal.

The Board has reviewed all of the pleadings and our analysis of KWA's reported operations indicates that a rate increase is warranted. The carrier has experienced an increase of over 26 percent in system revenue ton-mile unit costs since fiscal year 1969 and has been unable to offset these higher costs through increased productivity. Also, at the time the sliding-scale rates were established, no one anticipated the rapid growth in KWA's mail volume. We believe that the rate proposed by the Postal Service falls within the zone of reasonableness and constitutes the fair and reasonable rate for the intra-Alaska mail services of KWA. However, in reaching this conclusion we have confined our determination to the peculiar facts of this case and do not pass upon the appropriateness of any particular allocation methodology which may underlie the Postal Service's cost calculations used in arriving at this rate.

Basically, there are two areas where the Postal Service determination differs from that of the applicant. First, the Postal Service has properly eliminated recognized nonmail costs such as Passenger Service, Reservations and Sales, Advertising and Publicity, and that portion of General and Administrative expense related thereto. Second, instead of a multielement rate, the Postal Service has proposed a single-element rate.

In our view, the establishment of a multielement rate is no longer necessary for KWA's mail transport services. Usually, multielement rates are employed in order to provide a reasonable rate taper for ratemaking units with significantly different lengths of haul or for a single carrier whose length of haul fluctuates markedly from year to year. This is not the case with KWA whose reported average stage length has not varied more than one mile over the last three fiscal years. The Postal Service proposal to establish a single-element rate based on common economic costs does not, therefore, appear to be unreasonable.

On March 2, 1977, KWA filed a Motion for Immediate Action and for Other Relief, citing its present cash-flow crisis and financial need circumstances. The carrier also requested, inter alia, that the Board immediately set a temporary mail rate of not less than $5.23 per billed great-circle mail ton-mile. Based on the information available, we can see no reason, nor has KWA given any justification to the contrary, why the rate being proposed herein should not be made final. In fact, KWA states that it finds the $5.23 rate "clearly reasonable." Accordingly, we tentatively conclude that it would be appropriate to fix a final service mail rate for KWA in this proceeding.

KWA and the Postal Service have both proposed an effective date of January 1, 1977, the beginning date of a Postal Service accounting period, and, in the past, the Board has for administrative expediency fixed the effective dates for service mail rates to coincide with the beginning of a 28-day Postal Service accounting period. However, the proposed effective date of January 1, 1977, predates the filing date of the petition instituting this proceeding. The United States Supreme Court has rule that the Board is not authorized to adjust retroactively closed final mail rates.[3] If we were to adhere to the policy of making a rate effective at the beginning of a postal Service accounting period, the rate proposed herein would not become effective until January 29, 1977. This action would deprive KWA of more than $3,000 of mail pay and, in view of KWA's critical financial condition, we believe this would impose an unfair burden on the carrier. Therefore, the mail rate formulated herein will be established on and after January 11, 1977, the carrier's petition date.

On the basis of the foregoing, the Board tentatively finds and concludes that the fair and reasonable rate of compensation to be paid by the Postmaster General on and after January 11, 1977, to Kodiak-Western Alaska Airlines, Inc. pursuant to section 406 of the Federal Aviation Act of 1958, as amended, for the transportation of mail by aircraft over its routes, the facilities used and useful therefor, and the services connected therewith, is $5.23 per great-circle mail ton-mile.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, and the Board's Procedural Regulations, 14 CFR Part 302.

It is ordered, That: 1. All interested persons, and particularly Kodiak-Western Alaska Airlines, Inc. and the Postmaster General, are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final service mail rates specified above to be effective on and after January 11, 1977;

2. Further procedures shall be in accordance with the Rules of Practice, 14 CFR, Part 302, and if there is any objection to the rates or to the related findings and conclusions proposed herein, notice thereof shall be filed within 10 days after the date of service of this order, and if notice is filed, written answer and supporting documents shall be filed within 30 days after the date of service of this order;

3. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days after service of this order, or if an answer timely filed raises no material issue of fact, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of an order fixing final service mail rates and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the rates herein specified;

4. If notice of objection and answer are timely filed presenting issues for hearing, issues going to the establishment of the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR, section 302.-307; and

5. This order shall be served upon Kodiak-Western Alaska Airlines, Inc. and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7780 Filed 3-15-77;8:45 am]

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[1] This equates to a single-element rate of approximately $5.73 per mail ton-mile.

[2] The base period underlying its current rate fixed by Order 73-2-6, February 1, 1973, as amended for a fuel surcharge by Order 75-11-67, November 19, 1975.

[3] *Transcontinental & Western Air, Inc.* v. *C.A.B.*, 336 U.S. 601 (1949).

[MA 1]

MEETING

Cancellation

MARCH 10, 1977.

The March 15, 1977 meeting announced on March 8, 1977 will not take place. On March 10, 1977 the petitioning party requested withdrawal of its Petition for Reconsideration.

SUPPLEMENTARY INFORMATION: The Board has not yet issued final regulations implementing the open meeting provisions of the Government in the Sunshine Act.

However, so that the public will have the required notice for all meetings held after the effective date of the Sunshine Act (March 12, 1977), the Board will follow the announcement procedures set forth in § 310b.4 (PDR-44) of its proposed rules until final rules have been adopted.

The following Members have voted that agency business requires that this meeting be cancelled and that no earlier announcement of the change was possible:

Chairman John E. Robson
Member G. Joseph Minetti
Member Lee R. West
Member R. Tenney Johnson

Vice Chairman Richard J. O'Melia did not participate.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7776 Filed 3-15-77;8:45 am]

[MA 3]

MEETING

MARCH 10, 1977.

Time and date: 10:00 a.m.—March 17, 1977.
Place: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.
Subject: 1. Docket 30314, SPDR-53 Part 370—Employee Responsibilities and Conduct. 2. Docket 29712, Air California and Docket 29831, Pacific American Airlines, Inc.—applications for disclaimer of jurisdiction or exemption to perform certain interstate contract flights.
Status: Open.
Person to contact: Phyllis T. Kaylor, The Secretary, (202) 673-5068.
Supplementary information: The Board has not yet issued final regulations implementing the open meeting provisions of the Government in the Sunshine Act.

However, so that the public will have the required notice for all meetings held after the effective date of the Sunshine Act (March 12, 1977), the Board will follow the announcement procedures set forth in § 310b.4 (PDR-44) of its proposed rules until final rules have been adopted.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-7777 Filed 3-15-77;8:45 am]

CIVIL SERVICE COMMISSION

ADVISORY COMMITTEE ON ADMINISTRATIVE LAW JUDGES, ET AL.

Annual Comprehensive Review

In the matter of annual comprehensive review of Advisory Committee on Administrative Law Judges, Committee on Private Voluntary Agency Eligibility, and Federal Prevailing Rate Advisory Committee.

Pursuant to the provisions of section 7(b) of the Federal Advisory Committee Act (Pub. L. 92-463), the Civil Service Commission is conducting a comprehensive review of advisory committees. The President, in his February 25, 1977 memorandum for the Heads of Executive Departments and Agencies on the Review of Advisory Committees, asked that each agency "provide for open and public participation in its review process to the maximum extent consistent with an expeditious review." The purpose of this notice is to seek this public advice.

COMPREHENSIVE REVIEW COVERAGE

In his memorandum, the President directed that the review be based on the premise that committees not created expressly by statute should be abolished except those (1) for which there is a compelling need; (2) which will have truly balanced membership; and (3) which conduct their business as openly as possible consistent with the law and their mandate. He also urged agencies to confer with Congress about abolishing any advisory committees created by statute which do not meet these standards.

In addition to the three points in the President's memorandum, the Federal Advisory Committee Act requires that each advisory committee be reviewed to determine whether:

1. The committee is carrying out its purpose;
2. Consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;
3. It should be merged with other advisory committees; or
4. It should be abolished.

There are three advisory committees to the Commission as follows:

1. Advisory Committee on Administrative Law Judges;
2. Committee on Private Voluntary Agency Eligibility; and
3. Federal Prevailing Rate Advisory Committee.

Following is a brief description of the purpose and operations of each of these committees:

ADVISORY COMMITTEE ON ADMINISTRATIVE LAW JUDGES

The committee was established on August 26, 1976. It makes recommendations to the Commission for improvements in managerial effectiveness and utilization of administrative law judges in the Federal Government, in connection with recruitment and selection, selective certification procedures, productivity, standards of performance, and trends in legislation requiring formal hearings under the Administrative Procedures Act and increases in the number of administrative law judges.

During calendar year 1976, the committee held three meetings, each open to the public. It has submitted one report, recommending: (1) removal of administrative law judges from the coverage of

the Veterans Preference Act; (2) abandonment of the practice of selective certification; (3) establishment of a new Administrative Law Judge Examination; and (4) establishment of a new Administrative Law Judge Examination; and (4) establishment of a new Administrative Law Judge Examination; and (4

the Veterans Preference Act; (2) abandonment of the practice of selective certification; (3) revisions to types of qualifying experience; and (4) modifications to requirements of recency of qualifying experience. The committee has thirteen members as follows: three Government attorneys, three administrative law judges, two U.S. Circuit Court Judges, the chairman of a Federal regulatory agency, two private attorneys and two law school professors. For further information contact Arthur L. Burnett, Assistant General Counsel, Legal Advisory Division, Office of the General Counsel, U.S. Civil Service Commission, Room 5H22, 1900 E Street, NW., Washington, D.C. 20415. Telephone 202–632–5421.

COMMITTEE ON PRIVATE VOLUNTARY AGENCY ELIGIBILITY

The committee was established October 19, 1961, and its charter was most recently renewed November 19, 1976. It reviews applications and supplementary financial and accounting data from national voluntary agencies and makes recommendations to the Chairman of the Commission on which agencies should be authorized to solicit on the job in Federal installations. It also makes recommendations regarding certain other matters relating to fund-raising appeals when requested.

During 1976, the committee held two meetings, both open to the public, and reported on its activities to the Chairman of the Commission. The committee has five members as follows: three representatives of Federal employee unions and management representatives from two Federal agencies. For further information contact Joseph S. Patti, Assistant to the Assistant Executive Director for Regional Operations, U.S. Civil Service Commission, Room 5532, 1900 E Street, NW., Washington, D.C. 20415. Telephone 202–632–5544.

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

The committee was established August 19, 1972, by Public Law 92–392, and its charter was most recently renewed on October 5, 1976. It studies the prevailing rate wage system in the Federal Government and advises the Commission on such matters as policy for determining pay rates, including the planning of surveys and the gathering and analysis of data.

During 1976, the committee held 27 meetings, each of which was closed to the public as provided for by the Federal Advisory Committee Act because the committee is exclusively engaged in what is essentially collective bargaining on questions concerning the Federal Wage System.

The committee submitted four reports during 1976 as follows: (1) Annual Report; (2) Establishment of Pay Policy for Corps of Engineers, U.S. Army, Prevailing Rate Employees Operating Navigation Lock and Dam Equipment and Flood Control Dams; (3) Providing for Special Schedule of Wages for Natchez Trace Parkway, Blue Ridge Parkway, and Great Smoky Mountains National Park; and (4) Clarifying Instructions for Environmental Differentials. The membership of the committee is provided for by law as follows: the chairman, one member from the Office of the Secretary of Defense, two members from the military departments, one member from another Government agency, and employee of the Civil Service Commission, and five members representing employee organizations having the largest number of prevailing rate employees. For further information contact Albert F. Wiecjorek, Secretary, Federal Prevailing Rate Advisory Committee, Room 1338, 1900 E Street, NW., Washington, D.C. 20415. Telephone 202–632–9710.

Members of the public who wish to do so are invited to submit comments on those items covered in the comprehensive review as outlined above. These comments should be received by April 1, 1977. Send comments to Donald J. Biglin, the Advisory Committee Management Officer, U.S. Civil Service Commission, Room 5554, 1900 E Street, NW., Washington, D.C. 20415.

DONALD J. BIGLIN,
Advisory Committee Management Officer.

[FR Doc.77–7806 Filed 3–15–77;8:45 am]

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

Annual Comprehensive Review

Pursuant to the provisions of section 7(b) of the Federal Advisory Committee Act (Public Law 92–463), the Civil Service Commission is conducting a comprehensive review of advisory committees. The President, in his February 25, 1977 memorandum for the Heads of Executive Departments and Agencies on the Review of Advisory Committees, asked that each agency "provide for open and public participation in its review process to the maximum extent consistent with an expeditious review." The purpose of this notice is to seek this public advice.

COMPREHENSIVE REVIEW COVERAGE

In his memorandum, the President directed that the review be based on the premise that committees not created expressly by statute should be abolished except those (1) for which there is a compelling need; (2) which will have truly balanced membership; and (3) which conduct their business as openly as possible consistent with the law and their mandate.

In addition to the three points in the President's memorandum, the Federal Advisory Committee Act requires that each advisory committee be reviewed to determine whether:

1. Each committee is carrying out its purpose;

2. Consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

3. It should be merged with other advisory committees; or

4. It should be abolished.

The Civil Service Commission provides committee management support to the President's Commission on White House Fellowships. Following is a brief description of the purpose and operations of this advisory committee to the President:

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

This committee provides gifted and highly motivated young Americans with firsthand experience in the process of governing the nation and a sense of personal involvement in the leadership of the society.

The Commission was established by Executive Order 11183, October 3, 1964, as amended, and was most recently continued by Executive Order 11948, December 20, 1976. During 1976, the Commission held twelve closed meetings and one partially closed meeting. Those portions of Commission meetings which determine policy are open to the public; those dealing with confidential character references are closed.

The Commission received and processed applications from 2864 persons applying for the 1976–77 program. It recommended to the President seventeen men and women for selection as White House Fellows, and the President accepted the Commission's recommendations and appointed them on May 24, 1976. As part of its mandate, the Commission set policies for the educational program of the Fellows including meetings with over 300 leaders in government, education, and arts. There is no set number of members on the Commission. It includes men and women from government, industry, various professions, and academic endeavors. For further information contact W. Landis Jones, Director, President's Commission on White House Fellowships, Room 1308, 1900 E Street, NW., Washington, D.C. 20415. Telephone 202–653–6263.

Members of the public who wish to do so are invited to submit comments on those items covered in the comprehensive review as outlined above. These comments should be received by April 1, 1977. Send comments to Donald J. Biglin, the Advisory Committee Management Officer, U.S. Civil Service Commission, Room 5554, 1900 E Street, NW., Washington, D.C. 20415.

DONALD J. BIGLIN,
Advisory Committee Management Officer.

[FR Doc.77–7807 Filed 3–15–77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Tuesday, April 19, 1977, in Room 4833, Main Commerce Building, 14th and Constitution Avenue N.W., Washington, D.C. The Executive Session will convene at 9 a.m. and the General Session will convene at 1:30 p.m.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data related thereto, and including those whose export is subjet to multilateral (COCOM) controls.

The Committee meeting agenda has four parts:

EXECUTIVE SESSION

(1) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

GENERAL SESSION

(2) Opening remarks by the Chairman.

(3) Presentation of papers or comments by the public.

(4) Discussion of work program, including classification methods for foreign availability and technical classification.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (1), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202–377–4196.

The Complete Notice of Determination to close portions of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 8, 1977, (42 FR 7978).

Dated: March 8, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, Department of Commerce.

[FR Doc.77–7661 Filed 3–15–77;8:45 am]

ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Tuesday, April 5, 1977, at 9:00 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. section 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Report of the Microprocessor Instrumentation Subcommittee.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 8, 1976, pursuant to section 10(d) of the Federal Advisory Committee Act as amended by section 5(c) of the Government In the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone area code 202–377–4196.

The complete Notice of Determination to close portions of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on December 28, 1976 (41 FR 56377).

Dated: March 10, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, Department of Commerce.

[FR Doc.77–7724 Filed 3–15–77;8:45 am]

NUMERICALLY CONTROLLED MACHINE TOOL TECHNICAL ADVISORY COMMITTEE

Advisory Committee Act relating to open

voluntary standard developed under the

Advisory Committee on East-West Trade

1. Billfishes/Pelagic Sharks Advisory Panel
2. Shallow Water Shrimp Fishery Advisory

able to the public and to the press on a first-come, first-served basis.

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NUMERICALLY CONTROLLED MACHINE TOOL TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Numerically Controlled Machine Tool Technical Advisory Committee will be held on Wednesday, April 6, 1977, at 10 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to numerically controlled machine tools, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Discussion of work program of the Committee.
(4) Reports of work groups on:
a. Dimensional inspection machines;
b. Accuracy definition;
c. Control unit performance criteria; and
d. Accuracy values.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Numerically Controlled Machine Tool Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 1, 1977 (42 FR 5991).

Dated: March 8, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, Department of Commerce.

[FR Doc.77-7662 Filed 3-15-77;8:45 am]

National Bureau of Standards

COMMERCIAL STANDARD

Action on Proposed Withdrawal

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the withdrawal of Commercial Standard CS 132-46. "Hardware Cloth."

It has been determined that this standard is technically inadequate and that revision would serve no useful purpose. The subject matter of CS 132-46 is adequately covered by American Society for Testing and Materials ANSI/ASTM A740-76. "Standard Specification for Hardware Cloth (Woven or Welded Galvanized Steel Wire Fabric)." This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of January 28, 1977, (42 FR 5460) to withdraw this standard.

The effective date for the withdrawal of this standard will be May 16, 1977. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: March 10, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc.77-7740 Filed 3-15-77;8:45 am]

National Oceanic and Atmospheric Administration

PRE-ACT ENDANGERED SPECIES PRODUCTS

Issuance of Certificates of Exemption

On January 18, 1977, notice was published in the FEDERAL REGISTER (42 FR 3341) that applications had been filed with the National Marine Fisheries Service by Charles F. McAlpine of Anchorage, Alaska and Morgan J. Levine of Nantucket, Massachusetts for Certificates of Exemption to engage in certain commercial activities with respect to their declared inventories of pre-Act endangered species products. Notice is hereby given that on March 14, 1977, as authorized by the provisions of the Endangered Species Act of 1973, as amended, (Pub. L. 94-359), and the regulations issued thereunder (50 CFR Part 222, Subpart B), the National Marine Fisheries Service issued Certificates of Exemption to Charles F. McAlpine, McAlpine Fur Trading Co., 819 West Fourth Avenue, Anchorage, Alaska 99501 and Morgan J. Levine, The Four Winds, Straight Wharf, Nantucket, Massachusetts 02554. The Certificates of Exemption are available for review during normal business hours in the Office of the Enforcement Division, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20007.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

MARCH 9, 1977.

[FR Doc.77-7806 Filed 3-15-77;8:45 am]

Office of the Secretary

ADVISORY COMMITTEES

Renewal

During late 1976 and January 1977, in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), and Office of Management and Budget Circular A-63 (revised) and after consultation with the Office of Management and Budget, it was determined that continuation and rechartering of the following 24 advisory committees was in the public interest in accordance with duties imposed on the Department by law. Copies of the new charters of these committees were subsequently filed with the appropriate Congressional committees and were furnished the Library of Congress.

RENEWED COMMITTEES

Advisory Board to the U.S. Merchant Marine Academy
Advisory Committee on East-West Trade
Building Technology Advisory Committee
Census Advisory Committee on Agriculture Statistics
Census Advisory Committee of the American Economic Association
Census Advisory Committee of the American Marketing Association
Census Advisory Committee of the American Statistical Association
Census Advisory Committee on Population Statistics
Census Advisory Committee on the Spanish Origin Population for the 1980 Census
Commerce Technical Advisory Board (CTAB)
Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee
Computer Systems Technical Advisory Committee
Exporters' Textile Advisory Committee
Importers' Textile Advisory Committee
Industry Advisory Committee on Metal Scrap Problems
Management-Labor Textile Advisory Committee
Marine Fisheries Advisory Committee
National Bureau of Standards Visiting Committee
National Public Advisory Committee on Regional Economic Development
Numerically Controlled Machine Tool Technical Advisory Committee
President's Export Council Subcommittee on Export Administration
Public Advisory Committee for Trademark Affairs
Semiconductor Manufacturing and Test Equipment Technical Advisory Committee
Semiconductor Technical Advisory Committee

However, all Department of Commerce advisory committees, including the above, will soon be intensely reviewed pursuant to Section 7(b) of the Federal Advisory Committee Act, the President's memorandum of February 25, 1977, and implementing Office of Management and Budget instructions.

Any inquiries regarding this notice may be directed to Mr. Robert T. Jordan, Office of Organization and Management Systems, Room 5026, Main Commerce Building, Washington, D.C. 20230, Telephone: 202-377-4217.

Dated: March 10, 1977.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.77-7831 Filed 3-15-77;8:45 am]

ADVISORY PANELS FOR THE GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Establishment

In accordance with the Provisions of the Federal Advisory Committee Act (5 U.S.C. APP. I (Supp. V, 1975)) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with OMB, the Department of Commerce has determined that the establishment of the following Advisory Panels for the Gulf of Mexico Fishery Management Council is in the public interest in connection with the performance of duties imposed on the Department by the Fishery Conservation and Management Act of 1976, Public Law 94-265 (16 U.S.C. 1852):

1. Billfishes/Pelagic Sharks Advisory Panel
2. Shallow Water Shrimp Fishery Advisory Panel
3. Groundfish Advisory Panel
4. Reef Fishes Advisory Panel
5. Migratory Coastal Pelagic Fishery Advisory Panel

The Panels will provide the Council with pragmatic advice and counsel of the people most affected by the Council's management activities on matters of fishery management policy, on the preparation of fishery management plans, on their review prior to submission to the Secretary, and on their effectiveness in operation.

The Panels will consist of a minimum of nine (9) and not more than twenty (20) members, who are either actually engaged in the harvest, processing or consumption of, or who are knowledgeable and interested in the conservation and management of fishery resources. Members of the Panels will be appointed by the Gulf of Mexico Fishery Management Council.

The Panels will function solely as advisory bodies, and in compliance with the provisions of the Federal Advisory Committee Act. Copies of each Council's Charter will be filed under the Act, March 31, 1977. Inquiries regarding this notice may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland, 20852.

Dated: March 10, 1977.

GUY W. CHAMBERLIN, Jr.,
Assistant Secretary for Administration.

[FR Doc.77-7830 Filed 3-15-77;8:45 am]

COMMERCE TECHNICAL ADVISORY BOARD

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Wednesday, April 6, 1977 from 9:00 a.m. to 5:00 p.m. and Thursday, April 7, 1977 from 8:30 a.m. to 12 noon, in Room 4830, U.S. Department of Commerce, 14th and Constitution Avenue, N.W. Washington, D.C.

The Board was established to study and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the business community. Tenative agenda items include:

Public health and economic considerations in the management of energy shortages.
U.S. Technology Policy.
Reports by Chairman, ERDA Task Force on Demonstration Projects as a Commercialization Incentive.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of minutes and materials distributed will be made available for reproduction, following certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the U.S. Department of Commerce Central Reference and Inspection Facility, Washington, D.C. 20230.

Further information may be obtained from Mrs. Florence S. Feinberg, Administrator, Room 3865, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377-5065.

Dated: March 9, 1977.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

[FR Doc.77-7629 Filed 3-15-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

Meeting

AGENCY: Consumer Products Safety Commission.

ACTION: Notice of Meeting.

SUMMARY: This notice, in accordance with the requirements of the Government in the Sunshine Act (Pub. L. 94-409) and the Commission's Rules for Meetings (16 CFR 1012), announces a meeting of the Commission on March 8, 1977. The Commission, on March 8, 1977, determined that Agency business required calling the meeting, and that no earlier announcement was possible.

The meeting was held in order for the Commission staff to brief the Commission on a Risk Assessment performed by the National Cancer Institute regarding the flame-retardant chemical "Tris." For additional information contact Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th St., N.W., Washington, D.C. 20207, telephone 202) 634-7700.

Dated: March 10, 1977.

SADYE E. DUNN,
Secretary.

[FR Doc.77-7753 Filed 3-15-77;8:45 am]

MINIATURE CHRISTMAS TREE LIGHTS

Intent To Initiate Standards Development; Meeting

This notice announces that the Consumer Products Safety Commission intends to begin a proceeding to develop a consumer product safety standard for miniature Christmas tree lights and similar miniature decorative lights within the next thirty days. The Commission also announces that packets of information regarding the standards development proceedings are available to members of the public from the Office of the Secretary of the Commission. In addition, this notice invites potential offerors to attend a meeting with mem-

bers of the Commission staff on Thurs- the FEDERAL REGISTER on Thursday,

Categories of individuals covered by the

System location:

otherwise entitled to utilize or deal with a NAFI service. Such records include,

Safeguards:

Records are accessed by person(s) re-

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bers of the Commission staff, on Thursday, April 7, 1977 at 10 a.m. in Room 456, Westwood Towers Building, 5401 Westbard Avenue, Bethesda, Maryland. Participants in this meeting will discuss procedures and requirements to be followed in submitting existing standards or offers to develop standards, as well as the technical information in the packet and approaches considered promising by the Commission.

The Commission begins proceedings to develop consumer products safety standards under section 7 of the Consumer Product Safety Act (15 U.S.C. 2056) by publishing a notice in the FEDERAL REGISTER inviting all interested persons to submit to the Commission either (1) one or more existing standards as a recommended consumer product safety standard or (2) an offer to develop a recommended consumer product safety standard. Under the act, and the Commission's regulations governing the development of standards (16 CFR Part 1105), existing standards or offers to develop standards must be submitted to the Commission within 30 days after the date of this future publication of a notice of proceeding in the FEDERAL REGISTER.

On August 10, 1976, the Consumer Product Safety Commission preliminarily determined that miniature Christmas tree lights present unreasonable risks of injury from fire and shock and that a consumer product safety standard is necessary to reduce or eliminate these risks of injury. In order to present as much background information as possible to prospective offerors and to any offeror(s) selected by the Commission to develop a standard, the Commission has developed a packet containing injury data, engineering analyses, economic data, and other relevant information. However, since only 30 days are provided by statute for prospective offerors to review the Commission procedures, become familiar with the technical background information and study the approaches toward the development of a standard for Christmas tree lights considered promising by the Commission, the Commission has decided to publish this advance notice of intent to initiate a standards development proceeding.

All persons who may be interested in submitting existing standards of offers to develop standards are invited to obtain copies of the packet of information regarding Christmas tree lights, the Commission's regulations on the submission of offers and the development of standards, and a draft FEDERAL REGISTER notice beginning the proceeding. Copies may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207. The Commission plans to begin the development of a consumer product safety standard for miniature Christmas tree lights and similar miniature decorative lights by publishing the notice of proceeding in the FEDERAL REGISTER on Thursday, March 31, 1977.

Date: March 11, 1977.

SHELDON D. BUTTS,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc.77-7752 Filed 3-15-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

PRIVACY ACT OF 1974

New Systems of Records

The Department of the Air Force systems of records notices as prescribed by the Privacy Act of 1974 have been published in the FEDERAL REGISTER as follows: FR Doc. 75-21075 (40 FR 35403) August 18, 1975 FR Doc. 75-22752 (40 FR 39677) August 28, 1975; FR Doc. 75-22754 (40 FR 39711) August 28, 1975; FR Doc. 76-26296 (41 FR 2954) January 20, 1976; FR Doc. 76-21185 (41 FR 30979) July 26, 1976; FR Doc. 77-6500 (42 FR 12459) March 4, 1977.

Notice is hereby given that the Department of the Air Force has submitted two proposed new systems of records on February 10, 1977 pursuant to the provisions of Office of Management and Budget (OMB) Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975 and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)). This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

The Department of the Air Force invites public comment to be considered on all parts of the following proposed new records systems. Interested persons are invited to submit written data, views and arguments to the system manager identified in the particular record system notice on or before April 15, 1977. The systems will be effective, within 30 days, as proposed without further notice, unless comments are received which result in a contrary determination and requiring republication for further comments.

03506 DPMYA

System name:

Military Service Inventory Research Program.

System location:

At Air Force Military Personnel Center, Randolph Air Force Base, TX 78148.

Authority for establishing system:

Title 10, U.S. Code, Sections 505, 508, 510, and 3012; and for disclosure of your social security number Presidential Executive Order 9397.

Categories of individuals covered by the system:

Certain applicants for enlistment into each service.

Categories of records in the system:

Background interest tests results, group data analysis.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used in research analysis to further refine enlistment standards for the Armed Forces. Specific use: Used in a research manner to evaluate interest variables on enlistee performance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained on magnetic tapes. Maintained on disks.

Retrievability:

Filed by Social Security Account Number (SSAN).

Safeguards:

Records are accessed by custodian of record system.

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

Retention and disposal:

Retained on computer magnetic tape until superseded, obsolete, no longer needed for reference, or on inactivation, then purged and destroyed by degaussing.

System manager(s) and address:

Asst. for Personnel Plans, Programs and Analysis at Air Force Military Personnel Center, Randolph Air Force Base, TX 78148.

Notification procedure:

Requests from individuals should be addressed to the Systems Manager.

Record access procedures:

Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories:

Information obtained from individual.

Systems exempted from certain provisions of the act:

None.

F17607 DPMS

System name:

Nonappropriated Fund Instrumentalities (NAFIs) Financial System

System location:

At any of the following: Air Force Military Personnel Center, Randolph AFB TX 78148, MAJCOM headquarters and SOAs, and Air Force NAFIs when deemed appropriate and necessary and approved by the appropriate commander. System exists within approximately 1,300 NAFIs which include resale and revenue-sharing NAFIs, general welfare and recreational NAFIs, membership association NAFIs, and special NAFIs. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Categories of individuals covered by the system:

All personnel, who are members of membership associations or authorized patrons of any of the above NAFIs, and with whom financial transactions are conducted including the extension of credit in accordance with Air Force regulations or those whose personal checks are returned to the NAFI by the banking system and are dishonored for such reasons as insufficient funds, closed accounts, invalid signatures, bank errors, etc. In accordance with appropriate Air Force regulations concerning NAFI participation, the above personnel may include, but are not limited to, active duty and retired military members and their dependents, members of US reserve components and Federally recognized National Guard units, Air Force, Army, or Naval Academy cadets; military members of foreign governments on duty with the DOD; DOD civilians and their dependents, other Federal Government employees working on the military installations and their dependents, employees of Federal Government agencies working at the installation, contractor employees, technical representatives, and others who are authorized logistic support and work at the installation and where membership or usage would be in the best interest of the installation, retired Federal Government service civilian personnel (civil, foreign service, etc.) who were members/participants of a NAFI at time of retirement, commissioned members of the American Red Cross, U.S. Public Health Service, and the U.S. Environmental Sciences Administration, unremarried spouses and children of deceased active duty or retired members of the US Armed Forces, and certain other categories of individuals identified by authorized personnel who directly support Air Force mission requirements. Also, all personnel employed by or assigned to the NAFI in any manner who are involved in any financial transaction involving the NAFI whether internal or external, including but not limited to, the receipt or control of cash or other property.

Categories of records in the system:

Records necessitated by or resulting from financial transactions with authorized members, patrons, vendors, or those otherwise entitled to utilize or deal with a NAFI service. Such records include, but are not limited to, subsidiary account ledgers maintained on individual members/authorized patrons who are charged dues and/or extended credit including the use of billeting type facilities prior to payment, form(s) on which a record of delinquent accounts or dishonored checks and their disposition are maintained; and records of package liquor or other sales or services. Records necessitated for or by internal/external financial record keeping or asset control, including but not limited to the receipt and control of cash, custody for tangible property, and any actions taken as a result of any irregularity.

Authority for maintenance of the system:

10 United States Code 8012, Secretary of the Air Force: powers and duties; delegation by; 5 United States Code 301, Departmental regulations; Executive Order 9397, November 22, 1943, Number System for Accounts Relating to Individual Persons.

Purpose:

Financial management of NAFIs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To record charges and credits of members and others authorized credit. To prepare billing statements or furnish data to an outside party to prepare billing statements. To maintain a record of dishonored checks. To assist in collecting all amounts due in accordance with established Air Force procedures. To compile a statistical quarterly report on dishonored checks and statistical data on delinquent accounts receivable for use with the financial reports. To verify eligibility to engage in financial transactions with NAFIs, including package liquor and other sales and extension of credit. To form a data base within the financial system of the NAFIs. Utilized by personnel responsible for conducting Air Force morale, welfare, and recreation (MWR) financial transactions. May be provided to commercial or nonprofit concerns conducting activities in support of, similar to, or in furtherance of, the Air Force programs involved. May be provided to any DOD component of any part thereof and, upon request, to any other federal, state, and local governmental agencies in the pursuit of their official duties. May also be used for other lawful purposes including law enforcement and/or litigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in visable file binders/cabinets. Also, may be maintained on computer records.

Retrievability:

Filed by name and/or social security account number (SSAN); form title or computer product control number.

Safeguards:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Personnel are properly screened and cleared for need-to-know. Records are stored in secured buildings or locked cabinets or rooms.

Retention and disposal:

Subsidiary accounts receivable are retained throughout the life cycle of credit sales and for a long as an individual remains in an active member/authorized patron status. Those forms used in connection with delinquent accounts or dishonored checks are retained until no longer needed. Record disposal for these and all other maintained records is in accordance with AFM 12-50.

System manager(s) and address:

Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph AFB, T- 78148.

Notification porcedure:

Individuals may contact the appropriate nonappropriated fund financial management branch (NAFFMB) or the appropriate operating branch/section manager in order to exercise their rights under the Act. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Forces systems notice.

Record access procedures:

Same as procedures for notification.

Contesting recording procedures:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the systems manager.

Record source categories:

Individual members/patrons/users of a service themselves, charge slips, payment receipts, checks, and other authorized financial forms and records.

Systems exempted form certain provisions of the act:

None.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

MARCH 11, 1977.

[FR Doc.77-7731 Filed 3-15-77;8:45 am]

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MARCH 7, 1977.

The USAF Scientific Advisory Board Science and Technology Advisory Group, Air Force Systems Command, and the Armament Development and Test Center Advisory Group will hold a meeting on April 6 and 7, 1977 from 8:30 a.m. to 4:30 p.m. and April 8, 1977 from 8:30 a.m. to 11:30 a.m. at the Armament Development and Test Center, Eglin AFB, Florida, in Building 1, Room 204.

The Groups will receive classified

3:00-3:30—GTAC Discussion on the above subject

(c) Questions at the meeting may be

heavy water is available in excess of the needs of ERDA-sponsored programs,

Secretary in a timely manner to ensure appropriate consideration by the Panel.

number is 703-557-7710. Presenters should be prepared to give the following

V 42 51 MAR 16 77 UMI

The Groups will receive classified briefings and participate in classified discussions relating to Air Force Laboratories Anti-Armor Technology Programs.

The meetings concern matters listed in section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202–697–8404.

FRANKIE S. ESTEP,
Air Force Federal Register, Liaison Officer, Directorate of Administration.

[FR Doc.77–7725 Filed 3–15–77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

GENERAL TECHNICAL ADVISORY COMMITTEE

Meeting

MARCH 11, 1977.

Pursuant to provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given that the General Technical Advisory Committee will hold a meeting on April 14, 1977, at the Marriott Twin Bridges Hotel, Chesapeake Ballroom, Route 1 and Interstate 95, Arlington, Virginia. The meeting will be open to the public and will begin at 9:00 a.m.

The following agenda items will be discussed:

9:00–9:15—Opening Remarks by Dr. William E. Shoupp, Chairman, General Technical Advisory Committee.
9:15–9:30—Welcoming Remarks by Dr. Philip C. White, Assistant Administrator for Fosil Energy.
9:30–10:00—Environmental Protection Agency (EPA) Program Role in Regard to Fossil Energy Programs by Dr. Stephen J. Gage, Deputy Assistant Administrator, Office of Energy, Minerals and Industry, Environmental Protection Agency.
10:00–10:15—GTAC Discussion on the above subject.
10:15–10:45—Council on Environmental Quality (CEQ) Program Role in Regard to Fossil Energy Programs by Mr. Charles F. Eddy, Senior Staff Member for Energy Programs, Council on Environmental Quality.
10:45–11:00—GTAC Discussion on the above subject.
11:00–11:30—Program of Division of Technology Overview, Assistant Administrator for Environment and Safety by Dr. Nathaniel F. Barr, Director, Division of Technology Overview.
11:30–11:45—GTAC Discussion on the above subject.
11:45–12:15—Fossil Energy Environmental Development Plans by Mr. Marvin I. Singer, Director, Division of Environmental and Socioeconomic Programs.
12:15–12:30—GTAC Discussion on the above subject.
12:30–1:15—Recess for lunch.
1:30–2:00—Budget Presentation (Fiscal Year 1978) by Dr. Philip C. White, Assistant Administrator for Fossil Energy.
2:00–2:30—GTAC Discussion on the above subject.
2:30–3:00—Analytical Efforts in Support of Coal-Derived Electric Utility and Industrial Fuels Strategy by Mr. Harry Johnson, Director, Office of Program Planning and Analysis.
3:00–3:30—GTAC Discussion on the above subject.
3:30–4:00—Subcommittee Preliminary Reports: Offshore Oil and Gas Technology, Underground Coal Gasification.
4:00–4:45—GTAC General Discussion.

In order to prepare for the General Technical Advisory Committee meeting on April 14, 1977, the Subcommittees on Offshore Oil and Gas Technology, and Underground Coal Gasification will hold meetings on April 13, 1977, in Room 4222C at the Energy Research and Development Administration, 20 Massachusetts Avenue NW., Washington, D.C. 20545. No agenda is provided for these meetings. However, the Subcommittee on Offshore Oil and Gas Technology will meet from 2:00–4:00 p.m., to explore the general offshore technology area and provide an independent assessment of ERDA's possible role. Research, development, test and evaluation directed to advances or improvements in the following areas are offered as examples: (1) The conditions and environments which Off Shore Systems encounter and methods of obtaining the information necessary; (2) technology needs relating to new environments (Arctic, very deep water, etc.) and new types of operations (seafloor power stations, subsea completions, etc.) and development of effective initiatives to prevent technology shortfalls; (3) delineation of the necessary engineering information relative to foundations, structures and materials; and (4) evaluate the socioeconomic problems connected with Off Shore Systems emphasizing the relation between development and regulation processes.

The Subcommittee on Underground Coal Gasification will meet from 4:30–6:30 p.m., and will discuss the market potential for low-Btu gas from underground coal gasification, and which industries may be interested or involved.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements on agenda items may do so by mailing 12 copies thereof, postmarked no later than May 7, 1977, to Mr. George Fumich, Jr., Secretary, General Technical Advisory Committee, U.S. Energy Research and Development Administration, Fossil Energy, Washington, D.C. 20545. Comments shall be based on the above agenda items. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on April 12, 1977, to the Office of the Secretary of the Committee on 202–376–4644 between 8:30 a.m. and 5:00 p.m., eastern time.

(c) Questions at the meeting may be propounded only by members of the General Technical Advisory Committee.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of the minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77–7761 Filed 3–15–77;8:45 am]

HEAVY WATER SALES

Notice of Sales Resumption and Price Change

Notice is hereby given that pursuant to the authority of the Atomic Energy Act of 1954, as amended, effective upon publication of this notice in the FEDERAL REGISTER and until further notice, the United States Energy Research and Development Administration (ERDA) is resuming the sale of heavy water. Sales of heavy water were temporarily discontinued in August 1976 to permit ERDA to complete its evaluation of operating modes at production levels necessary to meet demand requirements. The following notices concerning heavy water are hereby superseded: 37FR5266, dated March 11, 1972, and 39FR13910, dated April 18, 1974 (both published by the Atomic Energy Commission), and 41FR-35020, dated August 18, 1976 (published by ERDA).

1. The sales price for heavy water is established at $97.00 per pound, f.o.b. ERDA's facility (Savannah River Plant, South Carolina). This price reflects a reduced operating mode to bring production levels in line with demands for heavy water. ERDA will be willing to negotiate a lower price for the sale of substantial quantities of heavy water which would require operation of ERDA's heavy water facility at a higher production level. In the event of a negotiated contract containing such a lower price, the lower price will be made effective for deliveries to all customers of heavy water produced from the ERDA facility after it attains the higher production level. Additional charges will continue to be made to customers for packaging and handling.

2. In view of the limited U.S. production capacity, ERDA has not attempted to meet worldwide long-term requirements for this material as it has for enriched uranium. However, to the extent heavy water is available in excess of the needs of ERDA-sponsored programs, ERDA will contract to supply heavy water for peaceful purposes to domestic and overseas customers on a first-come, first-served basis.

ROBERT D. THORNE,
Acting Assistant Administrator for Nuclear Energy.

[FR Doc.77–7882 Filed 3–15–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00045]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770), notice is hereby given that a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel will be held from 9:30 a.m. to 4:30 p.m. daily on Friday, April 1, 1977, and Saturday, April 2, 1977. The meeting will be held at the Conrad Hilton Hotel, Parlor 418, 720 South Michigan Avenue, Chicago, Illinois.

The Scientific Advisory Panel is authorized in accordance with section 25(d) of FIFRA as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.). In accordance with section 25(d), the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) prior to implementation. The purpose of the meeting is to discuss the following topics:

1. Organizational activities of the Panel.
2. Development of guidelines for assembly and presentation of basic scientific information necessary for assessment of the impact of regulatory actions on health and the environment.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pestcide Programs (WH–567), Room E315, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460 (telephone: 202/755–4851). Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit four copies of a summary no later than March 30, 1977.

Individuals who wish to file written statements are advised to submit ten copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Panel.

Dated: March 11, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.77–7730 Filed 3–15–77;8:45 am]

[FRL 699–2]

SCIENCE ADVISORY BOARD, EXECUTIVE COMMITTEE, AD HOC STUDY GROUP ON RECOMBINANT DNA ACTIVITIES

Meeting

The Executive Committee of the Science Advisory Board of the U.S. Environmental Protection Agency has established an ad hoc Study Group to evaluate the scientific bases of several areas of recombinant DNA research and its subsequent exploitation. It should be noted that, at this time, the Agency has not established any particular regulatory policy regarding DNA recombinant activities.

The Study Group will explore four areas of inquiry: (1) the types of recombinant DNA activities that are properly the subject of EPA interest with respect to policy making or even ultimate regulatory action; (2) environmental issues related to recombinant DNA, with special emphasis on criteria for organism selection for experimentation, and monitoring possibilities for these organisms in the environment; (3) problems of response capabilities should an accidental discharge of recombinant DNA materials arise; and (4) relationships between recombinant DNA activities and legal mandates and/or constraints of the Toxic Substances Control Act of 1976.

The Study Group plans to hold an open meeting on April 5–6, 1977, to explore only the first two areas at this time. The meeting will occur in Room 2117 of Waterside Mall, 401 M Street, SW., Washington, D.C., beginning each day at 9:00 a.m.

The Study Group wishes to hear from interested parties who can provide substantive information on potential benefits and risks for recombinant DNA. The Study Group desires to obtain reasoned scientific analyses of the potential benefits to society and the potential environmental hazards associated with recombinant DNA research and its subsequent exploitation. The Study Group also its interested in comments on the adequacy of the physical containment approach (P1 through P4) and the comparable biological approach of using "enfeebled" organisms, as well as the arguments that natural selection would eliminate any genotypes that might be developed.

Because of the strong interests of public groups, industrial groups, professional societies, and individual scientists, and the anticipated large number of presenters, it is essential that parties who wish to present information to the Study Group, contact the Science Advisory Board Secretariat by March 22, 1977. Please ask for Dr. Joel L. Fisher. His number is 703–557–7710. Presenters should be prepared to give the following specific information at the time of their telephone contact: name, professional affiliation or group affiliation, mailing address, telephone number for contact during business hours, field of scientific expertise, the nature of the proposed presentation, and the availability prior to the meeting of a prepared statement. This last item is critically important. In order to prepare for this meeting, statements of presenters should be available by April 1, 1977 so that the Science Advisory Board Staff may arrange for duplication and distribution of these statements to Study Group members and reasonable numbers of interested parties. The presenters should also indicate what if any audiovisual equipment they may need. All presentations will be scheduled and presenters notified by Dr. Fisher. The Study Group wishes to stress that scientific, substantive inputs are wanted; this is not a forum for public debate. The Study Group is an information-gathering arm of the Agency's Science Advisory Board and has no responsibility to advise on public policy per se. The Study Group anticipates that there will be opportunities for audience participation in the discussions.

Persons who wish only to attend should pre-register by contacting the Science Advisory Board Secretariat at 703–557–7710 and asking for Miss Osborne. Because of limited seating capacity, persons who have not pre-registered and been confirmed by Miss Osborne or Dr. Fisher run the risk of being excluded from the sessions should the room become overcrowded.

THOMAS D. BATH,
Staff Director.

MARCH 11, 1977.

[FR Doc.77–7805 Filed 3–15–76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

ADVISORY COMMITTEES

Annual Comprehensive Review

The Federal Communications Commission has twenty advisory committees which are currently chartered under the Federal Advisory Committee Act, Public Law 92–463. As required by Section 7(b) of the Public Law, this agency is undertaking its annual review of the activities and responsibilities of each committee to determine whether, in each case, (1) a committee is indispensable to Commission proceedings and should therefore be continued, (2) there are more effective ways of performing the tasks or studies for which a committee is responsible, or (3) the tasks or studies assigned to a committee, as expressed in the committee charter, have been completed, thereby permitting termination of the committee.

Transmittal Memorandum No. 5 to the Office of Management and Budget Circular No. A–63 requires that Federal agencies provide a means by which mem-

bers of the public may participate in the review process. Accordingly, we invite

tees. To permit thorough consideration of all public comments prior to prepara-

General Counsel, in order to accommodate the Court's schedule for hearing

F–701–M–0 (42 FR 12913, March 7, 1977). Due to an oversight, the instructions to

EIS for (name of site)." Fifteen copies should be submitted. All comments

or abolition of the Federal Savings and Loan Advisory Council or respecting a

bers of the public may participate in the review process. Accordingly, we invite comments from interested members of the public on the need for and performance of FCC advisory committees.

Seventeen of the twenty current FCC advisory committees were established to assist the Commission in its preparations for the 1979 General World Administrative Radio Conference (WARC) of the International Telecommunication Union. The WARC committees advise the Commission on anticipated future (1980 to the year 2000) frequency requirements in the specific radio service with which they are concerned, examine pertinent provisions of the international radio regulations, and recommend changes to the regulations. The seventeen WARC preparatory committees are as follows:

WARC Advisory Committee for Amateur Radio
WARC Advisory Committee for Aural–AM
WARC Advisory Committee for Aural–FM
WARC Advisory Committee for Auxiliary Broadcast Services
WARC Advisory Committee for Citizens Radio Service
WARC Advisory Committee for Domestic Land Mobile Radio
WARC Advisory Committee for Fixed Satellite
WARC Advisory Committee for High Frequency Fixed
WARC Advisory Committee for International Broadcast
WARC Advisory Committee for Land Mobile Radio
RTCM Special Committee No. 69/WARC Advisory Committee for Maritime Mobile Service
WARC Advisory Committee for Private Microwave
WARC Advisory Committee for Radio Astronomy
WARC Advisory Committee for Radio Relay (Common Carrier)
WARC Advisory Committee for Broadcasting Satellite Service (11.7–12.2 GHz Frequency Band)
WARC Advisory Committee for Television
WARC Industry Advisory Committee

There are three additional FCC advisory committees:

Radio Technical Commission for Marine Services, chartered to advise the FCC and Executive Departments and Agencies on matters related to maritime communications, practices and needs in marine communications, and present and projected systems for improving telecommunication facilities;

National Industry Advisory Committee, chartered to advise the Commission on emergency communication policies, plans, systems and procedures for all FCC licensed and regulated communications in order to provide emergency communication services under conditions of crisis or war;

Personal Use Radio Advisory Committee, chartered to advise the Commission on potential solutions to the interference and enforcement problems currently being experienced in the Citizens Band Radio Service.

It is requested that individuals wishing to comment on any of the above FCC advisory committees submit written statements to Bernard I. Kahn, Advisory Committee Management Officer, Federal Communications Commission, 1919 M St., N.W., Room 414, Washington, D.C. 20554. Comments should be specific in nature and address particular committees. To permit thorough consideration of all public comments prior to preparation of our report to the Office of Management and Budget (due April 15, 1977), comments should be received no later than April 6, 1977. Records maintained at the Commission pertaining to advisory committees are available for public inspection. Individuals wishing to review committee files should contact the Advisory Committee Management Officer at the address shown above or by telephone (202–632–7513).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–7737 Filed 3–15–77;8:45 am]

INDUSTRY ADVISORY COMMITTEE

Meeting

A meeting of the Industry Advisory Committee to the Federal Communications Commission Steering Committee for the 1979 General World Administrative Radio Conference is schdeuled to be held on Thursday, April 7, 1977, at 9:30 a.m. in Room A–110 of the Commission's offices located at 1229 20th Street NW., Washington, D.C.

The purposes of the meeting are to review a draft of the Fifth Notice of Inquiry in Dockt No. 20271 which continues the refinement of proposed allocation changes for the 1979 Conference; to receive reports from the several functional committee chairmen in the areas of technical, operational, allocations and procedures; to receive short briefings on the status of ancillary preparations for the Conference from Commission and Executive Branch representatives; and to receive a briefing on the results of the recently concluded Broadcasting-Satellite Conference.

Membership on the Committee is limited to Commission invitation; however, attendance at this meeting will be open to the general public and any written comments will be accepted.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–7736 Filed 3–15–77;8:45 am]

[Docket No. 20097]

REGULATORY POLICIES CONCERNING RESALE AND SHARED USE OF COMMON CARRIER SERVICES AND FACILITIES

Memorandum Opinion and Order Deferring Date for Filing of Revised Tariffs

Adopted: March 8, 1977.

Released: March 10, 1977.

1. The American Telephone & Telegraph Company, in connection with its petition for review of our decision in Docket No. 20097, has filed a motion for stay with the United States Court of Appeals for the Second Circuit. That Court will hear arguments on the motion on March 22, 1977. At the request of our General Counsel, in order to accommodate the Court's schedule for hearing and deciding the stay motion, we are deferring sua sponte the filing date for tariffs in this proceeding from March 15 to March 23. This action does not constitute a reconsideration of our order adopted March 3 denying AT&T's Request for Stay Pending Judicial Review. We are merely delaying the tariff filing date five days to accommodate the Court's March 22 hearing on the request for judicial stay.

2. *Accordingly, it is ordered,* That revised tariffs consistent with our orders in Docket No. 20097 be filed not later than March 23, 1977, to be effective 90 days from the date of filing.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–7735 Filed 3–15–77;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

BOARD OF DIRECTORS

Meeting; Change in Subject Matter

On Tuesday, March 8, 1977, the Federal Deposit Insurance Corporation announced that its Board of Directors would meet in closed session at 11:45 a.m. on Tuesday, March 15, 1977, pursuant to sections 552b(d)(4) and 552b(c)(8), (9)(A)(ii), and (10) of title 5, United States Code to consider, among other things, recommendations with respect to the initiation of cease-and-desist proceedings against two insured State nonmembers banks.

On the basis of advice from the Corporation's Division of Bank Supervision and Legal Division, the Board of Directors has decided to consider a recommendation with respect to the continuation of a termination-of-insurance proceeding against one bank and recommendations with respect to the initiation of cease-and-desist proceedings against a total of six insured State nonmember banks whose names and locations are authorized to be exept from disclosure under the provisions of sections 552b(c)(8) and (9)(A)(ii) and 552b(d)(4) of title 5 of the United States Code.

The time and place of the meeting remain unchanged.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77–7739 Filed 3–15–77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

COMPUTATION OF LANDED COSTS: TRANSPORTATION

Modification to Instructions to Form FEA–F–701–M–0, Correction

On March 1, 1977, the Federal Energy Administration (FEA) issued a notice modifying the instructions to Form FEA–F–701–M–0 (42 FR 12913, March 7, 1977). Due to an oversight, the instructions to Column (k) of Schedule (B), were, in item (b), incorrect. Instead of requiring adjustments for delivered sales to be entered in Column (j), item (b) should read as follows:

b. For delivered sales, where adjustment has been made pursuant to 10 CFR § 212.84 (e)(3) to impute an f.o.b. value, enter adjustment in (k) for transportation.

In all other respects, the notice remains the same.

Issued in Washington, D.C., March 11, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77–7797 Filed 3–11–77;4:57 pm]

STRATEGIC PETROLEUM RESERVES

Extension of the Review and Comment Period for Three Draft Environmental Impact Statements

On January 10, 1977 (42 FR 2120), and January 27, 1977 (42 FR 5124), the Federal Energy Administration (FEA) published notices in the FEDERAL REGISTER, concerning availability of draft site-specific EIS's for three (3) sites that are being considered for the storage of Strategic Petroleum Reserves. These sites are the: Central Rock Limestone Mine, Ashland County, Kentucky (DES 76–9); the Ironton Limestone Mine, Lawrence County, Ohio (DES 76–10); and the Kleer Salt Mine, Van Zandt County, Texas (DES 77–2).

Single copies of the site-specific EIS's were made available through the FEA Office of Communications and Public Affairs, Room 2134, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Copies of the draft statements are also available for public review in the FEA Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, between 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

Comments were requested to be received by FEA on the Central Rock and Ironton EIS's by February 24, 1977, and on the Kleer Mine EIS by March 7, 1977. Pursuant to a request by the U.S. Environmental Protection Agency, the FEA has granted an extension of the review and comment period to March 22, 1977, for the Ironton and Central Rock EIS, and to March 29, 1977, for the Kleer Mine EIS.

Interested persons are invited to submit data, views, or arguments with respect to the Central Rock Mine or Ironton Mine Draft's EIS's and the Kleer Mine Draft EIS to Executive Communications, Box KB or KI respectively, Room 3309, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Draft EIS for (name of site)." Fifteen copies should be submitted. All comments should be received by FEA by the abovementioned dates, in order to receive full consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., March 11, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77–7796 Filed 3–11–77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

Request for Comments Regarding Review of Need for Council

MARCH 11, 1977.

This Notice is in pursuance of the recent request of the Office of Management and Budget (OMB) advising of the concern expressed by the President "about the number and usefulness of Federal Advisory Committees" and his ordering "a government-wide, zero-base review of all committees, with the presumption that all committees should be abolished except those (1) for which there is a compelling need; (2) which have truly balanced membership; and (3) which conduct their business as openly as possible consistent with the law and their mandate".

To assist in the foregoing, the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation have been requested to "review the need for, and the accomplishments of" the Federal Savings and Loan Advisory Council. The results of such review will be submitted "not later than April 15, 1977" for Presidential and OMB review. OMB is required under the Federal Advisory Committee Act (Pub. L. 92–463) to review annually each advisory committee to determine whether the committee is carrying out its purpose, whether its responsibilities should be revised, whether it should be merged with other advisory committees or whether it should be abolished.

The Federal Savings and Loan Advisory was created pursuant to authority contained in section 8a of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1428a), (1) to confer with said Board and said Corporation "on general conditions and on special conditions affecting the Federal Home Loan Banks and their members and such Corporation" and (2) to "request information, and to make recommendations with respect to matters within the jurisdiction" of the Board and the Corporation.

The Board and the Corporation hereby request any comments and/or recommendations respecting the continuation, or abolition of the Federal Savings and Loan Advisory Council or respecting a revision of its responsibilities and membership, be submitted in writing—not later than April 11, 1977 to

Office of the Secretary, Federal Home Loan Bank Board, Room 830, 320 First Street, N.W., Washington, D.C. 20552.

GARTH MARSTON,
Chairman.

[FR Doc.77–7675 Filed 3–15–77;8:45 am]

FEDERAL MARITIME COMMISSION

CITY OF OAKLAND AND UNITED STATES LINES, INC.

Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 5, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

J. Kerwin Rooney, Port Attorney, Port of Oakland, P.O. Box 2064, 66 Jack London Square, Oakland, California 94604.

Agreements Nos. T–2758–1 and T–2758–2, between City of Oakland and United States, Inc., (USL), amend the basic agreement between the parties which provides for the 25-year assignment to USL of approximately 20 acres of premises located in the Middle Harbor Terminal Area for use in connection with USL's operations.

Agreement No. T–2758–1 provides for a permanent roadway through Area "C" of the premises. The text of the basic agreement has been amended by: (1) redefining the description of Area "C"; (2) adjusting compensation provision; and (3) making other related changes.

Agreement No. T–2758–2 provides for the construction of certain additional

The lease will supersede Agreement No. T–2005, as amended. The agreement is

Notice of Agreement Filed by:

The proposed construction of the Riverside Cove Development would consist

Alabama-Tennessee states that the sole purpose of such revised tariff sheet is to adjust Alabama-Tennessee's rates

V4251 MAR 16 77 UMI

Agreement No. T-2758-2 provides for the construction of certain additional improvements in Areas "A", "B" and "C" pursuant to paragraph 12(d) of the basic agreement. The basic agreement has also been amended by making an adjustment to the total project cost and revising a factor in the computation of the minimum annual compensation.

By order of the Federal Maritime Commission.

Dated: March 11, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-7790 Filed 3-15-77;8:45 am]

PORT OF SEATTLE AND SEA-LAND SERVICE, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 5, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination of unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Agreement No. T-3414, between the Port of Seattle (Port) and Sea-Land Service, Inc., (Sea-Land), covers the lease of property at the Port of Seattle, Washington, now occupied and being used by Sea-Land under the terms of approved lease Agreement No. T-2005, as amended, and provides for the enlargement of the leased premises and for the amortization of direct costs for additional improvements to the premises. The lease will supersede Agreement No. T-2005, as amended. The agreement is for a term of five years (with five additional successive five-year renewal options). As compensation, Sea-Land shall pay monthly rental and amortization to the Port according to a schedule outlined in the agreement. Sea-Land agrees to spend approximately $1,500,000.00 for certain intended improvements on the premises. Sea-Land also agrees that it will file such concurrence instruments as may be appropriate to insure that its terminal operations, for which it publishes separate terminal charges, are subject to all the provisions of Seattle terminal tariff, but not including the service and facilities charges. Port reserves the right to use the premises when such use will not unreasonably interfere with Sea-Land's operations. If the Port should use the premises, all terminal charges in connection with said use shall accrue to the benefit of the Port.

By Order of the Federal Maritime Commission.

Dated: March 11, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-7791 Filed 3-15-77;8:45 am]

JAPAN/KOREA-ATLANTIC AND GULF FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commision for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126, or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 28, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No. 3103-64 would extend the presently approved intermodal authority of the Japan/Korea-Atlantic and Gulf Freight Conference, as set forth in Article 1 of the conference agreement, for an unlimited period beyond the present expiration date of April 21, 1977. Additionally, the conference is amending Article 1 to remove the requirement that its superseding intermodal tariff shall have rates, terms and conditions of carriage comparable to those of its member lines' intermodal tariffs.

By order of the Federal Maritime Commission.

Dated: March 11, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-7792 Filed 3-15-77;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 2146]

ALABAMA POWER CO.

Application for Change in Land Rights

MARCH 10, 1977.

Public notice is hereby given that an application was filed on January 25, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by Alabama Power Company (Applicant) (Correspondence to: Mr. Jesse S. Vogtle, Senior Vice President, Alabama Power Company, P.O. Box 2641, Birmingham, Alabama 35291) for a change in land rights at the Logan Martin Development of Coosa River Project No. 2146. The proposed change in land rights would be located in the Town of Riverside, St. Clair County, Alabama.

The Applicant requests Commission authorization to grant an easement over project lands and waters to Moss-Thornton Company, Inc. for the installation of a sewage outfall pipeline to serve its proposed Riverside Cove Development to be located on the western shore of Logan Martin Reservoir in the Town of Riverside between U.S. Highway 78 and Insterstate Highway 20 in Section 35, T. 16, S, R. 4 E., Huntsville Principal Meridian St. Clair County, Alabama.

The outfall line would be an eight-inch diameter steel, welded joint, epoxy-coated line extending to the center of the reservoir, with a 50-foot long plugged diffuser section at the outer end discharging effluent upward through perforations. The line would be submerged and anchored in place with concrete collars.

The ultimate capacity of the outfall line would be 150,000 gallons per day of chlorinated effluent from a secondary, step-aeration sewage treatment plant. This discharge would be attained in three stages of 50,000 gallons per day as construction of the Riverside Cove Development takes place over the coming 10 to 15 years.

The proposed construction of the Riverside Cove Development would consist of apartments, condominiums, and commercial buildings involving dredging of 155,000 cubic yards of material from below the 448-foot contour project boundary and the filling of portions of non-project land adjacent to the Logan Martin Reservoir above the 466-foot contour project boundary upwards to elevation 475 feet (m.s.l.).

The Applicant has requested the shortened procedure pursuant to § 1.32(b) of the Commission's Rules of Practice and Procedure, 18 CFR § 1.32(b) (1976).

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before May 2, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's rules of practice and procedure, specifically § 1.32(b) (18 CFR 1.32(b)), (1976), a hearing may be held without further notice before the Commission on its application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of § 1.32(b) be used.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7692 Filed 3-15-77;8:45 am]

[Docket No. RP77-40 (PGA77-4a)]

ALABAMA-TENNESSEE NATURAL GAS CO.

Proposed PGA Rate Adjustment

MARCH 10, 1977.

Take notice that on February 28, 1977, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35630, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, Twenty-first Revised Sheet No. 3-A. This revised tariff sheet is proposed to become effective as of February 1, 1977.

Alabama-Tennessee states that the sole purpose of such revised tariff sheet is to adjust Alabama-Tennessee's rates pursuant to the PGA provisions of Section 20 of the General Terms and Conditions of its tariff to reflect a decrease in rates to become effective on February 1, 1977, to be charged by its sole supplier, Tennessee Gas Pipeline.

The revised tariff sheet provides for the following rates:

	21st revised sheet No. 3-A
Rate schedule:	
G-1:	
Demand	$1.78
Commodity	109.80¢
SG-1:	
Commodity	122.80¢
I-1:	
Commodity	115.65¢

Alabama-Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7686 Filed 3-15-77;8:45 am]

ATLANTIC RICHFIELD CO., ET AL.

[Docket No. G-10739, et al.]

Notice of Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

MARCH 8, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

with the Commission will be considered intervene is filed within the time re-

sued its "Order Extending Limited Term Authorization to Import Natural Gas"

with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
G–10739 D 2–17–77	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Texas Eastern Transmission Corp. (certain property in the Chicolette Creek, et al. fields, Lavaca, et al., Counties, Tex.).	(1)	-------
G–16367 B 1–10–77	Mobil Oil Corp., Three Greenway Plaza East, suite 800, Houston, Tex. 77046.	Transwestern Pipeline Co. (Feldman Field, Hemphill County, Tex.).	(2)	-------
CI62–704 D 1–12–77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Tennessee Gas Pipeline Co. (Northeast Loma Novia and South Lindell Fields, Duval County, Tex.).	(3)	-------
CI64–393 B 10–8–76	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Arkansas Louisiana Gas Co. (certain lease in West Vixen Field, Caldwell Parish, La.).	(4)	-------
CI72–306 C 1–31–77	TransOcean Oil, Inc., 1700 First City East Bldg., 1111 Fannin, Houston, Tex. 77002.	Michigan Wisconsin Pipe Line Co. (block 296, Eugene Island Area, offshore Louisiana).	[5] [6] 97.0¢	14.73
CI73–66 C 2–14–77	Kerr-McGee Corp., P.O. Box 25861, Oklahoma City, Okla., 73125.	El Paso Natural Gas Co. (Viking (Morrow/Upper) Field, Wheeler County, Tex.).	[7] [8] $1.53406	14.73
CI75–36 C 12–8–76	Arkla Exploration Co., P.O. Box 21734, Shreveport, La. 71151.	Arkansas Louisiana Gas Co. (fast No. 1–12 well in sec. 12, Township 18 North, Range 12 West, Blaine County, Okla.).	[5] [9] $1.5414	14.65
CI76–144 C 2–7–77	Amoco Production Co., 500 Jefferson Bldg., P.O. Box 3092, Houston, Tex. 77001.	Transwestern Pipeline Co. (Potash Eddy Field, Eddy County, N. Mex.).	[10] 56.4223¢	14.65
CI77–177[11] A 1–12–77	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	El Paso Natural Gas Co. (undesignated Morrow Field, Eddy County, N. Mex.).	[5] [12] $1.43	14.73
CI77–245 (CS71–1015) B 1–31–77	John Oil & Gas Co., P.O. Box 7065, Shreveport, La. 71107.	United Gas Pipe Line Co. (Southwest Bourg Field, Terrebonne Parish, La.).	(13)	-------
CI77–250 A 2–10–77	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79105.	El Paso Natural Gas Co. (La Huerta Field, Eddy County, N. Mex.).	[5] [9] $1.44	14.73
CI77–261 A 2–7–77	Highland Resources, Inc., 800 San Jacinto Bldg., Houston, Tex. 77002.	Michigan Wisconsin Pipe Line Co. (Ship Shoal Area, blocks 290 and 291, offshore Louisiana).	[5] [14] $1.44	14.73
CI77–263 A 2–7–77	Kewanee Oil Co., P.O. Box 2220, Tulsa, Okla. 74101.	Michigan Wisconsin Pipe Line Co. (Eugene Island Area, block 296, offshore Louisiana).	[5] [15] $1.43	14.73
CI77–267 A 2–9–77	Napeco Inc., 122 South Michigan Ave., Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America (Thornwell Area, Jefferson Davis Parish, La.).	[5] [16] $1.7561	14.73 14.65
CI77–268 A 2–9–77	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Natural Gas Pipeline Co. (2 undesignated fields (Morrow and Wolfcamp), Eddy County, N. Mex.).	[5] [9] $1.44	14.65
CI77–270 A 2–14–77	Union Oil Co. of California, Union Oil Center, room 904, P.O. Box 7600, Los Angeles, Calif. 90051.	Natural Gas Pipeline Co. of America (sec. 3–19S–34E, La Rica (Morrow) Field, Lea County, N. Mex.).	[5] [17] 143.2179¢	14.65
CI77–271 A 2–14–77	Sohio Petroleum Co., 50 Penn Pl., suite 1100, Oklahoma City, Okla. 73118.	Southern Natural Gas Co. (Bayou des Glaises Field, Iberville Parish, La.).	[18] 60.4564	15.025
CI77–272 A 2–14–77	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Natural Gas Pipeline Co. (White City Penn Field and an undesignated White City Penn Field, Eddy County, N. Mex.).	[5] [19] 1.44¢	14.65
CI77–275 A 2–17–77	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Cities Service Gas Co. (Deadman Wash and Wildcat Fields, Sweetwater County, Wyo.).	[5] 98.9571¢ @ 14.73	14.65
CI77–277 A 2–7–77	Columbia Gas Development Corp., P.O. Box 1350, 2223 West Loop South, Houston, Tex. 77001.	Columbia Gas Transmission Corp. (platform "A", block 366, West Cameron Area, offshore Louisiana).	[5] [20] $1.90	14.696
CI77–279 (CI73–483) B 2–10–77	CIG Exploration, Inc., Five Greenway Plaza East, Houston, Tex. 77046.	Colorado Interstate Gas Co. (South Buffalo Field, Harper County, Okla.).	(21)	-------
CI77–280 A 2–11–77	Ashland Oil, Inc., P.O. Box 1503, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co. (Ship Shoal Area, blocks 290 and 291 offshore, Louisiana).	[5] [22] $1.44	14.73

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI77–281 A 2–14–77	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Michigan Wisconsin Pipe Line Co. (Hugoton-Anadarko Area, Sherman County, Tex.).	[5] [23] 144.0¢	14.65
CI77–282 A 2–14–77	Shell Oil Co., Two Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	El Paso Natural Gas Co. (Bisti Field, San Juan County, N. Mex.).	[5] [23] 144.0¢	14.73
CI77–283 A 2–14–77	Amoco Production Co., 500 Jefferson Bldg., P.O. Box 3092, Houston, Tex. 77001.	PGP Gas Products, Inc. (Pecos Valley and Abell Fields, Pecos and Ward Counties, Tex.).	[24] 64.5230¢ [25] 118.3050¢	14.65
CI77–284 A 2–14–77	William Herbert Hunt Trust Estate, 1401 Elm, Dallas, Tex. 15200.	Montana-Dakota Utilities Co. (Boxcar Butte Field, L. C. Hangen No. 1 well, McKenzie County, N. Dak.).	[5] 175.4673¢	14.73
CI77–285 (CI60–349) B 2–15–77	Sun Oil Co., 2 Northpark East, P.O. Box 20, Dallas, Tex. 75221.	South Texas Natural Gas Gathering Co., (Donna Field, Hidalgo County, Tex.).	(13)	
CI77–286 A 2–16–77	MRT Exploration Co., 9900 Clayton Rd., St Louis, Mo. 63124.	Mississippi River Transmission Corp. (Little Washita Field, Grady County, Okla.).	[5] [9] $1.541386	14.65
CI77–287 A 2–16–77	Texas Gas Exploration Corp., P.O. Box 52310, Houston, Tex. 77052.	Texas Gas Transmission Corp. (block 314 Eugene Island Area, offshore Louisiana).	[5] [13] $1.5256	14.73
CI77–288 A 2–16–77	Pennzoil Louisiana and Texas Offshore, Inc., P.O. Box 2967, Houston, Tex. 77001.	Sea Robin Pipeline Co. (block 128, South Marsh Island Area, South Addition, offshore Louisiana).	[5] [21] $1.7798	15.025
CI77–289 (CI68–1394) B 2–16–77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America (West Cameron Area, offshore Louisiana).	(14)	-------
CI77–290 A 2–16–77	Chevron U.S.A., Inc., P.O. Box 599, Denver, Colo. 80201.	El Paso Natural Gas Co. (SEMU No. 67 well, NE¼SW¼, sec. 34, T–20–S, R–37–E, and wells "A" No. 7 well, SE¼NW¼, sec. 1, T–25–S, R–36–E, Lea County, N. Mex.).	[26] 50.0123¢	14.73
CI77–291 (G–7207) B 2–16–77	Chevron U.S.A., Inc. (formerly Chevron Oil Co., Western Division), P.O. Box 599, Denver, Colo. 80201.	El Paso Natural Gas Co. (various fields, Lea County, N. Mex.).	(26)	
CI77–292 (CI70–572) B 2–17–77	Oklahoma Natural Gas Co. (operator), et al. 634 South Boston Ave., Tulsa, Okla. 74119.	Natural Gas Pipeline Co. of America (East Grand Valley Field, Beaver County, Okla.).	(13)	-------
CI77–293 A 2–18–77	Dorchester Exploration, Inc., 1100 Midland National Bank Tower, Midland, Tex. 79701.	Arkansas Louisiana Gas Co. (Rambo, North Smackover Field, Cass County, Tex.).	[5] [9] $1.7028	14.65
CI77–294 A 2–22–77	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Cities Service Gas Co. (Wamsutter Area, Carbon and Sweetwater Counties, Wyo.).	[5] [27] 180.0750¢ @14.73	14.65
CI77–295 A 2–22–77	Hamilton Brothers Oil Co., suite 2600, 1600 Broadway, Denver, Colo. 80202.	El Paso Natural Gas Co. (Wolfcamp Formation, Eddy County, N. Mex.)	[10] [12] $1.00975	14.73
CI77–296 (CI72–174) B 2–23–77	Morris Cannan, 16th floor, Milan Bldg., San Antonio, Tex. 78205.	Texas Eastern Transmission Corp. (Burnell Field, Bee County, Tex.).	(31)	-------
CI77–297 A 2–24–77	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp. (Lirette Field, Terrebonne Parish, La.).	[5] [12] 184.0¢	15.025

[1] Leases surrendered.
[2] By partial assignment dated Oct. 28, 1976, Mobil assigned to Enserch Exploration, Inc., all its rights in the subject acreage. Enserch subsequently drilled a well which is productive of oil with no merchantable gas.
[3] Exxon assigned interest in the Weider "C" lease to Petroleum Corp. of Texas, a small producer, who after attempting to operate the lease plugged the well.
[4] Nonproductive lease released.
[5] For wells commenced after Jan. 1, 1973, and prior to Jan. 1, 1975.
[6] Subject to upward and downward Btu adjustment and gathering.
[7] Includes 144.0 cents base price plus 11.6737 cents tax increment and (−)2.3351 cents Btu adjustment.
[8] Subject to adjustments pursuant to opinion No. 770, as amended.
[9] Applicant proposes to collect the national rate in accordance with opinion No. 770, as amended.
[10] Subject to upward and downward Btu adjustment.
[11] Applicant filed an amendment application on Jan. 14, 1977, deleting Valle Felix No. 1 well from its original application.
[12] Applicant is willing to accept a permanent certificate in accordance with opinion No. 770, as amended.
[13] Well(s) plugged and abandoned.
[14] Plus 4.0 cents per thousand cubic feet transportation costs.
[15] Includes $1.44 base price, 30.1168 tax reimbursement plus Btu adjustment.
[16] Subject to upward Btu adjustment, plus 1.0 cent-per-year escalation pursuant to opinion No. 699–JH.
[17] Applicant and purchaser are affiliated.
[18] Depleted and plugged.
[19] Includes 52.7122 cents base price, 4.2730 cents tax, 12.5369 cents Btu adjustment, less 5.0000 cents charge for compressing and purifying.
[20] Includes 93.4895 cents base price, 7.5802 cents tax, 22.2353 cents Btu adjustment, less 5.0000 cents charge for compressing and purifying.
[21] Despite contract price, Applicant requests certification at applicable national rate.
[22] Includes 53.0 cents base price, 4.882 cents tax reimbursement, 2.0159 cents Btu adjustment.
[23] Reclassification of well.
[24] Includes base price of 144.0 cents, 6.0625 cents tax reimbursement and 30.0125 cents Btu adjustment.
[25] Nonproductive.

[FR Doc.77–7529 Filed 3–15–77;8:45 am]

[Docket No. CP77–126]

COLUMBIA GAS TRANSMISSION CORP.

Order Allocating Portion of Natural Gas Imported Under Previously Extended Limited Term Authorization

MARCH 9, 1977.

On February 16, 1977, Columbia Gas Transmission Corporation (Columbia) filed an emergency application pursuant to section 3 of the Natural Gas Act, Part 153 of the Commission's regulations and § 1.7(b) of the Commission's rules of practice and procedure for an amendment to the Commission's orders issued in the above-styled proceeding on January 18, 1977, and February 1, 1977. On February 20, 1977, the Commission issued its "Order Extending Limited Term Authorization to Import Natural Gas" from Canada authorizing Columbia to import an additional 12 Bcf over and above the import volumes authorized by the Commission's Order issued on January 18, 1977, in the above-styled proceeding. The latter order permitted Columbia to import 250,000 Mcf per day that it had contracted to purchase from Trans-Canada Pipelines Ltd. (Trans-Canada) for a period of approximately sixty days from the date of authorization. As a part of this February 20, 1977, order the Commission invited interstate pipelines experiencing emergency conditions to request partial allocation of this additional import authorization.

On February 24, 1977, Equitable Gas Company (Equitable) pursuant to the notice and order concurrently issued by the Commission on February 20, 1977, in the above-styled proceeding filed for an allocation of 25,000 Mcf per day of the additional natural gas that Columbia was authorized to import from Canada under the latter order. Transcontinental Gas Pipe Line Corporation (Transco) on February 24, 1977, also tendered a request for an unspecified allocation of this import gas.

Following receipt of these two requests the Commission by order of February 28, 1977, prescribed expedited procedures to consider whether those requesting allocation of the additional importation volumes can make a showing that they have either an equivalent or greater relative need for this imported gas than does Columbia. The Commission held that if Transco or Equitable desire to be afforded an allocation of this gas these pipeline companies must not only show that they are entitled to an allocation but further show with specificity the volumetric size of the allocation which may be justified. The Commission then set a public hearing in this matter to commence on March 2, 1977, directing the Presiding Administrative Law Judge to thereafter certify the record and his recommendations to the Commission.

Hearings were held on March 2 and 3, 1977, followed on March 7, 1977, by the certification of record and recommendations of Presiding Administrative Law Judge Allen C. Lande. He recommended that Equitable's request for an allocation of 25,000 Mcf/d through March 1977, be granted, based upon a showing of greater relative need, and that payback by Equitable to Columbia be rejected.

For the reasons set forth below we grant Equitable's request and therefore order Columbia to deliver to Equitable commencing on March 10, 1977, 25,000 Mcf/d of its additional Canadian imported gas through March 31, 1977. In this latter regard Columbia and Equitable should immediately ascertain the most expeditious and inexpensive means for accomplishing such deliveries, whether through common interstate pipeline suppliers (Tennessee Gas Pipeline Company and Texas Eastern Transmission Corporation) or interconnected distribution or transmission facilities.

V 42 51 MAR 16 77 UMI

As a preliminary matter we note that Transco has decided not to pursue its request for an allocation of this imported gas (Tr. 9). Accordingly we deny its request since, as we already found in the February 28, 1977, order its request standing alone is deficient.

Before assessing the record evidence we note that both the Presiding Administrative Law Judge and Commission Staff (Tr. 173–1974), having the benefit of first-hand contact with the respective evidentiary presentations of Equitable and Columbia, supported Equitable's request. Such counsel is of valuable assistance and deserves considerable weight.

As a final prefatory matter, the relative need standard ascribed to such allocation proceedings by the Commission is not prone to facile implementation, especially in the present expedited context. We are dealing here with a very short-term curtailment time-frame in which the imminent curtailment of priority 1 human needs requirements of January and early February has been replaced by consideration of possible deliveries to priority 2 industrial customers in March. Moreover, we are faced with differing curtailment plans which make it difficult to reach a common ground for comparison. For example, Equitable operates under a 467–B type plan in West Virginia set by the state commission (Tr. 47) and under a combination end-use, pro-rata plan in Pennsylvania (Tr. 47–48). The resale customers of Columbia operate under curtailment plans prescribed by the state commissions of Pennsylvania, West Virginia, Kentucky, Maryland, Ohio, Virginia and New York. What is gleaned from the above is that our present comparative determination must out of necessity be somewhat qualitative, although we find that Equitable has satisfied the requirement of "specificity" set out in our February 28, 1977, order.

Turning to the record, while it is difficult to find with complete certainty that Equitable's need for this 25,000 Mcf/d of imported gas is greater than that of Columbia, we do find that it is at least equivalent to Columbia's need. During January and February 1977, Equitable was curtailing all industrial and commercial requirements down to plant protection levels and was experiencing priority 1 curtailment (Tr. 26–29, 53–55). Substantial unemployment (Tr. 31) and school closings (Tr. 59) resulted. Receipt of this 25,000 Mcf/d will permit Equitable to serve about 30% of its priority 2 industrial process load, which should significantly reduce unemployment (Tr. 30–31). Equitable plans to divide this 25,000 Mcf/d as follows: 12,000 Mcf/d for small commercial load, 3,000 Mcf/d for small industrial load, and 10,000 Mcf/d for industrial process. (Tr. 37). No requirements below priority 2 would be served in March (Tr. 49). Moreover, Equitable has acted reasonably in regards to attaching short-term emergency supplies, notwithstanding Columbia's criticism in this regard on cross-examination of Equitable's witness.

This state of curtailment for Equitable is of like magnitude with that of Columbia as a system and with that of its subsidiary, Columbia Gas of Pennsylvania (Tr. 34, 68–69, 134, 139–140). We therefore find that it is in the public interest to allocate 25,000 Mcf/d for the remainder of this month (approximately 525,000 Mcf) to Equitable out of the 12 Bcf previously authorized for Columbia to import from TransCanada. No payback obligation is warranted.

The Commission further finds: (1) Under the current supply and weather conditions, the public interest requires that the Commission allocate the emergency supply of natural gas being imported from Canada pursuant to the Commission order of February 20, 1977.

(2) The supply from Canada should be equitably allocated between Columbia and Equitable, with the latter receiving 25,000 Mcf/d for the remainder of this month, in order to best facilitate the rapid resumption of high priority service for those interstate pipeline presently before us.

The Commission orders: (A) A certificate is herein issued allowing the delivery of 25,000 Mcf/d through March 31, 1977, from Columbia to Equitable, such volumes being the equitably allocated share of an additional 12 Bcf of gas authorized to be imported from Canada by Columbia by order of February 20, 1977.

(B) The imported gas allocated to Equitable shall not be used to displace alternate fuel capability or to cause other gas to displace alternate fuel capability.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–7690 Filed 3–15–77;8:45 am]

[Docket No. RP72–157 (PGA77–5)]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in Gas Tariff

MARCH 10, 1977.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on March 3, 1977 tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, pursuant to its PGA clause for rates to be effective April 1, 1977. The proposed rate decrease would produce approximately $3.6 million less annually in jurisdictional revenues.

Consolidated states that the PGA filing was triggered by a rate decrease filed by Tennessee Gas Pipeline Company on February 25, 1977 for effectiveness February 1, 1977. Consolidated has included in its filing rate changes made by Texas Eastern Transmission Corporation (Texas Eastern) (decrease) and Transcontinental Gas Pipe Line Corporation (Transco) (increase) both for effectiveness March 1, 1977. The filings of Texas Eastern and Transco did not trigger a PGA filing.

Consolidated states that any over collections for the period February 1, 1977 through March 31, 1977 will be put into Account 191, Unrecovered Purchased Gas Costs to be flowed through under the terms of its PGA Clause.

Consolidated requests a waiver of the 30-day notice requirements contained in its PGA clause since it did not receive the triggering supplier's revised rates in sufficient time to make a timely filing, and further asks for a waiver of any other of the Commission's Rules and Regulations in order to permit Twenty-First Revised Sheet Nos. 8 and 9 to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–7688 Filed 3–15–77;8:45 am]

[Docket Nos. CP73–258, CP73–260]

EL PASO EASTERN CO. AND EL PASO NATURAL GAS CO.

Supplement and Amendments

MARCH 9, 1977.

Take notice that on March 1, 1977, El Paso Eastern Company (El Paso Eastern), P.O. Box 1440, Houston, Texas 77001, filed in Docket No. CP73–258 a supplement pursuant to Section 3 of the Natural Gas Act to its pending application in said docket to import liquefied natural gas (LNG) from Algeria setting forth the location of El Paso LNG Terminal Company's (LNG Terminal) proposed receiving, storage and vaporization facilities which are to be the point of receipt for gas imported by El Paso Eastern and in Docket No. CP73–259 an amendment to its pending application in said docket for a certificate of public convenience and necessity so as to authorize the sale of natural gas to El Paso Natural Gas Company (El Paso Natural). Take further notice that on March 1, 1977, El Paso Natural filed in Docket No. CP73–260 an amendment to its pending application in said docket for a certificate of public convenience and necessity to authorize the construction and operation as an extension of its interstate pipeline system approximately 463 miles of new pipeline and related compressor horsepower. The proposals are more fully set forth in the supplement and the amendments which are on file with the Commission and open to public inspection.

On October 15, 1976, El Paso Eastern filed in Docket No. CP73–258 an amendment to its pending application pursuant to Section 3 of the Natural Gas Act so as to authorize the importation into the United States from Algeria of an annual quantity of LNG containing 410,625,000 Btu's for a twenty-year period after an initial buildup to commence in 1983 and with first regular delivery in early 1984. This is equivalent to 1,000,000 Mcf of vaporous gas daily at 1,125 Btu's per cubic foot.[1]

El Paso Eastern by its supplement to its pending application in Docket No. CP73–258 sets forth the point of importation of the LNG into the United States. It is stated that LNG Terminal would construct LNG terminal facilities known as the LaSalle Terminal in the vicinity of Matagorda Bay on the Texas Gulf Coast. It is further stated that LNG Terminal was concurrently filing an application pursuant to Section 7(c) of the Natural Gas Act to construct and operate the LaSalle Terminal.[2] In addition El Paso by its amendment to its pending application in Docket No. CP73–259 proposes to sell 65 percent of the natural gas resulting from regasification at the LaSalle Terminal to El Paso Natural for resale. The price of the gas is estimated to $323 per million Btu. It is stated that El Paso Eastern was concurrently filing an application for a certificate of public convenience and necessity authorizing the sale of the remaining 35 percent of the gas resulting from regasification at the LaSalle Terminal to United LNG Company (United LNG), a wholly-owned subsidiary of United Gas Pipe Line Company (United), for resale.[3]

El Paso Natural by its amendment to its pending application in Docket No. CP73–260 proposes to construct and operate as an extension of its interstate pipeline system approximately 463 miles of new pipeline and related compressor horsepower extending in a southeasterly direction across Texas from a point of connection at the outlet of its Waha Plant in Reeves County, Texas, to the outlet of LNG Terminal's LaSalle Terminal and by means of such extension to transport United LNG's 35 percent of the gas regasified at the LaSalle terminal for delivery into United's interstate system near Victoria, Texas, and its own 65 percent of the regasified gas for delivery to its existing customers in west Texas, New Mexico, and Arizona, and at delivery points on the boundary between Arizona and Nevada, and Arizona and California. It is stated that El Paso Natural would construct approximately 31 miles of 36-inch pipeline, approximately 432 miles of 30-inch pipeline, five compressor stations totaling 55,950 horsepower, one spare 3,730 horsepower compressor unit, and miscellaneous metering and interconnection facilities at an estimated cost of $255,186,813, which cost would be financed 70 percent by debt and 30 percent by equity funds.

Any person desiring to be heard or to make any protest with reference to said supplement and amendments should on or before April 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–7685 Filed 3–15–77;8:45 am]

[1] Notice of El Paso Eastern's amendment to its pending application in Docket No. CP73–258 was published in the FEDERAL REGISTER on November 9, 1976 (41 FR 49539).

[2] LNG Terminal on March 1, 1977, filed an application in Docket No. CP77–269 for a certificate of public convenience and necessity authorizing the construction and operation of the LaSalle Terminal.

[3] El Paso Eastern filed an application for a certificate of public convenience and necessity authorizing the sale of gas to United LNG on March 1, 1977, in Docket No. CP77–270.

[Docket Nos. RP72–155 and RP76–59 (PGA77–2)]

EL PASO NATURAL GAS CO.

Proposed Change in Rate Pursuant to Purchased Gas Cost Adjustments

MARCH 10, 1977.

Take notice that El Paso Natural Gas Company ("El Paso") on February 25, 1977, tendered for filing a notice of change in rates for jurisdictional gas service rendered to customers served by its interstate gas system. Such service is rendered under rate schedules affected by and subject to Article 19, Purchased Gas Cost Adjustment Provision ("PGAC") contained in the General Terms and Conditions applicable to El Paso's FPC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A, and under rate schedules affected by and subject to the PGAC—Clean High Pressure Gas Provision ("PGAC–CHPG") contained in El Paso's FPC Gas Tariff, Original Volume No. 2A.

El Paso states that the instant notice of change in rates is occasioned solely by, and will compensate El Paso only for, increases in the cost of purchased gas (including gas produced from leases acquired after October 7, 1969) which will become effective on or before April 1, 1977, applied to volumes purchased for the twelve (12) month period ending December 31, 1976.

El Paso further states that the annualized increase in purchased gas costs under the instant PGAC is $65,000,730, based upon adjusted purchased gas volumes for the twelve (12) month period ending December 31, 1976. When applied to El Paso's interstate system total sales volumes for the same period, the purchased gas cost increase equates to 5.69¢ per Mcf, which amount will be uniformly applied to all rate schedules contained in El Paso's Original Volume No. 1 tariff and those special rate schedules contained in El Paso's Third Revised Volume No. 2 and Original Volume No. 2A.[1]

In addition, El Paso states that its Account 191, Unrecovered Purchased Gas Cost, contains a balance of $49,217,474, applicable to increases in purchased gas cost, as of December 31, 1976. Included in said Account 191 balance is an estimated amount of $17,020,805 attributable to increased gas costs which El Paso will recover by means of its special Opinion Nos. 770 and 770–A surcharge during the period January 1, 1977, through September 30, 1977.[2] El Paso states that in order to avoid a double recovery of the $17,020,805 by the proposed surcharge adjustment, El Paso has reduced its December 31, 1976, Account 191 balance of $49,217,474 by said $17,020,805 for purposes of determining the surcharge adjustment to be effective on and after April 1, 1977, by utilizing the net adjusted unrecovered gas cost amount of $32,196,669. Such adjusted cost, when applied to El Paso's jurisdictional sales volumes for the same period, produce an additional adjustment in rates of 6.13 cents per Mcf to be applied as a surcharge to all rate schedules affected by such PGAC. El Paso further states that after eliminating the currently effective surcharge rate of 4.00 cents per Mcf made effective December 1, 1976, the net adjustment to its currently effective rates attributable to this instant PGAC notice of change is an increase of 7.82 cents per Mcf.

El Paso states that the Account 191 balance includes an amount of $2,762,679 attributable to purchases made during the six month period ending December 31, 1976, from certain reversionary interest owners subject to Opinion No. 737, as amended, issued July 11, 1975, at

[1] The special rate schedules subject as to this PGAC adjustment are Rate Schedules X–7, X–14, X–25, X–30, X–33 and X–35 of El Paso's FPC Gas Tariff, Third Revised Volume No. 2, and Rate Schedules FS–25, FS–26, FS–27, FS–28, FS–30, FS–35 and F–45 of El Paso's FPC Gas Tariff, Original Volume No. 2A.

[2] Such special surcharge rate is 2.69 cents per Mcf and was designed to recover increased gas costs in the amount of $19,383,371 resulting from Opinion Nos. 770 and 770–A increases during the period July 27, 1976, through November 30, 1976, and not reflected in El Paso's rates until December 1, 1976. Such surcharge adjustment was included as a part of the special PGAC filing made by El Paso on November 22, 1976, and made effective on December 1, 1976, by order issued November 30, 1976, at Docket Nos. RP72–155 and RP76–59 (PGA77–1).

Docket Nos. CP75–200 and CI75–594.

25, 1977, file with the Federal Power

Natural also requests permission to

and Trunkline will receive total trans-

handle as agent for Indiana Gas and

parties. This order shall be considered as

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Docket Nos. CP75–209 and CI75–594. Further, El Paso states that included in El Paso's annualized gas cost adjustment is $7,115,017 subject to possible refund by El Paso, which $7,115,017 is comprised of emergency purchases made at rate levels in excess of the national rate levels in the amount of $253,504 and $6,861,513 attributable to purchases made from the reversionary interest owners subject to said Opinion No. 737.

El Paso states the current adjustment applicable to those Original Volume No. 2A special rate schedules affected by the PGAC–CHPG [1] is an increase of 21.1732 cents per Mcf. Such current adjustment is comprised of an increase in the weighted average purchased cost of clean, high-pressure gas equating to 10.2844 cents per Mcf and a surcharge adjustment of 10.8888 cents per Mcf, representing the unrecovered purchased gas cost balance contained in Account 191 as of December 31, 1976, adjusted to eliminate the remaining amounts applicable to the special Opinion Nos. 770 and 770–A surcharge under the PGAC–CHPG. Based upon sales volumes under such special rate schedules for the twelve months ended December 31, 1976, said increase of 10.2844 cents per Mcf will increase revenues by $123,096 and based upon the gas sales volumes under the special rate schedules subject to the PGAC–CHPG for the six months period ending December 31, 1976, the surcharge adjustment of 10.8888 cents per Mcf will recover during the six month period subsequent to April 1, 1977, $62,372 of the unrecovered purchased gas cost recorded in Account 191. El Paso states that as a result of eliminating the currently effective surcharge rate of 4.4913 cents per Mcf made effective on December 1, 1976, the net adjustment to the currently effective rates applicable to the affected special rate schedules is an increase of 16.6819 cents per Mcf attributable to the instant PGAC–CHPG notice of change.

El Paso states that the Account 191 balance applicable to the PGAC–CHPG includes an amount of $40,679, attributable to purchases made during the six month period ending December 31, 1976, and that included in El Paso's PGAC–CHPG gas cost adjustment is $506,640 subject to possible refund which amounts are attributable to purchases made from the aforementioned reversionary interest owners.

El Paso has requested waiver of all applicable rules and regulations of the Commission as may be necessary to permit the tendered tariff sheets to become effective on April 1, 1977.

El Paso states copies of the filing and attachments have been served upon all parties of record in Docket Nos. RP72–155 and RP76–59, and, otherwise, upon all affected customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before March 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–7691 Filed 3–15–77;8:45 am]

[1] The special rate schedules subject to PGAC–CHPG are Rate Schedules FS–3, FS–6, FS–7, FS–10 and FS–32.

[Docket No. E77–48]

EMERGENCY NATURAL GAS ACT OF 1977

Supplemental Emergency Order

By order issued March 4, 1977, pursuant to section 6 of the Emergency Natural Gas Act of 1977, Pub. L. 95–2 (91 Stat. 4 (1977)), I denied, without prejudice, the request of Natural Gas Pipeline Company of America (Natural) to make certain emergency purchases. The order further stated that, where expenditures were made prior to February 22, 1977, for the purpose of delivering such gas supplies to Natural, Natural could make such purchases consistent with the doctrine of "Colorado Interstate Gas Company," Docket No. E77–31 (February 28, 1977).

On March 9, 1977, Natural submitted a supplemental petition in which it set forth information indicating that Pioneer Natural Gas Company (Pioneer), Good Hope Refineries, Inc. (Good Hope), and Coronado Transmission Company (Coronado) had made expenditures prior to February 22, 1977, for the purpose of delivery of the subject gas supplies to Natural. Based upon the information submitted by Natural, I find that the proposed purchases from Pioneer, Good Hope and Coronado satisfy the "Colorado Interstate" criteria. Therefore, I authorize Natural to make such purchases notwithstanding Order No. 6.

Natural also states that it has agreed to pay transportation charges of (i) 5 cents per Mcf to Mississippi River Transmission Company (Mississippi) in order to receive the gas from Pioneer and (ii) 15 cents per Mcf to Fuel Marketing, Inc. (Fuel Marketing) in order to pay for the installation and operation of facilities required to receive gas from Coronado. Since the parties have agreed upon the transportation charges to be paid, I find no reason to fix other charges and authorize Mississippi and Fuel Marketing to transport the subject gas supplies for Natural as described in Natural's March 9, 1977 petition.

Natural also requests permission to make emergency purchases from Aminoil, U.S.A. (Aminoil), and other independent producers in the Sacramento Basin Area, California. Natural's petition states that Aminoil will obtain the release of a portion of this gas from intrastate commerce and that facilities will be constructed to deliver the gas to Natural. These statements fail to satisfy the criteria of "Colorado Interstate, supra," and "United Gas Pipe Line Company," Docket No. E77–33 (March 3, 1977), which require that the construction of facilities had been commenced or that a formal written release of gas from an intrastate contract had been obtained prior to February 22, 1977.

Natural shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Natural, Pioneer, Good Hope, Coronado, Fuel Marketing, Mississippi, and Aminoil. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 10, 1977.

[FR Doc.77–7722 Filed 3–15–77;8:45 am]

[Docket No. E77–51]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order

On March 9, 1977, Panhandle Eastern Pipe Line Company, Panhandle) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), a request for an order authorizing an emergency purchase of aproximately 30,000 Mcfd of natural gas from Good Hope Refineries, Inc. (Good Hope). Panhandle is purchasing the subject volumes as agent for its customers, Indiana Gas Company, Inc. (Indiana Gas), and Citizens Gas and Coke Utility (Citizens Gas). Total volumes expected to be delivered are 4.5 Bcf with 2.5 Bcf to be delivered to Indiana Gas and 2.0 Bcf to be delivered to Citizens Gas.

Panhandle will purchase the subject volumes at a price of $2.25 per MMBtu. I find this price to be fair and equitable in accordance with Order No. 2.

Good Hope will deliver these volumes through Southern Gas Transmission Corporation (Southern Gas) to Trunkline Gas Company (Trunkline) at a point where the pipelines of Trunkline and Southern Gas cross. Trunkline will deliver the volumes to Panhandle at Tuscola, Illinois, and Panhandle will deliver to Indiana Gas and Citizens Gas. Trunkline will construct facilities necessary to receive these volumes from Southern Gas. In addition, Panhandle

and Trunkline will receive total transportation charges of 20 cents per Mcf plus 4 percent of the volumes transported for compressor fuel.

I find that contractual provisions between Southern Gas and its producers, transporters and other suppliers of gas may prohibit the sale of natural gas in interstate commerce and the commingling of its intrastate pipeline gas supplies with gas moving in interstate commerce. The transportation an delivery of gas for which Panhandle seeks approval may result in some commingling of interstate natural gas with Southern Gas' normal intrastate pipeline system gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas. Under the provisions of section 9(b), (c) of Pub. L. 95–2 (91 Stat. at 9) the suppliers of such gas which is so commingled, may not terminate existing contracts with such other parties or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts referred to above are not enforceable by reason of section 9 of Pub. L. 95–2 since Good Hope and Southern Gas are selling, delivering and transporting gas for Panhandle pursuant to section 6(a) of that Act. Good Hope, Southern Gas and any third person whose gas is commingled with Panhandle's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Adminisrator for appropriate action.

According to the official files of the Federal Power Commission, Good Hope and Southern Gas are not classified as natural gas companies within the meaning of the Natural Gas Act. Section 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *." 91 Stat. at 8. In addition, section 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the sale, delivery and transportation of this gas will not subject Good Hope and Southern Gas to the provisions of the Natural Gas Act or to regulation as a common carrier under state law.

Panhandle advises that Indiana Gas and Citizens Gas have advised that they are not serving any uses set forth in 18 CFR 2.78(a)(1)(iv)–(ix) and that the sale complies with Order No. 6. The approval of this sale is conditioned upon the submission of sworn statements by Indiana Gas and Citizens Gas that the subject purchase complies with Order No. 6.

Pursuant to section 6(a) of the Act, I authorize Good Hope to sell gas to Panhandle as agent for Indiana Gas and Citizens Gas. Pursuant to section 6(c)(1) of the Act, I authorize Trunkline to construct the facilities necessary to receive this gas from Southern Gas. Since the parties have agreed upon the transportation charges, I find no basis on which to fix other charges.

Indiana Gas and Citizens Gas shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Panhandle, Good Hope, Southern Gas, Trunkline, Indiana Gas and Citizens Gas. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77–7718 Filed 3–15–77;8:45 am]

[Docket No. E77–52]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order

On March 9, 1977, Raton Natural Gas Company (Raton) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 1977)), an application for authorization to purchase 300 Mcfd and up to 500 Mcfd from Independent Gas Service Company for a period of thirty (30) days.

Raton proposes to purchase the subject volumes at a price of $2.25 per Mcf inclusive of all adjustments. To the extent such price exceeds $2.25 per MMBtu, it is not fair and equitable in accordance with Order No. 2.

Independent will deliver the subject volumes to Greely Gas Company (Greely) which will deliver to Colorado Interstate Gas Company (CIG). CIG will deliver to Raton. Raton advises that there will be no charges for the subject transportation and that deliveries will be made through existing facilities.

Raton advises and I find that the gas made available by Independent and the transportation of such gas by Greely will result in commingling of interstate natural gas with the gas delivered by Independent and Greely's normal interstate system gas supply and with volumes of gas owned by other parties. The contractual provisions between Greely and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of their intrastate pipeline system gas supplies with gas moving in interstate commerce. The sale, transportation and delivery of gas for which Raton seeks approval may result in some commingling of interstate natural gas with Greely's normal intrastate gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas. Under the provisions of section 9(b), (c) of Pub. L. 95–2 (91 Stat. at 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Greely or such other parties or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts referred to above are not enforceable by reason of section 9 of Pub. L. 95–2 since Independent and Greely are selling, delivering and transporting gas for Raton pursuant to section 6(a) of that Act. Independent and Greely and any third person whose gas is commingled with Raton's gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Independent and Greely are not classified as natural gas companies within the meaning of the Natural Gas Act. Section 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply * * * to any sale to an interstate pipeline * * * under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale * * *." 91 Stat. 4, 8. In addition, section 6(c)(2) provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the sale, delivery and transportation of this gas will not subject Independent and Greely to the provisions of the Natural Gas Act.

Order No. 6 provides in part that, subsequent to February 22, 1977, no interstate pipeline may contract for gas pursuant to section 6 of the Act if, contemporaneously with the execution of such contract, the interstate pipeline is serving directly or indirectly any uses classified in Priorities 4 through 9 as defined by the Federal Power Commission in 18 CFR 2.78(a)(1)(iv)–(ix). Ration's filing does not demonstrate that it will not serve such uses directly or indirectly. Therefore Raton's authority to purchase gas from Independent is conditioned upon Raton's submission of a sworn statement that, based upon information reasonably available to it at the time of execution of the contract, it was not serving any uses classified in Priorities 4 through 9 indirectly as well as directly.

I authorize Independent to sell gas to Raton at a price not to exceed $2.25 per MMBtu, and authorize and order Greely and CIG to transport and deliver gas to Raton on the above-stated terms and conditions.

Raton shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (Feb-

ruary 2, 1977), and shall be served upon Raton, Independent, Greely and CIG.

ural Gas Act or to regulation as a common carrier under any provision of state law.

it anticipated that on February 28, it will initiate partial requirements and

tion.[1] Accordingly, intervention shall be granted.

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ruary 2, 1977), and shall be served upon Raton, Independent, Greely and CIG. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 10, 1977.

[FR Doc.77–7719 Filed 3–15–77;8:45 am]

[Docket No. E77–53]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order

On March 10, 1977, El Paso Natural Gas Company (El Paso) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application requesting a determination that El Paso may purchase, under Order No. 6, those supplies for which an oral agreement was executed on or before February 22, 1977, and, in some cases, formal written agreements to purchase such gas were executed. For the reasons set forth below, I grant in part and deny in part El Paso's requests.

"Natural Gas Pipeline Company of America," Docket No. E77–48 (March 4, 1977), "United Gas Pipe Line Company," Docket No. E77–33 (March 2, 1977), and "Colorado Interstate Gas Company," Docket No. E77–31 (February 28, 1977), delineate certain sales which may be made notwithstanding Order No. 6. Those cases permit purchases to be made where (i) construction of facilities to be used solely to deliver the gas to the proposed purchaser had commenced prior to February 22, 1977; (ii) a binding contract for the sale of such gas supplies had been executed prior to February 22, 1977, and the purchaser had obtained a long term dedication of the gas reserves under the Natural Gas Act (15 U.S.C. 717, *et seq.*) following the emergency purchase; or (iii) the seller had obtained a formal written release of gas from an existing intrastate contract prior to February 22, 1977. These cases also state that oral agreements will not be accepted unless the type of detrimental reliance set forth above can be demonstrated.

El Paso's filing demonstrates that El Paso had actually executed formal written agreements for some purchases prior to February 22, 1977. In some cases, deliveries had also commenced on or before February 22, 1977. These purchases, from John Yates, et al. (John Yates), Antwell, et al. (Antwell), Yates Petroleum Corporation (Yates), Aminoil U.S.A., Inc. (Aminoil), Samedan, et al. (Samedan), Depco, Inc. (Depco), Sabine Production Company (Sabine), B. Bennett (Bennett), and Inexco Oil Company (Inexco), may be made at fair and equitable prices pursuant to Order No. 2 notwithstanding Order No. 6.

The proposed purchases from Yates Petroleum Corporation, et al. (Yates, et al.) and Monsanto Company (Monsanto) do not satisfy the criteria of the above cases. There are no written contracts for these purchases and no indication that the construction of facilities for El Paso to receive these gas supplies had commenced on or before February 22, 1977. Thus, these proposed purchases do not satisfy the criteria of the above-cited cases and may not be made under Order No. 6.

El Paso also states that, if not otherwise permitted to make these purchases, it would agree to the condition in "Colorado Interstate" that equivalent volumes be made available to any interstate pipeline or local distribution company which would be entitled to receive gas under section 4(a) of the Act (91 Stat. 4, 5). This condition in "Colorado Interstate" was not an independent basis for approving that purchase. Rather it was a condition imposed on a purchase which was approved because Colorado Interstate had demonstrated a detrimental reliance on Order No. 2. El Paso has not demonstrated such a reliance with respect to its proposed purchases from Yates, et al., and Monsanto.

El Paso shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon El Paso, John Yates, Antwell, Yates, Aminoil, Yates, et al., Samedan, Depco, Sabine, Bennett, Inexco and Monsanto. This order shall also be published in the FEDERAL REGISTER and shall remain in effect unless and until Order No. 6 is modified or rescinded.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 10, 1977.

[FR Doc.77–7720 Filed 3–15–77;8:45 am]

[Docket No. E77–54]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order

On March 10, 1977, Texas Gas Transmission Corporation (Texas Gas), as agent for certain of its customers,[1] filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95–2 (91 Stat. 4 (1977)), an application for authorization to transport natural gas which it is purchasing for certain of its customers and to construct the facilities necessary to receive this gas into its pipeline system.

Texas Gas, as agent, executed a contract on February 16, 1977, with Breathitt Gas Transmission Corporation (Breathitt) for the purchase of approximately 100 to 150 Mcfd from leasehold interests owned or controlled by Breathitt in Hopkins County, Kentucky. The total price to be paid by Texas Gas, as agent, is $2.25 per MMBtu. Thus, the proposed price is fair and equitable in accordance with Order No. 2.

Texas Gas will construct a meter station and related facilities at an estimated cost of $6,600 in Hopkins County, Kentucky, to receive the gas from Breathitt. These costs will be paid on a pro-rata basis by Texas Gas' customers which receive these volumes. In addition, Texas Gas' proposed transportation rates are based upon the cost data supporting the settlement rates in Texas Gas' most recent Federal Power Commission rate case in Docket No. RP76–17 and the retention of a percent of the transported volumes for compressor fuel and company use and loss. I find no basis on which to fix other charges since the parties have agreed upon the transportation charges and payment of the construction costs.

Breathitt advises and I find that contractual provisions between Breathitt and its producers, transporters and other suppliers of gas prohibit the sale of natural gas in interstate commerce and the commingling of its intrastate pipeline system gas supplies with gas moving in interstate commerce. The transportation and delivery of gas for which Texas Gas seeks approval may result in some commingling of interstate natural gas with Breathitt's normal intrastate pipeline system gas supplies and with gas owned by other third parties. This order shall be considered as applying to all such commingled gas. Under the provisions of section 9 (b), (c) of Pub. L. 95–2 (91 Stat. at 9), the suppliers of such gas, which is so commingled, may not terminate existing contracts with Breathitt or such other parties or require a redetermination of the prices provided in such contracts by reason of this transaction. Contractual termination, prohibition or redetermination provisions in any such contracts as referred to above are not enforceable by reason of section 9 of Public Law 95–2 since Breathitt is selling, delivering and transporting gas for Texas Gas pursuant to section 6(a) of that Act. Breathitt and any third person whose gas is commingled with Texas Gas' gas shall refer all relevant information concerning any attempt to terminate existing contracts or require a redetermination of prices to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Breathitt is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(b)(1) of the Act provides in part that "[t]he provisions of the Natural Gas Act shall not apply • • • to any sale to an interstate pipeline • • • under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with such sale • • •." 91 Stat. at 8. In addition, section 6(c)(2) provides:

Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

Thus, the sale, delivery and transportation of this gas will not subject Breathitt or any person supplying gas to Breathitt to the provisions of the Natural Gas Act or to regulation as a common carrier under state law.

Based upon the foregoing, Texas Gas is authorized to purchase gas, as agent, from Breathitt, to construct facilities to receive such gas and to transport such gas for certain of its customers. This authorization is conditioned on (i) Texas Gas' submission of the names of the customers for which it is acting as agent, (ii) those customers agreeing to submit reports as required by Order No. 4 and (iii) such customers certifying that they are entitled to purchase gas under the provisions of Order No. 6.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Texas Gas and Breathitt. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

MARCH 10, 1977.

[FR Doc.77–7721 Filed 3–15–77;8:45 am]

[Docket No. ER77–196]

FLORIDA POWER CORP.

Order Accepting for Filing and Suspending Proposed Tariff Sheets and Establishing Procedure

MARCH 10, 1977.

By letter dated February 11, 1977, Florida Power Corporation (Florida) submitted for filing proposed increased rates under its FPC electric tariff which provides rates for full requirements service, partial requirements service, and transmission service. Under the present tariff Florida currently provides only full requirements service to 14 municipal and 9 cooperative customers. Additionally, Florida proposes to change rates for two partial requirements customers served under separate contracts, the Reedy Creek Utilities Company and the City of Wauchula. The base rates in these contracts remain unchanged, but the fuel adjustment base index is changed to reflect Period II fuel cost levels. There are currently no customers receiving transmission or partial requirements service under the tariff.

The company stated that its filing is necessitated by the anticipated placing in service on February 28, 1977, of its new Crystal River Unit No. 3, a nuclear unit, which is expected to have large cost effects, particularly fuel cost reduction. The company stated that it has sold 10 percent of its 100 percent interest in the unit to a group of small utilities and that it anticipated that on February 28, it will initiate partial requirements and transmission service to five full requirements customers, and transmission service to a number of other owners of Crystal River No. 3.

Florida claims that the proposed increase amounts to $5,508,117 or 6.7 percent if 1976 fuel costs are projected into the test period as proposed by Florida for this purpose.

The proposed rates for full and partial requirements service consist of (1) a customer charge; (2) a flat demand charge for full and two step demand charge for partial requirements; and (3) a two step energy charge for full and a flat energy charge for partial requirements, with variations for four different delivery voltages varying from 230/115 kV to under 12 kV. The transmission rate provides separately for bulk and subtransmission service and for firm and non-firm service. The rate for bulk transmission (above 69 kV) is a flat rate per kW for firm service and a flat energy charge for non-firm service. The rate for subtransmission is also at a flat rate per kW which increases as the voltage delivery level lowers from 69 kV to below 12 kV delivery. Where changes have been made in rate design, Florida states such changes are related to cost of service and use characteristics. The fuel adjustment has been revised to reflect a lower base cost of fuel (1.448¢/kWh) based on the projected operation of the Crystal River Nuclear Unit.

The Company's case-in-chief is based on a test period consisting of the 12 months ended February 28, 1978. Florida's Statement N for this period indicates that the proposed rate increase will result in an earned rate of return in the range of 8.90 percent to 9.08 percent.

Public notice of the filing was issued on February 18, 1977, with comments, protests or petitions to intervene due on or before March 2, 1977. Subsequently, in a Notice of Extension of Time, issued March 2, 1977,[1] the period for filing comments, protests or petitions to intervene was extended until March 4, 1977.

On March 4, 1977, petitions to intervene in this docket were filed by the Seminole Electric Cooperative, Inc. (Seminole) and by various other wholesale customers of Florida Power[2] (Cities). Seminole and the Cities both allege interests in these proceedings, and assert that they will be directly affected by the outcome. The Commission's review indicates that both petitioners have interests sufficient to warrant intervention.[3] Accordingly, intervention shall be granted.

The Commission's review of Florida's proposed rate charges indicates that Florida's proposed rate increases have not been shown to be just and reasonable and therefore may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, the proposed rate increase should be accepted for filing and suspended for one day.

The Commission finds: (1) Florida's proposed rate increase should be accepted for filing and suspended for one day.

(2) Good cause exists to grant the petitions to intervene of Seminole and the Cities.

The Commission orders: (A) Florida's proposed rate increase is hereby accepted for filing and use thereof suspended for one day, or until March 14, 1977, at which time it may become effective, subject to refund, pending the outcome of the litigation thereon.

(B) Pursuant to the authority of the Federal Power Act, particularly sections 205 and 206 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates, charges, terms, and conditions of service included in Florida's FPC Electric Tariff as proposed to be revised by the subject filings.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before June 13, 1977. (See Administrative Order No. 157.)

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5 (d)), shall convene a settlement conference in this proceeding on a date certain within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(E) Florida shall file monthly with the Commission the report on billing determinants and revenues collected under the presently effective rates and the proposed increased rates filed herein, as required by § 35.19a of the Commission regulations, 18 CFR § 35.19a.

(F) Seminole and the Cities are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,*

[1] These customers are local distribution companies and interstate pipelines as defined in sections 2 (1), (5) of the Act (91 Stat. 4).

[1] On February 28, 1977, the Commission received a joint Motion for extension of time filed by Seminole Electric Cooperative, Inc. and the Cities of Alachua, Bartow, Bushnell, Chattahoochee, Fort Meade, Lake Helen, Leesburg, Mount Dora, Newberry, Ocala, Quincy and Williston, Florida. Florida Power Corporation did not oppose the motion.

[2] The wholesale customers seeking to intervene are the Cities of Alachua, Bartow, Bushnell, Chattahoochee, Fort Meade, Lake Helen, Leesburg, Mount Dora, Newberry, Ocala, Quincy and Wilkiston, Florida.

[3] In their respective petitions to intervene, both Seminole and the Cities indicate that settlement agreements may soon be filed in this docket. Petitioners support acceptance by the Commission of Florida Power's filing and imposition by the Commission of only a one day suspension.

That participation of such intervenors shall be limited to matters affecting as-

Any person desiring to be heard or to protest said application should file a pe-

until Federal takeover, without further notice being given by the Commission.

filing are on file with the Commission and are available for public inspection.

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That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; *And provided, further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER and shall serve a copy thereof on the wholesale customers of Florida.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7695 Filed 3-15-77;8:45 am]

[Docket No. RI77-37]

GREAT SOUTHERN OIL & GAS COMPANY, INC.

Petition for Special Relief

MARCH 10, 1977.

Take notice that on February 23, 1977, Great Southern Oil & Gas Company, Inc. (Petitioner), P.O. Box 52957, OCS, Lafayette, Louisiana, 70505, in Docket No. RI77-37, filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations. Petitioner requests relief from the nation-wide flowing gas rate established in Opnion No. 749 for the sale of natural gas to Columbia Gas Transmission Corporation from acreage in the West Gueydan Field, Vermilion Parish, Louisiana. Petitioner does not specify the proposed rate for the gas production. Petitioner states that unless the requested relief is granted, the project will be abandoned.

Petitioner further states that it acquired its interest in the subject acreage from Vermillion Irrigation Company which had, in turn, acquired all outstanding interest in the property from Cities Service Oil Company (Cities Service), Perry R. Bass and Edgewater Oil Company (Edgewater). Petitioner requests that the Edgewater, Perry R. Bass and Cities Service rate schedules be cancelled and that a single rate schedule covering the subject acreage be issued to Petitioner.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 31, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7689 Filed 3-15-77;8:45 am]

[Docket No. RP72-149 (PGA77-6)]

MISSISSIPPI RIVER TRANSMISSION CORP.

Proposed Change in Rates

MARCH 10, 1977.

Take notice that Mississippi River Transmission Corporation ("Mississippi") on February 24, 1977 tendered for filing six (6) copies of Fifty-Fifth Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1, to become effective April 1, 1977.

Mississippi states that the instant tariff sheet is being submitted pursuant to the Purchased Gas Cost Adjustment Clause (PGA) of its tariff to provide for the recovery of amounts accumulated in its unrecovered purchased gas cost account and to update the base average unit cost of gas purchased from producers. Additionally, the tariff sheet reflects an adjustment to eliminate the effect of the special surcharge filed by United Gas Pipe Line Co. ("United") at Docket No. CP76-413, et al. Such surcharge expires March 31, 1977.

Mississippi submitted schedules containing computations supporting the rate changes proposed to become effective April 1, 1977. Mississippi states that copies of its filing were served on Mississippi's jurisdictional customers and the State Commission of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene unless such petition has previously been filed. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7687 Filed 3-15-77;8:45 am]

[Docket No. RP74-100 etc. (PGA77-3)]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed PGA Rate Adjustment

MARCH 10, 1977.

Take notice that on March 1, 1977, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, Eleventh Revised Sheet No. 4, proposed to be effective April 1, 1977.

National states that the sole purpose of this revised tariff sheet is to adjust National's rates pursuant to the PGA provisions in Section 17 of the General Terms and Conditions. National further states that such tariff sheet reflects an adjustment in National's rates of .10¢ per Mcf on Eleventh Revised Sheet No. 4.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 25, 1977. Protests will be considered by the Commission in determining the appropriate parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7690 Filed 3-15-77;8:45 am]

[Docket Nos. RP71-125 and RP76-106 (PGA 77-2a)]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Revision to Purchased Gas Cost Adjustment to Rates and Charges

MARCH 10, 1977

Take notice that on March 2, 1977, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheet, to be effective March 1, 1977:

Substitute Thirty-first Revised Sheet No. 5

Natural states the purpose of the filing is to reflect the reductions in pipeline supplier rate levels tracked in its January 14, 1977 PGA filing, in accordance with the Commission's letter order issued February 25, 1977 in the above referenced Docket. Subsequent to Natural's January 14, 1977 PGA filing two pipeline suppliers to Natural filed revised tariff sheets. Great Lakes Gas Transmission Company filed to reflect a decrease in the exchange rate for Canadian currency and United Gas Pipe Line Company filed to decrease its rates pursuant to a Commission order issued December 29, 1976. Natural states that the annual effect of these pipeline supplier decreases amounts to approximately $4.85 million and equates to a current PGA unit reduction of 0.47¢ per Mcf.

Copies of this filing were mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7694 Filed 3-15-77;8:45 am]

[Project No. 677]

SOUTHERN CALIFORNIA EDISON CO.

Issuance of Annual License

MARCH 9, 1977

On April 20, 1970, Southern California Edison Company, Licensee for the San Gorgonio No. 1 and No. 2 Project, FPC No. 344, located in Riverside and San Bernardino Counties, California, on the east and south forks of the Whitewater and San Gorgonio Rivers near the cities of Yucaipa and Banning, filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder. On February 9, 1976, Licensee amended its application to include, as a primary line of Project No. 344, the transmission line that is licensed as Project No. 677. The transmission line is located in Riverside County, California.

The license for Project No. 677 was issued effective March 16, 1926, for a period ending March 15, 1976. Since expiration of the original license, the project has been maintained and operated under an annual license, which will expire on March 15, 1977. In order to authorize the continued operation and maintenance of the project pending Commission action on Licensee's application for new license for Project No. 344, it is appropriate and in the public interest to issue an annual license to Southern California Edison Company.

Take notice that an annual license for Project No. 677 is issued to Southern California Edison Company for the period March 16, 1977, to March 15, 1978, or until the issuance of a new license for Project No. 344, or until Federal takeover, whichever comes first, for the continued operation and maintenance of Project No. 677 subject to the terms and conditions of the original license. Take further notice that if issuance of a new license for project No. 344 does not take place on or before March 15, 1978, a new annual license for Project No. 677 will be issued effective March 16 of each year, until such time as a new license for Project No. 344 is issued, or until Federal takeover, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7683 Filed 3-15-77;8:45 am]

[Docket Nos. RP74-6 and RP72-74]

SOUTHERN NATURAL GAS CO.

Petition for Additional Grace Period To Install Fuel Facilities

MARCH 10, 1977.

Take notice that on August 30, 1976, MacMillan Bloedel Inc. (MacMillan), filed pursuant to §§ 1.7(b) and 1.10 of the Commission's rules of practice and procedure a request that it be given fourteen additional months from May 21, 1977 within which to install alternate fuel facilities at its plywood Mill.[1]

In Opinion No. 747-B, the Commission eliminated the firm-interruptible distinction for purposes of curtailment on the Southern Natural Gas Company (Southern) pipeline system. The Commission, however, stated that those firm requirements lacking installed alternate fuel facilities will be given a one year grace period from the date of Opinion No. 747-B to install such facilities. Such requirements were, therefore, to remain in Priority 3 until May 21, 1977 and, then, were to be reassigned to an appropriate category.

MacMillian states that it operates a linerboard mill, a lumber mill and a particle board mill at Pine Hill, Alabama. MacMillan states that it will be able to install new facilities at its lumber mill by May 21, 1977, but that it is not possible to acquire and install new dryers and a steam boiler for the plywood mill by May 21, 1977.

MacMillian states that it will require twenty-two months from September 1, 1976 to design and engineer new dryers for the plywood mill, procure the equipment and install and test it. MacMillian, therefore, requests that it be granted an additional fourteen months after May 21, 1977 within which to install new dryers and related facilities for the plywood mill.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests would be filed on or before March 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7693 Filed 3-15-77;8:45 am]

Investigation Certificates

[Docket No. CI77-298]

TENNECO INC.

Order Instituting Investigation

MARCH 8, 1977

On February 28, 1977, Tenneco Inc. (Tenneco) filed a petition pursuant to § 1.7(c) of the Commission's rules of practice and procedure for a declaratory order under the Natural Gas Act in order to resolve present uncertainties as to whether or not all necessary filings under the Natural Gas Act have been made, and all necessary authority thereunder obtained, in connection with release of natural gas from acreage or reservoirs under contract to Tennessee Gas Pipeline Company (Tennessee) for sale by independent producers to Channel Industries Gas Company (Channel). Tennessee is a division of Tenneco engaged in the transportation and sale of natural gas in interstate commerce. Channel, a subsidiary of Tenneco, is engaged in the transportation and sale of natural gas in intrastate commerce.

Tenneco states that these uncertainties have arisen as a result of an investigation by counsel for Tenneco in preparation for the defense of pending litigation against Tenneco, Channel and certain other affiliates of Tenneco in which certain customers of Channel claim, among other things, that in early 1975 Channel improperly released a claim against Tennessee for volumes of natural gas then owing to Channel as a result of certain balancing transactions between the two parties which had previously terminated. In the course of this investigation, Tenneco determined that since the inception of Channel's operations in 1965, Channel has purchased certain volumes of natural gas produced from acerage or reservoirs which are, or at one time had been under contracts to Tennessee. Tenneco states that, for the most part, the contracts, or amendments thereto, whereby the natural gas in question was released from Tennessee were filed by the producers with the Commission. Tenneco also states that, in certain of the transactions reviewed to date, however, is is unclear from the information presently available to Tenneco as to whether additional filings were necessary under the then prevailing circumstances, or, indeed, whether additional filings, presently unknown to Tenneco, were in fact made. According to Tenneco the investigation referred to above is still in progress.

Tenneco states that although for the most part, the sales of natural gas in question occurred over several years in the past, and in many instances were ceased some time ago due to termination of Channel's contracts with the produc-

[1] This petition was filed as an alternative request to MacMillian's protest of a compliance tariff filing by Southern Natural Gas Company. Said protest was denied by Commission order issued January 4, 1977.

ers, depletion of the fields or reservoirs, or otherwise, certain of such sales are

the Commission's rules of practice and procedure.

20th Street, NW., Washington, D.C. Requests for information, or advance no-

from the use of the acts and practices being investigated.

It is hereby agreed by and between

containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service.

2. Representing, directly or by implication, that memberships in the shopping service are being offered at a special

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ers, depletion of the fields or reservoirs, or otherwise, certain of such sales are presently continuing, in an aggregate average daily volume which, based on information available to date, may amount to an estimated 30,000 Mcf.

Although Tenneco's investigation is incomplete, it states that it is appropriate and in the public interest to seek immediately a determination by this Commission as to the issues presented, in order to determine the respective purchase rights of two affiliates. Tennessee and Channel, and to resolve any doubt, disagreement or controversy on the part of Tennessee, Channel or any third party as to whether or not all necessary filings were made, and all necessary authority obtained, under the requirements of the Act. Because the issues involve interpretations of the Natural Gas Act, and the Commission's rules and regulations thereunder, Tenneco states that this Commission has the exclusive and primary jurisdiction to make the determinations sought.

The five fields discussed in the petition are: (1) Sellingson Field, Jim Wells County, Texas (sales by Mobil, Sun, Arco and others), (2) Riverside-O'Neil Field, Nueces County, Texas (sales by Amaco), (3) Southwest Pheasant Field, Matagorda County, Texas (sales by Mobil and Arco), (4) Edinburg Field, Hidalgo County, Texas (sales by Mobil, Arco, and Sun), and (5) Chesterville Field, Colorado County, Texas (sales by Mobil and others).

Tenneco states that recent pronouncements of the Commission concerning certificate obligations, most of which are still subject to review in the Courts, indicate the need for expeditious resolution of questions raised by transactions of the nature of those detailed in the petition. Tenneco states that its inquiry is continuing toward a rapid conclusion, and Tenneco reserves the right to make supplemental filings.

We find it appropriate to institute an investigation into the matters set forth in Tenneco's February 28, 1977, petition. Accordingly, we shall require the affected producers to respond to all the issues raised in Tenneco's pleading.

The Commission finds: It is appropriate to institute an investigation into the matters raised in Tenneco's February 28, 1977, petition.

The Commission orders: (A) Pursuant to the provisions of the Natural Gas Act, particularly sections 4, 5, 7, 8, 10, 14, 15 and 16 thereof, and pursuant to the Commission's rules of practice and procedure and the regulations under the Natural Gas Act, an investigation is hereby instituted into the matters raised in Tenneco's February 28, 1977, petition filed in this docket.

(B) On or before March 14, 1977, the affected producers are directed to file responses to all the issues raised in Tenneco's February 28, 1977, pleading.

(C) Notices of intervention and petitions to intervene in this proceeding may be filed with the Federal Power Commission, Washington, D.C., 20426, on or before March 23, 1977, in accordance with the Commission's rules of practice and procedure.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7682 Filed 3-15-77;8:45 am]

[Docket No. ER76-689]

WEST PENN POWER CO.

Filing of Settlement Agreement

MARCH 9, 1977.

Take notice that by letter dated February 22, 1977, West Penn Power Company and Allegheny Electric Cooperative tendered for filing a joint motion to certify to the Commission a Settlement Agreement in the above-captioned docket. The joint motion states that, under the terms of the filed Settlement Agreement, West Penn's annual revenues would be incerased approximately $347,519 or 15.8 percent effective July 16, 1976.

Any person desiring to be heard or to protest said Settlement Agreement should file comments with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, on or before March 28, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-7684 Filed 3-15-77;8:45 am]

FOREIGN CLAIMS SETTLEMENT COMMISSION

[Notice No. 2-77]

HUNGARIAN CLAIMS

Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of routine Commission business and other matters specified, as follows:

Date and time	*Subject matter*
Wednesday, March 23, 1977 at 10:30 a.m.	Consideration of Hungarian claims.
Thursday, March 24, 1977 at 10:00 a.m.	Oral hearings on objections to decisions issued under the Hungarian claims program.
Wednesday, March 30, 1977 at 10:30 a.m.	Consideration of Hungarian claims.
Thursday, April 7, 1977 at 10:30 a.m.	Do.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. 20579. Telephone: 202/653-6156

Dated at Washington, D.C. on March 11, 1977.

FRANCIS T. MASTERSON,
Executive Director.

[FR Doc.77-7670 Filed 3-15-77;8:45 am]

FEDERAL TRADE COMMISSION

[File No. 762-3080]

AMERICAN CONSUMER SERVICE, INC., ET AL.

Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Placement of Consent Agreement on Public Record for Comments.

SUMMARY: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34, 40 FR 15236, Apr. 4, 1975), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection ad copying at its principal office in accordance with § 4.9(b) (14) of the Commission's rules of practice (16 CFR 4.9(b)(14), 40 FR 15236, Apr. 4, 1975).

DATE: Comments must be received on or before May 13, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[File No. 762-3080]

AMERICAN CONSUMER SERVICE, INC. ET AL.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of American Consumer Service, Inc., a corporation, and Mark F. Thorne, and Thomas P. Sheehan, individually and as officers of said corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of American Consumer Service, Inc., a corporation, and Mark F. Thorne and Thomas P. Sheehan, individually and as officers of said corporation, and it now appearing that American Consumer Service, Inc., a corporation, and Mark F. Thorne and Thomas P. Sheehan, individually and as officers of said corporation, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between American Consumer Service, Inc., by its duly authorized officer, and Mark F. Thorne and Thomas P. Sheehan, individually and as officers of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent American Consumer Service, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 101 East Carmel, Carmel, Indiana.

Proposed respondents Mark F. Thorne and Thomas P. Sheehan are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation and their address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive: (a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60 days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

DEFINITIONS

"Product line" as used in this order shall mean one of the following categories: subcompact size automobiles; compact size automobiles; intermediate size automobiles; full size automobiles; luxury automobiles; trucks; stoves-ovens; refrigerators; freezers; disposals; air conditioners; dishwashers; washers; dryers; other appliances; televisions; record players; radios; recorders; wearing apparel; pharmaceuticals; jewelry; furniture; upholstered furniture; bedding; carpeting.

"Shopping service" as used in this order shall mean any service that provides instructions, booklets, pamphlets and any other information regarding merchandise that is purportedly made available for purchase through such service at less than normal retail prices.

II

It is ordered, That respondents American Consumer Service, Inc., a corporation, its successors and assigns, and its officers, and Mark F. Thorne and Thomas P. Sheehan, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or any other device in connection with the offering for sale, sale, and distribution of any memberships in a shopping service, or the door-to-door sale or distribution of any other products or services; or in the recruitment of sales representatives for said products or services in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondents' agents, representatives or employees are visiting the homes of families for the purpose of conducting surveys or opinion polls or for any purpose other than the sale of memberships in the shopping service, or misrepresenting in any manner, the nature of any prospective customer contact or situation.

2. Representing, directly or by implication, that memberships in the shopping service are being offered at a special price only to those individuals agreeing to write testimonials, or misrepresenting in any manner the terms and conditions of membership in the shopping service.

3. Representing, directly or by implication, that any article of merchandise is being given free or as a gift, or without cost or charge, in connection with the purchase of other merchandise, unless the stated price of the merchandise required to be purchased in order to obtain said article is the same or less than the customary and usual price at which such merchandise has been sold separately by respondents for a substantial period of time in the recent and regular course of their business: *Provided, however*, That respondents may offer other products or services as included in the cost of membership in the shopping service.

4. Representing, directly or by implication, that purchasers of memberships in a shopping service will save any stated dollar or percentage amount through use of the shopping service, unless respondents clearly and conspicuously disclose in connection with any savings representations that purchasers will not enjoy such savings until they have made enough purchases through the shopping service to result in savings that exceed the initial cost of membership in the service.

5. Representing, directly or by implication, to any prospective purchaser of a shopping service, that members of a shopping service will be able to purchase consumer products at prices that are below the local retail selling prices of such products, unless respondents clearly and conspicuously disclose, in connection with such claims, in a written form containing the following information, and that said form shall be retained by each prospective member:

(a) The number of local purchase transactions that have been made from each said product line through the shopping service;

(b) A comparison, expressed as an average percent, by product line of the local retail selling price of consumer products with the cost of the identical consumer products purchased through the shopping service including shipping, postage, and delivery as experienced by members of the shopping service who have purchased said consumer products through the shopping service during a specified period of time; and that

(c) Savings can only be enjoyed by the member if the shopping service is used; some people never use the shopping service and never enjoy any savings as a result.

6. Failing to disclose to all prospective purchasers, prior to purchase of a membership, in complete and accurate detail, all steps necessary to purchase all products available through the shopping service by every method such products are available to be purchased, or misrepresenting in any manner the ease with which the service can be used.

7. Representing, directly or by implication, that respondents' agents, representatives or employees are visiting the homes of families for the purpose of conducting surveys or opinion polls or for any purpose other than the sale of memberships in the shopping service, or misrepresenting in any manner, the nature of any prospective customer contact or situation.

8. Representing, directly or by implication, that respondents' agents, representatives or employees are visiting the homes of families for the purpose of conducting surveys or opinion polls or for any purpose other than the sale of memberships in the shopping service, or misrepresenting in any manner, the nature of any prospective customer contact or situation.

9. Representing, directly or by implication, that any article of merchandise is being given free or as a gift, or without cost or charge, in connection with the purchase of other merchandise, unless the stated price of the merchandise required to be purchased in order to obtain said article is the same or less than the customary and usual price at which such merchandise has been sold separately by respondents for a substantial period of time in the recent and regular course of their business: *Provided, however*, That respondents may offer other products or services as included in the cost of membership in the shopping service.

10. Representing, directly or by implication, that purchasers of memberships in a shopping service will save any stated dollar or percentage amount through use of the shopping service, unless respondents clearly and conspicuously disclose in connection with any savings representations that purchasers will not enjoy such savings until they have made enough purchases through the shopping service to result in savings that exceed the initial cost of membership in the service.

11. Representing, directly or by implication, to any prospective purchaser of a shopping service, that members of a shopping service will be able to purchase consumer products at prices that are below the local retail selling prices of such products, unless respondents clearly and conspicuously disclose, in connection with such claims, in a written form containing the following information, and that said form shall be retained by each prospective member:

(a) The number of local purchase transactions that have been made from each said product line through the shopping service;

(b) A comparison, expressed as an average percent, by product line of the local retail selling price of consumer products with the cost of the identical consumer products purchased through the shopping service including shipping, postage, and delivery as experienced by members of the shopping service who have purchased said consumer products through the shopping service during a specified period of time; and that

(c) Savings can only be enjoyed by the member if the shopping service is used; some people never use the shopping service and never enjoy any savings as a result.

12. Failing to disclose to all prospective purchasers, prior to purchase of a membership, in complete and accurate detail, all steps necessary to purchase all products available through the shopping service by every method such products are available to be purchased, or misrepresenting in any manner the ease with which the service can be used.

III

It is further ordered, That respondents American Consumer Service, Inc., a corporation, its successors and assigns, and its officers, and Mark F. Thorne and Thomas P. Sheehan, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or any other device in connection with the offering for sale, sale, and distribution of any memberships in a shopping service, or the door-to-door sale or distribution of any other products or services; or in the recruitment of sales representatives for said products or services in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

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62. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

63. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

64. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

65. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

66. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

67. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

68. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

69. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

70. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

71. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

72. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

73. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

74. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

75. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

76. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

77. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

78. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have become members of the shopping service, the number of persons who have used the shopping service, the number of persons who have become members of the shopping service and have used the shopping service, or the number of persons who have become members of the shopping service and have not used the shopping service.

79. Misrepresenting, directly or by implication, the number of persons who have purchased memberships in the shopping service, the number of persons who have

7. Representing, directly or by implication, that purchasers of memberships in a shopping service have recovered or will recover their cost of joining the shopping service within any specified period of time, unless respondents clearly and conspicuously disclose in connection with such representation, that to recover the cost of joining the shopping service members will have to obtain savings on purchases that equal their cost of joining the shopping service, and the percentage of members of the shopping service who have recovered the cost of joining the shopping service within the specified period of time.

8. Misrepresenting in any manner the type or duration of advice and assistance that respondents or their sales representatives will offer to members of the shopping service.

9. Representing, directly or by implication, either orally or in writing, that:

(a) Respondents are offering employment positions in a major, national corporation, or misrepresenting in any manner the size or nature of respondents' firm; and

(b) Individuals who reply to respondents' employment advertisements can or will receive a stated weekly or yearly income, unless the stated incomes have actually been achieved by at least 50 percent of past or current employees engaged in identical duties as those being advertised for, and such incomes are reasonably likely to be achieved by the person to whom the representation is made.

10. Failing to disclose, clearly and conspicuously, in all advertising for sales representatives, that:

(a) Respondents are recruiting persons for the sole purpose of soliciting or selling;

(b) Such soliciting or selling will be on a door-to-door basis, if such method of sale is included, to any extent, in the position for which persons are being recruited; and

(c) Compensation for persons so engaged is to be on a commission basis only, if such is the fact, or, if an income is advertised, the conditions and limitations thereto or upon the receipt of said income.

It is further ordered, That respondents shall establish a Consumer Service Representative who shall be responsible for answering inquiries from members of the shopping service with regard to the use of the service and for providing general assistance to such persons in connection with their use of the shopping service. Respondents shall employ at least one person to serve as a Consumer Service Representative and shall continue to employ at least one such person for at least one year after the date of respondents' last sale of a membership in a shopping service.

It is further ordered, That respondents disclose the following information clearly and conspicuously in all of respondents' sales presentations to prospective purchasers:

A. Membership in a shopping service is not necessary in order to make purchases from some of the mail order firms whose catalogs are made available by the shopping service to its members.

B. All orders placed through the shopping service must be paid for in advance by certified check or money order. The shopping service neither accepts nor extends credit.

C. Prospective purchasers of memberships in the shopping service will be required to sign a retail installment contract that may be assigned to a finance company if the full cost of the membership is not paid to respondents in one installment.

It is further order, That respondents shall accord to each member who signs a contract the right to cancel his membership within 120 days of the effective date of the membership contract. Upon notice of cancellation of a contract within 120 days of the effective date of the contract, respondents shall not receive, demand or retain more than an initial registration fee of $70.

It is further ordered, That respondents shall include in the contract in bold face type of at least ten (10) point the following provision:.

CANCELLATION AND REFUND

You are free to cancel your membership at any time within 120 days of the date of this contract. You will have to pay only an initial registration fee of $70.

You may cancel the contract by mailing or delivering to American Consumer Service, Inc. a signed and dated copy of the "Notice of Cancellation" given to you at the time of purchase or by mailing or delivering to American Consumer Service, Inc. your own written letter of cancellation. Cancellation will be effective on the date of mailing. If, prior to cancellation, you have paid more than $70, the excess will be refunded to you within ten (10) business days.

It is further ordered, That respondents shall include in the contract a completed form in duplicate, which shall be attached to the contract and easily detachable, and which shall contain in bold face type of at least ten (10) point the following information.

NOTICE OF CANCELLATION

I hereby cancel this contract.

(Date)

(Buyer's Signature)

It is further ordered, That respondents, upon receipt of notice of cancellation within 120 days of the effective date of the contract, shall refund to the member all monies received in excess of $70 within ten (10) business days of receipt of the Notice of Cancellation.

It is further ordered, That the cancellation provisions of this order shall not affect any obligation upon respondents under the Federal Trade Commission Trade Regulation Rule Concerning a Cooling-Off Period for Door-to-Door Sales.

It is further ordered, That each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment. In addition, for a period of ten years from the effective date of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the sale of shopping services, or of his affiliation with a new business or employment in which his own duties and responsibilities involve participation in the development of a sales presentation for use in the sale of shopping services. Such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

It is further ordered, That respondents maintain at all times in the future, for a period of not less than three (3) years, complete business records to be furnished upon request to the staff of the Federal Trade Commission, relative to the manner and form of their continuing compliance with all the above terms and provisions of this order.

It is further ordered, That respondents distribute a copy of this order to all operating divisions of said corporation, and also distribute a copy of this order to all corporate officers and all of respondents' personnel, agents or representatives concerned with advertising, promotion, solicitation, sale or distribution of a shopping service by respondents and secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

[File No. 762 3080]

AMERICAN CONSUMER SERVICE, INC.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from American Consumer Service, Inc. and Mark F. Thorne and Thomas P. Sheehan, individually and as officers of the corporate respondent.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

American Consumer Service, Inc. sells memberships in a shopping service that purportedly makes available to its members consumer products at prices that are below the normal retail prices of such products.

The major provisions of the complaint allege that respondents, in their offering for sale of memberships in the shopping service, misrepresented:

1. The savings available by the purchase of consumer products through the shopping service;

2. The time it would take members to recover the major portion of their initial investment;

3. The ease with which the shopping service could be used;

4. The types of consumer products available for purchase through the shopping service;

5. The assistance respondents would provide members after they joined the shopping service.

The complaint further alleges that respondents failed to disclose that catalogues represented as available only to members are actually available to the general public, shipping costs are not included in the price of products quoted to members, and the contract of purchase will be sold to a finance company.

The consent order prohibits respondents from making any of the misrepresentations alleged in the complaint and requires that affirmative disclosures be made of the facts which they had failed to disclose. Any claims that members can purchase items at below retail price must be based on data gathered from a compilation of products purchased by past members through the shopping service. Any savings claims must be accompanied by the reminder that no savings can be obtained until a sufficient number of purchases have been made to set off the original purchase price of membership. If claims are made about the possibility of recovering the cost of joining the service within any given time, they must be accompanied by a disclosure of the percentage of past members who have recovered the cost of joining within that time.

The order also requires respondents to employ a consumer service representative responsible for providing assistance to members in placing their orders. In addition, respondents are required to include a 120 day concellation provision in the contract. If a member submits a notice of cancellation within 120 days of signing the contract, respondents are entitled to no more than an initial registration fee of $70.

The complaint and order also address respondents' manner of recruiting sales personnel. They are prohibited from misrepresenting the size and nature of the firm, and are required to substantiate any income potential advertised, as well as to disclose that the jobs advertised are for door-to-door salesmen and that payment is on a commission basis if such is the case.

The order is designed to prohibit misrepresentations made by respondents as well as to require disclosure of all facts about the shopping service that are necessary to enable customers to make an intelligent decision as to whether or not to purchase a membership. The cancellation provision allows future members to obtain prompt refunds if they are dissatisfied with the shopping service.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and the proposed order or to modify in any way their terms.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-7627 Filed 3-15-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on March 4, 1977 (CAB), and March 9, 1977 (FMC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB and FMC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before April 4, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW. Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CIVIL AERONAUTICS BOARD

CAB requests clearance of a devision to Schedule P-10 of Form 41, formerly designated "Payroll" and now retitled "Employment Statistics by Labor Category" and to Schedule P-1(a), "Interim Statement of Operations." Schedule P-10 which was previously filed on a quarterly basis will now be filed annually by the same respondents. Submission of Schedule P-10 is mandatory under section 407 of the Federal Aviation Act of 1958, as amended. In Schedule P-10 the column headed "No. 3—Number of Employees" and the column headed "Payroll At Annual Rates (52 calendar weeks);" subheaded "No. 4—Total All Employees," and "No. 5—Average Per Employee" will be eliminated and replaced by a column titled "Weighted Average Number of Full-Time Employees." The labor categories for which the number of employees are to be reported are the same as on the current Schedule P-10 with one additional labor category description "Other" added to include all employees whose salary is not chargeable to one of the various salary accounts; for example, "Other" would include those employees who work in transport-related operations and other activities for which a separate payroll account is not prescribed. CAB is also amending Schedule P-1(a), a monthly schedule, to include two new categories under "Other Information." These new categories are "Number of full-time employees" and "Number of part-time employees." CAB estimates potential respondents to be 36 certificated air carriers and reporting burden to average 7 hours annually per respondent.

FEDERAL MARITIME COMMISSION

FMC requests for the first time a clearance of section 21 Orders issued semi-annually to U.S. flag carriers transporting U.S. Department of Defense Cargoes pursuant to the Military Sealift Procurement System requesting reports from carriers on their vessel utilization factors for each six-month Military Sealift Command bidding cycle. The information is used by the Commission to establish a Uniform Capacity Utilization Factor (UCUF) for each Military Sealift Command trade route at least 30 days prior to each bid date for every six-month bid cycle, as required by 46 CFR 549.5(b)(1). FMC states that the number of bidding carriers has varied between 11 and 13 carriers, with an estimated average burden of 31 hours per semi-annual submission. FMC states that the next section 21 Order will be served to 12 carriers and the statistics will cover the six months ending June 30, 1977.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-7723 Filed 3-15-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

PSYCHOLOGY EDUCATION REVIEW COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory body scheduled to assemble during the month of April 1977:

PSYCHOLOGY EDUCATION REVIEW COMMITTEE

Date and time: April 11-13; 9:30 a.m. Conference Room H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open meeting: Contact Mrs. Betty Wells, Parklawn Building, Room 9C23, 5600 Fishers Lane, Rockville, Maryland 20857. 301-443-3536.

Purpose: The Committee is charged with the initial review of grant applications for

AD HOC SEARCH COMMITTEE FOR THE SELECTION OF DIRECTOR, NATIONAL

recorded vote that Commission business

mission meeting, please contact the Secretary to the Commission at (202) 523-

of 5 U.S.C. 552b(c) (2) and (6) and 19 C.F.R. 201.36(b) (2) and (6).

p.m., Monday through Firday (except holidays) until thirty days after the promulgation of the final guidelines and cri-

V42 51 MAR 16 77 7 UMI

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychology training and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:30 a.m. April 11 through adjournment at 4:00 p.m. April 12, the meeting will be open for administrative announcements and discussion of review criteria in the light of new program developments and priorities of the Institute.

Substantive information may be obtained from the contact person listed above. Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3600.

Dated: March 10, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-7636 Filed 3-15-77;8:45 am]

National Institutes of Health

AD HOC SEARCH COMMITTEE FOR THE SELECTION OF DIRECTOR, NATIONAL CANCER PROGRAM AND NATIONAL CANCER INSTITUTE

Notice of Establishment

The National Institutes of Health announces the establishment on March 8, 1977, of the Ad hoc Search Committee for the Selection of the Director, National Cancer Program and National Cancer Institute, under the authority of 42 U.S. Code 217a, Section 222 of the Public Health Service Act, as amended. This Committee is governed by provisions of Public Law 92-463 which sets forth standards for the formation and use of advisory committees.

The Search Committee shall solicit recommendations for the position of Director, National Cancer Program and National Cancer Institute, from knowledgeable people in the medical sciences, particularly those involved in the various areas of cancer research. The members of the Committee shall advise the Secretary regarding the search for this individual.

Authority for this Committee shall expire on June 30, 1977.

Dated: March 11, 1977.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc.77-7985 Filed 3-15-77;11:31 am]

AD HOC SEARCH COMMITTEE FOR THE SELECTION OF DIRECTOR, NATIONAL CANCER PROGRAM AND NATIONAL CANCER INSTITUTE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Ad hoc Search Committee for the Selection of Director, National Cancer Program and National Cancer Institute, in Room 610F, HEW South Portal Building, 200 Independence Avenue, S.W., Washington, D.C., on March 25, 1977, beginning at 8:30 a.m. This meeting will be open to the public from 8:30 a.m. to 9:00 a.m. to discuss administrative matters. Attendance by the public will be limited to space available. Persons interested in identifying names of candidates for the above position may send their suggestions, together with a current curriculum vitae for each recommendation, to Dr. Seymour Perry, Special Assistant to the Director, National Institutes of Health, Building 1, Room 111, Bethesda, Maryland 20014.

In accordance with provisions set forth in Section 552b(c)(6), U.S. Code and Section 10(d) of Public Law 92-463, the meeting of the committee will be closed from 9:00 a.m. to adjournment for the review, discussion and evaluation of candidates. These recommendations were received as a result of over 400 letters sent to various cancer societies, Cancer Board members, cancer centers, cancer hospitals, institutions, universities, and other relevant organizations. The discussion will reveal personal information about individuals and will reflect on their qualifications and competence. Hence, the holding of these discussions in public would constitute a clearly unwarranted invasion of personal privacy.

Additional information may be obtained from Dr. Seymour Perry, at the above address, phone (301) 496-2500.

Dated: March 14, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-7984 Filed 3-15-77;11:31 am]

INTERNATIONAL TRADE COMMISSION

[USITC SE-77-21A]

GOVERNMENT IN THE SUNSHINE

Additional Agenda Item

In deliberations held March 10, 1977, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 in conformity with 19 C.F.R. 201.37, voted to add the following item to its agenda for the meeting of March 14, 1977:

2. Discussion and vote on remedy on Investigation TA-201-16 (Sugar)—to be taken up after 3 p.m.

Commissioners Minchew, Parker, Leonard, Moore, and Ablondi determined by recorded vote that Commission business requires the change in subject matter by addition of the agenda item, and affirmed that no earlier announcement of the addition to the agenda was possible, and directed the issuance of this notice at the earliest practicable time. Commissioner Bedell abstained.

If you have any questions concerning the agenda for the March 14, 1977, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Access to documents to be considered by the Commission at the meeting is provided for by access to the public files of the Commission, or when such documents are not in such files, as provided for in Subpart C of the Commission's rules (19 C.F.R. 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with 19 C.F.R. 201.38(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

By order of the Commission:

Issued: March 11, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-7798 Filed 3-15-77;8:45 am]

[USITC SE-77-22]

GOVERNMENT IN THE SUNSHINE

Meeting

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on Monday, March 21, 1977, beginning at 9:30 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436. Except as hereinafter specified, the Commission plans to consider the following agenda items in open session:

1. Agenda for future meetings.
2. Minutes.
3. Knitting machines (Inv.337-TA-28)—see recommended determination from Judge Renick dated February 18, 1977.
4. Request for investigation on certain automobile equipment (Docket No. 431)—see memorandum dated February 28, 1977, from Commissioner Moore.
5. Hearing of the Subcommittee on Trade on certain bills to provide duty-free entry and temporary suspensions of duty—see memorandum dated February 23, 1977, from the General Counsel.
6. Any items left over from previous agenda.
7. Reorganization.
8. Discussion of a letter dated March 7, 1977, from the Chairman of the Subcommittee on Trade, requesting certain information.

If you have any questions concerning the agenda for the March 22, 1977, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Access to documents to be considered by the Commission at the meeting is provided for by access to the public files of the Commission, or when such documents are not in such files, as provided for in Subpart C of the Commission's rules (19 C.F.R. 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with 19 C.F.R. 201.38(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c) (2) and (6), on the authority of 19 U.S.C. 1335, and in conformity with 19 C.F.R. 201.36(b) (2) and (6), Commissioners Parker, Moore, Bedell, and Ablondi voted to hold the portion of the March 21, 1977, meeting with respect to the selection of personnel under reorganization (agenda item No. 7) in closed session. Commissioners Minchew and Leonard voted against closing this portion to the public.

A majority of the entire membership of the Commission felt that this portion of the meeting should be closed to the public since: (1) the discussion would only concern internal personnel practice and procedures; and (2) the information discussed in such portion would be likely to disclose information of a personal nature which could constitute a clearly unwarranted invasion of personal privacy.

Those persons expected to be present at this closed portion, and their corresponding affiliations, are listed as follows:

Daniel Minchew, Chairman.
Joseph O. Parker, Vice Chairman.
Will E. Leonard, Commissioner.
George M. Moore, Commissioner.
Catherine Bedell, Commissioner.
Italo H. Ablondi, Commissioner.
Kenneth R. Mason, Secretary.
Jayne L. Silva, Staff Assistant (if Mr. Mason is not available).
E. Bernice Morris, Staff Assistant.
Charles R. Ramsdale, Chief, Personnel Division.
Norma H. Warbis, Personnel Management Specialist (if Mr. Ramsdale is not available).
Bruce N. Hatton, Assistant to Commissioner Leonard.

The General Counsel to the Commission certified that it is his opinion that the Commission's action in closing this portion of its meeting of March 21, 1977, was properly taken by a vote of a majority of the entire membership of the Commission pursuant to 5 U.S.C. 552b(d)(1) and in conformity with 19 C.F.R. 201.36(e). The discussion to be held in closed session is within the specific exemptions of 5 U.S.C. 552b(c) (2) and (6) and 19 C.F.R. 201.36(b) (2) and (6).

By order of the Commission:

Issued: March 11, 1977.

KENNETH R. MASON,
Secretary.

RUSSELL N. SHEWMAKER,
General Counsel.

[FR Doc.77-7799 Filed 3-15-77;8:45 am]

NATIONAL LABOR RELATIONS BOARD

MEETING

The National Labor Relations Board will meet on March 18, 1977, at 2:00 p.m. in the Board conference room, sixth floor, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570. The meeting agenda will consist of consideration of applicants qualified for appointment to administrative law judge. The meeting will be closed to public observation pursuant to the provisions of 5 U.S.C. Section 554(b) (c) (2) (internal personel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

Requests for information concerning this meeting may be made to: John C. Truesdale, Esquire, Executive Secretary, Washington, D.C. 20570, telephone number 202-254-9430.

Dated this 10th day of March 1977, in Washington, D.C.

JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc.77-7650 Filed 3-15-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

STATE SCIENCE, ENGINEERING, AND TECHNOLOGY PROGRAM

Proposed Guidelines and Criteria

Notice is hereby given that the National Science Foundation is proposing the guidelines and criteria set out below to implement the State Science, Engineering, and Technology Program, authorized pursuant to Pub. L. 94-471. The Foundation invites and would appreciate written comments, suggestions, objections concerning the proposed guidelines and criteria from anyone who is interested. Please send such comments to:

Director, Intergovernmental Programs, Division of Intergovernmental Science and Public Technology, National Science Foundation, Washington, D.C. 20550.

The Foundation will consider all comments in formulating its final guidelines and criteria only if the comments are received on or before April 15, 1977. The comments received will be available for public inspection at the above address between the hours of 9:30 a.m. and 4:00 p.m., Monday through Firday (except holidays) until thirty days after the promulgation of the final guidelines and criteria.

In accordance with the provisions of OMB A-85 (revised) these proposed guidelines and criteria also have been made available to the Advisory Commission on Intergovernmental Relations for coordination with State and local government associations.

It is intended that the effective date of these guidelines and criteria will be the date of the promulgation of the final guidelines and criteria in the FEDERAL REGISTER or the date of the issuance by the Foundation of a Program Announcement on the State Science, Engineering, and Technology Program, whichever comes first.

The Text of Proposed Guidelines and Criteria is as follows:

SECTION 1 *Authority*. The Authority for the State Science, Engineering, and Technology (SSET) Program is The National Science Foundation Authorization Act for Fiscal Year 1977 (Pub. L. 94-471).

SEC. 2. *Purpose*. 2.1 The purpose of the State Science, Engineering, and Technology Program is to provide study grants for States to enable them "* * * to identify and analyze potentially useful ways in which States and local governments can increase their capabilities for using science, engineering, and technology in meeting the needs of their citizens * * *"

2.2 The SSET Program provides an authorization also "* * * for regional or national forums and workshops * * *" and "* * * for evaluation of the Intergovernmental Science Program * * *." These activities are not intended to be covered in these Guidelines.

SEC. 3. *Definitions*—3.1 *Applicant Organization*. The State agency, office, unit, or other organization designated by the Governor or the Legislative Leadership to apply for a study grant under the SSET Program and authorized to act as a grantee under an NSF award.

3.2 *Branch*. The Executive or Legislative Branch only of State Government

3.3 *Legislative Leadership*. The elected leader of each of the two houses of the Legislature of a State acting together; or if unicameral, of the single house.

3.4 *Performing Organization*. The agency, unit, or other organization identified in the application as the organization to carry out the majority or all of the work program activities identified in the application. The Performing Organization may be different from, but must be directly responsible to, the Applicant Organization.

3.5 *State*. Any of the several States of the United States As used herein, the term State may imply either Branch of State government or both according to the context.

SEC. 4. *Program Categories*—4.1 There are two optional Program Categories un-

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der which a Branch of a State may apply

that is specific to the Branch of the

and promulgate the format for submis-

the Governor and the Legislative Leadership.

cant's net income is calculated immediately prior to the determination of

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

der which a Branch of a State may apply for a study grant:

4.11 Development of a New Science, Engineering, and Technology Policy Management Assistance Mechanism (hereinafter called "Development of a Mechanism"); or

4.12 Improvement of an Existing Science, Engineering, and Technology Policy Management Assistance Mechanism (hereinafter called "Improvement of a Mechanism").

4.2 The choice of the Program Category option rests with the Applicant Organization and shall be so designated in the application.

4.3 The Program Category option, "Development of a Mechanism," is intended for Branches of State government where a science, engineering, and technology (SET) policy management assistance mechanism is not currently in existence, either in the development and testing stage or fully institutionalized with State resources.

4.4 The Program Category option, "Improvement of a Mechanism," is intended for Branches of State government where an SET policy management assistance mechanism is currently in existence but which may be strengthened by evaluating the existing mechanism and by considering alternative approaches in the range of issues addressed or in the structure, processes, procedures, and systems employed.

SEC. 5. *Program funding.* 5.1 The maximum Federal share of the cost of the study grant shall be $25,000 per Branch per State.

5.2 Matching funds shall be provided by the State on a two-third-Federal, one-third State basis in support of the total study grant effort.

5.3 At the option of the State, the required matching funds can be in the form of cash, or equivalent services and support, or a combination of the two.

5.4 Under the Program Category, "Improvement of a Mechanism," it is intended that the existing level of effort of State funds shall be maintained.

SEC. 6. *Designation of applicant organization.* 6.1 One application per Branch per State only may be submitted.

6.2 In the Executive Branch, the Governor shall designate the Applicant Organization.

6.3 In the Legislative Branch, the Legislative Leadership of both houses collectively shall designate the Applicant Organization (except for a unicameral Legislature wherein the Leadership of the single house shall so designate).

6.4 Joint proposals covering both Executive and Legislative Branches are permitted and, in such an instance both the Governor and the Legislative Leadership jointly shall designate the Applicant Organization.

SEC. 7. *Guidelines for submission*—7.1 *Abstract.* A concise abstract of about 200–250 words shall be provided clearly summarizing the Background Material section below and the proposed Work Program Activities.

7.2 *Project objective.* A concisely stated project objective shall be provided that is specific to the Branch of the State making the application and that is based on the objectives of the SSET Program as stated by Congress.

7.3 *Background material.* For the Program Category "Improvement of a Mechanism" only, a generalized description shall be provided of the existing SET policy management assistance mechanism of the Branch of the State.

7.4 *Work program activities.* A description of the work program activities to be undertaken under the study grant shall be provided, which will provide a plan and a program consistent with the needs and opportunities of the State and with the objectives of the SSET Program.

7.5 *Applicant organization.* The roles and responsibilities of the Applicant Organization and of the Performing Organization, if different, shall be described briefly and a graphic table of the location of the Organization(s) showing the relationship to the Governor or Legislative Leadership shall be provided.

7.6 *Performing personnel.* Qualifications shall be provided of the project director, project manager (if different), and senior policy and scientific staff proposed to be performing project work activities.

7.7 *Budget.* A detailed budget shall be provided showing costs for personnel, other direct costs, and indirect costs as well as items to be supported with Federal grant monies and with State matching funds.

7.8 *Endorsement.* A letter of endorsement of the application shall be provided from the Governor or Legislative Leadership.

SEC. 8. *Report.* 8.1 The Work Program Activities shall be designed and undertaken to produce a plan and program that will be incorporated in a Report.

8.2 The Report shall contain (1) the assessment of the advisability of developing or improving the policy formulation process in the Branch of the State for using the resources and methods of the scientific, engineering, and technology resource community in resolving critical and complex policy issues; (2) the description of the mechanism (structure, process, procedure), proposed to link the policy formulation process to science, engineering, and technological resources within and external to State government; and (3) the outline of the approach proposed to be employed in identifying priorities for policy research and analysis, whether reactive or anticipatory.

8.3 The Report shall be submitted to the Governor or Legislative Leadership of the Branch of the State for review in order that consideration will be given by such leadership to implementation of the plan and program contained therein as part of the policy formulation process of that Branch.

8.4 The Report shall be submitted to the Foundation, in order to meet the Congressional intent of "* * * evaluation by the Foundation and by the Office of Science and Technology Policy in the Executive Office of the President."

SEC. 9 *Format requirements.* The National Science Foundation shall develop and promulgate the format for submission requirements (such as forms and number of copies) as well as the earliest and latest dates, if any, for receipt of applications. In any event, however, at least sixty calendar days will be permitted between the promulgation of format requirements pursuant to these guidelines and the first closing date for applications.

SEC. 10. *Criteria for approval.* 10.1 In addition to the formatting requirements as may be promulgated pursuant to Section 9 above, all of the following requirements must be met before an award can be made under the SSET Program.

10.11 Applicant Organization is designated by the Governor or Legislative Leadership as appropriate.

10.12 Program Category is designated.

10.13 Abstract is provided.

10.14 Background material is provided on the existing SET policy management assistance mechanism, for the Program Category "Improvement of a Mechanism" only.

10.15 Work program activities are provided.

10.16 Report to be submitted as a final product is clearly defined.

10.17 Review of report by the Governor or the Legislative Leadership is provided.

10.18 Applicant Organization is related to the policy process of the Executive or Legislative Branch, as appropriate.

10.19 Performing personnel at the senior level are identified and biographic information on them is provided.

10.20 Proposed project period is specified.

10.21 Budget costs to be supported by Federal funds as well as to be borne by the State are identified.

10.2 In the event all of the above mentioned requirements are not met, the Applicant Organization shall be notified of the deficiencies of the submission and shall be given no less than sixty and no more than ninety calendar days to provide such additional information in such format as may be required to rectify such deficiencies.

SEC. 11. *Award notification.* 11.1 Notification instrument is an award letter.

11.2 No costs, reimbursable under the award or allowable as the required match, may be incurred prior to the date of the award letter.

SEC. 12. *Limitations.* Awards for study grants under the SSET Program are not a commitment that the Federal government will provide funds for the implementation of the plans and programs that result from these study grants.

SEC. 13. *Supplementary materials.* The National Science Foundation will provide selected background materials on Science Policy Management Assistance Mechanisms in the Executive and Legislative Branches of State government, in order to assist States both in the development of their applications and in the Work Program activities to be undertaken as part of the Study Grants. This background material will be issued along with the direct dispatch of the Program Announcement on the SSET Program to the Governor and the Legislative Leadership.

ALFRED J. EGGERS, JR.,
Assistant Director for Research Applications.

MARCH 9, 1977.

[FR Doc.77-7727 Filed 3-15-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[812-4076]

ANCHOR DAILY INCOME FUND, INC.

Application of Act for Exemption

Notice is hereby given that Anchor Daily Income Fund, Inc. ("Applicant"), Westminster at Parker, Elizabeth, New Jersey 07207, a Maryland corporation registered under the Investment Company Act of 1940 ("Act") as an open-end diversified management investment company, has filed on January 17, 1977 an application pursuant to Section 6(c) of the Act for an exemption from the provisions of Section 19(b) of the Act and Rule 19b-1 thereunder to allow it to distribute long-term capital gains more often than once every twelve months. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant states that its investment objective is to generate as high a rate of current income as is consistent with low capital risk, which it seeks to achieve by investing exclusively in money market instruments, principally consisting of Treasury bills and notes and other United States Government obligations, bank certificates of deposit and commercial paper.

Applicant further states that it is designed to operate with a constant net asset value for each share. Applicant represents that each day Applicant is open for business all of Applicant's net income is declared as a dividend to shareholders of record at the close of business the preceding day, and that dividends are payable on the last business day of each calendar month in the form of additional shares at the net asset value per share at the close of business that day, or in cash at the option of the shareholder. It further represents that upon the withdrawal of the entire amount in any shareholder's account during the month, dividends declared but not yet paid to that account are paid at the same time and in the same manner as his final withdrawal; and that monthly, each shareholder receives a summary of his account, including information as to the dividends paid.

Applicant states that net income for dividend purposes, includes accrued interest and original issue and market discount earned since the last evaluation, plus or minus any short-term gains or losses on the sales of portfolio securities during the period, less Applicant's estimated expenses for the period. Applicant's net income is calculated immediately prior to the determination of Applicant's net asset value.

Applicant states that securities for which market quotations are readily available are valued at the mean between the most recent bid and asked prices or yield equivalent as obtained from one or more market makers for such securities and all other securities and assets are valued at values deemed best to reflect their fair value as determined in good faith by or under the supervision of officers of Applicant specifically so authorized by its Board of Directors.

Section 19(b) of the Act provides that it shall be unlawful in contravention of such rules, regulations, or orders as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors for any registered investment company to distribute long-term capital gains, as defined in the Internal Revenue Code of 1954, more often than once every twelve months.

Rule 19b-1 thereunder states in part that no regulated investment company shall distribute more than one capital gain dividend, as defined in Section 852 (b)(3)(C) of the Code, with respect to any one taxable year of the company.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 1, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-7701 Filed 3-15-77;8:45 am]

[811-2261]

ANCHOR RESERVE FUND, INC.

Filing of Application for an Order Declaring That Company Has Ceased To Be an Investment Company

Notice is hereby given that Anchor Reserve Fund, Inc. ("Applicant"), Westminster at Parker, Elizabeth, New Jersey 07207, registered as an open-end diversified management investment company under the Investment Company Act of 1940 ("Act"), filed an application on January 17, 1977 pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant was organized as a Delaware corporation on December 14, 1971, and registered under the Act by filing a Form N-8A Notification of Registration on January 10, 1972.

Applicant represents that pursuant to an Agreement and Plan of Reorganization approved by its shareholders on December 30, 1976, all of Applicant's assets and liabilities were acquired effective December 31, 1976, by Anchor Daily Income Fund, Inc. ("ADIF"), a Maryland corporation registered as an investment company under the Act. It is asserted that since that date Applicant has had no assets and has engaged in no activities other than those incidental to its winding up and dissolution.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than April 1, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed con-

temporaneously with the request. As provided by Rule 0-5 of the Rules and Regu-

[File No. 1-7343]

BUNNINGTON CORP.

tinue its finding pursuant to paragraph (g) of Rules 8c-1 and 15c2-1 under the

published in the FEDERAL REGISTER (42 FR 6865, February 4, 1977), and the

[File No. SR-NESDTOO-76-1]

NEW ENGLAND SECURITIES DEPOSITORY

temporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–7702 Filed 3–15–77;8:45 am]

[File No. 1–5337]

BUNDY CORP.

Application To Withdraw From Listing and Registration

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company's common stock ($5.00 par value) has become listed and registered on the New York Stock Exchange, Inc., and the Company has concluded that the advantage to be derived from dual listing on both exchanges is outweighed by the costs that would be incurred and the possible fragmentation of the trading market.

The American Stock Exchange, Inc. has not objected to this application.

Any interested person may, on or before March 31, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–7703 Filed 3–15–77;8:45 am]

[File No. 1–7343]

BUNNINGTON CORP.

Application To Withdraw From Listing and Registration

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company (Common stock, $0.10 par value) has concluded that the potential benefits to be derived from rendering this security eligible only for trading over-the-counter (i.e., an increase in the number of market-makers and greater certainty that price quotation for this security will appear in the Over the Counter List of certain publications) outweigh the benefits that have been derived from listing. The Boston Stock Exchange has not objected to this application, and the Company will be subject to Section 12(g) reporting requirements.

Any interested person may, on or before April 4, 1977, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–7704 Filed 3–15–77;8:45 am]

[SR–DTC–76–3]

DEPOSITORY TRUST CO.

Order Apporving Rule Change Submitted Relating to the Establishment of the Fast Automated Securities Transfer ("FAST") Program

On April 12, 1976, the Depository Trust Company ("DTC") " Water Street, New York, N.Y. 10041, submitted, pursuant to Rule 19b–4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change, which would provide for the retention by transfer agents as custodians, pursuant to agreements between transfer agents and DTC, of securities held on deposit in DTC. In connection with the proposed rule change, DTC requested that the Commission continue its finding pursuant to paragraph (g) of Rules 8c–1 and 15c2–1 under the Act that the agreements, provisions and safeguards established by DTC are adequate for the protection of investors.

In accordance with Section 19(b) of the Act and Rule 19b–4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (41 FR 17823, April 28, 1976), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 12353, April 20, 1976. A number of letters of comment were received and they were considered by the Commission when making its determination.

In addition, in letters dated December 8 and 17, 1976, January 21, 1977, March 3 and 4, 1977, which were incorporated in the proposed rule change and included in the public file, DTC provided additional information and made certain representations in connection with the FAST program.

The Commission has reviewed the submission and finds pursuant to paragraph (g) of Rules 8c–1 and 15c2–1 under the Act that the agreements, provisions, and safeguards established by DTC are adequate for the protection of investors. The Commission finds also that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and, in particular, with the requirements of Section 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR–DTC–76–3 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–7705 Filed 3–15–77;8:45 am]

[SR–DTC–77–1]

DEPOSITORY TRUST CO.

Order Approving Rule Change Submitted Relating to Repayment Options on Certain Debt Securities

On January 6, 1977, the Depository Trust Company ("DTC"), 55 Water Street, New York, New York 10041, submitted, pursuant to Rule 19b–4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change which would enable DTC participants to exercise repayment options on certain debt securities without withdrawing them from DTC.

In accordance with Section 19(b) of the Act and Rule 19b–4 thereunder, notice of the proposed rule change was

published in the FEDERAL REGISTER (42 FR 6865, February 4, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34–13215, January 28, 1977. No letters of comment were received.

The Commission has reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR–DTC–77–1 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77–7706 Filed 3–15–77;8:45 am]

MIDWEST STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Bally Manufacturing Corporation, common stock, 66⅔ par value, File No. 7–4995.

Upon receipt of a request, on or before March 23, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–7709 Filed 3–15–77;8:45 am]

[File No. SR–NESDTCO–76–1]

NEW ENGLAND SECURITIES DEPOSITORY TRUST CO.

Order Approving Rule Change Relating to Collateralizing Options Transactions

On December 9, 1976, the New England Securities Depository Trust Company ("NESDTCO"), 53 State Street, Boston, Massachusetts 02109, submitted, pursuant to Rule 19b–4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change which would establish, and set fees for, a program permitting deposits of securities with NESDTCO to collateralize options transactions with The Options Clearing Corporation.

In accordance with Section 19(b) of the Act and Rule 19b–4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 917, January 4, 1977), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 34–13096, December 22, 1976. No letters of comment were received.

By letters dated February 2, 8, 25 and 28, 1977, NESDTCO provided additional information and made certain representations in connection with NESDTCO's program.

The Commission has reviewed the proposed rule change and representations with respect thereto made by NESDTCO and finds that the rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR–NESDTCO–76–1 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77–7707 Filed 3–15–77;8:45 am]

[SR–NYSE–77–3]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

On February 1, 1977, the New York Stock Exchange, Inc. (the "NYSE"), 11 Wall Street, New York, New York 10005 filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] copies of a proposed rule change concerning the requirements applicable to issuers with stock listed on the exchange. The proposed rule change would require each domestic company with common stock listed on the NYSE,

[1] 15 U.S.C. 78s(b).
[2] 17 CFR 240.19b–4.

as a condition of initial and continued listing of its securities on the NYSE, to

Furthermore, the NYSE has a general policy calling for timely and adequate

committees independent of management developed in the wake of recent revela-

ticipation by those potentially affected and resulted in a number of refinements

be deemed to place them at any inappropriate competitive disadvantage."

icut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Com-

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as a condition of initial and continued listing of its securities on the NYSE, to establish not later than June 30, 1978,[3] and maintain thereafter, an audit committee comprised solely of directors independent of management and free from any relationship that, in the opinion of the board of directors, would interfere with the exercise of independent judgment as a committee member.[4]

Notice of the proposed rule change, together with its terms of substance, was given in Securities Exchange Act Release No. 13245 (Feb. 4, 1977) and in the FEDERAL REGISTER (42 FR 8737 (Feb. 11, 1977)). Because of the substantial interest, evidenced by the more than sixty letters of comment included in the NYSE's rule filing, it seems clear that the NYSE independent audit committee proposal has been perceived as raising important issues. Accordingly, the Commission believes it appropriate to express at some length the reasons supporting its determination to approve the proposal under the Act.

The NYSE listing agreement, which has traditionally been a principal means by which the NYSE enforces its listing standards, was first adopted by the NYSE in 1899. That agreement, and the policies set forth in the NYSE Company Manual, have developed gradually over the years and impose a wide variety of requirements for initial and continued listing.[5] Those policies frequently require a listed company to take action which it would not otherwise be required to take and prevent a listed company from taking action which would otherwise be permitted.[6]

Furthermore, the NYSE has a general policy calling for timely and adequate disclosure of corporate affairs[7] and has in the past urged listed companies to consider the desirability of having at least two outside directors whose functions on the board would include giving particular attention to full disclosure of corporate affairs.[8]

Consistent with its overall approach to listing policies, the NYSE, and the accounting profession, major corporations and others, including the Commission, have for many years recognized the advantages of corporate audit committees.[9] Stronger support for audit committees independent of management developed in the wake of recent revelations of questionable and illegal corporate payments.[10] In particular, the Commission has urged strengthening the independence and vitality of corporate boards of directors and has suggested that, at least initially, those principles could be implemented by amending the listing requirements of the NYSE and other self-regulatory organizations, rather than by direct Commission action.[11] Following preliminary study by the NYSE staff, a proposal was submitted to the NYSE Board of Directors in November 1976, which approved it in principle and circulated it for comment by senior executives of listed companies and other interested parties. The NYSE's thorough procedure elicited broad par-

[3] The rule change provides that domestic companies with common stock currently listed need not comply with the proposal's requirements until June 30, 1978. Any domestic company not currently listed, however, would be required to comply upon listing.

[4] An audit committee whose composition meets the requirements of the proposed rule change is sometimes referred to below as "an independent audit committee." The filing included supplementary material setting forth the NYSE's views on the application of the rule change in certain circumstances.

[5] For a general description of the development of the NYSE listing agreement, see NYSE Company Manual at A-27 et seq.

[6] For example, since 1926, the NYSE has refused to list non-voting common stock, and currently it will delist the voting common stock of a company which creates a class of non-voting common stock or fails to solicit proxies for meetings of its stockholders. Id., at xxi, A-280, A-134. As a matter of policy, the NYSE refuses to list a class of stock whose voting rights are subject to unusual restrictions. Id., at A-280 et seq. Certain redemption schemes are prohibited. Id., at A-30. In authorizing additional shares distributed by a stock dividend, a company can be required to transfer from earned surplus to permanent capitalization an amount equal to the fair value of such shares. Id., at A-235. A company whose board of directors is divided into more than three classes may not list its shares; if the board is divided into classes, they should be of approximately equal size and tenure, and the directors' terms of office should not exceed three years. Id., at A-280. Since 1940, listed preferred stock must have certain minimum provisions enabling holders to obtain board representation in the event of dividend default, and must be protected against compulsory change in rights and preferences. Id., at 281, 282. Shareholder approval is a prerequisite to listing securities to be used in connection with options or other remuneration plans for directors, officers, or employees; actions resulting in a change in the control of a company; and certain acquisitions. Id., at A-283, 284. Where stockholder approval is needed for listing any additional securities, over 50 percent of all securities entitled to vote must be represented in the vote, and approval must be by a majority of votes cast. Id., at A-284, 285. Before a class of securities eligible for continued listing may be delisted, the proposed withdrawal must have been approved by a substantial percentage of the outstanding shares (generally 66⅔ percent) and not opposed by a substantial number of individual holders (generally 10 percent of the individual holders). Id., at A-294.1, 294.2. The NYSE Company Manual's rules (and their administration) are, of course, required to be consistent with Section 6 of the Act, 15 U.S.C. 78f. Though, in limited cases, regulatory reasons may suggest different requirements for different classes of listed companies, any such measures are required to be developed and administered in a manner which accords fair procedures and is not unfairly discriminatory. See Sections 6(b)(5) and 6(b)(7) of the Act, 15 U.S.C. 78f(b)(5), 78f(b)(7). See also Securities Exchange Act Release No. 12994, n. 11 (Nov. 18, 1976), 41 FR 51804 (Nov. 24, 1976).

[7] NYSE Company Manual at A-18 et seq. For example, see the NYSE listing agreement, Part III, ¶4.

[8] NYSE Company Manual at B-23.

[9] The NYSE first suggested the concept of an audit committee in 1940, and in recent years has strongly recommended that each listed company form an audit committee preferably composed exclusively of outside directors. See NYSE, "Recommendations and Comments on Financial Reporting to Shareholders and Related Matters," 6 (December 1973). By 1973, about 90 percent of companies listed on the NYSE had appointed an audit committee, and another 13 percent had developed plans to do so. NYSE, "Response to the White Paper Questionnaire Concerning Recommendations and Comments on Financial Reporting to Shareholders and Related Matters," 3 (1973).

The Commission has also urged the formation of audit committee, composed of nonofficer directors, to participate in arranging corporate audits. Accounting Series Release No. 19 (Dec. 5, 1940). In 1972, the Commission specifically endorsed the establishment by all publicly held companies of audit committees composed of outside directors. Securities Exchange Act Release No. 9548 (Mar. 23, 1972), 37 FR 6850 (Apr. 5, 1972). In 1974, in amending its rules to require disclosure in proxy statements of the existence or absence of audit committees, the Commission reiterated its support. Securities Exchange Act Release No. 11147 (Dec. 20, 1974), 40 FR 1012 (Jan. 6, 1975). The Commission most recently supported the idea in its "Report to the President on Regulatory Reform" (October 5, 1976).

The Executive Committee of the American Institute of Certified Public Accountants (the "AICPA") has made a similar recommendation to publicly-owned corporations generally. See AICPA "Executive Committee Statement on Audit Committees of Board of Directors" (July 1967). More recently, the Auditing Standards Executive Committee of the AICPA stated, among other things, that in certain instances involving illegal acts or errors or irregularities, matters coming to the auditor's attention should be brought to the attention of the board of directors or the audit committee for appropriate action. AICPA, "Statement on Auditing Standard No. 16" and "Statement on Auditing Standards No. 17" (January 1977).

[10] Undisclosed questionable or illegal corporate payments—both domestic and foreign—can cause serious breaches in both the operation of the securities laws' system of corporate disclosure and, correspondingly, in public confidence in the integrity of many public companies. The Commission has proposed legislation to enhance the accuracy of corporate books and records and the reliability of the audit process, both of which are fundamental to the system of corporate disclosure. See generally "Report of the Securities and Exchange Commission on Questionable and Illegal Corporate Payments and Practices," submitted to the Senate Committee on Banking, Housing and Urban Affairs (May 12, 1976). In recently publishing for comment rulemaking proposals with similar objectives, the Commission stated its belief that Congressional action would be the most desirable means of demonstrating a national commitment to ending the types of corporate misconduct uncovered, and ending defiance of the recordkeeping systems on which disclosure under the securities laws is premised. Securities Exchange Act Release No. 13185 (Jan. 19, 1977), 42 FR 4854 (Jan. 26, 1977).

[11] In a letter dated May 11, 1976, from Chairman Hills to NYSE Chairman Batten, the NYSE was urged to consider that suggestion.

ticipation by those potentially affected and resulted in a number of refinements in the proposal finally submitted to the Commission.

The NYSE's revision of its listing policies appears to be an appropriate way to implement, at this time, an independent audit committee requirement. Exchange rules are, among other things, required to be designed to remove impediments to and perfect the mechanisms of a free and open market, to prevent fraudulent and manipulative acts and practices and, in general, to protect investors and the public interest.[12] In many cases of questionable corporate payments, there were elaborate efforts by corporate executives, including some directors, to conceal their activities from auditors, as well as from other company officials and members of the board, thereby undermining purposes of the Act with which exchanges (and other securities markets) are directly concerned. While independent audit committees will not eliminate all instances of abuse, their establishments can be an important step in a broader effort to remedy the problems of corporate accountability and disclosure that have been uncovered.[13]

Exchange listing policies, which govern the rights of issuers to obtain access to exchange securities markets, like other exchange rules have always been subject to Commission oversight.[14] At the same time, they have usually been developed by the exchange with the benefit of informal reaction by those who will be affected. As indicated above,[15] the NYSE in particular has developed listing policies to promote stronger standards of corporate governance.[16] While the current proposal applies only to domestic companies, their compliance should not be deemed to place them at any inappropriate competitive disadvantage.[17]

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular the requirements of Section 6 and the rules and regulations thereunder. The Commission also finds that good cause exists for approving the NYSE's proposed rule change prior to the thirtieth day after the date of publication of notice of the filing thereof, in view of the extensive comment procedures adopted by the NYSE in this matter.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-7708 Filed 3-15-77;8:45 am]

[70-5734]

NORTHEAST UTILITIES ET AL.

Post-Effective Amendment Regarding Financing of Nuclear Fuel Cores

Notice is hereby given that Northeast Utilities ("Northeast"), P.O. Box 270, Hartford, Connecticut 06101, a registered holding company; The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company, public-utility subsidiary companies of Northeast; and Northeast Nuclear Energy Company ("NNEC"), a subsidiary company of Northeast formerly known as The Millstone Point Company, have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the post-effective amendment to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By orders in this proceeding dated October 21, 1975, January 16, 1976, and October 22, 1976 (HCAR Nos. 19218, 19346, and 19726), the Commission authorized NNEC to engage in certain financing of its nuclear fuel cores and related transactions, including the issuance and sale through March 31, 1977, of up to $25,000,000 of short-term notes outstanding at any one time to a group of banks.

NNEC now requests an extension of time through March 31, 1978, and proposes to issue and sell notes to banks as previously authorized in the maximum aggregate amount of $25,000,000 outstanding at any one time as a continuing component of the nuclear fuel financing program.

NNEC had $23,000,000 of notes to banks outstanding at January 31, 1977. The proposed bank borrowings will be repaid in part from the proceeds of any future long-term nuclear financing; however, short-term borrowings will remain as a continuing part of the fuel financing program.

Although no formal commitments for NNEC's bank borrowings to be effected in continuance of the financing program have been made with any bank, NNEC expects that a portion of such borrowings will be effected from the following banks in the following maximum amounts:

	Maximum amount
The Connecticut Bank & Trust Co., Hartford, Conn.	$10,000,000
Hartford National Bank & Trust Co., Hartford, Conn.	7,000,000
The First National Bank of Boston, Mass.	7,000,000
The Colonial Bank & Trust Co., Waterbury, Conn.	3,000,000
Connecticut National Bank, Bridgeport, Conn.	2,500,000
Total	29,500,000

The bank notes will each be dated the date of issue, will have a maximum maturity date of nine months with right of renewal, will bear interest at the prime rate in effect from time to time at the lending bank adjusted as of the date of any change in such rate, will be subject to prepayment at any time at NNEC's option without premium, and will be subordinated to any secured notes issued by NNEC. Compensating balances of up 10% of the credit line plus 10%

[12] Section 6(b)(5) of the Act, 15 U.S.C. 78f(b)(5).

[13] The importance of maintaining the truly independent character of the boards of directors of larger corporations has been illustrated by the Commission's recent experience with questionable payments problems. Significantly, in some of these cases no audit committee existed. In the others, with a single exception, audit committees either were operating only during a portion of time when the questionable payments were alleged to have been made or were not wholly independent of management. See "Report of the Securities and Exchange Commission on Questionable and Illegal Corporate Payments and Practices," supra n. 10.

[14] Formerly the Act dealt separately with listing standards. Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3) (1970) (amended 1975), gave the Commission authority to alter or supplement the rules of an exchange in respect of the listing or striking from listing of any security. As amended in 1975, Section 19 requires approval of new rules, which must conform to the requirements of the Act (and in particular the stanards now articulated in Section 6(b)), as well as authorizing revision of existing exchange rules.

[15] See n. 6, supra.

[16] In other instances as well, the Commission when appropriate looks to the private sector for leadership in establishing and improving standards. See Accounting Series Release No. 150 (Dec. 20, 1973), 39 FR 1260 (Jan. 7, 1974). The private sector can draw on resources of practical experience and expertise in formulating workable solutions. The NYSE, with ten public members on its board of twenty directors, is in a position to respond to practical considerations of corporate procedures and compliance as well as considerations of the public interest.

[17] It would, however, be helpful to have the NYSE's reasons for confining its proposal to domestic companies in order to assist the Commission in considering the appropriateness of extending the concept to foreign issuers. While the NYSE has previously provided special listing standards for foreign issuers in lieu of standards applicable to domestic issuers, it has articualted supporting reasons. See SR-NYSE-76-22, approved in Securities Exchange Act Release No. 12471 (May 20, 1976), 41 FR 21854 (May 28, 1976). In this case, however, its has not done so. At the same time, the current NYSE proposal is basically procedural, pertaining to governance of public corporations, and does not affect basic disclosure norms, which, in any event, have traditionally reflected adaptations for foreign issuers. Compare Form 10-K with Form 20-K, 17 CFR 249.310 and 320. Nevertheless the degree of adaptation fairly to be tolerated is a subject which deserves continuing attention. For example, it is currently proposed to bring the continuous disclosure provisions under the Act for foreign issuers (i.e., Form 20-K) more closely into line with those applicable to most domestic issuers (i.e., Form 10-K). See Securities Exchange Act Release No. 13056 (Dec. 10, 1976), 41 FR 55012 (Dec. 16, 1976). At the same time, the Commission notes that the NYSE's audit committee policy applies different standards for determining the independence of legal counsel, on the one hand, and the independence of other persons with relationships to the company, on the other. The Commission recommends that, in monitoring the implementation of its policy, the NYSE give further consideration to the need for assuring the independence of all members of the audit committee.

of the average borrowings are required by the above banks. The effective interest

Upon receipt of a request, on or before March 23, 1977 from any interested per-

furnished to the Commission, unless it

28, 1977, submit written comments on the proposed company to the Deputy

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Business Administration, 211 Main Street—4th Floor, San Francisco, California, in the District Director's Confer-

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of the average borrowings are required by the above banks. The effective interest rate for the borrowings would be 7.81% based on a 6.25% prime rate.

It is stated that expenses in the amount of $500 will be incurred in connection with the proposed transactions and that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than March 24, 1977, request in writing a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc.77-7710 Filed 3-15-77;8:45 am]

PHILADELPHIA STOCK EXCHANGE, INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

The Grand Union Co., common stock, $5 par value.	File No. 7-4923.
Bally Manufacturing Corp., common stock, $0.66⅔ par value.	File No. 7-4934.

Upon receipt of a request, on or before March 23, 1977 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549 not later than the date specified. If no one requests a hearing with respect to any particular applications, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc.77-7711 Filed 3-15-77;8:45 am]

[File No. 1-6817]

SHEARSON HAYDEN STONE INC.

Application To Withdraw From Listing and Registration

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company's common stock ($0.10 par value) has become listed and registered on the New York Stock Exchange, Inc., and the Company has concluded that the advantage to be derived from dual listing on both exchanges is outweighed by the costs that would be incurred and the possible fragmentation of the trading market.

The American Stock Exchange, Inc. has not objected to this application, and this security remains listed and registered on the Pacific Stock Exchange, Inc.

Any interested person may, on or before March 31, 1977 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc.77-7713 Filed 3-15-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-0117]

COASTAL CAPITAL CO.

Application for a License as Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA), pursuant to § 107.102 of the regulations (13 CFR 107.102 (1976)), under the name of Coastal Capital Company, 100 St. Joseph Street, Room 204, Mobile, Alabama 36602 for a license to operate in the State of Alabama as an SBIC, under the provisions of the Small Business Investment Act of 1958 (Act), as amended, (15 U.S.C. 661 et seq.).

The proposed officers and directors and major stockholders are as follows:

Chris C. Delaney, President, Director, 1005 Government Street, Mobile, Alabama 36604.
Thomas H. Davis, Jr., Vice President, Director, 324 Dalewood Drive, Mobile, Alabama 36606.
James Henry Gambill, Treasurer, Director, 4637 Channing Court, Mobile, Alabama 36608.
Verla Ledlow, Secretary, Director, Route 1, Box 139 L, Loxley, Alabama 36551.
John R. Dyas, Director, 2558 S. Durham Drive, Mobile, Alabama 36607.
Arthur C. Tonsmeire, Jr., Director, Route 3, Box 1054, Theodore, Alabama 36582.
William M. Lyon, Director, 120 West Pinebrook Drive, Mobile, Alabama 36608.
First Mobile Service Corporation, 100 percent.

The stock will all be owned by First Mobile Service Corporation, a wholly owned service corporation subsidiary of First Southern Federal Savings and Loan Association, which is a Federally chartered savings and loan association having no beneficial holders of 10 or more percent of its voting securities.

The applicant will begin operations with a capitalization of $500,000, which will be a source of equity capital and long-term loans for qualified small business concerns in the building industry and related fields. In addition to financial assistance, the applicant will provide consulting services to its clients.

The applicant will conduct its operations principally in the State of Alabama and in other areas wherever the need may arise.

Matters involved in SBA's consideration of the application include the general reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and regulations.

Notice is further given that any interested person may not later than March

28, 1977, submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59,011, Small Business Investment Companies.)

Dated: March 7, 1977.

Peter F. McNeish,
Deputy Associate Administrator for Investment.

[FR Doc.77-7665 Filed 3-15-77;8:45 am]

[License No. 04/04-0125]

DESOTO CAPITAL CORP.

Filing of Application for a License as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA), pursuant to § 107.102 of the regulations (13 CFR 107.102 (1976)), under the name of De Sota Capital Corporation, Pine Creek Commercial Plaza, 9991 Old Highway 78, Suite 10, Olive Branch, Mississippi 38654, for a License to operate in the State of Mississippi as an SBIC, under the provisions of the Small Business Investment Act of 1958 (Act), as amended, (15 U.S.C. 661 et seq.).

The proposed officers and directors and major stockholders are as follows:

William B. Rudner, President, Director, 2195 Poplar Avenue, P.H. No. 2, Memphis, Tennessee 38104, 100 percent.
Walter A. Barrett, Secretary, Treasurer, 3715 Northwood Drive, Memphis, Tennessee 38111.
L. Quincy McPherson, Director, 441 No. 2 N. Highland, Memphis, Tennessee 38122.
J. Vincent Ciroli, Jr., Director, 5301 Moss Hollow Cove, Memphis, Tennessee 38128.

The Applicant will begin operations with a capitalization of $500,000, which will be a source of equity capital and long-term loans for qualified small business concerns in diversified industries. In addition to financial assistance the Applicant will provide consulting services to its clients.

The Applicant will conduct its operations principally in the State of Mississippi and in other areas wherever the need may arise.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any interested persons may, not later than April 15, 1977, submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 7, 1977.

Peter F. McNeish,
Deputy Associate Administrator for Investment.

[FR Doc.77-7667 Filed 3-15-77;8:45 am]

[License No. 02/02-0151]

FAIRFIELD EQUITY CORP.

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Fairfield Equity Corporation (Fairfield), 200 East 42nd Street, New York, New York 10017, a Federal Licensee under the Small Business Investment Act of 1958, as amended, (the Act), has filed an application pursuant to § 107.1004 of the Regulations govering small business investment companies (13 CFR 107.1004 (1977)), for an exemption from the provisions of the conflict of interest regulation.

The exemption, if granted, will permit Fairfield to provide a $200,000 financing to W. H. Allen Publishers, Inc. (Allen), 730 Fifth Avenue, New York, New York 10019. The loan would be for five years at the rate of 12 percent per annum and would be fully secured by a guarantee from Allen's parent company. The financing will permit Allen to acquire a publishing business which would otherwise be liquidated with a loss of the business and employment for 60 to 70 people.

Messrs. Matthew Berdon and Ralph Fields, Fairfield's principal shareholders are officers and directors of Allen and shareholders and directors of its parent company. Accordingly, Messrs. Berdon and Fields are considered Allen's associates and the loan transaction will require an exemption pursuant to § 107.1004(b)(1) of the regulations.

Notice is hereby given that any person may on or before April 15, 1977 submit, in writing, relevant comments on the proposed transaction to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in New York City.

Dated: March 9, 1977.

Peter F. McNeish,
Deputy Associate Administrator for Investment.

[FR Doc.77-7664 Filed 3-15-77;8:45 am]

SAN FRANCISCO DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration San Francisco District Advisory Council will hold a public meeting at 10:00 a.m., Thursday, March 31, 1977, at the Small Business Administration, 211 Main Street—4th Floor, San Francisco, California, in the District Director's Conference Room, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Richard Segrave-Daly at the above address, 415-556-7490.

Dated: March 10, 1977.

Anthony S. Stasio,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-7668 Filed 3-15-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

GOODWILL INDUSTRIES OF AMERICA, INC.

Register of Voluntary Foreign Aid Agencies

In accordance with the regulations of the Agency for International Development concerning Registration of Agencies for Voluntary Foreign Aid (A.I.D. Regulation 3) 22 CFR Part 203, promulgated pursuant to section 621 of the Foreign Assistance Act of 1961, as amended, notice is hereby given that registration with the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development has been approved for the following agency:

Goodwill Industries of America, Inc., 9200 Wisconsin Avenue, Washington, D.C. 20014.

Dated: March 3, 1977.

Allan R. Furman,
Acting Assistant Administrator for Population and Humanitarian Assistance.

[FR Doc.77-7646 Filed 3-15-77;8:45 am]

HOUSING GUARANTY PROGRAM FOR THE REPUBLIC OF PARAGUAY

Information for Investors

The Agency for International Development (A.I.D.) has advised the Saving & Loan Bank of Paraguay (the Borrower) that upon execution by an eligible U.S. investor acceptable to A.I.D. of an agreement to loan the Borrower an amount not to exceed $4,000,000 and subject to the satisfaction of certain further terms and conditions by the Borrower, A.I.D. will guaranty repayment to the investor of the principal and interest on such loan. The guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority, contained in section 222 of the Foreign Assistance Act of 1961, as amended (the Act). Proceeds of the loan will be used to finance housing for lower income families.

Eligible investors interested in extending a guaranteed loan to the Borrower should communicate promptly with:

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Dr. Eligio T. Franco, President, Banco Na-

ing these closed sessions, documents

tions; and to determine whether an ad-

are being, or likely to be, sold at less than

nually, a notice of the existence and

System location:

Dr. Eligio T. Franco, President, Banco Nacional de Ahorro y Prestamo para la Vivienda, Asuncion, Paraguay, Cable address: BNAP.

Investors eligible to receive a guaranty are those specified in section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic corporations, partnerships or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for a guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate to be established by A.I.D.

The Borrower projects a schedule of approximately equal annual disbursements covering a maximum of a three year period from the date of the loan agreement and prospective Investors should consider this in proposing a guaranteed loan to the Borrower. In addition, the Investor must provide for the servicing of his loan, i.e., recordation and disposition of loan payments received from the Borrower.

Information as to eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 625, SA-12, Washington, D.C. 20523.

This notice is not an offer by A.I.D. or by the Borrower. The Borrower and not A.I.D. will select a lender and negotiate the terms of the proposed loan.

Dated: March 3, 1977.

PETER M. KIMM,
Director of Housing, Agency for International Development.

[FR Doc.77-7647 Filed 3-15-77;8:45 am]

Office of the Secretary

[Public Notice CM-7/40]

ADVISORY COMMITTEE ON THE LAW OF THE SEA

Partially Closed Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in closed session on Thursday, April 28 and in both open and closed sessions on Friday, April 29, 1977. The open session of the meeting will convene on Friday at 2:00 p.m. in the Loy Henderson Conference Room (formerly the International Conference Room), U.S. Department of State, 21st and C Street NW., Washington, D.C.

The purpose of the closed meeting is to discuss specific conference issues and formal planning and policy preparations for the U.S. Delegation to the 1977 New York Session of the Third United Nations Conference on the Law of the Sea. During these closed sessions, documents classified under the provisions of Executive Order 11652 will be discussed.

These documents relate to the issues which the United States will be negotiating at the Conference. The documents are exempt under 5 U.S.C. 552(b)(1), and are required to be withheld from disclosure in the public interest.

The issues cover such subjects as freedom of navigation on the high seas and in international straits, the nature of a deep seabeds mining regime and proposed deep seabed mining legislation, the breadth of the continental margin, the juridical status of the economic zone, fisheries, vessel source pollution, scientific research, dispute settlement, and other related topics involving U.S. national security matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize the chances of obtaining a timely and satisfactory Law of the Sea Treaty.

The open session of the Advisory Committee meeting will discuss all principal agenda issues to be considered during the Third United Nations Conference on the Law of the Sea, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines and other public groups. As such, it will comprehensively review the proposals which will come before the Conference.

At the open session, beginning at 2:00 p.m. on April 28, the general public attending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State Department is controlled, members of the public who wish to attend the open session should contact Mr. Peter Bernhardt by April 25 and provide their name and affiliation to facilitate their attendance. Mr. Bernhardt's telephone number is (area code 202) 632-9616.

Dated: March 3, 1977.

FRANK HODSOLL,
Director, Office of the Law of the Sea Negotiations.

[FR Doc.77-7645 Filed 3-15-77;8:45 am]

TENNESSEE VALLEY AUTHORITY

BOARD OF DIRECTORS

Public Meeting

The Board of Directors of the Tennessee Valley Authority will hold a meeting beginning at 10:30 a.m., Wednesday, March 16, 1977, in Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee 37902, to complete the Board's quarterly review of current and anticipated conditions and costs affecting TVA's power operations and the adequacy of revenues to meet the requirements of the TVA Act and the tests and provisions of its bond resolutions; and to determine whether an adjustment of the rates and charges for the sale of electric power will be necessary during the quarter beginning April 1, 1977.

All of this meeting shall be open to public observation.

Mr. John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-343-4537.

Dated: March 7, 1977.

LYNN SEBER,
General Manager.

[FR Doc.77-7648 Filed 3-15-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition No. HS-77-3]

GREEN MOUNTAIN RAILROAD CO.

Petition for Exemption From Hours of Service Act

The Green Mountain Railroad Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61-64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-77-3, Room 5101, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before April 29, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C. on March 10, 1977.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.

[FR Doc.77-7800 Filed 3-15-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

ICE HOCKEY STICKS FROM FINLAND

Antidumping Proceeding Notice

AGENCY: United States Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether or not imports of ice hockey sticks from Finland are being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market.

EFFECTIVE DATE: This investigation will begin on March 16, 1977.

FOR FURTHER INFORMATION:

John Kugelman, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229. (202-566-5492.)

SUPPLEMENTARY INFORMATION: On March 2, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from The Northland Group, Inc., a domestic producer of the subject merchandise, indicating a possibility that ice hockey sticks from Finland are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. This evidence indicates that ice hockey sticks from Finland are underselling the domestic product in the United States as a result of possible less-than-fair value prices. Furthermore, the petitioner has experienced a decline in sales, excess plant capacity, and financial losses, stemming in part from possible sales at less than fair value.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for doing so, the United States Custom Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

JOHN H. HARPER,
Acting Assistant Secretary of the Treasury.

MARCH 10, 1977.

[FR Doc.77-7729 Filed 3-15-77;8:45 am]

VETERANS ADMINISTRATION

PRIVACY ACT OF 1974

Revised System Notice

The Privacy Act of 1974 (5 U.S.C. 552a (e)(4)) requires that all agencies publish in the FEDERAL REGISTER, at least annually, a notice of the existence and character of their systems of records. Accordingly, the Veterans Administration published a notice of its inventory of personal records on September 7, 1976 (41 FR 37778). The proposed descriptions of records were adopted without change by notice published on page 48200 of the FEDERAL REGISTER of November 2, 1976.

Notice is hereby given that the Veterans Administration is changing the system of records entitled, "Veterans, Survivor and Dependent Automated Prescription Processing Records—VA" (56-VA119). The changes are designed to produce automated prescription and mailing labels, prescription work lists, refill and renewal notices, and visual as well as hardcopy prints of patient medication profiles, thus providing improved service in dispensing legally prescribed pharmaceuticals to the veteran outpatient population. An individual's well-being will be significantly enhanced through the pharmaceutical dispensing control measures incorporated in the system; specifically, duplicate prescriptions will be detected and the frequency of refills will be monitored, enabling professional medical and para-medical personnel to readily recognize situations or conditions which could have an adverse effect on individuals.

Data which could be used to make decisions on the rights, benefits, or entitlement of individuals are not to be included in the altered system. The rights, benefits, or entitlements of individuals for outpatient pharmacy services will have been determined prior to the individual's inclusion in the system.

The changes for the system in no way alter the purposes for which the information is used; therefore, the requirement to give 30 days prior notice of such change does not apply.

The first listed routine use statement for the system, which appeared on September 7, 1976 (41 FR 37750) has been deleted from this revised notice because it does not accurately describe how information in the system is used or disclosed under the Privacy Act.

A "Report on New System" and an advance copy of the revised system notice were sent, on December 21, 1976, to the Speaker of the House, the President of the Senate, the Privacy Protection Study Commission, and the Office of Management and Budget, as required by the provisions of 5 U.S.C. 552a(o) of the Privacy Act and guidelines issued by the Office of Management and Budget (40 FR 45877), October 3, 1975.

Notice is hereby given that this description is effective the date of final approval.

Approved: March 10, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

56VA119

System name:

Veterans, Survivor and Dependent Automated Prescription Processing Records—VA

System location:

Records are maintained at the Los Angeles, California area VA health care facilities (Wadsworth, Brentwood, and LA Outpatient Clinic); San Diego, California; Chicago (West Side), Illinois; Atlanta (Decatur), Georgia; Dallas, Texas; Minneapolis, Minnesota; and the VA data processing centers at St. Paul, Minnesota and Los Angeles, California. Locations planned as additions during Fiscal Year 1977 are Long Beach and Sepulveda, California. Address locations are listed in VA Appendix 1, "Addresses of Veterans Administration Facilities" published September 7, 1976 (41 FR 37718).

Categories of individuals covered by the system:

Veterans, survivors and dependents of certain veterans receiving medications from pharmacies at selected VA health care facilities.

Categories of records in the system:

Personal identification information; medication profiles, including prescription, recipient, ordering physician, etc.

Authority for maintenance of the system:

Title 38, United States Code, Chapter 17, Subchapter II, Sections 610, 611, and 612.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or carged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic tape and disk.

Retrievability:

Indexed by name and social security number.

Safeguards:

Access to the authorized VA Data Processing Centers (St. Paul, Minnesota, and Los Angeles, California) is restricted to authorized VA employees and authorized representatives of vendors.

Access to the computer rooms within the data processing centers is further restricted to especially authorized VA

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employees and vendor personnel. Protection is provided by alarm systems as well as guard service.

Data in the system may be accessed from authorized remote terminals via a telecommunications network maintained by the VA on dedicated lines. The system recognizes authorized users by a health care facility identifier transmitted as a part of each data message.

The areas housing the telecommunications terminals will be secured by double locked doors. During those periods when pharmacy personnel are not present in the areas housing the terminal devices, only the Professional Staff Officer-of-the-Day and the Security Officer (at certain facilities) will possess keys or combination for gaining access through the double door security. Access to VA working and storage areas is restricted to VA employees on a "need to know" basis. Generally VA file areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service.

Retention and disposal:

Automated records are maintained on disk in an active status for nine (9) months and in a history status on tape for twenty-seven (27) months before disposal. Disposal is accomplished by erasure.

System manager(s) and address:

Director, Pharmacy Service (119), VA Central Office, 810 Vermont Avenue NW., Washington, D.C. 20420.

Notification procedure:

An individual seeking information concerning the existence or contents of a medical record pertaining to himself/herself must submit a written request or apply in person to the nearest VA health care facility. All inquiries must reasonably identify the system of records involved. Inquiries should include the individual's full name, social security number, approximate date(s) of medical care, and the location of the health care facility involved.

Record access procedures:

Veterans, beneficiaries, service personnel or duly authorized representatives seeking information regarding access to and contesting of "Veterans, Survivor and Dependent Automated Prescription Processing Records—VA" may contact the Director (119), Veterans Administration health care facility.

Contesting record procedures:

(See Notification Procedure above.)

Records source categories:

Patient's Medical Prescription (part of the Patient Consolidated Medical Record portion of the VA Medical Records System.)

[FR Doc.77-7787 Filed 3-15-77;8:45 am]

WAGE COMMITTEE

Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, notice is hereby given that meetings of the Veterans Administration Wage Committee will be held on:

THURSDAY, APRIL 7, 1977
THURSDAY, APRIL 21, 1977

The meetings will convene at 2:30 p.m. and will be held in Room 1144C, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC.

The Committee's primary responsibility is to consider and make recommendations to the Chief Medical Director, Department of Medicine and Surgery, on all matters involved in the development and authorization of wage rate schedules for Federal Wage System (blue-collar) employees.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, the Federal Advisory Committee Act, as amended by Public Law 94-409, meetings may be closed to the public when they are concerned with matters listed under section 552b, Title 5, United States Code. Two of the matters so listed are those related solely to the internal personnel rules and practices of an agency (5 USC 552b(c)(2)), and those involving trade secrets and commercial or financial information obtained from a person and privileged or confidential (5 USC 552b(c)(4)).

Accordingly, I hereby determine that all portions of the meetings cited above will be closed to the public because the matters considered are related to the internal rules and practices of the Veterans Administration (5 USC 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 USC 552b(c)(4)).

However, members of the public who wish to do so are invited to submit material in writing to the Chairman regarding matters believed to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue NW., Washington, D.C.

Dated: March 10, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-7788 Filed 3-15-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 347]

ASSIGNMENT OF HEARINGS

MARCH 11, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135989 Sub 2, Coast Express, Inc., now assigned April 12, 1977 at Los Angeles, Calif., will be held in Room 8041, 300 N. Los Angeles, St.

MC 142405, Nevada Bulk Corp., now assigned April 13, 1977, at Las Vegas, Nev., will be held in the Court room 2, Federal Bldg. 300 Las Vegas Blvd., South.

MC 119789 Sub 298, Caravan Refrigerated Cargo, Inc., and MC 30844 Sub 573, Kroblin Refrigerated Xpress, Inc., now assigned April 20, 1977, at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut St.

MC 113651 Sub 197, Indiana Refrigerated Lines, Inc., now assigned April 21, 1977, at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut St.

MC 118535 Sub 91, Tiona Truck Line, Inc., now assigned April 19, 1977, at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut Street.

MC 66886 Sub 51, Belger Cartage Service, Inc., now assigned April 18, 1977, at Kansas City, Mo., will be held in Room 609 Federal Office Bldg., 911 Walnut St.

MC 53965 Sub 118, Graves Truck Line, Inc., now assigned April 12, 1977, at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut St.

MC-F12943, J. B. Hunt Transport, Inc.-Purchase-Bredehoeft Produce Co., Inc., now assigned April 13, 1977, at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut St.

MC-F-12797, Santini Bros., Inc., dba the Seven Brothers & The Seven Santini Brothers-Purchase Trans Universal Van Lines, Inc., and MC 52022 Sub 10, Santini Bros. Inc., & The Seven Santini Bros., now assigned April 4, 1977, at New York, N.Y., will be held in Room E 2222, Federal Bldg., 26 Federal Plaza.

MC-F-13004, Behnken Truck Service, Inc.—Control—Kreider Truck Service, Inc., and FD 28361 Behnken Truck Service Inc., now assigned April 4, 1977, at St. Louis, Mo., will be held in the Court Room 3, 2nd Floor, 1114 Market St.

MC 138627 Sub 12, Smithway Market St.

MC 112822 Sub 407, Bray Lines, Inc., now assigned March 29, 1977 at St. Louis, Mo., will be held in Court Room 3, 2nd Floor 1114 Market Street.

MC 127198 Sub 2, C. F. Hearn, dba C. F. Hearn Trucking Co., now assigned April 18, 1977, at Raleigh, N.C., will be held in Room 225, Federal Bldg., 310 Newbern Avenue.

MC 130409, Charlotte Visitours, Inc., now assigned April 18, 1977, at Charlotte, N.C., will be held in the Library Auditorium, 310 N. Tryon St.

MC 4405 Sub 537, Dealers Transit, Inc. now assigned May 9, 1977 at Dallas, Texas is cancelled and reassigned for March 30, 1977 (1 day) at Kansas City, Missouri and will be held in Room 609, Federal Office Building, 911 Walnut Street.

No. 36420, Joint-Line Routing of Coal, CR and LN RR's now being assigned the 29th day of March, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C. for prehearing conference.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7768 Filed 3-15-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MARCH 4, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before March 28, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC-35890 (Sub-No. E18), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St., S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Indiana on and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Indiana Highway 3, thence along Indiana Highway 3 to junction Indiana Highway 22, thence along Indiana Highway 22 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Indiana-Illinois State line, to points in Arizona on and west of Mohave, Yavapai, Maricopa, Pinal, Pima and Santa Cruz counties. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC-35890 (Sub-No. E19), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Indiana on and south of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 24/52 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Interstate Highway 74, thence along Interstate Highway 74 to the Indiana-Ohio State line, to points in Nevada. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC-35890 (Sub-No. E20), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC. Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from Chicago, Ill., to points in Delaware. The purpose of this filing is to eliminate the gateway of Warren County, Pa.

No. MC-35890 (Sub-No. E21), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St., S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Ohio (except Williams, Fulton, Henry and Defiance Counties), on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC-35890 (Sub-No. E22), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Ohio, on the one hand, and, on the other, points in Wisconsin on and north of Vernon, Sauk, Marquette, Green Lake, Winnebago, Calumet and Manitowoc Counties. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC-35890 (Sub-No. E23) filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Illinois on and south of a line beginning at the Illinois-Iowa State line, and extending along Interstate Highway 80, thence along Interstate Highway 80 to the Illinois-Indiana State line, and on and north of a line beginning at the Illinois-Missouri State line, and extendng along U.S. Highway 36, thence along U.S. Highway 36 to the Illinois-Indiana State line, on the one hand, and, on the other, points in Maryland. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC-35890 (Sub-No. E24), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Ohio, except points in Butler, Warren, Clinton, Highland, Brown, Clermont and Hamilton Counties, to points in Colorado, on and west of a line beginning at the Colorado-Wyoming State line, and extending along U.S. Highway 87, thence along U.S. Highway 87 to the Colorado-New Mexico State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC-35890 (Sub-No. 25), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Lake, Porter, LaPorte, St. Joseph, Marshall, Starke, and Elkhard Counties, Ind., to points in James City, York, Surrey, Southampton, Isle of Wight and Nansemond Counties, and the cities of Norfolk, Portsmouth, Chesapeake, and Virginia Beach, Va. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC-35890 (Sub-No. E26), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Indiana on and north of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 24, thence along U.S. Highway 24 to the junction of Indiana Highway 124, thence along Indiana Highway 124 to the Indiana-Ohio State line, to points in Arizona. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC-35890 (Sub-No. E27), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC.,

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Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Indiana on and north of a line beginning at the Indiana-Illinois State line and extending along Interstate Highway 70 to junction U.S. Highway 46, thence along U.S. Highway 46 to the Indiana-Ohio State line, to points in California. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC–35890 (Sub-No. E28), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Posey, Vanderburg, Gibson, Warrick and Spencer Counties, Ind., to points in Sonoma, Napa, Sacramento, Amador, Calaveras, Stanislaus, Santa Clara, Santa Cruz, San Mateo, Alameda, Centra Costa, Marin and Salano Counties, Calif. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC–35890 (Sub-No. E29), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from St. Joseph and Elkhart Counties, Ind., to points in Canadian, Oklahoma, Cleveland, McClain, Addo and Grady Counties, Okla. The purpose of this filing is to eleminate the gateway of Grand Rapids, Mich.

No. MC–35890 (Sub-No. E30), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Indiana on and east of a line beginning at the Indiana-Michigan State line, and extending along U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Indiana-Ohio State line, to points in Texas on and west of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 75, thence along U.S. Highway 75 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC–35890 (Sub-No. E31), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Indiana on and north of a line beginning at the Indiana-Ohio State line, and extending along U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in New Mexico on and west of a line beginning at the New Mexico-Colorado State line, and extending along Interstate Highway 25, thence along Interstate Highway 25, to the New Mexico-Texas State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC–35890 (Sub-No. E32), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Ohio to points in Arizona. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC–35890 (Sub-No. E33), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from East Greenville, Pa., to points in Oklahoma, Texas, Kansas, and those points in Arkansas on and west of a line beginning at the Missouri-Arkansas State line, and extending along U.S. Highway 65, thence along U.S. Highway 65 to the Arkansas-Louisiana State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC–35890 (Sub-No. E34), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from those points in Ohio on and north of a line beginning at the West Virginia-Ohio State line, and extending along Interstate Highway 70, thence along Interstate Highway 70 to the Ohio-Indiana State line, to those points in Iowa on and west of a line beginning at the Iowa-Minnesota State line, and extending along U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC–38590 (Sub-No. E35), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in York County, Pa., to points in Kansas, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC–35890 (Sub-No. E36), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St., S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Maryland to points in Kansas. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC–35890 (Sub-No. E37), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St., S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Minnesota to points in West Virginia. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC–35890 (Sub-No. E38), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St., S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Indiana on and west of a line beginning at the Indiana-Michigan State line and extending along U.S. Highway 31, thence along U.S. Highway 31 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction Interstate Highway 74, thence west along Interstate Highway 74 to the Indiana-Illinois State line, to points in New Jersey, those points in New York, on and east of a line beginning at the St. Lawrence River and extending along New York Highway 12, thence along New York Highway 12 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Interstate Highway 87, thence along Interstate Highway 87 to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC–35890 (Sub-No. E39), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St., S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from those points in Ohio on and north of a line beginning at the West Virginia-Ohio State line, and extending along Interstate Highway 70, thence along Interstate Highway 70 to the Ohio-Indiana State line, to points in Iowa on and west of a line beginning at the Iowa-Minnesota State line, and extending along U.S. Highway 71, thence along U.S. Highway 71 to the Iowa-Missouri State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

Ware, Lanier, Lowndes, Brooks, Thomas, Grady and Decatur Counties. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E40), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Warren County, Pa., to points in Missouri on and north and west of a line beginning at the Missouri-Illinois State line at the Mississippi River, and extending along Missouri Highway 47 to junction Missouri Highway 21, thence south along Missouri Highway 21 to Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E41), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in New Jersey on and east and north of a line beginning at the Pennsylvania-New Jersey State line and extending south along U.S. Highway 206 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction New Jersey Highway 571, thence along New Jersey Highway 571 to junction New Jersey Highway 33, thence east along New Jersey Highway 33 to the Atlantic Ocean, on the one hand, and, on the other, to those points in Missouri on and north and west of a line beginning at the Illinois-Missouri State line at the Mississippi River, and extending west along Missouri Highway 47 to junction Interstate Highway 70, thence west along Interstate Highway 70 to junction Missouri Highway 19, thence south along Missouri Highway 19 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Missouri Highway 42, thence southwest along Missouri Highway 42 to junction Missouri Highway 17, thence along Missouri Highway 17 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction Missouri Highway 19, thence south along Missouri Highway 19 to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateways of Warren County, Pa., and Grand Rapids, Mich.

No. MC 35890 (Sub-No. E42), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St., S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *New furniture*, between points in New Jersey, on the one hand, and, on the other, those points in Missouri on and north and west of a line beginning at the Missouri-Illinois State line at the Mississippi River, and extending south along U.S. Highway 61 to junction Missouri Highway 19, thence along Missouri Highway 19 to junction Missouri Highway 22, thence west along Missouri Highway 22 to junction U.S. Highway 124, thence along U.S. Highway 124 to junction Missouri Highway 5, thence south along Missouri Highway 5 to junction U. S. Highway 54 thence along U.S. Highway 54 to Missouri-Kansas State line. The purpose of this filing is to eliminate the gateways of Warren County, Pa., and Grand Rapids, Mich.

No. MC 108207 (Sub-No. E29) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issues of April 21, 1976, May 19, 1976, and republished, as corrected, this issue. Applicant: FROZEN FOOD EXPRESS, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat by-products*, in vehicles equipped with mechanical refrigeration, from Wichita, Kans., to points in New Mexico, points in Arizona, and points in California on, south, and east of a line beginning at the Pacific Ocean and extending along California Highway 17 to junction U.S. Highway 101, thence along U.S. Highway 101 to junction California Highway 152, thence along California Highway 152 to junction California Highway 99, thence along California Highway 99 to junction California Highway 58, thence along California Highway 58 to junction Interstate Highway 15, thence along Interstate Highway 15 to the California-Nevada State line, (2) *meats, meat products and meat by-products* (except fresh meats), in vehicles equipped with mechanical refrigeration, (a) from points in Kansas on and east of U.S. Highway 183 (except those in the Kansas City, Kans. Commercial zone), points in Nebraska on and east of U.S. Highway 183, and Iowa (except Ottumwa), to points in New Mexico and Arizona and (b) from points in Kansas on and east of U.S. Highway 183 (except those in the Kansas City, Kans. Commercial Zone), points in Nebraska on and each of U.S. Highway 81, and Iowa (except Ottumwa), to points in California on, south, and east of a line beginning at the Pacific Ocean and extending along California Highway 17 to junction U.S. Highway 101, thence along U.S. 101 to Junction California Highway 152, thence along California Highway 152 to junction California 99, thence along California Highway 99 to junction California Highway 58, thence along California 58 to junction Interstate Highway 15, thence along Interstate Highway 15 to the California-Nevada State line.

(3) *Fresh meats*, in vehicles equipped with mechanical refrigeration, (a) from points in Kansas on and east of U.S. Highway 183 (except those in the Kansas City Commercial zone located in Kansas and except Coffeyville, Wichita, and Topeka, Kans.), points in Nebraska on and east of U.S. Highway 183, and points in Iowa, to points in New Mexico and Arizona and (b) from points in Kansas on and east of U.S. Highway 183 (except those in the Kansas City Commercial zone located in Kansas and except Coffeyville, Wichita, and Topeka, Kans.), points in Nebraska on and east of U.S. Highway 183, and points in Iowa, to points in New Mexico and Arizona and (b) from points in Kansas on and east of U.S. Highway 183 (except those in the Kansas City Commercial zone located in Kansas and except Coffeyville, Wichita, and Topeka, Kans.), points in Nebraska on and east of U.S. Highway 81, and points in Iowa, to points in California on, south, and east of a line beginning at the Pacific Ocean and extending along California Highway 17 to junction U.S. Highway 101, thence along U.S. Highway 101 to junction California Highway 152, thence along California Highway 152 to junction California Highway 99, thence along California Highway 99 to junction California Highway 58, thence along California Highway 58 to junction Interstate Highway 15, thence along Interstate Highway 15 to the California-Nevada State line, and:

(5) *frozen foods*, in vehicles equipped with mechanical refrigeration, (a) from points in Kansas on and east of U.S. Highway 183, points in Iowa, and points in Nebraska on and east of U.S. Highway 183, to points in New Mexico and Arizona and (b) from points in Kansas on and east of U.S. Highway 183, points in Iowa, and points in Nebraska on and east of U.S. Highway 81, to points in California on, south, and east of a line beginning at the Pacific Ocean and extending along California Highway 17 to junction U.S. Highway 101, thence along U.S. Highway 101 to junction California Highway 152, thence along California Highway 152 to junction California Highway 99, tence along California Highway 99 to junction California Highway 58, thence along California Highway 58 to junction Interstate Highway 15 to the California-Nevada State line. The purpose of this filing is to eliminate the *gateways* of those points in Texas on, east, and south of a line beginning at the Oklahoma-Texas State line and extending over U.S. Highway 281 to San Antonio, Tex., thence west along U.S. Highway 90 to Del Rio, Tex., and thence south over U.S. Highway 277 to the International Boundary line between the United States and Mexico for the Kansas City, Kans. operations and points in Texas for the remaining operations described above.

NOTE: The purpose of this correction is to state the correct Sub-No. E29 publication.

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NOTE: The purpose of this correction is to state the correct Sub-No. E29 publication.

No. MC 115840 (Sub-No. E109), filed Febuary 24, 1977. Applicant: COLONIAL FAST FREIGHT INCORPORATED, P.O. Box 168, Concord, Tenn. 37922. Applicant's representative: Chester G. Groebel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm tractors and related machinery, tools, parts, and supplies*, moving in connection therewith (restricted to commodities which are transported on trailers), from New Orleans, La., to points in Arkansas, Florida, Georgia, Kentucky, North Carolina, South Carolina, Oklahoma, Tennessee, and points in Texas on, south, west and north of a line beginning at the Gulf of Mexico at or near Port Aransas and extending along Texas Highway 361 to junction U.S. Highway 181, thence along U.S. Highway 181 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Interstate Highway 45, thence along Interstate Highway 45 to junction Texas Highway 31, thence along Texas Highway 31 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Texas-Louisiana State line. The purpose of this filing is to eliminate the gateway of Poplarville, Miss.

No. MC 117574 (Sub-No. E48), filed June 6, 1975. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr., (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dredges, component parts of dredges, and dredging equipment*, which is also *industrial machinery and attachments, accessories and parts of such industrial machinery*, (1) between all points in Delaware; points in Caroline, Cecil, Harford, Kent, Queen Annes, and Talbot Counties, Md.; points in New Jersey; the New York Counties southeast of and including Dutchess and Oregan County; points in Pennsylvania on and south of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 209, thence along to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 283, thence along Interstate Highway 283 to junction Pennsylvania Legislative Route 767, thence along Pennsylvania Legislative Route 767 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Maryland-Pennsylvania State line, on the one hand, and, on the other (a) points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming; (b) points in Alabama on and west of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 11 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction U.S. Highway 29, thence along U.S. Highway 29 to the Alabama-Florida State line; (c) points in Florida on and west of U.S. Highway 29; (d) points in Maryland on and west of U.S. Highway 220; (e) points in Ohio on and west and south of U.S. Highway 422.

(f) Points in Pennsylvania on and west of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 422 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 641, thence along Pennsylvania Highway 641 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Maryland-Pennsylvania State line; (g) points in Tennessee on and west of a line beginning at the Tennessee-Virginia State line and extending along U.S. Highway 11W to junction U.S. Highway 11, thence along U.S. Highway 11 to the Tennessee-Georgia State line; (h) points in Virginia on and west of a line beginning at the Virginia-West Virginia State line and extending along Virginia Highway 16, to junction U.S. Highway 19, thence along U.S. Highway 19 to the Tennessee-Virginia State line; (i) points in West Virginia on and west of a line beginning at the Maryland-West Virginia State line and extending along U.S. Highway 220, to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 119, thence along U.S. Highway 119 to the West Virginia-Virginia State line; (2) between points in Columbia, Delaware, Greene, Orange, Sullivan and Ulster counties, N.Y., on the one hand, and, on the other, (a) points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin, Wyoming.

(b) Points in Delaware on and south of a line beginning at the Delaware-Maryland State line and extending along Delaware Highway 404 to junction Delaware Highway 18, thence along Delaware Highway 18 to the Atlantic Ocean; (c) points in Maryland on and south and west of a line beginning at the Pennsylvania-Maryland State line and extending along Interstate Highway 83 to junction Interstate Highway 695, junction Maryland Highway 2, thence thence along Interstate Highway 695 to along Maryland Highway 2 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 301, thence along U.S. Highway 301 to the Virginia-Maryland State line; (d) points in Michigan on and south of a line beginning at the Michigan-Indiana State line and extending along U.S. Highway 12 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Michigan-Ohio State line; (e) points in Ohio on and south and west of a line beginning at the Michigan-Ohio State line and extending along Ohio Highway 109, to junction Ohio Highway 18, thence along Ohio Highway 18 to junction Ohio Highway 100, thence along Ohio Highway 100 to junction Ohio Highway 95, thence along Ohio Highway 95 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Ohio Highway 83, thence along Ohio Highway 83 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Ohio-Pennsylvania State line; (f) points in Pennsylvania on and west of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 22 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Interstate Highway 83, thence along Interstate Highway 83 to the Pennsylvania-Maryland State line.

(g) Points in Virginia on and west of Virginia Highway 36 and U.S. Highway 301; (3) between points in Maryland on and east of Frederick and Montgomery Counties, on the one hand, and, on the other, (a) points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Texas, Utah, Vermont, Washington, Wisconsin, Wyoming, and points in the following states: (b) points in Pennsylvania on and north and west of a line beginning at the Pennsylvania-New Jersey State line and extending along Pennsylvania Highway 132 to junction Interstate Highway 276, thence along Interstate Highway 276 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction Pennsylvania Highway 34, thence along Pennsylvania Highway 34 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Pennsylvania Highway 85, thence along Pennsylvania Highway 85 to junction U.S. Highway 422, thence along U.S. Highway 422 to the Pennsylvania-Ohio State line.

(c) Points in Ohio, on and north and west of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 422 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Interstate Highway 77,

thence along Interstate Highway 77 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Ohio-Kentucky State line; (d) points in Kentucky on and north and west of a line beginning at the Ohio-Kentucky State line and extending along Interstate Highway 75 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Kentucky-Tennessee State line; (e) points in Tennessee on and north and west of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 27 to the Tennessee-Georgia State line; (f) points in Georgia on and south and west of a line beginning at the Tennessee-Georgia State line and extending along U.S. Highway 27 to junction Georgia Highway 3, thence along Georgia Highway 3 to junction U.S. Highway 41 thence along U.S. Highway 41 to junction Georgia Highway 53, thence along Georgia Highway 53 to junction Georgia Highway 15, thence along Georgia Highway 15 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Atlantic Ocean; (g) points in New Jersey on and north and west of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 73, thence along New Jersey Highway 73 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 72, thence along New Jersey Highway 72 to the Atlantic Ocean.

(4) Between points in Florida, on the one hand, and, on the other, (a) points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont; (b) points in Delaware on and north and west of Delaware Highway 8; (c) points in Maryland on and north and east of a line beginning at the Delaware-Maryland State line and extending along Maryland Highway 404 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Maryland-Virginia State line, thence along the Maryland State line to U.S. Highway 220, thence along U.S. Highway 220 to the Maryland-Pennsylvania State line; (d) points in Ohio on and north and east of a line beginning at the Lake Erie and extending along Ohio Highway 14 to junction Ohio Highway 14A, thence along Ohio Highway 14A to junction Ohio Highway 45, thence along Ohio Highway 45 to the Pennsylvania-Ohio State line; (e) points in Pennsylvania on and north and east of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 30 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Pennsylvania-Maryland State line; (f) points in Virginia on and north of U.S. Highway 50; (g) points in West Virginia on and North and east of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 50 to junction U.S. Highway 220, thence along U.S. Highway 220 to the West Virginia-Maryland State line.

(5) Between points in Idaho, Michigan, Minnesota, Montana, North Dakota, Oregon, South Dakota, Washington, Wisconsin and Wyoming; points in Ohio on and north of Interstate Highway 80; on the one hand, and, on the other, (a) points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Vermont; (b) points in Maryland on and east of U.S. Highway 522; (c) points in New York on and east of a line beginning at the international Boundary line between the United States and Canada and extending along Interstate Highway 87 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 17, thence along New York Highway 17 to junctim U.S. Highway 15, thence along U.S. Highway 15 to the New York-Pennsylvania State line; (d) points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along North Carolina Highway 39 to junction U.S. Highway 301, thence along U.S. Highway 301 to junction U.S. Highway 421, thence along U.S. Highway 421 to the Atlantic Ocean; (e) points in Pennsylvania on and east of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 15 to junction U.S. Highway 522, thence along U.S. Highway 522 to the Pennsylvania-Maryland State line; (f) points in Virginia on and east of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 522, to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Virginia Highway 6, thence along Virginia Highway 6 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Virginia-North Carolina State line; (g) points in West Virginia on and east of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 522 to the West Virginia-Maryland State line.

(6) Between points in Maryland on and east of Anne Arundel, Charles and Prince Charles Counties, on the one hand, and, on the other, (a) points in Arizona, Arkansas, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Texas, Utah, Vermont, Washington, Wisconsin, and Wyoming; (b) points in Kentucky on and north and west of a line beginning at the Tennessee-Kentucky State line and extending along U.S. Highway 51 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Kentucky Highway 22, thence along Kentucky Highway 22 to junction Kentucky Highway 19, thence along Kentucky Highway 19 to the Kentucky-Ohio State line; (c) points in Mississippi on and north and west of a line beginning at Gulfport, Miss., at the Gulf of Mexico, and extending along U.S. Highway 49, to junction U.S. Highway 98, thence along U.S. Highway 98 to junction Interstate Highway 55, thence along Interstate Highway 55 to the Mississippi-Tennessee State line; (d) points in New Jersey on and north and west of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 57, thence along New Jersey Highway 57 to junction U.S. Highway 46, thence along U.S. Highway 46 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Hudson River; (e) points in Ohio on and north and west of a line beginning at the Kentucky-Ohio State line and extending along U.S. Highway 62 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Ohio-West Virginia State line.

(f) Points in Pennsylvania on and north and west of a line beginning at the West Virginia-Pennsylvania State line and extending along Interstate Highway 70 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Pennsylvania Highway 28, thence along Pennsylvania Highway 28 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 222, thence along U.S. Highway 222 to junction Pennsylvania Highway 100, thence along Pennsylvania Highway 100 to junction Pennsylvania Highway 212, thence along Pennsylvania Highway 212 to the Pennsylvania-New Jersey State line; (g) points in Tennessee, on and north and west of a line beginning at the Tennessee-Mississippi State line and extending along Interstate Highway 55 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Tennessee-Kentucky State line; (h) points in West Virginia on and north and west of a line beginning at the Ohio-West Virginia State line, and extending along Interstate Highway 70, thence along Interstate Highway 70 to the West Virginia-Pennsylvania State line. (7) Between points in Beauford, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Hampton, Horry, Jasper, and Williamsburg Counties, S.C., on the one hand, and, on the other, points in Connecticut, Maine, Massachusetts, Michigan, New Hampshire, Oregon, Rhode Island, Vermont, Washington, and points in the following described states: (a) points in California on and north of a line beginning at the Nevada-California State line, and extending along Interstate Highway 80 to junction California Highway 20, thence along California Highway 20 to termination at the Pacific Ocean.

(b) Points in Delaware, on and north

City, New Kent, James City, Westmoreland, Northumberland, Essex, Richmond,

tion U.S. Highway 50, thence along U.S. Highway 50 to the Indiana-Ohio State

along Oklahoma Highway 65 to junction Oklahoma Highway 7, thence along Oklahoma Highway 7 to junction U.S. High-

State line at or near Scott City, Mo. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate

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(b) Points in Delaware, on and north of a line beginning at the Delaware-New Jersey State line, and extending along Interstate Highway 95 to the Maryland-Delaware State line; (c) points in Idaho, on and west of a line beginning at the Idaho-Montana State line, and extending along U.S. Highway 191 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 93, thence along U.S. Highway 93 to the Nevada-Idaho State line; (d) points in Maryland on and north of a line beginning at the Delaware-Maryland State line, and extending along Interstate Highway 95, to junction Interstate Highway 695, thence along Interstate Highway 695 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 81, thence along Insterstate Highway 81 to the Pennsylvania-Maryland State line; (e) points in Montana on and north of a line beginning at the International Boundary line between United States and Canada, and extending along Montana Highway 247 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction Interstate Highway 90, thenee along Interstate Highway 90 to the Montana-Idaho State line; (f) points in Nevada on and north and west of a line beginning at the Idaho-Nevada State line, and extending along U.S. Highway 93, thence along U.S. Highway 93 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Interstate Highway 80, thence along Interstate Highway 80 to the California-Nevada State line;

(g) Points in New Jersey on and north of a line beginning at the Cape May, thence along U.S. Highway 9 to junction New Jersey Highway 83, thence along New Jersey Highway 83 to junction New Jersey Highway 47, thence along New Jersey Highway 47 to junction New Jersey Highway 49, thence along New Jersey Highway 49 to junction Interstate Highway 29, thence along Interstate Highway 29 to the Delaware-New Jersey State line; (h) points in Ohio, on and north of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 322 to junction Ohio Highway 11, thence along Ohio Highway 11 to Lake Erie; (i) points in Pennsylvania on and north of a line beginning at the Maryland-Pennsylvania State line, and extending along Interstate Highway 81 to junction Pennsylvania Highway 16, thence along Pennsylvania Highway 16 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Pennsylvania Highway 58, thence along Pennsylvania Highway 58 to the Ohio-Pennsylvania State line. (8) between points in Brunswick, Greensville, Dinwiddie, Nottowa, Amelia, Surry, Sussex, Prince, Southampton, George, Hopewell, Isle of Wright, Nansemond, Norfolk, Chesapeake, York, Hampton, New Port News, King William, Charles City, New Kent, James City, Westmoreland, Northumberland, Essex, Richmond, King and Queen, Gloucester, Lancaster, Middlesex, Mathews, Spotsylvania, Caroline, King George, Louisa, Hanover, Goochland, Henrico, Powhatan, Chesterfield Counties, Va., on the one hand, and, on the other, (a) points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Maine, Maryland, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin and Wyoming.

(b) Points in Arkansas on and north and west of a line beginning at the Arkansas-Missouri State line and extending along U.S. Highway 67 to junction U.S. Highway 70, thence along U.S. Highway 70 to the Oklahoma-Arkansas State line; (c) points in Connecticut on and north and west of a line beginning at the New York-Connecticut State line and extending along U.S. Highway 44 to junction Connecticut Highway 15, thence along Connecticut Highway 15 to the Massachusetts-Connecticut State line; (d) points in Illinois on and north of a line beginning at the Indiana-Illinois State line and extending along Illinois Highway 1, to junction U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 146, thence along Illinois Highway 146 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction Illinois Highway 146, thence along Illinois Highway 146 to the Missouri-Illinois State line; (e) points in Indiana on and north of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 50 to junction Indiana Highway 57, thence along Indiana Highway 57 to junction Indiana Highway 64, thence along Indiana Highway 64 to the Illinois-Indiana State line; (f) points in Massachusetts, on and north and west of a line beginning at the Connecticut-Massachusetts State line and extending along Massachusetts Highway 15, to junction Interstate Highway 90, thence along Interstate Highway 90 to the Atlantic Ocean; (g) points in Missouri, on and north of a line beginning at the Illinois-Missouri State line and extending along Missouri Highway 74, to junction Missouri Highway 25, thence along Missouri Highway 25 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 67, thence along U.S. Highway 67 to the Arkansas-Missouri State line.

(h) Points in New York, on and north of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 52 to junction New York Highway 209, thence along New York Highway 209 to junction New York Highway 44, thence along New York Highway 44 to Connecticut-New York State line; (i) points in Ohio, on and north of a line beginning at the West Virginia-Ohio State line and extending along Interstate Highway 70 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Indiana-Ohio State line; (j) points in Oklahoma on and north and west of a line beginning at the Oklahoma-Arkansas State line and extending along U.S. Highway 70 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Texas-Oklahoma State line; (k) points in Pennsylvania on and north of a line beginning at the Ohio-Pennsylvania State line and extending along Pennsylvania Highway 844, to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Interstate Highway 81, thence along Interstate Highway 81 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 652, thence along Pennsylvania Highway 652 to the Pennsylvania-New York State line.

(1) Points in West Virginia, on and north of a line beginning at the Ohio-West Virginia State line and extending along West Virginia Highway 2, to junction U.S. Highway 27, thence along U.S. Highway 27 to the Pennsylvania-West Virginia State line; (m) points in Texas on and west of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 271 to junction Texas Highway 24, thence along Texas Highway 24 to junction Interstate Highway 30, thence along Interstate Highway 30 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction U.S. Highway 183, thenee along U.S. Highway 183 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of Carlisle, Pa.

No. MC129068 (Sub-No. E2), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma on, south, and west of a line beginning at the Texas-Oklahoma State line and extending along Interstate Highway 40 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction Oklahoma Highway 152, thence along Oklahoma Highway 152 to junction Oklahoma Highway 6, thence along Oklahoma Highway 6 to junction Oklahoma Highway 55, thence along Oklahoma Highway 55 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Oklahoma Highway 9, thence along Oklahoma Highway 9 to junction Oklahoma Highway 54, thence along Oklahoma Highway 54 to junction Oklahoma Highway 19, thence along Oklahoma Highway 19 to junction U.S. Highway 277, thence along U.S. Highway 277 to junction Oklahoma Highway 17, thence along Oklahoma Highway 17 to junction Oklahoma Highway 65, thence

along Oklahoma Highway 65 to junction Oklahoma Highway 7, thence along Oklahoma Highway 7 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Oklahoma-Texas State line, to points in Missouri. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC 129068 (Sub-No. E3), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma on and west of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 287 to the Oklahoma-Colorado State line, to points in Missouri on and east of a line beginning at the Missouri-Arkansas State line and extending along Missouri Highway 19 to junction Missouri Highway 106, thence along Missouri Highway 106 to junction Missouri Highway 21, thence along Missouri Highway 21 to junction Missouri Highway 72, thence along Missouri Highway 72 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Missouri Highway 32, thence along Missouri Highway 32 to the Missouri-Illinois State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC 129068 (Sub-No. E4), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway, service, from points in Oklahoma bounded by a line beginning at the Oklahoma-Texas State line and extending along Interstate Highway 35 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Oklahoma-Texas State line, to points in Missouri on and north of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 50 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Interstate Highway 44, thence along Interstate Highway 44 to junction Missouri Highway 8, thence along Missouri Highway 8 to junction Missouri Highway 19, thence along Missouri Highway 19 to junction Missouri Highway 49, thence along Missouri Highway 49 to junction Missouri Highway 32, thence along Missouri Highway 32 to junction Missouri Highway 21, thence along Missouri Highway 21 to junction Missouri Highway 72, thence along Missouri Highway 72 to junction U.S. Highway 61, thence along U.S. Highway 61 to the Missouri-Illinois State line at or near Scott City, Mo. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC 129068 (Sub-No. E5), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma bounded by a line beginning at the Texas-Oklahoma State line and extending along Interstate Highway 40 to junction Oklahoma Highway 152, thence along Oklahoma Highway 152 to junction Oklahoma Highway 6 to junction Oklahoma Highway 55, thence along Oklahoma Highway 55 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Oklahoma Highway 152, thence along Oklahoma Highway 152 to junction Oklahoma Highway 58, thence along Oklahoma Highway 58 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Oklahoma Highway 47, thence along Oklahoma Highway 47 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction Oklahoma Highway 33, thence along Oklahoma Highway 33 to the Texas-Oklahoma State line, to points in Missouri on and east of a line beginning at the Arkansas-Missouri State line and extending along Missouri Highway 17 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Missouri Highway 95, thence along Missouri Highway 95 to junction Missouri Highway 32, thence along Missouri Highway 32 to junction Missouri Highway 5, thence along Missouri Highway 5 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Missouri Highway 22, thence along Missouri Highway 22 to junction Missouri Highway 151, thence along Missouri Highway 151 to junction Missouri Highway 156, thence along Missouri Highway 156 to junction Missouri Highway "D", thence north along Missouri Highway "D" to La Belle, to junction Missouri Highway "K", thence along Missouri Highway "K" to junction Missouri Highway "E", thence east on Missouri Highway "E" to junction Missouri Highway "M", thence north along Missouri Highway "M" to junction Missouri Highway "D", thence east along Missouri Highway "D" to junction Missouri Highway 81, thence north along Missouri Highway 81 to the Iowa-Missouri State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC 129068 (Sub-No. E6), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobiled homes*, in secondary movements, in truckaway service, from points in Oklahoma bounded by a line beginning at Chickasha, Okla. and extending south along U.S. Highway 81 to junction Oklahoma Highway 7, thence west along Oklahoma Highway 7 to junction Oklahoma Highway 65, thence north along Oklahoma Highway 65 to junction Oklahoma Highway 17, thence west along Oklahoma Highway 17 to junction U. S. Highway 277, thence north along U.S. Highway 277 to junction Oklahoma Highway 19, thence west along Oklahoma Highway 19 to junction Oklahoma Highway 54, thence north along Oklahoma Highway 54 to junction Oklahoma Highway 9, thence east along Oklahoma Highway 9 to the point of beginning, to points in Missouri on and east of a line beginning at the Arkansas-Missouri State line and extending along Missouri Highway 17 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Missouri Highway 95, thence along Missouri Highway 95 to junction Missouri Highway 32, thence along Missouri Highway 32 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Missouri Highway 7, thence along Missouri Highway 7 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Kansas-Missouri State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC 129068 (Sub-No. E7), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma bounded by a line beginning at the Waurika, Okla. and extending north along U.S. Highway 81 to Chickaska, Okla. to junction Oklahoma Highway 19, thence southeast along Oklahoma Highway 19 to junction Oklahoma Highway 76, thence south along Oklahoma Highway 76 to junction U.S. Highway 70, thence along U.S. Highway 70 to the point of beginning, to points in Missouri on and east of a line beginning at the Arkansas-Missouri State line and extending along Missouri Highway 17 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Missouri Highway 17, thence along Missouri Highway 17 to junction Missouri Highway 52, thence along Missouri Highway 52 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. High-

way 36, thence along U.S. Highway 36 to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-7766 Filed 3-15-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MARCH 11, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before March 28, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 35890 (Sub-No. E43), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. SE., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from Eldred Townships, McKean County, Pa., to points in Missouri. The purpose of this filing is to eliminate the gateway of Chautauqua County, N.Y.

No. MC 35890 (Sub-No. E44), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. SE., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from Paramus, N.J., to points in Texas. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E45), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. SE., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from Paramus, N.J., to points in Arkansas. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E46), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. SE., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from Youngsville, Pa., to those points in Missouri on and north and west of a line beginning at the Mississippi River and extending along Missouri Highway 47, to junction Missouri Highway 21, thence along Missouri Highway 21 to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E47), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC. Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Pennsylvania on and south and west of a line beginning at the Pennsylvania-Ohio State line and extending along Interstate Highway 15 to the Pennsylvania-Maryland State line, to those points in Texas on and west of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 75 to junction Interstate Highway 45, thence along Interstate Highway 45 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E48), filed September 16, 1975. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 6 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction Pennsylvania Highway 45, thence along Pennsylvania Highway 45 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Pennsylvania Highway 147, thence along Pennsylvania Highway 147 to junction Pennsylvania Highway 61, thence east and south along Pennsylvania Highway 61 and Interstate Highway 78, thence east along Interstate Highway 78 to junction Pennsylvania Highway 309, thence south along Pennsylvania Highway 309 to junction Pennsylvania Highway 412, thence east along Pennsylvania Highway 412 to junction Pennsylvania Highway 212, thence along Pennsylvania Highway 212 to Pennsylvania-New Jersey State line, to points in Arkansas on and west and south of a line beginning at the Missouri-Arkansas State line and extending along U.S. Highway 63 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Arkansas-Mississippi State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E49), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. SE., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Pennsylvania on and north and east of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 22 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Pennsylvania Highway 31, thence along Pennsylvania Highway 31 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania-Maryland State line, to points in Oklahoma on and south of a line beginning at the Arkansas-Oklahoma State line and extending along Arkansas Highway 9 to junction U.S. Highway 271, thence south and west along U.S. Highway 271 to the Texas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E50), filed September 16, 1976. Applicant: BLODGETT SERVICE, INC., Thirty-Sixth St. SE., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Pennsylvania, to those points in Kansas on and north and west of a line beginning at the Kansas-Missouri State line and extending south along U.S. Highway 59 to junction Kansas Highway 4, thence along Kansas Highway 4 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Kansas Highway 99, thence along Kansas Highway 99 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Kansas Highway 177, thence along Kansas Highway 177 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction Interstate Highway 35 to Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E51), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. SE., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Pittsburgh, Pa., to Kansas City, Mo. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E52), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. SE., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from those points in Missouri on and west and north of a line beginning at the Iowa-Missouri and extending south along Missouri Highway 15 to junction Missouri Highway 22, thence along Missouri Highway 22 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Missouri Highway 124, thence along Missouri Highway 124 to junction Missouri Highway 5, thence along Missouri Highway 5 to junction Interstate Highway 70, thence west along Interstate Highway 70 to Missouri Highway 7, thence south along Missouri Highway 7 to junction Missouri Highway 2, thence along Missouri Highway 2 to the Kansas-Missouri State line, to points in Delaware. The purpose of this filing is to eliminate the gateways of Grand Rapids, Mich., and Warren County, Pa.

No. MC 35890 (Sub-No. E53), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, from points in Wisconsin to points in Delaware. The purpose of this filing is to eliminate the gateways of Grand Rapids, Mich., and Warren County, Pa.

No. MC 35890 (Sub-No. E54), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Pennsylvania on and north and east of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 422 to junction Pennsylvania Highway 85, thence east along Pennsylvania Highway 85 to junction U.S. Highway 119, thence north along U.S. Highway 119 to junction U.S. Highway 322, thence east on U.S. Highway 322 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-Maryland State line, to those points in Missouri on and north and west of a line beginning at the Mississippi River and extending west along Missouri Highway 47 to junction Interstate Highway 70, thence west along Interstate Highway 70 to junction U.S. Highway 54, thence south along U.S. Highway 54 to junction Missouri Highway 73, thence along Missouri Highway 73 to junction U.S. Highway 65, thence south along U.S. Highway 65 to junction Missouri Highway 125, thence along Missouri Highway 125 to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E56), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, uncrated*, as defined in Appendix II to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in Pennsylvania on and north and east of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 30 to junction Interstate Highway 76, thence along Interstate Highway 76 to intersection Pennsylvania Highway 219, thence south along Pennsylvania Highway 219 to the Pennsylvania-Maryland State line, to those points in Kansas on and north and west of a line beginning at the Kansas-Missouri State line and extending west along Interstate Highway 435 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction U.S. Highway 59, thence south along U.S. Highway 59 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Kansas Highway 39, thence west along Kansas Highway 39 to junction Kansas Highway 99, thence south along Kansas Highway 99 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 35890 (Sub-No. E57), filed September 16, 1976. Applicant: BLODGETT FURNITURE SERVICE, INC., Thirty-Sixth St. S.E., Grand Rapids, Mich. 49508. Applicant's representative: John F. Freel, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Pennsylvania on and east and north of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 422 to junction U.S. Highway 119, thence south along U.S. Highway 119 to junction Pennsylvania Highway 56, thence south along Pensylvania Highway 56 to junction Interstate Highway 70, thence south along Interstate Highway 70 to the Pennsylvania-Maryland State line, to those points in Missouri on and north and west of a line beginning at the Mississippi River and extending along U.S. Highway 24 to junction U.S. Highway 63, thence south along U.S. Highway 63 to junction Missouri Highway 124, thence west along Missouri Highway 124 to junction Missouri Highway 5, thence west along Missouri Highway 5 to junction U.S. Highway 54, thence west along U.S. Highway 54 to junction Missouri Highway 39, thence south along Missouri Highway 39 to the Arkansas-Missouri State line. The purpose of this filing is to eliminate the gateway of Grand Rapids, Mich.

No. MC 107515 (Sub-No. E506), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd. N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, fresh and cured meats, dairy products* (as described in the Appendix to the report in *Modification of Permits—Packing House Products*, 46 M.C.C. 23), *fresh fruits and vegetables, canned fruit juices, citrus products, not canned and not frozen*, in vehicles equipped with mechanical refrigeration, (A) From points in Florida to points in Michigan, Minnesota, and Wisconsin; (B) From points in Florida on and east of a line beginning at the Florida-Georgia State line, and extending along U.S. Highway 319, thence along U.S. Highway 319 to the Gulf of Mexico, to points in Illinois, Indiana, Iowa, and those points in Missouri on and north of a line beginning at the Illinois-Missouri State line, and extending along U.S. Highway 50, thence along U.S. Highway 50 to the Missouri-Kansas State line; (C) From points in Florida on and west of a line beginning at the Florida-Georgia State line, and extending along U.S. Highway 319 to the Gulf of Mexico, to points in Ohio; (D) From points in Florida on and south and west of a line beginning at the Georgia-Florida State line, and extend-

ing along Interstate Highway 75 to its junction with Sunshine State Parkway, one hand, and, on the other, to those points in New Mexico on and west of a as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used*

State line and extending along Missouri thence along Interstate Highway 70 to junction Interstate Highway 244, thence Highway 36 to the Kansas-Colorado State line. The purpose of this filing is to elimi-

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ing along Interstate Highway 75 to its junction with Sunshine State Parkway, thence along Sunshine State Parkway to junction U.S. Highway 192, thence along U.S. Highway 192 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction Florida Highway 60, thence along Florida Highway 60 to the Atlantic Ocean, to points in Ohio.

(E) From points in Florida to points in Ohio on and north and west of a line beginning at the Ohio-West Virginia State line, and extending along Interstate Highway 70 to junction Ohio Highway 83, thence along Ohio Highway 83 to junction Ohio Highway 78, thence along Ohio Highway 78 to junction Ohio Highway 13, thence along Ohio Highway 13 to junction Ohio Highway 346, thence along Ohio Highway 346 to junction Ohio Highway 124, thence along Ohio Highway 124 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Kentucky State line; (F) From points in Florida to points in Indiana on and north and east of a line beginning at the Indiana-Kentucky State line, and extending along Indiana Highway 135 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 54, thence along Indiana Highway 54 to the Indiana-Illinois State line; (G) From points in Florida to those points in Illinois on and north of a line beginning at the Indiana-Illinois State line, and extending along U.S. Highway 150, thence along U.S. Highway 150 to the Illinois-Iowa State line; (H) From points in Florida to those points in Iowa on, north and east of a line beginning at the Iowa-South Dakota State line, and extending along Iowa Highway 3 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Iowa-Illinois State line. The purpose of this filing is to eliminate the gateways of Atlanta, Ga., and Louisville, Ky.

No. MC 112070 (Sub-No. E93), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) Between those points in Indiana on and north of a line beginning at the Indiana-Ohio State line, and extending along Indiana Highway 6, thence along Indiana Highway 6 to the Illinois-Indiana State line, on the one hand, and, on the other, to those points in New Mexico on and west of a line beginning at the Colorado-New Mexico State line, and extending along U.S. Highway 85, to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 285, thence along U.S. Highway 285 to the New Mexico-Texas State line; (b) Between points in Indiana, on the one hand, and, on the other, to those points in New Mexico on and west of a line beginning at the New Mexico-Colorado State line, and extending along Interstate Highway 25, thence along Interstate Highway 25 to the New Mexico-Texas State line; (c) Between points in Indiana, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateways of points in Illinois, Denver, Colo., and points within 10 miles thereof.

No. MC 112070 (Sub-No. E94), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) Between points in Michigan, on the one hand, and, on the other, points in Utah; (b) Between points in Michigan, on the one hand, and, on the other, points in New Mexico, except Curry, Roosevelt and Lea Counties. The purpose of this filing is to eliminate the gateways of points in Illinois, Iowa, and Denver, Colo., and points within 10 miles thereof.

No. MC 129068 (Sub-No. E8), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma bounded by a line beginning at Cordell and extending east along Oklahoma Highway 152 to junction Oklahoma Highway 58, thence south along Oklahoma Highway 53 to junction Oklahoma Highway 19, thence west along Oklahoma Highway 19 to junction Oklahoma Highway 54, thence north along Oklahoma Highway 54 to junction Oklahoma Highway 9, thence west along Oklahoma Highway 9 to junction U.S. Highway 183, thence north along U.S. Highway 183 to the point of beginning, to points in Missouri on, north, and east of a line beginning at the Arkansas-Missouri State line and extending along U.S. Highway 65 to junction Missouri Highway 13, thence along Missouri Highway 13 to junction Missouri Highway 7, thence along Missouri Highway 7 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Interstate Highway 70, thence along Interstate Highway 70 to the Kansas-Missouri State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC 129068 (Sub-No. E9), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma bounded by a line beginning at Chickasha and extending east along U.S. Highway 62 to junction Oklahoma Highway 39, thence east along Oklahoma Highway 39 to junction U.S. Highway 77, thence south along U.S. Highway 77 to junction Oklahoma Highway 74, thence south along Oklahoma Highway 74 to junction Oklahoma Highway 29, thence west along Oklahoma Highway 29 to junction U.S. Highway 81, thence north along U.S. Highway 81 to the point of beginning, to points in Missouri on and east of a line beginning at the Missouri-Illinois State line at or near Cape Girardeau and extending along U.S. Highway 61 to junction Missouri Highway 77, thence along Missouri Highway 77 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Missouri Highway 102, thence along Missouri Highway 102 to junction Missouri Highway 77, thence along Missouri Highway 77 to the Missouri-Kentucky State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC 129068 (Sub-No. E10), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma bounded by a line beginning at Chickasha and extending east along U.S. Highway 62 to junction Oklahoma Highway 39, thence east along Oklahoma Highway 39 to junction U.S. Highway 77, thence south along U.S. Highway 77 to junction Oklahoma Highway 74, thence south along Oklahoma Highway 74 to junction Oklahoma Highway 19, thence west along Oklahoma Highway 19 to junction U.S. Highway 81, thence north along U.S. Highway 81 to the point of beginning, to Hannibal, Mo. and Louisiana, Mo. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC-129068 (Sub-No. E11), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, (1) from points in Oklahoma bounded by a line beginning at Blanchard and extending south along Oklahoma Highway 76 to junction Oklahoma Highway 39, thence west along Oklahoma Highway 39 to junction U.S. Highway 62, thence northeast along U.S. Highway 62 to the point of beginning, to points in Missouri on and east of a line beginning at the Missouri-Arkansas State line and extending along Missouri Highway 25 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Missouri Highway 51, thence along Missouri Highway 51 to the Missouri-Illinois State line, (2) from points in Oklahoma bounded by a line beginning at Blanchard and extending south along Oklahoma Highway 76 to junction Oklahoma Highway 39, thence west along Oklahoma Highway 39 to junction U.S. Highway 62, thence northeast along U.S. Highway 62 to the point of beginning, to St. Louis, Mo., (3) from points in Oklahoma bounded by a line beginning at Blanchard and extending south along Oklahoma Highway 76 to junction Oklahoma Highway 39, thence west along Oklahoma Highway 39 to junction U.S. Highway 62, thence northeast along U.S. Highway 62 to the point of beginning, to points in Missouri on, north, and east of a line beginning at the Missouri-Illinois State line at or near Louisiana, Mo. and extending along U.S. Highway 54 to junction Missouri Highway 154, thence along Missouri Highway 154 to junction Missouri Highway 19, thence along Missouri Highway 19 to junction Missouri Highway 154, thence along Missouri Highway 154 to junction Missouri Highway 15, thence along Missouri Highway 15 to junction Missouri Highway 156, thence along Missouri Highway 156 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction Missouri Highway 5, thence along Missouri Highway 5 to the Missouri-Iowa State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC-129068 (Sub-No. E12), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma bounded by a line beginning at Anadarko and extending east along U.S. Highway 62 to junction U.S. Highway 81, thence north along U.S. Highway 81 to junction Oklahoma Highway 152, thence west along Oklahoma Highway 152 to junction U.S. Highway 281, thence south along U.S. Highway 281 to point of beginning, to points in Missouri on and east of a line beginning at the Missouri-Iowa State line and extending along Missouri Highway 5 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction Missouri Highway 149, thence along Missouri Highway 149 to junction Missouri Highway 6, thence along Missouri Highway 6 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 24, thence along U.S. Highway 154, thence along Missouri Highway 154 to junction Missouri Highway 19, thence along Missouri Highway 19 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 244, thence along Interstate Highway 244 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Missouri Highway 53, thence along Missouri Highway 53 to junction Missouri Highway 25, thence along Missouri Highway 25 to the Missouri-Arkansas State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC-129068 (Sub-No. E13), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from Gray, Okla., to points in Missouri on and east of a line beginning at the Missouri-Arkansas State line and extending along U.S. Highway 63 to junction Missouri Highway 19, thence along Missouri Highway 19 to junction Missouri Highway 106, thence along Missouri Highway 106 to junction Missouri Highway 21, thence along Missouri Highway 21 to junction Missouri Highway 72, thence along Missouri Highway 72 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Missouri Highway 32, thence along Missouri Highway 32 to the Missouri-Illinois State line at or near Ste. Genevieve, Mo. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC-129068 (Sub-No. E14), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma bounded by a line beginning at the Oklahoma-Texas State line and extending north along U.S. Highway 183 to junction U.S. Highway 62, thence west along U.S. Highway 62 to junction Oklahoma Highway 44, thence south along Oklahoma Highway 44 to the Oklahoma-Texas State line, to points in Kansas on and east of a line beginning at the Oklahoma-Kansas State line and extending along Kansas Highway 179 to junction Kansas Highway 14, thence along Kansas Highway 14 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction Kansas Highway 18, thence west along Kansas Highway 18 to junction unnumbered highway at Natoma, thence north along unnumbered highway to junction Kansas Highway 9 at Cedar, thence along Kansas Highway 9 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Kansas-Colorado State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC-129068 (Sub-No. E15), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma bounded by a line beginning at Maud and extending north and east along Oklahoma Highway 59 to junction Oklahoma Highway 99, thence south along Oklahoma Highway 99 to junction Oklahoma Highway 59, thence east along Oklahoma Highway 59 to junction U.S. Highway 270, thence east along U.S. Highway 270 to junction U.S. Highway 75, thence north along U.S. Highway 75 to junction Oklahoma Highway 9, thence west along Oklahoma Highway 9 to junction Oklahoma Highway 99, thence south along Oklahoma Highway 99 to junction Oklahoma Highway 59, thence south along Oklahoma Highway 59 to the point of beginning, to points in Kansas on, north, and west of a line beginning at the Nebraska-Kansas State line and extending along U.S. Highway 281 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Kansas Highway 27, thence along Kansas Highway 27 to junction Kansas Highway 96, thence along Kansas Highway 96 to the Kansas-Colorado State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC-129068 (Sub-No. E16), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma on and south of a line beginning at the Oklahoma-Arkansas State line and extending along U.S. Highway 70 to junction Oklahoma Highway 3, thence along Oklahoma Highway 3 to junction Oklahoma Highway 1, thence along Oklahoma Highway 1 to junction Oklahoma Highway 7, thence along Oklahoma Highway 7 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Interstate Highway 35 to the Oklahoma-Texas State line, to points in Kansas on and west of a line beginning at the Oklahoma-Kansas State line and extending along Kansas Highway 1 to junction U.S. Highway 160,

[Notice No. 134]

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Section 212a(b) in connection with

thence along U.S. Highway 160 to junction U.S. Highway 281, thence along U.S. Highway 281 to the Kansas-Nebraska State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC–129068 (Sub-No. E17), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma on and south of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 77 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Oklahoma-Texas State line, to points in Kansas on and north of a line beginning at the Oklahoma-Kansas State line and extending along U.S. Highway 54 to junction Kansas Highway 61, thence along Kansas Highway 61 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Kansas Highway 10, thence along Kansas Highway 10 to the Kansas-Missouri State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC–129068 (Sub-No. E18), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from Oklahoma City, Okla., to points in Kansas on, north, and west of a line beginning at the Kansas-Colorado State line and extending along U.S. Highway 36 to junction Kansas Highway 27, thence along Kansas Highway 27 to the Kansas-Nebraska State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

No. MC–129068 (Sub-No. E19), filed December 1, 1976. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Blvd., Oklahoma City, Okla. 73150. Applicant's representative: I. E. Chenoweth, 420 South Main St., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used mobile homes*, in secondary movements, in truckaway service, from points in Oklahoma bounded by a line beginning at McAlester and extending south along U.S. Highway 69 to junction Oklahoma Highway 3, thence west along Oklahoma Highway 3 to junction U.S. Highway 75, thence north along U.S. Highway 75 to junction U.S. Highway 270, thence east along U.S. Highway 270 to the point of beginning, to points in Kansas on and west of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 83 to junction U.S. Highway 56, thence along U.S. Highway 56 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Kansas-Nebraska State line. The purpose of this filing is to eliminate the gateway of Lawton, Okla.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–7767 Filed 3–15–77;8:45 am]

[Ex Parte No. 241; Rule 19, Exemption No. 133]

MISSOURI PACIFIC RAILROAD CO.

Exemption Under Provision of Mandatory Car Service Rules

To: All Railroads.

It appearing, that there are substantial shortages of fifty-foot plain boxcars on the lines of the Missouri Pacific Railroad Company (MP); that there is an available supply of such cars on the National Railways of Mexico (NdeM); that the NdeM has consented to use by the MP of certain of these cars; and the MP has secured clearance from the United States Customs Service for use of these cars provided they are interchanged from and to the NdeM exclusively by the MP; and that use of these cars by the MP will substantially relieve boxcar shortages on the MP.

It is ordered, that, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars owned by the National Railways of Mexico (NdeM) identified herein may be used by the Missouri Pacific Railroad Company (MP) without regard to the requirements of Car Service Rules 1 and 2.

It is further ordered, that NdeM plain boxcars identified herein available empty on lines other than the MP must be returned to the MP either loaded or empty and may not be returned to the NdeM by any line other than the MP, regardless of the requirements of Car Service Rules 1 and 2; and

It is further ordered, that this exemption is applicable to freight cars owned by the NdeM identified as follows:

NdeM 100000—101999.
NdeM 104000—104999.

Effective March 10, 1977, and continuing in effect until further order of the Commission.

Issued at Washington, D.C., March 9, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77–7769 Filed 3–15–77;8:45 am]

[Notice No. 134]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 16, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212a(b) in connection with transfer application under Section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–77007. By application filed March 3, 1977, JOHN B. McNABB, an individual, d.b.a. McNABB FARMS, P.O. Box 4366, Pocatello, ID 83201, seeks temporary authority to transfer the operating rights of JOHN L. SMITH, an individual, P.O. Box 186, Moreland, ID 83256, under section 210a(b). The transfer to JOHN B. McNABB, an individual, d.b.a. McNABB FARMS, of the operating rights of JOHN L. SMITH, an individual, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–7763 Filed 3–15–77;8:45 am]

[Notice No. 133]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 16, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212a(b) in connection with transfer application under Section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–76997. By application filed February 28, 1977, GEORGE WILLIAM SIGRIST, an individual, d.b.a. SIGRIST TRUCKING COMPANY, 700 Homewood Drive, Pocomoke City, MD 21851, seeks temporary authority to transfer the operating rights of WILLIAM G. LANKFORD II, an individual, d.b.a. WILLIAM G. LANKFORD II, R.F.D. No. 1, Pocomoke City, MD 21851, under section 210a(b). The transfer to GEORGE WILLIAM SIGRIST, an individual, d.b.a. SIGRIST TRUCKING COMPANY, of the operating rights of WILLIAM G. LANKFORD II, an individual, d.b.a. WILLIAM G. LANKFORD II, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–7764 Filed 3–15–77;8:45 am]

[Notice No. 132]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 16, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212a(b) in connection with transfer application under Section 212a(b) and Transfer Rules, 49 CFR Part 1132.

No. MC–FC–76996. By application filed March 1, 1977, M & T TRANSPORT, INC. (M & T), 7397 Richmond Road, Easy Syracuse, NY 13057, seeks temporary authority to transfer the operating rights of LAKELAWN TRANSPORT CORP. (Lakelawn) P.O. Box 1366, Syracuse, NY 13201, under Section 210a(b). The transfer to M & T TRANSPORT, INC. (M & T) of the operating rights of LAKELAWN TRANSPORT CORP. (Lakelawn) is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–7765 Filed 3–15–77;8:45 am]

[Vol. No. 6]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

Correction

In FR Doc. 6222 appearing in the issue of Thursday, March 3, 1977 on page 12296 the following corrections should be made:

1. On page 12301, the 2nd column, last paragraph, 1st line should read:

No. MC 112750 (Sub-No. 336), filed * * *.

2. On page 12304, 1st column, 2nd paragraph, 1st line should read:

No. MC 133119 (Sub-No. 110) filed Jan. * * *.

3. On page 12305, the 2nd column, 1st paragraph, 1st line should read:

No. MC 135082 (Sub-No. 41), filed * * *.

WEDNESDAY, MARCH 16, 1977

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federal register

WEDNESDAY, MARCH 16, 1977

PART II

COMMODITY FUTURES TRADING COMMISSION

■

BONA FIDE HEDGING TRANSACTIONS OR POSITIONS

Proposed Revisions

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COMMODITY FUTURES TRADING

The Senate Committee on Agriculture orderly, competitive markets and the

Finally, all purchases and sales by governments are excluded from the enumer-

diverse variety of futures markets now in existance and under regulation. This may

specific transactions and positions which may qualify as bona fide hedging. First,

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COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

BONA FIDE HEDGING TRANSACTIONS OR POSITIONS

Proposed Rulemaking and Request for Comment

The Commodity Futures Trading Commission ("Commission") is considering the revision of the definition of "bona fide hedging transactions or positions" provided in § 1.3(z) of its regulations, 17 CFR 1.3(z) (1976). In conjunction with this proposal, the Commission is also considering the revision of § 1.48 of its regulations, 17 CFR 1.48 (1976), which specifies certain reporting requirements for persons classifying positions as bona fide hedging under § 1.3(z)(4) of the current definition, and the issuance of a new § 1.47, which would contain the requirements for classifying certain other positions as bona fide hedging under proposed revised § 1.3(z). The Commission requests public comment on these proposed amendments of its regulations.

BACKGROUND

Section 4a of the Commodity Exchange Act ("Act"), 7 U.S.C. 6a (Supp. V, 1975), authorizes the Commission to establish limits on the trading and positions of any person in contracts for future delivery on or subject to the rules of any contract market. As amended by section 404 of the Commodity Futures Trading Commission Act of 1974 ("CFTC Act"), Pub. L. 93-463, 88 Stat. 1389, 1413, that section further provides that such limits shall not "apply to transactions or positions which are shown to be bona fide hedging transactions or positions" as such terms shall be defined by the Commission. Prior to the enactment of the CFTC Act, the terms bona fide hedging transactions or positions were defined in section 4a(3) of the Act.

The various congressional committee reports on H.R. 13113, the bill which became the CFTC Act, reveal the general intent of Congress in authorizing and directing the Commission to define bona fide hedging transactions and positions. The report of the Committee on Agriculture of the House of Representatives stated that:

> The goal of the Committee in replacing the so-called "mechanical test" of hedging in section 4a(3) of the present Act was to free the Commission to define hedging in a manner more consistent with the times and practices of the industry. It is not the intent of the Committee that it be used to overtly restrict industry use of the futures market for hedging.[1]

That report also expressed an intent that the provisions of the present definition:

> * * * not be abandoned without positive alternatives and clear consideration by the Commission of the effects of such abandonment and determination that such action would be consistent with the purposes of the current Act as amended by H.R. 13113.[2]

[1] *H.R. Rep. No. 93-975*, 93d Cong., 2d Sess. 31 (1974).

[2] *Ibid.*, 31.

The Senate Committee on Agriculture and Forestry noted:

> The Committee wishes to emphasize that, in giving the Commission authority to define hedging, it does not intend that hedging be defined in such a manner as to deny traditional legitimate users of the futures market an opportunity to continue to hedge. The Committee felt that the Commission should have the authority to define hedging because the current definition is too narrow to permit certain businessmen the opportunity to hedge legitimately on the market.[3]

As directed by section 404 of the CFTC Act, the Secretary of Agriculture amended the general regulations under the Act by adopting an interim definition of bona fide hedging transactions or positions in a new § 1.3(z) of the regulations in March 1975 (40 FR 11560, March 12, 1975). In August 1975 the Commission solicited public comment on a definition of bona fide hedging (40 FR 34627, August 18, 1975), and in October 1975 the Commission adopted the Secretary of Agriculture's definition with only minor changes (40 FR 48688, October 17, 1975). At that time, the Commission stated that the prior definition was being adopted as an interim measure only. The Commission also noted that it was assigning the topic of bona fide hedging transactions or positions to its recently appointed Advisory Committee on the Economic Role of Contract Markets for further study and that the staff had been directed to draft a proposed new definition. On January 8 and 9, 1976, the Commission held public hearings on the definition of bona fide hedging transactions and positions in New York City.[4]

In proposing the new definition of bona fide hedging transactions and positions which is set forth below, the Commission has carefully reconsidered the concepts embodied in the current definition and has considered, among other things:

1. The expressed intent of Congress concerning the provision of the CFTC Act which authorizes and directs the Commission to define hedging.

2. The responses to the request for comment which was published in the FEDERAL REGISTER on August 18, 1975.

3. The presentations submitted at the public hearings held by the Commission on the subject of a hedging definition on January 8 and 9, 1976.

4. The recommendations of the Commission's Advisory Committee on the Economic Role of Contract Markets.[5]

In the Commission's judgment these sources indicate that a broader definition of hedging is both necessary and desirable. However, in proposing a new definition, the Commission has also been mindful of its general responsibilities for orderly, competitive markets and the fact that the commercial utility from futures trading markets depends upon the orderly functioning of the markets. In the Commission's opinion, the proposed revision of § 1.3(z), along with proposed new § 1.47 of the regulations and proposed revised § 1.48 of the regulations, would provide for increased commercial access to the markets, in a manner which will be consistent with the general purposes of the Act, and increased commercial utilization of futures trading.

[3] *S. Rep. No. 93-1131*, 93d Cong., 2d Sess. 26 (1974).

[4] A notice of these public hearings was published in the FEDERAL REGISTER (40 F.R. 58684, December 18, 1976).

[5] *See Report of the Commodity Futures Trading Commission Advisory Committee on the Economic Role of Contract Markets*, July 17, 1976, U.S. Government Printing Office, 1976-0-221-606.

SUMMARY OF PROPOSED AMENDMENTS

Proposed definition of bona fide hedging. The definition of hedging contained in the proposed § 1.3(z) of the regulations is divided into three paragraphs. Paragraph (1) sets forth a general description of transactions and positions which the Commission would consider as bona fide hedging under economically appropriate circumstances. Specific conditions concerning purchases and sales for future delivery in excess of limits in effect pursuant to section 4a of the Act are set forth in paragraphs (2) and (3) of the proposed definition.

Paragraph (2) of the proposed definition enumerates specific transactions and positions which the Commission views as conforming to the general definition of bona fide hedging in paragraph (1) without further consideration as to the particulars of the case. The list of transactions and positions included in paragraph (2) differs from those listed in the current § 1.3(z) in the following manner.

First, reference to transactions and positions in commodities which are not subject to limits currently in effect pursuant to section 4a of the Act have been eliminated.

Second, proposed paragraph (2) contains a general provision for "cross-commodity" hedging, i.e., purchases and sales for future delivery which are offset by positions which are not the same quantity of the same cash commodity. Classifying such purchases and sales as bona fide hedging under the proposed enumeration in paragraph (2) would be allowed for all but the five last trading days of any particular future. In view of this general provision, specific cases of cross-commodity hedging which are not contained in the current definition are not enumerated in proposed paragraph (2). However, under the general provision in the proposed paragraph, these specific cases would be subject to the limitation concerning the five last trading days.

Third, under the specific enumeration in proposed paragraph (2), sales or purchases for future delivery which are offset respectively by anticipated production or unfilled anticipated requirements for manufacturing, processing or feeding would not be considered bona fide hedging during the five last days of trading in any contract for future delivery. This restriction concerning the five final days of trading is not contained in the current definition of hedging.

Finally, all purchases and sales by governments are excluded from the enumeration of specific transactions and positions contained in proposed paragraph (2). It should be noted that any purchase or sale specifically mentioned in the current definition of bona fide hedging, but excluded from the enumeration in proposed paragraph (2), could be exempted by the Commission from its limits on trading and positions under the provisions of the third paragraph of the proposed definition.

Paragraph (3) of the proposed definition of bona fide hedging provides that for purposes of determining exemptions from limits on transactions and positions fixed pursuant to section 4a of the Act the Commission may recognize as bona fide hedging purchases and sales other than those specifically enumerated in proposed paragraph (2). Proposed paragraph (3) requires that any person requesting permission to classify such purchases or sales as hedging provide the Commission with evidence that such transactions meet the requirements of the general definition in paragraph (1) of proposed § 1.3(z) and will be consistent with the general objectives of the Act. The purpose of this paragraph is to provide flexibility in application of the general definition and to avoid an extensive specialized listing of enumerated bona fide hedging transactions and positions in paragraph (2) of the proposed definition.

OTHER REVISIONS

Proposed new § 1.47 sets forth the requirements for classifying positions as bona fide hedging under the provisions of paragraph (3) of proposed § 1.3(z), i.e., for those cases which are not specifically enumerated as bona fide hedging in paragraph (2) of the proposed definition. Proposed § 1.47 provides that in these cases certain information must be filed thirty days in advance of considering such purchases and sales as bona fide hedging for the first time. It also specifies the method of determining the maximum transactions and positions which may be considered as bona fide hedging pursuant to paragraph (3) of the proposed definition.

The Commission is also proposing revisions in § 1.48 of the regulations in order to conform its requirements to proposed revisions in § 1.3(z) and new § 1.47, and to codify the existing procedures employed under the current regulation.

DISCUSSION OF PROPOSED § 1.3(z)

Paragraph (1). The Commission believes that many commercial enterprises and the general public may view its definition of hedging as the official guideline for commercial risk-shifting use of the futures market. Since the substance of the present definition was drafted for use in the Commodity Exchange Act of 1936 for application to domestically-produced agricultural commodities, the Commission is concerned that the definition may constitute an artificial barrier to full utilization of modern-day risk management strategies available in the diverse variety of futures markets now in existance and under regulation. This may be the case both in the instances where limits have not been established pursuant to section 4a of the Act, and where the transactions and positions being considered by potential market users would not be in excess of such limits.

Paragraph (1) of the proposed revision of section 1.3(z) therefore provides a general conceptual definition of the nature of transactions and positions which the Commission feels would constitute bona fide hedging. As such, it sets out the basic conditions which must be met by a bona fide-hedging transaction or position; i.e., it must be economically appropriate to risk reduction, such risks must arise from operation of a commercial enterprise, and the price fluctuations of the futures contracts used in the transaction must be substantially related to fluctuations of the cash market value of the assets, liabilities or services being hedged.

Paragraph (1) of the proposed definition describes risks arising from changes in the value of assets, liabilities, or services attendant to the operation of a commercial business. This is a departure from the language of the current definition which refers to offsetting positions in the same commodity. The proposed language will still permit persons to classify offsetting positions as bona fide hedging. However, the Commission understands that many business firms calculate their price risk exposure, less on the basis of risk related to a single transaction and more on the basis of net risk related to changes in the values reflected on balance sheets. In addition, the existence of futures markets for both source and product commodities—such as livestock and livestock feed, or soybeans and soybean oil and meal—afford business firms increased opportunities to hedge the value of services as well as the value of commodities. Accordingly, the Commission believes that the terms "assets," "liabilities" and "services" more adequately reflect the items which business firms may attempt to hedge. While the Commission believes that this proposed language is more appropriate than that in the present definition, it requests specific comment on these proposed changes.

This general definition is intended to describe the broad scope of risk-shifting transactions which may be possible in the diverse types of futures contracts now under regulation. However, paragraph (1) of the proposed definition also provides that transactions and positions exceeding limits currently in effect pursuant to section 4a of the Act must meet the conditions specified in paragraphs (2) and (3) in order to qualify as bona fide hedging.

Paragraph (2). Paragraph (2) of the proposed revision of § 1.3(z) enumerates certain specific transactions and positions which the Commission considers to be within its general definition of bona fide hedging set out in paragraph (1). For two reasons, however, this enumeration does not include all of the specific transactions and positions which may qualify as bona fide hedging. First, references to transactions and positions in markets where there are no limits currently in effect pursuant to section 4a of the Act have been eliminated. The Commission does not believe it is necessary at this time to enumerate transactions and positions which would be considered bona fide hedging in markets where it currently has no limits. References to bona fide hedging transactions and positions in paragraph (2) of proposed § 1.3(z) are therefore limited in scope to the seven domestically-produced agricultural commodities or commodity groups which have such limits in effect.[6]

Second, for certain types of bona fide hedging transactions and positions in excess of limits established pursuant to section 4a of the Act, the Commission feels that it needs more specific information to determine that such purchases and sales are economically appropriate and are consistent with the general definition of bona fide hedging which is set forth in paragraph (1) of proposed § 1.3(z). As explained below, paragraph (3) (non-enumerated cases) of proposed § 1.3(z) provides that, upon specific request, the Commission will consider whether certain transactions and positions not specifically described in paragraph (2) constitute bona fide hedging. This would include, for instance, purchases and sales by governments.

ENUMERATED TRANSACTIONS VERSUS CURRENT DEFINITION

The specific transactions and positions listed in paragraph (2) of the proposed regulation as enumerated bona fide hedging transactions and positions differ from those listed in the current definition in § 1.3(z). First, paragraph (2) of the proposed definition contains a general provision for cross-commodity hedging, provided that the value of the cash and the offsetting futures positions are substantially related and the futures position is not maintained beyond the last five trading days of any particular future. In view of this general provision, the Commission finds it unnecessary to include in paragraph (2) of the proposed definition certain specific purchases and sales which are included in the current definition. These include:

1. Sales of a commodity for future delivery as a hedge against the ownership or fixed-price purchase of any product or by product of such commodity.

2. Purchases of a commodity for future delivery which shall not exceed:

a. The bushel value equivalent of corn reflecting such person's unfilled anticipated requirements for seed corn or sweet corn processing;

[6] Currently there are limits fixed pursuant to section 4a of the Act in effect for cotton, potatoes, eggs, soybeans, corn, wheat, and grain (defined to include oats, barley, and flaxseed). If at a subsequent date position and trading limits are imposed for additional commodities, the provisions of paragraph 1.3(z)(2) would apply to transactions and positions in those commodities.

b. The wheat equivalent of such person's unfilled anticipated requirements

In the case of unfilled anticipated requirements, offsetting transactions and

in the public comments and hearings which the Commission feels reasonably

actions and positions and which are not

§ 1.47 and the information generally required under § 1.48 for all anticipatory

GENERAL REQUIREMENTS

A new paragraph (e) of proposed

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b. The wheat equivalent of such person's unfilled anticipated requirements of flour for baking;

c. The corn equivalent of such person's unfilled anticipated requirements of dry corn milling products for use in further processing or manufacturing.

3. Sales for future delivery of any product or byproduct which is offset by the ownership or fixed-price purchase of the source commodity.

These specific purchases and sales would be covered by the general provision for cross-commodity hedging in paragraph (2) of the proposed definition, provided the values of the futures and cash positions are substantially related.[1] However, they will be subject to the restriction concerning the five last days of trading in any particular future. The Commission believes that there is little commercial need to maintain cross-hedge positions during the last five trading days of any expiring contract. In addition, it is the Commission's view that if classification of cross-commodity positions as bona fide hedging in excess of its limits is to be generally permitted, this restriction is necessary to guarantee the integrity of the markets. Specific exemptions from the five-day restriction could be requested pursuant to paragraph (3) of proposed § 1.3(z) and proposed § 1.47. The Commission requests specific comment on these proposed requirements for cross-commodity hedges during the final trading days of any contract, including whether the requirements should apply at an earlier point in the expiring contract such as the last ten days of trading.

Second, paragraph (2) of proposed § 1.3(z) does not contain the specific reference to sales for future delivery which are offset by up to eighteen months' anticipated sugar cane production. At this time the Commission has no limits on transactions and positions for contract markets in sugar. As noted above, the Commission does not believe that it is necessary to enumerate specific bona fide hedging transactions and positions for commodities where such limits are currently not in effect. It does not intended, however, that any such omissions should in any way affect the commercial utilization of futures markets.

Third, the current definition of hedging includes sales or purchases for future delivery which are offset, respectively, by anticipated production of unfilled anticipated requirements for manufacturing, processing or feeding. Paragraph (2) of the proposed definition lists such sales and purchases, but contains the special conditions respecting the last five days of trading in any particular futures contract. Under proposed paragraph (2), transactions and positions offsetting anticipated production may not be classified as bona fide hedging during the last five days of trading. In the case of unfilled anticipated requirements, offsetting transactions and positions during the last five trading days of any particular contract are limited in magnitude to a person's unfilled anticipated requirements for the current and next succeeding month.

This proposed limitation on anticipatory positions during the last five days of trading under paragraph (2) results from the Commission's consideration of the general commercial utility of such positions during the last five days of trading and of its responsibility for orderly markets. The Commission believes that there is little commercial need to maintain during the last five trading days of any futures contract a long anticipatory position which exceeds two months' unfilled requirements. Similarly, it is the Commission's view that there is little commercial need to maintain during the last five trading days of any futures contract a short position which offsets anticipated production. Accordingly, the Commission is proposing that any such anticipatory purchases or sales which would exceed its limits during the last five trading days of any future should be examined on an individual basis as provided for in paragraph (3) of the proposed new definition. However, the Commission requests specific comment on these proposed requirements for anticipatory hedges during the final trading days of any contract, including whether the requirements should apply at an earlier point in the expiring contract, such as the last ten days of trading.

Fourth, purchases or sales by governments or their agents are excluded from the transactions and positions enumerated in paragraph (2) of proposed § 1.3(z). The Commission believes that it requires additional information to determine if such purchases and sales are in conformity with its definition of bona fide hedging.

Accordingly, such purchases and sales are covered by paragraph (3) of proposed § 1.3(z) as non-enumerated cases.

Paragraph (3). As noted above, paragraph (2) of proposed § 1.3(z) may not include all of the specific types of transactions and positions which the Commission would consider as conforming to its definition of bona fide hedging. Accordingly, paragraph (3) of the proposed regulation provides that for purposes of determining exemptions from limits set pursuant to section 4a of the Act, persons may request that the Commission make a determination whether specific transactions and positions which are not listed in paragraph (2) of the proposed regulation may be considered bona fide hedging transactions and positions. Two general categories of transactions and positions which the Commission may consider as bona fide hedging upon specific request are described in proposed paragraph (3), but consideration would not be limited to these categories.

One of the general categories listed in proposed § 1.3(z)(3)—purchases and sales by agents of the owner of the cash commodity—concerns cases mentioned in the public comments and hearings which the Commission feels reasonably assured would constitute bona fide hedging under economically appropriate circumstances. The other general category listed in proposed paragraph (3) involves sales and purchases by governments or their agents. The Commission feels that specific information needs to be considered before it makes a determination that purchases and sales by agents of the owner of the cash commodity or by a government or its agent constitute bona fide hedging. This information would be obtained under the requirements of proposed new section 1.47 which would apply to all purchases and sales to be considered as bona fide hedging under the provisions of paragraph (3) of the proposed definition. Proposed section 1.47 requires that information describing the purchases and sales be filed thirty days in advance of their classification as hedging for the first time.

Commission consideration of hedging gross positions. The previous statutory definition of bona fide hedging transactions or positions contained in section 4a of the Act before amendment by the CFTC Act and the present definition permit persons to classify as hedging any purchase or sale for future delivery which is offset by their gross cash position irrespective of their net cash position. The House Committee on Agriculture directed the Commission's attention to this practice of "double hedging."[2] Accordingly, in its request for comment on the definition of bona fide hedging (40 FR 34627, August 18, 1975), the Commission requested specific comment on the hedging of gross rather than net cash positions, and upon the justification of this practice. In response to this specific request, a number of persons provided commentary and examples to demonstrate that net cash positions do not necessarily measure total risk exposure due to differences in the timing of cash commitments, the location of stocks, and differences in grades or types of the cash commodity. These statements noted that in these cases the hedging of gross cash positions does not constitute "double hedging."[3] Similar views were submitted to the Commission at its hearings on bona fide hedging on January 8 and 9, 1976.

The Commission has considered these comments and does not intend at this time to alter the provisions of the present definition with respect to the hedging of gross cash positions.

Discussion of Proposed New § 1.47

Proposed new section 7.47 of the regulations sets forth the requirements for considering transactions and positions as bona fide hedging pursuant to paragraph (3) of proposed § 1.3(z). The requirements would therefore apply only to those purchases and sales which would exceed the Commission's limits on transactions and positions and which are not enumerated in paragraph (2) of the proposed definition of bona fide hedging.

[1] In addition, it should be noted that with respect to sales for future delivery of a product or byproduct no limits on transactions or positions are currently in effect pursuant to section 4a of the Act.

[2] *H.R. Rep. No. 93-975*, 93d Cong., 2d Sess. 32 (1974).

[3] The one commentator who suggested that bona fide hedge positions should be limited to net cash positions did not provide any reason for this position.

General Requirements

Paragraph (a) of proposed section 1.47 provides that any person who wishes to avail himself of the provisions of § 1.3(z)(3) of the regulations for purposes of making purchases or sales in excess of limits then in effect pursuant to section 4a of the Act shall file certain statements for the Commission's consideration. All or a portion of the transactions and positions described in these statements shall not be considered as bona fide hedging if the person filing is notified to this effect by the Commission wtihin thirty days after the initial statement is filed under paragraph (b) or within ten days after a supplemental statement is filed under paragraph (c). The Commission may request the person notified to submit additional specific information concerning all or the specified portion of the transactions and positions described in the statement. In this event the transactions and positions which are subject to further inquiry will not be considered as bona fide hedging by the person filing until the Commission has considered the additional materials requested and notified the person of its determination.

Initial Filings

Paragraph (b) of proposed § 1.47 provides that persons shall initially file information at least 30 days in advance of the date the transactions and positions would exceed limits then in effect pursuant to section 4a of the Act. This paragraph provides a general requirement that the information filed demonstrate that the purchases or sales are in conformity with the definition of bona fide hedging transactions and requires submission of specific information for those classes of transactions and positions specifically enumerated in paragraph (3) of proposed § 1.3(z), i.e., purchases and sales by governments and by agents of persons owning the cash commodity. The purpose of these requirements is to enable the Commission to determine whether the sales or purchases conform to its proposed definition of bona fide hedging transactions or positions. The Commission feels that the thirty-day notice period is necessary to allow adequate consideration of the materials submitted.

Persons filing information under § 1.47 which also concerns the hedging of unfilled anticipated requirements for processing, manufacturing, or feeding would also be required to furnish the information required under § 1.48 of the regulations. (Section 1.48 sets out general reporting requirements concerning all long anticipatory hedges in commodities where there are limits set pursuant to section 4a of the Act.) Thus, for example, an agent desiring to classify as hedging a position against unfilled anticipated requirements would supply the information required under proposed § 1.47 and the information generally required under § 1.48 for all anticipatory hedges.

Subsequent Filings

Under paragraph (c) of proposed § 1.47, persons would be required to file supplemental reports when they wish to classify as bona fide hedging transactions or positions amounts exceeding those specified in their most recent filing or those specified by the Commission pursuant to paragraph (a). Supplemental information would be required at least ten days in advance of the date that the person wishes to exceed those amounts. Since the Commission would have already considered the basic economic concepts embodied in the original filing, it believes that ten-days advance notice is sufficient to consider the new request.

Paragraph (e) of proposed § 1.47 also provides that the Commission may request that the initial filing be supplemented with current information at any time. In some cases a person's supplemental filings under paragraph (c) may be infrequent and the Commission may wish to obtain more current information for purposes of market surveillance.

Maximum Positions

Paragraph (d) of proposed § 1.47 specifies the maximum purchases and sales which a person may consider as bona fide hedging pursuant to § 1.3(z)(3) of the proposed hedging definition. It provides that such purchases and sales shall not exceed the lesser of the current level of the cash position being hedged or the maximum amounts specified in the person's most recent filing or as specified by the Commission pursuant to paragraph (a). As provided in paragraph (c), when the amount of the cash position a person wishes to hedge exceeds the amount stated in the person's most recent filing or specified by the Commission, supplemental reports must be filed.

Because some of the purchases and sales referred to under this paragraph may represent cross-commodity hedges, paragraph (d) provides that current cash positions are to be measured in the "value equivalent" of the commodity for future delivery. Value equivalent refers to the number of units of the commodity for future delivery which are approximately equal in value to the units of the cash position being hedged.

Discussion of Proposed § 1.48

Section 1.48 of the regulations presently provides the requirements for considering purchases for future delivery as bona fide hedges against unfilled anticipated requirements for processing or manufacturing or feeding under § 1.3(z)(4) of the regulations. The proposed revisions in § 1.48 are designed (a) to conform its requirements for reporting to the proposed revisions in the hedging definition and proposed § 1.47 and (b) to codify existing procedures employed by the Commission under the current regulation.

General Requirements

A new paragraph (a) of proposed § 1.48 retains the current requirement that any person who wishes to exceed trading and position limits then in effect pursuant to section 4a of the Act for purposes of hedging unfilled requirements shall file certain statements with the Commission. In addition, proposed paragraph (a) codifies the Commission's practice with respect to the extent to which a person may consider the unfilled anticipated requirements described in their most recent filings to represent an offset to long futures contracts for purposes of bona fide hedging. The proposed paragraph provides that all or a specified portion of the unfilled anticipated requirements described in the required statements shall not be considered as offsetting positions for the purpose of bona fide hedging if the Commission notifies the person to that effect within ten days after the person files the information required in paragraphs (b) or (c). In addition, the proposed paragraph provides that the Commission may request the person notified to submit additional information concerning all or the specified portion of the unfilled anticipated requirements described in the filing. These unfilled anticipated requirements may not be considered as an offset for bona fide hedging until the Commission considers any additional information supplied and further notifies the person of its determination.

Initial Filings

The requirements for initial information in paragraph (b) of proposed § 1.48 differ from those in paragraph (a) of the current § 1.48 only in that specific requirements concerning the information be supplied by persons hedging unfilled anticipated requirements of seed corn, sweet corn, flour and dry corn milling products have been deleted. These requirements concern particular cases of the cross-commodity hedging of unfilled anticipated requirements which are included in the current definition. In view of the proposed revisions in the current definition, the language of paragraph (b) has been expanded to cover all cross-commodity hedging of unfilled anticipated requirements rather than only the specific cases currently allowed.

Subsequent Filings

Proposed § 1.48 also contains revised requirements concerning supplemental reports. The current § 1.48 requires that persons file the required information at least once a year or immediately whenever a person's anticipated requirements change. The proposed revision requires that supplemental reports are to be filed when a person wishes to exceed the level supported by their most recent filing of anticipated requirements. This is consistent with the requirements for the filing of supplemental reports contained in proposed § 1.47. The effect of this proposed change is that persons normally would have to file supplemental reports when they find the prior level established

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offset a cash position which the agent to this section also shall be filed with the quantity in process of manufacture and

with the Commission to be restrictive rather than every twelve months or whenever their anticipated requirements change.

MAXIMUM POSITIONS

In view of the revised requirements for filing supplemental reports, paragraph (d) concerning maximum positions has been added to proposed § 1.48. This paragraph makes explicit that purchases for future delivery classified as hedges against unfilled anticipated requirements shall in no case exceed a person's actual current unfilled anticipated requirements. Thus, if a person's actual anticipated requirements decrease from the level most recently filed with the Commission, the amount which he is allowed to consider as hedging is correspondingly decreased. Proposed new paragraph (d) also provides that a person's long position classified as hedging against unfilled requirements shall not exceed the amount supported by the level of requirements supplied in the person's most recent filing.

The requirements of section (c) of the current § 1.48 concerning purchases and liquidation have been deleted in the proposed revision because paragraph (1) of proposed § 1.3(z) provides similar requirements for all bona fide hedging transactions and positions.

In consideration of the foregoing, the Commission proposes to amend Part 1 of Chapter I of Title 17 of the Code of Federal Regulations by amending § 1.3 (z) and § 1.48 and by adopting a new § 1.47 to read as follows:

* * * * *

§ 1.3 Bona Fide Hedging Transactions and Positions.

* * * * *

(z) * * *

(1) *General Definition.* Bona fide hedging transactions and positions shall mean transactions or positions in a contract for future delivery on any contract market, where such transactions or positions represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel, and where they are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise, and where they arise from:

(i) The potential change in the value of assets which a person owns, produces, manufacturers, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising.

(ii) The potential change in the value of liabilities which a persons owes or anticipates incurring, or

(iii) The potential change in the value of services which a person provides, purchases or anticipates providing or purchasing.

Notwithstanding the foregoing, no transactions or positions shall be classified as bona fide hedging for purposes of section 4a of the Act unless their purpose is to offset price risks incidental to commercial cash or spot operations and such positions are established and liquidated in an orderly manner in accordance with sound commercial practices and unless the provisions of paragraphs (z) (2) and (3) of this section and §§ 1.47 and 1.48 of the regulations have been satisfied.

(2) *Enumerated Hedging Transactions.* The definition of bona fide hedging transactions and positions in paragraph (1) of this section includes, but is not limited to, the following specific transactions and positions except for transactions made by and positions held by a government or a duly authorized agent of a government.

(i) *Sales* of any commodity for future delivery on a contract market which do not exceed in quantity:

(A) ownership or fixed-price purchase of the same cash commodity by the same person; and

(B) twelve months' anticipated production of the same commodity by the same person provided that no such position is maintained in any future during the five last trading days of that future.

(ii) *Purchases* of any commodity for future delivery on a contract market which do not exceed in quantity:

(A) the fixed-price sale of the same cash commodity by the same person;

(B) the quantity equivalent or fixed-price sales of the cash products and by-products of such commodity by the same person; and

(C) twelve months' unfilled anticipated requirements of the same cash commodity for processing, manufacturing or feeding by the same person, provided that such transactions and positions in the five last trading days of any one future do not exceed the person's unfilled anticipated requirements of the same cash commodity for that month and for the next succeeding month.

Sales and purchases for future delivery described in paragraphs (z) (2) (i) and 2(ii) of this section may also be offset other than by the same quantity of the same cash commodity, provided that the value and fluctuations in value of the position for future delivery are substantially related to the value and fluctuations in value of the actual or anticipated cash position, and provided that the positions in any one future shall not be maintained during the five last trading days of that future.

(3) *Non-Enumerated cases.* Upon specific request made in accordance with § 1.47 of the regulations, the Commission may recognize transactions and positions other than those enumerated in paragraph (z) (2) of this section as bona fide hedging in such amounts and under such terms and conditions as it may specify in accordance with the provisions of § 1.47. Such transactions and positions may include, but are not limited to:

(i) *Governmental purchases or sales.* Purchases or sales for future delivery on any contract market which are owned or controlled by a government or a duly authorized agent of a government.

(ii) *Purchases or sales by agents.* Purchases or sales for future delivery on any contract market by a person who does not own or who has not contracted to sell or purchase the offsetting cash commodity at a fixed price, provided that the person is responsible for the merchandising of the cash position which is being offset.

* * * * *

§ 1.47 Requirements for classification of purchases or sales of contracts for future delivery as bona fide hedging under § 1.3(z)(3) of the regulations.

(a) Any person who wishes to avail himself of the provisions of § 1.3(z)(3) of the regulations and to make purchases or sales of any commodity for future delivery in any commodity in excess of trading and position limits then in effect pursuant to section 4a of the Act shall file statements with the Commission in conformity with the requirements of this section. All or a specified portion of the transactions and positions described in these statements shall not be considered as bona fide hedging if such person is so notified by the Commission:

(1) Within 30 days after the Commission is furnished the information required under paragraph (b) of this section; or

(2) Within 10 days after the Commission is furnished with the information required under paragraph (c) of this section.

The Commission may request the person notified to file specific additional information with the Commission to support a determination that all, or the specified portion, of the transactions and positions be considered as bona fide hedging transactions and positions. In such cases, the Commission shall consider all information so filed and, by notice to such person, shall specify the extent to which the Commission has determined that the transactions and positions may be classified as bona fide hedging.

In no case shall transactions and positions described be considered as bona fide hedging if they exceed the levels specified in paragraph (d) of this section.

(b) *Initial Statement.* Initial statements concerning the classification of transactions and positions as bona fide hedging pursuant to § 1.3(z)(3) shall be filed with the Commission at least 30 days in advance of the date that such transactions or positions would be in excess of limits then in effect pursuant to section 4a of the Act. Such statements shall describe the transactions and positions and demonstrate their conformity with the definition of bona fide hedging which is contained in § 1.3(z)(1). Such statements shall set forth in detail information which will demonstrate that the purchases and sales are economically appropriate to the reduction of risk exposure attendant to the conduct and management of a commercial enterprise and, depending upon the nature of the transactions and positions, shall include where applicable the following types of information:

(1) Statements filed by an agent, concerning a futures position which would offset a cash position which the agent does not own or has not contracted to buy or sell, shall contain information describing all contractual arrangements between the agent filing and the person who owns the commodity or holds the cash market commitment being offset.

(2) Statements filed by governments or their agents shall contain information demonstrating that the purchases or sales for future delivery correspond to those described in § 1.3(z)(2) of the regulations, or alternatively the economic appropriateness of such purchases or sales to risk reduction in accordance with the definition of bona fide hedging transactions and positions contained in § 1.3(z)(1). Agents of governments shall file information concerning the identity of the government and the nature of the agent relationship. All such statements (a) shall contain, and upon request of the Commission shall be supplemented by, such other information which is necessary to enable the Commission to make a determination whether the particular purchases and sales for future delivery fall within the scope of those described in § 1.3(z)(1) of the regulations, and (b) shall include a statement concerning the maximum size of positions for future delivery (both long and short) which will be acquired any time during the next fiscal year or marketing season of the person filing or on whose behalf the filing is made. Statements concerning long futures positions to be acquired against unfilled anticipated requirements for manufacturing, processing or feeding shall also include the information required under § 1.48 of the regulations.

(c) *Supplemental Reports.* Whenever the purchases or sales which a person wishes to classify as bona fide hedging shall exceed the amount provided in the person's most recent filing pursuant to this section or the amount previously specified by the Commission pursuant to paragraph (a) of this section, such person shall file with the Commission a statement which updates the information provided in the person's most recent filing and provides the reasons for this change at least ten days in advance of the date that person wishes to exceed those amounts.

(d) *Maximum Purchases and Sales.* Purchases and sales for future delivery considered bona fide hedging pursuant to § 1.3(z)(3) of the regulations shall at no time exceed the lesser of:

(1) The value equivalent (in terms of the commodity for future delivery) of the current cash position described in the information most recently filed pursuant to this section, or

(2) The maximum level of long or short open positions provided in the information most recently filed pursuant to this section or most recently specified by the Commission pursuant to paragraph (a) of this section.

(e) *Updated Reports.* Reports updating the information required pursuant to this section also shall be filed with the Commission upon specific request.

* * * * *

§ 1.48 Requirements for classification of purchases for future delivery as bona fide hedging of unfilled anticipated requirements under § 1.3(z)(2)(ii)(cc) of the regulations.

(a) Any person who wishes to avail himself of the provisions of § 1.3(z)(2)(ii)(cc) of the regulations and to make purchases for future delivery in any commodity in excess of trading and position limits then in effect pursuant to section 4a of the Act for the purposes of hedging unfilled anticipated requirements for manufacturing, processing or feeding shall file statements with the Commission in conformity with the requirements of this section. All or a specified portion of the unfilled anticipated requirements described in these statements shall not be considered as offsetting positions for bona fide hedging transactions and positions if such person is so notified by the Commission within ten days after the Commission is furnished with the information required under paragraph (b) or (c) of this section. The Commission may request the person notified to file specific additional information with the Commission to support a determination that the statement filed accurately reflects unfilled anticipated requirements for manufacturing, processing or feeding. In such cases, the Commission shall consider all additional information so filed and, by notice to such person, shall specify its determination as to what portion of the requirements described constitutes unfilled anticipated requirements for the purposes of bona fide hedging. In no case shall such transactions and positions which offset unfilled anticipated requirements be considered bona fide hedging if they exceed the levels specified in paragraph (d) of this section.

(b) *Initial Statement.* Initial statements concerning the classification of transactions and positions as bona fide hedging pursuant to § 1.3(z)(2)(ii)(cc) shall be filed with the Commission at least ten days in advance of the date that such transactions or positions would be in excess of limits then in effect pursuant to section 4a of the Act. Such statements shall show the person's unfilled anticipated requirements for processing or manufacturing or feeding for a specified operating period not in excess of one year and shall set forth in detail that person's unfilled anticipated requirements and explain the method of determination thereof, including, but not limited to, the following information:

(1) Annual requirements of such commodity for processing or manufacturing or feeding for the three complete fiscal years preceding the current fiscal year;

(2) Anticipated requirements of such commodity for processing or manufacturing or feeding for a specified operating period not in excess of one year;

(3) Inventory and forward purchases of such commodity, including any quantity in process of manufacture and finished goods and byproducts of manufacture or processing (in terms of such commodity);

(4) Unfilled anticipated requirements of such commodity for processing or manufacturing or feedings for a specified period not in excess of one year.

Persons hedging unfilled anticipated requirements which are not the same quantity or are not the same commodity as the commodity to be purchased for future delivery shall furnish this information both in terms of the actual commodity used for manufacturing, processing or feeding and in terms of the commodity to be purchased for future delivery. In addition, such persons shall explain the method for determining the ratio of conversion between the amount of the actual unfilled anticipated requirements and the amount of commodity to be purchased for future delivery. Persons feeding livestock and poultry shall provide the number of cattle, hogs, sheep, or poultry expected to be fed during the specified period, not to exceed one year, and the derivation of their annual requirements based upon these numbers. Persons filing as an agent shall furnish this information on the basis of the fiscal or operating year of the person on whose behalf the filing is made.

(c) *Supplemental Reports.* Whenever the purchases or sales which a person wishes to consider as bona fide hedging of unfilled anticipated requirements shall exceed the amounts described by the figures for requirements furnished in the most recent filing pursuant to this section or the amounts determined by the Commission to constitute unfilled anticipated requirements pursuant to paragraph (a) of this section, such person shall file with the Commission a statement which updates the information provided in the person's most recent filing and supplies the reason for this change at least ten days in advance of the date that person wishes to exceed these amounts.

(d) *Maximum Purchases.* Purchases for future delivery considered as bona fide hedges pursuant to § 1.3(z)(2)(ii)(cc) shall at no time exceed the lesser of:

(1) A person's unfilled anticipated requirements as described by the information most recently filed pursuant to this section or determined by the Commission pursuant to paragraph (a) of this section, or

(2) A person's actual current unfilled anticipated requirements for the length of time specified in the information most recently filed pursuant to this section.

(e) *Updated Reports.* Reports updating the information required pursuant to this section shall also be filed with the Commission upon specific request.

(Secs. 4a and 8a, Commodity Exchange Act (7 U.S.C. 6a and 12a (Supp. V, 1975).)

Interested persons may participate in this proposed rulemaking proceeding by submitting comments in written form to

the Commodity Futures Trading Com-

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the Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C., 20581; Attention: Secretariat. All comments received on or before May 16, 1977 will be considered before the Commission takes final action on the proposal. Copies of all comments received respecting the proposal will be available for inspection at the Commission's office in Washington, D.C.

Issued in Washington, D.C. on March 9, 1977.

For the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-7554 Filed 3-15-77;8:45 am]

federal register

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PART III

FEDERAL ELECTION COMMISSION

■

ADVISORY OPINION REQUESTS

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FEDERAL ELECTION COMMISSION request within ten days after the date of the requesting party follows here-

FEDERAL ELECTION COMMISSION

[Notice 1977-15, AOR 1977-10]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's Proposed Regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-10 has been made public at the Commission. Copies of AOR 1977-10 were made available on March 10, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-10: Does a contribution occur when a State party committee donates a copy of a computer tape containing names and addresses of registered voters within the State of an incumbent Senator from that State if the Senator's intentions are to use the tape solely for the purpose of sending constituent mailings.

Requested by Senator Dewey F. Bartlett, United States Senate, Washington, D.C. 20515.

Dated: March 11, 1977.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

[FR Doc.77-7759 Filed 3-15-77;8:45 am]

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federal register

WEDNESDAY, MARCH 16, 1977

PART IV

OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSIONS AND DEFERRALS

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OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

Withdrawal and Revisions

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I am withdrawing one previously proposed rescission and reporting revisions to three deferrals previously transmitted.

The withdrawal is for the business loan and investment fund of the Small Business Administration. Two of the revised deferrals are increases which relate to programs in the Department of Defense while the third reflects a decrease in a Department of Transportation deferral. The combined effect of these revisions is to increase the amount deferred by $27.7 million.

The details of the rescission withdrawal and each deferral are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE, March 9, 1977.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

	Item	Budget Authority
Rescission #		
R77-13A	Other Independent Agencies: Small Business Administration Business loan and investment fund	---
Deferral #		
D77-10C	Defense-Military: Military construction	424,240
D77-12A	Defense-Civil: Miscellaneous permanent accounts-Wildlife conservation, etc., military reservations	515
D77-25B	Transportation: Federal Aviation Administration Facilities and equipment (Airport and airway trust fund	278,095
	Subtotal, deferrals	702,850
	Total, rescissions and deferrals	702,850

SUMMARY OF SPECIAL MESSAGES
FOR FY 77
(in thousands of dollars)

	Rescissions	Deferrals
Eighth special message:		
New items	---	---
Changes to amounts previously submitted	-60,000	27,740
Effect of the eighth special message	-60,000	27,740
Previous special messages	1,100,378	7,048,140
Total amount proposed in special messages	1,040,378 (in 13 rescission proposals)	7,075,880 (in 52 deferrals)

NOTE: All amounts listed represent budget authority except for $134,807,092 consisting of two general revenue sharing deferrals of outlays only (D77-26 and D77-27A). Reports for D77-26 and D77-27A are included in the special messages of October 1, 1976, and December 3, 1976, respectively.

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R77-13A

SUPPLEMENTARY REPORT

Report Pursuant to Sec. 1014(c) of P.L. 93-344

This report updates Rescission No. R77-13 transmitted to the Congress on January 17, 1977, and printed as House Document 95-48.

The requested rescission of $60,000,000 for the section 7(a) Regular Business Loan program of the Small Business Administration is hereby withdrawn. The funds had not been administratively reserved pending Congressional action on the requested rescission. The funds will now be committed.

D77-10C

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report revises Deferral No. D77-10B transmitted to the Congress on January 17, 1977, and printed as House Document 95-48.

This revision reflects a net increase of $36,588,000 in the amount to be deferred in fiscal year 1977 for the Military Construction and Family Housing, Defense, appropriations. The increase is due to cost savings after completion of prior-year projects, and contract award savings resulting from favorable bids of projects currently under construction. The total amount now deferred is $424,239,837.

The slight decrease of $2,864,000 in total budgetary resources reflects a change in anticipated reimbursements.

Deferral No: D77-10C

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense	New budget authority (P.L. 94-367): $3,451,306,000
Bureau:	Other budgetary resources: 2,871,711,746*
Appropriation title & symbol: See Coverage section below	Total budgetary resources: 6,323,017,746*
	Amount to be deferred: Part of year: $304,307,837*
	Entire year: 119,932,000*
OMB identification code: See Coverage section below	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [X] Annual; [ ] Multiple-year ____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Coverage Account title	Appropriation Symbol	OMB Identification code	Amount Deferred*
Military Construction, Army	21X2050	21-2050-0-1-051	$135,550,000
Military Construction, Navy	17X1205	17-1205-0-1-051	74,527,904
Military Construction, Air Force	57X3300	57-3300-0-1-051	89,396,000
Military Construction, Defense Agencies	97X0500	97-0500-0-1-051	11,138,000
Military Construction, Army National Guard	21X2085	21-2085-0-1-051	39,634,000
Military Construction, Air National Guard	57X3830	57-3830-0-1-051	19,855,000
Military Construction, Army Reserve	21X2086	21-2086-0-1-051	24,914,000
Military Construction, Naval Reserve	17X1235	17-1235-0-1-051	13,671,000
Military Construction, Air Force Reserve	57X3730	57-3730-0-1-051	8,209,933
Family Housing, Defense	97X0700	97-0701-0-1-051	7,344,000
Family Housing, Defense	9770700	97-0701-0-1-051	-0-
			$424,239,837

*Revised from previous report.

2

Justification*

The above amounts in the listed no-year appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

Due to the long period of time required to construct facilities, the Congress makes appropriations for this purpose available until expended. The above funds are deferred due to administrative delays, such as project designs not being completed and incomplete coordination of projects with either other Federal agencies or local government agencies; and cost savings. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination. Funds from cost savings will be apportioned in 1978 for their original purpose--construction projects--but not necessarily at the original base.

Estimated effects

These deferrals have no programmatic or budgetary effect because the funds could not be obligated at this time, even if they were made available.

Outlay effect

There is no outlay effect resulting from this deferral since funds could not be used if made available.

*Revised from previous report.

D77-12A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014 (c) of P. L. 93-344

This report updates Deferral No. D77-12 transmitted to the Congress on October 1, 1976, and printed as House Document 94-650.

This report for Wildlife Conservation, Military Reservations, reflects an increase in actual unobligated balances brought forward on October 1, 1976, over the previously estimated balances. Receipts are also expected to be higher than previously estimated. The amount now deferred is $515,343.

Deferral No: D77-12A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense	New budget authority (16 U.S.C. 670f (a)): $ 838,000*
Bureau:	Other budgetary resources: 504,343*
Appropriation title & symbol: See Coverage section below	Total budgetary resources: 1,342,343*
	Amount to be deferred: Part of year: $ ____
	Entire year: 515,343*
OMB identification code: * 97-9922-0-2-303	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Coverage*		
Wildlife Conservation, etc., Military Reservations, Army	21X5095	$416,447
Wildlife Conservation, etc., Military Reservations, Navy	17X5095	89,944
Wildlife Conservation, etc., Military Reservations, Air Force	57X5095	8,952
		$515,343

Justification

These are permanent appropriations. The budgetary resources consist of anticipated receipts and unobligated balances generated from hunting and fishing fees collected on military reservations, pursuant to 16 U.S.C. 670. They may be used only in accordance with the purpose of the law - to carry out a program of natural resource conservation.

Since apportionments have been made for all known program requirements, prudent financial management requires the deferral of the balance of the funds, which could not be used effectively during the current year even if made available for obligation. These funds are being deferred under the provisions of the Antideficiency Act (31 U.S.C. 665). Full apportionment is not requested by the Services because (1) installations may be accumulating funds over a period of time to fund a major project, and (2) there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the

* revised from previous report.

winter and spring months, while most of the program work is performed during the summer and fall months. This necessitates that funds collected in a prior year be deferred in order to be available to finance the program during the summer and fall months. Additional amounts will be apportioned if program requirements are identified.

Estimated Effects

These deferrals have no programmatic or budgetary effect because the funds could not be obligated if made available.

Outlay Effect

There is no outlay effect of this deferral because the funds could not be used if made available.

D77-25B

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report revises Deferral No. D77-25A, transmitted to the Congress on January 17, 1977, and printed as House Document No. 95-48.

This revision reflects a change in the amount deferred from $287,095,484 to $278,095,484. The decrease in the deferral of $9,000,000 is the result of releasing additional funds for facilities and equipment projects in 1977. This release makes correct the indication (appearing in a footnote to the deferral report) that no multiple-year funds in their last year of availability are deferred.

Deferral No: D77-25B

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 94-387 ...): $200,000,000
Bureau: Federal Aviation Administration	Other budgetary resources: 318,495,484 *
Appropriation title & symbol: Facilities and equipment (Airport and airway trust fund) 69X8107 695/78107 696/88107 697/98109	Total budgetary resources: 518,495,484 *
OMB identification code: 69-8107-0-7-405	Amount to be deferred: Part of year: $ ___ Entire year: 278,095,484 *
Grant program: ☐ Yes ☒ No	/Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ___
Type of account or fund: ☐ Annual 695/78107 Sept 30, 1977 696/88107 Sept 30, 1978 ☒ Multiple-year 697/98109 Sept 30, 1979 (expiration date) ☒ No-year	Type of budget authority: 1/ ☒ Appropriation ☐ Contract authority ☐ Other ___

Justification

Funds from this account are used to procure specific Congressionally-approved facilities and equipment for the expansion and modernization of the national airway system. Projects financed from this account include construction of buildings and purchase of new equipment for new or improved air traffic control towers, automation of the enroute airway control system, and expansion and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Acts of 1977 and prior years. The estimated total cost for each project is traditionally included in the budget submission and appropriation for the year in which it is requested. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with the Congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves for contingencies.

* Revised from previous report.
1/ None of these funds are deferred.

Estimated Effects

This deferral action is consistent with normal operations for this program. The amount deferred could not be economically used if made available in fiscal 1977 because of the planned multi-year procurement, construction and installation cycle.

Outlay Effect

There is no outlay effect of this deferral because the funds would not be used if made available.

[FR Doc.77-7671 Filed 3-11-77;11:05 am]

BUDGET RESCISSIONS AND DEFERRALS

Cumulative Report, March 1977

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (P.L. 93-344). Section 1014(e) provides for a monthly report listing all current year budget authority with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of March 1, 1977, of the 13 rescissions and 52 deferrals contained in the first seven special messages transmitted to the Congress for fiscal year 1977. These messages were transmitted to the Congress on July 29, September 22, October 1, November 5, December 3, 1976, and January 7, and 17, 1977.

RESCISSIONS (TABLE A AND ATTACHMENT A)

Nine rescissions totaling $1,001.3 million in FY 1977 budget authority are presently pending before the Congress. Table A summarizes the status of rescissions proposed as of March 1, 1977. Attachment A shows the history and status of each rescission proposed for fiscal year 1977.

DEFERRALS (TABLE B AND ATTACHMENT B)

As of March 1, 1977, $4,474.8 million in 1977 budget authority was being deferred from obligation and another $59.5 million in 1977 obligations was being deferred from expenditure. Table B summarizes the status of existing deferrals. Attachment B shows the history and status of each deferral proposed during fiscal year 1977.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Tuesday, August 3, 1976 (Vol. 41, No. 150, Part VI)
Monday, September 27, 1976 (Vol. 41, No. 188, Part III)
Thursday, October 7, 1976 (Vol. 41, No. 196, Part IV)
Wednesday, November 10, 1976 (Vol. 41, No. 218, Part VII)
Wednesday, December 8, 1976 (Vol. 41, No. 237, Part II)
Thursday, January 13, 1977 (Vol. 42, No. 9, Part X)
Monday, January 24, 1977 (Vol. 42, No. 15, Part VIII)

BERT LANCE,
Director.

TABLE A

STATUS OF 1977 RESCISSION PROPOSALS

	Amount (In millions of dollars)
Proposed rescissions	1,135.4
Withdrawn (R77-4A, Special Message No. 4)	-35.0
Accepted by the Congress (Helium fund, R77-3)	-47.5
Rejected by the Congress	-51.6
Pending before the Congress:	
Special Message No. 7 (transmitted January 17, 1977)	1,001.3

* *

TABLE B

STATUS OF 1977 DEFERRALS

	Amount (In millions of dollars)
Proposed deferrals	7,048.1
Routine Executive releases (-2,010.4M) and adjustments (-503.5M) 1/ through March 1, 1977	-2,513.9
Overturned by the Congress	---
Currently before the Congress	4,534.2 2/

1/ An amount equal to $756.0 million included in the "Adjustments" column of Attachment B to this report represents superseded deferrals. This amount is not included in the "adjustments" entry above because superseded deferrals are netted out in calculating the amount shown on the line "Deferrals proposed by the President" to avoid double counting.
2/ Includes $59.5 million of outlays in two Treasury deferrals--D77-26 and D77-27A.

A-1

ATTACHMENT A

STATUS OF RESCISSIONS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

As of March 1, 1977

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Funds Appropriated to the President							
International Security Assistance:							
Foreign military credit sales	R77-5	41,500 1/	01-17-77				
Department of Commerce							
U.S. Travel Service							
Salaries and expenses	R77-6	525	01-17-77				
National Oceanic and Atmospheric Administration:							
Operations, research, and facilities	R77-7	1,500	01-17-77				
Department of Defense-Military							
Retired pay, Defense	R77-8	143,600	01-17-77				
Shipbuilding and conversion, Navy	R77-9	721,000 2/	01-17-77				
Other procurement, Air Force	R77-10	14,350	01-17-77				
Department of Defense-Civil							
Corps of Engineers-Civil:							
Revolving fund	R77-2	[6,600] 3/	09-22-76			3/	3/
Department of the Interior							
Bureau of Mines:							
Helium fund	R77-3	[47,500] 4/	09-22-76	4/	4/		
Department of State							
Contributions for international peacekeeping activities	R77-11	12,800	01-17-77				

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Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded	Date Rescission Act Signed	Amount Made Available	Date Made Available
Department of Transportation							
Federal Highway Administration:							
Highway crossing							
Federal projects	R77-4	[35,000]	09-22-76				
	R77-4A	0	11-05-76			35,000 5/	10-01-76
Coast Guard:							
Retired pay	R77-12	6,803	01-17-77				
Other Independent Agencies							
Legal Services Corporation:							
Payment to the Legal Services Corporation	R77-1	[45,000] 6/	07-29-76			45,000 2/	10-01-76
Small Business Administration							
Business loan and investment fund	R77-13	60,000 7/	01-17-77				
TOTAL		1,001,278				80,000	

1 This amount was included in a deferral (D77-3B) that was transmitted to the Congress on 12-03-76.
2 Of this amount, $452,600,000 was assumed to be included in a deferral of $929,250,000 (D77-3A) transmitted to the Congress on 11-05-76. Shipbuilding funds are available for obligation for five years. It was estimated that 15% of the 1977 appropriation would be obligated after 1977.
3 The 45-day Congressional consideration period ended on March 1, 1977. The funds were released on March 2, 1977.
4 A bill to rescind the $47.5 million, H.R. 3347, passed the Congress in late February.
5 A supplementary report withdrawing the proposed rescission was transmitted to the Congress on November 5, 1976.
6 These funds were not withheld during the 45-day Congressional consideration period.
7 A supplementary report withdrawing the proposed rescission will be transmitted to the Congress.

B-1

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Funds Appropriated to the President

Attachment B

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-77
Emergency Refugee and Migration Assistance Fund	D77-1		8,648	10-01-76					
				10-26-76	-1,000				
				11-12-76	-1,200				
				12-29-76	-2,000				
				01-10-77	-1,000				
				01-31-77	-2,100				1,348
International Security Assistance									
Military assistance, 1977	D77-3T		73,000	12-03-76					73,000
Foreign military credit sales	D77-3B		740,000	12-03-76				-41,500 1/	
				01-10-77	-23,617				
				01-25-77	-585,533				89,350
TOTAL			821,648		-616,450			-41,500	163,698

1/ This amount is included in a rescission proposal (R77-5) transmitted to the Congress on 01-17-77.

STATUS OF DEFERRALS

B-2

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Agriculture

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-77
Foreign Agricultural Service									
Salaries and expenses (Special foreign currency program)	D77-2	(1,610)		10-01-76					
				01-17-77				-1,610 1/	
	D77-2A		1,743	01-17-77					1,743
Agricultural Stabilization and Conservation Service									
Commodity credit corporation administrative expenses	D77-3		2,919	10-01-76					
				12-30-76	-2,629				290
Forest Service									
Expenses, brush disposal	D77-4		22,321	10-01-76					22,321
Licensee programs	D77-5	[146]		10-01-76					
				01-17-77				-146 1/	
	D77-5A		339	01-17-77					339
TOTAL		1,756	27,222		-2,629			-1,756	24,693

1/ Subsequently incorporated in a supplementary report.

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STATUS OF DEFERRALS

B-3

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Commerce

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 03-01-77
General Administration									
Special foreign currency program	D77-45		654	01-17-77					654
National Oceanic and Atmospheric Administration									
Operations, research, and facilities	D77-46		7,500	01-17-77					7,500
Promote and develop fishery products and research pertaining to American fisheries	D77-6	[1,771]		10-01-76					
				01-07-77				-1,771 1/	
	D77-6A		1,772	01-07-77					1,772
Fisheries loan fund	D77-7		5,799	10-01-76					5,799
Offshore shrimp fisheries fund	D77-8		59	10-01-76					59
Fishermen's guaranty fund	D77-9	[356]		10-01-76					
				10-01-76				-356 1/	
	D77-9A		544	01-07-77					544
Maritime Administration									
Ship construction	D77-47		200,900	01-17-77					200,900
TOTAL		2,127	217,228					-2,127	217,228

1/ Subsequently incorporated in a supplementary report.

STATUS OF DEFERRALS

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Military

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 03-01-77
Shipbuilding and conversion, Navy	D77-34		929,250	11-05-76					
				01-17-77				-452,600 1/	476,650
Military construction, all services	D77-10	[76,483]		10-01-76					
				12-03-76				-76,483 1/	
	D77-10A	[335,883]		12-03-76					
				01-17-77				-335,883 1/	
	D77-10B		387,652	01-17-77					387,652
TOTAL		412,366	1,316,902					-864,966	864,302

1/ This amount is included in a rescission proposal (R77-9) transmitted to the Congress on 01-17-77.
2/ Subsequently incorporated in a supplementary report.

STATUS OF DEFERRALS

B-5

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Defense, Civil

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 03-01-77
Panama Canal									
Canal Zone Government: Capital outlay	D77-31		146	10-01-76					146
Miscellaneous Accounts									
Wildlife conservation, etc., military reservations	D77-32		363	10-01-76					363
TOTAL			509						509

STATUS OF DEFERRALS

B-6

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Health, Education, and Welfare

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 03-01-77
Office of the Assistant Secretary for Health									
Scientific activities overseas (Special foreign current program)	D77-13	[1,113]		10-01-76					
				01-07-77				-1,113 1/	
	D77-13A		2,113	01-07-77					2,113
Office of Education									
Higher education	D77-14	[31,702]		10-01-76					
				11-05-76					
				11-05-76				-31,702 1/	
	D77-14A		303,862	02-28-77	-23,082				280,780
Social Security Administration									
Limitation on construction	D77-15	[17,272]		10-01-76					
				11-05-76				-17,272 1/	
	D-77-15A		18,673	11-05-76					18,673
Special Institutions									
Howard University	D77-35		500	11-05-76					500
TOTAL		50,087	325,148		-23,082			-50,087	302,066

1/ Subsequently incorporated in a supplementary report.

STATUS OF DEFERRALS

B-7

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Interior

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 03-01-77
Bureau of Land Management									
Oregon and California grant lands	D77-16		5,426	10-01-76					5,426
Bureau of Outdoor Reclamation									
Land and water conservation fund	D77-17		30,000	10-01-76					30,000
National Park Service									
Road construction	D77-18		3,245	10-01-76					
				10-01-76	-3,245				0
Geological Survey									
Payment from proceeds, sale of water	D77-19		30	10-01-76					30
Bureau of Mines									
Drainage of anthracite mines	D77-20		3,525	10-01-76					3,525
TOTAL			42,226		-3,245				38,981

STATUS OF DEFERRALS

B-8

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Justice

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Releases Resulting From Subsequent Actions Taken by: OMB/Agency	House	Senate	Adjustments	Amount Deferred as of 03-01-77
Federal Prison System:									
Buildings and facilities	D77-21		1,900	10-01-76				-1,900 1/	0
TOTAL			1,900					-1,900	0

1/ This deferral resulted from anticipated savings attributable to a plan for leasing a New York State correctional facility. The lease proposal on which the deferral was based was not accepted by New York and the funds are needed to construct the facility as originally planned. Funds related to this deferral were not withheld.

STATUS OF DEFERRALS

B-9

STATUS OF DEFERRALS

B-10

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STATUS OF DEFERRALS

B-9

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Labor

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-77
Employment and Training Administration									
Advances to the unemployment trust fund and other funds	D77-39		2,919,000	12-03-76 12-28-76	-1,119,000				1,800,000
TOTAL			2,519,000		-1,119,000				1,800,000

STATUS OF DEFERRALS

B-10

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of State

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-77
Administration of Foreign Affairs									
Acquisition, operation, and maintenance of buildings abroad	D77-22		14,225	10-01-76					14,225
TOTAL			14,225						14,225

STATUS OF DEFERRALS

B-11

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of Transportation

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-77
Coast Guard									
Acquisition, construction and improvements	D77-23		22,581	10-01-76					22,581
Federal Aviation Administration									
Civil supersonic aircraft development termination	D77-24	[464]		10-01-76 01-17-77				-464 1/	
	D77-24A		8,080	01-17-77					8,080
Facilities and equipment (Airport and airway trust fund)	D77-25	[276,101]		10-01-76 01-17-77				-276,101 1/	
	D77-25A		287,095	01-17-77					287,095
Federal Highway Administration									
Trust fund share of other highway programs	D77-48		31,250	01-17-77					31,250
TOTAL		276,565	349,006					-276,565	349,006

1/ Subsequently incorporated in a supplementary report.

STATUS OF DEFERRALS

B-12

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Department of the Treasury

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-77
Office of the Secretary									
State and local government fiscal assistance trust fund	D77-26		113,732 1/	10-01-76 11-01-76 01-31-77	-28,433 1/ -28,433 1/				56,866 1/
State and local government fiscal assistance trust fund	D77-27	[10,000] 1/		10-01-76 12-03-76				-10,000 1/2/	
	D77-27A		21,075 1/	12-03-76 12-31-76 01-31-77	-16,893 1/ - 1,590 1/				2,592 1/
State and local government fiscal assistance trust fund	D77-28		81,500	10-01-76 11-01-76 12-01-76 12-31-76 03-01-77	-226 -186 -7,888 -317				72,883
Loans to the District of Columbia for capital outlay	D77-36		51,002	11-05-76					51,002
TOTAL		10,0000	132,5028A 136,8070		-8,617BA -75,3490			-10,0000	123,885BA 59,4580

1/ Outlays only.
2/ Subsequently incorporated in a supplementary report.

STATUS OF DEFERRALS

B-13

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Energy Research and Development Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-77
Operating expenses (Energy extension service)	D77-49		7,500	01-17-77 02-22-77				-7,500 1/	0
Operating expenses (Magnetic fusion energy)	D77-50		12,000	01-17-77					12,000
Operating expenses (Program support-community operations)	D77-51		5,400	01-17-77					5,400
Operating expenses (Biomedical and environmental research)	D77-52		8,200	01-17-77					8,200
TOTAL			33,100					-7,500	25,600

1/ This adjustment reflects the impact of P.L. 95-3 which makes the Source of ERDA's funding their regular 1977 appropriations, rather than the continuing resolution (P.L. 94-473), without need for enactment of authorizing legislation.

STATUS OF DEFERRALS

B-14

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STATUS OF DEFERRALS B-14

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: General Services Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-77
Rare Silver Dollar Program	D77-29	[1,709]		10-01-76 01-07-77				-1,709 1/	
	D77-29A		1,797	01-07-77					1,797
TOTAL		1,709	1,797					-1,709	1,797

1/ Subsequently incorporated in a supplementary report.

STATUS OF DEFERRALS B-15

FISCAL YEAR 1977
(Amounts in thousands of dollars)

Agency: Other Independent Agencies

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-77
Action Operating expenses, international and domestic programs	D77-40		550	12-03-76 12-31-76	-15				535
Foreign Claims Settlement Commission Payment of Vietnam prisoner of war claims	D77-30		10,833	10-01-76					10,833
American Revolution Bicentennial Administration Commemorative activities fund	D77-31	[1,346]		10-01-76 01-07-77				-1,346 1/	
	D77-31A		198	01-07-77					198
Interstate Commerce Commission Payment for directed rail service	D77-32		13,700	10-01-76					13,700
National Commission on the Observance of International Women's Year Salaries and expenses	D77-33		680	10-01-76					680
U.S. Information Agency Salaries and expenses (special foreign currency program)	D77-41		2,437	01-07-77					
Special international exhibitions	D77-42		1,716	01-07-77					,71,
Special international exhibitions (special foreign currency program)	D77-43		112	01-07-77					112

B-16

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Releases Resulting From Subsequent Actions Taken by OMB/Agency	Releases Resulting From Subsequent Actions Taken by House	Releases Resulting From Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 03-01-77
U.S. Railway Association Payments for the purchase of Conrail securities	D77-44		680,700	01-07-77 01-27-77	-162,000				518,700
TOTAL		1,346	710,926		-162,015			-1,346	348,911
TOTAL, ALL DEFERRALS		745,956BA 10,0000	6,913,331BA 134,8070		-1,935,048BA -75,3490			-1,249,456BA -10,0000	4,474,783BA 59,4580

1/ Subsequently incorporated in a supplementary report.

[FR Doc.77-7872 Filed 3-11-77;11:05 am]

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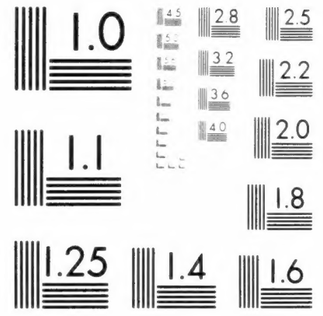
RESOLUTION CHART



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100 / 20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.